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PROCEEDINGS AND DEBATES OF THE 97th CONGRESS, SECOND SESSION

SENATE—*Tuesday, July 20, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

The PRESIDENT pro tempore. The opening prayer this morning will be offered by the Reverend Barbara Trombley Fitterer, of the Episcopal Diocese of California, San Francisco, Calif. She is sponsored by Senator SLADE GORTON.

PRAYER

The Reverend Barbara Trombley Fitterer offered the following prayer:

Almighty Father, by whose grace we till and plant a vineyard of hope for things we do not see, graft in us patience to work for Your eternal purpose in the small tasks and large decisions of this day.

We humbly pray for our Senators and all those in authority, and we ask Your blessing upon their deliberations. Nourish the ordering of their individual lives that in their collective actions they may produce a harvest of righteousness.

In times of prosperity, fill their hearts with thankfulness and in days of trouble do not permit their trust in You to fail. Through all the seasons of their lives, lift them with Your transcendent and transforming power that our Nation may be strengthened and preserved. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BAKER. Mr. President, this morning after the recognition of the two leaders under the standing order, there is a special order in favor of the distinguished Senator from Georgia (Mr. NUNN), to be followed by a period for the transaction of routine morning business in which Senators may speak for not more than 3 minutes each.

At 10:30 a.m. today, pursuant to the order entered on yesterday, the Senate will resume consideration of H.R. 4961, the bill reported by the Finance Committee of the Senate in obedience to the reconciliation instruction incorporated in the budget resolution.

The Senate will stand in recess today from 12 noon until 2 p.m. in order to accommodate the requirement for caucuses on both sides of the aisle.

At 2 p.m. the Senate will resume debate on H.R. 4961. It is anticipated the Senate will be in session until approximately 6 p.m. or shortly thereafter. It is the hope of the leadership, Mr. President, that the Senate can complete debate on H.R. 4961 during the day on tomorrow. If not, the Senate will continue that debate on Thursday. There is a 20-hour cap on this measure, according to statutes affecting this bill.

TRIBUTE TO THE REVEREND BARBARA TROMBLEY FITTERER

Mr. BAKER. Mr. President, I want to take this opportunity to commend and thank the Reverend Barbara Trombley Fitterer of the Episcopal Diocese of California in San Francisco, for the beautiful prayer that she offered this morning.

Reverend Fitterer is the first woman to pray in both the House of Representatives and the Senate, and I want her to know that we are all very proud of her historic accomplishment.

An ordained priest in the Episcopal Church since 1979, Reverend Fitterer was awarded a master's degree in divinity (magna cum laude) from Wesley Theological Seminary, Washington, D.C. She then served as interim curate of the Parish of St. John the Evangelist, an active parish of 1,200 communicants in Hingham, Mass., before moving to California in 1980.

Before entering the ministry, Reverend Fitterer had a successful career as publishing consultant and English instructor. She was manager of the Washington, D.C. office of Houghton Mifflin Publishing Co. from 1976-79, and served as a Presidential Exchange Fellow in the U.S. Department of Commerce in 1975.

Reverend Fitterer has also served as national consultant for Houghton Mifflin American Heritage Dictionary and English instructor at the University of Rochester in New York. She received a master's degree in English literature in 1967.

Mr. President, I have no further need for my time under the standing order. I am prepared to yield it to any Senator seeking recognition. I see none. I will ask the minority leader if he has any need for it.

Mr. ROBERT C. BYRD. I thank the majority leader.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield such time from my order to Senator PROXMIRE as he may desire.

Mr. PROXMIRE. I thank the minority leader.

LIFE AFTER THE BOMB

Mr. PROXMIRE. Mr. President, this morning I continue my report to the Senate on the virtual concession by our Federal Government that in the event of a nuclear war with the Soviet Union, it would truly be a pitiful, helpless giant, unable to function in providing the most essential and basic services for our people. This morning I call attention to an excerpt from the Ed Zuckerman article in the March Esquire magazine that highlights this total absence of confidence that the Federal Government could really even

make a pass at national continuity and survival once the bomb drops.

I ask unanimous consent that the excerpt be printed in the RECORD at this point.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

LIFE AFTER THE BOMB

Investigation reveals that some federal agencies are apparently dragging their heels on fulfilling their post-nuclear attack responsibilities. Repeated calls to the SEC, for example, yielded no hard information as to how the stock market would function after a nuclear war. And some agencies' plans have long been out-of-date. Executive Order 11490 commands the Public Health Service to plan for "sanitary aspects of disposal of the dead," but the PHS, when queried, could produce nothing more recent than a 1956 civil-defense pamphlet with the twenty-five-year-old (but probably still applicable) advice: "If conditions permit, mechanically dug continuous trenches offer the best solution to the burial problem. If the machines available are capable only of digging narrow trenches, bodies can be placed head to foot instead of side by side."

A survey of other key agencies, however, finds several that are as well prepared as is the Postal Service. The Department of Housing and Urban Development has recently revised its manuals on the postattack housing problem. They now include procedures for requisitioning private homes "whose owners have disappeared." One manual also discusses how to establish, for all postattack emergency housing, firm rent guidelines (rents "will conform to the rental schedules . . . for comparable accommodations"), tenant priorities (refugees get preference), and grounds for eviction (nonpayment of rent shall be considered one "unless in the judgment of the Housing Manager or Managing Agent the failure to pay is due to causes beyond the control of the occupant"). In addition, the manual specifies that the rental of private housing taken over after owners have vanished shall be on a month-by-month basis only and that "renters of such housing will be required to vacate within 30 days if the legal owner appears and requires the property."

The Department of Agriculture has made equally detailed plans for good rationing after a nuclear attack. Every surviving American will receive a weekly allotment of six eggs, four pounds of cereals, two pounds of frozen fruits and vegetables, one-half pound of fats and oils, two pounds of potatoes, one-half pound of sweets, and three pounds of meat. "That's about two thousand to twenty-five hundred calories per person per day," said Harold Gay, a Department of Agriculture emergency planner, "about two thirds of normal caloric input right now, if you could have something from every grouping."

But could you actually have something from every grouping, or any grouping, for that matter?

"Just because you have fallout on a crop doesn't mean it's not safe to eat," Gay pointed out. "Fallout is dust. It can be removed by normal washing, peeling, and so on. If it's mixed in with the actual food product, then you would store it. Radioactivity decays. Milk, for example, is very susceptible to radioactivity. You can't hold the milk until the radioactivity decays, but you can process it into cheese and store the cheese."

But would society still be functioning when that radioactive cheese cooled off?

FEMA says there's no reason it couldn't be. No fewer than 369 "postattack recovery studies" are available in FEMA's research library, states a 370th, and "years of research have failed to reveal any single factor that would preclude recovery from nuclear attack." As for individuals, the study continues, those who survive the blast, heat, and short-term radioactivity will face no greater risk of dying from cancer than does, for example, someone who has smoked a pack of cigarettes a day for two years. As for fears about long-term, catastrophic effects on the nation's ecology, the study concludes, "No nuclear attack which is at all probable could induce gross changes in the balance of nature that approach in type or degree the ones that human civilization has already inflicted on the environment," such as "cutting most of the original forests, tilling the praires, irrigating the deserts . . . and even preventing forest fires."

A number of scientists (not to mention Smokey the Bear) would contest that view, and doomsayers have conditioned the public to expect much worse. But no serious critic of nuclear war, no matter how pessimistic, has denied that millions of people would survive one, which allows FEMA's William Baird to make his essential point.

"The survivors will try to continue to survive," Baird said, leaning forward on his couch. "And what happens to them? Do they break up into tribes, or do they try to operate as a nation? Someone has to direct things for the common good. Otherwise, it will be dog-eat-dog, which we don't want to see. There's got to be law and order, and everything else."

AMERICA STANDS ALONE

Mr. PROXMIRE. Mr. President, the United States trails far behind the other nations of the free world in endorsing the Genocide Convention of 1948. Great Britain ratified it 12 years ago. West Germany ratified it 28 years ago. Canada did so 30 years ago. France and Israel, 32 years ago. Today, America stands apart from its closest allies in its silence on the Genocide Treaty. The world turns its eyes and ears to us for moral leadership and resolve, and we respond with hesitation, wavering, and baseless anxiety.

Now our solitude, in and of itself, does not necessarily mean that we are wrong. Even if the entire world opposes us, there is absolutely no loneliness in dissenting as long as right is on our side. But sometimes America has stood stubbornly on the wrong side. That is precisely where we stand today on the Genocide Treaty.

When isolated from our allies, and from the better part of the world community, we need not follow the crowd. But when our friends agree that we are mistaken, it is time for us to take a very close look at our position. Friends and foes alike have joined in a broad consensus, but we stand aloof. This calls for a careful examination of our stance, to discover why we fear what so many others do not fear. The other advanced nations of the West were not convinced by the fanciful arguments of those doomsayers who oppose the Genocide Treaty. Why are we so frightened by an accord that has done no harm to any of our fellow democracies? Why are we alone unnerved by the nightmares produced by the fallacious reasoning of treaty opponents?

The accusations of these critics hardly needs any new refutation. As I have tried to demonstrate on countless other occasions, the Senate is stymied by a paranoia completely unfounded in the realities of international law. The treaty's detractors would have you believe that the Genocide Convention is harmful. But the real harm comes from inaction, for it is our vacillation that plays into the hands of our adversaries. We lose our moral advantage by default, and permit others to accuse us of hypocrisy in our criticisms of repressive regimes.

Let us stop worrying about the bogeymen described by those who disparage the treaty. Let us overcome the paralysis that cripples our human rights policy. Let us ratify the Genocide Convention.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NICKLES). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SECOND RECONCILIATION MEASURE

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield for a question?

Mr. BAKER. Yes, Mr. President.

Mr. ROBERT C. BYRD. Could the distinguished majority leader answer the question as to what his plans are or what he sees for the program of the second reconciliation measure, which deals with spending cuts?

Mr. BAKER. Yes, Mr. President. Those reconciliation instructions have been complied with by all the committees involved, which is all the committees having jurisdiction except the Finance Committee. Those resolutions have been delivered to the Budget Committee, I am informed, and they will be prepared to bring them to the Senate as the law prescribes. I hope to take them up as soon as possible. I shall consult with the distinguished chairman of the Committee on the Budget to find out how that can be scheduled, but I do not anticipate a delay.

Mr. ROBERT C. BYRD. Does the majority leader foresee action by the Senate on that matter as early as next week?

Mr. BAKER. Yes, Mr. President, once again, I would, but I cannot give a date. I do anticipate that.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

Mr. BAKER. Mr. President, is the distinguished Senator from Georgia ready to proceed under the special order at this time?

Mr. NUNN. Yes, I am, Mr. President.

Mr. BAKER. Mr. President, I yield the floor.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I continue to speak out daily on the pressing need for reforms of habeas corpus proceedings in our Federal courts. We do so in the belief that legislative action in this area is the only effective way to reverse the loss of public confidence and respect in our criminal justice system. Facing violent crime at every turn, Americans watch in disbelief as convicted felons routinely delay, and delay again, their just punishment by calculated abuse of the writ of habeas corpus.

Our Federal judges seem powerless to put an end to this attack on the very credibility of the judicial system. They give full examination, time and again, to issues fairly decided many years before in State court systems. Amidst their own frustration and the public's increasingly vocal resentment, it is hardly surprising that many in judicial branch itself echo those very calls for reform which Senator CHILES and I have been stressing for over 2 months.

In July 1974, Alvin Bernard Ford and three accomplices, fully armed, robbed a Red Lobster restaurant in Fort Lauderdale, Fla. Ford himself successfully stole some $7,000 from the restaurant's vault. In doing so, he shot Fort Lauderdale police officer Dimitri Walter Ilyankoff twice before fleeing the restaurant. Ford then discovered that his accomplices had already left in the planned getaway car. Officer Ilyankoff, having radioed for assistance, was struggling to get up when Ford returned, secured the officer's car keys, and shot him a third time in the back of the head. The officer did not survive the three wounds. Fortunately, a restaurant employee, hidden from Ford, witnessed the shooting. In 1975, Ford was tried and convicted of murder in State court, and sentenced to death. On appeal, the Supreme Court of Florida affirmed his conviction. Six years after the robbery, and shortly after a State death warrant had been issued, Ford filed a petition for a writ of habeas corpus in Federal district court.

Ford's delayed petition was not based on newly discovered evidence or a newly acquired right. Rather, his petition raised some nine separate trial issues, which should have been known to him at trial and fully litigated in the courts below. Despite those facts, the district court judge was required to examine and decide again issues of fact, law, and fairness in a trial occurring some 6 years earlier.

After a full hearing on the points raised, the Federal district court denied habeas corpus relief. Facing the difficulties of considering rehashed issues in the "vacuum" of a 6-year delay, district judge Norman Roettger clearly expressed growing judicial and public frustration with current habeas corpus procedures. Judge Roettger stated:

> There are certain matters that the public might wonder about, and I understand why they might. For example, why a case that was tried in December of 1975 didn't get reviewed on this basis until December of 1981. I don't know why the Supreme Court of Florida took three-and-a-half years. I don't know why it took another couple of years for the death warrant to be issued. And I don't know why the Congress of the United States doesn't enact the law that has been introduced setting forth a time limitation within which these writs of habeas corpus must be instituted.

Judge Roettger made those comments in his decision issued December 10, 1981. Senator CHILES and I have been asking the same questions daily on the Senate floor for over 2 months now. S. 2543, the Crime Control Act of 1982, which includes a statute of limitations for habeas corpus relief, has been awaiting action on the Senate Calendar for over 2 months. While the Senate delays its consideration, offenders like Alvin Ford continue to flood our courts with burdensome and frivolous habeas corpus petitions. I urge this Congress to act now on the habeas corpus reform, to restore a meaningful measure of integrity and credibility to our criminal justice system.

Mr. President, I yield the floor. I yield back whatever time I have remaining.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection it is so ordered.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 10 minutes, with statements therein limited to 3 minutes each.

Mr. HATCH. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HATCH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

THE SECOND SPECIAL SESSION ON DISARMAMENT

Mr. WARNER. Mr. President, I call to the attention of the Senate the Second Special Session on Disarmament of the U.S. Mission to the United Nations. I ask unanimous consent to have printed in the RECORD a speech given by another delegate, Mr. Edwin Feulner, Jr., president of the Heritage Foundation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY HON. EDWIN FEULNER, JR., PRESIDENT, THE HERITAGE FOUNDATION

Mr. President, let me express to you the admiration of my delegation for the way you have presided over our deliberations, and through you to express our sincere and deeply felt appreciation to Ambassador Adeniji who guided the work of this conference with sensitivity, dedication, and most of all wisdom.

My delegation has been an active participant in these vital discussions. We believe that the words that come out of this Session should be considered soberly—and not merely as another rhetorical exchange. It was because of our commitment to this Session that President Reagan addressed this body on June 17; that our delegation was composed of Senators and Congressmen from both political parties and representatives from other sections of American life. It was because we wanted to reach an enduring consensus on these critical questions of war and peace, that we—along with many other delegations—labored long into the night.

Sadly, we were unable to achieve that full consensus we all so ardently hoped for. But we shall continue to work in this forum as well as others in search of the goal of lasting peace.

As we look back over these past weeks, we must look at both our successes and failures and carefully consider the tasks that lie ahead. But first we must review the lessons of the past.

In 1978 the First Special Session produced a Final Document which embodied many of the aspirations of the world community. But why have we not at this Session been able to come to a consensus on the implementation of that Document?

Let's look at the historical record. Shortly after the First Special Session, one major power violated the most fundamental principles of the UN Charter, and invaded its non-aligned neighbor. They continue to occupy that hapless country. A war of aggression continues in Southeast Asia; other regional conflicts rage unabated; subversion is being exported to Central America, Africa, and other areas; and the quest for freedom is still suppressed in Eastern Europe. In short, the world increasingly lives in fear. Small wonder, then, that the implementation of the lofty goals of the Final Document has remained a distant and illusive dream.

Give their transgressions against the most sacred tenets of the UN Charter since the First Special Session, it is not suprising that some nations argued against language recounting the history of the past four years.

But we must now look to the future. The major project before this conference was, as President Reagan noted, "To chart a course of realistic and effective measures in the quest for peace"—a Comprehensive Program of Disarmament. Progress was made, but the task remains unfinished. We have all reaffirmed the validity of the Final Document and pledged ourselves to renewed efforts toward disarmament. Let me restate that pledge today for the United States.

The United States is proud of its record in disarmament. President Reagan has outlined a clear program to deal with the most pressing and dangerous problems. We have called for real and militarily significant arms reduction, particularly in the field of nuclear weapons. We have called for a one-third reduction in strategic ballistic missile warheads, the elimination of all land-based intermediate range missiles, and new safeguards to eliminate the risk of accidental war. Moreover, just two days ago, the United States and its allies introduced a comprehensive draft treaty in the Mutual and Balanced Force Reduction Talks in Vienna. This proposal calls for a substantial reduction of ground forces on both sides and the implementation of a package of associated confidence-building and verification measures. In all these negotiations, we have offered neither unverifiable measures nor meaningless rhetoric, but rather concrete proposals for major reductions in the arms and armed forces of the United States and of the Soviet Union.

Make no mistake. We are not satisfied with the current international situation and intend to do our part for peace and stability on this small planet.

Mr. President, at this Special Session on Disarmament, we have been considering the most important issue facing mankind—how to prevent war. Or, to put it in a more positive sense, how to establish a secure peace. Regrettably, there is no magic formula or instant panacea to attain that peace we all so fervently desire; it cannot be mandated by committees or by resolutions.

We have heard, again today, the reiteration of the Soviet "no-first-use" of nuclear weapons pledge. Our policy goes far beyond this pledge. The Soviet representative attempted to denigrate the NATO policy. But he cannot. As the leaders of NATO declared at their recent Summit, "None of our weapons will ever be used except in response to an attack." This is our pledge and our policy.

But we believe there is a better way, and we will continue to seek it as we have done at this Session.

During the past weeks we have offered concrete proposals and initiatives on a wide range of issues.

We are dedicated to a real World Disarmament Campaign. We believe that the open and universal availability of information of disarmament matters is vital. Excessive secrecy can only create mistrust and misunderstanding among the peoples of this world; such secrecy is a true enemy of peaceful relations among nations. The United States, as an open society, publicly makes available vast amounts of information on the momentous issues of war and peace.

We have no illusions as to the serious obstacles which have frustrated the objective of a free flow of information in the past. We are all well aware that while hundreds of thousands demonstrated openly and peacefully for disarmament in the streets of New York and other cities of the world, 7 people who dared unfurl a banner calling for "Bread, Life, and Disarmament," were arrested in Moscow. It is a sad commentary that to some societies these words are considered "anti-state" when used domestically, but are considered "state policy" when used internationally.

In the spirit of open discussion President Reagan has offered President Brezhnev the opportunity to address the American people on our TV on the vital questions of peace and disarmament for a chance to address the Soviet people. In this Session, we have offered specific proposals for similar multilateral discussions and regional seminars throughout the world. We believe that an informed world public is the best guarantee for peace and understanding among nations.

In addition to our proposals regarding the World Disarmament Campaign we have offered other concrete initiatives at this Session. During the past several years, disturbing reports have reached the outside world that toxins and other lethal chemical weapons are being used in conflicts against people in remote regions of the world. Unfortunately, the borders of these regions remain sealed to the world community. We have therefore urged that the General Assembly call on the Soviet Government, as well as the Governments of Laos and Vietnam, to grant full and free access to areas where chemical attacks have been reported so that the UN Group of Experts can conduct an impartial investigation.

We have also called for the convening of an International Conference on Military Expenditures. Such a conference would build on past UN efforts calling for universal adherence to a common reporting and accounting system on military expenditures. The frightening reality of vastly increased military budgets has been documented by recognized centers for disarmament throughout the world. Yet for the past ten years, one superpower has provided a manifestly ridiculous figure for its military budget to the world community. This universally discredited figure underscores the need for an International Conference on Military Expenditures.

As we conclude our work of this Second Special Session on Disarmament, I am again struck by the awesome task before us. Never have so few been responsible for the fate of so many. Let us not forget nor shirk this responsibility as we continue our search for a true and lasting peace.

Thank you, Mr. President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there futher morning business?

If not, morning business is closed.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The PRESIDING OFFICER. Under the previous order, the hour of 10:30 a.m. having arrived, the Senate will now resume consideration of the pending business, H.R. 4961, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The Senate resumed consideration of the bill.

The PRESIDING OFFICER. The first committee amendment is pending. There is a 2-hour time limit on the amendment equally divided and controlled by Senator DOLE and Senator LONG.

Who yields time?

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment to be offered by the distinguished Senator from Utah be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Utah is recognized.

Mr. HATCH. Mr. President, a parlimentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HATCH. Mr. President, as I understand it, that means we have unanimous consent that the committee amendment is to be amendable; is that correct?

The PRESIDING OFFICER. We have unanimous consent to amend it even though the time has not expired.

Mr. HATCH. That is correct.

So I may submit these amendments to the committee amendment; is that correct?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1098

(Purpose: To provide for reimbursement to hospitals where changes occur in a hospital's case mix)

UP AMENDMENT NO. 1099

(Purpose: To strengthen the exemptions process under the 3-year medicare hospital reimbursement cap)

Mr. HATCH. Mr. President, I send two amendments to the desk and ask for their immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes unprinted amendments numbered 1098 and 1099.

Mr. HATCH. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

On page 56, line 25, insert after "basis" the following: "by diagnostic category".

On page 57, line 3, insert after "basis" the following: by diagnostic category".

On page 58, line 3, strike out "as he deems appropriate".

On page 58, line 5, strike out "significant".

The PRESIDING OFFICER. Without objection, the amendments will be considered en bloc.

Mr. HATCH. Mr. President, I shall have introduced two minor clarifying amendments to H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

I am well known around here as one who strongly supports the need to control Federal spending and balance the Federal budget. I also support the need to find a way to slow the growth of the Federal medicare program. Yet, at the same time, it is imperative that we provide adequate care for our Nation's elderly and maintain the fiscal integrity of our Nation's hospitals. I applaud the distinguished chairman of the Finance Committee, Mr. DOLE, for the extraordinary job he has done in maximizing both of these objectives.

One part of one section of the bill, nonetheless, troubles me. Section 110 of the bill creates a new 3-year limit on hospital reimbursement increases as an interim measure. I would much prefer to see us encourage the development of a price-competitive market in health care over time and I am sure that Mr. DOLE, the distinguished Senator from Kansas, agrees with me. Once these procompetitive measures take hold, hopefully then the Federal Government could lift these controls from our Nation's hospitals.

As proposed in section 110 of the bill, these controls may unintentionally provide a disincentive to hospitals to become more efficient and to serve their community broadly. Let me explain the problem I wish to correct with these clarifying amendments. The current proposal places an expenditure limit on the hospitals per case. All of the hospital's cases are added together regardless of the type of case treated. An average cost per case is determined and the expenditure limit is applied to this average cost per case. In other words, the costs for appendectomies and open heart surgeries are mixed together to determine the hospital's overall average cost per case.

In order to keep the average cost per case down, the hospital may have an incentive to treat more routine cases and fewer complex cases. This may also encourage the hospital to treat some cases in the inpatient hospital setting rather than moving some of these cases, where appropriate, to the less expensive outpatient setting. This provision could also make it more difficult for efficient management within regional hospital systems by creating within the system a disincentive to centralizing more complex cases.

Hospitals which, over time, may be treating more elderly, more cancer, more open heart cases, and more intensive cases of all kinds, all else being equal, could be unintentionally jeopardized by the current proposal. The way I read the bill, under a weighted average cost per case, theoretically a hospital could keep its costs the same from year to year and still violate the limitation.

To remedy this situation, I first propose a clarifying amendment to section 110 of the bill, which would apply the expenditure limit to the average cost of comparable cases for a diagnostic category, such as for gall bladders or open heart surgery.

This would give the hospital the proper incentive to encourage care in the most cost-effective setting and would not harm a hospital for treating elderly patients or for a case mix which may become more complex over time. Specifically, where there are references on pages 56 and 57 of the bill to costs "determined on a per admission or per discharge basis," I would add "by diagnostic category."

In addition to the first proposal, I recommend a second clarifying amendment to strengthen the requirement for secretarial exemption under the 3-year cost cap. This Congress knows full well it cannot anticipate all the legitimate reasons why a hospital's costs may change. This is an area in which we must rely on the Department of Health and Human Services. Yet the Department may have little incentive to recognize legitimate changes in a hospital's costs, even those which are beyond the control of a hospital. Therefore, I propose deleting the words on page 58 of the bill "as he deems appropriate," words which, if left in, would leave absolute discretion in the granting of exemptions to the Secretary. I also delete the word "significant" on line 5 of page 58.

These deletions would make the granting of adjustments, where appropriate and warranted, mandatory by the Department, rather than leaving such an exemption dependent upon a regional office recommendation to the Secretary. The Secretary would, of course, under this section publish, via regulation, strict criteria by which a hospital could be granted a full or partial adjustment, exception, or exemption. However, the Department would not have discretion in whether to grant or deny an adjustment should a hospital's circumstances meet the Secretary's criteria.

Mr. DOLE. The Senator has offered both amendments?

Mr. HATCH. I have offered both.

Mr. DOLE. I appreciate your efforts to clarify this bill. I believe that your first amendment is actually taken care of in the bill as presently drafted, however, speaking for this side I would be happy to accept your second amendment, which is useful in clarifying the intention of the finance committee: To provide for an exemption and adjustment process for the 3-year rate-of-increase limitation provision in a manner that is sensitive to legitimate changes in hospital costs that result from a number of circumstances including changes in case mix.

It is my understanding that the clarification offered by the second amendment will not have any impact on the present savings estimates.

As written and as intended by the Finance Committee, the bill language clearly calls upon the Department to develop a fair process by which legitimate adjustments will be made and by which hospitals may apply for exceptions or exemptions as needed. It is our intention that changes in a hospital's case mix that might cause it to exceed its rate-of-increase limitation would be grounds for an adjustment. The reasons for an adjustment may vary widely; for example, from demographic changes, shifts in service areas, variations in the general health of the service population, or the occurrence of a natural disaster.

However, it is clearly not the intention of the committee to allow hospitals to deliberately manipulate their case mix to avoid the limits, but rather to provide protection against uncontrollable changes.

Further, it is our intention that the Secretary establish written criteria to be used in making adjustments for case mix. Thus, a hospital will be able to utilize this criteria in assessing its position and preparing documentation to support its request for an adjustment.

So it is revenue-neutral as far as we are able to determine.

Mr. HATCH. I appreciate the distinguished Senator from Kansas' acceptance of my second amendment and I equally appreciate the information the Senator has provided me on my first proposal. I will gladly accept your assurance that hospitals with changes in case mix will be able to have their costs for such changes reimbursed fairly and without jeopardy of violating the limitation.

As I indicated in my statement, I just want to make sure that there will be no inequity in administration of this program where shifts occur in a hospital's case mix from less intensive to more intensive cases.

I appreciate your clarification of the first amendment and will withdraw it. So I formally withdraw the first amendment by unanimous consent.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator's first amendment (UP No. 1098) is withdrawn.

Mr. HATCH. I move the adoption of the second amendment which the Senator from Kansas will accept.

Mr. DOLE. Does the distinguished Senator from Louisiana have any objection? The Senator has withdrawn the one amendment we have a problem with. The other one I think is a good amendment. It is no revenue loss. It does not affect our savings.

Does the Senator have any objection to that amendment?

Mr. LONG. I have no objection to it.

Mr. HATCH. I thank my good friends from Louisiana and Kansas.

Mr. DOLE. I thank my good friend from Utah because I know of his direct interest. The committee jurisdiction sometimes overlaps, and I appreciate his calling this to our attention.

Mr. HATCH. I thank my colleagues and I move the adoption of the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. HATCH. I yield back my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Utah.

The amendment (UP No. 1099) was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATCH. I thank the Senator.

The PRESIDING OFFICER. The question now recurs on the committee amendment, as amended.

Mr. DOLE. Mr. President, I ask that I be allotted 5 minutes on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, as the Senator from Kansas indicated last evening, it is my hope that, perhaps, this morning we can address some of the concerns that Members have on both sides of the aisle as they refer to the spending reduction package. It is my understanding—and I am certainly not aware of all the amendments—the Senator from Ohio (Mr. METZENBAUM) may have an amendment, the Senator from Massachusetts (Mr. KENNEDY) may have an amendment, the Senator from Montana (Mr. BAUCUS), and the Senator from Minnesota (Mr. DURENBERGER) may have amendments, and there may be others of which the Senator from Kansas is not aware.

It would be my hope that we could dispose of all the amendments we know of that affect anything on the spending side. Otherwise we will proceed in any way——

Mr. LONG. Mr. President, will the distinguished manager of the bill yield at that point? Might I suggest to the manager of the bill that in order to help make the position of Senators clear, we simply agree by unanimous consent that when Senators are through with their amendments to title I, at an appropriate time, we simply have a vote on title I which deals with the spending cuts, that is, "Provisions relating to savings in health and income security programs"? That would be so that those who want to go on record in favor of spending cuts could vote in a straightforward fashion to record themselves in favor of voting for the spending cuts.

Mr. DOLE. Let me say to the Senator from Louisiana that I do not believe I would have any objection to that but could I check with the majority leader and one or two other Senators on our side? For me that would give everyone the opportunity to go on record because we have been trying to determine some neat way to separate on final passage these two sections. This might take care of that concern because I know of some Senators who are willing to vote for the spending reductions and others are willing to vote for the revenue increases, but there are different groups on each side.

Mr. LONG. As far as this Senator is concerned, the Senator from Louisiana is willing to vote for the spending cuts that are in the bill. He will vote for amendments, but he is willing to vote for the spending cut title. I would think those who would like to vote for spending cuts would like to vote affirmatively on that title, so if we can gain unanimous consent I think that would be a good way to proceed. Otherwise we could find some other way, such as a motion to table, and then Senators could vote on the motion to table or perhaps on a motion to strike. But I think it would be best to simply let them vote and record themselves affirmatively in favor of the spending cuts if that is what they want to do.

Mr. DOLE. Let me just indicate to the Senator from Louisiana that I will check that immediately. To me it sounds like a good idea.

Mr. METZENBAUM. Mr. President, will the Senator from Kansas as well as the Senator from Louisiana indicate whether it might be possible to take the spending cuts, and then instead of making it a yes or no vote, whether by unanimous consent that that entire section might be moved en bloc to other legislation which would then be considered in due course after the revenue side of the bill had been dealt with? In other words, there might be some of us who could find some reason to support, if amended, some one or all parts of the spending cuts, and I think the Senator from Louisiana is certainly moving very much in the right direction on the whole question of taking it out, but because I would guess it would be difficult to achieve a majority on that motion and it might be possible to achieve a majority in coming at it in a different manner, with some modifications of some portions of the spending cuts, I am wondering whether or not—I know the Senator from Kansas was originally exploring the possibility of doing just that.

The Senator from Ohio is now asking this question in connection with the inquiry of the Senator from Louisiana because I think all of us want to try to be responsible and try to achieve the objective that is called for under the budget reconciliation measure—this is a long question—but the Senator from Kansas and the Senator from Louisiana understand the thrust of my inquiry.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. DOLE. I yield myself 5 more minutes.

I will say to the Senator from Ohio that we will certainly explore it. But I would not want the action on spending to be delayed. If there was some way to move it out of here at the same time the revenue matter was considered, maybe through some vehicle on the calendar, that might be advisable.

Mr. METZENBAUM. I asked it on the basis of its being a unanimous consent and I also implied in that, that it would come up under some time limitation so that we would not find ourselves or the Senator from Kansas would not find himself in the position of having agreed to move the revenue bill but not being able to move by parliamentary procedure on the other side of the ledger.

Mr. LONG. Mr. President, if the Senator will yield, I do not believe that Senators are going to want to separate the spending cut and the tax cut, and I do not think the Senator from Louisiana wants to do so. As long as they are being recommended by the committee, I do not think I would want to separate them from the bill.

I simply think the people who want to vote for the spending cuts want to vote in a direct up-or-down vote so that they can go on record. If need be, one can move to strike the whole title and vote against his own motion. So we can have a vote in it in one way or the other.

But I would think that those who want to vote for the economy moves would like to vote straight up or down. We have done this before on other bills. We have gone title by title and when we reached the end of a title we just voted on it.

I recall we had a major bill that the Senator from Louisiana was managing several years ago and it had many titles. The Senator from Louisiana

simply asked for a vote every time we came to the end of a title.

All I am suggesting is that it would be appropriate that we agree to vote on title I on a direct vote.

Mr. DOLE. Mr. President, certainly we will explore that. It seems to me to be a perfectly fair idea. I will also explore what we may be able to do with the suggestion of the Senator from Ohio.

It is the understanding of the Senator from Kansas that there are two, three, or four amendments on the spending side and, if they can be accommodated, much of the opposition to that whole package might be eliminated. This Senator cannot say that for certain, but we are working with a number of Senators who have some concerns in certain areas but not on others. We are trying to accommodate Senator BAUCUS and others. Senator BAUCUS is the ranking Democrat on that subcommittee. He is now negotiating with Senator DURENBERGER, the subcommittee chairman. So perhaps we could satisfy nearly everyone.

Mr. LONG. Will the distinguished manager yield?

Mr. DOLE. Yes.

Mr. LONG. I hope that we will move on this major bill. This is a tremendous bill and it is a very significant measure. I would hope that we would move on this measure in sequence, because it is difficult for Senators to keep up with what is going on when we jump back and forth from one subject to another. I hope we would try to address ourselves to spending cuts, which the manager of the bill and the majority of the committee saw fit to put first in the bill, and that is what the committee voted on first when we were in session.

If we would just vote on the spending cuts first, then anybody who does not like some part of it can move to amend it or strike. Then, the Senate having worked its will on sections 101 to 121, those 21 sections, it could proceed to vote on the title and after go on to title II.

If no one wants to offer an amendment to title I, Mr. President, I am ready to vote on title I.

Mr. DOLE. I think there are amendments, but I am ready to vote on it, also.

Mr. METZENBAUM. I think it is no secret that some of us find some portions of title I impossible or so objectionable that we are not prepared to vote for it. On the other hand—and I speak for myself in this respect—I would like to find a way to vote for this bill, because I think that the Finance Committee has done a credible job in attempting to achieve the objectives and responsibility that they have.

However, we can only determine whether or not some of us will be able to vote for it or not after determining whether or not some of the sections are amendable and whether they are acceptable to the chairman.

The PRESIDING OFFICER (Mr. HUMPHREY). The time Senator DOLE has yielded himself has expired. Who yields time?

Mr. DOLE. Mr. President, I yield myself 5 additional minutes from the bill.

I would just say to the Senator from Ohio that I know the Senator from Ohio has one amendment I am advised we could accept on emergency services. I know of another concern the Senator from Ohio has that may be addressed by the efforts of Senator BAUCUS, Senator DURENBERGER, Senator JEPSEN, Senator HAWKINS and others. I understand Senator BAUCUS may be in a position to indicate whether that would be acceptable.

Another interest to the Senator from Ohio is the unemployment area and we have someone available now to discuss that so we can determine from your staff precisely what the amendment is.

So, hopefully, we can adjust in nearly every case, or accommodate in nearly every case, the requests of the Senator from Ohio.

Mr. METZENBAUM. I appreciate the cooperation of the Senator from Kansas, the manager of the bill. For myself, I would like to make this a bill that a number of us could vote for. It is fair to say that some portions of it are too sticky and too difficult to accept. But I do not intend to delay action on it nor do I have a host of amendments.

I think we can move forward with the process before we actually get to a vote on the issue, as stated by the manager of the bill on the minority side, so that when we are talking about striking the entire section, it would at that time have been improved to the maximum extent possible.

Mr. DOLE. Mr. President, I hope that there might be someone who would be prepared at this point to offer an amendment to that title, title I. Again, it seems to me that we could move very quickly on this entire package—maybe not finish it all by noon but hopefully the spending reduction side by not later than 12:30 today—and then maybe wrap up the tax package this afternoon and go home, if not today, tomorrow.

But there are some amendments that we are willing to accept in title I and, hopefully, those who have those amendments will come forward.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment to be offered by the distinguished Senator from Oregon be in order.

The PRESIDING OFFICER. Is there objection?

Mr. LONG. Mr. President, reserving the right to object, and I do not intend to object, I would like to have it understood that this unanimous-consent request does not waive the right of any Senator to raise the question of germaneness, because I believe a Senator may want to raise the question of germaneness with regard to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT 1100

(Purpose: To provide for necessary development of our Nation's airport and airway system)

Mr. PACKWOOD. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD) proposes an unprinted amendment numbered 1100.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 619 of the first committee amendment, add the following new title, making any necessary redesignations, immediately after line 16:

TITLE IV—AIRPORT AND AIRWAY SYSTEM DEVELOPMENT

SHORT TITLE

SEC. 1. This Act may be cited as the "Airport and Airway System Development Act of 1982".

DECLARATION OF POLICY

SEC. 2. The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1302 and 1303), as amended by the Airline Deregulation Act of 1978, with due regard for the goals expressed therein of fostering

competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

(4) this Act should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports, for points with scheduled commercial air service;

(5) this Act should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining a precision approach system and a full approach light system for each primary runway, grooving or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(8) certain airports which have the ability to finance their capital and operating needs without Federal assistance should be encouraged to voluntarily withdraw from eligibility for such assistance;

(9) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(10) it is in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively, and to accomplish this objective the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs.

DEFINITIONS

SEC. 3. As used in this Act—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, marking, or lighting of airport hazards; and

(ii) the preparation of plans and specifications for airport development, including field investigation incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) precision approach systems and other navigation aids used by aircraft for landing at or taking off from such airport, including any necessary site preparation;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment; or

(iv) aviation-related weather reporting equipment;

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in paragraph 3(A) or 3(B) of this section or to remove, mitigate, or prevent or limit the establishment of airport hazards;

(D) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(i) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(ii) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(E) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to subsection 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at the airport or is otherwise hazardous to the landing or taking off of aircraft.

(4) "Airport noise compatibility planning" means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to section 103 of the Aviation Safety and Noise Abatement Act of 1979, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of such Act.

(5) "Airport noise compatibility program" means any such program described in section 104 of the Aviation Safety and Noise Abatement Act of 1979.

(6) "Airport planning" means planning, including airport noise compatibility planning and airport system planning, as defined by such regulations as the Secretary shall prescribe.

(7) "Airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable and balanced system of public-use airports. It includes identification of system needs, development of estimates of system-wide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Applicant State" means a State which submits an application for a block grant to the Secretary pursuant to section 12 of this Act.

(9) "Block grant" means a grant of funds to a participating State pursuant to section 12 of this Act for distribution within such participating State at eligible airports other than primary airports or reliever airports.

(10) "Block grant supplement" means a grant of funds to a participating State pursuant to section 13 of this Act.

(11) "Commercial service airport" means a public airport which is determined by the Secretary either to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft, or to enplane annually 10,000 or more passengers.

(12) "Eligible airport" means an airport that is eligible to receive Federal assistance for airport development or airport planning pursuant to the provisions of this Act.

(13) "Government aircraft" means aircraft owned and operated by the United States.

(14) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(15) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the United States, Puerto Rico, and the insular areas in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary.

(16) "Participating State" means a State that receives a block-grant pursuant to section 12 of this Act.

(17) "Primary airport" means a commercial service airport which is determined by the Secretary to have enplaned .01 percent or more of the total number of passengers enplaned annually at all commercial service airports.

(18) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(19) "Project costs" means any costs involved in accomplishing a project.

(20) "Project-grant" means a grant of funds by the Secretary pursuant to section 10 of this Act for the accomplishment of one or more projects.

(21) "Public agency" means a State, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or Guam or any agency of any of them; a municipality or other political subdivision; a tax-supported organization; or an Indian tribe or pueblo.

(22) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(23) "Public-use airport" means any public airport or any privately owned reliever airport which is used or to be used for public purposes.

(24) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a primary airport.

(25) "Secretary" means the Secretary of Transportation.

(26) "Sponsor" means (A) any public agency which, either individually or jointly

with one or more other public agencies, submits to the Secretary, in accordance with this Act, an application for financial assistance for airport development or airport planning at a public airport or (B) any private owner of a public-use airport which submits to the Secretary, in accordance with this Act, an application for financial assistance for airport development or airport planning at a reliever airport. Such term includes participating States.

(27) "State" means a State of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(28) "State development report" means a list of projects showing the utilization of block-grant and block-grant supplement funds distributed to a participating State.

(29) "Trust Fund" means the Airport and Airway Trust Fund established by section 208 of the Airport and Airway Revenue Act of 1970, as amended.

(30) "United States share" means that portion of the project costs of projects for airport development or airport planning which, pursuant to section 17 of this Act, is to be paid from funds made available for the purposes of this Act.

NATIONAL AIRPORT SYSTEM PLAN

SEC. 4. (a) The Secretary shall review and revise as necessary the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of airport development eligible for funding under this Act considered by the Secretary to be necessary to provide a safe and efficient system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) forecasted developments in other modes of intercity transportation.

(b) In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(c)(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this Act, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

NAVIGATION AIDS

SEC. 5. The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)) shall be charged to appropriated funds available to the Secretary for that purpose pursuant to section 7(a) of this Act. Nothing in this Act shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

AIRPORT IMPROVEMENT PROGRAM

SEC. 6. (a) In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to incur obligations in the form of grants from the Trust Fund for airport development and airport planning by project-grants, block-grants, and block-grant supplements in accordance with the provisions of this Act in aggregate amounts of not less than nor more than $450,000,000 for fiscal year 1982; $1,050,000,000 for the fiscal years prior to October 1, 1983; $1,740,000,000 for the fiscal years prior to October 1, 1984; $2,533,500,000 for the fiscal years prior to October 1, 1985; $3,582,900,000 for the fiscal years prior to October 1, 1986; and $4,789,700,000 for the fiscal years prior to October 1, 1987.

(b) No obligation for airport development or airport planning shall be incurred by the Secretary, or a participating State, pursuant to this Act after September 30, 1987: *Provided,* That nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 9(b) of this Act after such date.

(c) No obligation shall be incurred by the Secretary, or a participating State, pursuant to this Act for airport development or airport planning at any airport that has voluntarily withdrawn from such programs under section 26(a) of this Act except in accordance with the provisions of that section.

(d) No obligation shall be incurred by the Secretary for airport development or airport planning pursuant to this Act at a privately owned airport unless—

(1) the airport is a designated reliever airport,

(2) the Secretary finds that such airport plays an essential role in the national airport system plan, and

(3) the Secretary receives appropriate assurances that such airport will continue to function as a reliever airport during the economic life of any facility at such airport that was developed with Federal financial assistance under this Act.

(e)(1) Notwithstanding any other provision of law, if in any fiscal year the amount of funds made available for obligation for the purposes of this section are less than 85 percent of the amounts authorized in subsection (a), the authority of the Secretary to carry out the provisions of section 7 of this Act and the imposition of taxes under those sections of the Internal Revenue Code which feed the Trust Fund under section 208(b) of the Airport and Airway Revenue Act of 1970 (49 U.S.C. 1742(b)) shall terminate for all subsequent years.

(2) Paragraph (1) of this subsection shall not apply if a joint resolution is enacted into law which authorizes the Secretary to carry out the provisions of section 7 of this Act and authorizes the imposition of the taxes referred to in paragraph (1) of this subsection during a fiscal year even though the amount of funds made available for obligation in the previous fiscal year was less than 85 percent of the amounts authorized in subsection (a).

AIRWAY IMPROVEMENT PROGRAM

SEC. 7. (a) AIRWAY FACILITIES AND EQUIPMENT.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years prior to October 1, 1983; $2,379,000,000 for the fiscal years prior to October 1, 1984; $3,786,000,000 for the fiscal years prior to October 1, 1985; $5,163,000,000 for the fiscal years prior to October 1, 1986; and $6,327,000,000 for the fiscal years prior to October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312(c) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312(c). For research, engineering and development, and demonstration projects and activities under section 312(c), there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983; $286,000,000 for fiscal year 1984; $269,000,000 for fiscal year 1985; $215,000,000 for fiscal year 1986; and $193,000,000 for fiscal year 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(c) OTHER EXPENSES.—The moneys available in the Airport and Airway Trust Fund may be appropriated for (1) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, (2) direct costs incurred by the Secretary to flight check and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient condition, and (3) other operating expenses of the Federal Aviation Administration. The amounts appropriated from the Airport and Airway Trust Fund for the purposes of clauses (1), (2), and (3) of this subsection may not exceed $800,000,000 for fiscal year 1982; $1,559,000,000 for fiscal year 1983; $1,355,000,000 for fiscal year 1984; $1,363,000,000 for fiscal year 1985; $1,388,000,000 for fiscal year 1986; and $1,444,000,000 for fiscal year 1987. No part

of any amount appropriated from the Airport and Airway Trust Fund in any fiscal year for obligation or expenditure for the purposes described in clauses (2) and (3) of this subsection shall be obligated or expended which exceeds that amount which bears the same ratio to the maximum amount which may be appropriated under clauses (1), (2), and (3) of this subsection for such fiscal year as the total amount obligated in that fiscal year under subsections 6(a) or programed for or obligated under subsection 7(a) of this Act bears to the aggregate of minimum amount made available for obligation under each such subsection for such fiscal year. If in fiscal year 1982, or in any subsequent fiscal year, the amount obligated under subsection 6(a) or programed for or obligated under subsection 7(a) of this Act in such fiscal year is less than the minimum amount made available for obligation under each such subsection for such fiscal year, the amount available for obligation or expenditure for the purposes described in clauses (2) and (3) of this subsection shall be reduced by an amount equal to the difference between the minimum amount made available under subsection 6(a) or made available under subsection 7(a) of this Act for such fiscal year and the amount obligated under section 6(a) or programed for or obligated under subsection 7(a) for such fiscal year. Any reduction under the preceding sentence shall be made in the amount available for obligation or expenditure in the next fiscal year for the purposes described in clauses (2) and (3).

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984; $30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; and $34,998,000 for fiscal year 1987.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—

(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

(2) Notwithstanding any other provision of law to the contrary, the total amount of funds from the Trust Fund which are obligated or expended in any fiscal year for the purposes described in this section shall not exceed 75 percent of the total expenditures of the Federal Aviation Administration for that fiscal year.

(3) Notwithstanding any other provision of law to the contrary, amounts equal to the minimum amounts authorized for each fiscal year by section 6 or sections 7 (a), (b), (d) and the second sentence of section 7(c) of this Act shall remain available in the Trust Fund until obligated or appropriated for the purposes described in such subsections.

(4) Notwithstanding any other provision of law to the contrary, no funds appropriated from amounts transferred to the Trust Fund by subsection (b) of section 208 of the Airport and Airway Revenue Act of 1970 (relating to aviation user taxes) may be obligated or expended for administrative expenses of the Department of Transportation or any unit thereof except to the extent authorized by the provisions of and the formulas in this section.

(5) No provision of law, except for a statute hereafter enacted which expressly limits the application of this paragraph (5), shall impair the authority of the Secretary to obligate to an eligible airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to subsection 9(b) of this Act, in addition to the minimum amounts authorized for that fiscal year by sections 6 and 7 of this Act.

(6) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

APPORTIONMENT OF FUNDS

SEC. 8. (a) For each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary in accordance with subsection (b) of this section: *Provided*, That in any apportionment for a fiscal year beginning after September 30, 1982, the Secretary shall not apportion any funds to airports that have voluntarily withdrawn from the program under the provisions of section 26(a) of this Act.

(b) On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 6 of this Act, the amount made available for that year, and not previously apportioned, shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To eligible primary airports, 55 percent of the funds authorized in section 6 for fiscal year 1982, and 50 percent of the funds authorized in section 6 for each subsequent fiscal year, apportioned to each eligible primary airport as follows:

(i) $6 for each of the first 50,000 passengers enplaned at that airport;

(ii) $4 for each of the next 50,000 passengers enplaned at that airport;

(iii) $2 for each of the next 400,000 passengers enplaned at that airport; and

(iv) $.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to each eligible primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary may not apportion more than $12,500,000 under paragraph (1) of this subsection for any single airport for any fiscal year.

(2) APPORTIONMENTS TO STATES AND INSULAR AREAS.—To the several States and to Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands for eligible public airports other than: (I) reliever airports; (II) primary airports; and (III) airports that are ineligible to receive Federal assistance under the provisions of section 26(a) of this Act:

(A) 10 percent of the funds authorized in section 6 for each of the fiscal years 1982 through 1987, to be apportioned as follows:

(i) Insular Areas. One-half of 1 percent of such amounts to the Commonwealth of Puerto Rico, Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(ii) States. One-half of the remaining 99.5 percent of such amount in the proportion which the population of each State bears to the total population of all the States and one-half of the remaining 99.5 percent of such amount in the proportion which the area of each State bears to the total area of all the States. As used in this paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(B) In addition, for each of the fiscal years 1982 and 1983, $150,000 shall be apportioned to each State for each commercial service airport located within its jurisdiction which is eligible to receive funds apportioned under this paragraph. In fiscal years 1984 through 1987, the amount of additional apportionment for each such airport under this clause shall be increased to $172,500 for fiscal year 1984, $195,000 for fiscal year 1985, $217,500 for fiscal year 1986, and $240,000 for fiscal year 1987.

(3) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1) and (2) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary through project-grants, block-grants, or block-grant supplements for such projects at eligible airports as the Secretary considers most appropriate for carrying out the purposes of this Act: *Provided*, That—

(A) In the case of eligible reliever airports, no less than 10 percent of the funds authorized in section 6 shall be distributed to such reliever airports during the 6-year period from October 1, 1981 to September 30, 1987.

(B) In the case of eligible commercial service airports other than primary airports that are not located in a participating State and received Federal assistance for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970, the Secretary shall identify high-priority projects that would significantly increase the safety or capacity of such airports. The Secretary shall then make available to each such airport by way of project-grants such amounts from the discretionary fund as the Secretary deems appropriate for the purpose of carrying out such projects. In no event shall the amount of discretionary funds made available to each such airport during the 5-year period from October 1, 1982, to September 30, 1987, for such high-priority projects be less than the greater of (i) an amount equal to the aggregate amount that would have been apportioned to such airport during such 5-year period if that airport had been eligible to receive an apportionment under the formula in section 8(b)(1) or (ii) five times the minimum amount apportioned to the airport for fiscal year 1980 under section 15(a)(3) of the Airport and Airway Development Act of 1970.

(C) In the case of eligible public airports other than reliever or commercial service airports, no less than $300,000,000 of the funds apportioned to the States pursuant to paragraph (2) of this subsection and the funds apportioned to the discretionary fund of the Secretary pursuant to paragraph (3) of this subsection shall be distributed to

such public airports during the 6 year period from October 1, 1981, to September 30, 1987.

(D) In the case of airports that would otherwise be eligible to receive grants for airport development and airport planning under this Act but have voluntarily withdrawn from such programs under section 26(a), the Secretary shall make available to each such airport by way of project-grants such amounts from the discretionary fund as the Secretary deems appropriate for the purposes of land acquisition or improving noise compatibility at such airport as described in paragraphs 3(2)(C), 3(2)(D), and 3(2)(E) of this Act. In no event shall the amount of discretionary funds made available to each such airport during the 5-year period from October 1, 1982, to September 30, 1987, be less than the amount which would have been apportioned to each such airport during such 5-year period under the formulas in paragraphs 8(b)(1) and 8(b)(2) of this Act if such airports had not voluntarily withdrawn from the program.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, the Secretary may apportion funds for airports in the State of Alaska in the same manner in which such funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event may the total amount apportioned for such airports pursuant to this paragraph in any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of the Airport and Airway Development Act of 1970.

(c) For the purposes of this section, all apportionments for any fiscal year which are determined by the number of passengers enplaned shall be based on passenger enplanement data for the preceding calendar year.

(d) If in any fiscal year the amount made available for obligation in such year is less than the amounts set forth in section 6 of this Act, the apportionments set forth in this section shall be proportionally reduced.

USE OF APPORTIONED FUNDS

SEC. 9. (a) EXCLUSIVE FORM OF OBLIGATION.—

(1) In the case of an eligible primary airport, the Secretary shall make the amount apportioned to such airport pursuant to section 8(b)(1) of this Act available for obligation to the sponsor of the airport by way of project-grants.

(2) In the case of any participating State, the Secretary shall make the amount apportioned to the participating State under section 8(b)(2) of this Act available for obligation to the State by way of block-grants.

(3) In the case of airports described in section 8(b)(2) that are located in a nonparticipating State, the Secretary shall make the amount apportioned to such nonparticipating State available for obligation to the sponsors of such airports located within the nonparticipating State by way of project-grants.

(b) DURATION OF AVAILABILITY.—Each amount apportioned under sections 8(b)(1) and 8(b)(2) of this Act shall be available for obligation by project-grant or block-grant agreement, as the case may be, during the fiscal year for which it was first authorized to be obligated and the 2 fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 8(b)(3) of this Act.

(c) TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.—

(1) Funds apportioned to an eligible primary airport under section 8(b)(1) of this Act may, pursuant to a project-grant agreement, be distributed to the sponsor of the primary airport for use at any public airport of the sponsor which is in the national airport system plan.

(2) The owner or operator of an eligible primary airport may enter into an agreement with the Secretary whereby the owner or operator waives receipt of all or part of the funds apportioned to such airport under section 8(b)(1) of this Act on the condition that, at the election of the owner or operator, the Secretary will either—

(A) make the waived amount available for an approved project-grant to the sponsor of another eligible public-use airport which is a part of the same State or the same geographical area as the airport making the waiver, or

(B) supplement by the waived amount any block-grant made to the State in which the airport making the waiver is located for use at any eligible public airport included in the national airport system plan.

(d) INELIGIBLE AIRPORTS.—Nothing in this section shall be construed as authorizing the obligation by the Secretary, or a participating State, of any funds at an airport that has voluntarily withdrawn from the program pursuant to section 26(a) of this Act except in accordance with the provisions of that section.

PROJECT GRANTS: APPLICATION; APPROVAL

SEC. 10. (a)(1) ELIGIBILITY.—Any sponsor may apply to the Secretary for a project-grant for airport development or airport planning at an eligible airport that is either (A) a primary airport or (B) a reliever airport or (C) an airport described in section 8(b)(2) of this Act which is not located in a participating State. Nothing in this section, however, shall be construed as authorizing the submission of a project-grant application by any sponsor if the submission of such application by the sponsor is prohibited by State law.

(2) Notwithstanding any provision of this Act, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this Act, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this Act, from funds available for obligation pursuant to section 8(b), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this Act.

(b) APPLICATION.—

(1) The application shall set forth one or more projects of airport development or airport planning proposed to be undertaken. It shall be submitted to the Secretary in such form and containing such information as the Secretary may prescribe.

(2) Each eligible primary airport to which funds are apportioned under section 8(b)(1) of this Act must notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project-grant application, for such funds. If an airport does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which the application is submitted.

(c) APPROVAL.—

(1) No project-grant application for airport development or airport planning may be approved by the Secretary unless the Secretary is satisfied that—

(A) the airport development or airport planning will be undertaken only in connection with eligible public-use airports included in the current national airport system plan;

(B) the project is consistent with the objectives of this Act as stated in section 2 of this Act;

(C) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which the airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this Act;

(D) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this Act;

(E) the project will be completed without undue delay;

(F) the sponsor which submitted the project-grant application has legal authority to engage in the project as proposed; and

(G) all project sponsorship requirements prescribed by or under the authority of this Act have been or will be met.

(2) No project-grant application for airport development may be approved by the Secretary unless—

(A) all proposed airport development shall be in accordance with standards established or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches;

(B) the sponsor or a public agency or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired;

(C) the application includes provision for (i) land required for the installation of approach light systems; (ii) touchdown zone and centerline runway lighting; or (iii) high intensity runway lighting, when it is determined by the Secretary that any such items are required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport; and

(D) the Secretary is satisfied that fair consideration has been given to the interests of communities in or near the location of the proposed project.

(3) No project-grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless—

(A) the sponsor of the project certifies to the Secretary that there has been afforded to the public an opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community;

(B) the sponsor agrees that, upon request of the Secretary, the sponsor will submit a transcript of any such hearings to the Secretary;

(C) the Secretary consults with the Secretary of the Interior and the Administrator of the Environmental Protection Agency

with regard to any portion of the project which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment;

(D) the Secretary conducts a full and complete review, as a matter of public record, of any project found to have a significant adverse effect on natural resources and finds in writing that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect;

(E) the Governor of the State in which the project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from that Administrator. Notice of certification or refusal to certify shall be provided within 60 days after the project application has been received by the Secretary; and

(F) the Secretary conditions approval of the project-grant application on compliance during the construction and operation of the project with applicable air and water quality standards.

SPONSORSHIP REQUIREMENTS FOR PROJECT-GRANTS

SEC. 11. (a) REQUIREMENTS.—In addition to the requirements set forth in section 10 of this Act, the Secretary may not approve a project-grant application unless the Secretary receives written assurances, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using the airport shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all the air carriers which make similar use of the airport and which utilize similar facilities (whether as a tenant, nontenant or subtenant of another air carrier tenant), subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of the airport utilizing the same or similar facilities;

(2) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(3) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;

(4) appropriate action, including the adoption of zoning laws, has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(5) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(6) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(7) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(8) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this Act or under the Federal Airport Act or the Airport and Airway Development Act of 1970, as amended, shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

(9) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(10) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(11) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property; *Provided, however,* That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(12) a sponsor who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of the land. The proceeds of such dispositions shall be refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost acquisition of the land.

(b) COMPLIANCE.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements in regard to the airport to which the project relates as are consistent with the terms of this Act and as the Secretary considers necessary. Among other steps to insure compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this Act, the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space is no longer required for the purposes set forth in paragraph (6) of subsection (a).

BLOCK GRANTS

SEC. 12. (a) ELIGIBILITY.—Any State may apply to the Secretary to receive a block-grant from funds apportioned to such State under section 8(b)(2) of this Act.

(b) APPROVAL.—The Secretary shall approve a block-grant application, and enter into a block-grant agreement with the applicant State in accordance with the provisions of this Act, upon finding that:

(1) The applicant State has, through appropriate legislative action, agreed to participate in the block-grant program, designated the State agency or organization that will have responsibilty for administering the program, and agreed to obligate State funds of the applicant State for airport development in an amount at least equal to 10 percent of the amount of Federal block-grant funds awarded to the applicant State.

(2) The applicant State's designated agency or organization is capable of administering a block-grant. The Secretary shall make such determination upon consideration of the resources available to the applicant State's designated agency or organization, in accordance with such regulations as the Secretary may prescribe.

(3) The applicant State has prepared, or will have prepared by January 1, 1984, a State airport system plan consistent with such criteria as the Secretary may require.

(4) The applicant State has provided reasonable assurance that Federal funds apportioned to the applicant State under section 8(b)(2) will be used to supplement and increase the level of applicant State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for allowable project costs as set forth in section 16 of this Act, and will in no event replace such applicant State, local, and other non-Federal funds.

(5) The applicant State has agreed that—

(A) it will submit a State development report for the information of the Secretary not later than the close of the third month of any fiscal year for which funds will be made available under this subsection;

(B) it will enforce compliance with assurances received by it from those to whom it

distributes funds from a block-grant, and such assurances shall include any which the Secretary may require the State to impose;

(C) it will monitor compliance with outstanding assurances made under the Federal Airport Act, the Airport and Airway Development Act of 1970, as amended, and the Surplus Property Act of 1944 at all airports which receive funds from a block-grant and will report to the Secretary any noncompliance with such assurances;

(D) it has given notice, to owners or operators of airports located within the applicant State which are eligible to receive funds from a block-grant, of its intent to apply for a block-grant; and

(E) it will collect and provide such safety or enplanement data, if the necessary data is not available from a Federal agency, as the Secretary may require with respect to public-use airports within the State.

(c) REVOCATION OF APPROVAL.—The Secretary may revoke any approval of a block-grant issued pursuant to this section upon finding that the participating State has not fulfilled all of the conditions specified in subsection (b) of this section or the block-grant agreement made pursuant to such approval.

(d) USE OF BLOCK-GRANT FUNDS.—

(1) Except as provided in paragraph (2) of this subsection, all funds distributed to a participating State as a block-grant shall be obligated or expended only for projects of airport development or airport planning at airports described in section 8(b)(2) of this Act which are located in the participating State and included in the participating State's current State airport system plan or in the national airport system plan.

(2) A participating State may apply not more than 1.5 percent of its annual apportionment under section 8(b)(2) to maintaining the currency of its State airport system plan, but no block-grant funds may be used to pay administrative costs incurred by the participating State in fulfilling the requirements of this Act or in distributing block-grant funds to eligible airports.

(3) A participating State which accepts a block-grant offer pursuant to this Act shall, not later than the close of the fiscal year following the fiscal year in which the offer is accepted, enter into binding agreements to commit all funds to be made available by the United States, to fund eligible airport planning or development projects. Any funds which have not been committed pursuant to such binding agreements shall revert to the United States at the close of such following fiscal year for credit to the discretionary fund established by subsection 8(b)(3) of this Act.

(e) STATE STANDARDS.—

(1) Except as provided in paragraph (2) of this subsection, all airport development pursuant to a block-grant under this section shall be in accordance with standards established or approved by the Secretary, including standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) The Secretary is authorized to approve standards, other than standards for the safety of approaches, established by a participating State for airport development in such participating State at public-use airports that are not primary airports, and, upon such approval, the State standards shall be the standards applicable to such airports in lieu of any comparable standard established under paragraph (a)(2) of this section. State standards approved under this subsection may be revised as the participating State or the Secretary determines to be necessary. Revisions initiated by a participating State shall be subject to the approval of the Secretary.

BLOCK-GRANT SUPPLEMENTS

SEC. 13. (a) ELIGIBILITY.—Any participating State may apply to the Secretary to receive a block-grant supplement from funds available to the Secretary for discretionary distribution pursuant to section 8(b)(3) of this Act.

(b) APPLICATION.—Any application for a block-grant supplement under this section shall be submitted to the Secretary in such form and manner as the Secretary may prescribe. Each application shall identify the specific projects for which funds are requested. Any participating State that submits an application for a block-grant supplement under this section during the first 3 months of any fiscal year shall submit a current State development report to the Secretary along with such application.

(c) APPROVAL.—The Secretary may approve any application for a block-grant supplement if the projects to be funded under the application satisfy all of the eligibility criteria applicable to projects funded under block grants. Approval of any application shall be solely at the discretion of the Secretary.

(d) BLOCK-GRANT SUPPLEMENT AGREEMENT.—If the Secretary approves an application for a block-grant supplement under this section, he shall enter into a block-grant supplement agreement with the participating State. The agreement shall contain the same requirements and restrictions as a block-grant agreement.

CONCLUSIONARY CERTIFICATIONS; CONSULTATION

SEC. 14. (a) CONCLUSIONARY CERTIFICATIONS.—In determining compliance with the requirements of this Act and other Federal laws, the Secretary shall, to the greatest extent practicable consistent with the objectives of this Act and other Federal laws, require conclusionary certifications from sponsors that they have complied or will comply with all of the statutory, regulatory, and procedural requirements that are imposed in connection with a project-grant, block-grant, or block-grant supplement under this Act or other Federal laws. Acceptance by the Secretary of certification from a sponsor may be rescinded at any time.

(b) CONSULTATION.—In making a decision to undertake any airport development project under this Act, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which the project is proposed.

GRANT AGREEMENTS

SEC. 15. (a) Upon approving a project-grant, block-grant, or block-grant supplement application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. The offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this Act and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds made available to carry out the provisions of this Act, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project-grant application for a project which will not be completed in 1 fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the airport pursuant to section 8(b)(1) of this Act for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) When an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased, except that—

(1) in the case of project grants for airport development, the United States share for project costs other than land acquisition may be increased by not more than 10 percent;

(2) in the case of project costs for the acquisition of land or interests in land as described in paragraphs 3(2)(C) or 3(2)(D) of this Act, the United States share of such project costs may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein; and

(C) Notwithstanding any other provision of law in the case of grants made under the Airport and Airway Development Act of 1970, as amended, the maximum obligation of the United States may be increased by not more than 10 percent: *Provided*, That any additional obligation of the United States may be paid for only from funds recovered by the United States from other grants made under that Act.

PROJECT COSTS

SEC. 16. (a) ALLOWABLE PROJECT COSTS.—Except as provided in section 18 of this Act, the United States may not pay, nor be obligated to pay, from amounts made available to carry out the provisions of this Act, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary and direct cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 22(b) of this Act;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary and direct costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary and direct administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred subsequent to May 13, 1946, and the

allowable costs for a project of airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of the project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated in the grant agreement except to the extent authorized by this Act; and

(4) it has not been incurred in any other project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—

(1) Notwithstanding the provisions of subsection (c) of this section, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the grant application, provided all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958, as amended, has provided all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft providing scheduled service, the Secretary may approve, as an allowable project cost of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

(2) No more than 60 percent of the sums apportioned under section 8(b)(1) of this Act to an eligible primary airport for any fiscal year may be obligated at such airport for project costs allowable under paragraph (1) of this subsection. No more than $200,000 of the sums apportioned under section 8(b)(2) for any fiscal year which are distributed to a commercial service airport which is not a primary airport may be used at such airport for project costs allowable under paragraph (1) of this subsection. In no event shall funds available for discretionary distribution by the Secretary pursuant to section 8(b)(3) of this Act be obligated at any primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Notwithstanding any other provisions of this Act, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(4) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport; or (3) indirect costs.

UNITED STATES SHARE OF PROJECT COSTS

SEC. 17. (a) GENERAL PROVISION.—Except as otherwise provided in this section, the United States share of allowable project costs payable on account of any project funded under a project-grant, block-grant, or block-grant supplement shall not exceed 90 percent of the allowable project costs.

(b) PROJECTS AT CERTAIN PRIMARY AIRPORTS.—In the case of primary airports enplaning .25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of the allowable project costs payable on account of any project contained in an approved project-grant application shall not exceed 75 percent of the allowable project costs.

(c) PROJECTS IN PUBLIC LANDS STATES.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) of this section shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such public and nontaxable Indian lands in the State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (1) the percentage share determined under subsection (a) of this section, or (2) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970, as amended.

PAYMENTS UNDER GRANT AGREEMENTS

SEC. 18. (a) PROJECT-GRANT AGREEMENTS.—The Secretary, after consultation with the sponsor with which a project-grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time.

(b) BLOCK-GRANT AND BLOCK-GRANT SUPPLEMENT AGREEMENTS.—The Secretary, after entering into a block-grant or block-grant supplement agreement with a participating State, shall make payment to such participating State of the United States share of the allowable project costs of projects funded through the block-grant or block-grant supplement. Such payment may be effected through a letter-of-credit system.

(c) PROJECT-GRANT, BLOCK-GRANT, AND BLOCK-GRANT SUPPLEMENT AGREEMENTS.—If the Secretary determines that the aggregate amount of payments made under a project-grant, block-grant, or block-grant supplement agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development or airport planning to which the advance payments relate has not been completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project-grant, block-grant, or block-grant supplement agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor or participating State.

PERFORMANCE OF CONSTRUCTION WORK

SEC. 19. (a) REGULATIONS.—The construction work on any project for airport development contained in an approved project-grant application submitted in accordance with this Act shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of the project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work under project-grants for airport development approved under this Act which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work under project-grants for airport development approved under this Act which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

USE OF GOVERNMENT-OWNED LANDS

SEC. 20. (a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this Act at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national airport system plan, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be

conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of 4 months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

FALSE STATEMENTS

SEC. 21. Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this Act;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this Act; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this Act;

shall, upon conviction thereof, be punished by imprisonment for not to exceed 5 years, or by a fine of not to exceed $10,000, or by both.

ACCESS TO RECORDS

SEC. 22. (a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this Act shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this Act to insure that such requirements are kept to the minimum level necessary for the proper administration of this Act.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this Act. The Secretary may require, as a condition to receipt of a grant under this Act, that an appropriate audit be conducted by a recipient. The Secretary may require appropriate audit and examination by participating States of any books, documents, papers, and records of any recipient of funds from a block-grant apportioned or a block-grant supplement distributed to such States under this Act.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this Act relating to the disposition of the proceeds of the grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of the audit with the Comptroller General of the United States not later than 6 months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) WITHHOLDING INFORMATION.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

GENERAL POWERS

SEC. 23. The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this Act, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this Act.

CIVIL RIGHTS

SEC. 24. The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this Act. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

JUDICIAL ENFORCEMENT

SEC. 25. (a) JUDICIAL ENFORCEMENT.—

(1) If any person violates any provision of this Act, or any rule, regulation, requirement, or order thereunder, the Secretary may, through the Attorney General, apply to the district court of the United States for any district wherein the airport or sponsor related to such violation is located, for the enforcement of such provision of this Act, or of such rule, regulation, requirement, or order; and such court shall have jurisdiction to enforce obedience thereto by a writ of injunction or other process, mandatory or otherwise, restraining such person or such person's agents, employees, and representatives from further violation of such provision of this Act or of such rule, regulation, requirement, or order and requiring their obedience thereto.

(2) Upon request of the Secretary, any United States Attorney to whom the Secretary may apply is authorized to institute in the appropriate district court and to prosecute under the direction of the Attorney General all necessary proceedings for the enforcement of the provisions of this Act or any rule, regulation, requirement, or order thereunder. The costs and expenses of such prosecutions shall be paid out of the appropriations for the expenses of the courts of the United States.

(b) PARTICIPATION IN COURT PROCEEDINGS.—Upon request of the Attorney General, the Secretary shall have the right to participate in any proceeding in court regarding the provisions of this Act.

(c) JOINDER OF PARTIES.—In any proceedings for the enforcement of the provisions of this Act, or any rule, regulation, requirement, or order thereunder, it shall be lawful to include as parties, or to permit the intervention of, all persons interested in or affected by the matter under consideration; and inquiries, investigations, orders, and decrees may be made with reference to all such parties in the same manner, to the same extent, and subject to the same provisions of law as they may be made with respect to the persons primarily concerned.

VOLUNTARY WITHDRAWAL FROM PROGRAM

SEC. 26. (a) For any fiscal year beginning after September 30, 1982, any airport that otherwise would be eligible to receive Federal assistance for airport development or airport planning under this Act may voluntarily elect not to receive such assistance. If an airport does voluntarily elect not to receive such assistance for any fiscal year, it shall be ineligible to receive assistance for airport development or airport planning under this Act for that fiscal year or any subsequent fiscal year, except to the extent permitted under sections 8(b)(3)(D) and 10(a)(2) of this Act.

(b)(1) Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this Act.

(2) The study shall consider, among other things: (A) what effect, if any, making such airports ineligible for such Federal assist-

ance would have on the national airport system; (B) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (C) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports and air carriers; (D) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (E) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (F) whether the Congress should implement such a program prior to the expiration of this Act.

(3) In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

WAIVER OF CERTAIN OBLIGATIONS

SEC. 27. (a)(1) No later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures pursuant to which the owner or operator of any airport that voluntarily chooses not to receive Federal assistance under this Act pursuant to the provisions of section 26(a) of the Act, may, at its option, terminate any existing assurances, requirements, or contractual obligations with the United States that arose from the acceptance of Federal assistance under, or that are contained in grant agreements, deeds, or other instruments of conveyance issued pursuant to, this Act, the Federal Airport Act of 1946 (49 U.S.C. 1101 et seq.), the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944.

(2) If the owner or operator of an airport, pursuant to paragraph (1) of this subsection, elects to terminate a financial obligation owed to the United States, the Secretary is authorized to settle the obligation in an amount not exceeding the maximum obligation stated in the existing agreement, less any payments made thereon.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, neither the owner or operator of an airport nor the Secretary may terminate any assurance specified in paragraphs (1), (2), (3), (4), (5), (6), (8), (10), (11), and (12) of section 11 of this Act or in paragraphs (1) through (6), (8), and (10) of section 18 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1718), as such Act was in effect on the date of enactment of this paragraph.

(4) Notwithstanding any other provision of law, any airport that received or receives Federal assistance under this Act, the Federal Airport Act of 1946, the Airport and Airway Development Act of 1970 (49 U.S.C. 1711 et seq.) or the Surplus Property Act of 1944, either before or after the date of enactment of this paragraph, shall be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier, authorized by certificate or exemption to engage directly in air transportation pursuant to section 401, 402, or 418 of the Federal Aviation Act of 1958, using the airport shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of the airport and which utilize similar facilities (whether as a tenant, nontenant, or subtenant of another air carrier tenant), subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at the airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar use of the airport utilizing the same or similar facilities.

(5) If an airport that voluntarily chooses not to receive Federal assistance for airport development or airport planning pursuant to section 26(a) does receive Federal assistance for land acquisition or noise compatibility projects pursuant to section 8(b)(3)(D), nothing in this section shall be construed as requiring the Secretary to terminate any assurances, requirements, or contractual obligations of such airport to the extent that such assurances, requirements, or contractual obligations relate to the land acquisition or noise compatibility projects.

(b) No State or political agency of one or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to (1) the operating safety of an airport subject to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432), or (2) any assurance, obligation, or requirement from which an airport owner or operator has been released by the Secretary under this section.

REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; SEPARABILITY

SEC. 28. (a) REPEALS.—Except as otherwise provided in this Act, sections 1 through 31 of the Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701-1731), are repealed on the date of enactment of this Act.

(b) EFFECTIVE DATE.—The provisions of this Act shall enter into effect on the date of enactment of this Act.

(c) SAVING PROVISIONS.—

(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction under any provision of the Airport and Airway Development Act of 1970, as amended, or the Federal Airport Act, as amended, which are in effect at the time this Act takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

(2) Notwithstanding any other provision of this Act, amounts apportioned before October 1, 1980, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, as amended, and which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act, to the same extent as though that Act had not been repealed; except that nothing in this paragraph shall be construed as authorizing the obligation of any amount at an airport that has voluntarily withdrawn from the program pursuant to section 26(a) except in accordance with the provisions of that section.

(d) SEPARABILITY.—If any provision of this Act or the application thereof to any person or circumstance is held invalid, the remainder of the Act and the application of the provision to other persons or circumstances is not affected thereby.

REPORT TO CONGRESS ON AIRPORT AND AIRWAY TRUST FUND

SEC. 29. On or before the first day of March of each year, the Secretary shall transmit to the Congress a balance sheet for the Airport and Airway Trust Fund describing, in general terms, the revenues and expenditures of the Fund for the preceding fiscal year.

STANDARDS FOR RUNWAY FRICTION

SEC. 30. The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)), is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof ", and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

EQUAL AERONAUTICAL ACCESS

SEC. 31. (a) Section 308 of the Federal Aviation Act of 1958 (49 U.S.C. 1349) is amended—

(1) by striking the last sentence in subsection (a); and

(2) by adding at the end thereof the following new subsection:

"EQUAL AERONAUTICAL ACCESS

"(c)(1) There shall be no exclusive right for the use of any landing area or air navigation facility upon which Federal funds have been expended. All airports upon which Federal funds have been expended shall be available for public use on fair and reasonable terms and without unjust discrimination, and each such airport shall be open to all types, kinds, and classes of aeronautical use on fair and reasonable terms without unjust discrimination among such types, kinds, and classes of aeronautical use. Further, each air carrier using such airport shall be subject to such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, (whether as a tenant, nontenant, or subtenant of another air carrier tenant), subject to such reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers.

"(2) Nothing in this subsection shall be construed as prohibiting the owner or operator of an airport from (A) establishing such fair, equal, and not unjustly discriminatory conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport or (B) prohibiting or limiting any type, kind, or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.".

(b) Section 1007(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1487(a)) is amended by inserting the words "section 308(c) or" before the words "section 401(a) of this Act".

(c) The table of contents of the Federal Aviation Act of 1958 is amended by inserting at the end of the item relating to section 308, the following:

"(c) Equal aeronautical access.".

CONFORMING AMENDMENT

SEC. 32. (a) Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 2101(1)) is amended to read as follows:

"(1) the term 'airport' means any public-use airport as defined in the Airport and Airway System Development Act of 1982;".

(b) Section 101(2) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. 2101(2)) is amended to read as follows:

"(2) the term 'airport operator' means any person operating an airport as defined in this section; and".

SECURITY SCREENING IN FOREIGN AIR COMMERCE

SEC. 33. Section 24 of the Airport and Airways Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by adding the following new subsections at the end thereof:

"(d) There is authorized to be appropriated for fiscal year 1982 from the Airport and Airway Trust Fund such funds as may be necessary to carry out this section, provided that the total of such funds shall not exceed the amounts authorized to be appropriated under subsection (c) of this section.

"(e) The Secretary shall submit a report to the Congress on the amounts of compensation due to air carriers under this section.".

SAFETY CERTIFICATION OF AIRPORTS

SEC. 34. (a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)), is amended to read as follows:

"(a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for, the operation of airports that—

"(1) Enplane 2,500 or more revenue paying passengers annually; or

"(2) Serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.".

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof: "described in subsection (a) and which is required by the Administrator, by rule, to be certificated.".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c) is amended by striking out "air carrier airport enplaning annually less than one-fourth of 1 percent of the total number of passengers at all air carriers airports" and inserting in lieu thereof: "airport described in paragraph (a)(1) enplaning annually less than one-fourth of 1 percent of the total number of passengers enplaned at all airports described in paragraph (a)(1).".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

"(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

PART-TIME OPERATION OF FLIGHT SERVICE STATIONS

SEC. 36. (a) Beginning on the date of enactment of this Act, the Secretary shall not close or operate on a permanent part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this Act and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than 60 existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such service shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

CONGRESSIONAL COMMITTEES

SEC. 37. Nothing in this Act shall be construed as altering the jurisdiction of the Committee on Commerce, Science, and Transportation in the Senate, or the Committee on Public Works and Transportation in the House of Representatives, over the airport and airway system development program or other aeronautical activities.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, everyone should have a copy of this amendment on his or her desk. There have been two changes in the amendment from what is on the desk and I shall read them so that everybody will be aware of them.

On page 15, lines 7, 8, 9, and 10, are some dollar figures. These are the figures that are in the amendment as handed in. The figures should read as follows: On line 7, $1,740,000,000; on line 8, $2,533,500,000; on line 9, $3,582,900,000; and on line 10, $4,789,700,000.

Then, Mr. President, on page 77, line 11, through page 79, line 4, the material has simply been stricken out.

This amendment is what is known as the ADAP program, the airport and airway development aid program. It is a program well known to the Members of the Senate. It worked well for 10 years, it was in existence from 1970 to 1980. Through some differences between the House and the Senate and other problems, it was not reauthorized on a long-term basis. When you are talking about building airports, putting in navigation equipment, extending runways and taxiways, you are not talking about problems on a year-to-year basis, you are talking about 3, 4, 5, or 6 years. This particular amendment authorizes money through fiscal year 1987 for the ADAP programs.

The ADAP program has basically four parts to it. On occasion, the term "ADAP" is used in referring to all of the parts. On occasion it is used in referring to just one of the parts. I shall explain what those four parts are.

First is the airport development grants. These are the capital improvement at airports for runways, taxiways, and what not. If somebody is normally referring to just a section of the program and says "ADAP," this is usually what they mean.

The second part is facilities and equipment. This is the airport and airway navigational equipment. Third is research and development, and fourth is FAA operations and maintenance, the administrative cost of running the Federal Aviation Administration.

The taxing provisions were added, of course, to this bill in the reconciliation package before the Finance Committee. The substantive part of the ADAP program, the authorizations—how the money shall be spent, the use of the trust fund—was also added at the request of the majority of the members of the Committee on Commerce.

It is most important that while this particular amendment I am offering is, how the money user taxes are spent, let the two, the user taxes and the spending provisions in my colleagues' minds be considered together. Because if, by chance, this amendment is defeated, if we do not adopt the authorization levels for 6 years for the airport development the FAA navigation equipment, the research and development, then what you will have is the user fees being collected but this money will not be used for the purpose for which the users intended it. It would be like having the gasoline tax and no highway trust fund and just having the money go into the general fund even though it was sold to the voters and put through Congress on the basis of being a user fee.

I want to emphasize, Mr. President, that the aviation user fees in the bill were arrived at after extraordinary negotiations between all parts of the aviation community. All of these groups do not necessarily share complete endorsement of all of the parts of the bill. The bulk of the people, those who use the airways or who operate the airports, support the bulk of the bill. It is a fragile coalition. The tax part of the bill has the following taxes:

A tax on airline tickets, 8 percent.

A tax on air freight, 5 percent.

International departure tax, $3 no different from the present law.

Tire tax at 5 cents a pound, no change from the present law.

The tube tax at 10 cents a pound, no change from the present law.

General aviation gas goes to 12 cents per gallon. It was at one time 7 cents a gallon, and when the authorization for the program terminated it fell back to its old limit of 4 cents a gallon.

And general aviation jet fuel, 14 cents a gallon.

Those revenue figures will produce over the 6 years approximately $16 billion.

Taking into account all of the expenditures, for all of the capital improvements, for all of the upgrading of the controller's facilities, for all of the navigation equipment, for everything in this bill, we will still, at the end of the 6 years have a surplus of over $1.5 billion in the trust fund.

In the past we had a problem. The taxes were collected, and if we could not agree upon a spending bill the money simply mounted up. In the last 2 years believe it or not, the aviation user taxes went into the highway trust fund, and into the general fund.

Different administrations have in the past not liked to spend the funds because, if you are trying to work budget magic, and if you take these user fees and add them to your receipts, you are moving toward closing the deficit. You are getting more revenue. There have been some in the past who were perfectly happy to take the user fees and, in essence, count them for budget balancing purposes and not spend the money. We have, therefore, added a trigger that provides that, in any fiscal year, if 85 percent of the airport development funds which are made available for obligation by Congress are less than 85 percent of the authorized levels, then all taxing and spending authority, except for airport development spending, terminates at the end of that fiscal year.

This trigger was meant, quite frankly, as a hammer to make sure that no administration tries to prohibit the spending for airport development because those who pay the user fees believe this is an important program.

The administration supports this bill. The Budget Committee supports these figures.

Senators will find on their desks three letters; one from the building trades from Bob Georgine, the head of the building trades, one from Charlie Nichols, the general treasurer of the carpenters, and one from J. C. Turner, the president of the operating engineers, all three support this program.

Mr. President, I will tell you why they support it. As far as the airport development program is concerned, the almost $5 billion that is in this bill for——

The PRESIDING OFFICER. Will the Senator suspend?

The Senate will be in order. The Senator from Oregon has the floor. May we have order?

Mr. PACKWOOD. There is almost $5 billion over 6 years in this bill for airport development spending; for the runways, for the taxiways. This money creates jobs which are very clearly jobs akin to highway programs. It puts contractors to work. It puts construction laborers to work. Needless to say, the construction and building trades associations are strongly in support of this bill. It is probably as good a jobs bill as we are going to get out of this Congress.

For all of those reasons, I hope that my colleagues would accept this amendment. It has taken a long time to work it out. It has overwhelming support from the administration and overwhelming support around the country from most of the people involved in the aviation industry. I do not want to give Senators the impression that every provision has 100 percent support from 100 percent of those involved in the aviation industry. We are not very often going to find a bill like that, but this is a good bill. I would hope that the Senate would accept it. I will reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I ask that the time in opposition to the amendment be charged to the distinguished Senator from Nevada (Mr. CANNON).

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. CANNON. Mr. President, my problem at this point is on the procedure used to get this amendment to the Senate floor.

Mr. STENNIS. Will the Senator yield to me?

I think, Mr. President, we ought to insist on order so that we can at least hear the speaker. It is a highly important matter and it is outside the ordinary consideration of an important bill.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STENNIS. We are relegating ourselves to disorder. I say that with all deference. Let us hear the Senator.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, in addition to the problem of the procedure used to get this amendment to the Senate floor, the amendment is badly flawed on its merits. First, it defies current fiscal policy by increasing spending by $6 billion over the spending authorized by the committee reported bill which was S. 508.

Second and most important, this amendment completely reverses the primary purpose to the aviation trust fund which has always been to improve the safety and capacity of the airport and airways system. Instead, this amendment would spend the largest share of the funds on existing operations of the FAA. In other words, this amendment changes the primary purpose of this trust fund from improving the safety and capacity of the system to maintaining the status quo.

The concept of using Federal trust funds for operational accounts instead of for capital expenditures is a new and unwelcome theory of budgetary philosophy. In my opinion, all Federal agencies should be held accountable for their operations through the usual appropriation process with funding from the general Treasury account.

Further, this amendment drops the concept of defederalization which the Senate has already endorsed by a 2-to-1 margin. Instead, this amendment proposes unrealistic increases in ADAP grant authorizations, unrealistic in view of the current and foreseeable budget constraints. This amendment increases the percentage of ADAP grants which go to the largest and wealthiest airports, airports which have now said they want to get off this Federal grant program. In fact, defederalization is the only way to meet the capital needs of the smaller airports which cannot finance their own improvements and also meet the conservative fiscal policy which must be followed.

Further, this draft has changed daily and virtually nobody knows what provisions are or are not in this newest draft with the exception of the author.

I understand that one provision precluding the State's right to tax was dropped in and then just recently removed when it was discovered by the State aviation officials. This process amounts to a rule of legislating whatever one can sneak by the opposition who has not been given the time to review what is being offered.

In short, Mr. President, this is a poorly conceived airport and airways bill and is being offered by the worst legislative process imaginable.

Now, the argument that was just given by the chairman of the committee that the Finance ADAP package can be determined a jobs bill provides us with a perfect definition of Republican economic theory: Take a depressed industry and drain $1.2 billion out of it in new taxation, then put back half that amount in new construction grants and tell everyone you have a jobs bill. The tax increases will eliminate many more jobs than the spending increases will create. But more importantly, nobody is arguing that we should not authorize ADAP grants for this year or for 5 years. I will vote right now for a simple extension of ADAP through 1983 and we would have plenty of time to debate a multiyear bill.

Mr. President, I have some questions for the distinguished chairman of the Commerce Committee that I would like to address to him if he would permit me to do so.

I am wondering why the chairman removed the provision contained in S. 508 that airports which receive ADAP must hold open their books for public inspection and use standard accounting procedures.

It seems to me that that should be the very basic essence of being able to get Federal funds.

Mr. PACKWOOD. Because in our experience we have no evidence of scandal, and we saw no need to add a burden on them for information that is already publicly available.

Mr. CANNON. Is the Senator saying that they are not required—that they do not use standard accounting procedures or should not be required to do so?

Mr. PACKWOOD. I do not want to compound problems where none exist. We have had no evidence where airports have been cheating. Almost all of them are public bodies and are subject to their own State laws and local laws on accounting. We have had no evidence to justify adding an additonal accounting system, in addition to the ones which are required by local bodies.

Mr. CANNON. I find it hard to understand why requiring them to hold open books for public inspection and use standard accounting procedures would put an additional burden on them.

The Senator says there is no evidence of their having used that process in the past. That speaks very well for the requirement currently in the law that does require them to hold open their books and to use standard accounting procedures.

It seems to me that you are giving them the opportunity, by not making this requirement, to let them do something different from what they have been doing in the past.

Mr. PACKWOOD. I will respond once more. I trust airport operators and the local governments that run them. Most of them are run by commissioners. We simply see no evidence to require them to keep an additional set of books in a form of accounting different from what they are already doing when the information they need and the information we seek is available.

Mr. CANNON. Also, I do not understand the majority's position with regard to eligibility for Federal grant programs. Working mothers with dependent children are mandatorily removed from eligibility for medicaid. Yet, you are supporting the proposition that Los Angeles International, with a quarter of a billion dollar annual budget, should be allowed to get Federal grants as long as it wants to.

Even more ironic is the fact that Los Angeles International wants to get out of the ADAP program. But the Senator's amendment insists on taxing Los Angeles passengers, based upon the assumption that the airport will continue to receive Federal grants.

Can the Senator explain to me why he insists that some of the poorest in our society must be mandatorily removed from Federal grant programs at the same time tax policies are proposed which, as a practical matter, preclude multimillion-dollar airports who want to give up Federal funding from doing so?

Mr. PACKWOOD. On this issue, I am not all that sympathetic with the airport operators.

The distinguished Senator will recall that he and I were cosponsors of the defederalization issue, and we were opposed by the airport operators. Now they switch their position 180°, and some of the big ones want defederalization because they think they can somehow make more money if they are not subject to federalization.

I indicated that this bill was a fragile compromise. A couple of years ago, they could have had defederalization if they had not fought us tooth and nail. Now, when they think they might not do as well, they have switched their position.

Any time we are dealing with this bill, year after year after year after year, for these 5- or 6-year authorizations, anytime we can get an agreement on defederalization, it can be written into the law. But I hope that between now and then, they get their act together and decide which they want. We are not promising it. Just because they say, jump, we are not going to jump. They have been on both sides of this issue within the last year, and I do not find their pleading now very effective.

Mr. CANNON. Why is it fair for aviation users to pay 100 percent of the system's capital costs and 75 percent of its operating costs, while boaters pay zero percent of the Coast Guard's capital costs and very little of its operating costs?

Mr. PACKWOOD. Without getting into the argument as to whether or not boaters should pay the total cost of the Coast Guard, the Coast Guard has an infinite variety of functions. It is not just the provision of safety for boaters and pulling people out of the ocean.

So far as the FAA is concerned, the total use of FAA and the total use of airports, with very, very neglible exception, is for people who fly or for people who are in the aviation industry, whether they fly or not. If there were no airplanes and no airports, we would need no FAA. So why not ask that those who use the system, a system which requires the existence of the FAA to operate and maintain all the navigational equipment that goes with it, to pay for the agency that is needed to provide and maintain the facilities. The FAA enables these users to enjoy their hobby if they are flying for pleasure or to pursue their business if they are flying for business.

Mr. CANNON. The Senator is well aware of the fact that there are other fallouts from this industry that benefit the general public, people who do not use the system at all.

The studies we have had in the committee indicate that very clearly. To say that the aviation users should pay 100 percent of the system's capital costs and 75 percent of its operating costs imposes an undue burden on them, when there is a fallout to general business and industry, and $40 billion goes from this industry into the economy in general. It seems to me unreasonable to have that kind of contribution to the operation of the system.

Mr. PACKWOOD. Again, the Senator is talking about roughly 60 percent of the operational costs of the FAA being borne by the users and 40 percent coming from the general fund, whether or not they use aviation.

One can argue that it should be 75 percent or 50 percent. In terms of the operational costs, we set it at roughly that figure. You can justify it being higher. We tried to hit a happy compromise, realizing that 50 percent, 40 percent, or 80 percent would not satisfy everybody. But, in all honesty, the bulk of the benefit and use of the FAA is by people who fly or who are connected with flying.

Mr. CANNON. The Senator uses the figure 60 percent. Is it not actually 75 percent?

Mr. PACKWOOD. No. It is 60 percent of the operation budget; 100 percent of facilities and equipment, 100 percent of research and development, and approximately 60 percent of operations. So the total is 75 percent.

Mr. CANNON. How is raising taxes on a depressed industry consistent with supply-side economics? I thought it was just to the contrary.

Mr. PACKWOOD. The Senator from Nevada is not talking to one who is an avid supporter of supply-side economics.

Mr. CANNON. Is it not the fact that the supply-side economic theory is just the opposite of raising taxes on a depressed industry? Is not the theory of supply-side economics to lower taxes on a depressed industry?

Mr. PACKWOOD. I am not going to get into a debate with the Senator on the merits of what supply-side means. But the hardest supply-siders in this administration support this bill. They are supply-siders, and they support this, and I assume you might be able to say that is supply-side economics.

Mr. CANNON. While we are on that, let me ask the Senator about the jobs bill.

How can he contend that if you are taking a depressed industry and drain-

ing $1.2 billion out of it in new taxes and you are only putting half that amount back in new construction grants, that is a jobs bill?

Mr. PACKWOOD. The General Aviation Manufacturers Association, which is the trade association——

Mr. CANNON. That was not my question. My question was how can the Senator contend this is a jobs bill when he is taking out $1.2 billion in new taxation and only putting back half that amount in new construction grants? I do not quite follow how the Senator can call this a jobs bill with that kind of imbalance.

Mr. PACKWOOD. All I am saying is that a majority of the industry upon whom the taxes are going to fall by and large support the taxes. They do not seem to think that there is going to be an imbalance. The one exception to that, and I understand it, and we all understand it, is the private pilot. Private pilots, who fly their own planes, have misgivings about the general aviation gas tax going to 12 cents when it used to be 7 cents prior to 1981.

But when we look at what the cost of gasoline was then and what it is now, that is not a disproportionate increase.

The rest of those people upon whom the tax will fall support the bill. So they do not think it is going to be a further nail in the coffin of their industries.

As far as the jobs are concerned, now this is admittedly an estimate, but from both the building trades, and the building construction associations, they estimate about 60,000 jobs per $1 billion of expenditures if this were highways. Roughly $5 billion in what we call the hard goods ADAP function, the runways, the taxiways, are reasonably similar to highways and to highway construction. Consequently, we came up with a figure of 250,000 to 300,000 jobs which those industries and those unions that are involved in that business say is a reasonable estimate.

Mr. CANNON. I agree with the Senator as to who the groups are that he says support it. But I think they are supporting it not because of the jobs bill but because it will get some money into some badly needed upgraded facilities which I agree with as well.

Mr. PACKWOOD. The Senator is absolutely right.

Mr. CANNON. I just point that out.

Mr. PACKWOOD. I am not trying to sell it for a jobs bill for United Airlines or jobs bill for TWA or a jobs bill for Cessna. They are willing to support the taxes because they know how desperate is the need for upgrading of the navigational facilities, how desperate is the need for the upgrading taxiways and runways.

Sure if we say to someone off by himself, "Do you want another tax," the answer would probably be no. But when we finally say to people who use it every day and whose lives are at stake every day, are you willing to pay this tax if the money is used for the following things: First, runways; second, navigation equipment; third, research and development; and fourth, part of the operation costs of the Federal Aviation Administration, they would say, on balance, yes.

Mr. CANNON. Of course, I point out that there is one organization that does oppose this which has the biggest voting bloc of any of those organizations the Senator has named. I am sure he is aware of that.

Mr. PACKWOOD. The Senator from Nevada, as the chairman of the Commerce Committee and as one of the most knowledgeable people in aviation, is fully aware of the longtime fight we have had about who uses the airways most and who should pay. I will be very frank. The commercial airline industry would like to saddle more of the cost on the private aviation industry, the private aviation industry being the smaller planes that are often used for business, often used for pleasure. The smaller plane owners would rather load it onto the commercial industry. That is nothing new for this Senate. We go through that kind of battle. It does not matter whether it is the commercial airlines versus business aviation or whether it is the railroads versus the trucks. It does not matter what. Everyone wants to load the cost of something onto someone else if they can get the benefit of what the money is going to be used for.

I might also indicate that this bill is supported at the tax levels by the association that represents the business users of airplanes, those who fly their own jets and planes for business.

Mr. CANNON. I thank the Senator.

Mr. PACKWOOD. Mr. President, I yield 3 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I thank the distinguished Senator from Oregon.

Mr. President, I rise to support the measure of the Senator from Oregon. My support is primarily predicated on the need to enhance the safety of our airports.

The primary purpose of the ADAP legislation, which is now part of the tax reconciliation package, is to upgrade and modernize the Nation's airports and air traffic control system. A clear example of need is the safety program which must be continuously upgraded. This modernization program would be fully funded by taxes generated from users of the aviation system.

The expenditures for the airport development program which includes funding for airport construction, repair and improvement, and the purpose of certain equipment will average $930 million a year for 5 years.

I urge Senators to acquaint themselves with the impact of this proposal on their respective States. That material is in the possession of staff members here. I think it will be very important in making the individual decisions on this particular issue if Senators would refer to how their particular States are impacted.

Funding for facilities and equipment budget would average $1.2 billion a year for 5 years. This money is for acquiring, establishing, and improving our air navigation facilities.

Funding for the airport development program alone would generate more than a quarter of a million jobs in the construction trades over the next 5 years. I think that is a very important consideration at this particular time in our uncertain economic situation.

Mr. President, I agree with the efforts of the distinguished Senator from Oregon and the distinguished Senator from Kansas to see that the tax and spending provisions for the airport programs are not separated. This effort, which should be supported by the Senate, will prevent the users from being unfairly taxed while not permitting the spending for airport development and upgrading of the air traffic control system. These expenditures are sorely needed. Funds have not been released in 2 years and every effort should be made to assure the release of these funds this year.

Senators PACKWOOD and KASSEBAUM deserve our support.

Mrs. HAWKINS. Mr. President, I rise today in support of the airport and airway development program, which is being offered as part of H.R. 4961. This portion of H.R. 4961 forms a complete and comprehensive package of taxes and expenditures. Seldom in Government do we have the opportunity to enact a program so carefully constructed as to be truly self-supporting. Seldom do we see a program in which expenditures from the trust funds truly reflect the amount of revenues taken in. Seldom do we see one in which the health of the industry determines its ability to finance construction of new and more sophisticated facilities. Seldom do we see a program in which the users of the system, the airlines, consumers, private aviators, and cargo carriers, will pay for the actual services they receive. Under this measure, ADAP will continue to be self-supporting, without running a huge surplus of funds more readily needed for construction—not needed to sit in a trust fund.

It has taken 2 years for the Senate Finance Committee and the Senate Commerce Committee to agree on how this program should be structured and funded, and what spending is needed to develop our Nation's airway system.

Over these 2 years every party involved in the national aviation industry—the airlines, the airport authorities, the FAA, the manufacturers of facilities and equipment—have made recommendations and suggestions on how to improve the program which expired on October 30, 1980. Their differing views and positions, offered with the intent of establishing a better system, have varied widely. At times it seemed as if agreement would never come. However, the distinguished chairmen of the Senate Finance Committee and the Senate Commerce Committee, and their staffs, never stopped working to bring about an acceptable compromise. Finally, after many attempts and much diligent effort, a comprehensive airport and airway development program is ready to be acted upon by this body.

The measure before us today is a good piece of legislation that will make an excellent law. In fact, in many ways it represents much of what this Congress should be about. This measure is an example of how Government can provide public goods in an affordable and self-sustaining manner. And, it could not have come at a better time for the industries that it will so vitally affect.

The importance of the aviation industry to the well-being of the Nation cannot be denied. Our airport and airway system is one of the most extensive in the world. There are close to 12,000 airports in the United States, 3,600 of which are part of the national airport system plan. They provide service not only to passenger airlines but to cargo carriers, private aviators, corporate aviation, a variety of express mail services, and the U.S. Mail. The improvements financed by the airport and airway trust funds since 1970, provide for the safety and efficiency of infrastructure that is so important to these businesses and customers. These improvements have been substantial indeed. But there is still much to be done. Any Senator who has sat patiently in an airliner waiting for takeoff, at the end of a long line of other planes, can attest to the fact that our aviation facilities are inadequate.

This measure will improve the quality of our air traffic control system. Aviation facilities, airway construction, and aviation weather services will be modernized under this act. The plan becomes all the more important in light of last year's air traffic controllers strike and the strain that has placed on the present system. The controllers who stayed on the job have done remarkable work in operating the current system safely and efficiently. It is time to give these fine men and women the equipment they need to do an even better job.

For the last year and a half, the airports and users of airports around the country have waited in uncertainty over what kind of program Congress would enact. The airline industry alone, lost more than $1 billion in lost time and fuel inefficiency because of inadequate airport facilities. The bad situation was made worse by the hodgepodge of aviation taxes and services. Spending authority for 1981 projects was tacked onto the Omnibus Reconciliation Act for 1982 spending. Many of the aviation taxes lapsed during the period, but consumers continued to pay a 5-percent ticket tax; ostensibly to improve the Nation's airway system. But on closer examination, one finds that this "user fee" was being collected in the general fund of the treasury. Not only have consumers continued to pay for a program that does not exist, but also the huge surplus built up in the airport and airway trust funds has not been disbursed because the FAA no longer has the authority to do so. Over the last year, it has been said that the trust fund surplus, almost $4 billion at the beginning of the last fiscal year, is being used to offset the budget deficits that are the result of years of reckless spending of the taxpayers' dollars. Were it true, it would be a great injustice. I believe, instead, that it has taken time to put together a self-sufficient spending program that is fair to both the users of the aviation system and the general taxpayer as well.

Clearly, the Commerce Committee and the Finance Committee have done an outstanding job in creating a program that is complete and comprehensive. ADAP is a program in step with the times. Seldom do we have the opportunity to approve a self-supporting spending-and-tax program. By linking expenditures and revenues, this becomes an innovative piece of legislation. I intend to support this measure and I urge my colleagues to do the same.

Mr. JEPSEN. Mr. President, I am pleased to rise in support of the airport development and airways program—ADAP—legislation which is being discussed today. For 2 long years airports and the aviation industry have been without this necessary and vital piece of legislation. I commend them for their patience as the Congress has struggled with this legislation, and for their invaluable input into the legislative process. I hope to be able to commend the Congress for passage of the new ADAP program.

The ADAP program is invaluable to the airports around the country. It helps to provide much needed funds for land acquisition and runway and terminal improvement. This is highlighted in Iowa by the current expansion program being initiated at the Cedar Rapids airport. Cedar Rapids has, in the past, received ADAP funds for this project. It is my understanding that they will continue to receive ADAP funds under the new ADAP program, and will this be able to complete this much needed expansion project.

The ADAP program also benefits general aviation in smaller communities. It is my hope that the projects in Charles City, Decorah, and Sheldon will also receive funding under ADAP. These expansions will help keep rural Iowa accessible to the business of America. Other worthwhile projects will be forthcoming.

As a pilot, I believe that it is significant to note that this program will also help to promote air safety. Moneys will be used for needed improvements for navigational aids. Our airways can never be too safe, and I hope that my colleagues will join me in support of any measure which will help improve and promote air safety.

Also of significance is the number of job opportunities which are being projected as a result of this measure. It is estimated that there will be approximately 250,000 to 300,000 new jobs created due to airport modernization.

Again, I commend the Senator from Oregon and the Senator from Kansas for their efforts in formulating this significant piece of legislation. It will have an important impact on America, perhaps rivaling that of the Eisenhower highway trust fund program.

Mr. MATTINGLY. Mr. President, I rise in support of this reauthorization of the airport and airway development program. This legislation will not only provide sensible funding for this program for fiscal years 1982 through 1987, but it will also alter the existing program in such a way as to promote a safer, and I believe, better airport system.

The foundation of this program is strong user-fees. This is a concept I totally support. It is only fair that those most involved in and benefited by Federal Government services pay for those services, or at least have a larger share of responsibility for such programs than they have had in the past. Americans have always supported the philosophy of "pull your own weight." This bill would show that Congress, too, believes in that idea. The increases in user-fees contained in this bill are good for all interested in a well-funded—and fair—airport system.

Mr. President, there is one major provision of this bill that I want to particularly congratulate my colleagues for including. I have been contacted by many Georgians who have been frustrated by the inability of the Secretary of Transportation to "carry over" funds authorized for 1 year to the next year. This bill will insure that funds not obligated in one fiscal year are available for obligation in later years. This is a sensible provision that I would be interested in seeing extended to other Federal programs so

we will not see an endless continuation of the games that have been played in spending and authorizing funds. The section of the bill calling for defederalization is also a "good beginning." Since I first came to Washington, I have been interested in seeing that sensible defederalization is encouraged by Congress. While this bill does allow any airport to withdraw from this airport development program—and therefore sever itself from some Federal statutory and regulatory burdens—I am concerned that such "defederalized" airports have at their discretion the ability to raise revenue.

I am pleased to see that for the first time, Federal funds will be made available to those privately owned airports that are "essential" to the national system. Such airports, of course, must be available for public use. I feel that this provision will allow the entire nation to have the adequate facilities it needs for general use.

The Federal funding levels in this bill are finally up to a standard that is necessary to insure the proper and safe functioning of our airport system. I understand that in fiscal year 1983 we will have authorization in the airport and airway trust fund of slightly over $3 billion; $3.6 billion in fiscal year 1983 and 1984; and about $4 billion in fiscal year 1986. It is about time that we had an adequate trust fund to give the various airports a decent amount of revenue to work with.

Mr. President, I have received calls and letters form many of my State's best airport administrators asking for my support of this bill. I am pleased to vote for this legislation for our airport and airway system.

Mr. PERCY. Mr. President, approximately 1,600 planes take off and land at Chicago's O'Hare Field every day and Illinois is understandably proud of its distinction as the aviation hub of the Nation and, indeed, the world. But, while this facility makes a substantial contribution to the commerce and industry of the Chicago area, it also causes significant problems to the residents who live near O'Hare.

Those who do not live near a major airport are often unsympathetic and insensitive to the problem of excessive airport noise. In a word, Mr. President, airport noise can be intolerable. It disrupts outdoor leisure activities, disturbs classroom discussions in schools and interrupts the sleep of residents who reside under the flightpaths.

I recently had the opportunity to discuss this problem with the mayors of several communities surrounding O'Hare, including Park Ridge Mayor Martin J. Butler, Elmhurst Mayor Abner Ganet, and Franklin Park Mayor Jack B. Williams. Among the mayors' concerns was the continued availability of Federal airport noise compatibility and planning funds.

Under the Federal program that addresses airport noise, the Suburban O'Hare Commission—which is headed by Mayor Butler and represents nearly 360,000 residents in 15 communities—received a Federal grant of $100,000 at my urging to study the master plan of O'Hare Airport. The National Organization To Insure a Sound-Controlled Environment (NOISE) said of this study, "The eyes and ears of the Nation are focused on this review, for this is the first time an outside consultant had ever been brought in to review a master plan study at a major hub airport." Noise compatibility and planning funds may also assist local officials in establishing noise monitoring systems to assess compliance with noise abatement procedures and develop alternative flight procedures. In addition, funds may be used to assist in the construction of acoustical barriers and soundproofing.

In line with the concern of the mayors over the continued availability of noise abatement grants, I would like to pose two questions to the distinguished chairman of the Senate Aviation Subcommittee, the Senator from Kansas. Under the Airport and Airway System Development Act, airports would be permitted to elect to voluntarily withdraw from the airport development program. It is my understanding, however, that such airports would continue eligibility for noise compatibility and planning program assistance. Is this view correct?

Mrs. KASSEBAUM. The Senator is correct. Airports that elect to withdraw from the airport development program would continue to be eligible for noise abatement funds, including funds under the airport noise compatibility and planning program.

Mr. PERCY. I thank the Senator for clarifying this matter. As the Senator from Kansas knows, the original version of this legislation in defederalizing the Nation's largest airports would have denied communities surrounding those airports eligibility for noise abatement funding. I had been prepared to offer an amendment to maintain eligibility for those communities, but am pleased that this legislation clearly allows for the communities to remain eligible for noise abatement assistance.

The Aviation Safety and Noise Reduction Act of the last Congress established a separate funding category of $25 million for noise abatement projects. This setaside was established because the pressures of capital development and operations could result in noise projects being reduced to a lower priority. Such a setaside would not increase the budget level of the airport development program, but rather would be available from existing funds under the total authorization for airport development.

It is my understanding that the House intends to maintain this setaside, and I wish to ask the Senator from Kansas whether the Senate intends to do the same.

Mrs. KASSEBAUM. While the Senate bill does not include a specific authorization level for noise projects, such projects may continue to be eligible for funding under the general airport development authorization.

Mr. PERCY. I thank the Senator, but am concerned that we go on record as clearly supporting the concept of a specific authorization for noise abatement projects.

Mrs. KASSEBAUM. In view of the concern of the distinguished Senator from Illinois, I would agree that the concept of a noise setaside is worthwhile and can give the Senator assurances that the House and Senate conference agreement will certainly provide for such a setaside. The distinguished Senator may be certain that I will carry his views into conference with the House.

Mr. PERCY. I deeply appreciate this accommodation by the distinguished Senator from Kansas. Thank you.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. PACKWOOD. Mr. President, I am aware that we will be recessing at noon for a limited period of time. There is another amendment that is possibly being worked out, and I am sure that by the time the Senate comes back from its recess at 2 p.m., it will have been worked out.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 2 p.m.

The Senate, at 11:58 a.m. recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

Mr. DOLE. Mr. President, as I understand, the pending business is the amendment of the distinguished Senator from Oregon, is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, in the absence of the distinguished ranking minority member of the Senate Finance Committee, I suggest the absence of a quorum with the time equally divided on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the pending business is my amendment; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. And the control of the time in opposition is in the hands of the Senator from Nevada?

The PRESIDING OFFICER. That is correct.

Mr. PACKWOOD. Mr. President, how much time is there left for each of us?

The PRESIDING OFFICER. The Senator from Oregon has 14 minutes and 50 seconds, the Senator from Nevada has 11 minutes and 3 seconds.

Mr. PACKWOOD. Mr. President, I will say nothing more than this: I am prepared to yield back the time, if the Senator from Nevada is, to vote. I thought there might be some alterations. It appears there is not going to be. I am prepared to vote on the amendment as it is before the body at the moment, but I am not prepared to yield back my time unless the Senator from Nevada is ready.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. CANNON. Mr. President, unless someone desires time on this side, I am prepared to yield back the remainder of my time.

Mr. PACKWOOD. In that case, I am prepared to yield back my time.

The PRESIDING OFFICER. All the time has been yielded back on the amendment.

Mr. CANNON. Mr. President, I raise the point of order that the Senator's amendment violates section 305(b)(2) of the Congressional Budget Act because it is not germane to the provisions of the reconciliation bill.

The PRESIDING OFFICER. The Chair rules that the amendment offered by the Senator from Oregon is germane to the bill and to the amendments offered by the Finance Committee. Therefore, the point raised by the Senator from Nevada is not well taken.

Mr. CANNON. Mr. President, I appeal the ruling of the Chair and suggest the absence of a quorum.

The PRESIDING OFFICER. Under the Budget Act there is 1 hour of debate evenly divided on the appeal. The time for the quorum call will be charged against the time of the Senator from Nevada.

QUORUM CALL

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll, and the following Senators entered the Chamber and answered to their names:

[Quorum No. 42 Leg.]

Baker	Dodd	Kassebaum
Biden	Dole	Kasten
Bradley	Domenici	Long
Brady	East	Lugar
Bumpers	Garn	Packwood
Byrd, Harry F., Jr.	Gorton	Stennis
Cannon	Grassley	Thurmond
Cochran	Hart	Tower
Danforth	Helms	Warner
	Jackson	

The PRESIDING OFFICER. A quorum is not present.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to require the attendance of absent Senators, and I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO), is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Massachusettes (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), and the Senator from West Virginia (Mr. RANDOLPH), are necessarily absent.

The PRESIDING OFFICER (Mr. ANDREWS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 90, nays 5, as follows:

[Rollcall Vote No. 229 Leg.]

YEAS—90

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Pryor
Bumpers	Heflin	Riegle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Rudman
Byrd, Robert C.	Hollings	Sarbanes
Cannon	Huddleston	Sasser
Chafee	Humphrey	Schmitt
Cochran	Inouye	Simpson
Cohen	Jackson	Specter
Cranston	Jepsen	Stafford
Danforth	Kassebaum	Stennis
DeConcini	Kasten	Stevens
Denton	Laxalt	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Tower
Dole	Long	Tsongas
Domenici	Lugar	Wallop
Durenberger	Mathias	Warner
Eagleton	Matsunaga	Zorinsky
East	Mattingly	
	McClure	

NAYS—5

Goldwater	Proxmire	Weicker
Johnston	Quayle	

NOT VOTING—5

Chiles	Kennedy	Randolph
D'Amato	Melcher	

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Who yields time? The Senator from Nevada.

Mr. CANNON. First, Mr. President, I ask for the yeas and nays on the appeal from the ruling of the Chair.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, let me say to my colleagues that I do not think we are going to take very long on this issue but I do want to point out a few things.

The facts of this maneuver are very simple. The Commerce Committee reported an airport and airway bill last year (S. 508). Since then the committee chairman has changed his mind on the elements of that bill—by about $6 billion in higher spending—and rather than explain his changes to the committee with jurisdiction, he took the bill over to the Finance Committee where he was not asked to debate even one provision of an 81-page, 5-year, $20 billion authorization.

Mr. President, may we have order, please?

The PRESIDING OFFICER. The Senator makes a good point. The Senate is not in order. Senators who desire to converse will retire to the cloakroom. Senators will clear the well.

The Senator from Nevada.

Mr. CANNON. Let me make this clear. The Commerce Committee has never acted on, discussed, or in any way considered this far-reaching aviation bill. I note there is a letter here, a Dear Colleague letter, that says that the Committee on Finance attached this bill to the reconciliation bill at the request of a majority of the members of the Committee on Commerce, Science and Transportation. I want to make it clear that there may have been a majority of the members of the committee who requested that, but I know of no Democrats who joined that majority, and the matter was not even discussed in the committee.

If the majority members signed off on a letter approving of the elements of this amendment either before or after it was approved by Finance, then why not bring up the bill in the committee with proper jurisdiction and discuss the drastic changes from our reported bill? The Democratic members of the Commerce Committee never even saw this amendment until the morning it was to be offered, and I understand that it has been changed

further still from the printed staff draft offered in Finance.

This maneuver is simply an effort to avoid open debate and fair consideration of this legislation. And the Senate needs to ask itself where will this stop? Can the Aviation Subcommittee rewrite the Civil Rights Act and put it on reconciliation? Can the Agriculture Committee start taking Judiciary bills and reporting them on reconciliation?

The Senate committee process is at stake in this vote. If an aviation bill of this scope can be passed without having been the subject of a single Commerce Committee meeting, then we might as well declare jurisdiction rules void and have a free-for-all.

I wish to make an inquiry of the Chair: If the pending business of the Senate was the Finance-Committee-reported Airport and Airway Act Amendment, and I raised the point of order that the amendment violates rule XV of the Standing Rules of the Senate, how would the Chair rule on that point of order?

The PRESIDING OFFICER. In response to the parliamentary inquiry of the Senator from Nevada, the Chair is of the opinion that the second reported amendment from the Committee on Finance contains significant matter within the jurisdiction of another committee and, therefore, would violate rule XV, paragraph 5.

Mr. CANNON. I thank the Chair. That makes it very clear that the Chair would rule that the committee amendment was out of order because it was not within the jurisdiction of the committee to report such amendment. Yet the Chair is using that improperly reported amendment to rule the pending floor amendment germane. Such circular logic is indefensible on its merits, and if supported by the Senate will vitiate the reconciliation germaneness rule.

The U.S. Senate will become a Government institution where two wrongs do make a right if we support this ruling of the Chair.

Any committee can circumvent jurisdiction in the future by following this precedent.

Mr. President, I understand the Senator from Mississippi would like 2 or 3 minutes.

Mr. STENNIS. Two or three minutes.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. STENNIS. Mr. President, may I point out again, with great deference to the Chair, to let this matter go this way of letting it ride through on this bill is to literally emasculate the rules of the Senate, the actual part of the rules that confer jurisdiction on all the standing committees of the Senate.

I am looking here now at page 24, rule XXV of the standing rules. The Committee on Agriculture, Nutrition, and Forestry, the first item, agricultural economics and research, under this ruling it could be put on this bill and ruled accordingly, and just literally emasculate here the jurisdiction of this major committee that is as old as the Congress itself, and I can go right on down the list through these other committees.

Somewhere, sometime, regardless of the emergency, pressures, and everything else, we have got to stand up here and protect our institutions, protect the Senate, protect the regular rules of the Senate, the committees of the Senate that are assigned their jurisdiction pertaining to their subject matter. Their staffs are selected for that purpose. They conduct hearings and make recommendations and for many, many years that course was adhered to on the floor, and we acted that way.

Mr. President, my observation over and over is that that is where the real work of the Senate, good and accomplished work of the Senate, is done, in the committee system. We have got to draw the line somewhere and let us just say here we are going to stop this practice, we are going to protect our committees, and the way of passing on bills can be found within its rules.

I thank the Senator.

Mr. CANNON. Mr. President, I withhold the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I believe I am in charge of the time on this amendment.

The PRESIDING OFFICER. Time is controlled by the majority leader or his designee. Is there objection to the Senator——

Mr. PACKWOOD. I ask unanimous consent that I might control the time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. PACKWOOD. Mr. President, how is the time controlled on the appeal from the ruling of the Chair?

The PRESIDING OFFICER. Evenly divided between the Senator who made the appeal and the majority leader.

Mr. BAKER. I thank the Chair. I yield the time under my control to the distinguished Senator from Oregon.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, the budget process is a relatively new process in the history of this Congress. The reconciliation process is an even newer wrinkle within the budget process. I am not here to praise it or criticize it. It is a process we have used over the past number of years now.

There are any number of ways that issues can be brought before this Senate, either from a committee in a reconciliation report or from individuals, that are not germane. This particular amendment has been ruled germane. But had the Chair chosen to rule it not germane, any Member, myself included, would have been privileged to have offered an amendment and, under section 904 of the Budget Act, to waive the germaneness procedures. And that has been done a number of times in the past.

No one is trying to circumvent the procedures of the Senate. We have a variety of ways, and many are new to us, but a variety of ways to get issues before this Senate.

Now the ADAP bill, the airport and airway development bill, is not a new subject. It was first passed in 1970. We have debated it and redebated it. We are all familiar with the kind of taxes that are levied to support the programs. We are all familiar with the programs. It is not as though I, through the Finance Committee, was spuriously trying to spring some unknown program with unknown taxes on this Senate.

But I will say this, as far as the substance of this issue is concerned: User taxes are collected to pay for user services. Highway gasoline taxes are used to build highways and bridges. We have a variety of user taxes in State governments and the Federal Government. And all of the taxes that relate to aviation in this bill will remain, all of them will remain, even if my amendment on how to use those taxes is knocked out. What you would have is the money going into the trust fund and building up a huge surplus. There would be a good chance it will never be spent on the users.

So, one, there has been no effort to go around the committee process. Second, if my amendment is defeated then it will be incumbent upon me, and I assume others that support user fees, to have to remove the user fees in this bill and undo the whole tax reconciliation package. We would not meet our reconciliation targets. We would not be keeping faith with our own budget procedures.

So I would heartily encourage the Members of this Senate to sustain the Chair on the point of order and then, when we vote on the merits of the amendment, to vote for the amendment.

The PRESIDING OFFICER. Who yields time?

The Senator from Nevada.

Mr. CANNON. Mr. President, if no one else desires to speak, I am prepared to yield back the remainder of my time.

I just want to again remind my colleagues that the Chair has already stated that, if the point of order had

been raised on the committee amendments reported out of Finance, he would have ruled it was not within the jurisdiction of the committee to report such an amendment and, therefore, this obviously is an end run that attacks the whole committee jurisdiction system.

The PRESIDING OFFICER. Does the Senator from Nevada yield back time?

Mr. CANNON. No, Mr. President, I will withhold my time at the moment.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum and ask unanimous consent to have the time charged equally against the Senator from Nevada and me.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I am prepared to yield back the remainder of my time if the Senator from Nevada is prepared to yield back the remainder of his time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The question is, Shall the decision of the Chair that the amendment of the Senator from Oregon is germane stand as the judgment of the Senate? The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Montana (Mr. MELCHER), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 53, nays 44, as follows:

[Rollcall Vote No. 230 Leg.]

YEAS—53

Abdnor	Grassley	Packwood
Andrews	Hatch	Percy
Armstrong	Hatfield	Pressler
Baker	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Brady	Heinz	Rudman
Chafee	Helms	Schmitt
Cochran	Humphrey	Simpson
Cohen	Jepsen	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
Durenberger	Mattingly	Wallop
East	McClure	Warner
Garn	Murkowski	Weicker
Gorton	Nickles	

NAYS—44

Baucus	Eagleton	Long
Bentsen	Exon	Matsunaga
Biden	Ford	Metzenbaum
Boren	Glenn	Mitchell
Bradley	Goldwater	Moynihan
Bumpers	Hart	Nunn
Burdick	Heflin	Pell
Byrd, Harry F., Jr.	Hollings	Proxmire
	Huddleston	Pryor
Byrd, Robert C.	Inouye	Riegle
Cannon	Jackson	Sarbanes
Cranston	Johnston	Sasser
DeConcini	Kennedy	Stennis
Dixon	Leahy	Tsongas
Dodd	Levin	Zorinsky

NOT VOTING—3

Chiles	Melcher	Randolph

So the ruling of the Chair was sustained as the judgment of the Senate.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, might I ask, the time has expired on my amendment, is that right?

The PRESIDING OFFICER. The Senator is correct.

Mr. PACKWOOD. Mr. President, unless time is yielded off the bill, I will be prepared to vote in just a moment, but I do send a modification to the desk and ask unanimous consent to have 30 seconds to explain the modification which has been accepted by both sides.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator will send his modification to the desk.

Mr. PACKWOOD. Mr. President, what this simply does is relieve the FAA of liability, legal liability, if they contract with the city and allow the city to run the facility that would otherwise close. The city is legally liable. Without that exemption for the FAA, they are reluctant to let the city run the facility, and consequently the facility is closed altogether.

This modification has been cleared with the Senator from Nevada.

The PRESIDING OFFICER. Without objection, the modification is accepted.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, does the distinguished Senator from Oregon still have matters to conclude relating to the last amendment?

Does the Senator from Oregon still have matters to conclude or should we proceed with——

Mr. PACKWOOD. I did not hear the Senator from New Jersey.

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment.

The PRESIDING OFFICER. Until the pending amendment, as modified, is disposed of, the amendment of the Senator from New Jersey is not in order.

Mr. PACKWOOD. Mr. President, first I am going to ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PACKWOOD. Mr. President, do I understand the parliamentary procedure is that this amendment is now pending?

The PRESIDING OFFICER. The Senator from Oregon is correct, the amendment is pending. The time for debate on the amendment has expired. The yeas and nays have been ordered.

Mr. PACKWOOD. I understand that. I would like to ask the chairman, or Senator ARMSTRONG, if I might have 2 minutes off the bill to clarify one problem.

Mr. ARMSTRONG. The Senator may yield to himself.

Mr. PACKWOOD. Mr. President, I can explain it from here, and I want to make sure that we have an understanding. The Senator from Kansas (Mrs. KASSEBAUM) has an amendment to raise the airport development levels slightly. The Budget Committee, I understand, is prepared to accept these levels. If that is true, I am willing to offer it as a modification now, but I want to make sure before I offer it that we are OK.

Mr. DOMENICI. Mr. President, speaking just as the chairman of the Budget Committee, not for the Budget Committee, I have agreed not to oppose the modification. It would leave the level of funding for fiscal year 1983 exactly as proposed by the distinguished Senator from Oregon. In the outyears, it permits a higher level of expenditure for the purposes under the act, but this spending is subject to the appropriation process. In the outyears, the levels exceed outyear targets but, nonetheless, are not mandatory expenditures.

In that regard, I am willing to accept the numbers.

Mr. PACKWOOD. In that case, I would send the modification to the desk.

The PRESIDING OFFICER. The Chair will point out to the Senator from Oregon that the yeas and nays already having been ordered, it will take unanimous consent to further modify the amendment of the Senator from Oregon.

Mr. PACKWOOD. Might I ask this: If my amendment is adopted, could those figures then be offered as a subsequent amendment?

The PRESIDING OFFICER. Might the Chair point out to the Senator from Oregon that with unanimous

consent the Senator from Oregon could modify his amendment.

Mr. PACKWOOD. I will ask unanimous consent. I just wanted to make sure we were not blindsiding anybody. The amendment would be offered later and would be accepted. Senator DOMENICI is prepared to accept it.

I ask unanimous consent to modify the amendment to accept the figures of the Senator from Kansas.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PACKWOOD. Then we are prepared to vote on the amendment.

Mr. BUMPERS. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BUMPERS. Mr. President, is the amendment of the Senator from Oregon a committee amendment or is it an amendment to the committee amendment?

The PRESIDING OFFICER. It is a floor amendment to the committee amendment.

Mr. BUMPERS. Once it is voted on by the Senate, it is no longer amendable; is that correct?

The PRESIDING OFFICER. There are ways of amending an amendment that has been adopted.

Mr. BUMPERS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered.

Mr. ROBERT C. BYRD addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I move to recommit the bill to the Budget Committee with instructions that the bill be reported back forthwith with title IV deleted.

Mr. Baker addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, a motion to recommit as the minority leader has just made is clearly in order.

May I inquire how much time there is for debate on that motion?

The PRESIDING OFFICER. There is 1 hour of debate on that motion, 30 minutes on each side.

Mr. BAKER. Controlled by whom?

The PRESIDING OFFICER. By the mover of the recommittal motion and the majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, I yield control of the time to the distinguished chairman of the Finance Committee, and I ask for the yeas and nays on the motion.

Mr. ROBERT C. BYRD. Mr. President, let me rephrase the motion first. I made reference to the Budget Committee. I meant the Finance Committee.

Mr. BAKER. I have no objection to that.

Mr. President, I ask for the yeas and nays on the motion.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield myself such time as I may require.

Mr. President, I hope that I may have the attention of the Senate.

Mr. President, may we have order in the Senate.

The PRESIDING OFFICER. The Senate will be in order. Those Senators who wish to converse will retire to the cloakrooms. The staff will move to the seats in the rear of the Chamber. Those in the aisles will refrain from conversing.

The m.nority leader.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, I read from paragraph 5 of rule XV of the Standing Rules of the Senate. It reads follows:

> It shall not be in order to consider any proposed committee amendment (other than a technical, clerical, or conforming amendment) which contains any significant matter not within the jurisdiction of the committee proposing such amendment.

Mr. President, title IV, airport and airway systems development, is clearly, on its face, not within the jurisdiction of the Finance Committee, which proposed the amendment.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. No one has ever contended for a moment that the provision was in the jurisdiction of the Finance Committee. Nobody on the committee has even contended that.

Mr. ROBERT C. BYRD. Exactly.

So, Mr. President, the inclusion of this amendment in this bill is clearly in violation of paragraph 5 of rule XV of the Standing Rules of the Senate.

The fact that the amendment by Mr. PACKWOOD has been ruled by the Chair as being germane does not in any way affect the fact that rule XV has been violated, that it has been circumvented, and that the intent of the rule has been circumvented.

Let me say, as one who had as much as any other Senator—and perhaps more than any other Senator—to do with writing the Budget Reform Act, that it was never the intent of the authors of that act, nor was it the intent of the Senate, to see that act used in ways that would clearly and flagrantly abuse the act and undermine the committee system of the Senate.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Those Senators desiring to converse will retire to the cloakrooms. The staff will move to the rear of the Chamber.

Mr. ROBERT C. BYRD. I thank the Chair.

Mr. President, what I am saying does not go to the substance of the amendment itself. I could vote for or against the amendment, standing alone. I do not know. I would have to study it. What I am saying goes to the Senate as an institution and to the budget process and to the committee system.

If we are going to use this device—and I do not say this in any way derogatorily of the Committee on Finance or of any Senator who sought to include this language in the bill—but if we are going to use this process in this way, then every committee of the Senate, every standing committee of the Senate, should understand that the budget process can be utilized to undermine the committee system and to rob every committee of its jurisdiction over any subject matter that appropriately comes within the jurisdiction of that committee. All that is needed is that the Committee on Finance, in carrying out the reconciliation instructions of the budget resolution, include in its reconciliation instructions, language that involves matters under the jurisdiction of any other committee.

So I can say that this ought to be a matter of concern to the Senator from Vermont (Mr. STAFFORD), chairman of the Committee on Environment and Public Works. It is a matter that ought to be of concern to Mr. DOLE, chairman of the Committee on Finance. It is a matter that ought to be concern to Mr. PERCY, chairman of the Committee on Foreign Relations. It is a matter that ought to be of concern to Mr. ROTH, who is chairman of the Governmental Affairs Committee; to Mr. THURMOND, chairman of the Committee on the Judiciary; to Mr. HATCH, chairman of the Committee on Labor and Human Resources; to Mr. MATHIAS, chairman of the Committee on Rules and Administration, and to the chairmen of all other standing committees. It ought to be a matter of concern to the ranking minority members of those committees.

As a matter of fact, it ought to be a matter of concern to the chairmen of every subcommittee of every standing committee in the Senate; because if this approach can be taken and can succeed, then we might as well do away with the committee and subcommittee system in the Senate, because no longer can committees be sure that they, and they alone, will have jurisdiction over the subject matter that is set forth and assigned to them in rule XXV of the Standing Rules of the Senate—the subject matter that appropriately comes within their jurisdiction.

So I approach this because I am deeply concerned that the budget process here is being used in a way that will undermine the committee system and in a way that will undermine the institution; because, after all, the Senate operates basically on the committee system. The committees of the Senate are minilegislatures—they are small legislative bodies acting within the overall aegis of the full committees.

I think we do a serious injury to the committee system and we do a serious injury to the budget process when we use the budget process to include authorizing legislation that otherwise would come before the Senate, that otherwise would not be subject to the time limitations and rule of germaneness governing this bill, and that also subverts the institution itself.

I say to the majority that the minority never did this. I can see in it the seeds of destruction of the committee system and, ultimately, the seeds of destruction of the budget process itself.

I hope that some way can be found here to remove this language from this bill, and it is for that purpose that I have offered the motion to recommit the bill with instructions that it be reported back forthwith, with title IV deleted.

If the Senate does not do that, I say to the majority, in the utmost spirit of goodwill, that we are sowing the seeds of destruction of the budget reform process and of the committee system. We are undermining the institution. We are giving too much power to the budget process, and when we give that power to that process, we take it away from the ordinary process to which the Senate has been accustomed for so many decades. We are sowing the wind that will reap the whirlwind.

I implore my colleagues to vote for this motion to recommit. If the motion to recommit fails, at such time as the Senate reaches title IV, I will make a point of order against that title, on the basis that it violates paragraph 5 of rule XV of the Standing Rules of the Senate and that it goes beyond the intent of the rule, because no Senate committee can report any amendment which contains any significant matter not within the jurisdiction of the committee proposing such amendment.

This language is not within the jurisdiction of the Finance Committee to report, and if the Senate upholds this approach today then the Finance Committee has a perfect right, in my judgment, to claim jurisdiction in the future over this subject matter which at this moment appropriately comes within the jurisdiction of the Commerce Committee and is so stated in rule XXV of the Standing Rules of the Senate to come within the jurisdiction of the Commerce Committee.

So, Mr. President, this is a very, very serious matter, and I would hope that the chairmen of the committees who are on the other side of the aisle would view it as being very serious because I tell you, Mr. President, the majority is not always going to be on that side of the aisle. In time, the majority will again be on this side of the aisle and if the majority today bends the intent of the rule, circumvents the intent of the rule, undermines the budget process, undermines the committee system, then today's majority which tomorrow will be in the minority will have ample time to regret the action that it is taking today.

Of course, the majority today can make the minority bend to the majority's will. But the majority of yesterday did not use the budget process in this way.

If the budget process is going to be used in this way, let me say here and now that the minority of today will some day be in the majority and I do not want to see this process undermined by either party, whichever party happens to be in the majority, because the institution is at stake, the committee system is at stake, the budget reform process is at stake, the reconciliation process is at stake, and if we are going to commit mayhem on all of these processes today just to get this title IV enacted we will have done a tremendous disservice to the committee system, to the budget reform process, to the Senate itself and it will be a disservice that we all will come to regret.

I yield the floor.

(Mr. ABDNOR assumed the Chair.)

Mr. BAKER. Mr. President, will the Senator from Oregon yield to me 3 minutes?

Mr. PACKWOOD. I am happy to yield 3 minutes.

Mr. BAKER. I do not think anyone in this room knows more about being in the minority than I do. I have been in the minority since I came to the Senate except for the last year and a half, and I can attest to the fact that being in the majority is better, but I can also say that my judgment on this matter has nothing to do with being in the majority or the minority. I have the utmost respect for the minority leader as I indeed had great respect for him as majority leader.

I do not judge what I am about to do here on the basis of whether I am in the majority or the minority but rather on the basis of the continuing unfoldment of the precedents of the Senate in the execution of the bill which is new and in so many ways untried and on which there is a great shortage of precedent. I am speaking of the Budget Act, Mr. President.

But let us analyze where we are just for the moment. It is certainly no violence to the precedents and rules of the Senate to say that on other occasions there have been cases where money was provided for a specific function and fund and that the Finance Committee claims jurisdiction over how those funds are to be raised. They make also some direction as to how they were to be spent. We do not have to go very far to find an example. Medicare and medicaid are extensively programmatic by statute and on which the Finance Committee properly gains jurisdiction on the disposition of those funds and services the same.

On social security, certainly there is a tax consequence which is claimed by the Finance Committee and there are extensive directions on how those funds should be applied, although the execution of that direction will cut across jurisdictional lines in Congress and the Senate extensively. There are unemployment compensation, black lung, and others.

Mr. President, the only argument I make is that if there is a revenue measure involved, if there is a tax matter involved clearly the Finance Committee has jurisdiction and that it is equally attractive as an argument in this field to say that when the authority exists for the imposition of the tax there is some opportunity for the same committee, that is the Finance Committee, to exercise some judgment on how it will be spent.

Once again, this is a field in which we have little experience. The whole Budget Act is largely untried and it is one that is evolving and growing.

I am not standing here, Mr. President, and saying this is the best way to handle this subject, I am not saying that the Finance Committee should take the jurisdiction of the entire ADAP program from the Commerce Committee.

All I am saying is that it is not without precedent to deal with the matter in this way and I believe the motion to recommit with instruction should be defeated.

Mr. PACKWOOD. Mr. President, I yield 3 minutes to the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, I will share certainly the concerns that the Senator from West Virginia has expressed. As chairman of the Aviation Subcommittee, I believe this has been an issue of great concern to all of us who are interested in aviation matters because we have been so anxious to see some authorizing legislation for the airport development and airways program. It has been in limbo for a couple of years and there has been great uncertainty about the funding for that program.

It has a unique relationship because of the authorizing legislation coming from the Commerce Committee and the funding of that legislation, of course, originating with the Finance Committee. When the Finance Com-

mittee decided to include the taxes in the reconciliation package, we then were left with little choice but to include the authorizing legislation. Otherwise, we would have had the user fees already voted on and accepted through the reconciliation measure and there would be no purpose for them because we would not have had the authorizing legislation approved.

Therefore, we were caught in this particular dilemma and it does seem to me that while it is not the best of both worlds in many instances, it is a logical reason for us to address this particular issue in this way.

And as I say certainly, Mr. President, I will share the concerns of the Senator from West Virginia, but I believe this is a particular and unique situation and so we were forced to deal with it in this particular way.

I thank the Senator from Oregon.

Mr. PACKWOOD. Mr. President, will the Senator from West Virginia, on my time, respond to a question?

Mr. ROBERT C. BYRD. Yes.

Mr. PACKWOOD. If the Senator from West Virginia is successful in removing title IV, what is his intention to do with the user fees that are left in the bill?

Mr. ROBERT C. BYRD. May I say to the distinguished Senator, let me answer this question in my own way. There is legislation on the calendar already that deals with airport and airway development.

I will so make a point of order at an appropriate time, when the Senate reaches this section, that this language violates rule V and we will get a ruling of the Chair.

But this language goes beyond the instructions in the budget resolution. It talks about airport hazard, airport noise, compatibility planning, airport system planning. It goes to the national airport systems plan. It goes to navigation aids, the airport improvement program, and the airway improvement program, and on, and on, and on.

It clearly is in violation of rule XV. That is the only point I make. I am not, by moving to recommit this bill, saying I am against the title that is in the bill. I am not necessarily against it if it were standing alone. I am simply saying this procedure circumvents rule XV, and in a way which in the future will lead to further circumvention of the rule.

Mr. PACKWOOD. Mr. President, let us put things into proper priority. We have talked about reconciliation being a new process, and it is. The budget process is a new process. It is not rape of democracy. Reconciliation as we know it is the common method of budget legislating in most parliamentary democracies of the world, so we are not destroying civilization if we start of adopt this process.

You can argue whether we should ever have reconciliation or not, but we are moving down that road. Maybe we are going to move down it every year, I do not know.

The Budget Committee gives the Finance Committee instructions to raise a certain amount of money. They almost came up with a gasoline tax. They did come up with these aviation taxes, and what the Senator from West Virginia is saying is it is all right to levy the tax on the automobile users, levy it on the aviation users, but you cannot legislate for the purpose for which the tax is levied.

Mr. ROBERT C. BYRD. The Senator from West Virginia said no such thing.

Mr. PACKWOOD. This is on my time.

Mr. ROBERT C. BYRD. Mr. President, I ask for the record——

Mr. PACKWOOD. What he is saying is he wants to strike title IV. He is saying the Finance Committee can come up with user fees; they just cannot come up with a purpose for which the fees will be used.

Do I misstate the Senator's point?

Mr. ROBERT C. BYRD. The Senator is totally trying to put words in my mouth, and I will not allow him to do it. I am not saying that at all. I simply go strictly and only to the institutional matter, to the procedural aspect—not to substance.

Mr. PACKWOOD. Does the Senator want to strike out the use of the fees, right?

Mr. ROBERT C. BYRD. I want to strike this section from the bill. It is perfectly all right with me if the majority leader calls up the bill, if it is on the calendar, and does what the Senator wants to do on the use of the fees.

Mr. PACKWOOD. All I am saying is what he is suggesting. It is a problem we have had for a number of years, including when the Senator from West Virginia was using a ticket tax on airline tickets, when it went into the general fund.

Mr. ROBERT C. BYRD. Let us do directly what we do directly; let us not do indirectly what we can not do directly.

Mr. PACKWOOD. As the Senator is perfectly aware I could have—had the Chair ruled that my amendment was out of order I could have—as has been done a number of times on the budget bill, moved under the rules to waive germaneness. That does not do violence to the process. There are a number of ways of getting this before us.

The Senator from West Virginia himself is used to using one committee to overcome what another committee has decided. We do it each year annually on the Cardinal train when we set down standards in the Commerce Committee, which has jurisdiction over transportation, and the Cardinal would not run under those standards.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. PACKWOOD. No. He then comes here and moves on the Senate floor to move the Cardinal appropriation jurisdiction regardless of the determination we have made, in violation of the spirit of jurisdiction.

Now he is saying what is sauce for the goose is not sauce for the gander.

All I am saying is we have not done anything unusual in this body, let alone anything that is unusual to most parliamentary bodies.

Last of all, I would say that if you are going to say to the Finance Committee, You may go ahead and levy aviation gas taxes, jet fuel taxes, airline ticket taxes, freight taxes and mount them up in a surplus, but not use them for user purposes, then I believe that does worse violence than whatever this minor process does that seems to bother the Senator from West Virginia.

Mr. ROBERT C. BYRD. Well, I daresay many Senators should be bothered by this procedure if it is allowed to stand.

Mr. PACKWOOD. The majority of the Commerce Committee requested we proceed this way.

Mr. ROBERT C. BYRD. I am sorry about that. Did I understand it did not include any Democrats? I am not arguing the substance at all. I am simply saying that this procedure is violative of rule XV which states in plain English that

> It shall not be in order to consider any proposed committee amendment other than a technical, clerical, or conforming amendment which contains any significant matter not within the jurisdiction of the committee proposing such an amendment.

I am saying article IV of this legislation is not within the jurisdiction of the Finance Committee. That is all I am saying. I am saying the Senate ought to uphold the rule which it itself enacted.

Mr. PACKWOOD. I am confused by the rule, rule 5?

Mr. ROBERT C. BYRD. Paragraph 5 of rule XV.

Mr. PACKWOOD. I am sorry.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. I yield 5 minutes to the Senator from New Mexico.

Mr. DOMENICI. I only need 2 minutes, if the Senator will yield 2 minutes.

I am not going to involve myself in this argument other than to clarify the record that the budget resolution recommended by the Budget Committee, voted on by both Houses of Congress, and thus turned into a binding reconciliation instruction, does not, I say to the Senate, tell the Committee on Finance what taxes to raise. I do not want any misunderstanding here that the Congress, in voting in a reso-

lution from the Budget Committee, talked about airport users fees or waterway user fees or income taxes or loopholes that are to be closed. We did not.

Our instruction is $20.9 billion in new revenues over the baseline for 1983, and then certain amounts in the outyears.

So the decision on how to do it was made by the Committee on Finance, and I think both Senators who are engaged in this discussion understand that. I do not want that misunderstood.

I thank the Senator.

Mr. PACKWOOD. Mr. President, will the Senator from West Virginia respond to one last question?

Mr. ROBERT C. BYRD. Yes, on the Senator's time.

Mr. PACKWOOD. Fine.

Does the Senator from West Virginia agree that in his estimation I would be within the rules had I moved, had the Chair turned down my amendment and said it was out of order, I would have been in position to waive germaneness by 51 votes and would have been able to present the amendment?

Mr. ROBERT C. BYRD. No, I do not agree with that at all. In the first place, I do not think the Senate had any business under the bill in holding the Senator's amendment germane to a portion of the committee substitute which has never yet been acted upon and approved by the Senate. If the portion of the committee substitute had been acted upon, then it would be a part of the bill to be amended. But the first section has never been acted upon, nor has the second section of the committee substitute.

I do not think the Senate was correct in holding that amendment germane to this committee substitute language which has not been acted upon by the Senate. It was a way of getting around the clear intent and purpose of paragraph 5 of rule XV. It accomplished indirectly that which could not be done directly.

Mr. PACKWOOD. Mr. President, I beg to differ.

Mr. ROBERT C. BYRD. But we are beyond that point. I am not arguing the point of germaneness.

Mr. PACKWOOD. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Oregon has the floor.

Mr. PACKWOOD. I do not mind if the Senator wants to answer my question, but I am going to yield the floor, and I will yield the floor if he wants to go on, on his time.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, how much time do I have?

The PRESIDING OFFICER. Seventeen minutes and eight seconds.

Mr. ROBERT C. BYRD. Mr. President, I simply take a little time to read, from title IV, section 401. Declaration of Policy.

The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

Is that in fulfillment of the reconciliation instructions? No, it has nothing to do with reconciliation instructions in the recently-passed budget resolution.

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958 (49 U.S.C. 1302 and 1303), as amended by the Airline Deregulation Act of 1978, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

(4) this Act should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports, for points with scheduled commercial air service.

Obviously, I do not have to read any further. Obviously, this legislation has nothing to do with the reconciliation instruction. It is an entirely new and complete act that comes within the jurisdiction of the Commerce Committee. It should have been reported out by the Commerce Committee if the Senate was going to act on it and it should have been called up under the normal procedures.

There would have been no rule of germaneness or no restrictions regarding time limitation on debate. We could have debated it back and forth. Amendments could have been offered. Amendments not germane could have been offered to this legislation because there is no rule of germaneness in the Senate except where appropriations bills are concerned, and where the cloture rule XXII is concerned, and where the budget reform process is concerned.

I say I do not find fault with having the act itself, title IV, called up as a separate provision and acted upon by the Senate in the ordinary process of things. But to include it in this measure, which is supposed to be in response to the reconciliation instructions of the recently passed budget resolution, is a subversion of the budget process and is a subversion of paragraph 5 of rule XV. It beats the intent of the that rule.

"It shall not be in order to consider any proposed committee amendment," whether it comes from the Committee on Agriculture, whether it comes from the Committee on Veterans' Affairs, whether it comes from the Committee on Environment and Public Works, or whatever. And every chairman of each of those committees and others should view this with the most grave concern.

It shall not be in order to consider any proposed committee amendment (other than a technical, clerical, or conforming amendment) which contains any significant matter—

And this title IV is significant matter—

any significant matter not within the jurisdiction of the committee proposing such amendment.

Obviously, title IV is a significant matter. Obviously, it is not within the jurisdiction of the Finance Committee. I say that it is violative of the spirit and of the intent and of the word of paragraph 5 of rule XV. For that reason, I hope the Senate will support my motion to recommit the measure to the Finance Committee with instructions that it be reported back with title IV deleted therefrom.

Mr. President, last year we faced a similar situation. Senators will recall that many items which had nothing to do with reconciliation had been included in a reconciliation bill, a bill with time agreements, limited debate, and the germaneness rule.

Last year I offered an amendment to strike such issues from the reconciliation bill. I also threatened to offer an endless series of amendments to the reconciliation bill if these irrelevant issues were not stripped from the steamroller bill. The majority leader and I agreed to strip all of the irrelevant issues off the bill.

That is what we should do here. This 81-page document should not be a vehicle for writing major legislation that comes within the jurisdiction of the Commerce Committee, according to rule XXV, which so states it is within that committee's jurisdiction. We might as well just rip rule XXV out of the rule book.

Standing rule XXV of the Senate says:

The following standing committees shall be appointed at the commencement of each Congress, and shall continue and have the power to act until their successors are appointed, with leave to report by bill or otherwise on matters within their respective jurisdictions.

Now, let us go to the Committee on Commerce:

To which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following subject:

And within the enumerated subjects are those regarding transportation and those regarding nonmilitary aeronautical and space sciences.

I will read the items which are within the jurisdiction of the Finance Committee:

1. Bonded debt of the United States.

Title IV of this bill has nothing to do with the bonded debt of the United States.

2. Customs, collection districts, and ports of entry and delivery.

Title IV has nothing to do with customs, collection districts, and ports of entry and delivery.

3. Deposit of public moneys.

4. General revenue sharing.

5. Health programs under the Social Security Act and health programs financed by a specific tax or trust fund.

6. National social security.

7. Reciprocal trade agreements.

8. Revenue measures generally, except as provided in the Congressional Budget Act of 1974.

9. Revenue measures relating to the insular possessions.

10. Tariffs and import quotas, and matters related thereto.

11. Transportation of dutiable goods.

Mr. President, it is clear on the face of rule XXV that this article does not come within the jurisdiction of the Finance Committee and that, indeed, it comes within the jurisdiction of the Commerce Committee. It is patently obvious on the face of paragraph 5 of rule XV of the Senate that it is not in order to include this legislation in this bill. I hope my colleagues will agree and vote to recommit with instructions.

The PRESIDING OFFICER. Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. PACKWOOD. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the motion of the Senator from West Virginia (Mr. ROBERT C. BYRD) to recommit the bill to the Finance Committee with instructions that the bill be reported back forthwith with title IV stricken. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Florida (Mr. CHILES), the Senator from Montana (Mr. MELCHER), and the senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 54, as follows:

[Rollcall Vote No. 231 Leg.]

YEAS—43

Baucus	Bumpers	Cannon
Bentsen	Burdick	Cranston
Biden	Byrd,	DeConcini
Boren	Harry F., Jr.	Dixon
Bradley	Byrd, Robert C.	Dodd
Eagleton	Johnston	Pell
Exon	Kennedy	Proxmire
Ford	Leahy	Pryor
Glenn	Levin	Riegle
Hart	Long	Sarbanes
Heflin	Matsunaga	Sasser
Hollings	Metzenbaum	Stennis
Huddleston	Mitchell	Tsongas
Inouye	Moynihan	Zorinsky
Jackson	Nunn	

NAYS—54

Abdnor	Gorton	Nickles
Andrews	Grassley	Packwood
Armstrong	Hatch	Percy
Baker	Hatfield	Pressler
Boschwitz	Hawkins	Quayle
Brady	Hayakawa	Roth
Chafee	Heinz	Rudman
Cochran	Helms	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jepsen	Specter
Danforth	Kassebaum	Stafford
Denton	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Lugar	Thurmond
Durenberger	Mathias	Tower
East	Mattingly	Wallop
Garn	McClure	Warner
Goldwater	Murkowski	Weicker

NOT VOTING—3

Chiles	Melcher	Randolph

So the motion to recommit was rejected.

Mr. PACKWOOD. Mr. President, I ask for the vote on the amendment.

UP AMENDMENT NO. 1100, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER), and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 93, nays 5—as follows:

[Rollcall Vote No. 232 Leg.]

YEAS—93

Abdnor	Dixon	Jepsen
Andrews	Dodd	Johnston
Armstrong	Dole	Kassebaum
Baker	Domenici	Kasten
Baucus	Durenberger	Kennedy
Bentsen	Eagleton	Laxalt
Biden	East	Leahy
Boren	Exon	Levin
Boschwitz	Ford	Long
Bradley	Garn	Lugar
Brady	Glenn	Mathias
Bumpers	Goldwater	Matsunaga
Burdick	Gorton	Mattingly
Byrd,	Grassley	McClure
Harry F., Jr.	Hart	Metzenbaum
Byrd, Robert C.	Hatch	Mitchell
Chafee	Hatfield	Moynihan
Chiles	Hawkins	Murkowski
Cochran	Hayakawa	Nickles
Cohen	Heflin	Nunn
Cranston	Heinz	Packwood
D'Amato	Helms	Pell
Danforth	Humphrey	Percy
DeConcini	Inouye	Pressler
Denton	Jackson	Pryor
Quayle	Simpson	Tsongas
Riegle	Specter	Wallop
Roth	Stafford	Warner
Rudman	Stevens	Weicker
Sarbanes	Symms	Zorinsky
Sasser	Thurmond	
Schmitt	Tower	

NAYS—5

Cannon	Huddleston	Stennis
Hollings	Proxmire	

NOT VOTING—2

Melcher	Randolph

So the amendment (UP No. 1100), as modified, was agreed to.

Mr. DOMENICI. Mr. President, the intent of this modification is to authorize the Secretary of Transportation to enter into a contractual agreement with any State or political subdivision thereof to permit operation of airport facilities presently under FAA jurisdiction. Further, this modification requires that a provision relieving the United States of any and all liability in connection with such airport operations be contained in any agreement entered into by the Secretary. The closing of many airports across our Nation resulting from last fall's illegal air traffic controllers strike has placed a strain on State and local government's ability to provide adequate public safety and service for their community airports. This modification provides some flexibility for funding those airports most affected. Mr. President, I would like to address several questions to the chairman of the Commerce Committee, the distinguished Senator from Oregon (Mr. PACKWOOD). Would this modification provide adequate authority for the Secretary of Transportation to insure the ability of State and local governments to contract/subcontract air traffic control and other airport operation services?

Mr. PACKWOOD. Mr. President, yes, this modification as drafted will provide adequate authority to the Secretary of Transportation.

Mr. DOMENICI. Mr. President, many airports throughout the country including several within my State of New Mexico are closed temporarily due to the illegal air traffic controllers strike last fall. I ask the distinguished Senator from Oregon would this modification give State and local governments associated with these 69 or so affected airports including level II airports the ability to enter into contractual agreements with the Secretary of Transportation for the operation of airport facilities?

Mr. PACKWOOD. Mr. President, in answer to the distinguished Senator from New Mexico, this modification will provide eligibility to the 69 or so affected airports across our Nation. In addition, the State and local governments would be free to operate their airports using private contractors for facility services at the above mentioned airports.

Mr. DOMENICI. Mr. President, I also ask the distinguished Senator from Oregon who would pay for the contracted airport facility services and in what form would this payment be made?

Mr. PACKWOOD. Mr. President, the FAA would pay the State or local government in the form of a grant authority which would be incorporated into the contractual agreement between the respective parties for the operation of subject airport facilities. Funds for this payment would come out of the FAA operations account.

Mr. DOMENICI. Mr. President, I have one final question for the distinguished Senator from Oregon. What impact would this modification have on the financial and human resources of the FAA to operate and maintain our Nation's airway system?

Mr. PACKWOOD. Mr. President, the provisions of this modification will result in an overall improvement of the air traffic control system. With the ability of local governments to contract air traffic control services from the private sector, newly trained FAA controllers can be assigned to the larger airports presently understaffed since last fall. The air traffic control system would recover that much faster. Current experience with contracted air traffic control services indicates that costs to staff control towers is approximately one-half the cost associated with FAA controller staffing. This would enable the FAA to staff more airport towers throughout the country without additional costs.

Mr. DOMENICI. Mr. President, I thank my good friend, the distinguished Senator from Oregon, for answering my questions concerning this modification.

Mr. GRASSLEY. Mr. President, I am very pleased to offer my strong support for the provisions authorizing the spending for the planning and development of airports, as well as the modernization of our overall airway system. This legislation represents welcome relief from the uncertainties that have overshadowed the vital work of improving our Nation's airports and air systems since ADAP authorization expired in 1980.

These provisions authorizing the continuation of our ADAP programs have significant ramifications for our Nation as a whole. This legislation will keep us on course with the comprehensive plan to upgrade and enhance our airway system that was established over a decade ago with the creation of the Airport and Airway Development Act. The ADAP program set in motion a thoroughly studied and planned approach to meeting the growing needs and demands for safe, sufficient air service to the year 2000, and sets a firm foundation for the air service requirements for the years beyond.

The magnitude and significance of this program is matched only by the great highway plan initiated by President Eisenhower. And like our highway program, the ADAP program protects us from the pitfalls and inefficiencies that can too easily accompany patchwork approaches to the development of transportation systems.

On this note, I offer hearty congratulations to the chairman of the Commerce Committee and to the chairman of the Aviation Subcommittee for the tremendous effort that they devoted to reaching an equitable, workable compromise. Airway users throughout America owe a debt of gratitude for the long hours and hard work that you sacrificed in order to keep our airway projects on course.

It is essential that we pass legislation this year. The Secretary of Transportation has made it clear that the fiscal year 1982 obligations for airport rest upon the ability of Congress to pass this authorization package. Since no one wants to see our airway projects jeopardized, I hope that the Senate and House will both recognize the importance of passing this package.

I should like to take this opportunity to share with my colleagues some information that underlines the importance of this legislation to my home State of Iowa. There are a large number of small and large airport projects depending upon the renewal of ADAP funding authorization. If this legislation passes, Iowa's airport could expect over $8.1 million during fiscal year 1982 and fiscal year 1983 from apportionment allocations alone.

In addition to funds from apportionments, a number of Iowa airports urgently need discretionary funding. I do not need to mention them all, but there are three smaller airports that are in particular need of discretionary funding in order to improve their capacity. These airports are located in Decorah, Charles City, and Sheldon. There is a critical need for money to expand runways in order to accommodate business aircraft that must use these smaller airports more frequently to carry company officials. Since air deregulation took effect, some of our medium sized airports have lost air service from some of the major airlines—air service that companies had utilized to carry their representatives on business trips. Now the small airports must carry the burden by handling the increased number of business aircraft. Unfortunately, if these small airports are unable to meet this challenge, many of these businesses may have to leave these cities. This results in a tremendous loss of jobs and money to our communities, and hurts the State as a whole. It is my hope that the Federal Aviation Administration can offer the necessary assistance to these small airports.

I should also like to draw particular attention to the needs for discretionary funding for the terminal and apron project at the airport in Cedar Rapids, Iowa. Although this project is already underway, and the Federal Aviation Administration has contributed over $1 million in discretionary and enplanement money, at least $5 million more is needed from the FAA to complete this essential project.

At this point, I should like to ask a question of the chairman of the Senate Commerce Committee, the Senator from Oregon.

Mr. PACKWOOD. I shall be happy to respond to the Senator from Iowa.

Mr. GRASSLEY. As chairman of the Commerce Committee, the Senator has clearly shown his recognition of the importance of providing continuity in this ADAP program, as well as the projects involved. This is why the Senator and the chairman of the Aviation Subcommittee worked so hard in moving this vital legislation ahead, and I commend both Senators for their efforts.

In this light, I should like to address and emphasize the dilemma in which Cedar Rapids finds itself in attempting to complete its airport project. Within 60 days, it will have spent all of its available funding for its project and will be looking for additional assistance from the FAA—not only for apportionment funds, but also discretionary funding.

As important as timely financial assistance, however, is the need for a long-term commitment from the Federal Government to support the completion of this essential airport development project. A good portion of the overall funding for the airport project is being generated from local and State sources. Therefore, it would be very helpful to the community of Cedar Rapids if additional assurances could be obtained. Clearly, through the FAA's past financial support, the FAA is fully cognizant of the importance of this Cedar Rapids project. I think it would be very helpful, however, if further assurances could be offered by Congress that it, too, supports the expeditious completion of this airport project.

As chairman of the Commerce Committee, could the Senator agree that the Cedar Rapids project should be given the FAA's fullest consideration for continuing support?

Mr. PACKWOOD. I say to the Senator from Iowa, that I agree that the Cedar Rapids air terminal project is, indeed, an important project that warrants the FAA's utmost consideration and assistance through the project's completion. I should also like to add that I agree that a commitment to continuity is important not only to this project but also to the ADAP program as a whole, so I thank the Sena-

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tor for his support of this ADAP provision.

Mr. GRASSLEY. I thank the Senator for his words of assurances for Cedar Rapids and for his efforts for all our Nation's airway users and airports.

The PRESIDING OFFICER. Who yields time?

UP AMENDMENT NO. 1101

Mrs. KASSEBAUM. Mr. President, I send to the desk an unprinted amendment and ask for its immediate consideration.

The PRESIDING OFFICER. In order to deal with this amendment at this time, unanimous consent is required. Is there objection? The Chair hears none, and it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Kansas (Mrs. KASSEBAUM) proposes an unprinted amendment numbered 1101.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add a new section 38 to the Packwood-Kassebaum amendment as follows:

SEC. 38. Notwithstanding any other provision of this act the amounts listed in subsection 6(a) shall be changed as follows:

On page 15, line 7 delete "$1,740,000,000" and insert in lieu thereof *"$1,843,500,000"*.

On page 15, line 8 delete "$2,533,500,000" and insert in lieu thereof *"$2,755,500,000."*

On page 15, line 9 delete "$3,582,900,000" and insert in lieu thereof *"$3,772,500,000."*

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The point of the Senator from Mississippi is well taken. The Senate is not in order. The Senate will be in order, so that Members can hear the Senator from Kansas.

Mrs. KASSEBAUM. Mr. President, this amendment in many ways has been agreed to. The Budget Committee has agreed to these figures. The Commerce Committee is in agreement with these figures. The Finance Committee is in agreement with these figures. This is because the taxes that are included in reconciliation were specifically set at levels that would support these figures.

The arguments have been made on this matter; and if it is agreeable with the manager of the bill, I would simply ask for a voice vote on this amendment.

Mr. PACKWOOD. Mr. President, the amendment is acceptable to the manager of the bill. I know it is acceptable to the Budget Committee. I believe it is acceptable to the ranking minority member, the Senator from Nevada. I would be glad to accept it without a rollcall vote.

Mr. CANNON. I have no objection to the amendment, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I have no objection.

Mr. President, I commend my distinguished colleagues, the chairman of the Commerce Committee, Mr. PACKWOOD, and the chairman of the Aviation Subcommittee, Mrs. KASSEBAUM, for their very fine efforts in holding together a very diverse group of aviation interests. The compromise reached by Mr. PACKWOOD, Mrs. KASSEBAUM, the administration, and virtually all of the aviation community represents sound public policy and will insure that critical improvements to our Nation's airports and air traffic control system will be accomplished.

The Kassebaum amendment conforms with the ADAP spending levels in the first budget resolution for fiscal years 1982 and 1983.

This approach is both logical and consistent, because the proposed increases in spending will be fully financed by increases in aviation user-fee charges. The users of the aviation network—that is, commercial airlines, general aviation users, travelers and business—will be the primary support for much-needed improvements in the safety and efficiency of our Nation's airways.

Since Congress is being asked to raise aviation user fees above current levels, it is logical to increase spending for the airport grants-in-aid (ADAP) program and for modernization of the air traffic control system, critical to the safety of the national airspace system.

The Kassebaum amendment also enables a much larger percentage than ever before of the Federal Aviation Administration's (FAA) operating and maintenance account to be paid for by the users of the system, rather than general taxpayer dollars. Those that benefit from the FAA's provision of an exemplary air traffic control system, flight service information, maintenance of airports, flight service stations, and en route centers will be required to contribute to the costs of these services.

It is fully appropriate that the general taxpayer not be burdened with all of these expenses. The Kassebaum amendment enables much of the FAA's operating and maintenance costs that are clearly attributable to air carriers and general aviation users to be financed by those that have the most to gain from the provision of these services. No longer is the general taxpayer being asked to subsidize to as large an extent the users and beneficiaries of the FAA's services.

Mr. President, after 3 arduous years of attempting to reauthorize the ADAP program on a long-term basis, I am pleased that we have reached a satisfactory compromise. No longer will the FAA be subjected to its annual fear that the ADAP program will not be reauthorized until the last days of the fiscal year. The Kassebaum amendment will put the ADAP program back on a healthy basis and will result in significant improvements to the safety, accessibility, dependability, and mobility of our Nation's airways.

Mr. President, I think the important dollar amount is the spending level for the fiscal year 1983. That remains constant in all respects with what we had proposed before and what the budget targets are.

For the composite of all 5 years, fiscal years 1983 through 1987, it is the same amount of money as the Packwood amendment. Fiscal years 1984 and 1985 have been increased, and fiscal years 1986 and 1987 have been decreased. These spending levels are subject, nonetheless, to the appropriation process. I will not say subject to appropriations but to the appropriation process, because of obligation ceilings that are part of the Appropriation Committee's responsibility.

Therefore, I have no objection. The Senator from Kansas states the case. The taxes are raised, and there are those who are supporting increased user fees that expect them to be spent. This is the first time in recent history that the majority of the FAA's operating expenses will be supported by aviation users rather than the general taxpayer. That is unique. That makes it very commendable.

I have no objection. I do not think it is fair to say the committee favors it. The Senator from New Mexico favors it.

The PRESIDING OFFICER. Who yields time?

Mr. PACKWOOD. Vote.

The PRESIDING OFFICER. Do the managers of the time yield back the remainder of their time on this amendment?

Mrs. KASSEBAUM. I yield back my time.

The PRESIDING OFFICER. Does the Senator from Louisiana yield back his time?

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (UP No. 1101) was agreed to.

Mrs. KASSEBAUM. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1102

(Purpose: Balanced Aviation Trust Fund)

Mr. CANNON. Mr. President, I send an amendment to the desk on behalf

of myself and Senator JEPSEN and ask for its immediate consideration.

The PRESIDING OFFICER. The consideration of the amendment by the Senator from Nevada at this point on the committee amendment requires unanimous consent.

Does the Senator so ask?

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment may be in order.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. I do not think I have any objection.

Which amendment is it?

Mr. CANNON. This is the $500 million or more surplus.

Mr. PACKWOOD. I am going to oppose the amendment. I have no objection to considering it.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Nevada (Mr. CANNON), for himself and Mr. JEPSEN, proposes an unprinted amendment numbered 1102.

Mr. CANNON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 440 of the committee amendment, insert the following new section between lines 10 and 11:

Sec. 283A. Balanced Aviation Trust Fund.

SEC. . (a) Notwithstanding any other provision of law, if, at the end of any fiscal year, the amount of unobligated funds in the Airport and Airway Trust Fund (including funds collected during such fiscal year but not yet transferred to the Trust Fund) exceeds $500,000,000, the rate of tax imposed on fuel used for noncommercial aviation under section 4041(c)(1) of the Internal Revenue Code of 1954 for the following fiscal year shall be 3½ cents per gallon.

Mr. CANNON. Mr. President, this amendment that I offer to the Airport and Airways Revenue Act requires lower tax levels than those approved by the Finance Committee, if a large trust fund surplus exists, and I offer this amendment on behalf of myself and Senator JEPSEN.

If there is a surplus at the end of any fiscal year exceeding $500 million, then the fuel tax on all aviation fuels will be 8½ cents per gallon. This lower tax level makes perfect sense because it is tied to the trust fund surplus. As long as there is a surplus in this fund higher aviation taxes will not in any way help to balance the general treasury accounts.

The Aircraft Owners and Pilot Association strongly support this amendment, and I urge my colleagues to approve it.

Mr. PACKWOOD. Mr. President, I hope the Senate will not adopt this amendment. As I indicated earlier, this is a fragile coalition. This amendment is directed solely toward the benefit of those people who fly private airplanes.

I am aware of their interest and none of them want any taxes, but a majority of the aviation community agreed that we would increase the taxes on commerical passengers tax, the tax on jet fuel and gas for general aviation, and the tax on tubes and tires. We have a triggering mechanism in this amendment that has been accepted. That triggering mechanism says that if 85 percent of the money that is authorized for airport development is not made available for obligation then the taxes end. So we do not need to worry about the fund mounting up and we frankly have had that problem in the past. It is not unique. It has happened under past administration. But all administrations when they are desperate for money want to get trust funds and not spend them, because they get to count the trust funds up against their efforts to reduce the deficits and produce revenues. If they do not have to spend the money, it narrows the deficit.

There were years when there were billions of dollars in the aviation trust fund that were not being spent. That problem will be alleviated by the trust fund triggering mechanism.

And I will say again if each year we do not obligate 85 percent of the airport development money authorized then the taxes end.

The amendment of the Senator from Nevada relates only to the aviation gas tax, a tax that at one time was 7 cents when aviation gas was about 35 cents. The Finance Committee bill moves it to 12 cents when aviation gas is now about $1.90.

At one time when it was 7 cents the tax on aviation gas comprised about 10 percent of the trust fund. Today at 12 cents it will comprise about 2 percent of the trust fund. After we have put this agreement together with all of the parties concerned realizing that no one likes taxes on themselves, it is unfair to say instead of the triggering mechanism where all taxes will go down, if we do not allocate the money we say to only one group, "Your taxes will go down." Not the airline passengers, tax not the person who sells tubes and tires, not jet fuel, just the taxes on aviation gasoline. That is certainly not a group that has liked the tax. They like the bill. They just do not like the tax to pay for it.

I think it would be unfair to single them out, and I hope the amendment will be defeated.

Mr. DOLE. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. DOLE. Mr. President, I certainly share the views expressed by the distinguished Senator from Oregon.

I wish to refer to a letter just received from the Secretary of Transportation.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter received by me from the Secretary of Transportation dated July 19, 1982.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., July 19, 1982.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
Washington, D.C.

DEAR MR. BOB: I am writing to you and to the Chairman of the Commerce Committee to oppose the suggestion of an amendment to the upcoming airport-airway legislation that would reduce 12- and 14-cent-a-gallon user fees, as applied to general aviation activities, to a level of 8.5 cents-a-gallon.

The legislation your Committees have crafted represents a broad consensus on how to continue the successful user-fee-supported program that has underwritten national aviation activities for more than a decade. All parties have compromised their deeply felt interests to arrive at a bill that can be passed. It would be totally unfair to them if a single party now succeeded in changing the balance of this legislation.

General aviation has enjoyed a 7-cent-a-gallon user fee for its participation in the nation's airport-airway system since 1970. If this fee were adjusted for inflation alone, as the percentage taxes on airline passenger tickets and air cargo effectively are, the 7-cent fee would have risen to at least 15 cents. At the 7-cent rate, general aviation pays for an extremely small portion of the FAA facilities and services it uses. Furthermore, general aviation is the area of greatest growth through the 1990's, during which period the number of active general aviation aircraft are expected to more than double the present number of all planes. General aviation will put particular strain on the system as the growing population of privately-owned sophisticated jet aircraft use more and more air-traffic and navigational aids.

The 12- and 14-cent-a-gallon fees proposed by your Committees are more than fair to the general aviation community. They represent a far smaller portion of operating cost on $2-a-gallon fuel than the 7-cent fee represented on 40-cent-a-gallon fuel in 1970. On a fully allocated basis, the 12-cent and 14-cent flat-rate levels represent the low side of general aviation's share, which share was arrived at through lengthy compromise with all user groups. As you know, the House Ways and Means Committee has already defeated an attempt to amend this section by reducing general aviation's share, and instead reported a 12-cent tax. To maintain this critical legislation in the form in which broad consensus was reached, it is essential to resist any amendment to reduce user fees on aviation fuels.

Sincerely,

DREW.

Mr. DOLE. Mr. President, Secretary Lewis points out that:

General aviation has enjoyed a 7-cent-a-gallon user fee for its participation in the nation's airport-airway system since 1970. If this fee were adjusted for inflation alone, as the percentage taxes on airline passenger tickets and air cargo effectively are, the 7-cent fee would have risen to at least 15 cents.

So I do not think we are imposing any undue burden on general aviation. I think some have argued that they

are not paying their proportionate share for their proportionate use of the system.

I also say that our counterpart, the House Ways and Means Committee, has already defeated an attempt to amend this action by reducing the general aviation share and instead reported a 12-cent-per-gallon tax, and I am certain that in the House of Representatives they are certainly just as concerned about general aviation as we are.

PRIOR LAW

Under prior law the general aviation gasoline tax was 7 cents per gallon. On October 1, 1980 it was reduced to 4 cents per gallon.

AMENDMENT

The amendment would decrease the general aviation gasoline tax to 8.5 cents per gallon if the surplus in the trust fund balance exceeded $500 million.

REVENUE EFFECT [1]

[Loss in billions of dollars]

Fiscal year—				
1983	1984	1985	1986	1987
−0.013	−0.013	0.014	−0.014	−0.015

[1] Joint Committee on Taxation figures.

Some have statistics that would show if the general aviation gasoline tax were set at a rate that is proportionate to the general aviation use of the system, the tax rate would be approximately 50 cents per gallon.

Since the aircraft use tax is not being reinstated, statistics show that an 8½-cent-per-gallon gasoline tax would result in general aviation paying less total aviation taxes in 1982 than they paid in 1970.

The following aviation groups support the 12- and 14-cent-per-gallon fuel tax: (1) the National Business Aircraft Association; and (2) the General Aviation Manufacturers Association.

Prior to October 1, 1980, the general aviation gasoline tax was 7 cents per gallon. If it is increased to 8.5 cents per gallon, this will only represent a 1½-cent-per-gallon increase in general aviation gasoline taxes since 1970. On the other hand, general aviation nongasoline fuel taxes will double during the same period.

For those reasons, I hope that the amendment will be defeated.

Mr. CANNON. Mr. President, I think Senators may have missed the key point here. This is not an attempt to reduce, per se, the tax that general aviation pays.

What is says is that any time there is a surplus in the trust fund of over $500 million, then the triggering action would take place.

That surplus was created by the taxes these people pay along with a lot of other people. The Senator from Oregon suggested that we are not reducing the ticket tax. I would be very happy to make the amendment so that it also has a triggering effect to reduce the ticket tax as well, but I thought I would try this one first, and it is based only on the surplus in the trust fund.

If the trust funds were used for the purpose for which it was intended, there would not be that kind of a surplus there and there would be no problem with a triggering mechanism because if it is down below $500 million, the tax would remain just the same as it is in the bill reported by the Finance Committee.

Mr. PACKWOOD. Mr. President, I say again that there is over $2 billion in the trust fund now. This amendment is not prospective. What this does is give a boon to private aviation right now, bam, just like that.

Right now, bam, just like that, the tax level goes down. We have lowered the tax level from that initially recommended by the administration.

My point is not that the money is not going to be spent. It is going to be spent or all of the taxes are going to go off, not just the taxes for general aviation, and that is my quarrel with the amendment.

They have been looking for, and I understand it perfectly, general aviation has been looking for a way to get out from under this tax increase in one way or another. This is a back door attempt to do it by saying if the trust fund, which is over $2 billion, falls below $500 million they are out. They pay 8.5 cents. Everybody else continues to pay the taxes that are in this bill now, everybody but general aviation.

I will say one thing more. This agreement is a fragile compromise in which most of the parties that use aviation agreed to most of the bill. It is unfair now to single out one particular segment for special treatment.

Mr. CANNON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CANNON. Mr. President, if no one else desires to speak I am prepared to yield back the remainder of my time.

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada. The clerk will call the roll.

The legislative clerk called the role.

Mr. CRANSTON. I announce that the Senator from Montana (Mr. MELCHER) and the Senator from West Virginia (Mr. RANDOLPH) are necessarily absent.

I further announce that, if present and voting, the Senator from West Virginia (Mr. RANDOLPH) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote or change their vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 233 Leg.]

YEAS—44

Baucus	Garn	Matsunaga
Bentsen	Glenn	Mattingly
Bumpers	Goldwater	McClure
Burdick	Hart	Metzenbaum
Byrd, Robert C.	Hatch	Mitchell
Cannon	Heflin	Murkowski
Chiles	Helms	Nunn
Cohen	Hollings	Pell
Cranston	Huddleston	Riegle
DeConcini	Jackson	Sarbanes
Dixon	Jepsen	Sasser
Eagleton	Johnston	Schmitt
East	Laxalt	Stennis
Exon	Leahy	Zorinsky
Ford	Levin	

NAYS—54

Abdnor	Durenberger	Pressler
Andrews	Gorton	Proxmire
Armstrong	Grassley	Pryor
Baker	Hatfield	Quayle
Biden	Hawkins	Roth
Boren	Hayakawa	Rudman
Boschwitz	Heinz	Simpson
Bradley	Humphrey	Specter
Brady	Inouye	Stafford
Byrd, Harry F., Jr.	Kassebaum	Stevens
	Kasten	Symms
Chafee	Kennedy	Thurmond
Cochran	Long	Tower
D'Amato	Lugar	Tsongas
Danforth	Mathias	Wallop
Denton	Moynihan	Warner
Dodd	Nickles	Weicker
Dole	Packwood	
Domenici	Percy	

NOT VOTING—2

Melcher	Randolph

So the amendment (UP No. 1102) was rejected.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, if I could have the attention of the Senate, could I inquire of the minority side whether it is their intention to offer an amendment at this time?

Mr. ROBERT C. BYRD. Yes, Mr. President, I understand Mr. BRADLEY is prepared to lay down his amendment and proceed to its consideration on tomorrow.

Mr. BAKER. Mr. President, if agreeable, I would hope that debate on that measure would continue for some time tonight, until, say, 6:30 or thereabouts, and that any vote would occur tomorrow.

ORDERS FOR WEDNESDAY

ORDER FOR RECESS UNTIL 9 A.M.

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it

stand in recess until the hour of 9 a.m. on tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR THE RECOGNITION OF SENATOR NUNN ON TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order, the distinguished Senator from Georgia (Mr. NUNN) be recognized on a special order for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER DESIGNATING A PERIOD FOR ROUTINE MORNING BUSINESS AND TO RESUME CONSIDERATION ON H.R. 4961

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special order, there be a brief time for the transaction of routine morning business to extend not past the hour of 9:40 a.m., and that at 9:40 a.m. the Senate resume consideration of the pending measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BAKER. Mr. President, with that arrangement, and with the representations made by the minority leader, I wish to announce there will be no further rollcall votes this evening. I thank all Senators.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The Senate continue with the consideration of the bill (H.R. 4961).

The PRESIDING OFFICER. The question is on the first committee amendment. Who yields time?

Mr. DOLE. Mr. President, it is my understanding that the Senator from New Jersey——

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. DOLE. I am pleased to yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Mr. BRADLEY be allowed to lay down his amendment tonight.

Mr. DOLE. I certainly have no objection to that. That is what we hoped.

Mr. LONG. Is that amendment at the desk, Mr. President?

The PRESIDING OFFICER. The request of the minority leader is that the amendment be in order at this time.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. LONG. On the time of the bill.

Mr. DOLE. Equally divided on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BRADLEY. Mr. President, I yield to myself, on behalf of the minority on the Finance Committee, as much time as I need.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the first committee amendment.

UP AMENDMENT 1103

(Subsequently numbered amendment No. 1978.)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is not in order without unanimous consent that the first committee amendment be set aside.

Mr. BRADLEY. Mr. President, I ask unanimous consent that this amendment be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will state the amendment.

The bill clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) proposes an unprinted amendment numbered 1103.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, the amendment I have offered is the fairness amendment of this tax bill. Let me say at the outset that I think about 50 to 60 percent of this tax bill is pretty good legislation. However, I think that the remainder of the bill is not so good. I think that it is regressive and I think it hits those individuals who are least insulated from the recession that we find ourselves in. Therefore, Mr. President, I would move to make this tax bill a fairer tax bill.

If we look at both the spending provisions and the tax increases, we are struck by the fact that this is the biggest tax increase in the country's history and that roughly 30 percent of those tax increases fall on middle- and low-income Americans. We also find that a portion of the spending cuts force senior citizens on medicare to pay more of that medicare. What I am proposing to do is keep the following four elements of the tax bill:

I would not increase the unemployment taxes. I would not increase the amount an individual has to pay before he or she can deduct his or her medical expenses and casualty losses. I would not increase the excise tax on cigarettes or telephones.

In addition, this amendment would eliminate the cut in the medicare part B deductible and medicare part B premium, as well as the copayment on home health care and the State reimbursement requirement.

Mr. President, these tax increases and spending cuts that I would not make total about $22.8 billion. To offset those actions, I would then move to defer—and the amendment envisions deferring—that part of the third year of the tax cut that will be received by couples with incomes over $46,000 to $50,000. It is important to note that couples in the incomes under $40,000 would get their tax cut as envisioned by current law in July of 1983, that is, the full 10-percent tax cut. Those couples with incomes in the $46,000 to $50,000 range would have their tax cut phased out. A couple at the $50,000 or so income level would not get their tax cut until the Congress balanced the budget. Then they could have their tax cut.

Mr. President, this amendment recognizes that part of the Finance Committee bill is on the right track. The amendment makes the bill fairer by eliminating those tax increases that unfairly burden the middle- and low-income persons in this country, who is the hardest hit by the present recession and who is the least able to cope with the inevitable price increases that will be passed on as these excise tax and unemployment tax increases are levied on businesses and individuals.

This amendment will pay for these tax rescissions, essentially, as I said, by deferring the third year of the tax cut. But that deferral will apply only to those upper-income individuals who have already benefited dramatically from last year's tax bill which dropped the top rate from 70 to 50, which I supported. The amount of revenue that this deferral for upper-income individuals would yield is roughly $33 billion. The revenue lost by not going to the tax increase and not making the spending cuts would be $22 billion. So we are left with a cushion of about $11 billion.

That cushion could (A) be applied to reduce the deficit more; or, (B) it could be applied to any number of other provisions in this bill that might indeed be subject to striking moves in the next day or so. The main point to make is that this provision reemphasizes the desire on the part of the Democrats in the Senate for a fair bill.

It challenges all of us in the Senate to carry the intent expressed by the chairman to its logical conclusion and make not just 60 percent of the bill fair but 100 percent of it fair.

Mr. President, that is the nature of the amendment. I reserve the remainder of my time.

Mr. LONG. Mr. President, will the Senator yield at that point for a question?

Mr. BRADLEY. Yes; I would be pleased to yield for a question.

Mr. LONG. Is it correct that what the Senator has in mind is that the 10-percent tax cut due to go into effect in July next year would be deferred only for about 20 or 25 percent of the taxpayers, and those would be the ones who are doing best; that is, the ones who tend to be earning more than their neighbors?

Mr. BRADLEY. The Senator is correct—75 percent of the American taxpayers earn under $40,000. They would not be touched. They would get their full 10-percent cut in July 1983. For the 5 percent, say, in the neighborhood of $40,000 to $46,000, they would get some part of it.

Mr. LONG. Is it fair to say also that included in this group that would not get the additional 10-percent cut in rates next year are those very fortunate souls who have already had their top rate cut from 70 percent down to 50 percent? Those people, bless their hearts, have already had a 30-percent tax cut while the other folks were getting 15 percent and hopefully 25 percent with the cut they get next year? So within the group that would not get the additional cut under the amendment are those who have already had the best of it to begin with?

Mr. BRADLEY. The Senator is correct.

Mr. LONG. Furthermore, if the purpose of the economic stimulus package, the huge tax cut that was passed last year called the Economic Recovery Tax Act, if all these incentives and fast tax writeoffs for equipment and all that type of thing do well and they stimulate the economy, then that same group that would not get the additional rate cut would be those who figure to do the best under last year's bill? In other words, the highly paid people or those who are making $40,000 and above, those tend to be the people who benefit first and benefit most when the economy gets moving; is that not correct?

Mr. BRADLEY. There is no question that if the economy booms and growth is at 5 percent in real terms, the people who will benefit are those who have had the good sense and good fortune to invest in those firms that are doing well, and their investments will be taxed not at 70 percent like they were 2 years ago but at 50 percent. So, yes, they will certainly benefit.

But while we are fighting this deficit, we want to make sure that the burden does not just fall on middle- and low-income people, and that is why we have offered this amendment.

Mr. LONG. If the Senator would yield further, is it not true that those who are doing very well indeed in this country would still share in the benefit of the amendment of the Senator insofar as they would not pay the increase in the telephone tax?

Mr. BRADLEY. They would not pay the increase in cigarette tax, small businessmen——

Mr. LONG. They would still get the benefit of itemizing their medical expenses and they would get the benefit of the present law with regard to casualty losses, so they figure to be among the beneficiaries of the amendment of the Senator to the extent that he deletes some of the tax increase provisions?

Mr. BRADLEY. I would say to the Senator in no way did I mean to imply that only middle-income people have medical costs. Upper-income people have medical costs and casualty losses. Upper-income people hire individuals for their firms and have to pay unemployment taxes. So the savings that we have from this amendment would be shared by upper income as well as middle and lower income—no question.

Mr. LONG. Mr. President, may I say to the distinguished Senator that I discussed the approach of the Senator with a lot of very successful people in the country, and I have yet to hear any of them tell me that they do not think it is a fair proposition, or express any opposition to it. So far as I am able to see, those people who are doing very well indeed are very happy about the maximum 50-percent tax rate, when we brought it from 70 percent down to 50, and they are very pleased about the fact that we got the capital gains tax down to 20 percent for them; they are very pleased about the accelerated depreciation, and all the rest of it. If they can keep the goodies that have been brought to them by the huge tax cut last year, most of those people will be very happy to forgo a further cut in the rates below the 50-percent rate.

Mr. BRADLEY. I think we might have been talking to the same people, because I have heard that same message. In addition, I think they are coming more and more to recognize that if we are going to have economic growth in this country, we have to have everybody on board. And if you are going to fight the deficit, you have to do it in a fair way.

Mr. LONG. I thank the Senator.

Mr. BRADLEY. I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. BOSCHWITZ). Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I understand the Senator from New Jersey may have some minor modifications in the morning. So there not be any effort to shut that off, I shall not ask for the yeas and nays.

Mr. BRADLEY. That is correct, I would say to the Senator from Kansas.

Mr. DOLE. I understand it is hard to get numbers quickly and determine just how much money may be left. And again I certainly have no quarrel with anyone's effort to try to improve this legislation. It is difficult to raise $100 billion in taxes.

This is a large tax increase if you just look at the numbers, but I think a careful analysis of this bill will clearly show that about $50 billion is tax compliance, another $28 to $30 billion is what the President referred to when he mentioned these things last year as loophole closings, and then there are other areas—user fees and the medicare tax and other things—that I think properly should be paid for by the people who benefit. Therefore, we end up with about 85 percent of this tax bill that I think can be pretty well justified.

The areas that caused us some concern, not because there was not much tax policy, probably were in the areas of cigarette excise tax, maybe the telephone tax. But again, if you examine the telephone tax carefully, the Federal tax is so small and the State and local taxes are quite high that that does not justify the tax, but the telephone tax has been as high as 10 percent. We simply raised it from 1 percent to 2 percent in 1983 to 3 percent in 1984 and 1985 and then back to 1 percent in 1986.

Again, I suggest that we had a lot of ideas on how to raise $100 billion. One was a gasoline tax that we had originally agreed to among the Republicans but the President of the United States indicated his opposition to that tax. He indicated that the price of gas had already increased 10, 15, to 20 cents and he did not think it was a very good idea to ask the American motorists to pay another 5-percent tax increase on gasoline even though we had hoped to suspend the use of that money for 2 years and use it on highway construction. We still believe that that is a good idea, but we understand that the President also has good ideas and so in this case we discussed it and decided that he won. So we removed that from the bill.

Then we had some difficult choices to make. This Senator thought we ought to do something about the interest deductions; there ought to be some limit, there ought to be some cap on how much the employers can write off or deduct on health care and how much you can have that the employee does not have to count as income.

Again, that was rejected, as was the interest deduction, by a majority of the Republicans. Therefore, it did not seem to me that it would have much chance in the committee.

I know that the Senator from Idaho wishes to speak on this amendment.

Mr. President, I am pleased to say that there has been a lot of editorial support for this package, and I ask unanimous consent to have a number of editorials printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 5, 1982]

SUPPORT THE FINANCE COMMITTEE

Listening to standard administration prose, you could get the idea that the fight for budget control was being waged between a stalwart president and a recalcitrant Congress—Messrs. Reagan and O'Neill in hand-to-hand combat. In fact, neither man has had much to do with the package of budget cuts and tax increases now taking shape in Congress. Instead, the moving force has been a handful of Republican leaders in the Senate who, with only the vague blessing of the White House, are hammering out the details of what to cut from the budget and how to pay for what is left.

In recent days, the action has been directed by Sen. Robert Dole, whose Finance Committee has now voted changes in the tax code that would raise $21 billion in additional taxes next year. Normally, the House Ways and Means Committee would take the lead on a revenue measure, but House Democrats were glad to let Senate Republicans get out in front in the unpleasant business of raising taxes. You haven't seen the administration fighting to get into the act. Treasury staffers have been giving advice to the Finance Committee on technical details and estimates, but the administration has apparently decided to let Sen. Dole test the waters before it decides to jump in behind him.

Exposed to the merciless pressure of the tax loophole lobbies, the Finance Committee nonetheless put together a brave set of tax reform measures. It shied away from some tough decisions—no new tax on energy was voted—and caved in to pressure on others—the low-rate capital gains tax would be extended to assets held for only a few months. But the number of redoubtable lobbies that the committee faced down is remarkable.

Perhaps the most important reform was the committee's decision to reduce the too generous business tax breaks voted last year. When these breaks are fully in effect in 1986, the combined value of investment tax credits and accelerated cost recovery deductions will excuse many companies from tax liability altogether and also provide incentives for companies to make investments that don't make good economic sense. The committee would also curb—and ultimately eliminate—selling of unneeded tax breaks by companies with no taxable profit to other companies wanting to reduce their tax bills.

Other interests nicked by the committee bill include defense contractors, insurance companies, tobacco producers, private aircraft owners and wealthy individuals and corporations that now pay little or no taxes. Tax-subsidized pensions for highly paid corporate executives would be curtailed as would the free and easy use of tax-exempt municipal bonds for commercial purposes. Over the protests of banks, savings institutions and brokerages, the committee even voted to crack down on tax cheats who fail to report billions of dollars in interest and dividends each year.

Whether the Finance Committee's proposals sink or float will depend upon the willingness of President Reagan to give the committee firm and unequivocal support. If that's not forthcoming, you can scratch any real progress toward tax reform from the agenda for the foreseeable future—and add at least $20 billion to your estimate of next year's budget deficit. The Finance Committee has taken large steps toward making the tax code simpler and fairer, but in doing so, it offends strong and vocal interests. The committee needs—and deserves—the full support of the administration, Congress and the public.

[From the New York Times, July 7, 1982]

SURPRISE: REVENUE PLUS REFORM

By the usual rules, it would have been a game of you scratch my lobbyist, I'll scratch yours. But the Republicans on the Senate Finance Committee, led by Chairman Robert Dole, were in no mood for games of any sort last week. Charged with the unpleasant task of raising some $21 billion in revenues to hold down the 1983 budget deficit, the committee did so at the expense of narrow interest preferences in the tax code.

The result is a surprisingly constructive piece of legislation, undoing some of last year's smellier excesses. No one will be pleased by every proposed change. But passing this bill would go a long way toward making the tax laws more equitable.

Congress is committed to raising tax revenues in order to keep the 1983 budget deficit under $100 billion. But four months away from an election and without effective leadership from the White House, few expected the Senate Finance Committee to come up with a bill that would combine revenue increases with tax reform.

Chairman Dole has been talking about tax reform for months. But it wasn't exhortation that carried the Republican majority; it was neatly exploited political reality. The simplest way to raise revenue would be to eliminate the 10 percent income tax cut scheduled for 1983. But the President bitterly opposes that and the Republicans felt obliged to go along. An alternative that would have satisfied the President was a tax on energy. But raising gasoline prices, never easy, is suicidal in an election year.

There was another way: make less visible tax changes that would offend neither the President nor ordinary citizens. It was Chairman Dole's achievement to turn this expedient approach into a fine tax bill. About $8.5 billion of the $21.1 billion would be gained by enforcing existing law. Banks would have to withhold 10 percent of interest and dividend payments. The I.R.S. would get new authority to crack down on service workers; some 80 percent of all tip income is not reported.

The truly brave parts of the bill would curb tax breaks for business. Excessively generous depreciation schedules, part of the 1981 tax reduction package, would be tightened. Benefits from tax preferences like bad-debt reserves and mineral depletion allowances would be scaled back by 15 percent. The maximum tax-deductible pension contribution for executives and incorporated professionals would be cut sharply.

The bill is not perfect. The holding period to qualify for capital gains preference would, for reasons unknown, be reduced to six months. Tightening the terms in so-called "safe-harbor" leasing schemes might cost business a lot more than Government gains in revenue. But these are quibbles. The Senate Finance Committee has done its job. Now it's up to Congress to turn a good bill into law.

[From the New York Times, July 19, 1982]

THE TOUGH PRICE OF TAX REFORM

Senate moderates in both political parties face a difficult choice this week. By voting for the Finance Committee's budget reconciliation measure they would be approving a $17 billion cut in medical and welfare programs over the next three years, some of hich would hurt the poor. But by voting against the bill they would be scuttling a fine tax reform package that would generate $98 billion in revenues during the same period.

On balance, the bill deserves passage. The critical battle for different (or smaller) spending cuts was lost when Congress formally adopted the 1983 budget targets. Dumping the committee's reconciliation bill would not rescue the social programs. But it would almost certainly wreck the chances for constructive tax increases and destroy whatever public confidence remains in Congress's capacity for fiscal management.

Last month's budget resolution directed the Finance Committee to pare about $16 billion from social spending. The committee met the goal, carving $15 billion from Medicare and Medicaid and $2 billion from welfare. Supporters insist that most of the medical savings would come at the expense of affluent patients and physicians. But opponents note, correctly, that the measures would raise out-of-pocket medical costs of the poor as well. And the cuts in the Supplemental Security Income and Dependent Children programs would tempt the states to pare benefits to the truly needy.

Yet the Finance Committee's three-year revenue measure would be a positive and progressive step in reforming the tax code. About $29 billion would be raised by withholding taxes on dividends, interest and restaurant tips, which are areas of notorious evasion. Billions more would be raised from business by tightening the tax rules for depreciation, leasing and executives' pensions. The bill would also specifically limit tax breaks to the life insurance, pharmaceutical, oil and commercial construction industries.

Some senators obviously would like to resolve their dilemma by voting on separate tax and spending measures. Robert Dole, the chairman of the Finance Committee, resists that approach, and for reasons that moderates should appreciate. Since overall support for spending cuts is much stronger than for tax reform, a split vote could easily result in passage of only the spending cuts.

No one knows for sure how the House would react to the failure of tax reform in the Senate. But it is improbable that the Democratic majority there would press for new taxes. The most likely result would be equally unattractive social spending cuts plus higher deficits over the next few years.

This will not be a great year for those who understood the need to reduce future budget deficits yet hoped to put most of the burden on middle- and upper-income Americans. It need not, however, be a disaster—provided Senate moderates take the Finance Committee's tax initiatives and run.

[From the Boston Globe, July 16, 1982]

CLOSING TAX LOOPHOLES

The Senate today takes up debate on the most serious effort in years to close loopholes in the tax structure. It should not allow itself to be swung away by the predict-

able army of special interests. There are also ample opportunities to improve the package that emerged from the Senate Finance Committee.

The drive for closing loopholes, led by Robert Dole (R-Kan.), chairman of the Finance Committee, is fueled by the desire among many in the Senate, and even more in the House, to simplify the tax system while making it more equitable.

Probably more important than at any time in the past, Republicans have come to view loophole closing as a revenue source, a vital question in the face of current and prospective annual deficits on the order of $100 billion. The Dole package, if enacted in its present form, would yield more than $21 billion in the next fiscal year and a total of $98 billion over a three-year period.

The package reduces allowances for depreciation under some circumstances, repeals overly generous leasing regulations, increases the minimum tax for wealthy individuals, introduces withholding taxes for dividends and interest payments, increases airport taxes, increases the cigarette tax, places stronger limits on corporate-paid insurance and pension plans for individuals, tightens up the use of tax-exempt municipal bonding for business development, and raises the unemployment tax.

All of these are desirable improvements. It is less clear that a proposal for increasing the medical deduction to 10 percent from the current 3 percent is equally fair-minded. Millions of Amerians are not covered by any insurance plan and serious illness continues to have a devastating economic impact on households.

Raising this tax while continuing to allow liberal deductions for business entertainment is a distortion of tax equity. The three-martini lunch will still qualify for deduction, while lifesaving surgery may not.

Another failure of the package was omitting an increase in the gasoline tax, which has stood at four cents a gallon since 1959. The nation's highways and bridges are deteriorating constantly and dangerously. An increase in the gasoline tax is the fairest and most effective way of attacking the problem. The Finance Committee evidently struck a deal with the Administration, which foolishly opposes the gas tax increase, to leave it out in return for support of the rest of the package.

Flaws apart, the Dole package has merit because it can get Congress moving toward closing of loopholes too often used by clever persons and corporations simply to dodge taxes rather than to pursue the economic ends for which the benefit was originally designed. If all or most of the package gets through the House and Senate unscathed, the entire nation will gain.

[From the Los Angeles Times, July 9, 1982]

TAXES—A WORK OF ART

Senator Robert Dole (R-Kan.), chairman of the Senate Finance Committee, seldom lost the lead last year in a race to cut federal taxes—a race that overshot the finish line by billions of dollars.

But he also was among the first to admit that Congress went too far, and he has now become the first to do something about it: moving to raise taxes to trim the massive federal deficit.

Against long odds, Dole has pushed through his committee a series of tax increases totaling nearly $100 billion, about one-third of which would come from the clients of some 400 tax and business lobbyists who hovered around the hearings, trying to stare down Dole's heresy.

If Congress meets the targets of its budget committees, the Dole package—combined with cuts in spending—would leave a deficit of $116.4 billion at the end of the next fiscal year. That is a dizzying level of debt, but preferable to the deficit of nearly $200 billion that would exist with neither spending cuts nor tax increases.

The Dole plan would do in bits and pieces what he would have preferred to do in one stroke by canceling a 10 percent cut in personal income taxes scheduled for next year. President Reagan would have no part of that; Dole and his Republican majority did not press it.

The package also originally included a 5-cent-a-gallon increase in gasoline taxes to help pay for a massive and inevitable rebuilding of much of the interstate highway system and for more public transportation. A telephone call from Reagan killed that sensible idea, too.

What remains of the package, however, is largely balanced, reasonable and fair. Most of it deserves to get through the crowd of lobbyists who obviously will try to surround and smother the package on the Senate floor or in the House of Representatives.

For example, the Dole plan would gradually eliminate an odious 1981 tax law that lets unprofitable companies whose tax breaks are of no use to them in effect sell those breaks to profitable firms that use them to cut their own tax bills.

The law would expire in 1985, and its application would be restricted in the meantime.

The package calls for increases in corporate taxes of all kinds of about $7.5 billion in the first year, in part by tightening up depreciation rules that would have meant actual subsidies for many firms in the next few years.

Banks and savings institutions would withhold for tax purposes 10 percent of the interest due on accounts; corporations would withhold like amounts from dividend checks. Other changes would stiffen the enforcement of tax laws on such income as tips in restaurants.

Taxes on cigarettes would be doubled; taxes on airline tickets and telephone calls would go up. Loopholes that allow insurance companies to save about $2.3 billion a year on taxes would get smaller.

Some parts of the package need further study. One proposal would allow deductions for only medical expenses that exceeded 10 percent of gross income; the present formula allows deductions of expenses over 3 percent. The committee has no clear idea of who would be affected by the change and in what ways. The consequences must be known before the proposal goes anywhere.

The bulk of the package, however, is sound—made to seem even more welcome when contrasted with the dismal performance of the rest of Washington's economic policy-makers.

The package hangs, in fact, like a striking new work of art on the wall of a house that is about to fall apart. It is enough to make us wish that Dole were a carpenter rather than an artist.

[From the Sun-Times, Chicago, July 8, 1982]

SOUND FIRST STEP ON TAXES

Good for Sen. Robert Dole (R-Kan.). He's taking the lead—and the heat—on new taxes needed to reduce federal budget deficits.

Neither President Reagan, our national leader, nor Rep. Dan Rostenkowski (D-Ill.), chairman of the tax-writing House Ways and Means Committee, shows much interest in that job so far. No matter. On tax issues, Dole packs a more credible punch than either Reagan or Rostenkowski—at least for now.

Reagan scored a string of tax and budget victories in Congress, of course, but as yet none has helped perk up a wilted economy. And Rostenkowski, you'll recall, wound up trying to outdo Reagan in giving away the store the last time Congress cut taxes.

Dole rightly wants to cut deficits—and the high interest rates they cause. In contrast to Reagan, he wants humane cuts. In contrast to Rostenkowski, he's a solid Republican; his ideas should get more support in a conservative Congress than Democrat Rostenkowski's

We differ with Dole on some points in the $21 billion tax bill passed last week by the Finance Committee, which he heads. Why, for example, load new taxes on phone calls and air travel but not gasoline? As we've often said, higher motor fuel taxes—so overdue—can reduce the deficit and spur conservation.

Still, we bow low to a man with enough guts to broaden the tax base by requiring more people and businesses to pay up.

Reagan pays lip service to some of the ideas, but foolishly has withheld all-out support—no doubt because Dole steps on the toes of some Reagan allies. Dole is right, of course, but he has angered a lot of people.

The tobacco lobby howls at the proposal to double the current 8-cent-a-pack federal excise tax on cigarettes. Some banks, stockbrokers and wealthier individuals cringe at withholding billions in taxes on dividends and interest. True, this will add to bookkeeping costs; but the portion of those taxes that go unreported and unpaid add to the federal deficit—and everyone's economic woes.

Small businesses don't want curbs on tax-exempt revenue bonds that subsidize commercial enterprises. Big ones groan because Dole would slam doors on legal loopholes that let them shelter income. And Dole would slash tax-leasing rules that let General Electric duck taxes on profits of $2.6 billion in 1981.

We hope the House backs a gasoline tax and gets tougher in other areas. Until then, Dole's bill is the best one in sight.

[From the Des Moines Tribune, July 13, 1982]

GOOD TAX BILL

The Senate soon will begin debate on a bill to raise taxes by $21 billion next year and $98 billion over the next three years. Few members of Congress relish the thought of doing this only a few months before they face the voters, but this year Congress has little choice.

Without substantial tax increases and spending reductions, the budget deficit will soar far above $100 billion next year. Tax increases are a must because last year's large tax cuts were a major cause of the prospective deficits. A valid criticism of the bill coming before the Senate is that it may not increase taxes enough to avoid a dangerously high deficit next year.

Of the many ways to raise taxes, this bill features two: closing loopholes and cracking down on tax evaders. Credit for this approach belongs to Senate Finance Committee Chairman Robert Dole of Kansas and other Republicans on the committee.

The committee voted to modify or eliminate some of the excessive tax breaks handed out to business last year. So generous were these that a number of profitable businesses were, for all practical purposes, excused from paying corporate income tax. The most notorious tax break given last year was the provision that allowed some companies to wipe out tax liability by "selling" unused tax losses. The committee voted limits on this procedure.

The Finance Committee did well to act for better enforcement of the tax code—to crack down on cheaters. The reforms it voted included stiffer penalties for tax evasion and the withholding of some tax from most dividends and interest payments.

Like most tax bills, this one is complex, and few could agree with all of its provisions, but, on the whole, it is a good bill that deserves the support of the Senate and the House.

[From the Washington Post, June 25, 1982]

SENATOR DOLE'S GOOD FIGHT

Senate Finance Committee Chairman Robert Dole is leading the good fight to put more fairness into the tax code. The tax bill paid by many people and corporations often depends less on their income than on their tax accountant or lobbyist. Now that the government desperately needs to increase its revenues, Sen. Dole thinks it would be much fairer to eliminate loopholes that let some taxpayers pay little, rather than to increase the burden on those who already pay a lot.

You will not be surprised that the senator is not surrounded by enthusiastic supporters of his reform plans. With elections approaching, congressional resistance to special interests is approaching its biennial low. And it's a good rule that the more outrageous the loophole, the more heavily muscled the lobby that protects it.

Did you expect some restraint on the part of corporate lobbies in return for the enormous benefits they got from last year's tax cut? Corporations are not easily embarrassed. Although many now pay no taxes, their lobbies remain vigorous. Flush defense contractors want to make sure they don't have to pay annual taxes on their realized profits like everyone else. Insurance companies are fighting for their very own $2.3 billion loophole. Big banks, independent oil producers and a host of other little-taxed industries hope to avoid even minimum taxes. Unprofitable companies want to make sure they can still sell their unneeded tax breaks to rich companies desiring to lighten their tax loads.

Many people and businesses have adjusted their dealings to take advantage of tax subsidies, and large abrupt changes could cause a certain amount of economic havoc. That's why it would have been better to use last year's massive tax cuts to persuade people to give up their tax preferences in return for substantially lower rates. Such a trade would serve not only the Treasury but economic efficiency as well. Without the promise of more fast tax relief, Sen. Dole has nothing to offer in return for tax reform—except the appeal of fairness and simplicity in the tax code. That may not win him many votes in corporate board rooms, but there is one strong constituency for tax reform: the general public. This Congress, which has been so brave in its assaults on the poor and powerless, has developed an unsavory reputation for responsiveness to well-heeled interests. If Sen. Dole's start at cleaning up the tax code is derailed by his colleagues in the Senate and House, the public may not soon forget who is to blame.

[From the San Francisco Chronicle, July 18, 1982]

BATTLING THE DEFICIT

In the never-ceasing struggle of politicians to keep their instinct for survival and re-election from being undermined by an uncontrollable impulse to do their duty to the country, one usually has no difficulty in predicting the outcome. Yet in this year of severe political strain for Republicans, bearing as they do responsibility for dealing with the horrendous deficits of a receding economy, we may for once see conscience and selflessness win.

The Republicans control the Senate and, probably beginning tomorrow, the Senate will take up a tax increase bill called for in last June's budget resolution. The budget resolution mandates Congress to raise $98 billion in taxes over the three fiscal years 1983-84-85—$21 billion of that in fiscal 83.

Senator Robert Dole of Kansas, chairman of the Senate Finance Committee, predicts and expects a victory for this measure of fiscal responsibility. It will be remarkable, of course, if it is achieved intact, but the chances have been looking better and better lately. House Ways and Means Committee Democrats have faced up to the necessity of narrowing the $103 billion deficit gap, just as the president and the Senate Republicans have. Word came down from them the other day that the Democrats expect to go along with the proposal for withholding 10 percent of dividends, perhaps the most contested element of Senator Dole's bill. More will be known about the ultimate fate of this and other significant, Reagan-endorsed innovations in tax law when the Ways and Means Committee acts this week to mark up the tax package which it is taking over from the Senate tax-writers.

Dole emphasizes that his bill preserves without change the individual rate cuts and indexing that were enacted last year. In other words, there will be no postponement of the third-year, 10 percent individual income tax cut. Dole says that his package is largely designed to get greater compliance from noncomplying taxpayers. It's estimated that by strengthening IRS enforcement manpower, $17.5 billion now underreported will be collected over three years. Imposing tax-withholding on stock dividends and interest payments will draw in $11.6 billion which now goes unreported by taxpayers, despite the obligatory filing of Form 1099.

The net three year gain to the Treasury from enforcing compliance where that is now being neglected or evaded is estimated to be $29 billion, or 30 percent of the Dole bill's total yield. It's only right, the senator says, to make the utmost effort to collect substantial revenues from those not paying what they owe, and who can disagree with that?

Nor will it prove unpopular to abolish a loophole that has enabled the defense industry to avoid taxes. The Finance Committee is changing accounting methods to gain the Treasury an estimated $5.2 billion in taxes from this source alone over three years.

"Safe harbor" leasing is another loophole that is being party closed now and will be repealed in 1985. This is the allowance in the 1981 tax law whereby profitable companies are permitted to buy unused tax breaks from unprofitable ones to offset against their tax. That will pick up $7.7 billion in three years. Another salutary tightening of escape routes will come from cutting back on pension plans that enable wealthy doctors, lawyers and other professional corporations to put away tax-free up to $165,000 a year.

The Dole Committee contends that only a few provisions in the bill, accounting for less than 15 percent of the total revenue gain to the Treasury, will affect the average taxpayer. "Unfortunately," the committee adds, "these provisions," to increase cigarette and telephone taxes and restrict medical expense and casualty-loss deductions, have gotten press attention far out of proportion to their share of the revenue increase."

Well, we're part of the press, but we don't happen to bridle at increasing the tax on a $20 phone bill by 40 cents, or the cigarette tax by 8 cents a pack. The important thing for the country and the economy is to close some of the deficit gap as fast as possible. Good for the Senate Finance Committee for showing Congress the way.

[From the Denver Post, July 11, 1982]

SLICING UP THE HOGS

When U.S. Budget Director David Stockman was assessing last year's federal tax cuts, he confessed his chagrin that a good idea was carried too far. The good idea was that selective and sensible tax cuts could spur economic recovery under Ronald Reagan just as they did under John F. Kennedy. High-powered lobbyists, however, distorted the bill so shamelessly that many of their clients won outrageous privileges at the expense of the rest of us.

"The hogs were really feeding," Stockman recalled ruefully. But the budget director—and the vast majority of American taxpayers—can feel a little better now. If the Senate Finance Committee has its way, the hogs are going to be sliced up a bit.

The committee approved a tax reform bill earlier this month. It now is headed for the Senate floor. As a key staff member, Bob Lighthizer noted, "The hogs won't be slaughtered, but the committee trimmed a little bacon off their flanks."

The bacon will total $98.3 billion in federal revenue over the next three years—a critical step if the burgeoning federal deficit is to be controlled and interest rates lowered. But the 10 percent personal income tax cut which went into effect this month, and the follow-on 10-percent cut scheduled for next year, were left intact.

Thus, the parts of the tax package most vital to citizens and the economy were retained. The revenue gains will come mainly at the expense of those who haven't been paying their share.

Alas, the most infamous miscarriage of economics in last year's package, the "safe harbor leasing law," was not repealed outright as sought by Sen. Robert Dole, R-Kansas. But it was reformed so it can't be used to dodge more than half of any year's taxes. Some profitable firms have used it to escape federal levies entirely. Multinationals were told that a company that already used foreign-tax credits couldn't sell unused U.S. tax benefits, as Occidental Petroleum did in a highly publicized "double-dipping" foray. Finally, the entire dodge is supposed to be phased out entirely by 1985.

Wealthy professionals, who have used loopholes to shelter from taxes as much as $167,000 annually in pension contributions, were trimmed back. Don't cry for them; they can still shelter $59,400 a year.

Other useful reforms included modification of depreciation laws, a corporate minimum tax, a rise in cigarette taxes, and a speedup of corporate tax collections.

The minimum tax laws were also tightened for wealthy individuals. Banks and other financial institutions would be required to withhold 10 percent of interest and dividend payments, though low-income and elderly taxpayers could be excluded. That would plug a popular channel for tax evaders.

The tax plan is far from perfect. But it is a firm step on the road to solvency and a sign that Congress is willing to stop groveling before special interests. Now, the test is whether the Senate as a whole will show the same responsibility that the finance panel did. If it does, the bill will have to face a hostile House of Representatives that has been even more eager to "feed the hogs" in an election year.

Colorado Sen. Bill Armstrong sits on the finance panel, and he won special praise from many observers for his intestinal fortitude during the tax debate. The public should demand other congressmen show similar fiscal responsibility until the fight is won.

[From the Atlanta Journal, July 12, 1982]

CLOSING THE LOOPHOLE

A well-publicized loophole that allowed profitable companies to avoid taxes altogether—and in so doing to bring the nation's tax code into disrepute—is being closed a little. We hope.

The Senate Finance Committee has proposed that rules on the so-called "safe-harbor leasing" provisions of last year's tax bill be tightened to cut down on abuse. The new rules, which probably will be supported by the House, should raise $7.7 billion in new taxes over three years.

Last year's bill was designed so that unprofitable companies could sell tax benefits from spending on new equipment to companies that were profitable. In so doing, the unprofitable companies could invest more in expansion or new equipment—thus paving the way for a return to profitability.

Alas, however, there were unintended beneficiaries. March & McLennan, an insurance firm, acquired $95 million in tax benefits from Occidental Petroleum Corp., both profitable firms. Because of other tax breaks, Occidental had extra "losses" to sell. Such exchanges between profitable firms were common.

Publicity about them had created pressure on Congress to act. The Finance Committee has. Rather than eliminate them altogether, new provisions limit to 50 percent the amount of tax liability that can be offset through purchases of tax breaks. And, leasing can't be used to offset losses from previous years.

While the loophole is retained for now, the committee would repeal it after Sept. 30, 1985.

While the revenue that will be generated from these changes is important, it is equally important for Congress to send the American people a message that it is serious about closing loopholes, even new ones.

Therefore, these restrictions are essential. We urge the Senate to approve them and for the House to retain them.

[From the Atlanta Journal, July 6, 1982]

RIGHT TAXES TO BOOST

The Senate Finance Committee is on the right track with one aspect of the tax increases it is proposing to close the federal deficit gap—the emphasis on consumption taxes.

We believe the personal income tax cuts pushed by President Reagan should not be rescinded, and that federal spending should be held down. But to the extent taxes must be raised to reduce the federal deficit, we think taxes on consumer spending are the best way to go.

The Reagan tax cuts were designed to increase the incentive for saving and investing. This country needs both to attain economic recovery without inflation. To tax spending on items where people have some discretion over how much they will spend does not discourage saving or investing.

To the extent that spending on these items occurs anyway, the additional revenue from the taxes will cut the government's need to borrow and thus will ease the pressure on interest rates. And to the extent that spending on these items is discouraged, saving and investing are in fact further encouraged.

The proposed increase in cigarette taxes is a good example of this approach. The increases in excise taxes on telephone service and air travel also are acceptable, although consumers have somewhat less discretion in spending in these areas.

We do not understand why the committee failed to include a modest increase in the excise tax on alcoholic beverages as long as it was thinking in these terms. It is an expenditure over which most people have some control, and the proportion of the value of the product which is taxed today is much less than it was a generation ago. We suggest that if some of the committee's other recommendations are turned down, they should come back to this subject.

Certainly the alcoholic beverage tax increase would be more just than the committees' proposal to cut down on deductions for medical expenses. One does not exactly choose to get sick and spend money on medical bills; we don't see how tightening up on medical deductions fits in with the tightening up on discretionary expenditures.

The proposed increases in taxes on business amount to a grab-bag of ideas which need to be treated in another editorial. But as far as individuals are concerned, the shift to taxing consumption more and production less makes a lot of sense, and to the extent that taxes must be raised then excise taxes are the ones to raise.

[From the Atlanta Journal, July 15, 1982]

CURB BOND ABUSES

We have watched with dismay in recent years as state and local governments expanded uses of tax-free bond financing far beyond its original purpose.

To start with, private-sector companies were allowed tax-free financing as an incentive either to create new jobs or to create them in a particular area where they were needed.

Initially, too, they were available only for manufacturers who were creating factory jobs.

Because of irresponsible expansion by the General Assembly of the kinds of projects deemed to deserve a taxpayer subsidy, virtually any kind of business now can demand that taxpayers share its financing costs.

Congress, as we had urged, is about to do something about that. The Senate Finance Committee has approved a measure which would tighten current laws on use of tax-exempt revenue bonds for industrial development, housing, businesses and other purposes.

If the measure passes, tax-free bonds couldn't be issued unless approved by local governments after public hearings. And depreciation schedules would be changed to make them less attractive. In addition, the small-issue industrial development bonds would be terminated after 1985.

The closing of these loopholes would generate about $1.2 billion in new revenue over the next three years.

We welcome them. Tax-free financing of private-sector projects has become so commonplace that these bonds have lost a public purpose. Now they are used as a matter of routine to finance everything from parking lots to hamburger stands. They amount to a taxpayer subsidy for which the taxpayers get little or nothing.

The controls the Senate Finance Committee has accepted are an absolute minimum—and we urge Georgia's congressional delegation to support them.

THE WHITE HOUSE,
Washington, July 17, 1982.

Hon. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: As the Senate begins its consideration of the tax bill, I wish to emphasize my personal support for the bill produced by the Senate Finance Committee.

In my opinion, adoption of this bill will lead us on a downward path of deficit reduction, improve the fairness of the tax system, and maintain the integrity of my economic recovery program. Rather than raising taxes across-the-board, the bill focuses on improvements in taxpayer compliance, the removal of obsolete incentives, and the elimination of unintended abuses. In fact, more than three-fourths of the increased revenues will come from increased compliance and base broadening measures.

I am particularly pleased the bill preserves the individual rate reductions enacted last year. These provisions are essential to ease the burden on individual taxpayers and to restore long-term health and vitality to our economy.

Although I do have some reservations about a few items, it is a good and balanced bill which I can endorse. I know you are aware of my views but I hope you will assure your colleagues of my support for the bill.

Sincerely,

RON.

BOB DOLE'S TAX EQUITY PACKAGE IS FISCALLY FIT, POLITICALLY SOUND

(By James J. Kilpatrick)

WASHINGTON.—Politics sometimes works in curious ways, but wonders do perform. On Capitol Hill these days, we seem to be moving along by a process of reluctant willingness or willing reluctance—take your choice.

On the House side, where all bills for raising revenue theoretically must originate, the dominant Democrats understandably are reluctant to be identified as the party engaged in raising taxes. On the Senate side, the reigning Republicans are equally unwilling to be known as the party that did nothing about our mountainous deficits.

Thus, we find the Senate debating a tax bill that is not a tax bill: It is a little old amendment to a little old House bill having to do with nothing much at all.

Parliamentary procedure to one side, what the Senate is debating is in fact a tax bill—a walloping tax bill, intended to raise nearly

$100 billion in new revenues over the next three years. Sen. Bob Dole of Kansas calls his package the Tax Equity and Fiscal Responsibility Act of 1982, and the title is fairly apt. We will hear hours of talking over particulars, but the package is both fiscally and politically sound.

These are the risk elements:

Mr. Dole would raise $20 billion over three years by a combination of measures intended to collect substantial sums "from those who are not paying what they already owe under existing law." At the very idea of withholding 30 percent from interest and dividends, bankers and fund managers are complaining and fatcats are howling, but it makes sense to those whose salaries and wages are subject to withholding.

Another large chunk of revenue, amounting to $30.8 billion over the three years, would come from rewriting existing law having to do with oil and gas companies, like insurance companies, large contractors and other big industries. Existing laws are the very staff of life to accountants and tax consultants; they are mysteries to most of the rest of us. I have some reservations about the changes proposed for contractors, who may never know until a big job is completed whether they have earned a profit, but small contractors would be exempt and the package looks reasonable.

Mr. Dole also would impose sharp limitations on the regrettable system approved just a year ago, known as "safe harbor leasing." This is a gimmick by which corporations may trade tax advantages. The misguided device resulted in outright chicanery, or in something close to outright chicanery. The law cries out for immediate modification and for repeal at the end of the three-year period.

Smaller sums would come from 25 to 30 other sources. Roughly 700,000 lawyers, doctors, dentists, journalists and other professionals have incorporated themselves, the better to shelter up to $136,000 in personal income every year by shunting this income to a pension fund. The maximum would be cut back to $90,000.

Mr. Dole would double the tax on cigarettes to 16 cents a pack. He would impose modest fees on persons using the federally subsidized airways. He would increase the wage base on which unemployment taxes are paid. He would raise the telephone excise tax from 1 percent to 2 percent in 1983 and to 3 percent in 1984.

An objection is heard that for some families, the combined increases would just about wipe out the benefit of President Reagan's famed 10 percent income tax cut. In some cases, yes,—but the reductions in income tax will benefit virtually everyone, while most of Mr. Dole's package would have its greatest impact on the well-to-do. Politically that prospect has great appeal.

Some of the technical changes in the bill are over my head, but all of us can understand the equity in collecting from those who ought to be paying substantial taxes but aren't. The enormous deficits in prospect for the next decade can't be cured by cutting spending alone. We must have new revenues, and we have to go after them now.

Mr. DOLE. Mr. President, I hope that after the vote on the package offered by the distinguished Senator from New Jersey, we can move quickly through some of the other sections that may bother certain Senators. It seems to me that once this amendment is disposed, if it carries, I know we are finished. I mean that it will not take long to wrap this up. But if it does not carry, I think it is an indication that we are making pretty good progress and that everybody is serious about trying to do what we should do.

We have had good news in the prime rate areas. We have had good news in the discount rate area. It seems to me that this may be a good test of our ability and will to do something.

As I understand the Senator's amendment, someone under $40,000 gets his or her entire third year; someone over $46,000 loses his or her entire third year. The ones over $46,000 may not have received any benefit from the 70 percent to 50 percent drop which most of us, I think, supported last year.

It seems to me that the marginal rates would have to be increased dramatically, and that would be in the opposite direction.

Although I know that the amendment is attractive because it does address the excise tax on cigarettes and some of the other areas and some of the spending side, again I just say quickly, on the spending side, that the Senate Finance Committee reached and exceeded the targets set forth in the budget resolution on the spending side, in the view of this Senator, without a great deal of anguish on the part of any one Senator.

We did make cuts in medicare and medicaid. We did change the way we reimbursed pathologists and radiologists. We did change certain areas of hospital charges and tried to contain the cost of hospital care.

But here, again, the Senator from Kansas does not believe there has been any groundswell of opposition to anything that was done on the spending side in our committee. I know of no organized effort by any lobbying group to suggest that somehow we were unfair, that somehow we adversely impacted on low-income Americans. Again, I believe that every provision we addressed can be justified.

So I hope that when we start the debate again tomorrow morning, we can focus on the precise numbers of the Senator's amendment and any other changes that might be addressed.

I will discuss with Senator BAKER how we are going to treat the amendment, whether it will be an up-and-down vote, even though it is not germane, or whether the Senator from New Jersey might appeal the ruling.

So I am pleased that we are now back on the tax bill. We have been working on Commerce Committee material most of the afternoon, and now we are back on Finance Committee responsibilities.

After this amendment is disposed of, I understand that the Senator from Montana (Mr. BAUCUS) will have some motions to make in some of the spending areas, and then there may be other amendments from either side at that time.

I am happy at this time to yield to the Senator from Iowa.

Mr. GRASSLEY. I thank the Senator from Kansas for yielding.

Mr. President, after working in the Senate Finance Committee long hours, first in a Republican caucus and then a 17-hour session to put together this package, one would expect me to be opposed—and I am willing to say that I am opposed—to the suggestion put forth by the distinguished Senator from New Jersey.

I am flattered that the Senator from New Jersey says he agrees with 60 percent or 70 percent of the contents of this legislation. In a package containing $98.6 billion in increased taxes and $18 billion in reduced expenditures, for a total package of $116 billion, I think he is quite complimentary to us when he finds only $22.8 billion to which he objects.

This bill was reported out of committee on a party line vote of 11 Republicans and 9 Democrats. For a major Member of the opposition party to come forth with only $22.8 billion in changes is quite a compliment to the work of us on the majority side.

For a long time, we have all listened to Members of this body, particularly Members of the opposition, say that we should eliminate loopholes available to wealthy individuals and corporations. This major amendment of our opposition does not address those issues. I think we have focused on issues which need to be addressed. We are accomplishing in this bill many goals that people in this body have long felt should be accomplished. This amendment does not improve the bill in that respect.

I do not understand why we have some of the very people who were so anxious last time to reduce the maximum tax from 70 percent to 50 percent all of a sudden finding a need to climatic tax reductions for those people earning over $46,000. I do not know whether they understand the injustice they are working on those taxpayers earning between $40,000 and $46,000. It seems to me that there is a tremendous increase in marginal tax rates for the selected few earning between $40,000 and $46,000 to raise the money to finance the other changes in their amendment.

I know that the Senator from New Jersey feels the need to tailor his amendment to bring in the revenue, to offset the faults he finds with other tax increases or expenditure reductions, but I think that in the process of his doing that, he obviously is going to treat a small percentage of the taxpayers in certain tax brackets unfairly. He may want to look and see whether or not that is totally justified.

Perhaps there is some way he can tailor his amendment so that it does not have the drastic effect on certain tax brackets that it currently does.

In the final analysis, the overwhelming part of this bill zeroes in on those things the Senator from New Jersey has said in the past have been wrong. I think that, in the final analysis, if what we have put together here is 60 percent or 70 percent correct we have accomplished a great deal.

We are never always going to get legislation that includes provisions perfectly acceptable to all of us. As sincere as the Senator might be in suggesting $22.8 billion of changes, it seems to me as if such a change is really small potatoes compared to the amount of revenue we dealt with here in the total package.

To that extent, I do not find sufficient enticement to agree with the amendment. I find it upsetting the compromises that were worked out as each of these issues were addressed by the Finance Committee and now in the full Senate.

I yield.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. DOLE. Equally divided on the bill.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

STATEMENTS ON SEC. 316 RELATING TO "TIPPED EMPLOYEES"

Mr. CANNON. Mr. President, I rise in opposition to section 316 of this bill, the Tax Equity and Fiscal Responsibility Act of 1982. This provision imposes additional reporting requirements on the income of "tipped employees," particularly as they relate to credit card tips.

Mr. President, in April of this year, when I first learned of the committee's plans to require additional reporting on tips, I, along with my colleague, Senator LAXALT, contacted Senator DOLE and Senator LONG to express our opposition to the adoption of this measure. Of course, the provision in the committee's original plan, embodied in S. 2198, the Taxpayer Compliance Improvement Act, is different than that included in H.R. 4961. Nevertheless, I must also object to the reporting provision in the pending legislation. This section would require large food and beverage establishments to report the charged tip income of its employees.

Mr. President, this provision is costly, impractical, and burdensome. It will result in an enormous paperwork and financial burden on hotel, motel, and restaurant employers, as well as the thousands of employees who work in the food and beverage industries. This proposal also changes the current reporting practice where a tipped employee reports his/her tip income to the employer.

Under this bill, the employer is required to comply with five standards:

First, the employer must allocate on a W-2 form an amount equal to 7 percent of the establishment's gross receipts to tipped employees for reporting purposes;

Second, the employer would also be required to report his/her gross receipts to the IRS;

Third, the employer would be required to report gross receipts from charge transactions to the IRS;

Fourth, employers would be required to report the aggregate amount of charged tips to the IRS.

Now, first, Mr. President, there is no sound evidence of the need for additional tip reporting. The Finance Committee states that 84 percent of taxes on income from tips went unpaid in 1981. However, this estimate is based only on so-called preliminary data, and there appears to be no specific study to justify this statistic.

Second, the committee has singled out this group of workers as one of this country's worst tax avoiders. Indeed, the committee has put food and beverage workers in a class with earners of illegal income, as far as tax compliance is concerned. Yet, Mr. President, let us look at who these people are. What kind of wage earners are these people who are the subject of such focus by the committee bill. According to the Bureau of Labor Statistics, there were about 1.2 million tipped employees in the food and beverage industries in 1979. More than 50 percent of these workers were women, and only 10 percent of these workers were paid more than the minimum wage. The other 90 percent of these workers received as little as $1.60 per hour. That amounts to only $64 per week, Mr. President. Under the Fair Labor Standards Act, these workers' employers were permitted to take up to $1.30 per hour as a "tip credit" toward the $2.90 minimum wage that was in effect then. Yet, in order to earn the Bureau of Labor Statistics' lower living budget for a family of four, each of these workers would have to have collected an additional $168 per week in tips, more than 2½ times the wages paid them by their employers. I think we can agree, Mr. President, that these people are hardly the superrich, taxpayers.

Third, Mr. President, I want to go back to an earlier statement I made. How many times have the Members of this body heard about promises to cut down on unnecessary and overburdensome paperwork of the Federal Government which is borne by this Nation's businesses? I think that many of my colleagues would agree that one of the most common complaints they receive from business people in their State is the fact that the Federal Government simply "paperwork them to death." Yet, what do we see in this measure, Mr. President, more and more paperwork and recordkeeping.

Under this bill, each establishment having more than 10 employees must report its gross receipts and its credit card charge receipts for all but carryout sales. Not only is this information already available to the IRS, but it just imposes another recordkeeping and paperwork burden on employers. Employers are expected to collect, segregate, and report all of these separate pieces of information in order to comply with these requirements. Also, keep in mind, Mr. President, that these requirements are in addition to the existing IRS rules mandating that tip information supplied by employees be reported and taxes withheld on the total of wage and tip income. Employers will also continue to be required to keep detailed records under the Fair Labor Standards Act to assure they are in compliance with the minimum wage and tip credit laws.

In sum, Mr. President, this provision is unworkable, disrupts the traditional employer/employee relationship, adds to the burdens of paperwork and recordkeeping, and is unfair to both the employers and employees in the food and beverage industries. I am unalterably opposed to its adoption.

Mr. INOUYE. Mr. President, I urge the Senate to reject section 316 of the Finance Committee's version of H.R. 4961. That section proposes to impose additional reporting requirements on the income of "tipped employees."

There is no demonstrated need for the onerous burden it would put on effected employers and employees;

It singles out and discriminates against a particular class without any reasonable basis for doing so;

It will create an administrative nightmare which can only lead to uneven and therefore unjust administration;

At a time when our economy is in very perilous condition, it will adversely impact the tourism industry which contributes about $200 billion annually; employs over 6 million men, women and teenagers; and provides billions in Federal, State, and local taxes.

As justification for these unfair and disastrous burdens, the committee would have us believe that "84 percent of the taxes on tip income is not paid." And that these provisions will allow the Treasury to recover on an average over $1 billion annually in additional taxes over the next 5 years.

Mr. President, this brings to mind that wonderful children's fairy tale—"Alice Through the Looking Glass."

Members may recall that Alice protested to the Queen that "one can't believe impossible things."

Whereupon the Queen replied, "I daresay you haven't had much practice. Why sometimes I've believed as many as six impossible things before breakfast."

Here, Mr. President, we are only asked to suspend credulity with respect to two matters, and believe that:

The men and women who work in the food and beverage industry are, next to criminals, the worst tax cheats in the Nation;

Enactment of this provision will bring on an average over $1 billion a year in added revenues to the Government.

First, there is no credible evidence that 84 percent of the taxes on tip income is not paid.

The committee report bases this "fact" on estimates by the IRS and the Bureau of Economic Anaylsis (BEA).

I was intrigued by this high percentage because if these statistics are accurate, there are substantially more tax evaders in this country than are generally believed; and I think we might legitimately ask if the IRS is vigorously enforcing the Tax Code in this area.

So, I had my staff check into just how the IRS and BEA came up with their figures.

These statistics were first used before the Finance Committee Subcommittee on Oversight in testimony on S. 2198, the Taxpayers Compliance Improvement Act of 1982 by Commissioner Roscoe Egger of the IRS, on March 22, 1982. At that time, Commissioner Egger claimed the unreported tip income amounted to $8.6 billion, with a resulting revenue loss of $2.5 billion.

Although the IRS and the BEA have a deservedly high reputation for accuracy and analytical competence, I believe that I must point out to my colleagues that these statistics, which were presented as fact, are in actuality, part estimates, audit data, extrapolations, and projections undergirded by assumptions and hypotheses.

There is no IRS or BEA study of tips. It is true that the IRS is studying the so-called "underground economy," which includes unreported tipping, but there has been no published report on this narrow issue.

Rather than focus on this subject of lost tip revenue, which the committee and IRS claim to be a serious abuse, the IRS actually developed its estimates by disaggregating BEA studies on national income and input-output.

In short, the IRS used a highly convoluted methodology with questionable assumptions and involving numerous intermediate steps to develop the figures Commissioners Egger released in his March 22 testimony. The IRS itself concedes that its statistics are only estimates.

Second, there is no reasonable basis for singling out employees of food and beverage establishments as the only class of tipped employees to be burdened.

We must, I believe, totally reject the 84 percent noncompliance statistics for lack of supporting data. Even if we were to assume that the rate of noncompliance among tipped employees was high enough to warrant additional reporting requirements, however, what is the rationale for saying that the noncompliance rate is only serious among employees of food and beverage establishments. Certainly the committee report gives none. How do we distinguish them from the countless others who also receive tipped income. To mention just a few:

Doormen, hairdressers, barbers, shoeshine boys, chambermaids, parking valents, red caps, sky caps, golf caddies, taxi drivers, postmen, newspaper deliverers, garbage collectors, bellhops, and delivery personnel.

Third, this provision attempts to raise revenue at the expense of low and middle income workers

According to the Bureau of Labor Statistics—the principal Federal agency which collects accurate wage and tip data—approximately 1.2 million tipped employees worked in the food and beverage industry in 1979. More than 50 percent of these workers are women. But only 10 percent of these workers were paid more than the minimum wage. The other 90 percent received as little as $1.60 per hour ($64 per week) since under the Fair Labor Standards Act their employers were permitted to take up to $1.30 per hour ($52 per week) as a "tip credit" toward the $2.90 minimum wage then in effect. Yet, in order to earn the BLS lower living budget for a family of four, each of these workers would have to have collected an additional $168 per week in tips—more than 2½ times the wages paid them by their employers. It is these individuals who the bill has singled out as some of America's worse "tax cheaters"!

Fourth, projections of billions of additional dollars in revenues to be recovered from employees of food and beverage establishments, are completely unrealistic in view of the annual income of those employees.

A 1978 BLS study on hotel and motel food and beverage workers in the 24 largest metropolitan areas showed that restaurant waiters and waitresses averaged a mere $4.49 per hour in wages and tips combined. Bartenders' average wage and tip earnings were slightly higher at $5.46 per hour. And in these large business and tourist centers, tips for waiters, waitresses and bartenders accounted for only about 50 to 60 percent of each worker's total hourly earnings. In New York City waiters and waitresses had combined wage and tip earnings of $4.49 per hour; in New Orleans they earned $4.41 per hour; and in Chicago they earned a grand total of $2.89 per hour—$5,500 less than a low-budget family needed to live that year.

Fifth, the allocation and reporting provisions are complex and potentially chaotic. They will be difficult to administer in an even-handed way. Especially in the area of income tax, it is essential the law not only in fact be applied fairly, it must have the appearance of being fairly administered.

There is simply no fair and uncomplicated method by which even to roughly allocate each employee's presumptive share of tips. Such allocations would have to be made between table waiters and waitresses, counter waiters and waitresses, waiter and waitress assistants, cocktail waiters and waitresses, public bartenders, service bartenders, busboys, hosts and hostesses, maitre d's, and the numerous other classifications of service workers employed in a food and beverage establishment. Further, this provision does not take into account already existing arrangements for tip sharing and tip pooling. The common practice of dual jobs, that is, where an employee holds one hourly rate job and one tipped in the same establishment, or how to treat the tens of thousands of part-time employees in the hotel and restaurant industry.

Employers will drown in a sea of additional paperwork as they attempt to collect, segregate, and report each discrete and complex piece of data necessary to comply with the requirements for every food and beverage establishment and each of their 1.2 million tipped employees. These requirements will be in addition to the existing IRS regulations mandating that tip information supplied by employees be reported and taxes withheld on the total of wage and tip income. And, employers will also be required to continue to keep substantial detailed records under the Fair Labor Standards Act to assure they are in compliance with the minimum wage and tip credit provisions of that law.

Sixth, the provisions conflict with other provisions of existing law. As a result, the productivity and efficiency of the Nation's third largest industry—tourism—will be adversely affected.

The national tourism policy which was enacted in this Congress expressly mandated the Government to remove and prevent inconsistencies in Federal laws affecting the tourism industry.

Under the tax bill a "tipped employee" is defined as any person who received $20 per month in tips. This definition is different than under the Fair

Labor Standards Act which defines such employee as one who regularly and customarily receives monthly tips in excess of $30. Substantial confusion could result as to who is a "tipped employee" for purposes of FLSA and IRS enforcement.

The tax bill requires that the allocation of the 7 percent of gross receipts be made either pursuant to an agreement between the employer and employees or, failing that, by unilateral decision of the employer. In the numerous establishments where there are collective bargaining agreements these negotiations could cause a reopening of the contract and substantial disruptions in labor relations. Further, if no agreement was reached between the union and management, an employer-imposed allocation would likely result in strikes and extensive Federal and State litigation for breach of contract.

Even in the absence of a collective bargaining agreement, an employer-imposed tip income allocation system would result in numerous employee disputes with both the employer and the IRS about whether the allocated amount of tips was actually received. These disagreements would certainly have a severe impact on smooth employer-employee relations in nonunion food and beverage establishments.

Mr. President, the existing provisions of the Internal Revenue Code and the Fair Labor Standards Act already provide adequate safeguards to assure that both employers and workers in the food and beverage industry account for tip income. Additional recordkeeping and reporting requirements are unnecessary, put an unfair and expensive burden on employers, create additional strains between labor and management, and undermine workers' confidence in their elected government. To the extent that there may be some few who do not fully meet their tax obligations, the IRS already has adequate tools to bring them into compliance with the law.

I therefore urge the Senate to strike this provision from the bill.

REMARKS OF DR. ROBERT HIERONIMUS AT BICENTENNIAL CELEBRATION OF THE GREAT SEAL OF THE UNITED STATES

Mr. MATHIAS. Mr. President, the recent celebrations of the bicentennial of the Great Seal of the United States have focused renewed attention on the significance of the seal's components. It is an appropriate time, therefore, to take a moment to familiarize ourselves with the official symbol of our Nation so that it can serve as a constant reminder of the principles for which it, and this Nation, stand.

For 200 years, the seal's design has symbolized our sovereignty, validated our official documents and decorated our dollars. The seal is a daily and familiar sight to Americans, yet most of us have only a hazy understanding of the meaning of its symbols.

Dr. Robert Hieronimus of Baltimore, Md., whose doctoral research on the meaning and history of the Great Seal is widely acclaimed, contributed to our understanding through his participation in an observance held at Independence Hall in Philadelphia on June 20, the 200th anniversary of the adoption of the seal by Congress.

I ask unanimous consent that the text of Dr. Hieronimus' remarks be printed in the RECORD.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

THE BICENTENNIAL OF THE GREAT SEAL OF THE UNITED STATES

(A speech made by Dr. Robert R. Hieronimus of Md. on June 20, 1982 at Independence Hall in Philadelphia, Pa. on the occasion of the Great Seal's bicentennial)

Two-hundred years ago today, as you may already know, was a very important day not only at Independence Hall, but for the entire nation. As Philadelphia celebrates its tricentennial America celebrates its Great Seal's bicentennial.

On July 4, 1776, Benjamin Franklin, Thomas Jefferson, and John Adams were assigned the task of designing our Country's Great Seal, whose purpose to this day validates the President's signature and signifies the United States Government. Officially our Great Seal has two sides.

We are most familiar with the Seal's Obverse, or front. It bears an eagle with shield holding thirteen arrows and an olive branch. The Reverse, known primarily from its appearance on the back of the one-dollar bill since 1935, is composed of an unfinished pyramid with an eye in a triangle suspended above it.

The combination of these two images represents what our founding fathers believed to be America's identity, purpose, and destiny.

Let's get back to July 4, 1776, the day of America's independence and the beginning of our nation's Great Seal.

Both Jefferson and Franklin suggested similar biblical themes—the Israelites escaping Pharaoh. John Adams turned to a Greek mythological motif. Much to Franklin's dismay, none of their ideas was adopted. Du Simitière, an artist enlisted by the first committee, is credited with introducing the shield, *E Pluribus Unum*, 1776 (found in Roman numerals on the pyramid's base. and the eye of providence in a triangle.

In 1780, four years later, a second committee was formed. Francis Hopkinson, a native Philadelphian, who designed the first American flag, contributed the red and white stripes within a blue background for the shield, a radiant constellation of thirteen stars, the bundle of arrows, and an olive branch held in the eagle's talons. Perhaps Hopkinson's most significant contribution was made indirectly through his use of an unfinished pyramid on a 1778 fifty-dollar colonial note, which was utilized by William Barton in the third committee of 1782.

Barton was enlisted by the Secretary of Congress, Charles Thomson, for the third and final committee. Barton, an artist and native Philadelphian, suggested an eagle, the unfinished pyramid, and thirteen red and white stripes on the shield. All of his ideas were accepted. Thomson substituted an American bald eagle for Barton's European species and added the two mottoes to the Seal's Reverse—*Annuit Coeptis*, which means "God prospers our undertakings," and *Novus Ordo Seclorum*, "The New Order of the Ages."

On June 20, 1782, after six years of deliberation, the design for America's Great Seal was approved by Congress.

Here we are two hundred years later! You may be asking, "What's so important about America's Great Seal?" Well, bear with me for just a moment more of history.

On Sept. 16, 1782, George Washington used the Obverse Seal on documents negotiating the exchange, subsistence and better treatment of prisoners of war. Perhaps due to expediency, a die for the Reverse was not cut.

In 1825, 1841, 1877, 1885, and 1903 dies were cut for the Obverse of the Great Seal, but the Reverse, with the pyramid and the eye in the triangle, was repeatedly neglected! To this day only half of the United States' Great Seal has been used in its official capacity as defined by the Continental Congress in 1782. Is there some important meaning in this fact?

The Obverse Seal depicts a nation capable of continual rebirth—the eagle is symbolically related to the phoenix. We are strong courageous defenders of justice (arrows), generous and humanistic (olive branch). The cluster of stars above the eagle (which was referred to as a "Crown of Glory") symbolizes the spiritual unity of all, or common purpose of the states. America's destiny is to maintain the principles carried in the eagle's beak. *E Pluribus Unum*—"Out of Many, One." The Obverse Seal thus represents our outer image—what we stand for in the world.

It is the Reverse side of the Great Seal which delineates the significance and values of America's inner strength and accord. The pyramid is symbolic for the strength and duration of matter, the physical nation. Suspended above it is the "All Seeing Eye of Providence" representing inner direction or spiritual guidance. The radiant eye illuminates and completes the unfinished apex of the pyramid. *Annuit Coeptis*, "He favors our undertaking," communicates the union of spirit and matter, a perceived blessing upon *Novus Ordo Seclorum*, America, "the New Order of the Ages".

Throughout the world the pyramid, or mountain, symbolizes a place of initiation where one is introduced to the process of self-reliance. Each stone (individual) contributes to the stability of each layer (state). The interdependent, yet self-governing layers (states), comprise the whole (nation). The pyramid's solidarity depends on the integrity and method of organization used to manifest the principles which guide its construction. The Reverse Seal symbolizes America's inner self.

On May 18, 1982 Senator John Warner of Virginia, on behalf of himself and Senators Goldwater (Arizona), Nunn (Georgia), and Pell (Rhode Island) submitted Resolution #394 which calls for the striking of the Reverse Seal's die, as fulfillment of 1782 and 1884 Congressional laws, and that the week beginning June 20 be proclaimed "Great Seal Bicentennial Week, announcing the cutting of dies for the complete Seal". The Resolution came before the Senate floor with an additional twenty-three co-sponsors,

representing over half of the States of the Union.

Two days ago, on June 18, 1982, the Senate voted unanimously in favor of the Resolution. Let us pray that on this day of the Great Seal's Bicentennial, that our Senate's resolution be proclaimed by our Nation's leader, President Ronald Reagan.

Several other people must be cited for their determination and conviction that our Founding Fathers' intentions be fulfilled, who in addition to the Senate have participated in an effort to complete America's Great Seal. They are: Barbara Honneger, Donald E. Channell, Chuck Goodspeed, Paul Zammarian, and Jill Meyerhoff-Hieronimus.

For those interested in a comprehensive study of America's Great Seal, the 1978 State Department publication, *The Eagle and the Shield*, authored by the late Richard S. Patterson and Richardson Dougall, is to my knowledge the finest historical work on the subject.

I am honored to have shared this commemorative day with all of you. Thank you, Mr. Hobart Cawood, Superintendent of Independence National Historical Park, for distributing the Great Seal Brochures which I prepared for this occasion.

Let's remember—we are not just the people from Philadelphia. We are not just the people from the east coast. We are not just the people from America, nor North America. We are people from the planet earth. We are earth people.

PAUL BOUCHER

Mr. NUNN. Mr. President, it is with a great sense of personal loss that I inform my colleagues of the untimely death on July 4 of Paul R. Boucher, the Inspector General of the Small Business Administration. Paul was killed in a freak accident when he was struck by a radio-controlled model airplane.

Mr. President, I first met Paul in 1979 when President Carter designated him as the first statutory Inspector General for the Small Business Administration. At that time, I was the ranking Democratic member of the Senate Small Business Committee, serving behind our former colleague, and chairman, Gaylord Nelson.

From his confirmation by the Senate as SBA Inspector General on June 27, 1979, I have had the privilege of working closely with Paul. Throughout his tenure, I had always found him to be a topflight professional, a tough but fair investigator, and an individual who understood his responsibilities and important duties in his role as Inspector General.

Paul served as Inspector General until all Federal Inspectors General were removed by President Reagan on January 20, 1981. On May 12, 1981, President Reagan nominated Paul for reappointment as the SBA Inspector General, one of only six IG's to be reappointed. Upon his renomination, I reviewed his accomplishments during his initial term of service, and discussed with him his views on the role of the IG, and his future plans for the agency.

In addition to his statutory responsibilities, he viewed his job as a challenge to change the way SBA employees and the public viewed that agency. He felt progress was being made on both of those points, measured by the agency's adoption of many of his recommendations, and the extent to which employees and citizens brought matters to his attention. He also had high praise for the auditors and investigators on his staff, and for their proven results at that time. Cash recoveries to the Government exceeded $10 million, for example.

On June 2, the Senate Small Business Committee unanimously voted to recommend his reappointment, and on June 19, the Senate confirmed him again to be Inspector General of the Small Business Administration.

Mr. President, during the past 18 months, while I have served as the ranking Democratic member of the Senate Small Business Committee, I had many occasions to work with Paul. We met periodically to review investigative work he was undertaking, including SBA's internal contracting procedures, Federal disaster assistance programs, and in particular the farm disaster aid, and the agency's financial assistance programs. Paul held himself to a high standard of performance, and the work of his office proved that he was successful in his goal.

He was also an innovator in addressing his responsibilities. To my knowledge, he was the first Inspector General to establish an advisory committee of experienced agency employees to assist him, and his staff, in understanding the day-to-day operation of certain agency programs. The first advisory council, to provide him with their comments and suggestions directly, met to review SBA's disaster lending program. This council's recommendations were also received as part of our committee's oversight hearing on that program. Paul also put more of his audit and investigative staff in the field, and established an "IG-hotline" for employees and citizens to use to bring issues directly to his attention.

Mr. President, his accomplishments in office are, in themselves, a tribute to Paul Boucher. The Small Business Administration has lost an outstanding employee dedicated to improving the quality of service to the small business community. The Nation has lost an Inspector General committed to insuring that Federal funds, and Federal programs, were properly utilized. Those of us on the Small Business Committee have lost a man of great integrity and a trusted adviser.

His wife Ginette, his children Eric and Nicole, and his entire family have my deepest sympathy.

NUCLEAR TEST BANS

Mr. KENNEDY. Mr. President, today Senators MATHIAS, PELL, and others are joining me in circulating a "Dear Colleague" letter and an attached Senate joint resolution which calls upon the President to request Senate ratification of the threshold test ban and peaceful nuclear explosion treaties, and to resume negotiations for a verifiable comprehensive test ban treaty.

I strongly condemn the Reagan administration's decision to abandon negotiations for a comprehensive nuclear test ban. This decision radically reverses the bipartisan policy adopted by Presidents Eisenhower and Kennedy—and carried forth by five administrations, both Republican and Democratic. It casts the greatest doubt on the seriousness of President Reagan's commitment to nuclear arms control.

This decision flies in the face of the nationwide call for an immediate freeze on the testing, production, and deployment of nuclear weapons. It repudiates the worldwide demand to prevent the proliferation of nuclear weapons around the globe. A comprehensive nuclear test ban is an essential element of both the nuclear freeze and an effective nonproliferation strategy.

I am determined to do all in my power to insure that our Government resumes the longstanding, bipartisan policy of ending all nuclear tests and reversing the nuclear arms race.

I am therefore pleased to join with my colleagues in circulating our nuclear test ban resolution, which we intend to introduce in the Senate next week—as we have in past sessions of Congress—and I hope that our colleagues will carefully consider and hopefully become initial cosponsors of this resolution when it is introduced.

Mr. PELL. Mr. President, I am pleased to join with Senators KENNEDY and MATHIAS and others in a new initiative seeking firmer controls over nuclear explosions, as well as a verifiable ban on nuclear detonations.

We are urging our colleagues to join us in sponsoring a resolution calling upon the President to seek Senate consent to ratification of the threshold test ban and peaceful nuclear explosions and to resume the comprehensive test ban negotiations.

We were dismayed to learn in news reports today that the administration has decided not to seek agreement with the Soviet Union and Great Britain on a comprehensive ban on nuclear explosions. This decision marks an unfortunate retreat from a commitment by the United States in the Limited Test Ban Treaty of 1963 and the Non-Proliferation Treaty of 1968 to seek to achieve an end to nuclear weapons tests for all times.

Mr. President, I understand also that the administration plans to ask

further agreement from the Soviet Union on verification provisions before seeking Senate consent to ratification of the threshold Test Ban Treaty signed in 1974 by President Nixon and the Peaceful Nuclear Explosions Treaty signed in 1976 by President Ford.

I am frankly surprised that such decisions would be made by this administration at a time when it is so valuable to demonstrate to the Soviets that we are serious about arms control and to reassure our allies and our own citizens on that point. I would have thought that the administration would understand by now that action is needed.

The administration's unwillingness to take arms control seriously spurred the growth of the nuclear freeze movement. Clearly, Americans of all political views are clamoring for steps to bring an end to the nuclear arms race.

Mr. President, further controls on nuclear testing will apply real restraints to the nuclear arms race and helps us in efforts to curb the proliferation of nuclear explosions.

I hope that other Senators will join us in our effort to bring to the President's attention the importance of action now to solidify controls over nuclear explosions and to achieve a complete ban on such explosions.

ANNIVERSARY OF LANDING ON THE MOON

Mr. SCHMITT. Mr. President, today is the 13th anniversary of the first successful landing of men on the Moon. It is unfortunate that in the intervening 13 years we have done little to capitalize on our Nation's future destiny in the new ocean of space.

Mr. President, on May 25, 1961, speaking before the Congress and the Nation, President Kennedy said:

> I believe this Nation should commit itself to achieving the goal, before this decade is out, of landing a man on the Moon and returning him safely to Earth. No single space project in this period will be more impressive to mankind, or more important in the long-range exploration of space; and none will be so difficult or expensive to accomplish.

This Nation, through hard work, often in the face of seemingly insurmountable obstacles, dedication by hundreds of thousands of Americans and an enthusiasm for what we were doing, accomplished this goal on July 20, 1969; 13 years ago today.

We must ask ourselves now, in retrospect, did the space program accomplish what President Kennedy proclaimed it would for our Nation, and then, prospectively, how do we proceed from here?

Mr. President, I contend that with all the foresight, confidence and leadership that President Kennedy demonstrated, the U.S. space program has far exceeded what he envisioned.

Most certainly we achieved international recognition of our achievement. It is estimated that more than half the population of the world was aware of the Apollo II Moon landing. A continuing tribute to our space activities is demonstrated by the more than 50 million visitors to the National Air and Space Museum in its first 5 years, making it the most popular museum in the world.

Estimates of the return on our investment in space activities have ranged from 4 times to 20 times our investment, but much of this return is difficult to quantify. The vast base of technology from our space endeavors supplies a continuous stream of goods and services in almost every aspect of our lives, including health care, communications, computers, energy efficiency, consumer products, and environmental protection. We now take for granted our weather forecasting, global telecommunications network, hand calculators, et cetera, without a second thought that these services and products exist because of the space program.

Perhaps the most significant confirmation of the values of space endeavors is that the United States and the U.S.S.R. are no longer the only countries pursuing a space program. A recent Office of Technology Assessment report states:

> When the U.S. space program began, the Soviet Union was our only competition in space. The Soviets have never challenged our leadership in space applications. Now, however, international competition in space applications is a reality . . . Their increased activities threaten the loss of significant revenue opportunities for the U.S. as well as a potential loss of prestige and influence.

Mr. President, let me mention a few examples as they relate to the major elements of our space program.

In launch services, the French have declared their Ariane launch vehicle operational and are providing very attractive financial arrangements to entice customers. Needless to say—it is working. In addition, they, together with their European partners, are already providing funding to increase Ariane's capabilities, as well as looking at advanced systems to meet launch needs after 1990. They pose a continuous challenge to us in this decade and the next.

In space science, the United States will be conspicuously absent when Halley's Comet enters the inner portion of our solar system once again. Instead, the comet will be met by spacecraft from the Soviet Union, Japan, and the countries comprising the European Space Agency. In fact, a French official commented on the French participation in the Soviet Union's Venus/Halley Comet mission:

> It is sometimes difficult or frustrating to deal with the Soviets, and we had to make changes on some projects, but the end result is space experience we otherwise would not be able to achieve.

In addition, it appears that the Western Europeans are finalizing plans for a follow-on Spacelab program that may lead to a free-flying orbital laboratory in the 1990's. The Europeans are no longer constrained by a dependency on the United States.

In space applications, the French SPOT system may provide the world with satellite images of the Earth while we continue to flounder in development of an operational capability for land remote sensing.

The Japanese are aggressively pursuing satellite communications technology and have established as one of their 15-year goals to advance communications technology and develop their own technology base. The 30/20 gigahertz program is perhaps the most visible example of the Japanese challenge. In fact, in a few years or so, I would expect to see the United States excluded from the satellite business of the world unless we do something dramatic, and soon.

In aeronautics, our challengers are numerous. U.S. manufacturers of commercial transports have lost more than 20 percent of their market to European competitors over the past several years. It is safe to say that we do not have a computer aircraft industry of any significant proportions. Additionally, the U.S. market share for rotorcraft has decreased by 15 percent at a time when the world market is expanding. The European Community has set policies and plans to displace U.S. leadership in aviation by the end of the decade. Following this lead, the Japanese, Canadians, and the Brazilians have incorporated civil aircraft development and production in their national industrial plans.

In examining these few examples, and unfortunately there are many more, it is necessary to highlight that these other nations are pursuing space and aeronautical technology because of its commercial and scientific value.

This past year has been a vivid reminder to the American people and the world that the United States is indeed in the space business. We have had four tremendously successful Space Shuttle flights, opening up the doors to a new era of space exploration and exploitation. We have seen exciting pictures from the Voyager II spacecraft's rendezvous with Saturn. This has demonstrated to the world, not only our Nation's commitment to scientific endeavors, but our technology base developed for the planetary program adds credibility to our economic, technological, and defense capability. Unfortunately, that is a 10-year-old technology base. Our space program successes this year have shown the world that even during some of the most difficult of times

that this country has gone through, our technological capabilities are there for continued future growth.

We must continually remind ourselves, however, that science and technology in general must be an intrinsic part of our economy recovery. Unless that reservoir is filled, it will not be possible to sustain whatever economic recovery may occur in the short or long term. We have two choices: We can coast on our past achievements with the threat of oncoming waves from both the Soviet Union and others in the free world, or we can demonstrate that our commitment to technological achievement has made our country great and will continue to do so. The milestones of our national path through history are marked almost entirely by events that have shown a very broad utilization of science and technology created by a free people and utilized by a free people to their advantage. An aggressive national space policy that supports our commercial, scientific, and national security interests will help insure our freedom.

STATE ANTI-FRAUD MINERAL ROYALTY COLLECTION ACT OF 1982

STATES CAN DO BETTER THAN FEDERAL BUREAUCRATS IN COLLECTING ROYALTIES

Mr. BAUCUS. Mr. President, this year the Federal Government will fail to collect hundreds of millions of dollars in royalties from mineral production on Federal lands.

The General Accounting Office (GAO), the inspector general at the Department of Energy, numerous witnesses before committees of both the Senate and the House, and a vast collection of press accounts have relayed to Congress the seriousness of theft, fraud, and simple bungling of the Federal Government's collection of royalties on oil owned by the people of the United States.

By law, 50 percent of the royalties collected from Federal mineral production goes directly to the States; 40 percent goes into the Reclamation Fund, and 10 percent is retained by the Federal Government to pay for the expenses of collecting royalties. Unfortunately, while Congress did its best to make sure that the Federal Government had adequate resources to insure prudent and careful collection of these royalties—setting aside 10 percent of the funds collected for just this purpose—over the years very little of this amount has been used for collecting. The result, as I said, has been a well-publicized disastrous waste and abuse.

Meanwhile, States and the reclamation projects that were to receive 50 percent and 40 percent of the collected royalties respectively have been shortchanged. And the States have had no recourse for insuring fair and accurate accounting. Accordingly, I am introducing legislation today that seeks to cut through all the commissions and rhetoric, seeks to reach to the heart of the collections problem by a relatively simple change in the law: The legislation simply seeks to allow these States to collect the royalties directly, moving the whole problem away from the Federal bureaucracy that has done such a poor job, to the States themselves who have such a great stake in making sure that royalty collections are efficient and accurate.

I emphasize that this legislation does not affect the existing statutory allocation formula. It does not raise royalty rates. It does not raise the amounts owed by the oil companies.

This legislation merely provides the means by which past deficiencies identified by GAO, the inspector general's office, and numerous other sources, including the Geological Survey itself, can be corrected. Simply put, it is the States who are being the most hurt by the totally inadequate efforts of the Federal Government to collect these royalties. This bill will permit the States to collect the royalties themselves if they can comply with reasonable audit guidelines. If any States choose not to collect these royalties themselves, it will insure that the 10 percent that is now directed to be used for collections is placed into a trust fund so that it cannot be diverted to other activities.

While I emphasize that my purpose is not to tamper with the existing statutory allocation of the royalty funds in any way, I do make one minor change: I am so convinced that the States can do a better job of collecting these royalties than the Federal Government has done that this legislation provides that the States, if they choose to do the collection themselves, will get 5 instead of 10 percent of the royalty money to use for this purpose. The other 5 percent would simply revert to the Treasury. I am told that the States are quite certain that they can do a much, much better job with 5 percent than has the Federal Government with a full 10 percent at its disposal. It's amazing how efficient State governments can be generally and how especially efficient State governments can be when they stand to gain substantially by having the laws of our lands enforced.

I have with me today resolutions by the Western States Land Commissioners Association, the Conference of Western Attorneys General, the Western Governors' Conference, and the Interstate Oil Compact Commission condemning the practices of the past and recommending in strong, forceful language that the States be permitted to collect these moneys themselves.

My State, Montana, has been a party to these resolutions. Montana is keenly aware of the fact that it is losing money to the sloppy accounting and regulatory practices of the U.S. Department of the Interior. The State of Montana feels that it can develop a more efficient and accurate system of collecting and accounting for royalties within its own boundaries. Indeed, on June 15 of this year, the Governor of Montana wrote to the Montana congressional delegation, stating:

> Allowing the States to administer the royalty collection process would extend the partnership concept that was established in the Federal strip-mining legislation * * * Montana has no assurances that the Department of the Interior will adequately maintain and improve an effective royalty collection process over an extended period of time. The option of State administration is necessary to protect the State's interests if it appears the Interior's work is inferior to a State-administered system.

Mr. President, I ask unanimous consent that copies of these resolutions and letters be inserted in the RECORD at the conclusion of my remarks.

In response to the Governor's June 15 letter, and because of my own strong concern about this problem that is costing my State so much, I prepared the legislation which I am introducing. The Governor has reviewed this bill, and he has written to me to express his support and to once again stress the importance of this problem to Montana.

Mr. President, I ask unanimous consent that copies of these letters and resolutions be inserted in the RECORD at the conclusion of my remarks.

I would urge all Senators who have an interest in Federal royalty collections to let the Senate Energy and Natural Resources Committee know of your support for the State collection option. The committee has been working on reforming royalties collection for many months, but time is running out for legislative action this Congress. I understand the administration's concern and the concern of many members of that committee that these problems be adequately addressed. However, there is no need for a continued delay in trying to fine tune reforms of the Federal collection process when the affected States are eagerly awaiting the chance to correct the problems on a local basis themselves.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JUNE 15, 1982.

The Honorable JOHN MELCHER,
U.S. Senator,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR MELCHER: Legislation is pending in both the House (HR 5121) and Senate (SB 2305) that would improve methods of collecting and auditing federal mineral royalties. Because of widespread problems in the current collection of royalties and because state governments receive fifty percent of these revenues, Montana would ben-

efit from any improvements in royalty collection efforts.

I recommend that maximum flexibility be afforded to the states to participate in mineral royalty collection activities. The legislation should allow the states either to enter into cooperative agreements with the Department of Interior or assume the function of collecting mineral royalties on federal lands within their borders.

Montana has entered into the enclosed cooperative agreement with the Minerals Management Service to conduct royalty audits. Current law, as interpreted by the Department of Interior, does not allow a state to be reimbursed for its share of the costs in conducting these royalty audits. Furthermore, a state is not allowed to share in the penalties and interest resulting from audit assessments which it helps to produce. Legislation authorizing cooperative agreements should allow the reimbursement of a state's costs and a sharing of all revenues produced by an audit.

Allowing the states to administer the royalty collection process would extend the partnership concept that was established in the federal strip-mining legislation. In that instance, states were allowed the strip-mining regulations on federal land. The state's interest in mineral royalty auditing is significant enough to allow the option of state administration in this case as well. States not only receive a share of federal royalties; their royalties on state-owned minerals are also affected by the federal royalty process where unitized agreements cover intermingled state and federal mineral resources.

Montana has no assurances that the Department of Interior will adequately maintain and improve an effective royalty collection process over an extended period of time. The option of state administration is necessary to protect the state's interests if it appears the Interior's work is inferior to a state-administered system. In addition, because of our system of severance and net and gross proceeds taxes, Montana has the experience and expertise in natural resource revenue collection activities necessary to administer a royalty collection system if it proves necessary and desirable to do so.

With the option of state administration, the Department of Interior could maintain an oversight and management policy-making function that would guarantee the adequacy and consistency of state royalty collections activities. Duplication of effort or inconsistency of records need not occur under the option of state administration.

I appreciate any attention and consideration you could give to these matters. I am enclosing a copy of the Memorandum of Agreement (MOA) that Montana signed with the Department of Interior on April 1, 1982. If you have any questions on our position of our MOA, please feel free to contact Ellen Feaver, Director of the Montana Department of Revenue at (406) 449-2460. I am also enclosing a copy of a resolution which was adopted last week at the Western Governors' Conference.

Sincerely,

TED SCHWINDEN,
Governor.

Enclosure (MOA and Resolution 82-9).

cc: Senator Max Baucus
Representative Pat Williams
Representative Ron Marlenee

STATE OF MONTANA,
OFFICE OF THE GOVERNOR,
Helena, Mont., July 20, 1982.

Senator MAX BAUCUS
U.S. Senate, Dirksen Office Building, Washington, D.C.

DEAR MAX: I support the legislation, which you are introducing, that would provide the states with the option of assuming the administration of royalties on federal lands. With this option, states would have the means of securing proper revenues from public lands if the federal government should fail to maintain an adequate royalty collection program.

States have a special stake in the administration of royalties in the case of unitized agreements pertaining to minerals under an area of checkerboard state and federal ownership. In these cases, an inadequate royalty collection process hurts a state twice: once in the case of its 50% share of federal royalties, and again with respect to its 100% share of state royalties. The option of state administration would enable a state to protest its royalty interests in the case of a unitized agreement governing both state and federal lands.

As you know, I also support providing the states with the additional option of cooperative agreements for federal royalty auditing, with a reimbursement of costs to states incurred under such agreements. Having available both options of cooperative agreements and state administration would afford maximum flexibility to the states to participate in mineral royalty collection activities.

Your legislation would extend the idea, established under the strip-mining legislation, of having states participate as full partners with the federal government in the management of public lands. I endorse that type partnership.

Sincerely,

TED SCHWINDEN
Governor.

THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION—RESOLUTION NO. 2

Whereas the Department of the Interior is attempting to improve its collections of mineral royalties from the public lands; and

Whereas inefficiencies and delays in such collections have resulted in serious underpayments to the federal government and states; and

Whereas many western states have in place or are capable of developing systems capable of carrying out royalty collections and audits; and

Whereas this Association has proposed that a uniform data bank and procedures be established with the Department of the Interior so that states, Indian tribes and federal agencies will have adequate information for royalty and taxation programs; and

Whereas the legislative history of the Mineral Leasing Act of 1920 shows that Congress intended 10% of federal mineral royalties be made available for administration of the act; and

Whereas the western states can, with such funding from the act, establish and conduct programs involving field inspections, audits, accounting and collections with respect to federal mineral leases: Now, therefore, be it

Resolved, That—

(1) This Association urge Congress and the President to approve the appropriation of adequate funds for grants and contracts for the establishment of state programs for the collections and audit of mineral royalties from the public lands; and

(2) The Secretary of the Interior is respectfully urged to authorize pilot projects, federally funded, for such purposes.

THE WESTERN STATES LAND COMMISSIONERS ASSOCIATION—RESOLUTION NO. 3

Whereas in 1920 Congress determined that the public mineral lands in the western states should be retained and leased rather than transferred to those states and their people; and

Whereas to compensate for the impact of federal leasing and the State revenue losses from such federal retention of lands, the Congress has determined that 50% of the federal revenues from mineral leases or public lands should go to the state from which such revenues originated; and

Whereas for over 20 years, audits and studies by the Department of the Interior, the General Accounting Office, and Congress have shown serious inefficiencies in the collection of such mineral revenues by the U.S. Geological Survey; and

Whereas many states with mineral lands have in place, or are developing, efficient systems for the collection and audit of mineral revenues for purposes of state taxation and leasing programs; and

Whereas payments to the states of their share of mineral royalties is made only twice a year, and often later than the dates set forth in the Mineral Leasing Act, and

Whereas Representatives Markey and Santini have, after investigation and study, proposed legislation (HR 5121) authorizing states to collect mineral royalties on behalf of the federal government, and to pay the federal share of such revenues biennially to the federal government after deducting costs of administration and the 50% due to the states; and

Whereas the proposed legislation would result in improved efficiencies in the collection of royalties and help redress the imbalances in western states' revenues resulting from the federal retention of the public lands and inefficiencies and delay in royalty collections: Now, therefore, be it

Resolved, That the Western States Land Commissioners Association approves the Markey-Santini plan, and urge the Secretary of the Interior to support the principles set forth therein.

RESOLUTION NO. 81-3

Whereas approximately 87 percent of Nevada, 64 percent of Utah and Idaho, 53 percent of Oregon, 49 percent of Wyoming, 44 percent of Arizona, 47 percent of California, 37 percent of Colorado are in federal hands; and a substantial portion of the mineral resources of this nation is situated on these lands; and

Whereas the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970 requires that 50 percent of the federal mineral royalties from such lands be distributed to the States from which the royalties are collected; and

Whereas the Secretary of the Interior, acting through his Geological Survey, has a mandatory duty to collect and account to the benefical states for monies payable under the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970; and

Whereas in reports of 1959, 1964, 1972, and 1979 the Comptroller General, of the United States has identified numerous deficiencies in the collection and accounting practices of the Department of the Interior; and

Whereas both the United States and the States from which these mineral royalties are collected have been seriously and substantially underpaid as a result of such deficiencies and inefficiencies on the part of the Department: Now, therefore, be it

Resolved by the Conference of Western Attorneys General, That Congress, the Department of the Interior, and the Commission on the Fiscal Accountability of the Nation's Energy Resources give support to the following principles:

1. At a State's option, the Department of the Interior should relinquish to the State entire responsibility for the collection, accounting, and auditing of oil and gas royalties payable from federal lessees in the State.

2. At a State's option, the Department of the Interior, should contract with and authorize the State to perform "lookback" audits and "past due" collections resulting from the previous mismanagement of the U.S. Geological Service.

3. The expense of a State's assumption of royalty management, collection, and auditing should be funded from that ten percent share made available under the Mineral Leasing Act of 1920 for administrative costs and should not diminish the State's fifty percent share. Recoverable State expenses should include the added police and prosecutorial costs incident to the enforcement of the royalty management program.

4. The federal government should recognize its fiduciary obligation to the producing States in the proper management of royalty collections. In this regard, the federal government, in recognition of its obligation as a fiduciary, should commission prompt, independent, and competent audits of the royalty management program so as to determine the amount of royalties still owing to the States. The federal government should also obligate itself to the payment to the States of all past due royalties, plus interest, determined through the audits to have been unpaid.

5. The Windfall Profits Tax should be amended so as to make clear that the tax is inapplicable to the States' fifty percent share of oil and gas royalties collected from federal lessees.

RESOLUTION 82-9

Whereas, approximately 87 percent of Nevada, 64 percent of Utah and Idaho, 53 percent of Oregon, 49 percent of Wyoming, 44 percent of Arizona, 47 percent of California, 37 percent of Colorado, and 34 percent of New Mexico are in federal hands; and a substantial portion of the mineral resources of this nation is situated on these lands; and

Whereas, the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970 requires that 50 percent of the federal mineral royalties from such lands be distributed to the States from which the royalties are collected; and

Whereas, the mineral royalties paid to the 23 states with federal onshore leases in fiscal year 1980 amounted to $315 million and could amount to more than $600 million in fiscal year 1985 and $1.3 billion in 1990; and

Whereas, the Secretary of the Interior, acting through his Geological Survey, has a mandatory duty to collect and account to the beneficial states for monies payable under the Mineral Leasing Act of 1920 and the Geothermal Steam Act of 1970; and

Whereas, in reports of 1959, 1964, 1972, and 1979 the Comptroller General of the United States has identified numerous deficiencies in the collection and accounting practices of the Department of the Interior; and

Whereas, the specially-appointed Commission on the Fiscal Accountability of the Nation's Energy Resources concluded that industry is not paying the full share of royalties it rightly owes for oil and gas removed from federal and Indian lands and that such underpayment could range from 100 million to several hundred million dollars; and

Whereas, both the United States and the States from which these mineral royalties are collected have been seriously and substantially damaged as a result of such deficiencies and inefficiencies on the part of the Department; and

Whereas, bills are pending in both houses of Congress on this issue:

Now, therefore, be it

Resolved by the Western Governors' Conference That Congress and the Department of the Interior gives support to the following general principles:

1. At a State's option, the Department of the Interior should relinquish to the State entire responsibility for the collection, accounting, and auditing of oil and gas royalties payable from federal lessees in the State.

2. At a State's option, the Department of the Interior should contract with and authorize the State to perform "lookback" audits and "past due" collections resulting from the previous mismanagement of the U.S. Geological Service.

3. The expense of a State's assumption of royalty management, collection, and auditing should be funded from that ten percent share made available under the Mineral Leasing Act of 1920 for administrative costs and should not diminish the State's fifty percent share. Recoverable State expenses should include the added police and prosecutorial costs incident to the enforcement of the royalty management program.

4. The federal government should recognize its fiduciary obligation to the producing States in the proper management of royalty collections. In this regard, the federal government, in recognition of its obligation as a fiduciary, should commission prompt, independent, and competent audits of the royalty management program so as to determine the amount of royalties still owing to the States. The federal government should also obligate itself to the payment to the States of all past due royalties, plus interest determined through the audits to have been unpaid: Be it further

Resolved That the Conference supports H.R. 5121, introduced by Congressmen Markey and Santini and favorably recommended by a subcommittee to the full House Interior and Insular Affairs Committee, as a bill furthering the principles of the Conference as set forth in this resolution: Be it further

Resolved That the Conference disapproves S. 2305, introduced by Senator McClure, by request of the Department of Interior, and now pending before the Senate Energy Committee, and urges that Committee and the Senate to amend the bill to be in conformance with the principles of this Conference.

RESOLUTION ON MINERAL ACCOUNTING

Whereas, the Public Lands Committee of the Interstate Oil Compact Commission has considered the problems involved in supervision by the Department of the Interior of the production of mineral resources on public and Indian lands of its meetings in Casper, Wyoming, on June 29, 1981; and

Whereas, as the report by that Committee demonstrates, the problems of Interior supervision of such resources have seriously complicated the actions of the affected states in preventing physical waste of oil and gas and insuring its conservation, which are the primary goals of this Compact; and

Whereas, that committee also reports that the inadequacies of Interior administration have deprived member states of the share of federal mineral leasing proceeds which has been wisely granted them by Congress to compensate for the added governmental responsibilties placed on them by the existence of the public lands within their borders; and

Whereas, the committee has requested that the IOCC support the efforts of member states to insure adequate supervision of federal mineral leasing operations, both to prevent waste and to insure collection of those revenues due: Now, therefore, be it

Resolved, That the Interstate Oil Compact Commission urges that the United States Department of Interior accelerate its efforts to correct the existing administrative problems, and that it consider possible utilization of the state conservation agencies on a formal, compensated contract basis, to undertake direct administration of prevention of waste and collection of revenues on the public lands: Be it further

Resolved, That the Executive Director is hereby instructed to furnish a duly certified copy of this resolution to the President of the United States and to the Secretary of the Department of Interior.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

THIRD ANNUAL REPORT ON THE STATUS OF THE WEATHERIZATION ASSISTANCE PROGRAM—MESSAGE FROM THE PRESIDENT—PM 154

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the requirements of Section 254 of the National Energy Conservation Policy Act (P.L. 95-619; 42 U.S.C. 8233), I hereby transmit the Third Annual Report on the Status of the Weatherization Assistance Program.

RONALD REAGAN.

THE WHITE HOUSE, *July 20, 1982.*

ANNUAL REPORT ON THE ADMINISTRATION OF THE RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT—PM 155

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

Pursuant to the requirements of Section 360D of the Public Health Service Act (42 U.S.C. 263 1), I hereby transmit the 1981 Annual Report on the Administration of the Radiation Control for Health and Safety Act.

RONALD REAGAN.

THE WHITE HOUSE, *July 20, 1982.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3837. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report relative to the limitations of fiscal year 1981 fourth quarter obligations in certain Agencies; to the Committee on Appropriations.

EC-3838. A communication from the Clerk of the United States Court of Claims transmitting, pursuant to law, a copy of the Court's judgment order in favor of the plaintiffs in the case of Salt River Pima-Maricopa Indian Community, et al. v. The United States; to the Committee on Appropriations.

EC-3839. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Malaysia; to the Committee on Armed Services.

EC-3840. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military sale to Singapore; to the Committee on Armed Services.

EC-3841. A communication from the Deputy Assistant Secretary of Defense for Administration transmitting, pursuant to law, a report on the Department of Army's intention to exercise the exclusion clause concerning the examination of records by the Comptroller General in connection with the contract with the Royal Ordnance Factory for the acquisition of the M252 Mortar System and the M821 Mortar Cartridge and associated equipment; to the Committee on Armed Services.

EC-3842. A communication from the Principal Deputy Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the security guard services function at the Naval Technical Training Center, Corry Station, Pensacola, Florida to performance under contract; to the Committee on Armed Services.

EC-3843. A communication from the Principal Deputy Assistant Secretary of Defense for Shipbuilding and logistics transmitting, pursuant to law, a report on a decision made to convert the buildings and structures maintenance function at the Norfolk Naval Shipyard, Portsmouth, Virginia, to performance under contract; to the Committee on Armed Services.

EC-3844. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report with respect to a transaction involving U.S. exports to Colombia; to the Committee on Banking, Housing, and Urban Affairs.

EC-3845. A communication from the President and Chairman of the Export-Import Bank of the United States transmitting, pursuant to law, a report on loan, guarantee, and insurance transactions supported by Eximbank during May 1982 with communist countries; to the Committee on Banking, Housing, and Urban Affairs.

EC-3846. A communication from the Acting Comptroller General of the United States transmitting, pursuant to law, a report on a deferral of budget authority provided for the Coast Guard's acquisition, construction, and improvement account which should have been reported to the Congress by the executive branch; to the Committee on Commerce, Science, and Transportation.

EC-3847. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to provide subsistence allowances for members of the Coast Guard officer candidate program; to the Committee on Commerce, Science, and Transportation.

EC-3848. A communication from the Administrator of the National Oceanic and Atmospheric Administration transmitting, pursuant to law, the Ocean Thermal Energy Conversion Environmental Effects Assessment Program Plan, 1981-1985; to the Committee on Commerce, Science, and Transportation.

EC-3849. A communication from the Energy Information Administration transmitting, pursuant to law, the report for the first quarter of 1982 on Energy Information; to the Committee on Energy and Natural Resources.

EC-3850. A communication from the Acting Secretary of Interior transmitting, pursuant to law, the final study on the proposed Bartram National Trail recommending that it neither be qualified as historic or scenic; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations, without amendment:

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Arthur H. Davis, of Colorado, to be Ambassador Extraordinary and plenipotentiary of the United States to Paraguay.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Arthur H. Davis, Jr.

Post: Ambassador to Paraguay.

Contributions: amount, date, donee.

1. Self: $50.00, June 16, 1978, Armstrong/Senate; $167.00, March 22, 1979, Loye/Congress; $500.00, April 15, 1980, Loye/Congress.

2. Spouse: $50.00, December 29, 1981, Kramer/Congress; $25.00, June 16, 1978, Scott/Congress.

3. Children and Spouses: Doug Campbells, Karen Davis, Gene Fodors, Art Davis III—none.

4. Parents: deceased.

5. Grandparents: deceased.

6. Brothers and Spouses: Fred Davis, none; Robt./ Barbara Davis, none.

7. Sisters and Spouses: Ruth and Bill Hatcher, none.

George W. Landau, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Venezuela.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: George W. Landau.

Post: Venezuela.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse: None.

3. Children and Spouses: Robert W. Christopher T.: None.

4. Parents: Deceased, None.

5. Grandparents: Deceased, None.

6. Brothers and Spouses: None, none.

7. Sisters and Spouses: None, none.

Robert Werner Duemling, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Suriname.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert Werner Duemling.

Post: Ambassador to Suriname.

Contributions, amount, date, donee.

1. Self: None.

2. Spouse, see attached sheet.[1]

3. Children and Spouses: None.

I have three step-children, none of whom have made any political contributions.

4. Parents: Deceased.

5. Grandparents: Deceased.

6. Brothers and Spouses: None—that is, no brothers.

7. Sisters and Spouses: None—i.e. none have made political contributions. Names: Eleanor Staetter, Mary Anne Gettys, Elizabeth Haedrich.

Nicholas Platt, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Zambia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar

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[1] Sheet not printed in Record.

year of the nomination and ending on the date of the nomination.

Nominee: Nicholas Platt.

Post: Lusaka, Zambia.

Contributions, amount, date, donee.

1. Self, see attached sheet.[1]

2. Spouse: Sheila Maynard Platt, none.

3. Children and Spouses: Adam, Oliver and Nicholas, Jr., none.

4. Parents: Geoffrey Platt, Sr. See attached sheet; [1] Alice Holbrook Platt (stepmother). See attached sheet.[1]

5. Grandparents: Deceased, none.

6. Brothers and Spouses: Geoffrey Platt, Jr. See attached sheet; [1] Hope Forsythe Platt, none.

7. Sisters and Spouses: Penelope Platt Littell, none; Walter I. Littell, none.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GORTON:

S. 2749. A bill to authorize, within available funds, the construction of a bridge approach at Clarkston, Wash.; to the Committee on Environment and Public Works.

By Mr. HAYAKAWA:

S. 2750. A bill for the relief of You-xing Zhou Ling; to the Committee on the Judiciary.

By Mr. INOUYE:

S 2751. A bill to authorize the sale of certain fish in the State of Hawaii; to the Committee on Commerce, Science, and Transportation.

By Mr. McCLURE: (by request):

S. 2752. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2753. A bill to amend the Federal Land Policy and Management Act of 1976, relating to the authority of the Secretary of the Interior to accept volunteer services in the aid of the work of the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2754. A bill to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, Mass., as amended; to the Committee on Energy and Natural Resources.

S. 2755. A bill to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, Mich., as amended; to the Committee on Energy and Natural Resources.

S. 2756. A bill to amend the act of October 26, 1972 (86 Stat. 1181), as amended, to increase the authorization of appropriations for Perry's Victory and International Peace Memorial National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

S. 2757. A bill to amend the act of March 10, 1966, providing for the establishment of Cape Lookout National Seashore, N.C., as amended; to the Committee on Energy and Natural Resources.

S. 2758. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to dedicate certain fees to the protection and improvement of facilities and resources of the national park system, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. McCLURE (for himself and Mr. WARNER) (by request):

S. 2759. A bill to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park and for other purposes; to the Committee on Energy and Natural Resources.

STATEMENT ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GORTON (for himself and Mr. JACKSON):

S. 2749. A bill to authorize, within available funds, the construction of a bridge approach at Clarkston, Wash.; to the Committee on Environment and Public Works.

LEWISTON-CLARKSTON BRIDGE APPROACH

● Mr. GORTON. Mr. President, today Senator JACKSON and I are introducing legislation which would authorize, within available funds, the construction of a bridge approach at Clarkston, Wash. The Army Corps of Engineers is currently constructing a bridge over the Snake River from Clarkston, Wash. to Lewiston, Idaho. The bridge will be completed in November. The legislation authorizing the construction of this bridge did not include an authorization for construction of this necessary approach ramp. This bridge approach connection is essential to the bridge access plan, and will assure a good and orderly flow of traffic in Clarkston. The approach can be built within the spending limit which was authorized for the bridge alone, because it will not be necessary to obligate the total authorization to complete the bridge. In other words, the legislation we are introducing today will not result in an outlay in excess of that already contemplated. It simply redefines the bridge project limits to include the approach ramp, thereby allowing the expenditure of authorized funds for this purpose.

I believe that this bill will accomplish what is necessary to aid in the completion of the bridge access plan. I look forward to bringing this project to a successful conclusion.●

● Mr. JACKSON. Mr. President, I am pleased to join Senator GORTON in introducing legislation which would redefine the limits of the original Lewiston-Clarkston bridge project.

This legislation is required to permit the U.S. Army Corps of Engineers to construct a 1,600-foot segment of road to connect the Lewiston-Clarkston bridge with 16th Avenue in Clarkston, Wash.

I understand that this legislation will require no additional appropriations and I am hopeful that the Senate Public Works Committee will move quickly on this measure.

Mr. President, I ask unanimous consent that the text of the bill, together with a letter from Charles Collins, chairman of the Asotin County Commissioners, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2749

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 164 of Public Law 94-587 (90 Stat. 2917 et seq.), as amended, is amended further by adding at the end of such section the following sentence: "Within sums available under this section, the Secretary is authorized to construct an approach roadway from the end of the Washington State Route 129 overpass of the bridge authorized by this section to 16th Avenue in the City of Clarkston, Washington."

ASOTIN COUNTY,
Asotin, Wash., June 1, 1982.

Re: Lewiston-Clarkston Bridge.

Hon. HENRY JACKSON,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR JACKSON: Again we find we must seek your help in obtaining an acceptable finished bridge project. On March 15, 1982, after being advised that at least $750,000 of the $23.2 million authorized for the design and construction of the new Lewiston-Clarkston Bridge would not be spent, Asotin County and the City of Clarkston made a request to the U.S. Army Corps of Engineers to utilize the excess funds for the design and construction of an extension of the bridge centerline. The extension would follow the bridge centerline Westerly approximately 1,600 feet to an intersection with 16th Avenue, an existing County Road. The present project terminates at SR 129, a State Highway, and does not accommodate thru-traffic movements nor does it connect directly to the local street system. A copy of the Clarkston Urban Area map which shows the requested extension in red is attached for your reference.

Our request was flatly denied by the Corps of Engineers because it was their opinion that the extension was beyond the legislative intent. After meeting with the Corps representatives concerning their opinion, we were advised that the legislative intent was defined by Design Memorandum No. 41 dated October, 1978 and said document was approved by all local agencies. Although we did approve the Design Memorandum, we were not aware that such approval would prevent the construction of this approach extension of funds were available. Prior to our approval we objected strenuously to the omission of this approach and approved of the document only after cost estimates were presented which indicated the basic project cost would exceed the authorized spending limit. The approach extension was and still is a vital link in the bridge access scheme.

Now we seem to be in a Catch 22 situation i.e., we need the approach connection but have no local funds for construction, and

the Corps of Engineers has spending authority, but cannot perform work beyond the project limits set by Design Memorandum No. 41. Therefore, your assistance is requested in supplying a solution to the dilemma.

Very truly yours,

CHARLES S. COLLINS,
Chairman, Asotin County Commissioners.●

By Mr. INOUYE:

S. 2751. A bill to authorize the sale of certain fish in the State of Hawaii; to the Committee on Commerce, Science, and Transportation.

SALE OF CERTAIN FISH IN HAWAII

● Mr. INOUYE. Mr. President, today I am introducing legislation to help canners in the State of Hawaii obtain a sufficient volume of competitively priced tuna to run a viable business.

Under existing Federal law, the Nicholson Act (46 U.S.C. 251) prohibits the landing of fish by a foreign-flag vessel in the United States if they are caught by a foreign-flag vessel on the high seas. The only exception is for fish landed in the United States pursuant to a treaty or convention to which the United States is a party. Because of this prohibition, the Hawaiian Tuna Packers cannot supplement its American-caught tuna with foreign-caught tuna to provide an adequate supply of raw fish for its cannery.

The Hawaiian cannery presently employs 420 people, with a payroll of over $5 million a year. In addition, it purchases approximately 2 million dollars' worth of fish from Hawaiian fishermen and is the only major market for the catch not sold at the daily fresh fish auction. The economic contribution of the cannery is even greater when one considers the taxes paid and materials purchased in Hawaii.

The bill I am introducing would help provide an adequate supply of tuna by allowing Asian fishing vessels to land their catch in Hawaii. Asian fishing vessels catch about 536,000 short tons of tuna in the Pacific Ocean each year. Two Japanese fleets, gillnetters, and sashimi longliners, operate near Hawaii and could provide about 15,500 tons of albacore annually. The sashimi longliners would be pleased to sell their albacore, which is a less desirable catch in Japan than other species of tuna, in nearby Hawaii rather than ship the fish all the way back to their home ports. The State of Hawaii would of course be pleased by the economic benefits that would accrue to the State's population.

Mr. President, I commend this bill to my colleagues and ask unanimous consent that its full text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisons of section 4311 of the Revised Statutes of the United States, as amended (46 U.S.C. 251), Japanese flag vessels shall be permitted to land tuna in the State of Hawaii.●

By Mr. McCLURE (by request):

S. 2752. A bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes; to the Committee on Energy and Natural Resources.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Pennsylvania Avenue Development Corporation. I ask unanimous consent that the bill and the executive communication from Max N. Berry, Chairman of the Corporation be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2752

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended further as follows:

1. By striking in paragraph (10) of section 6, the figure "100,000,000" and inserting in lieu thereof "120,000,000.".

2. By adding at the end of section 17(a), "There are further authorized to be appropriated for operating and administrative expenses of the Corporation sums not to exceed $3,250,000, each, for the fiscal years ending September 30, 1984, September 30, 1985, September 30, 1986, September 30, 1987, and September 30, 1988.".

PENNSYLVANIA AVENUE
DEVELOPMENT CORPORATION,
Washington, D.C., February 24, 1982.

Hon. GEORGE BUSH,
Vice President of the United States, President of the Senate, Dirksen Office Building, Washington, D.C.

DEAR MR. VICE PRESIDENT: One of the three appropriation requests for the Pennsylvania Avenue Development Corporation presented in the President's Budget Appendix for FY 1983 will require an increase in the authorized funding level. The Corporation's authorized level of borrowing from the U.S. Treasury for Land Acquisition and Development is presently $100,000,000; to date over $99,000,000 in borrowing authority has been appropriated.

Additionally, the Corporation's authorization for Salaries and Expenses' appropriations expires at the end of FY 1983.

The enclosed draft authorization bill is respectfully submitted for your consideration and support, so that the PADC may be able to receive the additional budget authority it requires in FY 1983 (for land acquisition) and in future fiscal years (for land acquisition and salaries and expenses).

The Office of Management and Budget has advised us that there is no objection from the standpoint of the administration's program to the submission of this draft legislation to the Congress, and that its enactment would be in accord with the President's budget.

Thank you.

Sincerely,

MAX N. BERRY,
Chairman.●

By Mr. McCLURE (by request):

S. 2753. A bill to amend the Federal Land Policy and Management Act of 1976, relating to the authority of the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes; to the Committee on Energy and Natural Resources.

BUREAU OF LAND MANAGEMENT VOLUNTEERS

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the Federal Land Policy Management Act of 1976, relating to the authority of the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Assistant Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2753

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) is amended by adding at the end thereof the following new subsections:

"(d) The Secretary may recruit, without regard to the civil service classification laws, rules or regulations, the services of individuals contributed without compensation as volunteers for aiding in or facilitating the activities administered by the Secretary through the Bureau of Land Management.

"(e) In accepting such services of individuals as volunteers, the Secretary—

"(1) shall not permit the use of volunteers in firefighting or law enforcement work, or in policymaking process or to displace any employee; and

"(2) may provide for services or costs incidental to the utilization of volunteers, including transportation, supplies, lodging, subsistence, recruiting, training, and supervision.

"(f) Volunteers shall not be deemed employees of the United States except for the purposes of the tort claims provisions of title 28, United States Code, and subchapter I of chapter 81 of title 5, United States Code, relating to compensation for work injuries.".

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 27, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is enclosed a draft bill "To amend the Federal Land Policy and Management Act of 1976, relating to the authority of the Secretary of the Interior to accept volunteer services in aid of the work of the Bureau of Land Management, and for other purposes."

We recommend that the draft bill be introduced and referred to the appropriate committee, and that it be enacted.

Congress has provided authority to the Secretary of the Interior to use volunteer services in aid of the work of two agencies in the Department, and to pay expenses incidental to accepting these contributed services. This authority was provided for the National Park Service in the Volunteers in the Parks Act of 1969 (84 Stat. 472; 16 U.S.C. 18g-j), and for the U.S. Fish and Wildlife Service in the Fish and Wildlife Improvement Act of 1978 (92 Stat. 3112; 16 U.S.C. 742f). In addition, comparable authority was provided to the U.S. Forest Service in the Volunteers in the National Forest Act of 1972 (86 Stat. 147; 16 U.S.C. 558a-d). We believe that similar legislation would greatly facilitate and enhance the work of the Bureau of Land Management in managing, protecting and developing the public lands.

While section 307 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2766; 43 U.S.C. 1737) authorizes the Secretary to accept services contributed to the Bureau of Land Management by volunteers, the draft bill is needed to authorize payment of incidental expenses and to clarify the status of volunteers under Federal employment laws. The draft bill would not provide for compensation for volunteers. The Bureau would be authorized to provide for incidental services and expenses such as supplies for and supervision of the volunteer's work. Volunteers would not be considered Federal employees, except for purposes of the tort claims provisions of title 28, United States Code, and statutes pertaining to compensation for on-the-job work injuries (5 U.S.C. 8101-8151). Except for its provisions relating to work injuries, the provisions of title 5, United States Code, relating to Federal employees—such as classification standards and those provisions setting rates compensation, unemployment compensation, and Federal employee benefits—would not apply to volunteers.

Volunteer work is a traditional aspect of American life—one that is associated with good citizenship and that has contributed much to improve our communities, educational, cultural and health services, and our parks recreation areas, and forests. We believe this traditional form of citizen energy could be particularly useful in assisting the Bureau of Land Management in its functions: managing, conserving and developing the country's public lands and their natural resources for the benefit of the public. We believe many citizens—from high school and college students to retired people. both highly skilled and relatively unskilled—would find satisfying opportunities for public service by assisting as volunteers on the public lands.

During fiscal year 1981, 8,326 "Volunteers in Parks" contributed to the National Park Service some 226 person-years of work valued at approximately $4 million. For the same fiscal year, the Forest Service estimates that, in its "Volunteers in the National Forests" program, about 16,450 citizens donated 761 person-years of work worth $8.2 million. The Fish and Wildlife Service volunteers program is expected to return similar benefits when it is in full operation.

The Bureau of Land Management has a substantial backlog of necessary conservation, development, and other resource management work for which volunteers would be useful, including brush control, range seeding, historic site restoration, archaeological, geological and biological investigations, trail, fence and campground construction and maintenance, tree planting and timber surveys, soil conservation and stream improvement work, and water quality testing. Volunteers would not be used for policymaking activities or for hazardous duties such as firefighting or law enforcement. As shown by the years of experience in the Park Service and Forest Service in similar programs, expenses for a volunteer program by the Bureau of Land Management would be minor in relation to the value of the services to be contributed. Because the Bureau would expect to pay the incidental expenses involved from regular appropriations categories and levels, enactment of this proposed legislation would not result in added government outlays.

In view of the tremendous amount of work that is needed on the public lands, and the necessary budget constraints in the foreseeable future, we strongly recommend enactment of the draft bill.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

GARRY E. CARRUTHERS,
Assistant Secretary.●

By Mr. McCLURE (by request):

S. 2754. A bill to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, Mass., as amended; to the Committee on Energy and Natural Resources.

CAPE CODE NATIONAL SEASHORE

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, Mass., as amended.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Acting Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2754

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 9 of the Act entitled "An act to provide for the establishment of Cape Cod National Seashore", approved August 7, 1961 (Public Law 87-126; 75 Stat. 293), as amended by the Act of May 14, 1970 (Public Law 91-252; 84 Stat. 216), is further amended by striking "$33,500,000" and inserting in lieu thereof $40,567,575".

OFFICE OF THE SECRETARY,
Washington, D.C., April 14, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, Massachusetts, as amended."

We recommend that the enclosed draft bill be referred to the appropriate committee for consideration, and that it be enacted.

The draft bill would amend section 9 of the Act of August 7, 1961 (P.L. 87-126; 75 Stat. 293), as amended by the Act of May 14, 1970 (P.L. 91-252; 84 Stat. 216), by striking the current authorization ceiling for land acquistion at Cape Cod National Seashore. The entire $33,500,000 currently authorized for land acquisition has been appropriated, and an additional $567,575 has been expended pursuant to the authority granted under P.L. 95-42. The land acquisition component of the Department's fiscal year 1983 budget request for the National Park Service includes $6,500,000 to pay anticipated deficiency awards from currently pending condemnation cases involving Cape Cod, all of which would be in excess of the authorized ceiling. Thus, in place of the current ceiling on authorizations, the draft bill would establish a new ceiling of $40,567,575.

This Department will shortly begin to implement a new land protection policy that will emphasize alternatives to Federal acquisition and, we expect, result in reduced acquisition costs. We therefore recommend enactment of the enclosed draft bill to facilitate the active land acquisitions at Cape Cod National Seashore.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Acting Secretary.●

By Mr. McCLURE (by request):

S. 2755. A bill to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, Mich., as amended; to the Committee on Energy and Natural Resources.

SLEEPING BEAR DUNES NATIONAL LAKESHORE

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, Mich., as amended.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill

and the executive communication which accompanied the proposal from the Acting Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2755

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 15 of the Act of October 21, 1970 (Public Law 91-479; 84 Stat. 1080), as amended by the Act of October 26, 1974 (Public Law 93-477; 88 Stat. 1445), is further amended by striking "$57,753,000" and inserting in lieu thereof "$67,449,557".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 14, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, Michigan, as amended."

We recommend that the enclosed draft bill be referred to the appropriate committee for consideration, and that it be enacted.

The draft bill would amend section 15 of the Act of October 21, 1970 (P.L. 91-479; 84 Stat. 1080), as amended by the Act of October 26, 1974 (P.L. 93-477; 88 Stat. 1445), by striking the $57,753,000 ceiling for land acquisition at Sleeping Bear Dunes National Lakeshore, Michigan. That entire authorization for land acquisition has been appropriated, and an additional $1,296,557 has been expended pursuant to authority granted under Public Law 95-42. The land acquisition component of the Department's fiscal year 1983 budget request for the National Park Service includes an additional $8,400,000 to pay anticipated deficiency awards from currently pending condemnation cases involving Sleeping Bear Dunes. Thus, in place of the current ceiling on authorizations, the draft bill would establish a new ceiling of $67,449,557.

This Department will shortly begin to implement a new land protection policy initiative that will emphasize alternatives to Federal acquisition and, we expect, result in reduced acquisition costs. We therefore recommend enactment of the enclosed draft bill to facilitate the active land acquisitions at Sleeping Bear Dunes National Seashore.

The Office of Mangement and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the administration's program.

Sincerely,

DONALD PAUL HODEL,
Acting Secretary.●

By Mr. McCLURE (by request):

S. 2756. A bill to amend the act of October 26, 1972 (86 Stat. 1181), as amended, to increase the authorization of appropriations for Perry's Victory and International Peace Memorial National Monument, and for other purposes; to the Committee on Energy and Natural Resources.

PERRY'S VICTORY AND INTERNATIONAL PEACE MEMORIAL NATIONAL MONUMENT

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the act of October 26, 1972 (86 Stat. 1181), as amended, to increase the authorization of appropriations for Perry's Victory and International Peace Memorial National Monument, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Acting Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2756

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of the Act of October 26, 1972 (86 Stat. 1181), as amended by section 101, paragraph (21), of the Act of November 10, 1978 (92 Stat. 3472), is further amended by striking the phrase "not more than $9,327,000" and inserting in lieu thereof "$9,825,000".

Sec. 2. Section 5 of the Act of June 2, 1935 (49 Stat. 1393; 16 U.S.C. 433e) is hereby repealed.

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., March 31, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "To amend the Act of October 26, 1972 (86 Stat. 1181), as amended, to increase the authorization of appropriations for Perry's Victory and International Peace Memorial National Monument, and for other purposes."

We recommend that the enclosed draft bill be referred to the appropriate committee for consideration, and that it be enacted.

The draft bill would amend section 4 of the Act of October 26, 1972 (86 Stat. 1181), as amended by section 101, paragraph (21), of the Act of November 10, 1978 (P.L. 95-625; 92 Stat. 3472), by striking the current $9,327,000 authorization level for development at Perry's Victory in favor of an authorization for $9,825,000. Also included in the draft bill is a technical amendment repealing section 5 of the Act of June 2, 1936 (16 U.S.C. 433e), which authorized the National Park Service to hire employees of the Perry's Victory Memorial Commission for purposes of administering and operating the park. Inasmuch as the Commission was abolished pursuant to the Act of October 26, 1972, there is no reason to continue this authority.

Perry's Victory and International Peace Memorial is located on South Bass Island, Ohio, in Lake Erie. The memorial consists of some 26 acres of land on which a Greek Doric column, 352 feet in height, was constructed between 1912 and 1915 to commemorate Commodore Oliver Perry's decisive victory in the Battle of Lake Erie on September 10, 1813, and the years of peace between the United States and Canada since the War of 1812. The column is the tallest structure of its kind in the world.

Severe weather and wave action over the past sixty years have badly damaged the park's seawalls, as well as the internal structural integrity and exterior of the column. The Act of October 26, 1972, set a development ceiling for the park of $5,177,000, principally to cover the cost of repairing this damage. Rising construction costs forced Congress to raise the ceiling to $9,327,000 in the Act of November 10, 1978. Much of the repair work has been completed, including reconstruction of the seawalls. The second phase of rehabilitation will include repair work on the column itself. Critical to this effort will be the installation of waterproof barriers and dehumidifiers to prevent a recurrence of water damage. The total cost of this second phase is $2,444,000. Funding for this work is being sought by this Department as part of the Park Restoration and Improvement Program portion of our Fiscal Year 1983 budget request.

Under the 1978 development authorization, only $1,946,000—or $498,000 less than the amount required to complete Phase II of the restoration project—remains available for appropriation. Consequently, we recommend enactment of the enclosed draft bill authorizing the appropriation of $9,825,000 for the planned development work at Perry's Victory and International Peace Memorial.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Acting Secretary.●

By Mr. McCLURE (by request):

S. 2757. A bill to amend the act of March 10, 1966, providing for the establishment of Cape Lookout National Seashore, N.C., as amended; to the Committee on Energy and Natural Resources.

CAPE LOOKOUT NATIONAL SEASHORE

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the act of March 10, 1966, providing for the establishment of the Cape Lookout National Seashore, N.C., as amended.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Acting Secretary of the Interior be printed in the RECORD.

There being no objection, the materiel was ordered to be printed in the RECORD, as follows:

S. 2757

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence in section 8 of the Act of March 10, 1966 (P.L. 89-366; 80 Stat. 33), as added by the Act of October 26, 1974 (P.L. 93-477; 88 Stat. 1445), is amended by striking "$7,903,000" and inserting in lieu thereof "$9,903,000".

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., April 14, 1982.

Hon. THOMAS P. O'NEILL, JR.,
Speaker of the House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Enclosed is a draft bill "To amend the Act of March 10, 1966, pro-

viding for the establishment of Cape Lookout National Seashore, North Carolina, as amended."

We recommend that the enclosed draft bill be referred to the appropriate committee for consideration, and that it be enacted.

The draft bill would amend section 8 of the Act of March 10, 1966 (80 Stat. 33; 16 U.S.C. 459g), as amended by the Act of October 26, 1974 (P.L. 93-477; 88 Stat. 1445), by striking the current $7,903,000 ceiling on authorizations for land acquisition at Cape Lookout National Seashore, North Carolina. That entire authorization amount has already been appropriated. In place of the current ceiling on authorizations, the draft bill would establish a new ceiling of $9,903,000. The new authorization ceiling would provide authority for appropriation of the $2,000,000 included for Cape Lookout in the National Park Service land acquisition component of the Department's fiscal year 1983 budget request. This appropriation would fund anticipated deficiency awards from currently pending condemnation cases involving Cape Lookout.

This Department will shortly begin implementing a new land protection policy initiative which will emphasize alternatives to Federal acquisition, and which, we expect, will result in reduced acquisition costs. We therefore recommend enactment of the enclosed draft bill to facilitate the active land acquisitions at Cape Lookout National Seashore.

The Office of Management and Budget has advised that there is no objection to the presentation of this draft bill from the standpoint of the Administration's program.

Sincerely,

DONALD PAUL HODEL,
Acting Secretary.●

By Mr. McCLURE (by request):

S. 2758. A bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to dedicate certain fees to the protection and improvement of facilities and resources of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL PARK SYSTEM FEE DEDICATION AND PARK IMPROVEMENT ACT OF 1982

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to amend the Land and Water Conservation Fund Act of 1965, as amended, to dedicate certain fees to the protection and improvement of facilities and resources of the National Park System, and for other purposes.

Mr. President, this draft legislation, entitled the "National Park System Fee Dedication and Park Improvement Act of 1982," was submitted and recommended by the Department of the Interior. I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2758

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Park System Fee Dedication and Park Improvement Act of 1982."

PURPOSES

SEC. 2. The purposes of this Act are to—

(a) augment the sources of funding available to the National Park System and provide dedicated revenues received from fees for admission or entrance to the National Park System to assist the National Park Service in repairing, maintaining and improving visitor facilities and services in units of the National Park System, and in restoring, protecting and preserving natural and cultural resources in such units;

(b) insure that those persons entering National Park System areas pay an appropriate share of the cost of the services and facilities provided to them; and

(c) allow for the adjustment of current visitor fees, to compensate for the impact of inflation since entrance and admission fees were last increased, and return such increased funds back to the National Park System for use in operating, maintaining and improving areas and facilities.

FEE DEDICATION

SEC. 3. Section 4(a) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460 1-6a(a)), as amended, is further amended by the addition of the following new paragraphs at the end thereof:

"(6) Notwithstanding any other provision of law, all receipts collected from fees or permits for admission or entrance to the National Park System shall be covered into a special account established in the Treasury of the United States; shall be available, subject to appropriation; and shall be applied to the repair, maintenance and improvement of facilities, the provision of safety and services, and the restoration, protection and preservation of natural and cultural resources, for the benefit and enjoyment of visitors to the National Park System.

"(7) Notwithstanding any other provision of law, the Secretary of the Interior is authorized to: (A) increase or decrease existing entrance and admission fees within the National Park System by such amounts as deemed appropriate, but not to exceed that amount necessary to adjust for inflation since 1972, to the nearest dollar; (B) establish entrance or admission fees at those units of the National Park System where such fees are not currently being collected, and at Park System units designated after the date of enactment of this Act, if appropriate and consistent with criteria established in section 4(a) of this Act, in amounts not to exceed those levels set in accordance with subpart (A) of this paragraph, calculated to the nearest dollar; and (C) suspend or forego the collection of entrance or admission fees at individual units of the National Park System, if he finds that the cost of collection of such fees exceeds receipts collected, or if he finds public purposes would not be furthered by fee collection. For the purposes of this paragraph, inflation shall be measured by the change in the Gross National Product Deflator."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 1, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill, the "National Park System Fee Dedication and Park Improvement Act of 1982."

We recommend that it be referred to the appropriate committee for consideration, and that it be enacted.

The National Park System has become an increasingly important priority for the American public, and the Administration is committed to providing high quality opportunities through the National Park System. However, over the past several decades, many facilities in our national parks have deteriorated significantly, often creating serious safety and health hazards. Threats to the natural resource base have increased. At the same time, increased costs for maintenance and improvements have eroded the value of funds appropriated for those purposes and have thus contributed to the poor conditions in our national parks. All of this has made it increasingly difficult to provide proper stewardship of the land and the high quality opportunities Americans have come to expect in our national parks.

We believe the enclosed legislation will help to alleviate many of these problems. It would create a special fund, composed of receipts collected from fees for admission to units of the National Park System. This fund would be reserved for improvement, protection, and restoration of park resources and facilities and would supplement normal national park appropriations. It would authorize, but not require, adjustment to fees by an amount not exceeding the rate of inflation. The legislation would also grant the Secretary of the Interior flexibility, within certain limitations, to charge an entrance fee that reflects to a greater degree the costs of providing visitor facilities and services and of protecting the resource base. Finally, the bill would permit the Secretary to decrease fees when necessary, and to suspend collection at individual park system units if the cost of collecting receipts exceeds revenues collected.

The Administration recognizes the importance of the National Park System to the American people and we have sought significant budget increases to protect, restore and improve park facilities and resources. Because of that importance, the current state of our parks, and present economic and budgetary constraints, we believe additional funding, as provided by this draft bill, is required. We are convinced that we will be able to provide better for badly needed maintenance and restoration in our park system if increased funds derived from somewhat higher park fees are returned directly to the National Park System.

The Office of Management and Budget has advised that there is no objection to the submission of this proposed legislation from the standpoint of the Administration's program.

Sincerely,

JIM WATT,
Secretary.●

By Mr. McCLURE (for himself and Mr. WARNER) (by request):

S. 2759. A bill to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park and for other purposes; to the Committee on Energy and Natural Resources.

FINANCIAL ASSISTANCE FOR WOLF TRAP

● Mr. McCLURE. Mr. President, at the request of the administration, I send to the desk for appropriate reference a bill to provide financial assist-

ance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill and the executive communication which accompanied the proposal from the Under Secretary of the Interior be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2759

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Wolf Trap Farm Park Act of 1982."

SEC. 2. The purposes of this Act are to—

(1) allow the Secretary of the Interior to cooperate with the Wolf Trap Foundation (Foundation) for the Performing Arts in the operation of Wolf Trap Farm Park (Park); and

(2) provide financial assistance to the Foundation for reconstruction of the Filene Center in the Park.

SEC. 3. (a) The Secretary of the Interior is authorized to provide to the Foundation, or its designee, on such terms and conditions as he deems appropriate, for reconstruction of the Filene Center in the Park: (1) a grant not to exceed $9,000,000; and (2) a loan not to exceed $9,000,000 to be repaid in full, with interest on any unpaid obligation at a rate determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of the loan, plus an allowance adequate, in the judgment of the Secretary of the Interior, to cover the administrative expenses of servicing the loan. In his determination of terms and conditions governing the loan, the Secretary shall fix a term of not more than five years from the date the loan agreement is executed.

(b) For purposes of carrying out the grant and loan under subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary, but not to exceed $18,000,000, and such sums shall remain available until expended.

(c) All right, title and interest in any reconstructed Filene Center in the Park shall vest in the United States. The Secretary of the Interior is authorized to provide support services in the reconstruction of the Filene Center, as requested by the Foundation, on a reimbursable basis, for the purposes of this Act.

(d) The authority conferred in subsection (a) through (c) of this section shall lapse if funds therefor are not appropriated within five years of the date of enactment of this Act.

SEC. 4. Section 3 of the Act of October 25, 1966 (80 Stat. 950) is redesignated as section 4 and the following new section is inserted after section 2:

"SEC. 3. The Secretary of the Interior shall cooperate with the Wolf Trap Foundation for the Performing Arts, organized pursuant to the District of Columbia Nonprofit Corporation Act, and, as a charitable organization, exempted from taxation under section 501(c)(3) of the Internal Revenue Service Code of 1954, in the operation of the Park, under such terms and conditions as the Secretary deems appropriate."

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., July 1, 1982.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill, the "Wolf Trap Farm Park Act of 1982," to provide financial assistance to the Wolf Trap Foundation for reconstruction of the Filene Center, recently destroyed in a tragic fire.

We recommend that it be introduced and referred to the appropriate committee for consideration and that it be enacted.

Wolf Trap Park for the Performing Arts was established in 1966 in Vienna, Virginia, as a unit of the National Park System. It quickly became a very popular summer experience for thousands of people in the Washington, D.C., area. Its central feature was the Filene Center, an internationally known showcase for the performing arts. This theater was lost in a devastating fire on April 4, 1982, a tremendous loss not only to the Washington area but also to the nation. As a Federal facility, the theater was not insured, and its destruction has meant that the performing arts programs in the park have been curtailed or moved to a temporary structure.

We believe the enclosed legislation will enable the Wolf Trap Foundation to rebuild the theater quickly. It recognizes that the Foundation and the Federal Government are cooperative partners in this endeavor and provides financial assistance to aid in the prompt reconstruction of the Filene Center. The Federal Government will share the costs of reconstruction with the Wolf Trap Foundation by authorizing a grant for $9,000,000 and a loan, with interest, for an additional $9,000,000. We urge your support in this matter.

The Office of Management and Budget has advised that this legislative proposal is in accord with the program of the President.

Sincerely,

DONALD PAUL HODEL,
Under Secretary.●

● Mr. WARNER. Mr. President, Wolf Trap Farm Park was established on 100 acres of land, directly donated by Mrs. Catherine Filene Shouse, together with five usable buildings and funds for the construction of the Filene Center.

The Park has since been operated and maintained as a center for the performing arts and related educational programs, and for recreational use by the general public.

As we are all aware, the Filene Center burned to the ground on April 4, 1982. The Center was a Government-owned building and therefore was not insured. The Federal Government does not carry insurance on its buildings, but acts as a self-insurer. Therefore, technically, the Government is responsible for the complete restoration of the Filene Center.

However, Mr. President, we are all searching for ways to cut the size of the Federal budget—funds for projects such as this, as worthy as they may be, are simply not available.

Therefore, the administration was asked to set a policy concerning Federal funding for the reconstruction of the Filene Center. The Department of the Interior presented such a plan at a hearing I conducted on July 2. This plan is embodied in the legislation we are introducing today.

The plan calls for the Federal Government to cover only one-half of the reconstruction with a grant. The remaining 50 percent of the cost would come in the form of a loan that must be repaid promptly.

The destruction of the Filene Center has spurred a universal resolve to rebuild it as quickly as possible. Under Secretary of the Interior Donald Hadel has stated that a delay in rebuilding the Center, "Would be taken as a dereliction of our duty and an abandonment of Wolf Trap." Everyone from schoolchildren and their parents to corporate leaders—wants to accomplish this without delay. The Wolf Trap Foundation for the Performing Arts and others have launched an extensive, and so far very successful, fundraising drive to rebuild the Center. However, the time required to raise the sums necessary to complete this project makes it doubtful that, without Federal assistance, it could ever be accomplished. The passage of this legislation would demonstrate a congressional commitment to this project and would be extremely helpful to fundraising efforts in the private sector.

Mr. President, it would be sad indeed if we were to abandon our support of the Wolf Trap Center for the Performing Arts. Wolf Trap is the only national park for the performing arts in America. Five and a half million people have enjoyed more than 23,000 artists from throughout this country and abroad in some 900 separate performances of nearly 600 different productions. In addition, millions more enjoyed the series of televised performances called "In Performance at Wolf Trap." The Center could accommodate 3,500 people under the roof with room for a further 3,000 on the lawn. All 6,500 had a clear view of the stage.

Wolf Trap provides a summer site for the National Symphony Orchestra and visiting groups such as the Stuttgart Royal and Joffrey Ballets, the New York City Opera, Metropolitan Opera, and New York, Philadelphia and Chicago Orchestras. Individual artists have ranged from Beverly Sills, Yehudi Menuhin, and Luciano Pavorotti to Tony Bennet, Liza Minelli, Ella Fitzgerald, and Johnny Cash.

Mr. President, I urge my colleagues to support this legislation so that we may construct a facility that will provide a proper setting for the high standards of performance established at Wolf Trap Farm Park.●

ADDITIONAL COSPONSORS

S. 1676

At the request of Mr. PERCY, the name of the Senator from California (Mr. HAYAKAWA) was added as a cosponsor of S. 1676, a bill to enhance the detection of motor vehicle theft and to improve the prosecution of motor vehicle theft by requiring the Secretary of Transportation to issue standards relating to the identification of vehicle parts and components, by increasing criminal penalties applicable to trafficking in stolen vehicles and parts, by curtailing the exportation of stolen vehicles and self-propelled mobile equipment, and by establishing penalties applicable to the dismantling of vehicles for the purpose of trafficking in stolen parts, and for other purposes.

S. 1767

At the request of Mr. CANNON, the name of the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 1767, a bill to transfer certain lands in Clark County, Nev., from the Department of Agriculture to the Frontier Girl Scout Council.

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2428

At the request of Mr. MATHIAS, the name of the Senator from Arizona (Mr DECONCINI) was added as a cosponsor of S. 2428, a bill to amend title 18 of the United States Code to strengthen the laws against the counterfeiting of trademarks, and for other purposes.

S. 2554

At the request of Mr. PERCY, the names of the Senator from North Dakota (Mr. ANDREWS), and the Senator from Iowa (Mr. GRASSLEY) were added as cosponsors of S. 2554, a bill to require the Commodity Credit Corporation to dispose of Government-owned stocks of agricultural commodities.

S. 2580

At the request of Mr. MATHIAS, the names of the Senator from Maryland (Mr. SARBANES), and the Senator from Arizona (Mr. DECONCINI) were added as cosponsors of S. 2580, a bill to establish the Christopher Columbus Quincentenary Jubilee Commission.

S. 2700

At the request of Mr. CANNON, the names of the Senator from New York (Mr. MOYNIHAN) was added as a cosponsor of S. 2700, a bill to amend title VXI of the Social Security Act to exclude from resources burial plots and niches and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2702

At the request of Mr. ANDREWS, the names of the Senator from Maine (Mr. COHEN), the Senator from Alaska (Mr. STEVENS), and the Senator from Arizona (Mr. GOLDWATER) were added as cosponsors of S. 2702, a bill to amend section 8(a) of the Small Business Act to treat businesses owned by Indian tribes as socially and economically disadvantaged small business concerns.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the names of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUYE, the name of the Senator from Connecticut (Mr. WEICKER), was added as a cosponsor of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day.".

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. SYMMS, the names of the Senator from Idaho (Mr. MCCLURE), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Concurrent Resolution 113, a concurrent resolution recognizing and saluting the Benevolent and Protective Order of the Elks for its leadership in volunteerism in the United States.

AMENDMENT NO. 1952

At the request of Mr. KENNEDY, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of Amendment No. 1952 intended to be proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act and for other purposes.

AMENDMENT NO. 1953

At the request of Mr. KENNEDY, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of Amendment No. 1953 intended to be proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENT NO. 1956

At the request of Mr. KENNEDY, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of Amendment No. 1956 intended to be proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

MISCELLANEOUS TAX ACT OF 1982

AMENDMENT NOS. 1959 AND 1960

(Ordered to be printed and to lie on the table.)

Mr. KASTEN submitted two amendments intended to be proposed by him to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

AMENDMENT NOS. 1961 THROUGH 1963

(Ordered to be printed and lie on the table.)

Mr. MATTINGLY submitted three amendments intended to be proposed by him to the bill (H.R. 4961) supra.

AMENDMENT NO. 1964

(Ordered to be printed and lie on the table.)

Mr. DIXON submitted an amendment intended to be proposed by him to the bill (H.R. 4961) supra.

AMENDMENT NOS. 1965 THROUGH 1972

(Ordered to be printed and lie on the table.)

Mr. FORD submitted eight amendments intended to be proposed by him to the bill H.R. 4961, supra.

AMENDMENT NOS. 1973 AND 1974

(Ordered to be printed and lie on the table.)

Mr. LONG submitted two amendments intended to be proposed by him to the bill H.R. 4961, supra.

AMENDMENT NO. 1975

(Ordered to be printed and lie on the table.)

Mr. DIXON (for himself and Mr. NUNN) submitted an amendment intended to be proposed by them to the bill H.R. 4961, supra.

AMENDMENT NO. 1976

(Ordered to be printed and to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill H.R. 4961, supra.

AMENDMENT NO. 1977

(Ordered to be printed and to lie on the table.)

Mr. BENTSEN submitted an amendment intended to be proposed by him to the bill H.R. 4961, supra.

NOTICES OF HEARINGS

SUBCOMMITTEE ON INTERNATIONAL FINANCE AND MONETARY POLICY

Mr. HEINZ. Mr. President, on Thursday, July 22, 1982, the subcommittee on International Finance and Monetary Policy of the Committee on Banking, Housing, and Urban Affairs will be conducting a hearing on Senate bills S. 2712, S. 2732, and S. 2616. These bills have arisen out of the recent competition for the sale of subway cars to New York City's Metropolitan Transit Authority.

The hearing will examine the recent Treasury Department decision to deny relief under section 1912 of the Export-Import Bank Act to an American producer in competition with a foreign producer benefiting from officially subsidized export credits. The implication of the Treasury decision for mass transit policy, American industrial competitiveness, and the viability of the international arrange-

ment on official export credits will also be considered.

Witnesses will include representatives of industry, labor, and Federal and local governments. The hearing will be held in room 5302 of the Dirksen Senate Office Building, commencing at 1:30 p.m.

SUBCOMMITTEE ON RURAL DEVELOPMENT, OVERSIGHT, AND INVESTIGATIONS

Mr. ANDREWS. Mr. President, as chairman of the Senate Agriculture Subcommittee on Rural Development, Oversight, and Investigations, I wish to announce that a hearing has been scheduled to review the rural development loan programs administered by the Farmers Home Administration. The subcommittee is interested in how FmHA administration of these programs affects overall rural development policy.

The hearing will be held on Tuesday, July 27, beginning at 9:30 a.m. in room 324 Russell Building.

Anyone wishing further information should contact Denise Alexander of the Agriculture Committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON WATER AND POWER

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Water and Power, of the Energy Committee, be authorized to meet during the session of the Senate at 10 a.m. on Tuesday, July 20, to consider S. 2568, pertaining to the Dallas Creek portion of the Upper Colorado project.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

RUBLES ON THE BARRELHEAD

● Mr. LUGAR. Mr. President, the Reagan administration is currently considering what type of trade relationship the United States is to have with the Soviet Union. Specifically, the administration is considering how and under what circumstances grain trade is to continue with the Soviet Union.

I am confident that no one doubts that grain exports are an important aspect of the American farm economy. I am confident, too, that no one doubts that a long-term agreement on grain trade offers the United States the best possible protection against disadvantageous buying practices by the Soviet Union.

The reason that a new long-term grain agreement has not already been negotiated lies in the realm of foreign policy and not economics. It has been said that the United States ought not to help the Soviet Union, particularly as long as its repression continues in Poland. It is said, too, that we cannot consistently expect the European nations to restrict their participation in the Soviet natural gas pipeline as long as the United States continues to export grain to the Soviet Union.

But the fact is that U.S. grain trade is a far different enterprise than the natural gas pipeline. U.S. grain trade is not based upon the extension of credit, and it is certainly not based upon the extension of subsidized credit. Grain is traded in exchange for cash. The natural gas pipeline, on the other hand, will be financed at subtantially subsidized rates by West European nations. This point is made clearly in the Wall Street Journal editorial of July 19 entitled "Rubles on the Barrelhead." "The big problem with the Siberian pipeline deal is that it will be financed with Western capital at below-market rates."

The editorial draws the correct conclusion: "If the Europeans sold pipelines on the same terms that the United States sells grain, there would be no problem." The reality is that without European government backing for a substantial portion of credit for the Soviet Union, there would not likely be sufficient private capital forthcoming to construct the gas pipeline at this point.

Our trade relationship with the Soviet Union must be based on a policy which serves our national interest. This requires a policy which is coherent, clear, and consistent. I am hopeful that the administration and Members of the Congress will consider carefully the points raised in the Wall Street Journal editorial, and I ask that it be reprinted in full.

The editorial referred to is as follows:

RUBLES ON THE BARRELHEAD

Our European allies, not to mention critics in the U.S., have been clamorously insisting that there is a huge inconsistency in Reagan administration policy on East-West trade. While we try to torpedo the Siberian gas pipeline deal with Western Europe, the U.S. grain trade continues unabated.

Some wind may go out of that argument in coming days if, as expected, the Reagan administration announces its refusal to negotiate a new long-term agreement with Moscow. Most observers think the administraton, balancing election-year realities against European complaints, will opt for a one-year extension of the agreement, which dates from 1975.

But this isn't likely to silence the complaints, since the Soviets would still be free to buy a lot of U.S. grain in the coming year. The real point that the administration should be trying to make to its critics is that the grain trade/pipline analogy is misplaced. If the Europeans sold pipelines on the same terms that the U.S. sells grain, there would be no problem.

As we have so often said, the big problem with the Siberian pipeline deal is that it will be financed with Western capital at below-market rates. This not only represents a large net transfer of resources to our sworn enemy, it makes the Western financial system vulnerable to future Soviet economic and political demands. When the Europeans made it clear they didn't intend to abide by even the minimal credit restraints of the Versailles communique, Mr. Reagan had no choice but to take the direct action against the pipeline. Ex those subsidies, he would see no huge objection to the pipeline deal—though we question whether there would be any deal.

The U.S. grain sales to the Soviets receive no such credit subsidies. In 1973, the Soviets moved suddenly into the grain markets, not only acting on inside information about their own bad harvest, but taking advantage of U.S. taxpayer-funded programs to subsidize grain exports. This became known as the "Great Grain Robbery," and the U.S. quickly took steps to see that it would not happen again. Indeed, this was the origin of the long-term agreement to stabilize the grain trade—on a non-subsidized basis.

Not only that, but the Soviets do not receive the ordinary Commodity Credit Corp. loans for grain exports, or for that matter subsidies for manufactured goods. This is prevented by the lack of Most Favored Nation status, banned by the Jackson-Vanik amendment on Jewish immigration from the U.S.S.R. Given the purpose of the amendment, its effect is a bit fortuitous; too bad MFN status was not also denied Poland, where the CCC got stuck for a bundle. But nonetheless the U.S., unlike its European allies, has not been given subsidies to the Russians.

What the critics seem to be arguing is that only a grain embargo would make Reagan policy consistent on the pipeline. There may be occasions when a trade embargo is necessary. As a practical matter, however, embargoes seldom seem to work very well; in general, policy seems to work best when it works with the markets, rather than against them.

But this is true of credit subsidies as well. So we see no inconsistency in American policy. We are merely asking the Europeans to impose the same restraints on themselves as the U.S. has for some years. In Soviet trade, the principle should be rubles on the barrelhead. Better yet, hard currency on the barrelhead.●

PROPOSED ARMS SALES

● Mr. PERCY. Mr. President, section 36(b) of the Arms Export Control Act requires that Congress receive advance notification of proposed arms sales under that act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has 30 calendar days during which the sale may be prohibited by means of a concurrent resolution. The provision stipulated that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications which have been received. Any portion which is classified information has been deleted for publication, but is available to Senators in the office of the Foreign Relations Committee, room 4229, Dirksen Building.

The material referred to follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 1, 1982.
In reply refer to: I-02168/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C. 20510

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding under separate cover Transmittal No. 82-66, concerning the Department of the Navy's proposed Letter of Offer to Japan for defense articles and services in excess of $50 million. Since most of the essential elements of this proposed sale are to remain classified, we will not notify the news media.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL No. 82-66

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act.

(i) Prospective purchaser: Japan.

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$16
Other	$74
Total	$90

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: [Deleted.]

(iv) Military department: Navy (AFM).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 1, 1982.

POLICY JUSTIFICATION

[Deleted.]
[Deleted.]
[Deleted.]
[Deleted.]

The sale of this equipment and support will not affect the basic military balance in the region.

[Deleted.]

Implementation of this sale will require the assignment of one additional U.S. Government employee and five contractor representatives to Japan for nine years.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C. July 6, 1982.
In reply refer to: I-02169/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-67, concerning the Department of the Air Force's proposed Letter of Offer to Japan for defense articles and services estimated to cost $56 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

WALTER B. LIGON.
Acting Director.

TRANSMITTAL No. 82-67

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Japan.

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$44
Other	$12
Total	$56

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Two C-130H aircraft with spares and support equipment.

(iv) Military department: Air Force (SDU).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 6, 1982.

POLICY JUSTIFICATION

JAPAN—C-130H AIRCRAFT AND SUPPORT

The Government of Japan has requested the purchase of two C-130H aircraft with spares and support equipment at an estimated cost of $56 million.

Japan is one of the major political and economic powers in the East Asia and the Western Pacific and a key partner of the United States in ensuring the peace and stability of that region. It is vital to the U.S. national interest to assist Japan in developing and maintaining a strong and ready self-defense capability which will contribute to an acceptable military balance in the area. This sale is consistent with these U.S. objectives and the 1960 U.S.-Japan Treaty of Mutual Cooperation and Security.

These C-130H aircraft will be used in a transport role in support of the Japan Self Defense Force.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Lockheed Corporation of Marietta, Georgia.

Implementation of this sale will require the assignment of approximately one additional U.S. Government and three U.S. contractor personnel to Japan for a minimum of one year.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 6, 1982.
In reply refer to I-02151/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-68, concerning the Department of the Army's proposed Letter of Offer to Greece for defense articles and services estimated to cost $47 million. Shortly after this letter is delivered to your office, we plan to notify the news media.

You will also find attached a certification as required by Section 620C(d) of the Foreign Assistance Act of 1961, as amended, that this action is consistent with Section 620C(b) of that statute.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL No. 82-68

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Greece.

(ii) Total estimated value:

	Millions
Major defense equipment[1]	$44
Other	3
Total	47

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Forty-eight M109A2 155mm self-propelled howitzers with support equipment, spare parts, and services.

(iv) Military department: Army (WPJ).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: None.

(vii) Section 28 report: Included in report for quarter ending June 30, 1981.

(viii) Date report delivered to Congress: July 6, 1982.

POLICY JUSTIFICATION

GREECE—HOWITZERS

The Government of Greece had requested the purchase of forty-eight M109A2 155mm self-propelled howitzers with support equipment, spare parts, and services at an estimated cost of $47 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Greece in fulfillment of its NATO obligations; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

This weapon system is required by the Government of Greece to augment and upgrade medium artillery already on-hand in the Hellenic Army (HA). The HA will have no difficulty in absorbing this weapon system since it already has 51 of the earlier M109A1 configuration howitzers. These items will be provided in accordance with and subject to the limitations on use and transfer provided for under the Arms Export Control Act, as embodied in the terms of the sale.

The sale of this equipment and support will not adversely affect either the basic military balance in the region or U.S. efforts to encourage a negotiated settlement of the Cyprus question.

The prime contractor will be the Bowen-McLaughlin-York Company of York, Pennsylvania.

Implemtation of this sale will require the assignment of no more than two additional U.S. Government or contractor personnel to Greece for a period of about five days.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

UNDER SECRETARY OF STATE FOR SECURITY ASSISTANCE, SCIENCE AND TECHNOLOGY,
Washington, D.C., June 29, 1982.

Pursuant to section 620C(d) of the Foreign Assistance Act of 1961, as amended (the

Act), and the authority vested in me by Department of the State Delegation of Authority No. 145, I hereby certify that the provision to Greece of 48 M109A2 self-propelled howitzers is consistent with the principle contained in section 610C(b) of the Act.

This certification will be made part of the certification to the Congress under section 36(b) of the Arms Export Control Act regarding the proposed sale of the abovenamed articles and is based on the justification accompanying said certification, and of which such justification constitutes a full explanation.

JAMES L. BUCKLEY.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 13, 1982.
In reply refer to I-20096/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-70 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter of Offer to Malaysia for defense articles and services estimated to cost $260 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL No. 82-70

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Malaysia.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$160
Other	100
Total	260

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Fourteen F-5E and two F-5F aircraft with government-furnished aeronautical equipment, support equipment, and spares.

(iv) Military Department: Air Force (SDA).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending June 30, 1982.

(viii) Date report delivered to Congress: July 13, 1982.

POLICY JUSTIFICATION

MALAYSIA—F-5 AIRCRAFT

The Government of Malaysia has requested the purchase of 14 F-5E and two F-5F aircraft with government-furnished aeronautical equipment, support equipment, and spares at an estimated cost of $260 million.

This sale is consistent with the U.S. policy of assisting other nations to provide for their own defense and security. Malaysia, a key member of the Association of Southeast Asian Nations and strategically located along the Strait of Malacca, has assumed a position of regional importance thus supporting reasonable requests for defense articles and services. It is believed that this purchase by Malaysia, part of its planned defense modernization program, will contribute to regional stability and be viewed by moderate neighboring states as evidence of U.S. support for their independence.

Malaysia needs additional fighter aircraft to expand its defensive capabilities in view of Soviet-backed Vietnamese aggression in the area and because of the recent decision of Australia to decrease the number of fighter aircraft based in Malaysia. These newly purchased aircraft will be employed primarily in an air defense role with a backup mission of providing ground attack support for conventional and counter-insurgency operations. The sale will allow the Royal Malaysian Air Force to use existing facilities, supply support arrangements, and technicians. No significant support or operational problems are anticipated.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Northrop Corporation of Hawthorne, California.

Implementation of this sale will not require the assignment of any additional U.S. Government or contractor personnel to Malaysia.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, D.C., July 13, 1982.
In reply refer to I-01804/82ct.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 82-71 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Army's proposed Letter of Offer to Singapore for defense articles and services estimated to cost $30 million. Shortly after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

WALTER B. LIGON,
Acting Director.

TRANSMITTAL No. 82-71

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b) of the Arms Export Control Act

(i) Prospective purchaser: Singapore.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$22
Other	8
Total	30

[1] As defined in Section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Six AN/TPQ-36 mortar locating radar systems with required support equipment, spare parts, and support services.

(iv) Military department: Army (URK).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending June 30, 1982.

(viii) Date report delivered to Congress: July 13, 1982.

POLICY JUSTIFICATION

SINGAPORE—AN/TPQ—36 RADAR SYSTEMS

The Government of Singapore has requested the purchase of six AN/TPQ-36 mortar locating radar systems with required support equipment, spare parts, and support services at an estimated cost of $30 million.

This proposed sale will contribute to the foreign policy and national security objectives of the United States by helping to improve the security of a friendly country which is a continuing force for peace and regional stability in Southeast Asia since Singapore's location allows access to both the Indian and Pacific Oceans.

Recognizing that its small size could make Singapore a target of aggression, Singapore's defense strategy has been to make it clear that an attack would be unprofitably expensive. The AN/TPQ-36 mortar locating radar system would enable Singapore forces to locate and bring immediate fire upon enemy mortar, artillery, and rocket-launching positions, silencing them before they can adjust their fire on friendly units and positions. Singapore has both the technical competence and maintenance facilities necessary to absorb the mortar locating radar. This weapons system will enhance Singapore's capability to defend itself and the sea lanes and facilities vital to the free world.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Hughes Aircraft Corporation of Fullerton, California.

Implementation of this sale will require the assignment of two additional U.S. Government personnel and one contractor representative to Singapore for four months.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

THE EIGHTH ANNIVERSARY OF THE INVASION OF CYPRUS

● Mr. KENNEDY. Mr. President, today marks the eighth anniversary of the Turkish invasion of the Republic of Cyprus. Thirty thousand Turkish troops continue their illegal occupation of the island, and 200,000 Cypriots remain separated from their homes and land.

The intransigence of Turkey and of the Turkish Cypriots must stop. Instead, they must put forth serious proposals to achieve a just and lasting peace. For such a peace to be lasting, it must recognize the legitimate rights of all Cypriots, Greek and Turkish.

I have urged in the past, and will continue to urge the Reagan administration to press for a settlement that will address with full justice the needs of both parties to the conflict. The United States should support the complete implementation of United Nations Resolution 3212, including the withdrawal of all Turkish military forces from Cyprus, the complete accounting of all those missing as a result of the invasion, the return of all refugees to their homes, the cooperation of all parties in achieving a negotiated solution, with full peace and respect for human rights in Cyprus. I am proud that, at my request, the

Democratic Party has expressed its support for these objectives in both the 1980 platform and the 1982 statement of the National Party Conference.

Mr. President, the people of Cyprus deserve far better than successive anniversaries marking the failure to achieve the withdrawal of Turkish troops from their land. This tragic situation has gone on for too long. Let us strive to insure that the next anniversary we celebrate is one marking the foundation of an independent Cyprus which respects the rights of all its inhabitants.●

KEEPER OF THE FLAME

● Mr. GOLDWATER. Mr. President, too often in the normal day-to-day routine that absorbs so much of our time, we tend to overlook the very reasons for our existence as a free nation. Here, in our Nation's Capital, we are surrounded by symbols that represent the meaning and the power of a free, democratic society. Yet, the most famous of our national symbols stands on an island in the harbor of New York City. The Statue of Liberty is not only a constant reminder of what we are and who we are but it also stands as a beacon of hope for the less fortunate people of the world. In a recent article in the New York Times, Charlie DeLeo described his feelings concerning what this unique monument meant to him and what he felt it symbolized to the world. Mr. DeLeo writes that "this 225-ton woman symbolizes much of what Americans hold dear—the active pursuit of freedom, a generous spirit and the welcoming of all peoples regardless of their backgrounds or circumstances."

Mr. President, I would like to thank the author for having written this article, and I ask that it be printed in the RECORD for my colleagues to enjoy.

The article follows:

[From the New York Times, July 5, 1982]

KEEPER OF THE FLAME

(By Charlie DeLeo)

I've known her since the age of 9 when my fourth-grade teacher took our class of Lower East Side kids on a ferry ride to visit "Miss Liberty." I was spellbound, overawed by the 302-foot (including her pedestal) structure towering above us, giddy over the adventure of climbing the narrow, winding 16-story staircase to the crown. A little fearful, our class gathered in front of the 23 windows in her diadem and stared down at the toylike ships in New York Harbor.

I felt a small shiver during that moment. It was the beginning of a beautiful, mystical relationship. Our teacher explained that this 225-ton woman symbolized much of what Americans hold dear—the active pursuit of freedom, a generous spirit and the welcoming of all peoples regardless of their backgrounds or circumstances.

As I grew older, I visited Miss Liberty on my own, or sometimes a friend and I would go on a summer's day to picnic in her shade and follow her gaze out to sea. Her look, I thought, was serene but resolute. There was an expression of strength and courage sculpted into her features.

In my late teens, I left my home and New York and the guardian of its harbor to go to Vietnam. When I returned home in 1969, I went aimlessly from one job to the next. I couldn't discover why.

On a spring day in 1972, I decided to take the ferry out to Miss Liberty's 12-acre island and collect my thoughts. As the boat plowed through the choppy waters, I felt an urging that I'd never experienced before. But there it was, very insistent. *Ask for a job here!* So, when I stepped off the boat, I walked into the office and did just that, and I was hired on the spot.

As a member of the maintenance crew, I scraped and painted Liberty's spiral staircases, cleaned her windows and replaced them with screens for the warm months, swept her paths and picked up candy wrappers and soda cans left behind by her visitors. Here at last I was caring for something, an intricate part of our heritage. My grandparents were among the throngs standing at a ship's railing, straining to catch the first glimpse of this statue; I feel fortunate to be one of those people responsible for her care.

Sometimes I take a coffee break while perched on one of her eight-foot-long fingers, where I sit in the open air 34 stories above the harbor. What a curious, great sensation to feel the brisk harbor breezes pushing at me and yet all the while feeling secure in that precarious place, secure in the hand of Liberty.

Liberty holds in her left hand a tablet emblazoned with our date of independence, "July IV, MDCCLXXVI." But it is what she holds in her right hand that has consistently fascinated me.

I remember the day, shortly after I began working at the statue, when I unlocked the metal gate leading to her right arm. I slowly climbed the 42-foot ladder—closed to tourists now—leading me through Miss Liberty's arm. The ladder, only 12 inches wide, ended at a trapdoor. I put my shoulder to the hatch and came out to the most glorious view of the Verrazano Bridge, New Jersey flatlands, Brooklyn docks and Manhattan skyscrapers.

There I was, standing just below the torch, its 200 panes of amber glass sending out a 2,000-watt beacon from four high-intensity sodium vapor lamps. I was so drawn to this lofty hideaway with its bird's eye view of God's world that I often took my lunch up there.

My supervisor learned of my frequent trips up to the torch and called me into his office one day. I knew he was going to yell at me because the right arm and torch were off limits.

Instead, he said, "Well, since you're spending so much time up there, I thought we'd just put you in charge of it. You'll have to keep the glass cleaned, check the stairs, maintain the area and see to it that the flame is always burning. What do you say?"

So now I'm the Keeper of the Flame. And I climb up every day to check the lamps and polish the amber panes so that the rays of light will continue to reach as far as possible.

The afternoon sun is high as I look out over the railing—out to the sea and the lands beyond, then over to the mainland with its factories and rows of homes and stiltlike office buildings. I think beyond to the suburbs and to the farms and to the cities and villages beyond them—to all parts of America.

And I say a prayer for all Americans. I pray that we will enjoy the fullness of life in the spirit of liberty; that we will cling to those ideals that have made our country a beacon around the world, and that every man, woman and child will come to know life, liberty and the pursuit of happiness that God intended for us all.●

CYPRUS WILL NOT AND CANNOT BE FORGOTTEN

● Mr. TSONGAS. Mr. President, July 20 marks the eighth anniversary of the Turkish invasion of Cyprus. Today, we must renew our pledge to bring about a prompt and just settlement of the conflict in Cyprus, and restore, at long last, that nation to its own people.

Since 1974, over 200,000 Greek Cypriots live as refugees in their own country; another 2,000 are listed as missing persons. Thirty thousand Turkish troops continue to occupy the island at an enormous cost to the economically distressed Government of Turkey. This situation is a strong deterrent to any solution which may otherwise be reached, and an obvious drain on a military budget heavily supported by U.S. foreign aid dollars. This year President Reagan proposed an increase in military assistance to Turkey of $50 million. Fortunately, the Senate Foreign Relations Committee struck down this amount, and restored $15 million which had been eliminated by President Reagan in aid to Cyprus. Certainly the President's proposal ignored the real needs in Cyprus, and is an insensitive response to the concerns of Greeks, Cypriots, and Greek-Americans alike.

Aside from financial considerations, the unstable situation in Cyprus jeopardizes our security interests in the Eastern Mediterranean and is the major impediment in the restoration of friendly relations between our NATO allies, Greece, and Turkey. The United States can play a role in reducing tension and insuring the return of stability in the region.

We must send a clear message to both Turkey and our own administration—that Cyprus will not and cannot be forgotten. A settlement on Cyprus is essential to its humanitarian and economic goals, as well as to U.S. foreign policy objectives in the Aegean. I remain committed to working for a peaceful resolution to this tragic problem.●

AMERICA'S FREEDOM RIDE

● Mr. LUGAR. Mr. President, on September 17, 1982, America will celebrate the 200th anniversary of the Constitution. In recognition of this historical passing, America's Freedom Ride will be staging a 9,500 mile continuous bicycle journey through all 50 States. This historic journey will begin

August 2 in New York City and culminate on the steps of the National Archives where the Constitution is kept.

It is with great pleasure that I take this opportunity to lend my support to America's Freedom Ride commemoration of the 200th anniversary of the Constitution. After the Declaration of Independence, the next important document in our national history is the Constitution. I appreciate the opportunity to pay tribute to a document unique in the history of the world.

America's Freedom Ride symbolizes several charateristics embodied in our constitutional heritage. As a participatory event, it requires mutual cooperation, individual initiative, and sacrifice. These are hallmarks of the American spirit and have time and again contributed to making ours a great and free Nation. America's Freedom Ride will also serve as an example of the personal and national benefits of improved personal physical fitness.

One of our most pressing problems today is the need for adequate and cost-effective health care. No amount of redistribution or additional Government control will serve to restrain health costs. Self-help and personal responsibility are the only sure routes to reduced costs and a healthier America. Cycling through the cities and countryside will encourage physical fitness and contribute to the development of happy, healthy, and harmonious individuals, and this makes for a stronger Nation.

I am hopeful that America's Freedom Ride will inspire all Americans to experience a more physically fit and productive lifestyle. This celebration should also remind all Americans of the sacrifices made by their ancestors and of their role in contributing to America's hopes for the future.●

CAPTIVE NATIONS WEEK

● Mr. ZORINSKY. Mr. President, this week, July 18–24, marks the 24th observance of Captive Nations Week in this country. With martial law continuing in Poland and the Afghanistan war dragging on, it is more important than ever that we pause at this time to remember the subjugation and enslavement of people under Soviet communism.

There now are more than 30 captive nations in Central Europe, Asia, Africa, Latin America, and within the Soviet Union itself. Their populations total some 1 billion people. But the desire for liberty and independence still lives in the hearts of the overwhelming majority of these conquered residents. And this desire constitutes a powerful deterrent to the wishes of their Communist oppressors.

These freedom-loving people continue to view the United States as the citadel of human freedom and human rights and as the leader in bringing about their ultimate independence.

Let us once again affirm our determination to work for the restoration of freedom for these captives. Their plight and suffering remain in our minds, just as the desire for freedom still burns in their souls. We shall not rest until the heavy yoke of communism is lifted, once and for all, from their shoulders.●

BISHOP JAMES OGLETHORPE PATTERSON

● Mr. METZENBAUM. Mr. President, the Ohio north jurisdiction of the Church of God in Christ is meeting in convention this week in Cleveland at the Calvary Hill Church of God in Christ.

The convention is a special occasion for two important reasons.

First, Mr. President, the convention will observe the 50 anniversary of the establishment of the Ohio north jurisdiction.

Second, the delegates to the convention will celebrate their golden jubilee in the presence of Bishop James Oglethorpe Patterson, the international presiding bishop of the Churches of God in Christ.

Bishop Patterson presides over a church with a worldwide membership of almost 3 million people, making it the world's third largest black voluntary organization.

Bishop Patterson, who was born in a small community in Mississippi in 1912, received his theological training at the Howe School of Religion in Memphis. He was ordained to the ministry in 1935. The first assignment of his long and distinguished career was as pastor to a congregation of only eight members.

It was not long, however, before Bishop Patterson was called upon to assume ever-increasing responsibilities within his church, among them general secretary, member of the board of directors, pastor of Pentecostal Temple, and manager of the publishing house of the Church of God in Christ.

In 1968 Bishop Patterson was elected to be his denomination's presiding bishop. Under his administration, a theological seminary has been established in Atlanta, a system of bible colleges has been created, and a Church of God in Christ hospital fund, a book store, and a thriving publishing house operate out of the Memphis headquarters of the church.

Bishop Patterson's life has been one of utmost dedication and I am pleased to join with Bishop Nobert S. Fields of the Ohio north jurisdiction, the convention delegates and the members of the Calvary Hill Church of God in Christ in welcoming this distinguished religious leader to Cleveland.●

REAGAN ADMINISTRATION OPPOSITION TO NUCLEAR TEST BANS

● Mr. CRANSTON. Mr. President, the reported decision by the Reagan administration yesterday to abandon efforts to achieve a comprehensive ban on nuclear bomb tests demonstrates once again the radical nature of the nuclear arms policies of President Reagan.

President Reagan has already opposed ratification of SALT II, a treaty negotiated under three administrations, Democratic and Republican, and signed by the Presidents of the United States and the Soviet Union.

And the Reagan administration has recently given the green light to commercial use of nuclear weapons grade plutonium around the world as an everyday article of international commerce.

Yesterday's decision against any further efforts toward a nuclear test ban is but another of these steps which isolate the United States in the international community. It places emphasis on an arms buildup instead of on genuine, equitable, balanced arms reductions. Every President since John Kennedy has sought a comprehensive test ban. It is noteworthy that the administration was reluctant to explain its decision or even to announce its conclusion that still more nuclear bomb testing will improve our security because of fears of the reaction of the American people and our allies.

Today the White House has said it will reopen the Threshold Test Ban Treaty already signed and sent to the Senate because it is not satisfied with the extensive verification procedures worked out by the Ford administration and the Soviets. The Reagan administration insists on reopening verification provisions on a treaty—that because of its high threshold for nuclear tests—is relatively easy to verify. This extreme position bodes ill for the success of any arms control negotiations between the Reagan administration and the Soviet Union.●

FRANK P. MOOLIN, JR.

● Mr. MURKOWSKI. Mr. President, just prior to the Independence Day recess, I was saddened to learn of the demise of my friend, Frank P. Moolin, Jr. I had the distinct pleasure of working with Frank on the board of directors of Alaska International Industries for several years. In addition to his duties as chief executive officer of A.I.I., he served as special assistant to Mr. Neil Bergt, chief executive officer of Western Airlines.

Frank Moolin was most widely known for his work on the Alaska pipeline. Frank began working as senior project officer for the pipeline project in 1973 and, within 2 years,

was given full charge of construction—the largest construction project in the history of the free world. Upon completion of the pipeline, he was named construction man of the year.

Frank was a good friend and a fine professional who will be missed by all his friends and colleagues who knew him personally or worked with him.

The Anchorage Times has published an article about Frank Moolin which was an excellent portrayal of his accomplishments and I ask that it be printed at this point in the RECORD:

[From the Anchorage Times; June 30, 1982]

PIPELINE CONSTRUCTION FIGURE DIES OF LEUKEMIA

(By Jeff Berliner)

One of the most important figures in the construction of the trans-Alaska pipeline—Frank P. Moolin Jr.—died Tuesday in Seattle at the University of Washington hospital after a long battle against leukemia. He was 48.

Moolin was a key figure in the Alaska construction industry and was named Construction Man of the Year for the nation in 1976 by Engineering News-Record magazine.

At the time of his death, Moolin was on leave as president and chief executive officer of Alaska International Industries to work as special assistant to Western Airlines chairman Neil Bergt.

Arco Alaska Inc. hired Moolin in 1973 in San Francisco to begin engineering work on the pipeline. A year later he came to Alaska on loan to Alyeska Pipeline Co. He was the senior project manager overseeing a $4.3 billion budget with 400 active contracts. He was responsible for 14,000 workers at the 19 construction camps scattered along the pipeline route.

"Anything involved in pipeline construction—he was in charge of," said Kay Eliason who managed pipeline construction under Moolin's supervision. "He was the most significant person on the project—in complete charge of the entire pipeline construction."

Eliason remembers Moolin as "a very dynamic leader" who worked 20 hours a day. "He could keep more balls in the air than any juggler I've ever seen."

Moolin left his Fairbanks office and went out into the field in the last year of the project—taking personal command of getting the nation's largest private construction project completed.

It was his work in guiding the pipeline construction which earned Moolin the Construction Man of the Year award.

Following pipeline construction, he formed his own firm, Frank Moolin & Associates Inc. It is an energy engineering, management and construction firm working with Alaska International Construction. Both were subsidiaries of AII.

Moolin formed his company with 24 management supervisory personnel who worked under him in the pipeline days. In April 1978, Moolin became president and chief executive officer of AIC and a year and a half later was promoted to the presidency of AII.

AII owner Bergt then wooed Moolin to Los Angeles to help him guide Western Airlines when Bergt was named its chairman.

Before beginning his trans-Alaska pipeline work, Moolin helped supervise the $100 million DuPont Atomic Commission waste storage project.

From 1967-71 Moolin worked for Esso Research and Engineering Co. as project engineer for refineries in France, Singapore and parts of the Far East.

Prior to that; he was one of the four engineers who developed the Bay Area Rapid Transit System (BART) in the San Francisco area.

A Chicago native, Moolin graduated magna cum laude from the University of Illinois in civil engineering. He did graduate work at the Illinois Institute of Technology.

Moolin leaves his wife Ruth, a son Stephen, and a daughter Debra who is getting a civil engineering degree from Syracuse University.

His family is establishing a memorial fund to help up-and-coming civil engineering students. Contributions may be sent to the Frank Patrick Moolin Foundation, 2518 E. Tudor Road, Anchorage.

A private family burial service is being planned in Chicago.●

SERVICE SECTOR JOBS LEAD GOODS PRODUCTION JOBS

● Mr. INOUYE. Mr. President, on several recent occasions, I have brought to the attention of my colleagues articles which I think may be of interest, regarding the service sector and its economic significance.

There is a growing recognition of the importance of the service sector as the principal dynamic sector in the modern U.S. economy. Service jobs are those in which the value added derives from the labor and knowledge and do not yield a manufactured or processed product.

Current job category statistics collected by the Federal Government do not accurately emphasize the importance of services since they include many service jobs in the goods production category and excludes service jobs in retailing, utilities, transportation, and government. Notwithstanding these definitional problems, it is noteworthy that the Department of Labor reports that for the first time jobs in the service sector—consumer, financial, and service industries—have outstripped those in the goods production sector by approximately 300,000.

According to the New York Times, the New York region Commissioner of the Department's Bureau of Labor Statistics has noted, "The shift to a service economy has meant moves increasingly to knowledge workers. It's clear that we're moving into jobs of greater diversity and into jobs that are more interesting."

Much of the loss in the manufacturing sector has been due to the severe recession into which this country has slipped. In the long run, however, there is proceeding a more fundamental restructuring of this Nation's economy toward fewer jobs in manufacturing and increasingly toward services.

I ask that the article from the New York Times be reprinted in the RECORD at this time.

The article follows:

SERVICE INDUSTRIES GAIN IN JOB TOTALS

(By Damon Stetson)

Employment in the consumer, financial and service industries has moved above the job total in the production industry for the first time in the history of the American economy, according to Labor Department data.

By April these industries, the most rapidly growing sectors of the national job market, employed 24.3 million workers, about 300,000 above the number employed in the goods-producing sector, which includes manufacturing, construction and mining.

In discussing what he called an economic milestone, Samuel M. Ehrenhalt, Regional Commissioner of the Bureau of Labor Statistics, said the changed relationship reflected not only the long-term shift toward a more service-oriented economy but also the weakness in goods production that has resulted from the current recession.

JOBS ARE NOT ALL LOW-PAYING

"A substantial proportion of the service-oriented job growth," Mr. Ehrenhalt said, "has been in professional, technical, managerial, administrative and problem-solving sectors. By no means are they primarily in the low-pay end of the job spectrum.

"They range from top-level professionals to clerical and maintenance work. But clerical work and computer operation today require more knowledge than industrial operations, and maintenance work is more mechanized than ever. The shift to a service economy has meant moves increasingly to knowledge workers. It's clear that we're moving into jobs of greater diversity and into jobs that are more interesting."

From April 1981 to last April, employment in goods-producing industries was down by 1.3 million nationwide, compared with a gain of nearly half a million in the service and finance industries, Mr. Ehrenhalt reported.

Other sectors in the economy, including wholesale and retail trade, transportation, public utilities and government, employed 41.6 million people in April, down 280,000 from a year ago.

The continuing trend toward a service-oriented society, Mr. Ehrenhalt said, has been a factor in pulling more and more women into the workplace. The bulk of production jobs are blue-collar and are held by men, he said. But the largest occupational group today is clerical, whereas it used to be blue-collar operatives. Today, he said, 43 percent of men workers and 66 percent of women workers are in white-collar employment.

Many of the jobs in the service, financial and consumer sectors, particularly the more sophisticated jobs, tend to be in urban areas. Mr. Ehrenhalt said. This may offer some hope, he went on, for the revival of the cities and may also mean more interesting and challenging work in contrast to the routines and monotony of factory assembly lines.

The majority of the increases in service and finance employment over the year were in consumer areas such as health and personal services, amusement and recreation, educational and social services and nonprofit membership organizations. The employment totals in these rose by 333,000, or 2.7 percent, to 12,766,000 over the year.

235,000 MORE HEALTH SERVICE JOBS

Most of this rise, Mr. Ehrenhalt said, was in health services, which added 235,000 jobs over the year, to a total of 5,717,000.

Business service employment rose by 47,000 or 1.5 percent to 3,248,000, and financial services, which include banking, credit agencies, securities, insurance and real estate activities, moved up by 44,000, or 0.8 percent, to 5,312,000.

Other services, including automotive and repair, legal, engineering and accounting services, were up 71,000 or 2.9 percent. The largest increase among these in the last year was in legal services, which now employ 552,000 people, 32,700 more than a year earlier. Accounting services have also increased significantly, rising by 19,000 to 358,000 over the year.

In contrast to the increases in the service and finance sectors, Mr. Ehrenhalt said, there were steep recession-related declines in manufacturing, off 1.1 million or 5.5 percent, and construction, down 378,000 or 9.2 percent. But mining jobs rose by 200,000 over the year, mostly reflecting temporarily reduced employment levels in April 1981 resulting from the United Mine Workers strike in the coal industry.

THREE AREAS TRIPLED OVER 30 YEARS

Growth in the consumer, business and financial sectors has tripled in the last three decades, rising by 17 million. As of April, Mr. Ehrenhalt said, these industries accounted for more than 27 percent of all the nation's nonfarm payroll jobs, compared with 16 percent three decades ago. Meanwhile, production employment has fallen from 41 percent to slightly less than the current service figure.

From 1972 to 1981, the sharpest increase in jobs among the consumer, business and financial sectors was in business services, up 1.5 million, or 82 percent. There was a particularly sharp advance for legal services, a part of business services, which was up 261,000, or 96 percent.

There were also substantial increases in engineering and architectural services, up 231,000 or 68 percent, and accounting, auditing and bookkeeping services, up 131,000 or 64 percent.

Jobs in social services more than doubled in this period, rising by more than 600,000. Health service jobs rose by 2.1 million or 63 percent, and amusement and recreational services rose by 269,000 or 53 percent.

The smallest increase between 1972 and 1981 was in the financial services sector, where employment rose by 1.4 million or 36 percent. Jobs in the securities sector were up 58,000 or 29 percent over the nine-year period, while the number of jobs in the insurance industry was up 342,000, or 25 percent. Banking employment rose by half a million or 46 percent, and credit agencies other than banks added 200,000 jobs, a rise of 52 percent.

In the goods-producing area, by contrast, manufacturing jobs increased by 1,022,000 or 5.3 percent and construction jobs by 287,000 or 7.4 percent over the decade. The exception in this area was mining, in which employment rose by 504,000 or 80.3 percent. This reflected growing dependence on coal as a result of the oil shortages in the 1970's and increased exploration for gas and oil, Mr. Ehrenhalt said.●

NOTICE OF DETERMINATION BY THE SELECT COMMITTEE ON ETHICS

● Mr. WALLOP. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Mr. Mitch Tyson, legislative assistant to Senator PAUL TSONGAS, to participate in a program sponsored by a foreign educational organization, the Centre for Legislative Exchange, in Ottawa, Canada, on July 22-23, 1982.

The committee has determined that participation by Mr. Tyson in the program in Ottawa, at the expense of the Centre for Legislative Exchange, is in the interest of the Senate and the United States.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Ms. Judi Nowottnick, of the staff of Senator DANIEL P. MOYNIHAN, to participate in a program sponsored by a foreign educational organization, the Centre for Legislative Exchange, in Ottawa, Canada, from July 22-23, 1982.

The committee has determined that participation by Ms. Nowottnick in the program in Ottawa, at the expense of the Centre for Legislative Exchange, to discuss effective handling of large volumes of correspondence from the public, is in the interest of the Senate and the United States.●

ORDER FOR PRINTING ADDITIONAL VIEWS OF SENATOR HELMS

Mr. STEVENS. Mr. President, I ask unanimous consent that Senator HELMS' additional views be printed as part II of the report on Senate Joint Resolution 208, with regard to Presidential certifications on conditions in El Salvador.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering nominations on the Executive Calendar commencing with Calendar No. 853 and including Calendar Nos. 853, 854, and 855.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nominations will be stated.

AIR FORCE

The legislative clerk read the nomination of Maj. Gen. James A. Abrahamson to be lieutenant general.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

FEDERAL MEDIATION AND CONCILIATION SERVICE

The legislative clerk read the nomination of Kay McMurray, of Idaho, to be Federal Mediation and Conciliation Director.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL CREDIT UNION ADMINISTRATION

The legislative clerk read the nomination of Elizabeth Flores Burkhart, of Texas, to be a member of the National Credit Union Administration.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. STEVENS. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, there is a time for convening tomorrow morning; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, at 6:25 p.m., the Senate recessed until Wednesday, July 21, 1982, at 9 a.m.

Executive nominations confirmed by the Senate July 20, 1982:

FEDERAL MEDIATION AND CONCILIATION SERVICE

Kay McMurray, of Idaho, to be Federal Mediation and Conciliation Director.

The above nomination was approved subject to the nominee's commitment to re-

spond to requests to appear and testify before any duly constituted committee of the Senate.

NATIONAL CREDIT UNION ADMINISTRATION

Elizabeth Flores Burkhart, of Texas, to be a Member of the National Credit Union Administration for the remainder of the term expiring April 10, 1985.

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. James A. Abrahamson, [redacted] FR, U.S. Air Force.

HOUSE OF REPRESENTATIVES—*Tuesday, July 20, 1982*

The House met at 12 o'clock noon.

The Reverend Dr. Ronald E. Dunk, First United Methodist Church of Haddon Heights, N.J., offered the following prayer:

Eternal God, we, Your children, bow before You with grateful hearts. We thank You for this world, Your beloved creation. We thank You that, along with You, we are cocreators. Our task, Lord, is to strive to make our world better. We celebrate Your presence in our midst and seek Your loving guidance. We ask for wisdom in our appointed task. Open our minds and hearts to Your leading that our decisions would be made with deep empathy toward our brothers and sisters, Your children, throughout these United States and in the world that You loved and created. In Your holy name. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On June 22, 1982:

H.R. 6132. An act to amend section 5590 of the Revised Statutes to provide for adjusting the rate of interest paid on funds of the Smithsonian Institution deposited with the Treasury of the United States as a permanent loan.

On June 23, 1982:

H.R. 4. An act to amend the National Security Act of 1947 to prohibit the unauthorized disclosure of information identifying certain U.S. intelligence officers agents, informants, and sources; and

H.R. 5432. An act to authorize the presentation on behalf of the Congress of a specially struck gold medal to Adm. Hyman George Rickover.

On June 24, 1982:

H.R. 5566. An act authorizing appropriations to the Secretary of the Interior for services necessary to the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, and for other purposes; and

H.R. 5659. An act to authorize the Smithsonian Institution to construct a building for the National Museum of African Art and a center for Eastern art together with structures for related educational activities in the area south of the original Smithsonian Institution Building adjacent to Independence Avenue at Tenth Street Southwest, in the city of Washington.

On June 28, 1982:

H.J. Res. 519. Joint resolution to provide for a temporary increase in the public debt limit.

On June 29, 1982:

H.R. 3112. An act to amend the Voting Rights Act of 1965 to extend the effect of certain provisions, and for other purposes.

On June 30, 1982:

H.R. 1482. An act for the relief of Christina Boltz Sedders;

H.R. 3816. An act to improve the operation of the Fishermen's Contingency Fund established to compensate commercial fishermen for damages resulting from oil and gas exploration, development, and production in areas of the Outer Continental Shelf;

H.R. 3863. An act to amend the Poultry Products Inspection Act to increase the number of turkeys which may be slaughtered and processed without inspection under such act, and for other purposes.

H.R. 4569. An act to designate the U.S. Post Office Building in Hartford, Connecticut, as the "William R. Cotter Federal Building";

H.R. 4903. An act granting the consent of the Congress to an interstate compact between the States of Mississippi and Louisiana establishing a commission to study the feasibility of rapid rail service between the two States;

H.R. 6631. An act to authorize humanitarian assistance for the people of Lebanon;

H.J. Res. 230. Joint resolution imploring the Union of Soviet Socialist Republics to allow Dr. Semyon Gluzman and his family to emigrate to Israel; and

H.J. Res. 518. Joint resolution to designate the week commencing with the fourth Monday in June 1982 as "National NCO/Petty Officer Week."

On July 12, 1982:

H.R. 3127. An act for the relief of S. Sgt. Anne M. Fisher, U.S. Army Reserve; and

H.R. 6451. An act to amend title 10, United States Code, to revise and codify the permanent provisions of law relating to military construction and military family housing.

On July 18, 1982:

H.R. 6685. An act making urgent supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

THE REVEREND DR. RONALD DUNK

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, it is a special privilege to welcome Dr. Ronald Dunk, pastor of the First United Methodist Church of Haddon Heights, N.J., as guest chaplain before the House of Representatives.

Dr. Dunk is the first minister to address the House from my district in South Jersey during my service as a U.S. Representative. Dr. Dunk is a respected member of his congregation and community.

Dr. Dunk is embarking on his fifth year with the Haddon Heights Church. In addition to serving his church, he is an avid participant in community affairs. Dr. Dunk is a member of the Lions Club and an applicant to the Juvenile Conference Committee. He has just recently received his doctorate of ministry from Drew University.

Originally from Bridgeport, N.J., Dr. Dunk has served United Methodist Churches in Milltown, South Amboy, and Bricktown. During his 15 years in Bricktown, he was bestowed several awards. In 1964, Dr. Dunk was presented with the Jaycees Distinguished Service Award, and in 1977, was named Citizen of the Year.

Dr. Dunk resides in Haddon Heights with his wife Alice and their five children: MaryBeth, Alisa, Carl, Paul, and Mark.

I am indeed pleased and honored to have sponsored Dr. Ronald Dunk to deliver the invocation for this morning's session of the U.S. House of Representatives.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the first individual bill on the Private Calendar.

REMEDIOS R. ALCUDIA, CHRISTOPHER, EZRA, VERMILLION, AND PERISTELLO ALCUDIA

The Clerk called the bill (H.R. 1547) for the relief of Remedios R. Alcudia, Christopher, Ezra, Vermillion, and Peristello Alcudia.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

LASZLO REVESZ

The Clerk called the bill (H.R. 1352) for the relief of Laszlo Revesz.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JENNIFER FERRER

The Clerk called the bill (H.R. 1830) for the relief of Jennifer Ferrer.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER. This concludes the call of the Private Calendar.

IRA BOMBING

(Mr. SHANNON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHANNON. Mr. Speaker, several terrorist bombs have gone off in London, and the Irish Republican Army says it is responsible.

Friends of Ireland in the United States must ask: Why do those who claim to advance Irish unity march this hopeless path of destruction?

These killers convey a truth that they themselves fail to understand.

A peaceful and united Ireland can never be built on a foundation of bloody, innocent corpses.

Every time a bomb goes off, the unification of Ireland becomes that much more distant.

Irish Americans recognize the IRA for what it is: Men who are dedicated to destruction and death and anarchy—not to the old dream of an Irish Republic.

I speak for all Irish Americans in offering my sympathy to the families of those who were killed and to those who were injured. And I express my deep hope that the perpetrators of these crimes will be quickly brought to justice.

IN SUPPORT OF CONGRESSMAN DELLUMS' SUBSTITUTE TO THE DEFENSE AUTHORIZATION BILL

(Mr. FAUNTROY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAUNTROY. Mr. Speaker, I want to commend my colleague from California, RONALD V. DELLUMS, for his leadership in offering to this body a full substitute to H.R. 6030.

Mr. DELLUMS' leadership on this matter is consistent with his contribution to the Congressional Black Caucus budget, known as the Fauntroy substitute, which was the only budget proposal which incorporated in its provisions the principles of the nuclear freeze.

The Dellums amendment in the nature of a substitute would save our Nation $55 billion by eliminating the MX missile, the Trident II, the Pershing II, and other high technology nuclear weapons which buy us no real security but merely escalate global insecurity.

I appreciate the work of my colleague in continually bringing to this body the challenge to examine our assumptions about the nature of the world's problems and reminding us of the levels of insecurity and danger that are the result of our present reliance on expensive and dangerous nuclear weaponry.

IRA VIOLENCE IS CONDEMNED

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, I wish to join the distinguished gentleman from Massachusetts (Mr. SHANNON) in expressing shock and outrage at the dastardly attack on innocent individuals in London, which has been claimed by the Irish Republican Army. It is yet another horrifying example of the obscene violence which has been perpetrated by this and other terrorist groups.

I hope that all Americans will respond with a shared determination to see that no funds or other support reach terrorist organizations in Ireland which could be used by them to continue the process of killing innocent men, women, and children in the Republic, Northern Ireland, the United Kingdom, or elsewhere. I also hope that all Members will take the opportunity to condemn this latest outrage.

HOUR OF MEETING ON TOMORROW

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 11 o'clock a.m. tomorrow.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so to ask the gentleman, is this being done in order to accommodate a Democratic Caucus? And it has been checked with our leadership, I understand.

Mr. FOLEY. If the gentleman will yield, the purpose is exactly as the gentleman suggests; it is for the purpose of permitting the holding of a Democratic Caucus, and it has been discussed with the leadership on the gentleman's side. There is no objection to the request, and it is a matter of accommodation that we have made in the past to each party for the purpose of these meetings.

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

THE SPEAKER'S COMMISSION ON THE PAGES

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. ALEXANDER. Mr. Speaker, I am announcing the convening of the Speaker's Commission on the Pages to be convened at 10 a.m. tomorrow, July 21, in room H-128 of the Capitol.

Members are invited to submit their views on the questions of whether the page system should be continued; if abandoned, how will the page services be performed, and by whom; if continued, what reforms are needed in such areas as housing and supervision?

But in order to complete the report of the Commission within a timely fashion and as soon as possible, Members are encouraged to submit their views in writing to me as Chairman of the Commission.

The following is the announcement of the appointment of this Commission:

WASHINGTON, D.C.,
July 19, 1982.

THE SPEAKER'S COMMISSION ON THE PAGES

The Speaker and the minority leader have appointed a commission to study the page system of the United States House of Representatives with instructions to report recommendations as soon as possible.

The following persons were appointed to serve on the Commission: Bill Alexander of Arkansas, Chairman; John Myers of Indiana; Jim Molloy, Doorkeeper; Joel Jankowsky, Esq.; and Charles Wiggins, Esq.

The purpose of the Commission is to review the page system, in all its aspects including whether it should be continued, the need for supervised housing or improved education.

This study is limited in scope and is not intended to duplicate the present inquiry to the House Committee on Standards of Official Conduct.

AIDING THE AIRLINES

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, I rise to oppose the Boeing 747 aid plan because we are refusing to accept our responsibility to admit the true purpose of this measure. We can spend additional hours debating the military usefulness of the C-5B over the 747, but

that is not the real question. Clearly, the 747 cannot perform the critically needed outsize airlift mission and we have a critical shortage in that type capability.

The real question we are debating today is whether or not the U.S. House of Representatives is going to use the Defense authorization bill as a vehicle to assist the economically ailing airline industry. Mr. Speaker, I submit that we should not.

I do not question the fact that many of our Nation's airlines are in financial difficulty. I do not question whether the U.S. House of Representatives should address this problem and, possibly, provide some relief. But if we are going to aid the airlines, let us admit it up front. Let us conduct hearings on the impact of airline deregulation. Let us analyze the facts. Let us make concrete proposals on that issue and that issue alone. Let us not jeopardize a vital military mission for the sake of expediency on an entirely separate issue.

Granted, the purchase of used 747 airplanes would provide cash for ailing airlines and, possibly, allow them to purchase more efficient aircraft. By the same token the Air Force would be crippled with a fleet of used commercial airplanes that are incapable of performing the defined military mission.

There is another aspect of this proposed purchase that has not been discussed fully. Thirteen of the surplus 747's are not owned by domestic airlines. They are owned by the manufacturer, the Boeing Co. Eight of the airplanes have been traded in by international carriers. Sale of these airplanes would aid the cash-strapped Boeing Co. So, even if we admit that this plan really is an aid package for the airline industry, let us make sure that we fully understand the implications of the proposed procurement.

If adopted, this amendment could achieve many actions. Some domestic airlines would receive cash for surplus airplanes. Those airlines that are not fortunate enough to have excess 747's will have their competitors subsidized. The airplane's manufacturer could sell excess 747's for which they have no other customers.

We can accomplish all this by merely ignoring the fact that we would erode further a seriously deficient airlift capability. To me, the losers, should we take such action as passing the 747 aid plan, would be the American taxpayer and our military personnel whose very lives will depend upon our ability to get necessary firepower and equipment where it needs to be and in time.

The only logical choice in this matter is to defeat the proposed amendment and proceed with the recommendations contained in the Defense authorization bill.

□ 1215

FEDERAL RESERVE FINALLY ACTS

(Mr. WHITTEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WHITTEN. Mr. Speaker, today's Washington Post carries the headline, "Fed Cuts Discount Rate to 11½ Percent," hinting eased interest rates.

The article then states, "The Fed's move to lower the so-called discount rate was seen by financial market analysts as promoting a general easing of interest rates."

Mr. Speaker, let us hope so. Behind this action is a formal and official request made on April 26, by me as chairman of the Appropriations Committee, to the General Accounting Office to review the actions of the Federal Reserve System, and the effect that monetary and fiscal policies are having on interest rates.

Mr. Speaker, this investigation has been proceeding since April 26. Apparently, from the Fed's action, it is having its effect. A final report by the GAO is due not later than August 31.

It is hoped that by that time, further action will be taken by Federal Reserve banks to reduce present high interest rates. Such action is a must.

THE PRODUCTION OF NERVE GAS

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, during the course of the military authorization bill, the gentleman from Wisconsin (Mr. ZABLOCKI), chairman of the Foreign Affairs Committee, and I will offer an amendment to delete funding for the binary chemical weapon, in other words, the nerve gas weapon. We do so because we have concluded that it is not militarily effective and that it is a waste of the taxpayers' dollar.

Furthermore, it breaks a 13-year policy, a wise policy, that was established by President Nixon in 1969, which distinguishes America from the Soviet Union when you consider the arms race that is taking place in the world today.

Members may have the impression that they have voted for binary weapons before. That is not so. Last year Members had an opportunity to vote on a provision which would build a building which could be used later on for the production of nerve gas. Today we have the big one. It is the question of whether or not we are going to break that wise policy and commence production of nerve gas.

We urge the Members to support the Zablocki-Bethune amendment when it comes to the floor.

ANOTHER CHANCE AT A BALANCED BUDGET

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, yesterday in the front of the Capitol we had a rally which defined for the Nation the fact that we are attempting to achieve a constitutional amendment on balancing the budget, and hopefully sometime before the end of this session of this House we will have a chance to vote on that particular issue.

I want to assure the Members that we are going to continue to have chances to vote on balancing the budget time and time again on other bills as they arise, because the law of the land, 95–435, requires a balanced budget. For instance, I want to tell the Members that when the defense authorization that we are considering comes up I intend to offer my amendment to have us consider the balanced budget in the context of defense as well. But I would warn many people who think that this is going to be a good place to vote to comply with the law which says a balanced budget after 1981. By passing my amendment, what we would do is give the President an opportunity to arrive at the balanced budget, not necessarily cutting it all out of defense, but taking it out of where it was needed in order to make defense comply with the balanced budget act.

So people who think that they are going to get a cheap vote against defense and vote for a balanced budget better think again, because what the law says is that we balance the whole budget, not just on the back of one Department, and the President could be in compliance simply by getting us to a balanced budget using all phases of the budget in that effort. My attempts are not to balance the budget on the backs of anyone. Just to balance the budget is the objective. And once we have defined the objective in a major authorization such as this one, we will hand the President the tools necessary to get the job done using not portions of the budget, but the whole of it.

REPORT ON RECONCILIATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PANETTA. Mr. Speaker, the conference report on the first concur-

rent resolution on the Budget for fiscal year 1983, adopted by the House on June 15, contained reconciliation instructions to nine House and eight Senate committees. A deadline of August 1 was set in the resolution for work on reconciliation legislation in the House. Votes on specific cuts and revenue increases may be scheduled before that date. In the Senate a July 20 deadline was set for all committees except the Finance Committee, which has a July 12 reporting date.

SPENDING REDUCTIONS

The reconciliation instructions ask for legislation that will result in reductions over the next 3 fiscal years. The outlay targets set in this year's first budget resolution are as follows: $6.573 billion for fiscal year 1983, $9.268 billion in fiscal year 1984 and $11.312 billion in fiscal year 1985.

As opposed to last year, the reconciliation process this year is limited to entitlement programs only. The principle areas assumed in the reconciliation instructions include reductions in cost of living provisions for military and civil service retirees, food stamps, SSI, AFDC, medicare, and medicaid. As always, the committees are free to follow these assumptions or implement any other approaches or to achieve the targeted reductions.

REVENUE INCREASES

This year's reconciliation also includes revenue increases. The Ways and Means Committee and the Senate Finance Committee will be working to meet the following revenue targets; $20.9 billion for fiscal year 1983, $36.0 billion for fiscal year 1984 and $41.4 billion for fiscal year 1985.

SUMMARY TABLE

Attached is a table that lists the reductions for each committee and the revenues assigned to the Ways and Means Committee. The Ways and Means Committee is already proceeding with markup on spending reductions.

We will continue to provide regular updates on the process and reconciliation measures.

CONFERENCE AGREEMENT

[In millions of dollars]

	1983	1984	1985
Agriculture:			
Budget authority	−779	−1,083	−1,428
2Outlays	−779	−1,083	−1,428
Armed Services:			
Budget authority	−213	−693	−1,231
Outlays	−213	−693	−1,231
Banking, Finance, and Urban Affairs:			
Budget authority			
Outlays	−695	−697	−687
Energy and Commerce:			
Budget authority	−514	−741	−815
Outlays	−675	−739	−811
Foreign Affairs:			
Budget authority		−2	−4
Outlays	−2	−8	−15
Merchant Marine and Fisheries:			
Budget authority	−4	−15	−27
Outlays	−4	−15	−27
Post Office and Civil Service:			
Budget authority		−242	−538
Outlays	−376	−1,061	−1,808

CONFERENCE AGREEMENT—Continued

[In millions of dollars]

	1983	1984	1985
Veterans Affairs:			
Budget authority	−77	−155	−155
Outlays	−77	−155	−155
Ways and Means:			
Budget authority	−595	−705	−928
Outlays	−3,755	−4,827	−5,168
Grand total:			
Budget authority	−2,179	−3,632	−5,119
Outlays	−6,573	−9,268	−11,312
Reconciliation of revenues	20,900	36,000	41,400

WHY NOT A COMPREHENSIVE NUCLEAR TEST BAN?

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, President Reagan has made his administration the first to abandon our Nation's longstanding commitment to a comprehensive test ban central to preventing the spread of nuclear weapons.

Real international peace and security is impossible in a world ruled by swelling arsenals of nuclear weapons. The 1963 aboveground ban, which at the time offered hope that nuclear proliferation could be stopped, has proved to be insufficient. Indeed, underground testing has become so commonplace that nuclear detonations are rarely reported to the public.

Since 1963 both the Soviet Union and the United States have recklessly expanded their nuclear stockpiles to a point where the world could be destroyed nine times over. But the rationale of a comprehensive test ban and an immediate nuclear freeze has escaped the President's policies. America's great, unending stream of knowledge and talent should be focused on ending the threat of nuclear confrontation, not on the testing of new nuclear weapons.

ACHIEVING A BALANCED BUDGET

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, yesterday President Reagan came to Capitol Hill to beat the drum for a constitutional amendment to balance the budget.

But there is no way we are going to achieve a balanced budget without significant reductions in military spending.

Pentagon spending takes up nearly 50 percent of the entire 1983 budget if one excludes social security and interest on the debt.

Unfortunately, the Reagan administration refuses to make any significant cuts in the Pentagon budget. Instead, the President plans to spend a staggering $1.6 trillion on the military over the next 5 years.

Today, when we consider the 1983 Defense Department authorization, we can trim billions of dollars of waste and mismanagement from next year's budget with just a few votes.

No one questions the need for a strong defense in today's troubled world. But the administration's military spending policies are far too excessive, are actually promoting waste and overspending, and are dangerously undermining our economy.

The President seems content just to talk about a balanced budget. Today we can actually do something to get spending under control by voting to eliminate Pentagon waste and mismanagement.

THE BALANCED BUDGET AMENDMENT

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MILLER of California. Mr. Speaker, a number of Members of this House are much better at demonstrating their support for a balanced budget out on the west side of the Capitol than on the floor of the House of Representatives.

Yesterday's rally was like an old-fashioned medicine show, with Ronald Reagan hawking a magic elixir, guaranteed to cure what ails the country.

But this was just show. If we could really eliminate deficit spending by passing an amendment, it would have happened long ago.

The budget amendment "elixir" is nothing but political snake oil to make the American people forget the $250 billion deficit endorsed by the Reagan administration.

Most of the people who were parading around outside yesterday—including 98 percent of the Republicans—voted against the "pay as you go" plan for achieving a balanced budget which would have drastically cut the deficit and produced a $27.5 billion surplus by 1985.

So as we debate the balanced budget amendment, let no one be fooled by the rhetoric. Voting for a balanced budget amendment is one thing; but the President and his supporters failed the real test—the test of voting for a balanced budget itself.

ONE LAST OPPORTUNITY TO ASSIST HOMEBUYERS

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, we have one last opportunity in

this fiscal year to provide much needed assistance to home buyers.

Yesterday, my colleague from Illinois (Mr. CORCORAN) and I met with President Reagan and Vice President BUSH because we do believe there is an alternative to the previous attempt to assist housing which was vetoed by the President.

That approach would have seriously aggravated the already bloated Federal deficit. Our approach is to transfer $1 billion in already appropriated funds from synfuels to assist housing through the mortgage revenue bond program already in place.

The President indicated that he would not oppose our initiative.

The soon-to-be-considered regular supplemental appropriations for fiscal year 1982 will give us an opportunity to vote on this proposal. It will give Members a real choice—continued subsidies for major corporations or grassroots assistance to home buyers and homebuilders and thousands of small businessmen and women all across America.

THIRD ANNUAL REPORT ON STATUS OF WEATHERIZATION ASSISTANCE PROGRAM—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore (Mr. KILDEE) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Agriculture, the Committee on Banking, Finance and Urban Affairs, and the Committee on Energy and Commerce:

(For message, see proceedings of the Senate of today Tuesday, July 20, 1982.)

THE 1981 ANNUAL REPORT ON ADMINISTRATION OF RADIATION CONTROL FOR HEALTH AND SAFETY ACT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the house the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committtee on Energy and Commerce:

(For message, see proceedings of the Senate of today, Tuesday, July 20, 1982.)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all of the three motions to suspend the rules.

CHARTER FOR AMERICAN EX-PRISONERS OF WAR

Mr. SAM B. HALL, JR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5380) to recognize the organization known as American Ex-Prisoners of War, as amended.

The Clerk read as follows:

H.R. 5380

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. American Ex-Prisoners of War, organized and incorporated under the Washington Nonprofit Corporation Act (Wash. Rev. Code Ann. 24.03.005) of the State of Washington by Charles Morgan, Junior, San Antonio, Texas; Edward Fisher, Fairhaven, Massachusetts; Charles Miller, La Jolla, California; C. Earl Derrington, Jackson, Mississippi; Edward Parks, Middleboro, Massachusetts; Henry Goodall, Houston, Texas; Stanley Sommers, Marshfield, Wisconsin; Edward Allen, N. Olmstead, Ohio; Irving Rittenberg, Brookline, Massachusetts; Edgar Van Valkenberg, Saint Petersburg, Florida; W. C. Musten, Winston-Salem, North Carolina; Clifford Omtvedt, Eau Claire, Wisconsin; Orlo Natvig, Charles City, Iowa; H. C. Griffin, Houston, Texas; Milton Moore, El Paso, Texas; Marie Harre, Fairway, Kansas; Alfred Galloway, Seattle, Washington; Reginald Reed, Bremerton, Washington; Ralph Moulis, Tucson, Arizona; Betty Rodriquez, Albuquerque, New Mexico; Randall Briere, San Antonio, Texas; Joseph G. Schisser, San Leon, Texas; Herman Molen, Las Vegas, Nevada; Joseph B. Upton, Saint Louis, Missouri; Harold Page, Buckley, Washington; D.C. Wimberly, Springhill, Louisiana; Albert Braun, Phoenix, Arizona; Melvin Madero, San Diego, California; Tillman Rutledge, San Antonio, Texas; Benson Guyton, Decatur, Alabama; Frank Hawkins, Oklahoma City, Oklahoma; Melvin Routt, Tracy, California; John Romine, Muskogee, Oklahoma; Christopher Morgan, Old Bridge, New Jersey; Allen Smith, Diana, Texas; and John G. Flynn, San Antonio, Texas, is hereby recognized as such and is granted a charter.

POWERS

SECTION. 2. American Ex-Prisoners of War (hereafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its articles of incorporation and shall include—

(1) encouragement of fraternity for the common good;

(2) fostering patriotism and loyalty;

(3) assistance to widows and orphans of deceased ex-prisoners of war;

(4) assistance to ex-prisoners of war who have been injured or handicapped as a result of their service;

(5) maintenance fo allegiance to the United States of America;

(6) preservation and defense of the United States from all of her enemies; and

(7) maintenance of historical records.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Washington.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope to their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having

the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

(57) American Ex-Prisoners of War.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

EXCLUSIVE RIGHT TO NAME, EMBLEMS, SEALS, AND BADGES

SEC. 16. The corporation shall have the sole and exclusive right to use and to allow or refuse to others the use of the terms "American Ex-Prisoners of War", and the official American Ex-Prisoners of War emblem or any colorable simulation thereof. No powers or privileges hereby granted shall, however, interfere or conflict with established or vested rights.

TERMINATION

SEC. 17. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the organization known as the American Ex-Prisoners of War is a nonprofit and nonpartisan organization. It was originally incorporated in the State of New Mexico in 1943 as the Bataan Relief Organization, and currently maintains its charter in the State of Washington. This organization has 12,600 members organized in State and local chapters all across America. The terms of membership and the requirements for holding office in this organization are not discriminatory on the basis of race, color, religious, or national origin. Membership is open to U.S. citizens and members of the Armed Forces of the United States who were taken prisoner or interned in World War I, World War II, the Korean conflict and the Vietnam conflict, except those convicted of treason, subversion, or sedition. Spouses, parents, brothers, sisters, and children of ex-POW's may also be members.

The sole purpose of this organization is to serve the estimated 93,029 living American Ex-Prisoners of War and the widows and orphans of those who have died. The organization is operated for charitable, patriotic, and civic improvement purposes and has maintained its tax-exempt status pursuant to section 501(c) of title 26, United States Code. This organization clearly meets the minimum standards set forth by the Committee for Federally Chartered Organizations.

I urge my colleagues to support this Federal charter bill. Recently, we recognized our ex-prisoners of war by dedicating a week to their honor. This organization works year round to better the lives of ex-prisoners of war and their widows and orphans. The Judiciary Committee solicited comments from the Veterans' Administration on this bill. The letter from the Veterans' Administration is reprinted in the committee report. In the letter Veterans' Administrator Nimmo notes that the American Ex-Prisoners of War is a responsible, professional organization with a very cooperative relationship with the VA that has worked very hard to improve the benefits available and generally improve the lot of all former POW's.

This charter bill conforms to the standards that the Congress has evolved for charter legislation. It contains the same requirements and prohibitions that have been included in other charter bills enacted earlier in this Congress.

I direct my colleagues' attention to two committee amendments. First, we amend the bill to require the corporation to maintain its State charter. The other committee amendment simply inserts the correct subsection number in section 1101 of title 36, United States Code, the provision which defines those private corporations which are subject to the audit and reporting requirements of chapter 42 of title 36, United States Code.

I urge my colleagues to support this bill granting a Federal charter to the American Ex-Prisoners of War.

□ 1230

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, prisoners of war have endured a special kind of hardship. Brutality, malnutrition, humiliation, and forced labor were a daily part of life for these brave men and women. Their ordeal, survival, and return is a very personal victory. Their experience characterizes American resolve, an unbroken spirit and the will to win. How, then, can we show our appreciation at no cost to the Government? H.R. 5380 is a bill providing a Federal charter for the American Ex-Prisoners of War. It is commemorative, it is honorary and in a small way shows the POW that we have not forgotten.

During the first session of this Congress, the Judiciary Committee revised its standards for granting Federal charters. Now it is tougher to receive this special congressional honor. For if we give this recognition too freely it would lose all its prestige. Nevertheless, the American Ex-Prisoners of War, Inc., surpass our new standards. They were originally chartered as a private nonprofit organization in 1943 and known as the Bataan Relief Organization. They have a nationwide membership devoted to charitable, educational, and patriotic endeavors. American Ex-Prisoners of War have no commercial purpose or commercial affiliation. As an organization they focus on patriotism and service. By our standards they are deserving of a Federal charter, not only for their status as POW's, but also for their continuing service to their community and their country. They do not dwell on the past, they look to the future.

I ask my colleagues to join me in supporting legislation providing a Federal charter to the American Ex-Prisoners of War. They are uniquely qualified for this honor and it will be of no cost to the taxpayer.

Mr. SAM B. HALL, JR. Mr. Speaker, at this point I would like to commend the gentleman from California (Mr. MOORHEAD) for his work on this bill. He has been untiring in his efforts and I think that what he has accomplished here today is certainly to his benefit.

Mr. MOORHEAD. Mr. Speaker, I thank the gentleman.

● Mr. HOLLENBECK. Mr. Speaker, I wish to register my strong support for H.R. 5380, legislation granting a Federal charter to the American Ex-Prisoners of War, Inc. The organization maintains an active membership of over 12,600 veterans who were held as prisoners of war during their service in defense of this Nation, as well as their wives, parents, brothers, sisters, and

children. These men and women are devoted to assisting former POW's and their families, fostering American patriotism, defending the United States, and maintaining historical records.

Mr. Speaker, in my work last year to establish National POW-MIA Recognition Day and my assignment as an ex-officio member of the House Task Force on American Prisoners and Missing in Southeast Asia, I have become acquainted in a most personal way with the terrible ordeals endured by those held as captives of enemies of the United States. These men suffered torture, malnutrition, and serious permanent disabilities in service to the Nation. Their families faced the anguish of weeks and months of waiting at home to learn the fates of their loved ones.

Through it all, they continued to profess their faith in the American system of government and their steadfast dedication to the principles for which our Nation stands. And, as the work of the American Ex-Prisoners of War, Inc. so amply illustrates, these qualities of faith and loyalty have led many ex-prisoner of war families to active peacetime roles for the betterment of their communities.

I am proud of my close association with the newly founded Northern New Jersey Chapter of American Ex-Prisoners of War, and I am proud to vote in support of H.R. 5380 today.

In the truest sense of the word, we are recognizing American heroes in granting this Federal charter.●

● Mr. MONTGOMERY. Mr. Speaker, I rise in strong support of H.R. 5380. The bill would grant a congressional charter to the organization known as American Ex-Prisoners of War. Many of the names mentioned in this legislation are very familiar to those of us who serve on the Committee on Veterans' Affairs. We worked closely with them last year in enacting H.R. 1100 (Public Law 97-37) that expanded benefits and medical services for former prisoners of war. We received counsel and good advice from Mr. Charlie Morgan of San Antonio, Tex., the current president of the American Ex-Prisoners of War. We worked closely with Stanley Sommers of Marshfield, Wis., the immediate past president of the organization; C. Earl Derrington, a close friend of mine from Jackson, Miss.; Gen. John P. Flynn of San Antonio, Tex., and many other members. So I take special pride, Mr. Speaker, in supporting this legislation, having worked with so many other ex-POW's in bringing about meaningful legislation in their behalf.

Mr. Speaker, it is most appropriate that the distinguished gentleman from Texas, my good friend, SAM HALL, is the floor manager of this bill. As chairman of our Subcommittee on Compensation, Pension and Insurance, Mr. HALL cosponsored the legislation and helped steer it through Congress without delay. The bill we passed last year did several things that will be helpful to this group of individuals for the rest of their lives.

First, it reduced the requisite period of incarceration from 6 months to 30 days for presumption of certain disabilities and diseases.

Second, it provided service-connected benefits for former prisoners of war held captive for 30 days or more for any of the anxiety states, including post traumatic stress neurosis.

Third, it gave special eligibility to ex-POW's for hospital and outpatient care.

Finally, Mr. Speaker, it established an advisory committee made up of physicians and former prisoners of war to advise the Administrator of Veterans' Affairs on the administration of new benefits for 100,000 living former American prisoners of war.

Now that we have enacted this legislation and established this advisory committee, I am pleased that the Congress is recognizing the importance of this group of American citizens by the granting of a congressional charter. This Nation owes a great debt to our former service men and women who defended our Nation in time of peril. We owe a special debt to those combat veterans who were captured by the enemy and who suffered indescribable brutality and torture at the hand of their captors. The legislation we enacted last year, which is now the law of the land, and the bill we are considering today, will go a long way toward helping these distinguished citizens overcome many hardships they have had to endure for so many years.

Finally, Mr. Speaker, the President has announced his plan to send to the Senate the name of Everett Alvarez, Jr., to be the Deputy Administrator of the Veterans' Administration. Mr. Alvarez was a prisoner of war in North Vietnam for 8½ years, the longest held American POW of that conflict. As I mentioned before, Gen. John P. Flynn has been selected to chair the Advisory Committee on Former Prisoners of War. General Flynn was a POW in North Vietnam for 5½ years and was the highest ranking American captured during the Vietnam conflict.

I am glad the President is putting former POW's in key positions in the Government. Their experience will be tremendously beneficial to all of us.

Mr. Speaker, in the years that I have worked with former prisoners of war I know of no individuals more dedicated to our Nation's welfare and I am very pleased indeed with the attention and priority we have given their recommendations during the 97th Congress. I know this bill will receive the unanimous approval of the House, and I am extremely pleased to join my friend, the gentleman from Texas, and all the others who worked so closely with this great organization in supporting this legislation.

I hope it will be swiftly adopted by the other body and sent to the President as I am sure he will take great pride in signing the bill.●

Mr. SAM B. HALL, JR. Mr. Speaker. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the bill, H.R. 5380, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5380, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

CHARTER FOR NATIONAL FEDERATION OF MUSIC CLUBS

Mr. SAM B. HALL, JR. Mr. Speaker. I move to suspend the rules and pass the Senate bill (S. 2317) to recognize the organization known as the National Federation of Music Clubs, as amended.

The Clerk read as follows:

H.R. 2317

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

CHARTER

SECTION 1. The National Federation of Music Clubs, organized and incorporated under the laws of the State of Illinois, is hereby recognized as such and is granted a charter.

POWERS

SEC. 2. The National Federation of Music Clubs (hereinafter referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes for which the corporation is organized shall be those provided in its articles of incorporation and also shall be—

(1) to bring into working relations with one another, music clubs and other musical organizations and individuals directly or indirectly associated with musical activity for the purpose of developing and maintaining high musical standards;

(2) to aid and encourage musical education; and

(3) to promote American music and American artists throughout the United States of America and the world.

The corporation shall function as a patriotic, civic, and historical organization as authorized by the laws of the State or States wherein it is incorporated.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

MEMBERSHIP

SEC. 5. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

SEC. 6. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

SEC. 7. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

SEC. 8. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amount approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Illinois.

LIABILITY

SEC. 9. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

SEC. 10. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 11. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(53) National Federation of Music Clubs.".

ANNUAL REPORT

SEC. 12. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 11 of this Act. The report shall not be printed as a public document.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 13. The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

DEFINITION OF "STATE"

SEC. 14. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

SEC. 15. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code. If the corporation fails to maintain such status, the charter granted hereby shall expire.

TERMINATION

SEC. 16. If the corporation shall fail to comply with any of the restrictions or provisions of this Act the charter granted hereby shall expire.

The SPEAKER pro tempore. Is a second demanded?

Mr. MOORHEAD. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SAM B. HALL, JR.) will be recognized for 20 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM B. HALL, JR.).

Mr. SAM B. HALL, JR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the National Federation of Music Clubs is a nonprofit, nonpartisan organization which was originally chartered in the State of Illinois in 1898, and which has been operating continually since that year. This organization is national in scope. The terms of membership and the requirements for holding office in this organization are not discriminatory on the basis of race, color, religion, or national origin. The sole purpose of this organization is to promote American music and American musical artists. It is therefore dedicated to patriotic, educational, charitable, and civic improvement purposes. The organization has maintained its tax-exempt status pursuant to section 501(c) of title 26, United States Code. Clearly, this organization meets our basic standards for federally chartered organizations.

I believe that this organization is particularly worthy of the honor of being federally chartered. More than 60,000 persons all over this Nation belong to this organization. It represents over 6,000 musical organizations including State federations, student and junior music clubs, college and university music departments, and both amateur and professional musicians and composers. It is supported financially by membership dues and contributions.

The federation fulfills a key role in our society by promoting American music both within their organization and in the media. The National Federation of Music Clubs provides thousands of dollars annually for scholarships. It sponsors awards programs for excellence in voice, piano, and strings; makes cash awards to blind and veteran musicians; and supports music clubs, summer music festivals, and educational institutions. Aside from these continuing projects, the organization has initiated some very special projects. For example, during World War II, the federation donated 2.5 million pieces of musical equipment to U.S. servicemen stationed abroad and at home.

I want to make it clear to the Members of the House that this charter bill conforms to the standards that the committee has evolved for such legislation. It contains the same requirements and prohibitions as were contained in the charter legislation enacted earlier in this Congress.

I call my colleagues' attention to the two committee amendments. Both are simple. First, we include by reference in the Federal charter, those objects and purposes which are enumerated in the organization's articles of incorporation at the State level. Second, we require the corporation to maintain its State charter as mandated by our committee standards. These amendments make it clear that by granting this Federal charter, Congress is giving this organization no legal authority it does not already have, and that we do not intend for this charter to supplant the State charter.

I urge my colleagues to support this charter for a very worthy organization, the National Federation of Music Clubs.

Mr. MOORHEAD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, music is the speech of angels. It is the universal communication that binds humanity. This legislation is a tribute to music lovers everywhere. Who of us does not have a favorite tune, or wish they could play an instrument. How many of us have danced in a New Year to Auld Lang Syne; or fought tears when the Wedding March sounded for kin or friend, or felt the brief rush of memories when we hear our alma mater. Few of us have not been inspired by joyful gospel or solemn hymn. Ballad and blues, calypso and classic, ragtime and raga demonstrate that there is music for everyone. S. 2317 is for the composer, the conducter, the player, the lyricist, and the listener. A bill that gives recognition to music clubs also pays silent tribute to Brahms, Beethoven, John Phillip Sousa, Scott Joplin, Benny Goodman, Duke Ellington, Nancy Wilson, Sarah Cauldwell and thousands of others in the congressional act.

Everyone who has hummed a tune in a free moment, put a child to sleep by lullaby or sang fortissimo in the shower should vote for this bill.

I ask for an aye vote in granting a Federal charter to the National Federation of Music Clubs.

● Mr. CAMPBELL. Mr. Speaker, as the original sponsor of the identical House measure, I rise in full support of S. 2317.

Mr. Speaker, for 84 years the National Federation of Music Clubs has worked for the preservation of America's musical heritage. A nonprofit, tax-exempt organization, it has grown into the largest philanthropic musical organization in the world, boasting 600,000 members and 6,000 organizations in State federations. The membership includes both professionals and amateurs, ranging from choral, dance and symphonic organizations to college and university music departments, not to mention the active senior music clubs in communities all over the United States from the smallest town to the largest city.

The federation's goals encompass a wide range of activities which include: The support and encouragement of music education; the sponsorship and promotion of performing and creative artists; increasing public knowledge and appreciation of the arts; and promotion of musical activity in the Armed Forces. In the past the federation has given hundreds of thousands of dollars annually for awards and scholarships, including special awards for the handicapped and veterans. Thanks to the talent-recognizing eye of the federation, we are today able to enjoy the virtuosity of Mr. Van Cliburn, a former federation prize winner. Their programs run the gamut of providing music in hospitals, thus giving countless hours of service and dollars to those who are ill, to an audiovisual program that encourages the networks to inspire and stimulate an appreciation for better music.

Through the years, no job proved too big for the National Federation of Music Clubs. During World War II more than $106,000 was raised by the clubs for war service, and 2½ million articles of musical equipment were shipped to our men stationed in the United States and foreign countries. Hospital ships and trains were supplied with phonographs and records and the chaplain's kit supplied by the federation provided suitable music for any type of church service. Further, when the Athens, Greece, Symphony Orchestra pleaded for money to replace the strings that had rusted on their instruments while they had been hidden in caves from the Nazis, it was the National Federation of Music Clubs that purchased and delivered the replacement parts.

During all these years of hard work and dedication, the federation has sought no assistance of any kind from the Government. In fact, the three members of the staff in the national headquarters office are the only paid employees in the entire organization. All of the members, through the payment of a small amount of dues, pay for the privilege of working for the federation without 1 cent of Government renumeration.

We now have the opportunity to express our appreciation to this outstanding organization. As you are aware, a Federal charter symbolizes congressional recognition of an existing State-chartered organization. It involves no cost to the Government, and yet provides us with a means to commend those organizations that we feel have played an important role in our Nation. I urge you to vote for passage of this bill and give the National Federation of Music Clubs the recognition it so richly deserves.●

Mr. SAM B. HALL, JR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM B. HALL, JR.) that the House suspend the rules and pass the Senate bill, S. 2317, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SAM B. HALL, JR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on S. 2317, the Senate bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

SENSE OF CONGRESS REGARDING OLDER AMERICANS

Mr. ANDREWS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 278) expressing the sense of the Congress that funding for community service employment programs for senior citizens for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs.

The Clerk read as follows:

H. CON. RES. 278

Whereas community service employment programs under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) currently provide employment for fifty-four thousand two hundred senior citizens;

Whereas community service agencies and community residents are benefited by the valuable community service work of these senior citizens;

Whereas these benefits to community service agencies and community residents, and the income tax and social security revenues resulting from the employment of these senior citizens, make these community service employment programs cost effective;

Whereas the Congress, in enacting the Older American Act Amendments of 1981 (Public Law 97-115; 95 Stat. 1595), clearly expressed its intent that funding for community service employment programs should at least be maintained at current levels;

Whereas these community service employment programs provide hope for a self-sufficient and dignified existence to senior citizens who otherwise would face shrinking employment opportunities; and

Whereas the Budget of the United States Government proposed by the President for fiscal year 1983 entirely eliminates funding for these community service employment programs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that funding for community service employment programs for senior citizens under title V of the Older Americans Act of 1965 (42 U.S.C. 3056 et seq.) for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from North Carolina (Mr. ANDREWS) will be recognized for 20 minutes, and the gentleman from Wisconsin (Mr. PETRI) will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise on behalf of House Concurrent Resolution 278, which would put the Congress on record as supporting full funding for title V of the Older Americans Act. This is popularly known as the senior community service employment program, and was reauthorized only last December for 3 additional years.

Title V provides part-time job opportunities for persons who are over 55 years of age, poor, unemployed, and who, perhaps most importantly, want to work. Rather than simply sitting back and receiving welfare or other forms of public assistance, these older citizens would prefer to work an average of 24 hours a week, at about minimum wage, making contributions to their communities at the same time. They work in libraries and day care centers, in schools and hospitals, in senior nutrition centers, and in the homes of frail elderly persons who might otherwise have to go to an institution. They work with the mentally retarded. They deliver meals to the homebound. In short, they provide varied community services, usually to those in considerable need, for low pay, which Federal, State, and local governments would be hard pressed to replace. In hearings last March before our Subcommittee on Human Resources we heard nothing but praise for this program and what it is accomplishing. Of prime importance, title V allows older workers to become taxpayers instead of tax users.

In spite of all this, the administration requested zero funding for title V for fiscal year 1983. Congress has already rejected that position, by agreeing to the first budget resolution which provides for continued funding at the 1982 level. However, if the program is to continue to be forward funded, as the authorizing legislation requires, we will need to include funds for that purpose in the spring supplemental appropriations bill. We had hoped to have this problem solved in the Urgent Supplemental Act, and the first two versions, that were vetoed by the President, did contain $210 million for title V forward funding. You know what happened to those bills.

By our action today, we hope to affirm congressional support for the future employment of the 54,200 senior citizens who work under title V, and to insure that this valuable program is not weakened by funding gaps, or eliminated altogether as the President has recommended.

I believe that causing disruption of or cutting back title V would be shortsighted, both economically and in terms of domestic policy. I urge favorable consideration of House Concurrent Resolution 278.

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Mr. Speaker, I reserve the balance of my time, and I defer to a very good friend of this program, a very valuable member of our subcommittee, our ranking minority member, the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I thank the gentleman.

Mr. Speaker, I yield such time as she may consume to my distinguished colleague, the gentlewoman from Maine (Mrs. SNOWE).

Mrs. SNOWE. I thank the gentleman for yielding time to me.

Mr. Speaker, I rise in support of House Concurrent Resolution 278 and continued funding for the senior community service employment program.

This program has enjoyed strong bipartisan support in both Houses of Congress for the best of reasons: It is a proven effective program, the benefits of which extend not only to the elderly who receive the jobs but to their communities at large and it is one program that has actually saved our Nation money with a minimum of bureaucratic regulation. At a time when the social security system faces severe financing problems, these older workers are actually contributing money into the system. For all these reasons, Congress reauthorized title V for 3 more years last December, specifically providing that money be available for 54,200 jobs nationwide.

Three hundred and forty of these jobs are available to low-income seniors in the State of Maine. In one title V program in my State, the average age of the enrollees is 62.6 and the average annual income, excepting wages earned on the program, is $2,402. This particular program has targeted employment to widows—aged 55 to 64—the single group hardest hit by poverty and unemployment in the country.

On behalf of these 340 Mainers and the countless others nationwide who have benefited from the senior community service employment program—as workers or recipients of services—I join my colleagues in the House in this strong show of support for House Concurrent Resolution 278.

Mr. PETRI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of the resolution, I rise in support of this measure.

This resolution reiterates Congress strong support for the senior community service employment program operated by the Department of Labor under title V of the Older Americans Act.

Last December the Congress reauthorized the title V program for 3 additional years without making substantial changes in the program. In this reauthorization which passed the House by a vote of 379 to 4, Congress made the commitment to continue those aspects of the program which have made it perhaps the most popular and successful of the many Federal programs serving the elderly.

The program's success is largely due to the fact that it is well targeted both for the senior citizens and for the communities in which they live.

The average age of a Green Thumb worker employed under the title V program is 70. In my own State of Wisconsin a full 18 percent of the participants are age 75 or older. Another 18 percent are between the ages of 70 and 75.

These workers receive annual physical examinations, personal and job-related counseling, and assistance in obtaining placement into unsubsidized jobs. Participants work up to 1,300 hours per year and average 20 to 25 hours per week.

The program has been particularly successful in attracting minorities and undereducated individuals into the program. These individuals often are the worst off economically and stand the most to gain from participation in the program. Nationally, a full 30 percent of title V workers are minority, over 66 percent of the participants are women, and a full 60 percent have less than a high school education.

In my home State of Wisconsin, title V workers are involved in a number of projects directly enhancing the quality of life of other senior citizens. These projects include doing home repairs for low-income older persons in rural areas, operating transportation programs, assisting in health care projects, and working in libraries. In addition, title V workers are directly contributing to the operation of the nutrition projects operating through the Administration on Aging and the local aging network.

In Wisconsin's rural areas, two of the national grantees have enjoyed particular success in operating the program, the Forest Service of the U.S. Department of Agriculture and the Green Thumb program. In other aresa of the State, the National Council of Senior Citizens and the Governor's office provide the organizational structure for the program. All told, there were approximately 1,428 senior citizens in the program during the program year just ended.

Mr. Speaker, I have seen the title V program in Wisconsin and elsewhere. I think it is a well-run and effective program.

I hope my colleagues will join me in supporting this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. PANETTA), a member of our Budget Committee.

Mr. PANETTA. I thank the gentleman for yielding this time to me.

Mr. Speaker, first of all I want to commend the gentleman from North Carolina for his efforts in getting this resolution passed, and also the chairman of the Education and Labor Committee, the gentleman from Kentucky (Mr. PERKINS), for the work he did in getting the committee to come together and expedite this resolution.

As primary author of this resolution, I urge my colleagues to support House Concurrent Resolution 278, which expresses the sense of the House that title V programs of the Older Americans Act, the senior community service employment program, should continue to be funded in fiscal 1983 to support the same number of participants as we had in fiscal year 1982. A similar resolution was adopted by the Senate in the early part of July.

As you know, the administration has recommended in its proposed fiscal year budget eliminating funding for title V entirely for future years. I am sure I do not need to detail for my colleagues the tremendous benefits that are derived from this program.

At least 54,000 disadvantaged senior citizens across this country have been provided with useful jobs that help supplement their incomes. Countless communities and individuals have benefited from the community service work provided by these workers.

In my area, these workers are used to assist in health care centers, in areas related to nutrition; they are the primary volunteers—the workers who are assisting others in a variety of elderly programs.

It was important to note today that in this country we have 32 million people who are now below the poverty line—the highest number in 15 years. Of those, 12.1 percent are the elderly of this country.

Almost 100,000 seniors are benefiting from the job training and referrals that are provided through title V employment services for seniors.

Needless to say, the Congress recently passed a reauthorization bill extending all older Americans programs, including title V, for 3 years.

The efforts to reduce the funding for this program do not only, it seems to me, make no sense in human terms, but also these efforts make no sense as far as their cost effectiveness is concerned.

The title V program, in effect, says to senior citizens: "Go out and work and be able to supplement your incomes. The opportunities are there."

We have over the last few months seen the social security system continue to be strained. Here is an opportunity to put seniors to work—to be able to help contribute toward their social security benefits rather than simply drawing them out.

Ultimately, however, the main concern regarding the administration's proposal rests in its direct impact on the senior citizens who benefit from the program. For many seniors, title V programs have meant the final hope for a self-sufficient and dignified existence, at an age when traditional employment opportunities shrink, and self-worth is hinged more and more to the desire to play a truly useful role in society.

I am sure most of you have received many letters from senior citizens in your own district who directly or indirectly benefit from this program. At a time when we are asking so much of our Nation's disadvantaged, we should not eliminate such a cost-effective and worthwhile program.

In addition, since I introduced this resolution on March 2, 1982, another important factor affecting the strength of the title V program has emerged, that of the need to protect its forward funding. Programs that are forward funded depend on their forward funding. If title V does not receive the over $200 million it needs in fiscal 1982 for forward funding, the program could crumble. Cities, counties, and private funding organizations that provide the requisite non-Federal matching shares for this program are unwilling to tie up the $30,000–$40,000 which represents the non-Federal match with little or no assurance that the program will continue.

We need to have this kind of service for seniors in this country. The main concern on this issue is that we need to provide and to continue to provide opportunities for seniors to continue to make a contribution in their communities.

This is, I think, a positive approach to try to assist our senior citizens in this country. This resolution is the expression of this Congress—and of this House—that we stand by title V and that we intend to see that it is fully funded. Furthermore, we intend to see that seniors continue to be responsible and contributing members of the communities in this country.

I urge the Members of the House to strongly support this resolution.

I yield back the balance of my time.

Mr. ANDREWS. Mr. Speaker, I yield 3 minutes to a fine member of the subcommittee, the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Speaker, as a cosponsor of House Concurrent Resolution 278, I would like to state my full support for continuation of programs under title V of the Older Americans Act, which provide community service employment for the aging community. I believe that the title V program is effective in providing part-time public service employment to low-income elderly persons and is keeping administrative expenses low. In addition, participants are making valuable contributions to the community through their services.

Currently nearly 54,000 older persons are employed through the title V program, which is currently funded at $277.1 million. The fact is that for every dollar spent under title V, $1.15 is saved by the Government. Not only are these low-income elderly kept off the public assistance rolls, but through their employment they contribute to Federal tax revenues.

Giving these older Americans the opportunity for work not only puts their experience to good use but makes it possible for State and local govenments to use their human capital to provide services at an expanded level. The average participant—a low income female over 65 with less than a high school education—would have little chance of finding employment in the private sector. Without the title V program these people would be forced to subsist on welfare payments, kept against their will out of the productive sector of our economy.

The only criticism I can find of this program is simply that it does not encompass sufficient area—currently over 8 million older Americans are eligible for its benefits, but only 54,000 can be supported under the current budget. It is imperative that we continue to support the 54,000 slot level as a baseline, looking toward an increase in size in future years. As life spans increase and the economy forces our elderly to remain in the job market, programs such as this which provide on-the-job training to low skilled workers are vital to our Nation. The older Americans community service employment program continues to be an effective approach to solving the elderly's desire to continue as contributing, self-dependent members of society. Rather than relegating them to the public assistance rolls, let us continue to provide them the opportunity to retain human dignity and independence throughout their later years.

I trust Members will suport this resolution and I yield back the balance of my time.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to our distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I support this resolution, but I have to question the priority of even bringing it to the floor. Virtually every one of us supports title V programs; we funded it last year; we included it in our budget resolution; the President supports the levels in that budget resolution, and we certainly will be funding the program again this year.

It is a good program; no question about it. It has helped many of our senior citizens. There is no controversy over it.

So why do we waste the time of the Congress with political grandstanding resolutions of this sort when we have

so many other bills of vital importance still awaiting action?

Where is the regulatory reform bill? How about the export trading bill? Where is the Caribbean Basin bill? Where is the nuclear waste disposal bill; the highway aid bill; the illegal alien bill; the balanced budget amendment; the job training bill? How about the 13 regular appropriation bills and the budget reconciliation legislation that we still have not even begun to act on?

We have been procrastinating around here now for almost 7 months. It is about time we stop all this dilly-dallying and get on with the really important legislation before us.

Mr. Speaker, I thank the gentleman for yielding for that comment.

Mr. PETRI. Mr. Speaker, I thank the distinguished minority leader and share his frustration that we do not control the agenda here in this House.

Mr. Speaker, I yield such time as he may consume to the ranking minority member of the Committee on Education and Labor, our distinguished colleague, the gentleman from Illinois (Mr. JOHN ERLENBORN).

Mr. ERLENBORN. Mr. Speaker, I rise in support of House Concurrent Resolution 278.

In favorably acting upon House Concurrent Resolution 278, the Congress will be sending a clear message to senior citizens across the Nation: That America cares about the quality of life of its senior citizens.

Presently, over 52,000 persons, aged 55 or older, are participating in meaningful part-time employment under the senior community service employment program. Seniors participating in the program are employed as day care workers, telephone operators, teacher and hospital aides, receptionists, typists, security guards and drivers. They are directly contributing to the work of organizations such as the Veterans' Administration, Goodwill Industries, school systems, and others. The seniors earn an average of $3.47 per hour worked.

The goals of the program are clearly focused on enhancing the quality of life of the individuals involved. The program objectives are first, to reestablish or enhance the self-worth of the program participant; second, to develop or, as is often the case, redevelop marketable job skills; third, to place program participants into unsubsidized jobs.

Mr. Speaker, earlier this year the Subcommittee on Human Resources of the Education and Labor Committee held an oversight hearing on the title V program. At that hearing personal stories of several title V participants were related to the subcommittee:

A 56-year-old widow from Meniffee County, Ky., is now able to support herself without the aid of food stamps. At the time her employment with Green Thumb began, she had no income or savings and was selling household items out of her modest furnishings to get enough money to buy food stamps.

In Summers County, W. Va., two Green Thumb workers are assisting in the making of quilted window shades. The Shades of West Virginia Cooperative had a small grant from DOE to provide materials and labor to install various window insulation in public buildings. With the help of the two older workers, who did the quilting of these beautiful pieced designs, the agency was able to spread their small grant a long way and add beauty as well as conserve energy and provide greater warmth to these buildings.

A disabled Lee County, Ky., lady, through very careful budgeting, has been able to get a loan and buy a home for the first time since her divorce. She was receiving aid to the totally disabled for a serious cervical disorder. She had a 13-year-old daughter to support and keep in school. Because she was able to secure a Green Thumb job where she could work a split day and have bed rest in the middle of the day, she has regained her dignity and does a fabulous job in the office position she holds.

These stories are supplemented by many others. Perhaps more important, however, is the fact that the positive experiences many employees are having with the program is leading to permanent, unsubsidized jobs for many former title V workers. One researcher testifying before the subcommittee for example, found that 31 percent of the title V placements which occurred in the second quarter of 1978 are still working with the original employer, and hence have remained on the job 36 to 41 months. Among those who terminated, the most frequently cited reason for termination was because the employee had taken a new job, a somewhat surprising result, given the low-income levels and job market disadvantages apparent at program entry. Twenty-six percent of the terminations occurred for this reason.

Mr. Speaker, the title V program works. I urge my colleagues to join with me in supporting House Concurrent Resolution 278.

□ 1300

Mr. ANDREWS. Mr. Speaker, I yield two minutes to the gentleman from Connecticut (Mr. RATCHFORD), a member of the committee and a good friend of the program.

Mr. RATCHFORD. Mr. Speaker, I wish the minority leader were still on the floor, because the fact of the matter is, I have just come back from Connecticut and all weekend long older workers said to me, "What is happening to title 5?"

It is a very legitimate question because, as I understand the administration's budget recommendation, as I understand the intent of the budget resolution passed special weeks ago, this program, if we go along with the administration, will have no forward funding whatsoever. So, it is not something that is out here as an arbitrary issue. It is not out here as an illusion. It is a very real concern, and it is a concern that I carry to the floor of the House.

In Connecticut, I will tell the Members as the former Commissioner on Aging of the State, this is one of the best programs we have. It is both cost-efficient, and, at the same time allows the older worker to work with decency, to retain dignity, and to make a contribution to society. Look at some of the programs: Tutors in the schools, working with children who need help; library aides; nutrition workers; home care staff; staff for nursing homes, where they are working with patients who have legitimate complaints that otherwise cannot be determined. To cut here, as the administration calls for, is a cut in the wrong place.

A cut here, Mr. Speaker—and yes, Mr. President—would force the older worker on to welfare. Is there concern? There is legitimate concern, and the only way we can serve the older worker; the only way we can serve the older American; the only way we can say to the administration that we believe in the program, and apparently they do not, is to support this resolution. I wish we were here with the support of the administration, but if it were not for the administration this resolution would not be necessary.

Mr. PETRI. Mr. Speaker, I yield as much time as he may consume to the distinguished ranking Republican member of the Committee on Appropriations, the gentleman from Massachusetts (Mr. CONTE).

Mr. CONTE. Mr. Speaker, first of all I want to thank the gentleman from Wisconsin for giving this time to me and for his leadership in this matter.

I rise in strong support of House Concurrent Resolution 278, of which I am an original cosponsor with my good friend, the gentleman from California (Mr. PANETTA).

There is no doubt in my mind that Congress intends to preserve the title V community services employment program for older Americans by maintaining or increasing the 54,200 jobs the program supports. This House stated its intent last December, when it reauthorized the program for 3 years by a vote of 379 to 4. The other body spoke recently as well, when it passed Senate Resolution 340, similar to the one we are considering today, by a vote of 89 to 6.

Even so, it is important for the House to approve this resolution overwhelmingly. The debates ahead of us on funding for 1983 will be difficult;

they will be bitter; they will be divisive. Before we get there, and we will be there soon, let us step back for a moment and agree that this program—which targets jobs for less well-off older Americans who might not find jobs elsewhere and might not make it without these jobs—that this program is one we agree to preserve and we agree to support.

I, for one, am exceedingly proud of this program, which provides needed work to the participants, and which provides important and equally needed services to the communities.

There is another reason to support this resolution. Two days prior to the other body's action on its similar resolution, that body acted on H.R. 6685, the Urgent Supplemental Appropriations Act, which I am happy to say has been signed by the President. The Senate added many items to our temporary measure, but they did not add funding for this title V program. In conference, we tried to restore it, but the Senate would not yield. The chairman of the Labor/HHS Appropriations Subcommittee, the gentleman from Kentucky, my good friend Mr. NATCHER, and myself made a commitment to seek to restore that funding in the general supplemental which is currently being worked on. I hope that everyone who votes for this resolution will not back down when it comes to a decision about funding this program in the upcoming general supplemental. Likewise, I hope the Members of the other body, who voted so overwhelmingly for the principle of this program, will have the courage of their convictions when the issue becomes providing the funds that will maintain the program.

I urge you to vote for this resolution on your principles, but I warn you to be ready to stand firm on your vote today when you are called on to take the steps that will, in fact, provide 54,200 community service jobs for our older Americans.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. CONTE. I yield to my good friend from New Jersey.

Mrs. FENWICK. Mr. Speaker, I thank my colleague for yielding. I am happy to see that on both sides of the aisle we have appropriate and, in my opinion, extremely proper support for this program. There is not a better one, and there are few of which this Congress can be as proud.

When we are facing a vote on something of such importance and such consideration, we should not get into partisan politics. This should not be hampered by attacks on one section of the Government or another. This is a fine program on which both sides of the aisle can join without rancor and without anger.

I thank the gentleman.

Mr. CONTE. I thank the gentlewoman very much.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I would like to take this opportunity to express my support for House Concurrent Resolution 278, which expresses the sense of Congress that funding for community service employment programs for senior citizens for fiscal year 1983 under title V of the Older Americans Act and subsequent fiscal years should be provided at levels sufficient to maintain, if not increase, the number of employment positions provided under this act. As a cosponsor of this legislation, I am proud to say that over half of our colleagues in the House of Representatives have joined in support of this resolution.

Under this program over 54,000 low-income seniors across our Nation of which there are 4,000 in New York State have been provided with useful jobs to help supplement their income and many communities have benefited from their community services work.

Since the administration proposed eliminating funding for community service employment programs for senior citizens, as part of its budget recommendations for fiscal year 1983, several hearings have been held, and we have had the opportunity to listen to the testimony of many older Americans who participate in these programs. Their testimony, along with other information which we have received from offices on aging throughout the Nation, substantiates that these programs are not only cost effective, but are also vital to the dignity and self-respect of our Nation's senior citizens.

I wholeheartedly lend my support to House Concurrent Resolution 278, which aims to preserve these important programs for our elderly who serve, and are served, by them and I urge my colleagues to join in supporting this measure.

Mr. ANDREWS. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I too regret that the minority leader has left. He asked why we are taking the time to pass this resolution, and the answer is very simple. As long as the President of the United States continues to scare older people, we have to take some time to reassure them. The President said that he wanted the program abolished. The gentleman from Connecticut (Mr. RATCHFORD), cited an experience that many of us have had. The people who work on this program are frightened. The people who benefit from the work of the program are frightened. Perhaps they should not take the President seriously. Perhaps the minority leader is right to chide us for assuming that when the President says he is out to abolish a program, he means it. But how are older people to know this?

Maybe we could work out a system. Maybe when the President says he is going to abolish a program, but is only kidding, he could wink or wave or in some other way communicate the fact that he is not serious. But for now, as long as the President says he wants to abolish a program, leaves it out of the budget, and objects to putting it back into the urgent supplemental, please do not think that the elderly people of this country are being hypersensitive when they think the program may be in danger.

In fact, it is a program which is a superb one. It leverages public dollars. We get work out of the senior citizens on behalf of nutrition programs, home care programs, and other programs far beyond what we could buy in an open market situation not only that it appears to be very well run. I made a point of asking, because we are told all the time that these programs have to be cut to do away with fraud, waste, and inefficiency, if there was fraud or waste here. As a member of the Select Committee on Aging, at several hearings I have asked Labor Department officials, I have asked State officials, if they know of abuse in this program, and no one has alleged any incidents of abuse or fraud or waste. So we have a program where, for ideological reasons, the President proposed to wipe out. We think it is important to give reassurance to people that it will not be abolished. I am sorry that the minority leader thinks it is a poor use of our time, but I hope that he would ask the President not needlessly to set those fires, and we would not have to take the time on the House floor to put them out.

Mr. GREGG. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts has expired.

Mr. PETRI. Mr. Speaker, I yield 2 additional minutes to the gentleman from Massachusetts.

Mr. GREGG. Mr. Speaker, I think we are all here in favor of this program, and the minority leader, the Republican leader, also said that he was in favor of the program. In fact, was not the funding for this program contained in the budget which this House passed recently?

Mr. FRANK. The problem is with the forward funding of the appropriation. I would ask the gentleman from New Hampshire to consult with his ranking member on the Appropriations Committee. (Mr. CONTE) It was the ranking Republican member of the Appropriations Committee who pointed out his frustration that, at the

objection of the President and the Senate, title V was dropped out of the supplemental appropriation bill. We are talking about giving people some reassurance through forward funding so that they can plan ahead, and it was at the objection of the President and of the Senate that we were not able to put the money for title V into the supplemental appropriation bill.

Mr. GREGG. Was it not in the 1983 budget?

Mr. FRANK. I am not sure which budget. It was not in the President's budget. It may have been in the budget resolution.

Mr. GREGG. It was in the budget that was passed by this House for 1983, and the gentleman voted against this funding.

Mr. FRANK. Let me say to the gentleman in the interest of saving time, as the minority leader has suggested, I would suggest that he not ask me questions to which he knows the answers. If he wants to make a statement, he ought to make it.

Mr. GREGG. If the gentleman voted against the program. how can he come to the floor and now support it?

Mr. DOWNEY. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Speaker, I want to associate myself with the gentleman's remarks. The fact is, this program helps primarily older women, who are the ones who benefit from the program.

In the President's original budget message, which I think we have to pay some heed to, the whole thrust of that, and in the economic report, the suggestion was made that these people could find jobs once the economy recovered. Well, of course, the economy is not recovering. Second, these people are not going to be able to find jobs.

I want to express my strong support for House Resolution 278, which expresses congressional support for the senior community services employment program. I expect this resolution will be supported by a great majority of—if not unanimously by—my colleagues.

But I do have one question. Where were all these Members when their avowed support for title V could have been more than symbolic? I am talking about the last two opportunities we have had to override a Presidential veto to two urgent supplemental appropriations requests. These urgent supplementals included $210 million that would have allowed the program to continue. Without this money, the program will die this September.

The title V program is forward funded, and it cannot legally use 1983 moneys until July 1983. Because of funding complications last year, title V received only one-quarter of the money needed to fund it for 1982. Come the end of September, there will be a 9-month gap before the 1983 funds can be used. And who really believes that any program—and one the administration is desperately opposed to—will start up again after it has been shut down for a period of 9 months?

The resolution that we are voting on today contains a lot of pretty words—words that we can go home and repeat to our senior citizens. But these words are absolutely meaningless unless they are backed up with some substantive action.

The House will almost certainly have another opportunity to save the program, in the form of a supplemental appropriations request. Every Member that casts a "yea" vote today should be prepared to vote for that supplemental—and to override a possible Presidential veto. If they do not, then today's vote becomes nothing but an empty, hypocritical gesture made to fool their constituents in to believing a lie.

□ 1315

Mr. FRANK. Mr. Speaker, I thank the gentleman from New York (Mr. DOWNEY).

I am just a bit perplexed, and I wish the Members on the other side would decide. I ask them, are you mad at us for not taking the President seriously, or are you mad at us because we do take the President seriously? I will be glad to play it either way, but when the President says in his budget message that he does not want the program, please do not accuse us of creating issues when we want to reaffirm and reassure the people who benefit from the program that we think it ought to continue to exist.

The SPEAKER pro tempore. The time of the gentleman from Massachusetts (Mr. FRANK) has expired.

Mr. ANDREWS. Mr. Speaker, am I correct in my understanding that we have 6 minutes remaining?

The SPEAKER pro tempore. The gentleman is correct.

Mr. ANDREWS. Mr. Speaker, I yield 1 minute to a member of the full committee, the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Speaker, the gentlewoman from New Jersey (Mrs. FENWICK) had occasion to say a moment ago that since everybody is for this program, we should not make a partisan issue out of it or blame another branch of Government.

Well, whom should we blame? Should we blame the tooth fairy for the lack of funding?

The fact is that the President of the United States has been responsible for eliminating forward funding of this program. This is a program which everybody agrees is a sound, solid program. It is a program which provides jobs to 55,000 older Americans who, if they do not get the assistance, are going to have to receive some kind of welfare assistance, food stamps, medicaid or SSI.

It seems to me that it is better to allow people who want to work to work, and that is what this resolution is trying to do.

Mr. Speaker, I strongly support passage of House Concurrent Resolution 278, which expresses congressional support for maintaining the title V senior community service employment program.

This program currently provides employment for 54,500 individuals 55 years or older on a daily basis. Over the years, title V has proved its value and worth to older Americans, the communities they serve, and to the Nation. It has enabled low-income senior citizens to help themselves while helping others in the community at the same time. Its administrative expenses have been kept a minimum, allowing more disadvantaged elderly persons to participate in a program. Without title V, many older Americans would be forced to depend upon food stamps, SSI, medicaid, and other assistance.

Despite the success and effectiveness of this important program, the administration wants to terminate its funding, causing nearly 55,000 elderly Americans to lose their jobs this October. This is one more item in a long list of Reagan attacks on the welfare and quality of life of our Nation's elderly.

The need to continue the senior employment program is absolutely essential because unemployment for older Americans is at an alltime record high. Nearly 92,000 persons 55 or older were added to the joblessness rolls during the past month, raising the total from 732,000 in May to 824,000 in June. In fact, unemployment has increased by 54.3 percent for individuals 55 or older in the past year. Moreover, it simply does not make good sense—economically, politically, or socially—to wipe out an extraordinarily effective employment program for older workers when the national unemployment rate has reached the near-depression level of 9.5 percent.

These grim facts underscore the bankruptcy of Reaganomics for older Americans. This administration has consistently failed to recognize and meet the needs of older Americans for jobs, as well as for health care, housing, nutrition, and income security.

This resolution represents a rejection of the administration's harsh policies toward the elderly and a clear affirmation of congressional support for assisting the older Americans with an effective jobs program that deserves to be continued, and well funded. I urge my colleagues to vote for this important bill.

Mr. ANDREWS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas (Mr. ALEXANDER).

Mr. ALEXANDER. Mr. Speaker, I want to congratulate the committee for bringing to us this opportunity to reaffirm our belief that senior Americans can make an important contribution to our Nation, that many of our older citizens need special assistance and that many of our older Americans want and need to be able to continue earning income.

There are more than 230,000 people in my State of Arkansas who are 60 years old and older. Another 63,000 are between 55 and 60 years old. More than 60 percent of our older Arkansans according to the U.S. Bureau of the Census, have incomes at or below the poverty level.

Under the older Americans employment program more than 54,000 of our senior citizens across the Nation are providing needed services to their communities and improving their income at the same time. They provide critically needed services to handicapped persons, many of them children. They help improve homes through weatherization programs for low-income persons, thereby contributing to our national energy conservation effort. And, of course, they help provide services to their fellow older Americans who, without them, would frequently be homebound and malnourished.

These older Americans move into permanent jobs when those jobs are available. They work because they want and need to do so.

Yet, President Ronald Reagan, our first older American, says let them make their contributions to their communities through volunteer service. Our senior citizens working through the older Americans employment program can afford little time for volunteering. They have to be too busy trying to find a way to earn income. And, in this time of Reagan recession with unemployment standing at the highest levels since 1941, finding jobs regardless of your age is not easy.

President Reagan, our all-time champion Federal budget deficit maker, says we have to balance the budget so let us do it by cutting out the funding for the older Americans employment program.

I have already mentioned that more than 183,000 of our older Arkansans live at or below the poverty level. We have had the money to employ only 628 of them in the older Americans program, but that is better than zero.

Mayors, county judges, citizens who have seen the benefits from the work done by the older Arkansans through this program, and our older Arkansans who take such pride in their ability to and the opportunity for work urge us to continue this employment program.

The Ronald Reagan who wants to end the Older Americans Act employment programs is the same budget unbalancing President whose spending reduction programs have blocked 100,000 Americans who could have benefited from getting the minimum social security payment of $122 per month this year. He is the same President whose policies have increased the medical costs of our older Americans. And, now he wants to slash the funding that has helped our senior citizens get work.

When we talk about the older Americans employment program we are not talking about job slots, we are talking about people who want to and need to work and take pride in doing so.

I believe that it is far better for our Government to help our older Americans who need help with the everyday cost of living and want and are physically able to earn their way, to work for the price of their food and fuel than to force them to rely on the food stamp program or low-income energy grants.

That was the kind of thinking that brought about the passage of the Older Americans Act employment program in 1973. It is the kind of thinking that went into congressional decisions every year since then to keep the older Americans jobs program going.

And, it is the kind of thinking that is behind the resolution before us today in support of continued funding for our senior Americans employment program.

Our senior citizens, by their contributions to our Nation, have earned the right to live their retirement years with dignity and a measure of economic security. Those of our older Americans who are able and who need to work to achieve that financial security ought to have the opportunity to do so that programs like the older Americans employment programs are providing, have provided in the past and can continue to provide in the future.

Mr. ANDREWS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. PEYSER), a member of the full committee.

Mr. PEYSER. Mr. Speaker, I, too, rise in strong support of title V of the Older Americans Act, which I had the good fortune to be a part of in its authorship in 1971.

I think that one of the very important subjects that is being discussed here on the floor today is the strong support being given by my Republican colleagues to this measure and we certainly welcome that support. But I think it is equally important that the senior citizens of this country recognize that this Congress sent another message last year.

As unbelievable as it may seem, the message was this: Let us cut social security, let us cut senior citizen benefits, and by so doing we will also include the President's right of cutting title V.

Well, we are glad to have our Republican colleagues back with us in an election year, but I also give the senior citizens a great deal of credit in understanding just what is happening and who has worked for them and who will continue to work for them in this Congress.

Mr. ANDREWS. Mr. Speaker, I yield 1 minute to the gentleman from Illinois, Mr. PAUL SIMON.

Mr. SIMON. Mr. Speaker, let me say to my colleagues that I wish each of you could visit beautiful southern Illinois and see what this program does for these people. We are an area of high unemployment in which people need help, and when you take the liability of unemployment and you convert it into an asset of helping people with Meals on Wheels or tearing down an old house that ought to be torn down and giving people some meaning in life, I think it is a great program.

I am pleased to join my colleague, the gentleman from North Carolina (Mr. ANDREWS) in supporting this resolution, and I commend him for his leadership. It is a marvelous program that we ought to be expanding, not contracting.

Mr. Speaker, I rise in support of House Concurrent Resolution 278, the sense of Congress resolution on full funding for title V of the Older Americans Act which provides community service employment for 54,200 senior citizens around the Nation.

In his state of the Union address in 1964, President Johnson declared "unconditional war on poverty in America." Congress created an arsenal to join with the President with programs such as Job Corps, VISTA, Foster Grandparents, Head Start, and community development programs. These programs represent a "hand up" rather than a "hand out" and provide valuable community services and employment opportunities. Over the last 17 months, we have seen successful programs of self-help, education, and service dismantled through block grants and inadequate budgets. Our economy and the resulting plight of millions of Americans should tell us that the need is still current, and that it is simply being ignored.

Those Americans at the lowest end of the income scale can profit as much from community service employment programs as when these programs were enacted and reauthorized through the administrations of both Republicans and Democrats. Our communities are perhaps in greater need of the services provided under these programs.

Two out of ten Americans living below the poverty line are over 60 years old. That statistic is getting worse. Proposed cutbacks in social se-

curity will only exacerbate the situation.

Title V of the Older Americans Act provides employment for 54,200 senior citizens in various community service jobs. Let me give you an example of what this means to the communities served and individuals in the program. In my home State of Illinois, 2,200 senior citizens are employed by title V programs. One program is Green Thumb which serves 62 counties and employs 857 part-time workers. Green Thumb is responsible for services such as Meals on Wheels, providing balanced, hot meals to the elderly who are unable to leave their homes. The benefits to the workers are as real as to the shut-ins who are served by these programs. Arthur Shewmake of Jefferson County, Ill., is 71 years old and a crew leader for Green Thumb. Two years ago Mr. Shewmake lost his leg and found himself facing a hopeless and helpless future. He was employed by Green Thumb and was able to utilize his previous supervisory experience to help others. He has said, "Green Thumb is wonderful and I have regained my feeling of self confidence. I feel like a person again."

In Harden, Ill., three men aged 75 and over are participating in the senior aides program. They have rebuilt the virtually unused fairground in the community which now hosts three events every year which are well attended. Each of the aides credits the program for giving direction and meaning to his life.

A title V worker in Joppa, Ill., opened a communal meal center in an underutilized Federal building, and is now responsible for serving 25 meals per week to senior citizens. Without the title V program, there would be no service in this area.

I began by quoting President Johnson and the beginnings of social and community service programs. In 1981 another President stated in his inaugural address:

> How can we love our country and not love our countrymen? And loving them, reach out a hand when they fall, heal them when they are sick, and provide opportunity to make them self-sufficient so they will be equal in fact and not just in theory.

That President is Ronald Reagan whose fiscal 1983 budget provides zero funding for title V of the Older Americans Act. Where is the hand reaching out, the opportunity and the jobs for self-sufficiency?

It is up to Congress to make the final determination on title V programs. I enthusiastically go on record in support of House Concurrent Resolution 278 to make the rhetoric of the President a reality for those senior citizens who have so much to give the community and who we can never fully repay for their contributions both past and present.

Mr. ANDREWS. Mr. Speaker, I thank the gentleman from Illinois (Mr. SIMON) for his contribution.

Mr. Speaker, I yield 2 minutes to the chairman of the Select Committee on Aging, and the champion of the elderly, the gentleman from Florida (Mr. PEPPER).

Mr. PEPPER. Mr. Speaker, I thank the distinguished subcommittee chairman for his kindness in yielding some time to me.

One of the shocking provisions of the President's proposed budget at the beginning of this year was the elimination of this program, cutting 54,200 elderly people off the job rolls where they were rendering essential community services to other people, old and young. Two-thirds of the participants in this program have been women, and one-half of those have been minority members.

This program not only helps the recipients of the aid but helps the elderly people who have the privilege of getting out of their isolation and off of their loneliness and getting out and helping other people. It gives them a sense of exhilaration that in many instances lengthens their own lives, improves their health, and thus promotes their own happiness.

This program goes only to those who are needy. They must be within 125 percent of the poverty level, and 87 percent of them are below the poverty level.

Now, it is a shocking fact that the President did not propose in his budget any provision for the continuance of this program. The Congress did, and we brought it within 4 percent of the level of last year.

Mr. Speaker, this concurrent resolution, which expresses the sentiment of Congress, would have the Congress increase or at least sustain substantially the program at the level of last year. This is a great program. It is a program of great meaning to human beings. It will enable the Government to save money by enabling more elderly people to get medical care at home rather than having to go to a hospital or to a nursing home. This is a great resolution. I commend the gentleman on his leadership, I commend the authors of it and those who support it, and I hope this House will, by a resounding majority, vote for and support this program.

Mr. ANDREWS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of this resolution.

Mr. Speaker, I would like to applaud the efforts of our distinguished colleague CLAUDE PEPPER in his support of the title V program. There is no greater representative for the elderly of this country and I wholeheartedly support his statement.

I am proud to be a supporter of title V. I have seen firsthand the help that the older citizens provide for our communities and know how title V helps the elderly maintain productive and useful lives. Throughout my district, in Austin, Tex., and the surrounding counties, the senior aides and Green Thumb workers provide services on which we have come to depend.

We are fortunate to have such a good program and I am glad that the recently passed budget resolution maintained this program, rather than phasing it out in fiscal year 1983, as the President had originally requested. I ask all of you to join me in support of the Older Americans Act and title V.

Mr. PETRI. Mr. Speaker, I yield 2 minutes to my colleague, the gentleman from New Hampshire (Mr. GREGG).

Mr. GREGG. Mr. Speaker, it is clear that this proposal has tremendous support within the House, as the title V program has had consistently within the House, and it is also clear that it has support especially on this side of the House.

I believe that the representation, especially of the Members from New York, Connecticut, and Massachusetts, that this should be a political issue and should be reflected as one in which there has been a partisan position on this side of the aisle is totally incorrect. The fact of the matter is that the budget which was just passed by this House which many Members on this side of the House voted for and which the gentleman from Massachusetts, the gentleman from Connecticut, and the two gentlemen from New York voted against, included in it specific reference for funding in 1983 of the title V proposal.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. GREGG. I will yield in just a few seconds.

Secondly, I point out that the proposal which came from the administration originally was not to eliminate the program completely, it was to merge it with two other programs, the migrant workers program, and the seasonal farm labor program, and yes, there would have been a cut under the original proposal. But because that original proposal ran into trouble not only on that side of the aisle but also on this side of the aisle and because there is strong support for the title V program on both sides of the aisle, this program continues and will continue as a viable program. Therefore, I think it is totally inappropriate for us to make this into a partisan issue.

Mr. Speaker, I will now yield to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK. Mr. Speaker, I do not believe anybody on this side of the aisle is trying to make it into a partisan issue. The minority leader raised a question which I sought to answer. I keep getting in trouble trying to pay attention to what other people say.

The minority leader asked us why we thought it had to be brought up. Our answer is that the President of the United States has answered his opposition to the program in several forms, and we want to counteract the fears he has generated.

I am glad that the minority members have not followed him on this one, and I hope that that trend is one that will continue. But the fact is that we simply pointed out, in answer to a question by the minority leader, who first raised the question in a partisan way, that we were simply trying to reassure the people who were made nervous by the President.

Mr. GREGG. Mr. Speaker, I want to take back my time from the gentleman from Massachusetts (Mr. FRANK) and I would note that had the gentleman from Massachusetts followed the minority leader or the Republican leader, as we refer to him, then he would have voted for the title V program in the budget process which we just went through.

Mr. FRANK. Mr. Speaker, if the gentleman will yield, I would have voted for that part of this budget resolution, but it was weighted down with so much other junk that I could not support the overall budget.

The SPEAKER pro tempore. The time of the gentleman from New Hampshire (Mr. GREGG) has expired.

Mr. PETRI. Mr. Speaker, I yield such time as he may consume to the gentleman from Nebraska (Mr. DAUB).

Mr. DAUB. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I am proud to be one of the first cosponsors of House Concurrent Resolution 278, expressing the sense of the House that the title V, senior employment program, under the Older Americans Act, be funded adequately despite proposals to substantially cut it.

As an active member of the House Select Committee on Aging, I was particularly pleased to have the opportunity to speak on behalf of this program when our Retirement Income Subcommittee held a hearing on title V. Although I wholeheartedly share the President's determination to maximize the effectiveness and fiscal accountability of Government programs, I have some concerns in regard to the services provided under title V. This program has proved itself to be effective and cost efficient. I am fearful that any effort to eliminate this program will result in trading gainful employment costs for welfare cost. We could be trading taxpayers for tax eaters.

Beyond the fiscal considerations, this program takes advantage of a vast resource of talent often ignored by private and public employees alike. It gives our seniors job training and experience, but perhaps more important, employers learn the advantage of hiring older Americans.

As you may know, the administration has suggested that several employment related programs be consolidated into one employment and training block grant to the various States. They believe that most training and employment activities should be carried out by the private sector and that in areas where potential workers lack basic skills required for entry-level jobs, training can best be provided by the States.

The administration also recommends that a nationally administered program be authorized for providing special target groups with employment and training services and older workers are mentioned as one of these special target groups. Certainly, I am pleased to see that the special needs and contributions of older workers are recognized; however, I fail to see the need for eliminating a program which is working successfully at the present time.

The SPEAKER pro tempore. All time of the gentleman from Wisconson (Mr. PETRI) has expired.

The Chair recognizes the gentleman from North Carolina (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I yield the balance of my time to the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Speaker, I want to voice my strong endorsement of this resolution, House Concurrent Resolution 278. I was disappointed that the forward funding difficulties facing title V were not addressed in the urgent supplemental appropriations bill though I understand that this was due to administration opposition. This resolution will not solve that problem but it is at least gives us a chance to go on record in support of a jobs program for older Americans. These older citizens have contributions to make, skills that should be tapped to the benefit of their communities. I am deeply concerned that we may be overlooking this by failing to protect title V. I urge my colleagues to support not only this resolution but to join efforts in providing forward funding and maintaining the community service employment programs for senior citizens at sufficient levels.

Mr. CLAUSEN. Mr. Speaker, I am genuinely pleased to observe the overwhelming support in this Chamber for House Concurrent Resolution 278, which expresses the sense of the Congress that funding for title V of the Older Americans Act in 1983 and future years should be maintained at levels which insure that the 54,200 jobs the senior community services employment program currently provides are maintained or increased. I am proud to join 219 of my colleagues as a cosponsor of this resolution.

Mr. Speaker, the measure we are considering today is of tremendous importance as a signal to this Nation's elderly population that we, their elected representatives, are behind them 100 percent. Last November I voted for H.R. 3046, the reauthorization bill that extended all Older Americans Act programs, including title V, for 3 years. I remember how gratifying it was for me to see that measure signed into law in December 1981; I felt then that we had made an important commitment to our older Americans that we truly were keeping their interests and their welfare at heart. The task before Congress today is to reaffirm that commitment to the Older Americans Act and title V program.

I have supported, since its inception, the senior community services employment program that provides low-income senior citizens with useful jobs to supplement their incomes. This year 54,200 seniors benefitted directly from this program through jobs provided by title V. But the indirect benefits have been just as real. Since the program's start, almost 100,000 seniors have received valuable job training and referral services, while the community service work these seniors perform has enriched the lives of countless citizens across the country. Title V not only helps our Nation's elderly—it helps them by providing opportunities for fulfilling work, and it helps them in a cost effective manner.

My support for the Older Americans Act is only part of my effort to insure that senior citizens be given the opportunity to live active and fulfilling lives. I have been a strong supporter of alternatives to mandatory retirement, including phased-in retirement and training for second careers. I steadfastly believe that as the American population shifts and grows older, we must not set up roadblocks to productivity, independence and simple human dignity among our Nation's elderly.

I need not remind my colleagues of the complexities involved in financing a Government program. I am aware that the title V senior community services employment program is funded through September 30, 1982. I am also aware that several paths may be taken toward funding this program for fiscal year 1983. We must not let the complexities of the budget process cloud the fact that this Congress is committed to the Older Americans Act and, in particular, the title V program. I urge my colleagues to support House Concurrent Resolution 278, as a signal that this Congress believes all Ameri-

cans deserve the opportunity to grow older with grace and dignity.

Mrs. HECKLER. Mr. Speaker, as a cosponsor of House Concurrent Resolution 278, I rise in strong support of the resolution in behalf of full funding for senior community service.

The programs administered under title V of the Older American Act bring enormous benefit, at low Federal cost, to the older Americans who work in the programs and those senior and younger persons whom they serve. Earlier this year, I had the opportunity to meet and speak with a number of senior aides in my district, and I was encouraged by the wisdom and experience that they are contributing to their communities.

However, senior aides in my district and throughout the country are worried about the future of the program. It is my fervent hope that passage of this resolution will assure them that the Congress is full behind this effective program.

We are constantly preoccupied with the need to establish and expand cost-effective and beneficial programs, particularly those that return more to communities than they cost initially. The senior employment programs return an estimated $1.15 for each dollar spent on the program itself. These programs represent good government: They enrich communities across the country, while helping individual citizens.

As a cosponsor of this resolution, I look forward to the senior employment programs continuing to help local communities use local personal resources to solve local problems, while utilizing individuals who have given a great deal to their country and offer further services.

● Mr. MOAKLEY. Mr. Speaker, I rise in support of House Concurrent Resolution 278 expressing the sense of Congress that title V of the Older Americans Act should receive full funding for 1983 and subsequent fiscal years.

That the administration should consider cutting title V appropriations at all is merely a reflection of its myopic view of budgetary priorities. As many of my colleagues will agree, title V has been a tremendously successful program. Rhetoric about waste, fraud, and abuse does not apply to the senior community service employment program. Title V meets the strictest criteria of cost effectiveness: For every $1 spent by the program, approximately $1.15 is saved in food stamp, supplemental security income, and unemployment benefits.

Nor can the need for the title V program be disputed. At current funding levels, title V allows some 54,000 senior citizens across the country near or below the poverty level to perform valuable public service tasks in their community. Many of the participants in title V will go on to find gainful employment in the private sector.

The fight for the title V program does not end here. While I commend those of my colleagues who support this resolution, I must point out that the real test of their commitment will come in the upcoming votes on supplemental appropriations and fiscal 1983 appropriations. House Concurrent Resolution 278 should not be an empty gesture, but a real signal to the administration of our determination to keep the title V program alive at current funding levels. We owe a great debt to the generation which proceeded us. Let us not forget their plight.●

● Mrs. HOLT. Mr. Speaker, as a cosponsor of House Concurrent Resolution 278, I rise in strong support of the resolution. The ravages of inflation have really hurt our senior citizens and they are truly deserving of support, especially those who are constructively and effectively participating in community service employment programs.

The community service employment programs will provide hope and dignity to our senior citizens and they will do so in programs that have proven to be very cost-effective.●

● Mr. BOLAND. Mr. Speaker, in December of 1981, the House and Senate by overwhelming margins voted to reauthorize the Older Americans Act. Included in the reauthorization bill were provisions to extend and strengthen title V, the older Americans community service employment program.

Prior to the submission of the fiscal year 1983 budget in February, there were indications that the President might not make a specific budget recommendation for the title V program. I joined with a number of my colleagues in writing to the President and urging him not to eliminate the program. In spite of these entreaties, the fiscal year 1983 budget, as submitted, contained no specific budget request for the community service employment program. In my judgment, the lack of a request was a serious mistake.

Title V has provided nearly 100,000 senior citizens with job training and employment referral services. In the current fiscal year, 54,200 low-income seniors have been provided with a job by the program. These jobs provide our elderly citizens with a chance to perform a meaningful community service and to contribute to their own self-sufficiency. It is absolutely imperative that these job opportunities be retained.

House Concurrent Resolution 278, which I was pleased to cosponsor, will reiterate the support of Congress for title V. Weakening or eliminating the title V programs would be neither a sound fiscal nor social policy. I hope that my colleagues will agree and that House Concurrent Resolution 278 will be overwhelmingly approved.●

● Ms. OAKAR. Mr. Speaker, I rise in support of House Concurrent Resolution 278, a resolution which expresses Congress support of title V of the Older Americans Act.

Title V of the Older Americans Act enables more than 50,000 senior citizens in communities across the Nation to engage in employment. These seniors, 55 years or older and defined as low-income earners, not only contribute their services to the community at large, but establish for themselves a sense of worth. At the present time, title V programs could cease to exist in early September if Congress does not act soon.

Termination of such a worthwhile program could be devastating for those participating and those benefiting from the 54,000 part-time jobs. Studies have shown that title V jobs returns to the taxpayers $1.15 for every dollar spent on the program. Data also indicates that SSI and food stamp costs were reduced an average of $24 a month whenever a new person joined the title V program. Of course, the self-worth that is attained through helping others is immeasurable.

It is time that the Congress act affirmatively. Our senior citizens have suffered enough hardship and frustration in the name of frugal spending. Title V has been proven successful, we cannot stand idly by and watch the program cease. These jobs must be maintained.

Thank you, Mr. Speaker.●

● Mr. SANTINI. Mr. Speaker, I rise in support of House Concurrent Resolution 278 of which I am a cosponsor.

Title V moneys must be saved and passage of this resolution will mark a victory for America's senior citizens. The money we spend on senior employment is one of the best investments this Nation can make. For the few hundreds of dollars spent on each senior worker, this country reaps thousands of dollars worth of productive employment. The Government that denies employment to its seniors relegates them to living on the dole. How can we on the one hand urge our people to provide for themselves then take away the very means they have to do so?

I for one have witnessed the decimation of Green Thumb and RSVP programs in my State. The failure of this administration to fund these programs is an insult to the seniors of America. We should be ashamed that we have allowed this neglect to go on for so long.

Mr. Speaker, I intend to cast my vote in support of House Concurrent Resolution 278 and in doing so cast a vote in support of the senior citizens of the United States.●

● Mr. SCHNEIDER. Mr. Speaker, as cosponsor of House Concurrent Resolution 278, I rise today in support of this important resolution which expresses the concern of Congress for the very worthwhile and productive community service employment program. This program, serving over 52,000 seniors nationwide, allows older members of our society the opportunity to actively contribute to the local community while earning a small income which, as we all know, has become an economic necessity for those on fixed means.

In Rhode Island alone, over 300 seniors particpated in the senior employment program in 1981. These individuals worked as library aides, fire safety counselors, retail sales clerks, and in numerous other positions that allowed them access to public contact and opportunities for renewed confidence and enthusiasm.

As it was only last year that Congress voted in overwhelming support for the Older Americans Act 3-year extension, I believe the majority of this year's Members fully intend for the community service employment program to be sufficiently funded. I ask that every consideration be given to maintain adequate funding to this very valuable and yet cost-effective senior community employment program.●

● Mr. BIAGGI. Mr. Speaker, I rise to lend my full support to House Congress Resolution 278, the legislation before us which reaffirms our strong support for the title V senior community employment program. As an original member of the House Select Committee on Aging as well as a member of the House Education and Labor Committee which considered this legislation, I am heartened that we are considering this measure today. clearly, a strong endorsement of title V will send a clear signal to the While House that the Congress is serious about maintaining our commitment to this small, but vital, program.

The title V program was extended for another 3 years last year in the Older Americans Act Amendments of 1981 (Public Law 97-115). As an original cosponsor of this legislation, I can personally attest to the favorable consideration this program received from Members of both parties, throughout the entire reauthorization process.

The title V senior community service employment program provides part-time community service employment to low-income seniors over 55. The jobs which these working older Americans perform for their neighborhoods are many and varied, including delivering meals at senior centers, working with foster children and the mentally disabled, as well as providing essential support staff at community centers which serve all local residents. The current funding level for this program now supports 54,200 job slots nationwide, at a cost of approximately $5,111 per participant per year.

We bring this resolution to the floor at a time when the funding picture for this program is in grave jeopardy. At present, the 1982 appropriation only extends this program through the last quarter of this fiscal year at a level of $67 million, in part, because this is a forward-funded program. Unless the remaining $210 million is provided for title V prior to September 30, which would bring the program up to current operating levels, the title V program, its sponsors, and its participants face extinction.

The urgent supplemental appropriations bills, which were both vetoed by President Reagan, contained the $210 million to keep the program operating. Sadly, this final version which we adopted excluded money for title V despite my efforts and those of my colleagues on the Aging Committee—Chairman CLAUDE PEPPER, MATTHEW RINALDO, JOHN BURTON, and WILLIAM RATCHFORD—which urged the conferees to maintain the money in the legislation. Happily, while the money was not retained in the urgent supplemental, I have been advised by our colleague, Chairman NATCHER of the Labor-HHS Appropriations Subcommittee, that his subcommittee has included the entire $210 million in the regular supplemental appropriations bill they are now considering in committee.

Advocates of title V were further heartened by the actions taken by our colleagues in the Senate on July 1 on a similar resolution, Senate Resolution 340. By a resounding 89 to 6 vote, the Senate voted to oppose any actions which would terminate or otherwise weaken the program.

The title V program has proven its worth many times over for it keeps older workers as taxpaying citizens, rather than forcing them into dependency. It has promoted self-sufficiency for its participants as well as age-integrated services to the communities where it operates. This program has also shattered the antiquated myth that older Americans are unable to continue working and maintaining a productive and useful function within our society. Undoubtedly, the demographics of the older work force in this Nation will place greater demands upon programs for older workers and at a time when demand is escalating, it seems hardly a fair and fitting response to seek to eliminate this program which can capably respond to this demand.

I commend my colleagues, Mr. PANETTA and Mr. CONTE, for introducing this measure. Their support and leadership in this area has been invaluable for the program. I further commend my chairman, CARL PERKINS, of the Education and Labor Committee, for his expeditious consideration of this measure. His demonstrated commitment to our Nation's seniors has not once waivered in my entire tenure as a member of his committee since my election to Congress nearly 14 years ago. I urge my colleagues here to join us in support of this measure and send a clear signal to everyone that title V is a program which cannot be tampered with, for to do so would be to tamper with a program which keeps our senior citizens working and productive.●

● Mr. YOUNG of Florida. Mr. Speaker, the passage of House Concurrent Resolution 278 today, of which I am a cosponsor, will again reaffirm our commitment to title V funding for the senior community service employment program so that the jobs of the 54,200 senior Americans employed by the program continue without disruption.

As a member of the Appropriations Committee, it is my intention to see that the $210.6 million needed to fund the program through June 30, 1983, will be included in the supplemental appropriation bill we will soon consider.

The value and success of the senior employment program has been demonstrated many times over, and as I said in testimony in February before the House Select Committee on Aging, there is no part of our Nation that better exemplifies the true value of this program than Pinellas County, Fla., which I represent. During my testimony, I cited numerous examples of community service employers, including fire chiefs, law enforcement officials, library directors, and hospital administrators, who have contacted me to reiterate the importance of this program to their individual organizations and to the community as a whole.

In both 1975 and 1976, recommendations were made to eliminate funding for the senior community service employment program; however, the Appropriations Committee I serve on was successful in continuing funding for the program in those years and each year since.

It is my hope that the passage of this resolution today reassures those who depend on the senior employment program for their livelihood that their jobs will be protected so they can continue to provide a variety of important services to their communities.●

● Mr. MINETA. Mr. Speaker, I rise in support of House Concurrent Resolution 278, which expresses our strong support for the senior community service employment program.

Since its inception in 1967, this program has provided much needed job training to thousands of seniors. We endorsed this program last year when we reauthorized title V of the Older Americans Act. However, the Presi-

dent has proposed eliminating this program, and it is highly appropriate for us to reaffrim our commitment to senior employment and training at this time.

As a nation, we cannot afford to ignore the vast reservoir of experience and skill that our senior citizens have to offer. To enable elderly individuals to avoid poverty and continue as self-sufficient members of society is indeed an important function of our Government. Moreover, many of those participating in this program are providing valuable community services while in training.

In my own county of Santa Clara, this program is operated by the county council on aging. In 1982, the program will train 164 seniors, each of whom was below the poverty line before entering the training. Of these, 51 percent are in service to the general community, with the rest in senior related positions. In all, more than 80 different agencies and businesses throughout the county are participating in the senior employment program.

Since 1977, the Santa Clara program has exceeded its placement goal in each year. I have seen this program work on a local level. It fills an important community need.

Today, the House will also be considering a military spending program of more than $250 billion. Surely we can find the relatively slight funding needed to maintain this useful community service.

Mr. Speaker, I heartily endorse the senior community service employment program, and strongly support House Concurrent Resolution 278. In the words of the resolution before us, we must "provide hope for a self-sufficient and dignified existence to senior citizens who otherwise would face shrinking employment opportunities."●

● Ms. FERRARO. Mr. Speaker, I rise today in support of House Concurrent Resolution 278. This resolution expresses the sense of the Congress that the current level of 54,000 public service jobs for low-income, older Americans be maintained, under title V of the Older Americans Act, for fiscal year 1983 and subsequent years.

As you know, Mr. Speaker, the Reagan administration proposed to eliminate the title V program. The elimination of this program would mean the loss of over 54,200 federally financed jobs nationwide.

In February, I held hearings in New York on the title V program for the House Select Committee on Aging, Subcommittee on Retirement Income and Employment. Janet Sainer, commissioner of the New York City Department for the Aging, testified on the importance of this program in New York. The title V program is the last Federal employment program directed to low-income older people in the country. Last year, in New York City, 800 older people lost their jobs when CETA was eliminated. Within the same year, another 800 older workers became unemployed with the demise of the title X job opportunity program. This number would have been much greater if the city had not picked up some of the positions. If the title V program does not continue, another 900 men and women will lose their jobs. This time, New York City will not be able to pick up the positions.

Commissioner Sainer testified that if the program is eliminated, over 100 frail elderly who receive essential home care services, because of disabilities or illness, would require institutionalization. Recent studies have revealed that it now costs over $24,000/year to institutionalize one person for 1 year in New York City. The title V program also allows older Americans to continue to be productive, taxpaying citizens. Considering all these factors, the program is obviously cost effective.

The elimination of the title V program is another indication of the fiscal shortsightedness and callousness of this administration. For the President to try to save money by cutting this program is just outrageous and shameful.

I ask all of my colleagues to support this resolution and to do whatever we can to restore full funding of this highly worthwhile older worker program.●

● Mr. GRAY. Mr. Speaker, I wish to add my voice to those of my colleagues who are speaking here today in favor of the resolution by the gentleman from California.

I, too, am convinced that the administration's effort to provide zero funding for title V of the Older Americans Act is just one more example of the manner in which senior citizens are being asked to shoulder a tremendously unfair burden of the budget cuts. If the administration succeeds in cutting the more than 54,000 jobs funded by title V, it will only be adding to the misery it has already caused with its cuts in medicare, its threats to the social security program, and its attacks on a broad range of programs which are critical to the survival of our elderly people—programs such as housing assistance and nutrition services.

I am further convinced, Mr. Speaker, that there is significant support for title V not only among the American public, but in this very Chamber. I am certain that this support will be reflected in our vote today, just as it was reflected in the reponse to the two letters which I asked my colleagues to join me in sending to President Reagan on this issue.

That first letter, Mr. Speaker, in January of this year, was signed by some 68 Members. We stressed to the President that the failure to provide categorical funding for title V would seriously jeopardize an effort which has been judged to be effective in providing jobs and services to our seniors and to our community at large. We also stressed that this effort has been judged to produce a considerable cost savings, with a minimum of bureaucratic regulation.

Our first letter to the President further stated, Mr. Speaker, that beyond the stark reality of whatever cost savings lies a contribution to the lives of senior citizens who have played a major role in building the social and economic strength of our Nation. We urged that the administration not lose sight of the fact that title V takes advantage of a vast pool of talent which otherwise has been ignored by private and public employers.

We did receive a reply from the White House, Mr. Speaker. But because I felt that the reply overlooked the need to maintain categorical funding for title V, I organized a followup letter.

This time, 115 of our colleagues joined me, Mr. Speaker. We pointed out that the administration's proposed $200 million for targeted jobs assistance would force older Americans to compete with native Americans, displaced workers, offenders, and other needy groups. Given the legitimate and considerable needs of these groups, we stated our strong feelings that $200 million for these groups and senior citizens would hardly replace the $227 million we spent last year on senior citizen employment alone.

For these and other reasons, Mr. Speaker, I believe that my colleague from California is providing a very much needed statement today. I urge all of my colleagues to join me in voting for this resolution, so that we can demonstrate a mandate in support of title V.●

● Mr. BONKER. Mr. Speaker, I am pleased to see the overwhelming support for House Resolution 278, which expresses congressional support for maintaining an adequate funding level for the Older Americans Act title V jobs program.

Title V is a basic bread-and-butter economic issue to the thousands of low-income elderly that benefit from the program.

When we talk about title V, we are not talking about make-work jobs, but jobs that provide valuable community services. Many title V jobholders are employed in senior centers, nutrition and transportation projects, or other programs providing vital services to the elderly.

And when we talk about title V, we are not talking about a program to en-

tertain senior citizens for the day, but one that provides critical part-time employment to assure an older person sufficient income to put food on the table and oil in the stove.

Employment for the elderly under title V is a good self-help program that assists low-income elderly in providing for the vital necessities of life, both for themselves and often for other seniors in the community.

The roots of the title V dilemma can be traced to events earlier this year. President Reagan's 1983 budget request called for the elimination of the jobs program. In its place, the President proposed a new "displaced workers program" under which older workers would be forced to compete for funds against veterans, displaced homemakers, exconvicts, and numerous other groups. This new jobs program was to be funded at a level of $180 million in 1983, nearly one-third less than the amount earmarked just for older workers last year.

No one can express the need for this program as eloquently as a senior employed under title V. I would like to read for the record a letter I received today from a senior citizen in my State who is sincerely fearful that the Older Americans job program will be eliminated.

The letter follows:

DEAR MR. CONGRESSMAN: I received some news today that was very upsetting to say the least.

The Senior Community Service Employment Program will be terminated this September 30th.

The writer of this letter is a Senior who is in the 70th year of life. My beloved husband passed away five years ago. It was necessary for me to find work and I found work through that program. If that program goes under, I as well as many other seniors will be unemployed. What then? Welfare?

Personally, I have felt so fortunate that I have not found it necessary to go on Relief, but what happens when work for seniors is not available? Looks to me we will have to ask for help whether we want to or not.

Mr. Congressman, this is a cry for help, not only for me, but from many, many other concerned senior citizens. Please, we are asking you to do everything within your power to see that the SCSEP is not terminated.

Sincerely,

MRS. A. W. GINGER,
Bellingham, Wash.

It is my hope, Mr. Speaker, that this strong show of congressional support for the title V jobs program will convince the administration not to pull the rug out from under Mrs. Ginger and the thousands of elderly nationwide who depend upon this program.●

Mr. ANDREWS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time, if I have any time remaining.

The SPEAKER pro tempore. The question is one the motion offered by the gentleman from North Carolina (Mr. ANDREWS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 278.

The question was taken.

Mr. PANETTA. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5 of rule I and the Chair's prior announcement, further proceedings on this motion will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

Debate has been concluded on all motions to suspend the rules.

Pursuant to clause 5 of rule I, the Chair will now put the question on the motion on which further proceedings were postponed and will then put the question on each motion on which further proceedings were postponed on Monday, July 19, 1982, in the order in which those motions were entertained.

Votes will be taken in the following order:

House Concurrent Resolution 278, H.R. 5228, H.R. 6258, and House Concurrent Resolution 310, all by the yeas and nays.

The Chair will reduce to 5 minutes the time for any electronic votes after the first such vote in this series.

SENSE OF CONGRESS REGARDING OLDER AMERICANS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 278).

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. ANDREWS) that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 278, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 407, nays 4, not voting 23, as follows:

[Roll No. 188]

YEAS—407

Addabbo	Benjamin	Broyhill
Alexander	Bennett	Burgener
Anderson	Bereuter	Burton, Phillip
Andrews	Bethune	Butler
Annunzio	Bevill	Byron
Anthony	Bingham	Campbell
Applegate	Bliley	Carman
Archer	Boggs	Carney
Aspin	Boland	Chappie
Atkinson	Bolling	Cheney
AuCoin	Boner	Chisholm
Badham	Bonior	Clausen
Bafalis	Bonker	Clinger
Bailey (MO)	Bouquard	Coats
Bailey (PA)	Breaux	Coelho
Barnard	Brinkley	Coleman
Barnes	Brodhead	Collins (IL)
Beard	Brooks	Collins (TX)
Bedell	Broomfield	Conable
Beilenson	Brown (CA)	Conte
Benedict	Brown (CO)	Conyers
Corcoran	Hammerschmidt	Minish
Coughlin	Hance	Mitchell (MD)
Courter	Hansen (ID)	Mitchell (NY)
Coyne, William	Hansen (UT)	Moakley
Craig	Harkin	Moffett
Crockett	Hartnett	Molinari
D'Amours	Hatcher	Mollohan
Daniel, Dan	Hawkins	Montgomery
Daniel, R. W.	Heckler	Moore
Dannemeyer	Hefner	Moorhead
Daschle	Heftel	Morrison
Daub	Hendon	Mottl
Davis	Hertel	Murphy
Deckard	Hightower	Murtha
Dellums	Hiler	Myers
DeNardis	Hillis	Napier
Derrick	Holland	Natcher
Derwinski	Hollenbeck	Neal
Dickinson	Holt	Nelligan
Dicks	Hopkins	Nelson
Dingell	Horton	Nichols
Dixon	Howard	Nowak
Donnelly	Hoyer	O'Brien
Dorgan	Hubbard	Oakar
Dornan	Huckaby	Oberstar
Dougherty	Hughes	Obey
Dowdy	Hunter	Ottinger
Downey	Hutto	Oxley
Dreier	Hyde	Panetta
Duncan	Ireland	Parris
Dunn	Jacobs	Pashayan
Dwyer	Jeffords	Patman
Dymally	Jeffries	Patterson
Dyson	Jenkins	Pease
Early	Johnston	Pepper
Eckart	Jones (NC)	Perkins
Edgar	Jones (OK)	Petri
Edwards (AL)	Kastenmeier	Peyser
Edwards (CA)	Kazen	Pickle
Edwards (OK)	Kemp	Porter
Emerson	Kennelly	Price
Emery	Kildee	Pritchard
English	Kindness	Pursell
Erdahl	Kogovsek	Quillen
Erlenborn	Kramer	Rahall
Ertel	LaFalce	Railsback
Evans (DE)	Lagomarsino	Ratchford
Evans (GA)	Lantos	Regula
Evans (IA)	Latta	Reuss
Evans (IN)	Leach	Rhodes
Fary	Leath	Richmond
Fascell	Lee	Rinaldo
Fazio	Lehman	Ritter
Fenwick	Leland	Roberts (KS)
Ferraro	Lent	Roberts (SD)
Fiedler	Levitas	Robinson
Fields	Lewis	Rodino
Findley	Livingston	Roe
Fish	Loeffler	Roemer
Flippo	Long (LA)	Rogers
Florio	Long (MD)	Rosenthal
Foglietta	Lott	Rostenkowski
Foley	Lowery (CA)	Roth
Ford (MI)	Lowry (WA)	Roukema
Ford (TN)	Lujan	Roybal
Forsythe	Luken	Rudd
Fountain	Lundine	Russo
Fowler	Lungren	Sabo
Frank	Madigan	Santini
Frenzel	Markey	Savage
Frost	Marks	Sawyer
Fuqua	Marlenee	Scheuer
Garcia	Marriott	Schneider
Gaydos	Martin (IL)	Schroeder
Gejdenson	Martin (NC)	Schulze
Gephardt	Martin (NY)	Seiberling
Gibbons	Martinez	Sensenbrenner
Gilman	Matsui	Shamansky
Gingrich	Mattox	Shannon
Ginn	Mavroules	Sharp
Glickman	Mazzoli	Shaw
Goldwater	McClory	Shelby
Gonzalez	McCloskey	Shumway
Goodling	McCollum	Shuster
Gore	McCurdy	Siljander
Gradison	McDade	Simon
Gramm	McEwen	Skeen
Gray	McGrath	Skelton
Gregg	McHugh	Smith (AL)
Grisham	McKinney	Smith (IA)
Guarini	Mica	Smith (NE)
Gunderson	Michel	Smith (NJ)
Hall (OH)	Mikulski	Smith (OR)
Hall, Ralph	Miller (CA)	Smith (PA)
Hall, Sam	Miller (OH)	Snowe
Hamilton	Mineta	Snyder

Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—4

Ashbrook
Crane, Philip
McDonald
Paul

NOT VOTING—23

Akaka
Albosta
Biaggi
Blanchard
Bowen
Brown (OH)
Burton, John
Chappell
Clay
Coyne, James
Crane, Daniel
de la Garza
Fithian
Green
Hagedorn
Jones (TN)
LeBoutillier
Rangel
Rose
Rousselot
Schumer
Solomon
Trible

□ 1345

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device may be taken on all the additional motions to suspend the rules on which the Chair has postponed further proceedings.

IMPLEMENTING THE CONVENTION ON PHYSICAL PROTECTION OF NUCLEAR MATERIAL

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5228, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. HUGHES) that the house suspend the rules and pass the bill, H.R. 5228, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 396, nays 9, answered "present" 1, not voting 28, as follows:

[Roll No. 189]

YEAS—396

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Aspin
Atkinson
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Bellenson
Benedict
Benjamin
Bennett
Bereuter
Bevill
Bingham
Bliley
Boggs
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Conyers
Corcoran
Coughlin
Courter
Coyne, William
Craig
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dornan
Dougherty
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Findley
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fountain
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Grisham
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Kastenmeier
Kazen
Kennelly
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (CA)
Miller (OH)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Moffett
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Motti
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
O'Brien
Oakar
Oberstar
Obey
Ottinger
Oxley
Panetta
Parris
Pashayan
Patman
Patterson
Pease
Pepper
Perkins
Peyser
Pickle
Porter
Price
Pritchard
Quillen
Rahall
Railsback
Ratchford
Regula
Reuss
Rhodes
Richmond
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Rodino
Roe
Roemer
Rogers
Rosenthal
Rostenkowski
Roth
Roukema
Roybal
Rudd
Russo
Sabo
Santini
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schulze
Seiberling
Shamansky
Shannon
Sharp
Shaw
Shelby
Shumway
Shuster
Siljander
Simon
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Smith (PA)
Snowe
Snyder
Solarz
Spence
St Germain
Stangeland
Stanton
Stark
Staton
Stenholm
Stokes
Stratton
Studds
Stump
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Udall
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Washington
Watkins
Waxman
Weaver
Weber (MN)
Weber (OH)
Weiss
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (MT)
Williams (OH)
Wilson
Winn
Wirth
Wolf
Wolpe
Wortley
Wright
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—9

Ashbrook
Crane, Daniel
Crane, Philip
Harkin
Kindness
McDonald
Paul
Petri
Sensenbrenner

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—28

Akaka
Albosta
AuCoin
Bethune
Biaggi
Blanchard
Boland
Bowen
Brown (OH)
Burton, John
Chappell
Clay
Coyne, James
de la Garza
Dowdy
Fithian
Green
Hagedorn
Jones (TN)
Kemp
LeBoutillier
Pursell
Rangel
Rose
Rousselot
Schumer
Solomon
Trible

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

INTERNATIONAL TRAVEL ACT AUTHORIZATION FOR 1983

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 6258.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. FLORIO) that the House suspend the rules and pass the bill. H.R. 6258, on which the yeas and nays are ordered.

The vote was taken by electronic vote, and there were—yeas 241, nays 167, not voting 26, as follows:

[Roll No. 190]

YEAS—241

Addabbo
Alexander
Anderson
Annunzio
Anthony
Applegate
AuCoin
Badham
Bafalis
Bailey (PA)
Barnard
Barnes
Bedell
Benedict
Benjamin
Boggs
Boland
Bolling

Boner
Bonior
Bonker
Bouquard
Brinkley
Brodhead
Broomfield
Brown (CA)
Burton, Phillip
Byron
Campbell
Carman
Carney
Chisholm
Clausen
Coelho
Coleman
Collins (IL)
Conte
Conyers
Courter
Coyne, William
Crockett
D'Amours
Daschle
Davis
Deckard
Dellums
DeNardis
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Duncan
Dwyer
Dymally
Dyson
Early
Edwards (AL)
Edwards (CA)
Emery
Erdahl
Ertel
Evans (DE)
Evans (GA)
Fary
Fascell
Fazio
Ferraro
Fish
Florio
Foglietta
Foley
Ford (TN)
Fowler
Frank
Frost
Fuqua
Garcia
Gaydos
Gibbons
Gilman
Gingrich
Ginn
Gonzalez
Gore
Gray
Guarini
Hall, Ralph
Harkin
Hawkins
Heckler
Hefner
Heftel
Hendon
Holland
Hollenbeck
Horton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Jeffords
Jenkins
Jones (NC)
Kastenmeier
Kazen
Kemp
Kildee
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Lee
Lehman
Leland
Lent
Long (LA)
Lott
Lowery (CA)
Lowry (WA)
Luken
Lundine
Madigan
Markey
Marks
Marlenee
Marriott
Martin (NY)
Martinez
Matsui
Mavroules
McClory
McCollum
McDade
McGrath
McHugh
McKinney
Mica
Mikulski
Miller (CA)
Mineta
Minish
Mitchell (MD)
Mitchell (NY)
Moakley
Molinari
Mollohan
Morrison
Motti
Murphy
Murtha
Napier
Nelligan
Nelson
Nowak
Oakar
Oberstar
Ottinger
Panetta
Parris
Pashayan
Patterson
Pepper
Perkins
Peyser
Pickle
Price
Pritchard
Quillen
Rahall
Railsback
Reuss
Rhodes
Richmond
Rinaldo
Roberts (SD)
Rodino
Roe
Rogers
Rosenthal
Rostenkowski
Roth
Roybal
Russo
Santini
Savage
Sawyer
Scheuer
Schneider
Shamansky
Shannon
Shaw
Shuster
Siljander
Simon
Skelton
Smith (NJ)
Smith (PA)
Snowe
Solarz
Spence
Stangeland
Stark
Staton
Stokes
Stratton
Studds
Swift
Synar
Tauke
Traxler
Vander Jagt
Vento
Walgren
Wampler
Washington
Watkins
Waxman
Weaver
Weiss
Williams (MT)
Wilson
Wirth
Wolf
Wortley
Wright
Wyden
Yatron
Young (AK)
Young (FL)
Young (MO)
Zablocki
Zeferetti

NAYS—167

Andrews
Archer
Ashbrook
Aspin
Atkinson
Bailey (MO)
Beard
Beilenson
Bennett
Bereuter
Bethune
Bevill
Bingham
Bliley
Breaux
Brooks
Brown (CO)
Broyhill
Burgener
Butler
Chappie
Cheney
Clinger
Coats
Collins (TX)
Conable
Corcoran
Coughlin
Craig
Crane, Daniel
Crane, Philip
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Derwinski
Dornan
Dreier
Dunn
Eckart
Edgar
Edwards (OK)
Emerson
English
Erlenborn
Evans (IA)
Evans (IN)
Fenwick
Fiedler
Fields
Flippo
Forsythe
Fountain
Frenzel
Gejdenson
Gephardt
Glickman
Goldwater
Goodling
Gradison
Gramm
Gregg
Grisham
Gunderson
Hall (OH)
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Hartnett
Hatcher
Hertel
Hightower
Hiler
Hillis
Holt
Hopkins
Huckaby
Hyde
Ireland
Jacobs
Jeffries
Johnston
Jones (OK)
Kennelly
Kindness
Latta
Leach
Leath
Levitas
Lewis
Livingston
Loeffler
Long (MD)
Lujan
Lungren
Martin (IL)
Martin (NC)
Mattox
Mazzoli
McCloskey
McCurdy
McDonald
McEwen
Michel
Miller (OH)
Montgomery
Moore
Moorhead
Myers
Natcher
Neal
Nichols
O'Brien
Obey
Oxley
Patman
Paul
Pease
Petri
Porter
Ratchford
Regula
Ritter
Roberts (KS)
Robinson
Roemer
Roukema
Rudd
Sabo
Schroeder
Schulze
Seiberling
Sensenbrenner
Sharp
Shelby
Shumway
Skeen
Smith (AL)
Smith (IA)
Smith (NE)
Smith (OR)
Snyder
St Germain
Stanton
Stenholm
Stump
Tauzin
Taylor
Thomas
Udall
Volkmer
Walker
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Winn
Wolpe
Wylie
Yates

NOT VOTING—26

Akaka
Albosta
Biaggi
Blanchard
Bowen
Brown (OH)
Burton, John
Chappell
Clay
Coyne, James
de la Garza
Findley
Fithian
Ford (MI)
Green
Hagedorn
Jones (TN)
LeBoutillier
Moffett
Pursell
Rangel
Rose
Rousselot
Schumer
Solomon
Trible

□ 1400

Mr. HERTEL changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

GENERAL LEAVE

Mr. FLORIO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

SENSE OF CONGRESS RE SITUATION ON CYPRUS

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution (H. Con. Res. 310), as amended.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. HAMILTON) that the House suspend the rules and agree to the concurrent resolution (H. Con. Res. 310), as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 6, not voting 23, as follows:

[Roll No. 191]

YEAS—405

Addabbo
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
Atkinson
AuCoin
Badham
Bafalis
Bailey (MO)
Bailey (PA)
Barnard
Barnes
Beard
Bedell
Beilenson
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Bingham
Bliley
Boggs
Boland
Bolling
Boner
Bonior
Bonker
Bouquard
Breaux
Brinkley
Brodhead
Brooks
Broomfield
Brown (CA)
Brown (CO)
Broyhill
Burgener
Burton, Phillip
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Chisholm
Clausen
Clinger
Coats
Coelho
Coleman
Collins (IL)
Collins (TX)
Conable
Conte
Corcoran
Coughlin
Courter
Coyne, William
Craig
Crane, Daniel
Crane, Philip
Crockett
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
Deckard
Dellums
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dowdy
Downey
Dreier
Duncan
Dunn
Dwyer
Dymally
Dyson
Early
Eckart
Edgar
Edwards (AL)
Edwards (CA)
Edwards (OK)
Emerson
Emery
English
Erdahl
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Evans (IA)
Evans (IN)
Fary
Fascell
Fazio
Fenwick
Ferraro
Fiedler
Fields
Fish
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Forsythe
Fowler
Frank
Frenzel
Frost
Fuqua
Garcia
Gaydos
Gejdenson
Gephardt
Gibbons
Gilman
Gingrich
Ginn
Glickman
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Gregg
Guarini
Gunderson
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hansen (UT)
Harkin
Hartnett
Hatcher
Hawkins
Heckler
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Hollenbeck
Holt
Hopkins
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Kastenmeier
Kazen
Kemp
Kennelly
Kildee
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Lantos
Latta
Leach
Leath
Lee
Lehman
Leland
Lent
Levitas
Lewis
Livingston
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken
Lundine
Lungren
Madigan
Markey
Marks
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Martinez
Matsui
Mattox
Mavroules
Mazzoli
McClory
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McKinney
Mica

Michel	Regula	Stanton
Mikulski	Reuss	Stark
Miller (CA)	Rhodes	Staton
Miller (OH)	Richmond	Stenholm
Mineta	Rinaldo	Stokes
Minish	Ritter	Stratton
Mitchell (MD)	Roberts (KS)	Studds
Mitchell (NY)	Roberts (SD)	Stump
Moakley	Robinson	Swift
Moffett	Rodino	Synar
Molinari	Roe	Tauke
Mollohan	Roemer	Tauzin
Montgomery	Rogers	Taylor
Moore	Rosenthal	Thomas
Moorhead	Rostenkowski	Traxler
Morrison	Roth	Udall
Mottl	Roukema	Vander Jagt
Murphy	Roybal	Vento
Murtha	Rudd	Volkmer
Myers	Russo	Walgren
Napier	Sabo	Walker
Natcher	Santini	Wampler
Neal	Savage	Washington
Nelligan	Sawyer	Watkins
Nelson	Scheuer	Waxman
Nichols	Schneider	Weaver
Nowak	Schroeder	Weber (MN)
O'Brien	Schulze	Weber (OH)
Oakar	Seiberling	Weiss
Oberstar	Sensenbrenner	White
Obey	Shamansky	Whitehurst
Ottinger	Shannon	Whitley
Oxley	Sharp	Whittaker
Panetta	Shaw	Whitten
Parris	Shelby	Williams (MT)
Pashayan	Shumway	Williams (OH)
Patman	Shuster	Wilson
Patterson	Siljander	Winn
Pease	Simon	Wirth
Pepper	Skeen	Wolf
Perkins	Skelton	Wolpe
Petri	Smith (AL)	Wortley
Peyser	Smith (IA)	Wright
Pickle	Smith (NE)	Wyden
Porter	Smith (NJ)	Wylie
Price	Smith (OR)	Yates
Pritchard	Smith (PA)	Yatron
Pursell	Snowe	Young (AK)
Quillen	Snyder	Young (FL)
Rahall	Spence	Young (MO)
Railsback	St Germain	Zablocki
Ratchford	Stangeland	Zeferetti

NAYS—6

Conyers	Grisham	Paul
Findley	McDonald	Solarz

NOT VOTING—23

Akaka	Clay	LeBoutillier
Albosta	Coyne, James	Rangel
Biaggi	de la Garza	Rose
Blanchard	Fithian	Rousselot
Bowen	Fountain	Schumer
Brown (OH)	Green	Solomon
Burton, John	Hagedorn	Trible
Chappell	Jones (TN)	

Mr. FINDLEY changed his vote from "yea" to "nay."

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

□ 1415

GENERAL LEAVE

Mr. GREGG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Concurrent Resolution 278.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Hampshire?

There was no objection.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6030, with Mr. ROSTENKOWSKI in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Monday, July 19, 1982, the Clerk had designated section 1.

Pursuant to the provisions of House Resolution 525, it is in order to consider the amendments printed in the CONGRESSIONAL RECORD of July 15, 1982, by and if offered by Representatives BENNETT, STRATTON, and DAN DANIEL of Virginia, and said amendments shall not be subject to amendment while pending, except pro forma amendments for the purpose of debate.

The Chair recognizes the gentleman from Florida (Mr. BENNETT).

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 4, line 7 strike out "$2,485,000,000" and insert in lieu thereof "$1,786,000,000".

Mr. BENNETT. Mr. Chairman, the amendment just read would reduce the authorization for the Trident submarine program by one submarine, from two to one, and would reduce the authorization for appropriation by $699 million. The amendment is the first of three amendments to be offered to achieve the reductions mandated by the budget resolution. The amendment was arrived at after consultation with the Seapower Subcommittee, which concluded that a reduction in the Trident program was the best course of action to satisfy the spending levels targeted in the budget resolution. Mr. SPENCE, the ranking member of the subcommittee, concurs in the amendment.

Let me briefly explain why the subcommittee concluded that a reduction in the Trident program was the best way to make the reduction.

Subsequent to completion of committee action on the Defense authorization bill the Secretary of Defense informed the committee that he had decided the most cost-effective way to deploy the Trident II missile would be to build the two Trident submarines requested in the fiscal year 1983 budget to carry the Trident II missile. The submarine equipment necessary to support the larger, heavier, and more accurate Trident II missile will add several hundred million dollars to the cost of each of the two Tridents included in the authorization bill as passed by the committee.

In light of the adoption of a budget resolution that mandates reductions in the Defense budget, the subcommittee concluded that it would not be possible to add the necessary funds for two Trident submarines, equipped to carry the Trident II missile, to the 1983 budget. Accordingly, the subcommittee was faced with the situation of feeling compelled to make some reductions to the bill as reported and with a bill containing an authorization for the Trident program that authorized two ships but which did not authorize appropriations sufficient to build the two ships. Therefore the subcommittee concluded that one ship should be authorized, and that the authorization should be sufficient to construct the ship fully equipped to carry the Trident II missile. This action would result in a net reduction of $699 million in authorization for the Navy shipbuilding program.

Mr. Chairman, in light of the reductions in the Defense budget that the House has targeted in adopting the first budget resolution, I urge my colleagues to support the amendment. It represents the best way of achieving the mandated reduction.

Mr. SPENCE. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, as I rise in support of the amendment offered by my chairman, I wish to state that I endorse his actions and also the action taken by the House Armed Services Committee to reduce the Navy's Trident budget for fiscal year 1983 by $699 million.

We carefully examined the alternatives that would permit us to fulfill our obligation to reduce recommended authorizations for naval shipbuilding to conform with the committee's desire to approve legislation generally consistent with the House-passed budget resolution.

I had hoped that in reaching our decision that we could do so without cutting into major programs essential to broad plans to build at least a 600-ship Navy and to strengthen and modernize our naval combatant fleet. The Tri-

dent ballastic missile submarine is a vital element in our strategic Triad, and with the new D-5 Trident II missile installed, is likely to play an even greater deterrent role in the future. The members of the Armed Services Committee feel strongly about that.

Consequently, it was difficult to deny the Navy a submarine which it should have. However, I was persuaded by the most recent letter from the Secretary of the Navy that it is possible that the restructured Trident program will bring on line the advanced D-5 ballistic missile sooner, produce cost savings by reducing the requirements for C-4 missiles and subsequent retrofitting procedures and still retain the D-5 system initial operating capability—IOC—date of 1989. Based on this information, a reduction to one Trident submarine for fiscal year 1983 seems to be an acceptable alternative at this time without prejudice to future enhancement of the Navy's submarine programs.

Mr. HUCKABY. Mr. Chairman, I move to strike the last word.

I would like to inquire from the gentleman from Florida, if I might—we are all aware that we have one Trident at sea today. How many are under construction at this point in time?

Mr. BENNETT. There are nine.

Mr. HUCKABY. And will all nine of these—how will they be equipped as far as with the new Trident II missile?

Mr. BENNETT. They will all be Trident I, except the ones we are going to build; from henceforth, it will be Trident II.

Mr. HUCKABY. But would the gentleman agree with the proposition that our submarine forces are probably the most effective of our Triad forces today, since they are probably the least vulnerable?

Mr. BENNETT. I think everybody agrees on that, and I do.

Mr. HUCKABY. The gentleman does concur with that, and yet the gentleman, even aware of this, is willing to cut back the authorization by 50 percent?

Mr. BENNETT. Well, I am not very happy about it, but the Congress has enacted a law that requires us to reduce the national defense and the Navy has to take its share of it.

Mr. HUCKABY. My point is, is this the most effective point we should be obtaining these moneys? I agree we have got to make some cutbacks as such, but here we are talking about the most effective leg of our Triad and making cuts there.

Mr. BENNETT. Well, actually, it is not going to slow up any of these ships getting to sea. They are all going to get to sea about the same time that they would have, anyway. In other words, we are really not slowing up the program, because they have a backlog of work that they have not yet done anyway.

I guess the worst argument that one could make against the thing that I have offered, one could say, they do have an option to build this submarine, but the argument against that is that the option cannot be fulfilled anyway, because they are going to make it a Trident II submarine. Therefore, it has to be opened up and we would not save any money.

As far as time is concerned, we are not going to lose any time.

I myself did not start off with this idea of doing this with the Trident. I was a last-minute convert and the real reason I was converted was because all the suggestions of other places for cuts lacked candor. They were not real savings. They were apparent savings that really were not going to take place, like cost overruns and things like that which are not going to be effective. That is like saying you are going to cut out waste and extravagance in Government. Unless you have a specific place to do it, it does not cut it out.

The suggestions given to us by the Navy did not meet, in my opinion, the standard of candor.

Mr. HUCKABY. If what the gentleman is saying, the immediate construction program of the Tridents will not be affected at all by this out?

Mr. BENNETT. It will not. It will go just as fast for the whole Trident fleet.

Mr. KAZEN. Mr. Chairman, will my colleague yield?

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. KAZEN. The state of the matter is the fact that under the budget resolution we must cut some funds in defense and the gentleman, as chairman of the Subcommittee on Seapower of the Committee on Armed Services, has reviewed the entire naval program, came forward with this proposition to the full committee, and the full committee has agreed with him.

Now, the gentleman is a very strong advocate of a strong national defense. The majority of us on the floor are and it goes against the grain for us to vote to cut funds for defense.

I think that we have no option except to go with the gentleman. He has studied the budget very carefully and has found out that this is the more effective way that we can cut back to the limits of the budget resolution already adopted by this Congress and at the same time not do any harm or less harm than we would do by cutting somewhere else as far as our defense posture is concerned.

Mr. BENNETT. Mr. Chairman, if the gentleman will yield, the gentleman has stated it very accurately. This amendment is the least harmful amendment that we could come up with, because it is not going to really delay, in my opinion, the production of the Trident.

Mr. KAZEN. We are not doing it because we want to, but because we are mandated by the budget; am I correct?

Mr. BENNETT. That is correct, and it should in no way be construed as a criticism of the Electric Boat or how these Tridents are produced or anything else. They are being produced well. This is not a criticism of that. It is not a rebuke to anybody. The Trident submarine is going to come out just about the same time it was going to come out anyway. It is an honest statement that we are not going to give the money in this bill, however.

Mr. KAZEN. I thank my colleague.

Mr. BENNETT. Mr. Chairman, on this I would like to ask for a rollcall vote.

□ 1430

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. BENNETT).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BENNETT. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 344, noes 65, not voting 25, as follows:

[Roll No. 192]

AYES—344

Addabbo	Coelho	Evans (IA)
Anderson	Coleman	Evans (IN)
Andrews	Collins (IL)	Fary
Annunzio	Collins (TX)	Fascell
Anthony	Conte	Fenwick
Archer	Conyers	Ferraro
Ashbrook	Corcoran	Fiedler
Aspin	Coughlin	Fields
AuCoin	Coyne, William	Findley
Badham	Craig	Fish
Bafalis	D'Amours	Flippo
Bailey (MO)	Daniel, Dan	Foglietta
Barnard	Daniel, R. W.	Foley
Barnes	Dannemeyer	Ford (TN)
Beard	Daschle	Forsythe
Bedell	Daub	Fountain
Benedict	Davis	Fowler
Benjamin	Deckard	Frank
Bennett	Dellums	Frenzel
Bereuter	Derrick	Frost
Bethune	Derwinski	Fuqua
Bevill	Dickinson	Garcia
Bingham	Dicks	Gaydos
Bliley	Dixon	Gephardt
Boggs	Dorgan	Gibbons
Boland	Dornan	Gilman
Boner	Dougherty	Gingrich
Bonior	Dowdy	Ginn
Bonker	Dreier	Glickman
Bouquard	Duncan	Goldwater
Breaux	Dunn	Gonzalez
Brinkley	Dwyer	Goodling
Brodhead	Dymally	Gore
Brooks	Dyson	Gradison
Broomfield	Early	Gramm
Brown (CA)	Eckart	Gray
Brown (CO)	Edgar	Gregg
Broyhill	Edwards (AL)	Grisham
Burgener	Edwards (CA)	Guarini
Burton, Phillip	Edwards (OK)	Hagedorn
Butler	Emerson	Hall (OH)
Byron	Emery	Hall, Ralph
Campbell	English	Hall, Sam
Carman	Erdahl	Hamilton
Carney	Erlenborn	Hammerschmidt
Chappie	Ertel	Hance
Clausen	Evans (DE)	Hansen (ID)
Clinger	Evans (GA)	Hansen (UT)

Harkin	McGrath	Seiberling
Hatcher	McHugh	Sensenbrenner
Hawkins	Mica	Shamansky
Hefner	Mikulski	Shannon
Heftel	Miller (OH)	Sharp
Hertel	Minish	Shaw
Hightower	Mitchell (MD)	Shumway
Hillis	Moakley	Shuster
Holland	Mollohan	Simon
Hollenbeck	Montgomery	Skeen
Holt	Moore	Skelton
Hopkins	Moorhead	Smith (AL)
Horton	Morrison	Smith (IA)
Howard	Mottl	Smith (NE)
Hoyer	Murphy	Smith (NJ)
Hubbard	Myers	Smith (OR)
Hutto	Napier	Smith (PA)
Hyde	Natcher	Snowe
Ireland	Neal	Snyder
Jacobs	Nelligan	Spence
Jeffords	Nelson	Stangeland
Jenkins	Nichols	Stanton
Johnston	Nowak	Stark
Jones (NC)	Oakar	Staton
Jones (OK)	Obey	Stenholm
Kastenmeier	Oxley	Stokes
Kazen	Parris	Stratton
Kildee	Pashayan	Stump
Kindness	Patman	Swift
Kogovsek	Patterson	Synar
LaFalce	Paul	Tauke
Lagomarsino	Pease	Tauzin
Lantos	Pepper	Taylor
Latta	Perkins	Thomas
Leach	Petri	Traxler
Leath	Peyser	Trible
LeBoutillier	Pickle	Udall
Lehman	Porter	Vander Jagt
Leland	Price	Volkmer
Levitas	Pritchard	Walgren
Lewis	Pursell	Walker
Livingston	Rahall	Wampler
Loeffler	Railsback	Washington
Long (LA)	Rangel	Watkins
Lott	Regula	Waxman
Lowry (WA)	Reuss	Weaver
Lujan	Richmond	Weber (MN)
Luken	Rinaldo	Weber (OH)
Lundine	Ritter	Weiss
Lungren	Roberts (KS)	White
Madigan	Roberts (SD)	Whitehurst
Markey	Robinson	Whitley
Marks	Rodino	Whittaker
Marlenee	Roe	Whitten
Marriott	Roemer	Williams (OH)
Martin (IL)	Rogers	Winn
Martin (NC)	Rosenthal	Wirth
Martinez	Rostenkowski	Wolf
Matsui	Roth	Wortley
Mattox	Roukema	Wright
Mavroules	Roybal	Wyden
McCloskey	Rudd	Wylie
McCollum	Santini	Yates
McCurdy	Savage	Yatron
McDade	Sawyer	Young (FL)
McDonald	Scheuer	Zablocki
McEwen	Schroeder	

NOES—65

Alexander	Hendon	O'Brien
Applegate	Hiler	Oberstar
Atkinson	Huckaby	Ottinger
Bailey (PA)	Hughes	Panetta
Beilenson	Hunter	Quillen
Cheney	Jeffries	Ratchford
Coats	Kemp	Rhodes
Conable	Kennelly	Russo
Courter	Kramer	Sabo
Crane, Daniel	Lee	Schneider
Crane, Philip	Lent	Schulze
DeNardis	Long (MD)	Shelby
Dingell	Lowery (CA)	Siljander
Donnelly	McClory	Solarz
Downey	McKinney	St Germain
Fazio	Michel	Studds
Florio	Miller (CA)	Vento
Ford (MI)	Mineta	Williams (MT)
Gejdenson	Mitchell (NY)	Wilson
Gunderson	Moffett	Wolpe
Hartnett	Molinari	Zeferetti
Heckler	Murtha	

NOT VOTING—25

Akaka	Biaggi	Bolling
Albosta	Blanchard	Bowen
Brown (OH)	de la Garza	Rousselot
Burton, John	Fithian	Schumer
Chappell	Green	Solomon
Chisholm	Jones (TN)	Young (AK)
Clay	Martin (NY)	Young (MO)
Coyne, James	Mazzoli	
Crockett	Rose	

□ 1445

The Clerk announced the following pair:

On this vote:

Mr. Akaka for, with Mr. Chappell against.

Messrs. MINETA, PANETTA, and VENTO changed their votes from "aye" to "no."

Messrs. WEBER of Minnesota, GUARINI, ARCHER, and DICKS changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 2, line 11, strike out "$2,612,200,000" and insert in lieu thereof "$2,541,600,000".

Page 2, line 12, strike out "$2,948,500,000" and insert in lieu thereof "$2,898,500,000".

Page 2, line 14, strike out "$4,843,100,000" and insert in lieu thereof "$4,707,700,000".

Page 2, line 15, strike out "$2,622,600,000" and insert in lieu thereof "$2,439,000,000".

Page 2, line 16, strike out "$4,638,000,000" and insert in lieu thereof "$4,509,500,000".

Page 2, line 21, strike out "$11,774,600,000" and insert in lieu thereof "$11,424,500,000".

Page 6, line 7, strike out "$2,209,000,000" and insert in lieu thereof "$1,984,900,000".

Page 6, line 13, strike out "$18,116,300,000" and insert in lieu thereof "$17,243,400,000".

Page 6, line 14, strike out "$6,388,800,000" and insert in lieu thereof "$6,333,300,000".

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Chairman, I know that on the previous amendment offered by the gentleman from Florida (Mr. BENNETT) there was a certain amount of confusion among the membership as to exactly what was happening when senior members of the Armed Services Committee were getting up and offering amendments to cut the defense program, items like the *Trident* submarine, and others. I am sure that many Members are feeling that something has gone haywire when the Member from the 28th District of New York rises to offer an amendment that would cut $2 billion from defense programs originally authorized by the Armed Services Committee. I have not gone berserk. I have not been converted by the various caucuses that have been trying to convert me.

The amendment is being offered rather, as the gentleman from Florida explained in connection with his own amendment, because the House in its wisdom, when it adopted the budget resolution, required a $10 billion cut in defense. Since our committee had spent a good deal of time in developing the initial defense legislation, we wanted to try to see if it was possible to cut that kind of money out of defense without doing harm at least in a major way. I must say I think the amendment I am proposing now does accomplish that reduction in the procurement account, some $2.070 billion, remarkably well in the sense that it does not gut or do severe damage to any major programs.

What the amendment would do would be to delete $568.1 million from the Army; $574.4 million from the Navy, which comes in addition to the reduction offered by the gentleman from Florida, and $928.4 million from the Air Force. Together with the other amendments that are going to be offered, this will bring the total cost of H.R. 6030 into full conformity with the First Concurrent Resolution on the budget.

There are some 37 programs involved in these amendments, and I do not plan to discuss each of them since the program reductions that make up the amendments have already been published in the CONGRESSIONAL RECORD. Individuals who have a heartburn about one item or another should consult the CONGRESSIONAL RECORD, but I ought to point out that we have tried to spread the suffering as widely as possible, including the districts and States represented by members of the Armed Services Committee. For example, we have deleted six F-14's, one of the Nation's greatest aircraft and produced in the Nation's Empire State, simply to demonstrate that we are all suffering a little bit with these reductions.

However, make no mistake about it, we are going beyond the fat layer down to the muscle and bone. Our amendments would delete 42 combat aircraft, 114 combat vehicles. They curtail major aircraft, vehicle and missile modifications; a major program, the Copperhead cannon-launched guided missile, is terminated. The amendments reduce spare and repair parts, ammunition and communications programs, the critical readiness items that make our forces able to shoot, move and communicate, by over $400 million.

Obviously, this will demonstrate that whenever we cut defense budgets we are going to have problems. Perhaps already those who at the time of the budget debate proposed so glibly and easily substantial cuts in defense

may now feel that they made a little mistake. But we have responded to the directions of the House and we offer this amendment in that spirit.

I am not proposing to delete these various items because I believe they are not needed. If I believed that I would have recommended they be deleted when H.R. 6030 was marked up in committee back in April.

Rather, I am offering this amendment because it was the will of the Congress that the 1983 defense budget ge reduced by $10 billion. I believe that it is the responsibility of senior members of the committee to make responsible recommendations to the House on where reductions should be taken, instead of marking up the bill on the floor of the House without a careful review of all the consequences of some of the amendments offered.

Many of these reductions will be painful to individual Members because all of these cuts ultimately translate into lost jobs and lost capability. They are painful to me and my colleagues from New York where the F-14 is made, since one of these amendments as I have already pointed out deletes six F-14's.

The truth is, that I can probably make a better case against these reductions than anyone in this House on the merits of the individual programs. But Mrs. HOLT and I did not prepare this amendment in isolation. We worked on it for more than 3 weeks, trying to weigh all the priorities, and I can assure you it was not a labor of love. But what you have before you is our best judgment as to where programs should be reduced in order to conform to the congressional mandate.

I reluctantly urge the adoption of these amendments.

The CHAIRMAN. The time of the gentleman from New York has expired.

(At the request of Mr. MARKS and by unanimous consent, Mr. STRATTON was allowed to proceed for 2 additional minutes.)

Mr. MARKS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I would be glad to yield to the gentleman.

Mr. MARKS. I wonder if I might ask the gentleman from New York a question. He seemed to indicate that the cutting of two aircraft that would be built in the State of New York was being done just to show good faith by the State of New York. Is that the gentleman's comment? Does he really mean that? Was there not some consideration given as to whether or not we need those two aircraft at some point in time?

Mr. STRATTON. Let me say to the gentleman that the bill that was reported out by the House Armed Services Committee in April was a bill that, in my judgment, was vitally important, every single item in that bill, for the defense of the country. We would not have put those items in if they were not important. But subsequent to that time, and before our bill had an opportunity to come on the floor, the House directed the Armed Services Committee to cut $10 billion. You cannot really cut $10 billion without cutting bone and muscle in a very substantial number of programs.

The point is that if we are going to get people to agree to this kind of massive reduction we have got to make it clear that we are spreading the impact, as I indicated earlier, over a number of areas and a number of programs. We on the Armed Services Committee, felt we had to make it clear that we are not shielding our own districts and our own States and only making other districts and other States take all the cuts.

Mr. MARKS. I thank the gentleman for that explanation.

The CHAIRMAN. The time of the gentleman from New York has again expired.

(At the request of Mr. SANTINI and by unanimous consent, Mr. STRATTON was allowed to proceed for 3 additional minutes.)

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield.

Mr. SANTINI. I thank the gentleman for yielding.

Mr. Chairman, I was unaware that the committee was considering any action to reduce the Minuteman extended survivable power program until the details of the Stratton amendment were published in the RECORD on July 15. However, at the same time I learned of the details of the Stratton amendment, I also found that the rule on H.R. 6030 precluded any amendments to the Stratton amendment.

Let me be candid about this issue. The lithium battery program is matter of parochial interest to me. The plant is located in Henderson, Nev., and cancellation of the program would result in the loss of approximately 100 jobs in the Henderson area and it would have a significant impact on the economy of southern Nevada. As their Representative, that concerns me.

But as an American and a strong supporter of national defense, I am even more concerned about the military implications of this decision. We are going to have to rely on the Minuteman system for strategic deterrence until the MX becomes a reality. And particularly in view of the current uncertainties surrounding the MX, we must plan on keeping the Minuteman force at a high state of readiness for some time to come. The current lead-acid batteries in the Minuteman are beginning to deteriorate to the point of affecting the system's operational readiness.

It has been estimated that the lithium batteries could increase Minuteman operational readiness by a factor of 20 and in addition, these batteries could be used for MX power modules.

I appreciate the practical necessity of asking for a rule that would make the Stratton amendment not subject to amendment. However, since I cannot offer an amendment at this point to restore the funds, I would like to ask the gentleman from New York if he would give consideration to restoring the authorization in the conference with the Senate.

Mr. STRATTON. Mr. Chairman, I certainly recognize that the gentleman from Nevada (Mr. SANTINI) has been a strong supporter of defense, and he has made, in conversation with me, a very persuasive case. I am really indebted to him indeed for bringing the merits of the lithium battery to my attention. I know that the gentleman from Nevada (Mr. SANTINI) has fought for this program very effectively over the past few years when the former Secretary of Defense, Harold Brown, and the current Secretary, Caspar Weinberger, both appeared lukewarm on the program. In fact, I would go so far as to say that there would probably not be a lithium battery program today if it had not been for the gentleman from Nevada (Mr. SANTINI).

As I said in my statement and in response to the gentleman from Pennsylvania (Mr. MARKS) we had to cut a lot of good, sound programs, in this amendment, not because they were without merit, but because of the mandate of the Congress to cut the defensed budget by $10 billion.

□ 1500

Mr. Chairman, the gentlewoman from Maryland (Mrs. HOLT), the ranking minority member of the committee, and I made some very hard choices in putting this amendment together.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 1 additional minute.)

Mr. STRATTON. Mr. Chairman, to conclude my response to the gentleman from Nevada (Mr. SANTINI) we made some very hard choices in putting this amendment together, including the recommendation to reduce the F-14 program, as I pointed out earlier to the gentleman from Pennsylvania, which is important to my own State.

But, as I said, the gentleman from Nevada (Mr. SANTINI) has made some sound points, and I would certainly be prepared to review the lithium battery program and give serious consideration to a restoration of authorization during the committee of conference.

Mr. SANTINI. Mr. Chairman, I thank the gentleman from New York

(Mr. STRATTON) for yielding, and I thank him for his responsive answer.

Mrs. HOLT. Mr. Chairman, I rise in support of the amendment to H.R. 6030 offered by the distinguished chairman of the Procurement and Military Nuclear Systems Subcommittee, Mr. STRATTON.

As Chairman PRICE indicated, in offering these amendments the committee is complying with the spirit of the budget resolution. As the cosponsor of this amendment, I must tell you, however, that identifying the program reductions required by the budget resolution was a very difficult task. It was especially difficult because I am of the belief that these reductions are beginning to cut into the muscle of many of our national defense programs. Unfortunately, this is occurring at a point in our Nation's history when we should be investing in building our defense muscle, not reducing it. However, we have no alternatives but to recognize the fiscal realities imposed by tight budget constraints and to reduce the levels of authorizations for the procurement of defense systems in fiscal year 1983.

In order to reach these reduced levels of authorizations, it was necessary to review—for the second time—the Defense Department's entire procurement request. I must add that as a result of this exhaustive second review, I am even more convinced that the Defense Department's authorization bill—H.R. 6030—which I supported earlier, is lean and executable. I believe that H.R. 6030 contains only those programs which are necessary to continue to close the gap between what we need to accomplish our national defense objectives and what we have available in terms of defense resources. As you may recall, in previous years we have witnessed a downward trend in defense spending. In my judgment, the fiscal year 1982 defense authorizations and appropriations represented the first installment toward reversing this downward trend. I certainly feel that we should continue those defense improvements that the Congress started last year.

Notwithstanding my commitment to continue to reverse this dangerous downward trend, I fully understand our obligation to the people of this great Nation to enact authorizing and spending legislation which is fiscal responsibility. Consequently, I feel that we must report reductions in defense spending which not only comply with the spirit but also with the intent of the recently passed budget resolution. How does one reconcile a strong commitment to enhance our national defense with a commitment to reduce the rate of Federal spending? It was not easy. This amendment, however, attempts to satisfy these seemingly diameterical objectives by recommending program reductions which will have the least adverse impact upon many of the programs which are vital to our national defense.

As the chairman indicated, Army Navy, Marine Corps and Air Force procurement programs were cut by over $2½ billion. These program reductions are wide sweeping and include:

A $568.1 million reduction in Army programs; over $1.27 billion reductions in Navy-Marine Corps programs; and $928.4 million worth of program reductions in the Air Force.

This represents a distribution of program reductions across the military services of 20 percent for the Army, 45 percent for the Navy/Marine Corps, and 35 percent for the Air Force.

I would be remiss, however, if I did not inform you that as a result of these reductions there is a greater potential for increased cost inefficiencies in the acquisition of several defense programs. These inefficiencies could occur because several reductions will require that programs be stretched-out, underfunded, or terminated. Historically, when programs are stretched out or underfunded, frequently they experience program and procurement unit cost increases. I am clearly not suggesting that these increases are acceptable should they occur, but I am only pointing out the probable cost implications of making these reductions. I might also point out that in structuring these program reductions, my colleague and I have made a concerted effort to minimize, where possible, any program cost inefficiencies which might have resulted from interruptions in production lines.

As you know, I have long been a staunch advocate of improving our defense posture by acquiring the necessary defense systems to allow this country to meet and counter the ever increasing Soviet threat. You will, therefore, not be surprised when I tell you that it goes against my grain to propose cuts in defense spending of this magnitude. However, as I said earlier, I recognize the reality of the situation, and under the circumstances it would appear that reducing defense programs is a reasonable and prudent action. Again, I must caution you, however, that we are cutting into defense muscule, and we—the Congress—must resist any further cuts—beyond those offered by the Armed Services Committee—in our national defense programs.

I hope you will support this amendment.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very brief. I, like other Members, do not particularly like this amendment. It cuts into some of my favorite programs. But certainly I am going to support the amendment because we have been directed by the budget resolution, which I supported, that we have to make cuts somewhere, and someone has to come up with some recommendations.

I would like to point out to my colleagues that one of the key programs is equipment for the National Guard and the Reserves. There was an add-on of about $1,200,000,000 in this bill for equipment that is certainly needed for the Guard and Reserves. As I understand from the gentleman from New York (Mr. STRATTON) and the gentlewoman from Maryland (Mrs. HOLT) there has been about a $600 million cut from the Guard and Reserve programs. It still leaves some funding there, and I wonder if the gentleman from New York (Mr. STRATTON) would like to comment on how much of a cut had to be made pertaining to the National Guard and the Reserves in this amendment?

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, I will be glad to respond.

I share the gentleman's deep concern over the cuts that were forced in the programs that he and I supported very strongly in the committee to add combat capability to the Guard and the Reserves. This is the same thing that happened last year when President Reagan asked for a $2 billion cut, and then the recommendations that came up from the Department of Defense wiped out almost the entire $1 billion we had put in earlier for the Guard and the Reserves.

What has happened in this particular bill is that we have cut $600 million, which is about one-half of the $1.2 billion that we had previously added on for Guard and Reserve programs.

Mr. MONTGOMERY. Mr. Chairman, I understand why the gentleman had to do that.

I support the amendment. I am sorry that we had to take the F-16's away from the National Guard, but we have to make cuts across the board to get within the budget, and I commend the gentleman for taking this tough step.

Mr. STRATTON. Mr. Chairman, I thank the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, just let me say by way of explanation and in line with what the gentleman from New York (Mr. STRATTON) was saying earlier that it is somewhat out of character for many of us to be supporting such drastic cuts. We do so reluctantly. Because of the action taken by the full House on the budget resolution, we found ourselves, after the committee had already reduced the budget by some $3 billion, being compelled to find $3 billion in additional cuts.

As a result of the action of the Budget Committee, we went back to

the full committee to reassess the authorization bill that had already been passed by the full committee. We went back to the various subcommittees and reexamined what had been done, and it was agreed that in three areas we would take additional cuts. Those areas were in procurement, shipbuilding, and operation and maintenance. The three areas took their proportionate part of the $3 billion in additional cuts that had been mandated by the budget resolution.

As a result of this, the Sea Power Subcommittee came up with its proportionate part, then the Procurement Subcommittee and then the Readiness Subcommittee. We agreed that they would be presented in three different parts in three different amendments, and that the Members of the House would be given an opportunity to express themselves in each of these areas.

So it is for this reason that we have done this, and we have just finished the shipbuilding part of it. We are dealing now with the procurement part. This will be followed by the operation and maintenance part, and these will be the committee recommended cuts worked out in conjunction with the Department of Defense. This is where we determined that the cuts would hurt the least if we had to make the cuts.

□ 1510

So we have made the cuts and these are the proposals that we bring to the House as areas in which we can make reductions totaling the $3 billion we have been ordered to make.

So we have done it.

After these three amendments offered by the committee are completed we will be in compliance with what the House has said. We will have made the $3 billion additional in cuts.

It is our hope that time that the membership would be satisfied with the level of expenditure for the Department of Defense and that there will be no more additonal cuts because it is the intention of the majority of the members of the committee, at least, to resist any further cuts after having taken some $6 billion out of the original bill.

So with that explanation I hope it will be helpful to some of the Members who ask why we are supporting these cuts in defense when normally we resist them.

We are doing it because we have been ordered to do so. We are doing it surgically rather than with a meat axe approach.

We hope we have done this where we do the least harm to our defense posture.

I yield back the balance of my time.

Mr. DOWNEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. MOFFETT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I yield to my colleague the gentleman from Connecticut.

Mr. MOFFETT. Mr. Chairman, in the past I have often supported efforts to cut defense spending on projects which I believe were wasteful or unnecessary. I have always felt that the Pentagon should not be exempt from close scrunity by the Congress. We must make every effort to cut down on waste and mismanagement in the military as well as in other Government agencies. But I simply cannot support this amendment, offered on behalf of the House Armed Services Committee, which would cut defense spending by $2.1 billion by attacking some of the Defense Department's most worthwhile systems, while leaving many more dubious programs completely intact.

I am especially opposed to the committee's attempt to cut over $500 million from two of our most important fighter planes; that F-14 and the F-16.

The F-16 is the world's best fighter. General Dynamics, Pratt & Whitney, and other firms have pushed our technology to the limit to produce this extraordinary aircraft. In the Middle East, it has accumulated what is probably the best batting average of any fighter in history, in both air-to-air and air-to-ground missions. But it is not only an incredible performer, far outclassing anything the Soviets have; it is relatively cheap to build and maintain as well.

The F-14 is by far the world's best interceptor, offering an excellent example of how highly advanced technology can be made to work, and work well, in the fleet. It has a strong capability against both the Soviet Backfire bomber and the Foxbat reconnaissance jet. Yet the committee's amendment proposes to cut production of the F-14 by one-fifth—from 30 per year to 24 per year—even though the committee's own report acknowledged that such a cutback would result in less efficient production, costing the taxpayers an additional $21 million per aircraft.

We do not have to look very hard to find items in the military budget which ought to be cut. The Navy's F-18 fighter, which will receive $2.85 billion in this year's defense budget, is known to naval aviators as the "Fat Dog." It is a lightweight fighter that is not lightweight anymore, and its cost growth is even greater than its weight growth. Although this fighter is not in the same class as the F-14 and the F-16, it has been spared any cuts. Another such white elephant in the military budget is the B-1 bomber. At a cost of nearly $4 billion per plane, it will not be able to penetrate Soviet air defenses for more than a few years after its completion. But once again, the committee has made no effort to cut spending on this program.

I would be the first to admit that substantial cuts could and should be made in the defense budget. But such cuts should be made carefully and thoughfully, without attacking those programs which are so important to our national security.

Mr. DOWNEY. Mr. Chairman, I suppose those of us who think that the armed services budget could be cut even more should not be rising to question where the Armed Services Committee in fact cut.

Having served as a member of the committee, I can see from the list that the choice was painful and difficult and I congratulate the committee on some of the choices.

But on some of the choices I have some questions because the fact that you have cut does not necessarily mean that in all instances you have cut wisely.

I want to ask, beginning with the subheading "ammunitions" on Copperhead, which is, as I understand it, a precision guided projectile which has had some cost growth and is an unglamorous system, but one that is capable of wreaking havoc on the battlefield against Soviet armor.

Because of its unattractive nature it seems to me to be one of those systems that we single out.

Why did the committee decide that $183 million out of the precision guided projectiles, which is, frankly, one of the directions I think we need to be going in on the modern battlefield, was a target for reduction?

Can the chairman of the Procurement Subcommittee or someone else respond to that?

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. DOWNEY. I am happy to yield to the gentleman.

Mr. STRATTON. Let me say I am delighted the gentleman is pleased with some of the things we have done. I would have really been shocked had he agreed with everything that we have done.

Mr. DOWNEY. So would I.

Mr. STRATTON. Let me say in response to the gentleman's question on Copperhead that at the present time the Army has on hand some 8,400 Copperheads.

We cut the program by $183.6 million for two fundamental reasons. One was that the cost has been increasing dramatically and the second is that the recent tests have been plagued by failures.

One out of every three test shots has been a failure.

The Army is considering terminating the Copperhead in either fiscal year 1984 or perhaps reviewing the possibility of terminating in 1983.

Mr. DOWNEY. Can I ask the gentleman on that question, given the development problems and the development costs, there are a number of weapons systems, and I cite for the gentleman's edification the Mark 48 torpedo that was riddled with development problems and has turned out to be a superb weapon system, is it the intention of the committee that because of these problems that possibly in the next fiscal year or the fiscal year thereafter that the committee will try and make sure that money is kept in for the Copperhead program?

Mr. STRATTON. I think if the record of the Copperhead is as bad as I have outlined it to the gentleman, we would certainly want to look very closely as to whether we should go along with the Army if they should request such funds.

As the gentleman well knows, the committee, and certainly this member, is no patsy for the Defense Department or the Army, and a number of programs that have been requested have been denied.

So I cannot give the gentleman a statement as to how many Copperheads we are going to authorize for next year. But a program that has only one out of three failures I think is one that is in trouble.

Mr. DOWNEY. One out of three successes? I understand that it has a 78-percent effective rate.

I might also ask why again is the Maverick missile not included, since the Maverick missile spends most of its time striking the ground as opposed to targets?

I hope that is not reason alone, the fact that it has had some short-term development problems.

I might add for the rest of the membership, the Copperhead is not built in my district or in New York, as far as I know. It is simply one of those systems that for the future for the Army it seems to me makes an eminent amount of sense to procure in large numbers.

I would hope that the gentleman and the members of the committee will not quickly cast it aside, both because of cost increases and because of some developmental problems.

Mr. STRATTON. I have forgotten exactly how many systems we considered, several hundred systems, and I am not sure we want to go through every system. But the Maverick program was reduced by $72 million. That was done to hold it at a low rate of production. It, too, has had some problems, as the gentleman knows.

Mr. DOWNEY. Let me ask next about the F-16, if I can ask the gentleman, since it is scheduled for $329.5 million in reductions.

If we have learned anything from the Arab-Israeli conflict, the latest numbers that the Israelis have given us with respect to kill ratios suggest that they dominated the skies as a result of the high technology and the weapons systems that we have sold them, principally the F-16 and the F-15.

With respect to the F-16, what is the justification for cutting that, which I consider to be one of the finest air superiority fighters built in the world? what is the justification for cutting that and not, for instance, cutting more out of the F-15?

The CHAIRMAN. The time of the gentleman from New York (Mr. DOWNEY) has expired.

(By unanimous consent Mr. DOWNEY was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. Let me take one aircraft at a time rather than mixing them all up.

We all have our favorite types of aircraft.

Mr. DOWNEY. I know the gentleman has made reference to the F-14, obviously, not one of his favorites.

Mr. STRATTON. The fact of the matter is that we cut back what we had previously added on. We had added on 20 F-16's for the Guard and the Reserve, as I have just pointed out in the colloquy with the gentleman from Mississippi, and that is what we then cut out.

We felt that because of the prior requirements of the active forces we needed to go back to the original request figure.

I might point out that under the Carter administration we were going to buy 180 a year of the F-16's. Under the Reagan administration we are now down to 120 a year. This is the number that we went back to in our reductions.

Mr. DOWNEY. Back to 120?

Mr. STRATTON. That is right.

Mr. DOWNEY. Let me ask about a parochial concern and that is the F-14. Why was it that the F-14 was cut and, for instance, not the F-18, which has had severe developmental problems and other concerns, as the gentleman is well aware?

Mr. STRATTON. I thought I had indicated rather clearly in my exchange with the gentleman from Pennsylvania (Mr. MARKS) that I wanted to give some indication that the chairman of the Procurement Subcommittee, who was offering this amendment on his own, because as the gentleman well knows from his service on the committee that individual members are not going to be very happy to vote for reductions in weapons systems they have previously authorized. So the gentleman from Florida (Mr. BENNETT), myself, and the gentleman from Virginia (Mr. DAN DANIEL) are taking upon our shoulders the pain and suffering of the members of the committee.

We are offering the amendments ourselves.

I felt that if we were to retain everything for Grumman in our bill that the gentleman from New York would like, and that this Member from New York would like, we would be placing ourselves in an untenable position.

Mr. MITCHELL of Maryland. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am asking for this time because I have at least one important question that I want to raise. Then I think I have an important comment to make.

Could the chairman advise me how much is cut out of the Navy, the naval appropriation?

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from New York.

Mr. STRATTON. As I indicated in my earlier remarks, which the gentleman may not have heard, we cut some $574.4 million from the Navy in the procurement bill, and previously the distinguished gentleman from Florida (Mr. BENNETT) also with anguish in his heart, cut $699 million by slowing down one of the very vital Trident submarines.

That adds up to the astonishing total of $1,273,000,000, I say to my friend from Maryland.

□ 1520

I thank the gentleman for his reply.

I will now tell my colleagues what prompts this question. Bethlehem Steel shipyards, right outside of the city of Baltimore, normally employs about 3,000 people. The work force is now reduced to 700. We had a meeting with the Maryland congressional delegation and Mr. Lehman at Bethlehem Steel, and during the course of that conversation he pointed out that the shipyard had not been getting contracts for many years for many reasons but that he would look into them. Subsequent thereto, representatives of management and of the unions have approached me, and I assume that they have approached other Members of the Maryland delegation—I do not know this—saying that the word has come down that unless the entire Maryland delegation votes for the DOD authorization bill, there will be no contracts.

If there is one scintilla of truth in this, if there is the slightest minuscule element of truth in this, then this is the most despicable kind of behavior that can be found in government. We do not operate a government by extortion. We do not operate a government by blackmail. I would hope that the Armed Services Committee would look into these very, very serious allegations that are being brought to me by both management and by the unions. The allegations are that if any single Member of the Maryland delegation

fails to vote for this bill, then it is guaranteed that there would be no contracts coming to the shipyard at Bethlehem Steel.

Mr. STRATTON. Will the gentleman yield to me just so that I understand what he is saying?

Mr. MITCHELL of Maryland. I yield to the gentleman from New York.

Mr. STRATTON. No contract for what?

Mr. MITCHELL of Maryland. For shipbuilding or anything else with reference to the Navy.

Mr. STRATTON. Are there contracts that are under consideration?

Mr. MITCHELL of Maryland. Bethlehem Steel has assiduously sought contracts and has not gotten them. The unions have made many, many, many concessions to management in order to try to get some contracts. But that is not the issue. The issue is that I am asking that you look at and investigate whether or not there is any truth to these allegations. Let me tell you why.

Mr. STRATTON. If the gentleman can give me some names and places and dates, certainly the Investigation Subcommittee, I am sure, would be willing to look into it.

Mr. MITCHELL of Maryland. I can give you the names of those representatives who came to my ofice this morning urging my vote, pointing out that that is what the situation is, insofar as they are concerned.

Let me tell you why I think this is so serious. It is really not a matter of the Bethlehem Steel shipyards. It is a matter of whether or not any agency of Government could use that kind of tactic to dominate the legislative process. And once that occurs, then you have put in jeopardy the democratic system under which we operate.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding.

I attended the same meeting that the gentleman from Maryland attended. I heard the same statements by Secretary Lehman, and the way I heard the statement was that we had many shipyards in this country that are desperate for work and that unless we go forward with creating the 600-ship Navy, that there is not going to be enough work to go around for every shipyard.

Mr. MITCHELL of Maryland. I will recover my time because that also was what I heard; and I made it very clear that in that meeting the Secretary indicated that he would do his best to look at this situation and try to help. What I am talking about has transpired since then. I am talking about a delegation from management and union coming to my office today, saying that the word is out that if a single Member in the delegation fails to vote favorably, then contracts for the shipyard are in jeopardy. I will give you as much information as I can.

The CHAIRMAN pro tempore. (Mr. AuCoin). The time of the gentleman from Maryland (Mr. MITCHELL) has expired.

(By unanimous consent, Mr. MITCHELL of Maryland was allowed to proceed for 3 additional minutes.)

Mr. MITCHELL of Maryland. All that I ask is that you look into this, because it is deadly serious.

I frankly would not care to serve any longer in the Congress of the United States if that kind of tactic can be used against the Maryland delegation, or any other State delegation. That is extortion, and it borders on blackmail.

Mrs. HOLT. If the gentleman will yield, the same delegation came to my office this morning. They were members of the AFL-CIO. And they said that they had realized that they had been pricing themselves out of the market, that unless we build these ships to defend this country, unless we build these ships to restore our Merchant Marine, that there were going to be no jobs in that area, and that they would like for us to go with the 600-ship Navy.

Mr. MITCHELL of Maryland. I will reclaim my time again, because what the gentlewoman is saying is not addressing the concern that brings me to this well. The concern is what those people told me this morning, and that is: No full compliance, no contracts. And that is no way to run a government.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of Maryland. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Mr. Chairman, I think that the gentleman is raising an important issue here, because I think this kind of thing happens quite often in this lobbying that surrounds the defense authorization bill.

I know that, for example, when I am offering an amendment, at times the word comes back from a contractor in Wisconsin—I have no contractors in the District—but if my amendment passes, this particular contractor in Wisconsin is the one that is going to fall out of the system. Or the word will come back that if an amendment I am offering is passed, then the Guard and the Reserve will lose the money, and the funny thing is that the Guard and Reserve units that happen to be in southeastern Wisconsin will lose. It is said a lot of times, or the word gets back, or maybe it gets exaggerated as it goes down. I think that the gentleman is raising a point that happens here more often than we would like to admit, not that I think what the gentleman is saying or that the threats that are being made are in any sense true. I do not think, in fact, that it would happen, that if, for example, the Maryland delegation were to vote unanimously against the defense budget, that in the last analysis it would affect the amount of contracts going to the shipyard the gentleman is talking about. But I think that that kind of lobbying and that kind of discussion does take place, and when the gentleman said it, it sounded awfully familiar to me.

Mr. MITCHELL of Maryland. I will refer you to an editorial that appeared in the Sunpapers in Baltimore City shortly after a visit by Mr. Lehman. The Sunpapers indicated in their editorial that this is no way to handle a difficult situation for a shipyard that is in trouble, by almost threatening no contracts if we do not get full compliance.

Mr. ASPIN. I agree with the gentleman from Maryland.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, in January of this year the Under Secretary of Defense made a decision which has a relevance to the debate that we are entering into today. At that time the Under Secretary of Defense, Mr. Carlucci, said that he had found $3.7 billion of funds that could be used to go ahead with the procurement of the C-5B in lieu of the C-17 which had won a competition last fall to be the new modern airlifter.

Now, I would like to ask the gentleman from New York if it is not true that the amount of money that we have in his amendment, I think, totals about $872 million, almost exactly the $860 million request for the C-5.

Now, I guess the point that I am trying to make is that there is not any $3.7 billion of found money that can be used to finance the C-5.

We are faced here, as we were with the Navy amendment, with major cuts in vitally important programs that would not have to have been made if the Under Secretary had not overturned the decision of the Army and the Air Force, because it would not have required as much money this year to go forward with the C-17, which is the airplane which was recommended by the Army and the Air Force.

□ 1530

So I take exception to Mr. Carlucci's statement that he found money that would not impact upon the defense budget because by requesting $862 million this year, for the C-5, we have had to cut back the F-16's by 20. We have had to cut back the F-15 ground support equipment by $97 million, we have had to make a reduction of four C-130H's, we have had to reduce by

$115 million the funding for the KC-135 reengining, which by the way it would improve the productivity of the C-5 by 25 percent, we have had to reduce spare parts by $72 million, we have had to cut back on AWACS and Pods for the A-7's and $33 million for B-52 modifications, and other amendments to make reductions in order to find room for the C-5.

So, I want to make it clear that we have paid a tremendous price on existing weapon systems and Mr. Carlucci I think was wrong on the facts when he said that he had found $3.7 billion over the next 5 years to fund the plane.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

I am not clear as to whether the gentleman was asking me a question or if he was simply making a statement. If it is a question I would ask him to repeat the question.

Mr. DICKS. The question is, Is it not true that we had to make cuts in vitally important programs in order to fund the C-5? In other words, if we had been going forward with the C-17, which was the recommendation of the Army and the Air Force, we would have had a lower funding profile in 1983 and thus would have been able to afford some of the programs mentioned on the list of cuts in the aircraft area.

Mr. STRATTON. Let me respond to the gentleman in this way.

First of all, I do not recall Mr. Carlucci saying anything about finding $3.7 billion lying around.

Mr. DICKS. That is how he justified the C-5 decision. He testified before the gentleman's committee that he had found an additional $3.5 billion.

Mr. STRATTON. I would be happy to have the gentleman cite the place in the record. I was present at all of the meetings and I do not recall——

Mr. DICKS. It was on the June 15 hearing.

Mr. STRATTON. Let me point out that the cuts that we are proposing today were not made in any desire to get any particular aircraft but simply to respond to the will of the House of Representatives, to the Congress, as a matter of fact, with respect to the budget resolution; and I might point out to the gentleman, because I have had the opportunity of hearing the gentleman's views previously, as late as last evening, that in order to pay for the 747's, we would be required to expend in present year and next year outlays $2 billion more than would be required in the case of the C-5.

Mr. DICKS. It is very hard for me to understand that when we are talking about $350 million in fiscal year 1983 versus $860 million in fiscal year 1983, but we will correct the record.

Mr. VENTO. Mr. Chairman, I rise in support of the Stratton amendment to cut the procurement of a variety of weapon systems.

While I will vote aye on the amendment, I find the cuts in some instances to be very curious. Equally puzzling is the weapon systems that have been insulated from any reductions. Certainly with a skyrocketing defense budget and procurement costs and our National Government's fiscal policy in disarray, this amendment is merely a feeble attempt to respond to the wrath of public opinion that demands a more equal sharing in program reductions.

Amendments by Congressmen BENNETT of Florida, STRATTON of New York, and DANIEL of Virginia really do not begin to restore equity to our budget. The fact is that the DOD budget will far exceed the rate of inflation and continue the breakneck pace of irrational spending resulting in significant additional waste for our recession plagued economy.

Adding insult to injury we note that some of these cuts enhance the risk that the American people face. For example, by reducing the Trident submarine purchase, a survivor in a nuclear conflict, and maintaining the Pershing II missile procurement, we give the distinct impression of a U.S. interest or tilt toward first strike capacity.

The symbolic cutback of two F-14's with an explanation that good faith must be demonstrated is perplexing especially in light of the extensive purchase of the outlandish F-18.

I have been a critic of the F/A-18 and remain so. This aircraft does not enhance our defense capabilities and is siphoning away limited funds from essential programs. The F/A-18, I understand, is again under review by the Navy and well it should be. Is there not any better way to meet our fighter and attack missions without the purchase of such a low performance, high cost overrun plagued program as the F/A-18?

I have maintained for the past couple of years that there is and has been such an option, to be met with irrational arguments on this floor.

Perhaps it is not too late, if only those who are having this outrageous program foisted upon them would finally speak up. If finally we would reckon with reality.

I hope that these three amendments, somewhat symbolic in substance, are the genesis for the Congress reclaiming some legislative responsibility in holding the Pentagon, as well as the contractors, accountable to the American people and the need to eliminate wasteful spending.

That would be no small feat.

The CHAIRMAN pro tempore (Mr. AUCOIN). The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 406, noes 6, not voting 22, as follows:

[Roll No. 193]

AYES—406

Addabbo	DeNardis	Hall (OH)
Anderson	Derrick	Hall, Ralph
Andrews	Derwinski	Hall, Sam
Annunzio	Dickinson	Hamilton
Anthony	Dicks	Hammerschmidt
Applegate	Dingell	Hance
Archer	Dixon	Hansen (ID)
Ashbrook	Donnelly	Hansen (UT)
Aspin	Dorgan	Harkin
Atkinson	Dornan	Hartnett
AuCoin	Dougherty	Hatcher
Badham	Dowdy	Hawkins
Bafalis	Dreier	Heckler
Bailey (MO)	Duncan	Hefner
Barnard	Dunn	Heftel
Barnes	Dwyer	Hendon
Beard	Dymally	Hertel
Bedell	Dyson	Hightower
Beilenson	Early	Hiler
Benedict	Eckart	Hillis
Benjamin	Edgar	Hollenbeck
Bennett	Edwards (AL)	Holt
Bereuter	Edwards (CA)	Hopkins
Bethune	Edwards (OK)	Horton
Bevill	Emerson	Howard
Biaggi	Emery	Hoyer
Bingham	English	Hubbard
Bliley	Erdahl	Huckaby
Boggs	Erlenborn	Hughes
Boland	Ertel	Hunter
Boner	Evans (DE)	Hutto
Bonior	Evans (GA)	Hyde
Bonker	Evans (IA)	Ireland
Bouquard	Evans (IN)	Jacobs
Breaux	Fary	Jeffords
Brinkley	Fascell	Jeffries
Brodhead	Fazio	Jenkins
Brooks	Fenwick	Johnston
Broomfield	Ferraro	Jones (NC)
Brown (CO)	Fiedler	Jones (OK)
Broyhill	Fields	Kastenmeier
Burgener	Findley	Kazen
Burton, Phillip	Fish	Kildee
Butler	Fithian	Kindness
Byron	Flippo	Kogovsek
Campbell	Florio	Kramer
Carman	Foglietta	LaFalce
Carney	Foley	Lagomarsino
Chappie	Ford (MI)	Lantos
Cheney	Ford (TN)	Latta
Clausen	Forsythe	Leach
Clinger	Fountain	Leath
Coats	Fowler	LeBoutillier
Coelho	Frank	Lee
Coleman	Frenzel	Lehman
Collins (IL)	Frost	Leland
Collins (TX)	Fuqua	Lent
Conable	Garcia	Levitas
Conte	Gaydos	Lewis
Conyers	Gephardt	Livingston
Corcoran	Gibbons	Loeffler
Coughlin	Gilman	Long (LA)
Courter	Gingrich	Long (MD)
Coyne, William	Ginn	Lott
Craig	Glickman	Lowery (CA)
Crane, Daniel	Goldwater	Lowry (WA)
Crane, Philip	Gonzalez	Lujan
Crockett	Gore	Luken
D'Amours	Gradison	Lundine
Daniel, Dan	Gramm	Lungren
Daniel, R. W.	Gray	Madigan
Dannemeyer	Green	Markey
Daschle	Gregg	Marks
Daub	Grisham	Marlenee
Davis	Guarini	Marriott
Deckard	Gunderson	Martin (IL)
Dellums	Hagedorn	Martin (NC)

Martinez	Pickle	Solarz
Matsui	Porter	Spence
Mattox	Price	St Germain
Mavroules	Pritchard	Stangeland
Mazzoli	Pursell	Stanton
McClory	Quillen	Stark
McCloskey	Rahall	Staton
McCollum	Railsback	Stenholm
McCurdy	Rangel	Stokes
McDade	Ratchford	Stratton
McDonald	Regula	Studds
McEwen	Reuss	Stump
McGrath	Rhodes	Swift
McHugh	Richmond	Synar
McKinney	Rinaldo	Tauke
Mica	Ritter	Tauzin
Michel	Roberts (KS)	Taylor
Mikulski	Roberts (SD)	Thomas
Miller (CA)	Robinson	Traxler
Miller (OH)	Rodino	Trible
Mineta	Roe	Udall
Minish	Roemer	Vander Jagt
Mitchell (MD)	Rogers	Vento
Mitchell (NY)	Rosenthal	Volkmer
Moakley	Rostenkowski	Walgren
Molinari	Roth	Walker
Mollohan	Roukema	Wampler
Montgomery	Roybal	Washington
Moore	Rudd	Watkins
Moorhead	Russo	Waxman
Morrison	Sabo	Weaver
Mottl	Savage	Weber (MN)
Murphy	Sawyer	Weber (OH)
Murtha	Scheuer	Weiss
Myers	Schneider	White
Napier	Schroeder	Whitehurst
Natcher	Schulze	Whitley
Neal	Schumer	Whittaker
Nelligan	Seiberling	Whitten
Nelson	Sensenbrenner	Williams (MT)
Nichols	Shamansky	Williams (OH)
Nowak	Shannon	Wilson
O'Brien	Sharp	Winn
Oakar	Shaw	Wirth
Oberstar	Shelby	Wolf
Obey	Shumway	Wolpe
Ottinger	Shuster	Wortley
Oxley	Siljander	Wright
Panetta	Simon	Wyden
Parris	Skeen	Wylie
Pashayan	Skelton	Yates
Patman	Smith (AL)	Yatron
Patterson	Smith (IA)	Young (AK)
Paul	Smith (NE)	Young (FL)
Pease	Smith (NJ)	Young (MO)
Pepper	Smith (OR)	Zablocki
Perkins	Smith (PA)	Zeferetti
Petri	Snowe	
Peyser	Snyder	

NOES—6

Downey	Kemp	Moffett
Gejdenson	Kennelly	Santini

NOT VOTING—22

Akaka	Brown (OH)	Holland
Albosta	Burton, John	Jones (TN)
Alexander	Chappell	Martin (NY)
Bailey (PA)	Chisholm	Rose
Blanchard	Clay	Rousselot
Bolling	Coyne, James	Solomon
Bowen	de la Garza	
Brown (CA)	Goodling	

□ 1550

Mr. WILSON changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DAN DANIEL

Mr. DAN DANIEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAN DANIEL: Page 11, strike out line 8 and all that follows down through line 25 on page 13 and insert in lieu thereof the following:

SEC. 301. (a) ARMY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $16,697,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, $6,129,145,000.

(2) For intelligence and communications, $911,868,000.

(3) For central supply and maintenance, $4,906,339,000.

(4) For training, medical, and other general personnel activities, $3,587,108,000.

(5) For administration, $1,039,204,000.

(6) For support of other nations, $123,436,000.

(b) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $21,545,000,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

(1) For strategic forces, $1,775,212,000.

(2) For general purpose forces, $10,604,659,000.

(3) For intelligence and communications, $930,902,000.

(4) For central supply and maintenance, $5,942,966,000.

(5) For training, medical, and other general personnel activities, $1,806,858,000.

(6) For administration, $484,208,000.

(7) For support of other nations, $195,000.

(c) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $1, 481,500,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

(1) For general purpose forces, $864,292,000.

(2) For central supply and maintenance, $359,561,000.

(3) For training, medical, and other general personnel activities, $186,669,000.

(4) For administration, $70,978,000.

(d) AIR FORCE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $17,278,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

(1) For strategic forces, $3,085,928,000.

(2) For general purpose forces, $3,745,598,000.

(3) For intelligence and communications, $1,418,292,000.

(4) For airlift and sealift, $1,205,813,000.

(5) For central supply and maintenance, $5,458,958,000.

(6) For training, medical, and other general personnel activities, $1,968,882,000.

(7) For administration, $387,822,000.

(8) For support of other nations, $6,807,000.

(e) DEFENSE AGENCIES.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $5,673,640,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

(1) For general purpose forces, $343,208,000.

(2) For intelligence and communications, $1,903,274,000.

(3) For central supply and maintenance, $1,377,576,000.

(4) For training, medical, and other general personnel activities, $1,699,005,000.

(5) For administration, $350,577,000.

Mr. DAN DANIEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. DAN DANIEL. Mr. Chairman, on behalf of Mr. WHITEHURST and myself, I am offering an amendment to title III that would reduce the Department of Defense fiscal year operation and maintenance (O. & M.) authorization $398.5 million below the amount earlier approved by the Armed Services Committee and $1.5 billion below the President's request.

Yesterday I cautioned against further reductions in O. & M. that were not accompanied by a careful rebalancing of procurement, manpower, and O. & M. requirements. However, in view of the amendments offered by Mr. STRATTON and Mrs. HOLT and Mr. BENNETT and Mr. SPENCE, and Mr. NICHOLS' forthcoming recommendations on further military personnel savings, Mr. WHITEHURST and I believe that additional O. & M. cuts are possible. The Daniel-Whitehurst amendment represents a fair and proportional share of this balanced approach to bring H.R. 6030 in line with the budget resolution enacted by Congress.

Briefly, the reductions contained in the Daniel-Whitehurst amendment fall into two categories. The first is force structure reductions and delayed unit activations totaling $337.9 million. The bulk of the force structure changes are adjustments in timing. They reflect service preferences on how to absorb additional cuts in O. & M. I believe strongly that it is better to have a slightly smaller force that is ready, than to allow overall force readiness to suffer.

The remaining reductions involve revised economic assumptions, $9.9 million; additional cutbacks in recruiting and advertising in view of the continuing success by all services to meet and exceed accession goals, $30.1 million; and other minor programmatic cuts, $20.6 milion.

In sum, the Daniel-Whitehurst amendment offers the best way of making further reductions in O. & M. that will have the least impact on readiness, or the quality of life of our military personnel and their families yet provide the Department of Defense the greatest possible latitude in absorbing these cuts. This amendment is an integral part of a comprehensive effort to make responsible adjustments in H.R. 6030 in the face of extraordinary economic conditions and budgetary realities.

It is with some misgivings that I ask your support of this amendment.

Mr. WHITEHURST. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment offered by my colleague from Virginia and for which I am a cosponsor. As he has so ably pointed out, the amendment represents a responsible and responsive approach to further reductions in the defense authorization bill now under consideration.

It is responsible because it clearly reflects priorities acceptable to the Department of Defense and the great majority in the Congress. At the expense of minor alterations in force structure, the amendment preserves readiness increases and sustains the momentum generated by increased congressional support of O. & M. over the past 2 years. It is also responsible because it does not touch "people programs" or committee quality-of-life initiatives. Despite the considerable pressure to effect further reductions in O. & M., Mr. DANIEL and I were in full agreement that we would not support any additional cuts that would sacrifice readiness or the well-being of our service personnel and their families.

The amendment is responsible because it recognizes existing budgetary realities and the requirement to aline H.R. 6030 with the budget resolution recently enacted. It further recognizes that Secretary Weinberger has already identified some $340 million of the reductions contained in the amendment in previous congressional testimony. As these have been identified as potential cuts, their survival during the remainder of the authorization/appropriation process is problematical at best.

In closing, I want to emphasize that the amendment has been crafted to be a responsible and bipartisan effort within an overall approach to balanced reductions in the fiscal year 1983 defense request. These O. & M. reductions have been examined carefully to insure that readiness and "people programs" remain intact.

I join with Mr. DANIEL in urging your support.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. DAN DANIEL).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DAN DANIEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 386, noes 19, not voting 29, as follows:

[Roll No. 194]

AYES—386

Addabbo	Anthony	Atkinson
Alexander	Applegate	AuCoin
Anderson	Archer	Badham
Andrews	Ashbrook	Bafalis
Annunzio	Aspin	Bailey (MO)
Barnard	Fascell	Lewis
Barnes	Fazio	Livingston
Beard	Fenwick	Loeffler
Bedell	Ferraro	Long (LA)
Beilenson	Fiedler	Long (MD)
Benedict	Fields	Lott
Benjamin	Findley	Lowery (CA)
Bennett	Fish	Lowry (WA)
Bereuter	Fithian	Lundine
Bethune	Flippo	Lungren
Bevill	Florio	Madigan
Biaggi	Foglietta	Markey
Bingham	Foley	Marks
Bliley	Ford (TN)	Marlenee
Boggs	Forsythe	Marriott
Boland	Fountain	Martin (IL)
Boner	Frank	Martin (NC)
Bonior	Frenzel	Martinez
Bonker	Frost	Matsui
Bouquard	Fuqua	Mattox
Breaux	Garcia	Mavroules
Brinkley	Gaydos	Mazzoli
Brodhead	Gephardt	McClory
Brooks	Gibbons	McCloskey
Broomfield	Gilman	McCollum
Brown (CO)	Gingrich	McCurdy
Broyhill	Ginn	McDade
Burgener	Glickman	McDonald
Burton, Phillip	Goldwater	McEwen
Butler	Gonzalez	McGrath
Byron	Goodling	McHugh
Campbell	Gore	McKinney
Carman	Gradison	Mica
Carney	Gramm	Michel
Chappie	Gray	Mikulski
Cheney	Gregg	Miller (CA)
Clausen	Grisham	Miller (OH)
Clinger	Guarini	Minish
Coats	Gunderson	Mitchell (MD)
Coelho	Hagedorn	Mitchell (NY)
Coleman	Hall (OH)	Moakley
Collins (IL)	Hall, Ralph	Molinari
Collins (TX)	Hall, Sam	Montgomery
Conable	Hamilton	Moore
Conte	Hammerschmidt	Moorhead
Conyers	Hance	Morrison
Corcoran	Hansen (ID)	Mottl
Coughlin	Hansen (UT)	Murphy
Courter	Harkin	Murtha
Coyne, William	Hartnett	Myers
Craig	Hatcher	Napier
Crane, Daniel	Hawkins	Natcher
Crane, Philip	Heckler	Neal
Crockett	Hefner	Nelligan
D'Amours	Hendon	Nelson
Daniel, Dan	Hightower	Nichols
Daniel, R. W.	Hiler	Nowak
Dannemeyer	Hillis	O'Brien
Daschle	Holland	Oakar
Daub	Hollenbeck	Ottinger
Davis	Holt	Oxley
Deckard	Hopkins	Panetta
Dellums	Howard	Pashayan
DeNardis	Hoyer	Patman
Derrick	Hubbard	Patterson
Derwinski	Huckaby	Paul
Dickinson	Hughes	Pease
Dicks	Hunter	Pepper
Dixon	Hutto	Perkins
Donnelly	Hyde	Petri
Dorgan	Ireland	Pickle
Dornan	Jacobs	Porter
Dougherty	Jeffords	Price
Dowdy	Jeffries	Pritchard
Downey	Jenkins	Pursell
Dreier	Johnston	Quillen
Duncan	Jones (NC)	Rahall
Dunn	Jones (OK)	Railsback
Dwyer	Kastenmeier	Rangel
Dymally	Kazen	Ratchford
Dyson	Kennelly	Regula
Early	Kildee	Reuss
Edgar	Kindness	Rhodes
Edwards (AL)	Kogovsek	Richmond
Edwards (CA)	Kramer	Rinaldo
Edwards (OK)	LaFalce	Ritter
Emerson	Lagomarsino	Roberts (KS)
Emery	Lantos	Roberts (SD)
English	Latta	Robinson
Erdahl	Leach	Rodino
Erlenborn	Leath	Roe
Ertel	LeBoutillier	Roemer
Evans (DE)	Lee	Rogers
Evans (GA)	Lehman	Rosenthal
Evans (IN)	Leland	Rostenkowski
Fary	Levitas	Roth
Roukema	Smith (PA)	Watkins
Roybal	Snowe	Waxman
Rudd	Snyder	Weaver
Russo	Solarz	Weber (MN)
Santini	Spence	Weber (OH)
Savage	St Germain	Weiss
Sawyer	Stangeland	White
Scheuer	Staton	Whitehurst
Schneider	Stenholm	Whitley
Schulze	Stokes	Whittaker
Schumer	Stratton	Whitten
Seiberling	Stump	Williams (MT)
Sensenbrenner	Swift	Williams (OH)
Shamansky	Synar	Wilson
Shannon	Tauke	Winn
Sharp	Tauzin	Wolf
Shaw	Taylor	Wolpe
Shelby	Thomas	Wortley
Shumway	Traxler	Wright
Shuster	Trible	Wyden
Siljander	Udall	Wylie
Skeen	Vander Jagt	Yatron
Skelton	Vento	Young (AK)
Smith (AL)	Volkmer	Young (FL)
Smith (IA)	Walgren	Young (MO)
Smith (NE)	Walker	Zablocki
Smith (NJ)	Wampler	Zeferetti
Smith (OR)	Washington	

NOES—19

Dingell	Hertel	Schroeder
Eckart	Kemp	Simon
Evans (IA)	Mineta	Stark
Ford (MI)	Moffett	Studds
Fowler	Oberstar	Wirth
Gejdenson	Obey	
Green	Sabo	

NOT VOTING—29

Akaka	Chisholm	Martin (NY)
Albosta	Clay	Mollohan
Bailey (PA)	Coyne, James	Parris
Blanchard	de la Garza	Peyser
Bolling	Heftel	Rose
Bowen	Horton	Rousselot
Brown (CA)	Jones (TN)	Solomon
Brown (OH)	Lent	Stanton
Burton, John	Lujan	Yates
Chappell	Luken	

□ 1610

Messrs. SABO, WIRTH, GREEN, and SIMON changed their votes from "aye" to "no."

Mr. PHILIP M. CRANE changed his vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. Pursuant to the provisions of House Resolution 525, further amendments to the committee amendment in the nature of a substitute are in order as if the substitute as so perfected were the original bill for the purpose of amendment under the 5-minute rule. It is in order to consider an amendment in the nature of a substitute to said substitute consisting of the text of the bill, H.R. 6696, by, and if offered by, Congressman DELLUMS.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. DELLUMS. Strike out all after the enacting clause and insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Department of Defense Authorization Act, 1983".

PURPOSE

SEC. 2. The purposes of this Act are—

(1) to authorize appropriations for the Department of Defense for fiscal year 1983 at levels consistent with a strong national defense and a sound national economy;

(2) to minimize the risk of nuclear confrontation;

(3) to eliminate areas of waste and abuse in the budget of the Department of Defense for fiscal year 1983;

(4) to provide for improved military personnel policies designed to enhance readiness and morale; and

(5) to make other improvements in the management of the Department of Defense.

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the military functions of the Department of Defense for procurement of aircraft, missiles, naval vessels, tracked combat vehicles, torpedoes, other weapons, ammunition, and other procurement in amounts as follows:

AIRCRAFT

For aircraft: for the Army, $1,682,200,000; for the Navy and the Marine Corps, $6,250,000,000; for the Air Force, $8,177,850,000.

MISSILES

For missiles: for the Army, $655,443,000, for the Navy, $1,854,180,000; for the Marine Corps, $246,959,000; for the Air Force, $3,210,900,000.

NAVAL VESSELS

For naval vessels: for the Navy, $3,397,700,000.

TRACKED COMBAT VEHICLES

For tracked combat vehicles: for the Army, $2,050,350,000; for the Marine Corps, $325,409,000.

TORPEDOES

For torpedoes and related support equipment: for the Navy, $499,964,000.

OTHER WEAPONS

For other weapons: for the Army, $234,400,000; for the Navy, $167,800,000; for the Marine Corps $157,477,000.

AMMUNITION

For ammunition: the Army, $2,375,100,000.

OTHER PROCUREMENT

For other procurement: for the Army, $3,673,445,000; for the Navy, $3,573,180,000; for the Air Force, $5,260,700,000; for the Marine Corps, $1,246,887,000.

DEFENSE AGENCIES

For capital equipment for the defense agencies: $539,632,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of $186,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1983 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 102. Effective on October 1, 1982, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983".

PROHIBITION OF ACQUISITION OF CERTAIN WEAPON SYSTEMS

SEC. 103. None of the funds appropriated pursuant to an authorization of appropriations in section 101 may be obligated or expended for the MX missile program, the B-1B bomber program, the CVN nuclear aircraft carrier program, the Pershing II missile program, the Tomahawk sealaunched cruise missile program, or the groundlaunched cruise missile program.

PROHIBITION OF ACQUISITION OF BINARY CHEMICAL WEAPONS

SEC. 104. None of the funds appropriated pursuant to an authorization of appropriations in section 101 may be obligated or expended to purchase binary chemical weapons.

PROHIBITION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 105. None of the funds appropriated pursuant to an authorization of appropriations in section 101 may be obligated or expended for the construction or conversion of a naval vessel, or a major component of the hull or superstructure of a naval vessel, in a foreign shipyard.

PROHIBITION OF ACQUISITION OF 9-MILLIMETER HANDGUN

SEC. 106. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended in connection with the purchase of a 9-millimeter handgun for the Armed Forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the military functions of the Department of Defense for research, development, test, and evaluation in the amount of $18,200,000,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in such subsection.

PROHIBITION OF RESEARCH, DEVELOPMENT, TEST, AND EVALUATION OF CERTAIN WEAPON SYSTEMS

SEC. 202. None of the funds appropriated pursuant to an authorization of appropriations in section 201 may be obligated or expended for the MX missile program, the B-1B bomber program, the Trident II missile program, the Pershing II missile program, or the ballistic missile defense program.

PROHIBITION OF DEVELOPMENT OF BINARY CHEMICAL WEAPONS

SEC. 203. None of the funds appropriated pursuant to an authorization of appropriations in section 201 may be obligated or expended for research, development, test, or evaluation of binary chemical weapons.

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the military functions of the Department of Defense for operation and maintenance in the amount of $62,267,000,000.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary (1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in such subsection, and (2) for unbudgeted increases in fuel costs and for increases as the result of inflation in the cost of activities authorized by subsection (a).

ELIMINATION OF NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE

SEC. 302. None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended for the National Board for the Promotion of Rifle Practice.

TITLE IV—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

(1) The Army, 751,285.

(2) The Navy, 541,050.

(3) The Marine Corps, 152,495.

(4) The Air Force, 565,845.

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS FOR SELECTED RESERVE

SEC. 501. (a) For fiscal year 1983, the Selected Reserve of the Reserve components of the Armed Forces shall be programed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 398,016.

(2) The Army Reserve, 351,849.

(3) The Naval Reserve, 94,000.

(4) The Marine Corps Reserve, 38,540.

(5) The Air National Guard of the United States, 100,100.

(6) The Air Force Reserve, 63,736.

(7) The Coast Guard Reserve, 10,700.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any Reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such Reserve component shall be proportionately increased by the total authorized strength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. (a) Within the average strengths prescribed in section 501, the Reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the Reserve components:

(1) The Army National Guard of the United States, 11,782.

(2) The Army Reserve, 6,474.

(3) The Naval Reserve, 214.

(4) The Marine Corps Reserve, 460.

(5) The Air National Guard of the United States, 3,411.

(6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 per centum of the total of the end strength prescribed.

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized 813,313 permanent positions for civilian employment as of September 30, 1983, of which no more than 31 shall be in the Executive Schedule, as provided in sections 5312 through 5316 of title 5, of which no more than 1,415 shall be in the Senior Executive Service, as established in section 3131 of such title, and of which no more than 56,000 shall be at Grade GS-13 (or comparable level) or higher.

(b) The positions authorized in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy (including the Marine Corps), the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of the enactment of this Act on the manner in which the initial allocation of such positions is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school campaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power, or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or assignment.

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 57,996.

(2) The Navy, 65,133.

(3) The Marine Corps, 18,311.

(4) The Air Force, 46,389.

(5) The Army National Guard of the United States, 7,467.

(6) The Army Reserve, 8,456.

(7) The Naval Reserve, 1,041.

(8) The Marine Corps Reserve, 2,835.

(9) The Air National Guard of the United States, 2,377.

(10) The Air Force Reserve, 1,405.

(b) In addition to the number authorized in subsection (a), the following components of the Armed Forces are authorized a military training student load to be utilized solely for one station unit training of not less than the following:

(1) The Army, 17,732.

(2) The Army National Guard of the United States, 7,070.

(3) The Army Reserve, 2,374.

(c) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV and V of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the Reserve components in such manner as the Secretary of Defense shall prescribe.

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 801. There is hereby authorized to be appropriated for fiscal year 1983 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.) the sum of $136,095,000.

PROHIBITION OF CRISIS RELOCATION PLANNING

SEC. 802. None of the funds appropriated pursuant to the authorization of appropriations in section 801 may be obligated or expended for planning for population relocation in time of crisis.

TITLE IX—GENERAL PROVISIONS

REPORT ON EFFECT OF DEFENSE SPENDING ON ECONOMIC GROWTH

SEC. 901. Not later than 90 days after the date of the enactment of this Act, the President shall transmit to Congress a report on the effect of the current and projected levels of defense spending on the economy, including the effect on rates of growth in the economy, the rate of inflation, interest rates, and the availability of capital for private productivity enhancement investment.

Mr. DELLUMS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. Pursuant to the rule, before the consideration of amendments, the gentleman from California (Mr. DELLUMS) will be recognized for 30 minutes, and the gentleman from Texas (Mr. WHITE) will be recognized for 30 minutes.

The Chair recognizes the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I yield myself 25 minutes.

Mr. Chairman, the Rules Committee made in order H.R. 6696, an amendment in the nature of a substitute to the Armed Services Committee bill.

Mr. Chairman, back on January 29 of this year, as I have indicated earlier on the floor, I sent the chairperson of the Armed Services Committee a communication suggesting that we expand the parameters of the discussion in the debate in the Armed Services Committee in light of the fact that this administration has proposed a military budget in excess of $1.6 trillion in the first 5 years of the decade of the 1980's, and with the fact that millions of American people and millions of people around the world are raising significant questions with respect to our locked-step effort toward thermal nuclear war, I felt that we had a profound obligation to go beyond the parameters of the Armed Services Committee to hear from other witnesses who had a positive and constructive alternative to our present military policies in this country and around the world.

The Chair sent back a polite letter indicating that for a number of bureaucratic reasons they had an obligation to go forward with the military budget. I understood that and responded to the Chair by indicating that it was my belief that it is a moral imperative that we establish a platform to provide an opportunity for brilliant minds to come together to pose an alternative to America's present military and nuclear policy.

Therefore, in April of this year we held 6 days of hearings to look at the full implications of the military budget. We looked at the national security and foreign policy implications of the military budget, the tactical and strategic implications of the military budget, and arms escalation versus arms control. We looked at the economic implications and the moral implications of the military budget, we looked at the economic implications of America's global arms sales, and finally we looked at citizen responsibility in ending the absurdity and the insanity of our nuclear arms race and our rapidly escalating military budget.

Mr. Chairman, a number of brilliant witnesses came to Washington from all around the country to testify at these hearings. I would like briefly to give a few highlights that a number of the witnesses presented during those hearings in April.

The first witness was former Senator J. William Fulbright of Arkansas, former Chairperson of the Senate Foreign Relations Committee from 1959 to 1975. Senator Fulbright led off the hearings. He stated as follows, and I quote:

This budget, together with the propaganda to sell it to the public and the Congress, has the effect of shifting the focus of our policy from that of deterrence of nuclear war to the waging and the winning of a nuclear war.

Further quoting, he said:

This military budget is so large and the emphasis upon nuclear weapons so strong, and the rhetoric about the Soviet threat is so extreme, that one cannot resist the feeling that we are preparing to fight and win a nuclear war. . . . I believe if this is the case, that it is a dangerous game, and could easily get out of control and lead to a disaster. It is not only dangerous, it is costly and it threatens the stability and the soundness of our domestic economy. . . .

Mr. Paul Warnke, former Director of the Arms Control and Disarmament Agency, testified as follows:

There is no basis in fact for the assertion that the Soviet Union has strategic nuclear superiority. We lead in strategic warheads. Again, it really doesn't matter, but we have a lead. We also lead, when it comes to survivable forces.

Mr. Paul Warnke, former Director of the Arms Control and Disarmament Agency:

There is no credible scenario in which we and the Soviet Union could fight a nuclear war and have either one of us be declared the winner. Either one of us might come out somewhat better than the other, but we would be worse off than Uganda or Bangladesh. We would no longer be recognized as superpowers. In fact, the question is, would we be recognizable as a national entity.

Ms. Randy Forsberg, president and executive director of the Institute for Defense and Disarmanent Studies:

Pulling the nuclear tripwire ever tighter by improving first strike capabilities is extremely risky and dangerous. If we continue to make nuclear escalation in a first strike format easier and more likely, then, in a crisis, it will become inevitable. Clearly the stakes in the Third World are not worth the risk to the whole of humanity. . . .

What is the extraordinary is the hubris, the arrogance, the almost criminal carelessness of the men who pursue this policy in their confidence that they can play nuclear chicken forever without ever losing control of the situation once.

Dr. Paul F. Walker, charter member of the Boston Study Group, and coauthor of "The Price of Defense":

The Defense Department states boldly that this naval plan is based on the determination "to restore and maintain maritime superiority over the Soviets in order to wage several wars worldwide against the Soviet military empire".

Such planning is based on several false assumptions: one, that we have somehow lost naval supremacy; two, that overwhelming maritime superiority enhances national security; and three, that aircraft carriers around which the current fleet is designed continue to be the most effective way to build and deploy navies. . . .

We can continue to fulfill our real national security goals with a no growth Navy, maintaining approximately a 400-ship fleet. By escalating to the proposed 640-ship fleet, I suggest we will undermine security in the following ways: the heavy expense will be damaging economically, although, of course, keeping shipyards at peak capacity, the fleet will all the more portray a Pax Americana-type military and political image abroad—something I think we can ill-afford today—and a widespread interventory force I would argue, may very well encourage U.S. interventions in the Third World.

Mr. William P. Winpisinger, president of the International Association of Machinists and Aerospace Workers (IAM):

The economic consequences of buying more weapons will be substantial. Job, investment and economic growth absolutely will be sacrificed. Technological progress will be distorted and social programs aimed at decreasing human suffering will be cut."

Bishop Walter F. Sullivan, Bishop of the Catholic Diocese of Richmond, Va.:

Are we really secure as a Nation if, because of our defense spending, the most defenseless of our own are made to suffer? * * * When resources are transferred from welfare to warfare, our country casts aside millions of people who have a right to share in this Nation's blessings. What message do we give to the world when we opt for the privileged at the expense of the powerless?

□ 1620

Mr. Chairman, after these hearings we then assembled a number of witnesses, military analysts, budget analysts, in a number of working sessions to help us discuss the policy considerations upon which we could develop an enlightened and intelligent and responsible military budget.

We engaged in a number of discussions but first we looked at the proposal of the House Armed Services Committee and the administration of this country.

We raised a number of arguments against the proposal presented by the President and by the committee.

No. 1, regarding national security and foreign policy, this budget is based on incorrect policy assumptions, faulty analysis and improper budget priorities.

It is also internally inconsistent in military, political and economic terms.

No. 2, unlimited military buildup does not increase national security. It may in fact lessen it because of the uncontrollable aspects of new weapons technology.

No. 3, true national security can be obtained and preserved through an efficient defense establishment, complemented by serious arms control and disarmament initiatives.

No. 4, we face a greater danger from the internal disruption of the national economy through an unwarranted arms buildup than from any foreign foe, real or imagined.

This budget offers a constructive alternative, Mr. Chairman, based on the true elements of national security which I would submit include the following:

A noninterventional foreign and military policy, a doctrine of sufficiency rather than superiority, which in a nuclear age is a contradiction in terms.

The whole notion of superiority is a fleeting concept that in my estimation has no intellectual, political, or military substance to it.

Three, it preserves sufficient deterrence in both nuclear and conventional forces on land, sea, and in the air.

It is a first step, Mr. Chairman, toward mutual, balanced force reductions. It is not a move to unilateral disarmament.

As to some of the policy considerations in establishing this budget, we first said we have a profound obligation to ourselves and future generations to reduce, if not remove the risk of nuclear war.

We agreed that it was our responsibility, and in order to do that we challenged the weapons that we referred to as crisis destabilizing weaponry.

We believe that weapons that we referred to as crisis destabilizing are weapons that make the world more dangerous, that bring greater insecurity rather than security, and weapons that provide the basis for the Soviet Union to put their weapons in a launch on warning capacity because our weapons become so powerful that we thwart the Soviets' capacity to establish a credible deterrence.

First strike, hard target, time urgent weapons are the weapons we chose to challenge in this category.

The MX missile, Mr. Chairman, is a crisis destabilizing weapon. It is one of the most accurate, powerful weapons that has ever been devised.

I have asked this question on a number of occasions. Why do we want to build a new and powerful weapon to put it in the ground? To absorb the Soviet strike?

The Soviet and the rational answer is no, we have this weapon or we want this weapon because it gives us a first strike capability, in my estimation, bringing destabilization and insecurity to the world.

The Trident II missile is a hard target, time urgent, first strike weapon. It is highly accurate. It is a very powerful weapon.

Why do we want this weapon? For the purposes of deterrence? No. For the purposes of first strike.

Mr. Chairman, the cruise missile, the sea-launched cruise missile and ground-launched cruise missile are very dangerous because they begin to defy verifiability. Remember, the basis upon which we have established an arms control environment is based on

the notion that we can verify an agreement.

I would suggest that cruise missiles begin to defy verifiability. You can place a cruise missile virtually anywhere, land, sea, and in the air.

If we are committed to verifiability, then why are we going forward with technology that in many ways defies accountability and defies verifiability?

Mr. Chairman, the Pershing II missile that the President proposes to deploy in Europe is a crisis destabilizing weapon. This is a cheap way to buy an ICBM and place it in Western Europe 4 to 6 minutes from the Soviet Union.

How do my colleagues believe the Soviet Union will react when there are nuclear weapons between 4 and 6 minutes from them providing the capacity to create great danger?

Remember, this Nation, the United States, was prepared to risk thermonuclear war because of missiles in Cuba. What makes us believe that the Soviets will respond to the Pershing II missile deployment in West Germany in some peaceful way?

This is a provocative thing.

I defy any mind on the floor of this Congress to be able to make an intelligent and rational decision based upon the deployment of a weapon that may strike or a weapon that can strike the Soviet Union in between 4 to 6 minutes.

Mr. Chairman, the B-1 bomber and the last Trident submarine in this bill are unnecessary and wasteful weapons. The B-1 bomber is a political weapon. There is no military value.

□ 1630

By the time we develop 100 B-1 bombers at an approximate cost of between $30 billion and $40 billion, it will be an irrelevant weapon. Some have said that maybe in a thermonuclear war the safest place to be is in a B-1 bomber because by the time the bomber gets there, the whole thing is over anyway. This is an irrelevant weapon. A manned penetrating bomber in the 1980's, given the incredible level of our technology, is an absurdity and a waste, particularly at a time when we are forcing millions of American people to pay desperately in this country as we build this massive monument to military madness.

Mr. Chairman, when we threaten the Soviet deterrence, we force their defense to become offensive. When they perceive their deterrence to be threatened, then they begin to place their weapons in a launch-on-warning mode. That is an insane thing to happen, and it would seem to me that all of us in this Congress should work diligently not to put ourselves or the world in the position where these kinds of crisis destabilizing situations can occur.

Mr. Chairman, the only role of nuclear weapons in our lives is for deterrence. In that regard, I make two comments. As I have said on a number of occasions on this floor, when McNamara was Secretary of Defense, he defined deterrence as when you develop a nuclear capacity to destroy 30 percent of another nation's population and 70 percent of their economic infrastructure. We achieve that when we develop 400 nuclear weapons. We have 10,000 strategic nuclear weapons, to say nothing of the 15,000 or more nuclear weapons that have the capacity to wreak great havoc upon the world.

Mr. Chairman and Members of the Committee, we are far beyond deterrence at this moment. This bill proposes to fight to survive and win a nuclear war. I would suggest that anyone believing that we can fight, survive, and win a nuclear war is living in a never-never-land. This is a very frightening and a very dangerous thought.

I would again like to quote Lord Mountbatten, who made the statement in 1979, after a long military career. He said, "I have come to the conclusion that nuclear weapons cannot be used in war, and any person who believes that we can use nuclear weapons in the same way we can use rifles and tanks are committed to a day gone by, and that what imperils life on the face of this Earth is in the illusion that in some way we can use these weapons."

I believe that that was a magnificient statement, suggesting that the only role for nuclear weapons in our lives is not the insanity of using them, but to deter nuclear war. We are far beyond the capacity to deter. The danger in this bill is twofold. No. 1, we are talking about going beyond deterrence to a war-fighting capability, which is a major policy shift in this country and, No. 2, we are developing weapon technology that goes beyond our ability to verify, when verifiability has been at the cornerstone of all of our arms control negotiations.

But these are the sexy, big ticket items, the B-1, the Pershing, the Trident, the MX. But if you want to significantly reduce the military budget, if you really want to bring cost savings, it is not just these big ticket items. Nuclear weapons and forces comprise less than 20 percent of our total budget authority. Seventy-nine percent of our budget authority is in land divisions, tactical airwings, surface Navy units, and airlifts; $204 billion, 79 percent, of our total budget. So if you want to make cuts, then we have got to move beyond the nuclear arsenal and look also at the conventional arsenal. The real budget must come in conventional force and personnel systems. To do so requires a rethinking of America's role in the world regarding our NATO alliance system, Third World interventionism, forced projections in the Pacific Ocean, what constitutes proper and adequate American conventional force systems, and policy. The remainder that any conventional force, Mr. Chairman, in confrontation between the superpowers or their alliance surrogates would almost automatically escalate the theater nuclear war exchanges, and ultimately strategic nuclear war, is something that ought to cause us to begin to rethink the nature of our role in the world.

Escalation of nuclear weaponry further escalates the arms race throughout the Third World, thereby increasing the possibility of superpower intervention directly or indirectly. The drain on resources and brainpower further threatens the domestic economic situation here at home.

With respect to conventional forces, what is a defense budget? It has the purpose of amassing dollars to buy forces. Forces are related to missions. Missions are related to regions of the world. Therefore, we ought to look at the various regions of the world, look at the missions, to determine whether our troop deployment around the world is appropriate. We cannot cut the budget without reducing conventional forces significantly. This means, as I said earlier, a rethinking of our commitment.

With respect to NATO, over 50 percent of our defense budget, $130 billion, is committed to our involvement in NATO. I raise two questions: How much for NATO? Is this enough, or is this too much? And who should pay? Why is it that NATO countries are paying a disproportionately lower amount than us? Is it because their perception of the threat is less significant than ours? I would suggest that they have a responsibility to pay, and if their perceptions are not as threatening as ours, then maybe that says something about the nature of our perceptions.

With respect to Asia, we spend $40 billion per annum. Why? To defend dictatorships in the Philippines and in Korea? This needs to be rethought. How can you justify this to American people?

Mr. Chairman, 500,000 troops are outside the United States acting as tripwires, and there is a potential of involving us in Third World adventurism. If anyone on this floor thinks that these troops in some way are going to engage in some long-term, massive confrontation with the Soviet Union, they are living in an absurd world. These troops are there, providing the basis for our involvement in Third World countries, and I think that is dangerous.

With respect to our surface Navy, I make the following comments: The surface Navy will not function is a nuclear war environment. In a nuclear war environment this surface Navy is the first thing that goes out. There

will be no major Soviet-United States naval confrontation. If it is, these ships are going right out of the water in a nuclear bomb blast. The fleet should not be shaped for United States-Soviet conflicts. This is the absurdity of this present approach. This is one of the faulty assumptions upon which we rest our case to build a 640-ship surface Navy. It is too large for any other mission. We should wean the Navy from its reliance on aircraft carriers. We build an aircraft carrier, then we have to have more planes to protect it, more ships to protect it, more ships to protect them. If we get away from aircraft carriers and begin to apply our presence in the ocean with small, much cheaper submarines, we do not have to spend these billions of dollars in this large surface Navy.

With respect to our rapid deployment force, our rapid deployment force speaks to an interventionist policy. Why do we need 30,000 troops able to make a response somewhere in the world? If the response is significant, 30,000 troops are not going to do anything. Thirty thousand troops only brings us closer to war. If it is 30,000 troops, why do we not use the Marine Corps? That was their function in the first place. But a rapid deployment force, Mr. Chairman, is interventionist for use in the Third World, and I think that is dangerous and a serious mistake. Its limited size would not allow us to bring stabilization and, as I said earlier, the Marine Corps can more than adequately address that problem.

With respect to civil defense, the crisis relocation program, in my estimation, is absurd for a variety of reasons. We can discuss that further in this debate.

With respect to the economic arguments, Mr. Chairman and members of this committee, it takes money away from other spending. As I said earlier, when I first came to Congress in 1971, our military budget was below $80 billion. This year it is 250-some-odd billion dollars. By the end of this decade it is conceivable that it could exceed $500 billion.

Many people suggest that we are going to spend somewhere in the neighborhood of $4 trillion to $4.5 trillion in the 10 years of the 1980's. It destroys the civilian economy. Seymour Melman called it "looting the means of production." It has an inflationary impact. It means that more money is chasing no increase in goods, totally nonproductive. Where will the money go, and from whence will it come? New taxes? No. New deficits? No. We will continue to cut social programs to fan the flames of this budget.

The job argument is false. Many more jobs per dollar are spent when we spend money in the civilian sector of our economy.

I will, finally, with respect to the economic arguments, end with a quote from Prof. Seymour Melman:

> The viability of the United States as an industrial society is threatened by the concentration of capital in a fund that yields no product useful for consumption or further production. A nation with a crumbling infrastructure, skyrocketing unemployment, increasing poverty and declining economy can ill-afford the cost of such a massive military buildup. The nation's security and strength are not defined only through military power but also through the vitality of our domestic economy and society.

Mr. Chairman, in the remaining few moments, we have offered a bill that we have worked diligently upon. We tried to bring the most capable minds that we could around this country to look at our alternative approach. I recognize significantly that this is a minority point of view, but at one time America's involvement in Vietnam was challenged by the minority point of view. Finally, the majority of people in this Congress saw the insanity and the absurdity and the cruelty of continued prosecution of the Vietnam war. The American people are beginning to awaken to the trade-off of big military budgets against their lives, escalating lockstep toward nuclear war, finding it frightening, registering and potentially drafting their children, and they are raising significant questions. America is on the threshold of transition, and I would suggest, Mr. Chairman and members of the committee, that we begin to look at a positive and constructive alternative to this present approach that I perceive to be a recipe for ultimate disaster. If we are going to survive in this country and in the world, let us move beyond confrontation to negotiation, let us move beyond nuclear weapons and war to peace in this country and peace in the world. That is the greatest security that we can bring.

Mr. Chairman, I reserve the balance of my time.

□ 1640

Mr. WHITE. Mr. Chairman, on behalf of the Committee on Armed Services, I yield 15 minutes to the gentlewoman from Maryland (Mrs. HOLT), representing the minority of the committee, pending which I yield myself such time as I may consume.

Mr. WHITE. Mr. Chairman, Deputy Soviet Foreign Minister V. V. Kuznetsov agreed in 1962 to remove Soviet missiles and bombers from Cuba, but warned: "Never will we be caught like this again." There are those who believe that in the close Moscow circles, nuclear war is unthinkable only if it is unwinnable.

It can be argued that an American failure to develop and maintain a deterrent capability to convince the occupants of the Kremlin that a nuclear war is unwinnable might provide the Soviets with an incentive that nuclear war is, in fact, thinkable. The Congress, therefore, must resist the call for massive defense reductions, abandonment of major strategic systems, and freezing of our present developments that lead the Soviet leaders to think about the unthinkable.

Winston Churchill wrote of the events that led to World War II, "multitudes remained plunged in ignorance" about the Nazi threat while most Western leaders "did not dare to undeceive them." We cannot engage in self-deception, as the statistics on the Soviet military buildup are available to any member. Playing semantics about the Kremlin's military might and intentions are counter to the responsibility that our fellow citizens have entrusted in us. For some years, our intelligence experts have warned the Congress in the gravest tones that the "window of vulnerability" for the United States would be wide open in the mideighties. Their dismal predictions have unfortunately come to fruition and the temptation for the Soviet Union to exploit its vast military power is more than just slight.

We, in the Congress, have received intelligence that clearly shows that the Soviet margin of military superiority is substantial and continuing unabated to grow. This military buildup could lead to a mind-set that increases the incentives for the Soviet leadership to launch the first strike against the United States. The Soviets have increased the hardness of their missile silos, diminishing their vulnerability to existing U.S. ICBM warheads; and MIRV'ing has increased the number of Soviet warheads which would survive a nuclear attack. More than half of the 1,398 Soviet ICBM launchers have been rebuilt to house ICBM's in vastly more survivable, hardened silos. These weapons, all of which are MIRV'd, are in the forefront of ICBM technology and certain versions of the SS-18 and SS-19 are among the most accurate ICBM's operational anywhere. Together, these systems have the capability to destroy a large percentage of the U.S. ICBM force, using only part of their total numbers. In the last 10 years, the Soviets have introduced an unprecedented array of new strategic systems into their arsenal, including the SS-17, SS-18, and SS-19 ICBM's, the Backfire bomber, the Typhoon submarine, and several new types of submarine-launched missiles, and the SS-20 intermediate range missile. The United States, on the other hand, exercised restraint and introduced only the Trident submarine and the cruise missile.

During the past decade, the Soviet Union has built up its forces across the board. During the same period, the U.S. defense expenditures declined in real terms. This year, the Armed Services Committee has taken steps to

assist the Armed Forces in their recovery from that decade of neglect. The Soviets already have more than four times as many ICBM warheads as the U.S. Strategic Air Command (SAC) has missile silos which are static targets. Most of Moscow's arms are in the megaton range, and the Soviet hard target capabilities place the undefended U.S. fixed site ICBM's at risk. General Ellis, the SAC commander, said the increased yield and accuracy of Soviet ICBM's "have put our Minuteman at risk to a point where . . . we could not respond effectively in a coherent manner." Statements that the United States and the Soviet Union are at parity in warheads discounts the fact that figures on Soviet warheads are estimates which do not take into account probably concealed or rapidly reloadable missiles—such as the SS-17's and SS-18's. Soviet strategic operational employment plans, based on Soviet doctrine and writings, point to seizing the initiative through preemptive attack. Such attack would effectively reduce the impact of a retaliatory strike, limiting damage to the U.S.S.R.

Existing U.S. ICBM and heavy bomber forces are the 1960's era and face technological obsolescence as well as severe aging problems. Our ICBM force is at total risk; one-half of our SLBM force which is in port at any given time present the Soviets with lucrative and vulnerable target objectives. Further, it has been stated that most of our B-52 bombers—even those on alert status—would be destroyed by a Soviet first strike. Soviet targeting objectives are U.S. strategic offensive assets that would place American population centers under the terrible threat of annihilation. Could the President order surviving U.S strategic nuclear weapons to be launched against the Soviet heartland under this coercion?

The Soviets currently maintain a significantly greater proportion than NATO of their equivalent throw-weight capability (a rough measure of the ability to deliver large warheads) in ICBM's—about 62 percent compared to 31 percent for NATO. The Soviets maintain a greater proportion than NATO of their megatonnage in ICBM's. Moreover, the sustained Soviet modernization of its ICBM's has given rise to particular concern as the newer warheads—new versions of the SS-18 and SS-19—are large and accurate enough to destroy U.S. ICBM silos. NATO by contrast does not have a corresponding capability against Soviet ICBM silos because of the relatively limited amount of highly accurate ICBM warheads and the hardness of the Soviet silos.

It is very prudent to assume that the Soviet Union would attempt to win any military war by denying the United States the physical ability to continue to wage it. The United States must reverse the shift toward Soviet nuclear superiority and forestall any notion that the Soviet Union could fight, survive and win a nuclear war. Blackmail is a tactic that is being used now by the Kremlin. The Soviets have offered to guarantee not to use nuclear weapons against countries in Northern Europe, the Balkans, and Mediterranean which would declare a freeze on deployment of nuclear weapons in their territories. This simply says we will use nuclear weapons against you if you allow the United States to base the Pershing II or the ground-launched cruise missile systems in your country.

There is a moral issue linked to nuclear weapons. If nuclear weapons are the only deterrent to Soviet blackmail, there are those who argue that we should submit rather than pose the risk of nuclear conflict. We, in the Congress, cannot accept this false choice, as it would be the surrender of our survival as a people and civilization. Deterrence is not automatic and certainly does not come cheaply. Our objective in this nuclear era is to reduce the risk of war and to establish a stable military balance at lower levels of risk and effort.

Unless one subscribes to the "better Red than dead" approach, we must maintain nuclear stability and capability with the Soviet Union. While it is not necessary for the United States to match the Soviets missile for missile, megaton for megaton, it is necessary that our military forces have the capability to make the Soviets pay an unacceptably high price for aggression. Whatever impact nuclear freeze advocates have in our own society, there is no like force within the Soviet Union. Unilateral American constraints on nuclear weapons would receive a warm welcome by the Soviet leadership, both civilian and military, as the Soviet advantage would be solidified. It is strange that the thesis of the advocates of the nuclear freeze movement is that the United States forced the Soviets into the nuclear arms race and thus must now take the risks involved in nuclear disarmament.

It must be pointed out that an unequal nuclear freeze would halt U.S. weapons production lines, but do nothing to Soviet defense production outputs.

The freeze proposal is indeed politically attractive and unfortunately irresponsible.

We believe that it is essential to get some agreement with the Soviets, as only with an verifiable pact can the hair trigger in Central Europe be taken off its hair trigger and can the massive cost of defense be reduced. Lessen the threat, and the need for more defense is reduced proportionately. This reality holds true for both the Soviet Union and the United States. Defense Secretary Weinberger said in May that:

> An unequal freeze would only perpetuate and exacerbate existing military imbalances, decrease our deterrent capability, and eliminate any incentive for the Soviets to agree to real reductions. Only by demonstrating a commitment to maintain our deterrent capability, with or without arms control, will we convince the Soviets that it is their best interest to join us at the negotiating table.

There is a critical need to maintain the Soviet incentive to negotiate arms reductions, that would be undermined by endorsement of many of the weapons reduction proposals before us. Most proposals would freeze the existing instabilities and condone and approve of current Soviet advantages. They would effectively eliminate the incentives for the Kremlin to negotiate toward the even lower levels of nuclear arms. It is imperative that we try to achieve real reductions and thus lessen the risk of war.

Richard Burt, Director of Politico-Military Affairs of the Department of State testified:

> It is apparent to all that we have little hope for substantial reductions in weapons if we begin negotiations from anything less than a confident military position and the certainty that we will not allow continued Soviet growth to go unchallenged. We must pursue a vigorous, balanced modernization program if the Soviets are to have any incentive to negotiate toward the agreements we seek.

Why should the Soviet Union make any concrete concessions in the START negotiations, if they can accept offers of a freeze that will cost them nothing and could yield them eventual nuclear superiority?

Nuclear weapons raise profound moral, political, and strategic problems that concern thoughtful people within our democracy. Yet, only through the power of the United States and its policy of deterrence has Europe been spared from repeating the tragic loss of 50 million of its citizens who died in this century. The United States has signed numerous treaties with the Soviet Union over the past 20 years, but the sad fact is that the Kremlin has yet to fully comply with any significant pact. For example, use of chemicals in both Southeast Asia and Afghanistan, violation of the Helsinki human rights accords and the Cuban missile agreement of 1962. The Soviets' word is clearly not good enough, and certainly not good enough to allow the ultimate security of the United States to be lost to the vows of the Soviet leadership.

The United States has attempted through a course of self-restraint and unilateral arms reduction to convince the Soviets to do the same. The Kremlin never reciprocated. We must, therefore, place primary reliance on our national strength and be willing to negotiate. We must avoid the delu-

sions and self-deceptions of the past 12 years. Moscow has acted with force to expand its influence. In Vietnam, in Kampuchea, Afghanistan, and soon, perhaps, in Central America, we have reaped the grim harvest of self-delusion. We need a foundation upon which to build an arms control agreement that the American people can trust as being the best possible result of successful diplomacy—not empty promises, but verifiable procedures that would insure that the Soviets would not exploit our trust.

Realities of the nuclear threat impose the requirement on the Soviets and the United States to impose equal limits and obligations on both sides with reductions of strategic weapons.

The Armed Services Committee is concerned that the present substitute could frustrate American attempts to achieve stability and a military balance in the world. Détente did not alter Soviet priorities and while the West sought to ease tensions, the Soviet Union greatly expanded its military forces. There are those who would exploit the anxieties of the public that have been building up since the deterioration of America's superiority over the Soviet Union was so clearly demonstrated during the previous administration.

It is odd that the timing of the seemingly national cry for the so-called nuclear freeze fell in line just as the United Nations Special Session on Disarmament took place.

There are thousands of well-intentioned Americans who support the "freeze-now" concept. But a complex of professional organizers has followed a carefully designed scenario in pushing the oversimplified idea of a freeze. Nuclear weapons have, for over 30 years, helped deter Soviet aggression. Tragically, the answer to how much defense is enough does not rest in the pulpits or town halls of America, but rather in the nuclear planning bureaus of the Kremlin.

The painful negotiations that face our START specialists are just beginning and we pray that they can achieve some success, but there is little prospect that the Soviet Union will ever agree to reduce its heavy, multiwarheaded intercontinental missiles unless it can be persuaded that the United States will respond by deploying comparable systems itself.

Soviet leaders, as of now, understand that without some acquiescence to U.S. demands in arms control, the United States will launch into a military building program that could place the U.S.S.R. in a militarily and politically inferior position relative to its current position. Thus, to strengthen the concept of arms control within the halls of the Kremlin, the United States must reject unilateral conciliatory gestures toward the Soviet Union and emphasize its military capability and determination to pursue its own military advantages. This is the stuff that the Soviets understand. We must negotiate from strength not a weakness brought on by unilateral cutbacks.

It is time that we took a page out of the Soviet textbook and talk parity while planning and working to be second to none.

A survivable strategic U.S. arsenal acts as a direct credible deterrent against any Soviet threat to launch these nuclear weapons and it supports the deterrent capacity of American conventional combat Forces.

No sane man could ever advocate nuclear war. No responsible individual has ever attempted to minimize the horrors of a nuclear confrontation between the superpowers. America's leaders have recognized that the sole nuclear strategy that was consistant with our values and survival was the strategy of deterrence and that is our highest objective.

Deterrence has been supported by most Americans because it works. It is nuclear deterrence and collective defense that has preserved the peace in Europe.

There have been over 130 international and civil wars since World War II and yet it was deterrence that kept nuclear conflict from the Russian and American homelands. We must sustain our national security in a changing international environment and in the face of an expanding Soviet force. This can only be accomplished with close cooperation with our allies, and with an arms agreement based on the principle of equality which is demonstrably fair, mutually beneficial and realistic.

□ 1650

Mr. Chairman, I reserve the balance of my time.

Mrs. HOLT. Mr. Chairman, I yield myself 2 minutes. I rise in opposition to the amendment.

I would like to ask the author of the amendment, the gentleman from California, a question about the amendment if he would engage in a colloquy with me here.

Is it true, the gentleman did not get into any specifics in the amendment, the gentleman dealt in generalities, but is it true that this would effectively terminate the carriers, the MX, the B-1, the Pershing II, the GLCM and the Trident II?

Mr. DELLUMS. Yes. The answer is yes.

Mrs. HOLT. That is what I wanted to know.

Then the amount of the reduction is 31 percent less than the Reagan proposal. The committee has reduced that amount from $183 billion to about $177 billion; but that of the gentleman would be a 31-percent reduction from the Reagan proposal?

Mr. DELLUMS. To be more specific, our bill calls for $126.1 billion. If that is 31 percent, that is what it is. That is the specific figure, as against the Armed Services Committee of $177.03 billion.

Mrs. HOLT. I thank the gentleman for his response.

Mr. Chairman, I yield 6 minutes to the gentleman from New York (Mr. MITCHELL).

Mr. MITCHELL of New York. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the prime determinant of what we should spend for defense has to be based on what our potential adversary is spending. We have to evaluate how strong he is. We have to figure out how we can counter that strength if we want to have peace.

I do not begin to propose that the Soviets are 10 feet tall. Except for defense, they are not doing anything very well. Their agricultural economy is in a shambles. Their consumer goods are in scarce supply. Their average income is far below our poverty level; but they have built the god-awfullest war machine that have ever been assembled by any nation in the world in history. They are spending about $40 billion more than we are on defense and they have for about the last 10 years and it really shows.

The common wisdom in preventing war is to be as strong as your potential adversary. That is the way to preserve peace. When people say it costs a great deal of money to support this defense budget, when they say that there is some waste in it, I would agree on both counts. There obviously almost assuredly is waste and it certainly is a huge amount of money, nearly $300 billion; but I would suggest that the only situation with far more waste and that costs a great deal more not only in dollars and materials, but also in people, is a condition of war. We have to spend enough to prevent that from happening. I do not feel the gentleman's amendment provides adequate funds to prevent that situation from occurring.

Those who want to cut defense often want to spend what is left over for social programs, certainly a worthy goal; but we have already done this for the last 10 years. We have cut defense over the past 25 years, in fact, compared to what we used to spend for defense.

Some round numbers, Mr. Chairman: In 1955 we spent almost 55 percent of our budget on defense.

In 1965, we dropped down to around 45 percent.

In 1975, way down to 25 percent.

In 1978 was the lowest, 22 percent.

In 1981, we went back up to 25 percent.

Then the 1983 budget will provide almost 30 percent of our entire expenditure for defense.

Most of those dollars that we have not been spending for defense through the years have been spent for social programs, spent for good causes; but there just never will be enough money to do all the things we would like to do for all the people that are unable to care for themselves at the level we think they should.

□ 1700

I also would like to point out, in line with social responsibility, that the first responsibility of a nation to its people is to keep them alive and free. That is the primary purpose for defense spending, to keep them, in America, alive and free.

Another argument for cutting the defense budget is that the Soviets are afraid of the United States because of our awesome strength; if we just cut back in a unilateral way that they will follow.

Well, we have cut back since the Vietnam war, as I pointed out, in proportion to what our overall expenditures had been. Did they cut back? Obviously not.

Mr. WHITE, the gentleman from Texas, brought that out thoroughly earlier.

Instead, as I said, they increased defense spending nearly $40 billion a year for the past 10 years.

To bring some meaning to this, I intend to quantify, Mr. Chairman, the situation, just what weapons we have in comparison to what the Soviet Union has in certain key areas. I am talking about ships, planes, tanks, people, missiles, just to find out how we do rate with them, just how equal are we, what kind of parity do we have according to these numbers.

I admit at the outset that there are a lot of qualitative differences in weapons. We have more loyal allies than the Soviets do; our technology is far superior; we are a much wealthier nation. I admit also that we have different defense requirements than the Soviets have.

We are not ringed with enemy nations as they are; we have oceans on both sides of us that they do not have.

Let us look at the numbers to see how they do compare with us.

These are the various categories that I selected that would be important to forwarding a war: Military investment includes procurement, R.D.T. & E. military construction. The Soviet Union is in the first column, the United States is in the second column. In that category it is 1.85 to 1.

ICBM's, 1.3 to 1; SLBM's, 1.5 to 1.

ICBM MIRV warheads, 2 to 1; throwweight, 2.8 to 1, almost 3 to 1; equivalent megatonnage, 1.4 to 1; tanks, both heavy and medium, 4.6 to 1; ICBM reentry vehicles, 2 to 1; personnel carriers, 4.2 to 1; artillery, 5 to 1; bombers, strategic bombers, and here we do lead the Soviets, 1 to 1.8, but our planes are 25 years old.

Planes other than strategic, 1.7 to 1; attack submarines, 4 to 1; major combatant ships, 1.4 to 1; helicopter gunships, 1 to 1.1. We are slightly ahead in helicopters also. That is a second area.

In strategic spending, it is 3 to 1; in R.D.T. & E. it is 2 to 1.

If we add in civil defense, the money spent is 20 to 1, the people involved in civil defense is almost 20 to 1, and the nuclear war casualties—and here is where we lead—it is 10 to 1.

The point I am making is that in the 17 categories listed, the Soviets are ahead in 15. If we factor in civil defense, in 19 categories they are ahead 17 to our 2 categories. It is a very, very poor ratio, under any sort of comparison. The tragedy is, ladies and gentlemen, that we used to be ahead in nearly all these areas.

The trend until the Reagan administration came to power was alarming.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Mr. Chairman, I yield 1 minute to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding this time to me.

I am going to vote against this amendment. I would urge all my colleagues to vote against it. I want to help restore the imbalance that already exists in our defense comparison. Even if we voted for the budget that we have cut already today, it still would not close the gap in defense spending but, Mr. Chairman, it would keep us in the game.

Mr. Chairman, I yield back the balance of my time.

Mr. WHITE. Mr. Chairman, I yield 1 minute to the gentleman from Maryland (Mr. DYSON).

Mr. DYSON. I thank the gentleman from Texas for yielding to me.

Mr. Chairman, I reluctantly rise in opposition to the amendement in the nature of a substitute offered by the gentleman from California. The sponsor is a very fine member of our committee and is sincere, I am certain, in his efforts to bring Federal spending under control.

I wish we could afford to strike over $50 billion from the Federal budget and not jeopardize the defense needs of the United States. One aspect of this substitute especially disturbs me. The gentleman from California brings the shipbuilding program of the Navy down to about $3 billion in comparison to the $18 billion which we have in the authorization. I think this is unacceptable.

Today the members of the Maryland delegation were approached by the president and executive secretary of the Industrial Union of Marine and Shipbuilding Workers of America, Sparrows Point Local 33. They pointed out that over 3,000 workers at the Sparrows Point Shipyard depend heavily on the future of the Navy shipbuilding program. They are deeply concerned that if this program in its present form, does not pass, or is radically altered in any way, that the Sparrows Point Shipyard will close down completely and place these 3,000 workers on the growing list of the Nation's unemployed.

Mr. Chairman, I would like to submit to the Members of this House a letter from Mr. Spence Shiflett and Mr. James C. Harmon, their views of this serious situation:

INDUSTRIAL UNION OF MARINE AND SHIPBUILDING WORKERS OF AMERICA, SPARROWS POINT LOCAL NO. 33,

Baltimore, Md., July 19, 1982.

Hon. ROY DYSON,
U.S. House of Representatives,
Longworth Building,
Washington, D.C.

DEAR REPRESENTATIVE DYSON: The 3000 workers at the Sparrows Point Shipyard are presently experiencing the highest rate of unemployment in the long history of the Sparrows Point Shipyard.

The only hope that we as Shipyard workers have for our future employment is the Navy Shipbuilding. If Navy contracts aren't obtained soon the possibility of the Sparrows Point Shipyard closing will become a reality, and my 3000 Members plus the 1000 or so non-represented workers will lose their jobs permanently.

Therefore, we strongly request that you and the other members of the Maryland Delegation support H.R. 6030 for the Defense Budget. This budget, in our opinion, will mean thousands of jobs in the Maryland area.

My Members are highly productive workers who want to work. I am sure we can build U.S. Navy ships at below cost and in advance of delivery dates, if given the opportunity.

We appreciate the help you have given us in the past, and hope that you can help us in this present crisis.

Yours truly,

SPENCE SHIFLETT,
President, Local No. 33.
JAMES C. HARMON,
Executive Secretary, Local No. 33.

Mr. Chairman, I am encouraged that the defense authorization bill before us is a positive step toward building a stronger national defense and particularly, that the shipbuilding programs authorized by the bill will take the Nation a step closer to achieving a 600-ship Navy. There should be no doubt that attainment of a larger and more capable Navy is essential if we are to have a Navy that can carry out the missions assigned to it. There certainly is no question that building a 600-ship Navy will require continuing large shipbuilding programs. But support

for large naval ship construction programs to build a strong Navy is not sufficient to maintain the United States as a strong maritime nation. The maritime interests of our country require that we maintain a strong merchant marine, with modern ships manned by skilled American crews, and a strong shipbuilding and repair industry to support both the Navy and the merchant marine.

In previous conflicts—World War II, Korea, and Vietnam—there were as many or more merchant ships involved in direct support of the war effort than naval ships. It is reasonable to expect that this would be true in future conflicts as well.

The naval shipbuilding program authorized by this bill does not maintain the essential shipbuilding industrial base that woud be essential in a future conflict. Nearly three-fourths of the $18 billion for naval shipbuilding will go to only four shipyards that build aircraft carriers, nuclear submarines, and Aegis guided missile cruisers.

Yet the present shipbuilding industrial base is composed of 26 shipyards that have the facilities and work force to construct ships. Less than one-half of these yards are currently constructing naval vessels. There is little prospect that many additional yards will be employed in the naval shipbuilding program.

The prospects for commercial work for the Nation's shipyards is even more bleak. In testimony before the committee earlier this year, Mr. Edwin Hood, president of the Shipbuilder's Council of America, stated that by the end of the year the backlog of commercial ships under contract in U.S. shipyards would total eight. He further stated that employment in merchant ship construction was declining from 35,000 in 1976 to a projected employment of less than 10,000 by the end of the year.

The administration's maritime policies have done nothing to reverse this alarming trend. Construction differential subsidies have been suspended indefinitely. Operating differential subsidies are being paid for ships built in foreign yards, and policies are being proposed that will move virtually all repair work of U.S.-flag merchant ships to foreign yards.

The maintenance of a strong maritime capability is not solely a military interest and the importance goes beyond the defense needs of our country. The maritime sector of the economy contributes to the general welfare of the American people. Ocean borne commerce brings one-third of our daily use of petroleum products from distant parts of the globe. It also brings many strategic and critical materials that are essential to both the civilian economy and to the maintenance of our national defense.

I would hope that this Congress will act to maintain the shipbuilding base and rebuild a strong and competitive merchant marine. In the interim the only business available to sustain the shipbuilding industry is the naval construction and repair programs. It is essential that we approve it in its entirety.

There are a number of naval programs, including the maritime prepositioning ships, fast logistics ships, hospital ship, oilers, salvage ships, and ship overhauls and repairs that offer the opportunity for work to shipyards not currently engaged in combatant ship work. The award of one of these programs to a yard could well sustain a shipyard that would otherwise close its doors.

I believe that the Navy should reexamine its so-called home port policy which tends to give preference for contracts for repair and overhaul work to yards in areas where naval ships are home ported. In the past decade naval ship home ports have been increasingly concentrated. The home port policy for repair and overhaul work will lead to a similar concentration of industrial facilities. I believe that this is shortsighted policy and that its logical consequences are not in our national security interests.

In summary, I urge my colleagues' support for the naval shipbuilding and repair programs authorized in H.R. 6030. But the action we take on this legislation is only a portion of that necessary to maintain the maritime sector of our economy. The maintenance of U.S. maritime interests requires a strong merchant marine and a strong ship construction and repair industry.

Mr. DICKINSON. Mr. Chairman, I yield 3 minutes to the gentleman from South Carolina (Mr. SPENCE).

Mr. SPENCE. Mr. Chairman, the gentleman from California, my good friend, is concerned about war. I think we are all concerned about war. He suggests that anything we do to defend ourselves is provocative, is destabilizing, and could upset our adversaries to the extent that they might want to have some kind of a confrontation with us.

I yield to no one in my determination to do all those things we can to prevent war. You have got to be crazy to want to fight a war.

However, sincere, honest, dedicated people can disagree on the method, the best method to accomplish what we all seek, and that is to prevent a war.

To my way of thinking there are two ways to prevent a war: You can give in to the other side voluntarily and have peace, the kind of peace that I do not think any of us would want to live under. The other way is to be so strong that no potential adversary would risk a confrontation with us.

In that connection, I would like to quote also from someone who was very much in the news until 2 years ago when he retired as Secretary of Defense. On leaving that office, Harold Brown uttered some words which I very much agree with, when he said:

> Critical turning points in the histories of nations are difficult to recognize at the time. Usually, they become clear only in retrospect. Nonetheless, the United States may well be at such a turning point today. We face a decision that we have been deferring for too long; we can defer it no longer. We must decide now whether we intend to remain the strongest nation in the world. The alternative is to let ourselves slip into inferiority, into a position of weakness in a harsh world where principles unsupported by power are victimized, and to become a nation with more of a past than a future.

Mr. DICKINSON. Mr. Chairman, may I inquire, does the gentleman on this side have any more time?

The CHAIRMAN pro tempore. The gentleman has 3 minutes remaining.

Mr. DICKINSON. Mr. Chairman, I yield myself the balance of my time.

Let me say I would like to rise in opposition to the amendment. While no one can doubt the sincerity of the proponent and the gentleman offering the amendment, his views are well known; for many years he has espoused these views both on and off the floor.

We have had many conversations in and out of committee.

What this amendment would do would totally denude the United States so far as its military posture is concerned. We would strip ourselves unilaterally, receiving nothing in benefit; all our major weapons systems, prospective in nature, the B-1, the Trident, the MX, all of the very things that General Rowney is addressing in the START talks now in Europe, trying to come to agreement with our potential adversary, the Soviet Union, trying to come to a reasoning with them, a mutual balanced reduction of forces, a deescalation of the arms race.

We have seen in the past that any unilateral action on our part does not evoke a similar response on the part of the Soviets.

□ 1710

When our former administration very foolishly announced unilaterally that they would cancel production of the B-1 bomber, shortly thereafter I, as a delegate to the Disarmament Conference, was in Geneva and heard some of our negotiators laughing and saying, "Well, we really have embarrassed the Soviets now. We have the lads in a tough position because we have shown our good faith and they are embarrassed because they are going to have to make a similar response."

The fact is, their response was to go forward with a follow-on to the Back-

fire bomber. So, whatever good intentions we show, whatever unilateral disarmament we might engage in, evokes no similar response from the Soviets. As a matter of fact, I think it probably causes them to redouble their efforts.

So, I think it would be shortsighted in the extreme to strip ourselves of our capabilities, both present and in the future. I think there is nothing we could do that would show a greater sign of weakness, which in turn will invite aggression and attack, and I think the House should reject the amendment out of hand.

The gentleman from California (Mr. DELLUMS) cannot be serious when he proposes to virtually kill every strategic improvement proposed by the past three administrations and supported by the Congress. He must be jesting when he proposes to kill both offensive and defensive naval weapons. He cannot be serious when he proposes to kill the Army's M-1 tank and Apache helicopter.

Further, Mr. Chairman, I cannot believe that the gentleman would have us kill the Pershing II and ground-launched cruise missiles and force our Government to renege on its solemn agreement with NATO. In the Intermediate Nuclear Force (INF) negotiations we propose, with our allies' concurrence, to forgo Pershing II and GLCM deployment if the Soviets will take out the powerful SS-20's that threaten Europe. If we scrap plans for those new systems what incentive is there for the Soviets to agree to take out their SS-20's?

By cutting the defense procurement request in half, from $89 billion to $44 billion, the gentleman defeats his substitute's stated purposes.

The first of these is to provide authorizations consistent with a strong national defense. Yet, the substitute would gut national defense.

The second stated purpose is to "minimize the risk of nuclear confrontation." Yet, by gutting all new strategic programs, the substitute would actually invite nuclear blackmail.

The third stated purpose of the substitute is to "eliminate areas of waste and abuse in this budget." Yet, the substitute would create massive waste by closing down large segments of the defense industrial base sending thousands of skilled workers to the unemployment lines.

Finally, the substitute seeks to "enhance readiness and morale." Yet, the amendment would deny defensive and offensive missiles to the Navy, prevent the modernization of the Navy and Marine Corps air arms, deny equipment to the Rapid Deployment Force, and decrease the defensive and offensive power of Navy surface forces.

Mr. Chairman, I urge my colleagues to vote to defeat this amendment.

Mr. DELLUMS. Mr. Chairman, I yield myself the balance of my remaining time.

The CHAIRMAN pro tempore. The gentleman from Califorinia (Mr. DELLUMS) is recognized for 5 minutes.

Mr. DELLUMS. Mr. Chairman, in summary I would like to begin by quoting again from Paul Warnke, a partial quote:

> The Soviet Union regrettably has something like 80 percent of its strategic resources in that vulnerable system * * *

Meaning land-based missiles.

> That is too bad. I would rather that they have a greater percentage in survivable forces, because the survivability of deterrents on both sides is what gives us the only security that we have in the nuclear age. But the concept that somehow we have let them get ahead of us is really a criticism of this country having made the right decisions. We have made the correct decisions, and we ought to be proud rather than poormouthing our capabilities.

Mr. Chairman, I realize that we need defense in this unstable world at this unstable moment. The question is, What constitutes an appropriate and adequate defense? What are our realistic defense needs? I agree with these persons who raise the question of deterrance. What I am simply suggesting is that H.R. 6030 threatens deterrence.

I would ask America, Mr. Chairman, to be logical. These are very complicated issues, but they have a certain kind of simplistic logic. No. 1, the Soviets have over the years demonstrated their intellectual capability, their scientific capability, their military and political will to build whatever they have to build in response to us. Simply stated, whatever heinous weapon we build, within some relatively short space of time we are looking down the barrel of the same weapon that we developed. At some point the logic of continuing down that road escapes me.

Mr. Chairman, we cannot use nuclear weapons. The only use is for deterrence. Deterrence works. If it did not work, why are we not throwing weapons at each other at this moment? To go beyond deterrence is what creates danger. To talk about a war fighting capability is what I am challenging here. Deterrence works. We are not throwing bombs at the Soviet Union; they are not throwing bombs at us because those big, dirty bombs on either side act as deterrence weapons.

But once we develop the capacity to threaten the Soviet's credible deterrent capability, the only way they can defend themselves is to go on offense. Do you want to give that to yourselves and your children and your childrens' children?

This is what I am challenging. We need defense, we need deterrence. What we do not need is war fighting capability and what we do not need is nuclear technology that goes beyond our ability to verify.

Be logical, America. We cannot use these weapons. A surface Navy in a nuclear age is an irrational effort. Be logical, America.

I would finally conclude with this, Mr. Chairman: Dr. Jack Geiger, in testimony before our ad hoc committee, told a story that he thought characterizes the absurdity of the nature of the arms race between the United States and the Soviet Union. He likened it to two men standing in a room up to their necks in gasoline, one with 7 matches in his hand and the other with 10 matches in his hand. The one with 10 matches said, "I will not enter into an agreement not to strike a match in this room until I have 15 matches," when we all know that one match not only destroys the room, the building, but the community and world within which it finds itself. That is exactly where we are. The Soviet Union has 7,000 strategic weapons. We have 10,000, and we are sitting there saying that we need 15,000 strategic weapons before we can sit down and begin the process of backing away from the insanity, the cruelty, the absurdity, of nuclear weapons.

I am not antidefense or the reality of the real world, but what I am anti is defense that makes no sense, building monuments to madness that we do not need. We do not need war fighting capability. If deterrence is the reality then let it go forward.

On the one hand we have those persons advocating MAD, mutual assured destruction. On the other side we have those persons advocating NUTS. The problem is, the NUTS are leading. We need to come back to the concept of deterrence and get away from the war fighting capability.

I appreciate this opportunity, Mr. Chairman, to try to open the parameters of this discussion. I realize it is a minority view at this moment, but I believe America is awakening and we need each opportunity we have to grapple with each other. I appreciate the sincerity and the respect that has transpired in this debate.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to join in this debate and, first of all, extend to my colleague from California (Mr. DELLUMS) the gratitude of many Members of the Congress who have listened to him, and in their heart of hearts subscribe to the positions that he has articulated. And more, to the millions of Americans, hundreds of millions of Americans, who are fervently hoping that his position will be supported by more Members in the Congress than ever before. I thank you, sir.

I do not subscribe to the notion that this is a minority view, but would posit for this debate that there are more people in America that want a $50 bil-

lion reduction of the defense budget today, right now, in each of the 435 districts, then there are people who do not want a $50 billion reduction. And if I am wrong, it is still a very, very close question.

This debate is a signal one that has been followed by a series of reductions unanimously agreed to by the membership in this body, some four or five. I voted on them in a state of semi-shock. Some of my dearest colleagues, supporters of a strong defense, of a larger budget authority for the Pentagon, were the introducers of these amendments. How many billions we have cut now I have no idea, but it has been a shocking slice from the Pentagon pie.

Over in the Pentagon there are generals laying on the floor in shock that some of their best friends in the Congress would desert them in this moment of crisis in American political and military history. I said to one of the subcommittee chairmen of the Armed Services Committee and author of one of the amendments, "How could you do this without me on the floor? All these years I have begged for modest reductions and today they went through this Chamber like a hot knife through butter. Before we could get back to our offices there was another cut and another cut and another cut."

□ 1720

Why? How come? I will yield to anyone in this Chamber for enlightenment on this point.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague.

First of all, just in order to recap history, may I just say first to my colleague I appreciate his comments. No. 2, when I mentioned the minority point of view I agree with the gentleman, out there beyond the confines of these Chambers I think it is a majority opinion. I am talking about within the confines of these Chambers.

In order to answer the gentleman's question, back several weeks ago the Armed Services Committee, in a 4 hour and 40 minute meeting, passed a military budget authority figure of $255.1 billion. This action was taken prior to the time that this body worked its will on a budget resolution for fiscal year 1983.

In the budget resolution for fiscal year 1983 worked out between the House and the other body it required that the Armed Services figure come in at $253.8 billion. So the Armed Services Committee was required to make up the difference between $253.6 billion and $255.1 billion in order to reconcile the budget with the budget process.

So they came in with a lower figure. That is why you saw a number of our colleagues who opposed cuts having to bring cuts to the floor, because the Armed Services Committee bill had to correspond to the budget resolution. That is why we had this rather uncanny and interesting moment.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(By unanimous consent Mr. CONYERS was allowed to proceed for 5 additional minutes.)

Mr. CONYERS. The gentleman's response I am sure is as correct as it is technical. But could the gentleman just tell me again in perhaps less complicated language why leaders on the Armed Services Committee led in a brief but welcome round of military reductions. Permit me to be direct: Is this an order from the administration? Do the Pentagon warlords themselves seek these reductions? Is there some hidden motive behind this unexpected behavior on the part of congressional militarists? Is it the people that are demanding this? Where does it come from?

Mr. DELLUMS. Is this an order from the House and the other body; or is it a grass roots demand coming from the people themselves that require this action?

Mr. CONYERS. It is a reconciliation, a set of reconciliation cuts?

Mr. DELLUMS. This is reconciliation; the gentleman is perfectly correct. We are reconciling the Armed Services original $255.1 billion with the budget resolution which said you better come in with $253.6 billion. If you are over the budget you are a budget-buster and, as you know, a lot of my colleagues really challenge being budget-busters.

Mr. CONYERS. Let me ask the floor manager, my distinguished friend from Texas, how much did we cut today, total, aggregate amount?

Mr. WHITE. Will the gentleman yield?

Mr. CONYERS. I yield to the gentleman for that purpose.

Mr. WHITE. Before this was reported the committee had already cut $3.2 billion. On the floor today I am advised that the total was $3.2 billion, an additional $3.2 billion, which makes, of course, $6.4 billion that has been cut out.

Mr. CONYERS. I thank the distinguished chairman for those figures.

I am hoping that those who voted for these cuts will continue. This cut I think tracks the Congressional Black Caucus defense budget from the budget debates.

I think it is supportable on the grounds that it will not impair our national security. It will, as a matter of fact, take, I think, into consideration a number of nuclear developments.

But I think we can argue, and it has been argued rather cogently, that we will not impair national security.

I repeat: we will not impair our national security capability if this amendment is agreed to by the House of Representatives and the other body and signed into law.

If there is some disagreement from any of my colleagues on that it should be spread upon the record at this point.

My support for this amendment is predicated upon a premise that I yield to no man or woman in this Chamber that our Nation should be as secure as we can in a dangerous world, a world we have made more dangerous.

I yield to no one on the question of the importance of military security and the national defense of the United States of America.

So I support this amendment in perfectly good conscience. I think anybody else that wants to, can, too.

But there is another premise that dogs this debate, and that premise was summed up by a distinguished professor of physics who said: "Several members of the Government have stated repeatedly that we are inferior to the Soviet Union in strategic weapons and that we need to build up our weapons."

In testimony before the Senate Foreign Relations Committee 2 months ago he said there is no such inferiority because, among other things, we have more nuclear warheads than the Russians, and this he considers to be the most important measure of relative strength.

In addition, and he refers to Dr. Kissinger's comments of several years back, "At the present level of strategic armaments, superiority in numbers of megatons has no meaning."

I am going to put this detailed comment into the RECORD.

The article referred to follows:

THE INFERIORITY COMPLEX

I have been a Professor of Physics at Cornell University since 1935. In 1967 I was awarded the Nobel Prize for studies of nuclear reactions in the stars. I was leader of the Theoretical Division of the Los Alamos Scientific Laboratory from 1943 to 1945 when that laboratory developed the first atomic bomb. I have consulted for the Los Alamos Laboratory at least once a year. I was a member of the President's Science Advisory Committee from 1957 to 1960, and remained a member of its Strategic Military Panel until 1969 when the panel was dissolved. In 1958 I participated in the Experts Conference in Geneva which discussed the verification of a ban on nuclear weapons tests, and led to the Partial Test Ban Treaty in 1963. I am testifying on behalf of the Union of Concerned Scientists of Cambridge, Massachusetts, but the ideas expressed in my testimony are my own.

Several members of the government have stated repeatedly that we are inferior to the Soviet Union in strategic weapons, and that we need to build up our weapons. In my opinion there is no such inferiority. We

have more nuclear warheads than the Russians, and I consider this to be the most important measure of relative strength. In addition, as Dr. Kissinger stressed many years ago, at the present level of strategic armaments superiority in numbers or megatons has no meaning.

We are told that there is a window of vulnerability because the Russians might use their large ICBMs to destroy our land-based ICBMs. It is generally agreed that this is not possible now, but with the improving accuracy of Russian missiles it might become possible in a few years. Leaving the question of the technical feasibility aside, I claim that such a first strike would give no significant military advantage to the Russians.

The reason is that ICBMs make up only one-fourth of our strategic nuclear forces, as measured by the number of warheads. One-half of our force is on invulnerable nuclear-powered submarines, and another one-fourth is on bombers, many of which can take off from their widely dispersed airfields in case of an alert. We would therefore have ample striking force left even if all our ICBMs were destroyed.

An attack on our ICBMs would surely arouse the will to fight in the American people. The fallout from such an attack would kill millions of Americans. This would have an even more profound psychological effect than Pearl Harbor, but would have fewer military consequences than Pearl Harbor did.

It is sometimes argued that our submarine-based nuclear missiles do not have sufficient accuracy. However, if a Russian attack on our ICBMs is to make any sense at all, it would be accompanied by a massive invasion of Western Europe. The military installations for such an attack (airfields, munitions, and fuel storage depots), and the staging areas for an invasion, are all soft targets for which our submarine-based missiles would have plenty of accuracy. Therefore, a hypothetical first-strike against our ICBMs would have practically no effect on our war-fighting ability. Therefore the window of vulnerability does not exist.

It is also often claimed that the Russians have introduced many new weapons of great power, such as the SS-18, SS-19, and SS-20, while we have done nothing. The latter statement is not true. While the outer envelope of our Minuteman ICBM has remained the same, we have progressed from Minuteman 1 to 2 to 3, and in the latter we have introduced MIRV, a development which the Russians imitated, and which led them to their great striking capability. More important, on our submarines we have progressed from the Polaris warhead to the Poseidon, and then to Trident I. The latter represents very significant progress. The range of Trident I is 4,000 miles, compared to about 2,000 for Poseidon. This permits our submarines to operate over most of the North Atlantic, and to still hit Russia. Submarines at sea are very difficult to find. Now that they can roam over such a vast area of ocean, they are far more elusive. This greatly enhances their invulnerability. The US has not stood still in nuclear weapons deployment.

The most important addition to our arsenal is the cruise missile, which is being deployed on our B-52 bombers. The cruise missile can penetrate into the Soviet Union. No defense system against it exists. The elaborate and costly Russian air defense system has been made obsolete by the cruise missile, 3,000 of which are to be installed on our bombers. In short we have, and will continue to have into the foreseeable future, two completely independent and essentially invulnerable strategic forces.

Because the cruise missile can penetrate the Soviet Union as no bomber can, and because it has extreme accuracy, we do not need a new bomber, the B-1, and even less its follow-up, the Stealth. Perhaps the B-52 will eventually have to be replaced, but I cannot see why this replacement should have elaborate electronic equipment to penetrate into Russia, equipment which accounts for the enormous cost of the B-1 and the Stealth. Penetration can be achieved much more effectively and cheaply by the cruise missile.

The government has stated that we need parity in strategic forces in every category. If this means that we need parity also in ICBMs, I disagree. With the increasing accuracy of missiles, on both sides, all land-based weapons will become vulnerable. I cannot think of any deployment on land that will be secure, and in my opinion the deployment of MX is a futile expenditure of money. We should maintain the emphasis on submarine and bomber forces; this makes our forces largely invulnerable, and thereby superior to those of the Soviets. If anyone has a window of vulnerability, it is the Soviet Union.

As I have said, several of our weapons programs are unnecessary: the B-1, the STEALTH, and the MX. But the submarine program deserves our full support, especially the further improvement of secure communication links to our submarines, as has been rightly emphasized by this administration. Also, if we wish to decrease our dependence on nuclear weapons in Europe, a goal which I strongly support, our conventional forces must be built up, especially by exploring our available high-technology in anti-tank weapons.

We are not inferior to the Russians in strategic armaments. But we, the Russians, and Western Europe are severely threatened by the possibility that the enormous arsenal of nuclear weapons on both sides may some day be used. Our only hope lies in substantial reduction of these armaments. A good first step would be the ratification of the SALT II agreement by the Senate. The advantages of doing so have been persuasively demonstrated by Senator Gary Hart in The New York Times of May 2. Among other things, if SALT II had been ratified in 1980, the Russians would now have 250 fewer strategic missiles than they actually have, and they could not continue their buildup.

Obviously we must do more. I was happy to see that President Reagan has now proposed a plan for negotiating arms reduction with the Soviet Union. The first phase of this plan calls for a reduction of the nuclear warheads on each side from about 7,500 to about 5,000, and significant (but apparently not specified) reduction in the number of missiles. This seems to me a reasonable and equitable plan. The proposed second phase, to equalize the throw-weight of the missiles, may be very difficult to negotiate because it requires greater sacrifices from the Soviet Union than from the U.S. It will be vitally important to choose an American negotiator who combines flexibility with firmness and is devoted to the goals of arms reduction and reaching an agreement with the Soviets.

Negotiations with the Russians are difficult and lengthy in any case. The SALT II treaty took six years to negotiate. We cannot wait that long. We must stop the arms race by measures which are not subject to such long delay. I find most attractive the proposal by George Kennan, the famous expert in the Soviet Union, which has recently been revived by Admiral Noel Gayler in *The New York Times Magazine* of April 25. The plan calls for similar reductions by both superpowers, let's assume by 5 percent of the existing force per year. Each side would choose the weapons it wants to retire, and compliance could easily be verified by our satellites. This plan is so simple that it might be agreed on with very brief negotiation, like the Limited Test Ban in 1963, But it would, in fact, not require any agreement; we could make such a reduction, and challenge the Russians to do the same. If they do so, we would make another similar reduction the following year, and so on. This would not require any treaty, and it would enhance our security.

Such mutual reductions could not replace a negotiated treaty, which has a permanence far beyond the bilateral reductions that I just proposed. Furthermore, a treaty could optimize the balance and invulnerability of the two strategic forces. This would remove the threat of pre-emptive strikes, and the current hairtrigger readiness that could lead to nuclear war by accident or miscalculation.

To summarize:

Our strategic forces are, if anything, superior to the Soviets';

Our national security, and that of our allies, is most threatened by the grotesque size and continuing growth of both nuclear arsenals.

These are the basic facts. Once they are recognized, the essential features of a sound national security policy become apparent.

Mr. CONYERS. It seems to me that before we can determine whether we support or oppose this amendment we have to determine whether we are militarily inferior to the Soviet Union.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has again expired.

(By unanimous consent Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. It seems to me that we are at an incredible flashpoint in our decisions on the magnitude of American military power. I urge that anyone in this Chamber who can add to my intelligence on this subject to please take the floor and proceed to do that.

If they do not choose to debate me on the floor I would invite them to mail me written communications.

If they do not choose to mail me written communications, I would urge, plead with them, to give me the citations or references on which they rely.

A question of this magnitude is very important and I respect the disagreements that may obtain, not only between my position and anyone else's but between positions among those who believe in a strong national defense. But out of the differences can come a new understanding so desperately needed.

I urge that this amendment be given the full consideration to which it is entitled.

I will now yield to anyone who may want to enter into this discussion.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DELLUMS. I appreciate my colleague yielding.

At this point I would like to enter into the RECORD a brief colloquy on this matter between myself and Dr. Jeremy Stone, executive director of the Federation of American Scientists. This is a question I posed to the gentleman:

Can you respond to whether or not you believe that the United States is in some way at risk from the Soviet Union regarding our comparative nuclear strength?

This was his response:

The two sides are equal in the most fundamental method of measurement. That is this: each side can destroy the other after absorbing the attack from the other.

So each side can retaliate devastatingly to the other side. And in that sense, they are both equal and remain equal. And this is the only measure of equality that I consider to have much importance.

I would say, if you have to ask who is behind, that both super powers are behind, and the reason they are behind is that if a nuclear war occurred, these two super powers would be blown to bits, but Bolivia wouldn't be blown to bits and neither would Australia. The whole planet may suffer, but we know that we are in the line of fire and that the Soviet Union is in the line of fire, so these two super powers have gotten themselves into a unique fix.

□ 1730

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. CONYERS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Therein lies where we are at this point. My colleagues talk about superiority and inferiority. The main category of superiority and inferiority is whether you can blow the other one off the face of the Earth. Both sides can do that. It seems to me that the whole notion of superiority is absurd.

Back when we had one weapon and we dropped it, we could be superior. In the 1950's, when there was only a handful of warheads in the world and we had most if not all of them, we could be superior. But what is superiority in 1983, when the world has thousands and thousands and thousands of nuclear weapons? This is an absurdity. It is like counting matches, it is like counting marbles or counting baseballs. When you have the kind of accuracy, megatonnage, kill capability on both sides, to talk about superiority is absurd. And even if we develop a so-called superior weapon for a moment, it will only be for a moment, and then the Soviets will develop their weapon, and somebody from the Pentagon will run into the Armed Services Committee and say, "See, they caught up with us, let us build a new weapon." And it keeps going ad infinitum. The point I make is that superiority breeds danger.

Mr. CONYERS. I thank the gentleman. I, as one Member who will have an opportunity to cast his vote on this and other military questions, am convinced more than I have ever been in my career in the Congress that we must decrease our military buildup, particularly with reference to nuclear weapons.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Dellums substitute.

Mr. DICKINSON. Mr. Chairman, will the gentlewoman yield for a parliamentary inquiry?

Mrs. SCHROEDER. I yield to the gentleman from Alabama for a parliamentary inquiry.

PARLIAMENTARY INQUIRY

Mr. DICKINSON. Mr. Chairman, I would like the Chair, if it would, to advise the Committee and this Member exactly what the parliamentary situation is, because this was an unusual rule.

In addition to the general 3 hours of debate, the gentleman from California was given an additional 1 hour, which would be divided.

Now, in addition to that, is there any limitation of debate under the 5-minute rule? Are we under the 5-minute rule as to that? And is there any limitation on the 1 hour?

The CHAIRMAN pro tempore. The Chair will state to the gentleman that we are now under the 5-minute rule, under normal and regular consideration, and that all Members will be recognized who wish to be recognized under the 5-minute rule. But because of the procedure specified in the rule, those Members who controlled the time for debate and used their time will have to now ask for unanimous consent to be recognized to extend that time.

Mr. DICKINSON. There is no amendment to the amendment in the nature of a substitute, but each Member who desires to be recognized for a pro forma amendment would then be recognized?

The CHAIRMAN pro tempore. Each Member would then be recognized.

Mr. DICKINSON. Or to strike the requisite number of words?

The CHAIRMAN pro tempore. Or to strike the requisite number of words.

Mr. DICKINSON. There is no limitation on the number of Members to be recognized or how many can be recognized for that purpose; is that right?

The CHAIRMAN pro tempore. The gentleman is right.

Mr. DICKINSON. I thank the Chair.

Mrs. SCHROEDER. Mr. Chairman, I rise in support of the Dellums substitute. Back in February, after President Reagan submitted his huge and unwarranted defense budget request, both the gentleman from California and I decided separately to formulate our own alternative defense budgets, aimed at providing a sound and adequate defense without bankrupting our Nation. We each found that billions of dollars could be saved by eliminating waste, fraud, and abuse.

I fully support the Dellums proposal. Nevertheless, I feel it would be useful to my colleagues to read into the RECORD the text of the narrative summary of my substitute, entitled, "Building a Strong America: A Progressive Defense Policy":

BUILDING A STRONG AMERICA: A PROGRESSIVE DEFENSE POLICY

(By Representative PATRICIA SCHROEDER)

President Reagan and Defense Secretary Weinberger, in their budget presentations to Congress, have argued that administrations and congresses controlled by Democrats have weakened the defense posture of the United States. The Reagan Administraton tries to show that defense spending, new weapon procurement, and strategic defenses all fell under hard times during the Carter Adminstration. Actually, real defense spending (other than Vietnam-related expenditures) declined in the late sixties and early seventies but increased during the late seventies. Both Carter and Reagan agreed that defense spending should account for a larger share of total economic activity during the next five years. What they disagree on is how much larger.

The Reagan Administration has endorsed the deceptively simple notions that more is better and there's no such thing as too much. Unexpended balances, a good indicaton of what's too much, are much larger under the Reagan budget than under Carter's. It's clear the President's 1983 budget request and the Annual Report of the Secretary of Defense both rely, exclusively, on the level of spending as a determination of strength. Neither analyzes what is really needed for a strong nation. Neither questions the assumption that numerical parity with the Soviet Union is the best strategy on which to base defense spending. Neither is willing to prune eonomically unsound projects for fear the Soviets will have the numerical advantage. And, neither looks at our defense policy in the broad and cross cutting way that is necessary.

This paper offers basic tenets on which to build a stronger defense, and then applies these tenets, in numerical form, to Reagan's proposed defense budget. This exercise results in savings of $30 billion in the 1983 defense budget; surely, additional areas of savings could be found by experts in the Pentagon, if they had the incentive to pare, rather than pad. But, when the President announces that there will be a huge increase in defense spending before anyone has ascertained what the real military needs are, it is understandable that no one in the Pentagon comes forward with cost cutting suggestions. This proposal is one individual's effort to come to grips with $245 billion worth of Federal spending. Someone with greater expertise and more advanced equipment could arrive at greater reduc-

tions. The point is that many of Reagan's spending priorities are misplaced and that, just as David Stockman suggested, there is a great deal of waste within the defense sector. Approaching the defense budget with the idea of eliminating unnecessary expenditures which do not help our national defense, this paper does not analyze the pros and cons of specific weapon systems like the MX, F-18, or B-1B, although rational defense policy would dictate terminating funding for all three.

I. ECONOMIC CONSIDERATIONS

World history shows military might comes from economic strength. Ancient Rome fell more because of internal economic failure than invasions by the Visigoths. To support a strong military machine a country needs a robust economy, a supply of skilled labor, and a sophisticated infrastructure of manufacturing, supply, communications, and distribution. A nation with high unemployment, high interest rates, an aging inventory of capital equipment, stagnant research and development, and huge government deficits cannot field a strong military force no matter how much it spends on arms.

Conversely, spending on defense alone cannot prop up a sagging economy. A recent report by the Reagan-appointed Council of Economic Advisers raises the spectre that too rapid escalation of defense spending will crowd out private investment, excite inflation, and reduce productivity. Rather than spurring economic recovery, the Reagan defense budget will probably harm the economy.

The first government priority for defense must be reversing our economic decline. A reduction in the Federal deficit, through higher tax revenues, and a reduction in Federal borrowing, thereby reducing interest rates, is a far better way to spur economic growth than spending a quarter of a trillion dollars on arms. Long-term defense planning argues for government efforts to provide new incentives for invention and innovation to spur technological advances, particularly through funding of education and research. Our defense industrial base can best be expanded by providing job training to the unemployed. The domestic social programs which have been treated so adversely by the Reagan Administration are precisely the type of programs which lead to a strong defense in the future. Vocational education, scientific research, and social insurance programs do more to build and preserve the industrial base of the United States than does spending $18 billion on a mobile missile system. During World War II, shockingly low scores on physical and mental tests of draftees led to the enactment of new educational and nutritional programs by the Federal government. Perhaps, the recent Department of Defense data on recruitment test scores should lead to a similar governmental initiative.

Defense planners maintain that economic revitilization is outside their bailiwick. Traditionally, defense spending and economic growth have been separate issues. Nevetheless, for each additional dollar which has to be borrowed to spend on defense, there is one less dollar available for private investment. One fewer machine is replaced. One less invention is made. Excessive defense spending weakens a nation's industrial base and, therefore, weakens national defense.

A related economic consideration also bears on the strength of a nation. When a nation goes to war, all its resources are devoted to that war effort. But now the United States has decided to build a military machine entirely separate from the basic economy. Instead of negotiating with the private sector to use surplus property, such as wide-bodied aircraft, in time of war, the Reagan budget proposes building an entirely duplicative set of resources for rapid deployment. This is economically wasteful. Airplanes, ships, trucks, computers exist throughout the country. Instead of maintaining a redundant inventory of equipment to be used only in a crisis, the military must work out ways to use the resources of the economy to build a strong defense. The attached budget reflects savings that could be achieved in that way.

Military bodies to work out ways to share the country's resources do exist. The Department of Defense's Industrial Preparedness Planning Program, first formulated in the 1950s, plans with private industry to meet potential wartime needs. However, GAO claims this program remains in a state of disarray (May 27, 1981). Restructuring and improving programs like this should be of highest priority.

This same concept should be applied to personnel as well. Right now, we are registering, for possible induction, all 18 year old males. It is hard to conceive of a class of citizens with fewer skills or less experience. Modern war requires highly skilled individuals. Currently, there are severe shortages of doctors, other medical personnel, computer technicians, and other skilled personnel. GAO shows the demand for medical personnel in war, for example, will far outstrip the supply unless corrective action is taken (June 24, 1981). If our country truly needs peacetime draft registration to show the Soviets we mean business, a proposition which is dubious, we should be registering citizens with needed skills to call up in case of war. Pilots, navigators, electrical engineers, radio repairers, and the like exist in great number in our society. Under the theory advanced to justify peactime draft registration, the government should know where to find these people in case of an emergency. Indeed, if registration is needed to supply foot soldiers, hunters and target shooters would probably make better soldiers than 18 year olds after three months of basic training.

II. FOREIGN POLICY CONSIDERATIONS

President Reagan's view to the contrary notwithstanding, the United States cannot stand alone in protecting democracy and freedom in the modern world. Our defense policy is inextricably linked to our foreign policy in a myriad of ways. The United States has signed a variety of mutual defense treaties with other nations. Our defense decisions affect other nations. And our national defense is strengthened or weakened by which national leaders we befriend.

Past treaty alliances of the United States emerged as cooperative ways to guard against Soviet expansion and aggression. NATO continues to be the biggest and most highly budgeted of these organizations. Others exist in the South Pacific (ANZUS) and in South East Asia (SEATO). More recently, military alliances have been formed in Israel, with Japan, and with South Korea. Under the auspicies of our treaty alliance obligations, we pour enormous resources into West Germany, Italy, South Korea, and Japan.

Although the cost of these commitments has skyrocketed since the end of World War II, the share the United States pays for these commitments had not been reduced. Indeed, although Japan and West Germany are now two of the most successful industrial democracies in the world, the United States continues to pay for most of their defense needs. Our commitments to NATO account for over one-third of our defense expenditures. Our defense budget is really a budget for the defense of Western Europe. Costs of the Rapid Deployment Joint Task Force should be allocated to our NATO partners because the primary mission of the task force is to protect oil resources in the Persian Gulf. This goal is of equal or greater interest to Western Europe than to the United States.

Now is the time to revamp the proportionate shares paid by the partners in NATO and other treaty alliances. It makes no sense, given the current balance of wealth and industrial growth in the world, for the United States to continue to shoulder the entire burden of mutual defense. Canada chips in only 1.6 percent of its GNP for NATO. West Germany coughs up only 3.2 percent. The U.S., on the other hand, gives close to 6 percent. Changes in gross national products ought to be the basic factor in computing new shares. While new allocations should be phased in, the readjustment must start immediately. The attached budget reflects some readjustment.

Another foreign policy issue concerns the development of chemical and biological weapons, including binary weapons. The Reagan Administration claims to have strong evidence of Soviet use of such devises. We would be less than prudent if we did not develop protective equipment for our soldiers, detection devices and methods to neutralize lethal gasses. The attached budget reflects this.

Yet, the Reagan Administration, caught in the numerical parity rut, is about to start the development of our own biological and chemical weapons to serve as a deterrent. We do not need lethal weapons to deter the use of Soviet lethal weapons. We have conventional and nuclear weapons which continue to provide a strong deterrence. By building our own chemical weapons, we are sending a message throughout the world that other countries should start building the same weapons. While many countries cannot afford the technology to produce nuclear weapons of their own, they can afford chemical weapons. Only the force of world opinion has kept them from doing so. Once the United States commences its buildup of chemical weapons, international opprobrium vanishes.

The last three Presidents have all been committed to the process of negotiating arms limitations with the Soviets. While the process has been difficult and lengthy, some success has been achieved. Ronald Reagan won campaign points from the Right Wing in rejecting the Strategic Arms Limitation Treaty (SALT II). His campaign was marked by Cold War rhetoric about the Soviet threat. His performance in the White House has carried on that tradition. This belligerent rhetoric has retarded the arms control process. His recent public statements expressing his willingness to hold the Geneva talks hostage to Soviet concessions in Poland set the negotiations back months. It has made the Soviets extra wary of the President's proposal to terminate deployment of cruise and Pershing II missiles in Europe in exchange for Soviet dismantling of SS-20, SS-4, and SS-5 medium range ballistic missiles.

This rhetoric must be shelved at the insistence of both Congress and the general public. An excellent vehicle to do this with

is the nationwide Nuclear Arms Freeze Campaign, a grass roots, church-supported effort to force the Administration into serious nuclear nonproliferation negotiations. Congress should help this campaign by assisting in the education and awareness of the effects of nuclear war and the prospects for peace taught to the general population.

One last foreign policy issue is worthy of note. The role played by the United States in the Third World is crucial. Revolts, coups, brushfire wars, wars of national libertion all can affect the basic interests of the United States. Even without direct United States involvement, a civil war in Nicaragua, a clash in Angola, or a terrorist attack in Israel will have repercussions for our country. It is, undoubtedly, in the interest of the United States to reduce hostilities throughout the world diplomatically.

Our ability to do so is a direct product of whether we are trusted throughout the world. Allying ourselves with unpopular dictators like Somoza in Nicaragua and with the Shah in Iran undermines that level of trust and respect. Further, unpopular dictators seem to have a nasty habit of being overthrown. When this happens, the cost to the United States are often severe. Our foreign policy should take into account the advantages of allying ourselves with popular and democratically elected regimes, rather than repressive ones.

III. WEAPONS ISSUES

There are a number of tenets about weapons policy which are too often forgotten by defense planners:

First, weapons should be designed so the average soldier can use them. In the name of technological advances we have been building systems which are extremely complex to use and difficult to maintain. This results in numerous weapons being unavailable when needed. Readiness is subverted. Other countries, like the Soviets and the Israelis, develop rifles which are cheap to produce, easy to maintain, and simple to fire. Our rifles have grown in complexity. The M-16, for example, often misfired during use in Vietnam.

The situation gets more serious as the weapons get more sophisticated. The F/A-18, originally designed as a low cost attack aircraft, contains such complex and expensive navigational equipment that it is often out of commission and the training time for its use is long. The Bradley Fighting Vehicle System and the M1 Abrams tank have faced gigantic cost overruns because the complexity of their specifications led to unexpected costs and delays. Letters recently released by the Services, mandated by the Nunn-Schroeder Amendment to the Defense Appropriations Act for 1982, point to ten weapon systems that have incurred cost overruns of more than 25 percent directly because of unforseen complexity. Clearly, the weapons trend goes the wrong way. The attached budget reflects support for R&D of simple weapons and scrutiny for complex weapons.

Second, too much attention is paid to the new and splashy. Existing weapon systems can be modified rather than investing in new systems which are likely to look better on paper than in production. The decision to build the B1-B bomber is an obvious example. The B-52, with appropriate retrofitting can serve the interim strategic bombing needs of this country, as CBO points out. The Air Force proposal to install brand new CFM-56 engines on existing KC-135 tanker planes, rather than retrofitting them with existing and more cost efficient JT3D engines, as CBO recommends, is another example of the mentality of the military to buy something new rather than modify something which exists. Defense savings by recycling are realized in the attached budget.

Third, overlap and duplication among the services result in added costs and useless effort. Joint Chief of Staff Chairman David Jones recently criticized the intramural scramble for resources which spills over into weapons procurement. Because of parochial interests, the Navy must have its own Phoenix, the Army its own Stinger, the Air Force its own Sparrow. The Defense Department should establish a standard missile design to be modified for the individual needs of the services or the mission involved. Helicopters, radio, aircraft, ships, and numerous other systems items could also be standardized, if interservice rivalries did not interfere. Further, training on each of these weapon systems should be more unified to avoid the duplication that currently exists.

Fourth, we should not pursure weapons systems and strategies which make little sense. The most obvious example of this is the strategic manned bomber. Missiles, both land-based and submarine-based, have made such a bomber an anachronism, Land-based missiles can provide extremely accurate attacks on enemy targets. Submarine-based missiles can survive a first attack. The third leg of our triad strategy is in reality, a fifth wheel. Yet, research, development, and production of the B1-B continues. Indeed, if a bomber leg of the triad is truly essential, virtually any jumbo jet could be fitted with the capacity to fire cruise missiles, rather than building a new bomber capable of penetrating Soviet detection devices. Further, we still spend considerable resources on developing a manned bomber strategic defense. The Soviets are as well aware of the limitations of manned bombers as we are. We should reduce our efforts in the manned bomber defense area as well and redirect those resources to more useful purposes.

Fifth, spare parts, an undervalued budget item, have been cut to the bone, because they involve immediate outlays and, therefore, instant savings in the eyes of budget cutters. As a result, weapon systems fall into disrepair and remain out of commission, to the detriment of our readiness. Weapons repair shops fall behind schedule and become less economically run. And we lose a chance both to stimulate our industrial base, which produces these parts, and to stimulate the economy. Good management and wise use of our resources dictates that we must maintain proper funding for spare parts. This is reflected in the attached budget.

Sixth, too much of the budget goes for nuclear war. The move away from a strategy of mutual assured destruction to one of limited nuclear war offers a blank check for defense spenders. The ludicrous notion of civil defense evacuation, that we can safely and orderly escape a nuclear attack, springs from the limited nuclear war strategy. Limited, survivable nuclear war is not, however, a proven concept. It is probable that no nuclear exchange will be limited and that massive destruction will result. Continuing the development of clean bombs, neutron bombs, and other weapons of limited nuclear war is dreadfully expensive and only increases the chance to confirm our suspicions. We cannot abandon the development of all weapons of nuclear war, without a similar commitment from other nuclear powers. However, it makes abundant good sense to reduce our procurement of new nuclear weapons and actively pursue meaningful arms reduction negotiations.

IV. MANAGEMENT ISSUES

The management of our defense establishment has grown slack due to the windfall of resources in the Pentagon. Despite this windfall, management must maintain an atmosphere of austerity to ensure that the best and most efficient decisions are made enhancing management effectiveness, program efficiency, and productivity. Better management among supply depot managers, for example, is one way for DoD to increase productivity and decrease costs. Serious mismanagement exists now at these depots, according to GAO and the House Armed Services Committee.

Not all management problems, however, deal with hardware. For many years, the Army has maintained the morale-destroying, and budget-consuming personnel management policy of soldier rotation. The effect of this policy on morale was evident in Vietnam. On an average day, one out of five soldiers is on the road, moving between assignments. Again, morale and readiness suffers. An experimental Army program of training soldiers as a permanent fighting unit is underway which will help solve the problem. The idea is not new. In ancient Greece, Spartans boys grew up together and learned to fight as a team, to the fear and respect of all. Army Chief of Staff Edward Meyer points to this unit training (called COHORT) as the prelude to the Army of the future. He may be right.

Rotation is a serious problem for officers as well. Rotation leaves them at posts or installations for two or three years. Often, just as they learn their job, they are transferred. As a result, the productivity of Army installations, like hospitals and depots, is reduced. This rotation policy hampers the weapons acquisition process, too. Program managers, those military officers responsible for the timely and economic procurement of a weapon system, are transferred every three years. No one takes a maternal attitude to a weapon to see it through to a cost-effective, reliable conclusion. It has been suggested each weapon system be named after the Secretary of Defense who started it, so that he (or she) would be encouraged to get it built on time.

Procurement contracting has traditionally been an area fraught with abuse. Although numerous laws to correct the abuse have been passed, what is really needed is better management. Sole source contracting continues unabated, cost overruns come in at unprecedented levels, as seen from the "Nunn-Schroeder" letters, and the contractor is rarely held responsible. Specifications continue to be modified, and the competitive bidding procedures, when they are used, do not always result in the best performance at the lowest price. Multiple layers of management also bog down the procurement process. Time is money applies to the public sector too. For example, the Department of Defense has an Acquisition Review Council to review and approve decisions on weapon systems already made by parallel boards in each of the services. Such duplication is time-consuming and costly. The attached budget makes sizable reductions in the procurement appropriations to underscore the need for better managment.

Increasingly, the Department of Defense is top heavy, both with civilian managers and with military brass. Reagan's proposed budget calls for a 4.7 percent increase in the

number of officers and only a 2.7 percent increase in the number of enlisted personnel, since 1981. An arithmetic increase in the number of officers produces a geometric increase in the number of staff. Now, the Reagan Administration wants five new Assistant Secretaries, a move which will result in more layering at all levels in the Pentagon. Admiral Rickover was right when he suggested splitting the Department of Defense in three. Groups one and two would write memos to one another, while group three would do all the work. Again, in the weapons acquisition process, too many decisions are made at or close to the top. Many of these decisions can be made can be delegated to lower levels, as suggested by a Special Navy Advisory Group.

Finally, the defense budget has paid little attention to the Nation's best defense resource, the men and women in the military, both in the active and reserve forces. Until recently, pay and benefits have been too low, especially in the enlisted ranks, while a self-survival mentality has replaced teamwork as the functional ethos. It's shocking that a separate appropriation appears in the defense budget for the apprehension of deserters. This illustrates that poor morale is not only tolerated but budgeted for. There is no mention of desertion prevention. Military personnel is a valuable resource that must be preserved and nurtured through policies which are sensitive to the needs of military men, women and spouses. Increases for health, housing, and human services, reflected in the attached budget, will help retention, morale and, ultimately, the readiness of America's fighting force.

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

□ 1740

Mr. Chairman, first of all, I would like to thank my colleague from California (Mr. DELLUMS) for providing the House this opportunity to discuss his amendment, but in a more fundamental way to discuss the role of military spending in our economy, the role of military spending keeping or destroying the peace, and the role of military spending in preparing this country to defend itself.

In the past as this legislation has come to the floor from time to time it has had specific narrow amendments based upon a single weapon system, a single piece of military equipment, based upon cost overruns or ineffectiveness or what have you; but this is one of the few times in the 8 years in which I have served in the Congress in which we have been presented with the opportunity to make a fundamental evaluation of the role of the military in the American society.

It is very interesting that those who have spoken against the amendment have suggested that you could only support this amendment if you thought that you were better red than dead; you could only support this amendment if you did not care about jobs; or you could only support this amendment if you were in favor of unilaterally denuding the United States.

All of those statements are in fact false and all of those statements fail to contend with the meaningfulness of this amendment.

Because if in fact they want to stand before the American people and this committee and tell you that we are going to spend in excess of $200 billion, based upon a jobs policy, they cannot substantiate the systems in this bill.

We cannot build ships because of 3,000 people at Sparrows Point. What the people at Sparrows Point need is to help the economy, not the ships that fail to meet our defense needs.

Those who would suggest this would unilaterally denude the United States I think are wrong because that is not what this amendment says. What this amendment does is in fact realize and recognize in an honest fashion that there are simply some weapons systems under production in our aresenal, there are weapons systems that have already been procured in our arsenal that simply do not live up to their advance billing, they simply do not work in a productive fashion, they do not provide us the margin of defense, the margin of security, that the American people have been led to believe that she should.

We have seen the arguments over the MX and we have seen this administration cancel the basing mode. Was it somehow all right in the first 8 or 9 years of debate that went on on this floor against that basing mode? Was that debate for nothing?

We have seen the B-1 brought into serious question by military experts, by the people who are supposed to fly it. That debate is valid. We see a tank now that has very questionable battlefield capabilities, that may have been built on assumptions about Soviet tanks that have not proven to be true in the last several weeks in the Middle East. That debate is important. But it must be all encompassing, and my colleague, the gentleman from California (Mr. DELLUMS), has provided that all encompassing amendment.

I think it is tragic that more Members are not on the floor to debate this amendment because what must be understood is that he also attacks those weapons systems that he believes lend to the destabilization of the military and the peaceful situation in the world today, those weapons that pose a greater conceivability of war in the world tomorrow than they do of stabilizing the situation today.

I think that we must understand that that is what this amendment provides us, the opportunity to debate on the floor of the House and hopefully Members will support it.

Because it is very clear not simply because the gentleman from California (Mr. DELLUMS) seeks to bring forth his list of amendments, I would hope that others would have other amendments either to knock out, if they do not agree with what he has done, or to add to that list, because in fact they have other ideas about destabilization.

But most importantly, what that amendment does is it presents to us an opportunity to take not what is a minority view but to present to the American people a discussion of grave concern to them, because if you are going home to your district and talking to individuals you will see that for the first time they are starting to understand the tradeoffs that are taking place in our economic system because of military spending, you will hear their expressions of fear and concern about the edging toward greater possibility of war and destabilization in our society.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. MILLER) has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. Finally, let me suggest that it has been suggested on this floor today that the support of this amendment is somehow wrapped up in the support for the freeze movement and the sliding of that movement, but let us all remember, all 435 of us who are elected to this body, the freeze movement in this country, the freeze movement in Eurpoe, did not come from this body, it came from the American people, it came from the European people, and the Members may not like it, the Members may think it is simple, the Members may not think it is the answer, but it is the reason that the superpowers are sitting down and discussing the reduction of arms, because without that mass movement of the people who are concerned about the buildup of nuclear weapons in the world today, those arms talks would have never been undertaken at this early date. But it came from the homes of your constituents, it came from the concerns of mothers and fathers about the future of their children and that amendment and that movement is so fundamental that it is calling into question the basic notions of military spending in this country.

If the Dellums amendment does not succeed today then let me beseech my colleague from California that this amendment must continue to be a landmark amendment for the discussion of military spending in this Congress. We can no longer go after that budget because we read an article or "60 Minutes" produced a show that showed us various military weapons and systems were not working, that the cost overruns were embarrassing, that they could not carry out their mission, that they were awarded because of political power instead of military and defense policy. This

amendment provides for the full discussion of those issues and it must be this amendment that the Congress must come to grips with because it underlies the fundamental notions of what is security for this country and what is foolishness and what is the waste of money for this country that brings us no closer to a peaceful world.

Mr. GLICKMAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am not sure I am going to support this amendment and I am going to ask the gentleman from California in a moment to relate to some specific questions. But it is curious that 2 days ago the President was on the west front of the Capitol arguing for a constitutional amendment to balance the budget, and there is no possible way to balance the budget without either some tax increases or some meaningful reduction on the defense side of the picture, and I do think that the gentleman from California has given us at least an option to discuss meaningful reductions on the defense side of the picture, discussions on important things, like weapons systems, where we have to vote on it, as opposed to abstractly removing "the waste from the Defense Department." Unfortunately, there is no line item in the Defense Department called waste that we can reduce or eliminate by amendment. And so we have to deal on this kind of picture when we talk about specific procurement items.

My real concern as it relates to the Dellums amendment goes not to the MX or the Trident missile but relates to force reductions particularly in Western Europe.

In the gentleman's amendment I think that he calls for a 5-percent reduction in our forces, perhaps in Western Europe, maybe throughout the world, and at this stage reducing our conventional forces in the world worries me because it might cause some instability with respect to some of our allies.

I would ask the gentleman from California to discuss this matter.

Mr. DELLUMS. Mr. Chairman, I thank my colleague for his kind opening remarks.

What we are attempting to do in this bill is broaden the parameters of the discussion and the debate. It is terribly important that we begin to come to grips with many of those complex and vital issues of our time and I thought that this bill would provide that opportunity.

One thing that keeps the body politic honest is when there are countervailing analysis and countervailing proposal based on those different analysis, when we all start thinking in the same direction what keeps the process, what keeps creative tension in the process, and so we are proposing an alternative to provide an opportunity for our colleagues to think and to be analytical.

□ 1750

With respect to the troop reduction issue, what we have done in this bill for fiscal year 1983 is to mandate what we perceive to be a token 5-percent force reduction, 5 percent across the board in troop reduction. What we are hoping that this will do is trigger our colleagues to begin to rethink the nature of our role in the world, what budget dollars buy or troops. Those troops are deployed for purposes of certain missions and missions are carried out in various regions of the world.

We think that it is time now for our colleagues to begin to rethink these issues.

With respect to NATO, it is very difficult to calculate, but when you try to bring together the cost expenditures, both direct and indirect, for our forces directed at NATO, you come out with a figure somewhere in the neighborhood of $130 billion, or roughly 50 percent of our budget directly and indirectly related to American involvement in NATO. Now, that ought to raise several questions. First, what is our appropriate role in NATO; second, should we be paying at this level? Why is it that our other NATO allies are not paying such a high percentage as we are? Is it because their perception of the threat is much lower than our perception of the threat, and if that is the case, then I think we ought to think those things through.

No. 2, when you look at the issue of NATO and you ask my colleagues on the Armed Services Committee, all of them responding to you honestly will say that the probability of the United States and the Soviet Union going to war in Europe on a scale of 1 to 10 is somewhere between 0 and 1. So there is no high order of magnitude in terms of the risk and the threat in Europe. The potential threat in Europe is miniscule.

The second thing that they will tell you is that on a number of occasions where we have raised the question, if a war started in Europe, even a conventional war, could that war be contained as a conventional war? The best thinking in this country at this moment is that within a relatively short period of time that war would escalate into global strategic nuclear war, raising the following questions: Why do we need to amass a whole number of land-based troops in Europe? Why do we need all these prepositions of forces in Europe?

We need to rethink the mission statement.

In looking at NATO, I raise the following questions, I make this observation: I think the problems in NATO are political and economic under the umbrella of NATO. They are not military problems. You cannot apply a military solution to what are ostensibly political, social, and economic realities. If you are going to solve the problems in Europe, you have got to do it within that context.

Finally, as I said, to summarize, all we have attempted to do in this bill was to suggest that our colleagues cut 5 percent overall force levels to force us to begin to rethink the nature of our role in the world. A military budget is a statement about how you perceive your role in the world and what threats you perceive.

I think it is time for us now to begin to rethink these kinds of things. This is a very modest and token effort.

The CHAIRMAN pro tempore. The time of the gentleman from Kansas has expired.

(At the request of Mr. CONYERS, and by unanimous consent, Mr. GLICKMAN was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, I congratulate the gentleman on tying the real world into our budget dilemma with the very excellent possibility of reducing the military budget.

I think the gentleman's question about conventional weapons is very important.

May I deduce from that that the nuclear halt in technological development is one which the gentleman has no quarrel about?

Mr. GLICKMAN. I would say on an item by item basis I have less of a quarrel with the nuclear reductions than I do on the conventional weapons side. That is a fair statement.

I do think, you know, there seems to be unanimity of thought in this body, particularly from the authorizing committee on many of these issues and it is refreshing, while I do not agree with the gentleman from California very often, but it is refreshing to come down here periodically and hear some constructive, thoughtful policy debate on the defense of this Nation. I do not hear very much of it and I am glad to have participated in this.

Mr. DELLUMS. Mr. Chairman, will my colleague yield further to me?

Mr. GLICKMAN. Yes, I would be glad to.

Mr. DELLUMS. Mr. Chairman, one of the reasons I think it is imperative that we begin to look at our conventional forces is because approximately 20 percent of our budget resources, weapons and forces, surround our nuclear capabilities. Seventy-nine percent of our budget is on personnel issues. Therefore, if you are going to cut the budget, you have got to look at conventional issues and personnel

issues. Here I think we ought to begin to look at the nature of our role in the world if there are going to be any substantial cuts. All the sexy big ticket items, even if you cut all of them out, are not going to cut an incredible amount of money. We need to cut them in order to preserve the integrity of life on this planet for ourselves and for our children and their children; but if you are talking about greater economic impact, you have got to go to the conventional forces. You have got to go to the personnel issues. This is a matter that we very seldom discuss on this floor. I think it is terribly important that we begin to rethink these matters within the framework of the evolving realities of the 1980's.

Mr. WEAVER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I support the substitute amendment offered by the gentleman from California. I do so with the belief that our Nation will be very well defended if the amendment passes, because I want, as the other people who have spoken on behalf of the Dellums substitute amendment have said, they want our Nation to be very well defended. I enlisted in the Navy at the age of 17 and served at the end of the Second World War on an aircraft carrier. I would go again if my Nation was threatened. I want the strongest possible defense, but I would like to assure myself and other Members of the House that we will be adequately defended, and when I heard the comments of my dear friend, the gentleman from Alabama, the ranking member on the committee, say that this would be unilateral disarmanent, or that we would be totally denuded, I became worried; so I would like to ask my friend if he would not mind answering a question. If the Dellums amendment passes, how many nuclear warheads would the U.S. military still have available to it?

Mr. DICKINSON. Well, I do not know. I will if the gentleman really wants it, furnish it for the RECORD, the total number that will be available.

Mr. WEAVER. Roughly the total number of nuclear warheads; I am sure the gentleman knows that.

Mr. DICKINSON. Well, it would be in the range of 9,000 and decreasing gradually.

Mr. WEAVER. We would have around 9,000, that is strategic nuclear warheads, correct?

Mr. DICKINSON. That is total nuclear warheads.

Mr. WEAVER. Do we not have more tactical nuclear warheads?

Mr. DICKINSON. Well, let me see, we have 1,000 Minuteman III's, each of which, as I recall, has 3 warheads.

Mr. WEAVER. The Minuteman III has three nuclear warheads, right.

Mr. DICKINSON. I am corrected. We only have 550 of those. The others are older, but it is in the neighborhood of 9,000 strategic.

Mr. WEAVER. Do we know many nuclear warheads of this kind the Soviet Union has?

Mr. DICKINSON. About 8,000.

Mr. WEAVER. Roughly the same, although I understand the Soviets are larger megatonnage; but how many of those 9,000 warheads if delivered would it take to pretty much do away with the Soviet Union?

Mr. DICKINSON. Well, assuming that they all impacted on target, I would think certainly considerably less than half would take out all effective targets.

Mr. WEAVER. I have heard the figure that 500 would pretty much pulverize and destroy the Soviet Union. Does that make any sense?

Mr. DICKINSON. Well, possibly so; the theory being that we have always announced that we would not have a first strike capability, that we would want an effective credible deterrent, but we would have sufficient capability to absorb a first strike and still have a sufficient inventory to retaliate with what Mr. McNamara used to describe as an "unacceptable destructive residual capability."

Mr. WEAVER. I thank the gentleman, and I have also been told that one Trident submarine, if the gentleman would not mind answering this question, one Trident submarine equipped with the new Trident II missiles would be able to destroy every single city of the Soviet Union over the size of 50,000 people, just the one submarine with its 196 nuclear warheads.

Mr. DICKINSON. Now, I do not think that is correct. In the first place, you do not have the range from one submarine, nor am I convinced that you could target that many from a single submarine and, of course, if the gentleman is talking about the D-5, and I think the gentleman is, this is very prospective in nature. We do not have that capability now; it is something like 10 years from now.

Mr. WEAVER. But I have been told that one Trident submarine today with its present equipment that is going on line now could destroy up to 150 major Soviet cities, just this one submarine, because it does have 196 warheads on it.

Mr. DICKINSON. That is not my understanding. I do not think one submarine could target that many viable targets.

Mr. WEAVER. In other words, we run out of targets is really what the gentleman is saying. We have got the capability, but there would not be the people there.

I thank the gentleman very much.

□ 1800

Mr. SAVAGE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of the amendment by the gentleman from California, because I strongly oppose the defense authorization bill—a bill to provide authorizations for the massive military buildup planned by the Reagan administration to the tune of some $1.7 trillion between fiscal years 1983 and 1987, authorizing purchase of 50 C-5B aircraft, for the rapid deployment of Armed Forces, 100 B-1B bombers to penetrate Soviet air space with nuclear bombs, 91 Pershing II missiles, a nerve gas program, and the development and procurement of the MX missile, among other items.

I am fed up with the President's upside-down priorities, providing for the development and procurement of super means for killing, at the expense of the greater need for healing.

The Falkland, Iran, and Iraq, the Israeli invasion of Lebanon—tens of thousands of fellow human beings killed this summer alone, with war weapons of destructive efficiency unknown before, produced and supplied by the American Government with tax revenues that are needed to aid our retirees, aid our jobless, aid our students, and aid our mothers and children.

How insane it will all seem in the history books of the future. Why, as of this very moment, the United States has the nuclear capability to kill every man, woman, and child on the face of this Earth, many times over—as if annihilating all of us once is not enough!

Sure, we should strive to remain the greatest nation on Earth—the greatest not in might but in right. Nazi Germany was powerful, but it was wrong—and its power led to war. We have made Israel the most powerful nation in the Middle East, but this has not produced peace.

Indeed, the United States needs to immediately reduce its production and distribution of arms by ceasing all military aid to Israel and any other military aggressor-nation.

The implements and weapons systems of death and destruction proposed for authorization today will heighten the already tense relations between the superpowers and will do nothing to improve constructive dialog to contain nuclear proliferation. They will violate the agreement we have with the Soviet Union to abide by the interim strategic arms agreement which bans building of new ICBM launchers. I submit to you that we cannot afford to predicate the world's survival on a childish game of let us see who can put together the world's biggest nuclear arsenal.

Mr. Chairman, the worst thing of all is that these weapons, especially the MX missile, are symbolic of the immoral policy of the "reverse Robin Hood" who occupies the White House.

Surely, we need to inject an element of rationality into our defense spending. We can begin by passing this amendment offered by my colleague of courage and conscience, the Honorable RONALD V. DELLUMS. This substitute provides a comprehensive and rational alternative to the lunacy of spending more than $2.5 trillion before the end of this decade on military madness.

National security begins at home—it begins in our cities and in our towns and in servicing the needs of our citizens—because national security is best served by a country that best serves its' people.

Because the amendment before us, now, lessons the risks of nuclear war, eliminates areas of waste and abuse, eliminates spending for impractical and unnecessary weapons systems; yet, it still provides for a sufficiently strong national defense more importantly, it reduces war expenditures to a more proper balance with our domestic needs.

Finally, this amendment offers us a timely opportunity to express our moral outrage in protection of the sanctity of human life, the moral outrage this body has been unable to properly muster regarding the present American-backed slaughter in Lebanon. Therefore, I urge my colleagues to support this amendment.

I thank you, Mr. Chairman.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SAVAGE) has expired.

(On request of Mr. CONYERS and by unanimous consent, Mr. SAVAGE was allowed to proceed for 2 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Chairman, let me congratulate my colleague, because it is not easy to come to the floor and ask for a debate on the question of the military buildup. To be popular, it would be better perhaps to submit a statement and "Keep on stepping," as it is said.

So I feel very encouraged by my colleague's response.

I would like to say further to my colleagues here that this Member is calling for a record vote on the substitute. I want to tell everybody that now so that if there is any attempt to mask from the American people what our real views are about this modest proposal, I want to ask Members to please reconsider.

The least we can do under these circumstances is to have every man and woman recorded as to what his or her position may be on it.

I just wanted to let that be known, if this debate is, by any chance winding down.

I thank the gentleman for yielding to me.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SAVAGE) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. SAVAGE was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from California.

Mr. DELLUMS. First I would like to thank the gentleman and congratulate him for taking the well in support of this effort.

Mr. Chairman, I disagree with my colleague that this effort is modest. We cut $50.8 billion from what we conceive to be a monument to military madness, death, and destruction.

I would like to quote for a moment from the proceedings of the hearings that were the underpinnings of the amendment in the nature of a substitute which is presently before the body at this time, from Rear Adm. Gene R. LaRocque, U.S. Navy, retired, Director of the Center for Defense Information. I quote:

But I submit that any war with the Soviet Union is going to be a nuclear war. Once started, it is almost inevitable that a small nuclear war will rapidly become a big nuclear war. Neither we nor the Russians will permit the other side to get the upper hand in battle, so escalation is inevitable. General Rogers, the Supreme Allied Commander in Europe, recently said he believes there can be no such thing as a "limited" nuclear war; that "the use of theater nuclear weapons would, in fact, escalate to the strategic level, and very quickly." In the nuclear area, we could quite safely adopt a freeze on the production of nuclear weapons. . . . A freeze could be negotiated mutually with the Soviet Union. The United States today has upwards of 30,000 nuclear weapons, about 12,000 of which can be exploded on the Soviet Union. This is far more than sufficient to destroy the Soviet Union, even if they strike us first. If all the nuclear weapons the President has requested are produced, we will be able to explode 20,000 nuclear weapons on the Soviet Union by 1990. We simply have no offensive or defensive need for all these very expensive weapons.

The admiral finally ends with this statement, and this is a retired rear admiral of the Navy of this country:

"I would at the minimum eliminate the MX missile"—which we do in this substitute—"the B-1 bomber"—which we do in this substitute—"the Trident II missile"—which we do in this substitute—"the sea-launched cruise missiles, the Pershing II and the ground-launched cruise missiles"—which we do.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SAVAGE) has again expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. SAVAGE was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from California.

□ 1810

Mr. DELLUMS. Mr. Chairman—

The sea-launched cruise missiles, the Pershing II and the ground-launched cruise missiles for Europe, Continental Air Defense Bombers, expanded A.B.M. programs, expanded civil defense programs and the new effort to acquire antisatellite capability.

All of these we do in this proposal. Here is a retired naval officer looking at the realities of what we are doing and saying that there is extraordinary room for us to cut these weapons.

A number of my colleagues suggest that this is in some way unilateral action. It is not unilateral action. What we are saying is, let us not develop new weapons that take us beyond deterrence to war-fighting capability, and let us not develop nuclear technology that gets beyond our ability to control. This is dangerous. This is what we are doing.

This is no modest effort. This is a clear rethinking of American foreign policy, a policy the assumptions upon which we have established a multibillion defense establishment in this country.

I thank my colleague.

Mr. WHITE. Mr. Chairman, I wonder if we could reach an agreement as to the time of voting on the Dellums amendment.

Mr. Chairman, I ask unanimous consent that we commence voting at 6:45 p.m.

Mr. CONYERS. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

AMENDMENT OFFERED BY MR. WEAVER TO THE AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. DELLUMS

Mr. WEAVER. Mr. Chairman, I offer an amendment to the amendment in the nature of a substitute.

The Clerk read as follows:

Amendment offered by Mr. WEAVER to the amendment in the nature of a substitute offered by Mr. DELLUMS: On page 14, after line 21, insert a new section 902:

The Secretary is hereby authorized to establish a military preparedness grain reserve. The sum of $2,000,000,000 is hereby authorized to be appropriated in fiscal year 1983 to purchase corn, wheat, and soybeans and to construct storage facilities. The Secretary may use for guidance in such purchases the amounts of corn, wheat, and soybeans purchased by the Union of Soviet Socialist Republics in calendar year 1982.

POINT OF ORDER

Mr. DICKINSON. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DICKINSON. Does the gentleman insist on being heard on the amendment?

Mr. WEAVER. Surely.

The CHAIRMAN pro tempore. The gentleman will state his point of order.

Mr. DICKINSON. I make the point of order, Mr. Chairman, that the amendment is not germane to the authorization bill now under discussion.

Mr. Chairman, I can hardly add to that. This authorizes the Secretary to establish a grain reserve of some $2 billion for the purchase of grain. As a matter of fact, if the soybeans are bought from the Second District of Alabama, it might improve our economy, but I think this is not germane to the authorization matters under discussion, and I make a point of order against it.

The CHAIRMAN pro tempore. Does the gentleman from Oregon wish to be heard?

Mr. WEAVER. Mr. Chairman, I simply say that the amendment in the nature of a substitute contains, as does the bill before us, authorization to purchase food supplies for the military. This is just an additional procurement, a reserve of food supplies for the military.

The CHAIRMAN pro tempore. The Chair is prepared to rule on the gentleman's point of order.

The Chair views the amendment as described by its author as an additional fiscal year 1983 military procurement amendment which does not affect any law or program within another committee's jurisdiction. The amendment is germane, the point of order is overruled, and the gentleman from Oregon is recognized for 5 minutes in support of his amendment.

Mr. WEAVER. I thank the Chairman.

Mr. Chairman, I would like to point out to my colleagues that what the gentleman from California has done in his substitute is to cut $50 billion from the committee bill, and that my amendment adds $2 billion. So, therefore, the net reduction would be a $48 billion cut.

I would like to submit that this $2 billion expenditure for military preparedness grain reserve would add more to the security of the United States than all the other entire $50 billion that has been cut. If we really talk sense about our national security, we would see that food and food supply is a far more important thing to the security of this Nation within the entire world than are these weapons of holocaust and madness that simply jeopardize our security and do not enhance it.

Now, I would like to point out to my colleagues the farce—the farce and absurdity of our policy today. We spend billions and billions of dollars defending ourselves against the Soviet Union, and at the same time turn around and sell the Soviet Union the single most important thing there is in the world, and that is food. We sell it to the Soviet Union at less than it costs our farmers to produce. We are presently selling billions of dollars worth of grain, millions of tons of grain, to the Soviet Union at a subsidy, at a billion-dollar subsidy. We are giving it away. As one Member has said, we are giving food stamps to the Soviet Union while cutting food stamps for our people here at home.

Now, what kind of sense does this make? Why, on the one hand, do we arm ourselves against the Soviet Union, and then on the other hand give them grain, needed grain? The Soviet Union has had three major crop failures now in the last 3 years. They are in trouble. Their invasion of Afghanistan has completely gone asunder, and they cannot even win that little war. Their major satellite nations, like Poland, are up in arms against them, and they are having trouble keeping them quiet. Forty-five of their greatest and crack divisions are on the Chinese border. They are in trouble, and what is our response but to help them, to help them, to give them our precious grain.

How can I vote for this bill? How can I vote my constituents tax money for any weapons when we are turning around and selling the Soviet Union grain at below the cost of production, and bankrupting our farmers? I do not see how I can do it, so I am saying, let us have the military buy this grain instead of the Soviet Union. Let us have our military have the grain and not give it to the Soviet Union. That is what my amendment does. It says $2 billion, and our military can buy the grain.

Perhaps then I can go ahead with the Agriculture Committee, of which I am a member, and offer an amendment that says, sell the Soviet Union grain at these base prices. If we can pass this amendment to this bill, then I think we can pass the amendment in the Agriculture Committee to stop selling the Soviet Union, or giving, in effect, the Soviet Union this grain.

I urge the adoption of this amendment.

Mr. WHITE. Mr. Chairman, I move that all debate on the amendment in the nature of a substitute offered by the gentleman from California (Mr. DELLUMS) and all amendments thereto cease at 6:45 p.m., and that a vote be taken at that time.

The CHAIRMAN pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. WHITE).

The question was taken; and on a division (demanded by Mr. CONYERS) there were—ayes 32, noes 8.

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the motion was agreed to.

□ 1820

The CHAIRMAN pro tempore. Members standing at the time the motion was agreed to will be recognized for 3 minutes each.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Ladies and gentlemen of the House, this perhaps is the most embarrassing and extraordinary procedure of a floor manager on a bill of this magnitude that I have ever witnessed in my career.

For what reason, not even given, should this House terminate debate on the question of nuclear buildup for which we have been duly elected to decide on behalf of 275 million Americans?

Why, at this totally arbitrary moment in the evening, should we be told by the manager of this bill, who I have come to Congress with, served with, supported and worked with in the course of our careers, without even the courtesy of an explanation much less a discussion that we have tarried too long, necessitating this procedural gag rule which is worst of all sustained by a majority of the handful of Members on the floor?

I am embarrassed, sir. I resent and reject the manner in which you determined that the interests of the American people will best be served by the lack of debate.

I suggest that you do the gravest disservice to your views and to the American people for whom we have all been sent here to speak.

Mr. WHITE. Will the gentleman yield?

Mr. CONYERS. I will not yield to the gentleman because he has 3 minutes in which to respond, just like I have.

This is an outrage. I do not mind anybody in this floor disagreeing with this Member. I do not mind being voted down, as I have been, or supported, as I have been, in the course of my career.

But for a committee to come to the floor to discuss that unique subject that combines the questions of the future of the human race, our national security, and the possibility of nuclear holocaust; that begs the interests of our citizens from one end of this Nation to the other; in every city and town, this question is being debated, asked about, prayed over, marched over—and we have a chairman, a floor manager who has the arrogance to tell the Congress and the American people, "You have talked enough. I have got all the votes anyway, so what difference does it make if anybody disagrees? We are running this show. If we want to vote for more nuclear, more military, we not only will do it but we will do it without debate."

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

The Chair recognizes the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Chairman, I was on the floor the last hour and I did not notice anything arrogant and I did not notice anything over which somebody should be upset.

As I understand it, the gentleman from Texas (Mr. WHITE) made the motion. By a careful count of the Chairman, the motion was sustained. That, I take it, is standard parliamentary procedure—the side with the majority prevails.

I see nothing about which anybody should be upset. In fact, I was a little worried since what we are really debating is not matters of temper between two normally gentle people. What we are debating is an amendment by the gentleman from Oregon, one of the great scholars of this body.

Yet I was afraid that when the gentleman offered his amendment that somebody might yield to temptation and call it mischievous, call it frivolous, call it irrelevant, because it could be that someone would have thought that.

But having the great regard that every Member does have for the gentleman from Oregon, we would merely say, that it is a very erroneous, illtimed, impractical, unnecessary, and unworkable amendment.

The facts are that given the tremendous, tremendous surplus that we have in the agricultural area, if we adopt the gentleman's amendment and forced on the military the business of storing further agricultural products, the gentleman from Oregon, in his zeal for the well-being of the taxpayer, would be the first to accuse the military of letting the food in storage go to rot.

Certainly, we do not want that blame to be placed on the military. They are being accused of enough.

The next thing the gentleman from Oregon would want to do is to strip the silos of their necessary weapons to defend the country and store them with this surplus farm product that the military really does not want.

So I would say, given the nature of the debate which suddenly may have deteriorated, given the long hours, given the end of a tough day, that perhaps, as the Members who are watching in their offices come to the floor, just remember that the issue before us is an amendment offered by the gentleman from Oregon (Mr. WEAVER) normally a very thoughtful, placid, responsible Member. But he has an amendment which I earnestly urge you to reject overwhelmingly.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, when I first sought time I had not intended to address the issue of Israel and Lebanon, but my distinguished friend and colleague from Illinois who had taken the well in the interim chose the occasion to do so.

Just for the record, I want to say that it is my understanding that the Dellums substitute amendment has no mention at all about Israel or Lebanon. I know that all of us grieve and mourn for the lives of all lost in Lebanon, whether they be Israelis or Lebanese or Palestinians or Syrians, but to attack Israel as an aggressor when for the entire length of its existence it has been subject to the bitter emnity of her neighbors which have wanted to destroy her and drive her into the sea and, indeed, the people whom she is fighting currently have to this moment refused to recognize her existence is I think totally unfair, totally wrong, and totally out of place in this discussion.

□ 1830

As to the particular issue which we are debating, the Dellums substitute, my constituents constantly ask me, "When are you people going to do something about that awful military budget?" And they are talking about "that awful military budget" in two contexts—one, which I think the gentleman from California has brilliantly demonstrated, is the rush toward nuclear confrontation and nuclear holocaust. The American people are demanding of us that we do something to slow down that nuclear race. The gentleman from California, by his substitute, offers to do something about it. Second, they are asking of us: How can it be fair, when the social programs of this country are being cut to smithereens, to bloat even further an already bloated military budget, which in the 4 years of the Reagan administration is expected to more than double? At the same time that we are cutting so much out of the domestic programs, the President comes forward with a balanced budget constitutional amendment that he favors, which would take even more out of the hides of those who cannot afford it.

So I want to express my appreciation to the gentleman from California because he has done a great service to this body, more important, to the American public and to the cause of world peace.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, the projections for the Reagan military budget for the next 5 years come to $1.7 trillion. I understand that inside the Pentagon that is viewed as a conservative estimate. Whether it is conservative or not, the fact is that if you do the arithmetic, it amounts to approximately $1 billion a day for every day of the next 5 years.

Now, the President likes to talk about how the Russian economy is a basket case. What do you think is happening to our economy? And what do you think is the reason? For every billion dollars that we spend on the Pentagon, we lose 9,000 jobs. On my reckoning, $100 billion works out at about 900,000 jobs less, and a $200-billion military budget works out at about 1.8 million jobs less in our economy.

Incidentally, $1 billion a day is $40 million an hour. You can use that as a yardstick in measuring some of the other spending bills we will be considering.

The gentleman from California (Mr. DELLUMS) has highlighted some egregiously wasteful and unnecessary military expenditures which his amendment would curtail. But even then, if you take the last 3 fiscal years, plus his amendment for fiscal 1983, you would still have approximately 3-percent real growth in defense spending which is what our country and NATO agreed to several years ago.

So I submit to you that his substitute would still result in a very, very large military budget.

Now, the solution, of course, to all of this would be if we could negotiate disarmament, not only nuclear disarmament but general disarmament. In that connection I would like to read one sentence from a recent letter that the President sent to the minority leader of the House. Here is what it says:

> While it is my intention that MX not be a bargaining chip in the START negotiations, we need to secure the powerful leverage that a commitment to produce the MX would provide as we begin effective arms reduction talks with the Soviets.

Now, that is a non sequitur. Either it is a bargaining chip, in which case it gives us leverage in the negotiations, or it is not a bargaining chip, in which case it does not give us leverage. But that is the kind of thinking that we seem to be faced with on this whole subject of military spending, the Nation's economy, and the public's demand for an end to this wasteful, endlessly expanding weapons race that, if it is not soon brought under control, will inevitably destroy us all.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon (Mr. WEAVER).

Mr. WEAVER. Mr. Chairman, the first vote that will occur upon the conclusion of the debate will be on the Weaver amendment, which creates a military preparedness grain reserve. And for those—and my beloved friend from Illinois, who is a scholar also—who think that that is mischievous, may I point out that a close reading of history will show that far more wars

have been won by those who controlled the food supply than those who had the weapons. Food is the essential for any kind of security and strength of the Nation. And we continue to give away our grain to the very nation considered our primary adversary and for whose benefit we are voting all of these billions of dollars in defensive weapons. We are giving the grain to the Soviet Union.

My amendment says that instead of giving our grain to the Soviet Union—and the Soviet Union has had three major crop failures in the last 3 years and it is in real trouble, and we are rushing to aid them by selling them and giving them grain at below the cost of production, bankrupting our farmers to boot—my amendment says our military will keep this grain, it will buy it from the farmers and keep it for our security. And let me tell you, that is true security, when you have that kind of strength. That is the kind of security that wins, in the long run, and keeps the Nation whole and intact.

I urge the Members to vote for the creation of a military preparedness grain reserve. It makes the most sense of anything, in my estimation, in the entire bill we have before us.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I want to extend my congratulations to the gentleman from California for his carefully prepared and carefully reasoned statement. I had wanted to comment on one part of it, but I did not want to interrupt the gentleman from California in the middle of his presentation. But one of the points that I noted with respect to the gentleman's comment was that he said that we had enough military capability for deterrence, but he did not want to have any more for fighting nuclear war. I think the fact of the matter is that, in order to have a credible deterrent, it is necessary for any potential adversary or enemy to recognize that if the deterrent does not deter, you have a capability of fighting whatever engagement it is you want to deter. The fellow who has bulging muscles but no real strength behind them is not going to deter the bully on the block. It is only the recognition that you really have not only what appears to look like a strong physique but you have got to have that physique itself. So I do not think the gentleman can make that kind of division. We have got to have nuclear weapons that represent a real assurance to the Soviet Union that if they attack they are going to get something back from us. Just where you draw that line is something that I do not think many people are prepared to say. It is not an easy question to answer.

Let me just say, if my time has not expired, that I urge the defeat of the Weaver amendment, and I reluctantly oppose the substitute of the gentleman from California.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Texas (Mr. WHITE).

Mr. WHITE. Mr. Chairman, I want to advise the membership that we have counted at least 50 amendments that are pending or will be pending and probably will be offered. It was the desire to try to rise at approximately 7 o'clock; therefore, we selected 6:45. The gentleman from Michigan seems to be the only one who is exercised. The gentleman from California (Mr. DELLUMS) certainly was not exercised. We started at about 4 o'clock, we have had about 2½ hours of time. I think a good part of that time the gentleman from Michigan had, too.

Now, as to the Weaver amendment itself, it is a totally new program without guidance as to how the funds would be allocated. It calls for expenditures of $2 billion, when they are talking about trying to save money, and it also does not provide any guidance as to whom the purchases would be made. It says "for any purchases made by the Union of Soviet Socialist Republics in the calendar year 1982," which could be from anyone, Argentina, and the whole world. So I say that really the amendment itself gives no guidance, if you are talking about the amendment itself.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Alabama.

□ 1840

Mr. DICKINSON. I have done my best to understand it. The amendment says the Secretary is hereby authorized to establish a military preparedness grain reserve.

Could the gentleman tell me—and I was going to ask the author but he would not yield—does this refer to the Secretary of Agriculture, the Secretary of Defense, or the Secretary of the Army?

Mr. WHITE. It says the Secretary. It does not indicate. I am not sure whether by reference it would indicate the Secretary of Defense.

Mr. DICKINSON. Or perhaps the Secretary of Agriculture?

Mr. WHITE. It could have been. It is hard to say. I do not know whether the author could enlighten us or not.

Mr. Chairman, I yield back the balance of my time.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that I be allowed to proceed for 2 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, since this is something of an unusual procedure and we have all had an opportunity to speak, may I ask, is the gentleman speaking on the amendment pending or on his own amendment on which he has already spoken?

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I simply want to conclude by thanking my colleagues.

Mr. DICKINSON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DELLUMS. Mr. Chairman, we are now at the end of the debate on the substitute, the amendment in the nature of a substitute to the committee print, H.R. 6030.

I join my colleague from Michigan in the desire and hope that we could have extended the nature of this debate but I understand the realities that are taking place.

I simply want to take the well to thank all of my colleagues who provided an opportunity for this discussion and debate to occur. I thank all of my colleagues who participated in this debate and I would finally say to the Chairman and members of the Committee, that this is not where it ends. We brought this substitute to the floor in order to broaden the parameters of the debate. We need to continue to challenge each other to think and to act and to be analytical. I feel part of my responsibility is to pose an alternative that I believe is appropriate and significant given the incredible dangers to our Nation and our world at this particular moment.

I thank all of my colleagues for their generosity and for the opportunity to engage in this debate.

As I said, we will be back next year and the year after that and the year after that until we right the wrongs in this madness.

The CHAIRMAN pro tempore. The questions on the amendment offered by the gentleman from Oregon (Mr. WEAVER) to the amendment in the nature of a substitute offered by the gentleman from California (Mr. DELLUMS).

The amendment was rejected.

The CHAIRMAN pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from California (Mr. DELLUMS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 55, noes 348, not voting 31, as follows:

[Roll No. 195]

AYES—55

Addabbo	Edwards (CA)	Rodino
AuCoin	Ford (TN)	Rosenthal
Bedell	Forsythe	Roybal
Beilenson	Frank	Sabo
Biaggi	Garcia	Savage
Bingham	Goldwater	Schroeder
Bonior	Gray	Schumer
Bonker	Harkin	Seiberling
Brodhead	Kastenmeier	Stark
Burton, Phillip	Lehman	Stokes
Chisholm	Leland	Studds
Conyers	Lowry (WA)	Washington
Coyne, William	Markey	Weaver
Crockett	McKinney	Weiss
Dellums	Miller (CA)	Wolpe
Dixon	Oberstar	Wyden
Donnelly	Ottinger	Yates
Dymally	Rangel	
Edgar	Reuss	

NOES—348

Anderson	Dicks	Hall, Sam
Andrews	Dingell	Hamilton
Annunzio	Dorgan	Hammerschmidt
Anthony	Dornan	Hance
Applegate	Dougherty	Hansen (ID)
Archer	Dowdy	Hansen (UT)
Ashbrook	Downey	Hartnett
Aspin	Dreier	Hatcher
Atkinson	Duncan	Heckler
Badham	Dunn	Hefner
Bafalis	Dwyer	Heftel
Bailey (MO)	Dyson	Hendon
Barnard	Early	Hertel
Barnes	Eckart	Hightower
Beard	Edwards (AL)	Hiler
Benedict	Edwards (OK)	Hillis
Benjamin	Emerson	Holland
Bennett	Emery	Hollenbeck
Bereuter	English	Holt
Bethune	Erdahl	Hopkins
Bevill	Erlenborn	Horton
Bliley	Ertel	Howard
Boggs	Evans (GA)	Hoyer
Boland	Evans (IA)	Hubbard
Boner	Evans (IN)	Huckaby
Bouquard	Fary	Hughes
Breaux	Fascell	Hunter
Brinkley	Fazio	Hutto
Brooks	Fenwick	Hyde
Broomfield	Ferraro	Ireland
Brown (CA)	Fiedler	Jacobs
Brown (CO)	Fields	Jeffords
Broyhill	Findley	Jeffries
Butler	Fish	Jenkins
Byron	Fithian	Johnston
Campbell	Flippo	Jones (NC)
Carman	Florio	Jones (OK)
Carney	Foglietta	Kazen
Chappie	Foley	Kemp
Cheney	Ford (MI)	Kennelly
Clausen	Fountain	Kildee
Clinger	Fowler	Kindness
Coats	Frenzel	Kogovsek
Coelho	Frost	Kramer
Coleman	Fuqua	LaFalce
Collins (TX)	Gaydos	Lagomarsino
Conable	Gejdenson	Lantos
Conte	Gephardt	Latta
Corcoran	Gibbons	Leach
Coughlin	Gilman	Leath
Courter	Gingrich	LeBoutillier
Craig	Ginn	Lee
Crane, Daniel	Glickman	Lent
Crane, Philip	Gonzalez	Levitas
D'Amours	Goodling	Lewis
Daniel, Dan	Gore	Livingston
Daniel, R. W.	Gradison	Loeffler
Dannemeyer	Gramm	Long (LA)
Daschle	Green	Long (MD)
Daub	Gregg	Lott
Davis	Grisham	Lowery (CA)
Deckard	Guarini	Lujan
DeNardis	Gunderson	Luken
Derrick	Hagedorn	Lungren
Derwinski	Hall (OH)	Madigan
Dickinson	Hall, Ralph	Marlenee
Marriott	Patterson	Smith (NJ)
Martin (IL)	Paul	Smith (OR)
Martin (NC)	Pease	Smith (PA)
Martinez	Pepper	Snowe
Matsui	Perkins	Snyder
Mattox	Petri	Solarz
Mavroules	Pickle	Spence
Mazzoli	Porter	St Germain
McClory	Price	Stangeland
McCloskey	Pritchard	Staton
McCollum	Pursell	Stenholm
McCurdy	Quillen	Stratton
McDade	Rahall	Stump
McDonald	Railsback	Swift
McEwen	Ratchford	Synar
McGrath	Regula	Tauke
McHugh	Rhodes	Tauzin
Mica	Rinaldo	Taylor
Michel	Ritter	Thomas
Mikulski	Roberts (KS)	Traxler
Miller (OH)	Roberts (SD)	Udall
Mineta	Robinson	Vento
Minish	Roe	Volkmer
Mitchell (NY)	Roemer	Walgren
Moakley	Rogers	Walker
Moffett	Rostenkowski	Wampler
Molinari	Roth	Watkins
Montgomery	Roukema	Waxman
Moore	Rudd	Weber (MN)
Moorhead	Russo	Weber (OH)
Morrison	Santini	White
Mottl	Sawyer	Whitehurst
Murphy	Scheuer	Whitley
Murtha	Schneider	Whittaker
Myers	Schulze	Whitten
Napier	Sensenbrenner	Williams (MT)
Natcher	Shamansky	Williams (OH)
Neal	Shannon	Wilson
Nelligan	Sharp	Winn
Nelson	Shaw	Wirth
Nichols	Shelby	Wolf
Nowak	Shumway	Wortley
O'Brien	Shuster	Wright
Oakar	Siljander	Wylie
Obey	Simon	Yatron
Oxley	Skeen	Young (AK)
Panetta	Skelton	Young (FL)
Parris	Smith (AL)	Young (MO)
Pashayan	Smith (IA)	Zablocki
Patman	Smith (NE)	Zeferetti

NOT VOTING—31

Akaka	Clay	Mollohan
Albosta	Collins (IL)	Peyser
Alexander	Coyne, James	Richmond
Bailey (PA)	de la Garza	Rose
Blanchard	Evans (DE)	Rousselot
Bolling	Hawkins	Solomon
Bowen	Jones (TN)	Stanton
Brown (OH)	Lundine	Trible
Burgener	Marks	Vander Jagt
Burton, John	Martin (NY)	
Chappell	Mitchell (MD)	

□ 1900

The Clerk announced the following pairs:

Mr. Richmond for, with Mr. Akaka against.

Mr. Mitchell of Maryland for, with Mr. Jones of Tennessee against.

Mrs. Collins of Illinois for, with Mr. Chappell against.

Mr. RUSSO changed his vote from "aye" to "no."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The Clerk will designate title I.

Title I reads as follows:

TITLE I—PROCUREMENT

AUTHORIZATION OF APPROPRIATIONS, ARMY

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft, missiles, weapons and tracked combat vehicles, and ammunition and for other procurement for the Army as follows:

For aircraft, $2,541,600,000.

For missiles, $2,898,500,000.

For weapons and tracked combat vehicles, $4,707,700,000.

For ammunition $2,439,000,000.

For other procurement, $4,509,500,000.

AUTHORIZATION OF APPROPRIATIONS, NAVY AND MARINE CORPS

SEC. 102. (a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft for the Navy in the amount of $11,424,500,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of weapons (including missiles and torpedoes) for the Navy as follows:

For missile programs, $3,068,600,000.

For the MK-48 torpedo program, $144,300,000.

For the MK-46 torpedo program, $141,200,000.

For the MK-60 torpedo program, $151,400,000.

For the MK-30 mobile target program, $19,400,000.

For the MK-38 mini-mobile target program, $2,300,000.

For the anti-submarine rocket (ASROC) program, $10,100,000.

For the modification of torpedoes, $89,300,000.

For the torpedo support equipment program, $66,900,000.

For the MK-15 close-in weapons system program, $118,700,000.

For the MK-75 76-millimeter gun mount program, $10,700,000.

For the MK-19 gun mount program, $400,000.

For the 25-millimeter gun mount program, $400,000.

For the modification of guns and gun mounts, $19,700,000.

For the guns and gun mounts support equipment program, $17,500,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1983 for shipbuilding and conversion for the Navy as follows:

For the Trident submarine program, $1,786,000,000.

For the CVN nuclear aircraft carrier program, $6,795,300,000.

For the SSN-688 nuclear attack submarine program, $1,443,400,000.

For the battleship reactivation program, $417,400,000.

For the aircraft carrier service life extension program, $699,500,000.

For the CG-47 Aegis cruiser program, $3,134,400,000.

For the LSD-41 landing ship dock program, $417,000,000.

For the LHD-1 air-capable amphibious ship program, $55,000,000.

For the FFG-7 guided missile frigate program, $706,400,000, of which $40,000,000 is available only for the installation of an X-band phased array radar.

For the mine countermeasures (MCM) ship program, $371,600,000.

For the T-AO fleet oiler ship program, $320,000,000.

For the ARS salvage ship program, $84,000,000.

For the TAKRX fast logistic ship program, $322,600,000.

For the TAHX hospital ship program, $300,000,000.

For service craft and landing craft, $162,100,000.

For outfitting, post delivery, cost growth, and escalation on prior year programs, $1,091,500,000.

For ship contract design, $97,200,000.

For the manufacturing technology program, $25,000,000.

(d) OTHER.—Funds are hereby authorized to be appropriated for fiscal year 1983 for other procurement for the Navy in the amount of $3,959,000,000, of which—

(1) the sum of $568,900,000 is available only for the ship support equipment program;

(2) the sum of $1,477,600,000 is available only for the communications and electronics equipment program; and

(3) the sum of $787,200,000 is available only for the ordnance support equipment program.

(e) PROCUREMENT, MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement for the Marine Corps (including missiles, track combat vehicles, and other weapons) in the amount of $1,984,900,000.

AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

SEC. 103. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement of aircraft and missiles and for other procurement for the Air Force as follows:

For aircraft, $17,243,400,000.

For missiles, $6,333,300,000.

For other procurement, $5,656,700,000.

(b) Of the funds authorized to be appropriated in this section for aircraft for the Air Force, the sum of $186,100,000 is available only for contribution by the United States as its share of the cost for fiscal year 1983 of acquisition by the North Atlantic Treaty Organization of the Airborne Warning and Control System (AWACS).

AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

SEC. 104. Funds are hereby authorized to be appropriated for fiscal year 1983 for procurement by the Defense agencies in the amount of $863,400,000.

CERTAIN AUTHORITY PROVIDED SECRETARY OF DEFENSE IN CONNECTION WITH THE NATO AIRBORNE WARNING AND CONTROL SYSTEM (AWACS) PROGRAM

SEC. 105. Effective on October 1, 1982, section 103(a) of the Department of Defense Authorization Act, 1982 (Public Law 97-86; 95 Stat. 1100), is amended by striking out "fiscal year 1982" both places it appears and inserting in lieu thereof "fiscal year 1983".

PROHIBITION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 106. None of the funds appropriated pursuant to an authorization of appropriations in section 101 may be obligated or expended for the construction or conversion of a naval vessel, or a major component of the hull or superstructure of a naval vessel, in a foreign shipyard.

CONSTRUCTION OR CONVERSION OF NEW HOSPITAL SHIP IN UNITED STATES SHIPYARD

SEC. 107. The T-AH hospital ship for which funds are authorized to be appropriated by section 101 shall be constructed in a United States shipyard or, if such ship is converted from an existing ship, shall be converted in a United States shipyard from a ship built in a United States shipyard.

PROHIBITION OF ACQUISITION OF 9-MILLIMETER HANDGUN

SEC. 108. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be obligated or expended in connection with the purchase of a 9-millimeter handgun for the Armed Forces or to carry out any activity concerned with evaluating the feasibility or desirability of purchasing a 9-millimeter handgun for the Armed Forces.

AMENDMENT OFFERED BY MR. MAVROULES

Mr. MAVROULES. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. MAVROULES: Page 6, line 14, strike out "$6,333,300,000" and insert in lieu thereof "$5,191,400,000".

● Mrs. KENNELLY. Mr. Chairman, I am extremely concerned with the amendment offered by the gentleman from New York (Mr. STRATTON) which proposes spending cuts of $2.1 billion including cuts in aircraft systems that are vital to our Nation's conventional defenses. I fail to see merit in a proposal to cut funding for the F-14, our Navy's primary fleet defense weapons system; the F-15 and the F-16, the Air Force's air superiority fighters; and the AWACS system, our primary early-warning aircraft system. These systems are critical for our conventional strength, and I cannot support proposals to cut these programs in the face of a constantly increasing threat to our forces' air superiority capabilities.

Too often we are reminded by tragic world events of the vital need for a strong conventional defense. Already we have seen our Nation with all its sophisticated nuclear might unable to protect a credible stabilizing military posture when it was vitally needed. Despite this, we are once again being asked to cut back our conventional strength. We must ask ourselves, can we truly afford this reduction? I do not think we should be considering reductions in systems of proven capability and which are vitally needed while we are asked to fund nuclear systems of questionable capability, questionable value, questionable need, and outrageous cost.

I believe the people of this country demand a strong defense, and I believe this body is obligated to soundly and wisely provide that defense. I do not believe the defense of this country is best served by funding cuts from our Nation's best and most capable systems.●

● Mr. LELAND. Mr. Chairman, I support H.R. 6696 because it provides Congress with an opportunity to provide for a strong national defense and, at the same time, recognize the constraints of an unhealthy economy, apply much-needed standards of efficiency and cost effectiveness to the military budget, and address the growing risk of a nuclear confrontation between the United States and the Soviet Union.

Careful examination of this bill makes it abundantly clear that we do not seek to hamstring our Armed Forces or send provocative signals to our adversaries by irresponsibly slashing defense spending. H.R. 6696 provides for levels of defense expenditures which substantially exceed levels sought by the Carter and Reagan administrations and approved by the Congress. At the same time, this bill recognizes the need for restraint in the increases in defense spending proposed in the committee bill, H.R. 6030. Restraint is clearly called for, Mr. Chairman, not only because we are in a period of economic austerity that calls for belt tightening—and that means everybody's belt, the Pentagon included—but because the committee bill does not deal adequately with a clear pattern of waste and inefficiency in defense spending.

The catalog of wasteful and unessential defense spending runs from unscrutinized and often duplicative procurement procedures, which waste millions of taxpayer dollars and result in unneeded or obsolete weapons development, to millions for military bands and expenditures for veterinary services for the pets of military personnel.

Let there be no mistake, Mr. Chairman, the debate here is not on whether or not we provide for the national defense. The debate is, or should be, over whether in providing for a strong national defense we are willing to apply the same standards of economy and efficiency that are wheeled out whenever there is an opportunity to salvage a nonmilitary expenditure.

If we are unwilling to apply the budget-cutter's scalpel to the defense budget; if we are unwilling to trim defense spending at a time when other programs essential to the health and safety and survival of millions of Americans are slashed; if we seek out waste and inefficiency only where it is politically convenient—we have confirmed the darkest suspicions of those who view the budget-cutting mentality of the Congress with deep alarm. They believe that the debate is a matter of guns or butter, rather than a question of how to provide both guns and butter in an equitable manner during a time of fiscal austerity. If we fail to force the Pentagon to seek out waste and inefficiency by trimming its budget, we will have proved the critics right. We will have demonstrated that rather than cutting the budget, we simply transferred funds from essential social programs to defense.

There is, however, a reason to approve H.R. 6696 that transcends the economic concerns I have raised here. A clear thrust of this bill is the systematic reduction in procurement and research and development of weapons systems that represent a threat to peace, rather than an enhancement of our national security. An increase in the number and sophistication of nonverifiable and invulnerable systems like the MX missile and the Trident

II, Pershing II, and cruise missiles can only result in a speedup in the arms race by the Soviet Union. Moscow is not likely to view such weapons in a context that will enhance our ability to secure meaningful reductions in the levels of nuclear weapons on both sides. It is one thing to debate the relative levels of nuclear preparedness—ours and theirs—and the best means for achieving reasonable and meaningful reductions in those levels. It is another matter entirely to embark on a clear escalation of the arms race through the development of destabilizing weapons and then cite the Soviet response as an indication of their lack of commitment to arms reduction. I am deeply concerned about the impact the development of such weapons will have on world peace.

There is, in H.R. 6696, nothing that should give pause to those who are committed to a strong national defense. There is nothing in H.R. 6696 that should trouble those of you whose first concern is a realistic and equitable reduction in Federal spending. There is, in this bill, an opportunity for this body to apply standards of economy and efficiency which are in real danger of being discredited by those who see the need for fiscal restraint as a golden opportunity to destroy programs which are essential sources of assistance and protection for millions of America's most needy citizens.

And, finally, Mr. Chairman, this bill gives us an opportunity to speak out on the danger to world peace which an unbridled arms race represents. Our substitute to the committee bill represents a step forward in our recognition of the fact that we are responsible for the consequences of our actions with regard to nuclear weapons development and that the consequences of the unrestrained development of destabilizing weapons are frightening indeed.●

Mr. WHITE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AuCoin, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be permitted to sit tomorrow morning, July 21, during proceedings under the 5-minute rule for the purpose of considering its reconciliation proposals.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5320, JOB TRAINING PARTNERSHIP ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 97-647) on the resolution (H. Res. 527) providing for the consideration of the bill (H.R. 5320) to establish a community public-private training and employment assistance system and to provide employment and training services, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5203, INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. 97-648) on the resolution (H. Res. 528) providing for the consideration of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5427, RADIO BROADCASTING TO CUBA ACT

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 97-649) on the resolution (H. Res. 529) providing for the consideration of the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2329, JURISDICTION OF CERTAIN COURTS TO RENDER JUDGMENT ON CERTAIN CLAIMS OF THE CHEROKEE INDIANS

Mr. DERRICK, from the Committee on Rules, submitted a privileged report (Rept. No. 97-650) on the resolution (H. Res. 530) providing for consideration of the bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma, which was referred to the House Calendar and ordered to be printed.

ANTAGONISM TOWARD AMERICAN MILITARY PRESENCE IN GERMANY

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I must report to you and my other colleagues that a crude and unwarranted insult has been heaped upon the United States by our allies the West Germans. It has come to my attention that private requests have been made that we send fewer black soldiers to units stationed in Germany. Disregarding any statement on the present composition of our Armed Forces, I must say that in my whole life I have never heard a more ungrateful or objectional request. America has 300,000 of our best troops stationed in Europe to deter or defend that area from attack. For the main host nation to attempt to tell us which members of our Army or our society we can defend them with is outrageous.

In looking into this matter I have learned that there have been a growing number of violent incidents inflicted on American servicemen in Germany. Apparently these attacks have been directed against troops in uniform and against our black troops even in civilian dress because those men and women are assumed to be servicemen. The problem indicates a growing antagonism toward American military presence in Germany. There are Members of this body who have been advocating a reduction of our forces in Europe. I must say that an action like this will win more converts to that cause. I have been a proponent of our allies sharing more of the burden of their own defense, but these incidents leave me with the feeling that if they do not like our troops in their country then maybe we should just let them do it all by themselves.

AUTHORIZING CLERK TO MAKE CORRECTION IN ENGROSSMENT OF H.R. 6530, ESTABLISHING THE MOUNT ST. HELENS NATIONAL VOLCANIC AREA

Mr. WEAVER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes, as amended, as passed yesterday, the Clerk be authorized to make a technical correction in section 4(c)(3)(B)(i) to change "Township 4" to "Township 14."

The SPEAKER pro tempore (Mr. FOLEY). Is there objection to the request of the gentleman from Oregon?

Mr. GREGG. Mr. Speaker, reserving the right to object, that is purely technical; is that correct?

Mr. WEAVER. Mr. Speaker, it is a typographical error.

Mr. GREGG. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members be permitted to extend their remarks and to include therein extraneous material on the subject of the special order speech today by the gentleman from Iowa (Mr. BEDELL).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CYPRUS AFTER 8 YEARS

(Mr. KILDEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KILDEE. Mr. Speaker, today marks the end of the 8th year of the Turkish occupation of the sovereign nation of Cyprus. Unfortunately, an end to the occupation does not seem as if it will occur in the near future. Yesterday, we debated House Concurrent Resolution 310 relating to Cyprus, and this afternoon we will vote on the resolution.

All of us are probably familiar with the tragic statistics which have become synonymous with Cyprus in our lexicon. Because of the very magnitude of those statistics, however, and because they have remained virtually unchanged for 8 years, I fear that we may lose sight of their significance. It is sometimes easier to relate to individual tragedies than to massive tragedies whose magnitude numbs our minds.

It is easy to understand the grief of the mother of Andrew Kassapis, an American citizen and native of Michigan who disappeared during the invasion 8 years ago. Almost every one of us knows the pain we would incur if one of our own children disappeared under similar circumstances. It is more difficult to fathom the grief, though, when we realize that Mr. Kassapis is one of about 2,000 people for whom there has never been an accounting; 2,000 families share the grief of the Kassapis family.

Similarly, we can relate to the tragedy of a small number of families being forced to leave their homes because of a natural disaster. We know how difficult it is for them to resume a normal life. Try to conceive, however, the dimensions of the tragedy on Cyprus where 200,000 Greek and Turkish Cypriots have become displaced persons and not only lost their homes and possessions but also lost their jobs and the very communities around which their lives had been structured. Imagine the trauma each of them has experienced and try to multiply that by 200,000.

I fear that with the passage of time, these tragedies will lose their full significance, and the present situation will assume a degree of permanence. We cannot permit that to happen. Yesterday, I spoke of the lessons which the youth of Cyprus must be learning and the resentment fostered by current conditions. The thoughts shaping the character of the next generation of Cypriots are not thoughts of love and toleration.

We should be compelled by the tragic circumstances in Cyprus to find a just solution. We have a moral responsibility not to turn our heads and ignore the suffering. A failure to act will only make the task more difficult in the years to come. I appeal to our friends on both sides to be more yielding in their positions and to put less emphasis on political considerations and more emphasis on what may be done to end the suffering of thousands of individuals and to help them resume a normal life. Finally, I would ask our own Government to place a higher priority on finding a solution and encouraging the parties to take actions that will benefit all Cypriots in the future.

MY RESPONSIBILITY TO AMERICA

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. HUNTER. Mr. Speaker, from time to time I believe it is important for all of us to step back and look at the great privileges and awesome responsibilities we share as Americans. Rarely have I seen these rights and privileges more clearly and forcefully expressed than in the essay by Amanda Miller entitled "My Responsibility to America." Amanda, 11 years old, from Chula Vista is this year's winner of the highly competitive essay contest sponsored by the Lions Club of Chula Vista.

Amanda has a wealth of insight on what it means to be an American. She says in part:

When my ancestors from Russia, Scotland, and Ireland, came to this country, they were given the right to be free and they accepted the responsibility of protecting and defending that freedom. This responsibility has been passed to me. I accept it proudly. I must ask myself what I can do to earn the right to call myself an American.

Mr. Speaker, I am inserting the entire text of Amanda's essay into the RECORD. I believe my colleagues can benefit, as I have, by reading the thought-provoking words of this young American leader, Amanda Miller.

MY RESPONSIBILITY TO AMERICA

(By Amanda Miller)

"My country 'tis of thee,
Sweet land of liberty,
Of thee I sing:"

America is my country. Every time I stand to salute the flag the words "democracy" and "liberty" sing in my heart. I am proud to say that I am an American.

This country is a true "original," one of a kind. Made up of all nationalities, America has sheltered, for more than 200 years, every man and woman who has sought freedom.

The inscription on the Statue of Liberty, which stands proudly in New York Harbor, reads: "Give me your tired, your poor. Your huddled masses yearning to be free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me, I lift my lamp beside the golden door!"

When my ancestors from Russia, Scotland, and Ireland came to this country, they were given the right to be free, and they accepted the responsibility of protecting and defending that freedom. This responsibility has been passed to me. I accept it proudly. I must ask myself what I can do to earn the right to call myself an American.

I can exercise my right to vote whenever possible. I can work hard and pay taxes to support the country. Conserving and protecting natural resources is another way in which I can be a responsible American. Working to have a strong and loving family is important because the strength of America is in the family.

I believe that education is a cornerstone of America, and that new ideas and progress come from people who have had the opportunity to learn and to share their thoughts.

"Land where my Fathers died
Land of the Pilgrim's pride"

I call myself an American by birth, but that does not mean I can take the rights set in the Declaration of Independence for granted.

I can have a good life and it is my responsibility to try to make others lives hopeful, safe and secure. If I am a good friend and neighbor, kind and thoughtful, then I will have earned some right to call myself an American.

The Constitution of the United States, written by visionary men has guaranteed us freedom for almost 200 years. Each Ameri-

can citizen should realize what a precious guarantee it is. When we realize what the Constitution stands for—liberty and justice—only then will we understand how much freedom in America is worth and that it is worth defending and dying for.

"from every mountainside
let freedom ring!"

The great frontiersman, Daniel Boone, was my seventh great-grandfather. As the nation moved westward he led pioneers to new settlements in Kentucky and Tennessee. He was part of the land and treated it with respect. The pioneer spirit has been passed down through our family. To endure hardships, to try new ideas, and to love, nurture, and defend the soil—this is part of our heritage.

As America leads the world into the future, I hope for peace. I hope I can be a part of contributing to that peace. In the words of John Donne, "No man is an island, intire of itself; every man is a piece of the continent, a part of the maine . . . any man's death diminishes me, because I am involved in mankind . . ."

I am an American and I am responsible.

□ 1910

INTERNATIONAL DAY OF ACTIVITY FOR IDA NUDEL

The SPEAKER pro tempore (Mr. FOLEY). Under a previous order of the House, the gentlewoman from Massachusetts (Mrs. HECKLER) is recognized for 60 minutes.

Mrs. HECKLER. Mr. Speaker, I appreciate the warm response I have had from my colleagues to our request for a special order today to recognize the importance of this day, an International Day of Activity for Ida Nudel. Individuals and organizations all over the world are sending telegrams to the Soviet authorities reading, "Stop harassing Ida Nudel! Allow her to join her sister in Israel!"

What has prompted this international cry? It is another of a series of episodes that have characterized Ida Nudel's 11-year struggle to leave the oppression of the Soviet Union and be reunited with her sister in Israel.

I would like to read to you excerpts from a letter I received this week from Elena Friedman, Ida Nudel's sister. The letter is dated June 27. She says:

Ida's release from Siberian exile and her return to her Moscow apartment on March 26 sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead, It turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life. This time they have evidently decided to throw her into a bureaucratic maze which seems to provide no way out and is obviously designed to strangle her hope and spirit.

Since this letter was written, events in the Soviet Union seem to prove that Elena Friedman is correct. Ida Nudel's first step upon returning to Moscow was to get an ID from the Moscow Police. Her second step was to fill out a new application for an exit visa, renewing her efforts to leave the Soviet Union for Israel.

At the visa office she was told that applications were accepted only from residents and she must apply for a residence permit. She did this, and was turned down. Forced out of Moscow for her determination in seeking a visa, she tried to join friends in Riga, the capital city of Latvia. Denied permission to reside there, she spent the night on a bench in the Riga train station.

This courageous woman, who has suffered so much at the hands of the Soviet authorities, is again the focus of their attention. For 11 years she has been harassed, arrested, beaten, tortured, and starved—all because she wants to join her sister in Israel and has tried to buoy the spirits of others who also would like to go to Israel.

These years have taken their toll on this woman. She has numerous ailments, including a heart condition that went untreated during her 4-year Siberian exile. During her stay in Moscow, she was unable to get medical help, as the hospitals are reserved for residents.

Throughout Ida Nudel's struggle, I have supported her. I have sent telegrams and letters to the Soviet authorities, and most recently, last week, when I first learned that she had been forced to leave Moscow. I have corresponded with her sister in Israel, Elena Fridman. We have signed, many of us in this House, many letters, many resolutions, and spoken out on her behalf.

I urge my colleagues and all concerned people all over the world of every religion to join in protesting the treatment Ida Nudel has received.

In 1980, I adopted Ida Nudel, thereby signifying that I would consistently and continuously work for her cause until such time as we, together with her sister in Israel, would be able to secure her release. The work is not done, and those colleagues who have fought on her behalf are fighting again. What we say to the Soviet authorities is that we will continue to work, and we w'll be here again and again and again until her freedom is secured and justice is achieved.

This month I was joined by many in this House in a message to President Reagan urging that he put the issue of human rights, and particularly the case of Ida Nudel, on the agenda in his forthcoming talks with Soviet President Leonid Brezhnev on the topic of the nuclear arms reduction.

We in Congress, concerned not only with Ida Nudel but with all the other dissidents and all those whose religious rights are discriminated against and denied, must lift our voices today to join in this international chorus directed at the Soviet Union. The Chorus says, "Stop harassing Ida Nudel! Allow her to join her sister in Israel!"

We live in freedom because we constantly fight to see freedom achieved, and we must fight to see freedom extended to others.

Today, somewhere in the Soviet Union, Ida Nudel is by herself; she is alone; she is searching for a place where the authorities will let her live, and she is searching for the opportunity to renew her attempts to go to Israel, where her only close relative, her sister, resides.

I call upon the Soviet authorities to end their psychic barbarism of this woman. She has suffered enough. She has been a Prisoner of Conscience, vainly attempting for 11 years to emigrate to Israel. During all this time Ida has been arrested countless times, imprisoned, harassed by authorities, beaten, starved, and kept in isolation. Last March, she was permitted to return after 4 years sentence in Siberian labor camp for what the Soviets called "malicious hooliganism."

Ida Nudel today is still the victim of psychic bararism, and we in Congress who support her cause plead that the Soviet authorities will take cognizance of the world outcry against their barbarism and grant Ida Nudel her freedom.

Mr. GILMAN. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I will be glad to yield to the gentleman from New York.

Mr. Speaker, I want to commend the gentlewoman for her long enduring, courageous struggle on behalf of Ida Nudel, and on behalf of other Soviet citizens who have long sought release; and commend the gentlewoman for arranging this special order so that, along with her, many of our colleagues can express themselves with regard to this very important cause.

Mr. Speaker, it was only recently that I called to the attention of my colleagues the continuing plight of Ida Nudel, whose 11-year struggle to emigrate to Israel from the Soviet Union has resulted in a long and difficult struggle. Today I am pleased to join my colleagues in dedicating this day as the day of international solidarity with Ida Nudel.

When I last addressed the cause of Ida Nudel, it was to once again urge that Ida be released from the Soviet Union, and allowed to emigrate to Israel, where her family has long awaited her. After 4 years of exile in Siberia, Ida Nudel's imprisonment ended in April of this year. Upon her return to Moscow she was met with further harassment and was informed by the Soviet authorities that she would have to report periodically to local police. Ida has now been denied a permit to live in Moscow. Not only is Ida forbidden to emigrate to Israel, to

join her sister Elena and to live among loved ones, she is also forbidden to live in her former neighborhood, the place where her remaining ties are, and with which she is most comfortable and familiar.

After Ida was denied a permit to live in Moscow, she temporarily assumed residence in Riga, the capital of the Latvian S.S.R. Again, she was refused residency, and reports indicate that she continues to move from place to place, attempting to secure a resident's permit and being forced to sleep on benches in train stations. What next, we ask. Will the Soviets next arrest Ida and sentence the 51-year-old woman into exile for sleeping on a park bench as a result of their refusal to grant her a residency permit?

We join in Ida's suffering on this day of international solidarity. But the suffering is far greater because Ida is far from alone in her struggle. Our most recent information indicates that only 182 Soviet Jews arrived in Vienna, with Israeli visas, from the Soviet Union during the month of June. This is a decrease of 96 percent from the 4,500 Jews who received exit visas in June of 1979. This represents the sharpest decline in emigration since it effectively began in 1971. During the first half of this year, about 1,500 Jews arrived in Vienna from the Soviet Union. During the first half of 1979, 25,000 Jews received exit visas. Last year, only 9,447 Jews were permitted to emigrate, as compared to the 51,320 who were granted visas in 1979.

Today is a day of solidarity, not just for Ida Nudel, but also for Anatoly Shcharansky, for Mark Nashpitz, and, in fact, for the 500,000 Soviet Jews who, like Ida Nudel, have continually applied for, and have been denied, exit visas, and who have been harassed, imprisoned, persecuted and exiled solely because they do not choose to remain residents of the Soviet Union.

I recently spoke in behalf of Ida Nudel, and today I am speaking again. I will continue to work for Ida's release, and will continue to oppose the distressing violation of human rights in the Soviet Union. We must demonstrate to the Soviet Union that we have not tired of this issue. We will not give up our fight for what we know to be a vital cause. I urge my colleagues to join in this day of solidarity for Ida Nudel, and for the 500,000 Soviet Jews who have applied for exit visas, and I ask that we all join together in an effort to assist the emigration of Soviet Jews and the release of all Prisoners of Conscience in the Soviet Union.

□ 1920

I thank the gentlewoman for yielding.

Mrs. HECKLER. I wish to thank my colleague for his comments. I think he has continued to make a very impressive contribution to the issue and concern not only of the freedom of Ida Nudel, but that of all Soviet dissidents who deserve and await the conscience of the world.

As my colleague spoke, I must respond that as we hear of the figures of the exit visas and the limitation upon the right of exit, one wonders how a great United States of America could be achieved if indeed exit visas had been required from every country. How would the Irish and the Poles and the Italians and Portuegese have had the opportunity to come to this country to form the melting pot that is America, and today the right of exit, the right to choose one's country is denied simply because of one's religious faith in the Soviet Union, and that particularly which pertains to Ida Nudel as well as others of other religious faiths.

Today's special order is designated to focus upon the psychic barbarism that the Soviet Union has inflicted upon Ida Nudel and that hallmark of their treatment of all others under their jurisdiction all over the world.

Mr. DORNAN of California. Mr. Speaker, will the gentlewoman yield?

Mrs. HECKLER. I yield to the gentleman from California.

Mr. DORNAN of California. First and foremost I want to commend the gentlewoman from the great Commonwealth of Massachusetts for her untiring efforts to speak out for those who are seemingly so forgotten behind all of the various curtains of oppression around the world.

Today is a very fitting day for people throughout the free world to speak out for a real 20th century hero like Ida Nudel because this is a day that went down in the history books of mankind for a stunning scientific achievement, that one step of a man that became a giant step for mankind when an American astronaut really, for all human beings on the planet Earth, walked on our nearest celestial body, the Moon, and showed just how far this tiny little mortal existence on this planet can go in reaching out for the stars.

But it seems like the world always seems to go in two directions at the same time. As we move forward with great scientific and medical achievements, as some people reach out with tentative little moves toward democracy, and other continents that have known nothing but oppression for all of recorded history, we see other areas of the world slipping backward into a dark age again where one lonely voice of someone who simply wants to join a relative somewhere in the world or speak out for a little bit of freedom, we see that person crushed.

I was in Moscow shortly after Ida Nudel made her courageous statement for justice, hanging a sheet out over her apartment balcony on that great boulevard called Gorki Prospect in Moscow. Shortly thereafter the door was kicked down by big, strong policemen from the KGB and other authorities there.

It did not dampen her spirit at all. I received, as did some of the Members participating in this special order, a letter from Elena Fridman, her sister, thanking me. For what? It seems like in 6 years here whatever we do is such a small effort, and that is why it is so great of the gentlewoman to keep pushing and pushing.

I remember in traveling to Moscow for one of my five trips there with my good friend and colleague from New York, the Honorable BENJAMIN GILMAN, that we were with a group of 10 Congressmen and we met in the Kremlin itself at a long paneled desk in a beautiful room in what they called the Congress, with representatives from all levels of government.

I happened to be sitting directly across from the chief justice of their supreme court, a very grandfatherly looking man with white hair and noble features that would have indicated that he was a justice from any country on the face of the Earth.

When we brought up the human rights stand, all 10 of the Congressmen had on bracelets remembering Anatoly Shcharansky, who a few months before had been sent off to a long, lone sentence in Siberia. His last words were "Next year in Jerusalem." His spirit has not been broken.

We had met with his brother, Leonold, his mother. We all showed that we wore a bracelet for one simple human being whose human rights were being violated, the chief justice of the Soviet Supreme Court said that human rights was only a tool of propaganda of the West.

How wrong this grandfatherly looking man is. Human rights does not originate in the West. It originates in those far-off camps of concentrated human beings, political prisoners everywhere and in every dark corner of this planet, and the spirit or love for freedom that burns so vividly in the hearts of courageous women like Ida Nudle, her sister in Israel who will not let her be forgotten, with people all over the world who simply want to be able to move with freedom or speak out with simple freedom about what they think is the fairest concept of political justice.

That flame is never going to be extinguished as long as there is one man or woman standing erect on two legs anywhere here on this planet.

I think if we keep our pressure up, the gentlewoman keeps her work up with her colleagues from the great State of Massachusetts, and the two New Yorkers that I see here on the

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floor with us, every now and then something magnificent happens.

A nun who has known persecution for most of her adult life, from her early twenties to her late forties, has just been released.

I remember walking through the night in Riga, Latvia, where Ida Nudel has tried to set up her new residence.

In seeking out some of the dissidents, I found out their mailboxes had been pried off, smashed in and broken, and the door to the mailbox was all that remained of one prominent member of the Helsinki team living in Riga.

There is not a corner of what is the Soviet Empire that does not have its pentacostals, its refusniks, its dissidents of some type speaking out for the right to teach Hebrew as a native language, the right to study scripture, the right to speak out about politics. It just simply is not going to go away, no matter how it is characterized by the chief justice of their supreme court.

I think that if Ida Nudel keeps her fighting heart, and there is no indication that she will not, that sooner or later she will be with her sister in Israel and that she will be visiting with the gentlewoman from Massachusetts in one of the anterooms or dining rooms here, and she will be telling us about some other courageous woman or senior citizen or young man or young girl who is now in need of our assistance.

I think one of the noblest things we can do here in the Senate of the United States and in the great House of Representatives is to constantly make contact with those people whose names come to the fore, to pick days of solidarity like this, and to pick days that already have historical significance like this great day of July 20 when American astronauts first walked on the Moon.

□ 1930

Walking on the Moon is important, but getting freedom for any one single heroic person anywhere in the world who reaches for their rights and for the rights of their fellow citizens, that is far more important, even if it is not recorded in the history books, than any scientific or medical achievement. The spirit of freedom in the world is still the greatest thing that has ever been wrought by man, religious freedom, freedom of speech, freedom to assemble. The Soviets can spend all of the energy they want trying to suppress this, but is is like a mercury thermometer breaking open and you try to press your thumb down on that chemical substance, the more you push on it, the more little parts it breaks into, the more directions it flies off into. The greatest thing about the indomitable spirit of human beings is that they will always reach out for freedom and speak out, even if it means that they will be crushed as individuals.

Ida Nudel, God bless you, God bless your sister Elena, and God bless everyone in the world who speaks out for human rights. The seemingly forgotten heroes, they are not forgotten.

Mrs. HECKLER. My colleague has spoken eloquently on an issue that I think touches all of our lives and our consciences. I think with his sharing of his international experience in Moscow, we understand the dimensions of the Ida Nudel odyssey, because we come here to stand behind Ida Nudel, but also behind all that she symbolizes, the fight for freedom of religion and freedom of exit, freedom to choose where one will live and what one will eat, and the freedom to live a life of one's own choice. Ida Nudel, Shcharansky, and so many others come to mind. But in fighting for the quest of freedom, we also fight for the survival of humankind.

I think my colleague from California has made a very unique contribution, in that he has offered the inspiration that the freedom for Ida Nudel will indeed be a great leap forward for humankind. I think that it is sad for those us in the House who have served with our colleague from California to know that his eloquent voice will not always be available. We do expect it to return in this body or another, we do feel for those eloquent words that he has submitted on so many different issues, and we know that his contribution will be memorable in whatever role he may fulfill.

I take this time to urge Soviet authorities—both those in the Soviet Union and their representatives in the United States—to listen to the protests of the world. Ida Nudel has suffered enough. Let her go to Israel.

● Mr. KEMP. Mr. Speaker, I wish to join my colleagues today in focusing attention on the plight of a very courageous woman, Ida Nudel, who has steadfastedly clung to the dream she has worked toward for so many years—to emigrate to the State of Israel.

Ida's struggle with Soviet authorities exemplifies the indefatigable spirit carried by many prisoners of conscience who have had to endure Soviet oppression and harassment. Her case is one more glaring example of the Soviet Union's refusal to honor its commitments under the Helsinki accords. In serving her sentence of internal exile to Siberia from 1978 to March of this year, Ida clung to the hope that she would one day be able to live a life of dignity and happiness in Israel, bolstered by the thousands of letters of support she received from friends around the world.

Elena Friedman, Ida's sister in Israel, expressed the thoughts we all had in a letter she wrote me last month:

Ida's release from Siberian exile and her return to her Moscow apartment sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

Ida's indomitable spirit continues to prevail. She has stood firm against Soviet officialdom's attempts to erode her will by subjecting her to the machinations of impenetrable bureaucracy which Elena writes "seems to provide no way out and is obviously designed to strangle her hope and spirit." Obviously, the Soviets do not know our Ida. She will continue to fight until she is freed from the bonds of Soviet oppression and intimidation.

This is a part of the Soviet policy to deny Jews the right to emigrate to their homeland. There has been an incredible disparity in the emigration figures of 1982 and 1979—96 percent! According to the figures of the National Conference on Soviet Jewry, only 182 Jews were permitted to emigrate from the Soviet Union this past June, compared to 4,500 in June of 1979; only 1,500 in the first 6 months of this year compared with 25,000 for the same period in 1979. These are people we are talking about—not just statistics.

Ida is a particularly affecting victim of this policy. How ironic that a woman whose only crime has been to assert her entitlement to a basic human right should be in the forefront of those denied their exit visas. We cannot abandon our efforts on behalf of this brave woman, and all the other refuseniks. We must continue to be active in support of Ida's efforts to seek redress from the Soviet Union, continue to make ourselves heard so that the Soviet Union will know that Ida is renowned throughout the world as a fighter, a leader, and that she and others like her will not be forgotten; that the United States and all freedom-loving people everywhere will raise there voices in protest of the unjust, illegal, and inhumane treatment of Ida Nudel and all other refuseniks.●

● Mr. SMITH of New Jersey. Mr. Speaker, it was only 5 days ago that I received a letter from Elena Fridman on behalf of her sister Ida Nudel, a Soviet Jewish refusenik. Elena expressed her fear that Soviet authorities were going to force Ida from her apartment in an effort to discourage Ida from her struggle to obtain an exit visa.

And today, Mr. Speaker, Elena's fearful speculation has become reality. I have been informed by the National Conference on Soviet Jewry that Ida Nudel was evicted from her home, and with no place to go, was living in a train station in Riga.

Ida Nudel had first applied for an exit visa with her family in May 1971. While her family was granted permission to leave the Soviet Union, Ida's request to emigrate was refused, as Soviet officials claimed that Ida had knowledge of unspecified secrets. Her requests to emigrate were continually denied and after many refusals Ida realized that she was being singled out.

And so began Ida Nudel's struggle for freedom.

Mr. Speaker, her struggle for freedom became a struggle on behalf of all refuseniks and Ida became known as the Guardian Angel of Soviet Jews. Through public demonstrations, Ida gathered strength within the Soviet Jewish community and encouraged refuseniks to act collectively in countering Soviet persecution. Under the constant threat of harassment and abuse by Soviet officials, Ida refused to remain silent. In a final, desperate attempt to obtain an exit visa, Ida had hung a banner from her balcony which read "KGB give me my visa." Three weeks after this public display, on June 21, 1978, Ida Nudel was convicted of "malicious hooliganism." She was sentenced to 4 years of exile in Siberia for expressing her wish to emigrate from the Soviet Union.

Mr. Speaker, even while serving her sentence in the oppressive surroundings of Siberia, Ida would not remain silent. I would like to quote from a letter that Ida wrote to her sister Elena in Israel:

I am not a delinquent. I did not kill or rob, I did not insult or slander anyone. But I dared to go out and demonstrate in defense of the right of Jews to leave Russia. I dared to write and sign open letters in defense of the persecuted and condemned. I dared to turn to the Soviet leaders and to political and intellectual leaders in other countries with the call and request to carry out the obligation that they took upon themselves voluntarily—the obligation to honor the values of others and their right to live where they want.

In May 1982 Ida was released from Siberian exile only to face new barriers constructed by the Soviet authorities. Soviet officials refused to reinstate Ida's permanent resident status, thus denying her the right to obtain an apartment in Moscow. Ida moved to Riga where she once again received a denial to establish residency.

Mr. Speaker, as of Friday, July 16, the whereabouts of Ida Nudel are unknown.

I think it is time for Soviet harassment to come to a complete halt. Ida Nudel has done everything that the Soviet Government has forced her to do except to cease her campaign for an exit visa. The Soviet Union should live up to the Helsinki accords and allow Ida Nudel to join her family in Israel. It is time for the Soviet Union to release Ida Nudel and to grant her the basic human right to be free.

Mr. Speaker, I would like to submit a copy of Elena Fridman's letter on behalf of her sister Ida Nudel for the RECORD:

HOLON, ISRAEL,
June 27, 1982.

Hon. CHRISTOPHER H. SMITH,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN SMITH: I am deeply moved and encouraged by your concern and activity on behalf of my sister, Ida Nudel, as expressed in your letter to Ambassador Anatoly Dobrynin dated February 26 co-signed by you and 73 of your colleagues in the U.S. House of Representatives. I enclose a volume, "Our Ida Nudel", which you may find interesting and helpful in learning more about her person and struggle. If you receive any response from Ambassador Dobrynin you can well appreciate how anxious I will be to have you share it with me.

Ida's release from Siberian exile and her return to her Moscow apartment on March 26 sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead, it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

This time they have evidently decided to throw her into a bureaucratic maze which seems to provide no way out and is obviously designed to strangle her hope and spirit.

Immediately after having received her I.D. card from the police in Moscow, Ida went to the Ovir office to again apply for an exit visa to Israel. There she was told that such application could only be received from persons who are resident in the district. Since no address was written into her new I.D. card, she would have to apply for a residence permit. Ida's subsequent application for the reinstatement of her permanent residence status in Moscow has now been turned down. She does not know where she will live if she is indeed forced out of her apartment in Moscow.

Of equal concern is the fact that Ida has expressed her need to enter a hospital for long overdue treatment of her heart condition. This is also impossible because hospital facilities in Moscow are unavailable to nonresidents. During conversations in Moscow, Ida has indicated that what kept her going during her difficult exile were the thousands of letters she received from well-wishers around the world. I believe that continuing the flow of letters now is the most important thing we can do. The only address I can give you is that of her Moscow apartment. I do not know whether letters will actually reach her there, but I believe we must try for as long as this is her only address: U.S.S.R., Moscow Yunikh Lenintzev St. No. 79, CPRP. 6, Apt. 28 NUDEL Ida (Personal Delivery—Acknowledgment of Receipt Requested).

Obviously, I would also be very grateful if you would continue to place pressure on the Soviet authorities so that they might finally relent in this senseless campaign and allow Ida to go.

Sincerely yours,

Elena Fridman.●

● Mr. McGRATH. Mr. Speaker, again we take time to express support and admiration for the struggle carried on by Ida Nudel against the arbitrary and inhuman policies of the Soviet Government. Once more, we are reminded of the brutality of the Soviet regime against its own people. For more than a decade Ida Nudel has stood fast in her beliefs and refused to be dominated by the police state that seeks to crush religious freedom and personal dignity. What threat does Ida Nudel pose to the massive military machine and bureaucracy of the Soviet Union? Why do they refuse to allow her to join her sister and friends in Israel? There are no reasonable answers to those questions. However, I submit that the major reasons for Soviet intransigence lie in the fact that Ida's release would signify a victory of the human spirit and the quest for freedom over the forces which try in vain to crush both. It is often upsetting to learn of the widespread misunderstanding of what true Soviet policies are. The lifestyle Ida Nudel has been subjected to by her own government is beyond comprehension for many Americans. Internal exile and continuous harassment by Soviet officials have not broken the will of this courageous woman to continue her effort for freedom.

I hope that every Member of the House will join us today in supporting every possible attempt to secure permission for Ida Nudel to leave the U.S.S.R. and emigrate to Israel. Our thoughts, prayers, and work are her best chance for release.●

● Ms. FIEDLER. Mr. Speaker, Ida Nudel, the refusenik and Jewish Prisoner of Conscience, has survived Siberian exile to return to more savage repression. It is up to us who are free to speak out to let the Soviet Union know that we are watching their conduct and we will not cease from speaking out until Ida Nudel enjoys the freedom for which she has suffered so long.

When Ida Nudel was released from Siberia, she was denied permission to return to her home in Moscow. She was, instead, given permission to live in Riga. But this too was revoked. The Soviet regime seemed determine to force Ida Nudel into a new exile, to keep her in a place where she would be isolated from the Jewish community and from any foreign visitors. Forced again from her home, Ida Nudel has now reportedly been forced to live as a nomad, moving from place to place, without a home, and unemployable as a refusenik. Frequently, in the Soviet scheme of things, such people are then arrested for parasitism. We must make sure that this does not happen to Ida Nudel, which is why we must not relax our vigilance.

This brave woman still has not achieved her dream of rejoining her family in Israel. She, like most of the Soviet Jewish population, still suffers under the most severe repression since the death of Stalin, repression that has stemmed the flow of emigrants to a pitiful trickle. Until they, like Ida

Nudel, are free, we must not let our voices be silent.●

Mr. WOLF. Mr. Speaker, it is with great pleasure today that I participate in this special order for Ida Nudel. For 11 years this brave woman has had only one simple goal, and that is to leave the Soviet Union and rejoin her sister who is living in Israel. For this crime she has been imprisoned, unceasingly harassed by the Soviet authorities, and denied any of the most basic human rights.

She has recently completed a 4-year sentence of internal exile in Siberia on the charge of malicious hooliganism after hanging out a banner which read, "KGB, Give Me a Visa to Israel." Upon her return to Moscow in March of this year she declared that it was still her intention to leave Russia and live in Israel. For this she was banished from Moscow.

There are many, many more examples of the heartless and brutal treatment afforded Ida Nudel by the Soviets, and they are well documented. For this reason the Congress and the American people must not be silent regarding her suffering.

We must speak loudly enough for the Soviet leaders in the Kremlin to hear, and call on them to cease their mistreatment of this woman who is now in poor health from spending four winters in a hut in Siberia. We must also make it clear that we believe Ida Nudel should be allowed to leave the Soviet Union and spend the remaining years of her life with her sister in a land that will make her welcome.

● Mrs. HOLT. Mr. Speaker, those of us who live in this blessed country have great difficulty imagining why the leaders of the Soviet Union insist on running their country as a prison.

The case of Ida Nudel is an example. This woman wants to leave the Soviet Union to live with her sister in Israel. She has been trying to leave for 11 years, but her applications for emigration have been rejected.

She was recently released from exile in Siberia, where she was sent for protesting the injustices committed against her and others like her. She has been denied a permit to live in Moscow, so she went to Riga, Latvia. She has been denied permission to live there, and Soviet authorities still refuse to let her leave the country.

What we see in this case and others like it is nothing less than calculated cruelty by a government committed to ruthless exercise of power instead of serving and representing its people.

This is a government that punishes even modest dissent with imprisonment of Siberian exile, and when members of its captive population apply to emigrate, it treats them as criminals.

Mr. Speaker, I am pleased to join my colleagues in this appeal for the freedom of Ida Nudel and to remind the House of what her case demonstrates about the character of the Soviet leadership.●

● Mr. HOLLENBECK. Mr. Speaker, I rise to address the serious plight and mistreatment accorded Ida Nudel in the Soviet Union.

Ida's situation and subsequent problems with Soviet authorities began over 10 years ago. In 1971, Ida applied for an exit visa to Israel. She was refused by the Soviet Government on the grounds that she knew too much as an economist to leave. This is when Ida began her crimes against the state. Because of sheer compassion, Ida began caring for other individuals imprisoned for similar crimes of conscience. For 7 years, Ida acted as an "angel of prisoners." During this time she was continually harassed by the KGB secret police. This soon led to threats of violence by her Muscovite neighbors. Finally in 1978, Ida Nudel committed the crime that would eventually send her into isolation in Siberia. Out of desperation, she hung a banner on her Moscow balcony stating: "KGB—Give Me My Visa." Ida was convicted of "malicious hooliganism" and sent away for 4 years.

Mrs. Nudel is one of many such persons persecuted by the Soviet Government for demanding their deserved human rights. However, Ida is unique in the fact that she is one of the three oldest such prisoners and the only woman among them. I have received correspondence from her sister Elena Fridman who Ida desires to join in Israel. As Mrs. Fridman explains, "Ida has proven to be a strong woman, but I hesitate to imagine how much more of this she can take." Between her threadbare clothing and meager heating, it is a miracle that Ida has survived these long harsh winters in Siberia.

Under the constitution of the Union of Soviet Socialist Republics, the right to emigrate is guaranteed. Furthermore, under the Helsinki Act of 1975 signed by the Soviet Union, the rights of all persons to secure and exercise their fundamental human rights are fully protected. All Ida Nudel is asking for is the right to leave a country where she is being persecuted for her religious affiliation and humanitarian practices. If this is too much to request, then the Soviet Union should not have deceitfully misled the rest of the world by signing the Helsinki Act. I have sent several letters to the Kremlin alerting them to my concern, but have yet to receive a reply.

Mr. Speaker, time and time again I have stood before this Chamber to register my utter distaste for the manner in which the Soviet Government has treated Ida Nudel. Mrs. Nudel was released from Siberian exile recently, however the Soviet authorities have compounded her problems, not alleviated them. They refuse to issue her a residency permit for her old Moscow apartment nor allow her to stay with friends in another town. Thus, the Soviet authorities have effectively made it impossible for Ida Nudel to live comfortably in the Soviet Union. I feel strongly that this is the time to help obtain an exit visa for Mrs. Nudel, now, before it is too late.●

● Mr. CONTE. Mr. Speaker, today we focus our attention and that of the people of the world on the plight of a courageous individual who is seeking her freedom and basic human rights. Ida Nudel has come to personify the suffering of all who are trying to emigrate from the Soviet Union to join family abroad.

For 11 years Ida Nudel has sought to emigrate to Israel. After her application was refused, she worked untiringly to assist other refuseniks with food, medicines, and encouragement. For her efforts over a 7-year period, she became known as the "Guardian Angel of the Prisoners of Conscience." She was also harassed by the Soviet authorities and finally arrested in 1978 and sentenced to 4 years internal exile in remote Siberia for "malicious hooliganism."

Ida Nudel survived her 4 arduous years in exile and this past March returned to Moscow. But evidently Soviet authorities feel she has not suffered enough. She has been denied residency permission in Moscow as well as in Riga and has been forced to sleep on a bench in a train station. How cynical and heartless the Soviet system can be. I am sure any city in the United States or Israel would be more than willing to grant Ida Nudel a residency permit.

Today we call on all freedom-loving people to protest this shameful treatment to the Soviet authorities. The treatment of Ida Nudel is a clear violation of the Helsinki accords and a reminder of the tragic lack of basic human rights in the Soviet Union. I join my colleagues in appealing to the Soviet Government to "Let Ida Nudel Go!"●

● Mr. FISH. Mr. Speaker, I join my colleagues today in an international day of solidarity with Ida Nudel. This remarkable woman, an inspiration to all of us, has been persecuted for over a decade because of her unflinching loyalty to her religion and conscience.

Since 1978 she has survived the exile of four Siberian winters, withstanding both physical and mental strain. I was quite relieved to learn of her release this past spring—but the struggle for her freedom continues. Ida Nudel is now fighting the atrocious Soviet emigration system, as well as unending hardships. She has applied for an emigration visa, but in the meantime she is spending her nights on a bench in a train station, because several Russian

cities have refused her application for a propiska, or residency permit.

Ida Nudel is now 52 years old. She has fought all her life for the basic rights we enjoy as Americans and that others in the free world take for granted. Her simple wish is to join her sister in Israel, yet the Soviet Union effectively holds her prisoner in an endless maze of paperwork. I have repeatedly written to Soviet officials requesting her overdue permission to emigrate—all to no avail. But we must continue to press for her right to live in the country of her choice, not only for Ida's sake, but also as a symbol of our serious intentions regarding international human rights.

The Soviet Union must comprehend that the free nations of the world will not permit flagrant violations of the Helsinki accords to go unnoticed or unchecked. I believe it it our duty as citizens of a nation dedicated to freedom that we all struggle with Ida for her release.●

● Mr. GREEN. Mr. Speaker, this is a day of international solidarity with Ida Nudel, who is known as the Guardian Angel of Soviet Jewish activists, and is one of my "adopted" Soviet Prisoners of Conscience. Last March, 74 of my colleagues and I sent a letter to the Soviet Ambassador expressing our hope that, once released from Siberia, where she was exiled on the charge of "malicious hooliganism," Ms. Nudel would be allowed to emigrate to Israel. Ida Nudel was released in late March, but, almost 5 months later, her hope of going to Israel remains unfulfilled.

I just received a letter from Elena Fridman, Ms. Nudel's sister in Israel, who writes:

> Ida's release from Siberian exile and her return to her Moscow apartment on March 26 sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead, it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

The newest form of harassment has been the denial of a "propiska," or residency permit. Ms. Nudel applied for a reinstatment of her permanent resident status in Moscow, but was turned down. She then applied for such status in Riga, but was again rejected. Without such a residency permit, Ms. Nudel can neither set up a permanent residence, nor can she apply for an exit visa.

At this time, we know nothing of Ms. Nudel's whereabouts. No doubt she struggles daily with the possibility of arrest on yet another trumped up charge. She is forced to flee from unjust bureaucratic forces which, though they prevent her from establishing a home, refuse her simple request to leave.

Ms. Nudel's courage throughout her ordeal has been inspiring, yet her plight remains unresolved. Most shocking is the realization that Ida Nudel is only one of many political and religious activists suffering routine harassment in the Soviet Union. We in Congress must continue to pressure Soviet authorities to end this senseless persecution.●

● Mr. JAMES K. COYNE. Mr. Speaker, for a decade Ida Nudel's resilience and conviction as a human rights activist in the Soviet Union has been an inspiration. In her efforts to emigrate to Israel and to guarantee Jewish rights in the Soviet Union, she has demonstrated the force of her indomitable spirit.

The Soviet Government is clearly resolved to test that spirit without mercy. Since Ida applied for a visa to emigrate to Israel with her sister in 1971, she has been harassed, interrogated, tortured and imprisoned by Soviet officials. Finally, in 1978, in a desperate effort to publicize her plight, Ida placed a banner outside her apartment window which stated, "KGB, Give Me A Visa To Israel." This display led to her conviction on charges of "malicious hooliganism", for which she served 4 years in internal exile.

Her term of 4 years ended last month, but the intense pressure placed on her by the Government did not. She was again denied permission to join her sister in Israel and was refused a permit to live in Moscow. In desperation, Ida ventured to the Latvian capital of Riga, where she assumed temporary residence. Just this week, however, she was also denied a permit to live in Riga.

Ida Nudel must now continue her struggle to emigrate even while she wanders in search of shelter. We call on the Soviet Government to release her to be reunited with her sister in Israel now.

The indomitable spirit of Ida Nudel will not be crushed—nor will our opposition to her appalling treatment.

● Mr. LENT. Mr. Speaker, it is an honor to join in this special order on behalf of Ida Nudel. I congratulate the gentlewoman from Connecticut for making possible this united congressional effort to end the harsh persecution Ida Nudel has been enduring.

Mr. Speaker, Ida Nudel is truly a remarkable, heroic, and courageous woman. Since adopting her as my Fourth Congressional District's Prisoner of Conscience more than 3 years ago, I have been tremendously impressed by her unbreakable spirit, her indomitable determination and her compassion for others. In her more than 10-year struggle with the cruel and heartless Soviet authorities, she has never faltered in her unceasing efforts to win her heart's desire—permission to leave the Soviet Union and join her family in Israel.

Four years ago her struggle for freedom so angered the Soviet officialdom that Ida Nudel was sentenced to 4 years in exile in the bleak wastelands of Siberia. The Soviets charged her with "hooliganism." Her "crime" actually was to display a banner reading "KGB Give Me My Visa" from the balcony of her apartment in Moscow. Released from exile last March, Ida Nudel returned to Moscow still fighting to win her freedom. Her first act was to go to the Soviet officials to ask for her visa to Israel.

This brought sharp retaliation from the Soviet authorities. They refused her permission to return to her Moscow apartment, and denied her permission to reside anywhere in Moscow. Just this past week, I was informed by Lynn Singer, president of the Union of Councils for Soviet Jews that Ida Nudel has gone to Riga to live, but again was denied a residence permit.

Mr. Speaker, this cruel persecution and harassment of an innocent woman cannot be permitted to continue. We must unite in pressuring the Soviet authorities to give Ida Nudel her visa to emigrate to Israel. In pursuit of that goal, I have already written to Soviet President Brehzenev and Soviet Ambassador Dobrynin demanding that they end this gross inhumanity toward an innocent woman who seeks only to join her family in Israel. The Soviet leaders know well their actions are in direct violation of the human rights provisions of the Helsinki accords, to which President Brezhnev himself agreed with so much ceremony in 1975. What a mockery the Soviets make of their treaty obligations in their treatment of Ida Nudel.

I have also written to our new Secretary of State, the Honorable George P. Shultz, asking him to give his personal attention to special efforts on behalf of Ida Nudel. I can think of no worthier cause, nor one more deserving of the personal involvement of the highest American officials. Certainly, if we cannot trust the Soviet leaders to respect the Helsinki accords, how can we expect them to respect any international obligation to which they might agree?

Even further, Mr. Speaker, I urge every one of my colleagues in the U.S. House of Representatives to become involved in Ida Nudel's case. Add your letters of protest to mine. Write to President Brezhnev and Ambassador Dobrynin demanding that Ida Nudel be given the right she has under the Helsinki accords to immigrate to Israel to join her family. The more Members of Congress who join us in fighting for her freedom, the more likely the Soviet Union will grant Ida Nudel the freedom she has sought for so long.

The time to act is now.●

GENERAL LEAVE

Mrs. HECKLER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Massachusetts?

There was no objection.

IDA NUDEL—PRISONER OF CONSCIENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut (Mrs. KENNELLY) is recognized for 60 minutes.

GENERAL LEAVE

Mrs. KENNELLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subjects of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Connecticut?

There was no objection.

Mrs. KENNELLY. Mr. Speaker, I have requested this special order to demonstrate the strong support of Ida Nudel that continues to exist in this body. Her story is one of great personal courage and heroism, and this special order is part of the international day of activity on behalf of Ida Nudel and her 11-year struggle to immigrate to Israel.

I first became familiar with Ida Nudel when I was secretary of state of Connecticut. I was working in my office one afternoon when I was invited to a meeting of Soviet Jewry in the State capitol. I went upstairs that day and saw a movie that had recently been smuggled out of Russia. This movie told the story of a woman who, for many years, from 1971 to 1978, had asked the Russian Government to let her go to Israel. She could not get permission, she could not get an exit visa. But she continued to help those, even if it was not the same goal that she had, to go to Israel, to help those who wanted to emigrate out of Russia. Even those who were in prison, she took food to them, she helped them, and she became known as the guardian angel of refuseniks in Russia.

Then the story got much more serious on June 21, 1978. It was an International Day of Children, and those activists of Jewish faith decided that they would demonstrate a little more fully. They were going to be so brave as to put banners out their window. And Ida put a banner out her window, just saying a few things that were hardly controversial. There were people who pulled the banner down. And then Ida decided that she had a 50-50 chance and that she could say what she wanted to say, and that was "KGB, give me my visa." She put that on her banner, and she lost. Ida was in jail for 120 days before they even brought her to trial. After her trial she was sent to Siberia. She was made to live with 60 convicts, 60 men. She slept with an ax under her mattress. Eventually she got a small hut to live in. There was no light, there was no water. The only thing that kept her sanity was her dog named Pizer, which she has, hopefully, as far as we know, to this day.

Four years took a long time to pass, but she remained strong. Ida is a woman who is an economist. She is known in Russia as an intelligentsia. But she worked as a cleaning woman in Siberia. She had very few friends, but she did not lose her faith.

Then last March we heard that Ida Nudel had been released, that she was allowed to leave Siberia, and she hoped that she could go home. Some of her friends had kept her apartment in Russia. She returned there, but she found out that she could not get a residence and that she was not allowed to live in Moscow, and the apartment was gone. She moved on, and during this time she talked to her sister, Elena Fridman, who was in Israel, and she said, "Don't be too optimistic, I don't think it looks too good."

She went to Riga, and she could not get a residency there either. As has been said on this floor tonight, she came to the point where she was sleeping in the railroad station. I say to you as a woman who has also worn an Ida Nudel bracelet for the last 2 years, and I say to you as someone, when I heard she was let go from Siberia and I was thinking of taking the bracelet off, I thought, "No, this isn't going to be so easy, Ida is not going to be allowed to go to Israel without working harder," and I kept the bracelet on but, hopefully, thought that it would only be for a couple of more months. And yet we see this poor woman, still refused an exit visa so she can go to Israel.

I say to the Russian officials: What can this woman do to you now? She is 51 years old. She has got kidney trouble, she has got heart trouble, she cannot harm you.

So today I join with my colleagues on this floor and I say in honor and respect for Ida Nudel, "You have been strong." But how much longer can we expect her to remain that strong? So I urge anyone who can help to listen, to continue the letters, the telegrams, especially the prayers. But I say if anyone is listening who has any clout in Russia: Let this woman go to Israel.

Mr. FRANK. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, today I join my colleagues in this special order to express our support and solidarity with Ida Nudel, and I congratulate the gentlewoman from Connecticut for first initiating a special order on her behalf. Ida Nudel is a brave woman who has endured the unrelenting harassment of the Soviet Government. Ida Nudel is a woman who instills a deep sense of commitment to those involved in the Soviet Jewry movement. As one individual, with no immediate family in the Soviet Union, Ida Nudel has persisted in her efforts to stand up to Soviet authorities in pursuit of one noble goal; the right to emigrate and to be reunited with her sister in Israel.

Ida Nudel has encountered the most harsh brutalities which the Soviets inflict on those individuals who express a desire to pursue their intellectual, religious, and cultural interests. Ida Nudel has endured slanderous articles in the Soviet press, internal exile, and imprisonment with common criminals. Yet Ida Nudel will not yield to the threats and acts of intimidation of the Soviet authorities who steadfastly refuse her application to leave the Soviet Union.

Not only does Ida Nudel's persistence provide us with inspiration—the kind of inspiration which has brought all of us here today united in our determination to free her—but Ida Nudel's compassion and dedication to her fellow refuseniks has been a great source of strength to the other refuseniks in the Soviet Union as well. A woman of Ida Nudel's stature, a woman who has expended so much of her own physical and emotional energy in the pursuit of freedom, will not be forgotten.

After 4 years of internal exile resulting from a trumped up charge of "malicious hooliganism," the Soviet authorities have yet again expressed their determination to hold Ida Nudel as a hostage, a symbol of their inability to respect internationally recognized human rights standards as embodied in the Helsinki Accords. Ida Nudel has now been denied permission to return to her home in Moscow or to take up residence in the city of Riga. The Soviet campaign to break the will of Ida Nudel continues.

Mr. Speaker, today I call on the Soviet authorities to heed public opinion in this country which demands the release of Ida Nudel. Her release will send a signal to the people of the United States that the Soviet Union is truly interested in seeking an improvement in relations between our nations. Further, the time has come for President Reagan to reaffirm the American commitment to securing the right to emigrate for Ida Nudel and the thousands of other Jewish refuseniks who have been refused exit visas by the Soviet Government. Those of us in the Congress who are committed to Soviet Jewry mark this as an important day,

because our commitment to this woman and to Soviet Jewry is unyielding. We will continue to fight for Ida Nudel's right to emigrate so she can live her life in freedom in Israel.

Ms. FERRARO. Mr. Speaker, will the gentlewoman yield?

Mrs. KENNELLY. I yield to the gentlewoman from New York.

Ms. FERRARO. Mr. Speaker, I first of all want to congratulate our colleague, the gentlewoman from Connecticut, for her initiative in taking this special order. I must say that I was very taken by her very eloquent review of the facts concerning Ida Nudel's imprisonment. I had not heard them all, and I thought I had heard just about everything with reference to this poor woman's life. I guess the two of us have a great deal of empathy with Ida Nudel, a woman who is at the point of life where her freedom is taken away, and here we are, standing on the floor of the House of Representatives, with our own freedom and the ability to speak up.

Mr. Speaker, we rejoiced last April when we heard the news that Ida Nudel was free after 4 years of exile and hard labor in Siberia.

That freedom we hailed then has proved to be short lived. Ida Nudel, an economist whose only crime has been her desire to join her sister in Israel, is being forced to wander like a hobo as Soviet city after city has closed its doors to her.

Caught in the clutches of a malicious bureaucracy, whose only aim seems to be to harass her, Ida Nudel has already been refused permission to live in Moscow, her home, in Riga and in several smaller towns near the Latvian capital.

Ida Nudel is a woman without a country in her native land. At the same time, Soviet authorities refuse to grant her permission to emigrate to Israel despite her 11-year quest.

We speak here today in hopes that our voices and our outrage, mingled with that of other Americans of good will, can persuade the Soviets to desist from their senseless policies of harassment and bureaucratic persecution of their own citizens.

The story of Ida Nudel is the story of government gone out of control. It is today, at a commemoration such as this, that we point to the problem and as the Soviet Union: Please take a close look at the plight of this woman and release her.

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Mr. Speaker, again I want to commend our colleague from Connecticut for her outstanding work in this particular matter.

Mrs. KENNELLY. I thank the gentlewoman from New York.

It is time obviously from the remarks, Mr. Speaker, that we have heard on this floor that there is a consensus that Ida Nudel should be allowed to join with her sister in Israel. While this day will pass, this day of saying that we must release and help Ida Nudel to go to Israel, I just want to assure Soviet officials that our commitment in securing Ida's release from the Soviet Union will not diminish. We are going to continue to speak out on the right to be heard until Ida gets to Israel.

● Mr. SCHUMER. Mr. Speaker, today, a feeble, middle-aged woman is wandering homeless in the Soviet Union for the "crime" of requesting her right to emigrate to Israel, as guaranteed under the Helsinki accords. Since her release from Siberian exile in the spring, Ida Nudel has been denied the official permit needed to live in her hometown, Moscow, and in the city of Riga. Under Soviet law, a person cannot stay in a city for more than 48 hours without a residency permit. Thus, the Soviet authorities have placed Ida Nudel in a "bureaucratic maze" designed, in the words of her sister, "to strangle her hope and spirit."

The Soviet authorities have made Ida Nudel a refugee, fleeing the absurd regulations of a totalitarian legal system. Whatever the twisted motives of the officials who have initiated this latest round of the battle to crush Ida Nudel, they have insured the continuation of international protest against Soviet violations of basic human rights. The treatment of Ida Nudel reveals the entire range of Soviet tactics employed against Jews who assert their religious and cultural identity. But the mistreatment of Ida Nudel also reveals the undefeatable spirit of Soviet Jewry, which will continue to struggle for the rights outlined in the Helsinki accords no matter what cruel methods are employed against them.

Somewhere within the Soviet bureaucracy, an individual issued the orders which have made Ida Nudel a refugee. Further along the chain of command, many have knowingly lied about this episode. But we do not know the individuals involved in this specific incident, so we are forced to place the blame on the entire Soviet regime, and our relations with the Soviet Union must be conducted with their guilt in mind. If the Soviets truly desire better relations with the United States and other countries around the world, they must cease the persecution of Ida Nudel.●

● Mr. LEHMAN. Mr. Speaker, the name of Ida Nudel is a watchword for courage, fortitude, and faith. Known as the Guardian Angel of the Prisoners of Conscience, Ida Nudel has risked her own life to help others refused the freedom which is now eluding her to emigrate from the Soviet Union to Israel.

Her selfless devotion to the task of providing hope and comfort to fellow refuseniks was repaid by the Soviet authorities in the form of 4 long years of suffering in Siberian exile.

Now that her years in internal exile have ended, she is now denied a permit to return to her home in Moscow, and has even been forced to sleep in a train station. Not even exile is enough punishment to satisfy her Soviet tormentors. While she suffers this ordeal, we must attempt to live up to the standards she has demonstrated, and do what we can for Ida Nudel.

For 11 years, Ida Nudel has wanted to join her family in Israel. Surely, now is the time to finally grant her that liberty and allow her to be reunited with her husband and sister in Israel. I ask you to join me in calling upon the Soviets to give her that long-awaited visa to freedom.●

● Mr. SHANNON. Mr. Speaker, this past January I visited the Soviet Union. I met with many refuseniks and was appalled by the constant fears with which they live: Relentless harassment, the ever-present threat of arrest, and the continuing attempts to deny their human dignity. They suffer immense hardships and perpetual repression, their crime being their quest for religious freedom and the right to emigrate.

The Soviet Union has guaranteed these and other fundamental rights by signing both the United Nations Declaration of Human Rights and the Helsinki accords. Yet, the Soviet Union has clearly failed to abide by their oath to uphold these principles.

In particular I would like to call attention to the plight of a remarkable woman, Ida Nudel. This brave woman has been referred to as a "superhuman angel" by former fellow prisoners of the Siberian exile camps. She has tirelessly striven to help others around her, whether it be by obtaining and providing blankets and medicine to the needy, or by bouying the hopes of the spiritually exhausted.

Ever since she first applied for emigration in 1971, she has been arrested and rearrested. She has been starved, beaten and treated for alcoholism when she suffered from a heart condition. After spending 4 years in internal exile in Siberia she was released in March and is once again trying to obtain an emigration visa to join her only close relative, a sister who lives in Israel.

We must support the cause of Ida Nudel and the thousands and thousands like her who seek only to lead lives of simple dignity. We must urge the Soviet Union to reevaluate its policies and allow Ida Nudel the freedom of living without harassment or abuse.●

● Mr. DOWNEY. Mr. Speaker, on this International Day of Solidarity in sup-

port of Soviet "Prisoner of Conscience" Ida Nudel, I would like to lend my voice to those of my colleagues participating in this special order on her behalf.

The plight of Ida Nudel is, no doubt, familiar to my colleagues. Through the efforts of concerned individuals and groups, Ida Nudel's struggle has become familiar to many. Letters have been sent to Soviet officials, speeches delivered, and resolutions passed on behalf of Ida Nudel and many other Soviet "Prisoners of Conscience" seeking the right to emigrate to Israel. This great effort, then was certainly to be congratulated when the news reached us in March of Ida Nudel's release from Siberian exile and her return to Moscow.

The joy, however, was shortlived. Despite application to the Moscow City Council to renew her residency permit, Ida Nudel's application was denied. Her next attempt to overcome this bureaucratic harassment was application for residency in the Riga area, where Ms. Nudel has friends. This also was denied. What for many Soviets is a simple procedure has become for Ida Nudel a continuation of her sentence by Soviet authorities. Arrest is likely if she remains in Riga. Ida Nudel's flight appears to have no end.

Our efforts have accomplished a great deal, as Ida Nudel's release points out. But we must not stop short of our goal of freedom for this brave woman. Soviet officials must know that we are aware of the difference between appeasement and justice. Ida Nudel's struggle continues as long as she is denied the right to emigrate to Israel and is at the mercy of Soviet officials. We must send the Soviets the message that we remain vigilant in our concern for Ida Nudel. I ask my colleagues to join me in reaffirming our commitment to total freedom for Ida Nudel; a freedom defined as nothing short of her right to emigrate to Israel.●

● Mr. PEYSER. Mr. Speaker, for over 11 years Ida Nudel has been one of the leaders in the Soviet Jewry movement in the Soviet Union. Ida, affectionately known as the "Guardian Angel" for her activities on behalf of Soviet Jewish Prisoners of Conscience, was charged and convicted in June 1978 of "malicious hooliganism" and sentenced to 4 years of internal exile.

Experiencing antisemitism in her job as an economist and in her life, Ms. Nudel applied to Soviet officials for permission to emigrate to Israel. Since 1971 her repeated requests for this visa have been denied. Disturbed by her persistent efforts to obtain this visa and to keep up to the morale of those forced in labor camps, the KGB constantly subjected Ida Nudel to harassment and intimidation. Gradually, this persecution took its toll and on June 1, 1978, she found that she was under house arrest. In protest, Ida hung a banner outside her Moscow flat that read, "KGB, give me my visa." The next day she was charged with "malicious hooliganism" and within 3 weeks she was convicted.

By banishing Ida Nudel to the dreadful quarters she occupied in Siberia, Soviet authorities assumed they were silencing this voice of justice. They were mistaken. From her forsaken village of exile, Ida wrote:

I am fortunate that I myself add not only one page to the history of Jewish resistance in Russia. I am fortunate that my efforts permitted thousands of Jews to leave this barbarous country. I am fortunate that during all these years I was helping prisoners of Zion, those who were chosen to cut the way to Israel by the price of their own freedom. But if our suffering will not force every one of you to rush to help us, then it is in vain.

Today, Ida Nudel needs our help. Even though she has been released from internal exile in March, she is still trying to emigrate to Israel to live with her sister, Elena Fridman, her only close relative. I recently received a letter from Elena in which she stated that:

Ida's release from Siberian exile and her return to her Moscow apartment sparked hope and anticipation in my heart * * * instead, it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

Ida Nudel has been denied residency permits to live in Moscow and Riga and is now without a home.

We, as Members of Congress, must continue to actively fight for her freedom to emigrate and to practice her religion. The Soviet Union's oppressive tactics should never be tolerated by free-thinking people around the world. I therefore commend my colleagues for joining together in this special order.●

● Mr. COELHO. Mr. Speaker, it is always a privilege to honor individuals who have made outstanding contributions to their specific fields. Today it is my great pleasure to honor a man who has accomplished a great deal in many fields. Dean S. Lesher is a man of energy, expertise, and life-long commitment. I rise before you today to honor Mr. Lesher for his contributions to the fields of education, law, business, health care, and communication, but especially for his outstanding service to the community of Merced, Calif.

Dean Lesher received a J.D. from Harvard Law School in 1926 and went to Kansas City, Mo., where he practiced 14 years as a trial, insurance, and corporate lawyer. While representing various newspaper interests, Mr. Lesher became interested in the industry and was lured into purchasing a daily newspaper in Nebraska. The field of communication apparently agreed with Mr. Lesher, for he went on to purchase a daily paper in California and eventually acquired five more daily newspapers, one multiweekly, 11 weeklies, and also AM and FM radio stations in Idaho. Today I rise in commendation of Dean Lesher, in anticipation of a July 30 honorary dinner in Merced where Mr. Lesher will be recognized for 42 years of continuous publication of the daily Merced Sun-Star, and for the contributions his newspaper and his community involvement have made to Merced.

Besides keeping the people of Merced informed, Mr. Lesher's contributions have come in the form of unequivocal public service. He serves on the board of directors of Suburban Newspapers of America, the Concord Century Club, the Better Business Bureau, and other worthwhile groups. Among the many honors and awards which Mr. Lesher has received are 1979 Business Person of the Year, California Press Association Publisher of the Year in 1977, and Mountain Diablo Boy Scout Council 1981 Distinguished Citizen of the Year.

In addition to his ongoing dedication to publishing quality newspapers, as is evidenced by his numerous awards including one for the Best Daily Newspaper in California in 1980, Mr. Lesher has shown a life-long commitment to education. He has served an 8-year term as trustee of the California State University and Colleges System, and on the Board of Governors of California Community Colleges. Mr. Lesher has also used his talents and resources in service to the health care field, as he has been a steady annual contributor to area hospitals and is currently serving on the John Muir Hospital Foundation Board of Directors.

Dean S. Lesher personifies competence, selflessness, and dedication. He is a symbol of the commitment of those people all across our Nation who give of themselves and continue to give, in generous devotion to the spirit of public service. I commend Dean for his contributions and accomplishments, and wish him well as he embarks on another year of service to the community of Merced and the people of our country.●

● Mrs. SCHROEDER. Mr. Speaker, today I join my colleagues to demonstrate my support for Ida Nudel's struggle to leave the Soviet Union and emigrate to Israel.

Ida Nudel is an extraordinary person. Sentenced to 4 years of internal exile because of a banner she hung from her apartment window which read, "KGB, Give Me a Visa to Israel," Ida Nudel was placed in a prison punishment cell where the Soviets attempted to strip her of her dignity. Remarkably, she has risen above this inhumanity to shine as a brilliant ray of hope, stirring the emotions in all of us who cherish liberty and freedom.

Ida Nudel remains a proud human being and a proud Jew. She must be allowed to emigrate and live with her family in Israel.

I urge the Soviet Union to grant this true champion of liberty an exit visa. She has completed a 4-year exile term in a Siberian wasteland for "malicious hooliganism." Ida Nudel has suffered enough. Our support for her must remain as unwavering as her quest for freedom. I want an exit visa for Ida Nudel now.●

● Mr. WIRTH. Mr. Speaker, I rise today to join with my colleagues in the House and concerned citizens around the world to urge Soviet authorities to free Ida Nudel, a woman of great courage and principle, from her 11-year struggle to realize her dream of emigrating to Israel.

Although Ida Nudel has returned from her 4-year exile in Siberia, the Soviet Union continues to harass and intimidate her in hopes that she will surrender her tireless campaign for the rights of Soviet Jews. They have denied her legal residence in Moscow and Riga, and she remains homeless, but still committed to securing a visa to join her family in Israel.

For 11 years, Ida Nudel has not only spoken out for her own rights and freedoms, but has fought on behalf of others who share her plight. Through her caring and compassion for her fellow Prisoners of Conscience, she has gained the honorable title of "Guardian Angel," and serves as an inspiration to others who fight for the freedom to practice their religion without persecution.

On this day, we must not only commemorate Ida Nudel's selfless battle on behalf of the Prisoners of Conscience, but continue to call attention to her ordeal and demand that she be freed and allowed to join her sister in Israel. Ida Nudel has become a symbol for us—a symbol of the human rights that we cherish and uphold and that the Soviet Union has so brutally violated.●

● Mr. BONKER. Mr. Speaker, I am happy to join my distinguished colleagues, Representatives FRANK, KENNELLY, COYNE, FERRARO, HECKLER, and GREEN as we participate in this day of international solidarity with Ida Nudel.

This is not the first time we are speaking for Ida Nudel. When she was sent to internal exile in Siberia many of our distinguished colleagues sent letters of protest on her behalf. When she was released from Siberia, again letters were sent to the Soviet authorities asking that she be allowed to immigrate to Israel. Her continuous brave struggle to exercise her basic right to emigrate is an inspiration to the thousands of Soviet refuseniks who have been consistently thwarted in their efforts to join family and friends outside the Soviet Union. Because of her activities on behalf of the exiled and imprisoned within the U.S.S.R. Ida Nudel is a symbol of hope for those who are silenced and those who are persecuted.

I would once again urge the Soviet authorities to honor their international treaty obligations—specifically the Universal Declaration on Human Rights and the Helsinki Final Act—and allow Ida Nudel to immigrate to Israel to join her family.●

● Mr. MINISH. Mr. Speaker, I regret that this special order is necessary today. However, I am honored to join my other colleagues on this day of international solidarity dedicated to Ida Nudel.

As many of us are already aware, Ida Nudel is a Soviet citizen who has been waging an 11-year struggle to emigrate to Israel. She has already survived the harshness of internal exile in Siberia and she was released from that exile last March. With that ordeal over, the world thought that perhaps now she might be able to move to her beloved Israel. Unfortunately, Ida Nudel's dream to live a peaceful life has not been fulfilled and she is now experiencing new problems.

Ms. Nudel was recently denied her "propiska," a residency permit to live in Moscow and has since also been refused residency in Riga. Based upon the most recent information I have received, Ida Nudel's future residency is indeed unclear.

It is my fervent belief that the unjust treatment of Ida Nudel should cease and she should be allowed to emigrate to Israel. Her emigration to Israel seems particularly appropriate if cities in the Soviet Union are denying her a resident visa.

Mr. Speaker, Ida Nudel's story is one of courage and conviction and I hope that the world continues to keep her story alive until her dream to emigrate to Israel is realized.●

● Mr. FASCELL. Mr. Speaker, known as the "Angel of Mercy" for her ministrations to Soviet Jewish political prisoners, Ida Nudel has been trying to emigrate to Israel since May 1971. Ida's employment as an accountant in the Moscow Institute of Hydrology—she was dismissed in January 1972—gave her no cause to think she would be refused emigration permission. Shortly after losing her job, however, Ida was informed by the Soviets that her exit visa was denied because of access to "secrets"—still a favorite Soviet pretext for emigration refusals, as seen on July 9, 1982, in the cases of hunger strikers, Yuri Balovlenkov and Sergei Petrov.

Faced with obstinate and arbitrary refusals by the Soviets of her emigration applications, Ida became involved in charity work which earned her the title, "Angel of Mercy." Defeating the cruel and arbitrary world of Soviet labor camps, Ida Nudel visited and wrote letters to Jewish Prisoners of Conscience; she sent them parcels of food, medicine, and books; and she acted as their advocate with camp and Moscow officials. Ida also informed the West about Soviet prison camp abuses and the plight of various political prisoners. Recent Soviet efforts to isolate—even from relatives—particularly active Prisoners of Conscience, such as Anatoly Marchenko or Mykola Matusevich, reveal how the Soviet system is stung by Western awareness of Soviet prison camp brutalities.

After 7 years of waiting for an exit visa, in June 1978, Ida Nudel decided to publicly protest her arbitrary treatment: She hung a sign from her balcony calling on the Soviet authorities to let her go to her family in Israel. In reprisal, on June 21, 1978, a Soviet court sentenced Ida Nudel to 4 years of Siberian exile for "malicious hooliganism." But even that 4-year term of isolation, hardship, and illness imposed by the Soviet regime was not enough reprisal against Ida for her persistent defense of her own rights and those of others: recently, Ida Nudel was told she has 48 hours to leave Moscow where she is denied official permission to live. Nevertheless, Ida Nudel persists in trying to emigrate and to help others.

In closing my tribute to this brave and kind woman, I would like to quote from one of Ida Nudel's letters from exile. Typically, she focuses not on her own plight, but examines the hope represented for all Soviet citizens by the emergence and continuation of the Jewish emigration movement:

> Through our suffering we have been able to push the gates of the U.S.S.R. just slightly ajar. Through the tiny opening we have made in the Iron Curtain, Jews manage to get out of the U.S.S.R. This in fact is our one solace through our ordeal. But the opening is small and vulnerable, and we implore all of you in the free world to keep a close watch on the opening and not to allow the gates to be slammed shut again.●

● Mr. DWYER. Mr. Speaker, I take part in this dialog today with feelings of mixed emotion. In March of this year, this body had a World Protest Day on behalf of Ida Nudel, which I was pleased to join. At that time Ms. Nudel was very close to completing a 4-year sentence of internal exile in Siberia. It was the hope of many of us that once this ordeal was over for her, the Soviet authorities would finally grant her a visa to emigrate to Israel to join her husband and sister. Unfortunately, this has not been the case.

There is a great sense of frustration and anger over what is now happening to Ida Nudel. True, she has ended her internal exile—at least her official internal exile. She is now being tested with an even more difficult cross. She is unable to obtain a residency permit since her release from Siberia. She had returned to Moscow and sought residency but it was denied. She next

traveled to Riga and applied there. This, too, has been denied her.

If the Soviet Union seeks to break her spirit by this latest form of harassment, I am sure they will fail. However, we must continue to call attention to her plight and use every available means to persuade the Soviet Union to cease its persecution against this woman. We must meet her resolve. We can do no less.●

● Mr. BARNES. Mr. Speaker, 4 months ago, we heard that the famed Soviet refusenik, Ida Nudel, had been released from imprisonment in Siberia and flown to Moscow. At the time, some of us hoped that, at long last, the Soviet Government would allow her to leave the U.S.S.R. We hoped that her freedom was imminent. We expected, at the very least, that she would be permitted to live in her own home in Moscow.

But the Soviet Government has not even allowed her that much—it continues and intensifies its deliberate pattern of arbitrary harassment. When she was refused permission to live in Moscow, Ida went to Riga, but was refused a residency permit there also; although she owns her own home in Moscow, Ida was forced to sleep on a train station bench.

With no place to go, Ida now exists, in her own homeland, a person without a country. For over a decade she has asked simply to be able to join her sister in Israel. By repeatedly denying her legitimate request, the Soviet Government has outraged the free world. After all these years, after serving her Siberian prison term, after being harassed and ostracized, Ida still endures and will not give up the fight. And, in fact, the Soviet Government has succeeded, not in breaking her down, but in making her the courageous "Guardian Angel" she is. We feel for her and the many, many refuseniks we do not know. And we are here again to say that this situation is intolerable.

Ida Nudel has paid her dues, and much, much more. The Soviet authorities, for all their empty justifications, cannot hide behind anything—what they are doing to Ida Nudel is wrong. We have said so before and will say so again and again and again. No matter how powerful the U.S.S.R. would hope to become, it will always be weak for the quiet dissension of its people. It will always be covering up the cries of those who long for freedom, and wrongfully punishing those who will not be silent. And these refuseniks, who have long endured the shameful treatment of their Government, will ultimately be vindicated.

Ida, we are with you all the way. You have continued the fight. We will too.●

● Mr. FORD of Michigan. Mr. Speaker, I wish to join with my colleagues in requesting that the Soviet authorities allow Ida Nudel to obtain an exit visa so she may leave the Soviet Union and be reunited with her only living relative, her sister Elena, who lives in Holon, Israel. Ida Nudel, our Guardian Angel, has been in the minds and prayers of so many of us during her past 4 years of unjust exile in Siberia.

Ida is a strong-willed woman of great devotion, courage, and conscience. In 1970, she applied for an exit visa to Israel. The Soviets refused to permit her emigration, even though she fulfilled all the requirements for an exit visa. They absurdly claimed she could not leave the country because she knew "government secrets." Ida had to wait 7 years before she could reapply. In 1977, she reapplied. The Soviets, again, refused her an exit visa, neglecting the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Final Act of the Conference on Security and Cooperation in Europe at Helsinki, and the Constitution of the Union of Soviet Socialist Republics. At this point, Ida Nudel was sentenced to 4 years of exile in Siberia, without even being allowed representation or witnesses at her trial. Furthermore, her crime was hanging out her window a simple banner which read, "KGB, give me my visa to Israel."

Mr. Speaker, Ida Nudel's basic human rights need to be respected. Although Ida Nudel has finally been released from exile, we must continue our efforts to assist her and her sister in their struggle to be reunited. I appeal to the conscience and humanity of Soviet Premier Brezhnev, to allow Ida Nudel to emigrate to Israel as quickly as arrangements can be completed.●

● Mr. ROSENTHAL. Mr. Speaker, I join my colleagues on this day of international solidarity with Ida Nudel to express my outrage over the Soviet Union's continual harrassment visited upon her and all other Prisoners of Conscience in the U.S.S.R.

This courageous woman has struggled for over 11 years to gain the freedom to emigrate to Israel. Four of those years were spent in forced internal exile under the harshest of conditions. When she was finally released in March of this year, Ida Nudel had hoped to return to her native Moscow. Her residence permit request was denied. Instead she moved on to Riga and once again went through the process of requesting residency status. She has now been told by the Riga authorities that she cannot settle there either. In fact, her applications to several smaller towns in the Riga area were all refused.

Ida Nudel has been forced to flee from Moscow. Now she must also flee Riga or be subject to arrest. How many more places will she travel to, only to be turned away again and again? If the Soviet authorities will not permit her to settle anywhere within the Soviet Union, and they refuse to allow her to leave, what alternatives are left for this woman? She has been harrassed, abused, slandered, sexually assaulted, broken spiritually, mentally, and physically. How much more must she be forced to accept for the simple desire to join her family in Israel?

What is usually a routine request for residency in other cases has turned into a Kafkaesque nightmare for Ida Nudel. If it is the intention of the Soviet Government to wear down those of us who have supported Ida Nudel's hopes, it cannot work, for we will not lose hope, we will not forget her struggle, and we will continue to fight for her rights until they are granted.●

● Mr. GARCIA. Mr. Speaker, the Natinal Conference on Soviet Jewry has coordinated today as being the international day of activity for Ida Nudel. I find that today is an important day to demonstrate our Nation's concern for an individual who has shown unyielding strength through unnecessary harassments, imprisonment and punishment by the Soviet Government.

It is particularly distressing to hear that even after her completion of her 4-year term in a Siberian wasteland, she continues to be harassed. In addition to this mistreatment, she has been refused permission to reside with her friends in Moscow, Riga, and in surrounding cities. She has been frequently forced to remain homeless, and in times, she has had to spend nights in train stations and in deserted areas.

To further worsen the situation, Ida Nudel is presently suffering from ulcers, kidney, and heart trouble, and has been denied access to the Tomsk University Hospital for extensive diagnosis and treatment.

Perhaps the most disgraceful part of the Soviet's treatment of Ida Nudel is that they do not seem to care or even slightly comply to the hundreds of letters from people and governments around the world. I find it distressing and sickening that the Soviet Government continues to punish a woman whose one goal is to reach her sister in Israel.

Although Ida Nudel's strength seems immeasurable, her strength can not last forever. The Soviet Government's attitude must change or else this disgrace will only lead to a worsening of Soviet's relations with other country's around the world.

Ida Nudel we will never forget you.●

● Mr. BIAGGI. Mr. Speaker, I rise to join my colleagues in once again calling on the Soviet Union to allow former Soviet Jewish Prisoner of Conscience Ida Nudel to emigrate to Israel. In addition, I wish to strongly protest the way Ida Nudel has been relentlessly harassed by Soviet authori-

ties since her release from 4 years of internal exile in March 1982.

Over 10 years ago Ida Nudel applied to emigrate from the Soviet Union to Israel with her sister, whose exit visa was approved. Ida was not so fortunate; her request was denied on the grounds that since she was an economist, she knew too many "state secrets."

A woman of very strong convictions, Ida Nudel would not allow her spirit to be dulled by Soviet injustice. After being denied her exit visa, Ida Nudel began the series of "crimes" that led to her Siberian exile. She began caring for those other terribly unfortunate Soviet Jews who had requested to emigrate only to be denied and later imprisoned for simply being true to their Jewish faith.

For 7 years Ida Nudel cared for her fellow Soviet Jews, and she became known as the Angel of the Prisoners of Conscience. Finally, after being constantly harassed for her work and her deep commitment to the right to basic human rights, she hung a banner outside her apartment window that read "KGB give me my visa."

She was arrested and after a token trial, she was sentenced to 4 years in internal exile for "malicious hooliganism." She was released in March of this year, but Soviet justice has not fully been served.

Instead, the Soviet Government has refused granting her to permit that is required for any Soviet citizen to establish a residence. As a result, Ida Nudel has been forced to wander from one Soviet town to the next, only to be denied a residency permit wherever she goes.

Although not surprising, the Soviet treatment of Ida Nudel is intolerable.

Earlier this year, I joined a number of my colleagues in cosponsoring a resolution that calls on the Soviet Union to approve Ida Nudel's emigration visa and allow her to go to Israel, where her sister and only close relative resides. In addition, this resolution (H. Con. Res. 330) informs the Soviet Government that their relations with the United States will depend in part on their human rights record.

Finally, it must be emphasized that Ida Nudel's experience is becoming far too commonplace in the Soviet Union. I am deeply saddened to report that the latest figures released by the Greater New York Conference on Soviet Jewry show that only 182 Soviet Jews were granted exit visas during the month of June, compared to the nearly 500,000 Jews who have applied for emigration.

To show what a dramatic decline in Soviet Jewish emigration these numbers represent, we must only compare 1982 figures with 1979. For the first 6 months of 1979, 24,794 exit visas were approved; for the first 6 months of 1982, only 1,537 exit visas were approved.

To make matters worse, this decline in emigration has also been coupled with a tremendous increase in Soviet anti-Semitism, directed especially at Soviet Jewish activists.

Mr. Speaker, the plight of Ida Nudel has been a tragic one. Yet she is not defeated. She continues to remain strong in spirit, and her life continues to inspire other Soviet Jews who are facing similar harsh treatment. Her life should also inspire us to do everything at our disposal to insure basic freedoms for Soviet Jews and oppressed people everywhere.●

● Mr. WAXMAN. Mr. Speaker, I rise today to voice my concern for a remarkable woman and dear personal friend, Ida Nudel. While it has been over 11 years since Ida Nudel made her first request for an exit visa to leave the Soviet Union, now is a particularly important time for all freedom loving people to express their solidarity with her brave and courageous efforts to advance the cause of human liberty. Following her release from a 4-year harsh and bitter exile in a remote area of Siberia, Nudel sought, in March, to return to her native Moscow. In June, she was denied this permission and was forced to leave. Settling in Riga, she once again sought a permit for permanent residence. Recently, though, this request was also turned down. The 52-year-old activist, homeless and harassed, must know that the international community will not tolerate this terrible violation of her human rights.

Ida Nudel was refused permission to leave for Israel on the grounds that she possessed "state secrets." As happens with exit visa applicants, Ida Nudel lost her job as an economist almost immediately. She was then labeled as "an enemy of the Soviet State," a malicious hooligan and a common criminal—all for merely expressing her desire to leave for Israel. Constant harassment, KGB interrogations and harsh attacks in the newspapers did not discourage Ida Nudel in her efforts to help her fellow Jews obtain emigration rights. Providing material and constant support for those seeking to emigrate, Nudel became known as the "Guardian Angel" of the movement. She lent support to Jews in labor camps by sending them reading material, pictures, food, and clothing—for 7 years she pleaded with the Soviet Union to allow her and others to leave.

Ida Nudel married in January 1975. In April of that year, her husband and sister received permission to leave for Israel; Ida Nudel did not. Despite continued harassment and interrogation by Soviet officials, Nudel continued her emotional pleas to the authorities. She never allowed concern about her own plight to inhibit her dangerous activities on behalf of other refusniks.

Finally, on June 1, 1978, in utter desperation, she placed a banner outside her apartment window stating: "KGB, Give Me a Visa to Israel." For the Soviet authorities, this small act of defiance was too much. She was arrested that same day and charged with "malicious hooliganisn." What is seen in America as an everyday example of free speech, is considered a state crime in the Soviet Union. After a trial in which she was allowed no representation, nor any witnesses to testify on her behalf, she began her sentence of 4 years of internal exile.

Ida Nudel's stay in prison was one filled with constant terror and hardship—traumas that have adversely affected her health, but not her spirit. Living in the most primitive barracks, in fear of the male prisoners at night and isolated from people in the nearby village during the day, Nudel somehow remained optimistic that one day she would be allowed to leave. Her problems, however, did not end when she was released from the camp. Soviet authorities have continued testing her resolve by denying her the right to live in the two cities which she has requested, Moscow and Riga.

Those who tortured and continue to harass Ida Nudel and other refuseniks are the same people who signed the Helsinki accords on August 1, 1975. In signing this document, the Soviet Union, pledged to abide by the purposes and principles of the Charter of the United Nations and the Universal Declaration of Human Rights. Nonetheless, the case of Ida Nudel and countless others demonstrate the glaring Soviet disregard for the basic principles of human decency to which they agreed in Helsinki.

The world must not forget Ida Nudel and the movement to which she has dedicated her life. Recent developments in the Soviet Union have confirmed our worst fears—in June 1982, only 182 Jews were allowed to leave. This is the lowest monthly figure since the movement began in the late 1960's and represents a 96-percent drop from the June 1979 numbers.

I know I speak for most Ameicans when I urge the Soviet Union to allow Ida Nudel to emigrate to Israel, to give her back her basic human rights. She is a dynamic, caring woman—our "Guardian Angel"—a spirit whose dedication to justice should serve as a reminder to all of the freedom that many are still denied.

I am very pleased to join my colleagues today in an effort to demonstrate our solidarity with those in the Soviet Union who yearn for even a sliver of the human liberties that we in the United States already enjoy.●

● Mr. RICHMOND. Mr. Speaker, Ida Nudel, the Guardian Angel of the re-

fuseniks in the Soviet Union, is continuing her 11-year struggle to leave the Soviet Union and emigrate to Israel.

On this special day of "International Solidarity with Ida Nudel," I join with my colleagues in bringing this tragic situation of the Soviet Union's continuing harassment of Ida Nudel and other religious activists to the attention of all people.

Once again, it is evident that Ida Nudel's tireless struggle to emigrate is being hindered and that the Soviet Government is trying to strangle her hope and spirit by placing yet another obstacle in her way. Now that she has returned to Moscow from Siberian exile, Ida Nudel finds that she is forced into the bureaucratic maze of the Soviet Union—they have denied her residency permit in Moscow and the neighboring town of Riga. She literally has no place to live in the Soviet Union.

The Soviet Union is clearly disavowing its signing of the Helsinki Final Act, in which it agreed to uphold certain fundamental human rights, among them, the rights to join family members living abroad and to emigrate to a historic homeland. Ida Nudel seeks to join her sister, her only close relative, in Israel.

We need not ask how the Soviet leaders can sign a solemn agreement and not live up to it. We have an obligation to expose their cynical actions to the judgment of world opinion.

Why is the Soviet Government so afraid that it cannot permit this brave woman to leave and join her family and, instead, they continue to hold her hostage in the Soviet Union.

Ida Nudel thinks of the suffering of her fellow prisoners and does whatever she can to help them, no matter what her own problems are with the authorities. She is an outgoing and courageous woman who, despite a heart condition, never ceases in her battle with authorities to emigrate to Israel. Ida Nudel is a woman worthy of our assistance and admiration.

Along with my colleagues, I call upon the Soviet authorities to let Ida Nudel leave the Soviet Union.●

● Mr. HUGHES. Mr. Speaker, Ida Nudel has served as a symbol of the plight of Soviet Jews who would free themselves from the tyranny of the Soviet State. This brave woman has worked vigorously for her own liberty and selflessly to support others who yearn to escape the miserable plight of Soviet Jews. For the past 11 years, Ida Nudel has been deprived of the right to emigrate and, since 1978, has experienced the treatment which the Soviet Government reserves for those who express an independent will. That year, she dared to hang a banner demanding a visa to Israel. For this courageous act, she was sentenced to 4 years of internal exile, a life of isolation and brutality difficult for citizens of the free world to fully comprehend.

Ida Nudel has served her sentence, but she is by no means free. Instead, she has been denied a permanent home, denied a visa, and suffers from continued harassment. Those of us who have followed her case and called for her freedom in the past must now redouble our efforts to gain the freedom of this noble woman.

Unfortunately, Ida Nudel is but one of many thousands of Soviet Jews who have been denied the right to emigrate. In blatant violation of the 1975 Helsinki accords, the Soviet Government prohibits its citizens from expressing their cultural and religious beliefs and refuses them the right to emigrate. In June, a mere 182 Jews were allowed to emigrate to Israel. The rest remained trapped in a barren prison of atheistic Soviet society.

Thus, we, as the leaders of a free nation dedicated to international human rights, must speak out—loudly, clearly, and continually—until the Ida Nudels are given their freedom and Soviet Jews are treated with the dignity which is their God-given right.●

● Mr. ADDABBO. Mr. Speaker, this day of international solidarity with Ida Nudel marks Mrs. Nudel's 11-year struggle to leave the Soviet Union and emigrate to Israel. Sadly, that struggle is far from over.

Mrs. Nudel is only one of thousands of brave political and religious activists who suffer in the Soviet Union because of their strong wills and own personal beliefs. As Mrs. Nudel is in the process of applying for yet another emigration visa to join her sister in Israel, it is imperative that we in the Congress let the Soviet Government know that the denial of such visas and the unjust treatment of these Soviet citizens is unacceptable to the people of the United States.

Unless conditions improve for these Soviet dissidents the further unjust actions of the Soviet Union will have a severe impact on future relations between our two nations.

Decency mandates that Soviet Jews be given the chance to leave Russia and its religious deprivations for the freedom of Israel. We in this country must never relax our demands that the doors be opened for all who seek to immigrate to Israel.●

● Mr. RANGEL. Mr. Speaker, I rise in support of the struggle of Ida Nudel to emigrate from the Soviet Union.

Ida Nudel's case is a prime example of Soviet religious persecution. There is no justifiable reason why the Soviet Union should not grant Ida Nudel permission to emigrate to Israel to be with her sister, who is her only living relative.

The Soviets have made life miserable for Ms. Nudel by denying her a residency permit for the cities of Moscow and Riga. As Soviet citizens are not permitted to remain in major cities for more than 48 hours unless they obtain permission, the Government's refusal to grant such pleas, essentially relegates Ms. Nudel to internal exile. Normally people who wish to stay for longer periods simply register with the authorities. If a citizen wants to live permanently in a city, he or she then applies for a residency permit. But for Ida Nudel, this routine procedure has become a nightmare.

I fully support this brave woman's effort to emigrate in order to be free and follow her religious beliefs.

I urge the Soviet authorities to demonstrate compassion and a willingness to comply with the Helsinki accords which they are signatories to and free Ida Nudel immediately.●

● Mr. BINGHAM. Mr. Speaker, I am pleased to join in today's special order for Ida Nudel. It is important that we remind the Soviet authorities, again and again, that the U.S. Congress will not forget this great woman and that we will not relax our efforts until she is free to leave for Israel.

I find it difficult to understand why the Soviet Union continues in its determination to deny Ida Nudel her right to live in Israel. Is she so important? Is the presence of Ida Nudel in the Soviet Union worth jeopardizing relations between our two countries? Why does the Soviet Government continue its persecution of this woman?

I do not know the answer to these questions. For some reason the Soviet Government has decided to make an example of Ida Nudel. Her continuing persecution must be designed to intimidate the Soviet Jewish emigration movement. Of course, the persecution of Ida Nudel is not having that effect. Ida Nudel continues to be an inspiration for all those people who are struggling for their right to live in Israel. Today, as she is denied residency permits in one city after another, as she grows weaker and more frail, Ida Nudel remains what she always was: the guardian angel of the refusenik movement.

Tragically, Ida's torture seems unending. The latest news from the Soviet Union is that Ida has been denied a residency permit for Riga. This follows denial of a permit for Moscow.

This illegal harassment of Ida Nudel is, of course, designed to break her spirit, if not her body. But Ida is not broken. She is determined to continue her struggle until she wins her right to join her sister in Israel. As Members of the U.S. Congress we join this heroic woman in her struggle. Ida Nudel must be permitted to leave the Soviet Union. Until she is in Tel Aviv we must continue to raise our cries of protest. This illegal persecution must end.

I enclose a short article by Elena Fridman, Ida's sister, which describes this woman of valor, Ida Nudel.

ELENA FRIDMAN: IDA'S SISTER

Ida and I were born in Crimea, Russia. We were the only childen in our family and we were two years apart in age. Our home was not religious, but generally Jewish. Only grandfather was orthodox. Since we lived together with him, and were especially attached to him, we were very influenced by his way of life and it was from him that we absorbed our first Jewish feelings.

When the war against the Germans burst upon us, father was drafted into the army. He was sent to the front, never to return. His death was a terrible blow to us, unbearable to endure. After some time, we took leave of our beloved grandpa and moved to Moscow.

We attended a non-Jewish school in Moscow but suffered no discrimination. After completing high school, we entered the university, Ida in 1949, myself in 1951. Shortly after I started attending the university, mother became very ill and it was clear that one of us had to stay with her. We decided that I should tend mother and that Ida should continue her studies. This was during the period of the anti-Semitic Doctors' Plot accusations, and for the first time in her life Ida was conscious of hostility against her by her fellow students because she was Jewish.

When she completed her studies, she specifically asked to do her three-year compulsory service (required of everyone who attains higher education) in a remote area. She felt that she wanted to contribute as much as possible to the state. This was typical of her character. She was sent to a desolate village in the Ural Mountains near Siberia where she worked under difficult conditions as an economist.

When she returned to Moscow in 1957, she found work in her field, while continuing to study economics and construction engineering in the evenings. Her life was filled with music, theater, poetry, sports and hiking. I always remember Ida with a knapsack on her back.

News of the Six Day War in 1967 had an enormous effect on all of us. It stirred Jewish national feelings in the entire Jewish community. Ida began looking for reading material on Jewish history and on Israel, though this was difficult to find.

In 1970 we heard about the attempted hijack of the plane in Leningrad. We had no information save what we heard and saw on Soviet radio and televison, as we still had no connections with any emigration activists. We began seeking other sources of information and suddenly we learned that some people had received permission to leave the Soviet Union. This represented a revolution for us as we were not emotionally prepared for this. Ida was the first member of the family to start discussing this development, insisting that we must all leave for Israel. She soon made contact with emigration activists and intensified her search for material about Israel, reading everything available. She sensed that she had discovered something that all of us had been lacking—Jewish content in our lives. She contacted a group whose members were studying Hebrew underground, and soon joined them in study. In our apartment, on every wall, on the doors, in the kitchen, she pasted stickers with Hebrew words inscribed on them and whenever she passed them, she studied them. She also urged us to start learning Hebrew at once.

Ida lived close to us, an once when she was with us, our son Ya'akov came in from the street with swollen eyes, blurting out, "I don't want to be a Jew."

"Who told you that you were Jewish?

"The children in the street told me. I asked them, 'How do you know that I'm Jewish.' They said, 'By your eyes.' "

Then Ida said, "That's the end. We have nothing to wait for."

We started looking for ways to leave. My husband Aryeh had a large family in Israel and they sent us the required invitation to come. Ida and I never thought of being separated. In all our applications we wrote that we were together. Actually, we were concerned about Aryeh's right to leave, but we had no worry about Ida since she had been working at production planning and was not involved in secret work.

We submitted applications at the beginning of 1971. Following this, Ida was informed that she would have to appear before a special meeting at her place of work. At the factory where she worked, a large sign was posted indicating that a general meeting was being held "concernig Ida Nudel's application to leave for Israel." It was like a lynching. A large group of people attended, including members of the administrative staff. All sat tensely and quietly, allowing Ida to speak first. She spoke pleasantly, with much emotion and power of persuasion. She pointed out, among other things, that every Jew, no matter what language he speaks, always looks to the East. She added, "I have no complaint against Russia nor the authorities. I was born and educated here. Nevertheless, there is one place where I must be: the State of Israel, the homeland for Jews throughout the world. I am drawn there as by a magnet. I feel that I belong to that piece of land in the East, to the people living there. I don't know what contribution I can still make there, but my place is undoubtedly there."

The reactions to Ida's speech were favorable and most of the listeners were sympathetic. They tried to dissuade her. "Why wreck your life? You have a good position here, a place to live as we all have." But she was not deterred. "I need something entirely different. My place is there together with my Jewish brothers." After the meeting Ida returned home proud of what she had done. She told us, "In the silence prevailing following my talk, I heard someone whisper, 'Excellent, how she spoke!' That gave me courage to stand."

The next day at work, people passed by her and clasped her hand, not only Jews but gentiles as well. That gave her the feeling that she was right, adding strength to her stance. Following the meeting, she was, of course, discharged from her post, the fate suffered by all Jews requesting exit permits. She was unemployed for an entire year. Her application for an exit permit was rejected one month after we had received our permits. Why was she refused? Someone had arbitrarily decided against her and that was it. That occured in April 1972. We were at a loss. How should we react? I couldn't reconcile myself to leaving without her. How could I leave without Ida? We were always together. We held a family conference and she said to us, "You have to leave. You, Elena, have to think of your child, your husband, and yourself. You will all leave together and meanwhile I shall remain here. There must have been some error in my case. Who needs me here?" On Ida's insistence, we made preparations to leave for Israel.

I wept terribly at the airport. I was already bereft of feeling, I could only cry. Ida said, "Why are you weeping? It is I who should be crying." She tried to console me.

Ida remained behind and quite naturally attempted to seek out people in her position. She attended many courses and meetings where she and friends read numerous letters arriving from Israel. In that manner she became acquainted with many families of prisoners of conscience and their problems. She suddenly realized that there were people whose situations were worse than her own. Many were in prison only because of what they did for the Jewish people and they had no one to help them other than their families. When their families left for Israel, they remained alone. From early childhood Ida was accustomed to helping people in trouble and now she saw an opportunity to assist fellow Jews who had helped others and were suffering for it. Ida was among the first, if not the very first, to establish a movement for freeing the prisoners, and to rouse Jews to fight for this cause.

She began to write and encourage. Her first task was to determine the locations of the prisoners and inmates in mental institutions. She contacted prisoners and their families. She had a special gift for gathering information on matters in which she was interested. She received much encouragement from the families. They came to visit her and consult with her, and because she always thought of and helped others, never asking anything for herself, she was highly regarded by all. She wrote thousands of letters of encouragement, never complaining about her own difficulties nor asking for thanks. Ida understood the nature of the people she was writing to, sensed their moods and their personal interests, and found ways of getting information about their physical condition.

It was not only the prisoners whom she helped. She assisted every Jew who expressed his desire to leave for Israel, never judging whether he was a good person or not. She also undertook to explain to people who were reluctant to leave why it was incumbent upon them to emigrate to Israel. People came to seek her advice on how to stand up at meetings and face the government and people. They requested her to visit their families and talk to them about why they ought to leave. She always obliged willingly.

She always said to the men: You must be proud in making your decision to leave. When you see a K.G.B. agent, walk straight, don't cross the street to avoid him. When you go to apply for a visa, look them straight in the eye, don't lower your head, for you have done nothing wrong. You have decided Israel is the place for you. Be proud of this. She was no longer concerned with developments in Russia. Spiritually and emotionally she already felt herself in Israel.

In 1973, during the course of a six-hour interrogation session by the K.G.B., her interrogator said to her, "You may be Esther to the Jews, but that won't help you get out." That was just the beginning.●

● Mr. FAUNTROY. Mr. Speaker, I am pleased once again to join my colleagues in expressing concern over the welfare and liberty of Ida Nudel, a courageous political and religious activist suffering in the Soviet Union.

It has been my privilege to be involved during the last 4 years in Ms. Nudel's 11-year freedom struggle. Most recently, I received a letter from Ms. Nudel's sister, Ms. Elena Fridman, which details the continued oppression of Ms. Nudel in the Soviet Union.

At this point, I would like to submit for the RECORD this letter from Ms. Elena Fridman.

I congratulate my colleagues for the continued vigilence which we have shown with respect to Ms. Nudel's struggle for human rights. We must continue to demonstrate our concern to Soviet authorities on this matter, and I plan to do so.

HOLON, ISRAEL, *June 27, 1982.*

Hon. WALTER E. FAUNTROY,

Congress of the United States, House of Representatives, Washington, D.C.

DEAR CONGRESSMAN FAUNTROY: I am deeply moved and encouraged by your continuing concern and activity on behalf of my sister, Ida Nudel, as most recently expressed in your letter to Ambassador Anatoly Dobrynin dated February 26 co-signed by you and 73 of your colleagues in the U.S. House of Representatives. I also appreciate your comments regarding Ida, as recorded in the Congressional Record of March 2, 1982. If you receive any response from Ambassador Dobrynin you can well appreciate how anxious I will be to have you share it with me.

Ida's release from Siberian exile and her return to her Moscow apartment on March 26 sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead, it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

This time they have evidently decided to throw her into a bureaucratic maze which seems to provide no way out and is obviously designed to strangle her hope and spirit.

Immediately after having received her I.D. card from the police in Moscow, Ida went to the Ovir office to again apply for an exit visa to Israel. There she was told that such appplication could only be received from persons who are resident in the district. Since no address was written into her new I.D. card, she would have to apply for a residence permit. Ida's subsequent application for the reinstatement of her permanent residence status in Moscow has now been turned down. She does not know where she will live if she is indeed forced out of her apartment in Moscow.

Of equal concern is the fact that Ida has expressed her need to enter a hospital for long overdue treatment of her heart condition. This is also impossible because hospital facilities in Moscow are unavailable to nonresidents. During conversations in Moscow, Ida has indicated that what kept her going during her difficult exile were the thousands of letters she received from well-wishers around the world. I believe that continuing the flow of letters now is the most important thing we can do. The only address I can give you is that of her Moscow apartment. I do not know whether letters will actually reach her there, but I believe we must try for as long as this is her only address:

U.S.S.R, Moscow, Yunikh Lenintzev St. No. 79, CPRP. 6, Apt. 28, Nudel Ida.

(Personal Delivery-Acknowledgment of Receipt Requested)

Obviously, I would also be very grateful if you would continue to place pressure on the Soviet authorities so that they might finally relent in this senseless campaign and allow Ida to go.

Sincerely yours,

ELENA FRIDMAN.●

● Mr. FORD of Tennessee. Mr. Speaker, I would like to take this opportunity to express my continued concern and support for Ida Nudel who is trying to obtain a visa to emigrate from the Soviet Union to Israel.

Ida Nudel's case has attained symbolic significance—symbolic of all persons in the Soviet Union who are attempting to exercise their right to emigrate.

For 11 years, Ida Nudel has been struggling to leave the Soviet Union. She wishes only to go to Israel to join her sister, her only close relative. She applied for a visa in 1971 and was denied permission. She has been repeatedly harassed and placed under surveillance by the Soviet authorities. Her only "crime" was that she worked until 1978 aiding Soviet Jewish Prisoners of Conscience by providing them with messages, parcels, and a feeling that someone cared.

In 1978, Ida Nudel was arrested and sentenced to internal exile in Siberia for hanging a sign from her balcony which said, "KGB, give me my visa." She was released from exile in March of this year, and is currently in the process of applying for an emigration visa once again. She has even been denied the right to live in the apartment she formerly occupied in Moscow, and as a result, spends many nights wandering the streets with no place to go.

I would like to urge my colleagues to join with me in support of this brave woman's efforts. The Soviet Union has ratified the Final Act of the Conference on Security and Cooperation in Europe, which commits nations to respect individual rights and freedom, and specifically, the right to emigrate to the country of one's choice to rejoin relatives. In spite of this commitment, though, Ida Nudel is still involved in a heated struggle, the outcome of which is suspensefully uncertain.

Let us join together on this day, International Day of Activity for Ida Nudel, to remind Soviet authorities, and Ida Nudel herself, that the world has not forgotten Ida Nudel and her battle for freedom.●

● Mr. BRODHEAD. Mr. Speaker, I am pleased to join with my colleagues today in support of Ida Nudel, who for 11 years has sought to emigrate from the Soviet Union and live in Israel.

She has suffered greatly for her desire to live in freedom, in the country of her choice.

Ida Nudel is one of dozens of Soviet Jews who have faced harassment, prosecution and harsh prison sentences because of her unfaltering desire to emigrate from the Soviet Union. She first applied for exit permission in May 1971 and was repeatedly refused. At that time, she began her efforts to care for and support Jewish prisoners who had been jailed for their beliefs. Her kindness and tireless work earned her the title of "Guardian Angel" of the Prisoners of Conscience. It also brought her to the attention of the Soviet secret police, the KGB.

After 7 fruitless years of hard work and continued harassment, she finally hung a banner from her apartment balcony that read: "KGB, Give Me My Visa"—a desperate attempt to bring public attention to her plight. Shortly thereafter, she was arrested on charges of malicious hooliganism, tried and sentenced to 4 years of internal exile in Siberia. She spent those years confined to a small village, forced to live under conditions of extreme loneliness and hardship.

Her exile ended on March 25 of this year. Since that time, the harassment has continued. She was recently denied a permit to live in Moscow, and she is now reportedly homeless. She continues to seek exit permission to live in Israel.

Ida Nudel has paid dearly for her desire to live a life of freedom and dignity in Israel. I strongly and earnestly urge the leaders of the Soviet Union to permit this remarkable woman to emigrate at the soonest possible date.●

● Mr. AUCOIN. Mr. Speaker, I rise today to address a problem that has gradually worsened in recent months. The problem of Soviet emigration and, particularly, the problem of Ida Nudel, a Soviet Jew living in limbo while she is refused an exit visa.

According to the Council for Soviet Jews, Mr. Speaker, only 182 Jews were permitted to leave the U.S.S.R. in June. This is the lowest monthly figure since the early 1970's; a 96-percent drop from June 1979 figures.

So it seems particularly appropriate that this month we should recognize this International Solidarity Day with Ida Nudel, a brave woman who has been trying to leave the Soviet Union for the last 11 years.

As soon as Ida Nudel applied for her first exit visa, she lost her job. She has been subjected to Government harassment, social ostracism, KGB arrest, and finally, imprisonment in Siberia under the harshest conditions.

In spite of the threats to her mental and physical well-being, Ida Nudel continues her quest. A quest that the Soviet Union should not be reluctant to fulfill since they, too, are signatories of the Helsinki accords of 1975.

Ida Nudel's plight today is not a happy one. Her sister and husband were allowed to emigrate to Israel in 1975. She has been denied work and a place to live. She is 52 years old, home-

less, and under constant surveillance by the Soviet Government.

Let us, then, observe this International Solidarity Day with this brave woman. She is more than just one person. She represents thousands like her who ask nothing more than to join their families in other countries. They do not seek to cause trouble for Soviet authorities, they do not seek to change the Soviet way of life. They ask simply to leave.

● Mr. SOLARZ. Mr. Speaker, I would like to take this opportunity to join my colleagues in once again speaking on behalf of Ida Nudel.

It has now been 11 years since Ida Nudel began her ordeal to gain an emigration visa to join her sister in Israel. In that time she has been subjected to various forms of harassment and persecution in order to fulfill her desire to return to her "homeland." Although her only crime has been this longing, Ida has been forced to spend the last 4 years of her life in exile in a remote and isolated village in Siberia.

In March of this year Ida completed her 4-year exile term, yet she is still being held a prisoner by the Soviet Government. Upon her release, she returned to her home in Moscow, but was denied residency status there. Ida has attempted to gain residency in other surrounding cities, but with no avail. This heroic woman has been reduced, at times, to spend nights in train stations and in deserted areas, while she continues her struggle to obtain a visa to Israel.

It is disgraceful to see such a respected and loved woman harassed in her struggle to obtain the most basic of human rights—the right to religious freedom and the right to emigrate to Israel. Ida has become the Guardian Angel of the Soviet Jewish Prisoners of Conscience, taking on the plight of other Soviet Jews regardless of the danger to herself. She stands as a symbol to all those who have been persecuted and harassed in their attempts to emigrate from the Soviet Union.

I urge my colleagues to join with me on this International Day of Activity for Ida Nudel, to demand that the Soviets stop harassing Ida Nudel and allow her to join her sister in Israel. It is inhumane to deny any person the basic rights that Ida is trying to obtain. We all must continue to fight with this heroic woman, so that one day her dream can be achieved.●

● Mr. WEISS. Mr. Speaker, I first want to commend the gentlewoman from Connecticut (Mrs. KENNELLY) and the National Conference on Soviet Jewry for arranging this special Day of International Solidarity. The committment of the National Conference on Soviet Jewry to aiding Soviet Jews is highly regarded in Congress and across the Nation.

More than 2.5 million Jews remain in the Soviet Union, where often their rights are withheld, their jobs are taken away, and the freedom to study the Hebrew language and practice their religion is officially denied them.

The plight of Ida Nudel, Guardian Angel of the Soviet Prisoners of Conscience, concerns all Americans and everyone around the globe who cares about human rights. The harsh treatment that she has endured reminds all of us that the Soviet Union continues to deny basic rights to Soviet Jews. So long as these and other injustices exist, it is difficult for the world to believe that any real human rights exist in the Soviet Union.

Ida Nudel, the only Jewish woman being held prisoner of conscience in the Soviet Union, first attempted to emigrate in 1971. After her request was denied she began her heroic efforts to support Soviet Jews who had been jailed for their beliefs. For the next 7 years, she was harassed, interrogated, and falsely branded a criminal by Soviet officials. Finally, she was arrested for "malicious hooliganism" for hanging a banner outside her Moscow home that read "KGB Give Me My Visa." She was sentenced to 4 years of internal exile in Sibera in 1978. The only female among 60 criminals, Ida slept with an ax under her bed to protect herself. One year later, as a result of numerous appeals on her behalf, she was moved to a one-room hut.

This year Ida Nudel completed her sentence, never having committed any real crime, and still she continues to be punished. She has been denied a "propiska," or residency permit, in Riga where her close friends live, as well as in many small surrounding towns. Since Soviet citizens are not allowed to remain in most major cities for more than 48 hours without permission from the proper authorities, and in each place she has traveled to she has been denied residency, Ida has been forced to sleep on a bench in a train station at least once before continuing her journey. It seems this courageous woman, who has spent most of her life helping and defending the rights of others, has been placed in an almost perpetual exile.

On this International Day of Activity for Ida Nudel, we must let our voices be heard in strong support of human rights everywhere, and specifically for Jews in the Soviet Union. The courage and spirit of Ida Nudel are an inspiration to all, reminding us that we must not rest in our protests. We must show the Soviet Union that we will continue to speak out as long as Ida Nudel and others like her are being denied their basic human rights.●

● Mr. KILDEE. Mr. Speaker, I feel compelled to add my voice today to those who have indicated their concern for a remarkable woman, Ida Nudel. Quite frankly, the actions of the Soviet Government amount to no less than persecution. She was sentenced to 4 years of internal exile in Siberia for the crime of "malicious hooliganism." For those in our country who may not know what such a crime is or how important our freedom of speech is in our own country, her crime was to display a banner outside her window expressing exasperation over the fact that she had not been permitted to emigrate to Israel. Having served 4 harrowing years in Siberia, Ida Nudel sought permission to reside in her native Moscow after being released. She was denied a residence permit. She then sought to establish residence in Riga. Again, she was denied a residence permit. The harassment of Ida Nudel continues unabated.

Ida Nudel has been a woman of conscience and compassion. Many of those who finally received permission to emigrate told of her valiant efforts to support them through their tribulations. Despite the danger of official retaliation, she provided food, clothing, and reading material for Jews who had been sent to labor camps. Now that Ida needs help, we have an obligation to appeal to the conscience of our own Nation and to try to move the conscience of the Soviet authorities.

Ida Nudel has been denied basic human rights. She was first denied the right of emigration. Soviet authorities have violated the Helsinki agreements providing for the reunification of families. She was also denied the freedom of speech and unjustly sentenced after being denied the right to a fair trial. Finally, she is presently being denied the freedom of residing where she chooses. I ask the Soviet authorities why this vicious harassment of a single woman is necessary and request them to permit her to emigrate to Israel.●

REGULATORY REFORM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Speaker, I take this special order at this time to begin a discussion of the subject of regulatory reform and the entire issue of what has happened to the initiative in this House that was so boldly undertaken many months, indeed years ago, to get the bureaucracy of the Federal

Government under control and to make it more responsible to the desires and wishes of the American people.

The reason I take this special order and begin this discussion is that, for reasons which are unexplained to me, and I think unexplainable, the initiatives that have been launched in this direction have ground to a silent and mysterious halt someplace in the Halls of this House.

What is regulatory reform all about, Mr. Speaker?

It is a method, a means, by which the American people seek to regain control over their own Government.

The fact of the matter is that more decisions are made, more rules and regulations are issued, by unelected officials affecting the lives and the livelihood of all Americans than there are as a result of laws passed by the Congress of the United States.

During the average session of a Congress, somewhere in the neighborhood of 500 laws are passed. During that same period of time, almost 20,000 rules and regulations can be passed.

The ratio of those rules and regulations having the force and effect of law on nonelected officials as compared to those made by those elected by the people of the United States is something to contemplate.

Much of the cynicism that the American people feel about their Government is a result of the unaccountability of a bureaucracy that is remote, insensitive, arbitrary, and sometimes, yes, Mr. Speaker, oppressive.

It was out of this concern that Members of Congress, both in the House and the other body, rose up and said that we are going to change this.

In a bipartisan way, members of my party, Democrats, took the initiative in this effort originally to bring the bureaucracy under control through a streamlining and accountability, even through the use of the legislative veto, which lets Members of the Congress elected by, accountable to the people, have the final say so by reviewing and where necessary rejecting and vetoing regulations issued by unelected bureaucrats.

In 1975, Mr. Speaker, when that issue of legislative veto first came to the floor of this House for a vote, up or down on all agencies that should be covered by it, 265 Members of this House voted in favor if it.

Since that time, for reasons again unexplained and unexplainable, there has never been an effort made to get that legislation back to this floor for action even though over a majority of the Members of this House of both parties have cosponsored legislation to that effect.

We have amended pieces of legislation on an item-by-item basis to place this mechanism in effect to get control over these unaccountable bureaucrats, and it has had an improving impact on our Government.

Recently we added this type of control over the Federal Trade Commission, different programs in the Environmental Protection Agency and the Department of Agriculture, but the need to make the entire bureaucracy accountable to the American people still remains.

In years gone past, while the House of Representatives has moved forward, the other body has been reluctant. The other body has been the one that has failed to pass this legislation. But, Mr. Speaker, this year, this year, the other body by a unanimous vote adopted legislation providing for regulatory reform, including a legislative veto.

What has happened in this House, Mr. Speaker?

What has happened I think is a shame because it reflects upon the Members and the leadership of this House.

What has happened is that, although regulatory reform legislation was reported out of the Judiciary Committee on February 25 of this year, that legislation—a major bipartisan effort to return control of the bureaucracy to the American people—has not yet been able to be voted on by the Members of this House.

The legislative veto legislation, H.R. 1776, which has over 250 cosponsors, well over a majority of the Members of this House, of both parties, has yet to be considered in committee or brought to the floor of this House.

I think it is regrettable, Mr. Speaker, that for reasons that cannot be explained, there are those in power in this House who have been unwilling to let the voice of the American people be heard, who have been unwilling and refuse to understand the force behind more than a majority of the Members of this House, seeking to have this opportunity to make the bureaucracy accountable, and the cynicism of the American people persists about who runs their Government—is it the elected officials or the unelected bureaucrats? Then that cynicism is understandable and will grow until the Members of this House are given the opportunity to do their will and to express the desires of the American people.

□ 1950

I think you are going to see more and more. Mr. Speaker, fingers pointed at the leadership of this House asking the question: Why is it that legislation which would require accountability on the part of unelected bureauracts is being locked in a closet, pigeonholed, and not even given the opportunity for consideration?

I suggest, Mr. Speaker, that there are Members of this House who in November when the people get an opportunity to go to the polls and express their concerns about the future of this Nation are going to hold the leadership of this House and Members of this body accountable for once again frustrating the opportunity and the will and the desire of the American people to be heard on this matter.

What can be so wrong with a piece of legislation that passed the other body by a unanimous vote, by people of both conservative and liberal persuasion, by the most conservative Senators and by the most liberal Senators?

Indeed, Mr. Speaker, the Senators from your own State, the Commonwealth of Massachusetts, supported this legislation as it came through the other body.

What can be wrong with legislation like that, that it is not even possible to let the Members of this body, speaking on behalf of the American people, have that chance to bring accountability?

I do not know what you hear, Mr. Speaker, when you go to your district, but one of the things that I hear is that the American people are fed up with a bureaucracy that will not listen, with people who control their lives and livelihood, whose names they do not know and if they did, could not hold them accountable. That is not a phenomenon of this administration. or the last administration or the administration before that. That is a fact of life about the Government we have.

The American people under our system of government are entitled to look to their elected officials and not be put upon solely by the unelected officials.

Yes, there are many, indeed most, of the people in the civil service of this country are dedicated and reasonable and committed individuals, many of whom serve at a sacrifice for the American people and consider themselves public servants; but there are others, Mr. Speaker, who because of this unaccountability have delegated to themselves decisionmaking powers, an imposition on the American people that is unwarranted.

As I said, Mr. Speaker, this is not a liberal or a conservative issue. Some people have suggested that it is an approach that would favor business as opposed to consumers or environmental groups or public interest groups. Nothing could be further from the truth. It is a two-edged sword. The voice of the people can be heard through their elected officials when they cannot even get in the front door of many agencies of Government.

There are many regulations which have been issued by this administration undoing the gains and accomplishments in the field of consumer protection or environmental protection, but environmentalists and con-

sumer advocates would have had the opportunity to deal with through regulatory reform and legislative veto, just as in other instances the excesses of zealots who have gone too far could have been curbed and restrained and made accountable to the American people where those who did not suffer the inconvenience of running for public office have taken it to themselves to pass rules and regulations affecting every aspect of the life of the American public.

So therefore, Mr. Speaker, I appeal to you, I urge you, bring this legislation to the floor of this House. It would take no more than a word from you for this legislation to come forth and let the Members of this House work their will upon it on behalf of the American people.

Failing to do that, Mr. Speaker, I fear that many Members of this House in the elections that are coming up later this year are going to have to answer to the fact why it was that that which was wanted and desired by the American people, control over their own Government, accountability of the Federal bureaucracy, was not even given the fair opportunity to be voted on, even through a majority of the Members of this House have sponsored legislation to do that. That is no way to run a democratic institution, and if people have to pay a price for that failure of democracy, then it is an appropriate price to be paid.

The American people want their Government to be accountable to them. It is, indeed, a government of the people and by the people and in that way it can be a government for the people.

Therefore, Mr. Speaker, I urge you, do that which the Members of your House, the Members who elected you Speaker of their House, have asked for. Let the regulatory reform legislation and the legislative veto have the opportunity to come to the floor of this House so that the Members can join with their counterparts in the other body, pass this legislation and help restore true democratic principles to our Government.

ASSURING DIVERSITY OF INFORMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 10 minutes.

● Mr. CORCORAN. Mr. Speaker, we are in the "information age." New technologies are greatly facilitating the sharing of information that can be used in a variety of ways. Developments in this area are and will be of great benefit to our citizens.

As Congress has considered telecommunications legislation over recent years, a consensus view has been that we must insure that information will be transmitted over regulated facilities without discrimination among the providers of the information. I have supported the inclusion of protections in this regard; in 1980, I supported an amendment in the Interstate and Foreign Commerce Committee to strengthen prohibitions on the offering of information over regulated facilities by the owner of those facilities, and I support the "Diversity of Information" section of H.R. 5158 that is being considered by the Energy and Commerce Committee.

For electronic publishers, the telephone network is the only system generally available to provide information services. As the chairman of the Telecommunications Committee of the American Newspaper Publishers Association testified in March, "in the absence of appropriate legislation, the telephone network would remain a classic 'bottleneck facility' " because of the high degree to which competition is absent. Where there are no electronic alternatives to information publishers, as is the case almost entirely in local telephone service and is largely the situation today in long-distance service, there is a great and dangerous potential that telephone companies will discriminate in making transmission facilities and services available if those companies are permitted to offer information products and services. Until there are effective competing conduits available to electronic publishers, telephone companies should not control the content of information transmitted over their own lines.

Legislation I am introducing today responds to this legitimate concern. While it comprises language developed by the House Subcommittee on Telecommunications, Consumer Protection and Finance as contained in section 263 of H.R. 5158, with the exception of the requirement that facilities be made available "element by element," my bill expands the protections to include all exchange and interexchange common carrier services and facilities. As is the case with the offering of "enhanced services" over regulated facilities, it is nearly impossible to guard against anticompetitive activities when a telephone company offers information services over facilities it owns and which are not subject to competition. Thus, the bill requires that no costs of providing information publishing services, except traditional directory information, may be recovered through charges for regulated service, that regulated facilities must be provided without discrimination, that regulated services and facilities of all exchange and interexchange carriers must be made available to any person upon reasonable request and that "no interexchange common carrier nor exchange common carrier may provide any information publishing service through any transmission facility which such carrier uses to provide common carrier service." Its short title is the "Assurance of Diversity of Electronic Information Sources Act."

Having believed that these protections are essential, it is important that they be promptly approved, especially in light of the proposed modified consent decree involving A.T. & T. My legislation provides a means of doing so. Though I am a member of the Energy and Commerce Committee, I do not serve on the Telecommunications Subcommittee, and the subcommittee's review of this measure may improve upon it; for example, its protections may be too strong. Yet, more comprehensive safeguards than those in H.R. 5158 are needed, and I hope that legislation assuring diversity of electronic information sources is enacted this year.●

ALARM RISES OVER DECAY IN U.S. PUBLIC WORKS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. HOWARD) is recognized for 5 minutes.

● Mr. HOWARD. Mr. Speaker, the New York Times of Sunday last, July 18, 1982, has a fascinating first-page article headed "Alarm Rises Over Decay in U.S. Public Works."

This article is just one in a series of long overdue comments by responsible journalists, commentators, economic planners, engineers, Federal, State, and local officials—literally a parade from all sections of the country and from all walks of our national life who are deeply concerned with the future of that structure which is the backbone of our Nation's operation—our infrastructure. Our need to revitalize and rebuild our major public facilities from water systems through and including highways, bridges, and rails has never been more apparent than it is today.

The Committee on Public Works and Transportation has for a number of years pointed this out and has led the way by authorizing legislation to take care of our obsolete and decaying bridges, crumbling highways, leaking water and sewer systems among other public facilities.

The Economic Development Administration, a creation of the Committee on Public Works and Transportation and this Congress, pointed out the shortage of capacity of many facilities throughout the country back some 4 years ago in 1978. The record is clear. The need to proceed is apparent. This article in the New York Times and others, which I am sure will follow, highlight the problem very succinctly. I commend it to my colleagues.

The article follows:

[From the New York Times, July 18, 1982]

ALARM RISES OVER DECAY IN U.S. PUBLIC WORKS

(By John Herbers)

In Pittsburgh, the United States Steel Corporation contends that it is paying at least $1 million a year to detour its trucks 26 miles around a major bridge that the state closed two years ago for lack of repair.

In Alburquerque, motorists are up in arms because sewer lines are crumbling under the streets, many of which have become impassable as the city struggles to make piece-by-piece replacements.

In Houston, the magazine Texas Monthly asserted that it had counted 1.5 million potholes in a city that is a center of great wealth.

In New York, broken water mains, subway failures and the deterioration of other facilities above ground and below have become so common that the seemingly mundane subject of "the infrastructure" has become a prominent issue for both the city and state governments.

News of a neglected and decaying infrastructure—public facilities such as water systems, sewers, streets, highways, bridges and rails, which undergird life and commerce in every community—has taken on a new prominence on the national scene at a time when the country is suffering from a recession, high unemployment, decline of much of its basic industry and the reduction of public services by governments at all levels.

The situation is similar to that of a family whose income has been cut, that is behind on the mortgage payments and unable to buy shoes for the children, and then learns that tree roots have plugged the drainage pipes, the furnace must be replaced and termites have weakened the foundation of the house.

In the urban policy report the Administration made public last week, President Reagan said he wanted to do something about the infrastructure problem but had not decided what.

Meanwhile, a bipartisan coalition is growing in Congress to force action by the national Government, partly on the ground that Mr. Reagan's goal of revitalizing American industry cannot be reached until something is done about inadequate public facilities. Many Democrats say that repairing public works would provide jobs for many of the unemployed.

One difficulty is that public works projects have been so fragmented between the various levels of governments that no one knows the extent of the decay, or how much money would be needed for repairs and new construction necessary to support the economy and quality of life at reasonable levels.

Only in the past year or so has the concern of policy makers about the neglect of basic public works grown urgent. Studies by George E. Peterson of the Urban Institute and by Pat Choate and Susan Walter of the Council of State Planning Agencies documented the inadequacy of public facilities, not only in older, fiscally troubled cities such as New York and Boston but in suburban and rural communities in every region of the nation.

Their findings have been confirmed and expanded by a number of Government agencies and by Congressional investigations. These are some of the more serious deficiencies cited:

Obsolete and decaying bridges. The Transportation Department recently classified 45 percent of the nation's 557,516 highway bridges as "deficient or obsolete." Replacement or repair could cost $47.6 billion, the department said.

Crumbling highways. The 42,000-mile interstate system, begun in the 1950's and not yet completed, is deteriorating at a rate that would require reconstruction of 2,000 miles a year, in addition to a backlog of 8,000 miles in need of rebuilding that accumulated because of cuts in financing in recent years. The condition has contributed to costly traffic jams on the expressways of most major urban areas.

Deteriorated rail facilities. The condition of roadbeds and rolling stock of Conrail and other rail systems is so poor that some officials say there are no reliable estimates available on the cost of replacement and repair. But frequent derailments and delays in shipments attest to the need, according to a range of officals.

Leaking water and sewer mains. The Urban Institute, in a survey of 28 cities, found that 10 of them, Cleveland, St. Louis, Pittsburgh, Tulsa, Philadelphia, Hartford, Kansas City, Mo., Cincinatti, Buffalo and Baltimore, were losing 10 percent or more of their treated water because of deteriorated pipes. And the survey did not include New York and Boston, with two of the leading all-time water-leaking systems. Probably a larger problem, from the standpoint of waste, is leaky sewers, in which ground water flows into the pipes, adds to the volume of sewage and greatly increases the cost of treatment.

Shortage of capacity of many facilities. A survey conducted by the Economic Development Administration in 1978 showed that half of the nation's communities had wastewater treatment systems operating at full capacity, meaning they could not support new economic or population growth without costly new construction.

The estimates of need tend to become astronomical. Nationally the figures run into the trillions. Last fall, the New York State Legislature estimated that $8 billion to $10 billion a year would be needed in New York State for repairs, replacement and construction of the infrastructure, which would double current expenditures.

A more precise expression of need was published by the Joint Economic Committee of Congress, which said that New York City alone over the next few years would have to service, repair or replace 1,000 bridges, two aqueducts, one large water tunnel, several reservoirs, 6,200 miles of streets, 6,000 miles of sewers, 6,000 miles of water lines, 6,700 subway cars, 4,500 buses, 25,000 acres of parks, 17 hospitals, 19 city university campuses, 950 schools, 200 libraries and several hundred fire houses and police stations.

The causes of neglect and decay are more easily documented than the extent of need. Mr. Choate, an economist and a former Federal official who is now the senior analyst for a giant corporation, said in a paper prepared for the House Wednesday Group, made up of moderate Republican representatives, that investments in capital projects had declined sharply.

"The nation's public capital investments fell from $33.7 billion in 1965 to less than $24 billion in 1980, a 30 percent decline," he wrote. "Public works investments dropped from $174 per person in 1965 to less than $110 per person in 1980, a 36 percent decline, and shrank from 3.6 percent of the gross national product in 1965 to less than 1.7 per cent in 1980, a 54 percent decline."

In the 1960's and 70's, public works projects frequently were delayed so that the Government could finance such endeavors as the Vietnam War, social programs, education and space exploration. Nevertheless, the Federal Government assumed a much larger share of public works costs, which previously had been borne by state and local governments. In 1957, the Federal Government paid 10 percent of the costs. By 1980 its share had risen to 40 percent.

RESPONSIBILITY FRAGMENTED

The responsibility for maintaining public facilities, Mr. Choate pointed out, was fragmented between 100 Federal agencies, 50 state governments, 3,042 counties, 35,000 general-purpose governments, 15,000 school districts, 26,000 special districts, 2,000 areawide units of government, 200 interstate compacts and nine multistate regional development organizations.

But the Federal Government, the dominant player, never achieved any rational method for allocating the funds. Mr. Choate said Federal laws favored new construction over repairing of existing facilities.

Public works money, which often has been handed out for purposes of politics rather than need, became increasingly subject to waste and fraud, according to Mr. Choate and others. In 1980 alone, 219 state and local public officials were convicted of criminal abuse of public funds, a figure three times greater than the 1970 level.

At the same time environmental requirements enacted in the 1970's increased the need for higher expenditures for public works.

Many authorities say they believe, however, that the greatest cause for inadequacy of public facilities lies in the spread of the population and industry out of the central city to suburbs and remote communities around the nation.

Retired people moved in large groups into new communities, many in rural recreational areas; factories settled along the freeways and new urban development sprang up near them; state governments spread their colleges over once remote areas; people migrated from the old industrial cities to the South and West, where urban and rural sprawl was greatest; after the 1980 census the Federal Government designated 36 former small towns as metropolitan areas. All this new development required enormous amounts of capital investment for streets, curbs, water and sewer facilities, airports and other facilities.

DEMAND IN CITIES REMAINED

But the growth did not lessen the demand in the thinned-out central cities. The infrastructures in old cities, which suffered heavy population losses, serve many vacant lots, half-empty buildings and closed factories and warehouses. But the facilities must usually be maintained as though they were being used at capacity.

At a recent conference on land use sponsored by the Engineering Foundation in Rindge, N.H., Philip Finkelstein of the Center for Local Tax Research in New York pointed out that when the city government suggested that it could no longer afford to maintain basic facilities in the South Bronx, where many buildings had been abandoned, there was a storm of protest and the suggestion was dropped.

"I don't think there is any way to do that with any degree of acceptability," he said, in reference to a suggestion that there be a contraction of public facilities in the cities.

Americans in 1982 are separated as never before by great stretches of pavement, communication and electric lines and water and

sewer pipes. Many authorities are questioning whether the nation can any longer afford to maintain what it already has built and continue to provide for new communities.

LAND USE AT THE HEART

Harry E. Pollard, president of the Henry George School of Social Science of Los Angeles, said the way it is now, "A bus driver in order to collect one acre of people has to drive five acres to find them. And he has to drive past five miles of sewer pipe instead of one. It is a land-use problem. If you have to finance five miles for every one you will forever be in financial trouble."

According to a number of authorities, no national administration has succeeded in bringing order to the chaos of public works spending. The Carter Administration, they said, was beginning to coordinate Federal spending so that priorities could be established.

The Reagan Administration, according to those officials, abandoned the coordination but to some extent has stopped the use of Federal funds for capital projects in new areas. For example, it refused to finance water treatment plants in new communities around Orlando, Fla. The rationale was that if people there wanted new communities they could finance them themselves.

FUTURE OF FEDERAL ROLE

Yet even high White House officials acknowledged that the Reagan Administration had no comprehensive policy on public works, except that it intends to drastically reduce the Federal role. Richard S. Williamson, assistant to the President for intergovernmental relations, said Mr. Reagan wanted to help the cities with their infrastructure problems, and he ordered that this concern be put in the Administration's urban policy report that went to Congress.

The report, however, sought to show that the picture was not so bleak as had been depicted. It pointed out that demand had lessened for schools and new highways and said many cities were moving on their own to step up capital projects. And it pointed to local innovations. New York, for example, had switched emphasis from new buildings to repairing streets, bridges, mass transit, water and sewage systems. Other cities, such as Boston, were putting the authority for public works in the hands of independent commissions for greater efficiency, while others, such as Cleveland, were enlisting private interests for help.

The Federal Government's role, the report said, was to gather information about more cost-effective methods of financing public works while "other aspects of Federal aid remain to be determined."

Meanwhile, members of Congress have stepped into the void. Some have been spurred by such reports as bridges being closed for long periods in Kansas City, Mo., while motorists drive blocks out of their way and school children in Altoona, Pa., having to leave their bus, walk across a bridge and wait for the empty bus to follow because the bridge can no longer support the weight of both children and bus.

PROPOSAL BY HOUSE MEMBERS

Two Pennsylvania Representatives, William F. Clinger Jr., a Republican, and Robert W. Edgar, a Democrat, have been pushing legislation for a capital budget that would require the Administration to take an inventory of capital needs and assign priorities for spending on public works, as a first step toward long-term recovery.

They were joined in their effort by such diverse leaders as Speaker Thomas P. O'Neill Jr. and Representative Jack Kemp, the conservative Republican from Buffalo, who were among a number of Congressmen signing a letter to Mr. Reagan asking him to consider the idea. A similar bill has been introduced in the Senate by Christopher J. Dodd, Democrat of Connecticut.

Meanwhile, a number of Democrats around the country have taken up the issue on ground that rebuilding the nation's capital plant would fight unemployment.

In New York, Assembly Speaker Stanley Fink has made repairing of the infrastructure one of his major concerns and Governor Carey, in the recent legislative session, proposed increases in taxes and fees to help pay the costs. The tax legislation, however, was defeated, in part because it was an election year. Officials on the national and state levels predict the issue will become more heated in the years ahead.

In response to questions about how the nation could let basic facilities decay to the extent that many authorities say they have, Maury Seldin, president of the Homer Hoyt Institute, a nonprofit foundation in land economics, and a professor at American University, said, "We as a nation are accustomed to living on uppers and downers."

He said that in recent years the nation had become accustomed to "taking a fix" for whatever bothers it without much thought to the long-range consequences, especially in response to various special interests that can command support for narrow goals, and policy is fragmented.

He called for a maturing of the political processes so that various interests could reach compromises for the overall good and "be willing to settle for a fair shake." ●

VOTE FOR LOWER INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island, (Mr. ST GERMAIN) is recongized for 5 minutes.

Mr. ST GERMAIN. Mr. Speaker, today, the Consumer Affairs Subcommittee of the Banking, Finance and Urban Affairs Committee reported out H.R. 6124—the Credit Control Act—on a 6 to 3 vote.

The vote is a reaffirmation of the deep concern over high interest rates and the misdirection of so much of the Nation's available credit.

This legislation, which I introduced on April 20, 1982, will give the President standby authority to control credit and interest rates in any or all areas of the economy. It gives him standby power to take steps to stop credit from flowing into nonproductive areas such as the fueling of unnecessary and unwanted corporate mergers and acquisitions. This would be standby power triggered by the President and administered by the Federal Reserve.

At a time when thousands of small businessmen are going bankrupt and more than 10 million Americans are standing in unemployment lines, it is important that Congress take the steps necessary to assure that the President has all the tools available to control and moderate the catastrophic effects of high interest rates.

As the New York Times editorialized Saturday, it would be "foolhardy to deny the Government standby powers for emergencies. . . ."

Mr. Speaker, I am hopeful that we can move the legislation through the full committee in the near future. It is an opportunity to record this Congress' demand for lower interest rates and a more rational use of credit during a period of economic crisis.

Mr. Speaker, I want to commend the chairman of Consumer Affairs Subcommittee, FRANK ANNUNZIO, and the members of the subcommittee who have moved swiftly and decisively on an economic issue that is of paramount importance to every worker, businessman, farmer, and consumer across this Nation.

Mr. Speaker, I want to place in the RECORD at this point an editorial from the July 17 edition of the New York Times urging support for the Credit Control Act.

KEEP CREDIT CONTROLS ON THE SHELF

The President's standby power to ration credit has expired without fanfare—and few regrets on his team of free-marketeers. They believe that steady monetary growth will assure that competitive interest rates decide who most needs a loan. Yet there is some reason to keep the President's power alive.

When the Credit Control Act of 1969 was invoked in March 1980, inflation had vaulted to an 18 percent annual rate and no other remedy seemed at hand. In desperation, President Carter directed the Federal Reserve to limit credit-card extensions and other unsecured consumer loans.

The controls had a powerful psychological effect. They restrained borrowing, drove down interest rates and slowed down economic activity. Only afterwards did economic observers decide that the controls worked too well. The recession apparently had already begun and this new restraint merely made it worse. An angry Congress voted to take the credit power from the President and the Federal Reserve Board, effective this month.

But a weapon misused is not necessarily a bad weapon. Credit controls proved of some value during World War II and the Korean War by holding down the demand for loans in the nonessential sectors and also freeing resources for investment in defense.

A prudent set of standby control powers would permit some regulation of down payments and the terms of installment loans and curbs on lending for corporate acquisitions and financial speculation. They could be a useful supplement to monetary policy when the economy becomes overheated. The controls, which could not be safely requested in the middle of a crisis, would assure the flow of funds to productive sectors of the economy and thus help to restrain interest rates.

While this is now the view of a minority of economists, it deserves to be taken seriously. It seems foolhardy to deny the Government standby powers for emergencies on the ground that they once were wrongly applied.●

ADMINISTRATION'S ACTIONS HARMFUL TO U.S. INTERESTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Iowa (Mr. BEDELL) is recognized for 5 minutes.

● Mr. BEDELL. Mr. Speaker, the United States is making a grave mistake in setting itself apart from the international community. We have just seen the United States decide to stand alone among the 160 members of the United Nations by refusing to negotiate further on a Law of the Sea Treaty. That decision plays against our long-term economic interests and the benefits that could accrue in fisheries management, environmental protection and scientific research.

Our domestic seabed mining industry has the best technology and resources in the world and any sea law treaty has to take that into consideration. By going it alone, we will force other nations to develop their own technology and resources and we will risk losing our advantage to them.

The United States is presently turning its back on another opportunity to help a domestic industry move strongly into world markets. We are resisting a concerted United Nations' effort to promote the development of new and renewable sources of energy around the world. Why we are trying to do this, I do not know.

We are the world's leader in renewable technology, especially photovoltaics, an industry which has incredible potential in the next decade. Any effort to increase the sales of renewable energy technologies around the world has got to help our own industry.

The United Nations has held two conferences on new and renewable sources of energy. The objective was for the member nations to come up with a plan of action to link developing nations that want to buy renewable energy products with developed nations that want to sell them.

The problems are enormous. Developing countries have to learn about the different kinds of technologies, to decide what mix is best for them. They need financing assistance to undertake the huge up front costs associated with such an effort. The goal of the United Nations effort in this area is to facilitate this transition by helping purchasers and sellers get together.

This is necessary because much of our renewable energy industry is made up of smaller, mostly high technology companies. Our small companies need help in establishing a presence in developing countries, yet our Government is steadfastly refusing to supply it.

On the other hand, the Europeans and Japanese give their domestic industries almost unlimited support in marketing their products abroad. As a result, we are in danger of losing our technological and marketing edge to others.

Instead of trying to work with other countries to strike deals in negotiations that will assist our domestic business in world trade, this administration insists on using international forums to preach the "free market" dogma. It has become commonplace that whenever the United Nations meets, a certain amount of unconstructive politics transpires, but I am personally embarassed to inform my colleagues of the extremes of our U.S. conduct. Instead of working constructively in our Nation's best interests, our foreign policy decisions seem to be based on simplistic ideological fervor. Others view us as being plainly arrogant.

The upshot of this behavior is that the rest of the world acts in its own self interest while we seem to act against ours. We will lose some of the technological advantages that we cultivated so carefully in years past. Our Nation will lose new industry, jobs and tax revenue; our balance of trade will continue to suffer while the rest of the world benefits from our technological advances. All this is the guise of "free market politics."

I have seen U.S. foreign policy in action through my attendance at several Law of the Sea Treaty negotiations and the first United Nations Conference on New and Renewable Sources of Energy in Nairobi, Kenya. Last month, a follow-up to the Nairobi conference was held in Rome, Italy. Mark Levine, a member of the staff of the Small Business Subcommittee on Energy, which I chair, attended that conference as an observer.

Our colleague RICHARD OTTINGER and I attended the Nairobi conference as observers for the Congress in the U.S. delegation. Mr. OTTINGER will be placing the staff report on the Rome conference in the RECORD.●

● Mr. OTTINGER. Mr. Speaker, I would like to associate myself with remarks made by my colleague BERKLEY BEDELL. He has made some very important points in his statement. At this point I would like to enter into the RECORD for the benefit of our colleagues the staff report that Mr. BEDELL and I received on the United Nations Conference on New and Renewable Sources of Energy, held in Rome last month.

The report follows:

COMMITTEE ON SMALL BUSINESS,
SUBCOMMITTEE ON ENERGY, ENVIRONMENT, AND SAFETY ISSUES AFFECTING SMALL BUSINESS,

Washington, D.C., July 12, 1982.

To Hon. Berkley Bedell, Chairman, Small Business Subcommittee on Energy; Hon. Richard Ottinger, Chairman, Energy and Commerce Subcommittee on Energy Conservation.

From Mark J. Levine.

Re: U.N. Conference on New and Renewable Sources of Energy.

BACKGROUND

In August 1981, the United Nations sponsored a conference on new and renewable sources of energy in Nairobi, Kenya. You attended that conference as observers for the Congress in the U.S. delegation. The delegates to the Nairobi Conference, representing a majority of the 154 member nations in the General Assembly of the United Nations, adopted a plan of action to expand worldwide programs to encourage the development of new and renewable sources of energy, especially in Third World countries.

Last month a follow-up to the Nairobi Conference was held in Rome, Italy. Delegates representing a majority of the member nations of the United Nations General Assembly met to work out methods for implementing the Nairobi Plan of Action within the United Nations' system as well as through other multilateral and bilateral channels. This conference, as was the one in Nairobi, was presided over by the United Nations' Secretariat.

The legislative schedule precluded Members of Congress from attending the conference in Rome in June. Consequently, I accompanied the U.S. delegation as an observer in your absence.

PARTICIPANTS AT THE CONFERENCE

Although the objective of the Rome Conference was to work out a way to implement the Nairobi Plan of Action, the key players used the conference as a forum for political posturing in anticipation of the upcoming global negotiations, scheduled to occur later this year.

The political nature of the conference was apparent in the makeup of the delegations from the key participating nations. For example, the United States' official delegation consisted of three State Department representatives, one representative from the Agency for International Development (AID) and one representative from the US mission at the United Nations. Although the representative from AID was familiar with AID's energy programs, his participation was of a political rather than technical nature. The Department of Energy and the Department of Commerce declined the opportunity to be represented in the US delegation.

The composition of the delegations from the other key nation-participants at the conference reflected a similar lack of emphasis on energy expertise. By contrast, several of the smaller, less influential nations included upper-level energy officials in their delegations. Unfortunately, it appeared that the concerns of these nations, which represented vast potential markets for new and renewable energy technologies, received only secondary consideration at the conference.

The key participants at the Rome Conference were essentially the same nations and blocs that were most active at the Nairobi Conference. They were the United States, the "EC-10" (members of the European Economic Community), the "G-77" (Group of 77, a collection of developing Third World nations), the Soviet Union (and the

allied Eastern European countries), China and Japan.

ISSUES AT THE CONFERENCE

The Nairobi Plan of Action recognized the important role new and renewable sources of energy will play in the world economy and called on all nations to work to develop new and renewable energy technologies through many levels of international cooperation. The potential nation-consumers of new and renewable sources of energy, represented by the G-77, wanted to implement the Nairobi Plan of Action through the active involvement of the United Nations' resources.

As their primary objective, the G-77 wanted the Rome Conference to affirm support for: 1) a separate, authorative body within the UN Secretariat to coordinate multilateral and bilateral activities in new and renewable energy technologies; and 2) a UN role in providing pre-investment capital to finance new and renewable sources of energy investment in developing countries.

Developing nations also wanted the conference to reach agreement on the establishment of intermediate sources of financing for new and renewable sources of energy, most notably a World Bank energy affiliate, which was discussed in hearings you conducted last fall.

As their main objective, the United States and several other industrialized nations, including the Soviet Union and some members of the EC-10, sought to maintain the status quo and defuse the efforts of the G-77 to use the conference to obtain strong support for an expanded role for the United Nations in new and renewable sources of energy development. To this extent, the developed nations were successful.

The United States and the Soviet Union are adamantly opposed to any new United Nations committees, bodies or offices. Since these two countries provide the bulk of the UN's operating budget, they can effectively veto the creation of new UN functions. They feel that any new office for new and renewable energy resource development must be funded and staffed from within the UN's existing resources.

Japan and the United States feel very strongly that their bilateral energy activities are more significant than any multilateral energy program the United Nations can administer. They don't mind sharing information about their bilateral energy programs, especially as this already is public knowledge. But they do object to the UN having a voice over the scope or direction of that aid.

It seemed to me that the issue of financial aid for the development of new and renewable sources of energy was not adequately addressed at the conference. A joint presentation by the UN Development Program and the World Bank Energy Sector failed to convince most conference participants that a clear and directed financial program for energy development activities in developing countries would be forthcoming in the near future. Several conference participants questioned the World Bank's commitment to such an endeavor.

The United States, as well as being opposed to an expanded United Nations role in the development of new and renewable energy sources, was strongly opposed to the establishment of any private sector financial mechanisms to provide capital for this purpose. This position of the United States, along with our refusal to participate in such financing programs, made the question of the World Bank energy affiliate academic.

While harboring a general distrust of a United Nations role in the financing of new and renewable energy development, most conference participants strongly supported the creation of a World Bank energy affiliate. They felt that, with proper support from the international community, an energy window at the World Bank would greatly enhance the development of new, small scale energy projects in developing countries. As we did at the Nairobi Conference, the United States stood virtually alone in its opposition to the proposed World Bank energy affiliate.

As a result of the differences of opinion between many of the developed countries and the G-77, the conference arrived at a stalemate on many of the major points that were discussed. The delegates were finally able to reach agreement on a resolution reaffirming the Nairobi Plan of Action and suggesting that the U.N. General Assembly consider the various, albeit diluted, methods of implementing an international system for new and renewable energy resource development.

OBSERVATIONS OF OTHER DELEGATIONS ABOUT THE U.S. POSITION

Many of the participants at the Rome Conference had harsh judgments about the U.S. position on the issues discussed during the conference. These critics felt that the U.S. wrapped itself in the cloak of its free market philosophy without giving proper regard to the true forces that exist in today's markets for new and renewable energy technologies. Many participants claimed to be "free marketers" as well, but noted that they, along with the rest of the world, realized that the market for new and renewable sources of energy has been influenced by subsidies offered by other governments who support their domestic renewable industries.

Because of the vast technical expertise that the United States has in the renewable energy area, especially in solar photovoltaics, these participants feel that the lack of support the U.S. gives to its domestic renewable energy industry, particularly smaller companies, was a major reason these new energy technologies are not more widespread in developing countries. In other words, they want the U.S. government to stimulate exports and joint ventures in appropriate technologies.

It is the strong feeling of almost all of the conference participants that a substantial market for new and renewable sources of energy exists in developing countries. This was confirmed in several private conversations with energy officials from developing countries attending the conference who said their countries were actively seeking outside investment in renewable energy technologies. Many of the other developed countries openly state that they view the Third World markets as a route to help develop their domestic renewable industries gain valuable technical and commercial experience.

Many developing nations questioned the United States' dogmatic reliance on the private sector for the development of renewable energy technologies. They felt that the only private sector enterprises with the resources to market these technologies to the Third World were the major oil companies. Yet most of the developing country representatives that I talked to feel that the oil companies are not aggressive marketers of renewable energy technologies.

Many developing country representatives said that their national markets are too small to interest the oil companies that do market renewable energy technologies. They also note that many developing countries have laws requiring majority control of local companies to reside with national interests. This discourages oil companies from setting up subsidiaries in such countries. The representatives from developing countries felt that smaller companies that are looking to make inroads with their technologies would not be constrained by these factors.

There was also criticism of some of the United States' bilateral energy programs in the renewables area. In general, many representatives of countries who have received US energy aid told me privately that they believe this aid is given out based on political considerations and not necessarily on need. These officials also complain privately that the US aid is too project-orientated, with insufficient emphasis placed on the transfer of technology for new and renewable sources of energy.

My observations of US actions at the United Nations Conference on New and Renewable Sources of Energy in Rome support the contention of many that the United States is in danger of losing its world preeminence in renewable energy technologies. These views come chiefly from private industry, and various comments are recorded in congressional hearings and General Accounting Office reports (most notably report ID-81-63, "Industry Views on the Ability of the U.S. Photovoltaics Industry to Compete in Foreign Markets"). They feel that US budget cutbacks in renewable energy technology research and development, especially in photovoltaics, coupled with the reluctance of the US government to provide export and marketing assistance to companies involved in this field, will result in the loss of valuable world market share in renewable energy sales to developing countries. It is also likely to lead to an erosion of our technological lead, as other nations obtain greater production levels.

Attached is an excerpt from the General Accounting Office's report on the effects of the recent severe budget cutbacks in photovoltaic research and development activities supported by the US government. (Report #EMD-82-60)

EXCERPT FROM PROBABLE IMPACTS OF BUDGET REDUCTIONS ON THE DEVELOPMENT AND USE OF PHOTOVOLTAIC ENERGY SYSTEMS (GAO REPORT EMD-82-60)

OTHER IMPACTS OF PHOTOVOLTAIC BUDGET REDUCTIONS

The budget reductions for the Federal photovoltaic energy program are expected to have adverse impacts on U.S. leadership in the development and use of photovoltaic energy systems and on small businesses' involvement in photovoltaics. As viewed by officials in the Federal photovoltaic energy program and representatives of the photovoltaic industry, the budget reductions threaten U.S. leadership in photovoltaic energy, and may force small businesses out of the industry.

U.S. LEADERSHIP IN PHOTOVOLTAICS MAY BE THREATENED

The United States has been the world leader in photovoltaics since the inception of this technology. The first practical photovoltaic cells were produced by the Bell Laboratories in the 1950s, and photovoltaic systems have been used extensively in the U.S. space program. Due in part to this early development and expertise in photo-

voltaic systems, the United States has maintained a leadership position in the terrestrial use of photovoltaic systems. U.S. photovoltaic manufacturers controlled about 85 percent of the worldwide photovoltaic market in 1979 and 1980.

However, many Government and industry officials believe that this position is threatened by the reductions in the Federal program. Companies in France, Germany, and Japan currently produce photovoltaic energy systems, and these companies receive support from their respective governments. While, for the most part, the funding of photovoltaics by other countries is not as large as U.S. funding, their support for photovoltaics is increasing as U.S. support is being reduced. Industry representatives pointed in particular to the willingness of foreign governments to get involved in market development activities, particularly demonstration projects, which they feel greatly enhance the visibility and marketability of photovoltaic energy systems.

A particular concern to many industry representatives and Government officials is Japan's aggressive photovoltaic efforts. According to officials at JPL who have been monitoring Japan's efforts, Japanese funding for photovoltaics has now equaled or surpassed U.S. funding and the Japanese photovoltaic industry may soon pose a serious threat to U.S. leadership. JPL and SERI officials noted, for example, that Japan is concentrating heavily on amorphous silicon technology, and that Japanese funding for this technology has increased to $5.7 million, while Federal funding is reduced to $2.8 million. The SERI official in charge of the Federal amorphous silicon efforts stated that Japanese companies are developing substantial experience and knowledge on producing amorphous silicon solar cells by using this photovoltaic technology in consumer products. Consequently, because of their extensive R&D and the worldwide market channels which they have already established for electronic components, industry representatives and Government officials believe there is a greater likelihood that the Japanese may be first to develop photovoltaic energy systems with prices competitive with conventionally generated electricity, and be in a dominant position in regard to the worldwide photovoltaic energy market.

Industry representatives and Government officials are hopeful that the United States will maintain its leadership in photovoltaics, but they believe it will be increasingly difficult. As stated by one program official at JPL, the United States is playing by one set of rules, in which the Government does not interfere with the marketplace, while foreign countries have different rules, which allow their governments to aid the production and marketing of photovoltaic energy systems. He added that this places the U.S. photovoltaic industry at a disadvantage which may be difficult to overcome.●

AARP SUPPORTS HOUSE CONCURRENT RESOLUTION 278

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, I would like to share with my colleagues a letter I received today from the American Association of Retired Persons (AARP). The AARP represents millions of senior citizens nationwide and is a highly articulate spokesman for America's elderly community. This letter expresses strong support for House Concurrent Resolution 278, which expresses the sense of the House that the senior community service employment program, title V of the Older Americans Act should be kept at the same level of participants—or more in fiscal 1983 as in fiscal 1982.

I know that my colleagues, who voted overwhelmingly today to support this resolution, will be interested in this message from AARP:

AMERICAN ASSOCIATION
OF RETIRED PERSONS,
July 20, 1982.

Hon. LEON PANETTA,
House Cannon Office Building,
Washington, D.C.

DEAR CONGRESSMAN PANETTA: We strongly support the Panetta-Conte resolution to express Congressional support for maintaining the Title V Senior Community Service Employment Program (SCSEP) at 54,200 positions.

AARP considers the SCSEP to be the most effective employment program ever developed for older Americans.

Title V has been extraordinarily successful by any standard of measurement. Administrative costs have been kept at rock bottom levels. The program has operated free of fraud and abuse. It has delivered vitally needed services while providing an opportunity for low-income persons 55 or older to help themselves while helping others in their communities at the same time.

Title V has also provided a passport for disadvantaged older persons to locate employment in the private sector. The Association's SCSEP, I am pleased to say, has had the highest transition rate of any Title V project. Our projects in 33 states and Puerto Rico have typically placed anywhere from one-third to nearly one-half of all enrollees in unsubsidized jobs. This not only provides new opportunities for more older Americans to participate in the program but also can assist them in locating fulfilling and gainful employment in the private sector.

Title V is needed now more than ever because rapidly rising unemployment is pushing more older persons into poverty.

Unemployment for persons 55 or older reached an all time record high in June. Nearly 824,000 older persons were unemployed in June. The level of joblessness for older Americans has jumped by nearly 300,000 in less than a year, from 534,000 in July 1981 to 824,000 in June 1982. This represents a 54.3 percent increase in the unemployment level for persons 55 or older.

For these reasons, we reaffirm our support for H. Con. Res. 278.

Sincerely,

PETER W. HUGHES,
Legislative Counsel.●

ISRAEL'S COMMITMENT TO A LASTING PEACE IN MIDDLE EAST

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. ADDABBO) is recognized for 15 minutes.

● Mr. ADDABBO. Mr. Speaker, in these times of turmoil and bloodshed in the Middle East, it is always helpful to read a clear and concise analysis of events and the history leading up to them. I would like to share with my colleagues such an article, written by Ivan Novick, the national president of the Zionist Organization of America. It is important in that it reaffirms Israel's historical importance and her commitment to a true and lasting peace in the Middle East. The article follows:

Israel's advance into Lebanon has struck a mighty blow against the international plague of terrorism that has held the west hostage for nearly two decades. For years western democracies have been coerced into silence, or appeasement, thereby permitting the PLO to continue demonstrating its contempt for human life by threats and by acts of international violence. The barbarous attempt to assassinate Shlomo Argov, Israel's Ambassador to Great Britain, and the inhumane shelling of Israel's northern population centers, were only the latest acts in a unending spiral of PLO instigated murder and violence aimed at destroying the Jewish state.

Thus we are gratified that President Reagan has called for the end of the "scourge of terrorism" plaguing the Middle East, thereby indicating his understanding of Israel's legitimate right to protect its populace and to live in tranquility. We further commend the United States government's veto of the Security Council's Resolution to condemn the action which was taken by Israel for the specific purpose of eliminating PLO terrorist bases so they would no longer threaten Israel's civilian population in the Galilee.

Spokesmen for the United States have correctly assessed Israel's grievances towards the PLO as legitimate. They have indicated that the Administration has an enlightened understanding of the reasons which prompted Israel to confront PLO aims and to take action in the face of the deteriorating situation in Lebanon which could no longer be ignored.

Events may have created a new set of facts on the ground, a new reality which could very well redirect the entire political direction of the Middle East, and hopefully, that of the United States. Unlike other Administrations which did not fully understand the fact that Israel must act in its own defense for the security of its land and people, this Administration has maintained, and trust will continue to maintain this correct and constructive position. Hopefully other western democracies will follow America's example.

In the face of recent developments in Lebanon and in view of the historical record, we urge our government to act on the knowledge that Israel's action against international terrorists is in the long range interest of the United States and the free world. It should, therefore, reject those who would undermine this new opportunity to achieve stability in the Middle East.

As you are aware, American policy in the Middle East correctly includes Israel as a very important friend and ally. At the same time, the Administration's attempts to befriend and create relationships with various Arab states. We understand the need for the United States to build foundations of friendship throughout the world. Any concerned American hopes that such a policy would prove to be successful. But policy

cannot be based on what has proven to be false optimism, especially when all efforts to accommodate the Arab states in the Middle East have been shown to be ineffective, and in fact, counterproductive to American interests. Even if such efforts must continue, they should not be made to the disadvantage of those nations which have already passed the test of friendship.

To weaken Israel, or to place her in danger, in the vain hope that new Arab alliances will prove more substantial, more dependable and more lasting, is a direction which I believe has placed the United States in a vulnerable position.

However, the United States now has an unexpected opportunity to re-establish sanity in the Middle East. Because Israel dared to act, and because it was prepared to sacrifice the lives of its beloved citizens, the Middle East stands on the brink of opportunity that is unprecedented. But without American decisiveness and stouthearted-ness, this opportunity will fall through the cracks of good intentions, the path to further agony kept open and the chance to attain peaceful solutions thrust farther away.

Let the United States grasp the moment! Let us insist that the sovereignty of Lebanon as a free and democratic nation be re-established. This requires the necessary safeguards to prevent the reappearance of the PLO and to insure the withdrawal of the Soviet-dominated Syrian forces which bear the responsibility for destabilizing the area and so much bloodshed and strife. This forthright position by the United States will serve to once again make possible a free Lebanon, help protect the Jewish state from organized acts of terror, and thwart as well the influence of the Soviet Union at a time when the Kremlin is making dangerous inroads elsewhere in the world.

Several months ago, in a personal letter to President Reagan, I expressed my dismay at what appeared to be the world community's acceptance of the PLO as the only spokesman for the Palestinian Arab people. I urged the President to issue a call that would encourage moderate Palestinian Arabs to reject the leadership of the terrorist PLO. Today Israel's action against the PLO in Lebanon provides the opportunity for responsible world leaders, led by President Reagan, to voice a powerful plea to the Palestinian Arabs to act courageously in their own self-interest. No longer should the Palestinian Arab people feel intimidated by the terrorist PLO. With the encouragement and leadership of the United States, let moderate Arabs come forward to negotiate with Israel to secure a safe and creative future for all the peoples in the area.

The civilized world has witnessed how a responsible Jewish State, in spite of severe circumstances, risked the lives of its citizen-soldiers to take unprecedented steps to shelter and protect Arab Moslems and Christian civilian populations, notwithstanding the dangers that the soldiers themselves faced. Now is the time for the Christian world to understand the far-reaching significance of Israel's action, an understanding that should arouse an outpouring of public support for what the liberation of Lebanon can mean for the people of Lebanon.

We commend the brave acts of the Israel Defense Forces and the leaders of Israel. Their actions will be recorded in the annals of history as a noble defense of the rights of democratic nations to remain free and safe, a courageous act to reduce future threats of war and avoid further confrontations. However, there cannot be a cease-fire against the terrorism of the PLO.

Recent events make it clear that the arms race in the Middle East serves neither the cause of peace nor America's interests. The policy that calls for Israel to receive additional military consideration each time the Arabs obtain new weaponry, must be seen as short-sighted and ill-advised. The fact is that even if Israel continues to maintain a qualitative and quantitative military superiority over specific Arab nations, at a given point the Arabs will have enough armaments collectively to launch a devastating attack. While Israel may still be able to retaliate and inflict heavy losses on the Arabs, the Arabs will be able to employ newly obtained arsenals that can confront Israel with greater strength than ever before. These arms sales represent a clear and serious threat to Israel's security.

The overall policy of the United States should now be reappraised. After the last few days there should not be any question in the Pentagon about whether or not the United States needs the strength and skill of Israel's defense forces in the Middle East. There should not be any question in the State Department as to which nation in the Middle East is willing to act in defense of democracy's right to prevail.

I suggest that our policy makers return to the drawing board, remember the lessons of the past and redesign a Middle East policy that will safeguard our allies, and in so doing, protect America's own vital interests. I suggest that those who make this reappraisal consider the following:

1. The United States has insisted that the Saudis are moderate and sells them our sophisticated AWACS, disregarding the fact that Saudi Arabia finances the PLO and rejects the Camp David peace accords.

This AWAC sale must now be rejected.

2. The United States is prepared to sell Jordan Stinger Missiles and F5G planes that are a direct threat to Israel. This sale is being considered even though King Hussein warns the Palestinian Arabs that they will be tried for treason if they cooperate with Israel for peace.

This proposed sale must be defeated.

3. The United States believes the Iraq should receive American equipment which can be converted for military use against Israel. This is true in spite in Iraq's long history of international terrorism and its disdain for the United States.

This plan must not materialize.

4. Recent investigations have determined that hundreds of American corporate heads participated in one of the most successful manipulations of American policy by a foreign power. Close to three hundred billion dollars in surplus oil profits have been invested in the United States. Twenty-one of America's largest banks hold over nineteen billion dollars of OPEC money. The PLO has secretly invested one hundred million dollars in U.S. Corporations. The Saudis own over forty billion dollars in U.S. Treasury Notes, and have made substantial loans to such corporations as ITT, U.S. Steel and IBM. The time has come for Congress to take urgent steps to make certain that all government agencies directly involved closely review what is happening to America.

The battle to keep America free is as serious as the battle to keep Israel safe!

I believe it would serve us well if we listen to the warnings of America's Ambassador to the United Nations, Jeane Kirkpatrick. She recently declared that it was time to take seriously the political process aimed at villifying Israel because the great nation of the United States is itself undermined when its best and only reliable friend, Israel, is the object of an international campaign to harm it.

Perhaps there can be no better example of the process Mrs. Kirkpatrick refers to then the scandalous immorality of world leaders who sit side by side with representatives of the PLO, notwithstanding this terrorist organization's main purpose for existence: the destruction of a sovereign nation and its people. Over 100 nations recognize the PLO, including those so-called Arab states, Jordan and Saudi Arabia, upon whom some in the Administration believe rests the future of America's interests in the Middle East. I suggest that these American policy makers are not realistic if they believe the American people can be convinced that these authoritarian Arab states are more reliable than the democracy of Israel.

We contunue to hear the voices of hate from that infamous glass house on the East River in New York, voices which continue to denigrate the Jewish State, besmirch the Jewish people and ridicule our own great nation. Speaker after speaker threaten the validity and legitimacy of the State of Israel. Zionism itself is the target and the Jewish people the intended victims.

It is not ironic that Zionism, the movement for peace is maligned. That Zionism, the movement that produced a tangible humanistic program in Israel, developed roads and settlements, made forests grow, reclaimed arid lands and provided the opportunity and hope for the Jewish people in the land of their forefathers, is the target of scorn and hatred. This is the reality of the tortured world in which we live.

It is this cynical world that we find "humanists" and "universalists" who set aside morality and urge Israel to deal with the international territorist Arafat today, because tomorrow he may be replaced by others more hostile and violent.

There is no difference between "moderate" terrorists and "radical" killers. Indeed, what is this nonsense about so-called Arab moderation?

For the sake of peace, Israel has returned the Sinai to Egypt. What have "moderate" Arab states like Saudi Arabia, Jordan, and Iraq sacrificed for the sake of peace?

Did any "moderate" Arab friend of the United States condemn the assassination attempt against the Israeli Ambassador in England?

Did any "moderate" Arab friend of the United States express disgust at the way the body of the Israeli airman was dragged by an automobile through the streets of Lebanon?

Did the "moderate" West Bank mayors recently welcomed by the Administration in Washington voice their renunciation of terrorism? Did they promise the Administration that they would work to convince the Palestinian Arabs to accept the State of Israel and join with the Jewish people in a quest for peace?

Was it an act of moderation when Saudi Arabia did everything possible to deny bases to the United States, refused joint control over the AWACS, and pressured Oman to withdraw its cooperation in recent U.S. exercises in the Persian Gulf?

Was it moderation when Saudi Arabia immediately broke diplomatic relations with Zaire because it decided to reestablish diplomatic relations with Israel—and with Costa Rica because it acknowledged the right of

all nations to choose their own capitals and specifically Israel's right to Jerusalem?

Is it moderation when Saudi Arabian leaders continually call for the inclusion of the Soviet Union in Middle East peace negotiations?

I cannot understand the criteria this Administration uses to determine the difference between moderates and radicals when the record is clear that Saudi Arabia, Jordan, Iraq and others neither wish for peace in the Middle East, the acceptance of Israel or a friendship upon which the United States can rely.

If members of government, as well as the media, are unable to distinguish between moderation and terrorists, the PLO Covenant should be required reading for every foreign service officer, as well as every editor and columnist.

This PLO Covenant is not merely a scrap of paper!

This PLO Covenant is a blueprint for Israel's liquidation!

This PLO Covenant is the basis for every action taken against the Jewish State by the Arabs. It is the best evidence of what the PLO stands for. The document is easy to read; its provisions are not difficult to understand; its objectives are clearly defined. When it says—"the Zionist presence must be eliminated from the whole of Palestine," it means exactly what it says—it means that the Jewish State is not to exist in any part of our historic homeland, that a PLO state on the West Bank is only the first step toward the liquidation of the Jewish State.

The Zionist Organization of America feels an urgent responsibility to expose the PLO by putting its Covenant into the hands of all who are responsible for the formulation of Middle East policy and all those who would urge Israel to believe that Yassir Arafat is only one step away from becoming a card carrying Zionist.

There are those among us who envisioned a Jewish State as flawless, and in theory of course, this would be ideal. But the Middle East is not a very safe place and the world is not an assembly of purists and moralists. It is often cruel, a jungle, as we are reminded continuously by the worlds of hate directed at the Jewish State and the Jewish people from the podium of the United Nations. In view of this reality, should we expect a beleaguered State of Israel to unilaterally beat its swords into plowshares?

We stand witness to the concentration camps, and ultimately, to the extermination of six million of our numbers in them. We recall that Israel has been compelled to defend itself against numerous military efforts to destroy it during the past 34 years, and still faces attack by terrorists sworn to its destruction and by neighboring countries who insist upon maintaining a state of military, economic and political warfare.

I salute the leaders of Israel for their commitment to the peace process. I honor the people of Israel for their courage in placing at risk their lives and the lives of their children in the search for peace. I call on the government of the United States, as a full partner in the peace process, to make certain that Israel's sacrifices for peace will not be in vain, and strongly urge that they adopt a realistic Middle East policy that rewards those who are willing to live in peace in the Middle East.

Eighty-five years ago the ZOA was already at work to make Herzel's dream a reality. Today the ZOA in this community, as well as throughout the United States, fights vigorously against those who would destroy this dream. As Americans, we will carry out our responsibilities to the United States, our nation which we love; as Jews, we will continue to hold high the banner of Zionism. We are determined to defend both Washington and Jerusalem, the capitals of freedom, from the onslaughts by the enemies of democracy.●

H.R. 5158

(Mr. WIRTH asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

Mr. WIRTH. Mr. Speaker, although it was clear that H.R. 5158, the Telecommunications Act of 1982, had the necessary support to win approval from the full Energy and Commerce Committee, the delay tactics promoted by A.T. & T., it became apparent, would have prevented the passage of this important legislation in this session of the Congress. I therefore withdrew it from consideration by the committee today.

I wish to assure my colleagues however, that our subcommittee remains committed to fulfilling our important task of exercising oversight over telecommunications policy in the remaining time of this Congress. We will continue our efforts to make sure that ratepayers are protected from undue increases in local rates, and that negative effects on consumers of the A.T. & T.—Justice Department proposed settlement are ameliorated. I wish to thank my colleagues on the committee, and particularly those on the Subcommittee on Telecommunications, Consumer Protection and Finance, for their diligent and courageous work on this legislation, and urge the attention of my other colleagues to the crucial public policy issues embodied in this legislation.

Following is the statement I made today before the Energy and Commerce Committee:

STATEMENT OF TIMOTHY E. WIRTH

Mr. Chairman, since I first took my seat on this Committee in 1975, I have been involved in no less than four efforts by Congress to establish comprehensive telecommunications policy. From the beginning, I have felt strongly—as I do today—that it is the responsibility of Congress, not the FCC or the courts, to establish comprehensive telecommunications policy.

Before and after I introduced H.R. 5158 last December, our Subcommittee held dozens of hearings, and heard hundreds of witnesses, give thousands of pages of testimony. We have traveled across the country seeking advice and counsel from state officials involved in telecommunications policy, from experts who have studied our present policy exhaustively, from interested organizations companies involved in the telecommunications field, and most importantly from individual ratepayers on whose shoulders the results of our present telecommunications policy ultimately rests.

From these meetings, one message was consistent and clear: we need a new telecommunications policy—and we need it now. H.R. 5158, as unanimously reported from the Telecommunications Subcommittee, answers that need.

The urgent need for our efforts increased in January, when the Justice Department and AT&T proposed a consent decree. Their consent decree, although a positive first step, is by itself woefully inadequate as the measure of telecommunications policy in this country. H.R. 5158 supplies the pieces missing from the decree. It gives each local company an independent voice in the breakup of AT&T, assures that local rates remain reasonable, and provides the ground rules for a fully competitive telecommunications environment—which is the best ratepayer protection of all.

From the day the settlement was announced, everyone knew it was a great deal for AT&T, and that it would increase local rates. In it, Bell abandoned its high-cost local operations for the glamour of silicon chips and mainframe computers. The divested local companies were left with about two-thirds of AT&T's assets, but only a little more than one-third of its revenues—and the ability to provide nothing more than a dial tone. AT&T even took the highly profitable Yellow Pages to New Jersey.

Until the settlement, AT&T was the leader in advocating that Congress—not the FCC, and not the courts—should set telecommunications policy. What has followed the settlement is an unprecedented attempt by AT&T to block Congress from setting that policy. After all, Bell got a very good deal from the Justice Department.

In my eight years in this body, I have seen nothing like the campaign of fear and distortion that AT&T has waged to fight this bill. Are workers fearful for their jobs in an uncertain economy? Then assert that the bill will cost them those jobs. Are shareholders fearful that divestiture will jeopardize their investment? Then assert that the bill will render their stock worthless.

Are scientists fearful that divestiture will endanger Bell Labs? Then assert that the bill destroys the sources of funding for this national treasure. Is Congress fearful that imports are hurting our basic domestic industries? Then assert that the bill invites a takeover of telecommunications by Japan, Inc. With these charges and others, Bell has used its awesome power and unlimited financial resources to wage an unprecedented campaign to defeat this bill.

It has beocme clear from the roll calls, however, that the pressure tactics have failed. Confronted by the world's largest company, this Committee has stood firm for ratepayers and for competition—a course of action that is in the best interest of the country. It is clear where the votes are.

Unable to win substantively, AT&T has mounted an effort to disrupt this markup. We have sat through a reading of the bill. Dilatory amendments have been offered again and again. At the rate we are going, this Committee will be marking up H.R. 5158 well into August, leaving no time for the careful consideration this measure deserves from the full House. In addition, AT&T has attempted to have this bill referred to House committees from Agriculture to Armed Services to Ways and Means. We can anticipate the same tactics on the floor and in conference.

Having failed to convince Members on the merits, AT&T is engaging in this strategy of delay. In the 97th Congress, we are left with only 27 legislative days to complete work on the most significant telecommunications bill since the 1930's. The only way to pass legis-

lation now would be to accept an agreement dictated by AT&T.

Mr. Chairman, nobody wants telecommunications legislation more than I do. I am not unmindful that any legislation is the result of compromises over policy, and in this spirit, we have been talking with Bell since early spring, when several of my colleagues and I met with AT&T's board of directors in New York. We have spent countless hours with their representatives in Washington. Right up until last night, we were meeting with AT&T to try to find a consensus.

But the only terms that AT&T will accept to resolve the impasse are completely inadequate, selfserving, and not in the best interests of the ratepayers of this country. Bell has made it very clear, for instance, that it will not tolerate an independent voice for its local companies during divestiture. It will not tolerate effective safeguards to protect ratepayers against its own monopoly. It insists upon taking ownership of installed telephones away from the local companies.

Mr. Chairman, I have been willing to compromise language; I have been willing to compromise substance. I cannot in good conscience, however, compromise fundamental principles. The issues are too clear, the need for a new policy too overwhelming, and the interests of the public too apparent.

Let nobody be misled. The kind of bill which AT&T would find acceptable is a bill which only serves their interests and no others. Even a so-called "short" bill would leave the ratepayers and the local companies that service them without real protection.

In the short run AT&T has won a tactical victory by stopping this bill this year. But AT&T's victory is a major setback for the American people and for a telecommunications industry that is one of the fastest growing and most productive segments of our economy. AT&T is preventing Congress from making the decisions that are ours to make.

Let me make it very clear that our commitment to these issues remains as strong as ever, and that we recognize our responsibility to make telecommunications policy. Should AT&T discover the public interest and support a compromise resolution of these issues, we stand ready to move legislation expeditiously. But absent this change in position Congress cannot pass legislation in what remains of this year, therefore; we will use our influence to ensure, to the best of our ability, that decisions in other forums are in the best interests of ratepayers and competition.

The effort to derail this bill will not stop the process from going forward. In the end, Congress must and will set telecommunications policy. The fact remains that no matter how strong AT&T is, no matter how many million they spend, the issues are clear and the needs are there.

I want to thank the Chairman of this Committee for his leadership. I also want to thank the many organizations and interested parties who have supported our efforts. You all should know the fight will go on.

Finally, and most important, I want to praise the thoughtfulness and courage of my colleagues on this Committee, and particularly those on the Subcommittee. We have raised the issues, we have identified the needs, and we have brought our case to the public.

Mr. Chairman, I now move that the Committee adjourn.

THE MX MISSILE

(Mr. BINGHAM asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. BINGHAM. Mr. Speaker, as we begin consideration of the $180 billion DOD authorization bill, I think it appropriate to focus on one of the most controversial and expensive weapons systems provided for in this bill, the MX missile. Before committing up to $30 billion on this highly accurate counterforce weapon, it would be wise to question whether its production and deployment would be in the national interest. That the MX is a missile without any foreseeable mission or home is the theme of the following article by Barry Schneider, director of the Institute for International Security Studies. After a thorough examination of this complex issue, Dr. Schneider concludes that the development of the MX is not consistent with any realistic nuclear arms strategy, especially when its deployment could lead to the adoption of a "launch-on-warning" nuclear policy by the Soviet Union. He also draws attention to the fact that of the available permanent MX basing modes, none are without high risk, prohibitive cost or other major drawbacks. I commend Dr. Schneider's article to the attention of my colleagues.

MISSILE EXPERIMENTAL—MISSION UNCERTAIN

(By Barry R. Schneider)

The MX missile program currently proposed by the Reagan Administration will consist of at least 100 missiles, the first to be deployed by 1986, each with 10 independently targetable nuclear warheads. The new "Missile Experimental" will be a "hard target" killer, capable of destroying hardened Soviet missile silos with greater accuracy and destructive capacity than the present Minuteman intercontinental ballistic missiles (ICBMs). The MX is being designed to hit within 300 feet of a target 6,000 miles away from the launchpoint. In contrast, the present Minuteman ICBMs carry three nuclear warheads and can hit within about two lengths of a football field, instead of one length. The estimated probability of kill (Pk) of the MX is close to 98 percent for a double shot against a Soviet missile silo. The double shot Pk for a Minuteman is around 90 percent. The total cost for the MX program could exceed $30 billion.

Ballistic missiles represent the world's most advanced and lethal slingshots. The superpowers house them on launchers inside concrete vertical shelters buried in the ground. A visit to a Minuteman missile site is surprisingly unimpressive. It has the appearance of a gravel parking lot surrounded by a chain link fence. The only clues that this is no parking lot come from the several antennae poking through the gravel and the large concrete slab door in the middle of the lot. Only when the door slides aside do you see the missile deep in its silo, poised for an intercontinental ride across the North Pole. The missile is launched skyward to a high velocity and altitude by a rocket that burns just the first few minutes of the flight to target. Guidance of the weapon toward its destination can only be accomplished during the powered portion of the flight. Once the booster rocket shuts off and separates, the warhead package continues on to its apogee above the earth's atmosphere before the gravitational pull of the earth draws it back into a free-fall path through the earth's atmosphere to the target below. Within 30 minutes, a 6,000 mile ballistic missile attack can be completed—delivering a nuclear punch ranging from 17 to 50,000 Hiroshima explosions in each of its warheads.

The MX, weighing 190,000 pounds, is about 2½ times the size and weight of our present Minuteman missiles. It is about equal in size to the Soviets' SS–19, and is about half the size of their SS–18. The MX's 10 nuclear warheads, all independently targetable, compare with three on the Minuteman, six on the SS–19, and 10 on the SS–18. MX warheads have an estimated 335 kiloton yield each, an explosive punch equivalent to 17 Hiroshimas. With its advanced inertial guidance system, the MX will be the most accurate ballistic missile in the world when deployed, as scheduled, in 1986.

At present, the MX is in the full-scale engineering phase of development. The missile booster, guidance and control systems, postboost MIRV vehicle, and reentry systems are now being developed, tested, and integrated into a missile system. The first flight test is scheduled for January 1983. At least 100 MX ICBMs with 1,000 warheads have been planned for deployment.

The basic military justification for the MX is to eliminate a potential vulnerability in the 1980s—the vulnerability of U.S. land-based intercontinental ballistic missiles to a Soviet surprise attack. Improvements in the Soviets' nuclear warhead numbers and the accuracy of their missiles will make it theoretically possible for them to destroy an increasingly larger percentage of our Minuteman and Titan missiles in their silos.

U.S. proponents of the MX missile see it as a way of similarly threatening the Soviet fixed-silo ICBMs while removing much of the threat to our own ICBMs. Our military planners are reluctant to abandon land-based missiles because they provide a unique combination of accuracy, reliability, assured defense-penetrating capability, as well as secure, instantaneous, and survivable command and control links to national command authorities. Moreover, ICBMs maintain a high alert rate and excellent responsiveness to commands. Their potential destructive power is believed to be a major contribution to the war deterrent posture of the United States in the world.

While some experts believe that the United States need not maintain three different nuclear retaliatory forces—on land, in the sea, and in the air—this is not the view of the leaders of our armed services. They argue that the triad of ICBMs, submarine-based missiles, and strategic bombers complicates the job of any potential attacker and increases the probability of early warning to a significant portion of the U.S. retaliatory force should such an attack occur.

Some strategists are disturbed by the fact that the Soviets have an edge in countersilo destructive capability and want to erase it with deployment of our own silo-killer, the MX. Those in favor of strengthening the ICBM leg of the triad note that we can operate land-based missiles at a fraction of the cost of maintaining fleet ballistic missile submarines or strategic bombers, an important consideration if we are to compete suc-

cessfully with the Soviets over the long haul.

MX proponents argue that the vulnerability of land-based missiles must be eliminated while we are still protected by the retaliatory capability of our bomber and submarine forces. They believe that this repair job needs to take place before new threats to the bomber and submarine forces also emerge and in order to force the Soviets to concentrate on countering three rather than two U.S. strategic elements.

The argument is also made that in actual nuclear war, the MX would inflict greater damage on the Soviets, at each rung on the escalation ladder, than they could inflict on the U.S. Knowing this, it is argued, Moscow would be deterred from initiating a conflict or from escalating one, once the terrible struggle began. The MX would enhance "peace through strength." Deployment of the fearsome weapon would be a visible symbol to the rest of the world of a continued U.S. commitment to remain second to none.

Moreover, the argument runs that MX deployment is a vital element in the U.S. drive to reestablish military superiority over the Soviet Union; it also provides the Soviets with an added incentive to negotiate reductions in nuclear forces through arms control as they see the "correlation of forces" shift against themselves. At a minimum, MX could force the Soviets to spend more heavily on counters to the MX program. Such a diversion of funds could keep them from increasing pressures on us through the buildup of conventional land, sea, and air forces.

Yet despite all these arguments for the MX missile, and for keeping an ICBM element in U.S. strategic retaliatory forces, critics feel that the MX missile is a weapon in search of a legitimate strategy and that it has not yet found a basing mode that makes sense. Behind all this concern about the MX is the fundamental question: How much is enough? How much nuclear weaponry is necessary to carry out the legitimate roles and missions of U.S. forces? Many share the conviction that the United States already has enough overkill capacity and counterforce capacity in its present forces and that it cannot afford and does not need the MX missile system.

Clearly, the United States already has an awesome retaliatory nuclear capability, with over 9,000 strategic nuclear warheads poised to strike from its strategic submarines, land-based ICBM silos, and long-range bombers. Altogether, the United States has about 25,000 nuclear weapons. The Soviet Union has something like 15,000 to 25,000. The combined US-USSR megatonnage exceeds the power of a million Hiroshima explosions. A full-scale nuclear exchange between the two would probably kill over 100 million people in the United States, 100 million in the USSR, and 100 million Europeans, most of this humanity in the first days of combat.

In 30 minutes to an hour, U.S. retaliatory forces could destroy nearly all large Soviet cities, industrial centers, military bases, ports, major rail junctions, and large power stations. Our missile and bomber forces could do this even if struck first in a massive Soviet nuclear attack fired without warning.

The United States has no plans for a nuclear blitzkrieg. Presumably the only time such a thing could even be contemplated would be during an acute crisis, in which U.S. decision-makers thought the Soviets were about to strike first. Some American President might, under stress, order our missiles to fly first in hopes of blunting the Soviet attack. But one reason many people have trouble with the MX missile is that its primary utility is as a first-strike force. The MX would give the American military the countersilo capability it currently lacks that would make possible, in theory at least, a preemptive surprise attack that could destroy or disable all, or nearly all, the 1,400 silo-based missiles in the Soviet Union before they could be fired at us. In military jargon, the MX will give us a first-strike capability against time-urgent hard targets. At present, we have a limited but quite respectable counterforce capability. Our 550 Minuteman III missiles carry three very accurate nuclear warheads each and could probably destroy more than half the Soviet missiles today in the time it takes you to read this article.

But destroying just half would be wildly irrational. A single surviving Soviet SS-18 missile, with its 10 warheads, could destroy 10 major U.S. cities in a counterattack. Knowing this, no U.S. general or President in his right mind would order such a counterforce strike. However, if the 1,650 highly accurate Minuteman III warheads were added to 1,000 superaccurate MX warheads, the United States could, at least theoretically, carry out a 2-on-1 nuclear attack against nearly every Soviet missile silo with a high probability of success.

What the United States would gain by matching the Soviet first-strike capability against ICBMs, is unclear. Surely the Soviets would see the MX as a potential first-strike weapon. It would make no sense to deploy such a potent silo-killer unless there was a contingency one had in mind for its use. Of course, this analysis applies to the Soviet SS-18 and SS-19 missiles as well as the MX. But what is to be gained by the peacetime deployment of a super-counterforce weapon? It would make no sense to be used as a second strike weapon. The United States already has plenty of those in its present nuclear arsenal. And if the MX survived an attack what would it be aimed at? Empty Soviet ICBM silos? The Soviets would have used most of their ICBMs in the first strike. As Rear Admiral Eugene J. Carroll (USN-ret.) has noted, "does the ability to ride out several thousand nuclear explosions in the United States and then retaliate against empty Soviet silos add to national defense? Clearly, it does not."

If the MX is indeed a first-strike force do we need it or want it? To reemphasize, a surprise nuclear attack on the USSR would be as irrational as it would be immoral. No United States attack could disarm the Soviet Union completely. Indeed, several thousand nuclear warheads would survive for retaliation against the North American continent and against our European and Japanese allies. Several hundred million casualties could easily be the result. One has to question the logic of building a first-strike force when its only wartime use would be to commit national suicide.

Some argue that the MX should be deployed in order to give the United States commander the option to engage in relatively small escalatory steps in a real nuclear war. But the United States already has 1,650 highly accurate Minuteman III weapons for such "limited nuclear options." Indeed, it is probably a delusion to think that such limited attacks could be kept limited, that esclation could be contained once nuclear weapons have been introduced into the conflict. Limited nuclear attacks would appear massive to the wounded nation. They would trigger massive responses. One nuclear weapon on New York City would kill more Americans than have died in warfare in the last 200 years. Just seven Minuteman III warheads contain the same explosive power as all the bombs dropped on Germany and Japan by all our allies in World War II.

Those advocating limited nuclear options make the case that the United States should not be put in the box of either having to push all the buttons or of surrendering if war began. But a look at the Soviets' military strategy as spelled out in their military writings, speeches, and what we glean from intelligence sources has not shown that they believe in limited nuclear war. They will hit with everything they possess—or so they repeatedly say. Thus, an MX force built to prosecute a limited nuclear war is simply a waste of resources.

Even if a limited countersilo capability were a good idea, the MX force might not be the best way to providing that kind of capability. First, a significant countersilo capability is present in our Minuteman missile force. Second, if we are worried about the Minuteman's survivability in the opening phases of a war, we could rely upon the Trident II (D-5) submarine-based missile, which will be deployed in 1989. The D-5 missile will have an accuracy as good or better than current ICBM accuracy and will be based at sea where it is difficult or impossible to locate by an enemy. Why should the United States build a very costly and possibly vulnerable MX missile force, when it will have a Trident II missile about as capable, and much more survivable?

The Soviet Union would have a number of choices in the face of a growing United States counterforce threat. The combined threat of Minuteman II, MX, and Trident II weapons could cause them to:

Adopt a launch-on-warning or launch-under-attack superalert status for their nuclear forces.

Build up their missile forces further and speed up their work on antisubmarine warfare in order to improve their capability of destroying the threatening U.S. forces.

Move their ICBMs from fixed silos to mobile launchers to make them less vulnerable.

Shift their resources from land-based ICBMs to more survivable submarine forces.

The launch-on-warning or launch-under-attack option would be the cheapest—but the riskiest—that the Soviets could make. Putting their forces on hair-trigger alerts and adopting a policy of firing them at the first signs of an attack invites an accidental nuclear holocaust. Mistaken intelligence could make the Soviets launch a preemptive nuclear attack during an acute crisis. It is instructive to note that there have been 147 false alerts recorded at North American Defense Headquarters in an 18-month period beginning in January 1979. Half a dozen were serious, and took a number of minutes to detect as false alarms. Had we adopted a launch-on-warning policy and had it been a crisis when such attacks were expected, one of those could have triggered World War III. No record exists for Soviet false alarms in the nuclear age, but any such false alarms, combined with a launch-on-warning strategy, would leave U.S. security hanging by a thin thread. (Remember that we have already had one "accidental" world war in this century. World War I was triggered by the assassination of Austria's Archduke Francis Ferdinand by a Serbian nationalist. That act unleashed a train of events that culminated in 40 million deaths even

though none of the great powers wanted, or planned, a war in 1914.)

The second likely response to an MX force might be for the Soviets to accelerate their buildup of atomic weapons. After all, is this not the main reason we are building the MX, to counter the Soviet SS-18 and SS-19? Why should they think any differently when all their ICBMs appear to be in peril? Thus the MX would likely increase the Soviets' inclination to preemptively attack us in a crisis and to match or exceed our nuclear buildup.

The third option—the movement of Soviet ICBMs from their present silos to some future ground mobile force—would have a mixed result for American security. First, it would make it more difficult for the U.S. missile force to target all the Soviet missiles. This might make the peace more stable since the Soviets would have less reason to be nervous and trigger-happy in a crisis. It would also probably mean some decrease in Soviet missile accuracy and firepower for a time, since mobiles are less accurate and transporter-erector-launchers could not easily accommodate missiles the size of the Soviet SS-18. All this is to the good—up to a point. But the problem with land-mobile ICBMs is that they are difficult to count by national technical means of verification (e.g., satellites). Deployment of mobile ICBMs could ring the death knell for strategic arms control.

As for the fourth choice, that would be the happiest (but least likely) solution for the Soviet Union and the United States as well—to put their increasingly vulnerable missile forces at sea aboard strategic submarines. This would start an enormous political fight in both countries if the Soviet Strategic Rocket Forces and the U.S. Air Force used all their considerable bureaucratic clout to preserve their roles, missions, budgets, and prerogatives. For that reason alone, that choice is unlikely to be made in either country. Nevertheless, if both sides began to phase out land-based missiles and transfer to submarines, both would have invulnerable second-strike forces, and neither would see the advantage in striking first. The move to greater reliance on fleet ballistic missile submarines would also better facilitate the verification of nuclear arms control agreements as compared to mobile ICBM's on land.

The MX debate in this country is really two discrete debates. The first, of course, is whether the United States needs such a missile, which can destroy hard targets and can be used in a first strike. The second debate is how to base our ICBMs so that they can substantially survive a first-strike attack and still retaliate with devastation.

In an astonishing turnabout last spring, the Senate Armed Services Committee voted unanimously to put the MX missile on the shelf until the Reagan Administration proposed a better way to base the missiles than their temporary expedient of shoving the MX into old, easily targeted Minuteman silos. The Senators voted to defer to 1984 from 1983 the purchase of the first MX missiles. They also called on the Pentagon to provide them with a permanent MX basing plan by December 1 of this year.

But is there any better MX basing method that solves the triple problems of MX force survivability, cost-effectiveness, and political acceptability? And is there any logical military strategy that a President could employ MX missiles without committing national suicide? The MX problem confounds strategists and politicians alike, and unless acceptable answers are discovered soon, the MX missile program may be cancelled for good.

In other, more prosperous times, the Congress probably would fund the MX program regardless of its feasibility. But in a season when massive Federal deficits are accompanied by ruinous interest rates, high inflation, and record unemployment, even the Pentagon budget is beginning to come under close scrutiny—and the MX program is a highly visible target.

Sen. John Tower, chairman of the Senate Armed Services Committee, has endorsed a $3 billion cut in Reagan's defense package. Former President Ford has increasingly urged sizable cuts in military spending to reduce the deficit. Speaking to a Florida audience in February, Ford said, "I'm a hawk. I'm proud of it, and I don't intend to change. But I think there can be responsible delays in purchases of some big-ticket items in the defense budget." These sentiments were echoed by John Connally, former Secretary of the Treasury and the Navy, who advocates a $10 billion cut in defense spending to bring down inflation and the deficit. Just as surprising is the turnabout of long-term hawk and former leader of the GOP in the House of Representatives, Rep. John Rhodes. He recently called for a 70 percent reduction in MX missile funding and launched a full-scale assault on the military and economic premises of the Reagan defense program. Rhodes' new stance is indicative of the growing bipartisan sentiment in Congress to cut the defense budget and to take some symbolic action that would put Congress on record against the nuclear arms race.

President Reagan's own advisory panel on the MX, chaired by Charles Townes, a physicist at the University of California, concluded that "It finds no practical basing mode for missiles deployed on the land's surface, available at this time, that assures an adequate number of surviving ICBM warheads."

During the 1980 Presidential election campaign, Ronald Reagan ridiculed President Carter's plan to rotate 200 MX missiles among 4,600 reinforced concrete shelters in Nevada and Utah. On October 2, 1981, he killed Carter's "multiple protective shelter" scheme and announced that he planned to put the first MX missiles in Titan silos, to be additionally strengthened against blast effects. This idea has since been modified in favor of putting the first 40 or so MX missiles in Minuteman silos instead of Titan holes.

For the future, President Reagan promised to look at permanent basing possibilities. Alternatives recently under serious consideration include: (1) defending MX missiles in silos with antiballistic missiles (ABMs); (2) putting the MX abroad giant "Big Bird" aircraft on continuous airborne patrol; (3) deep underground basing of MX missiles; and (4) putting MX silos so close together ("Dense Pack") that the first Soviet nuclear explosion on one of them would have the effect of destroying or deflecting later Soviet warheads targeted on other adjacent silos.

Many MX-basing ideas have been studied and then rejected over the years, including basing MX on the seabed, on inland ships, on ocean-going ships, on small diesel-powered submarines, on amphibious seaplanes, on vertical takeoff aircraft, on dirigibles, on railroad cars, on large-road mobile vehicles, in covered trenches, in pools of water or in lakes—or shuttling the MXs between hardened shelters in the valleys of Utah and Nevada. The search goes on with no good solution in sight. As the Congressional Office of Technology Assessment concluded last year: "We see that all available models of basing MX pose serious problems. None of them is without serious risks, high cost, or significant drawbacks."

The Reagan MX-basing alternatives appear to be no exception to this gloomy view. For example, antiballistic missile defenses of silo-based MXs might fail to work; and their deployment would trigger a costly, risky acceleration in the nuclear arms race. Scrapping the ABM Treaty, which comes up for review this fall, might lead to an early Soviet ABM advantage and undermine the effectiveness of our retaliatory forces and that of our allies. Airmobile MXs would be vulnerable to barrage attacks even when airborne, and would lose in accuracy what they gain in survivability over silo-based systems. President Reagan is reported to have definitely rejected this MX-basing option, favored by Secretary of Defense Weinberger. Deep underground MX basing would rely on considerable guesswork about the survivability of underground structures when hit by thermonuclear explosions. At present noboby knows whether the MXs would be forever entombed inside the hill, mesa, or mountain, or whether MX forces could dig their way to the surface for retaliation. "Dense Pack" MX basing, putting silos close together, might protect the remainder when the first silo is attacked, but the debris, heat, radioactivity, and hurricane-force winds created could as easily prevent a successful retaliatory MX launch while simultaneously blunting further Soviet missile attacks. MX missiles unable to respond might as well have been destroyed; the effect is the same. "Dense Pack" has the further disadvantage of being a clear and direct violation of the terms of the SALT II Treaty still being observed informally by both superpowers.

Indeed, it is possible that there are no good solutions to be found for basing MX. As Dr. Seymour Zeitberg, Deputy Under Secretary for Defense Research and Engineering observed last year, "This [MX basing decision] is a question of what is the least rotten apple in a barrel of rotten apples."

The Senate Armed Services Committee action could force the President to choose the permanent MX basing mode before they grant him next year's request of $1.5 billion for MX missile development and $715 million in research funds to restructure Minute-man silos. The Senators reasoned that it would make no sense to expose the new MX to the same risks facing the present Minuteman and Titan missiles, which are fixed targets increasingly easy for the Soviets to destroy with their very accurate SS-18 and SS-19 missile warheads. Instead, Sen. Tower's committee felt the better idea was to hold off producing the missile until Reagan could do what he criticized Jimmy Carter for not doing: come up with a safe, cost-effective, permanent home for the MX.

Perhaps the best solution to the problems the MX was originally designed to correct exists not so much in the realm of military planning as in diplomacy and arms control bargaining with the Soviet Union. President Reagan's new strategic arms reduction proposals would have both superpowers limit themselves to 850 intercontinental ballistic missiles and to 5,000 strategic nuclear warheads, only half of which could be carried

by land-based missiles. The cuts would take place in land-based missiles where the Soviets concentrate three quarters of their firepower as contrasted to 25 percent for the United States. Fleet ballistic missile submarines and bomber forces would not be reduced.

This proposal is clearly loaded in favor of the United States, for Moscow would have to give up about 250 more land-based missiles than the United States, and would have to scrap most of its new SS-18s and SS-19s as well as 3,000 nuclear warheads. The United States, by contrast, could still add another 350 ICBM warheads under President Reagan's plan, while trimming back elsewhere.

As generally expected, the Kremlin rejected this opening position of the United States but, it may be hoped, it will counter with a revised plan of its own. One element of an eventual bargain could be a reduction of Soviet countersilo weapons such as the SS-18 and SS-19 if the United States were to forego the MX missile deployment. Such a tradeoff would save the United States $30 billion or more in MX spending over the next several years. It would reduce the Soviet missile threat to the United States. The Soviets, on the other hand, would be spared the first strike threat implied by the MX force and the enormous costs of moving to mobile ICBMs. Both sides could avoid the risks of either side adopting a launch-on-warning posture.

With its 10 superaccurate warheads, the MX could make the Soviet ICBMs in their silos just as vulnerable as their SS-18s and SS-19s make our present Minuteman forces. But simply copying what the Soviets have done makes no sense in this case. Matching first-strike capabilities will make both sides less secure in a crisis. The aim should be to eliminate such first-strike capabilities from both arsenals—through diplomacy, not military action—by negotiating arms reduction agreements that remove these daggers from the throats of each side and by choosing weapons that are neither vulnerable nor provocative. Better to trade the MX away than to deploy it in a vulnerable manner for a mission that could only lead to national suicide if ordered.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. CHAPPELL, for today, on account of pressing business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. WIRTH, for 10 minutes, today.

(The following Members (at the request of Mr. GREGG) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 10 minutes, today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. STARK, for 5 minutes, today.

Mr. HOWARD, for 5 minutes, today.

Mr. ST GERMAIN, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. BEDELL, for 5 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. ADDABBO, for 15 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. BINGHAM, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $1,309.

Mr. CLAUSEN, on House Concurrent Resolution 278.

Mrs. HECKLER, on House Concurrent Resolution 278, older Americans bill, today.

Mr. VENTO, in support of the Stratton amendment to H.R. 6030 in the Committee of the Whole today.

(The following Members (at the request of Mr. GREGG) and to include extraneous matter:)

Mr. SHUSTER.

Mr. HOLLENBECK.

Mr. LEACH of Iowa.

Mr. BEREUTER.

Mr. CONTE in two instances.

Mr. FINDLEY.

Mr. RUDD in two instances.

Mr. HORTON.

Mr. MILLER of Ohio in three instances.

Mr. ROTH in two instances.

Mr. CHENEY.

Mr. BROOMFIELD.

Mr. HYDE in two instances.

Mr. CONABLE.

Mr. SHUMWAY in two instances.

Mr. MARLENEE.

Mr. DERWINSKI in two instances.

Mr. WHITEHURST.

Mr. PARRIS.

Mr. DANNEMEYER.

Ms. FIEDLER.

Mr. SMITH of Alabama.

Mr. LUNGREN.

Mr. DANIEL B. CRANE.

Mr. LOWERY of California.

Mr. GOODLING.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. MAZZOLI.

Mr. KOGOVSEK.

Mr. BEDELL.

Mr. WYDEN in two instances.

Mr. FRANK in two instances.

Mr. SANTINI.

Mr. WIRTH.

Mr. MCDONALD in five instances.

Mrs. SCHROEDER.

Mr. LEHMAN.

Mr. COELHO.

Mr. GUARINI.

Mr. MONTGOMERY.

Mr. GRAY.

Mr. UDALL.

Mr. SCHUMER in two instances.

Mr. MINETA.

Mr. FASCELL in two instances.

Mr. HOYER in two instances.

Mr. EDGAR.

Mr. BINGHAM.

Mr. LONG of Louisiana.

Mr. ECKART.

Ms. FERRARO.

Mr. ANTHONY.

Mr. SHANNON.

Mr. PHILLIP BURTON.

Mr. LELAND.

Mr. WAXMAN.

Mr. BIAGGI in three instances.

Mr. STUDDS in two instances.

Mr. LAFALCE in four instances.

BILLS PRESENTED TO THE PRESIDENT

Mr. HAWKINS, from the Committee on House Administration, reported that that committee did on July 19, 1982, present to the President, for his approval, bills of the House of the following titles:

H.R. 4688. An act to amend the Military Personnel and Civilian Employees' Claims Act of 1964 to increase from $15,000 to $25,000 the maximum amount the United States may pay in settlement of a claim under section 3 of that Act; and

H.R. 6590. An act to provide for the operation of the tobacco price support and production adjustment program in such a manner as to result in no net cost to taxpayers, to limit increases in the support price for tobacco, and for other purposes.

ADJOURNMENT

Mr. SEIBERLING. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 58 minutes p.m.), under its previous order, the House adjourned until Wednesday, July 21, 1982, at 11 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4401. A letter from the Director, Office of Legislative Affairs, Department of the Navy, transmitting notice of the Navy's intention to lease, under the authority of chapter 6 of the Arms Export Control Act, as amended, a naval vessel to Pakistan, pursuant to 10 U.S.C. 7307; to the Committee on Armed Services.

4402. A letter from the Assistant Secretary of the Navy for Shipbuilding and Logistics, transmitting notice of the proposed conversion to contractor performance of the custodial service function at the Naval Avionics Center, Indianapolis, Ind., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4403. A letter from the Acting Secretary of State, transmitting a report that a substantial violation of the Mutual Defense Assistance Agreement of July 23, 1952, may have occurred during the series of military operations which began on June 6, 1982, when Israeli forces entered Lebanon, pursuant to section 3(c)(2) of the Arms Export

Control Act; to the Committee on Foreign Affairs.

4404. A letter from the Acting Director, Office of Legislative Affairs, Agency for International Development, transmitting a report accounting amounts obligated and expended in Nicaragua, pursuant to section 724(e) of the International Security and Development Cooperation Act of 1981; to the Committee on Foreign Affairs.

4405. A letter from the Chairman, U.S. Advisory Commission on Public Diplomacy, transmitting the Commission's annual report on the International Communication Agency, pursuant to section 8 of Reorganization Plan No. 2 of 1977; to the Committee on Foreign Affairs.

4406. A letter from the Acting Administrator, Agency for International Development, transmitting the first semiannual report of the Inspector General covering the period from October 1, 1981, through March 31, 1982, pursuant to the Inspector General Act of 1978, as amended; to the Committee on Government Operations.

4407. A letter from the Chairman, Board of Directors, TVA Retirement System, Tennessee Valley Authority, transmitting a report for the plan year ending September 30, 1981 for the TVA Retirement System, pursuant to Public Law 95-595; to the Committee on Government Operations.

4408. A letter from the Acting Secretary of the Interior, transmitting the final study and environmental assessment on the proposed Florida National Trail, recommending that the trail be designated as a National Scenic Trail, pursuant to section 5(c)(19) of Public Law 90-543, as amended (H. Doc. No. 97-213); to the Committee on Interior and Insular Affairs and ordered to be printed.

4409. A letter from the Secretary of Commerce, transmitting the annual report covering the period September 1978 through January 1982 on the implementation and administration of title IV of the Outer Continental Shelf Lands Act Amendments of 1978; to the Committee on Merchant Marine and Fisheries.

4410. A letter from the Director, Federal Emergency Management Agency, transmitting a comprehensive emergency management report, including the Agency's 1981 activities, pursuant to sundry provisions of Public Law; jointly, to the Committees on Armed Services, Banking, Finance and Urban Affairs, Interior and Insular Affairs, Public Works and Transportation, Science and Technology.

4411. A letter from the Chairman, Board of Governors of the Federal Reserve System, transmitting the board's midyear monetary policy report, pursuant to section 2A of the Federal Reserve Act, as amended (92 Stat. 1897); jointly, to the Committees on Banking, Finance, and Urban Affairs and Education and Labor.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. MOORHEAD: Committee on the Judiciary. H.R. 5380. A bill to recognize the organization known as American Ex-Prisoners of War; with amendments (Rept. No. 97-643). Referred to the Committee of the Whole House on the State of the Union.

Mr. SAM B. HALL JR.: Committee on the Judiciary. S. 2317. A bill to recognize the organization known as the National Federation of Music Clubs; with amendments (Rept. No. 97-644). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. Budget allocation report of the Committee on Ways and Means pursuant to section 302(b) of the Congressional Budget Act (Rept. No. 97-645). Referred to the Committee of the Whole House on the State of the Union.

Mrs. CHISHOLM: Committee on Rules. House Resolution 527. Resolution providing for the consideration of H.R. 5320, a bill to establish a community public-private training and employment assistance system and to provide employment and training services, and for other purposes. (Rept. No. 97-647). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 528. Resolution providing for the consideration of H.R. 5203, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act (Rept. No. 97-648). Referred to the House Calendar.

Mr. PEPPER: Committee on Rules. House Resolution 529. Resolution providing for the consideration of H.R. 5427, a bill to authorize support to Radio Broadcasting to Cuba, Incorporated (Rept. No. 97-649). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 530. Resolution providing for the consideration of H.R. 2329, a bill conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma (Rept. No. 97-650). Referred to the House Calendar.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6011. A bill to designate certain lands in the Bankhead National Forest, Ala., as a wilderness area and to incorporate such wilderness area into the Sipsey Wilderness; with amendments, referred to the Committee on Agriculture for a period ending not later than July 30, 1982, for consideration of such provisions of the bill and amendments as fall within the jurisdiction of that committee pursuant to clause 1(a), rule X (Rept. No. 97-646, Pt. I). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FOLEY (for himself, Mr. COLEMAN, Mr. HUCKABY, Mr. JONES of Tennessee, Mr. MCCURDY, Mr. SABO, Mr. WYDEN, and Mr. MARLENEE):

H.R. 6793. A bill to improve farm commodity prices for wheat and feed grains; to the Committee on Agriculture.

By Mr. EDGAR (for himself, Mrs. HECKLER, Mr. MONTGOMERY, Mr. HAMMERSCHMIDT, Mr. EDWARDS of California, Mr. WYLIE, Mr. BONER of Tennessee, Mr. JEFFRIES, Mr. DASCHLE, Mr. SMITH of Oregon, Mr. DOWDY, Mr. BRINKLEY, Mr. MOTTL, Mr. MICA, Mr. MURPHY, Mr. WON PAT, Mr. NELLIGAN, Mr. SILJANDER, and Mr. SMITH of Alabama):

H.R. 6794. A bill to amend title 38, United States Code, to improve job training and job placement programs and educational assistance programs for veterans; to the Committee on Veterans' Affairs.

By Mr. BAILEY of Pennsylvania:

H.R. 6795. A bill to amend the Social Security Act with respect to the collection of administrative costs under the child support program for non-AFDC support enforcement, and to make technical amendments in provisions of law relating to that program and the social services and foster care programs; to the Committee on Ways and Means.

By Mr. CHENEY:

H.R. 6796. A bill to authorize the Secretary of the Interior to construct, operate, and maintain modifications of the existing Buffalo Bill Dam and Reservoir; to the Committee on Interior and Insular Affairs.

By Mr. CORCORAN:

H.R. 6797. A bill to amend title II of the Communications Act of 1934 to assure diversity of sources of electronic information; to the Committee on Energy and Commerce.

By Mr. FUQUA (for himself, Mr. JONES of North Carolina, Mr. SCHEUER, Mr. D'AMOURS, Mr. BLANCHARD, Mr. BROWN of California, Mr. PRITCHARD, Mr. FORSYTHE, Mrs. SCHNEIDER, Mr. WHITE, and Mr. WALGREN):

H.R. 6798. A bill to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science and Technology.

By Mr. LUNDINE (for himself and Mr. BLANCHARD):

H.R. 6799. A bill to amend the Export-Import Bank Act Amendments of 1978 to improve the ability of the United States to help insure an open and fair international finance system for U.S. industries; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PARRIS:

H.R. 6800. A bill to amend title 5, United States Code, to allow certain employees of the National Transportation Safety Board to receive civil service retirement credit for their service under the Federal railroad retirement program; to the Committee on Post Office and Civil Service.

By Mr. RANGEL:

H.R. 6801. A bill to amend the Internal Revenue Code of 1954 with respect to the targeted jobs credit; to the Committee on Ways and Means.

By Mr. SEIBERLING:

H.R. 6802. A bill to incorporate the Army and Navy Union of the United States of America; to the Committee on the Judiciary.

By Mr. STARK:

H.R. 6803. A bill to define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax; to the Committee on Ways and Means.

By Mr. STUDDS (for himself, Mr. JONES of North Carolina, and Mr. YOUNG of Alaska):

H.R. 6804. A bill to provide subsistence allowances for members of the Coast Guard officer candidate program, and for other

purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WEAVER:

H.R. 6805. A bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to require voter approval of the financing of Washington Nuclear Projects No. 1, No. 2, and No. 3; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. WHITEHURST:

H.R. 6806. A bill to establish an appropriate school and dormitory for congressional pages, and for other purposes; to the Committee on House Administration.

By Mr. YATRON (for himself and Mr. BROOMFIELD):

H.R. 6807. A bill to prohibit the use on Cyprus of military equipment provided to Turkey by the United States; to the Committee on Foreign Affairs.

By Mr. BAFALIS:

H.R. 6808. A bill to designate the Federal Building in Fort Myers, Fla., as the "George W. Whitehurst Federal Court Building"; to the Committee on Public Works and Transportation.

By Mr. HAWKINS (for himself, Mr. ANDERSON, Mr. BADHAM, Mr. BEILENSON, Mr. BROWN of California, Mr. BURGENER, Mr. JOHN L. BURTON, Mr. CHAPPIE, Mr. CLAUSEN, Mr. COELHO, Mr. DIXON, Mr. DORNAN of California, Mr. DREIER, Mr. DYMALLY, Mr. EDWARDS of California, Mr. FAZIO, Ms. FIEDLER, Mr. GRISHAM, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LEWIS, Mr. LOWERY of California, Mr. LUNGREN, Mr. MCCLOSKEY, Mr. MARTINEZ, Mr. MATSUI, Mr. MILLER of California, Mr. MINETA, Mr. MOORHEAD, Mr. PANETTA, Mr. PASHAYAN, Mr. PATTERSON, Mr. ROUSSELOT, Mr. SHUMWAY, Mr. THOMAS, and Mr. WAXMAN):

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program; to the Committee on Science and Technology.

By Mr. BENEDICT:

H. Con. Res. 376. Concurrent resolution recognizing the outstanding service and patriotism exhibited by the volunteers of the American National Red Cross during times of war and expressing the gratitude of the Congress for the service of such volunteers; to the Committee on Foreign Affairs.

By Mr. LEACH of Iowa (for himself, Mr. DERWINSKI, Mr. PORTER, and Mr. STARK):

H. Con. Res. 377. Concurrent resolution condemning the persecution of the Baha'is by the Government of Iran and calling upon the President to take steps to bring an end to their persecution; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BINGHAM:

H.R. 6809. A bill for the relief of O. Edmund Clubb; to the Committee on the Judiciary.

By Mr. PHILLIP BURTON:

H.R. 6810. A bill for the relief of Emily Gayanes Gaufo, Joselyn G. Gaufo, and Favio G. Gaufo, Jr.; to the Committee on the Judiciary.

By Mr. FRANK:

H.R. 6811. A bill for the relief of Alejo White and Sonia White; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 39: Mr. GILMAN.

H.R. 200: Mr. GILMAN.

H.R. 1353: Mr. WYDEN.

H.R. 2007: Mr. FOLEY and Mrs. HECKLER.

H.R. 2034: Mr. DANIEL B. CRANE, Mr. ERTEL, and Mr. MCCOLLUM.

H.R. 2204: Mrs. ROUKEMA.

H.R. 2222: Mr. BIAGGI, Mr. MITCHELL of Maryland, Mr. SUNIA, Mr. SMITH of New Jersey, Mrs. BOGGS, Mr. YATRON, Mr. FISH, Mr. PHILIP M. CRANE, Mr. SHAW, Mr. HUGHES, Mr. HIGHTOWER, Mr. EDGAR, and Mr. FAZIO.

H.R. 2500: Mr. MITCHELL of Maryland, Mr. DASCHLE, Mr. JEFFORDS, Mr. EDGAR, and Mr. PATTERSON.

H.R. 3117: Mr. WORTLEY.

H.R. 3252: Mr. LEHMAN.

H.R. 4230: Mr. FINDLEY, Mr. PRITCHARD, Mr. HUBBARD, and Mr. MYERS.

H.R. 4657: Mr. ADDABBO and Mr. ROSENTHAL.

H.R. 5180: Mr. HARTNETT, Mr. ANDREWS, Mr. DREIER, Mr. KRAMER, Mrs. MARTIN of Illinois, Mr. MCCLORY, and Mr. RITTER.

H.R. 5214: Mr. BOWEN and Mr. FRENZEL.

H.R. 5234: Mr. BLANCHARD.

H.R. 5448: Mr. EVANS of Georgia.

H.R. 5471: Mr. DANIEL B. CRANE.

H.R. 5738: Mr. RANGEL, Mr. MILLER of California, Mr. HUGHES, Mr. FAZIO, Mr. EDGAR, Mr. GEPHARDT, Mr. PETRI, Mr. DE LUGO, Mr. VENTO, Mr. SHAMANSKY, and Mr. BEDELL.

H.R. 5833: Mr. CONTE.

H.R. 5918: Mr. BROWN of Ohio, Mr. HYDE, Mr. LENT, Mr. LUJAN, Mr. MOLINARI, Mr. SKEEN, and Mr. WON PAT.

H.R. 5995: Mr. EVANS of Delaware, Mr. DAVIS, Mr. FISH, and Mr. WIRTH.

H.R. 6003: Mr. ZABLOCKI.

H.R. 6062: Mr. MARLENEE.

H.R. 6070: Mrs. SCHROEDER.

H.R. 6124: Mr. DICKS, Mr. WEAVER, and Mr. DWYER.

H.R. 6131: Mr. RATCHFORD.

H.R. 6165: Mr. PEPPER, Mr. EDGAR, Mr. MOFFETT, Mr. RATCHFORD, and Mr. OTTINGER.

H.R. 6188: Mr. CLAUSEN.

H.R. 6190: Mr. STOKES, Mr. DENARDIS, Mr. GINGRICH, Mr. RODINO, Mr. ECKART, Mr. VENTO, Mr. YATES, Mr. DWYER, Mr. FAZIO, Mr. STUDDS, Mr. SUNIA, and Mr. WEISS.

H.R. 6283: Mr. SOLOMON.

H.R. 6315: Mr. RAHALL.

H.R. 6467: Mr. ANNUNZIO, Mr. ALBOSTA, Mr. FORSYTHE, Mr. WILLIAMS of Ohio, Mr. BLANCHARD, Mr. HIGHTOWER, Mr. STOKES, Mr. BROOMFIELD, Mr. COLLINS of Texas, Mr. MURTHA, Mr. EVANS of Georgia, Mr. RHODES, Mr. BRODHEAD, Mr. NAPIER, Mr. FOLEY, Mr. HERTEL, Mr. RINALDO, Mr. ROTH, Mr. DE LUGO, Mr. BONIOR of Michigan, Mr. VENTO, Mr. FUQUA, Mr. KASTENMEIER, Mr. DICKS, Mr. HORTON, Mr. DERRICK, Mr. PARRIS, Mr. WHITLEY, and Mr. FORD of Michigan.

H.R. 6492: Mr. BAILEY of Pennsylvania, Mr. CHAPPELL, Mr. COATS, Mrs. COLLINS of Illinois, Mr. CONTE, Mr. CORCORAN, Mr. JAMES K. COYNE, Mr. CRAIG, Mr. DAVIS, Mr. DENARDIS, Mr. DWYER, Mr. HERTEL, Mr. KEMP, Mr. MCDADE, Mr. MADIGAN, Mr. PETRI, and Mr. TRIBLE.

H.R. 6526: Mr. SOLARZ, Mr. MINISH, Mr. BAILEY of Pennsylvania, Mr. GLICKMAN, Mr. MCEWEN, and Mr. BINGHAM.

H.R. 6527: Mr. MINISH, Mr. DE LUGO, Mr. ZEFERETTI, Mr. SOLARZ, Mr. BAILEY of Pennsylvania, Mr. GLICKMAN, Mr. BINGHAM, Mr. MCEWEN, Mr. HOLLENBECK, and Mr. WHITLEY.

H.R. 6538: Mr. YOUNG of Florida, Mr. SOLOMON, Mr. STRATTON, and Mr. BROOMFIELD.

H.R. 6573: Mrs. BOUQUARD, Mr. FIELDS, Mr. HILER, Mr. SPENCE, and Mr. YOUNG of Florida.

H.R. 6591: Mr. ECKART, Mr. LEHMAN, and Mr. PORTER.

H.R. 6613: Mr. HUGHES, Mr. EVANS of Georgia, Mr. HORTON, Mr. ROEMER, Mr. VENTO, Mr. BEDELL, Mr. LIVINGSTON, and Mr. WHITLEY.

H.R. 6693: Mrs. KENNELLY, Mr. FORSYTHE, Mr. MOAKLEY, Mr. EVANS of Georgia, Mrs. HECKLER, Mr. HATCHER, Mr. STUDDS, Mr. BEVILL, Mr. DWYER, Mr. VENTO, Mr. BONKER, Mr. SUNIA, Mr. FARY, Mr. LEWIS, Mr. MOLLOHAN, Mr. BEDELL, Mr. ROSENTHAL, and Mr. MOFFETT.

H.R. 6729: Mr. ADDABBO, Mr. DWYER, Mr. EMERY, Mr. FARY, Mr. FASCELL, Mr. HEFNER, Mr. KOGOVSEK, Mr. MINETA, Mr. NEAL, Mr. RODINO, Mr. ROE, Mr. STOKES, and Mr. WAXMAN.

H.J. Res. 172: Mr. YOUNG of Alaska, Mr. SANTINI, and Mr. GRAMM.

H.J. Res. 323: Mr. PARRIS, Mr. PORTER, and Mr. PICKLE.

H.J. Res. 332: Mr. DICKS, Mr. WOLPE, Mr. JACOBS, Mr. SOLARZ, Mr. CROCKETT, Mr. MCCLORY, Mr. DREIER, Mr. EDGAR, Mrs. HECKLER, Mr. BOLLING, Mr. SMITH of Pennsylvania, Mr. BROYHILL, Mr. ALBOSTA, Mr. ERTEL, Mr. FINDLEY, Mr. NATCHER, Mr. LAGOMARSINO, Mr. MCDADE, Mr. MATSUI, Mr. MOLINARI, Mr. ERDAHL, Mr. MILLER of California, Mr. EVANS of Georgia, and Mr. BETHUNE.

H.J. Res. 456: Mr. DOUGHERTY, Mr. LEHMAN, Mr. PORTER, Mr. GINGRICH, Mr. PRICE, Ms. OAKAR, Mr. ANNUNZIO, and Mr. NOWAK.

H.J. Res. 489: Mr. LOWRY of Washington.

H.J. Res. 493: Mr. MARTIN of New York, Mr. HAMMERSCHMIDT, Mr. HARTNETT, Mr. DANNEMEYER, Mr. SILJANDER, Mr. SMITH of Alabama, Mr. NELLIGAN, and Mr. RUDD.

H.J. Res. 503: Mr. EDWARDS of California and Mr. SHELBY.

H.J. Res. 533: Mr. MITCHELL of New York and Mr. HOPKINS.

H. Con. Res. 324: Mr. DERWINSKI, Mr. BEARD, Mr. FLORIO, and Mr. WEAVER.

H. Con. Res. 355: Mr. CORRADA, Mr. COURTER, Mr. VENTO, Mrs. ROUKEMA, Mr. RINALDO, Mr. FORD of Michigan, Mr. LUNDINE, and Mr. BINGHAM.

H. Con. Res. 364: Mr. APPLEGATE, Mr. DANIEL B. CRANE, Mrs. KENNELLY, Mr. FARY, Mr. WOLF, Mr. HAGEDORN, Mr. EVANS of Georgia, Mr. MINISH, Mr. CLINGER, Mr. ADDABBO, Mr. GINGRICH, and Mr. KILDEE.

H. Con. Res. 366: Mr. LEWIS, Mr. CHAPPELL, Mr. LEBOUTILLIER, and Mr. WHITTAKER.

H. Res. 367: Mr. JENKINS.

H. Res. 486: Mr. DWYER, Mrs. COLLINS of Illinois, and Mr. BEDELL.

H. Res. 505: Mr. MINETA, Mr. FISH, Mr. SYNAR, Mr. COELHO, Ms. MIKULSKI, Mr. WAXMAN, Mr. RICHMOND, Mr. MITCHELL of Maryland, Mr. ZEFERETTI, Mr. DOWNEY, Mr. GARCIA, Mr. WALGREN, Mr. ROYBAL, Mr. VENTO, Mr. GEJDENSON, Mr. DWYER, and Ms. OAKAR.

PETITIONS, ETC.

Under clause 1 of rule XXII,

523. The SPEAKER presented a petition of the Ambassador of the Turkish Republic, Washington, D.C., relative to international terrorism; which was referred to the Committee on Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5203

By Mr. LEVITAS:

—Page 63, strike out line 21 and all that follows through line 10 on page 69.

H.R. 6030

By Mrs. COLLINS of Illinois:

—At the end of the bill add the following new section:

LIMITATION OF PROCUREMENT OF RATIONS PACKAGED OUTSIDE THE UNITED STATES

SEC. 902. None of the funds appropriated pursuant to authorizations of appropriations in this Act may be used for the procurement of combat rations for the Armed Forces unless such rations were packaged inside the United States.

By Mr. HOLLENBECK:

—Page 26, after line 22, add the following new section:

TREATY ON CHEMICAL WEAPONS

SEC. 902. It is the sense of the Congress that the President should—

(1) actively promote negotiations among the member nations of the ad hoc working group on chemical weapons of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland, for the purpose of the member nations agreeing to a treaty for the complete and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for the destruction of all chemical weapons; and

(2) communicate to the Government of the Soviet Union the willingness of the Government of the United States to proceed as soon as possible to conclude a treaty for the complete and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for the destruction of all chemical weapons.

By Mrs. SCHNEIDER:

(Amendment offered by Mrs. SCHNEIDER to H.R. 6030.)

—Page 26, after line 22, insert:

RESTRICTION ON CONSTRUCTION OF NAVAL VESSELS IN FOREIGN SHIPYARDS

SEC. 902. (a) Chapter 633 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 7309. Restriction on construction of naval vessels in foreign shipyards

"(a) Except as provided in subsection (b), no naval vessel, and no major component of the hull or superstructure of a naval vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when he determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"7309. Restriction on contruction of naval vessels in foreign shipyards.".

By Mr. SIMON:

—At the end of the bill, add the following new section:

STUDY ON FOREIGN LANGUAGE REQUIREMENTS

SEC. 902. (a)(1) The Secretary of Defense shall conduct a study on the feasibility of requiring each cadet and midshipman at the United States Military Academy, the United States Naval Academy, and the United States Air Force Academy and each member of the Senior Reserve Officers' Training Corps program to study at least one foreign language for not less than two years and to increase existing requirements for foreign language study at such academies and in such program.

(2) The Secretary shall include in such study consideration of the desirability and feasibility of paying a bonus to each member of the Armed Forces stationed in a foreign country who is proficient in the native language (other than English) of such country.

(b) A report on the study conducted pursuant to subsection (a) shall be submitted by the Secretary of Defense to the Congress not later than the date occurring 12 months after the date of the enactment of this section.

EXTENSIONS OF REMARKS

PUBLIC SECTOR UNIONS THREATEN OUR CITIZENRY'S GENERAL WELFARE

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. RUDD. Mr. Speaker, one of the reasons for the high caliber of law enforcement in this Nation has been the quality of our public servants themselves. Policemen, firefighters, emergency crews, and other public safety officials have a difficult, and often unrecognized, duty in protecting our society.

For their public service, I take my hat off and congratulate these honorable men and women who risk their lives for the sake of their fellow citizens.

But, as public servants these employees also have a special duty and responsibility to their employers—the public and the elected and appointed officials who represent the public.

For it is the public, the taxpaying citizens of our country, who pay the bills and receive the services of our public workers. Public employees are hired by the citizens of the Republic. The job is unique, it is a trust. The safety of our citizens is in the hands of the public employees, and, thus, it is critical to prevent breakdowns among our critical public work force which can jeopardize the well-being of a community.

It has been my experience that public sector unions do not work for the benefit of citizens, but rather their goals are bent toward the good of narrow, selfish interests; namely, their own.

During the air traffic controllers strike, we heard time and time again how the Government mistreated this selective group of Government employees. In fact, these controllers, while skilled in a high-stress profession, were among the highest paid Government employees with literally thousands of applicants waiting in line to join them in the towers.

Their union—PATCO—used every form of blackmail in the book, broke a Federal law by striking, and held the airline industry and millions of travelers hostage while seeking more benefits for themselves.

There can be no question of the need to continue our ban on public strikes. This, I emphasized in the form of an amendment to the Civil Service Act in 1978.

But public sector unions persist in their unconscionable tactics in cities all over the country. At the local level, they seek to not only engage in collective bargaining, but to set their own code of conduct and intrude upon the authority of elected and appointed officials.

The city of Phoenix, Ariz., Police Department, like any law enforcement agency, depends upon tight discipline and unwavering unity in enforcing the law. It is not a military operation, but rules need to be rigid and conduct exemplary—just as consistent as the officers must be applying decisions in their everyday work on the streets.

Of critical importance is having one person in charge of the department—the police chief—in a position of leadership that can do without second guessing, internal squabbling, and particularly interference from an employees' union.

Recently, on the Phoenix police force, a group of officers were dismissed for misconduct during a drinking party. Shortly thereafter, another male officer was demoted for sexual harassment of a female police officer.

In each of these cases, the gentleman appointed to the job of police chief, Ruben Ortega, acted decisively, firmly, and in a manner befitting his sensitive role as the city's top law enforcement officer.

However, because of his actions, Chief Ortega has been under fire from the Phoenix Law Enforcement Association, a union representing about 80 percent of the local police force. Two patrolmen—and union members—sharply criticized their chief publicly in the police union newsletter for his disciplinary action against the officers. The articles attacked and questioned Chief Ortega's fairness and accused him of causing a low morale problem in the department.

The police union's leadership organized a protest march of 300 police officers, initiated a petition drive in protest of the chief's policies, and many have called for his ouster.

But the key issue here was not the disciplinary policies of the Phoenix Police Department, but who is in charge of running it. The union leadership not only wants to second-guess the man in charge, but they want to help write the department's policies and participate in disciplinary procedures.

As a former law enforcement agent for 20 years with the FBI, and an outside observer in a purely local matter, I applaud the fortitude of Chief Ortega in preserving the integrity and high honor of the police force.

If the police chief were to beckon to the parochial interests of the union, it would be tantamount to inviting a breakdown not just within a fine police force, but within the entire citizenry. His prime task is to uphold the law, not to cater to the interests of a select few.

It is refreshing to note that the major Phoenix newspapers and other media, the mayor and city council members have strongly endorsed the principled actions of Chief Ortega.

Rather than trying to impede upon the rightful authority of public officials, the public sector unions should examine their own record of credibility.

In the Phoenix employee's association alone, top union officials are being investigated for alleged crimes on and off duty. These alleged crimes include falsification of police reports and shoplifting while on duty.

Similar improprieties involving police officers—who are hired to enforce the law, not break it—have occurred around the Nation in Los Angeles, Chicago, and in a number of other cities.

In the District of Columbia this year, there have been reports of one of the local police unions making serious accusations against their superiors—the mayor and the police chief—to the effect the these top officials had mishandled an investigation of some officers downgrading police reports. The two competing unions for the District of Columbia Police Department have freely traded charges of racism over the past few years and have made public statements to the press that amount to nothing less than outright demands.

The larger issue at hand here is not any specific example of wrongful action on either side—labor or management. It is: Who is in charge of a police agency? Who is responsible for making policy in a department and how much influence can be exerted by special interests which cater to a select few and which are not ultimately responsible for running an effective, well-disciplined, trusted, and productive department.

When the authority and delegated responsibilities of an official are questioned and aggressively challenged to the point where the operations of a department are severely disrupted, then we know such interference is not in the best interests of the public.

When he was Governor of Massachusetts, former President Calvin Coolidge left no doubt how he felt during the Boston police strike of 1919:

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

There is no right to strike against the public safety by anybody, anywhere, anytime.

Since those bold words, American courts have quoted it time after time in handing down labor decisions.

The blossoming of public sector unions have almost taken place overnight since President John Kennedy signed an Executive order in 1962 giving Federal workers the right to join unions. Last year, there were an estimated 6.5 million full-time Federal, State, and local government workers represented by unions or employee associations—an estimated 42 percent of the Government work force. At the local level, 3.7 million Government workers dominate most vital public service occupations—the police, the firefighters, the sanitation workers, the highway crews, and so forth.

Because of their powerful bargaining stance—by shear numbers alone—some unions seem to believe they are in a position to maneuver major policymaking to their own liking, or to make ultimatums suited to their own interests.

Regardless of how public sector unions displace the public's interests with their own, a few basic facts remain. Public employment is a public trust. These workers serve at the will of the people, the taxpayers who support them, not for a private employer trying to make a profit. Further, Government workers are not, or should not be allowed to utilize public sector unions to take advantage of those for whom they are hired to serve.

And, lest all public sector workers and their unions forget, they are also at the disposal of the public which employs them. That is the democratic process all elected officials must respect; that is the policy for all public servants. If public employees cannot understand this they should look for employment in the private sector.●

LARRY LAY BRINGS JOY AND FULFILLMENT TO HANDICAPPED

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BROOMFIELD. Mr. Speaker, this country has many reasons to be proud of its veterans, who have served our Nation faithfully when the need has arisen. One man from Oakland County, Mich., who is a veteran has continued to honor our people and our country since returning to civilian life, but in a different and special way. Mr. Larry Lay has chosen to devote himself and his resources to brightening the lives of our Nation's handicapped.

Ten years ago Larry's daughter, Stacey, was born with a birth defect, spina bifida. This prompted Larry to quit his job as a steel hauler and start his own company specializing in products for handicapped persons.

The first product Larry designed and constructed was a body brace for his daugher. Mr. Lay's firm, Greater Life Enterprises Inc., has also created an electric car to give handicapped persons greater freedom of movement, a gravity-free therapy device for arm and leg exercises, and two versions of a device to allow persons with a handicap to enjoy the game of bowling. Stacey Lay can bowl a respectable 125 average. Another of Mr. Lay's happy customers is Dave Repshinska, paralyzed from the shoulders down, but who is bowling an impressive 158 average, thanks to Larry's device.

The efforts of Mr. Lay bring honor to our country and to the people of Michigan. His work to bring more joy and fulfillment into the lives of handicapped Americans is a distinguished and noble endeavor. He deserves our recognition, commendation, and praise.●

TRIBUTE TO WALTER B. BREMOND, JR.

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. DYMALLY. Mr. Speaker, it is with deepest sorrow that I bring to the attention of my colleagues the recent death of Mr. Walter Bremond, founder and president of the National Black United Fund.

Only 48 years of age at his passing, Mr. Bremond lived those years to the fullest, leaving to his community a record of service and commitment that few can match.

In 1962, Mr. Bremond organized the Los Angeles Black Congress as a means of unifying and establishing communication among our people for political and economic empowerment. In 1968, he organized the Los Angeles Brotherhood Crusade as a vehicle for community fund development and self determination. He then proceeded, in 1974, to establish the National Black United Fund to further the growth and development of the black community nationwide.

Mr. Bremond was a leader in challenging the disproportionate allocations of the United Way to minority communities, and was instrumental in making it possible for employees in Government and private industry to contribute directly, through payroll deductions, to projects serving black constituents.

His untimely death of a heart attack is a loss of great magnitude to black Americans and to all who embrace the ideals of justice and equity. The organizations he founded remain as testimonials to his vision, and to his remarkable ability to make of dreams a reality.

We are each challenged to work with equal fervor and dedication toward the objectives that propelled his life, and enriched the lives of so many others.●

ONE PAGE'S POSITIVE EXPERIENCE IN WASHINGTON

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LEHMAN. Mr. Speaker, the following letter, which was printed in the Miami Herald on July 16, 1982, has value far beyond its defense of the page system on Capitol Hill.

Dana Fleisher's letter is a reaffirmation of faith in our American traditions. The values and ideas of this talented young lady are representative of many of today's young people.

Our office's experiences with several dozen interns and pages have been most rewarding. These young people make a real contribution to our American political system and I am convinced that they will continue to do so in the future.

The letter follows:

A CONGRESSIONAL PAGE TELLS OF HER EXPERIENCES

To the EDITOR:

Just two and a half months ago, I returned from Washington, D.C., after completing a nine-week appointment as a congressional page. The recent revelations certainly do not reflect the activities of the majority of pages.

The two months I spent in Washington were unforgettable and priceless. Rep. William Lehman of North Dade/South Broward was my sponsor. I will be grateful to him forever.

I attended school in the attic of the Library of Congress each weekday. The first bell rang at 6:10 a.m., and school was usually dismissed at 9:45 a.m.

On the Democratic side of the House floor, I signed in each morning and received my duties. They usually were to deliver letters, documents, and packages from office to office. I worked until 6 p.m., often as late as 7 p.m.

As a House page, I worked all day, five days a week. Senate pages often worked on Saturday mornings. On the weekends, though, I found the city of Washington to be the most exciting and most culturally oriented city in the United States.

In just two months, I visited every museum at least once, went to the Kennedy Center to see the Joffrey Ballet and again to see Katherine Hepburn in a drama, and saw the city's universities. I was also fortunate enough to be there when Queen Beatrix of the Netherlands came to address a joint session of Congress.

There was no conflict with supervision while I was a page. I resided in an all-girls dorm where a special floor was designated for pages. We had two proctors—one at each end of the hallway—and a strict nightly curfew.

All of us signed in after work each evening and on the weekends as well.

The majority of other pages lived in a similar fashion. I realized for the first time in my life that it was up to me to do my laundry and get to the places I needed to go. I made friendships that I will always cherish with kids from all over the nation. In many aspects, I was on my own—but I was never lonely, never totally unsupervised.

In Washington, I met with prudent, sedulous congressmen and congresswomen. Most were concerned for their country's economy and prosperity. I hope that the unfortunate behavior of a few does not jeopardize the efforts of the conscientious majority.

It particularly irks me to see the congressional-page system maligned. I wish all teenagers could have the experience I did. I hope the misconduct of several pages will not damage the reputation of the others.

Being a page was a special, unique, and rewarding experience. I would do it again in a minute.

DANA FLEISHER,
Plantation.●

KEEP SENIOR EMPLOYMENT PROGRAMS ALIVE

HON. TOBY ROTH

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ROTH. Mr. Speaker, it is imperative that the House pass House Concurrent Resolution 278 today and declare Congress unwavering intent to fully fund Older Americans Act title V senior employment programs.

More than 54,000 low-income older Americans depend on senior employment programs for supplemental income and an opportunity to be of service to their communities. Thus, title V programs are not just an important source of income to senior citizens; these programs express the Nation's commitment to full participation by older persons in the national life at its best.

Indeed, senior employment programs provide tax revenues making title V not only laudable from a social point of view, but cost effective as well. What other justification is needed to insure a long life to title V?

The intent of Congress in keeping senior employment programs vital must be fulfilled. I am pleased to note the widespread support for title V in Congress, over half of the Members cosponsoring this resolution to keep the programs strong. I urge my colleagues to bring the same commitment to efforts to insure that senior employment programs are fully funded not just in the coming fiscal year, but in years hereafter.●

A FEDERAL CHARTER FOR THE ARMY AND NAVY UNION

HON. JOHN F. SEIBERLING

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SEIBERLING. Mr. Speaker, I am pleased to reintroduce legislation to provide a Federal charter to the Army and Navy Union of the United States of America.

The Army and Navy Union was organized in 1886. It is the oldest veterans' organization of its type in America, and is the only veterans' organization in which membership is not limited to any specific form, date, branch, place, or nature of the military service rendered.

Incorporated in 1888, the Army and Navy Union is dedicated to the preservation of a free and independent United States, and to providing assistance to veterans and their dependents. Since its earliest days the union has worked for the enactment of equitable laws to provide pensions, medical care, and other benefits for veterans.

The Army and Navy Union is headed by a national commander and staff, State departments, county councils, and the local groups or posts, which are known as garrisons. The National Corps is administered by officers elected at the annual convention. Any member in good standing is eligible to hold any office in the Army and Navy Union.

The Army and Navy Union has a long and illustrious record of service to veterans. Forty-one Congressional Medal of Honor recipients have held membership in the union, including Eddie Rickenbacker and Douglas MacArthur. Other members have included President William McKinley, Supreme Court Justice Harold Burton, and U.S. Senator Charles Dick of Ohio.

I am pleased to be the sponsor of this legislation, and I hope that the Congress will act to grant a Federal charter to this worthy organization.●

FOREIGN AID DOING US IN

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. McDONALD. Mr. Speaker, the cost of our foreign aid program since World War II, has been enormous. The results have been insignificant. The program has aroused jealousy, has not made any lasting friendships for the United States, and in many cases has given rise to graft and corruption in the countries we have attempted to aid. A good summation of foreign aid, written by Jack F. McManus, appeared in the Birch Log of July 22, 1982, a weekly newspaper column syndicated by the John Birch Society.

The column follows:

FOREIGN AID DOING US IN

(By John F. McManus)

BELMONT, MASS.—A few months ago, a friend of Senator Jesse Helms of North Carolina asked this simple question: How much, including interest on the money borrowed by the U.S. Government to finance it, has our foreign aid program cost the taxpayers? The answers he came up with are truly mind-boggling.

Between 1946 and 1981, the number of U.S. tax dollars sent to the far corners of the earth—and everywhere in between—comes to $286,467,000,000. That figure exceeds the total annual budget of the U.S. Government in 1974!

But an honest cost assessment of foreign aid has to include interest on the money borrowed to pay for it. So Senator Helms asked for help from the Library of Congress which has computed that the cost of all this foreign aid (interest included) is a staggering $2,304,257,900,000. This $2.3 trillion is more than twice the admitted national debt of $1.06 trillion and is almost equal to our entire nation's annual gross national product which is estimated to be $2.99 trillion. When the Senator received these figures, he sent them back for double-checking. Unfortunately, they were correct.

WHERE DOES IT GO?

Senator Helms' discussion of this massive giveaway and a listing of its recipients appear in the Congressional Record for May 18, 1982 (pages S5402-5406). That list notes $23 billion for Vietnam, and over $2 billion each for Laos and Cambodia. Obviously, more than money is needed to keep nations from falling to Communism. The Helms tabulation also includes $2.8 billion for Communist Yugoslavia and lesser millions for Communist Poland, Hungary, Czechoslovakia, East Germany and even the U.S.S.R. itself.

Foreign aid has been given to oil-rich OPEC nations and to an assortment of primitive satrapies whose chief delight seems to be hurling insults at the United States. It has often been given to both sides in the endless parade of wars (India and Pakistan, Ethiopia and Somalia, Israel and Egypt, Algeria and Morocco, etc.). Aid is supplied to governments whose policies accelerate poverty, such as when they nationalize agriculture, expel productive minority groups, and destroy free enterprise. It never reaches poor people except through rulers whose first and foremost goal is to serve their own interests. If the amount of foreign aid is based on a nation's poverty level, you can be sure that many petty tyrants will work to deepen their people's poverty. This incredible largesse has also financed foreign industry (in Japan, Taiwan, South Korea and Hong Kong) which is now underselling our own.

WHAT DOES IT DO TO US?

As vast as these figures are, they do not include additional foreign aid in the form of maintaining and equipping a huge military force in Europe and the Far East. Nor do they include the billions we have poured into the grasp of the America-hating United Nations. Right now, the American taxpayers have to pay $115 billion annually in interest on previous debt. These outrageous expenditures have brought on greater defi-

cits, higher interest rates, increased inflation, unemployment and a general slowdown. If the money spigot is not shut off soon, America will be finished.

Senator Helms concedes that there were a few years when we doled out foreign aid and still had a surplus. And he notes that a small portion of the total has been paid back. He even says: "I am willing to halve the total figure" to satisfy anyone who complains. His point, of course, is that half of a $2.3 trillion giveaway is still ridiculous. And our point is that there never has been anything in the U.S. Constitution which empowers our government to tax the people in order to give funds to foreign governments. When foreign aid began, opponents predicted the mess we are in. The only sane course is to stop it completely before we commit suicide.●

THE LOUISVILLE ORCHESTRA

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. MAZZOLI. Mr. Speaker, as the Louisville Orchestra "tunes up" for the beginning of the 1982-83 season, I would like to take this opportunity to call to the attention of my colleagues in the House some of the special accomplishments of the Louisville Orchestra over the years.

Louisville is a community rich in cultural activities, and the Louisville Orchestra has been its leading musical resource since 1937. The orchestra has earned worldwide recognition for stimulating and encouraging contemporary musical composers.

In its four recording sessions each year, the orchestra makes full-length records featuring music by world class contemporary composers. New works are commissioned by the orchestra's own recording company—First Edition Records. The Louisville Orchestra is one of the few orchestras in the world to own and operate its own recording company.

In addition to its promotion of contemporary music, the Louisville Orchestra does much to encourage the arts in local young people by sponsoring music education programs. The orchestra is also involved in a number of young artist competitions.

The orchestra brings an extraordinary breadth, talent, and expression to the performances of the Louisville Ballet and Kentucky Opera Association. It recently completed a highly successful tour of Mexico.

Under the leadership of Robert Whitney for 29 years, Jorge Mester for 12 years, and then Adira Endo, who recently left the podium, the orchestra has met the challenge of ever-diversified musical programs.

An impressive array of the world's greatest popular and classical artists will be featured during the 1982-83 season, among them, virtuoso pianists André Watts and Ralph Voapek, violinist Elmar Olveira and vocalist Dionne Warwick.

Along with the opening of a new season, the Louisville Orchestra is anticipating in the fall of 1983 the opening of the new Kentucky Center for the Arts which will be sited near the renovated Louisville Riverfront. In its new home, the Louisville Orchestra is sure to enrich the social and cultural climate, not only of the Louisville metropolitan area, but of the entire Commonwealth of Kentucky.

I applaud the efforts and talent of the Louisville Orchestra and wish it much success this season and in all its seasons ahead.●

THE 97TH CONGRESS NEEDS TO TACKLE THE PROBLEM OF ARTHRITIS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. WYDEN. Mr. Speaker, today is a happy day for senior citizens and other Americans. The crippling disease of arthritis is finally being taken seriously.

Last month in the House Energy and Commerce Committee, my colleagues voted for an amendment I offered which would create a separate National Institute of Arthritis. Credit for this legislation rightfully belongs with my distinguished colleague who chairs the Committtee on Aging, CLAUDE PEPPER, who has done so much for the elderly and other vulnerable Americans.

Today the Senate Labor and Human Resources Committee is taking another step forward by holding hearings on creation of this separate Institute of Arthritis.

The reasons for creating the Institute are quite simple.

Thirty-seven million Americans suffer from over 100 types of arthritis, yet only 17 percent of all research dollars in NIH are spent on arthritis research. This for a disease that costs society $30 billion annually.

The facts are staggering:

Twenty percent of medicare hospital costs are attributable to arthritis.

Social security disability, unemployment, and lost tax revenues shoulder a major part of the fiscal burden.

Arthritis is only second to circulatory diseases in economic costs to society.

Not to establish the proposed Institute would be pennywise and pound foolish.

Arthritis costs society billions and yet scientific research has been put on the back burner at NIH while quack cures proliferate.

In establishing this Institute, existing management and facilities can be consolidated, so that taxpayers will pay a small price compared to arthritis' annual cost to society.

Federally funded research must focus on arthritis, and the best way to do that is create a National Institute of Arthritis in the National Institute of Health.●

AMERICA SHOULD REACTIVATE ITS OIL PRODUCTION

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. RUDD. Mr. Speaker, in early 1980, our Nation's active oil rig count stood at about 2,500. At the start of 1981, the number of rigs rose to over 3,300. In January of this year, it was up to record levels—almost 4,600 active oil rigs in the United States at a time when oil prices were peaking domestically.

An alarming and almost unnoticed trend has since followed. After the first 6 months of 1982, the number of active rigs is down to a mid-1980 mark of 2,800.

What do these figures tell us?

First, that the dropoff of world prices has left OPEC in a confused state.

Second, that this instability, together with the volatile situation in the Mideast could quickly end, again leaving the United States in a vulnerable position because of our dependency on supplies.

Rather than be caught by surprise, we should be encouraging domestic production and building up our strategic supplies. We should look more toward the synfuels industry. We should be locating, drilling, and procuring our own sources for the day that OPEC decides to once again skyrocket oil prices on the backs of the American consumers.●

TRIBUTE TO MORRIS LEIBMAN

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. HYDE. Mr. Speaker, Morris Leibman is a very special person to a lot of people in America, and not too long ago a testimonial was held in his honor in Washington. The story of Mr. Leibman and his testimonial was the subject of a recent article by a very special columnist, Georgie Anne Geyer, that appeared in the June 24 Chicago Sun-Times.

I would like to share this article with my colleagues:

[From Chicago Sun-Times, June 24, 1982]

MORRIE LEIBMAN: A VERY SPECIAL GUY

(By Georgie Anne Geyer)

WASHINGTON.—The elegant testimonial dinner at the Chevy Chase Country Club could have been any recent posh Washington party. But this one was special because so many of the high-level movers and shakers present were moving and shaking from the far right to the liberal left.

The man who had brought them together was in everybody's book a very special guy. His name is Morris Leibman. He is a great deal more than just a top-level partner in the prestigious Chicago law firm of Sidley & Austin.

As one of the speakers that night said, as "Morrie" sat there with his usual blend of pixieish charm and humility, Leibman helped us all "to avoid a hardening of categories." Important words for today.

Or, as Richard Friedman, a lawyer who worked with him, put it afterward, "Today . . . we fall into the trap of pigeonholing everything. If you're a Democrat, you do this; if you're a Republican, you do that. These designations are not very helpful. Then you get to a guy like Morrie Leibman, who's a Democrat and a humanist, and he's all over the place. Some issues require a very hawkish stance, some a dovish stance."

Morrie Leibman is a short man with a roguish smile and seemingly infinite energy. He has served five presidents as a behind-the-scenes adviser, and last October Leibman, a Democrat, received the Presidential Medal of Freedom from a Republican president. He is a kind of Bernard Baruch for our times, one of those men who play in immeasurable role in forming, advising and moderating the decisions of the top men of power from a rational, lay position outside.

But most important, as everyone stressed at the testimonial for him, he was one of those men who built bridges between ideological extremes, a man who understood and acted upon the "sense of process" that alone makes democracy workable, a man who never dealt in theoretical extremes.

How did he do this? In his many years of public service, perhaps his most recognized role is chairman of the American Bar Associations's Standing Committee on Law and National Security. But he has also served as civilian aide-at-large to the Army secretary and in innumerable important advisory roles.

It was Leibman who used his vast web of connections and his easy charm to bring Henry Kissinger to Chicago on three occasions to meet off-the-record with top businessmen. It was Leibman who suggested to Alexander Haig the name of Leon Jaworski for Watergate prosecutor. In short, Leibman has been a kind of wise civilian conscience for a lot of people who could be lost in heady waters.

His national security committee is almost single-handedly responsible for creating the new body of law on intelligence. An example: the new laws that forbid a person or publication to reveal an intelligence agent's identity. These laws could have gone to the foolish left or the cruel right, but because of Leibman's agility they came out in the reasonable middle.●

THE COLLEGE AND UNIVERSITY ENERGY MANAGEMENT AND FINANCING PROGRAM

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. CONABLE. Mr. Speaker, as a member of the President's Task Force on Private Sector Initiatives, I would like to bring to public attention an innovative program aimed at slashing energy consumption and costs in higher education. The comprehensive college and university energy management and financing is being put into effect at 12 demonstration campuses. During the 30-month program, models and publications will be developed so other colleges can adopt the system, which should save as much as 25 percent in energy costs.

I find this private sector program commendable for several reasons. First, it will aid colleges at a time of financial difficulties for them. It will also reduce one of our greatest problems—scarcity of energy resources.

Government alone cannot solve all our ills; we need the expertise and vast resources of the private sector. The John A. Hartford Foundation of New York City is to be commended for supporting this and other such creative projects and we look forward to broad emulation of this practice by many other private groups.

The following article from the May 19 issue of the Chronicle of Higher Education gives a brief description of the program and lists the participating campuses:

12 COLLEGES NAMED FOR PROJECT TO CUT ENERGY COSTS

WASHINGTON.—The selection of 12 colleges and universities to demonstrate a cost-cutting energy-management system was announced last week.

The demonstration project is designed to cut energy costs by as much as 25 per cent.

Christoper E. Crittenden, director of the Higher Education Energy Task Force here, said the system, if put into effect on all campuses, could cut as much as $775-million a year from energy costs. He said those costs would exceed $3-billion or $363 per student this year.

The program is a joint project of the task force and the Educational Facilities Laboratories, whose headquarters are in New York. The project's first year will be supported by a $300,000 grant from the John A. Hartford Foundation, a private institution.

CENTRALIZING DECISIONS

The task force was formed in 1975 by the American Council on Education, the Association of Physical Plant Administrators of Universities and Colleges, and the National Association of College and University Business Officers. Educational Facilities Laboratories is a division of the Academy for Educational Development.

The energy-management system, according to officials of the sponsoring organizations, will centralize campus decisions affecting energy use, provide computerized information on energy consumption and the costs of possible conservation measures, and develop less expensive ways of financing energy programs.

Energy-management systems are to be developed during the first year and evaluated during the second year, after which the results of the program, including training materials and computer programs, will be published.

The 12 institutions selected as demonstration sites for the system are:

Arizona—Pima Community College.

California—Humboldt State University and Pomona College.

Connecticut—Fairfield University.

Illinois—Lincoln Land Community College.

Maryland—Johns Hopkins University.

New Hampshire—Franklin Pierce College.

New York—State University of New York at Stony Brook.

North Dakota—University of North Dakota.

Pennsylvania—Chatham College.

Utah—Westminster College.

Virginia—Virginia Polytechnic Institute and State University.●

CONTRACTING OUT

HON. FRANK HORTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. HORTON. Mr. Speaker, in the near furture, the House will consider in two separate pieces of legislation the question of whether the Government should continue to contract for the provision of commercial and industrial goods and services.

In H.R. 6030, the Defense Authorization Act for 1983, the Armed Services Committee will be asking us to approve a 1-year moratorium on the Defense Department's conduct of cost studies analyzing the efficiencies which might result from contracting out for some of these item. In H.R. 6317, that same committee will be asking that the kinds of functions which DOD may have performed by contract be severely limited.

As an advocate of a Government-wide procurement policy, I am perplexed at seeing these proposals surface at a time when the Office of Management and Budget is considering a general revision of the document which sets rules for contracting out by all agencies, OMB circular No. A-76. As a proponent of efficiency and economy in government, I am disturbed by the prospect of having a major agency precluded from securing goods and services in the least costly manner.

Amid the vocal and frequently bitter debate about the merits of contracting out, I am pleased to see that an even-handed analysis of the subject appeared in the July 6, 1982, edition of the Washington Post. I submit the article to be reprinted immediately after this statement for the benefit of Mem-

bers who may not have seen it when it was first published.

The article follows:

[From the Washington Post, July 6, 1982]

PUTTING THE GOVERNMENT OUT OF A BUSINESS

(By Douglas B. Feaver)

At Fort Leonard Wood, Mo., lovingly remembered as the armpit of the world by countless thousands of Army trainees, government employes once ran the laundry at a three-year cost to taxpayers of $4.5 million.

When the job was handed to a private contractor in response to Office of Management and Budget directives, 95 federal jobs went to the big personnel roster in the sky and a three-year saving of almost $600,000 was realized.

The change, called contracting-cost, was not without pain, however. That pain is at the center of a burgeoning battle between those who believe the government should not be doing work the private sector clearly can do and those who are either trying to save government jobs or who believe the private sector does not respond well to government, particularly military, needs.

The General Accounting Office recently studied the Fort Leonard Wood laundry and 17 other examples where the private sector assumed jobs once performed by government. At Fort Leonard Wood, "the contractor's performance was deficient in several areas during the first six months" but became satisfactory, GAO said.

In five other contracts, "unsatisfactory contractor performance was experienced" and new contractors were hired or problems were still being worked out at the conclusion of the GAO study. These kinds of difficulties are giving ammunition to those who question the contracting-out emphasis of the Reagan administration.

Officials at OMB argue that the difficulties experienced so far are mangement problems, reflecting inexperience or unwillingness on the part of government supervisors to define carefully the job they want done and then to make sure nongovernmental contractors do it. When management gets serious, they say, contractors do well, money is saved and all benefit.

The existing contracting-out directive (predecessors go back to 1955) was written in 1979, in the Carter administration, and contains this very Reagan-like sentence: ". . . It has been and continues to be the general policy of government to rely on competitive private enterprise to supply the products and services it needs."

That is not a popular stance with groups such as the American Federation of Government Employes (AFGE). Spokesman Gary Dinunno said contracting-out "abuses are so flagrant in some areas it's just obscene. We've had stories of illegal aliens being involved in security on military bases."

AFGE's lobbying efforts were instrumental in a one-year moratorium imposed by Congress on some contracting-out efforts by the Veterans Administration, but the big target for both AFGE and OMB is the Defense Department.

DOD purchases millions of dollars' worth of commercial services that are nongovernmental in nature, so many DOD operations are prime candidates for conservation to private enterprise. That means many government employes could find themselves off the federal payroll, although any contractor assuming a job once done by government employes is obliged to offer them a job first, though not necessarily with the same wages and benefits.

Thus, we find the House Armed Services Committee "concerned," as it said in the report on the Pentagon's fiscal 1983 authorization bill, "that the Executive Branch has lost sight of priorities in its headlong rush to contract out large numbers of federal jobs."

The report ordered a one-year moratorium on studies comparing the costs of public or private operation. Those studies are usually required as a prelude to conversion; as a general rule, if a private contractor can do it for 10 percent less, then the government is supposed to get out of the business.

There has also been some action in the Senate to limit contracting out, but the issue is far from resolved. AFGE's Dinunno said, "I think we have some support" for limiting the practice.

AFGE does not know, he said, how many government jobs have been lost through contracting-out, but the Pentagon says that contracting-out so far has resulted in big benefits.

Lawrence J. Korb, assistant secretary of defense for manpower, reserve affairs and logistics, testified on Capitol Hill recently that, "We have conducted about 400 bidding competitions [between government operations and private-sector contractors] in the past three years. About 60 percent were won by private firms saving about $70 million a year. The other 40 percent of the competitions were won by in-house activities which, spurred by competition, became more efficient and cost-effective.

"As a result, we are saving an additional $14 million annually. So whether a contractor or the in-house activity wins the competition, the real winner is the taxpayer."

OMB is working on a new circular on how to go about contracting-out. The central emphasis is to reduce the paperwork required before competitive bidding can be held between the existing government office and would-be contractors, according to OMB officials. A draft will be published for comment soon.

An early draft, which OMB officials said was never official, proposed that functions employing fewer than 25 people could simply be turned over to the private sector without cost comparisons. That set the unions on edge and was part of the impetus behind the moratorium movement.

"The great assumption" of those favoring keeping jobs in-house, said Donald E. Sowle, OMB's administrator for federal procurement policy, "is that government does things perfectly, which is obviously not true."

CONTRACTING OUT: YES OR NO?

A number of specific charges have been leveled against contracting-out, and the Office of Management and Budget has mounted a counteroffensive. Some charges and defenses:

Contractors are not as responsive to military needs as government employes and have the right to strike. The government, OMB says, can terminate a contract at any time and can require that a contractor develop a strike contingency plan.

OMB's cost-comparison standards tend to favor contractors over government. "This is incorrect," OMB says, and notes that government agencies "have the opportunity to streamline their in-house operation [to make it more competitive with the private sector] before the cost comparison is made."

Government has more flexibility in assigning its own employes than it has with private-sector employes. If government defines what is to do be done carefully, that's not a problem, OMB replies. It has written an 89-page handbook on how to define jobs.

Government incurs substantial costs in supervising contractors. That may be, says OMB, but those costs have to be included when comparisons are made between the cost of government doing the work and the cost of private contractors doing the work.●

INTERIOR SECRETARY WATT RATED FAVORABLY

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SHUMWAY. Mr. Speaker, I suppose I have received as much mail about the Secretary of the Interior, Mr. James Watt, as about anything else since the Reagan administration came to town. It has often seemed to me that most of what the folks out there have heard has been based on distortions in the press about proposals Mr. Watt has made regarding mineral access, wilderness protection, and so on. I have spent a good deal of time talking with Mr. Watt, and with other officials of the Department of the Interior, and I have often had a hard time recognizing in the news accounts the programs that have been proposed.

That being the case, I was a bit surprised by a recent Gallup Poll which showed that 61 percent of the American people rated Secretary Watt favorably. Since almost nothing has ever been said about him in a positive vein in the major media, I would have thought that that number would be much lower.

I believe, however, that the number does demonstrate the familiarity the American people have with Interior matters. They recognize that these are not simple questions, and that while environmental protection and preservation are necessary, the last administration carried these things to excess. They recognize, I think, that a better balance has to be struck.

And I doubt, as George Gallup suggested in his commentary on this poll, that this number simply reflects a view of the Secretary "as a person." Most Americans know very little about any Cabinet official "as a person." They know what they have been told about his job performance by the news media, and that is all. If James Watt gets a 61 percent favorable rating, I think it is pretty safe to assume that 61 percent of the American people think he is going about his job in about the right way. So do I.●

NUCLEAR FREEZE MOVEMENT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. FRANK. Mr. Speaker, the grassroots nuclear freeze movement is one of the most encouraging political developments I have seen in some time. I believe it is encouraging both because I agree wholeheartedly with the policy objective it seeks, and because it is a superb example of the role that informed and concerned citizens ought to play in our democratic system. The leaders of the nuclear freeze movement have shown that it is possible for private citizens to mobilize support in a way that can have a very favorable impact on an area of public policy which many would reserve to the "experts." There is no issue about which the people of this country have a greater right to be heard than that of preventing nuclear war. For it is their survival which is at stake if we are unable to reverse this all out arms race.

In the State of Massachusetts, one of the most active nuclear freeze committees has been that in the town of Natick. An example of the kind of creative activities which the Natick Nuclear Freeze Committee has engaged in is included in a recent article in the Natick Bulletin & Sun by Olin W. Hayes who chairs that committee.

Mr. Hayes' article is a well-reasoned, forceful statement of the case for the mutual nuclear freeze and I believe my colleagues and others will profit from reading it.

The article follows:

THE NUCLEAR FREEZE—CALL NUCLEAR WAR WHAT IT REALLY IS

Many encouraging signs on the Nuclear Weapons Freeze front. Hundreds from this area will join with hundreds of thousands in New York Saturday for the biggest peace demonstration ever held in this country. The rally and march have two purposes: to freeze and reverse the nuclear arms race, and redirect resources from the military to meet human needs.

This coincides with the United Nations special session on disarmament.

There is activity in Natick as well: The ecumenical Community Peace Celebration on Natick Common last week helped honor the country's veterans by joining in prayers for peace; the film "The Last Epidemic" was shown at Fisk Memorial Methodist Church recently; St. Paul's Episcopal Church has moved to endorse an international nuclear freeze; Dr. Alfred Frechette, Massachusetts Commissioner of Public Health, has launched the first state public health drive in the nation to ban nuclear weapons; the next meeting of the Natick Nuclear Weapons Freeze Committee will be held June 22 at 7:30 p.m. in St. Patrick's clubhouse.

While all this activity is most encouraging, the peace movement needs a lot more vocal and written support. Many people don't want to do much about it. Oh, they'll sign a petition, but they won't take time to write their congressperson, and some express the thought that maybe we're "getting soft on communism" or perhaps "not supporting the president." And I know what they mean, because until about three months ago I felt that way too.

As an old Eighth Air Force bomber pilot in World War II, and a guy who still gets a thrill as Vin Saunders crashes his cymbals to lead the Waltham Legion band into "The Stars and Stripes Forever" as they swing down Main Street in the Fourth of July parade, I'll take a back seat to no one in the perpetuation of patriotic fervor.

But I have come to realize, after just a little investigation which I should have done sooner, that we aren't talking about patriotism, defending our country, or making the world safe for democracy. Let's face the truth, folks, this is a whole new ball game.

Don't dignify it by calling it Nuclear War. Let's call it what it really is—Civilian Slaughter. The basic idea of war in the past was to defeat the enemy's military forces and capture his territory. A nuclear exchange, however, means killing just as many people as possible, destroying the enemy's cities and making his country uninhabitable.

Not too pleasant a subject? I know I would rather talk about the Celts, the Sox or Salazar than civilian slaughter. I'd rather see Larry O'Regan's grandson playing in the Natick Farm League against my grandson, than think about the bomb in the Soviet Union that is aimed at Boston.

After announcing a month ago a presidential policy of a "full-court press against the Soviet Union," and declaring that the "United States must have the ability to survive a prolonged exchange of strategic missiles," President Reagan has recently been proposing arms reductions in Europe. This is fine, but we all know that past peace talks and negotiations have taken from two to eight years to organize. Frankly, we don't have that much time!

Instead of the two superpowers shaking their fists at each other and building ever more destructive weapons, they should take one step backward, snuff out the fuse which is buring shorter toward nuclear holocaust, and declare an immediate mutual freeze on the testing, production and deployment of nuclear weapons. Then let the talks begin in earnest.

Why freeze right now? One frightening fact: A recent computer misinterpretation on the radar screen of a flight of geese over Vermont might well have initiated a rapid countdown procedure leading to the "launch upon warning" of U.S. missiles toward Russia. The Soviet Union, recognizing the incoming U.S. missiles, would have launched their own missile force toward us, also by computer.

The MX missile, which is almost ready to go into production, can wipe out enemy missile silos in a matter of minutes, and is an offensive weapon which virtually assures the Soviet Union that we intend to strike first.

We don't need this thing! Our defensive capabilities are now so great that even in the unlikely event that every one of our land-based missiles was wiped out in an initial Soviet attack, just one of our Trident submarines, operating virtually undetected in the North Sea, could destroy the 240 largest population centers in the Soviet Union.

The United States has about 9,200 strategic nuclear warheads and bombs compared to about 7,000 for the Soviet Union. The explosive force for both the U.S. and the U.S.S.R. balances out at approximately 10,000 megatons each, which is the equivalent explosive force of 10 billion tons of TNT, or 2.5 tons of TNT per person in the world.

If these figures are almost incomprehensible, let's consider what it might look like around here if an all-out nuclear war (pardon me, civilian slaughter) took place. If you have seen one dead body lying in the street, just think what several million of them would look like. Only you wouldn't really see them because if you were within 20 miles of the blast you would probably be blind and deaf. Most hospitals and doctors would be gone; there would be no blood supplies, no communication, no transportation, contaminated food and water, if any. Let's talk a little about that at the Saturday night cookout.

There is material available from doctors, former government officials, and from military personnel which presents these problems far better than I. Natick citizens like William "Doc" Miller, Marilyn Madzar, Joe Gillis, Bill O'Brien and others, who saw the importance of the freeze movement many months ago, can be contacted.

The important thing is to take action, read about it, talk about it, write or call your congressperson about it. Press for an immediate Nuclear Weapons Freeze as the first step toward emerging from this nightmare. Tell them to Freeze before they Talk.

And don't make a hero out of any person who even threatens to push the button for civilian slaughter (nuclear war). If this was being logged into a police record somewhere, it would go down as a case of murder and suicide, then the book would be closed. Only this time there will be no one around to close the book.●

SMALL BUSINESS PROGRAMS SLASHED IN TIME OF NEED

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BEDELL. Mr. Speaker, as record high unemployment and staggering interest rates besiege our economy, we should be looking toward the small business community to help our Nation get its economic house in order. Small firms have an ability that is unique in our economy to provide new jobs and innovations that lead to new industrial development. Unfortunately, small firms are going bankrupt at a rate that is without precedent since the Great Depression.

One can certainly question our Government's commitment to revive our economy if we examine this administration's cutbacks in small business programs at the various Federal agencies. In fiscal year 1983 alone, programs that aid entrepreneurs engage in activities that create jobs and generate revenues will be cut by $1.59 billion, according to the August 1982 issue of Venture magazine. Small business programs are being cut at a number of Federal agencies including

the Small Business Administration, Department of Energy, Farmers Home Administration, and Economic Development Administration. The following chart is taken from the magazine article and breaks down these proposed cuts:

[In millions of dollars]

	1981	1982	1983[1]
Farmers Home Administration: Business and industry loan guarantees	652	300	0
Department of Energy: Set-aside contracts	469	466	0
Department of the Interior: Grants to small business	26	20	0
Economic Development Administration:			
Direct loans	17	30	0
Loan guarantees	45	50	0
Small Business Administration:			
Direct loans	308	225	0
Loan guarantees	3,300	2,900	2,400

[1] 1983 funding levels are based on the administration's proposed spending levels for all Federal agencies and are subject to change pending final congressional action on the fiscal 1983 budget.

I believe the guiding philosophy behind these proposed cuts is wrong. Moreover, these cuts appear to be indiscriminate. Many Government aid programs serving the large business sector of our economy continue to exist. It seems to me that if we are really serious about creating jobs and nurturing new industry, we should not be cutting back on Government programs that will help small businesses and entrepreneurs in these difficult times.

I refer my colleagues to the article that appeared in the August issue of Venture magazine. The text follows:

UNCLE SAM TURNS A DEAF EAR

(By Jim Ostroff)

Burdened with bloated budget deficits, the federal government is drastically curtailing its commitment to small business. Direct and guaranteed loan programs, a cornerstone of government efforts to spur new business, have already been slashed and many are to be eliminated this year.

The cutbacks are not limited to Small Business Administration programs. Six of the agencies most active in helping entrepreneurs other than the SBA saw their combined budgets cut from $9.53 billion last year to $8.03 billion in 1982, and expect to see further reductions to $5.05 billion in fiscal 1983.

Still, it may be in the SBA's losses that entrepreneurs will feel the most pain since that agency has been most closely aligned with small business owners. For example, the SBA's direct loan program, which amounted to $308 million in fiscal 1981, was cut by 27% to $225 million this year, and, based on the Administration's proposed budget, it is slated for elimination on Oct. 1.

More ominous yet is the proposed reduction in SBA's guaranteed loan program which has traditionally provided credit to small firms that could not get credit elsewhere. Funded at the $3.3 billion-level in fiscal 1981, it was cut to $2.9 billion this year and will be reduced to $2.4 billion in fiscal 1983.

Even these numbers may be illusory since federal agencies have been hard pressed by the Administration to economize. The SBA was guaranteeing loans at about one-third its usual rate, granting only $802.3 million in loan guarantees during the first half of the fiscal year. And it had spent just 23% of its allotted direct loan budget by mid-year. But at the SBA, spokesman Robert Deitsch denies the agency is taking a "go-slow" attitude. "Our loan application rate is running about a third of what it was last year," he says. "But this is probably due to the economy rather than any decision here."

The cutbacks in the SBA's loan programs will hurt some small business sectors and entrepreneurs more than others. For example, loan authority for Small Business Investment Companies (SBICs) and Minority Enterprise Small Business Investment Companies (MESBICs), which stood at more than $200 million in each of the last two years, is slated to be cut 17.4% to $166 million in 1983.

One SBA program which appears healthier than most is the Section 503 program. Formed in 1981 to create jobs and foster community growth, 503 delivers its funds to "local development companies," which contract with small businesses. This program is budgeted for $150 million this year and next, after receiving only $35 million in fiscal 1981. The Equal Opportunity Loan program, which is aimed at helping minority firms, is expected to receive a funding increase. Budgeted at $69.4 million in fiscal 1981, this program's loan authority more than doubled to $139 million this year, and is proposed to increase to $167 million in fiscal 1983.

Other federal agencies which have long provided loans and grants to small businesses are also expecting major cutbacks. Some of the more popular programs, such as direct loans and guarantees from the Economic Development Administration and the Farmer's Home Administration, are being eliminated. And meanwhile, like the SBA, many agencies seem not to be using the funds already allocated. The Administration's budget calls for the following cuts:

ECONOMIC DEVELOPMENT ADMINISTRATION

Loan programs administered by the Commerce Dept.'s EDA, which have been a boon for small firms that need to borrow more than the $500,000 maximum permitted by the SBA, are being scuttled. On paper at least, this year's budget of $30 million appeared better than 1981 when the agency made loans totaling $17.3 million. However, according to George Muller with EDA's office of business loans, the agency did not grant even one loan during the first half.

EDA's guaranteed loan program shrank from $200 million in fiscal 1980 to $45 million last year, when it made 39 loans. Once again, though, its $50 million loan program for 1982 appears illusory since no loans have been made and none is likely. And both the direct and guaranteed loan programs are slated for extinction—along with the entire agency—at the end of fiscal 1983.

FARMERS HOME ADMINISTRATION

The Agriculture Dept. administers several programs to aid small firms. In all cases, they will be cut drastically or eliminated. The agency's business and industry loan program, which guarantees loans up to $50 million, had a $652 million lending budget in 1981. This year its budget was pared to $300 million, and the program is slated to be terminated at the end of this fiscal year.

FmHA's alcohol fuel program was among the most conspicious victims of President Reagan's push to get the government out of the energy business. Where $1 billion had been allocated to guarantee up to 90% of the loans for this work in fiscal 1980, the program was cut to $700 million for loan guarantees the next year, and eliminated this year.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

After making 390 Urban Development Action Grants in fiscal 1981 to municipalities (which in turn contract local improvement jobs primarily to small businesses). HUD cut the UDAG budget almost 35%, from $675 million in 1981 to $440 million this year. Tentatively, this program is slated to receive the same funding in fiscal 1983. However, as of May, HUD had awarded only $146.5 million in these grants to 129 cities.

HUD's Community Development Block Grant programs, which are often passed along to small businesses in the form of contracts, made $3.7 billion in grants to 2,545 cities in 1981 and was budgeted for $3.5 billion this year and next. The agency had appropriated only 10% of its budget by mid-year.

DEPARTMENT OF THE INTERIOR

The agency's National Park Service in 1981 made $26 million in historic preservation grants to the states, which used the funds to repair historic sites, primarily contracting with small businesses. The program was reduced to $20 million this year and is slated for elimination in fiscal 1983.

DEPARTMENT OF ENERGY

DOE remains a large "question mark" for entrepreneurs seeking loans, grants, and contracts. After five months of wrangling between the Administration and Congress, Reagan announced in May that he proposes to shift most of DOE's responsibilities to the Commerce Department.

Much of the agency's financial clout has already been stripped. Where DOE set aside $468.5 million in contracts for small business last year, a spokesman said the 1982 set-aside was only $446 million.

Despite these budget cutbacks at DOE, the agency still operates three programs that remain, at least for the moment, a source of funding. In all cases, though, these programs are operating on funds appropriated in earlier years and will end when the money has been allocated.

The agency's division of coal utilization and resource development has $63 million to guarantee loans to operators of small, underground coal mines producing low-sulfur coal. DOE's office of alcohol fuels has $271 million from which, through leverage, it can guarantee $800 million in loans for development of factories to produce alcohol fuels.

In addition, DOE has $364 million in funds for loan guarantees to firms engaged in the developing of geothermal energy sources. However, the geothermal loan program official says that the agency is no longer accepting applications.

NATIONAL SCIENCE FOUNDATION

An exception among the federal agencies. The NSF's budget for small business innovation research continues to rise, albeit modestly. From the $4.5 million in grants it awarded during fiscal 1981 to small businesses doing research in 24 areas (ranging from food processing to dredging), the agency's budget for this program was increased to $5 million this year. It is slated to rise to $5.5 million in 1983.●

ROCCO MONTESANO HONORED FOR SERVICE

HON. HAROLD C. HOLLENBECK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. HOLLENBECK. Mr. Speaker, Mr. Rocco Montesano, an educator recognized for his dedication to the interests of students, parents and taxpayers, is retiring as superintendent of schools in Bergenfield, N.J., on September 1.

Throughout a 35-year career in the Bergenfield school system as a classroom teacher, assistant principal, principal, assistant superintendent, and, since 1974, superintendent of schools, Mr. Montesano has displayed a willingness to tackle the most difficult problems for public education—and find workable solutions to them. Mr. Montesano has brought the schools into the mainstream of community life with his own involvement in civic endeavors and with innovative programs enhancing communication among students, educators, and other citizens.

While Mr. Montesano continued to support advancement enrichment programs in science and the humanities and responded to the special needs of handicapped students, he brought "back to the basics" education to Bergenfield long before it became the trend in school districts across the Nation. Recently, he introduced a unique course preparing young people for such future challenges of daily life as balancing checkbooks, using credit cards, and completing income tax forms.

Senior citizens who, in some communities, find themselves in opposition to school costs, are invited to volunteer and become well acquainted with the education system in Bergenfield. And, recognizing that school facilities belong to the community, Mr. Montesano has invited community groups to develop with his staff a schedule for sharing their use.

Vandalism in public schools remains a serious problem. However, Mr. Montesano found a way to greatly reduce it. He introduced the Adelphi plan in 1973, and he was recently commended for his efforts when reporting on this unique project to a congressional committee. The Adelphi plan involves school personnel and local police working with students who have a potential of becoming vandals and other young people with sound records of good scholarship and citizenship. At the same time, the primary prevention program was initiated to help students in the first, second, and third grades who experience problems in adjustment to school and could have major social and academic problems before they reach high school. Each child in this program is assigned a child-aide, who is trained by the school psychologist, to meet outside of the classroom twice a week.

Mr. Speaker, the accomplishments I have shared with my colleagues are but highlights of a distinguished career of three and a half decades of responsible response to civic need. Bergenfield is indeed appreciative of the work of Superintendent of Schools Rocco Montesano. I join with his colleagues, his community, and his many thousands of present and former students in extending my sincere commendation for a job well done and my best wishes for happiness and good health in retirement.●

SOME ELEMENTS OF THE PEACE MOVEMENTS MAY CARRY UNSAVORY BAGGAGE

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. HYDE. Mr. Speaker, I commend to my colleagues a July 8 editorial by M. Stanton Evans which appeared in the Washington Times. I believe the article illustrates quite well that many concerned and well-meaning people involved in nuclear peace movements may be unwittingly influenced, and misled, by individuals whose dedication to protecting America is less than total. Most people who hear such charges merely laugh them off as an example of extreme conservational paranoia. Therefore, they never investigate the charges or they minimize the connections. Such cursory dismissal of conscious efforts to undermine our deterrent capabilities, and to understate the Soviet nuclear buildup, is a serious error.

Time and again, we have heard firsthand testimony from Soviet bloc defectors that one of the Soviet Union's basic goals is to undermine support for U.S. defense policies by utilizing public disinformation tactics. They constantly utilize naive, and left leaning, academicians, ultraliberal clergy, social activists, and even politicians to indirectly spread their propaganda. The Soviets play on a popular theme, such as arms control, which in the ideal, most people will support. Then, by exaggerating the U.S. defensive position, making false claims which are readily picked up by the media, and organizing events around the issue, the Soviets not only get the media coverage they want, but attract additional supporters who are unaware of the real facts and unaware of the true motivations on the part of the organizers.

As M. Stanton Evans says in his article:

The American people have a right to know the degree to which the Communists are trying to manipulate opinion and events in the United States. Our fearless journalists, for some peculiar reason, refuse to tell them.

The article follows:

ON LINKING THE "PEACE" MOVEMENT TO UNSAVORY ELEMENTS

(By M. Stanton Evans [1])

Some readers have protested a recent column of mine suggesting that the "peace" movement in the United States is heavily influenced by the Communists.

The thrust of these complaints is that I have smeared a worthy cause by linking it to the Bolsheviks. The age-old tactic, says one critic, of discrediting your opponents by calling names. The McCarthyite gambit, says another of tarring everyone on the liberal side of things with the brush of communism.

In one respect, these folks are right: Being linked to Communists is discrediting, in the eyes of the American public, because communism is discreditable. Communism is synonymous with murder, slave camps, wars of aggression, terrorism, plans for global conquest, systematic falsehood, expionage and other unsavory things. Not something with which most people would like to be connected.

The linkage of the "peace" brigades to the Communists, however, is not my doing. They did it to themselves. The hand of the Soviets and their U.S. minions in the current "peace" commotion is heavy and overt. Non-Communist peaceniks are knowingly cooperating with the Communists and their front groups on a systematic basis. This fact is readily documented, although the major media ignore it.

In my last dispatch about this subject I noted the role of the World Peace Council, Moscow's leading front group, and its American affiliate, the U.S. Peace Council (the executive director of which is a functionary of the Communist Party USA). The WPC is agitating the "peace" and antinuclear issues on a global basis, while the U.S. Peace Council is deeply involved in helping orchestrate the "peace" uproar in this country.

This time out let's take a closer look at a group called Mobilization For Survival. MFS is a coalition founded five years ago for the purpose of promoting four goals: "Zero Nuclear Weapons, Stop Nuclear Power, Reverse the Arms Race, Meet Human Needs." It is a conglomerate of dozens of liberal-left, radical, peace, church and other groups—including Communists—involved in planning the recent "peace" march in New York.

I have in my hand, as the saying goes, a copy of the MFS official roster. In addition to such non-Communist groups as the American Friends Service Committee, the Catholic Peace Fellowship and the Fellowship of Reconciliation, it includes the Communist Party USA—listed right below the printed masthead. It also includes the U.S. Peace Council, and two other groups identified as Communist fronts.

In 1979, according to Rael Jean and Erich Isaac, the MFS brought a World Peace Council delegation to the United States, including the head of the East German Peace Council and a leader of the Dutch Communist Party. The head of the MFS labor task force, the Isaacs note, is Gil Green, a

[1] M. Stanton Evans is director of the National Journalism Center as well as a syndicated columnist.

member of the U.S. Communist Party's central committee. Such are the people with whom the peaceniks are consorting.

In years past, sincere pacifists and others on the non-Communist left were careful to keep their distance from the Communists—both because they wanted to preserve their own integrity and because they didn't want to give the Communists respectability. Now the order of the day appears to be overt collaboration on the "peace" front, though you would never know it from the way the issue is reported.

Such collaboration would be astounding in any event. It is the more so in the light of Soviet atrocities in Afghanistan, the repression of Poland and Communist genocide in Southeast Asia—to pick a few examples. The supposed friends of "peace" are marching on and on with representatives of the most brutal despotism and systematic friends of war in history.

It is a revolting spectacle, compounded by the performance of the media. The American people have a right to know the degree to which the Communists are trying to manipulate opinion and events in the United States. Our fearless journalists, for some peculiar reason, refuse to tell them.●

GRASSROOTS FOR BUDGETARY BALANCE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SHUMWAY. Mr. Speaker, at a time when national attention is keenly focused on the possibility of amending the Constitution to demand a balanced Federal budget, I believe it is appropriate to share with my colleagues an article which appeared in the Washington Post only this morning. It concerns Lewis K. Uhler, founder and president of the National Tax Limitation Committee and, with Milton Friedman, coauthor of the balanced budget amendment which is gaining more and more support. As an endorser of the balanced budget amendment, I am pleased to note that the movement toward this goal was kindled in the small town of Loomis, Calif., (Placer County) where Mr. Uhler makes his home. Mr. Uhler clearly understands what President Reagan stated during the rally on the Capitol steps yesterday: The purpose of the balanced budget amendment is to make Government understand that its job is to wipe out deficits—not to let deficits wipe us out.

The text of the article follows:

BUDGET CRITIC PELTS CAPITOL FROM AFAR

(By Jay Mathews)

LOS ANGELES.—Loomis, Calif., seems an unlikely spot to plot a revolution.

Its 1,500 residents enjoy their little town 25 miles from Sacramento and usually engage in activities no more threatening than an occasional bird hunt.

But Loomis is also the home of Lewis K. Uhler, who has lit a prairie fire of U.S. taxpayer fervor for constitutional change, remaining virtually unknown himself.

Uhler, 48, is founder and president of the 600,000-member National Tax-Limitation Committee and coauthor, with Milton Friedman, of the balanced-budget amendment that has won President Reagan's endorsement and seems on its way to a majority in the Senate.

Ron Dunlap, a Republican who led a fight for spending limits in Washington state in 1980, calls Uhler "the real yeoman" of the balanced-budget fight.

A Yale graduate and hardworking attorney with a Republican bent, Uhler had not seemed the crusader type.

But he said that 3½ years working for then California governor Ronald Reagan, directing the state office of economic opportunity and serving in the human relations agency, taught how "exceedingly difficult" bureaucratic inertia and private interest groups made elimination even of "a community action program that was clearly doing badly."

What was needed, he decided, was an amendment at the federal level that would force congressmen to stifle—or at least mitigate—their urge to give in to their most vocal constituents.

He had a reason for locating his national tax-limitation committee's headquarters and himself in Loomis, so far from everything; He intended to build a grassroots movement that would influence the powers in Washington through their constituents. Loomis, Uhler said, "had a symbolic importance, but it's also important because you can think better there."

Uhler said he does not believe his amendment can eliminate deficits, but it is at least an attempt to "change the bias . . . so that government does not grow greater than its ability to pay."●

NEEDS OF THE MILITARY SERVICES

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. MONTGOMERY. Mr. Speaker, yesterday during general debate on H.R. 6030, I made reference to two noteworthy publications which contain informative material concerning personnel problems associated with our All-Volunteer Force. These reports are entitled "Blacks in the Military," a Brookings Institution publication, and "Toward a Consensus on Military Service," published by the Atlantic Council. I commend these articles to my colleagues, as well as the following summary of the Atlantic Council's findings and recommendations concerning the needs of the military services.

EXECUTIVE SUMMARY

The American people need to develop a broader consensus on the strategic position of the West and on the role and needs of the military services in deterring war and protecting vital interests. We believe the findings and recommendations in this Policy Paper, which are highlighted below, can help point the country in that direction.

FINDINGS

Given the existence of nuclear parity between the United States and the Soviet Union, the prompt availability of adequate, mission-ready conventional forces is the one other indispensable requirement for deterring aggression or defending against attack.

Because of the gap between NATO and Warsaw Pact conventional forces in Europe and the present deficiencies in the readiness of US active and reserve units to perform assigned missions, the deterrent credibility of our non-nuclear forces is inadequate. An inadequate conventional deterrent makes resort to nuclear weapons more likely.

American military active duty strength entering the 1980s is at its lowest ebb since 1950. Some increase in force size may become necessary (and some has been programmed) in coming years, and it will have to be obtained from a diminishing manpower pool. Economic recovery and a consequent drop in unemployment could further reduce the numbers of qualified young people who will enlist. There is thus a significant probability that the requirements of peace and security will compel this country to resume the draft, perhaps by the mid-1980s.

In the meantime, as indicated below, there are a number of specific deficiencies in the All-Volunteer Force and a number of measures that should be taken to correct or mitigate them.

Under the "total force" policy that followed the post-Vietnam phasedown in the early 1970s, a major share of the Army's manpower for use in an emergency in Europe was shifted from the active to the reserve forces. The Army's ability to perform its basic mission thus depends heavily on the strength and readiness of the organized units of the Selected Reserve and of the pretrained people in the Individual Ready Reserve (IRR). But in the IRR and both components of the Selected Reserve—the National Guard and the Army Reserve—manning levels have been substantially short of their wartime requirements and equipment and training have been neglected. A significant number of the Working Group members believe that the only adequate remedy would be to increase the authorized strength of the active Army force by some 200,000—and several of them believe that this would require an immediate return to peacetime conscription.

The quality of Army recruits in recent years, as measured by test scores and the possession of high school diplomas, has often fallen below that of the draft years, and even the early years of the volunteer force. The quality was unacceptably low in fiscal years 1977 through 1980. The Army has made a dramatic comeback in the quality of its accessions in 1981 and 1982, but it remains to be seen whether this can be maintained under the conditions (noted above) that may make recruiting more difficult in coming years. Higher quality becomes ever more essential with the growing sophistication of weaponry.

The ground elements of the AVF have not drawn anywhere near proportionally from white middle class America. Particularly is this true in the Army, where minorities make up 41 percent of the enlisted force, including 33 percent black (as compared to a population of about 13 percent black). Perfect representativeness is neither necessary nor possible, but gross unrepresentativeness has both philosophical and practical objections. Under present conditions, blacks would take disproportionately high casualties in the early days of hostilities. This is a matter of legitimate concern.

The career force is the key element around which recruits coalesce into effective military units. Retention of mid-level career commissioned and noncommissioned officers has improved dramatically as a result of recent pay raises, which have made total service compensation competitive with civilian employment.

Peacetime registration for the draft gives the nation, at minimal cost and inconvenince, a considerable time-advantage in the event of a crisis requiring rapid mobilization. More importantly, it conveys a signal to allies and adversaries about the US attitude toward its own and Western security. Compliance with registration requirements, now much improved, has not been consistently satisfactory. Absent evidence to the contrary, it is reasonable to believe that this has more to do with a lack of public information (and until recently the lack of Administration urging) than to defiance of the law.

Proposals for establishing a voluntary national service program, incorporating civilian as well as military service options, appear to offer—among several possible advantages—the merit of addressing a dilemma of millions of Americans coming of age in the 1980s. Such proposals however need a more thorough analysis of aims, costs, benefits, and administrative arrangements than has yet been undertaken.

The current draft law contains a number of anomalies and is ill-suited to future needs.

RECOMMENDATIONS

The Department of Defense should re-examine the Army's immediate and major reliance on its reserve components in a defense emergency to determine whether established mobilization and deployment goals can be met.

To correct deficiencies in the Individual Ready Reserves, the Administration should seek legislation increasing the military service obligation (the total of an individual's active and reserve service) from six to ten years. Through recruiting and retention incentives, and allocation of increased resources to training and equipment, the Army should pursue its efforts to get and keep reserve units at required readiness levels.

To improve quality and add flexibility in both the active and reserve forces, the Army should be authorized to offer new enlistment options along lines spelled out in this Policy Paper. Such options envision essentially short-term enlistments, subsistence rather than full pay while on active duty or at reserve unit drills, and a system of incentives based on liberal educational benefits for tuition, living allowance, and fees. Given the rising costs of higher education, this new "GI Bill" should attract growing numbers of college- or trade school-bound middle class Americans who would find a temporary diversion from the world of school or work tolerable, and perhaps even welcome. The cost would be minimal at most and might even be zero.

Differential pay and bonuses should be used to the full extent necessary to retain the appropriate numbers and quality of commissioned and non-commissioned officers in the career force. The services should also review and improve personnel management policies directly related to retention.

The value of women in many service positions has been increasingly recognized, and their career opportunities have grown accordingly. The question of further increasing the role of women in military service is complex and under study in the Department of Defense. A greater role for women should be a continuing objective and an important part of the national discussion of military "manpower" issues.

The Administration should foster better public understanding of the importance of peacetime registration and take further steps to assess and correct non-compliance. To that end, the President should require that the registrant have and use a Social Security number when registering. Both Social Security and Internal Revenue records should be used to determine compliance. Further, the Congress and the President should enact legislation to reduce the severity of the penalties for non-compliance, in order to make them more commensurate with the gravity of the offense and more enforceable.

If all reasonable programs fail to satisfy minimum standards for either quantity or quality within a reasonable period of time for the Army's active and reserve forces, peacetime conscription should be resumed.

The President should prepare the ground for seeking resumption of a draft to supplement voluntary enlistments. To this end a Presidential Commission, in conjunction with the Selective Service System, should design the criteria that a future draft must meet and, from them, specify the details of such a draft, including policies as to the selection process, conscientious objection, age, sex, order of call, deferrals, exemptions, exclusions, organization, etc. This "model" draft should then be compared to the draft law now on the books, and the Administration should propose to the Congress the necessary changes for enactment before the need arises.

To deal with a situation in which there is a crisis short of the outbreak of general war, the President should be given limited authority now to induct a limited number of men and women into the armed forces should that be needed, in his discretion, at some point in the future. This authority should require declaration of a national emergency, and be limited to some reasonable number (say 100,000) and to a period of six months without explicit Congressional extension. It should also be subject to the other kinds of controls and limitations such as presently affect the President's authority to call up reserves and deploy forces under the War Powers Act.

The President should appoint a commission of qualified citizens to evaluate current proposals for a program of voluntary national service (incorporating civilian as well as military service opportunities) and to develop, if it appears feasible, recommendations for such a program together with an assessment of its prospective costs and benefits, its relationship to federal student aid, the prospective impact on military manpower requirements, and the modalities by which it would be implemented. At the same time, to provide practical data and increase public awareness of the voluntary national service concept, the Administration should promote a range of national service pilot projects.

Public educational and student organizations, youth groups, and history and social science classes should put on their agenda for study and discussion the question of the West's defensive needs, the role and needs of military forces in a democracy, and the rights and duties of citizens in manning those forces.

TAX CUT COULD NOT COME AT A BETTER TIME

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. FINDLEY. Mr. Speaker, much has been said about the ease with which needed tax revenue can be accumulated merely by eliminating the third phase of the tax cut. Previously, there were even efforts to modify or delay the second phase of the cut which recently went into effect.

The editorial from the Springfield State Journal-Register which follows presents a most persuasive argument for keeping both increases in place:

[From the State Journal-Register, July 5, 1982]

TAX CUT COULD NOT COME AT BETTER TIME

Better late than never. The patient taxpayer has finally seen the effect of Step Two of the 25 percent tax cut pushed through Congress last year by President Reagan.

The 5 percent reduction in tax rates that took effect last Oct. 1 has been followed by a 10 percent reduction, and if Mr. Reagan can keep Congress from doing even more harm to his economic program, there will be another 10 percent reduction a year from now.

The current tax cut could not come at a better time, even if the reason was not foreseen by the supply-side economists who argued successfully for the tax-cut program in the first place. Taxpayers will be able to keep $39 billion which otherwise would have been siphoned off to Washington during the coming year.

Coupled with the $11.5 billion in Social Security benefit increases, there is bound to be a favorable effect on the gloomy business statistics of a recession that has been deeper and longer than most economists anticipated when the tight-money policies of the Federal Reserve began dampening economic growth.

A spurt in consumer spending will not in itself turn the economy around, but the tax cut is another major step in bringing the private sector of the economy into better balance with the tax-hungry public sector.

It is disappointing to the Reagan administration, and politically alarming, that Reaganomics at this point is resembling a car with a dead battery. The design did not call for an unemployment rate nudging 10 percent in mid-1982, or interest rates still not low enough to regenerate such hardhit sections of the economy as housing.

But what drained the power out of the battery? The president, we must recall, asked originally for a 10 percent tax cut that would have taken effect on Jan. 1, 1981, with succeeding cuts adding up to a 30 percent reduction. He had to settle for a delayed and watered-down tax cut program, and for less dramatic cuts in federal spending to go with them. It is hard to say where the economy might be today if the original blueprint had been followed.

Only with staunch White House resistance was the latest tax cut not modified or delayed for the sake of giving Congress more leeway in approaching its next budget. As it is, the budget resolution finally adopt-

ed June 23 carries a projected deficit of $104 billion. Congressional leaders say they expect an "uphill battle" on the spending side to keep the deficit within those bounds when the actual budget is adopted in the fall.

Mr. Reagan had to compromise on the size and timing of his tax cut. He has had to compromise on some of his more ambitious hopes for paring back spending programs. When even a $104 billion deficit is said to rest on optimistic economic assumptions, he cannot afford to compromise if appropriation bills reaching his desk threaten the budget ceilings now adopted.

There was mostly rhetoric and round figures in the debate on the budget resolution which occupied Congress until now. Congressional committees writing appropriation bills must now get down to specifics. So must the president, even if it means a season of veto confrontations between the White House and Capitol Hill.●

TRAVEL EXPENSE DEDUCTIONS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. STARK. Mr. Speaker, today I am introducing legislation to amend the Internal Revenue Code of 1954 to clarify the rules for deducting travel expenses to and from temporary job sites. The purpose of this clarification is to insure that the travel expenses construction workers incur in order to practice their trades may be deducted in the same way that lawyers, accountants, and professionals are allowed to deduct their business travel expenses.

The background is as follows: Section 162 of the Internal Revenue Code authorizes taxpayers to deduct their ordinary and necessary business expenses including travel expenses incurred for business reasons. On the other hand, travel expenses incurred for personal reasons are not deductible. For example, a person with a regular job in a city who chooses for personal reasons to live in a distant suburb cannot deduct the costs of driving to and from the regular job each day.

The courts have attempted to distinguish business from personal travel expenses through the use of the so-called "temporary job" doctrine: If the job is "temporary," then the travel costs are deductible. The Internal Revenue Service, however, has been applying this doctrine without regard to its purpose of distingishing travel undertaken for business purposes from travel undertaken for personal purposes. As a result, thousands of construction workers around the country are being denied the ability to deduct expenses that, by any rational standard, constitute ordinary and necessary business expenses.

Here is a typical example. A construction worker has lived and worked in a particular community for many years. His primary business contacts are in that community. He has a home in that community; his children attend school there; he and his wife vote and pay taxes there. His wife may have a job there. If construction work becomes temporarily unavailable in the home community—and in the current economy this is happening more and more often—the worker has only two choices. He can look for work in more distant areas and work away from home until a job in his community becomes available, or he can remain unemployed. If he takes a distant job, he must either move his home and family to that job or incur substantial additional expense, either by traveling many miles each day or by renting temporary lodging near the job.

For most workers, moving home and family is either impossible or contrary to good business judgment. Housing near the job may be unavailable or prohibitively expensive. More importantly, however, construction work is inherently uncertain; workers are well aware that they are likely to be laid off without warning at any time. Furthermore, the worker in this situation fully intends to take work closer to his traditional work area as soon as a job opens up. The worker therefore has only two choices: remain unemployed or incur travel expenses in order to practice his trade.

The travel expenses are therefore clearly necessary to the worker's trade. Nevertheless, the IRS automatically disallows most such expenses. In fact, the IRS has conducted mass audits at large construction projects for the purpose of disallowing travel expenses. On the other hand, the IRS allows professionals and businessmen to deduct, without question, the expenses they incur when they have to travel to practice their trade.

The IRS uses the so-called 1-year rule as the basis for its arbitrary action. Under this rule, a job that has lasted for more than 1 year is automatically regarded as not temporary, and travel expenses are disallowed. This hindsight test ignores the crucial fact that the worker could have been laid off at any time throughout the year. The 1-year rule has been expressly rejected by the U.S. Court of Appeals for the Eighth Circuit, but the IRS has announced that it will refuse to follow the eighth circuit's holding.

The IRS also uses as a ground for disallowance the fact that the worker's job is "indefinite," but it is the very indefiniteness of the job that makes deductibility appropriate. A worker's decision to avoid travel expenses by moving his family makes economic sense only if he has some assurance the job will last for a substantial period of time; it makes no sense if he is uncertain whether the job will last much longer. And, if it is not reasonable for the worker to move closer to the job, then his travel expenses are the result of business necessity, not personal choice, and they should be deductible.

Mr. Speaker, equity and efficiency require that something be done. The current IRS interpretation unfairly penalizes the working men and women of this country, and has led to expensive and needless litigation. Construction workers deserve to have the special problems of their industry recognized. Their travel expenses to distant job sites are certainly more necessary to their jobs than an executive's three-martini lunch is to his.

My proposed bill institutes an easily administered rule that will eliminate the need for litigation in the vast majority of cases. Construction workers will be recognized as being temporarily away from home for the first 2 years of employment at any job site more than 30 miles from their home. This will eliminate the disputes in the vast majority of cases. In those few cases that are not resolved by the 2-year rule, the deductibility of the travel expenses will be determined case by case. In making this determination, the IRS and the courts will be prohibited from using either the 1-year rule or the "indefinite employment" rationale, but will make their decision according to whether the expenses are incurred because of business necessity rather than personal convenience.

Mr. Speaker, I ask unanimous consent that the bill be printed in the RECORD.

H.R. 6803

To define the circumstances under which construction workers may deduct travel and transportation expenses in computing their taxable incomes for purposes of the Federal income tax

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT OF INTERNAL REVENUE CODE OF 1954

(a) TRAVEL AND TRANSPORTATION EXPENSES OF CONSTRUCTION WORKERS.—Section 162 of the Internal Revenue Code of 1954 (relating to deductions for ordinary therein the following new subsection:

"(h) SPECIAL RULE FOR CONSTRUCTION WORKERS.—

"(1) DEFINITION OF TEMPORARY JOB SITE.—For purposes of applying subsections (a)(1) and (a)(2) to travel and transportation expenses incurred by construction workers, a job at a site located more than 30 miles from a contruction worker's principal place of residence—

"(A) shall be deemed to be temporary for the first 2 years that the worker is employed at that job, and

"(B) shall be determined to be temporary or not temporary with respect to periods following the first 2 years of employment based on an examination of all the facts and circumstances, subject to the rules set forth in subparagraphs (2), (3), and (4).

"(2) EFFECT OF FIRST 2 YEARS ON SUBSEQUENT DETERMINATION.—In determining

whether or not a job is temporary under subparagraph (1)(B), the worker's employment at the job during the period specified in subparagraph (1)(A) shall not be taken into account.

"(3) INDEFINITE EMPLOYMENT.—No deduction shall be disallowed, by reason of section 262 or any other provision of law, solely because a construction worker's employment at a job site is of indefinite duration.

"(4) PROHIBITION ON APPLICATION OF 1 YEAR RULE.—In making the determination specified in subparagraph (1)(B), no length of time shall be deemed, either automatically or presumptively, to make the job other than temporary. The '1-year' rule set forth is Revenue Ruling 59-371, or in any similar ruling or regulation, is expressly disapproved as a grounds for disallowing deductions.

"(5) DEFINITION.—For purposes of this subsection, the term 'construction worker' means any individual employed, whether as a skilled, semiskilled, or unskilled laborer, in the building or construction industry, but does not include clerical or management employes.".

(b) TECHNICAL AMENDMENT.—Subsection 162(h) of the Internal Revenue Code of 1954 is amended by striking out "(h)" and inserting therefor "(j)".

SEC. 2. EFFECTIVE DATE

This section shall effective upon enactment.●

WYOMING'S BUFFALO BILL PROJECT

HON. DICK CHENEY

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. CHENEY. Mr. Speaker, I have today introduced legislation, identical to a bill recently passed by the Senate, to authorize certain modifications to the Buffalo Bill Dam and Reservoir in Park County, Wyo.

These modifications—heightening of the dam, enlargement of the reservoir, replacement of an outmoded hydropower plant and addition of a visitors' center—would upgrade and modernize this long-established complex so that it could store more water and better meet the needs of an increasing population.

The Buffalo Bill Dam and Reservoir are part of the Shoshone project, which started out in 1899 as a private venture, initiated by William S. "Buffalo Bill" Cody. In 1903, the State of Wyoming sought Federal help in completing the project, and it was authorized by the Congress in 1904 and completed over a period of years. The project is of vital importance to northwestern Wyoming.

The Bureau of Reclamation has completed a study of the feasibility of enlarging the project, and the legislature of the State of Wyoming, as a demonstration of its strong support for modifying the project, has authorized the appropriation of $47 million in State funds to help pay for the modifications.

On June 22, the Senate passed, without objection, a bill introduced by my Wyoming colleagues (Senators MALCOM WALLOP and ALAN SIMPSON) to authorize enlargement and modernization of the Buffalo Bill Dam and Reservoir.

I hope, Mr. Speaker, that the House will also grant its approval to this very sound piece of legislation, and I will be working in the days ahead to bring that about.●

HOUSING ON THE BRINK

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. WYDEN. Mr. Speaker, the Commerce Department has just released figures showing the number of housing starts dropped again in June to a seasonally adjusted annual rate of 911,000 units.

This figure is 15.3 percent below the previous month and 12.9 percent below the number of starts in June of last year. Last year was the worst year for the housing industry since World War II.

It is evident from these figures that the housing industry is rapidly moving toward a full scale depression.

It is equally clear that there is not enough support in the Congress this year to overcome the administration's opposition to any legislation considered to include a subsidy or "bailout" for housing.

That is why my distinguished colleagues, Mr. GEPHARDT and Mr. CONABLE, joined with me last week to introduce what we call the no-cost, no-subsidy housing bill.

This legislation represents the last best chance for the Congress to enact legislation this year that will provide the staggering housing and real estate industries with a real shot in the arm.

Our bill (H.R. 6781) would remove the artificial barriers that discourage private pension fund investment in mortgage securities and thereby open up a vast new pool of mortgage investment capital to the housing industry and to the millions of Americans who are being denied the American dream of homeownership because of towering mortgage interest rates.

By introducing new capital into the housing market, we lessen competitive pressures and bring stability to mortgage markets. That cannot help but to lower and stabilize interest rates.

Our bill does not require pension funds to invest in housing. It merely removes the unnecessary regulatory underbrush that has made mortgages a second-class investment under the Labor Department's interpretation of the ERISA statute.

Pension plan participants and beneficiaries have no reason to fear this legislation. While we would rescue mortgage investment from the regulatory purgatory it has been assigned, we retain all of the safeguards that mandate prudent, diversified arms-length transactions by pension fund trustees.

We are confident that—with the regulatory shackles removed—mortgages and mortgage backed securities will compete on their own merit for the attention of pension fund managers. Mortgages have traditionally been viewed as attractive, safe, and secure long-term investments. Several prominent studies have recently shown that mortgages out-yield stocks, bonds and government securities.

Most importantly, our bill contains no hidden subsidy. It will not cost taxpayers 1 cent. It merely allows mortgages to compete on an equal footing and on a level playing field with other types of investments.

We think the marketplace can take care of the rest and that a significant new infusion of capital will quickly flow from private pension funds into housing.

The Congress and the administration must take action this year if our Nation's housing industry is to survive. H.R. 6781—which would follow through on a key recommendation of the President's Commission on Housing—is our last best chance to accomplish this goal.

We are encouraged by the bipartisan enthusiasm our bill has already generated and by the fact that the National Association of Homebuilders and the National Association of Realtors are both squarely behind our efforts.

The latest housing start figures reflect an all-too-familiar story—the vast majority of Americans continue to be priced out of the housing market and unemployment in the construction industry is more than twice the overall average. I would like to once again urge my colleagues on both sides of the aisle to support this vital legislation.●

AN OPEN LETTER TO A WASHINGTON BUREAUCRAT

HON. RAY KOGOVSEK

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. KOGOVSEK. Mr. Speaker, the following article appeared in the Washington Post on July 13, 1982. Because of the impact the administration's action will have on my district and thousands of residents who receive health care from the Pueblo Neighborhood Health Centers, I would like to submit the artical for publication in the CONGRESSIONAL RECORD.

EDWARD D. MARTIN, M.D.,
Assistant Surgeon General

Dear Mr. Martin: On June 7, 1982, the Pueblo Neighborhood Health Centers (PNHC) in Pueblo, Colorado, received notification from you that they would not be receiving further federal funding.

We find this action both contemptible and unjustifiable. We question not only your motive but also your reasoning.

Given the state of economy across the nation, and in our city in particular, it would appear that the need for continued funding of PNHC is greater than ever before. With the city's largest employer having decreased its work force by over 1500 employees, the closing of many area businesses and widespread salary cuts, Pueblo's economy is in a depressed state with the largest unemployment rate in Colorado. Many families who have previously been able to rely on personal finances and group insurance plans are now forced to seek low cost medical services.

Could it be that you do not see the quality medical services provided by PNHC to those families in need as not only worthwhile but vital to the survival of our people and our community?

Are the 12,000 families presently served by PNHC less deserving of proper medical care than those more affluent families who can afford to seek services from alternate sources?

Why is that larger and more affluent communities, such as Denver, have received continued funding for their health centers?

How can we lend credibility to your claim that Reaganomics is responsible for the lack of funding when you have tried three times during the past three years to cut off funding for PNHC and each time court intervention was necessary to prevent you from doing so? Do you recall, as we do, the allegations of mismanagement that you leveled against the health centers although repeated evaluations lauded there efficiency?

Can you deny that PNHC operates at fifty percent of the national average cost per patient encounter for health services?

Is it not true that allegations of violation of the First Amendment of the Constitution were leveled against you during a past attempt to defund the health centers?

Aren't you glad that your children are not from a low income or minority family living in Pueblo, Colorado, who will no longer be able to receive low cost and quality medical care from PNHC?

Unfortunately, our children are still here and many of them will suffer.

ALBERT L. GURULE,
Chairman, Committee for the Restoration of Representative Government.●

A LOCAL BANKING INITIATIVE

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BEREUTER. Mr. Speaker, sacrificing a little for the good of the community is what the volunteer spirit is all about. That spirit came west with the pioneers and has taken root. For the settlers of the prairies, community teamwork meant helping neighbors build a barn or supporting them through hard times. Today, the First National Bank of David City, Nebr., is showing that same spirit. The method may be different, but the goals are the same.

The bank has decided to risk losing some money to help the businesses and residents of the area. The offer: $7,500 loans at 11 percent interest, far below the national going rate. The program is already showing immediate signs of success as dollars of loan money multiply through the area.

While we should all applaud the efforts of this and a few other courageous banks, we must also realize that it is financially impossible for every bank to offer such a program until action is taken to bring down high-interest rates. The case of David City shows what kind of recovery is possible if those rates can be brought under control.

I include excerpts from an article in the July 11 Lincoln, Nebr., Sunday Journal and Star on this program in the RECORD.

INTEREST BREAK BOOSTS DAVID CITY BUSINESSES

(By Jake Thompson)

DAVID CITY.—Need a new car? Farm fertilizer? A new garage? Fix a flood-damaged basement? Some flashy siding for your home?

Well, if you live in the David City area, you could buy these items by borrowing up to $7,500 at 11 percent interest instead of the nationwide rate of 18 percent or 19 percent.

Since July 1, a number of Butler County residents have capitalized on a special Money Multiplier loan program offered by First National Bank of David City.

The 105-year-old bank is only the fourth Nebraska bank to offer a total of $1 million at 11 percent interest. Two banks in Holdrege and one in Ogallala offer similar loans.

"We feel the business economy needs a spurt," explained Jim Howe, president of the David City bank.

Nonetheless, the bank will lose money, reduce its overall income and take some risk in the program.

Why do it?

"We feel in the long run it's more important to have a viable community to us than it is for us to have this income," said Howe. "If we can sustain a business, it'll be worth it."

RIPPLE EFFECTS

In its first eight days, the bank lent $100,000, and ripple effects were being felt by merchants around David City's red-brick square.

"My business is up, new and used, 60 percent over this time last month," said Skip Trowbridge, manager of Trowbridge Motors, a Ford dealership.

"I think the consumer is very interest-rate sensitive. If they borrow the full $7,500, they can save $400 to $500 in interest costs in the first year," Trowbridge said, "So there is an incentive to buy."

Louis Woita, manager of Sack Lumber Co., said he knew of six people who were using the 11 perecent loans to build two garages, improve two bathrooms or add siding on two homes.

"That's quite a bit more than we had before," he said. "It's definitely helping our business."

The home improvement projects mean an additional $10,000 to $12,000 income for Sack Lumber. Woita said, at a time traditionally slow because farmers are busy tending their crops, not building.

"That's a darn good boost, I'll tell you," said Woita.

CONSUMER ACCEPTANCE

Trowbridge speculated that the $1 million will be lent quickly because the interest rate is within consumer comfort zones.

"There's a threshold of pain somewhere," the car dealer said. "As far as interest rates go, it seems to be in the 14 to 15 percent range, and when they envision it's lower they move to take advantage of it.

"The farm economy here is not good, the local business climate is far from being good. I attribute any successes I've had to the promotion of the 11 percent money," he said. . . .

"We felt this might be a way to start and put some money back into the system," the banker said. "And you figure the money will roll three to five times in the community. I think we're looking long-term. One of our slogans is that we're the cornestone of the community, and I guess we feel an obligation to really be so."●

A "GENTLE MAN" GOES HOME TO GOD

HON. BUD SHUSTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SHUSTER. Mr. Speaker, I would like to bring to the attention of my colleagues an article that appeared in the Catholic Register, the official publication of the Diocese of Altoona-Johnstown. The article was written by Msg. Philip P. Saylor, in tribute to his father, Philip P. Saylor, Sr., who recently passed away. This is a moving eulogy to a fine man who was an inspiration to his family and a valuable asset to his community.

Mr. Saylor's life is an inspiration to us all, and his dedication to those in his community is an example of what made America great. His dedicated public service, both in his official capacities with the fire department, and in his unofficial capacity as community counselor, endeared him to all who knew him. Mr. Saylor will be profoundly missed.

The article follows:

[From the Catholic Register, July 12, 1982]

A "GENTLE MAN" GOES HOME TO GOD

DEAR READER: It is no doubt unusual to publish a eulogy about one's father. But not being one who hesitates to use an editor's prerogative, I plan to do just that.

My father, Philip P. Saylor, Sr., after whom I am named, died last week after a protracted and painful illness at the grand old age of 80. Although his body finally failed to function, his mind and his spirit did not.

A GENTLE MAN

There was one feature about my father's personality that was immediately evident to everyone who knew him. It was his gentle-

ness, a gentle and never sarcastic sense of humor, a gentle but firm sense of discipline, a gentle and caring demeanor toward my paralyzed sister, a gentle and almost worshipful love for my mother who died six years ago.

My father was a man who loved people. He would not say a bad word about anyone. I can remember countless occasions when the usual gossip would surface in a conversation, and my father would deftly and gently change the subject.

There were a lot of things my father couldn't understand. He couldn't understand racial prejudice, because three black families lived within a block of our home and they were his friends. He couldn't understand religious prejudice, because my mother came from a long line of devoted protestants and he took my mother's mother into our home and always respected her biblical faithfulness.

My father could not understand iconoclasts, those people who would demean the things he held sacred; Church, country, family. My father never missed Mass. he always took part in the public functions of the community. And in all these activities, the whole family was always a participant.

In the earlier days, my father loved to attend the high school football games and the Penn State sports extravaganzas. Being a volunteer firemen he always got in free by riding in the ambulance, that was his, not too secret joke. He loved the games, because they brought back memories of his youth, but the people loved him in return. He was known everywhere.

In his latter days, when he could no longer attend public functions, he would be picked up by the workers at the senior citizens center and join them in their daily meals and their games. He loved them, and they loved him. And the volunteer firemen would pick him up and take him down to the fire house in the evenings where he could reminisce and joke with the young men. He loved them and they loved him.

In his final days, he hung onto life tenaciously. When his heart finally failed, for all intents and purposes, in January, the medical professionals gave him less than a month to live. He lived six months instead, in great physical distress, but in spiritual peace and unfailing good humor. He never grumbled. He never badgered the nurses. He loved them and they loved him. When he finally died, the nurses cried. They and my sister wrapped his body, but very gently. You see, he was a very gentle man.

A PUBLIC SERVANT

As soon as he graduated from high school, Dad became a volunteer fireman. That move set a direction for his life that never veered off course. For thirty years, he was the Bellefonte fire marshal or fire chief. He was the superintendent of the borough water department, and, for a time, he was the borough manager, the borough treasurer, the treasurer of the Firemen's Relief Association and President of the Central District Firemen's Association.

Every night before going to bed, Dad would check the pumping stations which fed the eleven and a half million gallons a day of pure spring water into the homes of the community. It was a family ritual. We kids would go with him almost always. It was a job he did not have to do. Instead it was a service he felt obligated to perform for the safety of the town. Few people knew what he did for them, but that didn't matter to him.

Sometimes, when I become overwhelmed by the multitude of phone calls to the rectory, I recall life at home. The phone was always ringing. Some of the calls were monumental problems, others were inquiries about a water tap or a dead fish in the park stream, calls that could just as easily have been made in the daytime to the borough office. Still others were from the perennial malcontents or the slightly demented or the just plain lonely people.

Dad was the community counselor. They could call him day or night, knowing that he would lend an ear and be gentle with them. There were no modern conveniences like the answering service or associate pastors who could cover for him.

My father's concept of public service was just that, "service." He was not a politician, never sought public office or public acclaim. When he retired after 30 years, they gave him a gold watch and a retirement of $52 a month. He worked part-time for a few more years as a fire and police dispatcher, and when the state found out about that they demanded that he repay his retirement income. The borough fathers mercifully repaid it for him.

But Dad was the only one who really knew how everything worked, and why and where. When lightning knocked out the main pumping station, when Dad was 75 years old, all the king's horses and all the king's men could not get it started again. After hours of expert frustration they came and picked up my father and took him to the scene of the unsolvable disaster. "Push that button," said Dad. "We did," they said. "But you must wait twenty minutes and let it prime itself," he said. They did, and it did. The old man who never went to college, but who graduated from the school of hard knocks, solved one more problem, gently.

FAMILY AND CHURCH

It is, of course, his role of father that I remember best. All those memories are fond ones. Even the times he paddled me. I always knew I had it coming, and I knew it hurt him as much as it hurt me. Kids aren't dumb. They need fair discipline, and they want it. Even when Dad paddled me, it was always fair and always gentle. It was my pride that hurt, and I knew it was my pride that needed the discipline.

My Dad was the leader of the family, the provider. My mother was the conscience of the family, the nurturer. We always did everything together. Mom hated baseball games, but the whole family, including Mom, went to the minor league doubleheaders in Williamsport. That turned me off on baseball forever, but it bound us together as a family.

Dad hated antique sales, and handicraft displays at county fairs, but the whole family, including Dad, went to the Grange Fair every year, and Mom always won prizes for her handicraft. Those works of peasant artistry are invaluable heirlooms today, irreplaceable and priceless, materially and sentimentally. But they were a part of the family enterprise.

At the dinner table we ate together, not in shifts and spurts like so many families today. Dad led us in the prayer. He led us to Mass. He taught us a moral standard that is indelibly engraved. Mass and prayer was a part of every vacation which the whole family always took together. When we were traveling, the first priority on Saturday night was to locate the Catholic Church for Mass on Sunday morning. To Mom and Dad, "epikeia" was an unknown concept. There was no "excusing circumstance."

Because Dad was so gentle and so low-key, he never quite understood me. He couldn't understand why I always had to be out front; president of the senior class and editor of the paper in high school. Later on, he couldn't understand why I had to be a leader of the civil rights movement in the late fifties, or the anti-Vietnam war movement in the sixties, or the anti-crime and drug movement in the seventies, or the anti-abortion political movement in the eighties.

I know Dad is in heaven now with Mom. My "hope" (and I'm talking about the theological hope not wishful thinking) is that now Dad does understand. He did understand the pastoral role of the priest, but I'm not sure whether he understood the prophetic role. The two roles are difficult to balance. Now with God at his side, maybe, he can help me balance the two, more gently.●

THE RISING TIDE LIFTS ALL YACHTS

HON. GILLIS W. LONG

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LONG of Louisiana. Mr. Speaker, last week the Senate Finance Committee proposed an increase in the Federal excise tax on cigarettes as part of its plan to raise $21 billion in revenues. Speaking as one who neither smokes nor represents a district in which tobacco constitutes a major crop, I feel that I could not be accused of a personal stake in this issue. I do, however, feel most strongly that this proposal would work a serious hardship on those Americans least able to pay.

It seems to me, Mr. Speaker, that if a person wants to settle back after a hard day at work and forget the problems of the day by having a beer and a cigarette, do we really have to remind him of this country's economic problems when he thinks about how much that pack of cigarettes has just cost him? There are few enough refuges for the ordinary American to make this small refuge so costly.

What we have in this proposal is simply another blue-collar tax. It will not force a person to give up the practice of smoking; I doubt that we could ever raise taxes enough to do that. All we would succeed in doing would be to place another burden on those least able to pay.

What this Chamber needs to do, Mr. Speaker, is to substitute a mink collar tax for this blue collar tax. Those real luxury items which the Senate Finance Committee left out of their proposal—things like furs, and jewelry, and yachts—would yield as much in excise taxes over a 3-year period than the doubling of the levy on cigarettes. And let me say, Mr. Speaker, that raising the excise tax on furs will no more stop anyone from buying a mink coat than this proposed doubling of the

Federal cigarette tax will deter people from smoking. People who purchase yachts will buy them even with higher Federal taxes, and people who buy cigarettes will continue to buy them as well. The difference, Mr. Speaker, is that the extra cost of a pack of cigarettes takes a bigger chunk out of a worker's budget than luxury tax would take away from someone in the market for a yacht.

We are all concerned, Mr. Speaker, with reducing the budget deficit and restoring prosperity to this economy. The Democrats believe that those who are best able to shoulder the economic burden should do so and the budget should not be balanced on the backs of those with limited incomes. I would remind the House that our great Democratic President John F. Kennedy once said, "The rising tide lifts all boats." The present administration seems to believe that, "The rising tide lifts all yachts."●

ROGER O'GARA, RETIRED SPORTS EDITOR OF THE PITTSFIELD, MASS., BERKSHIRE EAGLE

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. CONTE. Mr. Speaker, there are many of us who consider the words "baseball" and "American" to be synonymous, but last month our ranks dwindled significantly with the death of Roger O'Gara, retired sports editor of the Berkshire Eagle in Pittsfield, Mass.

During his 39-year tenure at the Eagle whether he was covering city hall, high school sports, or the political beat, Roger set a standard in colorful, accurate, and speedy writing that few in journalism ever attain. Despite his ubiquitous talents, Roger's life's love was sports. A fixture on the sidelines of any sporting event in Berkshire County, Roger not only covered the action with skill and aplomb, but also did his best to promote and sustain sports of all kind and level in Pittsfield.

Although he possessed the dose of cynicism necessary to be a good newsman, when it came to friends, Roger had a heart of gold. I can remember many times in my earlier elections, Roger was always there when you needed him. He was always quick to volunteer his time and energies not only in the political sphere, but in securing opportunities for young people to participate in all kinds of sports, and providing sholarships to encourage them to excel in their chosen fields.

Roger himself was no stranger to the field or the links; his enthusiasm, however, far outweighed his talent, and he was the first to admit it. The joy of the game more than kept his interest alive, and sparked his encouragement of others to partake in the thrills and lessons to be learned from athletic competition.

Berkshire County has lost one of its biggest and long-time boosters; I have lost a true and trusted friend. I have included a biographical sketch of Roger O'Gara that appeared in his paper, the Berkshire Eagle.

ROGER E. O'GARA IS DEAD AT 68; WAS RETIRED EAGLE SPORTS EDITOR

Roger E. O'Gara, retired sports editor of The Eagle, died Saturday at Berkshire Medical Center. He was 68 and had been ill since he suffered a stroke on Dec. 10, 1978.

Mr. O'Gara was a prolific and fast writer and at one time in his 39-year career with this newspaper covered Pittsfield City Hall and the School Department, while also covering schoolboy sports. But sports, especially baseball, were his main interest, not only in writing but in talking.

For many years he wrote a daily sports column, "Fair or Foul," and it was his custom on his trip from his desk to the copy desk to stop and read a portion of it to Ted Giddings, then the city editor. As long as he wasn't interfering with his own deadline or coverage of a game, Roger would talk about sports with anyone, anywhere, anytime.

Born in Pittsfield Sept. 17, 1913, he was the son of Michael E. and Lettie V. Krommes O'Gara.

As a youngster, he was playing manager of an amateur baseball team recruited in his Morningside section of the city. He went on to play the infield for Pittsfield High School, the Pittsfield American Legion and later, Buckwell Universtiy. He returned to Pittsfield when the Depression cut short his college education.

He then became adminsitrator for the National Youth Administration program in Pittsfield but continued in sports as organizer and president of the Shire City League. Two years later he became secretary of the City Baseball League and remained in that post for the five years the league was in existence.

JOINED EAGLE IN 1939

O'Gara joined The Eagle in 1939. For five years prior to that he had been a news correspondent and sports columnist for the Springfield Republican. It was during that period that he also worked on publicity for Owen Johnson of Stockbridge, a novelist popular in those days who made an unsuccessful attempt to unseat the incumbent Republican congressman, Allen T. Treadway.

In 1947 when The Eagle established radio station WBEC, O'Gara branched into radio and had a six-days-a-week sports show until he succeeded John M. Flynn as Eagle sports editor in 1952. It was then that he started his daily "Fair or Foul" column.

His columns won several awards for excellence. Four of them were reprinted in E. P. Dutton's annual "Best Sports Stories."

With the return of professional baseball to Pittsfield in the mid-1960s, O'Gara became the official scorer for the Pittsfield Red Sox and later the Pittsfield Senators and Rangers. He bemoaned dwindling attendance at the local professional baseball games, and in his columns seemed to say that such non-attendance was an un-American act.

O'Gara was recognized by his peers as an excellent sports writer. He served as both vice president and president of the National Association of Professional Baseball Writers.

OFF-THE-FIELD PROJECTS

He was active as organizer and worker in several off-the-field projects. He held several offices in the Pittsfield Monday Morning Quarterbacks' Club. He was the originator of the club-sponsored Pittsfield Football Hall of Fame, which annually raises money for scholarships for deserving high school players. He served on the selection committee for the Lambert Cup, which is emblematic of the Eastern small college football championship.

O'Gara was a fierce competitor in any sport in which he participated. In his younger years he organized an Eagle volleyball team and brought in at least one tall non-Eagle ringer to bolster his squad. He liked to win.

In the middle years he took up the game of golf. He accepted with reasonable good grace the fact that he was no Bobby Jones, but still the urge to win was sometimes more than he could stand. On the occasions that he participated in Western Massachusetts sportswriters' golf outings his day was made if he scored better than Ed Toole of Old Richmond Road, a Springfield Union reporter who is now retired.

Roger was always the fastest putter in the field. He explained to a friend one day that his putting was so miserable he wanted to get it over with as quickly as possible. When opponents would concede him short "gimme" putts, he would accept with alacrity and not count them in this score. It was his way of making the odds a bit better.

For several years O'Gara ran an annual fun tournament for enthusiastic, but not necessarily great, golfers and beer drinkers. A feature of the tournament, in addition to the beer, was the hop, skip and jump allowed to advance the ball after the drive.

For many years O'Gara chose not to drive a car. He went to and from out-of-town ball games with his many friends, who offered transportation as a means of seeing the game. On his way home from those games, O'Gara would unlimber his portable typewriter, prop it up on his knees and knock out his story. He later purchased a car and resumed driving. Riding in a car driven by O'Gara was a sport that many people didn't enjoy.

Among the things he didn't like were dogs and thunderstorms. Some of his fellow workers were known to go out of their way to ring his phone during a storm, and to bring large dogs to his desk. Another thing he didn't like was heights. The third floor in a hotel was about as high as he liked to get, and airplanes were something to be avoided, unless that was the only way to get to a big ball game.

O'Gara was a constant critic of lengthy after-dinner speeches and long-winded orators at testimonial affairs, yet sometimes forgot his own admonitions in his exuberance for the subject. He loved to talk almost as much as he loved to write, thus it was difficult for him to accept the loss of speech that came with his first stroke.

His wife, the former Lucille F. Webber, died in 1976. He was a member of the South Congregational Church.

He leaves a daughter, Mrs. Thomas Galvagni of 16 Hampshire St., with whom he made his home; two sons, John D. O'Gara of Ashland, Ky., and Paul W. O'Gara of

Montague Center and Boston; a sister, Miss Mary J. O'Gara of Pittsfield; a brother, Harry B. O'Gara of Pittsfield, and three grandchildren.

Calling hours at the Wellington Funeral Home are today from 2 to 4 and 7 to 9 p.m. The funeral will be tomorrow at 2 p.m. at the South Congregational Church. Burial will be in Pittsfield Cemetery.

In lieu of flowers, the family has suggested contributions to the Roger O'Gara scholarship fund, in care of the funeral home.

He attended the South Congregational Church.●

SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. UDALL. Mr. Speaker, on June 2, 1982, the President vetoed the Southern Arizona Water Rights Settlement Act, a bill to legislatively resolve the water rights claims of the Papago Indian Tribe to water from basins underlying Tucson, Ariz., and parts of Pima County.

This legislation was the product of a consensus among the major water users in the Tucson area to provide a fair and reasonable settlement of the water rights claims of the Papago Tribe, which claims are the basis of a pending lawsuit naming some 1,700 defendants in southern Arizona.

The failure to enact settlement legislation keeps this contentious issue in Federal court, and delays a final resolution for several years. All parties to the settlement agree that litigation is expensive, and that the health and future of the Tucson community is seriously clouded by the pending legal action.

The President's veto message directed the Secretary of the Interior to initiate negotiations with the Papago Tribe and the non-Indian water users in order to reach an agreement acceptable to all parties and to the Federal Government.

The attached memorials from the mayor and council of the city of Tucson, the Pima County Board of Supervisors and the Arizona Association of Counties indicate that these entities are ready and willing to make a good-faith effort to work with the United States to negotiate the settlement of these sensitive water claims.

I commend the entire Tucson community for the time and effort that has been dedicated to this legislation and I applaud the continuing statesmanship of the city, the county, and the Arizona Association of Counties.

The memorials follow:

CITY OF TUCSON

Tucson, Ariz., June 17, 1982.

Hon. MORRIS K. UDALL,
U.S. Representative, Washington, D.C.

DEAR MR. UDALL:

Memorial of the Mayor and Council relating to a Legislative Settlement of the Water Rights Claims of the Papago Indian Tribe, State of Arizona

The above captioned Memorial was adopted by the Mayor and Council of the City of Tucson, Arizona, on June 14, 1982 and is respectfully submitted for your consideration.

The original Memorial has been forwarded to Secretary of the Interior, James G. Watt. A copy of this Memorial has also been forwarded to the balance of the delegation.

Sincerely,

L. C. MURPHY,
Mayor.

Enclosure. Memorial

A MEMORIAL RELATING TO A LEGISLATIVE SETTLEMENT OF THE WATER RIGHTS CLAIMS OF THE PAPAGO INDIAN TRIBE, STATE OF ARIZONA

TO THE SECRETARY OF THE INTERIOR, THE HONORABLE JAMES G. WATT

Your Memorialist respectfully represents that:

Whereas, in 1975 the Papago Tribe and the U.S. Government initiated litigation in U.S. Federal District Court of Arizona against your Memorialist and other named parties to determine the ground and surface water rights of all named parties in the upper Santa Cruz River basin; and

Whereas, this litigation is expensive, time consuming and casts serious clouds on the water rights of all parties; and

Whereas, your Memorialist has determined that it is in the best interests of the citizens of the City of Tucson that a legislative solution of the Papago Tribe water rights claims be achieved as expeditiously as possible; and

Whereas, the Congress of the United States passed and adopted House Resolution 5118, The Southern Arizona Water Rights Settlement Act of 1981; and

Whereas, House Resolution 5118 as passed and adopted by the Congress of the United States was vetoed by the President of the United States on June 1, 1982; and

Whereas, your Memorialist continues to believe that an expeditious settlement of the Papago water rights claims is in the best interests of not only the citizens of Tucson; all other water users in the upper Santa Cruz River Basin; the Papago Tribe and the United States Government.

Now, therefore, your memoralist, the mayor and council of the city of Tucson prays:

Section 1. That an individual of the U.S. Government be appointed to specifically assist in negotiating a new legislative settlement of the Papago Indian Tribe Water Rights Claims which addresses those concerns expressed in the Presidential Veto Message of June 1, 1982.

Section 2. That said negotiator be appointed at your earliest convenience and that negotiations with and between all interested parties be initiated at the earliest possible date.

Section 3. That those negotiations necessary to effect an acceptable legislative settlement be accomplished in such time as to provide for passage and adoption by the Congress of the United States during the current legislative session of the Congress.

ARIZONA ASSOCIATION OF COUNTIES,

Phoenix, Ariz., June 15, 1982.

Hon. MORRIS UDALL,
U.S. Representative,
Washington, D.C.

DEAR CONGRESSMAN UDALL: Enclosed is a resolution adopted June 4, 1982 by the Executive Board of the Arizona Association of Counties.

It is extremely important that continued water delivery be assured to all citizens of the State of Arizona and we endorse efforts by the Congress to reconstruct the Southern Arizona Water Rights Settlement Act.

Your consideration of this resolution as an expression of Arizona's fourteen counties is requested.

Sincerely,

RICHARD W. CASEY,
Executive Director.

Enclosure.

• • • Whereas for the best interests of the Papago Indians of Pima County and that the said proposed settlement go forward, and

Whereas the Papago Indians as well as the other inhabitants of Pima County and the State of Arizona will suffer greatly in many respects if the act is not reconstructed, and

Whereas if the proposed settlement does not go through and is not carried to completion, extensive litigation will forthwith commence to the detriment of the Papago Indians of Pima County and to Pima County and the State of Arizona generally, and

Whereas if the settlement with the Papago Indians as proposed does not proceed to culmination forthwith, home building and other construction will be seriously affected, zoning will be upset, damaged and uncertain for years to come, and the pumping of water will stop, to the damage of the Papago Indians, the City of Tucson, Pima County, and the State of Arizona, and

Whereas if the Southern Arizona Water Rights Settlement Act is not reconstructed it will seriously affect the Central Arizona Water Project, to the detriment of the Papago Indians and other inhabitants of Pima County and the State of Arizona, and

Whereas it is for the best interest of all concerned that the reconstuction of the Southern Arizona Water Rights Settlement Act be implemented, and

Whereas it is for the betterment of the Papago Indians and the other inhabitants of the State of Arizona that the proposed settlement proceed forthwith to conclusion,

Now, therefore, the Arizona Association of Counties seriously petitions the Congress of the United States to reconstruct the Southern Arizona Water Rights Settlement Act for the betterment of all of the State of Arizona and the Papago Indians.

PIMA COUNTY BOARD OF SUPERVISORS,

Tucson. Ariz., June 21, 1982.

Hon. MORRIS K. UDALL,
House of Representatives,
Washington, D.C.

CONGRESSMAN UDALL: The Pima County Board of Supervisors at its regular meeting held on Monday, June 7, 1982, passed RESOLUTION NO. 1982-89 relating to memorialization and petition to the Congress of the United States to reconstruct the Southern Arizona Water Rights Settlement Act and request the support of each congressional member.

A copy of the resolution is enclosed. Thank you for your consideration in this matter.

Very truly yours,

(MRS.) EUGENIA W. WELLS,
Clerk, Board of Supervisors.

Enclosure.

RESOLUTION No. 1982-39

MEMORIALIZATION AND PETITION TO THE CONGRESS OF THE UNITED STATES TO RECONSTRUCT THE SOUTHERN ARIZONA WATER RIGHTS SETTLEMENT ACT

Whereas the Southern Arizona Water Rights Settlement Act is beneficial and fair to the Papago Indians and to the other inhabitants of Pima County and to the Papago Indians living in portions of Maricopa County, and

Whereas the Arizona Senators and Representatives of Congress sincerely are of the opinion that said settlement is for the best interests of the Papago Indians of Pima County and that the said proposed settlement go forward, and

Whereas the Papago Indians as well as the other inhabitants of Pima County and the State of Arizona will suffer greatly in many respects if the act is not reconstructed, and

Whereas if the proposed settlement does not go through and is not carried to completion, extensive litigation will forthwith commence to the detriment of the Papago Indians of Pima County and to Pima County and the State of Arizona generally, and

Whereas if the settlement with the Papago Indians as proposed does not proceed to culmination forthwith, home building and other construction will be seriously affected, zoning will be upset, damaged and uncertain for years to come, and the pumping of water will stop, to the damage of the Papago Indians, the City of Tucson, Pima County, and the State of Arizona, and

Whereas if the Southern Arizona Water Rights Settlement Act is not reconstructed it will seriously affect the Central Arizona Water Project, to the detriment of the Papago Indians and other inhabitants of Pima County and the State of Arizona, and

Whereas it is for the best interest of all concerned that the reconstruction of the Southern Arizona Water Rights Settlement Act be implemented, and

Whereas it is for the betterment of the Papago Indians and the other inhabitants of the State of Arizona that the proposed settlement proceed forthwith to conclusion,

Now, therefore, the Board of Supervisors of Pima County, Arizona, seriously petitions the Congress of the United States to reconstruct the Southern Arizona Water Rights Settlement Act for the betterment of all of the State of Arizona and the Papago Indians.●

SCHOOL AND DORMITORY FOR CONGRESSIONAL PAGES

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. WHITEHURST. Mr. Speaker, today I am introducing a bill to establish an appropriate school and dormitory for congressional pages. I have been concerned for some time, not only about the lack of supervised housing for these young people who are entrusted to us, but about the quality of education we are providing for them.

For 18 years before coming to the Congress, I was in the field of education, first as a member of the history department at Old Dominion University, and subsequently as dean of students at that school. During much of that same time, my wife was also a teacher, working with young people not only at the college level but also in elementary and secondary schools. She and I have had an opportunity to talk with a number of the congressional pages, particularly in the last 2 or 3 years, and it has become clear to us that the quality of education they have been receiving here is uneven, at best.

On the basis of this, I believe that an independent school should be established for our pages, accredited directly through the National Association of Colleges and Secondary Schools or a similar organization. I think that, in addition to a permanent, full-time principal and a nucleus of teachers, we could attract teachers from secondary schools across the country to come for a year on a teaching fellowship. This would give us a constant infusion of fresh educational ideas and offer a real challenge to the bright young people who come to serve as pages.

I believe that Members should be directly involved as members of the board which would oversee the school and dormitory, and feel they could be usefully joined by the two Chaplains. Certainly a full, bipartisan approach is essential. In addition, the school/dormitory staff should include at least one professional guidance counselor.

Finally, Mr. Speaker, to keep the size of the school on a realistic level, I believe that the minimum age for any page should be 16. Anyone younger is usually too young to cope with the strenuous schedule these pages are called upon to face. If we limit the age in this way, then only junior- and senior-level courses would need to be provided, and we could further enhance the quality of the instruction and the breadth of courses that might be offered.

While the recent publicity has been cause for serious concern, I think that in the long run it will prove to have been a blessing, if it forces us to reassess the whole question of housing and educating our pages. I am delighted that so many of my colleagues are pursuing legislation, and that a commission has been appointed to look into the matter. The young people who come to serve as pages are, on the whole, outstanding, and they deserve no less than an excellent education from us.

Thank you, Mr. Speaker.●

REMEMBERING SCHARANSKY

HON. JONATHAN B. BINGHAM

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BINGHAM. Mr. Speaker, July 14 marked the fourth anniversary of the sentencing of Anatoly Scharansky to 13 years in labor camps and prison by a Soviet court. We must not ignore this date. The continued imprisonment of Scharansky is a tragedy and a constant indictment of the Soviet system.

Mr. Speaker, I enclose an article on Sharansky by Irene Manekofsky, former president of the Union of Councils for Soviet Jews. For those few members who may not know her I want to say that Irene Manekofsky is herself one of the great figures of the Soviet Jewry movement. For years she has given of her time and energy for Soviet Jews. She has worked effectively and tirelessly in their behalf and her remarkable contribution should not go unmentioned.

REMEMBERING TOLYA

(By Irene Manekofsky, former president, UCSJ)

Three men came running to meet us as we left the gargantuan Rossya Hotel that cold November evening in 1974. We recognized them as three of the young, intense men we had met at the synagogue a day or two earlier. "We have located Lev Genden," they exclaimed excitedly. "He is in prison in Kharkov. Now you can send your cable to the States." One of the three, a short, balding undistinguished looking man in his twenties immediately was recognizable as the leader of the group. They were very pleased that Lev Gendin's whereabouts were no longer unknown after the daring trip the group had made into the provinces of the USSR. They had gone to check the condition of the Jewish communities outside of the main centers of Leningrad and Moscow. One of my missions upon leaving the United States was to let the activists there know (by code, of course) if and when Gendin was located. He later managed to escape from prison and remained in hiding for a long period of time, reappearing from time to time among the refuseniks in Moscow.

"Tell us more about your trip," I said to them. The spokesman and leader, Anatoly Scharansky, a relative newcomer to Moscow activist circles, invited my husband and me to an apartment so they could relate the entire story. We sat late into the night and into the early hours of the morning, sitting around the table with the ever-present cups of Russian tea, tape recording the events of the trip.

Did it take us an hour, or perhaps an hour and a half? How long, we now try to recall, did it take us to become smitten with the charm, intelligence, wit, earnestness and leadership qualities of Anatoly Scharansky? After listening to Tolya, as he was called by all who knew him, for hour after hour, watching his intense Jewish consciousness, his courage, his devil-may-care attitude about his own safety, he was no longer a small, undistinguished little man. To us,

Tolya was nine feet tall, a giant of strength and determination, a man who knew what had to be done and did it.

The trip to the provinces was an astonishing act of definance. They dodged the KGB, one of them boarding a train with a beard, shaving it off on the train and getting off the train clean shaven. Five or six of them fanned out to cities such as Kiev, Kharkov, Odessa and Tashkent. All were harassed, searched, papers taken away, interrogated.

Tolya enjoyed baiting the KGB. When he was picked up and questioned on the trip, he noticed that the KGB interrogator kept running back and forth to the telephone. "Do you have to rely on instructions from Moscow as to what you will do with me," he chided. He told us how once the KGB had told him that he had been arrested twice and the third time he would go to prison. "This is already the third time," he quipped. Another time he related to us how he looked out of the window in his apartment and saw his KGB "tail" sitting in the car, drunk. He reported this to the KGB headquarters! This is unheard of behavior in the Soviet Union. But Tolya had a twinkle in his eye and a sense of humor to match. In the end, however, the KGB got their revenge. But even though they arrested and imprisoned him, Tolya will always be a free man with a free, unbending spirit.

His favorite subject, once we exhausted all of the details not only of the trip, but of the emigration movement in general, was his wife, Avital. How he loved her! He constantly talked about going to Israel to be reunited with her. He was proud of her: "I spoke to my Avital on the phone from Israel yesterday. Do you know, she now speaks Hebrew better than I do?" He told us about his marriage—how he was released from prison one day, married the next, took Avital to the airport on the third day, and has been waiting to join her in Israel ever since. He commented on her beauty and how lucky he was that such a short man as he could marry such a tall, beautiful woman like Avital.

We spent many other times in Moscow in the company of Tolya that November. Each time we met with him we sensed the strength of his commitment, not only to his Jewishness but to the Jewish emigration movement in the Soviet Union and to Israel. He had a mission to help as many Jews as possible to emigrate. He was part of a closely knit circle of refuseniks, Volodya Slepak, Alexander Lerner, Alexander Luntz, Dina Beilina, Ida Nudel, Alex Goldfarb, and others. This group was engaged in getting the word out to the world about what was going on inside the emigration movement. Alex Goldfarb knew his way around the foreign press circles. His English was remarkably good and he managed to make friends with Western foreign correspondents.

When Goldfarb received his emigration visa a few months after we left Moscow, we learned that Tolya was to take his place. From that time on, Tolya, with his excellent command of the English language, became the prime contact to the outside world. His hundreds of phone conversations to Michael Sherbourne in London were the main channels of communication for the movement in the West, sending word to the world that there was an arrest, a demonstration, a hunger strike, an appeal signed by hundreds, even a permission to emigrate. Tolya also became good friends with many correspondents and eventually took part in a surreptiously made movie produced for television by a London film company. The few times I could get through to him on the phone, the information poured out in exquisite detail, always with the same urgency and determination to get the job done and done well.

But always there was the sense of humor. How we laughed as he told us of the time an American youth group called him to the phone in the Main Post Office in the middle of the night. It was not uncommon in the early days of the movement for groups to place messenger calls through to refuseniks and occasionally they would make contact. The leader of the group asked him to join them in singing Hatikvah, the Israeli national anthem. He did his duty and stood there in the early hours of the morning in the Post Office in the center of Moscow singing Hatikvah on the telephone! What a sight that must have been.

When the entire story of the Jewish emigration movement is told from the perspective of history, I feel certain it will show that the greatest contribution was made by the small band of refuseniks who told the story to the world. By telling their story, we in the West could generate pressure on our governments to act on their behalf. And it was that action and reaction that brought to bear all of the political pressures on the Soviet Union to release hundreds of thousands of Jews in the last ten years. It was on the backs of these handful of heroes that the thousands got their visas. And it was the refuseniks who paid the awful price. Slepak, Nudel and Scharansky are still incarcerated in prison or refused exit.

When Scharansky once was threatened by the KGB with prison, he replied: "You don't frighten me; this whole country is a prison." And there he remains to this day, still in prison, still separated from his beloved wife.

Tolya—would probably laugh if you called him a hero, but he is truly that—a modern, Jewish hero—and there are not many of them around these days. It was my privilege to have known him, to correspond with him, and to do what little I could to help him. I pray that some day I will have the privilege of meeting with him again—in freedom, the only condition in which a free spirit like Tolya's can flourish.●

PARRIS INTRODUCES FEDERAL EMPLOYEE PENSION PROTECTION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. PARRIS. Mr. Speaker, 15 years ago, the National Transportation Safety Board began a congressionally mandated effort to hire employees of the Nation's rail, highway, marine, and pipeline industries for its new Bureau of Transportation Safety. Those hired by the NTSB who had been railroad employees soon found that their move had seriously jeopardized their retirement plans.

The full civil service retirement plan and the full railroad retirement plan are two similar federally administered systems. The Board's new rail specialists held substantial vested interests in the railroad retirement system but when they went to work for the NTSB, they could expect minimal or no compensation from the RRS upon their retirement. Retirement credits earned under the RRS are not transferrable to the CSRS. The combined retirement credits earned by the former railroad employee under both systems are invariably and substantially less than the credits earned by a participant who remained under either of the two systems for the same period of time as the former railroad employee.

No provision has been made to allow a transfer of credits or establish a formula under which an equitable transfer could be made. Because of the complexities involved in interfund transfers, the NTSB employees with railroad retirement credit are requesting that their years with the railroad industry be counted as years under the civil service retirement system for the purpose of calculating their retirement income.

Accordingly, today I am introducing legislation to redress the current inequity which these NTSB employees, many of whom are my constituents, are facing. My bill would give former railroad employees now with the NTSB the option of counting their time of employment with the railroad industry as if it had been with the civil service in calculating retirement income.

These employees are all the more valuable to this agency charged with insuring the safety of transportation in America because of their previous experience in the railroad industry. Further, they face other disadvantages because of their prior employment in private industry. They do not have as much reduction-in-force protection as lifelong civil servants because they have not been able to accumulate as much seniority. They are also denied the early retirement provisions of either system. The concerns which the NTSB employees have expressed a desire to see addressed legislatively, however, are only those bearing on their pensions, and it is only this issue which my bill addresses. My bill does not require additional Federal expenditures.

In the interest of equity, I feel the passage of this legislation should reasonably be a high priority this session. I urge my colleagues to support and cosponsor this bill to restore fairness to the retirement systems of these vitally important public servants.●

NEW YORK STATE SENATOR JOSEPH GALIBER ON ENTERPRISE ZONES

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. GARCIA. Mr. Speaker, over the course of the last 2 years, there has been much discussion of the enterprise zone concept, what it means to the inner city community and to State and local government. If numbers are any indication, then the enterprise zones certainly enjoy a wide range of support. Indeed, over 150 enterprise zone bills are awaiting action in over 25 States while another 14 States have already passed the necessary legislation to implement the program at the State level in anticipation of the Federal program.

These State programs cover a wide range of incentives all with the intended purpose of assistant businesses which create jobs in distressed communities. One such effort is led by Senator Joseph Galiber in New York. Recently Senator Galiber testified before the House Banking Committee's Subcommittee on Economic Stabilization. I would like to share the Senator's testimony with my colleagues in an effort to describe what is going on at the State level and how enterprise zones can work with other community development programs as is their purpose.

The testimony follows:

TESTIMONY OF SENATOR JOSEPH L. GALIBER

Good morning. I wish to thank Congressman Garcia and the other members of your distinguished committee for inviting me to testify here today on behalf of New York State's efforts and progress on enterprise zone plans.

Throughout my career as a State legislator, I have always fought for increased economic activity in our deteriorating neighborhoods. As my respected colleague, Bob Garcia, knows, job opportunities and business development are most desperately needed in areas such as the South Bronx. Increased business activity will provide the means for residents to improve their lives and expand their opportunites. Economic development subsequently upgrades the total living environment in areas such as housing, education, transportation and local services.

While we do not view the enterprise zone concept as a panacea for urban ills, we recognize the potential for targeting incentives to the most distressed urban neighborhoods. In New York State we are working hard to put together a comprehensive and effective package of State and local initiatives aimed not only at business but also the zone community at large. We are committed to a total revitalization of our ailing neighborhoods.

For over a year now, I have actively pursued the comments and responses of State and local officials, members of the business community, concerned constituents and community groups for the aspects they feel necessary for a successful enterprize zone plan in New York State. At our public hearings we have received testimony on the most pressing problems faced by small and large businesses today. We have solicited the response of city and State agencies as to what they are doing now and what role they could play in the proposed enterprise zone.

Repeatedly, it was brought to my attention that small business cannot take advantage of the tax incentives included in most enterprise zone proposals. Many small businesses, who are willing to pay exceedingly high interests rates for funds in order to expand or upgrade their facilities, could not obtain the necessary loans from banking institutions. In order that these small businesses, who provide the majority of jobs, be able to participate in zone activity, I have included a mechanism in our legislation for the formation of a venture capital corporation for zone investment. This corporation will be composed of state designees and local business leaders. Additionally, our bill includes a revolving loan fund to be used for business improvements and expansion. These funds will be administered respectively, by the New York State Urban Development Corporation and the job development authority, both who currently have loan administrative ability.

Additionally, our bill allows for extensive technical assistance to be provided to localities desiring to apply for enterprise zone status. Upon designation of Federal status, zone would be eligible for planning, design and technical assistance from the New York State Urban Development Corporation for the implementation of a revitalization plan.

Local initiative is encouraged as localities are given the option of enacting real property tax relief for property rehabilitation and new construction or funding local infrastructure improvement through tax increment financing. Zone will also be authorized to apply to congress for the establishment of a foreign trade zone within an enterprise zone.

Among the tax incentives available to businesses is a $1,000 tax credit for employers for each new position filled by a CETA eligible person or zone resident. Additionally, a 100 percent capital gains deduction is provided investment made in a designated zone.

In order to streamline the business of doing business, we propose a one stop permit and licensing office on the zone to consolidate the confusing array of Federal, State, and local permits necessary to establish and conduct a business. The permit office will be accessible to all groups, not only businesses, wishing to initiate any activity in a zone.

In order to provide employment opportunities, we have authorized the New York State Labor Department to coordinate with existing job training programs and join efforts with the private sector to increase available jobs. Our bill targets job efforts toward the economically disadvantaged and the chronically unemployed to train for meaningful, permanent employment.

The New York State Legislature recently adjourned the 1982 legislative session on July third. Unfortunately, we were unable to obtain the necessary support needed to enable this enterprise zone legislation to be passed and subsequently signed into law, by the Governor. I am actively seeking the support of all members, Democrat, Republican, Senate and Assembly, to pass this important measure. Our State most critically needs to take advantage of pending Federal proposals in the wake of such devastating cuts wrought by Washington and felt throughout our State and communities.

I urge Congress to move quickly in enacting a fair and equitable enterprise zone plan. Your commitment will enable me to convey to my colleagues the pressing for our State to establish enabling legislation and programs so that we may actively compete for one of the proposed Federal sites. All of us must join together in seeking solutions vitally needed by our urban centers to turn back the deterioration rapidly spreading throughout our communities.●

ELEANOR ROOSEVELT HIGH SCHOOL SCORES IN COMPETITION

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. HOYER. Mr. Speaker, I am happy to announce that the Eleanor Roosevelt High School orchestra has received second prize in the prestigious 11th International Youth and Music Festival in Vienna, Austria, earlier this month. The 77-member orchestra, led by music director Dorothy Pickard, is to be commended for their outstanding achievement.

During the week-long event, 53 groups from 15 countries competed in Vienna's sofiensaal. The Roosevelt Orchestra received the only standing ovation at the finalist performance, which took place before all 1,500 students participating in the festival. They also received a standing ovation after a special concert of Leonard Bernstein's "Candide" which was broadcast over Vienna radio stations. They were then called upon to perform an encore, and they played the fourth movement of Dvorak's "New World Symphony."

It was not an easy road to Vienna, however. During the past year, the students, their parents, and friends have participated in car washes, garage sales and Florida grapefruit sales to raise the money for the trip. Students made sandwiches to be sold to firehouses and gas stations. Their dedication to raising the $135,000 was exceeded only by their dedication to their music.

In fact, Maryland Gov. Harry Hughes, Prince Georges County Executive Larry Hogan, the Prince Georges Chamber of Commerce, the Bar Association, and I were pleased to have been able to lend our support and assistance in appealing to the business community to open their pocketbooks to these students in an effort to help them raise the money for the trip.

Eleanor Roosevelt High School is unique in that it attracts the top-placing 2 percent of students countywide in their science and technical programs. Two-thirds of the orchestra is in these programs. In the 5 years since the school opened, the orchestra has

performed three times in international competition, thus prompting the invitation to Vienna.

Mr. Speaker, I am indeed proud of these young people. Their success at Vienna only reflects the kind of accomplishments and inspiration these students bring to all they attempt. In these difficult times it is admirable that such commitment is made by these young people.●

WE NEED A NEW GI BILL

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. EDGAR. Mr. Speaker, I recently received a letter from a 19-year-old airman stationed in Berlin. Having had the opportunity to experience military life and conditions—and to observe the world situation firsthand, Airman Dean Caponi writes with clear insight of the concerns and interests foremost in the minds of those military personnel who defend our country. In spite of his youth—or perhaps because of his youth—he is able to draw refreshingly incisive conclusions from his experience as to where America is today and where we are going. Airman Caponi, a frontline expert in his own right, states in the letter:

I favor the increased defense budget as long as the money is managed properly. I feel major defense projects should be geared to meet future needs and not only present needs.

I would agree with that opinion. And also with his eloquently expressed disappointment in the present education program for the All-Volunteer Force. VEAP, the veterans education assistance program which replaced the Vietnam GI bill in 1976, has been a disaster. Nearly 40 percent of those who have contributed to the program have since withdrawn their contributions and dropped out of the education plan. Caponi testifies to the importance of education, not only for military personnel, but for all Americans. Furthermore, his views of the program mirror the testimony we received from other VEAP participants in eight hearings before the House Veterans' Affairs Subcommittee on Education, Training and Employment. The House Veterans' Affairs Committee and the House Armed Services Committee have taken steps to remedy this situation. Both committees have reported H.R. 1400, the Veterans Eductional Assistance Act of 1982, calling for a new replacement GI bill for the All-Volunteer Force.

Presently, the Armed Forces are able to attract sufficient recruits, primarily because of the highest unemployment rate in 40 years. However, our testimony from Pentagon experts clearly stated that an economic recovery, coupled with a declining pool of 18- and 19-year-olds during the next decade, will once again bring about a new manpower crisis. This will be especially true as we begin to make a massive investment in high-technology weapons, expanding our defense capability. As Airman Caponi indicates quite clearly, we need a balance of benefits to attract and retain qualified individuals for military service. He affirms what we heard during our hearings from nearly 100 active duty personnel. Pay and bonuses alone cannot do the job. Education benefits, meaningful education benefits, can be a strong attraction for the potential recruit and a sound investment to help retain qualified individuals. The Armed Forces need a new education program now.

As the House meets in the next weeks to authorize the beginning of the largest peacetime military buildup in U.S. history, we must seek to insure these resources are allocated responsibly. Just as we need a balance between weapons systems, we need a balance between our commitment to hardware and our commitment to personnel. Encouraging and supporting education has always been a key to the success of America. And in the words of young Airman Caponi, "our future depends on it."

Our new GI bill, H.R. 1400, I trust will be before the House soon. I believe this can be a valuable investment in the defense of the United States by meeting the future as well as the present needs so wisely recognized by Airman Caponi. I submit for the RECORD the full text of Airman First Class Caponi's letter.

APO NEW YORK, N.Y.,
June 14, 1982.

DEAR MR. EDGAR: I am a nineteen year old Airman stationed in Berlin, Germany, who would just like to inform you of some of my views. I do not support a military pay raise for FY83. I do support a new G-I Bill. I currently fall under the VEAP program and I am very disappointed with it because of the red tape involved with it. I think education is a major key to a successful America. I think if a young person has the desire and initiative to go to college he or she should be given the opportunity no matter what their economic situation might be. We Americans must find ways to make education inexpensive because our future depends on it. I favor the increased defense budget as long as the money is managed properly. I feel major defense projects should be geared to meet future needs and not only present needs. I do not support any withdraw of any American troops stationed in Europe. If the Allied Forces were to withdraw out of Berlin, the Soviets would take over the city within hours. I have visited East Berlin and have formed an opinion of communism. Communism is the most formidable restriction that can be placed on the ingenuity of a human mind. We Americans must support a free Europe. I favor a strong mass transportation system for America. Berlin has the greatest transportation system I have ever seen. It is clean, safe, and efficient. I think us Americans can learn a lot from such a system and apply it to our own big cities. I am interested in government and I would appreciate if you could send me some sort of information concerning the federal government.

I am a registered Republican, but I would not hesitate to vote for you. I like your past record and you are a man of integrity. Thank you for your time.

DEAN J. CAPONI,
Airman First Class, USAF.●

THE WEB OF ALCOHOLISM

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LOWERY of California. Mr. Speaker, a very dedicated and determined constituent, Dr. Mary Pendery, recently rendered a great service to the field of science and medicine by publishing the results of a reevaluation of "controlled drinking" therapy for chronic alcoholics. She and her associates wrote the article in Science to dispute the contention that in this case diagnosed alcoholics can drink in small amounts and still lead a productive life. Their article, though complex, should be read by anyone concerned that we successfully treat and cure those caught by the terrible web of alcoholism. I commend her article to you and blame any inconsistencies on our somewhat unartful editing.

CONTROLLED DRINKING BY ALCOHOLICS? NEW FINDINGS AND A REEVALUATION OF A MAJOR AFFIRMATIVE STUDY

(By Mary Pendery)

Conventional wisdom in the health professions has long held that person who have become physically dependent on alcohol must be advised to abstain completely. In 1962, Davies sparked debate by reporting that 7 of 93 alcoholic patients were found on long-term followup to be able to drink moderately. Since then, the controversy has been intensified by conclusions of other investigators that some alcoholics can safely resume social, moderate, or controlled drinking as an alternative to abstinence.

In particular, success has been reported by Sobell with a selected group of *gamma* alcoholics who were trained to practice controlled drinking as part of an experimental treatment program conducted at Patton State Hospital, in California, in 1970 and 1971. This group was reported to have functioned significantly better throughout a 2-year follow-up period than a control group that had been treated with the traditional goal of abstinence. An additional third year of follow-up by Caddy confirmed the Sobells' conclusions.

Gamma alcoholism is characterized by physical dependence with withdrawal symptons and loss of control. Of all forms of alcohol problems it produces the greatest damage. A new and effective treatment would accordingly have great medical and social value and might also call into question basic concepts regarding the nature of alcoholism.

The Sobells' findings have been published in a series of articles and books and are widely quoted. The study was welcomed as a

breakthrough, particularly among behavioral and social scientists, and it seemed to offer a major advance over more traditional approaches that emphasized abstinence.

We have completed an independent clinical follow-up of the Sobells' subjects with the cooperation of Patton State Hospital. Our purpose was to evaluate treatment outcomes and to assess short and long-term risks and benefits associated with the experimental controlled drinking treatment. Our findings differ greatly from those of the Sobells and of Caddy.

The Sobells' subjects were 40 male alcoholic inpatients at Patton State Hospital—all characterized as *gamma* alcoholics. They were selected by staff decision, on the basis of history and interview criteria, as appropriate for the controlled drinking goal. The Sobells reported that 20 of these subjects were randomly assigned to an experimental group in which they received behavioral treatment designed to enable them to practice controlled drinking after discharge [controlled drinker-experimental (CD–E) group.] (In this report we refer to these as controlled drinking subjects.) The other 20 were assigned to a control group receiving conventional treatment designed to promote total abstinence after discharge [controlled drinker-control (CD–C)]. (We refer to these as the abstinence subjects.) The Sobells' study compared treatment outcomes of these two groups after discharge.

The success of the controlled drinking treatments were reported as "percentage of days functioning well." The apparent superiority of the controlled drinking subjects was significant during each of the follow-up periods (*t*-tests: $P < .005$ for year 1 and $P < .001$ for year 2).

The Sobells referred to alcohol-related incarcerations primarily through tables showing the mean percentage of days spent in hospitals or jails for each group. Thus, in contrast with the abstinence subjects, the controlled drinking subjects appeared to be improving markedly over the four follow-up periods.

Caddy conducted an independent third-year follow-up, two objectives of which were "to determine how subjects functioned during their third year of follow-up," and "to generally determine the validity of the 2-yr follow-up results already reported . . ." They also reported that the controlled drinking subjects were significantly superior to the abstinence subjects (*t*-tests: $P < .03$), with half of the controlled drinking subjects included reported as "functioning well" 100 percent of the days during year 3.

In order to assess the results reported for these two shorter-term follow-up studies and to determine the long-term effects of the treatment, we located and interviewed as many as possible of the original subjects. Our initial contacts with the controlled drinking subjects and their collateral information sources were established in the period 1976 to 1979; we have had intermittent contacts with them since that time. One purpose of these interviews was to locate documentary data (such as records of hospitalizations for alcoholism and arrests for drunk driving) that would confirm or refute the evaluations of the original investigators. These data, supported by affidavits and records of interviews, have led us to conclusions that are very different from the conclusions of the Sobells and of Caddy.

In reporting our findings, we depart in two respects from the practice of the previous investigator. (i) In place of the subjects' initials, we have used coded numbers (CD-E's 1 to 20 and CD-C's 1 to 20) to maintain confidentiality. (ii) Although we studied subjects from both the experimental and control groups, in this report, we focus on the treatment outcomes and long-term experiences of the controlled drinking-experimental group, rather than on comparisons between the groups, for three reasons. First, the Sobells acknowledged the problem of interpretation when control subjects, although directed toward abstinence, were aware that controlled drinking was considered a potentially attainable goal and that they had been selected as appropriate subjects for that goal. Second, the available data suggest that the experimental and control groups may have differed before they were treated. For instance, most of the controlled drinking subjects were admitted to Patton State Hospital earlier than most of the abstinence subjects (Mann-Whitney $U = 82$, $P < .002$). Thus, even were group comparisons appropriate, in our view they could not be made with confidence. Third, we are addressing the question of whether controlled drinking is itself a desirable treatment goal, not the question of whether the patients directed toward that goal fared better or worse than a control group that all agree fared badly.

Eighteen of the 20 subjects in the controlled drinking group were interviewed. One had died and one could not be located, but their treatment outcomes have also been documented.

The records of Patton State Hospital show that of the 20 controlled drinking subjects, the first 16 consecutive admissions were all appropriately designated *gamma* alcoholics of various levels of severity.

Of the first 16, 13 were rehospitalized for alcoholism treatment within approximately 1 year of discharge. Ten were readmitted to the alcoholism program at Patton State Hospital, where they had previously received the experimental controlled drinking treatment, and three were readmitted elsewhere (a Veterans Administration hospital in another state, Camarillo State Hospital, and Naval Hospital, Camp Pendleton). The remaining 3 of the first 16 subjects also had unfavorable outcomes throughout the first 3 years (noted below).

In our view, the references to hospital and jail incarcerations in the Sobells' tables and related discussion do not convey the reality that is evident when the actual incarceration records of each of the controlled drinking subjects are analyzed individually. For example, the Sobells noted that during the first 6 months the controlled drinking subjects were more often incarcerated in hospitals and the abstinence subjects more often in jails, and they said that this difference "might have been the result of voluntary hospitalizations among the experimental subjects, either to curb the start of a binge or to avoid-starting drinking at all."

The rehospitalizations were not isolated setbacks in persons with otherwise benign controlled drinking outcomes. Rather, they indicated the pattern of serious problems that characterized these subjects' continued attempts to practice social drinking.

Of the 20 controlled drinking subjects, the last four admitted to the study differed somewhat from the first 16. They stated to us that, although they had had alcohol-related arrests, they had not had any prior hospitalizations [one of the characteristics specified for all subjects] or other treatment for alcohol problems. They also stated that they had not experienced physical withdrawal symptoms prior to entering Patton.

Our data relating specifically to the controlled drinking subjects' third-year treatment outcomes are very different from those of Caddy. By contrast, we found that four of the six had apparently engaged in excessive drinking that year. Of the two we evaluated as functioning well, one had done so only after three additional hospitalizations for alcoholism and incarcerations in jail and road camp for alcohol-related arrests. He then spent 5 months during his second-year follow-up in Twelve Step House, an Alcoholics Anonymous-oriented alcoholism recovery home, to which he attributed his total abstinence.

Caddy et al. specifically mentioned two other controlled drinking subjects in the text of their report. They excluded the data of CD-E 6 from the statistical analyses because, although "abstinent," he was "incarcerated throughout the third year." They included the data of CD–E 9, who had "developed Parkinson's disease," because he reported having "used no alcohol during the third year follow-up," although "with special effort he could have obtained and consumed alcohol;" they described him as functioning well 100 percent of the time. Our documented findings regarding these two subjects reveal (i) that, during most of that year, the former was neither incarcerated nor abstinent, but free and drinking heavily, and (ii) that the latter neither had Parkinson's disease (although for a while he pretended to have it, in part to obtain Valium and other medications) nor was abstinent, but drank heavily along with taking the pills. The law enforcement records of the former (showing seven alcohol-related arrests followed by release) and the hospital record of the latter (including emergency room visits) for that year verify their self-reports.

The long-term drinking histories of the 20 controlled drinking subjects throughout the more than 10 years until the end of 1981 (the termination of our follow-up) were consistent with the data we obtained for the first 3 years. That is, the subject who had controlled his drinking after discharge was still doing so in 1981. Similarly, the subjects who had been unable to control their drinking after discharge were either still drinking heavily despite repeated damaging consequences, abstaining completely, or dead.

Eight controlled drinking subjects continued to drink excessively—regularly or intermittently—throughout the long-term follow-up. All had one or more of the following verified alcohol-related consequences during the 1979–1981 period; job loss, arrest, marital breakup, and hospitalization for alcoholism and related serious physical illness.

Six controlled drinking subjects were abstaining completely by the end of our follow-up. Four controlled drinking subjects eventually died alcohol-related deaths.

One controlled drinking subject (CD-E 10) was still missing. His early record shows that he was certified about a year after discharge from the research project as gravely disabled from drinking.

We have deliberately restricted this report to issues relating to treatment outcomes rather than methodology in order not to obscure the critical question: Does the factual, objective evidence support the Sobells' statement that "many of the CD-E subjects engaged in limited, nonproblem drinking throughout the follow-up period" and their conclusion that training directed toward controlled drinking is an effective therapy for *gamma* alcoholism?

Reports of the Sobells' study have influenced some clinicians, researchers, teachers, and students to believe that controlled drinking is not only feasible for a significant proportion of *gamma* alcoholics, but also for some may even be more attainable and safer than a goal of abstinence.

The results of our independent followup of the same subjects, based on official records, affidavits, and interviews, stand in marked contrast to the favorable controlled drinking outcomes reported by the Sobells and Caddy. Our followup revealed no evidence that *gamma* alcoholics had acquired the ability to engage in controlled drinking safely after being treated in the experimental program.●

A TRIBUTE TO AL CANGI

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. GUARINI. Mr. Speaker, New Jersey's news world is mourning the death of one of its shining personalities, Al Cangi, the publisher of eight weekly newspapers in the Hudson-Bergen County area, who died last Thursday at the Hackensack Hospital.

Mr. Cangi, who was born Salvatore Giuseppi Cangiano, leaves behind a litany of successes as a newsman, artist, editor, and publisher in a career which spanned more than 50 years. A dedicated, hard-working individual, Al Cangi toiled at his newspapers' office every day until his illness hospitalized him several weeks ago.

Cangi formed his first weekly newspaper, known as the West New Yorker, in 1945. It was followed by the North Bergen Free Press and the Hoboken Pictorial in 1957, then by the Jersey City News and the Greenville News. He expanded his operations to include the Bergen Free Press and the Fort Lee Press weeklies in 1964. He purchased the Bayonne Facts in 1975.

Al Cangi was a humanitarian, a man who had a great love for people and a zest for life. He was indeed a compassionate individual, who answered the calls of many charitable and religious organizations for assistance.

Al Cangi was also a man of vision, who shared the dream I had as a New Jersey senator when I helped write the legislation which began the development of the Meadowlands area. This area's industrial, housing, and commercial expansion has been complemented by the development of its own sports complex. Since 1969 the development of the Meadowlands had the full backing of Al Cangi in his Secaucus Press, which he had founded in 1945 and expanded last year, when the paper was renamed the Meadowlander.

The development of the Hackensack Meadowlands has been called "The Meadowlands—A Modern Miracle." Its 19,730 acres sprawl over 14 municipalities in Hudson and Bergen Counties, most of them in my congressional district. The Meadowlands has set a phenomenal pace for private sector investment of more than $67 million, producing 3,100 new jobs in the area. This growth has been coupled with the $85 million Meadowlands Arena, with its 1,100 jobs and $150 million in development.

This will eventually attract additional private investment to total more than 37,000 new jobs, with an additional $440 million of publicly backed development in the sports complex.

Al Cangi shared the dream of what the Meadowlands could become with me and fellow State legislators in New Jersey. He worked hard to make this dream the reality it is today, for the Meadowlands region is now a national showplace.

Al resided in Ridgefield for 40 years. He is survived by his son, David L. Cangi, who worked very closely with him publishing their eight weekly newspapers, which have a circulation of more than 100,000.

His appreciation for life's esthetic pleasures began at an early age. Although he had to begin work at 14, his interest in art, especially impressionism, moved him to enroll in a 3-year art course at Cooper Union. Upon completion of his courses, he studied for 2 years at the Art Students' League and at the Academy of Fine Arts for a year. One of his instructors, who had been a student of Picasso, took an interest in Al's impressionist drawings and encouraged him to develop his talent for this form.

At 18, Mr. Cangi got a job as office boy with King Features syndicate in New York City and was soon working at the art boards, dubbing in for some of the famous cartoonists of that time. It was then that Salvatore Cangiano became "Al Cangi." "The name was too long," explained cartoonist George McManus of "Bringing Up Father" fame.

From King Features, Mr. Cangi accepted a job in the art department at the Washington Times-Herald, remaining in Washington for 2 years, then returning to New York to work for a short time in the art department of the Daily News, then a fledgling newspaper. In 1924, he went to work for the Newark Ledger, now the Newark Star-Ledger, and eventually became art director of all newspapers, then totaling five, in the Newhouse Chain, which owns the Newark Star-Ledger.

Mr. Cangi's wife, the former Dorothy Sexton, who died in 1976, had been the editor of the newspaper chain from 1945 to 1976.

Ink, paint, and water were the three ingredients which had the most influence on Mr. Cangi's life as one who drew, painted, and sailed. A lifelong member of the North Hudson Yacht Club, which was established in the early 1930's, he served as its commodore from 1967 through 1969. During the war years, Mr. Cangi volunteered his services to patrol the New York Harbor, performing other duties as he was called upon. In later years, many pleasurable moments were noted by his press colleagues, who had sailed with him on outings on his private boat.

Mr. Cangi was an original founder of the North Jersey Press Club, which later expanded to become the New Jersey Press Association. As a life member, he brought to the association many new innovations and ideas. He held a gold life membership card.

It was through Mr. Cangi's efforts that the New Jersey Press Plate was born, the official plate which is now proudly displayed on vehicles driven by the working press all over the State.

It was his painting, however, which gave Mr. Cangi some of his most pleasurable moments, especially in his later years.

His original works grace the rooms of his executive suite at the newspaper office. A booklet containing his most remarkable drawings was put together by him a few years back. The impressionist pictures included were painted from 1926 up to the present. Among the many outstanding portraits are those of Ruth Snyder and Judd Gray, drawn by Mr. Cangi while on assignment by the Star-Ledger to the Sing-Sing death house. Other works in the booklet included a painting of President Herbert Hoover, the original of which hangs in the Hoover Museum in California.

One particularly memorable effort resulted from the inspiration of Evelyn Byrd's attempt to fly to Paris, France, with a three-man crew. Mr. Cangi did such a fine impressionistic drawing of the aviator that Commander Byrd autographed the drawing.

There was also a touch of nostalgia: a line drawing of a cobbler at his bench. It was entitled "A Shoemaker at Work," and portrayed Mr. Cangi's father at his tasks. The father, who had once studied the priesthood in Italy, could find no work when he first came to this country in 1899. He then turned to the cobbler trade for a livelihood.

Mr. Cangi's impressionistic art helped boost the newspapers' circulation as he portrayed actors and actresses in a new style for the theater pages.

In addition, he illustrated books for authors and painted portraits for many individuals who admired his particular style.

Surviving Mr. Cangi, in addition to his son David, are a brother, Anthony Cangiano; three sisters, Mrs. Elizabeth Van Hook, Mrs. Kathleen Morrison,

and Mrs. Helen Carhart; three granddaughters, Debbie Cangi, Dorothy Cangi, and Mrs. Leigh Guenther; one great-granddaughter, Kimberly Guenther; and many nieces and nephews.

Al Cangi, in his lifetime, was an advocate of the first amendment, fighting to protect the right of freedom of expression. He often quoted Aristotle, who said:

In part, art completes what nature cannot elaborate, and in part it imitates nature.

Eugene G. Farrell, retired editor of the Jersey Journal, who worked with Al for publications in Long Island, Harrisburg, and Newark, as well as the Jersey Journal, said:

Al Cangi's death ends a friendship that goes back to my earliest newspaper days 50 years ago. He was superlative at his craft. He had an intimate knowledge of newspaper production processes which enabled him to work at exceptional speed. It was a delight for an editor to watch a page of pictures grow under his hand and eye. This speed made him a key member of any news team handling a breaking story. He was a good personal friend.

Former Press Club President Wally Hennig said,

He was the greatest. I had a lot of respect for his talent and his ability, as well as for the man himself.

Al Cangi loved life, his family, his country. He often quoted Adlai Stevenson:

So live—decently, fearlessly, joyously—and don't forget that in the long run it is not the years in your life but the life in your years that counts.

Al Cangi believed that:

Home is the place where character is built, where sacrifices to contribute to the happiness of others are made, and where love has taken up its abode.

Indeed Al Cangi, on many occasions, expressed love of country and the courage, freedom, and faith of so many Americans. He believed that his job as a publisher was to remind every public servant, whether holding a high or low position, that his reputation would be determined by the magnitude of the job he does; not by the demensions of his office, the amount of his budget, or the number of people on his staff.

Al Cangi will be missed by so many, especially his family, who may find solace in knowing that, "To live in the hearts of those you love is not to die."

He has left a legacy we are certain his son Dave and his grandchildren will continue. We take comfort in recognizing that no person who added so much to the material, social, economic, and moral well-being of the area, as Al Cangi did, will be left without proper reward.●

VINCE BORDELON, A KEY OFFICIAL IN THE LOS ANGELES CHAMBER OF COMMERCE, TO RETIRE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ANDERSON. Mr. Speaker, in any organization people come, and people go. Some are hardly noticed during their transitory stay, some are missed, and some when they depart leave a vacuum which is not easily nor rapidly filled. The latter is the case with the departure from the Los Angeles Area Chamber of Commerce of Vince Bordelon. He has been a key executive for more than 24 years with the Los Angeles Chamber, in recent years as the executive director of Government relations and chief advocate.

Vince is a man who has a keen insight into the workings of the Government, and especially the workings of the Congress. He served here as the chamber's advocate in Washington immediately prior to his return to Los Angeles where he assumed the Government relations management role. This work still brought him back frequently to the Nation's Capital.

I have always enjoyed seeing Vince in my office. And I am sure that my California colleagues, who he has contacted, will agree with me. I say this because he was always knowledgeable of the subject he wished to discuss, he presented the points that he wished to make in a clear and concise manner, he was courteous, his information accurate, and he always left on a cheerful note. I think the most effective representative of an organization coming to Washington is generally one who operates in the manner of Vince. When he left, I always knew what the chamber's position was, but I never felt that I had been pressured unduly to support that position. I simply had the facts of the chamber's views to assist me in making a decision.

I am sorry that Vince will no longer be representing the chamber. Whoever takes his place will have been selected by the chamber officials with great care, and I feel that over the time he too will establish a position such as Vince did for himself. But it will not come overnight. And in the meantime, I shall miss Vince personally, and his advice and counsel professionally. But all good things must come to an end, and thus it is with Vince Bordelon as the chamber's representative. As he enjoys his retirement and devotes much time to hydroponic gardening, my wife Lee joins me in wishing Vince and his wife, Norma, the very best, and much happiness in the years ahead.●

CHRIS SMITH'S EFFORT FOR SOVIET JEWRY

HON. ALBERT LEE SMITH JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SMITH of Alabama. Mr. Speaker, I rise today once again to bring to your attention and to the attention of Soviet officials the plight of Boris and Irene Ghinis and their daughters. Many of you already know of their situation and have supported my efforts to seek their release from the Soviet Union where they are suffering for their religious faith and for their desire to come to America.

All of my distinguished colleagues will recognize the names of the Ghinis family because I have been speaking out on their behalf since the beginning of my term. I have written to the highest levels of Soviet Government. I have circulated letters for your signature. I have met with Soviet officials. Each time I have been rebuffed. I have not received even one information report on this family. And still the Ghinises are restrained from emigrating to freedom. This is something to remember—and I urge you to remember it—any time that we deal in legislation affecting trade or diplomatic relations with the Soviet Union. You can be sure that I will.●

BAN THE "COP KILLER BULLET"

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BIAGGI. Mr. Speaker, as startling as it may sound, the bulletproof vests worn by over half of our Nation's 528,000 law enforcement personnel are totally useless against a special type of metal-piercing handgun bullet.

These so-called "cop killer bullets" are currently being sold in local gun shops, just as any other type of ammunition would be. Although not used for legitimate purposes, they have been used by criminals to shoot and kill police officers.

As a former New York City police officer who was wounded 10 times in the line of duty, I was outraged when first alerted to this serious problem in 1979 by the New York City Patrolmen's Benevolent Association. Since that time, I have extensively researched this issue and authored legislation (H.R. 5437) to identify and outlaw armor-piercing handgun bullets.

Specifically, my bill would ban the future manufacture, importation or sale of armor-piercing handgun ammunition. This legislation would also provide stiff, mandatory penalties for any

person using these high-powered bullets in a crime.

Largely as a result of this legislation and the attention it has received, some companies have already stopped making and selling these armor-piercing bullets on a voluntary basis, and five States have outlawed this ammunition, with many more headed in that direction.

Even the U.S. Justice Department has joined the crusade against this special class of ammunition. "We see no legitimate reason for private use or possession of handgun bullets, such as the KTW, that are designed specifically for the purpose of armor penetration," Associate Attorney General Rudolph W. Guiliani said.

Mr. Guiliani has urged Congress to immediately adopt a "minimum, mandatory prison sentence of 5 years" for any person convicted of using armor-piercing handgun ammunition in a Federal crime, and he expressed support for a ban on these bullets once an ongoing Justice Department investiagation into the issue is completed.

The House Subcommittee on Crime has already conducted two hearings on my legislation, and I am encouraged by the genuine concern the distinguished chairman of that subcommittee (Mr. HUGHES) has demonstrated in regard to this serious problem.

At this time, Mr. Speaker, I wish to insert the text of a recent article on this issue written by syndicated columnist James J. Kilpatrick:

[From the Washington Post, July 14, 1982]

ON TARGET: BAN THE KILLER BULLET

(By James J. Kilpatrick)

Rep. Mario Biaggi of New York is on the right track in insisting that there ought to be a law banning "killer bullets," but he is discovering, as is so often the case, that fashioning such a law is easier said than done.

All bullets will kill, but some are more deadly than others. Biaggi's concern goes to a particular kind of armor-piercing bullet that will penetrate the body armor widely used by law enforcement officers—and by some men high in public life.

So-called bulletproof vests came into use during the gangland wars of the Prohibition era, but the garments were so heavy and cumbersome that they failed to gain widespread acceptance. Then came the invention of Kevlar, a lightweight synthetic fabric that stops most bullets at fairly close range. Over the past 10 years, the Kevlar body armor has been credited with saving the lives of 400 police officers.

As Kevlar was being developed, however, an armor-piercing bullet also was being developed. A doctor and two peace officers in Lorain, Ohio, perfected a bronze-alloy bullet, semi-pointed, and they coated it with Teflon. They called it the KTW, putting together the initials of Dr. J. P. Kopsch, Dan Turcus and Don Ward.

Their intentions were good. Turcus once had been involved in a shootout. "The police bullets were just bouncing off the guy's car, while he was shooting back at us." The inventors saw a need for a bullet that would give the police an edge in such situations.

What may not have been adequately perceived was that the KTW also would go through the Kevlar vest. The most popular body armor used by police is fashioned of 18 layers of Kevlar. In ballistics tests, the KTW penetrated 72 layers and, in one test, kept going through three heavy telephone directories as well.

Kopsch and his colleagues began manufacturing their armor-piercing bullets for sale to police officers only, but, in the nature of things, it proved impossible to enforce the limitation. The KTW and other similar bullets now can be purchased from many dealers in guns and ammunition.

Given these facts, it might seem an elementary matter to draft federal legislation that would ban the manufacture, importation and sale of armor-piercing bullets. Biaggi's bill proposes such a ban. But it has run into criticism from the Justice Department. As a matter of law, defining such bullets, in conjunction with the handguns from which they would be fired, is proving a sticky proposition.

Until definitive tests can be completed, the Justice Department recommends a stopgap proposal, a law that would establish a minimum, mandatory prison sentence of five years for the use of armor-piercing handgun ammunition during the course of a federal crime of violence. The sentence would be imposed in addition to other punishment, and would not be subject to probation, suspension or parole.

While this measure would apply only in federal courts, Justice would urge the states to adopt similar laws. "We see no legitimate reason for private use or possession of handgun bullets that are designed specifically for the purpose of armor penetration," Associate Attorney General Rudolph Giuliani said.

It's hard to see how even the gun lobby could disagree with that view.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. DERWINSKI. Mr. Speaker, in accordance with the 24th observance of Captive Nations Week, Governors and mayors across the country have issued proclamations which underscore our Nation's strong stand for freedom of these and all other countries under Communist domination. I wish to direct the Members' attention to some of the many that I have received as examples of this strong commitment to freedom and self-determination for all captive nations. The proclamations were issued from the following officials:

The Honorable John Y. Brown, Jr., Governor of the Commonwealth of Kentucky; the Honorable Thomas H. Kean, Governor of the State of New Jersey; the Honorable William P. Clements, Jr., Governor of the State of Texas; and the Honorable James W. Rutherford, mayor of Flint, Mich. I wish to include these proclamations following my remarks.

PROCLAMATION BY JOHN Y. BROWN, JR., GOVERNOR OF THE COMMONWEALTH OF KENTUCKY

To All To Whom These Presents Shall Come:

Whereas, we recognize the desire for liberty and independence by the overwhelming majority of peoples in conquered nations; and,

Whereas, the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and,

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations; Now, therefore,

I, John Y. Brown, Jr., Governor of the Commonwealth of Kentucky, do hereby proclaim the week of July 18-24, 1982 as Captive Nations Week in Kentucky, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

STATE OF NEW JERSEY, PROCLAMATION

Whereas, democratic nations look to the United States as a citadel of human freedom, leadership in the continuing struggle for the liberation of captive nations and the restoration of individual liberties and freedom of religious thought and expression; and

Whereas, the heritage of the United States is, in large part, due to the ability to achieve a national unity from diverse ethnic, religious and racial backgrounds; and

Whereas, this harmonious unification of different backgrounds through the democratic process has given this Nation a unique sympathy and understanding for the aspirations of freedom and independence throughout the world; and

Whereas, mindful of our heritage and principles, the Congress of the United States has designated the third week of July to be annually observed to focus public awareness on those peoples and nations still enslaved by totalitarianism or dictatorship; now, therefore,

I, Thomas H. Kean, Governor of the State of New Jersey, do hereby proclaim July 18-24, 1982 as Captive Nations Week in New Jersey, to reaffirm our dedication to the ideals that unite us and inspire others around the world.

OFFICIAL MEMORANDUM BY WILLIAM P. CLEMENTS, JR., GOVERNOR OF TEXAS

In 1959, the Congress of the United States adopted a resolution establishing the third week in July as Captive Nations Week and requested the President to issue a proclamation designating this week as Captive Nations Week and inviting the people of the United States to observe such week with appropriate ceremonies and activities. The President is further authorized and requested to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world.

The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the people of many lands.

The desire for liberty and independence by the overwhelming majority of people in these lands constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war.

The freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence.

Therefore, I, as Governor of Texas, do hereby designate the week of July 18-24, 1982, as Captive Nations Week in Texas, and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated people all over the world.

PROCLAMATION

Whereas the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations: Now, therefore,

I, James W. Rutherford, Mayor of the City of Flint, Michigan do hereby proclaim the week of July 18-24, 1982 as: "Captive Nations Week" in the City of Flint, Michigan and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

THE ANCHOR TALKS ABOUT THE COAST GUARD

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. STUDDS. Mr. Speaker, the U.S. Coast Guard is rarely uppermost in the minds of most Members of this Congress for the reason that the Service spends most of its time just quietly performing its job. Due to the President's veto of the urgent supplemental appropriations bill (H.R. 5922) which contained $48 million for the Coast Guard and because of the uncertainty that the Service will receive any significant supplemental appropriations at all, the Coast Guard's motto of "Semper Paratus" is becoming increasingly less apt as fiscal year 1982 comes to a close. Members may soon be forced to contend with numerous shore station closures and vessel decommissionings due to the very real risk that the Coast Guard may literally run out of money.

Father John F. Moore of the Roman Catholic Diocese of Fall River, Mass., recently wrote of his concern for the Coast Guard to President Reagan. A reply from the Office of Management and Budget did little to allay the Reverend Father's fears, and he set down his reasons for concern in the diocesan newspaper, the Anchor. I commend this editorial to the attention of my colleagues in the House. I urge them all to consider Father Moore's arguments carefully since it will be this Congress that will, in the months ahead, be asked to make judgments absolutely critical to the future ability of the Coast Guard to be of service to the United States.

[From the Anchor, June 25, 1982]

TEMPORARY RELIEF

As the tall ships sail into the waters of Southeastern Massachusetts and Rhode Island, it should be a comfort to know that the Coast Guard will be on hand in its usual capacity.

Due to efforts from many quarters, including that of this newspaper, some temporary relief from proposed sharp cutbacks in services has been given the Coast Guard in the shape of increased monetary support from the Congress and the Administration.

Evidence of this stopgap measure came to this newspaper by way of response to a letter from this editor to President Reagan.

The reply stated that Secretary of Transportation Drew Lewis had reexamined the proposed curtailment measures and has "determined that alternative savings elsewhere in the Coast Guard are possible. These savings, coupled with enactment of supplemental appropriations for 1982 which the Administration has requested, should avoid any significant changes in the Coast Guard's rescue and law enforcement activities."

From this letter, one might think that all is now well with the Coast Guard's budget and operational capacities. But this is simply not the case.

One is led to suppose that the intervention by Washington has assured the Coast Guard of adequate funding and support of its capabilities. In fact, what has been received is a mere summer stay of execution. The Coast Guard has received only Bandaid treatment. The help that supposedly will keep its services at their customary efficiency level is only temporary, transitory and for the tourist season. Even under the so-called reexamined plans of Drew Lewis, the Coast Guard will find it most difficult to fulfill its motto, "Always Prepared."

From all indications, this area will enjoy a banner summer, even with adverse weather predictions. There will be more small craft plying the Bay waters. Law enforcement agencies also know that drug traffickers have taken to the waterways. Additionally, increasing pressures for this nation to become energy efficient in the face of Middle East uncertainties will send more oil rigs into the waters of Georges Bank. All these factors will make more work for the Coast Guard.

It is estimated that about 50 percent of shore area search and rescue operations will be conducted by Auxiliary members. With all due respect to their dedication, it should be remembered that these people are amateurs and volunteers, not professionals.

Yet even with Auxiliary assistance, the Coast Guard will not be able to meet the challenges of its motto effectively and efficiently. It has fewer vessels to patrol the 200-mile limit. What cutters it has must cover unreasonably large areas, allowing the Atlantic to become a drug smuggler's paradise. The oil industry will be able to cut corners in its deep sea drilling operations with less rigid Coast Guard surveillance to be expected.

The Coast Guard is indispensable, its needs many: more men, more ships and of course more money. Our response to these needs should be proportionate to their urgency.

We continue to encourage area citizens to be aware of the difficulties the Coast Guard faces as it discharges its heavy responsibilities.

Maintenance of Coast Guard capability to save life, to patrol, to police must never become a Bandaid matter.●

TRIBUTE TO LT. MITCHELL MARICICH OF THE LOS ANGELES POLICE DEPARTMENT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ANDERSON. Mr. Speaker, I am honored to pay tribute to a man who is retiring after having served his community for three decades. Lt. Mitchell Maricich is leaving the Los Angeles Police Department after giving our community 30 years of dedicated service. After examining his exemplary record, I can only conclude that he is a credit to the city of Los Angeles, to California, and to the United States.

Mitch Maricich, a native Californian, graduated from San Pedro High School in 1948. His leadership abilities were recognized even then, as he was elected student body president his senior year. He then served for a year on active duty with the U.S. Navy, remaining in the Naval Reserve with the rank of petty officer 3d class until honorably discharged in 1952.

Maricich joined the Los Angeles Police Department in 1952 after earning a degree in police science from the Los Angeles Harbor College and graduating from the Los Angeles Police Academy. He served the L.A.P.D. with distinction, earning the respect of both his colleagues and local residents

for his fine work as a detective in the harbor area of Los Angeles.

During his 30 years with the L.A.P.D., 25 of which were spent in the harbor area, Mitch served in a wide range of duties as he worked his way up through the ranks. Field police officer, accident investigator, vice officer, field sergeant, detective, and lieutenant of police to name the most significant ones.

Mitch has shown his devotion to the community both through his police work and through his private life. For a number of years he has served as the treasurer for the Harbor Division Police Youth Foundation, an organization of businessmen and police who raise and distribute funds to needy children.

What many of Lieutenant Maricich's colleagues may not know is that he is an accomplished drummer. I have spent several enjoyable evenings listening to his band "Jadrans" play the traditional Yugoslavian music for which they are known. However, on occasion, they will play a rendition of "Yellow Ribbon" for me.

Mr. Speaker, on behalf of the Los Angeles/San Pedro community, I want to say "thank you" to Lt. Mitchell Maricich for all you have done for us. My wife Lee joins me in wishing Mitch, his wife Dianne, and their children Daniel, John, David, and Dana all the best in the years ahead.●

PERSONAL EXPLANATION

HON. CHARLES E. SCHUMER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. SCHUMER. Mr. Speaker, I regret the absence of my presence on the floor of this House earlier today when four bills were considered and voted on under suspension of the rules. Unfortunately, H.R. 5228, physical protection of nuclear material, H.R. 6258, International Travel Act authorization, House Concurrent Resolution 310, sense of Congress on Cypress, and House Concurrent Resolution 278, sense of Congress on Older Americans Act were all voted on while I was sitting on the runway at La Guardia Airport, waiting for air traffic congestion to clear. Had I been present on the floor of the House, however, I would have voted affirmatively on these four pieces of legislation.

As a cosponsor of House Concurrent Resolution 278, I fully support title V of the Older Americans Act and the community service jobs for senior citizens that it provides. Many of my constituents have repeatedly expressed to me their support for this valuable program that enables senior citizens to be active in serving their communities. I am pleased that this resolution was passed by the House and hope that funding for title V will be maintained in fiscal year 1983 and in subsequent years.●

RUBLES ON THE BARRELHEAD

HON. RON MARLENEE

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. MARLENEE. Mr. Speaker, I would like to bring to the attention of my colleagues an excellent editorial that appeared in the Wall Street Journal on July 20, 1982. "Rubles on the Barrelhead" points out that the selling of U.S. grain to the Soviet Union is consistent with the President's stand on the Siberian gas pipeline. Let us not forget, as the article points out, that the Russians pay hard currency for American grain while the Europeans have extended liberal credit terms for the construction of the pipeline.

I have been a strong advocate of grain exports. In my meeting with the President on July 15, 1982, I pointed to the need for a negotiated long-term grain agreement between the United States and the Soviet Union. Such an agreement will drain the U.S.S.R. of its valuable hard currency holdings and at the same time provide income for farmers. American farmers are facing the worst income years since the Great Depression, and a bumper crop of wheat is expected again this year. We need to provide increased income for farmers and ranchers of this Nation, and the exportation of our agricultural products at a price above the cost of production is one of the ways to meet this end.

I have introduced a House resolution along with Congressman ENGLISH of Oklahoma (H.J. Res. 455), calling on the President to negotiate with the Soviet Union a long-term grain agreement. The Senate has already passed a similar resolution which I urge my colleagues to support. I trust that the President will see the need for such an agreement and realize that it is consistent with administration policy in dealing with the Soviets.

The editorial follows:

[From the Wall Street Journal, July 20, 1982]

RUBLES ON THE BARRELHEAD

Our European allies, not to mention critics in the U.S., have been clamorously insisting that there is a huge inconsistency in Reagan administration policy on East-West trade. While we try to torpedo the Siberian gas pipeline deal with Western Europe, the U.S. grain trade continues unabated.

Some wind may go out of that argument in coming days if, as expected, the Reagan administration announces its refusal to negotiate a new long-term agreement with Moscow. Most observers think the administration, balancing election-year realities against European complaints, will opt for a one-year extension of the agreement, which dates from 1975.

But this isn't likely to silence the complaints, since the Soviets would still be free to buy a lot of U.S. grain in the coming year. The real point that the administration should be trying to make to its critics is that the grain trade/pipeline analogy is misplaced. If the Europeans sold pipelines on the same terms that the U.S. sells grain, there would be no problem.

As we have so often said, the big problem with the Siberian pipeline deal is that it will be financed with Western capital at below-market rates. This not only represents a large net transfer of resources to our sworn enemy, it makes the Western financial system vulnerable to future Soviet economic and political demands. When the Europeans made it clear they didn't intend to abide by even the minimal credit restraints of the Versailles communique, Mr. Reagan had no choice but to take direct action against the pipeline. Ex those subsidies, he would see no huge objection to the pipeline deal—though we question whether there would be any deal.

The U.S. grain sales to the Soviets receive no such credit subsidies. In 1972, the Soviets moved suddenly into the grain markets, not only acting on inside information about their own bad harvest, but taking advantage of U.S. taxpayer-funded programs to subsidize grain exports. This became known as the "Great Grain Robbery," and the U.S. quickly took steps to see that it would not happen again. Indeed, this was the origin of the long-term agreement to stabilize the grain trade—on a non-subsidized basis.

Not only that, but the Soviets do not receive the ordinary Commodity Credit Corp. loans for grain exports, or for that matter subsidies for manufactured goods. This is prevented by the lack of Most Favored Nation status, banned by the Jackson-Vanik amendment on Jewish immigration from the U.S.S.R. Given the purpose of the amendment, its effect is a bit fortuitous; too bad MFN status was not also denied Poland, where the CCC got stuck for a bundle. But nonetheless the U.S., unlike its European allies, has not been giving subsidies to the Russians.

What the critics seem to be arguing is that only a grain embargo would make Reagan policy consistent on the pipeline. There may be occasions when a trade embargo is necessary. As a practical matter, however, embargoes seldom seem to work very well; in general, policy seems to work best when it works with the markets, rather than against them.

But this is true of credit subsidies as well. So we see no inconsistency in American policy. We are merely asking the Europeans to impose the same restraints on themselves as the U.S. has for some years. In Soviet trade, the principle should be rubles on the barrelhead. Better yet, hard currency on the barrelhead.●

THE DISABLED SPEAK OUT

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. FRANK. Mr. Speaker, those of us who are supportive of the rights of citizens with disabilities to participate

fully in the affairs of their communities continue to be concerned about the failure of this administration to support these rights.

Recently, the Massachusetts Coalition of Citizens with Disabilities (MCCD) and the Maine Association of Handicapped Persons (MAHP) gathered between them 34,000 signatures from people opposed to the administration's efforts to cut back on the legal rights of handicapped citizens—20,000 from Maine and 14,000 from Massachusetts. I join these people in reaffirming support for strong rules to protect the right of access for people with disabilities.

Indeed, I was chagrined recently to find that a public forum which my office had scheduled was held in a building to which handicapped people could not get access. I had mistakenly assumed that such a building would be accessible and this brought home to me once again the importance of providing physical access to our fellow citizens who are disabled in some way, so that they can exercise their full rights of citizenship.

I would like to share with my colleagues the announcement by MCCD of their progress in getting support for this position, and also share with them a pointed satirical piece which MCCD has prepared illustrating the fears that many handicapped people now have about their future, given administration policy.

The announcement follows:

On July 19, 1982, the Massachusetts Coalition of Citizens with Disabilities (MCCD) held a press conference to publicize the successful card campaign conducted by the Maine Association of Handicapped Persons (MAHP). Since March 17, 1982, the MAHP has collected 20,000 cards, letters, and petitions addressed to President Reagan protesting the rewriting of the section 504 regulations: the civil rights law protecting handicapped persons from discrimination.

For many months the Department of Justice has been rewriting the current regulations behind closed doors. Copies of the drafts were obtained by organizations representing handicapped persons and circulated throughout the country.

After reviewing the Reagan administration's draft proposals, the MAHP began their campaign to save section 504. The first phase of the campaign ended Saturday, July 17, 1982, when 350 people attended a march and rally in support of section 504 in Portland, Maine. Today, representatives from the MAHP are beginning their journey to delivery their message to the Reagan administration. After Boston they will go to: Providence, R.I., New York City, N.Y., Philadelphia, Pa., Baltimore, Md., and finally arrive in Washington, D.C.

The MCCD has completed a card campaign to our Members of Congress, where over 14,000 cards were individually mailed. The MCCD and the MAHP are now asking for a 120-day comment period and 10 regional hearings across the country, after the proposed regulations are published in the Federal Register.

GAME TESTED IN CAPITAL

WASHINGTON, D.C.—A new video game is being test marketed in Washington, D.C. video arcades. Called "Attack the Handicapped," the game features small figures representing persons with disabilities who are trying to advance. A game player shoots holes in the 504 "defense shield," a law protecting the rights of disabled persons, and scores points by injuring the figures. The maximum score possible is 35 million,—the approximate number of American citizens with disabilities.

Games installed in the White House and the Dept. of Justice are proving to be popular. One official called the game "fast-paced and intense. It's exciting to zap the little creatures out of public places, schools, and employment. It's fun to see them scurrying back behind closed doors, into nursing homes, or to institutions."

Anticipating successful test marketing at the federal level, a home video version is being prepared so that the game may be played in local communities—Massachusetts Coalition of Citizens with Disabilities, 18 Williston Road, Brookline, Mass.●

PERSONAL EXPLANATION ON MISSED VOTES

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BIAGGI. Mr. Speaker, due to an inordinate 5-hour delay on the Eastern shuttle from New York to Washington I missed a series of votes in the session of July 20.

With respect to House Concurrent Resolution 278 relating to the title V program, had I been here I would have voted "yes." I was a cosponsor of the legislation which first established title V of the Older Americans Act and I consider it to be one of our most successful and cost effective Federal programs.

With respect to House Concurrent Resolution 310 urging the President to take certain steps to resolve the Cyprus conflict, again I would have voted "yes." On this, the tragic 8th anniversary of the brazen invasion of Cyprus by Turkey, it is most regrettable that the island remains partially occupied by Turkey. A peaceful resolution which fully recognizes and respects the territorial integrity of Cyprus is critical and the United States should play a lead role.●

DEMOCRATIC WOMEN'S STUDY CLUB OF LONG BEACH, CALIF., CELEBRATES 50TH ANNIVERSARY

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ANDERSON. Mr. Speaker, this year marks the golden anniversary of the Democratic Women's Study Club of Long Beach, Calif.

Dedicated to the principles of the Democratic Party—through the inspiration of our late great President, Franklin Delano Roosevelt—this organization is rich in heritage. It was in mid-1932 when Mr. Louis J. Theis suggested that local Democratic workers unite into a permanent political body. It was on November 16, 1932, at a luncheon held at the Breakers Hotel to honor Mrs. O. P. Hanna, an active Democrat and a leader in civic and cultural events, that the foundation was built and plans were drawn up by 38 charter members for the Women's Democratic Club of Long Beach. Also, during this luncheon, Mrs. Hanna was elected the first president of the organization. Approximately 2 weeks later, on December 1, the first regularly scheduled meeting was held and the club officially became a "study club"—the first such Democratic women's study club in the United States. Through the able leadership of Mrs. Hanna, the club's constitution and bylaws were also adopted at this first meeting.

The club's first study hour was conducted on January 5, 1933 when Mrs. A. R. Cook spoke on the "Causes of the Depression." In 1952, the club's title was changed to the current Democratic Women's Study Club of Long Beach. Two years later, in 1954, men were granted admission as associate members. Today, full membership is open to any and all Democrats.

As with many successful grassroot organizations, the club has been accepted in or has been involved with the functions of many prominent groups. For example, the membership was accepted in the President's Club in 1933. One year later saw the club's entrance into the National Federation of Women's Club, and in 1936, the California Federation of Women's Democratic Clubs. Also, the club played host in 1937 for the State Convention of Democratic Clubs. In 1952 the club joined the American Association of United Nations. In the following 2 years, it was chartered by the Los Angeles County Central Committee and also became an active member of the California Democratic Council. In 1960, the club joined the Women's National Democratic Club of Washington, D.C.

Mr. Speaker, the Democratic Women's Study Club of Long Beach has been and continues to be an important faction within the local community. Over the past 50 years, literally thousands of area residents have become involved with the club's civic activities. In fact, one of the community's biggest events of the year is the club's annual picnic at Bixby Park. More importantly, however, is the club's commitment to the well-being of

all Americans—particularly those less fortunate than many of us—and to educating themselves on the many complex issues which confront us today. As was printed in the club's silver anniversary membership book in 1957:

We are:
DEMOCRATIC, for we love our neighbors as ourselves, We are concerned with peoples welfare, and
WOMEN'S participation in public affairs
We:
STUDY in order to become more intelligent citizens for our
CLUB which is an organization for political and social purposes.

I am privileged, Mr. Speaker, to have this opportunity in recognizing the Democratic Women's Study Club on this, their 50th anniversary. My wife, Lee, joins in congratulating the club and its membership—past and present—on half a century of dedicated public service to all Americans. We are sure that the next 50 years of service will be as exciting and fulfilling as the last 50 have been.●

REINTRODUCTION OF THE EQUAL RIGHTS AMENDMENT

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BURTON. Mr. Speaker, the struggle for equality of rights for women under the Constitution begins anew today.

The temporary defeat of the equal rights amendment reflects the ability of a minority, preying on fear and ignorance, to flout the will of the majority.

That women and their supporters must continue, in 1982, to struggle for something so obvious and so basic as equality under the Constitution is a national disgrace.

We in Congress must not rest until the ERA is passed and sent to the States for ratification, and we must work in our own States to make certain that it is ratified.

We are involved here in a great and historic struggle in which those who wish to turn back the clock, to erase the gains of the women's movement, have chosen to attempt to do so by derailing the ERA.

The events of the last 100 years cannot, however, be repealed. For the women's movement, and for the Nation, there can be no turning back.

The women's movement has grown as a result of the campaign to ratify the ERA. It has learned in adversity and in success. The reintroduction of ERA today finds its supporters stronger, better organized, better funded, and more in a position to insure that the will of the majority for equal rights will prevail.

There can be no doubt that the equal rights amendment will someday be a part of the Constitution. Those who believe that they have defeated the ERA will find that they cannot stand in the way of history, and that history is on the side of the ERA.●

RELIGIOUS PERSECUTION OF THE BAHA'IS IN IRAN

HON. JIM LEACH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LEACH of Iowa. Mr. Speaker, on May 25, 1982, the Subcommittee on Human Rights and International Organizations of the House Foreign Affairs Committee held a hearing on religious persecution of members of the Baha'i faith in Iran. During that hearing, a number of distinguished witnesses testified to the unfolding tragedy which has confronted the Baha'is since the 1979 Islamic revolution.

One witness, Judge James Nelson, chairman of the National Spiritual Assembly of the Baha'is of the United States, told how Baha'is in Iran are being "ruthlessly deprived" of their basic human rights and have "no recourse for redress of grievances." His testimony revealed the nature and scope of the persecution:

They are arbitrarily harassed, arrested, detained, tortured, forced to recant, executed, deprived of citizenship at home and rendered stateless abroad. Their widows and elderly are left homeless and penniless; their leaders are exterminated, often secretly; their homes, crops, jobs, incomes, pensions, property, assets, centers, cemeteries and shrines are confiscated, looted, desecrated and destroyed; their worship is made a criminal act and their literature is suppressed. Their children are deprived of education and kidnapped; their families derogated and destroyed—all constituting the pattern of a systematic, willful and officially sanctioned pogrom.

Mr. Speaker, the Islamic Government of Iran must know that the people of the United States will not stand silently by when such crimes against their fellow human beings occur. It is for this reason, that I am introducing legislation today, incorporating a number of recommendations which emerged from our hearings. For the benefit of my colleagues the text of that resolution follows:

H. CON. RES. 377

Condemning the persecution of the Baha'is by the Government of Iran and calling upon the President to take steps to bring an end to their persecution.

Whereas at least 111 Baha'is and Baha'i religious leaders have been executed by the Government of Iran;

Whereas some Baha'is in Iran have disappeared, other Baha'is have been tortured, persecuted, harassed, and deprived of personal property and employment, and Baha'i holy places in Iran have been desecrated;

Whereas the Constitution of the Islamic Republic of Iran recognizes only the Zoroastrians, Jews, and Christians as minorities that are free to practice their religion, and does not so recognize the Baha'i faith;

Whereas the stated justification for the repression of the Baha'is has been unfounded allegations that the Baha'is have acted as the agents of foreign political interests;

Whereas despite this stated justification, the continued execution and repression of the Baha'is is evidence that the Government of Iran has launched a deliberate effort to destroy the Baha'is as a religious community, an action constituting a crime against humanity for which the international community would hold the Government of Iran responsible;

Whereas the Government of Iran is a signatory to the International Covenant on Civil and Political Rights which in Article 18 states that everyone shall have the right to freedom of religion and in Article 27 states that persons belonging to religious minorities shall not be denied the right, in community with the other members of their group, to profess and practice their own religion;

Whereas the United Nations Human Rights Commission adopted a resolution in March 1982 expressing deep concern over human rights violations in Iran and requesting the United Nations Secretary General to establish direct contacts with the Government of Iran on the human rights situation in Iran and to continue his efforts to ensure that the Baha'is are guaranteed their basic human rights; and

Whereas the United Nations General Assembly, of which Iran is a member, adopted by consensus in November 1981 the Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the Congress condemns the persecution of the Baha'is in Iran by the Iranian Government.

(b) The Congress urges the Government of Iran, as a party to the International Covenant on Civil and Political Rights, to comply with its obligations to respect the human rights of the Baha'is without distinction as to religion.

(c) The Congress calls on the President—

(1) to use every appropriate opportunity in international fora to emphasize the extent to which the people of the United States deplore and condemn the religious persecution of the Baha'is;

(2) to urge foreign governments to make urgent appeals to the Iranian authorities to cease the execution and persecution of the Baha'is and to respect their right, under international law, to religious freedom;

(3) to cooperate with the United Nations Human Rights Commission and the United Nations Secretary General in their efforts on behalf of the Baha'is in Iran, and to support the establishment of a United Nations working group on religious persecution which would deal with the the Baha'is issue; and

(4) to take all necessary steps to assure that appropriate humanitarian assistance is provided to Baha'is fleeing repression in Iran.

SEC. 2. The Congress requests the President to forward copies of this resolution to the United Nations Secretary General, the Chairman of the United Nations Human Rights Commission, the Government of Iran, and appropriate foreign governments which maintain diplomatic relations with that Government.●

CARLOS FUENTES ON U.S.-LATIN RELATIONS

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. STUDDS. Mr. Speaker, there is no more knowledgeable or articulate commentator on the United States and Latin America than Mexican writer Carlos Fuentes. On July 18, he authored a piece which appeared in the Boston Globe on this subject, and which I believe should be of great interest not only to my colleagues in the House, but to officials in the Reagan administration, as well:

[From the Boston Globe, July 18, 1982]

MENDING U.S.-LATIN RELATIONS

(By Carlos Fuentes)

Latin American governments of all stripes—right and left, democracies and dictatorships—have supported the nationalistic claims of the Argentinian junta. In the name of nationalism, everyone has forgotten the criminal nature of the junta in Buenos Aires.

If the issue of nationalism is not clearly addressed, nothing else can be understood about Latin America.

Nationalism can be an anachronism: The fight for the Malvinas can be seen as one more chapter in the protracted war between the English and the Spanish Empires, between Protestants and Catholics, between thrifty, capitalist, colonial administrators and baroque, cruel and spendthrift Hispanic hidalgos.

Also, you can be a nationalist and a conservative in Latin America. Perhaps the United States will finally come to recognize this, since Latin nationalism is often and mistakenly equated with leftist insurgency in this country.

Indeed, the historical origins of Latin American nationalism in the 1820s are part of a conservative doctrine of maintaining colonial privileges in a Latin America isolated from capitalism and the democratic philosophy and, consequently, from the territorial ambitions of the United States.

It was the liberal left that originally supported the democratic and revolutionary influence of the United States, but that was long ago.

This leads me to consider the other side of the coin: That Marxist movements in Latin America are often "Marxist" in name only. They permit us to be conservative, essentially Augustinian, hierarchical and religiously dogmatic nationalists while paying lip-service to the modern Goddess of Progress.

The anti-American element in Latin American nationalism is heightened by the awareness that the brand name "Marxism" frightens the United States to jittery incoherence. If it did not provoke such unholy reactions, believe me, it would soon be dropped in favor of the current spook that most frightens Washington; if need be, we would call ourselves Mahayana Buddhists.

Yet, having said all this, let me remind you that nationalism represents not only a contradiction but a profound value for Latin Americans simply because our nationhood is still in question.

In New York, Paris, or London, no one loses sleep asking themselves whether the nation exists. In Latin America, you can wake up and find that the nation is no longer there, usurped by a military junta, a multinational corporation or an American ambassador surrounded by a bevy of technical advisers.

Nationalism has been a constant channel for popular demands in Latin America. It is intimately associated with the cry for land and freedom and work and with the need to organize viable modern states with efficient public sectors representing what John Kenneth Galbraith calls the "countervailing power" to offset gigantic foreign pressures on minimal economic autonomy.

That the junta in Buenos Aires, acting under the impression that it had been given the green light by the Administration in Washington in exchange for mercenary services in the destabilization of Nicaragua, should have so perverted the sense of nationalism in Latin America is a sorry fact.

But it permits us to ask more seriously than ever during the past 28 years: What is Latin America's way out, and what should be the rational United States response to it?

DEVELOPMENT AND HUMAN RIGHTS

The fact today is that the immense loss of faith between the United States and Latin America will lead us in three possible directions:

First, the more irate will seek closer cooperation with the Soviet Union. This is a blind policy, not only because of the tyrannical nature of the Soviet regime, but because of the internal and external crises the Soviet Union is going through: Discredited in its economic performance, bankrupt in its political appeal, resented by its neighbors and its minorities, it cannot establish far-flung outposts in Argentina or El Salvador. Even in Cuba it wants to reduce its profile and cut its losses.

Second, the more equanimous and pragmatical will make a bid for greater political, economic and technological support from Japan and Western Europe.

This will be a good thing. Because they do not wish to drive our countries into the Soviet embrace by blocking the revolutionary movements in Latin America, leaders in France, Scandinavia and West Germany are in a better position than those in the United States to further policies of economic development with human rights.

This is essential to our national growth because—let me say it with the greatest conviction—we shall never be full-fledged nations unless we have true, useful and permanent economic development with human rights and political freedoms.

The Latin American concept of human rights must indeed be wide and demanding. It means that basic freedoms can no longer be sacrificed to capital accumulation parading as revolutionary socialism. It also means that economic justice cannot be sacrificed any longer to purely formal representations of democracy by the entrenched oligarchy.

Beware, in this context, of a new and, again, ill-advised policy unveiled by the Reagan Administration before the British Parliament: a program for developing democracy in the Third World through open U.S. financing of political parties, labor unions and newspapers.

No greater stumbling block for democracy in Latin America has ever been so unwittingly devised. These organizations shall be immediately tainted and rendered totally ineffective. Democracy cannot be imported into Latin America; we must be ourselves, not a cartoon-replica of you; we must find our own paths toward democracy, and it seems incredible that Washington should come up with this political Frankenstein precisely when the South Atlantic crisis has shown that nationalism, not Marxism, not faith in "the magic of the marketplace," is the driving force in Latin America.

NEW CENTERS OF POWER

And third, the more prophetic souls will find in the present crisis an occasion to further the structuring of a multi-polar world, where several centers of power shall coexist beyond the present two-power domination.

Latin America sees itself as one of these new centers of power, along with China, Japan, India, Islam, Black Africa, Western Europe and, eventually, hopefully, a united Europe, East and West.

The United States has paid the price of its mistaken policies by having to choose publicly between two major alliances, NATO and the Rio Treaty. This is a dramatic and embarrassing thing to happen to a major world power.

Nevertheless, I, for one, applaud the U.S. decision to come down on the side of Britain. This clears the air immensely. It conforms that, as should be, the United States prefers its cultural and political bonds in the Anglo-Saxon community and that, in effect, its most important economic, political and security arrangements lie in the Atlantic Alliance, not in the Gulf of Fonseca or the River Plate.

This actually opens the happy possibility for the United States to assume a more modest presence in the hemisphere, to avoid, as my friend William D. Rogers says, becoming intoxicated with crisis, and to be but one more factor instead of the only factor (although always an extremely important one) in Latin America's relations with the world.

But what I am suggesting is not a policy of benign neglect as a pendulum reaction to busybody adventurism.

No, after the war in the Malvinas, the United States has the extraordinary opportunity for rebuilding relations and demonstrating its good faith towards Latin America in an active way and in two immensely important areas: political negotiations in Central America and global negotiations for North-South economic development.

First, Central America.

The rebellion of the poor and oppressed people of the region against situations dating from the arrival of Columbus in the New World cannot be attributed to Cuba—they would persist even if Cuba sank into the sea—and they cannot be solved by foreign armed intervention.

The time for political instead of military operations is here. The problems of Central America and the Caribbean can be negotiated: nonaggression pacts, border patrols, reduction of armies, strict noninterference and mutual concessions are all possible if willed through effective diplomatic means.

U.S. MUST LEARN TO COEXIST

Again, the United States should not be alone in this process but, rather, become part of a quadrilateral negotiating team that might include citizens from Mexico, Venezuela and France.

A greater equilibrium would then exist, and irrational fears might be allayed. What Helmut Schmidt, Margaret Thatcher or David Rockefeller have said of the Marxist regimes of Black Africa is also true of present or eventual Marxist regimes in Latin America: If you can coexist with them, if you can do good business with them, the face of national interests will finally break through the mask of ideological

dogmas. This is true of Angola; it can be true of El Salvador. If you can coexist with 800 million Chinese, you can surely coexist with 10 million Cubans. Relations with Nicaragua can be as pragmatic as relations with Zimbabwe.

This is a challenge. For once, outwit the Soviets by respecting revolutionary change. You are, after all, the fountainhead of revolution in this Hemisphere.

The second opportunity the United States has to renew hemispheric ties at a new level of seriousness has to do with North-South relations or, as President Francois Mitterand of France appropriately calls it, codevelopment.

It must be clearly understood that the developing nations are not acting as supplicants in this matter. The solution of these problems is vital to both developed and developing countries.

RATIONAL COOPERATION

You are suffering from inflation with unemployment and slow growth, shrinking services, declining standards of living and exacerbations of social tolerance.

We are suffering from extreme dependency on exports, lack of public capital for infrastructure and an incapacity to buy what you produce, therefore impoverishing both ourselves and you.

We believe—as the America of the New Deal knew and proved—that the economic community can reawaken through rational cooperation if social and economic conditions are created for elevating demand in the developing nations.

This is what is needed to guarantee greater use of labor and equipment in the industrialized world, therefore reducing costs and process, and at the same time reducing the terrible gulf between potential and real demand in the Third World.

Instead of supplying arms to torturers, instead of proving machismo by slapping around undernourished 7-year-olds, instead of drawing the line on Soviet expansionism where it does not exist (El Salvador) and where it wishes to withdraw (Cuba) and condoning it where it is all too flagrant (Poland and Afghanistan), instead of making love to good authoritarians who turn out to be the worst enemies of what your country stands for—instead of these failed policies, I propose today the policies of modesty, discretion and coexistence in Latin America, coexistence with autonomous political change and coexistence in economic co-development.

The New World created the Modern World. Let not its destiny be to kill it as well●

COLUMBUS QUINCENTENNIAL U.S.A. ORGANIZATION

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. BIAGGI. Mr. Speaker, it gives me great pleasure to advise my colleagues of the establishment of the Columbus Quincentennial U.S.A. Organization, based in my home city of New York. The organization is being established to begin the preparations for what should be a major period of national celebration in the year 1992. That date marks the 500th anniversary of the founding of America by Christopher Columbus.

I had the honor of recently meeting the executive director of this new organization, Norma Greenwood of the Greenwood Group. Norma—a woman of great enthusiasm and determination—has advised me that the official period of celebration for the quincentennial will begin when a remarkable facsimile of the original ship *Santa Maria* sails into New York City's dynamic new South Street seaport later this summer. From that point the ship will sail to Santona, Spain, the birthplace of Juan de la Cosa, first cartographer of the Americas. Following the construction of the ship and the sailing, work will begin on the other two ships from Columbus' famous voyage—the *Nina* and the *Pinta.*

It is the hope of the Columbus Quincentennial U.S.A. Organization that by 1992 they will have generated worldwide interest and attention in saluting the remarkable feat of Christopher Columbus. Some may find it unusual to make note of something so far ahead of the event but I have found that foresight is the key to success in planning, and on that basis the Columbus celebration should be outstanding.

I commend the Columbus Quincentennial U.S.A. Organization for undertaking this important initiative. Clearly, we as a nation and people should observe with great ceremony the 500th anniversary of our founding. We should also pay tribute to the man of courage and conviction who took the dangerous journey which produced the discovery of America—Christopher Columbus. That same spirit of pioneering adventure was manifested in various segments of our history from the time the first settlers came in on the *Mayflower* to the travels of Lewis and Clark to the trip of our astronauts to the Moon. In 1992 America should take the time to review how far we have come as a nation of people and how we can make the future even better.

I know the work of the Columbus Quincentennial will complement this national effort, and I wish Norma Greenwood and the entire organization well in the months and the years ahead.●

RESULTS OF THE 1982 34TH CONGRESSIONAL DISTRICT QUESTIONNAIRE

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LUNGREN. Mr. Speaker, in our representative democracy it is essential to know the views and concerns of those being represented. Earlier this year, the 1982 questionnaire was sent to the residents of the 34th Congressional District requesting their opinions on various issues relating to important legislation being considered by the Congress.

While this is by no means a random scientific survey, I went to considerable effort, with the help of the Congressional Research Service and the House Information Systems to assure that the questions would be accurate reflections of what was on the minds of many of the constituents of the 34th District. The input the survey provided me was useful in letting me know some of my constituents' stands on many sensitive and critical issues. This grassroots information is invaluable to me as a Representative.

To no one's surprise, the overriding concern of residents is the economy. The results of the survey show that of those households responding, there still is strong support for the President's economic program; 71 percent wanted this program implemented to reduce inflation. Of this 71 percent, 60 percent felt that reducing the Federal budget was the best way to fight inflation. In another question, 78 percent believed that Federal spending should be cut by $30 billion. This compares to national polls (the Heritage Foundation, Sindlinger Co., Inc.) which showed that 40 percent of the respondents thought the budget had not been cut enough, while only 19 percent thought that the Federal budget had been cut too much.

In regard to spending for Federal programs, many indicated to me that most levels of spending should either remain the same or be decreased. Of the 78 percent that believed that Federal spending should be cut by $30 billion, an amazing 81 percent wanted to decrease Federal welfare spending (food stamps and AFDC) while 82.9 percent wanted to decrease Federal spending on energy. Nearly 60 percent favored increasing spending for defense. The nationwide poll showed that only 23 percent want to cut defense spending while 53 percent favored cuts in social programs. There also appears to be strong support for maintaining the military buildup plans. Over 51 percent of the public favor current defense spending even if it requires running a budget deficit.

On a separate issue, there was an overwhelming 91-percent response in favor of limiting payments from social security to only the exact amount paid into the system for those aliens who leave the United States after they retire.

Asked to select among several proposals to combat violent crime, almost 40 percent of those responding indicated support for the death penalty for murder, while longer sentences (11 percent), gun control (10 percent), and

increased funding (6.1 percent) were also favored but by smaller margins. Even of the 78 percent that favored cutting the budget by $30 billion, 43 percent favored an increase in law enforcement spending, while 36.5 percent favored leaving that spending the same.

I wish to publicly thank the more than 5,000 residents who took the time to let me know their opinions on these important matters, as well as the many that provided additional comments with their questionnaires. As the results of the 1982 34th Congressional District Questionnaire seem to agree with professional polling results from across the country, I commend them to the attention of my colleagues.

GENERAL ISSUES

Question: Regardless of whether you favor or oppose it, which of the issues listed in Question 1 do you think will have the most impact on people you know?

Ranked:	Percent
1. Reagan economic program	38.5
2. Cut $30 billion more from Federal Government	16.4
3. Federal alcohol tax	10.2
4. Alien social security cut	7.3
Lowering number of refugees	7.3
5. National defense spending	6.9
6. Violent criminals	4.4
7. Full embargo of U.S.S.R	1.0
8. Registration of men	.8

Question: Which of the following proposals do you think is the best way to fight inflation?

1. Put the dollar back on the gold standard;
2. Establish wage and price controls;
3. Reduce government spending;
4. Have the Federal Reserve Board limit the amount of money available.

Ranked:	Percent
1. Reduce Federal spending	53.6
2. Wage and price controls	9.8
3. Gold standard	8.3
4. Federal reserve limits	7.3

Question: Which of the following proposals do you think is the best way to combat violent crime?

1. Impose longer prison sentences;
2. Control the distribution and use of guns;
3. Increase funding for local law enforcement agencies;
4. Allow judges to impose the death penalty for murder.

Ranked:	Percent
1. Death penalty for murder	39.3
2. Longer sentences	11.6
3. Gun controls	10.6
4. Increase funding	6.0

Question: Do you favor or oppose?

A. Levy a higher Federal tax on purchases of alcohol, cigarettes and gasoline: Favor—54.5%, Oppose—32.8%, Not sure—8.5%.

B. Limit the sale of agricultural goods to the Polish Government and the Soviet Union: Favor—69.9%, Oppose—17.9%, Not sure—10.0%.

C. Embargo of all trade to the Soviet Union: Favor—53.8%, Oppose—26.6%, Not sure—16.4%.

D. Reevaluate the design of the proposed Viet Nam Memorial in Washington: Favor—26.6%, Oppose—17.3%, Not sure—49.2%.

E. Implement President Reagan's economic recovery programs to reduce inflation: Favor—70.9%, Oppose—16.2%, Not sure—9.6%.

F. Limit payments from Social Security to aliens who leave the United States after they retire to only the exact amount they paid into the system: Favor—90.9%, Oppose—5.2%, Not sure—2.5%.

G. Increase spending for our national defense: Favor—59.7%, Oppose—27.0%, Not sure—11.9%.

H. Lower the number of refugees accepted by the United States: Favor—81.1%, Oppose—9.4%, Not sure—7.7%.

I. Cut Federal spending by an additional $30 billion: Favor—78.0%, Oppose—9.1%, Not sure—10.6%.

J. Continue to require that 18 year old men register for the draft: Favor—79.7%, Oppose—13.1%, Not sure—6.0%.

K. Treat violent juvenile criminals as if they were adults: Favor—90.2%, Oppose—4.4%, Not sure—4.4%.

BUDGET QUESTIONS

Question: Should Federal spending be increased or decreased?

[In percent]

	Increase	Decrease	Same
Energy	2.5	81.5	12.3
Foreign aid (economic, financial, and military)	30.8	22.7	40.0
Natural resources and the environment	27.2	31.4	34.3
Transportation	29.1	30.3	35.9
Education	26.2	27.7	40.5
Health	57.1	17.9	20.6
National defense	41.8	18.7	30.8
Veterans' benefits	21.8	15.0	57.4
Law enforcement, court and litigation	44.5	12.5	35.5
Agriculture	13.3	43.9	34.7
Welfare (AFDC and food stamps)	4.2	75.5	15.2
Social security	25.2	16.6	54.7
General sciences, space, and technology	36.0	17.9	39.9
Public employment programs	21.4	43.7	30.1
Payments to State and local governments	17.0	41.8	33.9

1982 Questionnaire—Cross References (All Spending Refers to Federal Spending.)

NATIONAL DEFENSE

1. Of those wanting to cut $30 billion from the budget, 40.3% favored increasing spending on national defense, 20% favored a decrease, and 30,9% favored leaving spending the same.

(Of those opposing a cut by $30 billion from the budget, 65.9% favored an increase in defense spending, while 4.5% favored a decrease, and 27.3% favored leaving spending the same.)

2. Of those favoring an increase in national defense spending, 75.1% favored cutting $30 billion from the budget, 14.4% opposed.

(Of those favoring a decrease in national defense spending, 83.3% favored cutting $30 billion from the budget, 2.2% opposed.)

ENERGY

1. Of those wanting to cut $30 billion from the budget, 2.7% favored increasing federal spending on energy, 82.9% favored a decrease, and 11% favored leaving spending the same.

(Of those opposing a cut by $30 billion, 4.5% favored an increase in energy spending, 79.5% favored a decrease, 11.4% favored leaving spending the same.)

2. Of those favoring an increase in federal energy spending, 83.3% favored the $30 billion cut from the budget, 16.6% opposed.

(Of those favoring a decrease in federal energy spending, 79.3% favored the $30 billion cut, while 8.9% opposed. Of those favoring leaving spending on energy the same, 69.5% favored the $30 billion cut, 8.5% opposed.)

FOREIGN AID

1. Of those wanting to cut $30 billion from the budget, 26.1% favored an increase in spending for foreign aid, 25.9% favored a decrease, and 41.6% wanted to leave spending the same.

(Of those opposing a cut by $30 billion, 59.1% wanted to increase spending for foreign aid, 13.6% favored a decrease, and 22.7 favored leaving spending the same.)

2. Of those favoring an increase in federal spending in foreign aid, 66.2% favored the $30 billion cut from the budget, 17.6% opposed.

Of those favoring a decrease in spending in foreign aid, 89.0% favored the $30 billion cut from the budget, 5.5% opposed.

Of those favoring leaving spending in foreign aid the same, 81.3% favored the $30 billion cut from the budget, 5.2% opposed.

NATURAL RESOURCES AND THE ENVIRONMENT

1. Of those wanting to cut $30 billion from the budget, 25.1% favored increasing spending on natural resources, while 33.6% favored a decrease, and 35.7% favored leaving spending the same.

(Of those opposing a cut by $30 billion, 45.5% wanted an increase in spending for natural resources and the environment, 18.2% favored a decrease, and 27.3% favored leaving spending the same.)

2. Of those favoring an increase in spending on natural resources and the environment, 71.7% favored the $30 billion cut, 15.3% opposed.

Of those favoring a decrease in spending on natural resources and the environment, 83.4% favored the $30 billion cut, 5.3% opposed.

Of those favoring leaving spending on natural resources and the environment the same, 81.2% favored the $30 billion cut, while 15.3% opposed.

TRANSPORTATION

1. Of those wanting to cut $30 billion from the budget, 26.1 percent favored an increase in federal transportation spending, 33.7 percent favored a decrease and 36.3 percent favored leaving spending the same.

(Of those opposed to a $30 billion cut, 59.1 percent favored an increase in federal transportation spending, 13.7 percent favored a decrease and 27.7 percent favored leaving spending the same.)

2. Of those favoring an increase in spending on transportation, 70.6 percent favored a $30 billion cut, 18.6 percent opposed.

Of those favoring a decrease in spending on transportation, 84.9 percent favored a $30 billion cut, 4.1 percent opposed.

Of those favoring leaving spending on transportation the same, 78.6 percent favored a $30 billion cut, 7.0 percent opposed.

EDUCATION

1. Of those favoring to cut $30 billion from the budget, 21.6 percent favored an increase in federal spending on education, 32.5 percent favored a decrease, and 40.0 percent favored leaving spending the same.

(Of those opposed to a $30 billion cut, 59.1 percent favored an increase in federal spending on education, 2.3 percent favored a decrease and 38.6 percent favored leaving spending the same.)

2. Of those favoring an increase in spending on education, 64.3 percent favored a $30 billion cut, 20.6 percent opposed.

Of those favoring a decrease in spending on education, 91.7 percent favored a $30 billion cut, .75 percent opposed.

Of those favoring leaving spending on education the same, 77.0 percent favored a $30 billion cut, 8.7 percent opposed.

HEALTH

1. Of those favoring to cut $30 billion from the budget, 57.6 percent favored an increase in federal spending on health, 18.6 percent favored a decrease and 18.9 percent favored leaving spending the same.

(Of those opposed to a $30 billion cut, 47.7 percent favored an increase in federal spending on health, 25.0 percent favored a decrease, and 25.0 percent favored leaving spending the same.)

2. Of those favoring an increase in spending on health, 78.6 percent favored a $30 billion cut, 7.6 percent opposed.

Of those favoring a decrease in spending on health, 81.4 percent favored a $30 billion cut, 12.9 percent opposed.

Of those favoring leaving spending the same on health, 71.7 percent favored a $30 billion cut, 11.1 percent opposed.

LAW ENFORCEMENT

1. Of those wanting to cut $30 billion from the budget, 42.9% favored an increase in federal spending for law enforcement, 12.8% favored a decrease, and 36.5% wanted to leave spending the same.

(Of those opposed to a $30 billion cut, 52.3% favored an increase in federal spending for law enforcement, 13.6% favored a decrease, 31.8% favored leaving spending the same.)

2. Of those favoring an increase in spending on law enforcement, 75.2% favored a $30 billion cut, 10.8% opposed.

Of those favoring a decrease in spending on law enforcement, 80.0% favored a $30 billion cut, 10.0% opposed.

Of those favoring leaving spending the same on law enforcement, 80.1% favored the $30 billion cut, 8.2% opposed.

AGRICULTURE

1. Of those wanting to cut $30 billion from the budget, 9.9% favored an increase in federal spending for Agriculture, 49.2% favored a decrease, and 33.1% favored leaving spending the same.

(Of those opposed to a $30 billion cut, 38.6% favored a increase in federal spending for agriculture, 27.3% favored a decrease, and 30.0% favored leaving spending the same.)

2. Of those favoring an increase in spending on agriculture, 57.8% favor the $30 billion cut, 26.6% oppose.

Of those favoring a decrease in spending on agriculture, 87.2% favor the $30 billion cut, 5.7% oppose.

Of those favoring leaving spending the same on agriculture, 74.3% favor the $30 billion cut, 7.8% oppose.

WELFARE

1. Of those wanting to cut $30 billion from the budget, 2.4% favored an increase in federal spending for welfare, 80.5% favored a decrease, and 12.2% favored leaving spending the same.

(Of those opposed to a $30 billion cut, 22.7% favored an increase in federal spending for welfare, 43.2% favored a decrease, and 30.0% favored leaving spending the same.)

2. Of those favoring an increase in spending on welfare, 45% favor the $30 billion cut, 50% oppose.

Of those favoring a decrease in spending on welfare, 83% favor the $30 billion cut, 5.2% oppose.

Of those favoring leaving spending on welfare the same, 63.0% favor the $30 billion cut, 18.0% oppose.

SOCIAL SECURITY

1. Of those wanting to cut $30 billion from the budget, 19.2% favor an increase in federal spending on Social Security, 19.2% favor a decrease, and 57.3% favor leaving spending the same.

(Of those opposed to a $30 billion cut, 54.4% favored an increase in spending for Social Security, 9.1% favored a decrease, and 36.4% favored leaving spending the same.)

2. Of those favoring an increase in spending on Social Security, 59.5% favor the $30 billion cut, 19.8% oppose.

Of those favoring a decrease, 90% favor the $30 billion cut, 5.0% oppose.

Of those favoring leaving spending on Social Security the same, 81.7% favor the $30 billion cut, 6% oppose.

SCIENCE, SPACE AND TECHNOLOGY

1. Of those wanting to cut $30 billion from the budget, 33.8% favor an increase in federal spending on science, 18.6% favor a decrease, and 41.6% favor leaving spending the same.

(Of those opposed to a $30 billion cut, 63.6% favored an increase in spending for science, 6.8% favored a decrease, and 25% favored leaving spending the same.)

2. Of those favoring an increase in spending for science, 73.4% favor the $30 billion cut, 16.2% oppose.

Of those favoring a decrease in spending for science, 81.4% favor the $30 billion cut, 3.5% oppose.

Of those favoring leaving spending for science the same, 81.3% favor the $30 billion cut, 5.7% oppose.

PUBLIC EMPLOYEE PROGRAMS

1. Of those wanting to cut $30 billion from the budget, 17.3% favor an increase in federal spending on public employee programs, 48.8% favor a decrease, and 29.9% favor leaving spending the same.

(Of those opposed to a $30 billion cut, 45.5% favored an increase in public employee program spending, 13.6% oppose, and 36.4% favor leaving spending the same.

2. Of those favoring an increase in spending for public employee programs, 63.1% favor the $30 billion cut, 19.4% oppose.

Of those favoring a decrease in spending for public employee programs, 87.1% favor the $30 billion cut, 2.8% oppose.

Of those favoring leaving spending for public employee programs the same, 17.2% favor the $30 billion cut, 11.0% oppose.

PAY TO STATE AND LOCAL GOVERNMENTS

1. Of those wanting to cut $30 billion from the budget, 14.9% favor an increase in spending to state and local governments, 45.0% favor a decrease, and 33.8% favor leaving spending the same.

(Of those opposed to a $30 billion cut, 36.4% favor an increase in spending to state and local governments, 18.2% favor a decrease, and 36.4% favor leaving spending the same.)

2. Of those favoring increasing spending to state and local governments, 68.3% favor a $30 billion cut, 19.5% oppose.

Of those favoring a decrease in spending to state and local governments, 84.1% favor a $30 billion cut, 4.0% oppose.

Of those favoring leaving spending to state and local governments the same, 78% favor a $30 billion cut, 10.0% oppose.

REAGAN'S ECONOMIC PLAN AND CHOOSING THE BEST WAY TO FIGHT INFLATION

Of those favoring the Reagan Economic Plan, 60% chose reducing federal spending as the best way to fight inflation. 9.1% chose the gold standard, 6.2% chose wage and price controls, and 5.3% chose having the Federal Reserve Board limit the amount of money available.

Of those favoring the choice reduce federal spending to fight inflation, 78.7% favored the Reagan Economic Plan, 11.2% opposed.

Of those favoring the choice of the gold standard to fight inflation, 77.5% favored the Reagan Economic Plan, 7.5% opposed.

Of those favoring the choice of wage and price controls to fight inflation, 44.7% favored the Reagan Economic Plan, 43.0% opposed.

Of those favoring the choice of having the Federal Reserve Board limit the amount of money available to fight inflation, 51.4% favored the Reagan Economic Plan, 31.4% opposed.●

SEELY JOHNSTON—THE SPIRIT OF AMERICA LIVES

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, the spirit of volunteerism is sweeping our land. From one end of the country to the other, people are getting involved in community projects as never before. One of the most inspiring examples of this new American spirit comes in the person of Seely Johnston of Champaign, Ill. In fact, space does not adequately permit me to list the numerous causes he has so dedicatedly served over the years.

The spirit of volunteerism may be something new to many Americans, but not to Seely, for he has selflessly served his fellow citizens since 1924. Among his many accomplishments is the introduction of children's athletic programs to Champaign, which in turn led to the formation of the Champaign Recreation Department, of which he was the key element.

One can say without exaggeration that Seely Johnston exemplifies the spirit that built America.

It is fitting that the Illinois General Assembly has publicly recognized Seely Johnston's dedication to his fellow citizens by passing House Resolution 651, which I hereby offer for the attention of my colleagues and the American people.

STATE OF ILLINOIS, EIGHTY-SECOND GENERAL ASSEMBLY, HOUSE OF REPRESENTATIVES

HOUSE RESOLUTION NO. 651

(Offered by Representatives Ryan, Johnson and Wilcoff)

Whereas, one dedicated volunteer can attract others to help with a worthwhile cause; and

Whereas, the mark of an outstanding neighbor is his conscientious participation in varied organizations and projects for community betterment; and

Whereas, society highly regards such selfless individuals who give more of themselves than their communities expect; and

Whereas, Seely Johnston has been involved in church and fraternal activities in Champaign since 1924; and

Whereas, he introduced local children's athletic programs the same year and led in the formation of the Champaign City Recreation Department a dozen years later; and

Whereas, his work with charitable organizations has continued over three decades; and

Whereas, his dedication to city government and to the University of Illinois, from which he graduated in 1924, is evidenced by his works also; and

Whereas, he still runs Johnston Sport Shop, the business he started in 1926; and

Whereas, he has more than proved his love for his community and at age 78 is more active than some men half his age; therefore, be it

Resolved, by the House of Representatives of the Eighty-Second General Assembly of the State of Illinois. That we do hereby commend and honor Seely Johnston for a lifetime of participation in worthwhile activities; and, be it further

Resolved, that we publicly recognize his continuing contributions to his community; and be it further

Resolved, that a suitable copy of this preamble and resolution be presented to Seely Johnston

GEORGE H. RYAN,
Speaker of the House.
ANTHONY J. LEONE, JR.
Clerk of the House.●

U.S. SUPREME COURT UPHOLDS NEW YORK LAW BARRING CHILD PORNOGRAPHY

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LaFALCE. Mr. Speaker, I would like to take this opportunity to commend the recent unanimous ruling by the U.S. Supreme Court upholding the constitutionality of a New York State law which bars the use of children in sexually explicit photographs, movies, or performances. This most pernicious practice, which all too frequently pervades our communities and exploits our youngsters, has been dealt a decisive blow by the well-reasoned ruling of our Nation's highest court.

The Court, which was faced with challenges to the New York law on the grounds that it denies first amendment protections, rejected that contention by plainly—and correctly in my view—holding that "States are entitled to greater leeway in the regulation of pornographic depiction of children." The Court clearly determined that child pornography is not included in that category of "speech" which deserves first amendment protection.

The 1977 New York State law upheld by the Court is a response by legislators to the pleas of citizens to rid our communities of the exploitative practice of using children in the production of pornographic materials. Other States have also passed measures barring this affront to decency.

We can all be encouraged that our Supreme Court has faced its important and often difficult legal task by properly permitting the protection of our Nation's youth without sacrificing valuable constitutional protections.

I would like to insert for the RECORD a column from the New York Times reporting the Supreme Court's ruling.

JUSTICES UPHOLD BAR TO CHILDREN IN PORNOGRAPHY

(By Linda Greenhouse)

WASHINGTON, July 2.—The Supreme Court today upheld the constitutionality of a New York law that bars the use of children in sexually explicit films, photographs or performances.

"The prevention of sexual exploitation and abuse of children constitutes a government objective of surpassing importance," the court concluded.

The law, which also prohibits the sale as well as production of such films and photographs, applies whether or not the material itself meets the legal test of obscenity.

The law was declared unconstitutional last year by the New York Court of Appeals, the state's highest court, on the ground that the state could not "prohibit the promotion of materials which are traditionally entitled to constitutional protection from government interference" under the First Amendment's guarantee of free speech.

In reversing that ruling today, the Supreme Court, in an opinion by Associate Justice Byron R. White, said that "child pornography" was a "category of material outside the protection of the First Amendment" and could be regulated regardless of whether it was obscene.

SEPARATE OPINIONS

All nine Justices joined the Court's judgment. Only four, however, signed Justice White's opinion, with the other four concurring separately.

Justice White said the New York court was "not unreasonable" in assuming that child pornography should be judged according to ordinary standards of obscenity and could not be suppressed unless it was actually obscene. "However," he said, "we are persuaded that the states are entitled to greater leeway in the regulation of pornographic depictions of children."

In a 1973 decision, Miller v. California, the Supreme Court defined as obscene those works "which, taken as a whole, appeal to the prurient interest in sex, which portray sexual conduct in a patently offensive way, and which, taken as a whole, do not have serious literary, artistic, political or scientific value."

EARLIER DEFINITION

In his opinion today, Justice White suggested that the Miller definition, based as it is on adult sensibilities and community standards, was irrelevant in the context of child pornography.

He said: "The question under the Miller test of whether a work, taken as a whole, appeals to the prurient interest of the average person bears no connection to the issue of whether a child has been physically or psychologically harmed in the production of the work. Similarly, a sexually explicit depiction need not be 'patently offensive' in order to have required the sexual exploitation of a child for its production."

The constitutional result of today's ruling is to place child pornography in that category of "speech" not deserving of First Amendment protection, along with libel and language that incites to violence.

The practical result is to uphold the constitutionality of laws in 19 other states, including New Jersey, that prohibit child pornography regardless of whether the material is obscene.

The Federal Government and 17 states, including Connecticut, limit the prohibition to material that is obscene.

The New York law was enacted in 1977. It made "promoting a sexual performance by a child" a felony punishable by up to seven years in prison and a $10,000 fine. "Sexual performance" was defined in the law to mean actual or simulated intercourse, masturbation, bestiality, "sado-masochistic abuse" or "lewd exhibition of the genitals."

Under New York law, a child is a person under the age of 16.

The constitutionality of the law was challenged by Paul Ferber, a Manhattan bookstore owner who was convicted of selling two films to an undercover police officer. The films depicted young boys masturbating.

After the Court of Appeals declared the law unconstitutional, the Manhattan District Attorney, Robert M. Morgenthau, appealed to the Supreme Court. He argued that "the production of such materials is exploitative and damaging to the children involved, even if the product happens not to be obscene in the legal sense."

REMOVING ECONOMIC MOTIVE

Justice White agreed. He said that New York had demonstrated that "the distribution network for child pornography must be closed" in order to remove the "economic motive" for the maintenance of a "low-profile, clandestine industry."

He said that, while the law could conceivably suppress material that was worthy of constitutional protection, the New York court was wrong to strike the law down on that basis. "We consider this the paradigmatic case of a state statute whose legitimate reach dwarfs its arguably impermissible applications," he said.

The opinion implied that someone prosecuted for an arguably protected depiction of a child—Justice White mentioned "medical textbooks" and "pictorials in National Geographic"—could challenge the constitutionality of the law as applied to them.

Justice White's opinion was joined in full by Chief Justice Warren E. Burger and Associate Justices Lewis F. Powell, William H. Rehnquist, and Sandra Day O'Connor, who also contributed a separate opinion. Associate Justice Harry A. Blackmun filed a one-sentence statement "concurring in the result."

Associate Justices John Paul Stevens and William J. Brennan Jr., who was joined by Associate Justice Thurgood Marshall, also filed brief opinions concurring in the result.●

SISTERS OF NOTRE DAME NATIONAL CONGRESS WEEK

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ECKART. Mr. Speaker, I would like to bring the House's attention to an event which has national as well as

international significance for the areas of education, health care, and social services. The Notre Dame Sisters in the United States are now meeting in South Euclid, Ohio for a congress on their apostolic ministry. One thousand Notre Dame Sisters, who have dedicated their lives to teaching and ministering to the needy, will be coming from all over the country to this national congress.

This meeting will be an opportunity for the sisters to discuss issues of great concern to them dealing with youth, the handicapped, the ill and aged, families and minorities. The sisters will also focus on the very real problems of poverty, peace and nuclear armaments, use of natural resources, prejudice and racism.

I commend the sisters of Notre Dame for putting their creative human resources to work to provide for basic human needs. Perhaps the 97th Congress, now in the process of deliberating on a $183 billion arms authorization measure, should take note of the congress currently in progress in South Euclid, Ohio. We may be able to learn a valuable lesson on how best to use our own resources.●

CITY OF CYPRESS, CALIF., COMMUNITY COUNTRY FESTIVAL

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. PATTERSON. Mr. Speaker, it is indeed an honor for me to invite my colleagues in the House to join with me in celebrating the 26th anniversary of the city of Cypress, Calif. On July 24, 1982, the citizens and friends of Cypress will be gathering to commemorate this occasion by holding the Cypress Community Country Festival. It promises to be an exciting day.

The city of Cypress, its park and recreation commission, and the Cypress Chamber of Commerce are sponsoring the day's activities. I would like to take this opportunity to applaud the efforts of the committee chairs in making the celebration a success that we all anticipate: Steering committee chair, Milton Yates; entertainment committee chair, Bob Berninzoni; publicity committee chair, Francis Boykin; and chili cookoff chair, Russ Stauge. Let me also recognize all the dedicated volunteers without whom the festival would never take place.

Mr. Speaker, on the 26th anniversary of the city of Cypress, the contribution of Cypress must also be noted: past mayors: Jacob Van Dyke, Thomas Baroldy, Frank Noe, Robert Harvey, Richard Bowen, Delnoe Kanode, John Kanel, Otto LaCayo, Henry Roberts, Jr., Alice MacLain, Donald Hudson, Howard Rowan, Vickie Evans, and our present mayor, Gerald Mullen. Also deserving of recognition are the hardworking and dedicated city staff, headed by city manager Darrel Essex.

The cosponsorship of this event by the chamber is indeed an example of this important organization's commitment to the Cypress community. Indeed the leadership and hard work of recent chamber presidents, including Jim O'Hara, Carl Kulyk, Art Noda, and the current president, Milton Yates, clearly reflect this commitment. No organization can properly function without a committed staff, the chamber is no exception. Let me recognize the chamber's executive director, Doris Peterson and the chamber's volunteer secretary, Vivian Mason. This year's board of directors include: Ken Babb, George Boscon, Neil Christensen, Walt Donovan, Earl French, Gary Fybel, Bob Head, Richard Meyer, Al Mibeck, H. Miki, Ed Spurgeon, Burke Vest, Hal Walton, Larry Wuebker, and Milton Yates. Their contribution to the Cypress community cannot be overstated.

Cypress today is a growing and vibrant community of over 40,000 residents. Its business and professional community has grown significantly in recent years and the entire citizenry are pleased with, and proud of, the progress achieved in the city's balanced development.

As Cypress enters its second quarter of a century, I know my colleagues in the House join with me in sending our best wishes to the citizens of this fine community.●

A STAR-FILLED GAME

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. GOODLING. Mr. Speaker, last night, over 29,000 baseball fans congregated at R. F. K. Stadium to witness one of the most star-filled games ever played. It was a great feeling to see the stadium, after a 10-year vacation, once again house the performance of what has been rightfully labeled, "the Great American Pastime," baseball. The excitement of watching Hank Aaron execute an unbelievable shoestring catch in centerfield, and of Luke Appling, a 75-year-old gentleman, send the ball into the leftfield bleachers, escapes expression; it was something that had to be experienced, firsthand.

So, even though it rained, and even though it thundered threateningly, R. F. K. Stadium sounded loudly as baseball-hungry Washingtonians swarmed from the woodwork to see their favorite game; the game they have missed for over a decade.

With such a craving for the sport existing here in Washington, it is a shame that R. F. K., a federally subsidized stadium, stands idle, practically lifeless, during the summer months. It is indeed sad to note that the Nation's Capital does not play that game which is the Nation's pastime.

I must say that the stadium never looked better, being graced by so many heroes and idols of the past. The sounds of the game, "Willie, Mickey, and the Duke," were music to every fan's ears. The game was definitely a huge success, and we can all hope that baseball, in some form, stays part of Washington's legacy.●

NEW YORK STATE AND INNOVATION

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LaFALCE. Mr. Speaker, few issues are as important to New Yorkers—and New York businessmen—as the issue of jobs. With our national economy in recession, the emphasis on adaptation, innovation, and change has increased and the demand for high technology industry has multiplied.

What may surprise many New Yorkers—and many of my colleagues in the U.S. House of Representatives—is the fact that more than half of New York State's 1.5 million manufacturing workers are in jobs directly involving high-technology goods and services. Quietly, New York State is becoming a national center for high-technology industry.

I share a major, personal interest in this development. Only a short time ago, on June 23, the U.S. House of Representatives passed the Small Business Innovation and Research Act. As author and sponsor of that bill, I had the honor of managing its passage during extensive debate covering 3 days on the floor of the House. And, in months of preparatory work, I had the good fortune of learning just how important the American small business community is to the development of high-technology industries—and new jobs—in the United States.

Three days preceding passage of this critical small business and innovation legislation, an outstanding article was printed in the New York Times where the subject of New York State's growth leadership in the high-technology field was explored.

I wish to submit a weekly column I wrote on the passage of the Small Business Innovation and Research Act and the newspaper article on New York State for my colleague's consideration:

THE SMALL BUSINESS INNOVATION BILL

On Wednesday, June 23, the U.S. House of Representatives passed, by a 353 to 57 margin, the Small Business Innovation and Research Act. As the author of the bill and its manager once it reached the Floor of the House for debate, I thought I would use this week's essay to discuss the events culminating in this legislative victory.

Well over a year ago, I became fascinated with the idea of using a small portion of the federal government's $43 billion annual research and development budget to spur innovation by channeling a portion of that money to small businesses. As a result of my role as Chairman of the House Small Business Oversight Subcommittee, I have read many studies and reports which indicate that the small business sector of the economy is highly innovative and a major job producer. In fact, such studies indicate that small businesses produced about 24 times as many innovations per R&D dollar as large firms; they further indicate that small firms account for over half of the net new jobs in the economy. I also knew that the federal government was doing very little to foster this productivity, because it in large part ignored the potential of small business and channeled virtually all of its R&D money to large corporations and universities.

I, of course, wasn't the only one who had these thoughts. The White House Conference on Small Business, the Domestic Policy Review on Industrial Innovation, and a host of other blue ribbon panels, commissions and gatherings had come to similar conclusions. As a result, I introduced a bill to require that most federal agencies with R&D budgets exceeding $100 million annually earmark specific percentages of their budgets to fund Small Business Innovation Research programs for which small businesses would be eligible.

Once the bill was introduced it was referred not only to the Small Business Committee, but to six other committees which wanted to review its provisions. My Subcommittee and the full Small Business Committee passed the bill unanimously in October, 1981. Then the fun began.

As the months wore on, two things became certain. First, the bill had strong, bipartisan support; we quickly had over 100 co-sponsors, ranging from the far right to the far left. Second, the six other committees were hoping to delay, dismantle and defeat the bill. Committee after committee suggested significant changes in the bill, usually exempting their own, pet programs from the small business percentage earmarking provisions. Some, especially the huge corporations and universities, opposed the entire bill and wanted nothing substantive to pass in the House. But the real threat came from the sniping that the bill was receiving as each successive committee took out its pound of flesh.

Often when this merry-go-round of successive reviews begins, it never stops; the bill gets passed around until time has run out and Congress adjourns. Fortunately, I had obtained a promise that although seven committees in total would review the bill, all had to have their work done by early summer. That promise meant more and more as time wore on and the carving continued.

As the time neared for action by the full House, those who opposed the bill in its entirety began a shrill negative campaign. Armed with frightening stories about how enactment of this legislation might end research vital to improving the health of the average American or weaken our national defenses, they tried to paint the bill as a boondoggle. What misplaced effort: As I noted previously, the annual federal R&D budget is about $43 billion. The bill that the House passed would—at its maximum after a four-year phase-in period—set aside 1.25% of that for competitive awards to high-technology, research-oriented small business projects. Opponents made it sound as though we were going to stop work on the cure for heart disease and give the money to lathe shops and laundries.

Of course, what really worried the big corporate and large university opponents was not that this bill would waste government money. What they feared was not that this program might fail; what they feared was that it might work—and spectacularly! For, if small businesses perform as studies indicate they already do—more efficiently and more innovatively—it might jeopardize the gravy train that these large corporations and universities have tied up exclusively for themselves.

As the debate progressed, several of the most critical amendments seeking to weaken the bill were defeated handily. But debate and amendments wore on and on. A bill that usually could be voted on after one day's debate ended up taking parts of three days, stretching over a weekend. And, in the lull between debates, the lobbying for and against the bill intensified.

Finally, on the afternoon of June 23, the House hammered out H.R. 4326.

After months of intense negotiating, debating, and arm-twisting, we had scored what I believe is a major victory for America's interest in improved productivity and increased innovation, and for small business.

I believe the Senate, which passed a similar version last year, will agree to our House bill quickly. I'd like to make it to the Rose Garden for a bill signing ceremony soon!

[From the New York Times, June 20, 1982]

TECHNOLOGY ADDS JOBS IN STATE

(By Richard D. Lyons)

ROCHESTER.—New York State's economy is going through a profound transition away from the brawn of steel mills, locomotive works and shipyards into the brainy world of biomedical engineering, data processing and microelectronics.

The shift from traditional manufacturing is accelerating. Officials say this spring marks the first time that more than half the state's 1.5 million manufacturing workers—51.8 percent—are in jobs directly involving high-technology goods and services.

"High technology is begetting new companies in New York almost daily," said George G. Dempster, Commissioner of the State Commerce Department, which is seeking to capitalize on the shift to more sophisticated products through its "Made in New York" advertising campaign.

Mr. Dempster said the state, after a sharp drop in jobs in the early 1970's, had gained 451,000 jobs since 1975. Of new jobs, he said, 47,000 were manufacturing jobs in such fields as the production of electrical equipment and instruments. And 415,000 new jobs were in service industries and the fields of finance and insurance, he said, with a substantial but unknown percentage of these in such fields as data processing and computer operation.

The march toward high technology has been helped by a steady stream of ideas from the science and engineering departments of the State's colleges and research laboratories, as well as aid from Governor Carey and the State Legislature in upgrading state engineering schools and technical centers.

The state is speckled with projects associated with advanced technology. This year alone, a variety of projects have been started, including these:

In Troy, a state-sponsored Center for Industrial Innovation, using $65 million from state and corporate sources.

In Ithaca, a $40 million Biotechnology Institute at Cornell University that would do profit-making contract work for industry.

In Rochester, High Technology of Rochester Inc., a new 138-acre research park being started along the Genesee River by the Rochester Institute of Technology and the University of Rochester.

In Greenbush, the Rensselaer Technology Center, a research park on 1,200 acres along the Hudson being started by Rensselaer Polytechnic Institute.

On Long Island, the transfer of Central Islip State Hospital to the Town of Islip, which will allow the New York Institute of Technology to develop some of the 800 acres into a research park and perhaps a campus.

An alphabet soup of newly minted companies is emerging from this technological transition; it runs from Algorex Data Corporation, Astrocom Electronics Inc., and Astronics, for example, through Hilltronics Corporation, Magnatag Products Inc., Microphase Corporation, Macrodyne Industries, Starlight Components Inc., Vernitron Corporation, Zebrac Equipment Inc., and Zorgraphos Designs Inc.

Of the 13 metropolitan areas that the Census Bureau has defined in the state, the four with the lowest unemployment rate are those most closely linked with high-technology goods and services: Nassau and Suffolk Counties. Poughkeepsie, Albany-Schenectady-Troy and Rochester.

ROCHESTER'S JOBLESS RATE DROPS

While unemployment rates nationally have been inching upward past 9 percent, those of the Rochester area have been falling to about 6 percent, partly because of the successes of its bellwether employer, Eastman Kodak. New York State's jobless rate last month was 8.2 percent, according to the Federal Bureau of Labor Statistics.

"If it weren't for Eastman Kodak and the other high-tech companies here, Rochester would be another Buffalo," said one official of the State Department of Labor.

Buffalo is the prime example of a declining industrial area, with the closing of many of its steel mills. Elsewhere in the state, shipyards have closed in Brooklyn, and the production of heavy locomotives has fallen off in Oneonta and Schenectady.

KODAK'S WORK FORCE RISING

Last year employment at Eastman Kodak's facilities in the Rochester area rose by 6,200, to almost 60,000, the largest yearly increase in the company's 101-year history. Buoyed by the success of its new disk camera plus new lines of films and analytic equipment, the corporation is continuing to hire professional engineers and such skilled workers as tool and die makers.

Yet corporate Rochester also features such household names as the American Optical Corporation, Bausch & Lomb, the Harris Corporation, the Singer Company, Stromberg-Carlson and Xerox.

"High-tech jobs provide the bread and butter of this city, and as proof of Rochester's appeal, the companies here had 120,000 job applicants last year," said John D. Hos-

tutler, president of the local Industrial Management Council.

Mr. Hostutler enumerated a dozen corporate success stories in the Monroe County area, including that of Sykes Datatronics Inc., which started about 15 years ago in the production of peripheral equipment for the storage of information, such as floppy discs and cassettes.

A CHANGE BRINGS MORE SALES

In the 1970's the company moved aggressively into the field of "intelligent" data terminals, which play a central role in microprocessor systems for information interpretation and data communications. Yearly sales have spurted from $3 million in 1976 to $50 million, and jobs from 100 to 700.

When the General Dynamics Corporation moved to the West Coast a decade ago, Edward D. McDonald declined a transfer. Instead, he founded Edmac Associates. Today the company, a maker of antisubmarine-warfare and navigation equipment, is a booming defense contractor, selling $5 million worth of products to the armed forces last year.

Sideband Technology makes small communications systems, Tropel makes optical systems and lasers, Detection Systems make burglar alarms and Computer Consoles makes hardware for the electronics industry. All are relatively new companies here.

"Rochester has 51 small high-tech firms, and we're trying to help spawn more of them," said Dr. Richard Rose, president of the Rochester Institute of Technology.

Dr. Rose pointed out that in addition to graduating scientists and engineers, institutions such as his university's School for Applied Industrial Studies, the Rochester Machining Institute and the Vocational and Technical High School here were graduating young people in skilled trades such as tool and die making.

"What New York needs is less a pool of labor than a pool of talented people," Dr. Rose said, adding that the State Legislature "is just beginning to realize that nowhere is it ordained that the state must always be prosperous, and is doing something about it."

To aid the trend toward high technology, the State University system is expanding the engineering curriculums into four-year programs at its Binghamton campus and the Agriculture and Technical College at Farmingdale, L.I. Full four-year engineering courses are also to be offered by the New York Institute of Technology, a private school in Old Westbury, L.I. The aim is to meet a worsening shortage of engineers, which is expected to be 20,000 on Long Island alone by 1990.

Other legislation will create so-called centers of technology excellence at selected universities, using state funds to endow chairs and fellowships and thus to improve the faculty, from which many new ideas come.

Syracuse University, as an example, developed a new "smart sensor" to enable industrial robots to see what they are doing. This technology is being exploited by a division of General Electric and a new company, Deft Laboratories, both in Syracuse.

The breadth and depth of technological developments around the state recently has led to the publication of a magazine titled Technology NY, which is seeking to track the innovations. Robert W. Vogel, a technical writer and former newspaperman, and Lynn M. Holley, director of public affairs at Rensselaer, are publishing the premier issue this month.

"We took a long look at what was going on around the state and found that few people had awoken to the massive technological turnaround, " Miss Holley said. "We intend to try."

Miss Holley and others have noted that technological development in New York has been hampered for years by infighting among the geographical, political, corporate and academic centers of power.

"Long Island was fighting New York City, upstate was fighting downstate, there was no attempt until recently to bring even a limited amount of direction to the high-technology advances around the state," she said.

The Center for Industrial Innovation in Troy, as an example, was nearly wrecked by political squabbles between the Governor and the leaders of the Senate and the Assembly.

High state corporate and income taxes have been widely charged with dampening industrial expansion, and one study conducted two years ago by Alexander Grant & Company ranked New York 46th in overall business climate and last in growth of financial, in insurance and real-estate jobs.

There have been some reverses. George Low, former head of the Apollo program and now president of Rensselaer, has been one of those extolling high technology as the state's future and spurring the development of embryo companies.

Raster Graphics, one such company started on the Rensselaer campus by graduate students with his guidance, recently moved to a Boston suburb over Mr. Low's strenuous objection.

Despite such setbacks, most state and academic officials view high technology as the beacon of future development of New York's industry.

"High technology is a very big part of the future here, if not the dominant force in the state," said Lillian Roberts, who, as Industrial Commissioner, heads the State Department of Labor.

Yet Mrs. Roberts warned that the state was facing a critical shortage of skilled workers while needing fewer unskilled ones.

"A high-technology economy demands more highly skilled people and at the same time eliminates unskilled workers through automation," she said. "One major choice facing the state is either investing in retraining or facing a higher welfare burden from the unemployed."

"We should start by upgrading community colleges, as an example," she added, "but we should start now if the boom in high technology is going to continue."●

RURAL AND SMALL HOSPITALS LEGISLATION

HON. BERYL ANTHONY, JR.

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. ANTHONY. Mr. Speaker, I have introduced legislation with Representative WES WATKINS of Oklahoma, chairman of the Congressional Rural Caucus, to exempt small and rural hospitals from a burdensome and inequitable medicare limits provision.

Our bill defines the affected hospitals as those with 100 or fewer beds located outside a standard metropolitan statistical area. The bill would exempt these small, rural hospitals from the medicare section 223 limits.

This action on our part stems from a legitimate concern. Although small and rural hospitals constitute a critical segment of the Nation's health care delivery system, and even though such institutions are disproportionately vulnerable to changes such as those being considered in medicare section 223, scant attention is being directed to their needs. Small and rural hospitals provide essential health services which might otherwise be unavailable to many rural residents, a high percentage of whom are persons 65 and older. In short, we are speaking of an element of our health care system that we cannot afford to shortchange.

Yet inequitable medicare reimbursement policies, burdensome regulation of the hospital industry, general economic instability, and escalating inflation have amplified the already serious financial problems of these rural health care institutions. Medicare section 223 limits fail to take into account the unique characteristics of this group of hospitals. The regulations fail to recognize that a large number of these institutions could be damaged financially, limiting their ability to render care. Approximately one-third of the hospitals in this country are small and rural. However, they generate only 8 percent of total hospital costs. If we take this opportunity to protect a large number of institutions from the impact of these costly regulations, we can do so without having a costly effect on the medicare program.

The harmful consequences of the proposed limits are numerous. We must recognize that the administrative costs of complying with the section 223 limits are more burdensome on small institutions that typically have very small administrative staffs. Additional paperwork requirements will only drive up the costs at those hospitals, directly contravening the intent of the regulations.

Another fact we must recognize is that nonlabor items such as equipment and supplies often cost far more in rural areas than in urban areas. Extra costs must be incurred to transport basic medical supplies and materials to rural areas. Small rural institutions are not able to take advantage of economies of scale in purchasing supplies.

Section 223 also fails to take into consideration the fact that small and rural hospitals are subject to more extreme fluctuations in occupancy than are large institutions. Admission of even a few additional patients can affect occupancy percentages, thus skewing fixed overhead costs per patient day.

Reasonable consideration of the special plight of these rural and small

health care facilities demands special treatment in the form of an exemption from the medicare changes that we are considering.●

A STATEMENT FROM THE AMERICAN LEBANESE LEAGUE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. LaFALCE. Mr. Speaker, the Subcommittee on Europe and the Middle East of the House Committee on Foreign Affairs, recently held a hearing on the general situation in Lebanon. One of those testifying was Robert Basil, the chairman of the Policy Committee of the American Lebanese League. The league is a nationwide nonprofit organization founded by American citizens to promote United States-Labanon relationships and to foster the sovereignty, security, democracy, and independence of Lebanon. Mr. Basil states that it has a "broad national membership base representing the philosophy and ideals of the great majority of the nearly 2 million Americans of Lebanese descent."

The American Lebanese League adopted a resolution during its convention in Washington, D.C., June 10-13, asking the United States to "use all legitimate means to assist in the creation of a strong central authority and army in Lebanon that assure a free, independent, pluralistic, sovereign state with territorial integrity." Mr. Basil's testimony discusses the major issues involved in the current crisis in Lebanon that form the basis for the league's resolution. I encourage my colleagues to read this important testimony.

The testimony follows:

STATEMENT BY ROBERT A. BASIL, CHAIRMAN OF THE AMERICAN LEBANESE LEAGUE

My name is Robert Basil, chairman of the Policy Committee of the American Lebanese League a nationwide nonprofit organization founded by American citizens in 1976 to promote United States-Lebanon relationships and to foster the sovereignty, security, democracy, and independence of Lebanon within the bounds of the U.S. national interest.

We are not a lobbying organization, but an educational, humanitarian, and social organization with a broad national membership base representing the philosophy and ideals of the great majority of the nearly two million Americans of Lebanese descent.

Today I would like to discuss briefly the crisis in Lebanon, the major issues involved, and the major U.S. policy actions that should be considered to achieve U.S. strategic and regional objectives, and to save a friend.

Lebanon is a modern tragedy. This pro-Western democracy, a center of culture and commerce, a model of graceful accommodation among Moslems, Christians, Druze, Jews, and those of other persuasions, is in danger of being destroyed. This year, 1982, may determine Lebanon's future.

ISSUE NO. 1—FREEDOM AND SOVEREIGNTY

The tragedy of Lebanon is of the past 7 years, not of the past 4 weeks. Since 1975, Syria and PLO armed forces have subjected Lebanon to one of the most brutal occupations of modern history: 100,000 killed, 250,000 wounded, 350,000 displaced, 35,000 orphans. In a country of 2.4 million, one of every four Lebanese men, women, and children have been killed, wounded, displaced or orphaned.

For those who have shown such compassion against recent killing, where is compassion against bondage?

The dark Syrian/PLO occupation degraded not only the occupied, but also the occupier. Assassinations, beatings, atrocities, rapes, imprisonment without due process, over 100 villages partially destroyed, cities like Beirut and Zahle shelled for months, population in terror. The 7 years of daily brutalization almost disintegrated the soul of the Lebanese people, their dignity, their self-respect, their hope of ever once again being free. As Ralph Waldo Emerson observed: "For what avail . . . land or life, if freedom fail."

ISSUE NO. 2—WITHDRAWAL OF FORCES

A tragic error would be made if Israeli forces were to withdraw leaving Syrian and PLO forces in place. This would address the 4-week problem, not the 7-year problem. What a cruel event for the suffering Lebanese, being returned to the darkness of occupation with the light of freedom so close.

From a political view, the United States would be fair and balanced in insisting that all foreign armed forces leave, especially since the Lebanese Government and the Lebanese people have stated unequivocally that they want them all out.

Syria is in Lebanon because it wants Lebanon, the PLO is in Lebanon to establish their interim state in Lebanon, and Israel has stated it is in Lebanon to get the other two parties out. None of these parties has any right to remain.

ISSUE NO. 3—WHERE WILL THE PLO GO?

The Lebanese should not have the responsibility for this answer. The regional powers should accept responsibility. The PLO has become an armed guerrilla terrorist organization that has destroyed the authority of the Lebanese Government and held the Lebanese people hostage to its objectives. Without judging its political objectives, we can say that the PLO has no right to destroy Lebanese sovereignty, to ravage the population and countryside for years, to use innocent Lebanese civilians as shields, to say they will now make Beirut a Stalingrad. Yesterday, in a mockery of sovereignty they even shelled the Presidential Palace of President Sarkis, putting over seventy rockets in the Palace, as he was forced into his underground shelter.

ISSUE NO. 4—WHERE WILL THE PALESTINIAN PEOPLE GO?

Again, the Lebanese should not have the responsibility for the answer. It is reasonable to think that one can inject 600,000 unhappy, radicalized people into a body politic of 2.4 million and not expect the result to be other than grotesque. It is not fair to either the Lebanese or the Palestinians.

The Palestinian people have the right to life, liberty, and the pursuit of happiness, like all people under God. Little Lebanon cannot carry the burden of the solution, but can only provide decent, humane treatment until the regional nations develop a sense of responsibility as to their destination.

ISSUE NO. 5—INTERNATIONAL CENSURE FOR USE OF LETHAL WEAPONS AGAINST CIVILIANS

If it is appropriate to censure Israel and cut off U.S. funds for Israeli use of U.S. weapons, it is equally appropriate to censure Syria and the PLO for using lethal weapons against Lebanese civilians, and to censure the Arab states for funding the weapons used. While we American-Lebanese were touched by the compassion of Arab representatives beseeching President Reagan to stop Israeli shelling of Lebanese civilian areas, we wonder if these same diplomats beseeched President Assad of Syria, or Mr. Arafat, to stop the shelling of Lebanese civilians during the past seven years; or if they beseeched the leaders of the Arab states to cut off the funds purchasing each rocket or artillery round pulverizing Beirut, Zahle, or countless other villages.

ISSUE NO. 6—CAN A STRONG LEBANON BE RECONSTITUTED?

A strong Lebanon would be resurrected swiftly upon removal of foreign forces.

The Lebanese themselves are, in reality, stronger and more united than they have ever been in their history.

The Lebanese Moslem and Christian communities have long since quietly achieved accord to rebuild their country and recapture their glorious and successful past, but the Moslem community has been unable to state so publicly until recently. Occupation has resulted in the elimination of Lebanese Moslem leadership that truly reflects the people. As in the Eastern European model, representative leadership had been replaced, under brutal and degrading occupation, by fake leadership which represents alternatively Syria, PLO, Libya, Iraq, Iran, and others, none of whom view Lebanon as does the Lebanese Moslem community.

The Christians have become the focus of resistance to the pro-Soviet pressures of Syria and PLO. Indeed, they have been fighting for seven years to retain their pro-West values and way of life. Both Christians and Moslems are united in their desire to remove all foreign elements from their country. The Lebanese Army has actually out-performed the Syrian units in their clashes last year, with Christians and Moslems fighting side by side.

Lebanon is inherently stronger than any other country in the Arab World. If any country in the region had been subjected to violence, pressure, and foreign intervention experienced by Lebanon, it would have shattered irreversibly. Syria, for example, killed over 20,000 countrymen to stabilize their internal situation, even though there is no foreign presence. The magnitude of foreign presence in Lebanon can best be understood by comparison to the U.S.:

600,000 Palestinians, of which 50,000 are armed, is the equivalent of 60 million Palestinians of which 5 million are armed, controlling vast areas from New England to Texas.

40,000 Syrian troops and 800 tanks are the equivalent of 4 million Syrian troops and 80,000 tanks all over the U.S. countryside.

One can only speculate what would happen to the United States under these conditions. Certainly other regional nations would have disintegrated. Lebanon has remained.

ISSUE NO. 7—IMPACT ON U.S. STRATEGIC AND REGIONAL INTERESTS

Some analysts state that removal of the PLO, Syria, and Israel from Lebanon as a result of the Israeli military operation would undermine the forces of moderation in the Arab World, encourage radicalism, and jeopardize long-term U.S. interests in the region. We feel the reverse is true.

Nations in the Arab World emerging as the strongest after tripartite withdrawal would be Egypt and Saudi Arabia. Previously, strong radical states (Syria, PLO, Libya) would be dealt a devastating blow, along with the Soviet Union. Moderate states would drive the diplomatic process.

A reconstituted, strong, stable, Lebanon would be of strategic value to the United States for four reasons:

a. It would blunt Soviet penetration into the region. Presently, the three major extensions of Soviet policy converge in Lebanon, Syria, whose army is in Lebanon; PLO, who live in Lebanon; and Libya, whose largest politico-military investment is in Lebanon. Soviet and Eastern Europe trade missions, cultural missions, and political activity have alarmed the traditionally pro-West Lebanese. A strong Lebanese state would blunt all this activity.

b. International terrorism, largely exported from Lebanon, could be brought under control for the benefit of free nations everywhere.

c. The peace process would be accelerated. Syrian power has played havoc with peace efforts in the area, and has hampered both Camp David and Saudi Arabian initiatives. The weakening of Syria and the strengthening of Lebanon would automatically accelerate the peace process. Additionally, a strong Lebanon would remove the free ground that the antagonists presently use to conduct military operations endlessly and at no penalty to themselves. Continued long-term access to that neutral ground will never motivate any of the parties to accept the peace process.

d. Defusing the volatile Lebanese flashpoint could increase regional stability and help preserve continual access to oil. If not defused and a strong Lebanon not established, the Lebanese situation would continually pose the threat of regional and perhaps strategic confrontation.

Mr. Chairman, one of the great ironies to emerge in the Middle East is that the main thrust toward achieving a fair and reasonable Palestinian goal is through the subjugation of Lebanese sovereignty and liberty. This has led to a moral dilemma in the Arab World, forcing a choice, which has consistently come down on the side of the Palestinians. The PLO and Syrians, in this convoluted world, have placed themselves in the absurd position of denying freedom to a fellow member of the Arab League, while the Israeli invasion may promise that very freedom.

Mr. Chairman, we see that the United States now has a rare, fleeting window of opportunity to save Lebanon and its people, while making major strides for peace and moderation in the region. We urge President Reagan to grasp this opportunity, one that may not come again, by sustaining his commitment to the following:

1. Withdrawal of all foreign forces from Lebanon.

2. Establishment of a strong, sovereign Lebanese Government, duly constituted, reflecting the will of the people, and having full responsibility and authority over the nation and its people.

3. Major funding for a strong Lebanese Army.

4. Major reconstruction and rehabilitation program for the extensive material damage to Lebanon, and the physical and emotional damage to its people.

President Sarkis states the feelings of all Lebanese in his speech to the diplomatic corps on January 5, 1980:

"In the name of what logic does one oppose cessation of destruction, of massacre, and the exodus, under the pretext that somewhere a global solution is in the making?

"In the name of what right does one impose on a person coerced to be displaced, to wait for all the problems of the world to be solved, before he can reintegrate his home, his property and his dignity; a field owned by his ancestors and labored by the sweat of their brow in an environment basically unrewarding, and fertilized by the uninterrupted labor of generations; an industrial or commercial institution that he was able to preserve in the midst of, and at the price of, all kind of dangers, in a way which deserved the esteem and admiration of everyone.

"Would it be permissible to say to such a people that your hour has not come; wait until the situation of the whole area and perhaps the situation outside the area has been settled?

"What is the crime of Lebanese people, with regard to humankind and its rights? And it has so far been burdened far beyond its capacity. Does that mean that our people must be asked to let themselves be completely brushed under the weight of the burden? Would this country be condemned?"

Mr. Chairman, we ask for your understanding and support.

Thank you.●

FINAL NECC ENERGY FORUM

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. CONTE. Mr. Speaker, I would like to bring to the attention of my colleagues the final issue of Energy Forum, a part of the New England Energy Congress, which was a project of the New England Congressional Caucus. The Energy Congress has made substantial contributions to lessen New England's dependence on oil which comprises 73 percent of its energy base. The Congress developed plans for energy conservation, renewable resources, low-income energy assistance and weatherization, and energy emergency preparedness. The Energy Congress published its ideas in "A Blueprint for Energy Action," 3 years ago. Since then Energy Forum has kept New England abreast of the most recent energy developments in the laboratories, in the field, and the government. In its final issue Energy Forum took a survey of the region's energy experts and found them still dedicated to their original plans and ideas expressed in "A Blueprint for Energy Action." In light of the present attitudes toward energy policy, I think it important that we recognize these opinions expressed in Energy Forum.

ENERGY SURVEY—NEW ENGLAND IN 1982

INTRODUCTION

The current oil glut and stable energy prices, combined with the ongoing recession and the Reagan Administration's objective of reducing government involvement in the marketplace, has dramatically altered the course of national energy policy in just 18 months. Elected officials, energy experts and interest groups have been carefully reviewing dozens of laws, programs and incentives designed to reduce U.S. dependence upon foreign oil. Many of these initiatives have already been scaled back; others, enacted in response to the 1979 price hike, have not yet been fully implemented. Some may soon be repealed altogether.

Eliminating or revising any government program, however, is almost never accomplished without considerable thought and debate. The current examination of federal energy programs is no exception. Sandwiched between time-consuming budget votes, several legislative committees in Congress are investing significant amounts of time and effort conducting hearings on dozens of energy laws enacted between 1978 and 1980. Numerous experts, representing a broad spectrum of views, have appeared to offer their opinions.

To provide an opportunity for New England's energy community to comment on the direction in which national energy policy is headed, as well as to comment on several other specific and timely topics, the New England Energy Congress recently conducted a survey. This final issue of the Energy Forum presents the survey results.

While not attempting to match in depth or in scope the original Energy Congress project, a concerted effort was made in this survey to insure that the sample included the balanced representation of several major constituencies. Over 70 people, representing a broad range of perspectives and geographical distribution, were contacted by telephone during May of 1982. The sample included energy experts from low-income and labor groups, energy supply firms, education/research groups, private firms, environmental organizations and various levels of government. Many were selected from the delegates who worked on earlier phases of the Energy Congress project between 1978 and 1980.

Throughout the survey, three central themes appeared to emerge as the rationale for the majority of responses, particularly those with the highest scores. First, the respondents felt strongly that the federal government does, indeed, have an important role to play in shaping national energy policy, despite current trends in Washington. This belief is best illustrated by the 83 percent of those questioned who expressed disagreement with a Department of Energy (DOE) statement that "renewable energy research and development has essentially been completed." Answers to other questions on the Strategic Petroleum Reserve, energy conservation, and other official policy statements support the respondents' belief that market forces alone will not resolve difficult energy issues.

Second, many respondents indicated their preference for eliminating all energy subsidies and truly allowing market forces to determine which energy supply or efficiency

improvement strategies are most cost-effective and desirable. In general, the respondents exhibited strong displeasure with current subsidies—particularly to synfuels and other conventional fuel sources—which they said tend to distort decisions that would otherwise be made in a true free-market economy. As a result, many who agree, for example, that the government should subsidize the Solar and Conservation Bank, did so as an effort to restore balance to federal energy subsidies. Their preference would be to eliminate all subsidies.

Finally, those interviewed indicated that, while sound energy policy must encourage the marketplace to set energy prices, the needs for low-income persons must not be ignored. Many who would have otherwise agreed that the low-income weatherization program could well be transferred to a block grant as the Administration has proposed, said that, because funds for this program might be diminished in this bureaucratic shift, they could not support such a position.

GENERAL POLICY

The DOE reports that the nation's dependence on foreign oil has been cut in half since early 1979 to the current rate of just over 4 million barrels of oil per day. While New England still relies on foreign sources to provide almost three-fourths of its petroleum needs, the dramatic reduction in oil imports nationwide may help explain why energy conservation—not energy independence—was mentioned most often by respondents when asked to identify the energy issues they felt were most important for the region to address in the next five years. The object of achieving energy independence appears to have given way to improving energy efficiency.

Energy policy issues whose main objectives are to reduce the region's vulnerability to oil supply interruptions (Strategic Petroleum Reserve, emergency planning and diversifying the region's energy mix) were mentioned only two-thirds as frequently as energy conservation. Thus, while energy conservation to some is one of a variety of strategies to reduce the region's vulnerability to an oil supply interruption, the sample surveyed here apparently views it as having additional benefits. It can be postulated that rising energy prices, a strong commitment to environmental quality and increased confidence in future domestic conventional and alternative energy supplies, taken together, have helped energy conservation to eclipse the concern of relying on foreign energy sources. Alternatively, respondents feel they have immediate and measurable control over the energy efficiency of their homes and businesses, whereas the source of their oil supply is difficult, if not impossible, to ascertain.

The other priority issues which the respondents thought were important to address were (in descending order of importance): (1) development of renewable resources, (2) energy pricing issues (includes utility rate regulation and natural gas decontrol), (3) nuclear power issues (mostly waste storage), (4) increase gas/coal use, and (5) low-income/equity issues. As many as 30 other priorities were mentioned at least once.

CONSERVATION

Four questions in the survey addressed specific budgetary and regulatory issues on energy conservation. Less than one-fourth of the respondents agreed with current DOE policy in each area, which included: (1) efficiency standards for appliances, (2) revision of the federally mandated RCS home audit program, (3) funding for energy conservation programs operated by state agencies, and (4) revision of the Low Income Weatherization program.

The sample was asked about a recent regulation which prohibits federal and state governments from issuing energy efficient standards for a wide range of major home appliances. Sixty-nine percent of the respondents thought that appliance standards should be issued. Of those who indicated that appliance standards should not be promulgated, however, a number mentioned that together with market forces, a labelling program administered by the Federal Trade Commission, would encourage consumers to purchase efficient appliances.

Conservation programs, run by the state energy offices, also received considerable support. Three-fourths of the sample indicated that the federal government should continue to fund these programs. However, several persons expressed the view that new guidelines should be issued to refine and improve their performance, while others mentioned the desirability of requiring state matching grants to encourage cost-sharing between federal and state governments.

When asked if states should have more discretion over administration of the Low Income Weatherization program, 63 percent said "no". Specifically, they said, the program should not be transferred from a categorical grant (funds may be spent only on their authorized use) to a block grant (states may decide among a variety of possible uses how to spend funds). Several indicated their reluctance was based on the fear that the needs of low-income persons would go unmet if the program was forced to compete within each state with other programs having stronger political bases. In addition, many interviewees expressed the concern that the aggregate level of funding would be cut under a block grant, further exacerbating competition for these funds.

UTILITY ISSUES

The sample was asked if they thought Construction Work In Progress (CWIP) regulations should be revised to make it easier for utilities to charge customers for construction of a new power plant prior its completion. Several of the 60 percent who answered "no" indicated that while they believe in the concept of CWIP, they thought that it would lead to "speculative projects", in practice. One respondent said CWIP would be used to "tail out" uneconomical nuclear power plants.

One out of five respondents said that the sections of the Public Utility Regulatory Policy Act (PURPA), designed to encourage conservation, small power producers and cogeneration, should be repealed by the courts. (The Supreme Court decided, shortly after this survey was conducted, that those sections of the law that had been challenged were not unconstitutional as had been claimed.) This view was shared strongly by all groups queried, except for energy supply firms which said by a 2-1 margin that these sections should be repealed.

The sample was asked whether they endorsed the Senate's recent action to authorize the government to build an interim nuclear waste storage facility. 56 percent said "yes". While 65 percent said that the plant should be partially financed by a user fee on utilities with nuclear generation, several indicated that the funds should be taken from utility profit margins, rather than be included into the rate base. Others indicated that inclusion in the rate base would be justified because it would expose hidden costs of nuclear generation presumably making other sources more economically attractive.

SURVEY QUESTIONS AND RESULTS

	Response (by percent)		
	Yes	No	Uncertain
General policy:			
(1) Do you think New England is in a better position to cope with an energy supply curtailment now than it was in 1978?	50	36	14
(2) Please range by order of importance the energy issues you feel are most important for New England to address in the next five years. As the only open-ended question in the survey, respondents offered a wide variety of answers to this question. The answers were generalized to fit the most appropriate category. The number of times each was mentioned follows. (1) Conservation (50). (2) Reduce vulnerability to oil supply interruption (33). (3) Renewable energy development (29). (4) Energy pricing issues (21). (5) Nuclear power issues (19). (6) Increase coal/gas use (16). (7) Low-income/equity issues (8). Thirty additional topics were mentioned less than four times.			
(3) The Reagan administration asserted in the fiscal year 1983 budget request that "the Federal Government has limited responsibility in energy beyond its overriding responsibility to let the market economy function." Do you agree with this statement?	33	63	4
Conservation:			
(4) Stating that energy efficient appliance standards would not result in significant energy conservation or be economically justified, the DOE recently decided, in effect, not to issue such standards. Do you feel that appliance standards should be issued?	69	18	12
(5) DOE has proposed to simplify the requirements of the residential conservation service program to "minimize regulatory burden". This revision would repeal certain regulations, making many aspects of the program voluntary. Do you think the RCS rules should be revised as proposed?	24	50	26
(6) Last year DOE provided state energy offices with over $300 million to audit buildings, plan for energy emergencies, collect data, and provide information to consumers. This year DOE has proposed that no federal monies be made available for these purposes. Do you think that the federal government should fund these programs through the State energy offices?	74	21	6
(7) The administration has suggested that DOE no longer provide financial assistance to weatherize low-income residences. In lieu of these categorical grants, States would be allowed to use HHS block grant funds for low-income weatherization, if they so choose. Do you think the low-income weatherization program should be transferred to a block grant?	24	68	14
Utility:			
(8) The Federal Energy Regulatory Commission has proposed revising construction work in progress (CWIP) regulations. These changes would make it easier for an electric utility to charge customers for construction of a new powerplant prior to its completion. Should CWIP rules be revised as proposed?	32	60	8
(9) (A) In response to the accident at Three Mile Island, a proposal has been made to split clean-up costs between the Federal Government, the nuclear industry, General Public Utility, and the states of Pennsylvania and New Jersey. Do you endorse the concept of a surcharge on nuclear activities to help pay for TMI clean-up activities	46	40	14
(B) Should the Federal Government contribute to this fund?	40	47	13
(10) (A) The constitutionality of the Public Utility Regulatory Policy Act (PURPA) has been challenged. Should this challenge be upheld, regulations requiring States to consider certain conservation-inducing rate structures would be repealed, as would incentives for small power producers and cogeneration. Do you think these sections of the law should be repealed?	19	76	4

SURVEY QUESTIONS AND RESULTS—Continued

	Response (by percent)		
	Yes	No	Uncertain
(B) In a separate challenge, a Federal appeals court invalidated the interconnection and full-avoided-cost provisions of PURPA. Do you support this action?	18	50	32
Renewable energy sources:			
(11) The administration has proposed that the business energy tax credit be eliminated. Do you favor such action?	11	75	14
(12) In reducing the budget request for renewable resources, the administration has said that "the private sector can assume responsibility for continued development or commercialization of renewable energy technologies." Do you agree with their conclusion that "the Federal role in renewable energy R. & D. has essentially been completed?	15	83	1
(13) Congress last year appropriated over $21 million to make loans for solar and conservation improvements through a solar/conservation bank. However, to date the administration has declined to initiate bank start-up activities. Do you think the Federal Government should subsidize the solar/conservation bank?	65	26	8
(14)(A) Several influential congressional leaders and members of the administration have indicated their support for an oil import fee of $5 per barrel to reduce the budget deficit. Do you support the use of an oil import fee for raising revenues?	36	56	8
(B) Would you support an alternative energy tax, such as a BTU tax for this purpose?	26	40	33
(15)(A) DOE has estimated that in the next 5 years, 11 nuclear powerplants will run out of storage capacity for spent fuel. In a bill directing the DOE to construct a permanent nuclear-waste storage facility, the Senate recently authorized the Government to build an interim storage facility. Do you endorse the construction of such a facility?	56	29	15
(B) Should this interim storage plant be financed by a user fee on utilities with nuclear generation?	65	13	22
(16) President Reagan has decided not to propose any legislation to accelerate the scheduled decontrol of natural gas prices. In the meantime, the Federal Energy Regulatory Commission is considering using administrative authority to raise the price of certain categories of gas. Do you think that the administration should alter the decontrol schedule established in the Natural Gas Policy Act?	37	47	15
(17) The Federal Government's energy emergency preparedness policy relies on continued purchase and storage of large quantities of crude oil for the Strategic Petroleum Reserve, located in Texas and Louisiana. Do you think it is important for the Federal Government to maintain a similar stockpile of crude oil in the Northeast?	60	26	14
(18) Congress approved in 1980 a program to provide Federal support for the construction of synthetic fuel facilities. Do you think the Federal Government should provide support for the construction of synthetic fuel facilities?	37	56	7

RENEWABLE ENERGY RESOURCES

The New England energy experts indicated a very strong priority for development of renewable energy resources. There is a solid feeling among all constituencies that the federal government should assist in the research and development stage of these technologies, as well as provide financial incentives to encourage their implementation.

Of the 22 questions asked in the entire survey, the two strongest responses recorded were in support of continued federal incentives for renewable energy research and development. 83 percent of the sample indicated that they did not agree with the current administration's position that "the federal role in renewable energy research and development has essentially been completed." While several respondents indicated agreement with this policy, many others cited a long-standing federal commitment to development of conventional fuels as an additional justification for these federal expenditures.

Only one in eight respondents agreed that business energy tax credits should be eliminated as has been proposed. The majority of respondents said that these tax breaks were a wise and cost-effective means of encouraging greater energy efficiency and renewable energy use in the private sector. Few mentioned misgivings about the fact that the tax incentives were a subsidy that might distort market forces.

Finally, two-thirds of the sample agreed that the federal government should subsidize the Solar and Conservation Bank. As in previous questions, many respondents indicated their preference for eliminating subsidies to all energy sources. Until this is accomplished, they said, solar energy sources and increased energy efficiency technologies should receive federal assistance, if only to counterbalance existing federal subsidies to conventional fuels. The majority of representatives from energy supply and private firms did not support the Solar and Conservation Bank. One respondent said that private financial institutions would make these loans if they were cost-effective; another said a war effort would be needed to make solar energy economical in the next 50 years.

CONVENTIONAL FUELS

While 56 percent of the sample said that they did not support the use of an oil import fee to raise revenues, over a third (36 percent), said they did. Many who opposed this tax said they would support it, if it were earmarked to help fund conservation and renewable energy projects and if regional and social equity issues were addressed. The qualified support for this surtax by those surveyed again appears to portray an underlying belief that, while energy pricing policies must be tempered so as not to unfairly impact any one segment of society, the most effective long-range energy policy must strive to reflect market prices. This position is supported by a similar response (37 percent "yes," 47 percent "no") to the question regarding acceleration of the natural gas decontrol timetable established in the Natural Gas Policy Act.

In response to a question regarding the Strategic Petroleum Reserve, 60 percent said that they thought the federal government should maintain a stockpile of crude oil in the Northeast. Several respondents said that because the closest refineries to the region were located in New Jersey, it would be more prudent to store refined product rather that crude oil.

Slightly more than one third of all respondents (37 percent) thought the federal government should support development of synthetic fuel facilities while 56 percent disagreed. Many who feel a need for federal assistance believe that government support should be provided in a more highly leveraged form. Debt guarantees, rather than price supports, was one suggestion; tax credits were another. Others felt that eligibility for these funds should be broadened to include cogeneration, district heating and other capital intensive projects that may have applicability in more regions of the country than do synfuels.

But once again, it appeared as if the survey sample was most interested in removing subsidies to all energy sources and letting market forces work with a minimum amount of distortion from the federal government. Several respondents said that they wished the Reagan Administration would implement policies consistent with their public statements. Achieving a balanced and more equitable policy was the watchword.

CONCLUSION

In contrast to the "energy crisis" of 1979, today's energy situation is marked by ample supplies and relatively stable prices of crude oil. More importantly, it is overshadowed by a world-wide recession. Experts point out, however, that the recession, more than energy efficiency improvements, is primarily responsible for the declined in energy use and the resulting glut of petroleum. Observers fear that when the economies of nations around the globe recover, their appetite for oil will increase accordingly.

In the United States, the energy situation is also marked by inaction. Without a shortage (like in 1973) or a price hike (like in 1979), consumers have become complacent about their vulnerability. Without strong constituent support, elected officials are reluctant to stand behind legislation which would lessen the chance of future crises. Further, with actions such as the proposed elimination of the Department of Energy and the veto of even the most modest of emergency oil allocation measures, the President has demonstrated his intent in significantly reducing the role of the federal government in energy and relying solely on market forces.

This survey reveals that these views about the role of government are not widely shared by energy experts in New England. While federal energy policies changed with the new administration, it appears that the region's priorities have remained remarkably consistent for the last several years. This is supported by the fact that these survey results closely parallel the recommendations articulated in the Energy Congress' 1979 publication, "A Blueprint for Energy Action."

A broad range of respondents questioned indicated their belief that the federal government has an important role to play in setting national energy policy. Specifically, the majority of those interviewed said the federal government should encourage energy conservation, assist in research, development and implementation of new energy technologies and prepare for energy emergencies.

The respondents exhibited a strong feeling that, while the government should intervene when market forces fail to adequately resolve intractable issues, policies should be devised to minimize distorting market priorities. Additional and external costs associated with various energy systems should not be hidden from consumers who will eventually pay for these costs. Subsidies, while best eliminated, they said, should at least be balanced so as not to favor any one technology or solution.

Finally, the needs of low-income Americans must be addressed. While respondents generally believe that sound energy policy must ultimately encourage prices which reflect true market levels, low-income consumers must be protected.●

SENATE—*Wednesday, July 21, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

Our Father who art in Heaven, we thank Thee for every person in the Senate family. We thank Thee for our diversity—for the distinctiveness of each and the contribution each makes to all.

We thank Thee especially for the hidden ones who labor faithfully and tirelessly with little or no attention, who rarely receive any recognition or commendation.

We thank Thee for the economy of God which makes each person unique and irreplaceable and for the love of God which gives to each person immeasurable value. We are grateful that each person is a divine original and that God makes no duplicates.

Help us to appreciate our need for each other, to respect, honor and love one another however concealed or prominent each one's involvement in the great work of the Senate. In the name of Jesus Christ whose love for all is unconditional and impartial. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

NAVY POLITICAL INDEX RATES THE CONGRESSMEN

Mr. STEVENS. Mr. President, several Senators were interested, I am sure, to read this week that they had been given special ratings by the U.S. Navy. Some may not have liked their ratings, but all of us no doubt were intrigued at this time-consuming absorption in the voting habits of some Senators and Congressmen—all done at taxpayer's expense.

I am referring, Mr. President, to the story carried in Defense Week last Monday. The headline read. "Navy Political Index Rates the Congressmen (STEVENS 57, WARNER 100)." Mr. President, I ask unanimous consent that the news story be printed in full at this point in my remarks.

There being no objection, the news story was ordered to be printed in the RECORD, as follows:

[From the Defense Week, July 19, 1982]

NAVY POLITICAL INDEX RATES THE CONGRESSMEN (STEVENS 57, WARNER 100)

The Navy has devised a political index which is used to rate Senators and House Members according to their beliefs on major defense issues. At least 56 Members of Congress have been rated, and their numerical national security ratings have been circulated to some of the highest officials in the Pentagon, including Navy Secretary John Lehman, Adm. James Watkins, the Chief of Naval Operations, Gen. Robert Barrow, Commandant of the Marine Corps, James Goodrich, the Navy Undersecretary, and three assistant Navy secretaries. The national security ratings also were sent to 20 additional Navy offices, including the Chief of Navy Materiel and, interestingly, the Navy's chief of information.

According to a June 16 memorandum to Lehman from Adm. A. K. Knoizen, then the Navy's chief of legislative affairs, Senator Claiborne Pell (D-RI), a member of the Foreign Relations Committee, has earned a Navy national security rating of only 17. In contrast, Sen. William S. Cohen (R-Maine), chairman of the Armed Services seapower subcommittee, is at the head of the Navy's class. His rating: 100. The Navy gave Sen. Ted Stevens (R-Alaska), chairman of the Senate Appropriations defense subcommittee, a lowly 57, while Sen. John Warner (R-Va.), the Navy Secretary from 1972 to 1974, scored a perfect 100.

Knoizen has since retired and now lives in Florida. Capt. Jerry Riendeau, deputy chief of the Navy's legislative affairs office, told Defense Week: "We never intended that these ratings would be published. This list is a working tool which everyone is supposed to keep tucked in his desk drawer."

According to Riendeau, the ratings are based on 11 recent "representative pieces of legislation" which affected the Navy. The national security index was devised approximately six months ago. In its recent 14-page missive to Lehman, the legislative affairs office rated every member of the Congressional Military Reform Caucus. The loosely-knit group is led by Rep. William Whitehurst (R-Va.), and operates as a forum for the exchange of views and information about defense matters. "We concentrate on them more than on any other group," says Riendeau.

The Navy's national security index has been applied to other congressional organizations, however. For example, the Navy compared the ratings of the caucus to those of the Boll Weevils, a horde of southern Democrats. The national security ratings of these groups have been stacked against those of the Gypsy Moths, a flight of Republicans from the northeast. The index also is used to track the performance of the armed services and appropriations committees.

Riendeau explains that the Navy's rating system "is a mini-version" of the National Security Index compiled by the conservative American Security Council to reflect members' views on defense expenditures and military programs. The Navy memorandum to Lehman contains each member's NSI rating, as well as a Navy rating.

Some representative national security values, for example:

Sen. Jim Sasser (D-Tn.), Navy, 80; NSI 20.

Sen. Slade Gorton (R-Wash.), Navy, 57; NSI, blank.

Sen. Gary Hart (D-Colo.), Navy, 43; NSI, 30.

Rep. Robin Beard (R-Tn.), Navy, 78; NSI, 100.

Rep. Cooper Evans (R-Iowa), Navy, 78; NSI, blank.

Rep. Paul Findley (R-Ill.), Navy, 78; NSI, 44.

Mr. STEVENS. Mr. President, as chairman of the Defense Appropriations Subcommittee, frankly, I was surprised to learn I had been voting against the Navy nearly half the time on national security issues. But I am a nautical patriot compared to Senator CLAIBORNE PELL, who rated only a 17. Obviously, Mr. President, something is fatally wrong with any ratings that suggest any Senator, particularly the Senator from Rhode Island, is not even half interested in national security.

I am compelled to ask: Is this really a proper use of public funds, this political rating that is a refinement of a more comprehensive rating published by the privately supported National Security Council? We all realize this sort of thing goes on to a certain extent in every Federal agency. The executive branch certainly needs to keep abreast of what is going on in Congress, and they need to know their friends from foes, legislatively speaking. But again I ask, to this extent?

I asked the Navy to supply the full memorandum on which Defense Week based its story, and I asked for the particular rollcall votes on which the political ratings were computed. I ask unanimous consent that these also be printed in the RECORD at this point, Mr. President.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE NAVY,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C.

Memorandum for:
The Secretary of the Navy,
The Chief of Navy Operations,
The Commandant of Marine Corps.

Subj: Congressional Military Reform Caucus Update.

Encl: (1) Membership List.

1. Executive Summary.—The Congressional Military Reform Caucus is a diverse, loosely knit bi-partisan group of 56 Senate and House Members formed in August 1981. The Members are listed in Enclosure (1). Senator Gary Hart (D-CO) is the Senate Caucus leader and Representative G. William Whitehurst (R-VA) is the House Caucus leader. While the personal views of certain articulate Caucus Members may appear in news media reports as Military Reform Caucus views, there is generally no specific caucus issue consensus. Various caucus members come armed with their own personal ideas and agenda for military change or reform. There has been an attempt by some (and their personal staffers) to formalize their caucus by hiring a staff, which would then draft issue-position papers. Representative Whitehurst has fought (successfully so far) to not hire a staff and use the informal caucus as a "sounding board" for Members. He does not want to polarize Members on specific issues. While there are no agreed upon Military Reform position papers, there are concern "themes" which were first outlined in a 14 December 1981 news briefing by Caucus Members. Paragraphs 2-4 outline those caucus' general national security reform concerns and some related specific Navy-Marine issues.

2. Concerns.—The Caucus Members generally believe some fundamental changes must be made in how the military utilizes its people, develops strategy and tactics, and procures hardware. The Members seem to share concerns in five areas of interest:

a. Lessons of History.—Essentially, this caucus group believes that those who make our national defense decisions have neither profited from the lessons of history, nor developed fully integrated strategic-tactical planning. (Maneuver Warfare vice firepower-attrition is a theme of this group.)

b. Hardware Procurement.—This group is concerned with the kinds of hardware utilized by our Services and Procurement cycle delays. It is their contention that the decision-makers have become overly preoccupied with technology. This group is particularly interested in seeking lower cost, simpler weapons system alternatives. This group also says numbers are important and expensive systems mean fewer of them. (Low versus High Mix).

c.—Economic Constraints. This group is resources-oriented, and contends that economic and other resource needs and realities will soon curtail the military budget, forcing decision-makers to seek lower cost weapons system alternatives.

d.—Manpower Resources. This group is concerned about training, and the nature of volunteerism in the military. They question the principle of maintaining an all volunteer force (AVF) on a monetary incentive basis. These Members contend that a form of universal conscription (draft) that ensures a substantial reserve force, based upon the inherent obligation to serve, is more in keeping with the traditions of democracy. (Unit cohesion is also a theme of this group.)

e.—National Security Policy—Planning and Execution. This group is concerned that our national security decision making, planning and execution apparatus is in disarray and needs to be reformulated. (This relates closely with call for JCS reorganization.)

3.—Navy Issues.—In April a Hart staffer, Bill Lind, circulated a paper entitled "Options For Action On The Fiscal Year 1983 Defense Budget For The Military Reform Caucus." The news media received copies and some reported (wrongly) that this paper was the Military Reform Caucus Alternate Budget for FY 1983. Representative Whitehurst, when asked about this paper, stated that the executive committee of the Caucus had not approved the Lind paper and ". . . has decided it won't take formal stands on weapons systems; rather the Caucus will be used as a clearinghouse of information for Members of Congress" (13 April 1982 Wall Street Journal, p. 56). The Navy issues outlined in the Lind paper circulated to Members of the Caucus included:

Procure diesel-electric attack submarines.

Cancel the F-18 program.

Transfer offensive mine warfare to the Air Force.

Modify merchant ships to serve as amphibious ships.

Develop three alternate approaches for fleet air defense.

Build SSN-637 class nuclear attack submarines instead of the SSN-688 class.

Increase cross-branch (Surface-Air-Subsurface) training in the Navy.

Reduce the size of submarine crews.

Build "Stealth fast missile boats for the naval reserve."

4. Marine Issues—(Lind Paper)

Fund a "European-Style" exercise for the 2nd Marine Division.

Cancel the Marine Corps MIFASS fire control system.

Increase war gaming in the Marine Corps.

Cancel the M-198, 155mm howitzer for the Marine Corps.

5. Caucus Executive Committee.—The Caucus executive committee includes: Representatives WHITEHURST (R), NORMAN DICKS (D), NEWT GINGRICH (R), and Senators HART (D), NUNN (D), and COHEN (R). COHEN has stated that an idea digested in Caucus sessions might find expression in a question to a witness at a committee hearing or in a vote on the Senate floor.

6. Fiscal year 1983 Military Reform Caucus Fallout.—The Military Caucus is having an impact upon the Congressional dialogue. For example, during the Senate debate (13 May 1982) on the FY 1983 Defense Authorization Bill the following amendments, sponsored by Military Reform Caucus Members, were considered: (When the House considers their revision of the FY 1983 bill, House Caucus Members can be expected to likewise sponsor some reform amendments of their own.)

Hart.—Amendment requiring the Secretary of the Army and Secretary of the Navy to submit a report on the extent to which the concepts of maneuver are incorporated into Army and Marine Corps Training. The report is due not later than 1 Jan 1983. Passed voice vote.

Hart.—Amendment to defer funds for one NIMITZ carrier. Tabled by roll call vote 63 to 32. Caucus Members Hart and Levin spoke in favor of the amendment and Cohen, Warner and Mitchell against. Caucus Members voted as follows:

For (Hart): Gorton (R); Hart (D); Levin (D); Pell (D); and Pryor (D).

Against (to table): Cohen (R); Johnston (D); Mitchell (D); Nunn (D); Sasser (D); Specter (R); Stevens (R): and Warner (R).

Hart.—Amendment to delete funds for one CVN and add funds for two light aircraft carriers. Tabled by a roll call vote 72 to 19. Caucus Members Hart spoke for and Cohen against. Caucus Members voted as follows:

For (Hart): Hart (D); Levin (D); Pell (D); and Pryor (D).

Against (to table): Cohen (R); Gorton (R); Johnston (D); Mitchell (D); Nunn (D); Sasser (D); Specter (R); Stevens (R); and Warner (R).

Gorton Amendment requiring the SECNAV to conduct a survey of Schools and Training Programs to ascertain the extent to which military history is taught and reporting such to the Armed Services Committees. Passed by voice vote.

Levin Amendment requiring the Comptroller General (GAO) to comment on all reports by the Secretaries of the military departments on Major Weapons Systems which experience over a 15 percent annual cost increase. Passed by voice vote.

Warner Amendment requiring SECDEF to report to Armed Services Committees, not later than 1 January 1983, regarding "unit cohesion" initiatives. The term "unit cohesion" is defined as any plan or program of an Armed Force to retain its members in the same unit from time a member enters service to time he leaves the service. Passed by voice vote.

7. Future Military Reform Caucus Direction.—It is clear that Caucus Members will continue to explore all types of alternative ideas from basic changes in the national security policy making-execution organization to strategy, tactics, hardware procurement, and manpower policies. Some Caucus Members have said they have no staff, no budget but they have the "power to promote new ideas". How deeply will Congress become involved in military tactics? Senator Tower asked Senator Hart about this during the 13 May 1982 discussion on Hart's Amendment requiring the Secretaries of the Army and Navy to report on the concept of maneuver warfare and training—Tower, "does he (Hart) believe that the Armed Services Committee or the Congress should get into the business of dictating tactical doctrine to the professional military people? I would have some problem with that if that is his long-range intent." Hart replied, "In terms of trying to define what the proper role of a Member of the Congress should be vis-a-vis the military, this Senator's judgment is that it has to be something more than just being accountants and bookkeepers approving numbers of dollars that various services want in gross terms. On the other hand I think it would be well beyond our capability, and in the case of most of us our competence, to try to substitute our judgment on purely military matters. That is not my intent, nor is it the intent of this amendment. This is an informational amendment . . . it well may be that the service chiefs and senior commanders can convince us that moving in this direction is not a good idea and give us some rational reasons why . . ., but I think our role should be to work with the services, to ask serious and, hopefully penetrating questions not only about weapons systems, which we probably spend 90 or 95 percent of our time on as Members of that Committee, but also about tactics and strategy and doctrine. If we believe, as the Senator from Texas does, that we are for the first time perhaps in our nation's history facing a potential adversary that we

cannot overwhelm with numbers of people and weapons, then we are going to have to prepare to engage in combat and use more brainpower at it. . . . Therefore, I do not in any way suggest that we ought to force any doctrine on any service, but we ought to encourage transition where it is important to our national survival. I think that is well within our scope of competence." (CONGRESSIONAL RECORD, 13 May 1982, p. S-5051)

8. Navy-Marine Corps Interface with Military Reform Caucus.—Since the Caucus was formed in August 1981, the Navy-Marine Team has worked informally with Caucus Members in an attempt to educate Members and keep the communication lines open. It is recommended that this strategy be continued. OLA will continue to actively monitor the Military Reform Caucus initiatives.

Very Respectfully,

A. K. KNOIZEN,
REAR ADMIRAL, U.S. NAVY,
Chief of Legislative Affairs.

MILITARY REFORM CAUCUS LIST

	Senate	House
Caucus member party composition:		
Republican	5	28
Democrat	8	14
Independent	0	1
Total	13	43
Caucus member military experience:		
Army	3	4
Navy	[1] 2	[2] 4
Marine Corps	0	[3] 3
Air Force	3	3
Coast Guard	[4] 1	0
None	5	29
Total	14	43

[1] Warner, Hart.
[2] Bliley, DeNardis, Findley, Whitehurst.
[3] Beard, Dougherty, Edwards.
[4] Nunn.
Note.—Senator Gorton has both Army/Air Force experience.

CAUCUS MEMBER TIME IN CONGRESS

Senate.—Of the 13 Senate Members, 3 are freshmen (Specter, Gorton and Mitchell) and all of the others have entered the Senate in the 1970's. Five of the balance of 10 entered the Senate in 1979. One (Pell) entered in 1961.

House.—Of the 43 House Members, 16 are freshmen and an additional 12 are in their second terms. Only two were in the Congress in the 1960's.

CAUCUS MEMBER COMMITTEE ASSIGNMENTS [1]

[In order of frequency of Member committee assignments]

	Senate	House
Armed Services	5	9
Appropriations	4	5
Governmental Affairs/Government Operations	3	5
Merchant Marine and Fisheries	0	5
Agriculture	1	7
Budget	2	2
Banking, Finance and Urban Affairs	0	3
Education and Labor	0	4
Veterans' Affairs	2	1
Foreign Affairs/Foreign Relations	1	1
Energy and Commerce	0	2
Judiciary	1	1
Public Works and Transportation	0	3
Science and Technology	0	2
Interior and Insular Affairs	0	4
Environmental and Public Works	2	0
Finance	1	0
Energy and Natural Resources	1	0
Commerce, Science, and Transportation	1	0
Small Business	1	2
Labor and Human Resources	1	0
Rules and Administration	1	0
Post Office and Civil Service	0	1
Ways and Means	0	1

[1] Numbers will not add to Member totals since Members have more than one committee assignment.

MILITARY REFORM CAUCUS LIST

[Including staff and phone numbers]

Navy index	NSI	
		SENATE
100	80	William S. Cohen (Bill) (ME)—SASC (Chairman Seapower Subcommitee); 1252 Dirksen Senate Office Building, 224–2623, Jim Dykstra.
57	Freshman	Sladfe Gorton (WA)—Army (1945–46), Air Force (1953–56); Budget, Commerce, Science and Transportation, Environment and Public Works, Small Business; 3327 Dirksen Senate Office Building, 224–2621, Mike McGavick.
43	30	Gary Hart (CO)—SASC; (LTJG, JAGC, USNR); 221 Russell Senate Office Building, 224–5852, Bill Lind/Larry Smith/Kathy Bushkin.
86	60	J. Bennett Johnston, Jr. (Bennett) (LA)—Army (1956–59); Appropriations, Budget, Energy and Natural Resources; 421 Russell Senate Office Building, 224–1503, Doug Cook.
29	10	Carl Levin (MI)—SASC; 3327 Dirksen Senate Office Building, 224–6211, Pete Lennon.
57	Freshman	George J. Mitchell (ME)—Army (1954–56); Finance, Veterans' Affairs, Environment and Public Works; 344 Russell Senate Office Building, 224–5344, Mike Hastings.
100	60	Sam Nunn (GA)—SASC; Coast Guard (1959–60); 3241 Dirksen Senate Office Building, 224–3521, Arnold Punaro (Arnie).
17	0	Claiborne Pell (RI)—Foreign Relations, Labor and Human Resources, Rules and Administration; 325 Russell Senate Office Building, 224–4642, Brad Penney.
43	44	David Pryor (AR)—Governmental Affairs, Agriculture; 404 Russell Senate Office Building, 224–2353, Dan Harrell.
86	Freshman	Arlen Specter (PA)—Air Force (1951–53); Appropriations, 342 Russell Senate Office Building, 224–4254, Ester Kurz.
86	20	Jim Sasser (TN)—Appropriations, Budget, Governmental Affairs; 405 Russell Senate Office Building, 224–3344, John Callahan.
57	89	Ted Stevens (AK)—SAC (Chairman Defense Subcommittee), Governmental Affairs; Air Force WWII; 127 Russell Senate Office Building, 224–3004, Joe Darnell.
100	80	John W. Warner (VA)—SASC; Navy WWII; SECNAV 1972–74; 405 Russell Senate Office Building, 224–2023, Buzz Hefti (224–6671).
		HOUSE
78	25	Don J. Albosta (MI)—Agriculture, Post Office and Civil Service, Public Works and Transportation; 1318 Longworth House Office Building, 225–3561, Michael Murtiak.
88	100	Robin L. Beard (TN)—HASC; USMC (1962–66); Select Committee on Narcotics Abuse and Control; 229 Cannon House Office Building, 225–2811, Mark Christie.
14	0	Berkley Bedell (IA)—Agriculture, Small Business; 2440 Rayburn House Office Building, 225–5476, Mike Poldyac.
78	80	Douglas K. Bereuter (Doug) (NB)—Interior and Insular Affairs; Small Business; Army (1963–65); 1314 Longworth House Office Building, 225–4806, Tom Litjen.
78	Freshman	Tom Bliley (VA)—Energy and Commerce, D.C.; Navy (1952–55); 214 Cannon House Office Building, 225–2815, Allen Darden.
78	80	William F. Clinger, Jr. (Bill) (PA)—Government Operations, Public Works and Transportation; 1221 Longworth House Office Building, 225–5121, Carol Barthel.
89	100	Richard B. Cheney (Dick) (WY)—Interior and Insular Affairs; 225 Cannon House Office Building, 225–2311, Jim Steen.
78	40	Tony Coelho (CA)—Agriculture, Interior and Insular Affairs; 216 Cannon House Office Building, 225–6131, Gwen Luter.
89	Freshman	Larry E. Craig (ID)—Education and Labor, Interior and Insular Affairs; 515 Cannon House Office Building, 225–6611, Gregg Casey.
78	10	Thomas A. Daschle (Tom) (SD)—Agriculture, Veterans' Affairs; Air Force (1962–72); 439 Cannon House Office Building, 225–2801, Ryan Krueger.
56	Freshman	Lawrence J. DeNardis (Larry) (CY)—Government Operations, Education and Labor; Navy (1960–63); 1469 Longworth House Office Building, 225–3661, Dan Costello.
78	33	Norman D. Dicks (Norm) (WA)—Appropriations (Defense Subcommittee); 1122 Longworth House Office Building, 225–5916, Terry Freese.
57	Freshman	Byron L. Dorgan (ND)—Agriculture, Small Business, Veterans' Affairs; 427 Cannon House Office Building, 225–2611, Doug Noreil.
89	67	Charles F. Dougherty (Charlie) (PA)—HASC; Merchant Marine and Fisheries; USMC (1959–62); 422 Cannon House Office Building, 225–8251, Steve Lodge.
78	83	Jack Edwards (AL)—Appropriations; USMC (1946–48); 2369 Rayburn House Office Building, 225–4931, Robin Deck (Miss).
78	70	David F. Emery (Dave) (ME)—HASC; Merchant Marine and Fisheries; 2437 Rayburn House Office Building, 225–6116, John Rabb.

MILITARY REFORM CAUCUS LIST—Continued

[Including staff and phone numbers]

Navy index	NSI	
78	Freshman	Cooper Evans (IA)—Agriculture; Army (1947–65); 317 Cannon House Office Building, 225–3301, Mike McVey.
67	22	Vic Fazio (CA)—Appropriations; 1421 Longworth House Office Building, 225–5716, Snady Stuart.
78	44	Paul Findley (IL)—Foreign Affairs, Agriculture; Navy, WW II; 2113 Rayburn House Office Building, 225–5271, Allison Brenner.
51	Freshman	Thomas M. Foglietta (Tom) (PA)—HASC; Merchant Marine and Fisheries; 1217 Longworth House Office Building, 225–4731, Paul Emerson.
78	60	Martin Frost (TX)—Rules; 1238 Rayburn House Office Building, 225–3605, Bonnie McClellan.
78	100	Newt Gingrich (GA)—House Administration, Public Works and Transportation; 1005 Longworth House Office Building, 225–4501, Mike Burns.
56	22	Bill Green (NY)—Appropriations; 1417 Longworth House Office Building, 225–2436, Leslie Kautz.
89	Freshman	Thomas Hartnett (SC)—Air Force, 1963; Reserves 1963–69; HASC, Military Personnel and Compensation, Seapower and Strategic and Critical Materials; 509 Cannon House Office Building, 225–6276, Tim Samolej.
56	Freshman	Dennis M. Hertel (MI)—HASC, Merchant Marine and Fisheries; 1017 Longworth House Office Building, 225–6276, Cliff Zaydel.
78	Freshman	John Hiler (IN)—Government Operations, Small Business; 1338 Longworth House Office Building, 225–3915, Kelly Johnston.
89	Freshman	Duncan Hunter (CA)—HASC; 415 Cannon House Office Building, 225–5672, Mike Converse.
78	50	James Jones (OK)—Budget, Chairman; Ways and Means; 203 Cannon House Office Building, 225–8506, Pat Bogenberger/Bob Walters.
78	100	Ken Kramer (CO)—HASC, Education and Labor; Army (1967–70); 114 Cannon House Office Building, 225–4422, John Bosma.
88	Freshman	Tom Lantos (CA)—Government Operations, Foreign Affairs; 1123 Longworth House Office Building, 225–3531, Carol Thompson.
78	90	Bob Livingston (LA)—Appropriations; 206 Cannon House Office Building, 225–3015, Paul Cambon.
89	100	Dan Lungren (CA)—Judiciary; 328 Cannon House Office Building, 225–2415, Mike Ridenour.
86	14	Paul McCloskey, Jr. (CA)—Government Operations, Merchant Marine and Fisheries; 205 Cannon House Office Building, 225–5411, Lee Palmer.
78	Freshman	Dave McCrudy (OK)—HASC, Science and Technology; 313 Cannon House Office Building, 225–6165, David Smith.
56	70	Marc L. Marks (PA)—Energy and Commerce; Army Air Corps, WWII; 1424 Longworth House Office Building, 225–6138, John Engber.
78	Freshman	Lynn Martin (IL)—Budget, House Administration; 1208 Longworth House Office Building, 225–5676, Fran McNaught.
78	44	Stephen L. Neal (NC)—Government Operations, Banking, Finance and Urban Affairs; 2463 Rayburn House Office Building, 225–2071, Rob Wrigley.
78	Freshman	James L. Nelligan (Jim) (PA)—HASC; Army (1946–48); 1711 Longworth House Office Building, 225–6511, Bob Meyers.
78	Freshman	Marge Roukema (NJ)—Education and Labor, Banking, Finance and Urban Affairs; 226 Cannon House Office Building, 225–4465, Susan O'Neill.
56	Freshman	Claudine Schneider (RI)—Merchant Marine and Fisheries, Science and Technology; 1431 Longworth House Office Building, 225–2735, Todd Nichols.
89	100	Paul S. Trible (VA)—HASC, Budget; 326 Cannon House Office Building, 225–4261, Bill Mims.
0	0	Bruce Vento (MN)—Banking, Finance and Urban Affairs, Interior and Insular Affairs; 230 Cannon House Office Building, 225–6631, Larry Romans.
100	89	G. William Whitehurst (Bill) (VA)—HASC; Navy WWII; 2469 Rayburn House Office Building, 225–4215, Gwen Perry (225–8527)—Pete Loomis.

VOTES USED FOR RATING

Sponsor/issue and date	Vote No.	Navy position	Stevens
Fiscal year 1981 supplemental:			
Bumpers battleships (Apr. 7, 1981)	069	No	Yes.
Hollings/aviation officer continuation pay (May 20, 1981)	124	Yes	No.
Tower/restore battleships (May 20, 1981)	125	Yes	No.
Fiscal year 1982 Defense appropriation:			
Heinz/U.S.S. Iowa (Nov. 30, 1981)	428	Yes	No.
Fiscal year 1983 authorization:			
Hart/delete 1 nuclear carrier (May 13, 1982)	111	[1] Yes	Yes.
Hart/2 light carriers (May 13, 1982)	112	[1] Yes	Yes.
Final passage (May 14, 1982)	120	Yes	Yes.

[1] To table.

Mr. STEVENS. Now, Mr. President, it becomes apparent that the Navy really devoted a great deal of time and manpower to this epic research. Not just a rating on rollcall votes, it analyzes the so-called Military Reform Caucus from top to bottom. The caucus philosophy is examined, its numbers, its potential, its impact, its character, history, and future direction. I ask Members of the Senate to look, if you will at the "Order of Frequency of Member Committee Assignments," and read the individual profiles of each member.

That took work, Mr. President, and I resent this investment of public funds. To my mind, it smacks of the same unethical—perhaps illegal—conduct we recently read about the Air Force and its wide-open lobbying, its wide-open lobbying, on the C-5B aircraft procurement issue. This Navy effort may not be direct lobbying, but it is a worksheet for those who will be in a position to lobby Congress, directly or indirectly.

The distribution list mentioned in the Defense Week story is equally interesting. The memorandum went to the Navy's Chief of Information, who is not exactly in the business of suppressing the Navy's views. What was the Chief of Information supposed to do with the memorandum? Was it circulated beyond Navy circles? Who knows how far this went and to what extent it might have been used to influence Members of Congress?

Mr. President, the Senate Appropriations Committee plays at least a small part in deciding how much funding goes to the military and for what purpose. I can tell you, as chairman of the subcommittee most involved in Defense Department appropriations, that I personally never intended public funds to be used for that purpose—or for the purposes used in lobbying for the C-5B for that matter. I do not think any other member of the subcommittee or the full committee did, either.

My purpose in speaking on this subject, Mr. President, is not only to bring this kind of activity to the attention of the Senate but to serve notice on the Navy and everyone else in a position of responsibility in the Pentagon that the time for this kind of conduct is over. I think Congress is getting tired of the Defense Department winking at the law forbidding the use of public funds to lobby Congress. I think Congress is tired of the Department viewing congressional relations as a license to maneuver and manipulate those of us who are elected to oversee the use of taxpayer support of the Government.

There is a remedy through the appropriations process, Mr. President, and I intend to seek it and apply it.

One final thing, Mr. President, that really disturbs me. First, I am not a member of the Military Reform Caucus—somehow my name was placed on the list at one time and I have not written to ask them to take it off; I did not put it on so I just ignored it. In my opinion however, the Navy's action shows the need for reform is certainly more evident lately.

Second, if we examine the seven votes the Navy used to rate me and other Senators, we discover that I voted against the Navy position four out of seven times. That figures out to a rating of 43 percent, not the generous 57 compiled by the astute Navy Department people in charge of congressional affairs.

And it does raise some questions about their ability to compute the vast numbers that they submit to us.

Third, anyone with even brief exposure to Capitol Hill knows that a rating based on such a narrow range of issues is misleading. It is almost worthless. In this case, it is worthless. I do not think I am exactly regarded as antidefense and certainly not anti-Navy. I did not agree with the admirals on two issues—battleship reactivation and supplemental funding for a bonus going to aviation officers. Those issues were voted on twice, and they are in the computation of the 11 as 4 separate votes. I had good reasons to oppose them on those issues, but that is beside the point. The subcommittee I chair, on my specific recommendation, delivered one of the biggest funding bills in the Navy's history. The subcommittee supported the Navy on several critical and controversial issues—issues vastly more far-reaching than reactivating the *New Jersey* and paying bonuses to airmen. We turned back attempts to reject another nuclear aircraft carrier, for instance, and we withstood a strong effort to terminate the Navy's fighter/attack plane for the future, the F/A-18. We did many other things for the Navy in reviewing its entire budget for the 1982 fiscal year.

But then, it seems, I committed the cardinal sin of voting against the Navy on two issues and I made the statement that it seemed to me that some admirals just wanted a battleship under their feet again.

Mr. President, I hope the Navy will try to avoid wasting its time and the taxpayers' money on this kind of inept and misguided activity, and I shall help them reach that conclusion. In the meantime, if they persist in this kind of political analysis, I have two messages: In the first place, I hope next time they do it right. In the second place, if this is an example of their objectivity and fairness, Mr. President, the Navy has gotten itself in harm's way.

Mr. PROXMIRE. Mr. President, will the Senator yield on that point?

Mr. STEVENS. I would be happy to yield.

Mr. PROXMIRE. I commend the distinguished Senator from Alaska. He is 100 percent correct. It is a terrible precedent. Supposing it should be done by the Justice Department. Are they going to rate Members of Congress on how they rate on law and order? Supposing it happened in Human Services, are they going to say the Senator is not compassionate? It is a waste of taxpayers' money; it is wrong, and we ought to stop it and stop it forthwith.

I congratulate the Senator from Alaska for taking the position he has taken this morning.

Mr. STEVENS. Mr. President, I am grateful to the Senator from Wisconsin, and I am delighted he made the comments.

I might add that I am going to have printed in the RECORD in full those Members who were rated. But, unfortunately, the Navy did not take time to rate everybody. They just rated those whose names were on the Military Reform Caucus mailing list. As I said, that was put together by someone over in the other body. I do not know anyone who voluntarily put his name on the list.

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS LIMITATION

Mr. STEVENS. Mr. President, I ask unanimous consent that during the period for transaction of routine morning business Senators may be permitted to speak therein for not more than 3 minutes each.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER (Mr. WALLOP). Under the previous order, the Democratic leader is recognized.

Mr. ROBERT C. BYRD. I yield such time as he may require from the time allotted to me to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I thank the distinguished minority leader, and I shall be brief.

THE U.S. CHAIN OF COMMAND IN A NUCLEAR WAR

Mr. PROXMIRE. Mr. President, this Senator cannot think of anything less funny than an all out nuclear war involving the United States of America. On the other hand, I do not think Art Buchwald, or the great master of satire, Voltaire could improve on the rich irony and utter ridiculousness of our preparation as a nation for this most terrible of events. In the Ed Zuckerman article from which I have been quoting in the past few days to describe this Nation's preparation, the

chain of command is described. Here is how it starts:

The chief someone in charge of directing things for the common good will be, of course, the President; so elaborate plans have been formulated to make sure there is a President after a nuclear attack—and only one President, if the original President isn't around anymore. "One of the things we discovered is that there was no authentification system" said General Louis Giuffrida, the Reagan appointee as director of FEMA, in a recent speech to a civil-defense organization. "So that if (someone) got on the horn and said, 'I'm the successor,' and somebody said, 'Prove it,'" (no one could). So we're working on that. FEMA will be the authenticating mechanism to say, "Yeah, this guy's for real. The President's gone and and we don't know where the Vice President is . . . this is the man. . . ."

Mr. President, I ask unanimous consent that the remaining excerpt from the article by Ed Zuckerman in the March 1982 issue of Esquire magazine be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHAIN OF COMMAND

The chief someone in charge of directing things for the common good will be, of course, the President; so elaborate plans have been formulated to make sure there is a President after a nuclear attack—and only one President, if the original President isn't around anymore. "One of the things we discovered is that there was no authentication system," said General Louis Giuffrida, the Reagan appointee as director of FEMA, in a recent speech to a civil-defense organization. "So that if [someone] got on the horn and said, 'I'm the successor,' and somebody said, 'Prove it,' [no one could]. So we're working on that. FEMA will be the authenticating mechanism to say, 'Yeah, this guy's for real. The President's gone, and we don't know where the Vice-President is . . . and this is the man.'"

To forestall any confusion, FEMA has already designed, and the White House administers, a Central Locator System for keeping tabs on the whereabouts of the President and all sixteen of his constitutionally designated successors. Upon warning of a nuclear attack on Washington, Air Force helicopters would swoop down and ferry the successors to safety. The President himself would board the National Emergency Airborne Command Post, a windowless, specially shielded, $250 million version of the 747, which sits on permanent alert at Andrews Air Force Base.

Circling thousands of feet above the fallout, the President will have at his fingertips a copy of the classified Federal Emergency Plan D, which outlines federal recovery plans and contains a set of "Presidential Emergency Action Documents" authorizing the creation of emergency agencies and powers for mobilization and reconstruction in the event of nuclear war. A similar set of documents, designed for legislative action, are included in a compilation known as the "Other Than D Documents." These documents would be sent to Congress—if Congress still existed—for approval. If Congress had disappeared, the President could simply issue the Plan D documents as proclamations. "You won't have a big staff there to say, 'Go prepare me a legal document with all the necessary details,'" William Baird explained, "so these have been done ahead of time."

Among the Plan D documents is a proclamation of war. "Only Congress can declare war," explained Baird. "The President can issue a proclamation that a state of war exists. Legally, a lot of things [including emergency powers] depend on that."

So the proclamation has already been drafted, with a few blanks to be filled in later. Like the date. And the name of the enemy.

While the President is in his airborne command post attending to legal details, many other situations will have to be monitored. To that end, provisions have been made for the survival of a cadre of bureaucrats from some three dozen "Category A" federal agencies, ranging from the CIA to the TVA, which are deemed to require the "capability for uninterrupted emergency operations" during "the immediate preattack, transattack and immediate postattack periods." This distinguishes them from Category B agencies, which have roles to play in "postattack reconstitution as soon as conditions permit." and the relatively expendable Category C agencies, which "are to defer reconstitution until directed by appropriate authority."

In preparation for postattack reconstitution. Category A agencies are required to safeguard essential records now. (Department of Labor guidelines suggest that such records "be wrapped in protective paper," as "experience has revealed that unprotected records not wrapped and sealed are often damaged by dust and moisture.") Category A agencies are also responsible for establishing emergency succession lists for the replacement of key officials who die in the attack. ("It is desirable to designate several executives who are frequent travelers and thus increase the likelihood that all successors will not be concentrated in the Washington capital area at any given time," advises Federal Preparedness Circular FPC-14.)

Most crucial, each Category A agency has established three emergency teams. Team A would administer from the agency's regular headquarters during the period of increased international tension that might precede a nuclear attack. Team B would report to Mount Weather, a massive underground complex that is the centerpiece of the entire "Continuity of Government" program, and would take over for Team A if Team A ceased to exist. Team C would report to its agency's secret relocation site somewhere in the Federal Relocation Arc, a network of emergency operating centers just a few hours' drive from Washington, and provide backup for teams A and B.

To aid in the case of traffic jams or other tie-ups immediately preceding or following a nuclear attack, every emergency-team member has already been issued a Federal Employee Emergency Identification Card, which carries both the bearer's photo and blood type and the message: "The person described on this card has essential emergency duties with the Federal Government. Request full assistance and unrestricted movement be afforded the person to whom this card is issued."

But certain factors may keep team members from reaching their assigned places. Most Category A agencies have made no plans for their team members' families, and a 1978 survey of 534 emergency-team members in six departments found that although more than 80 percent said they probably would report to their emerency duty stations, 76 percent said that improving provisions for their families would increase the likelihood of their showing up. "There's a fifty-fifty chance I'd go," one high-ranking official assigned to Mount Weather told me recently. "And if I do go," I'll probably take my family with me. What are the guards going to do? I don't think they'd capture me and take me inside without my family. They could turn us all away, but that misses the whole point of the thing."

Other questions have arisen about Mount Weather. Eighty miles west of Washington, near the town of Paris, Virginia, the complex contains offices, dormitories, computers, briefing papers, a reservoir, and Public Health Service Health Unit No. 1, a fully staffed hospital where any official assigned to Mount Weather can get a free checkup at any time. But Mount Weather was built during the 1950's, and the Russians know where it is. Enemy forces, equipped with modern nuclear weapons, "can dig out anything they want now," points out John J. Policastro, a retired Army officer who directs FEMA's Continuity of Government division.

"Do you scrap something like Mount Weather?" he pondered during a recent interview. "Its capital costs are amortized, and it might survive an attack. The operating costs of a place like that are pretty cheap. . . . Maybe at some point, when you have sufficient alternatives, you close it."

Alternatives to Mount Weather are being investigated right now. In 1980, a secret Continuity of Government study was undertaken at the request of the National Security Council; its results were incorporated in Presidential Directive 58, issued by President Carter in August 1980 in tandem with Presidential Directive 59, which made explicit a shift in American strategic doctrine toward the idea of "limited" nuclear warfare.

PD-58 is classified, but it apparently calls for a new, less centralized Continuity of Government program, relying instead on federal offices and employees already outside Washington. It is based on the "Federal Regional Reconstitution Area" planning concept, under which federal regional offices have designated certain small towns and cities with no obvious military or industrial targets as potential government centers in postattack America.

"If you can disperse your people so that if Russia wanted to target them it would soak up a large number of weapons," said one FEMA planner,"they'd have to judge. 'Is it worth expending so many weapons?' If you build that kind of system, what have you done? You've assured the survival of Washington."

OMISSION OF POLITICAL GROUPS SHOULD NOT DETER SENATORIAL ACTION

Mr. PROXMIRE. Mr. President, the 34-year history of the Genocide Convention has included both wide-ranging support and persistent opposition. Most arguments against ratification have arisen because of what the treaty contains; however, one objection has surfaced because of what the treaty omits.

Some people who oppose this treaty believe it does not adequately deal with the problem of genocide because

article II of the treaty does not list "political groups" among the groups whose destruction would constitute the crime of genocide.

The United Nation's General Assembly Declaration on Genocide issued on December 11, 1946, did contain the phrase "political groups." However, proponents of the treaty, such as myself, believe that in international negotiations it is both practical and sound to begin with subjects that all parties can agree upon, and to proceed later with more controversial items.

Mr. President, the omission of "political groups" from the definition of genocide does not by any means indicate approval of mass murder committed against such groups. The cold, calculated destruction of any group should be abhorred by all respectable human beings. Yet, because of the highly contentious nature of this wording, I feel it is best to support the present wording of the treaty and to make progress on the matter of "political groups" in the future.

Man's history has been severely tarnished by countless acts of genocide. We, in the Senate, must take a significant step to assure that the future is dramatically different. That step is the ratification of the Genocide Convention. It is a step which is both necessary and long overdue.

Mr. President, the absence of one kind of group from those listed by the convention is an insufficient reason to refuse to protect those that are already covered. Before a house is built, a foundation must be laid. The house will eventually stand, but first let us lay the foundation and ratify the Genocide Convention.

I thank the Democratic leader, and I yield the floor.

Mr. ROBERT C. BYRD. I yield the remainder of my time to Mr. NUNN who may, in turn, yield it to Mr. CHILES if he so desires.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982 TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, serious abuse of the writ of habeas corpus continues to plague our criminal justice system while proposed legislative remedies remain untouched by this Congress. For over 2 months now, the habeas corpus proposals which Senator CHILES and I included in S. 2543, the Crime Control Act of 1982, have awaited action on the Senate Calendar. To underscore the need for these proposals, on each day last week I pointed to a case where a convicted felon had actually delayed and frustrated the ends of justice by manipulation of the writ of habeas corpus. In each case, the problem would have been corrected under the proposals included in S. 2543. Those examples amply demonstrate the alarming fact that habeas corpus abuse poses a real and substantial danger to the viability of our criminal justice system.

Not surprisingly, Senator CHILES and I are not alone in our concern over the increasingly routine misuse of habeas corpus by career criminals. The kinds of cases which we have related have caused substantial alarm beyond this Senate Chamber. Individuals far closer to the daily workings of the judicial system have spoken out time and again on the urgent need for legislative reform in the area of habeas corpus. It is indeed a true measure of the problem that calls for reform have come from all levels of the criminal justice system itself, both State and Federal: Prosecutors, State attorneys general, as well as both trial and appellate judges.

Last year both the Conference of Chief Justices and the National Association of Attorneys General adopted resolutions strongly supporting reform of the laws now governing habeas corpus proceedings. The Department of Justice has similarly endorsed proposals for modification of habeas corpus proceedings. Surely Congress cannot disregard the collected wisdom and experience of those who comprise the very mainstream of our criminal justice system.

Moreover, Federal judges have individually spoken out on the tremendous need to streamline present habeas corpus procedures. As early as 1973 the problem had reached proportions sufficient enough to generate alarm within the U.S. Supreme Court. In his concurring opinion in Schneckloth against Bustamonte, Justice Lewis Powell suggested that habeas corpus abuse was generating a serious "credibility gap" as to the merits of State court judgments. Specifically, Justice Powell pointed out:

> The present scope of habeas corpus tends to undermine the values inherent in our federal system of government. To the extent that every state criminal judgment is to be subject indefinitely to broad and repetitious federal oversight, we render the actions of state courts a serious disrespect in derogation of the constitutional balance between the two systems.

Chief Justice Warren Burger echoed similar concerns when he advised Congress of the need of legislation restricting the availability of Federal habeas corpus relief to individuals in State custody. The Chief Justice, in last year's report on the judiciary, told Congress that:

> The administration of justice in this country is plagued and bogged down with lack of reasonable finality of judgments in criminal cases.

It is difficult to understand the failure of this Congress to recognize the need for reform in habeas corpus proceedings where that need is so strongly supported not only by the facts themselves but also by those individuals and organizations representing the very embodiment of the criminal justice system itself. At every turn, the evidence is overwhelming that reform of our habeas corpus laws is long overdue. I urge the Senate to accept that evidence without any further delay by the prompt consideration and adoption of the proposals set forth in S. 2543.

Mr. President, I will yield the remainder of my time to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, I thank the distinguished Senator from Georgia, and I certainly join with him in his efforts.

Mr. President, today, marks the 25th time in the past 2 months that I have come before the Senate to speak out on crime and on the need for crime fighting legislation.

I am pleased that a time agreement has been reached to allow the Senate to take up S. 2574, the bipartisan crime package, at some point in the near future. It is a very important piece of legislation. Along with Senator NUNN, I am trying to insure that the Senate focuses its attention on this issue. In my view, there is no other issue more deserving of our time than crime; it is a problem that touches every citizen and community throughout this Nation. As such, I can tell you that Senator NUNN and I plan to stick to our commitment by continuing to remind the Senate of its responsibility to act on legislation that will help combat crime.

I am very pleased about the time agreement that has been reached which will allow the Senate to take up S. 2572, the bipartisan crime package, at some point in the near future. This package is a strong first step toward reinforcing a criminal justice system which, in recent years, has been ineffective in dealing with the criminal element. I urge the Senate to get on with it and pass S. 2572, so that we can send it over to the House, and then hopefully work with the House to assure that this package of reforms is quickly enacted.

The progress that we are making has not obscured the fact that other essential reforms, not included in S. 2572, still need to be made in our criminal justice system. One of the most important areas which we have yet to address is the abusive use of habeas corpus petitions by State convicts. One of the fundamental principles of our

system of justice is that, at some point, there must be finality of judgment. In a criminal trial we want to make absolutely sure that any person charged with a crime gets a fair trial and is able to exercise fully his constitutional rights. Nevertheless, there must come a time when a case comes to a close.

Today, however, we have a situation in which convicts in our State prisons have used habeas corpus petitions to challenge their convictions over and over again. Many of these petitions are purely technical in nature. They do not even raise the point of a defendant's innocence; instead, they just attempt to exploit a potential loophole. In addition, because there are no specific time limitations on filing for habeas relief, we see cases where convicts file petitions years or even decades after the original trial. The results of this wide open petitioning damage the judicial process. First, the vast number of frivolous appeals only serves to further back up our overloaded court system. Second, the fact that a convict can keep appealing a case dilutes the notion of finality. Finally, and most importantly, our State courts are undermined, as cases fairly and fully tried at the State level are retried at the Federal level without sufficient basis.

One case that took place in my State, Florida, clearly demonstrates the unwarranted nature of certain habeas corpus petitions, as well as the need for a time limitation of these petitions. In Choice against Wainwright, the defendant, Samuel Choice, was originally convicted by a State court of rape charges in 1968. He was convicted along with two codefendants, and all three were sentenced to life imprisonment. At that time, there was one attorney representing Choice and the other two codefendants, and he immediately appealed the convictions in the State court system. By 1971, the State appeals were concluded; the convictions were upheld. At that point, the attorney in this case filed a habeas corpus petition in the U.S. district court on behalf of the three codefendants. In this petition, he raised the same issues which had been raised on direct appeal in the State court. The district court considered the case and denied it on its merits. The decision was then appealed to the fifth circuit, which affirmed the lower court's decision.

Choice waited another 2 years, until 1974, and then filed another habeas corpus petition. This time it was his own petition, a pro se, claiming that his attorney had been ineffective because he had represented conflicting interests during the first case. After requiring a response from the State, the case was dismissed for failure to exhaust State remedies.

In 1978, Choice was back again. This time he filed a petition for habeas corpus claiming that he had ineffective counsel because his attorney did not petition the U.S. Supreme Court for certiorari following the fifth circuit's affirmance of the district court's denial of his first habeas petition. The State was ordered to respond, and was able to point out that counsel's actions in a Federal court did not constitute a basis for invalidating a State court rape conviction. The court denied this petition as well.

Here we have a convict who let his trial counsel litigate his case through the State and Federal courts, and then, when all avenues of relief were exhausted, he filed a second habeas petition attacking his counsel's 1968 trial representation. When this ploy failed, he waited another 4 years—10 years after the original trial—and filed a third habeas petition attacking his counsel's representation in Federal court.

Mr. Choice was not able to use the habeas corpus petition as successfully as he would have liked. Regardless, Choice managed to force the State of Florida to expend considerable time and expense on frivilous appeals, appeals that never once claimed he was innocent. The time that the State spent on the Choice appeals could have been spent prosecuting other felons; instead, the State had to keep making sure that Choice did not get off the hook.

Habeas corpus petitioning by persons convicted in our State courts is clearly out of hand. It is time we put an end to this flood of petitioning. One way to do this is to place a limit on the time in which a convict can file such petitions. The bill that Senator NUNN and I have introduced would serve this purpose. It would require State prisoners to file habeas corpus petitions with the Federal courts within 3 years of their State conviction. This would help to protect the individual and the State by assuring that all habeas claims will be heard while the evidence is still fresh. Mr. President, it is time that the Senate move on this measure. If we do not, the public will be the loser.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to extend beyond the hour of 9:40 a.m. Senators may speak for 3 minutes each.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President I ask unanimous consent that the time for morning business be extended until the Senator from Kansas, the manager of the tax bill (Mr. DOLE) calls it off.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. BOSCHWITZ. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMPORTANCE OF AGRICULTURE

Mr. BOSCHWITZ. Mr. President, the subject of agriculture often comes before me as I am a member of the Committee on Agriculture, Nutrition, and Forestry, and I represent a State which has a large measure of importance in the agricultural scene in the United States. So I often like to speak during morning business about agriculture, its importance to the Nation, and about the future of agriculture.

Also, I am pleased to see many young people, representing agriculture, coming to this city and to the institutions of Government to learn more about the process we go through here in Washington.

I wish to speak about foreign agriculture at this time, because I am chairman of the subcommittee that deals with foreign agriculture. I am very much involved in the subject that has brought to this country $43 billion in foreign exchange in the last fiscal year, and only $17 billion of imports. In other words, we exported $43 billion of agricultural goods in the fiscal year of 1981, and we imported only $17 billion. So that we have a trade surplus in agriculture of $26 billion, the largest trade surplus of any item in which we deal.

Without that trade surplus, this country's economy would not be in particularly good shape. That trade surplus and the health of our rural economy would be even greater if we would get away from the idea that embargoes work, if we would eschew the idea that embargoes in some way penalize those people we are trying to embargo, because they go out on the world market and buy elsewhere.

It is my hope that the new Secretary of State, who has a strong background in international trade, will not suggest

the imposition of embargoes in the future. We talked about that during his confirmation hearings, and I am pleased to say that he understands free trade. He understands the need for open markets throughout the world.

Mr. President, I am pleased once again to speak about agriculture, its importance to our Nation, its importance to the State I represent, Minnesota, and the importance of young people who are coming up through the ranks of agriculture to continue the greatness of our Nation.

THE PUBLIC SERVICE OF RICHARD M. GARRETT

Mr. THURMOND. Mr. President, it is with great pride and pleasure that I recognize the outstanding accomplishments of a fellow South Carolinian, Richard Marvin Garrett of Easley, who is one of a select few chosen to receive the Jefferson Award of the American Institute for Public Service.

This award is presented to individuals who exemplify the highest ideals and achievements in the field of public service in the United States. I could not agree more with the choice of Richard Garrett as a recipient of this fine honor. He has truly illustrated the character of a public servant through his many hours of flying patients and their families to specialized hospitals across the country. He is especially well-known for his efforts in flying burned children to hospitals for treatment.

Mr. Garrett, who owns a chain of clothing stores in South Carolina, has flown more than 83 trips in transporting severely burned children to the Shrine Burn Center in Cincinnati, Ohio. He has done that for the last 13 years at his own expense, never charging a patient or family for this invaluable service.

Time is crucial for persons suffering from severe burns. Treatment must be administered to a burn victim quickly, for the longer a patient goes without treatment, the less chance he or she has of recovering fully. Richard Garrett has insured that many burn victims in upper South Carolina receive the care and treatment they need at one of the Nation's finest burn-treatment facilities.

But his service has not stopped there. Should it be necessary for the patient to stay in the hospital for long-term care, Richard Garrett has time and again extended himself by providing transportation to families so that they may visit their relatives who are being treated for severe burns. Often, a burn patient must remain at the clinic for prolonged treatment. In that event, Mr. Garrett will also remain in Cincinnati to provide emotional support for the patient and family.

This procedure of flying back and forth from South Carolina to Ohio requires a full day of Mr. Garrett's time, a day when he could be attending to his business and personal affairs. However, Richard Garrett realizes that true public service means putting the interests of others before one's self regardless of the personal sacrifices. In the service that he provides to South Carolina families, Mr. Garrett's efforts can mean the difference between life and death.

Mr. President, today the American Institute for Public Service is bestowing on Richard Garrett one of the highest awards a civilian can receive. In a ceremony at the U.S. Supreme Court, he will be presented with the Jefferson Award for his tireless service to his fellowman.

Richard Garrett has set an outstanding example of public service for us all to follow. I want to be counted among those who salute this fine American on the day he receives this most prestigious award. All I can add is my hope, and that of many other South Carolinians, that Richard Garrett will keep up his good work, and that others will see in him an example of how they can serve their fellowman.

CONCLUSION OF MORNING BUSINESS

Mr. DOLE. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The PRESIDING OFFICER. Under the previous order the Senate will now resume consideration of the pending business, H.R. 4961, which will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The Senate resumed consideration of the bill.

AMENDMENT 1978

The PRESIDING OFFICER. The pending question is the amendment of the Senator from New Jersey (Mr. BRADLEY).

On the bill, Senator DOLE has 7 hours and 25 minutes, and Senator LONG has 8 hours and 7 minutes.

On the Bradley amendment, Senator DOLE has 15 minutes and 19 seconds, and Senator BRADLEY has 1 minute and 15 seconds.

Mr. DOLE. I thank the Chair.

Mr. President, I suggest the absence of a quorum, with the time to be charged equally to each side on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. (Mr. HAYAKAWA). Without objection, it is so ordered.

AMENDMENT NO. 1978, AS MODIFIED

Mr. BRADLEY. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The modification is as follows:

Section 284 of the proposed amendment is modified to read as follows:

PART II—MODIFICATION OF CERTAIN RATE SCHEDULE PROVISIONS

SEC. 284. MODIFICATION OF CERTAIN RATE SCHEDULE PROVISIONS.

(a) IN GENERAL.—Section 1 (relating to tax imposed) is amended to read as follows:

"SECTION 1. TAX IMPOSED.

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2(a)), a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	12% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 13% of the excess over $5,500.
Over $7,600 but not over $11,900	$504, plus 15% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,149, plus 17% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,846, plus 20% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,644, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,656, plus 27% of the excess over $24,600.
Over $29,900 but not over $35,200	$5,034, plus 33% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,624, plus 38% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,758, plus 42% of the excess over $45,800.
Over $60,000 but not over $85,600	$16,864, plus 46% of the excess over $60,000.
Over $85,600	$28,640, plus 50% of the excess over $85,600.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 12% of the excess over $5,500.
Over $7,600 but not over $11,900	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,465, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,790, plus 35% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,645, plus 40% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,885, plus 42% of the excess over $45,800.
Over $60,000 but not over $85,600	$16,849, plus 46% of the excess over $60,000.

Over $85,600	$28,625, plus 50% of the excess over $85,600.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2(b)) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	12% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 13% of the excess over $4,400.
Over $6,500 but not over $8,700	$504, plus 15% of the excess over $6,500.
Over $8,700 but not over $11,800	$834, plus 18% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,392, plus 20% of the excess over $11,800.
Over $15,000 but not over $18,200	$2,000, plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,672, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,997, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,534, plus 37% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,548, plus 39% of the excess over $34,100.
Over $44,700 but not over $60,600	$11,894, plus 46% of the excess over $44,700.
Over $60,600	$19,208, plus 50% of the excess over $60,600.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800	$791, plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,806, plus 36% of the excess over $23,500.
Over $28,800 but not over $44,700	$5,714, plus 39% of the excess over $28,800.
Over $44,700 but not over $60,600	$11,915, plus 46% of the excess over $44,700.
Over $60,600	$19,229, plus 50% of the excess over $60,600.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	12% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 13% of the excess over $3,400.
Over $4,400 but not over $8,500	$251, plus 15% of the excess over $4,400.
Over $8,500 but not over $10,800	$866, plus 17% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,257, plus 20% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,656, plus 21% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,097, plus 25% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,865, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,349, plus 34% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,045, plus 39% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,165, plus 42% of the excess over $34,100.
Over $41,500 but not over $55,300	$11,421, plus 47% of the excess over $41,500.
Over $55,300	$17,907, plus 50% of the excess over $55,300.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 12% of the excess over $3,400
Over $4,400 but not over $6,500	$241, plus 14% of the excess over $4,400
Over $6,500 but not over $8,500	$535, plus 15% of the excess over $6,500
Over $8,500 but not over $10,800	$835, plus 16% of the excess over $8,500
Over $10,800 but not over $12,900	$1,203, plus 18% of the excess over $10,800
Over $12,900 but not over $15,000	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,737, plus 26% of the excess over $18,200
Over $18,200 but not over $23,500	$4,115, plus 38% of the excess over $23,500
Over $23,500 but not over $28,800	$6,129, plus 42% of the excess over $28,800
Over $28,800 but not over $41,500	$11,463, plus 47% of the excess over $41,500
Over $41,500 but not over $55,300	$17,949, plus 50% of the excess over $55,300
Over $55,300	

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	12% of the excess over $1,700.
Over $2,750 but not over $3,800	$115, plus 13% of the excess over $2,750.
Over $3,800 but not over $5,950	$252, plus 15% of the excess over $3,800.
Over $5,950 but not over $8,000	$574, plus 17% of the excess over $5,950.
Over $8,000 but not over $10,100	$923, plus 20% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,322, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,828, plus 27% of the excess over $12,300.
Over $14,950 ut not over $17,600	$2,517, plus 33% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,312, plus 38% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,379, plus 42% of the excess over $22,900.
Over $30,000 but not over $42,800	$8,432, plus 46% of the excess over $30,000.
Over $42,800	$14,320, plus 52% of the excess over $42,800.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115.50, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$241.50, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$542.50, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100	$870.50, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,248.50, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,732.50, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,395.00, plus 35% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,322.50, plus 40% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,442.50, plus 42% of the excess over $22,900.
Over $30,000 but not over $42,800	$8,424.50, plus 46% of the excess over $30,000.
Over $42,800	$14,312.50, plus 50% of the excess over $42,800

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,050	12% of taxable income.
Over $1,050 but not over $2,100	$115, plus 13% of the excess over $1,050.
Over $2,100 but not over $4,250	$252, plus 15% of the excess over $2,100.
Over $4,250 but not over $6,300	$574, plus 17% of the excess over $4,250.
Over $6,300 but not over $8,400	$923, plus 20% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,322, plus 23% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,828, plus 27% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,517, plus 33% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,312, plus 38% of the excess over $15,900.
Over $21,200 but not over $28,300	$5,379, plus 42% of the excess over $21,200.
Over $28,300 but not over $41,100	$8,432, plus 46% of the excess over $28,300.
Over $14,100	$14,320, plus 50% of the excess over $41,100.

"(2) FOR TAXABLE YEARS BEGINNING IN 1984 AND THEREAFTER.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115.50, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$241.50, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$542.50, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400	$870.50, plus 18% of the excess over $6,300
Over $8,400 but not over $10,600	$1,248.50, plus 22% of the excess over $8,400
Over $10,600 but not over $13,250	$1,732.50, plus 25% of the excess over $10,600
Over $13,250 but not over $15,900	$2,395.00, plus 35% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,322.50, plus 40% of the excess over $15,900.
Over $21,200 but not over $28,300	$5,442.50, plus 42% of the excess over $21,200.
Over $28,300 but not over $41,100	$8,424.50, plus 46% of the excess over $28,300.
Over $41,100	$14,312.50, plus 50% of the excess over $41,100.

"(f) DETERMINATION OF APPLICABLE TAX RATE.—In the case of taxable years beginning in any calendar year after the first calendar year beginning after December 31, 1983, in which ends a fiscal year for which the outlays of the Federal budget do not exceed receipts, the following tables in paragraphs (1), (2), (3), (4), and (5) shall apply in lieu of the tables contained in paragraph (2) of subsections (a), (b), (c), (d), and (e), respectively:

"(1) MARRIED FILING JOINTLY AND SURVIVING SPOUSES.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$231, plus 12% of the excess over $5,500
Over $7,000 but not over $11,900	$483, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,085, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,741, plus 18% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,497, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,465, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,790, plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,645, plus 33% of the excess over $35,200.
Over $45,800 but not over $60,000	$9,772, plus 38% of the excess over $45,800.
Over $60,000 but not over $85,600	$15,168, plus 42% of the excess over $60,000.
Over $85,600 but not over $109,400	$25,920, plus 45% of the excess over $85,600.

Over $109,400 but not over $162,400	$36,630, plus 49% of the excess over $109,400.
Over $162,400	$62,600, plus 50% of the excess over $162,400.

"(2) HEADS OF HOUSEHOLDS.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$483, plus 14% of the excess over $6,500.
Over $8,700 but not over $11,800	$791, plus 17% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,318, plus 18% of the excess over $11,800.
Over $15,000 but not over $18,200	$1,894, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,534, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,806, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,290, plus 32% of the excess over $28,800.
Over $34,100 but not over $44,700	$6,986, plus 35% of the excess over $34,100.
Over $44,700 but not over $60,600	$10,696, plus 42% of the excess over $44,700.
Over $60,600 but not over $81,800	$17,374, plus 45% of the excess over $60,600.
Over $81,800 but not over $108,300	$26,914, plus 48% of the excess over $81,800.
Over $108,300	$39,634, plus 50% of the excess over $108,300.

"(3) CERTAIN UNMARRIED INDIVIDUALS.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 12% of the excess over $3,400.
Over $4,400 but not over $6,500	$241, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,500	$535, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,800	$835, plus 16% of the excess over $8,500.
Over $10,000 but not over $12,900	$1,203, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,581, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,001, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,737, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,115, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,705, plus 34% of the excess over $28,000.
Over $34,100 but not over $41,500	$7,507, plus 38% of the excess over $34,100.
Over $41,500 but not over $55,300	$10,319, plus 42% of the excess over $41,500.
Over $55,300 but not over $81,800	$16,115, plus 48% of the excess over $55,300.
Over $81,800	$28,835, plus 50% of the excess over $81,800.

"(4) MARRIED INDIVIDUALS FILING SEPARATELY.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$241, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$542, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100	$870, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,248, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,732, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,395, plus 28% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,137, plus 33% of the excess over $17,600.
Over $22,900 but not over $30,000	$4,886, plus 38% of the excess over $22,900.
Over $30,000 but not over $42,800	$7,584, plus 42% of the excess over $30,000.
Over $42,800 but not over $54,700	$12,962, plus 45% of the excess over $42,800.
Over $54,700 but not over $81,200	$18,315, plus 49% of the excess over $54,700.
Over $81,200	$31,300, plus 50% of the excess over $81,200.

"(5) ESTATES AND TRUSTS.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$241, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$542, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400	$870, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,248, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,732, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,395, plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,137, plus 33% of the excess over $15,900.
Over $21,200 but not over $28,300	$4,886, plus 38% of the excess over $21,200.
Over $28,300 but not over $41,100	$7,584, plus 42% of the excess over $28,300.
Over $41,100 but not over $53,000	$12,960, plus 45% of the excess over $41,100.
Over $53,000 but not over $79,500	$18,315, plus 49% of the excess over $53,000.
Over $79,500	$31,300, plus 50% of the excess over $79,500.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(The names of the following Senators were added as cosponsors of Amendment No. 1978, as modified: Mr. LEVIN, Mr. MITCHELL, Mr. ROBERT C. BYRD, Mr. BIDEN, Mr. EXON, and Mr. GLENN.)

Mr. BRADLEY. Mr. President, as we begin debate this morning on the amendment that has been offered on behalf of the Democratic Caucus, I think it is important to keep in mind the economic circumstance of the country. We are in the deepest recession since the Great Depression. We have the highest real rates of interest in our Nation's history, and we are confronted with a budget deficit that is more than double the biggest budget deficit in our history.

At the same time, median family income fell by 3.5 percent in 1981 compared to 1980. Thirty-two million Americans, 14 percent of the population, are below the poverty line and, indeed, there is a cry among both Democrats and Republicans to change our economic circumstances.

Congress, consistent with the Budget Committee and the Senate as a whole, has decided that we must reduce the deficit. And we have decided that the way to reduce the deficit is by cutting spending and increasing taxes.

That brings us to the present tax bill that was reported from the Committee on Finance. This bill raises taxes by nearly $100 billion in the next 3 years, the biggest tax increase in our Nation's history, and it cuts spending by close to $17 billion in that same period of time.

As we look at the legislation that has come from the committee, the reconciliation bill, it is our conclusion that this bill is not fair, that it places a disproportionate burden on middle- and low-income people, and that it unduly benefits upper income people. It does not force them to share equitably in our effort to reduce that deficit and put our economy on a path of economic growth.

That brings us to the amendment that is now before the Senate. It is an amendment that attempts to eliminate the more regressive aspects of this tax bill and spending package, and makes it more consistent with the stated purpose of the committee in its report, which was a fair tax bill that promotes tax reform and reduces the deficit.

Mr. President, if a Senator is for increasing the tax on small business, if a Senator is for burdening that small enterprise at a time when it must hire people if we are to get out of this recession, then that Senator would have to vote against my amendment.

If a Senator is for increasing unemployment taxes and adding to the already heavy burden borne by labor-intensive businesses, then that Senator will have to vote against my amendment.

If a Senator is for telling people who have medical expenses and casualty losses that they will no longer be able to deduct them if they are under 10 percent of their adjusted gross income, then that Senator will have to vote against this amendment.

If a Senator says he is for increasing the tax on each package of cigarettes that an American citizen buys and on each telephone call that an American citizen makes, then that Senator will have to vote against this amendment.

If a Senator is for telling older Americans who are receiving care in their homes and not in nursing homes or hospitals because they have home health care, if a Senator wants to tell that person that he has now to pay a fee for that home health care service, then that Senator would have to be against this amendment.

If a Senator is for increasing the premium for medicare, then the Senator would have to be against this amendment.

If a Senator is for increasing the out-of-pocket expenses that an older American has to pay for medicare, then that Senator will have to be against this amendment.

And if that Senator is not only for increasing the out-of-pocket cost for medicare for senior citizens in this country, but also for indexing that cost to the CPI, which means telling that senior citizen that 2 years from now if there is higher inflation who knows what he is going to have to pay in increased medicare costs, then that Senator will be against this amendment.

I hope that there will be enough Senators who do not want to increase the unemployment tax, who do not want to deny legitimate medical deductions and casualty loss deductions, who do not want to increase excise taxes, who do not want to decrease the services to older Americans on medi-

care and sick in their homes, I hope there will be enough Senators who do not want to do that and who will support this amendment.

Mr. President, to pay for the changes I am proposing, my amendment envisions deferring the third year of the tax cut due in July of 1983 for some Americans—not all Americans, some Americans.

If you are a couple with income under $46,500, you will get, under this amendment, the full tax cut in July of 1983. If you are an American family with income between $46,500 and $78,000, you will get a percentage of the tax cut in July of 1983.

If, however, you are an American family with income over $78,000 then, under this amendment, you will have to defer that 10-percent tax reduction until this Congress balances the budget.

Now, Mr. President, is it too much to ask those individuals who earn over $78,000 to defer their 10-percent tax cut until we balance the budget in order to prevent increased costs for medicare, increased costs for small business, increased costs for those people who use their telephones every day, and increased costs for those senior citizens who are receiving home health care services?

Mr. President, I would argue that that is not too much to ask. I would argue that if this bill is about fairness, then this is clearly the fairness amendment. It simply says that those with incomes over $78,000 will defer their tax cut until Congress balances the budget. And I have great expectations that that will happen in the near future. That is all this amendment says.

Now, what about those individuals who make more than $78,000 who are being asked to defer those tax cuts? Do they benefit from the tax legislation that was adopted in August of 1981? Of course they do. They are the income class that has most benefited from the reduction in the top rate from 70 to 50 percent that I supported and that most Senators supported. They have already benefited from this. And they should share in the sacrifices necessary to reduce this budget deficit.

So, Mr. President, this is an amendment which, as modified this morning, will raise a little over $25 billion and that will spend, through decreased taxes and foregone spending, roughly $22 billion. This leaves a $3 billion cushion to reduce the deficit even more.

Mr. President, I would argue that this is a fair amendment. This is an amendment that challenges those who advocate a fair tax bill to live up to their advocacy and not put a disproportionate burden on senior citizens, on small businesses, and on working people who are trying to get ahead. At the same time, this is an amendment which would reduce the deficit and get the economy back on the path of economic growth. I reserve the remainder of my time.

Mr. DOLE. Mr. President, I hope that when this amendment is disposed of—and I hope it will be defeated, obviously—that it will signal that we can start moving rapidly on other amendments, both on the spending side and the revenue side, so that we can really get into this bill before the day is over. Having devoted most of yesterday to a matter primarily under the jurisdiction of the Commerce Committee except for the user fees, I suggest that this is really the first full day of work on the tax bill itself.

I certainly want to accommodate my colleague from New Jersey. I have indicated to him that we will not raise a point of order that this amendment is not germane. The amendment is clearly not germane, but I am prepared, after discussing it with the majority leader, to waive that point of order and have a vote on the Bradley amendment.

But I would say at the outset that that will not be, hopefully, construed as precedent for other nongermane amendments that will be offered. This is a key amendment from the Democratic standpoint. It is one that I think should be offered. We indicated in our committee deliberations that we would try to find a way to do it and I think this would satisfy that request.

Mr. BRADLEY. The chairman of the Finance Committee does indicate correctly that this is the Democratic alternative amendment. The chairman did say in the Finance Committee that he would try to accommodate us with an up-or-down vote and I appreciate his willingness to do so and also the majority leader's willingness.

Mr. DOLE. As long as it is understood that this, of course, does not establish precedent. If we lose, it may establish precedent and we will probably have a new chairman of the Senate Finance Committee. But, otherwise, there will be no new ground broken.

The amendment proposed by the distinguished Senator from New Jersey would defer part of the third year of the individual tax cut until, as he has indicated, outlays are less than receipts, in order to eliminate some of the health program changes in the committee bill and to eliminate five of the tax provisions.

The amendment would phase out of the 1983 tax cut above $35,200 taxable income joint returns. So that for over $60,000 taxable income, there would be no tax cut at all, or at least not until some future date. I am not certain when that will come.

The 1983 tax cut would be modified for all taxpayers' joint returns with incomes over $35,200, reducing the size of the tax cut progressively up the income scales so that at the time of the income of a $60,000 joint return there would be no tax cut at all in 1983.

This amendment, as we understand its modification, would raise about $25 billion in 1982 through 1985. It would leave, as I understand it, a cushion of about $2.5 billion in additional revenues.

I would say at the outset that clearly the amendment is not germane. We did not have any reference to the third year in the committee amendment, in the bill adopted by the committee, but I think more importantly we have already agreed that even though it is not germane, there will be a vote on the amendment. The important point is that this amendment is basically a net tax increase over what is in the bill and a spending increase as well. It eliminates slightly over $20 billion of revenue increases already in the Finance Committee bill. The amendment as outlined would eliminate modest changes in excise taxes, mild changes in medical and casualty deductions, the unemployment insurance system, as well as health program changes that make good policy sense from the standpoint of controlling health care costs and making certain these costs are shared equitably.

In return, the amendment, rather than raising revenues by cutting a wider swath through the tax loopholes or trying to broaden the tax base cuts back on the only real tax relief middle-income, average taxpayers have gotten in many years.

This is not what one would call a fairness amendment. It does just the opposite. Fiddling with the third year is just another way of evading the tough fiscal decisions we all have to make in the years ahead. After working all year to develop a budget consensus, hopefully bipartisan, why unravel the budget by tampering with the third year and risking a Presidential veto? The full third year tax cut is a promise made to the American working people that must be kept.

I would say we have come a long way in the past several weeks, in the past several months. I can recall not too long ago many of my colleagues on the other side were saying we ought to eliminate all of the third year, there should not be a third year in the tax cut, even though the Senate by a vote of 89 to 11 adopted the Economic Recovery Act last year. The vote in our committee was 19 to 1.

But shortly after that, with the recession, there was a lot of discussion, a lot of good debate, well-intentioned debate, purely motivated for the most part, but the basis of it was that we ought to do away with the third year of the tax cut. Now we see a shift because we understand that now that the tax cut is in place, the first 10 per-

cent, and the next 10 percent is coming next July, the American working men and women are beginning to understand it is probably not a bad thing, probably something that our economy needs.

Interest rates are starting to come down. Discount rates have been reduced. The Fed Chairman before the Senate Banking Committee yesterday indicated things are going to get better. I assume we are relying on the tax cuts and the social security increase to the 7.4 percent adjustment effective July 1 to help us in this recovery.

So I commend the Democrats for not trying to go after all the third year. Now it is only a portion of the third year.

Now we hear it is geared to the rich, that the rich should not have any tax cut. We have heard that argument before.

It would seem to me that the President has made it very clear that one thing that is not negotiable is the third year of the tax cut. That was the position adopted by the Senate Finance Committee. It is the position adopted on this floor I do not know how many times, probably a dozen times, that we should not tamper with the third year.

I would urge my colleagues on both sides of the aisle who believe in tax cuts, who believe in reducing marginal rates—and these are going to be increased if we should adopt this amendment—not to support this amendment.

I am somewhat surprised that the distinguished Senator from New Jersey, one of the early advocates of the flat-rate tax, is now coming before us trying to do two things that he suggests we ought to do in his flat-rate-tax proposal.

In his flat-rate tax proposal there is no reference to casualty. Now he wants to save casualty. No cutback.

He would repeal that in the so-called Bradley-Gephardt flat-rate tax provision. He would also cut back the medical deduction. I guess in the Bradley proposal that would be 10 percent where it was originally in our bill, but I lowered that to 7 yesterday because I thought 10 percent frankly was a little too stiff.

I suggest that we are attempting in this bill before the Senate—not in the amendment but in the bill before the Senate—to flatten out the system, to broaden the tax base, to put more pressure on our committee and the House Ways and Means Committee to take a look at tax loopholes, to take a look at inequities in the system. We have done that.

The Senator from New Jersey said last night, and I thank him for it, that maybe 60 percent of the bill before us is good tax policy. Maybe 40 percent is not good tax policy.

We would agree that there is some good tax policy in the bill before us. Maybe the percentages are debatable. In my view, it is about 80 to 85 percent that is good tax policy. Perhaps there might be better ways to make other changes, but I suggest this is not the way to do that.

What would be eliminated on the tax side?

The cigarette tax. The committee bill just doubles the 8 cents per pack cigarette tax. It has not been raised since 1951 on the Federal level, while prices have more than doubled.

Had we had indexing all that time I guess the increase would have been about 25 cents, almost 30 cents.

In addition, this change may help discourage youth from becoming first-time smokers. There are some reports available that indicate that would be a factor, the price. If you smoke 200 packs a year, the committee suggests it will be another $16. If you really smoke, maybe $16 does not make any difference. Again, it is an excise tax and the Senator from Kansas understands that. It is not the best way to raise revenue. It is a way used by States in these areas, primarily. Again, we have not changed this provision in over 30 years.

The telephone tax. There is a very modest change in the telephone tax. This tax has been as high as 10 percent. We just raised it to 2 percent in 1983 and 1984 and 3 percent in 1985. This means only a 20-cent increase in a $20 phone bill next year. In addition, this might be regarded as a fee for the use of the telephone system which is substantially regulated in the interest of providing adequate service across the country at a reasonable price.

FUTA. That is another change made. We made this change in FUTA to help State and Federal unemployment insurance programs which are seriously underfunded. The trust fund is estimated at $16.9 billion in deficit in fiscal year 1982, and raising the rate from 0.7 to 0.8 percent helps finance the Federal share of extended benefits and administrative costs. We are told that 23 States currently have a higher taxable rate base than the Federal Government, so that is not any serious problem.

The medical deduction. The floor increase, to 7 percent, limits the deduction to genuine hardship cases where unusually large medical expenses are incurred.

I might say that though I am not certain what will happen on the House side, I believe this 7 percent may be even smaller by the time we finish in the conference.

A higher floor reduces the administrative complexity and makes tax computation less complicated.

The casualty deduction, which is a flat tax proposal, the Senator eliminates completely, but in our bill the floor on this deduction has not been raised since 1963 and the existing amount is unrealistic. It needs to be changed to insure fairness to low-income taxpayers.

Then I would refer briefly to the changes on the health side.

The Senator from Kansas knows of no single organized group, representing medicaid or medicare beneficiaries, or anyone else, who really is discouraged about what was done in the Senate Finance Committee.

At the rear of the Chamber on my left, we have a chart showing the medicare cost savings by source from fiscal years 1983 through 1985. A careful reading of that chart will indicate that hospitals and other institutions are going to absorb about 49.3 percent of our savings, physicians about 18.9 percent, employers and health insurance plans 15.5 percent; and beneficiaries only about 16.3 percent. We should also look at what the costs of these programs have been. We are looking now at medicare. We were told in 1965 that if we were not careful, medicare could cost as much as $9 billion by 1990. However, medicare is in the 1983 budget at $60 billion, and it is now estimated will cost over $115 billion by 1990.

Rather than stand here and wring our hands and agonize about America's senior citizens, we really ought to be concerned about preserving the program. If Congress does not have the courage to take some action now on hospital costs, on physicians' costs, and on copayments, what we are doing in effect to beneficiaries is saying, "OK, we have medicare now but we may not have medicare 10 years from now because it costs too much."

The same is true of medicaid. The combined State and Federal cost is about $36 billion. It seems to this Senator that the minor adjustments we made were simply a signal that we must address health care costs in this country. I would say that they were so modest and, I hope, so responsible that hardly anyone has come forth to say that we have gone too far.

Mr. President, it is one thing to make a political point. It is one thing to stand up on the Senate floor and say, "Oh, you are going after old people." What if we lose the program? What if we cannot afford the program? How are we going to finance the program? The minor cost sharing changes made in the program, in the view of this Senator, are long overdue. Last year we did not do much in that area. This year, in an effort to preserve and save medicare, our committee—in this case it was a bipartisan vote in our committee, 13 to 6—decided it was time to take some incremental steps to make reductions on the medicare side. What did we do?

On the part B deductible, the change in the committee bill is procompetition, because it reasserts cost as a factor in the patient's decision to seek care and by whom that care will be provided. The deductible in recent years has not been in line with actual program costs due to medical costs rising faster than inflation as a whole.

The part B premium change also deals with rising program costs: A constant 25-percent level over 3 years involves both beneficiaries and taxpayers in the effort to keep things under control, in the interest of preserving the ability of the trust fund to cover urgent health care needs.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOLE. Mr. President, I yield myself 5 minutes on the bill.

The home health copayment is a very, very modest step. Copayments will increase beneficiary awareness of the cost of services and discourage overutilization. GAO reports overutilization: In 1981, almost 30 percent of home health visits they reviewed should not have been covered or were questionable. In 1978, Blue Cross also testified there was overutilization. Cost sharing is the simplest way to insure self-discipline.

Mr. President, I do not quarrel with my colleagues on the Democratic side but I do believe that, after we vote on this amendment, we can then, maybe, join ranks and complete action on this bill today. As I look at the provisions in the bill reported by the committee, I would again say they were not put together overnight or in 2 or 3 days. It is a matter of 5 or 6 months' effort on the part of the Joint Committee on Taxation staff, the Senate Finance Committee staff, and others who had an interest in which way we were going.

The same is true on the spending side. On the revenue side and the spending side, we have been under a constant review process in the Finance Committee since early this year. So it was not hastily done.

It is not perfect. I say one thing: I would infer, maybe inaccurately, from the proposal now presented by the Senator from New Jersey on behalf of the Democratic policy luncheon yesterday, that everything else in the bill must be OK because they did not raise anything else. So there should not be any need to go into any of those other provisions. If we can dispose of this amendment, maybe we can address those specific changes referred to—telephone tax, casualty loss deduction, the FUTA change, cigarette tax, medical deduction, and the various health provisions. That would wrap up the bill fairly quickly.

Mr. LONG. Mr. President, will the Senator yield at that point?

Mr. DOLE. Yes, I yield.

Mr. LONG. I am happy to make these remarks on my time.

When the Senator says he approves of certain things in the bill, he speaks for himself. As far as the Senator from Louisiana is concerned, there is something in this measure that is far more serious, though it only involves $150 million, than the whole $17 billion the Senator is talking about raising.

I am talking about the fact that, since the beginning of this Government, it was clearly understood that the Federal Government has no right to tax the State governments and the State governments have no right to tax the Federal Government; that there is implicit in the Constitution and the Union of the States a contract whereby each will permit the other to exist.

Last night, the Senator from Louisiana had the opportunity for the first time to read a statement that was made first before the Finance Committee in 1969 when this matter was being considered, and which he will put in the record in due course. It makes it very clear that in ratifying the 16th amendment, the States were assured that this did not mean that the Federal Government was to have the right to tax the interest on the bonds of State and local governments.

Incidentally, the Governor of New York at that time told the New York Legislature they should hold up on ratification of the 16th amendment because it might be so construed. His name was Charles Evans Hughes, a great Governor, who subsequently became Chief Justice of the U.S. Supreme Court.

At that point, the sponsors of the 16th amendment in the Senate, Senator Brown and Senator Borah, took the floor and said that nothing of that sort is contemplated by the 16th amendment, that it gives the right to tax without apportionment but it clearly does not extend the right of the Federal Government to tax the State or its instrumentalities. That doctrine recognized that the power to tax is the power to destroy.

May I say to the chairman of the committee, this matter simply has not been focused on or given the study it deserves. Most Senators who will vote on it have not accorded themselves the benefit of reading a brief I have which shows that it is unconstitutional for the Federal Government to tax the States. I am informed that this would mean an increase of 1½ percentage points on the bonds issued by State and local governments, and that the cost to the State governments, even immediately, would exceed severalfold the income that the Federal Government would make from the increased taxes.

For example, the minimum tax applies to a relatively few people, but no one who is paying a minimum tax is going to buy those bonds unless the interest rate on the bonds is raised. The result is that interest costs will be raised for all the bonds, which would tend to work out to a windfall for those not paying the minimum tax.

The point is that the very survival and independence of State and local governments is at stake here. I hope very much that, before we conclude consideration of this measure, I say to the chairman of the committee, we would at least defer this item—it is not a big revenue-raising item—so that we can focus on it and do justice to it and everybody could acquaint himself with the background, the court decisions, and the history of this whole subject matter. I honestly fear that Senators here in 1982 are not familiar with what Senators knew back in 1920. At that time, they understood what the history of the 16th amendment was. Today, very few do. The Senator from Louisiana was chairman of the Finance Committee when every member now serving there arrived on the scene, except for those who became members last year. I did not think particularly I would live that long or be a Senator that long.

But even I, I say to the Senator, was not familiar with the background of this subject, and I think Senators owe it to themselves, especially when they take their oath of office to uphold the laws of the United States, on a matter of this significance, to familiarize themselves before they vote on it, confessing myself that I did not thoroughly understand all this. I feel it is the duty of every Senator to do in considerable measure what this Senator has done, to familiarize himself with what this is all about before we dispose of it. I do not for a moment challenge the intellectual honesty of the Senators. I only suggest that each of us owes it to the State that we represent to take the time to focus on this matter so that we are satisfied in our judgment that we are doing what is best for the country when we vote on it. I hope before we dispose of the matter the Senator might be willing to take the time to familiarize himself with the information I would be happy to provide him.

Mr. DOLE. I would be very pleased to have the information. I might say to the Senator from Louisiana that that is a very sensitive area. I think our concern was that there are a number of Americans who—maybe that is not why you impose taxes—make a great deal of money and pay no tax because they invest their money in tax-exempt bonds.

I think another thing that is frustrating is how the system over the past 10 years strayed away from public-purpose to private-purpose bonds and all the revenue we are losing there, which is going to be a

real problem in the next 8 to 10 years. Maybe we can discuss that between now and the time we get to that point and work out something to the satisfaction of the Senator from Louisiana.

But I would conclude on this issue by saying maybe I overstated it when I said that this must mean that the other side is for everything else in the proposal. At least I thought it would be worth an effort to float that idea.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I should like to respond to just a few of the points that the distinguished chairman made. I guess I should respond to the one that struck home most personally, his comments about the Bradley-Gephardt bill, which we are not considering now. Nonetheless, what he did say about the medical and casualty components are true, but he left one thing out. In exchange for cutting back on these deductions, Bradley-Gephardt drops the tax rate to 14 percent for 75 percent of the American people. Under the present tax law, only about 25 percent of the American people pay a 14-percent rate. Under Bradley-Gephardt, it would be 75 percent, so what he forgot to tell Senators was that there is a big carrot out there waiting.

I argue that indeed that approach has some relevance to the debate we are having today. Why are we closing all these loopholes? Sixty percent of the tax bill closes loopholes. Why? Because we have the biggest budget deficit in the country's history. Why? Because we gave the biggest tax cut in the country's history about a year ago.

What is the problem with that? The problem is that you cannot cut tax rates one year and then a year later begin to close some loopholes to raise revenues without in the interim risking a recession because of the deficit this approach creates.

That is what has happened. If the chairman is really committed to closing loopholes in the future and dropping marginal tax rates, I hope that he does it simultaneously instead of creating a deficit and causing unemployment of over 10 million people in the interim.

However, that is not the issue with this amendment. I merely want to set the record straight about the comments made concerning Bradley-Gephardt, which I hope we will talk about on the floor at length at some time.

I am prepared to yield to the distinguished Senator from West Virginia, who wants to make a comment. Let me just emphasize that the point of this amendment is that 85 percent of American taxpayers will get their full tax cut in July of 1983. Only 15 percent will not get their full tax cuts. It is important to keep that in mind—only taxpayers with $78,000 in adjusted gross income and above will not get any additional tax cut.

Mr. BUMPERS. Will the Senator yield just for a question?

Mr. BRADLEY. I am prepared to yield to the leader.

Mr. BUMPERS. Just for a question.

Mr. BRADLEY. For a question.

Mr. BUMPERS. The Senator just said that if this amendment passes and if you make over $78,000 a year, you will not get the tax cut in 1983 and that only 15 percent of the people will not get that tax cut, according to the Joint Committee on Taxation. When we were debating what we euphemistically called the Economic Recovery Tax Act of 1981, it was said that only 4 percent of the people of the United States make over $50,000, so where did the Senator get the 15 percent?

Mr. BRADLEY. Fifteen percent comes from the tax returns, from the IRS.

Mr. BUMPERS. I am going to ask the Joint Taxation Committee sometime today to give us updated statistics, but in my opinion only 5 percent of the people in the United States have incomes over $47,000 a year. If the amendment of the Senator is graduated from roughly $40,000 to $50,000 up to $78,000, he is probably saying that there is only no more than 2 percent of the people in the country that will not receive a tax cut.

Mr. BRADLEY. I say to the Senator that I was dealing with tax returns, not with the number of people.

Mr. BUMPERS. I will check that out.

Mr. DOLE. Mr. President, may I respond not to the distinguished Senator from Arkansas, but again I do not have any quarrel with the amendment because I know it is offered for good, valid, political purposes, and Republicans would do the same. I do suggest that what we are doing is changing the rates. When you get into taxable income ranges, $35,200 to $45,800, the 1980 marginal rate was 43 percent under present law, in 1984 it is going to be 33 percent, and under the Bradley amendment it is 41 percent.

So you are raising the rates, there is no question about it. And I will put this chart in the RECORD to indicate how it would affect other taxable income brackets.

Nevertheless, it is a last stand on the third year. This is in effect the last stand. Everything else has been tried. First they were going to defer it. Then they were going to trigger it and tie it into some economic theory that nobody understood.

They are nibbling away. Now they are going to try to take away part of it. First take it all. If you cannot take it all, defer it all. If you cannot defer it all, take part of it. If you cannot get any of it, defer part of it. And that is sort of the string that has been run out on the third year.

So I ask my colleagues to keep that in mind when we vote. I do not want the RECORD to indicate that because of a tax cut passed last year which took effect in October has brought down the need for tax reform. Some of these things that we have reformed in the Tax Code have been there for 10, 15, 20 years. Only about two changes are based on what was passed last year.

I hope that we can debate those more fully after this amendment is disposed of. I yield the floor.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. I yield to the distinguished minority leader. I yield 5 minutes or as much time as he needs from the bill, if it is all right with the chairman.

Mr. ROBERT C. BYRD. Mr. President, who is in charge of the time on this side?

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROBERT C. BYRD. I thought so.

The PRESIDING OFFICER. The Senator from West Virginia may proceed.

Mr. ROBERT C. BYRD. Mr. President, I strongly support the fairness amendment offered by Senator BRADLEY and strongly supported by the Democratic Caucus on yesterday.

I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, this amendment guarantees that the working men and women of America and all middle class Americans and lower income taxpayers will receive the full benefit of the 1983 tax cut, and it begins to correct some of the radical giveaways of the Kemp-Roth tax cut for the richest among us. In fact, everyone who makes less than $78,000 a year will receive some part of the 1983 tax cut. Anyone who makes less than $46,500 a year will get a full third-year tax cut.

This is a true middle class relief amendment that says the middle class is staggering under an already unbearable burden of taxation and we should not add to that now. Instead of increasing taxes for the middle class, as the Republican-controlled Finance Committee would do, the Bradley amendment turns back the new and highly regressive taxes on tobacco and telephones. The committee bill would triple the tax on telephones so that each time we reached out to touch someone, the Federal Government reaches deeper into the wallets of the middle class, the working man and woman, the small businessman. The committee bill would double the Fed-

eral tax for cigarettes, and this is a tax that hits our working citizens, our middle class, our lower class, the hardest.

On top of these burdens, the tax bill would increase the cost of losing one's home or suffering a major illness. If the majority party in the Senate has its way, citizens will owe more taxes to the Government if they get sick or if they have their homes wiped out.

The tax bill would even increase the cost of hiring new workers at a time when the unemployment rate is at postwar record high. By increasing the cost of unemployment insurance, the majority party would be forcing small businesses across the country to choose between laying off even more people, reducing their profits even further, or passing on those increased costs to consumers.

The Democratic fairness amendment would spare middle-class citizens and small businesses all of these new and burdensome taxes by making one simple request: That is, the richest people should bear their fair share of taxes. The radical Kemp-Roth tax cut has already given the vast majority of its benefits to the richest people. Now we are saying in the Democratic fairness amendment that this massive distortion should be corrected.

The Democratic fairness amendment saves our working citizens from more taxes, but it also prevents cuts in vital medicare programs that would greatly increase the cost of health care for our Nation's elderly people. Just as we have begun to make strides against the most debilitating diseases of old age, this tax bill would put many of these treatments beyond the reach of older citizens.

This, then, is what the Democratic fairness amendment would accomplish: By asking the richest citizens to bear their fair tax burden, we can spare the middle class from large new tax increases, and we can save our Nation's elderly from suffering massive increases in the cost of health care.

So, those are the results of the fairness amendment, Mr. President. That is why I hope my colleagues on both sides of the aisle will join in supporting this change: We would keep taxes off the backs of the middle class and the lower income people of this country, and we would save the elderly from higher medical bills. Those are sound reasons to support this amendment.

The bottom line is that this amendment protects the small business people of this country, the elderly people of this country, the working men and women of this country, and the middle and lower income people of this country by getting the upper income guy to pay his fair share of the tax burden.

Mr. LEVIN addressed the Chair.

Mr. BRADLEY. Mr. President, I yield 4 minutes to the Senator from Michigan.

Mr. LONG. I yield 4 minutes on the bill to the Senator from Michigan.

The PRESIDING OFFICER (Mr. BOSCHWITZ). The Senator from Michigan.

Mr. LEVIN. Mr. President, the amendment of the Senator from New Jersey goes a long way to correct some of the unfairness in last year's tax bill.

This amendment preserves the benefits of the third year of the tax cut for at least 85 percent of our taxpayers, as represented by tax returns.

For those who believe in demand-side economics, this means that the purchasing power of the taxpayers will be increased so that they can contribute to the fiscal stimulus which will still likely be needed next year, as the economy limps along with an unemployment rate of over 8 percent.

For those who believe in supply-side economics, this means that the vast majority of the taxpayers will still have the full incentives to save and invest, which last year the President said were vital to the success of his economic program.

The only taxpayers who will be asked to sacrifice the full benefits of the third year of the tax cut will be our wealthier Americans, who were the prime beneficiaries of provisions in last year's tax bill, such as the reduction in the rate of unearned income from 70 percent to 50 percent and the reduction in the estate tax. These were also the taxpayers who were barely touched by the spending cuts which were enacted as part of last year's reconciliation bill.

The report by the Congressional Budget Office indicates that households with incomes of $80,000 and over will receive 70 times the net benefits from Reaganomics in fiscal 1983 that households with incomes between $10,000 and $20,000 will receive. Clearly, the current economic program does not equitably share the tax burden.

This amendment will allow middle income and low income households to catch up with wealthier Americans in terms of proportionate tax benefits received. It will add some fairness to the current program. It does that at the same time that it allows for the elimination of certain portions of the Finance Committee bill which are regressive, such as the increase in the telephone excise tax. It also allows us to restore some of the Finance Committee's cuts in medicare, which would have a devastating impact on some of the most vulnerable citizens in our society.

Mr. President, I hope this amendment receives broad support. It deserves it.

I thank the Senator from New Jersey and the Senator from Louisiana for yielding.

Mr. BRADLEY. Mr. President, I yield 1 minute to the Senator from Alabama on the bill.

Mr. LONG. I yield 1 minute to the Senator from Alabama.

Mr. HEFLIN. I thank the Senators for yielding to me.

TEN PERCENT WITHHOLDING RATE ON INTEREST AND DIVIDENDS

Mr. President, I oppose the Finance Committee's proposal to impose a 10-percent withholding rate on interest and dividends.

No one in this body supports efforts to move toward a more responsible Federal fiscal policy than I. Like a majority of my colleagues, I realize that if we are to reduce the massive Federal deficit which continues to stifle our economy, we must be willing to take the steps necessary to reach this goal. However, the Finance Committee's proposal, in my opinion, will have adverse effects on our economy, as well as individual savers and investors.

Under current law, there is no withholding requirement for interest and dividends, and it is up to the individual taxpayer to report this income to the Internal Revenue Service as he or she does all other income. The Finance Committee proposal would change current law by requiring commercial and financial institutions to withhold 10 percent of the interest and dividends paid to individuals, partnerships, and certain trusts. While the Finance Committee made some last minute alterations in this bill, excluding single taxpayers who paid less than $600 in taxes in the previous year and couples paying less than $1,000, I still believe the proposal is ill-conceived. Not only would this provision simply add more complicated and needless regulations to our already complex tax system, I believe it would do very little toward raising new revenues.

First, withholding on interest and dividends will be very costly because it will impose an enormous administrative burden on all financial institutions. These institutions will be faced with substantial costs in designing and putting into place withholding systems to deal with the vast array of investments and financial services offered to the public. For example, it has been estimated that implementation of the withholding provisions will require the issuance and processing of over 400 million exemption certificates. These higher costs will, in part, be passed onto the public as higher service charges and interest rates.

Furthermore, under this proposal, the public will incur increased over withholding of income taxes. Presently, taxes are over withheld on more than three-fourths of individual tax returns. Many taxpayers will end up having to reclaim from the Government money which should not have

been withheld in the first place. The effects of over withholding will be most severe on elderly persons because of the relatively high proportion of their income which derives from interest and dividends.

In addition, there will be a loss of earnings to those taxpayers who would have reinvested the dividends and interest withheld from them. The proposal will serve as a disincentive to savings and investment, since it would deny investors the use of the withheld funds which are normally reinvested and compounded.

If the purpose of the proposal to withhold tax on interest and dividends is to increase compliance, I believe this goal can be better achieved through improvement of the information reporting system. This plan would result in far less cost and inconvenience to the public and would avoid overwithholding and the reduction in yield which would result from withholding on accounts where interest is compounded frequently. This plan would also avoid further intrusion of Government regulation and forms into the lives of millions of savers and investors. I believe it is premature to implement a mandatory withholding system until we have made serious attempts to improve our information system.

Mr. President, the withholding scheme put forth by the Finance Committee is inefficient in view of the revenues estimated to be produced, the lost earnings to shareholders and depositors on money withheld from them, the administrative cost of collection and the processing of exemptions and claims for refunds. In my opinion, this is simply not a cost-efficient way of raising revenue. The implementation of this system would require not only legislation, but regulations and interpretations of those regulations. This proposal represents a departure from recent efforts of Congress to reduce the regulatory burden of Government on all Americans, and is a regressive step in the administration of our tax laws. I urge my colleagues in this body to oppose this unfair and unwarranted proposal.

PROPOSAL TO REQUIRE RESTAURANT OWNERS TO REPORT THEIR EMPLOYEES' TIP EARNINGS

Mr. President, I oppose the Finance Committee's proposal to require restaurant owners to report their employees' tip earnings. This is exactly the kind of scheme that I have opposed in the past on the grounds that it discriminates wrongfully against a particular group of citizens in our society. It is clear that, if interest rates are to come down, then we must seek out additional sources of revenue and that we must be willing to make certain sacrifices to this end. But, by the same token, it is wrong to place an unfair and unnecessary burden on anyone in our society simply because it is expedient to do so.

The proposal by the Finance Committee to require restaurant owners to report their employees' tip earnings to the Internal Revenue Service would impose an unfair, and perhaps damaging, burden upon the entire restaurant industry.

The restaurant industry is one of the last strongholds of small business remaining in the United States. As with all small business, the restaurateurs were buffeted by runaway inflation in the 1970's, and have recently had to struggle with recession. During the recent years of high inflation, these small businessmen were forced to conduct business as they saw their costs skyrocket; and, recently, they have seen their sales decline as recession robbed them of patrons. Now the Finance Committee has come forth with a proposal which threatens to put many of these hard-working Americans out of business entirely.

It seems to me that the IRS and the Finance Committee are simply going about solving this issue in the wrong way. They correctly perceive a problem in that a large portion of tip income goes unreported. Although the IRS has probably overestimated the amount of such income that is not reported, it is still possible that it could, indeed, be substantial. The Federal Government is certainly entitled to taxes accruing from such moneys, but it should not rely upon private citizens, in effect, to become revenue agents. This is precisely what the Finance Committee proposal would require individual restaurateurs to do. Restaurant owners would be required to keep records of their employees' sales and their tips. Furthermore, the owners would be charged with doing all the paperwork, which should be the province of the Federal Government. This would constitute an unnecessary and unfair financial burden upon the small businessman. It has been estimated that the paperwork due to charge sales alone would cost the restaurant industry $250 million next year. If cash sales were added to that assessment, the cost would indeed be much greater.

But the prospect which worries the restaurant industry the most is that they would become de facto representatives of the Government as regards to tax matters. In an industry in which employee/employer relations are of paramount importance, this state of affairs would be most damaging. This is the prospect which most frightens men and women in the restaurant industy.

As an alternative to the Finance Committee's proposal, the restaurant industy has volunteered to take upon itself the task of educating its employees in the matter of compliance with our income tax laws. I believe this is a viable alternative to the Finance Committee's proposal, and one which is certainly less harmful to the restaurant industry.

We in this body must remind ourselves that we are here to protect the citizens of our States. And even in the face of a massive Federal budget, we must remember that we should not discriminate against certain of our constituents simply because it makes our task easier to do so. The restaurant industry is representative of the free enterprise system on which our Nation was founded, and it would be a grave error to ask these men and women to bear a burden which should be placed upon their Government.

DIVIDEND REINVESTMENT IN COMMON STOCK OF CERTAIN PUBLIC UTILITIES

Mr. President, I rise to oppose the proposal in this bill which would repeal tax-deferred dividend reinvestment plans for public utilities.

Last year, as part of the Economic Recovery Tax Act, the Congress approved an amendment to the Internal Revenue Code which allows individual shareholders to defer the payment of Federal income taxes on dividends that are reinvested in new common stock of certain public utilities. The primary purpose for including this provision in the Economic Recovery Tax Act is to permit the generation of new equity capital which is essential for costly utility construction and maintenance projects. It was believed at that time that this provision would do much to increase capital formation which is so important to economic recovery. I believe that capital formation is still vital to economic recovery, and there are clear indications that these financial incentives have begun to accomplish this objective.

In recent years, public utility companies have not been able to earn adequate rates of return on their investments primarily due to the combined effect of energy price increases and regulatory pressures. Dividend reinvestment plans are important capital formation mechanisms which go to the heart of the need of the public utility industry.

A recent study indicates that, among 22 qualifying utility companies, there was more than a 26-percent increase in equity capital flowing to utilities with qualified dividend reinvestment plans in the 3 months following implementation of the plan. Furthermore, the level of equity capital generated by nonqualifying plans before and after the effective date of the dividend reinvestment plan remained constant, as compared to the increase in qualified utilities. This is clear evidence of the success of dividend reinvestment plans in generating equity capital for public utilities.

I am also concerned over the effect this provision would have on the shareholders who have purchased public utility stocks in reliance on the

dividend reinvestment provision. Eliminating the income exclusion of qualified reinvestment plans creates uncertainty and could have a very detrimental impact upon the participation by shareholders in public utility companies.

Dividend reinvestment plans for qualifying corporations have only recently been enacted, and I believe they must not be terminated until their full effectiveness can be properly evaluated. As I have stated, there is clear evidence that this incentive is accomplishing the objective of providing public utility companies with a much needed supply of capital. By eliminating this proposal now, we would remove an incentive enacted to help public utility corporations overcome the difficulties they have had in recent years in raising needed capital from external sources. I urge my colleagues to join me in opposition to this untimely and unwarranted proposal.

PROPOSAL TO CHANGE THE MEDICAL DEDUCTION AND RAISE THE EXCISE TAX ON TELEPHONES

Mr. President, a few weeks ago I delivered a speech in this Chamber to express my strong opposition to a number of tax proposals being considered by the Finance Committee at that time. Many of those proposals have now been dispensed with by the Finance Committee; however, a number of them still remain. I feel that I must again speak out against certain measures in this bill which are designed to increase the already heavy tax burden borne by the Nation's poor and middle-income citizens. While many of the proposals in this package make changes and clarifications in the tax law which are based on sound policy justifications, others are mere attempts to raise the taxes of the average working American.

Last year, Congress, in a compassionate and historic action, approved an unprecedented tax cut for the people of this country. While the Economic Recovery Tax Act of 1981 was not a perfect bill, I nonetheless supported it because I believed then, and I believe now, that the American taxpayer deserves and needs relief from taxes. Now the Finance Committee has come forth with a package of proposals designed to chip away bit by bit at the meager tax breaks we gave the American people last year. These proposals are being justified by the committee as necessary in order to reduce the Federal deficit and begin the task of rebuilding our economy. In my opinion, however, it is merely another attempt by Congress to balance the Federal budget at the expense of the American taxpayer.

Placing this additional burden on the backs of the average American taxpayer is unwarranted, particularly during these difficult times when most Americans are struggling to merely make ends meet. We have an obligation and a duty to insure that any new tax initiatives are fair to all Americans. The new proposals offered by the Finance Committee clearly fall short of this standard.

First, the committee proposes major changes in the method taxpayers deduct their medical expenses. Under current law, a taxpayer may deduct up to $150 for one-half of health insurance premiums. Also, a deduction is allowed for all other unreimbursed medical expenditures to the extent that these expenses exceed 3 percent of adjusted gross income. Under the proposal in this bill, the amount of insurance premiums that can be deducted would be lowered to $100 and the 3 percent floor on the medical expense deduction would be increased to 7 percent. Increasing the floor on the medical expense deduction to 7 percent will virtually eliminate this deduction for millions of taxpayers, including elderly citizens and those beset by major medical problems. Income which is used for medical expenses does not increase an individual's net wealth, and therefore, should not be taxed. In fact, taxpayers who suffer unavoidable medical expenses have a diminished ability to pay their income taxes, and this diminished ability should be reflected in tax liability as fully as possible. All of us in this body are aware of the staggering cost of medical care. Putting this deduction out of reach of most lower- and middle-income Americans is simply unfair, unfeeling, and fiscally unsound.

Furthermore, the Finance Committee proposed to increase the Federal excise tax on telephones to 2 percent in 1983, 3 percent in 1984 and 1985, and 2 percent for years after 1985. Under current law, a 1 percent excise tax is imposed on amounts paid for local telephone service, toll service, and teletypewriter exchange service. In my opinion, this is a tax which should have been eliminated long ago and one which Congress has committed itself on a number of occasions to allow to expire. Increasing excise taxes on telephones is once again placing a disproportionate share of the tax burden on the Americans least able to pay. In today's society, the cost of telephone service is a necessary expenditure, and it is absolutely inappropriate for Congress to impose a special tax on that expenditure.

Like most of my colleagues in this body, I believe that the key to economic recovery is eliminating the massive Federal deficit which we have allowed to increase year after year through runaway Government spending. But I think we often lose sight of the average American taxpayer and the impact of taxes on the working men and women of our country. We must never forget that it is the average taxpayer who pays the bulk of taxes in this country. Congress cannot once again ask the American people to shoulder an even heavier tax burden.

I appeal to my colleagues to stand firm against the proposals to modify the medical deduction or increase taxes on telephones.

Mr. BRADLEY. Mr. President, I yield 5 minutes to the Senator from Arkansas on the bill.

Mr. LONG. I yield 5 minutes to the Senator on the bill.

Mr. BUMPERS. I thank the Senators.

Mr. President, the chairman of the Finance Committee deserves a lot of credit for many things in this bill. I think he showed a great deal of courage and a great deal of statesmanship with respect to some of the things he and I agree on, particularly safe harbor leasing, which is probably, next to indexing, the most irresponsible thing the U.S. Senate ever adopted.

I know that he feels as strongly about abolishing safe harbor leasing as I do. I know he has to operate within the limits of the committee, so I applaud him for what he was able to accomplish.

There were some other things in there. I do not agree totally with the Senator from Louisiana on the industrial revenue bonds because I do think that industrial revenue bonds have been abused.

Mr. LONG. Mr. President, if the Senator will yield, I am not talking about industrial revenue bonds. I am talking about taxing the States.

Mr. BUMPERS. I am sorry. I misunderstood that.

But in any event I intend to support what we call the fairness amendment of the Senator from New Jersey. I applaud him for bringing it up, because this tax bill would again impose tax burdens on the people who can least afford it, while again giving additional relief to the people who need it least. We have our priorities exactly in reverse.

Mr. President, I have heard the Senator from Louisiana giving a great illustration of what this bill does.

Let us assume a man is getting ready to take a trip on an airplane. He telephones the airport long distance, so he will have to pay an extra tax on his telephone call. He heads for the airport and stops to buy a pack of cigarettes. The bill will tax him for that. Then he gets out to the airport, and we will say that the airplane has left. He missed his plane. He returns home to find that the plane has crashed into his home, and he cannot deduct much of the casualty loss to his house on his income tax return. His wife and children were injured in the wreck and hospitalized for a year, and they cannot deduct much of their hospital bills.

That is admittedly a farfetched, hypothetical illustration. Yet it drama-

tizes and I hope highlights to the American people what we are doing here.

Let us take my State of Arkansas. I always have to admit we are unhappily among the poorest of the poor. I always say thank God for Mississippi because we are 49th in just about everything. We have a lot of poor people in this country. I saw statistics yesterday which showed that the number of people in this country living below the poverty line is the highest since 1967, and that has happened since January 1, 1981.

I am afraid that under this bill, an 80-year-old widow who is totally dependent on SSI and medicaid payments and thinks that she may have something wrong with her, will go to the doctor for treatment. But, due to the nominal copayments provided for in this bill, the doctor might say: "Mrs. Jones, unless you have $2 in your billfold to pay for this examination, I am not going to be able to treat you because this comes under the heading of preventive care. You go home, and when you are really sick we will put you in the hospital and it will not cost you $2. Go home, and wait until this illness is more severe, and then it will not cost you anything."

The problem with this provision is that it is going to cost the State of Arkansas and the Federal Government much more because she could not get a little preventive care from the doctor's office simply because she did not happen to have $2 in her billfold.

Hubert Humphrey used to stand here and say: "We talk about national health insurance in this country, but what we really mean is national sick insurance because it never applies until someone gets sick."

The Ford Motor Co. proved years ago that they could save 25 to 30 percent on their health insurance costs by requiring everyone who worked for them to have a physical examination every year.

Yet, here we are saying that an 80-year-old SSI recipient cannot get preventive health care unless she can come up with some nominal copayment.

As a practical matter very few doctors and hospitals are going to refuse to take the woman that I just described. But this provision will be put into medicaid, a program that serves the health needs of poor. Many of the medicaid recipients don't have any money. But, if we insist on requiring copayments among those who can scrape up the money, we will find that the doctors and the hospitals are going to spend twice as much on administrative expenses. Therefore, a nominal 50 cent to $3 copayment may end up costing them money.

The Finance Committee estimate is that the U.S. Government will save $42 million in fiscal year 1983, $47 million in fiscal year 1984, and $53 million in fiscal year 1985 from this provision. I doubt that.

So what are we doing? We are imposing all these niggling taxes, that supposedly add up to a lot of money, on the people who received the least relief last year under the Economic Recovery Tax Act.

Compare that result with this amendment. It would preserve the full tax cut for nearly everyone. As the Senator from New Jersey has said, if you make $47,000 or less, which 98 percent of the people in Arkansas make. Therefore, under this amendment, they are going to get their full tax cut next year. The wealthiest of the wealthy people in the country have already gotten theirs. The very first year of the tax cut, 1981, we reduced the top rate from 70 percent to 50 percent, so those people were really taken care of. They have already been taken care of.

What else do we do for them in this? We leave the safe-harbor leasing in place so General Electric can make $2½ billion and pay few taxes now and in the future.

If we think we are going to ever convince the American people that we have a fair tax system, it will not be by letting a company such as Occidental Petroleum make $950 million and avoid paying taxes, when DALE BUMPERS can tell to his constituents that he paid $40,000 more in income tax last year than General Electric did, we will not convince the American people that we have a fair tax system. I can tell Senators they are wading against the tide. It is not fair. It is unfair, and the Senator from New Jersey correctly calls this the fairness amendment, because it certainly is more fair than what we are about to do.

It is not going to prevail, but I applaud him. I applaud him for designing it and at least giving some of us who feel strongly about these things an opportunity to stand up and say what we really believe.

This amendment is far better than relying on this bill with provisions such as the one reducing the holding period on capital gains rate from 1 year to 6 months. There are not too many Members of this body who even knew that provision was in there.

Consider a little history of the capital gains tax. It goes back to about 1921. But the principal capital gains rate in this country was put into effect in 1942 during World War II. The Revenue Act of 1942 provided for a 6-month holding period and excluded 50 percent of any subsequent gain from tax.

When I came to the Senate in 1975 the maximum rate on capital gains was 49 percent.

I sold the biggest asset I owned the year after I came to the Senate, and for 3 years paid 49 percent on the gain. It was all gain. Then, the Senator from Wyoming (Mr. HANSEN) introduced an amendment, saying, "This is not fair. Forty-nine percent is too much to pay on gain. We are killing investment in this country. The alienation of property is a principle we have all adhered to."

Suddenly, he had 57 cosponsors—although I was not one of them. They agreed: From now on if you hold a piece of property for 1 year and than sell it at a gain, you only pay a maximum tax rate of 28 percent.

Bear in mind, if you happened to be an assembly-line worker out there making $18,000 a year, you are in the 28-percent category. Naturally, everyone started looking for tax shelters. The argument was that the rate reduction was in exchange for increasing the holding period to 1 year. That has been the law since 1978.

In passing the Economic Recovery Tax Act, which has proved to be everything in the world except an economic recovery action, we abandoned the 28 percent and adopted a 20-percent maximum. Bear in mind that is a 29-percent cut in the capital gains tax rate since 1978. Now 1 year later we say that you no longer have to hold a piece of property 1 year but only 6 months.

I am not going to bore you with the statistics, but I am telling you that 25 percent of the capital gains rate advantage in this country goes to the top 4 percent of the income earners in this country. Let me repeat that: 25 percent of the advantage of this outrageous capital gains rate goes to the wealthiest 4 percent of the people in the country, just as did that tax cut we passed last year.

The PRESIDING OFFICER. The time allotted to the Senator has expired.

Mr. BUMPERS. I yield the floor.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum and I ask unanimous consent that the time be charged equally to both sides on the bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I yield 5 minutes on the bill to the Senator from Delaware.

Mr. ROTH. Mr. President, I would like to publicly congratulate the leadership role the chairman of the Committee on Finance has exercised in designing this tax bill.

As is well known, I have not been a supporter of a tax increase at this

time, but recognizing that it was important for Congress to move on to some kind of a budget I agreed to support the revenue enhancement in the interest of getting a budget enacted by this Congress as early as possible.

As I listen to the comments on the floor, I have been somewhat surprised and shocked, because in the years I have served in Congress never have I seen stronger support for the work of the Committee on Finance than I have in the editorials of the leading newspapers across the country. As I listened here you would think this was a biased tax increase that only benefited the rich when, in fact, editorial after editorial has pointed out the contrary.

For example, the Washington Post has stated that this was an extremely important reform, and among the most important reforms was the committee's decision to reduce the generous business tax breaks voted last year.

The New York Times recently editorialized and said that it was Chairman DOLE's achievement to turn this expedient approach into a fine tax bill.

The Boston Globe said that the Dole package has merit because it can get Congress moving toward the closing of loopholes too often used by clever persons and corporations simply to dodge taxes rather than to pursue the economic ends for which the benefit was originally designed.

Mr. President, as I said, there is editorial after editorial showing that this package is designed to eliminate loopholes and to create fairness. I think that ought to be kept in mind by those who are trying to change its provisions, some of which I, too, disagree with.

I am particularly concerned about the attack on the individual tax cut. I think that for years economists have been arguing that it is important that we reduce the marginal rate of taxation and that if we must tax we must move in the direction of consumption taxes.

The fact is that this country has been saving too little, the American working people have been paying too high taxes, and this tax package does not change the benefits of the legislation enacted last year. There is no step more important than reducing the marginal tax rate on all working people. This is important not only for those who benefit by the tax cut but for those who are unemployed as well because it is only by savings, it is only by becoming competitive in world markets, that we once again are going to be able to create jobs and a growing and vigorous economy.

To try to change the third year tax cut at this late stage would be a step in the wrong direction. No one argued in the 1960's among the liberals that the Kennedy tax cut, which was an across-the-board tax cut, was unfair. It was recognized that it was essential as a step to revitalize the economy. What was true in the 1960's is just as true in the 1980's.

I listened with some interest when they started talking about eliminating the tax cut for those making more than $40,000, because if was not too long ago on this floor of the Senate that there were those who were arguing that Members of Congress should receive a special tax deduction because it was impossible for Members of Congress to live on $60,000.

Well, without going into the debate on that matter, I would just underscore that it is important that we keep the across-the-board tax cuts, because the principal purpose of reducing the marginal tax rate is to promote savings. A number of economists have pointed out recently that savings are increasing. After falling to roughly 4 to 5 percent, individual savings have moved up to 6 percent and it is anticipated that it could go as high as 7 to 8 percent in the next 2 or 3 years. But that depends upon maintaining the across-the-board tax cut for all working Americans.

So I think it would be a fatal flaw to eliminate the third year tax cut, to in any way modify, amend, or to create uncertainty.

The one thing we want to do in our tax program is to promote savings, to create certainty and to provide the funds for investment. I think the Finance Committee has achieved these goals by this tax package and for that reason I would urge the defeat of the amendment of the Senator from New Jersey. I yield back the floor.

Mr. GRASSLEY. Mr. President, I yield myself 5 minutes.

I just listened to the remarks of the Senator from Delaware and, obviously, I agree with him. But I would simply say to the Senator from Delaware that each month that passes by, each vote we have, you are getting victory in bits and pieces as the opposition admits that they really cannot turn the tide that has supported the progress that the Senator has made so far in bringing the great tax benefits to our country in the reductions of the Roth-Kemp legislation. A year ago the opposition wanted to repeal it. And then they wanted to delay it. Now they would like to have one small moral victory by just affecting a very small slice of it.

So the Senator from Delaware can see that he is making considerable progress, which is nothing more than saying, obviously, the people of the country support the position that he has held for the last 7 or 8 years on the provisions of the 3-year tax cut.

Mr. President, we have before us a balanced tax bill, we have a fair tax bill, and, more importantly, we have probably one of the most reasonable tax bills ever to come before this body.

I think if we look at where we were in February, when we first started talking about the general subject of the budget—as that may have included at that time, and probably did, the possibility of some tax increase, to reduce the deficits but primarily putting the emphasis on the budget side of reducing expenditures—if you will look to where we have come since February, we have made tremendous progress. In fact, I think it is nothing short of a miraculous happening that we are where we are today talking about a tax bill that is so balanced and so fair and so reasonable and also meets the mandate of the budget resolution of cutting expenditures.

I say it is a miraculous step because the White House had been very reluctant in the early months of this year to talk about a piece of tax legislation. On the other hand, I would say this as a member of the Finance Committee and a member of the majority party, I never found the White House standing in our way as we were going down the road that has brought us to where we are today.

We also have, I think, a legitimate fact to state at this point that the Ways and Means Committee of the other body that has the constitutional responsibility to start all tax legislation, has been very reluctant to move out ahead. Maybe because the other party controls that other body and they did not want to test the waters the way that we Republicans are testing the waters and coming forth with this legislation. But we have had an abdication of constitutional responsibility by the tax writing committee of the other body in not moving forward as they should have in helping solve the deficits by closing tax loopholes and raising revenues.

I think it is miraculous that we have arrived at where we are today. Because everybody has been nervous about moving out in front on any tax bill, even been nervous somewhat in moving out in front on any cut in expenditures. But we at least did that. Obviously, that is a little more popular at the grassroots than raising taxes. And I would even maintain that closing loopholes is not raising taxes but bringing fairness and reasonableness to our tax laws.

But Senator DOLE and the majority party of the Senate Finance Committee tested the water. We stuck our toe in the water and found out that the water really was very comfortable and then eventually we jumped in and, by a vote of 11 to 9, brought this package to the floor for consideration today.

Now, I think, considering what the prospects were for doing this in February, that it is nothing short of miraculous that we have gotten to the point where we are today. But why? Because members of the Senate Finance Com-

mittee, and particularly the chairman, were willing to face down the lobbyists, the special groups that legitimately carry the causes that they believe in, which causes we have to weigh against the public good in arriving at a decision to bring this bill to the floor. But they were faced down.

I am a new Member of this body, but at least what I perceive to be the policies of the past were "You scratch my lobbyist and I will scratch your lobbyist," those sorts of practices have been abandoned in arriving at the provisions in this bill.

I think that facing down the special interests as we have tried to close loopholes is quite an accomplishment. What did we get out of it? Something that every Member of this body has campaigned on—simplifying the Tax Code and making the Tax Code a fairer instrument of public policy. And that is so important, because the perception of fairness to the people at the grassroots is what is at the very basis of the voluntary compliance aspects of our tax policies in this country which have made them so successful, a success never reached by any of the governments of any other countries.

The only sin I can see in what has happened since we started down this road last February is that Republicans might be accused of turning our backs on some of those business interests that we have been accused of supporting in the past. But if that is all we are accused of in this process—and we are only accused of that because we are closing some loopholes and making the Tax Code simpler and fairer—then I think that is something that we are going to have to live with. That is something I can live with. It is something that the opposition party maybe has been accusing us of for so long.

As I said yesterday in my remarks to the Senator from New Jersey, I would think instead of coming out here with a piece of legislation that he has, raising objections to $22.8 billion of this bill, because of taxes he does not like and because of expenditure reductions that he does not like, he ought to be applauding us for what we are doing here. What you ought to be doing is jumping on the bandwagon and saying: "Finally there are some people controlling this body who have the intestinal fortitude to move ahead to accomplish under the leadership of Senator DOLE, some of those things we have talked so long about accomplishing, but which no one could ever accomplish before.

I would think that the Senator could sacrifice talking about the few faults he has found with this bill because of all the good that it accomplishes.

I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BRADLEY. Mr. President, I yield 5 minutes to the Senator from Nebraska from the bill.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been on the floor during all the debate this morning. I want to join my colleague in saluting the excellent leadership of our colleague, Senator DOLE, the chairman of the Finance Committee. He has done an enlightening job. It has been so enlightening that several editorials have been mentioned in the debate this morning. I took a look at the one from the Los Angeles Times of July 9, which salutes Senator DOLE, but brings out something that we should bear in mind as we hear some of the oratory going forth on the floor this morning.

Senator Robert Dole, of Kansas, chairman of the Senate Finance Committee, seldom lost the lead last year in the race to cut Federal taxes—a race that overshot the finish line by billions of dollars. But he also was among the first to admit that Congress went too far, and he has now become the first to do something about it: moving to trim the massive Federal deficit.

It goes on to say:

The Dole plan would do in bits and pieces what he would have preferred to do in one stroke by canceling the 10 percent cut in personal taxes scheduled for next year. President Reagan would have no part of that; Dole and his Republican majority did not press it.

That is the end of the quotation from the editorial.

I am led to believe by the debate I have heard this morning that this action that we are contemplating here, with the amendment being offered by the Senator from New Jersey, somehow is a continuation of that 89-to-11 vote last year in the Senate and the 19-to-1 vote in the Finance Committee to report out that bill that the Los Angeles Times editorial referred to.

Let us set the record straight. This is a reversal and not a continuation of that grandiose plan. I think we better admit it here and now. This Senator was one of those 89 who voted favorably for that bill. We went too far.

Whether or not we eventually pass the recommendations of the Finance Committee now, with the Bradley amendment or without it, I think it should be clear to all that this is a corrective measure and not a continuation of the glorious march that culminated at the ranch in California last August when the President of the United States, in signing that bill, announced that a new day had dawned.

A new day truly had dawned, a day that helped intensify the recession, helped keep the highest real interest rates in our history.

Mr. President, let me speak for a moment to the Bradley amendment. One thing that I think we should realize and recognize is that the Bradley amendment does not do great violence, in the opinion of this Senator, to the goals of the majority of the Finance Committee, led by its able chairman. It is just doing it in a different fashion.

Some in this body this morning seem to want to protect above everything else, and the Senator from Kansas said it well: One thing the President of the United States said was not negotiable, the 10-percent tax cut scheduled for July of next year.

The Bradley amendment is one that I think has a great deal of fairness connected with it. Still, in the opinion of this Senator, it does as much if not more to reduce the deficit which remains a major concern to all of us.

Mr. President, I yield the floor.

Mr. LONG. Mr. President, I yield 3 minutes to the Senator from Ohio.

Mr. GLENN. I thank the Senator.

Mr. President, we are here this morning voting on this amendment basically because the President will not admit he is wrong. We have a massive tax cut we put in last year which was too large. The honest thing would be to reduce the enormity of that tax cut. But instead of doing that, what we giveth on the one hand we are going to taketh away with the other—by increasing taxes, as we are doing with this bill.

I rise to speak in support of Senator BRADLEY's amendment to postpone the third year of the tax cut.

We can call this all sorts of fancy names—revenue enhancement, such things as have been referred to on the floor here this morning. We can point out the editorial support across the country for the absolutely outstanding job that the chairman of the Finance Committee has done on this bill, once he was assigned the task of raising $20-some billion and nearly $100 billion over 3 years. But that just belies the fact that the basic problem is that the tax cut is too big. All that euphoric wave of confidence that was supposed to sweep over the business community in this country did not occur. We did not see the great recovery that was forecast. We see interest rates at monumentally high, record levels. We see unemployment at high levels. We see housing starts down, auto sales down, plant capacity running only at about 70 percent for this country, with steel plant capacity at 42 percent. The ripple effect of this goes, in fact, around the world. So we are talking about a worldwide recession that is at least in part induced by the American economy.

Yet the President will not back off and say, "Yes, we made a mistake. Yes, we should postpone that 10-percent tax cut next year. Yes, we should back off to 6 or 7 percent at the least so that we make up this money honestly and straightforwardly by undoing

some of the mammoth tax cuts that we put in last year."

That is the basic issue at hand.

President Reagan and the Republican majority insisted on a different kind of tax package than what I wanted last year. I proposed last year that we go with a much smaller tax cut package but one targeted more to business and investment where we would create jobs and maintain employment. We did not do that. We went with one that is 80 percent skewed to middle and upper income people. By Mr. Stockman's own figures, unless that money comes back in investment on the order of 50 to 75 percent, we will in fact have made our economy worse instead of better. That is exactly what has been happening.

President Reagan and the majority insisted on a different kind of tax package, one that was based on massive individual cuts and greatly accelerated depreciation schedules for industry. They told us over and over again that just as soon as we passed that tax package, a new wave of confidence would wash over our economy and recovery would immediately follow.

Well, Congress enacted the President's entire package and our economy took an immediate turn all right, but it was a turn for the worse.

Interest rates are higher than at any time since 1932, unemployment lines longer than since 1938, farm income at its lowest level in American history, and the rates for business bankruptcies and bank failures are the highest since the Great Depression. Housing starts, auto sales, and plant capacity utilization rates are at the lowest rate in decades.

As this dismal record indicates—Reaganomics has disrupted, rather than stimulated our economy. The administration's tax policy has weakened, rather than conserved our economic strength and its overly liberal tax cuts for individuals have had a radical impact on the marketplace—radical in the most fundamental sense of that word.

The dictionary tells us that "radical" means going to the very roots of a thing—and the Kemp-Roth tax cuts have gone to the very roots of business confidence in our economy. And those roots have been shaken with a vengeance. What this so-called, conservative administration fails to understand is that a private enterprise economy, such as ours, rests on a very thin edge of confidence. Abrupt changes in direction create uncertainties that raise questions about our future course. The specter of an uncertain future breeds caution and indecision, inhibits risk-taking, stifles investment and checks economic growth essential to the creation of new goods, services and, most important of all, new jobs.

Last year's tax cuts reduced revenues over a 5-year period by $750 billion or 25 percent. Combined with a projected increase in defense spending of $1.6 trillion, this fiscal policy threw fear into the hearts and minds of Wall Street investors, small businessmen and American consumers. They realized, as even the most thickheaded supply side economist must now understand, that you can not cut revenues and increase spending without causing massive deficits, high interest rates and widespread unemployment.

They realized that the massive deficits created by these tax cuts would not be balanced by reductions in nondefense spending. They realized that these deficits would continue long into the future and that they would sustain interest rates so high that the prospect of profitable investment would disappear. They realized that without the prospect of profitable investment, job opportunities would diminish and unemployment would continue to worsen. Sadly, all this has come to pass and the future is bleak.

For the second year in a row, the administration has projected deficit and economic growth figures that have proven to be wildly optimistic. And this week, a survey of leading economic forecasters reveals a widespread loss of confidence in our economy's capacity to grow.

This loss of confidence permeates our economy. Whether your point of view is that of Wall Street, main street or the union hall—the future appears uncertain. And this uncertainty is killing our hopes and turning dreams into nightmares. Rather than moving boldly to implement plans and realize ambitions, Americans are "hunkering down" and hedging their bets; postponing investments and foregoing purchases—all the while looking for a hopeful sign, a promise of economic stability and moderation on which they can plan their future.

And what do Americans see when they look to Washington? Instead of believable promises, they see a cruel hoax. They see their President, whose fiscal policy promises to increase the national debt by one-half in just 4 years, leading a public demonstration in support of a balanced budget. What is that but a cruel hoax? If the President is truly serious about balancing the budget, let him start here and now by supporting the Bradley amendment.

Instead of a careful bipartisan effort at broad-based tax reform, Americans see the Republican majority railroad a measure through the Finance Committee, a measure that neglects the fundamental cause of our projected deficts, the Kemp-Roth tax cut. What is that but a cruel hoax? If the Republican majority is truly serious about restoring confidence in our fiscal policy—let them start here and now by supporting the Bradley amendment.

Mr. President, I am serious about restoring confidence in our Government's fiscal policy. I am serious about decreasing deficits, lowering interest rates and reducing unemployment. And I know that we cannot solve our current fiscal problems or restore confidence in the future through public demonstrations and half-hearted tax reform. We must act to reduce deficits now and eliminate the uncertainty they breed about the future. The only way we can accomplish these goals in this Congress is through passage of the Bradley amendment. I urge my colleagues to support it.

Mr. President, I ask unanimous consent that an editorial from the Washington Post be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 20, 1982]

WHAT COMES AFTER REAGANOMICS?

This week is probably going to mark a turning point of some considerable significance in economic policy—although in what direction it will turn, no one can yet say. The economic theories that President Reagan brought to Washington have now been discredited by events. Orthodox economics has, sadly, been confirmed, and all the original hard choices are still there to be made. There's little sign of any new initiative from the administration.

Increasingly, the making of policy is being left to the other players in the game—the Federal Reserve Board, Congress, the banks and the industrial corporations—to try to work around the intractable circumstances that Mr. Reagan and his too-large tax cut have created. There is rising alarm among businesses at the prospect of continued high interest rates. There's many a well-managed, productive company that is simply not viable when the banks lend at 10 percentage points above the inflation rate. Inflation has to be slowly pulled down. But how much damage to the country's industrial structure is justified by the present progress?

The week's events began yesterday, when the Federal Reserve Board lowered the discount rate—the rate at which it lends to commercial banks—by half a point. That is a statement of policy, intended to signal a measured and careful push toward somewhat lower rates. Today, the chairman of the Federal Reserve, Paul Volcker, will deliver his mid-year appraisal before the Senate Banking Committee. The Federal Reserve cannot go far in this direction without inciting new fears of another wave of inflation. But the board has evidently decided that the dangers of a deepening recession now outweigh the danger of renewed inflation.

On the subject of the recession, the Commerce Department will publish on Wednesday the gross national product—the broadest measure of economic activity—for the second quarter of the year. A month ago, there was a lot of good cheer coming out of the administration to the effect that the recession had clearly ended and the quarter's GNP would show a recovery under way. The preliminary figures for June have apparently not borne out that optimism. The thought of the coming income tax cut seems

to have had remarkably little impact on spending. If the GNP numbers on Wednesday suggest that the recession is continuing, a heavy shadow falls over the outlook for the rest of the year.

On Friday, the consumer price index for June will appear. The CPI showed an extraordinarily low rate of inflation through the first four months of the year, and was frequently cited by the administration. But those low figures were misleading, as the May CPI suggested. Inflation is declining, but much more slowly than those earlier statistics indicated.

At this point in the second summer of the Reagan administration, its two central economic ideas have failed the test. Both of them sought to avoid the pain and costs of the conventional counter-inflationary recession by invoking the magic of anticipation. If a president promises a huge tax cut, the supply-siders said, people will see it coming and will begin to save and invest in anticipation, creating a boom in production and productivity. The administration's monetarists claimed that a president's promise of monetary restraint would, by the sheer psychological force of anticipation, stabilize wages and end inflation without the customary layoffs and bankruptcies.

These ideas got a fair trial, and they have collapsed. There is no evidence whatever that there was any anticipatory effect, or that there will be any. On the contrary, the tax cuts have greatly added to the upward pressure on interest rates. The country is now in a recession from which present policy offers no plausible recovery. Others, if not Mr. Reagan, are now consequently beginning to change that policy.

Congress is moving courageously to pass a tax bill. The Federal Reserve is embarking on its own cautious adjustments. Mr. Reagan meanwhile began the week by leading the cheers at a rally for a constitutional amendment to balance the budget—an amendment that would take effect some years after his present term ends.

Mr. LONG. Mr. President, I yield 3 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, I rise to speak about this miracle of intestinal fortitude.

Who would believe that the economy would be in the shape that it is in today at the outset of the fortitudinous leadership of the Republican Congress?

Who would have believed we could have been in this spot? It is a miracle that we are in the position we are in today. It exceeds all expectations, even of my miracle-believing friends on the other side of the aisle.

Mr. President, I also would like to speak of intestinal fortitude. It takes great courage to protect the tax breaks for people making over $78,000; to insist that medical bills exceed 7 percent of income before starting deductions; to see to it that we go forward and have every person pay more for telephone use; to have every person in America pay more for a package of cigarettes. My Lord, what intestinal fortitude.

I hope they stand before America and say:

I protected people making above $78,000, but everybody else, those folks sitting in the gallery here on vacation, I raised their taxes; I made them pay more. And I am brave, I am courageous.

God bless you, Senators. I tell you, your intestinal fortitude exceeds your wisdom, I suggest. It exceeds the cumulative wisdom of this body and the cumulative judgment of the American people.

What is wrong with the notion, when we are in such trouble, of saying, if you make more than $78,000, you do not get a tax break next year? If you make more than $46,000, you get a decreased tax break this year? And saying, if you make below that, you get your whole tax break. What is so abnormal, what is so outrageous about that?

So, Mr. President, I suggest to you that we have seen a miracle since President Reagan was inaugurated. We have seen incredible intestinal fortitude, because that is the only thing that could explain it. And we have seen great equity—equity on behalf of the haves and inequity on behalf of the have nots. Because it would be a tremendous sacrifice to ask someone making over $78,000 not to get a tax cut next year.

God forbid we should do that. I am ashamed to be associated with Senator BRADLEY on this amendment, but I am going to exercise intestinal fortitude and ask unanimous consent that I be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRADLEY. Mr. President, I also ask unanimous consent to add Senator EXON, Senator LEVIN, and Senator GLENN as cosponsors of this amendment as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will take just a minute or two. I am ready to vote. I guess there are some other Members who want to vote.

I am sorry I missed the statement of the Senator from Delaware. I heard it in the cloakroom. It must have been really good in here. It was fair in the cloakroom, but I did not get the full tone and volume.

I understand that probably some people will not vote against the Bradley amendment, but I hope that once we dispose of this amendment—as I said before, if Bradley prevails, you have disposed of the chairman. Maybe that has been said if you vote for the Bradley amendment.

In any event, I say again that we believe, for reasons I have stated earlier, that this amendment should be defeated. We really think the third year has been picked at, chopped at, talked about. It is still here. It survived the assaults last year and survived the assaults in the budget resolution.

I note every time there is an attack on the third year, it is a little less. It started off with just doing away with it entirely, then trying to trigger it to some economic theory nobody understood, then trying to delay part of it for a year, then 3 months. Now we are down to saying, well, we are just not going to let the rich people have it.

This starts affecting people with taxable income of $35,200, Mr. President, so do not get carried away with the $78,000 figure. At that point, you get none at all. But it starts to impact on taxable income of $32,500. I guess that there are some families with children in some States who may have that much taxable income, who would like to have the tax cut.

That is probably all beside the point, Mr. President. I am prepared to vote.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. DOLE. I am happy to yield.

Mr. HARRY F. BYRD, JR. Is it correct that the pending amendment by the Senator from New Jersey provides for an increase in spending as compared to the Finance Committee proposal?

Mr. DOLE. Yes, it is a $2.1 billion increase in spending. I am sorry we did not make that point.

Mr. BRADLEY. Mr. President, I am prepared to yield back the remainder of my time. I would like to make one final comment.

I think that this, as has been clearly stated on the floor a number of times, is an attempt to make this tax bill a fair tax bill. It is an attempt to prevent the increase in taxes on small business, prevent the increase in excise taxes on cigarettes and telephone calls, and to preserve the right of people to deduct medical expenses. It does prevent spending cuts of about $2 billion, those spending cuts which prevent increases in medicare paid by older Americans, that is true. I stand accused of that and accept that.

This amendment simply says that it is fair to ask those individuals with adjusted gross incomes between $46,500 and $78,000 to forgo part of their tax cut, and those with incomes above $78,000 to have no tax cut this year—simply postpone it, not eliminate it; postpone it until the budget is balanced.

It is an amendment that says it is not too much to ask them to do that because they have, indeed, benefited greatly from the drop in the top rate from 70 to 50 percent.

The amendment has been fully debated. It is clear that the choice is there. I hope that the Senate will adopt it—although I think the chairman has done a pretty good job.

I ask for the yeas and nays, Mr. President, and am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER. Mr. HUMPHREY are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 45, nays 54—as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—45

Baucus	Exon	Melcher
Bentsen	Ford	Metzenbaum
Biden	Glenn	Mitchell
Boren	Hart	Moynihan
Bradley	Hatfield	Nunn
Bumpers	Heflin	Pell
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Pryor
Cannon	Jackson	Randolph
Chiles	Johnston	Riegle
Cranston	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Dixon	Levin	Stennis
Dodd	Long	Tsongas
Eagleton	Matsunaga	Weicker

NAYS—54

Abdnor	Goldwater	Packwood
Andrews	Gorton	Percy
Armstrong	Grassley	Pressler
Baker	Hatch	Quayle
Boschwitz	Hawkins	Roth
Brady	Hayakawa	Rudman
Byrd, Harry F., Jr.	Heinz	Schmitt
	Helms	Simpson
Chafee	Humphrey	Specter
Cochran	Jepsen	Stafford
Cohen	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Laxalt	Thurmond
Denton	Lugar	Tower
Dole	Mathias	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	Zorinsky
East	Murkowski	
Garn	Nickles	

NOT VOTING—1

Inouye

So the amendment (No. 1978), as modified, was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SENATE SCHEDULE

Mr. BAKER. Mr. President, if I may have the attention of the Senate, I shall make an announcement of the schedule.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader is recognized.

Mr. BAKER. Mr. President, in case Senators may be concerned about the schedule of the Senate today, tomorrow, and Friday, I take this opportunity to say that it is not my intention to ask the Senate to remain beyond the approximate usual recess time today; that is to say, I expect us to finish work on this measure by about 6:30 p.m. this evening.

Senators also should take note, though, that tomorrow is Thursday, and Thursday is our regular late evening. It is my intention to ask the Senate to stay as late as necessary in order to finish this bill tomorrow. I think we can finish this bill at a fairly early hour tomorrow. If we do not, we will continue into the evening as necessary.

Mr. President, on Friday the Senate will be in session. I expect shortly to ask for a fairly early convening hour on Thursday and Friday. I would not anticipate an unduly long session on Friday but there will be votes on Friday.

ORDER FOR SENATE TO CONVENE AT 10 A.M. TOMORROW AND 9 A.M. ON FRIDAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until the hour of 10 a.m. tomorrow and when the Senate completes its business tomorrow it stand in recess until the hour of 9 a.m. on Friday.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Does the majority leader expect to have votes on Friday?

Mr. BAKER. Mr. President, as soon as we finish this bill we will be back on the balanced budget amendment which would recur I believe as the business before the Senate. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. That would be the business before the Senate.

There may be other matters, I say to my friend, the minority leader, that we can take up but I will counsel with him in advance before we try to do that.

Mr. ROBERT C. BYRD. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Montana is recognized.

UP AMENDMENT NO. 1104

(Purpose: To strike out sections of the bill providing for home health copayments, indexing of the part B deductible, and maintaining the part B premiums as a constant percentage of costs)

Mr. BAUCUS. Mr. President, I have an amendment I send to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Until the time of the first-degree amendment has expired, unanimous consent must be obtained to call up second-degree amendments.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendments be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Montana (Mr. BAUCUS) proposes unprinted amendment numbered 1104.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, beginning with line 1, strike out through line 20 on page 44.

On page 45, beginning with line 16, strike out through line 10 on page 46.

On page 50, beginning with line 17, strike out through line 23 on page 54.

Redesignate section 104 as section 103, sections 106 through 108 as sections 104 through 106, and sections 110 through 121 as sections 107 through 118.

On page 31, amend the table of contents by striking out the items relating to sections 103, 105, and 109, and renumbering the remaining items accordingly.

Mr. BAUCUS. Mr. President, the amendment we have before us is a patch-up amendment. It is an amendment to help patch up a gaping hole that the Finance Committee bill cut in the safety net.

Mr. President, the Finance Committee bill cuts medicare spending by over $13 billion over 3 years. Medicare is, we should remember, part of the safety net. The safety net is that net ostensibly designed to prevent people from falling down to the bottom. It is a basic floor to help citizens meet their health care needs.

Mr. President, the amendment I am offering has three provisions. First, it deletes the provision in the bill which requires home health care copayments.

Second, it deletes that part of the Finance Committee bill which indexes the deductible under part B of medicare to the Consumer Price Index in future years.

Finally, it deletes that part of the bill which provides that the medicare part B premium be linked to a higher cost escalator than currently is in place. It deletes that part of the bill which requires the premium to be 25 percent of the program cost.

Mr. President, today you are going to hear many members of the committee argue that because of rising medicare costs—and it is true that medicare costs are rising—that most of the medicare cuts in this bill do not directly affect beneficiaries. If you look over in the corner of the Chamber, one can see some fancy colored bars, graphs, and charts.

The green bars show the degree to which medicare costs have risen in the United States. It is true medicare costs are rising at an astronomical rate in the United States today. The question is why: Why are they rising at such a high rate? Is it due to our spendthrift senior citizens? Is it due to wasteful elderly? Are they causing health care costs to rise? Of course not. The reason is because hospital costs are rising, physicians' fees are rising. In fact, Mr. President, the annual rate of increase in hospital costs in the last 10 years has been 50 percent, 50 percent higher than the annual rate of inflation.

So the reason medicare costs are rising is not due to the fault of our elderly senior citizens; the reason they are rising is that hospital costs are going up at such a high rate and physicians' costs and physicians' fees are going up at such a high rate, greater than the annual rate of inflation. So it is not general inflation that explains those increases in medicare costs so much as it is increases in hospital costs and physicians' fees, as I say, which are increasing above the annual rate of inflation.

Second, you will see another circle—a dollar chart over there—which explains, or attempts to explain, who is receiving the brunt of the medicare cuts in the Finance Committee bill. Over there on that chart you will see a nice bright yellow color which is half of that chart. That color represents the hospitals and other institutions, who are receiving 50 percent roughly of the medicare cuts. We all know that ultimately, and in many cases sooner rather than later, hospitals are going to pass on the cuts in medicare. In some cases, they are going to pass on their cuts to private companies; in some other cases, to health insurance companies; and in some cases, to the elderly who have purchased supplemental medigap health insurance policies. So we see that a large portion of the cuts affecting hospitals are going to go ultimately not to the hospitals but to private patients, purchasers of health insurance, including businesses, and even to medicare's beneficiaries, the elderly.

Other colors in the charts over there, the blues and the greens, represent cuts affecting employers, health insurance plans, and physicians. What are these parties going to do? They are going to pass on their cuts to others—the beneficiaries—because they are going to raise insurance costs or not accept assignment; so, ultimately, the senior citizens, the medicare beneficiaries, are going to bear a vast portion of those costs.

That chart ostensibly shows that only 16 percent of the medicare cuts are felt by beneficiaries. As I calculate the figures medicare beneficiaries are going to bear more than 16 percent of the cuts. The figure I calculate is more in the neighborhood of 30 percent, 30 percent of the cuts will be felt by senior citizens.

So my amendment, Mr. President, is very, very simple. Instead of reducing medicare costs by $13 billion over 3 years, as is required by the Finance Committee bill, my amendment focuses very narrowly on three portions of medicare which are felt very directly by beneficiaries. The total dollar figure for my amendment is not astronomical; would restore $1.3 billion in medicare cuts, and I suggest that $1.3 billion is, frankly, not enough of a reduction in this cut. We should go further. But to be reasonable, to try to hit the nail on the head, it seems to me that these three provisions I mentioned earlier are not provisions that should be contained in the Senate Finance Committee bill.

Further, it is my understanding that this amount, $1.3 billion, can be soaked up by excessive cuts that the Finance Committee bill already now includes. The Finance Committee bill now has about $1.6 billion in savings over the reconciliation targets. The Finance Committee bill calls for $1.6 billion in cuts over the reconciliation bill targets.

The amendment I am offering reduces the cuts by $1.3 billion, and it is certainly within the $1.6 billion.

In conclusion, Mr. President, I suggest that we should not transfer the rising costs of the health care industry onto the backs of our senior citizens. It is the senior citizens who are going to have to pay for the increases in hospital costs and physician fees.

Rather, what we should be doing is hitting the nail on the head. The Finance Committee should be holding hearings addressing directly how we can stop hospital costs from rising so high, how we can curb the escalation in physician fees. It is not only the senior citizens who feel, directly feel, the increase in hospital costs and physician fees; these increases are felt by all the country, all of us. Men and women of all races and all ages are experiencing this increase in hospital costs and physicians' fees.

I believe that we should be responsible here; we should be directly addressing the health cost question and not indirectly praising ourselves by cutting spending, medicare spending, the effect of which will be to place those cuts on the backs of our elderly, our senior citizens.

It just is not fair.

To sum up, I have two problems with the Finance Committee bill: First, it is not fair. It places too much of the reduction on the backs of people who are not responsible for the health cost problem; and second, it is not going to work, and it is not going to work because it does not address the real cause of the problem, which is rising hospital costs and physicians' fees.

I hope the amendment will be adopted. I feel it is going to be a close vote, but I feel it is the direction in which we should go.

Mr. KENNEDY. Mr. President, will the Senator yield time on the amendment?

Mr. BAUCUS. I yield 10 minutes to the Senator from Maasachusetts.

Mr. KENNEDY. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KENNEDY. Mr. President, I welcome the opportunity to join with my colleague, the Senator form Montana, on this particular issue. This afternoon, we are raising the issue of the increased costs for the elderly that will come about as a result of the cuts in medicare just as we did earlier this year during consideration of the first budget resolution.

I am extremely hopeful that the Senate will accept this amendment. I consider it to be perhaps the most important amendment that will be offered to this particular measure that is before the Senate today.

First of all, Mr. President, I want to acknowledge at the outset that I do believe the Senator from Kansas, the chairman of the Committee on Finance, does care about the quality of life of our senior citizens and he has demonstrated that by his actions in the Senate over the period of years.

I am sure the majority of the Committee on Finance are also concerned about the quality of life of our senior citizens. But, having said that, Mr. President, I think it is important to have a full understanding of exactly what this bill does. The Senator from Montana has outlined the essential aspects—increases in the premiums and increases in the deductibles for part B increases in the copayments for home health services.

These provisions mean an increase in the out-of-pocket costs for the senior citizens of this Nation of $1.4 billion. This group, the elderly people of this Nation, are the ones who have built this country, have made it what it is, have worked in the plants and factories, have plowed the fields of this Nation, have fought in the world wars of this country. When it became apparent to previous Congresses that at a time when these Americans reached the twilight years of their lives they were going to face health care needs far in excess of the population as a whole. To protect these people, the Congress of the United States passed the medicare program in 1965, and I had the privilege of voting in favor of that program nearly 20 years ago.

Since that time, Mr. President, despite the enactment of medicare we

have found that the out-of-pocket expenses of the seniors in this Nation have steadily increased, as this chart points out. Those expenses which the elderly pay, which are not covered by medicare, in 1965 were $472, and by 1980 were nearly $1,500. If this amendment is not agreed to we are going to find those figures are going to rise significantly over the period of the next years.

The fact is, Mr. President, that in 1980 the elderly paid more than 19 percent of their income for health care costs. What Member of the U.S. Senate pay 19 percent of their income for health care costs? Nonetheless, we, in our own good wisdom, are saying to the elderly people who are already paying 19 percent of their income for health care costs that we are going to increase that percentage. And that is what will happen unless we accept this particular amendment.

This amendment does not even reach other provisions included in this bill that will lead to increased costs for our senior citizens, such as the reduction in reimbursement for doctors, which will mean the seniors are going to pay even more than the $1.4 billion that is the subject of this amendment.

So the out-of-pocket costs are going to go up even more dramatically in the next year, 2 years, 3 years, 4 years, 5 years, if we do not act now.

Mr. President, the statistics are very clear. The elderly get sick far more frequently than the rest of the population. They incur health care costs on average three times as great as the average citizen. We understand that, the statistics show that. It has been shown in testimony before the Committee on Finance, and before the Subcommittee on Health.

In spite of the fact that we know from a medical point of view that they need these services, through no fault of their own we are saying to them that they are still going to have to pay more and more out of their pockets.

Mr. President, this issue raises directly the question of our humanity and our decency and the kind of society that we are and that we want to be.

Are we going to say that the most vulnerable people in our society, the senior citizens, are going to have to make up for a failed economic policy and that we are going to balance the budget on the backs of the elderly people? That is what effectively we are faced with in this medicare proposal which is before the U.S. Senate unless the amendment of the Senator from Montana and myself is accepted. Mr. President, I hope that this amendment will be accepted.

One final point. This body is extremely generous in creating benefits. We like to do that here in this body. We were prepared to give tax breaks and tax reductions over the period of the 20 years I have been here on the 11 different occasions. We are faced with a different alternative certainly with the proposal of the Senate Finance Committee. And I think there are many different provisions of that proposal that are worthy and justified. I think the Finance Committee deserves credit for it.

But, Mr. President, we really created the dilemma that we are in. We gave promises to the elderly people that we would help them meet their health care needs but we refuse to bite the bullet of imposing effective kinds of cost controls that would make those promises possible. That was our responsibility. And year after year we have refused to bite that bullet. There are ways and means that it can be done. There were proposals during the last administration that we voted on here in the U.S. Senate and that were voted down, quite frankly, because of the pressures of the medical associations and the hospital associations and the power of the health delivery industry in this society.

So we are not prepared to bite that bullet. But what we are saying here is, having not bitten that bullet, we are now going to increase the costs for the senior citizens of this Nation. Basically we are taking the easy way out. It is not right, it is not fair, and it is not equitable.

Mr. President, I certainly hope that we would not be saying that to the senior citizens of this Nation, who do not as we do, have a little dispensary about a 5-minute walk away, where any Member of the U.S. Senate can go and get any of his or her medical needs taken care of. They do not have Walter Reed Hospital or Bethesda Naval Hospital to take care of them. But we are ready here to say we are going to increase your premium, we are going to increase your deductible. And, in spite of the testimony that we have had here in our committee and the Finance Committee, about the importance and cost savings aspects of home health services and what that means in terms of the savings for the Federal Government, let alone the individual patient, we are going to provide a disincentive to those services.

Mr. President, I think that that is basically wrong. I think it is unfair. I think there are a number of other ways that you could reduce the Federal deficit, whether it is in the tax treatment intangible drilling costs or other areas in which I think there is much less justification for continuing tax expenditures. It seems to me, Mr. President, that this amendment is justified, it is compelling, it is compassionate, and it is important.

Mr. President, I ask unanimous consent that a letter from the National Council of Senior Citizens be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, D.C., July 20, 1982.

EDWARD M. KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: The National Council of Senior Citizens, representing over four million elderly persons throughout the country, opposes Medicare budgetary saving strategies which do not achieve their reductions as a result of program improvements and/or health industry-wide reform. Such strategies serve only to reduce benefits or shift costs, while failing to produce any real long-term savings.

Many of the recently approved Senate Finance Committee savings to Medicare are such proposals. The home health care co-payment recommendation and the proposed Part B deductible and premium increases are particularly harmful strategies. Not only would these proposals reduce a current benefit, increase out-of-pocket health expenditures of the elderly, and impede access to services, in the case of the home health co-payment, they would also encourage the substitution of Medicare fully-covered, more costly services such as hospital or skilled nuring facility care. The NCSC believes that none of these results is a desirable outcome of national policy and that all are harmful to beneficiaries.

The National Council of Senior Citizens, therefore, recommends that the Senate reject the home health co-payment and Part B premium and deductible proposals. The Medicare beneficiaries cannot tolerate any further increase in their out-of-pocket expenses or reduction in their Medicare coverage.

The NCSC staff is available to discuss additional changes which would alleviate the negative impact that the budgetary savings proposals are expected to have on elderly people. Please do not hesitate to contact them.

Sincerely,

WILLIAM R. HUTTON,
Executive Director.

Mr. KENNEDY. Mr. President, the letter is signed by William Hutton, who is the executive director of the National Council of Senior Citizens who is in strong support of this particular amendment.

I hope, Mr. President, that the amendment will be accepted by the Senate this afternoon.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, the Senator from Massachusetts may recall during the debate on the budget resolution that the Senator from Kansas promised to be totally sensitive when we considered what we might do in the Senate Finance Committee as a result of the action taken on the budget resolution.

In response to that, we believe that we have developed a package that is sound, that is fair, and that is responsible.

I do not quarrel with either the Senator from Montana or the Senator

from Massachusetts regarding their concern for senior citizens, nor do I admit that their concern is any stronger than the concern of the Senator from Kansas or others on either side of the aisle.

But the intention of the Finance Committee in constructing the cost-savings proposals contained in H.R. 4961 was that all parties to the medicare program, including beneficiaries, participate in our efforts to reduce the rate of growth in the program. While including beneficiaries, the committee avoided any changes that would reduce existing benefits. And, indeed, benefits have not been reduced. I think that is a point to keep in mind.

Under present law, the cost of the part B services provided under the medicare program has shifted away from the beneficiaries. As a result, home health services are free and the contribution of beneficiaries to offset the cost of part B services are less than what they were when the program began. In fact about 20-some percent less.

The committee proposal seeks to halt the cost shifting and strengthen cost sharing as an essential part of the medicare program.

I might again refer to the charts that I mentioned earlier as far as the medicare cost savings in our proposal by source. I might say to any Senator who may be here that we took on the very sensitive issues that involved rather powerful groups. Hospitals will absorb about 49.3 percent of our total reduction; physicians 18.9 percent; employers and health insurance plans about 15.5 percent; and beneficiaries only 16.3 percent of the total. And we are talking about a rather large savings over the next 3 years.

So if you view that and then view the chart on the far left, the Federal spending on medicare and medicaid, you will see how spending on health services has not only increased but how it has been galloping. In 1980 the cost of the program was appoximately $47.3 billion. The costs are projected to be $94.8 billion by 1985.

Now I would say to all of those who indicate strong concern for senior citizens—and we should indicate strong concern for senior citizens—that if in fact we want to preserve this program, then we are going to have to make some responsible changes in the Congress. And they are not easy to make.

We all know people who are in difficulty. We tried to avoid making any changes and we think we were successful in avoiding any changes that would impact adversely on anyone. We did not do a lot of things, I might suggest, that were proposed by the administration for that very reason. But we did do enough. We met our budget requirements and then some in the Senate Finance Committee.

Let me talk briefly about each point and then I am going to ask the distinguished Senator from Minnesota, who is the chairman of the Health Subcommittee, to go into more detail. There will be another amendment offered if this amendment is defeated, however, in my view, there are votes to sustain what we did in the Senate Finance Committee without any amendment, without any substitute, but to further allay the concerns of those who feel that we may have gone a bit too far, we will offer an amendment.

I must say I have heard from very few groups. The letter from the group just referred to was the first indication we have had that anybody substantially disagreed with what happened in the Senate Finance Committee.

But obviously, if you are going to take away any cost shown, somebody is going to say, "That is fine, I am for that amendment. If it strikes out any responsibility, then I will vote for that."

We are going to have some tough votes during the course of the day. The Senator from Kansas does not consider this to be a very tough one because we were very careful in what we did so far as medicaid and medicare were concerned in our committee.

HOME HEALTH PAYMENTS

The Senator from Kansas has been and continues to be a strong supporter of home health services. They provide the elderly with a much needed alternative to institutionalization—that of being cared for in familiar settings close to families and friends. Our proposal retains the home health benefit while seeking ways to discourage overuse without discouraging appropriate utilization.

Elimination of part B coinsurance in 1972 and the elimination of the $60 deductible under part B in medicare. The benefit is available to the beneficiary at no cost. It is free as far as the individuals and their families who benefit from these services are concerned. And what has been the result of providing a free service?

I think we have to ask ourselves. The Senator from Kansas believes we ought to make everything available that we can, that we can justify. I might add in another program which should be free was the elimination of the purchase requirement in the food stamp program.

This Senator joined in efforts to eliminate that requirement because it seemed to me we were talking about basic needs, about food, about hunger, and it did not seem to me we should deny someone benefits of that program because they did not have the front-end money to get the bonus food stamps. But this program is somewhat different.

It should not come as a complete shock to anybody to suggest that free services attract misutilization or overutilization. Call it what you will. If it is free, take as much as you want and in some cases more than you need.

The Senator from Kansas is not simply philosophizing about human behavior. The proof exists that home health services in this country are inappropriately utilized, and that free services attract misutilization. The General Accounting Office, the Department of Health and Human Services, the Rand Corp. and others all provide evidence that cost sharing is an essential part of providing services only when they are needed.

PROBLEMS WITH UTILIZATION

Although not the case for the majority of the industry, unnecessary utilization of home health services does exist. The GAO reported in 1981 that almost 30 percent of the home health visits GAO reviewed at 37 home health agencies should not have been covered under the program or were questionable. Other studies have disclosed similar results. As early as 1976, HCFA studies of home health agency claims disclosed that 13 percent should have been denied. In 1978 the Blue Cross Association provided testimony about inappropriate and excessive home health utilization—where there was no medical need for the services, where the services continued beyond the patient's need, and when excessive use of home health aides occurred.

It seems to me from the standpoint of logic—and here we are talking about revenue increases and about the tax burden on the American people—we ought to make certain in our efforts to assist the elderly, the sick, the disabled or anyone else in our society, that we do not overdo it at the expense of the hardworking men and women in this country who are paying the bill. We believe we have found that balance in our Senate Finance Committee approach. That does not suggest that we are finished by any means. It suggests that we have made a start.

During evaluations of eight intermediaries in 1979 and 1980, the department disagreed with the payment decisions made for 39 percent of the claims paid by the intermediaries. Several 1981 reports prepared by HCFA's Bureau of Quality Control found significant problems. One report disclosed that 46 percent of the cases reviewed were fully or partially noncovered. In another report, the Bureau did not specify the extent of the problems found but nonetheless recommended that intensified onsite medical reviews be conducted. Another study disclosed that 24 percent of over 4,300 visits reviewed were noncovered. Finally, a review of a sample of claims processed by three intermediaries in Pennsylvania, New Jersey, and Ohio

showed that where medical records were reviewed, 26.6 percent of the visits were noncovered.

Home health services are often used to supplant the care of family and friends or self-care by the beneficiary. In 3 out of 10 home health aide visits, GAO was of the opinion that the beneficiary was capable of self-care or family or friends were willing and able to provide the services required. Home health aides who help beneficiaries with their personal care account for about one-third of all visits.

In light of all these facts, it is clear to this Senator that home health services are being provided where they are not needed. What is the solution? Certainly some of the solution lies with improved program administration. Medicare contractors—the people who process the claims and pay the bills—can do a better job of identifying uncovered services and denying payment. But that is not the entire solution. Something must be done to dissuade inappropriate utilization. Something must be done to affect the problem at its source before an uncovered service is provided.

VALUE OF COST SHARING

Free care leads to increased use of medical services. Between 1971 and 1980 the average number of home health visits per beneficiary increased by 352 percent.

That is a rather substantial increase.

We believe that copayments is a small step. We are not doing much in that area. The same is true with part B cost sharing.

Copayments for home health services would increase beneficiary awareness of the cost of such services and discourage overutilization of this currently free benefit. That imposing cost sharing in the form of copayments will reduce inappropriate utilization should be obvious. A recent study by the Rand Corp. found that cost sharing, that is, the requirement for out-of-pocket payment, reduces medical expenditures. In addition, the study found that poor people are no more or no less affected by cost sharing than others, provided the amount they are required to pay is proportionate to their income.

Health care is not cheap. Some would say it is because cost is no longer a significant factor in either the provider's or the patient's decision to use available services. In the case of home health services it is not a factor at all.

As a small part, and yet an essential part, of reducing inappropriate utilization, beneficiary cost sharing for home health services must be provided. Patients as well as physicians must be concerned about whether the home health care services utilized are necessary. Direct financial involvement is necessary to bring this about.

The cost-sharing proposal agreed to by Finance does not impose harsh or unreasonable penalties on home health service beneficiaries. In fact, the amounts are nominal. Although it costs the Government as much as $52.39 for some home health visits, beneficiaries would be required to pay only $2 per visit in 1983. The impact of this proposal on out-of-pocket expenses would be limited.

This Senator believes in home health services. They provide beneficiaries with a viable option to institutionalization. This Senator does not, however, believe in paying for unnecessary services. To the extent we can deter overutilization, more money is available for needed care. The nominal cost-sharing amounts embodied in this provision help protect the program against overutilization while allowing the continued provision of home health care where such care is appropriate.

PART B COST SHARING

Medicare coverage under part B started on the basis that the working men and women of this Nation would split the cost of the benefits 50-50 with program enrollees. Well, over time the aged beneficiaries' share of those costs has decreased. Today their part B premiums pay for less than one-quarter of the costs of the benefits provided and that proportion will continue to decline.

The deductible has also declined as a cost-sharing mechanism for part B services. Since 1967, the deductible has increased but twice and then only by 50 percent. At the same time there has been a continuous increase of more than 450 percent in the costs of the part B program per aged enrollee.

The part B cost-sharing proposals approved by the Finance Committee do not impose harsh or unreasonable penalties on medicare beneficiaries. Premiums would be set at 25 percent for the next 3 years while the deductible would be increased by the CPI. As a result, out-of-pocket expenses for both premiums and deductibles would exceed current law by $9.20 in 1983, by $22.40 in 1984, and by $38 in 1985. These increases are certainly not unreasonable. The average retired worker's monthly social security check just increased by $28.56, almost $345 per year. The total increase in deductibles and coinsurance for 1983 represents less than 3 percent of that amount. Low-income beneficiaries in many instances are eligible for medicaid and would be protected from the increases.

The part B deductible provision of this bill helps to reassert cost as a factor in the patient's decision to seek care and in his decision as to where and by whom that care will be provided. These consumer choices are part of what competition is all about. Relying in part on consumer decisions to contain health care costs is something which private insurance companies cope with all the time. They too face the unpleasant task of increasing deductibles and premiums to insure the consumer choice mechanism continues to operate as it should.

In recent years price increases for medical care services have exceeded the price increases measured by the CPI. In 1983 the deductible will increase by $5 or less than 7 percent while part B program costs are expected to increase by 17 percent.

The part B premium, like the deductible, will reflect increasing program costs. By setting the premium at 25 percent of costs for the next 3 years, this provision maintains the commitment to finance the part B program by both beneficiaries and the workers of this Nation at a constant level.

Cost savings without beneficiary participation is a grand idea. It leads people into thinking that in our efforts to contain budget deficits they will not be hurt. But that is a mistaken notion. They will be hurt, as the deficit grows, inflation grows, and the ability of the trust fund to finance needed health care shrinks. Beneficiaries are concerned. Taxpayers are concerned. And we should be concerned enough to realize that including beneficiaries in our cost-saving proposals is essential.

I yield to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, let me thank the chairman of the Finance Committee for detailing the efforts that we all went through during the reconciliation markup. And let me thank the Senator from Montana, the ranking minority member of the Subcommittee on Health and Finance, for the work that he has done during the course of the last 1½ years to help us try to make sense out of our role ir the health care system in this country.

And let me thank the Senator from Massachusetts for 20-plus years of commitment to the health care of the elderly and the feeding of the hungry.

Let me talk a little bit about humanity and decency, which were a couple of words used by the Senator from Massachusetts.

I think when we look at the medicare and medicaid programs, both of which were amendments to the Social Security Act, we have to say that they continue to stand out as two of the most important social programs in our country.

They are the visible signs of a compassionate nation that prizes quality health care as a basic right of every person. This Congress will not turn its back on the health care commitments we have made to the poor and elderly.

Fulfilling those commitments demands action on our part. We cannot

stick our heads in the sand and pretend that all is well with our country's health care system. The health care system is out of whack; the problems cannot be cured by either ignoring them or camouflaging them with more government regulations and bureaucracy. If we are serious about serving the needs of the poor and elderly, then we in Congress must get serious about meaningful health care policy reform.

Mr. President, I think we are at a point where we have reached a consensus on a nature of the problem that is plaguing the system. And yet we continually find ourselves on the floor of the Senate in disagreement about its solution. The heart of the problem, as pointed out by the Senator from Montana, is the high cost of health care in America. Our health system fails to accent staying well, and it fails toward good behavior by physicians, hospitals, or patients. It encourages inefficiency, overtreatment, and underprevention. It is a system which has frustrated us a great deal.

Past public policies have encouraged the creation of hospital facilities. Other policies have stimulated medical education to the point that by the year 1990 we will have an excess of 50,000 physicians in this country. We may question those policies now, but at the time, they were well-intentioned efforts on our part to make sure that nobody in this country went without adequate health care.

So we stand this afternoon arguing about a small part of the problem, and a small part of the solution.

It is the reimbursement system that is the real villain here.

We give our senior citizens, our physicians, and our hospitals little incentive to use services appropriately. Our health care system is really a sick care system. The doctors and hospitals that put a premium on keeping people healthy are the ones our present system penalizes. This system must be reformed for the sake of quality health care—care that is aimed at rewarding good health. Physicians and hospitals should be encouraged to deliver the right treatment at the right time in the right place.

We must move away from a retrospective, cost-based system in which the Government makes decisions about what services are covered and the Government makes decisions about what services are not covered.

We who are not out there in the hospitals, in the homes, and in the clinics are trying to decide for people what is good for them. Now we are beginning to change that. With the help of the minority in the Finance Committee we are moving in the direction of prospective reimbursement, and we are moving to give beneficiaries the option of using their medicare benefit to purchase coverage in the private sector. That kind of choice is good. It is good for the beneficiary, and is good for medicare.

So we are starting that process. During the course of this year and the first part of next year the Senator from Montana and I will be listening to many Americans, in the Finance Committee's Health Subcommittee about a better way to provide for the health care needs of the elderly and the needy. The medicare and medicaid programs need reform. It is for our citizens that we must undertake this reform, for our elderly, for our needy, and for our taxpayers to change is never easy, but decency and compassion demand that we face up to these problems. We have started that process in this bill, and will continue it in the months ahead.

In this bill, we also change the process of utilization review. A lot of people did not like the old PSRO system. In some places, it worked great, and in other places, it did not work at all.

I think we have brought some sense to that process. We have looked at peer review and said: What did we do right in this program and what did we do wrong? Now let us take out the wrong and preserve the right.

The Senator from Kansas has well-summarized the arguments against this amendment.

The part B deductible has been in the law since it was enacted. In 1966 it was a $50 deductible. In 1973, it was increased to $60. Last year we increased it to $75. There is no reason the deductible should not be indexed to increase with health care costs. The part A deductible increases automatically, and the part B deductible should as well.

Under part A there is not only a deductible, but also coinsurance. The coinsurance amount also increases automatically.

Let us deal realistically here with the deductible as a reasonably fixed portion of the cost to the patient.

The Finance Committee recommended indexing it to the CPI. That means next year it will go from $75 to $80; the following year, it will go up to approximately $86 and then from $85 to $92 in 1985. Let me say, however, that we are willing to be flexible on this provision. I believe it is important for us to be very careful in passing these provisions which directly affect beneficiaries, and we are prepared to modify them in our own amendment.

The part B premiums have always been intended to be a fixed portion of the cost of the program. Premiums were originally intended to be 50 percent of the cost of the program. Over a period of time it has come down, down to 24.8 percent of the cost.

This provision simply fixes the premium at 25 percent of the cost of the program. That is not unreasonable.

In the third area, the home health area, the Senator from Kansas has already indicated that there is cost sharing for almost every other service under medicare. This proposal here will introduce a very modest, very small cost-sharing in home health care.

Here again, Mr. President we are willing to make some adjustments to the provision in our own amendment. But, as the Senator from Kansas indicated, cost-sharing is an important part of health care. There are no freebies in health care.

We seem to have the tendency to say that if we want to get somebody out of high-cost health settings into less expensive settings, let us give it to them for nothing for a while. We have done that. And now the GAO has told us that we are providing a lot more home health care to a lot more people than need it. It is our hope that some modest form of cost-sharing will get people to make better judgments among the various alternatives provided to them.

The PRESIDING OFFICER (Mr. SCHMITT). Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, first, I commend the Finance Committee for the action they have taken with regard to the hospitals and also with regard to the physicians' fees. It makes some sense. But the point that has been left out by the Senator from Kansas and the Senator from Minnesota is that you can put limitations on hospitals and you can put limitations on the doctors under medicare, but those same doctors and those same hospitals can go out and just raise their costs for everyone else.

The hospitals can go to the middle class, to the young couples, to others in our society and raise their revenue. The doctors who do not accept assignment can even collect from medicare beneficiaries. We are not asking them to tighten their belts, because they have another option. They can go to others to make up the difference.

So, let everyone understand, all the young people in this country who are just beginning to make it, their costs for health care are going to go up. Let middle income people understand, their costs for health care are going to go up. Because even though the doctors will have the limitation imposed here, they will be able to recover the additional revenues which they are going to lose as a result of these inadequate controls. It is a start, a beginning, but it is not really doing the job.

How are the elderly going to make it? It is nice to talk about cost-sharing. It is easy to say, look, we are going to raise the costs for home health serv-

ices so they will not use it. We really did not put the burden on the hospitals, or on the doctors, but we have already, with the Finance Committee amendment, put it on the elderly, the medicare recipient.

It must be that the Senator from Minnesota the Senator from Kansas understand that it is wrong, because now it looks like they are going to have some kind of substitute amendment that will lessen the harmful effect of the bill they brought to the floor.

This is the problem; the costs are going to continue to escalate. And then the Senator from Minnesota says, "Well, we are going to index the premium to the rate of increase of health care costs." Fine thing for the elderly, because health care costs are going right up through the ceiling, and they will continue to do so under this bill. Fine news for the elderly people that their premiums are going to continue to go right up through the ceiling.

Mr. President, it is good to hear the Senator from Minnesota talk about prospective budgeting. I listened to Abe Falk make that suggestion 40 years ago and Walter Reuther make it 15 years ago; some of us have been talking about it for 10 years. It was always a naughty word. It is good to hear "prospective budgeting." I believe in it. I think that is where you build in the incentive to drive the costs down, but this is not it, make no mistake about it.

Mr. President, I continue to make the argument of equity and fairness. We are talking about individuals who are living at the margin to meet their needs for food, fuel, shelter, and health care costs. They do not have an opportunity to collect additional revenues from some other place. The hospitals do, the doctors do, and the others who are covered by this amendment do, with the exception of the senior citizens. They are the ones who are being singled out. They are the ones who are going to suffer, make no mistake about it. That is why the Council of Senior Citizens, and others strongly support the Baucus amendment.

Mr. President, I ask unanimous consent to have two documents printed in the RECORD, one entitled "Health Care Costs of the Elderly Not Covered by Medicare," and another entitled "Percent of Income of the Elderly for Health Care."

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Health care costs of the elderly not covered by medicare

Year:	*Average cost per capita*
1965	$472
1970	503
1976	921
1977	1,016
1978	1,133
1980	1,436

Percent of income of the elderly for health care

	In percent
1970	16.8
1976	17.9
1977	18.2
1978	18.4
1980	19.1

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I should like to follow up very briefly on one of the last points made by the Senator from Massachusetts. After listening to the defender of the Finance Committee bill, that is, the opponent of this amendment, the Senator from Minnesota, argue eloquently about prospective reimbursement, I could not help but think how much both I and the Senator from Massachusetts would like to join with him in that. But, as the Senator from Massachusetts said, that issue has nothing to do with this amendment that we are offering. We support prospective reimbursement. That is another part of the bill. That is a part of the bill which has absolutely nothing to do with this amendment that is now pending.

The amendment that is now pending is an attempt to reduce to a small degree the direct effect that these medicare cuts will have on beneficiaries.

I listened earlier to the Senator from Kansas (Mr. DOLE) refer to rising health care cost increases, particularly medicare increases, and he is right; it is true. As the Senators from Massachusetts and Minnesota pointed out, the real culprit is the rising, exponential increase in health care costs due primarily to increases in hospital costs, other provider costs, and physician fees.

In fact, if we look at that pie chart over there, which attempts to allocate the effect of the medicare cuts, I think a very conservative estimate would be that medicare beneficiaries are not receiving 16 percent of the cuts, as the chart shows; they are probably receiving at least 30 percent of the total cuts, after you crank out the attempt of the providers, the hospitals, and physicians to pass on their own reductions. After all, the indirect effects work themselves through the system. I think nobody will challenge the estimate that at least 30 percent of the reductions in medicare will be felt directly by beneficiaries.

The amendment that I and others are offering today would reduce that to 15 percent; that is, if we cut $1.3 billion out of the $13 billion in cuts called for in the Finance Committee bill—that is roughly a 10-percent cut—and after all the figures are worked out, it amounts to, instead of 30 percent of the cuts being felt by beneficiaries, about 15 percent of the cuts being felt by beneficiaries.

It seems to me that this situation is more fair. It is more fair because beneficiaries are in no way responsible for rising health costs; they in no way cause the increase in medicare costs. They are not the cause. The cause, as we all have said and agree, is the excessive increases in hospital costs and physicians' fees. To some degree, the hospital cost issue will be dealt with when we make use of prospective reimbursement or some other system that is very close to it.

Make no mistake about it, prospective reimbursement is not the issue. The issue is the degree to which beneficiaries should receive the brunt of the medicare cuts that are contained in this bill.

Remember one other point. We in this bill are $1.6 billion above the reconciliation mark. There is more than enough room to eliminate these medicare cuts. We need only to reduce the savings by $1.3 billion. That still leaves a cushion for the 3 years that this bill covers. There is room in this bill. We will not be going over the mark. I think that point has to be stressed time and time again when we decide what is right and what is fair with respect to this amendment.

The third point is the exponential effect of the part of the bill which ties the part B premium to 25 percent of the program costs. That means that the premium will rise exponentially. Yes, it is true that in the first year the effect of this measure will be only a matter of cents in the monthly social security checks that senior citizens get today. But, in the second year, it will increase from about 10 cents a month to 60 cents a month. In the following year after that, it begins to increase even more exponentially, so that in the years 1985, 1986, and 1987 it is going to have a solid wallop; it is going to be a sledgehammer that is going to hit our senior citizens. It is that insidious portion of the amendment which I think we should, at the very least, eliminate today.

Members of this body should recognize that in future years the provisions in this bill are going to have an even greater adverse effect on the elderly than is the case today.

Finally, Mr. President, one more point which has not been raised.

There has not been one word yet mentioned by the opponents of this amendment as to why we have to cut medicare benefits within the context of the health of the medicare trust funds. Remember, today we have a unified budget. We have the benefits and the faults of the unified budget concept, and all of the discussion and

all of the words of the proponents of the Senate finance bill, that is, those who oppose this amendment, are in terms of general overall savings.

I think that we should address the question of medicare benefits in the context of the various medicare trust funds; that is, we should look at the dollars that go into the trust funds and concentrate on keeping the medicare system healthy. Frankly, I think that the Social Security Administration should probably be expanded to include a medicare commission. In this way, we could address questions of benefits in a more reasonable and fair way and not be driven to cut medicare benefits simply for the sake of balancing the budget. The effect of this is, to a degree, to balance the budget on the backs of our elderly.

We have all made the arguments. I do not know that many minds are going to be changed, but make no mistake about it—and the Senator from Minnesota indirectly admitted it in his words in opposition to this amendment—the real problem is rising hospital costs and physicians' fees. The beneficiaries, this country's senior citizens, are going to be receiving the brunt of these cuts.

My view is that this situation is just not fair. It is not fair to make them pay for a fault in the health care delivery system. Rather, it would be much more fair to go to the root cause of the problem, which is to find some ways to prevent health care costs from rising so much in the first place. After all, these cost increases affect not only the elderly, but they also affect all of us.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, let me address the concern of the Senator from Montana that somehow or other I have confused necessary reimbursement changes with cost sharing.

It seems to me that there is a pretty direct relationship between cost-sharing and reimbursement.

If we start on the premise, which I believe the Senator from Montana would agree with, that the system is out of whack, that Government regulation of the system has not worked, that our constant changes in the retrospective reimbursement system have not worked, then we have to come to the conclusion that changing the way we reimburse is the solution to the problem.

Our reimbursement system is based on Government making decisions about how much is going to be paid for what services and what services are going to be used under what circumstances.

The person who is ill has very little to say about it. It is physicians who make the treatment decisions and Government that makes the payment decisions. Individuals must get involved. They have got to start directing dollars to good physicians and hospitals. And that means giving them choices which allow them to direct those dollars.

In moving away from retrospective reimbursement, we should be saying, "We are willing to participate financially in your health care. But you decide what kind of coverage you want. You decide which physicians, hospitals, and other providers you want to use." And we should be saying to the community, "We have 36 million elderly persons, all armed with a commitment from the Federal Government to pay x dollars every month for health coverage. Respond to their needs. Compete for their business on the basis of things like cost, quality, and accessibility."

To make competition work, we need two things. We need choice, and we need cost sharing. As I have mentioned, we are introducing choices in another part of this bill. But cost sharing is important too. If choices are going to mean anything, individuals must have a stake in the cost.

There are different kinds of choices. There is choice among health plans, and then there is choice within a health plan. That means choosing among doctors, hospitals, and other providers. If individuals are expected to be sensitive to the cost of care they must share in the cost.

Why does one hospital charge me $350 and the other $250? Why does the appendectomy cost $250 here and $200 there? Nobody asks that unless he or she has a stake in it.

So it seems to me that what we are doing is having the elderly of America help us in changing this system, so that next year and the year after and the year after that we can all work together to turn this system around and make it affordable to everybody in this country.

Mr. SASSER. Mr. President, I rise today in support of the amendment offered by my friend from Montana (Mr. BAUCUS). I am pleased to be a cosponsor of this important effort to prevent the elderly from shouldering more than their fair share of the budget savings included in the bill now under consideration.

Mr. President, it is important that the Senate know what the cumulative effects of sections 103, 105, and 109 of H.R. 4961 will be. First by adopting the Finance Committee provisions on home health care and medicare part B premiums and deductibles, we will do nothing to help control medical costs. We will increase the percentage of disposable income the elderly spend on medical care, already an estimated one-third of their incomes. We will be forcing many elderly Americans into hospitals and nursing homes, without regard for the efforts of various agencies to improve long-term care alternatives.

I am particularly concerned that section 103 will place a burden on the medicaid program, and home health agencies, from which they might never recover. The medicaid program may well be called upon to make the copayments for eligible medicare/medicaid recipients. Additionally, home health agencies might never collect the copayments in the first place—how can you collect from someone who simply does not have the resources?

The committee's version of H.R. 4961 contains an indexing provision, which would tag the medicare part B deductible to increases in the Consumer Price Index. Section 105 will tighten the inflationary screw one more turn on the Nation's elderly, and force them to pay more for medical care. And during this time of inflation, high interest rates, and budgetary restraint, should not we be trying to bring down the cost of medical care for those who need it most?

Finally, section 109 would tie the medicare part B premium to a higher cost escalator than currently required—25 percent of program costs. This premium formula will, in the long run, cost the medicare recipient a substantial amount of money. Moreover, the provision will immediately affect both aged and disabled medicare recipients, as the premium is deducted from their monthly social security checks.

Medicare beneficiaries already share part of the burden for their health care costs. Medicare pays an average 59 percent of the cost of physician services to medicare beneficiaries. The balance is made up from the pockets of medicare recipients. Deleting sections 103, 105, and 109 of H.R. 4961 will insure that we do not ask more of the elderly and handicapped than they can already afford.

In short, Mr. President, we must adopt the Baucus amendment. We cannot permit this attack on the very programs that enable so many senior citizens to obtain the medical care they need.

I urge my colleagues to support medicare beneficiaries by supporting the Baucus amendment.

Mr. President, my support for this amendment is backed by the most respected chairman of the House Select Committee on Aging, CLAUDE PEPPER. His letter to me vividly attests to the need for the Baucus amendment. It notes the crushing burdens that will be placed on our elderly if the Baucus amendment is not approved.

I ask unanimous consent that the full test of Congressman PEPPER's letter to me on this matter be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON AGING,
Washington, D.C., July 20, 1982.

Hon. JIM SASSER,
U.S. Senate,
Washington, D.C.

DEAR JIM: Your assistance in a matter of great importance to the nation's 25 million elderly would be very much appreciated.

The Members of our Committee share a deep concern with respect to the proposal advanced in the Senate Finance Committee to impose a 5 percent coinsurance which must be paid by Medicare beneficiaries on home health visits. The purpose of this letter to you is to urge you to support an amendment being sponsored by Senators Max Baucus and John Heinz to delete this proposal when the tax bill is considered later this week.

Numerous studies and hearings by our Aging Committee and others have shown conclusively that overutilization of institutional facilities in Medicare and Medicaid is a serious problem. Our 1979 study pointed out that thousands of persons are being retained in hospitals longer than necessary at four or five times the cost of home care and that a substantial number, perhaps 25 percent, of nursing home patients could be more appropriately cared for at home.

In 1980, Congress enacted legislation which our Committee supported to make the Medicare home health benefit less restrictive by removing the prior hospitalization requirement for receipt of home care under Part A, eliminating the limit on visits under both Parts A and B, and eliminating the Part B deductible for home health care.

These changes were viewed as affordable, as well as appropriate, because the remaining requirements for receipt of home care are adequately strict to prevent unnecessary utilization. The services still must be medically necessary as prescribed by a physician and the patients must be homebound and require skilled care. Inasmuch as physicians, not patients, order home health services under the program, this proposal would serve simply to increase the burden of expense borne by beneficiaries and have little impact on overutilization.

Almost six million elderly persons have incomes below 125 percent of the poverty line. They may be reluctant to seek or accept home care under Medicare knowing that their out-of-pocket liability may turn out to be a substantial portion of their small incomes.

Home health costs account for under 2 percent of total Medicare costs and have been viewed by Congress as cost-efficient. To impose a copayment on a service the utilization of which is in the public interest and with respect to which Congress clearly is on record is contradictory and could reverse a trend Congress has encouraged. It makes little sense for us now to retreat 180 degrees in the opposite direction.

Those who support the coinsurance idea say it is necessary to prevent overutilization of home health services. However, there is no evidence of such overutilization at present. Indeed, as noted above, the Congress has found there is overutilization of institutional facilities and has set a course to encourage the use of home care. Other proponents of the idea claim that it will save as much as $35 million in Medicare costs. We disagree. It will cost Medicare far more in the form of administrative costs and bad debts passed on for reimbursement by home health agencies that are trying to collect the coinsurance than the claimed $35 million savings.

I urge, therefore, that you join Senators Baucus and Heinz in the move to delete the coinsurance proposal. We believe this is vitally important to the nation's elderly.

With kindest regards,

Very sincerely,

CLAUDE PEPPER,
Chairman.

● Mr. HUDDLESTON. Mr. President, I strongly support the amendment offered by the distinguished Senator from Montana, Senator BAUCUS, to strike those provisions which would increase the out-of-pocket costs for medicare recipients.

There is no question that we must get medicare, and all health costs, under control. But, the Finance Committee bill simply goes too far, too fast. Health care providers and beneficiaries are still reeling from the cuts imposed last year, and it will be some time before we know the full impact of those changes on the quality and availability of care to our Nation's elderly.

We do know already, however, that the elderly person's per capita responsibility for his or her total health care bill is growing at a dramatic rate—from $503 in 1970 to $1,436 in 1980. This is an increase from 16.8 percent to 19.1 percent of total income. This is rapidly approaching the same share of the elderly's income that health care costs consumed in 1965, before medicare was enacted—20.4 percent.

Under the medicare part B supplemental medicare insurance program, medicare beneficiaries are currently required to pay an annual premium of $146.40, plus an annual deductible of $75, plus 20 percent of the "reasonable charges" of all covered services. The deductible was just raised last year to $75 from $60. The annual premium has been increasing steadily. And though the assertion that beneficiaries need pay only 20 percent of the "reasonable charges" for covered services looks good on paper, it rarely works that way. Because of rising differences between what physicians charge and what medicare considers a "reasonable charge," medicare generally pays under 60 percent of the charges for part B services. Obviously, somebody has to make up the difference.

The bill reported by the Finance Committee would exacerbate that situation by indexing the part B premiums and deductibles, resulting in more rapid increases and higher out-of-pocket costs for the elderly.

Equally disturbing is the Finance Committee proposal to impose a 5-percent coinsurance which must be paid by medicare beneficiaries on home health visits.

A 1979 study by the House Select Committee on Aging indicated that thousands of persons are being retained in hospitals longer than necessary at four or five times the cost of home care and that a substantial number, perhaps as high as 25 percent, of nursing home patients could be more appropriately and economically cared for at home. In 1980, the Congress enacted legislation to make the medicare home health benefit less restrictive—to encourage home health care rather than expensive and unnecessary hospital or institutional care.

Home health care should be encouraged. Yet, the Finance Committee bill goes in the opposite direction. The 5-percent copayment likely would affect over 1 million beneficiaries with those requiring the most visits paying as much as $1,300 more out-of-pocket in 1 year. Further, it would be impossible to estimate how many elderly in need of home health services will be forced to decline them because the costs would exceed their ability to pay.

These provisions which we propose to strike would not curb health costs; they would not promote efficiency in the health care system. They simply would shift additional costs onto the already overburdened elderly, and that I cannot support.●

● Mr. CHILES. Mr. President, I am pleased to cosponsor this amendment to eliminate the provisions of the Finance Committee bill which would increase out-of-pocket costs for all medicare beneficiaries.

The elderly already pay more and more out of pocket every year for their health care. Health care costs have to be reduced, but we should not be asking the elderly to be the ones to shoulder this burden.

Even with medicare's current protections, the elderly pay a full one-third of their health care costs directly out of pocket now. That is $800 or more per person. Add to this another $150 a year for medicare premiums—and $400 or $500 a year for annual premiums on a supplemental health insurance policy.

The percent of total income of the elderly which has been going to pay for health care has been steadily increasing. Right now, it is just about the same as before medicare was ever enacted—a little over 20 percent.

Very few of us have to spend that much of our income for health care.

This amendment would delete three of the provisions in the Finance Committee bill which I feel are unfair to medicare beneficiaries.

First, the Finance Committee bill would increase the medicare part B deductible every year. We just increased it last year from $60 to $75.

Second, the bill would require annual increases in the medicare part B premium at a rate much faster than is now required.

The third part of the bill which this amendment would delete is a new copayment for medicare home health services.

The three provisions which this amendment would delete are inequitable, are unnecessary, and are unfair.

They would cut medicare costs by directly reducing medicare benefits to the elderly. They would do little or nothing to contain overall health care costs.

The home health copayment alone would mean an additional $1,300 in out-of-pocket expenses in just 1 year for the most vulnerable elderly—those who require the most home health visits. The copayment would affect over 1 million medicare beneficiaries.

I objected to these three provisions when they were first considered as part of the budget resolution. I offered an amendment in the Budget Committee which would have set a savings mark for the health function which would have allowed us to achieve real health care cost savings in medicare—but which would not have forced these increases in out-of-pocket expenses for medicare beneficiaries.

My Budget Committee amendment was not successful, but I hope that we will accept this amendment today.

I would like to point out that the House Ways and Means Committee has managed to put together a reconciliation bill which does not include these increases in beneficiary out-of-pocket costs.

It is clear that there is very little support for these provisions. We should adopt this amendment and get them out of this bill now.●

● Mr. RIEGLE. Mr. President, I rise in support of the amendment offered by the distinguished Senator from Montana (Mr. BAUCUS), designed to soften the harmful impact experienced by elderly and disabled persons as a result of the unprecedented and precipitous reductions in funding for the medicare program as proposed in H.R. 4961, the Finance Committee reconciliation bill. This amendment would strike from the bill the three provisions that would result in increasing the out-of-pocket expense for medical and health care under the medicare program. In other words, this amendment would eliminate the provisions that exact savings to the Federal Government by directly taking money out of the pockets of elderly and disabled persons seeking services under medicare.

Mr. President, at a time when we should be considering ways to improve the delivery and availability of essential health services—often life sustaining health care—we are instead entertaining proposals to slash medicare by $13.3 billion over the next 3 years. At a time when we are seeing an increase in the numbers of elderly persons living in poverty—the first time we have seen an interruption in a steady 20-year decline in the elderly poverty rate—we are considering increasing the out-of-pocket costs of health care for elderly persons. At a time when older Americans are just recovering from a whopping 27-percent increase in out-of-pocket expenditures for health care in the form of increased deductibles and copayments as a result of last year's Reconciliation Act which slashed $1.5 billion out of Federal health programs, we are today considering legislation to cut an additional $2.9 billion out of the medicare program alone in just 1 year; fiscal year 1983.

Mr. President, while most employed persons have the option of selecting health insurance to cover the often extreme financial risks associated with securing health care, many older persons are no longer connected to the work force after many years of service to society and are, therefore, no longer eligible for employment related health insurance. During this retirement period, elderly persons have come to depend on the medicare program to provide them with the assurance that ill health will not result in financial catastrophe. Yet today we are considering proposals to reduce the Federal budget by cutting medicare services and benefits and by increasing out-of-pocket costs for elderly and disabled persons who qualify, often as a result of years of payroll deductions into the hospital insurance trust fund, for medical services.

Mr. President, under current law elderly persons already pay a total of 45 percent of health care expenses out of pocket. Without adopting any of the drastic cuts contained in the Senate Finance Committee recommendations, the percent that elderly persons pay out of pocket to cover medical expenses will almost certainly rise as a result of spiraling increases we are seeing in the cost of health care. Of the 16 or so changes in the medicare program proposed by the Finance Committee, the 3 which my colleague from Montana seeks to strike from the bill are the provisions which would result in a direct increase in the cost of health care to elderly and disabled persons. This is an increase being passed on to a segment of our population that already experiences poverty in a greater proportion than average. A full two-thirds of all elderly persons derive one-half of their income from social security and one-quarter—25 percent—rely on social security for 90 percent or more of their income. It is by directly reducing the already meager and inadequate income of elderly and disabled persons that the Finance Committee bill seeks to reduce the Federal deficit. This is not the way to restore confidence in the economy and reduce Federal spending. This is not the way to show the American people we are being fair and equitable in distributing the burden of cutting Federal spending. This is so because these proposals are not fair and equitable but rather they simply hurt a certain segment of our society, elderly and disabled persons, and ask them to disproportionately sacrifice for our so-called economic recovery.

Mr. President, in using the reconciliation process as a means for reducing spending in the medicare program, the Senate Finance Committee has proposed a series of changes in the program that are unrelated and share only one feature in common; the reduction of Federal outlays. Because these proposals are not part of a comprehensive approach to deal with the many difficulties that exist in federally funded health programs, it is unclear, in many instances, what the effect of the committee's recommendations will be. In fact, it is almost certain that many of these proposals will actually help increase the already our of control health care inflation rate. In doing so, these proposals thereby exaggerate the amount of medicare savings estimated in future years, not to mention the severe damage that this newly created inflation would inflict upon our health care system.

If we look at the proposal to require copayments on home health services under Medicare, we can see how shortsighted and illusory some of these so-called spending reduction proposals are. It is more than likely that by requiring a copayment for home health care we will discourage beneficiaries from seeking the least costly and often best suited form of treatment. Rather than saving medicare dollars, it is more reasonable to anticipate increased medicare outlay as beneficiaries, often without the means to provide even a minimal copayment, will out of necessity remain hospitalized longer than is necessary.

Mr. President, it is for these reasons and others that I urged my colleagues to strike the provisions in the first concurrent budget resolution that assumed massive cuts in the medicare program. Unfortunately, my arguments were unsuccessful then. Hopefully my colleagues will today join me and the Senator from Montana and others to eliminate the most onerous of the proposed medicare cuts.●

Mr. PRYOR. Mr. President, I rise today in support of the amendment offered by the distinguished Senator from Montana, Mr. BAUCUS, to delete three provisions of the Tax Equity and Fiscal Responsibility Act of 1982 which would, if implemented, transfer an unfair portion of the burden of the rapidly rising cost of health care to our Nation's elderly. I am referring to the provisions which would require a 5-percent home health copayment, would index the part B medicare de-

ductible to the Consumer Price Index, and the section which requires that the revenues from part B supplementary medical insurance program monthly premium remain equal to 25 percent of total program costs.

Mr. President, my most serious concern is over section 103, which imposes a specified copayment amount—which is to be recalculated annually—for each and every home health visit reimbursed by the medicare program. The Finance Committee has estimated a savings of $35 million in fiscal year 1983. However, Mr. President, I think that the Finance Committee has shown a great deal of shortsightedness in proposing this change.

Throughout the years it has been exhibited that many more individuals have been institutionalized than needed be, due in large part to the fact that there were not viable alternatives to institutionalization that would allow these seniors to remain in their homes. As a result, health care expenditures for many seniors far exceeded what was really necessary to provide adequate levels of care. In response to an overwhelming need, a network of home health care providers was established throughout this country which began to provide less costly, and more appropriate, health care. Over the years the Congress has modified legislative requirements so that home health care has become more readily accessible to medicare beneficiaries.

It is my belief that the Finance Committee proposal will do irreparable damage to the progress we have made toward development of these home health alternatives. I say this because I believe that this individual provision will not only discourage the use of home health care on the part of senior citizens throughout our Nation, but in many cases may result in unnecessary institutionalization, which is the fastest growing of all health care costs. For these and other reasons, I urge my colleagues to support this amendment.

Mr. BRADLEY. Mr. President, repeatedly, this administration has said that they would provide a safety net for those truly in need. Yet last year we saw gaping holes develop in that net as health benefits provided under the Social Security Act to the poor and young were subtantially cut. This was done by cutting the medicaid and AFDC programs.

This year the administration's tax bill proposes to force the poor and the elderly to shoulder even more of the cost for their health care. And the new changes promise our older Americans that their health bills will continue to escalate in unknown proportions every year from now on.

This administration still says that it is protecting social security. At the same time they are imposing further cuts under the medicare provisions of social security for the elderly and the disabled. The effects of these medicare cuts will be immediately apparent. It will require direct out-of-pocket payments for the elderly. For most of them—those who live on their social security retirement pension income—the new cuts are every bit as harmful as a direct cut in social security benefits.

There are real problems in controlling the cost of health care. These costs are increasing far faster than any others. But the solution to this inflation is not to transfer costs from the Federal Government to the retired elderly, not to place arbitrary caps on payments to hospitals and physicians, but to develop realistic and effective cost-containment methods.

I oppose the shortsighted and destructive changes proposed for medicaid and medicare in the 1982 tax bill before us. I oppose these changes because I do not believe the elderly and disabled can afford these significantly increased costs. Nor do I believe it is sound health policy. That is why I am co-sponsoring this amendment to delete three of the most outrageous changes, those that directly take money out of the pockets of the elderly.

One provision this amendment seeks to stop indexes the amount medicare recipients must pay for doctor bills, home health care, and medical devices before Federal payment begins—part B deductible—to the Consumer Price Index. A second provision indexes the elderly individual's monthly payment for part B benefits so that it will automatically increase to cover all Federal expenditures for the part B program. The final provision requires the homebound elderly to pay 5 percent of the cost of services delivered to them at home.

Fiscal year 1983 saving for the entire package of medicare savings is $3 billion. The amendment before us would delete only $136 million of that amount: $65 million for the increase in part B premiums and $35 for the home health copayments.

The changes the committee proposes were made in the name of "cost containment." In fact they do nothing more than shift the costs from the Federal Government to the elderly and States. This is equally true on the case of the medicare cuts which would not be covered by this amendment. There will be sharp increases in health insurance premiums for all individuals, most markedly for those buying insurance to fill in the gaps in medicare coverage. Last year, with fewer medicare changes, premiums went up 40 to 60 percent.

The 5 percent home health copayments are particularly shortsighted. Fewer then 3 percent of beneficiaries use home health services. They usually are people who have just come out of the hospital. Copayments—estimated to average $2 a day—will discourage people from using home health services which are far more cost effective than hospitalization. Over 40 percent of such patients receive over 20 visits. The repeated $2 charges for these people will add up to substantial costs. For those who cannot afford it, the choice will be rehospitalized or institutionalization in nursing homes. If this is the result, total medicare program costs will increase. The "savings" may well end up costing the program more money than is raised by the proposed copayment.

Mr. President, these provisions are not fair and do not represent thoughtful health legislation. I urge my colleagues to support this amendment so that the oldest and sickest among us will not be asked to shoulder the burden of this administration's economic mistakes and failures.

The PRESIDING OFFICER. All time has expired on this amendment.

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I am told that there are a number of Senators who are not immediately available to vote and that we should have a quorum call in order that those Senators might be able to be here for the vote. Under those circumstances I do not think it appropriate that the time be charged against either side.

Therefore, I ask unanimous consent that I be permitted to suggest the absence of a quorum and that the time not count against either side.

Mr. BAUCUS. Mr. President, will the Senator yield?

Mr. LONG. I yield.

Mr. BAUCUS. Will the Senator yield the floor before putting that request so we may get the yeas and nays on this amendment at this time?

Mr. LONG. Does the Senator want the yeas and nays on it?

The PRESIDING OFFICER. The request has been placed. Does the Senator reserve the right to object?

Mr. BAUCUS. Will the Senator withhold his request momentarily so that I may ask for the yeas and nays on the amendment?

The PRESIDING OFFICER. Does the Senator withdraw the request?

Mr. LONG. It will be easier to get the yeas and nays after we have the quorum call. If the Senator wishes to

try now he may. Does the Senator want to ask for the yeas and nays?

Mr. BAUCUS. Will the Senator?

Mr. LONG. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficent second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAUCUS. I thank the Senator.

Mr. LONG. Mr. President, I now ask unanimous consent that we might have a quorum call without the time counting against either side.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Mr. President, reserving the right to object, are we about out of time? Is that the problem?

The PRESIDING OFFICER. When time has expired it is my understanding that under the precedent of the Senate the request is unnecessary.

Mr. DOLE. How much time remains on the bill? Is it not 12 hours?

Mr. LONG. If the Senator wishes to charge it against his time it is all right with me. But the point is if we are not going to vote I think it is not appropriate to charge it against either side if we are not ready to vote at the moment and not going to talk.

So I ask unanimous consent that we might have a quorum call without charging the time against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, I ask if the majority manager of the bill will yield time on the bill.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, how much time does the Senator desire?

Mr. METZENBAUM. I only ask for 30 seconds.

Mr. LONG. I yield the Senator 30 seconds.

Mr. METZENBAUM. Mr. President, I am a cosponsor of the amendment offered by my colleague from Montana (Mr. BAUCUS), to strike from this bill three provisions which would have a disastrous impact upon our elderly citizens. The Finance Committee has proposed that medicare recipients pay higher premiums for their part B coverage, pay more out-of-pocket costs for their doctor visits before medicare provides any assistance, and pay a portion of every home health care visit. In total, these provisions would shift $1.4 billion in medicare costs directly onto the elderly.

Mr. President, these provisions are absolutely unacceptable. The elderly are still reeling from the blow of last year's medicare cuts. Last year, at the same time that they were giving the largest tax breaks in history to the rich, this same Congress increased the elderly's cost of health care. Even those with private insurance coverage such as Medigap were not protected from the increases. In some instances, Blue Cross and Blue Shield plans doubled and even tripled their premium rates in order to compensate for the cuts in Government funding.

Some Members of Congress have attempted to justify these proposed cuts on the grounds that they will make the elderly more cost conscious about health care. This is ludicrous, given that the elderly already pay 43 percent of their health care costs out of their own pockets. The real impact will be that many older persons will forego needed doctor visits because they cannot afford to pay for them. As a result, many will suffer acute health problems which will certainly be more costly to the medicare system in the long run. The same shortsightedness is exhibited in the home health care provision. For many elderly, a regular visit from a home health care aide is the only thing standing between that person and institutionalization. Many poor elderly cannot afford to pay even a few dollars per visit. The result will be that these persons will be forced to enter institutions to receive the care they need, costing the Federal Government much more in the long run.

Every day I hear stories of older persons on small fixed incomes who must choose between eating and heating their homes, who must choose between eating or seeing their doctor. This is an unconscionable situation which would only be worsened by the provisions in this bill.

Much could be done in the area of cost containment to get at the real causes of runaway inflation in the health care industry. The Senate Finance Committee is to be commended for their move in that direction. Many of the proposals in the bill, addressed to providers, are attempts to halt the inflationary spiral. But the proposals stopped short of real cost containment. Instead, these medicare provisions which are the subject of this amendment take the easy way out. They take from those who are least able to fight back—those without any strong and powerful lobby here in Washington.

It is time that this body was forced to address the underlying causes of health care inflation. Perhaps if a majority of Senators draw the line and simply refuse to continue to pass on these costs to those who cannot fight back, we might actually begin to attack this problem at its roots.

This is a rich and powerful Nation. There is no reason that we cannot provide decent health care for our senior citizens. I for one will continue to make this an urgent priority. This amendment is a small but vital step in moving this country's priorities in the right direction.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that neither side be charged for the time of the quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I yield 1 minute on the bill to the Senator from Montana.

Mr. BAUCUS. I thank the Senator.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of the amendment: Mr. KENNEDY, Mr. MELCHER, Mr. LEAHY, Mr. METZENBAUM, Mr. PRYOR, Mr. CHILES, and Mr. MOYNIHAN.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield? I ask unanimous consent that my name be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I rise in support of the pending amendment being offered by the distinguished Senator from Montana, Mr. BAUCUS. The amendment would delete the three medicare provisions contained in the Finance Committee bill that most threaten the retirement security of our Nation's senior citizens.

It would strike the bill's requirement that retired and disabled Americans begin to annually pay 25 percent of the costs of medicare part B physician insurance coverage. This would cost our Nation's senior citizens more than $700 million in additional premium payments over the next 3 years.

It would strike the bill's provision indexing the part B deductible to the Consumer Price Index, so that it would automatically rise very year. It is estimated that this would mean at least $475 million in increased out-of-pocket health care payments for retired Americans over the next 3 years.

The amendment would also strike the bill's requirement that medicare patients begin paying 5 percent of the cost of home health care visits when the same patients may now have total medicare coverage for hospital treatment. The new copayment simply does not make any sense from either a cost-

containment perspective or humane point of view. At-home health care is far less costly than institutional care. Under the bill's copayment requirement, some medicare beneficiaries would no longer be able to afford the option of at-home care, when contrasted to fully paid hospital care.

The Baucus amendment, which I am cosponsoring, would delete the Finance Committee bill's provisions that would result in substantially greater personal out-of-pocket medical care expenditures for our Nation's retirees. The 28 million Americans served by the medicare program already pay a disproportionate share of their limited incomes for health care. Today, it is estimated that the program only pays an average of 38 percent of all medical bills incurred by elderly citizens.

We do not want to be cutting medicare protection when we do not have to. The Finance Committee bill would cut medicare spending by approximately $13.3 billion over the next 3 fiscal years. The committee's plan would make far deeper cuts in the program than called for by the budget reconciliation process. The Baucus amendment would restore a little more than $1 billion in medicare benefits or about 10 percent of the proposed aggregate program cut. Even with such a funding restoration, the committee's medicare plan would still reach beyond the level of spending cuts required under the budget.

I urge my colleagues to vote for the pending amendment.

The PRESIDING OFFICER. Who yields time? The question is on agreeing to the amendment of the Senator from Montana. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), would vote "yea."

The PRESIDING OFFICER (Mr. COCHRAN). Are there other Senators in the Chamber desiring to vote?

The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 235 Leg.]

YEAS—46

Baucus	Ford	Mitchell
Biden	Glenn	Moynihan
Bradley	Hart	Packwood
Bumpers	Hawkins	Pell
Burdick	Heflin	Pressler
Byrd, Robert C.	Hollings	Pryor
Cannon	Huddleston	Randolph
Chafee	Jackson	Riegle
Chiles	Johnston	Sarbanes
Cohen	Kennedy	Sasser
Cranston	Leahy	Stafford
DeConcini	Levin	Tsongas
Dixon	Mathias	Weicker
Dodd	Matsunaga	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NAYS—53

Abdnor	Garn	Murkowski
Andrews	Goldwater	Nickles
Armstrong	Gorton	Nunn
Baker	Grassley	Percy
Bentsen	Hatch	Proxmire
Boren	Hatfield	Quayle
Boschwitz	Hayakawa	Roth
Brady	Heinz	Rudman
Byrd, Harry F., Jr.	Helms	Schmitt
	Humphrey	Simpson
Cochran	Jepsen	Specter
D'Amato	Kassebaum	Stennis
Danforth	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mattingly	Wallop
East	McClure	Warner

NOT VOTING—1

Inouye

So the amendment (UP No. 1104) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

Mr. DOLE. Mr. President, will the Senator permit Senator DURENBERGER to offer what might be called a compromise amendment based on the vote on the last amendment before the Senator proceeds.

Mr. ARMSTRONG. Of course, Mr. President, if that is in order. I will withhold my amendment and yield to the Senator from Minnesota.

UP AMENDMENT NO. 1105

(Purpose: To begin home health copayments with the 20th visit, to increase the part B deductible to $80 in 1984, and to sunset the provision holding the part B premium at a constant percentage of costs after 3 years)

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to considering the amendment at this time? Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself, Mr. JEPSON, Mr. ROTH, Mr. COHEN, Mr. QUAYLE, Mr. D'AMATO, Mr. PACKWOOD, Mr. HEINZ, Mr. ANDREWS, and Mrs. KASSEBAUM, proposes an unprinted amendment numbered 1105.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 43, line 7, after "any visit" insert ", beginning with the twentieth such visit made with respect to such individual in any calendar year,".

On page 44, line 14, after "each visit" insert ", beginning with the twentieth such visit made with respect to such individual in any calendar year,".

On page 45, beginning with line 16, strike out through line 10 on page 46 and insert the following:

INCREASE IN PART P DEDUCTIBLE

SEC. 105. (a) The matter in the first sentence of section 1833(b) of the Social Security Act preceding clause (1) is amended by striking out "$75" and inserting in lieu thereof "equal to $75 in the case of calendar years prior to calendar year 1984, $78 in the case of calendar year 1984, and, $80 in the case of subsequent calendar years."

On page 54, line 19, before the period insert the following: "and prior to July 1, 1985. With respect to premiums paid on or after July 1, 1985, the amendments made by this section shall cease to be effective, and such premiums shall be determined under the provisions of section 1839 of the Social Security Act as in effect prior to such amendments, but any increases in premium amounts taking effect prior to July 1985 shall be taken into account for purposes of determining increases thereafter under section 1839(c)(3) of such Act.

Mr. DURENBERGER. Mr. President, we have spent a little over an hour discussing the amendment of the Senator from Montana. I will not belabor the arguments pro and con but only indicate that my amendment is in the nature of a compromise. My amendment provides that there will be no increase in the part B deductible in 1983. There will be a slight increase of $3 a year, from $75 to $78, in 1984, and an even slighter increase of $2 a year, in 1985.

With regard to the part B premium, my amendment sunsets the Finance Committee's proposal after 3 years.

And with regard to the institution of cost sharing on home health, my amendment provides no copayments for the first 19 visits and only a 5-percent copayment beginning with the 20th visit.

The effect, Mr. President, is that the additional cost to beneficiaries in 1983 will be nominal.

I yield to the Senator from Iowa.

Mr. JEPSEN. Mr. President, I have spent considerable time working with the Senator from Minnesota in preparing the compromise amendment, especially with regard to the section of the home health care visits. This amendment would exempt the first 20 home health visits with the medicare copayments which would be commenced with the utilization of 20 days of institutionalized care.

ENCOURAGING HOME HEALTH CARE

Mr. President, I rise in support of the proposed amendment. As a cosponsor of this compromise, I think it represents a responsible change which will insure the continued utilization of home health care by our Nation's elderly population.

As my colleagues know, had this compromise package not been offered, I was prepared to offer a separate

amendment to exempt the first 20 home health visits from the medicare copayment. I would hope that the Senate would approve this compromise.

Quite simply, the home health copayment compromise exempts the first 20 home visits covered by medicare from the 5 percent copayment proposed by the committee. While I think the committee was headed in the right direction, I believe it lost sight of the long-term costs of their proposal in favor of some possible short-term savings.

As you will recall, Mr. President, last year Congress approved changes aimed at encouraging the elderly to utilize home health care as an alternative to hospitalization or institutionalization. I firmly believe that those changes will lead to significant long-term savings for the medicare program.

Unfortunately, if the committee's proposal is not changed, I am concerned that the positive steps taken last year to encourage home health care may have been for nothing. Let me explain.

As my colleagues know, the decision on whether or not to enter a nursing home is an agonizing one. Should the person remain in the hospital, transfer to a skilled nursing facility—nursing home—or utilize home health care? In a perfect world, the decision should be based on the type of care required by the patient. Because we do not live in a perfect world, other factors are involved. Very often the final factor in the decision is cost.

Under current medicare standards, there are a number of built-in disincentives against utilization of home health care. The fact that these exist can be seen in the statistics which show that less than 2 percent of all medicare dollars are spent on home health care.

If the Finance Committee's 5 percent copayment proposal is allowed to pass unchanged, we may very well see further reductions in the utilization of home health care by the elderly. Not because it does not provide the appropriate level of care for millions of elderly beneficiaries, because we know that it does—not because people do not want to remain at home, because they do—not because there are not enough home health agencies to serve the elderly, because there are.

We will see a significant decline in utilization of home health care because of cost. In the end, a copayment recommended in the name of cost savings will end up costing both the Federal Government and the elderly a great deal of money.

Essentially, there are three reasons why the Finance Committee proposal will cost everyone money and save money for no one:

First, improper utilization of institutional care.

Second, "bad debt" costs fully reimbursed by medicare.

Third, administrative costs on home health agency.

Under present medicare law, the first 20 days in a skilled nursing facility are fully paid for by the Federal Government. On the 21st day, the beneficiary begins to pay a copayment. By contrast, the Finance Committee has proposed that home health recipients begin paying their copay on the first home visit and continue to pay on all subsequent visits.

It does not take a great deal of insight to recognize that this has the potential to create a tremendous incentive for the elderly to use institutional care rather than home care. The cost to the beneficiary can be much lower if the elderly person chooses to stay in a skilled nursing facility for 20 days rather than utilize 20 home visits at $2 per visit.

By contrast, the cost to the Federal Government is significantly higher if the elderly beneficiary chooses institutional care over the less expensive, more appropriate home care.

But for the sake of argument, let us assume that the elderly person decides to utilize home care. Will this achieve the savings the Finance Committee has suggested? I do not believe it will.

As currently envisioned, the 5 percent copayment is to be collected by the local home health agency providing the services. In many instances, the elderly being served are low income elderly. Many, because of the equity in their home or some other types of "non-liquid" assets, are unable to qualify for medicaid, but they are still very low income. This means it will be very difficult for the local home health agency to collect the copayment from the beneficiary. The agency has two options:

First. Write it off as "bad debt" and bill medicare.

Second. Absorb the loss and build it into future costs.

More than likely, the agency will write the nonpayment off as bad debt. If this is done, medicare will fully reimburse the agency for its loss. Consequently, medicare has saved nothing, the cost has merely been transferred from one account to another.

As I mentioned, the agency could decide to absorb the loss and build it into future costs. Obviously this would end up costing the Government money through future medicare payments. As you know, Mr. President, this is not something unique and has been a serious problem with a number of other Federal programs.

Finally, there are administrative costs involved that have not been considered.

As I mentioned, the local home health agency will be responsible for collecting the 5 percent copayment. This will mean the agency will have to set up a double billing system. They will bill medicare for 95 percent of the cost of the visit, and the beneficiary for the remaining 5 percent.

Obviously, there is going to be some cost involved in setting up this type of system, as well as on-going costs to keep up with the new procedures. In many areas, particularly the more rural areas like my home State of Iowa, setting up and maintaining this double billing system will cost more money than the 5 percent copayment will bring in. Because administrative costs are reimbursed by medicare, this will mean that the Government will end up losing money in many cases.

It is for these reasons, Mr. President, that I have proposed to exempt the first 20 home visits from the 5 percent copayment. Many of the national associations representing home health care providers, as well as many of the national associations representing the elderly, share my concern and support my proposal.

At this time, Mr. President, I ask unanimous consent that some of the letters I have received be printed in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. JEPSEN. In addition to those who have written, my office has received a number of phone calls and telegrams from interested persons supporting this exemption. I believe it is something which makes sense and will, in the long run, end up saving the Government money. The more we encourage the elderly to utilize home health care, the better off we will be. The physical and mental wellbeing of the patient is improved through utilization of home care and the taxpayers benefit through reduced program costs. I urge my colleagues to join me in supporting this amendment.

Finally, Mr. President, I ask that a list of the organizations supporting this amendment appear in the RECORD at the end of my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

EXHIBIT 1

HOME HEALTH SERVICES AND STAFFING ASSOCIATION,
July 15, 1982.

Hon. ROGER W. JEPSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JEPSEN: We understand that you are working on an amendment to the Medicare-Medicaid cost reduction bill reported by the Senate Finance Committee that would exempt the first twenty home health visits from the 5 percent co-payment adopted by the Committee.

This Association strongly supports your effort. Our organization has seventeen members who are investor-owned, tax-

paying organizations, which provide home health services and supplemental staffing services through over 1,000 offices in 44 states. A membership list is attached.

We believe that home health ought to be encouraged in today's tight budget situation because it saves money compared to hospital care. For example, the enclosed reports show that:

Maryland Blue Cross found a 1980 savings of $752,000 (for 666 patients) by substituting home care for hospital care.

In St. Louis, a Blue Cross-Visiting Nurse Association study found a $3,000 savings for each patient moved to home care from the hospital.

Co-payments will discourage home care and thus frustrate savings that otherwise could be achieved.

We think that your amendment would be a very positive step, and we urge you and your colleagues to approve it. Please feel free to call Gail Grubb (775-4721) if we can be of any assistance to you.

Sincerely,

JOHN B. SMITH,
Chairman of the Board.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Washington, D.C., July 16, 1982.

Hon. ROGER W. JEPSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JEPSEN: We have been advised that you are considering an amendment to the Medicare-Medicaid cost reduction provisions of H.R. 4961 which would eliminate the Medicare co-payment requirement for the first 20 home health care visits each calendar year.

Our Association strongly supports home health care as a preferable alternative to hospital or nursing home confinement for senior citizens. It has been proven less costly than institutional care and in most cases has major psychological benefits for the ailing individuals. We are, therefore, greatly concerned with the Finance Committee's decision to initiate a five percent co-payment for all home health care visits as we oppose other additional out-of-pocket medical expenses for our elderly citizens. Certainly co-payment expenses for individuals who are able, and prefer to rely on home health care, should not exceed those of institutionalized persons.

While we remain opposed to any home health care co-payments, we welcome your amendment as a more equitable alternative than the current Finance Committee provision which would require the co-payments from the initial visit. Therefore, the National Association of Retired Federal Employees encourages Senate adoption of your amendment.

Sincerely,

L. J. ANDOLSEK, *President.*

AMERICAN ASSOCIATION OF HOMES FOR THE AGING,
Washington, D.C., July 16, 1982.

Hon. ROGER W. JEPSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JEPSEN: The American Association of Homes for the Aging, representing the nation's not-for-profit community-based providers of long term care, housing, and housing-related services for the elderly, is supportive of your proposal to limit co-payments on home health services to five percent beginning with the twenty-first day of care.

We have long favored changes in the long term care service delivery system to promote the appropriate placement of individuals within this system. Creating incentives for alternatives to institutionalization benefits the persons who avoid being placed in environments which are overly restrictive in relation to their need. It is necessary to find ways to make sure that the nation's elderly have a solid base of institutional, community-based and in home services they can choose from when support is needed.

Your proposal represents considerable progress towards that end. Eliminating any sort of co-payment until the twenty-first day of care should ensure that potential beneficiaries of home health care are not dissuaded by the prospect of an immediate, burdensome co-payment. Further, limiting the co-payment to five percent at the twenty-first day does effectuate some cost savings without placing an undue financial obligation on persons requiring care over a fairly lengthy period of time.

We commend your efforts on behalf of the nation's elderly, and pledge to you our cooperation in your present effort.

Sincerely,

LAURENCE F. LANE,
Director for Policy Development and Implementation.

AMERICAN HOSPITAL ASSOCIATION,
Washington, D.C., July 15, 1982.

Senator ROGER W. JEPSEN,
U.S. Senate,
Washington, D.C.

DEAR SENATOR JEPSEN: On behalf of the American Hospital Association, which represents more than 6,300 member hospitals and health care institutions, including more than 510 hospitals which provide home health services, I would like to express our support for your efforts to exempt the first 20 home health visits from the proposed 5 percent copayment requirement under Medicare. The proposal, which is included in the Finance Committee's Medicare spending reduction package to reduce budget outlays, would run counter to all efforts to increase the use of needed home care by the elderly.

Our Association has long been committed to increasing the scope of cost-effective, community-based health services for the elderly and chronically ill who are at risk of institutionalization. Such services can contribute significantly to the health and well-being of patients by restoring them to health or maximum function, reducing incentives for inappropriate admissions to institutions, and making possible earlier discharges from institutions.

Although the AHA generally supports incentives for more responsible use of health care resources by beneficiaries, we are concerned that copayments for home health services would be counterproductive to goals of encouraging the development of alternatives to institutional care. Moreover, a home health copayment could potentially lead to higher Medicare outlays in the future by creating a disincentive for the use of home health serivces and could result in longer stays in hospitals. Clearly, these outcomes would be contrary to efforts to reduce program costs.

We firmly support your amendment to exempt the first 20 visits from the home health copayment requirement, and hope that you will call on us for any assistance we may provide in furthering its enactment by the Congress.

Sincerely,

JACK W. OWEN,
Executive Vice President.

NATIONAL ASSOCIATION FOR HOME CARE,
Washington, D.C., July 16, 1982.

Hon. ROGER W. JEPSEN,
U.S. Senate,
Washington, D.C.

DEAR MR. JEPSEN: The National Association for Home Care opposes the 5% coinsurance on every home health visit, as passed by the Senate Finance Committee.

One of our members, the Visiting Nurse Service of New York, calculated the costs they would incur in collecting the coinsurance. For a typical $47.00 home health visit in New York, a $2.35 coinsurance would be charged to the patient. Data processing costs, billing, envelope, postage, and the labor intensive tasks of accounts receivable monitoring and payment posting would cost the agency as much as $4.70 to collect this amount. Clearly, the anticipated savings to the Medicare program, attributable to this provision, would not be realized. It should also be pointed out that if an agency cannot collect the coinsurance, the bad debt is reimbursable by Medicare, thereby resulting in significant cost increases to the Medicare program.

While NAHC is opposed to any form of coinsurance, we wish to commend you for your proposal to delay the 5% coinsurance until after the 20th visit. We feel your amendment is moving in the right direction. It would lessen the devastating impact coinsurance would have on both the home health industry and those elderly and disabled clients who depend on its services. However, we continue to believe that beginning with the 20th visit, the administrative costs associated with collecting the coinsurance amount would negate any proposed savings to the Medicare program and would work a severe hardship on the elderly and home health agencies alike.

Sincerely,

MARY C. SUTHER, MPH,
Chairperson, Government Affairs Committee.

N4A,
July 20, 1982.

Senator ROGER W. JEPSEN,
Washington, D.C.

DEAR SENATOR JEPSEN: The National Association of Area Agencies on Aging which represents the 660 Area Agencies on Aging, opposes the Senate Finance Committee change in Medicare requiring co-payment of 5 percent on all home health visits. N4A feels strongly that any co-payment requirement on home health visits will adversely affect older persons. Due to inflation, older persons have less resources to assume out of pocket medical costs for home health visits. This change tends to encourage institutionalization which is more costly than community based care.

We do however support the concept you are proposing to exempt a certain number of visits before requiring copayment as a minimum compromise position.

Thank you for your continued support of programs for older persons and the Network on Aging.

Sincerely,

BOB DOLSEN,
Chairman of N4A Legislative Committee.

EXHIBIT 2

ORGANIZATIONS SUPPORTING THE JEPSEN AMENDMENT

National Association of Area Agencies on Aging.
National Association for Home Care.

Home Health Services and Staffing Association.
National Association of Retired Federal Employees.
American Association of Homes for the Aging.
American Hospital Association.
American Association of Retired Persons.
National Association of Community Health Centers.
National State Units on Aging.

THE PRESIDING OFFICER. Who yields time?

Mr. BAUCUS. Will the Senator yield 5 minutes?

Mr. BENTSEN. I yield 5 minutes to the Senator.

Mr. BAUCUS. Mr. President, my last amendment was not adopted. That amendment would have reduced medicare cuts by $1.3 billion out of the total of $13 billion in cuts that the Senate Finance Committee plans for medicare.

The current amendment offered by the Senator from Minnesota is a compromise. It goes several steps in the direction of the preceding amendment, which was defeated.

Mr. President, I feel strongly that the preferable result here is that we not increase the burden on medicare beneficiaries, as the Senate Finance Committee bill now provides. But I do commend the Senator from Minnesota for at least moving two or three steps in the proper direction.

If the Senator will yield for a question, I should like to ask the Senator from Minnesota if he will modify his amendment in one respect. That is to provide that there be no increase in the medicare part B deductible at all for the years 1983, 1984, and 1985, rather than the increases which he referred to in his amendment.

Mr. DURENBERGER. Mr. President, the notion of a deductible is something we have discussed before. The question is whether or not the deductible is a major factor in the choice of people who need health care. The question is also whether or not the deductible as well as the premium should reflect a proportion of the overall cost of health care. The answer to these questions is yes.

That is why a $3 increase next year and only $2 the year thereafter is not unreasonable. For that reason, I cannot change my amendment in any way with regard to those numbers.

Mr. BAUCUS. Mr. President, I can count votes in this body, and if the Senator from Minnesota will not agree to that change, I do not think any effort on my part will pick up any votes for a change. Therefore, on the principle that half a loaf is better than no loaf, I do support the Senator from Minnesota in his compromise amendment. It is a step back from the first position—not enough steps back, but at least he is beginning to realize the wisdom of the principle of the preceding amendment, if not the entire substance of the preceding amendment.

I thank the Senator from Minnesota.

Mr. KENNEDY. Mr. President, from those who are opposed to the amendment, may I get 5 minutes?

Mr. BENTSEN. I am pleased to yield 5 minutes to the Senator from Massachusetts, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, as I understand the amendment of the Senator from Minnesota, the overall effect is to leave in the increases in the premium over the next 3 years, and make adjustments in home health care, and the deductible. Under this amendment the actual increases in out-of-pocket costs for the elderly will still be approximately $1 billion.

Is that the figure that the Senator gets, approximately? I have figures indicating that it will cost the elderly about $850 million additional as a result of increases in the premiums. The best estimate I have been able to get on home health would be about $100 million, and probably $100 million to $175 million additional from the way you adjust the deductible.

Mr. DURENBERGER. Mr. President, I say to the Senator from Massachusetts, his estimates are approximately correct.

Mr. KENNEDY. As a general figure.

I think it is important, to remember that amendment which I cosponsored with the Senator from Montana, would have virtually eliminated the three different provisions which added up to $1.5 billion additional costs that the elderly would have paid. This amendment effectively will mean that the elderly will still have to pay about $1 billion out of their pockets when they are heavily pressed by food, shelter and energy costs.

I feel very strongly about the importance of the earlier amendment and I was certainly heartened by the fact that there were 46 Members of the Senate who supported our amendment. With all due respect to the Senator from Minnesota who, I know, has given a great deal of time to health issues on the Committee on Finance and is one of the very knowledgeable Members about health care policy, and also to the distinguished Senator from Kansas, who has a long record of concern for the senior citizens, I want still to make it clear that, even as amended, I think this proposal is fundamentally unsound and unfair.

This adjustment does not undo the unfairness and the inequity. It may help salve the consciences of Members who voted against our amendment. I find this amendment less objectionable than no amendment at all on it. So I shall reluctantly go along and support it.

I certainly hope that the day will come and come very soon, Mr. President, that this body will be prepared to come to grips with the issue of cost containment. There are a number of different ways that can be done without taking it out of the hides of the elderly people. Basically because this body refuses to come to grips with those issues, we are involved, even with this amendment, in dipping into the pockets of our elderly people, who have no other recourse. The doctors do, the hospitals do, the seniors do not. Even in accepting this amendment, we are stating to the elderly people in this country that they are going to bear an unfair and unjust burden for meeting the kind of needs which they have very little control over.

Mr. President, I shall support the amendment of the Senator from Minnesota.

The PRESIDING OFFICER. Who yields time?

Mr. DURENBERGER. Mr. President, I appreciate the comments of the Senator from Massachusetts with regard to the hides of the American people. Those hides were softened a little bit on July 3 of this year, when social security payments were increased. The average increase in this country was somewhere in the neighborhood of $342. And that $342 a year increase includes, in part, an adjustment for the additional cost of health care.

At the most, assuming an individual incurs the deductible, the effect of the part B provisions will be $4.20 in 1983. I think this can hardly be characterized as taking it out of the hides of the American people.

Mr. President, I ask unanimous consent that the Senator from Kansas (Mr. DOLE) and the Senator from Texas (Mr. BENTSEN) be added as cosponsors to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will only take 1 minute. I certainly share the views just expressed by the Senator from Minnesota. As I said earlier, if we are really serious about trying to preserve medicare, we better start looking at some of the problems.

One of the problems is that nobody really pays much attention to the cost of the program. I do not want to continue to refer to visuals, but I again call attention of Senators to the charts in the back of the room which indicate how the Federal cost of medicare and medicaid has grown.

We can stand here all day long and talk about senior citizens and elderly Americans and the impact we are going to have on them, but if the program goes bellyup or we find out we are not going to be able to fund the

program, then I am not certain how we are ever going to address it.

In the package of the Senate Finance Committee, we are reducing our savings by about $400 million by this amendment. I do not think we should do that, but in the spirit of trying to make everyone feel and understand that we are not impacting adversely on beneficiaries.

Again, however, I should indicate that on the colored chart we are addressing numerous concerns; hospital costs, physicians' costs, employers and health insurance plans, and finally beneficiaries. After all, they are a part of the program.

I think the compromise is a reasonable one. It continues to reflect the intention of the committee that all parties of the medicare program including beneficiaries should participate in efforts to try to reduce the rate of growth; otherwise, we are not going to have a program.

I hope we will have a vote on this and the vote might be unanimous.

Mr. KENNEDY. Will the Senator yield for a question?

I was giving some thought to offering an amendment which would have increased the amounts that the physicians be eligible to receive and at the same time, require physicians to accept assignment. Under the Finance Committee proposal, you save about $1 billion in terms of the amount of money that would actually be paid out by the medicare program for physician reimbursement by putting a cap on the economic index. Of course, they can always go, the elderly person, and recover more, which in fact they will do.

I was just wondering, as I listened to the Senator from Minnesota and the Senator from Kansas talk about getting some handle on the cost containment, whether we might not give the physicians some cost-of-living increase in the amount that they could actually receive but then require, when they do get the payment, that that be payment in full.

That would save the elderly people over $1.8 billion next year alone. It would cost about an additional $500 million in this program compared with the committee proposal, but it really would then begin to get an important handle on the escalation of the health care costs.

That is another way of trying to relieve the burden on elderly people. It would save them about $1.8 billion out of pocket, because then the physicians would not be able to go and charge the elderly more than what medicare determines is reasonable reimbursement. What it would do is give the physicians in the country a reasonable compensation for the treatment of medicare beneficiaries but would limit them from charging the elderly even more.

It seems to me, if we are talking about trying to get some control on the costs of medicare and medicaid and also give a degree of equity to the elderly people, that this is a more fair and equitable way of distributing the burden.

The elderly people would be protected.

I have not offered that amendment. I do have it. I am interested in seeing if the Senator has some reaction to that concept.

Mr. DOLE. The Senator from Kansas certainly has some interest in the concept. I know this is not the amendment the Senator is addressing now. He had talked about maybe mandating assignment. Would that be included in this?

Mr. KENNEDY. Yes.

Mr. DOLE. To me, that would be a rather radical change. We are concerned about physician participation, but I think it is something we should explore in our committee. After all, if we are going to permit them to shift the costs, then we do not do much for those we are trying to protect.

I share the concern expressed by the Senator from Massachusetts. I would hope that he might permit us in the committee and with the appropriate officials in HHS to see whether or not we can satisfy some of the concerns of the Senator from Massachusetts and some of the concerns of the rest of us, if that is satisfactory.

Mr. KENNEDY. I direct this to the Senator from Minnesota. Will the Senator perhaps modify the amendment to require a report by July 1983 on the effects of these changes on the assignment rate and the costs shifted to the medicare beneficiaries so that we get some kind of idea about what is going to happen to the availability and cost of medical treatment for the senior citizens and also the degree to which costs are actually being shifted to the seniors?

I believe we are going to have this issue before us for a number of Congresses to come. It does seem to me that a report on hearings would be of great value. I am just wondering if that is agreeable to the Senator from Minnesota? Then, if the Senator would at least give attention to that report, and maybe even having a hearing on that when the report comes in, I think we would all have the kind of information which would be extremely important in order to make legislative changes.

This is going to be an extremely important issue—I believe it already is—among elderly groups, and it is going to continue to be with us. But we could get the report on the effects of these changes on the assignment rate and the costs that are shifted to the medicare beneficiaries. If the Senator could give us some assurance that we may have a hearing on that issue, I would——

Mr. DURENBERGER. Yes, Mr. President, the Senator from Massachusetts does raise a very good issue and it is well thought out. I have no objections to adding his proposal.

In fact, I ask unanimous consent that we modify my amendment to add the sentence:

On or before July 1, 1983, the Secretary of the Department of Health and Human services shall report to the Congress on changes in the rate of assignment and in the costs paid by beneficiaries as a result of changes in physician reimbursement made by this title.

The PRESIDING OFFICER. The Senator has a right to modify his amendment.

Will the Senator send the modification to the desk.

The amendment, as modified, is as follows:

On page 43, line 7, after "any visit" insert ", beginning with the twentieth such visit made with respect to such individual in any calendar year,".

On page 44, line 14, after "each visit" insert ", beginning with the twentieth such visit made with respect to such individual in any calendar year,".

On page 45, beginning with line 16, strike out through line 12 on page 46 and insert the following:

INCREASE IN PART P DEDUCTIBLE

SEC. 105. (a) The matter in the first sentence of section 1833(b) of the Social security Act preceding clause (1) is amended by striking out "$75" and inserting in lieu thereof "equal to" $75 in the case of calendar years prior to calendar year 1984, $78 in the case of calendar year 1984, and $80 in the case of subsequent calendar years.

On page 54, line 19, before the period insert the following: "and prior to July 1, 1985. With respect to premiums paid on or after July 1, 1985, the amendments made by this section shall cease to be effective, and such premiums shall be determined under the provisions of section 1839 of the Social Security Act as in effect prior to such amendments, but any increases in premium amounts taking effect prior to July 1985 shall be taken into account for purposes of determining increases thereafter under section 1839(c)(3) of such Act.

On page 47, at the end of line 12, add the following new sentence: "On or before July 1, 1983, the Secretary of the Department of Health and Human Services shall report to the Congress on changes in the rate of assignment and in the costs paid by beneficiaries as a result of changes in physician reimbursement made by this Title."

Mr. KENNEDY. I thank the Senator. I look forward to working with him on this.

Mr. DOLE. Mr. President, I ask for the yeas and nays on the Durenberger amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Do the Senators yield back their time on the amendment?

All time having been yielded back, the yeas and nays are ordered. The clerk will call the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 236 Leg.]

YEAS—99

Abdnor	Ford	Mitchell
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baker	Goldwater	Nickles
Baucus	Gorton	Nunn
Bentsen	Grassley	Packwood
Biden	Hart	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Brady	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Roth
Byrd, Robert C.	Huddleston	Rudman
Cannon	Humphrey	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
Cranston	Kasten	Stafford
D'Amato	Kennedy	Stennis
Danforth	Laxalt	Stevens
DeConcini	Leahy	Symms
Denton	Levin	Thurmond
Dixon	Long	Tower
Dodd	Lugar	Tsongas
Dole	Mathias	Wallop
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Weicker
Eagleton	McClure	Zorinsky
East	Melcher	
Exon	Metzenbaum	

NOT VOTING—1

Inouye

So Mr. DURENBERGER's amendment (UP No. 1105), as modified, was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DURENBERGER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1977

(Purpose: To strike out section 275 relating to the Federal Unemployment Tax)

Mr. BENTSEN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. Is there objection to temporarily laying aside the committee amendment? Without objection, it is so ordered. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Texas (Mr. BENTSEN), for himself, Mr. BOREN, Mr. HARRY F. BYRD, JR., and Mr. MITCHELL proposes an amendment numbered 1977.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 426, beginning with line 14, strike out through line 6, on page 429.

On page 429, line 7, strike out " Part III" and insert "Part II".

On page 429, line 8, strike out "sec. 276" and insert "Sec. 275".

On page 35, amend the table of contents by striking out

"PART II—FEDERAL UNEMPLOYMENT TAX

"Sec. 275. Federal Unemployment Tax.".

On page 35, amend the table of contents by striking out "PART III—MEDICARE" and inserting "PART II—MEDICARE".

On page 35, amend the table of contents by striking out "Sec. 276" and inserting "Sec. 275".

Mr. BENTSEN. Mr. President, I ask for order in the Senate.

The PRESIDING OFFICER. The Senate will please come to order.

Mr. BENTSEN. Mr. President, I ask that the following Senators be listed as cosponsors to my following amendment: Senator BOREN, Senator BYRD of Virginia, and Senator MITCHELL.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator will suspend until order can be restored. Senators wishing to converse please retire to the cloakroom. The Senate is not in order.

The Senator from Texas.

Mr. BENTSEN. I yield to the Senator from Ohio.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the Bentsen amendment be temporarily laid aside, not losing its place, in order that I may offer an amendment which, it is my understanding, the managers of the bill both on the majority and minority side are prepared to accept.

Mr. BENTSEN. Mr. President, reserving the right to object, I will not object with the understanding that the amendment is being accepted by both sides, and for that purpose only would I agree.

The PRESIDING OFFICER. Is there objection to the request? The Chair hears none, and it is so ordered.

UP AMENDMENT NO. 1106

(Purpose: To provide that the provision allowing medicaid copayments shall not apply to emergency care)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1106.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 95, between lines 6 and 7, insert the following:

"(iii) no deduction, cost sharing, or similar charge will be imposed under the plan with respect to emergency care,".

On page 95, line 7, strike out "(iii)" and insert "(iv)".

On page 95, line 14, strike out "(iv)" and insert "(v)".

Mr. METZENBAUM. Mr. President, this is a very simply amendment which has been cleared on both sides of the aisle. It is an amendment to exclude emergency care from provisions which allow States to impose copayments for the services to medicaid recipients. I believe the entire provision of the Senate Finance Committee bill has many objectionable features to it in this connection, but I believe this would eliminate an aspect which is potentially dangerous to people's lives, and I am very pleased that the manager on the majority side and the manager on the minority side have indicated their willingness to accept the amendment.

I appreciate the courtesy extended to me by my colleagues.

Mr. DOLE. Mr. President, will the Senator from Texas yield? The Senator from Ohio is correct.

Mr. BENTSEN. I yield.

EMERGENCY SERVICES

Mr. DOLE. The Senator from Kansas would support my distinguished colleague's amendment to prohibit States from placing copayments on emergency services. This issue was discussed in committee. However, our concerns centered around the difficulty in identifying these services when claims are submitted for them. Our committee report discusses this very subject and there is language in the report to make clear that recipients would not be denied true emergency care if they were unable to pay the required copayment.

We will work with the Department to make sure that emergency care is properly defined so that the treatment of emergency conditions is provided without copayment and abuse of this provision is minimized.

Mr. BENTSEN. The manager for the minority has no objection.

The PRESIDING OFFICER. Is all time yielded back?

Mr. METZENBAUM. I yield back my time.

Mr. BENTSEN. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio.

The amendment (UP No. 1106) was agreed to.

Mr. METZENBAUM. I thank the Senator from Texas.

AMENDMENT NO. 1977

Mr. BENTSEN. Mr. President, the amendment I have sent to the desk now is straightforward. It will strike the provision in the tax bill which increases the Federal unemployment tax—the so-called FUTA tax.

THE UNEMPLOYMENT TAX SYSTEM

The tax is a jobs tax. It is a tax imposed on employers, based on the number of employees. It is imposed at the Federal level to fund half of the extended benefits unemployment compensation program to cover administrative costs of the unemployment program and to fund State employment services. A parallel State unemployment tax system also exists and is used to fund the other half of the extended benefits program and State-administered unemployment compensation programs which now generally provide 26 weeks of coverage.

The Federal FUTA tax currently is an effective seven-tenths of 1 percent on the first $6,000 of each covered worker's wage. The committee's bill raised both the tax rate to eight-tenths of 1 percent, and the tax base, to $7,000.

Each State imposes a separate and distinct State unemployment tax in addition to the Federal FUTA tax. Those State tax rates vary according to legislative decisions in each State; the average varies from six-tenths of 1 percent to as much as 4.5 percent, which is paid on top of the Federal FUTA tax by employers.

Because the wage base subject to State unemployment taxes cannot be lower than the FUTA tax base the committee's bill will raise the unemployment tax in many States along with the Federal tax.

The committee argues that an outstanding debt of some $13 billion exists in unemployment tax trust funds now. These are funds which some States borrowed from the Treasury in the past when Federal and State unemployment tax receipts fell short of benefit outlays. These debts are kept on a State-by-State basis at the Treasury and the debt is the total of deficits in the accounts of only 16 States; 34 States are not in debt to the Treasury under this program.

REASONS FOR OPPOSING THE TAX INCREASE

There is no question but that the deficit in the unemployment trust funds must be eliminated. The issue is whether we will be pennywise but pound foolish in raising the Federal FUTA tax right now to ease the distress in these trust funds.

Hopes for an economic recovery this year are fading, and 1983 holds the key to the strength of any recovery. Industrial production fell 0.7 of 1 percent in June, an even larger drop than the 0.6 of 1 percent in May. Retail sales in June fell 1.5 percent after rising in May. The fall in industrial production virtually guarantees a further rise in unemployment for July after leveling off in May and June.

The strength of any recovery in 1983 will depend largely on consumers and small business because investments, housing, and exports remain crippled. According to the most recent McGraw-Hill survey, business spending on plant and equipment will decline by more than 2 percent this year. Business inventories continue to be drawn down. The recession in Europe means that exports will continue to slump. Housing starts are still at the depression level of less than 1 million units annually and will remain there until interest rates subside. A recovery will require that consumers open their wallets and that small business make a start at hiring back some of those 2.5 million men and women who lost their jobs this year.

Congress should be pulling out all the stops to help small business recover from its depression. Forty-two percent of all small business income is now going to meet interest and debt obligations. Over 200 firms daily have gone bankrupt so far this year, the overwhelming portion of them small entrepreneurs. That depression-era rate is double the 1980 rate and 50 percent higher than last year's rate.

The interest rates paid by small businesses still average 18 percent according to the National Federation of Independent Business, significantly above the 16.5-percent prime rate available to larger firms. Only one small business in nine is looking for new workers now. Sales have become so sluggish that small businesses continue to sell off inventories as they scramble to merely keep their doors open.

The FUTA tax is a tax on jobs. Because it is imposed on labor and because it is imposed on a portion rather than all of a worker's salary, the tax is borne disporportionately by labor-intensive small business. Unemployment in June was 9.5 percent, that is 10.5 million men and women looking for work without success. If we add the 1.5 million discouraged workers to that figure—jobless men and women so discouraged they have abandoned the search for jobs—our total joblessness is 12 million people, the highest in our history except for 1933 when 12.8 million persons were unemployed.

The FUTA tax falls very heavily on small business. They are the heart of our Nation's mechanism for creating jobs for putting people back to work. Four out of five jobs are created by firms with fewer than 100 employees. Those firms perform the overwhelming share of innovative activity in our Nation and account for close to one-half of our Nation's output. We will not have a robust recovery, Mr. President, and perhaps no recovery at all unless it is led by small business. Yet, the committee's bill will raise unemployment taxes by some $12 billion over the next 5 years, including $1.4 billion in fiscal year 1983, largely from the same firms we are counting on to generate a recovery.

THE DEBT ISSUE

The committee print noted that the unemployment trust funds are $13 billion in debt. That debt is actually $15 billion at present. This debt came about largely in the mid-1970's during the last recession. It has two parts:

Extended benefits debt: One-half is debt in the extended benefits compensation program funded equally by the Federal FUTA and State unemployment taxes. In 1976 Congress decided to phase that debt out in a gradual and deliberate fashion. To do so, it imposed a two-tenths of 1 percent temporary surcharge on the FUTA tax in 1978 and the debt will be reduced to zero by 1987 or 1988 under present law. In fact, the extended benefits program according to administration budget projections will run a $500 million surplus in fiscal year 1983.

So, present law, according to the administration, is adequately addressing that debt—a key point.

State unemployment program debt: The other half of this $15 billion debt is due to State-operated-and-administered unemployment programs which are running in the red. And this debt exists in just 16 State programs, programs whose State unemployment taxes—set by their own legislatures—have yielded insufficient revenues to fully cover State unemployment compensation outlays incurred in the last recession, and this one, as well. The shortfall in these 16 States has been made up with loans from the Treasury.

I mean no condemnation of either the Governors of legislatures in these 16 States. For many reasons, they have generally borne the unemployment brunt of the last two recessions. And, these State governments on their own have been raising State unemployment taxes far above the FUTA tax level to try and balance unemployment compensation outlays. In Pennsylvania, for example—1 of the 16—the average State unemployment tax is now 3.6 percent of wages—over five times larger than the Federal FUTA tax rate which they also pay.

I want to make three points about this State debt which the FUTA tax increase is presumably designed to address:

First, current law already deals with the elimination of the debt these 16 States have with the Treasury. Depending on the magnitude of their individual debts, employers in some of these States are paying a 1 percent Federal FUTA tax, not the usual seven-tenths of 1 percent. In several States, employers are even paying a 1.3 percent FUTA tax—almost double

the typical rate—in order to pay off their debts.

That extra surcharge is mandated under current law—a point I will return to in a moment.

In addition, beginning in fiscal year 1983, States who borrow from the Treasury to keep State unemployment compensation programs solvent will be charged interest on that new debt.

Employers in a number of the 16 debtor States will be paying sharply high Federal and State taxes shortly as a result of existing law. I see no need now to compound that increase—especially since it will fall on employers in States already heavily hit by the recession.

Second, I said earlier that any increase in the FUTA tax wage base also increase the wage base for State unemployment taxes. As a result, the FUTA provision before us actually raises State unemployment taxes more than the Federal FUTA tax. In fiscal year 1983, for example, the FUTA tax provision will generate a projected $1.4 billion. Over one-half $765 million will come from State taxes, while only $640 million will actually be higher FUTA tax receipts. In fact, in a number of States, the State tax increase on employers, presumably the responsibility of the State government, triggered by the higher FUTA wage base in the bill, will be three or four times higher than the FUTA tax increase itself. Employers in States like Delaware, Pennsylvania, Vermont, and Wisconsin will end up paying $3.00 or $4.00 to the State unemployment program for every one additional dollar to FUTA. All together, State unemployment taxes paid by employers in 33 States will increase as a direct consequence of the provision before us dealing with the Federal unemployment tax. These States are:

Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Indiana, Kansas, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Wisconsin, and Wyoming.

I do not believe we should be raising taxes on small business now. I do not believe we should be doing it in a fashion which preempts State legislature decisions. And I especially do not believe we should do it when the biggest tax increase will fall on those States already hardest hit by unemployment.

My third point about this debt is that the committee bill will raise the FUTA unemployment tax in all 50 States even though only 16 States are in debt to the Treasury. And, raising that tax in the 34 States not in debt will in no way alleviate or reduce the debt of the other 16 States. Those 16 States can only wipe out their debt at the Treasury with their own resources—a decision best left to each State.

I, for one, would not be willing to second guess the Governor of Texas or the Texas Legislature on an issue as complicated as State unemployment tax rates and compensation programs. Yet that is exactly what the bill before us does.

Indeed, if we look where the revenues to be raised by this tax actually go only about 15 percent of the $1.4 billion it raises in fiscal year 1983 will go to reduce the debt owed by the 16 States to the Treasury.

Of the balance:

Fifteen percent will go to the extended benefit trust fund which is projected to run a surplus this year.

Thirty percent to cover administrative and State employment service outlays—money which cannot be spent without a separate appropriation. Under administration plans, none of it will be spent. Indeed, the administration cut these outlays last December and projects further cuts for fiscal year 1983.

Forty percent will come from higher State unemployment taxes in the 34 States not in debt to the Treasury—money which will simply become general revenues. This is revenue from employers in the 34 States, like Texas, whose unemployment programs have not run in the red. In Texas, for example, this provision would increase FUTA tax receipts by some $60 million annually, or about 30 percent.

CONCLUSION

Mr. President, let me conclude by summarizing my major points:

The FUTA tax proposal will fall very heavily on small business—a sector now in a depression, but one which must be healthy if we are to have a robust recovery next year.

The tax increase was proposed without hearings on their impact on small business or the recovery.

The tax is a job's tax. It will cost us hundreds of thousands of jobs at a time when unemployment is the highest since 1933—and going up.

The tax will fall heaviest on those areas and employers in the Northeast and Midwest already experiencing excessive unemployment.

Over one-half of the revenues from this tax will come from increases in State unemployment taxes designed to deal with State programs.

Thirty-four States will pay higher State and Federal unemployment taxes even though their benefit programs are running in the black and their taxes will not help reduce the debt which the other 16 States have at the Treasury.

Only about 15 percent of taxes raised by this provision, first year, will actually go toward reducing the 16 States debt at the Treasury, and that has to come from those 16 States—a decision should be theirs not ours.

Before concluding my remarks, let me reemphasize one point again. The committee argues that the major need for higher FUTA taxes is to reduce the debt of some $15 billion in unemployment programs that have to be serviced. These are funds which have been borrowed in the past from the Federal Government. Part of it is the excess amount of money that has been utilized to pay extended benefits, and part to offset deficits in State-run unemployment programs. Both of these debts have provisions in the law now to take care of them, to pay them off over a period of time.

Regarding the extended benefits program debt, in 1976, a law was passed for 0.2 of 1 percent to be levied as a surcharge on the regular FUTA tax rate to pay off the amount of money that is owed to the Federal Treasury. The funds raised by that surcharge are projected to pay off this deficit by 1987 or 1988.

The other portion of the debt—for those 16 States that owed money to the Federal Government—you also have a law that has been passed by Congress requiring the 16 to pay a surcharge of some 0.3 of 1 percent or as much as 0.6 of 1 percent to recompense the Federal Government for those moneys that are borrowed. There is also a triggering device in that if unemployment programs continue to be in deficit in those States and if they have continuing problems clearing up the debt at the Treasury, these surcharges can be further increased.

The committee has argued that we have to raise even more taxes in addition to these surcharges already in effect under current law. But if you try to do it this way, what you are really going to do is have some 34 States that are running in the black now who will have to endure a pointless and unneeded increase in their unemployment taxes on workers and that amount of money will be raised, much of it, on small business itself.

There is no question but what this deficit in the unemployment trust fund must be eliminated. But the point is that we have mechanics in the law now to accomplish reduction in the outstanding debt. To load even further unemployment taxes on the backs of small business today when we are experiencing near-record bankruptcies is a serious mistake.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. QUAYLE). Who yields time?

Mr. DOLE. Mr. President, having listened to the distinguished Senator from Texas, I would just say that we are getting into some of the amendments now that will determine wheth-

er or not we are going to have a reconciliation package. If many of these provisions are removed from the bill, we will have to go back which we can do, to find other ways to raise revenue.

The revenue involved in this proposal is $6.7 billion. That does not justify its existence in the package, but I am suggesting it is one of the key amendments in the package. It is one that we considered very carefully in committee. I would like to take just a few minutes to explain why the FUTA provision is in the package and why it should be supported.

This amendment will be followed, I understand, by an amendment by the Senator from Colorado, then the Senator from Louisiana, then the Senator from South Carolina, Senator HOLLINGS, and then perhaps Senator KASTEN.

As for the Bentsen amendment, let me say that there is no doubt about the fact that the overall unemployment insurance system is in serious financial difficulty. At the end of June, 19 States owed $7.8 billion. Of the four States having a billion dollar plus in loans, only Illinois has a wage base at the level of that in the proposal, Many States which have not considered borrowing in the past indicate there is a strong possibility that borrowing will be necessary next year—Iowa, Louisiana, and the State of Washington.

The FUTA wage base increase will provide additional revenue nest year when we expect to see an increase in economic activity. Therefore, the increased tax will occur in a projected growth period which is the desirable time.

For those States which feel they do not need the wage base increase—Texas, for example—they may adjust their experience rating system to offset either partially or totally the wage base increase. The primary impact from the increase in the wage base will not occur until mid-1983, then it will be distributed in quarterly payments over the second half of the year. The full impact of all changes will not be felt until 1985 and, therefore, the tax increases will be spread over several years.

The changes are needed to assure adequate funding in administration of employment service (ES) programs. Even at the reduced level of ES for 21,836 staff positions in fiscal year 1983, there will be a shortfall of over $250 million in fiscal year 1983. The shortfalls are expected to continue as wage levels increase, even as the level of unemployment falls.

Mr. President, I ask unanimous consent to have printed in the RECORD a table that shows the 1982 taxable wage base in all the 50 States and the maximum tax rates.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

STATE UNEMPLOYMENT COMPENSATION TAXES

	1982 taxable wage base	Maximum tax rate
Alabama	$6,600	4.0
Alaska	14,600	4.86
Arizona	6,000	2.9
Arkansas	6,900	6.1
California	6,000	4.0
Colorado	6,000	4.5
Connecticut	6,000	6.0
Delaware	6,600	8.5
District of Columbia	7,500	5.4
Florida	6,000	4.5
Georgia	6,000	5.38
Hawaii	13,100	4.5
Idaho	13,200	4.0
Illinois	7,000	5.7
Indiana	6,000	3.3
Iowa	8,700	6.0
Kansas	6,000	4.3
Kentucky	6,000	6.7
Louisiana	6,000	3.39
Maine	6,000	5.0
Maryland	6,000	5.0
Massachusetts	6,000	6.7
Michigan	6,000	9.0
Minnesota	8,000	7.5
Mississippi	6,000	4.0
Missouri	6,600	4.9
Montana	8,000	4.4
Nebraska	6,000	3.7
Nevada	9,300	3.6
New Hampshire	6,000	6.5
New Jersey	8,200	6.2
New Mexico	8,500	4.2
New York	6,000	5.2
North Carolina	6,000	5.7
North Dakota	9,240	5.0
Ohio	6,000	4.8
Oklahoma	6,000	3.1
Oregon	11,000	3.8
Pennsylvania	6,600	6.6
Puerto Rico	(1)	2.95
Rhode Island	8,600	6.0
South Carolina	6,000	4.1
South Dakota	6,000	6.1
Tennessee	6,000	4.4
Texas	6,000	4.0
Utah	13,300	2.8
Vermont	6,000	6.0
Virgin Islands	8,000	3.7
Virginia	6,000	6.9
Washington	10,800	3.0
West Virginia	8,000	8.5
Wisconsin	6,000	7.4
Wyoming	6,000	4.12

[1] Total wages.

Mr. DOLE. Mr. President, I will review the present law and the changes we propose. I will also discuss the need for these changes. Then, as far as I know, unless there are other Senators who wish to speak, we can proceed to vote.

FEDERAL TAX FINANCING OF UNEMPLOYMENT INSURANCE

PRESENT LAW

The Federal Unemployment Tax Act (FUTA) and the Social Security Act of 1935 establish the framework of the unemployment insurance system. The FUTA currently provides for a payroll tax of 3.4 percent on the first $6,000 in wages paid by the employer. The employee is not subject to the Federal tax and only a few States levy UI taxes on employees. If a State UI law meets requirements in the Social Security Act and FUTA, employers receive a credit of 2.7 percent—or 90 percent against the 3.4 percent Federal tax. The balance of the tax, 0.7 percent, pays all administrative costs, both Federal and State, associated with the UI program. The money also finances 50 percent of the costs of the extended benefits (EB) program and is used to provide loans for individual States.

Originally, all covered wages and salaries paid during the year were subject to FUTA. The Federal taxable wage base was decreased in 1939, effective in 1940, to the first $3,000 of an individual's earnings. The UI taxable wage base remained at $3,000 until 1972, when it was raised to $4,200; in 1978 it was increased to the present $6,000.

The Federal taxable wage base has an effect on State UI taxes. If a State sets its taxable wage base below the Federal level, the employers in that State lose the tax credit offset on the difference between the Federal and State base. Therefore, every State has a base of at least $6,000. Twenty-three States, the District of Columbia, and Puerto Rico, have wage bases which are higher.

NEED FOR CHANGE

The unemployment insurance program is seriously underfinanced. The recessions of the 1970's and inadequate State and Federal funding have led to substantial deficits currently being financed through UI trust fund borrowing from the Federal Treasury. The fiscal year 1982 deficit is estimated at $16.9 billion. The Department of Labor actuaries estimate that States will borrow at least $3.5 billion in fiscal year 1982; in fact, $2.4 billion has already been borrowed. Total State debt to the Federal Treasury at the end of 1981 was $8.7 billion. It is obvious that additional revenue is needed, both on the State and the Federal levels.

Also contributing to the insolvency of the UI program is the increase in administrative costs, entirely paid by the Federal Government through the FUTA tax. UI administrative costs—including the employment service—have climbed over the years. In 1981, 71 percent of the FUTA revenues was spent for administration. Due to lack of funds, services provided by DOL to the States and services provided by State agencies to UI claimants and other job seekers have been reduced. This year, when the administration attempted to institute reductions across the board in DOL, States responded to the reduction in administrative funding by closing employment service offices. Following the uproar, the administration was forced to ask for a supplemental appropriation for these programs and that request was passed by Congress. These offices were reopened.

This is a tax increase. There is no doubt about it. It is a tax increase, as are other provisions of the revenue bill which will produce about $98.3 billion over the next 3 years.

ARGUMENTS FOR CHANGE

The deterioration of taxable wages as a percentage of total wages has caused a serious reduction in the funds available to pay administrative costs and to finance benefits. The Federal

and State systems alike have experienced serious shortfalls in meeting benefits and administrative costs. An increase in the taxable wage base on the Federal level would lead to an increase in the taxable wage base in those States currently at the $6,000 level.

An increase in the effective FUTA tax rate from 0.7 percent to 0.8 percent will not affect State revenues, but it will lead to increase in the Federal revenue available to finance the Federal share of EB, as well as the total administrative burden.

The third element of change, increasing the FUTA tax to 6 percent, will raise State revenue by forcing States to increase their maximum tax rate to 5.4 percent, the FUTA rate of 6 percent reduced by the Federal offset. With State borrowing at record levels, this would be a fiscally responsible move.

A proposal to increase the Federal tax rate is consistent with administration policy. The FUTA tax and the State UI taxes are similar to a user tax, with the proceeds used to fund benefits and pay administrative costs, much the way highway taxes are used to build and repair the Federal highway system. We would not allow the Highway Trust Fund to deteriorate to the point that loans would have to be made from the Federal Treasury to keep the roads safe.

I might argue with that because we attempted to add a provision in this bill that would give us money in that area, but that did not meet with widespread approval in the administration.

It is irresponsible to allow the UI trust funds, State and Federal, to continue to borrow from the Federal Treasury with little chance of speedy repayment.

The Federal taxable wage base has fallen seriously behind present income levels. Since 1940, taxable wages as a share of total wages nationally have declined from 98 percent in 1940, to 45 percent in 1977, to 42 percent in 1981, and to 39 percent in 1982. During the inflationary period of the 1970's this tendency accelerated when wages rose rapidly and the wage base was held constant. The effective tax rate which has been adjusted up and down over the years, is also obviously insufficient to finance the growing needs of the system.

Because States tended to use the Federal wage base as their own, State shortages grew during the 1970's. Since unemployment benefits are tied to wages, as wages increased benefits did the same, leading to greater and greater liabilities for the trust funds. Some States have increased both the wage base and the State tax rates, however in many cases the increases have still not been sufficient to finance benefits.

Mr. President, it would seem to me that this is an important provision with reference to the solvency of the unemployment insurance system. There is no one, at least to my knowledge, who does not agree that something must be done to shore up the failing UI trust fund.

I read an article 3 days ago in the New York Times which said that a number of State UI systems were about to go broke in this country. In fact, I have that article with me.

Sixteen States and jurisdictions have already been forced to get U.S. loans. They are: Illinois, Pennsylvania, Michigan, Ohio, New Jersey, Connecticut, Minnesota, Wisconsin, West Virginia, Kentucky, Rhode Island, Missouri, Arkansas, Delaware, the District of Columbia, Vermont, and Maine.

Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 19, 1982]

SIXTEEN STATES FORCED TO GET U.S. LOANS TO PAY THE JOBLESS

(By Winston Williams)

Unemployment compensation funds in 16 states are experiencing painful cash squeezes and have to borrow regularly from the Federal Government to pay benefits to jobless workers.

With the national unemployment rate at 9.5 percent, the highest in four decades, more than 4.2 million people are drawing benefits, an increase of a million and half in the last year.

In addition to the 16 states, the District of Columbia, Puerto Rico and the Virgin Islands have had to borrow from the Federal Government, and before the economy recovers, about half the state funds are expected to have to turn to Washington for help.

While Washington is obligated to aid states with short-term difficulties, new Federal rules severely penalize states that habitually pay out more in jobless benefits than they take in from employers.

Many of these states, largely in the industrial North, are working urgently to revise their programs to lower the deficits and escape the penalties. Both New Jersey and Connecticut have substantial deficits, but New York, where benefits are significantly lower, has not run into trouble.

LOWER BENEFITS IN SOME STATES

In some states the changes will probably mean lower benefits for jobless workers and bigger payments into the fund by employers.

Under the system, most employers are required to pay unemployment insurance premiums into a state trust fund. If an insured employee is furloughed, the worker can draw weekly benefit checks, ranging from $5 a week for a single worker in Hawaii to as much as $233 for the head of a four-member household in Ohio. The average weekly payment is about $118.

Each state makes its own rules and sets its own benefit level, subject to Federal rules and guidelines. Generally, workers who quit their jobs are not eligible and strikers are eligible in only a few states.

Benefits unsually last for 26 weeks, but 30 states have extended them for 13 more weeks because of the severity of the recession. In the mid-70's, when unemployment was also high, Congress extended the benefits nationally for a total of 26 additional weeks.

The House Ways and Means Committee voted last Thursday to extend benefits by 13 weeks. Labor Secretary Raymond J. Donovan said last week that the Administration, which has opposed such an extension, was re-examining the issue. Up to 700,000 workers could receive the extra aid.

Labor Department actuaries expect jobless payments to soar 36 percent this year, to $21.1 billion. About one of every five of those dollars will be borrowed from the Federal Government. And the states' debts are expected to reach more than $13 billion by the end of the fiscal year 1983, which starts Oct. 1.

The mounting debts and the interest penalties that began accruing in April are difficult to address politically. Few state officials want to cut benefits in a recession. Raising taxes is equally unpopular.

As Federal policy now stands, employers will have to repay the debts in the form of higher employer premiums if the states do not find some other solution. The industrial states say this negates their efforts to stem the loss of jobs by making the states less attractive to employers.

"One day we could wake up and find that there is no fund at all," said Robert Gibson, president of the Illinois Council of the A.F.L.-C.I.O. "I don't see where the state is going to find the money to pay even the penalties."

SECOND TAX INCREASE DOUBTFUL

Michigan and Ohio raised personal end income taxes sharply on July 1. Officials in both states say they doubt that they could raise taxes again, especially in an election year, to replenish the unemployment fund. Nevertheless, Ohio is considering calling a special legislative session later this year to consider the problem.

There was no extensive borrowing by states until 1972. In the 1974-1975 recession, 25 state funds had to turn to Washington for support. But in 1975 outstanding loans reached only $1.5 billion, as against an estimated $9.3 billion in the fiscal year 1982.

States generally repaid their debts after the recession. But unusually high unemployment and rising benefit levels have left some states' funds perpetually insolvent. These include Illinois, with $1.63 billion in outstanding loans; Michigan with $1.58 billion; Pennsylvania with $1.61 billion; Ohio with $1.07 billion, and New Jersey with $526 million.

"We've had a series of back-to-back recessions, which has made it harder for us to weather the ups and downs, said Vivian Shapiro, a research executive with the New Jersey Department of Labor.

NEW YORK EXPECTS NO PROBLEMS

In Connecticut, the deficit amounts to $272 million. But in New York, where benefits are among the lowest in the nation and where insured unemployment has been relatively less severe, the state's fund stands at $800 million. State officials say they do not expect any problems in the near term.

Until recently, the outstanding loans were simply carried on the books of the Federal Government without any schedule for repayment and at no interest costs to the states.

An austerity-minded Congress decided to change that last year. Interest is now accruing on loans made after April 1 unless they

are repaid before the end of the Federal fiscal year Sept. 30. In states with loans outstanding for two years, an intricate repayment formula automatically goes into effect.

Other changes in the Omnibus Budget Reconciliation Act of 1981 made it far more difficult for claimants to get benefits for more than 26 weeks. Congress also tightened eligibility requirements considerably and disqualified for benefts most members of the armed forces who were mustering out.

INDEBTEDNESS OF STATE JOBLESS FUNDS

[Dollar amounts in millions]

	Borrowing from Federal Government	Number unemployed (thousands)	Unemployed rate (percent)
Illinois	$1,634	586	10.6
Pennsylvania	1,609	529	9.8
Michigan	1,587	616	14.3
Ohio	1,068	566	11.1
New Jersey	526	355	9.7
Connecticut	272	105	6.5
Minnesota	210	144	6.7
Wisconsin	182	234	9.7
West Virginia	105	84	10.9
Kentucky	104	159	9.8
Rhode Island	102	44	9.2
Missouri	90	187	7.9
Puerto Rico	66	[1] 237	[1] 22.6
Arkansas	64	94	9.1
Delaware	55	22	7.1
District of Columbia	42	33	10.6
Vermont	31	20	7.6
Maine	21	49	9.3

[1] April data.

Note.—Loans outstanding of the 16 states (and the District of Columbia and Puerto Rico) that have borrowed from the Federal Unemployment Account. Indebtedness data are as of June 30, 1982, in millions of dollars. Number unemployed and unemployment rates are for May 1982, the latest available.

Source: Labor Department.

REVISIONS BY THE STATES

The states have also made numerous changes in their programs. Two years ago Pennsylvania tightened eligibility requirements and increased the premium paid by employers. Michigan and Illinois made similar moves, predicting that their funds would soon be back into the black. But the prognosis has changed markedly since then.

"The very high unemployment that we're experiencing is playing havoc with those projections," said Les Kuczynski, legal counsel to the Illinois Department of Employment Security.

Last year Illinois officials figured that the deficit could be whittled to nothing by 1987, but Mr. Kuczynski said, "If we continue to borrow we'll never be able to repay."

A few states think the Federal Government should either forgive the loans or cancel the interest payments, or both, Dale Bring, director of labor relations for the Ohio Chamber of Commerce, says his state has paid $1 billion more into the fund than it has received in the system's 47-year history.

IT WAS NOT OUR NEGLIGENCE

"Our argument is that it was not our negligence that caused this recession and caused us to borrow," said William Long, director of the Michigan Department of Labor. "No one envisioned the duration of this recession. These rules unduly burden Michigan."

Michigan expects its debt to the Federal Government to rise to more than $2 billion this year, $641 million of which will be subject to interest payments of 10 percent. The Department of Labor expects next year to assess interest penalties of more than $600 million.

Labor Department officials say the intent of Congress when it revised the program last year was to force the states to change their systems. They point out that states with the highest deficits also tend to have the highest benefits: a maximum of $190 a week in Pennsylvania, $145 in New Jersey and $206 in Illinois. In New York, which has no deficit, the maximum is $125 a week.

Labor leaders say part of the solution may be for unemployed workers to accept lower benefits just as they have moderated wage and benefit demands at financially troubled companies.

For states that are unable to repay the deficits by reducing benefits and by increasing taxes, the law mandates automatic repayment by, in effect, increasing the premium payments for employers.

Most of the industrial states have been experiencing steady decreases in employment for more than a decade, and they fear these premiums could accelerate the decline.

"From an economic development standpoint it's going to be devastating," said Mr. Bring of the Ohio Chamber of Commerce. "We know that the unemployment payments is one of the most important things that employers look at." Bond rating agencies also pay close attention to the situation, he says.

Two smaller states, Missouri and Colorado, have recently raised the permiums paid by employers to prevent chronic insolvency. "Our employers are not happy about it but they realized we had to do it," said Bruce Cornett, administrator of the Missouri unemployment insurance program. "We bit the bullet a little earlier to prevent some long-term problems. We would rather be in control than have the Feds in control."

Mr. DOLE. I know that many of you have heard from the chamber of commerce that this provision should be opposed. It is my understanding that the chamber does not represent the entire employer community on this subject and, in fact, the unemployment council of the chamber initially supported our FUTA proposal. They were overruled by some in the chamber itself.

The National Association of Manufacturers has advised us that their membership supports this FUTA change. UBA, the group which is most closely associated with unemployment issues for the business community, wholeheartedly supports the change.

Finally, I would point out that this provision has already been adopted by the Ways and Means Committee in its reconciliation deliberation.

Did the Senator from Texas move to strike the language?

I hope we might defeat the amendment by the distinguished Senator from Texas to strike this language from the bill.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the NFIB, the National Federation of Independent Business, are small businesses. They look on this as their No. 1 issue this year, and I can understand that, because small business has almost overwheming problems.

For every small business that goes formally bankrupt, 9 or 10 of them just quietly close their doors. You go down the next morning and the doors are shut. They are selling off inventories at an unprecedented rate just to stay in business, to try to keep those doors open. And then to add this kind of tax on top of their present concerns and burdens I think is a serious mistake.

I certainly agree with the distinguished Senator from Kansas that we ought to be doing something about the unemployment system debt, but you have present law to take care of that debt. It addresses the debt those 16 States have at the Treasury with a three-tenths of 1 percent FUTA surcharge, or for those who are even more in debt by six-tenths of 1 percent and, current law has a triggering device to impose even higher surcharges if a State's debt is not reduced promptly. I might add that, by 1987, the Treasury will have collected over $8 billion in these special 16 State surcharges imposed on top of the FUTA tax to take care of their own debt. That is more than sufficient to deal with the debt of these 16 States. For example, even without the rise in FUTA as proposed by the Finance Committee, the State of Arkansas will have to pay a surcharge, in 1983, of $11 million to reduce its debt at the Treasury. Connecticut will need to pay $52 million in additional taxes; Delaware, $7.5 million; Illinois, $139 million; Maine, $12 million; Michigan, $44 million; Minnesota, $24 million; New Jersey, $92 million; Ohio, $60 million; Pennsylvania, $135 million; Rhode Island, $10 million; Vermont, $5 million; West Virginia, $9 million.

Those are the kinds of additional burdens, in addition to the FUTA tax that these 16 debtor States are going to carry to clear up their debt under current law.

Mr. President, I do not want to see taxes go up in 50 States because 16 States are in the red, especially when the higher taxes in the 34 States will not help in any way, the debt of the 16 States which are in the red. That money does not go to them. They must pay their debt off from their own resources. To repeat, Congress has addressed the debt issue, Mr. President. Higher FUTA taxes for States in debt and interest rates on that debt are going to wipe out that debt under the present legislation.

Mr. President, in addition, we have not had the kind of hearings that we ought to have on the complicated FUTA program. We should not be in a position of pre-empting the State legislatures' decisions on FUTA tax rates, the decisions of the Governors of those States. We should not be adding to the burden of small business at this particular time, when they are up to their ears in trying to service their own debts and keep their doors open.

Mr. President, for these reasons, I urge the Members of this body to support my amendment.

I reserve the remainder of my time.

Mr. President, I ask unanimous consent to add Senator MELCHER of Montana and Senator SASSER of Tennessee as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum, and ask that the time for a quorum call be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I am pleased to yield 3 minutes to the distinguished Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my colleague from Texas. I am proud to join with him in offering this amendment.

As has already been pointed out, the FUTA tax falls most heavily on labor-intensive businesses. This FUTA tax is a tax on wages which applies only to the first $7,000, drastically affecting businesses which pay lower average wages. This increased tax might well encourage employers who are already hard pressed to stay afloat under the economic conditions that we are now facing to find ways to make their businesses less labor-intensive, further contributing to the unemployment which we are already experiencing in this country.

Thus, this tax could really have a negative effect in terms of our economy.

Fifty-five percent of the funds raised by this proposed increase in fiscal year 1983 will actually come from higher State unemployment taxes. Yet, because these tax receipts are held in the State account at the Treasury, even though they are State tax collections, they will be used, at least on paper, to lower the Federal deficit. They will eventually go to State treasuries.

The debt in the extended benefit trust fund is already being reduced under current law with a 0.2 of 1 percent surcharge in 1978. Indeed, the entire debt is projected to be eliminated by 1987.

I think we also need to make the point the State Employment Service activities will not be affected by this tax increase. There has been a lot of concern, I think justifiably, about cutbacks in the employment service and the ability of the employment service to keep pace with the added number of claims by those who are forced into unemployment.

This tax increase will in no way help that situation, because the funds raised by this tax will not be placed in the budget of that agency available to be used in terms of providing the services needed for the unemployed.

Most recent administration projections show that the State Employment Service and Unemployment Administration Trust Fund will have a surplus of $400 million in fiscal year 1983. State Employment Service funding is subject to the appropriations process, and therefore, changes in the FUTA tax or revenues have no effect on these services.

It has been indicated by some that if we do not take additional action, we can see a great increase in the number and amount of delinquent accounts.

I would point out that under current law, under the surcharges already mandated under current law by those funds that are now in arrears, we will be raising almost $8 billion by fiscal year 1987.

The PRESIDING OFFICER. The 3 minutes of the Senator have expired.

Mr. BENTSEN. I will be pleased to yield an additional minute to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator is recognized for 1 additional minute.

Mr. BOREN. Mr. President, the heaviest burden of this particular tax increase will fall on small businesses. As all Senators know, we are now experiencing the highest rate of small business failure since the Great Depression. We are seeing 200 small businesses or more each week go under because of bankruptcy. Let us not at this particular point in time add another burden, an unnecessary burden from the point of view of the soundness of this trust fund, an additional burden in many States of this Union, to over 30 States which are completely up to date in terms of their trust fund, which do not owe any money in terms of their trust fund. They will have an additional tax burden placed upon them, one which they cannot afford. Why should we be taking action which will just weight the scales a little more heavily against the survival of many small businesses whose survival is in the balance on a daily basis?

I commend my colleague from Texas for offering this amendment. I am proud to join with him and express my strong support for it.

Mr. BENTSEN. I am very pleased to have the distinguished Senator from Oklahoma as a cosponsor of this piece of legislation. He is a man who is a very learned member of our committee and has a very substantial knowledge of the FUTA program—knowledge reflected in his excellent presentation. He makes a very valid point regarding State employment service funding. I know that some of my colleagues from States with high unemployment are wondering whether my amendment affects money for their State employment services. It obviously does not. That funding is only provided by the appropriation process. They do have cause for alarm because the administration has already stated that they are planning in fiscal year 1983 to cut almost $50 million from the fiscal year 1982 level of $742 million in funding for State employment services.

Mr. BOREN. Will the Senator yield?

Mr. BENTSEN. I am pleased to yield.

Mr. BOREN. Is it not true to say that increasing this tax will not necessarily add one single employee, as far as the employees in the State employment services are concerned? It will not necessarily add one single employee in any office to help in processing the claims of the unemployed?

Mr. BENTSEN. The Senator is absolutely right. For fiscal year 1983, the administration is talking about RIF'ing 2,200 employees. At the present time, as the Senator stated, you have a very substantial surplus in the employment service trust fund—such that you could keep all 2,200 employees, and still have a surplus left by the end even of 1983 should my amendment pass.

Mr. BOREN. If my colleague will yield again, is it not also true that there are some 34 States which are completely current in terms of their payments into the trust fund? Yet the committee proposal would raise the unemployment tax on businesses, including small businesses, in those States which are completely up to date and without debt.

Mr. BENTSEN. The Senator is absolutely correct.

I am happy now to yield a minute to the distinguished Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to join with the able Senator from Texas (Mr. BENTSEN) and the able Senator from Oklahoma (Mr. BOREN) in cosponsoring this amendment.

I think the proposed increase in the unemployment compensation tax is an unjustified one, and I think it is unfair to 34 States of our Union. I hope the amendment offered by the Senator from Texas and cosponsored by the Senator from Oklahoma and the Senator from Virginia will be adopted.

Mr. BENTSEN. I thank the distinguished Senator and appreciate very much his contribution to this issue as a ranking member of our committee and a very able and contributing member of that committee.

The Senator from Montana has requested a minute, and I am pleased to yield it to him.

Mr. MELCHER. I thank the Senator from Texas for yielding to me, and I am pleased to be a cosponsor of this amendment.

I note that my State of Montana's unemployment benefit system is not now in deficit to the Treasury; it is one of the 34 States which is not in deficit. I think it ought to be made clear to all Senators and to the public at large that the FUTA tax increase in the committee bill is an added burden. If it were enacted—a step Senator BENTSEN's amendment will prevent—it would cause a great strain on small business in particular and on clearly those employers who are just squeaking by, keeping their businesses going.

I think the amendment is very worthwhile, and I want to compliment the principal author of the amendment.

Mr. BENTSEN. I thank my colleague. I am prepared to yield back time if the chairman of the committee is.

Mr. DOLE. Mr. President, I just want to take 1 minute to put some material in the RECORD.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I ask unanimous consent to include in the RECORD a letter from the State of Maine Department of Labor, William R. Malloy, commissioner. He states:

FUTA revenues provide the primary funding source for operation of the State employment security systems. There is a current and projected funding shortfall

And they support the bill. The State of Idaho Department of Employment also endorses this proposal.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

STATE OF MAINE,
DEPARTMENT OF LABOR,
Augusta, Maine, June 8, 1982.

Senator GEORGE J. MITCHELL,
U.S. Senate,
Washington, D.C.

DEAR SENATOR MITCHELL: The Senate Finance Committee reportedly will be meeting soon to mark up revenue legislation. It is our understanding this may include looking at the Federal Unemployment Tax Act (FUTA) with respect to considering increases in the tax base or rate. I want you to know that I hope you will fully support any such increases in your work with the Finance Committee.

As you are well aware, FUTA revenues provide the primary funding source for operation of the State employment security systems. There is a current and projected funding shortfall facing these systems of serious magnitude. I'm sure you share my deep concern with the impact of this deficiency on these programs in Maine and the need to assure future revenues that are adequate to support a complete system of services to the unemployed that includes unemployment benefits, labor market information and job finding assistance.

If you or your staff should need further information about the FUTA shortfall and desirability of corrective action please do not hesitate to contact me; or, perhaps more convenient for you, the office of the Interstate Conference of Employment Security Agencies, Suite 126, 444 North Capitol Street, N.W., in Washington, telephone 202/628-5588.

Best regards,

WILLIAM R. MALLOY,
Commissioner.

STATE OF IDAHO,
DEPARTMENT OF EMPLOYMENT,
Boise, Idaho, June 8, 1982.

Hon. STEVEN D. SYMMS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR SYMMS: In your role as a member of the Senate Finance Committee, I am bringing two critical issues to your attention:

(1) Administrative financing of the nationwide Job Service (e.g. Unemployment Insurance and Labor Exchange) and;

(2) State U.I. Benefit Trust Funds

Both topics need national legislative action to correct their financial plight.

First, the administrative fund comes from the Federal Unemployment Tax Act (FUTA) an employer paid 0.7 percent tax on the first $6,000 in wages on all covered employees. This tax is estimated by the U.S. Department of Labor to produce only enough to fund 21,900 job placement staff for fiscal year 1983 (which is a reduction from your support for restored positions for Job Service for fiscal year 1982) and only 13,900 staff for fiscal year 1984. By way of comparison, E.S. placement staff were at 30,000 positions nationwide in fiscal year 1980. The 30,000 placement staff level had been held constant for 16 years, from 1964 to 1980.

If the nation's ability to screen and refer qualified applicants to private sector job openings is to remain, then something must be done immediately so during fiscal year 1983 additional revenues can be raised in time to fund the system for fiscal year 1984. (Attached for your use in fashioning revenue raising solution(s) is a synopsis of alternatives presented by Eldred Hill Jr., Executive Director of U.B.A.)

The second financing issue, and just as critical as the first, is the "bankrupt" condition of the combined fifty (50) states' U.I. Benefit Payment Trust Funds, which are held by the U.S. Treasury. The outstanding debts which have been incurred by a third of the states are greater than the deposits made by the solvent states like Idaho. The borrowing by 16 states from the Federal government will reach $3.8 billion in fiscal year 1982 and projected to increase to $5.13 billion in loans to 23 states in fiscal year 1983. The outstanding general revenue loans from the Federal government to the debtor states are as follows: fiscal year 1981, $6.08 billion; fiscal year 1982, $9.39 billion; fiscal year 1983, $13.88 billion; fiscal year 1984, $15.85 billion.

This almost $16 billion dollar debt attributable to states who have not kept their U.I. benefits taxing mechanism equal to their U.I. benefit payment levels, are contributing to the imbalanced federal budget since the states' U.I. Trust Funds are part of the Unified Federal Budget.

I have been working with the States of Oregon, Texas and Virginia on Senate Bill 2360 introduced by Senator Warner from Virginia which will, among other things, require the states over the next five years to get and keep their benefit financing system in a solvent condition. Currently, Senate Bill 2360 is going through some major revisions to strengthen its ability to handle more than just the problem of state trust fund solvency. I hope you will support this piece of legislation as well as work with your colleagues on the Senate Finance Committee on solutions to the administrative shortfall currently facing the system.

Sincerely,

SCOTT B. MCDONALD,
Director.

Mr. DOLE. I read a portion of the letter from the Governor of Delaware, Pierre du Pont:

As chairman of the National Governor's Association Sub-committee on Employment and Training, it has come to my attention through Secretary of Labor, Dennis Carey, that the Unemployment Trust Fund at the National level is projected to be in a deficit position of approximately $14 billion by fiscal year 1984.

Then he indicates his support for the efforts we are making at this point.

Mr. President, I have no further requests for time.

Does the Senator from Texas wish the yeas and nays?

Mr. BENTSEN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. SASSER. Mr. President, I rise in support of the amendment by Senator BENTSEN from Texas to strike from H.R. 4961 those sections that raise the rates and wage base of the FUTA tax.

As noted by my distinguished colleague, I oppose this section of H.R. 4961 due to the adverse impact that it will have on employers in the State of Tennessee.

The FUTA tax increase in H.R. 4961 raises considerable revenues because it provides for a backdoor increase in State unemployment taxes. Indeed, over one-half of the revenue gains of the FUTA tax increase will come as a result of increases in State unemployment revenues. And Tennessee is one of the 33 States where State unemployment taxes will increase as a result of this provision of the committee bill.

The rationale for this provision of H.R. 4961 is that we must make efforts to end the deficits of the unemployment insurance program. Now I recognize the fact that some States are experiencing difficulties in financing their unemployment funds. But, Mr. President, Tennessee is not a State whose unemployment fund is currently in deficit; it has not sought special assistance from the Federal Government.

Now, Mr. President, Tennessee just raised its unemployment taxes by $75 million last year. And this year the State is making every effort to keep its unemployment taxes down even as we struggle with an unemployment rate that is currently at 10.6 percent.

Now it is going to be a close call, Mr. President. Tennessee may have to raise unemployment taxes if the unemployment situation worsens. But that, Mr. President, is a decision that should be left to the State legislature. It is not a decision that should be mandated on the States by the terms of this measure.

I also oppose this section of the committee bill because of the adverse effect that this measure has on small business.

It has already been determined that small business only received about 18 percent of the 1982 benefits of the 1981 Tax Act. And we find that small businesses in Tennessee and elsewhere are still struggling even with the passage of the 1981 Tax Act.

Why just the other day, I checked with the U.S. Administrative Office of the U.S. courts to determine the status of business bankruptcy filings in Tennessee. And to my despair, I found that for the first quarter of 1982, business bankruptices totaled 701 filings, a 77-percent increase in filings over 1981. At this rate, Tennessee will have some 2,800 business bankruptcies before the end of this year.

Mr. President, small businesses are hanging by an economic thread. They are having to pay interest rates of some 18 to 20 percent in order to stay in business. The last thing that they need at this time is an increase in State and Federal unemployment taxes. Raising unemployment taxes at this time is the wrong policy to be following if we care about the fate of small business.

I would add one final point: The committee notes that this portion of H.R. 4691 will raise $6.7 billion between now and 1985.

Yet, a major portion of this tax increase will fall on small business since small business comprises some 48 percent of all employment in this country. But the committee could easily have raised this revenue by repeal of the tax leasing provisions of the 1981 Tax Act.

Yet the committee chose to keep tax leasing, which provides benefits for large corporations to reduce their Federal tax payments. But the committee feels no qualms about levying an unemployment tax of some $6.7 billion, about half of which will fall on small business.

With Federal policy like this, it is little wonder that small business in Tennessee and elsewhere is in such desperate straits today.

I urge support of the Bentsen amendment which strikes the FUTA provision of H.R. 4961.

Mr. BENTSEN. Mr. President, I am prepared to yield back the remainder of my time, if the Senator from Kansas is.

Mr. DOLE. I yield back the remainder of my time.

Mr. BENTSEN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Texas. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 48, nays 51, as follows:

[Rollcall Vote No. 237 Leg.]

YEAS—48

Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Glenn	Nunn
Boren	Hart	Pell
Bradley	Hawkins	Pryor
Bumpers	Heflin	Randolph
Burdick	Hollings	Riegle
Byrd, Harry F., Jr.	Huddleston	Sarbanes
	Jackson	Sasser
Byrd, Robert C.	Johnston	Schmitt
Cannon	Kasten	Stennis
Chiles	Kennedy	Tower
Cranston	Leahy	Tsongas
DeConcini	Levin	Warner
Dixon	Long	Zorinsky
Dodd	Matsunaga	
Eagleton	Melcher	

NAYS—51

Abdnor	Goldwater	Murkowski
Andrews	Gorton	Nickles
Armstrong	Grassley	Packwood
Baker	Hatch	Percy
Boschwitz	Hatfield	Pressler
Brady	Hayakawa	Proxmire
Chafee	Heinz	Quayle
Cochran	Helms	Roth
Cohen	Humphrey	Rudman
D'Amato	Jepsen	Simpson
Danforth	Kassebaum	Specter
Denton	Laxalt	Stafford
Dole	Lugar	Stevens
Domenici	Mathias	Symms
Durenberger	Mattingly	Thurmond
East	McClure	Wallop
Garn	Metzenbaum	Weicker

NOT VOTING—1

Inouye

So Mr. BENTSEN's amendment (No. 1977) was rejected.

Mr. DOLE. I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1107

Mr. ARMSTRONG. I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) for himself, Mr. LONG, Mr. MATTINGLY, Mr. BAUCUS, Mr. GLENN, Mr. SASSER, Mr. QUAYLE, Mr. MURKOWSKI, and Mr. JEPSEN, proposes an unprinted amendment numbered 1107:

On page 560, in lieu of lines 22-25, insert:

"(i) the treatment of any item by the taxpayer on the return if the taxpayer believed that there was substantial authority for such treatment, or"

Mr. ARMSTRONG. Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. COHEN). The Senator will suspend. The Senate is not in order. The Chair could not hear the Senator from Colorado as he was explaining his amendment.

Mr. ARMSTRONG. Mr. President, do I have 30 minutes allocated to me?

The PRESIDING OFFICER. The Senator is correct.

Mr. FORD. Mr. President, will the distinguished Senator from Colorado yield to me for just 30 seconds so that I might ask a question of the chairman of the Committee on Finance?

Mr. ARMSTRONG. Of course. Not knowing the nature of the Senator's inquiry I ask that it be charged against someone else's 30 minutes.

Mr. FORD. Mr. President, I ask unanimous consent that I might take 30 seconds to ask the chairman of the Finance Committee a question.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, will the Senator yield?

Mr. DOLE. May we have order, Mr. President?

The PRESIDING OFFICER. Will those Senators standing in the aisle and conversing please retire from the Chamber?

Mr. FORD. I thank the Chair.

Would the distinguished Senator from Kansas advise the Senator from Kentucky now that the procedure is as it relates to amendments that are at the desk? I have one amendment at least I would like to take up. I am willing to give the Senator a time agreement on that maybe somewhat shorter than the regular time if I could find a point in time when I might be able to bring it up and have it considered.

Mr. DOLE. Mr. President, if the Senator will yield, we have not had any structured procedure. I have been taking amendments as people have asked me. Senator ARMSTRONG, then Senator JOHNSON, then Senator HOLLINGS, and you could be next.

Mr. FORD. Could I then, as a matter of record, be on the schedule following the Hollings amendment?

Mr. METZENBAUM. I would like to have two after the Senator from Kentucky.

Mr. LONG addressed the Chair.

Mr. FORD. This is just kind of a grab bag.

Mr. LONG. I do not think we can agree at this moment because the Senator from Louisiana has an amendment he wants to offer—I have two, and I guess I could combine them.

Mr. DOLE. I just realized the Senator is on the list. Senator DODD, Senator MITCHELL, Senator FORD asked for recognition, Senator STEVENS. I guess we could try to rotate from one side to the other and, hopefully, there will not be many on this side and then we can rotate back.

Mr. METZENBAUM. Mr. President, would the Senator from Kansas and the Senator from Louisiana consider, as floor managers of the bill, since so many of us have amendments that we may not be able to get to them, it is my thought to propose to limit the time on amendments to a half hour instead of an hour so that each of us will have a fair crack at an amendment? I merely make that as a proposal. I do not offer it—it is not within my prerogative to offer it—because otherwise not many of us are going to have a chance to call up our amendments.

Mr. DOLE. Let me say that there are 11 hours on the bill itself, and I will be happy to yield time on the bill and, if necessary, get more time. So far as this Senator is concerned everybody is going to have a chance to discuss their amendments, and so long as we are looking toward a conclusion—and I know the Senator from Ohio is——

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. FORD. I asked at the beginning the question of the Senator from Kansas. I would just ask the Senator and the distinguished minority floor leader, both of whom are fair, in an attempt to help us, I would just like to have about 30 minutes on one amendment equally divided, and maybe yield back some of that time, and I would be happy to take it up at a time certain. I do not want to take the time from the Senator from Louisiana because he has some very important amendments. Mine is just as important personally as the others, but I hope we can work out some time.

Mr. ARMSTRONG. Mr. President, the amendment which I have sent to the desk is a relatively simple one, but I hope my colleagues will not be deceived by its simplicity. It is a very, very, very important amendment and, if adopted, will go a long way toward preserving our voluntary tax system, a system which, in large measure, we now take for granted.

The PRESIDING OFFICER. The Senator will suspend. The Senate is not in order. The Senator from Colorado cannot be heard.

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Chair for obtaining order in the Chamber.

This amendment addresses a section of the bill which deals with tax compliance. In my view, the tax compliance section of this legislation identifies the right problem but, at least in part, comes to the wrong solution. The problem is a simple one. It is tax cheating.

There is no question that tax cheating is on the rise. Punitive tax rates, tortiously complex tax laws, purchasing power eroded by inflation, in sort of the sense that everybody is already cheating on their taxes has given incentive to a lot of otherwise honest people to cut corners and to perhaps, in some cases, even to break laws in the preparation of their tax returns.

The effect of this, aside from the erosion of our national character that is implicit in the notion of cheating on taxes, is to create a drain on the Treasury, which is rapidly rising and is presently estimated to exceed more than $120 billion a year.

The reason for this tax gap is multidimensional. Unreported income, overstated expenses and deductions, lack of audit coverage, unreported dividends and interest income, unreported capital gains, to say nothing of the huge and unreported and expanding underground economy. And because it is such a serious problem, taxpayers who see the problem firsthand, who even here others of their acquaintance brag about how they cut corners on their tax returns, are naturally tempted to do the same themselves.

As the chairman of the Senate Finance Committee summed it up so aptly:

> People just don't like to pay taxes, particularly those who have never tried it.

And, as the chairman of the Senate Finance Subcommittee on Oversight said:

> The workingmen and women of America don't mind paying taxes, they just want to make sure that everyone else pays their fair share of taxes, too.

So I am not unsympathetic to the main purpose of this section to improve the compliance, both from the standpoint of the people who are paying taxes and from the standpoint of assuring that we get the revenue which we are entitled to under the law. Unfortunately, the language which is included in this section goes a bit too far.

Briefly, Mr. President, the tax compliance section has five principal components.

First, it improves the information reporting requirements of the existing law.

Second, the bill reworks the penalty structure of the Internal Revenue Code, and corrects some deficiencies.

Third, the bill adjusts the method of computing interest on payments and on receipts by the Internal Revenue Service.

Fourth, it changes the method of reporting and institutes voluntary withholding of tax on retirement plan distributions.

Finally, it cracks down on abusive tax shelters through a variety of techniques and other miscellaneous provisions.

The end result of this legislation is to raise an estimated $20 billion or $30 billion in new revenue over the next 3 years. And it does so not by adding new layers of taxes but simply through compliance; that is, collecting from people who ought to already be paying their taxes.

With this in mind, you might well ask why is my amendment needed. The answer is very simple: Because this legislation includes what appears to be an innocuous provision. But this provision, in the opinion of tax experts, will have an enormous and adverse effect on the proper relationship between the Internal Revenue Service, taxpayers, and their professional tax advisers. And I am not talking about a question of mere semantics. I am talking about a matter which will be of the utmost importance, which can have a chilling effect on the relationship between the taxpayers and those to whom they go for guidance and counsel in the preparation of their tax return.

Let me give you the background of the situation. Under the current law, penalties can be imposed for tax deficiencies caused by negligence, intentional disregard of the rules, or civil fraud. The penalties are generally waived if a taxpayer reasonably relies upon the advice of his tax adviser. Tax advisers acting negligently or fraudulently face tax preparer penalties and sanctions by their professional associations.

In the real world, the way this works out is that if there is an underpayment of tax at the time of the audit, if the underpayment is proven, the taxpayer is liable for the amount of the tax plus interest. But if he went to a tax accountant or tax attorney, he does not have to pay a penalty. In other words, he is relying on the competency of his professional tax adviser. It is believed by many—and I would reluctantly agree—that the current law is abused in some cases since relatively few returns are audited. They are claiming tax deductions, credits, depreciation schedules that simply are not supported by current tax law or regulation. This is unfair, and discriminates against those taxpayers who are entirely fair and ethical on their tax returns.

It is, in part, what is thought to be corrected by the tax compliance section of this legislation. Specifically, the provision I object to provides a penalty for those who substantially understate their tax, generally 10 percent of the understated tax, if the understatement is more than $5,000 for the individual or $10,000 for a corporation. The penalty could be waived if the taxpayer discloses the facts surrounding the questionable items or if

the IRS believes the taxpayer acted in good faith and that the taxpayer believes he is—and I now use the magic words, the words which are the root of the problem—"more likely than not" to prevail in a controversy with the Internal Revenue Service.

The disclosure defense does not apply to tax shelter transactions, however.

My principal concern is to the words "more likely than not," a new test which represents a sharp departure from current law.

But before I discuss that in detail, I want to note the so-called red-flag provision, the disclosure provision, is also fraught with difficulty. These concerns, I think, are best understood from the testimony received at the subcommittee hearings held on March 22 on this legislation.

I would, therefore, Mr. President, read brief extracts from the testimony of former IRS Commissioner Donald Alexander; the chairman of the ABA tax section, Mr. Jack Nolan; the testimony of Mr. Frederick Hickman, former Assistant Secretary of the Treasury for Tax Policy.

The matters which I will read relate to the disclosure provision, not directly to the question of my amendment, but they bring into perspective the situation which taxpayers have in complying with the only other available method of avoiding a penalty in the event of understating income.

Mr. GRASSLEY. Mr. President, I would just like to ask if the material that the Senator is referring to regarding the testimony of former IRS Commissioner Alexander, was that testimony in regard to the bill as it was originally introduced, and not the language that is before us now?

Mr. ARMSTRONG. Yes, the Senator is correct. It is the testimony of March 22 and it does not go to the point of "more likely than not," but to the point of the difficulties of disclosure, which is a matter which, in the interest of disclosure, I thought should be a part of the record of these proceedings, even though I am not directly addressing it in my amendment.

Mr. GRASSLEY. The disclosure standard, I say to the Senator, has also been modified in the revision of the language of the provision as it was reported out of the Finance Committee. It is different from what was introduced in early March.

Mr. ARMSTRONG. Mr. President, I appreciate that explanation. But I believe, and without wishing to argue it, since it is not the subject of my amendment, that the present standard of disclosure, while not modified from the original proposal, is, nonetheless, an impractical one in many instances for taxpayers and tax preparers to meet.

First, let me quote from the testimony of the former Commissioner of the Internal Revenue Service Donald Alexander:

In the materials in which the bill was introduced that penalty is mentioned as being a penalty applicable to someone who takes a position inconsistent with the published position of the Internal Revenue Service and doesn't disclose it.

Now when we find the section itself, we don't find that first requirement. I would suggest, as the Treasury suggested, that you reconsider certain of the details of these provisions, particularly this one, and that you insert a requirement for the application of the automatic penalty; Not only that there be a failure to disclose but that the failure be inconsistent with the published position of the service.

Although reasonable, the disclosure provision does not include this recommendation from the former Commissioner of the IRS.

To quote Jack Nolan who, while speaking in a personal capacity, also is the chairman of the American Bar Association's Tax Section:

I support the general concept of this provision, at least with respect to nonbusiness income, but the provision needs more thought and work.

It is critical, for example, that the definition of what is disclosed in the return be fairly drawn and clearcut. The standard adopted in the bill is inadequate, for reasons discussed in my detailed statement. The application of this penalty to common but highly discretionary adjustments in business tax returns such as disallowances of deductions for unreasonable compensation or inventory adjustments may well be inappropriate and requires much consideration. The threshold provisions which will apply are probably too low.

And to quote from his more detailed statement about the recent experience the IRS has had from similar disclosure provisions:

The definition of a disclosed item is taken from the provisions of § 6601(e) of the Code. Under that provision, the statute of limitations for assessment of a tax deficiency is extended from three to six years for returns with respect to which there is a substantial omission of gross income. In determining whether a substantial omission exists, disclosed amounts are not taken into account.

A large body of case law had developed under Code § 6501(e) as to whether an amount or item has been disclosed. This development has not provided a satisfactory standard for implementation of this no-fault penalty provision. Thus, disclosure in an amended return filed six months' later was held insufficient under § 6501(e) to avoid the longer statute of limitations. *Foster* v. *Commissioner*, 45 BTA 126 (1941), aff'd 131 F.2d 405 (5th Cir. 1942); see also *John H. Houston*, 38 T.C. 486 (1962). Income erroneously reported on the return of an estate by an executrix who should have reported it personally was held not to have been adequately disclosed. *Anna Eliza Masterson*, 1 T.C. 315 (1942); see also *Leslie H. Green*, 7 T.C. 263 (1946); *Corrigan* v. *Commissioner*, 155 F.2d 164 (6th Cir. 1946). It is doubtful that a penalty should be arbitrarily applied in these types of cases.

A better approach would be for the subcommittee to establish specific standards with respect to the definition of disclosed items for purposes of this penalty provision. The meaning of "nature and amount of such item" (proposed Code § 6660(c)(1)(A)) should be further explained. The standards should provide considerably more guidance as to what will constitute adequate disclosure. Disclosure should not be limited to disclosure "in the return", or "in a statement attached to the return", if it is otherwise adequate, has all necessary identification, and is in a form that it can be readily associated with the return.

The application of this penalty with respect to activities of a trade or business deserves more study. Underpayments attributable to highly-discretionary adjustments by the Internal Revenue Service, the facts with respect to which are reasonably apparent on the face of the return, but as to which there is no specific disclosure in the return, present special considerations. This would include such items as unreasonable compensation, additions to bad debt reserves, amounts capitalized which were treated in the return as repairs, useful lives for depreciation purposes, the extent to which indirect costs are allocated in valuing inventories at cost, write-downs of inventory to market where lower than cost, and others. The Service normally looks at these items in any business return, and it is questionable whether a penalty should be imposed simply because there is no specific disclosure. These types of adjustments produce large deficiencies, but if the interest rate is adequate and the taxpayer's position had a reasonable basis, there should be no penalty.

There will be endless disputes whether such an adjustment arises from an item "described in the return" (proposed Code § 6660(c)(1)). Business returns may become weighted-down with unnecessary "disclosures". The cost of filing returns, particularly for small businesses, may become prohibitive as lawyers and accountants prepare extensive and carefully-worded "disclosures".

It is possible in any event that the threshold amounts have been set too low. The $5,000 amount for individuals perhaps should be $10,000; compare, for example, Code § 163(d). The $10,000 amount for corporations (other than Subchapter 5 corporations and personal holding companies) perhaps should be $25,000.

Notwithstanding the foregoing criticisms, the proposed no-fault penalty is sound in principle and should be enacted in some form. It should be noted, however, that this penalty does not adequately address noncompliance problems arising from tax-sheltered investments. In most instances, tax shelters are fully disclosed in either the taxpayer's return or in a partnership return referred to in the taxpayer's return. As a consequence, the penalty would not be applicable to an underpayment arising from such an investment. It may be necessary to consider some other sanction for such cases.

It is relevant in this respect that the Standing Committee on Ethics and Professional Responsibility of the American Bar Association has recently promulgated a revised statement of Ethics Opinion 346 providing rigorous ethical standards for tax-shelter opinions. This may have a salutary effect on the compliance problem with respect to such investments.

In this regard, it should be noted that in September 1980, the Treasury Department proposed changes in the rules relating to shelter opinions. The language then proposed involved the "more likely than not" standard. Rep-

resentatives of the American Bar Association, the New York Bar Association, the American Institute of CPA's, and other lawyers and CPA's, unanimously testified that "more likely than not" was not a practical standard. They did not believe that they were smart enough in the complex world of taxes, and with constantly changing rules, to be able to form an honest opinion that a particular position was "more likely than not" to ultimately prevail in litigation.

Instead, the American Bar Association, in its Opinion 346, adopted as a guideline the phrase "reasonably probable," as to which no quantifiable standard can be easily attached.

In looking at the standard to which the IRS is to be held when taxpayers demand reimbursement of attorneys fees, there is no requirement that IRS believe that it is "more likely than not" to prevail. Quite the reverse. The taxpayer can only collect from IRS if IRS has no support whatsoever for the position that it has taken.

Mr. Frederick W. Hickman, former Assistant Secretary of Tax Policy in the Ford administration, concurs:

The threshold provision is no answer. It is tied in this case to the understatement of tax liability. You may have a corporation that has, let's say $10 million of gross receipts and $9.9 million of expenses, and it has a $10,000 threshold. Another corporation with the same $10 million may have $8 million of expenses, and it would then have a $200,000 threshold. So even if you have a threshold, it is the wrong kind of threshold.

In any event, Mr. President, these expert witnesses raise valid questions. But my amendment goes to the other half of the mechanism by which taxpayers could avoid a negligence penalty, and that is the issue of the "more likely than not" standard.

Let me just put it in perspective for those who have just tuned in. A negligence penalty will not be assessed under the bill if the taxpayer can show that he had a belief that he was more likely than not to prevail in a controversy with the IRS.

Mr. President, I would suggest to you that it is almost impossible for a taxpayer or a tax adviser to know for certain whether or not they are going to prevail or whether or not it is more likely than not. In many cases the complaint I hear over and over again from taxpayers is that the Tax Code is just too complicated to understand, and with good reason.

For example, Vito Tanzi, an economist with the International Monetary Fund and a tax adviser to many nations, made this observation:

The tax system must be simplified. Maybe I should mention the fact that I am the author of two books on income taxation, and I spend my life advising foreign countries on their tax systems, and I cannot prepare my income tax returns each year in the United States. I have difficulty with it. So when the tax system reaches that point, there is some problem with it. And simplification would go a long way.

Imagine that. Here is a man who is an expert, and an author of two books, and he cannot even fill out his own tax return, according to his own testimony. You may say that is an isolated case. I think not.

Within the last 30 minutes, one of the foremost authorities on tax policy in this country—and I will not name him by name because I do not want to embarrass him—volunteered to me that he no longer prepares his own tax return for the same reason: that it is too complicated and too hard to understand.

In other words, we have a very complex tax system. We all know that, Mr. President, so I do not wish to labor the issue of uncertainty. Again in the interest of completeness of the RECORD, I ask unanimous consent to insert at this point some samples of the kind of questions which are almost impossible for a taxpayer or a tax adviser to resolve with the kind of certainty that is required to meet a more likely than not standard.

These are examples which have been prepared by my staff in consultation with certified public accountants and tax attorneys dealing with such issues as net gifts, recognition of professional corporations, noninterest bearing loans to employees, dealer's financial reserves, triangular exchanges of like-kind property, cash transfers upon divorce, property transfers upon divorce, status of dealer land under threat of condemnation, investment credit on special purpose agricultural structures, and insured casualty losses.

I would like to insert into the RECORD, for the benefit of those who will study the proceedings we are engaged in, these examples which I will not take the time to discuss in full right now, because they merely illustrate and document court decisions and revenue rulings, something we all know. That is that the Tax Code, the rulings, and court decisions surrounding the Tax Code has grown so fiendishly complex that in many, many instances the best professionals themselves are uncertain of the status of the law. That is the reason for my unanimous-consent request.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The Internal Revenue Service frequently adopts an advocate or litigator, as compared to an administrator, role in order to establish its interpretation of doubtul applications of the income tax law. This approach typically involves a protracted period of litigation and uncertainty, which makes it difficult for tax practitioners, much less taxpayers, to prepare returns with any degree of certainty as to the outcome of the doubtful issue let alone meet a "more likely than not" standard. Examples include the following:

1. NET GIFTS

The Internal Revenue Service quite recently prevailed in the *Victor P. Diedrich* — U.S. — (1982). in which the court refused to follow long-established precedent that a donor realized no taxable gain when the Federal gift tax agreed to be borne by the donee exceeded the donor's adjusted basis for the subject of the gift. Although the donor in his capacity as an income taxpayer was aware of favorable precedents which refused to treat the transaction as a constructive sale, or other income recognition event. Again, continued litigation by the IRS made the outcome doubtful for the past several years.

2. RECOGNITION OF PROFESSIONAL CORPORATIONS

The IRS commencing with its loss in the Kintner case resisted, both in litigation and by promulgation of regulations, acceptance of a professional corporation or association as a corporation entitled to institute employee retirement and benefit plans for its principals until the IRS defeat in the case of *Lawrence G. Empey*, 406 F.2d 157 (10th Cir. 1969). Entitlement of a professional corporation and its officer-stockholders was doubtful until final concession by the IRS of this issue after the Empey case was decided.

3. NON-INTEREST-BEARING LOANS TO EMPLOYEES

The IRS has continued to litigate the issue of whether compensation should be imputed to a corporate employee who has received a non-interest bearing loan from his employer, to the current date, notwithstanding the case of *J. Simpson Dean*, 35 T.C. 1083 (1961) where the court refused to impute such income, reasoning that the borrowing employee could impute offsetting interest expense to the lending employer. This area is still uncertain, and the Congress in an appropriation act from the previous session sought to determine the desirability of continued litigation by the IRS of this issue.

4. DEALER'S FINANCE RESERVE

The IRS contended during the decade of the 1950's that an automobile dealer should accrue currently as gross income amounts withheld by the purchaser of customer installment contracts in a reserve for contingent application against repossession losses. The IRS finally prevailed after losing in five consecutive decisions in five courts of appeal, when the case of *John R. Hansen*, 360 U.S. 446 (1959) was decided (following a late-developed conflict in the circuits). An automobile dealer would have predicted an incorrect outcome had he relied upon the earlier cases.

5. TRIANGULAR EXCHANGES OF LIKE-KIND PROPERTY

The Internal Revenue Service continues to resist an unconditional acceptance of prearranged dispositions of property through the use of an accommodation third party trader, as non-taxable transactions, notwithstanding the old Board of Tax Appeals Mercantile Trust case and the seminal case of *James Alderson*, 317 F.2d 790 (9th Cir. 1963) e.g. nonsimultaneous exchanges, exchanges of limited partner interests etc. This continued litigation makes "scoring" difficult under the 51 percent preponderance test.

6. CASH TRANSFERS UPON DIVORCE

Entirely apart from the "garden variety" litigation regarding alimony v. child support issues, there is considerable uncertainty as to the alimony v. division of marital proper-

ty treatment where installment payments of a principal sum extend beyond ten years and/or the remarriage of the payee former spouse. Example appears under *Irving Hayutin*, 508 F.2d 462 (10th Cir. 1975) case, citing the conflicting previous Bardwell and McCombs cases in this Circuit. The former spouses often maintain conflicting positions and the IRS acts as "stakeholder". The 51 percent preponderance test is quite uncomfortable here.

7. PROPERTY TRANSFERS UPON DIVORCE

The 10th Circuit has experienced considerable difficulty in the characterization of an inter-spousal transfer of property as (1) a partial or full satisfaction of a support obligation resulting in a constructive sale of the property at its value upon the transfer date, or (2) a division of marital property. In the case of *Ray C. Imel*, 523 F.2d 853 (10th Cir. 1975) where resort had been taken by the trial court to a local supreme court interrogatory. The court discussed its difficulty in harmonizing the earlier U.S. Supreme Court Davis case and its own earlier Pulliam, Collins and Wiles cases. Characterization as in (1) creates a capital gain for the transferor of appreciated property and stepped-up basis for the transferee. The result in (2) is no gain for the transferor and carryover basis for the transferee. This uncertainty arises in a very common situation.

8. STATUS OF DEALER LAND UNDER THREAT OF CONDEMNATION

The same Court of Appeals in the case of *Tri-S Corporation*, 400 F. 2d 862 (10th Cir. 1968) held that land which a taxpayer admittedly had held for the purpose of sale to customers in the ordinary course of its subdivision business was converted to investor property entitled to long-term capital gain treatment when the property became subject to a threat of condemnation. The IRS has continued to litigate this issue, with a recent victory in another Court of Appeals. Should a taxpayer be subjected to the risk of "no fault" penalty for the inability of the taxpayer of his tax adviser to predict the eventual outcome of this issue i.e. is a more-than-likely conclusion possible to identify?

9. INVESTMENT CREDIT ON SPECIAL PURPOSE AGRICULTURAL STRUCTURES

Uncertainty reigned the victor in this area until Congress enacted section 48(p), to qualify these structures as eligible investment credit property. Uncertainties in cases arising out of Colorado include Rev. Rul. 68-132 and Rev. Rul. 71-359 (potato storage shed finally accepted) and Rev. Rul. 66-157 (mushroom cellar rejected). Cases ensued involving the entire tedious "greenhouse, pigpen and chicken coop" field of battle. Some taxpayers might not have considered themselves fit to "roll the dice" on a 51 per cent more-than-likely standard or at a minimum might have thought an imposition of a "no fault" penalty basically an unfair measure in a self-assessment taxation system.

10. INSURED CASUALTY LOSS

Although the IRS announced in Rev. Rul. 78-141 that a taxpayer cannot claim a casualty loss deduction where the taxpayer had decided not to file a claim with his insurance carrier, notwithstanding the literal provisions of the section 165 regulations which refer to "reimbursed" rather than "reimbursable" casualty losses. The taxpayers have won recent cases, and the dispute proceeds, with continued uncertainty in a very commonplace transaction.

Mr. ARMSTRONG. Mr. President, I will not labor this aspect of my argument because we all know that the Tax Code is complex and fraught with uncertainty.

The bill states that the penalty is to be waived if the taxpayer believes he is more likely than not to prevail in a controversy with the IRS. Given this complexity and the tactics regularly used by the IRS, it is difficult to determine in many instances who has the preponderance of the evidence. Therefore, my amendment very simply changes the standard. It changes it from more likely than not to substantial authority. In other words, the penalty will not be assessed if a taxpayer believes in good faith that he has substantial authority for the tax treatment which he is claiming.

To put it in perspective, let me remind all Senators that the present law in effect says if you hire a tax attorney or a CPA to do your return, that is evidence of good faith, and if you underreport your tax, you have to pay the tax, you have to pay the interest, but you are excused from the penalty. The bill in its present form says no, you have to be more likely than not to prevail. In effect, my amendment splits the difference. It does not go back, as frankly I would just as soon do, to the present law and say, "If you hire a professional, that is enough evidence of good faith." It does not go back to that but it splits the difference and says you have to have substantial authority.

Mr. President, when I first considered this amendment, I had a little different set of words in mind. I had the words reasonable grounds or reasonable basis. In other words, if a reasonable man looking at the law, at the regulation, thought a particular tax treatment made sense, that ought to be enough. I am persuaded out of deference to those who claim that the present system is abused to go to the higher standard of substantial authority. In other words, it cannot just look right, sound right, or seem reasonable, but you have to be able to show that there is actually substantial authority for the tax treatment you are claiming.

Let me kick off five reasons why this amendment ought to be adopted. First, this amendment is nearly identical to the IRS waiver position already contained in the bill. Second, this amendment is consistent with our system of self-assessment of taxes. To quote former Assistant Secretary Hickman:

> In general, this provision strikes really at the heart of the self-assessment system. I think it would be a terrible mistake.

He is referrring to the bill on which he testified on March 22:

> It is not because I do not believe there is a problem but because I think this particular kind of approach to it would contribute more to the problem than to the solution.

The third reason is that this amendment in my judgment will not substantially reduce revenues. Fourth, the American Institute of Certified Public Accountants supports this amendment and with the change will not oppose the bill. May I say so far as I am aware the American Bar Association has no opinion on this bill, no formal position. I have talked with the head of the American Bar, Jack Nolan, and I am authorized by him to say, first, the reason the bar has no position is because it has arisen too late for the bar to adopt a formal position. Second, he has authorized me to say that he is critical of the provision that now appears in the bill and has so testified both before the House and the Senate. There is no question that that is not an official position of the bar but it is the position of at least one prominent member of the bar.

Finally, this amendment will reduce the costs and complexities associated with the filing of returns. If we do not get this amendment in, then the only practical way for accountants and lawyers to protect their clients will be to go back to the red flag provision, which is the other way you can be excused from having a penalty. That means, as one of our colleagues put it, that they will literally be briefing the case for their opposition. It means they will have to document everything they do. It means a flood of paperwork and among other things it will add dramatically to the cost of preparing an income-tax return.

Let me say in conclusion, Mr. President, that the CPA's believe that the more likely than not standard will virtually force them to advise clients to adopt a level of disclosure that will encompass anything as to which there is any doubt. It will be the only way in which they can hold their risks and costs under control. Thus, the disclosure alternative to the more likely than not standard will result in the IRS being inundated with such volumes of disclosures that there will be no way in which any meaningful followup can be made at the audit level. To the extent that the IRS attempts to follow up on the voluminous disclosures, resources will be diverted from more productive audit activities. The result, in the opinion of the certified public accountants, will be that the more likely than not language not only will not produce additional revenue but actually may, because it ties up the audit resources of the Revenue Service, result in less compliance and lower revenues as the IRS finds itself bogged down in endless altercations with taxpayers who are trying to defend their position.

If we substitute the substantial authority proposal, which is included in the amendment which I and my colleagues have offered, this over disclo-

sure effect will be substantially reduced. The CPA's have some confidence that they can deal with the term "substantial authority," but they do not have confidence that they can safely or economically determine what constitutes more likely than not.

Mr. President, with this explanation I reserve the remainder of my time.

Mr. GRASSLEY. Mr. President, how much time remains on this amendment?

The PRESIDING OFFICER. The Senator has 26 minutes.

Mr. GRASSLEY. Mr. President, first of all this subject matter we are dealing with in this amendment—the audit lottery penalty—has a price tag of $1.1 billion. There is going to be some considerable subtraction from that $1.1 billion by the change that the Senator from Colorado has suggested. So I think first of all we have to realize that this controversy is not just a question of semantics; it is a question of $1.1 billion.

The Senator from Colorado suggested in his opening remarks some things that I need to clarify, because they are central to the entire tax compliance legislation that Senator DOLE and I introduced in early March, of which this provision is part.

We heard this afternoon about the necessity for preserving voluntary compliance. The Senator from Colorado has suggested why voluntary compliance is in jeopardy. Tax cheating is increasing and as my friend from Colorado suggests, leading to an erosion of national character. I agree with his comments.

The Senator from Colorado went on to discuss the tax gap and the underground economy. He cited the cutting of corners by taxpayers and the prevalence of this behavior. I suggest to the Senator and to the Members of this body that these were the reasons why the tax compliance legislation was introduced. The impetus for this bill was to collect taxes from those who are not paying what they owe. Part of the legislation that we are considering that the Senator wants to modify concerns that category of taxpayers who want to pay what we call the audit lottery. I feel that my friend's amendment would restore the audit lottery by allowing high-bracket taxpayers to report taxable transactions in ways they believe to be incorrect without disclosing the facts.

This amendment would lose substantial revenue, as I have already suggested. We don't yet know precisely how much revenue would be lost. We all know that there are accountants and other tax advisers who will be permitted to continue their business of selling tickets to the so-called audit lottery that the Finance Committee attempts to eliminate. We all know that part of the business of accountants is to provide counseling to aggressive, high-income taxpayers who may substantially underpay their taxes without fear of any penalty based on the counsel received from their accountants.

It seems to me that essential to the goal of voluntary compliance and preserving the integrity of our tax system is that we do not undermine people's faith and confidence in the equity of the tax system by encouraging the audit lottery. The audit lottery permits a very small fraction of people who are very high-income individuals and large corporations to take very aggressive tax reporting positions. They rely upon the advice of high-priced tax advisers to avoid paying any tax penalty. They are willing to take the chance that they will not be one of the 1.6 percent of all taxpayers who are going to be audited. Within that category of 1.6 percent of the people who are going to be audited, we are only talking about 5 percent, individuals who are generally earning over $50,000 a year and corporations with assets of $100 million, 80 percent of the revenue produced by this penalty will come from individuals earning over $50,000 annualy and corporations with assets of $100 million.

The language being suggested here, admittedly by its sponsor, is new language. He suggests a substantial authority standard. This could create, in my judgment, enormous confusion. It would lead to litigation because it is a new and undefined notion and has not yet been clarified by the sponsor of the amendment.

The amendment would provide an enormous opportunity for high-income individuals and corporations to continue to underpay substantially their taxes without fear of a penalty. When we are taking such controversial steps as cutting the medical deduction, imposing new taxes and closing existing loopholes, to permit the very wealthy to continue to underpay their taxes, always by at least $5,000, without fear of penalty, is unconscionable.

The Finance Committee bill would not require taxpayers to resolve doubts in favor of the IRS. Even if the taxpayer believes that he will not prevail, disclosure of relevant facts will avoid the penalty. That does not involve reciting any court cases, as the Senator from Colorado (Mr. ARMSTRONG) suggested. It just means stating the facts.

The Finance Committee bill affects potentially just about 75,000 individuals, 0.08 of 1 percent of all the individuals with the worst compliance. The Senator from Colorado is correct in claiming that this is an important amendment—for certified public accountants. It will stop accountants and other tax advisors from selling tickets to this audit lottery that I have already referred to. This is a very lucrative part of many accountants' practices.

The Senator from Colorado states that the IRS will be inundated with disclosures. The Commissioner of the IRS, Roscoe Egger, disagrees. He believes that the regulatory authority granted to him will be sufficient to enable him to create a workable disclosure rule. I quote from a letter to Senator DOLE received today from the IRS Commissioner:

> The provision as reported by the Finance Committee has effectively eliminated our concern over its administrability.
>
> * * * * *
>
> Furthermore, the report language notes that while the Secretary of the Treasury has broad authority to determine the appropriate form of disclosing the taxpayer's position on an item on the tax return, that disclosure will in no way require practitioners to provide work papers to the Internal Revenue Service.
>
> The Service will work closely with the practitioner community to develop workable rules for the implementation of these provisions. We will make every effort to minimize reporting and paperwork burdens for taxpayers, practitioners, and the Service itself.

Mr. President I suggest that we are facing a large potential revenue loss as a result of this suggested language. We are working with a standard that the Senator from Colorado has suggested has not been tested. Without further clarification, I maintain, it is not a significant enough movement from existing law to encourage better compliance. I emphasize, too, that there has been an attempt by Senator DOLE and myself to answer some of the concerns that have been expressed about the legislation that was originally introduced. In my reservation to the unanimous-consent request by the Senator from Colorado, I suggested how we modified the provision based upon the suggestions in the testimony that was taken in March.

The Finance Committee bill has already been substantially modified in three major areas to respond to these legitimate concerns. One modification has been the disclosure standard. The second has been the information of our standard to "more likely than not." The third modification was to provide waiver authority for the Commissioner of Revenue. Most importantly, I get back to the initial point that the Senator from Colorado raised. He stated that voluntary compliance is in jeopardy and cited the need for Congressional action to correct that perception. I would like to emphasize the fact, that very wealthy, high-income people and very well-endowed corporations will no longer be able to play the taxpayers' lottery if our provision is retained.

Our legislation is directly related to the fact that many people see the very wealthy avoiding taxes. The wages earned by the working men and

women of this country are subject to withholding, and there is 99 percent compliance by working men and women. Why should we have less tax compliance by those most able to pay? With this legislation, we are focusing on the people earning over $50,000 annually. There should not be encouragement to play the lottery, and there obviously ought to be a penalty for those who either do not believe that their position will prevail, or at least disclose the relevant facts. I would hope the Senator would consider some modification of his amendment to address these concerns.

I reserve the remainder of my time and suggest the absence of a quorum.

Mr. MATTINGLY. Mr. President, will the Senator withhold?

Mr. GRASSLEY. Yes, I withhold.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. It is unusual in proceedings in this Chamber that the Senator from Iowa and I are in disagreement. It is obvious we are, and it is my hope that the Senator from Georgia, who has arrived in the meantime, could perhaps help us break this deadlock. I am pleased for that purpose to yield to him 5 minutes.

Mr. MATTINGLY. I thank the Senator from Colorado.

Since I am cosponsoring the amendment, I thought I should rise to support it. I am pleased to cosponsor this amendment. The amendment was offered by the Senator from Colorado (Mr. ARMSTRONG). He and I both are opposed to tax cheaters. Moreover, I favor the compliance improvements which will in turn reach individuals who attempt to evade taxes.

However, I am opposed to the language incorporated in the bill before us here today. The language as included in the bill reported by the Finance Committee will without a doubt have a very chilling effect on the relationship between a taxpayer and his or her tax adviser.

Mr. President, I think the approach offered by our amendment is reasonable. It is a very reasonable compromise between the present law and the language included in the tax bill.

The substantial authority standard would be fair to the taxpayer, the tax adviser, and the Internal Revenue Service.

What this amendment will change is the onus will be on the IRS and not the taxpayer. It is the IRS responsibility to do this job and not what was intended in the language promoted by the Finance Committee.

Mr. GRASSLEY. If the Senator will yield, I would like to address that point. The IRS has to audit before anybody is affected by this legislation.

Mr. MATTINGLY. Right. This is just a move by them to move that away from the IRS and put it back on the taxpayer and the tax adviser, which I think everybody agrees with.

Mr. GRASSLEY. We are just asking for the facts. That is all we are asking for, just the facts.

Mr. MATTINGLY. I think the taxpayers are giving the facts to the IRS.

Mr. GRASSLEY. If they do give the facts on the return, they do not pay the penalty. It is just that simple—just the facts.

Mr. MATTINGLY. But the real question is the standard that they use.

Mr. GRASSLEY. It is not a case of the standard, because that is an alternative defense to the penalty that they can use if they do not report on the more likely than not basis.

Mr. MATTINGLY. The amendment that has been offered by the Senator from Colorado and the Senator from Georgia and Senator LONG and Senator BAUCUS is a reasonable approach and a fair approach. What we are trying to attain in taxpayer compliance is fairness and equity, so that is what this amendment does. It attempts to make it more fair.

I yield to the Senator from Colorado.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, it has been a good debate, and the issue is well understood.

I want to acknowledge in closing something I said at the very outset, and that is that the problem of taxpayer compliance is a real one and that equity and justice among taxpayers as well as the financial needs of the Government require that we improve the taxpayer compliance.

I believe that Senators owe a debt of gratitude to the Senator from Iowa and the Senator from Kansas for bringing before us a really excellent piece of taxpayer compliance legislation.

The fact that I think they have erred in one particular provision, this one relatively small part of their overall suggestion, does not in any way diminish my agreement with their overall effort and my admiration for them in doing so.

I do want to again make this point, however. I am not proposing with respect to the present law to go back to the way things are. I am saying let us split the difference at the present time if we hire a lawyer or hire a CPA in effect to escape any negligence penalty. That does not seem unreasonable to me, but I am not saying go all the way back to that. Just saying to go as far as requiring taxpayers to show that more likely than not they will prevail is too tough a standard and that prudent men will not move that far, in one jump anyway. It is a standard which the professionals in the field say they cannot meet, and therefore they will be required to go to this disclosure approach which the Senator from Georgia is concerned about, as am I, which has been very burdensome not only on taxpayers but on the IRS as well.

The Senator from Iowa made a point which I would like to explore for just a moment. He suggested that the term "substantial authority" is a new term. In fact, exactly the opposite is the case. The term "more likely than not," I am told, appears nowhere in present statutes. I asked specifically this question of the head of the American Bar Association's Tax Section: "Why does the term 'more likely than not' appear in the statutes?"

He told me, "it does not appear any place."

I am not a lawyer, and I do not sit around reading lawbooks, but that is what he told me.

I said, "Where does it come from?" He said, "It comes from the department's circular 230." I said, "Well, what is that?"

It turns out that that is a controversial proposal; it has not even been adopted by the department. It is a proposal which has been so controversial that it has been pending since 1980.

So those words, "more likely than not," are not settled issues. They are not terms that have been extensively litigated and defined by courts. They are controversial, new words in the law.

By contrast, the term "substantial authority" was selected because, I am advised, those words have in fact been litigated and have been the subject of judicial determination.

I put to the legal advisers who assisted me on this, including Mr. Nolan of the Bar Association, this question:

"How much litigation has there been on it?" He said, "Well, enough so that it can be determined judicially what these words mean."

I do not think we need to fear the words "substantial authority."

Mr. President, unless there is more to be said, I am prepared to vote. I look around the Chamber and find that relatively few Members are here. I am reluctant, therefore, to suggest a voice vote. I would ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum. The Senator from Kansas wanted to speak on this.

The PRESIDING OFFICER. Under whose time will that be charged?

Mr. GRASSLEY. Equally divided.

Mr. ARMSTRONG. Mr. President, reserving the right to object, I think I am about out of time and so the effect of equally dividing the quorum call would be to shut me out at the end. Could we charge the time to the bill?

Mr. GRASSLEY. Yes. How much time is——

The PRESIDING OFFICER. The quorum call will be charged equally on the bill.

Mr. GRASSLEY. Mr. President, how much time do I have on this side?

The PRESIDING OFFICER. The Senator has 13 minutes on the amendment.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SYMMS). Without objection, it is so ordered.

Who yields time?

Mr. DOLE. I ask unanimous consent that the pending amendment be temporarily laid aside so that we might consider an amendment of the distinguished Senator from Louisiana (Mr. JOHNSTON).

The PRESIDING OFFICER. Without objection, the pending amendment will be temporarily laid aside and the remaining time will be reserved.

Mr. DOLE. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. That will be the pending business after the disposition of the Johnston amendment?

The PRESIDING OFFICER. The Senator is correct.

UP AMENDMENT NO. 1108

(Purpose: to provide reasonable limits on the current tax exemption of possession source investment income)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON), for himself, Mr. MOYNIHAN, Mr. MATSUNAGA, Mr. JACKSON, and Mr. D'AMATO, proposes an unprinted amendment numbered 1108.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 259 beginning after "thereof" on line 2 strike all up to but not including line 11 and insert in lieu thereof the following: "65 percent," and

(B) by adding at the end thereof the following new subparagraph

"(C) TRANSITIONAL RULE.—In applying subparagraph (B) with respect to taxable years beginning after December 31, 1982, and before January 1, 1985, the following percentage shall be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60.".

Mr. JOHNSTON. Mr. President, this is a technical amendment relating to—I mean it is a technically difficult amendment, it is more than a technical amendment, but it relates to—section 936 of the Internal Revenue Code which is the economic base for Puerto Rico.

Mr. President, this is the first of two amendments.

PASSIVE (INVESTMENT) INCOME

In its recommendations with respect to section 936 of the Internal Revenue Code, the possession tax credit, the Senate Finance Committee has made drastic changes in a program which has been the key to Puerto Rico's economic development for over 40 years. The Finance Committee has recommended two changes. First, with respect to passive (investment) income, the Finance Committee has recommended eliminating by 1985 almost 80 percent of the credit now available.

By raising the amount of passive income excluded from qualifying for the credit from the current 50-percent limit to 90 percent.

In the committee report on this particular change, the reason given is that the Treasury Department reports on 936 found "continued tax exemption of excessive possession source investment income." This finding was based on the 1979 Treasury Department report on the 936 program, the latest report available. This data, now over 2 years old, does not take into account the substantial regulatory changes which have been implemented by the Treasury Department of Puerto Rico in coordination with the U.S. Treasury Department in the Puerto Rico 936 funds market.

These changes, promulgated in December 1981 and effective February 1, 1982, have assured that the 936 funds accumulated by the 936 corporations in Puerto Rico through term deposits in the local banking system are utilized to finance the local economy, as Congress intended when it approved section 936. First, past leakages of 936 funds into the external money markets have been curtailed. Second, there has been a significant, important increase in the channeling of these funds by the financial intermediaries into productive investments in the local economy.

The new regulations have limited the use of 936 exclusively in the lending and investment sectors within Puerto Rico through a tightened definition of "eligible activity," refocusing on those activities which increase production and employment in the island. Moreover, the cost to the Puerto Rican Government of funds for these purposes has significantly declined as a result of the program.

These regulatory changes have been described in detail in a position paper prepared by the Treasury Department of Puerto Rico on the committee recommendations, and I ask unanimous consent that this paper be printed in full in the RECORD at this point.

There being no objection, the paper was ordered to be printed in the RECORD, as follows:

PUERTO RICO TREASURY DEPARTMENT—POSITION PAPER ON EFFECTS OF LEGISLATIVE AMENDMENTS TO SECTION 936 OF THE INTERNAL REVENUE CODE APPROVED BY THE SENATE FINANCE COMMITTEE

* * * * *

The presumed tax impact of the amendments is based on the naive assumption that changing the determination of taxable income and the allocation of that income among parent corporations and subsidiaries would not change levels of production and the location of productive facilities. But in fact, even minor changes in the 936 system of taxation can cause serious damage to Puerto Rico's industrial production, leading to lower than estimated Federal tax revenues, decreased imports from the U.S., increased migration of unemployed Puerto Ricans to the mainland, and generally increased Federal expenditures both on the mainland and in Puerto Rico. In addition, damages to financial institutions in Puerto Rico due to the loss of 936 funds would be widespread, and the consequent costs to Federal financial regulatory institutions would outweigh the hypothetical revenue gain.

Any revenue increase on the part of the Federal government due to these proposals must be compared with accompanying losses and increases in expenditures. Our preliminary calculations show an initial increase in expenditure to the Federal government of $375 million for 1984, in addition to certain losses on the part of financial regulatory agencies, as discussed below. Moreover, the Puerto Rico Treasury is likely to lose tax revenues of about $187.9 million during the same period, and employment on the Island is likely to fall by at least 15,000 jobs leaving an unemployment rate of more than 25 percent. The rest of this position paper consists of an elaboration of these calculations and a description of further negative effects on the Puerto Rico financial sector.

Before entering into details of the calculations, however, it should be emphasized that the damage to be expected from the present legislative proposals may be far greater than simple calculations can indicate. Since investors will invariably interpret these proposals as percursors of greater change, the final effects on industrial promotion and the future of the Island economy will be more serious. Indeed, for that reason, much of the damage may already be done. The current unemployment rate in Puerto Rico is 23.6 percent, real GNP has not grown for the past 18 months, and production in every sector has fallen during the past year. The only sector showing some resiliance has been the manufacturing sector, which has been buoyed by recession-resistant high technology promotions. Unfortunately, that sector is precisely the one put in danger by the legislative amendments under consider-

ation. This situation can hardly be considered a legacy for the Administration's policies of lowering effective taxes on business and fortifying the free enterprise economies of the Caribbean Basin.

FISCAL AND ECONOMIC EFFECTS

This portion of the paper consists of a recalculation of expected Federal revenue increases, a calculation of Federal budgetary increases, a description of probable fiscal losses to Puerto Rico from the proposed possessions corporation limitation, and a description of probable effects on the industrial sector in Puerto Rico.

The calculation of Federal tax expenditure

In estimating the tax impact of the proposed measures, the Senate Finance Committee evidently employed the same methodology utilized in the U.S. Treasury's Annual Report on the 936 System—i.e. the calculation of "tax expenditure". This term refers to the taxes an entity would pay under a hypothetical full tax regime if its profits were the same as under some exempt regime. In the case at hand, tax expenditure refers to the tax an exempt Puerto Rican subsidiary would pay if it were producing precisely the same output but were taxed at the full U.S. rate. Applying this methodology to components of the income of these corporations thus assumes that those components would not change if they were fully taxed. Now this supposition is evidently false: the very reason for the existence of tax exemption in Puerto Rico is to change industrial production—to increase employment, output, and profits on the Island. To remove the tax exemption even partially would obviously lower employment, production, and profits.

For the purposes of arriving at a rough estimate of the impact of this measure on the Federal budget, it is necessary to know by what amounts employment, production, and profits would fall with its implementation. Lacking time for a complete study of the problem, however, a rough estimate will have to suffice. Elasticities derived from the econometric model of Puerto Rico indicate that relatively minor changes in the 936 system could lower industrial production in Puerto Rico by 10 percent from its expected value in 1984, while more far reaching changes could lower it by 25 percent, with the precise decrease depending on the final decrease in the profitability of mainland investment in Puerto Rico. Taking the more conservative estimate of 10 percent and assuming (also conservatively) that corporate profits would fall by a proportion no greater than that of production, then the original estimate of the Federal tax impact must be lowered by 10 percent. The estimate would then be $900 million for 1984 as opposed to the $1.0 billion estimated.

Against this smaller than expected gain must be set the concommitant Federal budgetary losses of the measures under consideration, as shown in the following section.

Federal budgetary costs

Estimates by the Governor's Economic Advisory Council based on a hypothetical 10 percent drop in Puerto Rico industrial production indicate that Federal expenditures would increase by $375 million during 1984 due to legally mandated transfer payments to Island residents and increased welfare payments on the mainland. This latter category would be due to decreased imports of mainland goods to Puerto Rico, which would cause decreased production on the mainland, leading in turn to more unemployment and the loss of Federal tax revenues. These costs are not itemized here, but are available in a separate study. They are conservative estimates in that they do not include difficult-to-project items such as increases in Medicare and increases in Puerto Rican migration to the mainland. The major components of the provable cost increases are unemployment benefits, social security payments, and losses of mainland tax revenues.

Subtracting these costs from the gross revenue estimated for the PCL leaves a partial net effect of $525 million for 1984. Even this amount must be decreased further because of probable costs to the FDIC and the FSLIC if these measures were passed, as shown in the second half of this paper. But first let us address an issue of considerable importance to the Government of Puerto Rico—its own tax revenues.

Impact on tax revenue in Puerto Rico

Though revenue losses to the Puerto Rico government are not a direct offset to possible Federal revenue gains due to the PCL, they do nevertheless deserve consideration. Such losses would be due to four sources—the toll gate tax, the corporate income tax, the banking franchise tax, and the personal income tax. In order to arrive at an estimate comparable with the Federal tax impact above, we will use the same basic data implied by the impacts estimated by the Senate Finance Committee. The impact of taxing profits allocable to intangibles is estimated by the Committee at $800 million for 1984, the first full year of taxation, which implies that about half of projected taxable income would be due to intangibles. (A 45 percent effective tax rate implies $1.77 billion in taxable profits from this source, which is about 50 percent of the estimated total of $3.6 billion in 936 profits for 1984). In the same manner, a $200 million estimated revenue increase due to taxation of passive income implies that 12.5 percent of total 936 income derives from that source. These proportions can be applied directly to projected Puerto Rico tax collections, yielding an estimated tax loss due to the passage of the PCL measures.

The largest tax loss to Puerto Rico with the passage of these measures would be from the toll gate tax, which is imposed on 936 profits upon repatriation. By 1984, the revenues from this tax are expected to increase to about $100 million per year from their present level of about $85 million (see Table I). In accordance with our earlier scenario, a 10 percent decrease in industrial production would lower this figure to $90 million. Applying the percentage losses of taxable income derived above to the remaining $90 million of expected tax collections yields a revised expected revenue of $33.8 million. The tax loss to Puerto Rico, then would be $66.2 million in toll gate taxes alone.

Corporate income tax losses due to the passage of this measure may be smaller, but they are even more significant for other reasons. Puerto Rico has just recently begun partial taxation of previously fully exempt manufacturing corporations. Revenues from this source grew from $15 million in 1979 to $45 million in 1980, the first full year of taxation under the new program, and they are conservatively estimated to grow by at least 10 percent per year over the next decade. At that rate, revenues would have been $66 million in 1984. Applying the 10 percent loss due to decreased industrial production and the additional losses due to the direct effects of the proposed PCL measures, the expected revenue is reduced to $22.3 million. Losses of corporate tax revenue to Puerto Rico, then, would be $43.7 million.

The third source of revenue loss to the Government of Puerto Rico is the Banking Franchise tax, basically an income tax on commercial banks. Revenue from the franchise tax was expected to be $30 million during 1984, but with the nearly complete loss of 936 funds which would accompany the passage of the amendments under consideration, it is safe to assume that there would be no taxable income for that year on the part of the banks. Revenue loss, then, is the entire projected figure of $30 million.

Lost revenues due to lower personal income tax collections are more difficult to estimate, since there is no simple means of determining which workers would lose their jobs, but a minimum loss can be determined using the projected manufacturing wage bill for 1984. Reducing the projected wage bill of $2.4 billion by 10 percent and multiplying by the average effective personal income tax rate of 20 percent, we arrive at a revenue loss of $48.0 million from this source. As with our other calculations, this is a conservative estimate of revenue loss, since the lost jobs would certainly be in the higher paying capital intensive sectors (e.g. pharmaceuticals and electronics).

The total loss of tax revenue to Puerto Rico with the passage of the PCL measures, therefore, would be at least $187.9 million, composed of a $66.2 million loss of toll gate revenues, a $43.7 million loss of corporate tax revenues, a $30 million loss of banking franchise taxes, and $48 million in personal income tax revenues. Since each item is conservatively estimated and because we have not included excise tax losses and various multiplier effects, this estimate should be considered a bare minimum expected loss. Even so, the sum represents 9 percent of the Government of Puerto Rico's total operating budget for 1983, the loss of which would be a considerable blow to an already beleaguered budget.

TABLE 1.—MONTHLY TOLLGATE TAX COLLECTIONS

[In millions of dollars]

	1978	1979	1980	1981	1982
January		12.4	9.6	5.1	10.4
February		5.2	1.1	2.8	7.0
March		1.8	3.0	5.2	8.0
April	2.1	6.4	1.9	1.6	6.8
May	4.7	2.5	0.7	2.3	3.4
June	42.2	28.7	54.6	23.7	34.0
July	0.3	0.4	2.3	3.4	
August	0.3	1.3	0.6	0.6	
September	0.3	2.4	1.9	0.3	
October	0.3	0.8	0.9	3.3	
November	0.7	0.9	5.5	5.6	
December	5.9	4.5	3.8	4.0	
Total	56.8	67.3	85.9	57.9	

Source: Department of the Treasury, Office of Economic Affairs, San Juan, Puerto Rico.

In order to round out our discussion of the damage the PCL would cause to the Puerto Rico economy, we now turn to the showpiece of Puerto Rico's economic development program—the industrial sector.

Impact on the industrial sector

Section 936 has played an extremely important part in the Puerto Rico industrial development program. Puerto Rico has advanced since 1940 from a poverty-stricken Island heavily dependent on low-wage sugar production to a modern, semi-industrialized economy. Much of the credit for this successful record goes to the Island's program to attract mainland private industry to

Puerto Rico through Puerto Rico's Industrial Incentive Acts, which build upon Federal tax benefits provided to qualifying U.S. corporations locating in Puerto Rico. These Federal tax benefits, provided under section 936 of the Internal Revenue Code, have been essential to the rapid growth in United States private investment which has been the backbone of the Island's development.

Most of this investment has been in the manufacturing sector, which provides jobs for about 153,100 workers, almost 20 percent of the Island's total employment. They are stable jobs and often provide opportunities for acquiring technical skills. The wages paid are relatively high. In 1978 average employee compensation was $10,697 in U.S. "936" corporations as opposed to average private sector compensation of $7,158 in all Puerto Rican manufacturing. These jobs have been created at a low cost to the Federal government: if we assume that 80 percent of these jobs would disappear under Federal taxation, Federal taxes lost per job are about $2,150, a low figure in comparison with the cost of CETA Title VI jobs at $13,024 per participant, or $39,072 per person placed successfully in a permanent job in 1977.[1]

These jobs are much needed in an area where the unemployment rate now is at 22 percent and has been rising. Since Puerto Ricans can migrate freely to the U.S., it should also be noted that higher unemployment here can be expected to compound the problems of U.S. cities.

In creating jobs, Section 936 has been an important tool. While motivations for investment are as varied and complex in Puerto Rico as they are on the mainland, most informed observers of the Island's economic scene believe that tax exemption is an extremely important reason for industrial investment in Puerto Rico. The island has few natural resources which can be profitably exploited by industry. Most firms which have located on the Island ship their final products to, and obtain their raw material from, points on the mainland which are between 900 and 1,400 miles from the point of manufacture. Energy cost—especially for electricity—are also somewhat higher than on the mainland, due to the almost exclusive reliance of the Puerto Rico Electric Power Authority on oil-fueled power generation. It will be several years before alternative energy sources will begin to change these unfavorable energy costs.

For these reasons, and because of the uncertainty that Puerto Rico's present political status poses, investors considering locating in Puerto Rico generally look for a post-tax rate of return higher than on the mainland before coming to the island, something which Section 936 has been able to provide.

Let us now consider the impact of elimination of tax-free treatment of intangibles. Section 482 of the United States Internal Revenue Code has been the key provision covering intercompany pricing. It permits the Internal Revenue Service to "distribute, apportion or allocate gross income, deductions, credits, or allowances" between "two or more . . . . businesses . . . owned or controlled directly or indirectly by the same interest", if it determines "that such distribution, apportionment or allocation is necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such organizations, trades or businesses." Since most large United States-owned corporations operating in Puerto Rico are subsidiaries of parent companies located on the mainland, this provision, its regulations, and interpretations are very important to manufacturing on the island, serving as a guideline in determining the extent to which corporate income will be considered as originating in Puerto Rico, and thus subject to Section 936 and Puerto Rico's industrial incentives laws.

The proposed change in the rules of the game, which would allocate all income from intangibles to the mainland parent, is having an obvious and harmful effect on the investment climate in Puerto Rico. The high technology firms, which include the drug and chemicals industry, electronics firms and scientific instruments, are expected to be the most adversely affected. Not only the big companies with higher stakes (pharmaceuticals and electronics), are affected, however, but many smaller companies as well.

These firms not only provide 39.4 percent of manufacturing employment at present, but have been the main source of new manufacturing jobs. This industry group has expanded employment by 37 percent between 1976 and 1981. Electronics alone, the largest high technology employer with 20,800 jobs in 1981, grew 56 percent over the same five year period. Employment in manufacturing as a whole, however, has barely grown at all (5 percent total growth) since 1976, reflecting declines in labor intensive industries such as apparel and food processing due to high wages and greater import competition. These trends make it clear that Puerto Rico cannot return to the earlier era of labor intensive industry if incentives for high technology firms are weakened. Rather, industrial growth would decline overall and many jobs would be lost.

Recent trends in investment substantiate this conclusion. Because recent actions by the IRS and Congress have increased uncertainty about the "rules of the game" for investors in Puerto Rico, many firms are re-evaluating investments in Puerto Rico; others are increasingly reluctant to undertake new commitments, and many are not even considering investment in Puerto Rico, due to the degree of uncertainty with respect to the profits to be derived from Puerto Rico and the possibility of further changes in the future. Several representatives of various industries have already advised the Government of Puerto Rico that new projects or plant expansions are being shelved until the issue is resolved. The ultimate effect on the economy of Puerto Rico, if existing companies are discouraged from expansion and new companies from locating manufacturing facilities in Puerto Rico, could run in the billions of dollars and thousands of employees. Such a drop in manufacturing investment would worsen recessionary forces within the U.S. economy and increase unemployment on the island. As noted previously, in the past the U.S. has spent over $10,000 per participant in job creation programs: an expenditure much less efficient than the "936" program, which creates jobs both in Puerto Rico and in the U.S.

Adverse effects on the balance of payments also would aggravate inflationary trends. Since precise data on the reexport abroad of Puerto Rican goods shipped to the mainland are not available, the following figures are indicative only of the order of magnitudes involved. Total Puerto Rican merchandise exports to the mainland were $6 billion in 1980; the U.S. balance of payments deficit (1980) was $34 billion. If we assume that all goods produced in Puerto Rico and shipped to the U.S. would otherwise have been produced abroad and imported, we find a substantial balance of payments effect. A fall of 20 percent in Puerto Rican exports under these assumptions would increase the deficit by almost 4 percent. This change would put additional downward pressure on the international value of the U.S. dollar. Thus the role played by Puerto Rico in keeping U.S. corporate operations within the greater U.S. system, a major benefit accruing presently under section 936, would be seriously weakened ending the proposed legislation.

This first portion of our paper has shown that the negative fiscal and economic effects of the proposed legislative amendments to section 936 of the IRC very nearly outweigh the hypothetical revenue gains. The next portion show that the losses to Federal financial regulatory agencies would definitely outweigh any supposed gains.

EFFECTS ON FINANCIAL MARKETS AND INSTITUTIONS

This part of the position paper addresses itself to the provision of the legislative proposal to the effect that the current rule permitting a qualifying 936 corporation to earn up to 50 percent of gross income for the three year base period from passive (investment) income be changed to permit only a maximum of 10 percent. We understand that this particular provision was approved at least partly because of the feelings that the passive income provisions comprise an area of particular inefficiency within the overall 936 program. While we do not agree with this point of view, we would also like to point out that this provision, by itself, would have far reaching, and potentially disastrous consequences on local financial markets and financial institutions operation in Puerto Rico.

The provision amending the 50 percent rule would cause a massive withdrawal of 936 deposits presently in the Puerto Rico banking system for reasons we shall explain below. A change of this magnitude in the deposit levels of depository institutions operation in Puerto Rico could seriously damage the already precarious economic climate of the island by denying it a substantial volume of loanable funds at low interest rates. Furthermore, it could have negative effects on the federally insure depository institutions themselves.

The economic and social cost of the above, coupled with the probability of significant expenditures by some federal regulatory agencies, underlines the probability that a significant if not a major part of the projected revenue effect of this legislation could well be neutralized due to expenses incurred by the federal government as a result of its economic side effects.

Regulatory and operational framework of 936 market

Section 936 was enacted by Congress in 1976 as a substitute for Section 931 of the Internal Revenue Code. The concept and intent embodied by Section 936 was developed by the joint efforts of the Congress, the U.S. Treasury and the Commonwealth of Puerto Rico with the objective of fostering employment and investment in Puerto Rico and bringing back to Puerto Rico—and ultimately to the United States—the surplus funds which the 931 corporations had been investing abroad. These objectives have been accomplished since Section 936 was

[1] Estimate derived by the staff of the Governor's Economic and Financial Council from figures in the "Manpower Report of the President," 1980.

adopted. As a result, billions of dollars that were invested abroad flowed back into the Puerto Rican economy and to the United States. For example, during fiscal year 1981-82, 936 Corporations paid dividends of approximately $2 billion to their U.S. parent corporations.

The Treasury Department of Puerto Rico, in coordination with the U.S. Treasury, has assured that the 936 funds accumulated by the qualifying corporations in Puerto Rico through term deposits in the local banking system are utilized to bolster the local economy significantly, as Congress intended when it drafted Section 936. Our current supervisory function has resulted in availability of these funds to the commercial banks, federally chartered savings and loan associations and other financial institutions doing business in Puerto Rico at significantly lower cost than funds from alternative sources. There is evidence that these interest cost economies to the financial institutions are being reflected in increasing degrees at the borrower's level in a lower interest rate charged to them by the banking system.

On December 17, 1981, the Department issued two regulations and three rulings in a major step toward a better coordination among all participants in the 936 funds market. This was followed by the issuance of a series of circular letters, which have presented the Department's position on numerous points raised under the regulations and rulings. This regulatory package, effective since February 1, was carefully developed by our Department after extensive consultation with the local financial industry and with the U.S. Treasury. Its purpose was to improve previous local regulations in order to obtain results beneficial to the economy of Puerto Rico, as Congress had intended when it approved Section 936. Essentially, the package was designed to bring about the maximum utilization of 936 funds in the economy of Puerto Rico, to obtain a general decline in the interest rates paid by local borrowers of 936 funds, and to develop a longer term and more stable 936 deposit structure in the local banking system.

Two positive results of the new regulatory package have been the evident curtailment of the apparent leakages of 936 funds into the external money markets and a significant increase in the extent to which these funds are channeled by the financial intermediaries into productive investments in the local economy. The need for improvement in these areas was addressed by previous reports by the U.S. Treasury to Congress covering the operation of the Possessions Corporation System. That we are succeeding in our goals is evidenced by the rapid and significant decline of the coefficients of the local 936 certificate and deposit rates to the external market rates (generally eurodollar CD rates)—a drop of from approximately 95 percent in December of 1981 to much lower levels today, as shown in the graph on the following page.

It is evident that in December of 1981, when the details of the Department's regulatory package became public knowledge, the 936 rate paid by the banks operating in Puerto Rico was finally divorced from its past close relationship with external market rates. This was caused by the closing of the principal arbitrage avenues used by some local financial institutions to place 936 funds abroad. Naturally, the dramatic lowering of the 936 CD rates and the stricter parameters for the lending and investing of those funds in Puerto Rico has been a significant boost to the local economy in the current environment of high interest rates and recession.

There is also direct evidence that more 936 funds are being used in the local economy. To appreciate why this is so, an understanding of the term "Eligible Activity" is of fundamental importance. It has been defined by Regulation to comprise the major lending and investment activity that can be funded by financial institutions with 936 funds. Eligible Activity is such lending or investing activity with 936 funds which tends to increase production, income and employment in Puerto Rico.

Looking at Table II below, we see a breakdown of the major items comprising total Eligible Activity and the corresponding amounts of lending in the local banking system which could be potentially funded with 936 deposits. Total Eligible Activity has increased from approximately $6.5 billion in February to $7.8 billion in May of 1982. Considering that total 936 funds channelled into financial institutions stood at approximately $5.5 billion, it seems reasonable to expect that the banks and S&L's financed most of their Eligible Activity with 936 funds. This is so since 936 funds use is limited by legal and regulatory requirements to financing this type of activity within Puerto Rico. Moreover, the bank's and S&L's ability to finance their Puerto Rican lending and investment operations with locally generated, low-cost funds has made possible substantial economic development arising from their incremental lending and investment activities.

TABLE II.—TOTAL ELIGIBLE ACTIVITY, 1982

[In millions of dollars]

	February	March	April	May
Investment and loans to government of Puerto Rico	1,505.2	1,792.6	1,751.3	1,797.1
Commercial loans	2,925.5	3,438.2	3,542.3	3,690.3
Eligible consumer loans	206.1	227.9	279.6	238.5
Mortgage loans	1,195.5	1,194.2	1,161.0	1,147.0
Real estate investment	108.2	98.7	98.3	98.8
Others	603.7	618.8	786.7	804.6
Total	6,544.2	7,370.4	7,619.2	7,776.3

Amendment to the passive income provision

In this section we will quantify the possible effects of the amendments to the current passive income provisions in Section 936. The Department's data shows that the average balance of the 936 funds placed with all the financial institutions operating in Puerto Rico (commercial and savings banks, federally chartered savings and loan associations and investment bankers) stands currently at approximately $5.5 billion. (This figure is not the same as total eligible activity in Table II because not all eligible activities are financed with 936 funds).

For simplicity, we will assume that the maximum of 50 percent of gross income from passive income (investment) sources is currently being substantially utilized by the qualifying corporations. The corporations' principal investment options for obtaining this exempt income are depository institutions' certificates of deposit (CD's), investments in Puerto Rico obligations, GNMA's on residences in Puerto Rico, and indirect placements in these same investments through repurchase agreements with investment bankers.

If the 50 percent maximum allowed from passive income were to be reduced to 10 percent, every investment option sourcing such passive income would eventually have to suffer a proportional drop in the 936 funds invested in it. This would occur because the change represents an 80 percent decrease in the total passive income that will qualify as tax exempt for federal tax purposes. Given that bank CD's are by far the largest investment for obtaining qualified investment income, it can reasonably be expected that 936 corporations' investment in those CD's would also drop by 80 percent. For purposes of quantifying the possible effects of these changes, we should bear in mind that an 80 percent reduction in the actual 936 deposit and placement level of $5.5 billion would represent a drop to the vicinity of $1.1 billion, a net decrease of $4.4 billion. The remaining deposits in the local banking system would probably be even lower because the 936 corporations, in making their investments, normally leave a "safety" margin of at least 10 percent in their overall passive income so as not to jeopardize their 936 status.

Finally, it should be emphasized that these effects would partially occur even if the passive income restriction were not modified. This is because the proposed change in the treatment of intangibles could have similar (though perhaps smaller) effects on the financial system by drying up the earnings source for the deposits on which passive income is earned.

Effects on financial markets and participating institutions

We must stress that in our opinion as regulators of the local banking industry and financial markets, any change in 936 deposit levels in the financial institutions even approximating these magnitudes would have numerous and far-reaching negative effects on the economy as a whole and in the financial markets and participating institutions in particular.

If an amount approximating $4.4 billion of 936 funds is taken out of the local financial institutions, these institutions will of necessity have to substitute other funds in order to continue their Puerto Rico credit and investment operations, which include very significant medium and long-term commitments. In the case of the U.S., Canadian and Spanish multinational banks and of the major local banks, these 936 funds will probably be replaced by regular funds acquired in the Eurodollar or U.S. financial markets. Naturally, since local 936 deposit rates being paid by commercial banks are significantly below current market rates, this substitution process will represent substantially higher interest costs to the financial institutions which must eventually be passed on to the local borrowers. Given the current differential of about 4 percent between 936 and Eurodollar rates, we estimate that the proposed change in the passive income requirement would add at least $160 million to the cost of loanable funds in Puerto Rico.

The passing on to the Puerto Rican borrower of the higher cost of funds to the banks will have harsh results in view of the significant interest payment increases and the decreasing income and debt repayment ability in a recessionary economy. In the case of a bank that may have lent 936 funds for medium and longer terms at fixed rates, the fund substitution will represent a negative carry as regards cost of funds, a problem identical to the one that has put the savings and loan industry on the verge of collapse.

We must emphasize, however, that this first scenario corresponds only to the case of the major multinational banks that can

make this type of large scale funding substitution. This may not necessarily apply in the case of the medium and smaller size financial institutions which may lack, for a number of reasons, everyday access to the external financial market. Therefore, a number of financial institutions in Puerto Rico will experience significant negative effects on their operating results if a massive outflow of 936 funds from the banking system were to take place.

It is in fact possible to quantify the effects of massive withdrawals of 936 funds from the banking institutions in Puerto Rico. For example, as can be seen from the table III below, 936 deposits represent over 40% of the total deposits of commercial banks operating in Puerto Rico, thus, representing the principal component of such banks' funding.

TABLE III.—SELECTED FINANCIAL RATIOS, ALL COMMERCIAL BANKS OPERATING IN PUERTO RICO, 1982

[Dollar amounts in millions]

	Total assets	Total deposits	936 deposits	936 deposits total assets (percent)	936 deposits total deposits (percent)
February	$13,785.2	$11,654.0	$4,909.8	35.62	43.13
March	13,498.9	11,284.5	4,803.3	35.58	42.57
April	13,526.3	11,324.1	4,668.1	34.51	41.22

It is important to note that approximately 70 percent of such 926 deposits are short-term in maturity (i.e. under 180 days), and thus subject to withdrawal within a relatively short period of time.

If the proposed amendment to the passive income provision were to be approved, within a short period (of less than 6 months) approximately 32% (60% of 40%) of the total deposits in the Puerto Rican commercial banking system would be withdrawn. Such withdrawals would most certainly cause an unprecedented strain on the liquidity of the commercial banks—a strain that many institutions would have the utmost difficulty withstanding.

This liquidity problem is further illustrated by the Table IV below, which compares 936 deposits to the aggregate amount of "Cash and Due from banks" in the Puerto Rican banking system. (Cash and Due from Banks are, of course, the principal sources of a bank's liquidity.)

TABLE IV.—SELECTED RATIOS ALL COMMERCIAL BANKS OPERATING IN PUERTO RICO, 1982

[Dollar amounts in millions]

	Cash and due from banks [1]	936 deposits	936 deposits as percent of cash and due from banks
February	$4,281.9	$4,909.8	114.66
March	4,000.7	4,803.4	120.06
April	4,056.3	4,668.1	115.08

[1] Includes currency and cash, checks on banks in Puerto Rico, other cash items, and balances due from other banks in Puerto Rico, United States, and foreign countries. It should be noted that the balance sheets of federally chartered (i.e., national) banks in Puerto Rico do not contain significant cash and due from banks balances since, in contrast to the Puerto Rican chartered banks, such balances are less essential to their overall liquidity position.

To the extent that substantial 936 deposit withdrawals render certain banks so illiquid that they must be closed, the deposit run at other institutions would be fueled by the double impact of their own 936 withdrawals coupled with an increasing concern over the Puerto Rican banking system's overall soundness.

We believe it is important to note that the projected revenue effect of this legislative measure, which is represented as $500 million for fiscal 1983, could quite possibly in fact be negative, because of direct cash payments and other substantial expenses incurred by Federal regulatory agencies required to be made in an attempt to ameliorate the financial problems brought on by the proposed amendment. The failure and consequent mergers or liquidations of from three to four Savings and Loan Associations could result in a net loss to the FSLIC of between $300-400 million (assuming all depositors are paid). The failure of two to three commercial banks could push the combined costs to the FDIC and FSLIC well in excess of $500 million, conservatively stated. In the event of a prolonged crisis, it would be difficult to find buyers willing to assume the assets of distressed banks at attractive prices. Such a situation would also undermine, for years to come, the faith of the public in Puerto Rican financial institutions, as well as cause the local banking system to regress to asset size and deposit levels of previous decades.

We believe this legislation should not be promoted further without considering the views of agencies such as the Federal Deposit Insurance Corporation and the Federal Savings and Loan Insurance Corporation, as well as others with supervisory or deposit insurance responsibility over the affected institutions.

COST OF PUBLIC DEBT

The effect of the amendment to the passive income provisions on public sector borrowing must also be touched upon. This Department's regulations concerning use of the 936 funds by banks and other depository institutions set forth the requirement, among others, that each eligible depository institution is required to own and hold at all times not less than thirty percent (30%) of the daily monthly average of its total eligible deposits invested in obligations of the Commonwealth of Puerto Rico, or any of its instrumentalities or political sub-divisions. At least one third (⅓) of that investment requirement is required to be held in obligations of and directly negotiated with the Government Development Bank for Puerto Rico (GDB).

In addition, this Department's regulations concerning use of the 936 funds by investment bankers, brokers and similar institutions provide that these institutions at all times own and hold not less than 30% of the daily monthly average of the total assets transferred, assigned or otherwise delivered through repurchase agreements involving 936 funds, in obligations of the Commonwealth of Puerto Rico or its instrumentalities.

Table V, below, shows that in May 1982 the eligible institutions had invested approximately $1.75 billion in Puerto Rican government obligations, of which roughly $734.6 million represented deposits with the GDB at lower interest rates. This has represented significant economies for the public sector through the GDB. The investments in obligations of the Commonwealth of Puerto Rico represented not ony purchases of government bonds and notes but also a myriad of government and municipal financings for different projects and situations.

TABLE V.—LOANS AND INVESTMENT IN OBLIGATIONS OF PUERTO RICO GOVERNMENT, 1982

[In millions of dollars]

	February	March	April	May
Government development bank	612.6	822.6	734.9	734.6
Government of Puerto Rico	1,043.5	1,054.2	1,072.8	1,020.7
Total	1,656.1	1,876.8	1,807.7	1,755.3

It should follow that upon the loss of roughly 80% of their 936 deposits, these investments would also be scaled down accordingly by the participating institutions. This would represent a loss to the public sector of significant revenue sources arising out of the lower cost 936 fund deposits. More importantly, it would necessitate rolling-over a substantial amount of government financing at significantly higher interest cost.

The combination of these two factors could result in material increases in debt servicing cost for the public finance sector of the Commonwealth as well as corresponding revenue decreases to the GDB. We must also mention the probable loss of the considerable liquidity factor that the pool of 936 funds have afforded Puerto Rico in the availability of a ready market to absorb short and medium term public debt at a time when the long-term municipal bond markets have been practically closed to the Commonwealth because of the extremely high interest rate environment.

Beyond the short run effects mentioned above, then, the proposed changes would aslo reduce the Island's long-run growth prospects by reducing its ability to borrow to finance infrastructure for economic development.

SUMMARY AND CONCLUSIONS

What should have been a minor modification in Section 936 to correct excessive tax benefits of a handful of large companies has become instead a highly destructive proposal which, if enacted into law, would largely dismantle Puerto Rico's highly successful postwar economic development program by discouraging industrial investment. The effects of the proposed legislation are so far-reaching that their total financial costs exceed any possible gains to the Federal Treasury. The additional nonfinancial costs in loss of confidence in Puerto Rico as an investment site, as well as losses in the confidence of holders of Puerto Rican bonds, must also be counted as very high. This confidence, which has been built up through many years of efforts by the Puerto Rican government, has already been undermined by the proposed amendments to the 936 legislation, and the passage of the proposed changes will further undermine the belief of investors in the stability of the system and in the Island government's ability to comply with its promises of long term tax exemption.

Let us review the major areas of damage which passage of either of the proposed amendments alone would cause. First, they would result in a sharp drop in industrial investment, employment, and production in Puerto Rico. This is particularly so as the provisions are aimed heavily at the most profitable and fastest growing subsectors of Puerto Rico's industry. As Puerto Rico's entire economic development program has been built around manufacturing, this change would be a sharp blow in itself. Beyond this, the measure would also erode Puerto Rico's tax base and bond ratings,

making long-term development efforts by the government more difficult. Even worse, it would undermine the stability of the Island's banking system by causing a massive withdrawal of funds from local banks—many of which are branches of mainland financial institutions.

After a careful review of the evidence, it is difficult to imagine how Congress could include these measures as part of a revenue-raising package, as they would have far-reaching consequences which will place heavy demands on the Federal budget at many different points. The loss of manufacturing investment in Puerto Rico will worsen poverty and unemployment on the Island. Not only will this change lead to reduced U.S. exports, with a resulting decline of economic activity and a loss of tax revenues on the mainland, but it will also cause increased migration by Puerto Ricans to large U.S. cities, increasing the strain on welfare programs. Federal unemployment insurance and social security taxes are also collected in Puerto Rico, and the proposed amendments would erode the base on which these taxes are collected.

The Puerto Rico financial system is highly integrated with that of the mainland, and any measures which threaten its stability also will affect the U.S. as a whole. Virtually all of the banks operating in Puerto Rico have some form of Federal deposit insurance. Likewise, many local mortgages are guaranteed by Federal programs such as that of the Veterans' Administration. The proposed legislation can only increase the strains on these programs by causing massive outflows of funds from the Island. In a period of austerity such as the present, the Federal government cannot afford ill-conceived and poorly-thought-out measures which do not really improve the Federal budget deficit.

Finally, a brief comment on geopolitical considerations seems appropriate here. The administration is interested in combating the spread of Communist influence in the Caribbean area, while demonstrating the benefits of free enterprise. An economically strong Puerto Rico will not only support America's efforts in that region in countless ways, but it will also serve as an example to the whole area of what free enterprise can do. Passage of the proposed amendments, by greatly weakening Puerto Rico's economic development program, will mean nothing less than the loss of this valuable support in the Caribbean region.

Mr. JOHNSTON. On pages 15 through 27 of this paper, the issue of investment or passive income is specifically addressed, and I direct the Senate's attention in particular to the chart on page 20 which shows the growth in productive uses of various eligible activities between February 1 and May 1, 1982, when the changes were in effect.

Of these trends, the biggest growth has been in commercial loans, which increased from $2.925 billion in February to $3.690 in May, or by $760 million—approximately 25 percent. The second biggest increase has been in investment in and loans to the government of Puerto Rico which increased from $1.505 billion in February to $1.797 billion in May, an increase of $290 million—roughly 20 percent.

As described on pages 20 to 27 of the report cited above, the Finance Committee's recommendations with respect to passive income are expected to result in a drop of 80 percent, or about $4.4 billion, in 936 funds currently deposited in local financial institutions. In the case of major international, U.S., and local banks, many of these funds probably would be replaced by other funds acquired in either the Eurodollar or U.S. financial markets, but these replacements would be acquired at a substantially higher interest rate, adding at least $160 million to the cost of loanable funds in Puerto Rico. A number of smaller institutions, however, are not expected to be able to replace 936 funds, since these institutions lack everyday access to the external financial market.

The Puerto Rican Treasury Department has quantified the impact of the expected changes. The results are startling and disturbing. Since 40 percent of the current bank deposits are comprised of 936 funds, and since 70 percent of these deposits are in 180-day or less maturities, the Puerto Rican Treasury Department believes a liquidity crisis could be anticipated. If only three or four savings and loans associations in Puerto Rico failed, merged, or were liquidated, the FSLIC (Federal Savings and Loan Insurance Corporation) could lose, assuming all depositors are paid, as much as $300 to $400 million in 1 year. Moreover, if only two or three commercial banks failed, the combined FDIC-FSLIC cost in 1 year would be in excess of $500 million.

In addition, the newly enacted regulations require that each eligible depository institution holding 936 deposits invest 30 percent of those deposits in Government obligations. Moreover, it is further required that one-third of these investments be held in obligations of, and directly negotiated with, the Government Development Bank for Puerto Rico. Similar regulations exist for investment bankers, brokers, and like institutions. Altogether, these institutions, as of May 1982, had invested about $1.75 billion in Puerto Rican Government obligations, with $734.6 million invested with the GDB at lower interest rates. This requirement has resulted in significant savings for the public sector through the GDB and in significant savings on the Puerto Rican deficit. If 80 percent of these deposits were withdrawn, as is anticipated under the Finance Committee proposal, debt-servicing costs would increase and the GDB would lose significant revenues. Moreover, long-term growth prospects for Puerto Rico would likely be reduced as a result of higher costs of borrowing by the Government for infrastructure development.

In contrast to the Finance Committee proposal, my amendment would raise the current 50-percent limit to 65 percent. In other words, my amendment would up the current limit on investment income by 30 percent in contrast to the 80-percent increase proposed by the Finance Committee by 1985. This amendment would reduce the amount of 936 funds reinvested in the local banking system in a reasonable manner and would not run the risk of wide-scale, and ultimately costly, disruptions in the current financing system. It also takes into account the major changes in passive income treatment which were put into place in February of this year—just 5 months ago. Finally, by reducing the amount of passive income which would be protected from Federal tax by the possession credit and by forcing 936 funds into taxable investments, my amendment would generate significant revenues.

Mr. President, I believe this is a fair and reasonable compromise. It addresses the concerns raised by the Finance Committee while taking into account the bold actions already taken by the government of Puerto Rico. My amendment is supported by the government of Puerto Rico and I hope the distinguished floor manager will agree to accept it.

Mr. President, for the edification of my colleagues, section 936 of the Internal Revenue Code is what was called the bootstrap program. It was a program begun by the late and great Gov. Muñoz Marin who saw in Puerto Rico what was described as the poorhouse of the Caribbean, poverty which was truly grinding, and in the American family was totally unacceptable.

So Muñoz Marin, who is regarded as the George Washington of Puerto Rico, together with the Congress of the United States put together a plan to lift Puerto Rico economically by its bootstraps.

The results of this program, Mr. President, have been singularly successful. They have raised Puerto Rico to the highest per capita income status of anywhere in the Caribbean, other than the U.S. Virgin Islands.

So Puerto Rico has about 60 percent of the per capita income of the United States.

Mr. President, this program, this section 936 program, which in effect allows a domestic U.S. corporation to create a subsidiary in Puerto Rico and have the income from that subsidiary in effect tax free within Puerto Rico, provided it employs people and it generates business activity within Puerto Rico, as I said, has been singularly successful.

If you compare the costs per job of that program with the other Government job programs, it is really quite excellent. A 1979 Treasury report says that the cost for employees is $12,600. When you include other employees omitted from that report the actual

cost is $10,150 per employee, which compares to $14,766 per year per employee in the work incentive program or $13,000 per year in the CETA program.

Mr. President, there you are with a program which is working, and working well in Puerto Rico. I say working well—it is working well in the sense that it is the lifeblood of the Puerto Rican economy. the fact of the matter is, however, that Puerto Rico has a present unemployment rate of 23.7 percent. No real investment was made last year, and 25,000 jobs, all CETA jobs, were cut last year. So we have in Puerto Rico today a situation similar to the Great Depression in the United States back in the 1930's, almost 24 percent unemployment.

As against this background, Mr. President, the Committee on Finance has offered an amendment which will have truly devastating and truly destabilizing effects upon the 3.2 million inhabitants of Puerto Rico. It is an action taken without hearings. It is an action which is opposed by the Department of Treasury which is otherwise a supporter of this bill. But the amendments to the 936 program were specifically criticized by Secretary Regan or excepted, should I say, from the endorsement of the tax bill by Secretary Regan.

Mr. President, in effect, the result of the Committee on Finance amendment will be, according to the Department of Treasury in Puerto Rico, a cutback in what we call the 936 companies of between 10 percent and 25 percent of the jobs which they furnish, and the 936 companies in turn furnish 85 percent of the manufacturing jobs.

So, in effect, what this means, Mr. President, is that in a commonwealth which has 23.7 percent unemployment you are going to take away between 10 percent and 25 percent of the manufacturing jobs.

It is estimated that the immigration increase into the United States will be up to 49,000 in this year of 1982 as a result of this action, and these are American citizens in Puerto Rico who have a right under our law to come to this country, and as against this kind of unemployment rate unquestionably the increase in immigration will be devastating.

Morever, the Federal cost, according to the Puerto Rican treasury, the Federal cost to the United States will be $375 million per year in unemployment benefits, social security payments, and tax loss.

So, Mr. President, it is no wonder that the Secretary of the Treasury, Donald Regan, has sounded the alarm bell with respect to this provision, because the savings to the Treasury are illusory. You can say how much you save under section 936, but there has been no statement as to what will be the cost to the Treasury under unemployment, social security, and tax loss.

Mr. President, there have perhaps been what some would call abuses in the 936 program. Certainly the pharmaceutical companies have received a higher degree of subsidy than some would say is necessary, although I think if you look at the reports which provide the factual bases for these criticisms you will find that those reports are wrong in a number of instances and the true figures are somewhat different.

But, nevertheless, many Members of this body do see the program as being overly beneficial to those particularly in the pharmaceutical area.

What this amendment and the following amendment will do will be to compromise between what is the present law and what the Finance Committee has done. The Finance Committee has projected tax savings of $400 million in 1983, $1 billion in 1984, and $1.9 billion in 1985 from this change. This compromise will save from the present law $230 million in 1983, $480 million in 1984, and $530 million in 1985. The difference will be a net cost in fiscal year 1983 of $200 million, between what this compromise would do and what the present bill saves, and $500 million in 1984.

Mr. President, those are, as I say, the direct savings or the direct costs, if you will, under section 936, and those do not reflect what the alternative costs would be under social security, unemployment, and tax loss or the increased burden upon other States of the United States caused by the increased immigration.

Mr. President, even with this compromise, if it is enacted, we have very difficult problems in Puerto Rico and, indeed, in the whole Caribbean.

This very night, Mr. President, the President of the United States will speak to some 125 representatives of Caribbean nations, talking about the Caribbean Basin Initiative under which more than $1 billion will be spent to try to provide stability, to try to head off the festering scourge of communism in the Caribbean. And as against that background, Puerto Rico, which has 3.2 million American citizens and economic conditions equivalent to the Great Depression, is sought to be undermind and conditions made worse and, it is not too much to say, Mr. President, that the makings of a revolution are possible by this action in this tax bill.

Mr. President, I say to my colleagues, I do not have any Puerto Ricans in my State, and I daresay there are very few Senators who do. It is a very easy area to overlook. It is a very tempting target to say, "Aha, we can save some money by taking these rich subsidies which go to the pharmaceutical companies."

But, Mr. President, I tell my colleagues that section 936 is the whole economic basis of the economy in Puerto Rico. They no longer have agriculture. Tourism is a very small part of the Puerto Rican economy. If we want to really undermine the whole Puerto Rican economy, then pass this tax bill in its present form, because it will make a terrible situation unbearable. It will set the scene for political repercussions that could do much, much more harm than the Caribbean Basin Initiative could ever do.

I hope, Mr. President, that the distinguished chairman of the Finance Committee will look with favor upon this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. If I am in control of the time, I yield to my distinguished colleague such time as he may need.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank my friend from Louisiana who has made the case succinctly and forcefully.

I would like to put myself at the disposal of the distinguished chairman of our committee to ask him in what way we can be of assistance to him in this matter.

There are perhaps two prefatory remarks. First, as he knows, this provision in the Tax Code is one of the very oldest in existence. Section 936 dates from 1921. It has been in place now for 60 years. It is integral to the economy of the Commonwealth. It antedates the Commonwealth status in point of fact. The distinguished Governor of the Commonwealth, Carlos Romero-Barceló, has written to me, as I am sure he has to many other Senators and perhaps also to the chairman, to make the simple point that 20 percent of the employment in the Commonwealth of Puerto Rico is based upon industrial investments that were prompted by section 936.

I would make a further point—and this is only a personal one—to the chairman that in the interval between the passage by our committee of this measure and today, I have been visited by the heads of some of the major corporations in this Nation who are active in Puerto Rico. As it happens, their particular arrangements are such that they are not hurt by the proposals in the committee bill.

That being the case, they felt more free to come forward and plead, "Don't do this if you can possibly not do it. It will be ruinous to that economy and to that policital relationship."

The second point I would make to the distinguished chairman is one I have made before on this floor when, with great difficulty and in the end with great generosity, he dealt with the problem of food stamps and the

eligibility of Puerto Ricans, who are American citizens, for food stamps. I think in the end he showed his generosity as he always does. I had to say on that occasion, as I would say on this occasion, that if the American citizens of Puerto Rico were represented on the floor of the U.S. Senate, legislation such as this could not pass or would be most unlikely ever to pass.

It was not possible to hold hearings. The chairman knows the constraints with which he was required to draw up the tax bill in one 17-hour session of the committee.

It would be easy to stand here and thunder away. I could be dramatic about the matter. I do not know that the occasion requires that. What the occasion requires is to appeal to the judiciousness and fairmindedness of the chairman. Let me ask him: Do we not have a special responsibility to the Commonwealth to reconsider the provisions in the committee bill in conference or here on the floor if the chairman is ready. We do not want to put up a proposition and make it a matter that would divide this Chamber.

The distinguished Senator from Louisiana has said that very few Members of this Chamber have Puerto Rican citizens in their States. Some do. But, of course, most Puerto Ricans live in Puerto Rico and most Kansans live in Kansas.

They are American citizens but are not represented in the Senate. That places upon us a special responsibility. I wonder, having made the points we wish to make, if we might hear from the chairman.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Governor Romero.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

OFFICE OF THE GOVERNOR,
LA FORTALEZA,
San Juan. Puerto Rico, June 24, 1982.

HON. DANIEL P. MOYNIHAN,
Senate Finance Committee,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR MOYNIHAN: Over the course of the next several days, you will be addressing yourself to the thorny problem of raising new revenues as mandated by the recently passed Senate Budget resolution. As always, one seemingly attractive source for new monies is an alteration, or termination, of Section 936 of the Internal Revenue Code which provides tax credits for United States firms operating in Puerto Rico.

I am writing today to ask that Section 936, which is the backbone of Puerto Rico's attempts to create jobs and reduce our dependence on transfer payments, not be changed in any way. As long as Puerto Rico is not a state, special incentives such as this section are necessary and should be retained in Federal statute.

Section 936 works. In a relatively efficient way, it creates jobs in Puerto Rico. Manufacturing employment today on the island totals 153,000 jobs, the majority of which come from plants set up under the 936 provisions. The 153,000 jobs are 20% of our total island's employment.

Not only does Section 936 create jobs, but over the course of the past sixty years, since the predecessor to this section was first included in the tax code, the kinds of jobs created have changed.

Originally, the jobs created were low-wage, unskilled jobs in the apparel, tobacco, and furniture industries. Today, the jobs created are in highly skilled, sophisticated industries such as electronics, scientific instruments, pharmaceuticals, and chemicals. Increasingly, Puerto Ricans have also been filling the technical and managerial positions as well. This change in the type of jobs created and filled by Puerto Ricans benefits not only the industrial worker, but the whole fabric of Puerto Rican life as the increases in knowledge spill over to the rest of the island's economy and society. This has been expressly recognized by President Reagan through his pledge to use Puerto Rico's expertise as a basic part of the proposed Caribbean Basin Initiative.

There is the mistaken notion that Section 936 benefits only Puerto Rico. The rest of the United States benefits as well. In 1980, Puerto Rico used some of the income created from these jobs to purchase $5.1 billion worth of goods from the nation, namely the 50 states. Included in these purchases were many of the raw materials needed to create the finished products on the island. The $5.1 billion supported 153,000 jobs on the mainland, a number exactly equal to the number of manufacturing jobs existent on the island. Our jobs are, in effect, your jobs. In your state, New York, Puerto Rico purchased in fiscal 1980 $486 million worth of goods, directly supporting 12,678 jobs.

Altering or eliminating 936 would negatively affect Puerto Rico, but since we are so tightly linked to the mainland, there would also be negative effects on the rest of the nation.

First, should employment on the island decline by even 10%, there would be a $1 billion decrease in the Gross National Product of the United States.

Second, Puerto Rico's unemployment level would increase far beyond its current 23%, but unemployment on the mainland will also increase by approximately 30,000 jobs.

Third, Federal and State welfare costs, as well as unemployment benefit costs, would also increase.

Fourth, the flow of Puerto Ricans leaving the island in search of better employment opportunities would accelerate. Last year, 12,000 U.S. citizens from the island moved to the mainland. This year, if current trends continue, 49,000 will do so, There are attendant welfare and social costs with these changes which have yet to be measured, but are surely to be felt by the states in which these citizens settle.

Simply put, I firmly believe that Puerto Rico and the rest of the United States can only lose if Section 936 is altered or changed in any way by the Finance Committee.

There are further points to be made on the question of increased revenues, the initial reason for changing the section. It is assumed that jobs will be created on the mainland by the corporation which now produces goods in Puerto Rico. However, there is no guarantee that these jobs, currently held by Americans, will not simply flow overseas to nations where labor costs are low and environmental standards not as strict. Indeed, it seems a simple fact that this will happen given the economic structure of these foreign countries.

Finally, and very importantly, it is assumed that the revenue lost is that of the Federal Treasury. In fact, the revenue lost is that of the Treasury of Puerto Rico. This is true because Puerto Rico has primary source jurisdiction to tax 936 corporations and these are currently exempted from our corporate tax laws. Should 936 be repealed, and we subject these corporations to our normal 45 percent corporate tax rate, the Federal Government would allow a foreign tax credit to be given to these firms for moneys paid to Puerto Rico. This would leave little or no revenue to be collected by the U.S. Treasury.

When all factors are calculated; when all the secondary and tertiary effects of an alteration of Section 936 are considered, it is entirely likely that the Federal Government, and the State you represent, will realize little or no gain. Puerto Rico, however, will be greatly, and negatively, affected.

While I hesitate to point out alternative methods of revenue enhancement, I do wish to make clear that I have already attempted to raise revenues in Puerto Rico by first, increasing energy taxes, and by delaying the third year of our state tax cut. I had already implemented two years of such cuts, but due to the overwhelming need to raise local revenue, I have postponed the third year's decrease.

In closing, let me point out that we are working closely with the Administration, and in particular, the Treasury Department to attempt to solve, administratively, some of the problems which 936 currently presents. We are not unmindful of them, but feel that the administrative solution is the correct one rather than a legislative action which might not, in truth, accomplish your aims, but will surely frustrate our goals of creating jobs, reducing further our dependence on transfer payments, and of continuing the development of Puerto Rico.

With best regards, I am

Cordially,

CARLOS ROMERO-BARCELÓ.

● Mr. KENNEDY. Mr. President, I rise in support of the Moynihan-Johnston amendment. I join in opposing the Finance Committee proposal to virtually eliminate the 936 taxation system. That proposal is unfair and unwise, and it might well cause irreparable damage to the Puerto Rican economy.

It is clear that there are serious inequities and inefficiencies in the 936 provision. It has been abused by some businesses to reduce their taxes without actually benefiting the Puerto Rican economy.

But it makes no sense to throw out the baby with the bathwater. In other areas, the committee bill closes tax loopholes and achieves worthwhile reforms without sacrificing legitimate tax incentives. The Moynihan-Johnston amendment achieves the same result for section 936—it eliminates the abuses while preserving the justifiable features of this tax incentive.

I have said in the past that more efficient ways exist to assist the Puerto Rican economy than through the use of the 936 system of taxation. I am proud of my support in Congress for fair tax and budget policies toward the

people and enterprises of Puerto Rico. But the complete elimination of section 936 today is particularly unjustifiable, coming as it does on top of numerous other assaults on Puerto Rico under the unfair Reagan economic policy.

The Puerto Rican economy is already in danger. Unemployment is now at depression levels of 23.6 percent. Real gross national product has not grown for 18 months; production in every major sector save one has declined during the past year. And the only area showing any resilience at all—manufacturing—will be the hardest hit by the Finance Committee's proposal.

Puerto Rico has suffered heavily under the Republican and Reagan budgets of the past 2 years. Its economy lost $400 million alone because of cuts in CETA, education, food stamps, and health care. The CETA cuts put 25,000 people out of work. And the reductions in SBA, EDA, and FHLA programs deprived the economy of needed capital.

The virtual elimination of the 936 system under the committee bill will compound these burdens and add significantly to the island's economic crisis. The financial costs will be extremely high. Puerto Rico will lose almost $200 million in tax revenues—amounting to 10 percent of the 1983 budget. The withdrawal of about one-third of the total deposits in the Puerto Rican banking system could lead to the failure of several savings and loan associations and commercial banks.

The human costs of this proposal are equally large. An additional 15,000 jobs will be lost, pushing unemployment up over 25 percent. The cost will be measured not only in higher joblessness, but in the increased poverty, the increased burden on the already over-burdened system of social services, and increased migration out of Puerto Rico.

The savings alleged in the committee bill cannot be considered in a vacuum. True, more tax revenues will flow into the Federal Treasury, but the cost of social service programs in both Puerto Rico and the United States will go up as well. In fact, Federal intervention to avert banking failures could cost in the hundreds of millions of dollars and offset a substantial share of the revenues anticipated by the committee proposal.

I support many of the tax reforms contained in this legislation. But the committee bill asks Puerto Rico to pay too high a penalty as the price of salvaging the third year of President Reagan's tax cut for the rich. The people of Puerto Rico have already suffered from the Reagan budget cuts. They should not be made to suffer also for the Reagan tax cut. I urge my colleagues to support this amendment.●

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I will be very pleased to address the specific questions of the Senator from New York, although I would like to make a general statement first. I think it will satisfy some of the concerns of all the Senators who have an interest in this.

As I understand, first of all, there are still negotiations going on between the Governor, Secretary Regan, Assistant Secretary Chapoton, and others. I met with the Governor yesterday. They had one so-called compromise. Unfortunately, that one lost most of the revenue. I think they are still working this afternoon trying to reach another solution. But if not, it is my hope, as I will make clear, if there is some flexibility in conference, we can do it then. If not, the Caribbean Basin initiative should be on the floor later this year. We have hearings scheduled, I believe, on August 2. I assume that there will be tax provisions in that program and it might be appropriate to address section 936 then if we have not yet resolved it.

I believe we are making progress because of the efforts of the Senator from New York, the Senator from Louisiana, the Senator from Massachusetts, and others, but we have not yet reached the point where I can say with certainly that it will be clarified by the time this bill, hopefully, passes the Senate.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. MOYNIHAN. Do I take it his general disposition at this moment is to accept whatever agreement can be reached between the executive branch and the Commonwealth, barring something that is beyond any expectation?

Mr. DOLE. There is one caveat. Maybe this should not be a concern, but we have a mandate from the Senate on $98.3 billion in revenue. My concern would be that if, in fact, the administration, which has a little different view on section 936 than others, including myself, would make some agreement that would take a couple billion dollars away from $98.3, I would trust the administration would recommend where we would find the $2 billion and not just say, "Well, we have made the agreement and we will leave it up to Senator DOLE and others on the committee in the Senate to figure out where they will get the $2 billion."

We are still hoping that they might come in with something that might really solve the problems with this section.

If I could finish my statement, I will then be happy to yield for further questions.

With reference to the Senator's comment that the committee provision dealing with section 936 would not be in this bill if Puerto Rico were a State, I do not know of any State that would get this kind of treatment. I doubt, if Puerto Rico were a State, that we would have section 936 at all.

The problem is that section 936 has been abused by a few companies. This abuse is one of the most egregious of abuses that this bill attempts to correct. I certainly understand everyone's concern. This Senator has tried to be helpful to Puerto Rico on food stamps, medicare, other programs, and I know that the former chairman of the Finance Committee had the same concern. But these amendments that have been offered will not stop the abuse of section 936 and will sacrifice much or all of the revenue in this provision.

Just for the record, section 936 is a special section of the Internal Revenue Code. In fact, it was amended as recently as 1976. It provides substantial incentive to set up manufacturing facilities in Puerto Rico and other U.S. possessions. In essence, provided certain qualifications are met, the income of the 936 is exempt from U.S. tax. That is not bad. In recent years this provision has been subject to abuse by the intangible intensive industries, particularly the drug industry.

In fact, there was a rather extensive report in the Washington Post 2 or 3 months ago about some of these abuses. Those industries have transferred to their 936 corporations patents, trademarks, and other intangibles that "justify" an enormous markup of product prices. Having done so, the drug companies then take profits attributable to U.S. research and marketing efforts and attempt to shift those profits to Puerto Rico where they are exempt under section 936. The costs of developing the patents and the research and development credits associated with them are, meanwhile, kept in the United States to offset against taxable U.S. income. A clearer case of having your cake and eating it, too, has seldom existed in the U.S. tax law.

All the IRS is trying to do is to reallocate these profits under the general reallocation section of the code, section 482.

Virtually every major drug company has been under attack for this practice. Two have gone to trial. The outcome of this is uncertain and has hindered Puerto Rican development for 2 years or more. In the meantime, the drug companies take the position that they can shift these huge profits to Puerto Rico and claim that they are exempt. The results of this aggressive stance have been staggering. In 1978, the most recent year for which we have figures, the revenue loss per Puerto Rican drug company job ex-

ceeded $43,000 while the wages paid were barely over $13,000. For nine particularly greedy companies the revenue loss per job exceeded $100,000. The drug industry as a whole soaked up 50 percent of the revenue loss of this provision and in return supplied only 15 percent of all Puerto Rican manufacturing jobs and approximately 3 percent of all Puerto Rican employment.

The Government loses over $500 million to provide only 3 percent of Puerto Rico's employment. This is not a good bargain for us or even a worthwhile deal for Puerto Rico, although it is a tremendous deal for the drug industry. Moreover, according to the Treasury Department, intangible-intensive industries, like the drug industry, do very little to encourage the development of related industries in Puerto Rico, because their customers and suppliers are not in Puerto Rico.

In addition, section 936 permits these companies to earn up to 50 percent of their total income solely from passive investments such as stocks and bonds. This overly liberal provision has permitted the accumulation of far more liquid investments than the 936 corporations themselves might ever need. In addition, it is unclear that these monstrous sums sitting in Puerto Rican banks have been of any help in providing capital for new Puerto Rican businesses. The latest information available from the Treasury shows that as 936 corporations stash away these large sums of tax-exempt dollars in Puerto Rico, equally large sums flow out of Puerto Rico. While recent changes in Puerto Rican banking regulations may change this, we cannot be certain of their effect.

These are obvious abuses, Mr. President. Faced with these abuses, the Finance Committee Republicans' first impulse in our caucus was to repeal section 936 completely or at least to limit the 936 credit of $10,000 per Puerto Rican job. At the urging of Treasury—and they still have a little different position from ours—we reconsidered and decided on the two-pronged provision in the bill.

The bill preserves section 936 for bona fide uses in Puerto Rico. It eliminates the abuses.

The committee provision does two things. First, it lowers over a 3-year period the percentage of passive income a 936 corporation may shelter from 50 percent to 10 percent. Second, the provision does not permit income attributable to intangibles developed outside of Puerto Rico by related persons—that is the U.S. parent of the 936 corporation—to be allocated to the 936 corporation after a formal transfer of the intangible and made, therefore, tax exempt. I do not think anybody would quarrel with that change.

The second part of the provision is, in principal part, a codification of the IRS litigating position in using section 482 to reallocate this income to the U.S. developer of the intangible. If the committee provision is enacted, it would do no more than make explicit exactly what the IRS argues is the proper interpretation of the present law. Income attributable to intangibles developed by the 936 corporation in Puerto Rico or purchased from unrelated parties could still be allocated to the 936 corporation. The committee provision will end the abuse; it makes sense and I believe it will work.

That is where we are now. Then we have the Johnston, Moynihan, and Kennedy amendments and others who have offered amendments. While they are well meaning, they will not work.

I think the amendments do make a step in the right direction. But I am afraid that they will not be anything more than a band-aid to stop a hemorrhage. Of course the drug companies may feel they have better band-aids. In any event, I do not mean by this criticism to suggest that the committee provision is the one and only solution to the problem. There are other efforts being made, but we believe ours is a workable solution.

If the House comes up with a clear alternative that works, certainly I will do the best I can in conference, considering the concerns of the Senator from New York, to try to be fair and work it out. I hope this assurance will satisfy the Senators so they might not press for a vote on their amendments at this time.

If the amendment is not withdrawn, and if the second amendment dealing with income from intangibles is offered, I hope that they will be defeated.

Neither amendment will do the job; each will lose substantial revenue. Indeed, it is possible that an intangible amendment along the lines proposed by Puerto Rico might actually lose revenue. Still, if a compromise position must be reached with the House, these amendments may at least provide some concepts to help us find that compromise. But at the moment, there is no compromise that redresses the abuses and saves the revenues wasted by section 936. Until we see that compromise, we must reject purported compromises that raise no revenue at all.

PASSIVE INCOME

The amendment offered increasing the passive income limit from 10 percent (as it would be under the committee bill) to 35 percent will effectively gut the committee provision. There is no justification for this amendment. Sheltering from U.S. tax the passive interest income from Puerto Rican bank accounts does little to provide Puerto Rican jobs—a teller or two maybe, but not real jobs. The amounts needed for the day-to-day operations of manufacturing facilities should be easily supplied from the 10 percent provided for under the committee bill. Just a glance at the balance sheets of 936 companies reveal that, because of this provision, they do not look like normal manufacturing companies. "Real" assets as a percentage of total assets for 936 companies is 15.3 percent; for U.S. manufacturers it is more than twice that or 35.1 percent. Retained earnings in 936 companies represent 77 percent of total liabilities and shareholder equity; for U.S. manufacturers the comparable figure is only between 39 and 41 percent. There is simply no reason to continue to permit 936 companies to act as investors.

Indeed, if the purpose of this amendment is to permit a 936 corporation to be a passive investor in order to encourage more capital formation in Puerto Rico, we need only look at experience under the present rules to see how poorly the present law provision works. According to the most recent figures available, net capital flows into Puerto Rico have not been increased by this benefit. Instead, funds which flow into Puerto Rico through 936 companies' financial investments tend to flow right out again through the banking system. While recent changes in banking regulations may, and I emphasize may, help, there is no evidence that this problem will be solved.

INTANGIBLES

While the Senator from Louisiana has not offered his amendment regarding income from intangibles, I would like to address a few of the problems I have with the so-called compromises we have seen.

These compromises, while in a very modest way recognizing that an abuse exists, do not go anywhere near far enough to eliminate the abuse. I understand that the Treasury and the Puerto Ricans are working out what they hope will be an amicable and appropriate solution to the problem. I understand that at least one of the compromises we have seen reflects at least portions of some areas of agreement between Treasury and Puerto Rico. I further understand, however, that Treasury has yet to work out some significant details on this provision.

In any event, Treasury did not support what we did in committee and I must urge that we not support any compromise, whether or not supported by Treasury, that does not clearly eliminate the abuse and also raise the substantial revenues that the abuses lose. First, if the compromise permits a taxpayer to elect to continue maintaining his aggressive stance under present law for any period, no revenue will be derived from this provision during that period. Indeed, because some taxpayers may be better off than under present law by electing what-

ever compromise treatment during a phase-in period, a compromise with such a provision will probably result in a revenue loss. Unless some means is discovered to provide for a revenue pickup for any taxpayer who is allowed relief during a phasein period, no phasein should be considered.

Second, the basic format of every compromise we have seen is overly generous to the drug companies. Any option that permits manufacturing intangibles to be transferred to Puerto Rico provided a cost-sharing payment is made by the 936 corporation to its U.S. parent may be too generous and does not settle much of the underlying problem of what income is properly attributable to those intangibles once transferred. A compromise that permits a 50-50 profit split between the 936 corporation and its parent after a cost-sharing payment has been made, may serve as a good starting point for considering what an appropriate rule is. Without further study, however, I cannot say that any of these options solve our problems. Indeed, I note that even the most stringent I have seen loses approximately two-thirds of the revenue pickup of the committee bill and I further note that this seems overly generous.

Mr. President, I ask unanimous consent to have certain facts and figures on this subject printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(PUERTO RICAN) POSSESSION CORPORATIONS CREDIT LIMITATION—PRESENT LAW

Like other U.S. corporations, a section 936 or possession corporation is technically subject to Federal tax on its worldwide income. However, a special credit available under section 936 fully offsets the Federal tax on income earned by such a corporation from a trade or business and certain investments in Puerto Rico. The U.S. parent of the 936 subsidiary can, in turn, eliminate tax on dividends repatriated from the subsidiary through the dividends-received deduction. This elimination of U.S. tax on possessions corporation profits has encouraged substantial development of assembly operations in Puerto Rico, particularly in the drug and electronics businesses where intangibles (patents, tradenames, etc.) developed in the United States but transferred to Puerto Rico justify high mark-up of product prices. The average revenue loss in 1978 for each employee of the drug companies in Puerto Rico exceeded $43,000 (it is now estimated to be over $50,000).

A controversial regulations project under section 482, intended to prevent shifting of income from the taxable U.S. parent corporation to the untaxed 936 corporation (primarily through the transfer to the 936 corporation of intangibles developed in the U.S.), has been somewhat stymied.

Every major drug company with Puerto Rican operations is under audit. Most have large deficiencies assessed against them. Two have gone to trial; a Tax Court decision is expected within a year.

FINANCE COMMITTEE BILL

Income of a corporation that qualified for the possession credit would not include income allocable to intangibles (patents, trademarks, etc). Such income would, under regulations, either be allocated to the U.S. shareholders of a qualifying corporation or, to the extent allocable to foreign shareholders, taxed to the 936 corporation as U.S.-source income. In addition, the current rule that permits a qualifying corporation to earn up to 50 percent passive income would be changed to permit only 10 percent passive income. This change would be phased in over 3 years. Similar rules would be provided for U.S. corporations effectively exempt from tax because they are inhabitants of the Virgin Islands.

Revenue effect

Fiscal year:	*Billions*
1983	$0.5
1984	1.0
1985	1.2
1986	1.4
1987	1.5

WHY THE COMMITTEE BILL MAKES SENSE

The credit encourages capital- and R&D-intensive, not job-intensive industry in Puerto Rico.

The credit costs much more to the U.S. Treasury than it benefits Puerto Rico. For example, in 1978, the Federal tax expenditure per Puerto Rican employee averaged $12,667 in all manufacturing industries as compared with an average compensation of possession corporation employees of $10,667. While this may not be remarkable when compared to other methods to provide jobs, the disparity in some instances was much greater. In intangible intensive industries, such as pharmaceuticals, the tax expenditure in 1978 averaged $43,261 as compared to an average employee compensation of $13,618. For nine companies, in 1978 the tax loss exceeded $100,000 per employee.

In 1978, 50 percent of the total tax expenditure was attributable to the drug industry which accounted for only 15 percent of all Puerto Rican manufacturing jobs or approximately 3 percent of total Puerto Rican employment.

According to the Treasury's third annual report, intangible intensive industries generally do relatively little to encourage the development of related industries in Puerto Rico because their customers and suppliers generally are not located there.

Excessive shifting of income from U.S. parents to Puerto Rico 936 subsidiaries takes place. When marketing intangibles and patents developed in the United States by U.S. labor are transferred to a 936 subsidiary, at no cost, the U.S. parent claims most of the expenses of their development as deductions against U.S. taxable income, while the exempt 936 subsidiary claims most of the income attributable to those intangibles.

Most drug companies are either under audit or in court over income shifting to their 936 subsidiaries. The uncertainty created by these cases has hindered Puerto Rican development in recent years. Some more definite rules are necessary.

Most 936 corporations are also able to shelter substantial investment income (as opposed to active trade or business income) from tax and can also repatriate that income without tax. Sheltering from U.S. tax the passive income from Puerto Rican bank accounts does little to provide Puerto Rican jobs.

Sheltering vast sums of passive income has not, in the past, provided greater sums for capital investment in Puerto Rico. The third Treasury report shows that the sheltered sums merely freed up other money to flow out of Puerto Rico.

The Treasury report also shows that real assets as a percentage of total assets is 15.3 percent for 936 companies but 35.1 percent for U.S. manufacturers as a whole.

At the end of 1978, retained earnings in 936 corporations represented 77 percent of total liabilities and shareholder equity. The comparable figure for all U.S. manufacturers was between 39 percent and 41 percent.

ALLOCATION OF INTANGIBLES

Mr. JOHNSTON. Mr. President, the Finance Committee made a second recommendation with respect to the allocation of intangibles—patents, copyrights, trademarks and the like—under section 936. The practical effect of this recommendation would be the elimination of intangibles in computing income eligible for the tax credit as I understand it. In the report accompanying H.R. 4961, the committee explanation for the change, derived from the three U.S. Department of Treasury reports on section 936 is "unduly high revenue loss attributable to certain industries due to position taken by certain taxpayers with respect to the allocations of intangible income among related parties."

The treatment of intangibles is decidedly a difficult, controversial issue and one which the U.S. Department of the Treasury and the Treasury Department of Puerto Rico have been discussing for the last 10 months. Considerable progress has been made in these negotiations to develop a package of changes in the treatment of intangibles and as I understand it, prior to Finance Committee action, the negotiators were very close to an agreement on all the complex issues involved.

This issue is of critical importance to Puerto Rico. Section 936 and its predecessor, section 931, have been the cornerstones of Puerto Rican economic development, comprising the main incentive available to business to locate on the island. As the 1979 U.S. Treasury Department report on section 936 points out:

Between 1947 and 1972, Puerto Rican gross national product and GNP per capita grew at rates of 6 percent and 5 percent per annum.

Growth which helped turn Puerto Rico from the poorhouse of the Caribbean in the 1950's into its envy in the 1970's. That same report also notes:

The rapid growth in GNP has been accompanied by a shift in Puerto Rican employment from agriculture to manufacturing, particularly in the 1950's and 1960's. Employment in manufacturing grew at an average rate of 4.5 percent per annum over these two decades. By 1970, manufacturing had displaced both agriculture and wholesale and retail trade as the largest sector in terms of employment.

This shift is even more important in the context of improving the quality of life for Puerto Ricans when one considers the fact that unlike past

manufacturing jobs created in low-wage, unskilled positions in the apparel, tobacco, and furniture industries, today most of the manufacturing jobs created are in highly skilled, sophisticated industries such as electronics, scientific instruments, pharmaceuticals, and chemicals. In addition, these companies are increasingly filling technical and managerial slots with Puerto Ricans, widening opportunities for highly educated, skilled Puerto Ricans who wish to remain in Puerto Rico. Indeed, as Governor Romero pointed out in a letter to the chairman of the Finance Committee dated June 24, 1982:

> This change in the type of jobs created and filled by Puerto Ricans benefits not only the industrial worker, but the whole fabric of Puerto Rican life as the increases in knowledge spill over to the rest of the island's economy and society. This has been expressly recognized by President Reagan through his pledge to use Puerto Rico's expertise as a basic part of the proposed Caribbean Basin Initiative.

According to the Puerto Rican Treasury Department, 85 percent of the manufacturing jobs in Puerto Rico today are attributable to 936 companies, comprising 20 percent of the island's total employment. The Governor's Economic Advisory Council, assuming a conservatively estimated 10 percent decline in production in 936 companies if the changes recommended by the Finance Committee were adopted—the bottom of the 10- to 25-percent range in the Puerto Rican Treasury's econometric model—estimates that by 1984 Federal expenditures, triggered by legally mandated transfer payments to both island and mainland residents, would increase by $375 million. This figure excludes increases which could be expected in medicare and as a result of increased Puerto Rican migration to the mainland—expected to increase to 49,000 this year, compared to 12,000 in 1981. The major components of this calculation are increased unemployment benefits, social security payments and tax revenue losses on the mainland. Moreover, the Puerto Rican Treasury Department estimates that revenue losses to the Puerto Rican treasury—based on losses from four sources: the toll gate tax, the corporate income tax, the banking franchise tax, and the personal income tax—would total almost $188 million in fiscal year 1984, or an amount equivalent to 9 percent of the Government's total operating budget for 1983.

Although far more difficult to estimate, the Puerto Rican Treasury Department also estimates that the Finance Committee proposal could have a potential adverse impact on the U.S. balance of payments, increasing the trade deficit by almost 4 percent. This figure assumes that Puerto Rican exports would decrease by 20 percent. While this is only a rough estimate, it is certainly fair to say that a significant downward trend would occur.

In contrast to the Finance Committee proposal, the second amendment I am proposing will strengthen the incentive for industry to locate in Puerto Rico by providing a reasonable solution to the intangibles issue and ending the uncertainty which has made potential investors reluctant to establish operations on the island. Moreover, the shift in income from Puerto Rico to the mainland which would result from the cost-sharing and royalty payments and profit allocations would be heightened by the increased economic activity in Puerto Rico produced by the incentive, and substantial real U.S. revenue increases would result.

My amendment has been worked out in close consultation with the Government of Puerto Rico and tracks the position of the Government of Puerto Rico in its negotiations on this issue over the past 10 months with the U.S. Treasury Department. The 936 program and its predecessor are examples of a policy which has worked well. The use of intangibles has been critical to the success of many of the manufacturing operations in Puerto Rico, especially in those high-technology industries which presently provide over 60,000 jobs requiring highly skilled labor and management in over 500 production units.

Beginning with Operation Bootstrap in the 1940's, the quality of life for the 3,200,000 U.S. citizens who reside in Puerto Rico has improved significantly. As a 1977 Library of Congress study showed, based on constant 1975 dollars, the success of this program resulted in a remarkable increase in personal per capita income for Puerto Ricans, growing from $786 in 1950 to $2,183 by 1975. This is a record of which we can all be proud. However, the Puerto Ricans still have a long way to go to catch up with the mainland. To put it in perspective, in 1975 personal per capita income in the continental United States was $5,834. Puerto Rico's personal per capita income, then, was 64 percent of the United States 1975 average and 48 percent below that of the lowest of the States, Mississippi. It seems to me, then, that we must proceed very carefully, very cautiously and in close consultation with the Government of Puerto Rico before we adopt a change in the program which that same Library of Congress study found to be a "major factor in Puerto Rico's rapid economic growth."

I regret to say, Mr. President, that in the opinion of this Senator the Finance Committee's recommendation with respect to intangibles does not meet this critical test. To this end, I ask unanimous consent that a copy of a joint resolution passed by the Senate and the House of Representatives of Puerto Rico on July 7, 1982, expressing extreme concern and disappointment with this action, be printed in full in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

CONCURRENT RESOLUTION

Whereas, the Committee on Finance of the United States Senate, as part of certain measures designed to increase revenues, has approved legislation containing proposals which dramatically modify the existing provisions of Section 936 of the United States Internal Revenue Code of 1954, as amended, titled "Puerto Rico and Possession Tax Credit".

Whereas, said proposals essentially provide for the following:

A. Allocation of income from intangibles transferred to Puerto Rico from United States sources.

B. Reduction from 50% to 10% in the allowance of passive income from Puerto Rico.

Whereas, said proposals are largely predicated on speculative revenue theories which totally fail to appreciate the overall significance of the effects of the presence of the possessions corporations in our social, economic and political system.

Whereas, the social, economic and political stability of Puerto Rico is severely affected by a number of social, economic and geographical factors, to wit:

A. Its agricultural development is severely restricted due to geographical characteristics.

B. It has scarce exploitable natural resources.

C. Its population density is high, much more than in any State of the United States.

D. Its per capita income lags the lowest per capita income of the States of the United States.

E. Its unemployment, based on traditional statistical methods, is approximately 22%; unofficially it is believed to be more.

F. It depends on imports for its supply of consumer goods.

G. It is entirely dependent on imported petroleum: it has minute quantities of hydroelectric power yet it has no coal, natural gas or nuclear power.

Whereas, in spite of these negative and adverse factors, Puerto Rico has achieved considerable levels of social development, economic growth and political stability, certainly much higher than any Latin American or Caribbean country.

Whereas, the purchasing power of Puerto Rico as a whole has made Puerto Rico the fifth largest importer in the world of goods produced in the United States.

Whereas, Puerto Rico's social, economic and political achievements have been made largely possible due to the combination of tax incentives granted by the United States and Puerto Rico, namely Sections 931 and 936 of the United States Internal Revenue Code of 1954, as amended, and the Puerto Rico Industrial Incentives Act, as amended.

Whereas, the effects of the establishment of private manufacturing enterprises in Puerto Rico cannot be measured solely by their directly related employment, but by their indirect and rippling repercussions, in manufacturing, construction, banking, services and industry, among others.

Whereas, the presence of earnings from private manufacturing enterprises in the

Puerto Rican economy constitutes the cornerstone of Puerto Rico's finance and commerce, and the Puerto Rican Government is promulgating rules for the efficient utilization of said funds in the Puerto Rican economy, at the same time that it encourages the repatriation of excess funds towards the stream of the United States economy.

Whereas, the social economic and political impact of the establishment of private manufacturing enterprises in Puerto Rico must be measured on the basis of the overall effect of their presence in Puerto Rico.

Wherefore, be it resolved by the Legislative Assembly of the Commonwealth of Puerto Rico

Section 1.—That the unprecedented action of the Committee on Finance of the United States Senate in approving proposals having such transcendental and far reaching effects in Puerto Rico's social, economic and political structures, and without affording the People of Puerto Rico the opportunity to be heard, constitutes an open disregard for the well being of millions of United States Citizens residents of Puerto Rico whose living standards already are well below those of residents of the States of the United States.

Section 2.—That the Legislative Assembly of Puerto Rico expresses deep concern and dissatisfaction as to the proposals which, without the slightest doubt, shall severely and irreparably injure the social, economic and political stability which Puerto Rico has so strivingly achieved during the last decades.

Section 3.—That the Legislative Assembly of Puerto Rico appeals to the wisdom and sense of fair play of the Congress of the United States so that no further action be taken on these proposals and that ample opportunity be given to the different sectors of Puerto Rico to express themselves in formal public hearings held by the Congress.

Section 4.—That the Legislative Assembly of Puerto Rico hereby communicates to the Congress of the United States that it stands united with all its fellow countrymen, regardless of political party affiliations, both here and in the mainland, to wage an agressive fight to stop those ill-conceived proposals from becoming law of the land.

Section 5.—This joint concurrent resolution shall be effective as of its date of approval and shall be circulated among the members of the Congress of the United States, once it is translated and printed in the English language.

Mr. JOHNSTON. Mr. President, with the cession of Puerto Rico by Spain to the United States in the Treaty of Paris, Puerto Rico has been closely tied to the United States. Our early relationship with Puerto Ricans, pursuant to the terms of the Foraker Act of 1900 and the Jones Act of 1917, paid little attention to the political sensitivities of these U.S. citizens or to the glaring inequalities of wealth which led to sharpened social and economic tentions. With the economic crisis of the 1930's an era of hidden, potentially explosive crisis emerged in Puerto Rico, a crisis only narrowly averted by the emergency of strong leadership and reform under the founder of the Commonwealth, Luis Munoz Marin. If we again ignore the sensitivities of the Puerto Rican leaders and enact a policy, however well-intentioned, that brings about a new economic crisis, I fear we may set the stage for another round of hidden crises, riddled with economic stress for these citizens and accompanied by intensified political violence.

On March 17, just 4 months ago, the President submitted to the Congress what many in this body have called a bold, extraordinary proposal, the Caribbean Basin Initiative (CBI). In his message, the President emphasized the importance of this region to our Nation, stating: "This (underlying economic crisis in the Caribbean) is not a crisis we can afford to ignore. The people of the Caribbean basin are our neighbors. There wellbeing and security are in our own vital interest. Events occurring in the Caribbean basin can affect our lives in profound and dramatic ways." and warned that this crisis "provides the opporunities which extremist and violent minorities exploit." Similarly, I believe we cannot afford to ignore the economic crisis now facing Puerto Rico: rising unemployment, lack of growth and a 5-percent decline in real investment in 1981. Last year, as part of our budget austerity plan, we enacted a 25-percent cut in the food stamp allotment for Puerto Rico, giving Puerto Rico a cut double that experienced by any State. Other program cuts enacted last year also had a severe impact on their stagnant economy including a loss of 25,000 public service jobs which resulted from cuts in CETA. Further adverse impacts now, such as those which would occur under Finance Committee recommendations, coming on top of the proposed billion dollar aid program coupled with various trade and tax proposals for Puerto Rico's neighbors, can only exacerbate the problems of a sagging economy and sow the seeds for further social and political unrest.

We must not forget that the entire Caribbean is of vital importance to our economy and to our security. Half of our trade comes through the Caribbean as does half of our imported strategic materials, including imported oil. Puerto Rico has always played a central, stabilizing role in this area, serving not only as our showplace of democracy in the Caribbean, but also providing us with a direct presence in this increasingly troubled area. It simply does not make sense to possibly provoke a crisis in Puerto Rico under the guise of making small economies while, at the same time, we are preparing to send over $1 billion in aid to other nations located in the same strategic region.

Finally, I note that the administration does not lend its support to this particular Finance Committee recommendation. In a letter to House Ways and Means Committee Chairman Rostenkowski dated July 12, 1982, Treasury Secretary Regan stated:

Notwithstanding our general support for the Senate Finance package, we have some reservations about certain proposals, particularly the proposed limitation on the Possessions credit. . . .

Since the Finance Committee completed its work on H.R. 4961, I have worked closely with the Governor of Puerto Rico and his representatives to devise an alternative to the recommended new changes in the treatment of intangibles. This is decidedly a complex, controversial and difficult issue. In the report accompanying H.R. 4961, the committee indicated its concern about certain practices under section 936 by corporations which transfer intangibles—patents, copyrights, trademarks, and so forth—tax free to subsidiaries in Puerto Rico which in turn use those intangibles to generate income protected from U.S. tax by the section 936 credit. Under the Finance Committee bill, such income attributable to intangibles generally would be shifted away from the 936 corporation to its U.S. shareholders who would be taxed on their pro rata shares of such income.

The Government of Puerto Rico, based on a thoughtful analysis of the propcsal, believes this solution would destroy the incentive for industry to locate in Puerto Rico. The use of intangibles is so critical to the success of the 936 program that this change could, in effect, stop growth in the high technology manufacturing sector, the only sector of the Puerto Rican economy which experienced any real growth last year.

Our alternative addresses the concern of the committee by limiting the amount of income attributable to intangibles which qualifies for the possession credit, but in a way which preserves the effect of Puerto Rico's tax incentives in this crucial sector. We accomplish this by providing two alternatives. One limits the taxable income protected by the possession credit which is derived by a 936 corporation from a product—including the use of intangibles—to 50 percent of the combined profit of the 936 corporation and its U.S. affiliates from the product produced in whole or in part in Puerto Rico. The second alternative allocates to the 936 corporation no income attributable to an intangible unless it has been developed by the 936 corporation or acquired from an unrelated third party—as under the committee bill—or unless it is acquired from an affiliate at an arm's length price. The proposal sets forth rules for determining what portion of the research and experimental expenditures of the possessions corporation and its affiliates will be considered to an arm's length price. Under the proposal, taxable income protected by the possession credit would be the greater of the two alternatives.

By allowing the transfer of intangibles only when the possessions corporation pays adequate compensation, the proposal addresses the concerns of the committee. However, unlike the Finance Committee bill, the proposed amendment would allow Puerto Rico to maintain the incentive for industry to locate there by providing a reasonable solution to the intangible problem and ending the uncertainty which has made potential investors reluctant to establish operations on the island. The shift in income from Puerto Rico to the mainland which would result from the cost-sharing and royalty payments and profit allocations would be heightened by the increased economic activity in Puerto Rico produced by the incentive, and substantial real U.S. revenue increases would result.

Mr. President, as I have said to begin with, my amendments were in two parts. This is the first amendment, the so-called passive income amendment. This amendment has already been signed on to by the Treasury Department. Although a letter of transmittal has not been signed, it has been signed on to. The other amendment, the so-called intangible amendment, has been agreed to in principle. Indeed, I think it has been agreed to actually by the Treasury Department, although their agreement has been pulled back because I think the Senator from Kansas has talked about the revenue effect. Indeed, this is an effort to raise the revenue here and that is no small job.

Mr. President, I can debate the figures that the Senator has used about the cost in the pharmaceutical industry because studies have been done on that 1979 Treasury report, which provides the basis for the cost per capita of jobs being, I think, some $43,000 in the pharmaceutical industry. The studies on that would show that it does not take into consideration any of what they call the forward linkage; that is, the spinoff from the very high investment in the pharmaceutical job—the other satellite industries that are brought in, the other economic activity which that engenders. In terms of efficiency of cost per job, this is one of the most efficient, if not the most efficient, in dollar payoff per job of any Federal program I know of. Mr. President, I will not debate that.

I will say that the Senator from Kansas has always been very reasonable, and when he says he will do something, I have always known him to do it. The unfortunate thing in this respect is that the Senator has not really promised us anything specific, other than his good will, which is considerable; other than his reasonableness, which is legendary. I believe, Mr. President, that the Senator from Kansas will look with favor upon some real compromise efforts either in conference or when this matter comes up with the Caribbean Basin Initiative. I hope we will not have to wait that long, because real economic harm is being done to Puerto Rico even now, even while this is under discussion.

The Governor of Puerto Rico told me this morning that a $200 million bond issue was going to have to be pulled down because of the very consideration by this body of this provision. So I urge expedited consideration of it.

Mr. President, because the Senator from Kansas has made these representations about his willingness to look at this matter in light of the seriousness of the economic plight of Puerto Rico, and because of his demonstrated record in helping Puerto Rico on matters such as food stamps, and also in recognition of the fact that I know he has the votes, with the concurrence of my distinguished colleague from New York, from whom I would want to hear before I do it, I would be ready to pull the amendment down.

At this point, I yield to my colleague from New York.

Mr. MOYNIHAN. I only wish to endorse what my friend from Louisiana has said, Mr. President. We not only do rely on the chairman of the Committee on Finance, we must rely on him. We look forward to the possibility of a successful negotiation in the Treasury Department before the bill is finally enacted. The Senator has made a very important statement that he also considers it reasonable to bring this matter forward in the context of the Caribbean Basin Initiative. That gives us, in a 3-week or 4-week span, the possibility of resolving something which must be resolved; we must act fast. The shadow of the committee bill chills everything down there.

Mr. JOHNSTON. Mr. President, with thanks for the consideration of our distinguished colleague from Kansas and with every hope that the matter can be worked out and compromised in a way that will preserve what is left of the Puerto Rican economy, I withdraw the amendment.

The amendment (UP 1108) was withdrawn.

The PRESIDING OFFICER. The question now recurs on the Armstrong amendment.

Mr. DOLE. Mr. President, is it correct that the Senator did not intend to offer the second amendment?

Mr. JOHNSTON. That is correct, Mr. President. I shall not put the amendment in the RECORD at this point because the Senator from Kansas is well aware of it and it is being negotiated with the Secretary of the Treasury. It is described in my statement, which was put in the RECORD, so I do not think it will be necessary to bring it up at this point.

Mr. DOLE. I addressed both amendments in my statement, also, so the RECORD is made.

Those figures are, of course, subject to debate, but we think they are fairly accurate.

I hope that if, in fact, there is some resolution by Treasury and the Governor or the administration of Puerto Rico that we can accept, that addresses the abuses, and that raises the necessary revenue, then we can take care of this matter in conference.

It is not the intent of the Senator from Kansas to delay it until August or some later time. I realized that this is important to Puerto Rico. It is also, I might add, a matter of major concern to the distinguished majority leader. Senator BAKER met with the Governor yesterday. We are all working toward a suitable solution. I thank the Senators for withdrawing the amendment, and for not offering the intangibles amendment. I am very sensitive to their hope that we will work something out.

Mr. President, it is my understanding that the Senator from Colorado would modify his amendment; that it would be amended, and then the Senator from Kentucky would be recognized to call up his amendment.

I ask unanimous consent that the amendment of the Senator from Kentucky be in order.

The PRESIDING OFFICER. The amendment of the Senator from Kentucky is, without objection——

Mr. BAKER. Mr. President, will the Senator yield to me for a moment?

Mr. DOLE. Yes; I yield.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Do I understand now that the Senator from Kentucky is going to offer an amendment? Has it been entered that it be in order for him to do that at this time?

The PRESIDING OFFICER. The majority leader is correct.

Mr. BAKER. Mr. President, may I inquire of the distinguished Senator from Kentucky and the manager of the bill on this side, the chairman of the committee, how long they think it may take to dispose of this and whether or not they will require a rollcall vote?

Mr. FORD. I say to the distinguished majority leader I understand we have an hour on the amendment. I was not quite ready. I had kind of relaxed for tonight and now we are back up. That is perfectly all right and I understand that game, but I will require a rollcall vote on the amendment.

Mr. BAKER. I am trying to see if we cannot meet a 6:30 recess hour. I wonder if the Senator could advise me as to whether he thinks it is possible to finish this tonight?

Mr. FORD. Let me say to the distinguished Senator, since I was just notified, I have notified other Senators who want to speak on the amendment,

and I am trying to get them to the Senate floor now. If the Senator wants to lay the amendment down and discuss it and have a vote on it after 5 minutes of discussion when we come in in the morning, I will be glad to do that. I will try to accommodate Senators any way I can.

Mr. BAKER. Yes, I thank the Senator. I ask the distinguished chairman of the committee then if he would mind, if we have not reached a rollcall vote on this matter by 6:30, if we could put that over to occur in the morning?

Mr. DOLE. That is fine with me. The Senator from Kentucky has been very cooperative. In fact, he was here earlier so it is not the fault of the Senator from Kentucky.

Mr. BAKER. I understand that.

Mr. DOLE. I know, for example, Senator STENNIS must leave and he is an interested party in this debate so maybe we could lay the amendment down, have the debate and at the time the Senator from Colorado is prepared we could set this aside and come back and finish it up.

The PRESIDING OFFICER. Is the Senator from Colorado seeking recognition?

Mr. ARMSTRONG. I am if the Senator from Kansas wishes me to do so. I think we are ready to proceed.

Mr. BAKER. Mr. President, I understand that the procedure may be now that rather than proceeding to the amendment of the Senator from Kentucky, the Senator from Colorado may proceed at this point and then we will take up the amendment of the Senator from Kentucky as the pending questions——

Mr. DOLE. If the majority leader will yield, we would not have a vote on the amendment of the Senator from Kentucky this evening.

Mr. BAKER. Will there be a vote on the Armstrong amendment?

Mr. DOLE. No. That has been worked out.

Mr. BAKER. Might I ask one further question. Is it fairly sure that the Senator cannot get to a record vote on this under these circumstances by 6:30?

Mr. FORD. I say to the distinguished majority leader that it is very difficult with the Armstrong amendment taking 5 to 10 minutes, that leaving 25 minutes, which would be totally all mine, without any pro or con, to have a rollcall vote by 6:30.

Mr. BAKER. I thank the Senator. There are a number of Senators who have to make their plans for this evening. I wish to announce at this time then that there will be no more record votes today and the Senate will go out at approximately 6:30. It is my understanding that the Ford amendment will be pending and that we will get as much of that debate out of the way as we can now.

The PRESIDING OFFICER. Without objection, the pending business will be the Armstrong amendment. The Senator from Colorado has 4 minutes and 14 seconds remaining. Senator DOLE has 13 minutes remaining.

Mr. BAKER. Will the Senator from Kansas yield me 1 minute?

Mr. DOLE. I yield.

ORDER TO CONVENE AT 9 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the Senate to convene tomorrow be changed from 10 a.m. to 9 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Will the Senator please suspend.

Mr. DOLE. Mr. President, may we have order.

The PRESIDING OFFICER. May we have order in the Chamber.

The Senator from Colorado.

UP AMENDMENT NO. 1107

Mr. ARMSTRONG. Mr. President, if I may just take a moment to explain what has transpired during the last half-hour or so, I think we could expedite the work of the Senate very greatly. In discussions with the distinguished chairman, the Senator from Kansas, and the distinguished subcommittee chairman, the Senator from Iowa, we have reached an accommodation of views which I think will satisfy everyone who is interested in the matter which is the subject of my amendment.

In order to expedite that I intend to proceed in the following way: First, I will ask unanimous consent that we vitiate the order for the yeas and nays. Then I will send to the desk a modification——

The PRESIDING OFFICER. Without objection, the order is vitiated.

Mr. ARMSTRONG. Then I will send to the desk a modification of my amendment, and I do send the modification of my amendment to the desk. I will ask unanimous consent that we dispense with reading of the amendment and I will undertake to explain it. It will take only a moment.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (UP No. 1107), as modified, is as follows:

On page 560, strike line 22 through line 15 on page 561 and insert:

"(i) the treatment of any item by the taxpayer on the return if the taxpayer believed that there was substantial authority for such treatment, or

"(ii) any item with respect to which the relevant facts affecting the item's tax treatment are adequately disclosed in the return or in a statement attached to the return.

"(C) SPECIAL RULES IN CASES INVOLVING ABUSIVE TAX SHELTERS.—Subparagraph (B)(ii) shall not apply to any item with respect to—

"(i) a partnership or other entity,

"(ii) any investment plan or arrangement, or

"(iii) any other plan or arrangement, if the principal purpose of such partnership, entity, plan, or arrangement is the avoidance or evasion of Federal income tax,

and subparagraph (B)(i) shall not apply to such an item unless the taxpayer believed that the treatment of such item on the return of the taxpayer was more likely than not the proper treatment."

Mr. ARMSTRONG. Mr. President, to put the modification in perspective, the original amendment changed the standard from "more likely than not" to "substantial authority." That is, taxpayers would not——

The PRESIDING OFFICER. Will the Senator from Colorado please suspend?

Will the Senators in the Chamber please retire to the cloakroom so the Senator may be heard?

The Senator from Colorado.

Mr. ARMSTRONG. Mr. President, just to recap, the bill as it comes to us contains a provision for a penalty assessment in the event of under payment of tax but it provides that the penalty assessment will not be levied under certain circumstances. One of those is if the taxpayer can show that he had a belief that he was more likely than not to prevail.

However, for reasons that I previously explained, that seems too difficult a standard to me and so I have offered an amendment which would modify that standard to a "substantial authority" basis. I want to discuss in a moment in greater detail the exact meaning of the term "substantial authority."

The effect of the modification which I have sent to the desk and which is now pending is to say that the "more likely than not" standard would apply in those cases referred to at page 561 of the bill beginning at line 5; that is, for tax shelters, those firms or partnerships or corporations whose principal purpose is tax avoidance and/or evasion of Federal income tax.

In that narrowly defined group I am willing to agree that the "more likely than not" standard should apply because if the principal purpose of an entity is in fact to get out of paying tax, that is the principal purpose. It does not seem unreasonable in those circumstances to hold people to a higher standard of accountability than the average taxpayer. However, my amendment with respect to other sections of the bill and for the average business and personal taxpayer remains as I earlier suggested; that is, that the treatment would be justified if the taxpayer had a belief that there was "substantial authority" to support the tax treatment sought.

Mr. President, with that word of explanation, I ask unanimous consent that the following Senators be added as cosponsors to the amendment as modified: Senator DOLE, Senator SYMMS, Senator ROTH, Senator WALLOP, and Senator GRASSLEY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ARMSTRONG. Mr. President, two matters of acknowledgment and then I will be happy to respond to any questions. First I want to acknowledge my great appreciation and gratitude to the Senator from Iowa and the Senator from Kansas for helping me work this out. It is a very technical and difficult area of the law in which they are expert and the Senator from Colorado is not. They have been kind enough to help me with this and to work out the details in a way that I think does truly satisfy all the affected interests, at least reasonably.

I will grant that language in my amendment does not go back to the present law. Those who would like to leave things the way they are—that is to say, you do not have a penalty lifted if you hire an accountant or lawyer—will not be satisfied with what we are doing; because we are saying that if you claim a tax treatment, you have to have substantial authority for doing so. It cannot be off the wall.

Neither, I think the Senator from Iowa would agree, are we going so far as the "more likely than not" test. Effectively, we have split the difference and have taken a step to tighten compliance by taxpayers, but we have done so in a way in which CPA's and tax lawyers feel is not an undue burden.

I also acknowledge the assistance and help of the CPA's themselves, who have done a truly remarkable job in educating Senators and their staff members about this issue in the last 48 hours or so. Their willingness to do so has contributed enormously to the successful outcome of this amendment.

Mr. GRASSLEY. Mr. President, will the Senator from Colorado yield on my time?

Mr. ARMSTRONG. I yield.

Mr. GRASSLEY. I should like to discuss some aspects of the Senator from Colorado's amendment.

Mr. President, I should like to clarify with the Senator from Colorado what qualifies as substantial authority. By that I understand that the Senator from Colorado means to include: First, court cases describing similar facts or circumstances that has not been overruled, whether from the jurisdiction in which the taxpayer resides or elsewhere; second, IRS rulings, whether published or private; or third, IRS regulations. Is that correct?

Mr. ARMSTRONG. Mr. President, the Senator is correct. As I noted earlier, I have been advised by counsel that the term "substantial authority" has been the subject of litigation and has been defined by the courts, so I would not want in my response to attempt to supersede what the courts have found. But I think the Senator has fairly stated it.

I should like to elaborate on my appreciation of the term "substantial authority."

Obviously, no precise, simple, or categorical definition of "substantial authority" is feasible because its meaning will depend upon the facts and circumstances in individual situations and upon subjective judgments. However, an explanation of the meaning of substantial authority is possible. In the context of section 341 of H.R. 4961, it should connote the factors which are taken into account in order to reach a decision. Those factors should include more than the unsupported opinion of a tax adviser, but less than the certainty implied by a test of "more likely than not" to ultimately prevail in litigation. As applied to the taxpayer penalty, if the taxpayer position is taken upon the advice of a tax adviser, a "substantial authority" waiver would require the further examination of the rationale on which the tax adviser based his advice.

Examples of such rationale include decisions of courts in tax controversies which involve the same or similar facts and circumstances; reflections of congressional intent of statutory provisions embodied in committee reports; authoritative, well-reasoned interpretations and expressions of opinions, such as publications of learned, recognized commentators.

A distinction must also be drawn between "substantial authority" under new law as contrasted with existing statutes. New law will be characterized by a lack of precedential discussion, and a consensus as to proper applications may take years of development.

In the end, the term "substantial authority," as all terms of enactment by this body, is ultimately subject to consideration of the courts and by professionals reviewing the work of professionals and courts reaching their conclusions based upon the facts.

The PRESIDING OFFICER (Mr. RUDMAN). The time of the Senator has expired.

Mr. GRASSLEY. Mr. President, I asked the Senator to yield to me on my time.

Mr. ARMSTRONG. I am virtually done with my response.

The other night, I made a point of observing that in many cases, Congress has failed in its duty to discipline itself to the task of expressing clearly, in statutory language, its intent, and I thought it was worthwhile and important for us to seek to do that whenever possible.

I believe that the term "substantial authority" meets that test, that this is a term which is known to the law and has been used by courts and will be understood by taxpayers and tax advisers.

I thank the Senator for yielding.

Mr. GRASSLEY. Mr. President, I thank the Senator from Colorado for his clarification. I think it is a very strong statement of a substantial test, a test that obviously is going to relieve some of the fears I have had of the potentially enormous loss of revenue, based upon the original explanation of his amendment. His amendment is one which I now feel comfortable in cosponsoring. I feel that by his statement and his understanding of "substantial authority," he has moved considerably from where we were, and I want him to know that we appreciate it.

Mr. ARMSTRONG. Mr. President, I am very grateful to the Senator for his patience in helping work this out. He is correct. We are moving a good distance from the present law, which means that if you hire an attorney or a C.P.A. to prepare your tax return, you are not going to have to pay a penalty. This imposes a test, and I think properly so.

I also make this point: The whole subject of my amendment, in the first place, was a tiny fraction of the whole section which the Senator from Iowa and the Senator from Kansas developed, which is going to bring in about $20 billion in the next 3 years, without raising anybody's taxes but by getting to people who are not paying taxes but should. As the Senator said, people do not like to pay taxes, especially those who have not been doing so. I think we are moving in the right direction.

I believe we are ready to have a vote on this issue, and I thank the Senators who participated in this effort.

Mr. DOLE. Mr. President, I thank the Senator from Colorado (Mr. ARMSTRONG) and the Senator from Iowa (Mr. GRASSLEY).

Senator GRASSLEY has really been the leader in this tax compliance area and knows the subject matter very well. Most of title III of the Finance Committee amendment to H.R. 4961 derives from S. 2198, a bill Senator GRASSLEY and I introduced in March. I think he has substantially satisfied his concerns, based upon his colloquy with Senator ARMSTRONG.

It is still a difficult standard; it is far tougher than the so-called reasonable basis standard of present law.

Nobody on the committee is more forthright than the Senator from Colorado (Mr. ARMSTRONG). He is not bringing in some amendment to water down the bill or to make it easier for someone, if they have an accountant, adviser, or attorney, to take some aggressive position and feel that they have been freed of any risk of a penalty down the line.

I believe that the compromise is one that certainly strengthens the bill, and I am pleased that it has worked out this way.

Senator ROTH indicated his concern with respect to this amendment, as did Senator WALLOP and others on our side, and I am certain there are others on the other side who feel that we did not back away. We still have a very difficult standard.

So I thank those who were directly involved in the negotiations.

● Mr. JEPSEN. Mr. President, I rise in support of the amendment offered by the Senator from Colorado, Mr. ARMSTRONG. As a cosponsor of his proposal, I believe it makes perfect sense to replace the unclear Finance Committee language, with the more precise and legally defined language proposed by Senator ARMSTRONG.

Clearly the Finance Committee language, "more likely than not" is so broad and vague that if left unchanged, thousands of honest taxpayers could be subjected to unnecessary harassment by Internal Revenue Service bureaucrats. Anyone who has ever been audited by the IRS can attest to the unreasonable and expensive tactics used by many agents. This, despite the completely reasonable and rational actions of the taxpayer.

The complexity of our tax system is such that it is very difficult for anyone to predict with any certainty whether or not they will prevail in a case before the Tax Court. Because of these problems, I am concerned that if left unchanged, tax matters will automatically be resolved in favor of the Internal Revenue Service. Mr. President, I don't think there are very many taxpayers who are prepared to let the IRS be auditor, judge, and jury. Rest assured that this could very well happen if the Armstrong amendment is not approved.

By substituting the "substantial authority" for nontax shelter transaction language, we are reducing the risk that honest taxpayers will not be unfairly accused of tax evasion by overzealous Internal Revenue agents.

Even just a quick look at previous Tax Courts decisions will convince most taxpayers that there are many varying and contradictory decisions produced by the court. In addition, these decisions can very often be used to prove both sides of an issue.

Thus, Mr. President, to require as a basis of proof, the "more likely than not" language, we are almost certainly forcing many honest taxpayers to be subjected to needless litigation. In effect, we are asking the taxpayer to predict the outcome of any potential Tax Court case. If the taxpayer can't determine whether or not his or her position would prevail and still takes the deduction in question, we are going to assume that the taxpayer was trying to defraud the Government.

Senator ARMSTRONG and I believe it is sufficient to have the taxpayer show why he or she took the deduction, then let the court decide whether nor not it was justified. No one, Mr. President, should be asked to predict the outcome of a case.

In closing, I think the Finance Committee has reported out a good bill. However, I think it will be an even better bill if the Senate adopts the amendment proposed by the Senator from Colorado. Changing the language from "more likely than not" to "substantial authority" will go a long way toward clearing up a cloudy area of the law. I urge my colleagues to join us in changing this section.●

Mr. SASSER. Mr. President, I rise in support of the Armstrong-Long-Mattingly-Baucus amendment. I am pleased to be a cosponsor of this amendment.

Section 341 of H.R. 4961 in essence amends the Federal Tax Code to require American taxpayers to "red flag" their tax returns on matters where the taxpayer believes he is more likely to prevail in a tax payment controversy than the Internal Revenue Service or where the taxpayer believes there could be underpayment on his return.

This provision of the tax bill, in effect, makes the tax preparer an arm of the Federal Government. It increases the paperwork burden of taxpayers as they file their returns. And the committee amendment undermines the basic self-assessment principle contained in our tax laws.

Mr. President, it is a basic principle of our tax system that taxpayers are expected to file honest returns. They and the professionals that prepare their tax returns are supposed to approach this task with honesty and fairness. If they do not, they will be subject to IRS penalties and even criminal prosecution in some cases.

And it is up to the IRS to uncover these abuses.

But the current committee amendment essentially implies that most taxpayers and their tax preparers set out to cheat the Government. I do not believe that this is the case. Taxpayers and their tax preparers generally aim to pay what they honestly deem to be their fair tax bill. That is their right, and it is a right that should not be compromised by H.R. 4961.

Mr. President, for the benefit of my colleagues, I would ask that summary informational material on the "red flag" provisions of the tax bill which were originally contained in S. 2198 be included in the RECORD immediately following my remarks.

Mr. President, I urge adoption of the Armstrong-Long-Mattingly-Baucus amendment.

The summary follows:

INFORMATIONAL MATERIAL: "RED FLAG" PROVISIONS OF THE TAXPAYER COMPLIANCE IMPROVEMENT ACT OF 1982 (S. 2198)

BACKGROUND

In an effort to encourage better taxpayer compliance, the Senate Finance Committee has proposed a radical change in our self-assessment system of taxation. Under the bill, if a substantial underpayment of tax occurs in a normal transaction, a penalty will be assessed against the taxpayer unless he (1) discloses the item which gave rise to the underpayment in the return or (2) believes he is more likely than not to prevail on the issue in a controversy with the IRS.

As a practical matter, it may be impossible to ascertain the likelihood of success in a controversy with the IRS, and the taxpayer will be required to disclose.

PROBLEMS

1. The bill will deter taxpayers from taking many legitimate positions on tax returns by the threat of a penalty or fear of audit. In fact, the taxpayer may not even enter into entirely appropriate transactions. This is unfair where the taxpayer honestly believes that the position he would take would be correct and where there is reasonable support for the position which would have been taken.

2. The cost and complexity of compliance will be increased for taxpayers, because of the burden of disclosure and the requirement to consider the likelihood of success in a controversy with the IRS.

3. The taxpayer will be denied effective representation in dealing with the tax laws because of a change in the relationships among the taxpayer, his advocate, and the IRS. The taxpayer's representative will, in effect, be preparing an audit checklist for the government, and taxpayers may be reluctant to discuss certain issues with him. This change in relationships is a basic threat to our self-assessment system of taxation.

4. While disclosure will be burdensome to taxpayers, it may not be helpful to the government. In assessing the penalty, the government will have to determine whether disclosure should be required, whether disclosure is adequate, and a number of other issues unrelated to determining the tax liability of the taxpayer. This will add substantially to the paperwork and controversy in an already overburdened system. Disclosure may not clarify many complex problems and may draw attention away from other returns where intentional underpayments are not disclosed.

SOLUTION

The disclosure requirement of the bill should be eliminated, and taxpayers should not be deterred from taking positions for which there is reasonable support and which are taken in good faith. Reasonable support could be defined in the legislative history in such a way as to attack abuse situations without burdening legitimate taxpayer transactions.

(The names of Mr. JACKSON and Mr. ANDREWS were added as cosponsors of the amendment, as modified.)

Mr. DOLE. I yield back our time.

The PRESIDING OFFICER. The Senator from Kansas yields back his time.

All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1107), as modified, was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GRASSLEY. Mr. President, Senate consideration of the taxpayer compliance improvement amendment by the Members of this body is an important milestone in my legislative activities during the 97th Congress. While some Members joke that Senator DOLE and I are responsible for more tax increases in this bill than any other two Senators here today, we like to think that we saved millions of Americans from tax increases by devising a detailed system of reporting requirements and penalties designed to raise $17.7 billion over the next 3 years. By collecting $17.7 billion from people who already owe tax, we have avoided the imposition of tax increases. The only increases considered by the Committee on Finance that could raise the same amount of money were a 5-cent-per-gallon gasoline tax, a $5 per barrel fee on imported oil, a 5 percent ad valorem tax on energy, a substantial reduction or elimination of the third year of the tax cut or limiting the deduction of consumer interest to $1,000 per taxpayer. All of these possibilities would substantially increase the average American's taxes. Our approach not only sidesteps the enactment of tax increases, it improves our revenue collection system by giving all taxpayers the feeling that each person is paying what he or she owes.

The Internal Revenue Service estimates that the revenue loss from noncompliance with existing laws will be approximately $95 billion in 1981. A compliance gap of this magnitude has grave implications for our system of self-assessment. Our tax system relies upon the basis of voluntary compliance—that is, the accurate reporting of income and payments by each taxpayer. As greater numbers of taxpayers perceive that the system is not working fairly and watch dishonest taxpayers go unpunished, fewer people feel any moral obligation to comply with the law. Massive noncompliance will not only undermine our economic base, it will require a greater enforcement effort and threaten each individual's privacy to a greater degree. This bill is an important step by Congress in attempting to check mushrooming noncompliance and preserve our system of voluntary compliance as we know it today.

I have often said that the workingmen and workingwomen of America do not mind paying taxes, they just want everyone to pay their fair share. The Taxpayer Compliance Improvement Act addresses this problem in a comprehensive way in an attempt to maximize compliance.

First, it does not create any new tax liability. Rather it makes a thorough attempt to collect taxes from those who already owe them but are not paying. Both Senator DOLE and I feel it would be tremendously unfair to increase taxes before we attempt to collect revenue from those who have failed to meet their legal obligation to pay tax.

Second, the bill is not attempting to extract moneys from low-income waiters and waitresses to permit the coupon clippers to run free. Many individuals have written me arguing that the tip provision and the entire bill disadvantage lower income people. Undoubtedly, the tip provision has received the greatest publicity, but it is one part of a detailed legislative package.

The problem is not with low- and middle-income taxpayers for they have the highest rate of compliance of any economic sector. Individuals who receive wages have a 99-percent tax compliance rate; regrettably only 17 percent of tips are reported to the IRS for tax purposes.

This bill also has numerous provisions aimed at upper income people who have a low compliance rate. Only 56 percent of capital gains are currently reported. Our bill imposes information reporting requirements on stock and securities brokers. Also, corporate bearer bonds and Treasury bills are not currently subject to the information reporting requirements of the Internal Revenue Code; our bill would require the cashier of a coupon of a corporate bearer bond to notify the IRS of the name and social security number of the bondholder when the interest is paid. A similar provision applies to interest paid on Treasury bills. Our bill also contains a $100,000 penalty on corporate officers for committing civil tax fraud and affixes a penalty on taxpayers who understate their tax liability by at least $5,000 by participating in tax shelters of questionable legality. These provisions are not aimed at low-income taxpayers.

My goal in introducing this legislation was to improve compliance among all taxpayes so the system is truly equitable. In my view, it is imperative that we collect the taxes from those people who have not paid before we contemplate raising taxes on all honest taxpayers. I thank Senator DOLE, his staff and the Joint Committee on Taxation for their hard work in drafting a good and sensible bill. I urge all of my colleagues to support its enactment.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the distinguished Senator from Kentucky be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1972

(Purpose: To eliminate the provisions which increase the excise tax on cigarettes)

Mr. FORD. Mr. President, I call up my amendment numbered 1972 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Kentucky (Mr. FORD) proposes an amendment numbered 1972.

Mr. FORD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 446, beginning with line 5, strike out all through page 447, line 25.

On page 448, line 1, strike out "Part IV" and insert in lieu thereof "Part III".

On page 453, line 1, strike out "Part V" and insert in lieu thereof "Part IV".

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I yield myself such time as I may require.

Mr. HUDDLESTON. Mr. President, will the Senator yield to me 1 second for a unanimous-consent request?

Mr. FORD. I yield.

Mr. HUDDLESTON. Mr. President, I ask unanimous consent that Tim Dudgeon of my staff be granted the privilege of the floor during consideration of the current amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I ask unanimous consent that my distinguished colleague, Senator HUDDLESTON, and the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I am offering an amendment to restore some measure of fairness to the Finance Committee tax bill by repealing a section of that bill that imposes further regressive tax burdens on low- and middle-income Americans. This amendment that I offer would repeal section 285 of the bill, thus eliminating the proposed doubling of the excise tax on a package of cigarettes.

Mr. President, the legislation we are considering today is billed as a step toward achieving fairness and equity in our complicated tax system. But, when we take a closer look, it is obvious that this is just not so. The chairman of the Finance Committee may claim that it is fair, but the bill clearly flunks the test of equity when it seeks to pick up significant revenues by imposing further burdens on America's middle- and low-income taxpayers through the imposition of higher excise taxes.

We should make clear why we are being asked to take this unprecedented action to raise Federal income taxes by almost $100 billion over a 3-year period. The reason is that something has to be done to atone for the mistakes made last year with passage of an excessive tax bill that reduced Federal revenues by almost $750 billion over a 5-year period. That bill gave most of the tax reduction benefits to upper income Americans. I do not believe anyone can disagree with this. According to the Joint Committee on Taxation, the 31.7 million tax filers making under $15,000 a year will divide $2.9 billion from the July 1, 1982, tax cut while the 162,000 making over $200,000 a year will divide $3.6 billion. The intention of the 1981 tax bill was to give tax benefits to corporations and upper bracket taxpayers because, as the administration argued, this would encourage saving and capital investment and create new jobs. But now we see that this has not worked. Shortly after last year's tax package passed Congress, the economy went off a cliff. The stock market plummeted; unemployment skyrocketed; and, in the face of these dismal economic statistics, interest rates remained high. So now, Congress, looking for relief from continued hard times, has produced a budget resolution for fiscal year 1983 that includes a $100 billion tax increase.

When we raise taxes $100 billion this year we are, in effect, attempting to finance last year's tax bill which gave most of its $750 billion in revenue reductions to upper bracket taxpayers and corporations. But, to the extent we recoup these lost revenues by imposing greater burdens on middle- and low-income Americans—those who benefited least from last year's rate reductions—we are committing an obvious injustice. We are taking from those who can least afford it to preserve tax breaks for those who can most afford it.

By 1987, corporate income taxes will be reduced 36 percent from the 1980 level. By 1985, families earning over $80,000 a year will get tax breaks equal to 8.4 percent of their income, while families earning under $10,000 will receive tax cuts equal to only 2.3 percent of income. In fact, after inflation and social security taxes are taken into account, middle income taxpayers receive no real tax deduction in 1982. Burdens were actually increased for low-income earners. Yet, unbelievably, the Finance Committee proposes further regressive excise taxes on America's low- and middle-income families. That is simply not right. It is simply not fair. It should be unacceptable to anyone who is truly concerned about tax equity and fairness. Much was made of last year's 25 percent rate reduction, but the average taxpayer was more than a little surprised when he saw just how little impact the July 1, 10 percent installment had on his take-home pay. It meant about $1.50 per week for a family with two children earning $300 a week. If the parents smoke more than a pack of cigarettes a day, a doubling of the cigarette excise tax will completely eliminate the 1982, 10 percent tax rate reduction. What little we gave low-income persons in the 1981 tax bill will be taken away by this excise tax provision.

I wish to make clear that doubling the excise tax on cigarettes is extremely regressive. Because it is a tax on consumption, it will impose greater relative tax burdens on middle- and low-income families. Not because consumption of excise tax products increases as income decreases, but because a flat excise tax takes a greater percentage of smaller incomes.

Mr. President, I ask unanimous consent to have printed in the RECORD two tables prepared by the Congressional Budget Office which show the net effect of the Reagan budget and tax program by income category.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

NET EFFECT OF THE REAGAN BUDGET AND TAX PROGRAM, BY INCOME CATEGORY, CALENDAR YEAR (IN 1983 DOLLARS)

[Household income (1982 dollars)]

All households		Less than $10,000	$10,000 to $20,000	$20,000 to $40,000	$40,000 to $80,000	$80,000 and over
Cumulative net change in benefits and taxes (in millions)	+$64,620	−$4,530	+$4,720	+$24,550	+$24,000	+$15,870
Average net change in benefits and taxes	+$740	−$240	+$220	+$810	+$1,700	+$15,130
Net change in taxes and benefits as a percentage of income	3	−1.7	+1.3	+2.9	+4.4	+6.7

INDIVIDUAL INCOME TAX CUTS PER HOUSEHOLD, BY INCOME CATEGORY CALENDAR YEARS 1982–1985 (IN CURRENT DOLLARS)

Calendar year:						
1982	$450	$70	$220	$450	$750	$8,430
1983	940	120	440	950	1,830	15,250
1984	1,280	170	590	1,280	2,520	19,350
1985	1,600	250	760	1,650	3,100	21,950

Source: Congressional Budget Office.

Mr. FORD. Mr. President, I also ask unanimous consent to have printed in the RECORD a table prepared by the Tax Foundation, which shows estimated burdens of selected taxes in relation to family income at various income levels.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

TABLE 1.—ESTIMATED BURDENS OF SELECTED TAXES IN RELATION TO FAMILY INCOME AT VARIOUS INCOME LEVELS, 1972–73, AND RELATED INDEXES OF APPROXIMATE TAX BURDENS FOR 1981

Income class (money income before taxes: thousands of dollars)		Tax burden as percent of income, 1972–73					Index of approximate tax burden, 1981 [1]				
		Selected Federal taxes				State-local general sales taxes	Selected Federal taxes				State-local general sales taxes
1972–73	1981 (approximate) [2]	Individual income tax	Liquor	Gasoline [3]	Tobacco		Individual income tax	Liquor	Gasoline	Tobacco	
All income classes		9.40	0.45	0.42	0.21	2.04	100	100	100	100	100
Under 3	Under 7.2	2.40	.75	.71	.70	5.11	26	167	169	333	250
3–4	7.2–9.6	2.41	.60	.57	.42	3.45	26	133	136	200	169
4–5	9.6–12	3.32	.62	.57	.37	3.04	35	138	136	176	149
5–6	12–14.4	4.52	.63	.57	.34	2.82	48	140	136	162	138
6–7	14.4–16.8	5.28	.50	.55	.32	2.72	56	111	131	152	133
7–8	16.8–19.2	5.48	.56	.54	.31	2.52	58	124	129	148	124
8–10	19.2–24	7.55	.53	.53	.28	2.41	80	118	126	133	118
10–12	24–28.8	8.62	.50	.50	.25	2.22	92	111	119	119	109
12–15	28.8–36	9.32	.44	.47	.22	2.04	99	98	112	105	100

TABLE 1.—ESTIMATED BURDENS OF SELECTED TAXES IN RELATION TO FAMILY INCOME AT VARIOUS INCOME LEVELS, 1972–73, AND RELATED INDEXES OF APPROXIMATE TAX BURDENS FOR 1981—Continued

Income class (money income before taxes: thousands of dollars)		Tax burden as percent of income, 1972–73					Index of approximate tax burden, 1981 [1]				
		Selected Federal taxes				State-local general sales taxes	Selected Federal taxes				State-local general sales taxes
1972–73	1981 (approximate) [2]	Individual income tax	Liquor	Gasoline [3]	Tobacco		Individual income tax	Liquor	Gasoline	Tobacco	
15–20	36–48	10.12	.45	.43	.19	1.90	108	100	102	90	93
20–25	48–60	11.00	.39	.37	.15	1.77	117	87	88	71	89
25–plus	60-plus	12.09	.34	.25	.08	1.43	129	76	60	38	70

[1] Based on 1972–73 percentages, which reflect consumption patterns of that period.
[2] Assuming the same rate of income growth at all income levels: 1981 amounts are uniformly 2.4 times those of 1972–73.
[3] Also including other automotive excises.

Source: Basic data (for 1972–73), Tax Foundation, Inc., "Allocating Tax Burdens and Governmental Benefits by Income Class, 1972–73 and 1977" (February 1981), table 3: calculation of index numbers and translation to estimated 1981 income equivalents carried out for this presentation.

Mr. FORD. Mr. President, the CBO tables clearly show that the result of the 1981 Reagan tax and spending program was to create a significant transfer of wealth from low- and middle-income families to high-income families. The Tax Foundation table will show that the cigarette excise tax burden, as a percent of income, is several times higher for low-income groups as compared to high-income groups. Indeed, cigarette excise taxes, because of consumption patterns are far more regressive than gasoline, liquor, and general sales taxes. The clear import of these tables is that the Finance Committee bill will impose extremely regressive tax burdens on those very families who benefited least from last year's tax and spending program.

Mr. President, this should not be considered a tobacco issue. It is an economic issue. It raises fundamental questions of fairness. It boils down to who should bear the burden of last year's tax and spending bills. On whose backs do we want to impose further burdens in order to help ring this Nation out of its present economic mess?

Personal views of smoking are irrelevant to consideration of a cigarette excise tax. The Joint Tax Committee's revenue estimates are based on a 4-percent decrease in demand for cigarettes. Certainly this will impact to a certain extent on tobacco States. Over 81,000 persons are employed in tobacco-related jobs in Kentucky. Naturally, I am greatly concerned with the impact a doubling of the excise tax will have on these individuals and the entire Kentucky economy.

I know it is difficult to create any sympathy in this body for a product important to only a small region of the country and I will not try to do so. While a 4-percent reduction in consumption will undoubtedly impact on Kentucky, it will not devastate the State economy. At the same time, it will have a negligible impact on the consumption of tobacco for the average person. So, we should not be persuaded by offhand, social policy arguments. All that really matters is the fact that this provision increases the tax burdens on that part of the taxpaying public that can least afford it.

Mr. President, this amendment will reduce revenues by $4.963 billion over a 3-year period. I have not proposed that another part of the Tax Code be amended to pick up this lost revenue.

I would have done so were it not for the restrictive rules established in the reconciliation instructions that limit amendments to only those provisions already included in the Finance Committee bill. This is regrettable and, because of the severe budgetary pressures we are operating under, it may result in poor tax policy and undermine the will of the majority.

It may be that the lost revenue will be made up in amendments to be offered before final passage. I hope so and I must point out that much of this exercise in raising taxes would not have been necessary if the third year of the 1980 tax cut could have been deferred.

I am concerned that we not take action on the Senate floor that puts further strains on the economy by increasing Federal deficit spending. At the same time, however, I cannot abide by unfair tax provisions that discriminate against certain regions of the country and take money from middle- and low-income taxpayers to preserve tax breaks for corporations and wealthy Americans.

In the interst of tax equity and fairness, I urge the support of my colleagues in repealing this regressive cigarette excise tax provision.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, let me say, first of all, that I am certainly sympathetic to the amendment. But as this Senator from Kansas said earlier we found it very difficult to raise $100 billion over a 3-year period and there were some who wanted to go higher than 8 cents a pack. The Senator from Kansas was not one. Neither was the Senator from Minnesota nor the Senator from Idaho in the group that discussed this. There were also some who wanted to add on additional tax on distilled spirits, wine, and beer. We did not do that. I say this only to emphasis how difficult we found it to raise $100 billion over a 3-year period. I am not suggesting that the other options would have created additional problems.

Mr. FORD. Mr. President, I might say to the distinguished Senator from Kansas that California, Wisconsin, and some other States would have some problems in this Chamber other than the Senator from Kentucky.

Mr. DOLE. I am not singling out any Senator. I am just saying we hope we were somewhat helpful in our deliberations. Maybe we were not. But we certainly knew that there might be a problem not just in the State of Kentucky but in other States. So the effort was made to try to find enough revenue without excise taxes, but we were not successful in that effort.

The 8-cents-per-pack excise tax has been in effect since 1951. In 1982 dollars, the excise tax has declined in real terms from 29 cents in 1951 to 8 cents in 1982 as a result of inflation. In addition doubling the cigarette excise tax will not raise the per pack tax, in real terms, above the 1951 level.

A recent study by E. M. Levit, et al., published by the National Bureau of Economic Research, concludes that both the number of smoking teenagers and the quantity of cirgarettes smoked by teenagers are highly price sensitive. The study indicates that a 10-percent increase in the per-pack price, that is, about 8 cents, would reduce the teenage smoking participation rate by 12 percent and reduce the number of cigarettes smoked by teenagers by 14 percent. I must also repeat that we are talking about deleting a provision that would lose about $1.3 billion in 1983, $1.8 billion in 1984, and $1.9 billion in 1985.

The Senator from Kansas has been a strong supporter of the tobacco program, as he demonstrated last week, so I am not here crusading against people who smoke or against people who raise tobacco. But I do suggest that when we made the hard decisions we found ourselves short of revenue.

It was determined by a majority of the committee that we should double the tax on cigarettes. Although I am sympathetic with the concerns that have been raised, I understand I will hear from the other side tomorrow

morning or maybe tonight. So I am prepared, if there are no other requests to speak, to yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, I yield as much time as my distinguished colleague may need.

Mr. HUDDLESTON. Mr. President, first I would like to associate myself with the remarks that my colleague from Kentucky, Senator FORD, has already made on the subject, and the material that he has placed in the RECORD relating to it.

Then I would also express my awareness and appreciation of the fact that the distinguished chairman of the Committee on Finance has not been a strong advocate for this particular tax proposal in the past and, I think, recognizes some of the difficulties it presents. Nevertheless, it is part of the tax bill that is being presented to us.

I think we all recognize it is always easy to attack a product such as tobacco in trying to assess taxation. As a matter of fact, that statement is borne out by the fact that during this period of time that the Senator from Kansas has referred to, during which the Federal tax has not been increased, the various States have increased taxes on tobacco, on cigarettes, by 224 times. So it has not been a product that has been exempted in any way from the heavy hand of the tax assessors.

As a matter of fact, as we all know, tobacco products produce taxes about 3½ times as much in the Federal, State, and local jurisdictions as the crop returns to those who grow it, over $7 billion now being assessed against this product.

I think we ought to take into account the fact that increased taxation at the Federal level is going to mean a reduction in sales. Indeed, the distinguished Senator from Kansas has indicated that in his remarks and that, of course, means a reduction in the income that States, counties, and even cities are receiving from the sale of tobacco products.

In this period of time when we, here in Congress, are returning more responsibilities to the States and local governments, and returning more of the burden of financing various services that the people need and expect, it seems inappropriate to be taking away from them some of their revenue sources. State taxes have increased by 350 percent during this period of time that it has been indicated that the Federal tax level has remained the same. That is not a unique situation at all either, the fact that the Federal tax is the same. Because of the large number of excise taxes that have been imposed over the years, many of them have not only not been increased, many of them have been eliminated totally, and yet tobacco has continued to pay its way.

Now there may be those who see this as another opportunity to strike a blow against tobacco. Just last week we dealt with the tobacco program, and it was an issue that had greater importance to those States of course, that actually grow the crop. But this is an issue that has nationwide implications and, as a matter of fact, even worldwide implications, and it is an issue that I think ought to be given a great deal of consideration because of the impact it has on the average citizen in this country.

Whether any of us individually agree with the idea of smoking or approve of smoking or do not approve of smoking or indulge ourselves or not, the fact is that 55 million adult Americans do smoke, and this is a regressive tax that applies to the poor, those of moderate income, the same as it does to those who have adequate income to be able to withstand this kind of taxation. So it is a question of equity and fairness that is due consideration on this particular matter.

There is another point that I think is worth making. I do not know that it was considered by the Committee on Finance or has been by very many others, but we are talking about increasing the tax by 8 cents, which represents a 100-percent increase.

A great portion of the cigarettes sold in this country are sold in vending machines, and I do not know of a vending machine that can adjust to an 8-cent increase. Obviously, the increase in those cases will be at least 10 cents. They have to be adjusted on the basis of 5-cent increments, nickels that go into the machine.

So in many cases we are talking here about an increase of even greater than the 100 percent that has been proposed.

Right now we are going through in this country a period of excessive unemployment. People are losing their jobs because businesses are having to cut back, industries are cutting back, because of depressed sales in their particular products. I do not know the exact estimates of what unemployment will result from this particular measure, but if the estimates are correct that the increase in the cost will reduce the sales, and the Committee on Finance recognizes that will occur because they are not doubling the revenue that comes from the doubling of the tax, obviously there is going to be some slippage there which can only be translated into fewer jobs in the cigarette manufacturing and other tobacco manufacturing industries. It is not a time, in my judgment, to think about increasing unemployment in this country.

We all know what the cost of unemployment is to the Federal Government. The figures I have seen recently are that each percentage point of unemployment results in about a $39 billion annual cost to the Government.

So that raises serious questions as to whether or not there is any particular gain to the Federal Treasury out of a tax of this nature. I hope my colleagues will consider all of the questions that relate to this particular tax.

I emphasize again that this is not a question that just those of us from the tobacco States are interested in. I think before the debate is over we will hear from other Senators representing States that do not have a direct interest in tobacco because this is an effort, in attempting to repeal this tax, to represent the average man and woman in the United States who happens to enjoy smoking and who will have to bear the burden of this new tax without regard to their income level, without regard to their financial ability to pay. So it is contrary to the taxing concept that we have in this country of taxing on the basis of ability to pay.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, supporters of increased excise taxes like to point out that the cigarette excise tax has not been increased since 1951. While that is true, it is a meaningless statistic. First of all, Federal tax policy for the last 50 years has moved away from regressive taxation that impacts on middle and lower income Americans to a more progressive system of taxation. And thus, excise tax burdens have decreased across the board on all products during this same 30-year period. In fact, most excise taxes were repealed in 1965 legislation.

At the same time, State excise taxes on tobacco have increased more than 350 percent since the last increase in the Federal cigarette excise tax. This has been a trend now for years—for States to look to the excise tax to raise State funds. This trend accelerated sharply during 1982 as a result of the increased fiscal pressures Reaganomics placed on State governments. In addition, the administration's New Federalism initiative contemplates giving State governments exclusive power to impose excise taxes. The Finance Committee proposal is directly contrary to this effort.

The PRESIDING OFFICER. The acting majority leader is recognized.

Mr. STEVENS. Mr. President, is there an amendment pending?

Mr. DOLE. Yes, Senator FORD has a pending amendment.

Mr. FORD. Mr. President, as I understand it, this amendment will be the pending amendment in the morning. We were to go out at 6:30. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator from Kentucky has slightly more than 14 minutes remaining.

Mr. FORD. Mr. President, I would like to reserve at least 10 minutes of that time, and maybe all of it, for tomorrow. Fifteen minutes is all we have for the proponents.

Mr. DOLE. We can allow time off the bill if the Senator from Kentucky wants more time.

Mr. FORD. I do not want to preclude those from having sufficient time. I just wanted to save time here. The distinguished Senator from Ohio (Mr. METZENBAUM) wishes to come and speak in favor of this amendment. So I would like to have him have at least 3 minutes tomorrow.

Mr. President, are we going to bring this amendment down now? Are we going to close for the day?

The PRESIDING OFFICER. The acting majority leader has the floor.

Mr. STEVENS. I yield to the Senator from Kansas.

Mr. DOLE. Mr. President, may we have order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOLE. Mr. President, what we would like to do now is to set aside the amendment of the Senator from Kentucky—it will be the pending business tomorrow morning—and take up a noncontroversial amendment of the Senator from Alaska that I understand has been cleared by Senator LONG. I understand that we will then recess until tomorrow morning at 9 o'clock. I will ask the acting majority leader if that is correct.

Mr. STEVENS. We have one little bill to finish after we get off the tax bill and then recess.

Mr. DOLE. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DOLE. When the Senate reconvenes tomorrow morning, the pending business will be the amendment of the Senator from Kentucky?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from Kentucky be temporarily set aside so that we might make an order for the amendment of the Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1109

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1109.

Mr. STEVENS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At page 438, line 22, strike the period at the end of line 22 and add the following: "and inserting in lieu thereof a new subsection (e) to read as follows:

"(e) EXEMPTION FOR CERTAIN HELICOPTER USES.—

No tax shall be imposed under subsection (a) or (b) on air transportation by helicopter for the purpose of—

"(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, natural resources, or

"(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations),

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to title IV of the Tax Equity and Fiscal Responsibility Act of 1982 during such use.".

Mr. STEVENS. Mr. President, section 281(b) of H.R. 4961 provides an exemption from the aviation fuel tax used in noncommercial aviation when a helicopter is used for the purpose of transporting individuals, equipment, or supplies in the exploration for, or the development or removal of natural resources as well as the planting, cultivation, cutting, or transportation of, or caring for, trees. The exemption applies only when a helicopter does not take off from, or land at a facility eligible for assistance under the Airport and Airway Development Act.

As my colleagues know, timber and natural resource operations are very important to many of the States in this Nation. Alaska, for example, has tremendous natural resource potential. Unfortunately, recovery of our natural resources if often prohibitively expensive. I commend Senator PACKWOOD and Senator LONG for working out the aviation fuel exemption. It does assist natural resource discovery and development in cases where the helicopters involved are not using the airway system that the excise taxes are designed to fund. However, it has recently come to my attention that the authors of this exemption intended to exempt helicopters involved in these activities from all aviation taxes. My amendment would amplify that amendment and would also exempt helicopters in this situation from the ticket tax under section 4261(a).

Mr. President, I have checked with the Joint Tax Committee and I understand they have communicated with the IRS. I am told that the revenue impact is less than $1 million. I am hopeful that the distinguished chairman will accept this amendment. I have discussed this amendment with the distinguished Senator from Louisiana and it is my understanding that he is in agreement with it.

Mr. DOLE. Mr. President, it was called to our attention that certain helicopters used in timber, forestry or natural resource operations do not take off from, or land at, federally financed facilities or otherwise use the airway system services. These helicopters do not use federally financed facilities or services for extended periods of time. In view of these circumstances the Finance Committee bill provides an exemption from the noncommercial aviation fuel tax for the time these helicopters are used in timber, forestry, or natural resource operations.

The amendment of the Senator from Alaska will exempt helicopters from the air passenger ticket tax when used in timber, forestry, or natural resource operations.

This amendment of the Senator from Alaska is consistent with the purpose and scope of the helicopter exemption from the fuel tax already in the Finance Committee bill, and other noncommercial aviation fuel tax exemptions, not as the one for aircraft engaged in farming purposes. Therefore, we are happy to accept the amendment of the Senator from Alaska.

Mr. STEVENS. Mr. President, I will have a substantial colloquy about the interpretation of the aviation fuel tax as it deals with natural resource activity with the Senator from Louisiana and the Senator from Kansas, and the Senator from Oregon (Mr. PACKWOOD), that will appear in the RECORD tomorrow.

But I do appreciate the understanding of the distinguished manager of the bill and the distinguished Senator from Louisiana as manager on his side.

The PRESIDING OFFICER. Is all time yielded back?

Mr. STEVENS. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. STEVENS).

The amendment (UP No. 1109) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TAXING TAX EXEMPT BONDS

Mr. LONG. Mr. President, at this point I would like to discuss just briefly and put in the RECORD some information for the benefit of Senators. I hope that the administrative assistants will read the information if Senators cannot, because I think this is information that Senators should definitely have tomorrow when we turn to

the subject of the taxation of interest income of State and local bonds.

Mr. President, the Senator from Connecticut (Mr. DODD) has prepared two amendments which he will seek to consolidate into one and the Senator from Louisiana has also prepared two amendments which I will seek to consolidate into one.

To save the time of the Senate, we will seek to simply join in cosponsoring these two amendments which would advance the principle that the Federal Government will not attempt to tax the borrowing power of State governments. I have made as part of the record a resolution of the Attorneys General of State governments where they conclude that it is unconstitutional for the Federal Government to tax the borrowing power of State and local governments. The Supreme Court ruled in Pollask against Farmers' Loan & Trust Co. (1895), Mr. President. It is an older case, but it is still good law. Just like Marbury against Madison is still good law, when the Supreme Court held that an act passed by the Congress in violation of the Constitution is unconstitutional.

I am submitting a memorandum by a very good law firm in New York which analyzes these authorities. Any Member of this body owes it to himself to familiarize himself with this subject matter. In my judgment, it is clear beyond any peradventure of doubt that it was neither the intention of Congress, nor the intention of the States in ratifying the 16th amendment, to extend the authority of the Federal Government to tax an essential function of the State government which, in this case, is the borrowing of money to finance the State government. This function is an essential taxing function, without which a State cannot exist.

The decisions supporting this immunity from taxation go back to the early days of our Republic. It is implied, to be sure, but it is there nevertheless. The courts have consistently upheld the principle that the Federal Government cannot tax the essential activities of a State government and the States cannot tax the essential activities of the Federal Government without its consent.

Mr. President, it is ridiculous to assume that the States would have ever ratified the 16th amendment had they ever thought that this would mean that an absolutely essential function of a State government the borrowing of money would be taxed by the Federal Government.

This point was raised by the Governor of New York, Governor Hughes, at that time, a great Governor who subsequently became the Chief Justice of the U.S. Supreme Court. He expressed concern that the 16th amendment might be construed to tax State government. Senator Borah and Senator Brown, sponsors of the 16th amendment, spoke on the floor of the Senate to explain that no such thing was intended; that all that was intended by the 16th amendment was merely to bypass the provision of the Constitution which says that direct taxes had to be apportioned among the States according to their population.

I urge that Senators read the legal authorities so well set forth by the firm of Hawkins, Delafield Wood, which was submitted to the Finance Committee on March 17, 1982.

Mr. President, this is not the first time that this firm has submitted these authorities to the Committee on Finance. But this is the first time the Committee on Finance has acted contrary to it.

I submit that part of that is due to haste and we did not take the time that would ordinarily like to consider the issues and this authority in the detail that we should have.

I urge every Senator to familiarize himself with this essential doctrine of Government that the Constitution intends that the Federal Government should not have the power to destroy the States, and the State governments should not have the power to destroy the Federal Government. Those who do not know this doctrine, Mr. President, would be well advised to familiarize themselves with it.

All of us have taken an oath to support the Constitution of the United States. I believe Senators in good conscience want to be true to that oath. If they do, then they will conclude that if they want to tax the essential functions of a State government they would have to do so by a consititutional amendment. One was proposed by the House of Representatives about 1920, when they clearly understood the limitations of the 16th amendment.

Also, Mr. President, I would like to show, and I have a memorandum here that makes this information available, that there could be no more inefficient way of raising revenue for the Federal Government than to tax State and local bonds in the fashion proposed here. The reason I say that, Mr. President, is that this tax would only apply to a relatively small portion of the State bonds, those issued after 1982, but it would raise the interest cost on all of the bonds.

For example, there would be a 20 percent tax levied on the income from State and local bonds, as a minimum tax, by persons subject to this individual minimum tax. Those presumably would be people who buy a great deal of those bonds. But no such tax would be levied on the insurance companies who hold large numbers of such bonds in their portfolios. A tax, while levied on a bank, would be levied indirectly. It would only be levied by reducing the bank's deduction for its interest expense paid to depositors.

I am told that in the last analysis the tax on a bank which acquires these bonds would be about a 5 percent tax. The tax on individuals that would work is a 20 percent tax, for most people in this category.

But notice this: All those bonds held by those insurance companies would not be taxed by this minimum tax, and, therefore, on all these new issues those insurance companies would get the benefit of the higher yield because people would not buy the bonds without insisting on a higher yield to buy them to pay the tax on them. That would be a windfall for all these companies that pay a minimal amount of taxes as it is now.

This tax would not apply to all those who hold bonds issued before 1983. Only those who hold bonds issued after 1982 would be subject to this tax.

Therefore, all the others would have a windfall. They would receive higher interest payments paid by the States but they would pay no tax on it because the minimum tax would not apply to them. It would only apply to a very small percentage of our taxpayers, who purchased the bonds issued after 1982.

The banks would only be paying the equivalent of about a 5-percent tax on bonds issued after 1982 but they would not be paying the 20-percent tax that certain individuals would be paying.

It is fair to assume that the statements by the financial officers of the State governments are correct. They have informed us that this would cost them in the first year $1 billion of revenue to pay for the additional cost on $100 billion of new issues of bonds. So here is a proposal to raise the cost of State governments by $1 billion, in exchange for only $150 million in revenue for the Federal Government.

Mr. President, the same taxpayer who pays my salary also pays the salary of the Governor of my State. He pays the salary of my State legislature. So that money would have to be raised by the local governments, by increasing the tax of the people.

In the last analysis we would have levied a billion dollars of State tax on our people to collect $150 million to the Federal Government. In other words, to get $1 for the Federal Government we cost the States $6.60. To put it another way, in order to make a person pay a tax on $1, we permit someone else to go home free with $6, a very inefficient way of taxing.

So, Mr. President, I wish to submit this memorandum of law, making it clear that this is the most inefficient proposal for raising taxes that has yet been reported by the Committee on Finance. I have been a member of that committee for almost 30 years now.

I would insist, Mr. President, that not only is this unconstitutional, and the authorities prove it, but there clearly has to be a better way to raise revenues for the Government. This would mean an increased burden on every local government that must borrow money, on every county, on every municipality, on every school district, on every State, and it would mean a great increase in taxes at that level to sustain the taxes levied at this level.

I would urge, Mr. President, that Senators read the memorandum submitted. I ask unanimous consent that it and the Dodd-Long amendment appear in the RECORD immediately after this statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DODD-LONG AMENDMENT CONTINUING TAX-EXEMPT STATUS OF STATE AND LOCAL BOND INTEREST

Present law.—The interest on State and local bonds is not and has never been subject to Federal income tax.

Committee bill.—H.R. 4961 as reported would subject interest on State and local bonds to Federal taxation in two ways:

1. *Individual minimum tax.*—Interest on tax-exempt bonds issued after December 31, 1982 would be considered a preference subject to the new individual minimum tax taxable at up to 20 percent. (The first $30,000 of taxable and preference income—$40,000 for couples filing joint returns—would not be taxed; the next $20,000 would be taxed at 10 percent, and amounts above this taxed at 20 percent.)

2. *Corporate minimum tax.*—Financial institutions owning tax-exempt bonds acquired after December 31, 1982 will only be able to deduct 85% (rather than 100%) of the interest on debt used to carry these bonds. The effect of this is to increase taxes on banks that purchase State and local bonds.

Long amendment.—The Long amendment would delete those two provisions in the Committee bill so as to retain the present tax-exempt status of State and local bond interest.

MAJOR ARGUMENTS IN FAVOR OF THE LONG AMENDMENT

1. *Committee provisions are unconstitutional.*—In a decision made almost nine decades ago and cited favorably a number of times since, the Supreme Court held that the Constitution denied the Federal Government the power to tax State and local bond interest because such a tax would directly impair the borrowing power of the States.

2. *State and local financing costs will rise.*—The taxpayers who will pay more in Federal taxes will insist upon more interest if they are to invest in State and local bonds. The Municipal Finance Officers Association estimates that the individual minimum tax provision will increase interest costs up to one-half percentage point and the corporate minimum tax provision will increase interest one percentage point—a total of one-and-one-half percentage points. This translates into additional State and local financing costs of $1.5 billion in the first full year and $3 billion in the second year.

3. *Additional State and local costs far greater than additional Federal revenues.*—The corporate minimum tax change affecting commercial bank purchases of State and local securities might raise $150 million in the first year, according to the Municipal Finance Officers Association. This compares with an increased State and local Government cost under that provision of $1 billion—a ratio of 6.6 to 1. In other words, every dollar of Federal revenue gain from that part of the corporate minimum tax will cost State and local Governments $6.60.

4. *Greater impact on lower- and middle-income taxpayers.*—Studies show that State and local Governments generally tend to rely more heavily on forms of taxation which are fairly regressive, that is, they burden lower- and middle-income taxpayers more than they burden higher-income taxpayers. By the time the increased Federal taxes have been passed through as an increase in State and local taxes, it is the lower- and middle-income taxpayers who will pay the bulk of it.

5. *Windfall to bond investors.*—The individual minimum tax on exempt bond interest will raise the taxes of only a relatively small number of taxpayers, yet it will raise exempt bond rates for all investors by an estimated one-half percentage point. In addition, the corporate minimum tax relating to exempt bonds will only raise the taxes of financial institutions, but it will raise exempt bond rates for all investors by an estimated one percentage point. For the great majority of investors not affected by these minimum taxes, this additional one-and-one-half percentage points of tax-exempt yield would be a windfall generated by these tax proposals.

6. *Two-tier bond market.*—These proposals will draw investment funds away from new issues, that provide actual dollars to the States, and will draw funds toward already outstanding pre-1982 bonds. Under the individual minimum tax, only bonds issued after 1982 can be taxed. Under the corporate preference tax, only bonds purchased by financial institutions after 1982 will increase their tax. This will create a two-tier market in which new issues will be more difficult to market.

RESOLUTION: TAXATION OF STATE AND LOCAL GOVERNMENT BONDS

Whereas, federal legislation has been proposed to extend minimum tax treatment to interest on state and local government bonds received by individuals and deductions for interest payments by corporations acquiring such bonds; and

Whereas, such treatment is of doubtful constitutionality; and

Whereas, the enactment of such proposals would sharply increase the cost of State and local government borrowing to provide essential governmental projects, involving billions of dollars of extra expense; and

Whereas, any federal revenue such enactment would provide would be far less than the additional interest cost burdens imposed on states and local government;

Now therefore, be it resolved that the National Association of Attorneys General:

1. Encourages the Congress to reject proposals to extend minimum tax treatment to the holders of state and local government bonds, both individual and corporate; and

2. Authorizes the General Counsel of this Association to transmit these views to the Congress, the Administration, and other appropriate individuals.

STATEMENT OF HAWKINS, DELAFIELD & WOOD—MINIMUM TAX ON INCOME WHICH INCLUDES INTEREST ON STATE AND MUNICIPAL OBLIGATIONS

PRELIMINARY STATEMENT

This statement is submitted in accordance with Press Release No. 82-107 with regard to the hearings being held from March 16 through March 19 on the tax proposals in the Administration's budget. Specifically, this statement is directed to any consideration that the Committee may give to a minimum tax on income, including state and municipal bond interest. The principal points presented in the statement are summarized as follows:

A minimum tax on income including state and municipal bond interest, if enacted into law, would be unconstitutional. The decision by the Supreme Court of the United States in the *Pollock* case holds that a tax on the interest from state and municipal bonds is unconstitutional. The Sixteenth Amendment did not change the decision in the *Pollock* case. The history of the adoption of the Sixteenth Amendment confirms the Congressional and Supreme Court construction of its intent and meaning. To the extent that a minimum tax applies to interest on local housing authority obligations it also impairs the obligation of contract.

I. A MINIMUM TAX ON INCOME INCLUDING INTEREST ON STATE AND MUNICIPAL OBLIGATIONS WOULD BE UNCONSTITUTIONAL

A minimum tax would include in the gross income of a taxpayer the amount of so-called "disallowed tax preferences" and would define the so-called "items of tax preference." Among such items might be any excess of interest on obligations which is currently excludable from gross income under section 103 of the Internal Revenue Code of 1954, as amended, namely the interest or "the obligations of a State, a Territory, or a possession of the United States, or any political subdivision of any of the foregoing, or of the District of Columbia".

The Committee considered such a minimum tax under the Tax Reform Act of 1969 (H.R. 13270). The bill as proposed included a section which would have limited tax preferences to (1) one-half of the sum of the items of tax preference and the taxpayer's adjusted gross income or (2) $10,000, whichever is greater. Hawkins, Delafield & Wood submitted a statement to this Committee while that proposal was under consideration by the Committee. The statement as it related to the minimum tax proposals presented the same analysis that is contained herein. The proposal for a minimum tax on income which includes interest on state and municipal obligations was not included in the bill reported out of this Committee. Senate Report No. 91-552, Tax Reform Act of 1969, at 2029. Reconsideration of a minimum tax by the Committee should lead to the same result now as it did in 1969. If such a tax is proposed and includes income on state and municipal obligations, it would be unconstitutional.

Law, as Mr. Justice Holmes has told us, is a "prophecy of what courts do in fact." In our opinion, the Supreme Court would hold that such a tax on the interest on state and municipal obligations is unconstitutional for the reasons stated below. From the time the income tax was imposed in 1913 until now both Congress and the Supreme Court have adhered steadfastly to the constitutional doctrine that state and municipal bond interest is exempt from federal income tax. It would be strange for Congress to abdicate

its obligation to respect constitutional limitations upon its power by levying a tax on such interest without new constitutional authorization.

The doctrine of federal immunity from state interference, including interference by taxation, is a general principle of constitutioal law with which this Committee is undoubtedly familiar. The converse immunity of the states from federal interference is equally well established. In *National League of Cities* v. *Usery*, 426 U.S. 833, 842 (1976), the Supreme Court stated unequivocally that the constitutional doctrine of intergovernmental immunity imposes "limits upon the power of Congress to override state sovereignty, even when exercising its otherwise plenary powers to tax or to regulate commerce which are conferred by Art. I of the Constitution." The doctrine was specifically applied to interest on obligations of states and municipalities and of state and municipal instrumentalities by the Supreme Court of the United States in the landmark case of *Pollock* v. *Farmers' Loan & Trust Company*, 157 U.S. 429 (1895) and on rehearing, 158 U.S. 601 (1895).

The case decided by the Supreme Court under the Sixteenth amendment as well as the legislative history of the amendment in Congress during ratification by the state legislatures demonstrate that any claim that the amendment repudiated the rule of the *Pollock* case is unsupported by any judicial precedent, is unfounded in fact, and altogether spurious.

For the purpose of this statement it is not necessary or desirable to delve into the much repeated history of the constitutional doctrine of reciprocal immunity before August 15, 1894 when Congress enacted a statute which levied a tax upon net income, including the interest on state and municipal bonds.

At that time and until the Sixteenth Amendment became effective on February 25, 1913, Article I, Section 2, of the federal Constitution required the apportionment of "direct taxes" among the States according to population, as follows:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound for service for a term of years, and excluding Indians not taxed, three-fifths of all other persons."

Article I, Section 8, of the Constitution also required that "Duties, Imposts and Excises" shall be uniform, as follows:

"The Congress shall have Power To lay and collect Taxes, Duties, Imposts and Excises, to pay the Debts and provide for the common Defense and general Welfare of the United States; but all Duties, Imposts and Excises shall be uniform throughout the United States; . . ."

A. *The Pollock Case holds that a tax on the interest from state amd municipal bonds is unconstitutional.*

In the *Pollock* decision which considered the validity of the income tax law of 1894, the Supreme Court pointed out that the federal government had an unlimited power of taxation with a single exception and subject to two qualifications. The one exception was that "Congress cannot tax exports . . ." The two qualifications were that Congress "must impose direct taxes by the rule of apportionment, and indirect taxes by the rule of uniformity." 157 U.S. at 557.

In the first *Pollock* case the Supreme Court held that a tax on the rents and other income from real estate was a direct tax and consequently violated the Constitution because the tax was not "apportioned among the several States . . . according to their respective numbers." The Court also unanimously held that the taxing power, like any and all other powers of the federal government, was impliedly subject to the constitutional limitation that it could not be so exercised that the instrumentalities of the states were taxed. 157 U.S. at 584.

Thus, the first decision in the *Pollock* case held the income tax act of 1894 invalid in respect of (1) the tax on rents and other income from real estate and (2) the tax on the interest from state and municipal bonds. The justices divided equally on the constitutionality of the income tax pertaining to personal property other than state and municipal obligations and on whether the 1894 act as a whole was unconstitutional.

On rehearing the Supreme Court decided (four of the justices dissenting) first, that the tax on income from personal property was a direct tax and hence was invalid because not apportioned and, second, that the 1894 Act was unconstitutional in its entirety.

The *Pollock* decision was unanimous as to municipal bond interest because in the words of Mr. Justice Fuller, to tax the interest on municipal bonds "would operate on the power to borrow before it is exercised, and would have a sensible influence on the contract," and would be a "tax on the power of the States and their instrumentalities to borrow money and consequently repugnant to the Constitution." 157 U.S. at 586.

To the same effect was the separate opinion of Mr. Justice Field:

"These bonds and securities are as important to the performance of the duties of the State as like bonds and securities of the United States are important to the performance of their duties, and are as exempt from the taxation of the United States as the former are exempt from the taxation of the States." 157 U.S. at 601.

And Mr. Justice Brown who had concluded that "a tax upon rents or income of real estate is a tax upon the land itself" nevertheless said in the second *Pollock* decision:

"The tax upon the income of municipal bonds falls obviously within the other category, of an indirect tax upon something which Congress has no right to tax at, all, and hence is invalid. Here is a question, not of the method of taxation, but of the power to subject the property to taxation in any form." 158 U.S. 692–693.

Thus, all the justices in both *Pollock* decisions, whether they subscribed to the theory that a tax on income was a tax on the source of the income or considered that theory untenable, came to the identical conclusion that the interest on state and municipal obligations could not be included in federally taxable income. It is clear, therefore, that the decision in *Pollock* concerning the unconstitutionality of taxing state and municipal bond interest rests not on the economic premise that a tax on income is a tax on the source of the income but on the inviolability of the borrowing power of the states and their political subdivisions.[1]

B. *The Sixteenth Amendment did not change the decision in the Pollock Case.*

This, then, was the law when the Sixteenth Amendment was declared in full force and effect by the Secretary of State on February 25, 1913. The Amendment reads:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration."

1. *The Congress has construed the Sixteenth Amendment consistently with the decision in the Pollock Case.*

Even before the Supreme Court decided that the phrase "from whatever source" in the Amendment relates not to the power to tax but to the requirement that certain federal taxes must be apportioned among the states according to their respective populations, Congress had also concluded that the object of the Amendment was to eliminate the necessity of apportionment irrespective of source in order that the income derived from the source of real and personal property could be taxed. Briefly stated, the Amendment means that a tax on income "from whatever source" is immune from the consitutional requirement of apportionment. 38 Stat. L. 168 (1913); 39 Stat. L. 758–59 (1916); 40 Stat. L. 329–30 (1917) and 1065–66 (1918).

When a revenue act was drafted during World War I with a provision to include the interest on municipal bonds in gross income, the lack of power to tax such interest was expressed both in committee reports and congressional debate. It was recognized that lack of apportionment was not the objection to federal taxation of state and municipal bond interest but that the lack of power to tax such interest was absolute. The provision was omitted. H. Rep. No. 767, (65th Cong. 2nd Sess.) p. 9; Sen. R. No. 617, (65th Cong. 3rd Sess.) p. 6; 56 Cong. Rec. p. 10933–41, 10628–33, 11181–86.

Such a contemporaneous construction of the Sixteenth Amendment by Congress from the time it became effective through World War I is certainly an influential if not a controlling consideration in determining the meaning of the Amendment.

Later, in 1923, after the decision of the Supreme Court in *Evans* v. *Gore*, 253 U.S. 245 (1920), to be discussed below, Congress considered and the House of Representatives passed a constitutional amendment [2] to

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[1] The reluctance of the four justices in both *Pollock* cases to accept the theory that a tax on income is a tax on the source of the income was later shared by the Supreme Court in *New York ex rel Cohn* v. *Graves*, 300 U.S. 308 (1937) in which the New York State income tax on rents from real estate in New Jersey was upheld. Obviously, however, this was not the *ratio decidendi* of the *Pollock* case, because four of the justices who did not agree that a tax on income from personal property was a tax on the property itself jointed with the other justices in invalidating the tax on municipal bond interest.

[2] The proposed amendment read as follows:

"[H.J. Res. 314, Sixty-seventh Congress, fourth session.]

Joint Resolution Proposing an amendment to the Constitution of the United States. *Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),* That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE.—

Section 1. The United States shall have power to lay and collect taxes on income derived from securities issued, after the ratification of this article, by or under the authority of any State, but without discrimination against income derived from such securities and in favor of income derived from securities issued, after the ratification of this article, by or under the authority of the United States or any other State.

authorize the taxation of income derived from future issues of state and municipal bonds and to authorize states to tax the income of future issues of federal bonds. H.J. Res. 314, (67th Cong. 4th Sess.); H. Rep. No. 969, (67th Cong. 2d Sess.) The proposal failed to pass the Senate.

2. *The Supreme Court has construed the Sixteenth Amendment consistently with the decision on the Pollock Case.*

In *Evans* v. *Gore*, 253 U.S. 245 (1920), the Supreme Court held (Justice Holmes and Brandeis dissenting) that the Sixteenth Amendment did not authorize an income tax on the salary of a federal judge in view of the fact that the Constitution provided that the compensation of judges "shall not be diminished during their continuance in office." Const. Art. III Sec. 1.

The Court then considered whether the constitutional inhibition against such diminution was modified by the Sixteenth Amendment. After an elaborate analysis of the Sixteenth Amendment the Court concluded that:

"the genesis and words of the Amendment unite in showing that it does not extend the taxing power to new or excepted subjects, but merely removes all occasion otherwise existing for an apportionment among the States of taxes laid on income, whether derived from one source or another." 253 U.S. at 261–2.

Although *Evans* v. *Gore* was overruled in *O'Malley* v. *Woodrough*, 307 U.S. 277 (1939), it is clear from the opinion of Mr. Justices Frankfurter in the latter case that the decision that federal judges could be taxed on their salaries was based on the premise that, as Justices Holmes and Brandeis had said in their dissenting opinion in *Evans* v. *Gore*, a tax on salaries was not a diminution of compensation. Only that portion of the majority opinion in *Evans* v. *Gore* was repudiated and not one word in the opinion in *O'Malley* v. *Woodrough* questions the above-quoted conclusion of the Court in *Evans* v. *Gore* concerning the Sixteenth Amendment.

In *Evans* v. *Gore* the Supreme Court had referred to previous cases in which the Court had considered the Sixteenth Amendment, beginning with the opinion of Chief Justice White in *Brushaber* v. *Union Pacific R.R. Co.*, 240 U.S. 1 (1916) which was the first case involving the scope and meaning of the Sixteenth Amendment. In that case, referring to the text of the Amendment the Chief Justice had declared (240 U.S. at 17–18):

". . . It is clear on the face of this text that it does not purport to confer power to levy income taxes in a generic sense—an authority already possessed and never questioned—or to limit and distinguish between one kind of income taxes and another, but that the whole purpose of the Amendment was to relieve all income taxes when imposed from apportionment from a consideration of the source whence the income was derived. Indeed, in the light of the history which we have given and of the decision in the *Pollock Case* and the ground upon which the ruling in that case was based, there is no escape from the conclusion that the Amendment was drawn for the purpose of doing away for the future with the principle upon which the *Pollock Case* was decided, that is, of determining whether a tax on income was direct not by a consideration of the burden placed on the taxed income upon which it directly operated, but by taking into view the burden which resulted on the property from which the income was derived, since in express terms the Amendment provides that income taxes, from whatever source the income may be derived, shall not be subject to the regulation of apportionment."

The *Brushaber* case was decided on January 24, 1916. On February 21, 1916, the Supreme Court handed down the decision in *Stanton* v. *Baltic Mining Co.*, 240 U.S. 103 (1916). The decision was unanimous and again the Court reiterated the rule

". . . that the provisions of the Sixteenth Amendment conferred no new power of taxation . . ." 240 U.S. at 112.

In *Peck & Co.* v. *Lowe*, 247 U.S. 165 (1918), the Supreme Court decided that the net income of a corporation derived from exporting goods was not a tax on exports prohibited by the Constitution. The unanimous opinion of the Court stated:

"The sixteenth amendment, although referred to in argument, has no real bearing and may be put out of view. As pointed out in recent decisions, it does not extend the taxing power to new or excepted subjects, but merely removes all occasion, which otherwise might exist, for an apportionment among the States of taxes laid on income, whether it be derived from one source or another." 247 U.S. at 172–3.

Two years later, in *Eisner* v. *Macomber*, 252 U.S. 189, 206 (1920), the Court said:

"As repeatedly held, this did not extend the taxing power to new subjects, but merely removed the necessity which might otherwise exist for an apportionment among the States of taxes laid on income."

In 1926 in *Metcalf & Eddy* v. *Mitchell*, 269 U.S. 514, 521, Mr. Justice Stone flatly declared:

". . . the sixteenth amendment did not extend the taxing power to any new class of subjects."

Five years later, in *Willcuts* v. *Bunn*, Chief Justice Hughes, 282 U.S. 216, 226 (1931), speaking for a unanimous Court which held capital gains on the sale of public securities to be taxable, reiterated the rationale of the rule as follows:

"In the case of the obligations of a State or of its political subivisions, the subject held to be exempt from Federal taxation is the principal and interest of the obligations. *Pollock* v. *Farmers' Loan & Trust Company*, supra. These obligations constitute the contract made by the State, or by its political agency pursuant to its authority, and a tax upon the amounts payable by the terms of the contract has therefore been regarded as bearing directly upon the exercise of the borrowing power of the Government."

Again in *James* v. *Dravo Contracting Co.*, 302 U.S. 134, 153 (1937) Chief Justice Hughes restated the reason for income tax immunity of state and municipal bond interest as follows:

"There is no ineluctable logic which makes the doctrine of immunity with respect to government bonds applicable to the earnings of an independent contractor rendering service to the Government. That doctrine recognizes the direct effect of a tax which 'would operate on the power to borrow before it is exercised' (*Pollack* v. *Farmers Loan & Trust Co., supra*) and which would directly affect the Government's obligations as a continuing security. *Vital considerations are there involved respecting the permanent relations of the Government to investors in its securities and its ability to maintain its credit—considerations which are not found in connection with contracts made from time to time for the services of independent contractors.*" (Emphasis supplied.)

And again, in *Helvering* v. *Mountain Producers Corporation*, 303 U.S. 376, 386 (1838) the Chief Justice repeats that:

"A tax on the interest payable on state and municipal bonds has been held to be invalid as a tax bearing directly upon the exercise of the borrowing power of the Government (*Weston* v. *Charleston* * * *; *Pollack* v. *Farmer's Loan & Trust Co.* * * *)."

In the previous year Mr. Justice Cardozo had also pointed out in *Hale* v. *Iowa State Board*, 302 U.S. 95, 107 (1937).

"By the teaching of the same (*Pollack*) case an income tax, if made to cover the interest on Government bonds, is clog upon the borrowing power such as was condemned in *McCulluch* v. *Maryland* * * * and *Collector* v. *Day* * * *."

And in *Helvering* v. *Gerhardt*, 304 U.S. 405 (1938), in upholding a federal income tax as applied to salaries of the employees of the Port Authority, Chief Justice Stone also referred to the hazard of impairing the borrowing power, stating that the immunity doctrine had been sustained:

"where * * * the function involved was one thought to be essential to the maintenance of a state government: as where the attempt was * * * to tax income received by a private investor from state bonds, and thus threaten impairment of the borrowing power of the state, *Pollock* v. *Farmers' Loan & Trust Company*, 157 U.S. 429; cf. *Weston* v. *Charleston, supra*, 465–466."

The rationale of the *Helvering* v. *Gerhardt* case was followed in *Graves* v. *New York ex rel O'Keefe*, 306 U.S. 466 (1939) in which the Court held that the salary of an employee of the Home Owners Loan Corporation was not immune from state income tax. Both these cases relate to the same question whether intergovernmental immunities extend to the salaries of employees: *Gerhardt* to a federal income tax applicable to state employees and *O'Keefe* to a state income tax applicable to federal employees.

It is noteworthy that in the *Gerhardt* case Mr. Justice Stone pointed out that the *Pollock* case had no application because, as distinguished from the income taxation of public salaries, the income taxation of public securities would "threaten impairment of the borrowing power of the state." The *O'Keefe* case does not refer to the *Pollock* case, probably because of the Government's position that the income taxation of public securities was essentially different.

In his argument in *Graves* v. *O'Keefe* before the Supreme Court, Solicitor General Robert Jackson, later Justice of the Supreme Court, had explained that the Government accepted the distinction drawn by Chief Justice Stone in the *Gerhardt* case and had emphasized that where deals with a debtor-creditor relationship, the borrower is the one who is burdened. The Solicitor General said that it was *the presence of an actual burden upon the public instrumentality which issues public securities which distinguished the taxation of the interest on public securities from the taxation of the salaries of public employees.*

More recently, the Supreme Court has invalidated federal regulation which unduly interferes with the performance of sovereign or governmental functions of the

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"Section 2. Each State shall have power to lay and collect taxes on income derived by its residents from securities issued, after the ratification of this article, by or under the authority of the United States, but without discrimination against income derived from such securities and in favor of income derived from securities issued after the ratification of this article, by or under the authority of such State."

states. In *National League of Cities* v. *Usery*, 426 U.S. 883, 855 (1976), the Supreme Court held unconstitutional the application of the Fair Labor Act's minimum wage and maximum hour provisions to the states. The opinion states:

"Congress may not exercise . . . power so as to force directly upon the states its choices as to how essential decisions regarding the conduct of integral governmental functions are to be made."

Like the application of the Fair Labor Standards Act considered by the Supreme Court in *National League of Cities* v. *Usery*, the imposition of a tax on the obligations of the states (as well as their political subdivisions) would "operate to directly displace the States' freedom to structure integral operations in areas of traditional governmental functions" (426 U.S. 852) by increasing pressures on state budgets, a natural result of higher borrowing costs caused by the diminution in value of interest received by the holders of state obligations. The borrowing power of the states (as well as their political subdivisions) is certainly central to their ability to conduct their traditional operations and to provide the services traditionally furnished by them to the public.

The evidence is overwhelming that the views of Congress and the Supreme Court on the scope of the Sixteenth Amendment correctly express the purpose and meaning of the Amendment. That purpose was to permit Congress to levy and assess taxes on income without complying with the impracticable rule of apportionment according to population. Before the Amendment, Congress had the power to lay income taxes, but not without apportionment. After the Amendment, Congress need not apportion. The history of the Amendment proves that it was never intended to repeal the constitutional doctrine of reciprocal immunity from taxation of state and federal instrumentalities and obligations.

3. *The history of the adoption of the Sixteenth Amendment confirms the Congressional and Supreme Court construction of its intent and meaning.*

Sixty years ago President Taft sent a special message to Congress in which he urged a constitutional amendment which would confer upon the national government

"the power to levy an income tax * * * without apportionment among the states in proportion to population."

The President urged Congress not to reenact the 1894 income tax law which had been declared unconstitutional, saying:

"For the Congress to assume that the court will reverse itself, and to enact legislation on such an assumption, will not strengthen popular confidence in the stability of judicial construction of the Constitution." 44 Cong. Rec. (June 16, 1909) p. 3344.

Previous to President Taft's special message, Senator Brown of Nebraska had offered a resolution for a constitutional amendment to the effect that "The Congress shall have power to lay and collect taxes on incomes and inheritances." Upon being informed in debate that Congress already had both of the powers in question and that only the rule of apportionment stood in the way of federal income taxation, Senator Brown offered, a few days later, a second resolution which read that "The Congress shall have power to lay and collect direct taxes on income without apportionment among the several states according to population." 44 CONGRESSIONAL RECORD pp. 1548, 1568-9, 3377. The Senate Finance Committee soon reported a resolution for a constitutional amendment in which the words "direct taxes" were changed to "taxes" and after "income" the words "from whatever source derived" were inserted. The proposed amendment then read:

"The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States, and without regard to any census or enumeration." 44 CONGRESIONAL RECORD p. 3900.

The Committee gave no explanation of the reason for these changes.[3] However, the reason for the two changes is clear. The words "direct taxes" in Senator Brown's proposal would require explanation because it was not obvious why the amendment should only provide that direct taxes need not be apportioned. Hence, to eliminate the ambiguity of "direct taxes" the committee provided that taxes on income "from whatever source derived" need not be apportioned. Senator Brown's proposed amendment as clarified by the Senate Finance Committee did not grant power to Congress to lay and collect a tax on incomes; Congress already had plenary power to levy income taxes under Article I, Section 8 of the Constitution (quoted *supra* at p. 4). The phrase "from whatever source derived" was simply another way of saying that Congress need no longer apportion any tax on incomes, irrespective of the source of the income; that was the sole purpose of the Amendment proposed by President Taft and introduced by Senator Brown.

The debate in Congress took one day in the Senate and one day in the House. The joint resolution proposing the amendment as redrafted by the Committee passed both houses and was immediately submitted to the states. No consideration was given at all to the question of the taxation of income from state and municipal bonds. The matter simply was not discussed. There was no indication that anyone sought to overturn the doctrine that state and municipal bond interest was immune from federal taxation which had been unanimously established in the *Pollock* case.

On January 5, 1910, Governor Hughes of New York submitted the amendment to the Legislature with a message calling attention to the words "from whatever source derived," suggesting that this might permit the taxation of income from state and municipal obligations, and questioning whether the amendment should be ratified.

On February 10, 1910, Senator Borah spoke in the Senate in answer to Governor Hughes' objection, stating in substance that no such meaning could be attached to the amendment. 45 Cong. Rec. 1694-9. He was followed by Senator Brown who concurred with Senator Borah's interpretation. Later, Senator Brown pointedly suggested that Governor Hughes stood alone in his fear.

"It is a very significant fact that this amendment which was pending in Congress for days and was the subject of discussion by Congress and the press, should never have met this criticism while it was pending. In its present form it had the support of a unanimous Senate and a practically unanimous House of Representatives, who were all, judged by their votes, in favor of conferring this power on Congress, and yet no one in Congress ever suggested any change in the language of the resolution or proposed an amendment thereto to cover the objection now made.

"Nor did any distinguished Governor from any of the 46 States, all of whom are now very loud in their protestations that the Government should have the power to tax incomes without apportionment, ever suggest that the amendment should have been modified in form in any respect. In this body the State of New York enjoys representation of the very highest character and most eminent ability, and yet New York on the roll call, as shown in the Congressional Record, was in favor of this amendment as it passed Congress, and was silent as to any suggestion that the language was faulty.

* * * * *

"The amendment does not alter or modify the relation today existing between the States and the Federal Government. That relation will remain the same under the amendment as it is today without the amendment. It is conceded by all that the Government cannot under the present Constitution tax state securities or state instrumentalities." 45 Cong. Rec. 2245-6 (Feb. 23, 1910).

On February 17, 1910, Senator Elihu Root of New York, a strong advocate for the amendment, wrote to New York State Senator Davenport giving his reasoned opinion that the amendment did not affect the immunity of state and municipal obligations. Senator Root wrote:

"Much as I respect the opinion of the Governor of the State, I cannot agree with the view expressed in his special message on January 5, and as I advocated in the Senate the resolution to submit the proposed amendment, it seems appropriate that I should state my view of its effect.

* * * * *

"The proposal followed the suggestion of the Supreme Court in the *Pollock* case.

"The evil to be remedied was avowedly and manifestly the incapacity of the National Government resulting from the decision that income practically could not be taxed when derived either from real estate or from personal property, although it could be taxed when derived from business or occupation.

"The terms of the amendment are apt to cure that evil and to take away from the different classes of income considered by the court a practical immunity from taxation based upon the source from which they were derived." 45 CONGRESSIONAL RECORD p. 2539-40 (Mar. 1, 1910).

Thus, three United States Senators sought to allay any doubt held by Governor Hughes. No other member of Congress or any Governor[4] expressed any other view.

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[3] The only colloquy which took place when the revised resolution was reported to the Senate is found in 44 Cong. Rec. 3900.

[4] In a message to the New Jersey Legislature, dated February 7, 1910, John Franklin Fort, Governor of New Jersey, said:

"* * * Nor am I inclined to accept the statement that the Supreme Court of the United States might construe the words 'from whatever source derived' as found in the pending amendment as justifying the taxing of the securities of any other taxing power."

On February 23, Senator Brown, referring to the message of Governor Fort, of New Jersey, said:

"It cheers our hearts to read in the press that President Taft agrees with the Governor of New Jersey, who, in a message to his legislature February 7 and since the New York message was transmitted, took immediate and direct issue with the governor of New York." (45 Cong. Rec. p. 2245)

That Governor Hughes' doubts were set at rest is shown by his opinions after he became Chief Justice, in *Willcuts* v. *Bunn (supra, p. 13), James* v. *Dravo Contracting Co. (supra, p. 13)* and *Helvering* v. *Mountain Producers Corporation (supra, p. 14).*

No one would doubt that if the states and their municipalities were to attempt to impose state or local taxes upon interest received by their residents from obligations of the Federal government, such a levy would be unconstitutional in the absence of consent by Congress to such taxation. *Weston* v. *City of Charleston,* 2 Pet. (U.S.) 449 (1829). And this is so even though it is universally accepted that the state legislatures possess plenary power to tax, subject only to the limitations of their state constitutions.

It is our opinion that the unanimous holding in the *Pollock* case, reaffirmed so many times after the Sixteenth Amendment, that interest on state and municipal securities is free from Federal income taxation under the Constitution would be again reaffirmed by the Supreme Court and that therefore any bill considered by this committee which would impose a minimum tax applicable to such interest would be unconstitutional.

C. To the extent that a minimum tax would apply to interest on local housing authority and agency obligations it would also be unconstitutional under the Fifth Amendment.

It is our opinion that if a minimum tax applied to the interest on bonds of local public housing authorities issued to finance low rent housing, slum clearance and urban renewal projects, the tax would violate the Fifth Amendment to the Constitution.

The United States Housing Act of 1937 provides as follows:

"Obligations, including interest thereon, issued by public housing agencies in connection with low-income housing projects shall be exempt from all taxation now or hereafter imposed by the United States." 42 U.S.C.A. 1437i(b).

The Housing Act of 1949 provides in section 102(g) as follows:

"Obligations, including interest thereon, issued by local public agencies for projects assisted pursuant to this subchapter, and income derived by such agencies from such projects, shall be exempt from all taxation now or hereafter imposed by the United States." 42 U.S.C.A. 1452(g)./

Each of the above-quoted provisions of the United States Housing Act of 1937 and the Housing Act of 1949 that the obligations of local housing authorities and agencies "including interest thereon***" shall be exempt from all taxation now or hereafter imposed by the United States constitutes a statutory contrat between the federal government and the holders of such obligations. In our opinion, to deprive such holders to any extent of their immunity from federal taxation on the interest which they receive from such obligations impairs the obligation of the contract in violation of the Fifth Amendment which "protects rights against the United States arising out of a contract." *Lynch* v. *United States,* 292 U.S. 571 (1933). See also *Farmers and Mechanics Savings Bank* v. *Minnesota,* 223 U.S. 516, 528 (1913).

Mr. STEVENS. I yield to the Senator from Iowa such time as he may desire.

TARGETED JOBS TAX CREDIT: SUMMER JOBS

Mr. GRASSLEY. Mr. President, during consideration of the Tax Equity and Fiscal Responsibility Act by the Committee on Finance, one of my amendments was adopted extending the targeted jobs tax credit to economically disadvantaged youths. One of the targeted groups eligible to receive the credit under current law is economically disadvantaged youth between the ages of 18 and 24. If an employee is certified, an employer receives a credit of up to 50 percent of the first $6,000 of wages paid to a certified employee under current law.

My provision extends the targeted jobs tax credit to 16- and 17-year-olds from economically disadvantaged backgrounds. Under the new provision, the employer of an eligible teenager could claim an 85 percent credit on the first $3,000 of wages paid. An employee will be eligible for this credit during any 90-day period between May 1 and September 15. The young person who wishes to qualify for this credit must seek certification from the Department of Labor or Treasury. A teenager is eligible for this special credit only once; however, the young person is eligible to use the regular targeted jobs tax credit once they reach 18.

In my view, this bill has a very important purpose. Teenage unemployment is reaching record levels. The unemployment rate for 16–19 year olds in June measured on a seasonally adjusted basis was 22.3 percent. The unemployment rate for 16–19 year old black teenagers in June was 52.6 percent. When I introduced a bill in March with substantially the same content as this committee amendment, teenage unemployment was 21.9 percent; in 4 months the unemployment figure has increased to 22.3 percent. The increase in black teenage unemployment is even more dramatic—the umemployment rate has increased from 42.2 percent in March to 52.6 percent this June. The waste of human resources shown in the increase of these figures underscores the need for this legislation.

The purpose of this tax credit is to encourage employers to hire workers who traditionally have a difficult time finding a job. Members of economically disadvantaged families often lack the family connections helpful to young workers trying to find their first job. This credit is designed to give young workers from economically disadvantaged families an added boost in landing their first job.

This provision will also lessen some of the harmful effects enactment of the minimum wage laws had on teenage employment. While the minimum wage laws have been helpful in enabling older workers to better support their families, the higher cost of labor has diminished the number of jobs. Since teenagers are usually competing for the lowest paying jobs, as the wage base increase teenagers are facing a smaller job market and competing with experienced workers. The additional incentive of the tax credit should increase teenage employment and make teenagers more competitive vis-a-vis the rest of the labor force.

An individual's first job is an important landmark in their own personal development. It is also an important event for the society as a whole—it enables an individual to be a contributing member of society and better understand his or her relationship to the surrounding world. it makes the entire society a more productive and integrated unit. I believe that this program will be the best vocational education program we could adopt. It will give teenagers a tremendous opportunity to acquire work experience. I am pleased that this provision was included within the tax bill and I thank the committee members for their favorable consideration of this addition.

Mr. President, I would like to be recognized to thank my colleagues on the Committee on Finance for including a provision within the extension of the targeted jobs tax credit which will enable general assistance recipients in Polk County, Iowa, to take advantage of the credit.

The targeted jobs tax credit is a credit which may be claimed by an employer for hiring an individual from one of seven targeted groups. These groups are vocational rehabilitation referrals, economically disadvantaged youths, economically disadvantaged Vietnam era veterans, SSI recipients, general assistance recipients under State and local programs, some cooperative education students and economically disadvantaged ex-convicts. After an employee is certified by the Department of Treasury or Labor to be a member of one of these targeted groups, an employer may claim up to one-half of that employee's first year wages up to $6,000. The employer may claim a 25-percent credit for the first $6,000 of wages paid to a certified employee in his or her second year of employment.

The most populous county in Iowa, Polk County, cannot have its general assistance recipients qualify for the targeted jobs tax credit. Why? Recipients of general assistance in Polk County receive vouchers to purchase a fixed dollar amount of food, clothing, and other necessities of life rather than cash. Both the statute and the House Ways and Means Committee report required that general assistance payments be money payments to individuals based on need.

The Finance Committee adopted my suggestion that general assistance recipients who receive voucher or script rather than cash may be eligible to be certified employees for purposes of the targeted jobs tax credit. This change will enable many general assistance recipients throughout the Nation to qualify for the targeted jobs

tax credit and hopefully get a toehold in the job market. I thank the members of the committee for accepting this change of great importance to the people of Polk County.

ADOPTION OF TITLE IV OF H.R. 4961, VIOLATED THE RULES AND PROCEDURES OF THE SENATE

● Mr. CHILES. Mr. President, yesterday the Senate debated the appropriateness of adding the reauthorization of airport development aid program to the Reconciliation Tax Measure, H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982. I regret that I was not present in the Senate or in fact in the city to vote against the inclusion of title IV in that tax measure. Had I been present, I would have voted to both overturn the rule of the Chair which found title IV to be germane, and I would have voted in favor of the motion to recommit the entire bill to the Senate Committee on Finance with instructions to report back with title IV omitted.

The ruling of germaneness occurred on the amendment of Senator PACKWOOD to essentially replace title IV with almost identical language. The purpose of the Packwood amendment was to gain a rule from the Chair that the amendment was germane. The Chair reasoned that the amendment was germane because it was germane to the original text of title IV even though the Chair conceded that the original text was not germane to the bill itself. The Packwood amendment was ruled germane to a portion of the bill that had not yet been adopted by the Senate and for which no similar matter existed in a House bill. I believe that the ruling of the Chair was incorrect, and I further believe that it creates a very poor precedent. It now means that any matter reported by any committee can be ruled germane by the process used by Senator PACKWOOD yesterday in direct violation of paragraph 5 of rule 15. This I believe does great damage to the committee system of the Senate.

I also objected to the inclusion of title IV on H.R. 4961 because I believe it violates our budget reconciliation process. This matter is totally extraneous in my view to the tax measure required by the reconciliation instructions included in the first concurrent budget resolution for fiscal year 1983. If we continue to use the budget act and the reconciliation process as it was not intended, we only threaten its continued existence.

I, like most of my other colleagues in the Senate, did not on balance object to title IV on its merits. In fact, the vote of 93 to 5 to support title IV showed that it was strongly supported and the objections to it were procedural. I, for example, was pleased to vote for the measure on its substance with two reservations. As one of the original cosponsors of S. 1272, I felt the aviation fuel taxes established by title IV were too high. The tax level, while too high, at least will be frozen for 5 years and does not escalate by 2 cents a gallon each year as originally proposed by the administration. I believe that if the Administration does not move forward to use the revenues from the trust fund as is intended to enhance our airport and airway system instead of letting enormous surpluses to continue to accumulate, efforts will soon be made to reduce the taxes, and I will join such an effort. I also objected to the very high levels authorized for transfers out of the trust fund to fund the normal operations of the Federal Aviation Administration. I believe this impediment, however, can be addressed through the appropriations process, and I will be working toward that end.

On balance, however, I strongly support the reauthorization of the airport development aid program as provided for in title IV of H.R. 4961 and was particularly pleased to support a 5-year extension of authorizations for adequate funding levels.●

COLORADO RELIEVER AIRPORTS

● Mr. ARMSTRONG. Mr. President, one section of the pending legislation is of particular importance to my constituents in Colorado: The reauthorization of the Airport and Airway System Development Act. Without this legislation, many airports in Colorado will continue to suffer from the lack of badly needed funds for improvements.

It is no secret to any of my colleagues who fly through the West that Stapleton International Airport in Denver is among the Nation's most overcrowded. The Denver area has two very small reliever airports, and another on the drawing board. I have often said that such reliever airports—designed to take commuter traffic, general aviation, and other small aircraft—out of the Stapleton lineup is one of the best answers to the immediate problem. But this solution is dependent on funds from the ADAP program that are needed to construct the third reliever (the Adams County Airport), the new runway at existing Arapahoe County Airport, and expansion of the Jefferson County Airport.

Other airports throughout the State are also dependent on this fund for one project or another. The Weld County Airport is the third largest in the Rocky Mountain Region, exceeded only by Stapleton and Salt Lake City airports and supporting over 200,000 yearly operations. The airport has been listed as eligible for a control tower for years, but still does not have one. The FAA routinely requires control tower data from the Weld County Airport—data that cannot be supplied.

The Montrose Airport has seen a tremendous expansion in business over the past few years, as the Western Slope of Colorado has grown dramatically. Yet funds for the new runway needed to allow continued jet service to the area are not available without this legislation.

The same problem has confronted the Durango Airport for several years. Since Frontier Airlines has phased out the smaller propjets and began jet service, an instrument landing system is vital to communities where Frontier's service is important. Durango has finally received approval for the ILS, but it has not been installed yet. Funds from the ADAP program are extremely important in finishing this project.

There are a number of other airports throughout Colorado that are in dire need of funding for various improvements—those in Pueblo, Cortez, Alamosa, and Grand Junction among them. The modernization of airports in Colorado is particularly important, since the difficulty of flying over dangerous mountains emphasizes the need for the most modern equipment.

It is important to note that the people who use these airports and those who benefit from the services are willing to pay for them. It is not a situation where the taxpayers are again being asked to fork over money for someone else. Like the Highway User's Trust Fund, the ADAP program is financed entirely by user fees. The program is financed by taxes on passenger tickets, cargo, aviation fuel, and tires. This money goes directly into the Airport and Airways Trust Fund, and in turn is allocated for improvements to airports and airway facilities.

This program authorization, for the period ending in 1987, will result in the expenditure of around $800 million for each of the 5 years on airport development. Another $7.5 billion will be available for rebuilding our air traffic control system, and the fund will still end up in 1987 with a $1.3 billion surplus.

In the context of the Colorado airport problems, it is extremely important to note that the bill contains a minimum guarantee of 10 percent for reliever airports. This will require that the Secretary spend at least $510 million on reliever airports nationwide. There are 212 reliever airports planned in the Nation, 155 already constructed, and approximately $1 billion needed for reliever airports according to the national airport system plan. In the past, $15–$25 million has generally been the annual amount appropriated for relievers. So the quantum jump to $510 million over the life of this bill represents a major victory for proponents of relievers.

Mr. President, I support this legislation and must commend Senator DOLE, Senator PACKWOOD, Secretary Drew Lewis, and others who worked on this bill for the splendid job they have done in getting this important author-

ization to the floor of the Senate and on the eventual enactment.●

SECTION 316 RELATING TO "TIPPED EMPLOYEES"

● Mr. CANNON. Mr. President, yesterday I detailed some of my objections to the adoption of section 316 of H.R. 4961, the Tax Equity and Fiscal Responsibility Act. I would like to take another opportunity, Mr. President, to add to my discussion and to tell my colleagues why this section of the bill is unworkable and premature.

First, I would like to once again take strong exception to the Finance Committee's statistical statements. In the committee report it states that 84 percent of the income from tips went unpaid in 1981. What this means, Mr. President, is that the compliance rate for tip income is only 16 percent. Mr. President, I simply find this figure hard to believe. I would like to take this time to point out to my colleagues the flimsy foundation that the committee's statement rests on. Exactly how did the committee arrive at this 84 percent compliance rate, Mr. President?

The committee itself admits that their compliance rate is only a "preliminary" estimate based on data supplied by the Department of Commerce to the Internal Revenue Service. Try as I might, I have not been able to secure any hard data on how this rate was calculated and arrived at. A bigger question, however, is: Does this compliance rate apply to all tipped employees or only to employees of food and beverage establishments? I strongly question the committee's statement, Mr. President, for it appears to me that there simply is no specific study by either the IRS or Department of Commerce that I can find to support this compliance rate statement. It seems to me that this figure was "invented." That is to say, it was extrapolated from unrelated national income data and supplemented by a myriad of assumptions. Now, Mr. President, I do not believe that this type of a process is one that we can all rely on. The fact is that no one knows how much tip income, if any, goes unreported for the food and beverage industry or, for that matter, any other industry.

I think, Mr. President, that we need to look at this issue in some detail before any action of this kind is taken. Indeed, I believe that we need to undertake a comprehensive study on the compliance rate for tip income from the employees of food and beverage establishments. In this way, we can have sound evidence upon which to rely—evidence that we simply do not have at this time.

Mr. President, I have spent a considerable amount of time visiting with employees of food and beverage establishments in my State—the very taxpayers that this bill points to as being only slightly better than those who do not report illegal income. Mr. President, I must say that I cannot believe we are lumping the hard-working, honest taxpayers that I have met and talked with into a group of noncompliants that includes criminals and drug dealers. As I indicated in my statement yesterday, these are people who, according to the Bureau of Labor Statistics, were making less than the minimum wage in 1979.

What about the employers of these taxpayers? Once again, they are saddled with the burden of more paperwork, more recordkeeping. Mr. President, it is the responsibility of the Internal Revenue Service to audit taxpayers. The employer should not be placed in a position where he or she is required to make an allocation of the amount of tips that an employee receives. Indeed, the Finance Committee bill requires that 7 percent of all gross receipts be allocated among all tipped employees and that each employee's share be reported by the employer to the IRS. What is the reason for this 7 percent? How was it selected? There is nothing in the report which explains how this percentage was arrived at. It seems to me that it is an arbitrary number, founded on no evidence or data that I can see.

Furthermore, there is no simple or fair way in which to allocate each employee's share of tips. It is an extremely complicated and cumbersome arrangement to make this estimate. The numbers of food and beverage employees that would have to be considered is tremendous. And, this does not even take into account the current arrangements in many establishments of tip pooling or sharing.

Once again, Mr. President, I must say to my colleagues that I cannot accept this provision; and, if it is enacted even over my vehement objections, I would sincerely hope that it would be eliminated when this measure goes to conference.●

ORDER OF PROCEDURE

Mr. STEVENS. Mr. President, now leaving the tax bill, I will soon ask the Chair to lay before the Senate Calendar No. 690, S. 2133. Before I do that, Mr. President, let me inquire of the Senator from California if he desires to make a statement first.

Mr. CRANSTON. Would the distinguished acting majority leader permit Senator JACKSON to go first?

Mr. STEVENS. That is what I intended to do, but the Senator from California mentioned he wanted to proceed.

Mr. CRANSTON. I would yield to the Senator from Washington.

BUDGET ACT WAIVER

Mr. STEVENS. Mr. President, this matter has been cleared by the distinguished minority leader.

Mr. President, I ask the Chair to lay before the Senate Calendar No. 708, S. Res. 418, a Budget Act waiver.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 418) waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2133.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 418) was agreed to, as follows:

S. RES. 418

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2133. Such waiver is necessary because S. 2133, as reported, authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MOUNT ST. HELENS NATIONAL VOLCANIC AREA ACT OF 1982

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 690, S. 2133.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2133) to designate certain lands in the State of Washington as a National Volcanic Area, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be cited as the "Mount St. Helens National Volcanic Monument Act of 1982".

SEC. 2. (a) In furtherance of the purposes of this Act, certain lands within and adjacent to the Gifford Pinchot National Forest, Washington, which comprise approximately one hundred and five thousand four hundred acres, as generally depicted on a map entitled "Mount St. Helens National Volcanic Monument," dated May 1982, are hereby designated as the Mount St. Helens Nation-

al Volcanic Monument (hereinafter referred to as the "monument") to be administered by the Secretary of Agriculture through the United States Forest Service.

(b) As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture (hereinafter referred to as the "Secretary") shall file a map and a legal description of the monument established under subsection (a) with the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such map and description shall have the same force and effect as if included in this Act: Provided, That correction of clerical and typographic errors in such legal description may be made.

SEC. 3. (a) The Secretary shall administer the monument in accordance with provisions of law applicable to units of the national forest system and the provisions of this Act in a manner so as to protect the significant geologic, biologic, ecologic, cultural, and human interest features of the area; to facilitate opportunities for continued scientific research in a manner consistent with the perpetuation of the significant features of the area; to provide for the interpretation of volcanic and other features for public education and enjoyment; and to provide for recreational and interpretative facilities and opportunities for the use of the public, including public access where appropriate, which are compatible with the purposes for which the monument is established.

(b) Subject to valid existing rights, all Federal lands within the monument are hereby withdrawn from all forms of entry or appropriation or disposal under the public land laws, and from location, entry and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(c) Commercial timber harvesting shall be permitted within the monument boundaries only as may be necessary to control fire, insects, disease, and other agents that might endanger irreplaceable features within the monument or would cause substantial damage to significant resources adjacent to the monument, or would endanger public safety.

(d) In order to protect the significant features of the monument, reduce user conflicts, and ensure visitor safety, the Secretary is authorized to control times and means of access and use of the monument or parts thereof: *Provided*, That nothing in this section shall be construed as to prohibit the use of motorized vehicles, aircraft or motorboats for emergency and other essential administrative functions, or when necessary, for continued authorized scientific research.

(3) Hunting and fishing shall be permitted within the monument in accordance with applicable Federal and State laws. The Secretary in cooperation with State agencies may designate zones and establish periods when no hunting or fishing shall be permitted for reasons of public safety, administration, or public use and enjoyment. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Washington with respect to wildlife and fish within the monument.

SEC. 4. Nothing in this Act shall prohibit the Secretary from undertaking or permitting those measures within the monument reasonably necessary to ensure public safety and prevent loss of life and property.

SEC. 5. Nothing in this Act shall be construed as authorizing or directing the establishment of protective perimeters or buffer zones around the monument for the purpose of precluding activities outside the monument boundary which would otherwise be permitted under applicable Federal, State, or local law. Nothing in this Act shall be construed as limiting the existing authority of the Secretary to take actions on Federal lands adjacent to the monument necessary to protect public health and safety in emergencies involving volcanic activity.

SEC. 6. The Secretary is directed to prepare and submit to the Senate Committee on Energy and Natural Resources and the Committee on Interior and Insular Affairs of the House of Representatives within two years of enactment of this Act a management plan for the monument utilizing, among other information, the data included in the Mount St. Helens Land Management Plan, dated October 1981.

SEC. 7. (a) In furtherance of the purposes of this Act, the Secretary is authorized and directed to acquire in an expeditious manner, the non-Federal lands and interests therein within the boundaries of the monument by exchange, purchase with donated or appropriated funds, or donation: Provided, That land owned by the State of Washington shall be acquired only by donation or exchange.

(b) It is the intent of Congress that, to the maximum extent practicable, non-Federal lands and interests within the monument be acquired expeditiously by exchange. Exchanges shall be on the basis of equal value and either party to the exchange may pay or accept cash in order to equalize the value of the property or interests exchanged. It is the sense of the Congress that the exchanges authorized pursuant to this section should be completed within ninety days after the date of the enactment of this Act, except that in the case of mineral and geothermal rights, such exchanges should be completed within one year after such enactment.

(c) Subject to valid existing rights and notwithstanding any other provision of law, the Congress finds that the following Federal lands are suitable for exchange under the terms of this section and so much of these lands and interests as the Secretary determines necessary to equal the value of non-Federal land to be acquired pursuant to subsection (a) of this section, shall be made available for exchange:

WILLAMETTE MERIDIAN

Township 10 North, Range 5 East
Section 6 (portion),
Section 7 (portion).

Township 11 North, Range 5 East
Section 28 (portion),
Section 29 (portion).

Township 8 North, Range 4 East
Section 29,
Section 30,
Section 32.

Township 13 North, Range 3 East
Section 6.

Township 14 North, Range 3 East
Section 10,
Section 16,
Section 20.

Township 7 North, Range 5 East
Section 2 (portion),
Section 3.

Township 7 North, Range 6 East
Section 1 (portion),
Section 2,
Section 4,
Section 6,
Section 8,
Section 10,
Section 14 (portion),
Secton 22.

(d) Nothing in this Act shall affect any prior contractual obligation of BN Timberlands, Incorporated or Weyerhaeuser Company regarding lands owned by them and included in an exchange pursuant to this Act nor shall such obligations be transferred by this legislation to the United States.

(e) Notwithstanding any other provision of law, and subject to valid existing rights, national forest system lands described in subsection (c) are hereby withdrawn from all forms of appropriation under the mining laws and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto for two years beginning upon the date of enactment of this Act.

(f) The identification of the Federal lands described in subsection (c) as suitable for exchange does not vest any legal or equitable rights in such lands to owners of non-Federal lands and interests within the monument, nor does the identification of these lands limit the Secretary's discretion to manage these areas in accordance with applicable law.

(g) In recognition of the rapidly deteriorating nature of much of the timber in the monument, any timber acquired pursuant to this section shall be valued at an amount not less than the fair market value of such timber on July 1, 1982.

(h) Lands and interests acquired pursuant to this section shall become national forest system lands under the jurisdiction of the Secretary to be managed in accordance with this Act and other applicable law.

(i) The National Environmental Policy Act (83 Stat. 852, as amended) or regulations issued thereunder shall not be construed in whole or part to require the preparation or submission of an environmental assessment or environmental impact statement for any exchange or acquisition made in furtherance of this Act.

SEC. 8. (a) The exterior boundary of the Gifford Pinchot National Forest in the State of Washington, is hereby modified to include approximately fifteen thousand additional acres in Cowlitz County, as generally depicted on the map referenced in section 2 of this Act.

(b) For the purposes of section 7(a)(1) of the Land and Water Conservation Fund Act of 1965 (78 Stat. 897), as amended, the boundary of the Gifford Pinchot National Forest, as modified by this section, shall be treated as if it were the boundary of that forest on January 1, 1965.

SEC. 9. (a) There is hereby established the Mount St. Helens Scientific Advisory Board. The purpose of the Board shall be to advise the Secretary with respect to the management measures needed to protect the natural and scientific values of the monument. The Board may also make recommendations to the Secretary as to research opportunities which may exist within and adjacent to the monument.

(b) The Board shall be composed of nine members, who shall be individuals with recognized professional standing in appropriate scientific disciplines. Members shall be appointed by the Secretary for terms of three years, as follows:

(1) One member from qualified candidates submitted by the Board of Regents of the University of Washington;

(2) One member from qualified candidates submitted by the Board of Regents of Washington State University;

(3) One member from qualified candidates submitted by the Governor of the State of Washington;

(4) One member from qualified candidates submitted by the Commissioner of Public Lands of the State of Washington;

(5) Three qualified members selected by the Secretary, one of whom shall be designated by the Secretary as Chairperson of the Board; and

(6) Two qualified members selected by the Secretary of the Interior (at least one of whom shall be a professional employee of the United States Geological Survey).

(c) The Secretary, or a designee, shall from time to time, but at least annually, meet and consult with the Board on matters relating to the protection of the monument and the research programs and needs of the area.

(d) Members of the Board shall serve without compensation as such, but the Secretary is authorized to pay, upon vouchers signed by the chairperson, the expenses reasonably incurred by the Board and its members in carrying out their responsibilities under this Act.

(e) Any vacancy in the Board shall be filled in the same manner in which the original appointment was made.

(f) The Board shall terminate nine years from the date of its initial meeting.

SEC. 10. There is hereby authorized to be appropriated to carry out the provisions of this Act, not to exceed $12,000,000 for the fiscal year beginning October 1, 1982, and such sums as may be necessary for each fiscal year thereafter.

Amend the title so as to read: "A bill to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.".

Mr. STEVENS. Mr. President, it is my understanding that the amendment is an amendment in the nature of a substitute from the committee. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Mr. President, I move adoption of the substitute.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The Committee amendment in the nature of a substitute was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1110

(Purpose: To authorize the expenditure of certain revenues from Gifford Pinchot National Forest by Skamania County, Washington)

Mr. GORTON. Mr. President, I send an amendment to the desk on behalf of myself and Senator JACKSON and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the committee text will be considered as original text for the purpose of the amendment.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. JACKSON, proposes an unprinted amendment numbered 1110.

Mr. GORTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Add at the end of the bill the following new section:

"Sec. 11. (a) Notwithstanding the provisions of the last paragraph under the heading "Forest Service." of the Act of May 23, 1908 (16 U.S.C. 500 and of section 13 of the Act of March 1, 1911 (16 U.S.C. 500), of the amount which is paid under such provisions to the State of Washington with respect to Gifford Pinchot National Forest, to be expended for the benefit of Skamania County—

(1) not less than fifty percent shall be expended for the benefit of the public schools of Skamania County, as Skamania County may specify, and

(2) the remainder shall be expended for the benefit of public roads and other public purposes of Skamania County, as Skamania County may specify.

(b) Subsection (a) shall apply to any amount paid by the Secretary of the Treasury under the provisions of law referred to in subsection (a) of the end of any fiscal year ending before the date of the enactment of this Act."

Mr. GORTON. Mr. President, this amendment involves the internal distribution of funds within Skamania County, among various units in that county.

Mr. JACKSON. Mr. President, I support the amendment offered by my colleague (Mr. GORTON). The purpose of this amendment is to permit Skamania County to use a portion of the timber receipt moneys it receives from the Federal Government for purposes other than schools and roads. Under current law, Federal timber receipts shared with the counties may only be used for schools and roads. This amendment would permit Skamania County to use up to 50 percent of the moneys it receives for other purposes such as search and rescue, police protection, improved water and sewer systems, and other activities associated with the Volcano.

I think this is a good amendment. It is included in the House-passed bill, and I urge my colleagues to adopt it.

The PRESIDING OFFICER. Is there objection to the amendment?

The amendment (UP 1110) was agreed to.

Mr. JACKSON. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, at 8:32 a.m. on May 18, 1980, after nearly 2 months of tremors and seismic activity, Mount St. Helens, located in southwest Washington State, exploded in a cataclysmic volcanic eruption that displaced an estimated 4 billion cubic yards of material onto the land and into the atmosphere. More than 235 square miles of National Forest, State, and private lands were devastated by the explosion, hot gasses, pumice, mud flows, and ash. The large ash cloud that accompanied the eruption reached 63,000 feet in elevation and drifted around the world. Thirty-four persons were killed and 28 others are still missing and presumed dead. Along with the human tragedy of the event, over 3 billion board feet of timber was downed or destroyed, anandromous-fisheries were severely impacted, as were a large number of wildlife.

This awesome display of nature's power has attracted worldwide attention. Hundreds of studies have been initiated by researchers in the United States, Canada, Japan, and Germany. The unprecedented circumstances created by the volcano are of immeasurable scientific importance. The unique nature of the eruption—including the geologic events and features and the wide variety of unusual biologic impacts—have made Mount St. Helens an area of intense interest for researchers and the general public. The volcano has also become a worldwide tourist attraction.

The U.S. Forest Service released its final environmental impact statement on a land management plan for Mount St. Helens on October 15, 1981. The Forest Service plan would establish an 84,700 acre National Volcanic Area. I believe that special designation status by statute is necessary to preserve and protect the scientific, historic, and natural resources presented by the volcano. In introducing legislation to that effect, it was my intention and that of Senator JACKSON to offer the Forest Service plan as the starting vehicle for holding hearings so that all interested parties could express their views on boundaries, land management plans, and other significant issues concerning the Mount St. Helens volcanic area. As a result of the testimony we received at the hearings, and countless consultations, meetings and letters, and after careful consideration of the interests of the timber industry, environmentalists, conservationists, scientists, state authorities, and the people of Washington State, Senator JACKSON and I offered a compromise substitute to our original bill. The compromise bill includes an area of 105,400 acres, and is an effort to minimize the impact of timber supplies, private lands, and adjacent communities while at the same

time preserving the vital areas around the volcano.

The bill establishes the area as the Mount St. Helens National Volcanic Monument to be administered by the Forest Service, and provides specific management guidance for the area. It directs the Secretary of Agriculture to administer the monument so as to protect the significant geologic, biologic, ecologic, cultural, and human interest features of the area. One of the primary goals of the bill is to facilitate opportunities for continued scientific research in a manner consistent with the perpetuation of the significant features of the area. Another primary objective of the bill is to provide for recreational and interpretive facilities and opportunities for the use of the public, including public access where appropriate.

The bill directs the Secretary to acquire by exchange, purchase, or donation, the approximately 29,000 acres of non-Federal lands located within the boundaries of the National Volcanic Monument. The major landowners in the area, Weyerhaeuser, Burlington Northern, and the State of Washington, have worked closely with the Forest Service to identify specific "pools" of Federal lands from which exchanges will be made. These pools are listed in the bill, and it is stated that the intent of Congress is that these exchanges occur expeditiously. I am pleased to make note of the fact that on May 18, 1982, Burlington Northern donated two unique pieces of property to the U.S. Government: the summit of Mount St. Helens and a 50 acre tract of Spirit Lake.

By designating Mount St. Helens a National Volcanic Monument, the significant geologic features in the impact area of the volcano will be preserved and protected for future generations as well as providing immediate, unique opportunities for public education, interpretation and recreation, and research. After consideration of the competing interests which must be served by this bill, I am confident that the full Senate will approve it.

Mr. JACKSON. Mr. President, on February 24, 1982, Senator GORTON and I introduced S. 2133—a bill to designate an 85,000-acre Mount St. Helens Volcanic Area. The primary purpose of this measure was, and is, to recognize and commemorate legislatively the nationally and internationally significant events which took place at Mount St. Helens on and around May 18, 1980.

As a point of departure, Senator GORTON and I incorporated recommendations of the Forest Service as contained in its October 1981 "Final Land Management Plan for the Mount St. Helens Area" into our bill. At the time we introduced this measure, we indicated that we welcomed suggestions from all parties on how best to improve the draft and make it responsive to particular concerns.

Since February, both Senator GORTON and I have met with many citizens of our State, seeking their imput on this measure. Hearings were conducted both here and in Washington State, and testimony was received from almost 100 witnesses. Similarly, the House has conducted hearings both here and in the field.

I believe that the bill we bring before the Senate today strikes a fair balance. I think the measure is a good compromise that fairly considers the various interests represented here. While no one is totally satisfied with everything in this bill, I think we have been responsive to the main concerns expressed at the hearings and elsewhere.

Our substitute, which was reported favorably from the Committee on Energy and Natural Resources by a vote of 20 to 0, encompasses approximately 105,000 acres. By comparison, we received testimony from various groups supporting areas ranging from 40,000 to 216,000 acres. The Forest Service has recommended 85,000, the State of Washington some 112,000. And Congressman BONKER's bill in the House includes approximately 115,000 acres.

The 20,000 acres of additions contained in the bill as reported were added in an effort to include a representative sample of the many areas recommended for inclusion by the State, U.S. Geological Survey, the scientific community, and conservation groups while at the same time minimizing impacts on timber supplies, private lands, mining, and adjacent communities.

The bill before us today designates the area as a "National Volcanic Monument." The bill as introduced called for a National Volcanic Area. The monument is to be administered by the U.S. Forest Service in accordance with applicable existing law and the specific provisions of the act.

Specific language is included regarding such things as timber harvesting, mining, hunting, and fishing, access, water resource development, as well as a comprehensive statement of the purposes for which the area is to be managed. With regard to those matters not addressed specifically in the draft, the U.S. Forest Service is to utilize its existing authorities contained in other applicable law including the National Forest Management Act, the Forests and Rangeland Renewable Resources Planning Act, Multiple-Use and Sustained Yield Act, and so forth.

Finally, the legislation has always contemplated that the vast majority of the private lands within the area would be acquired by exchange. The major landowners, Weyerhaeuser, Burlington Northern, and the State of Washington, have all indicated a strong interest in blocking up Federal and private ownerships in the area. The draft directs the Secretary to acquire the private lands primarily by exchange and identifies several specific "pools" of lands from which the Secretary is to identify specific lands for exchange.

For the most part, these "pools" have been mutually agreed upon by both the non-Federal landowners and the U.S. Forest Service. This language will help insure an expeditious and mutually agreeable exchange without unreasonable administrative delays. This language will help insure an expeditious and mutually agreeable exchange without unreasonable administrative delays.

In conclusion, Mr. President, I urge the Senate to adopt S. 2133 as reported from the Senate Committee on Energy and Natural Resources. I think it is a fair and balanced bill that will serve the Nation and the State of Washington well.

Mr. President, I ask unanimous consent that a summary of the major changes in the bill as reported from the Senate Committee on Energy and Natural Resources be printed in the RECORD at this point.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

COMMITTEE AMENDMENT

During the consideration of S. 2133, the Committee adopted an amendment in the nature of a substitute offered by Senator Jackson on behalf of himself and Senator Gorton.

The substitute amendment makes three major changes and a number of minor changes in S. 2133 as introduced. A more thorough discussion of the specific provisions of the substitute may be found in the Section-by Section Analysis portion of this report.

Size

As introduced, S. 2133 would have designated an area of approxmately 85,000 acres as recommended in the Forest Service's Land Management Plan completed in October, 1981. The Committee reported bill includes approximately 105,400 acres.

In contrast, the proposal of the state of Washington would designate a Volcanic Area comprising approximately 113,000 acres. The Mount St. Helens Protective Association has advocated a National Monument encompassing approximately 216,00 acres.

The House version, as reported from the Subcommittee on Forests, Family Farms, and Energy of the House Agriculture Committee and the Subcommittee on Public Lands and National Parks of the House Interior and Insular Affairs Committee, comprises approximately 115,000 acres.

The 20,000 acres of additions included by the Senate Energy and Natural Resources Committee in the bill as reported were made in an effort to incorporate a representative sample of a number of the areas recommended for inclusion in the area by the State, scientific community, conservation groups, and others who testified at the hearings in Washington, D.C., and in the

State. At the same time, the new boundary was drawn in a manner so as to minimize the impacts on timber supplies, mining, private lands, and the adjacent communities.

The additions to the bill as introduced and the approximate acreages follow:

Miners Creek	1,315
Polar Star	1,475
Upper Green River	1,935
Smith Creek/Muddy River	4,005
South Fork, Toutle River	460
Goat Marsh Research Natural Area	1,000
Goat Creek	6,670
North Fork, Toutle River	260
Kipuka	1,760
Castle Creek	1,500
Total	20,380

The Committee notes that with regard to the three areas recommended for inclusion in the monument by the USGS (Smith Creek/Muddy River, Upper Green River, and South Fork, Toutle River) portions of each were included in the area and portions of each were left out. With regard to those lands not included, the Committee is aware that a joint memorandum between the USGS and USFS was prepared on April 28 which recognizes the research and scientific values of these areas. The Committee urges the two agencies to continue to work together to ensure that the scientific and research needs in these areas are adequately addressed.

Designation

As introduced, S. 2133 would have established an 85,000-acre "National Volcanic Area." This designation corresponds to the one made administratively by the U.S. Forest Service last Fall. As reported, the bill re-designates the area as a "National Volcanic Monument" to be administered by the Forest Service in accordance with the laws generally applicable to the National Forest System and the specific provisions of the Act.

Many witnesses at the hearings in Washington, D.C., and in Washington State urged the Committee to utilize a "National Monument" classification rather than a Volcanic Area. The reasons generally given for urging proposed change included the following:

A reluctance to create a new land classification within the national forest system; and

Tourism in the area will be enhanced since the public is more familiar with the concept of a monument than a volvanic area.

Because of these and other concerns, the substitute amendment approved by the Committee changes the designation from a "National Volcanic Area" to a "National Volcanic Monument." As was the case with the bill as introduced, the Forest Service is to administer the Monument in accordance with its existing authorities and the special management provisions of the Act.

Management language

As introduced, S. 2133 provided only that the area was to be managed in accordance with the Mount St. Helens Land Management Plan prepared by the U.S. Forest Service in October, 1981, and other laws applicable to units of the National Forest System.

Much testimony was received during the hearings on S. 2133 urging the Committee to adopt more specific management language for the area. In response to these concerns, the draft includes some statutory management language designed to address several particular management concerns and at the same time retain a high degree of management flexibility for the Forest Service. Many of these provisions were taken directly from the final management plan.

Specific language has been included regarding such things as timber harvesting, mining, hunting and fishing, access, public safety, and buffer zones as well as a comprehensive statement of the purposes for which the area is to be managed. With regard to those matters not addressed specifically in the bill, the U.S. Forest Service is to utilize its existing authorities for management of units of the National Forest System contained in other applicable law including the National Forest Management Act, the Forest and Rangeland Renewable Resources Planning Act, Multiple-Use and Sustained Yield Act, etc. to manage the area.

In addition to these major differences, the Committee reported bill also makes several changes in the language regarding the proposed land exchanges in the area; provisions were added establishing a Scientific Advisory Board for the Monument; and a more specific authorization section has been included.

Mr. BAUCUS. Mr. President, will the distinguished senior Senator from Washington yield for a clarification of the legislation's intent?

Mr. JACKSON. I yield.

Mr. BAUCUS. As the Senator is well aware, in the 19th century, Congress was quite generous, some excessively generous, in granting vast acreages of public lands to aid in the construction and maintenance of rail service in the West. The Northern Pacific land grant amounted to some 40 million acres. Burlington Northern, successor in interest to that grant, retains over 2 million acres of surface and some 6 million acres of mineral rights. Those holdings have been a matter of substantial concern in Montana and other Western States for many years. Many believe that the grants create a continuing obligation on the part of BN to provide rail service in the region.

I consider the Mount St. Helens legislation to be sound and important. The Senator is to be commended for his efforts to bring the measure before the Senate. My point for clarification is this: I want to be certain that the intent of the bill is not in any way to alter, modify, diminish, or impair any obligations which Burlington Northern may have as successor in interest to the Northern Pacific land grant.

Mr. JACKSON. I can assure the Senator from Montana that this bill does not in any affect whatever obligations BN may have arising out of the Northern Pacific land grant.

Mr. BAUCUS. I thank the Senator from Washington and appreciate the clarification.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of the companion bill, H.R. 6530, sent to us from the House.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 6530) to establish the Mount St. Helens National Volcanic Area, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed to consideration of the bill.

Mr. STEVENS. Mr. President, I move to strike all after the enacting clause of H.R. 6530 and to substitute therefor the text of S. 2133 as reported and as it has been amended by the Senate.

The PRESIDING OFFICER. The question is on agreeing to the motion.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 6530) was passed.

Mr. JACKSON. I move to reconsider the vote by which the bill passed.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, I send an amendment to the title to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

Amend the title so as to read: "An Act to designate the Mount St. Helens National Volcanic Monument in the State of Washington, and for other purposes.".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. GORTON. Mr. President, I ask unanimous consent that the Senate insist on its amendment to H.R. 6530, and request a conference with the House of Representatives thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer appointed Mr. McCLURE, Mr. HATFIELD, Mr. WALLOP, Mr. JACKSON, and Mr. BUMPERS conferees on the part of the Senate.

Mr. GORTON. Mr. President, I move that we indefinitely postpone consideration of Calendar Order No. 690, S. 2133.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. CRANSTON. Will the distinguished Senator yield?

Mr. STEVENS. I am delighted to yield to the distinguished Democratic whip. I understand he has a resolution which has been cleared on this side.

CONGRATULATIONS TO NASA ON COMPLETION OF SPACE SHUTTLE PROGRAM

Mr. CRANSTON. Mr. President, I send a concurrent resolution to the desk and ask for its immediate consideration. It has been cleared on all sides.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 114) to congratulate the National Aeronautics and Space Administration and all persons involved in the success of the test flight phase of the Space Shuttle program.

Mr. CRANSTON. Mr. President, it is my pleasure to introduce, with my distinguished colleague from California, Senator HAYAKAWA, and Senators SCHMITT, RIEGLE, CHILES, HATCH, GLENN, CANNON, GARN, HEFLIN, DENTON, BRADLEY, INOUYE, KASSEBAUM, JOHNSTON, KASTEN, MOYNIHAN, BENTSEN, HAWKINS, DECONCINI, NICKLES, FORD, HOLLINGS, BUMPERS, and LAXALT, this resolution which congratulates the National Aeronautics and Space Administration (NASA) and all who have worked so diligently and successfully on the completion of the Space Shuttle program.

It is appropriate to mark the success of the Shuttle this week since July 20 marks the 13th anniversary of the first lunar landing. The astronauts of the Apollo 11 mission were the first men ever to walk on the Moon. The astronauts of this mission, Neil Armstrong, Buzz Aldrin, and Michael Collins carried on the fine traditions established by our very first astronauts. Thomas Mattingly and Henry Hartsfield, who commanded the fourth test flight of the Orbiter, *Columbia*, as well as the other Shuttle crewmembers, Robert Crippen, John Young, Joe Engle, Richard Truly, Jack Lousma, and Gordon Fullerton, have continued the standard of excellence.

The successful completion of the Shuttle's test program could not take place without the equally dedicated and outstanding work performed on the ground. This resolution commends the thousands of Americans who have worked so hard to make the Space Shuttle program a success.

We should stop to think for a minute of what we accomplished on July 4, when the orbiter, *Columbia*, touched fown at Edwards Air Force Base after its last test flight.

The Shuttle is a remarkable engineering feat. It operates like a satellite, like a spacecraft, and like a conventional winged airplane. It is truly a craft for all environments. It is a flying space laboratory. It is also the first reusable spacecraft, making space transportation economically feasible for the first time.

Our startling successes with our space program have made us almost blase. But the space program's successes are wonderful. Exciting. Brilliant. Routine access to space, which the Shuttle will now provide, opens vast new horizons for exploration, providing an outlet for the great ingenuity and creativity of the human mind. Space is, as so many have noted, the new frontier. It holds all the challenges and rewards of a frontier—and the risks.

Thus far the risk and the cost have been worth while. We have gained vast knowledge about our world and the universe of which we are small inhabitants. The Shuttle will allow us to continue to expand and stretch our knowledge in a number of ways. The Shuttle's space laboratory will enable us to conduct experiments in space that we cannot do here on Earth. We will be better able to observe the Earth's weather patterns, monitor crops and timber yields, obsrve the environment, provide better communications, discover mineral resources, find new solutions to our energy problems. These are only some of the things we know we can do. Much more awaits discovery.

At a time when affairs on Earth appear bleak, when there is an overwhelming tendency to dwell on all that is wrong with ourselves, with our country, the success of the Space Shuttle serves to remind us and encourage us of what is good, what we can accomplish despite tremendous odds, and what potentially marvelous things the world and the universe hold for us.

This is why I have been and I will continue to be a strong supporter of the U.S. space program. It has been a tremendous resource for our economy, for our quality of life, for our Nation, and for mankind as a whole.

The space program offers us unique opportunities in other ways. It provides great potential for cooperation with other nations. For example, the Shuttle will carry the Spacelab, which was built by a consortium of European nations. Such joint ventures allow us to expand and share our knowledge and to work with all nations. Space remains an area that is not yet distorted and tortured by the horrors of the arms race. I pray that it will continue to be that way.

I am disturbed by the President's recent policy statement, which places such a heavy emphasis on national security. I hope that this statement does not presage a change in our policy so that national security issues come to dominate our space program. Our achievements in space have greatly enhanced our national security, and I favor continued efforts in this area. But I do not support a one-sided space program that ignores the tremendous benefits and possibilities of the nondefense areas.

The last test flight of the Shuttle is over, and it is ready to move into an operational phase. Thus we mark the end of a major research and development effort. The natural question is what next? Unfortunately, this administration has not answered the question. Many had hoped that President Reagan would articulate plans for the next major initiative. He did not.

Given the demonstrated capability of the Shuttle, I would hope and urge the President to continue to support it. The Senate has included funding for a fifth Orbiter in the fiscal year 1983 NASA authorization. I urge the President to agree with this step.

We cannot afford to sit by idly. These feats that we have accomplished have been attained only by great planning and foresight. We should be moving into the next phase. If we do not continue our efforts we can be sure that our leadership in space will shortly be relinquished to our European and Japanese competitors.

This is not just a question of national pride and "being first." It is a question of our economy. Our technological edge is our strongest competitive advantage with our trading partners. We simply cannot afford to lose it. Our space policy plays an important role in maintaining this technological edge. But this administration has chosen repeatedly to cut back on our space efforts. And now we have no clear direction of what the next step to the Shuttle will be. Several experts have proposed that the next step should be a space platform that would ultimately lead to a space station. This possibility should be explored more fully. And we should continue to support the worthwhile initiatives in our space program that have proved to be such a benefit to us all.

My congratulations to all who have participated in the Shuttle program, and my best wishes for continued success.

SPACE SHUTTLE TEST FLIGHT PROGRAM

Mr. HAYAKAWA. Mr. President, today, I salute the most recent of many inspirational achievements of the U.S. space industry. Through the National Aeronautics and Space Administration (NASA), our country has provided example after example of what heights America can reach when its collective energies are summoned. The Space Shuttle test flight program's success is the result of 10 years

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of development which exhibited for all the world the step-by-step process demanded to produce a near-perfect reusable space vehicle.

Moreover, after a seemingly long period without any manned missions, the U.S. space program has again demonstrated that human beings still play a vital role in successful space exploration. In the final Space Shuttle test flight of *Columbia*, astronauts Ken Mattingly and Henry Hartsfield essentially "hot-wired" a circuit in order to activate a series of experiments otherwise doomed to failure. Their ability to communicate with ground control and improvise—while floating above the Earth—was a small but significant moment in the test flight program's success.

When, 13 years ago yesterday, Apollo astronauts first set foot on our Moon, the accomplishment should have solidified our belief in mankind's ability to take giant leaps of progress. The Space Shuttle should remind us that we continue to take these giant leaps, but only by setting priorities and staying with long-term goals. We must remember that NASA's projects have been realized only through diligence, perseverence, and no doubt many hours of brainstorming.

We must not expect to reach our goals overnight. In this regard, for their work and example to the Nation and an admiring world, I commend and congratulate those men and women who brought the Space Shuttle to fruition.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution was agreed to.

The preamble was agreed to.

The concurrent resolution with its preamble is as follows:

S. CON. RES. 114

To congratulate the National Aeronautics and Space Administration and all persons involved in the success of the test flight phase of the Space Shuttle program.

Whereas when the Space Shuttle Columbia flew through a blazing re-entry and skimmed to a perfect landing on the 4th of July 1982, at Edwards Air Force Base, California, the National Aeronautics and Space Administration successfully completed the test flight phase of the Space Shuttle and began a new era of operational Space Shuttle missions;

Whereas in four test missions, the Space Shuttle Columbia, a reuseable spaceship designed to provide routine space travel for a wide variety of scientific, commercial, and military payloads at reduced costs and with a high reliability of success, lived up to its promise as the most advanced spacecraft in the world;

Whereas in four test missions, the Columbia was lifted from earth, orbited in the vacuum of space like a satellite, operated a variety of scientific experiments, tested the capability of the remote manipulator system to deploy satellites in orbit and to retrieve satellites, descended into the earth's atmosphere, was piloted by astronauts like a conventional winged airplane, and was landed at Edwards Air Force Base, California, and at White Sands Space Harbor, New Mexico;

Whereas the Space Shuttle Columbia, the newly completed Space Shuttle Challanger, and the sister shuttles Discovery and Atlantis, now under construction, will be able to fly repeatedly back and forth from space as an operational space transportation system;

Whereas the Space Shuttle orbiters will accommodate an unprecedented variety of payloads including a fully equipped scientific laboratory (Spacelab) provided by the European space agency, underscoring the commitment of the United States to international cooperation in space activities;

Whereas using the unique qualities of the space environment (weightlessness and a near perfect vacuum) the Space Shuttle orbiters will be used for experiments to produce special alloys, metals, glasses, crystals, and pharmaceuticals that cannot be performed on earth;

Whereas the Space Shuttle orbiters will place in orbit satellites to observe the earth's weather, provide improved communications, discover new mineral resources, monitor crop and timber yields, help United States forces to navigate, and monitor arms control agreements;

Whereas the Space Shuttle orbiters will also place in orbit the most powerful space telescope and will launch scientific probes to explore the planets;

Whereas the Space Shuttle program is a national enterprise, geographically and technologically, requiring tens of thousands of skilled workers to design, develop, test and evaluate the various Space Shuttle components;

Whereas the Space Shuttle program has been judged by independent research organizations to have a positive effect on the national economy, creating jobs, reducing inflationary pressures and forwarding the development of advanced technologies; and

Whereas the Space Shuttle program is a source of great national pride and the United States now holds world leadership in its proven ability to operate a reusable Space Shuttle: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress of the United States congratulates the National Aeronautics and Space Administration, the members of the Astronaut Corps, prime contractor Rockwell International, associate contractors Martin Marietta and Thiokel, the thousands of Shuttle subcontractors throughout the United States, and the tens of thousands of dedicated Space Shuttle workers who contributed to the successful completion of the Space Shuttle test flight period and to the entry of our Nation into a promising new era of spaceflight for the benefit of the people of the United States and all mankind.

Mr. STEVENS. I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. CRANSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR H.R. 5081 TO BE HELD AT THE DESK PENDING FURTHER CONSIDERATION

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 5081, a bill dealing with the Washoe Indian Tribe of Nevada and California, be held at the desk pending further consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO HOLD H.R. 5380 AT THE DESK

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 5380 be held at the desk until the close of business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO VITIATE ACTION ON S. 1739

Mr. STEVENS. Mr. President, I ask unanimous consent that action on S. 1739, amendment of the Military Personnel and Civilian Employees' Claims Act of 1964, be vitiated, and I ask unanimous consent also that that bill be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. STEVENS. Mr. President, may I inquire from my good friend, the distinguished minority leader, if it is now clear to proceed with the Executive Calendar, commencing with Calendar No. 856?

Mr. ROBERT C. BYRD. Yes, all nominations under New Reports, Department of State, have been cleared on this side of the aisle.

Mr. STEVENS. I thank the distinguished Senator.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering nominations on the Executive Calendar commencing with New Reports.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask unanimous consent that all of the nominations on the Executive Calendar, commencing with Calendar No. 856 through 859, be considered en bloc and confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations confirmed en bloc are as follows:

[NEW REPORTS]

DEPARTMENT OF STATE

Arthur H. Davis, Jr., of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

George W. Landau, of Maryland, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador

Extraordinary and Plenipotentiary of the United States of America to Venezuela.

Robert Werner Duemling, of California, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Nicholas Platt, of the District of Columbia, a career member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that we return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

ORDER FOR SENATOR INOUYE TO BE EXCUSED FOR THE REMAINDER OF THE WEEK

Mr. ROBERT C. BYRD. Mr. President, at the request of the Senator from Hawaii (Mr. INOUYE), I ask unanimous consent that he be excused from the Senate today and for the remainder of the week. The Senator from Hawaii, as the original cosponsor of the Newspaper Preservation Act, is necessarily absent as he is testifying in Federal court in Hawaii. The case involves a joint operating agreement between the Honolulu Advertiser and the Honolulu Star Bulletin.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE RETIREMENT OF AIR FORCE LT. GEN. KELLY H. BURKE

Mr. TOWER. Mr. President, I would like to bring to the attention of the Congress the scheduled August 1, 1982, Air Force retirement of Lt. Gen. Kelly H. Burke, Deputy Chief of Staff, Research, Development and Acquisition, Headquarters, U.S. Air Force.

The Senate Armed Services Committee has numerous military witnesses appear before it during the course of our annual budget hearings. In my view, General Burke has been a most articulate, eloquent, informed, and respected witness for the U.S. Air Force during his many appearances before the committee. At all times he has demonstrated a complete grasp of the issues based upon a thorough and clear-cut understanding of the needs of his service while mindful of the responsibilities of the Armed Services Committee. There is no doubt that his presence will be sorely missed by the Air Force and by the many Members of this Congress who have looked to him for valued advice and counsel over the years.

My colleagues and I salute General Burke upon his completion of more than 30 years of faithful and dedicated service to his uniform, his God, and his country. All of his many friends in the Congress join me in wishing he and his wife, Denny, continued good fortune and success as they pursue new endeavors.

ED MUSKIE'S EXCELLENT FOREIGN POLICY ADDRESS

Mr. EAGLETON. Mr. President, our erstwhile colleague and later Secretary of State, Ed Muskie, recently delivered a powerful, analytical speech on the status of American foreign policy. I think Ed Muskie's remarks are right on the mark and I wish to share them with my colleagues.

Mr. President, I ask unanimous consent that Ed Muskie's speech of July 14, 1982, be printed in the RECORD.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

AMERICA IN TODAY'S WORLD: ROME'S FUTURE MUST NOT BE HOSTAGE TO CARTHAGE'S RUIN

(Remarks of Edmund S. Muskie, Center for National Policy, Washington, D.C., July 14, 1982)

I am deeply moved and honored by this award. It is of particular significance to me in that a man I deeply admire—my predecessor as a Secretary of State, Cy Vance—is Co-Chairman of the Center for National Policy. He is an all-too-rare example in our system of a public servant who resigned—on grounds of principle—from high office.

And, without that example, I could not have resigned from the Senate—on grounds of duty, I assure you—to become Secretary of State!

Be assured that in and of itself this award does not transform a politician into a statesman. If Harry Truman was right, I would have to be dead for 10 years to accomplish that.

As Secretary of State, I took great consolation from my political career. It served me well in dealing with my counterparts from parliamentary democracies. I felt little need to become a diplomat . . . and those of you who know me recognize the challenge such a transition would have been.

Yet, my chair at State did offer a new perspective on our political process, as it relates to foreign policy. Deep concern about the state of our national discussion on foreign policy issues moves me to address my remarks this evening to both our incumbent leaders and to those who aspire to incumbency.

The Nation's foreign policy machinery recently experienced a traumatic breakdown. Mark Russell may want to re-evaluate his observation: "Who would have thought, between Secretaries of State Kissinger and Haig, the one with the accent would be the one we can understand?" For I never understood Al Haig better than on the day he resigned. He cited no issue of principle, only the pervasive indictment that our highest policymakers had shifted from the careful course of "consistency, clarity and steadiness of purpose."

Succinct and all-encompassing, I could not have said it better myself. I might have been *blunter:* If we are not going to hell, then where the hell are we going, Mr. President?!

After reading over the weekend the talking paper Secretary-designate Haig prepared for his January 6, 1981, meeting with the President-elect, I more fully appreciated the limitations of my own power at the State Department. The Haig paper provided a novel concept of "Cabinet Government"—one department, indivisible, under God! On reflection, I have decided that I was far too modest when President Carter called. I asked only for the moon!

Many of us have resorted to looking for small signs of hope that the Administration wasn't really serious after all about its foreign policy directions. Maybe the President didn't really mean it when he rejected the Law of the Sea Treaty because he thought "that when you go out on the high seas, you can do what you want." Maybe our backing away from the China policy of the past two Administrations is really a wallposter rumor. Or maybe we aren't really serious about violating SALT II provisions with something called "Dense Pack."

Then the other day my worst suspicions were realized: Herbert Hoover was resurrected as the patron saint of the Commerce Department, presumably as a Republican symbol of fiscal responsibility. I began at that moment to take the President at his word on foreign policy!

To add to your anxiety, my historical research reveals that President Hoover in 1932, in Geneva, proposed a 30 percent overall reduction in offensive armaments. If I told you my real feelings about all this, there might be a run on banks tomorrow and new shovels issued for civil defense. So I won't! But don't wait until the President starts parting his hair down the middle!

II

Seriously though, I find little comfort or humor in Secretary Haig's confirmation of our government's ineptitude abroad. Let us be clear on one point: We don't want Ronald Reagan remembered in foreign policy the way Herbert Hoover was in domestic policy. Yet, I think Ted Sorensen is right when he argues that the Democratic party's search for new directions has focused almost entirely on domestic policy.

This is more than a personality or a party problem. Or Nation is seen to frequently by our friends—and enemies—as inconsistent, unclear and lacking in steadiness. And the unkindest cut of all: We stand accused of acting in a manner contrary to our own interests.

Rather than looking for scapegoats or making excuses, we should step back and examine the collective political process through which the attitudes of our people are formed, and on which our Nation's decisions are based. That is more difficult, but infinitely more cleansing.

I want to talk about American maturity—and American lack of maturity—in international affairs. Most of all, I want to talk about the quality of the dialogue we are carrying on among ourselves and with our global co-habitants. I am worried that we are talking around problems rather than to them, trying to put desire in place of fact, shibboleth in place of practical problem-solving.

We must begin with faith in the wisdom of the American people. Our people have never been afraid of hard choices when the facts are put before them plainly. They do not expect to be talked down to. They are capable of sacrifice, of long-term commitment, if the necessity is explained by credible leadership. They do not want public relations "victories" for their Presidents so much as they want, for their country, competence and vision and compassion on the job. Phil Geyelin had it right the other day when he argued that what we are beginning to see as a wave of criticism of Reagan is not the "denigration of the Presidency," but the public registering its great disappointment with performance.

Thomas Jefferson said in 1820:

"I know of no safe depository of the ultimate powers of the society but the people themselves, and if we think them not enlightened enough to exercise their control in a wholesome discretion, the remedy is not to take it from them but to inform their discretion."

We are at a time in our national history when maturity is to be expected. But familiar elements of immaturity are now being reflected in our political discourse. They are evident in a willingness to declare—quixotically—either our independence from, or our dominance of, the rest of the world. Neither is a viable option today, yet we waste so much energy debating the highly improbable.

Some of us may be too idealistic, some of us too cynical, or too selfish. The maturing of American foreign policy requires us to look at certain facts about ourselves and others.

III

Trying to see the world as it is, if I may use a homely analogy, requires a pair of bifocals. One set of lenses gives us the world in terms of our ideals, the other in terms of power. These are the lenses of idealism and realism, if you will.

We have had debates in the United States about Wilsonianism, about morality in foreign policy. There was a time not long ago when many Americans believed we had lost our moral bearing. Accusations of Realpolitik gone mad were heard widely.

The American people support the proposition that there must be a moral element, a very large moral element, in our foreign policy. If the distinction between repressive "authoritarian" and "totalitarian" regimes means something to the Reagan Administration, it is nevertheless a distinction without a difference to many.

We do believe in freedom, in democracy, we do care what happens to ordinary people, in all lands. We are, frankly, outraged by what happens to the common people in places like Poland, Argentina, South Africa, Afghanistan, Cambodia, and Lebanon. Any American leader—and any foreign leader—who turns his back on this reality of American foreign policy is in for a surprise . . . and a change.

Listen to Cyrus Vance:

"Championing human rights is a national requirement for a nation with our heritage. Without this moral strength . . . it would be impossible to have anything called a 'foreign policy' at all."

Yet, the spectacles or realism have their uses, too. We live in a world of nation-states, and our duty is to defend American interests—simultaneously, one hopes, with the interests of our friends and allies. We need to be aware, looking at the world as it is, that Great Power rivalries will not go away . . . that the role of power will not soon be replaced on the international scene . . . that being strong is still a prerequisite to being free and independent.

But just as contrived perceptions about a weak America do not make America weak—even though perceptions can be dangerous—chest-beating rhetoric does not make America strong. We are never so ineffective in the eyes of the world as we are when our rhetoric exceeds our capacity to act, or goes beyond the better judgment expected of us.

What I fear most about the current Administration is that an old aphorism of Dr. Ben Jonson might come true. He said of public men: "They must create strange monsters, and then quell them . . . to make their art seem something."

It is only in putting the idealistic and the power-oriented views together that we can come to grips with the world and see our own interests more clearly. In that light, several things need to be said about some important foreign policy problems which transcend ideological fixations.

IV

The most troublesome, most vital concern is our relationship with the Soviet Union. Yet this relationship is the most difficult to handle politically.

When we speak of our relations with the other nuclear super-power, what end do we have in mind? When the President speaks about the Soviet Union, he reminds me of the Roman Senator, Cato the Elder, who ended all his speeches with the ringing injunction, "Carthage must be destroyed!" And so it was.

But this is the nuclear age. Ending the competition by eliminating Russia will not work.

Nor can we compel their alien system to change its stripes, or to collapse, by any sudden and immense outpouring of public funds on defense spending—and by peddling arms indiscriminately. The only rational conclusion, therefore, is to carefully try to negotiate a drawdown in the balance of terror so as to avoid armed disaster.

Now, I acknowledge that the cry "Carthage must be destroyed!" sounds more like a screaming eagle than the admonition: "We must be strong enough and wise enough to keep the peace." But we have to recognize that our security is tied to that of the Soviets. We don't want our ultimate fate, and theirs, to be the same—a radioactive ash heap.

Those in the Reagan Administration—especially the President—who now conduct the START negotiations, bear the extraordinary burden before history for having been party to scuttling the SALT process. The current government will have run its course by 1984, and the American people will be entitled to ask: What have they done to build a framework that offers more substantial restraints on the arms race? It will not do to reject the fruits of years of bargaining—turning the 1980's into the "lost decade" of arms control—and to offer nothing more than a propaganda cover for an effort to "win" the next round in the race.

(On the home front, we are seeing Presidential support for a balance-the-budget constitutional amendment serve as a fig leaf for record deficits.)

Those who have caused the arms race to run free now face one test: They will discover soon enough that they have not re-invented the wheel. "How the West was won" is not the way to save Western civilization.

(I am encouraged by Mr. Shultz' testimony yesterday:

"An approach to the Soviet Union limited to the military dimension will not satisfy the American people. We must also make it clear that we are prepared to establish mutually beneficial and safer relationships on the basis of reciprocity.")

V

We must also think long and hard about the policy gap that is developing within the Atlantic Alliance in regard to dealings with the Soviet Union. Historically, we have had our disagreements with the European Allies in peripheral areas—Vietnam and the Middle East come to mind. But never before have our views been so divergent when considering policy toward our principal adversary.

It was the United States, not Europe, that led the West in formalizing detenté with the U.S.S.R. The Nixon Administration never intended detente as a policy of appeasement, it was never meant to be a substitute for a tough, realistic approach. It was instead a pragmatic effort to define the competition in terms acceptable to us.

True, detente was oversold to the American people. It was not a magic formula for a new generation of peace.

But detente made sense because it offered the West some leverage over Soviet conduct, provided the necessary tension was maintained between competition and cooperation. And, if we believe in the superiority of democratic systems, over time it could have worked to undermine the rigidities of totalitarianism.

Is it the policy of the current Administration to bring about a major crisis in the Alliance simply because, to most Europeans, an easing of tensions still makes sense? Are we to judge a country's fidelity to principle on the basis of a narrow U.S. view of Western interests?

The threat to Western unity today is not, in my view, the result of nations pursuing their economic interests. Who is to say whether grain sales or energy purchases are of greater consequence?

The threat to Western unity lies in the failure to accommodate to pluralism. The threat lies in creating unrealistic standards and in seeking to enforce them by untenable means. It is the epitome of hypocrisy for an Administration which espouses the inviolability of the marketplace to seek to disrupt it in Europe.

This is not to argue that the market place should be the sole—or even the primary—determinant of Western interests. We cannot be so relaxed about Soviet intentions as to leave ourselves highly vulnerable to their unilateral action. It is essential that other countries recognize this as well, if they are to protect themselves against potential blackmail.

VI

At this moment in the Middle East, we are facing serious dilemmas as we seek to protect American interests. This, too, may be the result of immaturity: The Administration's initial reluctance to accept an achievement of American policy—Camp David—ap-

parently because it was a legacy of the other party. It stands out even now as President Carter's greatest contribution to history, and for which his country will honor him.

Valuable months were lost and the initiative slipped from our grasp. No more than casual interest was expressed in moving beyond Sinai withdrawal to autonomy talks. Without our influence, the parties reverted to their national tendencies. When the peace process stalled, it was replaced by anxiety, insecurity, and aggressive behavior.

The Reagan Administration constructed a policy of "strategic consensus" on the myth that concern over Soviet influence outweighed historic regional divisions. As we have done so many times in the past, we allowed anti-Soviet preoccupations to obscure a sense of states' primary interests, and we failed to exercise leverage in behalf of our own interest: The maintenance of peace in a vital region.

One sad result is that, in the case of Israel, we hear serious public discussion for the first time about the differences between our respective national interests outweighing the similarities. But there is some wisdom to be extracted from the current tragedy.

Our relationship with Israel has rested on no firmer foundation than a moral one. We have needed no further justification. Though others, such as the vibrancy of her democracy and the influence of her strength, are also valid. Nothing can erase our moral commitment, but harm has been done. Doubts have been raised.

It behooves both our countries to work to contain our differences and to remove the doubt. Israel can do this by leaving Lebanon with all deliberate speed. And the United States can contribute by once again becoming an active partner in the peace process.

VII

Finally, I must comment on the management of foreign policy, or the lack thereof. For the disarray we find here is also a sign of an immature approach.

The role of government is to govern. The American people—especially now that Secretary Haig is gone—have a right to know who is in charge.

I cannot recall in modern times hearing so often the excuse that the President cannot comment because he has not kept up with events while traveling in Air Force One! How many times have we seen him on the evening news caught by surprise by news from abroad? It is almost as if he is saying to us: "How was I to know, I am only playing the part of President?"

The situation reminds me of a "Peanuts" cartoon I was told about the other day. Lucy was using metaphor to explain life to Charlie Brown:

"Charlie, on the great oceans are large ships that carry many passengers. On each ship there is a sundeck, and on that sundeck the passengers arrange their deck chairs. Some place them facing forwards so they can see where they are going. Some place them facing backwards so they can see where they have been. Now Charlie, on the great ship of life, which was will you face your deck chair, forwards or backwards?"

To which Charlie replied:

"I can't even get mine unfolded."

I think it is time our President got his foreign policy deck chair unfolded. Even now, the President acts at times as if he is not associated with the U.S. Government—let alone the head of its executive branch. It is as if he is the good spirit disembodied from the evil flesh of government. So much for the value of the experience of governing that largest state in the union!

This is serious work for serious people. I am afraid I must agree with Norman Podhoretz who recently wrote that President Reagan "has yet to address himself with an equivalent seriousness and energy to the international situation (compared to the domestic economy)."

Let that one sink in for a while. . . .

VIII

The Haig resignation reminds us that there are some old problems in foreign policy management still around. But the more serious problem for the United States is the coming to power in the White House of people who represent a discontinuity in assumptions about the nature of the postwar world and our role in it—when compared with previous Administrations. The only way I know how to cope with this—and I will admit to a paradox, if not a contradiction—is more strenuous efforts at bipartisan consultation. The War Powers Act requirements provide a timely proving ground this week as the executive and legislative branches consider sending Marines into Lebanon. Can Warren Christopher's proposed "compact in foreign affairs" between the branches function in a situation where there is a clear danger of "imminent involvement in hostilities" and the President should want—not just be required—to share the decision on troop commitment with Congress? I hope so. George Shultz' experience should help the President work across the lines in a government where separate institutions share power and in which constitutional law has a central place. There are more years of experience, and collective wisdom, in Congress than can ever be assembled in a four-year Administration.

President Reagan can succeed if he understands that many who did not work for his election are prepared to work for his success as President of all the people. I appeal to him, in the year of the F.D.R. centennial, to study what President Roosevelt did in 1940 in reaching out to construct a bipartisan foreign policy. Reach out now, because the going will get tougher.

As we worry about perceptions of weakness—as we fret about our vulnerabilities and focus on our deficiencies—we would do well to look at ourselves as a nation the way FDR looked upon himself as a man.

Despite his crippled condition, he stood as a confident symbol of what this land ought to be. Haynes Johnson recently wrote from Campobello:

"The FDR legacy most worth remembering involves a state of mind. . . . Millions of Americans never thought of him as crippled. Instead of becoming an object of suffering and weakness, he became the symbol of optimism and strength for a nation experiencing its gravest challenges at home and abroad."

To those here tonight who have embarked, as I have before, on the long road to the White House: have confidence in our people . . . inform their discretion . . . speak to them forthrightly about the realities. And as you campaign for our highest office, remember FDR's advice:

"The future lies with those wise political leaders who realize that the great public is more interested in government than in politics."

Thank you.

JOHN BRAGG: A LEGISLATIVE LEADER

Mr. SASSER. Mr. President, our Federal system of Government is changing more dramatically today, and at a faster pace, than at any time in the past three decades.

Some of the changes are positive ones that will help to improve Federal-State-local relations. Other changes bear watching. One thing is clear, State and local governments need strong representation at this time to make sure that they are not overburdened with costs and responsibilities without the authority and revenue sources they need to serve their constituents.

Washington-based organizations such as the National Conference of State Legislatures must provide the leadership to advise the Congress and the President on the impact of decisions about intergovernmental policy.

Because of the dramatic challenges we face today in our system I am pleased to report that Representative John Bragg, the deputy speaker of the Tennessee General Assembly, is a candidate for the office of NCSL vice president. The election is to be held shortly.

Representative Bragg is a close personal adviser on matters affecting the intergovernmental system. As an eight-term member of the Tennessee House, he is held in high esteem by his colleagues in the State. As chairman of the Tennessee House Finance, Ways and Means Committee, he is a leading expert on intergovernmental finance.

But John Bragg's leadership on fiscal issues reaches beyond the borders of the great State of Tennessee. He has long been active on the committees for the National Conference of State Legislatures and the Council of State Governments. He was also on the President's Pension Policy Commission from 1979 to 1981.

Mr. President, I believe that a man of John Bragg's proven stature would serve well in the leadership role he is seeking with the National Conference of State Legislatures. I wish him well in his efforts to attain this post.

With unanimous consent, I request that a résumé of Representative Bragg's activities be printed in the RECORD.

There being no objection, the résumé was ordered to be printed in the RECORD, as follows:

REPRESENTATIVE JOHN BRAGG: DEPUTY SPEAKER, TENNESSEE HOUSE OF REPRESENTATIVES

Representative John Bragg (D-Murfreesboro, Tenn.) is completing his eighth term in the House of Representatives. He serves as Deputy Speaker of the House and since 1973 has chaired the House Finance, Ways and Means Committee. He also chairs the Tennessee State Employee Suggestion Awards Board, and is vice-chairman of the Tennessee Advisory Commission on Inter-

governmental Relations. He is a member of the Fiscal Review, Transportation, Calendar and Rules Committees, as well as serving on the Council on Pensions and Retirement.

During his legislative career, Representative Bragg has worked for legislative independence and fiscal responsibility in government. He authored legislation which created annual sessions of the Legislature, the Fiscal Review Committee, the Sunshine Law, and has passed numerous bills strengthening the accountability procedures in state and local government. He was the sponsor of the nation's first child restraint law.

Representative Bragg has been very active in the National Conference of State Legislatures since its inception. He was first Chairman of the NCSL's Task Force on Pension Reform, which was formed in 1973. This Task Force authored the publication, A Legislator's Guide to Pensions. This Task Force is now a full standing committee under the State-Federal Assembly of the NCSL.

He later served as Chairman of the Committee on Government Operations and is past Chairman of the State-Federal Assembly. He is presently a member of the NCSL Executive Committee and a member of its Finance Committee and Federal Turnback Committee.

Representative Bragg is currently serving on a six-man team representing the NCSL in negotiations with the White House on the "new" federalism.

He was a member of President Carter's Commission on Pension Policy during its existence from 1979 to 1981.

Representative Bragg is past Chairman of the Southern Legislative Conference and serves on its Executive Committee. He is a member of the Budget Committee of the Council of State Governments.

A graduate of Middle Tennessee State University in Murfreesboro, Representative Bragg has done graduate work at the University of Tennessee. He has been active in civic affairs. He has served as President of the Chamber of Commerce, the Rotary Club, the Good Shepherd Children's Home, the Blue Raider Quarterback Club, and the Tennessee Press Association. He has been selected by the Tennessee Press Association as "Man of the Year." He has been president of the Middle Tennessee Easter Seal Society. He is a member of the American Legion, the Moose Club, and the Sportsmans Club and has served as Trustee of the Sam Davis Home. He has also been selected by Middle Tennessee State University as a "Distinguished Alumnus" and has served two terms on the MTSU Foundation. He is a Baptist.

A former newspaper publisher, printing executive and bank director, Representative Bragg has served all commercial ties and now serves full time as a "part-time" Tennessee legislator.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

TWELFTH ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT—PM 156

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I am pleased to transmit to the Congress the Twelfth Annual Report of the Council on Environmental Quality.

The American people insist on a quality environment. We also strive for economic progress and the promise of a better life. A clean healthy environment is a fundamental part of that promise.

Our air must be fit to breathe and our water fit to drink. We require standards of environmental quality that will protect the most vulnerable—the very young and the very old, the infirm and the yet to be born. We care about or parks, our wilderness, our wetlands and our endangered species.

We have already made great progress toward ensuring a healthy environment. Our general course has been charted with the passage of numerous Federal and state environmental laws. Our state governments and many localities have strengthened their capabilities for dealing with environmental issues. Many of our industries are coming to view the generation of wastes as lost profit potential. It is now time to make sure that the paths we have chosen are the best ones. It is time to review the environmental regulations and to make certain we are doing the most efficient job possible. Certainly we can afford a clean environment, but we must work for it in the most creative and effective way.

To operate more efficiently, I believe we must take two major initiatives. First, we must create a more innovative and flexible regulatory and economic framework in which our environmental programs operate. Regulations should complement, not stifle, market forces in determining the most cost-effective methods of proper environmental management.

Second, I believe that environmental decisions should be brought closer to the people most affected by them. Particularly in the past decade, the various state and local governments have substantially improved their capability for dealing with environmental issues. Therefore, we should increase our reliance upon that expertise. The Federal government should continue to establish environmental quality standards, assure the enforcement of such standards, help to resolve environmental issues of a regional and interstate character, and continue to develop the scientific and technical information necessary to carry out environmental protection programs at all levels of government.

Working together, we can make the necessary changes to reach our environmental goals, and at the same time use our resources wisely with the help of the free market. As we do, we will create a healthful environment in a healthy economy.

RONALD REAGAN.

THE WHITE HOUSE, *July 21, 1982.*

MESSAGE FROM THE HOUSE

At 2:28 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes;

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service;

H.R. 5380. An act to recognize the organization known as American Ex-Prisoners of War;

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes; and

H.R. 6758. An act to authorize the sale of defense articles, defense services, and unclassified defense service publications to United States companies for incorporation into end items to be sold to friendly foreign countries.

At 4:20 p.m., a message from the House of Representatives, delivered by Mr. Berry, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code; and

H.R. 6530. An act to establish the Mount St. Helens National Volcanic Area, and for other purposes.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 4623. An act to amend titles 10, 14, 37, and 38, United States Code, to codify recent law and to improve the Code; to the Committee on the Judiciary.

H.R. 6409. An act to provide for the participation of the United States in the 1984 Louisiana World Exposition to be held in New Orleans, Louisiana, and for other purposes; to the Committee on Foreign Relations.

H.R. 6758. An act to authorize the sale of defense articles, defense services, and unclassified defense service publications to

United States companies for incorporation into end items to be sold to friendly foreign countries; to the Committee on Foreign Relations.

HOUSE BILLS HELD AT THE DESK

The following bills were ordered held at the desk by unanimous consent:

H.R. 3589. An act to authorize the exchange of certain land held by the Navajo Tribe and the Bureau of Land Management, and for other purposes.

H.R. 5081. An act to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the United States Forest Service.

H.R. 5380. An act to recognize the organization known as American Ex-Prisoners of War.

EXECUTIVE AND OTHER COMMUNCIATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3851. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a list of proposed lease prospectus amendments; to the Committee on Environment and Public Works.

EC-3852. A communication from the Administrator of the Environmental Protection Agency, transmitting, pursuant to law, a copy of the revised national oil and hazardous substances contingency plan; to the Committee on Environment and Public Works.

EC-3853. A communication from the Assistant Secretary of the Army (Civil Works), transmitting a draft of proposed legislation to terminate the authorization for Lake Brownwood modification project, Pecan Bayou, Tex.; to the Committee on Environment and Public Works.

EC-3854. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a study of skilled nursing facilities; to the Committee on Finance.

EC-3855. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report on State Medicaid compliance with section 1903(g) of the Social Security Act; to the Committee on Finance.

EC-3856. A communication from the Acting Director of the Defense Security Assistance Agency, transmitting, pursuant to law, a list of defense articles, services, and training provided to El Salvador under the authority of PD 82-5 dated February 2, 1982; to the Committee on Foreign Relations.

EC-3857. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the sixty day period prior to July 15, 1982; to the Committee on Foreign Relations.

EC-3858. A communication from the Acting Administrator of the Agency for International Development, transmitting, pursuant to law, the semiannual report of the Office of Inspector General, Agency for International Development, for the period October 1, 1981 through March 31, 1982; to the Committee on Governmental Affairs.

EC-3859. A communication from the Assistant Secretary of Housing and Urban Development, transmitting, pursuant to law, report on the Department's intention to amend a Privacy Act system of record; to the Committee on Governmental Affairs.

EC-3860. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 22, 1982; to the Committee on Governmental Affairs.

EC-3861. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 22, 1982; to the Committee on Governmental Affairs.

EC-3862. A communication from the Chairman of the Council of the District of Columiba, transmitting, pursuant to law, copies of legislation adopted by the Council on June 6, 1982; to the Committee on Governmental Affairs.

EC-3863. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 6, 1982; to the Committee on Governmental Affairs.

EC-3864. A communication from the Chief Judge of United States Court of Appeals, Ninth Circuit, transmitting, pursuant to law, the report on the Ninth Circuit's implementation of section 6 of the Omnibus Judgeship Act of 1978 and other measures to improve the administration of justice within the Ninth Circuit; to the Committee on the Judiciary.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. GARN, from the Committee on Banking, Housing, and Urban Affairs:

The following-named persons to be Members of the Board of Directors of the National Institute of Building Sciences:

Charles A. Doolittle, Jr., of Kansas, for a term of three years; and Van Norden Logan, of California, for a term of three years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NICKLES:

S. 2760. A bill to amend title 38, United States Code, to provide payments in lieu of certain social security benefits eliminated by the Omnibus Reconciliation Act of 1981 in the case of survivors of veterans dying of any service-connected disability incurred before September 1, 1981; to the Committee on Veterans Affairs.

By Mr. PACKWOOD (by request):

S. 2761. A bill to amend the International Safe Container Act; to the Committee on Commerce, Science, and Transportation.

By Mr. BENTSEN:

S. 2762. A bill to amend section 46(d) of the Internal Revenue Code to clarify treatment of expenditures prior to commencement of physical work; to the Committee on Finance.

By Mr. TSONGAS (for himself and Mr. DURENBERGER):

S. 2763. A bill to provide loans under the Small Business Act for the removal of urea-formaldehyde foam insulation from residences, to provide for certain tax expenditures relating to problems caused by such insulation, and for other purposes; to the Committee on Small Business.

By Mr. BAUCUS:

S. 2764. A bill to amend the Mineral Leasing Act of 1920 to provide for State collection of Federal royalties, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. MATHIAS:

S. 2765. A bill for the relief of Fermina Llarenas Marinas; to the Committee on the Judiciary.

By Mr. MATSUNAGA (for himself, Mr. WALLOP and Mr. GRASSLEY):

S. 2766. A bill to amend the Internal Revenue Code of 1954 to provide for an energy tax credit for property used in producing methane-containing gas for fuel or electricity produced by anaerobic digestion from nonfossil waste materials; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CRANSTON (for himself, Mr. HAYAKAWA, Mr. SCHMITT, Mr. RIEGLE, Mr. CHILES, Mr. HATCH, Mr. GLENN, Mr. CANNON, Mr. GARN, Mr. HEFLIN, Mr. DENTON, Mr. BRADLEY, Mr. INOUYE, Mrs. KASSEBAUM, Mr. JOHNSTON, Mr. KASTEN, Mr. MOYNIHAN, Mr. BENTSEN, Mrs. HAWKINS, Mr. DECONCINI, Mr. NICKLES, Mr. FORD, Mr. HOLLINGS, Mr. BUMPERS and Mr. LAXALT):

S. Con. Res. 114. A concurrent resolution to congratulate the National Aeronautics and Space Administration and all persons involved in the success of the test flight phase of the Space Shuttle program; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NICKLES:

S. 2760. A bill to amend title 38, United States Codes, to provide payments in lieu of certain social security benefits eliminated by the Omnibus Reconciliation Act of 1981 in the case of survivors of veterans dying of any service-connected disability incurred before September 1, 1981; to the Committee on Veterans' Affairs.

BENEFITS TO SURVIVORS OF MILITARY PERSONNEL

Mr. NICKLES. Mr. President, I am introducing legislation today to provide certain benefits to survivors of military personnel who have died of service-connected disabilities. These benefits were lost through the repeal of certain social security benefits in

the reconciliation legislation, Public Law 97-35.

This legislation would amend title 38, United States Code, to establish a program through the Veterans' Administration to offset the loss of widows' and students' benefits in the social security program which have been repealed or phased out. It would restore support to the widow for the care of a child until 18 years of age. It would make monthly payments available to a student survivor in the amount he or she would have received from social security until age 22.

Certainly, the Congress of the United States desires to keep this country's promises to those who gave their lives in the service of this Nation—the ultimate sacrifice.

This situation is unique for the surviving families of those who die as a result of military activities. The largest group are the dependents of the over 50,000 who died in Vietnam.

Military personnel are unable to obtain civilian life insurance since these policies exclude military aviation, hazardous duty, and combat. Military survivors are prevented by law from suing the Government over a military death.

It is only right that we move to restore these benefits to the widows and offspring of our Nation's heroes. I urge my colleagues to quickly enact this legislation, thereby reinstating our commitment to the survivors of these servicemen.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2760

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That (a) section 411 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The monthly rate of dependency and indemnity compensation payable to an individual who—

"(A) is the surviving spouse of a veteran who died from a disability which was—

"(i) service-connected; and

"(ii) incurred before September 1, 1981;

"(B) has in her care a child of such deceased veteran who is between the ages of 16 and 18 and is entitled to child's insurance benefits under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) for that month; and

"(C) is not entitled for that month to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) by reason of having that child (or any other child of such deceased veteran) in her care,

shall be increased for that month by the amount calculated as provided in paragraph (2) of this subsection.

"(2) The amount of the increase under paragraph (1) of this subsection in any month shall be the excess, if any, of—

"(A) the amount of the mother's insurance benefit, if any, that the individual would receive for that month under section 202(g) of the Social Security Act (as increased from time to time under section 215(i) of such Act) if such child were under 16 years of age, over

"(B) the amount of any benefit payable to the individual for that month under section 202(g) of such Act (as increased from time to time under section 215(i) of such Act) by reason of having in her care the child of an individual other than such deceased veteran.".

(b) The amendment made by subsection (a) shall be effective with respect to dependency and indemnity compensation payable under section 411 of such title for months beginning after the month in which this Act is enacted, except that in the case of any individual who is entitled to a mother's insurance benefit under section 202(g) of the Social Security Act (42 U.S.C. 402(g)) (on the basis of having a child in her care) for the month of August 1981, such amendment shall take effect on September 1, 1983.

SEC. 2. (a) Subchapter IV of chapter 35 of title 38, United States Code, is amended by inserting after section 1738 the following new section:

"§ 1739. Additional payment in lieu of social security student benefit

"(a) The Administrator shall pay each month an amount determined under subsection (b) of this section to any eligible person described in section 1701(a)(1)(A) of this title who—

"(1) is the child of a person who died of a service-connected disability incurred before September 1, 1981;

"(2) has attained 18 years of age and has not attained 22 years of age;

"(3) is not under a disability as defined in section 223(d) of the Social Security Act (42 U.S.C. 423(d));

"(4) is pursuing a program of education under this chapter at an institution of higher learning; and

"(5) is not entitled for that month to a child's insurance benefit under section 202 (d) of the Social Security Act (42 U.S.C. 402 (d)) or is entitled to such a benefit only by reason of section 2210(c) of the Omnibus Budget Reconciliation Act of 1982 (42 U.S.C. 402 note).

"(b) A payment under subsection (a) of this section for any month shall be in the amount that the eligible person concerned would have been entitled to receive for that month as a child's insurance benefit under section 202(d) of the Social Security Act (42 U.S.C. 402(d)) but for the amendments made by section 2210(a) of the Omnibus Budget Reconciliation Act of 1981 (95 Stat. 841) (as increased from time to time under section 215(i) of the Social Security Act), reduced for any month by any amount payable to the eligible person for such month under section 2210(c) of the Omnibus Budget Reconciliation Act of 1981 (42 U.S.C. 402 note).

"(c) A payment under this section to any eligible person is in addition to any other amount payable under this chapter to or on behalf of such person.".

(b) The table of sections at the beginning of such chapter is amended by inserting before the item relating to subchapter V the following new item:

"1739. Additional payment in lieu of social security student benefit.".

SEC. 3. The Secretary of Health and Human Services shall provide to the Administrator of Veterans' Affairs such information as the Administrator may require in order to carry out sections 411(e) and 1739 of title 38, United States Code, as added by the amendments made by this Act.

By Mr. PACKWOOD (by request):

S. 2761. A bill to amend the International Safe Container Act; to the Committee on Commerce, Science, and Transportation.

AMENDMENT OF INTERNATIONAL SAFE CONTAINER ACT

● Mr. PACKWOOD. Mr. President today, at the request of the administration, I am introducing legislation to amend the International Safe Container Act. The proposed legislation would comply with a recent amendment to the International Convention for Safe Containers. That amendment extends the period of time available to owners of containers built before September 6, 1977, to have them examined and safety plated in accordance with the convention. This extension is necessary for two reasons.

First, the United States issued final regulations for approving existing containers and applying safety plates only after about 3 years of the convention's 5-year transition period had expired. The transition period had been intended to give owners 5 years to apply safety plates and otherwise comply with the convention. In view of the fact that any other countries had also issued regulations only after the convention had entered into force on September 6, 1977, the International Maritime Organization extended the deadline for applying plates until January 1, 1985, an extension of approximately 2 years and 4 months. This will give owners in countries ratifying or issuing regulations late a period of time to comply roughly comparable to the original 5-year transition period.

Second, a tremendous increase in the number of containers in use which occurred after the convention protocol was signed in 1972. Between then and 1977, their number has increased 250 percent making compliance within the original timeframe difficult if not impossible. About 500,000 container units were owned by U.S. citizens and companies at the time the convention entered into force on September 6, 1977.

This bill will extend until January 1, 1985, the period in which container owners have to complete the examination and safety plating requirements of the convention. This proposal does not change the original requirements that all existing containers be initially approved by September 6, 1982.

Since this proposal will generate no new costs to the Government and represents the implementation of a position already accepted by the United States, I recommend that it be speedily enacted by Congress.●

By Mr. BENTSEN:

S. 2762. A bill to amend section 46(d) of the Internal Revenue Code to clarify treatment of expenditures prior to commencement of physical work; to the Committee on Finance.

TREATMENT OF EXPENDITURES PRIOR TO COMMENCEMENT OF PHYSICAL WORK

Mr. BENTSEN. Mr. President, I am today introducing a bill to amend section 46 of the Internal Revenue Code which would clarify the treatment of investment credits earned by taxpayers engaged in large scale construction projects. Such construction projects are usually undertaken by utilities or similar concerns and involve large investments over a number of years with considerable risk to the taxpaying company. In recognition of these factors, Congress amended the law in 1975 to provide a special investment credit rule for long leadtime property, those taking 2 years or more to construct. Normally, a taxpayer may only claim investment credits for expenditures made to acquire property in the year the property is placed in service. Under the rule adopted in 1975 for long term construction projects, however, Congress provided that taxpayers may claim investment credits for "qualified progress expenditures"—thus the common name of QPE credits—during the construction period as they are made.

The QPE credit provisions of the 1975 law are of great significance in the case of projects which have extremely long construction periods of 5, 6, 7, or more years, such as a synfuel or nuclear powerplant. For projects of this type, the early availability of the investment tax credit has a substantially greater value than the same credit deferred for a number of years. While the QPE credit provisions advance the timing of the allowance of the investment tax credit, they do not increase the total amount of investment tax credit or alter the type of property for which the investment tax credit is available.

Although the QPE credit provisions were enacted in 1975, the Internal Revenue Service first issued proposed regulations relating to the QPE credit in January 1979 and those regulations have yet to be finalized. The proposed regulations raise a number of significant questions involving the application of the QPE credit provisions. One problem that requires immediate clarification because of its effect on financing arrangements for long term construction projects is the treatment of expenditures made prior to the commencement of "physical work on construction." It is unclear under the proposed regulations whether expenditures which are clearly part of the cost of the property but which are made prior to the commencement of physical work on construction are eligible for the investment tax credit at the time made or at a later date.

Preconstruction expenditures include amounts expended for architects' fees, feasibility studies, design and engineering, and other items which may be very significant. They are capital costs, just like steel and concrete, and they often constitute a large portion of the early costs of a large scale project.

The uncertain treatment of expenditures made prior to the commencement of physical work presents a serious problem to taxpayers undertaking such projects. On the one hand, the taxpayer may be eligible to claim the investment tax credit at the same time that design and engineering, architectural fees, and similar expenditures are made during the preliminary phases of a project. On the other hand, the taxpayer may be required to wait some 5, 6, 7, or more years until the asset is placed in service in order to receive the investment tax credit in respect of these early expenditures. All long term construction projects face this uncertainty under the current law and the proposed regulations.

My bill addresses this problem of how to treat preconstruction costs by permitting credits to be claimed at the time work on the project actually commences. Such a rule is sound tax policy and is consistent with the original congressional objective in providing QPE credits for long term projects. Namely, the period a major construction project is in service is fraught with the greatest risks from the taxpayer's standpoint and is a time when the benefits of the investment credit are most needed.

In short, then, my bill makes clear for the Treasury what has been congressional intent all along. We want to encourage those who take long-term risks by permitting them to earn investment credits in the near term. We intend to assist those undertaking colossal construction projects, often costing billions of dollars, by allowing them to earn credits at the time they will help the most—that 5- or 6-year period when costs are accumulating and before the property has begun to earn a return.

My bill accomplishes this purpose by amending section 46(d) of the code to make clear that credits earned through capital expenditures on qualified projects prior to commencement of physical work will be available once physical work has begun.

I hope the Committee on Finance will give this matter its earliest attention and that Congress will act to make clear its purpose in providing QPE credits for long-term construction projects.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

(a) Section 46(d)(3) is amended by adding a new subparagraph (C) to read as follows:

"(C) EXPENDITURES PRIOR TO COMMENCEMENT OF PHYSICAL WORK.—For purposes of subparagraphs (A) and (B), expenditures paid or incurred prior to the taxable year in which physical work on construction of progress expenditure property begins shall be taken into account in the taxable year in which physical work on construction of the property begins if—

"(i) the property qualifies as progress expenditure property (determined without regard to such expenditures), and

"(ii) such expenditures are includible in the basis of such property."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to progress expenditure property on which physical work on construction commences after December 31, 1981. In the case of all other progress expenditure property which is placed in service after December 31, 1981, the amendment shall apply as if physical work on construction commenced on January 1, 1982.

By Mr. TSONGAS (for himself and Mr. DURENBERGER):

S. 2763. A bill to provide loans under the Small Business Act for the removal of urea-formaldehyde foam insulation from residences, to provide for certain tax expenditures relating to problems caused by such insulation, and for other purposes; to the Committee on Small Business.

UREA-FORMALDEHYDE INSULATION ASSISTANCE LEGISLATION

● Mr. TSONGAS. Mr. President, today my distinguished colleague, Senator DURENBERGER, and I are introducing a bill to help homeowners deal with health hazards posed by urea formaldehyde foam insulation. In the House, Representative CONTE, of Massachusetts, has already introduced an essentially indentical bill, H.R. 6391.

Mr. President, in the last several years, there has been mounting evidence that gas leaked by urea formaldehyde foam insulation can cause serious health problems. Specifically, it can trigger allergic reactions, respiratory distress, and even cancer. To rectify this problem, Massachusetts, Minnesota, and several other States have prohibited or discouraged the sale of urea formaldehyde foam insulation. In addition, on March 2, 1982, the U.S. Consumer Product Safety Commission banned the sale of the insulation, effective this August.

Although the ban prevents installation of urea formaldehyde foam, it does nothing to protect those who live in houses already insulated with this material. Our bill would close this gap.

Urea formaldehyde foam is easy to install and difficult to remove. Before installation it looks like shaving cream. Once blown into the wall of a house, it hardens. Then there is no way to remove it without tearing down the foam-filled walls. The cost can run anywhere from $6,000 to $20,000, a

cost beyond the means of many homeowners.

Our bill would assist homeowners in replacing the urea formaldehyde foam already in place. Homeowners would be eligible for low-interest disaster loans, up to $10,000, from the Small Business Administration. For homeowners, the removal cost would be tax deductible as a medical expense; the cost of replacement would be eligible for a conservation tax credit. Small businesses hurt by the ruling last March would receive a different kind of relief. Our bill would make them eligible for SBA's economic disaster loan program, which aids small businesses harmed by Federal regulations.

These measures would ease, but not cover entirely, the financial loss confronting persons who bought, manufactured, or installed urea formaldehyde foam insulation before its harmful effects were known. Our bill would aid 1.75 million Americans and hundreds of small businesses nationwide, all innocent victims of this product. In Massachusetts alone, about 5,000 homes are insulated by urea formaldehyde foam, and 100 firms involved in the installation, distribution, and manufacturing of this product have filed for bankruptcy. A predicament of this magnitude cannot be ignored. Our bill is a sensible, pragmatic response.

Mr. President, I believe this legislation is important. I hope that it is the subject of committee hearings and that it receives the careful consideration it deserves.

Mr. President, Representative CONTE'S office has prepared highlights, a summary, and a section-by-section analysis of the House version of our bill, H.R. 6391. I ask unanimous consent that this material be printed in the RECORD following my remarks.

Mr. President, the U.S. Consumer Product Safety Commission has prepared a set of questions and answers on UF foam insulation. I also ask unanimous consent that these questions and answers be printed in the RECORD following my remarks.

Mr. President, I also ask unanimous consent that the full text of our bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2763

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF DISASTER LOAN PROGRAM TO LOANS FOR REMOVAL OF UREA-FORMALDEHYDE FOAM INSULATION FROM RESIDENCES.

(a) IN GENERAL.—Section 7(b)(1) of the Small Business Act is amended by adding at the end thereof the following:

"(C) to make loans (either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate or deferred (guaranteed) basis) for removal of urea-formaldehyde foam insulation from any residence, including repair, rehabilitation or restoration of such residence which is appropriate as a result of such removal: *Provided*, That the principal amount of any loan authorized under this subparagraph (C) shall not exceed $10,000: *Provided further*, That the rate of interest on any such loan shall be the rate prescribed for purposes of section 7(c)(4)(A): *Provided further*, That such loans shall be available only to the extent that such loss or damage is not compensated for by insurance or otherwise.".

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on the date of the enactment of this Act.

SEC. 2. MANUFACTURERS AND INSTALLERS OF UREA-FORMALDEHYDE FOAM INSULATION ELIGIBLE FOR CERTAIN LOANS.

(a) AUTHORIZATION FOR FISCAL YEAR 1983.—Paragraph (5) of section 20(n) of the Small Business Act (relating to program levels authorized for fiscal year 1983) is amended by inserting before "shall" the following: "is authorized to make $10,000,000 in direct and immediate participation loans with respect to the business of manufacturing or installing urea-formaldehyde foam insulation, but, except as so authorized,".

(b) AUTHORIZATION FOR FISCAL YEAR 1984.—Paragraph (5) of section 20(p) of the Small Business Act (relating to program levels authorized for fiscal year 1984) is amended by inserting before "shall" the following: "is authorized to make $10,000,000 in direct and immediate participation loans with respect to the business of manufacturing or installing urea-formaldehyde foam insulation, but, except as so authorized,".

(c) EFFECTIVE DATE.—Subsections (a) and (b) shall take effect on October 1, 1982.

SEC. 3. NEW DOLLAR LIMITATION UNDER RESIDENTIAL ENERGY CREDIT WITH RESPECT TO EXPENDITURES FOR UREA-FORMALDEHYDE FOAM INSULATION.

(a) IN GENERAL.—The dollar limitation in paragraph (1) of section 44C(b) of the Internal Revenue Code of 1954 (relating to residential energy credit) shall not be reduced by any energy conservation expenditure by the taxpayer for urea-formaldehyde foam insulation or for the installation of such insulation.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to taxable years ending on or after April 20, 1977.

SEC. 4. ALLOWANCE OF MEDICAL EXPENSE DEDUCTION FOR COSTS OF REMOVING UREA-FORMALDEHYDE FOAM INSULATION.

(a) IN GENERAL.—For purposes of section 213 of the Internal Revenue Code of 1954, expenses paid for medical care include expenses paid for—

(1) removal of urea-formaldehyde foam insulation from any residence of the taxpayer, and

(2) restoration of such residence which is appropriate as a result of such removal.

(b) CARRYOVER OF EXCESS DEDUCTION.—

(1) IN GENERAL.—If the amount allowable as a deduction under section 213 of such Code on the taxpayer for the taxable year solely by reason of subsection (a) exceeds the modified taxable income of such taxpayer for such year such excess shall be treated for purposes of such section as expenses for medical care paid during the succeeding taxable year and allowable as a deduction under such section for such succeeding taxable year solely by reason of subsection (a).

(2) MODIFIED TAXABLE INCOME.—For purposes of paragraph (1), the term "modified taxable income" means taxable income computed without regard to subsection (a).

(c) DENIAL OF DOUBLE BENEFIT.—No amount shall be treated as an expense under subsection (a) if (without regard to subsection (a)) such amount is allowable as a deduction or credit under any provision of the Internal Revenue Code of 1954.

(d) EFFECTIVE DATE.—This section shall apply to expenses paid after December 31, 1981, in taxable years ending after such date.

HIGHLIGHTS

On February 22, 1982, the U.S. Consumer Product Safety Commission voted to declare urea formaldehyde (UF) foam insulation, a popular insulation of the 1970's, to be a health hazard, because of the release of formaldehyde gas into the interior air of houses insulated with UF foam. This follows similar steps already taken by Canada and the states of Massachusetts, Connecticut, Colorado, Minnesota, and several others.

The CPSC found two kinds of effects attributable to formaldehyde gas: acute effects, including eye, nose and throat irritation, persistent cough, respiratory distress, skin irritation, nausea, headaches and dizziness; and chronic effects, including a small but significant risk of cancer. CPSC found that no level of exposure could be considered acceptable.

An estimated 500,000 homes were insulated with UF foam, and residents of those homes are now faced with short and long term health hazards.

The cost of replacement is estimated to range between $6,000 and $20,000, because of the need to knock out either interior or exterior walls in order to remove the UF foam insulation.

In addition to health hazards, many homeowners are faced with a significant decline in property values and/or an inability to sell their homes, causing serious financial hardship.

SUMMARY OF PROPOSED LEGISLATION

This bill sets forth measures that the Federal government can undertake to assist homeowners with the burden of replacing UF foam insulation, a substance now deemed to be a health hazard:

(1) Make available low interest loans for homeowners from the SBA disaster loan program;

(2) Allow homeowners to deduct the cost of replacing the foam from their taxable income as a medical expense; and

(3) Allow homeowners an energy conservation tax credit for installation of new insulation without regard to whether a credit was previously claimed for installation of UF foam.

This bill also provides some assistance to small businesses which manufacture or install UF foam and which are now experiencing difficulty because of the ban by authorizing loans to such small businesses under the SBA economic disaster loan program.

H.R. 6391: SECTION-BY-SECTION ANALYSIS

SECTION 1

This section expands the Small Business Administration residential disaster loan program to authorize loans to help cover the cost of removing urea formaldehyde (UF) foam insulation from homes. The maximum loan permissible under this section is $10,000, and the interest rate on any such loan is the disaster loan program rate for homeowners unable to secure credit else-

where, currently around 8 percent. This provision would be effective upon enactment.

SECTION 2

This section authorizes $10 million in loans in fiscal years 1983 and 1984 for small businesses engaged in the manufacture or installation of UF foam under the existing, but currently unfunded, SBA economic disaster loan program. It provides a source of funds for small businesses affected by the CPSC ban to make the transition from manufacturing or installing UF foam to another line of business.

SECTION 3

This section provides that the cost of UF foam previously claimed as a tax credit under the residential energy conservation tax credit will not be taken into account in determining whether the homeowner has already used up the allowable tax credit for energy conservation measures (currently 15 percent of the first $2,000 invested, up to maximum credit of $300). This would allow many homeowners who used the conservation tax credit in connection with the installation of UF foam to use it again in connection with the installation of a replacement insulation.

SECTION 4

This section provides that the cost of removing UF foam is deductible as a medical expense for purposes of the Federal income tax. It may be that the cost of removal is already deductible on a case-by-case basis, but this provision would relieve taxpayers of the burden of substantiating the medical justification for the deduction in each individual case. In addition, this section provides for a carryover into future years of unused portions of the deduction. This section applies of UF foam removal expenses incurred in 1982 or thereafter.

QUESTIONS AND ANSWERS ON UREA-FORMALDEHYDE FOAM INSULATION

In February, 1982, the U.S. Consumer Product Safety Commission voted to ban urea-formaldehyde foam insulation (UFFI) as a hazardous consumer product. The agency determined that UFFI presents an unreasonable risk of injury to consumers because of the risk of acute and chronic illness from the formaldehyde gas released by the foam insulation, and because it is not possible to predict, prior to the installation, the amount of formaldehyde that will be released from the product. However, in many homes there is a low level of offgassing of formaldehyde; therefore, the risk of injury to people living in these homes is reduced. The ban is not expected to become effective before August 1, 1982.

1. *Question.* What is urea-formaldehyde foam insulation?

Answer. UFFI is manufactured at the job site by the installer. Urea-formaldehyde based resin, a foaming agent, and compressed gas are fed into foaming equipment to form a product which has the consistency of shaving cream. In retrofit applications, the foam is pumped through a hose and forced into the wall cavity, where it cures and becomes firm. During and after the installation process, formaldehyde gas can be released into the living quarters and inhaled by the occupants.

2. *Question.* What is the health hazard associated with UFFI?

Answer. Inhaling formaldehyde vapors from UFFI has caused some persons to experience symptoms such as eye, nose, and throat irritation persistent cough . . . respiratory distress . . . skin irritation . . . nausea, headaches, and dizziness. The severity of these illnesses varies from short-term discomfort to serious impairment. Some persons have been hospitalized, primarily for respiratory problems. In some cases, chronic respiratory problems (such as asthma) have resulted from exposure to formaldehyde gas, and existing respiratory illnesses have been made worse by the exposure. Under test conditions, formaldehyde inhalation has caused cancer in laboratory animals, and formaldehyde exposure in the home poses a cancer risk to humans.

3. *Question.* What is the risk of cancer from formaldehyde emitted by UFFI?

Answer. The cancer risk for any one individual is low. The Commission's decision to ban UFFI was based on all adverse health effects, acute as well as chronic, including that of cancer. The upper estimate of cancer risk from living in an average UFFI home for 9 years after the UFFI installation is about 1 in 20,000. Even though the cancer risk from all UFFI installations is significant, the risk to the residents of each home is low and would vary depending on the formaldehyde levels in that home and the length of time of exposure. In a large number of homes insulated with UFFI, the levels of formaldehyde may be much less than in others, and the cancer risk will be lower. In addition, as the foam ages, it generally emits less and less formaldehyde, and therefore, the additional risk from older installations would be even lower.

4. *Question.* Is UFFI found in most American homes?

Answer. No. Estimates place the number of UFFI-insulated homes at about 500,000; most of them were insulated after the early 1970's.

5. *Question.* How can you tell if there is UFFI in the walls?

Answer. If you purchased your home prior to 1970 and have not added insulation, you probably don't have UFFI. If it is a newer home, check with the builder or contact the realtor and/or seller. Ask if foam insulation was ever installed in the walls of the house. If you had insulation added, check with the insulation installer, or read the contract or bill of sale.

6. *Question.* Under what circumstances should you consider having your home or apartment checked for formaldehyde levels?

Answer. If you are not experiencing any acute health effects, and the foam was installed more than a year ago, it is likely that the formaldehyde levels and the health risks, including those of cancer, are now greatly reduced. If you have experienced the health symptoms previously described, and your physician needs to have the information for diagnosis, you may want to have a test made to determine the concentration of formaldehyde gas. Your might consider the test if you are concerned about the sale of your home which has UFFI, and you wish to demonstrate to a prospective buyer what the formaldehyde level of the home is.

7. *Question.* If your home has UFFI, how can you tell how much formaldehyde vapor is present in the air of the house?

Answer. Some city, county and state health departments conduct tests at no cost to residents, while others charge a modest fee. In the absence of these sources, you might consider contracting with a commercial laboratory to determine the concentrations of formaldehyde in the air; look in the Yellow Pages under "laboratories" for the names of companies that perform this service. It should be noted that the formaldehyde level in a home is subject to a great deal of variation because the release of formaldehyde from foam insulation is affected by temperature, humidity, and other factors. The preferred method for testing is the chromotropic acid method recommended by the National Insitute of Occupational Safety and Health.

8. *Question.* At what level of formaldehyde in the home should one be concerned?

Answer. It is not possible to define a level of formaldehyde at which everybody in the population can be assured that he or she will not suffer adverse health effects. The available data indicate that somewhat less than 20 percent of healthy adults may react to formaldehyde at less than 0.25 parts per million. People vary in their susceptibility to formaldehyde, and therefore, any reaction and its severity will differ among people exposed to the same level of formaldehyde. Infants, allergic individuals, those with respiratory problems, and the elderly may respond more severely, or at lower levels.

In general, although the data are not conclusive, healthy adults may not experience acute toxic effects from formaldehyde exposure below 0.1 parts per million. We have, however, received a number of complaints from homeowners who experienced adverse health effects and who reported measurements below 0.1 parts per million. Therefore, if you experience symptoms that you feel may be related to exposure to formaldehyde, regardless of the measured levels, you should consult your physician. Formaldehyde appears to be a weak carcinogen at low doses based on tests in animals. Although data on human beings are still being gathered, in general, as the level of formaldehyde and the time of exposure decrease, so does the possible risk of cancer. Most homes emit the greatest amount of formaldehyde within the first year after installation. As a result, any cancer risk drops off substantially after that time.

9. *Question.* How long does UFFI continue to release formaldehyde gas?

Answer. Measurements in homes indicate that formaldehyde off-gassing from UFFI continues for years. The levels are usually higher during the initial weeks after installation, and taper off gradually; after the first year, the levels have generally decreased dramatically. However, higher temperatures and humidity can increase the formaldehyde off-gassing rate. In laboratory experiments, formaldehyde off-gassing has continued for at least 16 months.

10. *Question.* Has any urea-formaldehyde foam insulation been exempted from the ban?

Answer. No. The installation of any type of UFFI in residences and schools will be prohibited beginning at the time the ban becomes effective. However, the Commission may grant exemptions in the future where a particular product can be shown not to present an unreasonable risk of adverse health effects. The ban is not expected to become effective before August 1, 1982. Consumers can call the CPSC HOTLINE to determine the effective date and to find out if the Commission has exempted any products from the ban.

Continental U.S.—800-638-8326.

Maryland residents only—800-492-8363.

Alaska, Hawaii, Puerto Rico, and the Virgin Islands—800-638-8333.

Tele Typewriter (TTY) lines are available for consumers who have TTYs.

National (including Alaska, Hawaii)—800-638-8270.

Maryland residents only—800-492-8104.

11. *Question.* If your home has been insulated with UFFI, but you have not experienced any adverse health effects from the formaldehyde vapors, what should you do?

Answer. If you have not experienced any adverse health effects from the foam insulation, it may well be that the formaldehyde vapors are not entering the house in excessive amounts and, therefore, may not be a serious problem. In addition, formaldehyde gas emitted by UFFI decreases as the foam gets older. You may have concern if you or someone in the home shows symptoms of formaldehyde exposure, i.e., eye, nose and throat irritation . . . coughing . . . shortness of breath . . . skin irritation . . . nausea, headaches and dizziness. If anyone experiences any of these symptoms for prolonged periods (more than a few days), but the symptoms abate when the person is away from home, the problem could be related to the insulation. In that case, see your family physician and follow the doctor's recommendations.

12. *Question.* Your home was insulated with UFFI, and some members of the family have experienced the adverse health effects associated with formaldehyde vapors. Your doctor has recommended your leaving the house, but this cannot be done. What options do you have now that UFFI has been the subject of a CPSC ban?

Answer. First, you should try to follow your physician's advice. Secondly, you should increase ventilation by opening windows when the weather permits. Thirdly, you should contact the installer who foamed your house as well as the company which provided the chemicals to the installer. You should ask what corrective action the company and installer are prepared to take to relieve the off-gassing problem. If industry representatives do not assist you, you may want to take some corrective actions on your own to minimize the off-gassing of formaldehyde into the house. You may also wish to seek assistance from your local government consumer affairs office, if necessary.

13. *Question.* What corrective actions can you take?

Answer. Up to now, the U.S. government has not tested the remedies, but the National Research Council of Canada (NRC) has recommended some techniques that offer some relief for UFFI homes. The NRC suggests you check the walls; they should be sealed to prevent infiltration of formaldehyde containing air. Some of the steps which may be taken include: 1) all holes, cracks or gaps in the wall finish may be repaired by caulking or spackling compounds; 2) two coats of vapor-barrier paint may be applied to the walls; 3) mylar or vinyl wallpaper may be installed over the wall to reduce the flow of formaldehyde from the UFFI wall cavity. Special vinyl wallpaper paste and a good grade of canvas backed vinyl wallpaper should be used. Both the paint and the vinyl wallpaper will provide plastic barriers to reduce the penetration of moisture into the foamed wall.

14. *Question.* Is painting and wallpapering enough to reduce the flow of formaldehyde into the house?

Answer. Not necessarily. Two other areas may need to be closed off to keep formaldehyde gas from entering the living space of the house. For example, electrical outlets may be filled in with UFFI, even if the insulation were properly installed. An inexpensive non-flammable gasket available at hardware stores may be installed under the cover plate to retard the flow of air and formaldehyde vapors into the room. More important, however, is the junction of the wall and the floor where air can leak into the room. Here, the use of caulking cartridges containing butyl or acrylic latex sealants, weatherstripping, or special foam-backed tapes have reportedly been used. However, CPSC has no data on which to judge the effectiveness of these measures.

15. *Question.* What steps could be taken if the wall is covered with paneling, plywood or another wood product?

Answer. You should seal the joints to prevent the entry of vapors into the house, and coat the wood paneling, etc., with a sealant such as varnish.

16. *Question.* If the UFFI must be removed from the walls because of ongoing health problems of the occupants, what costs are involved?

Answer. There is no single answer. Based on information obtained by the Commission, costs for complete removal of the UFFI in the walls have run from less than $5,000 to $20,000, with perhaps $6,000 as an average. The procedure calls for removal of interior or exterior wall panels or siding, removal of the form insulation, and installation of new insulation and wall panels or siding. Wood surfaces that came in contract with the form should be treated with a chemical neutralizing agent such as sodium bisulfite. However, this must be done with care and may require the advice of an architect and/or consulting engineer. This process is described in detail in the publication "Building Practice Note, #23" published by the National Research Council of Canada. The Canadian agency is making single copies available without charge to U.S. homeowners who are exploring remedial measures for the UFFI. Single copies may be obtained by writing the Publication Section, M-20, Division of Building Research, National Research Council, Montreal Road, Ottawa KLA OR6, or by calling the Publication Section in Canada at 613-993-2463.

17. *Question.* Some consumers living in mobile homes have experienced similar health problems as residents of UFFI homes. Is there UFFI in mobile homes?

Answer. In general, mobile homes were not insulated with UFFI. Probably, the mobile homes that have UFFI were those homes where the owners contracted on their own with an installer to have form insulation applied in the walls. If a mobile home resident did not hire someone to foam the walls then the mobile home probably does not have UFFI.

Urea-formaldehyde resin is used in a number of wood products found in mobile homes. This means that there could be formaldehyde in the mobile home even thought there is no foam insulation in the wall. If you experience symptoms, you should report the possibility of formaldehyde exposure to your physician and contact the company who sold you the mobile home. The company may be able to suggest some remedial actions that could be taken to correct the formaldehyde vapor problem in the mobile home.●

By Mr. MATSUNAGA (for himself, Mr. WALLOP, and Mr. GRASSLEY):

S. 2766. A bill to amend the Internal Revenue Code of 1954 to provide for an energy tax credit for property used in the producing methane-containing gas for fuel or electricity produced by anaerobic digestion from nonfossil waste materials; to the Committee on Finance.

TAX CREDIT FOR PROPERTY USED IN THE PRODUCTION OF CERTAIN FUELS

Mr. MATSUNAGA. Mr. President, I am today introducing with Senators WALLOP and GRASSLEY as cosponsors, a bill relating to energy tax credits. Through the energy tax credits our Government can and is promoting domestic energy development which lessens our dependence upon foreign oil. All of this helps to hold down the cost of gasoline and heating oil.

The particular energy credit, addressed in our bill, applies to equipment for the production of methane-containing gas for fuel or electricity produced by anaerobic digestion from nonfossil waste material. The energy tax credit is available for this type of equipment at the present time. However, that section of the law expires at the end of 1982. The bill I am offering today would place this equipment in another section of the law dealing with biomass property which expires on December 31, 1985. The anaerobic digestion equipment properly belongs with biomass property. In a real sense this is a technical correction bill.

Our bill would provide that the energy tax credit for anaerobic digestion equipment expire at the same time that the credit for biomass property expires. I realize that there are those who advocate the termination of all energy credits. I do not agree with them, but so long as the law is in effect they too would certainly agree that all equipment which is used for the same objective should be treated alike. The continuation or termination of any energy tax credits should be dealt with fairly and without discrimination.

The anaerobic digestion system is a new and efficient technology to convert waste material into methane gas.

The environmental benefits of this method are very great. The methane gas produced by anaerobic digestion of this waste matter is converted to energy for the production of electricity and for other uses. The protein byproducts are refed to the livestock, and the other byproducts are used for fertilizer and animal bedding.

Mr. President, this system is not a dream. It is not something that is still in the planning stage. It is a reality. For instance, there are dairy farms that are now disposing of all their waste with such a system. While eliminating pollutants, the process also produces electricity needed on the farm.

Mr. President, I hope that early hearings can be held on this bill and that the Senate will give it favorable action.

ADDITIONAL COSPONSORS

S. 1030

At the request of Mr. McCLURE, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 1030, a bill to protect firearms owners constitutional rights, civil liberties, and rights to privacy.

S. 1931

At the request of Mr. SCHMITT, the name of the Senator from New York (Mr. D'AMATO) was added as a cosponsor of S. 1931, a bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in event of disability or death, and to increase the level of compensation available to both.

S. 2094

At the request of Mr. DANFORTH, the names of the Senator from Massachusetts (Mr. TSONGAS), and the Senator from New Jersey (Mr. BRADLEY) were added as cosponsors of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

S. 2174

At the request of Mr. THURMOND, the name of the Senator from Georgia (Mr. MATTINGLY) was added as a cosponsor of S. 2174, a bill to recognize the organization known as American Ex-Prisoners of War.

S. 2214

At the request of Mr. SCHMITT, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of S. 2214, a bill to amend the Internal Revenue Code of 1954 to provide a partial exclusion for dividends and interest received and to eliminate the deduction for consumer interest paid or accrued.

S. 2585

At the request of Mr. CRANSTON, the names of the Senator from Utah (Mr. HATCH), the Senator from Montana (Mr. MELCHER), the Senator from Tennessee (Mr. SASSER), and the Senator from Massachusetts (Mr. TSONGAS) were added as cosponsors of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliation Act of 1981.

S. 2598

At the request of Mr. McCLURE, the name of the Senator from Nevada (Mr. LAXALT) was added as a cosponsor of S. 2598, a bill to provide for the disposal of silver from the National Defense Stockpile through the issuance of silver coins.

S. 2674

At the request of Mr. COHEN, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

SENATE JOINT RESOLUTION 214

At the request of Mr. PERCY, the names of the Senator from South Carolina (Mr. HOLLINGS), and the Senator from Montana (Mr. MELCHER) were added as cosponsors of Senate Joint Resolution 214, a joint resolution to authorize and request the President to designate the month of November 1982 as "National REACT Month."

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. SYMMS, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of Senate Concurrent Resolution 113, a concurrent resolution recognizing and saluting the Benevolent and Protective Order of the Elks for its leadership in voluntarism in the United States.

AMENDMENT NO. 1972

At the request of Mr. FORD, the names of the Senator from Kentucky (Mr. HUDDLESTON), and the Senator from Virginia (Mr. HARRY F. BYRD, JR.) were added as cosponsors of amendment No. 1972 proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

AMENDMENT NO. 1973

At the request of Mr. LONG, the names of the Senator from Connecticut (Mr. DODD), the Senator from Nebraska (Mr. EXON), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of amendment No. 1973 intended to be proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

AMENDMENT NO. 1977

At the request of Mr. BENTSEN, the names of the Senator from Montana (Mr. MELCHER), and the Senator from Tennessee (Mr. SASSER) were added as cosponsors of amendment No. 1977 proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

AMENDMENT NO. 1978

At the request of Mr. BRADLEY, the names of the Senator from West Virginia (Mr. ROBERT C. BYRD), the Senator from Delaware (Mr. BIDEN), the Senator from Nebraska (Mr. EXON), the Senator from Michigan (Mr. LEVIN), the Senator from Maine (Mr. MITCHELL), and the Senator from Ohio (Mr. GLENN) were added as cosponsors of amendment No. 1978 intended to be proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMENDMENTS NO. 1979 AND 1980

(Ordered to be printed and lie on the table.)

Mr. MOYNIHAN submitted two amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

MISCELLANEOUS TAX ACT OF 1982

AMENDMENTS NO. 1981 AND 1982

(Ordered to be printed and lie on the table.)

Mr. DODD submitted two amendments intended to be proposed by him to the bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

AMENDMENT NO. 1983

(Ordered to be printed and to lie on the table.)

Mr. HOLLINGS (for himself, Mr. DODD, Mr. MITCHELL, and Mr. JOHNSTON) submitted an amendment intended to be proposed by them to the bill H.R. 4961, supra.

VETERANS EDUCATION AND EMPLOYMENT AMENDMENTS OF 1982

AMENDMENT NO. 1984

(Ordered to be printed and referred to the Committee on Veterans' Affairs.)

Mr. CRANSTON (for himself and Mr. SIMPSON) submitted an amendment intended to be proposed by them to the bill (S. 2747) to amend title 38, United States Code, to make adjustments and improvements in the vocational rehabilitation and education programs administered by the Veterans' Administration and the veterans employment programs administered by the Department of Labor, and for other purposes.

VOCATIONAL REHABILITATION AMENDMENTS

Mr. CRANSTON. Mr. President, I am today submitting for printing on behalf of the distinguished chairman of the Veterans' Affairs Committee (Mr. SIMPSON) and myself, amendment No. 1984 to S. 2747, the proposed Veterans' Education and Employment Amendments of 1982, which Senator SIMPSON and I introduced last Friday.

Mr. President, the purpose of our amendment is twofold. First, it would clarify congressional intent underlying a provision enacted last year to provide for a 2-year targeted delimiting date extension for certain Vietnam-era veterans. Second, our amendment

would provide for an extension, or so-called tolling, or a Vietnam-era veteran's GI bill delimiting period, or a service-connected disabled veteran's vocational rehabilitation delimiting period, when the veteran has been prevented by an alcohol or drug dependence or abuse condition from pursuing a program of education.

TARGETED DELIMITING DATE EXTENSION AMENDMENTS

Mr. President, section 201 of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Loan Act of 1981, which was enacted on November 3, 1981, amended title 38, United States Code, to provide for a one-time, 2-year extension of the GI bill delimiting period—that is, an extension of the 10-year period following discharge during which a Vietnam-era veteran may use his or her GI bill benefits. This extension was targeted on educationally disadvantaged and unskilled or unemployed Vietnam-era veterans and was designed to permit such veterans an additional period of up to 2 years to pursue vocational objective or apprenticeship or other on-job-training programs and, for those without high school diplomas, to pursue high school equivalency courses. As enacted in Public Law 97-72, the extension became effective on January 1, 1982, and will continue until December 31, 1983.

The purpose behind this extension, which I authored in the Senate as printed amendment No. 58 to S. 921, was to provide in a cost-effective manner for a limited extension of the delimiting period for those veterans of the Vietnam era—particularly but not exclusively those who are unemployed and educationally disadvantaged—who have never effectively utilized the GI bill benefits to which they are or were entitled and are in need of certain education or training assistance. The provisions of the targeted delimiting date extension that we enacted last year were similar to those passed by the Senate during the 96th Congress in connection with S. 870, but not then agreed to by the House and hence not contained in the final version of H.R. 5288 as it became Public Law 96-466, the Veterans' Rehabilitation and Education Amendments of 1980.

On March 11, 1982, the Veterans' Administration published a notice in the Federal Register requesting comments on the provisions of DVB Circular 22-81-15, dated December 22, 1981, implementing this targeted delimiting date extension. On March 18, I wrote to Administrator of Veterans' Affairs Robert P. Nimmo, expressing my very deep concerns about the manner in which the VA is administering this new provision. In essence, as I noted in my letter, which I will ask to be inserted in the RECORD at the conclusion of my remarks along with the Administrator's very unsatisfactory response, it is my belief that the VA's interpretation of this provision is unduly restrictive and not consistent with the underlying congressional intent, as evidenced by the legislative history of the provision. As a result, this provision now represents a broken promise of assistance to many Vietnam-era veterans.

Mr. President, my concerns with this matter rest primarily with the eligibility criteria established by the VA for veterans who are, in the words of the statute, "in need of (vocational objective or apprenticeship or other on-job training) in order to achieve a suitable occupational or vocational objective." In implementing the extension provision, the VA has ignored clear congressional intent that the extension was to be focused on the needs of Vietnam-era veterans who are experiencing unemployment problems. Instead, the VA has taken the position that no veteran shall be determined to be in need of such vocational or on-job training unless he or she is found to be unskilled and has adopted very narrow criteria with respect to who is unskilled. Under these VA criteria, no veteran who holds a 2-year degree or has completed 60 hours of college-level courses, or who has ever held, or even qualified for, more than an entry level job, or who has ever had a job requiring more than 3 months of vocational preparation will be considered unskilled. This is so regardless of whether that individual is currently employed or underemployed or able to obtain employment.

Thus, the VA's manner of implementing the provision enacted last year reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will automatically be found ineligible if any one of these three criteria apply, and, where that is so, the inability of the veteran to obtain suitable employment and his or her need for training in order to be able to do so are given no consideration. There is no criterion whatsoever for making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the applicability of one of these three regulatorily imposed criteria for denying eligibility.

The most unfortunate effect of these criteria is demonstrated quite dramatically in the VA's data, provided on May 21, 1982, on experience under the extension for the first quarter of 1982. Of 2,455 applications received for delimiting date extensions, only 98—or less than 4 percent of those received—were approved on the basis that the veteran was found unskilled; 575 applications or about 23 percent were denied on the grounds that the veteran was not unskilled. There were an additional 1,153 claims still classified as "under development" at the close of the first quarter, generally to determine whether or not the veteran was unskilled.

These numbers contrast sharply with those projected by the Congressional Budget Office last year in connection with its cost estimate for H.R. 3423, the Veterans' Training and Business Loan Act of 1981—title I of which contained the House version of the provision eventually enacted into law. At that time, CBO estimated that 38,900 veterans would receive training under the targeted delimiting date extension and that the cost of the provision would be $52 million in fiscal year 1982 and $90 million in fiscal year 1983. The provision ultimately enacted was no less restrictive than that which formed the basis for these CBO cost estimates.

It should also be noted, Mr. President, that the VA, in its December 29, 1981, press release announcing the availability of the extension stated that:

> As many as 39,000 Vietnam-era veterans are expected to take advantage of . . . [this] extension . . .

Further, in its fiscal year 1983 budget documents, the VA estimated that $48.6 million would be expended for this program in fiscal year 1982, and the VA's fiscal year 1983 budget request included $68.7 million in the VA's readjustment benefits account for this delimiting date extension. Certainly, the way the provision is being implemented by the VA will never permit participation to reach the level assumed in these projections.

It should be stressed, Mr. President, that the VA has had ample opportunity—in addition to the opportunity that my March 18 letter provided—to modify the manner in which they are implementing this provision and has refused to back away from the rigidity and stringency of its approach. At hearings before the House Veterans' Affairs Committee's Subcommittee on Education, Training and Employment on June 17, while the VA agreed to review 10 percent of the claims denied to determine whether they had been appropriately denied and despite the fact that there has been considerable confusion engendered by its implementation of the extension, VA officials basically reaffirmed their support for the current implementing regulations.

Mr. President, it is indeed tragic that this administration has taken the position that its rigid and restrictive implementation of the provisions enacted last year is appropriate and in keeping with congressional intent. In taking that position, the VA is failing to meet the needs of Vietnam-era veterans who are unskilled, unemployed, or underemployed—needs that this Congress clearly felt should be met

and needs that are now even greater, as evidenced by the unemployment rates, than they were when this extension provision was enacted.

In June, the rate of unemployment for Vietnam-era veterans, age 25 and older, stood at 8.6 percent—more than 65 percent higher than it was a year ago—representing 706,000 unemployed individuals. Of these 25 and older Vietnam-era veterans, 86 percent are 30 years of age or older. In the case of Vietnam-era veterans ages 35 to 39, those most likely to have been out of the service in excess of 10 years, there were almost two and one-half times the number of unemployed last month than in June of 1981—198,000 in June 1982 as compared to 84,000 a year ago. In addition, there were 239,000 Vietnam-era veterans, ages 30 to 34, and 73,000 age 40 and over who were unemployed in June 1982. Thus, there are more than half a million veterans age 30 or over who are unemployed and who could potentially be in need of the kind of assistance the targeted delimiting date extension could offer.

However, it should be stressed that this program is not intended to exclude veterans who are employed; nor would all Vietnam-era veterans who are unemployed be eligible for the type of training and education available under the targeted delimiting date extension.

As a whole, Mr. President, it is clear that much of the unemployment problem of these individuals is related to the military-service experience of veterans of the Vietnam era. As documented in the March 1981 study prepared for the Veterans' Administration by the Center for Policy Research, entitled, "Legacies of Vietnam: Comparative Adjustment of Veterans and Their Peers," Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, at lower levels than those held by nonveterans of comparable age. The study concluded that, when background differences are controlled, Vietnam-era veterans—and, to the greatest extent, those who served in Vietnam—still show "residual disadvantage in educational and occupational attainment" and that in general "military duty in Vietnam had a negative effect upon post-military achievement."

Mr. President, our amendment would amend the targeted delimiting date extension enacted last year—section 1662(a)(3) of title 38, United States Code—to clarify congressional intent by substantially limiting the programmatic flexibility given the Administrator to make determinations regarding a Vietnam-era veteran's need for training. Our amendment would thus invalidate sections 3.c and 6.b of DVB Circular 22-81-15, the regulatory provisions I have pointed to as inappropriately restricting eligibility for the delimiting period extension, and would instead establish specific statutory criteria for determining the need for training. Under our amendment, the veteran could not be determined ineligible without an examination of the veteran's particular employment and training history; he or she would be found eligible if an examination showed the veteran to be in need of an OJT or vocational program or course in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. In addition, since many of the Vietnam-era veterans for whom this extension provision was designed have been, in my opinion, foreclosed from this opportunity to make appropriate use of their remaining GI bill entitlement, the amendment would extend their eligibility period for one additional year—until December 31, 1984.

Mr. President, I wish to emphasize that this amendment is designed to permit a veteran to be denied eligibility only after a case-by-case determination and to avoid the use of any arbitrary, automatically disqualifying criteria such as those set forth in the DVB circular. I would also note that I gave very serious consideration to a provision that would simply allow any Vietnam-era veteran who has unused GI bill entitlement to use that entitlement for vocational or on-job training during the delimiting period extension without a requirement of a finding that the training is needed by the veteran in order to become employable. That approach would insure that no veteran could be inappropriately denied this training opportunity. However, such an approach would be less cost-effective, and I would support it in the future only if I were convinced that it is the only way to insure that this opportunity is made available to those who do need it for employment purposes. Thus, it is my expectation that the clear and unmistakable expression of the will of the Congress that the enactment of this provision would represent would suffice to convince the administration to implement it in good faith, fully in keeping with congressional intent.

DELIMITING-PERIOD EXTENSIONS NECESSITATED BY ALCOHOL OR DRUG DISABILITIES

Mr. President, our amendment would also provide for an extension or tolling of a Vietnam-era veteran's GI bill delimiting period when the veteran has been prevented by an alcohol or drug dependence or abuse condition, from which the veteran has recovered, from pursuing a program of education. Similarly, the amendment provides for a delimiting period extension with respect to a VA rehabilitation program for a service-connected disabled veteran with a substance abuse problem.

In the GI Bill Improvement Act of 1977, Public Law 95-202, the Congress provided for the granting of extensions of the 10-year GI bill delimiting period in the case of an eligible veteran who is prevented from pursuing a program of education during that period due to a mental or physical disability not the result of the veteran's willful misconduct. Under that law, the delimiting period does not run during any period of time that the veteran is determined to have been unable to pursue training because of the disability.

However, there have been a number of instances in which the VA has denied a delimiting-period extension to an otherwise eligible veteran under this authority on the grounds that the disability on which the veteran based his or her claim was an alcohol or drug abuse or addiction disability, which the VA considers categorically to be a condition due to willful misconduct. The VA has based its denial in these cases on the legislative history of the 1977 provision that addressed the issue of how determinations of disability should be made for the purposes of the extension. In particular, the report of the Veterans' Affairs Committee, Senate Report No. 95-468, on the provision which was enacted as section 203(a)(1) of Public Law 95-202, in discussing the concept of "willful misconduct," stated at pages 69 to 70:

> In determining whether the disability sustained was a result of the veteran's own "willful misconduct," the Committee intends that the same standards be applied as are utilized in determining eligibility for other VA programs under title 38.

The report further referenced VA regulations and manual provisions relating to the determination of willful misconduct for the purposes of determining service-connected disability. Under the VA's interpretation of those standards—38 CFR section 3.301(C) (2) and (3)—alcoholism and drug addiction and injuries proximately and immediately resulting from the effects of the deliberate ingestion of an alcoholic beverage or voluntary use of a drug—such as an injury incurred in a traffic accident caused by the veteran's driving while under the influence of alcohol or a drug—are considered to be the result of willful misconduct.

Subsequently, the Veterans' Affairs Committee closely reexamined the practical consequences of denying a delimiting-period extension in such cases and the differences between awarding such an extension on the grounds of alcohol or drug disabilities and awarding other VA benefits, such as compensation or pension, based on such disabilities. As a result of this reexamination, the committee saw no substantial purpose to be served by denying a veteran a GI bill delimiting-period extension when the veteran was

prevented by a drug or alcohol disability, during part or all of the ordinary 10-year delimiting period, from using GI bill benefits and the veteran had recovered from the disability. In fact, in the committee's view, it could be expected that GI bill educational assistance would have considerable value to achieving and maintaining the medical, social, and economic rehabilitation of veterans recovering from disabilities related to alcohol or drugs.

In contrast, the committee noted that some undesirable consequences might flow from a similar rule being applied for purposes of other VA benefit programs, such as service-connected compensation, where the rate and duration of benefits depend directly upon the severity and duration of the disability. If an individual were to be granted disability compensation for alcoholism or drug addiction, there would be a strong financial incentive established—in the form of a higher rate of compensation or the continuation of receipt of compensation—toward the worsening or prolongation of the disability. Either of these factors are to some extent within the control of the veteran because they depend upon the amount, frequency, and duration of his or her consumption of alcoholic beverages or drugs.

Thus, the committee reported in S. 870—and the Senate passed in section 201(2) of H.R. 5288—a provision to establish that an alcohol or drug dependence or abuse disability from which the veteran has recovered shall not, solely for purposes of deciding requests for delimiting-period extensions, be considered to be the result of willful misconduct.

Similarly, in S. 1188, the bill reported by the committee to revise and update chapter 31, relating to VA rehabilitation programs for service-connected disabled veterans, the Senate passed on September 4, 1980, a comparable provision to provide for the tolling of a service-connected disabled veteran's delimiting period for a chapter 31 rehabilitation program on account of an alcohol or drug disability.

However, despite our strongest urgings, the House would accept neither the GI bill nor the rehabilitation program provision for delimiting-period extensions based on drug or alcohol disabilities.

Last year, Mr. President, in connection with S. 921 the proposed Veterans' Programs Extension and Improvement Act of 1981, the Senate again approved similar provisions, and again the House refused to accept them.

I strongly believe both that the opportunity to use GI bill and VA rehabilitation program benefits can be extremely important to the readjustment and rehabilitation of the Vietnam-era and service-connected disabled veterans involved and that the delimiting period extensions for those who were, but are no longer, prevented by alcohol or drug disabilities from using those benefits would be fully consistent with the readjustment and rehabilitation goals of both programs. Hence, the amendment we are introducing today includes delimiting period extension provisions for both programs.

I would like to note that in drafting this amendment, we have recast the provision relating to the GI bill extension so as to indicate, even more clearly than the prior versions, that this provision is not intended to undercut, in any manner, any administrative or legislative provisions expressly or implied to the effect that alcohol or drug abuse or dependence are necessarily the result of willful misconduct. It is simply not necessary to resolve that issue in order to make the extension available. We are thus proposing the enactment of this provision in a form that clearly would avoid this issue and that should thereby enhance the prospects for enactment of this legislation.

CONCLUSION

Mr. President, along with my good friend from Wyoming (Mr. SIMPSON) I will be working to have these provisions favorably considered by the Committee on Veterans' Affairs during its markup of S. 2747—scheduled for August 12 after a July 28 hearing—so that they can be incorporated in legislation reported by the committee. I urge my colleagues to join with me in this effort.

At this point, Mr. President, I ask unanimous consent that there be printed in the RECORD the text of our amendment followed by my March 18, 1982, letter, to which I referred earlier, the VA's April 5, 1982, response, the DVB circular in question, and a followup VA response dated May 21, 1982, containing first-quarter data on the very low utilization of the targeted delimiting date extension.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

On page 7, between lines 19 and 20, insert the following new sections:

CLARIFICATION OF TARGETED DELIMITING DATE EXTENSION

SEC. 107. (a) Section 1662(a)(3) is amended—

(1) in subparagraph (C)(i) by striking out "may" and inserting in lieu thereof "shall" and by striking out "only if the veteran has been determined by the Administrator to be in need of such a program or course in order to achieve a suitable occupational or vocational objective" and inserting in lieu thereof "unless the Administrator determines, based on an examination of the veteran's employment and training history, that the veteran is not in need of such a program or course in order to obtain a reasonably stable employment situation consistent with veteran's abilities and aptitudes"; and

(2) in subparagraph (D) by striking out "1983" and inserting in lieu thereof "1984".

(b)(1) Not later than 30 days after the date of the enactment of this Act, the Administrator of Veterans' Affairs shall publish in the Federal Register, for public review and comment for a period not to exceed 30 days, proposed regulations under section 1662(a)(3)(C)(i) of title 38, United States Code, as amended by section (a) of this section.

(2) Not later than 90 days after the date of the enactment of this Act, the Administrator shall publish in the FEDERAL REGISTER final regulations under such section 1662(a)(3)(C)(i) as so amended.

TOLLING DELIMITING DATES BY REASON OF DRUG AND ALCOHOL CONDITIONS

SEC. 108. (a) Section 1501 is amended—

(1) by redesignating paragraphs (3) through (9) as paragraphs (4) through (10); and

(2) by inserting after paragraph (2) a new paragraph (3), as follows:

"(3) the term 'medical condition' includes an alcohol or drug dependence or abuse condition of a veteran.".

(b) Section 1662(a)(1) is amended by inserting "(or an alcohol or drug dependence or abuse condition from which such veteran has recovered)" after "misconduct".

On page 17, line 15, strike out "Sec. 302. Except for section 208(b)," and insert in lieu thereof "Sec. 302. (a) Except as otherwise provided in subsection (b) of this section,".

On page 17, after line 16, insert the following new subsection:

(b) The provisions of sections 107, 108, and 208(b) of this Act shall be effective on the date of enactment.

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C., March 18, 1982.

Hon. ROBERT P. NIMMO,
Administrator Veterans' Affairs,
Washington, D.C.

DEAR BOB: I am writing in response to the March 11, 1982, Federal Register notice requesting public comments on the provisions of DVB Circular 22-81-15, dated December, 22, 1981, which implements the so-called targeted delimiting date extension provision enacted in section 201 of the Veterans' Health Care, Training, and Small Business Act of 1981 [1] (Public Law 97-72). The substance of the concerns expressed in this letter were shared in January by Committee Minority staff with Chuck Hagel and Bob Coy.

Under the new provision (section 1662(a)(3) of title 38, United States Code) a veteran whose GI Bill delimiting period has expired or will expire before December 31, 1983, has until that date to use his or her remaining entitlement for vocational training or apprenticeship or other on-job training if the Administrator has determined that the veteran is "in need" of the training "in order to achieve a suitable occupational or vocational objective." That determination is to be made in accordance with regulations that the Administrator must prescribe.

Although the new provision gives the Administrator certain programmatic flexibility in making determinations regarding the veteran's "need" for training, I have very substantial concerns regarding the unduly restrictive manner in which the Circular implements this legislation. As to certain restrictions, I doubt the legal authority; as to others, I seriously question the policy justification, on the whole, I believe the manner

[1] In the Circular, "Small" is incorrectly omitted.

in which the VA is implementing this provision is inconsistent with the Congressional intent underlying the provision as evidenced by its legislative history, and represents what will be perceived as a broken promise of assistance to many Vietnam-era veterans.

My specific comments follow:

ELIGIBILITY CRITERIA

Section 3.c. of the Circular provides that only veterans who are determined to be "unskilled" will be eligible for vocational and on-job training, and section 6.b. provides that any one (1) who holds a two-year degree or has completed 60 hours of college-level courses, or (2) who has ever held or qualified for more than an entry level job, or (3) who has ever had a job requiring more than three months of vocational preparation will not be considered unskilled, regardless of whether that individual is currently employed or underemployed or able to obtain employment. Thus, the Circular reduces the determination of whether a veteran is "in need" of and thus eligible for training to a mechanical process under which the veteran will be ineligible if any one of these three criteria apply, and, where that is so, the inability of the individual to obtain employment is given no consideration.

This approach is inconsistent with the legislative history of section 201 of Public Law 97-72 in two major respects. First, that legislative history replete with evidence that the purpose of this provision is to help deal with the employment problems of Vietnam-era veterans. The House Veterans' Affairs Committee, on page 5 of its report on H.R. 3423 (H. Rept. No. 97-78), stated, with respect to the provision from which section 201 of Public Law 97-72 was derived, that the purpose was to provide a "means to isolate and target job training and placement for those veterans of the Vietnam-era *who are still experiencing employment problems.*" (Italics added.)

In this same connection, on page 4 of that report, the House Committee expressed its concern for the "needs of . . . veterans who have not successfully readjusted, many of whom are frequently unskilled, unemployed, or underemployed." Those concerns were echoed during the Senate's consideration of its version of the provision (see the debate on Amemdment No. 48 to S. 921 in the *Congressional Record,* pages S6205-07, daily ed., June 15, 1981). During the floor debate on the Senate provision, I described the extension proposal, of which I was the author, as a means of assisting "unskilled, unemployed Vietnam-era veterans" whose needs could be "seen in the high rate of unemployment that continue to plague this segment of the labor force", and the Chairman of the Senate Committee described the provision as "an effective way to reach and provide assistance to those Vietnam-era veterans who are in need of employment *or* minimal educational assistance." (Italics added.)

Finally, in October during the Senate debate on final passage of the provision that was enacted, I noted that it "should be of particular benefit to those veterans seeking assistance from vet centers who have employment-related difficulties" (*Congressional Record,* page 24321, October 16, 1981).

Thus, it is clear that the Congressional intent was to focus the extension of vocational and on-job training assistance on Vietnam-era veterans who are experiencing employment problems. For the VA to ignore those problems wherever one of the three automatic criteria set forth in section 6.b. of the Circular applies, is to ignore or reject the clear legislative purpose of the extension.

The second respect in which the Circular is inconsistent with the legislative history is that the approach taken in the Circular precludes the making of individualized determinations of the "need" for training. As originally passed by the House, the provision in question allowed determinations of need to be made by "a counselor at a readjustment counseling center . . ., a State employment office, a veterans' assistance office, or a Veterans' Administration medical facility . . ." Under the provision enacted into law, the authority to make determinations of need was granted only to the Administrator because of concerns related to the administrative and other problems that could result from granting such adjudicatory authority to various categories of personnel with no adjudicatory experience. There was no intention whatsoever to abandon the individualized approach to making determinations of eligibility.

Thus, although the three criteria discussed above may be appropriate in order to determine who should not automatically be eligible for the extension, they seem to me much too rigorous to cause automatic ineligibility. Moreover, unless there are reasonable policy justifications for these rigid categories of ineligibility, I believe that the criteria in the Circular are vulnerable to challenge on grounds of arbitrariness and capriciousness in agency action.

What is lacking, in order for the Circular to be consistent with the law and Congressional intent, is a criterion for making individualized determinations of eligibility in the cases of unemployed or underemployed veterans who are clearly in need of training despite the fact that one of the existing criteria for denying eligibility applies. Thus, I strongly urge that a new criterion be added providing that if any one or more of these three factors are present, eligibility be determined by examining the veteran's overall employment and training history to determine whether or not the veteran requires training, in order to obtain a reasonably stable employment situation consistent with the veteran's abilities and aptitudes. (Explanatory materials could indicate that a temporary lay-off in a skilled occupation would not provide eligibility in the absence of circumstances indicating that there is no reasonable expectation that the veteran will be able to maintain employment in that or a similar occupation.) In the case of a veteran who has more than 60 semester hours of college credit or has obtained a two-year college degree, guidelines should require that the veteran be referred to a qualified counselor to determine if the credits or the degree represent an attainment of a skill that the veteran is likely to be able to use in the employment market in the foreseeable future. Likewise, notwithstanding the nature of previously held employment, substantial periods of unemployment should also be taken into account as part of making a fair evaluation of the current relevance of the veteran's prior training and experience. Finally, the guidelines should require that consideration also be given to the period of time that has elapsed since the end of any prior training and employment. For example, although as noted in section 6.b.(2)(c) of the Circular, a veteran who had training as an ambulance attendant prior to military service may very well have trained for nine months, ten years later that training may not provide the veteran with a realistic opportunity for employment and should not alone be a grounds for denying the veteran a delimiting date extension.

EXCLUSION OF CORRESPONDENCE TRAINING

I also believe that the blanket exclusion, in section 3.d. of the Circular, of correspondence training benefits during an extension is clearly unauthorized and contradicted by the legislative history of Public Law 97-72. The only specific type of vocational-objective training considered for exclusion by the Congress was flight training, and the legislation as originally passed by both Houses provided such an exclusion. That exclusion was deleted from the provision ultimately enacted on the grounds that, since Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, had terminated GI Bill benefit eligibility for post-September 30, 1981, enrollments in flight training, the exclusion of flight training was superfluous. Further, as the author of the Senate-passed version of the extension provision, I call your attention to my remarks, made during this Committee's April 30, 1981, hearing (excerpt from the hearing enclosed) specifying that it was indeed the intent to permit correspondence training to be pursued under that extension. Nothing in the language or anywhere else in the legislative history of the enacted provision negates that expression of intent.

EXCLUSION OF COLLEGE-LEVEL DEGREE COURSES

With respect to the limitations that have been placed on the programs of study which may be pursued by a veteran during an extension, I would appreciate clarification on the status of certificate programs offered by junior and community colleges. It is my understanding that such vocational-objective programs of study would be approved under the extension if the program met the applicable criteria for VA approval. Is this a correct understanding?

I would also like to know what arrangement would be made to enable a veteran to use the extension to pursue vocational-objective training if he or she (1) resides in a geographically-remote area where there are no tade or technical schools and the local community college offers vocational-objective type training only through associate degree programs or (2) wishes to pursue training that is offered only through a degree program.

In this connection, I note that there is no legislative language or history supporting the blanket exclusion, in section 3.d. of the Circular, of college-degree courses. Indeed, the law expressly provides the extension for pursuit of "a course with an approved vocational objective". As defined in VA regulations (38 CFR 21.4230(b)), a vocational-objective program of education is "one that leads to an occupation" and "may include educational objectives essential to prepare for the chosen occupation". On this basis, it seems clear to me that a program leading to an associate's degree in, for example, auto mechanics or air conditioning repair could be considered vocational-objective training. Why have you determined that such a program should not be covered by the extention?

NEED FOR DATA

Finally, in light of the short, two-year period of eligibility, I am concerned about the time involved in processing applications for extensions. In this regard, I would appreciate receiving from you, on an expedited basis, summaries of the quarterly reports on the implementation of this provision re-

quired to be submitted to Central Office by section 12 of the Circular, as well as an indication, on a quarterly basis, as to the average processing time for applications (broken down to show time involved in applications approved and applications denied). Further, in light of the concerns I have raised and the possibility of future administrative or legislative action to modify what I believe are excessively rigid criteria lacking either statutory or policy justification, I urge that steps be taken to assure that records are maintained on those veterans whose applications have been denied so that, if need be, those veterans can be contacted in the future.

Thank you for your consideration. I look forward to hearing from you regarding this matter in the near future.

With warm regards,

Cordially,

ALAN CRANSTON,
Ranking Minority Member.

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* * * * *

been ordered canceled and resolicited causing additional liability to the VA.

It was the advice of both the VA General Counsel and the Justice Department that awards should not be made until after GAO had ruled on the situation. The contracting officer considered the entire situation and determined that to award the contract prior to GAO's ruling and the reaction of the court and the plaintiff to said decision would be imprudent.

Senator CRANSTON. Would you give us the supporting documents and amplify those points for the record?

Mr. THOMAS. Yes, sir.

Senator CRANSTON. To try to get a neutral opinion on these questions, I'm going to submit the issue to the GAO for review. That is as to whether it would have been legal and if so, proper for the VA to have proceeded with the contract award while the challenge of the procurement was pending.

Mr. THOMAS. We could have awarded in light of just the GAO protest. It was because of the litigation that we didn't.

Senator CRANSTON. I would appreciate it if you would provide that for the record.

It's stated in the testimony that you are opposed to any extension of the 10-year GI bill delimiting period on the grounds that such extensions would not be consonant with the readjustment intent of the current GI bill program. However, with respect to those Vietnam-era veterans who are still having difficulties in their readjustment—the veterans on whom the provisions of the proposal I have offered are targeted—it seems to me it is completely consonant.

The CPR study we recently completed for the VA found Vietnam veterans have not achieved as high a level of education as their peers and hold jobs that are, on the average, on lower levels than those held by nonveterans—and the disparities are sharper for combat veterans.

It's all well and good to designate special days to honor these veterans, but what is really needed is some concrete assistance from a scientific viewpoint, Dr. Ewalt, don't you agree that the results of the study raise questions about a continuing readjustment need for certain Vietnam-era veterans beyond the 10-year period?

Dr. EWALT. Yes. I'd like to point out that it's not uncommon in things like fellowships, residencies and what not that are time limited. If the person is ill in the hospital or injured or somehow otherwise unable to function, that time doesn't run for him while he's healing.

It seems that for the sicker ones and more handicapped ones, there would be nothing inconsistent in this. I believe that's contrary to my official position.

Senator CRANSTON. Do you believe the CPR study does indicate such a need?

Dr. EWALT. Yes, I do.

Senator CRANSTON. On page 27 of the testimony, you question whether I intended to include correspondence training in my proposal for targeted delimiting date extension. I'd like to clarify that I certainly did and do intend to include it in this authority and do not support the administration proposal to eliminate correspondence training generally under the GI bill.

The American Legion has indicated in its testimony that it would support enactment of a delimiting date extension tied to a determination by counselors at certain designated facilities, including the vet centers, that a veteran is in need of an extension, thereby turning over to such counselors responsibility for adjudicating individual veterans' entitlement to an extension. Under such a plan, would you see any conflict between the vet center staffs' roles as counselors and adjudicators?

For example, do you see potential harm to the effectiveness of a counselor in the program from having to grant or deny extension requests of a veteran?

Dr. EWALT. The only problem I would have with that is a number of our counselors, in fact a majority are not trained professional people. If our team leaders or other professional person made such a decision, I would have no problems with that and I doubt if we too often would run into conflict.

But if these people we have hired that are not professional people, I believe they would not be competent to make those judgments.

Senator CRANSTON. On another topic, your position relating to consideration of alcohol and drug abuse or dependence disability as "willful misconduct" for the purposes of determining eligibility for an extension of the delimiting period for GI bill benefits, I would note for the record that in June 1979, the VA testified in support of the approach to be taken in S. 458.

The Agency further indicated that it had tried to take corrective action administratively but had been precluded by the legislative history of the delimiting date extension provision.

Furthermore, I would note that when the House refused to agree to the identical provisions passed by the Senate last year, I was advised by the VA that it was conducting a review to determine if there is sufficient latitude under current law to permit me to make favorable determinations in those cases.

Was that review undertaken and, if so, with what result?

Dr. EWALT. I have no information. I'll try to get that.

Ms. SHAEFFER. We did begin to study the willful misconduct issue concerning alcohol and drug abuse. As you recall, Mr. McMichael, the former General Counsel, testified that there was a study going on, and at the time he felt that the Administrator would have the opportunity to consider this subject. However, since that time Mr. Carter has left and Mr. Cleland has also, without the issue having been resolved. I believe the subject is likely to be presented to the new Administrator and recommendations made forthwith.

Senator CRANSTON. How soon is forthwith?

Ms. SHAEFFER. When we get an Administrator might be the better question. At such time, I'm sure the whole process will be reviewed. The recommendations, perhaps, are not as conclusive as you would like.

Senator CRANSTON. It seems to be the VA's position that there really is no distinction between awarding an extension on the grounds of recovery from alcoholism or drug disability and awarding other VA benefits such as compensation or pension * * *.

VETERANS' ADMINISTRATION,
Washington, D.C., April 8, 1982.

Hon. ALAN CRANSTON,
Ranking Minority Member,
Committee on Veterans' Affairs,
U.S. Senate, Washington, D.C.

DEAR SENATOR CRANSTON: Thank you for your letter of March 18, 1982, concerning implementation of Public Law 97-72, the Veterans' Health Care, Training, and Small Business Act of 1981.

With the amendment to section 1662(a) of title 38, United States Code, which provided an extension to the delimiting period of certain Vietnam-era veterans, I was charged with the responsibility for developing criteria for determining the need for such an extension in accordance with the intent of Congress. In reviewing the history of this law, careful note was taken of the expressed legislative intent to extend the delimiting period to allow pursuit of a program of apprenticeship or other on-the-job training, or a program with a vocational objective if the veteran is in need of such training in order to achieve a suitable occupational or vocational objective, or for pursuit of a program of secondary education. This amendment was viewed as a means to provide a limited extension to veterans who, within their original 10-year delimiting period, were unable to effectively utilize their benefits to achieve the education or skills necessary to gain entrance to the workforce.

I believe the eligibility criteria contained in DVB Circular 22-81-15 focus on those veterans who Congress intended to assist; that is, veterans who lack a high school diploma, or the equivalent, and those who are unemployed or underemployed because they do not possess the education or skills that would provide them with an occupation. We do not believe it was the intent of Congress to provide a general extension of the GI bill to veterans who do possess a relatively extensive educational background, or a marketable skill, but who are experiencing employment difficulties that are more closely related to the Nation's economic problems in general than with their military service. I also believe that the criteria do allow for individualized eligibility determinations. Our procedures also require a formal administrative decision for most cases, approved by at least a section chief. We also provide for the determination to be made by a professional psychologist if requested by the veteran. Although our criteria may appear rigid, it is our administrative experiepce that the more discretion that is permitted in such determinations, the more open we are to charges of arbitrariness and capriciousness.

In considering the limitations of the program, it was determined that training by correspondence should be expressly precluded. This decision was based on the provisions of the Housing and Urban Development and Independent Agencies Appropriations Act which, as you are aware, prevents us from reimbursing veterans who may choose such a mode of training. In addition, courses leading to college degrees were ex-

cluded. This exclusion was derived from the wording in the law, itself, which permits pursuit of "a course with an *approved* vocational objective" (emphasis added). Courses are approved under title 38, United States Code, as leading to either vocational, professional, or educational objectives and the requirements for approval differ widely according to the objective to which the courses lead. Although many programs leading to associates degrees in the applied sciences or arts are closely identified with certain vocational objectives (e.g., auto mechanic), such courses do not meet the requirements of the law for approval as leading to vocational objectives. Some schools, usually junior or community colleges, do offer certificate courses that lead to approved vocational objectives. Pursuit of "certificate courses" is permitted in such circumstances.

We will be happy to furnish you a summary of the quarterly reports which we receive from our field stations. Unfortunately, the summary for the first quarter (January 1 through March 31, 1982) will not include a breakdown of the average processing time since our stations were not requested to document this information. In view of your request, however, we are requiring that this information be furnished in future reports, and that a listing be made, by name and claim number, of those veterans whose applications are denied.

I appreciate this opportunity to respond to your concerns in this matter, and look forward to providing you the further information you requested.

Sincerely,

ROBERT P. NIMMO,
Administrator.

VETERANS' ADMINISTRATION,
Washington, D.C., May 21, 1982.

Hon. ALAN CRANSTON,
Ranking Minority Member, Committee on Veterans' Affairs, U.S. Senator, Washington, D.C.

DEAR SENATOR CRANSTON: This is in further response to your letter of March 18, 1982, regarding the VA's implementation of section 301 of the Veterans' Health Care, Training, and Small Business Act of 1981.

The report for the first quarter of 1982 is now available and shows that 1302 claims for delimiting date extensions have been processed. Of the claims that have been processed, 13 percent have been allowed, while 60 percent were denied, either on the basis that the claimant was not found to be educationally disadvantaged, or that he or she was not unskilled. There were 351 claims denied for other reasons such as the veteran having no remaining entitlement, or the program for which the veteran requested an extension not being approved for veterans' training. There are 1153 claims that are still being developed, generally to determine whether or not the veteran is unskilled. The next quarterly report will show the average processing time for applications that have been approved as well as those that were denied. I am enclosing a copy of our field station summary for your review.

The Honorable Alan K. Simpson and the Honorable G. V. Montgomery have been provided with a similar report.

Sincerely,

ROBERT P. NIMMO,
Administrator.

Enclosure.

DELIMITING DATE EXTENSIONS

Station name	Station No.	Number of applications received for delimiting date extensions during the current quarter	Number of applications approved for delimiting date extensions during the current quarter for the following reasons—		Number of applications denied for delimiting date extensions during the current quarter for the following reasons—		
			Found educationally disadvantaged	Found unskilled	Not found educationally disadvantaged	Not found unskilled	Other reasons for denial (total)
		(1)	(2a)	(2b)	(3a)	(3b)	(3c)
Grand total		2,455	71	98	207	575	351
Eastern region, total		562	29	29	39	118	81
Connecticut: Hartford	308	17					2
District of Columbia: WRO	372	17					
Delaware: Wilmington	460	10		2		1	1
Florida: St. Petersburg	317	56	1	2	9	8	3
Georgia: Atlanta	316	83	1	4	2	40	12
Massachusetts: Boston	301	56	1	3	7	2	5
Maryland: Baltimore	313	41		1	2	6	10
Maine: Togus	402	15	5	2	1	4	3
North Carolina: Winston-Salem	318	40	1	6	1	9	11
New Hampshire: Manchester	373	19	2		2	13	1
New Jersey: Newark	309	15			1	1	2
New York:							
Buffalo	307	30	3	2	1	1	4
New York	306	4	1			2	1
Pennsylvania:							
Philadelphia	310	65	1	1		3	10
Pittsburgh	311	7	1	3	3	3	(1)
Puerto Rico: San Juan	455						
Rhode Island: Providence	304	20	3	1	1	5	3
South Carolina: Columbia	319	13	3		1	4	5
Virginia: Roanoke	314	33	2	2	2	4	5
Vermont: White River Junction	405	3					1
West Virginia: Huntington	315	34	4			12	1
Central region, total		1,439	35	49	116	384	183
Alabama: Montgomery	322	98	1	10	22	38	14
Arkansas: Little Rock	350	15	3		2		1
Iowa: Des Moines	333	85	3	1	42	50	5
Illinois: Chicago	328	82			6	8	9
Indiana: Indianapolis	326	139	3		9	(1)	(1)
Kansas: Wichita	452	4				2	
Kentucky: Louisville	327	76	2	3	13	33	4
Louisiana: New Orleans	321	14					1
Michigan: Detroit	329	238	3	13	6	66	43
Minnesota: St. Paul	335	104		5		48	3
Missouri:							
St. Louis RO	331	16	1	1	4	7	
St. Louis RPC	376						
Mississippi: Jackson	423	4				1	
North Dakota: Fargo	437	26		3	8	9	5
Nebraska: Lincoln	334	17	1			15	
Ohio: Cleveland	325	149	1	2		7	24
Oklahoma: Muskogee	351	24	1	2		1	
South Dakota: Sioux Falls	438	15					
Tennessee: Nashville	320	181	9	9	4	49	22
Wisconsin: Milwaukee	330	152	7	2		34	12
Western region, total		454	7	20	52	73	87
Alaska: Anchorage	363	5					1
Arizona: Phoenix	345	23		1	4	2	10
California:							
Los Angeles	344	8			2	1	3

DELIMITING DATE EXTENSIONS—Continued

Station name	Station No.	Number of applications received for delimiting date extensions during the current quarter	Number of applications approved for delimiting date extensions during the current quarter for the following reasons—		Number of applications denied for delimiting date extensions during the current quarter for the following reasons—		
			Found educationally disadvantaged	Found unskilled	Not found educationally disadvantaged	Not found unskilled	Other reasons for denial (total)
		(1)	(2a)	(2b)	(3a)	(3b)	(3c)
San Diego	377	11		1	1	3	1
San Francisco	343	103			19	15	(1)
Colorado: Denver	339	22			5	5	10
Hawaii: Honolulu	359	1			1		1
Idaho: Boise	347	9	1	3	2	1	2
Montana: Fort Harrison	436	12		1		1	1
New Mexico: Albuquerque	340	36	1	3		5	12
Nevada: Reno	354	2			1		1
Oregon: Portland	348	51	1	1	8	13	15
Philippine Islands: Manila	358						
Texas:							
Houston	362	34			2	2	
Waco	349	11	1		5	1	4
Utah: Salt Lake City	341	2		1		1	1
Washington: Seattle	346	108	3	8		11	16
Wyoming: Cheyenne	442	16		1	2	12	

[1] Illegible.

DELIMITING DATE EXTENSIONS UNDER PUBLIC LAW 97-72

(By Dorothy L. Starbuck)

1. Purpose: This circular provides instructions for extending the delimiting dates of veterans who are in need of training as provided by PL 97-72, "The Veterans' Health Care, Training, and Business Loan Act of 1981."

2. General: a. Public Law 97-72 has amended 38 U.S.C. 1662(a) to provide an extension of delimiting dates under chapter 34 for veterans who do not have a high school diploma, and for those who are found to be in need of vocational or job training because they are unskilled.

b. Payment to affected veterans may be authorized for up to 2 years but not for training pursued beyond December 31, 1983.

c. An application must be made by the veteran for consideration of extending his or her delimiting date; no special review will be made of cases with expired delimiting dates.

d. Following completion of training, the VA will provide the veteran with employment assistance to enable him or her to obtain appropriate employment.

3. Limitations of program: a. The veteran must have had active duty service under conditions other than dishonorable, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) provided he or she is otherwise eligible.

b. To receive benefits for secondary training beyond his or her delimiting date, the veteran must not have a high school diploma or its equivalent.

c. To receive benefits for vocational, apprenticeship, or other on-the-job training beyond his or her delimiting date, the veteran must be in need of training to achieve a suitable occupational or vocational objective because he or she is unskilled, or unemployed and unskilled.

d. Training with a vocational objective must be residential training in NCD (non-college-degree) courses. Benefits for farm cooperative training may be allowed, but correspondence and flight training are not allowed under the provisions of this program.

e. The length of the extension is governed by the following:

(1) The extension for vocational, apprenticeship, and on-the-job training may not exceed the applicant's unused entitlement, except extensions for vocational training under VAR 11041(D) (1) and (2); and

(2) The extension cannot begin before January 1, 1982, and cannot end after December 31, 1983.

4. Applications: a. Applications for delimiting date extensions under this provision must be made in accordance with the time limits specified in VAR 14131(A). Applications will be made on VA Form 22-1990 or 22-1995, as appropriate. To assist in identifying claims for extensions under this provision, forms should be marked "Extension under PL 97-72."

b. An application may be received that does not indicate that the person is applying for an extension to his or her delimiting date which has passed. These claims will not be denied if there is any possibility that the applicant may otherwise be qualified for an extension. All such claims will be developed as appropriate.

c. Additional development as described in paragraph 5 will be requested by dictated letter.

5. Development: Development must be made on a case-by-case basis since the circumstances in each case will be unique. If the veteran claims to be educationally disadvantaged or unskilled, only the one claimed must be developed. However, if he or she only claims to be unemployed or if he or she does not specify the reason for requesting the extension, the case must be developed for both the possibility of the veteran's being educationally disadvantaged or unskilled.

a. High School Training—Educationally Disadvantaged: A veteran who does not have a high school diploma or its equivalent will be considered educationally disadvantaged for purposes of this program. If recent educational background information is not available, the case must be developed to determine if the applicant qualifies for training. If development is necessary, the applicant wil be informed at that time that benefits are limited to the amount of tuition and fees for the course, not to exceed the single veteran's rate for the appropriate training time.

b. Vocational, Apprenticeship, or On-The-Job Training—Unskilled: There must be a determination that the veteran is in need of training because he or she is unskilled (whether employed or unemployed) as a prerequisite to payment of benefits for vocational, apprenticeship, or on-the-job training beyond his or her delimiting date. To make this determination, the following information must be obtained to the extent that it is not shown by the evidence of record.

(1) Educational and Vocational Training: All educational training received after high school and all vocational training must be indicated to include the following:

(a) Courses or programs pursued at each school.

(b) Whether the courses or programs listed were completed.

(c) Dates or enrollment for each course or program.

(2) Employment History: (a) The job title and a brief description of the type of all work performed with all employers.

(b) Dates of employment for each type of work listed.

(3) Employment Training: (a) A description of all classroom training provided by employers. The description must include the type of training received, the number of hours of each type of training, and the appropriate dates of such training.

(b) A description of all on-the-job training received while serving as a trainee on the job under the instruction of qualified workers.

6. Determinations: Each case will be decided on an individual basis by Adjudication personnel. The applicant may qualify for an extended delimiting date because he or she is educationally disadvantaged or is in need of training because he or she is unskilled. If the veteran requests an extension because of unemployment, evidence must also show that he or she is unskilled.

a. Educationally Disadvantaged: (1) If the applicant does not have a high school diploma or its equivalent, he or she will be considered as educationally disadvantaged and will qualify for an extension to pursue a program of secondary education provided all other requirements are met.

(2) If the extension is allowed to pursue a program of secondary education because the veteran is found to be educationally disadvantaged, the claims folder will be annotated "Delimiting date extended—educationally disadvantaged—PL 97-72."

(3) No formal administrative determination will be required in such cases.

b. Unskilled (whether Employed or Unemployed): (1) If the veteran has never been employed in other than entry level jobs, he or she will be considered to be unskilled for purposes of this program. Provided all other requirements are met, an extension will be allowed for pursuit of a program of voca-

tional, apprenticeship, or on-the-job training. For the purposes of this program, the following rules will apply:

(a) A job requiring 3 months or less vocational preparation will be considered as entry level.

(b) A person who holds a 2-year degree or who has completed 60 semester hours or the equivalent from an institution of higher learning will not be considered to be unskilled regardless of employment history.

(c) A person who has completed a vocational program which qualifies a person for more than an entry level job will not be unskilled.

(d) Trainee positions, such as management trainee positions, in private industry and government which generally lead to more responsible positions are not considered to be entry level although such jobs may require little specific vocational preparation.

(e) To qualify for a farm cooperative program, a person may not have held higher than an entry level position as described in subparagraph (2) below.

(2) As a guide to determining the skill level of most jobs, refer to the publication Selected Characteristics of Occupations Defined in the Dictionary of Occupational Titles which was prepared by the Department of Labor. Copies of this publication are available in the VR&C (Vocational Rehabilitation and Counseling) activity of each regional office. Additional copies may be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

(a) In part A of the above publication the training length is provided for each job listed. The training length is represented by an SVP (Specific Vocational Preparation) code shown in the right column for each job. (Appendix A of this circular provides additional assistance for locating SVP codes for specific jobs.)

(b) For purposes of this program for delimiting date extensions, jobs represented by SVP codes of 1, 2, or 3, will be considered as entry level. These jobs require 3 months or less in vocational preparation.

(c) In some situations the SVP codes in this publication may not be conclusive. In these cases other evidence of record should be examined. The preparation time indicated by the applicant for a particular job may not coincide with the SVP code for that job. For example, the applicant states that he or she holds a job as an ambulance attendant (DOT code 355.374-010) which has an SVP code 3. However, he or she claims that training for that job has been 9 months combined classroom and on-the-job training. Since his or her training for this job has been much more extensive than represented by the SVP code, this job will not be considered as entry level.

(3) A decision to grant or deny an extension of the applicant's delimiting date for vocational, apprenticeship, or on-the-job training based on need for training because he or she is not shown to be unskilled will be presented in an authorization determination. (See DVB Manual M21-1, par. 14.34.) The formal administrative decision will require two signatures with the second signature being the approval by a section chief. A formal decision will not be necessary if the claim is denied for some other reason, such as no remaining entitlement or program not approved.

(4) The Adjudication Division will not refer cases to VR&C solely for the purpose of making a determination that the veteran needs training because he or she appears to be unskilled. If a veteran requests counseling and VR&C makes the determination that the veteran is unskilled, based on the criteria specified in this circular, the delimiting date extension will be allowed. No further development on skill level of jobs held will be required and a formal administrative decision as discussed in subparagraph (3) above will not be required. The claims folder will be annotated "Delimiting date extended—unskilled per VR&C—PL 97-72."

7. Award Procedures: a. Beginning and Ending Dates: (1) Beginning Date: The beginning date of any extension under this provision will be the latest of the following dates:

(a) The beginning date of attendance or training as certified by the school;

(b) The veteran's original delimiting date under VAR 11042 or extended delimiting date under 11043; or

(c) January 1, 1982.

(2) Ending Date: The ending date (last date of payment) will be the earlier of the following dates:

(a) The last day of attendance or training as certified by the school or training establishment; or

(b) December 31, 1983.

b. Change of Delimiting Date: Training under this provision will require an extension to the veteran's delimiting date. For this reason the original delimiting date in the system must be adjusted to allow payment of benefits under the extension. The revised delimiting date under the extension will be the NONE date of the award under the extension, but not later than January 1, 1984.

(1) Target Processing: If the award is to be processed in the Target System, the delimiting date will be adjusted on the 310 screen, Chapter 31/32/34 Eligibility, in the DISAB fields.

(a) If the veteran's original delimiting date is earlier than January 1, 1982, enter "1-1-82" in the DATE field. In the MOS and DAYS field enter the appropriate time to generate the correct extended delimiting date.

(b) If the veteran's original delimiting date is on or after January 1, 1982, but earlier than January 1, 1984, enter the appropriate amount in the MOS and DAYS fields to generate the correct extended delimiting date. Make no entry in the DATE field.

(2) Non-Target Processing: Although use of the Target System for award processing is preferable, magnetic diskette or OCR documents may be used.

(a) If OCR processing is used, it is important to ensure that the entry in the DELIMIT BASE field has been processed before the OCR award is submitted.

(b) If magnetic diskette processing is used, the veteran's delimiting date must be extended by using the field DELIMIT BASE (field No. 375). The entry in this field will be: (1) A six-position entry in the month-day-year (MMDDYY) format; (2) a date that is 10 years and 1 day earlier than the NONE date of the award under the extension, or December 31, 1973, whichever is earlier; and (3) made as a part of an original Certificate of Eligibility or as a master record correction.

c. Entitlement: (1) High School Training: Entitlement will not be charged for benefits paid for high school training. However, to be entitled to benefits for such training, the veteran must have remaining entitlement. If entitlement is exhausted, *no* buy-back of entitlement will be allowed.

(2) Vocational, Apprenticeship, and On-The-Job Training: Entitlement may be extended for vocational training as provided under VAR 11041(D), but not beyond December 31, 1983. No extension of entitlement is permitted for apprenticeship and on-the-job training. No buy-back of entitlement will be allowed if entitlement is exhausted.

d. Rate of Payment: (1) High School Training: Payment will be limited to the cost of tuition and fees charged, not to exceed the single-veteran institutional rate for the particular training time. There will be no charge to entitlement. (See subpar. c(1) above.)

(2) Vocational, Apprenticeship, and On-The-Job Training: The rates of payment will be those as specified in VAR 14136(A) as amended by PL 96-466.

e. Folder-Pull Indicator: In cases where the delimiting date has been extended, the FOLDER PULL REQUIRED field on the Target M24 screen will be set.

8. Notice to Applicant: a. Extension Allowed: If the veterans' application for an extended delimiting date is approved, he or she will be notified by dictated letter of the extension. In addition to the required information contained in generated award letters, the following must be provided:

(1) If the school certifies a beginning date earlier than January 1, 1982, or an ending date later than December 31, 1983, the veteran must be notified of the reason that the award cannot begin earlier or end later than these dates.

(2) He or she must be informed that the extension is based on evidence which shows that he or she is educationally disadvantaged or unskilled, as appropriate under the provisions of law allowing the delimiting date extension. He or she will also be informed that this determination applies only to the specific course or program for which the extension is approved.

(3) The veteran will be informed that employment assistance will be available upon his or her request when he or she completes the course or program.

b. Extension Denied: The veteran will be informed of a denial of the application by dictated letter which gives the reasons for the denial.

(1) If the veteran is not shown to be educationally disadvantaged or unskilled, the denial letter will clearly state that the evidence does not show that he or she is educationally disadvantaged or unskilled, whichever is applicable, under the provisions of law permitting an extension of the delimiting date.

(2) If the applicant has requested an extension for training because of unemployment but the determination is that he or she is not unskilled, the request for an extension will be denied. The veteran will be informed that the extension cannot be allowed solely because he or she is unemployed and that evidence must also show that he or she is unskilled which is not shown by the evidence of record.

(3) A statement of appellate and procedural rights will be enclosed.

9. End Product Code: An end product code of 220 will be taken for approvals and denials of delimiting date extensions under this provision.

10. Change of Program: a. The determination that the veteran is in need of training because he or she is shown to be educationally disadvantaged or unskilled will apply only to the specific course or program for which application is made. Any change of

program will require another determination. For example, if a veteran is determined to be unskilled for the purposes of this program, is approved for training in a 12-month automobile mechanics course, and completes 8 months of the course, another formal determination must be made as to whether he or she remains unskilled before an application for further benefits for another program can be approved.

b. The change of program restrictions under 38 U.S.C. 1791 apply to program changes for benefits the veteran received before his or her delimiting date and to changes of program within the extended delimiting period. For example, if the veteran applies for an extended delimiting date but has already received benefits for two different programs before his or her delimiting date, development for a second change of program as specified in DVB Circular 22-80-37 will be accomplished concurrently with any other necessary development as discussed in paragraph 5 above.

11. Awards Terminating on Delimiting Date: Situations will occur in which predelimiting date awards for secondary, vocational, apprenticeship, and on-the-job training will end as of the veteran's delimiting date although the enrollment period extends beyond that date. For example, an enrollment is received for vocational training beginning January 11, 1982, and ending January 11, 1983, but the award terminates benefits as of the veteran's delimiting date on June 2, 1982. The veteran in such cases will be notified when the predelimiting date award is processed that benefits for secondary, vocational, apprenticeship, or on-the-job training, as appropriate to the case, may be continued beyond his or her delimiting date if it appears that eligibility may exist.

a. Secondary Training: (1) The notice concerning extended benefits must inform the veteran that payments for secondary training will be limited to the cost of tuition and fees. To apply for an extension, he or she will be notified to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further secondary training beyond his or her delimiting date;

(b) A statement as to when he or she received or expects to receive a high school diploma or its equivalent; and

(c) A current enrollment certification which certifies attendance beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence received indicates that he or she is continuing in training on or after that date; that he or she has not received a high school diploma or its equivalent; and that all other requirements for an extension are met.

b. Vocational, Apprenticeship, and On-The-Job Training: (1) To apply for continued benefits for vocational, apprenticeship, and on-the-job training beyond his or her delimiting date, the veteran will be required to submit the following no earlier than 60 days before his or her delimiting date:

(a) A statement that he or she requests benefits for further vocational, apprenticeship, and on-the-job training, as appropriate in the case;

(b) A statement as to the skills obtained from the beginning of the current course or training program and the information specified in paragraph 5b (if not of record); and

(c) A current enrollment certification that certifies enrollment in training beyond his or her delimiting date.

(2) Benefits may be extended beyond the delimiting date if the evidence shows that the veteran is continuing in training beyond that date; that he or she meets the requirements of being unskilled as of his or her delimiting date as specified in paragraph 6b; and that he or she meets all other requirements for the extension.

12. Statistics: a. A report (including a negative report if no extensions are received) will be submitted to the Field Director (722A) on a quarterly basis. The report is designated as RCS 22-28.

b. Regional offices will report the following information:

(1) Number of applications received for delimiting date extensions during the current quarter.

(2) Number of applications approved for delimiting date extensions during the current quarter for the following reasons:

(a) Found to be educationally disadvantaged;

(b) Found to be unskilled.

(3) Number of applications denied for delimiting date extensions during the current quarter for the following reasons:

(a) Not found to educationally disadvantaged;

(b) Not found to be unskilled;

(c) Other reasons for denial (total number).

(NOTE.—The above statistics will not reflect delimiting date extensions for disability.)

c. This report must be received in Central Office no later than the 10th workday following the end of the quarter. The first report will be due the 10th workday of April 1982 (covering the quarter beginning January 1, 1982). The final report will be due the 10th workday of January 1984 (covering the quarter beginning October 1, 1983).

13. Distribution: Copies of this circular are being distributed to educational institutions.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON ENERGY REGULATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 22, at 10 a.m., to conduct a hearing on S. 2500, a bill to amend the Federal Power Act to reduce conflicts in the licensing of hydroelectric powerplants and to expedite the development of and simplify the regulation of hydroelectric powerplants, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL POLLUTION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Pollution, of the Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Thursday, July 22, at 2 p.m., to hold an oversight hearing on the reauthorization of the Clean Water Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INVESTIGATIONS AND GENERAL OVERSIGHT

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Investigations and General Oversight, of the Committee on Labor and Human Resources, be authorized to meet during the session of the Senate on Thursday, July 22, at 10 a.m., to hold an oversight hearing on childhood immunization.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOW TO WIN THE WAR AGAINST POVERTY

● Mr. GOLDWATER. Mr. President, I have long held the belief that we have been winning the war against poverty, but not because of medicare or welfare and other benefits, but because we have had up to now a highly productive economic system.

A recent editorial statement aired on radio station KAIR in Tucson, Ariz., makes the same point in summarizing George Gilder's book, "Wealth and Poverty." Because the message is so clear and correct, I wish to share it with my colleagues, and ask that the editorial may appear in the RECORD.

The editorial follows:

George Gilder in his book "Wealth and Poverty" celebrates the entrepreneur—that dreamer, and doer—who, he says, does more to provide jobs and raise living standards than all the social programs ever devised. And, he says, in a vibrant and free society the greatest single asset is an army of "poor" entrepreneurs on their way to becoming wealthy. But even as entrepreneurs transform capitalism from promise to reality, the social planners have held the high ground. He makes the point that the most serious fraud in welfare is committed not by its recipients, but by its creators who have concealed from the poor the fundamental reality that to escape poverty they will have to work harder than the classes above them. The poor choose leisure not because of moral weakness but because they are paid to. We have regulated and constricted our economy to the point where for both rich and poor, risk is neither encouraged nor rewarded. Yet the natural impulse to take risks has produced new jobs, new ideas, and new wealth of incalculable abundance—proving again and again that the greatest antipoverty program of all is a free economy.●

ENVIRONMENTAL LAW ENFORCEMENT

● Mr. LEAHY. Mr. President, I submit for the RECORD a study I released this morning on the mismanagement of the enforcement division of the Environmental Protection Agency.

This study shows that through mismanagement the Administrator of EPA has effectively destroyed its Enforcement Division.

The study follows:

ENVIRONMENTAL LAW ENFORCEMENT—A CASE STUDY IN MISMANAGEMENT

(By PATRICK J. LEAHY, U.S. Senator)

The purpose of this report is to evaluate the effectiveness of the enforcement division of the Environmental Protection Agency since the Reagan Administration has come into office. As a member of the Senate Appropriations Committee and the Senate Judiciary Committee, I have a special interest in ensuring that the enforcement program at the Environmental Protection Agency is effective and fair. And, as a former prosecutor, I know that, unless the public believes that our laws will be fairly enforced, against the powerful polluter as well as against the food stamp cheat, respect for government, which is the basis of our democratic institutions, will suffer.

Thus, I asked my Appropriations Committee staff to determine whether environmental law enforcement efforts at the Environmental Protection Agency have improved or deteriorated since the Reagan Administration has taken office. This study has led me to conclude that the effectiveness of the enforcement division of the Environmental Protection Agency was virtually destroyed by a combination of mismanagement and mixed signals.

SUMMARY

1. Ms. Gorsuch abolished the enforcement division on July 1, 1981, in spite of the fact that a major consultant's report warned her that the "case for making that change now does not overcome the costs of the disruption a reorganization would cause" and that such a reorganization "can be highly damaging to staff morale, productivity, and to an office's key programs."

2. Between July 1981 and May 1982, the enforcement division went through a major reorganization every eleven weeks.

3. For six of the last thirteen months, there was no overall legal director for the Environmental Protection Agency with the result that the two deputies were continually feuding over control of policy.

4. Enforcement policies were so confused that ten months after the first reorganization and four months after the second reorganization, EPA's chief financial officer still had to ask Administrator Gorsuch to decide the basic issue of "what functions should (the Office of Legal and Enforcement Counsel) manage."

5. Management controls and policies were so weak in the critical hazardous waste area that one regional office with severe hazardous waste problems left all inspection to the states, while another region with relatively few problems led the nation in inspections.

6. Because of mismanagement, for six out of the last thirteen months, there were only about ten attorneys in the enforcement section of the Office of Legal and Enforcement Counsel.

7. As a result of the mismanagement of EPA's enforcement division, by any objective measure, enforcement efforts have dropped by 70–80 percent.

The enforcement policies of the new Environmental Protection Agency have been a major area of controversy since Ms. Anne Gorsuch became Administrator on May 20, 1981.

Much of this controversy arose because the new Administrator decided less than a month after taking office to abolish the enforcement division. The Administrator explained that the purpose of this reorganization was more efficient management. Ms. Gorsuch had been extremely critical of the quality of management in the previous administration. She stated: To say that no comprehensive plan of administration existed at EPA would be a polite description of the chaos that existed.

However, her repeated statements implying that previous administrations had been excessively zealous in enforcing the environmental laws raised questions about the intent and the effectiveness of the abolition of the enforcement division.

FIRST REORGANIZATION

On June 12, 1981, Administrator Anne Gorsuch announced a reorganization of the Environmental Protection Agency. The principal feature of the reorganization, which was effective on July 1, 1981, was the abolition of the Office of Enforcement, previously headed by an Assistant Administrator, and the division of its functions among program offices. The reorganization called for the creation of a new Office of Legal and Enforcement Counsel (OLEC), to be headed by an Associate Administrator, that would consolidate all other legal functions of the Agency. The Office of Legal Counsel would defend the Agency in judicial actions brought against EPA. The Office of Enforcement Counsel, within OLEC, was responsible for coordinating all Agency enforcement, reviewing and approving all enforcement actions proposed for litigation, preparing all policy guidance and strategic planning related to enforcement.

The Agency explained the purposes of the reorgaization as follows: The reorganization of EPA will assure that Agency goals are results-oriented in terms of improving the quality of the environment as well as provide for strong and consistent internal management control. The major reorganization objectives are: (1) better articulating and assigning accountability for environmental program results, (2) improving the focus of policy, standards and regulations development, (3) ensuring consistent interpretation and enforcement of regulations, and (4) strengthening management of Agency resources.

Unfortunately, this major reorganization did not achieve these purposes. Instead, the disruption caused by the reorganization itself and the mismanagement of the reorganization severely damaged the credibility of the Environmental Protection Agency's enforcement program.

Two points about this reorganization are especially striking. First, the reorganization was undertaken in spite of the fact that a major consultant's report had concluded that such a reorganization would produce precisely the disorganization and damage to morale that occurred.

Second, in just six months, the reorganization had so clearly failed that it was revoked in large part.

In July 1980, ICF, Incorporated, a well-known Washington consulting firm in the environmental field, completed a report on whether the enforcement functions of the Environmental Protection Agency should be reorganized.

The basic issue examined by that study was whether the enforcement division should be split up and assigned to the program offices. In the ICF report, this was called the "function" approach. This was the theory of the reorganization ordered by Administrator Gorsuch in June 1981 and implemented in July 1981.

In the course of its analysis, ICF conducted 40 interviews, including the Assistant Administrator, Deputy Assistant Administrator, and Division Directors of the Office of Enforcement. Program officials, EPA officials outside of Washington, and Justice Department officials were also interviewed.

The study began with the warning that "The current air, water, pesticides and other enforcement programs managed by (the Office of Enforcement) are very important and . . . could suffer serious setbacks if disrupted unnecessarily." (Page 2)

After the study was completed, ICF came to the following conclusion: "Overall we did not see enough evidence to make a compelling case in favor of a radical organizational change, such as the functional or industry option."

The report not only concluded that a convincing case had not been made for reorganization, it warned that such a reorganization could be "highly damaging to staff morale, productivity, and to an office's key programs." As the report explained more fully: We do not recommend that OE reorganize into a functional structure at this time. The case for making that change now does not overcome the costs of the disruption a reorganization would cause nor do the attitudes of the OE managers favor much change. In our view, extensive governmental organizational changes should be made only when the evidence of the need for change is overwhelming. Extensive reorganizations can be highly damaging to staff morale, productivity, and to an office's key programs. There is a strong consensus against major change right now among the current OE line managers. They are especially antagonistic to a functional reorganization.

Unfortunately, the predictions of the ICF report were true. Productivity of the enforcement division dropped off severely. The contrast is seen clearly by comparing the number of cases referred to the Department of Justice by EPA and the cases forwarded to EPA headquarters from the region from 1977 through 1980, with the number of cases in 1981 when this reorganization was in effect.

	1977	1978	1979	1980	1981
Civil actions sent to Department of Justice	204	363	254	252	78
Cases forwarded from regions to headquarters	242	412	254	313	66

This chart shows that, for the four years between 1977 and 1980, civil actions averaged 278 per year. In 1981, there was a 70 percent drop in such actions. Cases forwarded from the regions during the same period average 306. In 1981, there was an 80 percent drop-off in such activity.

The extent of the mismanagement of this reorganization is illustrated by the fact that, when the July 1981 reorganization took place, only about ten attorneys were left in the offensive enforcement division of the Office of Legal and Enforcement Counsel, while about one hundred were in the defensive portion of the OLEC. The only staff kept in OLEC when the Office of Enforcement was abolished were from the National Enforcement Investigation Center, the Office of Criminal Enforcement and the Special Projects and Policy staff. Although over one hundred people were involved, only about ten were attorneys, and over 90 were in Denver, Colorado.

SECOND REORGANIZATION

Thus, it was not surprising that, on December 27, 1981, a second major reorganiza-

tion was begun which shifted all enforcement attorneys back to the Office of Legal and Enforcement Counsel. This resulted in shifting back to OLEC about 100 persons who had been assigned to the program offices just six months earlier.

This second major reorganization, known in the Agency as the "OLEC Tap" clearly shows that the initial reorganization, which shifted all enforcement attorneys into the program offices, was a failure.

During the course of the second reorganization, another major management failure became evident—when the first reorganization was ordered, essential budget decisions were not made. As Enforcement Counsel William Sullivan wrote to EPA Chief of Staff John Daniels in February 1982, eight months after the first reorganization: "As you know, when the Office of Enforcement Counsel was established and staffed, it was decided to postpone discussions of pertinent resource considerations."

Enforcement Counsel Willian Sullivan then warned that these budget decisions must be made "in light of the upcoming budget hearings . . ."

As of April 1982, ten months after the first reorganization, and four months after the second reorganization began, the enforcement budget was still not resolved. A memo describing the problem, which involved about 50 key enforcement personnel, makes clear that the problem was at the top of the Agency. The Administrator had still not clearly decided, eleven months after she took office, what the function of the Office of Legal and Enforcement Counsel should be.

As the Comptroller's office stated, "The issue is: What functions should OLEC manage? The resolution of this issue will allow us to solve the resource questions that have arisen."

This basic issue of the budget for resources for the enforcement staff was not resolved until a reprogramming was sent to the Congress on May 17, 1982, after repeated congressional inquiries.

Not surprisingly, the mismanagement of the reorganization also resulted in a failure to assign enough clerical and support staff. On March 19, 1982, office-level directors in the enforcement division, including those involving hazardous waste, Superfund and case development, wrote to the Director of Legal Operations "to emphasize the critical lack of clerical and administrative support for (Office of Enforcement Counsel) operations." There were only six secretaries for thirty-seven attorneys, four supervisors, and their staffs. Calling the situation "intolerable," the division directors warned that the "effectiveness and morale of the attorney and support staff. . ." which are "doing the highest priority enforcement work in the Agency . . ." are being adversely impacted.

LEADERSHIP POSITIONS NOT FILLED

During the same period in which the enforcement office was effectively eliminated and then substantially reconstituted, two other major changes occurred.

First, three months after the reorganization began, Frank Shepherd, the Associate Administrator for Legal and Enforcement Counsel, resigned on September 25, 1981. This left the legal portion of the Agency without an overall director. His position was not filled until March 26, 1982, when Robert Perry was appointed Associate Administrator for Legal and Enforcement Counsel.

During this six-month period, Enforcement Counsel William Sullivan and General Counsel Robert Perry continually jockeyed for power.

On March 29, 1982, three days after his appointment, the now Associate Administrator Perry effectively stripped Enforcement Counsel Sullivan of all his power. Sullivan subsequently resigned. A new Enforcement Counsel has still not been appointed.

Thus, Administrator Gorsuch, during the vital start-up period, and when the enforcement functions were undergoing three major reorganizations, left the Agency leaderless.

THIRD REORGANIZATION: REGIONAL

During this same period of headquarters reorganization and personnel shifts, a reorganization of the regional enforcement offices was also ordered.

On October 15, 1981, Ms. Gorsuch sent a memo to the Regional Administrators directing them to reorganize the regional offices to be more closely alined with headquarters organization. This memo called for the regions to move the enforcement activites of permit issuance and related compliance monitoring to program divisions. Legal work associated with enforcement litigation and current regional counsel activities was to be performed in a newly expanded Office of Regional Counsel reporting directly to the General Counsel in headquarters. This reorganization created some confusion in that regional enforcement lawyers were to answer to the General Counsel (Mr. Perry) in headquarters, not the Enforcement Counsel (Mr. Sullivan) or the Director of OLEC. Second, the regional counsel were no longer to report to the Regional Administrator who remained the person responsible for issuing all enforcement notices, orders and preparation of cases and who is the line supervisor of the regional office.

The October 15, 1981, regional reorganization also delegated substantial responsibility to the Regional Administrators to operate their own enforcemnent programs. This, in turn, was contradicted by a reorganization proposed by Enforcement Counsel Sullivan in a memorandum dated February 26, 1982.

This memorandum caused confusion because it appeared to contradict the guidance Ms. Gorsuch had given the regions in the October 15, 1981, regional reorganization. Memoranda were received from several Regional Administrators demanding to know whether Sullivan's memo represented new guidance from the Administrator.

The final resolution of this matter is not clear.

FOURTH REORGANIZATION

A month and a half after being appointed, Associate Administrator for Legal and Enforcement Counsel and General Counsel, Robert Perry, announced another reorganization on May 14, 1982.

Associate Administrator Perry promised that "the implementation of these recommendations will result in only an insignificant disruption of our work over the next 30 days." However, as of July 7, the Acting Enforcement Counsel was still not able to answer a congressional request from Senator Leahy to describe in detail what staff he had because of "interim 'fine tuning'." He was also unable to provide a detailed description of the restructured Office of Enforcement Counsel. He wrote:

"We do not have any documents which provide the specific information which you requested because we are still working on developing a proposal for the reorganization to which you refer. The documents which we are drafting for this purpose are still in a state of flux while we collect and incorporate suggestions from various specialists in the Agency to make sure that the proposal accounts for all necessary considerations (e.g. Civil Service requirements of labor union matters) and ultimately is feasible to implement."

Thus, the fourth reorganization is not yet complete and a fifth reorganization may be necessary.

ENFORCEMENT EFFORTS DOWN

Just as the major reorganization in 1981 cut enforcement efforts by 70–80 percent, the continued reorganization in 1982 substantially cut enforcement efforts. During the first half of 1982, only 20 cases had been referred to the Department of Justice. Even if the Agency doubles its enforcement efforts in the second half of the year, enforcement will drop 76 percent compared to 1979 and 70 percent compared to 1980.

HAZARDOUS WASTE

The failure of the Administrator to make critical management decisions can also be seen from examining the data in the Administrator's Management Accountability System Report of the Second Quarter 1982 on the hazardous waste program.

This report is of special interest because the Administrator has emphasized on many occasions the importance of the Management Accountability System as a critical management tool and because of the high priority she says the Environmental Protection Agency is placing on hazardous waste enforcement.

A close examination of this report shows two important management failures. First, it raises serious questions about misallocation of resources, and second, it shows that consistent enforcement policies throughout the ten regions have not been established.

The first management failure, misallocation of resources, is demonstrated by a comparison of regional hazardous waste inspection activity. Region VIII is headquartered in Denver and includes Colorado, Utah, North and South Dakota, and Wyoming. It led all the regions in hazardous waste inspections. Region V, which includes the industrial heartland of the mid- and upper-midwest, has six times more hazardous waste facilities than Region VIII. However, Region V did no inspections at all. All inspections were left to the states. This drastic disparity in activity clearly shows that enforcement resources are not being effectively allocated among regions.

This disparity in allocation of inspections exists in spite of the fact that three states in Region VIII have accepted delegation while only two states in Region V have accepted delegation.

An examination of the results of enforcement efforts in the ten regions shows great inconsistency in the enforcement policies applied by the regions.

For example, eight of the ten regions found violations of hazardous waste laws in one out of 16 or fewer of their inspections. Two other regions found a violation in one out of every four-to-six inspections. The region which did the most inspections found only one out of a hundred sites violated the law. The second most active region found about one out of every four violated the law.

This indicates that either resources were badly misallocated, different enforcement policies were implemented in different regions, or both.

After a violation is found, the next step is to issue a compliance order. A similar lack of consistency in policy is apparent in this

area. Two regions issued compliance orders for roughly half of the sites where violations were found. Two regions issued compliance orders in every instance where violations were found. Four regions issued no compliance orders, even though violations were identified.

These patterns clearly indicate that, in this high priority area, management priorities and consistent policies have not been established.

THE FUTURE

What does the future hold for the enforcement efforts of the Environmental Protection Agency?

Administrator Gorsuch recently recognized that the Agency's enforcement efforts have been unacceptable since she became Administrator. She stated in a recent meeting with regional administrators, "Frankly, the Agency's enforcement program has not yet lived up to my expectations."

For her own management failures, she again prescribed just the medicine she failed to administer, "improved management techniques."

While these statements that "This Agency will enforce the law" are welcome, they raise a basic question—can she manage the Agency in a competent fashion so that it can achieve this objective?

Over a year ago, just when she was beginning the first of four reorganizations, she pledged that "EPA is committed to a strong enforcement doctrine." In spite of this pledge, mismanagement of the Agency during the following months virtually destroyed its enforcement capability. In light of this record of mismanagement, there is little reason to assume that she will be more successful in the future.●

TRIBUTE TO BERNIE FISHER

● Mr. SYMMS. Mr. President, historically America has been blessed with a legacy of inspiring leadership. But we suffer today from an acute shortage of authentic contemporary heroes—men and women of great courage and conviction who can serve as models for all of us, especially our youth.

We do have some heroes, of course. And one of mine is Bernie Fisher, a retired Air Force colonel who won the Medal of Honor for conspicuous bravery and service that was above and beyond the call of duty during the war in Vietnam.

Several weeks ago, on the Fourth of July, the Idaho Press Tribune published a fascinating interview with Bernie Fisher, giving its readers a chance to share his ideals and reflections on freedom, patriotism, individual responsibility, the role of the family and the moral standards of our society today.

His views are so thoughtful and uplifting that I want my colleagues and their constituents to share them too. I ask that the article by J. E. Vail of the Idaho Press Tribune, "A July 4 Judgment," be inserted in the CONGRESSIONAL RECORD.

The article follows:

A JULY 4 JUDGMENT

(By J. E. Vail)

The Fourth of July brings out a lot of closet patriots who let fly the red, white and blue in a once-a-year flag-waving exercise.

But for Bernie Fisher—a Medal of Honor winner and former gubernatorial candidate—patriotism isn't something to be stored away and drug out once a year for the national holiday. It's something to be lived out. And it's something he thinks that there may not be enough of today.

"This country really came up hard," Fisher said. "To be founded, it had to be fought for, and it has been an island of freedom for the world.

"And yet, we've got a lot of people who don't even stand when the flag goes by. They don't care," he said. "They wouldn't even care if California was invaded—they wouldn't have an interest in going down and helping them.

"Thank goodness they're not all that way," he said. "There are many people who think a lot of this country. I do. It's the greatest.

"And I say that after looking at other countries," he said. "Czechoslovakia, for example, or Poland. They can arrest you and throw you in jail and they don't have to account for one smidgen of it unless there's publicity.

"You can't do that in the United States," he said.

Despite all the country has going for it, there are things about its government and citizens that worry Fisher.

"It concerns me that we don't have a national objective, a national policy," he said. "We don't know what we want to do.

"Maybe we could contrast that with the Israelis today," he said. "They know what they've got to do to survive.

"But we're lazier. We're foundering," he said. "But if we had to fight, we would.

"But we've got people that don't care about the country and we've got kids that wouldn't be interested in getting into the military," he said. "They avoid the draft. It's a sick kind of environment."

As for Fisher, he hasn't avoided serving his country—from serving in the military to participating in state politics.

Fisher made the Air Force his career. He wound it up in Boise as a group advisor to the Air National Guard, retiring in 1974 after 22 years and a Congressional Medal of Honor.

The medal came in 1966 after Fisher saved the life of a fellow pilot during the Vietnam War battle at A Shau.

According to the official citation, the special forces camp at A Shau was under attack by 2,000 North Vietnamese Army regulars, some of whom had positioned themselves between the camp's airstrip and the fort itself. Other hostile troops had surrounded the camp and were continuously "raking it with automatic weapons fire from the surrounding hills."

Those hills, 1,500-feet high, were obscured by an 800-foot cloud ceiling that day, which limited aircraft maneuverability and forced pilots to operate within range of hostile gun positions. In fact, those guns were able to fire down on the attacking aircraft as they flew under the cloud ceiling.

During the battle, Fisher saw fellow pilot Maj. Dafford Meyers crash land on the battle-torn airstrip. Because he believed Meyers to be seriously injured and in danger of being captured, Fisher went in to rescue him.

According to an account of the rescue published in the June 1966 Air Force Magazine, Fisher spotted Meyers waving to him when Fisher's plane was about three-quarters of the way down the runway.

He stopped about 150 feet beyond and started to unharness his gear to go after what he thought was a wounded pilot. Meyers, who was "relatively unhurt," was "making a fifty-yard dash for the plane."

Just before Fisher was ready to leave the plane, he saw Meyers and "pulled him head first into the plane, turned around, and took off."

To quote from the magazine account: "It (the rescue) was a miraculous feat. All the maneuvering had to be done in a tight, socked-in area. The (aircraft) providing suppressive fire had run out of ammunition at the time Meyers was making his dash to the plane.

"Enemy automatic-weapons fire was coming from the camp area as well from the hills above the camp. The runway jagged with tire-puncturing metal ripped by mortar blasts. When Fisher landed at Pleiku (his home base), his plane had 19 bullet holes in it."

After the camp fell, one of the other Air Force pilots said the battle "was like flying inside Yankee Stadium with the people in the bleachers firing at you with machine guns."

According to the magazine account, Meyers himself told Fisher when he was pulled into the cockpit: "You dumb son of a gun—now neither of us will get out of here."

But they did, and Fisher was cited "for conspicuous gallantry and intrepidity at the risk of his life above and beyond the call of duty."

Although Fisher was hesitant about discussing his rescue mission, he did have a lot to say about one subject—how government could be made better.

"We should have less government. And I don't mean just eliminate it, but shift it onto the individual rather than onto the agencies," Fisher said. "I don't know if that can be done, but I think it has to be done.

"How it can come about is probably through day after day of doing better, not doing things that would tear other people down," he said.

"One of the big problems is the tax issue," he said. "Federal taxes are extremely high and yet people are saying we should raise taxes. That isn't right.

"We're putting the burden on a few people and a lot of people aren't doing their part," he said. "That state is the same way. Why should we tax people so heavily?

"When you get big money separated from the people who are actually providing it, there's not the interest in it," he said. "Here's an example of that—it's flippant, but it's true.

"If you're on Social Security, for example, it probably takes eight people to support you," he said. "One way of resolving that is, instead of giving you a check, I'll give you a list of eight names.

"You go to those people and tell them you'd like your money," he said. "It would bring it down to a very grassroots level and it would resolve itself."

Another major problem facing the country is a moral one, according to Fisher.

"One of the biggest problems we have in the U.S. today is with moral standards," Fisher said, "When you come right down to it, split homes—children growing up out of where there's love and harmony—are not good.

"I'm on the parole board and no matter how many kids I've talked with in a day, there's a definite blueprint," he said. "I'll say, 'tell me about your father,' even though I've already been through the record.

"And the kid will say, 'Oh, I haven't seen my dad for quite a while,'" he said. "'What about your mother,' I'll ask.

"'Aw, she's getting along alright,'" he said. "'Is she remarried?' The kid says, 'Yeah.'"

"And you look at the record and she's been remarried several times," he said. "What chance does the kid have?

"Sixteen-year-olds now are the worst criminals we've got in this society," he said. "I guess he's going through things in life with masculinity and emotional things and nobody gives a hoot about him.

"That's the kind of environment we're raising our kids in today," he said. "And you hear it time and time again that these kids are our salvation.

"But they really are," he said. "And we're kidding ourselves if we don't think that's true.

"Integrity in the family, dedication to your children and your spouse—those may not be big things, but they're so important," he said. "Most of our community problems stem from infidelity or lack of conern for others or for ourselves.

"If we don't have a good feeling about ourselves and about others, that carries right into everything we do," he said. "We should be so concerned about the people around us and about ourselves that we uplift and not do things that are tearing people down."●

BACCALAUREATE ADDRESS OF A. BARTLETT GIAMATTI, PRESIDENT OF YALE UNIVERSITY

● Mr. BOREN. Mr. President, recently A. Bartlett Giamatti, the president of Yale University, my own alma mater, delivered a thought provoking address to the class of 1982. I want to take this opportunity to share it with my colleagues. In his address, President Giamatti urges us to beware of the self-righteousness of ideological authoritarianism. He urges what he calls the "middle view" or a centrist approach with a commitment to a process which assures that our beliefs will be tested and the pluralism of our society preserved. He says:

What binds us together as free women and men and as Americans is a shared faith in those processes by which we evolve and test our several beliefs and traditions.

One may debate the merits of some of the conclusions which it reaches, but Giamatti's address articulately presents a point of view which we should contemplate.

IN THE MIDDLE DISTANCE—THE BACCALAUREATE ADDRESS

(By A. Bartlett Giamatti)

On September 5, 1978 we began our voyage together, and I am delighted to see so many of your company gathered here again. I can report that much of me has returned as well. In the interim, I have merely decayed, albeit with an insouciant grace, but you have, impressively and almost without effort, matured. You are now, in the view of the faculty and the trustees, ready for the greater voyage and it is my pleasant duty to be your pilot to the harbor's mouth. There you will set full sail and I, somewhat like Vergil's Palinurus, will be washed head-long overboard, to float ashore on our island in the autumn, barnacled in wisdom, there to guide the next group of impressed young mariners to the point of embarkation. You will be well away by that time, we all devoutly trust.

Over time, these sea changes suffered annually by your pilot do not necessarily produce a figure rich and strange. Rather they tend to rot with motion the pilot's firmness of vision and steadiness of bearing. It is a matter of great consequence to me, and should be to you, for you will also be pilots henceforth, how to keep a clear eye and a moral compass pointing true.

How to keep one's bearings in the tempest ahead, given all the flux and fury of the past and the present, is therefore my theme today. You will, to extend the figure, sail into very savage seas in your voyage. We live in a world where the human race must decide, soon, how not to use the capacity to destroy itself through nuclear weapons that it has exactingly, lovingly crafted. We live in a time when, in the name of nationalist necessity, someone is killed every day. We see resources, human and natural, squandered or jealously sequestered; their consequent maldistribution gives rise to understandable yearnings and tremendous, dangerous tensions. We find in our own country an apparent incapacity to cope with the rhythms and dynamics of our freely-chosen economic system. And in the sphere I primarily inhabit, the world of education, we sense that the public loses faith in education and that a sense of failure mounts. Is that eroding faith, that sense of failure, justified? Is it only another form of apocalyptic wailing to ask how we will educate better or if we educate well at all? Or are there legitimate issues concerning education and our moral bearings which reasonable people must attend to?

I know this is a happy occasion, meant to gather family and friend in a moment of celebration. And I have no wish to dampen the atmosphere. But before any of us, my shipmates, indulges in self-congratulation on how well the University has served you, permit me a few remarks on some of the apprehensions I have. They are apprehensions about the process of education and, because I see education as central to the country's well-being, about the well-being of our culture and its political bearings. My thoughts will have at the outset a personal cast, which I trust you will indulge, because they spring from a recent experience of mine which forced me as I have been forced never before to face up to the consequences of a failure to educate people to think humanely and historically for the benefit of others. I realized how essential to our human freedom and dignity an education rooted in reality, ideas connected to circumstances, must be. But I anticipate.

Briefly stated, this March, on a gray and windy day I went to a place in Jerusalem called Yad Vashem. Yad Vashem is a monument to the heroes and martyrs of the Holocaust and a memorial to the six million Jews systematically murdered by the Nazis. To descend beneath the stark, concrete plaza to the underground museum is to descend into Hell at one remove. It is to go into mass moral chaos and yet it is only a representation, in photograph, artifact and text, of the horror of the camps and the monstrosity of the events and the minds that made them. To be immersed in our human capacity to be inhuman was for me to be flayed. I will not recount the reasons for that sense of being stripped of all customary assumptions and reactions because I do not intend to exploit that horror or the memories of those who died. I do intend, however, to assure you that one may have, as I had, one's certainties challenged and one's faith shaken in a radical way by confronting a reality that is now part of the inheritance of the human species.

Coming up from underground, I was forced to face the consequences of ideology. I had seen close up, even if at a remove, what can result when human beings ignore circumstances; that is, ignore our common moorings in our accumulated, common humanity. I use the word "circumstances" as Edmund Burke used it in his *Reflections on the Revolution in France* when he said that "Circumstances . . . give in reality to every political principle its distinguishing color and discriminating effect. The circumstances are what render every civil and political scheme beneficial or noxious to mankind." At Yad Vashem one sees the logical extension of abstraction without circumstances, of System without history, of ideology—moralistic, legalistic, internally complete—in the hands, of the true believer; insanity can result and people can die. When timeless dogmas are allowed to run unconnected to time, that is, to the accumulated experience and contending currents of humanity, an ideology can encourage people to murder as easily as it can encourage them to claim nobility. Not every bloodless abstraction will necessarily spill someone else's blood, but every bloodless abstraction, of Left or Right, will necessarily swell toward authoritarianism, and from the urge to control to the self-righteous justification to kill is but a short step.

Why does any ideology tend to be authoritarian? Because any system of ideas that consciously purifies itself of previous condition or prior context—Burke's circumstances—and claims to contain all value must logically also wish to exert complete control. Any scheme for regulating life that systematically asserts it is internally and systematically complete, a law and a morality and a context of value and a machine for living unto itself, must logically will to exercise its power completely, or its claims for itself are invalid. The self-righteousness of all ideologies is a function of their self-perceived completeness; each element reflects the alleged correctness of every other. These closed systems are attractive because they are simple and are simple because they are with such masterly evasions of contradictory, gray, complex reality. Those who manipulate such systems are compelling because they are never in doubt. Burke is clear in warning us against what he calls "the delusive plausibility of moral politicians." It is a warning one ignores only at great risk to one's freedom.

Yad Vashem raised for me those thoughts, among others, and I raise them here, now, because I explicitly and fervently hope your education has taught you what an education must teach—to fashion principles and purposes in context and to treat ideas in reality. I hope your education has taught you to think circumstantially and thus to transcend ideology. It is when I think of how education must be the means to develop resistance to ideology, must be the process for you and your children and

theirs to test values and to keep the mind open, connected and growing, that I think of the burdens public education in America bears and how it is periodically asked to bear burdens of an ideological kind. You and I and our children will see again and again the urge to use the schools for ends other than the commencement of the lifelong process of education. And the most recent version of this ideological thrust is the desire of certain "moral politicians" to pass a constitutional amendment allowing voluntary prayer in public schools.

At first glance, this may seem remote from you. But it is not.

I happen to accept the need for prayer and to believe in prayer's efficacy. I believe we Americans are a believing people, though as individuals we do not, and we must not be forced to, believe in the same way nor should we be forced to believe at all. Such are the circumstances of a pluralistic culture, of diverse peoples and religious traditions, and of the protections of the Bill of Rights. I believe it is the federal government's obligation to protect the right to worship or not to worship. I do not believe it is the government's obligation, and it should not become it, to encourage through the Constitution in the public schools organized religious expression.

The public school is not the arena to teach children how to pray or what or whom to pray to. The church or synagogue or house of worship is the place for that teaching and practice. The family is the forum for that teaching and practice. A public school is not a family or a house of worship. Any American government concerned with the integrity of the family and the viability of places of worship must recognize that its obligation is to keep some things separate, like Church and State, and that it has no role sustaining particular religious values. Its role is to preserve and protect a pluralistic environment in which religious practice, in the family and church, can flourish.

We have heard the argument that no child was historically harmed by praying in public school. That argument carries the very accent of the ideologue. It ignores reality—the circumstances of a pluralistic culture, of the protections of the Constitution, of the separation of Church and State, of the proper role of family and organized religious life; and it ignores the actual history of those children who in fact were coerced and made to feel exiles from their fellows and their circumstances by organized school prayer. It self-righteously assumes that whatever someone finds completely agreeable on moral and legal and abstract grounds must necessarily be agreeable to everyone else also. Such an argument reveals the tendency to authoritarian control of any ideology in the assumption that if people are not all the same, they should be treated as if they were for their own good.

Why do I bring up this issue? Certainly not because I believe all theologies are ideologies (which they are not); not because I enjoy being told I am a dangerous secularist (which I am not), or that I am a symbol of the decline of the West (which I could not be even if I did not hold, with Burke, to the relevance of our historical values and inheritance). I raise it because we as Americans, whatever our differences, face a serious set of problems in our schools, problems you will have to live with and try to solve, that will worsen if the schools and the means of education are used as staging areas for particular ideological goals.

When schooling takes second place to ideologically based policymaking, the very process for teaching all of us to think—to accumulate wisdom, to imbed information in values and experience—suffers, and society suffers as a consequence. I fear that the eighties will continue to witness what we see already, a politicizing of the schools for radical goals, cloaked in the rhetoric of morality and equity, in the same way the universities were politicized from the other end of the political spectrum in the sixties and early seventies. Beyond the example of the desire to amend the Constitution to allow prayer in schools, "voluntarily" or not, a larger pattern emerges, as it always emerges. And that is ideologue calling out to ideologue, and opposites turning out to be twins.

My larger point is that in the choosing between ideologues of the Right and of the Left, I choose to eschew both because they are finally, in their desire to control and exclude, not different. If you believe they are, if you believe that an ideologue of the Left is less authoritarian in impulses and acts than one of the Right, look again. I do not believe it.

Let me close, as I opened, on a more personal note. In urging you beyond ideology, in urging you through education to a civic circumstantiality, in urging you to care for the schools and those processes of education which are one of America's main defenses against authoritarian control from within and without, I offer the view of one person, one who is clearly middle-aged, middle-class, middle of the road; a view of one not given to extremes but to the middle. My middle view is the view of the centrist, who would also, as Alexander Bickel from whom I have learned so much—so eloquently put it, fix "our eyes on that middle distance, where values are provisionally held, are tested, and evolve within the legal order—derived from the morality of process, which is the morality of consent. . . ." To set one's course by such a centrist view, my shipmates, is to leave oneself open to the charges, hurled by the completely faithful of some extreme, of being relativistic, opportunistically flexible, secular, passive, passionless, lacking in timeless principle and of possessing characteristics and qualities even less elegant. Be of good cheer, for if the source of these charges is someone selling a System, you can always, with me, find your bearings with Burke, specifically in his sense of the need to embrace the contingent and the circumstantial, the real world of history and competing values and complex solutions, those "opposed and conflicting interests. . . ." which produce *"temperaments"* (his italics), the tempering, cautionary, staying considerations that finally render "all the headlong exertions of arbitrary power, in the few or in the many, forever impracticable." To act according to an open and principled pragmatism, to believe in the power of process, is in fact to work for the good. I do not simply urge a long night of watching against the ideologue's delusive plausibility. I urge the positive, balanced, continuous operation of the mind and spirit that surges to do the work of civilization from the center without simplistic zealotry.

Ladies and Gentlemen of the Class of 1982: A commitment to believing in process, either of education or law, in no way means one does not hold dear beliefs in equality, in social justice, in the reward of merit, in freedom to speak and worship and assemble. One must have convictions, but one must be willing to submit them to the testing and tumult of the middle distance. What binds us together as free women and men and as Americans is a shared faith in those processes by which we evolve and test our several beliefs and traditions. Fear as Hell the self-inflicted blindness of self-righteousness, where all perspective is foreshortened and all doubt is denied, and keep your eyes on the middle distance, where means and process live.●

DRUNKEN DRIVERS' NAMES PUBLISHED IN ST. LOUIS

● Mr. DANFORTH. Mr. President, the public's interest in action to get tough on drunk driving continues to grow. In St. Louis, Mo., the Globe-Democrat for some time has published the names of motorists charged with intoxicated driving. The impact of the Globe-Democrat's practice is covered in the July 12 edition of the Wall Street Journal, and I ask that a copy of the article be inserted in the RECORD immediately following my remarks.

In May, the Senate put itself on record in favor of a get-tough approach with passage of legislation offered by Senator PELL and myself. We look forward to favorable action by the House of Representatives at an early date. It is our belief that the State law enforcement strategies encouraged by our bill would exercise a strong deterrent effect on motorists who are prone to driving while intoxicated. The effect of deterrence would be fewer names to list in the arrest columns—and fewer deaths and maimings on the highways.

The article follows:

[Wall Street Journal, July 12, 1982]

IN ST. LOUIS, THEY WRITE A LOT MORE THAN A TICKET FOR DRUNKEN DRIVING

(By David P. Garino)

ST. LOUIS.—Posting bond used to be the main worry of motorists arrested for drunken driving here.

No more. "Quite frequently, when they're arrested, their primary concern is, 'Is my name going to be in the paper?' " says traffic safety Sgt. Richard Swatek.

That's because the St. Louis Globe-Democrat, since late last year, has been publishing a daily list of drunk-driving suspects in its area, stretching to such small towns as Glen Carbon, Ill. "Everybody looks at it," says Sgt. Swatek. "It's like a gossip column."

RID-MO.'S CAMPAIGN

Margaret Charleville, founder of RID-Mo. (for Remove Intoxicated Drivers in Missouri), helped persuade the Globe-Democrat to publish drunken-driving arrests. Her daughter had been killed by a drunken driver. "Some of my friends have told me," she says, " 'We don't take that one drink for the road anymore.' "

"I'm sure publishing the names does a lot of good," says Sgt. Donald Hasseldiek, director of a St. Louis County program aimed at drunken driving. "No one wants his name associated with a criminal offense."

A LOT OF MAD PEOPLE

"We've made a lot of people mad," George Killenberg, executive editor of the Globe-Democrat, says of drivers whose names have

been published by the paper. "I appreciate it's an unhappy situation. But what about the 25,000 people buried each year because of drunk drivers?"

Still, other citizens object to the practice or printing suspects' names. "I don't like it," says Charles Todt, president of the local bar association. "Under our system people are considered innocent until proven guilty. I think the damage to a person's reputation is greater than the deterrent effect."

The Globe-Democrat believes it may be the biggest newspaper that routinely publishes names of motorists arrested for drunken driving. However, some smaller newspapers also publish such news. And in Lake County, Ill., last month, the Waukegan News-Sun started printing the names of drivers whose licenses have been revoked or suspended because of drinking.●

HEROISM IN LAS CRUCES, N. MEX.

● Mr. DOMENICI. Mr. President, it is not often we get a chance to comment on the good deeds the youth of today perform. In many cases, young people have done good individual deeds, some of which rise to the level of heroism of benefit to entire communities.

Two youths from Las Cruces did just that last month. The two boys, 19-year-old Jacques Telles and his 13-year-old brother Mahonri, watched from a distance as an errant "bottle rocket" firework passed through the window of the First Baptist Church of Las Cruces. The two boys raced to the church, and saw that the curtains had already caught on fire. Jacques, breaking a window, climbed in and started stamping out the fire, while his mother, who saw the two boys climb into the church, called the fire department. By the time police and firemen arrived at the scene, the fire had been extinguished by the two boys, one of whom suffered some cuts from the broken glass. Pastor John Parrott called it "an act of real heroism," and Sgt. Pete Hampton of the Las Cruces Police Department said, "Those kids saved this church from a lot of damage, if not destruction."

I am always glad to hear of the accomplishments of our young people, because they are America's brightest hope and best security for an uncertain future. A deed of heroism such as Jacques and Mahonri Telles performed should not go unnoticed or unrewarded.●

R. H. RENY DEPARTMENT STORES

● Mr. COHEN. Mr. President, part of Maine's charm are the thousands of small businesses throughout the State which make up Maine's economic backbone.

Bob Reny of Damariscotta, Maine, president of R. H. Reny Department Stores, is one of the energetic and dynamic businessmen who make Maine's economy tick. In addition to his tireless work which has built up a network of 11 successful stores in Maine, Bob has been very active in politics and the national business community.

Recently, the Portland Press Herald wrote an article profiling Bob's activities, and I request that the article be included in the RECORD for the benefit of my colleagues. I am proud to count Bob as a good friend and strong supporter, and I know my fellow Senators will enjoy reading about him.

[From the Portland (Maine) Press Herald, June 30, 1982]

MERCHANT HAS SHOPPER'S EYE

(By Bill Caldwell)

Bob Reny, 56, owner of the biggest chain of small-town department stores in Maine, at last has a good-looking office. But these plusher new surroundings make him uncomfortable.

After selling umpteen million dollars worth of sheets, light bulbs, work boots, slickers, sneakers, long johns, lamp shades, dresses, suits and wool shirts to Maine people at low prices over 33 years, Robert H. Reny is moving from a dismal, untidy closet into a decent office. He feels like a fish out of water.

R. H. Reny department stores, which began on a shoestring in a hole-in-the-wall in 1949, are now flourishing in prime locations in Bridgton, Gardiner, Farmington, Dexter, Madison, Pittsfield, Livermore Falls, Bath, Fort Kent, Camden and Damariscotta, where this burly, perpetual-motion Biddeford born Maine merchant began his first store Oct. 6, 1949.

"I opened in a store not much bigger than this new office," says Reny. "I had just half the ground floor of a small, old building on Main Street, Damariscotta. Now we occupy the whole three-story building there and have overflowed into another store across the street. We call that Reny's Underground; it used to be the town's bowling alley."

Reny is now moving his offices and warehouse into the old Castner elementary school up the road in Damariscotta. He bought the unused school from the town of Damariscotta for $88,000 and has added a 28,000-square-foot warehouse to it. During construction last winter, the warehouse collapsed twice under the weight of snow.

"I'd just got out of the Maine Medical Center after four heart bypasses and two days later my new building collapsed. I rushed home for a video camera and shot a movie of it, before it came tumbling down. After I showed the film to the contractor, the Sheridan Corp., there was no problem about them fixing it."

From his vast new warehouse, Reny will keep a boggling variety of cut-rate merchandise flowing to his 12 stores across Maine. But the near-disaster has not slowed Bob Reny. His only concession to four heart bypasses is to do 100 situps and take a three-mile walk every morning.

He keeps right on flying off to make deals in the merchandise markets of New York, Chicago, Boston, Philadelphia, Miami or wherever the bargain-hunting is hot. He keeps up the drumbeat pace in Maine politics, as chairman of the Republican party in Lincoln County, chief lobbyist for the Maine Merchants Association and for the Maine State Chamber of Commerce (he has been president of both).

On the national business front, Reny sits on the executive board of the National Retail Merchants Association, where this small-town Maine merchant is on a par with the heads of J.C. Penney, Gimbels of New York and Nieman-Marcus of Dallas.

On the side, Reny is on the board of the Damariscotta Bank & Trust (which he helped to start with $750,000 of assets a few years ago and which now has assets of over $10 million); he heads the Reny Realty Co., which handles real estate belonging to existing or future stores in the Reny chain; he owns and oversees the Lincoln Theatre, which once was the opera house and still has silk brocade on its walls and the old outside screen and stage, and is peculiarly located up steep stairs over the Yellowfront Grocery in Damariscotta; he is heavily into home development along the waterfront near Round Pond, as head of the Muscongus Sound Realty Company.

To avoid idleness on Sundays, Reny works at the wharf in Round Pound, selling and boiling lobsters for the Muscongus Bay Lobster Co., in which he is a principal partner. At his farmhouse home on the outskirts of Damariscotta, Reny has an orchard of 500 apple trees; but Michael, one of his three sons, now tends to the apple business.

"Bob and John, my other two sons, aged 30 and 28, are my partners in running the stores. At first, neither of them wanted to go into the retail business, but now they are better merchants than I have ever been," says Reny.

"I did not want them coming into the business as sons of the boss. That can be awkward. So they work here as my full-fledged partners."

When Reny was 23 years old and opened his first tiny store, he was so short of money and merchandise that he had to "do it with mirrors." That meant all the stock he owned was spread out on the tables; and all the hundreds of boxes stacked against the walls, which looked as though they contained lots more merchandise, were actually empty, despite their labels.

"Each afternoon, I'd grab the cash from our day's sales, and rush off to buy more merchandise to stock the store for the next day. I had almost no credit and almost no cash on hand then, and so I had to fake it."

That first year of 1949 in Damariscotta, Reny's did $35,000 in gross sales. On a busy day in 1982, the 12 Reny stores will take in $35,000 in eight hours.

What is the secret of Reny's success? What is making these dozen small-town stores almost recession proof in this poor business year? Reny thinks it is because each store does its basic job of providing each community with a big variety of merchandise at low prices, and then adds a special spice of the unexpected bargain.

The combination draws a stream of customers, on the hunt not only for what they need, but for the excitement of an unexpected, surprise bargain in merchandise they don't see in many small town stores.

"We bring the unexpected into town because one of us is out traveling every week of the year, shopping in the big metropolitan cities, coming back with exciting bargains not regularly seen in Maine.

"Most small-town merchants are able to get away to the markets and manufacturers only four times a year—spring, summer, fall and winter. So their stock stays pretty much the same for 10 or 12 weeks at a stretch. But because we travel constantly, we can inject something new, something unexpected into our stores every week or so. And that is the carrot, the shopping excitement which brings people in. Whenever they come to

town, they stop in to see what's new in Reny's."

To keep this interest alive, Reny is forever moving his merchandise back and forth between 12 different stores, so there is always something new and different in each one.

In this retail trade, the action is very fast. Reny admits he has a few special advantages with a 12-store chain: fast turnover, volume, cash flow and ability to act fast in snapping up a bargain thousands of miles away.

"Somewhere across the nation, there is always a whale of a good buy; but to get it, you first have to know about it, and then you have to get there fast, and then you need to be able to buy in volume and pay with cash, fast," says Reny.

After over 30 years in the nation's markets, Reny has built thousands of contacts. He keeps them fresh by spending at least four hours daily on the phone, chasing down rumors and opportunities for a fast, good deal.

For example, he recently got a phone call at home after dinner, bout 9 p.m. The tip came from Chicago, saying the prestigious men's store, Morry's was ready to liquidate a huge stock, but that if Reny wanted a slice of the action he'd have to be in Chicago by noon the next day. He dashed to Portland, caught a daybreak flight to Montpelier, thence to Detroit, thence to Chicago, where a Morry's representative met him at the airport.

He looked over the stock in the warehouses, ate a business lunch with the people involved and made them an offer of half a million dollars immediately as they drove him to the airport.

By the time he arrived back in Maine, a message was waiting for him saying they'd accept his offer. And that night a tractor-trailer was on its way from Maine to pick up the goods.

Barely 72 hours later, the inventory of a top big-city store went on sale in small-town Maine for 20 cents on the dollar. Reny gave his customers the fun bargains they relish.

Reny says he can play an unusual trump card which gives him an edge over competitors when prestigious big-city stores must move out their inventory. These stores know Reny will haul it far away to Maine. And this is a telling tool, because to protect their exclusive image, the leading stores in Chicago, or on the Cape, in Boston or Washington, in Philadelphia or New York, don't want to see their merchandise on sale anywhere near their territory.

So Reny's stores in small-town Maine have an added appeal as a buyer. Furthermore, out-of-state manufacturers and merchants like Reny's "money-on-the barrel" way of doing business; so they often offer him an inside track on buying out a warehouse at bargain prices.

Often deals of this kind must be made over the phone, and completed so fast that there is no time to dicker, to inspect, to get approval from a committee or board.

"I've got to believe they are telling me the truth about their stock; and they've got to believe me when I say I'll buy it all at such-and-such a cash price. We've both got to be confident that a word over the long-distance phone is as good as any legal document. One bit of fudging or fakery by either side, and the bad news spreads and that's the end."

In Bob Reny's new office, phones ring constantly and in staccato sentences the wheeling-dealing is consummated or canceled fast.

When the phone stops, Reny dashes out to his warehouse to help unload and inspect a new shipment. He takes time to swap news and stories with truck drivers and kids playing ball out back in the old school baseball diamond.

It's a surprise the doctors had to make only four bypasses on Robert Reny's heart.●

ANOTHER BLITZ ON INEFFICIENCY

● Mr. GOLDWATER. Mr. President, as all of us in the Senate are discovering, President Reagan's attacks on inefficiency in Government, overstaffing in Government, overspending in Government, are not meeting with a great deal of success. I think one of the most glaring indications of this type of problem was contained in an article in the July 19 Business Week entitled, "Another Blitz on Inefficiency," which gives a little peek at the type of trouble that Mr. J. Peter Grace, chairman of W. R. Grace & Co., is running into as he tries to perform this valuable duty for his government.

I ask that this article appear at this point in my remarks.

The article follows:

ANOTHER BLITZ ON INEFFICIENCY

When President Reagan asked J. Peter Grace in early March to lead a business executives' task force aimed at pinpointing inefficient government programs, the W. R. Grace & Co. chairman recalls, "the President told me, 'Pretend you are going to merge with these departments, and run the same yardstick over them.'" Grace, often loudly critical of government waste, would hardly seek such a merger. But four months after accepting Reagan's assignment, he has begun to apply the yardstick with relish. "Every type of organization has some inefficiency in it," Grace declares. "And the bigger it is, the more inefficiencies it has."

Armed with a Presidential order opening government agency books to his task force, Grace has recruited the leadership for a team of 2,000 executives from industry, finance, and accounting, all vetted for signs of conflict of interest. In his missionary vigor, Grace, 59, already has members of Congress yelping for his resignation over a misguided remark about food stamps, and a number of bureaucrats are determined to see that his task force does not get into their files.

The executive committee of the Private Sector Survey on Cost Control in the Federal Government, as the task force is called, now includes more than 100 chief executives and other leaders, among them Chairman Clifton C. Garvin Jr. of Exxon Corp., Chairman Willard C. Butcher of Chase Manhattan Bank, and former Transportation Secretary William T. Coleman Jr. The board is ready to put management expertise to work in what one White House official calls a "blitzkrieg on the bureaucracy." The stakes are high: A recent estimate by the Congressional Budget Office puts waste and inefficiency in government at $10 billion annually.

AN UNEVEN RECORD

With a private foundation that aims to raise $16 million in contributions and services to back it, Grace launched his effort in late June by interviewing Reagan appointees and bureaucrats and weighing government practices against industry techniques. The executive committee has been divided into 35 teams—22 of them looking at specific agencies and 13 others "cross-cutting" to examine more widespread issues such as personnel, procurement, and research and development. By December, the group hopes to have recommendations for Reagan.

Task forces like Grace's, however, have an uneven record. A group headed by former President Hoover in the 1950s succeeded in little more than putting all government procurement under the General Services Administration, and an effort ordered in 1967 by Reagan, while he was governor of California, found only $25 million in actual savings. A Nixon Administration task force led to the creation of the Environmental Protection Agency and a strengthened Office of Management & Budget, but its blueprint for reordering domestic Cabinet departments was shelved.

The Grace task force got off to a slow start itself. White House officials delayed the creation of the agency teams for several weeks for a rigorous review of their members' stockholding records. Also reviewed was whether their companies had contracts with agencies they would be examining. Says Richard A. Hauser, Reagan's deputy counsel: "Our goal is to protect the integrity of the task force early so that it's not questioned later."

Some task force groups are clearly made up of uninvolved parties. For instance, one of the three panels assigned to the Health & Human Services Dept.—a major focus of the Grace effort—is headed by the chairmen of Signal Cos., a manufacturer of industrial equipment, and Wheelabrator-Frye Inc., an engineering company. Other appointments, however, may raise eyebrows. The Agriculture Dept., for example, is being examined by executives from companies that include Continental Grain, Quaker Oats, General Foods, and tractor manufacturer Deere & Co. At the Energy Dept., one team member is Walter D. Pettis, a Milliken & Co. executive who until recently was a top aide to Energy Secretary James B. Edwards.

UNDER ATTACK

To insulate task force members further, White House officials plan to require that they sign conflict-of-interest disclaimers. Officials at each agency will also review specific assignments in their areas. Monsanto Corp., for instance, has been restricted by Energy Dept. officials from reviewing work in the nuclear weaponry field because it is a contractor at Energy's weaponry research facility at Miamisburg, Ohio.

Grace himself has come under increased attack since a May 27 speech in Dallas in which he described the food stamp program as "a Puerto Rican program." A 148-member congressional coalition is demanding Grace's resignation.

But even if he resigns, Grace has set the task force's tone. Through a constant stream of communications to members, he has cited trends in the growth of government, loss of U.S. productivity, swelling budget deficits, and wasteful government activities. "President Reagan is trying to save us," he wrote in one memo.

Briefing task force members in May, Grace charged that 70% of the 340,000 federal employees are "personally aware of some type of illegal or wasteful activity." At the Veterans Administration, he said, more than $37 million in unwarranted payments was made in 1981, and, due to inefficiency, the Labor Dept.'s claims-processing staff

completes a daily average of only 20 worker-compensation claims per staffer. Similar inefficiencies eat up as much as 6% of some agency funds, White House officials believe. The task force is charged to find them.

But it faces an uphill fight. Civil servants at the Defense and Energy Depts. are in some cases denying task force members access to classified material, and other agencies report similar problems. In a recent memo, in fact, Energy Secretary Edwards reassured his senior staff that "as (Presidential Counselor Edwin) Meese said to me, 'There will be no attempts to surprise anyone * * *. It is not an attempt to criticize individual performance but rather to improve overall efficiency and cost control.'"●

THE REAGAN PLUTONIUM POLICY

● Mr. GLENN. Mr. President, recent press accounts make clear that the Reagan administration is actively seeking to reverse the bipartisan policy of the past 7 years and to launch this Nation, and much of the industrialized world, on the road toward the widescale use of plutonium—a nuclear weapons material—for the generation of electric power. Yesterday's Wall Street Journal carried an extremely thoughtful piece on the perilous consequences, and the discredited rationale, of this course of action by Victor Gilinsky, a member of the Nuclear Regulatory Commission long active on nonproliferation matters. I commend this analysis to my colleagues' attention and, I shall submit it for the RECORD following the remainder of my remarks.

Mr. President, I also commend to my colleague's attention a very thoughtful op-ed article from the New York Times, written by Congressman JONATHAN BINGHAM, which deals with the same subject. Congressman BINGHAM has continually been in the forefront of those in the Congress who have worked to prevent the spread of nuclear weaponry to more and more nations around the world and I am glad to include his views in the CONGRESSIONAL RECORD.

One point that is sometimes lost sight of in the debate over plutonium's use as a nuclear fuel is that it is intended to serve as a direct substitute for enriched uranium in nuclear power reactors. Thus the more the Federal Government encourages plutonium use, the more it serves to establish a market for a fuel that will be in head-to-head competition with our domestically produced and enriched uranium. Although today plutonium fuel prices would far exceed those of uranium, Reagan administration plans to subsidize plutonium production at the Barnwell, S.C., reprocessing plant could greatly reduce this gap.

That the Reagan administration's "plutocrats" should be so actively seeking to promote plutonium use at this time is particularly dismaying in light of the depressed state of the U.S. uranium industry that has been triggered by a severe oversupply of uranium on world markets. As a result of this oversupply:

International spot prices for uranium have dropped from $43 per pound in 1979 to $19 today;

Over 8,000 out of 22,000 U.S. uranium miners have been thrown out of work; and

As of mid-1981 some 61 uranium mines and 16 uranium mills in the United States had been shut down or had operations significantly curtailed.

Moreover, the U.S. uranium industry is facing extremely tough competition from foreign producers, to the point where serious consideration is being given to imposition of a uranium import quota by a House-Senate conference now considering the 1982-83 NRC authorization. And, I would add, our enrichment plants are operating well below capacity.

However one analyzes the causes of the distress of our uranium industry, one thing is plain: It does not need the additional concern that 10 years from now, perhaps, there will be significant quantities of Government-subsidized plutonium overhanging the uranium market. In this respect, the Reagan administration's proplutonium policies have a distinctly antiuranium ring.

[From the Wall Street Journal, July 15, 1982]

THE ADMINISTRATION'S RISKY PLUTONIUM POLICY

(By Victor Gilinsky)

In 1976, during the closing days of his administration, President Ford called for a halt in the world-wide rush to use plutonium as a nuclear fuel, until the "world community can effectively overcome the associated risks of proliferation." He added, "...avoidance of proliferation must take precedence over economic interests."

Nuclear programs around the world called for using plutonium—a byproduct of reactor operation—as a substitute for uranium. Mr. Ford's concern stemmed from the fact that plutonium is also a nuclear explosive. At issue were amounts equivalent to thousands of nuclear weapons.

To persuade other countries to follow suit, he effectively took the United States out of the plutonium business. His decision was vigorously protested by the nuclear bureaucracy and commercial interests at home and resisted by our trading partners and allies abroad. The West Europeans and Japanese continued with their programs to reprocess spent fuel to extract plutonium, and unremittingly pressured President Ford's successors to lift restrictions on foreign reprocessing of U.S.-supplied fuel. In the face of these demands, Mr. Ford's policy has been steadily eroded.

RELAXATION WILL WHET APPETITES

The Reagan administration has recently decided to deal with "the world as it really is" and is planning to ease nuclear export controls on plutonium for selected countries which appear to pose little "proliferation risk." The details remain secret, but broadly speaking, this means not only releasing our legal holds on foreign reprocessing of U.S.-supplied fuel but also allowing these countries access to the separated plutonium.

The rationale for the administration's new policy seems to be that, if we accept our close friends' use of plutonium, they will be more inclined to help us keep plutonium away from other countries. Unfortunately, it isn't likely to work out that way. Instead, the new policy will probably lead to easier access to plutonium—and hence nuclear explosives—around the world.

It will be difficult to hold the line between those contries whose use of plutonium we accept and those whose use of plutonium we oppsoe. The relaxation of our policy toward several "low risk" states will whet appetites in nuclear bureaucracies everywhere. Coupled with the administration's encouragement of plutonium use domestically, the new policy will enhance the attractiveness of plutonium and can only encourage increased trade in this dangerous commodity. Ironically, this comes at a time when falling uranium prices have destroyed the economic argument for shifting to plutonium.

It is doubtful that advanced industrial states will now be more inclined to constrain the use of plutonium among their Third World customers. It is hard to imagine that they will resist commercial temptations in the future any more than they have in the past, particularly when it appears that the United States is now resigned to wide-scale plutonium use, is downplaying the proliferation dangers and may even be positioning itself to get in on the reprocessing trade. Nor should we deceive ourselves that plutonium separated from U.S.-supplied fuel will stay bottled up in Europe and Japan. In the process of separation, the plutonium loses its national identity and effective control by any one fuel supplier becomes impossible.

It is also unrealistic to expect that we ourselves will resist demands for equal treatment from countries excluded from the first round of plutonium approvals, particularly when they insist they meet all safeguards and requirements of the International Atomic Energy Agency. In fact, the IAEA system does not (and cannot!) protect plutonium in national hands. However, since this is seldom acknowledged publicly, it will be difficult for us to explain why some countries are eligible for plutonium use and others are not. On the other hand, if we were candid about the inadequacy of IAEA plutonium safeguards, how would we explain that we accept the assurances of some friends and allies (for example, in Western Europe and Japan) but not of others, that plutonium will not be misused? (One has only to think of the reaction of strategically important countries such as Mexico or South Korea.)

Moreover, once down this road, we will be tempted frequently to offer entry into the magic circle. Whenever some diplomatic prize is at stake, we can be sure there will be attempts to rationalize that the country in question poses "no proliferation risk." The trouble with the "no proliferation risk" standard is that governments that seem "safe" one day can be replaced by governments which are not, whereas nuclear explosive remain explosive for thousands of years.

To repeat the obvious, the dangers lie in the fact that plutonium can be transformed into weapons—by the IAEA's own reckoning—in a matter of days. In a March 2, 1982, letter to congressional oversight committees, the Nuclear Regulatory Commission put it this way: Because plutonium "can be transformed readily into weapons, we cannot count reliably on inspection alone to provide warning of diversion of HEU

(highly enriched uranium) and separated plutonium in time to prevent weapons assembly if the necessary preparatory work has been done."

Nor should we imagine that our own intelligence agencies can fill the safeguards gap. Because plutonium can so easily and quickly be made into weapons, we cannot count on getting intelligence warning of diversion in time for preventive action. As for detecting earlier evidence of a weapons program, this often turns out to be ambiguous and the subject of disagreement among intelligence agencies. (We can't even decide whether there was a nuclear explosion in the South Atlantic in 1979.)

We would not deal so casually with nuclear weapons themselves. No one would seriously propose that occasional counting of warheads by the IAEA would provide any measurable level of protection against their use. Nor would we distribute the weapons, even to Europe and Japan, without U.S. control. Yet strip away the electronics (some of it now available off the shelf), and peel off the layer of high explosives, and you have the nuclear explosive material whose widespread use we are cheerfully contemplating. We ought to treat the plutonium in commercial channels just as carefully as if it were bomb material—which it is, if its owner so decides. There is no hint that the problem is seen in this light by the administration.

AS THREATENING AS THE PIPELINE?

Perhaps that is because the new policy is not, in fact, aimed at preventing the spread of nuclear weapons. The objectives appear, rather, to be diplomatic and commercial: first, to remove a source of "sterile friction" between ourselves and our allies—"sterile" presumably because the spread of nuclear weapons is seen as inevitable; second, to get the commercial reprocessing business back on the track from which President Ford derailed it in 1976.

Faintness of heart mixed with a little greed have often been dressed up as a political realism: "If we don't do it, someone else will"; "The U.S. no longer has any leverage"; "We have to demonstrate we are reliable suppliers"—of everything, apparently, to everyone, no matter what the security consequences.

The president did not buy this approach in opposing the European/Soviet gas pipeline on grounds of international security. It is difficult to see how that security is any less threatened by the spread of nuclear bombs to more and more countries.

DON'T LET ARMS RACE MUSHROOM

(By Jonathan B. Bingham)

WASHINGTON.—Horrified by a world in which two nations are unable to halt a lethal arms race? Imagine trying to work out arms control among half a dozen or more third world countries convinced that it is in their national security interests to build up nuclear arsenals.

Unless the exporters of nuclear technology and fuel become increasingly circumspect, this horrendous task could soon be necessary.

Argentina and Brazil, rival South American neighbors, have ambitious nuclear power programs that seem to have military as well as commercial ends. Significantly, neither country has agreed to inspection of all its nuclear facilities—so-called full-scope safeguards—by the International Atomic Energy Agency, which is responsible for verifying that nuclear fuel and technology are used strictly for commercial purposes.

Similarly, South Africa, Israel, Iraq and Pakistan—all nations facing sharp regional tensions—are widely believed to be pursuing a nuclear weapons capacity through their commercial nuclear programs. Again, none has agreed to full safeguards.

In recognition of the dangers, the Reagan Administration has advanced a quid pro quo formula for nuclear trade: The United States will be a reliable supplier of nuclear fuel and technology if recipient nations, many of them also nuclear suppliers, cooperate in curbing nuclear sales to countries that present proliferation risks.

Unfortunately, that policy has to date added up to all quids and no quos.

Last year, just before the economic meeting of heads of state in Ottawa, the Senate and the House, without a dissenting vote, passed resolutions calling on President Reagan to work out concrete ways to restrain all nuclear suppliers. The President, however, did not raise the issue at Ottawa. Instead, he joined in a final declaration that skimmed over dangers.

Before the Versailles economic meeting this year, the House and Senate again unanimously passed resolutions calling on the President to discuss nuclear-supplier restraint. This time the declaration did not mention the issue.

Meanwhile, South Africa, unable to receive nuclear fuel it contracted to buy from the United States because of its record in the fight against the spread of nuclear arms, has bought uranium from Switzerland and other European countries. France is fabricating the uranium into fuel assemblies. Brazil, in a similar situation, has acquired nuclear fuel from West Germany for a new reactor. In neither instance did the United States try to dissuade its allies from helping these countries. In fact, the United States waived a $20 million penalty against Brazil for putting uranium that had not been enriched by the United States into its reactor, contrary to agreement.

Now the Administration has approved a policy to permit the export of reprocessing technology, used in extracting plutonium from nuclear fuel, to Japan and Common Market countries and to allow them to reprocess American-supplied nuclear fuel without obtaining American approval in each case. Republican and Democratic administrations have opposed such moves because plutonium is the material from which modern nuclear weapons are made.

While the Administration has been explicit in saying what concessions it intends to make to other countries, it has yet to indicate what cooperation it wants in return.

Fortunately, it is not too late. The United States should ask suppliers to agree not to export nuclear fuel and technology to any country that does not have nuclear weapons and that does not permit full-scope inspection of its nuclear plants.

As a collateral measure, the United States would also need to urge nuclear suppliers to provide more money to the international inspection agency. Today, the agency's $30 million annual budget, smaller than that for the Portland, Ore., Police Department, is inadequate. A small contribution from each supplier nation could double its money.

These proposals could be expected to have wide acceptance. Canada and Australia as well as the United States already require full-scope safeguards as a condition of their nuclear exports. West Germany has promised similar restrictions providing that all other suppliers agree to them. Even the Soviet Union, also a nuclear supplier, has indicated a willingness to go along under such conditions. At the very least such proposals would signal our concern, which has not been given concrete affirmation by this Administration.

To continually miss the opportunities for voicing these concerns and for pressing a proposal for restraining nuclear trade is to risk an even more difficult challenge later—arms control negotiations on a far wider scale than any of us care to contemplate today.●

TURKISH OCCUPATION OF CYPRUS MUST END

● Mr. RIEGLE. Mr. President, yesterday, July 20, marked the eighth anniversary of Turkey's invasion of Cyprus, and offers an opportunity for me and my colleagues to once again express our outrage over the continuing Turkish occupation of Cyprus.

For 8 years, over 200,000 Greek Cypriots, more than half of the population of Cyprus, have been displaced from their homes and businesses, and, in many cases, separated from their families. More than 40 percent of the Island is still occupied by Turkish soldiers, and once-prosperous cities lie in ruin.

I continue to be deeply concerned and troubled by the nearly 2,000 Greek Cypriots who have been reported missing since the 1974 hostilities. Most of these individuals are not missing in action. Rather, indisputable evidence tells us that they were arrested by Turkish soldiers or armed Turkish Cypriots acting under the direction of the Turkish Army. Almost half of the people listed as missing were unarmed civilians taken abruptly from their homes or places of refuge. Many of the missing were detained in Turkish prisons or concentration camps long after the cessation of hostilities.

Among the 2,000 people reported missing since 1974 is an American citizen named Andrew Kassapis. Andrew and his brother-in-law, a Greek Cypriot, were seized in their home and taken away by two armed Turkish Cypriots. They have never returned and no definitive evidence of their fate has ever developed. Although the United Nations has created the Commission on Missing Persons to investigate the whereabouts of those who disappeared following the Turkish invasion, meetings of the Commission have been irregular and, thus far, unproductive. The bright spot in Andrew's case continues to be the unyielding efforts of his parents to learn of information about their son. The Kassapis family has gone to exhaustive lengths in Cyprus, Turkey, and at home in Wayne, Mich., to learn of their son's fate.

The plight of Andrew and his family is common to the families of nearly 2,000 other missing persons in Cyprus, including 7 Americans. Clearly, prompt action must be taken to en-

lighten these families of the condition of their missing loved ones, and to subsequently work toward the release of those believed to be held in Turkish prisons and concentration camps.

Mr. President, while I am heartened by the tireless efforts of the living victims of the Turkish siege to reunite their families and return to their homes, I believe the United States must be a strong partner in those efforts. While humanitarian aid provided by the United States has made possible the building of homes and schools and the development of basic handicraft industries on the island, more is needed. The United States must take an active role in encouraging reconciliation among all the conflicting parties so that all Cypriots can live and work together in a peaceful, stable environment. Only when this goal is achieved will Greek and Turkish Cypriots alike be assured a meaningful existence and will U.S. interests in achieving stability in the Eastern Mediterranean be realized.

The plea, Mr. President, of thousands of Greek Cypriots shall not go unheard. Let this be the year that marks the end of the Turkish occupation of Cyprus and the year in which a final determination of the fate of missing civilians is made.●

RAYMOND DONOVAN

● Mr. HELMS. Mr. President, a new musical playing in theaters across the Nation spells out in song the pluck of that famous cartoon character, "Annie." One of the songs from "Annie" is entitled "You're Never Fully Dressed Without A Smile."

I submit that the pluck of "Annie," and the smile, can be seen today in the real world of Washington. It can be seen in the person of Raymond Donovan, President Reagan's plucky Secretary of Labor.

Mr. President, there was an interesting interview with Secretary Donovan published in the Washington Times on Monday, July 12. The interview, by Times correspondent Jeffrey St. John, tells of the ordeal Secretary Donovan and his family experienced over a period of many months. But more than that, it tells of the fortitude of Ray Donovan. And it tells of his strong belief in America and its system—a system that works because of the American character.

Through this difficult period Ray Donovan has maintained his sense of humor. In fact, I regret the RECORD cannot show the photograph that accompanied the newspaper interview—proof that Ray Donovan is among the most "fully dressed" and pluckiest persons seen in these parts lately.

Mr. President, I ask that the interview be printed in the RECORD at the conclusion of my remarks.

The interview follows:

INTERVIEW: DONOVAN'S COMMITMENT OVERCOMES ADVERSITY

(Labor Secretary Raymond Donovan, survivor of an 18-month investigation which he terms a "witchhunt," knows what it is like to be on the Washington firing line. He and his family have been subjected to severe scrutiny and allegation, and they have come through it all victorious.

(Here for the first time since a special prosecutor refused to prefer criminal charges, Donovan answers questions put to him by Washington Times correspondent Jeffrey St. John. The interview was granted to discuss the secretary's ordeal of the last few months, and the effect it has on him and his thinking. He said he would discuss the substantive allegations against him in a future interview.)

Q: Mr. Secretary, what are your own thoughts as to why all this took place, only in the end to be cleared by the Special Prosecutor?

A: My family and I have sat around the kitchen table and in the living room many an evening, as we read allegations in newspapers and magazines, we have asked ourselves that same question. There are a lot of people I know who did not like the Reagan agenda and, therefore, my agenda. There was certainly a sense of political opportunism, I think, involved. Certain people made allegations to serve their own purposes. Perjury got a free ride. One of the common threads that runs through all of these allegations is that they are all hoodlums. That in itself is interesting.

Let me put it to you this way: I don't have all the answers, but there were some people that had a spot picked out on their wall for a Pulitzer Prize in seeing Secretary Donovan fall. I believe that there is a Pulitizer Prize awaiting someone who can answer these whys.

Q: Are you saying they were actually after President Reagan? If so, why?

A: President Reagan as a candidate made promises to the American people that were difficult to keep and he kept them. It had to do with budget cuts. And God knows we here at the Labor Department are second to none in our contribution in the budget cut area, in deregulation. And in the overall Reagan program there were difficult decisions to make in order to turn this country around. We've made them. It has not been covered well, naturally, because of the focus on me.

Q: Most of the people were under the assumption that in the last eighteen months you have spent every waking hour defending yourself.

A: I did not miss a day in the office. I allowed myself five minutes a day to feel sorry for myself. Maybe that's why I look as well as I do. To me an honest man, and I am one, who falls prey to self-pity really destroys himself. And I wasn't going to let that happen. Through prayer and support of friends, that is what kept me going.

We have done a tremendous job here in eighteen months. We have taken on the tough ones, be it in the budget cut area or in deregulation . . . to get the bang out of the buck is why we are here. I am extremely proud of what we have accomplished. Under fraud and abuse we had 180 indictments and 144 convictions in the area of program fraud and white collar crime. A total of 133 indictments and 88 convictions in the area of organized crime influence in labor management field have been secured.

Q: What made you stick it out? Why didn't you just say, "Look I don't need this"?

A: That crossed my mind, Jeffrey, it crossed my mind when I saw my family hurt, phone calls to the children at home yelling "Mafia" in the phone. And those unmentionable things that you can't even drag out of your children.

Q: Did that go on through this entire ordeal?

A: It did. But we took it a day at a time and continued to gain strength from our friends and through prayer. But also asking ourselves why did you come? And I came for Ronald Reagan and for America. I have that simple agenda. Once I was challenged and once my name was abused, a team of twenty mules couldn't have pulled me out of this town. For myself and for my family, yes.

Running through my mind all that time was that terrible expression, when I would be at a cocktail party, someone would say "well, Ray, it comes with the turf." Character assassination, witchhunts come with serving your country? That infuriated me because it shouldn't come with the damn turf! I reject that. And the cruel thing here, and the thing that bothers me the most, is how many good Americans won't come now to serve their country because they don't want to expose themselves to this type of witchhunt. As I go across this country I am going to try and convince the American people to use my experience in a positive sense.

Q: If another Raymond Donovan came along and there seemed to be the prospect that he was going through the same ordeal that you've been through, what would you tell him?

A: Before or after he accepted the nomination? I would ask you first, how strongly committed are you to what you're about to embark upon? What are your motives? Are they strong enough to hold you in good stead? In my case, it was my tremendous concern and love for my country, and *total* dedication to Ronald Reagan and what he stands for. If you felt that strongly I would say, come on in. And that, and friends and prayer should suffice.

I think one of the basic things I left out here, because I don't like too much to talk about my personal life, but strong family ties are critical. My wife and children and brothers and sisters, and my new brothers and sisters in this department—I would tell you that the love, and I'm not afraid to use the word, and dedication and support that I got in this department, that alone is almost worth the pain.

Q: Is there one singular thing that you now know about Washington, that you did not know before?

A: I probably expected to find more patriots here than I found. And I'm not ashamed to use that word. I found such dedicated people willing to serve this government in the Labor Department—and I choose that obviously that's what I know best. And in the career ranks too. And I should stress that, I found tremendous dedication. And we over the past eighteen months have opened up the doors and windows of this agency and I've said in the past that I'm Secretary of *all* labor. Some people thought that took courage to say, I thought it was the obvious thing to say, because that's what my oath says. And the Labor Department represents all working Americans, and I was pleased to find that kind of dedication, and willingness to follow my lead.

Q: Is there any significance to the fact that the union leaders were neither vocal in

support nor vocal in opposition? There was just silence throughout your entire ordeal.

A: I wouldn't want to characterize it. I had made the same observation, but that is public utterances, or lack thereof. I can tell you that I had been extremely touched by the phone calls, telegrams and letters that I have gotten from organized labor across the country. Let me tell you one thing about the working man. He resents injustice, maybe stronger than most Americans. Particularly in the building trades where I come from. And their sense of injustice, they were outraged, not that they agreed with every decision I made here, obviously. But they admired my guts, told me to hang in there, and this type of support you didn't read in newspapers. But it's here . . . letters and telegrams.

Q: Americans tend to have a characteristic trait which is: you don't kick a guy while he's down. Was that prevalent in the correspondence and the phone calls you got?

A: The American people do have that attitude. What was prevalent, and it was almost a common theme, despite what they were reading, they were able to come to their own conclusions. And in these letters I find "I didn't believe it, I'm glad you had the guts to hang in, and please stay"—that was the main theme. Plus, I think a willingness that some in this city didn't seem to have, to let the justice system move to its conclusion. As it finally did. And the letters I get just add to my commitment to stay here. I know the job isn't done, and the American people do too. There's a sense of responsibility that's been heightened as a result of this.

Q: What would you tell the American people about the ordeal of Raymond Donovan?

A: That the American system works, it's painful, but it works. And those who try to use it for their own ends eventually fail. I will not kid them that it's easy.

I continue to use this phrase to myself; I want to be able to go home someday and hear on the streets again the phrase "only in America." You don't hear it enough anymore. It's a dream that's kind of tarnished or thrown in the closet. That's what motivates me. This is the greatest country in the world and it's only in America where miracles take place, all kinds. And I am honored that the President chose me and put me in such an important post to be part of it. That's why I stayed. There was the constant support of the President, in small ways, and he was under a lot of pressure here obviously. Maybe that was part of the plan. But he's let me know. He bled with me through the whole six months. He would let me know by a wink, or a thumb's up that he had faith in me. And believe me, Jeffrey, that was critically important at various stages.

Q: Throughout all of this some had suggested that you would be cleared by the Special Prosecutor and then with good grace you would resign. Why have these predictions not come true?

A: I am not going to resign. Those predictions are either imaginary or hoped for on the part of others who would like to see me out of public life. There were predictions after my confirmation hearings that I wouldn't make it through September 1981. Then they were taking bets that I wouldn't make it through December 1981. These things amuse me.

Q: Yes, but the line of reasoning was that Ray Donovan is not guilty of allegations made by crooks, gangsters and perjurors. But his effectiveness as a cabinet official of the President has, unfortunately, been compromised. Therefore, you should resign.

A: Those who say that may mouth a belief in the American system but they are not true believers in the American system of justice. But I will take it a step further. I am a political asset to the President of the United States. I was and I am and I will be.

Q: What did your political enemies want to prevent Ray Donovan from doing for the Reagan administration?

A: A simple answer would be, prevent me from doing what I am doing. I am not sure that anyone had a specific set of policies in mind, like the dramatic changes we have made, positive changes we have made in the OSHA (Occupational Safety and Health Administration). I think it was broader than that. Being Secretary of Labor in a Reagan administration is a very sensitive post I hesitate to get into the specifics. Maybe we can do that in another interview.

Q: Mr. Secretary, does not your ordeal present a serious problem of not so much the responsibility of the press but the use of the press as a weapon to destroy a man's character?

A: That always existed with the First Amendment. That type of tool can be used for good and it can be used for evil.

Yes, it concerns me. And what also concerns me is what seeems to be an accepted practice in this city as a whole, forgetting my case as a prime example. This city seems to live on leaks to the press, and that combination can be a devastating one, if not controlled, particularly the role of unsubstantiated data, FBI or otherwise, that people seem to pass out in this town like they would be passing out a hymnbook. The town may have lost a sense of decency. They say it's as a result of Watergate, or still breathing Watergate air here in the town. I guess that's partly true. But damn it, someone better start addressing this, or the town becomes uninhabitable for good people.●

CERTIFICATION ON EL SALVADOR

● Mr. KENNEDY. Mr. President, I have joined Senator GLENN and several other of my distinguished colleagues in introducing Senate Joint Resolution 208, a resolution requiring the President, when he makes his second certification on El Salvador, to certify that:

Government of El Salvador (1) has made good faith efforts since the first certification was made to investigate the murders of six United States citizens and to bring to justice those responsible for those murders, and (2) has taken all reasonable steps to investigate the disappearance of journalist John Sullivan in El Salvador in January 1981.

This resolution is not the first such statement by the U.S. Senate. Last year legislation, adopted by the Congress incorporated the requirement from a bill which Senator TSONGAS and I introduced requiring that further U.S. aid be conditioned on concerted and significant efforts by the Government of El Salvador to comply with internationally recognized human rights, substantial control of security forces, continued progress in implementing essential economic and political reforms, as well as progress in resolving these murders. Again in December the Senate adopted a resolution which I introduced calling strongly for meaningful actions by the Government of El Salvador to bring to justice those responsible for the murders and endorsing our Government's full cooperation to that end.

It is appalling that after 19 months the murders of the four churchwomen remain unresolved. Indeed, there has been only halting, almost meaningless progress. Today I received a report from the Lawyers Committee for International Human Rights, entitled "Justice in El Salvador: A Case Study." It is an excellent review of the background of these murders and the frustrated efforts of the families to seek the most basic information and progress on the case. The report documents repeated delays by the Government of El Salvador in bringing those responsible to justice and concludes that "several factors suggest a trial may never occur." And finally, and most unacceptable of all, it reports that actions of our own Government have abetted the delays, and in certain cases, actually "obstructed attempts by the churchwomen's families to monitor the case."

I ask that the full text of this report by the Lawyers Committee for International Human Rights be printed in the RECORD at the conclusion of my remarks. I urge my colleagues to consider this important report and to support early passage of Senate Joint Resolution 208.

The report follows:

JUSTICE IN EL SALVADOR: A CASE STUDY

PREFACE

In order to justify ongoing U.S. military aid to El Salvador, President Reagan must certify to the Congress, on July 27, 1982, that there has been a genuine improvement in human rights conditions in that country.[1] The House of Representatives last week voted overwhelmingly to renew a requirement that, as part of his certification, the President must affirm that "good faith efforts" are being made to bring to justice those responsible for the killing of four U.S. churchwomen, in December 1980, and two U.S. agrarian reform workers, in January 1981. (H.J. Res. 494, as amended, also requires that the President certify progress in the investigation of the unexplained disappearance of U.S. journalist John Sullivan in December 1980.) In the coming days, the full Senate is expected to consider similar legislation.

The following report examines the investigation into the brutal slaying of the U.S. churchwomen, on a dirt road fifteen miles from El Salvador's International Airport. In the nineteen months which have elapsed since this tragedy, progress on the investigation has been lamentably slow. In May 1981, six members of the country's National Guard were arrested in connection with the crime. Nine months later, in February 1982,

Footnotes appear at end of article.

a criminal court judge assumed jurisdiction over the case; he is now conducting his own inquiry—a prerequisite to a potential future trial.

State Department officials in the past few days have indicated that a trial date may be set for early September,[2] yet past experience suggests that this assurance may be motivated by immediate political factors rather than by a genuine likelihood of imminent action. In January of this year, two days before President Reagan's required certification of progress in the investigation, Salvadoran Defense Minister Garcia announced that a trial would be held "within a very few days."[3] Six months have elapsed—and millions of dollars of additional U.S. military assistance have flowed to the Salvadoran government—since that announcement. Jose Napoleon Duarte, former President of the Salvadoran junta, estimated last month that the trial may not be scheduled for a year or more.[4]

State Department assurances notwithstanding, there is reason to believe that the five National Guardsmen currently under investigation may never be tried and punished. Recent statements by current Salvadoran officials, most notably Roberto D'Aubuisson, President of the Constituent Assembly, reveal little interest in prosecuting the case and a general hostility to disciplinary actions against members of the security forces.

Of equal concern is the refusal by both U.S. and Salvadoran authorities to explore evidence suggesting that higher military officials or private individuals may have participated in the crime. Some of the unexplored leads include: a string of death threats against the religious missionaries in the weeks preceding the crime; an intercepted radio or phone communication between airport military personnel a few hours before the women were abducted; numerous unidentified fingerprints on the women's van; and reports that the killers were in possession of large amounts of money in the days following the killings.

Regrettably, the U.S. government has obstructed attempts by the churchwomen's families to monitor the case. Since December 1980, the U.S. Embassy in San Salvador has had access to a substantial amount of evidence pertaining to the investigation. Moreover, the FBI has, at a number of stages, provided technical and advisory services to the Salvadoran government. Yet repeated efforts by the families to obtain information in the possession of the U.S. government have been vigorously resisted. On behalf of the families, the Lawyers Committee for International Human Rights has, over the past year, filed Freedom of Information Act requests with four federal agencies in order to gain access to documents relevant to the investigation. To date, only a fraction of these documents has been made available.

The killing of the churchwomen serves as a dramatic case study. The failure to bring this case to trial, nineteen months after the tragic event, is reflective of a general breakdown in the rule of law in El Salvador. Over the past few years, government forces have tortured and killed thousands of unarmed civilians, yet a recent survey has revealed that, during a 28-month period ending in February 1982, only 84 military personnel were dismissed from the services on account of homicide charges. The Salvadoran government has not revealed whether any of these individuals have been subsequently prosecuted in a civilian court.[5]

This report, initially prepared for the families of Maura Clarke, Jean Donovan, Ita Ford, and Dorothy Kazel, summarizes the current status of the investigation. In our work on behalf of the four families over the past nineteen months, the Lawyers Committee for International Human Rights has received particular assistance from the Congressional offices of Mary Rose Oakar, Richard Ottinger, Gerry Studds, Peter Peyser, Edward Kennedy and Christopher Dodd. We are deeply grateful for this support.

A special note of appreciation is also owed to Sister Helene O'Sullivan of the Maryknoll Order for invaluable help in pursuing our investigation.

The report was written by Philip Warburg and James Zorn of the Lawyers Committee.

INTRODUCTION

In the nineteen months since four U.S. church-women were killed in El Salvador, sources close to the investigation have presented widely differing reports on the progress which has been made. These conflicting accounts have left many basic questions unaswered and have raised serious doubts about the integrity of the investigatory process.

The information currently available indicates that six low-ranking members of the Salvadoran National Guard were almost certainly involved in the killings. Four of these men were arrested in May 1982; two were arrested in December 1981.

What remains unclear is whether these six men acted independently or were under orders from their superiors. Also unclear is the extent to which Salvadoran or U.S. government officials have attempted to conceal information which would help facilitate a full and fair investigation.

This report seeks to examine these questions. It is divided into six sections: the first recounts the events surrounding December 2, 1980; the second a summary of the investigation which was carried out under the auspices of the Salvadoran military during 1981. Section III explores the status of the current investigation before criminal court judge Bernardo Rauda Murcia. Section IV examines a series of questions which remain unanswered, including circumstantial evidence suggesting broader ties to the planning, execution, and later concealment of the crime. Section V analyzes the role of the United States government in this investigation. Section VI provides a brief summary of the Lawyers Committee for International Human Rights' ongoing concerns about the case.

I. RECONSTRUCTION OF THE TRAGIC EVENTS OF DECEMBER 1980

Sisters Ita Ford and Maura Clarke were members of the Maryknoll Order, assigned to the town of Chalatenango, El Salvador, to assist in the diocesan project for the resettlement of refugees. Sister Dorothy Kazel, an Ursuline nun, and Ms. Jean Donovan, a lay volunteer, were performing similar work for a parish in La Libertad, El Salvador.

In the early evening of Tuesday, December 2, 1980, Sisters Ford and Clarke, returning from an annual Maryknoll meeting in Managua, Nicaragua, arrived at the El Salvador International Airport. They were met by Sister Kazel and Ms. Donovan.

On the morning of Wednesday, December 3, 1980, Father Paul Schindler, an American citizen of the La Libertad parish, expecting Ms. Donovan and Sister Kazel at a meeting, informed authorities of their failure to appear. After spending the day searching for them, he discovered their Toyota van ten miles northwest of the airport. Stripped of its license plates and destroyed by fire, the van's identity could only be confirmed by its engine number.

That same morning, the bodies of the four women were discovered along a rural road by a resident of Santiago Nonualco, a village located in mountainous terrain fifteen miles northeast of the airport and twenty miles from the site of the burned-out van. Shortly after the villager had contacted local authorities, two National Guardsmen and three Civil Guards arrived at the scene and ordered the assembled villagers to dig a common grave for the women. The villagers later described the women as "blond foreigners." A local Justice of the Peace, summoned to the burial site by the Militia Commander of the Canton San Francisco Hacienda, certified the deceased as "unknowns" and authorized their immediate burial.

It was not until the morning of Thursday, December 4, 1980, that U.S. Ambassador Robert White was informed by a parish priest that the bodies of the four women had been found. Ambassador White set out immediately for the gravesite, where he was joined by Father Schindler.

Reports collected by Ambassador White, the local Justice of the Peace, and others indicated that the women had each been shot once or twice in the head. The clothing of the women was in disarray; two or three of them had been stripped of their underwear. It was reported that one of the women was found nude below the waist and that a villager had replaced her pants before burial. Some at the disinterment claimed that the women's wounds appeared more extensive than reported and that their bodies were badly bruised.

Following the disinterment, Ambassador White drove with the Justice of the Peace, Juan Santos Ceron, to San Salvador. Enroute, Santos acknowledged that, in authorizing the informal burial of the unidentified bodies, he had been following a procedure commonly performed under the direction of the security forces. He estimated that he was called upon to authorize such burials two-to-three times per week.[6]

II. THE INVESTIGATION: A SUMMARY OF ITS "PROGRESS"

Almost from the outset, the investigation of these murders has been characterized more by efforts to create the impression of progress than by actions to achieve it.

One early report described the creation of a Salvadoran investigative commission shortly after the women were killed:

"After days of stonewalling, the Salvadoran government belatedly named a "high level civilian and military commission" to "find the guilty people and punish them." But the three military members of the new four-man commission included two close friends of Defense Minister Garcia and a first cousin of Police Chief Lopez Niula." [7]

Throughout the investigation, and despite efforts to convey the opposite impression, it was evident that the military, not the civilian government, exercised ultimate control over the case. In late February 1981, President Duarte determined that the Special Investigative Commission had completed its preliminary investigation. At that point, he announced that the Salvadoran Attorney General was to be placed in charge of the case.[8] Despite this publicly announced transfer of responsibility to a civilian authority, the Salvadoran military command

continued to play the central role in the investigation. When six members of the Salvadoran National Guard were apprehended in connection with the killings in the spring of 1981, they were placed under military arrest and were held at the National Guard headquarters in San Salvador, rather than in an ordinary penal institution. Moreover, it was Defense Minister Garcia—not the Salvadoran Attorney General—who confirmed rumors of these arrests with an official press statement on May 9, 1981.[9]

The arrests of the guardsmen came within two weeks after a conversation, on April 28, between Secretary of State Haig and President Duarte, in which Haig emphasized the importance of this case and the investigation of the killing of two U.S. agrarian reform workers in January 1981.[10] A subsequent State Department cable to the Embassy in San Salvador reiterated Haig's message:

"The investigation of the murders, which are now reach (sic) a critical stage, will be presented as a major issue in Congress's consideration of our assistance for this year and next. The Secretary wanted to emphasize that *his own efforts to defend our policy will be greatly eased if he can point to significant progress on these investigations,* particularly of the murders of the churchwomen." [Emphasis added.][11]

When President Duarte met with the families of the churchwomen in September 1981, he again insisted that Defense Minister Garcia was not in charge of the investigation and that the case was in civilian hands.[12] Nevertheless, three months later, when another investigative effort was undertaken, it was a security force officer—Major Adolfo Medrano of the National Guard—who presided over the gathering of all testimony. In December 1981, Major Medrano began taking formal depositions from witnesses and potential suspects, a process which continued until early February 1982, when the case was transferred to a civilian court.[13]

A turning point in the case came in December 1981, when two of the original suspects were released and two new suspects were arrested. One of those arrested was Carlos Joaquin Contreras Palacios, a 25-year-old former guardsman and a recently born-again Christian. Having apparently undergone a crisis of conscience, Contreras confessed his own direct participation in the murders and tied four other guardsmen to the crime.[14] The story presented by Contreras was substantially corroborated by the other guardsman arrested in December, Salvador Rivera Franco.

A narrative of the crime

In the testimony of Contreras, Rivera, and several other guardsmen, the murder of the churchwomen is portrayed as a act of wanton violence carried out by a small group of low-level guardsmen under the command of a brutal sub-sergeant. From the various depositions taken under Major Medrano's supervision, the following picture emerges:

"Mid-afternoon on December 2, 1980, Jean Donovan and Sister Dorothy Kazel drove to El Salvador's international airport in a white Toyota van, to meet a number of nuns who were returning from a Maryknoll conference in Nicaragua. Finding only two of the four expected women on the flight, Ms. Donovan and Sr. Kazel left the airport with these two individuals and returned later in the day to meet a second flight from Nicaragua. Sisters Ita Ford and Maura Clarke were on this plane.

"According to the testimony, Ms. Donovan and Sr. Kazel had somehow aroused the suspicion of one of the airport guardsmen on their first visit to the airport; their handbags were thought possibly to contain weapons. The guardsman relayed his suspicion to his commanding officer, subsergeant Colindres, who advised him to keep an eye on the two women.

"When Ms. Donovan and Sr. Kazel returned to the airport later in the day to pick up Sisters Ford and Clarke, the guardsman again notified Colindres, who took immediate action. He ordered five guardsmen to change into civilian clothes and accompany him, armed with government-issue G-3 rifles, on an unspecified assignment. Colindres next ordered the guardsmen on duty at the airport entrance to halt all outgoing traffic for several minutes, with the exception of the vehicle driven by the American churchwomen. He then headed out along the airport access road in a National Guard Jeep, with his five cohorts.

"When the churchwomen's van approached Colindres' impromptu checkpoint, he and another guardsman searched the van and interrogated the women. After a few minutes, he told one of his men to drive the van, with the women as passengers, in the direction of the nearby town of Rosario de la Paz.

"On the outskirts of Rosario de la Paz, the National Guard Jeep, which had been escorting the women's van, broke down and had to be abandoned at a National Guard outpost in the town. Rivera Franco was left to guard the Jeep—thus separating him from the soon-to-be murder party—while the rest of the men drove off with the women in the Toyota van.

"Several miles outside of town, Colindres directed the guardsman driving the van to turn off onto a secondary road. At an isolated spot along this road, he ordered the car stopped. It was here that he instructed his men to shoot the women, an order which they obeyed after sexually abusing the women.

"Having committed the murders, the guardsmen left the women's bodies in a roadside ditch and headed back to Rosario de la Pax in the Toyota van. They found Rivera Franco waiting with two other men, one of whom was a driver for the airport Customs Police; Colindres had phoned the Customs Police earlier to request help with the broken-down Jeep.

"Colindres then ordered Rivera and the two men to follow him in the Customs Police blue pick-up truck. Driving the Toyota van to a deserted location, the guardsmen unloaded the vehicle's contents into the Customs Police truck, poured kerosene on the van, and set it afire.

"According to airport guards, who witnessed the murderers' return, the Customs Police truck entered the airport grounds with its radio blaring and its headlights flashing. Witnesses also saw a number of items being unloaded from the truck and carried into the National Guard barracks—a jack, a tire, and several cartons of English-language printed matter.

"In the days following the murders, Colindres and other guardsmen were seen in possession of a number of articles linking them to the murders—large amounts of cash, women's watches and clothing, a tire, and an automobile jack. Colindres himself was rumored to have suddenly acquired $5,000 in cash, some of which he used to buy a television and new living-room furniture.

"Speaking to another guardsman several days after the crime, Colindres is reported to have expressed confidence that the murders would go unpunished. 'They were subversive women,' he said. 'I don't believe there will be any problem.' "[15]

Preparations for criminal prosecution

On the basis of this rendition of the crime, the military officials supervising the investigation initiated legal action against the six suspects. On January 26, 1982, two days before President Reagan was required to certify that good-faith efforts had been made in solving the murders, Defense Minister Jose Guillermo Garcia announced that the six guardsmen would go to trial "within a very few days."[16]

On February 8, General Carlos Vides Casanova the Director of the National Guard, dismissed the suspects from the Guard, as Salvadoran law prohibits the trial of military personnel for murder, and remanded them to the jurisdiction of the criminal court of Zacatecoluca.[17] After reviewing the available evidence, presiding Judge Bernardo Rauda Murcia decided, on February 13, that five of the former guardsmen should be held for possible future indictment, while the sixth, Salvador Rivera Franco, should be released and charges against him dismissed.[18]

Judge Rauda's overt rationale for dismissing the charges against Rivera Franco was that he had been left behind by Colindres to guard the broken-down Jeep and had not been directly involved in the murders. In all likelihood, another motive for the judge's decision was procedural: Salvadoran law prohibits a defendant's testimony from being used to incriminate co-defendants; with Rivera Franco no longer a defendant, his testimony became admissible as evidence against the other guardsmen.[19]

III. JUDGE RAUDA'S INVESTIGATION: OBSTACLES TO THE PURSUIT OF JUSTICE

Five months have passed since Judge Rauda ordered the continued detention of the guardsmen, yet there continues to be no clear indication of when the case might be brought to trial. Despite considerable evidence linking the five guardsmen to the murders, several factors suggest that a trial may never occur.

Perhaps the most troubling obstacle facing Judge Rauda in his handling of the case is intimidation by government security forces and paramilitary activists. Rauda is the third judge assigned to this case; both of his predecessors have removed themselves for unexplained reasons.[20]

In El Salvador, judges and trial lawyers are often, themselves, the targets of official violence. The Americas Watch Committee/American Civil Liberties Union January 1982 Report on Human Rights in El Salvador notes that Salvadoran judges and trial lawyers "have increasingly become the targets of officially condoned harassment and violence."[21] In a recent report on this subject, the International Commission of Jurists reported that: "[t]he judiciary has been made impotent by fear, while magistrates who have attempted to investigate crimes attributed to the security forces or right-wing groups have been immediately attacked, and several of them have been murdered."[22]

A case in point is the assassination attempt on March 26, 1980, against Judge Atilio Ramirez Amaya, who had to flee the country because of his participation in the investigation of the murder of Archbishop Romero.[23]

The ICJ's Center for the Independence of Judges and Lawyers in a recent publication

reports an even more "horrifying example of the practices of paramilitary groups which still operate with impunity in El Salvador." According to this report:

"[F]ive relatives of a judge of San Salvador, including two adolescents and a woman of 28, were assassinated on April 14, 1981. Their heads were severed from their bodies and laid at the doorstep of the Judge's home."[24]

Salvadoran judges—those who survive—seem to find ways to avoid the full prosecution of homicide cases. A journalist who interviewed Judge Rauda last month reported:

"Out of sixty murder cases pending in Judge Rauda's court in the past year, not one was closed. This, he says, is not to mention the five or six bodies he inspects each week—new murders in which no investigation is even opened."[25]

Nationwide data on the number of Salvadoran security forces brought to trial and convicted of homicide are not available, presumably because such figures would reveal an appalling paralysis within the Salvadoran criminal justice system. In an effort to foster the impression that abuses within the armed services do not escape punishment, the Salvadoran government has recently released the results of a 28-month survey revealing the numbers of security force personnel accused of crime who were dismissed from the armed services and delivered to civilian courts. While the study lists 84 homicide suspects who were handed over to civilian authorities, no indication of their subsequent handling by the courts is included.[26]

Procedural requirements have provided Judge Rauda and the Salvadoran government with a convenient pretext for prolonged delay in scheduling a trail. According to Salvadoran law, evidence gathered under military auspices may not be used against a defendant in civilian court. Once the case was transferred to his court, Judge Rauda was therefore compelled to collect anew all testimony and material evidence pertaining to the case. The process of re-gathering testimony is reportedly well under way: sworn depositions from at least forty witnesses are presently at hand.[27] A second legal requirement, however, has provided cause for yet further delay: all evidence to be used in criminal proceedings must be obtained under the supervision of the judge within the territorial limits of El Salvador.[28] This law, according to one State Department source, has been used to disqualify ballistics tests which the FBI performed, using machinery which is permanently installed in the FBI's Washington headquarters. Unresolved negotiations regarding the possible replication of these tests is one current obstacle to a speedy trial.

In recent days, the U.S. State Department has indicated that a trial might be scheduled as soon as early September.[29] These indications come less than two weeks before Presient Reagan must certify that the government of El Salvador is making significant efforts to comply with internationally recognized human rights, and if pending legislation is enacted, that it also is making good-faith efforts to bring the churchwomen's murderers to justice.

The State Department's forecast for a trial is reminiscent of an announcement made by Salvadoran Defense Minister Jose Guillermo Garcia two days before the President's January 1982 certification. On January 26, General Garcia announced that the six suspects in the murders would go on trial "within a very few days."[30] No trial has been held in the last six months, and former President Duarte reecently predicted a year's delay before a trial.[31] Moreover, given Judge Rauda's past record with homicide—not one of sixty murder cases closed in the last year[32]—President Duarte's prediction may be unduly optimistic. When viewed against this backdrop, the State Department's forecast for a trial in the next few months reflect immediate political factors, rather than a genuine commitment on the part of the Salvadoran government to hold a trial.

The acusador particular

Several months ago, the U.S. State Department informed the families of the churchwomen that they could be represented in Salvadoran criminal court proceedings by an attorney who, in effect, would be a co-accuser with the Salvadoran Attorney General. As originally described by the State Department, this private prosecutor, or acusador particular, "can do anything which the [public] prosecutor could do—present evidence, file appeals, and participate in the trial."[33] With these powers, according to the State Department, "[t]he *acusador particular* can play an extremely important role in the prosecution . . . the introduction of an effective lawyer into the case through this mechanism can be *the deciding element* in a successful prosecution. [Emphasis added.][34]

In stark contrast to these earlier representations, the State Department recently has changed its assessment of the acusador's powers and potential role. Department officials now acknowledge that the acusador cannot present evidence, argue before the jury or cross-examine witnesses.[35] With such limitations, the acusador surely cannot be "the deciding factor in a successful prosecution."

Moreover, in the case of the churchwomen's murder, intimidation threatens to limit further the effectiveness of the acusador and has already hampered efforts to identify an attorney willing to assume the position. Assisting in the prosecution of a case against government security forces entails considerable risk, as evidenced by the resignation under alleged threats of two judges assigned earlier to the case. Even if the families are able to locate an attorney who agrees to function as acusador particular, this individual may be unwilling to raise a number of important issues relevant to the case, especially where higher military or government authorities appear to be implicated.

Despite the constraints likely to be experienced by an acusador particular in this case, the presence of such a figure at the trial proceedings might, at a minimum, provide an independent record of events. The families of the churchwomen have requested that the State Department provide them with the names of Salvadoran lawyers who have expressed a willingness to consider the job.[36] They are currently awaiting a response.

IV. THE UNEXPLORED QUESTION OF BROADER INVOLVEMENT

Since the days immediately following the murders, there has been an accumulation of evidence suggesting the involvement of higher military authorities or private individuals in the planning, execution, and later concealment of the crime. To date, neither the Salvadoran government nor the U.S. government has been willing to pursue a vigorous investigation of this evidence. Instead, both governments have seen fit to assert that responsibility for the crime lies solely with the arrested guardsmen.

On September 30, 1981, more than four months before the Salvadoran military authorities completed their investigation, U.S. Ambassador Deane Hinton stated that the investigation should be limited to the six detained guardsmen "who were acting on their own."[37] Ambassador Hinton made this statement at the September 1981 meeting between President Duarte and the churchwomen's families; his words reflected clear U.S. endorsement of the Salvadoran government's refusal to explore the possibility of broader ties to the killings. At the same meeting, Mr. Duarte offered a practical argument favoring a limited investigation: he warned that, if the investigation pointed to senior military officials, no Salvadoran judge would be willing to preside over the case.[38]

When the six guardsmen were transferred to civilian custody in February 1982, Duarte once again revealed his eagerness to limit the scope of the investigation. "I am convinced that no others participated," he said at a news conference. "I have the moral conviction that these are the guilty parties."[39]

One person who challenges this viewpoint is the former U.S. Ambassador to El Salvador, Robert White. In an interview published in July of 1981, Ambassador White voiced his concern that the efforts of military and civilian authorities to conceal the burial of the churchwomen pointed to a broader involvement in the murders themselves:

"I seriously doubt that there are only six guardsmen involved. If there were, there wouldn't have been enough incentive for the cover-up to have taken place. An arrest of six enlisted men to allay public opinion is a very simple thing to accomplish . . ."[40]

Later that month, Ambassador White reiterated his views in a hearing of the House Committee on Banking, Finance and Urban Affairs:

"There has been nothing but a footdragging on the part of [the Salvadoran] government. And this will continue, because no murders are investigated. And the reason is that if you investigate the murder of the American churchwomen, you are going to find that it was not the responsibility of four or six or eight enlisted men, but that it involved orders from responsible officers."[41]

Pre-murder threats

Among the clues suggesting possible broader complicity in the murders is a series of events which occurred in the weeks preceding the crime:

1. At a meeting of the Salvadoran Cabinet in November 1980, Defense Minister Jose Guillermo Garcia attempted, in a half-hour presentation, to convince his colleagues that nuns and priests in the north of El Salvador were "influencing people to struggle against the government." To reinforce his claims, Garcia introduced a weeping ten-year-old boy from Chalatenango, the town where Sisters Ita Ford and Maura Clarke had their mission. The boy provided information to the assembled Cabinet officials which Garcia regarded as proof that nuns and priests in the region were collaborating with leftists. Garcia reportedly urged his colleagues, "We've got to take steps against the missionaries."[42]

2. In early November 1980, a sign was tacked to the door of the parish in Chalatenango, issuing the grim warning: "Anyone who enters this house will die." The mes-

sage was signed by a group calling itself the Mauricio Borgonovo anti-communist brigade.[43]

3. On the day of the murders, a threatening letter was received by Father Efrain Lopez, a member of the Chalatenango parish staff. The letter, signed by a man who identified himself as Roberto Fogelbach Perez, Coordinator of the Anti-Communist Front, urged the parish staff to "put an end to your wicked activities . . . or . . . you will find that you will no longer be allowed to remain."[44]

4. Another member of the Chalatenango parish staff was approached on the day of the murders, at a local movie house. This individual was reportedly shown a piece of paper containing a list of names, including Ita Ford and Maura Clarke, and was told: "Here is a list of the people we are going to kill—and today, this very night, we will begin."[45]

While the State Department has confirmed certain of the above occurrences, possible linkages between these events and the killings have not been vigorously probed. The FBI has lifted fingerprints from the sign which had been posted on the parish door, yet no attempt has been made to match these prints with those of guardsmen or non-military right-wing activists in the area.[46] The name and organization cited by the author of the threatening letter also offer clues which neither the U.S. nor the Salvadoran government has pursued.

Intercepted radio transmission

An intercepted radio transmission is another unexplained occurrence conceivably related to the killings. On the afternoon of December 2, just a few hours before the women were abducted, a radio communicaton between military units near El Salvador's international airport reportedly contained the words: "No, she didn't arrive on the flight. We'll have to wait for the next."[47] Sisters Ita Ford and Mura Clarke did, in fact, arrive on a later flight than expected on the afternoon of December 2. Whether the intercepted radio transmission indicates a premediated plan by Salvadoran military personnel to track down one of these women on her arrival is a question which remains unanswered.

The man who originally informed the U.S. Embassy of the radio transmission is a high-ranking Christian Democrat in El Salvador. While further information in this man's possession might help to clarify the relationship of the transmission to the murders, he has chosen to remain anonymous, allegedly because of a fear of reprisal. The sensitivity of this particular issue was highlighted by U.S. Ambassador Deane Hinton, in a letter to Congressman Robert A. Roe: "The reluctance by the source of the airport conversations report to testify openly is one of many examples of individuals who, aware of the consequences of speaking openly about a subject which others want to remain hidden, opts for saying nothing."[48]

The questioning of Sr. Maria Rieckelman

While the exact relevance of the radio transmission to the case remains uncertain, it is noteworthy that airport guardsmen revealed through other actions, on the day of the murders, a particular attentiveness to North American women passing through the facility. Another participant, along with Ita Ford and Maura Clarke, in the Maryknoll Sisters' annual meeting in Nicaragua was another Maryknoll Sister, Maria Rieckelman. When Sr. Rieckelman's return flight to the United States stopped over in El Salvador on the morning of December 2, three Salvadoran guardsmen armed with hip guns boarded the plane and interrogated several of the passengers in transit. Sr. Rieckelman was approached twice by these guardsmen, who expressed repeated interest in the destination of her travels.[49] When asked, in February 1982, whether the guardsmen who boarded Sr. Rieckelman's flight have been located and interviewed regarding their motives and concerns on that occasion, the U.S. State Department said that they had not identified these individuals.[50]

Cortez and the Hans Christ connection

Another suggestion of broader involvement in the killings has surfaced through the allegations of a Salvadoran expatriate referred to in news articles and State Department memoranda as "Cesar Cortez." Information about Cortez has come through intermediaries and is therefore incomplete and impossible to verify. Yet, according to these sources, Cortez claims that he was an accessory to the murders, serving as the driver for three non-airport-based National Guardsmen and two hacienda police officers who participated in the killings. Cortez also alleges that he received his orders from Hans Christ, the businessman implicated in the January 1981 murders of two U.S. agrarian reform workers in El Salvador, Michael Hammer and Mark David Pearlman. Cortez makes yet a further claim—that Hans Christ was in communication with U.S. military officials immediately preceding the killing of the U.S. churchwomen.[51] To date, the Lawyers Committee has been unable to obtain sufficient information either to refute or confirm any of these allegations.

According to the State Department, Cortez initially sought to meet confidentially with officials in the U.S. Embassy in Mexico City. In an unsigned letter, he identified himself as "the only witness to the violation and murder in cold blood of the nuns and the social workers [Hammer and Pearlman]," and asked U.S. authorities to "notify me in the Mexican newspapers if they want to see me in the U.S. Consulate, and if the meeting will be confidential."[52] The U.S. Embassy apparently responded by placing paid advertisements in leading Mexico City newspapers. Presumably fearing for his safety, Cortez chose not to appear at the Embassy, but instead revealed his story through an intermediary.

While Cesar Cortez has been beyond the reach of U.S. and Salvadoran officials, the same has not been true for Hans Christ, who has been living in Miami for the past several months. In that city, he has waged a long legal battle to oppose an extradition request filed by the Salvadoran government, which seeks his return to El Salvador as a suspect in the Hammer and Pearlman murders. In February, 1982, at a meeting between the families and Assistant Secretary of State Thomas Enders, the State Department was asked why Christ had never been interviewed about the churchwomen's case. In April, the State Department informed the families: "We are discussing with the FBI the possibility of a formal interview with Hans Christ."[53] Today, more than five months after the meeting with Assistant Secretary of State Enders, no such interview has taken place.

Further clues, further evasions

The failure to probe Hans Christ's knowledge of and possible involvement in the churchwomen's murders is a reflection of a general unwillingness, on the part of both U.S. and Salvadoran authorities, to interrogate possible accomplices other than the arrested, low-level guardsmen. Other manifestations of this unwillingness include the following:

1. The FBI failed to question rigorously the sergeant who was Colindres Aleman's commanding officer. Colindres, the principal actor in the killing according to the government's investigation, was a subsergeant in December 1980. His commanding officer, a sergeant whose name is being withheld by the State Department, has subsequently retired and is living in the United States. When interviewed ty the FBI on February 10, 1982, the sergeant admitted that Colindres had confessed to the murders; this is a confession which Colindres has not given under formal questioning.[54] The State Department has not indicated when the sergeant heard Colindres' confession, but it seems likely that Colindres informed his immediate superior of the crime shortly after its commission, in the hope of gaining support for his efforts to conceal the crime. If this is the case, the sergeant is guilty—along with the Salvadoran military and civilian officials who participated in the hasty burial of the women on December 3, 1980—of attempting to conceal a multiple murder.

It is unclear whether the sergeant was specifically asked about his own possible involvement, not merely in concealing but also in planning and officially or unofficially authorizing the crime. On this issue, the State Department has ambiguously reported that "the interviewed sergeant did not say that he had any prior knowledge of the murders."[55] This response may, in fact, imply that a question on the matter was never posed. The sergeant, in any case, was never given a polygraph examination.

2. National Guard Lieutenant Daniel Mejia, the officer in charge of the district which included the airport, has not been interviewed by U.S. or Salvadoran authorities.[56] Information in Lt. Mejia's possession could provide important clues regarding higher-level instigation or endorsement of the murders.

3. Three U.S. military officers who were serving in El Salvador in December 1980, and whose names have been raised in connection with the case have been cleared by the FBI, although the FBI has refused to divulge the means by which it has established their non-involvement. In February 1982, the families of the churchwomen requested that the FBI explore the possibility that three high-level U.S. military officers, Colonels Cruz, Cummings and Bosch, were in communication with Hans Christ in the days immediately preceding the murders.[57] On April 13, the State Department replied that "none of the three military officers . . . held any discussion of the churchwomen, by name or in general, with Salvadoran government officials or members of the 'oligarchy' prior to the murders."[58] When questioned by the Lawyers Committee about the manner in which the officer's innocence was ascertained, a State Department official close to the investigation indicated that the FBI had explicitly requested that its means of questioning the colonels be kept confidential.[59] It was made clear, however, that the colonels had not been subjected to polygraph examinations.

4. In its polygraph examination—with FBI technical assistance—of the six guardsmen arrested in the spring of 1981, Salvadoran military investigators only questioned one of the guardsmen, Sub-sergeant Colindres Aleman, regarding the involvement of higher officials. Even the examination of co-

lindres on this issue was restricted to a single question: "Did you receive instructions or orders to attack [atentara] those women?" Colindres' negative response to this question, one of the only responses he gave which registered "no deception" on the polygraph, seemed to satisfy his interrogators on this crucial, highly complex issue.[60]

5. The FBI has neglected to analyze the fingerprints of area security forces, thereby leaving unidentified 12 of the 13 prints found on the churchwomen's Toyota van. In the spring of 1981, the FBI compared the fingerprints found on the van to those of the six guardsmen then held in connection with the killings. One of these prints, found near the door handle of the vehicle, corresponded to the right thumb impression of Sub-sergeant Colindres Aleman.[61] Subsequently to this initial, limited analysis, the FBI has made no effort to compare the remaining twelve fingerprints to the prints of other security forces personnel who were stationed in the vicinity of the airport on December 2, 1980. In a confidential cable dated March 13, 1981, the American Embassy in El Salvador referred to "roughly 85 [security force] people in the area of the airport on the evening of December 2." [62] In justifying the FBI's failure to obtain and analyze the fingerprints of these individuals, the State Department tried, a year later, to minimize the total number of security forces of possible relevance to the case. In a statement released to the families of the churchwomen in April 1982, the State Department claimed that "at no time on the night of December 2, 1980, were there 85 guardsmen present around the airport." The Department referred instead to a "total airport detachment of the National Guard" amounting to 24 men.[63] In establishing this new, vastly reduced estimate of security forces in the airport area, the State Department was choosing to ignore a number of relevant groups: the airport-based Customs Police, at least one of whom is thought to have assisted the murderers in disposing of the churchwomen's van; [64] hacienda police officers stationed in the general area, whom Cortez implicated in the murders; [65] and detachments of additional National Guard forces. The relevance of investigating neighboring National Guard units is underscored by the fact that Colindres and his men actually visited one such outpost immediately prior to murdering the churchwomen: according to the evidence gathered by the Salvadoran military investigators, the guardsmen deposited their broken-down Jeep at a National Guard post in Rosario de la Paz before continuing toward the scene of the crime in the churchwomen's van.[66] Despite these circumstances, the State Department seems decidedly unwilling to push for a broader examination of fingerprint evidence.

6. There has been insufficient follow-up investigation concerning early references to a red Toyota ¾-ton pick-up truck seen leaving the scene of the crime, and to a possibly corresponding red paint smear found on the churchwomen's white Toyota van. On December 19, 1980, the Special Investigative Commission reported that "a red Toyota ¾-ton pick-up was seen leaving (the crime scene) at about 11:00 p.m. on December 2" and that "a red splotch on the burned van" of the churchwomen was being checked to determine whether the paint splotch "could be the result of a collision between that van and the red Toyota pick-up."[67] By February 1981, the Maryknoll Sisters' Office of Social Concerns, which has been actively monitoring the investigation, received word from a source which it considered reliable that the FBI had matched the red splotch on the burned van with a red Toyota pick-up belonging to the Sheraton hotel in San Salvador. It should be noted that this hotel, of which Hans Christ is a partowner, was the scene, a month later, of the brutal murders of the U.S. agrarian reform workers, Michael Hammer and Mark David Pearlman.

Subsequent to the FBI's alleged matching of the paint splotch and a Sheraton truck, the State Department has claimed, in a communication with the families of the churchwomen, that "the FBI could not determine the source of the paint scraping."[68] Some individuals close to the investigation believe that references to the blue Customs Police truck, which appear in formal depositions taken in December 1981 by the Salvadoran military, may have been fabricated in an attempt to explain away the Investigative Commission's initial references to a red vehicle.

7. There has been no explanation of guardsmen's references to large quantities of cash in Sub-sergeant Colindres' possession in the days following the murders. In their sworn testimony before Major Medrano, several National Guardsmen stationed at the airport at the time of the killings recalled rumors, shortly after the killings, that Sub-sergeant Colindres had suddenly gained possession of approximately $5,000 in cash. Colindres' alleged purchases of new living room furniture, a television, and other luxuries in the days following the murders tended to confirm this rumor in the eyes of a number of guardsmen.[69] On the basis of careful research, the Maryknoll Order has established that the two Sisters arriving in El Salvador were carrying only $175 in cash.[70] These facts raise the possibility that Colindres may have been paid a substantial sum of money for his services as a killer. Neither the U.S. nor the Salvadoran government has given this evidence adequate attention.

V. THE ROLE OF THE UNITED STATES

From the morning of December 4, 1980, when Ambassador White was told about the deaths of the churchwomen, the United States has monitored and assisted in the investigation. Initially the case was treated as a matter of top priority at the highest levels of the government. Subsequently, however, the government's commitment to a full and fair investigation has diminished dramatically.

The Rogers-Bowdler mission

Faced with preliminary evidence suggesting the involvement of Salvadoran security force personnel in the killings, President Carter decided, on December 5, 1980, to suspend all military and economic assistance to El Salvador pending a further investigation.[71] The following day, he dispatched to El Salvador a three-person investigative team headed by Assistant Secretary of State William Bowdler and William Rogers, a private attorney and former Assistant Secretary of State. The mission was charged with a dual function: to serve as a preliminary factfinding group into the deaths of the churchwomen; and to examine the structure of the government security forces in El Salvador, with a view toward helping to bring them under closer control.

Shortly after its return to the United States, the Rogers-Bowdler mission reported to the President:

"We made every effort . . . to persuade the authorities of El Salvador of the need for as complete and thorough an investigation as possible, so that those responsible could be brought to justice." [72]

The mission relayed the Junta's expression of "profound regret" regarding the murders and its promise to pursue the investigation "wherever it led anywhere in the country at any level." [73]

The mission also reported the following:

". . . because local authorities, certainly the National Guard and Civil Guard soldiers present at the informal burial on December 3, and possibly their local commander, knew at least after the fact that four women had been brutally murdered and had cause to believe that they were Americans—yet provided no information to our Embassy, there is *a high probability that an attempt was made to conceal the deaths.*" [Emphasis added.] [74]

The mission recommended that the United States "provide maximum cooperation" to the Special Investigative Commission and urged that the FBI "participate directly in the work of the Commission" because "[d]oing so would enhance the prospects of its legitimacy as well as chances for ultimate success." [75]

Although it viewed the creation of the Commission "as a positive response to the tradegy," the mission warned the President:

"We entertain no illusions. The investigation of crime even in our own country is not always climaxed by success. *And the processes of law and civil justice are not very evident in El Salvador at the present time.*" [Emphasis added.] [76]

Resumption of military aid

Despite obvious problems with the investigation, the U.S. government resumed economic aid to El Salvador on December 17, 1980.[77] One month later, and a week before Ronald Reagan became President, the State Department announced that military aid to El Salvador would also be resumed. In justifying this action, the State Department issued a press statement asserting that progress was being made in the investigation.[78] This position conflicted sharply with the judgment of Ambassador White, the senior official within the State Department who was most familiar both with El Salvador and the circumstances surrounding the crime. In testimony before the House Foreign Affairs Committee on February 25, 1981, White revealed his misgivings. Referring to the State Department's initial decision to suspend United States assistance to El Salvador, he commented:

". . . the agreement that was reached was that we would wait a month and then decide whether a serious investigation was under way or not.

"During that time, our reporting from the embassy consistently showed that there was no such—there was no serious investigation under way.

". . . there was no serious investigation into the death of the nuns, and as far as I am concerned there never has been and I know of no evidence to say that that situation has changed." [79]

In a subsequent cable to the Department responding to criticism for his previous public comments, Ambassador White wrote the following:

"All the evidence we have . . . is that the Salvadoran government has made no serious effort to investigate the killings of the murdered women." [80]

Diminishing U.S. commitment to a full investigation

As the investigation moved ahead at a glacial pace, State Department officials sought to diminish its importance. On one level, they emphasized that the U.S. government was continuing its pressure for a thorough investigation and stressed that progress in fact was being made; on another level, the same officials endorsed the Salvadoran government's refusal to explore questions pertaining to broader involvement in the killing.

Robert White, who had been replaced as Ambassador in February 1981, criticized the State Department on this point. Mr. White's own involvement in the case from December 3, 1980, until his dismissal, led him to conclude that there was no serious investigation in progress. When questioned by the Senate Foreign Relations Committee on April 9, 1981, Mr. White recounted one conversation he had with a State Department official:

"When I suggested that the Acting Assistant Secretary of State telephone me to say [how] we could reconcile our two positions—that was in my last days at the Embassy—that it was their position that progress was taking place in the investigation, that my position was that no serious investigation was underway, well, *his point is that you can have progress in an investigation and still not have a serious investigation underway. To me this is fundamentally dishonest.*"[81]

When Michael Donovan, Jean Donovan's brother, voiced the families' concern about the apparent lack of progress, Assistant Secretary of State for Inter-American Affairs Thomas Enders responded:

"Let me again assure you that we will do everything possible to ensure that all those responsible for this terrible crime are brought to justice."[82]

Yet, two months earlier, in a February 17 meeting with the families, Mr. Enders discounted evidence suggesting the possible involvement of higher-ranking officials.[83] He echoed Ambassador Hinton's statement, made to the families in a meeting on September 30, 1981, that the investigation should be limited to the six detained guardsmen.[84]

Similarly, in their respective meetings and correspondence with the families, both Assistant Secretary Enders and Ambassador Hinton eagerly sought to quell questions concerning the apparent lack of progress in the case. As Ambassador Hinton wrote to William Ford, Ita Ford's brother, on March 11, 1982:

"My hope is that my responses will serve to allay the doubts and concerns which you have and which are shared by other family members. . . ."[85]

In one telephone conversation, Ambassador Hinton suggested that "rough stuff" might be an appropriate interrogation technique to push the investigation ahead, and asked Mr. Ford whether the families would endorse such an approach.[86] Mr. Ford later recalled the conversation and offered his own observations:

"Ambassador Hinton, during that conversation, said that eyewitness evidence or a confession would be necessary to convict the six, and he asked my opinion of the use of "extraordinary means" to get that information. When I asked Ambassador Hinton if he wanted my approval for the United States to conduct or supervise the torture of the six, he suggested there was no other means of getting information. I do not know whether Ambassador Hinton was telling me that the United States uses or condones torture in El Salvador, or whether he was trying to get me to say I wanted the men tortured, but either alternative is sickening."[87]

During the first months following the killings, both Secretary of State Alexander Haig and U.N. Ambassador Jeane Kirkpatrick made highly inflammatory remarks about the churchwomen. On December 16, 1980, while she was still U.N. Ambassador-designate, Mrs. Kirkpatrick told an interviewer:

". . . I don't think the government [of El Salvador] was responsible [for the murders.] *The nuns were not just nuns; the nuns were political activists.*

"We ought to be a little more clear-cut about this than we usually are. *They were political activists on behalf of the Frente* and somebody who is using violence to oppose the Frente killed them."[88] [Emphasis added.]

After much pressure from the families and Members of Congress, Ambassador Kirkpatrick finally sought to clarify her statement following several months of silence. In a letter to Senators Percy and Pell, she wrote:

"My point was that order had broken down in El Salvador, that murders were being committed by traditionals, murders were being committed by revolutionaries, murders were being committed by simple criminals and that more and more people and institutions were polarized and drawn into the civil war. Under these circumstances any kind of identification or perceived identification with one of the contending sides involves one in the conflict . . . *Thus the nuns, two of whom I said were reported to have just returned from Nicaragua and to have ties in the Santanista [sic] junta, were perceived not just as nuns teaching school children but as political activists on behalf of the Frente.*"[89] [Emphasis added.]

Assistant Secretary of State Enders reiterated Ambassador Kirkpatrick's clarification in a letter to Michael Donovan on April 20, 1982. In his letter, Enders explained that "her comment was taken out of the context of a broader discussion of the character of the struggle in El Salvador."[90] He added that her words were "spoken as a political analyst attempting to describe dispassionately a tragically violent scene."[91]

Even more disturbing than Ambassador Kirkpatrick's statements were allegations made by Secretary of State Alexander Haig, in testimony before the House Committee on Foreign Affairs:

"I would like to suggest to you that some of the investigations would lead one to believe that perhaps *the vehicle that the nuns were riding in may have tried to run a roadblock or may have accidentally been perceived to have been doing so, and there may have been an exchange of fire.* And perhaps those who inflicted the casualties sought to cover it up. This could have been at a very low level of both competence and motivation in the context of the issue itself." [Emphasis added.][92]

Despite State Department confirmation that there was no evidence to support Secretary Haig's hypothesis,[93] the Secretary has not retracted his remarks.

Freedom of information requests

From the time the U.S. Embassy in El Salvador learned of the women's disappearances on December 3, 1980, the U.S. government has been privy to most of the information gathered in the Salvadoran government's investigation, including a substantial amount of informantion obtained with the active assistance of the FBI. The families of the churchwomen have filed requests under the federal Freedom of Information Act (FOIA)[94] with four federal agencies, to gain access to documents containing this information. The four agencies are the Department of State, the FBI, the CIA and the Defense Intelligence Agency. The families seek access to government documents in the hope of ascertaining what has delayed the investigation and whether it has been complete and accurate. Each of the four agencies has exhibited great reluctance to release the requested materials.

The families filed their FOIA request with the Department of State on June 29, 1981, seeking access to all agency cables, memoranda, reports, letters, or other records which relate either to the deaths, or to any investigations into those deaths.[95] To date, a total of 133 documents have been released, while the State Department continues to resist the release of 74 other documents dated prior to the filing of the FOIA request.[96] While a State Department official close to the investigation has acknowledged that new materials pertaining to the case have arrived "on a daily basis" over the past several months,[97] no document dated more recently than June 29, 1981, has been released.

Subsequent requests for information were filed with the FBI, CIA and Defense Intelligence Agency on March 11, 1982.[98] To date, the families have received only two documents—newspaper articles—pursuant to these requests.[99] The government's lack of cooperation and attention to this case is perhaps best illustrated by a letter from the CIA to the families on April 8, 1982. It notes:

"Before we can conduct a meaningful search of our files under the names of the four individuals, we need to have [the murdered churchwomen's] full names and basic biographic data. At the very least, we need the date and place of birth for each individual. Without such information it will be difficult if not impossible for us to distinguish between individuals with the same or similar names. We will also require proof of death, such as a copy of their respective obituaries or death certificates."[100]

The agency also requested the families to provide notarized statements attesting to kinship before it would grant a search and reproduction fee waiver.[101]

On June 18, 1982, nearly a year after the families filed their FOIA request with the State Department, 91 members of the House of Representatives sent a letter to the four agency heads on behalf of the families. The Representatives noted that the families' requests "have been met with incredible delays and unresponsiveness," and urged the agencies to expedite their processing of the FOIA requests and to release all documents relating to the deaths and the subsequent investigation.[102] On June 30, 1982, William H. Webster, Director of the FBI, responded to Representative Richard Ottinger, one of the letter's originators, by repeating the FBI's refusal to release any documents. Mr. Webster asserted that all relevant FBI documents are exempt from FOIA disclosure provisions for one of two reasons: first, they are properly classified in the interests of national defense or foreign policy; or second, "to release information would impede the ability of law enforcement personnel to conduct a thorough ex-

amination and effective prosecution, and might well preclude a fair and impartial trial."[103]

Presidential certification

On December 29, 1982, Congress adopted legislation authorizing appropriations for fiscal years 1982 and 1983 for foreign military and economic aid.[104] The legislation authorized the President to extend military aid to El Salvador only if he first certified to Congress that, among other things, the Salvadoran government "has made good faith efforts both to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders."[105]

On January 28, 1982, in compliance with the legislation's deadline, President Reagan certified to Congress that the Salvadoran government had met all of the conditions precedent to continued military aid, including those relating to good-faith efforts in solving the murder of the four churchwomen.[106]

Two days earlier, the Salvadoran government announced that the suspects would go on trial "within a very few days."[107] This announcement was simply incorrect. Under Salvadoran law an extensive, time-consuming judicial investigation must take place before any trial can be held. Six months later there is still no trial scheduled.

VI. CONCLUSION

Based on its examination of available information pertaining to the killing of the four U.S. churchwomen and to the subsequent investigation of these crimes, the Lawyers Committee for International Human Rights concludes:

(1) There is little doubt that the women were killed by members of Salvadoran security forces.

(2) While the five former National Guardsmen now in custody clearly were involved in the killing, there is unexplained circumstantial evidence suggesting that they may have been acting in collusion with their superiors.

(3) Despite assurances in January 1982 that the trial of the suspected guardsmen would take place "within a very few days," no trial has occurred and no date has been set for such a trial.

(4) Reasonable estimates, including the prediction of former President Duarte, indicate that the investigative process of the court proceedings against the former guardsmen may not be completed for some months; moreover, there is a distinct possibility that no one will be tried and punished for the murders.

(5) The general breakdown in the judicial process in El Salvador has seriously impeded progress in this case. Presiding Judge Bernardo Rauda Murcia and the prosecuting attorney are and will continue to be hampered in their pursuit of justice by actual or anticipated intimidation from government security forces and paramilitary death squads.

(6) Leaders of the current government of El Salvador, particularly the President of the Constituent Assembly, Roberto D'Aubuisson, are hostile to the investigation or punishment of any security force members in this case.

(7) There has been an unwillingness on the part of both the Salvadoran and U.S. governments to pursue evidence suggesting that higher-ranking military officers or paramilitary groups may have been involved in the killings. This evidence includes the following:

At a cabinet meeting in November 1980, Defense Minister Jose Guillermo Garcia stated that the church workers in the north of El Salvador "were influencing people to struggle against our government." According to accounts of this meeting, he urged his colleagues: "We've got to take steps against the missionaries."

In early November 1980, a sign was tacked to the door of the parish in Chalatenango, where the churchwomen were working, warning: "Anyone who enters this house will die." This ominous message was signed by the Mauricio Porgonovo anti-Communist brigade, a paramilitary force.

On the day of the murders, a member of the parish staff received a letter from another warning that the church workers must "put an end to your wicked activities."

On the same day, another member of the parish staff received a list of names, including Ita Ford and Maura Clarke. He was told: "Here is a list of the people we are going to kill—and today, this very night, we will begin.

(8) Neither government has actively pursued a number of important clues:

The FBI has failed to question adequately the sergeant immediately superior to Subsergeant Colindres Aleman, the alleged principal actor in the killing according to the Salvadoran government's own investigation. This man is now living in the United States.

Neither the FBI nor Salvadoran authorities have interviewed Lt. Daniel Mejia, the officer in charge of the district which included the airport on the night of the killings.

The FBI has failed to interview Hans Christ, the Salvadoran businessman implicated in the killing of Michael Hammer and Mark Pearleman, and whose name has been linked to this case. Mr. Christ also is living in the United States.

The FBI has failed to obtain or examine fingerprints and ballistics samples from 79 of the 85 security force members who were in the area of the airport on the night of the killings.

The FBI has completed its investigation of three United States military officers who were then serving in El Salvador, but refuses to divulge the means by which it has established their non-involvement.

(9) In recent months, officials of the United States government, particularly those of the Department of State, have sought to downplay the importance of this case by suggesting that the investigation is progressing smoothly; that only the five low-ranking guardsmen are culpable; and that, in any case, the nuns were political activists supporting the leftist rebels against the Salvadoran government.

(10) Agencies of the United States government have exhibited great reluctance to comply with Freedom of Information requests for documents in their possession containing information on the killings and the subsequent investigation.

Based on these findings and unresolved issues, the Lawyers Committee for International Human Rights further concludes: there has been insufficient progress in the investigation into the killings from the beginning; in the last six months, the government of El Salvador has not made good faith efforts to investigate the murders and bring to justice those responsible; there is no basis to warrant certification by the President on this matter.

FOOTNOTES

[1] International Security and Development Cooperation Act of 1981, Public Law 97-113, § 728(d).

[2] Telephone conversations between Philip Warburg of the Lawyers Committee for International Human Rights and Peter Romero, Salvadoran Desk Officer, U.S. Department of State, July 14, 1982.

[3] "Trial is Due for Six Suspects in Salvador Slaying of Nuns," The New York Times, January 27, 1982.

[4] "Salvador Land Redistribution Plans Have Been Shelved, Duarte Asserts," The New York Times, June 7, 1982, p. A6.

[5] An Americas Watch Report—U.S. Reporting on Human Rights in El Salvador: Methodology At Odds With Knowledge (New York, N.Y., June 1982), p. 75. Appendix D: U.S. Embassy in San Salvador Report on Security Forces Personnel Dismissed from the Armed Forces, Oct. 15, 1979 to Feb. 26, 1982 as Provided by the Salvadoran National Police.

[6] The reconstruction of events has been prepared from several accounts, including: William D. Rogers, William G. Bowdler, Luigi R. Einaudi, "Report to the President of Special Mission to El Salvador," December 12, 1980; John Dinges, "New Evidence on Missionaries' Deaths in Salvador Suggests Official Plot," Pacific News Service, July 3, 1981; and an unpublished report of the "Cleveland Team," December 7, 1980.

[7] "Aftermath of Four Brutal Murders," Time, December 22, 1980, p. 40.

[8] FBI Status Report on the Investigation, April 10, 1981. This report appears in the Lawyers Committee for International Human Rights, A Report on the Investigation into the Killing of Four American Churchwomen in El Salvador (New York, N.Y., September 1981), Appendix F.

[9] "6 Salvadorans Held for Murders," The Washington Post, May 10, 1981.

[10] U.S. Department of State, cable from Secretary of State Haig to U.S. Embassy, San Salvador, April 1981.

[11] Ibid.

[12] Duarte's comments on this matter were recorded in minutes of a meeting held at the home of Archbishop Thomas Hickey of Washington, D.C., on September 30, 1981. The minutes were taken by William P. Ford, brother of slain Sister Ita Ford.

[13] Translated transcripts of the depositions were made available to the churchwomen's families by the U.S. Department of State, February 17, 1982.

[14] "Salvador Jails Two For Murder of Nuns," the Washington Post, Februry 9, 1982.

[15] This narrative was constructed from the translated transcripts of the depositions taken by Major Adolfo Medrano, from December 1981 through February 1982, supra note 13.

[16] "Trial is Due for Six Suspects in Salvador Slaying of Nuns," The New York Times, January 27, 1982.

[17] "Six Salvadoran Soldiers Face Court in the Slaying of American Nuns," The New York Times, February 11, 1982; "Salvadorans Arraigned in Nuns' Deaths," The Washington Post, February 11, 1982.

[18] "Ex-Guardsman Freed in Nun Deaths," The Washington Post, February 14, 1982, p. A35; "Judge in Salvador Frees One of six in Nuns' Deaths," The New York Times, February 14, 1982

[19] U.S. Department of State, "Status of the Prosecution," February 17, 1982.

[20] "Salvadorans Arraigned in Nuns' Deaths," The Washington Post, February 11, 1982. See Julia Preston, "Report from San Salvador on New Information in the Investigation of the Four U.S. Nuns Killed in El Salvador" ("All Things Considered," National Public Radio, June 20, 1982).

[21] Americas Watch Committee and The American Civil Liberties Union, Report on Human rights in El Salvador (New York: Vintage Books, 1982), p. 102.

[22] Ibid., p. 102. Quoted from International Commission of Jurists (ICJ), "Human rights in the World: El Salvador," 26 ICJ Review 3 (June 1981), p. 6.

[23] Ibid., p. 102.

[24] Ibid., p. 103. Quoted from International Commission of Jurists Center for the Independence of Judges and Lawyers (CIJL), "Case Reports: El Salvador," in 7 CIJL Bulletin 15, p. 26.

[25] Julia Preston, "Report from San Salvador on New Information in the Investigation of the Four U.S. Nuns Killed in El Salvador" ("All Things Considered," National Public Radio, June 20, 1982).

[26] Americas Watch Report, supra note 5.

[27] Ibid.

[28] Telephone conversations between Phillip Warburg of the Lawyers Committee for International

Human Rights and U.S. Government officials close to the investigation, June 1982.

[29] Telephone conversation between Philip Warburg of the Lawyers Committee for International Human Rights and Peter Romero, Salvadoran Desk Officer, U.S. Department of State, July 14, 1982; conversation between William P. Ford and Thomas O. Enders, Assistant Secretary of State, July 15, 1982.

[30] "Trial is due for Six Suspects in Salvador Slaying of Nuns," The New York Times, January 27, 1982.

[31] The New York Times, June 7, 1982, supra note 4.

[32] See text accompanying note 25, supra.

[33] Department of State, "Status of the Prosecution," February 17, 1982.

[34] Ibid.

[35] Telephone conversation between Philip Warburg of the Lawyers Committee for International Human Rights and Peter Romero, Salvadoran Desk Officer, U.S. Department of State, July 14, 1982.

[36] See Letter from Philip Warburg, Lawyers Committee for International Human Rights to Jeffrey Smith, Assistant Legal Adviser for Law Enforcement and Intelligence Affairs, U.S. Department of State, July 2, 1982.

[37] Mary McGrory, "Pressure Over Missionaries' Deaths Is Only Card Duarte Holds," The Washington Post, October 1, 1981, p. A3.

[38] William P. Ford unpublished minutes of meeting between President Duarte and the churchwomen's families, held at the home of Archbishop James Hickey of Washington, D.C., September 30, 1981.

[39] "Judge in Salvador Frees One of Six in Nuns' Deaths," The New York Times, February 14, 1982.

[40] John Dinges, "New Evidence on Missionaries' Deaths in El Salvador Suggests Official Plot," Pacific News Service, July 3, 1981.

[41] Testimony of Robert White to the Subcommittee on International Development of the House Committee on Banking, Finance, and Urban Affairs, July 23, 1981.

[42] John Dinges, supra note 40.

[43] John Dinges, supra note 40. This sign was handed over to the U.S. Embassy in San Salvador at some point prior to April 13, 1982. See U.S. Department of State, Responses to 17 of 23 questions posed by the churchwomen's families at a meeting with State Department officials, on February 17, 1982. Attachment to letter from L. Craig Johnstone, Director of Central American and Panamanian Affairs, U.S. Department of State, to William P. Ford, April 13, 1982.

[44] The text of this letter, in Spanish and in translation was given to the families of the churchwomen on February 17, 1982, by the U.S. State Department.

[45] John Dinges, supra note 40.

[46] U.S. Department of State, Responses to 17 of 23 questions posed by the churchwomen's families at a meeting with State Department officials, on February 17, 1982. Attachment to letter from L. Craig Johnstone, Director of Central American and Panamanian Affairs, U.S. Department of State, to William P. Ford, April 13, 1982.

[47] "Two Jailed for Murder of Nuns," The Washington Post, February 9, 1982.

[48] Letter from Deane R. Hinton, U.S. Ambassador to El Salvador, to U.S. Congressman Robert A. Roe, November 9, 1981.

[49] The Washington Post, February 9, 1982, supra note 4.

[50] Transcript of Sr. Maria Rieckelman's taped response to a series of questons posed by Sr. Helene O'Sullivan, Maryknoll Sisters, Office of Social Concerns, Ossining, New York. Interview conducted in February 1982.

[51] Amos A. Kermisch, "U.S. seeks shadowy witness who said he saw nuns slain," The Plain Dealer, Cleveland, Ohio, January 21, 1982, p. 1 ff.

[52] U.S. Department of State, cable from Secretary of State Alexander Haig to U.S. Embassy in Mexico, September 1981. Reference to anonymous letter received in Washington, D.C., dated July 21, 1981.

[53] U.S. Department of State, supra note 46.

[54] Ibid.

[55] Ibid.

[56] Ibid.

[57] Meeting of Churchwomen's families with State Department officials, February 17, 1982.

[58] U.S. Department of State, supra note 46.

[59] Telephone conversation between Philip Warburg, Lawyers Committee for International Human Rights, and Jeffrey Smith, Assistant Legal Adviser for Law Enforcement and Intelligence Affairs, U.S. Department of State, July 1, 1982.

[60] U.S. Department of State, Reponses to remaining six of 23 questions posed by the churchwomen's families at a meeting with State Department officials, on February 17, 1982. Attachment to letter from L. Craig Johnstone, Director, Office of Central American Affairs, U.S. Department of State, to Mrs. Judy Keough (sic), June 29, 1982.

[61] U.S. Department of State, supra note 46.

[62] U.S. Department of State, confidential cable from U.S. Embassy in San Salvador, March 13, 1981. Declassified and released to churchwomen's families on June 23, 1982, pursuant to the families' Freedom of Information Act request, filed June 29, 1981.

[63] U.S. Department of State, supra note 46.

[64] National Guard testimony, supra notes 13 and 15.

[65] Amos A. Kermisch, supra, note 51.

[66] National Guard testimony, supra notes 13 and 15.

[67] Letter from Sister Helene O'Sullivan, Maryknoll Sisters Office of Social Concerns, to U.S. Congressman Michael D. Barnes, May 28, 1982. Attachment: "The Red Toyota ¾ Ton Pick-Up: One Example of the Lack of Progress in the Investigation into the Deaths of the Four Churchwomen in El Salvador.

[68] U.S. Department of State, supra note 46.

[69] National Guard testimony, supra notes 13 and 15.

[70] Financial accounting documents provided by Sister Rose Anna Tobin, Maryknoll Sisters, Balboa, Panama.

[71] *See* U.S. Department of State, Press Statement, January 14, 1981.

[72] "Report to the President of Special Mission to El Salvador" (Rogers-Bowdler Report), December 13, 1980, at 7, as transmitted in a U.S. Department of State cable from the Secretary of State to the U.S. Embassy in El Salvador, December, 1980.

[73] Ibid.

[74] Ibid.

[75] Ibid., p. 9.

[76] Ibid.

[77] See U.S. Department of State, Press Statement, January 14, 1981.

[78] Ibid.

[79] Testimony of Ambassador Robert White before the Subcommittee on Foreign Operations of the House Appropriations Committee, February 25, 1981.

[80] U.S. Department of State cable from Ambassador Robert White to the Secretary of State, date unknown.

[81] Testimony of Robert White before the Senate Foreign Relations Committee, April 9, 1981.

[82] Letter from Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, to Michael R. Donovan, April 20, 1982.

[83] On February 17, 1982, members of the families, their attorney, and a representative of the Maryknoll Order met with Mr. Enders and other State Department officials.

[84] See Text accompanying note 37, supra.

[85] Letter from Ambassador Deane R. Hinton to William P. Ford, March 11, 1982.

[86] See Letter from Ambassador Deane R. Hinton to Representative Robert A. Roe, November 9, 1981, p. 4.

[87] Letter from William P. Ford to Representative Gerry E. Studds, August 7, 1981, at 3.

[88] "Ambassador Kirkpatrick: Reagan-Appointed Democrat Speaks Her Mind on World, Domestic Politics," The Tampa Tribune, December 25, 1980.

[89] Letter from Jeane J. Kirkpatrick to Senator Charles H. Percy and Senator Claiborne Pell, date unknown.

[90] Letter from Thomas O. Enders, Assistant Secretary of State for Inter-American Affairs, to Michael R. Donovan, April 20, 1982.

[91] Ibid.

[92] Testimony of Secretary of State Alexander Haig before the House Committee on Foreign Affairs, March 18, 1981.

[93] See Letter from David E. Simcox, State Department Bureau of Inter-American Affairs, to William P. Ford, April 16, 1981. Mr. Simcox wrote, "the suggestion that the car was attempting to run a roadblock was only one theory and not a fact."

[94] Freedom of Information Act, 5 U.S.C. sec. 552, et seq., as amended.

[95] Letter from Michael H. Posner, Executive Director of the Lawyers Committee for International Human Rights, to U.S. Department of State, June 29, 1981.

[96] To date, the State Department has identified 208 of its documents that are relevant to the killing. On December 23, 1981, the State Department released 99 documents, 9 of which were subject to deletions, and on June 23, 1982, it released 34 documents, 23 of which were subject to deletions. Letters from John R. Burke, Deputy Assistant Secretary of State, to Michael H. Posner, Lawyers Committee for International Human Rights, December 23, 1981, and June 23, 1982.

[97] Telephone conversation between Philip Warburg, Lawyers Committee for International Human Rights, and Peter Romero, Salvadoran Desk Officer, U.S. Department of State, June 30, 1982.

[98] Letters from Michael H. Posner, Lawyers Committee for International Human Rights, to FBI, CIA and Defense Intelligence Agency, March 11, 1982.

[99] Letter from Donald W. Goodman, Chief of Staff, Defense Intelligence Agency, to Michael H. Posner, Lawyers Committee for International Human Rights, April 16, 1982.

[100] Letter from John E. Bacon, Information and Privacy Coordinator, Central Intelligence Agency, to Michael H. Posner, Lawyers Committee for International Human Rights, April 8, 1982.

[101] Ibid.

[102] Letter originated by Representative Richard L. Ottinger, Mary Rose Oakar and Peter Peyser, to William Webster, Director, FBI; William J. Casey, Director, CIA; Lt. Gen. James A. Williams, Director, Defense Intelligence Agency; and Alexander Haig, Secretary of State, June 18, 1981.

[103] Letter from William H. Webster, Director, FBI, to Representative Richard L. Ottinger, June 30, 1982.

[104] International Security and Development Cooperaton Act of 1981, D.L. 97-113, 95 Stat. 1519.

[105] *Ibid.*, P.L. (97-113 sec. 728(e).

[106] *See* The White House, Justification for Presidential Determination to Authorize Continued Security Assistance for El Salvador, January 28, 1982.

[107] "Trial is Due for Six Suspects in Salvador Slaying of Nuns," The New York Times, January 27, 1982.●

ORDERS FOR THURSDAY

ORDER FOR THE RECOGNITION OF SENATOR CHILES

Mr. STEVENS. Mr. President, I ask unanimous consent that tomorrow, after the time for the two leaders under the standing order, there be a special order entered for the Senator from Florida (Mr. CHILES) for not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that following the time of the special order tomorrow there be a period for the transaction of routine morning business for a period to expire at 9:45 a.m. during which Senators may speak therein for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. STEVENS. Mr. President, there is an order to convene tomorrow morning at 9 a.m.; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. Is there any further business to come before the Senate?

If there be no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, at 6:58 p.m., the Senate recessed until Thursday, July 22, 1982, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 21, 1982:

DEPARTMENT OF STATE

Arthur H. Davis, Jr., of Colorado, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Paraguay.

George W. Landau, of Maryland, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Venezuela.

Robert Werner Duemling, of California, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Suriname.

Nicholas Platt, of the District of Columbia, a Career Member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Zambia.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Wednesday, July 21, 1982*

The House met at 11 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As we bow our hearts in prayer, we are conscious that we do so in a land where we can express our faith and experience the freedom so precious to us. Yet, even as we thank You, O God, for this gift, we remember those peoples who live in oppression and cannot enjoy the liberty by which we have been blessed. Protect, guard, and give hope to those people whose human rights are denied, and may they sense our prayer of support and fellowship as they seek to know more fully those good gifts that You have given through Your creation. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WEBER of Minnesota. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WEBER of Minnesota. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 358, nays 26, answered "present" 1, not voting 49, as follows:

[Roll No. 196]

YEAS—358

Addabbo	Beard	Brinkley
Akaka	Bedell	Brodhead
Albosta	Benedict	Brooks
Alexander	Benjamin	Broomfield
Anderson	Bennett	Brown (CO)
Andrews	Bereuter	Broyhill
Annunzio	Bethune	Burton, Phillip
Anthony	Bevill	Butler
Archer	Biaggi	Byron
Ashbrook	Bingham	Campbell
Aspin	Bliley	Carman
AuCoin	Boggs	Carney
Badham	Boner	Chappell
Bafalis	Bonior	Chappie
Bailey (MO)	Bonker	Cheney
Bailey (PA)	Bouquard	Clausen
Barnard	Breaux	Clinger
Coats	Grisham	McHugh
Coelho	Guarini	McKinney
Coleman	Gunderson	Mica
Collins (IL)	Hagedorn	Michel
Collins (TX)	Hall (OH)	Miller (CA)
Conable	Hall, Ralph	Mineta
Conte	Hall, Sam	Minish
Conyers	Hamilton	Mitchell (NY)
Corcoran	Hammerschmidt	Moakley
Courter	Hance	Molinari
Coyne, James	Hansen (ID)	Mollohan
Coyne, William	Hansen (UT)	Montgomery
Craig	Hartnett	Moore
Crane, Daniel	Hatcher	Moorhead
Crane, Philip	Heckler	Morrison
Crockett	Hefner	Mottl
D'Amours	Heftel	Myers
Daniel, Dan	Hendon	Napier
Daniel, R. W.	Hertel	Natcher
Dannemeyer	Hightower	Neal
Daschle	Hillis	Nelligan
Daub	Holland	Nelson
Davis	Hollenbeck	Nichols
Deckard	Holt	Nowak
DeNardis	Hopkins	O'Brien
Derwinski	Horton	Oakar
Dickinson	Howard	Oberstar
Dicks	Hoyer	Obey
Dingell	Hubbard	Oxley
Dixon	Huckaby	Panetta
Donnelly	Hughes	Parris
Dorgan	Hunter	Pashayan
Dornan	Hutto	Patman
Dougherty	Hyde	Patterson
Dowdy	Ireland	Paul
Downey	Jeffords	Pease
Duncan	Jenkins	Perkins
Dunn	Jones (OK)	Petri
Dwyer	Kastenmeier	Peyser
Dymally	Kazen	Pickle
Dyson	Kemp	Porter
Early	Kennelly	Price
Eckart	Kildee	Pritchard
Edgar	Kindness	Pursell
Edwards (AL)	Kogovsek	Quillen
Edwards (CA)	Kramer	Rahall
Edwards (OK)	LaFalce	Railsback
Emery	Lagomarsino	Rangel
English	Lantos	Ratchford
Erdahl	Latta	Regula
Erlenborn	Leach	Reuss
Evans (DE)	Leath	Rhodes
Evans (GA)	Lee	Ritter
Evans (IN)	Lehman	Roberts (KS)
Fary	Leland	Roberts (SD)
Fascell	Lent	Robinson
Fazio	Levitas	Roe
Fenwick	Lewis	Rogers
Ferraro	Livingston	Rostenkowski
Fiedler	Loeffler	Roth
Findley	Long (MD)	Roukema
Fish	Lott	Rousselot
Fithian	Lowery (CA)	Roybal
Flippo	Lowry (WA)	Rudd
Florio	Lujan	Russo
Foglietta	Luken	Santini
Foley	Lundine	Sawyer
Ford (MI)	Lungren	Schneider
Frank	Madigan	Schulze
Frost	Markey	Schumer
Fuqua	Marlenee	Selberling
Garcia	Marriott	Sensenbrenner
Gaydos	Martin (IL)	Shamansky
Gephardt	Martin (NC)	Shannon
Gibbons	Matsui	Sharp
Gilman	Mattox	Shaw
Gingrich	Mavroules	Shelby
Ginn	Mazzoli	Shumway
Glickman	McClory	Shuster
Gonzalez	McCollum	Siljander
Gore	McCurdy	Skeen
Gradison	McDade	Skelton
Gramm	McDonald	Smith (AL)
Green	McEwen	Smith (IA)
Gregg	McGrath	Smith (NE)
Smith (NJ)	Tauke	Whitehurst
Smith (OR)	Taylor	Whitley
Snowe	Thomas	Whittaker
Snyder	Traxler	Williams (MT)
Solarz	Trible	Wilson
Spence	Udall	Winn
St Germain	Vander Jagt	Wirth
Stangeland	Vento	Wolf
Stanton	Volkmer	Wolpe
Stark	Walgren	Wortley
Staton	Wampler	Wright
Stenholm	Watkins	Wyden
Stokes	Waxman	Wylie
Stratton	Weaver	Yatron
Studds	Weber (MN)	Young (FL)
Stump	Weber (OH)	Zablocki
Swift	Weiss	
Synar	White	

NAYS—26

Atkinson	Gejdenson	Mitchell (MD)
Barnes	Goodling	Murphy
Beilenson	Harkin	Roemer
Coughlin	Hawkins	Sabo
Dreier	Hiler	Schroeder
Emerson	Jacobs	Walker
Evans (IA)	Johnston	Washington
Fields	LeBoutillier	Young (AK)
Forsythe	Miller (OH)	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—49

Applegate	Fowler	Rinaldo
Blanchard	Frenzel	Rodino
Boland	Goldwater	Rose
Bolling	Gray	Rosenthal
Bowen	Jeffries	Savage
Brown (CA)	Jones (NC)	Scheuer
Brown (OH)	Jones (TN)	Simon
Burgener	Long (LA)	Smith (PA)
Burton, John	Marks	Solomon
Chisholm	Martin (NY)	Tauzin
Clay	Martinez	Whitten
de la Garza	McCloskey	Williams (OH)
Dellums	Mikulski	Yates
Derrick	Moffett	Young (MO)
Ertel	Murtha	Zeferetti
Ford (TN)	Pepper	
Fountain	Richmond	

□ 1115

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

VIOLENCE CANNOT BE RATIONALIZED

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, for the past 5 years, I have served as chairman of the Ad Hoc Congressional Committee for Irish Affairs which today has 126 members. Our purpose is to try and advance a stronger U.S.

role in the ongoing struggle for peace and justice in Northern Ireland.

From the outset, and in fact, throughout my 14 years in Congress I have condemned the use of violence in Northern Ireland. I rise today to denounce two especially despicable acts of violence which took place yesterday in London. The provisional IRA took credit for 2 bombings which killed 8 soldiers and 2 horses and injured 51 persons including more than half who were innocent bystanders.

Violence of this type cannot be rationalized—nor should it be. The goal of peace, justice, and human rights will never be achieved by violence whether civilian or official. I renew my call for all sides to end violence and instead work for an immediate and lasting political solution to this longstanding crisis.

ODE TO THE BOHEMIAN CLUB

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I was reading in the paper about some of our leaders going off to camp the other day and so I felt I would express my feelings in verse. This is the "Ode to the Bohemian Club":

ODE TO THE BOHEMIAN CLUB

With deficits high and unemployment still growing
I was pleased to see where our leaders are going
Messrs. Meese and Smith with Weinberger in tow
Will go to camp with men who earn lots of dough
They call it a club where intellects meet
To hear them all talk must be a real treat
They don't allow women to work or to play
You can bet how they feel about old ERA
It seems that the men like to walk around bare
Sipping their drinks in the cooling night air
To the ladies I say and I don't mean to be rude
Count your blessings for not seeing Ed Meese in the nude

LABOR WOES CONTINUE

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, figures released yesterday by the Bureau of Labor Statistics have reaffirmed that Reaganomics is not working. The Bureau announced that nearly 23.4 million Americans were unemployeed at some point during 1981, the first full year of the Reagan Presidency.

This means that one in every five potential workers were without work for some time during the year. Predictably, the number of black Americans unemployed for a portion of 1981 reached record levels of over 30 percent. None of these statistics include people so discouraged that they did not even look for jobs in 1981.

As each day passes and more cold statistics are revealed, it becomes clear to all of us that the President's economic program is failing. His administration preaches the tenets of supply-side economics—but it ignores the evidence that investments in human capital have been at least as important as sustaining our economic growth as investments in physical capital.

We now have the largest number of unemployed, involuntarily part-time and discouraged workers who have dropped out of the labor market at any time since the beginning of World War II. With the Reagan administration continuing its senseless assault on employment training, youth employment, and jobs programs—and with Congress blindly condoning the assault—the situation promises only to worsen.

PRESIDENT'S APPROVAL OF SALE OF SENSITIVE TECHNOLOGY TO ARGENTINA SHOULD BE REVERSED

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, on Monday, President Reagan approved the sale of sensitive technology to Argentina that takes Argentina one giant step closer to building a nuclear weapon. This is a terrible mistake. America has never, and should never, be in the business of adding members to the so-called nuclear club.

Mr. Reagan's decision violates the spirit of the Nuclear Non-Proliferation Act of 1978. Mr. Reagan's decision reverses 37 years of American policy.

Argentina is not willing to submit to International Atomic Energy Agency supervision of her nuclear facilities. Argentina refuses to state categorically that she is not building, and will not build, nuclear weapons.

The sale of a process control system for use in an Argentinean heavy water production facility is an unwise and dangerous move. I am today introducing, with my friend and colleague, Mr. MARKEY, a concurrent resolution expressing the sense of the Congress that this decision must be quickly reversed. I urge every Member's support of this resolution.

Thank you.

75TH ANNIVERSARY OF WORLD SCOUTING ORGANIZATION

(Mr. DENARDIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DENARDIS. Mr Speaker, it is a great privilege for me to congratulate and commend the World Scouting Organization on its 75th anniversary.

As an organization which teaches young boys citizenship and leadership abilities, the Boy Scouts, involving 13 million young men and leaders belonging to units in more than 110 countries, are guided by their motto "Be Prepared" and "learning by doing is the method used to teach them."

Sir Robert Baden-Powell of Great Britain founded the Scouting movement in 1907. Three years later William D. Boyce founded the first Scouting unit in the United States. Today, there are more than 5 million people belonging to the Boy Scouts of America.

The purposes and beliefs of the Boy Scouts throughout the world are the same. Each national organization belongs to the World Scouting Conference which meets every 2 years for the purpose of electing leaders and unifying the goals of the organization as well as giving Scouts from all over the world the opportunity to meet one another and exchange cultures.

This year, I am proud to say, the World Scouting Organization will be holding their diamond jubilee in my congressional district. It will be sponsored by the Quinnipiac Council Inc., Boy Scouts of America, spanning 16 communities in south-central Connecticut.

Once again I wish to congratulate the Scouting movement on this anniversary and thank the movement for the example it has set for us all.

□ 1130

THE IMPACT OF THE 747 AND THE C-5 DECISION

(Mr. MORRISON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORRISON. Mr. Speaker, I am concerned that some Members of the House may be misled by information they have received related to the impact in their districts of the 747—C-5 decision coming up today.

Let me cite my own case as an example. The letter I received starts out by saying:

Jobs and businesses in your district will suffer a direct adverse impact if an amendment to H.R. 6030 is not defeated.

The letter goes on:

If such an amendment is passed, it will mean that the C-5B aircraft will not be procured and, as a result, it will have a real monetary impact on these people in your district.

Then it lists the name of the company, "26,600,000."

I followed through, because I knew the company involved is supportive of the use of 747's for our military airlift. The facts are that this company would be encouraged to bid, in competition

with hundreds of others, for work on the C-5. Now, that is how it should be, but I was concerned that the Lockheed Co., may be unintentionally misleading Members into the belief that certain dollar volumes and certain jobs automatically come to their districts if they vote to build the C-5B.

I am sure that the same dollar volume that shows for my district will also appear in letters to numerous other Members; so please be informed, but do not be misled by this tactic.

THE COWARDLY IRA

(Mr. DOUGHERTY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOUGHERTY. Mr. Speaker, yesterday a group of cowards in London exploded some bombs which killed British soldiers and innocent civilians. These cowards did this in what they said was in the name of patriotism and in the name of a United Ireland.

Mr. Speaker, as the grandson of Irish immigrants, I rise today to condemn the actions of the IRA in their uncalled for and deadly launching of the attack on innocent civilians and members of the British Army.

The actions by the provisional wing of the IRA, Mr. Speaker, have done the cause of Irish unity a great disservice. I also feel, however, Mr. Speaker, that it is necessary for those of us in this Congress to take to the well and to publicly condemn those in this country, particularly those active in the Irish-American community who support the provisional IRA, who see the Irish Republican Army as some type of a patriotic organization.

Today I call upon the leaders of the Irish-American community in the United States to disassociate themselves publicly and permanently from the cause of the Irish Republican Army.

CARIBBEAN BASIN INITIATIVE

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, today is Caribbean Basin Initiative Day and representatives from 16 Caribbean nations will participate in a series of events to focus national attention on the President's Caribbean initiative.

The economic and national security interests of our own Nation—important to every citizen of the United States—are closely bound to the stability and development of the nations in this region. The Caribbean Basin is absolutely vital to the economic well-being of America. Nearly half of all our trade travels through the Panama Canal or the Gulf of Mexico. Two-thirds of our imported oil—the lifeblood of U.S. industrial production—follows this same route. Support for the policies of the Caribbean Basin Initiative—is critical to American security, American jobs, and the preservation of those essential freedoms Americans have cherished for so many generations.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE JOINT RESOLUTION 443

Mr. ERLENBORN. Mr. Speaker, I ask unanimous consent that my name may be withdrawn as a cosponsor of House Joint Resolution 443, which deals with a subject very much on the minds of all Americans: Nuclear war.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

ERLENBORN WITHDRAWS AS COSPONSOR OF HOUSE JOINT RESOLUTION 443

(Mr. ERLENBORN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERLENBORN. Mr. Speaker, when the gentleman from Wisconsin (Mr. ZABLOCKI) invited other Members to cosponsor this resolution, he described it as, "* * * embodying the following basic ingredients of a sound nuclear arms control and national security policy." He then listed the seven basic ingredients. They included an immediate beginning of the strategic arms reduction talks (START) and continued Soviet and United States adherence to present limitations and controls as embodied in SALT I, SALT II and the ABM treaty. No mention was made in the resolution itself of a freeze on nuclear weapons at existing levels. Thus, it was with great hope that I joined as a cosponsor.

As chairman of the House Committee on Foreign Affairs, the gentleman took House Joint Resolution 443 before the committee, amended it, and then introduced a clean bill (House Joint Resolution 521), which the committee ordered reported. The new bill is far different from its predecessor. It starts by having the United States and the Soviet Union agree upon a verifiable nuclear freeze and goes on to mandate U.S. approval of the controversial SALT II agreement.

The new resolution puts us in the position of accepting nuclear superiority in Europe. The end result, I fear, will be failure to achieve the aim of all of us, worldwide nuclear arms reduction.

Because the two resolutions will henceforth be identified with each other, I must dissociate myself from this impractical attempt to address the challenge of preventing nuclear war. Approval of House Joint Resolution 521 may make us feel better, but at the real cost of giving away our negotiating power to bring about a reduction in the nuclear threat to the world.

We must, however, address the challenge. Therefore, I have joined in cosponsoring House Concurrent Resolution 297, which does not suffer the fatal flaws of the new Zablocki resolution.

SOME SOBER AND RESPONSIBLE WORDS ON THE IRA

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, I would like to associate myself with the remarks of my colleague, the gentleman from Pennsylvania (Mr. DOUGHERTY).

I do not think we often hear such sober and responsible words, coming as they do from one whose devotion to the cause of the Irish people and whose affection for the Irish people is well known in this country and I am sure in Ireland itself.

We do not often hear words as sober and responsible as these. I think we do honor to this House and certainly to the gentleman who gave us that statement and honor to the people of North Ireland particularly, who have suffered so much and who know themselves exactly what this kind of outrage means in the life of a community.

We can take comfort from this statement—all of us who abhor violence, who are determined to turn our backs from it, who are determined to seek justice for all people, including those of Ireland. It is good that we have heard what we have heard here today.

NO SENSITIVE NUCLEAR EQUIPMENT TO ARGENTINA

(Mr. MARKEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARKEY. Mr. Speaker, I join the gentleman from Pennsylvania Mr. FOGLIETTA) in introducing a sense of the Congress resolution that the Department of Energy should withdraw its authorization of the export of a sensitive computer control system for Argentina's heavy water plant.

Mr. Speaker, this authorization marks another serious undercutting of past administrations' efforts to stem the flow of sensitive nuclear materials to Argentina, which by all reliable estimates is marching steadily toward the capability of building a nuclear bomb.

To sell sensitive nuclear equipment to Argentina, a nation that has refused to accept full international inspections of its nuclear materials is ludicrous, Mr. Speaker. Argentina has refused to sign the 1968 Nonproliferation Treaty. It has refused to ratify a treaty which would prohibit nuclear weapons in Latin America. And it has refused to rule out the possibility of acquiring nuclear bombs.

Just recently, Adm. Carlos Castro Madero, chairman of Argentina's Atomic Energy Commission, has said that Argentina reserves the right for itself to undertake the development of euphemistically so-called nonproscribed military uses. He was speaking about nuclear bombs.

Is this the kind of nation we should be selling sensitive nuclear equipment? Are we to ignore completely the implications of the Falkland Islands crisis, which showed how a military conflict could easily turn into a nuclear conflict.

Previous administrations, realizing the dangerous implications of Argentina's nuclear program and its goal of nuclear independence, have tried to pressure that country to put all of its nuclear facilities under the inspections and controls of the International Atomic Energy Agency.

Now the Reagan administration has pulled the rug out from under those efforts. The Department of Energy has authorized the sale of a computerized process control system to Sulzer Brothers in Switzerland for ultimate use in the Argentine heavy-water production facility.

Mr. Speaker, our resolution calls on the Department of Energy to withdraw that authorization. I urge my colleagues to support this resolution. It is time Congress drew the line on this administration's cavalier attitude toward the export of sensitive nuclear material abroad, material that could be used to constract nuclear weapons.

TWELFTH ANNUAL REPORT OF CONTROL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries.

(For message, see proceedings of the Senate of today, Wednesday, July 21, 1982.)

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6030, with Mr. AUCOIN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, July 20, 1982, title I was open to amendment at any point and pending was an amendment offered by the gentleman from Massachusetts (Mr. MAVROULES).

The Chair recognized the gentleman from Massachusetts for 5 minutes in support of his amendment.

Mr. MAVROULES. Mr. Chairman, at the outset, let me congratulate and thank my colleague, the gentlewoman from Maryland (Mrs. BYRON) for the coauthorship of this initiative which is before us this morning; my appreciation to the gentleman from Connecticut (Mr. DENARDIS), and the gentleman from New York (Mr. GREEN) for their total participation and support for this initiative.

Mr. Chairman, I rise to urge my colleagues to join in supporting this amendment to strike and defer procurement funding for the first nine MX production missiles.

As a member of the Armed Services Subcommittee on Procurement and Military Nuclear Systems, which has jurisdiction for the $1.14 billion now requested to start building the MX, I have spent considerable time examining our military needs—our strategic requirements—and the resources necessary to build and maintain a strong and credible deterrent.

All of us support a modern and credible defense capability for the United States. We all agree that our top priority must be to preserve peace and freedom throughout the world. But to deploy expensive systems of marginal capability or questionable survivability, does not serve our national interest, nor promote stability throughout the world.

The MX program as it currently exists now represents a "build first, justify later" mentality this Nation can no longer afford.

It is not the missile itself which is now in question. Under this amendment, work on its research and development continues. Rather, it is the proposal for missile basing, specifically the interim deployment in Minuteman III silos, which forces the presentation and adoption of this amendment. In countless hearings over the past 5 years, where officials from the Defense Department and Air Force have testified, one point was reiterated over and over.

That point was simple. The MX missile would be effective only if its basing system was survivable—and to be survivable—the missile and basing system had to be mobile.

In Armed Services hearings held last October, the chairman and the ranking minority member conceded that MX missiles in Minuteman silos will be just as vulnerable as the Minuteman missiles now in those silos.

One area where I must respectfully disagree with my colleagues on the committee is their rationale for proceeding with MX this year. The committee report states that "nuclear weapons are the currency of superpower status," and that even an appropriate and justifiable delay in the MX program "would send to the Soviet Union a signal" that in some way the United States was not serious in its commitment to rebuilding its defenses.

This might be true if MX existed in isolation—if it were the only weapon in the Defense budget. This is not the case. It appears that some colleagues are more interested in the perception of MX, than in its actual production, deployment and military value.

They fail to realize that the U.S. commitment to rebuilding its defenses cannot be disputed. This authorization bill requests funding for the B-1 bomber, and the advanced technology bomber. This bill requests funding for a new Trident submarine, the Trident I and Trident II sea-launched ballistic missile. And this authorization bill requests funding for air, ground, and sea-launched cruise missiles.

Let there be no mistake, all of us are serious and committed to rebuilding our forces where necessary.

Adoption of this amendment of MX will not compromise existing strategic capability, for the interim MX deployment plan now on the books, and endorsed by the President's National Security Adviser as recently as May 22, does not enhance our strategic deterrent, nor promote the survivability of our land based missiles.

Last October, the Reagan administration canceled the controversial multiple protective shelter basing system for MX. All of us remember that program. It involved the racetracks in Utah and Nevada. Two hundred MX

missiles were to be deployed and shuttled among 4,600 different shelters.

At the time of cancellation, Defense Secretary Caspar Weinberger explained that the multiple protective shelters were not survivable nor worth the investment required. "It uses up the resources that would be available for other systems," was the Secretary's direct quote.

Instead of MPS, the Reagan administration announced a series of modifications to existing Titan and Minuteman silos to accommodate the deployment of MX. At the same time, the Air Force was to proceed with additional research and development on alternative permanent basing systems. Incidently, at that moment in October, the Secretary of Defense indicated that the most promising long-term basing system was something called the continuous patrol aircraft, a system which would keep MX missiles airborne, 24 hours a day.

However, there were problems almost immediately. On two occasions after the October announcement, the administration modified the interim MX deployment plan. First, they decided not to use the Titan silos. Then, plans to reconstruct and harden Minuteman silos to 5,000 pounds per square inch were abandoned.

The MX interim deployment plan, which existed in March of this year, was to deploy 40 missiles in existing Minuteman III silos. The Air Force projected the cost of the interim basing of these 40 missiles in the Minuteman silos at $4.3 billion. That translates into deployment costs of $100 million per missile.

The Senate Armed Services Committee, expressing their doubts on the interim deployment plan, removed the MX production funding from their fiscal year 1983 authorization, cutting the $1.4 billion for procurement and an additional $715 million in research and development for the interim basing. The Senate Committee made reference to the unfavorable cost estimates for the interim MX/Minuteman deployment plan, and expressed concern at the excessive vulnerability of these high-value, militarily important weapons in so small a number of relatively easily destroyed shelters.

On the basis of the Senate cut, the Department of Defense decided to make a last stand to attempt to preserve the MX funding, and the search for a permanent MX basing system was on, and it seems we have had a different basing plan presented each month.

The first "permanent" basing system to be publicly reported was something called modular array basing, or MAB for short. This plan was reported by the Air Force magazine in March of this year; right about the time of the Senate cut. Under this basing system, the modular array basing, 200 MX missiles were to be deployed at or very close to existing military bases.

Next, was a proposal reported in April. This time the plan was to orbit MX missile warheads in space. Under this proposal, which was being studied by the Air Force Ballistic Missile Office at Norton Air Force Base in California, the missiles would be launched into orbit at the first sign of a Soviet attack. These warheads would orbit high above the Earth, where they could either be activated and released toward their targets, or recalled to "fall harmlessly into a remote area."

Then in May, we heard the first reports about the closely spaced basing, or dense pack as it is called by the press and public. This basing plan involves clustering 100 missiles in hardened silos in an area 10 to 15 square miles. Under this plan the fratricidal effects of exploding nuclear weapons would hypothetically prevent the destruction of the missile cluster.

Later, as additional information surfaced, the dense pack plan was amended to include a ballistic missile defense system, and the construction of a second and third missile cluster to add elements of deceptive basing.

Members of Congress, the public, and even the administration could only ask, "What Next?"

With all this confusion, the President's National Security Adviser, Judge William P. Clark, briefed members of the Armed Services Committee on MX basing and the President's National Security Decision Directive 35. Later Judge Clark made a public address at the Center for Strategic and International Studies at Georgetown University.

In his Georgetown remarks, Judge Clark stated that the President would make a decision on a permanment basing system for MX by the end of the year. Of the proposed permanent basing system for MX by the end of the year. Of the proposed permanent basing systems, closely spaced basing was the most promising. But neither the White House—nor Department of Defense—made a formal commitment to dense pack. The President was committed to proceeding with the MX/Minuteman deployment until the permanent basing system was available.

Judge Clark also indicated that the President's memorandum terminated consideration of the continuous patrol aircraft as an MX basing option. As I mentioned a moment ago, the CPA was last year's most promising long-term MX basing mode, according to Secretary Weinberger.

The experts agree that Minuteman III basing of MX is no answer. Congress, for more than 5 years, has been told by scientists and military leaders alike that Soviet ICBM accuracy was making fixed silo based ICBM's vulnerable. This nonsurvivability of our silos, that is the so called window of vulnerability.

The window of vulnerability is not the result of a lack of capability on the part of U.S. missiles. Instead, the vulnerability stems from a lack of survivability in our missile silos.

□ 1145

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has again expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I thank my chairman, and I yield to him at this time.

Mr. STRATTON. Mr. Chairman, I thank the gentleman for yielding.

The gentleman from Massachusetts is making a very fine statement, as he always does in our committee and elsewhere.

The thrust of the gentleman's statement, as I gather, is really directed against what he just referred to as the confusion and the mixup that attend the basing mode of the MX missile; but as I understand the gentleman's amendment, what he is proposing to do is not only to cut out money for the basing mode but he is also cutting out all of the money for the production of the missile. Am I correct in that?

Mr. MAVROULES. That is absolutely correct, Mr. Chairman. And I do appreciate the chairman getting me the extra 5 minutes.

What I am saying to the gentleman and all Members of Congress, particularly in our committee, they have been playing around with this missile now, the basing of this missile, for the last 5 years.

I have indicated to the gentleman and to other Members chronologically the fact that they have not a base mode at this point that they can offer to our committee and to Members of Congress that would deserve that kind of funding.

Therefore, I am recommending the elimination of $1,140,000,000.

Mr. STRATTON. The gentleman is aware, is he not, that the MX, even if we get started with it right away, will not be deployed until 1986? Does the gentleman not have enough confidence in the scientific and technological genius of America, when we can put a man on the Moon, that by 1986 we will have developed a basing mode?

Mr. MAVROULES. I have tremendous confidence in the technology of the United States, Mr. Chairman, and if I did not, and feel we did not have proper deterrents in other areas—we can get into that later on in the day—I

would not be proposing this amendment this morning.

Mr. HOPKINS. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Kentucky.

Mr. HOPKINS. I thank the gentleman for yielding.

Mr. Chairman, let me ask the gentleman: If I understand his amendment correctly, it only seeks to delay the actual production of the MX missile until a basing mode can be determined; is that a correct assumption?

Mr. MAVROULES. That is correct.

Mr. HOPKINS. So the gentleman is not canceling the MX; he is only delaying it until a basing mode can be determined for the MX missile?

Mr. MAVROULES. The gentleman is correct, my dear colleague and friend, Larry.

Let me also say to the gentleman that I do not have in my amendment the elimination of funding for research and development.

Mr. HOPKINS. I think that is an important point.

Mr. Chairman, will the gentleman yield further?

Mr. MAVROULES. I would be glad to yield to the gentleman.

Mr. HOPKINS. Mr. Chairman, I thank the gentleman for yielding further to me.

Let me ask the gentleman if he has any knowledge about the configuration of the missile? Would it be different, that is, would the configuration be different, if it is launched from a silo than it would be if it is launched from a racetrack or from an airplane, or would it be the same?

Mr. MAVROULES. I think what we ought to be talking about is the basing system, itself. Has the Pentagon or this administration or the last administration, for that matter, been able to come before us with a basing mode and say to us, to you and to me in briefings and intelligence briefings, that we have a system that will work? Until we get that answer, I think the gentleman's question is premature.

Mr. HOPKINS. I thank the gentleman.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Louisiana.

Mr. ROEMER. I thank the gentleman for yielding.

Mr. Chairman, in trying to understand the gentleman's amendment and its thought-provoking nature, my question is: Does the gentleman oppose the MX or does he oppose the attending confusion over the basing mode decision? Or are they one and the same? Can the gentleman differentiate between the basing mode and the effectiveness of the missile?

Mr. MAVROULES. My amendment refers strictly to the basing mode.

I was asking the Members of Congress to give consideration to the elimination of $1,140,000,000. At no time—at no time—do I mention or state the reduction or the elimination of research and development funds, and I think that answers the gentleman's question.

Mr. ROEMER. I thank the gentleman.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to my friend, the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

Mr. Chairman, if I may tag onto the question that my colleague from Kentucky inquired about, what I understand is that we go ahead with research and development, but that in fact we would not move ahead, as a Congress, until the administration comes to us and says this is the basing mode, and then we have a chance to approve that. Is that correct?

□ 1200

Mr. MAVROULES. That is exactly correct.

Mr. SIMON. If that is what the amendment does, it seems to me that it makes eminent good sense, because we have had so many basing modes and so much money tossed around needlessly that I would hope that the gentleman's amendment might be approved by this body.

Mr. MAVROULES. I certainly thank the gentleman for his comments.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. COURTER and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding, and I appreciate the fact that the gentleman is very concerned about this issue, as I am as well.

It is my understanding that the gentleman's concern, he is alleging that he is concerned about basing mode only. However, his amendment speaks to the deletion of funds for the production of the missile as well, is that correct?

Mr. MAVROULES. That is absolutely correct.

Mr. COURTER. If the gentleman is concerned about basing mode, why then does his amendment reach out further than that in order to delete production funds?

Mr. MAVROULES. I can ask the gentleman the question in reverse and say to the gentleman, if you build a missile, where are you going to put it, in a warehouse?

Mr. COURTER. The gentleman from New York indicated, I think fairly clearly, that the missile will not be deployed until 1986, and certainly I think the gentleman probably received a letter from the President of the United States indicating that most certainly by December of this very year a decision with regard to basing mode would be completed. I would be satisfied if the President said some time during the next 24 months, 2 years, because simply the issue of basing mode does not have to be answered today in order to proceed with the missile.

Mr. MAVROULES. The gentleman and I know, we sit on the same committee, and I certainly respect his views and where he is coming from. Members of Congress have been hearing this argument for the last 5 years, and meanwhile the U.S. taxpayers were paying for a program perhaps which some day and one day may not be effective. We do not know that in the future. I have heard the argument on more than one occasion that the Minuteman III silos would be vulnerable—and this goes from past administrations—by the year 1984, and suddenly this administration comes in and says that now they are vulnerable in 1986, a 2-year jump.

If indeed our silos are vulnerable, why are we making a decision? Why would we make a decision to put the MX missile in the Minuteman silos? Is that not vulnerable?

What I am saying to the gentleman is, we have got to synchronize our methods and our programs. If we have a basing mode that we can put the missile into, then I would not be offering this amendment at this point.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Chairman, was it not correct that the Secretary of Defense, Mr. Weinberger, before the Armed Services Committee in May of this year made the statement, and I quote:

"If we do not deploy the MX in Minuteman II silos, it will be necessary to warehouse the missiles."

Mr. MAVROULES. It is my understanding that that statement was made.

Mrs. BYRON. I thank the gentleman.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding. I think one problem this Congress has had is that we have not been able to divorce the basing issue from the missile itself. If we look at the MX missile, if we call it the Minuteman IV instead of the MX missile, it would be very reasonable to go on with produc-

tion. I think that the gentleman understands that I believe it was 1969 when we built our last Minuteman missile, and at that time they had a life expectancy of some 7 years.

The Minuteman has three warheads. The 308 SS-18 missiles the Soviets have developed during the time we were negotiating SALT I and SALT II with them have 10 warheads. The MX missile really is still not in the same position that the SS-17's, SS-18's, and 19's are. If you completely forgot about the basing mode and said that perhaps we will never find a situation in which we can put the MX missile in an invulnerable position, it would still be a good position for this Congress to go ahead with it.

Mr. MAVROULES. Let me reply, if I may. If we find that that decision has to be made, it would be ineffective and the system itself would not be useful, then perhaps we should be talking about putting tax dollars into other systems rather than the MX missile system.

The point I want to make, and make it very clear, very clear, if indeed the silos are vulnerable by between 1984 and 1986, why are not they vulnerable for the MX missile which will be in those silos? That is the question I ask of the gentleman.

Mr. HUNTER. I think that the gentleman is going to find that practically every portion of the triad is taking on increased vulnerability. Probably in the near future we may see our submarine force taking on vulnerability. I would say that it is important for this reason: The Soviets developed the SS-17, 18, and 19 with the intent of basically taking the field away from us in ICBM's. I think termination of the MX missile, going ahead with research and development, stopping procurement, would basically concede the field to the Soviets, and I think the last 10 years of Soviet reaction to our unilateral——

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. HUNTER. I think historically, and I think the gentleman will concur with this, when we have reduced our military systems, and I am looking at our decision to terminate the B-1 bomber in 1976, our decision to negotiate SALT I and SALT II in the late 1960's and early 1970's, actually resulted in the Soviets increasing and accelerating their development of strategic systems, and I see the same thing happening here.

Mr. MAVROULES. Now the gentleman is getting into the entire defense posture of this country.

Mr. HUNTER. That is what we have to look at.

Mr. MAVROULES. Let me ask the gentleman a question and give him an answer to the same question, because he is talking about submarines, bombers, communications, and technology. Would he trade what we have with the Soviets? Before he answers that, I am going to say that I would not for purposes of a deterent and defense posture for this country. That is my question to the gentleman.

Mr. HUNTER. My answer to the gentleman is this: I would not trade what we have with the Soviet Union today, but I think by 1986 or 1987 it might be a pretty close call. I probably would be in the affirmative.

Mr. MAVROULES. My dear colleague and friend, I say to you that I have far more confidence in the technology of this country than I do in the technology of the Soviet Union.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I want to thank the sponsor of the amendment for putting it forward. It has been something I and many Members have wrestled with; that is, that is why I am a cosponsor and in favor of continuing the research and development of the missile, but we have serious problems in spending money when we do not know where it is going to be based. We have heard over 34 different basing modes put forth. They talk about the air, sea, and land. They have all been rejected. The latest, of course, was the hardening that was rejected because they could not base the missile in a hard enough silo because they could not harden the old silos enough.

The fact is, I think it is somewhat ironic that yesterday this Congress and the Armed Services Committee made a difficult choice as to where to cut the defense budget. I know it was a hard choice for the different subcommittees and committee members. The fact is, we made some serious cuts in areas that I do not think we should have cut. I do not think we should stop production of the F-16. We should buy as many as we can at the cheapest price we can as soon as we can because the F-16 is the best plane in the world.

I do not think we should cut manpower; I do not think we should be cutting spare parts, I do not think we should be cutting these different things, maintenance funds.

The problem is that there is only so much money, and I think what we are trying to do in this amendment is to say that we go on with R. & D. The President still has his bargaining chip for the START talks. We can have the technology and go ahead with that. We can discuss basing modes and other things in the future, but we are not going to spend such an incredible amount of money in such a ridiculous fashion to talk about producing something that we have no idea how it is going to be used in this country. I think we have to make some tough choices as we do in the budget for every other area. Money from the MX can be spent in other areas that can make us superior, and I still maintain that in the conventional areas we do have a need to get much stronger as far as our armed services in this country are concerned.

Mr. MAVROULES. I thank the gentleman.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I thank the gentleman for yielding. A lot has been made of the money we would save for the taxpayers in making this reduction, but I am sure the gentleman is aware that contracts would have to be renegotiated, subcontractors would have to be dealt with at a cost of $250 million to $300 million. If we do intend to go on with the production of this missile, which I feel we all want to do, I would be inclined to say in answer to the question to my friend from California, I would certainly trade some of the missiles we have with the Soviets today. I think their technology, their accuracy, their throw weight, is far better than ours. But the money part of it, absolutely we would be losing money.

Mr. MAVROULES. I thank the gentlewoman very much for her comments. Let me reply in kind, if I may. When I talk about the entire defense posture of the United States I do not refer solely to the missile. I refer to the submarine force and the Air Force.

If it were true that we were going to lose $200 million if this indeed goes through, we can save the country $1 billion.

Mr. ROEMER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Louisiana.

Mr. ROEMER. Mr. Chairman, the gentleman made a couple of points. I would like to see if he agrees with this. (a) The gentleman does not oppose the MX missile.

Mr. MAVROULES. I have made my position very clear on that before.

Mr. ROEMER. (b) To this point in our taxpayers' lives, we have spent some $4 billion——

Mr. MAVROULES. We have spent $5.4 billion.

Mr. ROEMER. And in this next fiscal year we are looking at an expenditure of nearly $4 billion more on the MX if we combine all the elements, and the gentleman is leaving three-quarters of that proposed fiscal year 1983 budget alone.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts has again expired.

(At the request of Mr. ROEMER and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. ROEMER. On the fiscal year 1983 budget, as I understand it, the gentleman is not dealing with research and development. He leaves that untouched. Am I correct on that?

Mr. MAVROULES. That is correct.

Mr. ROEMER. He targets his amendment only to that portion of the budget, something over $1 billion but less than $1.5 billion in terms of production of the MX itself, so the vast majority of the fiscal year 1983 funds for the MX are untouched in his amendment. Is that not true?

Mr. MAVROULES. That is true.

Mr. ROEMER. The final point: How in the name of science and technology can we divorce the basing or delivery capability of the weapons systems from the systems themselves? That is the question the gentleman has raised for this Congress. That is the question the President of the United States, the Department of Defense, this administration, and this Congress must look at. Why should we spend all these dollars for this system? Why should we spend the production dollars for this system unless we know its capability? I think the gentleman's amendment is to the heart of the matter. We do not know, and until we do we should say no.

I thank the gentleman.

Mr. MAVROULES. I thank the gentleman for his remarks.

Mr. HERTEL. Mr. Chairman, will the gentleman yield further?

Mr. MAVROULES. I yield to the gentleman.

Mr. HERTEL. Mr. Chairman, I thank the gentleman for yielding. I might say that the minority vice chairman of the Procurement Subcommittee, the gentlewoman from Maryland, raised a good point, that if we go ahead in the future and delay it would cost more, but I counter by saying that that is true of anything we delay. It is true if we delay bridges, construction of highways in this country. It is true if we delay the F-16 purchases or the second Trident submarine. All those things are true, and so I think that argument does wash out. While it is valid, it is valid to the other ways that this money might be spent.

Mr. MAVROULES. I thank the gentleman for his comments.

Mrs. FENWICK. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. Mr. Chairman, I thank my colleague for yielding. I just wanted to remind this House that the gentleman in the well has a very powerful ally in the U.S. Senate, Senator JOHN TOWER, of Texas.

Mr. MAVROULES. I thank the gentlewoman.

Mr. COURTER. Mr. Chairman, will the gentleman yield further?

Mr. MAVROULES. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding the second time. After having heard some of the comments that were made by Members on, I would imagine, both sides of the aisle, there seems to be, I believe—and this is of course my opinion—a misinterpretation of this amendment. A number of people are saying that we can go forward with research and development. You know, "I am really in favor of the MX, we should have it, but nevertheless I am in favor of this amendment."

I think where I come from, very frankly, is the fact that the gentleman's amendment, because it cuts production as well as basing mode, devastates the program, and therefore those people that are alined with many Members of this House that do not want to go forward with the MX and think it is a mistake, therefore should vote for the amendment. But, those people that believe that the MX is important should vote against the amendment because the gentleman's amendment, really, I think, is a camouflaged amendment.

□ 1215

Mr. MAVROULES. Mr. Chairman, if I may respond in kind so I may put my position before the people and make it very clear, from day one we have had 34 or 35 different versions of a basing mode for the MX missile. Is it not time that we took a firm position and said to this administration—and even the last one—and to the Pentagon that enough is enough; we are going to hold this money until you finally come up with a program that is workable for that missile?

So long as we continue to fund these programs, they will continue to spend the money, and they are not coming up with any answers.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I want to commend the gentleman from Massachusetts (Mr. MAVROULES) for offering this amendment.

I would simply like to remind the House of some circumstances a few years ago. At that time, when the MX program was in its infancy and we were considering the so-called race track mode, a number of people inquired, "Why do we have to create a whole new missile for the race track mode? Why don't we just take the Minuteman missiles we now have and put them in the race track mode?"

And we were told at that time, "Oh, you can't do that. The Minuteman is designed for a vertical configuration in a silo, and you can't just take a missile that is designed for a vertical configuration, turn it on its side, and expect it to work; the cost of retrofitting the Minuteman to run on its side instead of standing up and down would be prohibitive."

Yet what we are being asked to do in voting this money is to vote for a missile without knowing whether it is going to be a vertical missile, a horizontal missile, up in the air in a plane, or down under water strapped to a submarine. Plainly different basing modes require different missiles.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MAVROULES) has expired.

(On request of Mr. GREEN, and by unanimous consent, Mr. MAVROULES was allowed to proceed for 2 additional minutes.)

Mr. GREEN. Mr Chairman, if the gentleman will yield further, it seems to me that the very argument of those who were advocating the MX a few years ago now work against them. The very argument that the MX supporters used against those who proposed using the Minuteman on the race track configuration—that different basing modes require different missiles—now comes back to prove how foolish it is to try to proceed with construction of MX missiles when we do not know their basing mode.

Mr. MAVROULES. Mr. Chairman, I appreciate the comments the gentleman made, and I would also like to thank him for his support in bringing this proposal to the floor.

Mr. DENARDIS. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Connecticut.

Mr. DENARDIS. Mr. Chairman, I thank the gentleman for yielding, and I thank him for his leadership in advancing this amendment.

There seems to be a question of intention behind this particular amendment. There are certainly those who oppose the MX missile per se, and there are others who oppose further large expenditures on the MX because of the lack of an adequate or effective basing and deployment mode.

I think that proponents of the MX, some of whom are proponents of the MX at any cost, are trying to undermine support of this particular amendment by suggesting that some sponsors and some supporters of this amendment may be hiding behind a real opposition to the MX. I do not know if that is true or not. I think, however, that that is not the real issue.

The real issue, as stated by the gentleman from Massachusetts, is that this particular decision or policy is bad defense policy. And I would add that at this particular time, this sensitive

time in terms of international relations, it is bad arms control policy as well.

There is an old aphorism which goes: "If it isn't broke, don't fix it." A version of that, appropriate in this case, might be stated: "if it won't work, don't build it."

Mr. Chairman, I think that is the essential thrust of the gentleman's amendment which I am privileged to cosponsor.

Mr. MAVROULES. Mr. Chairman, I appreciate that support very much.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MAVROULES) has again expired.

(By unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Wisconsin.

Mr. ASPIN. Mr. Chairman, just to make sure I understand what the gentleman's amendment would do, I would like to try to clarify the differences between what his amendment would do and what the Senate has done, what Mr. TOWER, the chairman of the Senate committee, has done.

Mr. MAVROULES. Mr. Chairman, I will try to answer that for the gentleman. They went one step further. They took out also $715 million in research and development.

Mr. ASPIN. And the gentleman does not?

Mr. MAVROULES. My amendment does not do that at all.

Mr. ASPIN. Basically, as I understand it, what they did in the Senate Armed Services Committee and what they did on the floor of the Senate was to take out money for the procurement of the missile or the MX system, and they also took out some R. & D. money.

Mr. MAVROULES. Exactly.

Mr. ASPIN. They did that on the grounds that we really ought to have a basing system before we go ahead and approve them. And there was some kind of an agreement or some kind of report language in which the administration is to come forward with its basing system by December. The gentleman's amendment, as I understand it, just applies to the procurement part of it?

Mr. MAVROULES. Exactly.

Mr. ASPIN. But what the gentleman is saying is that we should take out the money for the basing, the procurement money on the grounds that we do not know what the Senate or the administration is going to come up with for a basing system.

In other words, what we really ought to do is to take a similar position to that of the Republican-controlled Senate and say, "Listen, what we really ought to do is hold back on this until we decide what we are going to do;" is that what the gentleman is saying?

Mr. MAVROULES. Yes, only not as excessively.

Mr. ASPIN. Mr. Chairman, I thank the gentleman very much.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I want to congratulate the gentleman from Massachusetts (Mr. MAVROULES) and the gentlewoman from Maryland (Mrs. BYRON) for their amendment, and I would just like to read a number of quotes that have been offered by various people inside and outside the administration on this issue, because the greatest argument for the amendment offered by the gentleman from Massachusetts and the gentlewoman from Maryland is in the words of the advocates of this program; they provide the best argument for condemning it.

First, the President of the United States:

> While it is my intention that the MX not be a bargaining chip in the START talks, we need to secure the powerful leverage that a commitment to produce the MX would provide as we begin arms reduction talks.

This is from a letter that the President sent to Chairman PRICE on July 15. Let me try to translate that quotation: "We won't give it up, but we expect the Russians to give up something in return. If we attempt to spend money on a system that we are not going to build, they will reduce something."

Now, unless the Russians are a lot stupider than I think, they are just not likely to buy the leverage argument.

The next quotation:

> The MX is too important to allow the risk of technical debates to delay the introduction of the missile into the force.

This is by William Clark from a speech on May 22.

The translation of that is this: "We have to build it and stop worrying about trivia, like whether it works or not." And this guy says he wants a balanced budget.

Last, from the Price-Dickinson "Dear Colleague" letter:

> The MX will restore credibility to our objective to deter nuclear war.

This says we will deter nuclear war if we build a system that is inherently vulnerable.

So, as we see, there is enormous confusion on the part of the people supporting the MX. Is it a bargaining chip? Is it not a bargaining chip? The President obviously believes that it is. Mr. Clark does not believe it is a bargaining chip. He thinks we should go ahead and build it regardless of whether or not there is a basing mode.

The amendment is not for the termination of the program, which is frankly what some of us would like, but rather, a delay in the program until the basing system or something coherent that can be called a basing system is offered. That is not very much to ask. It is not, as the gentleman has pointed out, what the Senate has wanted, and I think it is the least that sanity would require, that we wait until we know where we are going.

Mr. Chairman, I thank the gentleman for offering his amendment.

Mr. MAVROULES. Mr. Chairman, I thank the gentleman from New York (Mr. DOWNEY) for his comments.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to my colleague, the gentleman from California.

Mr. HUNTER. Mr. Chairman, I thank the gentleman for yielding for the second time.

I would like to recite a small piece of history in regard to the missile development, the Soviets versus the United States, and ask the gentleman a question.

In 1976 the Soviets produced some 300 ICBM's; the United States produced none. In 1977 they produced another 300, we produced none. In 1978, 1979, and 1980 the Soviets produced 200 ICBM's in each year. As I have noted earlier, the Minuteman that we build had a projected life cycle of about 7 years. The last one was produced in 1979.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MAVROULES) has again expired.

(On request of Mr. HUNTER, and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. HUNTER. Mr. Chairman, if the gentleman would yield further, my question to my colleague is simply this: Disregarding the basing problem with the MX and looking simply at Minuteman, does the gentleman agree that in the near future we should replace these aged, very small, compared to the Soviet system, Minuteman missiles which are presently in the silos?

Mr. MAVROLUES. Mr. Chairman, it is very difficult, and I will try to be direct in my answer to the gentleman's question.

Let me refer the gentleman to a conversation that took place on this floor just late yesterday afternoon. When the gentleman from Oregon (Mr. WEAVER) asked our distinguished ranking minority member a question relative to what one submarine could do with 196 warheads on it, perhaps the question should have been asked, what can 10 submarines do with perhaps 1,500 warheads, and what kind of deterrent damage can this country do?

When we start talking about missiles—and we should not; I think it is a disservice to the country—we should be talking about complete and total deterrent capabilities for this country, and we do not do that. I think that is where we are missing the boat.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield further?

Mr. MAVROULES. I yield to the gentleman from California.

Mr. DOWNEY. Mr. Chairman, I think it is an interesting question that the gentleman from California (Mr. HUNTER) raises.

The Soviets have a number of design bureaus that routinely crank out missiles. As a matter of fact, when I asked a defense planner why it was that, with only marginal improvements in accuracy, 20- to 25-percent improvements in accuracy, the Soviets had to build a whole new missile, he said, "Well, that's just the way the Soviet system works."

In the United States the missiles the gentleman mentioned, the Minuteman I and the Minuteman III, have undergone various stages of improvement in the NS-20 Trident system and the MARK-12A warhead, so the Minuteman III which was last deployed in 1969, is hardly what one would consider an ancient missile. It is still a capable missile system and as a matter of fact has undergone two upgrades as I mentioned, and the third, a command buffer to improve its targeting. So it is not the same missile that was in the hole in 1969. It is far more accurate, far more reliable. It is a far more capable missile.

So while we do not build new missiles every time we want to make a marginal improvement, as do the Soviets, we do make important changes in the Force to make sure that our deterrent in cases of land-based missiles remain survivable.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Chairman, let me bring up one point that was discussed earlier, and that was the fact that if this amendment passes, we would lose $200 million in contracts. At the same time there is no single hearing to my knowledge that has been held on the cost of the other basing modes, and so consequently we have no idea what we are getting into as far as changing the basing mode; is that not correct?

Mr. MAVROULES. The gentlewoman is correct.

Mrs. BYRON. So, we are going into something where we have no idea of the kind of cost and expenditure that would be involved?

Mr. MAVROULES. In my opinion, there is no question about that.

Mrs. BYRON. Mr. Chairman, I thank the gentleman.

Mr. MAVROULES. Mr. Chairman, if I may conclude, let me present two brief quotes: In January 1979, our colleague on the Armed Services Committee, Mr. STUMP, asked Secretary of Defense Harold Brown:

Is it not true that the basing option more than the missile determines the vulnerability or nonvulnerability of the system?

Secretary Brown responded:

The vulnerability does depend on the basing option, yes, indeed.

One year later, in early 1980, the Commander of the Strategic Air Command, Gen. Richard Ellis, told the Armed Services Committee that despite the uncertainties of the MX basing plan, work should proceed on missile research and development because there was time to work basing problems out.

Well, that was 2½ years ago. Today, we are no closer to an MX basing decision than we were in January 1980.

Our decision is straightforward and simple. We must defer MX deployment and production until we have a final decision and review of the permanent basing plan.

Let us strike and defer this $1.14 billion. It makes good sense and can be accomplished without compromising our strategic capabilities.

In this vote, we can demonstrate our commitment to rebuilding our military forces. And, we can also demonstrate our strong desire not to waste money.

AMENDMENT OFFERED BY MR. STRATTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MAVROULES

Mr. STRATTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON as a substitute for the amendment offered by Mr. MAVROULES: Page 6, after line 21, insert the following:

(c) Of the funds authorized to be appropriated in this section for missiles for the Air Force, the sum of $1,141,900,000 is available only for the Advanced Intercontinental Ballistic Missile (MX) program. Of such amount, $259,900,000 is authorized for basing and deployment and may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and 30 days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment sine die.

□ 1230

Mr. STRATTON. Mr. Chairman, the gentleman from Massachusetts (Mr. MAVROULES) has made it perfectly clear that although his concern is with the basing mode and the complexities of the basing mode, and the changes that have been taken over several years, he is not opposed to the missile itself.

But for someone who is not opposed to the missile he is doing a good deal of damage to it because, as was just reiterated in his final remarks, he is eliminating $1.14 billion for the production of the MX.

There are three basic weapons systems which virtually all of the defense experts, except possibly some of the experts in this body, recognize as absolutely necessary to achieve a balance with the Soviet Union with respect to nuclear military strength.

The first of those is the B-1. The second is the Trident submarine. The third is the MX.

I would like to point out, because unfortunately, there does seem to be a kind of party bias as regards military spending that the MX missile happens to be a Democratic missile. A lot of people on my side of the aisle have been criticizing the President of the United States because, they say, he is beefing up the arms race, and is expanding the production of unnecessary weapons.

The fact of the matter is that the MX missile is a weapon that was begun under the Presidency of President Carter. As a matter of fact, the need for that particular weapon system was brought out, I might say in all humility, by the Armed Services Committee which, in a study produced in 1977, pointed out, with the help of figures placed in the CONGRESSIONAL RECORD by the gentleman from New York (Mr. DOWNEY), one of our experts in this body on military affairs. He had put in the RECORD a nonclassified estimate of the number of Soviet missiles, their accuracy and throw weight and also the yield of those weapons.

On the basis of this open information our committee staff demonstrated that the Soviet Union would have, within a couple of years, the capability of wiping out 75 percent of our land-based Minuteman missile force with a single first strike and still have enough left over to represent a formidable foe.

The Secretary of Defense at that time, Harold Brown, who was not always in agreement with some of the views of the Armed Services Committee, said that our committee was all wet.

But within another year and a half the Secretary of Defense had come around to exactly the same position. He agreed that the U.S. land based missile force was vulnerable and would be vulnerable because of increased Soviet numbers, yield, and accuracy. It was then that the Carter administration began the construction of the MX missile and came up with the first

basing mode known as the racetrack mode.

So I think we ought to realize that in order to correct the imbalance which was recognized, even under the Carter administration. So we have here a very important weapon system which we ought not to tamper with unjustifiably or irresponsibly.

While I would agree with my distinguished friend from Massachusetts that there has been a foulup in deciding on a final basing mode, nevertheless it seems to me that it would be a mistake for us to take the money for production at this time. That would surely do irreparable damage.

I think we need to recognize that we are dealing with a very sensitive situation when it comes to missiles.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. I take it that the few Members who are in the Chamber, and we welcome them here at this particular time, have had a chance to see outside the mockup models of the Soviet SS-17, SS-18, and SS-19 that are out there in comparison with the MX.

We are told by the nuclear freeze people that this MX is a terrible weapon, an Armageddon weapon, that is going to blow us all to kingdom come. But when you go out and take a look at those missiles—I wish we could bring them in here so that you could look at them again. The MX looks like the baby of the whole family.

The SS-18 is twice as big as the MX and the others are also bigger than this MX.

Not only is it bigger, but it has twice the explosive power.

Most important of all is that the SS-18 out there is already deployed. There are 300 of them in place in the Soviet Union, targeted against the United States and targeted against NATO.

As for the MX, we do not even have a single one in production and the amendment of the gentleman from Massachusetts would eliminate any possibility of our getting any production of an MX for at least another year unless we can defeat this well-meaning but very damaging amendment.

It has been some years since we have had babies in the Stratton family. But with five, we have had some experience. I am sure that any of the Members who have had babies lately realize that if you are expecting a child it is only good sense to go out and buy a bassinet, buy the bathtub and some of the other equipment that are necessary when the baby comes along.

I do not recall, although my wife sometimes accuses me of being a little bit stingy, that I ever said, "Look, why don't we wait until we see whether we have really got a baby before we go out and buy all that expensive equipment."

Yet that is precisely what we are suggesting with the Mavroules amendment with the MX missile. If we start to build this tomorrow it is still going to be 1986 before it will be in place.

So it seems to me that for us, with this tremendous outsized missile which we have to counter, we ought to get started as soon as possible. This is the proposal that is being made by our committee. Let us get going.

The statement is being frequently made, that we do not have an invulnerable method of basing and, therefore, we somehow have to wait until the Pentagon can develop an invulnerable method of basing. I think we may have gotten a little bit too dependent on our scientists. We have to have everything 100 percent perfect. But the truth is that we are never going to a basing mode if we continue to insist that it be absolutely invulnerable.

What do the Soviets do about their basing mode? Is theirs 100 percent invulnerable? We did not have an invulnerable basing mode when we first deployed the first Minuteman. Yet those Minuteman missiles have deterred the Soviet Union from attacking us for a long, long time.

I think there are a number of basing modes that have been mentioned that are pretty good. I did not think the racetrack was too bad. There are several others that are reasonably good.

But if we are going to insist on absolute perfection in the basing modes of our missiles we are asking the impossible. We are the ones that are gilding the lily. We are the ones that are going that extra 5 percent.

Let us get started on producing the missile now and certainly we can make a basing decision within a very short time. The President of the United States has already said that he expects to have a recommendation by the end of December.

The CHAIRMAN. The time of the gentleman from New York (Mr. STRATTON) has again expired.

(By unanimous consent Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. What my substitute does is to restore the money Mr. MAVROULES cuts out for production and fences in the money which has been included in the bill for the basing mode which the gentleman from Massachusetts (Mr. MAVROULES) is opposed to, and I think for good reason.

My substitute says that $1.14 billion is available for the missile, of which only $259 million is authorized to be appropriated for basing and deployment, but may not be obligated until the President completes his review of alternative MX missile basing modes and notifies Congress in writing of the basing mode in which the MX missile system will be deployed, and 30 legislative days have expired after the receipt by Congress of such notice. That gives us 30 days, if we do not like his proposed basing mode, maybe we can do something about it.

But I think we ought to disabuse ourselves of the idea that we have to have something absolutely invulnerable when it comes to MX.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding.

I congratulate the gentleman for the amendment.

I just want to make sure I understand exactly what the gentleman has done here. I would hope, therefore, the gentleman from New York would remain on his feet.

During the prior debate on the Mavroules amendment it became obvious to me that there are a number of Members of this body that are in favor of the missile itself, are in favor of the MX missile, who want to see it deployed in the most reasonable and best basing mode we can find but wants some mechanism to hold the feet of the administration, the Department of Defense, to the fire in order for them to make an important decision in a timely fashion as to what that basing mode would be.

I would ask the gentleman from New York whether he feels that his amendment accomplishes that?

Is it not true that this amendment does not permit the obligation, that is the spending of money on this basing mode until the administration comes forward with a decision as to how that missile will be based?

Mr. STRATTON. What it does is to fence in the money for a basing mode that is in the bill at the present time, $259 million, so that it would not be spent until the President indicates to us that he has selected a mode, and 30 days had elapsed.

But the other money for production, which is the thing that is vitally needed and ought to begin right now, should indeed have started a year ago, should have started 2 years ago, will not be touched by my amendment and production can begin.

Mr. COURTER. I thank the gentleman.

If the gentleman would yield for 1 minute further, I think the amendment is such that for those Members of this body that had a problem with regard to MX funds as stated because of their concern about the basing mode would be eminently now satisfied because of the gentleman's amendment.

I congratulate the gentleman and I will certainly vote in favor of the amendment.

□ 1245

Mr. STRATTON. I thank the gentleman for his support.

Let me say that I intend to offer the same amendment with respect to the R. & D., that insofar as R. & D. money for the basing mode is available, that money will also be subject, under an amendment that I will offer at a proper time, to being fenced in.

Let me just make two other points in that connection. Everybody, I think, knows by now that the President said in his letter to the Congress: "As you review this issue I want to assure you that we intend to propose a final basing mode for the MX by December."

And let me make one other point, because I think it is tremendously important, and we ought not to sluff it off. It is that the attitude of this Congress and the attitude of the American people are of profound importance in the nuclear arms negotiations that are going on in Geneva. Ambassador Rowny, who is in charge of the American position negotiating in Geneva in the START talks, has indicated that any delay of the MX would give ammunition to the Soviets, and would encourage them to bargain much harder because they would see the prospect of accomplishing their objective without having to give up anything.

I do not think we want to undercut the position of our negotiators in Geneva this soon. But there is no question that if the newspapers tomorrow say that the House has cut out the MX, Brezhnev and Ustinov and Gromyko and everybody else in the Soviet Politburo are going to be laughing and dancing in the streets. That is surely the last thing we want to do.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has again expired.

(On request of Mr. HILLIS and by unanimous consent, Mr. Stratton was allowed to proceed for 5 additional minutes.)

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Indiana.

Mr. HILLIS. First of all, I want to begin by commending the gentleman on his statement, and particularly the remark that he has just concluded, with the possible effect that this could have on the most important START negotiations in Geneva. I think the gentleman is exactly correct.

The question that I wanted to ask my chairman was that I could not help but note the beginning of the bill this year, in the 5-minute rule, was considerably different than ever before, when the committee itself moved that there be reductions in certain fields. Certainly the opening reduction was a reduction in sizable expenditures by the Navy in the Trident program. While it was explained that there were reasons to stretch out the building of another Trident missile submarine, does it not seem that that, coupled with this, if this amendment of the gentleman from Massachusetts were to pass, would be a signal of a general slowing of the modernization of the triad, first at sea and then on land?

If you couple those together—and I do not know if the gentleman agrees that there might be a coupling—it would be double the wrong signal to send to Geneva.

Mr. STRATTON. I think the gentleman is absolutely correct, and I gather there may even be some Members of the House who would like to eliminate the B-1, so that would eliminate all three of the weapon systems that we vitally need to restore the nuclear balance with the Soviet Union.

Mr. HILLIS. I thank the gentleman.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Michigan.

Mr. HERTEL. I thank the gentleman for yielding. I think the problem with the amendment to the amendment is, very simply, that we have already discussed the fact that there have been 34 different methods, some seriously, some not so seriously put forth. Some have been rather ridiculous. They have been rejected, even though certain segments of the Congress have backed some of those basing modes, as the chairman points out.

What we are talking about here in this amendment, we are saying 30 days. I do not think that this Congress would have the opportunity to look at a basing mode within 30 days, both Houses, 535 Members. The other basing modes have been debated for years, the racetrack basing mode was debated for a long time, and then they talked about balloons, they have talked about all of the different things that the chairman is aware of. So I do not think 30 days would be adequate. I think, in fact, that it is odd that the administration said they are going to wait until December to issue another basing mode. I think it is ironic. It is after the election. I do not think there should be a bipartisan debate. But I think it is odd that we are talking about putting some money in, having 30 days to look at it, when they have failed so very often. And I would think that that would not add to our credibility with the Soviet Union.

The Soviet Union—and it appalls me—is laughing at us for the fact that we have put forth 34 different methods that have been rejected. I do not think that they see any great resolve by the Members of this Congress in that kind of evidence at all, and I think that it is time that we send the administration a message to say, "Let us get serious about this, let us include the Congress, let us have a decent, suitable, invulnerable to the extent that it can be—because I agree with the chairman, none will be perfect—basing mode, and let us work together on it, let us not have ultimatums of December and 30 days, and that type of a thing, after so many failures, because that reduces our credibility in this country."

Mr. STRATTON. I think the gentleman from Massachusetts is suggesting that in one hasty 15-minute vote we should wipe out a whole weapons system. That certainly is not what we want to do. I think the 30 days that my amendment proposes is adequate.

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I thank the chairman for yielding.

It is not 15 minutes; there has been 4 hard years of study put into my proposal that is before the House this morning.

I have a basic question for all of us. And I do not take a back step to anyone in the U.S. Congress when it comes to national security, and that includes my distinguished chairman. The point is, if you recall, this administration came into office in January 1981. The same problem was before us, and they said to us, "Wait until July of 1981, and we will come up with a base mode for the MX missile."

They did not do that.

Then they said to us, "We will come up with a base mode in October of 1981."

They could not do that. They could not produce.

Now they are saying to us again, and the President writes a letter to all Members of Congress, saying, "Give me more time and I will have a base mode sometime before the end of the year 1982."

The basic question is this——

Mr. STRATTON. Mr. Chairman, the gentleman is in a sense remaking his speech again and not responding to my point.

Mr. MAVROULES. Well, SAM, I am responding to you. I am going to ask a basic question.

If we are going to discuss basic defense posture for this country, why is it always we go on to the MX missile and we do not talk about the Air Force and we do not talk about the submarine force?

Mr. STRATTON. It is because of the size of the missiles that we saw out there in the Speaker's lobby. That is why. Our defense is based on the threat.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

Mr. MAVROULES. Mr. Chairman, I ask unanimous consent that the gentleman from New York (Mr. STRATTON) be given an additional 4 minutes.

The CHAIRMAN pro tempore. The Chair will state to the gentleman that references to Members should not be by familiar name but by reference to the gentleman from the State of New York or the gentleman from the State of Massachusetts, rather than their familiar names.

Mr. STRATTON. What does the Chair say that I had said?

The CHAIRMAN pro tempore. The Chair will simply advise all Members that references to Members shall not be by their familiar names, under House rules.

Mr. STRATTON. I never used any familiar name.

The CHAIRMAN pro tempore. The Chair is not addressing the gentleman from New York. The Chair is addressing all Members, on the basis of what he has heard in the discussion.

Mr. MAVROULES. Mr. Chairman, I ask unanimous consent to retract that statement and refer to my dear friend as "my colleague from New York."

The CHAIRMAN pro tempore. Does the gentleman from Massachusetts ask unanimous consent that the gentleman from New York be recognized for 5 additional minutes?

Mr. MAVROULES. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. STRATTON) is recognized for 5 additional minutes.

Mr. STRATTON. I yield to the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. I thank my distinguished Chairman.

Really, if we are going to look at the MX missile that we have out here and we look at the SS-17 and the SS-18, really, if you are going to go by size, then we should not even be building the MX missile.

If we are going to use that as an argument, the MX missile is not that much bigger in posture than what we have in the Minuteman, so I think that is a very poor analogy to use, what we have out in the hallway.

If I may just sum up, Mr. Chairman—and I know where the gentleman is coming from. I think we are both going in the same direction but by different methods. We have waited 5 years, 34 different base modes have not been effectuated in this Congress.

My argument is this: Why can we not wait until they come up with one base mode, if it is workable, if indeed we have one that can be workable? That is all I ask. And defer the money.

Mr. ASPIN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Wisconsin.

Mr. ASPIN. I thank the gentleman for yielding.

Let me just ask a couple of questions here of the gentleman from New York as to what his amendment does.

As I understand it, the Procurement Subcommittee and the full committee already has taken some money out for the basing system already; is that correct?

Mr. STRATTON. That is correct. We took $282 million out, and we are now taking out another $259 million. We are fencing it out, I should say.

Mr. ASPIN. Fencing out. And as I understand it, that still leaves $23 million. I am just adding up the numbers here. It seems to me we still have got some mint money in there that is not fenced off. I would just like to know why we fenced off the amount that we have and why we have not fenced off all of it.

Mr. STRATTON. The money that has not been fenced out was for the development of the warhead.

Mr. ASPIN. The warhead. Could the gentleman tell me, because I looked in the report and I could not find any explanation, when we took out the $282 million already in the committee from the basing system, what were we taking out, and what was the justification?

Mr. STRATTON. I think the justification was simply that the basing mode we understood was controversial. As the gentleman from Massachusetts has pointed out on a number of occasions, we have not made a final decision. And this was a part of the reduction which the subcommittee was proposing in an effect to get down to the spending level requested by the Budget Committee. If we are going to come up, as the President now has indicated, with a decision by the end of December, then that remaining money will certainly be required.

Mr. ASPIN. But what is the difference? Why half? I mean what is the half we have taken out? I am trying to get some idea of what we have cut out already before we fence off what we have done.

Mr. STRATTON. I am not sure that I would be prepared to indicate precisely all the items that $282 million was addressed to. I think we simply cut the total more or less in half. It was the interim basing money, money that was directed toward the Minuteman silos basing mode.

Mr. ASPIN. They had some money, then, in the procurement section that would be for the interim basing. I mean some procurement money for the interim basing, which we have taken out already. Am I stating this correctly?

Mr. STRATTON. That is right.

Mr. ASPIN. The money that is left is procurement money for the basing system, the proposed basing system. Now what we are saying is that we are going to fence that off, all but $23 million of it, and the other $23 million is for warheads. Is that correct?

Let me ask, the gentleman from New York referred to a further amendment that he is going to offer on the R. & D. What would the R. & D. amendment then be, consistent with what the gentleman is doing on procurement.

Mr. STRATTON. That would fence off the money in R. & D. that is, R. & D. for the permanent basing mode.

Mr. ASPIN. For the permanent basing mode?

Mr. STRATTON. Or any basing mode.

Mr. ASPIN. The gentleman is not going to have any R. & D. on any basing until we have decided on one? I thought the R. & D. was supposed to be to help make the decision.

Mr. STRATTON. The R. & D. was for the missile.

Mr. ASPIN. I thought the R. & D. money was to do research so that we could choose an alternative.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has again expired.

(On request of Mr. ASPIN and by unanimous consent, Mr. STRATTON was allowed to proceed for 3 additional minutes.)

Mr. ASPIN. If you fence it off, how can you spend it in order to determine what the best basing mode is?

□ 1300

Mr. STRATTON. There are $75 million in R. & D. for research as to which method would be the most invulnerable. We would hope that they would begin to realize that there are limits to 100-percent invulnerability.

Mr. ASPIN. Let me ask further, what would be anticipated, what could we do, if under the gentleman's amendment suppose you are fencing off just the R. & D. part and just the procurement part, for the basing mode, until the decision is made, until 30 days has elapsed. What we are really doing is adding 30 days. Presumably they are not going to spend the money if they have not got a basing method in any case. So that part of the language does not seem to be relevant. But the 30 days is relevant.

What we are saying by this amendment is that we will put a hold on their ability to spend that money for 30 days while they notify Congress.

Suppose we do not like the basing mode? What action do we take at that point?

Mr. STRATTON. If the gentleman from Wisconsin does not like it he could offer an amendment.

Mr. ASPIN. An amendment to what?

Mr. STRATTON. To a piece of legislation to ban the expenditure of that money.

Mr. ASPIN. That means it would have to come through Congress, through the House, through the Senate, a conference and approved, all in 30 days.

Mr. STRATTON. That is the way it always works.

What we are trying to do with this amendment is to do what the gentleman from Massachusetts says that he wants to do. He says he is for the missile but wants to eliminate all of the money for production of the missile. We are simply saying you can go home and tell them that you have prevented Congress from spending all of this money for a basing mode that nobody knows what it will be, and this could be called a great saving of the taxpayer's money. It is conceivable that if all of that would be put into certificates of deposit the interest collected over that time would be a considerable sum.

But we do not think that we ought to destroy the missile itself which is certainly what is going to happen if we cut off the production as the gentleman from Massachusetts proposes. We are simply going to be adding another year before it would be available. The costs will go still higher. And we would be sending a signal to NATO. So the whole business would be slowed down for a substantial time simply because one gentleman says that he is in favor of the MX but just wants to wait until we get a better basing system. That is like trying to bring home a baby without the appropriate accouterments to take care of it.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, if I could continue my dialog with the gentleman from New York on this issue, it seems to me that the question is whether 30 days has any meaning here.

The amendment that the gentleman is offering is one way of going about it.

The gentleman from Massachusetts has offered a different way, which I parenthetically point out is the way that the senior Senator from Texas (Mr. TOWER) would prefer to go, which is the same as the gentleman from Massachusetts. So there are two different approaches.

What I am asking here is really whether this approach, which the gentleman from New York is offering, is in fact a realistic approach?

Is it realistic to say that if we do not like the basing mode, and having 30 days to proceed, that we can, in fact, get a piece of legislation introduced, passed through the subcommittee of the Armed Services Committee, passed through the full Armed Services Committee, passed on the floor of the House, passed through the subcommittee of the Senate Armed Services Committee, passed through the full Senate Armed Services Committee, passed through the Senate, go to conference, come out of conference and passed in both Houses?

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. STRATTON. I would think that if the basing mode was egregiously inadequate to individuals on the Armed Services Committee, who are particularly knowledgeable about these matters, it would be no problem in getting a resolution of disapproval through very quickly.

Obviously, all of those in the Chamber who are against the MX in principle would go along with it and those who felt that the basing mode was really terribly destructive and against the interests of the country, would also go along with it.

Mr. ASPIN. If I could reclaim my time.

Let me ask the gentleman what would be the option for a person who is not on the Armed Services Committee and objected to the basing mode? What would be his options?

Mr. STRATTON. He would have the opportunity to appear before the committee. He could take the well of the Chamber to advise other Members that in his judgment this was not an adequate basing mode. He could file an appropriate resolution which would immediately be considered by the Procurement Subcommittee of the Armed Services Committee—all of the conventional outlets that are available to any knowledgeable Member of the House.

Mr. ASPIN. Let me say to the gentleman that there is no guarantee in this language that there would be a vote on the issue at some time during those 30 days.

Mr. STRATTON. This is not an unusual format in legislation.

Mr. ASPIN. No; but let me point out——

Mr. STRATTON. This idea of 30 days is frequently added.

Mr. ASPIN. If the gentleman would let me reclaim my time.

Mr. STRATTON. The gentleman asked me a question and I was responding to it but——

Mr. ASPIN. I would like to reclaim my time.

The point that I am making is that the alternative is to take the money out entirely and wait and put it in next year's bill where everybody on the floor will have a chance to vote for it.

We are setting up a procedure under the amendment of the gentleman from New York whereby unless you are on the Armed Services Committee, you have no chance; even if you are on the Armed Services Committee and happen to not be in the majority on the Armed Services Committee, you do not have a chance.

This matter under the gentleman's amendment will be voted on and something will be done about it only if the President comes up with a basing proposal which meets the disfavor of a majority of the members of the Armed Services Commmittee. It will go to conference and there will be a vote in the Senate only if it also reaches the disfavor of a majority on the Senate Armed Services Committee.

There is no opportunity under the gentlemen's amendment for most Members of this body to have another vote on this issue.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

I would like to concur completely with my colleague from Wisconsin.

Let us face it. If any one of us introduces a resolution to get a water easement through for the Ogallala Indians, we are not going to get it through this Congress in 30 days, much less something that would reverse a decision as fundamental as this.

And the second point I think we have to keep in mind, and it is the point that my colleague from Massachusetts makes and the point that the senior Senator from Texas, Mr. TOWER, makes, and that is we are talking about one of the largest expenditures in the history of this Congress and we ought to know what we are doing before we vote the money; that does not seem to me to be an unreasonable request.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(At the request of Mr. DOWNEY and by unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. MAVROULES. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Massachusetts.

Mr. MAVROULES. I thank the gentleman for yielding.

Let me see if I can put this in perspective for all of us to truly understand.

I think this Congress and the Armed Services Committee, for that matter, in all fairness has been conned by administrations and the Pentagon for too long.

If the Members vote for my amendment, then I think that is the correct vote this morning, and against the substitute, the Members are truly sending a message to the Pentagon and to the administration that we are not going to take any more.

If the Members fence that money—let us not kid ourselves, the money is

there—and it is certainly not going to come up in 30 or 60 days. So I would urge that we vote against the substitute and support my amendment.

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. DOWNEY. I thank the gentleman for yielding and I think he has pointed out that there is not only a question of 30 days in the requirement for the Armed Services Committee to do something, but the gentleman from Massachusetts also has a deletion of funds that the gentleman from New York is not addressing.

Aside from that question, you want to have the Congress of the United States involved in a more intimate way.

The gentleman from Alabama (Mr. DICKINSON), the ranking minority member, during the phase when the MX missile was going to be based on airplanes, I believe went to the White House and explained that that would not meet with the favor of the Congress.

The Congress has played a critical role that the gentleman from Massachusetts (Mr. MAVROULES) only seeks to enhance in terms of making the Pentagon understand that since there is no place to put this missile, as currently is the case, that we are not going to provide money for a missile we do not know in the various basing modes that have been offered could be survivable.

What the gentleman from New York's substitute has attempted to do is just delay the process of the expenditure of money 30 days. It does not deal with the question of funding. It only deals with the question of who is and who is not going to try to stop this basing mode. If it ultimately winds up to be the turkey that it has been in the past we are precluded, as the gentleman points out, from making decisions.

One other thing that strikes me as unusual. The gentleman from New York said that we have relied too much on scientists to develop this missile and perfect a basing mode. Who else are we going to rely on? Who else is in position to determine, in light of all the data, the decision as to what is a sound and what is not a sound basing mode?

I think that the gentleman from Massachusetts (Mr. MAVROULES) makes the appropriate points, as does the gentleman from Wisconsin, that the Mavroules amendment will force the Pentagon to make a decision on a basing mode and then get the money, not have the money and send us up a basing mode that may or may not work and give us 30 days to try and stop it. That would not be tenable position for the Congress and it is indeed not what the Republican Senate found to be an acceptable position.

Mr. DENARDIS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Connecticut.

Mr. DENARDIS. I thank the gentleman for yielding.

I concur with the gentleman in his argument that the 30-day period and the procedure involved in the amendment of the gentleman from New York is faulty and inadequate for the importance of this particular matter.

I would go further and say that the amendment of the gentleman from New York treats the basing mode question as a relatively minor consideration in the whole MX debate.

A missile is not a weapon unless it can be defended from attack and launched when necessary. Therefore, the basing mode question is quite as important as any other aspect of the mechanics or technology of the missile itself. We should, therefore, have adequate time and opportunity to examine the basing mode question.

We have already learned that the interim basing plan is defective; it leaves the MX vulnerable if the Soviets strike first; it is to be very costly, and it has been rejected as a permanent long-term solution to the problem.

Now the closely spaced basing or so-called dense pack system is being revealed as also a very defective system. It is based on an unknown quantity called fracticide. It may be vulnerable to a variety of attack scenarios, including the pin-down attack by large warheads or sequential attack.

We have information which is going to be made public very soon that the Soviets could fire space bursts above the atmosphere creating a canopy of electromagnetic pulses that could fatally damage the metal casings and the vital circuitry of any MX missile that passed through it.

We are going to see more about this in the next couple of days because a number of people have been doing some very detailed and intensive research.

Therefore, the question of providing only a 30-day response time to such a serious and highly involved and technical question is wholly inadequate.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has again expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 3 additional minutes.)

Mr. ASPIN. Mr. Chairman, let me make one further comment to the gentleman's point.

I think, as the gentleman from New York pointed out, 30 days is a device that has been used and sometimes it is very appropriate. I, for example, will be offering an amendment at some point about a 30-day notice on the President changing his position on following the SALT accords. If you want the Congress involved in the decision, 30 days is not enough. If you do not want the Congress involved in the decision, then 30 days is plenty. In fact, 30 days is probably more than enough.

But I think that what we are saying here is that the gentleman from Massachusetts (Mr. MAVROULES) wants the Congress involved with the decision. The gentleman from New York, by proposing 30 days, does not want the Congress involved in the decision.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

I do not, over the years, recall very often voting with the gentleman from Wisconsin and against the gentleman from New York, but I think in this instance today, when we consider more than a billion-dollar expenditure and admittedly an important part of our nuclear arsenal, that we ought not to be buying a pig in the poke as far as the basing mode.

I think essentially this Congress ought to have the full right to consider it and make sure that it is before this House of Representatives and the Congress itself to ultimately make that decision on how it is going to be deployed. Needless to say, we have had various proposals already suggested, none of which made very much sense, or technologically to the state of art, in which they are usable and, therefore, I think we ought to excise the money from this bill today and wait until an appropriate time in the future. If we can come with a basing mode, then we will look at maybe a supplemental to provide the money for the MX.

I do not think there is going to be anything before this Congress in another year and, therefore, we can cut more than $1 billion out of outlays and do something about reducing the tremendous debt load, and I will also say, reduce the defense expenditures which the American people I think believe that we have reached the point where we have to rein in some of this spending, when this economy is in the serious rescission that it is in today, and this is the first place to start.

Mr. Chairman, I rise in support of both the Simon-Green amendment to delete $715 million in R. & D. funds for interim basing research and the Mavroules-DeNardis amendment to defer $1.14 billion for procurement of the first nine MX missiles until a survivable, permanent basing mode has been developed.

It makes no sense to spend money to procure these weapons before a workable basing mode has been established. These amendments will not affect funding for continued research on

long-term basing options for the MX, which I strongly support. The MX missile is an important weapon system that will significantly enhance U.S. security when it is viably deployed in an effective basing system.

However, until that time, I believe we owe it to the taxpayers of this country not to spend their money on a chicken that has not yet hatched, and if we are truly serious about bringing reason to all aspects of the Federal budget, including defense, support of these amendments is the only reasonable choice, and one that the Senate has already made.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentlewoman from Maryland.

Mrs. HOLT. I thank the gentleman for yielding.

Mr. Chairman, I would like to respond, and I know the gentleman from Wisconsin, who is very astute and very reasonable in analyzing our defense posture of this country, will certainly agree with me.

□ 1315

The production of the MX is the thing that we are concerned about. The pacing item for deployment is production and that is what we are concerned about. We are not going to put the missile into anything until 1986 and if we do not go on producing it and we do develop a deployment procedure, we will have nothing to deploy. My concern is that we are going to delay it by a year and we can never make up that year.

We should go on with the production. We should come up with a deployment procedure and we will certainly be in better shape to negotiate with the Soviets if we do that. I am sure that the gentleman from Wisconsin must agree that the production is the important thing.

Mr. ASPIN. If I could just respond in two ways. No. 1, I would feel better if the amendment of the gentleman from New York struck the basing money.

The CHAIRMAN pro tempore (Mr. DWYER). The time of the gentleman from Wisconsin has expired.

(At the request of Mr. STRATTON, and by unanimous consent, Mr. ASPIN was allowed to proceed for 4 additional minutes.)

Mr. ASPIN. Just to respond to the gentlewoman from Maryland and then to yield to the gentleman from New York, I would feel better if the amendment of the gentleman from New York struck the basing mode money and left in the procurement money and make that the difference between his amendment and that of the gentleman from Massachusetts. I concede enough of the point to recognize that.

Second, I would, though, like to say that the problem with proceeding with the production of the missile without knowing the basing mode does have some risks in the sense that depending upon the basing mode, you may have a very different missile that you want to produce. If you are going to drop the missile out of a plane in the concept of the continuous air patrol, that might be a very different looking missile than if you have a deep, deep tunnel basing mode which digs itself out and fires. In other words, the missile might look different depending on the basing mode.

Beside that point, I think the point of the gentlewoman has at least the validity that I would feel better if the amendment of the gentleman from New York struck the basing mode without this 30-day proviso, but just struck the basing mode, but left the money in for the procurement.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentlewoman.

Mrs. HOLT. I am sure that the gentleman will concede that the departments, the scientists, the people who are doing the research and development on this have explored carefully many deployment modes. We have been saying that we have had a circus, that it has not been very effective; but I think there has been some very definite in-depth research into the various deployment systems, so we are not talking about finding something entirely new.

Mr. ASPIN. Exactly.

Mrs. HOLT. That research and development has been done, so they are going to come up with one of these plans, that we know, and then we can go on and do the research and development on that.

Mr. ASPIN. I agree. I do not think there is going to be anything new, any new basing mode that has not been thought of that could come up; although I am surprised that the dense pack came along, when I believed that we had thought of everything and all of a sudden dense pack came forth and that was a new idea; so it is not impossible that there is going to be a new idea. What may turn out is that the missile that we want to procure might be different. I mean, the type of missile that we would procure to put it into a dense pack might be different than the type of missile that we would procure for the racetrack system, for example.

Mrs. BYRON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I would like to yield to the gentleman from New York, but let me yield just briefly to the gentlewoman from Maryland, because she has been waiting.

Mrs. BYRON. I would like to ask the other gentlewoman from Maryland if, in her estimation, has a production line begun on this missile?

Mrs. HOLT. Mr. Chairman, if the gentleman will yield, no; but we should continue to go forward with that production line because any time that we lose means that we are going to have to lay off people. We are going to have to close down the lines that are being prepared for production.

Mrs. BYRON. We are extending and stretching out many of our production lines for cost.

Mrs. HOLT. And that is a good reason for not stretching out this one.

Mrs. BYRON. When we have a production line that has not opened yet for a missile that cannot be deployed until 1986 or 1987, which we have testimony that states it will have to be put into a warehouse unless we go in the Minuteman silos, which are not hardened.

Mrs. HOLT. We have 14,000 people employed that will have to be unemployed. We will have to put that team back together again if we do start production.

My point is that we are far enough along with it that we do not want to delay that production.

Mrs. BYRON. In the Mavroules amendment, do we not still have the R. & D. the continuation of that phase?

The only thing the Mavroules amendment does is to eliminate the funding for the production of the first nine missiles for a production line that has not opened up yet, for a missile that, when it is produced, will have to be put into storage until it can be deployed and until we can finally come up with an answer for a mode of deployment.

Mrs. HOLT. If the gentleman will yield further, that is where I disagree with the gentlewoman, is that it will not have to be put into storage. It will not be final production until 1986. We will have a place to deploy it by that time. I feel confident that that is the direction in which we are moving.

Mrs. BYRON. Where will we put it?

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

Mr. BADHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I have listened long and hard to this debate. I feel constrained to point out a few things that I think are valid and necessary. We are talking about matters that involve a complex weapons system; but we are also talking about matters economic; We are talking about matters political; and we are talking about the whole quantum of the defense of the United States of America as regards one leg of our strategic triad.

Now, the gentleman from Massachusetts who offered the original amendment, for which has been offered a substitute by the gentleman from New York which I support, has in the past

been one of the staunchest defenders of keeping production lines going so we do not lapse a team, or lapse a line and so we do not get a team going to make a weapons system and then stop it or stretch it out, because the gentleman knows as in the F-18, the cost may double or triple or quadruple the more you stretch it out.

So with that as production rationale, we should more ahead with the production of the MX missile.

It has been said in this debate this morning that, "Oh, the MX isn't that much bigger than the Minuteman III." Well, my colleagues, face it, if you look out here in the Speaker's lobby, you will see that the MX missile's bus carries 10 warheads to the Minuteman's 3, to the Titan's 1. The Titan is really worn out; obsolete all through. They are there for some kind of bargaining chip, but they are not really usable.

The Minuteman III was produced so long ago that it is deteriorating and is vulnerable. Our intelligence folks have finally observed that the Soviet missiles, the SS-18, are accurate now, more accurate than any missile in the world today and we have nothing to defend against it at present. There are military needs and the MX is not just an old follow-on Minuteman III.

The gentleman from Wisconsin had the temerity to state and I know the gentleman is speaking from his heart, that maybe we might develop some now kind of basing system that will require the change of the shape of the missile.

Now, my colleagues, nothing could be farther from the truth. If you really want to kill MX just change the shape of the MX and I guarantee that you will not have any program at all.

Now, the gentleman from Massachusetts is entirely correct that the adoption of his amendment with the rejection of the substitute amendment of the gentleman from New York will send a message to the administration, pardon me, friends and colleagues, but you are damn right it will, it will send a message to them that this Congress does not have the will to defend this country with a needed military weapons system.

It will also, however, send a signal to the Soviet Union, as was stated by the gentleman from New York, that there will be laughing and dancing in the streets of the Kremlin because the United States, as was told Members of this body by our negotiators in Geneva not too long ago, that the Soviet negotiators were telling our negotiators that the United States does not have the will to produce a new missile and that there are not going to be any MX's because there is no support in Congress. What kind of signal is that?

It will also send a signal to our friends in NATO who, incidentally, are being asked by the United States of America to install our missiles on their soil, that we cannot even install a missile on our own soil. Talk about sending signals, that is a signal for you.

So we have to consider the economics of not stretching this thing out to the breaking point. We have to consider the military, that our ICBM structure is deteriorating and we have to recognize the fact that militarily we must send signals so that our negotiators will have the bargaining chips that they so urgently need to come to some kind of arms reduction with the Soviet Union, which is essential.

Now, we talk about leaving decisions to scientists. Dear colleagues, better we leave them to scientists than leave them to the Congress of the United States to design things, because even though I oppose what I call the Swiss Cheese mode of basing or the Wormy Bark method of basing, I almost got talked into Big Bird. I thought Deep Throat was pretty cute for a while and Deep Southside was pretty good. I thought Big Bird was OK for a while, but Deep Throat Southside has a lot of potential, too.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 5 additional minutes.)

Mr. BADHAM. Now, when we discuss multiple point shelters, or MPS or Swiss Cheese or Wormy Bark, or whatever you want to call it, with these tunnels running all over everybody's landscape, try to discuss that with someone from NATO, a NATO parliament, and they would say, "You mean that the people of the United States have the right to object to a basing system for a missile when you are going to come over here and put Pershing II's all over our landscape?

Now, the substitute amendment by the gentleman from New York makes eminent sense, because the first MX is going to fly the first quarter of next year, probably in January from Vandenberg, and it is ready for production now. The team is together. The tooling is together. It is a ready bird, ready to fly, and it is going to fly the first quarter of next year. If we delay this, we are making a big mistake.

So in the wisdom and the clever drafting of the gentleman from New York, he suggests properly that we put a fence around that money, that we authorize its appropriation but say it cannot be appropriated until the President comes to us in writing and says, "Here is the way we are going to base MX."

I think it is about time we did have an administration that is willing to make decisions, and this one is.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding.

My point before, the gentleman mentioned the economic problem that we have in starting and stopping various systems and the gentleman mentioned, I think, a couple birds. I just would like to mention one more and that, if it has not already been mentioned, was the B-1. We started and stopped that. There was a time when we were supposed to be able to procure 244 B-1's for slightly over $22 billion and now today we are talking in terms of 100 planes for $20 billion. If we go into this syndrome of starting and stopping the MX, the cost is just simply going to escalate.

Mr. BADHAM. I thank the gentleman for his contribution. The gentleman is absolutely right and I hope that is shared by the gentleman from Massachusetts, to whom now I, of course, yield.

Mr. MAVROULES. Mr. Chairman, I thank the gentleman very much and I want to thank the gentleman from California for yielding.

I just want to ask a very simple question. The gentleman made the statement that we would be sending the wrong signals to the administration and perhaps the Soviet Union.

The gentleman realizes, of course, the Soviet Union recognizes the fact that we have gone up about $60 billion in defense spending for the fiscal years 1982 and 1983 and, therefore, it shows signs that this country means what it says.

Second, the gentleman talked about the bargaining chip and I have heard that phrase used so many times about a bargaining chip and perhaps we should or we should not use it at the START talks in Europe.

You would have more of a bargaining chip if you threw in two submarines than an MX missile that has no basing mode for it. I wish to share that with the gentleman.

I ask the one question, if I may, does the gentleman not feel they take us seriously when we go up in defense spending by $60 billion in the course of 2 years?

Mr. BADHAM. I thank the gentleman for his question. I really do not know if the gentleman has talked to the Soviets. I have talked to Soviet negotiators in Geneva and I will tell you, they as much as a Soviet leader can, laugh and giggle when we talk about a $60 billion increase, because they do not believe we are going to spend the money and that is what we are doing right here this morning, giving them cause for the belief that we will not spend the money.

Mr. MAVROULES. but the fact is, we are spending the money. We are talking about one little part of the

Triad and a small part of it, because we referred to the basing system.

Mr. BADHAM. Well, if I can reclaim my time, do not think that the Soviets are not watching, because they are.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I would be happy to yield to the gentleman.

□ 1330

Mr. STRATTON. I want to congratulate the gentleman on a very articulate and a very forceful statement. I associate myself with his views.

I think the gut issue is really posed, very clearly now. The Senate has already knocked out money for the procurement of the MX missile. The amendment of the gentleman from Massachusetts also knocks out that money for procurement.

Unless the substitute which I offered is approved, the MX missile, for all intents and purposes, is wiped out and one of the three elements, needed to establish or reestablish a balance with the Soviets, is missing.

So I think we ought to make it clear what we are doing today. If the House really wants to be responsible for destroying this weapons system, so be it.

Mr. BADHAM. I thank the gentleman for his contribution because the gentleman makes the point extremely well.

Mr. Chairman, I yield back the balance of my time.

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words.

First of all, I rise with a great deal of thought and consideration because I am a member of the Committee on Armed Services. I have the utmost and greatest respect for my subcommittee chairman and my committee chairman.

There are a variety of motivations that could be ascribed to the supporters of this amendment. Some believe that the MX program is not necessary. Some believe that stopping this program will somehow stop the nuclear arms technology race. And some believe that we are dedicating too many dollars to defense relative to the remainder of the budget. I am not one of those.

As a member of the Committee on Armed Services, and a supporter of the MX program, it is not without a great deal of thought and deliberation that I co-offer this amendment. This year the committee broke from its past rationale on the MX program. I am now urging my colleagues to support the Mavroules-Byron amendment to maintain the consistency of the Committee on Armed Services.

The MX program is really two separate systems. One is the missile itself; the other is the basing mode for the missile. The committee has recognized from the very beginning that the success of the MX program depends not on the missile but on the basing mode.

As a supporter of this system, it is important to me that the MX missile be deployed in a survivable MX basing mode. This land-based modernization program must not be comprised by the least survivable basing system. I submit that this amendment harms neither the progress of the program not infringes on the perceptions of our resolve to meet the threat we face.

As a member of both the Committee on Armed Services and the Committee on Interior and Insular Affairs, I have probably had a more concentrated involvement with the MX program than any other Member on the floor here today. From a technical aspect, a basing aspect, a strategic aspect, supporting this amendment will not deter the progress of the MX program.

I have been to Vandenberg Air Force Base twice in the last 15 months to tour the facilities. I have talked to the engineers, I have interfaced with the contractors on the status of this program.

The testing is on schedule. It will continue to be on schedule with the first test firing in January of 1983. This amendment will not change the fact that the testing program will have at its disposal the initial eight MX missiles as provided for under the research and development section of this bill. This amendment will not change the fact that the $2.6 billion in R. & D. for this year will provide enough money for the research and development of at least three basing concepts.

It was with careful study to insure that the progress of the program be maintained while we work out a survivable basing mode that I am comfortable with this amendment. I am convinced that the remaining R. & D. money will provide the continued development of both the MX missile and the MX basing mode.

There is a persistent perception that the MX missile must be produced to insure that the Soviet Union has a reason to negotiate in Geneva. It is suggested that producing the MX and committing it to just any basing mode will provide the incentive and produce a bargaining chip.

The two basic assumptions are that procurement of the missile shows resolve and that the negotiations will relieve the need for ICBM modernization. Both are misguided perceptions.

The capacity of our land-based system to act as a deterrent to aggression must be maintained. As General Rowny has written:

> The simple fact is that instead of having more ICBMs for the Soviets to shoot at, we propose to have fewer such missiles but they will be less vulnerable.

Survivability and endurance are the keys to land-based deterrence.

The MX missile is our land-based modernization program, but the MX missile will not survive, endure and deter if it is in a vulnerable Minuteman III silo. It is not the missile but the basing mode that provides the credible land-based deterrents, and it will be the determination of the President and the Congress on the basing mode that will provide the Soviet Union with an indication of our resolve. The MX missile cannot be a bargaining chip unless its capabilities are housed in a survivable basing mode. We cannot have a land-based deterrent until we have a survivable basing mode.

As General Rowny wrote on June 6 of this year:

> The administration has recognized from the outset that no achievable arms control ageement could by itself make our ICBM forces invulnerable. Its approach, therefore, is to lessen their vulnerability through a suitable basing scheme.

I suggest that if we want to provide a bargaining chip, if we want the START negotiations to achieve reductions in nuclear forces, the decision that is most important is one that will significantly alter the use of Soviet resources and that is making a decision on a survivable basing mode. There is no incentive for the Soviet Union, with our "deployment of high-value, militarily important weapons in so small a number of relatively easily destroyed shelters."

The CHAIRMAN pro tempore. The time of the gentlewoman from Maryland has expired.

(By unanimous consent, Mrs. BYRON was allowed to proceed for 5 additional minutes.)

Mrs. BYRON. This was properly acknowledged by the Senate Armed Services Committee.

Finally, in a time of budget constraints, we can ill afford not to give close scrutiny to the defense budget. This amendment is a commonsense approach to reducing premature and, therefore, unnecessary defense spending and placing a priority on the defense dollars that are available.

First, by deferring the dollars for the procurement of the first nine MX missiles now, we do not interrupt or stretch out an ongoing production line. This amendment saves $1.14 billion in authorization in the best of ways: It prioritizes the production program before it gets started.

Second, this amendment is sound defense spending in that it synchronizes the production of the missile with the development of a suitable, survivable basing mode. The fact of the matter is, regardless of the basing mode selected, it is unlikely that it will meet the 1986 IOC as presently contended.

The interim basing plan was recommended because it was the only alternative available for basing when the MX missile is ready in 1986. The Secretary of Defense stated: "We had to

put (the MX) somewhere or put it in a warehouse."

Third, we can defer these defense dollars at this time without significantly impacting on our national security posture. In fact, just the opposite was alluded to in 1979 by Paul Nitze, now in Geneva for the arms control talks:

> Deployment of a larger missile in the Minuteman silos does nothing to solve the silo vulnerability problem and, in addition, has the negative feature of a threatening but vulnerable U.S. first-strike counterforce capability. Accordingly, it would increase crisis instability and the prospect that deterrence would fail.

We do have a small window where we can rely on our existing strategic forces. But it is big enough to enable us to make the right basing decision and to get the capability of the MX into a system that will enhance its purpose.

The intent of this Congress, and this amendment, "is to insure that the MX missile is deployed at the earliest possible time in a survivable basing mode, at the least cost to the taxpayer and with the smallest, least disruption of the development and production program for the missile itself."

The right time to spend the $1.14 billion for procurement is when the MX missile can meet the deployment timetable in a survivable basing system and not produced for storage.

I urge your support for this amendment and I urge the defeat of the substitute.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all other amendments end in 20 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. GREGG. Mr. Chairman, reserving the right to object, can the gentleman advise us as to what is meant by "all other amendments" so that we can get a further definition?

Mr. PRICE. Mr. Chairman, if the gentleman will yield, I mean the amendment, the substitute, and any amendments thereto. This amendment.

Mr. GREGG. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN pro tempore. Members standing at the time the unanimous-consent request was made will each be recognized for 1½ minutes.

The Chair recognizes the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, I would just like to point out that the initiative that resulted in the abandonment of the MX racetrack basing mode and the discovery of the basic flaws in it which led President Reagan to abandon it did not come from the Pentagon, it did not even come from the Armed Services Committee; it came from the House itself and from some of the other committees of the House, as well as the debate on the floor.

My subcommittee spent 2 years studying the basing mode because it happened to impinge on our jurisdiction. As a result of that, we brought to the attention of the executive branch and the Congress, on a totally bipartisan basis, the basic flaws in the racetrack basing mode.

So I suggest to you that any amendment such as the Stratton amendment that would remove that final decision from the Congress would be doing a disservice to the country and probably a disservice to our national defense.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, we have heard a great deal of the debate today by experts from both sides of the aisle. I am not an expert on either side. I happen to support the Mavroules amendment because it makes good sense.

I would like to talk for a moment as a taxpayer because, as we all know, in listening to some of the discussion between my friend from Wisconsin and my friend from New York (Mr. STRATTON) if one looks back on the record on that it will be found at several points there was discussion that said, "Well, what does that $28 million do?" Then there was the statement, "Well, that may take care of this part of it, but we have another $75 million that is going to do something else."

Then the gentleman from Wisconsin (Mr. ASPIN) said, "Well, what about the $280 million?"

And the response was, "Well, that $280 million is going to be used to back up another part of the program."

It sort of gives one the feeling, as a taxpayer, that the millions and millions and millions of dollars that are going around in this program, nobody really has a complete handle on what is happening and this is one of the best reasons I can think of today for voting down the Stratton amendment and voting for the Mavroules amendment. We will not be committing $1 billion-plus to a system that we are not even sure where or how it is going to be housed.

The taxpayers, I think, around this country will appreciate your vote.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I rise in opposition to the Mavroules amendment and in favor of the substitute.

Once again we hear the charge that the MX is a destabilizing weapon and that this program should be terminated.

One would think that it was the United States rather than the Soviet Union that used, or more properly stated abused, the period of détente during the 1970's to engage in the most massive buildup of military equipment during this century.

It is the Soviet Union not the United States who owns the world's largest and perhaps the most accurate intercontinental ballistic missile—the SS-18. It is the Soviet Union not the United States who currently has three new generations of intercontinental ballistic missiles in various stages of research, development, and test.

It is the Soviet Union not the United States who owns the world's fastest submarine—the *Alpha*, the world's largest ballistic missile submarine—the *Typhoon*, and the world's biggest cruise missile carrying submarine—the *Oscar*. Let us set the record straight, the Soviet Union not the United States is the root cause of strategic instability. We will create even greater instability if we fail to proceed with the MX system.

If you want the ICBM leg of our Triad to atrophy then vote for this amendment.

If you want insure Soviet strategic superiority during the 1980's, then vote for this amendment.

If you want to turn the strategic arms reductions treaty (START) negotiations into a de facto victory for the Soviet Union, then vote for this amendment. However, if you want to maintain strategic balance; and if you favor a strategic deterrent force that will continue to be as effective as our Minuteman, B-52, and Poseidon forces have been in preventing a nuclear war, then I urge you to vote this amendment down.

Thank you.

□ 1345

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Connecticut (Mr. DENARDIS).

Mr. DENARDIS. Mr. Chairman, Malford MacKinder, the famed British expert on geopolitics, in the early part of this century wrote about the mistakes that nations make by cranking up faulty or ill-conceived military programs into "Going Concerns" which go beyond the point of any midcourse corrections. He goes on at great length reviewing the military history of the Western World, and points out how some of the great nations of the West have met great harm and disaster by establishing "Going Concerns" which could not be reversed or altered.

It is important that we not make the MX missile a "Going Concern" based on faulty premises. I commend the

gentleman from Massachusetts, Mr. MAVROULES, in taking the initiative of having us pause, take time, reexamine the very essential question of the basing mode.

A missile is not a weapon unless it can be adequately defended and successfully and prudentally used, and it is extremely doubtful that the MX will ever have that capacity within reasonable cost limits. Moreover, we will begin to produce and stockpile an expensive missile as a "Going Concern" with a future use that could be as dangerous as it is costly.

I oppose the Stratton substitute amendment which destroys the intent of the Mavroules amendment, which I am cosponsoring, and turns the basing mode decision over to the Pentagon without an adequate opportunity for the Congress to decide critical issues connected with the MX.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Chairman, I rise in opposition to the Stratton substitute. At the same time, I strongly support the Mavroules amendment.

(By unanimous consent, Mrs. BYRON yielded the remainder of her time to Mr. WILLIAMS of Montana.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Montana (Mr. WILLIAMS) for 2½ minutes.

Mr. WILLIAMS of Montana. Mr. Chairman, perhaps it would be some what instructive for me to share with my colleagues the feeling of citizens of one State. My fellow citizens in Montana have quietly endured our nuclear inheritance. Montana is the sixth-largest nuclear power in the world.

Members will remember back to October of 1962. During the Cuban missile crisis, John Fitzgerald Kennedy told the Soviet Union that he had "an ace in the hole."

The ace in the hole to which he referred was the then recently completed 10th Strategic Missile Squadron, Minutemen I located in Montana.

Under the earth of our Big Sky was buried the first land-based nuclear missiles. Today, we have 150 Minuteman II's and 50 Minuteman I's, and we have been proud of the part that we have been able to play in the defense of this Nation, and we have a long heritage of commitment.

During both World Wars I and II Montana sent more of its citizens to fight per capita then did any other State in the Nation. Many never returned to Montana's mountains and wheatfields.

Today, Montana has the Nation's leading percentage of its young citizens signed up for the military registration. Montanans have always contributed to the national defense because we know that what is good for America is good for Montana.

But now, with the notion of putting the MX in the Minuteman III silos has come a turning in Montana, and it is no wonder. Montanans have witnessed the basing and policy reversals to two administrations and the Congress, and we have been troubled by it.

We have heard about clustering and hardening and big bird and rattle space, and it does not bother us that we are so much confused by these terms as it does that those who are offering the missile are confused; and that the confusion is indicative of the disagreement about the missile basing mode and the missile's survivability. We are concerned about its eventual cost, because e hear $50, $60, $75, and $100 billion at a time when this Nation is economically on its knees. We are concerned that this missile will decrease nuclear stability. We worry that it is not a deterrent, that it is a first strike weapon which will increase escalation.

Let us put this matter of nuclear escalation into perspective. In 1960, the U.S. Defense Department decided that 400 equivalent megatons would inflict sufficient damage to the Soviet Union. In order to be assured of a fully capable deterrent this Nation decided to put 400 equivalent megatons on land-based, 400 more on sea-based, and 400 more on air-based, thus being able to destroy the Soviet Union thrice over. We have since increased that initial megatonnage of 1,200 by three times. We now have a nuclear arsenal of 3,500 megatons. Three times what we originally envisioned needing to destroy the Soviet Union thrice.

All Americans, including of course Montanans are correct in questioning adding even more terror to that arsenal.

Let us halt with the production of the MX. Let us pause at least long enough to determine an acceptable basing mode.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. SANTINI. Mr. Chairman, will the gentleman yield?

Mr. MONTGOMERY. I yield to the gentleman from Nevada.

Mr. SANTINI. Mr. Chairman, the House of Representatives is once again considering one of my favorite topics—the MX missile. Since I have some very strong feelings on this subject, I would like to take a moment to express my views on the entire project, but most particularly the amendments to delete $2.4 billion in funds from the Department of Defense authorization bill for interim silo basing.

From racetrack to dragstrip to dense pack, the MX basing story has kept Nevadans in suspense for almost 3 years. When we started out in 1979, it unquestionably looked as if the MX shell game was going from the drawing board to the desert of Nevada.

I adamantly opposed the Air Force's grand design to carve out an area the size of Ohio, criss-crossed by 10,000 miles of roads for MX. We won a tremendous victory in 1981 when the President announced no MX for Nevada. But the summer of 1982 brings Nevadans a new MX threat. MX missiles would be racked up like so many billiard balls in tight formations called dense packs. And guess what area is a leading contender for the latest MX honors? Nellis Air Force Base.

Whatever the name of the MX basing game, my State may well be the loser. This Nation could foolishly invest billions of dollars and part of our State for an infant concept, dense pack, which may not even work.

Mr. Chairman, I find myself in the summer of 1982 voting against the Mavroules-Simon-Green amendments to delete $2.4 billion for interim MX basing funds. I do so somewhat reluctantly since the supporters of this amendment have been my allies in struggles in previous years to kill the shell-game basing for MX. Nevertheless, I must vote against today's amendment to delete interim Minutemen silo basing for MX because I believe rejecting interim MX basing will hasten the final arrival of MX in Nevada.

At the very least, interim MX basing in silos would buy the United States some time to make deliberative policy judgments about final MX basing. If interim silo basing is killed, it is my firm belief that this Nation will rush headlong into dense pack basing, an infant concept which has received only months of study.

There is no doubt in my mind that once again Nevada is the key target for permanent MX basing. The Air Force has changed the name of the game, but many of the old shell game elements still lurk in the background. When the U.S. Senate debated this subject last December, some very familiar terms like "mobility" and "deceptive basing" crept back into the record. I do not believe MX in the dense pack formation will be confined to 15 square miles. I think if this Congress supports dense pack, it will likely come home to roost in Nevada; it will expand; and I think it is extremely likely that it will contain many of the old MPS (shell game) features which were rejected just last October when the 4,600 shelters game was turned down.

I must, then, vote against the amendments to delete interim Minuteman silo basing. My own personal preference for MX basing is still an air mobile or submarine system. It seems to me that after years of study and 35 different MX basing proposals including everything from sandy silos, to railroad launching to multiple protec-

tive shelters, the only clear lesson we have learned is that in reality all of the land-based ICBM proposals have serious vulnerability problems. It makes no sense to me to leap into dense pack basing without some very serious study. Interim minutemen silo basing. While far from perfect, could at least provide increased deterrence while buying the United States some time for a thorough investigation of this latest MX deployment scheme.

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment offered by the gentlewoman from Maryland and the gentleman from Massachusetts, and I support the substitute offered by Mr. STRATTON. The thing that concerns me is, this amendment would delay the MX at least a year on production, research, development. In other words, it is really kind of a back door way to eliminate the MX missile production.

I would hope that the President of the United States would move ahead on some type of basing mode. I really do not have any problem with the basing of the MX missiles. I think it would help to deter the Soviets if we can get a modern, sophisticated missile such as the MX in the ground and ready to be fired.

Anybody that has participated in war, conventional—thank God none of us have participated in nuclear war—knows that everything goes wrong in a conventional war, and I am sure the same thing would happen in a nuclear war. It would be impossible to totally hit the targets and knock out all MX missiles no matter how they are based. We could have as many as 100 MX missiles in the ground with 1,000 warheads in the near future. There is no way the Soviets could knock out all of these missiles. So, I think it would deter war instead of starting any type of nuclear war if we move ahead with updated missiles. So, I think the Stratton amendment makes sense. I think it would be a serious mistake to eliminate and stop the production of the MX missile.

The CHAIRMAN pro tempore (Mr. AUCOIN). The Chair recognizes the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Chairman, about an hour or two hours ago the gentleman from New York (Mr. DOWNEY) quoted a letter President Reagan has sent to the chairman of the Armed Services Committee (Mr. PRICE). From the second page of that letter, I will read parts that were not read by the gentleman from New York. It says, and this is the President talking:

> As you review this issue, I want to assure you that we intend to propose a final basing mode for MX by December.

That is of this year. Continuing:

> Some Members of Congress have expressed concern over the approval of basing funds before the basing mode is announced in December. I recognize that concern and will cooperate fully if the Congress wishes to place restrictions on the use of these funds until the basing decision is made in December.

That, Members of this body, very frankly, is the Stratton substitute. I think it is consistent with the desire of the administration. He is clearly saying that we have not yet decided on what basing mode we are going to have but we will in a short period of time. What the Stratton substitute simply does is to prohibit, to fence in that money which would otherwise be used for basing mode, deny the beneficial use of that money until the administration finally in fact decides to come up with one plan on basing.

So, therefore, for those Members of this body obviously who do not want the MX, they are not going to vote in favor of the substitute of the gentleman from New York, but those of us who are in favor of the MX, and for those of us who are in favor but concerned about basing mode, they should vote for the substitute of the gentleman from New York.

(By unanimous consent Mr. GREGG yielded his time to Mr. DICKINSON.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman, I thank my colleague from New Hampshire, and I thank the chairman.

Mr. Chairman, I had planned to speak on this to some extent when the research and development portion comes up, but these two are linked and I thought I would take part of my time and discuss a part of the subject now.

I think, if the Members will step back and look at it objectively, they will see that what we are doing is haggling or nickeling and diming this weapons system to death. I know this is not the intention of the author of the amendment, Mr. MAVROULES, for whom I have the highest regard, and certainly I do not impugn his intentions or what he is trying to do, but what I am saying is that the net effect is going to be to add millions and millions to the already overburdened weapons system, or else kill it.

We have already deleted $330 million out of the funds for this system in procurement. We have already taken over $150 million out in research and development. We did this in committee. So then we come to the floor, after having made the basic cuts, where yesterday we took over $3 billion in cuts, and then in the consideration of our committee and with the Department of Defense agreement we are bringing forth the bill that is presented to the Members, and we feel that it is essential that we go forward with this.

I am in favor of fencing these funds. This is also what the President has proposed. He said this would create no problem for him. But, the fact is that today, this day, General Rowney and Mr. Nitze, our negotiating team, are in Europe negotiating the START talks. They are sitting down to negotiate with the Soviets what we will have in terms of intercontinental ballistic missiles and other strategic weapons.

Those who have visited over there were told by General Rowney that the Soviets laugh and say, "Well, you have really nothing to bargain with because your people are not going to back you when it comes to the MX missile. Your Congress will not back you in what you are trying to do."

I think that if nothing else comes of this, we in this House must back up our negotiating team. We must get a little starch in the backbone, so to speak, to give them credibility with the Soviets and to show that we are, in fact, serious; that if, in fact, they will not come and negotiate with us in a meaningful way, we are going forward to build this weapon system. But if today we serve notice that we are not serious or that we are not going to back them, then we are pulling the rug out from under them to start with.

The CHAIRMAN pro tempore. The Chairman recognizes the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Mr. Chairman, let me just kind of sum it up, if I may. At this time I would like to highly congratulate and commend all the Members who took part this morning in a very lively and good debate. It is good for us all to get our feelings out into the open and make the public more aware of what it is we are trying to do here in the Congress of the United States.

The one point I would like to make to finish up on, and I have been into it before, is that we are talking about one weapon system here, or part of a weapon system. I do not buy it when people say to me that we are sending the wrong signals to the Soviet Union. If the MX and its entire system was one isolated system, I can understand that kind of thinking. Let us talk about the submarine system, let us talk about the Navy, and let us talk about the Air Force.

If you do not think for one moment that the Soviet Union realizes we mean what we say, then you are mistaken. Do not let a red flag scare you away from my amendment. We have testing going on at this moment and the very near future on the MX missile itself. Does that not tell the Soviet Union something?

Let me just finish up by stating this: You talk about another basing mode sometime in September or October.

□ 1400

We were told that four or five times in the past by the last administration

and by this one. How many times are we going to be fooled in putting money back into this program until they take it seriously at the Pentagon and at the White House?

Mr. Chairman, I ask the Members to think of that when they vote on the amendment and when they vote on the substitute.

● Mr. FRENZEL. Mr. Chairman, I oppose the Stratton amendment. Instead, I will support amendments to defer spending for procurement of MX missiles until an acceptable permanent basing mode is approved.

I can see little sense in voting to authorize about $1 billion to buy nine missiles for which there is no basing mode. A number of possible modes have been proposed. The best known of those modes, the Minuteman silos or the race tracks, have been rejected.

In a year when we are trying to reduce expenditures in every cost function, I cannot vote to spend money for an undefined program, especially in a function where enormous spending increases have been approved for the past 2 years.

When we are cutting programs across the board, it is pretty hard to vote for a program that probably would not be approved this year. If a basing mode is selected, this Congress can always pass a supplemental appropriation.●

(By unanimous consent, Mr. PRICE yielded his time to Mr. STRATTON.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, the vote that will be taken at the conclusion of these remarks will probably be one of the most important votes that this House will be called upon to take in this Congress.

I think it is important that we do not throw out the baby with the bath. Reference has been made to what the other body did. The Senate did take out all of the procurement money for the MX, but they took it out for a particular purpose, to show their displeasure with the Minuteman interim basing mode and to force the administation, to hold the feet of the administration to the fire, to come up with a permanent basing mode. In a very large measure, as shown by the President's letter that the gentleman from New Jersey read just a moment ago, the Senate action has had precisely that result. I think, now, judging from what we know of the opinions of the Senators, the Senate Armed Services Committee would want us to put money back in for the MX so we can have something to bring to conference with, and so that conferees from both Houses can discuss these issues in detail.

If the substitute amendment is rejected, however, we will not be able to go to conference on this matter.

It is just that simple. We are simply trying in this substitute to prevent any premature expenditure of money on the basing mode. But the place where we ought to make the final decision on whether this important weapons system should stand or fall should be in the conference itself.

Reference has previously been made as to whether 30 days is long enough to provide the House and the Senate with a fair opportunity to respond. I would point out that these 30 days will occur at the end of December. And we all know that we will probably have another 30 days at the beginning of January when we are not doing very much. So it is within that time that we will have an ample opportunity to make up our minds based on what the conference recommends and the President decides.

So the point I want to make is this: Let us not kill the MX now. That would be a tragedy. I say to the Members, particularly those who are not here in the Chamber, before you vote, do not vote until you go out in the Speaker's lobby and take a look once again at those Soviet missiles. That is a true image of the relative sizes of our two missiles, and what we are talking about is providing an adequate defense against the SS-18, the SS-17, and the SS-19.

So, Mr. Chairman, I hope the House will sustain the substitute so that we can make this decision in the proper way and not in this hasty manner on the floor.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from New York (Mr. STRATTON) as a substitute for the amendment offered by the gentleman from Massachusetts (Mr. MAVROULES).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 212, noes 209, not voting 13, as follows:

[Roll No. 197]

AYES—212

Annunzio	Boner	Conable
Archer	Bouquard	Corcoran
Ashbrook	Breaux	Courter
Atkinson	Brinkley	Craig
Badham	Broomfield	Crane, Daniel
Bafalis	Brown (CO)	Crane, Philip
Bailey (MO)	Broyhill	Daniel, Dan
Bailey (PA)	Butler	Daniel, R. W.
Barnard	Campbell	Dannemeyer
Beard	Carman	Daub
Benedict	Carney	Davis
Benjamin	Chappell	Derrick
Bennett	Chappie	Derwinski
Bereuter	Cheney	Dickinson
Bethune	Clausen	Dornan
Bevill	Coleman	Dougherty
Bliley	Collins (TX)	Dowdy
Dreier	Kramer	Perkins
Duncan	Lagomarsino	Price
Edwards (AL)	Latta	Quillen
Edwards (OK)	Leath	Railsback
Emery	LeBoutillier	Regula
English	Lee	Rhodes
Erlenborn	Lent	Ritter
Evans (DE)	Levitas	Roberts (SD)
Evans (GA)	Lewis	Robinson
Fary	Livingston	Rogers
Fazio	Loeffler	Rose
Fiedler	Lott	Roth
Fields	Lowery (CA)	Rousselot
Fish	Lujan	Rudd
Flippo	Luken	Sawyer
Fountain	Lungren	Sensenbrenner
Gephardt	Madigan	Shaw
Gibbons	Marlenee	Shelby
Gilman	Marriott	Shumway
Gingrich	Martin (IL)	Shuster
Ginn	Martin (NC)	Siljander
Goldwater	Martin (NY)	Skeen
Gonzalez	Martinez	Skelton
Gradison	Matsui	Smith (AL)
Gramm	McClory	Smith (OR)
Grisham	McCloskey	Smith (PA)
Hall, Ralph	McCollum	Snyder
Hall, Sam	McCurdy	Spence
Hammerschmidt	McDade	Stanton
Hance	McDonald	Staton
Hansen (ID)	McEwen	Stenholm
Hansen (UT)	McGrath	Stratton
Hartnett	Mica	Stump
Hatcher	Michel	Taylor
Hefner	Miller (OH)	Thomas
Hendon	Mitchell (NY)	Trible
Hightower	Mollohan	Vander Jagt
Hiler	Montgomery	Walker
Hillis	Moore	Wampler
Holland	Moorhead	Weber (MN)
Holt	Morrison	Weber (OH)
Hopkins	Mottl	White
Hubbard	Murtha	Whitehurst
Huckaby	Myers	Whitley
Hunter	Napier	Whitten
Hutto	Natcher	Williams (OH)
Hyde	Neal	Wilson
Ireland	Nelligan	Wolf
Jeffries	Nelson	Wortley
Jenkins	Nichols	Wright
Johnston	Oxley	Yatron
Kazen	Parris	Young (AK)
Kemp	Pashayan	Young (FL)
Kindness	Patman	

NOES—209

Addabbo	Dellums	Gejdenson
Akaka	DeNardis	Glickman
Albosta	Dicks	Goodling
Alexander	Dingell	Gore
Anderson	Dixon	Gray
Andrews	Donnelly	Green
Anthony	Dorgan	Gregg
Applegate	Downey	Guarini
Aspin	Dunn	Gunderson
AuCoin	Dwyer	Hagedorn
Barnes	Dymally	Hall (OH)
Bedell	Dyson	Hamilton
Beilenson	Early	Harkin
Biaggi	Eckart	Hawkins
Bingham	Edgar	Heckler
Boggs	Edwards (CA)	Heftel
Boland	Emerson	Hertel
Bolling	Erdahl	Hollenbeck
Bonior	Ertel	Horton
Bonker	Evans (IA)	Howard
Brodhead	Evans (IN)	Hoyer
Brooks	Fascell	Hughes
Brown (CA)	Fenwick	Jacobs
Burton, Phillip	Ferraro	Jeffords
Byron	Findley	Jones (NC)
Chisholm	Fithian	Jones (OK)
Clinger	Florio	Kastenmeier
Coats	Foglietta	Kennelly
Coelho	Foley	Kildee
Collins (IL)	Ford (MI)	Kogovsek
Conte	Ford (TN)	LaFalce
Conyers	Forsythe	Lantos
Coughlin	Fowler	Leach
Coyne, James	Frank	Lehman
Coyne, William	Frenzel	Leland
Crockett	Frost	Long (LA)
D'Amours	Fuqua	Long (MD)
Daschle	Garcia	Lowry (WA)
Deckard	Gaydos	Lundine

Markey	Rahall	Solarz
Mattox	Rangel	St Germain
Mavroules	Ratchford	Stangeland
Mazzoli	Reuss	Stark
McHugh	Richmond	Stokes
Mikulski	Rinaldo	Studds
Miller (CA)	Roberts (KS)	Swift
Mineta	Rodino	Synar
Minish	Roe	Tauke
Mitchell (MD)	Roemer	Traxler
Moakley	Rostenkowski	Udall
Moffett	Roukema	Vento
Molinari	Roybal	Volkmer
Murphy	Russo	Walgren
Nowak	Sabo	Washington
O'Brien	Santini	Watkins
Oakar	Savage	Waxman
Oberstar	Scheuer	Weaver
Obey	Schneider	Weiss
Ottinger	Schroeder	Whittaker
Panetta	Schulze	Williams (MT)
Patterson	Schumer	Winn
Paul	Seiberling	Wirth
Pease	Shamansky	Wolpe
Pepper	Shannon	Wyden
Petri	Sharp	Wylie
Peyser	Simon	Yates
Pickle	Smith (IA)	Young (MO)
Porter	Smith (NE)	Zablocki
Pritchard	Smith (NJ)	Zeferetti
Pursell	Snowe	

NOT VOTING—13

Blanchard	Clay	Rosenthal
Bowen	de la Garza	Solomon
Brown (OH)	Jones (TN)	Tauzin
Burgener	Marks	
Burton, John	McKinney	

□ 1415

The Clerk announced the following pairs:

On this vote:

Mr. Jones of Tennessee for, with Mr. Rosenthal against.

Mr. Tauzin for, with Mr. Blanchard against.

Mr. Burgener for, with Mr. Clay against.

Mr. Solomon for, with Mr. McKinney against.

Messrs. LONG of Louisiana, JAMES K. COYNE, ROSTENKOWSKI, and ALBOSTA changed their votes from "aye" to "no."

Mr. DERRICK changed his vote from "no" to "aye."

So the amendment offered as a substitute for the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Massachusetts (Mr. MAVROULES), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. ENGLISH

Mr. ENGLISH. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH: Page 8, after line 12, add the following new section:

ENHANCEMENT OF NORTH AMERICAN AIR DEFENSE COMMAND LOW LEVEL RADAR CAPABILITIES IN FLORIDA

SEC. 109. The Secretary of the Air Force, using funds available under section 103, may acquire one tethered aerostat radar set (of the type currently in use at Cudjoe Key, Florida) for deployment at Kennedy Air Force Station, Florida. Concurrently with such procurement, the Secretary shall provide for necessary improvements to the radar set to be acquired and the existing set at Cudjoe Key, Florida. Such improvements and the operation and maintenance of such radar sets may be provided using funds available under this Act.

Mr. ENGLISH. Mr. Chairman, as chairman of the Subcommittee on Government Information and Individual Rights of the Committee on Government Operatons, I have recently conducted a series of hearings on the capabilities of our military forces to assist in the interdiction of drugs in Florida. At these hearings, which were designed to promote cooperation under posse comitatus, we received testimony from the principal Deputy Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, which highlighted the lack of low level radar coverage in Florida.

We also heard from the Deputy Chief of Staff (operations) of the Tactical Air Command, who stated that there was a military requirement for such low level coverage. The Air Force currently has a system in operation which covers the area of extreme southern Florida, but there is a significant gap in the Norad array north of Miami.

This gap is of obvious military interest to the Air Force because of the proximity of Cuba. My amendment would authorize the Air Force to obligate funds, pursuant to their stated needs and intentions, to procure a second low level radar system at Kennedy Air Force Station. No new money is being authorized.

A secondary benefit of the expanded low level radar coverage, in addition to the obvious military benefits, will be to assist the U.S. Customs Service in identifying aircraft which deliberately fly at very low altitudes to escape radar detection. These aircraft more often than not contain narcotics being smuggled in from Colombia.

Mr. Chairman, we are very excited about the potential which the posse comitatus amendment to last year's DOD authorization bill represents. The Vice President, who is the head of the task force created by the President in Florida to combat violent crime and drug smuggling, has made good use of the resources of the military to assist our sorely beset law enforcement officials. We are now presented with another opportunity to help them, this time by simply authorizing the Air Force to obligate money within their existing authorization. I emphasize that there is testimony which underlines the military requirement for such an expanded radar system.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, the gentleman has been kind enough to show me his amendment in advance and I have had an opportunity to review it. I can say on behalf of the committee that we would be glad to accept it.

We are in support of this amendment. Mr. ENGLISH's subcommittee did an outstanding job in assessing the first year of DOD support for civilian law enforcement, particularly in the most active arena, "Operation Florida."

In their deliberations, the subcommittee found that in increasing seek skyhook radar coverage in Florida, we could reach a number of goals.

The first is to plug large holes in our low altitude air defense radar coverage in Florida, satisfying a long-standing military requirement. The second was to avoid degradation of naval readiness, in the event of long-term use of E–2C Hawkeye aircraft for this role. And the third, a spinoff benefit, would be to enhance our ability to detect airborne drug smugglers attempting to fly into Florida from Latin America via the Caribbean.

It is due to Mr. ENGLISH's emphasis on efficient DOD implementation of the posse comitatus provision that the Customs Service's Air Operations Division will be able to test a Blackhawk helicopter during fiscal year 1983.

I want to compliment Mr. ENGLISH for his subcommittee's fine work and urge adoption of his amendment.

Mr. ENGLISH. I appreciate that.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the gentleman.

Mr. DICKINSON. Mr. Chairman, we feel, after examining the amendment, that it would add to the bill, and we would be glad to accept it on this side.

We are in support of Mr. ENGLISH's amendment. Not only does it close the existing gaps in our air defense, but it simultaneously reinforces DOD's capability in support of the very real war on drugs taking place in Florida.

I think that this is an excellent example of the kind of innovative steps we can take to enable DOD to actively implement the posse comitatus provision and at the same time increase our military and naval readiness.

I, too, commend Mr. ENGLISH and urge adoption of his amendment.

Mr. ENGLISH. I appreciate the gentleman's remarks.

Mr. KINDNESS. Mr. Chairman, will the gentleman yield?

Mr. ENGLISH. I am happy to yield to the gentleman from Ohio.

Mr. KINDNESS. I thank the gentleman for yielding.

I want to express a commendation to the gentleman who is the chairman of the Subcommittee on Government Information and Individual Rights for his efforts in this area in helping in drug enforcement in the south Florida area in particular and this step will be

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a great one in that direction. I commend the gentleman for it.

Mr. ENGLISH. I certainly want to commend the ranking minority member of the subcommittee for his fine support in this area also.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oklahoma (Mr. ENGLISH).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DICKS

Mr. DICKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DICKS: Page 6, line 13, strike out "$17,243,400,000" and insert in lieu thereof "$16,733,400,000".

Page 8, after line 12, insert the following new section:

PROCUREMENT OF COMMERCIAL CARGO AIRCRAFT

SEC. 110. (a) None of the funds appropriated pursuant to the authorization of appropriations in section 103 for procurement of aircraft for the Air Force may be obligated or expended for procurement of additional C-5 aircraft.

(b) Of the amount authorized to be appropriated in section 103 for procurement of aircraft for the Air Force, $350,000,000 is authorized for procurement of the most cost-effective commercial wide-body cargo aircraft. Any such aircraft shall be procured through competitive bidding. In procuring such aircraft, the Secretary of the Air Force shall give priority to procurement of aircraft which (1) are available as surplus to the requirements of their present owners, (2) are suitable for conversion to military cargo configurations, and (3) were owned by a domestic company on the date of the enactment of this Act.

□ 1430

(By unanimous consent, Mr. DICKS was allowed to proceed for 10 additional minutes.)

Mr. DICKS. Mr. Chairman, I am presenting this amendment on behalf of myself and the gentleman from Arizona (Mr. RHODES). I know there has been a lot of discussion over the last few weeks, since the Senate voted by 60 to 39 to substitute existing wide-bodied commercial aircraft for the C-5, about this whole question of airlift. I want to try to go back and briefly describe the history of how we got to here.

Back in the middle 1970's, the Army was very concerned about having intratheater capability, the ability to move ammunition and war materiels intratheater from one battlefield to another. And out of that came the competition to build the advanced medium STOL transport, the so-called YC-14, which was a Boeing plane, and the YC-15, which was a plane built by McDonnell Douglas. It is important to understand that today the C-17 is, in essence, a bigger version of the YC-15 which was built and demonstrated back in the middle 1970's.

A decision was made not to go forward with an intratheater airlifter but to go forward with a new modern airlifter because of the Rapid Deployment Force. And that competition was the so-called CX competition. Last fall a decision was made that the winner of that competition was McDonnell Douglas on the C-17, a very capable airplane that can carry all sizes of equipment long ranges to a foreign battle area and then from that foreign battle area, or port, or airfield, up to the forward edge of the battlefield, something that the C-5 cannot do.

Now, the reason that I raise this is because I think it is important to understand the history of this. The decision was made. It was supported by the Army, by the Air Force, and by the Marine Corps. A presentation by Verne Orr was made on January 8 to Mr. Carlucci in which all of the services came forward and said, "This is the plane we want, the C-17." They were unanimous. There was no dissent. There was no discussion of the C-5. In fact, in the briefing they pointed out all of the deficiencies of the C-5. And yet Mr. Carlucci, for reasons that I do not think any of us fully understand, decided not to go forward with the C-17 but to have a sole-source procurement of 50 C-5's. Lockheed had come in with a proposal for 50 C-5's. And that decision was then transmitted in the President's budget.

Now, about the same time, the Boeing Co. came in with a second unsolicited proposal. They said, "Wait a minute. You are really not going to go back and open up the C-5 line which has been down for 9 years, you are really not going to go back and build a plane that will cost in then-year dollars $182 million per plane, not going to go back and build a plane that has a 76-hour maintenance requirement, for every hour a C-5 flies in the air." They came in and said, "We have a more cost-effective way to do this job." They said, "Why not use either new 747-F's, at a firm, fixed price of $58 million, with a guarantee over the next 20 years for operation and maintenance costs, logistics cost, or use existing wide bodies, either 747s or DC-10's that are available on the commercial market. Those planes go from about $30 million to $32 million, with a $12 million modification. That gets up to $44 million." And they said, "Under our estimates, you can save approximately $7 billion over the next 20 years in terms of the procurement price of those airplanes and the 20-year operational cycle of those airplanes versus going ahead and building a plane, the line which has been shut down for the last 9 years, that will cost us $182 million over the next 20 years."

And that was the proposal as it was presented to the Senate.

Now, the Senate voted to do basically what the Dicks-Rhodes amendment calls for. They voted to substitute commercial cargo aircraft, to give the taxpayers a savings at a time when all of us know we must make reductions, not only in Government spending, but in defense spending as well.

Now, just a few months ago the selected acquisition report was published. It shows that the cost of all of our major weapons systems has increased from $318 billion up to $455 billion, an increase of $137 billion.

We simply do not have enough money to buy every major weapon system that any general over at the Pentagon thinks is necessary. This gives us an opportunity, a unique opportunity, to buy an airplane off the shelf—which has a mission capable rate of 90 percent compared to 53 percent for the C-5, which has a maintenance per man-hour of 20 hours, every hour in the air, versus 76 on the C-5. It gives you a chance to buy that kind of an airplane at a substantial reduction to the taxpayers.

The Air Force has done everything it can to distort the Boeing presentation. They have said even though the Boeing plane can carry more oversize and bulk cargo than can the C-5, that you are going to need more 747's than C-5's. They have said, "We cannot have contractor logistics support for the next 20 years"—even though they are doing it on the KC-10's and have testified that that reduces the cost by 50 percent of that support—because they were embarrassed by the major cost differences between the two proposals.

So the Members are going to hear a lot today that it is only $1 billion over the next 20 years—and, by the way, we can get the wide bodies 3 years earlier—and they are going to say there is only 1-year difference. I will just tell the Members, and I have been through this with the Air Force before on the B-1 and the advanced technology bomber, they will say anything or do anything to sell their proposal up here on Capitol Hill. I hate to have to say that, but in my view it is very, very true. And I have studied this issue very carefully.

Now, we all recognize that we need to take care of airlift, even though only 6 percent of all of the equipment that we are going to send out with the Rapid Deployment Force is going to go by air, 90 percent to 94 percent is going to be pre-positioned or go by ship. So even though it is only 6 percent, we think that the right option for our country—and I want everyone to listen to this because it is terribly important—the right option for our country today is to buy some existing wide bodies that we can get right now at a very bargain basement price that will add bulk and oversize capability which, by the way, is 85 percent of what the RDF is composed of, and then buy the plane that won the competition last year, the C-17. It is by far

the superior airlifter in terms of outsize equipment. So we have a near-term program and a long-term program. I know many of the Members are concerned about the issue of outsize capability, and I am concerned about it, as well. Yet when you look at the CMMS, only about 14 percent to 27 percent of what has to be moved is outsize equipment. And we believe that if you dedicate your existing 77 C-5's to that outsize equipment, which is, by the way, what MAC is supposed to do, you have enough planes in the near term to handle the outsize equipment, the tanks, the infantry-fighting vehicles, and the helicopters, and you really need additional capability to handle bulk and oversize.

The 747 can fly further and faster. It is a better bulk and oversize airlifter than a C-5. Why do you want to spend $182 million to do the same job that the 747 or the DC-10 can do for $44 million? It just does not make sense. And then, when you make the decision that you want a new outsize airlifter to replace the C-141's and the C-130's, which have to be replaced, then build a C-17.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my colleague, the gentleman from Kansas, who has been a leader on this issue.

Mr. GLICKMAN. Mr. Chairman, I would like to talk to the gentleman about the cost issue and ask him a couple of questions.

Mr. DICKS. The cost issue is one of the most important issues, and I would like my colleagues to listen to the cost issue. It is very important.

Mr. GLICKMAN. This is a very complicated issue—outsize, oversize—and, of course, the Pentagon feels strongly about this issue, as do certain Members of Congress.

As I understand it, the C-5 would cost $128 milion, more than twice the cost a a new 747, and the cost difference between the C-5 and the 747 over a 20-year life cycle is $7.9 billion based upon the guarantees included in the Boeing offer; is that correct? That is, by going with the C-5 option, by voting down the Dicks-Rhodes amendment, we will be spending nearly $8 billion more. Is that a correct statement?

Mr. DICKS. That is exactly correct. And those numbers have been verified by aeronautical systems within the Air Force, but they were changed by the top leadership of the Air Force because of the political considerations.

Mr. GLICKMAN. Well, I would like to ask the gentleman, the Pentagon claims the cost difference is only a little more than $1 billion. Is that a legitimate statement?

Mr. DICKS. No. The Boeing costs include all engineering changes required to make the aircraft ready for the military airlift mission. The price they offered includes all technical data and documents and training for flight crews and maintenance personnel. The guaranteed life-cycle costs also include spares and all peculiar support equipment. Yet the Pentagon insists on adding 14 percent to 747 flyaway costs to cover these very items.

Second, the Boeing offer includes a commitment to demonstrate fuel consumption of 2,865 gallons per hour based on typical MAC usage of the aircraft. With over a decade of commercial service, the fuel consumption of a 747 cargo aircraft is easily calculated. But, the Pentagon came up with a fuel consumption rate of 3,900 gallons, which was not even based on missions. It included a comparison to the E-4, which is an entirely different airplane with a large amount of heavy electronic equipment.

Third, the Pentagon rejected the Boeing guarantee for providing contractor logistics support without any specific analysis. This concept is already in use for the KC-10, the C-9, the T-43, and the E-4 fleets. Air Force testified before the Defense Appropriations Subcommittee that it was yielding 50 percent savings for the KC-10. The 747 as a successful commercial aircraft has a worldwide support system already in place. It is the height of folly not to take advantage of it.

Finally, the Pentagon increased the number of 747's they claim are needed to equal the bulk and oversize capability of 50 C-5's.

Mr. GLICKMAN. We are all concerned about the budget picture and I wonder if we can get the comparison for the outlays of the two proposals, the C-5 versus the 747 for 1983, 1984, 1985, and future years?

Mr. DICKS. The C-5 program proposed by the Pentagon would include outlays of $182 million in fiscal year 1983. Our amendment would provide about $90 million or one-half of the outlay level.

Over the fiscal year 1983 to 1985 period the DOD plan and our amendment would be about equal but in that period—listen to this—only two C-5's would be delivered and 33 747's would be delivered.

Mr. GLICKMAN. I thank my colleague.

Mr. LEVITAS. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Georgia.

Mr. LEVITAS. I thank the gentleman for yielding and I sincerely appreciate that because I think if we are to debate this matter it requires a debate, not just between the people who are in agreement, but between those who have different points of view and I will extend the same courtesy to the gentleman.

Mr. DICKS. I thank the gentleman.

Mr. LEVITAS. I would like to take up the point just raised by the gentleman from Kansas in his colloquy with the gentleman from Washington, that there is a somewhere between $6 and $7 billion saving over a 20-year life cycle.

Now according to the information that has been made available to me—a letter from Maj. Gen. Guy L. Hecker—that is disputed and the fact is, according to the Air Force figures, that the figures referred to by the gentleman from Kansas were prepared by the Boeing Co. and did not take into account many of the considerations which the Air Force would take into account, such as a 25-percent lower fuel cost, the number of 747's that would be required, and the fact that the Boeing figures assume that there would be civilian contractors to maintain the 747's even though they would be used in areas of major conflict and severe battle conditions.

Now, I recognize that the cost issue is one part of it, because it does not make any difference how much you save if the item would not do the job—and we are going to get into that later on.

Is it not a fact that the figures that the gentleman from Kansas referred to were figures supplied by the Boeing Co. which are disputed by the Air Force?

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. DICKS) has expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. DICKS was allowed to proceed for 5 additional minutes.)

Mr. DICKS. The proposal was presented and it carried with it a firm fixed price guarantee for either 48 new planes or 50 used planes with a 20-year contractor logistics support contract which is being used on the KC-10's which we are also buying under this bill.

The proposal was made. There is a substantial cost difference in the terms of the purchase of the airplanes—I think about $4.4 billion. And the contractor logistics support. When you add those two together you get up to about $12.1 billion versus about $20 billion. It is a $7.9 billion difference. That is why we are raising this issue. We think we have a more cost-effective proposal.

True, the Air Force does change the Boeing proposal, but in my judgment, that was done so that the cost comparisons would not be so great—and I can point out last year where we went through the same thing on the B-1. We were told that the B-1 would only cost $20 billion and the SAR just came up and it is $28.9 billion.

The Air Force has a way of fudging numbers in order to make what they

want look good and make what the other person wants look bad.

This is a classic example of the Air Force changing the basic Boeing proposal on rather questionable grounds, in my judgment.

Mr. LEVITAS. I would say to the gentleman that I am not going to carry a brief to defend the credibility of the Defense Department on every issue, but I would suggest without being overly cynical about the subject that perhaps the Boeing Co. in a strong desire to get this contractor to have the 747's might present figures which themselves are questionable or be selective in their use of data.

Mr. DICKS. The Air Force Aeronautics Division said that the Boeing numbers were legitimate and those numbers were changed by top Air Force officers who added 45 percent to the operation and maintenance costs, for example. They increased the cost of the planes by 14 percent.

What I am trying to explain to the gentleman is that they did this to make the cost comparision more attractive from their perspective, and in my view the Boeing proposal which is a firm fixed price guaranteed on the price of the new planes and a firm fixed price guaranteed up to the next 20 years for operation and maintenance, is a valid proposal that would work and I am surprised that the Air Force would not go along with it on the basis that they could save this much money and get a much better airplane than the C-5, at an earlier date.

One of the things that we have been trying to get contractors to do—I know the gentleman from Georgia has been concerned about waste in Government as the gentleman from Washington has—is to get them to make firm fixed-price commitments.

Now, to turn the tables a little bit. Lockheed has given a firm fixed price of $128 million, but that is not in then-year dollars. As we understand it, that price could go up as much as $182 million per plane, according to the evidence we have before the Defense Appropriations Subcommittee. On the rewinging they would only give a 1-year limited guarantee. They would not warranty the rewinging of the C-5 wings nor would they give that in terms of the new planes. And here is Boeing willing to give a 10-year or 20,000-hour guarantee for this equipment. They are willing to give a firm fixed-price guaranteed logistics support and they are willing to give that kind of a waranty on the used planes for structural life.

The gentleman knows the problems we have had with the C-5 over the years. The fact that we had 20 deficiencies when the plane was delivered; the fact that we have had to spend $1.6 billion to rewing the plane; the fact that we had this terrible maintenance per man-hour rate of 76 hours for every hour in the air, and a mission capability rate of 53 percent. This plane has been an embarrassment. I cannot believe that we could possibly consider going back to build this kind of a plane, reopen the line that has been down for 9 years, when we could go forward with the C-17, which is a much more capable outsized airlifter and get existing wide bodies in the near term. That is a program that is good for this country and I would suggest to the gentleman from Georgia that when he looks at the fact that when the plane was built we were supposed to get 120 of them, we had a $2 billion overrun and the number was reduced from 120 down to 81.

Now we have the same leadership of the same company running this program today. I do not see how we can be assured that we are going to get anything better today than we did back in 1972.

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. DICKS) as expired.

(At the request of Mr. LEVITAS and by unanimous consent, Mr. DICKS was allowed to proceed for 2 additional minutes.)

Mr. LEVITAS. Mr. Chairman, if the gentleman will yield further, I thank the gentleman for yielding and the other points which the gentleman has made, which I take serious exception to, the C-5 is an outstanding plane, which has proved itself time and time again in the defense of this Nation and in the assistance of our allies. And the other question about contracts and so forth we will get into. I want to confine our discussion on this point to the cost issue which the gentleman from Kansas, and the gentleman from Washington discussed.

The Boeing Co., who understandably will present figures most favorable to its own position, has presented figures which the Air Force, who has the responsibility of living with this over the years, disputes.

Under the information that the Air Force has provided, in fiscal year 1983, the outlays for the C-5B would be $182.2 million as compared to $563.7 million. In fiscal year 1982, $629.4 to $1.5 billion. In fiscal year 1985, $1.4 billion to $1.6 billion.

Mr. DICKS. I think where the gentleman is being misled—I do not mean that with any discourtesy implied—the fact is that we will get out planes in the inventory 3 years earlier. Therefore, they will be operating and there will be operation and maintenance costing that will go along with the operation of those planes.

When you look at a procurement versus procurement dollars for purchasing the planes, our number is less than your number. I think that is where the gentleman is confused. I also think it points up the very strength of our proposal, that is, we get our airplanes earlier. By 1985 we will have 33 of these wide bodies in the inventory while there will only be 2 C-5's. In fact we spend $5.6 billion of money to get one C-5 before anything comes in. So the reason that the numbers the gentleman has are inaccurate is because they carry O. & M. money, and I think we want this additional capability because that is what the Joint Chiefs all say—we want extra near-term capability to be able to move that bulk and oversized equipment.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, there has been an awful lot of confusion about the numbers that have been used. I am confused myself.

So what I did, I asked two auditors who had one time worked for the GAO to take these figures and tell me what they really mean. So let me read what they say on the three points that the gentleman from Washington made, life cycle cost, maintenance costs and operating cost per cargo ton mile.

No. 1, he says:

> The Boeing proposal is based upon 48 aircraft with a life cycle cost totaling $9.8 billion. However, the number does not meet the requirements of the Air Force. to achieve this requirement an additional seven 747's must be needed, bringing the total to 55 aircraft.

So the life cycle costs for the 55 747's total $15.1 billion and the difference between the Boeing proposal and the Air Force suggested life cycle cost is $900 million.

Differences between the Boeing proposal and the Air Force adjusted life cycle cost are due to: First, increased acquisition cost of seven additional 747 aircraft ($1.1 billion); and second, increased operating and support program cost ($4.2 billion).

The up front money will be $2 billion more, but the 747 is not a bargain at any price and for this purpose.

Mr. Chairman, it has been stated that the C-5 requires an inordinate amount of maintenance compared to a commercial 747.

The C-5 is the largest and most complex wide-body airplane commercial or military, and would naturally require more maintenance than less capable airplanes.

Measuring the maintenance man-hours against the number of the hours the airplane is flown can be misleading. Commercial airplanes are kept flying at the maximum number of hours they can be profitably sched-

uled because these flying hours generate revenue and profit. Military airplanes are flown the minimum number of hours required to maintain flying crew proficiency and training, because military flying generates cost not revenue. The same airplane in commercial and military service will therefore have significantly different maintenance man-hours per flight-hour experience. A 747 in commercial service requires only 20 maintenance man-hours per flight yet the Air Force 747's based at Andrews AFB require over 85 maintenance man-hours per flight-hour.

This assertion falls in the category of comparing "apples and oranges."

In discussing the benefits of the 747 over the C-5B, it has been charged that the cost of operating the C-5A was $1.15 per cargo ton-mile, while the cost of operating a commercial 747 was 21 cents per cargo ton-mile. This leads to the conclusion that the C-5B is six times more expensive to operate on a cargo ton basis. This is misleading and erroneous.

C-5A actual operating cost data for fiscal year 1981 was $1.15 per cargo ton-mile, the peacetime cost.

The peacetime cost for 747's and 707's that the Air Force charters to haul cargo is 69 cents per ton-mile. The difference in cost is that the Air Force is manned—even in peacetime—for wartime surge capability—expensive but necessary. Commercial airlines do not have this manning requirement nor do they incur other similar costs such as training.

The estimated cost for operating the C-5A in wartime is 42 cents per cargo ton-mile. This is based on flying with heavier loads, more hours per day, and with more difficult flight profiles.

The cited cost of 21 cents per cargo ton-mile for a 747 is a revenue cost which comes out of a Civil Aeronautics Board report. It is not comparable to the other figures since it is unknown what factors have been put into it or left out.

Mr. DICKS. Mr. Chairman, will the gentleman yield on that one point?

Mr. DAN DANIEL. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

The big difference here is that a 747, when you talk about the oversized and bulk gear, can carry 135 tons compared to 100 tons by a C-5, and that is why we believe——

Mr. DAN DANIEL. How many tons of what?

Mr. DICKS. Of oversized and bulk cargo.

Mr. DAN DANIEL. That is what we are talking about.

Mr. Chairman, on the maintenance cost, the 747 versus the C-5, here is what he says:

It has been stated that the C-5 requires an inordinate amount of maintenance compared to a commercial 747. Of course, commercial airlines keep flying at the maximum number of hours they can be profitably scheduled. Of course flying hours generate revenue and profit. Military planes are flown the minimum number of hours simply because they do not generate revenue.

Here is the important point. According to what the auditor said, the 747 commercial plane requires only 20 maintenance man-hours per flight yet the Air Force plane, 747, based at Andrews Air Force base, requires over 65 maintenance man-hours per flight-hours.

Now the operating costs per mile.

In discussing the benefits of the 747 over the C-5B, it has been charged that the cost of operating the C-5A is $1.15 per cargo mile. This leads to the conclusion that the C-5B is six times more expensive to operate on a cargo-ton basis. This is misleading and erroneous. The peacetime cost for 747's and 707's that the Air Force charters to haul cargo is 69 cents per ton-mile. The estimated cost for the operating of the C-5A in wartime is 42 cents per cargo ton-mile.

So, I think the point, Mr. Chairman, is that we spend entirely too much time in this body and in our committees preparing for peace. We want peace but we have to prepare for war. That is how you deter aggression.

One other point that I would like to make on my own—this has nothing to do with the auditor's report—we have some serious budget restraints. If we buy the 747, which will not do the job, we have to have $2 billion more up front and again the 747 will not meet our requirements.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

May I say this is based on GAO's study in connection with the Yom Kippur war as an example of readiness and this is a quote:

In GAO's opinion, however, the relatively small quantities of outsized equipment delivered in this manner—

This is by C-5's—

had no decisive effect on the war's outcome and the ton-mile costs for the C-5 . . . and the C-141 aircraft were 40 cents and 20 cents respectively. At the same time, a commercial cargo configured 747 provided service at a ton-mile cost to the command of only 11 cents.

I repeat, that is a part of the cost here—40 cents per ton-mile for the C-5 and 11 cents per ton-mile for the 747.

□ 1500

Mr. DAN DANIEL. I would like to ask the gentleman from Washington a question. According to my information, the question of fixed-price proposals the gentleman brought up a moment ago, let us accept the word of a Boeing spokesman at a midday news conference in Atlanta. The spokesman said, "We are way, way away from being anywhere near talking hard figures."

Does the gentleman know where that comes from?

Mr. DICKS. I have no idea. I did not attend that.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

(At the request of Mr. DICKS, and by unanimous consent, Mr. PRICE was allowed to proceed for 2 additional minutes.)

Mr. PRICE. I yield to the gentleman from Washington.

Mr. DICKS. All I can say, what I know about is the letter that was sent to Kelly Burke and to Mr. TOWER and to the Members of Congress, the chairmen of the various committees, presenting this firm fixed price on new planes and on the 20-year operation and maintenance of it.

Mr. Chairman, I would ask unanimous consent to place in the RECORD at this point a copy of a letter that I would be glad to provide my colleague which details this 20-year program.

The CHAIRMAN pro tempore. The Chair will advise the gentleman from Washington that that permission needs to be sought in the full House.

Mr. DAN DANIEL. Mr. Chairman, if the gentleman will yield further, one other point I would like to make, since this has been raised. This plane is not in competition with the C-17. I am a strong supporter of the C-17. As a matter of fact, before this debate concludes, we are going to offer a motion to put some line item money in this budget authorization for the C-17; but that plane is to replace the C-41 and the C-130's which are probably 4, 5, or 6 years from now; so we are not talking about the C-17 in this bill, because we are supporting the C-17.

Mr. DICKS. Mr. Chairman, will the gentleman yield on that point briefly?

Mr. PRICE. I yield.

Mr. DICKS. I had a hearing with Mr. Carlucci. I asked Mr. Carlucci the question, "Will this slow down the decisions to go forward with the C-5? Would it slow down the C-17?"

I said, "There is no question, though, that you are stretching out the C-17 program."

Mr. Carlucci said "no." Then he checked the record and put "yes." "In other words, you are slowing it down?"

Mr. Carlucci said "no" at the hearing. He changed the record to "yes."

There is no question about it. The difference in funding profile is about $7 billion. The chairman of the board of McDonnell Douglas said:

If you give me the same funding profile that you are giving the C-5, I will deliver that plane in 1987 at the same time you get your first C-5.

In my view, the C-17 is far superior. In the short term, we can use existing wide bodies, which are highly capable and much less expensive to the taxpayer.

AMENDMENT OFFERED BY MR. BADHAM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. DICKS

Mr. BADHAM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BADHAM as a substitute for the amendment offered by Mr. DICKS:

Page 6, line 13, strike out "$17,243,400,000" and insert in lieu thereof "$16,383,400,000".

Page 8, after line 12, insert the following new section:

PROHIBITION OF FUNDS FOR CERTAIN AIRLIFT AIRCRAFT

SEC. 110. None of the funds appropriated pursuant to an authorization of appropriations in section 103 shall be available for purchase of new strategic airlift aircraft for the Air Force other than KC-10 aircraft.

Mr. BADHAM. Mr. Chairman, I have offered a substitute for the amendment offered by the gentleman from Washington.

It is my estimate the nearest thing that we will ever have on the floor of the Congress to "a deal that you cannot refuse." This is an amendment to reduce the procurement figure for fiscal year 1983 by $860 million and in so doing does not cut into sinew or muscle of the defense establishment. It does not shut down a production line. It does not stretch out a delivery system. What it does, and we were talking earlier this day on another subject, it sends a signal to the Pentagon and to the White House saying in polite terms to the Pentagon, "Gentlemen, get your act together on strategic airlift."

Now, I think there is no question, I hope there is no question in the mind of any Member of this body, that strategic airlift is one of the top requirements today if we are going to have any kind of a credible defense that will allow for force projection anywhere in the world. We need sealift and we need strategic airlift and we do not have sufficient today.

Well, then, why does the gentleman from California, a strong advocate of a strong defense, want to cut $860 million out of the procurement budget? I will explain that, by giving you a little history that I think you all should be aware of, but should be brought again to mind.

Sometime ago, the Air Force and the Department of Defense came before the Congress and they said, "We need a new advanced tanker cargo aircraft and we need it now."

There was a competition and the winner of that competition was the McDonnell Douglas DC-10 airframe modified to be an aerial tanker and cargo plane which came to be known as the KC-10.

Now, I go back that far to show you how bad the Pentagon can do from time to time. The KC-10 airframe was bought under terms that were so favorable that any individual or corporation buying automobiles would have jumped at it and the Pentagon did jump at it and then they backed away. They lost the good terms economically that they had with McDonnell Douglas and stretched out the program, which will make it cost more. We are still buying KC-10's; and we should be. That is why I have excised the KC-10 from this substitute for new strategic aircraft for the Air Force, other than the KC-10. The KC-10 is bought. It is being delivered on time, on schedule, and on the money. It would have been even better if the Department of Defense had been paying attention to economics.

Now comes the need for strategic airlift of outsized cargo, oversized cargo, and an ultimate replacement for the C-141 and C-130's. DOD had a competition called CX which left a very unpleasant taste in the months of the Members of this body and particularly the members of the Committee on Armed Services, because it was presented so poorly that it looked like another C-5 that they were buying and nobody wanted that.

So we had the CX competition. The proposal by the Air Force, the presentation was poor and they admitted it, and so we killed it. Then they came back the next year and finally the Secretary of the Air Force and the Secretary of Defense ended the argument, we thought, by saying that the competition between Lockheed, Boeing, and McDonnell Douglas is over and what will be called the C-17 has won the CX competition.

I will have to say that I was one of those Members who thought CX as the specifications came to our committees was one of the dumbest ideas since the C-5; but I went out on my own to go to one of the manufacturers.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for an additional 5 minutes.)

Mr. BADHAM. I went out on my own to McDonnell Douglas and had a briefing on the congressionally mandated mobility study which was the grandfather of the CX and strategic airlift. I went through what the requirement was and I went through what the presentation was and I became a convert to the C-17. I wish more of my colleagues had at the time, but the competition was over. It was ended. We were going to ask for money for the C-17, when all of a sudden now came Lockheed with an unsolicited proposal to give us—another CX? No. Another freighter? No. Give us some more C-5's.

I cannot believe it; so I went over and talked to the gentlemen at the head of the Pentagon and they told me that the competition that was ended really had not ended at all, but after the competition ended and they got a CX candidate, which was named C-17 and was awarded to McDonnell Douglas, they said, "Now, that plane has to compete with every other airplane that is flying," presumably the C-5, the 747, L-1011, anything there is.

□ 1510

I could not believe that. This was a backward look, if you will to the previous administration's vacillation on ordering weapons systems.

I objected to that, but my objection was, apparently, not well enough heard. It was not heard in Seattle, Wash., I can tell Members, because after the sole-sourcing, of 50 more C-5's now came Boeing with a further unsolicited proposal. I do not know who might be next in this business of unsolicited proposals, but I say it is about time the Air Force gets off its landing gear and starts making some decisions.

Now, the body of this substitute helps the administration and the Department of Defense make that decision. Again I say, without stopping a production line, because there is no production line for C-5, there is no real production for 747's because they are sitting in parking lots all over the world, and there is no production line for C-17's.

But by delaying for 1 year and telling the Pentagon to get its act together so that the next time they come to us, they offer us something we need and give us something we can use.

Now the final argument in favor of my substitute: There will be no delay. The Air Force, the Army, the Marine Corps, the Navy, all want C-17, and if there is any high-ranking uniformed person in the U.S. military who tell you differently, he either does not know the facts or he is kidding you, because that is the word we have gotten.

The first C-17 will roll out between 4 and 6 months later than the first new C-5 rolls out. So we are not talking about a great delay. The Air Force would have us believe that since the first C-5, new, that rolls off will be immediately operational because they have 77 C-5's—after they get the new wings on—whereas, once the first C-17 rolls off you have to have 11 more of them before you can put them in a squardron and call that an operational unit, and that will take 3 to 4 years, they say.

Let us tell the Department of Defense to tell us what they need and that will be the C-17, and we will give it to them.

I would like to just make one more comment before I yield to the gentleman. In the testimony before the Committee on Armed Services, we

heard from the Commanding General of the Miltary Airlift Command, General Allen. When asked by the ranking minority member of the committee, Mr. DICKINSON, "Well, General, what really are your choices; how will you use 747's if we give them to you?"

General Allen thought for a moment and he replied, "You mean what are my 'druthers,' 1, 2, 3?"

He said, "Yes, what are your druthers, 1, 2, 3? How would you use 747's? If we gave them to you, that is?"

His reply was, "My first choice would be to sell them to private industry, the airlines. My second choice would be to give them to the Guard. And my third choice, and last choice, would be to try to find some way to absorb them in the military airlift fleet."

That is not a very good argument for 747. C-5 does not have all that great an argument. C-17 has the best argument. But I think by eliminating this money, we would get the C-17 as soon as we would any other good airplane.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding.

Mr. Chairman, I know the gentleman would not want to mislead this body. There is one point I would like to make with respect to the production line of the C-5: 51 percent of that production line is now in operation.

The CHAIRMAN. The time of the gentleman from California (Mr. BADHAM) has expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 5 additional minutes.)

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield further?

Mr. BADHAM. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I thank the gentleman for yielding further to me.

Mr. Chairman, the gentleman knows that they continue to make spare parts, they are in the modernization or rewinging program. So 51 percent of that production line is now in operation.

On the other point the gentleman made about the confusion at the Pentagon, let me read what the Commander in Chief says about the C-17:

Finally, we plan to use available fiscal year 1981 funds in the CX program to continue research and development on C-17, thereby preserving the option of developing the C-17 for procurement in the late 1980's, to provide out-size capability and be a potential replacement for the C-130 and the 141.

Members just heard the gentleman from Virginia say a few moments ago that before this debate concludes today we will offer an amendment, that is, before the debate concludes on this bill we will offer an amendment which will line item funds for the C-17.

I thank the gentleman for yielding.

Mr. BADHAM. I thank the gentleman for his contribution.

I think the gentleman and I are not that far off as far as misleading is concerned. My statement that a production line was not open for C-5, part of it may be open to rebuild the wings, but we have not produced a C-5 in over 9 years, as the gentleman knows.

I do not think anybody on this floor could be considered a stronger supporter of, as you called him, our Commander in Chief, certainly, than I. I am not saying that he is wrong; because he is right; he says we need a C-17, we need airlift, and I think somebody over at the Pentagon may have misled him a little bit, rather than the other way around.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman.

Mr. GINN. I thank the gentleman for yielding.

Mr. Chairman, by his own statement, my distinguished colleague points out there is a serious need today, now, for increased airlift capability.

What we are trying to do is to provide that airlift capability as soon as possible. We are not here today fighting the need for the CX or the C-17 down the road. I think, as I understand it, it will be designed, it will be built, it will then be tested, it will then have crews developed for it. All of that takes time. We do not have that time for the immediate future.

It is not needed until the C-41's and the C-130's become obsolete. No question about it, when you compare the C-5 and the 747 that the C-5 is a proven military product. It has performed in the Mideast war. I think it helped end that war in some 7 days when it landed and tanks rolled out. It did not have to have expensive unloading equipment to help unload as does the 747.

There is no comparison between the C-5 and the 747 when you look at the facts. As the debate unfolds, we will attempt to clear up some of the distortions, some of the misrepresentations of fact, in fact, that have occurred with regard to the C-5.

Mr. BADHAM. Let me thank the gentleman for his contribution, and I will have to say that this gentleman agrees with the gentleman that should it come to a comparison between 747 and C-5B as a military aircraft for the airlift mission, the gentleman is right; there is absolutely no comparison.

But I hesitate, to quote the words of another gentleman from Georgia who is no longer here, "Why not the best?"

Mr. GINN. Mr. Chairman, will the gentleman yield further?

Mr. BADHAM. I yield further to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, we are trying to give the gentleman the best now, while we wait and develop the C-17 as, in fact, it is needed.

The gentleman knows this decision was not made by the gentleman from Georgia nor any of the Georgia delegation Members. It was made by the President of the United States. It was made by the Secretary of Defense, by the Deputy Secretary of Defense, by the Secretaries of all of the services, and supported by the Vice Commandant of the Marine Corps.

They say we need the airlift capability now and there is no need for the CX now because it is a paper plane, still to be developed, to be built, tested, and its crews developed.

The C-5 is a proven product.

I thank the gentleman for his comments in that regard.

Mr. BADHAM. The gentleman is almost correct. The C-17 is not a paper airplane. The wing flies, the engine flies, all the parts of that airplane have flown. So it has been designed.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I would just like to say to the gentleman that I think he has made a very compelling case for the C-17. I share his judgment that the C-17 is a much more capable airplane.

Is it not true that the McDonnell-Douglas Co. built the YC-15 in the advanced medium STOL transport competition which in essence is a smaller version of what today is the C-17? We demonstrated, we flew it, in fact we have had that plane more closely than we have had going back to the old C-5.

So I agree with the gentleman.

□ 1520

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent Mr. BADHAM was allowed to proceed for 5 additional minutes.)

Mr. DICKS. I think the gentleman makes a very telling point, plus is it not true that the chairman of the board of the McDonnell Douglas Co. said that the C-17 was given the funding profile that the C-5 is getting, the accelerated funding, the extra $3.7 billion that Mr. Carlucci supposedly found, he could deliver the C-17 by 1987 or 1986? That is what he testified, so we are going to get a plane about the same time as the C-5.

Mr. BADHAM. I was going to point that out in further response to the gentleman from Georgia. It has been said. In fact, even with the normal R. & D. you would roll out the first

C-17 in 4 or 6 months after the first C-5.

Mr. DICKS. Is it not true that every military leader, General Myer, General Storey, General Gabriel, General Kingston, General Vessey, all recommended to Mr. Carlucci—let me just read General Myer's quote:

I believe it is vital for the Air Force and Army to stand firm on the CXC-17 so we can get an airlift aircraft that meets our wartime requirements.

Is it not true that because the C-17 has direct deliverability to the battlefield and also intratheater capability, that it is far superior as an air lifter to the C-5? Is there any question in the gentleman's judgment about that?

Mr. BADHAM. That is why I am here.

Mr. DICKS. All the military leaders recommended the C-17. The gentleman and I may have a slight difference about what to do in the near term, but the gentleman and I have the same judgment about the vast superiority of the C-17 over the C-5, a plane that has caused us tremendous problems.

Mr. BADHAM. I thank the gentleman.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I want to thank the gentleman for bringing what seems to me to be the most rational idea into this debate. I do not know very much about the sophisticated weapons, but it seems to me as though, if I put it in more practical terms, we need a heavy truck for some uses. The gentleman from Washington is willing to give us a station wagon right off the floor, ready for delivery. The committee is willing to give us a used truck that will work part of the time. It seems to me that the gentleman is trying to give us an opportunity to buy a truck that will do the right job. It will take a little longer to get it, perhaps, but it seems more sensible than to spend money for things that are not quite right for the job.

I thank the gentleman for yielding.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Georgia.

Mr. McDONALD. Mr. Chairman, I appreciate the gentleman yielding to me. I was quite interested in the comments of the gentleman from Washington State citing that the C-17 was a proven aircraft. Is there any place we could go to view the C-17 or touch it or watch it fly as of this date?

Mr. DICKS. We will get you the YC-15.

Mr. BADHAM. I did not respond to that purposefully. I did respond to the other gentleman from Georgia when I said that it is not a paper airplane, when I said the wing has flown, the engine is a shelf item, the surfaces have all been flown, but it is not all put together.

Again, I would like to quote from another gentleman from Georgia who is no longer with us in Washington when he was talking about the Stealth bomber existing, and it "ain't."

Mr. McDONALD. If the gentleman will yield further, I appreciate the gentleman yielding and making the point that the C-17, as an aircraft, as a flying commodity, at this time really does not exist. I can appreciate the fact that various components have been tested, are being tested, and the Armed Services Committee certainly has supported the continuing research and development. The dilemma that we face is supplying the critical airlift, particularly an out-size capability that included intratheater. The C-5 was able to deliver that without $3 billion of the research and development cost that the C-17 or CX would require on the immediate basis.

There is no question that there could very well be great value of the C-17 as an intratheater and intertheater down the line, particularly intratheater, but at the present time the C-5 is able to perform both the functions of intertheater and intratheater and is able to land loaded in less than 3,000 feet of runway.

Mr. BADHAM. If I may reclaim my time, if it should come to an argument between C-5 and 747, I do not think there is really any good argument from a military standpoint. However, I would point out to the gentleman that we do already have the C-5. The gentleman said that to the other gentleman from Georgia, that we already have C-5's. We are not going to get the next C-5 for another 4 or 5 or 6 years, which would be about 6 months or maybe 4 months earlier than the first C-17. So, it cannot be said you are going to get C-5's a long time before you are going to get the C-17. We have already got C-5's, so those are already there.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. BADHAM was allowed to proceed for 5 additional minutes.)

Mr. BADHAM. We are not going to get the first new C-5 until only about 4 months ahead of the first C-17, so that argument, I think, falls.

Mr. RUDD. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Arizona.

Mr. RUDD. Mr. Chairman, I thank the gentleman for yielding. I also appreciate the gentleman's stand and his statements with regard to the C-17, which would in fact do a much better job than the C-5 on the long haul or less, get into better fields, and has a longer range, as a matter of fact. There are questions that have been asked here whether or not we have one, but the C-17 is a direct result of the building of the YC-14 and YC-15, which were in competition to finally get some kind of contract for it. It does fly, it will carry everything the C-5 will do, and I think there will be savings to the people on the long haul to take the money we propose to spend for 50 more C-5's and put it into the C-17 program and get on with the program and get the job done right.

We are currently involved in a debate over the size and structure of military airlift that this Nation needs to meet its security requirements.

The debate seems to be centering around the past performance of one aircraft: the C-5, and the expected economies of another, the 747-F. What is being ignored is the actual requirements of airlift for this Nation.

The C-5 was an idea that took shape even as the plane was under construction. Its critics accurately point out that this plane has one of the most expensive maintenance records for the entire Air Force fleet; that the wing design is faulty, necessitating a complete rewinging for the entire fleet; that it cannot land at austere airfields as was originally promised; and in fact, is quite a burden at most airfields unless those fields are large enough to contain that plane. Acknowledging those criticisms does not mean that the C-5 program has been a total failure. Its problems notwithstanding: The C-5 remains the only plane in the Air Force inventory that is capable of carrying outsized equipment. It is, in fact, the largest airplane in the world: and as such has unique capabilities essential to the Air Force's airlift mission. More importantly, the thousands of hours of experience with what is essentially a one of a kind—almost experimental airlifter has given the Air Force the knowledge and practical experience to know exactly what to expect from a heavy airlifter and know how to meet those expectations in the years to come.

The 747-F is a highly reliable, efficient commercial airlifter which has proven itself in industry. It is more fuel efficient than the C-5; and in fact, has a greater payload range. It does not, however, have the outsized cargo ability of the C-5, nor does it have the parachute delivery capability of other airlift bodies. In addition, its unloading and loading configuration are not adapted to a military environment and as such, poses severe time and logistical problems in any military deployment.

Make no mistake, there is a critical airlift shortage in this country. What is needed is an airlifter that has a good maintenance profile; is deployable in

most airfields; including austere ones such as those that can currently handle the C-130; has outsized cargo capability; has parachute delivery capability; and is configured for roll-on roll-off loading. Both the C-5 and the 747-F meet many of these requirements, but neither meets all the necessary requirements for the airlifter that we need for the coming decade.

There is one plane, however, that does meet those needs. It is the C-17. This plane, which was the winner in a contest put on by the Air Force to design a plane for its future airlift needs meets all the requirements for the modern airlifter.

The C-17 would utilize off-the-shelf, proven technology to reduce the complexities that have so besieged the C-5. The component systems that have proved so troublesome in the C-5 have been reduced by two-thirds; and more importantly, these components have been flight tested in commercial operations.

The C-17 has the outsized cargo capability that exists now only on the C-5, and more importantly, can pick up and deliver that outsized cargo at numerous more locations. In addition, the C-17 will be the only airlifter that can parachute deliver outsized cargo. The C-17, with its proven, advanced engines with directed flow thrust reversers will be able to fit into many airfields which cannot now hold the C-5.

In payload capability, the smaller C-17 comes very close to the deployable capability of the C-5, especially in the real life deployment from the current staging areas that would be used.

The C-17 is the product of years of design and testing of the airframe and component systems. Its component systems and airframe have been tested in commercial operations and in exhaustive windtunnel tests, as well as in prototype testing with the YC-14 and YC-15.

It is designed to provide efficient and capable intratheater and intertheater airlift, at life cycle costs significantly below any currently available aircraft. Furthermore, this aircraft can be procured at roughly the same rate as any possible C-5 fleet.

Mr. Speaker, in these days of fiscal restraint, and of the existing, unparalleled threat to our Nation's security, it is necessary to make forward looking decisions in meeting our military needs. The C-17 is one such forward looking idea. It meets our airlift needs, it does so at reasonable costs; and most importantly, it is what we need to get the job done.

Mr. SMITH of Oregon. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield.

Mr. SMITH of Oregon. Mr. Chairman, I rise in support of the gentleman's amendment. I spent about 10 years flying for Pan American as a pilot and flight engineer, and another 10 years flying for the Air Force. I would not necessarily verify the Air Force's statistics, but I think the people I am now representing are neither the airlines nor the Air Force, but rather the American taxpayers.

I see the gentleman's amendment as the best decision for the taxpayer. We have an opportunity here to do what is right and to buy the next generation of aircraft technology. As an Air Force pilot, I have seen many instances where through an illogical political decision we have provided the Air Force with a machine that lasts forever and ever, is a lousy decision as far as flying airplanes is concerned. I think the C-5 and the problems that have been associated with that airplane over the past 20 years are clearly not something we want to repeat.

By the time we start getting the C-5B, we are in fact going to have a 25- to 30-year-old technology airplane. That is too long.

I think the gentleman's point about the C-17 and the fact that it has been flown, even if it is in a smaller version, is very important. It is very important to the future of what we need to defend our country. So, I intend to vote in support of the gentleman. As to the arguments about the 747, I think it is a better airplane if you compare airplane to airplane. In outsize cargo, there is no doubt that it cannot be hauled by the 747, but I would tend to support the C-17, and I intend to support no money for either the rehashed C-5 program or the 747.

Mr. BADHAM. I thank the gentleman.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I am not sure whether I see how the gentleman's amendment over a 3-, 4-, 5-, or 6-year period in fact is going to save any money. I think the gentleman is quite persuasive. I have spoken to him on other occasions with regard to the C-17, and other people on the committee, but it is my understanding that his amendment simply deletes any possible funding for the 747; in other words, guts the amendment of the gentleman from Washington, deletes the existing money in the bill for the C-5B.

But, the gentleman is saying that he wants to make that saving for the taxpayers of this country of the money because he wants to go forward with the C-17. If he wants to go forward with the C-17, would he not have to put money back in for the C-17, and therefore his amendment really does not save any money? It might be a very good amendment with regard to plane versus plane, but could the gentleman explain to me how it really saves any money for the taxpayers?

Mr. BADHAM. I thank the gentleman for that question. I did perhaps not fully allude to that.

□ 1530

The way the money is saved for the taxpayer is that, yes, all new airlift money would be removed from procurement. There is money for R. & D. in the R. & D. title of this bill, and that would stay there for the C-17, which is under progress now. I would add in the R. & D. title of this act money for expanding or really finalizing R. & D. for the C-17, and when that becomes ready for production, I would introduce either a supplemental and the C-17 would be a less costly plane than the C-5, or I would introduce a request for money, and the savings would accrue for the 1-year period. The savings overall would accrue because of lower maintenance, lower crew costs, and lower fly-away costs of the C-17. All of those, I would conclude, would save a bundle of U.S. taxpayers' dollars.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding.

I wonder if the gentleman would carry this one step further, because I am not as familiar with the C-17 as the gentleman in the well. If the gentleman got his wish with regard to the passage of this amendment and if he got his wish with regard to a supplemental for research and development for the C-17, I would make this inquiry.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. BADHAM) has expired.

Mr. COURTER. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. BADHAM) be permitted to proceed for 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

Mr. BRINKLEY. Mr. Chairman, reserving the right to object, of course, I shall not object, but I would point out there are others of us on the committee, as is the gentleman asking for the extension of time, and perhaps after this 5 minutes we could proceed in the regular order in order to get our own time with the indulgence of the gentleman?

Mr. BADHAM. Right.

Mr. Chairman, if the gentleman will yield, I appreciate his comment, and this will be my last 5 minutes. I have waited, too, on other amendments and I appreciate the gentleman's situation, as I have been in the same situation. This will be my final 5 minutes.

Mr. BRINKLEY. Mr. Chairman, I do not object and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. COURTER. Mr. Chairman, if the gentleman will yield further, the question, then, is, assuming the gentleman got his wish with regard to the supplemental and his amendment today, as far as time goes, in what year would the C-17 be operational?

Mr. BADHAM. Mr. Chairman, we are advised by the Air Force and we are advised by the contractor that if the C-17 normal R. & D. continues, the first C-17 will roll out approximately 4 to 6 months after the first C-5 could be rolled out.

Mr. COURTER. Mr. Chairman, I thank the gentleman.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I will yield to the gentleman if he will understand the constraints I am under. I am happy to yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I will take my own 5 minutes, but first I wanted to make one statement, if I may.

Mr. BADHAM. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I think the gentleman is misleading the Members, perhaps not intentionally. The C-17 is still on the drawing board. It cannot fly; it cannot fly for a number of years. It has to be totally tested. I admit that the C-5A has had its problems, but it has been tested, the wings are being strengthened and we know it will fly. We know it will do the job.

Mr. BADHAM. Mr. Chairman, if I may reclaim the final seconds of my time, the gentleman knows that I never said the C-17 is flying. It is on the drawing board, and it is undergoing development. I said the engine is flying and the wing has flown. A smaller version is flying, I beg the gentleman's pardon. The technology is there, the shelf technology, and it is ready to go. That is what I said. Others in their zeal said it was flying, but I did not say that.

Mr. MONTGOMERY. Mr. Chairman, I apologize to the gentleman, then.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, just briefly, may I ask the gentleman, could he also characterize this as kind of like the C-5, as a paper plane, since we have not built one in 9 years?

Mr. BADHAM. No.

Mr. Chairman, I yield back the balance of my time.

Mr. WHITE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington (Mr. DICKS).

As one who has no parochial interests in this particular issue, in that nothing that I know of is made for any of the planes in issue in my district. What I am interested in is defense.

I recall a statement made before our committee by General Barrow of the Marine Corps—I happened to serve in the Marine Corps at one time and, therefore, have some sympathy for the needs of the infantry—who said that we have more fight than we have ferry capacity. This, I think, is entirely important when we are talking about the defense of this Nation.

Now, the purpose of the C-5B KC-10 program is to buy airlift, not just to buy airplanes. If buying planes was the object, there are many other types of planes available at cheaper prices than the 747. And the 747 is a good plane. I like to fly it myself, or rather, fly in it.

The objective is to obtain airlift, near-term airlift, flexible airlift, to close the gaping hole in the outsized airlift capacity to far places in the world.

The amendment offered by the gentleman from Washington would not buy flexibility; it would merely buy planes. We can recite that by looking at the amendment itself. The criteria are: those that are available at surplus for the requirements of the present owners, or are suitable for conversion of military cargo configurations, and, number three, owned by domestic companies on the date of the enactment of this act.

I sympathize with airlines that have aircraft on their hands, but we are talking about defense, not bailout.

Mr. PRITCHARD. Will the gentleman yield?

Mr. WHITE. If the gentleman will allow me to complete my statement, I will yield later, because I may run out of time otherwise.

Under one of the proposals made by the sponsors of the Boeing 747, it would in fact make no additional contribution to airlift. Under their proposal various 747 aircraft would be sold to the Air Force that are already available as airlift under various contracts for commercial aircraft. Of the 31 aircraft Boeing would propose that the Air Force purchase, only 7 are configured for cargo and only 2 are fully configured.

Now, in a combat mode, in a multitheater program, undoubtedly we will lose aircraft. We have, I understand, 77 presently. There were supposed to be 150 built in the first instances. But with the multitheater needs, these will probably be insufficient.

The 747's cannot land on unprepared airfields. They do a beautiful job of landing on good airfields.

I think from what the author has on display here, it shows wheels dredging through very thick muck but the fact is, I understand, those pictures were to show the capabilities of the C-5's to move forward under harsh conditions on unprepared fields.

I am told, for whatever it is worth, by those who know more of the details, that the C-5's have a capacity of California bearing ratio of 9. I asked what that means, and it means that you can land on unprepared fields, not the worst fields, but you can land under combat conditions in fields that have sufficient firmness under them and not needing an airfield itself.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. If the gentleman will please permit me to finish, I will yield later if I have time.

The 747's cannot offload or onload without special loading towers. This is important if you are taking cargo in, outsized cargo to a combat area, even behind the lines, because you might not have those towers. The 747's would probably have to carry the towers with them, which means more filling of the cargo space.

With the C-5's these can drive on and off, and that is so important. I personally feel that they might have used the C-5B or the C-5A to go into Iran and be able to take offloaded helicopters and be ready to go and save 24 hours. That is my own personal thinking. I asked a military man who is highly placed, and he thought it could be done, too.

The 747's cannot carry helicopters, I understand, without removing the blades. The C-5B's, I understand, can take helicopters onload and offload with blades intact and go off and fly immediately.

The 747's cannot carry outsized equipment, and C-5B's can. U.S. forces already have 747's in their reserve fleet under the craft program. They have 31 747 freighters and 5 747 convertible-to-cargo aircraft.

And this is very persuasive to me. A combat unit can be airlifted with equipment regardless of what equipment it is and land and go off to its assigned mission.

Now, the author of the amendment says that only 18 percent of the equipment is outsized.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 5 additional minutes).

Mr. WHITE. But, Mr. Chairman, that means that most of the combat vehicles. And a study by the congressionally mandated mobility study group concluded that the addition of 25 million ton-miles per day of aircraft cargo is needed to include at least 10

million ton-miles per day of outsized cargo capability. That is almost half of what is needed in outsized equipment.

If we buy the wrong plane, we are not saving money; we are wasting money. I like the 747, and it has a place. Maybe we will end up with a mix. The CX and C-17 will not improve our outsize capability, regardless of what has been said, it is estimated, until the 1990's.

□ 1540

Maybe they will have a crash program of some sort and get it earlier, perhaps.

The C-5B would become operational 3 years prior to any C-17 aircraft, I understand. They have got years of operational experience.

This bill includes a C-17 already. There are $1 million of R. & D. moneys in this bill for further intertheater airlift to replace the C-141 and the C-130 aircraft.

It also includes the KC-10, 44 aircraft cargos for refueling mission.

The issue is the estimated differences in the cost of the $50 million per year for 20 years. Is it worth the difference in capabilities represented by 50 C-5B aircraft versus 33 new or used 747 aircraft?

For someone who has said the C-17 can do the same thing as the C-5B, do they think of this: a C-5B can carry two M-1 tanks. It would be a squeeze, but they could do it, I understand. A C-17 can carry one M-1 tank. The 747 cannot carry an M-1 tank.

Undoubtedly each plane has its purpose. But what we want today is an airlift capability of outsized equipment, for whatever exigencies may arise in the emergencies we face in this Nation.

I hope we can help these aircraft companies in other ways, but let us not forsake defense today in an effort to help these other companies.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Washington.

Mr. PRITCHARD. I thank the gentleman for yielding.

I think we ought to set the record very straight here. No one is talking about not having C-5's. We need them. They are a part of the mix. They are important.

We have 77 C-5's now. There is a mix now. There is a variety of planes that carry our cargo today.

The question is what kind of a mix do we need in the next few years? What can we get that we need for this shortfall? What is the shortfall? How do we get to the C-17 finally, which is the plane that I think all of us agree is what we really need?

When you talk about 77 planes going into the dirt, is it the gentleman's feeling that we need planes that can land in these forward fields?

Mr. WHITE. I think we need planes that can land under whatever combat conditions exist. Obviously they are not going to land right behind the lines, but you never know what the problem is in the event, say, the Soviets or the Warsaw Pact countries may push our forces back.

There may be a prepared field, or they may be bombed out, and we may have to land on grass fields in order to bring our troops and bring our tanks and outsized cargo in.

Mr. PRITCHARD. Let me continue, if I may. First of all we have 77 planes that can do that job today.

We carry all of the troops by 747's, so if you are carrying in a unit, you are going to land the material at someplace different than where you land the troops.

Mr. WHITE. You may bring in that unit and they will have their equipment and be ready to go. Besides that, you are going to have an attrition rate. You have to count an attrition rate under combat conditions. You are going to lose some of those 77 aircraft. You are going to have to have enough in order to respond to different areas.

Mr. PRITCHARD. No question.

Mr. WHITE. Different areas at the same time and 77, my friend, will not do it, I do not feel. They say that they are 10 million tons short of outsized equipment per day.

Mr. PRITCHARD. Let me just complete this. So we have a shortage. Now we have 77 of these C-5's now and the question is where is the shortfall. Is it in these outsized items like helicopters and things that have to be carried by the C-5's?

Mr. WHITE. Yes, sir.

Mr. PRITCHARD. Or is it in the other 85 percent of the load, which are pallets and a whole variety of material that the Army needs?

The shortfall, the shortfall is in the 85 percent.

We have 77 planes that can carry the 15 percent, and we have to beef up our ability to carry the other.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(At the request of Mr. PRITCHARD and by unanimous consent Mr. WHITE was allowed to proceed for 3 additional minutes.)

Mr. WHITE. Maybe the gentleman did not hear the figure I gave. They said that they are 25 million tons short per day of carrying capacity. Of that, 10 million is outsized. So almost half is outsized.

Yes; we have CRAFT units. Yes; we have the ability to bring in more 747's. Yes; if we got into a major emergency, undoubtedly we would buy more 747's and we may still do so.

But what I am saying is that we need this outsized because that is all we have at the present time to carry outsized equipment.

Mr. PRITCHARD. The problem you have is for 3 years you are not going to have any new C-5's.

Mr. WHITE. If we do not do it today it will be even longer.

Mr. PRITCHARD. You need the C-17, and that is really the answer.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. I think the gentleman has asked a very pertinent question. He asked what the mix should be.

The military leaders have answered that question. The answer is 50 more C-5B's. That is all: 50 more C-5B's. That is what the mix should be.

If we need 747's, we can commission them at the appropriate time from the CRAFT fleet.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Washington.

Mr. DICKS. I think the gentleman knows that from the very start our presentation has been made on the basis that the 747 could be converted into an air freighter that could be utilized, or we could get brandnew air freighters so that we would have air freight capability.

The point I would like to make to the gentleman is the 747's, configured as an air freighter, will carry 35 tons of cargo more than a C-5 when you look at the differences in bulk and oversize.

So you have a carrier, a plane that is substantially less expensive and you can buy it to carry bulk and oversize. Then you have your 77 C-5's to dedicate to the outsized equipment. You can put more outsized in those C-5's.

Then go with the C-17, which is the right answer for the outsized in the future. Then you do not have to go back to the C-5, which has had a dreadful record, as the gentleman well knows.

Mr. WHITE. I would not say that.

Mr. DICKS. It is a plane that has 53 percent mission capable rating, and a plane that requires 76 maintenance hours for every hour in the air. Why do you want to do that when you can get the C-17?

Mr. WHITE. Because, sir, we have only one plane that can carry outsized and that is the C-5. I do not denigrate in any way the 747. The problem with the gentleman's amendment is that it strikes all C-5's.

Mr. DICKS. We have 77 of them already. The gentleman knows that. We are not striking any of the C-5's.

Mr. WHITE. No, but in this bill you are striking any more, and they say that they need more, they are short 10 million tons a day in outsized capability.

Mr. DICKS. If the gentleman would just yield on this point, is it not true that we can get the existing wide bodies into the inventory more quickly so if the gentleman is genuinely concerned——

Mr. WHITE. It would not do any good.

Mr. DICKS. If the gentleman is concerned with adding capability in the near term, the way to do it is with the wide bodies.

The CHAIRMAN. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(By unanimous consent Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. WHITE. Will the 747's carry a tank? Will they carry artillery?

Mr. DICKS. Let me tell the gentleman that Air Force Gen. Kelly Burke says "People generally almost always think of tanks when you say outsize, but normally that is not a big thing to move by air. It is a very inefficient way to move tanks."

Gen. P. X. Kelly, Vice Commandant of the Marine Corps, says:

I believe that there has always been some misconceptions relating to the relationship of a tank with strategic airlift. In my view, using a C-5 aircraft for the intertheater airlift of one main battle tank is uneconomical and should be the exception rather than the rule.

The reason you do it is, you have a sealift and a prepositioning for those tanks and the 77 C-5's.

Mr. SMITH of Oregon. Will the gentleman yield?

Mr. WHITE. If I have the time I will be happy to yield.

Mr. SMITH of Oregon. The gentleman brings up the point about defense and what we really are here to try and protect, the taxpayers, and try and see where we are going with this bill. But if you look at what we are going to face when we arrive at the distant theater, we are outnumbered 4.3 to 1 in tanks, 4 to 1 in armored personnel carriers.

The CHAIRMAN. The time of the gentleman from Texas (Mr WHITE) has again expired.

(At the request of Mr. SMITH of Oregon and by unanimous consent Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. SMITH of Oregon. We are outnumbered 4.8 to 1 in the field artillery guns and 14.5 to 1 in air defense guns.

All those things are weapons that are going to have to be hauled by the outsized capable airplane, which in this case is either the C-5 or the C-17.

So it seems to me if we are going to spend so many dollars on an outsize airlifter, and the first 12 of the C-5B's are going to cost us $283 million apiece, we ought to be spending it to be sure that we are not so far outnumbered when we arrive in the theater to have to face these overwhelming odds.

Mr. WHITE. You have to get there with what you can and get there with the mostest. A bird in the hand. The gentleman knows the old proverb.

The attacker picks his point of attack.

□ 1550

We have to be able to respond wherever that is. So, therefore, we cannot pre-position, especially in the spirit that the gentleman mentioned. We have to garner what we have and put them where it will do the most good. That means we have got to have the C-5B's to carry these wherever the threat is.

Mr. SMITH of Oregon. We need to have the capability. I do not disagree with the gentleman there. But if we land one of those C-5B's in the gravel or mud, it will stay there—and that will be pre-positioned. But that is not the right kind of equipment to pre-position, I am afraid.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Tennessee.

Mr. BEARD. I cannot believe that after 10 years we are still going through the same scenario. In this beautifully sophisticated, highly technological country of ours, there is something dramatically wrong when the average time from the drawing board to actual deployment of our new weapon systems goes somewhere between 12 to 15 years. In the Soviet Union, the average is about 5 years.

So here we are, just like we were when we were discussing and debating the B-1 bomber, and you had all of the people coming up and saying, "Well, but we have got the Stealth bomber right down the road, it is in the 1990's, it is much more highly sophisticated, let us wait for that." I have seen it happen on tanks, I have seen it happen on jeeps, I have seen it happen on every type of weapon system coming down the pike. And, as a result, we are sitting around with tanks that are old. The Soviet Union has come out with three to four new families of tanks. We are sitting around with submarines, finally getting the Trident off.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has expired.

(On request of Mr. BEARD and by unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. BEARD. We are sitting around while we are trying to get the Trident out. Here we go, sophisticating it, and all of that. The Soviet Union puts out four or five new families of submarines. Now everyone has agreed that we have a tremendous shortfall in airlift capability, tremendous. Nobody disagrees. But I find it hard to believe that, once again, we are saying, "Look, let us go to the C-17." Well, what is the C-17? It is a piece of paper. That is all the C-17 is. And you watch, they will go to research and development, and then through the layers of bureaucracy in the Pentagon. By the time we get to the C-17, you are talking about the 1990's. I just challenge anyone on this floor to say that we will not need airlift before then. I am not prepared to take that chance. We need the C-5B. It may not be perfect, but it is the best thing going. We do not need to drop the 82d Airborne into an area and make them a bunch of kamikaze pilots. We have got to have the opportunity to get the tanks there, to mechanize our artillery. And right now the C-5B is the only ball game in town, and I think it would be terribly irresponsible for this House to do that action which the Senate did or, even more irresponsible, if we fell back to the drawing board and went back to a piece of paper again.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California.

Mr. ROUSSELOT. I appreciate my colleague yielding.

I will ask my colleague, the gentleman from Tennessee, did he just say that we will not have the C-17 until 1990?

Mr. BEARD. I have heard 1987, I have heard 1988. but I have seen the Pentagon in action before. I have seen the bureaucracy in action before. And if you are talking about going to the R. & D. of the C-17, by the time we get that thing actually deployed, if I were a betting man, I would say 1990, if we are lucky.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(On request of Mr. ROUSSELOT and by unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. ROUSSELOT. The gentleman is on the Armed Services Committee, and I know that he has had a view of our ability to deliver on weapon systems. So what my colleague is saying is that we are running a terrible risk to further postpone the C-5B?

Mr. BEARD. Without any question, I think the gentleman is extremely perceptive.

Mr. ROUSSELOT. I appreciate the gentleman telling me that, because I want my constituents to understand that at home.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California.

Mr. HUNTER. I appreciate the gentleman yielding, and I would like to amplify very briefly on his remarks, because I think we have been missing

the mark, to some degree, in the last 10 to 15 minutes.

This is a depiction of Saudi Arabia. If you could see it a little closer, you could see the yellow dots depict those major airfields on which the 747 can land. This area is the Straits of Hormuz through which the great lifeline of oil that this country depends on flows. There are approximately 80 airfields in Saudi Arabia that the C-5 can land on. There are only four airfields in Saudi Arabia—these are major airfields—on which the 747 can land, and on which it has equipment with which it can unload itself. There are only 20 airfields that can be landed on by the 747, presuming that they can ferry some type of unloading equipment to those areas.

If you were an American field commander in Saudi Arabia and you needed the Attack helicopter, you needed the M-1 tank, you needed the infantry fighting vehicle, you needed these major weapons systems that we have spent $40 billion on, what would you rather have, the C-5 that can move to any of these some 40 airfields around the Straits of Hormuz or the 747 that can operate on only 4 airfields in Saudia Arabia?

And I would say simply to my colleague—and I thank him for yielding—I think it would be a sad day in American history should a field commander have to explain to his troops that he did not airlift the equipment that they desperately needed because Congress got a great deal on some commercial aircraft back in 1982.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. DICKINSON. Mr. Chairman, I do not think there is anyone in this committee or in the House who has dealt with this subject matter longer than has the gentleman who is speaking now in the well.

This came before our Research and Development Subcommittee I think for the first time some 5 years ago. For 3 years we turned down the request of the Department of Defense, we zeroed the budget item, when they came in and said they wanted the so-called CX. So we asked, "Well, what is a CX?"

Well, they did not know exactly, but they knew that they needed an intratheater capability. And so we asked them to give us a little more detail, and would they please be a little more particular in describing the need. What is the need?

Well, they said that they had the C-5, but they wanted an intratheater capability, that once the goods got there, whether it be by surface transportation or otherwise, to deploy up close to the line. And everything that they said gave us—me, in particular, I guess—a feeling of deja vu, and I asked—as I recall, it was General Kelly at the time—"Are you using old slides or new ones? It seems I have heard all of this before when you were trying to sell us on the concept of the C-5."

He said, "Excuse me, but this is a new presentation."

But the unimproved landing field, the outsize cargo, the extra lift, and all of the things that are being used to sell the CX had been used when they sold the C-5 to us.

Well, we bought the C-5, and we went through many moments of unhappiness as we found out what it was that we had bought. Not only was there a $2 billion overrun, which the Air Force denied and denied, and finally admitted. Parenthetically and ironically, in the whole fiasco of the original C-5 overrun, when Lockheed was saying, "Well, there is no overrun," and the Air Force was saying, "Well, there is no overrun," and then they finally admitted, well, yes, there is a $2 billion overrun—the only guy that was degraded, demoted, fired, lost his job, transferred, or whatever, was a guy by the name of Fitzgerald who blew the whistle and said, "Hey, something is wrong." He was the only guy who suffered. Everybody else got promoted. Nobody lost their job. Everybody said, "Yes, it is a terrible booboo, but it did not happen on my watch," and Ernie Fitzgerald, who we are just finding out has been reinstated, after 10 years, who blew the whistle and said something bad, was the only one who got fired. That is just history, but it just shows you that I have been around that long.

So then we turned down the CX 2 years running. Gen. Dutch Heyser, who at that time was the head of MAC, came in to see me and sat in my office and said, "Well, Congressman, what do you have against airlift? Why don't you approve it?"

I said, "General, you misunderstand. We have nothing against airlift. We recognize the need for airlift. We are supportive of airlift. You just do not have your act together. You cannot answer the questions. You go back and get everybody lined up and answer the questions of why you need a whole new program, a whole new development program, starting from square one, a multibillion dollar program, and come in and convince us what this will do more than the C-5 now, and then I think we will buy it."

When then they come back had the C-17 concept. But, in the meantime, awarding a contract to McDonnell Douglas for the CX, they put this aside and come forward and say, "Hey, we want the C-5."

General Kelly, who was the head of our Rapid Deployment Force for several years—he no longer is, but he is in the Pentagon, as the Assistant Commandant of the Marine Corps—came before our committee last month and said, "Gentlemen, I would like to take my hat off to you on the Armed Services Committee. You were right. You were right in this committee when you killed the CX because we did not know what we were doing. We do know what we want, and we want the C-5. We also want a follow-on C-17."

And so I asked either General Kelly or Gen. Jim Allen, who is head of MAC, "Well, what are you going to do about a C-17? Are you going to build it? Are you going to go forward with it?"

The answer was, "Yes."

They are going through the logical, step-by-step research and development. There is money in there this year. There will be more money in the R. & D. for the C-17. But I have to differ with my good friend—and I mean that in every sense of the word—the gentleman from California (Mr. BADHAM), when he says it will be only 6 months difference. That is just not so.

□ 1600

We will be lucky to have 2 years difference.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. We will be lucky to have the C-17 within 6 years of when the next C-5 rolls off. Let me recount and remind the Members of some of the things that happened. We sent through an R. & D. program on the C-5. We got into a great deal of trouble. It was too heavy. They had to redesign. Ultimately, in order to meet the weight specs, they lightened the wing root. When they lightened the wing root not only did we have a $2 billion cost overrun, we shortened the life of the C-5 by one-half. Instead of 30,000 hours of flight, we cut it down to 15,000 hours because there was not enough structural integrity in the wing root. It cost the taxpayers of this country—not Lockheed because the Air Force had already accepted it—another boo-boo. I think the figures are $1.8 billion more than the overrun and more than the original contract to correct the deficiency.

So all of this was a learning curve and we have paid dearly for it. But now the C-5 is flying. It is doing a great job. It is doing the job for which it was built. I am sorry that there is so much provisionalism built into the argument here but let me say they do not build anything in my district, and I do not care who gets what. As far as what helps my people, I am trying to get the best buy I can for the American taxpayer.

Let me talk about some of the misinformation that is being given out. This was alluded to earlier.

One of the things that we hit the Air Force with so hard was their claim that they wanted the CX because the C-5 is so large that when it lands at airfields in Europe and around the world it so large that it will block the runways and about half of the airfields that are available cannot be used if a C-5 is sitting on the runway.

So, we asked them in committee why do you not pull the darn thing off the runway, get it out of there? Well, it is on a pavement and it is so heavy and so forth. I said it has 28 wheels on the thing. It was sold using the argument that it would run on unimproved fields, land in a pasture, take off from a pasture. Why not. So they went back and they made a study. This is the study.

They tried it in mud, they tried it in snow, they tried it in sand, and one of the proponents of the first amendment today has given the benefit of some studies by showing the wheels of the C-5 mired in mud right over here. Well, it is nice of them to do that because this is a study that shows that it can operate in mud. It did not stick. It will operate in mud, snow, sand, just like it was designed to do 15 years ago. It can be pulled off runways, the paved portion.

Now what are we going to haul in it? Well, you are not going to haul tanks. That is true. That is the dumbest thing going, saying we are going to build a C-5 or CX and C-17 to haul a tank. There could not be a more inefficient use of an aircraft. But what the proponents of the amendment did not tell us is that here is a list of things that will be hauled in a C-5 that cannot be hauled in a 747.

Does anyone know how high you have got to lift the load to put it in a 747? Sixteen feet. You see this gold bar around here at the gallery. I measure that. That is about 16 feet. You have to lift a truck, a jeep, a pallet way up to get it in the door of a 747. Now you talk about palletized cargo, you talk about jeeps, you are going to put a helicopter on a crane and pick it up 16 feet to put it inside of a 747? Of course not.

This is a list of what cannot go with a unit into combat unless its loaded in an outsized cargo plane.

Mr. Chairman, I will include this with my remarks.

Some of the things, not only tanks, combat engineer vehicles, tracked bridge launchers, tracked recovery vehicles, self-propelled howitzers, two kinds, MLRS launchers, cargo helicopters, utility helicopters, electronic shop repair parts. The list goes on. All that has to be carried in an outsize cargo aircraft such as the C-5B.

The list follows:

LOADABILITY OF SOME SIGNIFICANT ARMY EQUIPMENT ON THE C-5A/B AND THE BOEING 747F

A. LOADABLE ON C-5A/B BUT NOT ON THE B-747F

Tracked vehicles

M1-M60 Combat Tanks.
Combat Engineer Vehicle.
Tracked Bridge Launchers.
Tracked Recovery Vehicles.
8-in Self Propelled Howitzer M110.
155-mm Self Propelled Howitzer M109.
MLRS Launcher Loader.

Helicopters

CH-47 Cargo Helicopter (Disassembled).
UH-60 Utility Helicopter.

Wheeled vehicles

Semitrailer Mounted Electronics Shops.
Semitrailer Mounted Repair Parts Vans.
Semitrailer Mounted Supply Vans.
Semitrailer Mounted Shop Vans.
Semitrailer Mounted Topographic Vans
Semitrailer Low Bed 60-ton M747.
Semitrailer Flat Bed M872.
5000 gallon Tank Semitrailers.
Pershing GM Battery Control Central.
I-Hawk GM Platoon CP.
MLRS Cargo Truck M985WWN
8-ton Cargo Truck M877
8-ton Cargo Truck M520WWN.
2500 gallon Tank Trucks.
Van Truck 5-ton.
Van Truck 2½-ton.
Truck-Tractor 22½-ton M746.
Truck-Tractor M911
Truck-Tractor M916
Truck-Tractor M920
Truck-Tractor-Wrecker M819WWN.
Truck-Wrecker 5-ton M816WWN.
Truck-Wrecker 10-ton M553WWN.

B. LOADABLE ON B-747F ONLY AFTER MAJOR REDUCTION AND WITH SPECIAL PROCEDURES

Tracked vehicles

Cavalry Fighting Vehicle.
Infantry Fighting Vehicle.
Tractor Full-Tracked M9.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

I have asked the gentleman to yield to clarify the issue before us. There is an amendment, that would substitute, the C-17 for our airlift needs.

Now, is not the C-17 a paper airplane?

Mr. DICKINSON. That is true.

Mr. GOLDWATER. Was the C-17 a derivative of the YC-14, YC-15 competition, several years ago?

Mr. DICKINSON. Let me answer very briefly, then I will complete my statement and try to respond. The so-called C-17 or CX grew out of what was before that, an AMST and the McDonnell Douglas YC-15. It was originally designated AMST. that was canceled. They came up with a new concept called CX. Then it was given the nomenclature of C-17, an evolutionary thing, none of which has followed through to become the next generation.

Mr. GOLDWATER. It was primarily designed to replace the C-140 and C-130, is that not correct?

Mr. DICKINSON. Yes.

Mr. GOLDWATER. And it was not designed to replace the C-5 or the larger airlift capability?

Mr. DICKINSON. The gentleman is absolutely correct.

The C-17 will be built, at least with the permission of the Congress, because that was the testimony given to our committee. When all this came about I asked the chairman, to have an extra day of hearings on the airlift question just last month. We had everybody. The gentleman from Washington (Mr. DICKS) came, General Kelley came in, Lou Allen, head of the Air Force came in. Everybody had their say. It was a good hearing. They are going forward with building the C-17 in an orderly manner and there is money in R. & D. and there will be more money in R. & D. it is for that reason I would oppose the amendment of the gentleman from California who wants to take out all airlift money, in order, I suppose, to force a decision on the C-17. Delaying it for a year is not going to put anything in the inventory. It is not going to accomplish anything. It is going to be done. If anything, it will slow it down and cost more money. That really should not be a consideration here. There will be a C-17 built and they are going forward in an orderly way. The question is here, that we have an airplane builder who has a lot of airplanes sitting around that they own them, and they would like the Government to buy them. They say well, you are going to have to carry people and smaller cargo so we will get you to buy these at a discount price. I say, the DOD should not be forced to bail out anyone. The planes are used, so let's buy them at a discount price and save a lot of money. And I might say that to convert one of these to a cargo carrier, under the CRAF program, will cost somewhere around $25 million after you buy the bird, to convert it to a cargo carrier.

□ 1610

Now, we have some pretty pictures here showing front end loading of a 747 and that is nice. It shows a loader lifting it up and the nose up.

Now, of the list of those aircraft proposed to be sold, I think only six, the gentleman can help me, only six are already configured for freight; is that right, I ask the gentleman from Washington (Mr. DICKS)?

Mr. DICKS. Well, under our amendment, the Secretary would look at existing wide bodies first, but if you wanted brandnew ones, we would be glad to give them to him.

Mr. DICKINSON. Well, the gentleman furnished us a list and I want to know how many of those have been configured for freight already. How many can be front-end loaded?

Mr. DICKS. I think we have six.

Mr. DICKINSON. There are five.

Mr. DICKS. Five or six right now.

Mr. DICKINSON. All right, I thank the gentleman.

But what I am trying to say, it is ludicrous and they float these pictures around showing front-end loading, how you can lift cargo up with a loader. How do you suppose this loading equipment is going to get there to load these things in remote spots? These very intricate cranes and platforms are hydraulically operated to pick up a load 16 feet up to this gallery level. Are we going to fly those overseas when we have a trouble spot and have them pre-positioned so that then we can bring in 747's?

Now, this is ludicrous. The airlift that the military says that they need and which we are convinced that they need has the ability to come in, open up front and aft, and drive vehicles off fore and aft.

With a C-5 they have landed, taken a helicopter, folded its wings, pulled it off, unfolded its wings and had the helicopter airborne and the plane off the ground in 5 minutes. You cannot do that with a 747.

What we are talking about, you have a three-quarter-ton truck and a Cadillac over here and you say, well, you can haul people in both, so buy some Cadillacs.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKS. Mr. Chairman, will the gentleman yield, just in the spirit of fairness? The gentleman made a long speech.

Mr. DICKINSON. The gentleman is talking about time? I will be glad to yield. I have asked unanimous consent for 5 additional minutes. I will be glad to yield to anybody as time permits, but I do not want to be threatened.

Mr. DICKS. No, no.

Mr. DICKINSON. I have asked unanimous consent for 5 additional minutes.

The CHAIRMAN pro tempore. Without objection, the gentleman has been recognized for 5 additional minutes.

Mr. DICKINSON. Yes, I will yield to the gentleman.

Mr. DICKS. The gentleman knows that I have the highest personal respect and regard for the gentleman. I never would say anything at all that would be offensive, and I think the gentlemen is an expert.

I just want to clarify a couple points, since the gentleman referred to me.

Mr. DICKINSON. Briefly, please, and then I will be glad to enter into a colloquy with the gentleman when I have finished.

Mr. DICKS. First of all, we have loaders all around the world to take that equipment off those planes. The gentleman is aware of that.

Mr. DICKINSON. The gentleman is talking about commercial fields, right?

Mr. DICKS. Well, at commercial fields.

Mr. DICKINSON. You do not have them any place but commercial fields, do you?

Mr. DICKS. One of the things the gentleman has mentioned is on the question——

Mr. DICKINSON. I did not get the answer to my question. Do you have them any place but commercial fields?

Mr. DICKS. No; but you can take it with you in the lower bay and assemble it there and unload the equipment with that.

Now, let me just go back to one question the gentleman made. This is the Secretary of the Air Force in 1980. This is what he said about the austere runway thing:

> The C-5 is in our inventory and is vital. We have all admitted that, a necessary part of our integrated airlift force, but additional C-5 aircraft would not reduce the dependency of our airlift force on major airfields. The C-5 tests on unprepared surfaces at Harper Dry Lake and on Matting and Dyess Air Force Base were terminated before completion because of runway and aircraft damage. The results of these tests plus the operational experience we have gained over the past 12 years have shown that the C-5 is not compatible with a small austere airfield environment because of aircraft size and operating characteristics. I know that originally we thought C-5's should be able to do that, but we were wrong.

That is the Secretary of the Air Force, Hans Mark.

Mr. DICKINSON. Will the gentleman set the scene, the time, and place for that statement?

Mr. DICKS. That was a 1980 statement.

Mr. DICKINSON. Was that before or after this study was made?

Mr. DICKS. I think at the same time. But let me just give the gentleman——

Mr. DICKINSON. No; it is important and I would not want to gloss over it, because this is a study——

Mr. DICKS. I have a date on this one, August 19, 1980.

Let me give you what the MAC people said:

> Tests were conducted on dirt surfaces at Shaw Air Force Base, South Carolina, Altes Air Force Base, Oklahoma, and Eglin Air Force Base, Florida, from July 9 to August 19, 1980. Subsequently tests on snow were conducted at Griffith Air Force Base, New York, from January 20 to 23, 1981.

I think this is the study the gentleman refers to.

The bottom line conclusion from the Military Airlift Command was that the C-5 off runway operations require complex premeasuring of soil strengths and ruled out writing war plans around the C-5 off runway capability. The C-5 off runway capability will only be used in emergency, to move a broken airplane out of the way and only on a case-by-case basis after extensive soil measurements.

Mr. DICKINSON. Well, if I might reclaim my time, I also had the benefits of the study that was made at Eglin where repeated traffic cycles resulted in ruts up to 8 inches deep with upheavals of 6 inches. The C-5 was able to taxi and off load under these conditions. The C-5 cargo handling system functioned without difficulty under all circumstances and so forth and in austere conditions.

The gentleman is not trying to tell me that a 747 can do that? Is the gentleman trying to suggest that the 747 can do better than the C-5?

Mr. DICKS. The strategic air mission as such will have the C-5's going to a major airfield in the rear area, just like the 747 will.

Mr. DICKINSON. I understand that. If I might reclaim my time, yes, I understand what the gentleman's scenario would have; but the gentleman's scenario would have you shipping ahead all this off loading equipment, ship ahead the crews to handle it and then bring in this 747 on improved runways and that is supposed to answer the question.

I do not care whether we ultimately buy the 747, but I am afraid I might be taking too much time and I do not want to do that. I will be glad to try to respond, but just let me say, now, General Kelley, who is Assistant Commandant of the U.S. Marine Corps, said:

> If there is anyone in this room who truly believes that we could move sufficient outsized equipment . . . in the paltry 77 C-5s that we have available in the military today, then I am wasting my breath.

There is no one person that has come before our committee in a uniform, in any position of responsibility, Air Force, Army, Navy, nobody has said one word in favor of buying a 747 in lieu of a C-5, nobody.

The whole idea comes from somebody trying to peddle airplanes. I just think it is the wrong idea and I am opposed to it.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(At the request of Mr. MOORHEAD, and by unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. MOORHEAD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Well, since the gentleman from California made the request, let me yield to him and I will work my way around.

Mr. MOORHEAD. Mr. Chairman, I wish to commend the gentleman in the well for the statement that he just made and wish to join with him in his statement in opposition to the amendment and in support of the purchase of the C-5. It seems to me when you have the Army, the Navy, and the Air Force and all the people in our committees that are assigned to this job that make a decision based upon the facts that they have before them and upon information about the needs of our armed services, that we should stick with them.

The airlift issue at the center of this debate has generated many claims and counterclaims over the virtues and shortcomings of the Boeing 747 and the Lockheed C-5B aircraft. Although the President, the Secretary of Defense, the Joint Chiefs of Staff, the Service Secretaries and the House and Senate Armed Services Committees have supported the purchase of 50 new Lockheed C-5's to improve our overall strategic airlift capability, we are now being asked to evaluate the relative performance capabilities of the C-5 and the 747 for budgetary reasons. I do not disagree that there is a need to cut Federal expenditures wherever possible in order to ease the strain on the Federal budget, but to approve the purchase of an airplane that will cost less at the expense of performance capability is very poor defense planning, indeed.

Our defense experts have testified that the C-5 is the best possible remedy to alleviate our near-term airlift shortfall. Since airlift constitutes such an important part of logistics planning, the transport airplane used in the airlift is a major determinant for the efficiency and effectiveness of our airlift missions. Military experts are telling us that, if rendered operational under actual emergency circumstances, the more efficient and flexible aircraft for rapid deployment would be the C-5 the unique features of which make it the best possible plane to do the job. In addition, the C-5 has been improved to better meet our military needs for today's combat situations.

Proponents of the 747 have told us that 48 747's would be equivalent to 50 C-5's, will save us $6 billion over the next 20 years and will be available for use 3 years earlier. At a glance, this option would certainly appear to be the more attractive one. However, the defense experts, in closely examining the Boeing proposal, have informed us that the Boeing facts and figures are misleading enough to warrant a much closer look by this body. According to the Air Force, the Boeing 747 life cycle cost calculations were not done on the same basis as the Air Force C-5 cost calculations and, as such, do not provide for a fair comparison of the relative costs involved. In fact, Air Force price analysts have refuted the $6 billion savings and documented the difference at less than $1 billion over a full 20-year cycle of both planes. Therefore, we are really talking about a $900 million difference over 20 years. I believe that cost is an important consideration and we should be circumspect and thorough in this regard, but we must not lose sight of the basic and overriding concern at the heart of this issue: that of military utility.

While the Boeing 747 may cost less in its present capacity as a commercial passenger aircraft, the facts will undeniably change if it is to be adapted for military use. Even if we did add 48 or 55 modified 747's, they still would not meet all of the requirements for our military airlift operations. Boeing's own chairman of the board has publicly stated that Boeing is not proposing that the 747 be used to carry outsized equipment. Keeping this in mind, I believe our choice of plane seems clear.

No one can deny that the 747 is a valuable national asset and, with modifications, would be useful for some deployment missions. However, the Air Force has pointed out that a strong civil reserve air fleet modification program, through which existing commercial 747's are already available, can provide airlift at one-seventh the cost of Air Force ownership of these aircraft.

I appreciate that we are, and should be, very sensitive to the risks and costs of making and selling airplanes in today's economy. Procurement of 747's would certainly help those who manufacture the aircraft as well as those airlines from which the surplus aircraft would be bought. However tempted we may be to aid our ailing industries, can we really justify, in today's action on this issue, relief for some industries, or elements of one industry, and not provide relief for others?

We are faced with a decision that affects the mobility, deployment, effectiveness, and response of U.S. Armed Forces. I cannot stress strongly enough that we are not going to get a bargain if the product we buy cannot do the complete job. The 747 will not adequately meet all of our military cargo transport needs and, therefore, is not cost effective by any measure. In closing, I urge my colleagues to carefully consider the real issue underlying this debate and support the Armed Services Committee recommendation to buy the C-5B and reject the motion favoring the 747.

Ms. FIEDLER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from California.

Ms. FIEDLER. Mr. Chairman, I, too, would like to rise in support of the position of the gentleman in the well and commend him for the effort he has made on behalf of the C-5.

Mr. Chairman, I rise in opposition to the amendment and to the proposal to substitute the purchase of a number of Boeing 747 airliners in place of the 50 C-5B heavy military transport aircraft that are included in H.R. 6030, the fiscal year 1983 Department of Defense authorization bill.

The C-5 program has the full support of the military and many defense experts. In testimony before Congress and in repeated public statements, Secretary of Defense Caspar Weinberger, Deputy Secretary of State Frank Carlucci, and many generals, have all stated that while the military needs and wants the C-5B, the same cannot be said about the 747. If the Air Force were required to purchase 747's, they have stated that they would try and lease them back to the airlines under the civil reserve air fleet program rather than have to operate these unwanted aircraft themselves.

A comparison of the C-5B and the 747 is very much a case of comparing apples and oranges. They are by no means the same type of aircraft. The key difference is that the C-5 can carry tanks, self-propelled artillery, and a wide variety of large weapons that simply cannot fit in a 747, even with disassembly and the special loading equipment the 747 requires. Delivering tanks overseas by air may be crucial in a future conflict—dozens of tanks flown in to win a decisive battle are infinitely more effective than hundreds of tanks shipped in after it is too late. To quote that great homespun military genius, Nathan Bedford Forrest, to win you must "git thar the firstest with the mostest." Forrest brought his troops to the battlefield on horseback. Today, we need something a bit more far ranging to bring the weapons we need for victory across oceans.

The comparison of the 747's supposed greater serviceability rate is also an apples and oranges comparison. Airliners will always be flown more than a military transport aircraft, if only for the simple reason that a profitmaking airline gains money every time an airliner flies, while the Air Force loses money every time a transport aircraft flies. Subject the two types of aircraft to the same constraints, and Air Force figures suggest that the difference in serviceability and availability rates will not be significant.

The cost figure that is most important in any military aircraft is its life-cycle cost—the total cost of the aircraft over its service life. Air Force and Defense Department cost analysis have suggested that the life-cycle cost difference of a C-5 force as compared to the requirements of a larger 747 force means that the 747 force would only save 900 million present-day dollars. Claims of savings in the short

term will be balanced out by the longer term of life-cycle costs.

None of this detracts from the fact that the 747 is an excellent aircraft—when it is done what it is designed to do. The 747 aircraft, it is proposed to purchase, can make a contribution to our airlift capability through being available through the civil reserve air fleet. However, it remains that the C-5 is the only aircraft that can answer the needs for our near-term airlift capability, an aircraft that can carry large loads such as tanks for long distances. I therefore recommend that the amendment be defeated.

Mr. DICKINSON. Let me say, I appreciate the remarks of the gracious gentlewoman from California.

I really do not want this to be so much in favor of the C-5 as I do in favor of airlift and the taxpayer.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Indiana.

Mr. HILLIS. I thank the gentleman for yielding.

I think the gentleman has really crystallized the debate here this afternoon. I know all of us had the opportunity to go out to Andrews and see a C-5 and see it loaded and unloaded. I took advantage of that and I am sure many others did.

In talking with the crew members there, I was really impressed with the fact that those fellows had flown the airplane for a number of years. They had made the Israel airlift in 1967 and 1973, I believe—or in 1973. They had been involved in Vietnam with C-5's.

Even if you are moving into what are improved airfields, many times the time that you can stay on the ground because of the existing conditions is rather limited.

The point the gentleman made of the loading and unloading with the 747 requires tremendous amounts of time.

The C-5 there, they unloaded a helicopter, just as the gentleman said, flew it away, brought it back and put it in again and it required no setups. It was very quickly done and the airplane was ready to go again. The turnaround on them is tremendous.

I just thank the gentleman for bringing this all into focus, because I think it is very important that we understand what we are buying here. We need something that will do the job under difficult conditions sometimes. The C-5 will do that.

□ 1620

Mr. DICKINSON. I thank the gentleman.

Mr. McDONALD. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Georgia.

Mr. McDONALD. I thank the gentleman for yielding.

I think it is important to correct the record. The gentleman from Washington State is certainly an honorable gentleman and I know he would not want to mislead anyone, but with regard to the tests of the landing at Dry Lakes, on which the tests were terminated due to damage to runway and damage to the landing gear, it is important to point out that that was on the old triservice matting. They found out that the welding in the matting was defective. That matting is now being replaced. It is in the process of being phased out in favor of the AM-2 matting for the runways and the C-5 has repeatedly landed on the AM-2 matting without any incident, and that is the matting for the present and future.

The CHAIRMAN pro tempore. For what purpose does the gentleman from Wisconsin (Mr. ASPIN) rise?

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Mr. BRINKLEY. I ask for the regular order, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair will inform the gentleman that recognition is within the discretion of the Chair.

The Chair has recognized the gentleman from Wisconsin (Mr. ASPIN).

Mr. ASPIN. I would be happy to yield to the gentleman from Georgia (Mr. BRINKLEY).

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from Wisconsin. Of course, I was not objecting to his being recognized. All of us have been "raring to go" to have our say. We will wait.

I thank the gentleman.

Mr. ASPIN. Mr. Chairman, I will not take the full amount of time, but I thought I would just take the well to talk about the issue just a little bit from the standpoint of somebody whose constituency is not involved in the issue.

Looking at the issue from the perspective of not having any constituency involvement and really coming from a State which has been pretty tough on the C-5 over the years—I used to work for the senior Senator from Wisconsin and we were involved in having a lot of rather unkind things to say about the C-5A at the time that, as the gentleman from Alabama (Mr. DICKINSON) was referring to, the Ernie Fitzgerald case.

But I do think, looking at this thing now as objectively as I can from the standpoint of standing back and saying: What is the best thing to do with the three alternatives that we have before us, the 747, the C-5, or neither, with some implication of perhaps a C-17. I come to the conclusion that the best thing we ought to do is to buy the C-5B, and I come to that conclusion not without thinking that there are not some advantages to the 747.

If Members look at this thing, it is not a clear call. The 747 has some advantages. It has some advantages in range, it has some advantages in payload, but the C-5 has the one main thing that is critical, which is the ability to carry the out-size cargo.

That, I think, is most important. What you do is, you line up the advantages for the C-5, you line up the advantages for the 747, and you find there are advantages on both sides.

Which of these characteristics is most important?

Is it most important to have range? Is it most important to have payload? Is it most important to have several of the other classifications? Is it better to be able to have aerial refueling? Is it better to have better capability in loading and unloading?

The C-5 and 747 have different advantages. But the one most important thing, it seems to me, and the one thing we are buying this aircraft to do, is to carry the out-size cargo. That is the one advantage that the C-5 has.

I back that up with two other things that have decided me in favor of voting for the C-5.

When I was studying the issue and looking at it, I decided to call some people who worked in previous Democratic administrations in the Pentagon and ask their opinion as to which way we ought to go. In every case that I asked—and I asked about four people whose judgment I really trusted, in every case they said it is an arguable case, but the best thing to do is to go with the C-5.

One more point: I think past experience that we have had with trying to force a weapons system down the throat of a service that does not want that weapons system inevitably turns out to be a disaster. If it is a close call in your mind and the services want weapons system A and they do not want weapons system B, and most importantly, provided it is a close call, the advice I would have is: Always go with weapons system A, because when you force a weapons system down the throat of a service, be it the Air Force, be it the Army, or others, the number of things that can get screwed up is enormous. They always do get screwed up.

So, for those three reasons, that is my recommendation.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I will in just a second.

I think, looking at all those things, I have come to the conclusion that in spite of the fact that I did not like the C-5 when it started, I saw some problems with it, in spite of all the criticisms that I, when I worked for the senior Senator from the State of Wisconsin, used to have about the C-5A, I look at this and I objectively say to myself: What is the best thing we

ought to buy right now? And I think we ought to buy the C-5B.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Tennessee.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(On request of Mr. BEARD and by unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. BEARD. I commend the gentleman for his thoughtful statement. I think he addressed the situation as to comparing the C-5B to the 747. I know my colleague from Wisconsin, I believe, spent some time on the Research and Development Subcommittee.

In addressing also one other alternative that has been presented which would lead us to the C-17 as an alternative, as most weapons systems, major weapons systems, go down the pike, such as the C-5 when it originally started, there were major problems that had to be corrected. It was a very time-consuming, very costly process.

I think the gentleman also, having been on the R. & D. Subcommittee, understands that in a major weapons system such as this, it is just on paper now and it is awfully difficult to get a system such as this R. & D.'d, deployed, tested and deployed in several years.

So would the gentleman not agree that the C-17, whereas it may be that "future" down the road that we have to continue seeking for improved transport capabilities, but that should not really even be considered in this particular buy of trying to alleviate the problem of out-sized cargo, a problem that faces us today?

Mr. ASPIN. I would agree completely with what the gentleman from Tennessee is saying. I guess if rule No. 1 is do not try to force a weapons system down the throat of a service if it is at all close with the weapons system that the service wants, rule No. 2 is always take a weapons system that you have now rather than one that is on paper.

Mr. BEARD. The fact is, we have gone through the problems with the C-5, which we all felt very strongly about and disagreed with, but yet we could very well and probably go through the same major overhaul problems with the C-17 once we are ready for it.

Mr. ASPIN. Whatever we say about the C-17, it is almost for sure going to take longer to build than we think. It is going to be for sure more expensive than what we think. It is almost for sure going to be less capable than what we think. And, in the end, I think we would be sorry that we did not go with the plane that we have.

Mr. BEARD. That just verifies the fact that the gentleman did serve on the R. & D. Subcommittee.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I promised to yield to the gentleman from Washington, and I do so at this time.

Mr. DICKS. I thank the gentleman for yielding.

Mr. Chairman, I sympathize with how long it takes us to get a weapons system fielded. But the gentleman points out that we ought to go along with the services on what they recommend.

Mr. ASPIN. Not in all cases.

Mr. DICKS. I remind the gentleman that the services on January 8 unanimously recommended to the Under Secretary of Defense that they wanted the C-17. Every military leader we have today, including Kelly Burke, including P. X. Kelley, Lou Allen, Kingston of the Rapid Deployment Force, Gabriel, the top people in the Air Force and the Pentagon, the military officers unanimously recommended the C-17. And Mr. Carlucci turned that around and went with the C-5.

So I think one could say if you are going to say do what the military says, we ought to be supporting the C-17.

□ 1630

Now, in General Heiser's briefing to the Congress, he suggested that the right mix near term and long term was to use existing, in this case KC-10, and the C-17. That was the right mix of equipment. Near term, we get additional bulk and oversize capability; and long term we get the right outsize airlifter.

What bothers me is, why do we want to go back to the most discredited plane that has ever been built in the history of this country when the line has been down for 9 years? It is going to cost the taxpayers, in my judgment, at least $7 to $8 billion more. We do not have a subcontractor situation in place. Why go back and do that with a technology which is 25 years old when we have got a plane that has many additional surfaces, additional flaps, all kinds of problems? It has a 53-percent mission capability rating. It requires 76 hours of maintenance for every hour in the air. Why would we want to go back in that direction when we can get a plane, either the 747 or the C-17, which is much more efficient?

Mr. ASPIN. If the gentleman will stop asking the question and let me answer, the gentleman asked two questions. Let me answer the first, which is that I think what we have is a close call between the C-5 and 747, and so I am saying that when there is a close call we ought to give a lot of consideration to the service preference, and the services clearly have a preference for the C-5 over the 747.

Mr. DICKS. They would rather have the C-17.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. DICKS and by unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

Mr. ASPIN. But the other point, and the principle that Deputy Secretary Carlucci was applying, was the principle that you are better off with a plane that you have already got than one that is on paper. In that I concur.

Let me go to the gentleman's second question about the discredited C-5. The C-5A did have a lot of problems, and it was a problem-ridden aircraft, but by no means the worst and by no means unexceptional. It happened to get a lot of publicity thanks to the work of the senior Senator from Wisconsin, because I helped him. He got a lot of publicity on it, but it happened to come up and the issue rose at a point where the war in Vietnam was becoming unpopular, and for the first time in our country we began to be critical of weapons systems. We had never done that before. The first one to come along on that really was the C-5, C-5A. It had a lot of troubles. I am not trying to minimize the troubles, but compared to other weapons systems that happened before and since it got a disproportionate amount of bad publicity for what was going wrong.

Yes, there were things wrong, but when you think over the publicity it is one of the weapons systems that stand out in peoples' minds only because of the publicity. It was by no means the worst turkey I can think of that we have purchased.

Mr. DICKS. It was close.

Mr. ASPIN. No. it was not even close. It was in the lower 50 percentile.

The second point is that because a weapons system at one point is not doing very well does not mean it cannot be fixed, and there were changes and there were improvements on the C-5A; in the end it became an adequate if not a better than adequate plane. It now is a rather credible piece of equipment.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mr. GOLDWATER and by unanimous consent, Mr. ASPIN was allowed to proceed for 3 additional minutes.)

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from California.

Mr. GOLDWATER. Mr. Chairman, I thank the gentleman for yielding. I would also rise in support of the committee's decision to build the C-5B. In doing that, I would commend the gentleman for his very neat observation of his two rules; do not try to retrofit

an old aircraft into a new mission, and second, do not try to cram something down the services' throat that they are not in favor of because you will run into resistance and as a result you are not going to get the kind of equipment or cooperation needed.

I have had an opportunity to fly the C-5A, the 747, and the YC-15, which is the forerunner of the C-17. That does not make me an expert, but I am familiar with the equipment, and I have to conclude that all three of those aircraft are good aircraft even though the C-17 is not in existence as of yet.

The original concept and knowledge derived from the research and development of the YC-14 and 15 apply to the C-17, and will be the replacement for the C-130 and C-140. Looking at the 747 and C-5, two good aircraft, both having their own developmental problems, both providing good service in their own missions, we are being asked to substitute one for the other. This is not wise; it should be stopped by voting no on the Dicks amendment. The C-5A, was built expressly for a military mission, strategic airlift capability, carrying military equipment to a hostile theater of operation.

Maybe the 747 can do the job, but that is in question. It seems to me we already have an airlift that has been proven out by the services and recommended by all the Joint chiefs of Staff, the President, all the civilian authorities as well as the committee. It just seems to me the argument the gentleman makes is a very valid argument. The argument the gentleman from Alabama (Mr. DICKINSON) made about the problem of the loading of cargo is persuasive and is a very vivid example of what the people out in the field would have to face with loading a 747, 16 feet off the ground versus a drive on-drive off capability of the C-5B.

So, Mr. Chairman, I would urge that we vote down the amendment of my colleague from California (Mr. BADHAM) vote down the amendment of my colleague from Washington (Mr. DICKS), and support the committees position in authorizing additional C-5B's.

Mr. ASPIN. I thank the gentleman.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Georgia.

(At the request of Mr. GINN and by unanimous consent, Mr. ASPIN was allowed to proceed for 2 additional minutes.)

Mr. GINN. Mr. Chairman, I want to thank the gentleman in the well for his very thoughtful statement. Obviously he has given a great deal of thought to this matter. When we talk about the C-5 we need to point out and make it clear that it was a pioneer effort. There was nothing like it prior to its construction. Of course there were problems, but those problems have been corrected. It is a flyable, workable piece of machinery, and it has worked in wartime. That is something significant to remember.

The second point, the Boeing Co. is a great company. We all like the Boeing Co. While the 747 has been a good airplane, it has now been rejected by its own industry, the airline industry, for what it was made to do, and that is to haul people.

Then on the C-17, let me point out that four different committees or subcommittees of this Congress rejected the C-17 because there is not time to design, build and test it. The bottom line in this discussion, I think, is the severe need for additional outsize airlift capability, and we need it now. Clearly, the C-5B, as the gentleman has so appropriately pointed out, is the way to go. Not only is the C-5B supported by the President of the United States and by the Secretary of Defense and the various Secretaries of the services, but General Kelly of the Marine Corps came before our Subcommittee on Defense Appropriations and looked us all in the eye and said:

If I have to take my Marines into battle and I do not have the C-5B to get them an outsized cargo, it could very well cost many lives of my Marines.

It is also supported, according to a letter from the immediate past Secretary of Defense, Harold Brown. He says:

I continue to believe that the outsize capability is a requirement that should govern this decision. For that reason the C-5B seems to me to be the preferred solution.

Mr. ASPIN. I thank the gentleman. I have just 1 additional minute to respond, and then I will get out of the well. I think what the gentleman is saying is correct, and the comment from Secretary Brown, he was one of the people I had consulted about this matter. I think that what had happened, the C-5A is an interesting case. It came along at a time when that publicity surrounding the troubles with the C-5A was so enormous because it was the first time we really had hearings critical of a weapons procurement system. It would not have gotten the same kind of publicity were it to be done today.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

Mr. DOWNEY. Mr. Chairman, I ask unanimous consent that the gentleman have 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, I would like to get some idea of how many Members want to be heard on this subject.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

□ 1640

Mr. DOWNEY. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I am happy to yield to the gentleman from New York.

Mr. DOWNEY. Mr. Chairman, I do not mean to embellish this. I have tremendous respect for the gentleman, and there are few topics on which we disagree. This happens to be one of them.

One of the principal points the gentleman made was about ramming things down the throats of the services. From my brief tenure on the committee, I am inclinded to agree with him. But I think there are a number of notable exceptions where the Congress did force down the military's throat a system that has worked out.

The first one, I think, historically was nuclear propulsion for the Polaris submarine. That is something the Navy did not want that has worked out to the benefit of everyone.

The Marine Corps was never excited about the AV8.

The Air Force had to have the F-16 rammed down its throat, and that is the best fighter ever built.

For those Members who are not familiar with that, that is the Harrier.

We are all now familiar with the work of the Harrier in the Falkland Islands crisis. It proved itself to be a flexible multipurpose aircraft.

The Navy was never excited about the notion of having a 5-inch guided projectile, which has turned out also to be a superb weapon system. Nor was the Navy or the Air Force interested in the medium range, air-to-surface missile known as the Marad, which is a Tomahawk derivative.

So I think the gentleman makes a point, and I think it is a fair one to make, that the services do not like to have things rammed down their throats, but sometimes when we ram them down their throats, it works out to the benefit to everyone, and I would argue that the gentleman's position with respect to this is not as strong.

Let me ask the gentleman one question.

Mr. ASPIN. If I could, I will respond first to the point.

Mr. DOWNEY. Of course.

Mr. ASPIN. The point is not that there are cases where we ought to do that, but is has to be a case where what we think is right is clearly superior.

The point I was making is that if it looks like a close call, we ought to go with the services. For just bureaucratic reasons and having the system work correctly, we ought to go with the system that the services want. Other-

wise it can be a disaster. We can list a whole bunch of things that, when we have crammed things down the throats of the services, turned out to be a disaster, for all kinds of bureaucratic reasons, and people resist that.

All I am saying is that if it is a close call, we should go with the services. In propulsion, the gentleman is right, but otherwise we may wind up with a TFX.

Mr. DOWNEY. Yes.

Mr. Chairman, I would make the point that there are a number of times when we have acted responsibly and it has benefited the American people.

Mr. ASPIN. That is for sure.

Mr. Chairman, I yield back the balance of my time.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I wish to summarize the debate to this point, if I might, as I see it, by asking three questions.

First, with reference to the airlift issue, I would ask where we have been with it, and where we are today; and, the third question is, Where are we going?

In the early 1970's a delegation of us went overseas to Israel during the Yom Kippur war, and during that operation, as a delegation from the Committee on Armed Services and some from other committees, we went to the African side in Egypt with a delegation of Israeli soldiers. We went back to the Sinai, across the Suez Canal, with the Egyptian soldiers, and there we saw the ravages of war and we saw where the Israelis had come back and drawn that battle to a stalemate.

We met with President Sadat. I think it was the first time that any initiative had been made, along with Secretary of State Kissinger, to enlist his efforts in behalf of peace. President Sadat told our delegation that the C-5, in the operation and then coming to the rescue of the Israelis, was the envy of Egypt. I was there, and he told us that. He said, were it not for the operation of the C-5 airlift, it would have been all over and the stalemate would never have been achieved. He said that if he were choosing, he would choose the U.S. efforts in preference to that of the Soviets, any time.

Mr. Chairman, as a former Air Force pilot, I have flown early vintage airlift airplanes called the boxcars. We have hauled trucks and jeeps; we have dropped by monorail and we have dropped the paratroopers. The issue then is the issue of results, and we have seen the results. That is were we have been. We have been to the Persian Gulf area and we have seen results. They are the results of success.

Where are we today? The point that I shall make at this point is as follows: According to a congressionally mandated mobility study by this Congress, the outside requirements in current shortfalls in airlift are as follows: We have the 77 C-5's, that is true, but even with that, it would require the other 50 C-5's, which are to be authorized in the authorization bill to achieve sufficient airlift capacity to meet the requirements of this country.

Presently, in the Middle East scenario, with trouble there, it would require as an outside requirement in tons 39,880 tons. The shortfall, with the present 77 C-5's is 63 percent, and, of course, that cannot be handled at all with the 747's.

The second scenario is the Persian Gulf, and there the outside requirements in tons are 24,790 tons, with a shortfall with the present fleet of C-5A's of 28 percent.

The worst case is the case of NATO, where the scenario calls for 129,250 tons, with a shortfall of 80 percent.

Finally, if NATO and the Persian Gulf should occur, the shortfall is 43,870 tons, with a 58-percent shortfall with the present C-5A's. Nowhere in the military fleet is there the capacity to do this. So, therefore, the issue is whether or not we want to do it and whether or not we propose to do it.

The final question is where we are going. Let us draw the issue narrowly with reference to the C-5. Mr. Chairman, I would like to have the chart brought around by the pages, if the Members do not mind. All right. We have before us on your right, if you will notice it there, there pictures which are being brought around. I would like to see the comparison between the C-5 and the 747. If we can bring in that picture for the Members.

If that issue is to be decided in favor of the C-5, then we will have achieved a capacity sufficient to meet the needs shown in the chart here before us. The C-17 is another issue. It will be a fine addition to the fleet later. The development decision on the C-17 will be made in the latter part of this decade. The operational deliveries will be made in the early 1990's to replace the C-130 and the C-141 airplanes.

Mr. ROUSSELOT. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. ROUSSELOT. Thank the gentleman for yielding. Mr. Chairman, on the point of the readiness, how soon will the C-17 be ready. Certain statements have been made here that it might be ready for deployment about 6 or 9 months after the new C-5B's are produced.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. BRINKLEY) has expired.

(On request of Mr. ROUSSELOT, and by unanimous consent, Mr. BRINKLEY was allowed to proceed for 3 additional minutes.)

Mr. ROUSSELOT. Mr. Chairman, if the gentleman will yield, implications have been made here today that the C-17 could well be ready within 6 or 9 months of the production of the C-5B. The gentleman is a member of the committee. Is that true?

Mr. BRINKLEY. It is not. While a great deal of work and study and planning have gone into the C-17 and we expect a fine airplane with better configuration of the compartment, the fact is it cannot be done quickly.

Mr. ROUSSELOT. We all know it is a fine projected aircraft, but will it be ready that quickly?

Mr. BRINKLEY. No. The available options, the 747 or the C-5, that today is the issue.

Mr. ROUSSELOT. When my colleague, the gentleman from California, mentioned that it would be ready within 6 or 9 months of the time, that just is not true?

Mr. BRINKLEY. Mr. Chairman, I do not believe his information is sound.

Mr. ROUSSELOT. Mr. Chairman, I thank the gentleman.

Mr. EVANS of Delaware. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. Mr. Chairman, I thank the gentleman for yielding.

I congratulate the gentleman from Georgia (Mr. BRINKLEY) on his statement and for the excellent job he does in the Armed Services Committee and in this Congress.

I would like to make a couple of points, if I may. I believe the most important priority of the Federal Government is the national security of our country. Everything else pales in comparison, and we just cannot afford to roll the dice with this country's national security.

I have a great deal of respect for the gentleman from Washington (Mr. DICKS). He serves his constituents well. I also have a great deal of respect for my friend, the gentleman from California (Mr. BADHAM), who also serves his constituents well. Both gentleman serve this Nation well.

□ 1650

But I think both of their amendments are misguided in this instance. First of all, as far as canceling the purchase of the C-5B and replacing it with the C-17 which has to be developed from scratch, that is kind of two birds in the bush versus one in the hand. We need airlift capability now—not next year or next decade.

I would like to point out that there is always a long lag time between the time you begin the design of an aircraft and the actual time it takes to put it in operation.

But there is another point I think that needs to be made here. The C-17 not only requires time for design, development, test and production, but

also time for the training of the crews and maintenance personnel.

All of this can be done for the C-5B using the existing C-5A.

Another point is that I have made it a personal point to meet with a number of the pilots of the C-5 and with a number of the loadmasters. You ask those loadmasters who operate that aircraft what they think of the C-5. They think the C-5 is outstanding.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. BRINKLEY) has again expired.

(At the request of Mr. EVANS of Delaware and by unanimous consent Mr. BRINKLEY was allowed to proceed for 1 additional minute.)

Mr. BRINKLEY. I yield to the gentleman from Delaware.

Mr. EVANS of Delaware. They think that C-5 is outstanding.

So it would be very unwise for us not to proceed with the purchase of the C-5's. Both amendments would have a negative impact on the adequacy of our national defense.

This Congress has the highest priority to look first at the national security needs of the American people and not the red ink of a handful of distressed airlines. If we want to help the airlines, or if we want to help any company, let us do it in freestanding debate. Let us not do it in the defense authorization bill. Let us not gamble with the national security of this Nation.

Let us support the President and support the committee and do something that is in the very best interests of the security of our children and our grandchildren.

Mr. BRINKLEY. The gentleman is absolutely correct.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I would like to follow up briefly on the gentleman from Delaware's statement. We had several personnel appear before us in the Armed Services Committee and relate to us how they handled the unloading of the C-5.

I would like to relate briefly the testimony of one Sergeant Hodges.

The CHAIRMAN. The time of the gentleman from Georgia (Mr. BRINKLEY) has again expired.

(At the request of Mr. HUNTER and by unanimous consent Mr. BRINKLEY was allowed to proceed for 3 additional minutes.)

Mr. BRINKLEY. I yield to the gentleman from California.

Mr. HUNTER. Sergeant Hodges is loadmaster on a C-5 and this is his testimony.

The one thing I would like to point out about the C-5, it really gives us the flexibility to do the mission of the military. We can lower the cargo bed of the airplane down to ground level.

Perhaps someone could bring the picture of the C-5 over next to the speaker. I think that is an important picture. Once I have finished my statement I think everyone should take a look at that because that picture shows an M-1 tank coming out of a C-5.

Sergeant Hodges said in reference to loading and unloading the M-1 tank and other vehicles:

I have loaded numerous loads of wheeled vehicles, track vehicles, tanks, helicopters, in under 2 hours. A load of M-60 tanks, I have loaded that in 26 minutes, and we have what we call engine running offloads where the crews remained placed in the airplane. We go into our destination, we lower the airplane down to truckbed height, we open up our ramps, we do not need any other support. We drive the M-60 tanks off the airplane and the average time that I have always completed that in has been 26 minutes, and that is from the time we stop until we start moving again.

That is what the field commander needs.

I thank the gentleman for yielding.

Mr. BRINKLEY. I thank the gentleman for his point.

The hostile environment into which we will go makes time very, very critical for the lives of the military personnel.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Washington.

Mr. DICKS. I just want to make sure the gentleman knows, as I think he does, what we are advocating with the existing 747's and DC-10's is an increase in oversize and bulk capability which is also short.

Second, the MAC study done on airlift shows that it takes 3.3 hours to offload a C-5 because it does not have an automatic loading system. Not all of the cargo is outsized. A lot of it is bulk and oversize. You have to take in a forklift truck to lift that stuff off, so it takes 3.3 hours.

Mr. BRINKLEY. If I could reclaim my time, Mr. Chairman, I thank the gentleman for his point. But I would refer the gentleman to the chart that has been put up here that has established outsize cargo needs which is very definite in terms of percentages. This is why where the 50 C-5's are needed now to make up the shortfall for rapid deployment forces or NATO or for both of them.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. BRINKLEY. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I asked the gentleman to yield for a unanimous-consent request. After consultation with the gentleman from Washington (Mr. DICKS) and with Members on our side, I would like to ask unanimous consent that we agree to vote on the Dicks amendment and all amendments thereto at 7 o'clock, with 1 hour of debate to be controlled by the gentleman from Washington and 1 hour of debate to be controlled by the Member from New York representing the committee.

The CHAIRMAN pro tempore. The request is for 2 hours of debate time equally divided between the gentleman from Washington (Mr. DICKS) and the gentleman from New York (Mr. STRATTON)?

Mr. STRATTON. That is correct.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

PARLIAMENTARY INQUIRIES

Mr. STRATTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. STRATTON. Mr. Chairman, if time is to be controlled by the gentleman from Washington and by myself, is it required that those who wish to participate should stand at this time?

The CHAIRMAN pro tempore. The recognition of Members is totally at the discretion of the managers of the time.

Mr. BADHAM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BADHAM. Am I given to understand that on this side we have no time; we are not able to have any time?

Mr. DICKS. I would be prepared to yield a half an hour of my time.

The CHAIRMAN pro tempore. Is the gentleman asking a parliamentary inquiry of the Chair?

Mr. BADHAM. The inquiry is, as I understand it, the gentleman from Washington has 1 hour and the gentleman from New York has 1 hour. I was inquiring as to what time this side had.

The CHAIRMAN pro tempore. Under the unanimous-consent request the gentleman from Washington (Mr. DICKS) is recognized for 1 hour, and under the same unanimous-consent request the gentleman from New York (Mr. STRATTON) is recognized for 1 hour.

Both managers of time may yield to members of the minority or members of the majority.

Mr. DICKS. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Arizona (Mr. RHODES).

Mr. BONKER. Mr. Chairman, will the gentleman yield to me?

Mr. RHODES. I yield to the gentleman from Washington.

Mr. BONKER. Mr. Chairman, it is generally recognized that our Nation

faces a shortfall in military airlift capability. It is our task today to determine the most efficient way to meet that shortfall.

First, we must examine our needs. The "Congressionally Mandated Mobility Study" supports the conclusion that our crucial needs lie in the transport of oversized and bulk materials. Analyses of DOD military scenarios clearly demonstrate that the existing 77 C-5's have more than enough capability to move the outsized equipment that is to be airlifted. No one claims that the 747 can carry outsize loads or that the C-5 cannot. However, our military airlift shortfall does not fall in that area. We must instead determine the most cost-effective way to transport oversize and bulk materials.

What is the best way to airlift these materials? The Boeing Corp. has made a firm, fixed-price, guaranteed offer for 48 new 747's, equivalent to the acquisition of 50 new C-5's, which would save the taxpayers an initial $4.4 billion over the Lockheed proposal. Over the life of the aircraft, including operating and support costs, the savings would mount to fully $7.9 billion. Moreover, the Boeing proposal would deliver the planes 3 years before the Lockheed proposal.

Both alternatives offer the same essential airlift capability. One would cost the taxpayers $7.9 billion less and would be delivered 3 years earlier. The choice seems clear.

The Senate has already made the reasoned choice by approving 60-39 an amendment identical to the one now before the House. I urge my colleagues to vote yes on this amendment to substitute funds allocated for the C-5 with funds for the acquisition of wide-bodied commercial aircraft. In the interest of the taxpaying public it is the right decision.

Mr. RHODES. Mr. Chairman, let me set the record straight on some questions that I have been receiving today.

I have been asked by several of my colleagues, "What is there in this for your district. What part of the 747 is made in Phoenix, Ariz.?"

The answer is: I do not know. Nobody from Phoenix, Ariz., has asked me to do one thing about either money for the C-5 or for the 747.

I have been interested in this subject since my service on the Defense Subcommittee of the Appropriations Committee. That was some years ago.

During that time I, like the gentleman from Alabama (Mr. DICKINSON), had occasion to observe the progress of the C-5A. I must admit to a prejudice. I thought the C-5A was an airplane that should not have been built at the time. I guess maybe I still have about that same feeling, although I certainly do recognize the need for heavy lift capabilities right now.

But at that very time I was asking the people from the Pentagon, "Why is it, when you have a plane like the 747, like the DC-10, which was coming along at the time, why is it when you have planes which have been tested, which have flown around the world many times, which have capabilities for heavy lift, which can be modified to fit your need, why is it that we are building this C-5 airplane from scratch?"

□ 1700

It was a good question then, and it is still a good question.

Now, there is no doubt but what the C-5B, if it is built, will haul more and heavier units, than will the 747. I am not doubting that. But I do want to reiterate the fact that you have 77 C-5A's right now and that very likely the mix which we should have would consist of those 77 C-5's for the heavy units and the 747's for long range and heavy total payload.

The gentleman from Alabama (Mr. DICKINSON) made a point concerning 747 use to land on anything other than commercial airfields.

I do not think there is any doubt that if you just use a little logic you will realize that same argument applies to the C-5B as well.

Mr. Chairman, there is no way that any theater commander or any Secretary of Defense or anybody in charge of the Armed Forces of the United States is going to take a $150 million airplane and try to land it on grass near the battlefield. That is just not going to happen. It will be landed at a suitable airport, and the cargo will be sent to the front by other means.

Neither the C-5 nor the 747 will land close to the front. They are both going to be used on commercial airfields, and they are both going to be unloaded on commercial airfields. I think we should remember also the fact that the 747 is being used now as a cargo aircraft and has been for years. It is going to have to be modified—there is no doubt about that—for military use. But it can be done, and it can fill a very definite military need.

As a matter of fact, several people have made the point that 747 airplanes are available in the reserve fleet. Well, if they are good for the reserve fleet, why are they so completely worthless, in the minds of many of the Members, for the active services? That just does not make a lot of sense.

Also, nobody seems to be interested very much in the total cost. Now, we have had some various figures thrown around. I happen to believe that there is a tremendous saving in the use of the 747 as distinguished from starting up the line for the C-5 again. I also believe that the American taxpayer is entitled to that kind of a break.

Now, I do not want anybody to misunderstand me. If I thought it was important to spend the money to build the C-5 to protect our Armed Forces, to make them successful in whatever endeavor they might undertake, I would spend the money gladly.

The CHAIRMAN pro tempore. The time of the gentleman from Arizona (Mr. RHODES) has expired.

Mr. DICKS. Mr. Chairman, I yield 5 additional minutes to the gentleman from Arizona.

Mr. RHODES. Those of you who might have served with me on the Defense Subcommittee of the Appropriations Committee know that I was known as a high dollar man for the military. I would not stint. I am an unrepentant hawk. I would not stint the armed services on anything that I felt it absolutely needed. But I have also got to tell you that I have never seen anybody as convinced or as convincing as a three- or four-star general whose mind is already made up. They can give you the greatest arguments, because that is mainly what they have to do during the day. They can give you the most ingenious arguments in the world as to why their positions ought to prevail.

I learned a long time ago to listen to them but not to take what they say completely for granted. They are prejudiced; it is their business to be prejudiced; and I do not criticize them for it. But I criticize me if I believe everything they say. And I do not. I do believe, as a matter of fact, that the 747 is a remarkable airplane. I think there is no doubt but that it can do a very workmanlike job in the heavy lift capability. I recognize the fact that we have the C-5 and we must have the C-5 for heavy units, but I also recognize the fact that there were a lot of people who went out on the west front the other day to talk about a constitutional amendment for a balanced budget.

This body is being offered today some help in arriving at that balanced budget, without waiting for 7 years for a constitutional amendment.

Also, it has not been said—and we do not mention the other body—but I cannot believe that the other body adopted the amendment, which is almost identical with that offered by the gentleman from Washington, without having some idea as to what it was doing. The fact that the other body did do that should be at least somewhat persuasive on this body in my opinion.

So I certainly am not in the business of trying to bail out any airlines, as was suggested by the gentleman from Delaware. But I would like to mention the fact that some of those airlines are probably going to have to be bailed out by someone. One reason they are is because this body and the other body did something which appeared to be fairly wise at the time, like deregulating the airline business. The result has been continuous losses as far as airlines are concerned, and lack of ca-

pability in paying for aircraft which they had already bought.

Now, if those aircraft were not available at a cut rate, I might not be suggesting that they be bought. But I think it is a good deal for the taxpayer not only now but in warding off something which may happen in the future, and that is the necessity of enacting legislation which will bail out some of our airline industries.

When you can put it together like this, when you have an ailing industry that has an asset that we need, we can buy it cheaper than we can buy anything else, it seems to me very good business for us to take a very good look at it and to go with it.

Mr. DICKS. Mr. Chairman, will the gentleman yield briefly?

Mr. RHODES. I yield to the gentleman from Washington.

Mr. DICKS. I think the gentleman has made an important statement.

We have a unique opportunity here to save the taxpayers a substantial amount of money, between $6 billion and $8 billion, according to the numbers that were submitted.

The gentleman said something that I think is terribly important. He said you can listen to the military leadership, but you have to remain skeptical. I am sure the gentleman knows, as I do, that when they are for something, they will change the numbers in order to make it look good. When they are against something, they will paint the worst possible case. I think that is exactly what we have here today—the best case for the C-5. Apparently we do not have any institutional memory, because all of a sudden we have forgotten all of the problems we had with it, and the fact that it has been down for 9 years. At the same time, we have a chance to get a plane to carry oversize and bulk cargo where we have at least a 15-million-ton-per-day shortfall at a lot less expense to the taxpayers. Why do we want the most expensive plane to carry that bulk and oversize?

Mr. RHODES. I am sure that the gentleman from Washington will agree, too, that the point of time should be made. You can get the 747 aircraft delivery started I believe in 3 years.

Mr. DICKS. Yes. We could actually get them before that. We could almost get them immediately, as soon as this competition is over with. We could get them all within 3 years.

Mr. RHODES. Right.

And nobody really knows how long it will take to build the C-5. Certainly nobody knows how long it will take to build the C-17. If the C-17 has the same checkered career as the C-5 does, it may be the year 2000 before you get them. So if you talk about what is available, the thing that is available right now is a whole fleet of 747's at a bargain basement price. We ought to take it.

Mr. STRATTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Tennessee (Mr. BONER).

Mr. BONER of Tennessee. Mr. Chairman, a serious military deficiency in the airlift capabilities of the country's Rapid Deployment Forces requires the procurement of additional cargo aircraft. H.R. 6030, the defense authorization bill, provides $860 million for the initial procurement in fiscal year 1983 for 50 C-5B airlift aircraft to address the serious military problem.

I oppose the amendment which is now being considered to the defense authorization bill which will delete funds for the procurement of the C-5B and will substitute the purchase of 48 used or new Boeing 747's instead.

While I recognize the 747's qualities as a commercial passenger and cargo aircraft, I just do not feel that it is an acceptable alternative for the C-5B from a military standpoint. It cannot carry the outsized cargo that we must be able to move swiftly to any part of the world.

The C-5B is a unique military aircraft. It can airdrop cargo; it can take off and land on 4,000-foot runways and it can use existing Air Force support equipment. Vehicles can be driven on and off of the C-5B because of the plane's self-deployable ramps. The plane has a high-strength cargo floor, truckbed loading height and full-width door openings—features that are not available on the 747.

As we strengthen our Rapid Deployment Forces and our ability to protect the vital interests of America in different parts of the world, it is imperative that we have the cargo aircraft which can transport such outsized military hardware as combat engineer vehicles, the CH-47 helicopter, the Lance missile carries, the M-88 and armored cavalry vehicle, the M-1 and M-60 tanks, and other military weapons and vehicles.

I urge my colleagues to vote against the amendment which would delete the funds for the procurement of the C-5B.

PREFERENTIAL MOTION OFFERED BY MR. LEVITAS

Mr. LEVITAS. Mr. Chairman, I offer a preferential motion.

The Clerk read as follows:

Mr. LEVITAS moves that the Committee rise and report the bill back to the House with the recommendation that the enacting clause be stricken.

The CHAIRMAN pro tempore (Mr. UDALL). The gentleman from Georgia (Mr. LEVITAS) is recognized for 5 minutes.

□ 1710

Mr. LEVITAS. Mr. Chairman, I rise to speak in opposition to the Dicks amendment. The question we face today is not one of whose State or district or which company will benefit, the question is: What does our national defense—our security—require?

The United States today faces a critical shortage of strategic airlift capability. The most urgently needed type of strategic airlift is the capability to carry large combat equipment—so-called outsize cargo. This type of cargo—helicopters, tanks, mobile artillery, armored personnel carriers, trucks—comprise the bulk of the firepower of our ground forces. The congressionally mandated mobility study showed a current shortfall of outsize combat cargo capability of 28, 58, 63, and 80 percent in various likely combat scenarios. The Lockheed C-5B, as the Armed Services Committee has recognized, is the only aircraft which can fill this outsize need. As General Vessey, Chairman of the Joint Chiefs of Staff, testified, 52 percent of the Army's armored division equipment, 41 percent of its mechanized equipment, 25 percent of its infantry division equipment, and 60 percent of its motor transport brigade equipment is outsize, and can be loaded and unloaded combat ready only from the C-5B.

The 747 cannot carry outsize cargo. Such equipment would have to be disassembled, loaded onto the plane, and reassembled at the combat site. It is extremely important that we minimize any requirement for assembling, and that the equipment we bring in is in fact combat ready when it hits the ground. Vehicles can be driven on and off the C-5B. The 747, with its cargo floor height of 16 feet, requires special elevator loaders which may or may not be available at the destination airfield. The C-5B has a high-strength cargo floor, truckbed loading height and full-width door openings—none of which are features of the 747, While the C-5B can take off and land on 4,000-foot runways, the 747 requires longer and more firmly built runways because of its great weight and limited landing gear flotation. Recently a runway at Ramstein Air Force Base in West Germany had to be closed for repairs after the engines of a fully loaded 747 picked up debris from the edges of the narrow runway there and blew the debris into the runway. Had the United States been faced with the recent Falklands crisis, the C-5B would have been able to fly down and immediately drive off combat capable equipment. The 747 would have been unable to use the Falkland runway. Admittedly, the cost of the C-5B over the 20-year life cycle of the plane would be about $1 billion more than that of the 747. But $1 billion over a 20-year period is a small price to pay for the overwhelming advantages of the C-5B. Inadequate equipment is no bargain at any price.

The 747 is a good commercial airplane and can contribute a role to military airlift in some places. But it

cannot do the job the C-5B can do, plain and simple. It cannot carry the type of loads and it cannot operate to the same places. Certainly if our enemies would agree to fight at London's Heathrow Airport or at Paris' Charles de Gaulle Airport, and then give us time to off-load and reassemble equipment, the 747 might be all right. But that is not the way the world works. Our adversaries just may pick places where the time and landing conditions and essential unloading facilities are not available. We can not provide our airlift capability in the hope that our adversaries will accommodate us by picking the airports which can use the 747.

Moreover, should the proposed Dicks amendment be adopted, the Military Airlift Command would be faced with a veritable potpourri of aircraft which would create a logistical nightmare. Even after the proposed Boeing modification program, which would be both costly and time-consuming, the used 747's envisioned in this proposal would not be of a standard configuration. The airplanes would have different operating weights and ranges. The engines on one would not be the same as the engines on another.

It would be a management nightmare and a potential military catastrophe to have to consider each 747 individually and gear out operations solely on the particular airplane that happens to be available at the time a critical need arises. Juggling crews, equipment, and spare parts, would be a delicate and complicated management task. Indeed, it would be too delicate for an Air Force required to respond quickly to unexpected demands anytime, anywhere in the world. I do not believe the realities of war provide for calling time out to reposition airlift capabilities.

Mr. Chairman, many Members of the House have expressed a concern over the state of the American airline industry. This amendment is in no way a solution to any of the difficulties the industry faces today. As an active member of the House Aviation Subcommittee, I am as concerned as anyone with the problems of American aviation, but we are faced here with a military problem which requires a military solution. Would we buy bulldozers from International Harvester to help that company when what our defense really needs is a M-1 tank? We must put our national defense ahead of parochial interests, and the national defense requires that we acquire the C-5B. The defense of this Nation should not be viewed as a pork-barrel. The stakes are too high. I urge my colleagues to reject this amendment.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Washington.

Mr. DICKS. I thank the gentleman for yielding.

If this is not a pork barrel, why then did Lockheed come in with an unsolicited proposal for 50 C-5's after the military had unanimously recommended the C-17?

It seems to me that the gentleman is on very, very thin ice.

Mr. LEVITAS. I would say to the gentleman from Washington that the question, which there is an agreement on between the last administration and the last President, the last Secretary of Defense, the current President and the current Secretary of Defense, is what we need now is the C-5B to provide us this type of airlift capacity.

If the gentleman wants to believe that we can fight the necessary wars and battles at Heathrow Airport or at Charles de Gaulle Airport or these major airports around the world, then, fine, but it just may be that our adversaries will pick a Falkland Islands or some remote place in Africa or the Middle East or the Persian Gulf or Asia and that is why we need the C-5B.

PARLIAMENTARY INQUIRIES

Mr. STRATTON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. STRATTON. Mr. Chairman, out of whose time does the time of the gentleman from Georgia (Mr. LEVITAS) come?

The CHAIRMAN pro tempore. The Chair will advise the gentleman that it comes out of neither. It is in addition thereto.

Mr. STRATTON. A further parliamentary inquiry, Mr. Chairman.

Those of us who have been in the House for several years will recall that the device employed by the gentleman from Georgia was one frequently used by our good friend, H. R. Gross of Iowa.

It was my recollection that at some point in the intervening years there was some parliamentary limitation on the number of times and number of occasions under which that device could be used.

Could the Chair advise, are there any other circumstances that some other Member would be entitled to use this device during the next 2 hours of debate?

The CHAIRMAN pro tempore. The Chair will advise the gentleman from New York that, under the rules of the House and precedents, once the privileged motion is offered it cannot be used by another Member until the bill has been substantially changed by amendment.

Mr. STRATTON. I thank the Chair.

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. DICKS. Do the Members get a chance to speak in opposition to the gentleman?

The CHAIRMAN pro tempore. The Chair will advise the gentleman that a Member is entitled to speak in opposition to the preferential motion. The Chair intended to recognize the gentleman from California (Mr. BADHAM), in the event the gentleman from New York (Mr. STRATTON) did not wish the time.

Mr. BADHAM. Mr. Chairman, I ask to take time to speak in opposition to the motion.

The CHAIRMAN pro tempore. The gentleman from California (Mr. BADHAM) is recognized for 5 minutes in opposition to the preferential motion.

Mr. BADHAM. Mr. Chairman, very briefly, I would like to say that we are not here to decide wholly the future of our country's defense. We are here to decide on, first, my substitute and then the amendment to which I offered the substitute.

My substitute has offered a third alternative to have the best possible airlift that we need as soon as we can possibly have it.

It was suggested by the gentleman from Wisconsin that if airplane "A" works, why not use it. I would suggest we still are not using the B-29 or B-17. They worked great but we still do not use them.

Why do we not use the 747? We have got 747's parked all over the United States and lots of other places in the world. They are eminently immediately available. So what I am offering is a third alternative.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding.

Mr. Chairman, at this time in our history, we need to rebuild our defenses.

The budget that is now before us is one that faces some grim, hard, uncomfortable facts about how far our Nation has slipped and how carefully we need to plan our forces for the 1980's.

What are some of the lessons that recent history can tell us about such subjects as strategic airlift and force projection? In my opinion, there are plenty of lessons. Let us take a look at a few cases:

In 1973, Israel was taken by surprise in the opening round of the October war. With huge and unexpected losses in aircraft and armor, Israel called on the United States for immediate assistance. Within days, American leaders had organized the most massive airlift in modern history. Huge C-5's

flew into Lod Airport in Tel Aviv, loaded with tanks and heavy equipment. Within hours, this equipment had been committed to combat on the battlefield.

In April of this year, Britain was taken by surprise by the Argentine invasion of the Falklands. Very few British naval and air force planners expected that war. In fact, the Royal Navy and the British Defense Ministry had already decided that Britain would devote its conventional forces entirely to NATO. Therefore, Britain would not need forces for projecting forces overseas, including airlift.

So, the Royal Air Force sold off its fleet of heavy-lift Belfast freighters to private operators. When the Argentines invaded the Falklands, the British found themselves scrambling desperately to transport their forces to a wartime theater they had never planned for, one which was 10,000 miles away. The Royal Air Force chartered back the Belfast aircraft, which fortunately were still available. The British recovered the islands. But the campaign was a very high-risk operation, with British forces operating at the extreme end of their logistic lines.

Today, we live in a world in which crises can break out with very little warning. Our Nation has obligations to NATO, to Korea, to Japan, to Australia, and New Zealand, and to other nations whose security is critical to us. We are separated from them by thousands of miles and by entire ocean basins. Yet at the same time, we no longer deploy the large overseas forces we did 20 years ago. Instead, we depend heavily on the ability to transport our forces to wherever they are needed, or to transfer large quantities of military equipment to our allies.

At the same time, we could, during the 1980's, face crises of unpredictable complexity. What would happen if North Korea invaded South Korea and we had to resupply the South Koreans, at the same time that we had a crisis in the Persian Gulf? What other kinds of "Falklands" crises might we face around the world in the 1980's? How would we be able to respond to them? What happens if we need to quickly transfer American heavy equipment, particularly combat vehicles, from one theater to another or to an ally under crisis or wartime conditions?

I believe the lesson is obvious: Our strategic airlift must have the greatest flexibility we can give it, especially when it comes to moving the equipment that has been bought over the years by American ground forces. But in order to achieve this flexibility, we have to look where we stand in regard to "outsize" equipment and our ability to move that equipment around by air. We have grave deficiencies in that category of airlift—and the administration's proposed C-5 purchase is the only way to solve that problem.

The C-5 is the only aircraft that can carry heavy tanks, fighting vehicles, and helicopters into combat and deploy them immediately for operations. No other airlifter can do that. Only the C-5 can handle the outsize and very heavy support equipment—the tank retrievers, the Army cranes—that are the guts of a fighting force.

I repeat: Our leaders need the greatest flexibility in airlift that we can give them. I urge my colleagues to remember that the driving lesson we have learned over the past few years is flexibility in strategic mobility and strategic force projection. We need much more flexibility than we have today. Our leaders need the best possible tools for crisis management and for wartime operations. Strategic airlift forces, along with sealift, are critical to such capabilities.

If there is a lesson to close on, it is this: Wars and crises tend to erupt in ways and in places that we had not planned on. Today, however, the United States dare not be taken by surprise. We owe it to our Nation, and to the crews of the Military Airlift Command, to give them the forces they need. We must face our airlift requirements honestly—and we need the C-5 as a critical element in our rebuilding of American military power.

Mr. BADHAM. Mr. Chairman, I yield back the balance of my time.

□ 1720

The CHAIRMAN pro tempore (Mr. UDALL). The question is on the preferential motion offered by the gentleman from Georgia (Mr. LEVITAS).

The preferential motion was rejected.

Mr. DICKS. Mr. Chairman, I yield 5 minutes to the gentleman from New York (Mr. DOWNEY).

Mr. DOWNEY. Mr. Chairman, I thank the gentleman for yielding. I just want to address for a minute the Falkland Islands question. We seem to learn lessons from everything, but I hope that we do not dwell at length on the notion that if we had to fight in the Falkland Islands, the C-5B or A would have made any difference. We would have taken in the *Eisenhower* and the *Nimitz* and steamed them 200 miles within the Falkland Islands and the Argentines would have surrendered. It is not a question of having to land C-5B's on an austere runway in the Falkland Islands before we invaded them.

The fact is that the British, because of the Harriers' short range were not able to do all the things that we are fully capable of doing as a modern Navy, with large sea based airplanes, things like the E-2C and the F-14. So let us not be absurd in linking the lessons of the Falkland Islands with the C-5B, and whether we need it or not.

Now, here are the full page ads that the contractors have taken out to try to convince us.

I might add that I am somewhat offended as a Member of Congress by these ads. You will note that they are all pictures. Obviously, they do not believe we read text. Someday we will presumably get these things in comic book form.

But what bothers me even more is the real chutzpah of the Lockheed Corp.; not only the chutzpah, but the kind of misplaced advertisements. These crisis-proved features, the ad says, these test proved wings.

Now, if I were going to market Bon Vivant vichysoisse, I would not say, "Bon Vivant vichysoisse, they taste delicious and they are now in these new antibotulism cans." It is not smart advertising.

If I were going to sell the Corvair, I would not say, "It's small, it's effective in a crisis and it doesn't turn over around corners anymore. We fixed that problem."

Well, the chutzpah has to do with the fact that Lockheed is actually advertising, can you believe this, advertising that the wings that used to fall off the plane that have been fixed up now do not fall off the plane, and that they fixed them up on time and under cost. Not is has "new strong" wings. Remarkable.

Now, we all fly in airplanes, all of us all the time. Now, I am not a professional pilot, but many of you are or know professional pilots, and they will tell you candidly that in a crisis you can lose an engine. You can lose a couple of engines. You can lose a radio. You can lose the hydraulic system. You can lose the wheels.

But it is bad when you lose the wings. This is a problem, any pilot will tell you, you lose the wings and you are in serious, serious trouble.

Now, have we forgotten the problems of the C-5? Is it possible that we do not remember the travail of Ernie Fitzgerald when he was trying to explain to us that there were enormous problems with building this airplane? If we go back and build this plane again, the ads will say in 10 years when they want to build the C-5C: These crisis-proved features, plus the new strong tested body, which does not crack when put outsized cargo on it. Today the wings, tomorrow the body.

My good friend, the gentleman from Wisconsin (Mr. ASPIN) pointed out it is a bomb. He says it is in the lower half of the turkeys. No; I think that is really stretching it. It is in the top five of turkeys. The all-time turkey hall of fame.

If the C-5A can come back, so can Richard Nixon.

This is the Spruce Goose of airplanes. If we build this airplane, I urge

you, I implore you, to go out and invest in the people who build flight simulators, because that is where the money will be made. We will not be testing and using air pilots to train on these planes because of the enormous risk and cost of operating them. They will learn how to fly the planes in simulators.

In contrast, the whole history of the 747 has been one of remarkable success. It has flown 11 million hours. It is cheaper. Whether you choose $1 billion or $6 billion for cost, there is no question that it will cost us less money.

I implore you, look at the record of this airplane. If we make the critical mistake of forgetting past problems, we are going to pay for them.

The CHAIRMAN pro tempore (Mr. AuCoin). The time of the gentleman from New York has expired.

Mr. DICKS. Mr. Chairman, I yield 3 additional minutes to the gentleman.

Mr. DOWNEY. I am talked out, I will say to the gentleman.

Mr. SWIFT. Mr. Chairman, will the gentleman yield?

Mr. DOWNEY. I would be happy to yield to the gentleman from Washington.

Mr. SWIFT. I appreciate the attention that the gentleman has given to the advertisements by Lockheed. I have been following those, too, and was equally impressed with the fact that the real big argument is that they fixed the wings this time. I thought that was very good, as did the gentleman; but it also occurred to me that maybe the gentleman saw the ad in which you have a profile view of the C-5 and you have two tanks coming out the front and two tanks going in the back and you assume that it is filled with tanks all the way down; so that this plane carries, that would be as I recall, measured out, about a total of nine tanks; is that correct?

Mr. DOWNEY. That is right, and I think one of the points the gentleman might want to make, and I think that all of us should, and that is the question, how do you win battles? The great military minds have been great logisticians. Eisenhower was. How to move men and materiel in large quantities; if you want to win a battle, as the gentleman from Georgia mentioned before, it is not going to be done at the Paris or the London airports. No; it is going to be done at one of the big airfields in Germany where you are going to be landing the cargo that you need to land. It is not going to be a question of landing tanks on the battlefield with bullets flying and brave men dashing in and out of the airplane to bring the tanks to the battlefield.

Mr. SWIFT. Does the gentleman mean that I was wrong, that I did not see Clint Eastwood in the turret? I really thought I did in those ads.

The point I wanted to make, though, about all those tanks going in the back and coming out the front is that if I am not correct, the most tanks that plane will carry is one, because it cannot lift any more than that.

Mr. DOWNEY. Yes.

Mr. SWIFT. It is not a whole bunch of tanks in and out.

The other point that I think we should make with regard to those wonderful ads about tanks and that beautiful color photo that we have seen so much today is that carrying tanks in the C-5's is to use the word, if I quote the gentleman correctly, I think he is still on the floor, the ranking member of the committee, is ridiculous. This whole issue that Lockheed has used about the incredible capability of the C-5 to carry tanks is an absolute red herring. That is not the way the military intends to move tanks around the world.

Mr. DOWNEY. Well, absolutely not. If you want to move an armored division to the battlefield, you have got to do that by ships, or it has to to be prepositioned, or it will not be done. You are not going to fly it there. I do not think anyone in the military believes that that is going to be the mission of the C-5A or B, because you would never be able to buy enough to move an armored division to the battlefield by air. The tanks have to be there.

The Russians do not have any ability to fly outsized cargo, so if they want to move troops and armor to the battlefield, they have to give us advance warning, so there will be lots of opportunity to ready bases for the 747 and to move up the equipment we need to move up. All it takes is one C-141 flight at the beginning.

Mr. DICKS. Mr. Chairman, I yield 5 minutes to the gentleman from Kansas (Mr. Glickman).

Mr. GLICKMAN. Mr. Chairman, I would like to allude to the comments our distinguished former minority leader, the gentleman from Arizona (Mr. Rhodes) made, when the President of the United States addressed the Nation 3 days ago and argued quite eloquently for a balanced Federal budget at a time when our Nation is faced with an unprecedented combination of high interest rates, high unemployment and massive budget deficits. At the same time we are in the process of improving our defense posture to meet the worldwide threat to our vital interests.

We realize that a vital part of this must be in the enhancement of our airlift capacities and capabilities. We have had a very eloquent argument here on the floor; should that be accomplished through the C-5? Should that be accomplished through the C-17 or should it be accomplished through the 747?

It is true that the C-5 can carry outsized cargo which the 747 cannot; however, it is also true that the C-5's currently in our inventory cannot meet the outsized needs. Our critical airlift shortfall is not in outsized capability, but in the oversized and bulk areas.

I would like to talk for a minute about the 747 because talking about the benefits of that airplane have not been elicited in this debate so far.

□ 1730

It is the best nonoutsized airlifter in the world. It flies faster than the C-5, its range is greater, its payload is larger, and it is more reliable.

The gentleman from California (Mr. Hunter), brought forth a graph showing the landing spots in Saudi Arabia. Let me tell my colleagues, no C-5 could make it nonstop without refueling from Dover, Del., to any of those landing spots in Saudi Arabia like the 747 can do. And on hot days, taking off from Dover, you could not even put much cargo on those C-5 airplanes to go to Saudi Arabia or anywhere else in the world because they do not have the payload capability.

So I say, all things being equal, we do not have a turkey of an airplane here in the 747; we have the best airplane in the world that has ever been manufactured. The 747 is used not only as a passenger airplane but as a cargo airplane and it is so good, in fact, that the military has chosen it as the main aircraft for the CRAF program, to transport troops and other materiel around the world.

So I think it is more cost effective. The C-5 is more expensive to acquire than the 747, it is more expensive to maintain. If we buy the 747, we do not have to worry about cost overruns; unlike Lockheed, Boeing will guarantee its price, its mile cost, its maintenance cost, all the cost items, plus the fact that you get this airplane on line 3 years before the C-5.

I do believe that Congress has to confront some difficult choices. We do not have the physical resources to buy every weapons system we want. Cuts will have to be made somewhere.

Where do we make these cuts? It seems to me that Mr. Dicks and Mr. Rhodes have brought us a flexible alternative, realizing that what we need is a new airlift capability, one that has good wings, good engines, designed for the 1990's and into the next decade, and can do it, if my colleagues will look at the chart, for $8 billion less.

I have received correspondence from the National Taxpayers Union supporting the Rhodes-Dicks amendment, again talking about the fact that in time of limited resources we have an airplane that will do the job for $8 billion less, and for the life of me, I cannot understand how we could not accept it.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to my colleague from Missouri.

Mr. GEPHARDT. Mr. Chairman, the President has written a letter, now being circulated on this issue. He concludes by saying, "There are no savings if what we buy will not do the job that needs to be done." I support the Rhodes amendment because the C-5 cannot do the job that needs to be done.

The congressionally mandated mobility study (CMMS), which identified our airlifter shortfall and defined our needs in this area, called for a plane that could move a large volume of heavy outsized equipment and deliver it in situations that provide no airport configurations or, in fact, permit no landing at all. In addition, the new plane should offer intercontinental range, maneuverability, air refueling and a simple, rugged, reliable design based on state-of-the-art technology.

In August 1981, after evaluating competitive bids of major airplane contractors, the Air Force selected the McDonnell Douglas C-17 as the best design to meet all the specifications. In particular, the C-17 offers the following advantages:

The C-17 provides small, austere capability—three can park on a ramp area that could accommodate only one C-5;

The C-17 requires a takeoff field length of 7,600 feet, compared with about 10,000 for the C-5;

The C-17 can land in 3,000 feet while the C-5 needs 4,000;

The range of the C-17 is 2,400 nautical miles but that of the C-5 is 1,700; and

The C-17 can deliver when basing is unavailable or denied—through airdrop, low altitude parachute extraction and minimal runway utilization—assuring its survivability when the C-5 would be vulnerable and its use in up to 40 percent more situations.

Above all, the C-17 offers high reliability with minimal maintenance. Its simple, proven design would require about half the maintenance manpower demanded by the C-5 while the meantime between servicing would be almost five times longer. While the C-17 would be fully mission-capable almost 75 percent of the time, the C-5 has been notoriously unreliable. Official Pentagon estimates claim the C-5 would be fully mission-capable 49.4 percent of the time but actual experience—during the Yom Kippur war—demonstrated its capability may be as low as 40 percent. Despite the ongoing program to refit the wings and correct the more than 200 other defects in the C-5, our existing fleet continues to experience fundamental problems, more often than not keeping the planes on the ground.

The bottom line was best expressed in the following exchange between Chairman of the Joint Chiefs of Staff General Vessey and Senator JACKSON during an Armed Services Committee hearing this spring:

Senator JACKSON. General Vessey, does the C-5 have the same military utility as the C-17?

General VESSEY. No. It does not. Had the C-5 been able to meet all the Army's airlift needs, the C-17 program would not have been necessary. The C-5 still leaves a void in such necessary airlift operations as small austere airfield operations, intratheater outsized airlift, low altitude parachute extraction systems, and rapid climb and descent capability for enhanced survival.

The only advantage the C-5 has over the C-17 is that it can be brought into operation sooner. It is not, however, the only avenue toward meeting our airlifter needs in the short term. Commercial wide bodies can be operational within 2 years. They can be obtained at substantially lower cost with higher reliability.

If, however, we go ahead with the C-5 procurement program, as authorized in this bill, we will be wasting a lot of time and money on a plane that will still leave us with an airlift shortfall. We should not open the C-5 production line. If we do that, we will postpone, if not completely prevent, development of the plane that can truly enhance our airlift capability.

I urge my colleagues to support the Rhodes amendment. It represents the most effective use of our defense dollars and permits us to concentrate on development of the optimal air cargo plane, the C-17.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

I think the gentleman was referring to the fact that I pointed out that there are only four airfields into which the 747 can fly in Saudi Arabia which have support facilities.

There are some 80 airfields in Saudi Arabia that the C-5 can land in, with aerial refueling, of which it is capable, as evidenced by our help to Israel in one of their conflicts.

I am asking the gentleman: Is it his contention that in fact the 747 can fly to more airfields than those four that I mentioned?

Mr. GLICKMAN. No. My intention was that I did not want to mislead my colleagues and anybody else who might be watching that the C-5 cannot fly anywhere near that country without aerial refueling, which the 747 can.

The second thing was that because of engine thrust and payload capability, the C-5 cannot take off on a hot day with very much cargo in the United States and go anywhere, let alone Saudi Arabia. I guess that was my point.

The CHAIRMAN pro tempore (Mr. AUCOIN). The time of the gentleman has expired.

Mr. DICKS. Mr. Chairman, I yield 2 additional minutes to the gentleman from Kansas (Mr. GLICKMAN).

Mr. GLICKMAN. I thank the gentleman for yielding, and I yield to the gentleman from Washington (Mr. DICKS) at this time.

Mr. DICKS. The major point here is that our opposition wants to always talk about outsize. We have a tremendous shortfall on bulk and oversize capability which the 747 can carry cargo further, 35 tons more and faster than the C-5.

We get the plane at less money, $44 million for a used plane, $58 million for a new plane. We get it sooner, we could add to our capability and then build the C-17 in the long term.

Does not that make sense as a responsible way to deal with this problem?

Mr. GLICKMAN. You are speaking to the choir, but I think it makes a lot of sense, particularly because we have a deficit of $120 billion-odd this year, and probably a half trillion dollars of new debt. We get a better plane for the buck at a cheaper price, and we can get them quicker. We can get them immediately, rather than waiting 3 or 4 years.

Mr. DICKS. I agree with the gentleman.

Mr. BRINKLEY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Georgia.

Mr. BRINKLEY. I thank the gentleman for yielding.

Basically, I think the gentleman misspoke himself, but he did correct it in his colloquy with the gentleman from California.

First, I think he had indicated that the C-5 was incapable of flying nonstop to Saudi Arabia. Of course, it is capable of flying nonstop. It does use the Air Force system of refueling. We do it with the F-4's, we did it in the Bright Star operation, and we did it in Egypt. So that is a system for refueling when you have heavy payloads.

Mr. GLICKMAN. The gentleman is correct, except my intention was to say that it could not fly nonstop without refueling. That was my intention. I thought I made that statement.

Mr. DICKS. But the big difference is that the 747 can go there without refueling, and thus will get there a full 2 hours earlier.

Mr. MORRISON. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Washington.

Mr. MORRISON. I thank the gentleman for yielding.

Mr. Chairman, I would like to compliment the gentleman on his statement and associate myself with his

comments in support of the amendment offered by the gentleman from Washington (Mr. DICKS) and the gentleman from Arizona (Mr. RHODES).

Mr. GLICKMAN. I would just repeat: For saving the taxpayers $8 billion and providing a plane that can carry the payload, I would urge support of the Dicks amendment.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Mississippi (Mr. MONTGOMERY), a retired major general in the National Guard.

Mr. MONTGOMERY. I thank the gentleman for yielding this time to me.

Mr. Chairman, I want to assure the chairman of the committee, even though I think the National Guard could handle all 50 of these C-5B's, I certainly will not offer an amendment that all of these aircraft go to the National Guard. However, that would be OK.

Mr. Chairman, I rise in opposition to the Dicks amendment and also in opposiiton to the substitute that has been offered by the gentleman from California.

Mr. Chairman, what I will say here today, has already been said. I would like to perhaps emphasize several points. I take this time because I have individually contacted a number of Members in the House asking for their support for the C-5, and I think it only fair that I be recognized and seen on the floor in support of what I have told these individual Members.

I believe I can safely say the great majority of the members of that House Armed Services Committee who have been working in this area for a number of years, totally support the C-5 and do not support the C-17 or the 747 at this time.

In fact, under the reconciliation motion offered yesterday by Mr. STRATTON, if we wanted to take the C-5's out that would have been the time, but we think they are important and they were left in this bill.

The bottom line is, where are the weaknesses in our military forces? One of the weaknesses is the airlift capability. We just do not have enough airlift capability to do the job.

If we got involved in combat, we could not get the equipment there anyway.

So that is the problem. That is what the Air Force told us. They said to the Congress, "We need your help. We need additional airlift capability. We think the C-5B will do the job."

There has been some talk that a number of generals and admirals, people in the Defense Department, are not saying that they want the C-5B. I have letters, as my colleagues do, from every person in the Defense Department who is totally supporting the C-5B. Saying that some of these military leaders want other aircraft is just not right. They are supporting the C-5B.

Now, it has been mentioned that the C-5 really cannot carry anything. Somebody said that it can only carry one M-1 tank. I have been told by staff that it can carry two M-1 tanks. I believe the record should show that.

The 747 cannot carry any helicopters unless you totally dismantle them.

The C-5 can carry six helicopters which can be combat ready within 5 minutes' time.

If you dismantle 12 helicopters you can put 12 helicopters on with the crews, and within a matter of minutes you can have them assembled, you can have 12 helicopters ready to do the job.

□ 1740

The C-5A has been a good airplane. I saw it in Vietnam, like a number of Members did. I saw it land on the mats over there, and it got in and it got out. It was tested, as someone said, in the Seven-Day War.

Several years ago we tried to get the Air Force to buy surplus 747's. There were some surplus 747's that could have been bought at a reasonable price by the Defense Department. We went to the Defense Department and asked them to buy these aircraft and replace some of the older transport planes in the National Guard and the Reserves, and use them to transport personnel for the Navy, the Guard, the Reserve. They turned it down. This is not the place to substitute the 747 for the C-5B to do the job that has been asked of us, to improve our airlift capability. I hope the Members will vote down both of these amendments.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I think we have had a good debate today, and I think a lot of good points have been made on both sides. I would like to congratulate the advocates for both airplanes, and particularly Mr. DICKS, who has shown himself to be a tremendous fighter for the project that he thinks is the best.

But, I think ultimately, as in some court cases, the debate boils down to a couple of basic facts that we just cannot escape. I think the real problem, along with the problem I cited earlier—regarding limited airfields—is the outsize cargo problem.

For this reason, we are not just talking about the C-5 and the 747 airlift here; we are talking about $100 billion worth of military equipment, and particularly I am thinking of some $40.8 billion worth of equipment that we have decided to purchase and build and develop.

That includes the attack helicopter, the M-1 tank, the infantry fighting vehicle, and DIVAD—division air defense gun. The reason we developed these systems was to give our battlefield commanders the absolute best equipment that they could have to protect their troops and help them to execute their mission.

If you look at the growing chemical warfare threat that our troops are facing, you realize the importance of the new infantry fighting vehicle which protects our troops to some degree against this threat. The attack helicopter with its new Hellfire missiles is designed to confront the improvements the Warsaw Pact nations have made in armor development.

There are very important reasons to have this equipment. We need that DIVAD, division air defense gun, to give our frontline people protection against air attack. Now the people who have been advocating the 747 have continually talked about the fact that most of the cargo needed and utilized by troops will go on the 747. That is true, but the weapons will not, and you cannot separate a soldier from his weapon. I do not think there is anybody here who would advocate that perhaps we should move a soldier on one plane with the promise that his rifle, for example, would come along on another plane. That is ridiculous.

But, we are moving into an era in which we are going to need mechanized equipment, and armor, on an increasing basis, especially in the Middle East, and to deprive that soldier of that immediate capability offered by the M-1 tank or the infantry fighting vehicle is to do him a real disservice. That is the reason that nobody can reasonably come to the conclusion that purchasing the 747 over the C-5 would be the right decision.

Mr. DREIER. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I yield.

Mr. DREIER. Mr. Chairman, I rise in support of the committee's position. I would also like to clarify a couple of points. I would like to ask the gentleman, we have been discussing the airfield question, specifically in the Middle East. Can the gentleman tell me how many Mideast airfields the C-5 could land on a vis-a-vis the 747?

Mr. HUNTER. Yes. If they are carrying approximately 665,000 pounds of equipment, the C-5 will go into approximately 190 airfields. The 747, about 70 airfields.

Mr. DREIER. Also, there has been a great deal of talk of this question about airfield landings. I am curious to know if it is an impossibility to land, what is the likelihood of airdrops, and which aircraft would be able to implement an airdrop?

Mr. HUNTER. I thank the gentleman for asking that question. The C-5 has airdrop capability, and that is important especially with the increasing

ability that the enemy has to destroy airfields or render them impossible to use aircraft. We can airdrop cargo up to the armored personnel carrier size with the C-5. We cannot do that with the 747, to my knowledge.

Mr. DREIER. I thank the gentleman.

Mr. Chairman, as we debate the authorization of funds for the Department of Defense, we are faced with critical decisions concerning the best and most cost-effective methods of insuring our national defense. We are currently faced with a choice of airlift programs which will affect the capabilities of our armed services.

We are being asked to choose between the C-5 program which has been developed and tested with armed services requirements and uses in mind, and the conversion of civilian 747 aircraft to military use. We are being asked to provide our country with vital airlift capacity which in today's world is likely to be of paramount military importance in times of conflict or national emergency.

At issue is military battle readiness. The airlift requirement for the critical first 15 days of deployment of U.S. military forces in an emergency is 100 percent of the total deployment requirement. We need a dependable, adequate means of satisfying that requirement if we are to have a credible defense. The C-5 is the only airlift program that can insure us of a workable, combat-ready deployment capability.

The C-5 is designed, developed, and tested to prove its ability to operate in a harsh military environment at forward primitive airfields with no support or loading equipment to safely deliver its cargo. The 747 is designed only to operate from commercial airports with fixed-base facilities and special loading equipment—hardly ready for adverse battle conditions. The freight-loading capability is one of the more critical aspects which makes the C-5 necessary and the 747 unacceptable.

For loading of outsized equipment, the C-5 cargo floor is the same level as a truckbed; the 747 cargo floor is 16 feet in the air. The C-5 has huge cargo doors at both the front and the back that let trucks, tanks, and other vehicles drive right on and off the airplane in a critically short time. The 747 can only be loaded by special equipment in restrictive field conditions. Also important, the C-5 is able to carry heavy loads that the 747 cannot tolerate structurally.

When we speak of cost and cost-efficiency, we must remember that it will do us no good at all to buy discount 747's when they cannot do the job for our national defense. Bargain basement shopping will not satisfy our need in this instance. For our needs and our money, the C-5 is the biggest bargain available.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. HUNTER. I will be happy to yield.

Mr. DICKS. As the gentleman knows, we are presenting an argument where we are not arguing with the gentleman about outsize capability. What we have said basically is that we have 77 C-5's ready to carry outsize equipment. We have a major shortfall in bulk and oversize which can be carried by 747's and DC-10's, as the gentleman knows. In fact, we can carry more cargo farther in those outsize carriers.

I would point out basically, the way this mission is going to work is that both 747's and C-5's would fly to a rear airfield, unload the equipment and then it would go up by truck or under its own power to the battlefield. There really is not anybody suggesting that we could fly a C-5 directly to a forward battlefield.

The Chairman pro tempore. The time of the gentleman from California has expired.

Mr. STRATTON. Mr. Chairman, I yield 30 seconds to the gentleman from California.

Mr. HUNTER. Mr. Chairman, I am glad the gentleman brought that up, because I think that is the bottom line. I think the fatal flaw of the 747 is that we are going to be purchasing an aircraft, and I do not think we can presume, if we are going to be responsible to our military people, that the aircraft we are going to purchase is never going to be called upon to carry outsize weapons that our infantry is going to need, or to airdrop or come into these restricted airfields in the Middle East and NATO.

Mr. DICKS. That is why the gentleman recommended the C-17, because it has direct deliverability and the C-5 does not.

Mr. STRATTON. Mr. Chairman, I yield 3 minutes to the gentlaman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. Mr. Chairman, I thank the distinguished gentleman from New York for yielding.

Mr. Chairman, we have heard a lot today about this argument. My colleagues, my young, erudite colleague, Mr. DOWNEY of New York, wondered why Lockhead used pictures instead of words in their ads. I would submit to him and to you, Mr. Chairman, that the pictures are worth far more than a thousand words in this instance, and if anyone cannot see from these pictures which is the more capable military aircraft, then perhaps they need not even be able to read.

I am probably in a unique position, Mr. Chairman, in that I am an Air Force Reservist, an E-6, a tech sergeant in the Air Force Reserve. My job is air freight, I load airplanes. I am probably the only Member of this House who has actually loaded a C-5 and a 747. I also loaded C-124's and C-130's. I am sure no one in this House is old enough to remember the C-124 with her belly elevator high off the ground, very similar to the 747, versus the 130 that rested flat on the airfield. There was a great deal of difference in the loading of the two planes.

The same can be said, Mr. Chairman, about the 747 and the C-5. There is just no comparison. The argument that the 747 is an aircraft with airlift capability, is a parochial, political argument. It is clear that the much more needed military aircraft is the C-5.

It has been said that you do not move armored divisions by air, you move them by sea. Mr. Chairman, I submit to you that some of the same Members that make that argument are those who are more than willing to cut my shipbuilding program, to the point where I have no ships that can carry an armored division anywhere in the world. I have no LST's and no LSD's capable of it. I hope I never have to rely on the C-5 to move an armored division, but if you do not give me the C-5 or ships, then do not give me any armored divisions.

□ 1750

Whether or not the C-5 can carry one or two M-1 tanks is very important. The fact is that we are not going to need any M-1 tanks, if we are not going to have any way to move them.

So those of you who say the C-5 can only carry one or none, those are the same Members who voted to do away with all our shipbuilding programs. I would say to the gentleman I would have no way of moving an armored division, so without the C-5, I cannot get my armored division anywhere in the world, because I have no ships to carry them. Now you want to take the only means I have, my C-5's.

I submit to you, Mr. Chairman, it is no longer a military airlift argument. That is absolutely concluded by these photographs. It is a parochial and political argument as to who represents who where and what, and I submit to you that the only aircraft that we can use for our airlift capability is the C-5.

Mr. DICKS. Mr. Chairman, I yield 5 minutes to my colleague, the gentleman from Washington (Mr. PRITCHARD).

Mr. PRITCHARD. Mr. Chairman, this is a lovely picture, but it does not have anything to do with the argument. There is an awful lot of talk that has gone on today that has not had anything to do with this issue.

These planes are not going to fly tanks. The military have told you that.

I think it is probably symptomatic of this whole subject that we keep focusing on the wrong issues.

I am not going to apologize to anybody for standing up and talking for the 747's. They are not going to be made in Seattle. They are going to be retrofitted in Wichita.

I am not going to apologize for something I think is best for this country.

Are they going to be able to carry helicopters? Certainly we have to have the 77 C-5's to carry helicopters. No one ever said that the 747's would carry helicopters. They are not going to carry the outsize.

The question is are we going to have a mix which will carry all of the equipment at an affordable cost or are we going to have the convenient thing for the military regardless of the expense, which is to have all C-5's.

We do have a shortage of money in this country. I think this is a serious problem, but we do not have the financial pinch today that we are going to have 7 or 8 years from now.

We are embarking on a number of programs that are very expensive. When you get out here about 7 or 8 years from now, there is a serious question in many peoples' minds whether this country can afford all these programs.

What does that mean? It means we are going to have to be pretty tough on our decisionmaking. We may have to make some compromises.

I know that does not go down very well with the Armed Services Committee. People say we cannot compromise with our national security. But we are not going to be able to fund every weapon program we want, and we are going to have to make some choices.

In this instance I believe if you can save a lot of money in an area where we are short of money, which is for our defense, then we ought to figure how to do it more economically, just like private industry today, which is under such great stress and has to figure out ways to get the job done. The 77 C-5's can carry all of this exotic gear, the helicopters and though they are not going to carry tanks, they can carry tanks. They can carry all kinds of things but it only represents 15 percent of the load.

Eighty-five percent of the load is what we call the oversize, pallets, the great mountain of material that are needed to back up an army.

They do not make one flight. I think everybody is assuming that they come landing on this dirt field with guns blazing and that is the war.

Airlift is a long time proposition. It may go 10 days; it may go 28 days. But, if you look at the scenario that the Defense Department puts out, they have four different scenarios and in every one of them they had day after day after day flights.

So one of the things you are looking for is a plane that has reliability. The 747 is the most reliable proven aircraft in the world.

My colleagues know that in carrying 85 percent of the material we need, the 747's will do the job.

The CHAIRMAN pro tempore. (Mr. MOAKLEY). The time of the gentleman from Washington (Mr. PRITCHARD) has expired.

Mr. DICKS. I yield the gentleman 4 additional minutes.

Mr. HARTNETT. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from South Carolina.

Mr. HARTNETT. I would say to the gentleman in the well, if he will continue to yield, I certainly did mean to imply that you, sir, had all of your arguments predicated on parochial issues. Your arguments that you have presented are always well founded, founded on good economics, and founded on good logic. I did not mean to imply, sir, that yours was a parochial or political argument.

But I did want to ask you a serious and legitimate question. I have a great deal of respect for you, not only as an outstanding spokesman——

Mr. PRITCHARD. I am always worried when they start a question that way.

Mr. HARTNETT. And a tennis player par excellence. I wanted to get that in. If, in fact, we have a Navy whose numbers of ships are diminishing year after year, and if, we are not building any new landing ships, would the gentleman tell me, and I am sure you will tell me legitimately, the gentleman says the C-5 is not going to carry the M-1 tank, and I would ask the gentleman if the C-5 is not going to carry them, and our ships are diminishing year after year in number and in capability, how are we going to move the M-1? How is that going to get wherever it has to go?

Mr. PRITCHARD. Let me say we do have 77 planes that carry the tanks. But all the military people have told us that the only way you are going to carry tanks is in ships. If we do not have ships, there is no way that they are going to have a Rapid Deployment Force that brings in any substantial numbers. We are out of business if we do not have ships.

But that is another issue. I do not think because the gentleman is not getting proper ships that somehow he is going to replace them with 50 C-5's. That is just not the case.

Mr. DICKS. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to my colleague from Washington.

Mr. DICKS. We have three pre-position ships. We are just getting the FL-7's into the inventory.

I agree with the gentleman that we ought to be investing more in sealift, because it is cheaper, plus we can get the outsize cargo there. So we do not have to spend 50 percent of our total mobility budget on an outdated airplane like the C-5.

Then we could go ahead with the C-17, which I am sure the gentleman knows is a far superior airlifter to the C-5.

Mr. STRATTON. Will the gentleman yield to me?

Mr. PRITCHARD. As one who has been a major participant in this, this is the first time that I have talked on the floor very much so I do not know how much time I have but I will go ahead and yield to the gentleman.

Mr. STRATTON. I just wanted to respond to the gentleman in one respect. You say the military says they are not going to move tanks by air.

I think the gentleman has misunderstood that statement a little bit. In terms of preplanned operations, obviously the best and cheapest way to get tanks to a battlefield is by ship. But if the Ascension Islands, for example, should be taken over by the Argentines from our own forces that are there, the best way to prevent any further erosion of the situation would be to fly tanks and helicopter gunships out there with an aircraft that was big enough to carry them. So you do not know exactly how you might move your tanks. But those tanks are a very nice thing to have in an emergency.

Mr. PRITCHARD. I would agree with the gentleman. That is why we have 77 of these planes that can carry tanks in an emergency.

Could I finish my statement?

Mr. STRATTON. I yield the gentleman 1 extra minute just to point out that if we had 50 on top of the 77 that we have now, and 2 tanks per plane, that would bring 254 tanks. If the British had been able to do that in the Falklands, the Argentines would not have been able to reinforce the island so heavily.

□ 1800

Mr. PRITCHARD. There is so much other gear that has to go along with the tanks, and that is really what we are concerned about, the mix.

I want to say that I believe this is a political decision. In January the Pentagon decided that the C-17 was right, and then something happened. We had the military say, "This is what we want," and then something happened.

I have had people come up to me and say, "Joel, you know, I like your arguments, and all this, but, golly, there isn't one person who is in a uniform that is coming before us and backing up your arguments. There just isn't one person from the Department that is backing up your arguments."

Well, now, how long would a person be in the Department if they did not

back up the Department's arguments. You know, that is just a fact. We had somebody over in the Defense Department who stood up and objected to something they were doing, and he got fired. He was objecting to the C-5A and all of its problems.

Now, let us be honest. It is difficult to stand up against the military. It is difficult to stand up against the committee. What happened in January, when they changed from saying they wanted the C-17? It was a political question.

Finally, let me just say that I am not going to apologize for trying to save a lot of money for our country. We are in a squeeze. We think we are going to save $8 billion. That is a lot of money even today. A couple of people came up and said, "I think it is closer to $4 billion." Four billion or $8 billion, we are in a shortage of money for defense. And 5 years or 8 years out, when we will finally get the C-5's, we are going to be in such a tight place for money that we are not going to have any maneuvering or any flexibility.

Mr. LOWRY of Washington. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Washington.

Mr. LOWRY of Washington. I thank the gentleman for yielding.

Mr. Chairman, the last thing the gentleman in the well needs to do is apologize for the job he has been doing on this issue.

The gentleman did mention something that I would like to come back to. The congressional mandated mobility study said that 85 percent of the need of the shortfall that exists now is in the oversize and the bulk.

Is it true that that was relating to the Persian Gulf in the Middle East?

Mr. PRITCHARD. Absolutely.

Mr. LOWRY of Washington. The gentleman is on the Foreign Affairs Committee. Is it important that we could meet that need 3 years sooner with the 747, for that 85 percent shortfall?

The CHAIRMAN pro tempore. The time of the gentleman from Washington (Mr. PRITCHARD) has expired.

Mr. DICKS. Mr. Chairman, I yield 1 additional minute to the gentleman from Washington.

Mr. PRITCHARD. Of course. And can you imagine, say they decided on the 747 and we came in here and said, "We have got a plane that costs $8 billion more, and it is going to take 3 years longer to get; but, you know, we think it is a better plane." Everybody around here would be sayng, "We cannot wait 3 years." Are the Russians going to wait 3 years before they start causing us trouble?

For heaven's sake, I do not apologize for what we are doing here. I am convinced there are too many people over there who think we are right. I do not care whether the Secretary of Defense has lined them up or not, or how many generals they bring in. The 747 will do a better job when you consider the cost factor, and the cost factor is vital to our considerations.

Mr. MORRISON. Mr. Chairman, will the gentleman yield?

Mr. PRITCHARD. I yield to the gentleman from Washington.

Mr. MORRISON. I appreciate the gentleman yielding.

Speaking of being in line, my first job in the Army was painting rocks. There is a tendency in the military to want to have everything the same size and shape, regardless of their utility value, and I think that carries over into this particular issue.

Mr. PRITCHARD. It is more convenient.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia (Mr. McDONALD).

Mr. McDONALD. Mr. Chairman, we all agree that the need is for airlift. Specifically, the special type of airlift requirement is for the outsize cargo only carried by the C-5 aircraft. And that is specifically important for the first 15 days of the conflict, when no sealift will be available. The need will be for the fire power, for the M-1 tank, the self-propelled howitzer, and so forth. The need will also be for the heavy construction equipment to repair the airfields, equipment such as the Red Horse units of the Air Force, the Seabees of the Navy, the R3 capability, the Rapid Runway Repair capability only carried in its full configuration by the C-5, not the 747. Only the C-5 can do the job.

The problem with the 747 is relatively simple. It cannot carry the heavy equipment. It is a high loading proposition, high off the ground. It has a relatively small door.

Here you see figured the nose door on the 747, and here you see the C-141 which we now have in the inventory, and the side door on the 747, all of them about the same. And here we come to the doorway of the C-5, an enormous difference simply in what you are going to be able to get aboard the aircraft if the aircraft were stressed to carry a heavy load. The 747 has a relatively small door as compared to the C-5.

The C-5 is able to land loaded with a tank or tank loads, and able to land in less than 3,000 feet. The 747 cannot. Instead, it is going to use twice the length of the runway.

The gentleman from Kansas has stated that the C-5 is not going to be able to take off on a hot day. The truth is that the C-5 has demonstrated a capability of being able to take off on a 95-degree day, with 100,000 pounds, in less than 3,000 feet, a 3,000-foot runway. The 747 cannot duplicate that capability.

The C-5 can land on unimproved fields. The 747 cannot.

The C-5, as we see in the picture, over to my far right, your far left, the C-5 landing in an austere airfield. Actually, that is not a picture of a C-5 landing in an austere airfield. That is incorrectly marked. That is a C-5 giving a taxi demonstration where it came through the test with flying colors.

The C-5 and the 747 in operation and support cost, in a wartime use scenario, are about equal. In fact, the C-5 may be possibly a little cheaper than the 747.

Now, in the life cycle cost, a comparison of the two, if you are comparing apples with apples, if you are comparing the same basic payload, it is about a wash, with perhaps $1 billion difference. While this economic chart to my left is a very lovely chart, a very nice looking chart, it happens to be inaccurate. The figures are not correct. It is not an $8 billion savings. It is not a $4 billion savings. It is about an equal picture in the life cycle cost. It is essentially a wash. While that chart is a lovely chart, the figures are not correct and do not check out. The Air Force statements show that those figures, as presented by Boeing, show an $8 billion, a $6 billion or a $4 billion savings simply are not the correct statements.

The statement today has been made on the floor that the C-5 is a 25-year-old plane. That again is simply not correct. There have been 269 engineering advances in the C-5B over the C-5A. The engines are current, not past, current production and current technology engines. It would be an up-to-date modern plane, unmatched by any other plane in the world.

In answer to the statement of the gentleman from New York concerning the inability to carry a tank, of course as we know, the C-5 is able to carry 2 main battle tanks. The 747 none.

Now, the C-5B will actually be able to carry 26,000 pounds more than the C-5A. It will be an updated, modern presentation. It is able to carry six combat helicopters, ready to be rolled out, ready to fight, out and flying between 5 and 10 minutes. The 747 cannot.

With regard to the amendment offered by my good colleague, the gentleman from California (Mr. BADHAM), he had a very good point which probably would have been valid in 1960, because in 1960 the number of checks and rechecks in the research and development cycle, before going into the production time, would have been, if chartered out on a graph sheet, 5 feet long. Today, however, we have, due to the over 20 years of systems analysts that have been brought into the DOD, the number of checks and rechecks, before the conception and moving into

production, is now a chart some 34 feet long. This is for all of the weapons systems we have, which means that the Sam-D Patriot system is now 20 years in R. & D. It means that the Aegis weapons system is now 20 years in R. & D. And the thought that we are going to produce the C-17, a paper airplane, into production equal to the C5-B, where the tooling is already intact, simply cannot be backed up by the real world.

Now, no one has mentioned, except just briefly, the question of airdrop capability. The C-5 demonstrates that airdrop capability. The 747 does not.

In short, repeatedly the C-5 is the winner. But the bottom line is that about a month ago both Boeing and Lockheed were asked to send their planes out to Andrews for the members of the staff and Members of Congress to go out and inspect the two aircraft.

□ 1810

Lockheed Aircraft's C-5A was there for the inspection by Members of Congress and staff. Members of Congress and their staff watched helicopters go out, be unloaded and fly away in less than 10 minutes. I asked the Boeing Co. officials if they had planned to send an aircraft. Boeing refused to send their planes.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. McDONALD) has expired.

Mr. STRATTON. Mr. Chairman, I yield 2 additional minutes to the gentleman from Georgia (Mr. McDONALD) to complete a very interesting and effective statement.

Mr. McDONALD. The bottom line is that the C-5 was able to stand a test in instance after instance. It meets the same basic requirements presented for the C-17 in 9 out of the 10 requirements that our DOD requires. But in the side-by-side comparison, where you have the ability to load a tank, as demonstrated here, the ability to load outsized cargo, roll it off, ready to fight in a short time, that capability was demonstrated at Andrews. But we did not have a comparison—the Boeing Co. refused to send a 747 because you would have seen the picture on my far left, the one against the wall, of a Rube Goldberg type of a platform, material having been jacked up at least 16 feet, and then crated before it could be presented.

If you are going to load the outsize equipment, you are going to have to take it apart, crate it up, into the nuts and bolts and hope that someone will be there to assemble it.

So, out at Andrews we were able to see the C-5 in operation.

The 747 was not there for comparison.

Mr. STRATTON. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Chairman, it has been said earlier that the decision that is being made is probably a political decision. Let me say in the very beginning that I recognize that I, as a member of the delegation from the State of Georgia, do have an interest in this issue from an economic standpoint.

I recognize that my colleagues from the State of Washington likewise have an interest in the 747 built by Boeing. I recognize that my good friend from Kansas has a great interest in modifying or having the modification work of the 747 in Kansas. Just as my friends from St. Louis, likewise have an economic interest.

But if we are talking about a political decision, this decision was made by the Commander in Chief, which is the President of the United States and the Secretary of Defense is appointed by the President. They have all said in plain language that we need the additional C-5's.

I say to the Members that I understand the determination that each of us has for our respective districts, and I must say that as a Member from Georgia I share that interest. But I cannot ignore the fact in this case that every single witness who has come before the committee, that is a part of the Department of Defense, from generals on down, do not support the 747.

Let me quote from the testimony of General Kelley on June 16 of this year when he said:

I have heard some advocates of a commercial aircraft alternative distort facts dealing with our outsize requirements beyond reasonable recognition. Their favorite ploy is to use a single scenario in one geographic area, and even then the facts are twisted or taken out of context * * * I believe it impossible to find a man in uniform who would suggest that our country has sufficient strategic airlift to provide for the early arrival of combat essential outsize equipment.

In one breath we hear the proponents of the 747 say the C-5 is not a good aircraft. In the next breath they say, look, we have 77 of them, we can carry all of this outsize equipment. In the next breath they say, let us use them because we have to have them for the outsize equipment.

That is totally inconsistent.

I received a call earlier today from a pilot in Texas. He said, "Look, I have no interest in this. I have flown 2,000 hours in a C-5. I have flown the 747. I have loaded and unloaded these aircraft and this argument that you people are making in the House is ridiculous. You are attempting, apparently, to buy 747's. That is a good aircraft to haul troops, to haul small cargo, but that is not what the military, the Commander in Chief has said that we need today."

So I say to my friends from both sides of the aisle this should not be a political decision. This is a decision that should be on the merits.

I recognize there are some large banks that hold a little paper on the 747's. I understand that Boeing has unfortunately sold to some foreign airlines some 747's that they are holding paper on that they need to sell, and I sympathize with them and I will do what I can to help them, but this is not the place to do it.

Mr. Chairman, I am disturbed to think that this House of Representatives would allow a vital national security issue to descend into a debate over parochial interests. The upper House of this great Congress acted on the airlift program using politics as the measure of merit. Their decision in favor of the 747 instead of the C-5 will long be remembered as one of the most masterful political campaigns the Senate has ever seen. I admire the spirit and legislative skill shown in that effort, but, I believe the time has come to put that all behind us.

Yes, I am from Georgia and everyone here knows of my determination to represent my constituents to my fullest capacity. It is the same determination which we all share. But, we are now discussing the national security of the entire United States. We must throw out the parochial interests of the States of Georgia, of Washington, of Missouri, of Kansas, and others. We must disregard the interests of a few airlines who would like to dump their surplus 747's on the Air Force. We must ignore initiatives of some major banks who are holding financial paper on some of these airlines. In short, we have an obligation to the American people, and especially the men and women in our Armed Forces, to set aside all these extraneous influences and select an aircraft solely on the basis of the need. When you take away all of these extraneous issues, there is only one thing left.

The President, the Department of Defense, the Air Force, the Army and the Marines all say they need the C-5B now. The 747 will not do the job. The people who fly, the loadmasters, and the combat troops depending on helicopters, tanks, and equipment for ground support all want the C-5. In other words, the people who really count in this fight want the C-5.

This has been one of the most bitter struggles between Members of Congress in quite some time. Many Members, who do not serve on the Armed Services Committee, have not had the opportunity to participate in the hearings and debates on this issue and may therefore be confused as to where the military and Department of Defense stands. I can tell you that the record shows unanimous support for the C-5 on the part of the Secretary of Defense, Deputy Secretary of Defense, Secretary of the Air Force, Secretary of the Army, Chief of Staff of the Air Force, Chief of Staff of the Army,

Commandant and Vice Commandant of the Marine Corps, and many others. Let me quote just a couple of statements to give you some idea of how strongly these defense experts support the C-5.

In a letter to the chairman of the House Armed Services Committee, MELVIN PRICE, dated June 4, 1982, Secretary of Defense, Caspar Weinberger, stated,

> There is an immediate need for additional outsize airlift capability * * *. Failure to fund the C-5B dangerously delays resolution of this critical need.

In a June 9, 1982, letter to Congressman PRICE, the Secretary of the Army, John Marsh, Jr., stated,

> I am writing to emphasize the Army's strong support for the C-5 aircraft. The Army needs the C-5 to accommodate our outsized and extremely heavy military cargo and weapons systems. Chief of Staff, General Meyer, has stressed in testimony and in letters to other Members of Congress the need for additional aircraft capable of moving outsized cargo in both intertheater and intratheater operations. The C-5 was specifically designed for this purpose and is the only aircraft in being that can give us this capability.

In closing, Mr. Chairman, it is clear that when you eliminate the parochial self-serving interests involved and examine the pure military considerations, the C-5 is the only choice. This is a major defense issue and one that cannot be taken lightly. The debate has been spirited, but we cannot allow that to cloud the issue. The C-5 is the right choice and now is the right time to get on with it.

Mr. STRATTON. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Chairman, I rise in opposition to the amendment to substitute procurement of the 747 aircraft for the C-5B, but I also rise to speak against one system of doing defense business here on Capitol Hill that has done so much to shape this debate.

Local considerations aside, the primary duty of the Congress in acting upon the defense authorization measure is to provide for the common defense in the most cost-effective manner for the taxpaying public. The major questions before us ought to be: What is our military need and what is the best way of balancing defense capabilities with costs to meet that need.

In my opinion the facts most relevant to these central issues are:

First, almost all parties who have seriously examined the subject—including both Congressional Armed Services Committees—conclude that the United States is faced with a severe shortage of military airlift, particularly in the field of outsize cargo such as helicopters, tanks, armored fighting vehicles, and artillery.

Second, under every likely military scenario, the proposed C-5B fleet would deliver more combat power than the B-747 in the critical first 20 days of an emergency and, because of its outsize cargo capabilities, the C-5B would afford far more flexibility to defense planners in responding to changing circumstances.

Third, with regard to cost effectiveness, the Air Force has concluded that the 20-year, life-cycle expenses of a comparable fleet of C-5B's and B-747's yields a cost advantage to the latter of less than $1 billion. Furthermore, the C-5B fleet was found to be 25 percent more effective, which reflects in part the fact that the 747 fleet would in the words of General Hecker, "do nothing to alleviate the current and pressing need for outsize airlift capability."

Fourth, finally, during the present period of maximum budget austerity, the B-747 procurement would cost $2 billion more over the next 3 years than would the C-5B.

In summary, the C-5B would respond more adequately to the actual military requirement for outsize cargo airlift with only a marginal cost penalty in the long run and a sizable cost advantage in the near term.

None of this is meant to disparage the 747 nor to downplay the contribution that it can make toward meeting our national defense mobility needs.

In fact, the 747 is a very fine aircraft which, though designed as a passenger carrier, can be adapted to military usage. It is this dual civilian-military capability, possessed by the 747 and certain other commercial aircraft, which is recognized and utilized in the Civil Reserve Air Fleet (CRAF).

The CRAF program effectively augments the active airlift fleet by obtaining commitments from civilian carriers to provide their aircraft, support facilities, and personnel to the Air Force in time of military airlift shortage or national emergency. The program draws upon the enormous assets of our private sector to help meet our military needs. The CRAF aircraft, of which there are currently 392, have been mobilized quickly and effectively to assist the Air Force's in-house organic airlift capabilities in Korea, Vietnam, and on many other occasions.

The CRAF approach, which in time of need makes available to our armed services militarily useful civilian resources without the heavy costs of acquisition and continual operation, is a perfect example of a cost-effective defense program that extracts maximum value for the taxpayer dollar. The 747 is already a vital part of the CRAF program, and will continue to be. The cost of obtaining Government ownership of this capability, as is envisaged in the amendment now before the House, will be up to 10 times the cost of receiving the same capability for crisis situations under the CRAF program.

The 747, which is primarily a passenger aircraft, is well fitted to its role in CRAF.

The C-5 was designed to be and is a military transport which is best suited to heavy airlift defense needs as a part of the Military Airlift Command. The trials and tribulations that the program has undergone in meeting highly demanding and specialized combat mobility requirements are a testament to the unique mission requisites for such aircraft.

Passage of the amendment would duplicate capabilities that we already have under the CRAF program without addressing our outsize airlift shortfall.

Therefore I urge support for the procurement of the C-5B and defeat of the pending amendment.

Before closing, however, I would like to make a few comments about the defense procurement process on Capitol Hill. Much attention has been given of late to the need for structural reforms in military itself and I strongly support such efforts as a strengthened role for the Chairman of the Joint Chiefs of Staff and the Unified Combatant Commanders. However, part of the structural problems that plague our Defense Establishment—giving us strategies that do not pay for as much defense capability as they might—is right here in this building. This current battle of the contractors is but the latest in a long series of struggles in the Congress over military programs that have seemed to turn more on the size of the competing constituent interests rather than on the national security concerns at stake.

My friends and colleagues, we cannot afford to continue on this path. Business as usual will not do any more in the Congress than over at the Pentagon. I claim no monopoly on knowledge nor any special immunity from this problem. I do want to say that we have an overriding responsibility to all of the people of the United States to spend their tax dollars wisely and to give them the best military value for the dollars spent on defense.

Now is not the time to have a lengthy discussion of the structural reforms that I feel are more important to our national defense than any additional dollars we might authorize for the Pentagon. I would, however, like to briefly mention two steps that I feel would significantly aid our ability to make the right defense judgments in this Chamber.

First, I strongly endorse biennial budgeting for defense programs.

The advantages stemming from multiyear defense budgeting, in bringing greater stability and economy to procurement decisions, were amply cited last year when the Congress moved to provide for greater usage of multiyear contracting in the defense field. These

same principles apply to the management of the defense budget on Capitol Hill.

Congressional budgeting is certainly a source of discontinuity and seemingly endless appropriations and authorization paperwork diversions for the military. A 2-year defense budget cycle, in which the first year is used exclusively for oversight and the reporting of the Defense authorization bill and the second year is used for adoption of the Defense authorization and appropriations bills would have, in my opinion, the following major advantages:

Improved congressional oversight;

Better informed congressional floor decisions on defense matters;

Greater stability in procurement decisions; and

Reduced routine reporting requirements for the military—thereby freeing it and the Congress to pay more attention to longer range issues.

Certainly I do not think any of us would look forward to fighting this same battle on military airlift again next year but under the current system we might well be faced with just such a contingency.

Second, I believe we should establish an independent test and evaluation organization, to validate or invalidate service and contractor claims for weapons systems and doctrines, that would report to the Chairman of the Joint Chiefs of Staff and the Armed Services Committees. The test and evaluation operation under the Secretary of Defense should also be strengthened. We need clear, concise and unbiased data if we are to properly discharge our duties to the American people.

I hope that this House will give serious consideration to these and other proposals for reforming our own role in the defense process. With the enormous expenditure we are asking from the American public to pay for defense, with the obvious sacrifice we require of our men and women in the armed services, can we not ask of ourselves to look beyond parochial interests and narrow institutional prerogatives?

Mr. DAN DANIEL. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia (Mr. GINGRICH).

Mr. GINGRICH. Mr. Chairman, I think that the case for the C-5 and against the 747 is fairly overwhelming. For those who prefer a more detailed accounting than we are getting today this is a printout of various systems both combat and noncombat, that can be carried by the C-5 that will not load on the 747, as verified by General Vessey's testimony.

I would suggest, when my colleagues look at the list, different people may want to take note of different specific items, but it goes beyond anyone's ability to hold it up.

It is fairly impressive, but let me carry you beyond this, because I think the real argument is not just these items.

I would be glad for the gentlemen from Washington on either side of the aisle to take a look at this. This is what General Vessey said to look at.

Mr. DICKS. Mr. Chairman, will the gentleman yeld?

Mr. GINGRICH. No; let me finish my statement. I would be glad for the gentleman to look at this, but I would rather not yield right now.

I think there is a deeper, central failure of the C-17 and Boeing 747 arguments and that is the assumption on both sides that you can calculate or plan the future. The 747 argument calculates that it is possible to plan where you are going to fight, and over and over again we have been told that you can pre-position everything that we cannot carry on the 747.

The C-17 argument calculates that you can figure on building a cheaper airplane on time and on schedule.

Let me suggest that there are three lessons from the Falkland Islands that shatter both the C-17 and the Boeing 747 argument. First, you want to win early and with as much force as possible. You want to win decisively. That means you want to deliver combat loaded equipment that rolls off and goes into battle. You do not want to pull up and start assembling.

Second, you cannot be sure where trouble is coming. No one in Britain expected a war in the South Atlantic. No one in the United States can predict where we ought to prestock equipment, and I dare say when you talk about cost, if the 747 advocates would count in the cost of all the equipment they intend to prestock in all the places we have interests, they would find their costs 10 or 20 times greater than the C-5.

Third, ultimately you fight with what you have when the battle starts. The fact is that paper airplanes do not help you at all.

In this context, let us look at our choices. The C-17 is a paper airplane. Every promise that has been made about delivery dates and cost of the C-17 is just that, a promise. In fact, every person who is concerned about bringing the Pentagon under control should know full well that buying a paper airplane with a paper date is a very dangerous game to start. You know full well we will not get the C-17 on time or on budget—it is pure paper.

Then there is the Boeing 747 offer. The fact is that if the airline industry were not cutting orders, Boeing would be too busy selling what it has done best recently, which is commercial airliners and commercial freight haulers, to be dealing with the business it does not do particularly well, which is landing near a battlefield to deliver combat equipment.

Candidly, the Boeing 747 is a sad joke as a military aircraft. It cannot land on short runways. It cannot handle outsized cargo. It cannot unload itself.

Now, the advocates in this debate tell us that we can pack outsized equipment in the C-5 and everything else on 747's. Again I suggest, that is precisely the intellectual arrogance of assuming that you can look ahead carefully enough, that you can understand in enough detail what the world will be like, that you can always be in charge of reality.

Let me close by suggesting that if you can guarantee that we are not going to go to war in the near future, then it makes sense to vote for the C-17 in the nineties.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia has expired.

Mr. DAN DANIEL. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I will be very brief. We are here now trying to decide what kind of airlift we will have for the future. The C-5 works and the C-5 flies and we have 77 C-5 aircraft and most of them I guess are in a state of repair where they can fly and do the job and we already have them—they are usable.

We have also in the civilian air fleet an excess of 747 aircraft and they are available should we have an emergency in this country. We can move troops, we can move people and that is almost all, unless they have some modification, and there are some of those around, freighter 747's that would be available to the military air fleet if we needed them.

The essence of what we will first vote upon is my substitute amendment which would say again to the Pentagon, "Let us have something that you think we need that is proper. Let us have the result of the competition that you have already held. Let us have a new aircraft, the technology of which is now, the technology of which is known and most of the parts are shelf items." That is what the first vote you make will be on, this substitute which will give to us the C-17 and that is what is really needed.

To the argument that said if you have a good airplane, let us keep on flying it, again I say we are not still flying the B-17 or the B-29; capable aircraft, but we do not use them anymore and we do not use the 727 or 737 for carrying cargo or carrying freight or carrying tanks.

Now, I ask you as my colleagues to vote for my substitute, which will throw the ball back into the court of the Pentagon and say, "Get with it.

Let's go for the best aircraft that technology can give us today. Let's go for the C-17 and let's do it now."

Mr. DICKS. Mr. Chairman, will the gentleman yield just briefly on the question of timing on the C-17?

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

Mr. STRATTON. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. LUNGREN).

Mr. LUNGREN. Mr. Chairman, I, like many other Members who have spoken, have somewhat of a parochial interest in this and I should announce that at the outset. McDonnell Douglas happens to be my major employer. Douglas Aircraft is located in my district. They would be the manufacturers of the C-17.

I have remained silent for most of the argument because I thought my comments might be viewed as totally parochial. But now I must take exception to some of the statements that have been made by some of those who are arguing on behalf of the C-5. They suggest that because the C-5 had so much difficulty in finally becoming a successful aircraft, that any new aircraft will have that same difficulty. They suggest that because they did not figure out how to put the wings on the plane correctly the first time and now they are rewinging it, that therefore any new aircraft will have that same difficulty. They suggest that because it took such high cost overruns, that naturally any other aircraft that will come about will have the same problems.

Well, I would suggest that whatever the merits of the C-5 may be, it seems to be a rather strange argument to say that we should stay with this program because we have gone through those problems and we must benefit from all those problems.

I would suggest that if the argument is that we should use the best available aircraft, it ought to be the C-17.

The argument would simply be answered by the fact that on an evaluation, the military came up with the C-17 as being the appropriate airlift. Everyone recognizes we need more airlift. In fact, the military decided that they needed a new aircraft to perform the precise functions necessary for the Rapid Deployment Force. That decision was changed by Mr. Carlucci over in the Defense Department for a number of different reasons that have been articulated, but none I think absolutely correctly.

One of the other gentlemen got up and said that it is the height of intellectual arrogance to think that we can forecast the future. I would suggest that it is the height of intellectual arrogance to ignore the past. The past shows us that we have had a number of problems with the C-5. The past also suggests perhaps the 747 is not the absolute best thing that we have now. If we want to have the best reasonably available aircraft, it would be the C-17.

Some have suggested it would take a great period of time for it to come online. The testimony before the Senate committee just in the last month from McDonnell Douglas was that there would be a difference of about 6 months between the first 12 C-17's coming online with the 12 new C-5B's coming online. To suggest that it is a brandnew aircraft with brandnew technology is to ignore that most of what goes into the C-17 is on-the-shelf items. It is developed out of an already existing prototype and in fact we could have it within a short period of time.

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So the crucial question is which is the most practical, the best for our long-range defense purposes. I suggest that it would be to support the Badham substitute. It seems funny for some to come up and say that those in uniform have said only one thing is the thing that we ought to do, that is, build the C-5. Some of those same people in uniform a year ago were saying the only thing we should do is build the C-17.

I do not know when you should listen and try to understand what they are saying and decide what is exactly appropriate.

I suggest we send it back to them for another year; that we say to them, "This time get your act together, decide firmly what it is you need, tell us what you need, and come in and make a good presentation." That is one of the problems we have had.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

Mr. DICKS. Mr. Chairman, I yield 1 additional minute to the gentleman from California if he will yield to me.

Mr. LUNGREN. Mr. Chairman, I would be happy to yield to the gentleman from Washington.

Mr. DICKS. Mr. Chairman, I think the gentleman has made an important statement.

The ranking Republican on this committee asked a lot of hard questions about how the military decision was made. He said, "How can you flip-flop? How can you come in one day and say you want the C-5, and the next day you want the C-17, and now you are back here telling us about the C-5 again?"

To me, there is something very wrong about this decision because the right outsize airlifter for the long term, the one that was recommended by every single military leader, was the C-17.

General Heyser, one of the finest four-star generals we have ever had, last year—before he left military service—recommended that we use 747's or DC-10's in the near term, along with the C-17 long term at a savings over an all-C-5 fleet between $9 billion and $7 billion.

So the gentleman is right. The C-17 is the right long-term option.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. LUNGREN) has again expired.

Mr. DICKS. Mr. Chairman, I yield an additional minute to the gentleman from California in order for him to respond.

Mr. LUNGREN. Mr. Chairman, I appreciate the gentleman's comments. I think one of the difficulties we have when the Air Force is asked to testify on airlift capacity is that airlift is not a sexy part of the Air Force. The sexy part of the Air Force is the fighters, the bombers, and so forth.

Mr. Chairman, this is the truckline of the Air Force. As a result, it has been difficult for us to get them to come in and testify before us as to what is the best truck that they are going to drive.

We have had difficulty because we have been getting different responses from them at different times.

Mr. DICKS. If the gentleman will yield, that is why there is no technological risk to the C-17. They built YC-15, which is just a smaller version. We have had that plane which we used and tested. So we are not talking about a paper airplane. In fact, no C-5 has been built for 10 years. It is more of a paper airplane, with 250 changes, than is the C-17.

Mr. LUNGREN. Another point is that McDonnell-Douglas is now bringing in the KC-10, not only on time, but early and actually at a savings to the Federal Government. So this one contractor has done a pretty good job.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I think although I have spoken on this, I think, hopefully, we are coming to a close in the debate on this.

I feel at this point, though, that something that is important has not been brought out, and I would like to engage in a colloquy with anyone who is more knowledgeable of the facts than am I.

Earlier, before the decision was made, just prior to the decision on the C-17, as I recall, before it was even given a number, perhaps, we were still talking about calling it CX at the time, the president of Lockheed called on me at my office with a couple of his assistants. We had a long discussion, and at that time they were trying to persuade me that the C-5 was in fact the way to go; that they had not been solicited by the Department of Defense, but they sharpened their pen-

cils, had gone to the drawing boards, and had come up with a solution for our airlift requirement.

They made certain representations to me. They said, and this is the president of Lockheed speaking, that they still had the tools, the jigs, the dies, everything that it takes to make aircraft; that while the line was dead as such, they still made many component parts for spares, supplies, and they still had a work force and an expertise in-house, they still had a big portion of the learning curve, and that the aircraft could be built in a much shorter time than most people realized.

The thing that they presented to me was that they would guarantee the price, they would give a warranty with it, they would guarantee the delivery time, and, as I say, they would warrant any defects, as we say in Sears, and so forth, in parts and workmanship for a certain period of time.

I was wondering if anyone who is an advocate of the C-5 is more knowledgeable of the facts that were offered than am I.

I am talking about Lockheed now. We will talk about Boeing later. But my understanding is, and I did not bring these facts with me, that it was a firm, fixed price and a guaranteed price, within a guaranteed delivery time, with a warranty, and this was the word of Lockheed that they would do this.

This was presented in writing and later accepted by the Department of Defense.

I wonder if the gentleman from Georgia, Mr. GINN, is familiar with these facts and can make this a part of the record.

Mr. GINN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Georgia.

Mr. GINN. Mr. Chairman, the gentleman is absolutely correct. The Lockheed Co. has come in with a firm, fixed price, with warranties, with guarantees, with time schedules, with no R. & D. It is a very firm figure.

Mr. DICKINSON. And they guaranteed no R. & D.?

Mr. GINN. That is correct.

Mr. DICKS. Mr. Chairman, if the gentleman will yield, can we find out what that price is, the firm, fixed price?

Mr. DICKINSON. I do not recall. Perhaps the gentleman from Georgia has that information.

Mr. GINN. It is my understanding that the price is about $4.8 billion for the plane.

Mr. DICKS. What is that per plane?

Mr. GINN. I do not have a calculator here. The gentleman asked a question about the price.

Mr. DICKINSON. Mr. Chairman, if I might reclaim my time, I left out another ingredient, and that was the time in which it would be delivered, and the number was a firm figure of 50. I mention this because it is very important.

This was accepted by the Department of Defense as a package deal.

Now, if you open up the package, if you do not buy that number, if you do not buy it within the time stipulated, and if all the other concomitants or elements that go into the agreement are not lived up to, then the package is torn up and the guarantees that were made, and the savings that were guaranteed, would not be realized by the Government.

The gentleman from Washington, (Mr. DICKS) has alluded to a firm, fixed price, and so forth. Just for comparision, I wonder if the gentleman could give us what Boeing has, in an unsolicited proposal, offered to do, even though there is very little comparison between the capabilities of the two?

Mr. DICKS. I missed the last part of the gentleman's question.

Mr. DICKINSON. It was only important to those of us on this side.

I was wondering if the gentleman could tell us what the firm, fixed price, and other guarantees were that were made in the unsolicited proposal given by Boeing.

Mr. DICKS. Boeing made a firm, fixed price on 48 new planes at $58 million a plane and a 20-year guarantee on operation and maintenance under contractor logistic support at an estimated $8 billion less than the 50 planes that Lockheed is offering us.

The CHAIRMAN pro tempore. The time of the gentleman has again expired.

Mr. STRATTON. Mr. Chairman, I yield 1 additional minute to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKS. Mr. Chairman, if the gentleman will yield further, beyond that on the used planes that would be modified into air freighters, there is a 10-year guarantee or 20,000 hours, whichever comes later.

By the way, there is no warranty on the C-5 wing. It is a limited guarantee, and for less than 1 year. It is the same old deal, you know.

Mr. DICKINSON. Well, I do not know that to be the fact. But now I am asking the gentleman: Do the planes that were offered—which he said are new planes—is he talking about freighter planes?

Mr. DICKS. If the gentleman will yield further, yes, the new planes, and one of the options in the Boeing offer was new planes at $58 million, or we can get existing wide bodied used planes with a 10-year warranty and 20,000 hours, and we can get that at an estimated cost of $44 million, which includes $12 million per modification.

When you compare it to then-year dollars, it is $182 million to——

Mr. DICKINSON. The gentleman is sloughing over something. He said with a modification.

Mr. DICKS. It is approximately $10 million.

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The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

Mr. DICKS. Mr. Chairman, I yield 1 minute to the gentleman from Alabama.

Mr. DICKINSON. It is my understanding now that in addition to the firm, fixed price which the gentleman says Boeing has made to the Department of Defense, there will be additional cost of modifying these aircraft.

Mr. DICKS. No, no, no, no, no. That is included in the $44 million. The current price of the wide bodies is about $30 to $32 million; $12 million for modification gets it up to $44 or $45 million. That is the price we are talking about in total. That compares with $182 million in the then-year dollars for each C-5, or almost, I think, 4 to 1.

The best part is, we can take as many as we want. We are not committing ourselves to a very expensive, 25-year-old technology.

Mr. DICKINSON. The gentleman yielded me this time, but he is using it all. I want to ask if, in the modification he is talking about, is this for the used planes? They are going to widen the door?

Mr. DICKS. Right.

Mr. DICKINSON. Beef up the floor?

Mr. DICKS. That is right.

Mr. DICKINSON. Would it also be front-end load?

Mr. DICKS. No, that is an option. You can get that as an option.

Mr. DICKINSON. I thank the gentleman.

Mr. STRATTON. Mr. Chairman, may I inquire, how many minutes do I have remaining?

The CHAIRMAN pro tempore. The gentleman from New York (Mr. STRATTON) has 13½ minutes remaining, and the gentleman from Washington (Mr. DICKS) has 21 minutes remaining.

The Chair recognizes the gentleman from Washington (Mr. DICKS).

Mr. DICKS. Mr. Chairman, I think one of the things that my friend from Washington (Mr. PRITCHARD) touched upon, rather effectively, was the fact that we simply do not have money for every gold-plated, expensive weapons system that the Defense Department comes up with. We are facing an affordability crisis in terms of the major weapons systems that we are now procuring.

Let me just show the Members the cost escalation of the 47 major weapons we are now procuring. In 1980, the cost to procure those systems was $318 billion. That cost figure in the last 90 days of 1981 jumped to $455 billion.

That is what it cost to buy out all these systems. Do the Members know what we are going to do? We are going to stretch out every one of our major weapons systems in order to fund them all at one time, and what does that do? Yes; it drives up the unit cost higher and higher and makes the problem worse, and we get fewer new weapons in our inventory, very major conventional weapons that are important. Rarely, rarely do we have the opportunity to buy something off the shelf that has exceptional military utility. If it did not have exceptional military utility, why would we have 747's or DC-10's in CRAF? It is because they do have military utility.

So, today what we are faced with is an opportunity to go out and buy in the near term existing wide bodies at $44 million, and when we add up our proposal and compare it to the other proposals, it is a difference of $6 billion to $8 billion unless you are going to let the Air Force fudge the numbers as they have done to us so often in the past.

Just last year they told my Committee on Defense Appropriations that they were going to get us the B-1 bomber for $20 billion. Today, it is up to $28.9 billion, and they gave us all kinds of statements that this was a firm, fixed price contract, and nothing would change. Yes; it has changed. That plane will cost around $400 million a plane. This is what we are up to.

We now have a chance to procure, at a tremendous savings to the taxpayers, a very capable plane. By the way, when we compare the oversize and bulk carrying capacity of a 747 versus the C-5—and by the way, we are going to have to carry that bulk and oversize in the C-5—you can only carry 100 tons versus 135 tons. Plus, you can go all the way to the Middle East without refueling in a 747, and you must have refueling in a C-5.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, I would like to reemphasize what the gentleman says. For a short-range flight the 747 can carry 135 tons, and the C-5 100 tons. For long-range flight of 5,400 miles, the 747 can carry 77 tons. The C-5 can carry only 47 tons. If we are talking about a long-range mission in 90-degree heat, a 7,500-foot airfield—and as much as we would like to, we do not know whether war is going to break out in winter or summer—the 747 can carry 37 tons and—listen to this—the C-5 can only carry 3 tons of cargo. When translated to standard pallets, the 747 can carry 50. The C-5 can carry only 36. That is reemphasizing what the gentleman is saying in terms of what an incredible airplane we have in the 747.

Mr. DICKS. The point is today, in the Rapid Deployment Force—and the four scenarios of the congressionally mandated mobility study all center around the Rapid Deployment Force—85 percent of what has to be moved is bulk or oversize that can fit into a 747. So, why would we go out and buy the most expensive airplane in the history of America, the C-5, with its mission-capable rate of 53 percent to 90 percent on the 747. That means on every single day one C-5 cannot fly because it has to have maintenance. It is the all-time champion of high maintenance requirements, requiring 76 maintenance man-hours for every hour in the air compared to 20 for the 747.

We have the chance to save the taxpayers some money, to give them a cost-effective airplane, and we still will have 77 C-5's to take care of the important outsize equipment that is going to be moved. But remember, 94 percent of what is deployed will go by ship or be prepositioned. No general in his right mind wants to move tanks by air because it takes up the entire load of the airplane. It just does not make any sense. You may want to take TOW missiles to kill tanks, and you can do that in C-41's or 747's.

Mr. GEPHARDT. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to the gentleman from Missouri.

Mr. GEPHARDT. Mr. Chairman, I thank the gentleman for yielding. I would like to emphasize a point I think the gentleman is making about the commitment we would be making by going forward with the C-5. I think it has been represented by a number of individuals in the whole discussion of this topic that if we do the C-5 we can also do the C-17. It is not a matter of doing the one and not having the other. We can have this generation airplane and then go the next generation. I would like the gentleman's comment on that.

Mr. DICKS. If the gentleman thinks the lobbying has been intense on this issue, wait until you try to stop the C-5 line after 50 planes and go forward with the C-17. We cannot afford to have two outsize airlifters going at the same time, one in procurement and one in R. & D. What has happened here is that the funding that was going to the C-17, which is clearly a superior outsize airlifter for the future, has been diverted to the C-5, and the real question is why, especially when the C-17 was recommended by every military leader that today is saying they are for the C-5.

Last January 8 they were all for the C-17 long term, and by the way, General Heyser recommended a combination of C-17's and wide bodies as the best way to take care of our near-term options and our long-term options. The gentleman is right: If we let them start up a C-5 line, we are not going to get to the airplane that we really need; that is, the C-17. We can get some additional wide bodies near term, but the outsize airlifter of the future should be the C-17.

The CHAIRMAN pro tempore. The gentleman from Washington has 13 minutes remaining.

Mr. DICKS. Mr. Chairman, I yield 3 additional minutes.

Mr. GEPHARDT. If the gentleman will yield further for another moment, in the fiscal year 1983 amended budget of the President, if I read the figures correctly, we are projecting out about $8.8 billion for the C-5B over the next 5 years, and for the revised C-17 we are projecting right at about $100 million.

□ 1850

Mr. DICKS. There is not a penny in this budget for the C-17. They talk about putting it in when we get to R. & D., but what has happened is that the funding for the C-17 has been gutted. That was the plane the military recommended.

Mr. PRITCHARD. Mr. Chairman, will the gentleman yield?

Mr. DICKS. I yield to my colleague from Washington.

Mr. PRITCHARD. I thank the gentleman.

The former gentleman here pulled out a roll. I will not describe what it looks like. But I noticed that he pulled it up the corridor and it was impressive because it was 20 or 30 feet long. If I am right, it is the list of the things that the C-5 can carry that cannot be carried in the 747. I wonder if you have anything that shows the list of things that the 747 can carry?

Mr. DICKS. Here is a list of all of the bulk and oversize equipment that can be carried in a 747. This is 85 percent of the cargo that must go.

Mr. PRITCHARD. I hope the gentleman will not haul that up the aisle. I do not want it to go over to the other body.

Mr. DICKS. I would not do anything that embarrassing. This is outsize equipment. But let me show the gentleman this. Most of this is vans and trucks. This is what we are talking about in outsize combat equipment, one-twenty-fifth of 6 percent, and we have 77 C-5's to carry it.

You know what we have done? We have spent $1.6 billion of the taxpayers' money to re-wing those planes so that it can finally perform for the services. We are also adding the KC-10, 44 of them for refueling so that they can get somewhere for a change. They have never even had a surge test, and they will not be able to go under a surge test until we get these planes re-winged

Mr. PRITCHARD. Do you mean we paid or the taxpayers paid $1.6 billion

to re-wing this plane that we bought because it would not fly?

Mr. DICKS. The point of it is that it is not just this. We also re-winged 395 C-130's because they had defective wings.

The gentleman from New York, who was here earlier today, said there is one real problem with an airplane. If it does not have wings it cannot fly. That is fundamental. That is basic. That is what we are talking about here.

Let us do what is right for the country, buy some existing wide bodies now and take the plane that was unanimously recommended by the military, long term, the C-17.

I challenge this committee to force them to build it on time and below cost.

Mr. STRATTON. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. FINDLEY).

Mr. DAN DANIEL. Will the gentleman yield to me?

Mr. FINDLEY. Certainly I yield to the gentleman.

Mr. DAN DANIEL. Mr. Chairman, there were several references made about rewinging airplanes. There is nothing unusual about that. We have rewinged the B-52's, a plane made by Boeing.

This is done to extend the service life, not because there is anything in particular wrong with the plane. It is just to extend the service life.

Mr. FINDLEY. Mr. Chairman, I do not have time to yield further. The debate today has revolved around the question: Should the United States buy the 747 or the C-5A or B or whatever it is?

No discussion has been given to the more fundamental question: Should we buy neither?

The United States now has 77 C-5A's, quite an armada, a big enough armada to get us into a lot of trouble without any additions. So why do we need 50 more of either?

The answer is, So we can move massive amounts of personnel and equipment rapidly, halfway around the world.

I ask: Why should we want to do that?

The answer is, So we can project power; that is, deal with military challenges in the Persian Gulf or the Middle East or perhaps in two or three different places at once.

Then I ask: Is this needed so the United States can exercise its role as the policeman of the world?

The answer is: Well, a policeman is needed, and if the United States does not fill the role, who will?

I hope what I say here now will not be considered in poor taste, but I challenge the notion that the United States should be equipped with the massive Rapid Deployment Force it can use on a moment's notice. It is true the world needs a Rapid Deployment Force to deal with trouble spots. The United States should cooperate with other nations in establishing such a force.

But why should the United States assume the lonely role as world policeman? Have we not had enough of that?

In this Rapid Deployment Force, where are the British units, the French units, the German units, the Italian units, and so on and on?

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has expired.

Mr. STRATTON. I yield the gentleman 30 additional seconds.

Mr. FINDLEY. Until there are signs that other major powers who have an even deeper stake than we in the Persian Gulf oil are willing to team up with us in forming a Rapid Deployment Force, my recommendation is that the United States save its money and bide its time.

If we had a full blown Rapid Deployment Force raring to go today, my hunch is that we would already have a couple of divisions roaming around Lebanon.

The biggest danger in building a Rapid Deployment Force today is that we will probably use it.

Mr. STRATTON. Mr. Chairman, the gentleman from Illinois is actually out of order because he is not speaking on the amendment to which the time was allocated.

Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR).

Mr. OBERSTAR. Mr. Chairman, the question of whether to approve funding for the C-5B or to buy the Boeing 747 has become the most controversial provision of this bill. It should not be. The excessive cost of this entire $180 billion military procurement bill should be the issue. We should be devoting as much debate time to the merits and need of spending that staggering amount of money on defense to the detriment of other needs in our society.

However, the issue at hand is whether to buy this new version of the C-5 military aircraft or to buy Boeing's surplus 747 aircraft, in effect a minibailout of Boeing and perhaps some of the domestic airlines as well.

I think the gentleman from Wisconsin (Mr. ASPIN) put it best when he said: "It's a close call." In a close call, I feel we must look not at the politics, but at the merits of the issue, the technical merits from the viewpoint of military effectiveness.

If we are going to buy more military airlift capability, then we ought to get the best buy for our money. We ought to buy the equipment that will do the job it is intended to do.

On the basis of technical capability, I am persuaded that the C-5B is the better aircraft because it is designed and built to carry out the mission of delivering heavy military equipment: Tanks, helicopters, armored vehicles, trucks, and so forth, where they are needed and under battlefield conditions, with the ease of rolling equipment directly on and off the aircraft in moments, without the special packaging or time-consuming battlefield reassembly required by the 747.

In short, the C-5B is a combat aircraft for combat conditions; the 747 is not. And even at a cost of billions of dollars it cannot be converted into an effective armor-carrying combat aircraft.

I am not persuaded that we need as many aircraft as the military is asking for or that we should spend as much money on this equipment as they are asking us to spend, but I am convinced of one thing: If we are going to spend any money at all or more air cargo transport capability, then we ought to buy the C-5B. It gives us the best bargain for our money and it gives our troops the aircraft they need to be most effective under combat conditions.

Mr. STRATTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas, (Mr. PICKLE).

Mr. PICKLE. Mr. Chairman, we have heard some good arguments on both sides of the C-5 question today. Though I do not have a great quantity of material to add to the debate, I do feel it is worth recalling at this point that the Lockheed C-5 is the overwhelming choice of defense professionals who best know our airlift needs. The soldiers and officers who must use the transport planes we provide have made their preference for the C-5 clear. Look to the testimony of Gen. Robert Kingston, Commander of the Rapid Deployment Joint Task Force, or Gen. P. X. Kelley, Assistant Marine Corps Commandant, or U.S. Air Force Lt. Gen. Kelly H. Burke, and many others.

I understand that the 747 might provide short-term savings for the Congress, and that it might help an ailing airline industry. But remember what we are doing here today. This is not some abstract assignment—we are drafting our Nation's defense posture for years to come, and no matter how tempting the prospect, we cannot base our decisions simply on short-term savings or what might prove beneficial to one industry.

I am not an unthinking disciple of the military-industrial complex, nor am I an advocate of throwing money at problems. Earlier today I voted to support the Mavroules-Byron amendment, which would have shaved more than a billion dollars off the MX missile program because the administration had not proved its case for pro-

curement and interim deployment this year. But in this case I believe the administration has proven its case, and I believe the C-5 is the best alternative available to us today, and the best and most efficient heavy transport for our armed services over the long term.

● Mr. MINETA. Mr. Speaker, the Boeing 747 aid plan, if enacted, would result in purchasing capability that is already available to us. Further, it would substantially increase the cost to the American taxpayer and degrade the existing capability of the civil reserve air fleet (CRAF).

The CRAF program, is composed of U.S. civil air carriers committed to provide operating and support personnel, facilities, and aircraft to the Air Force under certain circumstances. These circumstances include the peacetime shortage of Air Force airlift assets, an airlift emergency, or possibly a national emergency.

The CRAF concept is a coordinated program to mobilize the Nation's civilian airlift resources quickly in conjunction with Air Force organic airlift ability. It has proven extremely effective during Korea, Vietnam, and numerous command exercises since 1955. There are currently 392 aircraft available to the Air Force through the CRAF program. Buying used aircraft from the airlines would remove these assets from the CRAF inventory and placing them into the Air Force's active capability.

More than one-half of the commercial, long-range transport aircraft available to the Military Airlift Command in an emergency are in the CRAF. All of the 747's owned by domestic airlines already are in the CRAF. Since these same airplanes are already available to MAC, there will be no net increase in airlift capability as a result of their purchase.

Removing the current passenger airplanes from CRAF to convert them to cargo carriers intensifies another problem. When there is a need to deploy our military forces, the Military Airlift Command starts hauling firepower and equipment. CRAF aircraft are mobilized to help carry troops. With this consideration, combat units come together in the proper sequence within proper time limitations. With the CRAF passenger capability diluted by converting 747's for cargo, how do enough personnel get to the war?

Providing aircraft that cannot perform the total mission requirements and degrading the CRAF's personnel-carrying capacity are not the only detrimental effects of this proposed amendment.

There will be a significant increase in the cost to the military and, ultimately, the American taxpayer. Through utilization of the CRAF, the Air Force avoids the operational, maintenance, and other logistics support expenses associated with ownership while still having the capability available in time of emergency.

It is my belief that a substitution of 747's for C-5's would leave the outsize airlift shortfall unresolved and also degrade CRAF capability.●

Mr. STRATTON. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from New Jersey (Mr. COURTER), a member of the committee.

Mr. COURTER. I thank the chairman very much for these 4 minutes. I know everybody here has debated this for hours and hours and probably every point that can be made has probably been made and quite well.

What I would like to do, as I start out, is just quote two people that did comment on this very important issue.

The first person I quote is President Ronald Reagan, who sent a letter, in fact, about 5 days ago to a very valuable member of the committee. I am sure probably all my colleagues have a copy of this letter.

He said on the second page of the letter as follows:

> In summary, I hope you will agree that the Department of Defense should not be required to substitute commercial aircraft that do not meet our needs. There are no savings if what we buy will not do the job that needs to be done. Therefore, I urge you to reject the commercial aircraft proposal and support our airlift budget as submitted.

Second, Gen. James Allen, who is the commander of the Military Air Command, before the Armed Services Committee, when asked what he would do if, in fact, the Congress gave him 747's, said as follows, and this was not too long ago, as I understand it. He told the committee:

"If you, the Congress, gave me the 747's, I would try to bail them back to the airlines."

That shows the type of faith that the commander of MAC has with regard to the 747's.

There have been a number of statements made about the 747's and the C-5B's with regard to loading and unloading.

I think the gentleman from Alabama (Mr. DICKINSON) in a very articulate fashion indicated the very strange problem and serious strategic problem and logistic problem of loading a 747 better than 16 feet in the air.

There has been talk about the runway situation, the fact that the C-5 can take off on a shorter runway and that the C-5 can actually move on a runway that is not improved.

But I think the main reason that makes this choice in my mind such an easy one between the C-5 and the 747 is the ability of the C-5B to transport that outsize equipment.

□ 1900

It has been said that a very small percentage of all of the equipment that you want to move is outsized. But I would suggest at times we want to transport, using airlift and armored divisions, and something is going to occur in some corner of the world 7,000 to 10,000 miles away. I can foresee the need of transporting an armored division. Forty-one percent of an armored division has outsized equipment. And I think it would be a terrible shame to use this type of money for the purchase of commerical 747's that were not designed to get the job done.

I think in rendering and making this decision, which I believe the Congess is going to find very easy, we should recognize the fact that one plane, the C-5, was designed for military airlift and one was not. One was designed for easy access and loading by driving on and driving off, and one simply was not. One was designed for runways that were improved, and one was designed for runways improved and unimproved. One was designed to take off using a shorter runway than the other. All of these very significant areas come down, I think, very clearly, Mr. Chairman, on the side of the C-5B. I urge my colleagues to vote accordingly.

Mr. STRATTON. Mr. Chairman, may I ask, how many minutes do we have remaining?

The CHAIRMAN pro tempore. The gentleman from New York (Mr. STRATTON) has 7 minutes remaining, and the gentleman from Washington (Mr. DICKS) has 9½ minutes remaining.

Mr. STRATTON. Mr. Chairman, I suggest that the gentleman from Washington consume his time because the Committee wants to reserve the final 7 minutes for a windup, as is the proper procedure.

The CHAIRMAN pro tempore. Does the gentleman from Washington (Mr. DICKS) wish to use or yield additional time?

Mr. DICKS. Mr. Chairman, is it not the proper procedure that the Member who offers the amendment gets the last portion of time to close debate?

The CHAIRMAN pro tempore. The Chair will advise the gentleman that the usual and customary procedure, and the procedure we are following, is for the Committee to have the prerogative and the right to close.

Mr. DICKS. Mr. Chairman, I yield 4½ minutes to the gentleman from Washington (Mr. SWIFT).

Mr. SWIFT. Mr. Chairman, it seems to me that there might be an axiom in Government that we could consider, and that is that the bureaucracy will always rally around its mistakes.

The C-5 is a turkey. Everybody knows it is a turkey. The C-5's wings fell off. I have seen a wonderful film. Here is this giant bird, a kind of Dumbo elephant, flying down on the field, and it comes in slowly, and it gets bigger and bigger, and more

slowly, and then that front wheel hits and collapses, and the C-5 turns into the world's largest plow.

We have heard in debate today from the gentleman that the C-5 was an awful airplane, but the real reason we say that is that people found out that it was true. He said it was all due to publicity that highlighted what a thoroughly rotten airplane it was. I do not follow the logic. It is still an airplane about which its supporters can only say that now this time they fixed it. I might add, at considerable cost. They made a profit on building it badly the first time, and they are making a profit on fixing it this time. And we all know who paid for that.

It seems to me that what has happened here is that everybody has dug their heels in and they are not going to admit to ever having made a mistake by asserting that we should buy some more of them, when in fact what we need to do is get as quickly as possible to the C-17's, and we can meet the window that exists between what our needs are now and the needs that will be met by the C-17 in a way that is $7 to $8 billion cheaper, and the whole fleet will be on line 3 years sooner. To say that that does not make sense is simply to go along with the bureaucrats who are going to rally around their mistakes.

We hear about outsize. There is no question. It keeps being repeated here that the 747 cannot carry outsize. Nobody argues with that. But the corollary to the argument being used about the fact that the 747 cannot carry outsize, the corollary is that we do not have any C-5's at all. You have to assume that for that argument to make any sense. Either that, or you have to assume that the people at the Pentagon are so dumb that they are not going to use the 77 C-5's they already have when they want to carry outsize cargo and will use the 747's when they are dealing with oversize and bulk cargo. A simple management problem.

So what we are really deciding here is whether we as Members of Congress want to join the bureaucracy in rallying around one of their classic mistakes. We are deciding here today whether we want to spend $6 billion more than we need to, to get done what needs to be done. We are deciding whether we want to go take 3 years longer to do that job, and we are deciding whether or not we are going to fall for a false argument—and that is that we will not have outsize capability if we do not get more C-5's.

It does not follow. It is not logical.

I close with this observation: They used to make the observation that the little Volkswagen bug floated. It was not relevant that it floated. But you could go out, I suppose, and say, "I am going to buy a Volkswagen bug because it floats." You would do better if you buy a boat, but this Volkswagen bug would float.

We have outsize capability to do the job we need done. We are trying to fill a window. And we can do it without buying a Volkswagen because it floats. We can do it $6 billion cheaper, 3 years sooner, and not by joining the bureaucrats in rallying around the flag that was one of the most horrendous mistakes ever made in the procurement policies of the Pentagon.

Mr. DICKS. Mr. Chairman, I yield the remainder of my time to the distinguished majority whip, the gentleman from Washington (Mr. FOLEY).

Mr. FOLEY. Mr. Chairman, I have been trying to listen to the debate today. It has been a very long one, and it has been carried on largely by members of the committee and of the Defense Appropriations Committee, who are the House experts on military and defense matters. I am not. I do not have any substantial military subcontracting from Boeing or from any other company in my congressional district. Like most Members, I suppose I am trying to decide what would be the best course for the country in trying to determine between the two aircraft.

I have never been impressed, I must say, with the reputation of the C-5A. It may be a fine aircraft now. But it has become synonymous in the lexicon of the American language as an aircraft that has failed in many of its missions, has been extraordinarily difficult to maintain, and is almost the military word for Edsel.

Now, I am persuaded that perhaps that aircraft has been improved, perhaps it is in a position now to carry out its mission with greater regularity and capacity. But certainly I am not persuaded that we have to acquire an additional fleet of those aircraft when 96 percent of all of the oversize cargo is going to be carried by sea or prepositioned anyway. We now have the opportunity to acquire a much less expensive aircraft and one that I think can perform the mission with effectiveness and economy.

When I first came here, I suppose the general rule was "Follow the committee." As a former committee chairman, I like the committee to be followed. But the House of Representatives also has the responsibility to make its own judgments and determinations on these amendments. Frankly, I would say that no committee chairman or no committee member is completely persuasive when he suggests that the House has no other rational choice than to accept the committee's recommendation.

□ 1910

I would think that those of us who want a strong national defense would recognize the constitutional right of the House of Representatives to respectfully disagree with the Department of Defense. If we are not going to be able to disagree with the Department of Defense, if we are not going to be able to take another course, then let us give up our constitutional responsibility to raise armies and navies.

The Committee on Armed Services is the constitutional opposition to the recommendations of the Defense Department. It exists for the purpose of exercising the separate responsibility and judgment and if the day comes when the House of Representatives subcontracts to any administration's Defense Department specific recommendations of these kinds or to any other department of Government, we might as well close up our shop here because we will be redundant.

The arguments for economy have to be persuasive at a time when we cannot possible meet the national defense needs of this country without economies in the Defense Department. Anybody should realize that the commitment to the national defense has to be politically sustainable. We have a consensus in both parties to spend vastly greater amounts of money, but if we avoid taking an economic measure today that can provide a transportation and airlift system that can do the job at a lower cost, with greater reliability and lower maintenance burdens, then I say the House of Representatives failed in one of its best opportunities to demonstrate a capability to make intelligent judgments about the Defense Department and the defense budget.

I hope that the eloquent gentleman in the well, who is one of the House's leading experts on military and defense matters will be followed and will be supported in his amendment.

Mr. STRATTON. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. LUKEN).

Mr. LUKEN. Mr. Chairman, I rise in strong opposition to the amendment offered by the gentleman from Washington which would delete funds for procurement of the C-5B and substitute authority to buy new and/or used commercial wide-body 747's to meet our immediate airlift needs.

Aside from the fact that valid cost comparisons are not possible because there are numerous missions which the C-5B can perform and the 747 cannot, the alleged savings to the American taxpayer by the purchase of 747's have been greatly overstated.

Even more to the point, the cost savings and the validity of the Boeing proposal have been placed in serious question by a Boeing spokesman accompanying Malcolm Stamper, the president of the Boeing Co. At a news conference only days after the Senate voted to accept what was presented as a firm, fixed price proposal for the

747's, the Boeing spokesman said, "We are way, way away from being anywhere near talking hard figures." That does not sound like a firm, fixed price proposal to me.

We cannot ignore the fact that substantial modification will be necessary to have any semblance of standardization with the "hodgepodge" of 747's that this amendment would foist upon the Military Airlift Command. Without reasonable standardization at whatever cost, the Military Airlift Command would not have a fleet of airplanes, but rather individual flying machines with varying takeoff weights, operating weights, payload capabilities, ranges, and avionics. This would be a logistic nightmare.

The most evenhanded comparison of the C-5B and the 747 airliner by the Air Force and the OSD cost analysis improvement group indicate at most a $900 million difference over the projected 20-year life cycle for the aircraft.

I submit that it is questionable that any cost savings will be realized by substituting 747's for C-5's. Even the most knowledgeable estimate indicates that the possible cost difference is negligible. There is no doubt that our critical shortage of outsize airlift capability will not be reduced 1 pound by acquisition of 747 airliners. I, therefore, urge my colleagues to reject this amendment.

Mr. STRATTON. Mr. Chairman, I yield such time as he may consume to the gentleman from California (Mr. BROWN).

Mr. BROWN of California. Mr. Chairman, I generally do not join debates of particular procurement decisions by the Department of Defense and the Armed Services Committee, but the debate over whether DOD should purchase additional C-5B's, or switch to 747's compels me to speak.

My congressional district includes two important Air Force bases, Norton Air Force Base and March Air Force Base. It also includes several major defense contractors, including Lockheed and Rohr, both of whom have a financial stake in the approval of the C-5B. I mention this heavy involvement by the Air Force and related defense contractors to make it clear that I do have a conflict of interest and my pro-C-5 position is influenced by the views of important local constituencies. But it is clear to me that a similar conflict of interest applies to many of the authors of the amendment supporting the position of the Boeing Co. Our democracy generally works well when all the key stakeholders are participants, and all the central facts, including biases of participants, are openly and clearly discussed.

While my position in favor of the Air Force, the Armed Services Committee and the C-5B is obviously influenced by my constituents, I do want make it clear what I have examined the debate in the other body, and here in the House very carefully. My familiarity with the military airlift needs and capabilities of our armed services is greatly enhanced by the presence of experienced and knowledgeable Air Force personnel in my district, who give me insights many others may not have. There is no doubt in my mind that the C-5 option is superior to the 747 option, and no credible reasons have been given to reject the advice of the Department of Defense, the President, and the House and Senate Armed Services Committees. We need this increased military airlift capability, and should not go with a second-rate option for the convenience of certain corporate interests. Rather than elaborate on the reasons for the DOD recommendation, let me simply add that I support the remarks made by the leadership of the House Armed Services Committee in support of the C-5B, and against the amendment.

Mr. Chairman, I hope that this discussion of the views of my district does not discount my own views. But if my vote should be discounted on grounds of constitutent pressure, I would hope that a similar standard be applied to those from other parts of the country in a similar situation. I prefer that we decide this issue on the merits.

Mr. STRATTON. Mr. Chairman, I yield 20 seconds to the gentleman from Georgia (Mr. EVANS).

Mr. EVANS of Georgia. Mr. Chairman, after listening to the debate and considering that I do have a Boeing plant in my district, in my hometown, as a matter of fact, I am convinced that the C-5B is a superior aircraft for the mission and I intend to vote against the amendments and vote the C-5.

Mr. STRATTON. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Subcommittee on Readiness, the gentleman from Virginia (Mr. DAN DANIEL).

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, proponents of this amendment have contended that procurement of 747's for the airlift mission would save several billions of dollars over the C-5B proposal. Conclusive evidence has been presented by the Air Force and DOD showing less than a $1 billion total cost difference over a 20-year life cycle.

We all are greatly concerned about reducing Federal expenditures, but we must make sure also that the dollars we do spend purchase those items that can do the required job. The C-5B meets the mission requirements. The 747 airliner does not.

Furthermore, procurement of the 747 will be far more costly during the next 3 fiscal years. Due to the acquisition and modification cycle for the 747's, the Boeing proposal actually requires some $2 billion more through fiscal year 1985 than will the C-5B procurement. For this increase in Federal outlays over the next 3 years, we will receive absolutely no additional outsize airlift capability.

As we consider the amendment today, please remember that in the short term the outlays will be some $2 billion higher; in the long term the most evenhanded comparison shows the cost differences between the proposals to be negligible and the 747 provides no reduction in the critical outsize airlift shortfall.

Mr. DAN DANIEL. Mr. Chairman, I rise in opposition to this amendment. By this time, we are all afloat in a sea of claims and counterclaims on this airlifter versus airliner issue. I do not propose to rehash all of that. I must once again repeat that there are no substantial savings and the Dicks amendment will require $2 billion up front, in outlays.

I am the chairman of the Readiness Subcommittee. My subcommittee's job is to insure that our armed services are prepared to fight the first battle of the next war—and win. I do not have any airplane manufacturers in my district. I do not have any airline headquarters in my district. As a matter of fact, we can barely get the airlines to fly into my district. I do not have any military installations in my district. I do not have any parochial ax to grind. I do not have to carry anybody's water anywhere.

What I do have is the responsibility for the readiness of our forces—the ability to fight and win if, God forbid, we ever have to send Americans again.

Should this happen, Mr. Chairman, they should be carried and supplied on a military airlifter—the C-5.

I have heard an awful lot of extraneous opinion masquerading as fact in the last several weeks. There are several facts that we all ought to keep in mind.

The first fact is, that the C-17 is going to happen. Increasing outsize airlift with any aircraft other than the C-5 before C-17 final deployment is not going to change that.

The second fact is that in attempting to force an airliner into an airlifter role—somebody is likely to get killed. The C-5 lifted tanks directly into Danang in Vietnam in 1972 when the perimeter of the airfield was under attack. Those tanks rolled off, joined the fight, and the C-5 was gone, to bring back another load. Turn around time on paper is one thing. In combat it is something else again.

The third fact is that all over Southwest Asia, where the rapid deployment force may have to go—the C-5 can get in where a 747 cannot. And before a

747 can come in even on the larger fields, we would have to send a C-5 to carry in the special equipment necessary to unload a 747. Another aspect is that with its floatation capability twice that of a 747, a C-5 can utilize an infinitely larger number of smaller and less improved airstrips, and does not force us to have access to an international airport to use our airlift. There are 85 airfields in Southwest Asia that a 747 can use, there are 263 usable by the C-5.

And the fourth fact is that war is not a statistical analysis or nice neat planning document. In wars, airplanes crash, or get shot down, or are disabled. We do not have nearly enough outsize airlift capability. So, in a war, in a military airlift situation, when we lose aircraft—all of the carefully crafted statistical analyses crumble. All of the paper studies fall apart.

As a result, we are left with only one question—a common sense question. If we have to go to war, and inevitably sustain losses, does it not make more sense to have all of our remaining airlift capable of outsize lift?

I do not owe any constituency anything on this airlift issue. Except one. Our servicemen. And on their behalf, I urge the defeat of this amendment. I urge that we equip them with a military airlifter, now, to be ready for the first battle of the next war.

The British evacuated Dunkirk on fishing boats and yachts. That worked when it had to. The French evacuated Paris in buses and taxis. That worked when it had to. Civilian airliners can be used in a national emergency, if we have to.

But let us not wittingly, knowingly, apply a desperation solution when we can to do the right thing.

Let us buy our serviceman the equipment designed to do the military airlift job. We can get that for him in the same time frame and operate it for virtually the same cost as the desperation solution.

Let us not inflict economic desperation on our serviceman and make him bear the burden of a glut of used airliners.

If we have to send him let us make him truly ready.

I urge the defeat of this amendment.

Mr. STRATTON. Mr. Chairman, I yield myself such time as remains.

Mr. Chairman, the decision of the Armed Services Committee was motivated primarily by the fact that those who know military matters best all supported the C-5. Every professional in the Pentagon, every Chief of Staff, including the Commandant of the Marine Corps, and a substantial majority of the House Armed Services Committee, and a substantial majority of the Senate Armed Services Committee.

The second point I want to make is that if the 747 were to be brought into an airlift operation you need a C-5 to fly behind it to provide the loading machinery which the 747 requires before it can be loaded and unloaded.

□ 1920

My final point is that in deciding to support the C-5, our committee is following the wise counsel of a very famous Confederate general, Gen. Nathan Bedford Forrest, whose basic principle of military strategy was simply stated: "To git thar firstest with the mostest." That is what the C-5 is all about.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from California (Mr. BADHAM) as a substitute for the amendment offered by the gentleman from Washington (Mr. DICKS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BADHAM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 74, noes 344, not voting 16, as follows:

[Roll No. 198]

AYES—74

Anderson	Frenzel	Rodino
Archer	Garcia	Roukema
Badham	Gephardt	Sabo
Barnes	Gray	Savage
Bonior	Grisham	Schroeder
Brodhead	Harkin	Schulze
Brown (CO)	Howard	Seiberling
Burton, Phillip	Jacobs	Simon
Butler	Jones (OK)	Skelton
Clausen	Leland	Smith (IA)
Collins (IL)	Lewis	Smith (OR)
Conyers	Lowry (WA)	Stark
Crockett	Lungren	Synar
Dannemeyer	McCloskey	Taylor
Dellums	McKinney	Thomas
Dingell	Mikulski	Volkmer
Dornan	Miller (CA)	Walker
Edgar	Mitchell (MD)	Washington
Emerson	Pashayan	Weaver
Erdahl	Paul	Weber (MN)
Fazio	Pease	Weiss
Fenwick	Petri	Wirth
Findley	Pritchard	Yates
Ford (MI)	Regula	Young (MO)
Forsythe	Richmond	

NOES—344

Addabbo	Bethune	Chisholm
Akaka	Bevill	Clinger
Albosta	Biaggi	Coats
Alexander	Bingham	Coelho
Andrews	Billey	Coleman
Annunzio	Boggs	Collins (TX)
Anthony	Boland	Conable
Applegate	Boner	Conte
Ashbrook	Bonker	Corcoran
Aspin	Bouquard	Coughlin
Atkinson	Breaux	Courter
AuCoin	Brinkley	Coyne, James
Bafalis	Brooks	Coyne, William
Bailey (MO)	Broomfield	Craig
Bailey (PA)	Brown (CA)	Crane, Daniel
Barnard	Broyhill	Crane, Philip
Beard	Byron	D'Amours
Bedell	Campbell	Daniel, Dan
Beilenson	Carman	Daniel, R. W.
Benedict	Carney	Daschle
Benjamin	Chappell	Daub
Bennett	Chappie	Davis
Bereuter	Cheney	Deckard
DeNardis	Hutto	Peyser
Derrick	Hyde	Pickle
Derwinski	Ireland	Porter
Dickinson	Jeffords	Price
Dicks	Jeffries	Pursell
Dixon	Jenkins	Quillen
Donnelly	Johnston	Rahall
Dorgan	Jones (NC)	Railsback
Dowdy	Kastenmeier	Rangel
Downey	Kazen	Ratchford
Dreier	Kemp	Reuss
Duncan	Kennelly	Rhodes
Dunn	Kildee	Rinaldo
Dwyer	Kindness	Ritter
Dymally	Kogovsek	Roberts (KS)
Dyson	Kramer	Roberts (SD)
Early	LaFalce	Robinson
Eckart	Lagomarsino	Roe
Edwards (AL)	Lantos	Roemer
Edwards (CA)	Latta	Rogers
Edwards (OK)	Leach	Rose
Emery	Leath	Rosenthal
English	LeBoutillier	Rostenkowski
Erlenborn	Lee	Roth
Ertel	Lehman	Rousselot
Evans (DE)	Lent	Roybal
Evans (GA)	Levitas	Rudd
Evans (IA)	Livingston	Russo
Evans (IN)	Loeffler	Santini
Fary	Long (LA)	Sawyer
Fascell	Long (MD)	Scheuer
Ferraro	Lott	Schneider
Fiedler	Lowery (CA)	Schumer
Fields	Lujan	Sensenbrenner
Fish	Luken	Shamansky
Fithian	Lundine	Shannon
Flippo	Madigan	Sharp
Florio	Markey	Shaw
Foglietta	Marlenee	Shelby
Foley	Marriott	Shumway
Ford (TN)	Martin (IL)	Shuster
Fountain	Martin (NC)	Siljander
Fowler	Martin (NY)	Skeen
Frank	Martinez	Smith (AL)
Frost	Matsui	Smith (NE)
Fuqua	Mattox	Smith (NJ)
Gaydos	Mavroules	Smith (PA)
Gejdenson	Mazzoli	Snowe
Gibbons	McClory	Snyder
Gilman	McCollum	Solarz
Gingrich	McCurdy	Spence
Ginn	McDade	St Germain
Glickman	McDonald	Stangeland
Goldwater	McEwen	Stanton
Gonzalez	McGrath	Staton
Goodling	McHugh	Stenholm
Gore	Mica	Stokes
Gradison	Michel	Stratton
Gramm	Miller (OH)	Studds
Green	Mineta	Stump
Gregg	Minish	Swift
Guarini	Mitchell (NY)	Tauke
Gunderson	Moakley	Traxler
Hagedorn	Molinari	Udall
Hall (OH)	Mollohan	Vander Jagt
Hall, Ralph	Montgomery	Vento
Hall, Sam	Moore	Walgren
Hamilton	Moorhead	Wampler
Hammerschmidt	Morrison	Watkins
Hance	Mottl	Waxman
Hansen (ID)	Murphy	Weber (OH)
Hansen (UT)	Murtha	White
Hartnett	Myers	Whitehurst
Hatcher	Napier	Whitley
Hawkins	Natcher	Whittaker
Heckler	Neal	Whitten
Hefner	Nelligan	Williams (MT)
Heftel	Nelson	Williams (OH)
Hendon	Nichols	Wilson
Hertel	Nowak	Winn
Hightower	O'Brien	Wolf
Hiler	Oakar	Wolpe
Hillis	Oberstar	Wortley
Holland	Obey	Wright
Hollenbeck	Ottinger	Wyden
Holt	Oxley	Wylie
Hopkins	Panetta	Yatron
Horton	Parris	Young (AK)
Hoyer	Patman	Young (FL)
Hubbard	Patterson	Zablocki
Hughes	Pepper	Zeferetti
Hunter	Perkins	

NOT VOTING—16

Blanchard	Bolling	Bowen

Brown (OH)	Dougherty	Solomon
Burgener	Huckaby	Tauzin
Burton, John	Jones (TN)	Trible
Clay	Marks	
de la Garza	Moffett	

□ 1930

Messrs. SMITH of New Jersey, BREAUX, ENGLISH, HOYER, BEREUTER, LEACH of Iowa, and WILLIAM J. COYNE changed their votes from "aye" to "no."

Messrs. SEIBERLING, ERDAHL, EMERSON, RICHMOND, RODINO, HARKIN, SKELTON, and LELAND changed their votes from "no" to "aye."

So the amendment offered as a substitute for the amendment was rejected.

The result of the vote was announced as above recorded.

□ 1940

PARLIAMENTARY INQUIRY

Mr. DICKS. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. DICKS. Mr. Chairman, is the next vote on the Rhodes-Dicks amendment?

The CHAIRMAN pro tempore. The pending amendment is the Dicks amendment.

The question is on the amendment offered by the gentleman from Washington (Mr. DICKS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DICKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 127, noes 289, answered "present" 1, not voting 17, as follows:

[Roll No. 199]

AYES—127

Akaka	Dwyer	Kastenmeier
Albosta	Dymally	Kennelly
Alexander	Eckart	Kogovsek
Anderson	Edgar	Leach
Archer	Edwards (AL)	Lehman
AuCoin	Emerson	Leland
Bailey (MO)	Ertel	Long (LA)
Bailey (PA)	Fazio	Lowry (WA)
Bedell	Findley	McKinney
Bingham	Fish	Mikulski
Boland	Florio	Miller (CA)
Bonker	Foglietta	Minish
Breaux	Foley	Mitchell (MD)
Brodhead	Ford (MI)	Morrison
Brown (CO)	Ford (TN)	Obey
Burton, Phillip	Forsythe	Ottinger
Butler	Frenzel	Patterson
Coleman	Frost	Paul
Collins (IL)	Gaydos	Pease
Conyers	Gejdenson	Petri
Coughlin	Gephardt	Peyser
Coyne, William	Glickman	Pritchard
Crockett	Gray	Ratchford
D'Amours	Guarini	Rhodes
Dannemeyer	Hamilton	Richmond
Daschle	Harkin	Roberts (KS)
Dellums	Hollenbeck	Rodino
DeNardis	Howard	Rose
Dicks	Hoyer	Roukema
Dingell	Jacobs	Roybal
Downey	Jeffries	Rudd
Russo	Stokes	Whittaker
Savage	Swift	Winn
Scheuer	Tauke	Wirth
Schroeder	Taylor	Wolf
Schulze	Udall	Wyden
Seiberling	Volkmer	Yates
Sharp	Walgren	Yatron
Simon	Walker	Young (AK)
Skelton	Washington	Young (MO)
Smith (OR)	Weaver	Zeferetti
Snowe	Weber (MN)	
Stark	Weiss	

NOES—289

Addabbo	Fascell	Lundine
Andrews	Fenwick	Lungren
Annunzio	Ferraro	Madigan
Anthony	Fiedler	Markey
Applegate	Fields	Marlenee
Ashbrook	Fithian	Marriott
Aspin	Flippo	Martin (IL)
Atkinson	Fountain	Martin (NC)
Badham	Fowler	Martin (NY)
Bafalis	Frank	Matsui
Barnard	Fuqua	Mattox
Barnes	Garcia	Mavroules
Beard	Gibbons	Mazzoli
Beilenson	Gilman	McClory
Benedict	Gingrich	McCloskey
Benjamin	Ginn	McCollum
Bennett	Goldwater	McCurdy
Bereuter	Gonzalez	McDade
Bethune	Goodling	McDonald
Bevill	Gore	McEwen
Biaggi	Gradison	McGrath
Bliley	Gramm	McHugh
Boggs	Green	Mica
Boner	Gregg	Michel
Bonior	Grisham	Miller (OH)
Bouquard	Gunderson	Mineta
Brinkley	Hagedorn	Mitchell (NY)
Brooks	Hall (OH)	Moakley
Broomfield	Hall, Ralph	Molinari
Brown (CA)	Hall, Sam	Mollohan
Broyhill	Hammerschmidt	Montgomery
Byron	Hance	Moore
Campbell	Hansen (ID)	Moorhead
Carman	Hansen (UT)	Mottl
Carney	Hartnett	Murphy
Chappell	Hatcher	Murtha
Chappie	Hawkins	Myers
Cheney	Heckler	Napier
Chisholm	Hefner	Natcher
Clausen	Heftel	Neal
Clinger	Hendon	Nelligan
Coats	Hertel	Nelson
Coelho	Hightower	Nichols
Collins (TX)	Hiler	Nowak
Conable	Hillis	O'Brien
Conte	Holland	Oakar
Corcoran	Holt	Oberstar
Courter	Hopkins	Oxley
Coyne, James	Horton	Panetta
Craig	Hubbard	Parris
Crane, Daniel	Hughes	Pashayan
Crane, Philip	Hunter	Patman
Daniel, Dan	Hutto	Pepper
Daniel, R. W.	Hyde	Perkins
Daub	Ireland	Pickle
Davis	Jeffords	Porter
Deckard	Jenkins	Price
Derrick	Johnston	Pursell
Derwinski	Jones (NC)	Quillen
Dickinson	Jones (OK)	Rahall
Dixon	Kazen	Railsback
Donnelly	Kemp	Rangel
Dorgan	Kildee	Regula
Dornan	Kindness	Reuss
Dowdy	Kramer	Rinaldo
Dreier	LaFalce	Ritter
Duncan	Lagomarsino	Roberts (SD)
Dunn	Lantos	Robinson
Dyson	Latta	Roe
Early	Leath	Roemer
Edwards (CA)	LeBoutillier	Rogers
Edwards (OK)	Lee	Rosenthal
Emery	Lent	Rostenkowski
English	Levitas	Roth
Erdahl	Lewis	Rousselot
Erlenborn	Loeffler	Sabo
Evans (DE)	Long (MD)	Santini
Evans (GA)	Lott	Sawyer
Evans (IA)	Lowery (CA)	Schneider
Evans (IN)	Lujan	Schumer
Fary	Luken	Sensenbrenner
Shamansky	St Germain	Weber (OH)
Shannon	Stangeland	White
Shaw	Stanton	Whitehurst
Shelby	Staton	Whitley
Shumway	Stenholm	Whitten
Shuster	Stratton	Williams (MT)
Siljander	Studds	Williams (OH)
Skeen	Stump	Wilson
Smith (AL)	Synar	Wolpe
Smith (IA)	Thomas	Wortley
Smith (NE)	Traxler	Wright
Smith (NJ)	Vander Jagt	Wylie
Smith (PA)	Vento	Young (FL)
Snyder	Wampler	Zablocki
Solarz	Watkins	
Spence	Waxman	

ANSWERED "PRESENT"—1

Livingston

NOT VOTING—17

Blanchard	Clay	Martinez
Bolling	de la Garza	Moffett
Bowen	Dougherty	Solomon
Brown (OH)	Huckaby	Tauzin
Burgener	Jones (TN)	Trible
Burton, John	Marks	

□ 1950

The Clerk announced the following pair:

On this vote:

Mr. Moffett for, with Mr. Jones of Tennessee against.

Mr. STOKES changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. MARTINEZ. Mr. Chairman, I unavoidably missed the vote on the Dicks amendment to H.R. 6030, due to the fact that I was being honored by the Hispanic Caucus at a reception. Had I been present, I would have voted against the amendment.

Mr. WRIGHT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to report to the House some very good news to all those who are interested in the military supremacy of the United States and our defense forces.

On July 3 some of us from Congress attended the roll-out ceremony for the latest version of the F-16 aircraft known as the F-16XL. XL can stand for extra large if it happens to be a sports shirt or it can stand for extended length if it happens to refer to the range of an aircraft.

But the F-16XL is an improved version of that very versatile aircraft which has been requested by almost all of the nations of the world. Most of our friendly allied nations have sought the privilege of buying F-16 aircraft because of its demonstrated air superiority.

□ 2000

I am here to report today that since July 3 the F-16XL has enjoyed six perfect, totally successful test flights. It has met or exceeded every expectation of its design. It has recently been ferried to Edwards Air Force Base for

Air Force testing, and the aircraft had no discrepancies upon landing.

Just to give you an idea of the new state of the art of the F-16 aircraft, the XL version is an evolutionary improvement, in that it can go 2.3 times as far as the F-16's now in service with the same bomb load, or it can carry 2.3 times as heavy a bomb load over the same distance, or any reasonable combination of the two. It doubles some parts of the maneuverability envelope of this extremely maneuverable aircraft, which almost could come and turn around inside this Chamber. It produces a lower radar cross-section; in other words, it is less easily detectable by enemy radar, though it is physically a larger aircraft than the original F-16. All of these benefits will be achieved at no more than approximately 15-percent increase in the unit cost.

For this reason I took this time to report these achievements to you and to salute this magnificent achievement by the Air Force and by the contractor, General Dynamics, and to salute this committee for their support of this exceptionally fine aircraft development program.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 8, after line 12, add the following new section:

SECURE COMMUNICATIONS EQUIPMENT

SEC. 109. The Secretary of Defense is authorized to procure secure telephone communication systems, including equipment and related items, during fiscal year 1983 for the Department of Defense and other government agencies and entities to support a national program to provide secure telephone service. Of the funds authorized to be appropriated pursuant to this title, not more than $50,000,000 may be used to provide secure telephone equipment and related items to the Department of Defense and other government agencies and entities in support of such a national program. Equipment provided to government agencies and entities outside the Department of Defense under the authority of this section and such related services as may be necessary may be furnished by the Secretary of Defense without reimbursement.

Mr. STRATTON. Mr. Chairman, the purpose of this amendment is to provide an authorization of $50 million to the Department of Defense to enable the Department to procure secure telephones for Government-wide use. The provision further would provide an exception to section 628 of title 31, United States Code, Economy Act, that would allow the DOD to provide secure telephone service to other Government agencies without reimbursement. This amendment does not add to the bill total but simply provides authorization for the DOD to execute the program within the total authorization provided in title I. Further, the amendment in no way restricts the DOD from using funds that might otherwise be included in title I for secure telephone programs to execute these programs. It is only intended to provide the authorization required to allow DOD to carry out its responsibilities as the executive agent for the national secure telephone program.

The United States has established as a national priority a requirement to protect sensitive information passed over Government telecommunications systems. The Secretary of Defense has been designated the executive agent to carry out the communications security activities of the U.S. Government and is responsible for developing and providing secure communications equipment.

In order to adequately protect U.S. Government telephone communications, a Government-wide secure telephone service is being established. A secure telephone device, developed by DOD, will be the primary protected communications component of this service. This device will provide service through standard telephone networks. A priority effort is being mounted to implement this program, and initial production requirements of approximately 5,000 secure telephone devices and related equipments have been identified. In order to carry out this effort in an efficient and cost-effective manner, DOD will fund, without reimbursement from other Government agencies, the initial procurement of these and related equipments.

This amendment is required to allow DOD to execute the program.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, this is a very important and, I hope, noncontroversial amendment that is being offered here by my colleague, the gentleman from New York.

We have learned—it has certainly been no secret—that we do not have secure telephone communication between departments of Government. Not only are there wiretaps, but much of our telephone conversation, both inter and intra city is by microwave, and it is very simple for a foreign power, or even a local citizen with sophisticated equipment, to monitor traffic on our microwave circuits.

The National Security Agency has developed and has the responsibility for developing secure communications. This amendment would simply allow the Department of Defense to be the agent for other agencies of Government, whether it be Agriculture or whether if be the State Department or whoever has need for secure communication by telephone. It will allow the Department of Defense to acquire these phones for other agencies. There is no money added to the bill for this purpose. It is simply a transfer of funds in title I. I wish to join the gentleman from New York in stating that the amendment in no way restricts DOD from using funds that might otherwise be included in title I for secure telephone programs to execute these programs. It is something that is necessary and something that is very long past due, in my opinion. I do more than accept it on this side, I would urge the House to do the same.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer a technical amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: Page 7, line 17, strike out "section 101" and insert in lieu thereof "section 102".

Page 7, line 24, strike out "section 101" and insert in lieu thereof "section 102".

Mr. BENNETT. Mr. Chairman, the amendment would change section number references in the bill in two instances to correct an inadvertent error. The minority has reviewed the amendment, and I have been advised that they have no objection to it.

Mr. DICKINSON. If the gentleman will yield, we have no objection to the amendment, Mr. Chairman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. BENNETT).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offered an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: Page 2, strike out line 12 and insert in lieu thereof the following: "For missiles, $2,398,900,000".

Mr. DICKINSON. Mr. Chairman, will the gentleman yield briefly?

Mr. DELLUMS. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, may I ask the gentleman. Is this an amendment to delete the money for the Pershing missile?

Mr. DELLUMS. Yes, it is.

Mr. DICKINSON. The Committee is familiar with it, but I know that the gentleman wants to be heard and we want to respond. I wonder if we could work out an agreement. In view of the fact that we said we would rise tonight at 9 o'clock, I wonder if we could agree that all debate on this amendment and all amendments thereto end at 10 minutes to 9. Would that be agreeable with the gentleman?

Mr. DELLUMS. This gentleman would have no problem with that.

Mr. DICKINSON. Mr. Chairman, I ask unanimous consent that all debate on this amendment and all amendments thereto end at 10 minutes to 9.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. BETHUNE. Reserving the right to object, Mr. Chairman, I will just ask the gentleman, if we should finish the Dellums amendment at 10 minutes to 9, would it be the intention of the Committee to rise at that point and not go to any further amendments?

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, it would be my assumption that we would have a vote, and we have an agreement to rise at 9, which I think we will continue to observe; so, yes, that would be my understanding.

Maybe the gentleman from New York will confirm that.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, I have no idea how long the debate would proceed.

Mr. DICKINSON. We just got an agreement to end all debate on this amendment and all amendments thereto at 10 minutes to 9.

Mr. BETHUNE. The reason I am reserving the right to object and inquiring is that, as the gentleman knows, the gentleman from Wisconsin and I have an amendment that would probably be next in line, and there are a number of Members who are interested in speaking to that amendment. We are trying to determine whether we should round all of those Members up and keep them here. That is the purpose of my inquiry. If we are going to go into the next amendment, then we would just like to know now.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, we have an agreement to rise at 9 o'clock. But if the amendment offered by the gentleman from California can be disposed of before that, it would seem to me that then we should proceed with the next amendment to which the gentleman referred.

Mr. BETHUNE. Further reserving the right to object, Mr. Chairman, the gentleman is creating a situation where he is encouraging those of us who wish to start an important issue tomorrow rather than tonight to just simply use up all of the gentleman's time and thus prolong the agony tonight.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield, may I suggest to the gentleman from New York, then, that we will agree that, at the conclusion of the debate and the vote on the amendment offered by the gentleman from California (Mr. DELLUMS), we will then rise this evening.

Mr. STRATTON. If the gentleman will yield, frankly, I think the point that we are trying to make here in the Committee is that we want to get this bill through as quickly as possible. We indicated that we are going to work until 9 o'clock tonight. If we are going to get out earlier than 9 o'clock, then we are simply going to have to work later tomorrow night or into Friday or have the bill go over to next week. I think the point is that we have established some momentum, and any amendment that is in order in title I, I think, should be debated and disposed of before 9 o'clock. That was the instruction that I was given by the Chairman, and that is the basis on which I have been proceeding.

□ 2010

Mr. DICKINSON. I made the suggestion in order to save the gentleman some time.

The CHAIRMAN pro tempore. The gentleman from Arkansas (Mr. BETHUNE) has the time.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Chairman, I can say to my distinguished colleague that I can guarantee him that we will debate this matter until 9 o'clock.

Mr. BETHUNE. Mr. Chairman, I thank the gentleman, and I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

Mr. VOLKMER. Mr. Chairman, reserving the right to object, I would like to inquire of the Chair whether the time will be allocated to those standing or will the time be allocated between the proponent of the amendment and the committee?

The CHAIRMAN pro tempore. The Chair observes very few Members standing, in which case he would proceed under the 5-minute rule.

Mr. VOLKMER. I thank the Chair.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama (Mr. DICKINSON)?

There was no objection.

The CHAIRMAN pro tempore. All debate on this amendment and all amendments thereto will end at 10 minutes to 9.

Mr. DELLUMS. Mr. Chairman, the amendment before the body at this moment is an amendment to strike the funds for the Pershing II missile.

Mr. Chairman, in support of my amendment I will attempt to make a number of points here. But prior to making my own points in opposition to funds for the purposes of the procurement of the Pershing II missile, I would simply like to give the Members a few quotes from a number of our distinguished Americans concerned about the procurement of the Pershing II missile.

I would begin with Mr. Herbert Scoville, a former weapons system analyst for the Department of Defense and the Central Intelligence Agency and also the former Assistant Director of the Arms Control and Disarmament Agency. He makes the following quote with respect to the Pershing II:

> Thus, the Pershing II deployment provides a vulnerable target which is a direct threat, really vital threat to the survival of their command and control.

Meaning the Soviet Union.

> It provides them with the strong incentive to launch a preemptive strike perhaps even in advance of any large scale conflict in Europe.

The second quote is by Paul Warnke, a former Director of the Arms Control and Disarmament Agency:

> I am totally against developing weapons with the idea that you can fight and win a nuclear war, but it is important to have survivable weapons, weapons that cannot be readily destroyed by a first strike. It is also important that we not have weapons that threaten the survivability of the Soviet Union.

The third quote is from Prof. Oren Chamberlain, professor emeritus, University of California, one of the scientists who was on the Manhattan project that gave rise to nuclear weapons. He makes the following statement:

> If the Soviets, for example, suffered the same kind of computer error that we in this country have experienced with respect to nuclear weapons, after our deploying the Pershing II missile, they might be forced to make a four-minute decision to launch their nuclear weapons, thus destroying, say, 20 cities from San Francisco to Washington, D.C., in retaliation to an imagined U.S. strike, this feature alone on the Pershing II constitutes a frightening threat to our security. To protect our real national security Congress should withhold appropriations for Pershing II.

Here are three American citizens, one that someone in their wisdom decided was capable intellectually, morally, and politically, to be the Deputy Director of the Central Intelligence Agency and Deputy Director of the Arms Control Agency and the Director of the Arms Control Agency and in one instance one of the persons that was one of the leading scientists on the Manhattan project, all saying the Pershing missile is dangerous.

The Pershing missile is the single-most destabilizing weapon that we are planning to deploy in our American arsenal. Let me tell my colleagues why.

To deploy the Pershing II missile provides us with an opportunity to deploy a cheap ICBM within 4 to 6 minutes of the Soviet Union. I repeat for the purpose of emphasis. Four to six minutes.

Any rational mind in this body has to pause for a moment and consider what our reaction would be if missiles were deployed within 4 to 6 minutes of the United States threatening our command and control, and threatening hard missile silos. I would tell the

Members how we would react. We would react the same way we reacted in the Cuban missile crisis where during that crisis we were prepared to risk thermal nuclear war on the principle that no missile should be deployed that close to the United States, yet the Pershing II missile is a missile that we propose to deploy 4 to 6 minutes from the Soviet Union.

No. 1, there is no military rationale for the deployment of this weapon. Targets can be hit by existing American nuclear weapons assigned to NATO to say nothing of the fact that our other two nuclear powers in NATO, France and England, can also hit the same targets in the Soviet Union that these Pershing II missiles can hit.

This weapon is extremely dangerous in that it is capable of destroying, as I said, their command and control missile silos without warning. It reduces the reaction time down to a miniscule period—from 30 to 40 minutes down to 4 to 6 minutes.

The Pershing will be vulnerable to attack—and here is an argument I would choose to develop.

Any of my colleagues on this floor who understand the deployment of Pershing II is aware of the fact that it will be deployed in a very vulnerable mode, so a weapon 4 to 6 minutes away from us, deployed in a vulnerable mode, any time there is any calculation of hostility, the motivation will be for the Soviet Union to knock that weapon out first because it is there threatening them.

What would be our response? You have got some general out there in the field who says, "Use them or lose them." Understand the argument.

□ 2020

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. I thank the Chair.

You deploy a weapon 4 to 6 minutes from the Soviet Union, in a vulnerable mode, in a period of hostility. If you were the Soviet planner, what would you do? You would knock out the weapon closest to you. You would go after those Pershings, which then on the other hand provides greater impetus for the United States to say, "Use them or we will lose them," which means then there is great pressure on the part of our country to use these weapons.

Now, you do not think that is possible? All of you picked up the Washington Post this morning. The Washington Post, and I read: "Army would like advanced authority to use A-weapons."

Then it goes further: "U.S. Army officials have told Congressmen in secret briefings over the past few months that they want preclearance for using tactical nuclear weapons in Central Europe, the battlefield of the future, because they are fearful Presidential clearance will come too late."

Now, understand what we are saying. American generals are saying, "We may not be able to contact the President fast enough. Give us preclearance to use the nuclear weapons, because out there on the battlefield 4 to 6 minutes from the Soviet Union we might not have time to call back to 1600 Pennsylvania Avenue. Give us, the generals, the right to use these weapons."

I have already pointed out to you that they are dangerous and provocative in that they are only 4 to 6 minutes away. They are in a vulnerable mode, which means the impetus is there for them to attack, and then our generals are saying, "We better use them or lose them."

Then you have got the backup information from our generals saying, "Give me preclearance to use these weapons right there on the battlefield."

Now, having said that, I have asked the appropriate parties in this country, "Can we contain a conventional war in Europe?"

The best estimate of this country, the official estimate of this country, is that a conventional war could not be contained in Central Europe, but if a war began in Europe, that it would escalate to strategic nuclear war.

Now, what happens when you put Pershing II missiles into that context? You have opened the possibility of theater nuclear war and if any of you on this floor think that we can limit nuclear war to theater nuclear war, you are living in an insane world. We cannot contain it. Limited nuclear war are words. They are not reality in any concept.

Do you think the United States and the Soviet Union would let either one of them have an advantage? Once we start down the road, we cannot put the genie back into the bottle.

If we are to preserve the integrity of the planet Earth, let us not move down the road blurring this distinction. Let us not push ourselves closer to the brink of nuclear disaster.

I realize the motivation here is to be macho, to say, "We'll show the Soviets," but the point is that we are going to kill our own children and their children's children.

Whether you and I agree on this floor, black or white, left or right, Republican or Democrat, the one thing that unifies us all here is not just our membership in this select body. What unifies us is our existence on this tiny little planet and this planet is in danger and the Pershing II missile is a very dangerous weapon. It is a very provocative weapon. That is the major argument that I seek to make here.

I do not make it in a vacuum. A number of other people have made the very same point.

To summarize and make a couple additional points: The Pershing II is the single most destabilizing weapons system currently in production and currently in deployment. If you do not believe that, remember the Cuban missile crisis. Remember, we are talking about deploying it 4 to 6 minutes. This is a dangerous weapon.

The last two points I seek to make are the following: It undermines U.S.-European relations. Why did 300,000 people rally in Bonn, 200,000 in Rome, 250,000 in London, and in every other major capital in Europe? Because they understand that we are talking about saving Europe by destroying it. These people are saying, "We do not want the deployment of these weapons on our soil." They do not see the same threat that we see with deploying weapons on their soil and then we keep our fingers on the button.

Finally, there has been a great deal of talk about the SS-20's, that we have to run out and get a weapon to equal the SS-20's. All the SS-20 is, is a modernized version of the SS-4 and the SS-5. The Pershing II missile gives us the capability going to the east that the SS-20 does not have coming to the west.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, in conclusion, I understand that many of you have me postured politically. I am not making a partisan parochial political argument here. I am trying to make a rational, sane, human plea for understanding and rationality. To produce this weapon and deploy this weapon brings us to the brink of disaster. There are moments when many of us dance on the winds of expediency, but let us not do it around the question of nuclear war that engulfs the world, that engulfs the future. Let us stand here as people of integrity and principle and conviction and challenge the production, the development, and the deployment of the Pershing II missile.

I implore you, not as a Democrat, not as a leftist, not as a black, but as a human being who lives on this planet, who says the one thing we have in common is that we all live in this place and this weapon threatens that.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(At the request of Mr. SPENCE, and by unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. SPENCE. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I would be pleased to yield.

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair wants to announce to the gallery that demonstrations from the gallery are not permissible under the House rules.

Mr. SPENCE. Mr. Chairman, the gentleman from California and I have talked previously about this question, and others, too, and I respect the gentleman for his sincerity. I know the gentleman is sincere. He is honest, and just this morning we were talking about it. Honest, sincere people can look at a situation and differ as to their approach.

I can understand the gentleman's question as to the Pershing II being destabilizing from the standpoint of the Soviets; but can I ask a question as to why the Soviets, having 300 SS-20's in place, why are they not destabilizing?

Mr. DELLUMS. My answer to the gentleman is that they do not threaten our credible deterrence. Remember my basic argument that I tried to make in the last couple days, that all we need is deterrence, not war fighting capabilities. I do not see the SS-20, 4 to 6 minutes from the United States. I do not see the SS-20 as threatening a credible deterrence on the part of the United States. The SS-20's have been deployed and nobody on this floor has ever made an argument that the SS-20 threatens a credible deterrence on the part of the United States. That argument cannot be made; but I do think the argument can be made that the deployment of the Pershing II 4 to 6 minutes from the Soviet Union is destabilizing.

If the SS-20 were in Cuba, then I think we could make a point.

Mr. SPENCE. But you see, they are destabilizing to our allies in Europe who are right under the guns of those SS-20's and our Pershing II will not even reach their missile field.

Mr. DELLUMS. I also tried to make this point, that we do not need to deploy the Pershing II missile. The gentleman and I know the figures. We sit on the Armed Services Committee. We know down to the finite missile how many there are.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. The gentleman knows that we have hundreds of nuclear weapons in Europe. I am saying that those nuclear weapons can hit the same targets as do the Pershing missile, and also England and France are nations that have nuclear capacity and they fall under the umbrella of NATO as well.

Mr. SPENCE. The point I would like to make is this. I would like to see both sides completely eliminate anything that would be destabilizing to the other.

Mr. DELLUMS. Exactly.

Mr. SPENCE. But as long as they have missiles in place and we do not have them, that is destabilizing. If they would remove theirs, then we would be at parity and that would be the kind of situation we would be looking for.

I respect the gentleman. I know his views. I just want him to know that we are both seeking the same thing.

Mr. DELLUMS. I appreciate that.

Mr. SPENCE. I thank the gentleman.

□ 2030

Mr. DELLUMS. Let me make this one additional comment. The Soviet Union on more than one occasion has said, "We are willing to stop the deployment of the SS-20 in return for a commitment not to deploy the Pershing II."

What happened? It was rejected out of hand. The President of the United States rejected it without going behind that statement to determine whether there was any efficacy or substance to that statement whatsoever.

Mr. SPENCE. We will discuss it further.

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, I yield to my colleague from South Carolina (Mr. SPENCE).

Mr. SPENCE. I think the point is that the other side is perfectly willing to quit while they are ahead. But they do not want to quit when we are even.

If we go back in history to the place where we alone had the bomb, the atomic bomb it was called back in those days, we suggested to them that we turn over this power, which we alone possessed in the world, to an international agency to be used only for peaceful purposes. And guess who would not go along with it? The Russians.

It has been that way ever since, and we have tried to reduce and eliminate the threat of nuclear war and they would not go along with it unless they are ahead and are locked into a superior position.

I am for eliminating the threat of nuclear war; I just think the best way to do it is for us to reduce at equal numbers right on down to zero and they will not go along with that.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 1 additional minute.)

Mr. DELLUMS. Mr. Chairman, I say to my colleague that he and I are in total agreement with respect to our desire to limit and remove ultimately the risk of nuclear war. Where he and I disagree is that I believe we have already achieved rough parity at this point and we need to negotiate down from this monument to madness that we have developed. We do not need to develop new technologies that go beyond verifiability and go beyond deterrence.

I am saying that the Pershing II missile does just that. I am saying that where the gentleman and I disagree is that I do not believe we ought to develop crisis-destabilizing weapons. The one thing that has kept the world free of nuclear exchange has been that deterrence works. But what this administration is attempting to do in this budget is to go beyond deterrent capacity to war-fighting capability.

Once you get there, I am saying that eventually we will fight a war and that will be the end of the world, and that is why I am saying we do not need to develop these kinds of weapons.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the amendment of the gentleman from California.

The Soviet Union began deploying the mobile SS-20 missile with three independently targetable warheads in 1977. It has a range of 4,400 to 5,000 kilometers, making all of Western Europe vulnerable to the SS-20's deployed east of the Urals.

Currently, the Soviets have 900 deployed SS-20 warheads and 3,300 remaining older SS-4's, SS-5's, a total of 1,200 long-range, independently targetable nuclear force weapons deployed, and is currently deploying additional SS-20's at the rate of 1 a week.

As Members of the House are aware, NATO has no long-range INF weapons deployed today to counter the 1,200 Soviet warheads.

In December of 1979, there was a NATO dual-track decision in response to the Soviet deployment of the SS-20 which included plans for deploying 108 Pershing II missiles which increased the range of the Pershing from 600 kilometers to 1,800 kilometers.

Pershing II can strike targets, however, only as far as the Western U.S.S.R., but not Moscow and beyond, and does not, in contrast to what the gentleman from California has just charged, threaten Soviet ICBM forces.

The dual-track decision which NATO agreed to in 1979 committed the United States to pursue arms control negotiations with the U.S.S.R. on INF systems simultaneously with

plans for deployment of the Pershing II.

As Members are aware, at the present time Mr. Paul Nitze is the U.S. negotiator in Geneva pushing the zero option proposal which President Reagan has made, not to deploy any of the Pershing II's if the U.S.S.R. will dismantle the 300 deployed SS-20's so that those intermediate range missiles on both sides will be reduced to zero. As far as destabilizing the situation, it is the Soviet Union, that is destabilizing it, not the United States by proposing to deploy a counterbalancing deterrent.

Since Mr. Brezhnev announced his nuclear freeze proposal and claimed to cut back the production of SS-20, the Soviet Union has deployed 20 additional SS-20's targeted against Western Europe and has increased the production of this weapon fourfold.

The SS-20 is 20,000 times more powerful than the enhanced radiation weapon, the so-called neutron bomb, which the United States volunteered to defer for a period of time. And the Soviet Union has still shown no restraint in its efforts to establish overwhelming INF superiority. It has the only deployed nuclear system in Europe with 1,200 nuclear warheads.

Terminating the planned Pershing II production would remove the principal U.S. leverage in INF negotiations to induce Soviet SS-20 reductions in the negotiations in Geneva.

Terminating the planned Pershing II, as the amendment of the gentleman from California would do, without a commitment to dismantling the existing SS-20's at the same time, would destroy the negotiations now going on in Geneva. I would think it would be the last thing that somebody interested in arms control and disarmament, and in reducing the threat of nuclear war, would want to promote.

That action would leave NATO with zero INF warheads, the Soviet Union with 1,200.

I might point out that the Soviets have deployed one of these SS-20 vehicles with three reentry vehicles each per week for the last 300 weeks. Certainly this is not the time to kill our tactical nuclear weapons program in NATO and undermine the negotiations at Geneva.

I urge that the amendment of the gentleman from California be rejected.

Mr. HILLIS. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, Pershing II (P-II) is an evolutionary modernization of the currently deployed U.S. Pershing Ia system in the Federal Republic of Germany (FRG). P-II is the ballistic component of the NATO theater nuclear force modernization program agreed to by the NATO ministers in December 1979. Deployment will begin in December 1983.

The allies are carefully watching U.S. actions to fully implement NATO's intermediate-range nuclear force (INF) modernization program. In spite of vocal opposition in Europe, the governments remain steadfast in their commitment to begin deployment of these long-range systems at the end of 1983. Any indication on our part of scaling back plans for implementing the INF program will be interpreted by the allies as U.S. backsliding. We risk unraveling the very consensus in the alliance on INF modernization that we have for so long sought to preserve. Reductions in 1983 funding requests will provide ammunition to opposition groups in Europe to increase the pressure on allied governments for either postponing or halting entirely the INF program. In turn, allied governments will be hard pressed not to slow down the INF basing preparations in their own countries. The full support of Congress in funding the Pershing II program is essential for the United States to meet its commitment to fully implement the alliance's INF modernization program.

I urge you to join me in voting to defeat this amendment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I think this is one of the most important amendments we are going to have to deal with. I want to make sure we have some things clear. So if I may, I would like to get the gentleman from California's attention. I want to have some conversation with him about this very important amendment.

Some of the opposition I hear is people saying that the Russians have intercontinental ballistic missiles and we have intercontinental ballistic missiles.

□ 2040

But, the Russians have another round of missiles, the SS-20's which will not reach our continent, but I think the gentleman from California made the point very well, that it will obviously hit our allies in Europe. The problem is, the reason they think they need the Pershing II missile is that we have nothing in Europe to fight back with, so what I wanted to ask the gentleman from California, is it true that the Pershing II missile would be the only kind of nuclear weapon that our allies in Europe would have to respond to the SS-20 that is in the Soviet Union?

Mr. DELLUMS. Not at all. First, let us begin with France. The Force de Frappe is a force that can be counted upon. Second, they have the V-bomber force of the British. This includes bombers as well as submarines. We have several thousand tactical nuclear weapons in Europe. We have submarines deployed against a NATO scenario. We have strategic backup in this country in the event of an escalation. We have more than enough. We have incredible redundancy of nuclear weapons, all aimed at the Soviet Union, all there to deal with a Warsaw Pact-NATO scenario. This is not the only weapon that would be deployed.

Mrs. SCHROEDER. I do not mean to put words in the gentleman's mouth, but I think what the gentleman is saying is that the Pershing II is not the only thing, then, that Europe will have, and therefore because it is well armed and has all these other defenses, this is redundant and it only escalates the hair trigger that we have on the whole thing, that could start the whole nuclear holocaust.

Mr. DELLUMS. The gentlewoman is perfectly correct. I believe even if we argued the issues of redundancy alone, this weapon could be knocked out in this time of great economic savings if we just said, "We have great redundancy." That is one argument that ought to knock this weapon out, because we have thousands and thousands of tactical nuclear weapons—our side, the French, the British, and other people. This is not the only weapon we have. The gentlewoman is perfectly correct.

Mrs. SCHROEDER. I have another question I wanted to ask the gentleman, and that was about the article I read in the paper this morning that concerned me a lot. That was an article that said that there had been briefings here on the Hill that the Army is going to request that they be able to have advance clearance to use nuclear weapons, tactical nuclear weapons in Europe, because they feel that the advance time is so short they may not be able to get to the President to get advance clearance. Do these Pershing II missiles fall in that category of tactical nuclear weapons that the Army would be asking for this advance clearance on?

Mr. DELLUMS. That is exactly correct. They are defined by this country as intermediate range missiles, which would make them tactical weapons. They would be referred to technically as theater nuclear weapons, which means that the Pershing II missiles would be the kind of missiles that they would be requesting advance clearance upon.

The argument I was making earlier was simply this: The missiles are deployed 4 to 6 minutes from the Soviet Union. They are deployed in a vulnerable mode. There are no hard silos. They are not in a survivable mode. If you are sitting there looking at missiles 4 to 6 minutes away from you, in a moment of crisis the first thing you have got to consider is, what is the danger immediately there, so there is going to be great impetus to knock those weapons out. Our side would

know that, hence preclearance. "We need to have the time. We cannot get back to the President in time. Give us preclearance so that we can make a battlefield judgment."

I do not want them to make a battlefield judgment that would throw this world and engulf this world ultimately into thermal nuclear war, so that is dangerous, and coupled with the gentlewoman's statement that they are asking for preclearance ought to give pause for every Member of this Congress to stop for a moment to consider deeply and profoundly what it is we are preparing to do.

The briefing is called, Air-Land Battle 2000. This is the thinking forward to the year 2000, what the battlefield would look like, what the conditions will be, and what kinds of decisions will they be making. It is a frightening and dangerous prospect, as I see it.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 3 additional minutes.)

Mr. DELLUMS. Have I answered the gentlewoman's question?

Mrs. SCHROEDER. The gentleman from California is doing an excellent job in answering my questions, because they are the kind of questions that bother me the most. If I have to look at any item in this Defense bill, I think this is probably the most destabilizing, the most dangerous for tomorrow and tomorrow and tomorrow, and whether we reach it.

I think the gentleman's point about the very bright line that we have traditionally maintained between nuclear war and conventional war, and to cross that very bright line took very significant steps; that is, the Commander in Chief, the man in the White House or the woman in the White House saying, "It is OK, we have decided it is viable; you may do it." By creating more and more of these types of tactical nuclear weapons, which I think another important point that we do not mention enough is that these are not little mininukes. They are all bigger than the Hiroshima and Nagasaki bombs if they go off. They have very large warheads on many of them, so they are not little tiny nukes that surgically can go in and remove a tiny thing. But, the destabilizing effect of them is that we blur that bright line; we no longer require the Commander in Chief to set them off because they are vulnerable, very close to a border where they could be overrun, and we would probably be much better off if we built up the conventional warfare mode in that area rather than relying on this as a fallback, because the hair trigger is so frightening. So, I do not mean again to put words in the mouth of the gentleman from California, but that is what I hear him saying.

Mr. DELLUMS. If the gentlewoman will yield, I would like to have some specificity on the comment that she just made. These are not tiny little weapons. All of us can recall the bombs that we dropped on Hiroshima and Nagasaki. None of us can even comprehend the level of death, what they really did, but in our minds in some way we know that we unleashed an incredible terror. The weapon we are talking about, the Pershing II missile, equals 200 kilotons of power, 16 times—16 times the explosive capacity of the bombs we dropped on Hiroshima and Nagasaki. These are not tiny little toys. These are powerful nuclear weapons.

Mrs. SCHROEDER. Well, I thank the gentleman for making that clear. The gentleman makes an excellent point. These are not little NIRF missiles. I think that the language that is being used is absolutely frightening. Minitheater, making us believe that somehow this is different than the other kind of nuclear weapon we all grew up to know and really be very frightened about. It is different, and so we want to blur that bright line even further by saying that we would allow the field commander to be able to trigger this. They are asking for this right to set this off on the decision of a field commander, and this little thing is 16 times or somewhere in that range bigger than the Hiroshima and Nagasaki bombs.

I think that is very sobering. I think this is tragic that this is coming up at this late hour when Members cannot really ponder this, and in the big picture this is probably one of the most important amendments in the bill because it is destabilizing and will set a pace for the future that is very fearsome.

I congratulate the gentleman from California for having the courage to stand here and bring up this very difficult issue.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

POINT OF ORDER

Mr. STRATTON. Mr. Chairman, a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. STRATTON. Mr. Chairman, under the unanimous-consent agreement entered into with the gentleman from Alabama (Mr. DICKINSON), the clock is now at 10 minutes of 9, and we agreed to vote at this particular time on the amendment offered by the gentleman from California (Mr. DELLUMS).

The CHAIRMAN pro tempore. The Chair does observe that the hour is 10 minutes until 9. Under the unanimous-consent agreement, neither the gentleman from Michigan nor any other Member can be recognized.

The question is on the amendment offered by the gentleman from California (Mr. DELLUMS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 74, noes 311, not voting 49, as follows:

[Roll No. 200]

AYES—74

Addabbo	Gray	Rodino
AuCoin	Harkin	Rosenthal
Bedell	Hawkins	Roybal
Bellenson	Heckler	Russo
Bonior	Kastenmeier	Sabo
Burton, Phillip	Kennelly	Savage
Chisholm	Kildee	Schneider
Collins (IL)	Lehman	Schroeder
Conyers	Leland	Schumer
Coyne, William	Long (MD)	Seiberling
Crockett	Lowry (WA)	Shannon
Dellums	Lundine	Stokes
DeNardis	Markey	Studds
Donnelly	McKinney	Swift
Downey	Mikulski	Walgren
Dymally	Miller (CA)	Washington
Edgar	Mitchell (MD)	Waxman
Edwards (CA)	Murphy	Weaver
Foglietta	Nowak	Weiss
Ford (TN)	Oberstar	Williams (MT)
Forsythe	Ottinger	Wirth
Frank	Panetta	Wolpe
Garcia	Paul	Wyden
Gejdenson	Rangel	Yates
Glickman	Reuss	

NOES—311

Akaka	Coats	Fazio
Albosta	Coelho	Fenwick
Alexander	Coleman	Ferraro
Anderson	Collins (TX)	Fiedler
Andrews	Conable	Fields
Annunzio	Conte	Findley
Anthony	Corcoran	Fish
Applegate	Coughlin	Fithian
Archer	Courter	Flippo
Ashbrook	Coyne, James	Florio
Aspin	Craig	Ford (MI)
Atkinson	Crane, Daniel	Fowler
Badham	Crane, Philip	Frenzel
Bafalis	D'Amours	Fuqua
Bailey (MO)	Daniel, Dan	Gaydos
Bailey (PA)	Daniel, R. W.	Gephardt
Barnard	Dannemeyer	Gibbons
Barnes	Daschle	Gilman
Beard	Daub	Gingrich
Benedict	Davis	Goldwater
Benjamin	Deckard	Gonzalez
Bennett	Derrick	Goodling
Bereuter	Dickinson	Gore
Bethune	Dingell	Gradison
Bevill	Dorgan	Gramm
Billey	Dornan	Green
Boggs	Dowdy	Gregg
Boland	Dreier	Grisham
Bonker	Duncan	Guarini
Bouquard	Dunn	Gunderson
Breaux	Dwyer	Hagedorn
Brinkley	Dyson	Hall (OH)
Brooks	Early	Hall, Ralph
Broomfield	Eckart	Hall, Sam
Brown (CO)	Edwards (OK)	Hamilton
Broyhill	Emerson	Hammerschmidt
Butler	Emery	Hance
Byron	English	Hansen (UT)
Campbell	Erdahl	Hartnett
Carman	Erlenborn	Hatcher
Carney	Evans (DE)	Hefner
Chappell	Evans (GA)	Heftel
Chappie	Evans (IA)	Hendon
Cheney	Evans (IN)	Hertel
Clausen	Fary	Hightower
Clinger	Fascell	Hiler

Hillis	McEwen	Scheuer
Holland	McGrath	Schulze
Hollenbeck	McHugh	Sensenbrenner
Holt	Mica	Sharp
Hopkins	Michel	Shaw
Horton	Miller (OH)	Shelby
Howard	Mineta	Shumway
Hoyer	Minish	Siljander
Hubbard	Mitchell (NY)	Simon
Hughes	Moakley	Skeen
Hunter	Molinari	Skelton
Hutto	Montgomery	Smith (AL)
Hyde	Moore	Smith (IA)
Jacobs	Moorhead	Smith (NE)
Jeffords	Morrison	Smith (NJ)
Jeffries	Mottl	Smith (OR)
Jenkins	Murtha	Smith (PA)
Johnston	Myers	Snowe
Jones (NC)	Napier	Snyder
Jones (OK)	Natcher	Solarz
Kazen	Neal	Spence
Kemp	Nelligan	St Germain
Kindness	Nelson	Stangeland
Kogovsek	O'Brien	Staton
Kramer	Oakar	Stenholm
LaFalce	Obey	Stratton
Lagomarsino	Oxley	Stump
Lantos	Parris	Synar
Latta	Pashayan	Tauke
Leach	Patman	Tauzin
Leath	Patterson	Taylor
LeBoutillier	Pease	Thomas
Lee	Pepper	Udall
Lent	Perkins	Vander Jagt
Levitas	Petri	Vento
Lewis	Peyser	Volkmer
Livingston	Pickle	Walker
Loeffler	Porter	Wampler
Long (LA)	Price	Watkins
Lott	Quillen	Weber (MN)
Lowery (CA)	Railsback	Weber (OH)
Lujan	Ratchford	White
Luken	Regula	Whitley
Lungren	Rinaldo	Whittaker
Marlenee	Ritter	Whitten
Marriott	Roberts (KS)	Williams (OH)
Martin (IL)	Roberts (SD)	Wilson
Martin (NC)	Robinson	Winn
Martin (NY)	Roemer	Wolf
Martinez	Rogers	Wortley
Matsui	Rose	Wright
Mattox	Rostenkowski	Wylie
Mavroules	Roth	Yatron
Mazzoli	Roukema	Young (FL)
McCollum	Rousselot	Young (MO)
McCurdy	Rudd	Zablocki
McDade	Santini	Zeferetti
McDonald	Sawyer	

NOT VOTING—49

Biaggi	Edwards (AL)	Pritchard
Bingham	Ertel	Pursell
Blanchard	Foley	Rahall
Bolling	Fountain	Rhodes
Boner	Frost	Richmond
Bowen	Ginn	Roe
Brodhead	Hansen (ID)	Shamansky
Brown (CA)	Huckaby	Shuster
Brown (OH)	Ireland	Solomon
Burgener	Jones (TN)	Stanton
Burton, John	Madigan	Stark
Clay	Marks	Traxler
de la Garza	McClory	Trible
Derwinski	McCloskey	Whitehurst
Dicks	Moffett	Young (AK)
Dixon	Mollohan	
Dougherty	Nichols	

□ 2100

The Clerk announced the following pairs:

On this vote:

Mr. Moffett for, with Mr. Jones of Tennessee against.

Mr. Clay for, with Mr. Mollohan against.

Mr. JOHNSTON changed his vote from "aye" to "no."

Mr. LUNDINE changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. STRATTON. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. WRIGHT) having assumed the chair, Mr. AUCOIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

PERMISSION FOR SUBCOMMITTEE ON MONOPOLIES AND COMMERCIAL LAW OF COMMITTEE ON THE JUDICIARY TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary be permitted to sit on Thursday, July 22, 1982, while the House is reading for amendment under the 5-minute rule.

The purpose of the meeting is to mark up H.R. 4374, the Shipping Act of 1982, which has a deadline of the end of this month.

Mr. Speaker, the minority has been consulted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. HARTNETT. Mr. Speaker, reserving the right to object, has the gentleman cleared this with the ranking members of the minority on the subcommittee and the committee?

Mr. EDWARDS of California. If the gentleman will yield, the gentleman from Illinois (Mr. MCCLORY) and the gentleman from Illinois (Mr. HYDE) have been consulted, and I understand they have agreed to this request.

Mr. HARTNETT. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PERSONAL EXPLANATION

(Mrs. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ASHBROOK. Mr. Speaker, on rollcall No. 188, passage of a concurrent resolution confirming congressional support of the senior citizen employment programs, I am recorded as voting "nay." I had intended to vote "yea." I ask unanimous consent that my remarks appear in the permanent CONGRESSIONAL RECORD immediately following the vote.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

□ 2110

ECONOMIC RECOVERY PROGRAM MUST BE GIVEN A CHANCE TO SUCCEED

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, 19 months ago yesterday, Ronald Reagan took the oath of office a few short steps from where we meet. At that time, he called for a new beginning—a rekindling of the American spirit.

The last 19 months have seen a new and revitalized belief in America as a place of opportunity, prosperity, and strength. We have seen real leadership restored to this country.

It is appropriate to look back on the last year and a half. Those of us on the Capitol steps on Inauguration Day were moved by the eloquence of the then new President's speech. I well remember after President Reagan's address there was a prevailing sense among the leaders of both parties that we should strive for national unity while giving the President a fair chance for developing his agenda for curing our Nation's problems.

Unfortunately, this unity did not last very long. Once the opposition party discovered the President was a powerful and persuasive spokesman for a responsible program to put this country back on the track to economic prosperity, the leadership backed away.

Nonetheless, with the support of the more responsible members of the opposition party and the solid support of my own party, we adopted a new economic recovery program. Gone is the philosophy of tax and tax, spend and spend of past years. In its place is a program based on the belief that high taxes and burdensome regulations were depriving people and business of the incentive to produce. Slowing the growth of Federal spending, untangling the web of Federal regulations and reducing the personal income tax are key elements of this program.

We want to continue the new direction of limiting Government's growth and expanding individual growth, freedom and opportunity. Now is not the time to go back, in the absence of any viable alternatives, to the old programs and policies. This new approach

only began last October. The program enacted by Congress must be given a chance to succeed. I am here to give it that opportunity and I hope you will as well.

THE KATHY WHITE ACHIEVEMENT AWARD

(Mr. WHITE asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WHITE. Mr. Speaker, for the past 10 years, it has been my privilege to honor an outstanding, well-rounded, graduating high school senior in El Paso County, Tex., with the Kathy White Achievement Award. This award serves as an educational scholarship established in memory of my beloved late wife Katherine Huffman White. When Kathy died in 1972, many of her friends and I set up an educational trust, and each year since then, a deserving high school graduate has been awarded a sum of money to defray the costs of further higher education.

Students compete for the award and an independent judging panel selects the recipient on the basis of academic achievement, extracurricular activities, community service, and a submitted written essay. Criteria set for the award are: "Outstanding qualities of character, humanity, personality, and leadership * * * mutual respect of parents, teachers, and peers."

This year's Kathy White Achievemand Award honors Melissa Good of W. H. Burgess High School in El Paso County. Melissa's essay, "The Event in My Life That Influenced Me the Most" is one that I would like to share with my colleagues.

THE EVENT IN MY LIFE THAT INFLUENCED ME THE MOST

There have been several events in my life which have had great influence on me. The one event which had the greatest impact and which changed my life the most would be the Vietnam War. Not the actual war itself, but the effects the war brought to my family.

The major thing the war caused was the absence of my father for about four years. During the time he was gone, we had no father to take charge at home. Though this story of father going to war may seem typical of every household during war times, it was a lot more difficult for my family. Along with the usual problems faced when there is no father at home, we had difficulty because of my mother. She is a wonderful person and an excellent mother. Where does the problem come in? The problem is that my mother is Japanese. At the time she spoke very little English. She was still learning all the many American customs. To many this may seem like no problem, but just picture yourself in a foreign country to live and raise all your children alone. Since this was such a difficult time for my mother, my brothers, sister and I learned we had to help out in order to keep our family going.

This event taught me an astronomical number of things I would have never learned in school. I learned responsibility. I learned how to cope with and handle problems. I gained respect, care, and gratitude for my family, and for all the things I have been blessed with. This is the time in my life when I matured the most. To sum it up short, I finally realized how much I love my family and how much they love me.

THE HANDICAPPED INDIVIDUALS SERVICES AND TRAINING ACT

(Mr. ERDAHL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDAHL. Mr. Speaker, for decades in this country, disabled persons have been looked on by many as a burden on the rest of society, but I am happy that this attitude is being turned around as more attention is focused on their abilities rather than their disabilities. During the International Year of the Disabled, countless examples have been publicized of outstanding achievements of handicapped persons who have developed skills in practically evey field of human endeavor.

Currently, a number of programs providing training and services to handicapped persons are what we call discretionary programs and could be summarily ended or curtailed in the budget process. In order to give more assurance of funding into the future, I am introducing, along with Congressman LEBOUTILLIER, the Handicapped Individuals Services and Training Act. The bill specifically authorizes the Helen Keller Center for Deaf-Blind Youth and Adults; the regional postsecondary education programs for the deaf, one of which is operated at the St. Paul Technical Vocational Institute; and the captioned film program.

Additionally, my bill authorizes Federal matching funding for the Vinland National Center in Minnesota. This center is an outgrowth of the Norwegian Government's Bicentennial gift of 1 million kroner to America and is patterned after the Beitostolen Center in Norway. That center has developed an outstanding program to provide health sports training to handicapped individuals so they can participate in many of the athletic activities formerly closed to handicapped persons. Perhaps the best publicized activity is teaching blind persons to cross-country ski with the help of sighted guides. Physically and mentally handicapped are taught how to participate in countless sports activities. With this accomplishment comes a tremendous psychological boost so these individuals realize they can engage in almost every activity in society on an equal footing with nonhandicapped persons. Coupled with this training is instruction for an individual and his family on self-help health care and development of support mechanisms.

In addition to the Norweigian gift, the Minnesota legislature has appropriated some funds for the Vinland National Center. Private funds have been raised from individual donations and many fund raising events around the United States. The center has also a Federal planning grant to outline the need for such a center and plan its activities and structural needs.

Finally, some funds have been granted by the Rehabilitation Services Administration to start operations on a pilot program basis.

Now is the time to move forward with construction of the physical facilities and enlarge the program so many handicapped persons can benefit from the training to be provided at the Vinland Center. My bill authorizes $3 million in construction funds to be matched dollar for dollar from private sources. It also authorizes $2,300,000 in operating funds over 5 years according to a declining formula so that after 5 years, the center will not be dependent on any direct Federal funding. I urge my colleagues to join me in approving this much-needed legislation.

CONGRESSMAN WHITE'S FEDERAL REFORM ECONOMIC RECOVERY PROGRAM

(Mr. WHITE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. WHITE. Mr. Speaker, in my weekly newsletter to constituents in the 16th District of Texas, I introduced my Federal reform economic recovery program. In this April newsletter, I explained my five-point program to constituents which was developed over a period of approximately 7 months. My program emphasizes beneficial new policies which I believe will harness uncontrollable spending.

The five parts of my Federal reform economic recovery program explained within the newsletter are as follows:

First, restrict the growth rate of the stock of money to the historic gross national product growth figure—now about 3.5 percent per year;

Second, move all off budget items onto the regular budget;

Third, require a balanced budget within 3 years of enactment;

Fourth, restrict the growth of the Federal Government by limiting the budget to 20 percent of the gross national product; and

Fifth, start retiring the National debt through a monetization process.

After I outlined my Federal reform economic recovery program, I polled this representative sample of constituents on the program itself as well as on a number of other pertinent cur-

rent issues; that is, the budget and economy, defense and foreign policy, and a number of general issues. Following are the tabulated percentage results reflecting the 16th District's views on the listed issues. These results have been shared with these constituents within my district as well:

[In percent]

	Yes	No	Undecided
BUDGET AND THE ECONOMY			
1. Which of the following actions should be taken regarding lowering the projected Federal deficits for the next several years?			
A. Reduce Federal spending by further cuts in nondefense and entitlement programs	72.7	24.7	3.0
B. Reduce Federal spending through less growth in defense programs	49.7	43.8	6.5
C. Increase revenues by deferring the 1982 10 percent tax cut for individuals scheduled to take effect July 1, 1982	35.2	61.2	3.6
D. Increase revenues by deferring the 1983 10 percent tax cut for individuals scheduled to take effect July 1, 1983	38.1	55.9	6.1
E. Make implementation of the 3d year (July 1983) tax cut contingent upon improved economic performance (such as a specified decrease in the Federal deficit and a specified reduction in the inflation rate)	56.4	37.0	6.6
F. Eliminate tax indexing (the changing of tax brackets as inflation advances) which is scheduled to go into effect in 1985	30.5	51.0	18.5
G. None of the above	20.0	67.4	12.6
2. In an effort to lower the cost of entitlement programs, the administration has targeted cost-of-living adjustments which are generally tied to the increase in the Consumer Price Index (CPI). These include such major programs as social security, Federal retirement (including both military and civilian), food stamps, medicare and medicaid:			
A. Should all of these cost-of-living adjustments continue to be linked to the CPI?	43.9	50.0	6.2
B. Should all of these cost-of-living adjustments be linked to a formula which is less than the CPI?	37.6	52.1	10.3
C. Should all of these cost-of-living adjustments be based on an arbitrary percentage decided yearly by the administration, with the concurrence of the Congress?	23.5	67.8	8.8
D. Should all of these cost-of-living adjustments be eliminated altogether?	20.2	73.3	6.5
3. Should social security cost-of-living allowances be frozen for 1 yr in an effort to reduce the Federal deficit?	47.9	46.6	5.5
4. Should the next Federal civilian and military retirement pay cost-of-living adjustment be limited to less than the Consumer Price Index (CPI) in an effort to reduce the Federal deficit?	57.8	37.7	4.5
5. Do you believe that the projected Federal deficits are directly attributable to the individual and business tax cuts which commenced last year?	15.7	77.9	6.4
6. Should Congress enact an increase in excise taxes on luxury items?	61.3	31.6	7.1
7. Should Congress repeal the "safe harbor" leasing provisions which allow companies to sell tax credits to other companies for new business investment?	67.8	19.8	12.4
8. Should the Federal Government impose user fees for services that directly benefit identifiable groups and individuals, for example, general aviation, recreation areas, and boating services provided by the Coast Guard?	79.8	16.2	4.0
9. The all-savers certificate program provides income tax exclusions for new deposits in savings and loan companies which are intended to be used for housing financing. Should this program be extended beyond the present 1 year?	70.7	19.0	10.3
10. Do you feel that Federal deficit spending is the major cause of high interest rates?	81.2	12.2	6.6
11. Do you favor relaxing tight money controls to try to help bring down interest rates, even such easing could raise the inflation rate?	21.7	68.1	10.2
DEFENSE AND FOREIGN POLICY			
12. Do you believe the Soviet Union has increased its offensive military power to the point that the United States could be in jeopardy?	63.3	28.7	8.0
13. Do you support the administration's proposal for increased defense spending?	62.9	29.4	7.7
14. Should the United States make a substantial reduction of U.S. forces permanently stationed in Europe?	47.9	40.9	11.2
15. Do you support the new Caribbean Basin initiative plan which is designed to provide economic aid, trade concessions and tax incentives to nations in that region of the world to help shore up their ailing economies?	43.2	39.7	17.1
16. Do you think that the political conflict in El Salvador is caused primarily by foreign-backed insurgents who are directed by Nicaragua and Cuba?	63.5	22.8	14.6
17. Do you think that the political conflict in El Salvador is caused primarily by longstanding economic problems and inequities in that country?	64.4	23.1	12.6
18. Should the United States provide military hardware to the Government of El Salvador?	36.2	49.5	14.3
19. Should the United States provide economic assistance to the Government of El Salvador?	46.4	40.0	13.6
20. Should the United States provide troops, if necessary, to keep the Government in power in El Salvador?	11.4	81.8	7.0
21. Should the United States refrain from any form of involvement in El Salvador, and completely cut off economic and military aid?	34.0	51.1	13.9
GENERAL ISSUES			
22. The U.S. Supreme Court recently held that Federal law precludes military retirement benefits from becoming part of a property settlement in a divorce. Should Congress pass new legislation which would change the substance of this decision?	47.0	41.2	11.3
23. Should Congress pass a law declaring that human life begins at conception?	27.9	65.0	7.1
24. Do you support a constitutional amendment which would grant the States, as well as the Federal Government, the power to regulate or prohibit abortions, with the more restrictive statute prevailing?	28.7	65.3	6.0
25. Do you support Federal legislation which would permit the use of marihuana under strict medical supervision for therapeutic purposes such as the treatment of glaucoma or the side effects associated with chemotherapy?	82.8	12.9	4.3
26. Do you support the new Federalism proposal for returning full responsibility for the food stamp and aid to families with dependent children (AFDC) programs to the States, with the Federal Government in return assuming full responsibility for the medicaid program?	71.7	18.0	10.4
27. Do you believe private, nonprofit church-related schools should be exempt from paying taxes regardless of their racial policies?	38.2	57.1	4.6
28. Do you support extension of the Clean Air Act in its present form?	45.5	33.1	21.5
29. Should clean air standards be relaxed in order to reduce the cost and regulatory burden on business and industry?	37.1	52.1	10.7
30. Do you support accelerated decontrol of natural gas prices?	48.3	39.1	12.7

REGULATORY REFORM

The SPEAKER pro tempore (Mr. WRIGHT). Under a previous order of the House, the gentleman from Georgia (Mr. LEVITAS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. LEVITAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEVITAS. Mr. Speaker, it is not my intention to take the full amount of time which has been allotted today, but I do think it is important once again to raise the issue of whatever happened to regulatory reform?

The issue is, Why has not this House had the opportunity to vote on a matter that the majority of the Members of this House, of both parties, have indicated their overwhelming support for? We are talking about a bill, Mr. Speaker, which the other body passed unanimously, without a dissenting vote, and for some strange reason, some reason which is unexplained and unexplainable, that legislation has not yet come to the floor of this House so that the Members can exercise their right and express their will, which is the will of the American people.

What is regulatory reform all about?

It is simply this, Mr. Speaker. Over the last number of years, the last 40 or 50 years, we have evolved in this country a fourth branch of Government consisting of unelected bureaucrats who have exercised the powers that belong to the elected officials of our Government; and in the course of that time there has been a proliferation of rules and regulations that have the force and direction of law and that people have to deal with in their daily lives and livelihood even though the people who issue those rules and regulations, Mr. Speaker, are not elected by the citizens of this country.

It is that very reason that has contributed so much to the cynicism and negative feelings that people in this country have about their own Government because there is a lack of accountability.

Rules are issued that cost millions and millions of dollars without any assessment in advance of what the benefits are or what the costs are.

When those issues are taken to court by the people in this country, who can afford to go to court these days, every presumption is in favor of the unelected bureaucrat, and yet, article I, section 1 of the Constitution, the very first article, and the very first section, provides that the legislative power of this Nation is vested in a Congress elected by the people, and regulatory reform not only is designed to make the procedures by which these rules and regulations and actions of unelected bureaucrats are considered, but it also will give to the elected Congress the responsibility to review those rules and regulations and, where necessary, Mr. Speaker, to veto and reject them because they go beyond the intent of Congress, because they are arbitrary or oppressive or because they are just plain dumb. But that is our responsibility, Mr. Speaker.

These rules and regulations are issued by people who as our distinguished majority leader has said on several occasions, has never suffered the inconvenience of running for public office. They are not accountable.

Now why, Mr. Speaker, has this legislation not come to the floor of this House. The regulatory reform legislation was reported out of the Judiciary Committee in February of this year with bipartisan support. The legislative veto bill which has over 250 cosponsors, well over a majority of the Members of this House, coming from both parties, has still not been

brought to the House for its consideration.

I suggest, Mr. Speaker, that those who have been responsible for keeping the Congress, this House, from expressing its will, should be and will be held accountable for that.

It is a simple matter of letting the people of this country regain control over their own Government through their elected representatives through regulatory reform.

Mr. WALKER. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I yield to the gentleman from Pennsylvania.

Mr. WALKER. I thank the gentleman for yielding.

I simply want to congratulate him for raising this issue this evening that he has raised on several occasions. I think the people should thank him for his diligence in pursuing this very, very important matter. He is right that the majority of the Members of this House not only favor the legislation but want to vote on the legislation. We have not been given that opportunity. I think that is a shame. But I think that the gentleman himself needs to be congratulated for the fact that he has come to this floor time after time after time and it has been my impression has received some assurances on some of those occasions that we were going to get some action on this bill in the rather near future and it has never come to be.

□ 2120

The gentleman gets the assurances and then we go weeks more without that piece of legislation seeing the light of day on the floor. I want to say to the gentleman, I hope he does not become discouraged. I hope he continues the fight. There are a lot of us who appreciate what he is doing, because it is a fight well worth making.

Mr. LEVITAS. I thank my friend, the gentleman from Pennsylvania, for those kind remarks and I can assure him that I never give up hope. I am optimistic and I have reason to believe, based on some recent conversations, that the will of this House will be reflected in decisions made by its leadership.

I am happy to yield to the gentleman from California.

Mr. LUNGREN. I thank the gentleman for bringing this to our attention. As the gentleman knows, several weeks ago I addressed a question to the majority leader when we were talking about the schedule, when it appeared to some of us that we did not have the most urgent matters coming up. I inquired as to whether the regulatory reform bill would be before us the following week and as the gentleman will recall, the majority leader said, "All things are possible."

We see now that all things are possible, but a lot of things are not probable.

I am concerned about this as a member of the Judiciary Committee because I remember back in February when we passed it out, some of us thought at that time if we passed it out that early, we would certainly get to it on the floor sometime during the spring so we could have some realistic opportunity for perhaps going to the Senate with a different version than they had, going to conference, and actually getting a bill this year.

As the gentleman recalls, the Member from California on his side of the aisle, who was the head of the subcommittee that brought it forward was George Danielson, who is of course now a sitting judge in California. I just talked to him when I was home recently and it sounds as though he has been on the bench for a long time. I just hope that we will be able to bring this to the floor at some time before Mr. Danielson ascends to the Supreme Court of the State of California or the U.S. Supreme Court, but I kind of wonder.

I know the gentleman is urging optimism here. I hope there is some reasonable prospect for optimism, because I think the gentleman is correct. The American people want this. The majority of the Members of the House want it. I am sure we can get the majority of the Senate to come up with some version. We should have this legislation this year before we go back to the electorate and tell them that we have not had an opportunity to do it within a 2-year span.

Mr. LEVITAS. Well, I really appreciate the comments of the gentleman from California, who is a member of the Judiciary Committee and knows what we are talking about.

I also appreciate the remarks the gentleman has made about our former colleague, George Danielson, who has devoted so many years of his life to this.

This is not a partisan issue. It is not even a liberal versus conservative issue. If one looks at the cosponsors of this legislation, you will see people who are described as being the most liberal and as the most conservative. It is not a business versus consumer issue. It simply is restoring to the American people through their elected representatives some control over their own Government.

One of the things that troubles me is that many years ago, before I came to this House, before I had the honor of being elected to public office, I used to read as a youngster about how people who were concerned about progressive issues and liberal issues, civil rights in particular, felt frustrated because the Rules Committee at that time was under control of some very arch conservatives who would not even let the Congress vote on issues and the reformers and the progressives and the liberals kept railing against the procedures of this House in the Rules Committee, the rule of Judge Smith of Virginia who would not let legislation come to the floor. Now they are no longer there and yet the practices seem to continue.

Mr. ANTHONY. Mr. Speaker, will the gentleman yield?

Mr. LEVITAS. I am happy to yield to my good friend, the gentleman from Arkansas, who has been one of the leaders in this whole effort and has really stood up when it was important to speak forth.

Mr. ANTHONY. Well, I would like to commend my colleague, the gentleman from Georgia, for actually taking the lead and pushing so hard. As I came into the Congress and I looked around and I saw this issue and I realized that it was a very good piece of legislation, and as the gentleman says, a piece of legislation that cuts across all philosophical and special interest groups and one that would be truly good for the country and as a result I did adopt the gentleman's viewpoint and I started working with the gentleman.

I just want to commend the gentleman for all the effort he has put into the bill in 1981. We were successful in overcoming some of those objections, even to the extent that some of the people who were originally opposed to it saw the light at the end of the year and became some of the most outspoken supporters of regulatory reform.

I think we need to encourage the leadership to put it on the agenda and bring it to the House floor. I think it would be one of the most important pieces of legislation this Congress could adopt. I just want to assure the gentleman that I will continue to work with him in hopes that we can do that before the year is up.

Mr. LEVITAS. I thank the gentleman very much not only his comments, but also for his persistent and consistent support.

You know, this is one of the issues that I get the feeling from time to time where the people in America have a better understanding of their Government than some of the people in Washington. I think they really do understand what this is all about. They may not articulate it with the same precise legal formulas that we are talking about here, but they know that when they confront a situation, whether it is a member of a local school board or the administrator of a hospital or someone who is making out their income tax, that most of the things they are having to deal with are issues or rules or regulations that have been issued by persons who have never been elected and who are not accountable for those decisions.

It seems to me that we in this House need to be much more responsive to what the people in this country al-

ready understand, that government by bureaucracy is not government by the people, that the first article of the Constitution did not accidentally vest the legislative powers in the Congress of the United States.

It is, I must confess, frustrating. It is not discouraging, but it is frustrating to find such an ordeal in simply restoring to this institution, Mr. Speaker, the powers which the Founding Fathers envisioned that it would have.

Mr. Speaker, you are the Speaker of this House. You are the leading Member of this body, of this institution. It should be your role to act on behalf of this House in the exercise of its constitutional powers.

I understand there are controversial issues surrounding regulatory reform, but I think it would be worse than a shame and a disgrace if the Members of this House did not have the opportunity in a timely fashion to vote upon this. I think it would be a reflection on the institution itself that could frustrate the desires of the Members of this House in an overwhelming majority fashion to express the will of the American people. We ought not to do that.

What concerns me is that the longer it is taking us to deal with an issue of this sort, the more the American people must wonder why.

Therefore, Mr. Speaker, I urge you, I plead with you, do what you can to see that in a timely fashion this bill is brought to the floor of the House, not in a manner that we see it here kicking and screaming, reluctantly dragged out of the Rules Committee under some procedure, but because that is what this House ought to be doing. That is what the Members want and that is what the American people want.

I will be glad to yield to the gentleman from Pennsylvania.

Mr. NELLIGAN. Mr. Speaker, I thank the gentleman from Georgia for yielding. I would like to associate myself with his remarks. I applaud him for his efforts on this particular subject and would like to point out that from the years between 1975 and 1979, I had the distinct honor and pleasure of serving as the operations director on the Subcommittee of Oversight and Investigations, which was then the Interstate and Foreign Commerce Committee. A great deal of my time and my effort and the effort of the staff which I was associated with was spent on the subject of regulatory reform.

□ 2130

At that particular time, I think it was 1978 or 1979, we issued a report that was 2 inches thick, maybe 3 inches thick, on regulatory reform wherein many, many recommendations were made, constructive recommendations, to reform the regulatory process in this country, and yet we are still clamoring in this House, and tonight we are asking that we have an opportunity to hear and to vote on regulatory reform, and yet it has not been done.

Something that has been in the hopper since 1975 or 1976, and here it is 1982. I applaud your efforts. I hope that finally some substantial progress can be made on regulatory reform in this country.

I agree with the gentleman it is not a partisan issue; it is a consumer issue. It is not a political issue; it is something long overdue in this country and something I hope we can squarely face in this Congress.

Mr. LEVITAS. I thank the gentleman from Pennsylvania for his comments, and also for sharing with the Members of this House his special insight because of his prior experience.

One of the interesting things is the fact that many people who are affected by regulations do not realize that a regulation has the force and effect of law. If a person violates a regulation, they can lose a benefit, be subjected to a penalty, or indeed go to jail, just as they could for violating a statute passed in the way we learned about in our civics courses in high school. But those rules and regulations have never been considered or passed upon by anybody elected by the people of this country.

The fact of the matter is that the relationship, the ratio between rules and regulations issued by unelected officials as compared to laws passed by the Congress of the United States is about 10 to 1—10 to 1. And yet for some reason we are unwilling, or certainly so far unable, to come to grips with making that process a more accountable process.

And the proliferation of these regulations: Several years ago I asked someone on my staff to bring to me the Federal Register, in which these rules and regulations are published, for a day. I think it was about 10 years ago. They brought me a stack of books which was approximately a foot high.

I asked for the same books to be brought for the year 1980. It went over my head, it was so high. It was over 6 feet tall.

We have not only had a proliferation on these rules and regulations, but as they have proliferated, the people who issue them have become less and less sensitive to the American people, less and less accountable to the American people.

I do not think it is asking too much to let the Members of this House vote on legislation that would try to return to the American people control over their own Government. It is an opportunity for us to see democracy in action.

The worst thing that I think could happen is for there to be a perception that there is some reason, some unexpressed reason, why we are having to drag out and pull out, like pulling teeth, the opportunity to vote on something that a majority of the Members of this House have already supported and that the other body has passed by a unanimous vote.

Is there something that is so bad, Mr. Speaker, with a bill that we cannot even vote on it which was supported by the two Senators from your own Commonwealth of Massachusetts?

I do not think so. I acknowledge the fact that all of these things take time, and I appreciate the fact that you and members of your staff are actively working on this matter and are pursuing with diligence, I hope, the effort to bring this matter to the floor. But as each day goes by, as each grain of sand falls down through that hourglass that ticks toward the end of this session, questions have to be raised as to whether we really are going to have an opportunity to deal with this. I would hope so, Mr. Speaker.

I ask my colleagues in this House, an overwhelming majority of whom support this legislation and have cosponsored it, to understand that at the Clerk's table there is a discharge petition, No. 17, which is available for Members to sign, and when 218 Members have signed it we will have an opportunity to vote on it.

I would hope, Mr. Speaker, quite frankly, that we do not get to that point. That is not the best way to consider legislation, but this is legislation which has been reported out of a committee in the House. The other bill, the legislative veto bill, was in a prior Congress reported out of a committee of the House. It is not a question of legislation that has not been considered. I think we have come to the time that this legislation has to be voted on and I would hope it would be voted on with the blessings and the help and assistance of the leadership of this House, because that is the best way to do it.

But however we have to do it, Mr. Speaker, I think that the American people are entitled to have this issue considered, voted upon, and I have no doubt of the outcome. It will be passed and it will become part of the laws of this Nation, and I think that we will see, over the years, as a result, that the American people will once again realize they do have control over their own Government.

THE 24TH ANNIVERSARY OF CAPTIVE NATIONS WEEK

The SPEAKER pro tempore (Mr. FRANK). Under a previous order of the House, the gentleman from New York (Mr. STRATTON) is recognized for 60 minutes.

Mr. STRATTON. Mr. Speaker, in keeping with a longtime custom I am pleased once again to join with my colleague from Illinois (Mr. DERWINSKI) in observing the 24th annual commemoration of Captive Nations Week, July 11-18, as designated by Public Law 86-90, The Captive Nations Week Resolution.

The initial resolution was passed in 1959, during the first year that I was in Congress. I have, therefore, spoken on behalf of the Captive Nations virtually every year I have been in Congress. But, do we tire of speaking out against Soviet expansionism and repression? No. Because I must also note that since I have come to Congress, the Soviets have added Cuba, several countries in Southeast Asia, and most recently, Afghanistan, to the already long list of Captive Nations.

I rise today to assure the brave people of the Captive Nations, and their friends and families throughout the world that we will not ease the pressure on the Soviet Union until the Soviets allow freedom, self-determination, and basic human rights for the people of the Captive Nations.

Observance of Captive Nations Week is different this year from in the past, because for the first time, the President has dramatized the event by holding a special signing ceremony of the proclamation in the Rose Garden, which I attended on Monday. I am very glad to see this kind of support for the cause of Captive Nations coming from the White House.

As I reflect on Captive Nations Week last year, I am afraid that conditions have not improved very much, and in some areas have even deteriorated.

The brillance of the solidarity movement, which we are so proud of and hopeful for, has been dimmed by the imposition of tough martial law and the imprisonment and suppression of Lech Walesa and other Solidarity leaders. Solidarity still lives, though, and the challenge to the Soviet rule remains, but the drama in Poland does not dominate our headlines as it once did, and the movement lost some of its momentum. I rise today to reaffirm my support for the courageous men and women of Solidarity.

Another disturbing development viz the captive nations has been the reluctance of some of our NATO allies to support the American policy regarding economic sanctions against the Soviet Union which were imposed because of that government's actions against the people of Poland and Afghanistan. This is most vividly seen in the failure of some of our European allies to support the U.S. embargo on materials and technology for the construction of the Soviet pipeline. This "business as usual" approach is frustrating to those of us who want to keep the pressure on the Soviets to ease their repression of the people in the countries under their domination.

I was heartened, however, by a last-minute development at the U.N. Special Session on Disarmament, which closed last week in New York City. I had the great honor to be appointed by President Reagan to be a delegate to this Conference, and had a very enlightening experience in international negotiations.

One of the final conference documents contained standard language from the U.N. Charter about the nonuse of force and the prohibition against invading and occupying other countries. Speaking against this language were East Germany, Vietnam, Hungary, the U.S.S.R., Afghanistan, Bulgaria, and Byelorussia. Speaking for the language (which everyone took to be a reference to the invasions of Afghanistan, Kampuchea, and the crackdown in Poland) were Pakistan, Sweden, Nigeria, Kenya, Thailand, and Romania. In essence the nonalined had finally ganged up on the Soviet bloc.

This kind of clear rejection of aggression and violence will help bring an end to the plight of the captive nations. The United States alone cannot bring freedom and self-determination to the people of the captive nations. We need help from our allies and from freedom-loving people throughout the world.

The observance of Captive Nations Week allows Americans across our land to renew their commitment to help the captive nations achieve freedom, and we call on other free nations to join us in this effort.

GENERAL LEAVE

Mr. STRATTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous matter, on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Speaker, I yield to my distinguished colleague from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I am pleased to join my distinguished colleague, the gentleman from Illinois (Mr. DERWINSKI) in marking the 24th anniversary of Captive Nations Week. There were 26 captive nations on July 17, 1959, when Captive Nations Week was established by a joint resolution of Congress. Today there are 31 captive nations, Afghanistan being the most recent addition. Since World War II, smaller nations all over the world have been increasingly demanding and receiving their independence. It is important for Americans to remember and to remind the world that there are today many nations under Soviet domination which are being denied the right to govern themselves. While staunchly supporting the efforts of the peoples of Poland and Afghanistan to resist Soviet domination, we must not forget the many captive nations which have been incorporated into the Soviet Union itself.

This past year, there has been renewed activity by the Ukrainians, who became a captive people and part of the Soviet Union in 1920. The Ukrainians, who make up 40 percent of all political prisoners in the Soviet Union, formed the Ukrainian Helsinki Group in 1976 to monitor the implementation of the human rights clauses of the Helsinki accords. Last November, activists hung the blue and yellow flag of the independent Ukraine over the Communist Party headquarters in the city of Dnipropetrovsk (Nyepropetrovsk). Next to the flag hung a poster, directed at Soviet President Brezhnev, with the words: "We are in solidarity with all those that are against you."

The Ukrainians have received support from other oppressed peoples in the Soviet Union. In October 1978, Yosyf Zisels, a Jew, joined the Ukrainian Helsinki Group. He subsequently compiled and publicized materials on 76 Ukrainian human rights activists who were imprisoned in psychiatric hospitals for their beliefs. Zisels himself has not been incarcerated.

We are told by Soviet Government officials that the Soviet people completely support the occupation of Afghanistan, the newest captive nation. However, last November in Tallin, the capital of Estonia, leaflets appeared calling for a 30-minute strike on December 1 to protest Soviet involvement in both Afghanistan and Poland. The strikers also planned to demand an improvement in both the human rights and economic situations in Estonia. The strike did not take place because its leaders were intimidated by the police. We in the United States must support the efforts of captive peoples, like the Estonians, who have had the courage to protest against their oppression. How many more Estonians are there, or Lithuanians or Georgians or others who have been threatened or imprisoned by Soviet authorities for questioning the actions of the Government?

May we be inspired by the Soviet workers who have, like their Polish counterparts in Solidarity, demanded the establishment of labor unions independent of government control. In a letter addressed to the Ukranian human rights movement and the international labor movement, Kiev worker Mykola Pohyba writes:

> There are two antagonistic classes in the U.S.S.R.—The exploited and the exploiters. The working class, exploited by the state, sinks into greater servitude * * *. The principal aim of the government labor unions * * * is to extract the utmost from

the worker, while keeping the working class in blind obedience * * *. Exploitation is such that the least sign of protest is stifled and the result is that men are transformed into beasts of burden * * *.

Our attention today, on this 24th observance of Captive Nations Week, is focused on captive nations such as Poland and Afghanistan. But let us not forget the peoples living under direct control of the Soviet Union, who like Mr. Pohyba, have been imprisoned for telling the truth about the conditions under which ordinary people must live in the so-called workers paradise. And let us not forget the many oppressed peoples whose hopes for freedom were encouraged by the human rights clause of the Helsinki Conference on Security and Cooperation in Europe. And let us remind the world that it was the Soviet Union, as well as the United States and 33 other nations, which signed the document confirming and extending the effective exercise of human rights to all European peoples.

□ 2140

Mr. STRATTON. I thank the gentleman for his contribution.

Mr. Speaker, I yield to my friend from Pennsylvania (Mr. NELLIGAN).

Mr. NELLIGAN. Mr. Speaker, I thank my colleague on the Armed Services Committee, the gentleman from New York, for yielding to me.

Mr. Speaker, I am proud to join my distinguished colleagues in observing the 24th anniversary of Captive Nations Week. For over two decades, Congress has set aside 1 week each year to honor those millions of people who live against their will under the shadows of Communist tyranny. During this week, let us reaffirm our strong support for those who struggle to obtain the liberty that is the birthright of all. So long as there are people in the world who are enslaved, the United States will not forget them, nor the source of their misery.

Although 24 years have gone by since Congress first approved a joint resolution requesting the President to proclaim Captive Nations Week, I believe this year's observance is especially fitting.

The imposition of martial law in Poland last December provided the world with a stark example of the freedoms which are denied under Communist rule. Faced with a movement to establish an independent trade union, the Polish Government responded with ruthless, authoritarian tactics. Faced with a movement to achieve basic freedoms of association and expression, that government responded with the force of arms.

This situation of continuing martial law, combined with the jailing of Solidarity members and efforts to censor communications and quash all forms of public dissent in Poland, should bring a basic message home to all Americans.

The Polish experience demonstrates that there is no real freedom under Communist rule; it shows clearly that Communist governments have held their people captive in their own land and beholden to the interests of the state, which seeks only its own survival. We can also not ignore the plight of the Baltic States, which were forcefully incorporated into the U.S.S.R. At present, the Soviet Union continues its program of "Russification" of the Baltic States—a rather benign term for cultural genocide.

While more hidden from the world's view, the Baltic States remain as an ever-present example of the denial of human rights by the Soviet Union. The letter and intent of the Helsinki accords are violated on a daily basis in the Baltic States, and we can never recognize Soviet authority over this region.

I look forward to a time when the observance of Captive Nations Week is no longer needed, and when freedom can be restored to those who suffer under Communist governments.

Mr. Speaker, this is not the first time I have risen in this Chamber in support of the captive nations. Often we hear the question, What can we do in Congress to help? Do special orders such as the one we are doing now really help? Do 1-minute speeches on the floor of this Chamber really help? Do letters to imprisoned and enslaved people in their own countries really help?

Well, this morning when I woke at 6 o'clock and my alarm went off, I awakened to the 6 o'clock news, and I heard that the Communist regime in Poland was releasing many of the Solidarity prisoners, and they were saying that they were hoping that by the end of the year martial law in Poland could be lifted. I said to myself, thinking of the special order I was going to participate in this evening, maybe we are getting through to the Communist bloc. I said to myself, is it a coincidence that with Captive Nations Week in America the Polish dictatorship, the Polish Communists have finally decided to release some of those Polish political prisoners? I think what we are doing does help, and I think if we continue to do so, we may see freedom realized by the people of the captive nations.

Mr. Speaker, I thank my distinguished friend, the gentleman from New York, for yielding to me and giving me the opportunity to participate in this special order.

Mr. STRATTON. Mr. Speaker, I thank the gentleman for his contribution.

Mr. LUNGREN. Mr. Speaker, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from California.

Mr. LUNGREN. Mr. Speaker, I thank the gentleman for yielding, and I commend the gentleman for taking this time for us to have the 24th observance of Captive Nations Week.

Mr. Speaker, 24 years ago the U.S. Congress unanimously passed the Captive Nations Week resolution to acknowledge those less fortunate people whose religious, political, and individual freedoms remained unrecognized by the Soviet Union.

At this time, I believe it all the more appropriate for us to review this resolution, first signed into law by President Eisenhower on July 17, 1959. The resolution follows:

PROCLAMATION 3303—CAPTIVE NATIONS WEEK, 1959

Whereas many nations throughout the world have been made captive by the imperialistic and aggressive policies of Soviet communism; and

Whereas the peoples of the Soviet-dominated nations have been deprived of their national independence and their individual liberties; and

Whereas the citizens of the United States are linked by bonds of family and principle to those who love freedom and justice on every continent; and

Whereas it is appropriate and proper to manifest to the peoples of the captive nations the support of the Government and the people of the United States of America for their just aspirations for freedom and national independence; and

Whereas by a joint resolution approved July 17, 1959, the Congress has authorized and requested the President of the United States of America to issue a proclamation designating the third week in July 1959 as "Captive Nations Week," and to issue a similar proclamation each year until such time as freedom and independence shall have been achieved for all the captive nations of the world:

Now, Therefore, I, Dwight D. Eisenhower, President of the United States of America, do hereby designate the week beginning July 19, 1959, as Captive Nations Week.

I invite the people of the United States of America to observe such week with appropriate ceremonies and activities, and I urge them to study the plight of the Soviet-dominated nations and to recommit themselves to the support of the just aspirations of the peoples of those captive nations.

In witness whereof, I have hereunto set my hand and caused the Seal of the United States of America to be affixed.

Done at the City of Washington this seventeenth day of July in the year of our Lord nineteen hundred and fifty-nine, and of the Independence of the United States of America the one hundred and eighty-fourth.

DWIGHT D. EISENHOWER.

By the President:

DOUGLAS DILLON,
Acting Secretary of State.

Unfortunately, upon review, one can readily see that the Captive Nations Week resolution remains timeless in 1982 as it is almost even more applicable now than when it was first adopted. In a world of constant change, it often is difficult to notice the day-to-day and year-to-year changes that occur. For this reason it is important

to reflect upon the past 24 years to see what has resulted in the world during this period. Sometimes, only by comparing photographs or snapshots in time are we able to notice any change at all. Reexamining the past quarter of a century, it becomes obvious that we live in a world ever more dominated by tyranny and oppression. Soviet domination and influence has clearly grown to its largest proportions ever.

In fact, the birth of Soviet imperialism goes back to the Russian Revolution. In 1917, instead of realizing the greater freedom and opportunity that was hoped for after the revolution, the Russian people had imposed upon them a totalitarian regime. In 1920, the people of Ukraine, Armenia, Azerbaijan, Byelorussia, Cossakia, Georgia, Idel-Ural, North Caucasia, Turkestan, and Mongolia also came under the control of this regime.

In 1940, the Soviet Union invaded Estonia, Latvia, and Lithuania. After World War II, an Iron Curtain was placed around Eastern Europe as Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania, and Yugoslavia also lost control of their national destinies to the Soviet Union. And more recently, nations on other continents—Asia, Africa, South America—have become victims of Communist oppression.

In 1917, or 1959 for that matter, could we have foreseen such growth in tyranny in the world as well as such blatant disregard for religious, political, and individual freedom? Could we have anticipated the growing Soviet influence on other continents? This leads one to seriously ponder what our world will look like in the next 24 years as we enter the 21st century. This is a question we must honestly and seriously consider in the Congress, in our country, and among all free nations.

The ongoing activities of the Soviet Union to expand their sphere of influence demand that we never forget the continued repression of millions of people. As the oldest surviving democracy in the world, it is our duty to attempt to ease the subjugation of the citizens in these countries. The 24th Captive Nations Week anniversary enables us to reaffirm our unwavering support for the liberation of all captive people.

We must admire the determination and will of the Polish and Afghanistan people to achieve individual and national freedom. By their actions, we are reminded of our Nation's beginnings. We can remember Patrick Henry, for whom the choice was a mutually exclusive proposition: liberty or possible death from fighting for freedom. We can recall that it was our Founding Fathers who recognized the price of freedom is eternal vigilance. And it was Thomas Paine who wrote: "He that would make his own liberty secure must guard even his enemy from oppressions."

During the month of July it is fitting that we begin the month in recognition of our Nation's Declaration of Independence and our fundamental premise "that all men are created equal, that they are endowed by their creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness."

It is also fitting in July that we give recognition to those captive nations and the plight of those unable to realize many of the freedoms that we enjoy as birthrights. And it is truly hoped that the words of Thomas Jefferson's Declaration of Independence will live on forever for our country and may one day become reality for all peoples of the world.

Mr. Speaker, I thank the gentleman for taking this time to remind us of something that is of importance to us.

□ 2150

Mr. STRATTON. I thank the gentleman from California (Mr. LUNGREN) for his very eloquent statement.

● Mr. YOUNG of Florida. Mr. Speaker, for the 24th year, we are pausing to observe Captive Nations Week to offer our support to the millions of men, women, and children who live under Soviet domination but continue to yearn for freedom.

President Eisenhower proclaimed the first Captive Nations Week in 1959, but unfortunately since then, the list of captive nations has only become longer. Soviet expansionism now touches all parts of the world, including our own hemisphere, and as the Communist influence has grown, so has the list of Soviet human rights violations.

During the 1970's, the record of Soviet repression became so dismal that the leaders of the United States and Europe met in Helsinki to draw up a document of principles to insure the preservation of human rights throughout the world. Thirty-five nations, including the Soviet Union, agreed to and signed the Helsinki accord in 1975, which reaffirmed the belief in human rights and fundamental freedoms, equal rights and self-determination of people, territorial integrity of states, and the refraining of the use of force and aggression. In the 6 years since the Helsinki act was agreed to, the Soviet Union has managed to violate every section of the agreement.

On Saturday, July 17, I joined with the people of Pinellas County, Fla., and many former citizens of captive nations to denounce the worsening record of Soviet repression. The Soviets total disregard for the Helsinki agreement makes it impossible for us to believe the Soviet Union will respect any treaties or will follow any moral guidelines or standards. Now that the Communist influence is expanding within our own hemisphere, in countries such as Cuba and Nicaragua, it is obvious that the Soviet threat is greater today than ever before. As the leaders of the free world, we must be prepared to meet the threat or more countries will be added to the list of captive nations, which is already much too long.

This is the message we sent to the Soviet leaders during our rally in St. Petersburg, and for the information of my colleagues, I would like to include the text of my speech in the CONGRESSIONAL RECORD.

REMARKS OF CONGRESSMAN BILL YOUNG AT A CAPTIVE NATIONS WEEK RALLY

It is a great honor and a privilege to be with you today as we begin the 24th annual recognition of Captive Nations Week. I am pleased to be home in St. Petersburg, Mayor Freeman, where we have again proved by having so many representatives of different nations of the world represented here, how we can live together, work together and play together with a mutual respect for each other, with mutual love for God and with a mutual understanding of each other's problems. It is an opportunity for people to work in freedom, to play, to be with their families, to worship the Lord, not to offend others, not to have a claim on some others property or some others business, but to be free people, free in our own hearts, in our own minds and our own souls.

I'm happy to be here with Victoria Jacobson and so many other people who worked with her in organizing this event. It's important that we continue this recognition.

As Dr. Bobelis said, one of my responsibilities in Congress is to work with the Central Intelligence Agency and the Defense Intelligence Agency and other intelligence organizations we have, in watching the Soviets to see what they are about to do, and to ensure that we are prepared for any actions they might take so that the United States and the rest of the free world do not someday become captive nations, such as those we have mentioned today. I hope you, as well as the Soviets, understand that I am determined to ensure that no other nations become captives of the Soviet Union and that I will do everything possible to turn the tide of communism, to reverse the Soviet expansion which began in 1920, and to remove from the bonds of captivity those people who today pray for the day when it will happen.

President Reagan wants me to reaffirm to you his personal commitment to continue this observation until the captive people of the world are free, and to pledge that he will do everything possible to free those people.

I've had the privilege to visit a number of the captive nations represented today, and I can tell you that while the nation and people themselves might physically be held captive, in their hearts they are not captive. In their hearts they are free people, and since the 1920s, when Soviet domination began, several generations have lived in captivity, but even they are committed to one day securing freedom for their nation. And they're anxious, and I'm anxious, and I know you're anxious to see that freedom.

It is essential that we have programs like this in the United States and throughout the free world to call attention to the continuation of Soviet repression because the

Soviets really believe that they can control the world by taking one country at a time, the latest example being Afghanistan. The Soviets believe that if they pull back and put on a good face for a couple of months, or a couple of years, the world will forget their aggression so they can move into another part of the world, such as Iran or Saudi Arabia. That's their tactic—take what they can today and when world opinion rises up; stop, wait, be patient and then move in somewhere else. The Soviets must understand that we are aware of this tactic and that we are not going to stand idly by while they exercise their control over the entire world. I don't know of anyone in this audience who would disagree that this is their tactic. Their plan is to eliminate freedom anywhere that it reigns in the world because the greatest threat to the survival of the Soviet communist system is freedom, because anywhere freedom lives—where the flame of freedom burns—that is a potential threat to the expansionistic plans of the Soviet Union.

As we proclaim this Captive Nations Week, there's one other nation that should be placed on the list of captive nations. That nations is Russia, because the people of Russia want freedom. They don't like being under the domination of the Soviet Politburo. With a few exceptions, the Soviet people don't like the communist system. I know this because in the work that I do in the Congress, I have the opportunity, on occasion, to visit with Soviet people. Not just the ordinary citizens, but the people who are or have served in high ranking position in the Soviet system. People who would risk their very life to escape, and some who have. I've had the privilege of visiting with some defectors who have been helpful to the United States in our quest to preserve freedom. And the stories they tell of the Soviet system would make you cry. Their stories would sadden your heart if you could hear what the Soviet leaders do to their own people. And I say to you that for these reasons, I think it is appropriate that we add to the list of captive nations the people of the Soviet Union. They are on occasion not allowed to visit their families, they are sometimes not allowed to work at jobs that provide them with enough money to live adequately, and they are often denied the freedom of movement.

On this platform today are many people who are dedicated to preserving the freedom of the United States and the free world and for regaining the freedoms that have been lost to the Soviets in so many other parts of the world. You have met many of them today, and you have heard comments from some of them. They never fail to come down on the side of freedom, on the side of strength for the United States, for we all know that strength will deter aggression. There are those in our country who do not believe that. There are some in our country who believe that if we turn the other cheek and lay down our arms, the Soviet Union will do the same. While I certainly understand that others have the right to that opinion, I must tell you that I disagree. The record of the Soviet Union is clear. It is just not going to happen.

In closing, I want to tell you about this document which I hold in my hand. It is a reprint of the Helsinki Accord. After the world got sick and tired of human rights violations on the part of the Soviets, we held a great international meeting in Helsinki and drafted pages and pages of guarantees of human rights for people. We guaranteed, among other things, the right of self determination for people in their free nation, and we guaranteed them the right to be free from external aggression or oppression or subversion. The Soviet Union was a signatory to this document, along with 35 other nations. For those who believe the Soviet Politburo, that the Soviet communists want to be good neighbors, that believe if we lay down our arms they will do the same, I invite you to read this document. And after you read this document, I am prepared to show you page after page, paragraph after paragraph where the Soviets have methodically and ruthlessly violated and disregarded every section of this guarantee of freedom.

Ladies and gentlemen, stopping the Soviet expansion is a major campaign, a major crusade, a major battle, and the thing that gives me more hope than anything else is my conviction that our God is not going to permit the Soviets to successfully complete their plan of world domination.●

● Mr. MOAKLEY. Mr. Speaker, the freedom to express one's belief, the freedom to travel in an uninhibited manner, the freedom to participate in the political process, the freedom to live not subject to tyrannical and autocratic rule—we regard these freedoms as part of the normal, expected way of life in our country. However, it is not a given in countries throughout the world. Too often, we forget that millions of people across the globe are involved in a constant struggle, courageously trying to extricate themselves from the iron fist of oppression. Today, we dedicate our attention to those who suffer under despotic control and those who bravely work to secure freedom for all people.

This summer marks the second anniversary of the rise of a group of bold Polish freedom fighters. Devoted, skillful, and determined—these people won the world's hearts, as they valiantly advanced the cause of a people whose government had and still denies them the most basic of human rights. Sadly, the Polish people have discovered that the forces of oppression do not easily surrender. Nevertheless, despite their temporary setback, the Polish Solidarity movement workers bravely continue their struggle.

Today, we salute the relentless efforts of the people of Poland and express our solidarity with them.

In December of 1979, while Americans joined together to celebrate Christmas and the coming of the New Year, one found little reason to celebrate in the nation of Afghanistan. The besieged people of Afghanistan—like their kin in Poland—are engaged in a constant battle to gain control over their homeland. For over 2½ years, fighting against enormous odds, the people of Afghanistan have dauntlessly defended their country against the grip of foreign domination. Today, we reserve a special place in our hearts for the freedom fighters in Afghanistan and unite with them in their battle to preserve Afghanistan's sovereignty.

For those who believe that we ought not to concern ourselves with the plight of our fellow freedom loving peoples around the world, may I remind my colleagues that we, too, were once a captive nation. While we did succeed in attaining our liberty and sovereignty, the American Revolution may have failed had it not been for the generous help of other nations—including, ironically, Poland. As a nation which cherishes that precious liberty, freedom, we must now lead the way in combating tyranny and oppression across the globe.

Today, as we honor Captive Nations Week, we address ourselves to the aggrieved people whose most basic human rights are held captive by autocratic, tyrannical governments, and devote our energies to establish a world where despotism and oppression languish and where liberty and freedom prevail.●

● Mr. PEYSER. Mr. Speaker, this week marks the 24th anniversary of Captive Nations Week, a time in which we pay tribute to millions of citizens around the world who live under the ominous shadow of communism.

The people of Poland, Hungary, Lithuania, Ukraine, Romania, and Czechoslovakia, to name a few countries, are continually denied their basic human rights. However, these freedom loving citizens struggle daily to retain their cultural and religious identity. Captive Nations Week serves as a reminder to the world that the United States must continue to be the beacon of hope for millions of citizens who pray for their freedom and civil liberties.

No one can take the inalienable rights we hold so dear to us. Yet, people in these countries are denied the opportunity to express their religious convictions, are not allowed to gather and discuss issues, and are unable to freely exercise their self-determination as citizens because of an external, authoritative hold on their freedom. Never before has the need been greater for the free nations of the world to stand up to communism.

As Members of Congress and Americans we shall not forget those who live under Communist rule and oppression. We will continue to fight the oppressive tactics of the Soviet regime and one day celebrate the renewed independence of these captive nations.●

● Mr. RITTER. Mr. Speaker, I am proud to rise in support of the 24th obvservance of Captive Nations Week. I commend the President of the United States for his personal proclamation and the ceremony he held in the White House Rose Garden. I am especially proud to represent an area, the Lehigh Valley, of Pennsylvania, which has benefited richly from the many people who have emigrated from captive nations. I have observed first-

hand the tremendous respect that these people have for the meaning of freedom. Many of the residents of the Lehigh Valley still retain a love for their original homelands and continue to hope and pray for the day when those homelands will be free and people can live without fear. I, too, pray for the day when this will happen.

As leaders of the free world, we carry the added responsibility of championing the cause of oppressed peoples. For the people of Central and Eastern Europe, the Baltic countries, Ukraine, other nations inside the U.S.S.R., Vietnam, Cuba, and Afghanistan, we in free countries must continue to be a beacon of hope. The hope is for the day when they regain their freedom and their native cultures and traditions transcend the so-called communism imposed by Soviet or other totalitarian forces. Our desire for their freedom and self-determination must always be in the forefront of our discussions with the Soviet Union. Those captive peoples, longing for freedom cannot be forgotten because their fate, but for the luck of history and geography, could be our own.

A little over a year ago, we rose in this Chamber to pause and observe not only the captive nations but to express optimism about the events taking place in Poland. Unfortunately, our joy over their achievements was shortlived and today we see them under even more repressive conditions than before the free labor movement existed. Our hearts and prayers go out to the Polish people and we acknowledge their courage and boldness to push for freedom.

What began in Gdansk, Poland, is the first authentic social upheaval on a nationwide scale in a country ruled by a Communist Party dominated by the Soviet Union. It challenged the absolutism of Communist power and consequently, it tacitly accepted the possibility of confrontation with the Soviet Union. The social upheaval that occurred in Poland is representative of the strong desire of Soviet-dominated countries to throw off the yoke of totalitarian rule and be independent, with self-determined governments.

An example of a continuing struggle against the Soviet tyrants, is the 2½-year-old war in Afghanistan between the Soviet Red Army and the Freedom Fighters. Nearly 3 years of continuous fighting and the Soviets are still unable to dominate the valiant Freedom Fighters and bring the hostilities to an end. The Afghan Freedom Fighters are at a disadvantage militarily—they are forced to use old Enfield rifles or whatever they can capture from the enemy. The tragedy of the war increases with Soviet use of "yellow rain" and other biological-chemical warfare against the civilian population. As many as 1 million Afghan men, women, and children may have been killed and countless more have been wounded. As many as 3 million have been driven from their homes and are living in the many refugee camps in Pakistan. In comparison, that would be equivalent to 16 million Americans dead and nearly 50 million driven from their towns and villages and into Canada and Mexico. And yet, in spite of this, they fight on.

The evidence that captive nations are recoiling against the Soviet imposed way of life is all around us. For many brave souls, no price is too great to pay for the cherished right to be free. And that has been the case for many years. There are so many heroes. Standing up to brutal secret police, risking you and your families well-being. Now that is heroism.

It is appropriate that today, we also pay tribute on its 40th anniversary to the Ukrainian Insurgent Army. This heroic group of insurgents consisted of a fighting force of over 200,000 men and waged battle in a two-front war against both Hitler's legions and Stalin's Red army. The scope of the struggle has even been acknowledged by Russians and Germans alike. For example, Nikita Khrushchev wrote in his memoirs that thousands of men were lost in a bitter struggle with Ukrainian nationalists.

Mr. Speaker, the day is fast approaching when even Soviet military and police strength alone will not be able to sustain a government which ignores the basic rights of its citizens to govern themselves. Eventually the Soviet Union will be forced to accept the fact that it has more to lose than to gain by blatantly ignoring the fundamental principles of national liberty and justice. What will ultimately convince the Soviets of the futility of continuing with their aggressive behavior and what will eventually convince them to abide by international laws, will be examples of nations such as Poland and Afghanistan resisting external intervention in their internal affairs.

One of the ways to help the people of these nations is with a more effective strategy in waging the battle of words, information and ideas. A strong and consistent message from the Voice of America, Radio Free Europe, and Radio Liberty is a sure way Americans can give vital information to millions of people under Soviet domination. An accurate picture of life provided to people behind the sealed borders is essential. They want to know more about their own industry, their own agriculture, their own labor force, housing, transportation, communications, and so forth. They are thirsting for news about their own societies. With news, with information, internal change becomes far more possible. Communications are a nonviolent and positive method in which results can be achieved through relatively small cost. The people behind the sealed borders need to know that there is another way—a way that could work for them too. A way that expands their possibilities, in their own lifetimes.

Our observance of Captive Nations Week is more than simply a tradition. It is an important reminder to the people of these captive nations that we have not forsaken them to eternal enslavement and we consider them as important to our own future.

Thank you.●

● Mr. DENARDIS. Mr. Speaker, I am proud to participate in the 24th observance of Captive Nations Week and to commemorate the brave struggle of Eastern European peoples to maintain their national identities while trying to secure basic human rights. We have recognized the third week of July as the annual observance of Captive Nations Week since the 86th Congress authorized the proclamation to pay tribute to these oppressed citizens.

We in the United States and throughout the free world must confirm our determination to work for the freedom of those enslaved by the U.S.S.R. and other Communist countries.

The captive nations list contains over two dozen countries. Because all people cherish freedom, this list does not symbolize defeat or a concession that the rest of the world condones such activity. Rather it strengthens our commitment never to accept those nations' captivity. As a people who enjoy personal liberty and national independence, it is our responsibility to support others in their quest for these goals.

Captive Nations Week is important as a message to the Soviet Union but even more important as an expression of commitment to those nations that are not free. We must continue to speak out against oppression around the world. The United States must continue to negotiate on and actively work for freedom for all nations laboring under Soviet oppression or the threat of Soviet aggression.

There is some solace in observing that the captive nations list has not grown over the past year. Unfortunately, neither has it been shortened. During Captive Nations Week we give voice to our belief that all men everywhere have the same inherent rights to freedom that Americans enjoy.

Mr. Speaker, during Captive Nations Week, we Americans must reaffirm our own tradition of self-rule and extend to the peoples of the captive nations a message of hope—hope founded in our belief that free men and women will ultimately prevail over those who deny individual rights and preach the supremacy of the state; hope in our conviction that the human

spirit will ultimately triumph over the cult of the state.

While we can be justly proud of a government that is responsive to our people, we cannot be complacent. Captive Nations Week provides us with an opportunity to reaffirm publicly our commitment to the ideals of freedom and by so doing maintain a beacon of hope for oppressed people everywhere.

Mr. Speaker, the United States must continue to commemorate Captive Nations Week in order to offer support to the millions who are attempting to throw off the yoke of Soviet oppression by struggling for independence and freedom. We must never allow the Soviet Empire to feel that its forced acquisitions are either condoned or given tacit international legitimacy.●

● Mr. ANNUNZIO. Mr. Speaker, on this 24th observance of Captive Nations Week, we as Americans affirm our dedication to liberty and our duty as a free people to express our concern in the strongest possible manner for the millions of unfortunate men and women enslaved in these unfortunate captive nations, who daily must face the dismal tyranny of communism.

A list of the captive nations follows:

Established list of captive nations

[Country, people, and year of Communist domination]

Armenia	1920
Azerbaijan	1920
Byelorussia	1920
Cossackia	1920
Georgia	1920
Idel-Ural	1920
North Caucasia	1920
Ukraine	1920
Far Eastern Republic	1922
Turkestan	1922
Mongolia	1924
Estonia	1940
Latvia	1940
Lithuania	1940
Albania	1946
Bulgaria	1946
Yugoslavia (Serbs, Croats, Slovenians, etc.)	1946
Poland	1947
Romania	1947
Czecho-Slovakia	1948
North Korea	1948
Hungary	1949
East Germany	1949
Mainland China	1949
Tibet	1951
North Vietnam	1954
Cuba	1960
Cambodia	1975
South Vietnam	1975
Laos	1975
Afghanistan	1980

The Communists have attempted to destroy the national identities of these countries by torture, exile, and execution. Nevertheless, they have been unable to crush the pride, cultures, and religions of these many peoples who must live under this brutality. We pause this week to pay tribute to these heroic men, women, and children who have bravely struggled and sacrificed so much to achieve liberty, and to those who continue today to resist the oppressor and decide the course of their own destiny.

This week is a time of reflection for Americans, a time to cherish our freedom, a time to renew our determination to take a strong stand in defense of the rights of oppressed peoples, and a time to strive for a day when all people will share in the blessings of liberty. As Americans, we are able, when many others are not, to make choices on where we live and travel, and how we will raise our children. The recognition that others are not as fortunate in maintaining their cultural and religious heritage must drive us relentlessly toward action on behalf of the peoples of the captive nations.

Millions of Americans who trace their origins to the captive nations, and to other lands, join each year during this special week to express their hope and their support for policies which will free these nations. I am proud to join my constituents in the 11th District of Illinois, which I am honored to represent, and all Americans, in offering our prayers that God will continue to keep us the strongest democracy among world powers, and give us the fortitude and strength to combat Communist totalitarianism wherever it appears on the face of the Earth.

A copy of the President's Captive Nations Week Proclamation follows:

A PROCLAMATION

During the past year, we have witnessed another tragic demonstration of the failure of tyranny to compete with the principles of freedom. The imposition of martial law in Poland on December 13, 1981, served as a bitter reminder that the quest for freedom and self-determination can only be restrained by force. It clearly demonstrated the moral bankruptcy of a system which has been unable to earn the support of its population after more than 35 years in power.

The same repression imposed on the Polish people is evidenced in various ways in other captive nations dominated by foreign military power and an alien Marxist-Leninist ideology. The brutal suppression of sovereignty in Afghanistan and the bondage of the captive peoples of Eastern Europe continue. Among the oppressed we must also count the peoples of many nationalities within the Soviet Union itself; they are victims of long decades of repression.

Twenty-three years ago, by a joint resolution approved July 17, 1959, (73 Stat. 212), the Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

This week offers Americans an opportunity to honor our Nation's founders whose wisdom and commitment to self-determination and liberty have guided this country for more than 200 years. Let us once again reaffirm our faith that the aspiration for freedom will ultimately prevail over the rule of force and coercion which denies human rights to so many other parts of the world today.

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby designate the week beginning July 18, 1982, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals which unite us and inspire others.

In Witness Whereof, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-two, and of the Independence of the United States of America the two hundred and seventh.

RONALD REAGAN.●

● Mr. ROE. Mr. Speaker, I rise today to join my colleagues in commemorating the 24th observance of Captive Nations Week. It is clearly a time for all of us to reflect on the fact that there are millions of people around the world who do not enjoy the basic freedoms of thought, movement, and expression we all take for granted.

Captive Nations Week was formally approved by Congress and signed into law by President Eisenhower in 1959. Since that time the world has unfortunately seen more nations added to those in Eastern Europe who fell under the Communist yoke in the periods following the First and Second World Wars.

The Asian countries of Laos, South Vietnam, and Cambodia have been taken over by dictatorial Communist regimes. But the major oppressor of human rights and dignity around the world still remains the Soviet Union.

Captive Nations Week has for 24 years served as a reaffirmation of the belief of the United States and her people that every nation should be free to pursue its own destiny in a world governed by peace and cooperation. The statement of human liberty so eloquently expressed in our own Declaration of Independence was not meant only for us, but for men and women throughout the world.

Equally as important, it serves as a powerful reminder that while our Nation's record in protecting human rights is not perfect, it stands heads above all others.

As the worst offenders of human rights and dignity around the world, the Soviet Union must be constantly pressured in all ways to release from bondage the millions of freedom loving people in Estonia, Latvia, Lithuania, and the Ukraine.

The Soviet ruling elite should take note that while it maintains political controls over those nations, it will never be able to obliterate the strong national traditions held by millions of people living in the Baltic States, Byelorussia, and the Transcaucasus.

No matter what the Soviets attempt, these brave people will continue to hold onto their cultural heritage. Despite all obstacles, they firmly believe that some day they will raise their national flags in a vibrant declaration of freedom from Soviet rule.

As the leader of the free world, it is the obligation of every American to keep that goal alive in the hearts of

brave people. The annual celebration of Captives Nation Week is a highly positive step in that direction.●

● Mr. FARY. Mr. Speaker, I am honored to join my distinguished colleagues in observance of Captive Nations Week. It was 24 years ago that Congress authorized and requested the President to proclaim the third week in July as a time for Americans across the country to speak out for the freedom and independence of over 30 captive nations within Central Europe, the Soviet Union, Asia, and in Cuba.

It is most fitting that this observance should follow our own independence day, just 2 weeks ago. On July 4, millions of Americans joined together with flags and fireworks at picnics and parades to celebrate our independence and our commitment to a government by consent which seeks to guard our fundamental rights. As part of our remembrance, however, it is imperative that we as a nation of free people focus on the millions living within captive nations who suffer the indignities of foreign domination and the denial of the basic human rights that we Americans exercise daily. Our Independence Day celebration will never be complete until all the nations of the world can join with us in remembering the anniversary of their independence.

Americans must accept the challenge that Captive Nations Week gives us and stand firmly as a nation of hope for the world's oppressed peoples. Human rights must be at the very core of our foreign policy and not just a theme in congressional debate, for this is central to what America stands for. We are people who value human rights and are dedicated to justice. We have the responsibility to conduct our policy in a way consistent with what we hold dear to ourselves. As Thomas Jefferson once wrote, "Those who expect to reap the blessings of freedom must undergo the fatigues of supporting it."

We observe Captive Nations Week as an expression of hope for those held in captivity under the bitter yoke of communism. We will continue to set aside this week to speak out for the captives in the totalitarian world until the day when freedom and independence have been achieved for all peoples and Captive Nations Week is only a memory.●

● Mr. CONTE. Mr. Speaker, it is an honor for me to join my colleagues today in observing the 24th Captive Nations Week.

The first Captive Nations Week was proclaimed by the passage of Public Law 86-90 in 1959, by coincidence the year I first entered this House. Since then I have heard many speeches deploring the continued Communist domination of a large part of the world, but the situation has not improved. The tragic lot of people behind the Iron Curtain is no better today than a quarter-century ago.

The past year has been a grim one for the captive nations. The brutal suppression of human rights in Poland shocked us all, and we cannot forget the unbelievably heroic resistance of the people of Afghanistan against an occupying Soviet army equipped with all the terrible tools of modern war.

Mr. Speaker, we all realize that not all tyranny is Communist tyranny, and that not all Communist tyranny is directly inspired by the Soviet Union. Nevertheless, it cannot be denied that in this violent century by far the most consistent violations of basic human rights have resulted from the Soviet regime. This oppressive regime has spread its tyranny like a cancer, first to the Ukraine, Baltic States, and other areas of the former Russian Empire, and then to most of Eastern Europe following World War II. Since then Soviet influence has spread to much of the Third World.

The list of Soviet crimes against humanity is much too long to be enumerated here. The brave Polish bid for freedom shows once again the nature of these crimes committed against people desiring to be free. The flame of liberty still burns in Poland, and it still burns in Czechoslovakia, Hungary, and all the other countries still subject to Communist domination.

We tend to take our own freedoms for granted, forgetting that they do not exist in most of the world. During this Captive Nations Week we must recommit ourselves to maintaining our liberty, and pledge to continue our fight to rid these brave nations of Communist tyranny.●

● Mr. DWYER. Mr. Speaker, it is at once an honor and a privilege for me to take part once again in this special congressional salute to the captive nations, their people, and their cause.

It is our cause as well. The captive nations look to the United States as a source of inspiration and leadership in helping to bring about their liberation and in restoring to them their religious freedom and individual liberties.

So too do we look to these nations and their citizenry for inspiration. Their courage and resilience stand as powerful symbols of the battles we once waged for our freedom and the importance of remaining forever vigilant in its protection.

The turmoil we are now witnessing in so many corners of our world makes our mandate to support the captive nations' struggle even stronger and more clear.

There are many opportunities through which our Government can assert our strong commitment to self-determination for the captive nations. Our foreign policy should reflect that commitment.

As proud Americans dedicated to this vital cause, we must use our strength to lead world opinion in such a direction that the countries we commemorate during Captive Nations Week gain the chance to enjoy as we do the blessings and awesome responsibilities of freedom.●

● Mr. RODINO. Mr. Speaker, it is an honor to join my colleagues in the 24th observance of Captive Nations Week, July 18-24.

For nearly a quarter of a century, the United States has annually set aside the third week in July to reaffirm our unswerving opposition to Soviet subjugation of the Eastern and Central European peoples. The over 1 billion captives of these nations, including Cossakia, Armenia, Estonia, Byelorussia, Georgia, Turkesstan, the Ukraine, Latvia, Lithuania, Bulgaria, Serbia, Croatia, Romania, Czechoslovakia, Hungary, and Poland, must face the daily suppression of freedom which we Americans so often take for granted. It is fitting then, that we reflect on the plight of these people during the month of July when we, as Americans, commemorate our own victorious struggle for independence.

Mr. Speaker, we should never be silent, so long as there are people in this world who are forced to suffer under totalitarian government. The United States must always strive for the preservation of free will and never cease to work toward a world in which all nations have the liberty to pursue their own destinies in a climate of peace and cooperation.

Millions of American citizens can trace their roots to captive nations. Thus, we who now enjoy the many contributions of a culturally diverse people owe the captive nations our support in their struggle for civil liberties.

For the many who are suffering, let us honor their undying courage and determination during Captive Nations Week until they have, with our encouragement, achieved a life of independence and freedom from domination.●

● Mrs. MARTIN of Illinois. Mr. Speaker, a democratic heritage is interpreted by Western governments and peoples as the birthright of all individuals. Other peoples are forced to endure the rule of totalitarian governments, which see national independence and personal liberty as privileges they have the authority to discriminately apply. Individuals living under these regimes are forced to endure deprivation of the rights considered in the free world fundamental to human existence, but this has not stopped their efforts to secure from their national officials a commitment to democratic rule.

I would like to join my colleagues today in commemorating the perseverance and courage that citizens of occupied countries have shown in their

effort to achieve independence, freedom, and liberty. For 24 years the U.S. Congress has shown its support for and appreciation of those people who have spoken out against the oppression and unjust treatment administered by their governments; today I reflect with particular concern on the circumstances in other countries which necessitate such efforts on the part of their citizenry. I am hopeful that with continued work and commitment, Members of the U.S. Congress can be influential in alleviating the hardship and injustice which characterizes the countries on the captive nations list.●

● Mr. FORD of Michigan. Mr. Speaker, I am proud to join with my colleagues in taking his opportunity to mark the 24th annual, national observance of Captive Nations Week.

We do this by focusing our attention upon those nations of the world whose national identities have been trampled upon through Communist intervention. I ask that all freedom-loving people throughout the world also join with me, and this Congress, in recognizing the indestructible spirit of people held captive through Soviet oppression.

Twenty-three years ago, on July 17, 1959, the 86th Congress enacted Public Law 86-90, authorizing and requesting the President to annually proclaim the third week in July as Captive Nations Week. To this day, oppression continues throughout the world. This is especially true in Poland and Afghanistan, where we are witnessing the enduring will of man's desire for freedom.

The Soviets promulgate an image of being the helping hand to all of the nations under their domination. Yet, it was Soviet guns that massacred more than 16,000 Polish soldiers in the Katyn Forest in 1940. Furthermore, it was the Soviet troops which stormed the Baltic countries in 1941 and brought death and destruction to all who resisted them. When Hungary in 1956 and Czechoslovakia in 1968 sought greater freedom, it was the brutal Soviet Army who unmercifully rushed in and inhumanely slaughtered tens of thousands of freedom-loving people. In 1979, more than 30,000 Soviet troops invaded Afghanistan and cruelly resorted to gassing hundreds of tribesmen. Now, again in Poland, the recent political and social advancements made by the Solidarity Union have been sadly halted.

In both Afghanistan and Poland, as well as in all of the other oppressed nations of the world, resistance is once again mounting. The day is fast approaching when Soviet military strength alone cannot sustain a government which ignores the basic right of its citizens to be free from oppression and to govern themselves.

We must hold firm our devotion to democratic principles and fully support the protection of human rights around the world. The observance of Captive Nations Week is not simply a tradition. Moreover, it is a recognition and commemoration of the great strength and unyielding will of suppressed people to rise and to one day become free.●

● Mr. AKAKA. Mr. Speaker, as we commemorate the 24th observance of Captive Nations Week, we pay tribute to all those nations bent under the yoke of Communist dominance—nations whose people, nonetheless, have an inalienable right to self-determination, especially in the face of opposition.

As we observe Captive Nations Week, we should also note the small but valuable steps toward independence that are beginning to appear throughout the Communist-dominated countries of the world.

At first glance, our brothers across the globe may appear to be overwhelmed by the Soviet Union. Indeed, the very countries for whom this resolution was first passed—Poland, East Germany, and Afghanistan—may seem lost beneath a barren wasteland of oppression.

Yet I ask you to look not at the bleak landscape of communism, but rather at the fertile patches of freedom where our 86th Congress helped plant the seeds of liberty. There you will see hope sprouting slowly, patiently reaching upward toward the shining warmth of democracy. I suggest we salute these brave souls in our ceremonies this year, for having weathered the depths of dark despair, they are now champions of cherished democratic principles. I speak particularly of Sergei Petov, the Soviet hunger-striker who has successfully persuaded Moscow to allow him passage to the United States where his wife resides; and of Gudonov, of Solzhenitsyn, and other Soviet defectors, whose precious talents in the fields of dance and literature have flourished in America's atmosphere of free expression. I ask you to note also the guerrilla fighters who continue to resist Soviet forces in Afghanistan. These men, and others like them, look to America as the "citadel of human freedom"; we, in turn, should be inspired by their courageous efforts.

Amidst these developments, we must not allow pessimism to prevail; we must not believe that these are futile exercises of dissidence, for I believe that the dawning of a new, freer world is potentially at hand. Poland's economy is on the verge of collapse, as the military Communist-supported junta is unable to control food sources and wages. In East Germany, a nation which once boasted a high standard of living, trade, and industry are dwindling. Perhaps most significantly, there is a marked decline in domestic support for communism within the Soviet Union itself. Today's youths are increasingly cynical of their government, and the propeace, antigovernment movement can neither be denied nor ignored by that regime.

Alexis de Tocqueville once stated: "Nothing is more fertile in marvels than the art of being free, but nothing is harder than freedom's apprenticeship." Let us then recognize our resolution not as an isolated gesture of support, but as the beginning of encouragements that will neither be forgotten nor diminished as the years progress. Only when we see children of all countries born in freedom can we fully rest assured that democracy has borne fruit and will perpetuate itself throughout this good Earth.●

● Mr. DONNELLY. Mr. Speaker, I commend my colleagues, Congressman STRATTON and Congressman DERWINSKI, for calling this special order on the captive nations.

As Americans, it is difficult to imagine living in a captive nation where individual freedoms are trampled daily. It is difficult for us to imagine what it is like not to be able to practice our religious faiths without fear. It is difficult for us to imagine a life so restricted that towns and villages seem more like armed camps and prisons than communities of people.

We have reasons to be very thankful for the freedoms we enjoy. We must also remember those who do not enjoy such freedom. The people of the captive nations speak many different languages and have varying customs. However, the desire they share for self-determination, and freedom from Communist persecution, is universal and is the language of all mankind.

It is so fitting that we reflect on the struggle for freedom in the captive nations. Our Nation has, since its birth, been a beacon of liberty and hope. We must not let the people behind the Iron Curtain think that their valiant struggle is no longer of concern to us. We must continue to speak out against the oppressive forces that enslave them, and we must continue to encourage them in their search for freedom.●

● Mr. HERTEL. Mr. Speaker, when the Congress of the United States passed Public Law 86-90 in 1959 establishing Captive Nations Week it could not foresee how important and relevant the idea would remain into the 1980's. Although the rhetoric has changed from cold war slogans to human rights issues, the underlying thread of truth remains; the ideas of freedom and self-determination are not just philosophical notions left over from the 18th and 19th centuries, but in fact, are flesh and blood issues that have so captured the imagination of men and women throughout the world

that people continue to struggle and suffer for the fulfillment of those ideals.

It is highly ironic and tragic that in the modern era which has marked the disappearance of colonial empires of the Western nations that the nations of Eastern Europe should be forced back into an empire by a society espousing freedom. Nations occupied by the Soviet Communist Party and nations known to us as the Soviet bloc nations all exhibit the characteristics of classic colonies: Conquest by force, alien domination, political subjugation, and economic exploitation. The tragic events of the last 8 months in Poland have demonstrated that as a colony of the Soviets the Poles are still not permitted to grow and develop in their own historical and social traditions—traditions of democratic thought and action. Today there is news that many of the martial law restrictions in Poland have been eased. The army which used force against its own people are naive to think that the social and economic movement which they attacked is dead. The power of the democratic ideals of freedom and self-determination is awesome. Although the democratic movement in Poland and the other nations of Eastern Europe and the Soviet Union has suffered an organizational setback, the ideal that fuels this movement is far from injured. The Polish people as well as the other peoples of Eastern Europe and the Soviet Union have suffered the colonial hand of many a tyrannical ruler whether he be the King of Prussia, the Emperor of Austria-Hungary, the Czar of Russia or the Premier of the Soviet Communist Party.

This year's Captive Nations Week also commemorates the 40th anniversary of the Ukrainian Insurgent Army and its struggle to free the Ukrainian people from both Nazi and Communist domination. A living martyr reminds us of the tragic consequences of the struggle for Ukrainian national independence. Today, a young man, Yuri Shukhevych is imprisoned in a Soviet labor camp. He has been there for over 15 years. His only "crime" is that he is the son of a former leader of the UPA, the Ukrainian Insurgent Army. The world of 1984 came early for the Ukrainian nation; their historical memory is being altered because the Soviets fear the true events of history. The people of the Ukraine spoke up for their independence over 40 years ago when the sons and daughters of their nation eagerly joined the insurgents to fight the occupation by Nazi and Soviet forces; they did not freely choose to be the Ukrainian Soviet Socialist Republic.

The ranks of the captive nations have grown over the years. The most recent addition is the nation of Afghanistan; a nation whose people are engaged in a life and death struggle against 100,000 Soviet Army troops using some of their most sophisticated weapons. The Soviets are not just in violation of article 51 of the United Nations Charter; they are also violating the Geneva protocol of 1925 on gas warfare, to which they are signatories, by using a vast array of deadly chemicals and toxins in Afghanistan and Indochina.

Symbolically and tangibly Captive Nations Week is important. It brings our attention back to the not too distant past and opens up the pages of history to remind us and new generations that a great injustice was perpetrated against the peoples now known as the captive nations. Whether that injustice was done as long as 60 years ago as in the case of the Ukraine or 2 years ago in Afghanistan we will not allow the rewriting of history by the Soviets to remain unchallenged. The captive nations did not freely choose to be Soviet; they did not freely choose to alter their paths of social and economic development; they did not freely choose to imprison their own citizens or to act as buffers and cannon fodder for the expansionist delusions of the Soviet Communist Party.

Ironically, this administration has allowed the Soviets to continue their "guns and butter" foreign policy by canceling the Soviet grain embargo. They have met the Soviets' aggression by empty rhetoric. It took 5 days before the administration chose to comment on the imposition of martial law in Poland. I urge this administration to use the occasion of Captive Nations Week to focus its attention on formulating a solid and consistent foreign policy toward these occupied nations and the Soviets; a policy which is grounded in an understanding of the social and political movements which are arising in this part of the world. I urge my colleagues to also remember the history of the captive nations. Their aspirations for freedom are much like our own, do not do them the injustice of abandoning them to a bygone historical era.●

● Mr. CLINGER. Mr. Speaker, today as we meet on the House floor to acknowledge our support of the 24th observance of Captive Nations Week, we salute those heroic countries who are now struggling against totalitarian domination.

It is indeed tragic that such a significant portion of people the world over are forced to endure the vile hardships of Communist oppression and military intervention. Poland and Afghanistan are not alone in their struggle for self-determination; many other countries in Europe, Asia, and South America are resisting aggression as they fight against the expansion of Moscow's empire.

I sincerely hope that our great Republic continues to speak out in opposition to such blatant disregard for human rights and to strive to help foreign nations experience the democratic principles that we in America enjoy.

Our respect and admiration is evident for those who must face every day the anguish and adversity of foreign domination without ever losing their spirit or their hope.

In closing Mr. Speaker, I wish to say that during this Captive Nations Week, we will certainly share prayers for relief with the suffering nations around the world.●

● Mr. DOUGHERTY. Mr. Speaker, in 1959, the 86th Congress passed and President Eisenhower signed Public Law 86-90, which declares that the third week of July be set aside as Captive Nations Week. A list of 31-captive nations has been compiled since that time, the most recent addition being Afghanistan.

Occasionally one hears of people who question the validity of Captive Nations Week. I must tell them that I am a strong believer in the fundamental value of this special week. Recognizing the forced rule of 31 nations in the world is highly important. We cannot forget the plight of these nations because if we do, we will not be able to recognize the warning signs of this phenomenon when it occurs again. As a result, more and more nations will become subjugated to foreign dictatorial regimes against their will.

Captive Nations Week is an opportunity to remind oppressors overseas that the world has not forgotten the transgressions of the past and that our country will do everything possible to remedy the present situation. This is why Captive Nations Week is so valuable and deserves even more attention by all of us. For example, the city of Philadelphia has issued a proclamation recognizing this week as Captive Nations Week. Citywide activities heighten public awareness and serve as a warning for all would-be invaders of nations because the people of America become rightfully outraged with the actions of the Soviet Union and other Communist governments in regard to human rights.

Mr. Speaker, each year at this time my sympathy for the suffering people in these enslaved nations grows even stronger. My deep anger and frustration that so many nations are subjected to the whims of Communist dictators encourages me to appreciate my own freedom. The Soviet Union and other Communist governments can be certain that I will work diligently to provide that same basic human right of feedom to the people of other captive nations.●

● Mr. GUARINI. Mr. Speaker, I am very proud to join with my colleagues

in the 24th observance of Captive Nations Week. I especially want to thank Mr. DERWINSKI and Mr. STRATTON for bringing attention to this most important issue on the floor of the House.

Less than 3 weeks ago, Americans of all backgrounds and origins celebrated the 206th year of our country's independence. During those 206 years, not only has the United States remained free of foreign domination, but our people have remained free within our country to pursue their religious and political beliefs. Unfortunately, not all nations of the world, and citizens of these nations, are as fortunate as the United States. Therefore, during this week of observance, Americans of all origins have the opportunity to reflect on our unique heritage of freedom and clearly reaffirm our support for the freedom and self-determination of people throughout the world.

Mr. Speaker, the martial law in Poland and the continued Soviet invasion and occupation of Afghanistan are only two of the most recent examples of what citizens in other lands must endure. We must not forget the plight of the freedom-loving people of Estonia, Latvia, and Lithuania, or of those people of the Eastern Bloc countries that live under Soviet domination.

Throughout the world the struggle for freedom continues, often against overwhelming odds. For these people in captive nations, and for these people who have to endure a denial of their basic human rights by their own government, the United States still stands as a beacon of liberty. On this 24th observance of Captive Nations Week, let us endeavor to make our citizens aware of the struggle for freedom by other people in the world. We will then be in a better position to assist these people, and hopefully it will make every American more aware of the precious nature of the freedom which we enjoy.●

● Mr. HALL of Ohio. Mr. Speaker, this month marks the 24th observance of Captive Nations Week. This year, as in every year since 1959, we set-aside a week during July, the month of our own national independence, to honor those who have struggled to obtain the freedoms we Americans enjoy as a right.

This year's observance reminds us that all people do not enjoy basic freedoms, liberties, or fundamental human rights. We must let the world know that the ideals of liberty and respect for the principle of national self-determination are still as strong today in the United States as ever.

All Americans must remember that those who suffer without the freedoms we so easily take for granted look to us for guidance in the struggle for international human rights. Our foreign policy must always reflect that commitment.

As we observe Captive Nations Week, let us also remember the tragic situation in East Timor, a former Portuguese island territory off the coast of northeastern Australia, where many tens of thousands have died since a 1975 invasion by Indonesia.

Truly, the people of East Timor have much in common with the captive nations of the new Russian Empire. Just as the Russians have consistently worked to destroy the previous national identities of the countries annexed into the U.S.S.R., the Indonesians have sought to forcibly assimilate the East Timorese into the Indonesian culture.

I want to join with my colleagues in expressing continuing concern for the people who are seeking a way to get out from under foreign domination. Let us remind the peoples of the captive nations that we will work diligently until the human rights for all are affirmed.●

● Mr. PORTER. Mr. Speaker, I feel honored to participate in this special order in support of the captive nations which are enslaved against their will under Communist rule. All the participants in today's special order are to be commended, especially my colleague from Illinois (Mr. DERWINSKI) who organized this colloquy, for their determination to not allow the tragic 42-year history of the captive nations under Soviet rule to be forgotten, and to not let the hope die that one day these states may regain their freedom.

Expressions such as these heard today are crucial to preventing the Soviets from achieving their cruel objective of erasing the memory of the sovereignty of the many nations which have fallen victim to Soviet imperialism in this century. The timing of the Soviet invasion of Estonia, Latvia, and Lithuania launched in June 1940 in the shadow of world preoccupation with the Nazi threat, clearly demonstrates the premeditated character of their disregard for human rights and national self-determination.

These statements should clearly demonstrate our continuing concern over their treatment of the Baltic peoples. We have not forgotten that hundreds of thousands of people in Estonia, Latvia, and Lithuania were uprooted from their native lands and driven savagely to Siberian labor camps where many thousands were to perish of starvation, disease, and exposure. We have not forgotten the 42 years of political repression, religious persecution, and cultural genocide which had been inflicted by the Soviet rulers. Nor have we forgotten the repeated Soviet refusals to address their obvious violations of the right to self-determination expressed both in the Helsinki accords and the Charter of the United Nations as it would apply to the captive nations.

The living memory of the nature of Soviet rule must serve to remind us of the importance of raising our voices in loud and repeated protest against new episodes in the history of Soviet ruthlessness against those who would fight for freedom: The imposition by proxy of martial law upon the people of Poland, the blitzkrieg-like invasion of Afghanistan, and the ceaseless harassment and imprisonment of Soviet citizens who dare to express a desire to emigrate.

So long as we in the free nations of the world remember these lessons, the hope for freedom for those now subjected to Soviet domination is strong. We see excessive Soviet military spending spawned by an aggressive and hostile foreign policy straining their economy to the extent that they cannot feed their own people. We see numerous national and ethnic liberation movements within the Soviet Union posing a serious threat to the dominance of the Russian minority. And we see a growing number of Soviets dissatisfied with a government which exists not for their sake, but for its own sake. This evidence of an empire crumbling from within leads me to believe that it is not unrealistic to imagine the day when the captive nations may regain their freedom and independence.

Until that day, it is up to us in the United States, where we enjoy an unmatched degree of individual freedom and cultural diversity, to reaffirm our commitment to the liberation of the captive nations. I will continue to work with my colleagues here in the Congress to support this commitment and to further in whatever way I can the cause of freedom for the people of the captive nations.●

● Mr. HOLLENBECK. Mr. Speaker, I rise today to join my colleagues in recognizing the week of July 18 as the 24th observance of Captive Nations Week. Recently, we Americans celebrated our own Independence Day, and we now stand as the oldest constitutional democracy on Earth. We have attained the goal of freedom in our country, however and unfortunately there are countries in this world that do not hold the liberties that we think of as inherent and natural. It is necessary that we recognize these countries because from our recognition and our encouragement these people can maintain the strength to obtain freedom. The peoples of these captive nations are entitled to certain fundamental human rights. It is for the people in Poland, in Afghanistan, in Mainland China, North Korea, Vietnam, Cambodia, and Cuba and all other captive nations, it is for all of these peoples that I rise. Hopefully, some day they shall be freed from the grasp of subversive powers and allowed to express their opinions and their ideas, freely.●

● Mrs. HOLT. Mr. Speaker, if anybody has any doubts about the nature of the Soviet Union, then I would invite his consideration of Afghanistan, where brave resistance fighters continue to struggle against the occupation of their country by an invasion force of 90,000 Soviet troops and armor.

Or I would suggest he consider the cruel oppression of the people of Poland by a martial law regime directed from Moscow. I might also remind him of the Soviet tanks and troops that previously crushed movements for freedom in Czechoslovakia and Hungary.

Consider also the condition of the Estonians, Latvians, Lithuanians, Ukrainians, and other peoples who have been absorbed into the Russian empire.

Imperialism is not dead. In fact, the very term describes the character of the Soviet Union, but it is not old imperialism of czars and kings. The new imperialism in Communist form is a much greater curse on humanity. It is driven by an ideology that commands totalitarian control of life by the police state.

It has global ambitions because totalitarianism cannot be secure while freedom remains a force in the world. It is not bound by any moral restraint as it promotes violence to spread communism in Southeast Asia, the Mideast, Africa, and Latin America.

As we remember the captive nations today, let us remember that the United States is the strongest force for freedom in the world, and this is a great responsibility that we must not shirk.●

● Mr. BROOMFIELD. Mr. Speaker, over two decades ago the Congress of the United States of America acted to condemn the enslavement of over a billion people by the tyranny and crushing totalitarianism of Communist dictators. In that year, 1959, Congress established the observance of Captive Nations Week. This week we mark the 24th occasion of this very important and continuing observance. I am also certain that in this land of democracy and liberty we will continue these observances and continue to speak out for those not so blessed as we, until they finally gain the freedom they rightly deserve.

The tyrants try to crush the voices of freedom with force and to hide through deception and the suppression of the truth the injustices they commit. However, the human spirit will forever be able to rise above base, diabolical force. The dictator may do violence to justice, but he can never destroy the eternal principles of justice. The flame of liberty and justice will always burn in the hearts of people everywhere and can never be extinguished.

In Afghanistan today, as the media in the West drops this issue from the front pages because it has lost the sensationalism of a just-breaking event, the Afghan freedom fighters continue to fight on with steadfast determination. They truly appreciate freedom and are prepared to fight for it, as our forefathers fought for freedom in our country.

In Poland, the Solidarity leaders and the whole Polish people behind them stand up straight and proud to the blows struck against their rights and their persons under the fist of martial law. They surely know how precious is freedom.

Throughout the over 30 captive nations in central Europe, within the Soviet Union, Asia, and in Cuba the victims of tyranny long for the freedom some in America tend to take for granted. In "the shining city on the hill" which is our home, we must never forget that it is the flame of liberty that brightens our land. We must also never forget those other people and nations who are suffering under Communist regimes and do not share in the blessings of freedom.

Our prayers and support are with those courageous people. Hopefully liberty's torch will soon burn openly and freely in their lands too.●

● Mr. NOWAK. Mr. Speaker, people everywhere are dissatisfied with some aspect of their lives. While every American has the right to freely express his grievances and frustrations, and to speak out in disapproval of our Government, there are people elsewhere in the world who cannot express the way they feel. It is ironic that the very act of expressing one's grievances best illustrates the most distinctive characteristic of American life, our inalienable rights. As designated by our Constitution, what we as Americans possess that can never be taken away is our inalienable right to life, liberty, and the pursuit of happiness. These basic human rights which many of us tend to take for granted are as characteristic of American society as furtiveness, intimidation, and the deprivation of human needs are in the 30 captive nations under Soviet domination.

Right now there are more than 1 billion people oppressed by the cold iron fist of the Soviet Union. Some of these are held captive within the Soviet Union itself, the people of Ukraine and Georgia, for instance. Other people are held captive in Eastern Europe, such as in East Germany and, of course, Poland. Still others are prisoners in nations not commonly thought of as behind the Iron Curtain, like Cambodia, Cuba, and most recently Afghanistan. All these nations, each ethnically unique yet each inhabited by people with common needs and aspirations, have lost independence to a demagogic system of government know as communism. As a result, the people of these capitive nations have been denied essential human rights.

The commemoration of Captive Nations Week allows us to demonstrate that we are sympathetic and supportive of their fight to regain their basic human rights. We must not forget that the United States, more than any other nation in the world, represents the highest ideals of freedom and self-determination, ideals that exist solely as dreams to the people of oppressed nations. Moreover, it is because the United States represents the quintessence of these ideals that we have the greatest responsibility in keeping the flame of liberty burning brightly. As long as a flicker of light can be seen through the darkened cell, the captive nations can maintain hope that one day they will be free. It is the United States that holds the key to the darkened cell, and it is up to us as Americans to do our utmost to help unlock the door.

We cannot forcibly turn back the hands of time and free these nations from the Soviet grip. We can, however, express publicly our vehement contempt for Soviet actions by promoting policies that will assist the people of these nations under Soviet terror. Thus, it is of primary importance to the ideals of freedom and liberty that the United States remain strong both physically and spiritually, and that we as a people reaffirm our pledge to never turn our backs on the severe infringement of human rights occurring in these captive nations.●

● Mr. COURTER. Mr. Speaker, I would like to join many of my colleagues in taking part in this 24th American anniversary of Captive Nations Week. This anniversary is observed in the third week of July, and is based upon Public Law 86-90, which was passed by the Congress and approved by President Eisenhower in 1959.

The concept of Captive Nations Week is to commemorate the heroic struggles and suffering of those people and nations under Communist rule. Originally, this applied to the populations of Eastern Europe and the Baltic States. Regrettably, since 1959, Soviet and Communist aggression has enslaved tens of millions of other people in such nations as Cuba, Vietnam, Laos, Kampuchea, Afghanistan, Angola, Ethiopia and South Yeman, Additionally, Soviet surrogates, such as soldiers from Cuba, East Germany, North Korea and Vietnam, train procommunist terrorists in Third World countries in order to foment violent revolutions and install Communist governments. Other forms of Soviet surrogate rule include the imposition of martial law in Poland by General Jaruzelski. Unfortunately, after a decade of détente, trade and arms re-

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duction talks between us and the Soviets, Moscow and her allies continue a relentless campaign of trying to occupy or subvert neutral or pro-Western nations. Captive Nations Week gives all Americans the opportunity to express their outrage over Soviet policies and those of their client States. I call upon every Member of Congress to use this occasion to remind the Communist world that the U.S. Congress will not be silent in the face of Communist human rights violations, nor Soviet non-compliance with the Helsinki accords, nor be silent about Communist supported terrorism and aggression. We must never be silent on these issues, lest it be construed by the Soviets and others that silence be equated with tacit approval of their brutal policies. I therefore pledge my uncompromising support for all people who live under the yoke of Communist rule, and I want them to know that they are not and will not be forgotten. Our Nation, in conjunction with our other Western allies, must do all it can, through political, economic and other means to elicit meaningful and permanent changes in Soviet/Communist behavior and policies. Finally, we should assist pro-Western, anti-Communist regimes in their attempts to stave off Communist threats to their security and independence, because we already have too many captive nations to commemorate each year.

Mr. Speaker, I would like to express my deep appreciation to the gentleman from Illinois, Mr. DERWINSKI, and the gentleman from New York, who is my colleague on the Armed Services Committee, Mr. STRATTON, for sponsoring this important special order.

Thank you Mr. Speaker.●

● Mr. FORSYTHE. Mr. Speaker, I am honored to join my colleagues in commemorating the 24th anniversary of Captive Nations Week, a time during which we may reflect on the freedoms enjoyed in America and remember the people of the world who are denied liberty and dignity.

In the years since Congress initiated Captive Nations Week, the world has repeatedly watched the Soviet Union violate the sovereignty of one nation after another. Yet, throughout this span, in every country under Soviet domination, an unbending commitment to freedom has lived on. In Poland, Afghanistan, Czechoslovakia, Hungary, and many other nations, the world has witnessed the fact that man's thirst for freedom will not die.

In having the good fortune afforded by America's independence, many of us at times take our individual liberties for granted. Too often, we forget that today in Poland, Afghanistan and other faraway places, people are fighting for the basic right to manage their own national affairs and determine their own destinies.

During this Captive Nations Week, we in America, should reaffirm our bonds with all people in search of freedom, remind ourselves of the value of our own liberty, and rededicate our people to fostering hope among those who resist Communist aggression.●

● Mrs. FENWICK. Mr. Speaker, first, I would like to commend my colleagues, the gentlemen from Illinois and New York for their admirable work in putting together this special order in commemoration of Captive Nations Week.

Since 1920, the number of captive nations has risen from 0 to 31. We in the United States have been fortunate never to have been oppressed and occupied as are the countries of Eastern Europe, and Southeast Asia, China and Afghanistan. It may be difficult for us to understand the feeling of hopelessness and helplessness that the people of these nations feel. However, if we want a reminder of the burning desire these people feel for their freedom, we need only look to the constant fight against Communist oppression which they wage daily, in the workplace, in the news—in the rare case when there is some freedom of the press—in their applications for exit visas, and in their hunger strikes. In short, we need only look at the manner in which these oppressed people fight this oppression with their very lives, and then we can begin to understand what it must be like to live under the repressive outside domination that these nations are forced to suffer.

When we see the expansion that has continued since the Russian Revolution in 1917, is it any wonder that the United States and its European allies feel threatened by the growth of Soviet power in Eastern Europe and around the world? Let us continue to be strong in our opposition to the outside domination of these brave people. Let the Soviet Government know that we are firm in our support for the people and nations that are dominated by the Soviet Union in its constant imperialistic expansion.

In the words of Winston Churchill, "We must keep the flame of freedom burning strong and bright—as a beacon of hope to those struggling against the powers of totalitarian darkness. If we should falter, if we should succumb, all hope would be extinguished. Mankind as a whole would descend to the Gulag."●

● Mr. ADDABBO. Mr. Speaker, this week I join my colleagues in observing the 24th annual commemoration of Captive Nations Week.

The captive nations resolution, signed into public law by President Eisenhower in 1959, set aside a time for us to remember those living under tyranny and oppression. It is an important tradition for those of us who are free to reflect on the lack of individual liberties and fundamental human rights in so many countries. Captive Nations Week is particularly relevant and applicable today: Despite all the world's advances in science, industry and technology, there are millions who suffer and whose national spirit is suppressed. Despite international agreements on basic human rights, many once free nations are held in political captivity, such as Poland, Afghanistan, the Baltic States and the Ukraine.

During this week, we stand together to demonstrate our support for all aspirations to freedom and national self-determination of all captive people: those whose sacrifice and commitment are the foundation of all that we believe. I am proud of this body for helping to provide the recognition and attention for this cause, and I would like to commend my distinguished colleagues, Mr. STRATTON, and Mr. DERWINKSI, as well as all of my colleagues for their support and efforts on behalf of Captive Nations Week.●

● Mr. MINISH. Mr. Speaker, I rise to join my colleagues today in this special order commemorating Captive Nations Week. This is an annual event in Congress and one which I wholeheartedly support. For it is essential that we in the House speak out when totalitarian governments restrict the liberties of their populations.

Captive Nations Week is therefore dedicated to those people who do not enjoy full independence or self-determination in their countries.

We in the United States are richly blessed with many political rights and freedoms. In fact, so accustomed are we to enjoying our democratic freedoms that it can be easy to take our rights for granted. Captive Nations Week therefore serves as a positive opportunity for commemoration and reflection by us in the United States.

First, as a day of commemoration we offer a tribute to the strength and courage of those who endure the limitations of life under totalitarian regimes. Moreover, as American citizens who enjoy guaranteed constitutional rights, we reflect upon the fact that not all people everywhere in the world are as privileged as we. Until human rights are the reality for all, let us not waiver in our commitment to human freedom and dignity.

As the martial law crisis continues in Poland, it serves as a stark reminder that many people are forced to live without the liberty and independence we know in the United States. As I have stated in the past, I am in solidarity with the courageous Polish people whose fight for liberty has not been crushed despite these extremely trying circumstances.

Mr. Speaker, I hope that many of my colleagues will also join me today

so that we in this Chamber can reaffirm our commitment to freedom.●

● Mr. FISH. Mr. Speaker, earlier this month our Nation celebrated Independence Day and the freedom to choose that is enjoyed by all Americans. It is only fitting and just that this Congress now turn its attention to those who do not see fireworks, those who hear no brass bands, and those who cannot march in parades.

Today, for the 24th year, we observe Captive Nations Week, a time to speak for those who cannot speak freely on their own without fear of harsh retribution. Mr. Speaker, we rise on this occasion not only for Poland's Solidarity movement, but with equal force for the Baltic States that were absorbed by the Russian Empire 65 years ago.

Now, more than ever, we need to use Captive Nations Week as a springboard to pursue the course of freedom throughout the world. The people of Afghanistan and Poland remain oppressed. Vietnam, Cambodia, and Cuba and many others are enslaved nations. And, of course, free speech and the right to disagree and protest are alien to the people of the Soviet Union.

But, Mr. Speaker, Captive Nations Week is not an event held in vain. As the Soviet Union continues efforts to expand its enslaved empire, this commemoration brings those aspirations to light and serves notice to our brethren around the world that we share the desire for freedom held by all people.●

● Mr. McGRATH. Mr. Speaker, today's observance of Captive Nations Week comes at a time when relations between the East and West are at a critical stage. The Soviet Union has embarked on a campaign of propaganda and misinformation throughout the world while it continues to hold hundreds of thousands of people prisoners in their homelands. As we meet here in Washington, our representatives in Geneva are embarking on what will probably be the most important negotiations in history, and this occasion marks the major point which separates the Western democracies from the totalitarian nations of the Warsaw Pact and many other countries where they have spread their influence through force.

Freedom is where our paths part with those of the governments of the captive nations. The ideals and theories forged into reality by our Founding Fathers and upheld by this body today remain a dream for the citizens of more than two dozen nations. Many Americans have grown up never knowing that many of the republics in the Soviet Union existed at one time as separate sovereign states with unique cultures and traditions. This observance and others like it are troubling to some who do not fully appreciate what it means to be held in the grasp of communism.

While visiting our troops along the Berlin Wall in West Germany several months ago, Secretary of Defense Weinberger made an observation that goes to the heart of the issue we face today. He pointed out the positioning of our outposts overlooking East Germany to guard against attack. Looking further over the wall, he noted that the Soviet observation posts also face East to prevent escapes to the West.

For over three decades many people have been separated from their families. For more than a half century, citizens of many nations have faced persecution for adhering to their religious beliefs or carrying on national traditions and customs. Words such as Russification have little meaning in our country where the Bill of Rights protects against Government interference in our private lives and beliefs. However, residents of the Baltic States, Ukraine, Eastern European nations, Southeast Asia, and many other areas face a daily struggle to preserve their heritage.

We must keep those who have resisted the scourge of the police state in our thoughts and prayers. Their efforts are stronger than the weapons of war, and time and again brave citizens of the captive nations have demonstrated the impotence of fear and terror as a means of crushing the desire for freedom and individual rights. Those who bravely speak out against violations of the Helsinki accords in the face of imprisonment and constant harassment represent multitudes of people seeking the rights we treasure in the West.

I know that the Members of this House join me in expressing the fond hope that we will some day join the citizens of the captive nations in freedom, and that their arduous struggle will not be in vain.●

● Mr. RUSSO. Mr. Speaker, the week of July 18–24 marks the 24th observance of Captive Nations Week. During this week, Americans across the country will speak out for the freedom and independence of over 30 captive nations in Central Europe, within the Soviet Union, Asia, and Cuba.

It is this week that we, as citizens of a free and independent nation, proclaim to the world our opposition to the oppressive governments of captive nations. It is important that the people of these countries know that we support their struggle to secure the human rights that we enjoy and hold fast.

As we know, Captive Nations Week was created 24 years ago by a joint resolution of Congress, and, at that time, Congress asked President Eisenhower to declare every third week in July as "Captive Nations Week" until all peoples of the world could enjoy the freedom and security that is basic to our everyday lives. Unfortunately, every President since Eisenhower has had to declare this week, supported by the proclamations of Governors and mayors throughout the country.

While Captive Nations Week began in the fifties, oppression did not. The conflict between those who would choose to be free, and those who value dominance and power over freedom has been unending. A sad example of this conflict in modern times occurred in 1940 when the Baltic nations were invaded and occupied by Stalin's oppressive regime. Later, the citizens of these countries were deported to the Soviet Union while their lands were colonized by Russians. It was an all too familiar pattern of Soviet aggression.

Now we see the struggles of Poland and Afghanistan. As their fight for freedom continues against the tightening grip of the U.S.S.R., it is especially crucial that world opinion support them and that attention is kept focused on the inequities visited on them. We cannot accept these illegal and immoral actions with out undermining our commitment to the basic principle of freedom for all people.

This, then—Captive Nations Week—is a time to say—we are with you, we applaud your courage and that the struggle against tyranny is a battle that belongs to us all. Our continued support must not falter as their unending struggle for freedom goes on.●

● Mr. FORD of Tennessee. Mr. Speaker, I would like to proclaim my support of the 24th observance of Captive Nations Week, in accordance with Public Law 86–90, the Captive Nations Week resolution. I am in agreement with this measure, which seeks to express support for freedom-loving people who still suffer under the tyranny imposed upon them by totalitarian nations. For it is freedom, as determined by a democratic nation ruled by the people, that stands as the buttress upon which rests the foundation and greatness of our Nation.

Less than 3 weeks ago, we, as Americans, celebrated the 206th anniversary of our Nation's birth as an independent State. Americans have continued to enjoy the blessings of national independence since 1776; however, people of other lands have not been so fortunate. Millions of people living in nations around the world do not enjoy the basic rights of freedom that Americans take for granted. These freedom-loving people are from the nations of Estonia, Latvia, Lithuania, the infamous Soviet Union and countless others. Moreover, these people look toward the United States as a symbol for guidance and a ray of hope. We pray that their desperate situation so devoid of basic freedoms will be relieved someday soon.

In response, American Public Law 86–90 the Captive Nations Week resolution was initiated by President

Dwight Eisenhower and the 85th Congress in July of 1959. This resolution seeks to promote greater awareness of the many nations across the globe which do not now enjoy the benefits of political self-determination and national independence. It seems only appropriate that Americans should continue to commemorate this struggle by captive nations to win freedom for their people. For it is freedom that is their ultimate goal.

However, until that goal materializes, we, who enjoy the benefits of freedom, must make our position known through the observance of Captive Nations Week. Such an observance will perhaps serve as a lasting symbol of inspiration for those who continue to struggle for freedom, until the day arrives when such a struggle is no longer needed.●

Mr. STRATTON. Mr. Speaker, I also at this time include for the RECORD some petitions and resolutions citing captive nations to be included following the remarks in this special order.

First is a letter and proclamation from the office of the mayor of the city of Sacramento; a proclamation from the office of the mayor of Rochester, N.Y., Hon. Thomas P. Ryan, Jr.; and a proclamation of the Governor of the great State of Michigan forwarded by Alois W. Sandner, the press secretary of the Governor.

I also have a proclamation from the Governor of Puerto Rico, Carlos Romero-Barcelo, forwarded from the office of the Governor in San Juan.

I have a proclamation celebrating Captive Nations Week from the office of the Governor of the State of Arizona, Hon. Bruce Babbitt.

I have a proclamation from our former colleague, Hon. Hugh L. Carey, the Governor of the Empire State of New York. I am particularly pleased to include the State of New York. I am particularly pleased to include this proclamation signed by the Governor and with the seal affixed from the executive chamber of the State of New York.

I have a proclamation by the Governor of the State of Wisconsin, Lee Sherman Dreyfus; and a proclamation from the Governor of the State of North Carolina, Gov. James B. Hunt, Jr.

Also on Captive Nations Week I have a proclamation from Hon. David C. Treen, Governor of Louisiana, also a former colleague of ours here in the House of Representatives.

I have a proclamation from Governor Rockefeller of the State of West Virginia, this proclamation being signed by John D. Rockefeller IV, Governor.

Finally, and the largest of all, and the most attractively decorated, Mr. Speaker, is a proclamation from the mayor of the city of Miami, Fla., Hon. Maurice A. Ferre.

The documents referred to follow:

PROCLAMATION—CITY OF SACRAMENTO

Whereas, Americans of all types and political persuasions agree that the one thing they value the most and will fight the hardest to protect is their freedom—of speech, action and thought; and

Whereas, men and women throughout the world feel as strongly about gaining and preserving their freedom, but it is a tragic fact that millions of Asians, Europeans, Africans and South Americans do not even have the freedom to leave a homeland that is in political or military thrall to a foreign power; and

Whereas, many Americans openly support the rebellious natives of captive nations, such as, Poland and Afghanistan, and our tradition of freedom makes it particularly appropriate that the United States government strongly expresses our disapproval of the Russian Communists' brand of modern day slavery;

Now, therefore, I, Phillip L. Isenberg, Mayor of the City of Sacramento, do hereby proclaim that July 18–24, 1982 shall be Captive Nations Week in this City to show the world that Sacramentans and all Americans are solidly opposed to the subjugation of one nation by another and that we still support the ideals of freedom and justice for all.

PROCLAMATION—CITY OF ROCHESTER

Whereas, policies of the Soviet Union and other communist powers have led to the subjugation and domination of thousands of freedom-loving peoples whose yearnings for independence, and whose right to self-determination, have been arbitrarily ignored, and

Whereas, the United States of America, having thrived on the guiding principles of liberty and justice, is the ultimate symbol of human freedom and therefore has a unique obligation to make independence a reality for enslaved populations everywhere, and

Whereas, Rochesterians recognize their special responsibility to the overseas relatives and friends of many of our City's residents, who contribute so much to the nourishment of basic human rights and to the civic betterment of our community, and

Whereas, the Congress of the United States has established the third week in July each year as Captive Nations Week, to encourage all Americans to participate in activities to demonstrate our sympathy with and support for freedom, independence, and self-determination of captive peoples throughout the world, and

Whereas, at the ceremony in Rochester the ethnic groups represented, each with their national flags and native costumes, include Taiwan, East Germany, Estonia, Hungary, Latvia, Lithuania, Poland, Ukraine, Yugoslavia, China and Cuba,

Now, therefore, I, Thomas P. Ryan, Jr., Mayor of the City of Rochester, do hereby proclaim the week of July 12th, 1982 to be "Captive Nations Week" in Rochester, and urge all Rochesterians to rededicate themselves to work and pray for the day when freedom for all the world's people will be a reality.

PROCLAMATION—STATE OF MICHIGAN

The desire for freedom and liberty burns in the hearts of people living in captive countries around the globe, where the basic American constitutional rights are not guaranteed, or even to be found. Many of the captive countries are nations dominated by the policies of the Union of Soviet Socialist Republics.

Freedom-loving people of Afghanistan, Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Laos, Latvia, Lithuania, North Korea, North Vietnam, Poland, and many other countries look to the United States as a protector of their remaining civil rights.

In accordance with United States Public Law, the third week of every July is designated Captive Nations Week through the efforts of the Captive Nations Committee. During this time, residents of the captive nations are encouraged by our remembrance of them.

Therefore, I, William G. Milliken, Governor of the State of Michigan, do hereby declare July 18–24, 1982, as Captive Nations Week in Michigan, and urge all citizens to recognize the plight of captive citizens, and express their support and encouragement through prayer and appropriate ceremonies and activities.

A MESSAGE FROM THE GOVERNOR OF PUERTO RICO

As United States citizens fully cognizant of the significance of Soviet interventionism, the people of Puerto Rico join our fellow American citizens and all other freedom-loving peoples of the world in observing Captive Nations Week 1982.

On our Caribbean island we are intensely aware of the menace of Soviet aggression, for agents of this totalitarian power have for over twenty years denied basic human liberties to our neighbors in Cuba, tens of thousands of whom have emigrated to Puerto Rico to escape tyranny. The Moscow-oriented government in Havana, meanwhile, has maneuvered continuously, employing tactics ranging from the hypocritical to the criminal, in an effort to separate Puerto Rico from the United States, despite the overwhelming opposition of our own people, as expressed by majorities consistently exceeding 90 percent in the elections held here every four years.

The people of Puerto Rico cherish our democratic way of life. We have witnessed in this region of the world how cynically and swiftly the enemies of freedom can impose subjugation in the guise of "liberation." And we are responding by moving steadily toward thwarting permanently the brutal designs of dictators, through the achievement of full and equal participation in shaping the destiny of the United States, the nation for which so many young Puerto Ricans have fought and died during this century.

This is the message we would share with the men and women who have been enslaved under Communist totalitarism: the people of Puerto Rico stand ready to join with all other American citizens in supporting the courageous struggle of the people in Captive Nations for deliverance from Soviet oppression.

Sincerely,

CARLOS ROMERO-BARCELÓ.

PROCLAMATION—STATE OF ARIZONA

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Afghanistan, Poland, Hungary, El Salvador, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Rumania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Serbia, Croatia, Slovenia, Tibet, Cossackia, Turkestan, North Vietnam, Cuba,

Cambodia, South Vietnam, Laos and Others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving peoples in the captive nations look to the United States as the citadel of human freedom and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations week and inviting the people of the United States to observe this week with appropriate prayer, ceremonies and activities and expressing their sympathy with and support for the just aspirations of captive peoples;

Now, therefore, I, Bruce Babbitt, Governor of the State of Arizona, do hereby proclaim the week of July 18 through 24, 1982, as "Captive Nations Week" and call upon the citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of the captive nations.

PROCLAMATION—STATE OF NEW YORK

Twenty-three years ago, by a joint resolution approved July 17, 1959, the 86th Congress authorized and requested the President of the United States to proclaim the third week in July as Captive Nations Week. The purpose of this week is to invite the people of the United States to observe such a week with appropriate ceremonies and activities.

Captive Nations Week offers the opportunity for Americans to pay tribute to the ideal of government by consent. It is an ideal shared by millions who live in nations dominated by a foreign military power which denies individual rights.

The commemoration of Captive Nations Week is dedicated to the spirit and hope of enslaved peoples in their continuing quest for freedom and self-determination in their beloved native lands. The freedom-loving peoples in captive lands look to the United States as a citadel of freedom and to the American people as a source of guidance and inspiration. This message of hope is founded in the belief that free men and women will ultimately prevail over those who deny individual rights and preach supremacy of the state and in the conviction that the human spirit will ultimately prevail over the oppressive ideology of totalitarianism.

The Captive Nations Committee of New York will hold appropriate activities throughout the week to commemorate this annual observance and to address the issue of human rights and justice on behalf of the oppressed peoples in captive nations.

Now, therefore, I, Hugh L. Carey, Governor of the State of New York, do hereby proclaim July 18-25, 1982, as Captive Nations Week in New York State.

PROCLAMATION—STATE OF WISCONSIN

Whereas the republican form of government—based upon "the consent of the governed"—which has existed in the United States of America for over 200 years, has resulted in the development of a warm understanding and sympathy for the aspirations for freedom of peoples everywhere and in the recognition of the natural interdependency of the peoples and nations of the world; and

Whereas the United States recognizes the needs of world nations to co-exist peacefully and to remove impediments to their bonds of understanding with peoples of foreign nations; and

Whereas the freedom-loving peoples of the captive nations look to the United States as leaders who believe in their efforts to obtain freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 89-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe this week with appropriate prayers, ceremonies, and activities, expressing their sympathy with and support for the just aspirations of captive peoples; and

Whereas it is fitting and proper that the citizens of Wisconsin participate in this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world;

Now, therefore, I, Lee Sherman Dreyfus, Governor of the State of Wisconsin, do hereby proclaim July 18 through July 25, 1982, "Captive Nations Week" in the State of Wisconsin, and I urge the citizens of this state to remember that it is the 23rd Anniversary of this annual observance and to support efforts of the oppressed peoples of the world to regain their freedom.

PROCLAMATION—NORTH CAROLINA

Whereas, the imperialistic politics of Soviet-Communists led to direct and indirect aggression and enslavement of countries behind the Iron Curtain; and

Whereas, the spirit of liberty and independence in those enslaved countries lives and inspires the West and also the United States; and

Whereas, the people in those enslaved countries look to the United States as the citadel of human rights; and

Whereas, the Congress of the United States and President Eisenhower passed and signed the Public Law, 86-90, establishing the week in July each year as Captive Nations Week, inviting the people of the United States to observe such; now

Therefore, I, James B. Hunt, Jr., Governor of the State of North Carolina, do hereby proclaim the week of July 18-24, 1982, as "Captive Nations Week" in North Carolina and commend this observance to our citizens.

PROCLAMATION—STATE OF LOUISIANA

Whereas, the United Nations Universal Declaration of Human Rights is being ignored by many of the atheistic communist member signers; and

Whereas, these same nations are also ignoring their signing of the human rights provisions of the Helsinki Agreement of 1975, while hypocritically following a deceptive course of world conquest, destroying the freedoms of the citizens of the nations they capture; and

Whereas, the State of Louisiana has been a haven for the refugees of these enslaved nations, granting the same human dignity and freedoms to these people as the citizens of the United States enjoy; and

Whereas, the Congress of the United States of America has passed Public Law 86-90 establishing the third week of July as Captive Nations Week and inviting the peoples of the United States to observe such week with appropriated prayers, ceremonies and activities expressing sympathy for the just cause for all subjugated nations;

Now, therefore, I, David C. Treen, Governor of the State of Louisiana, do hereby proclaim the week of July 18-24, 1982, as "Captive Nations Week" in Louisiana, and urge my fellow citizens to observe this week by prayer and by offering personal, moral and spiritual support for the subjugated peoples in 33 nations and especially those countries recently purged of their cultural heritage, such as Afghanistan, Nicaragua and Rhodesia.

PROCLAMATION—STATE OF WEST VIRGINIA

Whereas, democratic nations look to the United States as a citadel of human freedom, leadership in the continuing struggle for the liberation of captive nations and the restoration of individual liberties and freedom of religious thought and expression; and

Whereas, the heritage of the United States is, in large part, due to ability to achieve a national unity from diverse ethnic, religious and racial backgrounds; and

Whereas, this harmonious unification of different backgrounds through the democratic process has given this Nation a unique sympathy and understanding for the aspirations of freedom and independence throughout the world; and

Whereas, mindful of our heritage and principles, the Congress of the United States has designated the third week of July to be annually observed to focus public awareness on those peoples and nations still enslaved by totalitarianism or dictatorship.

Now, therefore, I, John D. Rockefeller IV, Governor of the State of West Virginia, do hereby proclaim July 18 through July 24, 1982, as "Captive Nations Week" in West Virginia.

In witness whereof, I have hereunto set my hand and caused the Great Seal of the State to be affixed.

PROCLAMATION—CITY OF MIAMI, FLA.

Whereas: The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others, and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war, and

Whereas the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence, and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities, expressing their sympathy with the just aspirations of the captive nations;

Now, therefore, I, Maurice A. Ferre, Mayor of the City of Miami, Florida, do hereby proclaim the week of July 18-24, 1982, as "Captive Nations Week."

In observance thereof I call upon the people of the City of Miami to join me in observing this week by offering prayers and dedicating their efforts to the peaceful liberation of oppressed and subjugated people all over the world.

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 60 minutes.

● Mr. DERWINSKI. Mr. Speaker, in 1959, President Eisenhower signed into law legislation passed by the Congress which permanently proclaimed the third week of July as Captive Nations Week. As a freshman Congressman 24 years ago, I was privileged to be one of the cosponsors of Public Law 86-90, which created Captive Nations Week, a commemoration that is even more pertinent today than it was in July of 1959.

I would like to use this occasion to remind my colleagues that there are many millions of people living in the captive nations who cannot enjoy those basic rights of liberty and freedom. While there is a tendency of some to look upon the captive nations as only those countries in Europe which fell under the Communist yoke in the periods immediately following the First and Second World Wars, we have in this decade seen the additional once-free countries of Laos, Cambodia, and South Vietnam come under the tyrannical hand of their present rulers. We have witnessed the tragedy which occured in Soviet-occupied Afghansistan and the determined struggle of the Polish people for freedom under the present repressive Soviet-imposed government in that country.

A large part of the threat posed to the United States by the increasing power and contentiousness of the Soviet Union lies in the area of political and propaganda activity. Mass communication is used by the Soviets to indoctrinate, mislead, and confuse peoples throughout the world; the influence and strategic position of the United States are weakened in the process.

In addition, 330 million persons are subjected to Communist regimes in Eastern Europe and the U.S.S.R., innocent victims of a rigid system of information control. The totalitarian governments of these countries methodically seal off at their borders all but "licensed" communications to deny their peoples access to unofficial sources of fact and opinion. International broadcasting, therefore, is a major vehicle to reach the captive peoples of the U.S.S.R. and the satellite nations of Eastern Europe.

Unfortunately, in the past few years, the effectiveness of U.S. broadcasting to the Soviet Union and Eastern Europe has been systematically reduced, primarily due to inadequate budgets. The Soviets have achieved great success in rendering many American broadcasts into their own terrrritory inaudible, or nearly so, through a determined jamming effort. The CIA estimates that the Soviet Union spend $330 million a year on jamming, four times what the United States spends on the programing itself. The truth as broadcast by the United States has become less audible and less competitive with Soviet lies. In this battle of truth against falsehood, we risk defeat largely due to our own ineffectiveness.

Mr. Speaker, at this point in my remarks, I wish to include several articles which summarize President Reagan's remarks at a special Captive Nations proclamation signing ceremony in the Rose Garden on Monday. The first appeared in the Washington Post, of July 20, and the second, from the Washington Times, of the same date.

The articles follow:

[From the Washington Post, July 20, 1982]

NEW EQUIPMENT ASKED FOR ANTI-SOVIET RADIOS

(By Herbert H. Denton)

President Reagan sharply denouncing the Soviet Union, said yesterday that he would propose modernizing the "old and deteriorating" equipment of America's international radio system to counter jamming by the Russians.

In a Rose Garden ceremony to proclaim "Captive Nations Week," Reagan said it was a "sad fact" that the Voice of America, Radio Free Europe and Radio Liberty "have been neglected for many years" and could be improved with "a relatively modest expenditure."

Neither Reagan nor his spokesman elaborated on how much he was proposing to spend.

Reagan said the cost to the Soviets of jamming broadcasts into communist countries is three to four times what the United States spends to transmit them.

"We can fully appreciate the fear of those who do not want the truth to reach the people of the communist world, those who are willing to violate flagrantly the Helsinki agreements or even to engage in terrorist violence to stifle the truth," Reagan said, referring to the 1975 agreement on human rights signed in Helsinki, Finland.

Reagan also condemned the Soviets for sparking a "wasteful arms race" and having its promise of a "classless society" turn into "decaying and crumbling dreams."

Communism, he said, has "meant forced labor and mass imprisonment, famine and massacre, the police state and the knock on the door in the night."

"We renew especially our hope," Reagan said, "that those countries of Eastern Europe, Asia, Africa and Latin America now under communist domination will some day regain their national sovereignty and, again, enjoy the dignity of their own national tradition."

As he spoke beneath a sweltering sun, Reagan was frequently interrupted by applause from guests, who included present and former members of Congress and American groups of European immigrants from the "captive nations," independent European states the Soviet Union swallowed up during and after World War II.

Reagan also announced that he had signed an "urgent" supplemental appropriations bill although he did not believe it went "far enough to reduce spending." He had vetoed two previous versions of the spending bill and thus, he said, "saved the taxpayers more the $3.6 billion."

[From the Washington Times, July 20, 1982]

PRESIDENT LASHES OUT AT SOVIET ATTACKS ON RIGHTS

President Reagan yesterday proclaimed Captive Nations Week and used the occasion for one of the strongest verbal attacks he has yet made against Soviet tyranny and expansion of totalitarianism.

At a ceremony in the White House Rose Garden before 200 guests, Reagan declared, "We in the West must do more than merely decry attacks on human freedom. The nature of this struggle is ultimately one that will be decided, not by military might, but by spiritual resolve and confidence in the future of freedom, especially in the face of the decaying and crumbling dreams of Marxism-Leninism."

The president said he wanted to make it clear that the United States intends to move forward with a program to modernize the international radio system, including the Voice of America, Radio Free Europe, Radio Liberty and the proposed Radio Marti.

"This plan of modernization for a relatively modest expenditure over a number of years will make it easier for millions of people living under communist rule to hear the truth about the struggle for the world going on today between the forces of totalitarianism and freedom," Reagan said.

The president said the international radio programs have old equipment and strained resources after years of neglect and that little has been done to counter the Soviet jamming that has intensified in recent years. He said the Soviets spend three to four times more to jam foreign broadcasts than the United States spends to transmit them.

"I especially want to urge Congress today to approve the funds so desperately needed to bring to the people of Cuba through Radio Marti the truth about the struggle between freedom and totalitarianism," Reagan declared.

"Throughout the Baltic states, Eastern Europe, Asia, Africa and Latin America, nation after nation has fallen prey to an ideology that seeks to stifle all that is good about the human spirit, even as it attempts to justify communist rule. The ominous growth of this danger and the human suffering it has caused is clearly the most important news event of our generation and the tragedy of our time."

Reagan said the extension of totalitarianism has been accomplished by military force or subversion by a tiny revolutionary cadre whose only real ideal is the will to power.

The president urged Americans this week to reaffirm their faith that the aspiration for freedom ultimately will prevail over the rule of force which denies human rights to so many in other parts of the world.

As the president began to leave the assemblage a woman in the audience shouted, "'God Bless America,' would you sing it with us?" Reagan said "You will have to start."

Immediately the assembly and the officials gathered with Reagan on the steps outside the oval office began to sing "God Bless America," and Reagan sang along with them.

The Soviet empire is vulnerable. Its economic system is truly inefficient, its agriculture a shambles. Its population, and those of the captive nations, are shamelessly exploited to support a corrupt and incompetent regime. Soviet control of its own people and power over non-Russian nationalities—the Ukrainians, Balts, Byelorussians, Armenians, and so forth—are eroded by the winds of freedom from abroad. In addition, there are 40 million Moslems in the Soviet Union who should have the benefit of the message of truth from abroad. These Moslem peoples are a fertile field awaiting cultivation.

It is obvious that the massive support that the Polish people gave the workers' strike and the effort to form independent unions in Poland constitute complete repudiation of their Communist government. It is also apparent that the thirst for freedom behind the Iron Curtain remains strong and unquenchable.

The struggle for men's minds is at stake. We have history and truth on our side, yet we let the Soviets have a technological advantage. We must recognize the responsibilities and challenges we face and make the policy and budget decisions necessary to gain the technological edge we need to win.

This commemoration is of special significance to the millions of Americans whose native lands are under Communist governments. We in the United States and throughout the free world must confirm our determination to work toward the restoration of the independence of those enslaved peoples held captive by the U.S.S.R. and other communist governments.

It is important for us to look back on the history of the Soviet's political and strategic intentions, and keep them in mind when forming our current foreign policy. This annual commemoration reminds us once again of the tragedy inflicted on millions of innocent people by Soviet aggressive and imperialistic policies, which must be considered in the formation of our national security and defense and foreign policy decisions.

Mr. Speaker, the United States must continue to support the aspirations for freedom, independence, and national self-determination of all captive peoples. To this end, we remain committed and we must not waiver from our responsibility.

I wish to include with my remarks some very timely proclamations issued for Captive Nations Week, from the distinguished Governor of the State of Illinois, Hon. James R. Thompson; and followed by the Governor of the State of Colorado, Hon. Richard D. Lamm; the Governor of the Commonwealth of Pennsylvania, Hon. Dick Thornburgh; and finally, the Governor of the State of Delaware and our former colleague, Hon. Pierre S. du Pont.

The proclamations follow:

STATE OF ILLINOIS—PROCLAMATION

Americans enjoy the liberty and freedom of which peoples in captive nations only dream. The rights we often take for granted are fought for every day by those who do not rule themselves.

Since 1959, we have observed Captive Nations Week, maintaining a constant vigil on the struggle of captive peoples around the globe. We will continue this observance, as Congress requested, until such time as freedom and independence shall have been achieved for all the captive nations of the world.

Therefore, I, James R. Thompson, Governor of the State of Illinois, proclaim July 18-24, 1982, as Captive Nations Week in Illinois, in the hope that all peoples throughout the world may find their freedom.

STATE OF COLORADO—PROCLAMATION

Whereas by resolution of the United States Congress, the third Monday of July each year is commemorated as Captive Nations Day; and

Whereas Captive Nations Day serves to remind the people of the United States of the subjugation of many nations by the U.S.S.R.; and

Whereas these nations have been denied the basic freedoms of speech, religion, press and, most of all, self-rule; and

Whereas the Soviet invasion of Afghanistan and the turmoil in Poland emphasize the plight of the people of these captive nations and demonstrates the dangers to the free world of agression;

Now, therefore, I Richard D. Lamm, Governor of the State of Colorado, do hereby proclaim July 19, 1982, as Captive Nations Day in the State of Colorado, and urge all concerned Coloradans to participate in the Captive Nations Day ceremonies on that date.

COMMONWEALTH OF PENNSYLVANIA—PROCLAMATION

The quest for freedom has been a source of fierce struggle and determination for people throughout the world. Fueled by a burning desire to live, work and worship without fear of retribution, many brave men and women have sacrificed their lives to create a society of justice and a world of peace and goodwill. As Americans, we are fortunate recipients of the realization of that dream. Yet in many countries, the flame of liberty continues to be tainted by the oppression and degradation characteristic of intolerant governments.

We who enjoy the fruits of freedom must recognize that the rights we hold to be self-evident do not exist in all countries. We cannot and must not forget that some people are continually denied their most basic human rights in their homelands, and they are forced to live in silence, hunger and fear. We must not ignore those who are held bondage by totalitarian governments and are imprisoned for their dreams and beliefs. As we witness the distressing turn of events in countries throughout the world, we must strive to ensure that America's legacy of liberty is preserved and promoted for future generations, in the hope that one day all people will be free.

In recognition of the efforts of all brave men and women who are working for freedom and justice in their own lands, I, Dick Thornburgh, Governor of the Commonwealth of Pennsylvania, do hereby proclaim July 18-24, 1982 as Captive Nations Week in Pennsylvania. I urge all Pennsylvanians to join with all freedom-loving people in support of the ideals of freedom of conscience, movement and speech.

STATE OF DELAWARE—PROCLAMATION

Whereas the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan and others; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas the freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now, therefore, I, Pierre S. du Pont, Governor of the State of Delaware, do hereby declare July 18-24, 1982, as Captive Nations Week in the State of Delaware, and urge all Delawareans to offer their prayers and dedicate their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.●

CONGRESS MUST DO ITS SHARE TO LOWER INTEREST RATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. CORCORAN) is recognized for 5 minutes.

● Mr. CORCORAN. Mr. Speaker, this morning in testimony before the House Banking Committee, the Chairman of the Federal Reserve, Paul A. Volcker, reported that the pressures on financial markets and interest rates have been aggravated by concerns over prospective huge volumes of Treasury financing and by the need of some businesses to borrow at a time of a severe sqeeze on profits.

Last year, Federal borrowing consumed 44 percent of available capital. This compares with a figure of 36 percent in 1980 and roughly 27 percent for the period 1975-79.

This year, the huge Federal deficit facing us has made it virtually certain that Federal borrowing in 1982 will

absorb more than 50 percent of the available credit, perhaps as much as 56 percent, depending upon the strength of the economic recovery which we all hope takes place later in the year.

If that economic recovery is to occur, more investment is essential. But, as Chairman Volcker pointed out this morning, home building has remained at depressed levels. "The cyclical strength 'normal' in that industry in the early stages of recovery is lacking." It is the high level of interest rates which continues to choke off recovery in the housing industry and in our economy as a whole.

I was home in Illinois over the past weekend and I know that the high level of interest rates is by far the single most important concern of the people in my district. I am confident that your constituents feel the same way.

We can do something about interest rates and we can stimulate economic recovery in a fiscally responsible way. How? By providing immediate short-term housing assistance. I am talking about the amendment my friend from Delaware, Mr. EVANS, and I tried to offer in May.

Next week we will seek permission from the rules committee to offer a new Evans-Corcoran amendment to the regular supplemental appropriations bill due to reach the House floor soon. Like the amendment we previously sought to offer, this amendment would transfer $1 billion in appropriated but unobligated funding authority from the Synthetic Fuels Corporation to a special account to be used to buy down the interest rate for home mortgages. This buydown assistance would be available until interest rates come down.

The amendment we hope to offer will do something else to help. Until interest rates do come down, it is imperative that we take all possible steps to alleviate further pressure on the credit markets. The best way to do this is by minimizing Federal borrowing. Accordingly, the Evans-Corcoran amendment would defer $5 to $8 billion in new federally supported borrowing that is now scheduled to take place in 1982. It would do this by suspending any further awards of financial assistance by the Synthetic Fuels Corporation until interest rates reach the level at which the housing subsidy phases out. Until this interest rate "trigger" is pulled, the Government has no business putting upward pressure on interest rates by subsidizing synthetic fuels projects.

In the next 6 weeks, the Corporation is expected to make awards of financial assistance to two coal gasification projects for which loan guarantees and other Federal financing assistance is sought. The amounts of assistance requested by these projects' sponsors—companies like Ashland Oil, Koppers Co., Kaneb Services, and Bechtel Petroleum, Inc.—have not been publicly disclosed. The SFC is currently negotiating with these sponsors to determine how much they will receive. Legally, the SFC could award up to $3 billion per project. Although it is not likely that this much will be awarded to either project, they represent only the first round of candidates now before the SFC. The sponsors of 15 other projects are now entering negotiations with the SFC for second round awards of financial assistance. These awards are expected to be made in 1982.

The Evans-Corcoran amendment would not scuttle these projects. It would simply delay the award of Federal subsidies until the credit markets can support the additional burden that Federal commitments of this magnitude would place upon them. Until the interest rate trigger is pulled by a recovering economy and a rebounding housing industry, how can we justify granting huge Federal subsidies to synthetic fuels?

Congress is being forced to make significant cuts in many of the most sensitive and important Federal Government programs. These include defense, medicaid, and agriculture. Is it too much to ask that synfuels subsidies at least be delayed until we get the housing industry and the American people back to work?

I think not. Please help us to help housing, directly, by providing assistance for new mortgages and, indirectly, by reducing the pressure on interest rates generated by Federal borrowing.●

THE HANDICAPPED INDIVIDUALS SERVICES AND TRAINING ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Minnesota, Mr. ERDAHL is recognized for 15 minutes.

● Mr. ERDAHL. Mr. Speaker, today I am introducing the Handicapped Individuals Services and Training Act. The bill is cosponsored by Congressman LEBOUTILLIER and has four objectives contained in four separate titles:

Title I establishes an independent, permanent authorization for the Helen Keller National Center for Deaf-Blind Youth and Adults, founded in 1969 at Sands Point, N.Y. The center is currently funded under a discretionary program of the Rehabilitation Act which must be reauthorized before October 1, 1983.

Title II establishes a 5-year authorization for the Vinland National Center for Physical Fitness and Healthsports for Handicapped Individuals. This center is patterned after the Beitostolen Center in Norway and represents the culmination of a bicentennial gift from the Government of Norway to be used in helping establish such a center in the United States.

Title III establishes a 5-year independent authorization for the regional postsecondary education programs for the deaf operated at the St. Paul, Minn., Technological-Vocational Institute, the California State University at Northridge, the Central Community College of Seattle, Wash., and the Delgado College at New Orleans, La. These programs have been operating since the late 1960's. They are presently authorized under the Education of the Handicapped Act discretionary programs and must be reauthorized by October 1, 1983.

Title IV establishes an independent permanent authorization for the captioned film services for the deaf. These services have been funded by Congress since 1959. Now they are included as one of several discretionary programs under the Education of the Handicapped Act, and must be reauthorized by October 1, 1983, or expire.

This bill is necessary for many reasons, but two stand out. First, we need to take a new look at which programs have been and which programs should be classified as discretionary programs for handicapped individuals. Second, we must explore new ways to fund initiatives which will benefit handicapped individuals.

Over the last 2 years we have had a legitimate preoccupation with the budget process because of our desire to limit increases in Federal spending. The Omnibus Reconciliation Act of 1981 dramatically reflects our collective ability to impact on Federal spending. However, from my perspective, this preoccupation with the budget process has had some unintended consequences. Given the massive nature of our task, we concentrated on budget recommendations which did not necessarily reflect the value of, or possible benefits derived from, individual programs. We had less time to pursue substantive legislation. We were less inclined to offer legislation that would increase Federal spending.

Given this context, two considerable and perhaps unintentional consequences impacted on the Education of the Handicapped Act (EHA) and the Rehabilitation Act. In the case of EHA, the permanent authorization status of discretionary programs authorized by the act were converted so that they would expire, if not reauthorized by October 1, 1983. For the EHA and Rehabilitation Act discretionary programs, budget cuts were disproportionately high. The 1982 appropriation levels range between 20 percent and 50 percent lower than the 1980 appropriation levels.

I fully support placing sunset provisions in legislation; imposing responsible budget limitations on programs; and giving some programs discretion-

ary status, but only after careful consideration of the purposes and effects on individual programs. Moreover, in the past, most education, training, and service programs received increases justified by inflation, so that discretionary program status was not a liability.

Since major changes were instituted last year through the Omnibus Reconciliation Act without careful consideration of individual programs, I feel strongly that we need to review the discretionary program status of three programs pertaining to handicapped individuals. My bill would provide the Helen Keller National Center for Deaf-Blind Youth and Adults and the captioned film services for the deaf with permanent authorization and the four regional postsecondary programs for the deaf with an independent 5-year authorization.

The Helen Keller National Center provides training for deaf-blind individuals so that they may become more independent. The four regional postsecondary programs provide technical and vocational training opportunities for deaf youth and adults. The captioned film services provide adapted media and materials for deaf and other handicapped individuals and those who work with such individuals.

My colleague from New York, Mr. LEBOUTILLIER, introduced H.R. 6098, related to the Helen Keller National Center and parallels title I of my bill. Our esteemed colleague, Senator RANDOLPH, has introduced S. 2459, which contains language similar to titles I, III, and IV of my bill.

I believe that the motivation for these legislative initiatives is most justified—to provide some predictability and stability in funding for institutions and services which contribute to the independence of handicapped persons. Perhaps, by establishing independent authorizations we can insulate these essential programs and services from indiscriminate budget cuts. Like Gallaudet College, the National Technical Institute for the Deaf, and the American Printing House for the Blind, they offer unique opportunities and services which would be difficult and costly for States to duplicate.

Titles I, III, and IV in my bill do not contain increases in current authorization levels, nor do they contain radical administrative changes.

Title II, as I have indicated, establishes the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals. Healthsports, the cornerstone of the Vinland National Center, refers to techniques or procedures to train handicapped individuals so they may actively and directly participate in a wide range of athletic activities. Most importantly, however, "healthsports" also encompasses a comprehensive learning experience or rehabilitation process which offers an opportunity to improve physical, social, and emotional fitness, to develop medical self-care skills, to enhance self-reliance, to increase employability, and to teach positive use of leisure and recreation time.

I have proposed that the Vinland National Center receive an athorization of appropriations for operating expenses beginning at a level of $650,000 for fiscal year 1984 and gradually being reduced to $300,000 by 1988, the expiration date. In addition, in order to receive an appropriation in any year Vinland must demonstrate access to a non-Federal match for total operating expenses of 10 percent in 1984, of 25 percent in 1985, of 33 percent in 1986, of 50 percent in 1987, and of 75 percent in 1988. Finally, construction funds in the amount of $2 million for fiscal year 1984 and $1 million for fiscal year 1985 are authorized, but must be matched by an equal amount of non-Federal funds.

In my role as the ranking Republican on the House Select Education Subcommittee, which has jurisdiction over Federal programs for the handicapped, I have been particularly impressed with the vocational rehabilitation program, authorized by the Rehabilitation Act. Eighty percent of the support for this 65-year-old program is provided by the Federal Government; 20 percent is provided by State governments. Each State provides training and support services for handicapped individuals who wish to obtain gainful employment. Recent statistics have indicated that for every Federal dollar invested in this program, $11 are returned by handicapped individuals in gainful employment.

For the last 4 years I have been intrigued by the cost effectiveness of the vocational rehabilitation program and the constructive energy of both staff and training at Vinland in my home State, Minnesota. At the same time I have sought ways to increase the public awareness of the potential contributions handicapped individuals can make to society given the training and the opportunity; I also have sought ways to increase non-Federal support for programs and services that benefit handicapped individuals. Title II of my bill is an attempt to bring about such awareness by helping Vinland bring the concept of "wellness" and "healthsports" to communities in each State. It is also an attempt, through a 5-year Federal commitment, to provide sufficient startup money to make Vinland a truly national center which will attract participants and support from throughout the Nation.

Vinland's healthsport concept represents a preventive and rehabilitative orientation which should complement the objectives of State rehabilitation programs. And, although I may be overly optimistic, perhaps as private sector support for healthsports grows—like its enthusiasm for the Special Olympics—it will be transformed into a stronger partnership with State vocational rehabilitation agencies in providing expanded training and employment opportunities for handicapped persons.

I have seen the experiences offered at Vinland lead to greater independence and self-confidence of handicapped individuals. These traits lead individuals to make greater contributions in their home and work environments, to greater acceptance by coworkers, and to fuller integration into their communities. I hope you will join me in approving a 5-year investment in some very special human capital. The funding for Vinland will yield innumerable benefits to individuals and society.●

CONTRACTING OUT—COST EFFECTIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas. (Mr. COLLINS) is recognized for 30 minutes.

Mr. COLLINS of Texas. Mr. Speaker, the Armed Services Committee report to the legislation we are considering today, H.R. 6030, the Department of Defense authorization bill, has considered three provisions which, if enacted, would seriously undermine the free enterprise system in this country, and place an unnecessary burden on taxpayers.

Specifically, I am talking about the committee's discussion of imposing a 1-year moratorium on the contracting out procedures set forth in Office and Management Circular A-76. I join the administration in their strong support of this circular, which states that it is the policy of the Federal Government to rely on the private sector for acquiring commercial or industrial products and services needed by the Federal Government, when private sector performance is feasible and no overriding factors require in-house performance.

The circular contains two significant provisions giving consideration to affected Federal employees, as a result of the conversion to contract performance:

First. Existing in-house activities will not be converted to contract performance unless it will result in a savings of at least 10 percent.

Second. Federal employees displaced as a result of a conversion to contract performance are given first refusal for employment openings in the contract operation.

Yet, what the Armed Services Committee is considering is a 1-year moratorium on all contracting out by the Department of Defense. Second, the actual bill recommends hiring 17,000 civil service personnel for commercial

activities, thereby eliminating 440 contract administrator positions.

Third, all funds for studies comparing the costs of private sector performance versus in-house performance of any Department of Defense (DOD) functions would be deleted, despite the fact that these cost studies have saved almost $210 million a year since 1979.

What we are encouraging here, Mr. Speaker, is putting the Federal Government fully in charge, even when it has been shown that contracting out is more efficient and would result in savings of 10 percent or more. This would seriously restrict the Department's access to qualified, competent professionals outside the Government. DOD and all Federal agencies must have the flexibility to choose between the use of Government or private sector resources. Without this choice, the Federal Government will be directly competing with the private sector and small businessmen who are clearly at a disadvantage.

Information from the General Accounting Office (GAO) and the Office of Management and Budget (OMB) show that as many as 400,000 Federal employees are operating 11,000 commercial or industrial activities at a cost of almost $20 billion annually to the taxpayers. Since some agencies have not reported all of their activities, the total annual operating cost could well reach $30 billion when all data is available. One agency, DOD, has conducted more A-76 cost comparisons than any other Federal agency; 60 percent of these demonstrated that in-house costs were at least 10 percent higher than contracting out. This is supported by OMB's estimate that full implementation of A-76 will reduce the cost of providing goods and services by $1 billion annually. Clearly, the American taxpayers get a much better deal when agencies are allowed to choose between in-house or contracting out for services. Nonessential Government functions should be subject to contracting out and are directed under Circular A-76 to be performed by the private sector.

I strongly oppose any attempts to restrict Government reliance on the private sector for needed goods and services. With a $103 billion deficit, it is completely senseless to ignore cost savings of 10 percent and more for these goods and services. Furthermore, with small businessmen hit hard by inflation and high interest rates, Government competition would prove to be a severe and unnecessary blow.

The taxpayers of this Nation deserve the most efficient and effective use of their tax dollars. Americans want to reduce the role and size of government. We can start here by maintaining the contracting-out procedures and cost-comparison studies set forth in A-76.

FOURTH OF JULY ADDRESS BY COL. HARRY O. BUZHARDT (USMC RETIRED)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. PEPPER) is recognized for 5 minutes.

● Mr. PEPPER. Mr. Speaker, one of the most stirring July 4 addresses I heard was one delivered before the Tenth Holers Golf Association of the Country Club of Coral Gables, Fla., of which I am a member and am proud to say is in my district. The address was made by one of our able members, Col. Harry O. Buzhardt, (USMC, retired). The stirring and eloquent words delivered by Colonel Buzhardt deeply moved the large audience who heard him. He spoke with fervor born of deep patriotism. One would naturally expect from a distinguished member of the Marine Corps, such as Colonel Buzhardt, a man to fan the flames of patriotism and make them burn brighter on our great Independence Day. Let us hope that we shall never see the time when we ignore that day which meant the birth of what was destined to be the greatest Nation known to history, our beautiful and blessed America. As we should tell those of our family that we love them, so should we tell our beloved country that we love it and we cherish it. This Colonel Buzhardt so beautifully did in his magnificent Fourth of July address. I am proud to offer it following my remarks for placement in the CONGRESSIONAL RECORD. I am sure it will deeply move all who read it.

The address follows:

ADDRESS BY COL. HARRY O. BUZHARDT (USMC, RETIRED)

Senator Pepper, gentlemen, fellow 10th Holers:

On this Saturday, July 3d, I wish to remind you that tomorrow will be 206 years since Independence day of 1776 now observed in commemoration of the adoption of the Declaration of Independence. To all of us, Independence means Freedom.

May I take you back in history with a familiar quote:

"By the rude bridge that arched the flood, their flags to Aprils breeze unfurled, 'twas there the embattled farmers stood, and fired the shots—heard round the world." We have a heritage of which we can and should be justly proud.

Our forefathers unhesitatingly and willingly gave their lives for our great country. And likewise again during World War I. Our current generations included members of all the branches of The Armed Forces who were called upon to serve their country. And we should take time today to remember as well as honor especially those who made that supreme sacrifice to give their lives that we might enjoy the fruits of their fateful efforts. Let us pay tribute to all the Veterans of World War II, Korea, and the unpopular Vietnam fiasco, believed by many to have been waged for political rather than military objectives and fought mainly in South Vietnam among our Vietnamese friends supporting our cause and theirs, rather than to have utilized our full military potential in pursuit of our objectives by taking the war into the most northern portion of North Vietnam where everyone was to have been considered our enemy. I firmly believe that if this had been done, the conflict would have been brought to a timely conclusion with Victory of the South Vietnamese and an honorable termination for the Free World Nations over the Communist Bloc Countries.

I am talking to the wrong group of people. I feel like the man taking ice to the Eskimos, or the person carrying coals to Newcastle. If I were to ask myself the question, who are you? My response would be. To the 10th Holers Golf Association of the Country Club of Coral Gables, Florida who are by far the most patriotic organization that I have been a member, other than the regular military forces, and there are times when I might even question that remark. For some of you more recent members, I should be informing that the 10th Holers have had similar presentations as this for the 4th of July for some 12 years that I have been familiar with this group. And I feel strongly that it is time well spent to reflect on the past and to pay respect to those whose cause has thus far preserved our freedom we so dearly cherish.

I have wondered in amazement during the past years as to why we do not advertize to the Nations of the World that there has never been a known incident of a person crossing the Berlin Wall risking his life returning behind the Iron Curtain, while there remains a constant Communist guard to prevent escape from Communist rule and people risk death to cross over and escape into West Germany.

To reflect more on past history of the 10th Holers, it was during the administration of President Pat Crook and when I was the Secretary that Senator CLAUDE PEPPER furnished us at his expense the beautiful flag of the United States that had been flown over our Nations Capitol. That flag is displayed proudly in the lobby of the Country Club, and Senator, we thank you again for giving us this treasured possession.

I wish to show you these two laminated sheets mounted on 2 different wooden boards that have become two of our prized historical documents. One is a sheet signed by those present at the Saturday meeting to honor the 4th of July 1976 and signed on that date. The other is for the July 4th, 1981 signed by members in attendance on that date. Both of these are kept in the glass enclosure in the hallway entrance to the Club where you may see them. Too many of these members are no longer with us. I name only one, Colonel Krit Logsdon, U.S. Army, Retired, who was a Veteran of World War I.

May the Almighty continue to bless our members. And may His Grace especially shine upon those members who have departed into the Promised Land.

I still feel like the new kid on the block due to my relatively short number of years as a member, yet when asked by the old timers if I would speak out for my country, I have always in the past, and today still am damned proud to be able to do so. Not so much for you here assembled, nor for myself. But, for all those whose voices have been stilled by death in battle to preserve our heritage. I am filled with deepest humility in my feeble attempt to sound off for the departed Heroes who no longer have this chance to speak. And I am particularly pleased to let everyone know that I am positive that we who are living in the United

States today are privileged to live in the Greatest Nation this World has ever known, in spite of our imperfections confronting us on a daily basis. We must have faith that these problems can and will be solved in the not too distant future. Maybe—just perhaps, the degradation of our past moral values, if continued unsolved into the future, could be contributing more to our downfall as a Nation, than the ever present possible destruction through the erruption of the threat of imminent Nuclear World War that jeopardizes our survival.

In closing, remember that the 21 gun salute is reserved for the President of the United States and for the Heads of Foreign Governments. However, my friends, you are deserving of a 21 gun salute, and if it were within my power to do so, you would be given that salute as follows: One round would be fired and there would be this noticeable pause as though there may have been a misfire. Then seven rounds would be fired timed consecutively and the same pause in firing again. Then another consecutively timed seven rounds fired and again this pause in firing. Then six consecutive rounds fired and an end of the firing. That gentlemen is the way a 21 gun salute is fired. Such a sequence is to hopefully remind us to never forget—Independence Day, One Seven Seven Six.

That concludes my remarks, thank you.●

IRV KUPCINET'S PURPLE HEART CRUISE TO HONOR OUR NATION'S VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois, Mr. ANNUNZIO is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, I rise to bring to the attention of my colleagues the Purple Heart Cruise, an annual all-day event in Chicago to honor hospitalized veterans and GI's in training at Chicago area military bases. This year's cruise will take place on July 22 down the southern scenic route of the Chicago River.

The founder and architect of this unique Chicago salute to our war veterans is my good friend Irv Kupcinet, nationally known syndicated talk show host, and columnist for the Chicago Sun-Times. He is also featured in "Kup's World" on Chicago's WBBM-TV news. Kup has continually and tirelessly devoted endless hours to many charitable causes, helping to make our city a great place in which to live. In recent years, Kup has asked the readers of his column to contribute money to defray the expenses of this cruise. Donations of gifts are also made which are given to every veteran attending the affair.

With Kup at the helm, the Purple Heart Cruise has sailed every year since 1945. This year the floating platform of two giant barges tied together and furnished by the Material Service Corp., will provide enough space for the more than 500 past and present members of the military from the Great Lakes Hospital and Naval Base, the Glenview Naval Air Station, Fort Sheridan, the Coast Guard, and the Veterans' Administration hospitals at Hines, North Chicago, Lakeside, and West Side. Professional singers, dancers, musicians, and actors, who volunteer their talents, will entertain their guests with a stage show, in numerous small bands, and as strolling performers.

Excerpts from "Kup's Column" in the Chicago Sun-Times on June 22, 1982, regarding this year's Purple Heart Cruise follow:

KUP'S COLUMN

Once again we come to you, hat in hand, to seek support for Chicago's version of "Love Boat," otherwise known as the Purple Heart Cruise. The cruise is an ongoing love affair between Chicago and our war veterans, which started way back in the year the Cubs last won a National League pennant. That tells you how long the cruise has been operating. The year was 1945, World War II was coming to a close and the Purple Heart Cruise was launched as a reminder that we owe a debt of gratitude to the men and women who served our nation.

But a funny thing happened on our way to the 33th consecutive cruise—no ship. For the last 11 years, we've sailed on the Coast Guard Cutter *Mackinaw* and before then on the luxurious cruise ships, the SS *North* and *South America*. But cruise ships went out of business long ago and this summer the *Mackinaw* is going into drydock for repairs, leaving the Great Lakes without a single ship capable of accommodating the cruise. How to conduct a cruise without a ship? You do it with huge barges. Thanks to Henry Crown and Rear Adm. Arnold Sobel (ret.) of Material Service Corp., two of the firm's giant barges will be made available. They'll be latched together side by side, to give us more area than we had on the *Mackinaw*.

Thus, it's on with the show July 22, with a slightly different look. The barges, with four-foot fences for safety, will be decorated with flags and banners. And, moved by a tug. They will take off from the Ogden Slip, just south of Navy Pier. Instead of the usual cruising in Lake Michigan, this year we'll take the scenic route of the Chicago River, going south. Some 500 GIs and hospitalized veterans will make up our all-star passenger list. They'll come from Great Lakes hospital and naval base, Glenview Naval Air Station, Fort Sheridan, the Coast Guard and Veteran Administration hospitals at Hines, North Chicago, Lakeside and West Side.

The cruise is welcomed by hospitals and training centers as a morale-booster. It's a change of pace for GI and hospitalized vet alike; a fun-filled day, with gifts, prices, dancing, food and a sparkling stage show. The entertainers, as usual, volunteer their services with the consent of the Chicago Federation of Musicians and the American Guild of Variety Artists. It's our way of telling the veterans they have not been forgotten. Some of the vets on the cruise go all the way back to World War I. Others served on the battlefields of World War II, Korea and Vietnam.

The cruise this year will be dedicated to the memory of Les Lear, who for more than 25 years served as our "naval aide." His assistance was invaluable and his widow Dottie will be presented a plaque in a ceremony before we sail. . . . Erwin Gobel, who helped inaugurate the cruise, again will be with us in an advisory capacity. Commodore Chris Lagan of the Coast Guard Auxiliary will assign two escort ships to accompany the cruise as a safety precaution and maestro Frank York will serve as entertainment director.

The Purple Heart Cruise is unique and typically Chicago. No other city offers a similar salute to the veterans. But the cruise doesn't operate only on tender, loving care. Hence, readers are invited to take part by sending a donation, large or small, to the Purple Heart Cruise, care of the Sun-Times, 401 N. Wabash Ave., Chicago 60611. The IRS will confirm that it's deductible. And whether your contribution is $1 or $100, you'll feel like a million.

Mr. Speaker, this festival is designed to pay tribute to those men and women who have bravely given so much in service to our country in defense of freedom during World Wars I and II, and the wars in Korea and Vietnam. The Purple Heart Cruise serves as a reminder that there are still veterans from these wars who must remain in hospitals, and these heroic individuals will not be forgotten.

I commend Kup and the citizens of Chicago who have made this cruise possible for 38 years, and extend my best wishes to Kup, the master pilot behind the Purple Heart Cruise, for abundant good health and continued success in his charitable endeavors in the years ahead.●

MOVE FAST TO SAVE THE PRESIDIO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 10 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, the recent action by the U.S. Senate which authorized the President to dispose of military installations is widely regarded as a major threat to the Presidio in San Francisco. The depth of concern is reflected in the following excellent editorial in the July 18, 1982, San Francisco Examiner which I request be inserted in the RECORD.

[From the San Francisco Examiner, July 18, 1982]

MOVE FAST TO SAVE THE PRESIDIO

The Presidio of San Francisco has served as a military post for more than 200 years under three flags—Spanish, Mexican and American—and in the passage of time has evolved into an institution of fame beyond its immediate area. Today it is the headquarters of the United States Sixth Army, but it performs a function far beyond the military. It is as much a part of San Francisco as Golden Gate Park and, in its own grand way, serves much the same purpose.

That's why The City is highly disturbed by the newly raised possibility that the Presidio's 1,441 wooded acres—eucalyptus, Monterey cypress and stands of murmuring pine—could be sold and turned over to developers. It needs to be preserved in its present form as a unique urban resource.

The threat to the Presidio lies in a quietly passed Senate amendment to the Defense Construction Authorizaiton Act. It gives the

president or his designated agent the authority to dispose of military installations when he determines that that would be "in the public interest or is necessary for national defense purposes." The amendment (sponsored by Sen. Strom Thurmond, R-S.C.) cuts short all congressional procedures on the surplus designation of federal property. Amazingly, and shamefully, it contains authority to dispose of such property "notwithstanding any other provision of law."

This is where the Presido comes in. Existing law, as authored and presently defended by Rep. Phillip Burton, D-San Francisco, says that should the Army ever declare that the Presidio no longer served a useful military purpose, the land would revert to the Golden Gate National Recreation Area. The Senate amendment would circumvent that protection and put the Presidio at the mercy of the highest bidder.

We are sympathetic to the federal government's desire to eliminate installations, military or otherwise, that have outlived their usefulness. Too many of these remain to drain tax funds, serving local ends without regard to the national welfare.

But that does not apply to the Presidio. The historic post, at once a tower of strength and mercy in the desperate postquake hours of 1906, today is an economic asset to San Francisco and militarily useful. Reasonable arguments can be advanced to maintain it on those points alone. But if the weight of logic ever should fall toward abandoning military use, no logic could dictate that it be auctioned off for development, however benign.

The mischievous amendment's language, "public interest," is applicable here. The Presidio as open space in a congested urban area does indeed meet the criteria of "public service," if contributing to the quality of urban life has any meaning in this context.

To go further, the Presidio, in its park-like setting overlooking San Francisco Bay, is a national resource of large dimension. Mayor Feinstein is right in mustering such resources as The City has available to defend it. Burton thinks the House, acting on his alert, will send the defense bill to the Senate without the offensive amendment. The showdown will come in a Senate-House conference, where the remonstrances of Sens. Alan Cranston and S. I. Hayakawa should be heard at full pitch.

Mr. Speaker, the following editorial in the July 17, 1982, San Francisco Chronicle speaks very strongly to the recent Senate action which jeopardizes a prized asset of San Francisco—the Presidio.

[From the San Francisco Chronicle, July 17, 1982]

A SNEAK ATTACK ON THE PRESIDIO

A sneak, flanking movement under cover of darkness has been launched against San Francisco's Presidio. We are pleased to see its disclosure has prompted swift defensive measures from civic and congressional protectors of this remarkable Army installation. They are rallying to the cause because two weeks ago the U.S. Senate quietly approved legislation that would open the door to the sale of the presidio as surplus military property.

It was one of those classic sleepers: an amendment introduced by Republican Senator J. Strom Thurmond of South Carolina that did not mention the Presidio or any other military installation. His 16 parenthetical words weren't even printed up: they were advertised as non-controversial—a strategy for easing the national debt. But their effect would be to allow the president to sell off the Presidio's 1308 acres if he determined that to be in the public interest or necessary for national defense purposes.

The point is that under terms of the 1972 legislation sponsored by Congressman Phillip Burton of San Francisco creating the Golden Gate National Recreation Area, the Presidio is to be added to the recreational area if the Army ever decamps. But the Thurmond amendment extends presidential authority to sell even military properties whose disposal requires specific authorization by law, as has been the case with the Presidio.

Since the amendment was adopted by voice vote without even a reading, its implications were slow to surface. Credit for uncovering the full significance of the move must go to public lands specialists of the Sierra Club. It seems that the Defense Department, wishing to "wipe the slate clean" of encumbrances on military property, actually had its eye on sale of Fort DeRussy, an Army resort on Waikiki Beach.

But that is hardly any reason to strip away the protection that has been accorded the Presidio.

As we said in 1978 when a similarly small-minded—and unsuccessful—effort was launched by the Carter administration, this enclave of trees, lawns, pleasant buildings and gently curving roads is more than just an Army headquarters. It is an extraordinary asset for both this city and its Bay Area neighbors. Here are space, quietude, verdancy and a succession of sea-girt vistas. This fine counterbalance to the pressures of urban life is easily accessible and open to all.

So we are encouraged that Mayor Dianne Feinstein, Representative Burton and other congressional and civil friends are mustering their strength to repel this insidious raid on the Presidio's integrity.

The House and Senate will be conferring this week to reconcile their versions of the military construction, and we strongly urge that the offending Senate language be removed. The Presidio has been described as a comely Camelot of an Army base. That is just what it is. It should not be exposed to the perilous prospect of such a sale.●

THE REAL STORY ABOUT LEBANON

(Mr. SOLARZ asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. SOLARZ. Mr. Speaker, I rise to call to my colleagues' attention an extremely important article on the situation in Lebanon by Martin Peretz in the New Republic. This article, entitled "Lebanon Eyewitness," explodes many of the myths that have arisen about Israel's military operation in Lebanon.

First, Mr. Peretz argues persuasively, based on his own firsthand observations, that initial media reports of staggeringly high civilian casualties have been grossly exaggerated. Second, he presents detailed evidence that, far from being unconcerned about civilian casualties, the Israelis did everything possible to avoid or to minimize them. Third, he documents what he calls the "great untold story of the last 6 years": The brutal nature of the PLO occupation of southern Lebanon.

Mr. Peretz' unusually cogent analysis should be required reading for any policymaker concerned about the complex Lebanese problem.

The text of the article follows:

LEBANON EYEWITNESS

(By Martin Peretz)

Much of what you have read in the newspapers and newsmagazines about the war in Lebanon—and even more of what you have seen and heard on television—is simply not true. At best, the routine reportorial fare, to say nothing of editorial or columnists' commentary, has been wrenched out of context, detached from history, exaggerated, distorted. Then there are the deliberate and systematic falsifications; remarkably little of what has been alleged in various published protest statements against the Israeli action in Lebanon is fact. I know; I was there.

So too, of course, were hundreds of other journalists, most of them honest men and women, hardworking and skeptical. Indeed, if one could contrive to get one's news, only from, say David Shipler of the New York Times, covering the Israeli side of the war lines, and from Thomas Friedman, also of the Times, working out of the PLO-held zone; perhaps with some occasional glances at David Ignatius's complex impressions in the Wall Street Journal, Eric Silver's reports in The Guardian of London, David Ottaway's dispatches in the Washington Post, and Arnold Hottinger's analyses in the Neue Zuercher Zeitung—and, in deference to the age of visual simultaneity, take in the National Public Radio broadcasts of Jim Ledderman and the telecasts of the cable News Network and of Independent Network News, which in depth of understanding and respect for viewers' intelligence outclass the big three—then one might have a reasonably balanced view of recent events and their background.

But few of us are immune to the impact of the thirty-second TV news update, the headline that tells all but what's important, the human-interest particular that misrepresents by universalizing, the analogy that warps rather than illumines. (The most obscene of this last is the comparison of Beirut, where six thousand PLO gunmen hold a civilian population hostage to their last-ditch battle with Israel, with the Warsaw ghetto, all of whose inhabitants were marked by ascription for death by the Nazis. This likening of the Jews to the Nazis and of the PLO to the Jews is sometimes made less directly by characterizing the Israeli invasion as "genocidal" and Israeli war aims as" the final solution to the Palestinian problem." It is possible that some use these words sloppily, the way people once talked about American genocide in Vietnam—or Harlem. Others use them knowingly, which is to say, knowing well how inappropriate they are.) Mass culture makes much of our politics derivative of such superficialities: the media, fast-paced for multiple deadlines—early edition, late edition, morning news, 7 o'clock news, 11 o'clock news—are always after new, vivid images of conflict, violent if possible, even if they beg, unrequited, for explanation. Why would anyone be interested in buildings that have remained standing or in bodies that have remained whole? The standing order for the armies of the fourth estate is "good copy."

Journalists have a professional interest—and it is a vocational hazard for their thinking—in broken necks and amputated limbs, the equivalent of fires and armed robberies on the local news. So we now have people who are thought and who think themselves informed, we now have editorial writers and columnists, officially certified as informed and also wise, who seem to form their political opinions from news photographs.

And why, after all, shouldn't they? Aren't pictures of human suffering in war evidence enough of the wrongness of war? But those who take their opinions from photographs or verbal evocations of war victims are not pacifists; few of the condemnations of Israel are based on pacifist principles or even on vaguely pacifistic sentiment. And few of those who condemn Israel today condemn others when their actions make for similar photographs, or worse ones. In any case, pacifism is not politics. All wars hurt, but some wars are conducted differently from others—yes, more humanely, and to more humane purpose. This I argue—this I saw with my own eyes—is Israel's war in Lebanon. It's a war too complicated to tell about quickly, too taxing by way of historical understanding for correspondents armed with a peculiarly American mixture of ignorance, cynicism, and brashness, who jet from crisis to crisis—looking for Vietnam, and, if possible, for Watergate, too. There is one other factor: a cohort of journalists specializing in the Middle East—Jonathan Randal, William Claiborne, Edward Cody, and Jim Hoagland, all of the Washington Post, lead the pack—with a record to defend. The events in Lebanon prove them wrong, some of them deceitfully so, and they shape the facts—as they want to shape the future—to disguise the disservice they've done their readers, which is to say the disservice they've done the truth and, threfore, the foreign policy or our country as well.

II

About ten days into the war, the New Republic noted editorially that there had been "terrible civilian casualties . . . terrible Israeli callousness." With the specificity that the computer age requires, two numbers had by then been bruited about in the media. One widely cited report numbered the dead at 10,122; another, at 9,583. The figure that took hold in the public's imagination was a neat 10,000 fatalities, to which were added anywhere from 16,000 to 40,000 wounded, and no less than 600,000 refugees. (Another recent figure claims 700,000.) TNR had been skeptical of the statistics from the first, but, deep down, I feared that perhaps the Israelis had actually been "unforgettably bloody," as the Post would later put it, causing "widespread slaughter of civilians." I too had seen on television the bombed-out buildings of Sidon.

There is no way to be pleasantly surprised as one travels north from sleepy Nahariya, on Israel's Mediterranean coast, into Lebanese territory. Waterside roads have been strafed, trees uprooted, cars damaged, roofs of the occasional shoreline houses blown out; PLO artillery pieces, carcasses of a self-defeating illusion, litter the landscape. The UNIFIL outposts—those preposterous redoubts of French, Nepalese, Fijian, and Dutch witnesses to the inability of international authority to keep the promise made to Israel after 1978 that Palestinian terrorists would not again assault its settlements—are untouched. The fighting here was fast, and, as army types aseptically put it, "light." No one says that south of Tyre many civilians, or any, were caught in harm's way.

Tyre is where the controversy about civilian casualties starts and Sidon is where it ends. The casualties of West Beirut, whose destiny the PLO holds in its hands, were never counted in the early estimates that first provoked indignation. Tyre and Sidon fell to the Israelis after forty-eight hours of heavy fighting. The cities were bombed from the air, shelled from the sea, set upon over the land, These were not, said a saddened Israeli colonel, "manicured attacks." But neither were they indiscriminate or wholesale; this was no war against a civilian population, Lebanese or Palestinian. Whomever I talked to on the streets—and there are many eager to talk, Christian and Moslem, in French or English or Arabic—pointed out that what the Israelis had targeted were invariably military targets. A friend in the States later remonstrated that this observation implicitly faults the PLO for resisting the invasion. It's not that, not that at all—but rather that the PLO resisted, as it had previously aggressed, from the midst of civilian life, and of Lebanese as well as of Palestinian civilian life. With excruciating consistency, the PLO's commanders seemed to favor for their antiaircraft batteries the courtyards of schools, for their tanks and artillery the environs of hospitals, apartment buildings, and—easiest for them and most devastating for their families—the labyrinthine alleys of the refugee camps, Rashidiye at Tyre and in Ain el-Hilwe at Sidon. The PLO was not alone in turning noncombatant areas into war zones: Jonathan Randal in the Post (June 14) gingerly admits from Aazzouniye that "there were also confused reports of Syrian soldiers being in the area of the sanitarium during the fighting." In Jezzin, more beautiful than Aspen, the reports were not confused. Dr. Naji Kannan told me that he had evacuated patients to his own home from his hospital because the Syrians had installed themselves in its confines and wouldn't leave.

On whom, according to the Geneva Convention's laws of war aiming to set inhibitions on the killing of innocents, falls the onus for civilian casualties incurred in populated areas? Had the Israelis, I asked, shelled areas from which there was no fire? No one, not even the surly young bank clerk in Tyre, suggested they had. The entrance to Sidon and the city center were devastated—and, I was told by locals, that's exactly where PLO arms and fighters were most densely concentrated. The bombed-out, skeletal evidence of a military infrastructure proved it. In this primarily Moslem locale, PLO headquarters stood directly between the Shabb hospital and Al Fatah's own infirmary. All the same, it was apparent that Israeli forces took pains not to damage such buildings, likely to hold civilians. Even in heavily hit areas, many mosques and other public institutions seemed miraculously to survive unscathed. I wandered freely, I should add, with an officer from Dover Zahal, the army's information unit. He had no itinerary beyond my curiosity.

You've seen the destroyed areas on television; you've probably not seen the vast areas adjacent to them or those five or ten minutes away. In the hills beyond Sidon and Tyre, toward the interior, the countryside has been wholly undistrubed. Here and there are shell marks; natives date them vaguely to five or six years ago. The press has systematically ignored the fact that much of the destruction, in the cities and in other locales like Damour, that it describes and portrays on television is a result of seven years of bitter fighting.

In both major coastal cities, hours before the Israeli attack, leaflets had been dropped, calling on the inhabitants to flee to the beaches, which would be guaranteed by the Israeli as open or war-free zones. That's what the cities could have been had the PLO entrenched themselves in the hills and not in the cities. In Sidon, I was told by a local merchant, the PLO firebombed a street of shops to emphasize its intent that people not leave. (Elsewhere, it was rumored, the PLO killed people who wanted to leave, but I did not hear this from a reliable source myself.) Dr. Pinhas Harris, Israel's Scottish-born deputy surgeon-general, who returned from leave at Walter Reed Hospital in Washington, D.C., to direct the medical relief effort in the south, estimated that more than 100,000 people, perhaps 150,000, took refuge on the beaches north and south of Sidon. Two weeks after the fighting, I could see that there had been a vast encampment. Israelis told me that food had run out quickly. "It is not a happy circumstance to escape to the beaches," Dr. Harris conceded, "but had more civilians heeded our warnings, listened to our importunings, the number of dead would have been infinitesimal."

What were the numbers? "Please don't tell us," Mary McGrory wrote Menachem Begin in an open letter in the Washington Post (June 20) "that the figures given by the Lebanese of 9,000 civilian dead are exaggerated." But was it not the numbers which flared tempers? Was it not the numbers which in Richard Cohen's meticulous calculus (Post, June 10) of just how little Israel had suffered from recent terrorist attacks—and not what it had prevented in the past and prevented for the future—that made its response "totally out of proportion"? People who talk about proportionality need to be scrupulous about numbers.

Numbers have always been a problem in Lebanon: there has been no census for more than a generation, lest fresh figures disrupt the political formula for denominational representation which alone allows Lebanon to be imagined as one country. The PLO will not allow UNRWA to do a count of the refugees in the camps lest all allocations be reduced. As on Chicago's voting rolls, old people don't really die in the camps; their food rations go on forever. The population of Lebanon is said to be about three million; this makes the figure of 600,000 new refugees in the south transparent nonsense, since that is roughly the total number of inhabitants of the war zone, from the Mediterranean in the west to the Syrian front in the east. Even the scaled-down number of 300,000 refugees defies logic and one's eyes. A number that never seemed to change is of those in West Beirut. Although for weeks correspondents have described—and I saw—long lines of cars laden with people and belongings leaving the PLO-held sector, there always were 500,000 people left; the Israelis' guess is between 200,000 and 250,000. Finally, making the elementary point that when people leave a city its population decreases, Bernard Gwertzman (Times, July 13) estimated there were from 200,000 to 400,000 civilians left. In a sidebar to its March 1981 series on Lebanon, the Post told us that there are 400,000 resident Palestinians in the country. But on July 8, Jonathan Randal, the coauthor of last year's articles, wrote that there are 500,000. Surely it's not the birthrate. Elsewhere the number

600,000 crops up. So what's one or two hundred thousand among journalists? If no one quibbles about these big numbers, no one should quibble about a mere few thousand in the death count. Friedman in the Times tells us that the current population of Sidon is 200,000; Ottaway in the Post says it is 300,000; in the same paper, Cody says it's 200,000. Take your pick.

Given the impossibility of accurately judging the number of the living, it is not surprising that sloppiness and propaganda determine the number of the dead. In the beginning the high toll seemed to carry the cachet of international relief agencies. Maybe that's why Senator Charles Percy, not ordinarily inclined to see the best in the Israelis anyway, accepted the 10,000 figure as close to the truth. But the source was never acutally the International Red Cross or any U.N. agency, though they have been widely cited. The numbers came originally from the Palestinain Red Crescent, of which Yasir Arafat's brother is president. Some early Lebanese estimates were close to his. But the numbers from Beirut about the deaths in the south also defy logic and experience. This past winter there were airplane crashes in Washington and Boston; it took more than a week to know exactly how many were dead. But last month in Lebanon, we received and accepted precise daily figures—and not even from authorities on the spot but from Israel's enemies in besieged Beirut—and elsewhere. (The New York Times even called Professor Edward Said on Morningside Heights in New York to check casualty figures.) Chancellor Bruno Kreisky of Austria, joining the litany for the 10,000 dead, said his source was UNICEF. But in Geneva a spokeswoman for UNICEF declared, "We have not reported any casualty figures at all." A phone call to UNICEF headquarters in New York provoked a stronger denial.

This leaves the International Red Cross, which seems absolutely beside itself to deny responsbility for the casualty numbers. David Ottaway reported in the Post on June 25 that Franceso Noseda, head of the Red Cross mission in Lebanon, claimed that "we did not mention here any figure approaching 10,000." He did say that the only numbers the Red Cross had provided were the counts of 47 dead and 247 wounded in Tyre—and these figures interestingly, are lower than those put out by Israeli authorities. In Tyre, Dr. El Khalil estimated that between 57 and 63 persons had been killed, including civilians from the refugee camps. Dr. Harris told me that Israel "doesn't estimate the dead. We count them. This is why we couldn't give numbers as readily as the people in Beirut. We had no real numbers until the fallen-in buildings were dug out. Maybe there are a few more we won't find." The Israelis didn't hazard an offical number until June 22. They admit to some 250 dead in Sidon. In Nabatiye, the PLO's main base in the center, where the resistance was spotty because Palestinian regulars had run, no one really challenges the Israeli number of ten civilian dead. In a Nabatiye hospital with 60 patients, Dr. Kanon told me there was only one war-wounded, from Sidon. All of this is a far cry from the "many thousands" assumed by Stephen S. Rosenfeld in the Post on June 18.

The refugee estimates have also been brought into perspective. Many of the refugees, in fact, are those returning to their homes in the south, abandoned after the PLO usurpations since 1976. The fact is that the invasion has solved or redressed a refugee problem even as it has created or perpetuated one. (Many of the returning refugees travel by Mercedes, the national automobile. Almost all of these cars are old, almost all of them scarred from the country's long years of fratricide. They are certainly not emblems of the rich; there may be more Mercedeses than cedars in Lebanon. The resilience of the Mercedes in these demanding surroundings suggests that German-manufactured goods outlast nature's most hardy creations.)

Representatives of Oxfam and other agencies are now all over Lebanon, trying to find a way to spend the money they've raised and are still raising. Some of them have gotten into squabbles with the Israelis over bureaucratic obstacles put in the way of distributing supplies. But the truth is that there is no emergency in basic human needs: food is plentiful and cheap. An uproar in Israel and abroad quickly rectified the tendency of both Israelis and Lebanese to ignore the Palestinians' suffering; in the few areas where electricity was still out there was a shortage of flashlights; many people said there was not enough gasoline or kerosene; one farmer told me that insecticide was scarce. The hospitals are, as one medical director put it, "not especially worse off than before"; Medicins Sans Frontières is operating freely but without as much to do as it had expected. Jacques Windfeld of the Save the Children Federation-England observed, "I've seen many developing countries where cities look worse normally. Lebanon is a developing country, isn't it?" "The one real need is for construction supplies to help people rebuild," the supervisor of the Joint Distribution Committee's operation in Lebanon told me. "But the need is not insurmountable and it is being addressed." There is already functioning a joint task force from the Israeli Army and the frail Lebanese government to do what's needed in the warm months ahead. Most people said to have been displaced were displaced for only a few days. One indication: David Ottaway reported on June 16 that Jezzin "is said to have become a major refugee center with 200,000 now camping in and around it." When I spent a day in Jezzin a week later they were not there. I don't think Ottaway would vouch for his numbers.

What is clear is that Israel's attack was measured and careful. I was also in Lebanon after "Operation Litani" in 1978, another Israeli action that was, in my view, neither measured nor careful. A slap-dash improvisation, it did not go as far north as this recent campaign and did not embroil big cities. But many villages and towns I saw then were hit, bombed mostly, as nothing—not even the armed Palestinian center, Damour, once and for centuries a Christian town—was hit this time. The inhabitants I saw then were enraged at the indiscriminate harshness of Israel's attack. The townspeople showed no deference to the victors then, no disposition to flatter. TNR noted in 1978 that,

"Air power and artillery were used in ways that turned civilians into targets, killing innocent people and driving thousands from their homes. . . . In some areas, the Israelis fought well indeed. . . . But mostly they used their fire power, the reflex of a modern army, in what can only be called an indiscriminate fashion. Fighting that way is neither necessary nor wise, and Israel was especially well prepared to fight differently. . . . The tactics Israel's army adopted were familiar and disheartening. And those tactics radically devalued what the army achieved."

Nothing comparable could be said about the events of recent weeks. This time, Lebanese of all persuasions and origins have expressed—I heard it myself dozens of times—gratification at their liberation from the PLO.

It is by now certain that the casualties reported out of southern Lebanon were false. "Arabs exaggerate," said an Arab friend to me coyly in Jerusalem. But we need no instruction in national character to know about Palestinian hyperbole. The front page of the Washington Post on June 12 should have been an adequate object lesson. "Minutes before a ceasefire went into effect," Richard Homan reported, "Israeli bombers destroyed a Beirut apartment building housing the PLO's military command center. A PLO communique said more than 100 persons had been killed." Homan then went on to report what is probably closer to the truth: "Beirut radio put the toll at five dead." It's not hard to understand why the PLO, which attacks civilians as a strategy and as a chosen alternative to engaging armed units, is profligate with estimates of the dead caused by Israel: it's one way to try to establish a parity of immorality. On June 25, 1981, the Palestine Information Office published an advertisement in the Christian Science Monitor charging that "over 500 people in Palestinian refugee camps and Lebanese villages had been killed in the previous month by the Israeli military air raids and attacks." On July 7 the Monitor published a most unusual correction of a paid advertisement. It stated that 100, not 500, had been killed from May 25 to June 25, and "of these about 90 resulted from Syrian shelling, about 10 from Israeli attacks." The correction went on to note that, according to Lebanese sources, the total number killed since April 1 had been about 700. "The great majority of the losses resulted from shelling by Syrian forces. About 40 to 50 were the result of Israeli attacks." It is just possible, it may even be likely, that more civilians were killed in Lebanon by the Syrians alone—leaving aside the routine homicidal rampages of the various Palestinian factions and the Lebanese militias—in that virtually unnoticed fighting last spring than in this entire Israeli war, which has riveted so many influential Americans to their seats of judgment. There is a certain promiscuity with zeroes in the Arab world.

III

The relentless trolling of the PLO and its partisans about civilian casualties is directed at two audiences. With elite opinion in the West, it seems for the moment to have won a round. The other target is Israeli opinion, and, more particularly, the fighting spirit of Israel's citizen army.

Many Israeli soldiers with whom I spoke were desolated by the consequences of what they saw as their acts of necessity. They did not need the inflated casualty figures of "many thousands" to feel grief for what they had wrought. "We must be able to weep also for victims of just wars," said Yuval, a nineteen-year-old paratrooper in the elect Golani Brigade. (The Israelis ask that reporters not give last names in identifying ordinary soldiers. So here I willingly abide by the canons of their military censorship.) But Yuval went on to insist that army training establishes fastidious rules about avoiding harm to civilians in warfare. "I do not believe that we Israelis are wholly alone in the world in being so fixed on this issue.

But I have no evidence that our neighbors care about it at all, and certainly not the PLO."

In English, the phrase is clumsily rendered as either the "purity of arms" or the "morality of arms." In Hebrew, the doctrine is called tohar haneshek; its origins go back to the 1930s, when, as a companion piece to havlagah or restraint, it established clear and self-denying rules of what was militarily permissible. Zionism then was an intensely ideological movement, measuring its successes against scrupulous moral standards. The semi-official Jewish self-defense force, the Haganah, insisted on so many prohibitions on exposing unarmed Arabs to risk that, as one old veteran told me, "we took on the most terrible risks ourselves." The Haganah also got itself into an ongoing dispute with the far less meticulous and more indurated Revisionist wing of Zionism, Menachem Begin's precursors in British Mandate Palestine. In the post-independence Israel Defense Force, the partisans, of tohar haneshek went unchallenged. "Has the sway of the doctrine atrophied," I asked Shlomo Avineri, "with the ascendancy of the revisionists?" Avineri is one of the world's lading political theorists, a specialist on Marx who teaches at the Hebrew University, and director-general of the Foreign Ministry in the last Labor government. He is not a friend of the incumbents or their theories. (See, for example, the devastating, treatment in his new book, "The Making of Modern Zionism" [Basic Books].) His answer was clear. "If anything, the restraints of the doctrine of tohar haneshek are more compelling now than before," he said. "The army's professionalism, which protects it, is sure. The lapses of Operation Litani have been corrected, strenuously. Moreover precisely because the Likud is in power and the Labor opposition waiting to pounce on deviations from the army canons, there was much greater sensitivity, much more than ever before to the fate of civilians during wartime. You know I believe in dialectics: under Begin and Sharon military instructions, the orders of war, from the botton to the top, were much more explicit with regard to tohar haneshek. The army did the maximum." What Avineri said to me was confirmed by virtualy every soldier with whom I raised the matter.

Most of the soldiers I know, like most of the Israelis I know are people of the left, all of them critics of this government, some of them critics of this war. Udi is one of them. I've known him for three years. Last fall I few all the way from Boston to Jerusalem from his wedding. Udi is a reservist in field intelligence in the armored corps—made up of those infernal tanks which, once hit by heat-seeking weapons, don't give anyone half a chance to survive. In civilian life, he is a young therapist in training. He takes tohar haneshek seriously; he would do so even if there were no explicit doctrine. "The most awful moment of the war was when, searching through my binoculars for the source of RPGs [rocket-propelled grenades] being hurled at our tanks, I found the faces of twelve- or thirteen-year-olds. What was I to do?" After the fighting was over, he suggested that just possibly they were somewhat older. Probably they weren't older; captured PLO recruitment documents say clearly, "those under 12 years of age will not be accepted" (the New York Times, July 11). So were these children civilian casualties? One of Udi's friends—I don't have his name in my notes—fought hand-to-hand in a refugee camp. Fire seemed to come from everywhere and could come from anywhere. Even in pursuit of terrorists, however, he wouldn't throw grenades into rooms where they might be hiding. He wouldn't understand a phrase like "generate no prisoners." Why, after all, does Israel now hold between 5,000 to 6,000 PLO prisoners from this Lebanon operation? There were six days of close combat in one of the camps. How many Israelis died there? Wouldn't fewer have died if the Israelis relied more on bombing?

Soldiers, like other Israelis, have political opinions and politcal differences. In contrast to most other armies, these are aired in routinely arranged seminars or bull sessions, even on the front. Such exchanges are part of army life. Professor Avineri, for example, was in Lebanon last week on a reserve assignment with the army education unit, and conducted "fully free and open" discussions with officers and ordinary soldiers on various vexing topics, including whether it would be right or wrong for Israel to move against West Beirut. "The army doesn't fear these discussions," he told me, "even though it knows that the officers who conduct them, being mostly intelligentsia, are mostly critics of the government or actually on the left."

The only big demonstration anywhere in the Middle East against the war in Lebanon was in Tel Aviv, organized by an army officer-initiated movement called Peace Now. But, as the very dovish Israeli novelist Amos Oz reminds us in the July 11 New York Times magazine, "Not a single member of Peace Now disobeyed the mobilization orders. . . . Some of them died in the fighting." The first night I was in Israel I met a young Peace Now reservist who had volunteered to fight even though he hadn't been called up. "My unit goes, I go."

The dissent was mostly political or strategic, not moral. It was registered in advance of the war, and also during it. No one really disagreed with the goal of removing the PLO threat in the north; but some thought the costs too high or the goal impossible to achieve. It is a strange army, needing no home-front jingoism to support it; as a lieutenant I know said, "Except for some blatherings from the Prime Minister, we heard no jingoistic slogans, It's better that way." A study done at Bar-Ilan University, released while I was in Israel, shows that, proportionally, more ex-members of the most left-wing of Israel's youth movements, the Hashomer Hatza'ir, join combat units in the army than from any other Zionist flank. Among soldiers such as these, whose political differences with the government are clearest, the greatest offense seems to have been taken at the charges of Israeli callousness or indifference to civilian casualties. "The false and hypocritical accusations coming from people who have been unfeeling about our civilian deaths and who speak in behalf of the people who aim only at civilians has caused a backlash," one Labor-affiliated journalist suggested. "Wars can be fought for purposes other than survival, for political purposes. Did the British fight the Falklands war for survival?"

IV

Israel did not go to war against the PLO in Lebanon on behalf of the Lebanese people. Had it done so, its purpose might have been thought illegitimate. So if some alien rump had set up a state-within-a-state, as the PLO had done in southern Lebanon and Beirut since 1976, yet had not at all threatened Israel, there might have been laments in Jerusalem but little or no action from there.

And, of course, there are Israelis who didn't want action from Jerusalem, even if taken solely in Israel's interests. "I was one of them," said Clinton Bailey. "I was deadset against this war." Bailey, 46, is a native of Buffalo, New York; he is now an Israeli. He is senior lecturer in Middle Eastern history at Tel Aviv University and now finds himself in Sidon, after a stint in Nabatiye, as adviser on Arab affairs to the Israeli military in southern Lebanon. He comes by this post because he is a prominent Arabist; he teaches courses on Palestinian nationalism and Bedouin culture. He's been a burr under the saddle of successive Israeli governments, having become a tribune for the nomadic Bedouins displaced by modernization in general and, specifically, by the air bases now being completed in the Negev to replace those evacuated in the Sinai. He knows the Arabs and likes them, and not in a patronizing way. a Lebanese municipal official in Nabative told me that Bailey was particularly sensitive to questions of Arab dignity, "which is why he made sure that the administration of the city was quickly given over to the Lebanese. We had not really had it for six years."

That's the story I was told by Lebanese all over southern Lebanon, in the big cities and the smaller towns, by Christians and Moslems, by people of all classes and educational levels. "I had thought that the PLO had fought for a foothold in Lebanon," Bailey told me. "Not till I came here and spoke to the Lebanese themselves did I realize what the PLO had done here, that they had established a stranglehold."

That is the great untold story of the last six years. It unfolds in every encounter with a Lebanese, even from those few still sympathetic to the plight of the Palestinians. Everyone has his own grievance, his own memories. The simplest, perhaps the most existential, is that the PLO endangered everyone's lives by making southern Lebanon a target of the Israeli military. But it rarely stops with that. the PLO, it turns out, was not a guerrilla army in a friendly sea.

Khalil, a 25-year-old Moslem who had just left West Beirut, told me that his brother had been killed by a sniper shooting from a Palestinian stronghold. Jabber, slightly younger, said that his family's car had been confiscated by a PLO faction. Hussein said that his sister was constantly being accused of being an Israeli spy: "Not true; she resisted some Palestinian's advances." Ahmet said, "They got their way always by showing the pistolet; if not the pistolet, the Kalashnikov," Toufek—his brother called him Tommy—said, "This was our land and they ran it as if it were theirs." I heard similar complaints dozens of times.

Moustafa Mouein was the representative of the Lebanese Ministry of the Interior in the Nabatiye district, including 42 surrounding villages. Nabatiye, I was told, was deserted over the years by much of its populace. "I walked on mines," Mouein said. "I could not hang the Lebanese flag in my office or the picture of the president." This civil servant described the disintegration of the courts. "An injured Lebanese could get no justice from a Palestinian. The courts were courts of force." He groped for words. A more articulate, more cagey official, Ednan Ibrahim, the town's deputy mayor, arrived. 'There was no normal society in the south," he said, in elegant French. "Civil society was paralyzed. There were no functioning judges, no lawyers really. If a judge pronounced a fair decree, who would execute it? The police were the Palestinian militias."

It was a tale of kangaroo courts, and of vengeance. This had a wider meaning he wanted to share. "There had not been a civil war between Moslem and Christian in Lebanon. There was a war on the land of Lebanon by two exterior forces to destroy the government and make the country their own. I mean the PLO and the Syrians. The PLO wanted to solve its problems on our territory."

I asked both of them whether Western journalists had asked them about life with the PLO during the previous six years. Both said no. One went further: "You couldn't talk to journalist without permission." Later, in the hallway, a minor functionary volunteered, "We were glad the journalists didn't come with their questions. We would have been afraid to tell the truth."

That the journalists didn't come with their questions is clear. (And it's not only in southern Lebanon where they demonstrated a startling absence of curiosity. How many stories do you remember out of Lebanon about life in the Maronite and Druze areas of the north?) On four successive days in March 1981, The Washington Post ran articles, running to almost six pages, on "South Lebanon: The Forgotten War." The series, by William Claiborne and Jonathan Randal, is very tough on Major Haddad, the leader of an uneasy coalition between Shiites and Christians just north of the Israeli border, and tougher still on Israel. There is, for example, the suggestion that people left Nabatiye because of the Israelis rather than because of the PLO. "The Palestinians and their leftist allies exercise a kind of wild and woolly control," Claiborne and Randal wrote, "but they are hemmed in by the Syrian Army, which came to Lebanon as a peacekeeping force in 1976." How fortunate for the Lebanese that the PLO was hemmed in; but was the PLO really just wild and woolly? No, not exactly. In Shiite villages, "the Palestinians misbehaved, ruined orchards and crops, and the Israelis simply raised the pain threshold." Even today Post correspondents describe the PLO occupation in benign terms. Tyre "had been run by a local PLO commander in cooperation with local residents until the Israeli invasion." Some Lebanese, of course, did cooperate with the PLO, like the Jumblatt clan. (In Lebanon, extended families are political movements.) But is "cooperation" the word the residents of Tyre used? "Sidon had been a PLO protectorate. . . ." Perhaps a broad meaning of protection is intended here. Alas, it was not the war in southern Lebanon that was forgotten, but the people. That's what Deputy Mayor Ibrahim thinks: "Lebanon wasn't considered during the last six years." And then, with his dignity suddenly turning plaintive, "There is a Lebanese people."

But it was from Beirut that the narrative of the Palestinian grievance was being written. From Beirut last week, Randal cavalierly reduced a complex historical dispute to a phrase: ". . . the Palestinians were expelled from Israel." Simple. It's also in Beirut where the PLO's dreams for redress are formulated and its heroes anointed. In the Post on July 7 Ed Cody eulogized PLO Colonel Azmeh Seghaiyer, apparently killed by the Israelis in Sidon. Azmeh "had participated in training and preparations for a number of operations against Israel including the coastal road assault of 1978 in which more than 30 Israelis were killed. . . . I always thought of him as an honorable military officer . . . you can admire a man even when he is part of deeds you cannot admire—the coastal raid, for example."

The PLO's behavior in the south does not quite fit the neat image its propagandists convey to the press. Confiscations, harassments, young people forced into the militias, schools closed, rapes, molestations, commandeering of licenses, passports, services, offices: this was the stuff of everyday life in the web of the PLO's "state-within-a-state." A doctor in the former PLO "protectorate" of Sidon reported that the PLO regularly sacked hospitals and doctors' offices for medical supplies. "We couldn't keep our ambulances. The local population suffered." So much so that whole villages and towns were evacuated, sometimes leaving only the aged and the infirm. The Shiite village of Arnon, for example, in the far south, near Beaufort, or Rihane farther north.

I spent some time in others. Aichiye is one. It was a Maronite village of maybe 3,000 people, emptied save for 30, maybe 40, since shortly after a PLO massacre that took 75 lives. I have before me the names of comparable towns with comparable recent histories: Brih, Kaa, Jdaidet Baalbeck, Kaddam. You've probably never heard of them. I hadn't till last month. There is a similar list of Lebanese towns shot up by the Syrians. No one pretends that the massacres were one-sided—Maronites shed the blood of Moslems, too, rivers of blood. Even Père Boulos Oneid, Aichiye's mayor-priest, admits that. But he still seemed stunned by the world's indifference, and even the Pope's, to the PLO's "rape of my native village. I am happy to be back. Ten or fifteen families return every day. Maybe with the grim lessons of the past behind us we will be able to live better with our neighbors."

It won't be easy. When—and if—the foreigners leave, the local militias, manned by lithe young toughs, smiling and polite and probably trigger-happy, will still be around, armed with the hate-filled memories of old men. The Lebanese hatred of the Palestinian is something awful. The Hebrew paper Ma'ariv reported on July 9 that the motto of one xenophobic Maronite militia commands, "It is the duty of every Lebanese to kill one Palestinian." A blood-curdling Times interview on July 10 with two Christian poets left the Israeli colonel who'd accompanied correspondent Henry Kamm "so sick" that he "wanted to leave." Bailey told me, "You can't casually ask a Lebanese doctor to treat a Palestinian patient." It is a human tragedy.

But you can't begin to be able to deal with that tragedy until you look at the sources of the hatred—and the sources of the relief at the coming of the Israelis. Randal has found at least one Lebanese made happy by the war: "Dr. Labib Abu-Zahr . . . could scarcely conceal his joy. 'I'm a son of a millionaire orange grove owner. . . . Now we want to build Lebanon again with marble floors,' he said, flourishing a cigar." But is it only Lebanon's vulgar rich who are relieved by the development in their country? I met no one rich in Lebanon, and everyone I did meet was relieved that the Israelis had lifted from them the burden of the PLO. And not all that far from Damour, where wretchedness has been the fate sequentially of Christians and Palestinians, stands the glaringly plush little community of Doha. It must have been to the nicer parts of Beirut what Bel Air is to Beverly Hills, Hobe Sound to Palm Beach. Doha showed no scars of war; its elegant homes and gardens are islands of corrupt indifference. Huge crates of granite and marble wait to be put into an unfinished house. War had intruded in Doha only when an Israeli general was killed by a PLO gunman in hiding. How had Doha, so close to ravaged Damour and other scenes of heavy fighting these last six years, remained unscathed? "The residents paid high taxes to the PLO and they provided a patrol," I was told by a less protected neighbor who lived nearby. So the PLO, a revolutionary movement of the downtrodden, not only confiscated from those with little but also cosseted those with much. Rowland Evans and Robert Novak, long-time critics of Israel, wrote from Sidon in their syndicated column that for the Lebanese "surviving the PLO was another kind of hell." The PLO was "itself an occupying power," asserted the columnists. The character of PLO rule may just have been an augury of what was planned for the "secular democratic state in Palestine." Maybe that's why those who look forward to that state weren't eager to examine the model already taking form in Lebanon.

Doubtless if the Israelis don't extricate themselves from Lebanon, they will be seen as an occupying power, as they have become in the West Bank. For now, though, the contrast between the Israelis and the PLO in southern Lebanon is vivid and welcome, a manifestation also of tohar haneshek. "Civilized soldiers," a schoolteacher called them. Do the Israelis loot, I asked? Toufek's sister—we were not introduced—answered from outside the circle of men, "Not a cigarette." But even well-behaved foreign soldiers, around too long, will be seen as intruders. The West Bank is historically disputed territory. Southern Lebanon is not; there is no Palestinian claim to it whatever. So try to figure out why you've heard and seen and read so much about the Israeli occupation of the West Bank and so little about the Palestinian (and Syrian) occupations of southern Lebanon, two chunks of land roughly comparable in size and population, one on everyone's tongue, the other till last month the home of the forgotten Lebanese. Not eyeless in Gaza, but eyeless in Lebanon.

v.

Who, then, is doing the censoring? Not the Jews, but the journalists, think themselves the chosen people. At the Israeli Army spokesmen's headquarters in East Beirut, I heard one American reporter complain that the daily Israeli press briefing was inconveniently timed. Wars are to be fought for the benefit of the network news. A French journalist and a Japanese photographer, who'd not seen each other "since El Salvador," fell into each other's arms near Beaufort castle. "The Israelis are making it very hard," one of them said. What does "hard" mean? The networks have accused the Israeli authorities of "political censorship" because they've refused to transmit certain film over satelite. I don't recall anything like those petulant outbursts when neither the British nor the Argentines allowed camera crews on to the Falklands. Everybody meekly accepted the official handouts.

Is Israel, at war with the PLO, really morally obliged as a democracy to transmit from its satellite in Tel Aviv ABC's interview with Arafat conducted in Beirut? The Israelis have also clamped down on other newsclips offensive to the censor or merely embarrassing. But this is probably the first war in history in which one side provided information services for the other. Must democracies, however, forswear engaging in psychological warfare and must they actually assist their enemies in this regard?

The uproar over Israeli censorship seems to me to be in part a projection. The press censored itself for years on Lebanon. It was not brave, but fearful—as it has been not brave but fearful at Hama in Syria or on the frontiers between Iraq and Iran, places where so many more were killed than in southern Lebanon.

VI.

I write from the safety of the seashore. The radio reports heavy casualties in Beirut, today in both parts of the city. Again, the death of innocents. Enough have been killed; no one needs the pornography of inflated numbers. West Beirut is the biggest hijacked plane in history, its population hostage of a vanquished army that has not even been asked to surrender but only to leave foreign territory with flag and song and small arms, for elsewhere, perhaps to those countries which have paid them all these years to operate out of poor Lebanon.

The radio also reports harsh repressive measures by Israel in the West Bank. These make a mockery of the victory in Lebanon which, with the PLO militarily defeated, makes it possible for Israel to take steps, however tentative and groping, toward a more generous peace. Israel is now itself hostage to Begin's ideological hubris, and to his will to be brutal. Tohar haneshek has run its course in the West Bank, and because of Israel's ruling politicians, not its army. The struggle in Israel, I console myself, is not over Lebanon, but over the West Bank, which is what the struggle should be about, the struggle to disgorge, the struggle to find Arab partners in a territorial compromise.

The Palestinians have always been hostage to the recalcitrance of their leaders. For sixty years a compromise was possible between the two peoples whose pasts and futures are inextricably tied to the one land of historic Palestine. But no compromise satisfied the Arab leadership—not even the tiny little statelets proposed for the Jews by the British in the 1930s, not even the partition plan of 1947. The PLO was formed, it is urgent to remember, in 1964, when the West Bank and Gaza and East Jerusalem were all still in Arab hands. Always the Palestinians were hostage to the dream of a map without Israel. That's why the leadership never really permitted the mass resettlement of refugees anywhere. Their homelessness was to fester and explode; the camps were to be the launching pad for "the return." UNRWA, initially a humanely motivated operation, became hostage to the refusal of the Arabs to find a compromise. It is shocking, but not illogical, that an UNRWA school in Siblin should have served as a training base for PLO terrorists. When Camp David was ratified, committing the parties to negotiations for full autonomy and free elections that might eventually have developed, despite Begin's designs, into an Arab sovereignty, no West Bankers or Gazans came forward to press their case at the conference table. Some of their well-wishers never quite grasped why the Palestinian Arabs did not seize the opportunity provided by Camp David. But the Israelis understood, and rightly, that to the PLO and to those who feared it, any compromise was too compromising. And those who hinted they might want to come forward met with death at the hands of the PLO.

The Arabs of Palestine suborned their rights to the exiles in Lebanon, and the exiles chose armed struggle. The truly enormous caches of arms I saw, heavy arms, from the Soviet Union and North Korea and France and the U.S., were not being stockpiled for the social service organization which Jonathan Randal now says (Washington Post, July 8) is the real function of the PLO. All those weapons, far too many for those who would fight, held the Palestinians in thrall to the idea of some decisive defeat of the Israelis. It was the PLO which, having chosen armed struggle, inevitably provoked it, and was decisively defeated in it. Surrounded and isolated in Beirut, its fighters are hostages now to the idea of dying for Palestine. As in Sidon and Tyre, cities held hostage for six years, they don't care who dies with them, and their partisans don't really seem to care either.

Lebanan's freedom to struggle through to its own complicated destiny depends on the removal of the PLO from Lebanese soil. So, too, only the removal of the PLO from Lebanon will free the Palestinians, there and in the West Bank, from their captivity to the intoxicating and death-dealing notion of no compromise. Those are the stakes in Beirut. (Understanding this, let us put an end to this silly fetish about 25 miles and 40 kilometers. Beirut, in any case, is only 33 miles from Israel's northern border.) What happens in the next days in Beirut, then, will determine whether the Palestinians will be allowed at long last to face reality. The Israelis have won their military victory; this surely is a precondition for peace. But it is not the only precondition; there are others, political ones. Whether the present Israeli government can move to create these remains to be seen. It, too, must face reality.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. TAUZIN (at the request of Mr. WRIGHT), for today, on account of attending a funeral.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. HARTNETT) to revise and extend their remarks and include extraneous material:)

Mr. CORCORAN, for 5 minutes, today.
Mr. FISH, for 5 minutes, today.
Mr. ERDAHL, for 15 minutes, today.
Mr. PORTER, for 10 minutes, today.
Mr. MCEWEN, for 15 minutes, today.
Mr. GILMAN, for 5 minutes, today.
Mr. COLLINS, of Texas for 30 minutes, today.
Mr. RITTER, for 10 minutes, today.
Mr. DENARDIS, for 10 minutes, today.

(The following Members (at the request of Mr. WATKINS) to revise and extend their remarks and include extraneous material:)

Mr. CONYERS, for 60 minutes, today.
Mr. PEPPER, for 5 minutes, today.
Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. PHILLIP BURTON, for 10 minutes, today.
Mr. CONYERS, for 60 minutes, on July 22.
Mr. PHILLIP BURTON, for 10 minutes, on July 22.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. SOLARZ, notwithstanding the fact that it exceeds two pages of the CONGRESSIONAL RECORD and is estimated by the Public Printer to cost $2,023.

(The following Members (at the request of Mr. HARTNETT) and to include extraneous matter:)

Mr. BEREUTER.
Mr. LAGOMARSINO.
Mr. WEBER of Minnesota.
Mrs. MARTIN of Illinois.
Mr. RITTER.
Mr. ROBERTS of South Dakota in two instances.
Mr. STANGELAND.
Mr. CAMPBELL.
Mr. PORTER.
Mr. DREIER.
Mr. FIELDS.
Mr. ERDAHL.
Mr. CONTE in two instances.
Mr. GREEN.
Mr. CLINGER.
Ms. FIEDLER.
Mr. FINDLEY.
Mr. LUNGREN.
Mr. DORNAN of California in two instances.
Mr. NELLIGAN.
Mr. COLLINS of Texas in two instances.

The following Members (at the request of Mr. WATKINS) and to include extraneous matter:

Mr. PEPPER.
Mr. RODINO.
Mr. NOWAK.
Mr. HAMILTON.
Mr. OTTINGER.
Mr. YATRON in two instances.
Mr. ROE.
Mr. SHAMANSKY.
Mr. WYDEN.
Mrs. SCHROEDER.
Mr. WEAVER.
Mr. MAZZOLI in two instances.
Mr. DYSON.
Mr. BOLAND.
Mr. PATTERSON in five instances.
Mr. FAZIO.
Mr. YOUNG of Missouri.
Mr. BONER of Tennessee.
Mr. MILLER of California.
Mr. HUBBARD.
Mr. IRELAND.
Mr. SIMON in two instances.
Mr. HERTEL.
Mr. SYNAR.
Mr. BAILEY of Pennsylvania.
Mr. STUDDS.
Mr. MCDONALD in three instances.
Mr. MITCHELL of Maryland in two instances.

ADJOURNMENT

Mr. STRATTON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock p.m.), the House adjourned until tomorrow, Thursday, July 22, 1982, at 10 o'clock a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4412. A letter from the Comptroller General of the United States, transmitting his review of the proposed revision to one rescission, and one deferral, contained in the message of June 23, 1982 (H. Doc. No. 97-203), pursuant to sections 1012(a) and 1013(a) of Public Law 93-344 (H. Doc. No. 97-214); to the Committee on Appropriations and ordered to be printed.

4413. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4414. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contract of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4415. A letter from the Auditor, District of Columbia, transmitting a report providing an analysis of District of Columbia election procedures, pursuant to section 455(d) of Public Law 93-198; to the Committee on the District of Columbia.

4416. A communication from the President of the United States, transmitting a report on progress toward conclusion of a negotiated solution of the Cyprus problem, pursuant to section 620C(c) of the Foreign Assistance Act of 1961, as amended (H. Doc. No. 97-215); to the Committee on Foreign Affairs and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. RODINO: Committee on the Judiciary. H.R. 6128. A bill to revise, codify, and enact without substantive change certain general and permanent laws, related to money and finance, as title 31, United States Code, "Money and Finance" (Rept. No. 97-651). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ST GERMAIN:

H.R. 6812. A bill to limit the salaries and expenses of certain offices within the Department of the Treasury and the Department of Housing and Urban Development; to the Committee on Banking, Finance and Urban Affairs.

By Mr. BIAGGI (for himself, Mr. EVANS of Delaware, Mr. STUDDS, Mr. LENT, and Mr. JONES of North Carolina):

H.R. 6813. A bill to amend the Federal Boat Safety Act of 1971; to the Committee on Merchant Marine and Fisheries.

By Mr. BLILEY:

H.R. 6814. A bill to amend the act approved on July 25, 1980, to permit certain individuals to have reasonable access to their private dwellings; to the Committee on Merchant Marine and Fisheries.

By Mr. BREAUX (for himself, Mr. FIELDS, Mr. CLAUSEN, Mr. ANDERSON, and Mr. SHUSTER):

H.R. 6815. A bill to amend the Interstate Commerce Act to reform and improve regulation of the transportation of oil by pipeline, and for other purposes; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

By Mr. BUTLER (for himself, Mr. KASTENMEIER, Mr. RAILSBACK, Mrs. SCHROEDER, Mr. KINDNESS, Mr. MCCLORY, Mr. FISH, Mr. MOORHEAD, Mr. HYDE, Mr. LUNGREN, Mr. OBERSTAR, Mr. BENNETT, Mr. FORSYTHE, Mr. CORCORAN, Mr. SMITH of Iowa, Mr. STOKES, Mr. FASCELL, Mr. BINGHAM, and Mr. WAXMAN):

H.R. 6816. A bill to eliminate diversity of citizenship as a basis of jurisdiction of Federal district courts; to the Committee on the Judiciary.

By Mr. COLLINS of Texas:

H.R. 6817. A bill to provide penalties for persons who obtain or acquire controlled substances from any pharmacist or distributor of controlled substances by robbery or extortion, and for other purposes; jointly, to the Committees on the Judiciary and Energy and Commerce.

By Mr. DASCHLE (for himself, Mr. JONES of Tennessee, Mr. HATCHER, Mr. WILLIAMS of Montana, Mr. ENGLISH, Mr. SYNAR, Mr. HANCE, Mr. ANTHONY, Mr. OBERSTAR, Mr. KOGOVSEK, and Mr. DORGAN of North Dakota):

H.R. 6818. A bill to provide for a paid diversion and acreage reduction program for the 1983 crop of wheat and feed grains and for other purposes; to the Committee on Agriculture.

By Mr. DELLUMS:

H.R. 6819. A bill to amend the Wild and Scenic Rivers Act by designating a segment of the Tuolumne River in California as a component of the National Wild and Scenic Rivers System; to the Committee on Interior and Insular Affairs.

By Mr. ERDAHL (for himself and Mr. LEBOUTILLIER):

H.R. 6820. A bill to provide for the operation of the Helen Keller National Center for Deaf-Blind Youths and Adults, to provide for the operation of the Vinland National Center for Healthsports and Physical Fitness for Handicapped Individuals and certain other centers which assist handicapped individuals in achieving greater independence, and to assure continued national support for other projects and services for the deaf and other handicapped individuals; to the Committee on Education and Labor.

By Mr. LAGOMARSINO:

H.R. 6821. A bill to amend title 18 of the United States Code to reform the insanity defense, to establish a sentence of guilty but mentally ill, and for other purposes; to the Committee on the Judiciary.

By Mr. MITCHELL of Maryland:

H.R. 6822. A bill to amend the Small Business Act; to the Committee on Small Business.

By Mr. MITCHELL of Maryland (for himself and Mr. ADDABBO):

H.R. 6823. A bill to amend the Small Business Act; to the Committee on Small Business.

H.R. 6824. A bill to amend the Small Business Act to facilitate the implementation of programs to assist small business; jointly, to the Committees on Small Business and Post Office and Civil Service.

By Mr. SOLOMON:

H.R. 6825. A bill to modify the insanity defense in the Federal courts; to the Committee on the Judiciary.

H.R. 6826. A bill to amend the Internal Revenue Code of 1954 to permit an exemption of the first $10,000 of retirement income received by a taxpayer under a public retirement system or any other system if the taxpayer is at least 65 years of age; to the Committee on Ways and Means.

By Mr. WEAVER:

H.R. 6827. A bill to amend the Wild and Scenic Rivers Act with respect to certain rivers in the State of Oregon, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WHITE:

H.R. 6828. A bill to amend title 10, United States Code, to provide for more efficient and effective operation of the Joint Chiefs of Staff; to the Committee on Armed Services.

By Mr. WYDEN (for himself, Mr. ANDERSON, MR. HUGHES, Mr. BONKER, Mr. SUNIA, and Mr. WHITEHURST):

H.R. 6829. A bill to require owner of vessels engaged in foreign commerce using U.S. ports to establish and maintain financial responsibility for claims arising from the furnishing of maritime services to the vessels, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. WYLIE:

H.R. 6830. A bill to authorize the conveyance to the State of Ohio for wildlife management purposes of certain lands acquired for the Big Darby Lake, Ohio, project; to the Committee on Public Works and Transportation.

By Mr. COATS:

H.J. Res. 542. Joint resolution setting aside the third Saturday of June each year as "American Unity Day"; to the Committee on Post Office and Civil Service.

By Mr. LOWERY of California:

H.J. Res. 543. Joint resolution to provide for the designation of November 15, 1982, as "American Enterprise Day"; to the Committee on Post Office and Civil Service.

By Mr. NEAL:

H.J. Res. 544. Joint resolution proposing an amendment to the Constitution relating to equal rights for men and women; to the Committee on the Judiciary.

By Mr. BONKER:

H. Con. Res. 378. Concurrent resolution to condemn the Iranian persecution of the Baha'i community; to the Committee on Foreign Affairs.

By Mr. BUTLER (for himself, Mr. CONTE, Mr. DERWINSKI, Mr. EMERY, Mr. FITHIAN, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FOWLER, Mr.

HORTON, Mr. LAGOMARSINO, Mr. LEBOUTILLIER, Mr. LENT, Mr. LOWERY of California, Mr. MARKEY, Mr. PEPPER, Mr. ROSENTHAL, Mrs. SCHROEDER, Mr. WEBER of Ohio, Mr. WEISS, Mr. WOLF, Mr. WOLPE, and Mr. YATES):

H. Con. Res. 379. Concurrent resolution expressing the sense of the Congress that the Soviet Union should permit Sergei Petrov to emigrate to the United States to be reunited with his wife, Virginia Hurt Johnson; to the Committee on Foreign Affairs.

By Mr. FOGLIETTA (for himself and Mr. MARKEY):

H. Con. Res. 380. Concurrent resolution expressing the sense of the Congress that the Department of Energy should withdraw its authorization of the proposed sale of a process control system for end-use in a heavy water production facility in Argentina; to the Committee on Foreign Affairs.

By Ms. OAKAR (for herself, Mr. HALL of Ohio, Mr. PEPPER, Mrs. SCHROEDER, Mr. OBERSTAR, Mr. SIMON, Mrs. KENNELLY, and Mr. STARK):

H. Con. Res. 381. Concurrent resolution expressing the sense of Congress that certain steps should be taken to make wholesome food which is currently being wasted or discarded available for distribution to hungry people; to the Committee on Agriculture.

By Mr. BEDELL:

H. Res. 531. Resolution expressing the sense of the House with respect to the continuation of the Environmental Protection Agency's requirements concerning the maximum allowable lead content of leaded grades of gasoline; to the Committee on Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. SKEEN:

H.R. 6831. A bill to provide for the reinstatement of U.S. oil and gas lease numbered NM 12253; to the Committee on Interior and Insular Affairs.

By Mr. WIRTH:

H.R. 6832. A bill to provide for the conveyance of certain real property in Pitkin County, Colo.; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 116: Mr. PATMAN.

H.R. 1574: Mr. LOWRY of Washington.

H.R. 1648: Mr. DREIER and Mr. COATS.

H.R. 1918: Mr. MOFFETT.

H.R. 2832: Mr. BARNES and Mr. JAMES K. COYNE.

H.R. 4015: Mr. FAZIO.

H.R. 4325: Mr. MINISH.

H.R. 4454: Mr. WASHINGTON, Mr. WHITTAKER, Mr. WEBER of Minnesota, Mr. SPENCE, Mr. AKAKA, Mr. ANNUNZIO, Mr. DIXON, Mr. TRIBLE, Mr. MITCHELL of New York, Mr. DORNAN of California, Mr. DYSON, Mr. STENHOLM, Mr. STOKES, Mr. WRIGHT, Mr. ATKINSON, Mr. HYDE, Mr. BENNETT, Mrs. SNOWE, Mr. SILJANDER, Mr. ROBERTS of Kansas, Mr. MOTTL, Mr. PRITCHARD, Mr. NELLIGAN, Mr. WHITE, and, Mr. ROBERTS of South Dakota.

H.R. 4657: Mr. HUGHES.

H.R. 4786: Mr. FRENZEL.

H.R. 4833: Mr. EVANS of Delaware.

H.R. 4897: Mr. PEASE.

H.R. 5133: Mr. MARTINEZ and Mr. MILLER of California.

H.R. 5531: Mr. LANTOS.

H.R. 5679: Mr. SHUMWAY.

H.R. 5717: Mr. WEBER of Ohio, Mr. BENEDICT, and Mr. WALKER.

H.R. 5828: Mr. WYDEN.

H.R. 6045: Mr. ROEMER.

H.R. 6077: Mr. ROE and Mr. MAVROULES.

H.R. 6187: Mr. HIGHTOWER.

H.R. 6325: Mr. CARMAN, Mr. BUTLER, Mr. EDGAR, Mr. WOLPE, Mr. SCHUMER, Mr. VANDER JAGT, Mr. LIVINGSTON, Ms. OAKAR, Mr. NEAL, Mr. ERDAHL, Mr. CROCKETT, and Mr. CHAPPELL.

H.R. 6358: Mr. VANDER JAGT.

H.R. 6463: Mr. BEDELL, and Mr. BROWN of Ohio.

H.R. 6531: Mr. PRICE, Mr. SIMON, Mr. HORTON, Mr. LEACH of Iowa, Mr. TAYLOR, Mr. VENTO, and Mr. WEAVER.

H.R. 6691: Mr. BARNARD.

H.R. 6700: Mr. HILLIS.

H.R. 6716: Mr. EVANS of Georgia, Mr. KINDNESS, Mr. GREGG, Mr. JAMES K. COYNE, Mr. WHITTAKER, Mr. GINGRICH, Mr. HAGEDORN, Mr. PAUL, Mr. SHELBY, Mr. O'BRIEN, Mr. LEBOUTILLIER, Mr. ROUSSELOT, Mr. MCDONALD, and Mr. RUSSO.

H.R. 6717: Mr. FORSYTHE, Mr. LEBOUTILLIER, Mr. NELLIGAN, Mr. WILSON, Mr. HENDON, Mr. EVANS of Georgia, Mr. JAMES K. COYNE, Mr. GINGRICH, Mr. STANGELAND, and Mr. BEDELL.

H.R. 6718: Mr. ROBERTS of South Dakota, Mr. WON PAT, Mr. MARRIOTT, Mr. JAMES K. COYNE, Mr. GINGRICH, and Mr. BEDELL.

H.R. 6746: Mr. HORTON, Mr. NAPIER, Mr. SANTINI, and Mr. RAHALL.

H.R. 6751: Mr. BARNES, Mrs. HOLT, Mr. WOLF, Mr. DOUGHERTY, Mr. BEARD, Mr. EDGAR, and Mr. RANGEL.

H.R. 6781: Mr. DASCHLE, Mr. EVANS of Iowa, Mr. HYDE, Mr. NAPIER, Mr. THOMAS, Mr. EVANS of Delaware, Mr. WEBER of Minnesota, Mr. CLAUSEN, Mr. HARTNETT, Mr. BEARD, Mr. FRANK, Mr. STANTON of Ohio, Mr. MOFFETT, Mr. DICKS, Mrs. HOLT, Mr. SABO, Mr. BONKER, Mr. MATTOX, Mr. DUNN, Mr. BENEDICT, Mr. JONES of Oklahoma, Mr. SYNAR, and Mr. LUKEN.

H.R. 6782: Mr. DORGAN of North Dakota and Mr. JENKINS.

H.R. 6794: Mr. BAILEY of Pennsylvania.

H.J. Res. 350: Mr. KAZEN, Mr. PATMAN, Mr. MOLINARI, Mr. DUNN, Mr. BREAUX, Mrs. ASHBROOK, Mr. WORTLEY, Mr. REGULA, and Mr. DERWINSKI.

H.J. Res. 492: Mr. LAGOMARSINO.

H.J. Res. 523: Mr. BONIOR of Michigan, Mr. HORTON, Mr. RAHALL, Mr. OBERSTAR, Mr. LAGOMARSINO, Mr. LEE, Mr. HOLLENBECK, Mr. KINDNESS, Mr. EMERSON, Mr. KILDEE, Mr. ROE, Mr. FAZIO, Mr. MITCHELL of New York, Mr. DERWINSKI, Mr. MONTGOMERY, Mr. DANIEL B. CRANE, Mr. MCCLORY, Mr. BEVILL, Mr. FRENZEL, Mr. ROGERS, Mr. HYDE, and Mr. MOTTL.

H. Con. Res. 255: Mr. HAGEDORN, Mr. HUGHES, Mr. ENGLISH, and Mr. ZEFERETTI.

H. Con. Res. 341: Mr. ADDABBO.

H. Con. Res. 360: Mr. SHAMANSKY.

H. Res. 377: Mr. JACOBS and Mr. DORGAN of North Dakota.

H. Res. 526: Mr. BEDELL, Mr. ECKART, Mr. MCDADE, Mr. LENT, Mr. WAXMAN, and Mr. COURTER.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.J. Res. 443: Mr. ERLENBORN.

PETITIONS, ETC.

Under clause 1 of rule XXII,

524. The SPEAKER presented a petition of the Southern Federation of Syrian Lebanese-American Clubs, relative to humanitarian needs in Lebanon; which was referred, jointly, to the Committees on Foreign Affairs, the Judiciary, and Appropriations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6030

By Mr. ASPIN:

—Page 18, after line 3, insert the following new section:

T-5 REPLACEMENT TANKER PROGRAM

SEC. 304. None of the funds appropriated pursuant to authorizations of appropriations in this title for the Navy may be obligated or expended for any activity in connection with the lease of any vessel associated with the T-5 Replacement Tanker Program which has a main propulsion system or any other major component not built in the United States.

—At the end of the bill, add the following new section:

LIMITATION ON STRATEGIC WEAPONS

SEC. 902. (a) None of the funds appropriated pursuant to authorizations of appropriations in this Act may be used for the procurement, testing, deployment, or operation and maintenance of any strategic nuclear weapon or nuclear weapon system, or of a launcher for a strategic nuclear weapon or nuclear weapon system, if that procurement, testing, deployment, or operation and maintenance would contravene existing strategic arms policies of the United States as declared by the President in his Memorial Day address of May 31, 1982, as follows: "As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint.".

(b) The limitations set forth in subsection (a) shall not apply after the date that is thirty days after the date on which the President transmits a report in writing to Congress (1) containing the President's certification that it is in the supreme national interest of the United States that such limitations no longer apply, and (2) setting forth the reasons for the certification.

By Mr. PORTER:

—At the end of the bill add the following new section:

ADMINISTRATION OF ROBERT G. KEATS MEMORIAL FUND AT UNITED STATES MILITARY ACADEMY

SEC. 902. The Robert G. Keats Memorial Fund established in 1968 as a gift to the United States Military Academy History Department by Mr. Robert Keats in memory of his son, Captain Robert G. Keats, shall be held and administered, without regard to section 2601 of title 10, United States Code,

by the head of the History Department at the United States Military Academy. The corpus of that fund, including any interest and proceeds previously accruing to the fund, shall be transferred to the control of the head of that department and may be invested in such manner as he considers appropriate and best suited to the needs of the fund. Subject to the terms of the gift establishing the fund, the fund shall be disbursed at the discretion of the head of the History Department for the purpose of advancing the study and teaching of courses in the history of the military art at the United States Military Academy. Interest and profits accruing from any investment of assets of the fund shall become part of the fund and may be disbursed as provided in the preceding sentence.

—At the end of the bill add the following new section:

ACCEPTANCE OF IN MEMORIAM MILITARY HISTORY SCHOLARSHIPS AT WEST POINT MILITARY ACADEMY

SEC. . Notwithstanding any other provision of law, the Superintendent, United States Military Academy, or his designees, under regulations prescribed by the Secretary of the Army, may accept, hold, administer, invest, and disburse any gift, devise, or bequest of personal property of a value of $20,000 or less, made on the condition that it be used for the benefit of the United States Military Academy, or any department, organization, or activity thereof. The Secretary of the Army may authorize payment of reasonable and necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest made under this section.

SEC. . Section applies prospectively and applies retroactively to acceptance of gifts by the Superintendent, United States Military Academy, for which the Secretary of the Army gives his approval.

EXTENSIONS OF REMARKS

A BILL TO SQUARE BAD DEBTS

HON. RON WYDEN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. WYDEN. Mr. Speaker, I am introducing legislation today, the Maritime Services Financial Responsibility Act, that will enable a group of U.S. small businesses to collect bad debts.

This legislation is needed because increasingly marine service industries are being left holding the bag by foreign-owned steamship lines that do not pay their bills—and are beyond the reach of U.S. law.

Before passage of the Foreign Sovereign Immunities Act in 1976, stevedores and marine terminal operators had recourse when foreign steamship owners failed to pay their bills. they could file suit and U.S. marshals would "plaster" a ship with a notice of arrest and a warning not to leave port until the debt had been cleared up.

But the Foreign Sovereign Immunities Act prohibits such suits against vessels owned or operated by a foreign government, so now these small maritime industries are simply stuck with unpaid bills.

The problem is growing because more and more vessels in international shipping are under foreign government control.

To solve this problem, the Maritime Services Financial Responsibility Act will require owners of vessels engaged in foreign commerce using U.S. ports to establish and maintain financial responsibility for their debts.

At my request, the National Association of Stevedores, which supports this legislation, surveyed its members from throughout the Nation on the average amount of unpaid bills. The national average unpaid debt per stevedoring firm is $370,000. One firm logged a loss exceeding $1 million. These are staggering amounts for any business, but especially for a small business.

A family owned stevedoring company in Portland, Oreg., which I represent, was forced to attach four different vessels owing it a total of $430,000.

Here's what the bill will do:

Owners of vessels must prove financial responsibility through insurance, surety bonds, or some equivalent kind of evidence.

Failure to comply with this provision subjects a shipowner to a fine of not more than $10,000. Enforcement will be through the port clearance administered by the U.S. Customs Service and the power of the U.S. Coast Guard to deny entry.

The legislation is patterned after requirements for passenger ship and antipollution bonds administered by the Federal Maritime Commission. It utilizes existing administrative and enforcement methods.

It is regrettable that legislation such as this is necessary. But the string of unpaid bills from Portland to Galveston, and from New York to Long Beach, says that it is necessary.

A full text of the Maritime Services Financial Responsibility Act follows:

H.R. 6829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Maritime Services Financial Responsibility Act of 1982".

SEC. 2. (a) The owner of a vessel engaging in foreign commerce and using any port or place in the United States, or the navigable waters of the United States, for any purpose shall establish and maintain, under regulations to be prescribed from time to time by the Federal Maritime Commission (hereinafter referred to in this Act as the "Commission") evidence of financial responsibility to meet any and all claims made in connection with the rendering to that vessel, at ports and places in the United States, of services with respect to loading, unloading, berthing, wharfage, pilotage, repairing, cleaning, supplying of stores or launch hire, husbanding and related activities.

(b) The financial responsibility required under subsection (a), which shall be in an amount equal to $100 per gross ton of the vessel concerned, or $1 million, whichever sum is lesser, may be established by any one, or a combination, of—

(1) policies of insurance;

(2) surety bonds;

(3) qualification as a self-insurer; or

(4) other evidence of financial responsibility; acceptable to the Commission.

(c) The Commission may not accept a bond filed for purposes of subsection (b) unless the bond is issued by a bonding company authorized to do business in a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, or any territory or possession of the United States.

SEC. 3. Any claim for marine services described in section 2(a) that were provided to a vessel may be brought directly against the insurer or any other entity or person providing evidence of the financial responsibility required under this Act for the vessel owner. In defending against any such claim, such an insurer, entity, or other person shall be entitled to invoke all rights and defenses which would have been available to the vessel owner if an action had been brought against him by the claimant.

SEC. 4. Any owner of a vessel subject to this Act who fails to comply with the provisions of this Act, or any regulation issued thereunder, shall be subject to a fine of not more than $10,000.

SEC. 5. (a) The Secretary of the Treasury shall refuse the clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. 91) to any vessel subject to this Act which upon request does not have certification furnished by the Commission that the financial responsibility requirements of this Act have been complied with.

(b) The Secretary of the department in which the Coast Guard is operating may—

(1) deny entry to any port or place in the United States to, and

(2) detain at the port or place in the United States from which it is about to depart for any other port or place,

any vessel subject to this Act which upon request does not produce certification furnished by the Commission that the financial responsibility requirements of this Act have been complied with.●

SOLIDARITY WITH IDA NUDEL

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. OBERSTAR. Mr. Speaker, the courage of Ida Nudel has made folly of the policy of the Soviet Union which has prevented her from joining her sister in Israel. In seeking to deprive this remarkable woman of her fundamental right to live with her family in the country of her choice, the Soviet Union has made her throughout the world a symbol of spirited, principled resistance to religious bigotry and official government oppression.

Ida Nudel has no elected representatives to speak on her behalf. The responsibility to speak falls to us and to members of democratically elected Parliaments throughout the world.

The message of this special order and of similar gatherings throughout the world today in solidarity with Ida Nudel is that the Soviet Union must set her free. If an appeal to the Soviet Union that it honor the Helsinki accords which it signed does not move the leaders of that government, an appeal to their own self-interest should. The continued harassment of Ida Nudel serves only to make her more famous and to inspire others in their fight for their human rights in the Soviet Union.

Last week, along with many of our colleagues, I received a letter from the sister of Ida Nudel and a copy of the book, "Our Ida Nudel." It is a wonderful account of personal tributes from people whose lives have been touched by Ida Nudel.

Ida's sister, writing of the official harassment, says in her letter:

During conversations in Moscow, Ida has indicated that what kept her going during

her difficult times were the thousands of letters she received from well-wishers around the world. I believe that continuing the flow of letters now is the most important thing we can do!

Ida's sister, Elena Fridman, asks us to "continue to place pressure on the Soviet authorities so that they might finally relent in this senseless compaign and allow Ida to go."

I hope that the next special order in tribute to Ida Nudel will be in celebration of her arrival in Israel.●

GREENVILLE, S.C., MILLS CENTRE MALL

HON. CARROLL A. CAMPBELL, JR.

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. CAMPBELL. Mr. Speaker, featured in the July issue of the National Association of Home Builders magazine is a story of the kind of innovation and ingenuity that Americans are famous for. Builder cites the development of the Mills Centre Factory Outlet Mall in Greenville as an outstanding example of an adaptive use project by United Development Services, a pioneer of the mall outlet concept. I commend the following article to your attention:

The article follows:

MILLS CENTRE MALL

Factory outlet malls were an unknown commodity when United Development Services (UDS), Greenville, S.C., began planning Mills Centre Factory Outlet Mall three years ago. Only three or four existed in the U.S.

Today the burgeoning number of such developments attests to consumers' enthusiastic acceptance of these malls. There are now several dozen in operation and more than a hundred in the planning stages, according to William Hawley, general partner in UDS.

But Mills Centre is innovative in more than its merchandising approach. It's one of the first adaptive use projects in Greenville. The mall is housed in a 100-year-old textile mill. Hawley and UDS partner F. Towers Rice, both former residential developers, believe that a project such as Mills Centre is within the scope of a home builder. "But you have to be prepared to give 120 percent of your effort to it," Hawley said. "It takes longer than residential development," Rice said, "We have almost three years invested in Mills Centre, and it just opened last August."

When planning began in 1979, the building was filthy, but sound, and well-located in a newly developed part of town. But because so little rehab had been done in Greenville, local banks couldn't see beyond the dirt and shied away from financing the mixed-use scheme UDS originally planned.

Then Hawley, who had been looking for a good location to develop a factory outlet mall, approached UDS with the idea of turning the mill into such a facility.

His plan had two advantages: The project could be completed in phases requiring less immediate financing than renovating the building all at once. And the shops could be pre-leased, demonstrating viability to the lender.

Phase one, the first floor of the four-story structure, opened in August 1981 with 17 shops. Its immediate success prompted the lender to finance phase two. Floors two and three are now under construction and both are completely pre-leased. Floor four, the last phase, will begin when phase three is completed.

Hawley handles leasing for Mills Centre. He compiled tenant lists from the outlet malls he'd seen in the Northeast and contacted these businesses. He chose shops that would meet the needs of employed women between the ages of 24 and 54, the targeted consumers.

About 70 percent of the tenants are manufacturer's outlets and 30 percent are merchants who buy and then sell manufacturer's overstock.

Leases include insurance, taxes and maintenance of the structure. The tenants association pays for upkeep of common areas, utilities and promotion.

The biggest problem in rehabilitating the building, according to Rice, was bringing it up to code. The developer added fire stairs and an elevator for the handicapped. In addition, the entire structure had to be sprinklered.

Interior partitions are wallboard sided on the mall side to blend with the original maple floors, pine beams and posts.

Despite difficulties in converting the mill, Louden G. Hoffman, planning coordinator for the project, believes it would have cost far more to provide the atmosphere of the old building in a new one. And, UDS can take the investment tax credit allowed under the Economic Recovery Tax Act of 1981.●

SEVEN YEARS AN AMERICAN HOSTAGE IN MOSCOW

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mrs. SCHROEDER. Mr. Speaker, I would like to share with my colleagues the following letter I received from Abe Stolar:

DEAR MRS. SCHROEDER: June 1982 marks seven years of my family's captivity as hostages in Moscow. No one in my family is a Soviet citizen. We were Soviet citizens till May 1975, when our citizenship was taken away so that we could emigrate.

I was born in Chicago, U.S.A., in 1911, came to Russia in 1931 at the age of 19, and was immediately made a Soviet citizen without my knowledge or consent. I was [conscripted by] the Soviet army in World War II [and] worked as a translator. My Russian-born wife, Gita Rozovsky, now a citizen of Israel, was an analytical chemist [and] retired in 1973. Our son, 23, holds derivative U.S. citizenship, never having had any Soviet papers whatsoever. In captivity he can neither legally study nor work.

Upon receiving exit visas to Israel in May 1975, we shipped off all the belongings allowed us. We had to spend all our money and forfeit Soviet citizenship, since emigrants from Russia to Israel must go penniless and stateless.

About to board our plane on our way out in June 1975, we were turned back on the pretext that my wife had allegedly been doing secret work. The place where she worked had confirmed in writing that she had not been doing secret work. Without security screening we could not possibly have received exit visas.

The Visa Office rescinded our visas on false pretenses, announcing that we were not being allowed out of the USSR till June 1977. Since then, no reason at all [has been] given for holding us.

Without the right to work or study, we have been living on charity for seven years. We complained endlessly to every conceivable office and official concerned. There has not been a single reply, except for the formal rubber-stamp refusal. Every single office and official is deaf to our problems. In all these seven years, no one has shown the least interest in our moral and material distress.

All our earthly belongings have been waiting for us in Israel for seven years. We complain regularly that we were stranded without clothing or any other belongings; we had no beds or bedding, no money, no documents essential for merely being in the USSR, let alone earning a living or studying. My rights as a disabled war veteran are denied. The Soviets refuse to register us under their laws as aliens, with the right to live, work, and study. We were placed in a bare flat that belongs to someone else, who would like to evict us. My son's life has been abnormal since the age of 16.

The Soviets refuse to say . . . why they are violating our human rights and their own Constitution and laws. Why are they holding us captive a full nine years after my wife stopped working altogether? Why are they holding us five years after the official term they themselves set for letting us free—June 1977.

My family demands to be released immediately from this heartless, unnatural detention in unfriendly circumstances. We demand that the authorities comply with our exit visas of May 1975 and their official decison of June 30, 1975, to set us free in June 1977.

ABE STOLAR.●

FLOOD PREVENTION SYSTEM WORKS WELL

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, the grand scheme of the 1944 Flood Control Act envisioned cooperative and complementing benefits for a balanced use of the resources of the Missouri River. According to the recently released status report by the U.S. Army Corps of Engineers, a portion of that plan is working well.

The Missouri River was near or above flood stage from Rulo, Nebr., to St. Louis, Mo., during the month of June. Severe flooding in the State of Missouri resulted from extreme rainfall and streamflow in the lower Missouri River basin.

During that period of heavy runoff, flows from the Gavins Point Dam, near Yankton, S. Dak., were reduced to help lower river stages downstream. The high inflows above the mainstem dams were held back, preventing

severe flood damage along the lower Missouri River.

At the same time, power production for the month of June was below average. Only 776 million kilowatt hours were generated. This was because of cool weather, low electrical demand, low system release for flood control, and good availability of other generating facilities in the area. Now with the hot spell, the reservoirs have the capacity to provide needed power at this time.

The 1944 act envisioned just such a tradeoff and balance of benefits. Also included in the plan was irrigation development to replace sacrificed land. When the promised irrigation development becomes a reality, it will also complement the other provisions of the 1944 act—hydropower, navigation, and flood control.

It is clear that the South Dakota dams work well to prevent flooding in downstream States, and I hope that my colleagues will support our efforts to develop irrigation in the upstream States to fulfill the envisioned plan of the Flood Control Act of 1944.●

ISRAEL'S WITHDRAWAL FROM SINAI A PAINFUL COMMITMENT TO PEACE

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. PORTER. Mr. Speaker, on April 25 an event unprecedented in Middle Eastern relations occurred. We should pause not only to note its significance but also to understand what it can mean to achieving lasting peace in that troubled part of the world.

April 25, 1982, was the day Israel finalized its withdrawal from the Sinai as required by the Camp David Peace Treaty. It marked the culmination of a 5-year effort for peace that began when Anwar Sadat visited Jerusalem in November 1977.

Importantly, Israel has recognized that peace will not come without costs and sacrifices and has shown she is willing to bear them. Withdrawal from the Sinai will cost Israel strategically, militarily, economically and psychologically.

The geographic position and strategic character of the Sinai make it vitally important to Israel's security. The 23,000 square-mile area of the Sinai has provided Israel with strategic depth, vital military training space and natural defense positions.

Electronic early warning stations situated in the Sinai have supplied Israel with accurate data on military activities on the western side of the Suez Canal and the east coast of the Red Sea and Gulf of Aqaba. Israel also has dismantled two of the world's most sophisticated air bases as well as six other airfields—facilities that played an important part in protecting Israel from attacks from the east. Israel also relinquished a naval base at Sharm-el Sheikh that permitted the Israel Navy to protect its merchant shipping through the Red Sea to and from the port of Eilat. Mobilization centers for reserves, logistical centers and ammunition dumps will be more vulnerable because of the withdrawal from the Sinai.

The Sinai's natural resources—coal, magnesium and oil were developed by Israel. Since 1967, Israel has invested approximately $17 billion in the construction of military and civilian facilities and infrastructure and in oil exploration and development. The Alma oil field alone was producing 40,000 barrels of oil per day when it was turned over to Egypt in November 1979. The return of the oilfields has cost Israel its oil self-sufficiency and any possible revenue from the export of oil. It now must buy oil from non-OPEC sources or on the spot markets, thus paying higher prices.

Return of the Sinai has exacted a price in terms of personal and emotional sacrifices by individuals as well. Settlement and use of land have been important elements of Jewish life. Seven thousand people have been forced to abandon the homes, farms and businesses that they have spent years building in the desert. Never before have communities been dismantled. There is no way to measure the individual trauma and national impact on Israeli society resulting from the forcible removal of people from their homes and communities.

Israel's withdrawal from the Sinai has been marked by violence, anguish, hope and prayer. The price that Israel is paying for peace with Egypt is varied and expensive, tangible and intangible. Some costs can be measured in dollars and cents—others can never be determined. It is a cost justified for Israel only by the hope of permanent peace with Egypt.

Israel's withdrawal from the Sinai begins a new chapter in the history of Arab-Israeli relations—a chapter that must now deal with some of its most difficult problems: The West Bank, Palestinian autonomy and Jerusalem. As the Sinai issue was resolved through negotiations, I believe these problems also can be resolved.

Egypt and Israel have provided a dramatic example for Jordan as well as for Syria. Peace can be achieved through honest negotiations, but only in this way. To begin these negotiations only requires Jordan and Syria to do as Egypt did—accept Israel's right to exist.●

SPEECH BY JAN MARIE NELSON

HON. ARLAN STANGELAND

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. STANGELAND. Mr. Speaker, I have the privilege today of inserting into the CONGRESSIONAL RECORD a copy of the winning speech in the 1981-82 "Voice of Freedom" contest sponsored by the Minnesota Veterans of Foreign Wars.

This year's winner, Jan Marie Nelson, has a clear vision of the problems we face in the House of Representatives and in the country.

Miss Nelson attacks the pessimism and divisive bickering which has dominated most of the debate in the House for the past year.

She calls for a new and united approach toward solving the urgent problems facing America today. Many Americans agree with these feelings. But it took Jan Marie Nelson to articulate these feelings so clearly.

I have represented the Seventh District of Minnesota for 5½ years. My neighbors are thoughtful and hard-working people, committed to the cooperative nature of our representative democracy.

Their feelings have been well-expressed by a young sophomore from Fergus Falls Senior High School. I am proud to have Jan Marie Nelson as a constituent. And all of us from that tiny corner of America are proud to have Jan Marie as a neighbor.

At this time, I would like to insert Miss Nelson's award-winning speech into the CONGRESSIONAL RECORD. I hope all of you will take the time to read and heed her call for a new and bipartisan effort to solve our problems and to add new building stones to the foundation of our Republic.

1981-82 VFW VOICE OF DEMOCRACY SCHOLARSHIP PROGRAM MINNESOTA WINNER, JAN M. NELSON

Date: 1776.

Place: Philadelphia, Pennsylvania, United States of America.

Purpose: Building America . . . Together and You are There.

"Ben, will you get in here? . . . that kite can wait . . . but we need some help with the foundation."

"John Hancock, you're the guy with the big ideas . . . how many rights do you think are needed?"

"Tom Jefferson, are you taking all this down?"

Sound funny? Well, we shouldn't laugh. Ben Franklin, Thomas Jefferson and John Hancock were this nation's first architects. They set down and designed the blueprints for this country's democracy. The design was unique. Democracy was unique. There were those critics who laughed but were eventually won over to the concept of democracy.

Since then, there have been other notable 'carpenters.' The names, Abraham Lincoln, Franklin Delano Roosevelt, John F. Kenne-

dy, Martin Luther King. Each, in his own special way, contributed to the strong foundation provided by the early founders.

But, who are today's carpenters? . . . Do they need a title or to be housed in offices in Washington, D.C.? Or . . . can they be found in the small towns and villages across this country?

Have we, as Americans, shifted the responsibility of maintaining and adding to our democratic house by having the excuse heard so often? . . . "I can't make any difference." Are we all too willing to sit back and let others do the work? . . . and then, too frequently, complain and criticize when our nation's elected leaders do attempt a change?

It seems so easy and right to tear apart and criticize the actions of national leaders. It seem ironic to me that we . . . as a democracy . . . elect a president . . . welcome him to office and then, for the remaining four years of his term do nothing but criticize and object to the policies his party tries to implement. This destructive criticism gives a poor example to the rest of the world of what democracy is all about. Instead of uniting together and working on making a better country, we become consumed with negativism. "This isn't going to work" . . . "That's a poor program" and on and on and on. The energies of this nation's people are wasted on bickering and in-house fighting instead of directing them to the constructive work on our problems. The same time and energy used for criticism could be so much better spent if each of us would find our own special talent as a national carpenter and go to work on his country's home.

Building together as a team will accomplish what dividing with criticism can never accomplish . . . a strong and respected United States that will be an example for the rest of the world to follow.

Criticism like dreaded termites will eat away at the very foundation of this country . . . apathy will wash away the cornerstones of our democracy . . . pessimism will rip the shingles of our nation's roof and leave it bare for enemies to attack.

An optimist and architect of democracy, Robert Kennedy, stated, "Some men see things as they are and say . . . why? . . . I dream things that never were and say . . . why not?" That attitude of optimism and hope will renew and strengthen our nation's fabric, providing us with the determination and energy needed to meet the challenges of the coming decades. When we have met and conquered these challenges, we can look upon this country with pride and know that we did not destroy its foundation but added new blocks strong with love, patriotism and hope for the future tenants of our nation's home.

One of the old, wise architects of our country made the observation that, "United we stand . . . divided we fall." Just as a well-built house needs nails and rafters to hold it together, so we, the young carpenters who love our country, can unite our people with our leaders and make our democracy a working blueprint for the entire world.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. FIELDS. Mr. Speaker, Smith Hempstone, executive editor of the Washington Times, recently penned an op ed piece on the Law of the Sea Treaty. I include it in the RECORD for the benefit of our colleagues in the House and Senate.

One of the points touched upon by Mr. Hempstone was the remorse of the Washington Post's Don Oberdorfer that by rejecting the Law of the Sea Treaty the United States may be isolating itself from a new global system. We cannot make too much of Mr. Oberdorfer's concerns—they vary only slightly from those of many noted internationalists.

What system will Americans be missing out on? To find out quickly, one has only to read any current criticism on national or international socialism. Read, for example, "China: Alive in the Bitter Sea" by Mr. Fox Butterfield, formerly the New York Times bureau chief in Peking. Take a look at the fanaticism that has been inflicted upon a quarter of the world's people. It is roughly the same fanaticism being proposed for two-thirds of the Earth's resources.

It was Andrew Lytle who observed that:

It takes but one bad idea to ruin a man or a state.

The bad idea of collectivism has been the ruin of millions of men and women, and dozens of states. The handmaiden of collectivism is internationalism, which preaches subordination of one's region and nation to those whose values are spelled out in human suffering and mass executions.

In place of the Law of the Sea Treaty, we need a seabed mining regime that is born from an intellegent provincialism: An understanding of and deference toward one's own community, state, region, and citizens. We need to press for—insist upon—a seabed mining regime that is unabashedly structured to protect and preserve the economic, political, and security interests of Americans. Such considerations would, and do, necessarily lead to rejection by Americans of the system adopted in New York last April. Being isolated from that is being isolated from an illness. As Mr. Hempstone put it, "That's just dandy."

Mr. Speaker, the op ed piece follows:

[From the Washington Times, July 14, 1982]

LAW OF THE SEA: BETTER NO TREATY THAN A BAD ONE

(By Smith Hempstone)

The Reagan administration's decision not to sign the Law of the Sea Treaty, says the Washington Post's Don Oberdorfer, "risks eventual U.S. isolation from a new global system accepted by the rest of the world."

That's just dandy.

It's dandy because, in this instance, the United States for once is acting in the national interest of America. Nor is the isolation of the United States as complete as is frequently suggested.

While it is true that only three other nations—Israel, Turkey and Venezuela—joined the United States in opposing the treaty approved by 130 members of the United Nations last April, the 17 others that abstained—the Soviet Union, Britain, West Germany, Italy, Holland, Belgium and Spain among them—include most of the nations that count for much of the world.

The fatal flaw of the treaty is that the seabed mining provisions of its 320 clauses represent a bold-faced attempt to establish the so-called New World Economic Order that would force resource transfers from the have nations to the have-nots, through institutions and procedures beyond the control of the haves. The treaty is, to put it politely, a rip-off that provides for the supranational taxation of private (Western) licenses and the mandatory transfer of their technology to the Third World.

Amongst the beneficiaries of this international handout would have been "national liberation movements" such as the Palestine Liberation Organization (hence Israel's negative vote).

At stake are some 1.5 trillion tons of fist-sized nodules of nickel, cobalt, manganese and copper. The United States, which has the technology to mine the seabed, is deficient in all these metals except copper.

The treaty, while milking the mining companies of annual operating fees of $1 million plus taxes that could absorb as much as 70 percent of net proceeds, would create an International Seabed Authority complete with its own assembly, council and secretariat.

Each signatory would be entitled to one vote in the assembly, but costs would be allocated "upon the scale used for the regular budget of the United Nations." In other words, good old Uncle Sugar would foot the largest part of the bill and, in return, have the same vote as Nauru.

In return for this international transfer of wealth, the proponents of the treaty were willing to codify something the maritime nations, through custom and usage, already enjoy: Free passage through straits connecting oceans and seas.

This issue came to a head in recent years when many nations unilaterally enlarged their territorial waters from the old limit of 3-to-12 miles to 200 miles. This not only created friction where claimed jurisdictions overlapped but raised questions as to the right to free passage through some 116 vital bodies of water less than 24 miles wide, including the Dover, Gibraltar, Hormuz, and Malacca straits.

As in the case with the moribund SALT treaty (now under renegotiation as START), the United States and the world do need *a treaty* regulating what takes place on and under the sea. But *this* treaty would not have adequately served that purpose, and for a very simple reason: It is based on principles inimical to American interests and founded on an ideology that contravenes Western values.

It would have been preferable had the Third World nations been willing to renegotiate the treaty to correct its more obnoxious clauses. But this they refused to do.

Under the circumstances, the United States has no alternative other than to enforce its interest in free passage on straits connecting the high seas and to protect its nationals when and if they seek to mine the riches of the deep. The risks in so doing are likely to prove minimal: The only nation with the capability of contesting America's

efforts to protect its rights in this area is the Soviet Union.

And Moscow has different and larger fish to fry.●

IDA NUDEL

HON. CHARLES F. DOUGHERTY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. DOUGHERTY. Mr. Speaker, it has been 11 years since Ida Nudel first applied for her exit visa from the Soviet Union. We in Congress have been trying for quite some time to bring her to freedom. I was encouraged to learn several months ago that Ida was permitted to return to her apartment in Moscow after spending 4 years in Siberian exile. It appeared Ida would soon have the freedom she has fought for, and deserves, to live in Israel with her sister.

My hope was shattered when I recently learned that Ida would no longer be permitted to live in Moscow. Even more recently I learned through the Jewish Community Relations Council of Greater Philadelphia that Ida has not been permitted to live in Riga either. Although neither city feels much like home to Ida, having one place to live would make contact with friends and others much easier. More importantly, it would facilitate her obtaining an exit visa. Mr. Speaker, now that Ida can no longer live in Moscow, I believe the Soviet authorities are once again preparing to create a maze of bureaucracy from which there is no escape.

I have received several letters from Elena Fridman, Ida's sister in Israel. The most recent letter expresses Elena's concern for Ida's health. Ida evidently has a heart condition which needs close attention. Because she is not a resident of Moscow, however, she cannot use the superior facilities there. Now that she cannot live in Riga either, receiving any medical care at all is unlikely. Our only real hope is to help bring Ida to Israel where her sister Elena can take care of her. The recent developments concerning Ida's fate, however, make that prospect dimmer than ever.

This treatment of Ida by the Soviet Government frankly has been typical of action which makes myself and so many of my colleagues distrustful of the Soviets. As strategic arms talks develop over the coming months, I hope the Soviets are made to understand the implications of these blatant attacks on individual human rights. Any successes to come from the upcoming START talks depend heavily on a mutual trust that agreements will be kept. I know many of my colleagues share my sentiments and I hope they do not hesitate to convey that message to the White House as well as to the Kremlin.●

SOVIET JEWISH EMIGRATION

HON. LYNN MARTIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mrs. MARTIN of Illinois. Mr. Speaker, 6 months ago the New York Times expressed concern with the level to which Soviet Jewish emigration had fallen. Citing statistics which projected 1982 emigration at a 93 percent reduction from the 1979 level, the New York Times called attention to a problem it felt merited the concern and action of the present administration and individual Americans. Only 300 Jews were allowed to leave the Soviet Union this year. Contrasted with levels that were much higher in previous years, this caused special alarm among those monitoring Soviet emigration trends.

Mr. Speaker, 182 Jews left the Soviet Union in June of this year. By comparison, the January level looks generous. In light of this decline, I urge all American citizens, Representatives of Congress, and members of the administration to protest to Soviet officials about such an emigration policy. Particularly I would hope that the latter group, with access to the diplomatic forum, will emphasize official U.S. concern with the flagrant human rights violations embodied in Soviet emigration policy. It is incumbent on all of us to use every opportunity to press upon Soviet officials our alarm over their emigration policy and our distaste for it.

American policy toward the Soviet Union cannot hinge solely on the emigration concern. Obviously, the issue must be addressed in the context of overall United States-Soviet policy and with ample consideration of the strategic, economic, and political questions comprehensive policy incorporates. Neither, however, can we deny the relation between United States-Soviet relations in general and the emigration issue in specific. There can be no doubt that the importance Americans have attached to freer Soviet emigration was instrumental in prompting the high levels that developed in the late 1970's. A chill in the East-West dialog has ebbed the tide of emigration; now more than ever, renewed dedication to pursuing the emigration issue with Soviet officials is in order.●

IDA NUDEL

HON. MILLICENT FENWICK

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mrs. FENWICK. Mr. Speaker, first I must commend my colleagues from Massachusetts and Connecticut, Representatives HECKLER and KENNELLY for their admirable work in putting together this special order for this courageous woman, Ida Nudel.

Ida Nudel has been trying for 11 years to emigrate from the Soviet Union. In 1971 she applied for a visa to emigrate and, like so many who wish to emigrate, she was immediately ostracized. She lost her job and lost her friends. She was forced to remain in a country that had clearly shown by its actions that it did not want her.

In 1978, Ida Nudel hung a banner out her window which said "KGB give me my visa!" For this she was sentenced to 4 years in a Siberian labor camp and only recently was she released. After her release, Ms. Nudel went to live in Moscow, but was denied a permit to live there. She then went to Riga, where she was also denied the necessary permission to live there. When it came time for her to leave Riga, at the end of her rope, she was forced to sleep in the train station.

Why does the Soviet Union insist on harassing this woman? What does the Government hope to achieve? First, the Soviets made it clear, once she applied for a visa to leave the country, that she was not welcome in Soviet society. Then, however, they would not permit her to leave. What possible motive can be behind actions like this by a government in the modern, supposedly civilized world?

I join my colleagues in deploring the Orwellian tactics of the Soviet Government as it harasses those who wish to leave their country for family reasons. Ida Nudel poses no threat to the Soviet Union; she simply wants to join her sister in Israel. Since the Soviets have made it so clear that they do not want her, why can they not let her leave?

I take this opportunity once again to request that the Soviet authorities live up to their commitment under the Helsinki accords and allow Ida Nudel to live in basic human dignity, to be free from harassment for exercising a basic human right, and finally, that they allow her to emigrate.

TROOPS TO LEBANON: AN EDITORIAL VIEW

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday July 21, 1982

● Mr. BEREUTER. Mr. Speaker, I would like to share with my colleagues an editorial from the Lincoln Star newspaper which discusses the very serious issue of whether to send U.S. troops to Lebanon.

I do not believe the United States should send troops to this troubled land, and I have so notified the President of my view. The thoughts contained in this editorial are worthy of consideration by each of us.

[From the Lincoln Star, July 8, 1982]

TO SHOW THE FLAG OR WAIT OFF SHORE?

As debate heats up over President Reagan's conditional offer of U.S. marines to help Palestine Liberation Organization militia leave West Beirut, we join others in asking a short and simple question: Why?

Why should the U.S. commit troops to what must be a complicated and potentially explosive operation when the job can be done without them?

* * * * *

The best reason for the president to keep the marines on board ship and not picking through the litter of Beirut is that there is no compelling reason to show the flag on Lebanon's ground. There is, instead, great potiential for getting lost in a nasty maze of political calculations that might require a greater, longer, costlier presence in Lebanon than the nation needs or wants to bear.

Israel would love to have U.S. troops committed to Lebanon over the long term and the Begin government really is not above trapping us into such a commitment. The PLO, having gone to Moscow because no one in the west would give it the kind of aid it needs to sustain a perpetual resistance, can't be trusted to make things easy and safe for a token U.S. marine presence in Beirut. Besides, even if Yasser Arafat were to take Reagan and the others up on the deal, he doesn't control everyone underneath the PLO tent. There are any number of Palestinians belonging to extremist factions who would think Arafat a fink for leaving Beirut under American protection. They might gladly fire away at anybody walking toward the beach.

There is reason to fear the consequences of a small force of American marines entering a besieged city in which a large number of conflicting forces are at work. If the president truly thinks it is in the best interests of the nation for our armed forces to take part in disarming and removing the Palestinian resistance from Beirut, he ought to do like Ike did and send in two or three divisions. Otherwise, he ought to be decisive, for once, and use U.S. political and economic influence on those in the Middle East who will listen to him and who can solve the problem: among them, Saudi Arabia, Egypt and Israel. Other powers might also wish to join in the effort. In doing so, they would not assume the same risks the U.S. would.

Still, in itself, removing the PLO from Beirut will not lead to an enduring Middle East peace. Resolving the statehood aspirations of the Palestinian people would be a giant step in the direction of peace and that is what should be occupying the minds of all those now pondering the presence of 1,000 U.S. marines on Lebanon's soil.●

A NEW CRIME FIGHTING INITIATIVE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 21, 1982, into the CONGRESSIONAL RECORD:

A NEW CRIME-FIGHTING INITIATIVE

The unexpected acquittal of John Hinckley, the young man who pleaded not guilty by reason of insanity to charges of attempting to assassinate the President of the United States, has once again raised questions which always seem to be in the back of people's minds. Do our laws do much to help criminals and little to protect law-abiding persons? Is our elaborate system of police, prosecutors, courts, and prisons really effective in deterring crime and punishing criminals? The public outcry at the Hinckley verdict and the predictable results of recent polls suggest that the issue of crime ranks as high as ever on the national agenda. My contact with the people of southern Indiana only confirms the results of the polls. Because crime touches our lives so personally and in so many ways, it is a source of constant concern.

Congress has not been very successful in its effort to get crime under control. When the rhetoric dies down and the hard choices must be made, Congress has simply been unable to reduce crime. Part of the problem is jurisdictional: the violent crimes which disturb us the most are generally matters for the states, not for the Federal Government. Part of the problem is constitutional: modification of the insanity defense, reform of sentencing and bail procedures, and changes in rules of evidence challenge traditional ways of understanding the scope of the state's power and the rights of the accused. And part of the problem is financial: strengthening police agencies, hiring additional prosecutors, creating more courts, and expanding the prisons at the federal level mean added costs at a time when the country wants to reduce federal expenditures. It is hardly surprising that Congress has overpromised and underdelivered on the issue of crime.

Since the problem before Congress has three main aspects—jurisdictional, constitutional, and financial—Congress' response should be flexible and wide-ranging. A new crime-fighting initiative might involve the following measures:

FEDERAL ACTION AGAINST VIOLENT CRIME

Since an enormous amount of violent crime is drug-related, the federal government has some latitude to act against it. A crackdown on the drug trade would entail both stepped-up diplomatic efforts to eradicate foreign drug crops and more technical assistance to foreign authorities in their operations against drug manufacturers. At home, we should start more programs to educate school children in the dangers of drugs, use more federal agents to work with state and local police, and employ more federal agents and the military to detect and stop drug cargoes.

The federal government should also move against violent crime with technical assistance to local police forces. We may not be able to afford reviving the old Law Enforcement Assistance Administration, but we can use federal funds in highly selective ways to help with the purchase of much-needed equipment, to help set up proven programs to deal with career crimials, and to train law enforcement officers.

FEDERAL RIGHTS AND LEGAL REFORMS

The Hinckley case shows that the insanity defense in federal court must be changed. We might change the plea from innocent because insane to guilty but insane, shift the burden of proof from the prosecution to the defense, limit the psychiatric testimony which may be offered, or redefine what insanity is in a legal context. All these options should be considered carefully as we balance the right of the accused to a fair trial against society's need to protect itself.

In addition, I believe we should give serious consideration both to the limitation of federal parole and to a requirement that a federal felon who uses a firearm to commit his crime be held for a mandatory term of years behind bars. In the matter of bail, prevention detention must be stressed. Bail allows the accused to exercise his right to a presumption of innocence, but society has a right to hold a criminal who may commit crimes or jump bail if he is released.

The rules of evidence, too, must be reformed. For example, the exclusionary rule (which bars the use of illegally obtained evidence at trial) is so complex that it is nearly unintelligible. What is worse, it permits major evidence (and, with it, an important case) to be lost because of a minor slip-up by police. The exclusionary rule protects the accused from unreasonable search and also from self-incrimination, but there are other ways to safeguard such rights. One alternative is to use all evidence while disciplining the police when they act illegally. Another is to use all evidence which the police obtain in good faith.

IMPROVING THE FEDERAL SYSTEM

Efficiencies of management of the federal criminal justice system should be encouraged, but the kind of dramatic improvement we would like to see in the system will require more money. If we take the advice of the President and spend less for the Federal Bureau of Investigation, less for the Drug Enforcement Administration, less for the Coast Guard, and less for the Bureau of Prisons, we will witness a marked deterioration of our crime-fighting ability.

During the past few years we have cut back the ranks of agents, patrolmen, investigators, and marshals who do the basic work of law enforcement for the federal government. We have more federal judges, but we do not have enough prosecutors to put the cases before them. Federal prisons are 10 percent over capacity.

Making the system work better will not be possible if we continue to patch things here and make repairs there. We must strengthen each link in the criminal justice chain. To allow weakness at any point is to waste scarce resources. A vigorous federal program would help strengthen state and local law enforcement efforts. Most important of all, it would help relieve us of some of the burden crime places on our lives.●

A HEROIC DEED

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. LAGOMARSINO. Mr. Speaker, It is my honor and pleasure to call the attention of the Members to the recent heroic lifesaving action of a California resident, Mr. Marty Grande, of Oxnard, Calif.

On August 26, 1981, Mr. Grande, a driver for Grande Trucking of Oxnard, was hauling a load of granite when a young boy flagged him down as he was crossing a bridge over the Santa Clara River. A 10-year-old girl had been caught by the current in a culvert and was pulled underwater. When his attempts to pull her free failed, he rushed to the other side of the bridge, where he spotted her floating face down in 15 feet of water.

Despite the fact that he is unable to swim himself, Mr. Grande dove in, pulled the girl to shore, and revived her using CPR (cardio-pulmonary resuscitation) techniques.

His quick and selfless action, in disregard for his own safey, saved the girl's life. Mr. Grande was recently honored by Heavy Duty Trucking magazine as the recipient of its 1981 Highway Hero Award, and I would like to add my own commendation and that of this House for Mr. Grande's heroic action, which provides an inspiration for us all.●

WALL STREET JOURNAL ON REAGAN'S NUCLEAR ENERGY POLICIES

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. OTTINGER. Mr. Speaker, the Reagan administration is reversing the antiproliferation efforts pursued by every U.S. President since the beginning of the nuclear age.

Fortunately, there are people in the press who take a more responsible approach to this most serious issue. As a result of their deep concerns, more and more knowledgeable Americans are speaking out against the risks which the President's flawed nuclear proliferation policies entail.

On July 8, 1982, the Wall Street Journal printed an editorial containing a no-nonsense assessment of the safeguard inadequacies of the International Atomic Energy Agency, pointed once again to wasted taxpayer subsidies for the Clinch River breeder reactor, and revived the level-headed idea that the United States should try to avoid the spread of nuclear weapons capability—an idea that seems to have been all but forgotten by the Reagan administration.

This editorial on Mr. Reagan's proposed plutonium policy provides considerable insight into the problems and risks which the Reagan policy entails. I commend the Journal to my colleagues in the House of Representatives.

[From the Wall Street Journal, July 6, 1982]

NUCLEAR ASPIRATIONS

Administration officials announced recently that they will try to contain the spread of nuclear weapons by imposing tighter controls (as yet undefined) on U.S. exports of nuclear technology and materiels. We welcome this renewed effort to slow nuclear proliferation but even stronger measures are to be desired.

The how-to knowledge of bomb manufacture is an open secret in international scientific circles. The costs are affordable even for impoverished nations, as Indian proved in 1974. The only tenable limitations left are the availability of enriched uranium and some of the more sophisticated technology needed to turn it into a bomb. But even in these latter areas, international safeguards are showing signs of collapse.

The International Atomic Energy Agency, which is supposed to be the world's watchdog on proliferation, admitted recently in its annual report that its inspection procedures are inadequate. In typical cautious style, it suggested at least two countries may have clandestine bomb projects. Since one of those two is presumably India, which set off a "peaceful" nuclear explosion eight years ago, it's easy to believe the IAEA lacks teeth.

The other is most likely Pakistan but there are reasons to believe these are not the only two nations flouting IAEA strictures. An Argentine official threatened at an IAEA meeting June 11 to divert peaceful technology to build a nuclear-powered submarine. Despite the threat (which Argentina may or may not be able to carry out) the IAEA board of governors that same day approved a "safeguards" agreement with Argentina covering supplies of enriched uranium from the Soviet Union.

Part of IAEA's problems stem from the rather lax bilateral controls imposed by some exporters of nuclear technology. A dramatic example was exposed by last year's Israeli bombing of an Iraqi reactor being built by the French; the Israelis said the facility was going to be used to produce bomb-grade material under the very noses of the French. America's nonproliferation reputation also was tarnished, by President Carter's decision to continue to supply India with nuclear fuel even though Prime Minister Gandhi flatly refused to halt India's weapons program.

The U.S. is in a pivotal position to get other exporting nations to improve their bilateral safeguards. Members of the Euratom program and Japan have asked for blanket, long-term approval to reprocess U.S.-supplied fuel and to reuse the resulting weapons-grade plutonium for power generation. President Reagan has already approved the requests in principle and negotiators are working out the detailed contracts, which will require congressional review. The administration could use its leverage in these talks to help reduce the proliferation risk by demanding as a quid pro quo that the Europeans and Japanese tighten their export controls and refrain from exporting any advanced reprocessing technology which could easily be used to construct bombs.

The allure of advanced reprocessing and plutonium technology, even for energy-deficient places like Europe and Japan, is not easy to understand. Brian Chow, senior research specialist at Pan Heuristics, a California-based research organization, says that inexpensive uranium ore will remain plentiful for many years to come. Reprocessing and plutonium technology won't become economically attractive before the year 2020 and possibly later.

But despite such assurances, the Reagan administration has revived the Clinch River breeder reactor President Carter had sidelined. Breeders do represent advanced technology and they reduce disposal problems. This particular one also pleases the Senate majority leader, Tennessee's Howard Baker. But it is hard to see why taxpayers should subsidize them.

Other nations probably want a freer hand with this technology to give themselves greater independence from the U.S. But if so they should be asked to take on greater anti-proliferation responsibilities in return. Over the long term it may be inevitable that more nations will join the nuclear club, but even though the nuclear freeze movement seems strangely unconcerned about this prospect, the U.S. is justified in trying to delay that process as much as possible.●

NUCLEAR NONPROLIFERATION ACT

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

Mr. FOGLIETTA. Mr. Speaker, everyone recognizes nuclear arms as the greatest danger to mankind in our history. Every nation that develops the capacity to produce nuclear weapons increases that danger. Today America, the Soviet Union, England, France, China, and India are proven possessors of nuclear arms. Israel and South Africa are suspected to have or be on the verge of having nuclear arms. It must be one of our foremost priorities to prevent the growth of the so-called nuclear club. On Monday, this administration took a giant step in the other direction.

Over the past 37 years, every administration has worked toward the goal of nonproliferation. The International Atomic Energy Agency was created to form and standardize atomic energy safeguards. The Congress passed the Atomic Energy Act in 1954, and amended it to prohibit U.S. cooperation with any nation that has not agreed to IAEA safeguards. Very few nations have refused to submit to those safeguards. Argentina is one of those few.

In 1978 Congress enacted the Nuclear Nonproliferation Act. That act is specifically designed to prevent the sale of sensitive technology that could lead to the production of nuclear weapons to any nation not under

IAEA safeguards. Again, Argentina is such a nation.

Argentina has specifically refused to allow impartial inspection of certain of its nuclear facilities. She has refused to disavow any intention to produce nuclear weapons. It should be clear to anyone not locked in a closet for the last 5 months that Argentina is neither stable nor unambitious. The strained nature of her relations with her Latin American neighbors, particularly Chile, cannot help but worsen as Argentina moves closer to nuclear capability. This, in turn, will only heighten South America's own version of the arms race, something that is on no one's best interest. The historic precedent is clear: Tension begets tension, and an arms buildup by one potential antagonist leads to an equal, if not greater buildup by the other. We cannot be in the business of participating in this spiral.

Mr. Reagan, through his approval of the sale of a computerized process control system for end-use in a heavy water production facility in Argentina, is initiating such participation. In doing so he reverses a policy as old as the nuclear age itself. In doing so he violates the spirit and the intention of the laws passed by Congress. In doing so he sends an ill-timed message to the rest of Latin America.

The loophole in the law that allows this sale must be closed. I support and commend Congressman BINGHAM's bill to close this loophole. But that bill is not enough right now. I have introduced this concurrent resolution with my friend and colleague Mr. MARKEY to express the deep concern of the Congress that this sale is a mistake, and should be immediately reversed. I urge your support of this resolution.

Thank you.

PUERTO RICAN DAY PARADE

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. RODINO. Mr. Speaker, Sunday, July 25 will make the 20th year of an event which has become a tradition in my home State—the New Jersey Statewide Puerto Rican Day Parade. Taking place in Newark, home of the largest Puerto Rican population in the State, it will celebrate the rich culture and contributions of Puerto Rican Americans to our society.

This year's honorary parade committee includes the Honorable Carlos Romero Barcelo, Governor of Puerto Rico, who will be traveling north for the event; Senator BILL BRADLEY; Gov. Thomas Kean of New Jersey; and Mayor Kenneth Gibson of Newark. I am honored, once again, to be a member of this committee, and I look forward to participating in the parade.

The parade will start at 1 p.m. at Lincoln Park in Newark, with Cherry Hill attorney Joseph Rodriguez serving as grand marshal. He will be joined by Maria T. Zanbria, a student at Seton Hall University, who was selected from among many lovely women as Miss Puerto Rico of the State of New Jersey.

Many people have worked hard to assure that the parade will be both a success and a fitting tribute to the ambition and creativity of the Puerto Rican people. Michael Rodriguez of Newark has worked as adviser and coordinator for the festivities, and he has received help from Miss Luce N. Hernandez, president of the Puerto Rican statewide parade; Flor Morales, first vice president; Johnny Cossio, second vice president; Leslie Zayas, third vice president; Norma Ronda, parade secretary; and Jaime Pantin Iglesia, parade treasurer.

On Monday, July 20, Mayor Gibson recognized the importance of this celebration and declared this week to be Puerto Rican Week in Newark. Governor Kean made a similar proclamation for the State. These ceremonies are part of a week of events centered around Puerto Rican culture and its integral role in our society. Numerous celebrations will take place on college campuses throughout the State, and on Friday, at the Newark Museum, six distinguished Puerto Rican Americans will receive the Solde Jajulla Award in honor of their outstanding service to their community. Jose Unanne, president of the Goya Corp., will receive the award for economic achievement. Jorge Berdecia will be recognized for his artistic endeavors in design. The deputy superintendent of the Newark Board of Education, Juan Rosario, will be cited for his efforts in education. The civic leadership of Flor Morales will be acknowledged. Jorge Morena, television journalist, will receive the awards for communications and politics.

The Honorable Leo Cavranes, director of the Mayoral Association of Puerto Rico, will be the keynote speaker of the annual Puerto Rican parade dinner on Saturday at the Robert Treat Hotel. The Puerto Rican Day Parade in Newark, the culmination of the week's activities, will not only pay tribute to Puerto Rican Americans, but will also heighten the appreciation of others for their rich culture and tradition. I am confident that in the years ahead they will become citizens of prominence in all areas of mainland life and bring us some of the beauty of life in the "jardin de flores" from which they came.

Mr. Speaker, I am proud to be from a city with such a vibrant Puerto Rican community, from which I have made many close friends. I am honored to join dignitaries from Puerto Rico and so many others throughout the State in participating in this special occasion.●

ANNIVERSARY OF TURKISH OCCUPATION OF CYPRUS

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. RITTER. Mr. Speaker, this week I join with members of the Greek-American and Cypriot-American community in observance of the eighth anniversary of the Turkish invasion of Cyprus. It is my hope that all parties will continue to work toward a satisfactory and permanent peace to this problem.

The occupation of Cyprus has caused enormous hardship and difficulty for the Cypriot people and as long as Turkish forces are present their basic human rights and freedom of self-determination will continue to be denied. Their suffering is a modern day tragedy. The Turkish invasion of Cyprus has resulted in eviction of over 200,000 Cypriots and the disappearance of 2,000 Greek Cypriots, still unaccounted for. After the 1974 invasion, Cyprus lost 40 percent of its land which contained 70 percent of its resources. The recovery of Cyprus is paramount and this can only begin once the occupation ceases.

Cyprus has survived, since time immemorial, the domination of one conqueror after another and this reflects the tenacity and resilience of its people, as well as their indomitable determination to survive whatever the odds. The present crisis through which Cyprus is passing is perhaps the worst one of its long history. The Turkish invasion and continuing occupation has caused so much human pain and suffering. All this has been a terrible experience, and yet any negotiating process needs good faith on both sides. I am convinced that as far as the Government of Cyprus is concerned, such good faith does exist. The people of Cyprus realize that only through a concerted effort to discuss the Cyprus issue in a positive and good faith way, is it indeed possible to achieve satisfactory results.

The settlement of the Cyprus problem should not only be the concern of the Cypriots and those countries which are closely connected with Cyprus, such as Greece or Turkey, but also other countries and their governments, who believe in human dignity, freedom, justice, and human rights. Negotiations between the parties have been ongoing for the past 2 years, and while a settlement has yet to be reached, we can be encouraged that all sides recognize the need for this problem to be resolved. It is my hope that

a final and satisfactory solution will be achieved soon and that the suffering of these people will be ended.●

THE IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982, H.R. 6514, contains as one of its major provisions the establishment of sanctions and penalties against employers who knowingly hire aliens not authorized to work in the United States.

Undocumented aliens come to the United States for jobs. That is the lure, that is the magnet.

The immigration reform bill ends that lure, turns off that magnet.

Most of the American people believe that it is already illegal to hire undocumented aliens. The person on the street assumes that, because it is illegal for an undocumented alien to work in this country, it must also be illegal for an employer to hire an undocumented alien.

But, sad to report, this is not the case. It is not illegal under present Federal law to hire an undocumented alien. It is as if it were illegal to buy drugs but not illegal to sell them. Such a policy is upside down and ridiculous, and needs to be changed.

When Senator ALAN SIMPSON and I introduced the reform bill, we included the employer sanctions provisions because we were convinced it was central to any effective reform of our Nation's immigration laws. Judging from the anguish and distress expressed by the vociferous few who have argued against employer sanctions, one might think that Senator SIMPSON and I had dreamed up a new idea, one which had never been discussed before, and labeled it employer sanctions and placed it at the heart of our comprehensive bill.

That is just not the case, Mr. Speaker, though I would like to think that our version of employer sanctions contains some refinements and clarifications which have not been seen in previous versions. In all honesty, it is a concept which has been with us a long, long time.

Four successive administrations starting with that of President Richard Nixon in 1970 up to and including that of President Ronald Reagan, have proposed and supported penalties against employers who knowingly hire undocumented aliens. This body passed employer sanctions legislation both in 1972 and in 1973 by ratios of 6 to 1. Unfortunately, the other body did not act on these proposals.

In 1976, President Ford's Domestic Council Committee on Illegal Aliens, chaired by former Attorney General Edward Levi, supported employer sanctions, as did President Carter's 1979 Interagency Task Force, cochaired by former Attorney General Griffin Bell, former Secretary of State Cyrus Vance, and former Secretary of Labor Ray Marshall.

And in 1981, the 16 distinguished members of the Select Commission on Immigration and Refugee Policy, chaired by my good friend and president of my alma mater, Father Theodore Hesburgh, supported employer sanctions in their final report.

Employer sanctions have been endorsed by organized labor, by the National Association for the Advancement of Colored People, by various religious and ethnic leaders, by State and local elected officials, and generally by every expert who has studied the immigration problem. Even the U.S. Supreme Court in its recent decision requiring the State of Texas to provide free education to children without legal status encouraged Congress to adopt employer sanctions.

Most countries of the world have adopted some form of employer sanctions. Recent additions to the fold include Hong Kong and Italy. I have spoken to officials from developed countries around the world who have stated time and again that without penalties against employers who knowingly hire undocumented aliens, it is virtually impossible to stop illegal immigration.

Some who do not like sanctions of employers argue, instead, for increased border security.

My Subcommittee on Immigration, Refugees, and International Law has begun the slow but necessary process of strengthening both border and internal enforcement functions of the Immigration and Naturalization Service but, as Attorney General William French Smith told a joint hearing of my subcommittee and Senator SIMPSON's Senate Immigration Subcommittee, not even an army could halt the flow of undocumented aliens as long as there are jobs to be had in this country. Increased enforcement, therefore, is a vital component of any overall solution, but it cannot do the job alone.

Others have suggested enforced minimum wage laws and work place safety laws as alternatives to employer sanctions. Clearly, these laws should be vigorously enforced. Their enforcement would end or sharply reduce the exploitation undocumented aliens today endure.

However, there are plenty of undocumented aliens, perhaps the majority, who are making well above the minimum wage and have suitable working conditions. Enforcing mimimum wage laws does nothing for them, and does nothing to deter future flows of undocumented workers.

Another alternative involves raid and job actions by the Immigration Service in work places around the country. Even though the recent Project Jobs was a better conducted action than most, it was disruptive to business and persons to greater or lesser degrees. It resulted in reports of abuse despite the careful preparation and caution of the immigration officers. It required sizeable numbers of INS personnel—some drawn from other activities—to complete the mission. All in all, I do not see raids and massive deportations to be a feasible way to stop illegal entry into this country.

Even if a lot of people were sent back across the border to their home countries, they would return again, like the ocean tide, a day or a week or a month later to retake their old job or to seek new ones. To end the illegal entry we must end the jobs.

When all is said and done—and all offered alternatives examined—we are inevitably left with employer sanctions. It is the only offering which has widespread and longstanding support and has been tried with success in other countries.

Mr. Speaker, I urge my colleagues to support the employer sanctions provisions of the Immigration Reform and Control Act and the act itself when it comes before the House later this session.●

SUPPORT FOR A NATIONAL CHARTER FOR AMERICAN EX-PRISONERS OF WAR

HON. CLINT ROBERTS

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. ROBERTS of South Dakota. Mr. Speaker, I rise in strong support of H.R. 5380, to recognize the organization known as American Ex-Prisoners of War, and to provide for a national charter for the organization. I rise especially for the many brave South Dakotans who have been prisoners in our conflicts.

Prisoners of war have a special place in the history of our country, and deserve the grateful respect and thanks of all our citizens. They have endured special hardships—brutality, malnutrition, humiliation, and forced labor—for their country. All are heroes for what they have done, and some are special heroes, such as Senator JEREMIAH DENTON and South Dakotan, Leo Thorsness.

I know both these men, as well as other ex-prisoners of war. You can see in their eyes the painful memories and the honor that they hold for their country. The American citizen has not

done enough to honor these patriots, nor remember the accomplishments of their trials.

The establishment of a national charter for the American Ex-Prisoners of War will be another step toward the honoring of those most special veterans. On July 9, 1982, we honored the families of those still prisoners of war or missing in action. And now it is fitting to honor those safely returned. Even in this light we should be proud of all those who have put their lives on the line for their country and are now in need of their country's help.●

INVESTMENT IN HUMAN CAPITAL

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. FRANK. Mr. Speaker, Dr. Bryan E. Carlson, president of Mount Ida Junior College in Newton, Mass., is on outstanding community leader in Massachusetts. As president of Mount Ida, he is naturally concerned about the administration's disastrous policies regarding student assistance programs. But as a former president of the Newton-Needham Chamber of Commerce, he is also concerned with and knowlegeable about investment policy and economic growth.

With his unique perspective, Dr. Carlson has written a very perceptive article in which he points out the folly of the administration's higher education assistance policies. He argues very persuasively that the Reagan administration's supply-side theories should lead to greater, not lesser, investment in human capital. He points out that support for higher education is just that—investment in human capital. He understands that such investment is absolutely essential if this country is to maintain its competitive position in the world's economy and that the cutbacks being advocated by President Reagan, as reflected in this year's budget message, will do much to undermine that position.

Mr. Speaker, I am attaching a copy of Dr. Carlson's very fine article and I ask my colleagues to study it very closely as we continue to fight against reductions in student assistance programs.

HIGHER EDUCATION, THE REAGAN RETREAT, AND THE ASSAULT ON CORN

President Ronald Reagan's proposal to cut student aid for higher education represents a retreat from his very own program for economic recovery. Either the President's own thinking on economic policy is inconsistent, or there is a serious problem in the advice that he is receiving. The problem revolves around the Administration's failure to recognize that support for higher education is an investment-function of supply-side economics. As a result of this blind spot, the President could quickly become the subject of ridicule. While his every appearance still suggests a frontal attack on the problems of the economy, his policy for higher education symbolizes a retreat all the way back into the Darwinian jungle.

The Administration is being totally inconsistent with its own doctrine of supply-side theory. The heart-beat of supply-side theory is the investment-productivity cycle. The investment phase generates physical and human capital, which in turn, provides us with the necessary capacity for economic growth. The Reagan policy for higher education, however, is to decrease our investment in human capital. If his Administration were following a strictly monetarist policy, the inconsistency might not be so glaring—but the policy itself would still be just as egregious. The monetarists focus more exclusively on controlling the supply of money in proper balance with the goods and services available in the total economy. In contrast, the supply-side theorists focus more primarily on stimulating investments that ultimately will increase total goods and services; regulation of the money supply is more of a secondary consideration. Thus, as the President goes on stumpling the supply-side doctrine, to be consistent, he should also be advocating an increase in the investment that we make in human capital. Sooner or later this inconsistency and the resulting irrationality of the Administration's higher education policy will either catch up with him or will befuddle the goal we all espouse, which is economic recovery.

The issue as to whether or not investment in human capital is basic to future economic growth is not even contestable. Several noted economists have made this point quite emphatically. Eli Ginzberg and George J. Vojta have stated that human capital ". . . has become the critical input that determines the rate of growth of the economy . . . " [1] Even George Gilder, one of the acknowledged apostles of Reaganomics, has stated that the ". . . . solid flesh of 'human capital' can melt all too fast in a contagion of fears. . . . Qualities of thought and spirit in an economy can overshadow all the quantities of capital and contracts of labor." [2] Finally, the renowned economist Miltion Friedman has further elaborated the symbiotic relationships that have always existed between human capital formation and physical capital formation:

". . . The two have reinforced one another. The physical capital enabled people to be far more productive by providing them with the tools to work with. And the capacity of people to invent new forms of physical capital, to learn how to use and get the most out of physical capital, and to organize the use of both physical and human capital on a larger and larger scale enabled the physical capital to be more productive. Both physical and human capital must be cared for and replaced. That is even more difficult and costly for human than for physical capital—a major reason why the return to human capital has risen so much more rapidly than the return to physical capital." [3]

Indeed if it were ever true that American prosperity was a function of the nation's investment in human capital, the time is now. We have entered a new post-industrial stage of economic development. We have become a prodigious exporter of raw materials and a net importer of finished goods. Some estimates of how large our service sector has become are as high as 74 percent of the total economy. John Naisbitt, the senior vice president of Yankelovich, Skelly & White, has described the restructuring of America from an industrial society into an information-based society, making the point that an important shift in strategic resources has occurred:

"In a mass industrial society, the strategic resource is capital. The strategic resources in an information society are knowledge, data, experience and information." [4]

It is in this new context of an information-based society that human capital has become even more important than physical capital to our future productivity. As we operate more and more in a world economy rather than a national economy, our chief economic assets are knowledge and high technology rather than factories and machines. Today, if we apply the tenets of supply-side theory, we must be prepared to increase our national investment in knowledge and technology. What is more, we must recognized that knowledge itself precedes technology. The nation's most precious economic resource indeed is human capital.

Support of higher education is not only fundamental to supply-side theory, but will also be critical to the New Federalism proposed by the President. As the roles and responsibilities of state and federal governments are being realigned, there are certain duties that the national government will clearly retain. Among them will be responsibilities for the management of the economy, for the establishment of national goals, and for the redistribution of wealth. In steering the national economy, supply-side doctrine has significantly expanded the conventional management options beyond those of fiscal and monetary policy. Supply-siders have preached the importance of sustaining a proper balance between consumption and investment on a macro-economic level. This is the supply-side strategem.

A fundamental part of this new strategem should be a discretionary federal authority to regulate the national government's investment in higher education. When it is necessary to shift the balance away from consumption and towards investment, the federal government should increase its investment in higher education. This is because support for higher education has actually become indispensable to future gains in productivity. Such is our present condition—so that our long-term economic recovery may indeed depend upon the capacity of the Reagan Administration to perceive the investment-function rather than the consumption-function of higher education.

The second responsibility that will continue to reside with the federal government will be that of establishing national goals. These goals are likely to be in such areas as research and development, space exploration, military-defense, or perhaps medicine. What is significant about these types of national goals is that their achievement can be nurtured through a national commitment to higher education. Thus, the national goals that we establish for higher education will ultimately have a bearing on our ability to attain national goals in every other important federal domain. All of which points out that the federal government must retain a major share of the responsibilities for higher education. Otherwise the President's New Federalism will prove to be simply ineffective.

Finally, the federal government will clearly retain responsibility for the redistribution of the wealth of the society. Obviously,

[1] Footnotes at end of article.

the Reagan philosophy as to how societal resources should be reallocated differs markedly from the philosophy of Great Society liberalism. The Reagan Administration is much more reluctant to shift income from those who earn it to those who do not. The Administration also maintains that direct public support should be restricted to those who are truly needy and lack the basic necessities of life. The great philosophical debate will be waged, of course, over the question of who comprises the "truly needy."

Unfortunately, this issue will probably be debated forever, and the debate itself tends to divert our attention from the real problem. The real problem is that too many people have become part of the nonproductive sector of our economy. They depend upon public support in one form or another without contributing to the well-being of others. For our nation, the more important challenge is not how to support the nonproductive sector, but how to make this sector self-supporting. This will require a greater investment in human productivity, which calls for a very active federal role in higher education. With the assistance of the federal government, our colleges and universities have gradually approached the goal of universal higher education. With continued federal support in the pursuit of this goal, the establishment of a concommitant goal is possible: the achievement of universal human productivity. Here, again, is an example of how higher education has a fundamental role in the President's New Federalism. Should the federal government abandon its commitment to higher education, our nonproductive sector would increase absolutely as well as proportionately. The pool of the "truly needy" would expand placing an ever-spiraling burden on the federal government to provide public support.

President Reagan is a good man who possesses the courage to stand up for his own convictions. But now he is confronted by challenges that will determine whether or not he is a great man. Greatness will not be achieved by holding fast and firm to all of his original precepts. Rather than becoming an ideologue, he should be prepared to respond pragmatically and dynamically with new solutions for unprecedented problems. The way he responds to the higher education challenge could belie the apparent sincerity of his efforts to make Americans accept greater responsibility for their own future. On the other hand, if he is astute enough to apply the supply-side rationale to the higher education challenge, the Reagan economic recovery will be more than a mere cycle. It may well endure from generation to generation. If he does not make this application, his as well as our nation's prospects for the future will be quite dismal. It was somebody very wise who once said that no matter how bad and how bleak the winter season becomes, you don't eat your seed corn.

FOOTNOTES

[1] Eli Ginzberg and George J. Vojta, "Service Sector of U.S. Economy," *Scientific American*, vol. 244, No. 3 (March 1981) 49.

[2] George Gilder, *Wealth and Poverty* (New York: Bantam Books, 1981), p. 68.

[3] Milton Freidman and Rose Friedman, *Free to Choose: A Personal Statement* (New York: Avon Books, 1980), p. 13.

[4] John Naisbitt, speech delivered at the International Conference of Wang Users, November 1980.●

A TRIBUTE TO REV. WILLIAM E. JONES

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Rev. William E. Jones and the congregation of the church of Saint Vincent De Paul of Minersville, Pa. On July 11, the new Saint Vincent De Paul church was dedicated. Rev. William E. Jones serves as the pastor of the church, Rev. James M. Carr, is the pastor emeritus, and Rev. James J. Agosta, is the assistant pastor.

The original church was built in April of 1846 and dedicated in December of that year. After its founding the new parish covered an area of 240 square miles. In 1921, the church established the first parochial school in Minersville, Pa. The school opened on September 6 and had an enrollment of approximately 250 pupils in grades one through eight. Father Jones came to the church as pastor on November 7, 1978. Because of the need for extensive renovations and repairs to the church, the congregation decided that a new church should be built. That dream has become a reality.

The time-honored traditions of adherence to religious values and devotion to their fellowman, begun by St. Vincent De Paul's church in 1842, speak for themselves as they leave their indelible imprints in their new place of worship.

We can all look toward their accomplishments as an inspiration of how we can contribute to making this world of ours a better place to live, grow, and worship.

I know that the church of St. Vincent De Paul will continue to be a great source of strength for the Minersville community. I am certain my colleagues will join me in wishing this congregation success in the years to come.●

CAPITAL OWNERSHIP DEVELOPMENT

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, today, I have introduced a bill to amend the capital ownership development program which is administered by the Small Business Administration.

This bill should be unnecessary. It should be unnecessary to remind an agency of its responsibility to enforce a law as Congress originally intended it to be enforced. It should be unnecessary to state that national policy, codified in statute, cannot be subordinated to the petty prejudices of the bureaucracy. It should be unnecessary for this Congress to reaffirm its belief that the economic development of all segments of our economy is in the vital interest of every segment of our economy.

But over the last several years the SBA has consistently proven that such legislation is necessary—it has proven that Congress must act time and time again to fix it to the course which we have chartered but from which it drifts at will.

We are now faced with yet another situation where we are compelled to act or face the consequence of SBA's administrative repeal of existing statute.

The subject is the 8(a) program. This program was designed by the Congress to provide eligible firms owned by disadvantaged persons with such management, technical, financial and marketing assistance as may be necessary to promote their competitive viability within a reasonable period of time. The heart of marketing assistance is the award of negotiated contracts to 8(a) firms at reasonable prices. The intent of our effort was to create competitive minority owned firms which could take their rightful place in our economy.

Congress first legislated this program in 1978 (Public Law 95-507), although it had been in place administratively since 1969. We legislated not only to endorse our belief in economic equality, but also to provide SBA with guidance so that the flagrant mismanagement existing before 95-507 would become and remain a thing of the past.

But, SBA is continuing to mismanage; continuing to thwart the intent of Congress; continuing to substitute its caprice for national policy. Our goal to create viable minority owned businesses within a reasonable period of time was ignored and, instead, the economic development of 8(a) firms was not even a serious program consideration. SBA did not address those elements which resulted in a firm's economic disadvantage and, therefore, did not engage in any subtantive efforts to cure those problems. SBA would not, moreover, develop a plan for each firm which would contain time-phased objective, goals or targets needed to become economically viable. In short, SBA left the 8(a) program as open-ended and as mismanaged as it was prior to Public Law 95-507.

Congress, therefore, was called upon to act again and in 1980 Public Law 46-481 was signed into law. In section 106 of that statute we mandated that SBA, in concert with its 8(a) firms, develop individual business goals, objectives and targets needed to address and overcome those problems which

resulted in a firm's economic disadvantage. We also required SBA and the 8(a) firm to agree upon and specify a time when competitive viability would be achieved. We believed then that SBA was properly redirected to the course originally set for it in Public Law 95-507. But, SBA proved us wrong.

SBA elected to "re-write" the law, not to follow it. It arbitarily dictated "fixed program participation terms" for 8(a) contractors which were totally unrelated to a firm's progress toward competitiveness. We have legislated a program for economic development and SBA had "regulated" a program of "revolving doors" and "blind alleys."

So we are now called upon to act again and, as in the past, we must rise to meet this newest challenge. We must set in statute, with the greatest specificity possible, our original purpose of economic development and how that development is to be measured and used as a criteria for program retention or program exit.

The bill I introduce today would achieve these purposes. It would clearly establish that the participation of small firms in the 8(a) program is to be a function of progress toward competitiveness and not merely a function of time. Progress must be the key and not the capricious opinions of bureaucrats who are more concerned with the number of firms moving out of the program than the number moving up to the mainstream economy.

My bill would establish criteria to measure a firm's progress toward competitiveness. These criteria pertain to each basic area of business operations—financial, management, and marketing. The bill also recites exactly how much progress against these criteria is needed in order to remain in the 8(a) program and, conversely, sets out those conditions which can result in a firm's termination from program participation. Moreover, standards are also specified for a firm's graduation or successful completion of program participation.

My bill also addresses another problem. Pursuant to section 3 of the Small Business Act, SBA can and does promulgate regulations defining "small business." These standards are based on either gross receipts or numbers of employees.

Firms receiving contracts under section 8(a) of the Small Business Act are treated as all other firms when computing their receipts or employment for size standard purposes. This is clearly unfair; 8(a) contracts are sources of temporary and remedial assistance and firms participating in this program will not receive 8(a) contracts once they are graduated. Nevertheless, SBA has ignored this issue. If a firm is fortunate enough to receive a large 8(a) contract, it is now susceptible to a finding that it is not a small business and it can be summarily thrown out of the program even though it is not a viable business without 8(a) support. While SBA can address this situation through regulation—providing a special definition of "small business" for purposes of section 8(a)—it has elected not to and, in my opinion, has so elected in furtherance of its philosophy that 8(a) should not be an economic development program. The result of SBA's failure to act will, as of today, jeopardize 23 minority owned firms, 7,500 jobs and siphon well over $250 million from minority communities throughout the country.

My bill provides that no portion of any gross receipts or employment attributable to the performance of 8(a) contracts shall be taken into account when computing the size status of a business concern. I believe this to be an equitable approach to a very serious problem.

In summary, Mr. Speaker, I believe my bill is necessary to preserve and extend the efforts of the Congress to provide for minority business enterprise development. I must admit, however, that it is becoming extremely disturbing to me that Congress must continuously legislate the management of SBA because SBA cannot or will not manage itself. Perhaps, if this dereliction continues we should consider removing SBA from the executive branch altogether and placing it directly within the legislative branch of Government, as is the GAO and the GPO. That may not be what the Executive wants, but it surely is consistent with its actions. However, that issue is perhaps best left to another bill at another time.●

NEWSPAPER EDITORIALS ON THE MX MISSILE PROGRAM

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. WOLPE. Mr. Speaker, in light of the debate within this body over the MX missile program—a program that has generated enormous controversy nationwide—I would like to commend to my colleagues' attention the following sampling of editorial opinion on the MX from a variety of papers around the country. These editorial comments, ranging from the Washington Post to the Tampa Tribune, all come to the same conclusion: The MX program is misguided, in trouble, and unworthy of further funding.

NEWSPAPER EDITORIALS ON THE MX MISSILE PROGRAM

Editorial boards around the country have condemned the MX missile program and called upon Congress to reconsider it. A sampling of the comment follows:

"A Senate armed services committee has taken the right approach to plans for building the MX missile. Don't build it until you know where you are going to put it and what it is supposed to do for you. . . . This is the right approach, and it deserves strong support in the full committee, the Senate and the House of Representatives."—Chicago Tribune, March 31, 1982.

"The MX was designed to close the alleged 'window of vulnerability' . . . MXs [in Minuteman silos] would be just as vulnerable as the Minutemen already in the holes. And this Congress is recognizing. Far better if the whole MX project were braked. It's unnecessary and expensive."—Chicago Sun-Times, March 29, 1982.

". . . before the Defense Department is permitted to spend scores of billions of dollars on MX, which may or may not be needed, it should have to present an acceptable, workable basing plan, one in which MX would be invulnerable to Soviet ICBMs."—Memphis Star-Scimitar, January 8, 1982.

"President Reagan was right to decide last October to kill the Air Force plan for hiding 200 mobile MX missiles among 4,600 launching sites in Utah and Nevada. When it comes to making national-security policy, knowing what not to do is a laudable attribute.

". . . the latest interim deployment scheme for the MX does not appear to pass the test of cost-effectiveness, and, if officially embraced by the president, should not be funded by Congress.

"Pending a credible answer to the problem of making the MX survivable, the MX project should be put on hold."—Los Angeles times, March 15, 1982.

" . . . this month, the [MX] plan was changed again. Now, it seems, there is no reason to reinforce even the old Minuteman silos. These changes recognize that there never has been any window of vulnerability—that the theory was flawed because it was based on an improbable assumption: That the Soviets would risk a first strike despite the devastating response capability of U.S. air and sea missiles.

"With that recognition comes realization that the present Titan and Minuteman missiles already in place are fully capable of filling their role, a realization which makes the entire MX program needless. If it isn't broken, why fix it?"—Rockford, Illinois, Star, February 26, 1982.

"The [MX] question is bound to stir up the controversy over whether, if the MX cannot be made survivable against a Soviet first strike, the country should have land-based missiles at all."—Washington Post, March 26, 1982.

" . . . the MX has taken its place beside the B-1 bomber as a strategic weapons system subject to debate on its very existence. . . . "—Baltimore Sun, March 30, 1982.

"The proverbial advice against buying a pig in a poke has been rephrased in Congress. When it comes to the MX missile, the proverb is: *Don't buy a missile in an uncertain deloyment mode.*

"The folly of providing money for a missile which has no launch home was reason enough to cut back on the money—and reduce the huge 1983 deficit estimate by $2 billion."—Tampa Tribune, March 26, 1982.

"It is becoming increasingly obvious that nobody knows what to do with the costly, ill-advised MX missile once it begins coming off the production line. This dismaying prospect raises anew the question of why the MX is being built at all.

"If MX is no more and perhaps much less survivable than Minuteman, and if its vaunted accuracy can be compromised by in-silo shock waves, the billions spent for its development and deployment constitute a boondoggle of historic magnitude. It is time to Stop MX—Again."—Salt Lake Tribune, February 15, 1982.●

THE OIL PIPELINE REGULATORY REFORM ACT OF 1982

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. BREAUX. Mr. Speaker, today I am introducing the Oil Pipeline Regulatory Reform Act of 1982, a bill that proposes significant and timely change in the manner in which oil pipelines are regulated by the Federal Energy Regulatory Commission—FERC. If enacted, the bill would free oil pipelines from unnecessary regulatory pricing restraints, while at the same time retain protection from any discriminatory ratemaking or practices that might occur. Oil pipelines would be able to establish prices commensurate with market demands and could do so without undue time delays and unnecessary costs caused by the present outdated regulatory structure.

The overall purpose of this legislation is to encourage investment, expansion, and competition in the oil pipeline industry, to protect against unfair practices and discrimination, and to reduce cumbersome, costly, and unnecessary regulation.

The legislation would place economic regulatory jurisdiction over interstate oil pipelines in FERC. It proposes to deregulate only the method by which oil pipeline rates are set. FERC would retain its authority to cancel a rate which is discriminatory and retain its current authority over regulations and practices.

Moreover, the legislation would remove the numerous delays brought about by FERC's inability or reluctance to determine a rationale for establishing rates for oil pipelines and would end the uncertainties these delays have produced.

In addition, the legislation does not propose any changes in the status of oil pipelines as common carriers, in the status of pipelines under the antitrust laws, or in the status of the consent decree which limits the dividend amounts a pipeline may declare to its owners. Retention of these statutory and judicial safeguards insures public protection against discriminatory and monopolistic practices.

The oil pipeline industry has operated efficiently for years. Today, over 130 companies operate about 230,000 miles of pipeline, transporting both crude and refined products. About 120 of these pipelines are subject to Federal economic regulation. Entry into the oil pipeline industry is open. The industry is a high-risk and capital-intensive business, subject to shift in supply and demand, foreign oil embargoes, and competition from other modes of transportation, as well as alternate sources of fuel.

Oil pipelines compete among themselves and with other modes of transportation, such as truck, rail, and barge. The price of oil and refined oil products which oil pipelines carry is set by market forces. The pipeline tariff or fee to transport oil and refined oil products is but a minor percentage of the total cost. Changes in pipeline transit tariffs, therefore, effect little impact on the cost of the product on its end user, the consumer. Over a 32-year period (1947-77), the industry's average pipeline per ton mile revenues increased by only 38 percent, 0.292 cents to 0.403 cents. During that same period, the consumer price index increased 128 percent. The earned returns by oil pipeline companies have been greater than those of other industries as a whole. Over the years, there have been only a small number of shipper complaints levied. The question must be raised, then, why should oil pipeline rates continue to be regulated? Does this rate regulation serve any purpose? At this point, there seems to be no valid reason to do so.

Plainly, oil pipelines have provided the United States with one of the most efficient energy transportation systems. The industry must be able to grow and expand to continue this type of service in an atmosphere of high risk and uncertainty. Government rate regulation no longer serves any valid purpose for the oil pipeline industry. It only serves to prolong uncertainty and unnecessarily increase the risk. The proper place for the industry to be regulated in terms of rate regulation is the marketplace.

In recent years, Congress has passed laws that eliminated or reduced Government regulation of the airline, rail, and trucking industries, and that placed greater economic reliance upon the marketplace. I believe the time has come to examine and to revise Government rate regulation of the oil pipeline industry. The bill which I am introducing is a start. It should receive careful and prompt consideration by the Congress.

I include the following:

OIL PIPELINE REGULATORY REFORM ACT OF 1982

SECTION-BY-SECTION

Section 2.—Section 2 is a declaration of policy. It makes explicit congressional policy to foster competition in the oil pipeline industry, prevent discrimination, induce investment in oil pipelines and eliminate unnecessary regulation.

Section 3.—Subsection 3(a) repeals Section 306 of the Department of Energy Organization Act (DOE Act). Section 306 transferred to the Secretary of Energy (the Secretary) the functions set forth in the Interstate Commerce Act (ICA) and vested in the Interstate Commerce Commission (ICC) relating to transportation of oil by pipeline.

Subsection 3(b) repeals Section 402(b) of the DOE Act. Section 402(b) transferred to the Federal Energy Regulatory Commission (FERC) all functions and authority of the ICC relating to the regulation of rates for the transportation of oil pipeline and the valuation of oil pipelines.

Subsection 3(c) amends Section 402 of the DOE Act by adding a new paragraph vesting in FERC all functions which were transferred to the Secretary under Section 306 and to FERC under Section 402(b).

Section 4.—Section 4 is a section-by-section amendment of the ICA to accomplish the bill's purposes.

Subsection 4(a) is technical.

Subsection 4(b) amends Section 1(4) of the ICA to delete the requirement that oil pipeline rates and the divisions of joint rates must be just and reasonable. This is consistent with the intention to allow the level of such rates to be determined by market forces.

Subsection 4(c) repeals Section 1(5)(a) which requires that all charges be just and reasonable and that unjust and unreasonable charges are unlawful.

Subsection 4(d) amends Section 13(4) which deals with the duty of the FERC where state regulations result in discrimination or impose an undue burden on interstate commerce. The statute is amended to eliminate FERC's power to prescribe pipeline rates in place of those set by a state. FERC retains its authority to set such rates aside if it finds them to be discriminatory and to prescribe regulations and practices where the state-prescribed regulations result in discrimination.

Subsection 4(e) amends Section 15(1) to delete the power of FERC to prescribe rates. If FERC determines that a rate is discriminatory it may order the carrier to cease and desist from charging discriminatory rates. In that event, it would be up to the carrier to adjust its rate structure to comply with FERC's order. If FERC finds that a regulation or practice is unjust it may prescribe a just regulation.

Subsection 4(f) amends Section 15(3) so as to delete FERC's authority to establish joint rates. FERC retains its authority to establish through routes.

Subsection 4(g) repeals Section 15(6) which sets forth FERC's authority to establish just divisions of joint rates.

Subsection 4(h) amends Section 15(7) which deals with hearings on newly-filed rates. It is amended to delete FERC's authority to suspend rates pending such determination. FERC retains the authority to hold hearings to determine whether a rate is unjustly discriminatory and whether a regulation or practice is lawful. FERC retains its authority to suspend the operation of a regulation or practice for a period of seven months.

Subsection 4(i) repeals Section 65(a) of Title 49. It is repealed because it is simply a supplementary statute dealing with the matters which should be considered when prescribing just and reasonable rates.

Section 5.—Section 5 is a new section which preempts state regulation of interstate transportation of oil.

Section 6.—Section 6 specifies that the Oil Pipeline Regulatory Reform Act shall take effect 60 days after the date of its enactment.●

89-059 O-86-15 (Pt.13)

OIL PIPELINE REGULATORY REFORM ACT

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. ANDERSON. Mr. Speaker, I am pleased today to join my colleague from Louisiana, JOHN BREAUX, in introducing legislation revising the regulatory structure surrounding the oil pipeline industry.

The Federal Government began its rate regulation of the industry in 1906, under the aegis of the Interstate Commerce Commission. On October 1, 1977, this responsibility was transferred to the Federal Energy Regulatory Commission, which has suspended every rate increase that has been proposed by industry members.

At some point, presumably, this regulation could be expected to have a stifling effect on an industry that needs $26.2 billion, in 1979 dollars, in new capital investment by the end of the century from the base year of 1976.

The bill being introduced today would eliminate the Federal regulation of nondiscriminatory rates, while leaving intact other requirements such as the present common carrier mandate.

Of course, as with most issues that come before the Congress, the situation is far from black and white. I would speculate that revisions will need to be made in the bill that is being introduced today and, indeed, reserve the right to work for any changes that discussion and study may call for.

It is that discussion and study which I am looking for as a result of this bill's introduction. The Senate Subcommittee on Energy Regulation had several witnesses come before it in May to discuss oil pipeline legislation that had been offered in that body, S. 1626.

Whether the House Surface Transportation Subcommittee will have the time or the inclination to conduct similar hearings on this bill is problematical. Our schedule for the rest of the year promises to be a busy one, as we work toward the enactment of several proposals which originated last year.

Whether this bill progresses before we recess for the year, in what form it does so, and whether or not hearings are held, it should be clear with the introduction of this bill today, that some of us are interested in the oil pipeline industry.

As I have said before, though, it is the public interest with which I am most concerned. And so it is the public interest that should be addressed by those discussing the merits and shortcomings of this legislation.●

INTRODUCTION OF OIL PIPELINE REGULATORY REFORM ACT OF 1982

HON. DON H. CLAUSEN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. CLAUSEN. Mr. Speaker, today I am joining several of my colleagues on the House Public Works and Transportation Committee in cosponsoring H.R. 6815, the Oil Pipeline Regulatory Reform Act of 1982.

As you know, our committee, over the past few years, has been systematically reviewing the economic regulation of the various modes of transportation under our jurisdiction. I believe the time now has come to look at the system of regulation that is in place for the oil pipeline industry. The bill that we are introducing today is a first step in that process. I personally am not wedded to each and every provision of this bill, but feel that it will provide a suitable basis for in-depth hearings on the subject.●

IDA NUDEL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. PORTER. Mr. Speaker, I am saddened today to have to speak once again in support of Soviet refusenik Ida Nudel's simple and harmless, yet repeatedly denied request to leave forever the country in which she was born in order to join her family in Israel.

For almost 12 years, Ida Nudel has suffered at the hands of her own government to a degree almost unimaginable to us here in the United States and the other democratic countries of the West. Her saga has continued almost as long as the entire Jewish emigration movement, and serves, unfortunately, as a clear illustration of the individual's relation to the government in the Soviet Union. She first applied for her exit visa in May 1971, but was denied it, according to the Soviet Government, because of her knowledge of unspecified "secrets" associated with her work as a costing accountant for the Moscow Institute of Hydrology and Microbiological Synthesis for Planning and Production. Of course, only 8 months later she was dismissed from her job there. As a result of her subsequent tireless work on behalf of certain refuseniks who were at the time worse off than herself—work which, incidentally earned her the nickname of the "Guardian Angel,"—Ida Nudel became the subject of increasing harassment. Her plight was dramatized to the world in 1978 when she bravely hung from her apartment balcony a banner simply reading "KGB, give me my visa." For this act of extreme defiance according to totalitarian standards, and for other trumped-up charges, Ida Nudel was sentenced to serve 4 years of internal exile in Siberia.

Since I last spoke of Ida Nudel on March 3, 1982, in support of House Joint Resolution 373 urging the Soviets to cease religious presecution, Ida Nudel has been released and has managed to return to her Moscow apartment, only to face a new round of Government harassment designed to strangle her hope and her spirit. Her new application to emigrate was refused on the pretext that she has no permanent resident status, yet her application for this status was denied because of her "criminal" background, which, of course was made inevitable by her demand that she be granted her right to emigrate. This cruel charade was repeated again upon her application for resident status in Riga, the Capital of the Latvian Soviet Socialist Republic. It is heartbreaking to report that she was last seen sleeping in the train station there before pressing elsewhere for justice.

The string of horror stories which have composed Ida Nudel's life in the hands of her own Government are all too familiar to those who have monitored Soviet treatment of Jews who seek to emigrate to Israel. The pattern of imprisonment, internal exile, beatings, confinement to mental institutions, isolation from family members, seizure of personal property and a diabolically imaginative variety of forms of physical and psychological harassment is well-established. Yet, each new case, each new life spoiled by official Soviet descrimination and persecution of members of religious minorities evokes in me a renewed feeling of contempt and disgust for a government which could behave so inhumanely.

The destructiveness of these policies is amplified by the Soviet emigration statistics which show that the number of people having emigration requests granted has come to a virtual halt, thus shutting off the only avenue of hope for the many thousands of Soviet Jews who have requested invitations to emigrate. Such emigrations, which the Soviets pledged to allow in exchange for the acceptance by the West of several objectives very important to them during the Helsinki conference in 1975, has plummeted from 51,320 in 1979 to 9,447 last year to an average of 300 per month from January through April of this year, and now down to 205 in May, the lowest level since the beginning of the emigration movement in 1970.

Not only have the number of Jewish emigrations decreased sharply recently, but there are now reports that a

new and even more evil, if this is possible, quality to the persecution of Soviet Jews has insinuated itself into the situation. Steady increases in Government-sponsored and condoned anti-Semitism and a dramatic escalation of the KGB's attacks on Jewish culturalists and Hebrew teachers raises the specter of a sustained government-wide campaign to persecute all Jews, regardless of whether they request emigration visas or not.

These ominous developments prompt me to ask how far the Soviet state is willing to go in persecuting these powerless individuals, singled out because they do not conform to the twisted Soviet notion of good citizenship: To what extent of hypocrisy will that Government indulge in refusing to comply with its obligations agreed to under the Universal Declaration of Human Rights, the International Covenant of Civil and Political Rights, the Helsinki Final Act, and the Constitution of the U.S.S.R.?

We see in these examples the "mirror-image" quality of the individual's relation to the State in the United States and in the Soviet Union. Here, our Government goes to extreme lengths to protect the rights of individuals against the power of the many while the Soviets take equally extraordinary measures to crush nonconforming individuals and minorities. In the United States, we are forced to restrict the annual number of people who may come here from their homelands to settle permanently, while in the Soviet Union the Government faces the converse problem of preventing a flood of it citizens from leaving the homeland.

I call on my colleagues to join me in expressing their support of Ida Nudel's efforts to settle in Israel by writing to her directly and by writing to Soviet Government officials demanding her release. There is no doubt that such letters of encouragement give heart to refuseniks in their lonely hours of frustration and bitterness. But in a larger sense, such efforts by those of us in the West serve as both potentially effective pressure on the Soviet authorities to ease their repression of all refuseniks, but also as a symbolic gesture of appreciation for the privilege of freedom which we enjoy and which we hope can be extended some day to all the people of the world.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 22, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 23

10:00 a.m.
Judiciary
To continue hearings on the northern pipeline bankruptcy decision.
2228 Dirksen Building

10:30 a.m.
Foreign Relations
Closed briefing on U.S. relations with China and Taiwan.
S-116, Capitol

JULY 27

9:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

9:30 a.m.
Agriculture, Nutrition, and Forestry
Rural Development, Oversight, and Investigations Subcommittee
To hold oversight hearings on the implementation of rural development loan programs of the Farmers Home Administration.
324 Russell Building

Banking, Housing, and Urban Affairs
To resume hearings on monetary policy.
5302 Dirksen Building

Judiciary
Business meeting, to consider pending calendar business.
2228 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to consider pending calendar business.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To hold hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building

Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice
To resume hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
Room to be announced

Joint Economic
Monetary and Fiscal Policy Subcommittee
To hold hearings on the current national tax system, focusing on a flat-rate tax proposal.
6226 Dirksen Building

1:30 p.m.
Finance
Health Subcommittee
To hold hearings to review the policy of medicare coverage for the treatment of alcohol-based disorders and alcoholism.
2221 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land measures, including S. 1303, H.R. 1281, S. 1978, S. 2279, S. 1705, House Joint Resolution 207, S. 2308, Senate Joint Resolution 168, S. 1661, and Senate Joint Resolution 155.
3110 Dirksen Building

JULY 28

9:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on S. 2539, extending for 2 years the act implementing the International Sugar Agreement, 1977, and S. 2540, extending for 1 year the application of the International Coffee Agreement Act of 1980.
2221 Dirksen Building

Judiciary
Constitution Subcommittee
To hold hearings on Senate Joint Resolution 164, proposing a constitutional amendment to provide that the compensation and allowances of Members of Congress shall be established biennially by the Supreme Court of the United States.
5110 Dirksen Building

Veterans' Affairs
To hold hearings on S. 2747, improving certain aspects of the VA's educational benefits programs and the Department of Labor's veterans' employment programs.
412 Russell Building

Select on Indian Affairs
To hold hearings on S. 2153, providing for the distribution of funds awarded the confederated tribes of the Warm Springs Indian Reservation in Oregon by the Indian Claims Commission.
6226 Dirksen Building

10:00 a.m.
Environment and Public Works
Environmental Pollution Subcommittee
To resume hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building
Judiciary
To resume hearings on S. 818, S. 1558, S. 1106, S. 2658, S. 2669, S. 2672, S. 2678, and S. 2745, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building
Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
Room to be announced

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2131, authorizing funds through fiscal year 1986 for the safe drinking water program.
4200 Dirksen Building
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

JULY 29

9:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Robert G. Dederick, of Illinois, to be Under Secretary of Commerce for Economic Affairs.
235 Russell Building
*Judiciary
To hold hearings on Senate Joint Resolution 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building
Labor and Human Resources
Business meeting, to mark up S. 1929, establishing an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1918, establishing the Northeast-Midwest States Hydropower Financing Authority to make lower cost loans and loan guarantees for hydropower development.
3110 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on proposed legislation revising certain provisions of the Clean Water Act.
4200 Dirksen Building
Governmental Affairs
Congressional Operations and Oversight Subcommittee
To hold oversight hearings on proliferation of indexation.
3302 Dirksen Building
Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice
Room to be announced

JULY 30

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land bills, including S. 2752, S. 2754, S. 2755, S. 2756, S. 2757, S. 2715, S. 1349, and H.R. 6290.
3110 Dirksen Building

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central American region.
2221 Dirksen Building

AUGUST 3

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act by the Environmental Protection Agency.
4200 Dirksen Building

AUGUST 4

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 894, exempting rural electric cooperatives and rural telephone cooperatives from payment of rental fees for rights-of-way granted to them with respect to public lands and lands within the National Forest System, and H.R. 861, designating additional national scenic and historic trails.
3110 Dirksen Building

AUGUST 5

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To resume hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building
Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States; S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years; S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz., to the Pascua Yaqui Indian Tribe; and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
4200 Dirksen Building

AUGUST 12

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building
Veterans' Affairs
Business meeting, to mark up S. 2378, proposed Veterans' Disability Compensation and Survivors' Benefits Amendments, and proposed legislation clari-

fying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

AUGUST 13

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 19

10:00 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
3110 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATIONS

JULY 28

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
Business meeting, to mark up S. 1541, amending the Employee Retirement Income Security Act (ERISA) by simplifying both reporting and disclosure requirements, and the process for employers to provide retirement income to employees, and providing incentives for employers to provide pension benefits to employees.
4232 Dirksen Building

HOUSE OF REPRESENTATIVES—*Thursday, July 22, 1982*

The House met at 10 a.m.

The Reverend Richard Peter Camp, Jr., chaplain, U.S. Military Academy, West Point, N.Y., offered the following prayer:

Lord, we pause a moment amidst our agendas and programs to acknowledge that You are God; You have made us and not we ourselves.

We know that life is like a tennis game; you cannot win without serving. Help these men and women to find their greatest delight in serving, whereby they join their hands, their minds, and their hearts to Your power, Your laws, and Your love. Give them the courage today to choose that task which most taxes their highest powers and best serves the world's deepest needs.

Amid all the voices that clamor for their attention, give these Your servants the discipline to do what is right and the diligence to listen to Your voice. Thus may they become not mere creatures but creators; not merely one of Your servants but one of Your friends.

In the name of the great Friend and Master of Men we pray.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

REV. RICHARD PETER CAMP, JR.

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, I am pleased that the chaplain of the U.S. Military Academy could be present today and lead us in the opening prayer.

Chaplain Camp was appointed to the position of senior chaplain at West Point in 1980 following service of 5 years as the assistant chaplain. He is a graduate of Wheaton College in Illinois and Gordon-Conwell Seminary in Massachusetts and was ordained as a Baptist pastor. During his college years, he was captain of his football team and received All-American honors.

Chaplain Camp is responsible for developing the spiritual life of cadets and serving as their counselor. As a member of the Board of Visitors at West Point, I am delighted to support him in his important ministry at West Point and to welcome him to the Chamber today.

PERMISSION FOR SUBCOMMITTEE ON MERCHANT MARINE OF COMMITTEE ON MERCHANT MARINE AND FISHERIES TO SIT TODAY DURING 5-MINUTE RULE

Mr. BIAGGI. Mr. Speaker, I ask unanimous consent that the Subcommittee on Merchant Marine of the Committee on Merchant Marine and Fisheries be permitted to sit on Thursday, July 22, 1982, during the 5-minute rule for the purpose of holding a hearing on H.R. 6732, a bill proposing a time extension for the inspection and plating of containers as called for in a recent amendment to the International Convention for Safe Containers, 1972.

The ranking minority member of the subcommittee, the gentleman from California (Mr. McCLOSKEY), has been apprised of the hearing time and is in accord with this request.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

THE ECONOMY AND UNEMPLOYMENT

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, recently, the country has had some indication that the economy is bottoming out. The prime rate is down by half a point; the stock market is up a little, and we in Congress have focused our attention on getting a budget and on world affairs, lately. Under the circumstances, it is possible to forget that unemployment is still at its highest level in 40 years and that 1 in 10 Americans who would like to work cannot find jobs.

The fact is, Mr. Speaker, that even if the economy does show signs that some things are getting better, for some people in this country, things are a lot worse. Three million more Americans are out of work this year than last year. On top of that, thousands of businesses which were thriving last year have closed their doors for good. Some of our most basic industries such as the homebuilding industry, the auto industry, our farms, and our savings institutions have suffered irreparable harm. Yes, I have read the news lately about the "bottom" of the recession, but I have also seen the suffering in the eyes of the unemployed. We should keep in mind that at the same time that interest rates have dropped by one-half of 1 percent, the misery index—unemployment plus the cost of living—has reached an all time high.

I suggest to my colleagues that we cannot afford to become complacent about Americans who cannot find work. They cannot invest in rising stocks; they cannot borrow money to take advantage of the one-half percent decrease in interest rates and finally, the tax cut cannot provide relief to someone who does not have any income to begin with.

INTRODUCING LEGISLATION REAFFIRMING CITIZENS' RIGHT TO POSSESS LAWFUL FIREARMS

(Mrs. ASHBROOK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. ASHBROOK. Mr. Speaker, today I am introducing legislation to clarify the position of Congress that no governmental agency, including States and their political subdivisions, may legalize the confiscation of otherwise legally held and used firearms. In the 1968 Gun Control Act, it was not the intent of Congress to decree any greater restrictions on State gun control laws or to allow States to ignore the constitutional right to keep and bear arms. However, in Morton Grove, Ill., the Federal district court chose to ignore the Gun Control Act as well as the Constitution in deciding to disarm its residents.

The bill I am introducing today will reaffirm a citizen's right to possess a firearm lawfully and to provide for their self-protection. The intent of this bill is to stop unwarranted interference by governmental agencies into the lives of law-abiding gun-owning citizens throughout our country. It will provide that Congress recognizes the rights of States to properly use their authority but by no means does it allow States to cause massive variations in legislation which conflict with the basic rights of individuals. In order to prevent States from abusing this balance between constitutional guarantees and proper State authority, this bill asserts that any political subdivision of a State which conflicts with the provisions of this chapter is

ineligible to participate in or receive funds from any federally funded law enforcement or criminal justice program, notwithstanding any other act of Congress.

Mr. Speaker, I am honored to introduce this bill, the Firearms Ownership Rights Act, which Senator STEVEN SYMMS, a leader in the continuing fight to protect our constitutional right to keep and bear arms, has introduced in the U.S. Senate.

Mr. Speaker, no district court has the right to preempt the Constitution of the United States. The right to keep and bear arms and the right of self-protection must be maintained. This bill will serve as a constitutional guarantee for these rights for every law-abiding gun-owner in our country, pure and simple.

EVANS-CORCORAN HOUSING INITIATIVE

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, I have good news and bad news. The good news is for the American people, and that is that the so-called Evans-Corcoran housing initiative has new life, with the neutrality of President Ronald Reagan, and a new twist—it is also a program that focuses on lowering interest rates.

The bad news, Mr. Speaker, is that it will involve for you, surprisingly, and for our colleague from Texas (Mr. WRIGHT), the Democrat majority leader, a tough decision—and that is whether or not to try to help those people who want to lower interest rates, who want to give some assistance to the depressed housing industry, or whether you want to continue to treat the Synthetic Fuels Corporation as a sacred cow.

Now, Mr. Speaker, the choice is yours, because this matter is going to come before the House next week. Next Sunday I am going to go to church. I know you will go to church, too. When I get there I am going to pray that you will think of the American people and not the oil companies.

□ 1010

LEGISLATION EXTENDING UNEMPLOYMENT BENEFITS TO AREAS OF HIGH UNEMPLOYMENT

(Mr. FINDLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FINDLEY. Mr. Speaker, it would be an understatement to say that unemployment is one of the pressing problems facing our country today.

In Illinois, extended unemployment benefits beyond the original 26 weeks will end during the first week of August. This will happen because the statewide unemployment rate has fallen slightly in recent weeks.

But not in Decatur. This important industrial city has an unemployment rate of 18.4 percent—twice the national average and the fourth highest in the country. And unless something is done, and I mean fast, the unemployed in Decatur will find themselves without jobs and without unemployment benefits.

Legislation I am introducing today would target extended unemployment benefits to areas with unemployment at 10 percent or higher even if the overall State level is falling. The benefits would be extended for 13 weeks, which would give jobseekers additional time to find a way to support themselves and their families.

Those workers in Decatur and other cities across the country have not turned their backs on America during these hard economic times. Let us not turn our backs on them in their time of great need.

VOUCHER OPTION UNDER MEDICARE PROGRAM

(Mr. PETRI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PETRI. Mr. Speaker, I wish to applaud and draw attention to last week's bipartisan action of the Ways and Means Committee to create a voucher option under the medicare program. The present system effectively confines alternative delivery systems such as health maintenance organizations (HMO's) and private insurers to providing medigap coverage for those services which medicare does not reimburse. Under this new proposal, a medicare beneficiary would be able to exchange his regular coverage for a voucher which he could take to a prepaid health care plan to receive his medical care.

I wish to make several points about this proposal. First, this system is entirely voluntary, and consequently no one can be harmed by it. An individual will not leave the present system unless he believes he will be better off elsewhere. An individual exercising his own free will with adequate information about his options will maximize his welfare far better than the Government, even at the peak of its benevolence.

My second point is that this improvement will not be accompanied by any increase in cost for the Government or the taxpayer. The value of the voucher will be what the Government would have paid if the person had remained under the medicare program.

My final point is more general. While the proposal fosters competition among providers of health care under the medicare program, many of us would like to encourage more competition throughout the health care system. We are delighted that the Government is finally getting its own house in order, but we must make further changes if the whole society's ever-rising health costs are to be brought under control in an efficient and effective way. This is an important step in that direction.

THE PRODUCTION OF NERVE GAS

(Mr. BETHUNE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BETHUNE. Mr. Speaker, today we will be debating, among other things, the question of whether the United States should abandon a 13-year policy against the production and use of chemical weapons by commencing production of the exotic new binary gas, better known as nerve gas, and I wanted to alert Members that they have not voted on this issue before. Earlier they voted on the question of whether to build a building which might be used for the production of nerve gas, but this is the big one. This issue has not been reached yet.

This amendment that will be offered today does not touch the R. & D. money, it does not touch the maintenance money or the defensive money, this does not touch the money that is set aside to demilitarize the existing stockpile and clean it up.

This amendment will only delete funding for the production of the binary gas because we do not need it and it is the one single remaining shred of evidence that this country is different from the Soviet Union when it comes to the question of nuclear arms buildup, strategic weaponry, and all of that that is horrifying everyone across the face of the globe.

I urge my friends to vote for the Zablocki-Bethune amendment to delete funding for the production of nerve gas.

TIME IS NOW FOR HOUSING INITIATIVE

(Mrs. SMITH of Nebraska asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SMITH of Nebraska. Mr. Speaker, the time is now for Congress to enact legislation which will put people back to work and stimulate the Nation's troubled housing industry.

I am speaking of a proposal to transfer $1 billion of already authorized

and appropriated funds from the Synthetic Fuels Corporation account to provide mortgage assistance to would-be home buyers.

Enactment of this initiative will demonstrate that Congress has not turned its back on out-of-work homebuilders and small businesses associated with the housing industry.

I have received assurances from President Reagan that he will not oppose this jobs and housing proposal. The President understands that the housing industry can speed economic recovery, and this initiative will assist substantially while maintaining fiscal responsibility.

The time is now for Congress to take this action because the building season is almost over. Let us join together to put workers back on the job and families into their own homes and enact this $1 billion housing stimulus plan.

PRODUCTION OF CHEMICAL WEAPONS A DISGRACE

(Mrs. FENWICK asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. FENWICK. Mr. Speaker, we have committee meetings this morning and I may not be present in the House when the amendment for the chemical weapons comes before this House.

I deplore any action of our Nation in this regard. I think it is beneath our dignity. We have signed conventions against it. We at one time abolished all participation or construction or plans for promoting such a weapon. It is a disgrace. It is a disgrace to our country that we should consider—when we do not know where to find money for our children's lunches—spending for poison gas and chemical weapons which float free in the air and kill innocent civilians while the soldiers are all wrapped up in their safety equipment.

I really think that we went astray when we started this 2 or 3 years ago. I voted against it and spoke against it then. And we continue with something so odious. If indeed it is being used in the world, we should use all our energy to bring this to the attention of the United Nations and the Security Council and the scorn of the world. For us to join in such a competition seems to me beneath the standards this country ought to stand for.

A CHANCE TO AID THE HOUSING INDUSTRY

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, if there is one industry in America whose health is essential to our plans for economic recovery it is the housing industry. And as we all know only too well, the housing industry is hurting. High interest rates, which have resulted from years of excessive and wasteful Government spending have served to cripple this vital industry to the point where housing starts and sales are desperately low.

For the past year and a half now, builders, realtors and home buyers from my district have been crying out for relief. Time and again, they have asked Congress to do something—anything—to help the housing industry.

We have a chance now, as we had in March, to do something to aid the housing industry, without increasing Federal spending and pushing interest rates even higher. Had we taken action in March, the housing industry would be recovering today.

Now we can and must support the Evans-Corcoran initiative to transfer $1 billion from the boondoggle Synthetic Fuels Corporation for use in subsidizing mortgage interest rates for moderate income home buyers. Unlike the other bailout bills which this Congress has considered, this initiative will not add a penny to the national debt and yet its impact will be almost immediately felt.

I urge support of this initiative when it is offered as an amendment to the 1982 supplemental appropriations bill.

□ 1010

THE EVANS-CORCORAN HOUSING INITIATIVE

(Mr. CLAUSEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLAUSEN. Mr. Speaker, helping the depressed housing industry has been one of my top priorities during the second session of this Congress. Since its inception, I have supported the Evans-Corcoran approach because I believe that any short-term emergency housing proposal should not add to the budget deficit. I am pleased to be part of this most recent effort to resurrect the Evans-Corcoran housing initiative which would provide $1 billion in fiscal year 1982 for the State and local housing agencies to finance and enhance mortgage revenue bonds for housing moderate income home buyers.

We must do something that turns the housing industry around before the homebuilding infrastructure is destroyed any further. Once the supply lines of the industry are destroyed, it will make economic recovery all the more difficult—and take much longer to achieve.

I urge my colleagues to support this bipartisan effort—this is a unique solution for a critical problem.

Thank you.

A SENSIBLE HOUSING PLAN

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, certainly one of the hardest hit industries in this recession is housing. It permeates our entire economy. It affects small business people, the forest products industry, the textile industry, realtors, and thousands of working men and women across the country.

My colleague, the gentleman from Illinois (Mr. CORCORAN) and I have a plan to provide assistance by transferring $1 billion in already authorized and appropriated funds from the Synfuels Corporation and in conjunction with the existing mortgage revenue bond program, use it to help people purchase homes.

Our plan made sense in March when we originally offered it. It made sense in April. It made sense in May. It made sense in June and it makes even more sense today and if anything is more critically needed.

Recent changes in the mortgage revenue bond program by the IRS have made that program more viable. I urge my colleagues to support CARROLL CAMPBELL's amendment in the Appropriations Committee to the regular supplemental appropriations bill which will incorporate the Evans-Corcoran initiative. That plan will give Members of this body an opportunity to make a real choice, continued subsidies for major corporations or grassroots assistance to home buyers and homebuilders that will provide meaningful jobs for hundreds of thousands of Americans.

CLEANUP AUTHORITY TO NUCLEAR REGULATORY COMMISSION

(Mrs. BOUQUARD asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOUQUARD. Mr. Speaker, I am introducing legislation today that will give the Nuclear Regulatory Commission the effective authority to order the expeditious cleanup of any commercial nuclear powerplant that sustains an accident. Additionally, the NRC would be given the enforcement authority to collect the necessary fees to finance such a cleanup in the event that a utility cannot dedicate sufficient funds to the cleanup.

The NRC is now virtually powerless to enforce an order to expeditiously clean up a disabled powerplant. If the utility has insufficient funds to finance that cleanup, such as is the case with Three Mile Island, the NRC is faced with the dilemma of either driving the utility into bankruptcy or allowing a stretchout in the cleanup

schedule. As a result, the latter option becomes the only effective alternative and the cleanup process is dragged out, the public health and safety is subjected to needless risk, the financial health of the utility and the region is jeopardized, a large national asset is left to lie fallow, and a false perception is promoted that such actions are a result of interactable or unsolvable problems associated with the use of nuclear powerplants.

My bill would encourage utilities and utility commissions to devise adequate financing plans to expeditiously cleanup accident sites. If for any reason such financing is not provided and the utility cannot expeditiously cleanup the plant, the NRC can levy a surcharge on the utility bills—sent only to the customers of the utility with the disabled plant—to collect the needed funds. For example, at TMI the GPU chairman, William G. Kuhns, estimated that a 10-percent surcharge on all its customers would fully pay for the cleanup of the plant.

I urge my colleagues to join me in cosponsoring this generic legislation. It is not only fair but provides a complete solution for the TMI accident and any other future accidents at other powerplants but does so without Federal appropriations.

SECRETARY WATTS' LACK OF STEWARDSHIP

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, Secretary Watt, in his announcement of a 5-year leasing plan for offshore drilling, has issued a challenge to the Nation: Will we support rational and balanced development of our resources consistent with the law, or will we follow the Secretary's lead and ignore those laws, and put up for sale and development our entire coastline—from Maine and Massachusetts to California and Alaska?

The Secretary's announcement is certainly consistent with his lack of regard for the proper stewardship of our natural resources. It is, however, inconsistent with the laws and policies of our Nation that have required sufficient time for local and State input on such sales, as well as adequate environmental and economic assessments.

In short, this decision makes no sense.

It makes no sense from an energy point of view, because it will most certainly give rise to further lawsuits and legislative actions that will delay and obstruct even rational development of our energy resources.

It makes no sense economically, because it will flood an already glutted oil market with lease sales that even the oil companies themselves admit they have neither the resources nor the time to develop.

And it surely makes no sense environmentally, because it attacks in one fell swoop the one precious resource we know we possess—our coastlines, their fisheries, and their beauty.

I have already sought legislative action to prevent these attacks along the northern coast of California. I have also joined with other Congressmen in requesting the Secretary to reconsider his 5-year plan. It is clear that unless the Secretary revises his approach, similar legislative action for the entire Nation will be necessary in order to restore some degree of commonsense to the management and protection of our resources for the future.

AN INTERESTING VOTE ON HOUSING

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, we just heard two gentleman from the other side of the aisle discuss their concern about housing and the need to do something on housing.

On June 24, 1982, before this House was the urgent supplemental appropriations bill. When we had a chance as Members of this House to provide for the housing needs of this country, to do something to indicate to the American realtors, builders, and homeowners that we as Members of this body were concerned about their needs, both gentlemen did not vote to override. We failed to override by only 17 votes and their two votes and help would have probably made the difference.

I find that rather interesting.

PRINTING OF PROCEEDINGS ON PRESENTATION OF PORTRAIT OF THE HONORABLE JOHN D. DINGELL

Mr. GAYDOS. Mr. Speaker, by direction of the Committee on House Administration, I call up a privileged resolution (H. Res. 317) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 317

Resolved, That the transcript of proceedings of the Committee on Energy and Commerce on September 23, 1981, incident to presentation of a portrait of the Honorable John D. Dingell to the Committee on Energy and Commerce shall be printed as a House document with illustrations and suitable bindings.

SEC. 2. In addition to the usual number, there shall be printed five hundred casebound copies of such document for the use of the Committee on Energy and Commerce.

Mr. GAYDOS (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. FRANK). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The SPEAKER pro tempore. The gentleman from Pennsylvania (Mr. GAYDOS) is recognized for 1 hour.

Mr. GAYDOS. Mr. Speaker, House Resolution 317 authorizes the printing as a House document with illustrations and suitable bindings the transcript of the proceedings in the Committee on Energy and Commerce of September 23, 1981, incident to the presentation of a portrait of the Honorable JOHN D. DINGELL to that committee. The resolution further states that in addition to the usual number of 1,500, 500 additional copies shall be printed and casebound for the use of the Committee on Energy and Commerce.

The Government Printing Office has estimated that the cost of this printing will be as follows:

1,500 paperback copies (usual number)	$2,236.79
500 casebound copies (additional)	1,155.95
Total	3,392.74

This resolution represents a customary request that such proceedings be appropriately memorialized.

Mr. Speaker, for purposes of debate only, I yield to the gentlewoman from Illinois (Mrs. MARTIN).

Mrs. MARTIN of Illinois. Mr. Speaker, the minority on the committee supports the resolution, with the hope that eventually there will be a set of rules that will more clearly define the specifics of what we are doing today.

Mr. GAYDOS. Mr. Speaker, I want to thank my colleague and member of the committee.

Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations

for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. BETHUNE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 388, nays 1, answered "present" 1, not voting 44, as follows:

[Roll No. 201]

YEAS—388

Addabbo	Corcoran	Fowler
Akaka	Coughlin	Frank
Albosta	Courter	Frenzel
Alexander	Coyne, James	Frost
Anderson	Craig	Fuqua
Andrews	Crane, Daniel	Garcia
Annunzio	Crane, Philip	Gaydos
Anthony	Crockett	Gejdenson
Archer	D'Amours	Gephardt
Ashbrook	Daniel, Dan	Gibbons
Aspin	Daniel, R. W.	Gilman
Atkinson	Dannemeyer	Glickman
AuCoin	Daschle	Gonzalez
Badham	Davis	Goodling
Bafalis	de la Garza	Gore
Bailey (MO)	Deckard	Gradison
Bailey (PA)	Dellums	Gramm
Barnard	DeNardis	Gray
Barnes	Derrick	Green
Beard	Derwinski	Gregg
Bedell	Dickinson	Grisham
Beilenson	Dicks	Guarini
Benedict	Dixon	Gunderson
Benjamin	Donnelly	Hagedorn
Bennett	Dorgan	Hall (OH)
Bereuter	Dornan	Hall, Ralph
Bethune	Dougherty	Hamilton
Bevill	Dowdy	Hammerschmidt
Biaggi	Downey	Hance
Bingham	Dreier	Hansen (ID)
Blanchard	Duncan	Hansen (UT)
Bliley	Dunn	Harkin
Boggs	Dwyer	Hartnett
Boland	Dymally	Hatcher
Bolling	Dyson	Hawkins
Bonior	Early	Heckler
Bonker	Eckart	Hefner
Bouquard	Edgar	Hendon
Breaux	Edwards (AL)	Hertel
Brinkley	Edwards (CA)	Hightower
Brodhead	Edwards (OK)	Hiler
Brooks	Emerson	Hillis
Broomfield	Emery	Holland
Brown (CO)	English	Hollenbeck
Broyhill	Erdahl	Holt
Burton, Phillip	Erlenborn	Hopkins
Butler	Evans (DE)	Horton
Byron	Evans (IA)	Howard
Campbell	Evans (IN)	Hoyer
Carman	Fary	Hubbard
Carney	Fascell	Hughes
Chappell	Fazio	Hunter
Chappie	Fenwick	Hutto
Cheney	Ferraro	Hyde
Clausen	Fiedler	Ireland
Clinger	Fields	Jacobs
Coats	Findley	Jeffords
Coelho	Fish	Jeffries
Coleman	Fithian	Jenkins
Collins (IL)	Flippo	Johnston
Collins (TX)	Florio	Jones (NC)
Conable	Foglietta	Kastenmeier
Conte	Foley	Kazen
Conyers	Forsythe	Kennelly
Kildee	Neal	Skeen
Kogovsek	Nelligan	Skelton
Kramer	Nelson	Smith (AL)
LaFalce	Nichols	Smith (NE)
Lagomarsino	Nowak	Smith (NJ)
Lantos	O'Brien	Smith (OR)
Latta	Oakar	Smith (PA)
Leach	Oberstar	Snowe
Leath	Obey	Snyder
Lee	Oxley	Solarz
Lehman	Panetta	Spence
Leland	Parris	St Germain
Lent	Pashayan	Stangeland
Levitas	Patman	Stanton
Lewis	Patterson	Stark
Livingston	Paul	Staton
Loeffler	Pease	Stenholm
Long (MD)	Perkins	Stokes
Lott	Petri	Stratton
Lowry (WA)	Peyser	Studds
Lujan	Pickle	Stump
Luken	Porter	Swift
Lundine	Price	Synar
Lungren	Pritchard	Tauke
Madigan	Pursell	Tauzin
Markey	Quillen	Taylor
Marlenee	Rahall	Thomas
Marriott	Railsback	Traxler
Martin (IL)	Rangel	Trible
Martin (NC)	Ratchford	Udall
Martin (NY)	Regula	Vander Jagt
Martinez	Reuss	Vento
Matsui	Rinaldo	Volkmer
Mattox	Ritter	Walgren
Mavroules	Roberts (KS)	Walker
Mazzoli	Roberts (SD)	Wampler
McClory	Robinson	Washington
McCloskey	Rodino	Watkins
McCollum	Roe	Waxman
McCurdy	Roemer	Weaver
McDade	Rogers	Weber (MN)
McDonald	Rose	Weber (OH)
McEwen	Rostenkowski	Weiss
McGrath	Roth	White
McHugh	Roukema	Whitehurst
McKinney	Rousselot	Whitley
Mica	Roybal	Whittaker
Michel	Russo	Whitten
Miller (CA)	Sabo	Williams (MT)
Miller (OH)	Santini	Williams (OH)
Mineta	Sawyer	Winn
Minish	Scheuer	Wirth
Mitchell (NY)	Schneider	Wolf
Moakley	Schroeder	Wolpe
Molinari	Schulze	Wortley
Mollohan	Schumer	Wright
Montgomery	Seiberling	Wyden
Moore	Sensenbrenner	Wylie
Moorhead	Shamansky	Yates
Morrison	Sharp	Yatron
Mottl	Shaw	Young (FL)
Murphy	Shelby	Young (MO)
Murtha	Shumway	Zablocki
Myers	Shuster	Zeferetti
Napier	Siljander	
Natcher	Simon	

NAYS—1

Mitchell (MD)

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—44

Applegate	Ford (TN)	Marks
Boner	Fountain	Mikulski
Bowen	Gingrich	Moffett
Brown (CA)	Ginn	Pepper
Brown (OH)	Goldwater	Rhodes
Burgener	Hall, Sam	Richmond
Burton, John	Heftel	Rosenthal
Chisholm	Huckaby	Rudd
Clay	Jones (OK)	Savage
Coyne, William	Jones (TN)	Shannon
Daub	Kemp	Smith (IA)
Dingell	Kindness	Solomon
Ertel	LeBoutillier	Wilson
Evans (GA)	Long (LA)	Young (AK)
Ford (MI)	Lowery (CA)	

□ 1040

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6030, with Mr. AUCOIN, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Wednesday, July 21, 1982, title I was open to amendment at any point.

Are there further amendments to title I?

AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ZABLOCKI: Page 2, line 15, strike out "$2,439,000,000" and insert in lieu thereof "$2,410,600,000".

Page 5, line 19, strike out "$3,959,000,000" and insert in lieu thereof "$3,933,300,000".

□ 1050

Mr. ZABLOCKI. Mr. Chairman, today in the House of Representatives we have an opportunity to make a very historic decision, and that is this: Whether the United States is going to depart from a 13-year moratorium that we have had on the production of lethal chemical weapons? Are we going to produce new lethal chemical weapons, the binary when we already have a sufficient amount of chemical weapons in our stockpile, both in quality and quantity?

I submit that we should maintain our extensive existing stockpile of lethal chemical weapons, and, having an adequate stockpile of lethal chemical munitions, we should pursue serious arms control negotiations and thus eliminate this horrible threat posed by these weapons.

Mr. Chairman, that is the commonsense policy for the United States, the policy that preserves the distinctive humanitarian and moral character of the American people and its Government, eliminating the threat of chemical weapons rather than adding to what we already have.

It is for this reason that I am introducing this amendment with my Republican colleague, the gentleman from Arkansas (Mr. BETHUNE), which would delete this request. All the amendment would do is delete the $54 million request for binary chemical weapons production.

Mr. Chairman, this is a bipartisan effort. There is support for this commonsense amendment from other Members, and I will just name a few: The gentleman from Connecticut (Mr. MOFFETT), the gentleman from Iowa (Mr. LEACH), the gentlewoman from New Jersey (Mrs. FENWICK), the gentleman from Connecticut (Mr. GEJDENSON), the gentlewoman from New

Jersey (Mrs. ROUKEMA), and the gentleman from Michigan (Mr. BONIOR).

Again, I want to make it clear to my colleagues that the amendment would leave intact over 90 percent of the funds requested for the U.S. chemical warfare program. This includes $507 million for badly needed chemical defensive weapons for defensive programs. I think that we should be putting our emphasis on the defensive programs. My amendment also leaves intact $74 million for demilitarization of the less than 1 percent of unusable chemical weapons in our permanent stockpile, and $70 million is still remaining there for research and development for the binary program and maintenance of our existing stockpile of lethal chemical weapons.

I repeat that my amendment would only delete this initial $54 million down payment on a program which could ultimately cost the already beleagured American taxpayer between $6 billion and $15 billion. When we have a problem of balancing the budget, is this not the best opportunity to save that amount of money that I am speaking of, voting for any amendment? We should stop this foot-in-the-door approach. Proponents of the binary say it is only $54 million, let us not forget it would result over the years in an expenditure of $10 billion.

For almost 10 ten years, the Committee on Foreign Affairs has held oversight hearings on the foreign policy, arms control, and other implications of binary chemical weapons, and the most recent meeting was held Tuesday, July 13.

The key question we have pursued in our hearings, meetings, and discussions, was: "Does resumed production of nerve gas contribute to the United States national security interests,"

After all, we are all concerned about our national security interests. And what was the answer? The answer consistently has been: "No, it does not."

If it does not, why spend the money? The United States already has an adequate offensive chemical warfare capability. The current stockpile of lethal chemical weapons is enough for at least 30 days of chemical warfare in Europe, which would result in millions of civilian deaths.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 3 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, the current stockpile is adequate both in quality and quantity.

According to the U.S. Army's own 1982 surveillance program of the current stockpile all lots of nerve agent in its 155-millimeter and 8-inch artillery shells, which are scheduled to be replaced by binaries, are condition code A, and I quote—"serviceable—fully meets all military characteristics, issuable without limit or restriction." This is the Army's judgment.

U.S. production of binaries carries grave foreign policy implications. Our friends and allies in Europe reject them. They reject new U.S. deployments of binary nerve gas. Yet, unless they are deployed where they can be used, that is, in Europe, binaries have no deterrence value.

Let us look at another matter. Let us understand that binary production will be not only a waste of the taxpayers' dollars, but let us keep in mind that binaries are 18 times more costly than upgrading the existing unitary weapons, $550 per binary round versus $30 per upgraded unitary round. At a time when the Federal deficit exceeds $100 billion, that cost is both unacceptable and irresponsible.

Binary production will, in addition, divert billions of dollars from other needed military programs such as enhancing United States chemical defenses and conventional forces.

As chairman of the Committee on Foreign Affairs, I have had an opportunity to closely examine the arms control implications of the binary program. There is no doubt in my mind on the basis of that extensive review that the U.S. production of binaries undermines arms controls efforts.

Mr. Chairman, let me just remind our colleagues that the Soviet Union last month at the United Nations tabled a chemical weapons arms control proposal offering a real opportunity to pursue a negotiated ban as opposed to a whole new arms race in the area of chemical weapons. This Soviet proposal contains a number of significant changes from the past, the most important of which relates to verification of a chemical weapons arms control agreement.

The very fact that the Soviets took this initiative and addressed the substantive issue of verification offers the Reagan administration a unique opportunity to resume bilateral negotiations with the Soviet Union. Our failure to do so would afford the Soviets a propaganda advantage and could precipitate a costly and dangerous arms race in chemical weapons.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(By unanimous consent, Mr. ZABLOCKI was allowed to proceed for 1 additional minute.)

Mr. ZABLOCKI. Further, the U.S. production of binary chemical weapons will likely be viewed by the world community as an abandonment of past U.S. policy to eliminate chemical weapons and could stimulate a dramatic increase in the proliferation of such weapons.

Mr. Chairman, in closing I would like to make a few comments regarding the military effectiveness of chemical weapons, specifically the proposed binary chemical weapons.

Experts agree that chemical weapons are militarily effective against a well-protected adversary—which the Soviets clearly are. That is why all of us who oppose the binary production program strongly support the U.S. chemical defensive progam.

It simply is dangerous and ill-advised for the United States to begin producing a weapon that has never been field tested and whose military reliability is very uncertain. The United States made the mistake of copying the antidote TAB found in Soviet tanks captured during the 1973 Yom Kippur war without adequate testing. We now find ourselves in the position of having to withdraw that antidote from Europe, after the expenditure of many thousands of dollars.

Binaries also create more serious logistical problems than existing unitary weapons because they are heavier and bulkier and because the separate binary components complicate battlefield coordination.

□ 1100

Mr. Chairman, I believe that we all agree that binary production does not contribute to U.S. national security interests but, rather, undermines it.

I do hope the members of the committee will vote overwhelmingly for this amendment.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ZABLOCKI) has again expired.

(At the request of Mr. BINGHAM and by unanimous consent Mr. ZABLOCKI was allowed to proceed for 2 additional minutes.)

Mr. BINGHAM. Mr. Chairman, will the gentleman yield?

Mr. ZABLOCKI. I am glad to yield to the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Chairman, I want to compliment the gentleman on his initiative and associate myself with his eloquent remarks.

I think this is a most important amendment.

I would add only to what the Chairman has said that I think it is ironic that this move on the part of the administration toward developing a new generation of chemical weapons follows on the heels of the administration's quite proper condemnation of the Soviet Union for using chemical weapons in various parts of the world.

Mr. Chairman, I rise this afternoon to express my full support for the Zablocki-Bethune amendment which would delete $54 million for production of binary chemical weapons from the Defense Department authorization bill.

My colleagues are no doubt familiar with the horrors of such weapons.

Chemical weapons kill in a particularly ghastly and indiscriminate way. Their victims are more often than not civilians.

Recently, the Reagan administration has chastised the Soviet Union for its alleged use of tricothecene, dubbed "yellow rain," in Kampuchea, Laos, and Afghanistan. Eyewitnesses of these alleged attacks report that victims died a horrible death, suffering from bleeding eyes, burning of the skin, dizziness, bleeding gums, and a variety of other symptoms, before finally succumbing from explosion of their internal membranes, in effect, drowning them in their own blood.

Ironically, the administration has followed these charges against the Soviets with a call for a new generation of chemical weapons of its own, claiming that such weapons are necessary to deter the Soviets from future use. I find this argument that reduction of chemical weapons is only possible through increased production to be painfully reminiscent of the administration's stance on nuclear weapons. Stepped-up production of such weapons might well lead the world into a period of chemical arms proliferation.

Surely, the most fruitful avenue of pursuit for an administration truly committed to the control, reduction and, if possible, elimination of chemical weapons would be through negotiations. Unfortunately, the administration has refused to resume the bilateral negotiations with the Soviet Union that stalled in mid-1980. As recently as this past month, before the United Nations Special Session on Disarmanent, Soviet Foreign Minister Gromyko submitted a proposal for resumption of negotiations intended to put an end to the chemical weapons arms race before it begins. Many are convinced that this latest Soviet proposal contains language concerning the important issue of verification that represents significant movement from previous Soviet stances. Yet, in the face of this new initiative, the administration has merely reaffirmed its intent to produce a new generation of chemical weapons.

I would ask my colleagues to consider what message is sent by a refusal to negotiate directly on the one hand, and an effort to renew production of chemical weapons on the other. How else could such a signal be interpreted than as another step in a chemical arms race? Moreover, I am concerned about what it would say to the world if we follow our call for condemnation of the Soviet use of chemical weapons with the resumption of a massive chemical weapons program of our own after a 13-year moratorium.

We should be wary of the dangers of proliferation of these arms, and careful to avoid opening the floodgates of a new round of chemical weapons production. Before these weapons become available to terrorist groups and unstable governments who would think little of using them to advance their own ends, we must stop production and use of chemical weapons once and for all.

I hope my colleagues will join me in adopting the Zablocki-Bethune amendment, and in turning down the administration's call for a resumption of the chemical arms race.

Mr. ZABLOCKI. I thank the gentleman for his contribution.

He is so right. While we are condeming the Soviets or their surrogates for using chemical weapons, we lose that advantage by entering into a program that really wipes out our advantage as far as the Third World is concerned or as far as the entire world is concerned.

They join us in condemning the Soviet Union for its use, but likewise they will condemn the United States for going into production of a new generation of lethal chemical weapons.

I yield back the balance of my time.

AMENDMENT OFFERED BY MR. BETHUNE TO THE AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. BETHUNE. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. BETHUNE to the amendment offered by Mr. ZABLOCKI: At the end of the amendment, add the following:

Page 8, after line 12, insert the following new section:

PROHIBITION ON PROCUREMENT OF BINARY CHEMICAL MUNITIONS AND RELATED PRODUCTION FACILITIES

SEC. 109. None of the funds appropriated pursuant to the authorizations of appropriations in this title may be obligated or expended for procurement of binary chemical munitions or for production facilities for such munitions.

Mr. BETHUNE. Mr. Chairman, I am pleased to join with my distinguished colleague, the chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, in an effort that cuts across philosophical and party lines.

Presently the United States holds the high ground on at least one front in the arms control struggle. We are not producing or using chemical weapons.

American disdain for these unbelievably horrible weapons has been proved by our adherence to a wise policy set by President Nixon in 1969.

As the strategic arms reduction talks, the START talks progress, we have a narrow opportunity because of our opposition to chemical weapons, to drive home the point here and abroad that our goal is, in fact, world peace.

We must not lose that advantage. That is exactly what will happen if we resume the production of chemical weapons such as nerve gas.

Peace-loving people all over the world agree with the American stand against biological and chemical weapons. They know that poison gasses kill and maim more civilians than soldiers.

To put it simply, on this issue the people around the world trust us and they trust us not because of what we say or what we do; they trust us for what we have not done.

The Soviets cannot make that claim. The stories out of Sverdlovsk and the mounting evidence in Afghanistan have wrought a world perception, if not a reality that the Soviets are not only producing biological and chemical weapons, they are using them.

This perceptional, perhaps provable distinction could mean the difference in the battle for credibility around the world.

What it boils down to is this: We are not like the Soviets. We do not want to be like the Soviets. And, on this issue, at least, we can prove it.

Right now most people see us and the Soviets as partners in crime when it comes to the production of nuclear weapons and other types of strategic weapons. When they see the display of this week here in this Congress where we spend billions and billions of dollars to produce all of the exotic weapons that we have had debated here ad nauseum, they do not distinguish between us and the Soviets.

We are particeps criminis with the Soviets in the mind of the world when it comes to building up arms.

On this issue, however, it is different. Our refusal to produce or use chemical weapons sets us apart from the Soviets in a way that corroborates our often-declared goal that we really want to reduce arms.

If we start making nerve gas just as we go to the negotiating table with the Soviets we are going to lose that advantage.

That is why the distinguished chairman and I have proposed our amendment to delete funds and to prohibit the production of chemical weapons. It just does not make sense, my colleagues, to throw away the one small shred of evidence that we Americans truly yearn for the day when we will indeed reduce arms instead of increase the escalation and the production of arms.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. I rise in support of the initiative of the gentleman from Arkansas and the gentleman from Wisconsin.

I would like to stress four or five points that have not as not yet been brought out in the debate.

First, it is indisputable that Soviet surrogates are using biochemical weapons in Laos and Cambodia, and almost certainly in Afghanistan as well. In addition, there is some indica-

tion these weapons may have been introduced in East Africa.

Given this fact of usage, the United States basically has two strategic options. One is to build up our chemical weapons stockpiles and the other is to pursue arms control in a much more forthright way.

For strategic and humanitarian reasons it seems to me far preferable to pursue an arms control treaty and to bring an end to an arms race that in the long run nobody can win.

It is important in this sense to stress that these weapons are unbelievably awesome. Chemical weapons are perhaps less devastating than nuclear arsenals, but in World War I there were 1.2 million casualties stemming from poison gas. Today chemical substances are more lethal, the delivery systems are more sophisticated.

In addition, there is a thin line between chemical weapons and biological weapons, the former being inorganic substances and the latter being living organisms such as plagues capable of multiplying and for which there may be, in some instances, no known antidote.

While chemical weapons are slightly less dangerous than nuclear, clearly biological weapons are more dangerous.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(At the request of Mr. LEACH of Iowa and by unanimous consent Mr. BETHUNE was allowed to proceed for 4 additional minutes.)

Mr. LEACH of Iowa. In a very practical sense one cannot control one form of weaponry by treaty and not the other. The fact that we have a convention prohibiting the development, production, and stockpiling of biological weapons is not enough. It must be complemented by a convention on chemical weapons.

As the first generation of people in the history of the world capable of destroying ourselves, we must realize that the possibility of an accident or an intended use of biological and chemical weapons is actually far greater than nuclear. In fact, chemical weapons are now being used.

Here it should be noted that on the biological front, during World War II the Japanese performed biological experiments, including vivisections, on United States and Soviet POW's and actually attempted to spread the bubonic plague in Manchuria by dropping infected cotton balls.

Fortunately, the Manchurian experiment did not work.

In the United States, however, in a nonwartime setting, we did experiment with certain biological agents with some success. For example, in classified information released as recently as last week it has been revealed that the U.S. Army in the 1950's did an experimental airdrop using turkey feathers infected with hog cholera in Florida. Incredibly, the designated group of model hogs got infected.

Biological weapons of this nature do work.

Chemical and biological weapons are not only awesomely dangerous, they are also extraordinarily cheap. They have the clear potential to become the poor man's weapon of mass destruction.

Here it is important for us to realize that Third World countries have easy access to these weapons. Castro, for instance, has reportedly made allegations that he has the capacity to spread hoof-and-mouth disease in the United States.

□ 1110

That capacity is probably real. Accordingly, the lack of priority given by the Carter administration to investigating reports of chemical weapons usage in Southeast Asia is unfortunate, as is the lack of priority being given by this administration to pursuing chemical weapons arms control.

Given the usage as recently as the past 6 months of biochemical weapons in Southwest Asia, and given the obligation of the United States of America, under ariticle VII of the Biological and Toxic Weapons Convention, to pursue serious chemical weapons arms control, we have no legal or moral choice but to give chemical weapons arms control the highest possible priority.

As Calvin Coolidge once said, "The best way to begin is to begin." A good first step toward beginning to contain the chemical weapons arms race is to adopt the Zablocki-Bethune amendment and to defer producing a new generation of chemical weapons in this country.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentlewoman from New Jersey.

Mrs. ROUKEMA. I thank the gentleman for yielding.

Mr. Chairman, while the focus of public opinion is riveted on the nuclear arms talks and the "freeze" movement, the American people are almost totally unaware of an imminent and drastic reversal in the U.S. policy on chemical weapons. We have had a 13-year moratorium on the production of chemical weapons and we have ratified the Geneva protocol which prohibits the use in war of chemical weapons. Yet we are asked to authorize now the production of binary nerve gas.

When will the Congress learn? We were warned by President Eisenhower against the "military-industrial complex." We acted on faith in 1964 and passed the Gulf of Tonkin resolution. Today we stand on another precipice—about to jump in a leap of faith to what could very likely be a chemical warfare arms race.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(On request of Mrs. ROUKEMA and by unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mrs. ROUKEMA. If the gentleman will yield further, we have no excuse if we go forward with this production authorization today. The questions central to the issue have been asked—by our own Foreign Affairs Committee in 1974 and by the Appropriations Committee last year. Yet they are still unanswered today.

Will the Congress approve production of chemical weapons despite the fact that considerable controversy continues over whether existing stocks are enough? Despite the fact that there is no evidence of NATO willingness to accept binary weapons? Despite the fact that U.S. production of the binary could, in fact, trigger proliferation of chemical weapons by lending military significance and moral acceptability? Despite the fact that we do not know how chemical weapons would be used, where they could be used, and why they are needed?

These points were understood in the fiscal year 1981 supplemental appropriations conference report which provided R. & D. funds for chemical weapons. The report stated—the conference committee—"remains deeply concerned about the many as yet unanswered questions surrounding this effort." The report then directed the administration to determine the long-range costs of the program; "provide a country-by-country report from our NATO allies with respect to their views on that long-range program"; provide an overview of the mission-oriented requirements and give us the arms control impact. The information subsequently provided however, does not include the country-by-country report and has not yet been thoroughly studied by the appropriate committees to determine its sufficiency or implications. Therefore, why must we rush to production?

If we do not stop the funding for production of binary weapons we will be approving without comprehensive hearings or a public policy debate, a military doctrine dependent upon chemical weapons. A new defense program will be established with little understanding of its impact upon foreign policy, national security, or comprehensive arms control.

We must say "No"; "No," until the DOD explains the military requirements which are so compelling that we readily abandon a 12-year moratorium. "No," until, the DOD explains how the mission orientation of chemical weapons is consistent with the international commitments of the United States. "No," until the full report re-

quested by the conference committee, in June of 1981 has been received, reviewed and accepted. "No," until we have a full analysis of the diplomatic consequences of this reversal in U.S. policy on our NATO allies.

Finally, and most emphatically I must stress that the United States of America, the leader of the world's democracies, cannot respond to the Soviet Union violation of the Geneva accords by escalating yet another arms race. Let the Soviet Union stand accused in the court of world opinion. Let the United States say "enough." For—

As soon as men decide that all means are permitted to fight an evil, then their good becomes indistinguishable from the evil that they set out to destroy. (Christopher Dawson, 1942.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding, and I appreciate his articulate speech against the use of chemical warfare. But I think a couple of points have to be brought out.

One point is that we are not talking about biological warfare. There is no funding in this bill for biological or germ warfare. There are several references made to some of the programs the Soviet Union has undertaken. I think the most important thing we should consider here, though, from a commander or a military man's point of view—and we have to ultimately project that there may be in the future some confrontation between this country and the Warsaw Pact nations—is that you are placing your military people and the field commander and the people who are under his command at a great disadvantage if you allow the enemy, regardless of how horrible or horrendous the weapons are that he has at his disposal, the exclusive use of a certain weapon system. You can be sure he is going to utilize that monopoly to the fullest extent, and he is going to utilize that weapon system to the fullest extent.

What we are proposing to do today is to restrict ourselves unilaterally and to give that Soviet commander or that Warsaw Pact commander the capability of using chemical warfare and biological warfare on our troops without any threat whatsoever of reprisal.

I heard the gentleman from New York mention that we shall be gaining some psychological advantage, propaganda advantage, if in fact we did not produce binary weapons.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has again expired.

Mr. HUNTER. Mr. Chairman, I ask unanimous consent that the gentleman from Arkansas be allowed to proceed for 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, the gentleman can get his own time. I thought we had an agreement.

Mr. HUNTER. If the gentleman will yield, I just have one more paragraph.

Mr. DICKINSON. Mr. Chairman, why does not the gentleman get his own time and let the gentleman in the well use his time?

Mr. BETHUNE. The gentleman is using my time now, I acknowledge.

Mr. DICKINSON. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HUNTER. Cyrus Vance said 3 years ago:

We give tremendous psychological advantage to the Soviet Union by foregoing our plan to produce chemical weapons.

I would simply say that, since then, our inaction has had such an effect on the Soviet Union that they proceeded to use chemicals and gas on the Afghanistans and on the Cambodians. So I think that that argument has not stood up and in fact we have not motivated the Soviets to reduce or to restrain their development of chemical weapons.

Mr. BETHUNE. I thank the gentleman for his remarks.

Mr. Chairman, I would like to respond to the points that the gentleman made. I am glad we are having this debate. It is really the first time we have had an intelligent and comprehensive discussion of the chemcial weapons issue on the floor of this House.

The gentleman makes two points, one being that the military commanders are placed at a disadvantage. And I think it should be brought out at this point that the military commanders do not like chemical weapons. They know that chemical warfare degrades the level of competence and the ability of commanders to wage war in the field.

Now, the instances where we have seen the use of chemical weapons recently in Afghanistan and Laos are distinguishable. The gentleman suggests that the United States and the Soviet Union might engage in a confrontation involving chemical weapons. The United States and the Soviet Union are both sophisticated and superior military powers. Only once in the history of the world has chemical weapons been used where there is a superior force matched against another superior force, and that was in World War I. The lesson from that was that neither force can wage war under those circumstances because it degrades the level of the ability to wage war.

The other instances are instances where a superior force has used chemical weapons against an inferior, unsophisticated and primitive force, such as in the case of Afghanistan. In those instances it has been used because: First, the primitive force does not have the defensive capability; and second, they have no way in which to retaliate, and so the superior force is enticed to use in those instances.

□ 1120

The second point I would make is that the gentleman's argument assumes, incorrectly, that the binary weapon which is under discussion here is somehow more effective, a better weapon, than the existing unitary shell. That is a fallacious argument, because: First, there has been no testing, no dynamic testing, of the binary weapon and we know in fact there are many problems that can be seen already with the binary weapon; and second, according to military authorities, Admiral Davies for one, a 36-year veteran of the Navy, who was then Assistant Director of the Arms Control and Disarmament Agency for 7 years, said:

Of course the current safety record of our current stockpile of munitions is excellent, so it appears that the binary would improve an already acceptable situation.

He goes on to point out that we already possess a very substantial stockpile with an outstanding safety record, and he takes the position that a decision now to commit the United States to this $700 to $800 million program would be of dubious merit, particularly in light of the budgetary problems.

He is not the only one. Mr. Saul Hormats, who was for 12 years in charge of the Army's chemical weapons program, says that our current stockpile of chemical weapons contains enough lethal nerve gas in serviceable munitions to force the Soviets to suit up in anticipation of gas weapons being used against them.

So the two points that the gentleman makes that our military commanders somehow want and somehow need this particular weapon, and that these particular weapons are established beyond doubt to be better than the weapons that we have on hand, are just not so.

Furthermore, there is great weight of authority to prove that the gentleman's points are not well founded.

So I would urge Members to realize that the wise policy which was established in 1969 has held. It has held through several votes in this House. It is a good policy based on substantial thought and substantial historical foundation.

I think the burden is on the committee and on the administration to prove without doubt that we need these weapons and that they are superior to

the existing stockpile, and I do not think they can do it and, therefore, we should stick to the existing policy.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I brought in a chart which I think shows a compelling reason as to why we should oppose this amendment and why we need to go forward with developing the capability of a binary round.

Any time that you talk about either nuclear or chemical warfare the results are so horrible, it is so unsavory and unpleasant that it always gets emotional. It is very easy to play on people's emotions and describe the horror of this type of warfare. It is much worse to be gassed than it is so be blown up. We are used to that. We are not used to gas. I think some things need to be put in perspective and some of the facts known and if a person based on his own philosophy or his own emotional reaction feels as he does, then so be it. Let us base it on the facts. Let us get the facts out and then based on the facts however one might react, so be it.

The fact is that we have had and have not used chemical agents since World War I.

The fact is that, according to our intelligence estimates, both sides had the capability in World War II, both Adolf Hitler and his Nazi regime, as did the allies.

Our intelligence community has told us, and I am convinced that if Adolf Hitler and the Nazi war machine had not been convinced that we had the capability as they did, they would have used gas on the invading troops at Normandy and on D-Day. The only deterrent that kept the madman Hitler on a leash was the threat that we could do what he could do. If we had no capability if we had no threat in that area, he would have used it.

Only the deterrent of the allied ability to reply in kind kept Nazi Germany from using gas in World War II.

We have had it since then. We did not use it then, we will not use it now, except in self-defense, but it is imperative for the defense of this country that we have a credible deterrent.

What is the alternative? Somebody can say we have the atomic tactical weapons. And really, is that what we want?

We have seen the Soviets training every division with chemical weapons. They do so today. They have not signed any pact saying that they are not going to use chemical weapons. In fact, we know they have supplied and have used chemical agents in Kampuchea, in Laos, and Afghanistan. Why? Because the people they were using them on, first, had no defense against them and could not retaliate. They could do so with impunity. They did not have to worry about what would come back to them.

They had the ability and they tested it and they used it, and while they denied this, the evidence is there. It is beyond doubt because we have developed and produced evidence both in the forms of people who were gassed and hard evidence such as soil samples and radio intercepts.

What happens to us if we do not even have the capability?

Well, the capability is—if the Soviets do in fact decide they are going to go across the Warsaw Pact NATO line and go into Europe, the only credible deterrent we have is nuclear weapons.

Now, is that what we want?

Do we want to lower the nuclear threshold so that the only defense we have against gas is nuclear? I do not think so.

And if we have a deterrent that the Soviets believe, one that they have, then this is the best insurance that we have, the same as in World War II, that they will not use it against us.

Now, how much do we have? Well in usable form, not much.

The figures I am giving my colleagues are supplied to this committee by the Department of Defense. I do not know where these other figures come from.

But if the Members will look at the chart here.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. The figures here are furnished by the Department of Defense. This is the gross amount of chemical agents that the United States has on hand and stored. We have not produced any since 1969. So the newest was produced in 1969. Some of it is 35 years old.

If you look at the top portion of this, these agents are in rockets, but we do not have the launchers to use these rockets. These are not usable. We no longer have the units necessary to launch the rockets so it is not usable.

All of this is in bulk. This amount is in bulk. It is in large containers, and if it were to be used we would have to use it the same way as a crop duster would spray a field or use paraquat or that substance we used in Vietnam to defoliate trees. You have to fly over and spray. That is what all of this is and that is hardly a very credible deterrent when we know this would be done in a very hostile environment where aircraft could not exist very long.

This leaves us this much that we would consider to be in a usable form.

But we have 105-millimeter shells, we have mortars, we have spray tanks, we have mines, and artillery.

□ 1130

Of this, this amount, the part here in orange is dangerous to handle. We cannot carry it on a ship. It is so volatile and so unstable that the Department of Defense says that it is too dangerous to use. This leaves us really with about 10 percent of all that is on hand that is usable.

What is proposed then is to develop the capacity, the capability, of developing two chemicals which are not lethal in and of themselves. They only become lethal when they are mixed together.

The gentleman from Wisconsin (Mr. ZABLOCKI), who offered the amendment, says, well, you know, it costs so much to build what we are proposing, the binary, that what we ought to do is make these safe. Well, the Department of Defense tells us that the process of making them safe for disposal produces 3 pounds of toxic waste salt for each pound of chemical that is destroyed. Even if we have the capacity, the cost would be prohibitive. We do not have the facilities. We would have to facilitize. We would have to build a facility to do this.

Then where would we store it? We do not know for sure; but this is going to have to be disposed of. It is not usable. The cost would be tremendous.

A statement was just made by my friend, the gentleman from Arkansas, quoting somebody saying that we had enough to make the Soviets suit up. Well, what good is making them suit up?

The question is, Do we have a credible deterrent that they believe? To say that we make them suit up, I really do not know what that means.

The fact is if you look at what is proposed in our budget, we are asking for $705 million. Of this, $508 million goes to protective measures—protective, not offensive. Then an additional $74 million goes for the demilitarization of what we have on hand, detoxifying this as best it can be done, and $123 million out of the $705 million goes toward retaliatory capacity.

The fact is that we do not have sufficient usable stocks on hand to be a credible deterrent.

Now, what would compel or induce the Soviets to sit down and seriously negotiate an arms limitation talk and outlaw it, and sign a treaty saying they would not use chemical weapons if we have nothing to offer on the other side? Why should they come in and bargain in good faith with us when they say, "Well, your Congress says you can't even build any to start with. Why do we need to talk with you?"

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. "Why should we sit down and negotiate with you, when it is in all your newspapers, that your Congress is already on record saying that we are not going to allow you to build anything and what you have is obsolete." What is there to trade?

So what I am saying is, first, what we have is not usable, only 10 percent.

Second, if we want to do away with the horror and the spector of chemical warfare, then let us sit down with the Soviets in a bargaining position, because there must be a quid pro quo. They do not give up something for nothing.

So let us go forward with the ability at least and then as early as we can sign a treaty, great, let us do so. Let us not deny ourselves the opportunity and the right and the ability to negotiate, so that we have something to trade in return.

I would say that it is an emotional issue, but if you do not go forward and produce the capability to safely handle toxic materials, a gas, a chemical warfare weapon, then we are at the mercy of the Soviets if they intend to use theirs. We have nothing to negotiate with them in the event we can get them to talk seriously at the table and at the same time we are putting our own troops at risk on the frontlines, because we have nothing to protect them with. I do not think we are doing fair by our men in uniform. I do not think we are protecting our Nation's best interests. I think we are being very shortsighted to say that we will do away with our capacity, do away with our bargaining chip and hope that by praying that we can convince the Soviets to be goodhearted enough so that if things come right down to the wire, that they will say, "Well, we are good guys. We just will not use the chemical agents that we have practiced with on a daily basis."

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very happy to yield to the gentleman from Arkansas.

Mr. BETHUNE. The question of suiting up arose during the gentleman's comments, because I had brought it up; the point being that military commanders, as I mentioned in my first remarks, that I have talked to, and most of the experts on both sides of the issue will say that the objective in chemical warfare is not to wage an offensive campaign and thus take ground and kill troops by using nerve gas. The only reason that chemical warfare is maintained by superior forces in the instance against the superior forces is so that you can force the other party to the conflict to get into their suits and be encumbered in the same way that your troops have been by them using the gas.

Mr. DICKINSON. Well, both the gentleman and I agree that the experts say that if you do suit up, it will really debilitate you about 50 percent.

Mr. BETHUNE. It degrades the level of military effectiveness, so suiting up is the issue.

Mr. DICKINSON. Suiting up does not deny you the use of airfields. This is what you would use the chemical weapons for, to take out airfields, to deny terrain to your opponent, not just to make him stand around in a suit and make him sweat. That is not the purpose of it.

Mr. BETHUNE. The issue is the issue of deterrence. In connection with the issue of deterrence, I know the gentleman has heard the same arguments that I have. The question is whether or not one military force can make the other labor under the same disadvantages that they are laboring under, and thus the issue is suiting up.

Let me just finish my point. In connection with that, the authorities that I have talked with on this and have cited here, Admiral Davies, Mr. Saul Hormats, who for 13 years was in charge of this whole program for the Army, said.

Our current stockpile contains enough serviceable munitions to force the Soviets to suit up. Since Soviet soldiers can operate in suits, adding to the capability will not further deter the Soviets from using CW.

Then he points out that we have a more wearable mask than they do, although we need to do some work on our suits; so we are getting into the defense issue. Those are interrelated.

This would probably be a good time to bring up the point that the GAO has just come out with a report indicating that we do not know which end is up when it comes to the defense capability. It was quite a good study. It was just released yesterday. I would encourage the gentleman and the committee members to take a look at that.

We are all agreed that we need to do something about our ability to defend against chemical weapons, but until we resolve that issue, how can we possibly resolve the quantitative issue of how much we need to produce.

Mr. DICKINSON. May I say, just to resolve the quantitative issue, may I say that if the GAO report says that we do not know which end is up, is that a good reason to say that we should not produce it?

Mr. BETHUNE. I did not say the gentleman did not know which end is up. I was making the point that the military services do not know which end is up on this issue.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(At the request of Mr. LEACH of Iowa and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, I would just like to say, I agree with a number of points that the gentleman has made. Certainly we should not extensively destroy our chemical weapons stockpiles as long as the other side has them; but it should be stressed that we do have substantial stockpiles prepositioned in Western Europe today.

Second, it should be stressed that the binary weapons have not been accepted by our European allies. There is no indication of willingness that if we develop binaries, that they will accept them prepositioned in their countries. Therefore, there is a real question whether we should go forth with this weapon.

Mr. DICKINSON. Just a moment. On that one point before we leave it, if you take that to its logical conclusion, there is no reason to develop a GLCM, the ALCM, or the Pershing or any weapons system that we are proposing to develop, because we do not have an advance agreement with them they will stockpile it. That is ludicrous.

Mr. LEACH of Iowa. Well, if I can reply briefly, a number of political leaders in Western Europe have indicated that there will be a horrendous political debacle in their countries, with governments potentially falling, if we press these weapons upon them at this time.

Second, let me stress that we have today substantial prepositioned chemical supplies in Western Europe and there is question whether the binary is that much more sophisticated, that much more capable than existing chemical weapons. There is no indication of this. It is perhaps slightly more capable. It may be slightly safer to store, but there is no great safety problem with current chemical weapons stockpiles.

□ 1140

Mr. DICKINSON. Just a moment, please. The gentleman sloughs over these things, he glosses over them rather rapidly as if they were fact, and it is not the fact. With respect to the storage, the handling, the use of binary weapons, I never even heard safety questioned before. They are much safer than what we presently have on hand. I have never even heard that questioned before. Of course, they are much safer. Of course, they are much safer to handle, to store, to detoxify. In every way they are more safe and also, as to efficacy, and you might question that, but I have never

heard any really serious contention there.

Mr. LEACH of Iowa. Let me again respond. They are safer to store, but there is no great safety problem in our current chemical weapons, but more importantly——

Mr. DICKINSON. Now, just a moment, please. You make that as a statement of fact. This is totally contrary to all the evidence that our committee received from the military, which has to handle and store it.

Where does your information come from?

Mr. LEACH of Iowa. I did not talk about deterioration; I talked about safety.

Mr. DICKINSON. Let me talk about that. Deterioration is a part of safety. They are deteriorating as they are stored. There is a catalytic effect in the shells, in the metal that contains them now, which exacerbates the situation and makes them more unstable as time passes.

Mr. LEACH of Iowa. Let me continue a point and then respond. Let me stress that on the safety issue, all evidence is that to provide confidence to our troops we will have to test the binaries further and that testing of binaries carries greater safety problems than continued storage of existing chemical stockpiles.

Second, let me state that the major issue of chemical weapons today is not the prospect of confrontation with the Soviet Union; it is proliferation. Unless we take every step possible to negotiate a treaty that will create a situation where chemical weapons will not be used, we are endangering the United States from many new perspectives.

The CHAIRMAN pro tempore. The time of the gentleman has expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. DICKINSON was allowed to proceed for 3 additional minutes.)

Mr. DICKINSON. Mr. Chairman, let me respond and ask one more question.

Does the gentleman think it is more likely we will get a treaty if we have no capability, or if we have a capability?

Mr. LEACH of Iowa. That is a question which has to be considered false because you have a tremendous——

Mr. DICKINSON. That is why I raise the question now.

Mr. LEACH of Iowa. Let me try to respond.

Mr. DICKINSON. Are we going to negotiate from a position of strength or weakness?

Mr. LEACH of Iowa. Let me respond. The gentleman is asking the question and I would like to respond.

Mr. DICKINSON. Do you think we can better negotiate if we have no capability or some capability?

Mr. LEACH of Iowa. Lest we think of ourselves as inadequately armed today, it should be stressed that we have stockpiles of chemical weapons capable of blanketing 9,000 square miles of territory with dosages sufficient to kill every human being on the face of the earth.

Mr. DICKINSON. I think I have answered that, but go ahead. All I know is what the Department of Defense tells me.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Mr. Chairman, I will be glad to yield to the principal author, the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I am a bit concerned about the gentleman's reference to a chart, that shows that the stockpile we now have is unusable. I have before me the U.S. chemical artillery stockpile list which, because of its classification, I cannot describe in detail. However, it shows that the stockpile that is currently serviceable is very impressive.

We did not receive the same information that the gentleman's chart indicates. I do not question the gentleman's integrity.

Mr. DICKINSON. I understand, I may say to the gentleman.

Mr. ZABLOCKI. But can the gentleman quote the source of his statement that our stockpile is unusable? We have an entirely different impression.

Mr. DICKINSON. The information on which these charts were made was compiled by the Department of Defense. I cannot give you the man's name at the present time, but I can furnish that for the record. (Information was furnished by Dr. Ted Gold, DOD.) But the figures we have been given and what the chart reflects is that 11 percent of our total stockpile is in rockets for which we have no launchers; 67 percent is in bulk agents which, while they are usable, have to be sprayed. This is hardly a sophisticated way of using that; 28 percent is in various forms, of which only 10 percent is considered safe and usable today.

I will be glad to furnish that for the record or make it available to the gentleman.

Mr. ZABLOCKI. Will the gentleman yield further?

Mr. DICKINSON. If I have the time, Mr. Chairman, I yield to the gentleman.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentleman for yielding.

I would like to include in the RECORD a letter from Mr. Saul Hormats, the former Director of Development of the U.S. Army's Chemical Systems Laboratory.

The letter follows:

BALTIMORE, MD.,
June 1982.

DEAR REPRESENTATIVE: I write today because you will be voting on the issue of new chemical weapons production this month. For twelve years I was in charge of the Army's chemical weapons program. My 37 years of service at Edgewood Arsenal involved almost all aspects of chemical warfare. During World War II, I participated in Allied studies of the possible usefulness and consequences of a chemical war with the Germans—the conclusion of this study being that chemical weapons are not a "good weapon" from a military utility point of view. After the War, I directed the development of all the nerve gas munitions in our current stockpile and almost all the chemical warfare protective equipment presently used by our forces. I worked closely with the U.S. biological weapons program, with the intelligence community and with our NATO and other allies.

I write to you because I believe the Senate decision (49–45) on May 14 to proceed to new U.S. production of lethal chemical weapons in binary form is a grave misjudgment which will endanger our security as a nation. I hope by sharing my views with you I can help you as you think out how you will vote when the binary weapons production issue comes to the floor of the House in the Department of Defense Authorization bill for 1983.

It is highly unusual for me to contact elected officials on any issue. I take this step because I have intimate knowledge of this issue from my long career as head of the Army's chemical weapons program and because I feel very strongly about it.

Why do I oppose U.S. production of binary munitions?

First, the binary weapons the Administration wants to begin producing in bomb and artillery shell form are of unknown reliability and of questionable military usefulness. I suspect that the Bigeye bombs are extremely unreliable. Since they have not been tested dynamically with live agent, we do not know how they work or whether they work at all. If we begin funding them, we will likely be forced to engage in extensive open-air tests of them, which would be extremely dangerous to our own population.

Binaries are also inferior to our current chemical weapons stocks in that our current unitary shells are not just nerve-gas shells but rather H.E.-Chemical shells; i.e. they function on target as both a high-explosive conventional round and a nerve-gas round. During development a great deal of effort was made to optimize both these functions. On impact the shell body fragments about as well as were it an H.E. round with physical destructive effects approximating those of a conventional shell. Simultaneously the nerve-gas content is blown outward in a circle at high velocity by the explosive force. The shell thus achieves a dual threat on target. To further confuse and hamper possible counter-response, the sound signature of the unitary round is not too different from a conventional round.

The binary munition being proposed for production is very much different. There are no fragments, the agent content is not ejected with explosive speed and the sound signature would be unique on the battlefield. On impact the agent content is ejected vertically and carried by the wind and in the direction of the wind. What fraction, if any, of the agent cloud descends to the six-foot layer, and what fraction of the target population would be exposed? In all my open-literature readings I have been unable to find any considerations of these critical characteristics, to settle my concern on the usefulness of this new munition.

Second, I believe that going to production of binary weapons will not deter the use of chemical weapons but, in fact, will make their use in warfare more likely by prompting the Soviets to expand their chemical weapons production. Let me enlarge on this point.

Chemical war differs from conventional war in that it is basically directed at soldiers and does not damage weapons or equipment. However, trained and disciplined soldiers properly equipped with protective clothing, if they mask before the attack, will be unharmed by chemical weapons. The Soviet soldier is well trained and well disciplined and prepared to operate in a toxic environment. When a Soviet officer orders his men to put on their gas-masks, there is no question in my mind that every soldier will mask and stay masked until ordered to unmask, regardless of discomfort. Should there be any indication they might be attacked by liquid spray, the troops would also be ordered to don their ponchos or their protective suit, making them totally invulnerable to any nerve gas attack. Reduction in their combat effectiveness would be minimal.

Our current stockpile of chemical weapons contains enough lethal nerve gas in serviceable munitions to force the Soviets to suit up in anticipation of gas weapons being used against them. Since the Soviet soldier can operate in a chemical environment, once suited, adding to that U.S. stockpile would not deter the Soviets from using chemical weapons. What I am saying is that Soviet troops are well enough prepared to fight in a chemical environment that they would not be deterred from using chemicals by threat of "in kind" retaliation.

The U.S. is provided with a much more wearable mask than the Soviets—indeed, the most comfortable mask of any army—but its protective suit is more cumbersome than the Soviets'. Also, because our troops tend to think more independently than the Soviet soldier, they would be more resistant to donning the mask on command unless they saw the need for it, making them more vulnerable to attack with chemicals than the more disciplined Soviet soldier. Developing new binary weapons will not effect this Soviet advantage. In fact, because our current chemical weapons are also high-explosive weapons and binaries are not, the new binary weapons would be even less effective than our current chemical weapons against the trained Soviet soldier dressed in protective suit. Consequently, I believe a disciplined, well-trained, and properly protected fighting force adequately supplied with conventional weapons is the best deterrent against the use of chemical weapons.

But this leads me to the third serious problem I see in new chemical weapons production. Chemical weapons are an anti-civilian weapon. Properly suited troops can safely continue to fight. But millions of civilians will die. I believe that resuming chemical weapons production will stimulate the Soviets to produce additional chemical weapons and will make their use in a war in Europe much more likely.

The real victims in a chemical war are civilians. At the May 5 Senate Appropriations hearing, evidence was presented by two experts in the field showing that a chemical war in Europe would likely result in millions of civilians friendly to the U.S. being killed. Children and particularly infants would be the most vulnerable. There are good toxicological reasons for believing that nerve agent sufficient to kill a small percentage of adults would probably kill a large percentage of children and a much larger percentage of the babies. I believe we run the risk of prompting the use of chemical weapons which could well kill most of a generation of Europeans.

For these reasons it is difficult for me to see why the Department of Defense believes it will inhibit Soviet first-use of poison gas munitions by threatening them with retaliation "in kind". I believe there is a better way to prevent the Soviets from starting this heinous thing than by threatening via binary munitions production to join them.

I believe the best course is to go back to President Nixon's position to stop U.S. production of chemical weapons and announce the U.S. will not use chemical weapons first, without explaining how we would retaliate, leaving the Soviets to be uncertain what the consequences would be for them of Soviet first use of chemical weapons. They would know that our response to a chemical attack would be effective and devastating and not the symbolic but militarily ineffective response binary weapons would be.

Sincerely yours,

SAUL HORMATS.

I would now like to briefly quote from that letter from Mr. Saul Hormats, the former Director of Development of the U.S. Army Chemical Lab, who was for 12 years in charge of the chemical weapons program.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has again expired.

(On request of Mr. ZABLOCKI and by unanimous consent, Mr. DICKINSON was allowed to proceed for 2 additional minutes.)

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will be glad to yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I only want to quote two or three portions of the letter. Mr. Hormats wrote:

The binary weapons the administration wants to begin producing in bomb and artillery shell form are of unknown reliability and of questionable military usefulness. Binaries are also inferior to our current chemical weapons stocks in that our current unitary shells are not just nerve-gas shells but rather HE-chemical shells.

In addition, Mr. Hormats states in his letter:

I believe that going to production of binary weapons will not deter the use of chemical weapons but, in fact, will make their use in warfare more likely by prompting the Soviets to expand their chemical weapons production.

And, if the gentleman will yield further, let me underscore what has been said before: That as far as binary weapons are concerned, our European allies are opposed to their deployment on European soil.

On April 22, 1982, the West German SPD adopted a resolution rejecting the deployment of binary weapons in the Federal Republic of Germany. In February 1982, both the Dutch and Norwegian Governments rejected the storage of chemical weapons on their soil. And, in Britain, one of our fine allies, there is a bill before Parliament which seeks to make storage of CW in Britain illegal. If we produce these binaries, where are we going to send them?

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. Mr. Chairman, if I have the time, I would be pleased to yield to my colleague, the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, I would like to ask the gentleman from Wisconsin who Saul Hormats is and when did he have access to any the information pertaining to the resources that we have at our disposal? I understand this chart was done by Dr. Theodore Gold, who is the expert, the man who has all of the information at his fingertips.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. I thank the gentleman for yielding.

Mr. Chairman, I did state, in referring to Saul Hormats' letter, that he was the Director of Development of the U.S. Army Chemical System Laboratory for 12 years. He ought to know what he is talking about.

Mrs. HOLT. Will the gentleman yield further?

Mr. DICKINSON. I yield in the time remaining, Mr. Chairman.

Mrs. HOLT. How former? The gentleman did not answer my question. When was he there? When did he have access to this kind of information last?

Mr. ZABLOCKI. Until the mid-1960's

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

Mr. DICKINSON. Mr. Chairman, I do not mind staying here, but I do hate to take time from others who are seeking time in their own right and who would like to speak.

(On request of Mr. BETHUNE and by unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Arkansas.

Mr. BETHUNE. Mr. Chairman, indeed Mr. Hormats was the Director of the Army's Chemical Weapons Division for some 12 years, but there are other experts, Admiral Davies, for instance, a 36-year veteran of the U.S. Navy, whom I cited a few moments ago, for 7 years was Assistant Director of the Arms Control and Disarmament Agency, certainly a credible witness.

So I think what we are going to learn as we debate the issue of whether or not we have adequate offensive capability is that it is a flat-out draw, a flat-out draw, and we can stand and

debate it all day long, but there is as much evidence—I happen to think more on our side of the issue—as well as a broader array of credible witnesses on our side of the issue who will say that we have an adequate capability. But I would want to make this point because the gentleman said how in the world are we going to get a treaty with the Soviets when we have nothing and they have this?

Assume for a moment that it is a draw and assume for a moment that we do have adequate capability, that we have something else going for us right now as we go to the table on chemical weapons. We have credibility in the eyes of the people of the world because we are not producing and we are not using.

The Soviets are perceived to be producing and using. Now, do not try to tell me that world opinion is not important as we try to muster the political strength here at home and on the continent to sustain a political base that you have to have to continue to negotiate from a position of strength because it is; if it were not, the Soviet Union would not have been doing all they have been doing to try to get credibility and destroy ours in Europe and we would not be devoting so much of our diplomatic energy trying to maintain the diplomatic muscle that we have to have.

Mr. DICKINSON. Let me answer.

Mr. BETHUNE. We have clean hands on this, and the Soviets do not.

Mr. DICKINSON. If I might reclaim my time, Mr. Chairman, if the Soviets start to roll and use their chemical agents, we will hit them with an opinion poll; that will stop them in their tracks.

□ 1150

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield.

Mr. BONIOR of Michigan. Mr. Chairman, I thank my colleague for yielding. In the argument we have just heard with respect to getting a treaty with the Soviets, I believe the gentleman inferred or suggested that it would be much easier to deal with a treaty if we went ahead with the binary program. I would just like to add one argument in opposition to that position.

It seems to me that once the U.S. binary production begins, a treaty is provided for the destruction of stockpiles and for banning future production, it will be more difficult for a couple of reasons. First, binary plants do not need the same protective no-man's land we have with the ordinary plants. Therefore, they look no different to satellite surveillance than any other commercial chemical plant.

Second, even mandatory onsite inspections provide no way that every chemical plant in the United States or the U.S.S.R. could be expected to make sure that none of them are binary. So, what I am saying is, while there may indeed be credit to the arguments the gentleman gives, there are certainly serious drawbacks in terms of the main issue that has not been resolved in trying to get a treaty, and that is verification of binary production and binary plants would make that much more difficult.

Mr. DICKINSON. It is inherent in the point the gentleman is trying to make that the Soviets, if we kill our capability of producing binary weapons the Soviets would not produce binary because they are bound in some way, either morally or by treaty, to not go forward with the production of binary on their own.

Mr. BONIOR of Michigan. No; I am not suggesting that, but I am suggesting that if this issue is escalated to binary, and perhaps down the road to even more advanced sophistication, the chances of verification and chances of reaching some conclusion in terms of a treaty becomes much more difficult.

Mr. DICKINSON. I understand. Let me close on this point, if I may, because I do not want to take up too much of the committee's time and others want to speak.

If we carry the arguments to the logical conclusion of those who are opposed to the building of any capability, then if we did not have a nuclear capability the Soviets would not be sitting down to talk to us today about reduction of nuclear arms. If we did not have the men in Europe, we would not be sitting to talk to the Soviets about a mutual reduction of forces. As an example, when Mr. Carter unilaterally threw away the B-1 as a trading chip; this did not placate the Soviets. They went forward and built a bomber. So, I think the argument falls of its own weight. If we do not have something, we have nothing to trade.

Mr. BRINKLEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I think it will be useful for just a moment to review what we are talking about today. The binary system itself is safe environmentally, while the existing stockpile is not safe environmentally. It is pretty basic, is it not? But this is because two separate inert agents are involved in the binary system, and only become lethal when joined together.

From a storage and handling standpoint, therefore, the binary munition is absolutely safe. Existing chemical munitions, for which this would be a substitute, are extremely dangerous. Plans call for only one of the agents of the binary munitions to be located, for example, at Pine Bluff, Ark.; in this particular case QL, which is the phosphorus ester, and could be commercially produced, would be located at Pine Bluff. The other agent is powdered sulfur, and would be shipped to a separate facility for storage.

The agents would only—only, ever, be brought together at the battle station if they were to be used in an action.

Now, for the second moment I would like to examine, Mr. Chairman, the point of this amendment, because what is its point? Nerve gas? Mustard gas? Poison gas? What is the point of the amendment? We have, already, on hand, old, deteriorating lethal stockpiles, which exist. The issue is not whether we will be in the chemical gas business. We are already there. The issue is not to have or have not. We already have.

Where are the present chemical storage sites, one may ask, and I will provide the answer. We have a chemical storage site at Tooele Army Depot in Utah; Anniston Army Depot in Alabama; another located in Lexington Blue Grass Depot Activity in Kentucky; we have another of the unitary systems at Pine Bluff Arsenal in Arkansas; another at Umatilla Depot Activity in Oregon; at Pueblo Depot Activity in Colorado; Newport Army Ammunition Plant in Indiana; at the Edgewood Arsenal, Md.; Johnston Island, and in West Germany.

Mr. Chairman, the unitary system exists. It is largely unusable and it is extremely dangerous. So, the issue today really is what kind of agent shall we have. If we are not to have the unitary system, shall we disarm unilaterally or shall we simply replace the system?

In my judgment, Mr. Chairman, a proposition which will be offered deserves our support, which will involve a tradeoff as we build the binary system into the military structure, and at the same time phase out the unitary system, which is so extremely dangerous to our civilian population. The important difference between this country and that of the Soviet Union is the fact that we do not plan to use ours. Ours is a deterrent; ours is a negotiating tool. Why in the world do we not decide to update the old, dangerous system to make it safer for ourselves. Far better it is to have this agent in our hands than those of the Soviet Union's because if it is in their hands we have seen evidence that it is unchecked.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman.

Mr. BETHUNE. Mr. Chairman, the gentleman makes some points that I think need to be discussed further. There are two points, really.

The gentleman alluded to the fact that these binary weapons are safer, and that they are more effective and

that they are more dependable. I would just observe that a group of professional chemists, biochemists, and biologists who are familiar with the technology made the point that the binary agents are untested, and by their true nature are less predictable and more restricted in use than their single agent counterparts. They also made the point that the nerve gases may also have as yet undefined carcinogenic and other adverse medical effects on friend and foe alike. Among this group we had some Nobel winners, so it is a distinguished list of people who have looked at this situation.

The CHAIRMAN pro tempore (Mr. AuCoin). The time of the gentleman from Georgia has expired.

(At the request of Mr. Bethune and by unanimous consent, Mr. Brinkley was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. Coming back to the issue of whether these are militarily effective or not, we have already been over that ground some, but I think we should focus a little clearer on one of the weapons which is intended to be produced, and that is the Bigeye bomb. But before I get into that, on the artillery shells almost all the authorities I rely on now agree we have an adequate supply of 155-millimeter shells, 8-inch shells, and bulk material. They are not leaking, and constitute a substantial deterrent capability.

But the Bigeye bomb, the binary shell which will be produced by the Navy and filled by the Army, is extremely unreliable, according to Mr. Saul Hormats. The Bigeye bombs are extremely unreliable. They have not been tested.

Mr. BRINKLEY. I do not think the issue there is as to the reliability of the two elements coming together to form the poisonous gas. I think the reliability to which the gentleman may refer is the reliability of the Bigeye bomb system itself.

Mr. BETHUNE. Well, to the contrary. Mr. Hormats makes the point that because of the binary mechanism, it would be necessary to have a sufficient period of time after the bomb is dropped for those chemicals to mix. If you do not gage that just right, you can have deterioration before it hits the ground.

Another thing, it has the smell of sulfur to it, and this means it can be detected by any soldier when it hits. Thus, he can suit up quicker in defense.

Mr. BRINKLEY. Would the gentleman then compare the Bigeye bomb with the Weteye bomb, with its predecessor, the existing Weteye bomb?

Mr. BETHUNE. The Weteye bomb is not leaking, at least according to the senior Senator from Utah who is probably most familiar with them.

□ 1200

We have a stockpile of Weteye bombs, the principal difference being that the Weteye is nonpersistent, whereas the Bigeye is persistent.

Mrs. HOLT. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentlewoman from Maryland.

Mrs. HOLT. Mr. Chairman, let me ask, is it not true that the Navy will not permit the Weteye bomb on its ships because it is not safe and not effective?

Mr. BRINKLEY. That is correct.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. Brinkley) has expired.

(On request of Mr. Bonior of Michigan, and by unanimous consent, Mr. Brinkley was allowed to proceed for 2 additional minutes.)

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Chairman, the gentleman from Arkansas referred to the senior Senator from Utah in the other body, and I think it is important to listen to the gentleman in whose State most of these weapons have been stored.

He made a statement just recently, in fact, in May, and I would like to quote it and perhaps get a reaction from my colleague, the gentleman from Georgia. He stated, and I quote:

> We have had that stock there for nearly 35 years. There has simply been no accident of any kind to anyone under any circumstances during that period of time.

The safety record, it seems to me, and to others who have looked at the issue and who believe as we do, is a very sound one and a very good one, and when we have the senior gentleman in the other body from the State of Utah making such strong statements with respect to the existing stockpile, it seems to me we have to give some credence to the existing situation.

Mr. BRINKLEY. Mr. Chairman, I would like to respond to the gentleman. I certainly respect what the Senator has to say, too, and perhaps much more that of the gentleman from Michigan, but my point would simply be that the gas within storage facilities would probably be quite safe. Certainly we hope it is. But once you begin to use and deploy that gas, then the safety issue becomes very relevant and very much drawn into question.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. BRINKLEY. I will yield to the gentleman from Arkansas if my time has not expired.

Mr. ANTHONY. If the gentleman needs more time, I will make a request that he receive more time.

Mr. BRINKLEY. I yield to the gentleman from Arkansas.

Mr. ANTHONY. Mr. Chairman, I would like to address the safety issue that had been brought up.

The gentleman mentioned the fact that one of the proposed sites or the proposed site for the production of the binary chemical is in Pine Bluff, Ark. I happen to be the Congressman who represents Pine Bluff, so I have been forced to live with this issue for the last 3½ years and I have been very cognizant of the sensitivity of the debate, the international implications, and also the political ramifications and implications back in my district. As a result, I have availed myself of numerous private briefings, plus I have participated in all the debates that have taken place on this House floor as well as in some other hearings.

I have also taken the opportunity to go first hand to the site, put on the gas mask, and actually get into the concrete bunker.

I think there may be an element of misconception here about safety. The reason we can brag about the safety and the fact that no one has been harmed is because of all the precautions that have been taken to detect the leakers. What happens when you have that shell is that they go in and do a test by actually drilling into a certain number to find out if they can find any leakers. Once the existing unitary shell leaks, it leaks inside the brass container. So they go in and test, and if they find it is a leaker, then they destroy that through some type of demilitarization, and then just based on percentages, they know basically how many are usable and how many are not. In order to know 100 percent how many are usable, they literally would have to go in and do a check of every single 155-millimeter shell that is there. It would be time-consuming.

So the safety part of it sometimes can be misleading. No one has been harmed because of the safety precautions.

The CHAIRMAN pro tempore. The time of the gentleman from Georgia (Mr. Brinkley) has expired.

(On request of Mr. Anthony, and by unanimous consent, Mr. Brinkley was allowed to proceed for 2 additional minutes.)

Mr. ANTHONY. Mr. Chairman, if the gentleman will yield further, the reason no one would argue that the binary is more safe is simply because of the mechanism by which it is put together. You have two nontoxic, nonlethal agents that are stored separately, one that you can purchase on the open market today, and then they are only put together actually when the shell is shot, and they are mixed while it is in flight.

For those who may be worried about whether or not it is toxic or may cause mutations, I submit that we would not

be worried about that in a time when we would have had to be called upon to make the grave decision to use a chemical weapon, not as a first strike, but as a defense. When we get to that point, we will probably be dropping nuclear bombs all around the place, and the Lord knows what the mutations will then be.

Mr. Chairman, I just wanted to talk about the safety issue, and I will participate in the debate as it proceeds further in other areas. I thank my colleague, the gentleman from Georgia, for yieldings.

Mr. BRINKLEY. Mr. Chairman, I thank the gentleman from Arkansas (Mr. ANTHONY) for his fine contribution.

AMENDMENT OFFERED BY MR. COURTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. COURTER. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. COURTER as a substitute for the amendment offered by Mr. ZABLOCKI: On Page 8, after line 12 add the following new section:

RESTRICTION ON THE PRODUCTION OF BINARY CHEMICAL WEAPONS

SEC. 111. None of the funds authorized to be appropriated by this Act for production of binary chemical weapons may be used to produce such weapons unless the President certifies to the Congress that for each new binary chemical weapon produced, an equivalent number of unitary chemical munitions from the existing United States chemical weapons arsenal shall be rendered permanently useless for military purposes.

Mr. COURTER. Mr. Chairman, I allowed the amendment to be read in its entirety simply because it is so short, and I think, after having heard the language read, the Members will find it is very easy to understand. It is a very simple amendment. I look forward to any debate there may be on it.

The amendment simply says that for any amount of binary weapons that are produced, an equivalent amount of unitary chemical weapons shall be removed from the present stockpile and made totally useless and harmless for military purposes.

During the consideration of the original amendment, the Zablocki amendment, as amended by the amendment offered by the gentleman from Arkansas (Mr. BETHUNE), there was made a couple of cogent arguments as to why we need chemical weapons capability, and I would just like to review both of those arguments because I think it is worthwhile repeating them. Then I will move on to another topic.

First of all, from a deterrent standpoint, everybody knows that the United States does not want to use and would not first use chemical weapons. And everybody, I am sure, in this body—and I say this because another gentleman from the State of New Jersey may amend my substitute—would want to go forward with negotiations with the Soviet Union or any other country that has the capability of producing chemical weapons in order to render them not only illegal but to destroy them, prohibiting their production and stockpiling or anything else.

I find it incredible that we as an institution can make the argument that we will be better off in those types of negotiations if we now eliminate what we would otherwise negotiate away. We would be absolutely negotiating against ourselves; we would have no quid pro quo; we would not be able to say to the other side, no matter who they may be, the Soviet Union or any other country, that, yes, we indeed believe what you believe, and we have to scale down, we have to curtail, we have to cut down, and we have to prohibit production and stockpiling.

Therefore, from a deterrent standpoint, and a negotiating standpoint we need some chemical capability.

Third, we need the capability—and I think this was brought up by the gentleman from Arkansas (Mr. BETHUNE)—for battlefield equality. If, let us say, we are 10 or 15 years from today and we vote today never to produce any type of binary capability, then most certainly the remaining stockpile that we have will have eroded and would have been rendered totally useless, and any other adversary would, therefore, know with absolute assurance that we simply do not have this capability.

□ 1210

Then, a decade down the road, or 15 years down the road, or 20 years down the road, if, God forbid, there is an altercation, the other side could use the chemical weapons, or threaten to use same and we would have to suit up and they would not.

Under that situation, where one force has to suit up and the other does not, that force that does not has an obviously tremendous advantage.

I do not know whether anyone in this room has really put on one of those suits or seen one of those suits. It is very difficult to walk around. It is difficult to maneuver. It is difficult to do the simplest thing very often, and particularly over a long period of time.

Let me go into the thrust of the amendment.

Those against the concept of producing binary chemical weapons have made various statements. One of those statements was that we do not want to destroy our chemical weapons stockpile.

If in fact they believe that, then my amendment is the proper one.

What my amendment simply says is that we do not want to terminate our stockpile because of the aforesaid reasons with regard to suiting up, negotiations, and deterrence.

If you believe that we should not eliminate our capability, then what you really want to do is to make sure that our stockpile is safe and does not grow.

This leads me to the second statement made by the advocates of the amendment to delete all funds.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. COURTER) has expired.

(By unanimous consent Mr. COURTER was allowed to proceed for 4 additional minutes.)

Mr. COURTER. The second reason they said was the fact that the issue here is not our stockpile, but proliferation, and here again is the beauty of my amendment. It does not create a scenario for increased proliferation. It does not permit it.

For every capsule of binary produced we eliminate a capsule in the stockpile, thus the end result is no proliferation, maintaining the deterrent capability, and making sure the existing stockpiles that we have, as time goes on, are safe, are modern, and do not increase.

I think my amendment has for those reasons a great deal of merit, Mr. Chairman.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

I have listened carefully to the gentleman's statement and, more importantly, I have read the substitute the gentleman offers. I have read it very carefully.

What the gentleman is proposing turns out to be sort of a smokescreen because what the gentleman is permitting to be done under the substitute is for us to go right ahead and produce the binary weapons just like the committee wants to do, upon the condition that we will destroy one unitary chemical munition. That is what the gentleman's amendment says.

We have a lot of junk out there that we can destroy and comply with the gentleman's amendment. For instance, at the Pine Bluff Arsenal—and I have toured that arsenal and had the briefings down there, too—they have a stockpile of BZ weapons down there that they need to destroy. BZ is not nerve gas. It is an hallucinogen. That is all. If it got out, the whole of central Arkansas would be on a high for about 3 days. That is the worst case scenario.

But you could comply with the gentleman's amendment by going down there and destroying stuff that they are already planning to destroy. In fact, the Army has already notified us that it intends to destroy it.

Mr. COURTER. If I can regain my time from the gentleman, what this

simply does is to guarantee that in fact they are going to do it.

Mr. BETHUNE. We are going to do it anyway.

Mr. COURTER. But basically your position is that we should through the medium of doing nothing and allowing these capabilities to erode, destroy totally and completely any deterrent capability we now have. That is the gentleman's amendment. That basically is your amendment.

What I am suggesting to you is during the next number of years everything that we have will be rendered useless. We will in fact have none.

So the basic issue here is for those people that do not want any deterrent chemical capability, that do not want to modernize, that do not want to make it environmentally sound, then they can go ahead with the Bethune amendment and the Zablocki amendment.

For those people that feel we need to have that deterrent capability, that we want to render our stockpile useful and modern but, indeed, we do not want to proliferate, we do not want to make more, we do not want to increase our capability but maintain it, then my substitute is the way to go.

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from California.

Mr. HUNTER. I appreciate the gentleman yielding.

As I understand it, what the gentleman is offering is a substitute that would basically require an exchange or a reduction in the dangerous unitary gas we have now for every unit that is produced of binary agents.

In other words, we would be replacing the more dangerous substances by the less dangerous substances?

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. COURTER) has again expired.

(At the request of Mr. HUNTER and by unanimous consent, Mr. COURTER was allowed to proceed for 4 additional minutes.)

Mr. COURTER. I yield to the gentleman.

Mr. HUNTER. I thank the gentleman for yielding.

Is that correct?

Mr. COURTER. That is precisely correct. The gentleman stated it much more succinctly than I did.

Mr. HUNTER. So for those people who say let us keep some agents on hand, let us keep a supply on hand, it would make sense to go with the safer substance and to replace the dangerous substance as our technology comes on that allows us in fact to replace it because that is a problem.

We would be in fact reducing the costs that are attendant the securing and the demilitarization of the dangerous substances.

Mr. COURTER. That is correct. I thank the gentleman.

Mr. SMITH of New Jersey. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New Jersey.

Mr. SMITH of New Jersey. I think, as my good friend from New Jersey knows, though, all units are not equal. I think the real crux of this issue right now is whether or not a binary or nerve gas capsule from 10 years ago is equal to that which would be produced at Pine Bluffs this year.

I do not think they are the same. I think we are talking apples and oranges.

One unit 10 years ago is in no way equal to one unit today.

Mr. COURTER. If the gentleman will permit me to respond, they are not equal. One is dangerous. One is antiquated and one can still kill just as much as the other.

So I am saying, I am mandating in my amendment that if we go forward and produce one binary weapon, we have to then render useless for military purposes something in the arsenal that we already have.

I think it makes eminent sense.

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

Safety keeps coming up. These things, the binaries, are untested dynamically; we do not know, and the gentleman cannot make any positive statements about that.

I mentioned the letter from the biochemist and all of those who have pointed out they may be carcinogenic. We just do not know, have not done the tests.

But the point I want to make is the 155 millimeter shell has to be distinguished from the rest of our stockpile. We have a number of chemical weapons out there and you have to distinguish the ones we are thinking about using from those that are already obsolete and we are not going to use under any circumstances. That is the point I am trying to make.

We have the 155 millimeter shell. We have the 8-inch shell. The 155 millimeter shell, by the way, we only have 33 out of our entire stockpile.

Mr. COURTER. If I could reclaim my time, could I ask the gentleman a question?

I am going to reclaim my time to ask the gentleman a question.

Is it not true that your position is that we should have absolutely none, zero that is, chemical warfare deterrent capability, zero? Is that your position?

Mr. BETHUNE. No. That is not my position.

Mr. COURTER. I believe that is the logical result of your amendment or the two amendments put together, because over time we are not going to have that capability.

The stuff we have there is going to erode. It is going to become more unsafe, more environmentally unsound, and we are going to have to get rid of it anyway.

If somebody has the position we should not have any type of capability, then they should vote for your amendment. If they do not believe that, I think they should vote for my substitute.

Mr. BETHUNE. Would the gentleman yield further, because I did not get to make my principal point.

Mr. COURTER. I yield to the gentleman.

Mr. BETHUNE. The principal point is this: I know the gentleman intends to produce an amendment here which would authorize the Army to go ahead and start producing binary. Then you could argue we are destroying some of our existing stockpile and thus this is not production, is no increase.

□ 1220

Mr. COURTER. It is mandatory. It requires it. There is no option. They must do it.

Mr. BETHUNE. If the gentleman will yield, I do not think I have gotten the gentleman's attention on this point.

I know that is what the gentleman intends, and I know that is what the gentleman thinks his amendment does. But in fact his amendment does not do that. His amendment says that they shall destroy one unitary chemical munition.

The point I am making is that we have got a lot of unitary chemical munitions which we are going to destroy anyway, and the Army can comply with the gentleman's mandate here by destroying stuff that they are already going to destroy.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. COURTER) has expired.

(On request of Mr. BETHUNE and by unanimous consent, Mr. COURTER was allowed to proceed for 2 additional minutes.)

Mr. BETHUNE. The point I am trying to make is that just in March of this year, the Army put out a notice telling us that they intend to construct a facility at the Pine Bluff Arsenal to destroy a BZ weapon. So they are going to do that anyway. They can destroy those, and they are going to destroy them, and they can count that as complying with the gentleman's amendment, and you are right back to the committee's position.

Mr. COURTER. Just to sum up, I think the gentleman's position is clear. However, my substitute mandates. Perhaps the Department of Defense, perhaps the Army has some inclina-

tion to do what the gentleman says. My substitute requires it. It mandates it.

Once again, simply stated, my substitute permits us some chemical deterrent capability. The gentleman's amendment—not today, because we have an eroding stockpile—some day in the future means that the Soviet Union will have it and we will not.

Those people who vote in favor of the Zablocki amendment as amended by Bethune are simply saying that we want to denude ourselves of any deterrent capability, we want to walk into negotiations with nothing to negotiate with whatsoever. I think that would be a terrible shame.

Mr. WHITE. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Courter amendment and in opposition to the Zablocki amendment.

Mr. Chairman, several years ago I had the opportunity to be in Germany and visited the Fulda Gap. The Fulda Gap is one of the traditional east to west invasion routes in the southern part of Germany. The other is in the northern part of Germany. We had an opportunity to visit with the troops on the line, the men and women who are there, facing the potential enemy. You can see the potential enemy, just across the line, with tanks and their various defensive postures. I asked those American troops, "What do you fear the most?" And they told me, "Artillery and chemical warfare." This is the concern.

There is a general concern, too, that with the armament and the capability the Soviets have, they could roll over Europe in 2 weeks and go to the English Channel. Not all of us believe that, but that is what some of the fear is because of the disparity of forces and the chemical warfare capability. And well those troops might be concerned because they know that the Soviets have at least 50 Soviet chemical warfare specialists to our 1. That is just one illustration of the disparity between the two.

The United States, as I understand it, is the only ally with any chemical warfare capability, to speak of, and that is certainly woefully depleted. That was shown by the chart showing that by the mid-1980's we will have only approximately 10 percent of our stockpile that can be used because of deterioration, because of the loss of launchers, because of the loss of the ability to project those forward, in the rear areas, and against enemy troops in a retaliatory or deterrent manner.

The gentleman from Alabama (Mr. DICKINSON) made a very significant point. This is the real world, not the world we would like it to be. It is known that Hitler was interested in using chemical warfare against our troops, but he resisted that temptation because he feared retaliation. What is not also known is that there was a recommendation to President Roosevelt to use chemical warfare in the Pacific theater, as in Iwo Jima, but he also resisted because of the fear of world opinion and retaliation against our troops. So both sides were deterred from using chemical warfare for the fear of retaliation from the other side. That is deterrence.

The men at Fulda Gap know today that we virtually have no chemical warfare capability or deterrent force to prevent the Soviets from using their chemical weapons. I really do not think those troops at the Fulda Gap or those who are replacing them, those who are facing the threat, are really very impressed about the virtue that we luxuriate in today, talking about, unilaterally keeping down our forces because that is really what we should morally do. Of course, that is a moral position. But unfortunately that is not the world today, and that is not the way to prevent temptation, for an enemy to use chemical weapons.

It was also mentioned by the gentlewoman from Maryland (Mrs. HOLT) that the Navy cannot use our present chemical weapons today because they are unsafe. That means they cannot offshore bombard. So we have reduced our offensive capability.

What are we asking to do? We are asking to commence the manufacturer of a safe deterrent, a binary projectile that is in two parts and is not mixed until fired.

The amendment of the gentlemen from New Jersey (Mr. COURTER) is very rational. It says, in effect, we are not going to build any more chemical stockpile than we have at the present time. What we have is unsafe, and you have to produce binary weapons our country would have to equally reduce our stockpile. The President has to certify this equal reduction. If we do not have any alternative, we have no deterrence.

Tell me one instance in dealing with the Soviets, where we have successfully negotiated from a position of unilateral reduction. It has never happened, and it never will be in the world as it is.

What are the men at the Fulda Gap facing? These are the sons of your constituents, maybe even some of your own sons in the future or your grandsons in the future. Are you going to deny them the protection and the chance to deter and to fight back in the event of a chemical weapons attack?

The Soviet troops that they face have some of the following advantages, our intelligence tells us: Chemical units, at least 35 to 1; chemical personnel, at least 11 to 1; decontamination vehicles, at least 10 to 1; chemical munitions, either 4 to 1 or 10 to 1, although that is uncertain; chemical weapons systems, ground, 5 to 1; production facilities, 14 to 1. They have tremendously more ability to produce than we.

As I said earlier, the Soviet chemical troop strength is 50 times that of the U.S. Army chemical troops, and they are the best equipped and prepared in the world to launch chemical attacks and to operate under chemical warfare conditions.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 5 additional minutes.)

Mr. WHITE. Listen to this: The Soviet training stresses attack through a contaminated area and exploitation of the results of offensive chemical operations. That is part of their basic offensive procedure.

Without adequate chemical warfare deterrent forces, our troops would be defensive. They would be fighting with protective clothing, which has already been mentioned, which reduces their efficiency in the battlefield, while the Soviets, without anything to fear, would not have to have that same encumbrance. Infantry under combat conditions often has a tendency to discard some of their gas equipment when they are moving forward under attack because it encumbers them, because it slows them and, therefore, makes them vulnerable to weaponry. So, therefore, they sometimes discard it, in the hopes of retrieving, or the expectation of not using it. Those troops which do not keep their equipment are going to be susceptible to attack unless we have the deterrent force to keep the other side from chemically attacking.

Now, if you think the Communist forces will not use chemical warfare, it has already been mentioned that you can just look at the evidence that we already have, the world as it is in Afghanistan and Cambodia. If you do not want the Warsaw Pact forces to gas and roll over NATO forces, including our Americans, give our troops the equipment and the deterrent force. If you do not want to force escalation to nuclear war, give us the deterrent force at a lower level. If you want peace, you have to deal from strength.

□ 1230

Mr. WHITEHURST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, my colleagues know that I rarely take the well in this House. I do so this afternoon because of my deep-seated feelings about the perniciousness of the Zablocki and Bethune amendments.

I want to repeat a story that I told last year for the first time in this Chamber. I think it is cogent.

In 1978, a delegation from the Armed Services Committee of the House visited the Soviet Union and spent the better part of an afternoon with the Chief of Staff of the Soviet Army, Marshal Nikolai Ogarkov.

In the 3 or 4 hours that we had with him we had an opportunity to ask questions and one of the questions that I asked was, "Would you be willing to sign an agreement with the United States, to ban the use of chemical weapons?" He responded right away and positively, he said, "Absolutely, as a matter of fact, since last year, we have had a negotiating team in Geneva negotiating with an American delegation to this end."

It has been 4 years since we had that conversation. You tell me if you can measure any forward progress toward a negotiated end to the use of these terrible weapons?

There has not been any. So now we are told in these amendments we have an opportunity to make an agreement with the Soviets. They have tabled a proposal. But we should not go forward with any production of binary weapons.

I will tell my colleagues why there has not been any forward movement and why I do not think there will be any if we accept these amendments.

Listen to the Soviet advantage? Chemical units, 35 to 1. Chemical personnel, 11 to 1. Decontamination vehicles, 10 to 1. Chemical munitions, somewhere between 4 and 10 to 1.

Ground delivery systems, 5 to 1. And get this, because we have been talking about the production facilities this morning, there the edge is 14 to 1 technically, but actually it is 14 to 0, because we have not produced any weapons since 1969.

I get the feeling that what is being suggested here is a chemical freeze.

The gentleman from Arkansas sent a "Dear Colleague" letter around. In that letter he said, and I am quoting, "Our steadfast refusal to produce or use nerve gas will not go unnoticed," and quoting again, "If we hold to it, world opinion will rush to our side."

Well, reference has been made to the use of chemical weapons in Laos and Cambodia. Has world opinion rushed to our side? I barely heard a peep. So often the arguments are made if we do not do thus and so we will have world opinion. The gentleman from Texas, who just preceded me in the well, talked about the conversations he has had with soldiers and field commanders in Europe. I have had those same conversations. And he is absolutely right. The thing that they fear more from Soviet forces is an attack employing chemical weapons.

What is going to be our response? We are told we have a 30-day supply that we can use to come back with although there are sharp differences of opinion as to how it is going to be delivered.

I will tell my colleagues what the response is going to be. It is going to be a nuclear one. Who on Earth wants that kind of a result? Our goal I think is very clear. It is not the unrestricted production of nerve gas. The gentleman from New Jersey has pointed out in this amendment that all we want to do is replenish the stock and negotiate, if we can, a verifiable ban on the production and stockpiling and use of chemical weapons.

The CHAIRMAN pro tempore. The time of the gentlelman from Virginia (Mr. WHITEHURST) has expired.

(By unanimous consent, Mr. WHITEHURST was allowed to proceed for 2 additional minutes.)

Mr. WHITEHURST. Mr. Chairman, we wish to provide our forces with chemical warfare protective equipment which we are going to do in this bill.

Until we negotiate such a ban, we wish to maintain a chemical warfare retaliatory capability adequate to deter an adversary from using his.

I will tell the Members something. You defeat the Courter amendment and pass the Zablocki-Bethune amendment, if you listen carefully you will hear the echo of Okargov's laughter in the Kremlin.

Mr. OBEY. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Zablocki amendment.

Mr. Chairman, I do not want to take 5 minutes. I jokingly told people on a number of other amendments yesterday I thought there were about 60 people in this House who on any amendment would vote for the side that quit talking first. But let me simply take about 2 minutes to explain why I am in strong support of the Zablocki-Bethune amendments on this issue.

I would begin by addressing this question to the gentleman from Arkansas. We have heard here that if you adopt the Zablocki-Bethune amendments that we will somehow be assuring forever more that there will be no production of additional chemical weapons by the United States.

Is it not true that the limitation which the gentleman from Arkansas and the gentleman from Wisconsin are offering here today applies only to the 1983 bill?

Mr. BETHUNE. Mr. Chairman, will the gentleman yield?

Mr. OBEY. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentleman for yielding.

That is correct; only to the money that is in this bill for the production of the new binary weapon and new nerve gas weapon. It does not touch R. & D., it does not touch maintenance, it does not touch defensive.

Mr. OBEY. I thank the gentleman because I think that this subject is being overdebated and overdramatized and, as we often do on this floor, is being debated in terms of Armageddon rather than in terms of what the amendment actually does.

It seems to me that the only issue we are deciding today is whether or not to proceed with production of the binary nerve gas system at this time.

I underline those three words "at this time."

It may very well be necessary at some time to proceed.

I do not share the optimistic view of a number of people in this House that we are likely to achieve an agreement with the Soviet Union on this issue. I think it is highly unlikely that we will do so. But I do believe that we need to at least try for a variety of reasons, some of which are much larger than those related only to this narrow issue.

The Soviet Union is very good at exploiting the nervousness of Europe on virtually any occasion that we give them an opportunity. I would simply suggest to the House today that right now this country has a whole lot on its plate in terms of issues upon which we critically need the support of our NATO allies.

We have the issue of Poland which I think is extremely important and upon which as my colleagues know our European allies have been less than anxious to cooperate in terms of all of the initiatives which this administration has suggested.

We have the issue of Soviet trade limitations, and again we are having a great deal of difficulty in getting our European allies to follow the lead of the administration on this issue.

We have a wide variety of other trade issues, including agricultural issues, which relate to the East-West situation.

I just think that we ought to try to keep in mind that internationally, as is the case domestically, there is only so much that you can do at any one time without losing support for everything you are trying to do. The gentleman from Arkansas and I were members of a delegation which was in Europe a few months ago, and if anything struck me at that time it was how terribly dangerous it would be for us to underestimate the difficulty that this or any other administration is going to have in bringing our European NATO allies around to strong reliable support for us on a whole variety of issues, a number of which are at this moment much more important to us than is this issue.

I would respectfully suggest to the House that the administration needs, and we need right now more than anything else, to shore up support from our allies on arms control, on trade positions, on Poland and the like. Be-

cause of that fact I think this is precisely the wrong time to proceed with the development of this system.

This limit, as the gentleman from Arkansas has indicated, applies to now, it does not apply to the future.

□ 1240

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. OBEY was allowed to proceed for 1 additional minute.)

Mr. OBEY. We can change our judgment if we do not see any opportunity to work out an agreement with the Soviets; but I would urge you now not to take an action which will make Europe even more vulnerable than it is now to pressure from those within the European Community who would like to unilaterally disengage with the Soviets.

I must say something else. This is one of the few times when I think that Members ought to consider who is offering the amendment. There are very few Members in the House for whom I have more respect than the gentleman from Wisconsin (Mr. ZABLOCKI) and the gentleman from Arkansas (Mr. BETHUNE). These are not knee jerk unilateral disarmers offering this amendment. These authors of this amendment today are extremely prudent legislators. They are extremely cautious. They have approached this in an extremely detailed way.

I would again simply point out that we are not making a decision which is forever more. We are making a decision for the moment and for the moment only.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(At the request of Mrs. ROUKEMA, and by unanimous consent, Mr. OBEY was allowed to proceed for 2 additional minutes.)

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. OBEY. Yes, certainly.

Mrs. ROUKEMA. I want to commend the gentleman for his statement, particularly his emphasis on the foreign policy aspect of this question.

I think under the discussion of the substitute, that it has somehow been implied that we are taking a step forever and ever, a unilateral step, which is of course not the case, as the gentleman has explained.

I would also like to point out in conjunction with the gentleman's statements on the NATO allies and our European problems, that in the record of the other body when they had this debate, it was pointed out extensively in quotations from Dr. Matthew Messelson, one of the foremost authorities in the United States on chemical weaponry, with respect to the overkill capabililty that we have in tonnage and he relates in testimony before the Appropriations Committee, as quoted in the record of the other body, that this is most detrimental to our NATO allies. That the overkill capacity that is presently contemplated by the administration is absolutely indescribable. We cannot even answer the question, what could our possible aim be? So we have gone beyond the question of stockpiling to the question of deployment. Why the magnitude of preparation?

It must mean something in terms of our foreign policy perspective, so I thank the gentleman for his comments.

Mr. OBEY. I thank the gentlewoman.

Mrs. BYRON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Courter substitute amendment.

Until we can achieve a complete verifiable ban on chemical weapons, our military must have the capability to deter chemical use against us or our allies. While the United States has exercised unilateral restraint for 13 years by not producing chemical weapons, the Soviets have continued to progress in this area until they now enjoy what could be a decisive military advantage. We should continue to exercise restraints; however, we cannot continue to ignore this serious threat to our forces. We will remain firmly committed to our longstanding policy of no first use of chemical weapons.

Further, the United States does not and will not possess biological or toxic weapons under any circumstances.

Most of the efforts and resources in the chemical warfare area is properly devoted to improving the chemical defense posture of the services. However, chemical protection alone is not adequate deterrent. The equipment and procedures for chemical defense are so restrictive that they degrade unit performance from 30 to 50 percent or even more for some difficult jobs.

I have recently come back from Bentwater in England. I had an opportunity to firsthand assess the equipment that our troops are required to wear to handle a chemical threat. It is a very difficult situation. There is no way that we can ask our troops to operate in this type of environment.

If our forces must operate in protective clothing and the enemy can operate unencumbered, we have a great disadvantage. He can gain a decisive battlefield advantage. However, if he is threatened by retaliation, he knows that he, too, would have to suffer the degradation imposed by chemical protection and would be deterred from initiating the use of chemical weapons.

I would remind you that since World War I, chemical weapons have never been used against a military force that could protect itself and retaliate. Even in the intense conflict of World War II, Hitler did not use his chemical arsenal. He believed the Allies stood ready to retaliate.

We all share a common objective: To eliminate the threat of chemical warfare. I believe that we have a far greater chance of achieving this objective if our adversaries perceive no advantage from using chemical weapons. The program to improve both our protective and retaliatory capabilities will deny the Soviet Union the military advantage they would now gain from using chemical weapons, and this will eliminate the incentive to use chemical weapons and instead will provide an incentive for serious arms control.

I urge you to join me in support of the substitute amendment.

AMENDMENT OFFERED BY MR. HOLLENBECK TO THE AMENDMENT OFFERED BY MR. COURTER AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. ZABLOCKI

Mr. HOLLENBECK. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. HOLLENBECK to the amendment offered by Mr. COURTER as a substitute for the amendment offered by Mr. ZABLOCKI: At the end of the substitute amendment add the following: Page 26, after line 22, add the following new section:

TREATY ON CHEMICAL WEAPONS

SEC. 902. It is the sense of the Congress that the President should—

(1) actively promote negotiations among the member nations of the ad hoc working group on chemical weapons of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland, for the purpose of the member nations agreeing to a treaty for the complete and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for the destruction of all chemical weapons; and

(2) communicate to the Government of the Soviet Union the willingness of the Government of the United States to proceed as soon as possible to conclude a treaty for the complete and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for the destruction of all chemical weapons.

Mr. HOLLENBECK. (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Jersey.

Mr. ANTHONY. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will read.

The Clerk concluded the reading of the amendment.

Mr. BEDELL. Mr. Chairman, will the gentleman yield

Mr. HOLLENBECK. Mr. Chairman, I would like, before I begin, to yield to

the gentleman from Iowa for a unanimous-consent request.

Mr. BEDELL. Mr. Chairman, the gentleman from Iowa is supposed to be at the White House at 1:15 for the signing of a bill. I have an amendment that applies to title I.

I ask unanimous consent that my rights be protected and that if we do complete title I, I might still have the opportunity to offer the amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

POINT OF ORDER

Mr. STRATTON. Mr. Chairman, a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. STRATTON. Mr. Chairman, is that within the province of the Chair, that this kind of unanimous-consent request is in order?

The CHAIRMAN pro tempore. The Chair is having difficulty hearing the gentleman from New York. Would the gentleman please repeat his point of order?

Mr. STRATTON. Mr. Chairman, is that request proper when we have some 15 amendments pending and nobody knows exactly when an amendment will come? If everybody could be granted the same unanimous-consent request, we could be here until Christmas.

The CHAIRMAN pro tempore. The Chair will state to the gentleman from New York that by unanimous consent the Committee can preserve the gentleman's right to return to title I, by unanimous consent.

Is there objection to the request of the gentleman from Iowa?

PARLIAMENTARY INQUIRY

Mr. COURTER. Mr. Chairman, I have a parliamentary inquiry with regard to the unanimous-consent request.

The CHAIRMAN pro tempore. The gentleman will state his inquiry.

Mr. COURTER. I am not certainly going to object. My question, my inquiry is, is the gentleman's right preserved with regard to his amendment, or when we come back, is title I open to everybody else as well, because the request has to do with the title and not the amendment?

□ 1250

The CHAIRMAN pro tempore. The gentleman's unanimous-consent request, as the Chair understands it, is to have his right protected to return for his amendment to title I, and his amendment alone.

Mr. COURTER. Mr. Chairman, his amendment only; is that correct?

The CHAIRMAN pro tempore. That is what the Chair understands.

Mr. COURTER. I have no objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. HOLLENBECK. Mr. Chairman, I commend my colleague from New Jersey for offering a worthy attempt at compromise on this issue and for his attention to trying to allay the fears many of us have over the promulgation of chemical weapons.

My amendment to the gentleman's substitute is designed to call specific attention to the need to actively promote negotiations among the member countries of the United Nations Committee on Disarmament and to communicate to the Soviet Union the willingness of our Government to proceed as soon as possible with bilateral negotiations for the purpose of concluding a treaty to ban chemical weapons.

Mr. Chairman, I have listened for a long time to the many arguments both in support and in opposition to the resumed production of chemical weapons. The arguments themselves have already been adequately made and do not in my opinion warrant further elaboration, at least not at this time.

For whatever our decision on the production of chemical weapons may eventually be, it should not, however, detract from our longstanding policy of a leadership role in behalf of negotiating and concluding verifiable and comprehensive treaties to ban forever the production of chemical weapons.

Mr. Chairman, clearly the issue at hand goes beyond the decision on whether or not to produce chemical weapons and in what shape or in what form. What is of far greater relevance is the ability of the United States and the Soviet Union to reach an agreement on chemical arms control.

No matter what you believe, whether you feel our initiation of a chemical weapons program would act as an inducement for Soviet relaxation of their position and lead to a verifiable agreement, or whether you believe any modernization of our chemical weapons stockpile will reduce the possibility of initiating a treaty, the purposes of the Nation and of the world are ultimately best served through a total ban on chemical weapons.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. HOLLENBECK. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, is it not a fact that the reason we do not have any chemical warfare negotiations going on at the present time is not because of the failure of the United States; it is because of the unwillingness of the Soviet Union to engage in those negotiations; is it not?

Mr. HOLLENBECK. The gentleman is correct. I am urging along these same lines that our negotiations continue further and that we take active initiatives toward bringing them into a negotiating posture.

Mr. STRATTON. I have no objection to the gentleman's amendment, but I do think it ought to be made clear in an era when millions of citizens mistakenly are trying to blame the United States for the arms race, and the threat of nuclear war, insisting that because we do not agree to a Soviet nuclear freeze proposal, then we are the ones who are endangering the planet. It was the Soviet Union that refused to negotiate on chemical weapons, and we ought to make that fact clear.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. HOLLENBECK) has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. HOLLENBECK was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. Mr. Chairman, will the gentleman yield further?

Mr. HOLLENBECK. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, I did not want to interrupt the gentleman's excellent presentation. It is not the Soviet Union that has refused to negotiate?

Mr. HOLLENBECK. I thank the gentleman for raising the point.

Mr. Chairman, to elaborate on that, we should note that the United States has always taken an active and positive role in previous efforts to ban chemical, and biological weapons as well, going back to 1969, as we know, when President Nixon ordered a moratorium on production of chemical weapons and renounced possession of all forms of poison and toxic weapons.

This initiative was followed by the 1972 Biological Weapons Convention decision to ban the development, possession, and production of germ warfare. Also, in 1972 the Committee on Disarmament began multilateral discussions to seek agreement on chemical weapons.

In 1976, President Ford continued that commitment when he launched bilateral negotiations, which the gentleman referred to, with the Soviet Union, seeking a treaty.

Mr. HAGEDORN. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. Mr. Chairman, I yield at this time to the gentleman from Minnesota.

Mr. HAGEDORN. I thank the gentleman for yielding.

Mr. Chairman, I am going to support the gentleman's amendment, but I think that the important thing is to point out that our Government has never been hesitant, and I sometimes feel we should not be suggesting that it is our Government, and I believe that is perhaps what this amendment does, but to those people in our society who honestly believe it is our Govern-

ment's fault, we are going to clarify that matter right now.

I strongly support the amendment of the gentleman from New Jersey for the alternate offset of the production of binary gas bombs by repealing and doing away with the stockpile.

Mr. HOLLENBECK. I thank the gentleman for his remarks. I think my remarks amply clarify the U.S. role in the history of this issue.

And I hasten to add that as recently as May 9, President Reagan did indicate that in the 40-nation Committee on Disarmament we would seek a total ban on chemical weapons.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Iowa, who has been patiently waiting and who has shown a great sensitivity in this area.

Mr. LEACH of Iowa. I thank the gentleman for yielding.

Mr. Chairman, I largely agree with the gentleman's assessment of where responsibility lies, but I think it should be noted that the United States does have a certain degree of mutual responsibility and our Government has quite recently been responsible for calling off certain bilateral discussions in this area that I hope will resume very quickly.

But more importantly, with regard to the amendment, per se, this "intent of the Congress" approach represents the fourth effort in the last 3 years in which something similar to this in language has been presented to the Congress. Three similar ones that this gentleman presented, all have passed this body; none unfortunately appear to have had any effect.

I would only say to the gentleman that I strongly support his amendment but it does not sufficiently change the scope of the Courter amendment, that the Courter amendment should be supported.

The Zablocki-Bethune approach remains vastly preferable.

If the Courter amendment is defeated, I would be very hopeful that the amendment just offered by the gentleman from New Jersey would be amended to the approach of the gentleman from Arkansas and the gentleman from Wisconsin.

Mr. PRICE. Mr. Chairman, will the gentleman yield to me?

Mr. HOLLENBECK. I yield to the gentleman from Illinois.

Mr. PRICE. I thank the gentleman for yielding.

Mr. Chairman, let me state at this time that I have just received a communication from the administration on the particular Courter amendment, and I would just like to read the letter that I have just received from the Secretary of Defense on this matter. It says:

THE SECRETARY OF DEFENSE,
Washington, D.C., July 22, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: The Administration supports the substitute amendment of Mr. Courter of New Jersey in that it allows the United States to replace the older unitary chemical weapons in the existing chemical munitions stockpile with modern binary chemical munitions that are much safer to produce, handle, transport, store and eventually dispose of. The President will certify that for each new binary weapon introduced into the stockpile, a chemical weapon from the existing arsenal will be rendered permanently useless for military pruposes. The Courter substitute is completely compatible with our intent to replace our retaliatory chemical weapons stockpile with one that is significantly smaller and safer. It would reduce the Soviet incentive to use chemical weapons while increasing our prospects to achieve a complete and verifiable ban on these weapons.

Sincerely,

CASPAR W. WEINBERGER.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I would yield to the gentlewoman, but I do not have the time.

Mrs. ROUKEMA. Mr. Chairman, will the gentleman who does have the time yield to me?

The CHAIRMAN pro tempore The time of the gentleman from New Jersey (Mr. HOLLENBECK) has expired.

(By unanimous consent, Mr. HOLLENBECK was allowed to proceed for 5 additional minutes.)

Mr. HOLLENBECK. Mr. Chairman, now that I do have the time, I yield to the gentlewoman from New Jersey, who has been very active in this matter.

Mrs. ROUKEMA. Mr. Chairman, I thank the gentleman for yielding.

I would like very much to support the gentleman's amendment because I totally agree with the thrust of it. However, when it is used as an amendment to the Courter proposal, which presupposes the production of binary nerve gas, I would have to oppose it for this reason: Binary would infinitely complicate any arms control verification procedures. It is commonly recognized, or at least open to serious question because of the satellite surveillance requirements, that binary are almost impossible to verify except by onsite inspection and, therefore, weapons complications binary would bring to arms control agreement verification procedures would be infinite and would thereby make the gentleman's proposal, unfortunately, incapable of implementation.

I would love to support the gentleman's amendment attached to the Zablocki-Bethune amendment.

Mr. HOLLENBECK. That amendment will be offered later anyway, perhaps by the gentlelady from New Jersey.

Mr. Chairman, I yield to the gentleman from New Jersey, the author of the substitute, and a member of the committee.

□ 1300

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to be gentleman, the author of the substitute amendment and member of the committee.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding. I would like to respond first of all to the statement of the gentlewoman from New Jersey about the fact that binary is more difficult to detect than other types of chemical weapons. I as a Member of the Armed Services Committee, and I know there are others who have sat on that committee a good deal longer than I have, have certainly not received any testimony from any credible source or any source whatsoever that would corroborate the statement that binary weapons are more difficult to find or verify than any other type of chemical weapons. They are all very difficult; let us face it.

Second, the gentlewoman from New Jersey indicated that she had a problem with this amendment because of concern about binary chemical weapons. Unless I misunderstood, this amendment does not talk about binary whatsoever. Is that correct?

Mr. HOLLENBECK. It merely expresses the sense of the Congress that the President should actively promote negotiations multilaterally with the Committee on Disarmament and bilaterally with the Soviet Union.

Mr. COURTER. I thank the gentleman. As such, I think the gentleman's amendment to my substitute has a great deal of merit. I think it once again shows that the true intention of the United States is to hold out the olive branch while remaining strong as well, and to a very large extent it improves my substitute. I congratulate the gentleman. I hope his amendment to my substitute passes, and then of course the substitute passes as well.

Mr. HOLLENBECK. I thank the gentleman.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, I thank my colleague for yielding. I too want to extend my congratulations to the gentleman on his amendment. My colleague, Mr. COURTER, has just expressed, I think, as well as I could my feelings as well, and I would to associate myself with his remarks.

I think it is very important that we establish the willingness of the United States to be a leader in negotiating,

not limitation, but removal of chemical warefare.

As far as the comment about verification is concerned, I believe that the gentleman is offering here an opportunity to promote the beginning of onsite verification. That is necessary, and if we are going to have limitations and reduction in nuclear arms, we must have onsite verification and if we are going to have meaningful control of chemicals, and I do not care whether they are binary or not, any chemical is extremely difficult to detect and probably impossible if we are going to rely on satellite and technical surveillance only. We must have onsite verification. So, I think the gentleman is opening an area of negotiation that is very important as far as disarmament of various forms and the future of the world are concerned. I salute the gentleman for it, and let us press ahead.

Mr. PORTER. Mr. Chairman, will the gentleman yield?

Mr. HOLLENBECK. I yield to the gentleman from Illinois.

Mr. PORTER. Mr. Chairman, I rise today in strong support of the amendments offered by the gentleman from Wisconsin (Mr. ZABLOCKI), and the gentleman from Arkansas (Mr. BETHUNE) to delete funding and prohibit renewed production of chemical weapons.

The defense authorization bill we are considering today provides for many necessary improvements in our national defense capabilities. Throughout the past decade, the percentage of our Federal budget devoted to the military steadily declined while the Soviet Union engaged in a military buildup of unprecedented size and duration. During that time, many in this country hopefully believed this buildup would end as the Soviets achieved military parity with the United States, but it is clear now that they were sadly mistaken. Now we must accept the unpleasant but vital task of working to maintain our capability to defend ourselves and our allies against foreign aggression.

I believe our people have the will to meet this challenge, and that our economy, inherently superior to that of the Soviet Union, can provide the necessary resources. However, in planning this effort, it would be a tragic mistake for this Congress to embark on a course of reacting reflexively to every Soviet military decision and accepting without thought the unforseen moral and geopolitical consequences which present Soviet military policies imply. Resumption of the production of chemical weapons by the United States in order to match Soviet offensive capabilities would be a striking example of such a mistake.

Chemical weapons are most effective against poorly equipped troops positioned in rugged and sparsely populated terrain, conditions which generally imply fighting against Third World forces. The Soviets have repeatedly endorsed this view by their use of chemical weapons in Yemen in the late 1960's and in Southeast Asia and Afghanistan in more recent years. These are the only times, incidentally, when such weapons have been used anywhere in the world since the Geneva protocol condemning their use was adopted in 1925. The demonstrated fact of Soviet capability and willingness to use chemical weapons against the people of the Third World should rightfully serve as powerful testimony revealing the true nature of the growing Soviet adventurism in the underdeveloped regions of the world.

Chemical weapons, of course, can also be used in densely populated, readily accessible areas such as Europe, but they are far less effective against properly trained and equipped troops and are far more likely under such circumstances to maim and kill noncombatants. At this time of apparent confusion of many in Europe, inexplicable though it may seem, regarding whether the United States or the Soviet Union poses the greater threat to the safety of Europe, Soviet production and deployment of chemical weapons there should serve to clarify for many the offensive character of the Soviet forces, just as our channeling increased resources toward improved protection for NATO forces against chemical attack would emphasize NATO's essentially defensive purposes.

The point I am making here, Mr. Chairman, is that the most powerful, most dangerous weapon on the face of the Earth to the principles we stand for and believe in are not necessarily nuclear weapons or chemical or biological. Perhaps the weapon we must most be concerned about is the weapon of propaganda. And while we know and must be tremendously concerned with the great advances the Soviets have achieved in nuclear weapon sophistication—and obviously, if such a term applies—in chemical weapon sophistication—those gains in the past decade have been matched, perhaps outstripped by their sophistication in propaganda.

A fight we are waging and must wage is for the hearts and minds of the common man of this world, principally the people of the emerging Third World nations in Asia, Africa, and in Central and South America. The American people have been made aware of the Soviets treachery not only in producing, but in using mycotoxins on innocent Afghan and Loatian civilians, and I must commend the Wall Street Journal for its persistence and courage—and condemn the lack of it by most other print and almost all electronic media in our country—in making us know and understand what the Soviets were doing. But most of the people of the world, including the Soviet people, know nothing of these violations, because they exist in closed societies with controlled press.

We do not—and thank God we do not live in such a society. Our action here today will be watched by the world, because ours is an open society and the Soviets will maximize propaganda efforts. Chemical weapons first used in World War I so revulsed the world that nations agreed to ban their use forever. Resumption of production of chemical weapons now, by the United States, would be interpreted worldwide as an abdication by us of the principles we profess to believe in, and will undermine, far more than any lethal threat by the Soviets, against which we can defend, the credibility of our country in that very real war that is fought every day in every part of the world for the future of freedom on this planet.

Mr. HOLLENBECK. Mr. Chairman, in conclusion, it is important, I think, that we realize that the United States reaffirm at this time its longstanding policy in support of concluding a treaty to ban chemical weapons. The amendment to the substitute puts the Congress on record in strong support of renewed talks. It encourages the President to actively promote negotiations, and expresses to the Soviet Union our willingness to proceed with bilateral negotiations to seek a truly comprehensive treaty. This action will serve to reaffirm U.S. policy on chemical weapons and will place upon the Soviet Union the burden of proof as to their actual intentions for all the world to see.

I urge my colleagues to join me in support of this amendment.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wonder if I might have the attention of the gentleman from New Jersey. He, in our previous colloquy, agreed that the Soviet Union was the one that had declined to enter into negotiations, and several comments were made on the other side that they were concerned that this amendment might suggest that we were the ones that were at fault. I wonder if the gentleman from New Jersey would be willing to request unanimous consent to modify his amendment by inserting on line 11, after the word "Union" the words, "which until now has repeatedly refused to engage in negotiations looking toward ending the threat of chemnical warfare."

Mr. HOLLENBECK. Mr. Chairman, who is requesting this?

The CHAIRMAN pro tempore. Is the gentleman from New York making a unanimous-consent request?

Mr. HOLLENBECK. I would have no objection.

Mr. STRATTON. From a parliamentary point of view I thought the maker of the amendment would have to request it, but if that is not in order, I would make that unanimous-consent request so that we have here the second paragraph.

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

On line 14, after the word "Union" of the Hollenbeck amendment insert the words, "which until now has repeatedly refused to engage in negotiations looking toward ending the threat of chemical warfare".

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York (Mr. STRATTON) to modify the amendment?

There was no objection.

Mr. BONIOR of Michigan. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, before I make some prepared remarks let me just comment about the Courter amendment, the amendment offered by the gentleman from New Jersey. It is based on the principle, basically, that there is more reliability in the binary weapons system as opposed to the present unitary system. The whole argument of the Courter amendment, and the argument obviously now of the administration, which has come forward at the 11th hour to support this amendment, is based upon reliability. I think the following facts should be made very clear to the Members who are paying attention to this debate:

First, it has been suggested by the former director of development at the Army Chemical System Laboratory, a director for many, many years of our CW efforts, that without open-air testing of the binary system, which we do not have and which I do not believe will be allowed on our soil, 20 to 30 percent of the 155-millimeter shells would be duds and 50 percent of the Navy's proposed Bigeye bombs would be duds. We have to compare that to the existing system, where less than 1 percent of the existing weapons have failed to fire.

It has also been suggested here in the debate that the present system of unitary CW weapons is diminishing. That is not true either. In fact, since 1977, through a refurbishing program, we have increased the number of weapons we have in our chemical warfare arsenal.

The gentleman from Virginia about an hour and a half ago, I guess, on the floor, and several others since then, have suggested to us that the Soviets do not want to negotiate when in fact the real point of negotiations has been impeded or stopped by the Reagan administration. We have had negotiations for literally years until the Reagan association came into office. They stopped negotiations on chemical warfare. That is why I did not object, frankly, to the inclusion of the gentleman's modification of the Hollenbeck amendment, Mr. STRATTON's inclusion, when he suggested to us that it is Soviet intransigence.

Mr. LEACH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentleman from Iowa.

Mr. LEACH of Iowa. Mr. Chairman, the gentleman makes a point, but I would not carry it too far. Let us be very clear. The past three administrations have not seriously approached the chemical weapon issue. I happen to be chagrined that the Reagan administration is not doing well, but they are doing as much as the Carter administration did, as much as the Ford administration did, and frankly, as much as the Nixon administration prior to it on the chemical weapon issue, although under the Nixon administration we did negotiate the Biological Weapons Convention.

I would like to stress here that the Biological Weapon Conventions contains in article 7 a commitment of the United States of America and other parties to the convention to pursue further negotiations toward a convention prohibiting the development, production, and stockpiling of chemical weapons.

Mr. BONIOR of Michigan. The gentleman makes my point. I would not argue with his assertion. That point is, that it has not been just the Soviet Union that has been the obstructionist in trying to get an agreement here. It has been both parties. It seems to me the inclusion of that modification, certainly from my standpoint, does not make the amendment any more attractive.

□ 1310

Mr. Chairman, I would like to just make some general remarks. I think my colleague, the gentleman from Wisconsin (Mr. OBEY) put it well when he said that we sometimes tend to lose sight of what we are talking about when we get into arguments on four or five pending amendments.

So strong—and many Members have indicated this in the course of the debate—was our commitment to reducing production of chemical weapons that neither side resorted to chemical warfare in fighting World War II. So strong was that commitment that three different administrations, as was just pointed out, from both parties, over 13 years, have gone beyond the Geneva protocol of 1925 and renounced not just the first use but continued production of chemical weapons.

In a period of wrenching budget decisions, resuming production of chemical weapons will add anywhere from $6 to $10 billion by 1987 to an already strained defense budget, money that can only come at the expense of other programs.

This week we have seen—and this was just the other day—the Armed Services Committee come forward with committee amendments to cut major programs. It is clear that whatever the talk of unlimited defense spending, priorities are going to have to be set.

Can we honestly say that the resumption of chemical weapons is more important than the Navy's need for new ships? Can we honestly say that resumption of chemical weapons is more important than measures that will help us retain senior noncommissioned officers?

The decision to begin production of chemical weapons, after all of these years, after President Nixon stopped them in late 1960, is important in its own terms, vitally important; yet it also involves much broader issues. Clearly, it hinges on large decisions and reflects an overreaching defense strategy.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. BONIOR) has expired.

(By unanimous consent, Mr. BONIOR of Michigan was allowed to proceed for 4 additional minutes.)

Mr. BONIOR of Michigan. Mr. Chairman, the United States needs to strengthen its relationship with Western Europe; yet it has been mentioned several times that production of chemical weapons does exactly the opposite. In Europe the decision of the United States to produce chemical weapons seems to reflect the logic of the neutron bomb carried to a brandnew extreme. Chemical weapons will leave not merely the buildings but the soldiers as well, concentrating death with an eerie precision on civilians alone.

Should it surprise us that NATO's North Atlantic Assembly adopted a resolution in November of 1980 stating that "proposals to deploy new offensive chemical weapons in Europe would provoke a strong public reaction * * *"? Should it surprise that the Social Democratic Party of West Germany responded to the administration's decision to resume production with a resolution rejecting "the manufacture and storage of bacteriological and chemical warfare agents in the Federal Republic of Germany"? And the Social Democrats in Germany certainly are not alone on this issue.

The United States needs to establish its worldwide credibility as a forceful advocate for arms reduction; yet the production of binary chemical weapons does exactly the opposite. Progress had been made in bilateral negotiations with the Russians; yet production of chemical weapons impedes additional gains. It commits us to a policy of escalation as a precondition to further negotiations.

The Russians are using chemical weapons, but that hardly argues that it becomes appropriate for us to do so and for us to become coconspirators. It argues instead that we forcefully use the forums of international law and diplomacy in addressing this most important issue.

We must learn from the mistakes of the past. Across the Third World, the United States has lost possession of the titles of freedom and economic justice, and we pay daily for that loss. Who among us would not have less money to spend on Third World arms stockpiles and a greater stockpile of credibility among Third World people? Which would better serve our interests today? Which would better serve our security?

Let the Russians confuse security with weapons at any cost. Let the United States remember that our security is also based on the allegiance of people and the mighty weapon of popular support.

There are, then, larger issues at stake today. In deciding whether or not to begin production of chemical weapons, the House will also decide, whether we like it or not, what this Nation really means by a cooperative relationship with our allies and whether this Nation really supports arms reductions.

In the end, as we are so many times, we are asked on this floor, and we are going to be asked again, to believe that this weapons system is better simply because it is newer and necessary simply because it is conceivable. This is a logic that is all too familiar to this body, and its implications are very, very clear.

Greek myth tells us that once the Pandora's box is opened, it is difficult to contain the evil that escapes. I urge my colleagues to think long and deeply before we open Pandora's box of binary chemical weapons.

Today we can send a signal reaffirming our Nation's commitment to humanity and commonsense or we can threaten our allies and enemies alike with a return to the dark days when deadly gas hovered over the battlefields of Europe.

Mr. Chairman, I urge my colleagues to support the amendment that has been offered by my colleague, the gentleman from Arkansas (Mr. BETHUNE) and the distinguished chairman of the Committee on Foreign Affairs, the gentleman from Wisconsin (Mr. ZABLOCKI) and to look with close scrutiny at those that have been suggested by other Members who have since offered substitutes.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I just wanted to advise the committee that I am just in receipt of a communication from the White House, and it states as follows:

THE WHITE HOUSE,
Washington, D.C., July 22, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: I am advised that Jim Courter of New Jersey will offer an amendment to the fiscal year 1983 Defense Authorization Act that would in effect require the removal of one unitary munition from our stockpile of chemical weapons with the introduction of each new binary weapon.

I wanted to convey to you the President's complete support for the amendment. The Administration's objective is to provide the smallest and safest chemical munition stockpile that will deter the Soviets from using chemical weapons while we work toward our goal of a complete and verifiable ban on chemical weapons.

I strongly urge that the Courter amendment be passed by the House.

Sincerely,

WILLIAM P. CLARK.

Mr. GEJDENSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, as we look back over the last year and a half of U.S. policy, we find that we have had an incredible ability to take the world's attention away from the Soviet Union's aggressive behavior and put America in the worst possible light.

A year and a half ago the world's attention was focused on the Soviet invasion of Afghanistan and the tragic situation of martial law in Poland. But, in recent months we have turned that attention away from Soviet activity and toward U.S. policy in El Salvador and then to America's own nuclear arms policy, placing America in what could be perceived as the aggressor role in the eyes of most Europeans. In light of this, I think that one of the things we are facing here today. as we consider our potential for starting a new kind of arms race in chemical weapons, is the question of how this action is going to be perceived in Europe.

It is very difficult, even for Members who have spent an enormous amount of time looking at these two chemical weapons systems, unitary and binary, to decide conclusively which one is better militarily. In listening to the debate today I have decided that there are few advantages, if any, to the binary system as opposed to the unitary system that is now in our stockpile. It seems to me that we would gain very little in terms of military utility by producing new binary chemical weapons.

But, what we do have if we do not stop these plans for renewed production of nerve gas is an incredible opportunity to further alienate our European allies. I believe that was understood by the administration when it failed to live up to the law that called for a survey of our allies' positions on chemical weapons. Specifically, the Congress agreed in the conference on fiscal year 1982 defense appropriations to language requiring the administration to provide a country-by-country report on the views of our NATO allies on chemical weapons before any requests were made for funding of nerve gas production. The administration chose to ignore the letter and spirit of the law in what, I think, was fear of what they would discover regarding European abhorrence of these weapons. I think that the administration knew that the Europeans would report very negatively on nerve gas. I think that the administration knew that our NATO allies would in fact refuse deployment of any nerve gas on their soil. What the administration certainly does know is that new or existing chemical weapons stocks are worthless if they cannot be deployed in Europe. That is why they blatantly ignored congressional mandate, in fact the law, to report on Europe's views on the subject.

We are all, aware of the recent strains in our relations well with our relations with the governments of Europe over the gas pipeline. There have been disagreements over U.S. approach to arms control. And today we have here an opportunity to further alienate not only the governments of Europe but, I am afraid, the people of Europe as well.

Mr. Chairman, I would hope that the House would support the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

There was no objection.

Mr. STRATTON. Mr. Chairman, we appear to be moving toward the end of this very instructive debate, and we soon will be moving toward voting on a rather complicated set of amendments. I hope that situation will be explained in detail before we get the Members out of their offices and onto the floor to vote.

Let me just observe that this is a rather remarkable change from the debate that went on yesterday. Yesterday we had Members arguing over which area of the country was going to get a Government program.

□ 1320

Today we have Members arguing over which area of the country is not going to get a Government program. I think it does change the attitude a little bit and it provides relief from some of the tension that we had on yesterday.

Let me just summarize, if I may, on two particular points. First, there can really be no reasonable, informed

debate over the question of whether the current stockpile of noneffective chemical weapons in the U.S. arsenal really represents any significant deterrent capability against the monumental Soviet chemical arsenal. It is no good. It is even dangerous. Even the gentlewoman from Colorado (Mrs. SCHROEDER) who wanted those ancient weapons moved out of her State of Colorado to Utah where they ultimately were moved was terrorized by the fact that when they went out of Colorado they were in such an unstable condition they might explode and wipe out the people of Colorado. Fortunately that did not happen.

There can also be no reasonable informed debate over the question that the reason we are asking the right to establish a binary chemical weapons system is for the sole purpose of deterrence. In chemical warfare we are grossly inferior to the Soviet Union, as has already been pointed out; and when we provide modern chemical weapons we are providing a deterrent against the possiblity of them being used against us, and thus are protecting our service personnel in Europe and elsewhere, as well as our loved ones back in the Continental United States.

It is incredible to me that people should be getting up here and saying that these terrible binary weapons are so awful that they cannot be verified. The reason they cannot be verified is simply that the two parts of them are each nontoxic, and they would not explode even if they were driven up and down the ski slopes of Colorado.

The only way they can become toxic is after they have been fired from a shell.

We have also had some interesting discussion about what various retired admirals who were never connected with chemical warfare have said about the situation. And we have had experts presumably to tell us what they think is the philosophy of the Kremlin.

The gentleman from Virginia (Mr. WHITEHURST) mentioned a little while ago his conversation with Marshal Okargov.

I would like to mention just three personal experiences of my own which lead me to oppose very vigorously the Zablocki amendment.

Back in 1973 the distinguished gentlewoman from Maryland (Mrs. HOLT) and I and some other members of the Armed Services Committee visited the Middle East at the conclusion of the Yom Kippur war. The Israelis invited us to take a look at the captured equipment that they had picked up from the Egyptians. It was all Soviet equipment.

We found that every item of Soviet equipment included a detailed, complex, defensive gas warfare capability. You do not carry a defensive gas warfare capability unless you are prepared to use chemical warfare yourself offensively.

That was the first real evidence we had of the wide extent of the Soviet chemical preparations and it made a tremendous impact on the Pentagon when we reported to them.

A few years later—in 1980, to be exact—the Armed Services Committee had occasion to visit in Pakistan, at Peshawar.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. In Peshawar we had the unique opportunity to meet with some of the earliest of the Afghanistan freedom fighters who were in camps in Peshawar. We asked them to explain some of their experiences while they were under attack from the Soviet Union. They described this "yellow rain" which was coming out of the sky and falling on them and people were collapsing and dying right and left.

This was one of the first pieces of real evidence that the United States picked up with respect to the charges of Soviet offensive chemical warfare in the Afghanistan campaign.

The third event concerns the unique opportunity I had, by appointment of the President, of serving for some 5 weeks in New York as a member of the U.S. delegation to the second special session on disarmament of the U.N. General Assembly. As one of the American representatives I had occasion during the consideration of what were regarded as new initiatives for peace to emphasize the new initiative which President Reagan had presented to the General Assembly in his speech on June 17 when he said:

> We ought to go on record as United Nations in urging all of the countries against whom charges have been made of chemical warfare attacks to open up their borders so that the U.N. chemical expert team can verify the allegations of chemical warfare and "yellow rain."

The Soviet Union, of course, is in charge of Afghanistan and Vietnam, is in charge of Laos and Kampuchea. The President proposed that those countries ought to urge them to open up their borders so that the U.N., not a U.S., but a U.N. team of chemical experts, can go in and verify the truth or falsity of the claims of chemical warfare and yellow rain in Southeast Asia that have been made so frequently. In spite of numerous attempts by the U.N. to get their team of experts into those countries and repeatedly they have been denied.

I happened to mention this fact in a statement at the particular U.N. committee that was considering new initiatives and pointed out that the Soviet Union was still refusing to open up Afghanistan as President Reagan had urged. At the conclusion of my remarks you would have been surprised to see the Soviet Ambassador immediately hit the roof. He did not answer the question. Instead he decided to attack me. What does some Congressman from Washington know about chemical warfare? he said. What does he know about what is going on in Afghanistan? The Ambassador spent about 10 minutes berating me.

Of course this did not bother me because in this parliament I am used to that. But he studiously avoided answering the implied question that if the Soviet Union was not using chemical warfare in Afghanistan, why would they still hesitate to permit the U.N. team of chemical experts to enter Afghanistan?

After the Soviet delegate had finished, the Vietnam delegate got up and he, too, began to berate me because he said the United States had used agent orange in Vietnam. But agent orange was not a poison gas, but simply a defoliant, just like DDT. The Vietnam delegate also made no response to the question of why Vietnam was not opening up the areas under its control, if, in fact, they had not used chemical warfare.

The Afghanistan delegate, who apparently was not quite as fast on his feet as the other two, reserved his time for the following day.

I did not happen to be on hand that next day but I did get a transcript of his remarks. They, too, were very derogatory, although once again there was a clear refusal to say why if they were innocent they would not agree to allow the U.N. experts, not U.S. experts, but U.N. experts to come in and seek out the truth or falsity of the charges.

So it is obvious we are touching and did touch a very sensitive nerve with the Soviets whenever we mention chemical warfare. The least we can do is to demonstrate that we intend to go ahead to develop a necessary deterrent to the obviously overwhelming Soviet capability in this field.

● Mrs. SCHROEDER. Mr. Chairman, I rise to say that I do not appreciate being cited by the gentleman from New York (Mr. STRATTON) as supporting the construction of binary chemical weapons. I will vote for the Bethune and Zablocki amendments because I believe that the minimal military ability of such weapons is far outweighed by humanitarian, political, and economic considerations.

The Rocky Mountain Arsenal is located at the end of the runway to Stapleton Airport in Denver. The Army used this facility to store old, leaky chemical bombs, Weteyes. We fought to get the Army to get rid of these bombs, particularly because they were

being kept very close to the center of Denver. The Army announced plans to move them to Utah. We were, obviously, concerned about their transportation, given their instability and age.

My support for getting rid of leaking, deadly weapons from downtown Denver does not mean I support building newer and more powerful chemical weapons. In fact, my experience with the Weteyes convinces me that the risks and dangers to our own people from these weapons are so serious that we should not buy them at all.

I hope no one was misled by the statements of my colleague. I oppose the deployment of binary chemical weapons.●

Mrs. HOLT. Mr. Chairman, I move to strike the requisite number of words.

I would like to associate myself with remarks of the gentleman from New York. I think he is very knowledgeable. He has studied this question very carefully.

I find even the discussion of such horrible weapons to be very distasteful. But to me, my responsibility as a Member of this body is to provide our young people, that we have asked to go out and be on the front line of the defense of this country, with the very best, safest, most effective deterrent that we can give them, to avoid their being harmed as they defend us.

I feel strongly that we should oppose the Bethune amendment. I think that takes away our opportunity to provide that kind of effective, safe weapons system to deter the Soviet Union from using anything of this nature.

□ 1330

I would strongly support the Hollenbeck amendment and the Courter amendment.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Hollenbeck proposal is a good proposal. No one can argue with the words which are contained in that proposal. But it does not correct the flaw in the Courter substitute. So, therefore, I encourage Members to oppose the Courter substitute for this reason: The Courter substitute is nothing more than an Armed Services Committee smokescreen to get the same result that they are trying to get in the bill that they brought to the floor.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. No, not yet, Let me finish my statement, and then I will yield to the gentleman, because this point did not stick a while ago. I made it over and over, but it never did quite stick.

The Courter amendment simply says that if you produce a binary weapon, then you have got to destroy one of the chemical weapons from the existing stockpile. That means nothing. That adds nothing. Nor does it take away anything from the bill that the committee brought to the floor, because there is plenty of stuff on hand that the Army can destroy and comply with the Courter substitute's mandate. So it really changes nothing. The committee is still trying to get the mandate to produce binary and coming up with a rather illusory suggestion that they are going to be getting rid of some chemical weapon in exchange therefore and not therefore building up the stockpile. That is just not so.

The Members of the other body—and this is very important—were quick enough to catch this. The same effort was tried on the other side. And in an amendment that was brought to the floor over there there was a proviso that they shall destroy a unitary shell from the existing arsenal for each binary produced. Members of the other body were quick enough to see what was going on there, and they knew that the Army was not going to destroy anything except old stuff that had to be destroyed anyway. And so before they voted, they were certain to get in this language: "For each binary shell produced, a serviceable unitary artillery shell from the existing arsenal shall be rendered permanently useless."

Now, that is a big distinction. As I say, at Pine Bluff Arsenal right now, there is a stockpile of BZ chemical munitions which is just a halucinogenic munition. It is not nerve gas. And they can destroy one of those, which they fully intend to destroy anyway. They are setting aside $37 million right now to build a plant to destroy those munitions. And then it is going to take another $25 million, by the way, to go ahead and carry out the destruction after they build that facility. That is already on the board. The plans are already drawn. I was down there last weekend to look at the proposed site. So they are going to destroy a bunch of that stuff anyway, and that would count as a munition destroyed under the Courter substitute. So it is just a charade. At first it was a charade brought to us by the Defense Committee, but now we have the Secretary of Defense participating, since he sent his letter over embracing the substitute, and now we have got the White House participating, inasmuch as Mr. Clark also sent a letter over. We ought to be getting the big one here in about 15 minutes, I suppose, to complete the plan.

The fact of the matter is that the binaries which are suggested as a needed replacement are costly at a time when we are trying to save money. They are untested. They are not as effective.

By the way, that is a good point. The existing artillery shell has explosive in it, and when it comes down it bursts and shoots that chemical out, and we know that because we tested it dynamically. We have not tested the binary dynamically, and from what we know about it all we can suppose is that when it comes down it will have something near the same result. But the theoreticians who have looked at it have said no, that is probably not what will happen. Since it does not have the explosives in it, in all likelihood when the binary mixes and goes off it will puff up in the air and be carried downwind. So they argue that it is not as effective. No one can dispute that because there has been no dynamic testing, only simulant testing.

Furthermore, as to safety, we do not know what is in this binery weapon. The Nobel winners that I mentioned, the chemists and the biochemists, have suggested there may be some carcinogenic difficulties with it later on down the line. Who knows?

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 5 additional minutes.)

Mr. BETHUNE. Back when the BZ, the hallucinogen that I mentioned, was produced, they said that it would not be of any particular difficulty. So we spent $12 million producing the BZ weapon, which is the one we have got on hand, down at Pine Bluff Arsenal right now. And now we have got to get rid of it. Somebody decided we do not need that anymore, that it is not a good military strategy or tactic to follow anymore, so we have got to get rid of the BZ weapons.

Do you have any idea, I ask the Members, what it is going to cost to get rid of the BZ stockpile that we have got down there? I do. They are going to build a plant. It is going to cost $36 million. And then they are going to spend $25 million to operate that plant. Now, I am not real good at ciphering, but I figured it out, and for the 1,500 BZ munitions they have got on hand, you are talking $40,000 per munition to destroy just a hallucinogenic BZ munition. That is the cost of destroying those.

So here we got into this pattern, where some time ago we built the BZ weapon at great cost, and now, some years later, we are having to destroy it at four times the cost so that we can build a new weapon which is less effetive, untested, at great cost, so that one day our children and our children's children can figure out how to dispose of it at great cost. It is nuts. It just does not make sense.

Mr. BONIOR of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. My colleague makes a very good point, and since he is discussing the technical as-

pects and the insane effects of this whole exercise, I think it is important also to point out the sound signature of the binary weapons system. You can hear it. It is distinct. It lets everybody know it is coming. Whereas the existing unitary system, with its launching, is disguisable. That is another kink that has not been worked out.

Mr. BETHUNE. Not only that but, of course, the unitary is odorless, and in the case of the Bigeye, we have already pointed out it has the odor of sulfur as well as the noise, and it can be detected quite quickly.

Anyway, I think the gentleman from Wisconsin (Mr. OBEY) made a good point. The amendment that we offer is not one to unilaterally disarm, nor is it an irreversible decision. What we are saying is that, under the facts and circumstances that exist at this time, the proper thing to do, having doubt—and I think doubt has been created here—is to stick with the existing policy, one we have held since 1969. It has served us well. It will continue to serve us well. If as time goes by—and, by the way, these munitions that you are talking about, these binaries, would not come on line, the Bigeye, for some 3 to 4 or 5 years, and nearly as long for the other ones. So if it appears 6 months from now, after the President meets with the Soviet Premier and other things, that this would then be the course to take, this Congress can do that. But I do not think the evidence is here that we ought to throw away the policy that has served us well since 1969.

By the way, if I thought the evidence was here and if I thought the Pine Bluff Arsenal was the place to do it, I would be the first to say so. The gentleman from New York alluded to that a moment ago. And I would remind the gentleman that politicians are not believable, so I would never try to describe my own motivations. But I would say this to the gentleman, inasmuch as I do represent one-half million people in the central district of Arkansas: To the extent that the gentleman's comment that we do not want this somehow reflects that the people of Arkansas are frightened of it or that they do not want to do their part, I would remind the gentleman that in the State of Arkansas we have 16 Titan missiles. We used to have 17, but one of them blew up in September 1980. And did you see the people of Arkansas parading around with signs and demonstrating, such as you might have seen in some parts of this country? No. They want to do their part. This gentleman came into the well of this House shortly thereafter and supported the Titan project in a colloquy with the chairman. This gentleman also supported the MX missile, and so did the people of Arkansas. So to the extent that the gentleman's comment might suggest that the people of Arkansas somehow through their Representative here are not willing to do their part and that they are not brave and that they are not people who can understand risks and accept them in the interest of national defense the gentleman was in error and I think the gentleman should clarify the point.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from New York.

Mr. STRATTON. The question that I wanted to ask the gentleman is that when he talks about this $45 million plant, or whatever it is, that is going to be coming into his State, is not that going to supply some additional jobs for Arkansas? We have got a lot of jobless people around the country, and my understanding is that the gentleman has those problems even in Arkansas. Not many States are going to get a $45 million plant.

The CHAIRMAN pro tempore. The time of the gentleman from Arkansas (Mr. BETHUNE) has expired.

(By unanimous consent, Mr. BETHUNE was allowed to proceed for 2 additional minutes.)

Mr. STRATTON. I would think that that would be something that the gentleman would not want to overlook.

Mr. BETHUNE. Certainly that is an element that every Member ought to consider. But let me suggest to the gentleman that it is about 999 on the list of things I consider when I try to come to a decision on a question that has as far-reaching an implication as production of chemical weapons. Frankly, I do not know how many jobs it might bring to the State of Arkansas or to my district. And, frankly, I think that is irrelevant when we are talking about something as significant as chemical weapons, as significant as abandoning a policy that we have held since 1969.

Mr. ANTHONY. Mr. Chairman, will the gentleman yield?

Mr. BETHUNE. I yield to the gentleman from Arkansas.

Mr. ANTHONY. I thank my colleague from Arkansas for yielding.

The gentleman was in a colloquy with the gentleman from New York, talking about the reaction of the people of Arkansas for or against this project. I do represent the district in which this project will be located.

□ 1340

When they had an environmental impact hearing in Pine Bluff with adequate public notice to the community to come in and state any objections that they would have, not only for those citizens who lived in and around Pine Bluff, which would include the State capitol of Little Rock, only 45 miles away, I will tell this body that not one single person showed up to testify in opposition to this project.

Mr. BETHUNE. If I could reclaim my time, I would say the gentleman just proved my point, that is not relevant to the discussion here whatsoever, it is certainly not what motivated me to take the well and discuss this issue. And that is aside from the question whether or not I could convince through testimony and art of persuasion that this politician's motives have nothing to do with parochial concerns.

I do not think that has anything to do with this debate. What I would say is that when Members vote on this issue, you need to search your souls and what you need to do I believe, given the circumstances that exist at this time, is to vote for the Zablocki-Bethune amendment and vote down the Courter amendment.

Mr. COURTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I know that we have been debating this for many, many hours and I wanted to finish up by emphasizing a couple of things.

First of all, for those people who did not actually hear the words of the chairman when he read the letter by Secretary of Defense Cap Weinberger, I want to read a couple of sentences. It is a letter directed to Chairman PRICE:

DEAR MR. CHAIRMAN: The Administration supports the substitute amendment of Mr. Courter of New Jersey that allows the United States to replace the older unitary chemical weapons in the existing chemical munitions stockpile with modern binary chemical munitions that are much safer to produce, to handle, to transport, to store, and eventually to dispose of. The President will certify that for each new binary weapon introduced into the stockpile, a chemical weapon from the existing arsenal will be rendered permanently useless for military purposes.

Then, for those people who did not see the letter from the White House signed by William Clark, to WILLIAM DICKINSON, the ranking minority member of the Armed Services Committee, I will read a few lines:

I wanted to convey to you the President's complete support for the amendment. The Administration's objective is to provide the smallest and safest chemical munition stockpile that will deter the Soviets from using chemical weapons while we work toward our goal of a complete and certifiable ban on chemical weapons.

I strongly urge that the Courter amendment be passed by the House.

WILLIAM CLARK.

Finally, one of my adversaries here today, who has an amendment to the Zablocki amendment, the gentleman from Arkansas (Mr. BETHUNE) brought up the Senate, so I would like to comment on same. Although my words are not identical to the Senate language, the thrust is there, the intent is there, the result is there. If there is a small concern with regard to wording, in

conference I am sure we can work out the differences.

For those of my colleagues who wanted to know what the Senate did with an amendment substantially identical, substantially identical to my amendment, the other body passed that—it was the Hatfield amendment—by a vote of 92 to zero on May 13.

With my remaining couple of minutes, therefore, knowing that my amendment has the support of the Secretary of Defense, the White House, and substantially the same language passed in the other body by a vote of 92 to zero, I would like to mention again, if I may, what in effect the Bethune and Zablocki amendments do. They do not permit, they do not allow any money whatsoever for the construction of binary weapons.

What does that mean? That means, in effect, although not today, 5 years, or 10 years down the road, we are going to have absolutely no deterrent chemical capability whatsoever.

The last time we put any of this in production was 1969. That is a long period of time. What happened during those number of years? All we have to do is look at the charts and we find out that gradually, month after month, year after year, what we have in storage is eroded, it becomes dangerous, it becomes difficult to use, it becomes environmentally unsafe, environmentally hazardous, and a weapon that is in fact not a weapon and not a deterrent.

So the Bethune and the Zablocki language means that if you are in favor of absolutely denuding ourselves of chemical defense capabilities, or deterrent capabilities, then you are in favor of it. Because what it really in effect does is through time, eliminates totally and completely the stockpile we have today.

So the issue I think is very clear. If those people in this body believe that we should have absolutely no chemical deterrent, nothing in our pockets to put on the table when we negotiate chemical weapons, then they can go ahead and vote for Zablocki and Bethune.

For those of us who want to make sure that we have something to put on the table, something to deter now as well as something as a deterrent 10 years from now, then there is an alternative, the Courter substitute.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

I certainly rise in support of the gentleman's substitute. I am trying to get the parliamentary situation straightened out.

Is the amendment to the gentleman's substitute by the gentleman from New Jersey (Mr. HOLLENBECK); is that correct?

Mr. COURTER. Yes.

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey (Mr. COURTER) has expired.

(At the request of Mr. MONTGOMERY and by unanimous consent, Mr. COURTER was allowed to proceed for 1 additional minute.)

Mr. COURTER. It is my understanding that we have, first, the Zablocki amendment, which is amended by Bethune. I then came forward with a substitute to Zablocki.

Then the gentleman from New Jersey (Mr. HOLLENBECK) came forward with an amendment to my substitute. Therefore, the first vote, it is my understanding, will be on Bethune perfecting Zablocki; the second vote on Hollenbeck perfecting Courter; the third vote on Courter.

Mr. MONTGOMERY. Would the Chair verify that would be the correct procedure?

The CHAIRMAN pro tempore. The Chair will state that the gentleman is correct, the first vote is on the Bethune amendment to the Zablocki amendment; the second vote will be the Hollenbeck amendment to the Courter substitute; the third vote will be the Courter substitute and the final vote will be on the Zablocki amendment.

Mr. MONTGOMERY. The final vote?

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. COURTER. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

The gentleman has outlined the names of the various amendments, but might it not be helpful if the gentleman would also outline what each one of these amendments do so that those who may not have been listening to the discussion would have——

Mr. COURTER. I will yield to the gentleman from New York for that purpose if he would like to, or I will, whatever the case may be.

□ 1350

The CHAIRMAN pro tempore. The time of the gentleman from New Jersey has expired.

(By unanimous consent, Mr. COURTER was allowed to proceed for 2 additional minutes.)

Mr. COURTER. Mr. Chairman, I thank the gentleman from New York.

Obviously, there might be a difference of opinion as to what the amendments do.

The first vote is going to be on the Bethune amendment and the Bethune amendment, it is my understanding, in conjunction with the Zablocki amendment eliminates all funding for the production of binary weapons.

I have a substitute amendment, the Courter substitute. What the Courter substitute amendment does is to say that whatever binary we produce, then it is an obligation, to eliminate and make militarily useless an equivalent amount of chemical agents now in the stockpile.

The amendment of the gentleman from New Jersey (Mr. HOLLENBECK) to my substitute just adds some language indicating it is the sense of the Congress that we should forthwith negotiate the reduction and elimination of chemical weapons.

Mrs. FENWICK. Mr. Chairman, I move to strike the requisite number of words. I am not going to take the 5 minutes.

I just wish we would begin to understand what we are doing. We are spending money, other people's money, on chemical weapons, $25 million, when we are worrying about children's school lunches.

We have chemical weapons, and God forbid we should ever use them.

I do not know how we get carried away, spending huge sums for one program after another which we pray and intend we shall never use. With this bill, we are not condemning chemical weapons forever, but surely this year it is foolish to insist we must spend $25 million to build a whole new family of weapons and then say we are going to destroy some of the ones we already have. I have been reading the papers. I have seen testimony that the chemical weapons we have are still viable.

For heaven's sake, if we have to use them are they not enough of a threat? They are enormous in number. I do not understand how we can be even contemplating this. It is a question of spending money that belongs to other people—money that is lacking the programs that we know we need. And we are planning to spend it for something disgusting, something beneath the dignity of this Nation, chemical weapons. We know that they are put into the air, we may be able to protect the soldiers with their wonderful equipment, but how do we protect the poor innocent civilians miles away when the gas is carried on the wind? There is no way of stopping it. You cannot say we are using a legitimate weapon against other soldiers. You are not. You are using something against the public, the children in school, people in hospitals, people in their homes, people walking in the street. Those are the people who are going to suffer for these weapons.

When we have trouble finding the money we need for the programs we know we have to support, to take $25 million to destroy some weapons and build some more that have been out-

lawed, I think it is absolutely beyond comprehension.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Chairman, I thank the gentlewoman for yielding. I want to commend her for her excellent statement. She has effectively brought the key question into perspective.

What are we voting upon? It was said by the gentleman from New Jersey that those who would vote for the Zablocki-Bethune amendment were for unilateral disarmament, or unilateral destruction of chemical warfare. There is nothing further from the truth.

All the amendment says is that the $54 million for this year, 1983, will not be used.

It has been proven that we have more than enough chemical destructive capabilities. That is what worries the gentlewoman from New Jersey and that is what also worries me.

Mrs. FENWICK. Could I correct myself. It is not $25 million; it is $54 million.

Mr. ZABLOCKI. Mr. Chairman, will the gentlewoman yield further?

Mrs. FENWICK. I yield to the gentleman.

Mr. ZABLOCKI. It is very necessary to remember that my amendment leaves in place 90 percent for the CW program. All it does on a 1-year basis is that we wait and have the research and development until we are sure that it is workable. The information we have been receiving leaves great doubt in this respect.

I thank the gentlewoman for yielding and commend her again for her wonderful statement.

Mr. BETHUNE. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Arkansas.

Mr. BETHUNE. I thank the gentlewoman for yielding. I will not take much time; but I do think it is important that we clarify the record because it was suggested by the gentleman from New Jersey that his substitute is essentially and substantially the same vote they had in the other body, which carried by 92 to nothing. That is just not the record.

In the other body they had an amendment similar to that of the gentleman from New Jersey and it never got off the ground, because that amendment had the same language that the gentleman's has, that they will destroy one existing chemical munition for every new binary they produce. It was not until after they had a full debate and almost carried an amendment similar to mine that they voted on the one that passed. The one that passed, and this is important, specified that the existing munition that would be destroyed would have to be a serviceable artillery shell. My colleagues, the difference is as great as the difference between lightning and the lightning bug when it comes to deciding whether the gentleman's amendment has merit or not.

His substitute does not have merit. It is nothing more than a smoke screen to achieve exactly the same result that the Armed Services Committee sought when they came here.

Mr. OBEY. Mr. Chairman, will the gentlewoman yield?

Mrs. FENWICK. I yield to the gentleman from Wisconsin.

Mr. OBEY. Is it not true that this amendment simply replaces a $22 million nerve gas maintenance plan with a gas production plan which would spend anywhere between $6 and $12 billion?

Mrs. FENWICK. I think it is true. I believe that is true.

● Mr. AuCOIN. Mr. Chairman, I rise today in strong support for the amendment offered by the distinguished chairman of the Foreign Affairs Committee, Mr. ZABLOCKI, and by my colleague from Arkansas, Mr. BETHUNE.

As one who has consistently, and persistently, opposed chemical warfare, it is deeply distressing that we, as a nation, are on the threshold of taking a disastrous step—procurement of binary chemical weapons for a munitions plant in Pine Bluff, Ark.

This decision would lead the United States into a new, insane arms race with the Soviet Union—a heinous and immoral race that will cost us at least $10 billion in taxpayers' dollars and much more than that in the eyes of our allies.

If used on a European battlefield, these gruesome new arms will result in 20 times as many civilian casualties as military casualties, and extensive environmental damage.

The victims of chemical warfare will not be Soviet or United States soldiers well protected by defensive gear. They will be civilians, women, infants, birds, rabbits—any living thing with a nervous system. And they will die from something they could not see or smell, with no warning, with no chance of escape.

It is a horrible death by any account. Muscles are stimulated and do not relax, intense sweating is induced, uncontrolled vomiting and diarrhea occurs, vision is lost, convulsions, and ultimately complete paralysis of breathing and death. Some will die quickly, some over a tortuous period of hours. A sublethal dose causes indefinite psychiatric and neurological disorders.

According to the New York Times, a senior Pentagon official said that—

The use of poison gas frightens people, but it could be considered a cheaper substitute for nuclear warfare that would do far less damage outside the battlefield.

It is no wonder that the Europeans are terrified of the President's decision to begin a chemical arms race. Rather than capitulate to the Pentagon's war scenarios, we ought to be doing everything in our power to avoid new ways to inflict hideous forms of death by stopping this race before it gets started.

Our allies are watching us. They want to know if we are going to accuse the Soviet Union of violating the Geneva protocal by using chemical agents in Southeast Asia and Afghanistan, and then turn around and legitimize the Soviets attacks by rebuilding a chemical warfare capacity of our own.

They want to know if we listen to them. If we are peacemakers or warmongers. If we are hypocrites, or leaders.

Last February, President Reagan certified that renewing producing of chemical weapons in this country after a 13-year moratorium initiated by President Nixon, was "essential to the national interest." And how did Europe respond? Like this:

Der Spiegel, Germany:

President Reagan's decision to produce chemcial weapons contains political dynamite * * *. He has escalated the arms race.

Radio France-Inter, February 9, 1982:

Experts say that the only way for the United States to force the U.S.S.R. to renounce its chemical weapons is to have them also. This is barely understandable. All this belongs to a logic of lunatics, a logic of death * * *.

Amsterdam's Trouw, February 15, 1982:

The British, French and Germans still almost literally feel the trauma of World War I with its mustard gas. And Europe knows that if a conflict is not fought out directly with nuclear weapons, it will be a likely theater for the use of these inhumane chemicals.

Helsinki's conservative Uusi Suomi, February 12, 1982:

With its decision on chemical weapons, the United States will no longer be able to show that these weapons are particularly hypocritical or immoral, because it is going to produce these weapons instead of being content with establishing systems to counter them. This mistaken decision is not explained away by the large Soviet arsenals of chemical weapons.

Independent Stuttgarter Zeitung, February 19, 1982:

Rather than encouraging the U.S., Bonn should urge it to practice restraint in the area of chemical weapons.

Britain, the Netherland, Norway, and West Germany flatly refused to store new chemical weapons in their countries. Our allies in Western Europe know where a chemical war will be fought—on their turf, not ours. And we know it, too.

The utility of a U.S. chemical arsenal depends on forward deployment

since speed in retaliating to a surprise chemical attack is essential. Airlifting artillery rounds from the United States to Europe would take at least 2 weeks or more, taking up a considerable percentage of our airlift capacity for less accurate and less efficient munitions than convention ones.

If we do not approve this amendment and instead agree with the administration's Dr. Strangelove plan to produce new chemcial weapons, we stand to antagonize and jeopardize already fragile relations with our NATO allies.

The administration contends that our NATO allies have not formally opposed its decision to produce new weapons, but neither have they invited it. In fact, Senator HATFIELD and the Senate Appropriations Committee demanded a country-by-country report on our allies' views of the long-range binary program and the administration flatly refused to comply with the request.

Why take this action at a time when many experts feel that allied relations are at their lowest point in postwar history, and when our current stockpile provides a sufficient retaliatory capability?

In May, Rear Adm. Thomas D. Davies, former assistant director of the U.S. Arms Control and Disarmament Agency under Presidents Nixon, Ford, and Carter, testified at the Senate Appropriations Committee hearing. He had this to say about our current stockpile:

> The safety record of our current stockpile of munition is excellent . . . We already have an adequate stockpile, and its location or distribution is not likely to be improved by the introduction of binaries, nor in my opinion will the start of binary nerve gas production frighten the U.S.S.R. into more productive negotiation. In fact, the most likely outcome is that the U.S.S.R. will start some equivalent production of its own, increasing the already large stockpiles and adding to the difficulty of ever constraining this weapon.

Mr. Saul Hormatz was in charge of the Army's chemical weapons program for 12 years. He casts the decision to produce new binary weapons as "a grave misjudgment which will endanger our security as a nation." He firmly believes binary weapons are of unknown reliability and questionable military usefulness, that they are inferior to current unitary shells, and that rather than deter a new arms buildup they will expand and increase it.

The Army recently certified that all of its 155-millimeter and 8-inch artillery projectiles as fully servicable, and there are enough of them for 30 days of warfare. These weapons have been fully tested, and binaries have not. The open-air testing binaries would require would no doubt encounter stiff opposition in this country.

These are solid strategic reasons why we should not go forth with the administration's plan.

We can show that we are indeed different than the Soviets, not partners in crime with them. We can point to suspected Soviet violations of the Geneva protocol and press for renewed bilateral negotiations on this issue.

Earlier this year I cosponsored a bill to prohibit production of chemical weapons and to urge President Reagan to enter into immediate negotiation with the Soviet Union for a mutual, verifiable limitation on production and stockpiling. The Soviets have submitted a chemical warfare arms control proposal at the United Nations which we should actively pursue.

Producing binary chemical weapons will anger our allies, threaten NATO stability, waste taxpayers money on an untested, unreliable, and inefficient weapons program, remove our moral edge over the Soviets, and endanger not improve our national security. I urge my colleagues to support this amendment.●

● Mr. MOAKLEY. Mr. Chairman, I rise today to add my name in support of the Zablocki-Bethune amendment to delete $54 million for procurement of binary nerve gas weapons.

From a purely strategic viewpoint—binary nerve gas artillery shells are of dubious value. They are untested and, therefore, are not certain to be battle-ready. Dr. Saul Hormats, former Director of the Army Chemical Systems Laboratory, estimates that between 25 and 30 percent of binary artillery shells and 50 percent of the binary Bigeye bombs will be duds as compared to less than 1 percent of existing chemical artillery shells and aerial bombs. Furthermore, the current U.S. stockpile of lethal chemical weapons is more than adequate to deter Soviet first-use of chemical warfare against our allies. There is no need to build more.

From a moral standpoint—the construction of nerve gas weapons is nothing short of cruel. Nerve gas kills indiscriminately and in the most agonizing fashion. It disrupts the nervous system. Causing convulsions, uncontrollable vomiting, and diarrhea, and finally asphyxia by respiratory paralysis. Death can come within minutes, hours, days, or weeks—depending on the dose. It also should be noted that modern military technology has developed equipment that is virtually impenetratable to the harms of chemical warfare. Only innocent civilians would be victimized.

Further, our allies in Europe, where these weapons would be stationed, have firmly expressed their objectives to the deployments of nerve gas. High ranking officials in Britian, the Netherlands, Norway, and West Germany have all indicated their strong disagreements on binary deployments in their respective countries. Perhaps they recognize the cruelty and insanity of this weapon if it were ever to be used.

Beyond this, Mr. Chairman, let us not begin a new arms race of chemical weaponry by allowing this weapon to be built.●

● Mr. OTTINGER. Mr. Chairman, I rise in strong support of the Zablocki-Bethune amendment to delete funding for resumed production of binary chemical weapons. I commend the distinguished chairman of the Foreign Affairs Committee, Representative ZABLOCKI, and the gentleman from Arkansas, Representative BETHUNE, for offering this important measure.

President Reagan has requested $54 million to resume production of hideous chemical weapons. He is the first President to propose the manufacture of chemical weapons since Richard Nixon terminated their production 13 years ago.

I support this amendment because there is no sound military reason to proceed with chemical weapons production; indeed, resuming production can only hurt our national security at a cost which may ultimately exceed $10 billion.

The manufacture of chemical weapons would be a provocative first step toward a new chemical arms race. The Soviets will likely view a U.S. renewed chemical weapons program as justification for their own buildup. Instead of creating a new and expensive generation of weapons, we should focus on negotiating a comprehensive ban on the development, production, and possession of chemical weapons. Indeed, such negotiations have been proceeding in Geneva, and a decision for the United States to renew production of chemical weapons will irreparably harm those negotiations.

The production of chemical weapons greatly threatens NATO stability. Our allies have demonstrated repugnance at the new development of U.S. nerve gas, and by treaty some of our allies cannot even maintain those weapons on their soil. Since February 1982, when President Reagan announced his chemical weapons plan, leaders in Great Britain, the Netherlands, Norway, and West Germany have renounced the proposal.

Why risk further destabilizing our NATO alliance and entering a new arms race when we already have an enormous stockpile of chemical munitions? Our current stockpile is more than adequate to deter Soviet first-use of chemical weapons against us. According to the council for a livable world, our stockpile of chemical shells can supply all United States and NATO artillery pieces for 45 days of continous chemical warfare in Europe.

One of the most troubling aspects of the President's proposal is that it will

divert resources from more important defense programs. Most strategists agree that the size of a nation's chemical stockpile is relatively unimportant. The adequacy of our chemical weapons defensive capability is vital. The renewed production of weapons will simply divert funds from the development of improved U.S. protective equipment, uniform, training, and doctrine.

Binary chemical weapons are grotesque. Their primary victims will be civilians, since troops in protective clothing are virtually invulnerable. In a chemical war, as many as 40 million innocent civilians may die. The decision to renew the production of these weapons after a 13-year moratorium sends a dangerous signal to our allies and adversaries. I urge my colleagues to support the amendment.●

● Mr. WEISS. Mr. Chairman, we must reject the Reagan administration's plan to resume production of binary chemical weapons such as nerve gas and support the Zablocki-Bethune amendment. The $54 million that the President has requested for binary chemical weapon production is not only wasteful and unnecessary but is morally repugnant.

By allowing funding for nerve gas production, this administration would break a 13-year moratorium on chemical weapons production. The fact that the administration would abandon an area of arms control that has been successful is abhorrent. Worse, the military justifications for sustaining the program are perverted.

First, since Europe is where a chemical battle between the United States and the Soviet Union might be fought, U.S. production of chemical weapons would be greeted with great alarm by our European allies. It is understandable, since the Europeans know well that an outbreak of chemical warfare would cause much greater harm to civilians than to protected troops. Their alarm could provide the basis for deterioration of America's already strained relations with our European allies.

Further, production of binary chemical weapons threatens to impede arms control. Chemical weaponry is one area in which nonproliferation has proven successful to date. By enacting a new program of chemical weapons production, the technology and materials for binary production would be made more accessible to other nations and to terrorist groups.

The administration seeks to justify its binary weapons proposal by accusing the Soviets of prior chemical weapons use. Regardless, American production of the same hideous weapons is not a sensible response. In fact, it is likely that the Soviets would view the administration's binary program as justification for increasing their own chemical weapons production.

Most importantly, nerve gas is a cruel weapon. It kills indiscriminately, affecting almost completely civilians who are unprotected. On moral grounds alone, its use cannot be condoned. Accordingly, the production of nerve gas for military use has been vehemently opposed by clergymen as well as by concerned, informed scientists.

For 13 years the U.S. Government has seen fit to sustain a moratorium on binary chemical weapons. Let us not be the Congress which brings killer yellow rain to the Earth on which millions of innocent people live.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Arkansas (Mr. BETHUNE) to the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BETHUNE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 232, noes 181, not voting 21, as follows:

[Roll No. 202]

AYES—232

Addabbo	Dymally	Hoyer
Albosta	Early	Hughes
Anderson	Eckart	Jacobs
Andrews	Edgar	Jeffords
Aspin	Edwards (CA)	Jenkins
AuCoin	Edwards (OK)	Jones (OK)
Bailey (MO)	Emery	Kastenmeier
Bedell	Erdahl	Kennelly
Beilenson	Ertel	Kildee
Benedict	Evans (DE)	Kogovsek
Bereuter	Evans (IA)	LaFalce
Bethune	Evans (IN)	Lantos
Biaggi	Fascell	Leach
Bingham	Fenwick	Lee
Blanchard	Ferraro	Lehman
Boggs	Findley	Leland
Boland	Fish	Long (LA)
Bonior	Fithian	Long (MD)
Bonker	Florio	Lowry (WA)
Brodhead	Foglietta	Luken
Broomfield	Foley	Lundine
Brown (CA)	Ford (MI)	Markey
Brown (CO)	Ford (TN)	Martin (IL)
Broyhill	Forsythe	Martin (NC)
Burton, Phillip	Fowler	Martinez
Clausen	Frank	Matsui
Coats	Frenzel	Mattox
Coelho	Frost	Mavroules
Collins (IL)	Garcia	Mazzoli
Conable	Gejdenson	McClory
Conte	Glickman	McCloskey
Conyers	Gonzalez	McCurdy
Coughlin	Goodling	McDade
Coyne, James	Gray	McEwen
Coyne, William	Green	McGrath
Craig	Gregg	McHugh
Crockett	Guarini	McKinney
D'Amours	Gunderson	Mica
Daschle	Hall (OH)	Mikulski
Daub	Hall, Sam	Miller (CA)
Deckard	Hamilton	Mineta
Dellums	Harkin	Minish
DeNardis	Hawkins	Mitchell (MD)
Derrick	Heckler	Moakley
Dixon	Hertel	Moffett
Donnelly	Hightower	Molinari
Dorgan	Hollenbeck	Natcher
Downey	Hopkins	Nowak
Dunn	Horton	Oakar
Dwyer	Howard	Oberstar
Obey	Roybal	Tauke
Ottinger	Russo	Traxler
Panetta	Sabo	Udall
Parris	Savage	Vander Jagt
Paul	Scheuer	Vento
Pease	Schneider	Walgren
Perkins	Schroeder	Walker
Peyser	Schumer	Washington
Porter	Seiberling	Waxman
Pritchard	Sensenbrenner	Weaver
Pursell	Shamansky	Weber (MN)
Rahall	Shannon	Weber (OH)
Railsback	Sharp	Weiss
Rangel	Shuster	Whittaker
Ratchford	Simon	Whitten
Regula	Smith (IA)	Williams (MT)
Reuss	Smith (NE)	Williams (OH)
Richmond	Smith (NJ)	Wirth
Rinaldo	Smith (PA)	Wolpe
Roberts (KS)	Snowe	Wortley
Roberts (SD)	Solarz	Wyden
Rodino	St Germain	Wylie
Roe	Stanton	Yates
Rose	Stark	Yatron
Rosenthal	Stokes	Zablocki
Rostenkowski	Studds	Zeferetti
Roth	Swift	
Roukema	Synar	

NOES—181

Akaka	Gaydos	Moore
Alexander	Gephardt	Moorhead
Annunzio	Gibbons	Morrison
Anthony	Gilman	Mottl
Applegate	Gingrich	Murphy
Archer	Goldwater	Murtha
Ashbrook	Gore	Myers
Atkinson	Gradison	Napier
Badham	Gramm	Neal
Bafalis	Grisham	Nelligan
Bailey (PA)	Hagedorn	Nelson
Barnard	Hall, Ralph	Nichols
Beard	Hammerschmidt	O'Brien
Benjamin	Hance	Oxley
Bennett	Hansen (ID)	Pashayan
Bevill	Hansen (UT)	Patman
Bliley	Hartnett	Petri
Bolling	Hatcher	Pickle
Boner	Hefner	Price
Bouquard	Heftel	Quillen
Breaux	Hendon	Ritter
Brinkley	Hiler	Robinson
Brooks	Hillis	Roemer
Butler	Holland	Rogers
Byron	Holt	Rousselot
Campbell	Hubbard	Rudd
Carman	Hunter	Sawyer
Carney	Hutto	Schulze
Chappell	Hyde	Shaw
Cheney	Ireland	Shelby
Clinger	Jeffries	Shumway
Collins (TX)	Johnston	Siljander
Corcoran	Jones (NC)	Skeen
Courter	Kazen	Skelton
Crane, Daniel	Kemp	Smith (AL)
Crane, Philip	Kindness	Smith (OR)
Daniel, Dan	Kramer	Snyder
Daniel, R. W.	Lagomarsino	Spence
Dannemeyer	Latta	Stangeland
Davis	Leath	Staton
de la Garza	LeBoutillier	Stenholm
Derwinski	Lent	Stratton
Dickinson	Levitas	Stump
Dicks	Lewis	Tauzin
Dingell	Livingston	Taylor
Dornan	Loeffler	Thomas
Dougherty	Lott	Trible
Dreier	Lowery (CA)	Volkmer
Duncan	Lujan	Wampler
Dyson	Lungren	Watkins
Edwards (AL)	Madigan	White
English	Marlenee	Whitehurst
Erlenborn	Marriott	Whitley
Evans (GA)	Martin (NY)	Winn
Fary	McCollum	Wolf
Fazio	McDonald	Wright
Fiedler	Michel	Young (AK)
Fields	Miller (OH)	Young (FL)
Flippo	Mitchell (NY)	Young (MO)
Fountain	Mollohan	
Fuqua	Montgomery	

NOT VOTING—21

Barnes	Brown (OH)	Burton, John
Bowen	Burgener	Chappie

Chisholm	Ginn	Pepper
Clay	Huckaby	Rhodes
Coleman	Jones (TN)	Santini
Dowdy	Marks	Solomon
Emerson	Patterson	Wilson

□ 1410

Messrs. BAILEY of Missouri, PERKINS, BRODHEAD, and GONZALEZ changed their votes from "no" to "aye."

So the amendment to the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore. (Mr. BONIOR of Michigan). The question is on the amendment offered by the gentleman from New Jersey (Mr. HOLLENBECK), as modified, to the amendment offered by the gentleman from New Jersey (Mr. COURTER) as a substitute for the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI), as amended.

POINT OF ORDER

Mr. STRATTON. Mr. Chairman, a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. STRATTON. Mr. Chairman, it is my understanding of the rules that it is in order for there to be continued debate on the amendments that have not yet been voted on.

Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. STRATTON) is recognized for 5 minutes.

Mr. STRATTON. Mr. Chairman, I think it is important that Members of the House who were not able to be in the Chamber at the time that debate was going on should be clear on exactly what the following votes will occur.

The amendment offered by the gentleman from Arkansas (Mr. BETHUNE), which has just carried, was an amendment to the amendment of the gentleman from Wisconsin (Mr. ZABLOCKI). Mr. ZABLOCKI's basic amendment eliminates the money for chemical warfare. The Bethune amendment, which just carried, contained a further ban on expending any sums for binary weapons.

The next vote that will occur, as the Chair previously explained, is the vote on the Hollenbeck amendment, which perfects the Courter substitute. The Hollenbeck amendment would add language which says that it is the sense of the Congress that we want the Soviet Union, which has previously been reluctant to engage in negotiations limiting or banning chemical warfare, to engage in those negotiations.

The Courter substitute would restore the funds which Zablocki knocks out and would provide that for every binary weapon that is produced, a unitary weapon shall be eliminated from our current arsenal.

□ 1420

That substitute has received the enthusiastic support of the President's National Security Adviser, Mr. Clark, as well as of the Secretary of Defense, Mr. Weinberger. If the Courter substitute, as perfected by the Hollenbeck amendment carries, then the Zablocki amendment which wipes out the money for a chemical warfare deterrent would go down.

Mr. ZABLOCKI. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am very happy to yield to the gentleman from Wisconsin for a further explanation.

Mr. ZABLOCKI. Mr. Chairman, I am sure the gentleman from New York (Mr. STRATTON) does not intend to misrepresent what the Zablocki amendment will do. It is a 1-year amendment which deletes the money, the $54 million, for binary production. Ninety percent of the chemical warfare program remains intact. Research and development for the binary program remains. As far as testing is concerned, it should be emphasized that the binary has not been field tested, which is a further argument for deleting the binary production funds.

Furthermore, the gentleman does not intend, I am sure, to misrepresent what the Courter amendment would do. The Courter amendment, even amended by Hollenbeck, would reverse what my colleagues have just voted on by a vote of 232 to 181. The Courter amendment would permit the production of the binary, which we have just voted against.

Mr. STRATTON. Mr. Chairman, if I may reclaim my time, do I understand that the amendment of the gentleman from Wisconsin (Mr. ZABLOCKI) would permit funds for the production of binary chemicals?

Mr. ZABLOCKI. The $54 million intended for the production of binary chemical weapons would, by my amendment, be deleted.

Mr. STRATTON. And what about research? Does it knock out research?

Mr. ZABLOCKI. No, research and development for the binary program is not affected by my amendment.

Mr. STRATTON. Then the gentleman's amendment really stops the binary weapons production, which would be the only safe as well as effective deterrent we could have against the massive Soviet chemical warfare capability.

Mr. COURTER. Mr. Chairman, would the gentleman yield?

Mr. STRATTON. If I still have time, I would be glad to yield to the gentleman from New Jersey.

Mr. COURTER. Mr. Chairman, I thank the gentleman for yielding.

There are just two points I would like to make.

First of all, there have been a lot of statements made during the past few hours that binary weapons have not been tested. Nothing is further from the truth. They simply have.

Secondly, I just want to make the clarification, as the author of the Courter substitute, that the substitute simply states that for every binary weapon that we produce we have to render militarily useless an equivalent amount of chemical agents that we now have. That is simply the Courter substitute that is going to be amended by the Hollenbeck amendment, and I also want this body to know that I have no objection to the Hollenbeck amendment, which I believe perfects it and adds a new dimension to my substitute.

Mr. STRATTON. Mr. Chairman, I thank the gentleman from New Jersey (Mr. COURTER). The gentleman's amendment ought to be supported.

Mr. BETHUNE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentleman from Arkansas (Mr. BETHUNE) is recognized for 5 minutes.

Mr. BETHUNE. Mr. Chairman, the Members want to vote and I think we should get to the vote. I do not intend to take 5 minutes' time. I will just say that the vote that just occurred on the Bethune amendment was a vote to stop the production of binary chemicals, the new nerve gas. There is Hollenbeck amendment, which is a perfecting amendment to the Courter substitute. No one here objects to the Hollenbeck amendment to the Courter substitute.

The Courter substitute, on the other hand, is nothing more than a smokescreen for the committee position, and by voting for it not only would we reverse the vote that we just cast but it would bar us from reaching the principal vehicle, the Zablocki amendment, which is the next vote after Courter.

So, Mr. Chairman, if the Members voted "aye" on Bethune, they should vote "no" on Courter and then "aye" on Zablocki, and we will dispose of this matter in the way we should.

Mr. DERWINSKI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will be very, very brief since I detect from the shouts of "vote, vote" across the way that all of the Members, as I would predict they would after listening to the astute comments of the gentleman from New York (Mr. STRATTON) and the gentleman from New Jersey (Mr. COURTER), will do the necessary thing, make up for the earlier mistake in the previous vote, and support the gentleman from New Jersey (Mr. COURTER) and give the President the flexibility he needs to negotiate away the Soviet capability in chemical warfare.

Mr. Chairman, I would urge the Members to think this matter through carefully and objectively and salvage the proper position for our national

defense by supporting the Courter amendment.

Mr. Chairman, I support the administration's program on modernization of our chemical warfare capability.

Since 1969, the United States has not manufactured lethal or incapacitating chemical weapons, whereas the Soviets have engaged in prolonged unilateral buildup. The Soviet threat is heightened by the use of chemical and biological warfare in Afghanistan and Southeast Asia.

All executive agencies concerned with national security, as well as previous Congresses, have concluded that we can no longer delay modernization of our chemical warfare deterrent, a modest one measured against Soviet capabilities. Our military must be able to deter threats to ourselves and our allies, which requires adequate U.S. stocks.

The decision to modernize our chemical weapons capability was undertaken only after long and painstaking examination of the Armed Forces obsolete and deteriorating assets.

Much emphasis has been placed in debate on binary weapons. It should be stressed that what the binary system is in essence is a safer way to store and use chemical weapons. Binary weapons are not much more lethal than the CW weapons we now have, but much of our present stocks are becoming obsolete. They simply do not fit into modern delivery systems. The United States does not plan to increase its total number of chemical munitions but simply to modernize them, actually with a slight decrease. They will be much more capable.

According to the administration, of its fiscal year 1983 budget presentation, 70 percent is based on defensive requirements, 10 percent is for the safe destruction of obsolescent weapons and only about 20 percent is devoted to the binary program, an important element of modernization.

According to executive branch witnesses, the United States has kept its allies fully informed of its program and of its decisions, over the past several years, to begin modernization. No allied government expressed opposition or otherwise commented on the substance of the decision to seek funds for production. For many years, it has been agreed NATO doctrine that an effective chemical warfare retaliatory capability is an essential part of the continuum of deterrence.

Our allies, like ourselves, are committed to seeking through arms control a complete ban on the production and stockpiling of chemical weapons. They and we are pressing for such an agreement in the Committee on Disarmanent in Geneva, recognizing that the problems of verification and effective compliance must be overcome.

Chemical weapons are awesome, of that can be no doubt. They are no more frightening than nuclear weapons, however. It is my belief that it is only by having a credible nuclear arsenal that we have deterred the use by the Soviets of either their nuclear weapons or nuclear blackmail. I believe there is an accurate analogy here. I believe that we must have a credible deterrent in chemical weapons, as well.

Inasmuch as chemical weapons, unlike nuclear weapons, are being used by the Soviets and their allies today, there is an even more urgent need to maintain a chemical warfare deterrent. This is not to say that we should not urgently pursue arms control and reduction in nuclear weapons. We should, It is U.S. policy to do so. But we can only negotiate controls and reductions from a position of strength. We should improve our defenses against chemical warfare, destroy our obsolescent weapons, and modernize our stockpile. The administration's bill provides for these things.

Debate about chemical warfare has yet to identify a deterrent that does not include a chemical weapons component, without posing the risks of undesirable escalation or unacceptable accommodation.

The United States is working to achieve through negotiations, a verifiable ban on all chemical weapons. Until that time, however, Soviet incentives to use chemical weapons against us or our allies must be eliminated. This can be done by modernizing and maintaining an adequate chemical warfare deterrent. The modernization of our chemical weapons does not represent a decision to place greater emphasis upon chemical warfare nor to match Soviet capabilities. The U.S. objective is to have the safest, smallest level of chemical munitions which provides the deterrent we need.

To repeat, the administration's goal is a complete and verifiable ban on the development, production and stockpiling of chemical weapons. The sticking point in our negotiations with the Soviet Union on these weapons is the latter's unwillingness to accept reasonable provisions for verification of their destruction. The Soviets have also not been willing to agree to effective procedures for assuring continued compliance.

I urge my colleagues to support the administration on this important measure.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New Jersey (Mr. HOLLENBECK), as modified, to the amendment offered by the gentleman from New Jersey (Mr. COURTER) as a substitute for the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI), as amended.

The amendment, as modified, to the amendment offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment, as amended, offered by the gentleman from New Jersey (Mr. COURTER) as a substitute for the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI), as amended.

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. COURTER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device and there were—ayes 192, noes 225, not voting 17, as follows:

[ROLL NO. 203]

AYES—192

Akaka	Flippo	Mitchell (NY)
Alexander	Fountain	Mollohan
Andrews	Frost	Montgomery
Annunzio	Fuqua	Moore
Anthony	Gephardt	Moorhead
Applegate	Gibbons	Morrison
Archer	Gilman	Mottl
Ashbrook	Gingrich	Murphy
Atkinson	Goldwater	Murtha
Badham	Gore	Myers
Bafalis	Gradison	Napier
Bailey (PA)	Gramm	Neal
Barnard	Grisham	Nelligan
Beard	Hagedorn	Nelson
Benjamin	Hall, Ralph	Nichols
Bennett	Hamilton	O'Brien
Bevill	Hammerschmidt	Pashayan
Bliley	Hance	Patman
Boggs	Hansen (ID)	Petri
Bolling	Hansen (UT)	Price
Boner	Hartnett	Quillen
Bouquard	Hatcher	Ritter
Brinkley	Hefner	Robinson
Brooks	Heftel	Roemer
Broomfield	Hendon	Rogers
Broyhill	Hiler	Rostenkowski
Butler	Hillis	Rousselot
Byron	Holland	Rudd
Campbell	Holt	Schulze
Carney	Hubbard	Shaw
Chappell	Huckaby	Shelby
Cheney	Hunter	Shumway
Clinger	Hutto	Siljander
Collins (TX)	Hyde	Skeen
Conable	Ireland	Skelton
Corcoran	Jeffries	Smith (AL)
Courter	Johnston	Smith (OR)
Coyne, James	Jones (NC)	Snyder
Crane, Daniel	Kazen	Spence
Crane, Philip	Kemp	Stangeland
Daniel, Dan	Kindness	Stanton
Daniel, R. W.	Kramer	Staton
Dannemeyer	Lagomarsino	Stenholm
Davis	Latta	Stratton
de la Garza	Leath	Stump
Derwinski	LeBoutillier	Tauzin
Dickinson	Lent	Taylor
Dicks	Levitas	Thomas
Dingell	Lewis	Trible
Dornan	Livingston	Volkmer
Dougherty	Loeffler	Wampler
Dowdy	Long (LA)	Watkins
Dreier	Lott	White
Duncan	Lowery (CA)	Whitehurst
Dyson	Lujan	Whitley
Edwards (AL)	Lungren	Wilson
English	Madigan	Winn
Erlenborn	Marlenee	Wolf
Evans (GA)	Marriott	Wortley
Evans (IN)	Martin (NY)	Wright
Fary	McCollum	Wylie
Fazio	McDonald	Young (AK)
Fiedler	Michel	Young (FL)
Fields	Miller (OH)	Young (MO)

NOES—225

Addabbo	Albosta	Anderson

Aspin	Goodling	Perkins
AuCoin	Gray	Peyser
Bailey (MO)	Green	Pickle
Bedell	Gregg	Porter
Beilenson	Guarini	Pritchard
Benedict	Gunderson	Pursell
Bereuter	Hall (OH)	Rahall
Bethune	Hall, Sam	Railsback
Biaggi	Harkin	Rangel
Bingham	Hawkins	Ratchford
Blanchard	Heckler	Regula
Boland	Hertel	Reuss
Bonior	Hightower	Richmond
Bonker	Hollenbeck	Rinaldo
Brodhead	Hopkins	Roberts (KS)
Brown (CA)	Horton	Roberts (SD)
Brown (CO)	Howard	Rodino
Burton, Phillip	Hoyer	Roe
Carman	Hughes	Rose
Chisholm	Jacobs	Rosenthal
Clausen	Jeffords	Roth
Coats	Jenkins	Roukema
Coelho	Jones (OK)	Roybal
Collins (IL)	Kastenmeier	Russo
Conte	Kennelly	Sabo
Conyers	Kildee	Savage
Coughlin	Kogovsek	Sawyer
Coyne, William	LaFalce	Scheuer
Craig	Lantos	Schneider
Crockett	Leach	Schroeder
D'Amours	Lee	Schumer
Daschle	Lehman	Seiberling
Daub	Leland	Sensenbrenner
Deckard	Long (MD)	Shamansky
Dellums	Lowry (WA)	Shannon
DeNardis	Luken	Sharp
Derrick	Lundine	Shuster
Dixon	Markey	Simon
Donnelly	Martin (IL)	Smith (IA)
Dorgan	Martin (NC)	Smith (NE)
Downey	Martinez	Smith (NJ)
Dunn	Matsui	Smith (PA)
Dwyer	Mattox	Snowe
Dymally	Mavroules	Solarz
Early	Mazzoli	St Germain
Eckart	McClory	Stark
Edgar	McCloskey	Stokes
Edwards (CA)	McCurdy	Studds
Edwards (OK)	McDade	Swift
Emery	McEwen	Synar
Erdahl	McGrath	Tauke
Ertel	McHugh	Traxler
Evans (DE)	McKinney	Udall
Evans (IA)	Mica	Vander Jagt
Fascell	Mikulski	Vento
Fenwick	Miller (CA)	Walgren
Ferraro	Mineta	Walker
Findley	Minish	Washington
Fish	Mitchell (MD)	Waxman
Fithian	Moakley	Weaver
Florio	Moffett	Weber (MN)
Foglietta	Molinari	Weber (OH)
Foley	Natcher	Weiss
Ford (MI)	Nowak	Whittaker
Ford (TN)	Oakar	Whitten
Forsythe	Oberstar	Williams (MT)
Fowler	Obey	Williams (OH)
Frank	Ottinger	Wirth
Frenzel	Oxley	Wolpe
Garcia	Panetta	Wyden
Gaydos	Parris	Yates
Gejdenson	Patterson	Yatron
Glickman	Paul	Zablocki
Gonzalez	Pease	Zeferetti

NOT VOTING—17

Barnes	Chappie	Marks
Bowen	Clay	Pepper
Breaux	Coleman	Rhodes
Brown (OH)	Emerson	Santini
Burgener	Ginn	Solomon
Burton, John	Jones (TN)	

□ 1440

Mr. SAWYER changed his vote from "aye" to "no."

Mr. ALEXANDER changed his vote from "no" to "aye."

So the amendment, as amended, offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MRS. ROUKEMA TO THE AMENDMENT OFFERED BY MR. ZABLOCKI, AS AMENDED

Mrs. ROUKEMA. Mr. Chairman, I offer an amendment to the amendment, as amended.

The Clerk read as follows:

Amendment offered by Mrs. ROUKEMA to the amendment offered by Mr. ZABLOCKI, as amended: Page 8, after line 12, insert the following new section:

SEC. 112. It is the sense of the Congress that the President should continue to promote actively negotiations among the member countries of the Ad Hoc Working Group on Chemical Warfare of the Committee on Disarmament established by the United Nations General Assembly and meeting in Geneva, Switzerland for the purpose of drafting a treaty for the complete, effective and verifiable prohibition of the development, production and stockpiling of all chemical weapons and for their destruction and

(2) press vigorously in every appropriate forum for a full explanation of outstanding allegations concerning Soviet and Soviet-proxy use of chemical weapons in violation of international law.

(3) communicate to the government of the Union of Soviet Socialist Republics the earnest desire of the government of the United States for a comprehensive, verifiable ban on chemical weaponry and its willingness to participate in negotiations toward this end.

Mrs. ROUKEMA (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from New Jersey?

Mr. STRATTON. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

The Clerk will continue the reading of the amendment.

The Clerk concluded the reading of the amendment.

Mrs. ROUKEMA. Mr. Chairman, this amendment is essentially the same as the Hollenbeck amendment that has been previously debated. It stresses the sense of Congress that it is the policy of the United States to actively promote and negotiate to secure a treaty for the complete, effective, and verifiable prohibition of the development, production, and stockpiling of all chemical weapons and for their destruction, and that we should vigorously pursue chemical arms reduction talks.

I think that it is an appropriate amendment to add as the stated policy intention of the United States, and it is most consistent and germane to the Zablocki-Bethune amendment.

Mr. STRATTON. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I would like to ask the gentlewoman why she deliberately changed the language that was in the Hollenbeck substitute which pointed out that the Soviet Union "until now has repeatedly refused to engage in negotiations looking toward ending the threat of chemical warfare," and in its place has put other language which appears to be blessing and annointing the Soviet Union for being so gracious as to join with the United States. Why did the gentlewoman take out this language which pins the donkey clearly on the country that has refused to negotiate?

Mrs. ROUKEMA. This amendment was prepared by me last evening, prior to the discussion that took place on the floor, and is completely consistent with the language adopted in the other body. I felt that it was complete and comprehensive, and I did not think that the wording that was added in the previous discussion significantly detracted or enhanced what should be the clear expression of the sense of Congress on chemical weapons arms reduction.

Mr. HYDE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Illinois.

Mr. HYDE. I am very interested in the gentlewoman's amendment, but I do have a question. How does one verify the production or nonproduction of chemical warfare other than on site?

Mrs. ROUKEMA. I do not understand the nature of the gentleman's question.

Mr. HYDE. The amendment that the gentlewoman is proposing seeks to indicate that we want to negotiate a verifiable treaty with the Soviet Union about the nonproduction of chemical warfare.

It is my belief that the only verification that is effective requires onsite inspection, and it is my belief that the Soviets, being a closed society, would have to change the nature of their society so that we might onsite verify wherever in the Soviet Union they might be secretly producing chemical warfare.

□ 1450

Mrs. ROUKEMA. I would agree to the inclusion of the Stratton language, although I do not see how that substantially applies to the issue that is now raised. Of course the gentleman raised a germane issue in all arms reduction talks, the question of verification.

If it would satisfy the gentleman's objection we will include the language, otherwise I will withdraw the amendment.

Mr. HYDE. Mr. Chairman, will the gentlewoman yield?

Mrs. ROUKEMA. I yield to the gentleman from Illinois.

Mr. HYDE. I thank the gentlewoman for yielding.

I have not made myself clear.

I am not suggesting any change in the amendment. I am just trying to indicate how really illusory it is to expect to ever verify the production or nonproduction of chemical warfare in the Soviet Union. It cannot be done because it must be done on site and they would have to become a different type of society than they have been during the entire existence of the Soviet Union.

So I simply say we are asking for the impossible.

Mrs. ROUKEMA. Mr. Chairman, I felt that the amendment would be nondebatable and noncontroversial, having been readily accepted previously, but rather than prolong the debate I would just urge a vote on the Zablocki-Bethune amendment and withdraw the motion.

The CHAIRMAN pro tempore. Does the gentlewoman from New Jersey (Mrs. ROUKEMA) withdraw her amendment?

Mrs. ROUKEMA. No, I do not withdraw it. I just want to substitute the Hollenbeck language.

The CHAIRMAN pro tempore. Is there objection to the modification?

Mr. STRATTON. Mr. Chairman, what was the unanimous-consent request?

The CHAIRMAN pro tempore. The request is a unanimous-consent request to modify the gentlewoman's amendment.

Mr. STRATTON. A unanimous consent to the amendment?

I object, Mr. Chairman.

The CHAIRMAN pro tempore. The gentlewoman is seeking unanimous consent to modify the language of her amendment.

Mr. STRATTON. I still object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Mrs. ROUKEMA. Mr. Chairman, I would like to make the point that I would ask that the motion as presented to the desk be approved and so move.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from New Jersey (Mrs. ROUKEMA) to the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI), as amended.

The amendment to the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ZABLOCKI), as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. ZABLOCKI. Mr. Chairman, I promised my colleagues that they would have a vote on the Zablocki amendment.

Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 251, noes 159, answered "present" 1, not voting 23, as follows:

[Roll No. 204]

AYES—251

Addabbo	Gaydos	Parris
Akaka	Gejdenson	Patterson
Albosta	Gilman	Paul
Anderson	Glickman	Pease
Andrews	Gonzalez	Perkins
Annunzio	Goodling	Peyser
Applegate	Gore	Pickle
Aspin	Gradison	Porter
AuCoin	Gray	Pritchard
Bailey (MO)	Green	Pursell
Bedell	Gregg	Rahall
Beilenson	Guarini	Railsback
Benedict	Gunderson	Rangel
Bereuter	Hall (OH)	Ratchford
Bethune	Hall, Sam	Regula
Biaggi	Hamilton	Reuss
Bingham	Harkin	Richmond
Blanchard	Hawkins	Rinaldo
Boggs	Heckler	Roberts (KS)
Boland	Hefner	Roberts (SD)
Bonior	Hertel	Rodino
Bonker	Hightower	Roe
Brodhead	Hollenbeck	Rose
Broomfield	Hopkins	Rosenthal
Brown (CA)	Horton	Rostenkowski
Brown (CO)	Howard	Roth
Broyhill	Hoyer	Roukema
Burton, Phillip	Hughes	Roybal
Chisholm	Jacobs	Russo
Clausen	Jeffords	Sabo
Coats	Jenkins	Savage
Coelho	Jones (NC)	Scheuer
Collins (IL)	Jones (OK)	Schneider
Conte	Kastenmeier	Schroeder
Conyers	Kennelly	Schumer
Coughlin	Kildee	Seiberling
Coyne, James	Kogovsek	Sensenbrenner
Coyne, William	LaFalce	Shamansky
Craig	Lantos	Shannon
Crockett	Leach	Sharp
D'Amours	Lee	Shuster
Daschle	Lehman	Simon
Daub	Leland	Smith (IA)
Deckard	Long (LA)	Smith (NE)
Dellums	Long (MD)	Smith (NJ)
DeNardis	Lowry (WA)	Smith (PA)
Derrick	Luken	Snowe
Dicks	Lundine	Solarz
Donnelly	Madigan	St Germain
Dorgan	Markey	Stanton
Downey	Marlenee	Stark
Dunn	Martin (IL)	Stokes
Dwyer	Martin (NC)	Studds
Dymally	Martinez	Swift
Early	Matsui	Synar
Eckart	Mattox	Tauke
Edgar	Mavroules	Traxler
Edwards (CA)	Mazzoli	Udall
Edwards (OK)	McClory	Vander Jagt
Emery	McCloskey	Vento
Erdahl	McCurdy	Volkmer
Erlenborn	McDade	Walgren
Ertel	McEwen	Walker
Evans (DE)	McGrath	Washington
Evans (IA)	McHugh	Waxman
Evans (IN)	McKinney	Weaver
Fary	Mica	Weber (MN)
Fascell	Mikulski	Weber (OH)
Fazio	Miller (CA)	Weiss
Fenwick	Mineta	Whittaker
Ferraro	Minish	Whitten
Findley	Mitchell (MD)	Williams (MT)
Fish	Moffett	Williams (OH)
Fithian	Molinari	Wirth
Florio	Murphy	Wolpe
Foglietta	Natcher	Wortley
Foley	Neal	Wright
Ford (TN)	Nowak	Wyden
Forsythe	Oakar	Wylie
Fowler	Oberstar	Yates
Frank	Obey	Yatron
Frenzel	Ottinger	Zablocki
Frost	Oxley	Zeferetti
Garcia	Panetta	

NOES—159

Alexander	Fountain	Moore
Anthony	Fuqua	Moorhead
Archer	Gephardt	Morrison
Ashbrook	Gibbons	Mottl
Atkinson	Gingrich	Murtha
Badham	Gramm	Myers
Bafalis	Grisham	Napier
Bailey (PA)	Hagedorn	Nelligan
Barnard	Hall, Ralph	Nelson
Beard	Hammerschmidt	Nichols
Benjamin	Hance	O'Brien
Bennett	Hansen (ID)	Pashayan
Bevill	Hansen (UT)	Patman
Bliley	Hartnett	Petri
Bolling	Hendon	Price
Boner	Hiler	Quillen
Bouquard	Hillis	Ritter
Brinkley	Holland	Robinson
Brooks	Holt	Roemer
Butler	Hubbard	Rogers
Byron	Huckaby	Rudd
Campbell	Hunter	Sawyer
Carman	Hutto	Schulze
Carney	Hyde	Shaw
Chappell	Ireland	Shelby
Cheney	Jeffries	Shumway
Clinger	Johnston	Siljander
Collins (TX)	Kazen	Skeen
Conable	Kemp	Skelton
Corcoran	Kindness	Smith (AL)
Courter	Kramer	Smith (OR)
Crane, Daniel	Lagomarsino	Snyder
Crane, Philip	Latta	Spence
Daniel, Dan	Leath	Stangeland
Daniel, R. W.	LeBoutillier	Staton
Dannemeyer	Lent	Stenholm
Davis	Levitas	Stratton
de la Garza	Lewis	Stump
Derwinski	Livingston	Tauzin
Dickinson	Loeffler	Taylor
Dingell	Lott	Thomas
Dornan	Lowery (CA)	Trible
Dougherty	Lujan	Wampler
Dowdy	Lungren	Watkins
Dreier	Marriott	White
Duncan	Martin (NY)	Whitehurst
Dyson	McCollum	Whitley
Edwards (AL)	McDonald	Wilson
English	Michel	Winn
Evans (GA)	Miller (OH)	Wolf
Fiedler	Mitchell (NY)	Young (AK)
Fields	Mollohan	Young (FL)
Flippo	Montgomery	Young (MO)

ANSWERED "PRESENT"—1

Heftel

NOT VOTING—23

Barnes	Coleman	Marks
Bowen	Dixon	Moakley
Breaux	Emerson	Pepper
Brown (OH)	Ford (MI)	Rhodes
Burgener	Ginn	Rousselot
Burton, John	Goldwater	Santini
Chappie	Hatcher	Solomon
Clay	Jones (TN)	

□ 1500

Mr. BAILEY of Pennsylvania changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: Page 6, strike out line 13 and insert in lieu thereof the following: "For Aircraft, $13,209,900,000.".

□ 1510

Mr. DELLUMS. Mr. Chairman, the amendment before you strikes the

funds from the procurement section of this bill for the B-1 bomber.

As some of you may recall, last year I argued that the decision to purchase, to develop, and to fly 100 B-1 bombers was expensive, unnecessary, wasteful, and a political rather than a military decision.

I still believe that. However, I will organize my presentation today in a little different fashion.

I would like to begin by reading in part, Mr. Chairman, from an article written by Stansfield Turner, the former Director of the Central Intelligence Agency, an article that appeared in the Washington Post in March 1981.

The manned bomber, be it a B-1 or a carrier-based aircraft, is designed to penetrate the enemy's defenses and deliver a weapon close to the target. However, this tactic is being made obsolete today by a technology that enables the enemy to better defend against bombers. Satellite sensors can pick up data which, in turn, can be rapidly processed and then sent around the world instantaneously by digital data transmission. The result will be near assured detection of the bomber as it penetrates enemy defenses, the immediate calculation of how to intercept it and to dispatch a SMART-guided missile to pursue it relentlessly to destruction.

A further quote:

It is a long and proud tradition to place a man in an aircraft over the target. But it is a dying tradition. The pride should not stand in the way of doing the job better and more safely. The risks to a pilot are unreasonable and the probability of hitting the target less than with a remotely controlled system. We still need bombers, but without the requirement for large, complex aircraft that can penetrate sophisticated defenses. A more simple version with a standoff variety can be built smaller and more simply and we will be able to afford more of them.

That is the end of the quote of Stansfield Turner, former Director of the Central Intelligence Agency.

Mr. Chairman, in this era of rising deficits, increasing citizen concern for massive increases in America's military budget and the concern for the potential of nuclear war, it seems to me it is our responsibility to agonize, to evaluate, to scrutinize carefully every single decision to purchase any weapons system and should not be determined on whether it will generate a few jobs but whether or not we need that weapons system and whether or not that weapons system fits our view of our role in a rapidly changing world.

So, Mr. Chairman, I am proposing in this amendment that we strike all funds for the B-1 bomber in the procurement section of this bill. The B-1 is not only strategically obsolete; it is a fiscal irresponsibility.

The prime rationale or the rationalization for the B-1 bomber is to improve in some way our strategic bomber force, but I would submit to you, Mr. Chairman, that we have more than 300 B-52's, many of them being retrofitted, and 60 FB-111's that will be more than adequate for the next two decades.

More importantly, Mr. Chairman, by 1988 or 1990, depending on which expert one listens to, these planes would not be able to penetrate the air defense.

To restate this argument: This administration wants to purchase 100 B-1 bombers. They probably would not be able to come on line until 1988. Many experts believe that these manned penetrating bombers, just as former Director Stansfield Turner points out, would not be able to penetrate Soviet air defenses beyond the year 1990. So we are purchasing 100 extremely sophisticated weapons systems that may not be able to serve us well for more than 1, perhaps even 2 years, since the first B-1's would not be operational until that time.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Now, many people agree with this. They say, "You are probably correct. Therefore, after 1990, we would suggest that we use the B-1 bomber to carry cruise missiles." This, to me, is an absurdity. The B-1 bomber is much too sophisticated, much too expensive, it is overpriced and overdesigned, to act as a cruise missile carrier.

Given the debate that we had yesterday, you could carry cruise missiles in a 747. Maybe that is the compromise. The tragedy is that the great debate of 1982 on the military budget is, "Which porkbarrel do we put our hands in?"

One way to handle that, if we want to carry cruise missiles, is to carry them in a 747. They certainly do not cost you the same amount of money that a sophisticated B-1 bomber system costs.

It also seems to me that it is unwise and risky to risk a plane that cost $400 million in some kind of theater scenario.

Mr. Chairman, the Congressional Budget Office has indicated that this program will cost the American people nearly $40 billion, 100 planes at approximately $400 million a copy, at a time when we are asking millions of human beings in this country to sacrifice in order to bring this economy together. We throw a $40 billion bone to the Pentagon that serves no useful purpose, that will be obsolete by the time this weapons system comes on line.

It would seem to me, for these reasons, this weapons system ought to be rejected. A $40 billion turkey is absurd, Mr. Chairman.

Judging from prior aircraft purchases, I would suggest that over the total life of this B-1 bomber program, it will probably cost the American people in excess of $100 billion.

On both military and fiscal grounds, there are no persuasive arguments that should lead us to support this $40 billion B-1 bomber program, and it is for those reasons, Mr. Chairman, that I urge support for this amendment.

To summarize, militarily, this will be an obsolete weapon. Fiscally, it is absurd to spend $40 billion.

I indicated that this decision was a political decision rather than a military decision. Let me explain that.

Back when we started down this road toward nuclear superiority, the Air Force had preeminent status in the field of nuclear capability with their Strategic Air Command. Then along came the Navy and their superior submarine nuclear technology. They then became the preeminent branch of service in nuclear capability.

The Air Force wants very desperately to regain their status. The President decided to at least delay the decision on one of the Air Force's weapons system, a weapon that I define as crisis-destabilizing—euphemistically referred to as the MX missile—and in light of holding back the decision on the MX missile, it seems to me this administration needed to throw some bone to the Air Force in order to handle the politics of the Pentagon, and here is a $40 billion program that was a political decision, not a military decision.

There is no military justification for it. As I said, it is fiscally irresponsible.

Mr. Chairman, for these reasons, we should not go forward with the development of the B-1 bomber program.

Back in the era of President Carter, when he reviewed this decision, he decided to cancel it. But the B-1 bomber grows like Topsy. It grows like wild weeds. You defeat it one year and it comes back the next year. You defeat it and it comes back; you defeat it and it keeps coming back.

It is a $40 billion program. Let us beat it back.

□ 1520

Mr. PRICE. Mr. Chairman, I rise in opposition to the amendment. I would like to take a few minutes to put the bomber program in perspective and explain why the time phased B-1B/advanced technology bomber program is the logical approach to a bomber modernization program.

Historically, the unique military characteristics of the manned bomber have provided a vital dimension of flexibility to our strategic and tactical forces. But the B-52's, which have been the mainstay of our manned bomber forces for the past 25 years, are becoming more difficult and expensive to maintain and, more importantly, will become increasingly vul-

nerable to a Soviet first strike and to Soviet air defenses over the next several years. Because B-52's are not only fully hardened against the effects of nuclear blasts and are relatively slow in flying out from their bases, they are more vulnerable to attacks from sea-launched ballistic missiles launched from Soviet submarines patrolling off our coasts. Moreover, because of their large radar reflectivity and relatively slow speed at low altitude, the B-52's will be far less able to penetrate Soviet air defenses during the latter part of this decade.

The limitations inherent in the B-52 make it imperative that we start fielding a replacement aircraft now. The Defense Department has begun a time-phased bomber modernization program designed to use the remaining capabilities of the B-52, while laying the groundwork for a future bomber force.

Acquiring the B-1B while continuing to pursue the advanced technology bomber, or ATB, is the most prudent approach for revitalizing our bomber forces. This approach enables the fielding of the necessary additional forces required during a period when the United States must depend heavily on bombers, while the proper steps to strengthen our land-based missiles are taken. A combined force of B-1B's, ATB's, and cruise missiles will place maximum stress on Soviet air defenses and provide the United States with significant leverage in our long-term strategic competition with the Soviets. A two-bomber program will also provide time for an orderly and logically paced development for the ATB, fully exploiting the enormous potential of low observable technology while avoiding the inevitable mistakes in a too rapidly paced program.

The B-1B will apply some elements of low observable technology to reduce its radar cross-section to a level one-tenth that of the original B-1 and one-hundredth that of the B-52. It will also include the latest developments in electronic countermeasures technology and offensive avionics systems. These developments, in conjunction with its high-speed and low-level capabilities, will provide high confidence that the B-1B will be able to penetrate Soviet defenses well into the 1990's and perform as an effective cruise missile carrier and conventional carrier well into the next century, throughout 30 or more years of service life.

As for the ATB, the prime contractor as well as other key members of the development team, have been selected. This program is proceeding at the fastest prudent pace. While most details of this program are classified, the essential point is what the ATB is being developed using low observable techniques to negate the effectiveness of present and projected air defenses. The technologies involved are exciting and promising, but because of the major advances required in several areas and the consequent uncertainties involved, there would be a high degree of program risk in concentrating solely on ATB. For these reasons and others, a significant acceleration of this important program is not prudent at this time. However, an orderly development program will enable these uncertainties to be resolved and will result in an ATB that represents a technological advance of extraordinary military significance. When deployed in the 1990's, it will augment the B-1B capability and contribute dramatically to the strength and deterrent value of our strategic forces well into the next century.

Most of what I have said, you have heard before. We have spent many hours during the past year debating the merits of a time-phased two-bomber modernization program. During the fiscal year 1982 budget cycle, we agreed as a body to commit production funds for the B-1B program and development funds for an ATB program.

That commitment was made just a few months ago. I see nothing in either of these programs or in the global political-military environment that warrants withdrawal of our full support for both of these programs.

The integrated B-1B/ATB bomber program is progressing smoothly and on schedule. At this point, 24 percent of the B-1B program has been negotiated. It is on cost and on schedule. The ATB development is also progressing smoothly, focusing now on developing the design and manufacturing technology that will provide an operationally effective system at a cost we can afford. I see no need for further debate of the integrated bomber program. I feel we should support the commitment we made in the fiscal year 1982 cycle and maintain the pace on this critical effort.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. PRICE. I do not have any time.

The CHAIRMAN pro tempore. The gentleman from Illinois has 1 minute remaining.

Does the gentleman yield back the balance of his time?

Mr. PRICE. I yield back the balance of my time.

Mr. STRATTON. Mr. Chairman, I move to strike the requisite number of words.

I just wanted to add a few points to the excellent analysis of the B-1 aircraft just presented by the gentleman from Illinois (Mr. PRICE).

The gentleman from California (Mr. DELLUMS) was pointing out, or claiming, I should say, that there is some concern about how long the B-1 is going to be able to penetrate in the Soviet Union. In a letter to Senator TOWER from the Director of the Central Intelligence Agency and from the Secretary of Defense, those two leaders of our major agencies concerned with our national security said this, and I quote:

> The B-1B would have the capability to penetrate anticipated Soviet air defenses well into the 1990's in a multitude of employment modes and to perform effectively as a cruise missile carrier and as a conventional bomber into the next century.

In fact, I would also like to point out to my friend from California that the B-1B has already been exposed to a very relentless series of tests in actual flight against all of the simulated air defense systems that we know about in the Soviet Union, and it came through perfectly, because of the outstanding electronic countermeasure gear which is included on the B-1, and which happens to be built, by the way, in my State of New York. It came through without any of those systems being able to lay a glove on it.

So, I think we ought not to denigrate the B-1. It is a great plane. It was a great plane when President Carter foolishly, against the recommendations of all of his defense advisers, both uniformed and civilian, decided to eliminate it.

The gentleman from California has also commented on the increase in costs for the B-1, something like $200 million a copy. But, it was because of the gentleman from California and others who refused to override the President's action and to vote to continue the production line when the cost was only $58 million a copy that the cost has risen to $200 million, because we had to wait all those years to appreciate just how important that bomber was.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in opposition to the amendment. We have debated this issue many times in the past and I suspect we will probably have debates on it again in the future.

Last November, Dr. DeLauer wrote a very detailed letter to the chairman of the Defense Appropriations Subcommittee of the other body explaining the rationale for the B-1/advanced technology bomber (ATB) approach to modernizing our strategic bomber force. I would like to review some of the key points Dr. DeLauer brings out in this letter.

To be an effective deterrent a manned bomber must be able to accomplish three basic parts of the manned bomber mission; take off and base escape prior to being struck, with particular concern toward a surprise attack; navigate and fly safely the long range to its targets; and, penetrate any defenses required to reach its target.

As the Soviets deploy increasing numbers of warheads (which can be used for barrage attack), and develop more effective forward air defenses, the B-52's ability to accomplish all three parts of its mission in sufficient numbers to be an effective and credible deterrent will become increasingly questionable in the last half of the 1980's. In addition, the cost of the B-52's operation and maintenance is rising dramatically as its age increases. In contrast to this, the B-1B and the ATB can accomplish all three parts of the bomber mission effectively and will be able to do so for many years to come.

The combined B-1B/ATB program will represent a force that will cause the Soviets to begin to improve their air defense now and to continue to improve them throughout the rest of the century. The heavy investment this will require will provide the United States with significant leverage and restrict the Soviet's ability to upgrade their offensive forces. In contrast to this, an ATB only program allows the Soviets to delay the improvements to their air defenses and gives them many years to work exclusively on ways to counter the ATB technology. Finally, the combined program allows the option of deciding to buy more or less of either the B-1B or ATB at mid-decade depending on the progress made and the cost of each program.

Now, as to the issue to the ability of manned bombers to penetrate Soviet air defenses. Many people who are uninformed with the facts and technical details of air defense often imagine air defense as a wall or barrier that is or is not broken at given times. This conception is misleading. Air defense in today's world is done in depth and consists of varying degrees of defense depending on the importance of the target and timing of the attack. Thus, there is no magic moment when a given type of bomber cannot "penetrate." What occurs is that the probability of air defenses being effective over a range of desired targets gradually increases over time as defenses are improved. These improvements, however, can be offset through the introduction of new equipment and tactics in the attacking force. The low radar cross section of the B-1B (which is less than one one-hundreth that of the B-52) and its state-of-the-art electronics will allow it to penetrate to needed targets well into the 1990's. The improvements that the ATB will offer in these areas promise to allow similar effectiveness to be maintained well into the next century. By combining these two programs, we maintain the important deterrent capability of manned bombers, that is, reliability, survivability, recallability, endurance, and the ability to hit mobile targets, well into the future for essentially the same cost that would be incurred if we continued to operate older obsolete systems.

The gentleman from California (Mr. DELLUMS) in a "Dear Colleague" letter has asserted, and I quote:

No arguments can be made in favor of the B-1B bomber program on either military or fiscal grounds * * *.

While I will agree the B-1 program is indeed costly, I would disagree with the gentleman that no arguments can be made in its favor. I believe the military arguments favoring the B-1 are compelling and I urge you to reject this amendment.

□ 1530

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is always a pleasure to take the well in either agreement or disagreement with the distinguished gentleman from California (Mr. DELLUMS). There is no Member in the House with a reputation for being more candid, bold, or frank. I have often complimented him on his ability to speak in triplets. Why use one adjective when three would suffice?

However, I think he is engaging in an exercise in futility here, if I might dare to go to the core of the matter of where we disagree on this issue.

It is not this particular airplane. It is an excellent aircraft, and I have made so many technical arguments about its capabilities in this well over 6 years that I admit I am slightly burned out on defending it. To fly it is to sit at the controls—it has a fighter pilot's stick, I might add, rather than a bomber's yoke—of the finest piece of equipment to take to the air, with the possible sole exception of the SR-71 Blackbird, but their missions are so different that they are not really comparable.

The problem here is that I think the gentleman should direct the thrust of his argument against this: do we want a bomber at all? It is the B-52; that is the problem. I would submit that the debate would be far more cogent, relevant or decisive if what we would do is have the gentleman come to the well with an amendment that says we want to shutdown on a date certain manned bomber aircraft in the United States. I do not think the House would get anywhere near a majority vote.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. DORNAN of California. Yes, I will yield to the gentleman from California if he will get me some more time if I need it.

Mr. DELLUMS. Mr. Chairman, let me ask the gentleman, would be cosponsor such an amendment if I offered it?

Mr. DORNAN of California. No, I would not. What it would do is sharpen the argument as to whether or not an air-breathing leg of the Triad is necessary and how viable it would be into the next century.

Here is the problem of what we are voting on with this amendment. This should always be a perfecting amendment to do away with manned bomber aircraft, because the B-52's are going to be supported by the Senate and the House Armed Services Committees, and they are going to be extended into the next century.

Shortly after we debated this matter last year, a young Air Force Reserve lieutenant named Kendall Wallace, who was a fraternity brother of one of my staffers, talked to my staffer at the USC fraternity party. He was a B-52 navigator, and he told my crew member to go back and tell his boss, Congressman BOB DORNAN, to please keep fighting for the B-1 because he had reached the point in his career where he was frightened everytime he got on board a B-52. He was flying the older D model. Within 6 days of telling my young staffer that he was worried about the airplane, this officer died with the entire crew when a B-52 hit the ground about 10 miles from La Junta, Calif., on October 30 at the end of a long night mission.

The Air Force feels that it might have been pilot error or crew error, but I know, as in most Air Force accidents where the results are not clear and definitive, that the burden of guilt always seems to be borne by the crew.

These planes are so old that it could have easily been some mechanical difficulty not determined by the accident investigating board.

Now, this young navigator's wife had just graduated from law school and was driving along the freeway in Los Angeles when inadvertently the names of the next of kind were given out after this B-52 crash before she had even been reached by an Air Force casualty officer. This young wife called my office to say that she thought we had reached the point where the B-52's had outlived their usefulness—way over a quarter of a century. Over and over we have heard in this well that the pilot and crews 5 years ago were starting to emerge with young men younger than the airplanes they were now flying. We must now be at 50 percent, where half of the crews are younger than the B-52's they are flying.

The main point of what we should be discussing is this: Are we going to get rid of manned bombers, or are we going to give our young men a decent weapon system in which to serve their nation and defend what is left of the free world?

The B-1 is a magnificent system, and when we added that model No. B, on it, it indicated that it had become a significantly different aircraft with much of the self-technology on it.

There was a lot of talk the day before yesterday about a paper airplane; the Stealth is just that. Someday it may emerge from the drawing boards, as has so much of the product of the American aeronautical defense establishment, as an excellent weapon system. But right now you can pick up this week's issue of Aviation Week and see that NATO has finally assigned a nickname to the Soviet RAM-P bomber, which most of us have seen in the John T. Hughes briefing. That RAM-P bomber is called the Blackjack, and it is, in all of the intelligence briefings, a Soviet B-2.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DORNAN) has expired.

(By unanimous consent, Mr. DORNAN of California was allowed to proceed for 1 additional minute.)

Mr. DORNAN of California. Mr. Chairman, now we have the Soviet B-1, the Backfire, at a production rate of 30 a month, and now they are going to go into production with the RAM-P or Blackjack, the Soviet B-2.

Is there something the Soviets know about a thinking man's system that is recallable, that is flexible, and that is worthy of the young officers who fly it?

I think in the future we should stop discussing the merits of the B-1. It is the state of the art. With every system that comes on the line now, this is such a fast moving train in this world of high technology that systems become technically obsolescent or obsolete. It is the best aircraft in the world in that category of bomber. It is superior probably even to the Soviet B-2 Blackjack. We must give it to our men. We owe it to the young lieutenants like Kendall Wallace of the Strategic Air Command to give them a new system. We have already lost 6 precious years.

Next year I ask the articulate, distinguished gentleman to discuss the merits of a manned bomber at all, and on that argument the House will render its decision, but not on this specific excellent piece of equipment.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Dellums amendment.

Mr. Chairman, I yield at this time to the gentleman from California (Mr. DELLUMS).

Mr. DELLUMS. Mr. Chairman, I thank the gentlewoman from Colorado (Mrs. SCHROEDER) for yielding to me.

I would like to say to the gentleman from California (Mr. DORNAN) that he raises a very interesting proposition. The point is that we can only raise this issue in the context of challenging the B-1, and I would suggest that the gentleman is perfectly correct. I do not believe we need a manned penetrating bomber in the 1980's or the 1990's.

That may be the state of the art in terms of bombers, but it is not the state of the art in terms of the air-breathing leg of our Triad.

□ 1540

We do have air-launched cruise missiles. The point I am trying to suggest is that technology is far beyond a manned penetrating bomber.

The whole notion of a manned plane over a target, as Stansfield Turner eloquently points out, is tradition in history, but time is far past this absurdity. We have technology that far exceeds that.

If the B-52 is not an appropriate weapon to penetrate Soviet air defense between 1990 or 1991, give it a standoff platform so that it can stand off if necessary, and it is my great hope that we never engage in a confrontation with the Soviet Union because I believe that will bring destruction to our Nation, to their nation, and the world as you and I know it, and it seems to me we ought to be engaging in a negotiation, not playing macho games of who has the best weapon. But if you want to have a weapon then you can have a standoff capability. We do have air-launched cruise missiles.

If the gentlewoman from Colorado would yield further I would like to make this point. The gentleman from New York points out that after 1990 the B-1B can be a cruise missile carrier. I repeat my argument. This is a plane that costs $400 million a copy.

At a time when you and I are all talking about economies, can you really go home and talk to people about a $400 million plane carrying cruise missiles when virtually any wide-bodied plane can carry cruise missiles, including the 300 B-52's that we have, including the FB-111 that we have.

We do not need to build these 100 planes at a cost of $40 billion.

Technology is far beyond the B-1. The Government, as I said, may be perfectly correct with respect to the whole notion of the state of the art.

I might add one other comment to the gentleman from California. Yes, the B-1B may be able to take off quickly but it has to be refueled in the air. The KC-135 that has responsibility to catch up with the B-1 in order to refuel it cannot fly as fast as the B-1B so you have a plane that flies faster than the tanker that has to refuel it.

So simply on the basis of logic and rationality, this whole notion ought to be rejected.

The gentleman from New York points out after 1990 not only can it be used as a cruise missile carrier, but it can also be used as a conventional bomber. A $400 million plane as a conventional bomber? Can we make this argument straight faced?

We have a number of bombers that can act as a conventional bomber. To place a $400 million plane in a conventional theater scenario to me is a very high risk and a great absurdity at a point where we are crushing programs, challenging social security, and doing a whole range of other things, talking about economies. And here we are talking about spending this kind of money on a weapons system that clearly, in my estimation, is obsolete.

I would just like to point out that someone concludes, based on a whole range of evaluations of the B-1B, that fast, basic escape, getting off the ground and getting out there quickly is no known requirement, and at best it is a requirement that we certainly do not need to spend $40 billion on. That is all the B-1B gives us.

I would just like to add on personal note. The gentleman from California continues to talk about this gentleman from California speaking in triplicate. If the B-1 bomber is expensive, it is expensive. But if it is also wasteful, then it is also wasteful. If it is unnecessary, then it is also unnecessary.

This gentleman from California is not engaging in style. The point I make is that it is expensive and we can argue that. It is wasteful. We can argue that. It is unnecessary. We can argue that. And was a political decision rather than a military decision, and we can argue that.

The gentleman from Virginia argues that this plane is expensive, so he agrees with me on that basis. But then he argues that it is a military plane.

I am saying to my distinguished colleague from Virginia, the state of the art is far beyond the B-1B. Standoff capability with wide-bodied planes and air-launched cruise missiles can get the job done without spending $40 billion and without us putting pilots and crews out there on a target that would force them to commit suicide.

I would like to point out that Secretary Weinberger has made the following statement.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado (Mrs. SCHROEDER) has expired.

(At the request of Mr. DELLUMS and by unanimous consent Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. I am delighted to yield to the gentleman.

Mr. DELLUMS. I thank the gentlewoman.

Secretary of Defense Weinberger has said that sending a B-1B to the Soviet Union in 1990 or thereafter would be a "suicide mission."

In addition, CIA and Air Force intelligence estimates indicate that the B-1B may not add any new penetration

capability to that already possessed by the B-52.

On October 29 the CIA analyst Robert Huffstutler told the Senate Defense Appropriations Subcommittee that the B-52 could penetrate Soviet air space until 1991.

Finally, the matter is further clouded by Air Force charts, Air Force charts that show that to evade Soviet defense technology any U.S. bomber, with the exception of Stealth technology, which is still on the drawing board, may have to adopt a "shoot and penetrate" tactic which means you shoot missiles to suppress Soviet air defenses and then you penetrate Soviet air space rather than simply penetrate it.

The Air Force concedes that the B-52 could do that just as easily as a B-1B. We certainly do not have to spend $40 billion to get that capability.

I thank the gentlewoman for yielding.

Mrs. SCHROEDER. I thank the gentleman from California. I think he has made the point very, very well. I think we have been over and over this issue. Members are right the debate is an old one.

If the B-1 was obsolete several years ago it is still obsolete today! I am sorry the committee insists we keep going over this.

As a pilot, I really want to say it makes much more sense to me that we buy things such as the AV-8B the planes that held up so well in the Falkland Islands. Small planes that work well and are very flexible and comparably cheap are needed much more.

Think how many you could buy for the price of just one B-1. We keep looking for a way to justify the expensive B-1 and we have needs for spare parts, conventional weapons, and training that go unmet.

Those are the kinds of tradeoffs we are talking about. There are all sorts of other planes that can do the same mission as the B-1. We are buying a gold-plated, obsolete turkey and short-changing immediate needs to do it.

I compliment the gentleman for bringing this forward and yield back the balance of my time.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, once again I have heard the annual "Let's kill the B-1 bomber amendment" with nothing really new added. I feel constrained to say that those who say let us use something else than the B-1 bomber to take the place of the really old and wornout B-52 are advocating the same thing that was advocated yesterday on the basing mode of the MX by saying that maybe we will get a basing mode that will put a different size or shape rocket in the base.

That is about as logical and rational as saying let us stop the B-1 because it is so old now, and having been stopped for the last 10 years, let us go ahead with something new, and find the next generation bomber. But I do not think anyone is kidding anyone around here because I would venture to say that anyone who would say let us kill the B-1 bomber now so that we can go ahead and go on the ATB or the advanced technology bomber would wait until that was delayed a few years and then say that was obsolete.

So I think that argument falls on its own.

I enjoy listening to the gentleman from California, Mr. DELLUMS, every year when he starts out on the B-1.

According to my figures, figures given by the President, the White House, and the Department of Defense, and the prime contractor for this excellent airplane, which I have flown, the price is $205 million per copy, and that the program is ahead of time and ahead of schedule and under cost at the present time, which would be in 1981 dollars for the whole program $20.5 billion for the baseline program.

If the gentleman from California is accusing the President of not telling the truth, he should do that in some other forum.

□ 1550

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. I ask, is it not true that in late 1981 the President of the United States certified that the program cost in 1981 dollars was going to be $20.5 billion, and he has got to come back, if there is any change in that cost? Is that not the case?

Mr. BADHAM. That is absolutely correct, under the law of this land. I have checked the figures, rechecked them, checked with the Air Force, checked the GAO figures, and it is still $20.5 billion baseline program cost.

Mr. ROBERT W. DANIEL, JR. In view of the certification and the requirement to come back, I am sure the gentleman shares my mystification with these figures that the gentleman from California has given us.

Mr. BADHAM. I most assuredly do. And that is why I had not intended to speak but do speak for the simple reason that I think it should be read into the record very clearly.

But the idea here is that if we are going to have a bomber force, a large airplane that carries weapons systems that is piloted by man, we must well forget the B-52. I have not flown the B-52, but I had the great experience of riding a B-52D model, and for one who has flown the F-111 and has flown the B-1, as I have, when they asked me if I wanted to drive when I was on a B-52 mission, I said, "No, thanks, I am having a hard enough time holding on." When the B-52 goes at low level, I cannot describe to you the shaking of the wings, the bouncing of the seat, and you really have the feeling that the wings are going to fall off.

So we need a new bomber. I do not think anybody argues that. We do need a new bomber, and the B-1 is the bomber that, not only at its time of design demonstrated the best technology available anywhere in the world, but it has been improved constantly as the state of the art has increased, with such things as Stealth technology techniques that can be applied to the existing B-1 airframes. It is an excellent airframe. It is an excellent airplane. It is an airplane that we need, as the gentleman from California (Mr. DORNAN) said, to do only required respect to the people who have volunteered to fly airplanes in the defense of this country.

I support fully the continuation of the B-1 program. I think it is adequate, it is fine, and it will penetrate well on into its useful years, until we have a next generation bomber.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. BADHAM) has expired.

Mr. BADHAM. My time has expired.

Mr. DELLUMS. Mr. Chairman, I ask unanimous consent that the gentleman from California (Mr. BADHAM) be allowed to proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Does the gentleman from California (Mr. BADHAM) desire recognition?

Mr. BADHAM. No, Mr. Chairman, I do not.

Mr. CONYERS. Mr. Chairman, I move to strike the requisite number of words.

Mr. DELLUMS. Mr. Chairman, will the gentleman from Michigan yield to me briefly?

Mr. CONYERS. I yield to the gentleman briefly.

Mr. DELLUMS. I would simply like to respond to the gentleman from California (Mr. BADHAM). He did not have to run away from the microphone. I am not going to gobble him up.

I would simply like to point out two things: First, I am not here saying that the President is telling a lie. I am not here to engage in that kind of absurd, mediocre personality challenge. We are here talking about policy ideas.

I came up with the $40 billion figure not out of my head. The Congressional Budget Office points out that the Pentagon estimate of approximately $20 billion has to be doubled to roughly

$40 billion when you start including the factors of inflation. So I did not come up with these figures out of my head. We are not here playing these kinds of games. We are raising serious policy considerations here.

Second, all we are suggesting, I say to my colleague, is that a manned penetrating bomber force is yesterday's concept, and we ought to understand that. That is all I am trying to suggest. Spending $40 billion chasing yesterday, to me, is not only an absurdity, it is a shameful thing to do, particularly given the moment that we find ourselves in.

Mr. CONYERS. Mr. Chairman, I am sorry that I do not have anything really new in terms of arguments to add to the B-1 bomber discussion. But I do not perceive that that is a requisite for discussing this matter. My friend from California (Mr. BADHAM) said that the gentleman from California (Mr. DELLUMS) brings the same old arguments about the B-1 bomber to the floor and there is really nothing new. So what? Is there some requirement that we have to invent something new, sir, every time we debate this issue? They are the same arguments, and they are not new. But I did not know I had to bring some new ones every year. The old ones are perfectly adequate. And guess what. More and more people are beginning to realize that they are the correct old arguments. So I do not see any requirement on my part to research some new additional information. I think that some of these pilots who fly these planes ought to disqualify themselves from discussing this issue because of their partisan feelings about plane flying.

I have never flown a B-1 bomber. I have never flown in one that I know of. So how it feels at the stick and what the propellers do and how the wings vibrate is a thrill that has been denied me. But I do not think you have to know that to decide whether or not we should discontinue its production.

With reference to the President's accuracy or inaccuracy, the gentleman says, "This is not the right forum to bring up inaccuracies of the President of the United States." Has the gentleman got a better place? Should we go on Pennslyvania Avenue, out in front of the White House, and shout about it through the fence? I think that the Congress is the most appropriate forum in the United States of America to bring up inaccuracies about the President's remarks or the gentleman's remarks, for that matter. I simply do not understand why we cannot discuss this subject here.

The gentleman from California (Mr. BADHAM) has said, "Where do these figures come from?" And if he is suggesting—I have got all of this research material—that he has never heard of the Congressional Budget Office study on this subject, I will yield to him at this point to explain that maybe my staff is in error about the materials presented. They said $39.8 billion per copy. Now, this is not a figure somebody dreamed up. We are talking about big bucks, even among ourselves. This is not chicken feed. So do not look so weird about arguing whether or not this cost is appropriate.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 5 additional minutes.)

Mr. CONYERS. I am not on the committee, but I understand the question is whether the B-1B should be continued until the Stealth bomber comes along. Is that the general idea, that there is an ultimate replacement for the bomber, and we are talking about whether we should continue to reproduce the B-1B in the interim?

Mr. DELLUMS. If the gentleman will yield, that is one argument that some people make. There is also the fact that there may very well not be a Stealth. We may be talking about standoff capability with air-launch cruise missiles, and many people think that that is a technology that is far superior to the whole concept of a manned penetrating bomber. And some people have gone far enough to talk about a Stealth air-launch cruise missile.

Mr. CONYERS. Fine. Under either view I really think that we ought to kill the B-1B. That is the bottom line. I apologize, I have not been in the Air Force, and I have not flown it. I do not know how it feels to be in the cockpit with your hand on the stick. I am sure it is exhilarating. But notwithstanding, in terms of my responsibility in fashioning the military budget, I think the time has come to give it the heave.

□ 1600

The Secretary of Defense told Congress that the Stealth could become operational by 1989. Attempting to develop B-1B and Stealth at the same time as is proposed will inevitably retard the progress of the Stealth bomber.

That is from the Secretary.

So I respectfully thank everyone for their kind attention.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. I yield to the gentleman from California.

Mr. DELLUMS. I thank my colleague for yielding and appreciate the fact that the gentleman zeroed in on one of the arguments that had been advanced by the opposition, and that is that the arguments against the B-1B are old arguments.

The B-1B is an old plane. I appreciate the fact that the gentleman said that. There is a second tactic I deeply resent, and that is the tactic of attempting to discuss these issues in purely personal terms.

We have heard the gentleman from California rail against the B-1 bomber last year and the year after as if in some way a $39.8 billion program is a personal item.

I wish I were worth $40 billion. This is not RON DELLUMS' amendment. This happens to be an amendment that affects the lives of American people, taxpayers paying billions of dollars for a weapons system that is totally obsolete and we ought not to be debating this matter on personal terms. We ought to be talking whether this weapon system makes sense. I do not think it does militarily nor economically and I thank my colleague.

Mr. CONYERS. I think the gentleman's concern about national security is second to no man or woman in this Chamber.

Mr. BEARD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to have a brief colloquy with my good freind.

I would like to ask the gentleman, understanding his sensitivity and I think everybody's concern regarding the cost of this particular aircraft, I wonder if the gentleman would have supported this particular aircraft to replace the B-52 bomber, if, say, the aircraft was in the $50 million range or the $57 million?

Originally when we were going to build this aircraft the cost was going to be about $57 million which would, of course, be much more reasonable now.

What we are talking about, $275 million per copy?

Would the gentleman have been prone to support this aircraft if the cost were down to the $50 million range to replace this antiquated B-52 which everyone has said is even getting to the point of being dangerous to fly?

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BEARD. I yield to the gentleman from Michigan.

Mr. CONYERS. I do not know. How would I know? Nobody ever asked me that before.

I will tell the gentleman this though. When it first started out, the Air Force put the price tag on the B-1B program at $19.7 billion. That does not sound like $50 billion to me.

Mr. BEARD. It was $47 million the first copy.

Mr. CONYERS. I see.

Mr. BEARD. Then in 1977 we could go to $57 million for a flyaway. I think the point is while people are expressing concern about the tremendous cost of this air system or aircraft, I think if we look back we would probably show

the gentleman did not support it back then and probably voted to cancel the B-1 and has been opposed to it——

Mr. CONYERS. Are you bringing my past voting record into a hypothetical situation?

Mr. BEARD. It is not hypothetical, it is on the record. The hard cold fact is that the gentleman was opposed to this system way back when it was reasonable and now as a result of these types of votes, or cancellation, of prolonging, now we are in a system that is going to cost way and above that, and I am saying that we do this to so many of our weapons system and weapons systems that are needed to fill a void, and here we go, let us slow, then let us stop, and we realize we need it and we start back, and I think the gentleman understands it drives the costs up. So I think one of the major causes for these tremendous cost increases are the lack of consistency by the Members of Congress in supporting these programs.

Mr. CONYERS. If the gentleman will yield further, I would like to argue that I am one of the most consistent Members on the floor. If the gentleman says it costs $50 million the first time and costs less now, I was opposed to it then and I am opposed to it now. That is a case for consistency.

Mr. BEARD. Well, I would like to say that is the point I wanted to make, the fact the gentleman has been extremely consistent in being opposed to this particular system.

Mr. CONYERS. If the gentleman is talking about inconsistent Members I would suggest he exclude this particular Member. I have consistently opposed the B-1.

I am flattered that the gentleman follows my voting record as closely as he claims. That is more than I even do. I did not know he cared.

Mr. BEARD. It is my time. I say to my friend from Michigan I can probably assume the gentleman's voting record as easily as the gentleman can assume my voting record, so I do not say that in any type of derogatory fashion. I just say that the weapons system unfortunately has increased in cost because of the lack of consistency in the Congress, but I think it is important to point out though that the gentleman has opposed it right across the board. So the new found concern about the cost of the weapons system I think is inconsistent inasmuch as the gentleman has been one of the causes for the increases.

Mr. CONYERS. If the gentleman will yield, I do not know how he got this much time under 2 minutes.

The CHAIRMAN pro tempore. The time of the gentleman from Tennessee (Mr. BEARD) has expired.

(At the request of Mr. CONYERS and by unanimous consent, Mr. BEARD was allowed to proceed for 3 additional minutes.)

Mr. CONYERS. Mr. Chairman, will the gentleman yield?

Mr. BEARD. I yield to the gentleman from Michigan.

Mr. CONYERS. I thank the gentleman for yielding.

I appreciate this colloquy.

First of all, I do not presume to know what the gentleman's record is without bothering to look it up and I do not understand how he can presume to know what mine is. Your voting record on military matters, on civil rights, on the Martin Luther King bill, on questions of peace or war are not matters that I could hazard a guess at during debate on the floor. It seems a bit reckless if you do not mind me saying so. I do not make that kind of assumption against any Member in the House of Representatives.

I have no idea how the gentleman votes on anything and I would never dare to assume that I could intuitively divine the gentleman from Tennessee (Mr. BEARD) vote on anything.

Now can the gentleman tell me if it is right or wrong, true or false; in July 1981 the Air Force put the price tag of the B-1B program at $19.7 billion. True or false?

If the gentleman does not know it is all right.

Mr. BEARD. What was the date on that, July 1981?

That is false.

Mr. CONYERS. That is false. Thank you.

Now can you tell me where the figure of $50 million per copy that the gentleman hypothesized I voted on; $57 million.

Mr. BEARD. Flyaway in 1977.

Mr. CONYERS. In 1977 it was $57 million.

Could the gentleman cite me one authority for that besides himself?

Mr. BEARD. The Department of Defense is a good place to start.

Mr. CONYERS. That is a great place to start.

Mr. BEARD. Let me just say quickly the point is we need this aircraft, we desperately need it, we can no longer look at the Stealth way down the road, we can no longer continue to give paper support to our troops. I did not mean to and I apologize to the gentleman for getting into an assumption battle. That is not the case. I feel very strongly about the B-1 and feel that we need to go forth with it because if we do not we are talking about something 10 years down the road that is going to be dramatically more expensive than this.

The CHAIRMAN. The Chair recognizes the gentleman from California (Mr. MILLER).

Mr. MILLER of California. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the discussion that just took place on the floor of whether or not and how long people have been opposed to the B-1 may be the most important part of this discussion.

The fact is when the B-1 cost $40 million the B-1 cost $57 million, or today when it costs somewhere between $200 million and $400 million a copy depending upon whose estimate it is, and every time this plane, and the price tag that it carries has been compared to the mission that it was designed to do and in each and every time substantial concerns by people who understand the missions, the purpose for which it was designed have been raised.

□ 1610

Originally it was designed to fly high. Then there was a question whether it could do that and still penetrate.

Somebody suggested General Ellis, who by the way was the Commander in Chief of the Strategic Air Command, the man who was supposed to fly this airplane, whose troops were supposed to fly this airplane, decided that the FB-111 would be superior, that it would only cost $10 billion, would give us the same firepower, the same penetrating ability; so the B-1 did not measure up at that price tag.

Now we find out that wide-bodied standoff capability is a very realistic alternative, so all of a sudden the B-1 is not realistic at this price capability; so then we have to start saying, well, what is the mission of this airplane?

The fact of the matter is they have not yet been able to come up with a unique mission which this airplane can fulfill, that cannot be fulfilled by another weapons system. So what has happened is what you see here today, perhaps the most important debate of this legislation outside of the MX, that this Chamber is vacant, relatively so, and yet people want to continue to say that defense spending, military spending, should be brought under control; but what has in fact happened is this system continues to go on. They continue to try to resurrect some mission which it can do; but the fact is that if it is a cruise missile carrier, there is wide bodied standoff capability that is available in a shorter period of time. If it is a penetrating bomber, there are other alternatives to the penetrating bomber.

In fact, it is incredible, the rational that has now surfaced, that somehow it can go in later and at $400 million a copy it can drop iron bombs on the Soviet Union. I would suggest that if things have deteriorated to the point where this is going to be a conventional bomber, there will be very little use for iron bombs after the nuclear destruction that has taken place within the Soviet Union and quite possibly in this country.

So what has happened is that over the 5 years or 10 years this program

has been delayed, it has never met its mission. There has always been an alternative at whatever price they have tried to present the B-1 bomber to us.

But let me suggest that something else is going on here. For people who are watching this debate, maybe in fact what you have seen here today is you have seen the best argument for an amendment for a balanced budget, because as long as these kinds of systems can be devised, as long as these kinds of systems do not need to be scrutinized and can use up $40 billion of taxpayer revenues and be charged off to the deficit because that is where this system is going, because nobody has the courage to stand up and raise the tax revenues to pay for this system.

Perhaps a requirement on this body for a balanced budget would turn some of the energies that are used to make up missions for this unacceptable system, that some of the energies would start looking at the alternatives.

We understand very clearly that careers are on the line in the Pentagon, careers are on the line in the industrial complex that supports this system. We have all received letters from the subcontractors that demand that you vote for this system. We can understand that; but that is not the basis on which a strategic weapons system should be built. It should be built upon whether or not it can meet the mission for which it is designed.

I think that Congressman DELLUMS has presented to this House substantial testimony, not of his own, but of people who are experts in this field, people who have held positions of responsibility within the Strategic Air Command, within the Department of Defense, within the intelligence community. He has reported to this body that they have serious questions—some of them outright believe that this system should be abolished, and yet it grinds on and grinds on. Why? Because we are not required to pay for this extravagant system.

The CHAIRMAN (Mr. ROSTENKOWSKI). The time of the gentleman from California has expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 5 additional minutes.)

Mr. MILLER of California. This body is not required to pay for this system, because we are going to hide it in the deficit. Well, maybe just now we have come to the best rationale why this Congress should be constrained to the balanced budget, because if you had to match the real worth of this system in military terms and its real cost, which I happen to believe will approach $40 billion by the time it is delivered, the purpose and the cost and the robbery that is going to take place from the resources available to people in this country, whether it is social security, whether it is nutrition, of education, or the Space Shuttle, I do not believe that this Congress would treat this issue as cavalierly as they have treated it today.

In fact, what this Congress would do is ask for a full investigation, a full determination of whether or not the standoff capability of the wide bodies can meet one portion of this mission, or whether the stretched FB-111 can meet another portion of this mission, whether or not the reengine—mind you, just the other day in the cloakroom, one of our colleagues suggested that they could not discuss the reengine of the B-52 because of the fight yesterday on the 747, and the C-5A.

We cannot discuss whether or not we can make the B-52 a good airplane, a better airplane for the future with new engines because all the energy of the Defense Establishment is in pushing the B-1.

I think perhaps that if we were constrained from supporting the new expenditures, not voting $20 billion in taxes that is going to be raised this year, but the real cost of these increases in the military, which is about $38 billion this year in the budget, 38 billion new dollars in the budget this year, and we are only going to raise $20 billion; so what is that, that is $18 billion of this military budget is being charged off to the deficit that the American people are saddled with, that they cannot buy homes, they cannot buy automobiles, their jobs are being foreclosed and their businesses are being foreclosed on, and the real increase in the military budget is $38 billion and this Congress is only going to raise $20 billion in taxes. That tells me that $18 billion is supported by the deficit of this country and perhaps the time has come to end that.

Let us find out what, in fact, are the priorities and the true weapons systems for the defense of this country.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. MILLER of California. I am happy to yield to the gentleman from Michigan.

Mr. WOLPE. Mr. Chairman, I want to associate myself with the incisive critique that has been offered by the gentleman in the well and want to commend our colleague, Mr. DELLUMS, for the excellence of his leadership in this important matter.

Both of these gentlemen have forcefully spoken to the absurdity of the B-1 program and the outrageous proposition of committing billions of dollars to the procurement of a bomber fleet that will not become available until 1988 and that will become obsolete by 1990. We must recognize that there are far more desireable options available to us for the maintenance and advancement of the airborne leg of the Triad—most notable among these, the use of already-retrofitted B-52 bombers equipped with air-launchable cruise missiles.

If we are truly serious about strengthening our defense capability, we will adopt Mr. Dellum's amendment and put an end to this kind of wasteful, unjustified expenditure. Simply, the B-1 bomber, like the MX missile, represents nothing more than a tremendous diversion of critical resources away from areas of most genuine need, both within and outside the Defense budget.

Most military experts are agreed that our most pressing military need is not the purchase of increasingly costly and sophisticated military hardware—and certainly the B-1 bomber falls within this category—rather, our needs are in the conventional forces area. There is no doubt that we must improve the morale and competence of our personnel and provide for the adequate maintenance of our conventional equipment. Yet, as billions of dollars are wasted upon military procurements of limited utility, it is these very elements of our military preparedness that are being ignored.

Moreover, we must recognize that unnecessary spending in the Pentagon weakens, rather than strengthens, our Nation's security. National security is as dependent upon economic stability, national productivity, and energy self-sufficiency as it is upon the number and kind of bombers in our fleet. Choosing to develop the B-1 bomber—a military ornament of only limited utility—will serve only to drive Federal deficits further skyward, to maintain chroncially high interest rates, and to continue to divert critical capital away from the more productive sectors of our economy.

As we struggle to eliminate unnecessary spending throughout Government and to simultaneously forge a strong national defense, Mr. DELLUMS has offered us a well-reasoned course of action. I strongly urge my colleagues to support the amendment to eliminate funding for the B-1 program.

I thank the gentleman in the well, and again, I thank the gentleman from California (Mr. DELLUMS) for laying out as sharply as he has the full breadth of the issues that are at stake in this amendment.

Mr. MILLER of California. Well, I thank the gentleman for his contribution.

I just think in a very serious nature that those people who are so terribly concerned and go home every weekend and tell their constituents how terribly concerned they are about military expenditures, how terribly concerned they are about the deficit, let us just leave them with a little reminder: Here is a weapons system that apparently has alternatives, again as considered by experts within the military

field, that are far cheaper and can do the mission as well.

Here is a weapons system that has never found its unique mission for this unique price tag of some $40 billion.

Here is a weapons system that is so expensive that many people have speculated you will never put it on the front lines because you could not afford to lose it.

Let us match this weapons system and the $38 billion increase in the Defense budget alone this year and let us remember that social spending was dramatically cut.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. MILLER of California was allowed to proceed for 2 additional minutes.)

Mr. MILLER of California. And then let us match that against the rhetoric for a balanced budget, because $18 billion of that increase is being charged off to some portion of that deficit.

I would hope that people would consider that perhaps maybe the questions of a balanced budget, the questions of forcing people to pay for these systems as we vote for them, that these kinds of questions perhaps will be the greatest constraint on the madness of those individuals who have been in the Brahmin class in the budget system, a system of the Pentagon, to force them to look at realistic defense requirements of this Nation so that we can have a first-class defense system, not a gold-plated system.

I would just like to say in closing that there are an awful lot of people who have given lipservice to how dangerous this system is, how expensive this system is, how poorly designed this system is, who are not here today and for that reason I would like to thank very much my colleague, the gentleman from California, for raising this debate.

As somebody said on the other side, I hope he has the tenacity to raise it next year and the year after and the year after, because it is becoming very clear that this system is running out of missions for it to perform and cannot stand the scrutiny nor the spotlight.

I am afraid that this system cannot dance long enough or fast enough for the light that you have put on it.

I would hope that the taxpayers and the people concerned about the defense of this country would start to realize the service that the gentleman from California (Mr. DELLUMS) is rendering to this House.

□ 1620

Mr. HILLIS. Mr. Chairman, I move to strike the requisite number of words, and I rise to oppose the amendment.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, will the gentleman yield?

Mr. HILLIS. I yield to my colleague, the gentleman from Virginia.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, may I just, for purposes of clarification, ask for a response from the gentleman from California (Mr. DELLUMS)?

Mr. DELLUMS. Mr. Chairman, I would be glad to.

Mr. ROBERT W. DANIEL, JR. I have in hand a copy of the gentleman's amendment striking, for aircraft, $13,209,900,000. Is that a true copy of the gentleman's amendment? I should say it provides, rather; provides that amount for aircraft. Is that correct?

Mr. DELLUMS. That is right.

Mr. ROBERT W. DANIEL, JR. In other words, that strikes 4,900 million-some odd dollars from the total that was $18 billion?

Mr. DELLUMS. The gentleman is correct.

Mr. Chairman, will the gentleman yield briefly to me?

Mr. HILLIS. Mr. Chairman, I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding; $3,393 billion for the B–1, $.475 million advanced procurement, $.165 million for spare parts. That comes to the figure the gentleman just quoted, slightly in excess of $4 billion.

Mr. ROBERT W. DANIEL, JR. Mr. Chairman, I would point out to the gentleman that on page 400 of the report, the budget request figure cited is $4,033,500,000. So the amendment in its present form proposes to strike more than is provided in the bill.

Mr. DELLUMS. We eliminate $4,033,500,000.

Mr. ROBERT W. DANIEL, JR. Well, then, that does not reconcile with the remaining amount provided in the gentleman's amendment when he deducts that from the initial amount.

Mr. DELLUMS. Our staff is trying to reconcile the difference at this point.

Mr. ROBERT W. DANIEL, JR. Let me advise the gentleman that I think we have argued the merits of this case adequately, but I do think it is highly important that we get these figures accurate.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield further to me?

Mr. HILLIS. Mr. Chairman, I would be glad to yield further to the gentleman from California.

Mr. DELLUMS. We are amending the bill, as amended by the Stratton amendment. Does that clarify the confusion?

Mr. HILLIS. Yes.

Mr. ROBERT W. DANIEL, JR. That clarifies it. I think it has been useful to have done that, Mr. Chairman.

Mr. DELLUMS. Mr. Chairman, I thank the gentleman from Virginia.

● Mr. FRENZEL. Mr. Chairman, this is a tempting amendment for me. In my judgment, this Defense authorization bill, H.R. 6030, is too expensive.

The more I listen to the debate, the more I feel that the Department of Defense either does not care much about cost, or is erring heavily on the side of caution and safety. My constituents do care about cost.

I have already voted against purchase of MX missiles until we have an approved basing mode. Despite the fact that Congress will surely approve that buy, I remain unconvinced that the right basing mode will be established this year as predicted.

If we don't have a basing mode for the MX, we probably should not risk cutting out the B–1. If the basing is approved, then I shall vote against the B–1 in the future. Ideally, I prefer the MX to B–1, but that choice was not available today.

I don't see how we can afford the expense of all these major programs. At some point, we must make some discriminatory choices. Both the MX and the B–1 are not heavy expense items in this year's budget, but in the out-years, when full production and deployment take place, costs escalate quickly. The out-years are where the fiscal problem is.

I am extremely frustrated by our general inability to make the hard choices. The systems are complicated. They have different purposes. It is nearly impossible for a person who has not followed these matters on a regular basis in the committee to make rational choices.

I do know, however, that we cannot, especially at this time, continue to approve expenses at these rates. If the Department of Defense and the committee will not help us to achieve some control, the only way I can express my discontent is to vote against the whole bill.

If this bill is not reduced, I shall do so, and that note will reflect my frustration about the B–1, as well as the MX basing mode, the two nuclear carriers, the unmothballed battleships, and dozens of other systems, programs, and weapons of lesser prominence.

I want a strong defense, but I am alarmed by the fiscal peril which seems inevitable under current policies. Big programs like MX or B–1 are really not much different from entitlement programs. They are certain to grow enormously in cost year after year, even in the unlikely event that cost estimates are attained.

Finally, another cost that distresses me is the burgeoning expense of our military pension system. Neither the Department, nor the committee, nor anybody has looked at this program with a critical eye. At the current growth rate of costs, by the time some-

one takes the time to renew and reform the military pension system, it may be too late.●

● Mr. MOFFETT. Mr. Chairman, the B-1, and particularly the B-1B, is not a military bomber. It is a political bomber. It owes its resurrection not to national security requirements, but to the Reagan administration's rigid and dogmatic devotion to it. The president of Rockwell International, the plane's manufacturer, boasts that he has framed on his wall the stub of his 1980 Presidential election ballot, with which he voted for Ronald Reagan. He had good reason to vote this way; he knew that the election of Ronald Reagan would assure the resurrection of the B-1, regardless of its demerits, deficiencies, and defects.

Let us start from the basic fact that nuclear deterrence is enhanced by a fleet of recallable weapons which take several hours to reach their targets, and which can take off quickly to escape destruction in a Soviet strike.

We find four basic routes to this capability.

First, there is the B-70 solution: A small number of high-flying, supersonic, manned vehicles with a very large radar cross section. This concept was supported during the 1960's by the same people who now support the B-1. But wiser heads prevailed. We realized it would be a sitting duck for Soviet missiles, and it was never put into production.

Second, there is the cruise missile, which is already very impressive and getting better. This approach uses a very large number of low-flying, subsonic, unmanned vehicles with an extremely small radar cross section. This is the answer that works. Everybody knows it will work.

Third, there is the B-1A: Low-flying, supersonic, manned, with a medium radar cross section. Only a few years ago, we were told this was the answer. We were told we were unpatriotic if we did not support the B-1. Nevertheless, we said no, the B-1 will not work. We should not give the Soviets a small number of large targets, because they will shoot them down.

Well, we were right. The same Air Force people who were pushing the B-1A in 1977 are now saying it is just as well we did not build it. The combination of Soviet SA-10's and monopulse air-to-air missiles would be too much for it.

So now we have the political bomber, the B-1B. It is better than the B-1A because it goes part way to meet our criticisms. It gives up the silly supersonic speed in return for a smaller radar cross section. But it still leaves us with a small number of easy-to-spot vehicles, as opposed to the cruise missile's large number of hard-to-spot vehicles.

The Secretary of Defense has admitted that sending the B-1B into the Soviet Union by 1989 would be "a suicide mission." But we will not get the first airplane into service until 1986, and by 1989 we still will not have the whole force. We are planning to spend $200 or $300 million for a strategic weapon with a useful life of 3 years at best, and in many cases, 0 years.

This may make sense to some people who have a political stake in the B-1 bomber. But it does not make sense to me, nor does it make sense for the taxpayers who will have to foot the bill for the B-1B.●

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. DELLUMS).

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote, and pending that, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present. Pursuant to the provisions of clause 2, rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 205]

ANSWERED "PRESENT"—387

Addabbo	Brown (CA)	Dickinson
Akaka	Brown (CO)	Dicks
Albosta	Broyhill	Dingell
Alexander	Burton, Phillip	Dixon
Anderson	Butler	Donnelly
Andrews	Byron	Dorgan
Annunzio	Campbell	Dornan
Anthony	Carman	Dougherty
Applegate	Carney	Downey
Ashbrook	Chappell	Dreier
Aspin	Cheney	Duncan
Atkinson	Chisholm	Dunn
AuCoin	Clausen	Dwyer
Badham	Clinger	Dymally
Bafalis	Coats	Dyson
Bailey (MO)	Coelho	Early
Bailey (PA)	Collins (TX)	Eckart
Barnard	Conable	Edgar
Beard	Conte	Edwards (AL)
Bedell	Conyers	Edwards (CA)
Benedict	Corcoran	Edwards (OK)
Benjamin	Coughlin	Emery
Bennett	Courter	English
Bereuter	Coyne, James	Erdahl
Bethune	Coyne, William	Erlenborn
Bevill	Craig	Ertel
Biaggi	Crane, Daniel	Evans (DE)
Bingham	Crane, Philip	Evans (IA)
Blanchard	Crockett	Evans (IN)
Bliley	D'Amours	Fary
Boggs	Daniel, Dan	Fascell
Boland	Daniel, R. W.	Fazio
Boner	Dannemeyer	Fenwick
Bonior	Daschle	Ferraro
Bonker	Daub	Fiedler
Bouquard	Davis	Fields
Breaux	de la Garza	Findley
Brinkley	Deckard	Fish
Brodhead	Dellums	Fithian
Brooks	Derrick	Flippo
Broomfield	Derwinski	Florio
Foglietta	Lewis	Robinson
Foley	Livingston	Rodino
Ford (MI)	Loeffler	Roe
Ford (TN)	Long (LA)	Roemer
Forsythe	Long (MD)	Rogers
Fountain	Lott	Rose
Fowler	Lowery (CA)	Rosenthal
Frank	Lowry (WA)	Rostenkowski
Frost	Lujan	Roth
Fuqua	Luken	Roukema
Garcia	Lundine	Rousselot
Gaydos	Lungren	Roybal
Gejdenson	Madigan	Rudd
Gephardt	Markey	Russo
Gibbons	Marlenee	Sabo
Gilman	Marriott	Sawyer
Gingrich	Martin (IL)	Schneider
Glickman	Martin (NC)	Schroeder
Gonzalez	Martin (NY)	Schulze
Goodling	Martinez	Schumer
Gore	Matsui	Seiberling
Gradison	Mattox	Sensenbrenner
Gramm	Mavroules	Shamansky
Gray	Mazzoli	Shannon
Green	McCollum	Sharp
Gregg	McCurdy	Shaw
Grisham	McDade	Shelby
Guarini	McEwen	Shuster
Gunderson	McGrath	Siljander
Hagedorn	McHugh	Skeen
Hall (OH)	McKinney	Skelton
Hall, Ralph	Mica	Smith (AL)
Hall, Sam	Michel	Smith (IA)
Hamilton	Mikulski	Smith (NE)
Hammerschmidt	Miller (CA)	Smith (NJ)
Hance	Miller (OH)	Smith (OR)
Hansen (ID)	Mineta	Smith (PA)
Hansen (UT)	Minish	Snowe
Harkin	Mitchell (MD)	Snyder
Hartnett	Mitchell (NY)	Solarz
Hawkins	Molinari	Spence
Hefner	Mollohan	St Germain
Heftel	Montgomery	Stark
Hendon	Moore	Staton
Hertel	Moorhead	Stenholm
Hightower	Morrison	Stokes
Hiler	Murphy	Stratton
Hillis	Murtha	Studds
Holland	Myers	Stump
Hollenbeck	Napier	Swift
Holt	Natcher	Synar
Hopkins	Neal	Tauke
Horton	Nelligan	Tauzin
Howard	Nelson	Taylor
Hoyer	Nichols	Thomas
Hubbard	Nowak	Traxler
Huckaby	Oakar	Trible
Hughes	Oberstar	Vander Jagt
Hunter	Obey	Vento
Hutto	Ottinger	Volkmer
Ireland	Oxley	Walgren
Jacobs	Panetta	Walker
Jeffords	Parris	Wampler
Jeffries	Pashayan	Washington
Jenkins	Patman	Waxman
Johnston	Patterson	Weaver
Jones (NC)	Paul	Weber (MN)
Jones (OK)	Pease	Weber (OH)
Kastenmeier	Perkins	Weiss
Kazen	Petri	White
Kemp	Peyser	Whitehurst
Kennelly	Pickle	Whitley
Kildee	Porter	Whittaker
Kindness	Price	Whitten
Kogovsek	Pritchard	Williams (MT)
Kramer	Pursell	Williams (OH)
LaFalce	Quillen	Winn
Lagomarsino	Rahall	Wirth
Lantos	Railsback	Wolf
Latta	Rangel	Wolpe
Leach	Ratchford	Wortley
Leath	Regula	Wright
LeBoutillier	Reuss	Wyden
Lee	Richmond	Yates
Lehman	Rinaldo	Yatron
Leland	Ritter	Young (FL)
Lent	Roberts (KS)	Zablocki
Levitas	Roberts (SD)	Zeferetti

□ 1640

The CHAIRMAN. Three hundred eighty-seven Members have answered to their names, a quorum is present,

and the Committee will resume its business.

RECORDED VOTE

The CHAIRMAN. The pending business is the demand of the gentleman from California (Mr. DELLUMS) for a recorded vote.

A recorded vote was ordered.

The CHAIRMAN. The Chair will note for the benefit of the Members that this is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 142, noes 257, not voting 35, as follows:

[Roll No. 206]

AYES—142

Addabbo	Frank	Petri
Albosta	Garcia	Peyser
Aspin	Gejdenson	Pritchard
AuCoin	Gibbons	Pursell
Bedell	Gore	Rahall
Benjamin	Gray	Railsback
Biaggi	Green	Rangel
Bingham	Guarini	Ratchford
Blanchard	Gunderson	Reuss
Boland	Hamilton	Richmond
Bonior	Harkin	Rodino
Bonker	Heckler	Roe
Brodhead	Hertel	Rosenthal
Brooks	Hollenbeck	Roybal
Brown (CO)	Horton	Russo
Burton, Phillip	Howard	Sabo
Chisholm	Hughes	Savage
Conte	Jacobs	Scheuer
Conyers	Jeffords	Schneider
Coyne, William	Kastenmeier	Schroeder
Crockett	Kennelly	Schumer
D'Amours	Kildee	Seiberling
Dellums	Kogovsek	Shannon
DeNardis	LaFalce	Sharp
Derrick	Lantos	Smith (IA)
Dingell	Leach	Solarz
Donnelly	Lehman	St Germain
Dorgan	Leland	Stark
Downey	Lowry (WA)	Stokes
Dwyer	Lundine	Studds
Early	Markey	Swift
Edgar	Mavroules	Tauke
Edwards (CA)	Mazzoli	Traxler
Erdahl	McCloskey	Udall
Ertel	McHugh	Vento
Evans (IN)	McKinney	Walgren
Fascell	Mikulski	Washington
Fazio	Miller (CA)	Waxman
Fenwick	Mineta	Weaver
Ferraro	Minish	Weber (MN)
Findley	Mitchell (MD)	Weiss
Fithian	Nowak	Williams (MT)
Florio	Oberstar	Wirth
Foglietta	Obey	Wolpe
Ford (MI)	Ottinger	Wyden
Ford (TN)	Panetta	Yates
Forsythe	Paul	
Fowler	Pease	

NOES—257

Akaka	Bouquard	Crane, Daniel
Alexander	Breaux	Crane, Philip
Anderson	Brinkley	Daniel, Dan
Andrews	Broomfield	Daniel, R. W.
Annunzio	Brown (CA)	Dannemeyer
Anthony	Broyhill	Daschle
Applegate	Butler	Daub
Archer	Byron	Davis
Ashbrook	Campbell	de la Garza
Atkinson	Carman	Deckard
Badham	Carney	Derwinski
Bafalis	Chappell	Dickinson
Bailey (MO)	Cheney	Dicks
Bailey (PA)	Clausen	Dixon
Barnard	Clinger	Dornan
Beard	Coats	Dougherty
Benedict	Coelho	Dreier
Bennett	Collins (TX)	Duncan
Bereuter	Conable	Dunn
Bethune	Corcoran	Dymally
Bevill	Coughlin	Dyson
Bliley	Courter	Eckart
Boggs	Coyne, James	Edwards (AL)
Boner	Craig	Edwards (OK)
Emery	Latta	Rinaldo
English	Leath	Ritter
Erlenborn	LeBoutillier	Roberts (KS)
Evans (DE)	Lee	Roberts (SD)
Evans (GA)	Lent	Robinson
Evans (IA)	Levitas	Roemer
Fary	Lewis	Rogers
Fiedler	Livingston	Rose
Fields	Loeffler	Rostenkowski
Fish	Long (LA)	Roth
Flippo	Long (MD)	Roukema
Foley	Lott	Rousselot
Fountain	Lowery (CA)	Rudd
Frenzel	Lujan	Sawyer
Frost	Luken	Schulze
Fuqua	Lungren	Sensenbrenner
Gaydos	Madigan	Shamansky
Gephardt	Marlenee	Shaw
Gilman	Marriott	Shelby
Gingrich	Martin (IL)	Shuster
Glickman	Martin (NC)	Siljander
Gonzalez	Martin (NY)	Skeen
Goodling	Martinez	Skelton
Gradison	Matsui	Smith (AL)
Gramm	Mattox	Smith (NE)
Gregg	McCollum	Smith (NJ)
Grisham	McCurdy	Smith (OR)
Hagedorn	McDade	Smith (PA)
Hall (OH)	McDonald	Snowe
Hall, Ralph	McEwen	Snyder
Hall, Sam	McGrath	Spence
Hammerschmidt	Mica	Stangeland
Hance	Michel	Staton
Hansen (ID)	Miller (OH)	Stenholm
Hansen (UT)	Mitchell (NY)	Stratton
Hartnett	Molinari	Stump
Hawkins	Mollohan	Synar
Hefner	Montgomery	Tauzin
Heftel	Moore	Taylor
Hendon	Moorhead	Thomas
Hightower	Morrison	Trible
Hiler	Murphy	Vander Jagt
Hillis	Murtha	Volkmer
Holland	Myers	Walker
Holt	Napier	Wampler
Hopkins	Natcher	Weber (OH)
Hoyer	Neal	White
Hubbard	Nelligan	Whitehurst
Huckaby	Nelson	Whitley
Hunter	Nichols	Whittaker
Hutto	Oakar	Whitten
Ireland	Oxley	Williams (OH)
Jeffries	Parris	Winn
Jenkins	Pashayan	Wolf
Johnston	Patman	Wortley
Jones (NC)	Patterson	Wright
Jones (OK)	Perkins	Yatron
Kazen	Pickle	Young (AK)
Kemp	Porter	Young (FL)
Kindness	Price	Zablocki
Kramer	Quillen	Zeferetti
Lagomarsino	Regula	

NOT VOTING—35

Barnes	Emerson	Pepper
Beilenson	Ginn	Rhodes
Bolling	Goldwater	Santini
Bowen	Hatcher	Shumway
Brown (OH)	Hyde	Simon
Burgener	Jones (TN)	Solomon
Burton, John	Marks	Stanton
Chappie	McClory	Watkins
Clay	Moakley	Wilson
Coleman	Moffett	Wylie
Collins (IL)	Mottl	Young (MO)
Dowdy	O'Brien	

□ 1650

The Clerk announced the following pairs:

On this vote:

Mr. Barnes for, with Mr. Pepper against.

Mr. Beilenson for, with Mr. Jones of Tennessee against.

Mrs. Collins of Illinois for, with Mr. Young of Missouri against.

Mr. Moakley for, with Mr. Emerson against.

Mr. Moffett for, with Mr. Coleman against.

Mr. Clay for, with Mr. O'Brien against.

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BEDELL

Mr. BEDELL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEDELL: Page 8, after line 12, insert the following new section:

LIMITATION ON FUNDS FOR BATTLESHIP REACTIVATION

SEC. 109. None of the funds appropriated pursuant to the authorizations of appropriations in section 102 may be obligated or expended in connection with the battleship reactivation program until sea trials of the U.S.S. *New Jersey* (BB-62) have been completed and the Secretary of the Navy has certified to Congress that, based upon those sea trials, the ship operates in accordance with Navy specifications and is fully capable of performing its missions.

Mr. BEDELL. Mr. Chairman as I understand it, the battleship reactivation program serves two very important purposes. The first, is represented in the awesome firepower these ships can muster in support of missions envisioned for the Rapid Deployment Force. The second, and perhaps even more important to U.S. security interests, rests in the battleship's ultimate potential to assume the role of a cruise missile platform for both strategic and conventional warheads.

The reported cost of the reactivation of these four Iowa-class battleships (the U.S.S. *New Jersey, Iowa, Missouri,* and *Wisconsin*) is in the vicinity of $1.6 to $1.7 billion—possibly a real bargain, especially considering the fact that these ships can be delivered to the Navy on a more time urgent and cost effective basis than could newer and more specialized ships designed for each mission requirement exclusively. Despite the bargain, however, I question the wisdom of our decision to redeploy "vintage" shipping with newer and more highly sophisticated electronic equipment than these ships have ever been tested or deployed with before.

If these ships are to be used exclusively for fire-support missions for the RDF and are deployed independently of carrier task forces, they will require escort ships to provide them with antisubmarine, antiair and antimissile protection. If the ships are to become cruise missile platforms, the 16-inch guns at the aft of the ship would, in all probability, be replaced with vertical missile launchers and the final reactivation costs could approach $2 billion per ship.

Nevertheless, the Department of the Navy has made a compelling case in favor of battleship reactivation and it assures us of the ultimate compatibility of "big gun" firepower with sensitive electronic missile, radar, and countermeasures technologies. Indeed, Navy officials are so confident of their success in this matter that they

inform us of their success on paper even before these systems have been trial tested in conjuction with one another. In this regard, my amendment has one over-riding purpose: To insure that any further investments we make in battleship reactivation are worth their final costs.

Simply stated, my amendment holds all fiscal year 1983 funding for battleship reactivation in abeyance until sea trials on the nearly completed U.S.S. *New Jersey* are conducted and the Secretary of the Navy has certified to Congress that, based upon those trials, the ship will operate in accordance with Navy specifications and is capable of fulfilling its mission requirements. These trials are now scheduled for late September and October. In my mind, this certification should address three specific areas.

First, while it is certainly true that the Department of the Navy has added "shock resistant" features to the components of the armored box launchers of the Tomahawk and Harpoon cruise missile batteries, neither the ship's guns or its missiles have been test fired, at sea, from the decks of the *New Jersey*. It is interesting to note that in the past, missile ships equipped with smaller guns have suffered breakdowns in their missile fire control systems after discharging salvos from their 3- and 5-inch gun batteries. How then can we be sure that these problems have been alleviated in the absence of thorough and proper trial testing procedures?

Second, although the *New Jersey* was outfitted with electronic countermeasures systems during the Vietnam war, the threat to these systems has changed significantly. In Vietnam, the *New Jersey* was subjected to shore bombardment attacks. In today's environment, however, these ships could face an entire array of conventional arms and sophisticated electronic attacks. It is for these very reasons, that the Navy Department has requested congressional approval for newer, more modern electronic countermeasures systems, modern air and surface search radars and the installation of four Vulcan Phalanx close-in weapons systems for defense against air and missile attacks.

Each of these sophisticated systems is extremely more complicated than any of those deployed during the Vietnam era. And, each of those systems must work in complete harmony with one another if these ships are to be defendable, as well as credible additions to the U.S. arsenal. Nevertheless, we cannot be certain that these systems will operate successfully in a combat environment or in conjunction with the firing of 16-inch guns because they have yet to be tested in coordination.

Finally, each ship will be equipped with aviation facilities including an operation station for one helicopter and parking spaces for three additional aircraft. This facility will be located on the ship's fantail but could be rendered useless as a result of severe over pressures that are created when 16-inch guns are fired. In this regard, three options are available to the ship's captain to prevent possible damage to his helicopters. He can: First, fly them when using his aft guns; second, he can recommend that the Navy obtain funding to build aircraft hangars on the ship's fantail and then ground his helicopters; or third, he can silence his aft guns. This problem has yet to be solved and will not simply go away because we wish it may or refuse to address its solution.

Mr. Chairman, I believe my amendment to be a reasonable proposal. I am not attempting to prevent the deployment of needed naval firepower or the potential use of battleships as cruise missile platforms. I am merely asking the question, "Are these weapons systems truly compatible with one another, especially in a combat environment?" And I am only recommending that before we go ahead with any additional investments in battleship reactivations, we make sure beyond all doubt that these ships will be able to fulfill their intended dual purpose mission requirements without suffering critical breakdowns in their offensive or defensive weapons and electronic systems as a result of firing their 16-inch guns.

To me, there exists only one way in which to accomplish this task. We must hold all fiscal year 1983 battleship reactivation funding in abeyance until the *New Jersey's* sea trials are completed in October of this year and the Secretary of the Navy has certified to the Congress that each of the potential problems discussed have real solutions. In this manner, Congress clearly demonstrates its resolve to be fiscally responsible while at the same time, providing this Nation with the best defense systems available. Holding these funds in abeyance will also serve another important purpose. After completion of sea trials and reporting to Congress, we, as decisionmakers, will be better able to determine whether or not if there is truly room for 1940's battleships on the sea of the 1980's and beyond.

The American sailor and taxpayer deserve nothing less and the Congress can accept or fund nothing less. For these reasons, I urge my colleagues to join me in support of passage of this amendment.

□ 1700

Mr. THOMAS. Mr. Chairman, will the gentleman yield?

Mr. BEDELL. I yield to the gentleman from California.

Mr. THOMAS. I thank the gentleman for yielding.

No. 1, can the gentleman give me an indication of the time delay involved and, No. 2, the dollar increase involved in the time delay?

Mr. BEDELL. We have checked with the Department of Defense. There are no penalty clauses in any of the contracts, so the cost involved is essentially zero. The time delay is that the *New Jersey* is already ready for sea trials. They expect to have those trials in October. So we are only talking about a few months.

It seems to me that it makes sense to spend a few months to find out what the problems may be before we proceed with these other battleships, one of which, by the way, is the battleship *Iowa*, the State which this gentleman represents.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, the amendment would prohibit obligation or expenditure of 1983 funds for the battleship program ($417.4 million) until *New Jersey* (BB–62) completes sea trials, and the Secretary of the Navy certifies that the ship operates in accordance with specifications and that it is fully capable of performing its mission.

The amendment is offered because of concern about vulnerability to torpedo and bombing attack, the belief that more small ships might be better, and concern about reports that the use of the big guns on battleships could disable other weapon systems, communications, and radars.

The committee opposes the amendment because it could delay work on reactivation of *Iowa* and delay procurement of long lead materials for reactivation of *Missouri* with resultant cost increases and delays in ships joining the fleet.

Reactivation experience with *New Jersey* during Vietnam demonstrated that ship can operate with modern electronics.

All systems to be installed on *New Jersey* and subsequent battleships have been successfully installed on other ship classes that carry guns.

All military electronics and weapon systems are tested to operate in an environment more severe than that created by firing guns of battleships.

Battleships are the most heavily armored, least vulnerable ships in the world today.

Battleship reactivation will cost $326 million for *New Jersey* and about $400 million for *Iowa*, little more than a new FFG–7 which carries no armor.

I was a late convert to the idea of bringing the battleships on. I pressed the feet of the Navy people when they came to me to ask the committee to go forward with this. I raised every possible objection I could. I was finally sold on the idea because the ship, although it has some things that we do not need, has many things we do need and

costs a lot less money to get a lot of power on the sea promptly. Therefore, it is a good buy.

I would like to observe that there is no Member in the House of Representatives I admire more than the gentleman from Iowa. He is certainly a very outstanding leader here and a thoughtful man. I am glad he brought this matter up. But I believe what he desires to be done can be done without his amendment. I will promise the gentleman, if it will be sufficient for him to withdraw his amendment, that we will have a timely hearing, that the gentleman can set the time, we will bring the Navy people before us and be sure, before we go forward with the actual expenditure of this money that these things will be protected.

Mr. BEDELL. If the gentleman will yield, the purpose of the gentleman from Iowa is what I think the gentleman from Florida has indicated. The purpose is simply to be sure of what we are doing before we spend money on the reactivation of these battleships. And if I have the assurance from the committee chairman that he will pursue, to see how the sea trials of the *New Jersey* go forward, and that he will request of the Department of Defense that they not make commitments that cannot be withdrawn in case there is a problem with some of these matters as they test the *New Jersey*, in my opinion it would probably be better handled than with the gentleman's amendment.

Mr. BENNETT. If the gentleman from Iowa will withdraw his amendment, I will agree to the following: First, I will request that the sea trials of the U.S.S. *New Jersey* be expedited; second, I will hold hearings on the issues raised by the gentleman from Iowa at the earliest possible date after completion of sea trials, and third, I will request that in exercising contract options that the Department of the Navy take all possible steps to protect taxpayers from any avoidable charges as a result of changes necessary as a result of sea trials and hearings. This is not meant to delay the refurbishing of the hull and power systems of the U.S.S. *Iowa*.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Chairman, I am very pleased that the gentleman from Iowa is agreeable to having the hearings and withdrawing his amendment until such time as the hearings have been completed.

I would like to ask, Mr. Chairman, what timeframe the chairman expects the hearings to be completed in. I ask this for a very specific reason. The retrofitting of the *Iowa* is going to be done at Avondale Shipyard in New Orleans and at Ingalls Shipyard at Pascagoula, Miss. The timeframe that we had expected to start on the drydock retrofitting on the *Iowa* was sometime within a September or October timeframe. If it is delayed much beyond that time, it will mean the loss of 1,500 blue collar jobs in my area, and also, of course, would be delaying the active retrofitting of the battleship.

Mr. BENNETT. What time would the gentlewoman like to have the hearings?

Mrs. BOGGS. I think if we could have them as expeditiously as possible it would address the problems that the gentleman from Iowa has, as well as the problems that the gentleman from Louisiana, the gentleman from Mississippi and I have.

Mr. BENNETT. Would some time in the next 30 days be suitable?

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(On request of Mr. BEDELL and by unanimous consent, Mr. BENNETT was allowed to proceed for 3 additional minutes.)

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Iowa.

Mr. BEDELL. It is my understanding that the sea trials at this time are planned to be in October. It is my further understanding that the contract about which the gentlewoman speaks is an option for October, it would be October that it would either be activated or not. There is no reason that I know of that those sea trials could not be moved up somewhat and that that could not be done prior to that time.

Mr. BENNETT. You say you could do it before October?

Mr. BEDELL. I would certainly think so. But the important thing to the gentleman from Iowa is, if the option is exercised, that an additional clause be added to the contracts, so that if those trials show that indeed there are difficulties that they did not anticipate, that the taxpayers not be unduly penalized for the Government making changes that may be necessary if we find, for example, that the 16-inch guns throw some of the electronic equipment out of operation. Then I am sure the gentlewoman would not want us to proceed with building that we would simply have to tear down and redo.

Mr. BENNETT. We will have a hearing to ask the Navy not to go ahead if something occurred that is detrimental.

Mr. BEDELL. If the gentleman from Iowa could be heard further, it would appear to me that probably the changes necessary are not going to mean that the shipyard has to simply stop any work on the ship.

□ 1710

Mr. BENNETT. What I agreed to is having hearings at the appropriate time to see what should be done in the future, not to stop this legislation. If we are going to do that we ought to vote on the amendment. All I agreed to was having a hearing at an appropriate time to see whether or not things had been discovered that should indicate we should not go forward and have some changes in the contract. I am not going to hold up the going ahead. I am only offering the appropriate hearings at the appropriate time to see whether they should go ahead.

Mr. BEDELL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

Would the gentleman be willing to request of the Navy that if they exercised the option they adequately protect themselves so that in case work which has not been done should not be done, or should be done differently, would not adversely seriously impinge upon the taxpayers?

Mr. BENNETT. I promise the gentleman I will make that request of the Navy; and I think that really concludes the matter unless there is something else to be said.

Mr. MONTGOMERY. Mr. Chairman, I would certainly hope that any hearings held by the Naval Subcommittee would not delay the moving of the U.S.S. *Iowa* to the gulf coast to proceed on its refitting contract.

I am sure if the Navy finds problems in the U.S.S. *New Jersey* that proper steps will be made to see that these problems can be solved without delaying the movement of the U.S.S. *Iowa* to start refitting of the U.S.S. *Iowa*.

We need to get people back to work, not delay any construction.

Mr. LIVINGSTON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, had the gentleman persisted in his amendment, I would have risen in opposition to it. I must object to the delay of the activation of the battleships *Iowa* and *Missouri* until trials have been completed on the *New Jersey*. I do so for a number of reasons which I believe will address some of the criticisms of the battleship activation program.

FIRST, COST TO OUR TAXPAYER

The activation of one of these battleships will only take one-third the time needed to build a new nuclear cruiser and at only half the cost. Using the *Iowa* as an example, the total costs for reactivation will run just under $412 million. Compare this to the new nuclear cruiser *Arkansas* which had a price tag of over $1.5 billion and took 5 years to build. In addi-

tion, the Navy has experience in battleship reactivation since the *New Jersey*—which is presently on schedule for its second recommissioning—went through a reactivation in 1967 without any cost overruns.

COMBAT EFFECTIVENESS AND USEFUL LIFE

The *Iowa* and other *Iowa* class battleships planned for reactivation will be carrying the modern radar and electronic equipment our new ships carry today. These ships will be part of a battle group with air defense escorts and frontline ships for protection much like our carriers receive today. These battleships will also carry modern, self-contained anticruise missile systems and rapid-fire Phalanx guns systems. These systems will complement an extremely high grade armor plating that is presently unmatched by any vessel in the U.S. Navy. Today's Jane Fighting Ships lists only our *Nimitz* class carriers as having any armor of consequence. This armor plating is only 2½ inches thick as compared to the *Iowa* class battleships whose maximum thickness is 17.3 inches. The *Iowa* class ships also have a 12-inch armored hull which is in fact the fourth hull. Any missile or torpedo must penetrate three separate hulls before reaching the ship's armored hull. These battleships were originally designed to withstand armor piercing 2,700 pound shells which can penetrate 30 feet of reinforced concrete. No cruise missile, let alone the type of missile in action during the Falkland crisis, can come close to matching this destructive force.

Finally, when we are talking about the age of these battlewagons we must look at the actual service life—that is, the time spent in actual operating service. All of the *Iowa* class battleships average only 10.7 years service life with the *Iowa* being the youngest in service life with 7.6 years.

Finally, two last points. Everyone talks about the jobs and security that the social part of our Federal budget creates. Many Members say that by reducing funding for various defense programs we can better address our social programs, and, thereby, our unemployment situation. But I contend that we are maintaining our commitment to social needs. Social program spending in the 1983 budget we recently passed surpasses funding for defense by over $135 billion. Just as important, the construction aspects of this defense bill, including the battleship reactivation program, can provide important Federal social services in the form of immediate jobs.

A vote for this bill is a vote to strengthen our naval forces and keep over 1,500 people employed in Louisiana alone. More importantly the reactivation of these battleships will do much to retain 12,000 shipyard jobs throughout the Mississippi and Alabama gulf coast region, and—eventually—create thousands of new jobs for other areas of the country in the near future.

Mr. BENNETT. Mr. Chairman, we will have hearings before some time in October.

Mr. BEDELL. With the assurance from the chairman of the committee that he will have hearings to check and he will request that the Navy proceed to expedite the sea trials of the *New Jersey*, and further that he will request that the Navy——

The CHAIRMAN pro tempore. The Chair will ask the gentleman from Iowa (Mr. BEDELL), does he have a unanimous-consent request to withdraw the amendment?

Mr. BEDELL. I would like to get the assurance——

The CHAIRMAN pro tempore. The gentleman has struck the requisite number of words a moment ago. Does the gentleman from Florida relinquish his time? The gentleman is not on his own time or anyone else's time.

Mr. BEDELL. Mr. Chairman, I ask unanimous consent that the gentleman from Iowa be permitted to withdraw his amendment if there is agreement by the chairman as to what is to be done.,

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. BENNETT. Mr. Chairman, I have made the assurance. I gave the gentleman the previous statement. I think it covers everything the gentleman wanted.

Mr. BEDELL. It will do three things.

The CHAIRMAN pro tempore. The Chair will state that the amendment has been withdrawn.

AMENDMENT OFFERED BY MR. DELLUMS

Mr. DELLUMS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DELLUMS: Page 4, strike out lines 8 and 9.

Mr. DELLUMS. Mr. Chairman, the practical effect of the amendment before the body is to strike the funds for both of the nuclear carriers, the CVN's. It strikes $6.87 billion for the two nuclear aircraft carriers.

There are a number of points that I wish to make in support of the amendment but prior to marshalling my arguments in support of striking the funds for both of the nuclear carriers, I would like to quote at least in part from two statements made by Adm. Stansfield Turner, one in March of 1981 appearing in the Washington Post, and a second in response to a piece in the op-ed section of the New York Times of June 3, of this year, and finally in the ad hoc hearings that we held which I have alluded to earlier in this debate in the colloquy between my distinguished colleague from California (Mr. BEILENSON), and Dr. Paul F. Walker, one of the members of the Boston study group, and coauthor of the book, "The Price of Defense."

I would begin with the first quote from Adm. Stansfield Turner.

The giant aircraft carrier is a dying breed. At $3.5 billion for one ship—no aircraft—it is too expensive. At 100,000 tons and 1,000 feet in length, it's a sitting duck. With the fleet limited to a total of 12 or 13, they must be carefully rationed, so often they are not where we would like them to be. Like the manned bomber, the trends of technology are all making the giant aircraft carrier obsolete.

The extant cruise missile will permit carrier planes to also stand off and fire at a distant target. The V/STOL, now being used extensively by the Marines and the Soviets, is also a reality. Between the cruise missile, V/STOL and the technology that helps each do its job, the aircraft carrier too can shrink in size and cost, and many more ships can become carriers of at least a few aircraft.

The June 3 article in the New York Times, the second statement by Adm. Stansfield Turner:

TO THE EDITOR:

The Times printed an Op-Ed piece by Kenneth Jungersen [May 21] which erroneously drew the conclusion that the naval battles off the Falklands prove that the U.S. should buy more super aircraft carriers at $3.4 billion each.

The thrust of the argument was that a large U.S.-type carrier could defeat the Argentines in the Falklands easily whereas the small British carriers were having problems.

One has to ask whether we will ever learn not to design weapons for the last war. Any new carriers we decide to build today will not join the fleet until the early 1990's and will be in service well into the 2000's. Judging what would be useful over that span of time by what would be useful today in the Falklands is quite superficial.

Technology is moving too rapidly for such a static outlook. Many of the advantages of large carriers will be overtaken by new technologies. Lighter, smaller aircraft with sophisticated missiles will supersede the big carriers' big aircraft. The vulnerability of all ships will likely increase.

I would repeat for purposes of emphasis, Mr. Chairman, the vulnerability of all ships will likely increase "no matter how many layers of steel one wraps around a large ship."

The quote continues:

More importantly, building a large ship means placing a lot of value in one, sinkable platform. New techniques of reconnaissance will make it easier for an enemy to select the high-value target.

We are in an era when too much value in one ship invites its demise. The most serious problem with that is that the admirals will not commit their big carriers in risky situations when they represent so much value and we then may lose by default.

□ 1720

The CHAIRMAN pro tempore. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I would like to repeat the last paragraph about Adm. Stansfield Turner:

We are in an era when too much value in one ship invites its demise. The most serious problem with that is that the Admirals will not commit their big carriers in risky situations when they represent so much value and we then may lose by default.

Third, Mr. Chairman, I would like to quote briefly from a colloquy between my distinguished colleague, the gentleman from California (Mr. BEILENSON) and Dr. Walker:

Mr. BEILENSON. In your listing there on page 10 of your testimony of some of the recommended fiscal year 1983 deletions, you have the authorization for fiscal year 1983 and then future costs. Under future costs for nuclear aircraft carriers you have the figure $30 billion. What are we talking about there, additional aircraft carriers or the additional cost of the two that are being started now?

Dr. Walker, in response to this question:

The eventual cost of the two.

The aircraft carrier is difficult to be exact on, but the carrier itself is in the range of $3 to $4 billion just to purchase the ship.

If you talk about a Navy wing of 86 aircraft on board and then you talk about several submarines to surround it, protect it, and you talk about several destroyers and cruisers to protect the aircraft carrier and then you talk about a replenishement group of oilers, aviation fuel and supplies to supply the whole fleet, you are talking about over the long run of something in the neighborhood of $10 to $20 billion at a minimum for each aircraft carrier you purchase—$10 to $20 billion for each aircraft carrier you purchase. In this bill we are talking about purchasing two at a cost of $6.87 billion.

What I am saying is really the aircraft carrier is your first buy into a long run of further purchases that you have to purchase once you buy the aircraft carrier, because it cannot protect itself without the fleet.

Mr. Chairman, I would now like to make the following arguments against the backdrop of those statements and I would in so doing try to address two groups of my colleagues in this body, those who oppose a Navy configuration based on large carriers and carrier task forces, and second, those who recognize we can forgo this $6.87 billion expenditure at least this year, because it seems to me that those two coalitions of Members in this body on this floor can come together to challenge these two systems.

The points I wish to make are the following: This is the largest single item in the military budget, the largest single item. Its projected expansion to 15 carrier groups has no military justification, Mr. Chairman. Its only use is a confrontational posture.

There really are only two functions for large nuclear aircraft carriers, political show of force on the high seas and fighting against lightly armed Third World countries.

Mr. Chairman, large carriers are vulnerable. They are sitting ducks in a nuclear war. In a nuclear war, they will draw early and heavy nuclear fire. They have no utility in such an environment.

While the procurement price is $3 to $4 billion each, let us go over this. Carriers require a large armada of ships to protect them. That costs money.

They require replenishment ships for supplies. That costs money.

They require funding for aircraft to carry out missions. That costs additional money.

They require aircraft to protect the rest of the fleet as well as the carrier itself. That costs additional funds.

The real price is billions and billions of dollars per carrier task force. You start with the $3 or $4 billion purchase and suddenly you are into billions and billions of additional dollars because an aircraft carrier cannot float by itself. It cannot function by itself and if you make the carrier the basis of your fleet, you have to build billions and billions of dollars above the ships and planes in order to protect it.

Mr. Chairman, we have always been a sea power as a result of our geography, but there is no way for surface ships to protect the sea lanes in a nuclear war. The large ship on the high seas in a nuclear war, as I said, is a very large sitting duck. It has no use against the Soviet Union in a nuclear confrontation.

The CHAIRMAN pro tempore. The time of the gentleman from California has again expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 2 additional minutes.)

Mr. DELLUMS. Mr. Chairman, a nuclear carrier has no use in a confrontation with the Soviet Union.

Finally, Mr. Chairman, the U.S.S.R. has no comparable ship. The two carriers that the Soviet Union presently has are half the size and they cannot handle jets.

In conclusion, Mr. Chairman, it would seem to me that it is a major travesty for us to purchase two huge nuclear carriers that would act as sitting ducks on the high seas, that cannot function in the atmosphere of a nuclear war, and whatever the force is, I hope it blesses us that we never involve ourselves in the madness and the insanity of a nuclear war, but it is a travesty to spend taxpayers' dollars on such expensive ships which serve only a political purpose at best for showing the flag and are useful only in limited types of war directed at Third World countries. Against the Soviet Union, Mr. Chairman, these weapons serve no useful purpose.

Over the past several months many of my colleagues have marched into the well and argued diligently for conservation in the economics of this country, cutting massively and substantially into social programs in order to offset this incredible massive unnecessary increase in our military budget and here is a figure, $6.87 billion for two nuclear carriers that in my estimation serves no useful purpose.

If we can crush millions of people in this country and remove any commitment to address their human misery in America's 1983 budget, we certainly can crush these two nuclear carriers that serve no useful purpose.

Mr. BENNETT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, many things have been said. I will not take as much time as has been used so far in the debate, but I do think it is important to address some of the specific things that have been said.

First of all, it is said that the carriers would be sitting ducks. Well, of course, they are less sitting ducks than any other piece of geography in the world. They may be vulnerable, but they certainly are not as vulnerable as are airplane bases or airports or harbors or any piece of geography elsewhere on the Earth, so they are sitting ducks only in the sense that possibly you might be able to sink them with some kind of a round.

The last few sentences of the gentleman referred to nuclear war. He says they seem to be sitting ducks in a nuclear war. Well, I suppose there would be no part of the world that would not be a sitting duck for a nuclear round. That comment could be addressed to any portion of the world, but that is also true of New York, Paris, London, and anywhere else.

I think the basic thing we have to look at here is the statement made that carriers are not important in 1982 or for the future. Actually, I think anybody who analyzes the military strength of America today if they gave any superiority at all to the U.S. Government in military affairs would have to list the carriers as the only thing that we really have that is outstandingly better than our opponents. I do not know of anybody who observes the military strength of the world who does not give significant value to the carrier force of the United States over and above anything else that we have in our defense; not that other things are not important, but as far as other things are concerned, there are so many numbers aspects that are more valuable to the opponent than ourselves, more tanks, more artillery, more most anything you can mention; but the quality of the aircraft carrier is such that it does give us a distinctive edge and it is probably the only thing that really does give us such an edge

in the international situation we have today.

□ 1730

Mr. BENNETT. Mr. Chairman, I would like to observe also that buying two of these carriers together saves $750 million.

I would also like to observe that it does not bring us up to a 15-carrier force; it keeps our present force we have now because we are going to have to take out two of the carriers we have now before the years that these carriers are actually afloat.

So they will just replace carriers now in our fleet.

I would like to point out one other thing before I return to the merits of the carrier, and that is in this bill we have before us today it has already had an amendment offered by myself to take out a Trident submarine in the Navy. That subtracted $699 million. Then there was the Stratton amendment, which took out a large amount of money as well, I am told about $600 million.

Then we had an amendment by Mr. DANIEL which reduced the fleet by 22 ships, and reduced the budget by $248 million.

So you have well over a billion dollars, pushing on $2 billion, cut out of the Navy in this bill already.

We have reduced the number of combatant ships that we have afloat by 22.

We certainly have had a tremendous depletion in the strength of the Navy as a result of all this. Actually, we are going to have fewer ships than we had at the beginning of the year, despite the fact that some new ships are coming aboard. So we have had a very deep cut in the Navy by this bill.

But now returning to the carrier itself and the value of having these carriers, they can be obtained cheaper. We can save $750 million by getting both carriers at the same time.

A lot of things have been said here about a carrier not being able to float by itself. Of course, that was followed up by saying it needs all these submarines and other things around it. Of course those things do help, but they are not essential at all. It depends on what is attacking the carrier.

The carrier is there to attack; it is not there to defend itself. It has many airplanes of different functions upon it which do different things with regard to what is needed, whether protecting the fleet or protecting the ocean lanes or attacking the land bases, whatever it is desired to do.

Furthermore, we have the Aegis ship which can carry things, shooting down things that come into the carrier if it is attacked.

But the gentleman from California makes it sound like the main thing about a carrier is to defend itself. Actually, a carrier is a very offensive weapon and is probably the strongest weapon in the world.

The CHAIRMAN pro tempore. The time of the gentleman from Florida (Mr. BENNETT) has expired.

(On request of Mr. DELLUMS and by unanimous consent, Mr. BENNETT was allowed to proceed for 5 additional minutes.)

Mr. BENNETT. I was about to conclude, actually, but I appreciate the gentleman's kindness in securing the additonal time for me.

I do want to reemphasize the fact that if there was any one thing one wants to pick out that makes the U.S. defense more valuable and less vulnerable, then that one would probably be the carrier. I think most critiques about strengths of various countries with regard to their relative power, would put the added power in the United States on the basis of the carriers that we have.

Second, we can get them cheaper if we get them together.

Third, we have made very deep cuts already, pushing on $2 billion, in this bill. We have knocked out 22 ships. We have 22 fewer ships than we had 3 days ago; that is, if this bill goes into effect, actual combatant ships of the U.S. Navy.

So we have made terribly deep cuts in the Navy. Let us not make this very unwise signal to everyone throughout the world.

Mr. DELLUMS. Mr. Chairman, will the gentleman from Florida (Mr. BENNETT) yield to me?

Mr. BENNETT. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

Mr. Chairman, I would like to make three comments. I made three comments on my paper here as I listened to the gentleman speak.

First of all, in a briefing session that I had with Admiral Moorer, Chief of Naval Operations, he stated to me, with staff present, that a nuclear carrier in a confrontation with the Soviet Union in the North Atlantic, its life span would be approximately 15 minutes.

The second point that I would choose to make is—and this is the Chief of Naval Operations saying that a nuclear carrier in a confrontation with the Soviet Union in the North Atlantic would have a life span of 15 minutes. That, to me, is extraordinary vulnerability.

Mr. BENNETT. If it were true, it would be very dismal. But Admiral Moorer is a strong supporter of these two carriers. He told me personally no longer than about 48 hours ago that there is nothing more important to our Navy than to get these two carriers.

Mr. DELLUMS. Mr. Chairman, will the gentleman yield further?

Mr. BENNETT. I yield to the gentleman from California.

Mr. DELLUMS. I thank the gentleman for yielding.

I simply make the statement and the gentleman may draw his own conclusions.

Mr. BENNETT. The Admiral still concludes he wants the carriers.

Mr. DELLUMS. My distinguished colleague, the Chair of the subcommittee, indicated that by purchasing these two carriers, nuclear carriers, we save $750 million. My retort to that is that we do it, in my estimation and in my humble opinion, by wasting $6.87 billion.

Final comment: I understood the comment made, which the gentleman made with respect to the function of our carriers. I am simply suggesting to the gentleman that we already have enough carriers in our inventory to do all of the things that the gentleman from Florida seeks to do.

I appreciate my colleague yielding.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. In just a moment, if I may. I want to make a couple of observations, if I may.

There has not been a Chairman of the Joint Chiefs of Staff that we have had in the last 30 years that has not recommended at least 16-carrier groups, not 15, not 13, but 16. That is the minimum figure they have always approved. They have never varied from that.

So when the gentleman says that he feels we do not need all these carriers, I am saying we are not even approaching the number of carriers that the Joint Chiefs of Staff have said habitually, without any variation, for the last 30 years, recommended that that is what we really should have.

Now, the gentleman says Admiral Moorer said that the ship would be sunk in 15 minutes. I say to the gentleman I do not buy that. I do not think it is true. We certainly have other evidence before our committee to indicate the fact that they would all be survivable; in fact, the most survivable ships that man has ever made.

It is true that if a carrier had no ability to defend itself, had no planes on it, had no Aegis ship around it, had nothing like that, a single atomic bomb on top of it undoubtedly would take it—it would not take 15 minutes; it would be closer to 15 seconds. That is absolutely true, but it is not going to have those things happen to it. It has the defensive mechanisms around it. It can take many rounds and can receive a lot of damage and still float and still do its job.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, I just want to ask the gentleman from California, if I could have his attention: Which Admiral Moorer was this? Thomas Moorer, the former Chairman of the Joint Chiefs of Staff and Chief of Naval Operations?

Mr. DELLUMS. Yes, that is correct. And the gentleman has my undivided attention. I want him to know that.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, the gentleman from California made a statement which I would like to ask him about.

Did I understand the gentleman to say that the Soviet Union was not building a nuclear carrier? If that is what he said, that is incorrect.

Mr. DELLUMS. I think I said that its two *Kirov* class ships are half the size of these carriers and they cannot carry jets.

Mr. DAN DANIEL. Mr. Chairman, my information is that the Soviet Union is building a nuclear wide-decked carrier which can accommodate airplanes equivalent to the F-14.

Mr. EMERY. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in opposition to the amendment. I think the chairman of the subcommittee, the distinguished gentleman from Florida, has summed up many of the arguments very well, but there are a few points I would like to make and to underscore.

First of all, if we take a look at the necessity of operating large pieces of equipment a very long-distance away from home base, we have to draw the conclusion that a nuclear aircraft carrier is uniquely capable of doing that, not being dependent upon the same oil supplies and supply lines that a conventionally powered ship of any kind is dependent upon.

In fact, intermediate size and large size oil-fired carriers may consume as much as 500 gallons of fuel per mile; whereas, a nuclear aircraft carrier can function theoretically several years at a time without refueling. Of course, there are other pieces of equipment, maintenance and supplies, that have to be supplied, but oil is a major problem and, of course, that is a major consideration.

Second, if we take a look at the recent experience in the Falkland Islands, there are a number of conclusions we must draw.

First of all, if we study the performance of the British carriers, we have to recognize that fixed-wing aircraft, larger size and greater performance, would have functioned more effectively in a variety of circumstances there. Of course, the smaller aircraft carrier that the British used is not capable of carrying the larger, fixed-wing, more high-performance aircraft.

Third, if you take a look at the experience from 1969, you notice that there were six 500-pound bombs that exploded on the flight deck of the U.S. *Enterprise.* Repairs were made in a relatively short period of time and it was put back into operation.

Also, as I understand, the construction and design of the *Nimitz* class, it is designed in such a way that there are some 2,000 watertight compartments which are included specifically so that such an aircraft carrier could sustain large and sustained damage and yet still stay afloat.

□ 1740

So, it is not a simple matter of hitting one aircraft carrier with one Exocet missile or something like that and sending it straight to the bottom. Quite the contrary. This ship, more than anything else in the fleet, can survive, for three reasons: First, it is not as vulnerable to damage; the damages can be controlled. Fire damage can be controlled and keep it afloat. Second, because it has the aircraft on board to intercept and defend incoming missiles or aircraft far away and knock down the threat before it can actually strike the ship. Third, as is mentioned in most scenarios, it operates in a carrier task force with other pieces of equipment designed to protect it from submarines, protect it from missiles, protect it from aircraft as well. So, the unit is far stronger than any of the individual components—although the aircraft carrier is certainly the most survivable and strongest ship in the fleet, as the chairman mentioned.

Let me mention one other point. If we are talking about a nuclear exchange, nothing survives. You will kill an aircraft carrier, you will kill anything. If we are talking about a nuclear exchange, then of course all the conventional strategies are of course out the window. We pray that will never happen.

I heard the gentlemen from California talk about his concerns about the insanity of nuclear war and the unreasonableness of expecting to contain a nuclear war to a few weapons exchanges, and I agree with him. He is exactly correct. So, if you follow that point of view and reasoning, you have to come to the conclusion, if you are talking about a nuclear war, there is no sense talking about survivability of the *Nimitz* or any other ship because it will not survive.

Finally, the issue of the number of aircraft carriers can certainly be debated by reasonable people, but as we approach the end of this century, we are facing another critical problem, and that is the bloc obsolescence of several aircraft carriers. With that bloc obsolescence will come the necessity to rebuild and redesign aircraft carriers to perform that mission. We are facing that problem. This Congress is going to have to decide at some point in the next few years what kind of aircraft carriers we want. In my opinion, it is going to be a mix. We will have large-sized carriers like the *Nimitz,* and also some smaller aircraft carriers, maybe conventionally powered, but aircraft carriers, nevertheless.

The final point is very important to me and to others who are concerned about cost and cost effectiveness. Recent GAO studies have shown that by buying two aircraft carriers at once, we may save 22 months construction time on each carrier and, at a minimum, three-quarters of a billion dollars for the decision that we will ultimately make, whether we build two of them now or whether we decide on one now and one sometime down the road. I am convinced that if we are going to reinstitute cost effectiveness on shipbuilding, we have to go to a more cost-effective method of procurement by any standard—by any standard, as has been proven as a way to save money and to achieve the ultimate military goal.

The CHAIRMAN pro tempore. The time of the gentleman from Maine has expired.

(At the request of Mr. DELLUMS and by unanimous consent, Mr. EMERY was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I will be happy to yield.

Mr. DELLUMS. I appreciate my colleague yielding, and I would like to respond to the points he made and make several points myself.

The gentleman indicated that a nuclear aircraft carrier is superior by virtue of the fact that it does not have to have fuel ships. The point is that it will be surrounded by a fleet that includes conventional ships, which means they still have to carry fuel. Conventional ships cannot float around with a nuclear aircraft carrier and not have fuel. So, the gentleman's argument does not hold water. It is going to be a fleet and they are going to have conventional forces and are going to have to carry some oil.

Mr. EMERY. If I might respond, it is certainly true that a conventionally powered ship will of course require oil, but not as much. If we are talking about consumption of oil at the rate of some 500 gallons per mile, which of course is the case for an intermediate large-sized craft, we are talking about a greater dependency on more oil. Also, the gentleman realizes that the aircraft carrier will contain some of the resupply equipment necessary for the other ships.

Mr. DELLUMS. But the gentleman will concede that there will be ships floating along with this nuclear carrier that will need their own fuel?

Mr. EMERY. I will concede that is one scenario that is likely, but not absolutely essential under all configurations of the task force.

Mr. DELLUMS. The second point, the gentleman described a scenario where we would have a nuclear carrier task force a significant distance away from its home port. My question would be, what would be the purpose? What would be the purpose of an aircraft carrier fleet that far away from home? Could the gentleman conjure up a reason?

Mr. EMERY. I would say to the gentleman that a primary example would be keeping the shipping lanes in the Indian Ocean open, the oil supply lanes and those strategic supply routes necesary in and around the Indian Ocean.

Mr. DELLUMS. Protect the supply lines from whom? Where is the aggressor?

Mr. EMERY. We assume that the aggressor will be the Soviet Union.

Mr. DELLUMS. It is an assumption.

Mr. EMERY. I think it is a logical assumption, the gentleman will have to concede. I do not think the Argentine fleet is going to be the aggressor.

Mr. DELLUMS. Will the gentleman continue to yield so that we can finish this colloquy?

Mr. EMERY. Yes, I certainly will.

Mr. DELLUMS. If we are talking about keeping the shipping lanes open in the Indian Ocean, and the assumed "enemy" is the Soviet Union, then my response to the gentleman is that I do not believe that you and I can conjure up any kind of conventional exchange between these two major superpowers. What we would really be talking about is a nuclear exchange, and then we are not talking about exploding 500 bombs on the deck of the *Enterprise.* The point I choose to make is, we are fighting World War II all over again, and I am asking my colleagues to get out of the past and realize that where we are is in a nuclear age, and it is a dangerous and frightening situation. We cannot talk of building ships, hoping that in some way we will engage in a World War II confrontation in the 1982 world.

Mr. EMERY. If I could respond to the gentleman, I hope and pray that we never face a situation where a nuclear exchange occurs, and I know that he agrees with me.

Mr. DELLUMS. Exactly.

Mr. EMERY. And this is a very sincere concern we both share, but let me suggest to the gentleman that if we do not provide any conventional forces at all, then we are left with no option. We are left with the option either of immediately becoming engaged in the very nuclear war the gentleman would like to avoid, or rolling over and watching our national interests and those or our allies being torn asunder without any way to respond.

Mr. DELLUMS. If the gentleman will yield briefly, I would respond to the gentleman by saying, No. 1, we have enough conventional forces to take care of any situation; and No. 2, I think there is a third option. That is an option I have pleaded for on the floor of this Congress. That is, we move into an area of negotiation where we begin to open the communications to move us back away from the brink of disaster.

We talk on the floor of the Congress as if many of us want to engage in war. There has to be a point in time where the human species rises above the absurdity and insanity of war. My definition of war is a military solution to a problem that started out to be either political, social, or economic, or all three or any combination thereof, and it never has ever worked.

It seems to me that we, as human beings, have to rise beyond the madness and insanity of war. There is another option: we can begin to negotiate a peaceful world.

I thank my colleague for the extraordinary opportunity to exchange thoughts with him. Generally, the statements get made on that side and people walk away, but I really appreciate and respect and admire the gentleman for allowing us to enter into this colloquy.

Mr. EMERY. I thank the gentleman, and even though I disagree with many of his views, I respect him and his right to express them in this forum.

The CHAIRMAN pro tempore. The time of the gentleman from Maine has again expired.

(At the request of Mr. DAN DANIEL and by unanimous consent, Mr. EMERY was allowed to proceed for an additional 2 minutes.)

Mr. EMERY. Let me simply respond to the gentleman briefly and suggest that I, too, believe very strongly that we need to negotiate reduction of nuclear weapons, and hopefully negotiate a balance between the United States and the Soviet Union where a war will not happen. I hope he will join with me and support this administration's initiatives in negotiating the nuclear reduction of heavy weapons as the United States and the Soviet Union are beginning to do now.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding. Recently, as time is measured, Mr. Brezhnev said that there were two treasure houses in the world, the mineral treasure house of Africa south of the Sahara, and the fuel treasure house of the Persian Gulf.

□ 1750

His aim was, he said, to deny the resources of those treasure houses to the West.

I think this is why it is so important to follow the policy outlined by the gentleman from Maine. We must keep the sealanes open. Otherwise, and if he is sincere in what he says, and I have no reason not to believe him in this instance, if we do not keep the sealanes open and those treasures are denied the Western World, the Depression which we experienced in the 1930's will fade by comparison.

I thank the gentleman for yielding.

Mr. EMERY. I agree totally with the gentleman and point out that this is a much smaller world than it has ever been in the past. Whether we like it or not, we are reliant on other nations and other resources.

If we are not willing to defend our access to those and if we are not willing to support our national interests with strong military and the will to survive, the day will come when that depression may exist and we may not have an opportunity.

Mr. BENNETT. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Florida.

Mr. BENNETT. Just one brief announcement.

I have been told by the leadership that they would like for us to rise by 7 o'clock. I thought maybe we could end up this by a vote in the near future.

Mr. TRIBLE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, it is not my purpose to prolong this debate but I do want to speak in support of the procurement of these two nuclear aircraft carriers.

America today must maintain a powerful naval presence in three oceans of the world. The truth is that we are attempting to maintain that presence in three oceans of the world with a 1½-ocean navy.

Our forces, both people and ships, are stretched to the breaking point. We need more ships and more capable ships and we need those ships today.

Of all of the ships in our Navy, the aircraft carrier is the most capable ship. The carrier permits America to project power and presence around this world.

In this debate the question has been asked what is the role for the aircraft carrier. Ask Margaret Thatcher what the role of the aircraft carrier is today. The British were forced because of a world situation beyond their control to steam their ships into harm's way. They were unable to control the air, and they suffered great casualties.

The British task force did not have adequate air cover. The two small carriers, indeed they were no more than

cruisers with a ski jump at the end, had only 20 to 30 Harriers and 10 helicopters. In a similar situation one nuclear aircraft carrier would be able to project more than 100 aircraft at sea.

Furthermore, the two British air carriers had no airborne radar capability. Therefore they had to send a destroyer, the *Sheffield*, out to act as a sentry for the ships. Of course, the *Sheffield* was vulnerable and lost to the British.

Contrast, if you will, the British experience in the South Atlantic with our own experience in the Mediterranean and our brief confrontation with the Libyans.

The American Fleet was in the Mediterranean. The Libyans launched over 100 sorties against our fleet. The moment those aircraft left Libyan soil we saw them coming. We dispatched F-14 aircraft from those large deck carriers and they intercepted the Libyan planes well outside their firing range.

Each time the Libyan aircraft turned back but once. On that occasion the Libyans fired on our aircraft and they were immediately destroyed.

Can there be a more eloquent testimony to the value of a large-deck carrier and power projection at sea?

We talked about the budget impact. We are all concerned that we show restraint in the expenditure of public dollars. But by building and buying these two aircraft carriers at once we can achieve substantial economies and, bring those ships to sea 2 years sooner.

Moreover, the budget outlay for fiscal year 1983 is only $235 million, a substantial sum of money, but not the billions of dollars that it will take to acquire these ships. Those sums of money will be paid out over a construction period that will last many years.

For all those reasons, and the reasons advanced by my colleagues today, I believe that we should support the acquisition of these two carriers. They are important to the maintenance of peace and freedom in this troubled world.

Mr. DELLUMS. Mr. Chairman, will my distinguished colleague yield?

Mr. TRIBLE. I am happy to yield to the gentleman from California.

Mr. DELLUMS. I realize that we are all getting exhausted here, but I think these are very important issues. I would like to respond to the gentleman briefly.

I think you have made a magnificent statement. You have made a magnificent statement because you have underscored the point, unequivocally, that all we are talking about here is confrontation with Third World countries.

You have alluded to Argentina. We can raise hell with Argentina with a huge nuclear aircraft carrier.

You have alluded to Libya. We can raise hell with a Third World country with a huge aircraft carrier.

The point I am making, in conclusion, is I think that if you and I walked this all the way out we would both agree that we are not talking about some naval battle, conventional naval battle with the Soviet Union, although we always use the Soviet Union as the justification for spending these billions of dollars to build such weapons systems as these two carriers.

If we are talking about Third World countries, and I hope we are not, but your statement was a magnificant statement in that regard, we already have enough forces. So what are we talking about here?

We are not talking about building these ships for a confrontation with the Soviet Union. If we are, I would not like to be on one of those ships in a nuclear confrontation with the Soviet Union.

What are we talking about? Are we talking about floating around to beat up Third World countries?

I hope this superpower is not about that business.

I hope we have learned something from our involvement in Vietnam and our involvement in Korea and our absurd involvement in El Salvador, and that is that it is not our business, and the gentleman has made an eloquent and magnificent statement to make the point that I am making.

The CHAIRMAN pro tempore. The time of the gentleman from Virginia (Mr. TRIBLE) has expired.

(By unanimous consent Mr. TRIBLE was allowed to proceed for 1 additional minute.)

Mr. TRIBLE. May I say briefly we build these ships in order to avoid confrontation with any nation of the world, large or small.

We live in a hard world and America must be strong and vigilant. Weakness only invites trouble as a result of Soviet actions or the action of some other nation in the world.

These ships are important to the maintenance of peace and freedom in this world. Make no mistake about that.

They would add substantially to our ability to deter problems in any scenario, whether that scenario involves the Soviet Union or some other nation.

May this body never place American young men and women in a situation where they must bleed and die because we did not give them the tools with which to defend our freedom.

That is precisely what will happen if we fail to build these important ships.

Mr. WEAVER. Mr. Chairman, I rise to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment, but in particular I rise to express my admiration and deep affection for the gentleman from California (Mr. DELLUMS). I have watched him now day after day wage his lonely battle. I want to tell him it is not all that lonely.

I know my constituents hope he wins. We have a lumber depression with 30 percent of my peope out of work and they are praying that he will win and that we will stop this madness, this spending of our money on weapons that bring us greater threats rather than greater national security.

I want to thank the gentleman for his very impressive command of detail, command of concept, command of the facts. He has taken on a host of others and has in my estimation won each and every battle.

I just want to say thank you so much for what you have done.

Mr. DELLUMS. Mr. Chairman, will my colleague yield?

Mr. WEAVER. I yield to the gentleman from California, surely.

Mr. DELLUMS. I thank my colleague very definitely. Just every now and then I do feel alone and I appreciate the fact the gentleman underscored the fact we are not alone. I thank my colleague.

Mr. WEAVER. I want to express my admiration too, for people like CHARLIE BENNETT who I think in their very great minds are doing all that they can to preserve the security of this Nation, and I respect that highly.

I just disagree with them.

□ 1800

I would like to tell my colleagues that I served on an aircraft carrier at the end of the Second World War. It does not make me an expert on it. I loved that carrier. It was the U.S.S. *Kitkun Bay*, CV-71, one of these little baby flattops, made by Kaiser. Its bulkheads popped open during the storms we went through in the South Pacific. I never flew off the carrier in one of the planes in the squadrons, but I was in admiration of those who did, to get off of that little postage stamp in the rough seas. I was enormously impressed by the pilots who would do that and then come back and try to land on that wobbly field. It was most impressive. The U.S.S. *Kitkun Bay* took a kamikaze in the Battle of the Philippine Straits and went back into action later. To my mind, the aircraft carrier played if not the key role in the South Pacific in the Second World War, it played one of the major roles in our great victory there.

But I agree with my colleague, the gentleman from California, that we are thinking about fighting either the last war or we are thinking of fighting Third World countries, because any confrontation with the Soviet Union, as unfortunate as it may be, would, without question, escalate into nuclear war, and we have adequate carriers, 13

of them, for any problems we may have with Third World countries. There was no British carrier to go to the Falklands except the *Hermes*.

So I analyze these carriers, and what I see is that, with all of the ships surrounding them, with much of their squadron built to defend attacks against them, it appears to me that it is a weapon built to defend itself. It actually is a weapon built to defend itself. It may make somebody feel wonderful to see all of that massive strength, but it is like a prizefighter with massive strength who only develop his muscles to make sure that he does not strike himself.

So I ask, on behalf of my constituents who are out of work because of high interest rates and because of massive Government deficits, that we recognize that these aircraft carriers are weapons built only to defend themselves and we stop and examine all of the other arguments, the very excellent arguments made by the gentleman from California to all of the other proposals put forth as to why we need these carriers, save ourselves these billions of dollars, the $18 billion that the carrier and its force and everything else, the squadron, costs. I have heard everything ranging from $10 to $18 billion that the entire flotilla costs. So I ask the Members to vote for the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. DELLUMS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE.

Mr. DELLUMS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 303, not voting 48, as follows:

[Roll No. 207]

AYES—83

AuCoin	Glickman	Roth
Bedell	Green	Roybal
Benjamin	Gregg	Russo
Bingham	Hagedorn	Sabo
Brown (CO)	Hall (OH)	Savage
Broyhill	Harkin	Schroeder
Burton, Phillip	Howard	Schumer
Collins (IL)	Jacobs	Seiberling
Conable	Kastenmeier	Sensenbrenner
Conyers	Kildee	Shannon
Coyne, William	Leland	Smith (IA)
Crockett	Lowry (WA)	Stangeland
Dellums	Martin (IL)	Stokes
Dingell	Mattox	Studds
Dixon	Miller (CA)	Tauke
Early	Nowak	Vento
Edgar	Oakar	Washington
Edwards (CA)	Oberstar	Waxman
Erdahl	Obey	Weaver
Fenwick	Ottinger	Weber (MN)
Findley	Patterson	Weiss
Florio	Paul	Whittaker
Foglietta	Pease	Whitten
Ford (MI)	Petri	Wirth
Ford (TN)	Rahall	Wolpe
Forsythe	Rangel	Wyden
Frenzel	Rodino	Yates
Garcia	Rosenthal	

NOES—303

Akaka	Fiedler	Mazzoli
Albosta	Fields	McCloskey
Alexander	Fish	McCollum
Anderson	Fithian	McCurdy
Andrews	Flippo	McDade
Annunzio	Foley	McDonald
Anthony	Fountain	McEwen
Applegate	Fowler	McGrath
Archer	Frank	McHugh
Ashbrook	Frost	McKinney
Aspin	Fuqua	Mica
Atkinson	Gaydos	Michel
Badham	Gejdenson	Mikulski
Bafalis	Gephardt	Miller (OH)
Bailey (MO)	Gibbons	Mineta
Bailey (PA)	Gilman	Minish
Barnard	Gingrich	Mitchell (NY)
Beard	Goldwater	Molinari
Benedict	Gonzalez	Montgomery
Bennett	Goodling	Moore
Bereuter	Gore	Moorhead
Bethune	Gradison	Morrison
Bevill	Gramm	Murphy
Biaggi	Guarini	Murtha
Blanchard	Gunderson	Myers
Bliley	Hall, Ralph	Napier
Boggs	Hall, Sam	Natcher
Boland	Hamilton	Neal
Boner	Hammerschmidt	Nelligan
Bonker	Hance	Nelson
Bouquard	Hansen (ID)	Nichols
Breaux	Hansen (UT)	Oxley
Brinkley	Hartnett	Panetta
Brodhead	Hawkins	Parris
Brooks	Heckler	Pashayan
Broomfield	Heftel	Patman
Butler	Hendon	Pepper
Byron	Hertel	Perkins
Campbell	Hightower	Peyser
Carman	Hiler	Pickle
Carney	Hillis	Porter
Chappell	Holland	Price
Cheney	Hollenbeck	Pritchard
Clausen	Holt	Pursell
Clinger	Hopkins	Quillen
Coats	Horton	Railsback
Coelho	Hoyer	Ratchford
Collins (TX)	Hubbard	Regula
Conte	Huckaby	Reuss
Corcoran	Hughes	Rinaldo
Coughlin	Hunter	Ritter
Courter	Hutto	Roberts (KS)
Coyne, James	Ireland	Roberts (SD)
Craig	Jeffords	Robinson
Crane, Daniel	Jeffries	Roe
Crane, Philip	Jenkins	Roemer
D'Amours	Johnston	Rogers
Daniel, Dan	Jones (NC)	Rose
Daniel, R. W.	Jones (OK)	Rostenkowski
Dannemeyer	Kazen	Roukema
Daschle	Kemp	Rousselot
Daub	Kennelly	Rudd
Davis	Kindness	Sawyer
de la Garza	Kogovsek	Scheuer
Deckard	Kramer	Schneider
DeNardis	LaFalce	Schulze
Derrick	Lagomarsino	Shamansky
Derwinski	Lantos	Sharp
Dickinson	Latta	Shaw
Dicks	Leach	Shelby
Donnelly	Leath	Shuster
Dorgan	LeBoutillier	Siljander
Dornan	Lee	Skeen
Dougherty	Lehman	Skelton
Downey	Lent	Smith (AL)
Dreier	Levitas	Smith (NE)
Duncan	Lewis	Smith (NJ)
Dunn	Livingston	Smith (OR)
Dwyer	Loeffler	Smith (PA)
Dyson	Long (LA)	Snowe
Eckart	Long (MD)	Snyder
Edwards (AL)	Lott	Solarz
Edwards (OK)	Lowery (CA)	Spence
Emery	Lujan	St Germain
English	Luken	Staton
Erlenborn	Lundine	Stenholm
Evans (DE)	Lungren	Stratton
Evans (GA)	Madigan	Stump
Evans (IA)	Marlenee	Swift
Evans (IN)	Marriott	Synar
Fary	Martin (NC)	Tauzin
Fascell	Martin (NY)	Taylor
Fazio	Martinez	Thomas
Ferraro	Matsui	Traxler
Trible	White	Wortley
Udall	Whitehurst	Wright
Volkmer	Whitley	Yatron
Walgren	Williams (MT)	Young (AK)
Walker	Williams (OH)	Young (FL)
Wampler	Winn	Zablocki
Weber (OH)	Wolf	Zeferetti

NOT VOTING—48

Addabbo	Emerson	Mollohan
Barnes	Ertel	Mottl
Beilenson	Ginn	O'Brien
Bolling	Gray	Rhodes
Bonior	Grisham	Richmond
Bowen	Hatcher	Santini
Brown (CA)	Hefner	Shumway
Brown (OH)	Hyde	Simon
Burgener	Jones (TN)	Solomon
Burton, John	Markey	Stanton
Chappie	Marks	Stark
Chisholm	Mavroules	Vander Jagt
Clay	McClory	Watkins
Coleman	Mitchell (MD)	Wilson
Dowdy	Moakley	Wylie
Dymally	Moffett	Young (MO)

□ 1820

The Clerk announced the following pairs:

On this vote:

Mr. Moffett for, with Mr. Mollohan against.

Mr. Beilenson for, with Mr. Jones of Tennessee against.

Mr. Gray for, with Mr. Hefner against.

Mr. Dymally for, with Mr. Coleman against.

Mr. Clay for, with Mr. Emerson against.

Mr. Richmond for, with Mr. O'Brien against.

Messrs. SENSENBRENNER, STANGELAND, RUSSO, and WEBER of Minnesota changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. CONYERS

Mr. CONYERS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONYERS: Page 2, strike out line 12 and insert in lieu thereof the following: "For missiles, $2,398,900,000".

Page 3, strike out line 4 and insert in lieu thereof the following: "For missile programs, $1,967,500,000".

Page 4, strike out lines 6 and 7.

Page 6, strike out line 13 and insert in lieu thereof the following: "For Aircraft, $13,209,900,000".

Page 6, strike out line 14 and insert in lieu thereof the following: "For missiles, $4,081,000,000".

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. CONYERS. With pleasure.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding.

Let me ask the gentleman, since the leadership has asked that we rise at 7 o'clock, would there be any objection from the gentleman if we went through the same procedure we did yesterday? We are anxious to finish this section if we can. I do not want to cut the gentleman off, please understand that, but we have about 30 minutes. Would that be enough time for the gentleman?

Mr. CONYERS. It might be.

Mr. DAN DANIEL. I thank the gentleman.

Mr. CONYERS. Mr. Chairman, I apologize that it is 6:25 p.m.; however, it is not my fault. I did not schedule you to be here until 7 o'clock. Were I in the leadership, you would have left at 4 o'clock, at least.

Before calling for the vote, I might just acquaint you very briefly with what is contained in the amendment that I propose. It tracks a number of nuclear procurement items, armaments and technology.

Some of you may recall the budget debate of a few weeks ago. In this amendment I would recommend for a one year procurement deletion of the Trident submarine program, the Trident I missile, the sea-launch cruise missile, the air-launch cruise missle, the ground-launch cruise missile, the Pershing II missile, the B-1 bomber and the MX missile, a paltry savings of $10.5 billion in the authorizing budget.

Please bear with me. I apologize that this is not a big ticket item as we have become accustomed to over the several days of this debate, only $10½ billion.

Now, I would also like to very immediately distinguish this from the amendment offered by my colleague, the gentleman from California, which was a substitute bill and I would like to identify what was in his bill that is not in this bill. That does not delete this military equipment:

The CVN nuclear carriers, the Aegis cruisers, battleship reconversion, airplanes for new carrier task force, missiles and other support for carrier task force, rapid deployment force, the M-1 tank and the AH-64 helicopter, remain intact.

Notice that the CVN nuclear carriers are excluded from the reach of this amendment. The reason is that they are driven by nuclear energy and do not fall, in my judgment, in the category of nuclear weapons.

So I offer this to those of you, nearly 200, who have responded to calls for antinuclear activity on the part of the Congress. I call not for a freeze, but a 1-year suspension under the terms of this title I procurement, 1-year suspension, not a freeze.

Notice in other titles where R. & D. for nuclear technology and experimentation are involved, we do not touch it, so that we can continue on in our research and development of nuclear weapons. Please understand that very important distinction.

Now, to fully appreciate the premises that underlie this motion, I would like to remind you that President Reagan's budget document of the United States spells out the U.S. defense policies insure our preparedness to respond to, and if necessary, successfully fight either conventional or nuclear war.

Secretary of Defense Caspar Weinberger testified before our own committees about the need to prevail in nuclear war.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

(By unanimous consent, Mr. CONYERS was allowed to proceed for 5 additional minutes.)

□ 1830

Mr. CONYERS. Secretary of Defense Caspar Weinberger testified before our own committee about the need to prevail in nuclear war.

The idea of nuclear war fighting is now central to the U.S. war plans. Winning a nuclear war and defeating the Soviets and defeating the enemy in nuclear battle, I think, is no longer possible.

Mr. Chairman, winning a nuclear war and defeating the Soviets is a pipedream. I say that hesitantly, because neither we nor they can win a nuclear war.

Now, it is funny that this statement has been made time and time again by both Democrats, Republicans, those for building up and accelerating the military build-up, those for cutting it down, but I am not sure if we really understand that. The fundamental truth of military affairs today, although it is a bitter pill to swallow, particularly for military men and Congresspersons, is that the traditional role of the military in all countries is to prepare to win. The military profession has always sought superiority, understandably.

Military men are understandably uncomfortable with notions of balance and equilibrium, but the fact is that neither we nor they can win a nuclear war.

But we do not proceed on this 1983 authorization budget title I, procurement, on that basis. Some military leaders have spoken to this. Lord Mountbatten, shortly before his death—one of the greatest, distinguished, military officers in Britain's history—said long ago:

As a military man who has given half a century of active service, I say in all sincerity that the nuclear arms race has no military purpose. Wars cannot be fought with nuclear weapons. Their existence only adds to our perils because of the illusions that they have generated.

What he did not say is that the sole purpose of nuclear weapons is deterrence. A proposition that many of us subscribe to is that neither we nor they can win a nuclear war, although we do support the premise and the notion that we contain nuclear weapons in our arsenal because of their deterrent capability and potential. I subscribe fully to that notion.

I bow to no one, man or woman, on the notion of America's national security and the need for its preeminence. So, I support these preparations, but to fight and win a nuclear war is central to this entire bill. I must disagree with those premises and, therefore, seek to strike the nuclear armaments that would go forth under title I.

The fiscal year 1983 military budget is simply a nuclear war budget and I think we should not only not make any mistake about it, but be candid enough to admit it to ourselves and to the American people.

The funding for strategic nuclear forces would climb somewhere about 43 percent, twice as fast as the spending for conventional forces.

The implication of recognition that we cannot and should not be prepared to fight and win a nuclear war goes even further than just the notion of a nuclear weapons program in the new budget. Most of our conventional forces are planned for war with the Soviet Union. I submit that any war that is started with the Soviet Union or that they start with us is going to become a nuclear war.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan (Mr. CONYERS) has expired.

(On request of Mr. DAN DANIEL and by unanimous consent, Mr. CONYERS was allowed to proceed for 5 additional minutes.)

Mr. CONYERS. I thank the floor manager, Mr. Chairman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield for an inquiry?

Mr. CONYERS. Yes, I will yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman was kind enough to give us a copy of his proposed amendment, but it was just prior to its being offered and we have not had a chance to study it.

I ask the gentleman what this includes. This would take out all money, if I understand it, for nuclear weapons, which would include the sub-launched cruise missile, the air-launched cruise missile, the Pershing II, the MX, the ground-launched cruise missile, and the B-1.

Would that be correct?

Mr. CONYERS. Let me say to the gentleman, first of all, I delivered a copy of the amendment to the chair where he is sitting now, to the person who was sitting in the chair when he was not there. I apologize if he did not get it.

Mr. DICKINSON. No, what the gentleman did, he gave it to me, and I appreciate his consideration. But it was only a matter of minutes before it was offered.

All it does is have a list of numbers being changed. I do not know what is being affected.

Mr. CONYERS. If the ranking minority leader would trace those number to the pages and line numbers

in the bill, it will identify it. I read it once, but I will read it again with pleasure.

I do not yield at this point.

Mr. DICKINSON. The gentleman need not bother to read it.

Mr. CONYERS. I am going to do it anyway. I am going to give it to the gentleman whether he wants it or not.

The Trident submarine program, $2.485 billion.

The Trident I missile, $816.1 million.

The sea-launched cruise missile, $285 million.

The air-launched missile, $622.7 million.

The ground-launched cruise missile, $520.1 million.

The Pershing II missile, $508.6 million.

The B-1 bomber, $4 billion.

The MX missile, $1.2 billion.

That totals roughly in savings, $10.5 billion.

Now, as I was saying, I submit that any war that is started with the Soviet Union, if it is a conventional war, will turn into a nuclear war. Once started it is almost inevitable. Neither we nor the Russians will permit the other side to get the upper hand in a battle. Therefore, escalation is inevitable.

The Supreme Allied Commander in Europe recently stated that he believes that there can be no such thing as a limited nuclear war, that the use of theater nuclear weapons would, in fact, escalate to the strategic level very quickly.

The Reagan administration budget presentations are filled with rhetoric about imminent war and deadly peril.

Now, if you believe that we can fight and win a nuclear war with the Soviet Union and that such a war is looming on the horizon, then one might plausibly support the new military budget.

If you think we are going to war tomorrow and we are planning to fight a war with the Soviet Union, I would concede that there is some logic to the extraordinary dimension of this budget.

If, however, you do not believe that we can win a nuclear war with the Soviets or anybody else, and if you do not believe that war is around the corner, then you may sensibly exercise your own judgment on this budget.

□ 1840

My view is that the country does not face the kind of national emergency that the budget alleges. Tragically, however, the budget might contribute to the creation of that very emergency which we fear. Of course, some of the rhetoric is typical of the oversell that we get from the Pentagon. There is no one here who is not used to it. In order to get support for their buildups they believe that they must deliver their message dramatically. While I do not doubt their sincerity, I do question their wisdom.

We could quite safely adopt this suspension on the possession of nuclear weapons in title I, in the procurement area. I want to say that the United States has upward of 30,000 nuclear weapons, if the discussions I have heard in the last 3 days are correct.

The CHAIRMAN pro tempore. The time of the gentleman from Michigan has expired.

Mr. CONYERS. Mr. Chairman, I ask unanimous consent to proceed for 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

Mr. DAN DANIEL. Mr. Chairman, reserving the right to object, I shall not object.

Mr. Chairman, I rise in opposition to the amendment, and I yield to the gentleman from Michigan.

Mr. CONYERS. I have the time, sir.

The CHAIRMAN pro tempore. The gentleman from Virginia has reserved the right to object.

Mr. DAN DANIEL. I reserve the right to object. I do not object. I simply rise in opposition to the amendment and I yield to the gentleman.

The CHAIRMAN pro tempore. The Chair will state the gentleman from Virginia has reserved the right to object. He is recognized.

Mr. DAN DANIEL. If that is not in agreement with the gentleman from Michigan, I withdraw my objection.

Mr. CONYERS. I have asked unanimous consent to proceed for 5 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Michigan (Mr. CONYERS) is recognized for 5 minutes.

Mr. CONYERS. I yield to the floor manager for any comment he would like to make.

Now, if I understand the debate of the last 3 days and nights, the U.S. military has a capability of upward of 30,000 nuclear weapons, about 12,000 of which may be exploded upon the Soviet Union—far more than a sufficient amount to destroy the Soviet Union even if they strike first. I remember the gentleman from Alabama in a colloquy with the gentleman from Oregon saying that about 500 would be the adequate number.

So, I conclude that this is far more than the sufficient amount necessary to destroy the Soviet Union. If all the nuclear weapons requested in this bill, and those projected over the next 5 years were to occur, we would end up with thousands and thousands of additional weapons. I argue simply, ladies and gentlemen, that this amendment taking the nuclear technology out of procurement to the modest sum of $10 billion for a period of 1 year, continuing research and development, would continue the strength of our national security and would in no way impair our power or our nuclear and conventional strength throughout the world.

But, why do we persist in this contradiction? The reason that this simple proposition has not been embraced is that the false assumptions of the arms race have been accepted by most people, including some who even favor disarmament. They accept the premise that more weapons mean more security, that alternative systems of security that are not based on making hostages of hundreds of millions of people are utopian, and that survival of the United States as the No. 1 actor in the world justifies the activity that leads to the generation of $1.7 trillion of military over the next 5 years.

We have not been able to generate the passion that is required to rid the world of arms because we are psychologically dependent upon them. Any one who ponders the elaborate system that we have erected must realize and can understand why a growing number of scientists state flatly that if an arms race continues now nuclear war is inevitable.

So, I offer again this amendment to suspend nuclear procurement technologies for 1 year, and urge your kind and careful consideration of it.

I thank you for your consideration at this late hour.

Mr. DAN DANIEL. Mr. Chairman, I rise in opposition to the amendment. I hope that we can vote. I think all of these issues have been discussed thoroughly throughout the last 3 days, and I hope we can go to a vote now.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Michigan (Mr. CONYERS).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONYERS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 21, noes 355, not voting 58, as follows:

[Roll No. 208]

AYES—21

Collins (IL)	Harkin	Savage
Conyers	Kastenmeier	Seiberling
Crockett	Leland	Stokes
Dellums	Mitchell (MD)	Washington
Edwards (CA)	Rangel	Weaver
Forsythe	Roybal	Weiss
Garcia	Sabo	Wirth

NOES—355

Akaka	Aspin	Benedict
Albosta	Atkinson	Benjamin
Alexander	AuCoin	Bennett
Anderson	Badham	Bereuter
Andrews	Bafalis	Bethune
Annunzio	Bailey (MO)	Bevill
Anthony	Bailey (PA)	Biaggi
Applegate	Barnard	Bingham
Archer	Beard	Blanchard
Ashbrook	Bedell	Bliley

Boggs	Gibbons	Michel
Boland	Gilman	Mikulski
Boner	Gingrich	Miller (CA)
Bonior	Glickman	Miller (OH)
Bonker	Goldwater	Mineta
Bouquard	Gonzalez	Minish
Breaux	Gore	Mitchell (NY)
Brinkley	Gradison	Molinari
Brodhead	Gramm	Montgomery
Brooks	Green	Moore
Brown (CO)	Gregg	Moorhead
Broyhill	Guarini	Morrison
Burton, Phillip	Gunderson	Murphy
Butler	Hagedorn	Murtha
Byron	Hall (OH)	Myers
Campbell	Hall, Ralph	Napier
Carman	Hall, Sam	Natcher
Carney	Hamilton	Neal
Chappell	Hammerschmidt	Nelligan
Cheney	Hance	Nelson
Clausen	Hansen (ID)	Nichols
Clinger	Hansen (UT)	Nowak
Coats	Hartnett	Oakar
Coelho	Hawkins	Oberstar
Collins (TX)	Heckler	Obey
Conable	Heftel	Ottinger
Conte	Hendon	Oxley
Corcoran	Hertel	Panetta
Coughlin	Hightower	Parris
Courter	Hiler	Pashayan
Coyne, James	Hillis	Patman
Coyne, William	Holland	Patterson
Craig	Hollenbeck	Paul
Crane, Daniel	Holt	Pease
Crane, Philip	Hopkins	Pepper
D'Amours	Horton	Perkins
Daniel, Dan	Howard	Petri
Daniel, R. W.	Huckaby	Peyser
Dannemeyer	Hughes	Pickle
Daschle	Hunter	Porter
Daub	Hutto	Price
Davis	Jacobs	Pritchard
de la Garza	Jeffords	Pursell
Deckard	Jenkins	Quillen
DeNardis	Johnston	Rahall
Derrick	Jones (NC)	Ratchford
Derwinski	Jones (OK)	Regula
Dickinson	Kazen	Reuss
Dicks	Kemp	Rinaldo
Dingell	Kennelly	Ritter
Donnelly	Kildee	Roberts (KS)
Dorgan	Kindness	Roberts (SD)
Dougherty	Kogovsek	Robinson
Downey	Kramer	Rodino
Dreier	LaFalce	Roe
Duncan	Lagomarsino	Roemer
Dunn	Lantos	Rogers
Dwyer	Latta	Rose
Dyson	Leach	Rosenthal
Early	Leath	Rostenkowski
Eckart	LeBoutillier	Roth
Edgar	Lee	Roukema
Edwards (AL)	Lehman	Rousselot
Edwards (OK)	Lent	Rudd
Emery	Levitas	Russo
English	Lewis	Sawyer
Erdahl	Livingston	Scheuer
Erlenborn	Loeffler	Schneider
Evans (DE)	Long (LA)	Schroeder
Evans (GA)	Long (MD)	Schulze
Evans (IA)	Lott	Schumer
Evans (IN)	Lowery (CA)	Sensenbrenner
Fary	Lowry (WA)	Shamansky
Fascell	Lujan	Shannon
Fazio	Luken	Sharp
Fenwick	Lundine	Shaw
Ferraro	Lungren	Shelby
Fiedler	Madigan	Shuster
Fields	Marlenee	Siljander
Findley	Marriott	Skeen
Fish	Martin (IL)	Skelton
Flippo	Martin (NC)	Smith (AL)
Florio	Martinez	Smith (IA)
Foglietta	Matsui	Smith (NE)
Foley	Mattox	Smith (NJ)
Ford (MI)	Mazzoli	Smith (OR)
Ford (TN)	McCloskey	Snowe
Fountain	McCollum	Snyder
Fowler	McCurdy	Solarz
Frank	McDade	Spence
Frenzel	McDonald	St Germain
Frost	McEwen	Stangeland
Fuqua	McGrath	Staton
Gaydos	McHugh	Stenholm
Gejdenson	McKinney	Stratton
Gephardt	Mica	Studds
Stump	Walker	Wolf
Swift	Wampler	Wolpe
Synar	Waxman	Wortley
Tauke	Weber (MN)	Wright
Tauzin	Weber (OH)	Wyden
Taylor	White	Yates
Thomas	Whitehurst	Yatron
Traxler	Whitley	Young (AK)
Trible	Whittaker	Young (FL)
Udall	Whitten	Zablocki
Vento	Williams (MT)	Zeferetti
Volkmer	Williams (OH)	
Walgren	Winn	

NOT VOTING—58

Addabbo	Fithian	Mollohan
Barnes	Ginn	Mottl
Beilenson	Goodling	O'Brien
Bolling	Gray	Railsback
Bowen	Grisham	Rhodes
Broomfield	Hatcher	Richmond
Brown (CA)	Hefner	Santini
Brown (OH)	Hoyer	Shumway
Burgener	Hubbard	Simon
Burton, John	Hyde	Smith (PA)
Chappie	Ireland	Solomon
Chisholm	Jeffries	Stanton
Clay	Jones (TN)	Stark
Coleman	Markey	Vander Jagt
Dixon	Marks	Watkins
Dornan	Martin (NY)	Wilson
Dowdy	Mavroules	Wylie
Dymally	McClory	Young (MO)
Emerson	Moakley	
Ertel	Moffett	

□ 1900

Mr. CORCORAN and Mr. COUGHLIN changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. WHITTEN. Mr. Chairman, we have been busy in hearings with the Appropriations Committee, and I understand I am recorded as having voted to eliminate the carriers. That vote was by accident. I have supported the carriers through the years. I think our only chance is to prevent war.

So I would like the record to show that the vote was by accident, and that I support the carriers, as I always have.

Mr. DAN DANIEL. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I simply want to announce that, so far as the Committee is concerned, there will be no other recorded votes tonight.

AMENDMENT OFFERED BY MR. VOLKMER

Mr. VOLKMER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. VOLKMER: Page 4, line 9, strike the figure "$6,795,300,000" and insert in lieu thereof the figure "$3,595,300,000".

Mr. VOLKMER. Mr. Chairman, I ask unanimous consent to change the last read figure in the amendment from $3,595,300,000 to $3,283,000,000.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

The CHAIRMAN pro tempore. The amendment will be so modified.

Mr. VOLKMER. Mr. Chairman, just a couple of votes back we voted on whether to eliminate both of the aircraft carriers, as proposed by the gentleman from California.

I personally feel that we need to have one additional carrier on line, and that is what this amendment does. It allows for continuation of the program to one carrier, not two.

I look at the total defense budget and the total budget, and I find that we cannot find everything we would like to have. As we look through it, it is not just a question of philosophy of armament and whether we have the nuclear weaponry, et cetera, but there are a lot of things that we need to cut back, as we are cutting back elsewhere.

We must recognize that when we take the money to pay the shipyards for making these aircraft carriers, we are going to have to go out on the private markets and borrow that money. As you borrow that money, you are going to continue to increase the interest rates. This is your chance to reduce the borrowing by a little over $3 billion and, hopefully, we can then know and we can tell all of the financial markets that we are not going out there and borrow these additional funds.

On the question of whether we need the second carrier at this time, as you all know, it will be some time before these carriers are constructed and utilized into the fleet. In the meantime, we will still be ahead of the Russian Navy. Everybody seems to be concerned about the question of Russia and the United States and whether or not we have superiority or they have superiority. There is no question that at the present time and in the near future, as far as nuclear carriers, we will continue to have superiority, even with one additional carrier provided instead of two. Therefore I feel that, in the sense of economics and the sense of efficiency in spending the money of the taxpayers wisely, we would be better off to only fund the one carrier at this time and postpone the funding of the second carrier to a later time.

For that reason I offer the amendment, and I urge the Committee to adopt my amendment.

Mr. DAN DANIEL. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, this matter has been discussed thoroughly. I believe everybody knows what it entails. I would hope that we could take the vote at this time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Missouri (Mr. VOLKMER), as modified.

The amendment, as modified, was rejected.

The CHAIRMAN pro tempore. Are there further amendments to title I? If not, the Clerk will designate title II.

Title II reads as follows:

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. (a) Funds are hereby authorized to be appropriated for fiscal year 1983 for the use of the Armed Forces for research, development, test, and evaluation in amounts as follows:

For the Army, $3,651,741,000.

For the Navy (including the Marine Corps), $6,026,208,000.

For the Air Force, $10,409,196,000.

For the Defense Agencies, $2,219,730,000, of which $57,000,000 is authorized for the activities of the Director of Test and Evaluation, Defense.

(b) In addition to the funds authorized to be appropriated in subsection (a), there are authorized to be appropriated for fiscal year 1983 such additional sums as may be necessary for increases in salary, pay, retirement, and other employees benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in subsection (a).

LIMITATION ON FUNDS FOR THE ARMY

SEC. 202. Of the amount authorized in section 201 for the Army, not more than $259,744,000 is available fo) the Ballistic Missile Defense Systems Technology program.

LIMITATION ON FUNDS FOR THE NAVY

SEC. 203. (a) Of the amount authorized in section 201 for the Navy (including the Marine Corps)—

(1) $23,000,000 is available only for the Firebrand Aerial Target program;

(2) $15,000,000 is available only for the phased array radar improvement program for the Mark 92 fire control system;

(3) $117,000,000 is available only for the development, test, evaluation, and initial deployment of the 5-inch semi-active laser guided projectile and the Seafire electro-optical fire control system;

(4) $39,900,000 is available only for the Medium Range Air-to-Surface Missile (MRASM) system;

(5) $27,615,000 is available only for the Vertical Launching Anti-Submarine Rocket system;

(6) $138,595,000 is available, subject to subsection (b), only for the DDG-X (DDG-51) ship program; and

(7) $1,100,000,000 is available only for Surface Warfare programs.

(b) None of the funds appropriated pursuant to the authorization of appropriations in section 201 for the Navy may be obligated or expended for the DDG-X (DDG-51) ship program until the Secretary of the Navy has submitted to the Committees on Armed Services of the Senate and House of Representatives a plan for the deployment of the 5-inch semi-active laser guided projectile and Seafire electro-optical fire control system concurrently with the deployment of the DDG-51 lead ship.

LIMITATION ON FUNDS FOR THE DEFENSE AGENCIES

SEC. 204. (a) None of the amount authorized in section 201 for the Defense Agencies is available for the High Energy Laser Technology, Alpha, and Large Optics Demonstration Experiment (LODE) programs of the Defense Advanced Research Projects Agency, and, of the amount authorized in such section for the Defense Advanced Research Projects Agency, $50,000,000 is available only for research, development, test, and evaluation of short wavelength laser technology.

89-059 O-86-17 (Pt.13)

Mr. DAN DANIEL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. VENTO) having assumed the chair, Mr. AUCOIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

REPORT ON RESOLUTION TO DISAPPROVE HISTORIC PRESERVATION FUND DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-653) on the resolution (H. Res. 474) to disapprove the historic preservation fund deferral, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION TO DISAPPROVE LAND AND WATER CONSERVATION FUND DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-654) on the resolution (H. Res. 475) to disapprove the land and water conservation fund deferral, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION TO DISAPPROVE URBAN PARK AND RECREATION DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-655) on the resolution (H. Res. 476) to disapprove the urban park and recreation deferral, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION TO DISAPPROVE STRATEGIC PETROLEUM RESERVE DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-656) on the resolution (H. Res. 479) to disapprove the strategic petroleum reserve deferral, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION TO DISAPPROVE LAND ACQUISITION, U.S. FISH AND WILDLIFE SERVICE DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-657) on the resolution (H. Res. 493) to disapprove the land acquisition, U.S Fish and Wildlife Service deferral, which was referred to the Union Calendar and ordered to be printed.

REPORT ON RESOLUTION TO DISAPPROVE CONSTRUCTION AND ANADROMOUS FISH DEFERRAL

Mr. MURTHA, from the Committee on Appropriations, submitted a privileged report (Rept. No. 97-658) on the resolution (H. Res. 494) to disapprove the construction and anadromous fish deferral, which was referred to the Union Calendar and ordered to be printed.

□ 1910

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I ask for this 1 minute for the purpose of inquiring of the distinguished majority leader the program for the balance of the day and the balance of the week.

Mr. WRIGHT. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I would be happy to yield to the gentleman from Texas.

Mr. WRIGHT. The committee has risen and that concludes our business for today, but tomorrow, after meeting at 10, we will take up H.R. 2329 concerning the Cherokee Nation of Oklahoma. That is 1 hour open rule. We want to complete that bill tomorrow.

We want to adopt two rules: One on the Airport and Airway Improvement Act, and one on the Federal Insecticide, Fungicide, and Rodenticide Act.

Then we begin debate on the Radio Broadcasting to Cuba Act. That is 1 hour with an open rule.

I think it has been generally agreed, however, that we will simply do the general debate on that bill tomorrow and will not complete it.

That is the program for Friday and we will rise at 3 o'clock on Friday.

On Monday the House meets at noon. Monday is District Day, and there are no District bills scheduled. We have at least one bill on suspension, the Federal Rules of Civil Procedure.

Then we will complete general debate on the Airport and Airway Improvement Act and the Federal Insecticide, Fungicide and Rodenticide Act.

On Tuesday, we will vote on suspensions. If there are any recorded votes

required on suspensions considered Monday, we will take those on Tuesday.

Then we will consider under suspension of the rules the following bills:

H.R. 6782 Disability Compensation and Survivors' Benefits Amendments. That is reported from the Veterans Affairs Committee pursuant to reconciliation instructions.

We will vote on the Export Administration Amendments Act and the Export Trading Company Act. Those are under suspension of the rules. We will then resume consideration of the Defense Department authorizations.

It is hoped that we would complete that on Tuesday. If we are not able to complete that on Tuesday, we would take it up first thing Wednesday after coming in at 10 o'clock and would plan to stay in session Wednesday, however long it might take until we had completed the Defense Department authorizations bill.

After that is done, during whatever remains of Wednesday and the balance of the week, we would complete consideration of the Airport and Airway Development Improvement Act and the Federal Insecticide, Fungicide and Rodenticide Act. We would complete the consideration of the Radio Broadcasting to Cuba Act, and in the time remaining next week we would hope to take up the Job Training Partnership Act, military construction authorizations, and House Joint Resolution 521, calling for nuclear weapons freeze and reductions, and approval of SALT II agreements, subject to the granting of a rule.

That is a full plate, but we have that much that remains to be acted on and any or all of that might be concluded next week.

Mr. MICHEL. I gather from the scheduling of the Radio Broadcasting to Cuba Act next week, following general debate tomorrow, that there are amendments anticipated to that legislation; is that correct?

Mr. WRIGHT. Yes; if the gentleman will yield further, there are amendments anticipated. That is a bill that was jointly referred to another committee and I am advised that amendments will be offered, not tomorrow, but when we get to it next week.

Mr. MICHEL. We would simply rise after general debate?

Mr. WRIGHT. Yes.

Mr. WIRTH. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the gentleman from Colorado.

Mr. WIRTH. Mr. Speaker, I thank the gentleman for yielding.

To make sure we understand the schedule for tomorrow afternoon, were debate on the rule and general debate on Radio Broadcasting to Cuba to be completed before 3 o'clock, would we then adjourn before 3 o'clock or would it be the intent to go into the amendment process until 3 o'clock?

Mr. WRIGHT. If we have completed all the business that has been scheduled for tomorrow—and that includes the general debate on the Radio Broadcasting to Cuba Act and does not include action under the 5-minute rule or amendments—prior to 3 o'clock, then we would adjourn.

Mr. WIRTH. I thank the gentleman.

Mr. MICHEL. Mr. Speaker, I thank the majority leader.

VIOLATIONS OF AGREEMENTS CONCERNING SHIPMENT OF AMERICAN ARMS TO COUNTRIES IN MIDDLE EAST

(Mr. FRANK asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FRANK. Mr. Speaker, there has been a great deal of discussion recently about possible violations of some of the agreements under which American arms are shipped to other countries in the Middle East. One apparent very serious violation which has not received sufficient attention concerns the transshipment of American arms by Saudi Arabia to the Palestine Liberation Organization.

Israeli troops in Lebanon have discovered large caches of American weapons originally shipped to Saudi Arabia in the arms depots maintained by the PLO.

This is indeed a very serious violation of American law and is an action that greatly undermines the American policy in this area. We have been told for years by several administrations that the Saudis are the moderates in the Middle East and that arms sales by the United States to them will strengthen the cause of peace in that troubled region. Mr. Speaker, nothing could be more destructive to the cause of peace in the Middle East than the arming of the PLO, and yet we now know that the Saudi Arabians have engaged in exactly this practice with American arms.

Even more distressing, Mr. Speaker, is the apparent tendency of our State Department to ignore this fact. On September 10, 1981, I wrote to then Secretary, Alexander Haig, asking him to comment on reports that the Saudi Arabians were sending American arms to the PLO. On October 29, 1981, I received a response from Assistant Secretary for Congressional Relations, Richard Fairbanks, stating "after careful examination we have found no evidence that the Saudis have shipped any U.S. supplied military equipment to either Iraq or the Palestinians." Mr. Speaker, Assistant Secretary Fairbanks' response to me now seems to have been incorrect. And I now ask the State Department to take appropriate action to deal with this serious violation of American arms policy represented by the Saudis transshipment of American arms to the PLO. It is precisely this sort of support for the PLO which makes peace in the Middle East a dream rather than the reality that so many of us hope it will be.

I am asking the State Department by letter today to explain to me how they were misled by the Saudis on this critical subject and equally important, to tell the American people what assurances we can have that there will be no further examples of American arms being sent by the Saudis—or any other nation in the Middle East—to be used by the PLO in their campaign against the existence of Israel and against the interests of the United States.

Mr. Speaker, I wish, at this point, to share with my colleagues the relevant documents involved. I wish to call their attention, in particular, to my letter to Secretary Haig of September 10; Assistant Secretary Fairbanks' response to me on October 29; the recent statement by Douglas Bloomfield, Legislative Director of the American Israel Public Affairs Committee before the House Foreign Affairs Committee, concerning the discovery of American weapons in PLO camps; and a letter from me to Secretary of State Shultz asking him to take immediate remedial action with regard to this matter.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., September 10, 1981.

ALEXANDER M. HAIG,
Secretary, Department of State, Washington, D.C.

DEAR MR. SECRETARY: Two recent press reports from the Middle East refer to the transfer of arms, possibly American made, from Saudi Arabia to the Palestine Liberation Organization. Should these reports be true, I believe the United States has a responsibility to take immediate and effective action to strongly protest the arms transfer, and further, to take such steps as may be necessary to prevent any arms transfers to the Palestine Liberation Organization in the future.

Specifically, I refer to a report in the August 6, 1981 edition of MA'ARIV, the Israeli daily, that "Saudi Arabia has been transferring U.S. arms it received within the framework of arms deals with the United States to the Iraqis and to the terrorists in Lebanon." (FBIS, Aug. 7, 81, I 19)

And the radio broadcast on Israel Domestic Service on August 4, 1981 that "* * * Saudi Arabia was helping the terrorists exploit the cease-fire by shipping them fresh supplies of weapons * * *" (FBIS, Aug. 4, 81, 0500 GMT broadcast)

I welcome your prompt reply to the concerns I have raised by referring to these alarming press reports.

Thank you for your cooperation.

BARNEY FRANK.

DEPARTMENT OF STATE,
Washington, D.C., October 29, 1981.

Hon. BARNEY FRANK,
House of Representatives.

DEAR MR. FRANK: The Secretary has requested that I respond to your letter of September 10, 1981, regarding alleged Saudi shipments of U.S. arms to Iraq and to Palestinian organizations in Lebanon.

As you indicate in your letter, these reports originated in the Israeli press. We have discussed the question at some length with the Israeli government, which does not contend that the Saudis have shipped U.S.-origin equipment to the Palestinians. We have also carefully investigated the charges that the Saudis have shipped U.S. equipment to the Iraqis.

After careful examination, we have found no evidence that the Saudis have shipped any U.S.-supplied military equipment to either Iraq or the Palestinians. The Saudi government is well aware of the significance we attach to the commitments they have made to us regarding third-party transfer of such materials, and we are satisfied that they have made every effort to adhere to them. We have, nevertheless, pointed out to both the Saudis and the Israelis the fragility of the Lebanese cease-fire, and stressed the danger that any new deliveries of heavy weapons to either side would pose to the peace of that troubled country.

I hope I have satisfied your concerns. Please let me know if I can be of further assistance.

Yours sincerely,

RICHARD FAIRBANKS,
Assistant Secretary for Congressional Relations.

STATEMENT OF DOUGLAS M. BLOOMFIELD LEGISLATIVE DIRECTOR AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

During my visit to Israel and Lebanon, I saw tens of thousands of captured weapons. Tanks, cannon, rockets, launchers, rifles, handguns and ammunition of every conceivable kind and size. They were predominately Soviet, but of other origins, as well. I saw dozens of crates of unopened Soviet-made Kalachnikov Assault Rifles shipped via Benghazi, Libya, or directly from the USSR; they had packing instructions as well as operating directions in English. I brought back the service manual for the Soviet AKMS machine gun. I also saw hundreds of U.S. - made M-16 rifles, many of them in their original shipping cartons with labels showing they were originally sold and shipped to Saudi Arabia; they had been transferred to the PLO. There were over 1,000 new West German G-3 assault rifles, one of the best in the world. I also saw Chinese-built anti-aircraft guns and cannon, plus more arms from Vietnam, Korea and the Soviet Bloc. There were even guns used by the Nazis in World War II.

Some of those anti-aircraft guns were attached to many types of vehicles, from Dodge pick-up trucks to Toyotas to Chinese trucks. Then there were the night sights, handguns, grenade launchers, RPG's and Katyusha rockets. Many of the grenade launchers were stamped in English, "Made by Fatah." Fatah is the main branch of the PLO and is Arafat's own organization. Ironically, only a relatively few pieces of the Soviet and Chinese arms had markings in Arabic; most were in English.

There was also the other equipment, like the uniforms, boots, trophies for auto mechanics, typewriters, a Bell and Howell tape recorder and a fully-equipped listening lab.

It has been estimated that the Israelis have captured enough material to equip a very large army. One Israeli officer told me, "We captured them at 5 minutes to 12. They were starting to build a huge army with soldiers from all over the world."

Indeed, Israel reported it captured PLO soldiers from Saudi Arabia, Jordan, Libya, Iran, Korea, Pakistan, Bangladesh, Turkey, Abu Dhabi, Algeria, Sudan, and Senegal and Niger.

Weapons were found everywhere. In mosques, schools, homes, public buildings, caves and underground bunkers—even U.N. offices. At an UNRWA Vocational Training School in Sidon, Israeli troops found stores of weapons, ammunition, training materials, and audio-visual lab and the personal office of Yassir Arafat with his picture on the wall flanked by a Swastika.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 22, 1982.

GEORGE SHULTZ,
Secretary of State,
Department of State,
Washington, D.C.

DEAR MR. SECRETARY: I have been very distressed to read recently of the discovery by Israel of American arms, originally supplied to Saudi Arabia, which were stored in PLO depots in Lebanon. Clearly, it is a very serious violation of both American law and American interests for the Saudi Arabians to have shipped these weapons to the PLO.

Last year, the State Department denied to me that such transshipments were taking place. Information supplied to me is that unopened boxes of U.S. made M-16's originally shipped to Saudi Arabia have definitely been found by the Israelis in Lebanon. For example, I have been given a list of serial numbers from 6 of the rifles captured from the PLO. These rifles were in their original cartons and were manufactured by the Colt Company and shipped to Saudi Arabia. The labels read: 1005-00-073-9421, Rifle, M16A1, 5.56mm W/E (1 Each), DAA Fo3-71-C-003, 5/76, Serial Nos. 05-354-823, 05-354-301, 05-354-043, 05-354-189, 05-354-145, 05-353-098.

I would very much appreciate hearing from you what we know about this Saudi activity in sending weapons to the PLO and, more important, what steps we are taking to prevent its recurrence. I am sure you agree with me that it is a very serious problem for us to have American weapons shipped in defiance of our law and our policy in the Middle East to an organization bent on violence such as the PLO.

BARNEY FRANK.

INTRODUCING THE NATURAL GAS FAIR PRICING ACT

(Mr. YOUNG of Missouri asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. YOUNG of Missouri. Mr. Speaker, I am introducing today the Natural Gas Fair Pricing Act. The experience of many of my constituents last winter led me to take a long, hard look at the history of natural gas prices under the Natural Gas Policy Act of 1978 (the NGPA). We all know that homeowners and businesses throughout the country have made tremendous efforts to conserve energy since 1978. Despite continued conservation efforts, last winter's natural gas bills skyrocketed.

For the most part, these increases resulted from substantially higher costs per unit of natural gas consumed—not from increased consumption itself. For example, one of my constituents reported to me that his cost per therm increased 30.1 percent in just 1 year, from January 1981, to January 1982. During the same period, the Consumer Price Index increased only 8.4 percent.

The effect of the NGPA on natural gas prices has been, to say the least, startling. The prices paid to natural gas producers have increased 150 percent since November 1978. To date, this has meant for residential consumers an almost 70-percent increase in natural gas prices for heating and cooking.

Mr. Speaker, I believe that the natural gas producer is entitled to a fair price for the gas he supplies. But I also believe that residential consumers should be charged a fair price for natural gas used for heating their homes and that businessmen should be charged fair prices for natural gas used for heating their plants and stores and for operating their machines.

Under the NGPA, however, natural gas prices will continue their rapid rise without regard to the legitimate interests of consumers. The NPGA provides that the prices for 50 percent or more of natural gas production will be decontrolled beginning in 1985. Prices for this gas will not be determined by free market forces. Instead, the OPEC cartel will in large part determine what a homeowner or businessman in St. Louis, Chicago, or Boston will pay for natural gas produced here in the United States. There will continue to be a massive transfer of wealth from consumers of natural gas to the producers.

What I propose will be fair to everyone—consumers and producers. The Natural Gas Fair Pricing Act eliminates the automatic upward price adjustments built into the NPGA and repeals those provisions providing for decontrol of large volumes of natural gas. There is no price rollback in the act. Instead, the Federal Energy Regulatory Commission is given authority to permit just and reasonable increases in the prices of all categories of natural gas. These increases must be just and reasonable for the consumer as well as the producer and cannot be based on the cartel-set prices of other commodities such as oil.

As you know Mr. Speaker, I introduce H.R. 6531, the Natural Gas Consumer Relief Act on June 3. The principal purpose of H.R. 6531 is to give natural gas consumers some relief

from escalating prices between now and the end of 1984 by eliminating the NGPA's automatic inflation adjustment. If H.R. 6531 becomes law, a natural gas pricing crisis during the winter between now and 1985 will be much less likely. H.R. 6531 is a stopgap measure which will allow Congress to develop a sound long-term solution to the natural gas pricing problem. In my view, Mr. Speaker, the Natural Gas Fair Pricing Act is the type of long-term solution we should work toward.

Mr. Speaker, the time for us to act to protect the American consumer of natural gas is now. I urge my colleagues to give their prompt and favorable attention to the Natural Gas Fair Pricing.

NATURAL GAS FAIR PRICING ACT—SECTION-BY-SECTION ANALYSIS

The bill provides that the short title of the legislation is the "Natural Gas Fair Pricing Act" (the "Act").

FINDINGS AND PURPOSES

Section 2 of the bill sets out the Congressional findings supporting the legislation and the purpose it is intended to achieve. In general, Congress finds that natural gas prices have escalated rapidly since enactment of the Natural Gas Policy Act of 1978 (the "NGPA"), indeed much more rapidly than the Consumer Price Index. Additional natural gas price increases built into the NGPA will cause severe economic dislocations and hardship for individuals and businesses who consume natural gas for essential residential, commercial, agricultural and industrial uses. Decontrol of prices for substantial quantities of natural gas which is scheduled to begin in 1985 under the NGPA will result in a windfall for natural gas producers through an enormous transfer of wealth from consumers to producers. Under decontrol, natural gas prices will in large part be determined by the international cartel which has controlled world petroleum prices with substantial success. Decontrol of natural gas prices will have serious adverse economic effects, and will not significantly stimulate drilling activity and natural gas production.

The bill is intended to maintain stable markets for natural gas by establishing a mechanism for determining maximum lawful prices. The bill initially sets prices at NGPA levels and gives the Federal Energy Regulatory Commission (the "Commission") authority to set different, just and reasonable prices for natural gas based directly on costs of production. This authority substitutes for the automatic price escalators presently in the NGPA.

CONTINUATION OF PRICE CONTROLS

Section 3(a) of the bill repeals subtitle B of title I of the NGPA (15 U.S.C. §§ 3331-3333). Under Section 121 of the NGPA (15 U.S.C. § 3331), prices for several categories of natural gas are scheduled to be decontrolled beginning January 1, 1985. Under the bill, there will be no such decontrol; instead, natural gas prices for these categories of natural gas will continue to be determined in accordance with the NGPA, as amended by the Act. Section 122 of the NGPA (15 U.S.C. § 3332) gives the President and Congress standby authority to reimpose price controls. Since the bill eliminates the scheduled decontrol of prices under the NGPA, such standby authority is no longer needed. Section 123 of the NGPA (15 U.S.C. § 3333) requires the Department of Energy to prepare two reports to the President and each House of Congress in anticipation of decontrol of prices for certain categories of natural gas. Under the bill, there is no longer any need for these reports.

The repeal of subtitle B of title I of the NGPA is subject to Section 6(a) of the bill. Section 6(a) makes clear that prices for natural gas produced from a well the surface drilling of which commenced on or before the date of enactment of the Act are not affected by the bill if such prices have been decontrolled pursuant to the NGPA prior to the date of enactment.

Section 3(b)(3) of the bill amends Section 101(b)(9) of the NGPA (15 U.S.C. § 3311(b)(9)) to eliminate the reference to decontrolled natural gas prices in connection with the privision dealing with the effect of the maximum lawful prices under the NGPA on contract prices for the first sale of natural gas.

Sections 3(b) (5) and (6) of the bill eliminates the provisions in Section 507 of the NGPA (15 U.S.C. § 3417) dealing with the reimposition of price ceilings by the President and Congress. The scheduled decontrol of natural gas prices and necessarily the authority to reimpose price ceilings are repealed by Section 3(a) of the bill.

ELIMINATION OF AUTOMATIC INDEXING

Section 4 of the bill eliminates the NGPA's automatic inflation adjustment factor. Section 4(a)(1) strikes Section 101(a) of the NGPA (15 U.S.C. § 3311(a)) which sets out the formula for calculating the inflation adjustment factor applicable to the various categories of natural gas. Section 5(a) of the bill, more fully explained below, insets a new Section 101(a) in the NGPA which gives the Commission authority to set just and reasonable rates for all categories of natural gas.

Section 4(b) amends Sections 102(b), 103(b), 104(b), 105(b) and 109(b) of the NGPA (15 U.S.C. §§ 3312(b), 3313(b), 3314(B), 3315(b), and 3309(b)) to set new maximum lawful prices for five categories of natural gas. For any month beginning on or after the effective date of the Act, the prices of these categories shall be the maximum lawful price, per million Btu's, for such gas under the NGPA for the preceding month. These maximum lawful prices may be increased only if the Commission determines pursuant to Section 5(a) of the bill (new Section 101(a) of the NGPA) that any such increase is just and reasonable.

The categories of natural gas covered by Section 4(b) are (1) new natural gas and certain natural gas produced from the Outer Continental Shelf (Section 102); (2) natural gas produced from new, onshore production wells (Section 103); (3) natural gas dedicated to interstate commerce on November 8, 1978 and for which a just and reasonable rate under the Natural Act was in effect on that date (Section 104); (4) natural gas sold under intrastate contracts existing on November 9, 1978 (Section 105); and (5) categories of natural gas not covered by Section 102 through 108 of the NGPA (Section 109). The automatic inflation adjustments are eliminated for all of these categories of natural gas. In addition, the maximum lawful price for Section 102 natural gas no longer to be multiplied by the monthly equivalent of a factor equal to 1.04.

Sections 4(c) and 4(d) amend Sections 106(a) and 106(b) of the NGPA (15 U.S.C. §§ 3316(a) and (b)) to eliminate the automatic inflation adjustment to the maximum lawful prices for natural gas sold under interstate and intrastate rollover contracts. The maximum lawful price for such natural gas shall be the maximum lawful price under the NGPA for the month preceding the effective date of the Act. The price may be increased only if the Commission determines pursuant to Section 5(a) of the bill (new Section 101(a) of the NGPA) that such increase is just and reasonable.

Section 4(e) amends Section 107(b) of the NGPA (15 U.S.C. § 3317(b)) to set a new maximum lawful price for natural gas which the Commission has determined under Section 107(c)(5) of the NGPA (15 U.S.C. § 3317(c)(5)) is produced under conditions which present extraordinary risks or costs. The Commission has made such determination with respect to natural gas produced from tight sands. For such natural gas, the maximum lawful price shall be the maximum lawful price under the NGPA for the month preceding the effective date of the Act. The price may be increased only if the Commission determines pursuant to Section 5(a) of the bill (new Section 101(a) of the NGPA) that such increase is just and reasonable.

Section 3(f) of the bill amends Section 108(a) of the NGPA (15 U.S.C. § 3318(a)) to eliminate the monthly adjustments to the maximum lawful price for stripper well natural gas. For any month after the effective date of the Act, this price shall be the maximum lawful price for such natural gas for the preceding month. The automatic inflation adjustment and the adjustment made by multiplying the price by the monthly equivalent of a factor equal to 1.04 are eliminated This maximum lawful price may be otherwise increased only if the Commission determines pursuant to Section 5(a) of the bill (new Section 101(a) of the NGPA) that such increase is just and reasonable.

JUST AND REASONABLE CEILING PRICES

Section 5(a) of the bill inserts into the NGPA a new section 101(a) (15 U.S.C. § 3311(a)) to give the Commission authority to permit an increase in the maximum lawful price for any category of natural gas and to set new maximum lawful prices in the case of certain natural gas subject to Section 107 of the NGPA, as amended by this Act. The Commission can permit an increase or set a new maximum price only if it determines that such increase or price is just and reasonable within the meaning of the Natural Gas Act and is based upon the costs of production which have occurred for the category of natural gas involved, or upon increases in such costs. The Commission is specifically prohibited from considering the costs of fuels and commodities other than the fuels and commodities actually used in producing the natural gas involved when making its just and reasonable determination.

The Commission is required to prescribe new maximum lawful prices pursuant to the standards set out in Section 5(a) for each category of high-cost natural gas described in Section 107(c)(1)-(4) of the NGPA (15 U.S.C. § 3317(c)(1)-(4)): (1) natural gas produced from a depth of more than 15,000 feet; (2) natural gas produced from geopressured brine; (3) occluded natural gas produced from coal seams; and (4) natural gas produced from Devonian shale. These new maximum lawful prices will apply to natural gas produced from wells the surface drilling of which commence after the date of enactment of the Act.

Under Section 5(a), the Commission is also required to prescribe a rule setting forth its standards for making just and reasonable determinations not later than six months after the effective date of the Act. Section 5(a) prescribes additional procedures for setting these standards and requires the Commission to set out specifically those costs of production which will enter into its just and reasonable determinations. The rule setting just and reasonable standards shall not take effect until after 30 calendar days of continuous session of Congress have elapsed. This will allow Congress an opportunity to review the rule.

Section 5(a) also expressly prohibits the application of the special adjustments set forth in Section 502(c) of the NGPA (15 U.S.C. §3412(c)) to any just and reasonable determination.

Section 5(b) strikes out Section 106(c) of the NGPA (15 U.S.C. §3316(c)). The Commission's authority under Section 5(a) of the bill (new Section 101(a) of the NGPA) to permit increases in the maximum lawful prices of interstate and intrastate rollover contracts which are just and reasonable makes Section 106(c) unnecessary.

HIGH-COST NATURAL GAS

Section 6(a) makes clear that the repeal of Section 121(b) of the NGPA (15 U.S.C. §3331(b)) is not intended to reimpose controls on prices of high-cost natural gas under Section 107(c)(1)–(4) of the NGPA, which is produced from a well the surface drilling of which commenced on or before the date of enactment of the Act.

Section 6(b) amends Section 107(a) of the NGPA (15 U.S.C. §3317(a)) to prescribe maximum lawful prices for high-cost natural gas described in Section 107(c)(1)–(4) of the NGPA which is produced from a well the surface drilling of which commenced after the date of enactment of the Act. The maximum prices for such natural gas are to be determined by the Commission pursuant to the just and reasonable standard set out in Section 5(a) of the bill (new Section 101(a) of the NGPA). Once such price is set for any category of high-cost natural gas, it may be increased only if the Commission determines pursuant to Section 5(a) of the bill that such increase is just and reasonable.

Section 6(c) amends Section 107(c)(5) of the NGPA (15 U.S.C. §3317(c)) to revoke the Commission's authority to create new categories of high-cost natural gas.

PRODUCTION-RELATED COSTS PERMITTED ON CASE-BY-CASE BASIS

Section 7 of the bill amends Section 110(a)(2) of the NGPA (15 U.S.C. §3320(a)(2)) to require a seller for natural gas to petition the Commission if it seeks an adjustment in the maximum lawful price. The Commission is to apply the just and reasonable standard set forth in Section 5(a) (new Section 101(a) of the NGPA) to any such petition.

EFFECTIVE DATE

Section 8(a) of the bill sets an effective date as of the first day of the first calendar month beginning more than 30 days after the date of enactment of the Act. Section 8(b) applies the bill to any first sale, as defined in the NGPA, of natural gas delivered on or after the effective date regardless of the date of sale or the date of the contract.

EXCLUSION OF LESBIAN AND GAY FOREIGN NATIONALS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PHILLIP BURTON) is recognized for 10 minutes.

● Mr. PHILLIP BURTON. Mr. Speaker, today in this country which speaks to the world as the cradle of liberty, there is a provision of the law which denies the basic principle of freedom of travel and which discriminate against a group of human beings in an ugly act of official prejudice.

This law denies the right of entry to this country to lesbians and gay men—simply because of who they are.

It was originally a product of the hysteria of the McCarthy era. It has since been reaffirmed in the name of science, in the name of the public good, and in the name of morality. But its real origins lie in fear and ignorance and in that ancient scourge of humankind—prejudice.

From ancient times until the present, lesbians and gay men have made history, have contributed through politics and art and science to human progress.

This absurd and vicious law tells us that a Michelangelo could not have come to this country to teach art or, more recently, a W. H. Auden would have been excluded form speaking to Americans about poetry.

This is not a theoretical problem. This week in Washington, the International Gay Association is meeting. Today, we have heard some of them tell us of their experiences with this policy. They suffered humiliation, discrimination, and intolerable invasion of their personal rights. They were not statistics or faceless names of unknown people—they were sincere and intelligent and dedicated people—people I was proud to meet and to learn from.

As an American, I am dismayed that the members of this organization, wishing to meet freely in a free country, needed to discuss in their native countries how to protect themselves from immigration authorities here. Our policy requires that lesbians and gay men hide, that they deceive American authorities. Indeed, its insidiousness is illustrated by the fact that it requires invisibility—the very factor that lesbians and gay men have been struggling to overcome, a fundamental issue in their movement.

I am outraged, as are all decent Americans, that the good people who have come here for this meeting, should have done so at the risk of arrest and deportation and that they felt fear at our border.

Many of us in this country and in this Congress believe that the policy of excluding lesbians and gay men is an affront to decency and an obvious denial of basic human rights and of the principles on which this country was founded.

We in Congress must repeal this law, must wipe it off the books, and with this action we must end forever the time when this country closes its borders to lesbians and gay men.

The testimony of Greg Day and Dr. David Kessler, both of whom testified at the July 14 congressional briefing on INS policy, are included below:

TESTIMONY OF GREG DAY, PRESIDENT OF THE BOARD OF DIRECTORS OF THE LESBIAN GAY FREEDOM DAY COMMITTEE, SAN FRANCISCO AND REPRESENTATIVE FOR GAY ACTIVISTS CARL HILL

Representative Dixon, other Members of Congress, Delegates from the International Gay Association, and guests: My name is Greg Day. I am President of the Board of Directors of the Lesbian/Gay Freedom Day Committee in San Francisco and coordinator of and plaintiff in the Lesbian-Gay Freedom Day Committee's successful suit against the anti-Gay U.S. Immigration Law. I am a member of the Board of Directors of the San Francisco International Lesbian and Gay Film Festival and Vice President of Stonewall Gay Democratic Club. I am also an official representative for British Gay activist Carl Hill who has recently completed a successful three year legal battle against the U.S. Immigration and Naturalization Service.

In my statement this morning I will present evidence of the extreme hardship this current policy of exclusion of Lesbian and Gay non-citizens poses for both U.S. citizens and our guests from other countries. I will also give an overview of two important legal challenges to this current INS policy by Carl Hill and the Lesbian Gay Freedom Day Committee.

I would like to begin this presentation with a comment on Professor Charles Gordon's statement against section 121 of the proposed Simpson-Mazzoli Bill, which gives complete authority to INS inspectors to exclude non-citizens without the current right of appeal. As I understand it this is the current system used in the United Kingdom by border officials to selectively exclude people of color and other minority groups. In 1981 this procedure was used on a least two occasions to exclude Gay United States citizens arriving at London airport from San Francisco. Although the United Kingdom does not have a written policy of excluding homosexuals these two individuals were questioned at length about their sexual orientation, and relationship to their spouse with whom they were traveling and then excluded. The current right to an appeal before the INS court is essential to protect against anti-Gay discrimination by INS inspectors at the border.

Each year thousands of Gay and Lesbian visitors enter the United States from every country in the world. They come as tourists, as the relatives and friends of U.S. citizens, as business people, scholars, artists, and other specialists. In short, they enter the United States for every purpose the heterosexual visitors enter.

The United States is the only country in the world which has a policy of exclusion and deportation of Lesbian and Gay foreigners. This is the only country in the world which routinely and arbitrarily questions entering visitors about the most private details of their romantic and sexual lives.

This policy violates the privacy and human rights of non-citizens and the right of U.S. citizens to invite people from other countries to visit the United States regardless of their sexual orientation. It violates our Constitutional right to association and

political discourse with Gay and Lesbian citizens of other countries.

Since its implementation in the 1950's, the INS has used this policy to exclude hundreds and possibly thousands of Lesbian and Gay visitors. The INS has used this policy selectively to exclude those individuals who have the least economic and political resources to fight the law. The primary victims have been poor people, people who do not speak or understand English, people of color, women and the small percentage of Lesbians and Gay men who do not conform in their dress or mannerisms to the traditional sterotypes of gender. Noticeably missing from the list of those excluded are publicly known Gay government officials, scientists, artists and wealthy individuals from other countries.

The INS has throughout the history of this law enforced exclusionary procedures in a manner that has obscured the full record. In implementing this policy the INS has followed a procedure of informing suspected homosexuals at the border that they have only two choices: (1) to request a hearing by the INS where they will be found to be homosexual and excluded forever from the United States, and (2) to withdraw their request for entry and return to their home country and thereby retain the right to reenter the United States again at a future time. Those who withdraw their application to enter the United States are not recorded by the INS as having been excluded or as being a suspected homosexual. Faced with seemingly unbeatable odds few individuals have chosen to stay and fight for their rights.

This policy has been used selectively at points of entry to reinforce regional patterns of racial discrimination. In California a disproportionate number of people arriving from Mexico have been singled out as homosexual and excluded from entry.

In August of 1979 two Mexican tourists were excluded for being Gay at San Francisco Airport. Again in 1979 Jaimie Chavez, a clothing designer from Mexico City was stopped at San Francisco Airport, strip searched, and held incommunicado for several days before being allowed to contact an attorney. Chavez was accused by INS officials of being Gay because they found dresses in his luggage that he was delivering to a wealthy woman client in San Francisco. In June of 1981, during Gay Pride Week, a U.S. citizen of Hispanic descent returning from a vacation in Mexico was held by INS officials at San Francisco Airport and threatened with exclusion because of Gay printed material found in his luggage. While being detained he was informed by Mexicana Airlines personnel that the INS had excluded many Gay people arriving from Mexico during Gay Pride Week.

In 1979 over two hundred Canadian women were stopped and excluded at the U.S. border for being homosexual. INS officials stated that the fact that "they were traveling in the company of other women . . ." was proof of their homosexuality. These women were entering the United States to attend the Michigan Women's Music Festival, which had been advertised locally as a feminist and pro ERA event.

On May 5, 1981, Phillip Fotheringham, a dual citizen of both Canada and United Kingdom, was stopped at John F. Kennedy International Airport in New York, identified as Gay by INS officials and forced to return to London. Singled out initially for financial reasons, Mr. Fotheringham was subjected to humiliation and invasion of privacy when eight INS officials read in his presence excerpts from his personal diary and letters from his lover which indicated his sexual orientation. This was in direct violation of the current INS policy of excluding only those non-citizens who made an unsolicited statement that they were homosexual.

On June 13, 1979, Carl Hill, a British Gay activist and journalist, was stopped at San Francisco airport for wearing a button which stated "Stonewall 69, Gay Pride 79" in commemoration of the tenth anniversary of the Stonewall Rebellion and London's Gay Pride Celebration. Hill was traveling with his spouse of fifteen years Michael Mason. It was their first visit to the United States and they had come to document the annual Gay Freedom Day Parade for Gay News a national British newspaper.

Carl Hill was questioned at length about his sex life, and his relationship to Michael Mason. He admitted to being Gay and chose to be paroled into the country to await a hearing and to be given a medical examination by the U.S. Medical Service as required by Congress to prove that he was "afflicted with psycopathic personality and or sexual deviancy." Hill sought the legal aide of Gay Rights Advocates and began a three year legal battle against the INS.

On June 19, 1979, Judge Stanley Weigel issued a temporary restraining order against U.S. Surgeon General Julius Richmond prohibiting the administration of psychological testing of Hill. On June 24th Carl Hill and Michael Mason marched at the front of the Lesbian/Gay Freedom Day Parade in San Francisco. In August of 1979, Surgeon General Richmond issued a directive to the Public Health Service to no longer conduct medical examinations of homosexual aliens.

In September of 1980 the Justice Department issued new operating instructions to INS inspectors to exclude only those Lesbians and Gay men who made an "unsolicited, and unambiguous admission of homosexuality," or who are "identified by a third party as homosexual." In November of 1980 Carl Hill returned again to San Francisco to challenge the new INS exclusionary procedures. Hill declared to INS inspectors at the airport that he was Gay and was paroled into the country and ordered to appear before a federal immigration judge. Judge Bernard J. Hornbach declared the INS statue "long outdated" and unenforceable and the Public Health Service medical examiners may no longer test for this non-disease. INS attorneys appealed and in July of 1981 the Board of Immigration Appeals declared the current exclusionary procedure valid.

In June of 1981, Mary Dunlap, attorney for the Lesbian/Gay Freedom Day Committee filed suit in Federal District Court for an injunction against enforcement of the INS exclusion of Lesbian and Gay foreigners. The Committee, which produces San Francisco's annual Gay Pride Parade and Celebration, had invited Gay British Rock Star Tom Robinson and Mexican Gay activist Ignacio Alveras to participate. Also expected to attend were several thousand Lesbian and Gay visitors from Europe, Latin America and Asia.

On June 23, 1981, Tom Robinson arrived at San Francisco Airport wearing a "Let Gays IN" T-shirt. Robinson asked INS officials if they had a policy of excluding Gay foreigners and they replied "no." On June 24th, Federal District Judge Robert P. Aguilar issued a preliminary injunction prohibiting enforcement of the INS law excluding homosexuals in the Northern District of California. Aguilar stated that the first amendment rights of U.S. citizens to intellectual companionship and colleagiality with Gays and Lesbians from outside the United States may outweigh government interests.

In April of 1982 attorneys Jeff Appleman and William Dillingham petitioned Judge Aguilar to hear Carl Hill's case as "related" to the Lesbian/Gay Freedom Day Committee case currently before him. Aguilar agreed and Carl Hill returned to San Francisco for the third round in this legal battle. On June 17, 1982, Judge Aguilar issued a written ruling on both the Hill and Committee cases. Aguilar stated that the current INS procedure for the exclusion of homosexual non-citizens does not follow the intent of Congress. He stated that Carl Hill cannot be excluded from the United States without a medical examination to determine sexual deviancy and or psycopathic personality opinion does not consider homosexuality to be a medical disorder, psychopathic personality, or sexual deviation.

Following Judge Aguilar's decision INS attorney Michael Tonsing issued a formal letter to Carl Hill welcoming him to the United States as a "visitor for pleasure. . ." and stating that the INS would not issue new exclusionary proceedings against him.

In the Lesbian/Gay Freedom Day Committee Case Aguilar declared that: ". . . The INS policy of per se exclusion of homosexual aliens from entry into the United States . . . is invalid as contrary to Congressional intent, and as unconstitutionally abridging plaintiffs' First Amendment rights." . . . "Plaintiffs seek to engage in discussion and exchange with homosexual aliens. They seek to share information and ideas relating to the laws and attitudes regarding homosexuality in other countries in order to better deal with the laws and attitudes toward homosexuals in the United States. Through this sharing process plaintiffs also seek to improve the political position of homosexual groups in the United States and to gain greater public acceptance for homosexual persons in the United States. There are well recognized and compelling First Amendment interests."

On July 16, 1982 Judge Aguilar ruled that the preliminary injunction against this INS policy be made permanent and in effect throughout the United States. If the INS does not receive a stay, this injunction will go into effect July 26, 1982 and remain in effect until such time that any appeals by the INS are decided in Federal court.

Testimony of the American Psychiatric Association

Mr. Chairman and Distinguished Members of the Committee: I am David R. Kessler, M.D., and am currently Associate Clinical Professor of Psychiatry at the University of California School of Medicine in San Francisco, and am staff psychiatrist at the Langley Porter Psychiatric Institute there. I am also the immediate past President of the Caucus of Gay, Lesbian, and Bisexual Members of the American Psychiatric Association, and past President of the Bay Area Physicians for Human Rights.

The American Psychiatric Association, a medical specialty society representing over 27,000 psychiatrists nationwide, appreciates the opportunity to testify at this special congressional briefing to discuss some of the psychiatric issues related to the existing immigration laws, which currently exclude for-

eign lesbians and gay men from our country. Indeed, we appreciate the legislative intent of H.R. 3524 to reverse the current exclusionary policy of the U.S. Immigration and Naturalization Service toward lesbians and gay men on the basis that such individuals suffer from a psychiatric disorder, mental defect or disease.

First, because the label of mental illness has been used as part of the rationale to justify the exclusion of gay and lesbian aliens, it is important at the outset to clarify the current position of the American Psychiatric Association regarding homosexuality.

In December, 1973, the American Psychiatric Association, based on careful study of the scientific evidence regarding homosexuality, ruled that homosexuality was no longer to be listed as a mental disorder in its official classification of psychiatric diagnoses. The APA concluded that many homosexuals "show no significant signs of psychopathology," and "are able to function effectively in society."

Furthermore, homosexuality did not meet the criteria necessary for a psychiatric disorder since it did not "either regularly cause emotional distress" nor was it "regularly associated with generalized impairment of social functioning." Indeed, the American Psychiatric Association deplores all public and private discrimination against homosexuals and supports and urges the enactment of civil rights legislation that would ensure homosexuals the same protections now guaranteed to others on the basis of race, creed, color, etc.

This policy remains unchanged as the official position of the APA to this day. Since 1974, homosexuality has been specifically excluded from the APA's official and authoritative compendium of psychiatric conditions: "The Diagnostic and Statistical Manual of Mental Disorders." Currently, the third edition of this manual (DSM-III) reaffirms that "homosexuality itself is not considered a mental disorder," and homosexuality per se is not included as a psychiatric diagnosis.

The APA has repeatedly and publically been on record as being strongly opposed to all discrimination against gay men and lesbians that is based solely on their homosexuality.

Moreover, the 1981 APA edition of "The Principles of Medical Ethics with Annotations Especially Applicable to Psychiatry" states: "A psychiatrist should not be a party to any type of policy that excludes, segregates, or demeans the dignity of any patient because of ethnic origin, race, sex, creed, age, socio-economic status, or sexual orientation."

Several leaders of American psychiatry have spoken out vigorously in the past on what they considered the potential misuse of psychiatrists for political purposes in helping to exclude aliens by labeling them as homosexuals.

In addition to the erroneous belief that homosexuality constituted some form of mental illness, there have been other important misconceptions regarding homosexuality. Among the most salient is the mistaken idea that human beings can easily be divided into two groups on the basis of whether they are heterosexual or homosexual. This simplistic notion overlooks the complexities of any one individual's sexual orientation or behavior, which may vary over the course of one's lifetime.

Research studies have indicated, for example, that 50 percent of American men have at some time in their lives been involved in homosexual behavior or fantasy. Does that make them all "homosexuals"?

General agreement and clarity on the definition of who is a homosexual is lacking. Even the terminology varies. While some use the term "homosexual" others prefer to use the word "gay" or "lesbian". The word "homosexual" may be used variously to describe a person's same-sex fantasies, actual sexual behavior, or expressed sexual preference. Or it may be used as a label to indicate that an individual belongs to a certain category. Often all of these factors match up in any one individual, but often enough they do not. What label, for example, should we apply to a married woman, in a sexually faithful relationship with her husband, whose sexual fantasies are occasionally or even predominantly homosexual? What about those people who choose to remain celibate, and yet are aware of homosexual arousal? Or those who engage in homosexual behavior, but only for situational and self-serving reasons?

Just as there is no universally agreed-upon definition of who is a "homosexual," there is also no objective diagnostic or screening examination that will detect homosexuals. Psychological testing cannot distinguish between gays and non-gays. Identification is dependent upon the individual's self-report, or on the statements or allegations of others. Psychiatrists, sex researchers, and even gay people themselves can correctly spot only a small proportion of concealed homosexuals. Reliance, for example, on "effeminacy" in men as a criterion would mean that the majority of "masculine" gay males would be overlooked and many non-gay men would be falsely labeled. Cross-dressing is another notoriously inaccurate indicator, since the overwhelming majority of male transvestites are heterosexual, and on the other hand most women in our culture at least occasionally wear slacks.

Concern is sometimes expressed that gay people are child molesters. The truth is that there is nothing about homosexuality per se that is connected with the sexual abuse of children. Indeed, most such abuse takes place inside the family setting, and occurs mainly between fathers and daughters. Overall, heterosexual males account for at least 90% of molestation of minors. Being a sexual abuser of children is much more highly correlated with being a male than with being a homosexual.

Some people feel that gays who are open should not be available as "role models" lest children, or even adults, be themselves induced to become gay. It would be astounding indeed if a small handful of identified gays could so easily overcome the influence of the family and the overwhelming preponderance of the population that is not gay. Surely heterosexuality is not that fragile or unattractive. In fact, the development of a homosexual orientation is not dependent on knowing or identifying with any other gay person. Most gay people report that they became aware of their gayness long before they ever knew of any other gay person's existence.

It should also be recognized that one is not seduced into becoming gay. Homosexual arousal typically is experienced years prior to any physical expression of it. Whatever may lead to a later pattern of predominant homosexuality, one's basic sexual orientation will not be reversed by seduction. There are no proselytizing or recruitment techniques that will convert straights into gays. A homosexual orientation is no more consciously chosen than is a heterosexual one, and the probability of changing a gay into a straight is about as remote as going in the reverse direction.

In the last decade, there has been a dramatic growth in information about homosexuality. Concomitantly a remarkable change in public attitudes toward homosexuality has taken place.

We now recognize that there is no one way of being homosexual. There is at least as much diversity among homosexuals as there is among heterosexuals. Merely knowing that someone is gay or lesbian tells us very little about the quality and characteristics of that person's life.

We have learned that homosexuality if not inevitably associated with any type of psychiatric pathology, and that a person's psychological, social or vocational functioning is not directly related to sexual orientation.

No longer a taboo topic, homosexuality has emerged as a recognized part of human existence. It has received increasing attention from the communications media, and has been a productive area for scientific research. As more gay people have made themselves known, the old negative stereotypes of who and what homosexuals are have become less firmly entrenched. In numerous scientific, religious, business, academic, and professional organizations, openly gay people have been welcomed and encouraged to make their respective contributions. In our own Association, for example, openly gay members participate as part of the official structure, and at the annual meetings, as well as in several of the local constituent District Branches.

Any progress that the Congress can make toward achieving full human and civil rights for gay men and lesbians will be of considerable benefit in helping to attain the improved psychological and social well-being of all people.

In closing I would note that we are most appreciative of the legislative intent of H.R. 3524 to prohibit the exclusion of foreign lesbians and gay men from our country, but note that it is important to understand how easily such intent could be subverted as the bill is presently written. Accordingly, we welcome the opportunity of working with the Congress to provide the necessary medical expertise to eliminate this possibility.

We are grateful for the opportunity to appear here today, and are pleased to respond to any questions that you may have.●

TRIBLE STUDENT ASSISTANCE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. TRIBLE) is recognized for 15 minutes.

Mr. TRIBLE. Mr. Speaker, many of us in Congress are concerned about the rising cost of higher education and the uncertainty that surrounds Federal support for student assistance. The rapidly growing cost of college tuition and fees place an increasing burden on families who want to provide a college education for their children. According to the House Committee on Education and Labor's Subcommittee on Postsecondary Education, tuition rose 13 percent for private schools and 14 percent for public higher education in-

stitutions during the 1981-82 school year.

At the same time, large Federal deficits require restraint by the Federal Government. With the budget deficit expected to reach an unacceptably high $109 billion, the Federal Government cannot provide significant increases in student assistance.

This situation calls for a new approach, one which reconciles the substantial benefits to our society from student aid with the stark reality of our fiscal problems.

Today, I am introducing legislation which will encourage voluntary support of Federal student assistance. This bill can provide significant amounts of student aid without an adverse effect on Federal revenues or the Federal budget deficit.

My bill would allow taxpayers to contribute part of their income tax refunds—$10 on an individual tax return, or $20 on a joint return—to support existing Federal programs of financial assistance for postsecondary education.

The plan itself is quite straightforward. A taxpayer who was due a refund would check a box at the end of his income tax form. He would specify how much of his refund—up to $10, or $20 on a joint return—he wished to contribute to student financial assistance.

In addition, because the funds for the assistance will be drawn from income tax refunds, there would be no revenue loss from this proposal. The budget deficit will not be increased. This has been confirmed by the Joint Committee on Taxation.

Amounts designated would be used to fund programs authorized under title IV of the Higher Education Act of 1965. These loans, grants, and work study programs all aid postsecondary students to meet college costs. These programs include guaranteed student loans, Pell grants, national direct student loans, supplemental education opportunity grants, and student incentive grants. The donor could, if he wished, specify which program he wished to support.

If the taxpayer does not specify a program, contributions would be allocated by the Secretary of Education among the title IV programs. All contributions would then be dispersed as student aid using established program eligibility criteria.

Many of the title IV programs such as Pell grants and "campus-based aid" provide financial support on the basis of need. This bill will encourage voluntary support of needy and deserving students. Moreover, new aid will be available to moderate-income families through guaranteed student loan programs. This will enable these families to manage the high cost of college education.

How much assistance could be available from the Trible bill? Statistics for the taxable year 1980 suggest a potential of raising $1 billion or more each year. In 1980, 68.4 million returns were eligible for refunds. Of this total, 29.4 million were joint return and 39 million were individual. If all those filling a joint return contributed the maximum $20 and every individual contributed $10, the $976.7 million would have been raised. And as the number of taxpayers and refunds increases the amounts raised would also increase. Should the maximum amount be realized, it would increase funds available for student assistance by approximately one-sixth.

Quite clearly, the potential for increasing student aid is substantial. I believe that most taxpayers will be willing to make modest contributions to this worthy cause.

I believe all the friends of higher education in the Congress can support the Trible voluntary student aid bill and I urge them to do so.●

UPDATE ON RECONCILIATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, as you know, nine House committees are currently working to meet the reconciliation instructions contained in the first budget resolution. That resolution called for over $6 billion in outlay reductions and over $20 billion in revenue increases to be achieved through the reconciliation process. The following is an update on action taken by committees so far:

RECONCILIATION UPDATE—REDUCTIONS DIRECTED UNDER RECONCILIATION FISCAL YEAR 1983

[In millions of dollars]

House committee	Budget authority	Outlays	Committee action
Agriculture	779	779	On July 20, the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition met, achieving savings of $206,000,000 in the food stamp program. The Subcommittee on Livestock, Dairy, and Poultry and the Subcommittee on Wheat, Soybeans, and Feed Grains are scheduled to meet July 22 to consider changes in the dairy and wheat and feed grain programs. A meeting of the full committee is expected next week.
Armed Services	213	213	Armed Services Committee has been involved in the Defense authorization bill on the floor. They are, however, expected to recommend linkage with action on civil service COLA.

RECONCILIATION UPDATE—REDUCTIONS DIRECTED UNDER RECONCILIATION FISCAL YEAR 1983—Continued

[In millions of dollars]

House committee	Budget authority	Outlays	Committee action
Banking, Finance, and Urban Affairs.	.....	695	A full committee markup session has been scheduled for Tuesday, July 27. The basis for markup will be legislation introduced July 21 to reduce salaries and expenses authorizations in the Banking Committee jurisdiction in addition to taking credit for legislation already approved by the House.
Energy and Commerce	513	674	On July 16, 1982, the Health Subcommittee held hearings on reconciliation in the medicaid program. A markup schedule is expected within the next 2 weeks.
Foreign Affairs	.....	2	The committee plans to recommend linkage with action on civil service COLA.
Merchant Marine and Fisheries.	4	4	The Merchant Marine and Fisheries Committee plans to recommend linkage with action on civil service COLA.
Post Office and Civil Service.	.....	376	The committee on July 21 marked up H.R. 6785 which makes reconciliation savings of $33,000,000 by rounding down civil service annuities and changing retirement eligibility dates for voluntary retirements. In addition, a 4-percent cap on Federal pay is made a "floor" as well as a ceiling. No cap on retirement COLA was recommended. The committee will seek a rule next week. The Budget Committee will recommend that an amendment be permitted the minority to place a 4-percent cap on retirement COLA's pursuant to reconciliation instructions.
Veterans' Affairs	77	77	The committee reported its reconciliation savings on July 22. The reconciliation provisions are included within COLA legislation for veterans with service connected disabilities. The committee intends to bring the bill to the floor on July 27.
Ways and Means (revenues $20,900).	593	3,755	Ways and Means has not yet met to markup a revenues package, although it is expected to do so this week. However, the full committee did vote to increase the Federal unemployment tax July 15, which would raise $1.4 billion in fiscal year 1983. The committee has approved deficit reductions for fiscal year 1983 of $5.3 billion in health and income security programs.

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□ 1920

LETTER TO PRESIDENT REAGAN ON LONG-TERM GRAIN AGREEMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. McEWEN), is recognized for 10 minutes.

Mr. McEWEN. Mr. Speaker, the current U.S.-U.S.S.R. long-term grain agreement expires on September 30, 1982. President Reagan has indicated that he will soon decide what course of action he will take in negotiations for a new agreement.

In the interests of rural America this agreement must be extended and

higher levels of grain sales to the Soviet Union should be allowed.

The current long-term agreement was signed in 1975 and originally ran from October 1976 until September 1981. Last August it was extended for another year. The agreement requires the Soviets to buy at least 6 million tons of American grain each year and allows them to purchase up to 8 million tons of grain without consultations with American officials. The United States is not allowed to disrupt the shipment of the 8 million tons. Under the agreement the Soviets are required to purchase grain in an orderly manner. Without a new grain agreement we could return to the situation of the early seventies where unrestricted Soviet purchases of American grain caused severe market disruptions in the United States.

Today the American farmer is faced with low prices and a tremendous grain surplus that promises to continue to depress prices for sometime to come. The yearly carryover of grain stocks is projected to rise from approximately 80 million tons average to over 100 million tons this year. To assist our farmers, we have to allow them to aggressively market their products overseas. Soviet grain imports have risen to 45 million tons annually and now total nearly 20 percent of world grain trade. Our ability to sell to the Soviets is a key point in our attempt to return to prosperity in rural America.

In December 1981, President Reagan suspended negotiations on a new long-term grain agreement with the Soviets in response to the imposition of martial law in Poland. That postponement has served its purpose. A new agreement would not reduce the President's flexibility for future sanctions against the Soviets. The law now requires that an embargo would have to cover all Soviet-American trade and the President has stated that a new embargo would be imposed only with the cooperation of our allies and under the most extreme circumstances. Any further delay in implementing a new agreement will have far worse consequences for American farmers than for the Soviet Union.

In recognition of these facts nine members of the House Republican Agriculture Task Force, which I chair, have sent a letter to President Reagan to urge him to resume negotiations on a new long term grain agreement with the Soviet Union and to further request that he raise the limits on the amount of grain that we are allowed to sell to them. As representatives of rural America we eagerly await his decision on further negotiations for a new agreement.

REPUBLICAN RESEARCH COMMITTEE,
U.S. HOUSE OF REPRESENTATIVES,
Washington, D.C., July 7, 1982.

President RONALD REAGAN,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: As members of the Task Force on Agriculture of the House Republican Research Committee, we are writing to urge you to resume negotiations with the Soviet Union on a new long-term grain agreement.

We feel that it is vital to the interests of the American economy and the American farmer that a new agreement be concluded promptly. This year while American farmers have a tremendous grain surplus, the Soviet Union is faced with another potentially disastrous crop. A new long-term grain agreement is a vital tool in alleviating our burdensome grain surplus by increasing our sales abroad.

We also believe that any new agreement should relax restrictions on the total amount of grain that can be sold to the Soviet Union. Higher sales limits could stir greater Soviet purchases of American grain. Greater American grain export sales can only help to revitalize the American rural economy.

As representatives of rural America we eagerly await your decision on further negotiations for a long-term grain agreement.

Sincerely,

BOB MCEWEN, M.C.
HAL DAUB, M.C.
ARLEN ERDAHL, M.C.
EDWARD MADIGAN, M.C.
MICHAEL OXLEY, M.C.
VIN WEBER, M.C.
COOPER EVANS, M.C.
SID MORRISON, M.C.
CLINT ROBERTS, M.C.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. RAHALL (at the request of Mr. WRIGHT), after 7 p.m. today and for the week of July 26, on account of official business.

Mr. BARNES (at the request of Mr. WRIGHT), for July 22 and 23, 1982, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. GREGG) to revise and extend their remarks and include extraneous material:)

Mr. PARRIS, for 30 minutes, on July 27.

Mr. TRIBLE, for 15 minutes, today.

(The following Members (at the request of Mr. BEDELL) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. PANETTA, for 5 minutes, today.
Mr. GAYDOS, for 60 minutes, July 27.
Mr. BENJAMIN, for 60 minutes, July 27.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mrs. SCHROEDER, during debate on binary weapons, after statement of Mr. STRATTON today.

Mr. MONTGOMERY, on the Bedell amendment, immediately following remarks of Mrs. BOGGS in the Committee of the Whole today.

(The following Members (at the request of Mr. GREGG) and to include extraneous matter:)

Mr. COUGHLIN.
Mr. PORTER.
Mr. PAUL.
Mr. DERWINSKI in three instances.
Mr. DAVIS.
Mr. RUDD.
Mr. JOHNSTON.
Mr. WORTLEY.
Mr. LENT.
Mr. HYDE.
Mr. LAGOMARSINO in two instances.
Mr. FIELDS in two instances.
Mr. SHUMWAY.
Mr. FINDLEY.
Mr. DANIEL B. CRANE.
Mrs. HOLT.
Mr. SENSENBRENNER.
Mr. BEARD.
Mr. DUNCAN.
Mr. WEBER of Minnesota.

(The following Members (at the request of Mr. BEDELL) and to include extraneous matter:)

Mr. NICHOLS.
Mr. UDALL.
Mr. MAZZOLI in two instances.
Mr. VENTO in two instances.
Mr. RODINO.
Mr. BONER of Tennessee.
Mr. RICHMOND.
Mr. FORD of Michigan in two instances.
Mr. HARKIN.
Mr. PEASE.
Mr. EDGAR.
Mr. SIMON.
Mr. HAWKINS.
Mr. MOFFETT.
Mr. MICA.
Mr. JOHN L. BURTON.
Mr. SKELTON.
Mr. BONKER.
Mr. DYSON.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2250. An act to amend the Disaster Relief Act of 1974, and for other purposes; to the Committee on Public Works and Transportation.

ADJOURNMENT

Mr. BEDELL. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 23 minutes p.m.), the House adjourned until tomorrow, Friday, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4417. A letter from the Director, Federal Emergency Management Agency, a report that the Agency acquired no real property during the quarter ended June 30, 1982, pursuant to section 201(h) of the Federal Civil Defense Act of 1950, as amended; to the Committee on Armed Services.

4418. A letter from the Assistant Secretary of the Navy (for Shipbuilding and Logistics), transmitting notice of the Navy's intention to study the conversion from in-house operation to commercial contracts of various functions at sundry locations, pursuant to section 502(a) of Public Law 96-342; to the Committee on Armed Services.

4419. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-219, "Enclosed Sidewalk Cafe Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4420. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-221, "International Banking Facilities Tax, District of Columbia Redevelopment Act of 1945 Amendment, and Cable Television Communications Act of 1981 Technical Clarification Amendment Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4421. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-218, "Unemployment Trust Fund Revenue and Conformity Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4422. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-220, "Drug Paraphernalia Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4423. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-222, "George Washington University Higher Education Facilities Revenue Note Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4424. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-223, "D.C. Bail Amendment Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4425. A letter from the Attorney General, transmitting notice of the Justice Department's decision not to defend the constitutionality of section 21(a) of the Federal Trade Commission Act, 15 U.S.C. section 57a-1(a) and Senate Concurrent Resolution 60, in the action filed in the U.S. District Court for the District of Columbia, *Consumers Union of the U.S., Inc. and Public Citizen, Inc.* v. *United States Senate and United States House of Representatives and Federal Trade Commission*, pursuant to section 21 of Public Law 96-132; to the Committee on Energy and Commerce.

4426. A letter from the Acting Director, Defense Security Assistance Agency, transmitting the quarterly report for the period ending June 30, 1982, of the price and availability of certain defense articles, pursuant to section 28 of the Arms Export Control Act; to the Committee on Foreign Affairs.

4427. A letter from the Principal Deputy Assistant Secretary of Defense (Comptroller), transmitting a list of contract award dates for the period July 15, 1982, to October 15, 1982, pursuant to 10 U.S.C. 139(b); to the Committee on Armed Services.

4428. A letter from the Comptroller General of the United States, transmitting a list of reports issued or released by the General Accounting Office during June 1982, pursuant to section 234 of the Legislative Reorganization Act of 1970; to the Committee on Government Operations.

4429. A letter from the Executive Director, Marine Mammal Commission, transmitting a report on the Commission's activities under the Freedom of Information Act during calendar year 1981, pursuant to 5 U.S.C. 552(d); to the Committee on Government Operations.

4430. A letter from the Chairperson, Commission on Wartime Relocation and Internment of Civilians, transmitting a report of its findings and recommendations, pursuant to section 4(c) of Public Law 96-317; to the Committee on the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 4365. A bill to provide that per capita payments to Indians may be made by tribal governments, and for other purposes; with an amendment (Rept. No. 97-652). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 474. Resolution to disapprove the historic preservation fund deferral (Rept. No. 97-653). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 475. Resolution to disapprove the land and water conservation fund deferral (Rept. No. 97-654). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 476. Resolution to disapprove the urban park and recreation deferral (Rept. No. 97-655). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 479. Resolution to disapprove the strategic petroleum reserve deferral (Rept. No. 97-656). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 493. Resolution to disapprove the land acquisition, U.S. Fish and Wildlife Service deferral (Rept. No. 97-657). Referred to the Committee of the Whole House on the State of the Union.

Mr. YATES: Committee on Appropriations. House Resolution 494. Resolution to disapprove the construction and anadromous fish deferral (Rept. No. 97-658). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. ASHBROOK:

H.R. 6833. A bill to amend title 18, chapter 44, United States Code, to provide clarification of limitations on controls of the interstate movement of firearms, and to prohibit the use of Federal funds to political subdivisions which implement certain gun control ordinances; to the Committee on the Judiciary.

By Mr. HUGHES (for himself and Mr. HYDE):

H.R. 6834. A bill to amend the Congressional Budget Act to limit the growth of Federal spending and to achieve balanced budgets, and for other purposes; to the Committee on Rules.

By Mr. BONER of Tennessee:

H.R. 6835. A bill to provide for the establishment of a system to collect data on the geographic distribution of Federal funds; to the Committee on Government Operations.

By Mrs. BOUQUARD:

H.R. 6836. A bill to authorize the collection of funds for nuclear accident cleanup operations and for reimbursement of related research and development expenses; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs, and to the Committee on Science and Technology only for consideration of section 8.

By Mr. DAVIS:

H.R. 6837. A bill to amend title II of the Social Security Act to improve the administration of such title with regard to disability benefits; to the Committee on Ways and Means.

By Mr. FINDLEY (for himself and Mr. BONKER):

H.R. 6838. A bill to amend the Export Administration Act of 1979 to terminate certain export controls imposed on December 30, 1981, and June 22, 1982; to the Committee on Foreign Affairs.

By Mr. FINDLEY (for himself and Mrs. MARTIN of Illinois):

H.R. 6839. A bill to provide a program of emergency unemployment compensation for areas experiencing high rates of unemployment; to the Committee on Ways and Means.

By Mr. FRANK:

H.R. 6840. A bill to provide that the trademark law does not require that each drug be manufactured in a tablet which is unique as to its size, color, to the Committee on the Judiciary.

By Mr. HALL of Ohio:

H.R. 6841. A bill to provide that certain improvements in the Great Miami River, Ohio, shall not be subject to Federal review and approval; to the Committee on Public Works and Transportation.

By Mr. McCOLLUM (for himself, Mr. GLICKMAN, and Mr. SAM B. HALL, JR.):

H.R. 6842. A bill to insanity defense in the Federal courts; to the Committee on the Judiciary.

By Mr. McEWEN:

H.R. 6843. A bill to authorize the construction of such facilities as deemed necessary by the Secretary of the Army (acting through the Chief of Engineers) in the vicinity of Logan and Nelsonville, Ohio, for the purpose of providing adequate flood protection to this area; to the Committee on Public Works and Transportation.

By Mr. RICHMOND:

H.R. 6844. A bill to extend the food stamp program, and for other purposes; to the Committee on Agriculture.

By Mr. ROYBAL (for himself and Mr. LUDINE):

H.R. 6845. A bill to restrict the prepayment of loans made under section 202 of the Housing Act of 1959 for housing projects for the elderly and handicapped; to the Committee on Banking, Finance and Urban Affairs.

By Mr. SEIBERLING:

H.R. 6846. A bill to withdraw certain lands from mineral leasing, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mrs. SNOWE:

H.R. 6847. A bill to amend the Tariff Schedules of the United States to insure that potatoes imported as seed are not diverted for human consumption; to the Committee on Ways and Means.

By Mr. THOMAS:

H.R. 6848. A bill to amend the Internal Revenue Code of 1954 to provide that the windfall profit tax shall not apply to an amount of crude oil equal to the amount of residual fuel oil used in tertiary recovery processes; to the Committee on Ways and Means.

By Mr. TRIBLE:

H.R. 6849. A bill to amend the Internal Revenue Code of 1954 to supplement Federal funds for higher education by providing a procedure under which individuals may contribute with their income tax returns up to $10 of any refund for purposes of providing funds for Federal student financial assistance programs; to the Committee on Ways and Means.

By Mr. YOUNG of Missouri:

H.R. 6850. A bill to amend the Natural Gas Policy Act of 1978 to provide for continuation of price controls beyond 1985, to eliminate the monthly indexing of wellhead natural gas prices, to allow increases in such prices prior to the expiration of natural gas price controls only to the extent justified on the basis of increases in the cost of producing natural gas, and for other purposes; to the Committee on Energy and Commerce.

By Mr. STUDDS (for himself, Mr. MARKEY, and Mr. PANETTA):

H.J. Res. 545. Joint resolution prohibiting the Secretary of the Interior from implementing the 5-year Outer Continental Shelf oil and gas leasing plan until the Secretary has taken certain actions to conform the plan to the purposes and requirements of applicable law; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. BEARD (for himself and Mr. SMITH of Alabama):

H. Con. Res. 382. Concurrent resolution expressing the sense of the Congress that the Tennessee Valley Authority should not divert water from the Ocoee River, Tenn., for a minimum of 100 days per calendar year; to the Committee on Public Works and Transportation.

By Mr. ST GERMAIN:

H. Con. Res. 383. Concurrent resolution expressing the sense of the Congress that no new withholding tax should be imposed on interest and dividends; to the Committee on Ways and Means.

By Mr. FAUNTROY (for himself and Mr. McKINNEY):

H. Res. 532. Resolution to preserve and restore the first Town Hall of the city of Washington, D.C.—the historic Rhodes Tavern; to the Committee on the District of Columbia.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. TRIBLE introduced a bill (H.R. 6851) for the relief of Margaret McElhinney, which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 46: Mr. SMITH of New Jersey.

H.R. 2022: Mr. ROBERTS of South Dakota and Mr. DASCHLE.

H.R. 2091: Mr. BINGHAM.

H.R. 4147: Mr. ADDABBO.

H.R. 4829: Mr. MARKEY and Mr. REUSS.

H.R. 4928: Mr. HUGHES.

H.R. 4929: Mr. HUGHES and Mr. BONKER.

H.R. 5192: Mr. DOWNEY and Mr. JONES of North Carolina.

H.R. 5252: Mr. YOUNG of Alaska.

H.R. 5395: Mr. BENEDICT.

H.R. 5618: Mr. FRANK.

H.R. 5924: Mr. MARRIOTT.

H.R. 6021: Mr. PASHAYAN and Mr. GINGRICH.

H.R. 6142: Mr. MARLENEE.

H.R. 6163: Mr. JACOBS, Mr. CHAPPELL, Mr. HUGHES, and Mr. SIMON.

H.R. 6190: Mr. HUGHES, Ms. FERRARO, Mr. RINALDO, Mr. FITHIAN, Mr. SMITH of New Jersey, and Mr. FORD of Michigan.

H.R. 6239: Mr. BONIOR of Michigan.

H.R. 6298: Mr. ROBERTS of South Dakota.

H.R. 6342: Mr. LUNGREN, Mr. DeNARDIS, Mr. BIAGGI, Mr. LaFALCE, Mr. OTTINGER, and Mr. COURTER.

H.R. 6343: Mr. LUNGREN, Mr. DeNARDIS, and Mr. BIAGGI.

H.R. 6348: Mr. SOLOMON, Mr. STANGELAND, Mr. WAMPLER, Mr. STRATTON, Mr. WON PAT, Mr. BARNARD, Mr. McCOLLUM, Mr. DICKINSON, Mr. SHELBY, Mr. STENHOLM, Mr. SHAMANSKY, Mr. MARKEY, Mr. ROEMER, Mr. HIGHTOWER, Mr. BREAUX, Mr. LUJAN, Mr. ALEXANDER, Mr. JONES of North Carolina, Mr. GINGRICH, Mr. McDONALD, Mr. LONG of Louisiana, Mr. LEVITAS, Mr. EDGAR, Mr. PAUL, Mr. UDALL, Mr. TAUZIN, Mr. EVANS of Georgia, Mr. EDWARDS of Alabama, Mr. CONTE, Mr. GILMAN, Mr. HEFNER, Mr. GILMAN, Mr. DOWNEY, Mr. WALKER, Mr. BAILEY of Pennsylvania, Mr. BETHUNE, and Mr. WHITLEY.

H.R. 6467: Mr. BLILEY, Mr. GOODLING, Mr. WHITE, Mr. YOUNG of Missouri, Mr. QUILLEN, Mr. ZEFERETTI, Mr. LeBOUTILLIER, Mr. FIELDS, Mr. OBERSTAR, Mr. TRAXLER, Mr. SILJANDER, Mr. STANTON of Ohio, Mr. McKINNEY, Mr. DUNN, Mr. MICHEL, Ms. OAKAR, Mr. LOTT, Mr. DeNARDIS, and Mr. PRITCHARD.

H.R. 6616: Mr. ADDABBO.

H.R. 6684: Mr. MARTIN of North Carolina, Mr. PHILIP M. CRANE, Mr. ANTHONY, and Mr. BOWEN.

H.R. 6748: Mr. LAGOMARSINO, Mr. BROWN of Colorado, Mr. DANNEMEYER, Mr. LeBOUTILLIER, and Mr. EVANS of Georgia.

H.R. 6764: Mr. RATCHFORD, Mr. WALGREN, Mr. DIXON, and Mr. FLORIO.

H.R. 6782: Mr. MICA, Mr. GRAMM, Mr. DUNN, Mr. NELLIGAN, and Mr. JEFFRIES.

H.J. Res. 183: Mr. AKAKA, Mr. BEVILL, Mr. BUTLER, Mr. DE LA GARZA, Mr. FISH, Mr. FORD of Tennessee, Mr. FORSYTHE, Mr. FUQUA, Mr. GRADISON, Mr. HORTON, Mr. HUGHES, Mr. MARRIOTT, Mr. MATSUI, Mr. PRICE, Mr. ROE, Mr. ROSENTHAL, Mr. SABO, Mr. SMITH of Pennsylvania, Mr. VENTO, Mr. WON PAT, and Mr. YOUNG of Alaska.

H.J. Res. 438: Mr. FOGLIETTA and Mr. BEARD.

H.J. Res. 492: Mr. HOWARD, Mr. WINN, and Mr. JONES of Tennessee.

H. Con. Res. 255: Mr. ERDAHL.

H. Con. Res. 313: Mr. LANTOS, Mr. HUGHES, Mrs. HOLT, Mr. DYSON, Mr. ROE, Mr. HOYER, Mr. TAUKE, and Mr. FISH.

H. Con. Res. 314: Mr. DOUGHERTY, Mr. FRANK, Mr. KASTENMEIER, Mr. CHAPPELL, and Mr. WEAVER.

H. Con. Res. 330: Mr. GORE, Mr. McKINNEY, Mr. MOFFETT, Ms. FERRARO, Mr. FRENZEL, Mr. SABO, Mr. FASCELL, Mr. LOWERY of California, Mr. JONES of Oklahoma, and Mr. WOLF.

H. Con. Res. 354: Mr. MILLER of California and Mr. DWYER.

H. Con. Res. 379: Mr. ERTEL, Mrs. KENNELLY, Mr. SCHEUER, Mr. HYDE, Mr. CORCORAN, Mr. WYDEN, Mr. FROST, Mr. WAXMAN, Mr. MOAKLEY, Mr. SABO, Mrs. FENWICK, Mr. CORRADA, and Mr. BARNES.

H. Res. 522: Mr. RINALDO, Mr. WHITTAKER, and Mrs. ROUKEMA.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

525. By the SPEAKER: Petition of the Central Conference of American Rabbis, New York, N.Y., relative to registration and the draft; to the Committee on Armed Services.

526. Also, petition of the Central Conference of American Rabbis, New York, N.Y., relative to Federal budget cuts; to the Committee on Banking, Finance and Urban Affairs.

527. Also, petition of the Central Conference of American Rabbis, New York, N.Y., relative to nuclear weapons; to the Committee on Foreign Affairs.

528. Also, petition of the Central Conference of American Rabbis, New York, N.Y., relative to American Indians; to the Committee on Interior and Insular Affairs.

529. Also, petition of the Central Conference of American Rabbis, New York, N.Y., relative to the ERA; to the Committee on the Judiciary.

530. Also, petition of the Council, New York, N.Y., relative to H.R. 5437 and S. 2128 or S. 2262; to the Committee on the Judiciary.

531. Also, petition of the Council, New York, N.Y., relative to S. 613; to the Committee on the Judiciary.

532. Also, petition of the Central Conference of American Rabbis, relative to the budget and social welfare; to the Committee on Ways and Means.

533. Also, petition of the city council, Eureka Springs, Ark., relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

534. Also, petition of the Central Conference of American Rabbis, New York, N.Y., relative to the budget and social welfare; jointly, to the Committees on Education and Labor and Energy and Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5320

By Mrs. ROUKEMA:

—Page 75, strike out lines 16 through 22 and insert in lieu thereof the following:

SEC. 233. (a) To the extent possible in light of local economic conditions, each prime sponsor shall provide customized training (as described in subsection (b)) to a sufficient number of adults under this part and of youth under part C so that the total number of adults plus youth so trained equals a number which is not less than 50 percent of the number of adults enrolled in training programs under this part.

(b) For the purpose of subsection (a), "customized training" means—

(1) training described in clause (5), (6), (7), (12), (20), or (24) of section 232; or

(2) other training conducted with a commitment by an employer or group of employers to employ an individual upon successful completion of that training.

(c) The provisions of this section shall not apply to any funds made available for any fiscal year prior to fiscal year 1984.

H.R. 5427

By Mr. HARKIN:

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Massive Domestic Radio Broadcasting Interference Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Selected Domestic Radio Broadcasting Stations Destruction Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "$17.7 Million Boondoggle Duplicative Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "School Lunch Fund Memorial Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Needlessly Provocative Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Refugee Recruitment Through Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "'Hello Honolulu, This is Havana!' Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "National Bilingual Education and Conversion Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Throwing Money at the Castro Problem Through Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Political Posturing and Radio Broadcasting to Cuba Act".

—Page 2, strike out lines 3 through 5 and insert in lieu the following:

SHORT TITLE

SECTION 1. This Act may be cited as the "Department of Defense Grabs Jurisdiction from the Federal Communications Commission Act".

—Page 2, beginning in line 4, strike out "Radio Broadcasting to Cuba Act" and insert in lieu thereof "Radio Broadcasting to Dictatorships in the Caribbean Basin".

—Page 2, line 15, strike out "Cuba" and insert in lieu thereof "countries in the Caribbean Basin with dictatorships"; in line 20, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; line 22, strike out "Cuba" and insert in lieu thereof "countries in the Caribbean Basin with dictatorships"; line 23, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; line 24, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; page 3, line 7, strike out "Cuba" and insert in lieu thereof "countries in the Caribbean Basin with dictatorships"; and in line 8, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin".

—Page 2, line 23, strike out "and"; page 3, line 2, strike out the period and insert in lieu thereof "; and"; and after line 2, insert the following:

"(4) that efforts by the Government of Cuba to jam or otherwise interfere with radio broadcasting to Cuba would be a violation of international law and would give the Administration the excuse that it has been seeking to engage in a military attack on Cuba, in this case a 'surgical' strike against Cuban radio transmitters.".

—Page 3, strike out line 13 and all that follows through line 8 on page 6 and insert in lieu thereof the following:

"(c) In order to communicate accurate information and ideas to the people of Cuba, in particular information about Cuba, the Board is authorized to—

"(1) prepare or otherwise obtain material suitable for radio broadcasting; and

"(2) provide for the broadcasting of that material to Cuba by making expenditures for charges for the use of the facilities of commercial radio broadcasting stations which can be heard in Cuba.".

—Page 3, line 22, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; page 4, lines 4 and 8, strike out "Cuba" and insert in lieu thereof "Dictatorships in the Caribbean Basin"; and lines 5 and 10, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin".

—Page 4, line 1, strike out "the" and all that follows through "Act" in line 5 and insert in lieu thereof the following: "radio broadcasting to Cuba under this Act may only be carried out with broadcasting facilities located on Navassa Island".

—Page 4, line 9, strike out "may" and insert in lieu thereof "shall".

(Substitute for the Energy and Commerce Committee amendment.)

—Page 4, line 9, strike out "may" and insert in lieu thereof "shall".

(Substitute for the Energy and Commerce Committee amendment.)

—Page 4, line 10, strike out the closing quotation marks and the second period; and after line 4, insert the following:

If a frequency other than that used by the Voice of America prior to July 23, 1982, is used for radio broadcasts to Cuba under this Act, then those broadcasts shall originate from outside the United States so that any interference with those broadcasts by the Government of Cuba will have minimal impact on broadcasting within the United States.

(To the Energy and Commerce Committee amendment.)

—Page 4, lines 13 and 20, strike out "Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; page 5, line 4, strike out "the Government of Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin"; line 5, strike out "to Cuba"; page 6, line 6, strike out "the Government of Cuba" and insert in lieu thereof "dictatorships in the Caribbean Basin".

(To the Energy and Commerce Committee Amendment.)

—Page 5, line 1, strike out "the least" and insert in lieu thereof "no".

—Page 6, line 14, strike out "Cuba" and insert in lieu thereof "Dictatorships in the Caribbean Basin".

—Page 7, lines 8 and 13, strike out "CUBAN"; line 17, strike out "Government of Cuba" and insert in lieu thereof "a dictatorship in the Caribbean Basin"; line 18, strike out "Cuban" and immediately after "interference" insert "by that dictatorship"; line 21, strike out "Cuban" and immediately after "interference" insert "by dictatorships in the Caribbean Basin"; page 8, line 2, strike out "the Government of Cuba" and insert in lieu thereof "a dictatorship in the Caribbean Basin"; line 10, strike out "Cuban" and immediately after "radio stations" insert "in dictatorships in the Caribbean Basin".

—Page 7, line 20, strike out "some" and insert in lieu thereof "full".

—Page 7, line 25, immediately after "for" insert "all".

—Page 8, line 3, immediately before the period, insert "and for all advertising revenues which those licensees lost as a result of interference caused by the Government of Cuba".

—Page 8, line 12, immediately before the period, insert ", which shall not include either military or paramilitary operations conducted or supported by the United States".

—Page 8, after line 12, insert the following new section:

ADDITIONAL REFUGEES FROM CUBA

SEC. 7. No funds may be obligated or expended for ratio broadcasting to Cuba pursuant to this Act unless the President certifies to the Congress that such radio broadcasting to Cuba will not encourage the flight of significant numbers of additional refugees from Cuba to the United States.

—Page 8, after line 12, insert the following new section:

REQUIREMENT FOR ENACTMENT OF SPECIFIC APPROPRIATIONS FOR RADIO BROADCASTING TO CUBA

SEC. 7. None of the authorities provided by this Act may be exercised until the Congress has enacted an appropriation Act which makes funds available specifically for radio broadcasting to Cuba in accordance with this Act.

—Page 8, after line 12, insert the following new section:

IMPACT OF BROADCASTS ON THE CUBAN PEOPLE

SEC. 7. The Director of the Central Intelligence Agency shall cooperate with the Board for International Broadcasting in the preparation of annual reports to the Congress on the impact on the people of Cuba of the radio broadcasts authorized by this Act.

—Page 8, after line 12, insert the following new section:

GENERAL ACCOUNTING OFFICE INVESTIGATION OF POSSIBLE IMPROPER USE OF GOVERNMENT FUNDS

SEC. 7. The proceeding provisions of this Act shall not take effect until 30 days (excluding any day on which both Houses of Congress are not in session) after the Comptroller General of the United States has submitted to the Congress a report on the results of an investigation by the General Accounting Office into the possible improper use of Government funds by the Department of Defense or any other Federal agency to build a broadcasting facility, prior to the enactment of this authorizing legislation, for use for radio broadcasting to Cuba.

—Page 8, after line 12, insert the following new section:

DEFINITIONS

SEC. 7. As used in this Act—

(1) the term "Caribbean Basin" includes the countries of Central America; and

(2) the term "dictatorship" means the government of a country in the Caribbean Basin which has not come to power through a free and open election in which all parties were eligible to participate and in which the government in power did not engage in significant harassment or terror toward any segment of the population.

H.R. 6030

By Mr. BEREUTER:

—Title IX, General Provisions, add the following new section:

"SEC. 902. (a) Any individual who is a citizen of the Trust Territory of the Pacific Islands, as defined in Title 53 of the Trust Territory Code in force on January 1, 1979, and is a citizen of Palau, the Marshall Islands or the Federated States of Micronesia, is entitled, if otherwise qualified therefor, to enlist in any of the Armed Forces of the United States without regard to the citizenship of such individual.

"(b) This authorization shall expire for Palau, the Marshall Islands or the Federated States of Micronesia respectively when any new political relationship is established between that particular political entity and the United States."

By Mr. WEAVER:

—Page 26, after line 21, insert a new section 902.

The Secretary of Defense is hereby authorized to establish a Military Preparedness Grain Reserve to be used in the event of a national defense emergency.

The Secretary shall acquire food and feed grains from sources in the United States in an amount no less than the amounts purchased from United States grain supplies by the Union of Soviet Socialist Republics in calendar year 1982, subject only to funds being available. The Secretary is also authorized to construct storage facilities for the Grain Reserve.

There is hereby authorized to be appropriated the sum of $2,000,000,000 to carry out the provisions of this section.

SENATE—*Thursday, July 22, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Lord God of love, whose love is unconditional, impartial, infinite, and eternal, teach us love. Forgive us in this place of power and influence for our inclination to downgrade love as weak and sentimental. Help us to comprehend that love is the most powerful force in history—that it was love which prompted the most significant event in history, our Lord's sacrifice on a cross.

Thy word declares:

Though I speak with the tongues of men and of angels, and have not love, I am become as sounding brass or a tinkling cymbal. And though I have the gift of prophecy, and understand all mysteries and all knowledge; and though I have all faith, so that I could remove mountains, and have not love, I am nothing. And though I bestow all my goods to feed the poor, and though I give my body to be burned, and have not love, it profiteth me nothing.—I Corinthians 13: 1-3.

Lord God, we need love which overcomes all obstacles and outlasts all things. Teach us love. We ask this in the name of Him who is incarnate love. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of the proceedings to date be approved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. STEVENS. Mr. President, the Senate will soon resume consideration of H.R. 4961, the tax bill. Pending is an amendment offered by the Senator from Kentucky (Mr. FORD) relating to the elimination of provisions in the bill which increase the excise tax on cigarettes. We expect an early rollcall this morning on this amendment, as Senator DOLE has 25 minutes remaining on the amendment and Senator FORD has 14 minutes.

There are approximately 9½ hours remaining on the tax bill. It is the announced intention of the majority leadership and the leadership generally to finish this bill today. The Senate will remain in session late tonight if necessary in order to complete consideration of the bill. Yesterday the majority leader announced that the Senate will be in session tomorrow, Friday, beginning at 9 a.m., and that we shall resume consideration of Senate Joint Resolution 58, the constitutional amendment to balance the budget. Votes are expected tomorrow.

Mr. President, there is also a legislative must list that sets forth the legislation that must be completed prior to the Labor Day recess. I urge Members of the Senate to consult that list.

Mr. STEVENS. Mr. President, I ask unanimous consent that the remainder of the majority leader's time be reserved.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. Under the previous order, the Democratic leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield such time as he may desire to Mr. PROXMIRE, the Senator from Wisconsin.

Mr. PROXMIRE. I thank the distinguished Democratic leader.

"LAUNCH UNDER ATTACK" INCREASES THE LIKELIHOOD OF NUCLEAR WAR

Mr. PROXMIRE. Mr. President, in the past few days, the world inched a step closer to a nuclear war between the United States and the Soviet Union. The possibility became more likely than ever that such a war would begin with a mistake, a computer error, or a mixup in signals or the interpretation of signals. Here is why: Last week, the Soviet Defense Minister, Dimitri F. Ustinov, issued a statement criticizing U.S. military planning and hinting that the Soviets might adopt "launch under attack."

On the 18th of July, Charles Mohr reported in the New York Times on why a "launch under attack" can increase the likelihood of a nuclear war between the two great superpowers. The article was entitled, "A Scary Debate Over 'Launch Under Attack'" and it was subheaded, "Moscow Last Week Hinted at Adoption and Some in Washington Like the Strategy Too."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 18, 1982]

A SCARY DEBATE OVER "LAUNCH UNDER ATTACK"

(By Charles Mohr)

WASHINGTON.—Launch Under Attack is a nuclear war strategy that is to many thinkers an anathema ranking not far behind preemptive war. But for a supposedly unthinkable idea, it has been much discussed of late. In recent months, a number of American defense policy reports have referred, though mostly negatively, to such a strategy. Briefly defined, it would mean firing some nuclear missiles after getting "reliable" electronic-warning that enemy missiles are on their way. Last week, Moscow repeated hints that it might embrace the policy.

A principal argument against the strategy was succinctly put by Fred C. Iklé, now the Undersecretary of Defense for Policy, in testimony before the House Armed Services Committee three years ago. "If any witness should come here and tell you that a totally reliable and safe launch on warning posture can be designed and implemented," said he, "that man is a fool." Last week, Mr Iklé said he still regarded launch under attack as "hair trigger and irresponsible." Still, some officials argue that while the strategy is dangerous it "might be valuable" to leave so much ambiguity about American intentions that the Soviet Union could never be sure that it had not, in fact, become at least an optional national policy.

Last week the Soviet Defense Minister, Dimitri F. Ustinov, issued a statement criticizing United States military planning and hinting, without explicity using the words, that the Soviets might adopt launch under attack. Earlier this year an important Soviet policy analyst gave a group of visiting Americans a similar warning. But some United States experts believe that, partly because most intercontinental Soviet missiles are powered by liquid fuels and are not all believed to be fueled at any given time, it might be difficult for the Soviet Union to adopt launch under attack strategy at this time. They also believe that the Soviet Union maintains its nuclear forces at a considerably lower alert status than the United States, partly as insurance against possible military mutiny.

However, Dr. Richard L. Garwin, a physicist, defense consultant to several administrations and perhaps the leading American advocate of launch under attack policy, strongly disputes that view. Dr. Garwin says the modern liquid fuels employed by the Russians are no obstacle to keeping missiles

fueled at all times. Other authorities take a middle ground, saying that while permanent launch under attack posture might be difficult for Moscow to maintain it could employ the strategy during any period of international tension.

"Strategic warning," which depends to a considerable extent on satellite sensors, might give evidence that the Soviet Union is preparing missiles and other weapons for possible war. But all the most strategic warning can do is to give evidence that the other side may intend to attack. Few, if any, responsible officials have advocated launch on strategic warning—which is, in any case, only another way of describing preemptive attack.

Launch under attack, or under tactical warning that missiles have been fired, is relatively simple in theory. If fixed, land-based ICBM's are highly vulnerable to destruction by Soviet missiles, as America's 1,000 Minuteman missiles are said to be, some of them could presumably be fired during the approximately 30 minutes of flight time required for Soviet ICBM's to reach the central United States. A complicating factor is that submarine-launched missiles aimed at decisionmakers such as the President might arrive at other targets within 10 minutes. Launch under attack is therefore sometimes advocated as a solution to the possible threat of "nuclear decapitation" of United States leadership.

THE THREAT OF ACCIDENTAL WAR

In fact, however, launch under attack policies and theories are far from simple. A report by an advisory panel on MX missile basing, published recently by Congress's Office of Technology Assessment, said that "necessary upgrading" of satellite and radar warning systems and of command, control, communications and intelligence systems would "require several years" and billions of dollars. However, the panel made clear that it believed that the cost would be significantly less than the "tens of billions" required for other methods of protecting and basing MX missiles.

One worry is that technical failures could strikingly increase the possibility of accidental nuclear war. The Congressional panel said that "no matter how much money and ingenuity were devoted to designing safeguards" there would always remain the possibility of error" which could mean "a nuclear war started by accident." But in a 1980 article in International Security, Dr. Garwin argued that launch under attack "seems to present no more hazard of unauthorized or accidental" nuclear firings than does "the present system in which the entire Minuteman force can be fired in a very short time by a proper order." He contended that the problem of unauthorized firing could be "addresses" by the use of so-called permissive action links in the silo and in the missile warhead. These cryptographic systems, borrowed from modern message-security systems, prevent an enemy from interfering with nuclear command systems and, at the same time, mechanically prevent the arming and release of United States weapons until an encrypted "go-code" is fed into the mechanism.

In one of the most chilling—if unintentionally so—passages published in recent years, Dr. Garwin wrote: "The probability of accidental launch can be calculated as the number of candidate signals per year, times the likelihood that any one will be interpreted as a real go-code. Presumably very few putative go-codes would be received per year (the expected number is less than one per year, caused by lightning, electrical noises or the like). If 1000 per minute were received, the pure-chance firing of the missiles would shorten the average human life by less than 0.1 seconds." The statement is less clinical than it may sound; it is based on Dr. Garwin's mathematical estimate that an accidental firing is likely to occur only once in 100 million years.

Many other authorities believe that the inherent dangers of technical failure or accident are either higher or unknowable. Moreover, there has been much speculation about the problems that might arise if either superpower found it possible to "blind" the other side's warning sensors. In the esoteric language of nuclear strategy, this might give "warning by loss of warning."

One of the most unpahatable aspects of launch under attack is that nearly all experts agree that, as one put it, the President's role would only be to "endorse the claim of the sensors that an attack was under way." Dr. Garwin, for one, believes the system would have to be based on "probability function" in which a truly random process would decide the retaliatory measure depending on a mathematical assessment of the number of incoming missiles and re-entry vehicles detected.

HATRED AND PREJUDICE—THE SLIPPERY SLOPE IN NORTHERN IRELAND

Mr. PROXMIRE. Mr. President, recenthy a 1,000-pound bomb exploded in a residential section of Belfast and tore apart nearly 300 homes. Because the police had been tipped off, there had been time to evacuate men, women, and children from the area before the blast could maim and kill. The bomb was the largest ever used in the civil strife in Northern Ireland and is the latest indication of the extremism which is being bred there.

Terrorism is the ultimate act of frustration. It is political in intent and violent in manifestation—and it is deadly wrong, cowardly, and tragically misguided. Innocent civilians are not legitimate targets in any strife. Children should not be maimed and killed by indiscriminate gunfire and bombings. Attacks made against unarmed civilians, the elderly, and mothers and children are acts of supreme cowardice. The weak in society do not threaten the lives of the terrorists, yet they have been the targets of the terrorists.

War is rarely justifiable. The only legitimate acts of war are those made in self-defense. These can be legitimately accomplished only by a nation threatened with destruction. The IRA does not meet this description. Rather, the IRA is an aggressor and a transgressor in Northern Ireland. It is locked in battle in a war of politics. However, a political war must be fought using political means. Strikes, nonviolent protests, marches, and demonstrations are legitimate political means to political ends.

Instead, violence is being used by both sides of this essentially religious conflict. Gross violations of human rights occur almost daily. These offend the right to live—the right to live at peace and without fear that the next bus one boards will be shot apart or blown up. And in this violent atmosphere, extremism has been allowed to spread and grow. It has been spread by all who have given their money and support to either of the warring groups. It has been allowed to grow by the failure of peace-loving nations to pressure both sides into moderation and the pursuit of peacful means to resolve disputes. Extremism has been allowed to spread and grow by the lack of moral indignation that is necessary for the world's populations to say, "That's enough." But most of all, it has been allowed to spread and grow by ignorance and stupidity. The type of ignorance and stupidity that I am referring to is the ignorance of prejudice and the stupidity of hatred. Prejudice and hatred enable terrible acts to be committed under false pretenses. By exploiting others' prejudice and hatred, vile demagogs can gain positions of prominence and sway an ignorant public to blindly support acts of genocidal extremism.

And so, 1,000-pound bombs are allowed to be built in people's homes, and people encourage and support such actions. The hat is passed around to finance the creation of these murderous weapons, and people dig deeply into their pockets to support the "cause." And when these same people hear the news of an explosion, they say a silent prayer of thanks, believing that such violent actions are furthering their cause. But they ignore the fact the victims are the innocent—the children, the elderly, the unarmed. And if they ever do notice who the victims really are, they explain it away with resort to a simple-minded rationalization, saying: "The cause is more important than any one individual." Combined with the ignorance of prejudice and the stupidity of hatred, this apathetic attitude toward the sanctity of human life is precisely the kind of attitude which enables genocide to be perpetrated.

The presence of socio-economic and religious conflicts is hardly unique to Northern Ireland. Such conflicts are common worldwide. What is less common, though unfortunately not unique, is the high degree of hatred and prejudice accompanying this conflict. One of the purposes of the Genocide Convention is to demonstrate international resolve to battle the ignorance of prejudice and the stupidity of hatred. Such prejudice and hatred makes a people susceptible to demagogs who are willing to use ethnic, racial, and religious groups as scapegoats in order to promote their personal power. The downward spiral to wholesale genocide is a slippery slope

when domestic conflicts are accompanied by mass hatred and prejudice.

I urge the Senate to reaffirm American goals to fight hatred and prejudice by ratifying the Genocide Convention.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. STEVENS. I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER (Mr. MATTINGLY). The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I yield back the leader's time.

ROUTINE MORNING BUSINESS

Mr. STEVENS. Mr. President, I ask unanimous consent that morning business commence now and that Senator CHILES be permitted to take his special order out of morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond 9:45 a.m. with statements therein limited to 5 minutes each.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Assistant Secretary of the Senate proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ABUSIVE AND REPETITIVE USE OF HABEAS CORPUS PETITIONS

Mr. CHILES. Mr. President, I wish to once again take a few minutes of the Senate's time to remind my colleagues of the need to address legislation that will reform habeas corpus procedures. Such legislation is an essential part of any attempt to improve the effectiveness of our criminal justice system.

The abusive and repetitive use of habeas corpus petitions by State court convicts to attack their convictions is a problem which is clearly out of hand. It is evident that State prisoners have come to view the habeas petition as a bonus opportunity to confound our criminal justice system. The petition has become for the convict that one extra effort which, regardless of his guilt, may get him off the hook. At the very least, he can continually delay his sentence through the petitioning process. The effect of this frivolous petitioning is the abuse of a valuable safeguard for protecting a citizen's right to a full and fair trial. The writ of habeas corpus was never intended to provide the means for a guilty person to walk free or to delay his just sentence.

The problem would not be so bad if such petitioning was occasional. In recent years, however, there has been an explosion in the number of unwarranted petitions. This explosion has played a significant part in creating the massive backup which presently exists in our Federal and State courts.

Mr. President, we were warned about the present dilemma in 1953, when the Supreme Court decided the Brown against Allen case. This was the case in which the Supreme Court interpreted the habeas corpus statute in such a way so as to give the Federal district courts broad authority to redetermine the merits of State court convictions. At that time, Justice Jackson, in a dissenting opinion, expressed deep concern over the "Floods of stale, frivolous and repetitious petitions which will swamp the dockets of the lower courts and swell our own." Justice Jackson's observations have proven all too accurate. As I have already mentioned, prisoners have not hesitated to take advantage of the easy availability of access to the Federal courts. The statistics clearly demonstrate the dramatic increase: In 1953, the flood consisted of 541 petitions. Last year, there were 7,031 such petitions filed by State convicts in Federal courts. That constitutes a thirteenfold increase in the number of petitions filed since the Brown against Allen decision.

While the vast number of habeas corpus petitions may be frivolous, they still must be reviewed by the Federal courts. This is a time-consuming process. The States are often caught up in the review process simply to provide the necessary information for a decision on a case. As for those cases in which relief is granted, many times the questions raised by the Federal courts go far beyond what is necessary for insuring that a person received a full and fair trial. In effect, the Federal courts often end up relitigating the entire case. The States must be prepared for these instances; they are forced to go to considerable lengths to defend their State court procedures, as well as the particular conviction called into question. The point here is that a tremendous amount of time and resource is spent on the habeas corpus review process, a process which deals with persons who have already been convicted of crimes. I think it is fair to say that much of this time could be spent on prosecuting those felons which have yet to be tried.

I feel that we jeopardize the efficient functioning of our entire system of justice when we allow convicted felons to abuse legal procedures and tie up our courts. In particular, we dilute the notion of finality, a notion which is essential to justice. Moreover, by maintaining review procedures which allow the Federal courts to so easily call into question State court decisions, I believe we undermine the integrity of our State courts.

Senator NUNN and I have spent the last 2 months urging the Senate to take up habeas corpus reform legislation. We have attempted to demonstrate to the Senate the extent of the problem by recounting some of the troublesome petitioning that is done. The cases which we have discussed have been poignant cases, but they have not been exceptions; they have been clear examples of where the writ of habeas corpus has been, and can be, abused.

Senator NUNN and I have also introduced legislation which we feel will remedy many of the problems we have encountered with habeas corpus petitions. This proposal, which is contained in S. 2543, would work to tighten up habeas corpus procedures in a number of ways. Keeping in mind some of the cases that we have discussed in recent weeks, I want to spend the rest of my time today outlining the reforms included in our legislation.

First, it would require that Federal judges, not magistrates, conduct evidentiary hearings. We should not have magistrates making recommended findings of fact which can, in effect, overrule decisions rendered by State trial judges and approved by State supreme courts. If findings are to be made which will serve to overrule State decisions, these findings should be made by a Federal judge.

Second, this legislation seeks to set out in statutory form a definition of the "cause and prejudice" standard laid down by the Supreme Court in the Wainwright against Sykes case. What both the Wainwright decision and this proposal stand for is the notion that deference ought to be paid to orderly State court procedures. Wainwright specified that a person who has not properly raised claims in a State court cannot then turn around and raise those claims for the first time in a habeas proceeding—unless he can show a valid "cause" for his failure to follow State procedures.

Third, this legislation would create a statute of limitations, to assure that habeas claims are filed and considered while the evidence is still fresh. We have witnessed too many cases in recent years in which claims are filed years and years after the State proceedings have become final. Oftentimes, crucial evidence is no longer available, or key witnesses are unable to recollect important facts. The result

is that the State is prejudiced in its ability to respond because of the delay. Many of the cases that Senator NUNN and I have recounted in past speeches have demonstrated this problem. We need to have a time limit on such appeals, and our proposal would make that time limit 3 years from the date that a prisoner's State court conviction becomes final.

Finally, our bill would tighten up conditions which trigger new hearings in cases, to assure that needless factual redeterminations are eliminated. Specifically, it would require that a factual hearing could only be held if a petitioner is able to establish one of the eight defects which are recognized as faulty court procedures. If a petitioner could not meet this requirement, a motion for another hearing would be denied.

Taken together, these changes will work to clamp down on the flood of frivolous habeas corpus petitions. The sooner we can do this, the better chance that those with truly legitimate petitions will have of gaining relief. More importantly, the sooner we can do this, the sooner we can redirect judicial resources toward addressing the severe backup in cases which have yet to go to court. I urge the Senate to heed this call and take up this legislation without any further delay.

Mr. President, I yield now to the Senator from Georgia.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, every day, Congress deals with and debates issues that are of great concern to our Nation. And every day, we try to find a rational solution to those ever increasing and complex issues: Amidst all those problems, crime is one which repeatedly affects the American people in their daily lives. With that in mind, Senator CHILES and I have persisted in speaking daily on the Senate floor to urge our colleagues to focus on the crime issues, including the need for habeas corpus reform.

Interestingly enough, a growing number of representatives of the criminal justice system have been supportive of proposals for habeas corpus reform. It is hardly surprising that so many agree with our belief that one effective way to help eliminate frivolous and repetitive petitions would be the enactment of a statute of limitations for habeas corpus proceedings. Case after case has illustrated that the statutory writ is excessively used by criminals seeking release on the ground that their rights have been violated where the record clearly shows that such is not the case.

In September 1974, Donald Gilbert Smith was indicted for narcotics conspiracy as well as five counts of possession of controlled substances. In December 1974, Smith pled guilty and was sentenced to 4 years imprisonment and 3 years special parole. Despite his guilty plea, Smith successfully appealed the sentence on an alleged error in the sentencing procedure. A superceding six count indictment was immedately returned charging Smith with the same offenses named in the original indictment. Following a jury trial in which he was convicted of all six counts, Smith was sentenced again, this time to 15 years imprisonment and 12 years special parole. Smith's direct appeal of his second conviction was denied in 1978 and a mandate was issued for his arrest on April 30, 1979.

Unfortunately, by the time the appeal has been affirmed some 4 years after his original conviction, Smith was nowhere to be found. He remained a fugitive until February 17, 1981, when he was finally arrested in an Akron, Ohio, motel room. When arrested, Smith was in possession of a small amount of hashish, a 16-inch knife, Ohio and North Carolina driver's licenses issued under fictitious names, and nearly $3,500 in cash. At the time of his original conviction, Smith had been identified by the Drug Enforcement Administration as the largest distributor of hallucinogenic drugs in Akron.

The most incredible part of this story illustrates again the outrageous abuse of the writ of habeas corpus. During his 2 years as a fugitive, Smith nevertheless succeeded in taxing the courts with a steady stream of frivolous litigation. His attorneys filed numerous petitions for habeas corpus relief despite the fact that it had been over 5 years since the original conviction and that he was at the time a fugitive from justice. The most recent of these petitions was finally denied by the U.S. Sixth Circuit Court of Appeals in early 1982.

From 1974 to 1981, the criminal justice system was needlessly overburdened by the repetitive habeas corpus petitions pertaining to Smith. Even while he was a fugitive, his attorneys persisted in filing these petitions. For years, our courts have been struggling to effectively administer criminal justice in the midst of the continual flood of needless and burdensome petitions for habeas corpus. S. 2543, the Crime Control Act of 1982, provides a statute of limitations for habeas corpus relief which would provide immediate relief to our courts while continuing to preserve reasonable access to the habeas corpus remedy. The American criminal justice system has been far too lenient on criminals to the detriment of our honest citizens. The time has come for Congress to get tough on crime. S. 2543 and its proposals for habeas corpus reform are an effective means to do so.

MOTOR VEHICLE THEFT LAW ENFORCEMENT ACT

Mr. HAYAKAWA. Mr. President, I am pleased to join Senator PERCY as a cosponsor of S. 1676, the Motor Vehicle Theft Law Enforcement Act. Motor vehicle theft has become a national problem that requires a national solution.

The car thief of a decade ago stole either for his own transportation needs, or to resell to another person, who would use the car. Because they were kept intact, the vast majority of stolen cars were eventually recovered.

During the past 10 years, however, a new kind of car thief has emerged. He operates, not as an individual, but as a part of an efficient, well organized car theft ring in one of hundreds of cities across the country. He is not interested in cars, as much, but in their valuable parts and components.

The car thieves of today are stealing cars at a rate of 1.1 million per year—$4 billion worth of automobiles that will be paid for by all of us, through higher insurance premiums and a swollen rate of inflation. Stolen cars are driven to "chop shops," where experts quickly remove prized parts—fenders, doors, hoods, trunk lids, and others—before disposing of the remains. Engines and transmissions are usually not kept, as they are marked with identification numbers that allow them to be traced.

The fact is, if a professional thief wants a car, there is almost nothing you can do to prevent his taking it. The car you park in front of your Washington home in the evening may be gone by midnight and dismantled by dawn. Even as you telephone the police the next morning, one of your fenders may be in a truck headed toward Pittsburgh, and the other on its way to El Paso.

But the problem of auto theft goes beyond personal loss and high insurance rates. The car stealing business has proven so lucrative that it is now the target of organized crime, which is seizing control of auto theft rings and funneling their profits into drug and other criminal operations.

S. 1676 counters the problem of auto theft in four ways.

First, it stiffens the Federal criminal penalties for persons that traffic in stolen motor vehicles or their parts.

Second, it establishes procedures to reduce opportunities for exporting stolen automobiles and planes. This is an important provision for my own State, where stolen cars and planes are easily exported to Mexico, making their recovery almost impossible.

Third, the bill sets up two task forces; one to study the problem of off-highway mobile equipment theft, and the other to look into antitheft measures for State motor vehicle titling programs.

But the heart of the bill, and the part I believe will yield the greatest results, is the provision that requires the placing of identification numbers on valuable automobile parts. Today's car thief wants nothing to do with car parts that have identification numbers, so he throws away otherwise precious engines and transmissions. S. 1676 requires that other parts—up to 14 in all—be marked as well, thus reducing their attractiveness to thieves.

The administration opposes S. 1676 because of the expense of the identification program. I appreciate this concern for our troubled auto industry, but must point out that S. 1676 specifically limits the cost of compliance to $10 per vehicle, and actual costs will probably be much lower. I think that most Americans are more than willing to pay an extra few dollars if they know that such an investment will reduce the possibility of losing their new car to a chop shop.

Mr. President, S. 1676 is a new solution to a new problem—a nationwide coalition of auto theft rings that steal our cars and leave us with the bill. I urge the Senate to pass S. 1676 and put a dent in the auto theft industry.

HELP FOR HOME BUYERS

Mr. HAYAKAWA. Mr. President, This past week, California Savings and Loan lowered its prime home loan rate 1 percentage point to 15 percent. This action is indicative of future mortgage rates and the state of the housing industry. It appears to be in direct response to the U.S. Supreme Court's recent decision (Fidelity Savings & Loan against De La Cuesta) permitting federally chartered thrift institutions to enforce due-on-sale clauses in their mortgage loans.

The savings loan industry has experienced a severe depression in recent years. Assumable mortgages have created adversity for the thrift institutions. Many loans that they hold are at much lower rates than the current double digit figures, causing the lenders to charge higher interest rates to other borrowers for homes. This lack of available and affordable credit has caused housing prices to skyrocket and mortgage rates to become unnecessarily high.

Although it seems that assumable low-interest mortgages would be an advantage for home buyers, it is actually a delusion. The seller typically has to ask a higher sales price for the home, thus demanding a higher down payment.

The High Court ruling gives Federal lenders the ability to keep buyers from assuming low-interest home loans. States can no longer prevent savings and loan associations from enforcing due-on-sale clauses in sales contracts to increase interest rate on a loan when mortgaged property is sold.

This decision is a major triumph for the Nation's finance industry and home buyers. The effect will be to lower mortgage rates over time and provide first-time home buyers and purchasers of newly constructed housing fairer access to mortgage financing.

BILINGUAL JUSTICE

Mr. HAYAKAWA. Mr. President, Tuesday, while reading the editorial page of the the Washington Post, I ran across an editorial which pleasantly surprised me. I am referring to the editorial on "Bilingual Justice."

This insightful piece on bilingual education reflects on a court decision that affects only one State of the Union, but its significance should be heralded across the Nation. The decision of the Fifth Circuit Court of Appeals overturned a ruling by a Texas district judge requiring that every public school in the State of Texas provide Spanish-speaking pupils with instruction in Spanish in every grade. As the editorial states, it was the commonsense point of the appeals court that "the issue essentially (is) a pedagogic one: How best to teach comprehension of a language."

I have spoken time and time again before this distinguished body and communicated my beliefs on this important educational issue. This past April I introduced S. 2412, the Bilingual Education Improvement Act, which will make federally funded bilingual education programs more responsive to the needs of local school districts. As I have said in the past, I agree wholeheartedly that we need to do all we can to teach English to non-English-speaking students. However, I cannot support a rigid mandate prescribing a single method of instruction. I believe that, given the flexibility to choose their own program, local schools will emphasize English instruction.

English: It is the single common language used to bond and unite all Americans. It is the responsibility of this Nation's leaders to see that the multitudes of prospective new Americans flowing into this great Nation have "the opportunity to master the language in which business and public affairs in this country are conducted."

Mr. President, I ask unanimous consent that the following Washington Post editorial entitled "Bilingual Justice" be printed in the CONGRESSIONAL RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 20, 1982]

BILINGUAL JUSTICE

In the ordinary course of things, there isn't much reason to pay attention to a court decision that affects the schools of just one state, but a recent decision of the Fifth Circuit Court of Appeals involving the state of Texas is an exception. The issue involved is an important one: how to educate children whose native language is Spanish. It is particularly important in Texas, where 22 percent of the nation's 3 million Spanish-speaking schoolage children live. And its importance has been increased by the Supreme Court decision last month, which overturned a Texas law and required that state henceforth to educate children of illegal aliens, the large majority of whom in Texas are Spanish-speaking.

Finally, the decision is important because it is so sensible. The appeals court here was faced with an order issued by a single district judge requiring that every public school in the state of Texas provide Spanish-speaking pupils with instruction in Spanish in every grade. The order was entered even though the Texas legislature—admittedly, acting under pressure because of the court's ruling—passed a law requiring special instruction for Spanish-speaking pupils, but giving schools a choice between a number of programs. The appeals court overturned the trial court's ruling, making the common-sense point that "the issue is essentially a pedagogic one; how best to teach comprehension of a language. Neither we nor the trial court possess special competence in such matters."

This is not to say that nobody does. On the contrary, school districts all over the country, faced with increasing numbers of non-English-speaking students, have experimented with a variety of approaches and have found many that work. They have also found that different students, coming from a variety of backgrounds and entering school at different ages, need different approaches. The Reagan administration this spring wisely abandoned the attempt to tell local school districts they have to provide instruction in the child's first language. Now the courts in the important state of Texas have done the same thing. "There is no legal or research basis," one expert writes in the Harvard Educational Review, "for the federal government to advocate or require a specific educational approach."

These rulings do not mean that our schools do not have an affirmative obligation to provide special help to pupils speaking a foreign language. They do. But they should not be forced to rely on a single, rigid approach by either the Department of Education or the courts. And they should not lose sight of the goal—a goal whose worth and feasibility has been demonstrated again and again by the past century of our history. That goal is to teach children to speak and write English. We should give educators the leeway to abandon bilingual education programs that mistakenly keep children learning primarily in their native language and deny them the opportunity to master the language in which business and public affairs in this country are conducted.

CHINA-TAIWAN POLICY

Mr. GLENN. Mr. President, I rise today to discuss my views on U.S. relations with China and Taiwan. Recent investigations by my staff show a substantial shift in United States-China-Taiwan policy over the past 10 years. When I questioned the State Department about these matters it indicated that U.S. policy remained unchanged since 1972. Frankly, I find the re-

sponses to my questions unsatisfactory and quite disturbing. I am convinced that there have been significant changes in our China-Taiwan policy, and I find the State Department's denials particularly unsettling. It is almost as if the executive branch was consciously attempting to deceive or mislead the Congress and the American people. Even those who may agree with the direction of U.S. policy should be prepared to investigate completely and openly the implications of their policy decisions.

Over a number of years, throughout the China-Taiwan debate, the State Department has maintained that Sino-United States relations depend on a policy of deliberate ambiguity on the sensitive question of sovereignty over Taiwan. This is necessary because the PRC insists Taiwan belongs to China and any U.S. relations with Taiwan—official or unofficial—are an interference in Peking's internal affairs. The PRC is unwilling to compromise on this point. Therefore we chose to resolve the dispute with ambiguous diplomatic language or in Webster's terms, a solution having two or more meanings (Webster's New World Dictionary—first choice, p. 19).

In 1972 this meant that the United States declared that it acknowledged that the Chinese on either side of the Taiwan Strait maintained there was but one China and that Taiwan is a part of China.

Mr. President, I ask unanimous consent that several U.S. statements regarding the Taiwan sovereignty issue be printed at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. We went on to say that we did not challenge that position. Although deliberately ambiguous, most observers interpreted this to mean that the United States neither accepted nor rejected the PRC's and ROC's one-China assertion. We remained neutral; recognizing that a dispute existed we decided not to take sides. Nevertheless, such a position represented a major concession on our part, since up to that time we had recognized the ROC claim as being the more legitimate of the two. We maintained diplomatic relations with Taipei and supported its claim to China's seat on the United Nation's Security Council.

The ambiguous formulation agreed upon in the 1979 joint communique went considerably further in recognizing the PRC's claim to Taiwan. Although the word "acknowledged" remained, the object of our acknowledgment shifted noticeably. We no longer just acknowledged that both Chinas asserted the principle that there was one China, but instead acknowledged the Chinese position that there is but one China. By dropping the key phrase "all Chinese on either side of the Taiwan Strait maintain" one could interpret that we had moved from the position of a neutral bystander noting the existence of a dispute, to a party accepting the Chinese assertion that there is one China. Clearly, this was the PRC's interpretation. In the Chinese language version of the agreement the PRC dropped the characters used in the Shanghai communique meaning "acknowledge" and substituted new characters meaning "recognize." Taken together with other developments—the PRC assuming the China U.N. Security Council seat, U.S. diplomatic recognition of the PRC, and U.S. derecognition of Taiwan—the United States indisputably moved closer to the PRC interpretation to the ambiguous formulations we have relied on to maintain good relations with the People's Republic.

More recently, Peking's threats to downgrade relations with the United States, unless Washington agreed to end all arms sales to Taiwan, prompted President Reagan to write to China's Communist Party Chairman, Hu Yaobang, in May 1982, and assure him that, "Our policy will continue to be based on the principle that there is but one China. We will not permit the unofficial relations between the American people and the Chinese people on Taiwan to weaken our commitment to this principle." I am sure you will note that this formulation is the least ambiguous of those that we have used. We now assert that it is our policy, U.S. policy, that there is but one China, and although not stated, indicate implicitly that Taiwan is a part of that one China. The use of the qualifier "acknowledged" has been dropped altogether. The President also pledges that he will not permit the Taiwan Relations Act—his reference to the unofficial relations established by the TRA—to weaken our commitment to the one-China principle, and for the first time, to my knowledge, implies that the people on Taiwan are Chinese citizens by referring to them as the Chinese people on Taiwan.

I do not believe that anyone can dispute that the U.S. policy toward China and Taiwan has changed dramatically over the last 10 years. Let me reiterate one more time, in 1972 we acknowledged that the Chinese on both sides of the Taiwan Strait maintained that there was but one China. Today it is U.S. policy that there is but one China. Despite this remarkable shift over time, the State Department, at each juncture, has assured us that our policy remained essentially unchanged.

A few days ago, I asked the State Department about these changes and Assistant Secretary Holdridge replied in a letter:

> We have said publicly, and to both sides of the Taiwan Strait, that we acknowledge that there is only one China and that Taiwan is part of China. This is our position, and it has not changed since it was originally enunciated in the Shanghai communique of February 1972 and the joint communique of January 1, 1979.

In my view, his answer simply does not square with the facts, and does not accurately reflect what has happened since the Shanghai communique. True, the State Department's view of what was happening has not changed. From the beginning, the executive branch knew that our actions, fuzzed by deliberate ambiguity, moved us closer and closer to accepting PRC sovereignty over Taiwan, but its spokesmen were unwilling to admit it publicly. Instead we received assurance after assurance that this was not the case. In my judgment, the time has come to drop the ambiguity and face up to the implications of our past policy decisions. Few concessions remain in our portfolio. We are precariously close to having our unofficial relations with Taiwan based more on PRC sufferance than on the Taiwan Relations Act which this Congress wrote in 1979.

Moreover, I do not consider my criticisms as merely an arcane academic debate. I foresee dangers ahead. In my view the State Department's approach of incrementally conceding to the PRC demands on the sovereignty issue has seriously undermined our ability to provide for Taiwan's legitimate self-defense needs. Each concession along the way has made it more difficult for us to effectively argue that arms sales to Taiwan do not interfere in the PRC's internal affairs.

We have certainly come a long way from February 1979 when we began the TRA debate. At that time Senator Javits spoke for many of us when he said:

> Mr. Chairman, I believe in the policy which the United States has adopted, but I believe the policy incomplete and that the second half of the policy must be respect for our solemn responsibility to Taiwan. I do not use the word "obligation" because the President has chosen to give notice of termination of the treaty, as we all know was necessary in order to normalize relations with the People's Republic of China (PRC). I do not believe that the legal challenge to that authority is valid, and we will deal with that question as we go along.
>
> But the important point is that we must substantively protect our responsibility to Taiwan, and it is in our highest national interest to do so. I am delighted to hear our chairman say, as I agree, that it will be our job to see that that is locked in. Indeed, I hope very much that the chairman and I may contrive what is necessary for this purpose with the cooperation of our membership and their joining in.

And we did; the result was the TRA. And as I told the Chinese leadership last summer, without the specific provisions for continued sales of defensive arms to Taiwan in the act there could have been no normalization of relations.

Let me be clear: I have never advocated massive transfers of weapons to Taiwan, and I do not now. But we do have, in Senator Javits words, a "solemn responsibility" to provide Taiwan with arms adequate for its self-defense needs as long as this may be necessary.

Moreover, I have never considered Taiwan in imminent jeopardy of a direct PRC military assault. Peking does not have that military capability today, and may never achieve sufficient capability to take Taiwan by force. More importantly, I do not believe the PRC intends to resort to military force to reunify Taiwan with the mainland. In my judgment, Peking would much prefer to persuade Taiwan to reunify peacefully.

China's strategy all along has been to apply ever-increasing psychological pressures on the Taipei leadership so that it feels compelled to negotiate a deal to reunify Taiwan with the mainland. Peking recognizes that if given a choice the ROC leadership and even the native Taiwanese, who often differ with the KMT leadership, would both opt for the status quo rather than be incorporated into the PRC. But from Peking's perspective, if the U.S. commitments to Taiwan can be undermined or weakened in some way, China's leverage on the ROC to cut a deal would increase substantially. In this context, our willingnesss to provide arms to Taiwan has always been far more important than the actual quantity and quality of arms sales. Obviously we must be prudent and cautious in our arms transfer decision. Gratuitous sales protect no one. But when we appear to bend to Chinese pressures on each and every sale we make to Taiwan it is inevitable that Taipei begins seriously to doubt whether we will live up to our solemn responsibilities.

State Department spokesmen urge me not to worry and indicate that "our relations with China, as you know, are predicated on our expectation that the Taiwan issue will be resolved peacefully by the Chinese people themselves." In fact, they are so confident that the issue can be resolved peacefully that they state that:

> It is in this context that we have been and will continue to judge Taiwan's defense needs.

Unfortunately, I am not quite so sanguine. Sure, if Taiwan decides that it wants to reunify with the mainland everything will work out fine. But, what if the present leadership decides that reunification is not in the island's interest? What then?

Warren Christopher told the Foreign Relations Committee during the TRA debate that:

> It is our position that if there is to be a reunification, it is of great importance that it be peaceful and not be destabilizing in the area. But we do not have a position of encouraging the people on Taiwan to do something against their will.

That was an excellent policy then and one I fully endorse today.

For me that was what the Taiwan Relations Act was all about. Despite derecognition, we were pledging to the people of Taiwan that the American people would do what they could to insure that the island's peoples had a free choice. If they freely chose to reunify with the mainland we would not object. But if they chose instead not to reunify that also would be acceptable. In the words of the TRA, we would:

> Consider any effort to determine the future of Taiwan by other than peaceful means, including boycotts or embargoes * * * of grave concern to the United States * * *

And will—

> maintain the capacity of the United States to resist any resort to force or other forms of coercion that would jeopardize the security of the social or economic system, of the people of Taiwan.

If insuring that the people of Taiwan retain a free choice on the question of reunifying with China means supplying needed selected defensive arms to those people over Peking's objections and in the face of threats to downgrade United States-People's Republic of China relations, then so be it.

EXHIBIT 1

U.S. STATEMENTS REGARDING THE TAIWAN SOVEREIGNTY ISSUE

SHANGHAI COMMUNIQUE

(February 1972)

"The U.S. side declared: The United States acknowledges that all Chinese on either side of the Taiwan Strait maintain there is but one China and that Taiwan is a part of China. The United States Government does not challenge that position."

JOINT COMMUNIQUE

(December 1978)

"The Government of the United States of America acknowledges the Chinese position that there is but one China and Taiwan is part of China."

SENATE TRA DEBATE

(February 1979)

Senator JAVITS. "I notice that the Chinese translation, according to our staff, of the communique, which is the basis for our action here uses a Chinese word which means "recognition" in respect of the PRC's view of Taiwan, the one-China view, whereas our translation—and I have it before me—uses the words, "the Government of the United States of America acknowledges the Chinese position that there is but one China and that Taiwan is part of China," and that is the language of the Shanghai communique—acknowledgement. Now is it going to be made clear to the Chinese that our position remains consistent? They have their interpretation. Whether Chiang Kai-shek made the mistake of his life we won't know, probably, until long after I am gone. But that is their interpretation and not ours. We accept it. It is very important that we not subscribe to it either way."

Mr. CHRISTOPHER. "Senator Javits, we regard the English text as being the binding text. We regard the word "acknowledge" as being the word that is determinative for the U.S. We regard the Chinese word as being subject to that as one of the meanings of it. I simply give you assurance on that point."

REAGAN LETTER TO HU YAOBANG

(May 1982)

"Our policy will continue to be based on the principle that there is but one China. We will not permit the unofficial relation between the American people and the Chinese people on Taiwan to weaken our commitment to this principle."

STATE DEPARTMENT EXPLANATION

(July 1982)

"We have stated publicly, and to both sides of the Taiwan Strait, that we acknowledge that there is only one China and that Taiwan is part of China. This is our position, and it has not changed since it was originally enunciated in the Shanghai Communique of February 1972 and the Joint Communique of January 1, 1979."

A SALUTE TO PIONEER DAY

Mr. CANNON. Mr. President, on July 24, 1847, the first of many thousands of Mormon pioneers first arrived in Salt Lake Valley and began the colonization of Utah and many areas of the Far West. The commemoration of those first 147 hardy pioneers is celebrated not only in Utah but in many Western States by the decendents of those pioneers.

The leader of this first pioneer group was Brigham Young, a man of infinite capacity for organization, leadership, and spirituality. He organized an exodus of his followers from the then United States and led them into an uncharted and untamed territory. This movement spanned the years 1847 until the railroads were built in 1863. There is no parallel to this organized movement in American history. Brigham Young was not content merely to establish a haven in a new town named Salt Lake City; he sent teams of his "saints" throughout Utah Territory, Nevada Territory, and beyond to establish a farflung theocratic dominion.

But it was more than Brigham Young's charismatic personality which motivated his followers. Those who endured the long trek across the Plains were a sturdy group willing to make whatever sacrifices were necessary to secure their religious freedom. They sought the chance to raise their children free from persecution and to lead them along the path of a restored religion that involved every aspect of their daily lives. They bent the raw wilderness to their goals and created from it a land of milk and honey.

Mr. President, I ask unanimous consent that an article by Leonard J. Arrington be printed following my statement which expands on the history of the colonizing efforts of these pioneers.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit No. 1.)

Mr. CANNON. The fruits of the labors of those pioneers and their descendents can be clearly seen on this 135th anniversary. Their faith has sustained the growth and spiritual influence of the Church of Jesus Christ of Latter-Day Saints, the so-called Mormons, from very humble beginnings in Fayette, N.Y., to an international faith of some 5 million members today.

From its humble beginnings, Salt Lake City is now among the great cities of the world and rightfully claims the distinction of being "The Crossroads of the West."

The history of my home State of Nevada has been strongly influenced by the Mormon pioneers, including my own forebears. "Mormon station," the present Genoa, Nev., was the first known settlement in Nevada history.

Present-day Las Vegas was initially an outpost of the colonizing efforts of Brigham Young and has a large Mormon population today. Early in 1855, church members began construction of a fort in one of the few natural oases between the Pacific coast and Salt Lake City. Portions of that structure remain preserved today in Las Vegas.

The descendents of those first pioneers have continued the traditions of their parents. Devotion to family, church, and Nation; commitment to hard work; patronage of the arts and music; and development of each individual's talents are the guiding principles of church members today. Their contributions to the strength of our Nation are simply beyond enumeration. Truly, there is much to celebrate on this anniversary of the day when the first wagons of pioneers descended into Salt Lake Valley.

I, myself, was born into a Mormon family in one of those settlements begun under the direction of Brigham Young. That settlement is the present St. George, nestled in the beautiful red hills of southern Utah, from which I moved to Nevada a number of years ago. My grandfather, David H. Cannon, helped build the beautiful St. George temple, the first Mormon temple completed in Utah, and served for many years until his death as its president. I am proud of that heritage. Mr. President, I salute the church and Mormons everywhere on this celebration of "Pioneer Day."

EXHIBIT 1

COLONIZING THE GREAT BASIN

(By Leonard J. Arrington)

When the Later-day Saint pioneers arrived in the Salt Lake Valley in July 1847, they divided themselves into small groups or "brigades." One group went to the mountains to secure timber for building cabins. Another built bridges across the streams. Another plowed and planted crops. Still another brigade went to southern California and to Fort Hall in Idaho to secure seeds, fruit, fruit trees, and cattle.

But the largest brigade commenced a systematic program of exploration, beginning with the Salt Lake Valley and then proceeding to Tooele Valley to the west, Weber and Ogden valleys to the north, Utah Valley to the south, and other nearby areas. The goal was to find suitable areas where the 16,000 Latter-day Saints poised on the banks of the Missouri River could settle. Within a year or two a large exploring company was dispatched to southern Utah and across southern Nevada to southern California. They found iron in southern Utah, and oasis and springs along their route, and laid the basis for many future Latter-day Saint settlements.[1]

1848—WITHIN UTAH

The settlement process took place in five stages. The first colony out of Great Salt Lake City, as they called it at the time, was ten miles south in what is now Cottonwood and Holladay. In 1848 a group of 250 migrants from Mississippi, including 40 black servants, located on farms there. Within two years, the irrigable land in the remainder of the Salt Lake Valley and contiguous valleys was occupied: About 20,000 Latter-day Saints had settled in Tooele and Grantsville, Davis and Box Elder counties, Weber and Ogden valleys, Utah Valley, Sanpete Valley, and Parowan and Harmony in southern Utah.

1850'S—NEVADA, THE "MORMON CORRIDOR," AND PARTS OF IDAHO

The second stage of settlement, occurring in the early 1850s, was the colonization of western Nevada, southern California, and northern Idaho. Early in 1849, a group of fifteen Latter-day Saints joined a company of non-Mormons traveling westward to Humboldt Springs, the Sierra Nevada, and northern California. Upon reaching Carson Valley, near the California border, seven of the Saints decided to remain and establish a supply station. By the mid-1850s the Mormon Station at Carson was an officially supported and strategic colony in the Latter-day Saint network around the Great Basin.

Meanwhile, the Saints were locating a whole string of settlements stretching south from Salt Lake City to San Pedro and San Diego, California, in a geo-political plan called the "Mormon Corridor." The first in the chain was in Utah Valley, where Provo is located; three thousand people lived there in 1852. Ephraim, Manti, and other towns were located farther south in Sanpete Valley. Parowan was established in the Little Salt Lake Valley in 1851.

The line of new settlements stretched on to Las Vegas, now Nevada, where a colony was established in 1855 to work with the Indians in the region, to mine lead, and to raise semitropical agricultural products. Farther on, a colony was established at San Bernardino, California. The reasons for the settlement are given in President Brigham Young's official journal: to continue the chain of settlements from Salt Lake City to the Pacific; to provide a mail station; to cultivate olives, grapes, sugar cane, cotton, and other such desirable fruits and products; and, in President Young's words, "to plant the standard of salvation in every country and kingdom, city and village, on the Pacific and the world over, as fast as God should give the ability."[2] Some 450 church members from the Salt Lake Valley arrived in 1851, and by 1855 there were about 1,500 inhabitants. Their butter, cheese, eggs, and flour were sold throughout southern California, as also was a large supply of lumber which they secured from the San Bernardino Mountains.

The Idaho colony was founded in 1855, when a company of men went to the Lemhi Range of mountains near present-day Salmon. This was then Oregon Territory. The purpose of the settlement was to make friends with the Bannock, Shoshone, and Snake Indians. The men erected a fort, built homes and a blacksmith shop, and planted and fenced several acres of land. The settlement was a success, at least temporarily, and other settlers from Utah arrived. When President Brigham Young visited the settlement in 1857, everything seemed to be going well. But the next year a large party of Bannock and Shoshone, some of whom had previously been friendly, attacked the settlers, drove off most of their stock, and killed some of the men. The colony was abandoned.

The second Mormon experience into present-day Idaho begin three years later as part of the settlement of the irrigable places in Cache Valley. Many persons had thought that Cache Valley was too cold to grow crops on a regular basis, but a long dry spell in 1855–56 caused Church leaders to reconsider. An experimental colony was established at Wellsville in 1856. In 1858 there was an influx of additional settlers, particularly Latter-day Saints originally from the southern states who had returned to Utah from San Bernardino. Their success attracted others, and Franklin, Idaho, was settled under the direction of Preston Thomas, a former Texan, in 1860. This was the first permanent Anglo-Saxon settlement in what is now Idaho. As time went on, the Saints spread up into Preston and other places in Oneida and Franklin counties.

Three years later, when Idaho was made a territory, forty families established a settlement at Paris, in Bear Lake Valley, under the direction of Charles C. Rich, a Latter-day Saint apostle, militia general and frontiersman. This picturesque region had been the site of a fur trapper rendezvous in the 1820's. The success in colonizing Cache Valley had given confidence that Bear Lake could be settled successfully. The Bear Lake colony was strengthened by additional families in the years that followed—sixteen—villages were settled.

In all, some ninety-six colonies or settlements, including the twenty-seven along the Mormon Corridor to California, were founded by the Saints during the first ten years after they came into the Great Salt Lake Valley in 1847. The pattern was one of directed settlements—that is, the colonization was a community effort directed by Church authorities rather than the result of spontaneous and independent movement of individuals: First, there was preliminary exploration by companies appointed, equipped, and supported by the central Church; second, colonizing companies were appointed to found the settlements; and third, the companies were expected to pattern the new community institutions after those of Salt Lake City, which were in turn patterned after those of Nauvoo, Illinois, and Jackson County, Missouri.

Upon reaching their destination the colonists dedicated the land by prayer and cooperatively erected a fort or stockade which would serve as a temporary home and community center, as well as a protection against Indians. From this fort, colonists went forth each day in organized groups to dig canals, plant crops, build roads, fences,

[1] Footnotes at end of article

and homes, and otherwise prepare the ground work for village life. This day-to-day work was usually planned in meetings of all heads of families—and each colonist was given specific assignments. These meetings were conducted under the direction of an apostle, if one were present, or the bishop who had been appointed in Salt Lake City before the company left.

During this period of preparation the settlement area was surveyed and divided into blocks of ten acres each by an appointed Church engineer. The blocks were separated by wide streets. A large block in the center was reserved for public buildings, and an important early task was the construction of a combination meetinghouse-schoolhouse on this lot. Each of the remaining blocks was divided into equal lots of an acre or more each, which were distributed among the colonists in a community drawing. Each family was entitled to one lot. On these lots the colonists built their homes, planted their orchards, raised their vegetables and flowers, and erected their livestock and poultry sheds.

Outside the village, the surveyor located an area (called "the Big Field") that could be conveniently irrigated. It was divided into lots ranging from five to twenty acres each depending on the amount of irrigable land and the number of colonists. One of these farming lots was assigned to each family, again by a community drawing.

Besides the heavy community involvement, life in the farm villages was a family affair—everyone helped out. Resourcefulness was an important asset. The women often helped build the houses, plow and plant the crops, cut and stack the hay, shear sheep, spin an weave cloth, care for the chickens, and milk the cows. One sister, tells the story of a young man who was leaving in seven days on a proselyting mission. When the women heard that he had no suit to wear, they went to work: "One Sunday the wool was on the sheep's back," she writes, "but by the next Sunday it had been clipped, cleansed, corded, spun, woven, and made into a splendid suit and was on the back of the missionary as he delivered his farewell address in our little church house."[3]

1870'S—SURROUNDING AREAS IN THE WEST

The third wave of Latter-day Saint colonization took place in the 1870s when the Saints swarmed into southern and eastern Idaho, southwestern Wyoming, southern and eastern Nevada, southwestern Colorado, and northern and central Arizona. While this colonization was not called or directed in the same sense as in the 1850s, it was encouraged and supported by the central Church. In most instances the colonies were supervised and assisted by local wards and stakes located near the area being settled.

The Latter-day Saint movement into Idaho was a direct result of a new railroad from Ogden, Utah, north to Montana. The Utah Northern Railroad, financed by eastern interests but with Cache Valley Saints doing most of the labor, was completed from Ogden to Franklin in 1874. It was extended on through the upper Snake River Valley in 1878 and succeeding years. As the railroad pushed north, settlements followed. More than a dozen different villages or communities were settled in the next few years, including Rexburg, Parker, Menan, Lewisville, and Teton. In general this settlement was relatively well organized, under the direction of William B. Preston, the ecclesiastical leader in Cache Valley. Preston's instructions from Church headquarters in Salt Lake City were to settle the Saints in villages, just as was the pattern in Utah. In this way their ecclesiastical organizations could more effectively serve them, they would be closer to schools, and they could more effectively cooperate in making ditches, fencing fields, building bridges, and running their livestock. The village plan also made it easier to guard against horse and cattle thieves, land jumpers, and hostile Indians.

The Church instructions included the following admonition:

"Care must be taken that the interests of the Indians on their reservations, water claims or otherwise are not interfered with; but they must be guarded and protected in all their rights as is the white man. In all cases, a friendly and brotherly disposition should be nourished towards the lamanites who will be our friends if we do not repulse them."[4]

The movement into Star Valley, Wyoming, was similar, and was accomplished primarily by Cache Valley Saints. Eleven communities were founded in the late 1870s and early 1880s. Another movement at the same time resulted in the founding of a cluster of colonies in San Luis Valley in southwestern Colorado. Most of the early residents there were migrants from Mississippi who, after their conversion to the gospel, wished to locate somewhere in the Mountain West.

The movement into Nevada began in 1864 when a group was called from southern Utah to settle Meadow Valley in east central Nevada. But in the years that followed, group after group went to southern Nevada to settle about a dozen communities to grow cotton and semitropical products, and to supply provisions for travelers on the Spanish Trail toward California.

But the largest and most important movement of the 1870s and early 1880s was directed toward Arizona. The Morman Battalion had passed through that country on its memorable march in 1846 from the Missouri River to the Pacific Coast. After four settlements had been founded in 1876 on the Little Colorado River, other settlements were soon founded on the Gila and Salt rivers. Despite their hard lot initially, these settlers eventually began to prosper, and they provided the foundation for the community of Latter-day Saints in Arizona which now numbers about 200,000. The Udalls, Eyrings, Ellsworth, and Kimballs are all products of this heritage.

OUTSIDE THE UNITED STATES

With the upper Snake River solidly settled, a group of colonies began in Alberta, Canada. And with many communities now located in Arizona, it was also natural to establish bases in Sonora and Chihuahua in Mexico. These, and colonies in the Hawaiian Islands and elsewhere in the South Pacific, were lonely outposts until the significant Latter-day Saint expansion throughout the Free World after World War II. There are now more LDS stakes in Latin America than in all the world in 1928.

TWENTIETH CENTURY

We should not overlook the significant colonization in this century. In Wyoming and Idaho, for example, many members of the Church moved into the Teton area, primarily from Star Valley, Wyoming; into Magic Valley, after the completion of the Milner Dam in 1905; and into the Boise and Payette areas. Earlier colonies also grew. Some of this expansion was the result of the erection of beet sugar factories by Latter-day Saint and other interests early in the twentieth century. In still more recent times, the opening of new lands for settlement after the completion of reclamation projects has seen considerable numbers of Latter-day Saints move into the American Falls area, Rupert, and Emmett. These provided the foundation for the 200,000 or more Latter-day Saints in Idaho today.

SOME LDS CONTRIBUTIONS TO WESTERN COLONIZATION

Most of the Latter-day Saint colonists in the mountain states and Oregon and Washington were farmers. Latter-day Saints have always been heavily involved in the growing of cattle and horses, wheat and hay, potatoes and peas, and sugarbeets. Some time ago, Kusum Nair, a charming writer and educator from India, who had received a grant from the World Bank to make a study of agriculture in the United States, Japan, and India, suggested a reason for the Latter-day Saint success with these crops. In her prize-winning book, "The Lonely Furrow," there are two chapters on Latter-day Saint farmers. She wrote of one prominent non-Mormon agriculturist in Washington who told her that most Americans could not do irrigated farming. "It is much harder work than other kinds of agriculture," he said. "An American can look big—six feet tall. But he cannot work hard. Now the Orientals and Mormons can do that kind of work. They don't mind it. But not Americans. It's too hard." And he went on to tell Mrs. Nair that the Mormons "learn to do it only because they had to. It was a desert they settled, and there was no place else they could have gone to." Mrs. Nair concludes her two chapters on the Mormons by commending them for their blending of agriculture and religion in what she calls spiritual economics.[5]

Hard work is not the only contribution of Latter-day Saint pioneers to the development of the West. Here are some others:

1. They made persistent efforts through the years to establish friendly relations with Indians, and they have played a significant role in the intellectual, social, economic, and cultural achievements of western Indians in the past generation.

2. They contributed significantly toward the passage of women suffrage in the states of the mountain west in the years before World War I.

3. They helped perpetuate a heritage of economic cooperation, which has helped provide the kind of economic organization necessary to the development of the arid West.

4. They established and maintained cultural facilities and activities: ward schools, stake academies, colleges and universities, dance halls, choirs, theatrical productions, art festivals, classes in literature, and instruction in health and nursing.

Finally, it would be well to remember three general goals of early Latter-day Saint colonists. First, they cultivated a reverence for life and for nature. Even as they crossed the Great Plains, headed for the Salt Lake Valley, they agreed upon a rule that they must be kind to their animals. "The more kind we are to our animals," said President Brigham Young, "the more will peace increase, and the savage nature of the brute creation will vanish away" (in Journal of Discourses, 1:203).

Second, they tried to keep their settlements clean and productive. "Build cities," said President Young, "adorn your habitations, make gardens, orchards, and vine-

yards, and render the earth so pleasant that when you look upon your labors you may do so with pleasure, and that angels may delight to come and visit your beautiful locations" (in Journal of Discourses, 8:83).

Third, they sought personal development and improvement. This accounts, no doubt, for their heavy investment in education. Elder Parley P. Pratt said: "Here we can cultivate the mind, renew the spirit, invigorate the body, cheer the heart and ennoble the soul of man. Here we can cultivate every science and art calcuated to enlarge the mind, accommodate the body, or polish and adorn our race."[6]

President Bringham Young often said that the way to achieve success as a person, as a family, as a community, as a nation was to work hard, plan well, and trust in God.

That formula, inherent in the success of the Latter-day Saint colonization of the Old West, remains valid for all of us.

FOOTNOTES

[1] The following sources provide documentation for most of the information in this article: Milton R. Hunter, *Brigham Young the Colonizer* (Salt Lake City: *Deseret News Press*, 1940); Leonard J. Arrington, *Great Basin Kingdom: An Economic History of the Latter-day Saints*, 1830-1900 (Cambridge, Mass.: Harvard University Press, 1958); and B. H. Roberts, *A Comprehensive History of the Church*, 6 vols. (Salt Lake City, 1930).

[2] Manuscript history of Brigham Young, 20 Mar. 1851.

[3] Miscellaneous pioneer interviews and sketches: Mary Julia Johnson Wilson, p. 31, Mormon Diaries, Journals, and Life Sketches, Box 10, Library of Congress, Washington, D.C.

[4] John Taylor and Joseph F. Smith to William B. Preston and Counselors 26 Dec. 1882, First Presidency Letter Press Copybooks, vol. 6, Church Hist. Dept. Archives.

[5] Kusum Nair, *The Lonely Furrow: Farming in the United States, Japan, and India* (Ann Arbor, Mich., 1969), pp. 37-38; italics in original.

[6] Manuscript history of Brigham Young, 23 Aug. 1848.

THE FED EXCLUDES FARMERS

Mr. SASSER. Mr. President, today I want to restate and resubstantiate a charge I made 2 years ago: The Board of Governors of the Federal Reserve System, under the leadership of Paul Volcker, is systematically ignoring the interests of the American farmers by ignoring the law governing the Fed, which calls upon the Board of Governors to represent farmers on the boards of directors of the 12 regional banks in the Federal Reserve System.

Mr. President, all of us in this Chamber are only too aware that high interest rates are damaging, if not devastating, our national economy.

All of us are only too aware that interest rate levels are influenced by, and in fact controlled by, the Fed.

Perhaps too few of us are aware, however, that in our efforts to affect the nature of the policy coming out of the Fed and its Board of Governors, we ought to take a look at what and who make that policy.

During the spring of 1980, the first planting season for farmers following the advent of the Fed's fall 1979 tight money and high interest rate policy, rates crippled farmers throughout Tennessee and across the Nation. Farmers told me they were foregoing plantings, selling off equipment or foreclosing because of high interest rates.

Farmers who have stuck with their vocation through the continued, unyielding, high interest rate policies of the Fed, are rolling up enormous burdens of debt.

It was during that spring of 1980 that I asked the Library of Congress to survey the Federal Reserve Board and its regional banks and determine just how many farmers were represented on the board. It seems plainly obvious that the presence of farmers in the Fed's decisionmaking apparatus should help to make policy more sensitive to the interests of farmers.

The law governing the organization of the Federal Reserve System indeed encourages such representation. Aside from the Fed's seven-member board, the system has 12 regional banks, each with nine directors.

There are three classes of members, A, B, and C.

Class A members represent the stockholding banks in the districts. This does not exclude farmers.

Class B and C directors are to be appointed with "due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers." Class B and C members constitute 72 of the 108 directors across the Nation.

Most significant is that class C members, 36 of the directors, are appointed by Paul Volcker and his colleagues on the Fed's Board of Governors.

With such a mandate from law and with such varied representation possible among the 12 regional banks across the Nation, I thought it reasonable to expect to find a healthy representation of farmers on the boards of the regional banks.

But in May 1980, the Library of Congress found just three farmers across the United States serving as directors in the Federal Reserve System's regional banks. Three. That is 2.77 percent of the directorships.

And there are, of course, no farmers on the Board of Governors itself. In fact, the last person with farming as a principal interest who served on the Board of Governors was appointed by President Eisenhower.

This prompted many of us in the Senate to urge Presidential consideration of a farmer—or some other small business owner—for the next vacancy on the Fed's Board of Governors, and for more farmers and small business owners on the boards of the regional banks.

Last month, 2 years after the survey, I asked the Library of Congress to update the 1980 survey in order to track the improvement of the situation.

The result? No change. Still three farmers in the entire system.

Most aggravating is that there are no farmers among the class C directors at the regional banks. This shows that Paul Volcker and his colleagues on the Board of Governors have systematically excluded farmers from the category of appointments for which they are responsible.

Moreover, if you survey the 36 members appointed by the Board, and at the entire 108 directorships across the Nation, you will be hard pressed to find a small business owner or operator of any type—homebuilder, car dealer, travel agent, realtor—nor will you be able to locate anyone who is representative of labor or the consumer in general.

Just what do we have to do to convince the Board of Governors to broaden the range of voices and opinions which influence its policy?

Mr. President, I submit to those who claim that it is not the province of the Congress to suggest or mandate policy to the independent and autonomous Federal Reserve System that they carefully look at those who make up the "independent and autonomous" Federal Reserve System. It appears that they are independent of, and autonomous from, any voice or input by the farmer, the small business owner, the homebuilder, the auto dealer, the realtor, the worker, the consumer—just about anyone and everyone who make up the definition of borrower in this Nation.

Once again, I want to call upon the Board of Governors of the Federal Reserve System, and Chairman Volcker specifically, to heed the spirit and text of the statute which gives the Fed its autonomy, to take all due steps to increase the representation of farmers and other sectors of the American economy now excluded from membership on the boards of directors of the regional banks of the Federal Reserve System.

I ask unanimous consent that the Library of Congress survey be printed in the RECORD, and I would like to commend the diligence and thoroughness of Roger White, a specialist in the economics division at the Congressional Research Service in the Library of Congress, for his work in preparation of both the 1980 and 1982 surveys.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., June 23, 1982.

To: Senator JIM SASSER.

From: Roger White, Specialist in Public Finance and Financial Institutions, Economics Division.

Subject: Federal Reserve officials with agricultural interests.

Your request concerns agricultural backgrounds of current members of the Board of Governors of the Federal Reserve System and directors of the twelve regional Federal Reserve Banks. This response makes reference to findings on the same subject reported to your office in a memorandum dated

May 28, 1980, a copy of which is attached. That memorandum outlined the development of statutory provisions which require consideration of agricultural interests in making appointments to the Board of Governors and to the boards of directors of the Federal Reserve Banks.

In May 1980, we noted agricultural backgrounds of varying degrees for 10 of the 60 individuals who had served on the Board of Governors. None of the 10 were in office in May 1980. Since then, one appointment has been made to the Board. Federal Reserve releases providing background information on the new member, Dr. Preston Martin, do not indicate any direct experience with the agricultural sector.

Each Federal Reserve Bank has a board of directors with 9 positions, for which the terms of office are 3 years. For all 12 banks, there are 108 positions. Statutory provisions for appointments to 72 of these positions require "due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor and consumers." In May 1980, we noted that 3 directors might be considered to have principal occupations in agriculture. Of the 72 "covered" positions, 50 are filled in June 1982 by directors who have been appointed or reappointed since May 1980. Directors serving in June 1982 include 3 who might be considered to have principal occupations in agriculture. These directors, their Federal Reserve banks and information about principal occupations are as follows:

Mary Garst, Chicago, manager of cattle division, Garst Company (farming, cow-calf, feeder lot).

William L. Mathers, Minneapolis, President, Mathers Land Company, Inc. (ranching and farming).

Fred W. Andrew, San Francisco, President and Chief Executive Officer, Superior Farming Company (diversified farming organization).

In addition, three directors have principal business affiliations with firms which specialize in marketing or processing agricultural products. These are Jean McArthur Davis (Atlanta), John D. Anderson (Cleveland) and John F. Anderson (Kansas City). Two directors are educators who appear to have agricultural-related areas of expertise: William H. Stroube (St. Louis) and J. Wayland Bennett (Dallas). Please note that we do not have information about agricultural interests or backgrounds of directors other than principal business affiliation.

Attached, for your reference, is a copy of a master list of directors of Federal Reserve Banks. Please let us know of if we can be of further assistance (287-7593).

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, D.C., May 30, 1980.

To: Senator Jim Sasser.
From: Roger S. White, Specialist in Money and Banking, Economics Division.
Subject: Federal Reserve officials with agricultural interests.

Your request concerns agricultural backgrounds of members of the Board of Governors of the Federal Reserve System and of directors of the 12 regional Federal Reserve Banks. This memorandum presents statutory provisions relating to representation of agricultural interests on the Board of Governors and on the boards of directors of the regional banks. In addition, it provides information on agriculture related backgrounds of those who have served on the Board of Governors and its predecessor, the Federal Reserve Board, from 1914 to date and of those who have been in office as directors of the regional Federal Reserve Banks for selected periods since 1950. Biographical sketches containing references to agricultural interests and backgrounds appear in appendices, with those for past and present Board members beginning on page 7, and those for current directors beginning on page 18.

MEMBERS OF THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

From 1914 to 1936, the principal policy making body within the Federal Reserve System was known as the Federal Reserve Board. In 1936, the Board was reconstituted and renamed as the Board of Governors of the Federal Reserve System. The Federal Reserve Act initially provided for 5 appointive members, and was amended in 1922 to provide for one additional appointive member. Throughout the 1914-1936 period, the Act granted ex officio membership to the Secretary of the Treasury and the Comptroller of the Currency. The 1922 amendment included a change relating to backgrounds of appointive members, calling for the President, in making appointments, to have "due regard to a fair representation of financial, agricultural, industrial and commercial interests, and geographical divisions of the country." This phrase replaced original language which read as follows: "due regard to a fair representation of the different commercial, industrial and geographical divisions of the country."

The next change made in statutory requirements concerning the composition of the Board is also the most recent. The Banking Act of 1935 changed the title of the Board to the Board of Governors of the Federal Reserve System, removed ex officio members from the Board and provided for 7 appointive members. Provisions enacted in 1922 concerning the backgrounds of members of the Board were retained by the Banking Act of 1935.

Other provisions regarding the appointment and qualifications of members of the Board appear in a CRS report on the subject.[1]

On reviewing biographical sketches of past and present members, we have noted agricultural backgrounds of varying degrees for 10 of the 60 individuals who have served as appointive members. We, of course, cannot assess the intent of those nominating and confirming these or other members of the Board with respect to providing for fair representation of agricultural interests. The 10 members, the Federal Reserve districts from which they were appointed and their years of service are as follows:

Milo D. Campbell, Chicago, March 14, 1923 to March 22, 1923.

Edward H. Cunningham, Chicago, May 14, 1923 to November 28, 1930.

Eugene Meyer, New York, September 16, 1930 to May 10, 1933.

Wayland W. Magee, Kansas City, May 18, 1931 to January 24, 1933.

Ralph W. Morrison, Dallas, February 10, 1936 to August 9, 1936.

Chester C. Davis, Richmond, June 25, 1936 to April 15, 1941.

Rudolph M. Evans, Richmond, March 14, 1942 to August 13, 1954.

Paul E. Miller, Minneapolis, August 13, 1954 to October 21, 1954.

Chas. N. Shepardson, Dallas, March 17, 1955 to April 30, 1967.

G. H. King, Jr., Atlanta, March 25, 1959 to September 18, 1963.

Copies of biographical sketches of these 10 members, obtained from the Board, are appended to this memorandum.

DIRECTORS OF REGIONAL FEDERAL RESERVE BANKS

The Federal Reserve Act provides for 9 directors for each of the 12 regional Federal Reserve Banks. Each board of directors consists of an equal number of Class A, Class B, and Class C directors. Provisions concerning qualifications and appointment differ among the director classes. Mention of agricultural interests appeared in initial Federal Reserve Act provisions for Class B directors and appear in the Act as amended by Public Law 95-188 in connection with both Class B and Class C directors. Relevant provisions, excerpted from section 4 of the Federal Reserve Act are set forth below with additions or changes effected by Public Law 95-188 denoted by italic:

Paragraph 10: Class A shall consist of three members, *without discrimination on the basis of race, creed, color, sex, or national origin,* who shall be chosen by and be representative of the stockholding banks.

Paragraph 11: Class B shall consist of three members, *who shall represent the public and shall be elected without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, services, labor, and consumers.* [underlined portion replaced original language which read as follows: who at the time of their election shall be actively engaged in their district in commerce, agriculture or some other industrial pursuit.]

Paragraph 12: Class C shall consist of three members who shall be designated by the Board of Governors of the Federal Reserve System. *They shall be elected to represent the public, without discrimination on the basis of race, creed, color, sex, or national origin, and with due but not exclusive consideration to the interests of agriculture, commerce, industry, service, labor, and consumers . . .*

Characteristics of directors serving the regional Federal Reserve Banks during selected periods have been examined in several studies. A study which appeared in the December 1973 issue of the Social Science Quarterly includes data on characteristics of Class B and Class C directors appointed or reappointed during the 21 year period 1950 to 1970.[2] In this study, each director was classified according to his primary economic activity or occupation, such classification being made on the basis of principal business address. Thirteen occupational classes used included agriculture, extractive industry (mining and drilling), manufacturing and academic. Of the 252 appointments and reappointments made to Class B positions during the 21 year period, 16 were classified as having agriculture as their principal occupation. For the same number of Class C positions, there were 11 classed under agriculture. The total number of director positions for the 21 year period, in-

[1] U.S. Library of Congress. Congressional Research Service. Members of the Board of Governors of the Federal Reserve System: Requirements for Appointment and a Listing of Appointees, Their Federal Reserve Districts and Years of Service [by] Roger S. White. [Washington] May 28, 1980. 9 p.

[2] Havrilesky, Thomas, William P. Yohe and David Schirm. The Economic Affiliations of Directors of Federal Reserve District Banks. Social Science Quarterly, vol. 54, Dec. 1973, pp. 608-622.

cluding Class A directors who represent member banks, was 756, 27 of whom, or 3.6 percent, were classed as having agriculture as their principal occupation.

A study published in the June 1972 Federal Reserve Bulletin, prepared by Andrew F. Brimmer, a member of Board of Governors at that time, analyzes characteristics of directors of the regional Federal Reserve Banks as of January 1, 1972.[3] In classifying "industrial origins of directors, 1972", this study used 13 industrial classifications similar to those used in the study discussed above. Of 108 directors serving as of January 1, 1972, 4 or 3.7 percent, were classed as having agriculture as their industry origin.

We have obtained copies of the Federal Reserve's Form 242 "Director's Biographical Sketch" for each of the directors currently in office. Our review of this information, which follows, does not constitute an assessment of whether or not there has been due consideration to the interests of agriculture in selecting directors.

Three of the current directors, all Class B, appear to have agriculture as their principal industrial occupations. Three positions constitute 2.8 percent of the total 108 directorship positions. These directors, their Federal Reserve banks and information on principal occupations are as follows:

Mary Garst, Chicago, Cattle Manager, The Garst Company (nature of business: agriculture-farming, cow-calf, feedlot, chemical, fertilizer).

Donald P. Helgeson, Minneapolis, Secretary-Treasurer, Jack Frost, Inc. (nature of business: agribusiness-integrated poultry, grain elevators and food distribution—180 employees, 160 contract farmers).

Alan Roy Sleeper, Kansas City, Company name: Alan R. Sleeper (nature of business: livestock and ranching, investments).

In addition, the biographical sketches contain information indicating varying degrees of background and interest in agriculture for 11 directors who would be classed as having other principal industrial occupations. These include directors who earned degrees in agriculture or agricultural economics but are employed in banking, educators whose fields of expertise are in agriculture, and those who own farms but list unrelated principal business affiliations. Copies of the biographical sketches of these 11 directors and of the 3 referred to above are appended, grouped by Federal Reserve districts.

Please let us know if we can be of further assistance.

[3]Brimmer, Andrew F., Characteristics of Federal Reserve Bank Directors. Federal Reserve Bulletin, vol. 58. June 1972, pp. 550-559.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business?

If not, morning business is closed.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

The PRESIDING OFFICER. The Senate will resume consideration of H.R. 4961, which the clerk will state.

The legislative clerk read as follows:

A bill (H.R. 4961) to make miscellaneous changes in the tax laws, and for other purposes.

The PRESIDING OFFICER. Senator DOLE has 4 hours and 32 minutes on the bill. Senator LONG has 4 hours and 44 minutes on the bill. Amendment No. 1972 is pending. Senator DOLE has 25 minutes and 50 seconds on the amendment. Senator FORD has 14 minutes, 31 seconds on the amendment.

Who yields time?

Mr. FORD. Mr. President, I see the distinguished majority whip is on the floor. Some of the proponents and opponents of my amendment are not here. Would it be in order to ask unanimous consent that we have a quorum call that will not be charged to either side?

The PRESIDING OFFICER. That would be in order.

Mr. FORD. Since the distinguished Senator from Alaska is here, I would not want to do anything that would disrupt his schedule.

Mr. STEVENS. Mr. President, I have no objection to a quorum call with the time charged equally for the time being. Is that what the Senator wishes to do?

Mr. FORD. No, Mr. President, I do not have very much time. I see the distinguished Senator from Louisiana is here.

Mr. LONG. Mr. President, I ask unanimous consent that it be in order to have a quorum call at this point without charging it to either side.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GARN). Without objection, it is so ordered.

Mr. DOLE. Mr. President, what is the pending business?

AMENDMENT NO. 1972

(Purpose: To eliminate the provisions which increase the excise tax on cigarettes)

The PRESIDING OFFICER. The pending business is the Ford amendment.

Mr. DOLE. Does the Senator from North Carolina wish to be recognized at this time?

Mr. HELMS. Only briefly, I would say to my friend from Kansas, because I assume we want to get to a vote on this amendment.

Who is in control of the time?

Mr. FORD. Mr. President, I have approximately 14 minutes left, and I will be happy to yield.

Mr. DOLE. Mr. President, I would be happy to yield whatever time the Senator needs.

Mr. FORD. The Senator from Kansas has 25 minutes left, I believe. I yield whatever time the Senator from North Carolina needs.

Mr. HELMS. I am grateful to both Senators for yielding to me, and for their many other courtesies.

Mr. FORD. I might say to the distinguished Senator from North Carolina that I was listening to the radio this morning and they were discussing great Americans. Today is the birthday of a great American, the distinguished Senator from Kansas (Mr. DOLE). Since it is his birthday, I hope he continues to be as good to us during this day as he has been throughout these proceedings. I wish him a happy birthday and many happy returns.

I yield to the Senator from North Carolina.

Mr. HELMS. I thank the Senator from Kentucky.

Mr. President, it would seriously disrupt the Senate if I attempted to sing "Happy Birthday" to BOB DOLE. Once you have heard me sing you would know what I mean. I can scarcely carry a tune in a basket. However, I do wish my good friend from Kansas, as they say in North Carolina, many more happy returns. He is a great Senator and a great friend.

Mr. President, consumers of tobacco already bear an inordinate share of taxes imposed by all levels of government—a fact that has eluded the awareness of a great many people who are inclined to vote "against tobacco" on any and every occasion. I do not know of any other commodity that is as overtaxed as tobacco. The 100-percent increase in the Federal excise tax on cigarettes proposed by this bill would cause undue hardship to the 55 million Americans who choose to smoke, as well as the 276,000 family farmers who depend on tobacco for their livelihoods.

Of course, I have a provincial interest in this. I confess it. Forty thousand to 45,000 of those 276,000 farm families are in my State of North Carolina. I will not go into a recitation of all the economic aspects of this issue. I have done that time and time again.

Proponents of increased cigarette taxes have maintained over the years that people should not smoke and therefore the additional tax burden serves them right. Mr. President, is this not a little bit of an elitist position? The fact is that this is a regressive tax—one that falls hardest on the less affluent people of our society, requiring them to pay a larger proportionate share of the taxes required to support the operation of not only the Federal Government but State and local governments as well.

Most hurt by this increase are not those with comfortable incomes who can afford the extra expense, but those with modest incomes—the working people of this country. This regressive cigarette tax will force poorer

people who use tobacco to pay a larger proportional share of the revenues.

Mr. President, supporters of this increase point out that the Federal excise tax on cigarettes has not increased since 1951. That is true. But those who attempt to justify this proposed increase with such an argument are overlooking the fact that Federal excise tax collections have almost doubled from $1.3 billion to $2.5 billion a year.

Also, States have increased excise tax rates on cigarettes from 3 cents to 13.4 cents, almost 350 percent. State tax revenues on cigarettes, including sales tax, shot up from $466 million in 1951 to nearly $4.4 billion in 1981, a rise of more than 800 percent. Clearly, tobacco has been an easy target over the years, and lawmakers have not hesitated to single out this commodity to bear an inordinately heavy tax burden.

Tobacco consumers already pay $7 billion more in Federal, State, and local taxes per year than do nonsmokers. The Federal cigarette excise tax is among the highest imposed on any product in the United States—6.5 times higher than the Federal tax on wine, 3.7 times the tax on gasoline, 1.8 to 3.7 times of the tax on tires, 2.2 times the tax on airline tickets, and 1.6 times the tax on beer.

Mr. President, the effect this proposal could have on our economy is devastating. The negative impact of this increase will render the Federal excise tax an inefficient and costly method of raising revenue because of the trade-off between tax revenue gains and business income or productivity losses. Doubling the cigarette tax rate will not have a corresponding result on the amount of revenue collected and will cause untold difficulty in threatening jobs, earnings, productivity, and economic growth of the tobacco industry and its supporting industries. The estimated ripple effect of such a tax increase is based on the expected decline in demand as it effects business revenue and therefore basic income or value added, which included the effects on salaries and wages as part of operating costs. The main supporting sectors that will be affected are advertising, paper, fuels, chemicals and plastics, several business service sectors and tobacco processing, containers trucking, storage and distributors.

My State of North Carolina will perhaps bear the brunt of the negative impact of this tax increase. The economic effect will be far reaching, not only in North Carolina, but other States as well. Estimates have been made as to the number of jobs, State revenue, and so forth that will be lost due to this proposed increase and the consequences to my State and the Nation must not be ignored.

One of the main problems with this tax increase that must be considered is that it will severely threaten present and future State revenues from tobacco sales. It has been estimated that there will be an overall decline of $358 million in State revenues due to a decrease in demand. States have become more dependent on cigarette excise taxes to finance various programs. In fact, cigarette taxes are six times more important as a source of revenue for the States than for the Federal Government. Local governments are also deriving a significant portion of their income from cigarette taxes. Almost 400 cities and counties now tax cigarettes for a total of nearly $164 million in 1981. The decrease in this revenue due to the expected drop in demand will incur yet another difficulty for financially hard pressed local governments. It is clear that the punitive effects of such a tax increase will extend far beyond the smoker and small family farmer.

A recent study by the Wharton Applied Research Center of the University of Pennsylvania shows that tobacco and tobacco products generate $57.6 billion annually toward the gross national product. Tobacco's contribution to America's GNP is roughly 2½ times net expenditures on the industry's products, demonstrating dramatically the magnitude of tobacco's indirect effect on the national economy. The negative effects of doubling the excise tax on cigarettes, as I have already stated, could be devastating.

Mr. President, I urge the Senate to accept my amendment and reject this proposed unreasonable and disruptive attempt to penalize the consumers of tobacco in this country. I ask unanimous consent that a list of the negative effects to North Carolina which I have described be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE NEGATIVE EFFECTS TO NORTH CAROLINA OF AN 8-CENT INCREASE IN THE FEDERAL CIGARETTE EXCISE TAX

In 1963, the following adverse economic effects are likely [1] to occur in North Carolina:

A decline in the cigarette industry's basic income of about $168 million.

A decrease in all supporting industries' basic income of about $130 million.

A decrease in the basic income of tobacco growers and their supporting firms of $58 million.

An expected decline in state cigarette tax revenues of $2 million.

A drop in wholesale/retail/supporting firms' income of $11.5 million.

Without any additional compensating nontax increases in price, a loss in wholesale and supporting sector employment of 325 workers associated with the basic income losses, to reduce operating costs, including losses in salaries and wages of $6.3 million.

To reduce the productivity losses and operating costs without any compensating cigarette price increases, layoffs would also occur in the other industries indentified above.

The total decline in annual basic income (i.e. value added) and state tax revenues outlined here would amount to $370 million from the expected effects for North Carolina.

Mr. HELMS. Mr. President, I thank the Senator from Kentucky for yielding to me, and I promise support for his amendment.

Mr. FORD. I thank the distinguished Senator from North Carolina.

Mr. President, I ask unanimous consent that the names of the Senator from North Carolina (Mr. EAST) and the Senator from Ohio (Mr. METZENBAUM) be added as cosponsors of the amendment.

The PRESIDING OFFICER (Mr. D'AMATO). Without objection, it is so ordered.

(By request of Mr. FORD, the following statement was ordered to be printed in the RECORD:)

● Mr. METZENBAUM. Mr. President, I have supported many provisions of this tax bill, because I believe this bill eliminates many inequities in the tax law which favor large corporations and special interests. But I cannot support the provision in this bill that raises almost $5 billion over the next 3 years by doubling the Federal excise tax on cigarettes.

I do not smoke, so no one should take this as an endorsement of smoking. But I am opposed to increasing Federal revenues by singling out one class of citizens—in this case the cigarette smokers in the country—and making them pay a disproportionate share of the tax burden.

The basic issue is one of fairness and equity. I and many of my colleagues have spoken against other provisions of this bill because they will hurt the middle class or the poor. I believe that the tobacco tax increase is one of the worst and most inequitable of all those provisions.

The cigarette tax now in existence of 8 cents per pack is already a regressive tax, and the 16-cent per pack tax proposed by this bill would make it even more regressive. Obviously it is harder for a person making $10,000 or less to pay that tax than it is for someone making $40,000. This tax is not proposed as a deterrent to smoking, because study after study has shown that people who smoke will continue to smoke even if taxes are increased.

This is a very real tax increase for the individual who does smoke. A recent article in Tax Notes, dated January 25, 1982, noted that the effect of

[1] The "likely" effect is based on the tax increase being considered as a real or greater-than-inflation net increase in price. A minimum effect would be based on deflating the price increase by the Consumer Price Index to estimate the net price increase, on the assumption that consumers view the tax increase as mainly inflationary in its effect. A deflated tax will also have significant negative effects on demand, income, and employment.

this excise tax increase on cigarettes will have the effect of wiping out the tax cuts that have been so ballyhooed by the Reagan administration. As that article states:

> Any use of higher excise tax rates to make up for revenue losses resulting from the kind of income tax reductions legislated last year will give rise to a net further shift of overall tax burdens away from the upper income portions of the population and toward less affluent families . . . the burden of increased excises will fall with particular severity upon poor families.

Mr. President, I have been concerned about the costs to the taxpayer of the tobacco farm price support program. And I have been concerned about the inequities of the archaic allotment program as it applies to Fluecured tobacco. I still have some criticisms of that program, but I believe that many of those concerns have been addressed and the program has been much reformed in the past 2 years. In my State of Ohio, we have 11,470 families who make their living from tobacco in one way or another, so I am concerned about that program.

But I believe the tax increase proposed here will have a negative impact on those tobacco growers far beyond the impact of any reforms that have been instituted in the tobacco program.

Finally, I am opposed to this tax increase on cigarettes because I believe it sets a bad precedent for the tax bills to follow. If the Republican majority is willing to increase taxes on cigarettes, then next it will raise taxes on liquor, on beer, on energy, and on numerous other consumer taxes. Those consumer taxes are regressive and especially hit the poor and working families. Yet they are being imposed, while families in the upper incomes will see their overall tax burden lessened. We must have fairness and equity in the Tax Code. While I support many of the efforts in this bill to move toward tax fairness, I believe the provision to double the cigarette excise tax is a step in the wrong direction, and I must strongly oppose it.●

Mr. FORD. Mr. President, I understood that the distinguished Senator from South Carolina would like to have a few minutes, and I am more than pleased to yield to him.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I support the Amendment offered by the distinguished Senator from Kentucky striking the increase for excise tax on cigarettes.

The Finance Committee proposal to raise excise taxes on cigarettes by 100 percent will have a disproportionate and regressive effect on our tax structure. It will increase the already substantial tax burden levied on the blue-collar worker and low and middle income taxpayers who constitute the majority of today's smoking population.

Mr. President, the increase will severely hamper the revenue raising capability of our State governments. To the extent that this dramatic increase in Federal excise taxes reduces consumption of tobacco products, it will thereby reduce the amount of revenues collected by State treasuries from excise taxes imposed on cigarettes at the State level.

Mr. President, in this Senator's judgment, the Finance Committee acted unwisely in implementing a 100-percent increase in cigarette excise taxes. It is unfair to single out one industry for such a harsh increase. For this reason, and the ones I noted previously, I believe this effort to strike the excise tax on tobacco is well founded. I strongly support this amendment, and I hope my colleagues will go on record in support of this amendment, also.

I thank the Senator from Kentucky for yielding.

Mr. FORD. I am delighted to yield.

Mr. President, how much time do I have remaining on my amendment?

The PRESIDING OFFICER. Five minutes and fifty seconds.

Mr. FORD. I yield myself 2 minutes.

Mr. President, I understand well these proceedings and the package that has been put together.

Last week, we saw this body single out tobacco as the only agricultural commodity to be produced at no net cost to the Federal Government. The farmers of our States who raise tobacco will be required to pay their own way. What other agricultural commodity is required to bear that responsibility? None.

Today, we see the imposition of a 100-percent increase in the excise tax on a pack of cigarettes, from 8 cents to 16 cents.

Kentucky is the second largest payer of excise taxes in the country. A small State like Kentucky is the second largest payer of excise taxes in the country.

We have 81,000 jobs related to the tobacco industry. The income this year will be roughly $916 million. That is the only thing that is keeping our agricultural community's head above the economic water.

Doubling the excise tax, if the Senate sees fit to do so, will reduce consumption approximately 5 percent. As that consumption decline ripples through the economy it will mean that those 81,000 related jobs will be reduced by approximately 5,000. So we stand to lose, in Kentucky alone, 5,000 jobs. At a time when unemployment is rising, and agriculture in particular is suffering, this minuscule effort to help balance the budget is just not worth the attendant costs.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. FORD. I yield myself 1 minute. It is estimated that that same 5-percent-consumption decline will cause our State to lose more than $50 million in income.

At a time when the agricultural community is experiencing a significant increase in bankruptcies and foreclosures, we in the U.S. Senate, as a result of this 100-percent increase in taxes, will be causing more bankruptcies and foreclosures; we will be eliminating more jobs and income; we will be applying more hardship on the tobacco industry and farmers of Kentucky.

These are economic hard times, but we insist on increasing the economic hard times on the agricultural community of my State and the 22 other tobacco-raising States.

We give billions of dollars to people who do not want to work and who will not work. Yet we say to the farming community of my State and others, those who want to work, "We are going to make it even harder on you to make a living; make it even harder on you to get by."

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, does the Senator from Virginia wish time?

Mr. WARNER. In just a minute, yes.

Mr. FORD. Mr. President, I ask unanimous consent that the distinguished Senator from Virginia (Mr. WARNER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, if the distinguished Senator from North Carolina (Mr. HELMS) is not a cosponsor, I wish his name to also be added.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I also ask unanimous consent that the name of the Senator from South Carolina (Mr. HOLLINGS) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President. I understand the distinguished Senator from Virginia (Mr. WARNER) wishes to speak. I yield 5 minutes or whatever time he requires.

Mr. WARNER. I thank my distinguished colleague.

Mr. President, I support my distinguished colleague, the Senator from Kentucky (Mr. FORD) and others in this effort supporting this amendment.

This amendment will have a very severe impact on the fiscal situation in my State of Virginia as well as other States. There will be an adverse impact on jobs in all parts of the industry.

This industry has grown up in the State of Virginia through generations, and the abruptness of this tax would just be devastating to persons who have carefully through many years invested their incomes and their lives.

If corrections are to be made, they should be made in a gradual way and not in such an abrupt way as proposed by this tax.

For example, in 1983, the following adverse economic effects are predicted:

A decline in the cigarette industry's basic income of about $370 million;

A decrease in all supporting industries' basic income of $290 million;

A decrease in the basic income of tobacco growers and their supporting firms of $136 million;

An expected decline in State cigarette tax revenues of $358 million;

A drop in wholesale/retail/supporting firms' income of $310 million;

Without any additional compensating nontax increases in price, a loss in wholesale and supporting sector employment of 8,830 workers associated with the basic income losses, to reduce operating costs, including losses in salaries and wages of $172 million.

To reduce the productivity losses and operating costs without any compensating cigarette price increases, layoffs would also occur in the other industries identified above.

The total decline in annual basic income—that is, value added—and State tax revenues outlined here would amount to $1,458 million from the expected effects for:

A decline in the cigarette industry's basic income of about $125 million;

A decrease in all supporting industries' basic income of $97.3 million;

A decrease in the basic income of tobacco growers and their supporting firms of $8.2 million;

An expected decline in State cigarette tax revenues of $1.75 million;

A drop in wholesale/retail/supporting firms' income of $8.3 million;

Without any additional compensating nontax increases in price, a loss in wholesale and supporting sector employment of 235 workers associated with the basic income losses, to reduce operating costs, including losses in salaries and wages of $4.6 million;

To reduce the productivity losses and operating costs without any compensating cigarette price increases, layoffs would also occur in the other industries identified above;

The total decline in annual basic income—that is, value added—and State tax revenues outlined here would amount to $240 million from the expected effects for Virginia.

The likely effect is based on the tax increase being considered as a real or greater-than-inflation net increase in price. A minimum effect would be based on deflating the price increase by the consumer price index to estimate the net price increase, on the assumption that consumers view the tax increase as mainly inflationary in its effect. A deflated tax will also have significant negative effects on demand, income and employment.

Mr. President, these statistics provide a very solid case for viewing this tax as having a very severe, adverse economic impact on those States that historically have supported this industry. It is for that reason that I strongly support this amendment, and I urge my colleagues to do likewise.

In the years to come perhaps we can make some adjustments but certainly not in the abrupt manner as now provided in the bill before the Senate.

Mr. FORD. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. FORD. Mr. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficent second? There is a sufficent second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, whatever time I have remaining I yield to the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. Mr. President, doubling the cigarette tax as proposed by the Committee on Finance is, in my judgment, unwise and unjustified.

I shall support the amendment offered by the distinguished Senator from Kentucky (Mr. FORD) of which I am a cosponsor.

I say again I think it is unreasonable and unjustified to consider doubling the tax on cigarettes.

Mr. FORD. I thank the distinguished Senator from Virginia.

Mr. DOLE. Mr. President, I understand the junior Senator from North Carolina (Mr. EAST) is on his way to the Chamber and wishes to speak on the amendment.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged to my time on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FORD. Mr. President, I do not believe I have time left, maybe a minute or less, to yield to the Senator from North Carolina, but I would be glad to do that. I understand the distinguished floor manager of the bill would be willing to allow some time in the event the distinguished Senator needs it. So I yield whatever time I have and the rest will be yielded by the Senator from Kansas.

Mr. DOLE. Mr. President, I yield 5 minutes of my time to the Senator from North Carolina.

Mr. EAST. Mr. President, I thank the Senator. That will be adequate time. I greatly appreciate the floor manager and the distinguished Senator from Kentucky allowing me a few minutes to speak on behalf of the amendment proposed by the very able Senator from the State of Kentucky.

It is a great pleasure for me to join him as a cosponsor of the amendment concerning the excise tax upon cigarettes. There are several points I would like to stress for my colleagues here in making my argument.

First of all, as we all know, a tax of this kind is regressive. It hits the ordinary citizen the hardest. I think that in and of itself makes it a bad tax. I think in times of recession to double a tax upon a particular commodity is ill-advised and difficult to defend.

Second, Mr. President, you run the risk with any commodity when you continue to increase the tax on it of finally beginning to affect the sales of it. So actually you are counterproductive in your policy. You have reduced the flow of revenue.

I would like to point out to my colleagues, Mr. President, that since 1951 the States in this country have increased the tax on the sale of cigarettes by 350 percent. It is pretty high. Now we are proposing to increase it by 100 percent in terms of the Federal tax from 8 cents to 16 cents a pack.

You are finally going to so burden this commodity that people will not be able to buy it or will reduce sales and, hence, you dry up the source of revenue for State governments as well as the Federal Government.

I submit, Mr. President, although I know this is not the intention, that we have reached the point here in tax policy with regard to tobacco where it is punitive. It is rooted, frankly, in some cases in hysteria, and I think we ought to call it for what it is. If you want to prohibit smoking in this country then face it head-on and be honest about it. Then let us have a prohibition. But do not use the revenue and the tax policies and powers of the U.S. Congress to accomplish that end.

So, Mr. President, I simply submit this tax is ill-advised, it is going to be hurtful to one of the great industries of this country, a legal industry, an honorable industry.

I have the pleasure of representing one of the States that is very vitally affected. I come from North Carolina, and in the eastern part of the State where I reside we are in the heart of

the Flue-cured tobacco-producing area. It is a vital component of our economy. It is the undergirding of the entire tobacco industry in our State, which is our number one industry in terms of buying, exporting, and manufacturing, and we are proud of it.

It has a long history and it is here to stay. We do not like to see the tax policies of the U.S. Government go about dismantling it in this punitive fashion.

As the distinguished Senator from Kentucky has pointed out, there are 22 States in the United States that deal in the growing of tobacco. Again it is an integral part of the economy of this country.

In conclusion, I note, Mr. President, that over $6 billion a year is raised in revenue today at the State, local, and Federal levels by the taxes upon tobacco, and if they do not stop piling on more and more, Mr. President, again I repeat, we are going to kill the goose that is laying the golden egg.

So the amendment offered by the distinguished Senator from Kentucky makes good sense from many perspectives, and it is my pleasure to speak on behalf of it.

I commend him for offering it and I urgently ask my colleagues to support it. I thank the Chair and I thank the floor leader of this bill, and I thank the distinguished Senator from Kentucky for yielding me time to speak on behalf of it.

Mr. DURENBERGER. Mr. President, I am going to vote for the amendment to remove the cigarette excise tax increase from the Finance Committee bill.

I will do so for reasons perhaps not considered by my colleagues and so I will take a moment to call these considerations to the attention of the Senate.

Last January, President Reagan in his State of the Union message proposed a bold plan for realining responsibilities in our federal system of Government. This plan is based on the President's long standing desire to return programs and tax resources to State and local government.

The President's plan would call on States to take over some 40 programs that are currently financed in part by the Federal Government. To make sure that States have the financial resources to take on these programs entirely, the President also proposed that the Federal Government give up certain tax sources. One of these taxes is the excise tax on tobacco. This tax is currently used by most of the States. It can be easily imposed by a State and so is a likely candidate for transfer along with program responsibilities.

Sometime later this month the President will be sending a message to the Congress spelling out the details of his New Federalism plan. That plan will call for a return of the tobacco tax to the States. I do not think it is helpful to the prospects for a New Federalism to have the Senate increasing—doubling—the very tax that the President is promising to turn back to the States.

The New Federalism is an important initiative. It is a program that the American people will support because it promises to make Government programs more accountable to the taxpayers concerns. But achieving a new Federal partnership will be a difficult undertaking for the Congress. I think we are making an especially bad start if our first step is to double the cigarette tax at the same time the President is promising to repeal the tax so that States can use this revenue source to finance new responsibilities.

So, Mr. President, I would urge my colleagues to support this amendment.

● Mr. LEVIN. Mr. President, I rise in opposition to the amendment by the Senator from Kentucky to strike from the committee's bill the increase in the excise tax on cigarettes by 8 cents.

I do this with mixed feelings. I believe that the cigarette tax should be increased in light of the fact that it has not been increased since 1951, so that it now represents a far smaller portion of the purchase price of a pack of cigarettes than it did 30 years ago. It is clear that some increase in the excise tax on cigarettes is in order.

However, I am troubled by the magnitude of the increase in the Finance Committee's bill. Doubling the cigarette tax is a larger one-step increase than I think is fair to those in our society who smoke. Any increase in an excise tax is a regressive tax increase because it falls disproportionately on middle-income and low-income people. But this 8 cents increase magnifies that regressivity much more than is fair.

I believe that an increase in the tax of 4 cents would strike the appropriate balance between the need for increased revenue to deal with our budgetary situation and the requirements of fairness. I would hope that the Finance Committee would accept such an amendment if it is offered.●

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, on behalf of the distinguished manager of the bill, I suggest the absence of a quorum with the time being charged to his time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1111

Mr. DOLE. Mr. President, we are going to have a vote in just 1 minute, but there is one minor amendment that is of interest to Senators GOLDWATER and CANNON. It is at no cost to the Treasury. it has been cleared with Senator LONG. I wonder if we might ask unanimous consent to temporarily set-aside the Ford amendment and bring up the amendment by the distinguished Senators GOLDWATER and CANNON.

The PRESIDING OFFICER (Mr. HAYAKAWA). Is there objection? The Chair hears none, and it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for Senators GOLDWATER and CANNON, proposes an unprinted amendment numbered 1111:

At the end of the first committee amendment insert the following new section:

That (a) paragraph (19) of section 501(c) of the Internal Revenue Code of 1954 (relating to exemption of veterans' organizations) is amended—

(1) by striking out "war veterans" the first place it appears and inserting in lieu thereof "past or present members of the Armed Forces of the United States", and

(2) by amending subparagraph (B) to read as follows:

"(B) at least 75 percent of the members of which are past or present members of the Armed Forces of the United States and substantially all of the other members of which are individuals who are cadets or are spouses, widows, or widowers of past or present members of the Armed Forces of the United States or of cadets, and".

(b) The amendments made by subsection (a) shall apply to taxable years beginning after the date of the enactment of this Act.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back the time.

Mr. LONG. I yield back the time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1111) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1972

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Kentucky. The yeas and nays have been ordered.

Mr. FORD. Mr. President, I do not think I have any more time. If I do, I yield it back.

The PRESIDING OFFICER. There is no time remaining. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DeCONCINI (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished junior Senator from South

Carolina (Mr. HOLLINGS). If he were present and voting, he would vote "yea." If I were at liberty to vote, I would vote "nay." I withdraw my vote.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Ohio (Mr. METZENBAUM) would vote yea.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 24, nays 72, as follows

[Rollcall Vote No. 238 Leg.]

YEAS—24

Bradley	Heflin	Pryor
Byrd, Harry F., Jr.	Helms	Randolph
Byrd, Robert C.	Huddleston	Sasser
Cranston	Leahy	Stennis
Durenberger	Long	Thurmond
East	Matsunaga	Warner
Exon	Mattingly	Zorinsky
Ford	Mitchell	
	Nunn	

NAYS—72

Abdnor	Eagleton	Melcher
Andrews	Garn	Moynihan
Armstrong	Glenn	Murkowski
Baker	Goldwater	Nickles
Baucus	Gorton	Packwood
Bentsen	Grassley	Pell
Biden	Hart	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Proxmire
Brady	Hawkins	Quayle
Bumpers	Hayakawa	Riegle
Burdick	Heinz	Roth
Cannon	Humphrey	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Specter
D'Amato	Kasten	Stafford
Danforth	Kennedy	Stevens
Denton	Laxalt	Symms
Dixon	Levin	Tower
Dodd	Lugar	Tsongas
Dole	Mathias	Wallop
Domenici	McClure	Weicker

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

DeConcini, against.

NOT VOTING—3

Hollings	Inouye	Metzenbaum

So Mr. FORD'S amendment (No. 1972) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, may we have order? I think the distinguished Senator from South Carolina has an amendment.

UP AMENDMENT NO. 1112

(Purpose: To limit the increase in the excise tax on cigarettes and to increase the excise tax on distilled spirits)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to taking up the amendment at this point? Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself Mr. HELMS and Mr. WARNER, proposes an unprinted amendment numbered 1112.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 445, beginning with line 5, strike out all through line 25 on page 447 and insert in lieu thereof the following:

PART III—DISTILLED SPIRITS AND CIGARETTES

SEC. 285. INCREASE IN TAX ON DISTILLED SPIRITS AND CIGARETTES.

(a) INCREASE IN TAX ON DISTILLED SPIRITS—

(1) RATE OF TAX.—Section 5821(a) (relating to rate of tax) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1) IMPOSITION OF TAX.—There is hereby imposed on all distilled spirits produced in or imported into the United States a tax at the rate of $13.80 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On distilled spirits produced in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by a person other than a retail dealer, there shall be imposed a tax at a rate, of $3.30 on each proof gallon and a proportionate tax at the like rate on all fractional parts of a proof gallon.

(B) LIABILITY FOR TAX.—A person holding distilled spirits for sale on January 1, 1983, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 5001 of the Internal Revenue Code of 1954 and shall be payable with respect to distilled spirits held on January 1, 1983 for sale in the same manner as the tax imposed under such section is payable with respect to distilled spirits removed on January 1, 1983.

(C) DISTILLED SPIRITS.—For purposes of this subsection, the term "distilled spirits" shall have the meaning given to such term by section 5002 (a)(8) of the Internal Revenue Code of 1954.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply with respect to distilled spirits removed after December 31, 1982.

(b) INCREASE IN TAX ON CIGARETTES.—

(1) RATE OF TAX.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended—

(A) by striking out "$4" in paragraph (1) and inserting in lieu thereof "$6"; and

(B) by striking out "$8.40" in paragraph (2) and inserting in lieu thereof "$12.60".

(2) FLOOR STOCKS.—

(A) IMPOSITION OF TAX.—On cigarettes manufactured in or imported into the United States which are removed before January 1, 1983, and held on such date for sale by a person other than a retailer, there shall be imposed the following taxes:

(i) SMALL CIGARETTES.—On cigarettes, weighing not more than 3 pounds per thousand, $2 per thousand.

(ii) LARGE CIGARETTES.—On cigarettes, weighing more than 3 pounds per thousand, $4.20 per thousand; except that, if more than 6⅛ inches in length, they shall be taxable at the rate prescribed for cigarettes weighing not more than 3 pounds per thousand, counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.

(B) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(i) LIABILITY FOR TAX.—A person holding cigarettes on January 1, 1983, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(ii) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed under section 57.1 of the Internal Revenue Code of 1954 and shall be payable with respect to cigarettes held on January 1, 1983 in the same manner as the tax imposed under such section is payable with respect to cigarettes removed on January 1, 1983.

(C) CIGARETTE.—For purposes of this subsection, the term "cigarette" shall have the meaning given to such term by subsection (b) of section 5702 of the Internal Revenue Code of 1954.

(3) EFFECTIVE DATES.—The amendment made by paragraph (i) shall apply with respect to cigarettes removed after December 31, 1982.

Mr. THURMOND. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order. The Senator from South Carolina may proceed.

Mr. THURMOND. Mr. President, this amendment to the pending tax bill is a simple one, as well as one that I believe deals fairly with the industries which would be impacted by the proposed excise tax increases.

The purpose of this amendment is to raise the present rate of excise taxes on cigarettes by 50 percent, along with raising the rate of excise taxes on distilled spirits by approximately 31 percent.

Mr. HELMS. Mr. President, the Senate is not in order. Will the Senator suspend? Let us get order in the Senate so that we can hear the explanation of the Senator's amendment. I hope the Chair will insist upon order.

The PRESIDING OFFICER. The Senate will be in order so we can hear the amendment being proposed by the distinguished Senator from South Carolina.

Mr. HELMS. I thank the Chair.

Mr. THURMOND. According to the Joint Committee on Taxation, this arrangement is estimated to generate the following amounts of revenue for the Federal Treasury: $1.25 billion in fiscal year 1983; $1.86 billion in 1984; $1.87 billion in 1985; $1.9 billion in 1986; and $1.93 billion in 1987. These figures almost identically match and even slightly exceed the Finance Committee's estimated revenues for the

100-percent increase in excise tax on cigarettes alone.

Mr. President, while I recognize the fact that the 100-percent excise tax on cigarettes is a means of assisting in our current budgetary problems, I do not feel that tobacco should be singled out for such an increase. The Finance Committee proposal is unfair to the users and producers of tobacco products. It is well known that many, if not most, smokers are "blue collar" workers and low- and middle-income taxpayers.

Mr. President, can we have order? Can the Chair rap harder?

The PRESIDING OFFICER. The Senator from South Carolina is correct. The Senate is not in order. The Senator may proceed.

Mr. THURMOND. They are the ones who would ultimately bear the disproportionate burden of this tax increase. I am also greatly concerned about the effect this precipitous tax increase will have on the thousands of small tobacco farmers who depend so heavily on this product for their livelihood. They are the ones who would have the most to lose from this tax increase, for any reduction in the demand for cigarette products would ultimately be passed on to the farmer-growers in the form of lower prices for their product, resulting in a diminished income for tobacco farmers and their families.

For this reason, I am proposing that the recommended increase in tobacco excise taxes be limited to 50 percent, with the balance of the revenue to be achieved by an increase in the excise tax on alcoholic beverages. It should also be pointed out that just as the Federal excise tax on cigarettes has not been increased in almost three decades, so has the Federal excise tax on alcoholic beverages remained unchanged for the same length of time. Thus, if the argument is made that it is time to adjust the excise tax on cigarettes for the effect of three decades of inflation, that same argument applies with equal force to beverage alcohol.

Mr. President, it is an accepted fact that when a person smokes, the only life he directly endangers is his own, but when a person drinks to excess, other members of his family and society, in addition to the consumer, pay the price for his abuse. It is an unfortunate fact that approximately 26,000 American men, women, and children are killed in drunk driving incidents each year. Additionally, 750,000 Americans suffer crippling and other serious injuries every year in drunk driving incidents.

Mr. President, it is a sad fact that one out of every two Americans will be involved in some way in an alcohol-related auto crash in his or her lifetime. It is also a fact that drunk driving is responsible for the most common form of violent death in the Nation.

Mr. President, alcohol abuse also imposes massive economic costs upon today's society. Billions of dollars are lost each year due to health and medical expenses incurred from prolonged alcohol use, motor vehicle accidents—which I have previously mentioned—violent crimes attributed to liquor consumption, and social responses needed to care for those who suffer mental difficulties due to alcohol abuse.

Mr. President, I could continue on this subject indefinitely, but I believe that each Member of this body fully realizes the problems that alcohol abuse causes in our society. I fully realize, and do not take lightly the fact that tobacco use also entails adverse health ramifications to those who partake of this habit excessively. That is why I feel that my amendment is fair and equitable. It applies an equal increase to both products, measured in terms of estimated tax revenue. It also allows the Federal Treasury to acquire the revenue needed to help meet the current budgetary problems we face.

Mr. President, I hope that my colleagues will study this amendment and that they will be able to support it. It will, in my judgment, be a substantial improvement in the tax package, one that is fair and equitable to all those concerned.

Mr. HELMS. Mr. President, will the Senator yield to me?

Mr. THURMOND. I would be pleased to yield to the able Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I shall be brief, I am delighted to cosponsor the pending amendment offered by the distinguished and able Senator from South Carolina because it is on its face fair and equitable.

We have been up and down the road about the inordinate burden being put upon one commodity, tobacco.

As the Senator says, to leave unscathed the No. 1 killer, alcohol, as far as I am concerned, is unthinkable when one considers the violence and the broken homes that result from liquor and other alcoholic beverages.

Mr. President, there is a delightful gentleman down in North Carolina. I think the Senator has met him. He is a prominent attorney from the Sand Hills area of North Carolina, and he is a much-sought-after dinner speaker. His name is H. F. Seawell, Jr., and we call him "Chub." Chub has often said that while he neither drinks nor smokes, he is bound to acknowledge that he has never known of anybody smoking a package of cigarettes and driving home on the wrong side of the road and beating his wife.

Chub Seawell is totally against alcohol consumption, and he does not smoke. But his position underscores what the Senator from South Carolina, with the cosponsorship of the Senator from North Carolina, is trying to accomplish, and that is fairness and equity. I would prefer, of course, there to be no increase in the cigarette tax. But if there is to be an increase let it be accompanied by a fair and equitable tax increase on another commodity; namely, distilled spirits. Let us be fair, let us exercise a modicum of commonsense. I thank the Senator for yielding time.

Mr. THURMOND. I am very pleased to have the distinguished Senator from North Carolina to join as cosponsor of this amendment. Also the distinguished Senator from Virginia (Mr. WARNER) joined as cosponsor, and he desired to make a few remarks.

Mr. FORD. Will the Senator from South Carolina yield for a question?

Mr. THURMOND. I would be pleased to yield to the able Senator from Kentucky.

Mr. FORD. We are talking about fairness here, and I think the distinguished Senator from North Carolina is talking about fairness in applying the tax equally among two products. What tax is placed on beer in the Senator's amendment?

Mr. THURMOND. None on beer, just distilled liquor.

Mr. FORD. Is there any tax on wine?

Mt. THURMOND. None on wine. Beer and wine are the drinks of the poor people, but distilled liquors are the drinks of the rich people.

Mr. FORD. I did not know that. But I am just asking here, is beer for the rich of for the poor?

Mr. THURMOND. I think I answered the Senator's question.

Mr. FORD. I just asked the Senator the question. All I am trying to find out is what this amendment covers.

Mr. THURMOND. This amendment simply does this: Instead of putting an 8-cent increase on cigarettes, it puts a 4-cent increase. And then it puts sufficient tax on alcoholic beverages to offset that so that the revenue will not be reduced under this bill. It just divides the revenue to be raised under this bill by increasing the cigarette tax; instead of 100 percent, increase it 50 percent and then put the rest of the increase on alcoholic beverages. We think that is fair. We think it is just.

The tax on alcoholic beverages has not been increased since the cigarette tax was increased and this just divides it between the two.

Now somebody says that cigarettes cause cancer. Well, that is a matter to be gone into. But alcohol causes more diseases, more heart trouble, more kidney trouble, and more liver trouble. Research shows that pregnant mothers are damaged more by alcohol than any other one thing. And alcohol has

caused wrecks in automobiles; it has caused drunken driving; it has killed people; it has done more harm to humanity than any other one thing I can think of. I see no harm in letting alcohol bear a share of this tax increase along with cigarettes. That is all we are asking. I hope the manager of this bill would accept it.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I yield to the distinguished Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I appreciate the Senator from South Carolina yielding.

Mr. President, let me comment briefly on the arguments made in favor of this amendment. They were made in the Finance Committee with regard to the health issue and at that point I made the argument that there probably is little question in the minds of the American people that both the consumption of cigarettes and liquor can and do cause health problems in this country. The question is who has some responsibility for picking up the tab. Obviously, the first responsibility is on the consumer himself or herself. It also falls on private insurers in this country and it falls on State and local governments and the Federal Government.

I fight the theory that we ought to increase these taxes simply because they create health problems and, therefore, through medicare or medicaid or some other form of Federal program we ought to eliminate these problems. The greatest bulk of Government responsibility for health care in this country falls on State and local governments.

That leads me into just a brief comment about this particular amendment, which would raise taxes by 4 cents on cigarettes at the Federal level and an equivalent amount of dollars on liquor.

I, frankly, think it is inappropriate. I think we act like State legislators when we sit around here trying to find the easiest thing to tax in order to raise money. The President of the United States, despite how I may have allegedly characterized the premise of his New Federalism initiatives last week, recommended to us sometime back that cigarette taxes, liquor taxes, and telephone taxes are the one form of taxation that belongs to State and local governments, and we ought to get out of that business and send it all back to State and local governments.

I supported that premise in the Finance Committee, and I will support that premise here on the floor of the U.S. Senate. I will support his New Federalism initiative, and I will support taking this kind of tax out of the Federal level, taking it out of this bill and sending it back to the State and local governments.

So, therefore, while I found myself on Senator THURMOND's side on the other issue, I regrettably find myself opposed to him on this issue.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Virginia.

Mr. WARNER. Mr. President, I rise to join my distinguished colleague from South Carolina in supporting this amendment. Clearly, this tax on tobacco is targeted against 55 million Americans who voluntarily exercise their own free will and have elected to use tobacco in one way or another.

I do not see why we, as a body, should elect to put this regressive type of tax on those Americans who, of their own free will, utilize tobacco, and particularly when the tax will fall most heavily on those in the lower income brackets who can least afford to bear this burden.

Additionally, the tax is harmful to the States. And that has been clearly documented here throughout this morning's discussion.

In view of that, it seems that the principal motivation being to legislate against one type of luxury, both luxuries, liquor and tobacco, should equally bear this tax.

It is for that reason that I join my distinguished colleague from South Carolina and others in urging the Senate to bring some equality to this taxing system if, in fact, we are going to single out certain categories of Americans to bear this tax.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I know of no request for time on this side. I would just say briefly that this matter was considered. I can understand the concern of those coming from tobacco States. It occurred to us in our discussions that distilled spirits are taxed at a rather high level, $10.50 per proof gallon, and wine is not taxed heavily at all.

Mr. GOLDWATER. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr GOLDWATER. Can the Senator give us any idea of how much this might raise in the way of taxes?

Mr. DOLE. Yes; the Thurmond amendment would increase the tax on distilled spirits by $3.30 to $13.80 per proof gallon.

It would raise $940 million in 1983, $940 million in 1984, $944 million in 1985. Against that you offset the 4 cents reduction in the cigarette tax. The amendment would cut the 8 cents increase in the cigarette tax in half and that would reduce the revenue there. But he would end up with a total of about $5.5 billion. That is over 3 years.

Mr. GOLDWATER. There would be that many people paying?

Mr. DOLE. Well, yes. As the Senator from North Carolina pointed out, at least when you smoke, you do not end up on the wrong side of the road. When you are smoking straight cigarettes, that is not a problem.

In any event, we discussed this at some length among the Republican Members in our caucus. They are all nonsmokers. I do not know whether that had anything to do with the suggestion. It was determined not to increase the tax on distilled spirits.

I would be happy to yield back my time. The amendment is not germane. I will make a point of order that the amendment is not germane. The Senator from South Carolina can get a vote, of course, by appealing the ruling of the Chair. I am prepared to yield back my time.

Mr. THURMOND. Does the Senator feel that the drinkers should share the same proportion here as the smokers?

Mr. DOLE. Yes.

Mr. THURMOND. Then I assume the Senator would support this amendment.

Mr. DOLE. I do not know how you figure this. If you do not smoke or drink, you do not have any real problem. If you smoke and do not drink, then you have mixed feelings. If you smoke and drink, you not only have this problem but you have other problems. It just occurred to us that liquor was getting hit pretty hard anyway. It is pretty stiff. We decided not to increase that. I would be happy to yield back my time.

Mr. THURMOND. Mr. President, I am pleased to yield back my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DOLE. Mr. President, I make the point of order that the amendment is not germane.

The PRESIDING OFFICER. The amendment of the Senator from South Carolina contains a new subject matter not contained in the bill nor in any of the amendments reported by the Finance Committee. So, for that reason, it is nongermane. The Chair sustains the point of order raised by the Senator from Kansas.

Mr. THURMOND. Mr. President, I can understand why the Chair would sustain that as a technical matter. However, as a practical matter, as a fair and reasonable matter, this motion should not be sustained because it is a tax, a tax on cigarettes and a tax on liquor. It should be possible to shift this some. That is what we are trying to do. For that reason, I will appeal the ruling of the Chair.

Mr. LONG. Will the Senator yield at that point?

Mr. THURMOND. I yield.

Mr. LONG. Mr. President, it seems to me that if the Senator is not satisfied with the results, it would be much more appropriate for the Senator to

move for a waiver rather than to ask us to vote to overrule the Chair, when the Chair is clearly doing its duty. He could achieve the same result by a motion to waive. There is a provision in the Budget Act for the Senator to move for a waiver.

Mr. DOLE. Mr. President, I suggest——

Mr. LONG. The motion would be to waive the germaneness requirement of the Budget Act so that the amendment could be considered. Then the Senator would not be asking us to overrule the Chair when the Chair is doing its duty.

Mr. THURMOND. Mr. President, that is entirely satisfactory. I will ask for a waiver. I ask unanimous consent for a waiver.

The PRESIDING OFFICER. The Chair sustains the point of order, unless the Senator from Kansas withdraws the point of order.

Mr. DOLE. The Senator from Kansas will withdraw. I want to be fair to the Senator from South Carolina. I know this is very important to him. I am just thinking out loud here. Maybe there would not be any objection to not raising a question of germaneness and not requiring a waiver but just voting on the amendment.

Mr. THURMOND. That would be fine.

Mr. DOLE. Would anybody object to that?

Mr. FORD. I would hope the distinguished chairman of the Finance Committee would not make that judgment yet. If it is not germane to the legislation, and he indicates that it is not, it seems to me that the order should lie and that we ought to sustain what the Budget Committee is doing and what the Finance Committee is doing. It seems to me if you do not challenge it when you say it is not germane, then you have diluted the authority and violated the intent of the Finance Committee. Maybe I have some selfish motive. The State I represent will get hurt both ways here. I understand what the distinguished Senator from South Carolina and the Senator from North Carolina are doing. They are sticking the cigarette industry with 4 cents and the distilled spirits industry with $3.50. While it is already paying $10.50 a proof/gallon.

Somewhere along the way the integrity of the Finance Committee will have to be sustained.

Mr. THURMOND. Will the Senator yield?

Mr. FORD. I do not have the floor.

Mr. THURMOND. Eight cents for cigarettes and $10 for a gallon of liquor. A pack of cigarettes cannot be compared to a gallon of liquor.

Mr. FORD. I am not arguing that point right now. I am arguing the integrity of the Finance Committee. If it is nongermane, it is nongermane. Let the Senate override it.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, it is my birthday and I want to get along with everyone today. We did, on an amendment yesterday by the distinguished Senator from New Jersey (Mr. BRADLEY), a big amendment on the third year, waive the germaneness requirement because that was a matter that the Democratic Policy Group wanted very much.

I support the Senator from Kentucky. I am going to vote against the amendment, and I guess most everyone else will—well, I do not know that. A lot of people will vote against it. I want to accommodate the Senator from South Carolina so we can get some kind of a vote.

Mr. LONG. Mr. President, it seems to me that all the Senator has to do is to move to waive the provisions of the Budget Act under section 904 of that act, so that the amendment might be considered and we can vote on that waiver. A vote on that is similar to a vote on the merits of the amendment. Those opposed to the amendment can vote against the waiver.

Mr. THURMOND. Mr. President, I ask unanimous consent for a waiver.

Mr. GOLDWATER. I object, Mr. President.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I move——

The PRESIDING OFFICER. Under these circumstances, the point of order having been ruled on, it is not timely to make a motion to waive the section of the Budget Act. The point of order would have to be withdrawn.

Mr. DOLE. It would take unanimous consent to withdraw the point of order. I withdraw the point of order.

The PRESIDING OFFICER. Is there objection?

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I appeal the ruling of the Chair. I ask for the yeas and nays.

The PRESIDING OFFICER. Under the Budget Act there is 1 hour of debate on the appeal. Is there a sufficient second? There is a sufficient second.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield back my time.

Mr. THURMOND. I yield back my time.

Mr. FORD. Mr. President, What is the question before the body?

The PRESIDING OFFICER. The question before the body is, Shall the ruling of the Chair stand as the judgment of the Senate that the amendment of the Senator from South Carolina is nongermane?

Mr. FORD. What will be the vote to sustain the ruling of the Chair?

The PRESIDING OFFICER. A yea vote sustains the ruling of the Chair.

Mr. FORD. I thank the Chair.

Mr. THURMOND. Mr. President, we want to overrule the Chair so we can vote on my amendment. That is all we are asking. This does not go into the merits. We want to go into the merits and get a vote. That would save time, but the Senator from Arizona objected, so it is taking more time.

Mr. DOLE. A yea vote sustains the Chair, Is that correct, Mr. President?

The PRESIDING OFFICER. That is correct. All time has been yielded back.

Mr. GOLDWATER. I withdraw my objection.

The PRESIDING OFFICER. All time has been yielded back——

Mr. THURMOND. Mr. President, the Senator from Arizona has withdrawn his objection.

Mr. LONG. Mr. President, I object at this time. Let us vote.

The PRESIDING OFFICER. Objection is heard. The question is, Shall the ruling of the Chair stand as the judgment of the Senate? The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from South Carolina (Mr. HOLLINGS) and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

The PRESIDING OFFICER (Mr. EAST). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 79, nays 18, as follows:

[Rollcall Vote No. 239 Leg.]

YEAS—79

Abdnor	Dole	Matsunaga
Andrews	Domenici	Mattingly
Armstrong	Durenberger	Melcher
Baker	Eagleton	Mitchell
Baucus	Exon	Moynihan
Bentsen	Ford	Murkowski
Biden	Garn	Packwood
Boren	Glenn	Pell
Boschwitz	Gorton	Percy
Bradley	Grassley	Pressler
Brady	Hart	Proxmire
Bumpers	Hatch	Pryor
Burdick	Hatfield	Quayle
Byrd, Harry F., Jr.	Hayakawa	Randolph
	Heinz	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Sarbanes
Chafee	Jackson	Sasser
Chiles	Jepsen	Schmitt
Cochran	Johnston	Simpson
Cohen	Kassebaum	Stafford
Cranston	Kennedy	Stennis
D'Amato	Leahy	Symms
Danforth	Levin	Tsongas
DeConcini	Long	Weicker
Dixon	Lugar	Zorinsky
Dodd	Mathias	

NAYS—18

Denton	Kasten	Specter
East	Laxalt	Stevens
Goldwater	McClure	Thurmond
Hawkins	Nickles	Tower
Heflin	Nunn	Wallop
Helms	Rudman	Warner

NOT VOTING—3

Hollings Inouye Metzenbaum

So, the ruling of the Chair was sustained as the judgment of the Senate.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the decision of the Chair was sustained.

Mr. KASTEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. May we have order, Mr. President?

The PRESIDING OFFICER. The Senate will be in order. The Senator from North Carolina has the floor.

UP AMENDMENT NO. 1113

(Purpose: To alter the increase in the excise tax on cigarettes)

Mr. HELMS. Mr. President, I send an unprinted amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. Without objection, it will be in order to consider the amendment at this time.

The amendment will be stated.

The bill clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an unprinted amendment numbered 1113.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 445, strike out lines 7 through 12 and insert in lieu thereof:

(a) RATE OF TAX.—Subsection (b) of section 5701 (relating to rate of tax on cigarettes) is amended to read as follows:

"(b) CIGARETTES.—

"(1) IN GENERAL.—On cigarettes, manufactured in or imported into the United States, there shall be imposed a tax at the applicable rate.

"(2) APPLICABLE RATE.—For purposes of this subsection, the term 'applicable rate' means—

"(A) with respect to cigarettes weighing not more than 3 pounds per thousand which are removed—

"(i) after December 31, 1982 and before October 1, 1985, $8, and

"(ii) after September 30, 1985, $2;

"(B) with respect to cigarettes weighing more than 3 pounds per thousand which are removed—

"(i) after December 31, 1982 and before October 1, 1985, $16.80, and

"(ii) after September 30, 1985, $4.20; and

"(C) with respect to cigarettes more than 6½ inches in length, the rate specified by subparagraph (A), counting each 2¾ inches, or fraction thereof, of the length of each as one cigarette.".

The PRESIDING OFFICER. The Senate is not in order. The Senate will be in order, so that the Senator from North Carolina can proceed.

Mr. HELMS. I am grateful to the Chair.

Mr. President, obviously we are at somewhat of an impasse, but I believe I have a suggestion. While it may not be totally acceptable to everybody, it may be a reasonable compromise. Let us give it a whirl.

Mr. President, the pending amendment provides that the tax on cigarettes—which has been increased by this measure to 16 cents per package, doubled from 8 cents per package—be "sunsetted" on September 30, 1985, and that the tax be reduced at that time from 16 to 4 cents. Remember, the tax is being doubled by this bill, from 8 to 16 cents.

This would permit the revenues, which the Senate has just voted, to be secured from cigarettes, to be met in the full amount as long as needed to meet this budget resolution. At the same time we would not exceed that amount in what is referred to in the parlance of the Budget Act as the outyears.

Mr. President, I do not like my own amendment, but I am doing the best I can to salvage a situation which at present is obviously untenable. I hope this amendment will meet with the approval of the managers of the bill. Although I feel very strongly that tobacco consumers already provide more than their fair share of tax revenues, this amendment would lessen the impact of the additional increase imposed by this bill later on.

It is only reasonable that we do not impose this punitive tax indefinitely, but rather ask that the additional burden only be borne until the revenues required by this legislation are raised.

My amendment seeks a measure of equity by limiting the hardship caused by this tax. Its regressive nature will place a far greater proportional burden on low income tobacco consumers than others who smoke. Also, this tax increase will severely restrict State and local governments in their ability to raise needed revenues.

The imposition of this tax for a definite length of time rather than the language contained in H.R. 4961, will at least provide for future relief for tobacco consumers and the 276,000 farm families who will be required to bear an inordinate share of the tax burden of this bill.

Mr. DOLE. Mr. President, we have had a lot of debate here about unfair provisions of this package and, in one of the proposals presented yesterday by Senator BRADLEY, there was a proposal to eliminate the 8 cents a pack increase on cigarettes. There was also a provision to eliminate the telephone tax.

The Senator from Kansas believes probably the only criticism we have had—and we have had a lot of criticism—but I think the point has been made that what we are in effect doing is in taxing the little people, the people who smoke, or who use the telephone, or people who fly around in an airplane.

The Senator from Kansas sent a memo to both Senators from Kentucky and both Senators from North Carolina about 3 or 4 weeks ago saying, "Do not be surprised if there is not an effort made to increase the tax on cigarettes."

That did occur.

The Senator from Kansas said last evening I can understand the distress and concern of Senators from tobacco producing States. It was my hope we might be able to have enough cushion in the bill to maybe lower that additional 8 cents to some lower figure, maybe 6 cents, maybe 5 cents, maybe even 7 cents. But I am advised for every cent that it is lowered we are talking about $230 million.

I am also advised by the joint committee that we do not have any cushion in the bill, that we are probably, at most, $100 million over the $98.3 billion that we were mandated to raise by the budget resolution.

So I suggest to the distinguished senior Senator from North Carolina that we might do this, that we might sunset the so-called additional 8 cents on October 1, 1985. That does not impact on the numbers in our resolution and in the Finance Committee package.

Then in an effort to offset some of the criticism and some of the distress in the tobacco industry, to make up for that, we would lower the tax after that time to 4 cents a package so that we would have some offset to take care of the increase that we are placing on the tobacco industry, not on the industry as such, but the people who smoke cigarettes.

It was my hope that this might respond to the charge that we are being unfair, we are picking on working men and women who happen to smoke and others who happen to smoke for $5 billion of revenue in a $98.3 billion package.

The Senator from North Carolina has indicated an interest in that proposal. In fact, that is the amendment before the Senate now.

It would be my hope that we could adopt this provision. Again I think it is fair. If we have been unfair, perhaps it is in this area. This would take some time to undo that unfairness, but it could happen and would happen. It would also make certain that the unfairness did not continue beyond 1985.

I hope that there might be support for this provision.

The Senator from Kansas is willing to accept the provision, although unless there are some who might insist on a rollcall vote.

Mr. DANFORTH. Mr. President, first let me say that I have looked with the greatest of admiration at the work that has been done by the chairman of our committee in connection with this bill, both in the Chamber, and in the work of the Finance Committee.

To consider the fact that I think 8 days elapsed from when the Senate passed the budget resolution to the time when the Finance Committee completed its work, I think is testimony to really the fine work and the cooperation of the committee, but especially to the leadership of Senator DOLE. It is a remarkably difficult undertaking that he has embarked upon, and it may prove before the day is out to be an impossible undertaking to keep this package together.

I understand what the chairman of the Finance Committee is doing in trying to work out something that is reasonably acceptable to the distinguished Senator from North Carolina, and I appreciate that.

For that reason, I will not insist on a rollcall vote. I will vote against this amendment. I will not insist on a rollcall vote. I do not know wehether someone else will or not.

But let me just say this: As I recollect the facts, and I may be mistaken, and if I am, I hope that I will be corrected, but I think the last time that the cigarette tax was increased was something like 1966 and in 1966 it was set at 8 cents a pack.

Since that time, if we were simply to adjust the cigarette tax for inflation, if we were simply to index the cigarette tax for the rate of inflation, the cigarette tax today would now be not 8 cents a pack or 16 cents a pack, it would be something like 23 cents or 24 cents a pack in terms of the value of the tax when it was imposed some 15 years ago or so.

What we have done in the Finance Committee is said, "Well, let us raise it 8 cents a pack, not the full amount of inflation, but let us raise it just 8 cents a pack," and we are told. "Oh, that is outrageous, it is just terrible to expect people who smoke to pay an additional 8 cents a pack."

Eight cents a pack would mean that a pack-a-day smoker would only pay 8 cents a day to help the budget of this country, and it is as though that is an unbearable burden on people who smoke a pack a day.

Mr. President, if we were to take a poll of smokers and ask them whether they believe that they were being hurt, crushed, taken advantage of by paying 8 cents a day to help the economy of this country, I wonder what the answer would be.

But we are so hypersensitive to imagined criticism, of which I have heard none, that we rush to say, "Oh, no, we do not want to hurt you."

The result of this amendment would be that after 3 years is up the cigarette tax which for the last 15 years has been 8 cents a pack would be reduced from 8 cents to 4 cents. It would be cut in half.

Mr. BRADLEY. Mr. President, will the Senator yield for a question?

Mr. DANFORTH. In just 1 minute.

Now, Mr. President, this reduction, proposed reduction, in the cigarette tax would take place against the following background: First of all, in recent times, the last what, 20 years or so, the Surgeon General has found, I think conclusively, well-accepted in medical circles, various health defects caused by smoking. That is not a matter of serious debate except perhaps on the part of the paid representatives of the tobacco companies.

The second thing that has occurred is that the Federal Government has been stuck with the bill. The Federal Government pays the cost of smoking. The taxpayers of this country, as a whole, whether they smoke or whether they do not smoke, pay the cost of smoking. How do they do this? Medicare, medicaid, disability insurance, all paid by the public for the cost of smoking and, as a matter of fact, a few years ago when I introduced a bill to increase the cigarette tax by a dime a pack, the research that I did at that time indicated that a dime a pack would pick up something like $3 billion a year, and that the cost to the public caused by cigarette smoking through medicaid and medicare and disability insurance amounted to about the same amount of money, $3 billion.

So 8 cents a pack does not even recoup the cost to the public caused by smoking. That is our subsidy in health care for smokers.

What we are doing in this amendment, because we say, "Oh, it is just crushing people to pay 8 cents a day, just crushing them, wiping them out. Eight cents a day, who can afford that?" we are saying, "We are going to make good for you after 3 years. We are going to reduce the cigarette tax, reduce it by 4 cents."

Mr. President, for that reason I am constrained to vote against this amendment because I think it is absolutely outrageous. But in cooperation with the Senator from Kansas I will not ask for the yeas and nays.

Mr. BRADLEY. Mr. President, will the Senator yield? Can the Senator imagine any policy reason for reducing the cigarette tax?

Mr. DANFORTH. No.

Mr. BRADLEY. I can understand a reason for increasing it at this particular time in our economic condition, but what is the rationale, the substantive justification, for reducing the cigarette tax?

Mr. DANFORTH. I can imagine absolutely no justification, and I cannot imagine any justification for not increasing it. I cannot imagine that 8 cents a pack—8 cents, what is 8 cents? You cannot, unfortunately, today park a car for 8 cents. You cannot feed a meter in very many towns, you cannot put a dime in a meter, even a dime in a meter, and park your car for 12 minutes or whatever. You cannot even do that any more. Eight cents a pack and that is what we have been debating amendments, appeals to the Chair.

Mr. BRADLEY. Would the Senator know how much revenue would be lost if it were reduced to 4 cents from 8 cents?

Mr. DANFORTH. I do not have the figure with me, but I am sure the chairman has it.

Mr. BRADLEY. But revenue would be lost?

Mr. DANFORTH. Pardon?

Mr. BRADLEY. Revenue would be lost?

Mr. DANFORTH. Of course revenue would be lost.

Mr. BRADLEY. That means if revenue is lost, receipts would be less. potentially this increases the deficit, is that not correct?

Mr. DANFORTH. Certainly.

Mr. BRADLEY. In 1985

Mr. DANFORTH. Right.

Mr. BRADLEY. I thank the Senator.

Mr. DOLE addressed the Chair.

Mr. HUDDLESTON. Whoever has time——

Mr. DOLE. Mr. President, I thought yesterday I was criticized by the Senator from New Jersey for increasing the tax on cigarettes. Today I am being criticized because we are trying to equalize it.

I will be happy to yield to the Senator from Kentucky.

Mr. BRADLEY. Mr. President, will the Senator explain how that is equalizing if you reduce the tax by half?

Mr. DOLE. The Senator wanted to double the tax.

Mr. BRADLEY. I did not want to double the tax. I did not think at this time in our economic circumstances——

Mr. DOLE. The Senator did not want to increase the tax.

Mr. BRADLEY [continuing]. We should increase the tax. But that does not mean I want to cut the tax in half.

Mr. DOLE. I thought I heard yesterday that these taxes were regressive, they were against the little people. I read that in the paper that the Republicans are going after the little people, the people who smoke and use the telephones. If you do both, you really have got a problem. But I am just

trying to be fair because I thought the Senator said I was trying to be unfair.

Mr. BRADLEY. I think the question of fairness applies to what happens the next year and the year after and the year after that. I do not see what the justification is for cutting the cigarette tax that has been at the present level for how long, 20 years, cutting it in half, unless it is to bring people along who support it at another point on another amendment, and I can understand that. But I think we ought to be clear about what this amendment is. It is not about any substantive reason. It has nothing to do with the closing of the deficit. It is a way in the next 3 or 4 years, after which you try to make up the damage that you have done already in the next 2 years by raising the tax. If you did not raise the tax, you would not have to lower it 3 years from now.

Mr. DOLE. That is good thinking, and I agree with that. We could limit the reduction for 3 years, and everybody would be equal if they smoke and live that long. Would that be satisfactory?

Mr. BRADLEY. To what level?

Mr. DOLE. Well, you keep it at 4 cents for 3 years, and then you are all even after six years.

Mr. BRADLEY. Is that part of this amendment, after 6 years it goes back up?

Mr. DOLE. We could modify it if that would satisfy the Senator.

Mr. HUDDLESTON. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. HUDDLESTON. I think by the time 1985 rolls around economic conditions may be different and Congress will consider all tax proposals in all probability at that time.

I would just like to respond very briefly to this matter of the tax income and try to point out the fallacy of the proposition suggested by the distinguished Senator from Missouri that the 8-cent increase is an insignificant figure.

We are not talking about just an 8-cent increase in all reality, and if you look at the tax revenue from cigarettes I think it is appropriate to look at it not only from the Federal perspective but also from the State and city and other local jurisdictions' perspective.

I would like to submit some figures that have been developed, not by a tobacco farmer but by Dr. Milton Shuffett, who is a professor of agricultural economics at the University of Kentucky.

These figures are based on the compilation by Dr. Shuffett of a number of dissertations and research done by other experts in the field. The proposition he makes is if an 8-cent increase is imposed upon the cigarette tax, that State tax collections would decline by $343 million a year; local excise taxes would decline by $12 million a year; and State sales taxes would decline by $89 million. These are substantial figures for State and local jurisdictions now being called upon to assume more of the burden for various programs that previously had been supported by the Federal Treasury.

Also in the compilations is the fact that just in the burley tobacco area—and burley is not as large as the Fluecured tobacco area, and of course, there are other tobacco classifications also—but an 8-cent increase would result in the loss of income on the farm of $64 million per year. Now that, of course, means a loss of additional income tax and other taxes there from farmers.

So there is a considerable amount of attention that ought to be given, in my judgment, to the total impact of this. As has been pointed out many times, while the Federal tax has not been increased since 1951, State and local taxes have increased tremendously, some 350 percent.

So I think if it is the determination of this Senate, and by the indications of the previous vote it must be the determination, that there will be an increase in the cigarette tax, then it is logical—to meet the specific problems that the country is confronted with at the present time—it seems to me it is fair and equitable to put some concluding date on that, and it is fair and equitable to think of then reducing that tax to something like the level that is more appropriate, and the question of whether or not that means substantial loss of income revenue is one that can be debated I think by Congress for some time.

The PRESIDING OFFICER (Mr. ARMSTRONG). The Senator from Missouri.

Mr. EAGLETON. Mr. President, will the Senator from Louisiana yield me 10 minutes?

Mr. LONG. Mr. President, I wish to yield myself some time in opposition.

Let me say that I voted with our friends from the tobacco-producing States against the cigarette tax, and I opposed increasing it. But by the same token, I am opposed to cutting the cigarette tax. I do not think we are justified in reducing the tax while we are raising the tax on everything else, and so I am going to vote against the amendment and, Mr. President, I have about decided to ask for the yeas and nays on this matter. But I would like to dispose of the amendment because there are other people who want to offer their amendments.

We have voted two times on the cigarette tax and this will be the third time we will vote on this matter. I say respectfully to my friends from the producing States that they do not have the votes, and we might as well go to on to something else. In order to save some time, I hope the Senator will settle for 5 minutes because I would like to vote on this. I yield the Senator 5 minutes.

Mr. EAGLETON. I thank the distinguished Senator from Louisiana.

Mr. President, I was sitting here minding my own business awaiting the calling up of my amendment, which is next in line. My amendment deals with the telephone tax. But then, while, frankly, napping a little I started to focus on this amendment now before us.

Mr. President, I am appalled, I am mortified, I am stunned at the brazenness of this amendment. It cannot be offered in all sincerity and good faith.

Let us understand what the amendment is. The present tax on cigarettes is 8 cents. According to page 390 of the report, that has been tax since 1951; for 31 years it has been at 8 cents.

The bill, in order to bring in much-needed revenue, ups it to 16 cents. Then, in 1985, if this amendment were to prevail, it would drop to 4 cents. Thus, come 1985 the cigarette tax would be half of what it is today.

Now, we have just heard from my dear friend from Kentucky that this is the right thing to do because, in 1985, we want to take a retrospective look at what this tax has been doing to the tobacco industry. I wish he would have said those same words in the debate a week or so ago when I tried to have a sunset provision on the basic tobacco price support program. I said, a week ago with respect to the basic tobacco price support program, "Let's take a look at it in 1985." He said, "No." The Senator from North Carolina, Senator HELMS, said, "dangerous," the Senator from South Carolina, Senator THURMOND, said, "unthinkable."

What was "unthinkable" and "dangerous" last week in terms of taking a look at the tobacco program, today, with respect to the tax, is conventional wisdom according to the tobacco State Senators. Can we be so foolish?

Thank God there are people in the gallery. This kind of an amendment usually comes in at 1 o'clock in the morning in the dead of night. [Laughter.] But fortunately we now have the fine light of day to focus on this. Everybody is dancing gingerly around here on this amendment. Nobody wants to ask for the yeas and nays on this "hot potato." Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is not a sufficient second.

The Chair will put the question again. Is there a sufficient second? There is now a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I will take just a minute. I was trying to find the

statement from yesterday of the distinguished Senator from New Jersey with reference to the cigarette tax. But I would point out that yestersay on the vote on reducing the cigarette tax from 16 cents to 8 cents, 45 Members of the Senate voted to do that. That was coupled with other provisions.

Again, I want to make certain that we are clearly understood because if I was unfair yesterday in increasing the tax and unfair today in trying to lower the tax, then I am not certain just where you end up. But it seems to me that this is a fair and equitable amendment.

The telephone tax is another one that we have had on the books for a long time. It was a temporary tax, started, I guess, in World War II. It has gone as high as 10 cents, down to 1 cent. The Senator from Kansas does not have any idea what we will find will happen to the cigarette tax.

In any event, I ask unanimous consent to have printed in the RECORD the vote on yesterday to lower the tax from 16 cents to 8 cents.

There being no objection, the vote was ordered to be printed in the RECORD, as follows:

[Rollcall Vote No. 234 Leg.]

YEAS—45

Baucus, Bentsen, Biden, Boren, Bradley, Bumpers, Burdick, Robert C. Byrd, Cannon, Chiles, Cranston, DeConcini, Dixon, Dodd, and Eagleton.

Exon, Ford, Glenn, Hart, Hatfield, Heflin, Hollings, Huddleston, Jackson, Johnston, Kennedy, Leahy, Levin, Long, and Matsunaga.

Melcher, Metzenbaum, Mitchell, Moynihan, Nunn, Pell, Proxmire, Pryor, Randolph, Riegle, Sarbanes, Sasser, Stennis, Tsongas, and Weicker.

NAYS—54

Abdnor, Andrews, Armstrong, Baker, Boschwitz, Brady, Harry F. Byrd, Jr., Chafee, Cochran, Cohen, D'Amaro, Danforth, Denton, Dole, Domenici, Durenberger, East, and Garn.

Goldwater, Gorton, Grassley, Hatch, Hawkins, Hayakawa, Heinz, Helms, Humphrey, Jepsen, Kassebaum, Kasten, Laxalt, Lugar, Mathias, Mattingly, McClure, Murkowski, and Nickles.

Packwood, Percy, Pressler, Quayle, Roth, Rudman, Schmitt, Simpson, Specter, Stafford, Stevens, Symms, Thurmond, Tower, Wallop, Warner, and Zorinsky.

NOT VOTING—1

Inouye.

So the amendment (No. 1978), as modified, was rejected.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 2 minutes to the Senator from Virginia.

Mr. WARNER. Mr. President, I wish to commend the distinguished manager of the bill. He has been both fair and equitable through the consideration of this piece of legislation.

THE FEDERAL CIGARETTE TAX INCREASE SHOULD BE REJECTED

Raising the Federal excise tax (FET) on cigarettes is an unfair and unfortunate attempt to solve the Nation's severe deficit problem at the expense of one class of citizens—55 million adult Americans who happen to smoke tobacco.

In general, excise tax increases have not been a highly regarded therapy to cure economic ills such as persistently high interest rates and unbalanced budgets. Raising taxes makes even less sense in a recession.

The President rejected this approach in his State of the Union message:

Higher taxes would not mean lower deficits . . . Raising taxes won't balance the budget . . . Raising taxes will slow economic growth, reduce production, and destroy future jobs . . . I will seek no tax increases this year.

Democrats on the Joint Economic Committee also rejected excise tax hikes:

We oppose regressive increases in Federal excise taxes solely to balance the budget. Such excise tax increases are inflationary and unfair in their incidence . . . Increases in Federal excise taxes, especially in the 'sin taxes' on alcohol and tobacco, are a superficially attractive means of raising new Federal revenues. This temptation should be avoided.

CIGARETTE TAXES HAVE GONE UP AND UP

The FET increase is often justified by the argument that the present rate has not increased since 1951. This argument overlooks two important facts.

FET collections have nearly doubled from $1.3 billion to $2.5 billion a year.

State excise tax rates on cigarettes have jumped from 3 cents to 13.4 cents, almost 350 percent. State tax revenues on cigarettes, including sales tax, shot up from $466 million in 1951 to nearly $4.4 billion in 1981, a rise of more than 800 percent.

THE TOBACCO TAX BURDEN IS HEAVY

The customers of the tobacco industry already bear a heavy tax burden. They paid out—

More than $7 billion a year in excise and sales taxes to all levels of government in 1981.

The Federal Government collected $2.488 billion, the States collected $4.390 billion, while cities and counties collected $163.9 million.

More than $343.5 billion since 1921, the first year a State cigarette excise tax went into effect.

The Federal share was $218.8 billion and the States' share was $124.7 billion—all expressed in 1981 dollars.

The Federal cigarette excise tax is among the highest imposed on any product in the United States—6½ times higher than the Federal tax on wine, 3.7 times the tax on gasoline, 1.8 to 3.7 times of the tax on tires, 2.2 times the tax on airline tickets, and 1.6 times the tax on beer.

SO IS THE BURDEN OF OTHER TAXES

The tobacco industry and all its supporting sectors contribute a substantial amount in other tax revenue to Federal and State governments—an additional $13.6 billion a year based on a 1979 Wharton economic study.

Federal taxes

	Billions
FICA	$3.4
Personal income	4.5
Corporate income	3.2
Total	11.1

State and local taxes

Social insurance	.6
Personal income	1.4
Corporate income	.5
Total	2.5

A FEDERAL TAX HIKE HURTS THE STATES

States have become more and more dependent on cigarette excise taxes to finance programs and services for all citizens. Yet one class of taxpayers—cigarette smokers—are more heavily burdened to help pay for them. Increasing the Federal excise tax on cigarettes will threaten present and future State revenues from tobacco sales.

Cigarette taxes are six times more important as a source of revenues for the States than for the Federal Government.

State cigarette taxes have been increased 224 times, at an average rate of 5 percent a year since 1951.

Local governments have been active too: 369 cities and counties also tax cigarettes, some as high as 15 cents a pack over and above Federal and State excise levies—for a total of nearly $164 million last year.

Consequenty, State legislators oppose Federal preemption of their tax territory. In a letter to the Senate Finance Committee they said:

The National Conference of State Legislators wishes to express our concern over the impact of these items on the ability of states to raise revenues from their own sources and finance debt in order to provide adequate levels of services to our mutual constituents. Several items recently published are of immediate concern in the area of preempting state ability to raise tax revenues from traditionally state and local tax sources. Most directly affecting this ability would be substantial increases in excise taxes for cigarettes, alcohol, telephone service, and any increase in the energy consumption taxes.

EXCISE TAXES ARE HIGHLY REGRESSIVE

The proposal to raise the FET imposes a greater tax burden on the poor than on the affluent. For many people in the lower income brackets, the cigarette tax increase would severely cut into the few extra dollars from the personal income tax cut.

A single person who smokes the national average of 1.5 packs a day earning a take home pay of $100 a week, gets a tax break of $22.88 while the

FET increase is $43.80. At a $200-a-week take home, over one-third of the $129 tax break goes to pay the cigarette tax increase.

A married smoker with four exemptions and a take home pay of $141.45 gets a $28 tax break and a $43.80 cigarette tax increase. At $214.94 a week, the tax break is about a dollar less than the cigarette tax rise.

Economic studies have found that—

Federal cigarette taxes are extremely regressive: the lower income smoker spends a five-time-greater share of his income than a high-income smoker who smokes the same amount of cigarettes.

State and local cigarette taxes are similarly regressive and unfair to lower income consumers.

Since the percentage of income spent on tobacco falls as income rises, cigarette excise taxes are levied at a higher effective rate on the poor than on the rich. Persons living on fixed incomes are especially vulnerable to the inflationary effect of regressive taxes.

For every dollar of retail sales, government tax collectors—Federal, State, and local—skim off 33 cents. Without these taxes, the agerage price of a pack of cigarettes could drop to 48.5 cents, the basic cost.

An 8-cent FET hike would raise the tax burden to 66 percent of the basis cost of a pack of cigarettes, raising the average retail price from 72 cents to at least 80 cents, and possibly more.

NEGATIVE IMPACTS AHEAD

Raising the cigarette excise tax will create an additional major problem—a negative impact on the earnings and cost of many businesses that support the basis segments of the cigarette industry. Moreover, these negative effects will render the Federal excise tax an inefficient and costly method of raising revenue, because of the trade-off between tax revenue gains and business income or productivity losses.

As the AFL–CIO Food and Beverage Department put it to the Finance Committee:

> In a period when this country is experiencing post war highs in unemployment, revenue raising alternatives which will assuredly promote further declines in employment cannot be tolerated. An increase in the level of excise taxes imposed on distilled spirits or tobacco products would precipitate decreased consumption, forcing many small manufacturing, wholesaling and retailing firms in these markets out of business. Further employee layoffs would be the natural consequences.

Raising taxes before an election is risky business politically. Raising taxes during a recession is even riskier economically. Clearly, raising excise taxes on consumer products will not stimulate consumer spending and help move the economy forward.

It seems unwise to attempt to raise excise taxes that cannot come close to bridging the deficit gap—and that could even fall short of the projected increases. Because of the negative economic impacts, and less-than-inelastic demand the revenue collected will not be proportionate to the rate increase.

Doubling the cigarette tax rate will not double the cigarette tax collection—but will threaten jobs, earnings, productivity, and economic growth of the tobacco industry and its supporting industries.

TO SUM UP

The proposal to increase the Federal cigarette tax has problems and strong opposition for several reasons.

It is unfair to 55 million Americans who are targeted for higher taxes than other citizens simply because they happen to smoke cigarettes.

It is a regressive tax which falls most heavily on those in the lower income brackets who can least afford to bear the burden.

It is harmfully competitive to States, preempting their ability to raise revenues.

It is an efficient and costly taxing mechanism that will produce less-than-expected net revenues and significant negative economic effects.

The proposed Federal cigarette tax increase should be rejected.

Mr. FORD. Will the distinguished Senator from Louisiana yield me 1 minute,

Mr. LONG. I yield 1 minute to the Senator.

Mr. FORD. Mr. President, let me say two things. When you increase the tax 8 cents, you have increased it more than that in vending machines. Second, the distinguished Senator from Missouri (Mr. DANFORTH) said that 8 cents was not enough money to take care of a parking meter. I would invite him to come Owensboro, Ky. We just took a hacksaw and cut all of the parking meters out and he may park free in our town and spend his money.

Mr. HELMS. Mr. President, I would say to my friend from Kentucky that I sometimes feel an inclination to buy the Senator from Missouri a one-way ticket to Kentucky. [Laughter.]

Mr. FORD. As long as we do not get both of them.

Mr. HELMS. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 27 minutes remaining.

Mr. HELMS. I can assure the Chair I do not intend to use nearly that much.

Mr. President, I suggest the absence of a quorum on my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HELMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Mr. President, these rhetorical exercises on tobacco have an astounding effect on some Members of the Senate. I am glad we make them feel better as they stand forthrightly and courageously for motherhood and against sin, they can get a few headlines back home by also being against tobacco. I am delighted that they have again had the opportunity to make some headlines back home. I suppose it would be beside the point to express the hope that one day they might give some thought to the 276,000 small farm operators who are struggling to make a living by growing a legitimate crop—tobacco.

I am going to test and see what good faith is.

I send an unprinted amendment to the desk as a substitute to the pending amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The Chair will advise the Senator that the amendment which he sent to the desk is not in order until the time for the now pending amendment has expired. The substitute would be a third-degree amendment and would then be in order.

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LONG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Will the Senator be satisfied if we give consent for him to modify his amendment?

Mr. President, I ask unanimous consent that the Senator be permitted to modify his amendment.

Mr. BRADLEY. Reserving the right to object, I would like to know what the modification is.

Mr. LONG. The modification would be that the tax increase would be in effect for 3 years, but after that there would be no cut in the tax below the present rate. In other words, the tax would increase to 16 cents for 3 years and then it would go back to 8 cents.

Mr. BRADLEY. So that he is withdrawing the amendment that would cut the taxes 4 cents?

Mr. LONG. He would modify his amendment.

Mr. BRADLEY. I have no objection to the modification. The issue is not that you are against tobacco but it is greed, in reducing the 4 cents.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Louisiana that the Senator from North Carolina be permitted to modify his amendment? Without objection, it is so ordered. The amendment is so modified.

The modification follows:

On page 447, at line 25, after "December 31, 1982", insert the following: "and before September 30, 1985".

Mr. HELMS. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Chair will advise Senators that the Chair is unable to hear them.

Who seeks recognition?

Mr. DOLE. I wonder if there is some agreement that we can dispose of this without the yeas and nays.

Mr. EAGLETON. I would like about 4 minutes to speak on it and then I will ask for the yeas and nays.

Mr. DOLE. Mr. President, I yield to the Senator from Virginia.

Mr. WARNER. Mr. President, the distinguished Senator from South Carolina (Mr. THURMOND) and myself would like to be noted as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LONG. Mr. President, I believe I have control of the time in opposition to the amendment. I yield 5 minutes to the Senator from Missouri.

The PRESIDING OFFICER. The Chair will advise the Senator from Louisiana that he does not have control of the time on the amendment but he can yield time on the bill.

Mr. LONG. Who has time in opposition?

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I yield 5 minutes.

Mr. EAGLETON. As the Senator from New Jersey pointed out, the amendment has now been modified from the level of outright greed and now it is at the level of petty thievery. Before, in its previous posture, it was equivalent to the Brink's Robbery. In the present posture, it is equivalent to stealing a bottle of wine from Queen Elizabeth.

What I said with respect to the earlier amendment applies almost with the same vigor and intensity on this modified version.

We were told that a "package" had been reported out of the Senate Finance Committee and the "package" was a tightly integrated "package." Each piece of the "package" depended for its survivability on the other pieces of the "package." It had to be taken as a whole. Thus, for 2 or 3 days, however long we have been considering the bill, various amendments have been beaten off because, it is argued, such and such amendment would destroy the integrated nature of the "package."

Now we are told that we have hit cigarettes too hard and, come 1985, the cigarette tax will be sunsetted back to the current level of 8 cents per package.

In my judgment, the 8 cent increase that is in this bill was not heavy enough. We should have gone higher. Thus, to sunset this tax increase in 1985 would be a grievous mistake.

Senator Helms has made the amendment somewhat more palatable than it was in its previous incarnation, but even in its present form, this is a totally inappropriate and unwise amendment. I hope my colleagues will reject it.

Mr. EAST. Will the Senator yield me a very brief period of time?

Mr. DOLE. I yield 3 minutes.

Mr. EAST. I appreciate the Senator yielding to me these several minutes.

The PRESIDING OFFICER (Mrs. KASSEBAUM). The Senator from North Carolina is recognized.

Mr. EAST. First, the point we have been making on increasing this tax on cigarettes is that States since 1951 have increased the tax 350 percent. That is an enormous tax burden. Now we are going to double the Federal tax. So we are saying at some point in time that this becomes counterproductive, punitive, and diminishes as a revenue source.

Second, I would note it is contrary to the New Federalism idea in that the States have been relying heavily upon this tax and now we are going to intrude the Federal Government further into it. I think that is a mistake.

Finally, Madam President, I find it ironical in this very emotional debate, and I understand it is very critical and is an emotional issue, that the two leading proponents in the Senate today on this very important question of a cigarette tax should represent a State that is the greatest brewery State in the United States. I suspect if we were here debating whether we ought to double the Federal tax on a can of beer, we would find a different posture.

We see the distinguished Senator from Missouri, representing a State that is one of the great centers of beer production in the United States, in here agitating on and on over the health issue. There are limits to this. If cigarettes are not healthy if used in abuse, I raise the question of alcohol used in excess, whether that does not present a major health question.

What is good for the goose is good for the gander. I would not be surprised to see us in 6 months, a year or two, in here debating whether it might not be prudent to double, triple, and quadruple the tax on beer in this country on the theory that the first drink of beer then leads to whiskey and on it goes and we have a country where alcoholism is a major problem. The number of deaths from driving caused by people who have been drinking is enormous. The greatest cause of death of young people between the ages of 18 and 25 is from drunken driving, and it comes principally from beer consumption.

I am not trying to launch a vendetta against the beer industry, but I will tell you one thing: From time to time I am tempted.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EAST. Having made my point, I shall cease, Madam President, but let us not raise this thing beyond——

Mr. HELMS. I yield to the Senator such additional time as he might require.

Mr. EAST. I appreciate the Senator doing that.

I am trying to put this in perspective, not trying to get into a great emotional debate. Since the issue has been raised, and raised repeatedly, against those of us who represent the tobacco-producing States, I would simply remind my colleagues we are not the only State that produces a commodity that, used in excess, might be harmful to health.

Again, it cannot be lost—the irony of it that those leading the assault today represent the great brewery State, the State of Missouri.

I do not intend to get emotional on this point or get into a diatribe against that great industry.

Alcohol use and abuse, I submit, if we are going to get into comparative studies here, is an infinitely greater threat to the public health of this country than smoking. I have never known a smoker to drive a car and kill anybody, but beer drinkers do it.

Mr. BRADLEY. Will the Senator yield at that point?

Mr. EAST. I shall be finished in a moment.

I had indicated my principal concern here is a revenue one, that we are going to be counterproductive because of the tax burden we are laying upon it. It goes contrary to New Federalism and I think violates good tax policy because the tax is not used now to raise revenue but to be punitive, to punish.

It is a revenue question I raise. What I am simply trying to counter in my own feeble way is the great emotional argument that is made about smoking and health. Let us not let that one overwhelm us in our judgment on good revenue policy, lest all of a sudden, having beaten cigarettes down to a point that no one can buy them because of the heavy tax on them, we begin to do the same thing against beer, to the great trepidation, I am sure, of the distinguished Senators from Missouri.

Enough is enough. The problem is revenue and proper revenue policy. It ought not to be overwhelmed by the emotional issue of health. That is the distinction I am asking my colleagues to make here.

It seems to me we are too frequently getting overwhelmed with the emotion of health rather than the substantive question of revenue policy. I am simply trying to put it into perspective, Madam President.

I deeply appreciate the yielding to me of the floor manager and the senior Senator from North Carolina.

Mr. BRADLEY. Will the Senator yield?

Mr. DOLE. Yes, I yield.

Mr. BRADLEY. Madam President, let us just be clear for the record that, if the Senator from Missouri had not asked for the yeas and nays on the amendment that reduced the tax to 4 cents on a pack of cigarettes, the Senator from New Jersey would have. The Senator from New Jersey, unfortunately, does not have either tobacco or giant breweries in his State. There is one, only one, but not significant. I think this was a yeas and nays call on the excise tax question, not on the health question.

(The names of the following Senators were added as cosponsors of the amendment, as modified: Mr. THURMOND, Mr. MATTINGLY, Mr. EAST, and Mr. WARNER.)

Mr. DOLE. Madam President, I yield 2 minutes to the Senator from South Carolina.

Mr. THURMOND. Madam President, I feel that a great many people do not understand, really, the importance of tobacco from an economic standpoint. I just want to mention that it is the fifth most valuable crop in the United States. It is the first most valuable from a monetary standpoint in South Carolina. This industry employs over 1 million people. It pays $621 million per year in income to workers. Over $1 billion per year worth of machinery is used by this industry.

Personally, Madam President, I do not smoke. I think it is detrimental to smoke. But a lot of people get relaxation from smoking. A lot of people are going to smoke anyway, just as a lot of people drink. It seems to me that it is not fair to put such an undue heavy tax on tobacco when hard liquor represents to the public and society much more harm than tobacco does.

It seems to me it would certainly be fair to sunset this matter, because we are increasing this tobacco tax by 100 percent—not 50 percent, 100 percent. Then why not sunset it at the end of 3 years? That would seem to be fair and then another look can be taken at the situation, as it will be taken with regard to other taxes.

That is all this does, Madam President. It merely brings it back to the present tax after 3 years. I hope the amendment will be adopted.

Mr. EAGLETON. Madam President, will the Senator yield me 3 minutes?

Mr. DOLE. Yes, I yield.

Mr. EAGLETON. Madam President, just a brief rejoinder to the Senator from North Carolina (Mr. EAST).

The PRESIDING OFFICER. If the Senator will suspend, there is only 1 minute remaining to the Senator from Kansas on the amendment.

Mr. BRADLEY. Madam President, I yield what time the Senator needs off the bill.

Mr. EAGLETON. I need 4 minutes, Madam President.

I have just a brief rejoinder to my colleague from North Carolina (Mr. EAST).

The whole world knows beer is the "beverage of moderation;" it is the mother's milk of American Legion picnics, the sine qua non of a summer evening of professional baseball. It is all that is "good and true;" indeed, it "made Milwaukee famous."

With respect to my home city of St. Louis, we once proudly had the title: "first in booze, first in shoes, and last in the American League." We lost our American League team, our shoes went to Taiwan and Korea. God, do not take from us our beer.

Madam President, the Senator says "what is sauce for the goose is sauce for the gander." That is a verbatim quote from page 182 of Julia Child's newest cookbook, "The Utilization of Beer in the Cooking of a Goose."

Beer has the collateral significance that it is a very excellent hair rinse.

Finally, Madam President(if you were tk carry the logic of Senator EAST to its ultimate(you would be doing a great blaspheiy tk the President of the United States. At this very moment, the President is winging his way to St. Louis at the invitation of August S. Busch III, president of Anheuser Busch, Inc., so that the two of them can be seated on the dais tonight at an illustrious dinner.

Madam President, remember the immortal words of William Butler Yeats:

A statesman is an easy man,
He tells his lies by rote;
A journalist makes up his lies
And takes you by the throat;
So stay at home and drink your beer
And let the neighbors vote."

Finally, Madam President, remember what made this country what it is today: "Rednecks, white sox, and Blue Ribbon beer."

Mr. MATTINGLY. Madam President, I should like to associate myself with this amendment. I say the idea of the senior Senator from South Carolina may not be a bad idea; we may want to sunset this whole tax bill.

Mr. HELMS. I want to sunset the whole U.S. Senate.

Madam President, I am willing to yield back the remainder of my time.

Mr. DOLE. Madam President, has all time expired?

The PRESIDING OFFICER. One minute and twenty-three seconds remain to the Senator from Kansas.

Mr. DOLE. Madam President, I think we have had enough smoke. We are ready for the fire.

I shall just say, as was indicated yesterday, I certainly want to be freed from the charge of unfairness. I just cannot stand here and hear it said that I am unfair to smokers or to people who use the telephone. I hope this amendment will be adopted. Then we shall sunset this tax and, in 1985, I assume by then it will all be wrapped in the New Federalism and will not be a concern of the Federal Government in any event. The average State tax now is about 15 cents or 20 cents a pack. Maybe 4 cents or 8 cents more would be sufficient.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from North Carolina as modified. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. METZENBAUM), and the Senator from Massachusetts (Mr. KENNEDY), are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 60, nays 37, as follows:

[Rollcall Vote No. 240 Leg.]

YEAS—60

Abdnor	Ford	Nickles
Andrews	Goldwater	Nunn
Baker	Grassley	Percy
Baucus	Hart	Pressler
Boren	Hayakawa	Pryor
Boschwitz	Heflin	Quayle
Bradley	Helms	Randolph
Byrd, Harry F., Jr.	Hollings	Riegle
Byrd, Robert C.	Huddleston	Rudman
Chafee	Humphrey	Sarbanes
Chiles	Kassebaum	Sasser
Cochran	Laxalt	Stennis
Cranston	Leahy	Stevens
D'Amato	Long	Symms
DeConcini	Lugar	Thurmond
Denton	Matsunaga	Tower
Dixon	Mattingly	Wallop
Dole	McClure	Warner
Domenici	Melcher	Zorinsky
East	Mitchell	
	Murkowski	

NAYS—37

Armstrong	Garn	Moynihan
Bentsen	Glenn	Packwood
Biden	Gorton	Pell
Brady	Hatch	Proxmire
Bumpers	Hatfield	Roth
Burdick	Hawkins	Schmitt
Cannon	Heinz	Simpson
Cohen	Jackson	Specter
Danforth	Jepsen	Stafford
Dodd	Johnston	Tsongas
Durenberger	Kasten	Weicker
Eagleton	Levin	
Exon	Mathias	

NOT VOTING—3

Inouye	Kennedy	Metzenbaum

So Mr. HELMS' amendment (UP No. 1113), as modified, was agreed to.

Mr. HELMS. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ARMSTRONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON addressed the Chair.

Mr. ARMSTRONG. Madam President, the Senate is not in order. Could we have order so we can hear the amendment?

The PRESIDING OFFICER. The Senator from Colorado is correct. The Senate will be in order.

UP AMENDMENT NO. 1114

(Purpose: To require integrated oil companies to include disallowed intangible drilling costs in the basis of the property)

Mr. EAGLETON. Madam President, I have an amendment at the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the Senator's amendment will be in order at this time. The clerk will report.

The bill clerk read as follows:

The Senator from Missouri (Mr. EAGLETON) proposes an unprinted amendment numbered 1114.

Mr. EAGLETON. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 212, line 14, insert "(other than any amount not so allowable to a taxpayer which is an integrated oil company)" after "263(c)".

On page 215, strike out lines 1 through 5.

On page 215, line 6, strike out "(B)" and insert in lieu thereof "(A)".

On page 215, line 19, strike out "(C)" and insert in lieu thereof "(B)".

On page 215, line 13, strike out "(D)" and insert in lieu thereof "(C)".

On page 445, beginning with line 1, strike out everything through line 22;

On page 446, beginning with line 1, strike out everything through line 4.

Mr. EAGLETON. Madam President, the amendment that is now before us is an amendment to section 206 of the bill which provides a 15-percent reduction in certain corporate preference items. Specifically, I propose to amend section (b) on page 212 which deals with special rules for treatment of intangible drilling costs. I would retain the section in the bill which reduces by 15 percent the deduction allowable for intangible drilling costs under section 263(c) of the Tax Code. However, I would strike the section of the bill which permits this 15 percent reduction to be treated as if it were recovery property assigned to the 5-year class. I would not make available the ACRS deductions and the investment tax credit; instead, that 15 percent would be treated as if it were a capital cost to the well. My amendment will only impact the integrated oil companies; it is not intended to impact mining development or mining exploration companies. Furthermore, I do not intend my amendment to have any effect on the individual minimum tax.

Because this proposal would raise additional revenue, at the same time, I also intend to strike section 284 of the bill which extends the telephone excise tax.

Madam President, the telephone has become a necessity of life. Most families around the country are already experiencing increased charges for telephone service. The telephone excise tax was originally enacted during World War II as a temporary tax. Between 1941 and 1973, the tax was levied at 10 percent. Gradually, Conress began to phase this tax out, always providing for an expiration date. However, every time the tax was scheduled to expire, Congress found it necessary to extend the tax.

On Monday, the distinguished Senator from Kansas delivered his opening remarks outlining the tax bill. In those remarks, he referred to the proposed increase in the telephone tax as "a very minimal increase." Yet he neglected to mention in this defense of the bill that many of those he is asking to share the misery of new taxes have already borne the brunt of past budget cuts and the impact of the Reagan recession. What may seem small change to the Senator from Kansas can be a significant burden to an elderly person living on a reduced pension. What may be regarded by the Senator from Kansas as an equitable sharing of the tax burden can be a real sacrifice for an unemployed family already counting its pennies toward the next week's food bill. Between 1983 and 1987, the telephone excise tax will add nearly $6 billion to the Nation's telephone bills. In my opinion, and I believe that the American people, this is not small change.

In my opinion, the action taken by the Finance Committee with regard to intangible drilling costs raises the specter of last year's tax leasing fiasco. The tax leasing provision was a part of the Economic Recovery Tax Act, but it was considered at the time to be a relatively minor provision. Since that time, it has come to be one of the most controversial provisions resulting from that bill. It has made a mockery of the Tax Code in that it has allowed, in many cases, an unjustified taxpayer subsidy of some of the wealthiest corporations in America. Mr. President, this year's provision allowing the integrated oil companies to take ACRS deductions and the investment tax credit for intangible expenses has all the earmarkings of becoming a "son of tax leasing."

Tax deductions for intangible drilling costs allow companies to have large and immediate tax writeoffs. By expensing rather than capitalizing these costs, taxes on income for the oil companies are deferred, with the result being equivalent to an interest-free loan in the amount of the delayed tax liability. Typically, these intangible expenses account for 75 percent to 90 percent of total cost. According to the Congressional Budget Office, if expensing were repealed completely, Federal revenues would increase by $38 billion over the next 5 years. Moreover, the expensing of intangible drilling costs is an inefficient subsidy since it provides the same incentive for low-risk drilling in already developed and producing fields as it does for high-risk exploratory drilling.

CBO has further stated that the expensing of intangible drilling costs provides significant tax savings to the major oil companies. In 1980, for example, the expensing of intangibles reduced Gulf's effective tax rate by 5.9 percentage points, Exxon's by 4.2 percentage points, Atlantic Richfield's by 6.7 percentage points, and Standard Oil of Indiana by 5.6 percentage points. On top of this, last year, the Congress allowed the oil companies an additional $33 billion over the next 10 years during consideration of the Economic Recovery Tax Act of 1981.

H.R. 4961 lumps together eight provisions which reduce certain corporate preference items, including the provision relating to intangible drilling costs. Of the total amount of revenue to be raised by those provisions, the committee's proposed reductions in intangible drilling costs will net approximately $200 million in fiscal year 1983, $400 million in fiscal year 1984, $300 million in fiscal year 1985, $200 million in fiscal year 1986, and $100 million in fiscal year 1987—a total of $1.2 billion. By contrast, the provision raising the floor for medical deductions from 3 percent to 10 percent would net $10.7 billion over the same period. As you can see, compared to individual taxpayers, the major oil companies fare quite well.

Therefore, my amendment—which does not go nearly far enough to suit me, but falls within the scope of this bill—adds an additional $100 million in fiscal year 1983, $300 million in fiscal year 1984, $400 million in fiscal year 1985, $500 million in fiscal year 1986, and $700 million in fiscal year 1987 to the bill, according to revenue estimates provided me by the Joint Committee on Taxation.

Madam President, H.R. 4961 is known as the Tax Equity and Fiscal Responsibility Act of 1982. Let us take a small step toward both of those lofty goals, and that small step would be the adoption of this amendment which, on the one hand, would repeal the telephone excise tax provision in the bill and, on the other hand, would restore roughly $2 billion to the Federal Treasury from the integrated oil companies.

Finally, Madam President, I ask unanimous consent that an excerpt

dealing with the "Expensing of Intangible Drilling Costs," as prepared by the Congressional Budget Office in February 1982, be printed at this point in the RECORD.

There being no objection, the excerpt was ordered to be printed in the RECORD, as follows:

REPEAL EXPENSING OF INTANGIBLE OIL AND GAS DRILLING COSTS (B-270-C)

[In billions of dollars]

	Annual added revenues					Cumulative 5-year addition
	1983	1984	1985	1986	1987	
Addition to CBO baseline	3.5	7.7	8.4	9.0	9.6	38.2

Under standard accounting practices, the cost of acquiring or improving an asset designed to produce income over several years is recaptured by a depreciation allowance spread over the useful life of the asset. Taxpayers engaged in oil and gas drilling, however, can generally deduct the amount spent on "intangible drilling costs" in the year that the expenditure is made—that is, they may "expense," rather than "capitalize," the qualifying costs. The costs that are permitted this special treatment include amounts paid for fuel, labor, repairs, hauling, and supplies that are used in drilling oil and gas wells; the costs of clearing ground in preparation for drilling; and the intangible (that is, nonsalvageable) costs of constructing derricks, tanks, pipelines, and other structures and equipment necessary for the drilling and preparation of wells. Typically, these outlays account for 75 to 90 percent of total costs. By expensing rather than capitalizing these costs, taxes on income are effectively deferred; the difference is equivalent to an interest-free loan in the amount of the delayed tax liability. If expensing was repealed, federal revenues would increase by about $38.2 billion over the 1983-1987 period.

The major argument for repeal is that the subsidy is no longer necessary in light of the sharp increases in oil and gas prices in recent years, the decontrol of all domestically produced oil in January 1981, and the scheduled decontrol of new natural gas in 1985. [Moreover, the expensing of intangible drilling costs is an inefficient subsidy since it provides the same incentive for low-risk drilling in already developed and producing fields as it does for high-risk exploratory drilling.] If intangible drilling costs were required to be capitalized, the costs of dry holes could continue to be written off immediately under normal accounting rules. This standard tax treatment would give exploratory drilling a comparative advantage over developmental drilling, thereby encouraging more exploration.

Mr. EAGLETON. Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. ANDREWS). Who yields time?

Mr. ARMSTRONG. Mr. President, I yield such time as he may desire to the Senator from Louisiana.

Mr. LONG. Mr. President, as I understand this amendment, it would add an additional $2 billion of taxes on the major oil companies over a period of the next 5 years.

Mr. President, Senators will note from looking at the committee report on page 103 that this bill already includes an increase in the tax on those same companies. In the main, the increase on the major companies that do business overseas averages about $500 million a year—$504 million in fiscal year 1984, $581 million in 1985, and going up to $708 million in 1987.

Mr. President, this Nation needs energy desperately. Notwithstanding that, 40 percent of the drilling rigs in this country are now stacked. They are not being used; they are laid up. This amendment would tax the operation of this industry within the Unites States as well as overseas. Over the next 5 years, it would add another $2 billion of taxes on an industry that is already depressed with a real cash flow problem.

The reason the companies are stacking their rigs is that with the decline in the price of oil, they simply do not have the cash flow to operate at full capacity in their drilling operations. This would put additional taxes on them on top of the $500 million a year that is already in the bill.

To do that, Mr. President, is to discriminate against this industry. But beyond that, it would reduce this Nation's ability to produce energy. It would make this Nation more and more dependent on Near East oil which is not a safe supply of energy at all, and these imports hurt our balance of payments. Putting these additional taxes on would be a matter of cutting off one's nose to spite one's face.

I am perfectly willing, Mr. President, to delete the tax increase on telephone use. I have no interest in raising the tax on telephone use. In fact, I will offer an amendment to delete that tax increase, and Senators can vote on the telephone use tax increase, up or down, on its own merits.

But I do not think, Mr. President, that it is appropriate to further crucify one industry or to cut back on our energy production, as this would undoubtedly do, because the industry is already having to cut back on its operations because of a cash flow problem which this would tend to exacerbate.

There is already enough of a tax increase on the oil industry in the bill to cut back on energy production, and we should not cut back on it further with more taxes.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I am not one of those who thinks that the weight of an argument depends upon its length, so I am going to be very brief.

In the bill which has been reported, the Finance Committee cut back severely on the tax benefits which are available to major oil companies. The committee bill forces the majors to capitalize 15 percent of their intangible drilling costs and cut back on the use of foreign tax credits abroad.

Now, the report of the committee does take a step which, at least in the opinion of some Senators, including the Senator from Colorado, is a serious and important reform.

But the amendment which is suggested by the Senator from Missouri goes well beyond this and its effect will be very harsh in its treatment of the major oil companies.

I am advised by counsel that under the Eagleton amendment a major oil company would lose entirely 15 percent of its intangible drilling costs. This is a very harsh result. Under the amendment, an oil company which spends, just to take a figure, $100 in some domestic oil exploration could recover only $85 of its costs. This would put oil companies in a worse position than any other industry in America.

I am not certain that that is the intent of the sponsor of the amendment, but I am advised by counsel that that is, in fact, the effect as it is presently drafted.

In any event, whether or not it is considered on the basis of its actual effect as drafted according to the opinion of counsel, or whether or not it is considered on the basis of what I believe to be the intent of the sponsor of the amendment, I am not for it and I hope that a majority of my colleagues will turn it down.

As far as we are concerned on this side, unless other Senators seek recognition, I think we are ready to go to a vote. Does the Senator from Oklahoma wish to speak on this matter?

Mr. NICKLES. Not at this time. I do wish to have my remarks associated with the remarks of the Senator from Colorado in urging the defeat of this amendment. I think it is very counterproductive and very penalizing to the particular industry and I would urge its defeat.

Mr. EAGLETON. Mr. President, I will take 1 minute and then we can proceed to vote. I would like to clarify one comment the Senator from Colorado made.

The 15 percent would not be totally lost to the integrated oil companies. Instead of it being qualified, as the tax bill before us seeks to do, for ACRS deductions and the investment tax credit, that 15 percent would still qualify for normal deduction purposes over the 10-year period. So it is not totally lost to the industry at all. It just is not qualified for the special treatment of the investment tax credit and ACRS deductions.

With that clarification, unless anyone else wishes to be heard, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LONG. Mr. President, I have an estimate of the revenues involved in this measure. The estimate handed me is somewhat at variance with the figures that I quoted previously because it relates to 3 years rather than 5. I think I should make the figures available for the record, and I ask unanimous consent that this table be printed in the RECORD so Senators may read it.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

REVENUES UNDER EAGLETON AMENDMENT COMPARED WITH COMMITTEE BILL

[Dollars in millions]

	Fiscal year—			3 years
	1983	1984	1985	
Delete telephone excise tax increase	−$308	−$881	−$1,600	−$2,789
Deny ACRS and investment tax credit for 15 percent of intangible drilling costs of integrated oil companies (assuming cost depletion can be used on the 15 percent that is capitalized)	+105	+275	+402	+782
Net revenue loss under Eagleton amendment	−203	−606	−1,198	−2,007

Mr. EAGLETON. May I ask what those figures show?

Mr. LONG. What this shows is that by deleting the telephone excise tax increase over a 3-year period, the Treasury would lose, compared to the committee bill, $2.789 billion, and that to deny the ACRS an investment tax credit for 15 percent of intangible drilling costs, as suggested by the Senator, would pick up $782 million. I thought it might be more than that, but the estimates indicate for fiscal year 1983 a pickup of $105 million; fiscal year 1984, a pickup of $275 million; and for fiscal year 1985, a pickup of $402 million, for a total of $782 million over the 3 years. The two provisions of the amendment taken together would result in a net loss to the Treasury of $2.007 billion compared to the committee bill.

Mr. EAGLETON. I did not hear precisely what the Senator said. Did the Senator say the telephone tax over 3 years would be about $2 billion?

Mr. LONG. $2,789,000,000.

Mr. EAGLETON. And the intangible drilling would be what?

Mr. LONG. $782 million. The amendment overall would be a net loss to the Treasury of $2 billion compared with the committee bill. I think that Senators voting on this amendment ought to keep this revenue loss in mind. I know the Senator from Kansas is not here to ask the question, which he would ask if he were here: where do we get the money back?

I think Senators ought to keep that in mind when they vote on the amendment.

Mr. ARMSTRONG. Mr. President. I believe we are nearly ready to go to a vote. I am willing to suggest the absence of a quorum just so that we can advise the chairman that debate has concluded on this. He is nearby and I think will have no objection to a vote occurring. It would be my thought that we ought to at least let him know that we are at that stage in case he wishes to speak on the matter.

Mr. ARMSTRONG. Unless other Senators seek recognition, I will at this time suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered. All time has been yielded back.

The question is on agreeing to the amendment of the Senator from Missouri. The yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. PACKWOOD) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 24, nays 72, as follows:

[Rollcall Vote No. 241 Leg.]

YEAS—24

Biden	Eagleton	Mitchell
Bradley	Hawkins	Moynihan
Bumpers	Heflin	Pell
Cannon	Hollings	Proxmire
Cohen	Huddleston	Riegle
DeConcini	Jackson	Sarbanes
Dodd	Leahy	Sasser
Durenberger	Levin	Tsongas

NAYS—72

Abdnor	Harry F., Jr.	Domenici
Andrews	Byrd, Robert C.	East
Armstrong	Chafee	Exon
Baker	Chiles	Ford
Baucus	Cochran	Garn
Bentsen	Cranston	Glenn
Boren	D'Amato	Goldwater
Boschwitz	Danforth	Gorton
Brady	Denton	Grassley
Burdick	Dixon	Hart
Byrd,	Dole	Hatch
Hatfield	Mattingly	Simpson
Hayakawa	McClure	Specter
Heinz	Melcher	Stafford
Helms	Murkowski	Stennis
Humphrey	Nickles	Stevens
Jepsen	Nunn	Symms
Johnston	Percy	Thurmond
Kassebaum	Pressler	Tower
Kasten	Pryor	Wallop
Laxalt	Quayle	Warner
Long	Randolph	Weicker
Lugar	Roth	Zorinsky
Mathias	Rudman	
Matsunaga	Schmitt	

NOT VOTING—4

Inouye	Metzenbaum
Kennedy	Packwood

So Mr. EAGLETON's amendment (UP No. 1114) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, we have been trying to keep some semblance of a running list here going back and forth. Senator SPECTER is next on the agenda, and I understand that will not take a great deal of time, and then Senator ARMSTRONG, unless there is somebody on the other side who has an amendment that we can dispose of. I know Senator GLENN will have something later on.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

DEPLETION ALLOWANCE

Mr. SPECTER. Mr. President, I had intended to introduce an amendment to the Tax Equity and Fiscal Responsibility Act of 1982 to eliminate the 15-percent reduction in the percentage depletion allowance for the coal and iron ore industries. I had intended to do so because I thought the amendment was necessary in order to insure the economic health and growth of those two industries which are vital to the Nation's economic and national security interests.

It is now not necessary to do so because a compromise has been worked out with the distinguished Senator from Kansas (Mr. DOLE) on behalf of the committee where the date would be deferred for 1 year, which will give the necessary relief to the two relevant industries.

The statement I intended to make is as follows:

I oppose the proposed reductions in depletion allowances contained in the Finance Committee bill. This is probably the worst time to be raising the taxes of the coal and iron ore firms. The iron ore industry is currently operation at 6 percent of capacity, and approximately 70 percent or 15,000, of the industry's workers have been laid-off. The coal industry is also experi-

encing severe economic hardship; unemployment in the industry has reached 40,000 workers. There is no sound justification for reducing the depletion allowances at a time when both these industries are in such a depressed state.

The original Finance Committee proposal called for a 15-percent reduction in the percentage depletion allowance for all hard rock minerals. During markup, it was determined that the effects of this action would be too severe upon the depressed mining industry, so the reduction in the percentage depletion allowance was eliminated for all industries except coal and iron ore.

I fail to see the logic of the committee's action, and I believe that it is unfair to single out these two industries. It is true that the mining industry has been hard hit by the recession; but the coal and iron ore industries have been as severely affected as other mining industries. In fact, capacity utilization in the iron ore industry is the lowest of all mining industries.

Capacity utilization in the coal industry is also low—now about 80 percent. The unemployment rate of 16.1 percent in coal is 6.5 points above the national average and over 4 points higher than the average unemployment level in the mining industry as a whole.

Mr. President, the reduction in depletion allowances is not only bad economic policy, it is also based upon false assumptions concerning the tax treatment of mined coal and iron ore. The Finance Committee proposal was justified on the grounds that the coal and iron ore industries received special treatment under section 631 of the Internal Revenue Code, which permits a capital gains type treatment for the royalties received by a mine owner from the operator of that mine. Section 631 is of doubtful relevance to depletion allowances, because the benefits of the capital gains treatment accrue to owners, while the provisions of this bill affect operators.

The increased tax benefits and cash flow resulting from section 631 do not necessarily accrue to iron ore and coal companies, therefore, many companies will be as adversely affected by the reduced depletion allowance as the other mining companies would have been. The coal and iron ore industries do not receive special treatment—as some have asserted—under section 631; their depletion allowances are treated in the same manner as any other mining industry.

Many of the companies affected by this provision are in a seriously depressed state, so the budgetary impact is minimal, approximately $100 million annually in fiscal year 1983 and 1984. However, the impact of this bill will be much greater in future years when it is expected that these companies will be more profitable.

The coal industry estimates that it will have to invest about $50 billion over the next 20 years to meet the Nation's energy needs. Steel industry investment will be even higher. I question the wisdom of a bill which will exacerbate the critical cash flow problems in these industries and reduce the incentives to invest in them.

UP AMENDMENT NO. 1115

(Purpose: To delay for 1 year the reduction in percentage depletion for coal and iron ore)

Mr. SPECTER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order at this time. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) on behalf of himself, Mr. HEINZ, Mr. DURENBERGER, and Mr. WALLOP, proposes an unprinted amendment numbered 1115.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 221, between lines 20 and 21, insert the following:

(5) REDUCTION IN PERCENTAGE DEPLETION FOR COAL AND IRON ORE.—Section 291(a)(2) of such code shall apply to taxable years beginning after December 31, 1983.

On page 221, line 21, strike out "(5)" and insert in lieu thereof "(6)".

On page 222, line 2, after "applies" insert ", except that in the case of an item described in section 291(a)(2) of such code, such amendment shall apply to taxable years beginning after December 31, 1983".

Mr. SPECTER. I ask unanimous consent to add Senator HEINZ and Senator DURENBERGER as original cosponsors of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask the indulgence of the distinguished Senator from Pennsylvania; I was busy in another conversation. Is this the modification to the original amendment?

Mr. SPECTER. This is the modification. I had elected to proceed not to introduce the original amendment but to say that I had intended to introduce the amendment and to say it was not necessary because of the accommodation which the distinguished Senator from Kansas had worked out, so that the amendment which I have submitted is limited to deferring the date when the tax change becomes effective to taxable years beginning after December 31, 1983.

Mr. DOLE. That is the understanding that we had reached with the distinguished Senator from Pennsylvania. I am prepared to accept the amendment. I do not know of any objection to the amendment.

Mr. SPECTER. Mr. President, I thank the distinguished Senator from Kansas for this agreement. I think that it is a very wise accommodation because it gives beneficial tax treatment to these very important industries for the next year. There will be sufficient time in the interim to evaluate the events which shall transpire and to revisit this subject if it should become necessary, but for the moment it accommodates the interest of these industries which are so very important not only to the Commonwealth of Pennsylvania, which I represent, but to the Nation as a whole.

Mr. DOLE. I thank the distinguished Senator, and I certainly agree with his remarks. We appreciate his diligence in calling this to our attention and, of course, are pleased we were able to accommodate him in this request.

I yield back all time we have on the amendment.

THE PRESIDING OFFICER. Does the Senator from Pennsylvania yield back his time?

Mr. SPECTER. I do.

THE PRESIDING OFFICER. The question is on the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1115) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPECTER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the distinguished Senator from Colorado is next. Following him will be the distinguished Senator from Georgia (Mr. MATTINGLY).

I suggest the absence of a quorum, with the time not to be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that an amendment I shall propose be in order at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1116

Mr. MATTINGLY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) proposes an unprinted amendment numbered 1116.

Beginning on page 222, line 3, strike Sec. 207 (Amendments to Investment Credit.).

Strike Sec. 208 (Repeal of 1985 and 1986 Increases in Accelerated Cost Recovery Deductions.).

Mr. MATTINGLY. Mr. President, prior to the passage of the Economic Recovery Tax Act of 1981, two of the most pressing economic problems facing this Nation were declining productivity and loss of competitiveness with other nations. Both of these problems resulted from inadequate capital investment in new plant equipment. As a result of inadequate capital investment, the United States ranked behind its major trading partners in most economic indicators, particularly those dealing with productivity.

To reverse these trends of declining productivity and loss of competitiveness with other nations, Congress passed the Economic Recovery Tax Act of 1981 which, among other things, addressed these problems and included provisions aimed at stimulating capital investment. In the Economic Recovery Tax Act of 1981 report, issued by the Senate Committee on Finance, the committee stated the following concerning the need for business tax incentive provisions:

The committee believes that present rules for determining depreciation allowances and the investment tax credit need to be replaced because they do not provide the investment stimulus that is essential for economic expansion. * * * The committee agrees with numerous witnesses who testified that a substantial restructuring of depreciation deductions and the investment tax credit will be an effective way of stimulating capital formation, increasing productivity and improving the Nation's competitiveness in international trade. The committee therefore believes that a new capital cost recovery system is required which provides for the more rapid acceleration of cost recovery deductions and maintains or increases the investment tax credit.

I applaud the efforts of Congress last year to recognize and address the need for incentives to stimulate capital investment. However, this year, we are hearing that the provisions of the Economic Recovery Tax Act designed to foster business investment went too far and, in some cases, provide incentives for uneconomic investments. I disagree. The need for incentives to encourage capital formation exist today as it did before passage of the Economic Recovery Tax Act of 1981. We cannot afford to take a step backwards in this area.

Mr. President, the Economic Recovery Tax Act of 1981 was proposed and enacted as a multiyear tax act. Both the administration and the Congress promoted the need for a multiyear tax act to provide a stable tax environment for business. Without such a stable tax environment, American business is unable to make intelligent investment decisions. Many companies either have commenced or are planning major capital investments which are to be placed in service in future years. These investments were initiated in large part due to the commitment made by the administration and Congress that the tax package enacted in 1981 would continue in place. The modifications, as proposed by the Senate Finance Committee, may well make these investments financially impossible. Moreover, the modifications, as proposed by the Senate Finance Committee, may retard investment decisions because of the fear that in years to come we will further chip away the incentives for capital formation which were enacted last year.

The administration and Congress agreed that the U.S. economy needed new investment last year. It still does. Creating an increased tax burden on new investment is simply the wrong medicine to encourage further capital investment.

For the foregoing reasons, I think it is imperative that we strike sections 207 and 208 of H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, if we are to hope for future capital investment on the part of business and individuals of our country.

(Mr. MURKOWSKI assumed the chair.)

Mr. DOLE. Has the Senator from Georgia concluded his remarks?

Mr. MATTINGLY. Not concluded, but if the Senator would like to ask some questions I would certainly be happy to answer them.

Mr. DOLE. I am just trying to determine if you delete the investment tax credit base adjustment and delete repeal of 1985-86 ACRS changes, and the third part—which takes the 85 percent of tax liability up to 90 percent—I guess I am interested in knowing what revenue would be involved. I think it is about $46 billion, $48 billion over 5 years; $6.5 billion over 3 years.

I do not quarrel with much of what the distinguished Senator said. I am not certain whether we have more than $98.3 billion or less at this point. We hope to have that when we finish. We have got an interaction committee working and they are doing a lot of interaction to see if we can squeeze a few dollars here or there. But I do not think it would be possible in any of the alternatives we are considering in the event something should be deleted from the bill to cover that, plus the $6.5 billion.

I do not quarrel with the argument made by the distinguished Senator from Georgia that what we are doing, in effect, is undoing what we did less than a year ago or about a year ago. But we have been discussing some possible compromise of this proposal with the Treasury Department, with the administration, as has the Senator from Georgia, and it is my understanding that nothing can be worked out to the satisfaction of everyone involved.

The Secretary of the Treasury stated, and we have made the point, too—in fact, we were criticized last year in the committee, a number of witnesses and some members of the committee said our system was so generous that it was more generous than expensing, and the Secretary of the Treasury said more recently that we should not have a system that is more generous than expensing. It is equivalent to a negative tax rate or subsidy.

That was not the intent of the law we passed last year. So I just hope we will not adopt the amendment of the Senator from Georgia.

I would be pleased, in fact I ask unanimous consent, to place in the RECORD at this point some talking points and information with reference to the amendment. But I hope we might be able to vote on the amendment as soon as the Senator from Georgia and others who wish to speak have done so.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The partial basis adjustment provided by the bill modifies ACRS so that a taxpayer will in effect expense his equipment costs for tax purposes, just as he actually expenses his costs for labor and materials. When a businessman spends $1,000 on machinery, he will get depreciation deductions and an investment credit which, under the bill, are economically equivalent to his deducting the entire $1,000 in the same year that he spends it.

Expensing is the right target for ACRS for several reasons:

First, common sense says that you should not get tax benefits for spending more than you actually spent.

Second, expensing gives the same incentives to invest in equipment and machinery as would exist if there were no corporate income tax at all.

Third, tax benefits which are more generous than expensing—which are what we have without the partial basis adjustment—are an undesirable subsidy to business. Tax write-offs from buying an asset can be greater than the income the asset produces. This is what the President's Council of Economic Advisors has rightly called a negative effective tax rate.

This is unfair to other taxpayers who must pay the subsidy. It is also bad economic policy to have uneconomic investment that doesn't generate enough income in the marketplace to justify the cost of the asset.

So we should get the benefits of ACRS down to the equivalent of expensing. Secretary Regan says that this is the right target. The partial basis adjustment in the bill before the Senate puts ACRS benefits in exactly the right place.

The committee bill repeals the provisions of ACRS that would have accelerated cost recovery rates for personal property to rates approximating the benefits of using a 175-percent declining balance method in 1985 and the 200-percent declining balance method after 1985.

Without the modification, ACRS will be substantially more generous with enormous pressure being put on the taxpayers to invest in machines rather than in buildings.

When ACRS was enacted last summer it was not clear that the inflation rate would come down so quickly. It is this reduction in the inflation rate—and the related decline in the discount rate—that dictates elimination of the 1985 and 1986 changes in ACRS.

After the changes made by the committee bill, ACRS plus the ITC will provide approximately the same benefits as a complete exemption from tax for the income from assets in the 3-year and 5-year classes.

Mr. MATTINGLY. Could I ask a question referring to the costs? Approximately $40 billion the Senator is talking about out of the private sector comes in the outyears of 1986 and 1987, so the impact in the 3 years we are referring to this bill takes into consideration, 1983, 1984, and 1985, is not that great.

Mr. DOLE. It is about $6.5 billion.

Mr. MATTINGLY. That really does not take into consideration—I hate to use the term—"reflows" but what will happen, what happens when we take away or are not consistent with the tax policies of our country, that we passed one bill last year and so we decide to come back here this year and we are going to pass and change it again, and next year we are going to come back and we will probably try to change it again?

If I were an individual out in America I would probably ask the question I wonder what is going on? The question is is it reliable enough for me to really want to invest? The question should be on any of these items in this Finance Committee bill, which I am sure the distinguished chairman agrees with, the question is does it encourage or discourage people? Does it encourage or discourage investment? Does it encourage or discourage savings? Does it encourage or discourage productivity in America?

The only thing I am saying, especially with these amendments, is that they are obviously going to be an anchor around the private sector. They are probably not going to hurt the Government so much, but it is going to be a detriment to the private sector. I doubt that we have a computer up here in Washington, D.C., that could produce something about reflows, but I would say the encouragement factor if we keep it the way it is now in the tax code would be greater, we would have a greater opportunity possibly to have business expanding in America, if we left the tax legislation in this ACRS and ITC the same way than the way the Senator is projecting a loss by the Finance Committee figures.

It is not really a disagreement over philosophy. I think it is just being pragmatic. This change, will it be stable? Is it reliable? Does it encourage decisionmaking? Does shifting our policy every 9 or 10 months help?

Mr. DOLE. Mr. President, again I will say very briefly, because we have a number of amendments, I think it is helpful that the Senator from Georgia has presented the amendment. I know there is a great deal of interest in the business community for this amendment, a great deal of support for it. The Senator from Kansas talked to representatives of the Business Round Table, an outstanding group of businessmen, the National Association of Manufacturers, the chamber of commerce, all of whom feel very strongly that what we are doing here in essence is pulling the rug out from under what was done last year.

But, notwithstanding that, it seems to me that expensing is the right target for ACRS for several reasons.

First, commonsense would dictate you should not get tax benefits for spending more than you actually spent. And it has been indicated and demonstated and stated by the Treasury Secretary that that ought to be the case.

Second, expensing gives the same incentives to invest in equipment and machinery as would exist if there were no corporate income tax at all. In fact, some are better off without a tax. And they are more generous than expensing, and we believe we have made the right changes in the Senate Finance Committee.

We know that there are some complaints because we changed the acceleration of ACRS scheduled for 1985 and 1986.

But it seems to me it would be unfair to the American taxpayers to ask them to subsidize what is a very generous, in my view, tax policy.

But I think the importance of calling up the amendment and indicating to those of us in Congress, those of us on the Senate Finance Committee and to the administration, that we cannot tinker with this tax bill every year will be helpful if somebody indicates that that should be done again next year.

So I must say there will be a lot of interest in the so-called flat rate tax. And if we do anything in the flat rate tax—I do not suggest we will do it that quickly—we cannot address just the individual side and leave out the business side or the corporate side.

I hope that the distinguished Senator from Georgia would not press the amendment, but if he desires an up or down vote, we are prepared to vote.

Mr. MATTINGLY. Mr. President, just in conclusion, I think sections 207 and 208 of the committee measure, which are intended to modify existing law concerning the ACRS and the basic adjustment as a result of investment tax credit, will have a negative economic effect and, in turn, will lower revenue. That is my feeling of a lot of people.

I do have a reservation about whether the negative economic impact is included in the revenue provisions.

Enactment of sections 207 and 208 will be an additional tax on individual businesses of our country and, in this regard, it would discourage savings and investment.

In conclusion, I will say I think the chairman has done an outstanding job in the Finance Committee with respect to plugging up loopholes and in compliance. It is just in the arena of raising taxes is where I have to leave the ship.

Mr. DOLE. We are not certain where the ship is going.

Mr. MATTINGLY. That is the reason I was trying to make sure the rudder was in the right place.

Mr. DOLE. Unless you have a destination, do not leave the ship. We may be sailing around the Chamber and never get out of the Chamber.

But I hope that in the final analysis the Senator will decide that the Senate Finance Committee and the members of that committee looked long and hard at ways to raise the revenue without doing violence to anyone. Even though the business community would like to have this amendment, they are, with some reluctance, supporting the bill, because they are concerned about big deficits, they are concerned about high interest rates, they are concerned about people being out of work, and they are concerned about their businesses.

They are not so much concerned about what is going to happen in 1985, 1986, and 1987. They are concerned about what is going to happen this year. Are they going to have their doors open at the end of the year? Are they going to be in business next year?

For that reason, if we do not act on this package, then we have abdicated all responsibilities in the U.S. Senate as leaders in an effort to face up to the hard facts.

I am not an expert on reflow or feedback. I heard that from the Congressman from New York for a long time. But all this feedback, you just keep cutting taxes and get all this feedback and we have had all of that feedback we can eat. So we are working on it, and we hope that we can pass this bill soon.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HEFLIN. Mr. President, I strongly support this amendment offered by my distinguished colleague from Georgia, Senator MATTINGLY. Last year, in the Economic Recovery Tax Act, the Senate approved a number of important changes in our tax laws, which were aimed at increas-

ing capital investment and, in turn, restoring productivity, providing jobs, and stimulating economic recovery. I believe the Finance Committee proposal to dilute the investment tax credit and repeal the 1985 and 1986 improvements in the accelerated cost recovery system would severely undermine these investment incentives. In my opinion, these changes will have a major adverse impact on business confidence and economic recovery. At a time when businesses all over this country are struggling to survive, I believe it would be a serious mistake to remove these important incentives for capital investment we enacted last year. I urge my colleagues to support this amendment.

Thank you, Mr. President.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back my time.

Mr. LONG. Mr. President, I would like to insist that the rollcall be 15 minutes. That is how it is supposed to be under the rules, and I would like to insist it be 15 minutes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. MATTINGLY). The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) is necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Montana (Mr. MELCHER), and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 23, nays 72, as follows:

[Rollcall Vote No. 242 Leg.]

YEAS—23

Abdnor	East	Mattingly
Bentsen	Ford	Randolph
Biden	Hawkins	Riegle
Boschwitz	Hayakawa	Roth
Brady	Heflin	Sasser
Byrd, Robert C.	Helms	Schmitt
D'Amato	Jepsen	Thurmond
DeConcini	Kasten	

NAYS—72

Andrews	Harry F., Jr.	Dodd
Armstrong	Cannon	Dole
Baker	Chafee	Domenici
Baucus	Chiles	Durenberger
Boren	Cochran	Eagleton
Bradley	Cohen	Exon
Bumpers	Cranston	Garn
Burdick	Danforth	Glenn
Byrd,	Dixon	Goldwater
Gorton	Lugar	Rudman
Grassley	Mathias	Sarbanes
Hart	Matsunaga	Simpson
Hatch	McClure	Specter
Hatfield	Mitchell	Stafford
Heinz	Moynihan	Stennis
Hollings	Murkowski	Stevens
Huddleston	Nickles	Symms
Humphrey	Nunn	Tower
Jackson	Packwood	Tsongas
Johnston	Pell	Wallop
Kassebaum	Percy	Warner
Laxalt	Pressler	Weicker
Leahy	Proxmire	Zorinsky
Levin	Pryor	
Long	Quayle	

NOT VOTING—5

Denton	Kennedy	Metzenbaum
Inouye	Melcher	

So Mr. MATTINGLY's amendment (UP No. 1116) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. ABDNOR. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, may we have order?

I do not know if the distinguished majority leader is here. It is my hope that the majority leader and minority leader may agree on some procedures—first, let me determine how much time is left on the bill.

The PRESIDING OFFICER. The Senator from Kansas has 3 hours and 9 minutes. The Senator from West Virginia has 3 hours and 24 minutes.

Mr. DOLE. So we have about 6 hours and 30 minutes left on the bill. It is now 3:30 p.m. There are a number of amendments. I am hoping that the leaders might get together and agree—because there are a lot of people ready to introduce amendments—to reduce the time on the amendments to 30 minutes with the exception of the one on withholding, where we would retain the full hour. It may take some time to win that one. It may take more than 3 hours.

Maybe the distinguished majority leader could make that request in the next few minutes.

In the meantime, the distinguished Senator from Colorado has an amendment, then the distinguished Senator from Maine (Mr. MITCHELL). Senator ANDREWS and Senator BAUCUS may be prepared at that time. Then we are getting down to Senator HOLLINGS and Senator KASTEN—or getting up, depending on how you view that amendment.

Mr. President, I promised the distinguished Senator from New York that we would dispose of an amendment that he has. He has a time problem, so we hope to be able to get to his amendment immediately after the withholding amendment.

I think we can move rather quickly. There may be Senators who are prepared to offer amendments that we do not have on the list. We do not have that many. I am not encouraging more amendments, but if there are, we should know about those soon.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I ask my distinguished colleague, the Senator from Kansas (Mr. DOLE), when will we get to that amendment? I have been now, for more than 2 days, requesting a slot. I find that each time, it is said, "when we get to withholding." I do not know when we are going to get to withholding.

I ask my distinguished colleague from Kansas if he could not be more definitive. We have a number of proposals. We offered to compromise. If he cannot take the compromise, I am willing to submit the amendment as I initially proposed it.

Mr. DOLE. Mr. President, I might say if it is a compromise, it is one we both want to submit. It is not the one the Senator is now willing to submit. That is where we have the problem. The Senator wants to compromise on his terms.

Mr. D'AMATO. I am willing to submit it. I think I am entitled to have an opportunity to do that.

Mr. DOLE. The Senator will have an opportunity. We are trying to work it out. There are a lot of amendments, probably 35 or 40 amendments. We are moving as quickly as we can.

Mr. D'AMATO. At the risk, again, of asking for a time certain that we can vote on the compromise on the amendment as I have proposed it, I am going to be constrained to object to other amendments being introduced.

Mr. DOLE. That is a right the Senator has. I would not want to think that I cannot do any business with the Senator from New York.

Mr. D'AMATO. It might be said that the Senator from New York has had a great deal of difficulty, as other Senators, doing business with the Senator from Kansas.

Mr. DOLE. I have not noted that until now.

I yield to the Senator from Tennessee.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. DOLE. Yes, I yield.

Mr. BAKER. Mr. President, may I inquire of the Chair, how much time remains of the 20 hours under the statute?

The PRESIDING OFFICER. The majority leader has 3 hours and 6 minutes; the minority leader has 3 hours and 24 minutes.

Mr. BAKER. Mr. President, it is clear that we are going to have a long day, as I indicated earlier. Thursday being our late day, it is my hope and my expectation that we can finish this bill. I am not inclined to ask the

Senate to remain past midnight tonight. If we have not passed the bill by then, we shall have to go over until tomorrow and finish it on Friday. In order to maximize the prospects that we can finish it tonight and have it over with, I wonder if Senators would be willing to agree that, on all amendments except the amendment dealing with interest and dividend withholding, there will be a 30-minute time limitation, with the time to be equally divided.

Mr. ROBERT C. BYRD. Mr. President, is that a request?

Mr. BAKER. Yes, Mr. President, I make that request.

Mr. ROBERT C. BYRD. Mr. President, I shall have to object at this point until we have an opportunity to run our lines.

In the first place, I do not think this is a reconciliation bill, by virtue of the fact that article IV was included in the bill in violation of paragraph 5 of rule XV. So I do not think the bill will be covered by the time limit.

I do not think the bill ought to be covered by a time limit. For that reason, I will object at this point.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. BAKER. Mr. President, I will ask that Senators on my side of the aisle be on notice that I will renew that request sometime at about 4 o'clock, assuming that the minority leader has had an opportunity by then to complete his list on that side.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. LONG. Will the Senator yield?

Mr. BAKER. I yield first to the ranking member of the Finance Committee.

Mr. LONG. I just want to suggest, and even make this plea to the leader on my side of the aisle, when the question comes up again that we do consider reducing the time to one-half hour on each of these amendments. Even though I understand how the Senator feels about the matter, the fact is that we are going to vote on the bill. To cut the time for each amendment in half would enable us to fit in twice as many amendments; otherwise, just the pure mathematics of it means that a great number of Senators are just not going to have a chance to be heard or, if they are heard, Senators will be so exhausted by that time that they may not be in condition to fully appreciate the arguments.

I hope that the minority leader would in due course recognize that since the bill is going to be voted on in any event, that we could consider more amendments if we did shorten the time limit on each amendment.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. BAKER. I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, I will certainly reconsider the situation and attempt to determine how many amendments are going to be offered on this side of the aisle. I feel that I voice the sentiment of all the Senators on this side of the aisle when I say that the inclusion of title IV in this bill is a prostitution—a prostitution—of the budget process. We do not think it is a reconciliation bill because of the violation of rule XV. If it is not a reconciliation bill, of course, it is not covered by a time limit or by the germaneness provision.

I am not going to raise that point at this juncture. I may not raise it at any juncture on this bill, but this practice ought to stop, and I am going to try to find a way, if there can possibly be one found, in the future to make a point of order against the whole bill when it comes out to the floor with legislation that comes under the jurisdiction of other committees, which is a clear violation of paragraph 5 of rule XV of the Standing Rules of the Senate.

I will take into consideration the request of the distinguished Senator from Louisiana and the distinguished majority leader and the distinguished manager of the bill. I just want to voice discontent and strong feeling about this bill and the fact that title IV is a clear violation of rule XV.

Now, there is no way we can get around it. We can make a point of order against title IV now, and the point of order would knock out title IV, but the rule was circumvented by amending title III the other day.

The intent of the rule has already been circumvented; the language of the Packwood amendment is in the bill, and it is of no practical benefit to knock out title IV now. That was what I sought to prevent with my recommital motion earlier this week.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. BAKER. Mr. President, I yield to the Senator from Mississippi.

The PRESIDING OFFICER. The Senate will please be in order.

Mr. STENNIS. I did not get the Senator's request when he said it would be 4 o'clock. Was that relating to some time limitation for amendments?

Mr. BAKER. Yes. Mr. President, I say to my friend from Mississippi that it would be my hope that since we need to finish this bill tonight, we might further reduce the time available on other amendments with the exception of the amendment dealing with interest and dividend withholding to 30 minutes equally divided.

The minority leader indicated that he had not yet run that through his clearance process, and I indicated I would make the request again at 4 o'clock.

Mr. STENNIS. I certainly want to cooperate and I will as far as I can. There is a matter here, though on which I have avoided taking any time from other parts of the bill because of the importance of this matter, the revenue bonds, I would be willing to agree to a time except on that one. I am supporting the revenue bond provision. I want to be sure, however, I do not waive any rights there but will on other matters.

Mr. BAKER. The Senator most assuredly has not waived any rights, and I will take account of that when I repropound the request.

The PRESIDING OFFICER. The Senate is not in order. The Chair asks that the Senators who are conversing please remove themselves to the cloakroom.

Mr. BUMPERS. Mr. President, parliamentary inquiry. How much time is remaining on the bill?

The PRESIDING OFFICER. At the present time the majority leader has 3 hours and 2 minutes, the minority leader has 3 hours and 24 minutes.

Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I might say that as far as I know now there may be other amendments that have not been called to our attention, but I only know of about 9 or 10 amendments. There are others that we can dispose of, I am certain, that have not been called to our attention and which are technical in nature. If in fact there is no revenue loss and if in fact there is no objection from the Treasury and they have been cleared on both sides, we may be able to accept those amendments. That could happen fairly quickly.

The other amendments, I assume, would take at least 30 minutes each, and I assume the withholding amendment would take up to an hour.

I think we are making good progress. I am sorry everybody cannot be first. I say to some of those who may not understand that we are going to be able to accommodate some people who have problems; just let us get through the withholding vote. We have to have a little patience in this body. If we lose the withholding vote, it will all be over anyway.

I say to my friends and those who are not my friends, just let us try to work it out. We are doing the best we can to accommodate every Senator—every Senator.

Mr. ARMSTRONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. ARMSTRONG. I send an amendment to the desk and ask for its immediate consideration.

Mr. D'AMATO. Mr. President, I object.

The PRESIDING OFFICER. At this point it will take unanimous consent

since there are 13 minutes left on the first committee amendment of the Senator from Kansas and 11 of the Senator from Louisiana.

Who yields time? If neither side yields time——

Mr. DOLE. Mr. President, I suggest the absence of a quorum not charged to either side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I am advised that the quorum call that has been in progress was not charged against the total time. I have no objection to the quorum call, but I do object to not charging it.

We have 6 hours yet to go, and time is wasting. Even if we did not have any votes that would be 10 p.m. tonight before we finish.

So I hope in the future Members will not ask that quorum calls not be charged against the time because otherwise they will be charged and they should be charged, and if I am in the Chamber I will object to that request.

Mr. President, I indicated earlier that at 4 o'clock or thereabouts I hoped to renew my request of a shorter time limitation on amendments. I am advised by the minority leader they have not yet completed their clearance process, but I continue to hope we will be able to do that.

Mr. President, on the matter at hand I understand no amendment is pending, is that correct?

The PRESIDING OFFICER. The first committee amendment is pending.

Mr. BAKER. Yes, other than the committee amendment.

Mr. President, I hope Members now will take account of the fact we have got to finish this bill and we are either going to finish it tonight or do it in the morning. I intend to ask the Senate to stay until approximately 12 o'clock tonight, but if we have not finished by then, we already have an order for the Senate to convene at 9 o'clock tomorrow morning, and we will work on it on Friday until we do finish. But it is possible to finish it tonight, and I would urge Senators to get on with the business at hand.

Mr. President, I now yield the floor.

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

Mr. D'AMATO. Mr. President, I object.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment on which there are 15 minutes remaining.

Mr. BAKER. Mr. President, I ask unanimous consent that it be in order for the Senator from Colorado to offer an amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Colorado.

UP AMENDMENT NO. 1117

(Purpose: To provide for the indexing of the basis of certain capital assets)

Mr. ARMSTRONG. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Colorado (Mr. ARMSTRONG) proposes an unprinted amendment numbered 1117.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 501, line 8, insert "; INDEXATION OF BASIS OF CAPITAL ASSETS" after "ASSETS".

On page 504, after line 24, insert the following:

SEC. 310A. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

(a) IN GENERAL.—Part II of subchapter O of chapter 1 (relating to basis rules of general application) is amended by inserting after section 1019 the following new section:

"SEC. 1020. INDEXING OF CERTAIN ASSETS FOR PURPOSES OF DETERMINING GAIN OR LOSS.

"(a) GENERAL RULE.—

"(1) INDEXED BASIS SUBSTITUTES FOR ADJUSTED BASIS.—Except as provided in paragraph (2), if an indexed asset which has been held for more than 1 year is sold or otherwise disposed of, for purposes of this title the indexed basis of the asset shall be substituted for its adjusted basis.

"(2) EXCEPTION FOR DEPRECIATION, ETC.—The deduction for depreciation, depletion, and amortization shall be determined without regard to the application of paragraph (1) to the taxpayer or any other person.

"(b) INDEXED ASSET.—

"(1) IN GENERAL.—For purposes of this section, the term 'indexed asset' means—

"(A) stock in a corporation, and

"(B) real property (or any interest therein), which is a capital asset or property used in the trade or business (as defined in section 1231(r)).

"(2) CERTAIN PROPERTY EXCLUDED.—For purposes of this section, the term 'indexed asset' does not include—

"(A) CREDITOR'S INTEREST.—Any interest in property which is in the nature of a creditor's interest.

"(B) OPTIONS.—Any option or other right to acquire an interest in property.

"(C) NET LEASE PROPERTY.—In the case of a lessor, net lease property (within the meaning of subsection (h)(1)).

"(D) CERTAIN PREFERRED STOCK.—Stock which is fixed and preferred as to dividends and does not participate in corporate growth to any significant extent.

"(E) STOCK IN CERTAIN CORPORATIONS.—Stock in—

"(i) an electing small business corporation (within the meaning of section 1371(h)),

"(ii) a personal holding company (as defined in section 542), and

"(iii) a foreign corporation.

"(3) EXCEPTION FOR STOCK IN FOREIGN CORPORATION WHICH IS REGULARLY TRACED ON NATIONAL OR REGIONAL EXCHANGE.—Clause (iii) of paragraph (2)(F) shall not apply to stock in a foreign corporation the stock of which is listed on the New York Stock Exchange, the American Stock Exchange, or any domestic regional exchange for which quotations are published on a regular basis other than—

"(A) stock of a foreign investment company (within the meaning of section 1246(b)), and

"(B) stock in a foreign corporation held by a United States person who meets the requirements of section 1248(a)(2).

"(C) INDEXED BASIS.—For purposes of this section—

"(1) INDEXED BASIS.—The indexed basis for any asset is—

"(A) the adjusted basis of the asset, multiplied by

"(B) the applicable inflation ratio.

"(2) APPLICABLE INFLATION RATIO.—The applicable inflation ratio for any asset is the percentage arrived at by dividing—

"(A) the gross national product deflator for the calendar quarter in which the disposition takes place, by

"(B) the gross national product deflator for the calendar quarter in which the asset was acquired by the taxpayer (or, if later, the calendar quarter ending December 31, 1984).

The applicable inflation ratio shall not be taken into account unless it is greater than 1. The applicable inflation ratio for any asset shall be rounded to the nearest ⅒ of 1 percent.

"(3) GROSS NATIONAL PRODUCT DEFLATOR.—The gross national product deflator for any calendar quarter is the implicit price deflator for the gross national product for such quarter (as shown in the first revision thereof.)

"(d) SPECIAL RULES.—For purposes of this section—

"(1) TREATMENT AS SEPARATE ASSET.—In the case of any asset, the following shall be treated as a separate asset:

"(A) a substantial improvement to property,

"(B) in the case of stock of a corporation, a substantial contribution to capital, and

"(C) any other portion of an asset to the extent that separate treatment of such portion is appropriate to carry out the purposes of this section.

"(2) ASSETS WHICH ARE NOT INDEXED ASSETS THROUGHOUT HOLDING PERIOD.—

"(A) IN GENERAL.—The applicable inflation ratio shall be appropriately reduced for calendar months at any time during which the asset was not an indexed asset.

"(B) CERTAIN SHORT SALES.—For purposes of applying subparagraph (A), an asset shall be treated as not an indexed asset for any short sale period during which the taxpayer or the taxpayer's spouse sells short property substantially identical to the asset. For purposes of the preceding sentence, the short sale period begins on the day after the substantially identical property is sold and ends on the closing date for the sale.

"(3) TREATMENT OF CERTAIN DISTRIBUTIONS.—A distribution with respect to stock in a corporation which is not a dividend shall be treated as a disposition.

"(4) SECTION CANNOT INCREASE ORDINARY LOSS.—To the extent that (but for this para-

graph) this section would create or increase a net ordinary loss to which the second sentence of section 1231(a) applies or an ordinary loss to which any other provision of this title applies, such provision shall not apply. The taxpayer shall be treated as having a long-term capital loss in an amount equal to the amount of the ordinary loss to which the preceding sentence applies.

"(5) ACQUISITION DATE WHERE THERE HAS BEEN PRIOR APPLICATION OF SUBSECTION (a)(1) WITH RESPECT TO THE TAXPAYER.—If there has been a prior application of subsection (a)(1) to an asset while such asset was held by the taxpayer, the date of acquisition of such asset by the taxpayer shall be treated as not earlier than the date of the most recent such prior application.

"(6) COLLAPSIBLE CORPORATIONS.—The application of section 341(a) (relating to collapsible corporations) shall be determined without regard to this section.

"(e) CERTAIN CONDUIT ENTITIES.—

"(1) REGULATED INVESTMENT COMPANIES; REAL ESTATE INVESTMENT TRUSTS; COMMON TRUST FUNDS.—

"(A) IN GENERAL.—Stock in a qualified investment entity shall be an indexed asset for any calendar month in the same ratio as the fair market value of the assets held by such entity at the close of such month which are indexed assets bears to the fair market value of all assets of such entity at the close of such month.

"(B) RATIO OF 90 PERCENT OR MORE.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 90 percent or more, such ratio for such month shall be 100 percent.

"(C) RATIO OF 10 PERCENT OR LESS.—If the ratio for any calendar month determined under subparagraph (A) would (but for this subparagraph) be 10 percent or less, such ratio for such month shall be zero.

"(D) VALUATION OF ASSETS IN CASE OF REAL ESTATE INVESTMENT TRUSTS.—Nothing in this paragraph shall require a real estate investment trust to value its assets more frequently than once each 36 months (except where such trust ceases to exist). The ratio under subparagraph (A) for any calendar month for which there is no valuation shall be the trustee's good faith judgment as to such valuation.

"(E) QUALIFIED INVESTMENT ENTITY.—For purposes of this paragraph, the term 'qualified investment entity' means—

"(i) a regulated investment company (within the meaning of section 851),

"(ii) a real estate investment trust (within the meaning of section 856), and

"(iii) a common trust fund (within the meaning of section 584).

"(2) PARTNERSHIPS.—In the case of a partnership, the adjustment made under subsection (a) at the partnership level shall be passed through to the partners.

"(3) SUBCHAPTER S CORPORATIONS.—In the case of an electing small business corporation, the adjustment under subsection (a) at the corporate level shall be passed through to the shareholders.

"(f) DISPOSITIONS BETWEEN RELATED PERSONS.—

"(1) IN GENERAL.—This section shall not apply to any sale or other disposition of property between related persons except to the extent that the basis of such property in the hands of the transferee is a substituted basis.

"(2) RELATED PERSONS DEFINED.—For purposes of this section, the term 'related persons' means—

"(A) persons bearing a relationship set forth in section 267(b), and

"(B) persons treated as single employer under subsection (b) or (c) of section 414.

"(g) TRANSFERS TO INCREASE INDEXING ADJUSTMENT OR DEPRECIATION ALLOWANCE.—If any person transfers cash, debt, or any other property to another person and the principal purpose of such transfer is—

"(1) to secure or increase an adjustment under subsection (a), or

"(2) to increase (by reason of an adjustment under subsection (a)) a deduction for depreciation, depletion, or amortization,

the Secretary may disallow part or all of such adjustment or increase.

"(h) DEFINITIONS.—For purposes of this section—

"(1) NET LEASE PROPERTY DEFINED.—The term 'net lease property' means leased real property where—

"(A) the term of the lease (taking into account options to renew) was 57 percent or more of the useful life of the property, and

"(P) for the period of the lease, the sum of the deductions with respect to such property which are allowable to the lessor solely by reason of section 162 (other than rents and reimbursed amounts with respect to such property) is 15 percent or less of the rental income produced by such property.

"(2) STOCK INCLUDES INTEREST IN COMMON TRUST FUND.—The term 'stock in a corporation' includes any interest in a common trust fund (as defined in section 584(a)).

"(i) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section."

(b) CLERICAL AMENDMENT.—The table of sections for part II of subchapter O of such chapter 1 is amended by inserting after the item relating to section 1019 the following new item:

"Sec. 1020. Indexing of certain assets for purposes of determining gain or loss."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to sales and exchanges after December 31, 1984.

Mr. ARMSTRONG. The purpose of the amendment is very simple. It is to index the basis computation in the capital gains tax. Under current law the capital gains tax is applied on the increased portion of the value of an asset prior to its sale. While assets held for several years usually increase in value, in many instances the increase is a fictional, a paper, gain. It is an inflation gain rather than a real gain in purchasing power or value. In other words, in its present form the capital gains tax now imposes not a tax on profit or gain or income but merely a tax on inflation, and it amounts to a most unfair levy on capital.

My amendment removes the inflation tax by permitting taxpayers to adjust the basis of certain assets for inflation using the GNP deflator. The inflation adjustment is the percent of increase in inflation as measured by the GNP deflator from the time of the purchase of the asset or the effective date of legislation until the time the asset is sold. As a result, the capital gains tax will apply only to real gain and not to the inflation gain.

To reduce the complexity that might otherwise result, my amendment applies only to the corporate stock and real/personal property that has been sold or exchanged, and does not apply for purposes of determining depreciation, cost depletion or amortization. The debt is completely excluded from the inflation adjustment. The inflation adjustment can be used to index assets for determining corporate earnings and profits.

I point out to my colleagues that the amendment which I propose is essentially identical to legislation which has been previously adopted by the other body during the 95th Congress. Despite the amendment's popularity and commonsense it was not taken up at that time by the Senate, although in principle the issue had been discussed by the Senate and the Senate Committee on Finance.

Mr. President, in support of the amendment I wish to make two points: First, this amendment corrects a serious impairment in the capital formation process which is so necessary to get the economy moving again. The National Bureau of Economic Research reported in 1 recent year, in 1 year, there occurred $4 billion in capital gains transactions which were subject to capital gains taxes of $1.1 billion. However, this was inflation-gain taxed, and if there had been an inflation adjustment as proposed by my amendment in fact the capital losses would have exceeded $1 billion. In other words, the current capital gains tax prevents the sale and exchange of property and the subsequent freeing up of capital for other investment.

We have put a provision in the Tax Code which inadvertently freezes people into marginal or unproductive investments. So the first reason to be in favor of this is because it will improve the marginal efficiency of the entire economy.

It is for that reason, I am sure, that the U.S. Chamber of Commerce and the U.S. Industrial Council, among others, have endorsed this amendment.

Mr. President, there is another more direct and more personal reason why every taxpayer has stake in the passage of this amendment, and it is simply one of equity.

It is not fair, my friends, just as matter of basic fairness it is wrong, to tax somebody on a gain which has not occurred. Let me give you a very specific example. Let us suppose smeone bought a house for, say, $20,000 10 year ago. Do not laugh because 10 years ago you could buy a pretty good house for $20,000. Let us suppose also during the last 10 years the value of that house increased 106 percent in nominal dollars, and then you sold the house.

Under the present law you would have a large capital gain. In fact, you would have the capital gain on about

$21,000 to pay, In fact, there has been no real increase in value, no increase in purchasing power, only, as one of my colleagues described it, a depreciation in value of money because in the last decade the GNP deflator has increased 106 percent.

What I am trying to avoid in the future is taxing people on a paper gain, an unreal gain, an inflation gain.

I mentioned the last decade but, of course, many people have owned assets for longer than a decade; and speaking about houses, I cannot help recalling the story my father told about the house in which he lived as a boy and a young man which was built by my grandparents around the turn of the century, and we believe, although there are no actual records of that particular house, which is no longer owned by our family, that house was actually built for around $500.

It was subsequently improved, and we think the total investment in it was perhaps $1,500. Were that house to be sold today we estimate it would sell for around $75,000. The house has changed hands a number of times in the 75 or 80 years since it was built, but in many instances people do own houses, farms, small businesses which have been in the families for long periods of time.

The question I put to my colleagues is, Is it fair to put a heavy tax, indeed a tax virtually on the entire value of these properties, at the time they are sold when the real runup in the nominal value results almost entirely from inflation? I think the answer to that very clearly is that it is not fair to do so.

Mr. President, I wish I could go back and index things back to 1900 or 1940 or 1960 to take care of all of the people who are already frozen into these investments. But, in candor, I must say that my amendment does not do so. My amendment does not go into effect until January 1, 1985, and the indexing process only begins in 1985. It does not take care of the past, but at least it does say in the future, starting 2 years hence, we will not further tax inflation gains.

Finally, Mr. President, before I yield the floor, let me point out, because the effective date is 2 years hence, there will be little or no impact on revenues during the crucial period of the next 3 years. In fact, it is my belief there will be no impact. There may be an inconsequential impact in 1985 but, in essence, there will be no revenue impact, and so we would not be affecting the reconciliation targets contained in the pending bill.

Mr. President, with that word of explanation, I urge my colleagues to support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. We have an amendment from the Senator from Colorado pending. Does anyone yield time?

Mr. BRADLEY. Mr. President, what is the parliamentary situation?

The PRESIDING OFFICER. The question is on the amendment of the Senator from Colorado. There are 30 minutes remaining to the manager of the bill and 23 minutes to the Senator from Colorado.

Mr. BRADLEY. Mr. President, I suggest the absence of a quorum and ask unanimous consent that it be charged equally against both sides of the amendment.

Mr. ARMSTRONG. Is the Senator saying it is charged against both sides of the amendment?

Mr. BRADLEY. That is correct.

Mr. ARMSTRONG. I wonder if we could charge it against the bill, because if it were prolonged the effect would be to shut me out from speaking again.

Mr. BRADLEY. I have no objection. I ask unanimous consent that it be charged equally against both sides on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I understand the amendment offered by the distinguished Senator from Colorado would index capital gains for inflation beginning in 1985. As a result of the effective date, there would be very little revenue lost through the 1983–85 period. So I assume it would not have any impact on the overall numbers.

The Senator from Colorado offered a similar amendment in the Finance Committee but it would have been effective January 1, 1983. Is that not correct?

Mr. ARMSTRONG. The Senator is correct.

Mr. DOLE. This would take effect the same time that general indexing takes effect, tax indexing, the amendment of the Senator from Colorado in the tax bill last year.

I agree we would be concerned about taxing a so-called gain that is nothing more than inflation. However, I think I should point our for the record—and perhaps the Senator from Colorado did so while the Senator from Kansas was off the floor—that capital gains already receive favorable treatment under the Tax Code. Only 40 percent of the capital gains are subject to tax. The exclusion of 60 percent of capital gains is partially intended to compensate for the problem the Senator is attempting to address.

The long-run solution to this problem is to reduce substantially the rate of inflation. Of course, we made substantial progress toward this goal. Successful passage of this legislation—I am talking about the overall legislation—in my view would get us on the road to stabilize inflation and hopefully a recognition in the financial markets that we are serious about what we do in the Congress of the United States.

I have no strong objection to the amendment, because it appears to be largely revenue neutral. But I understand the amendment may not be germane. Does the Senator from New Jersey wish to speak to the amendment?

Mr. BRADLEY. Mr. President, I say to the Senator from Colorado that it is my understanding that this does add new material to the bill and, therefore, it is not germane. I have not decided at this point if I would make a point of order. But the amendment was rejected in the Finance Committee. So what I will do is suggest the absence of a quorum and maybe we can discuss it, unless the Senator would like to do otherwise.

Mr. DOLE. Mr. President, rather than have a quorum call while that amendment is under discussion, perhaps we could take care of the amendment of the distinguished Senator from Alaska, which has been cleared, I understand, on both sides of the aisle, and which involves little, if any, cost and has been cleared by Treasury. Is that correct?

Mr. MURKOWSKI. That is correct.

Mr. DOLE. Mr. President, I ask unanimous consent that we temporarily set aside the Armstrong amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1118

(Purpose: clarify that oil produced by wholly-owned subsidiaries of Alaska Native corporations constitutes exempt Indian oil for purposes of the crude oil windfall profit tax)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. MURKOWSKI) proposes an unprinted amendment numbered 1118.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. With objection, it is so ordered.

The amendment is as follows:

On page 468, after line 6, at the end of subtitle G of title II, insert the following new section:

"ALASKA NATIVE CORPORATIONS

"SEC. Paragraph (2) of subsection (d) of section 4994 of subpart B of chapter 45 of the Internal Revenue Code (relating to windfall profit tax on domestic crude oil; categories of oil) is amended by striking "under" the first time it appears and inserting in lieu thereof "pursuant to".".

Mr. MURKOWSKI. Mr. President, this amendment is technical in nature and has no revenue impact that I can determine. This has been cleared with the Treasury Department.

In the windfall profits tax legislation passed several years ago, there was created an exemption for oil produced by or for the benefit of an Indian tribe or tribal organization which satisfies the conditions of the act. It specifically included crude oil produced by a native corporation organized under the Alaska Native Claims Settlement Act and produced before 1992.

At least one of our Native corporations in Alaska has established a wholly owned subsidiary to conduct business operations and to separate their activities from the other diverse missions of the parent corporation—such as education, health care and other social welfare duties. It is their contention, one I agree with, that such a subsidiary should also be exempt from the windfall profits tax, since all the benefits of the subsidiary flow to the Native Americans for whom the exemption was created.

In trying to plan for their future, the corporation has urged the Internal Revenue Service to agree formally that the wholly owned subsidairy will be treated in such a manner. But this effort, over a period of years, has been unsuccessful, and hence the need for this small change in the act to make it clear that Congress does consider such an arrangement to be within the spirit and letter of the law.

If the Native corporation does not secure the necessary approval, they will be forced to disband their subsidiary and bring the oil production business back under the parent corporation, incurring considerable expense and inconvenience in the process.

Mr. President, all benefits of the subsidiary, as I have indicated, would continue to flow to Native Americans, the group that the Congress intended to benefit by the original exemption. It seems clear to me that this provision should be adopted in order to allow Native corporations to handle their business affairs in an orderly and organized manner.

Mr. President, I ask unanimous consent that an explanation of the amendment, which would make it clear that the benefit of the Indian exemption would be extended to the wholly owned subsidiary only, be printed in the RECORD.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

AMENDMENT TO CLARIFY THAT OIL PRODUCED BY SUBSIDIARIES OF ALASKA NATIVE CORPORATIONS ORGANIZED UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT CONSTITUTES "EXEMPT INDIAN OIL" FOR PURPOSES OF THE WINDFALL PROFIT TAX

PRESENT LAW

Crude oil produced prior to 1992 by a Native corporation organized under the Alaska Native Claims Settlement Act ("ANCSA"), 43 U.S.C. §§ 1601 et seq., from mineral interests received and held by the corporation under the Act is exempt from the crude oil windfall profit tax. This exemption is part of the "exempt Indian oil" provision (I.R.C. Sec. 4994(d)) of the Crude Oil Windfall Profit Tax Act of 1980 ("COWPTA"), 26 U.S.C. Secs. 4986 et seq. ANCSA, enacted in 1971 to settle the aboriginal land claims of Alaska Natives, provided for the establishment of Native regional and village corporations, with the stock to be held by Alaska Natives and to remain inalienable until December 18, 1991. The settlement involved more than 40 million acres of land and approximately $950 million. The regional corporations received the mineral rights to all land transferred under ANCSA, and the minerals subject to these rights were expected to serve as sources of additional funds to implement the settlement. The exemption for oil produced from these mineral rights by the corporations, added to the exempt Indian oil provision of COWPTA as a Senate floor amendment and modified in conference, had as its principal purpose the treatment of Alaska Natives, the beneficial owners of the ANCSA Native corporations, in a manner similar to other American Indians under COWPTA.

REASONS FOR CHANGE

The exemption from the crude oil windfall profit tax affects the Native regional corporations which were organized, and received the mineral rights transferred, under ANCSA. These regional corporations have developed or purchased business interests in a wide range of activities, many of which are unrelated to the corporations' resource base. In addition, reflecting their origin as vehicles for implementing a settlement of Indian land claims, these corporations are engaged in a variety of educational, social-welfare, and other service activities for the Native community—activities which are not ordinarily conducted by business corporations. From the outset, these corporations were counselled by their business and legal advisors to establish separate, wholly-owned subsidaries for their various business activities. One reason was to segregate the management of the individual business activities of the subsidiaries from the unusually diverse missions of the parent corporations. The second reason was to limit the liability of the parent corporations, given the substantial liabilities which can be generated by a number of the businesses, particularly the mineral extraction businesses, to be managed by the subsidiaries.

Under the existing exemption, the question arises whether oil (other than oil which meets the definition of exempt Alaskan oil under I.R.C. Sec. 4994(e)) produced by a wholly-owned subsidiary of a Native regional corporation qualifies for the crude oil windfall profit tax exemption. This amendment clarifies this issue by specifically extending the exemption to such subsidiaries. The extension is justified for several reasons. First it permits the regional corporations to continue to conduct their affairs through wholly-owned subsidiaries for sound reasons which are largely unrelated to tax consequences and are fully consistent with the purposes of ANCSA. Second, as the benefits received by Alaska Natives from the oil produced are not diminished or otherwise altered by the shift of production responsibilities from regional corporations to their wholly-owned subsidiaries, the Congressional intent in enacting the exemption is implemented, and its possible frustration avoided, by the amendment. Third, the amendment has no revenue effect and involves no potential for tax abuse.

EXPLANATION OF AMENDMENT

This amendment clarifies that, not only each Native corporation organized under ANCSA, but also any wholly-owned subsidiary of such a corporation, would be eligible for the crude oil windfall profit tax exemption if the other requirements of I.R.C. Sec. 4994(d)(2) are met: (1) the oil is produced by the corporation (or its subsidiary); (2) the oil is produced from mineral interests received under the Act and held by the corporation; (or its subsidiary); and (3) production occurs before 1992.

EFFECTIVE DATE

This amendment is effective on enactment.

Mr. MURKOWSKI. Mr. President, again, this would have no effect on revenues. It has been approved by the Treasury and cleared with the floor manager, the Senator from Kansas, and the minority manager, the Senator Louisiana.

Mr. DOLE. Mr. President, I am prepared to accept the amendment. I understand it has been cleared with Senator LONG. I yield back the remainder of my time.

Mr. MURKOWSKI. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alaska (Mr. MURKOWSKI).

The amendment (UP No. 1118) was agreed to.

UP AMENDMENT NO. 1117

The PRESIDING OFFICER. The question recurs on the Armstrong amendment.

Mr. DOLE. Mr. President, I understand the yeas and nays will be asked for on the Armstrong amendment.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

TAXPAYER PROTECTION

Mr. BAUCUS. Mr. President, I am pleased to cosponsor Mr. ARMSTRONG'S taxpayer protection amendment. If this section of H.R. 4961 had not been changed, taxpayers and those providing advice in the preparation of tax returns would be placed in serious jeopardy when filing returns that merely take advantage of available tax law.

There is no question that taxpayers should not be allowed to take unsupported positions and those that do, should be assessed all applicable penalties. However, to place taxpayers and preparers in a position of deciding, prior to filing that they were "more likely than not" to prevail is obviously unreasonable. For example, tax courts frequently take years to reach a decision on an individual item.

Perhaps Mr. President, as we move toward a more simplified tax system the current situation will not persist, but today it does. Therefore, Americans who take advantage of current tax law believing there is substantial authority for their actions should not be subject to additional penalties if for some reason they are subsequently overruled.

The PRESIDING OFFICER. Who yields time?

Mr. ARMSTRONG. Mr. President, I have some time remaining. I only wish to thank my colleague from Kansas for his observations. As the father of indexing, his remarks on this are very pertinent. I thank him for it.

And I thank my colleague from New Jersey for his forbearance on the point of order. I believe the amendment is completely germane but he could certainly raise a point of order and I thank him for his forbearance.

I urge my colleagues to support the amendment. Unless there is something further, I am prepared to yield back my time.

Mr. BRADLEY. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Colorado. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) is necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. METZENBAUM) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 64, nays 32, as follows:

[Rollcall Vote No. 243 Leg.]

YEAS—64

Abdnor	Bentsen	Bumpers
Andrews	Boren	Byrd, Harry F., Jr.
Armstrong	Bradley	Cannon
Baker	Brady	Chiles
Cochran	Hawkins	Pressler
Cohen	Heflin	Proxmire
D'Amato	Helms	Pryor
Danforth	Humphrey	Quayle
DeConcini	Jepsen	Roth
Dixon	Johnston	Rudman
Dole	Kasten	Schmitt
Domenici	Laxalt	Simpson
Durenberger	Long	Specter
East	Mattingly	Stevens
Ford	McClure	Symms
Garn	Melcher	Thurmond
Goldwater	Moynihan	Tower
Gorton	Murkowski	Wallop
Grassley	Nickles	Warner
Hatch	Nunn	Weicker
Hatfield	Packwood	Zorinsky
	Percy	

NAYS—32

Baucus	Hart	Matsunaga
Biden	Hayakawa	Mitchell
Boschwitz	Heinz	Pell
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Chafee	Jackson	Sarbanes
Cranston	Kassebaum	Sasser
Dodd	Leahy	Stafford
Eagleton	Levin	Stennis
Exon	Lugar	Tsongas
Glenn	Mathias	

NOT VOTING—4

Denton	Kennedy
Inouye	Metzenbaum

So Mr. ARMSTRONG'S amendment (UP No. 1117) was agreed to.

Mr. ARMSTRONG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Several Senators addressed the Chair.

Mr. BUMPERS. Mr. President, just a moment. Under the rule on this bill, there is 1 hour debate on a motion to reconsider; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Now, the Chair has recognized me, so I move to reconsider, and I now intend to debate this matter.

Mr. President, I had intended to offer an amendment concerning capital gains tax. Considering this vote, and discretion being the better part of valor, I will not offer it because it would not have a chance to prevail. Yet, my colleagues should know that this vote cannot under any stretch of the imagination be considered compatible with a zeal for the constitutional amendment to balance the budget; it cannot be compatible with a concern for the stability of the economy; it cannot be compatible with a concern about what we call true investments as opposed to speculative investments, and it certainly does not comport with commonsense or fiscal responsibility.

Consider a brief history of the capital gains tax in this country. We first adopted the capital gains preference in this country in 1921. We had a 2-year holding period in order to qualify for the benefit of a capital gains rate. We have tinkered around with it, but from 1942 to 1978, the law has basically allowed a 50-percent deduction on the sale of an asset provided it was held——

Mr. GLENN. Mr. President, may we have order in the Senate so the Senator can be heard?

The PRESIDING OFFICER. The Senator is correct. The Senate will be in order.

Mr. BUMPERS. From 1942 to 1978, the law required that taxpayers hold an asset for 6 months in order to qualify for the 50-percent deduction. Later on, we adopted a minimum tax; for a time, the maximum tax was 25 percent, but for several years, the maximum tax on capital gains was 49 percent.

I am a victim of that maximum. I sold an asset I held for 3 or 4 years, and I paid 49 percent on it. It was virtually all gain.

In 1978, the Senator from Wyoming, Mr. Hansen, who no longer is a Member of this body, lobbied this body long and hard to get the capital gains rate changed, and he succeeded. He got 57 votes, as I remember, as cosponsors to reduce the capital gains maximum rate from 49 percent to 28 percent. That took effect in 1978.

In 1981, under the "guaranteed depression tax bill," we reduced that rate still further to 20 percent.

Now, there is one item I forgot, and that is that when Senator Hansen got this body to accept the change in rate from 49 percent to 28 percent, in exchange for changing the capital gains holding period to 1 year. So we moved the time from 6 months to 1 year in exchange for reducing the rate from 49 percent to 28 percent. Then last year, just 3 years after that tax went into effect, we reduced it to 20 percent. Today, if you buy stock for $10,000 and you double your money in 1 year and you make $10,000 profit, the maximum tax you pay on that is $2,000. If you sell it 1 month short of a year and you are in the $50,000 or over income category, you are going to pay 50 percent.

Now, Senators, is that not a pretty good incentive? I bet you there are not 10 Members of this body who do not now hold an asset just waiting for 1 year to expire. What is the genesis of this? What is the rationale for the capital gains tax? It is to encourage people to invest their money in true investment.

Now, if we adopt the amendment of the Senator from Colorado, there is absolutely no such incentive. If you buy property under that amendment and the CPI goes up 10 percent, and if your stock has not gone up 10 percent, you lose money. But if it goes up 10 percent, you are home free; you have had a 10-percent gain tax free.

The Senator from Colorado will reply, "Well, is that not fair? If the inflation rate is 10 percent, why should it not be tax free?"

Well, that risk is what makes the mare go round in this country. People

do not invest their money just hoping to recapture the inflation rate. They invest their money hoping to make an appreciable gain.

What would happen to the stock markets, incidentally, if we had a 6-month limitation on gains on stock?

Recently, the stock market dropped about 30 points in 1 day. If there was no incentive for people to hold on to their stock in this time, in this economic climate, the stock market would go crazy.

Did you know that in 1983, the year coming up, the U.S. Treasury will lose $23 billion to capital gains? Twenty-three billion dollars in 1983. Twenty-six billion dollars in 1984. Twenty-nine billion dollars in 1985. That is the difference between what people pay under a capital gains rate and what they would pay if they were paying taxes on ordinary income.

Is that not a gravy train? How can anyone talk about balancing the budget and give the U.S. Treasury away at the same time? How can you talk about fairness when 55 percent of all the capital gains in this country goes to the people who make more than $30,000 a year?

How can you stand here, in the name of fairness, and say that you believe in all this when 26 percent of all the capital gains in this country goes to the wealthiest 4 percent of people of this country?

That is who this amendment takes care of. I do not have anything against rich people. I have been trying to join them all my life. [Laughter.] But they should pay a fair amount of taxes.

You have three options on capital gains. One would be to abolish it and make no distinction. If people make money on a fast trade, let them pay the ordinary rate on it.

Some people say there should be a distinction, that if you buy a capital asset today and sell it tomorrow, you should get the gains rate so long as it is a capital asset. I do not agree with that. A third option is to allow a distinction, but require a holding period.

What we are doing here is cutting the time back as we index under the amendment of the Senator from Colorado. That is giving away the store. It encourages wild speculation. As long as inflation is there, you have no chance to lose. If your asset is not making more than inflation, dispose of it. That is what a prudent businessman does, anyway.

While Senators have listened to me, they saved themselves from listening to my amendment to restore the 1-year requirement. If this vote is indicative of anything, it tells me, and prudence tells me, that I should not offer my amendment and take up the time of the Senate with it. So I am not going to do so. However, I wanted to say these things, and I wanted an up-or-down vote, on this motion to reconsider.

I had to vote "yes" in order to get the floor, to move to reconsider, and I certainly want to be recorded as "no" on this. So I am going to ask for the yeas and nays in a moment, but I will be happy to yield the floor for the time being, and I reserve the remainder of my time.

Mr. ARMSTRONG. Mr. President, does the Senator from Kansas control the time in opposition to the motion of the Senator from Arkansas?

The PRESIDING OFFICER (Mr. COCHRAN). The Senator is correct.

Mr. ARMSTRONG. I wonder if the Senator will yield to me.

Mr. DOLE. I yield.

Mr. ARMSTRONG. Mr President, while it is the privilege of the Senator from Arkansas to oppose the amendment we have just adopted, I think his explanation of it exceeds the reality of the amendment we have adopted.

I wish to note, in passing, that the 6-month gain period amendment, to which the Senator from Arkansas is very much opposed and which the Senator from Colorado favors, is not the subject of the amendment we have just passed. It is not contained in the indexing amendment. It is a separate issue.

Second, Mr. President, having stated my own views about the desirability and need of indexing the capital gains system, I am reluctant to restate my own arguments. Rather than doing that, I want to quote from three authorities who have looked into this subject, in which they succinctly explain the reason why the amendment we have adopted is a tougher one.

First, I quote from the 1978 report of the House Ways and Means Committee, the report which accompanied legislation which went to the House at the time an amendment of virtually the same form was adopted by the House.

Before I read this, I ask the Chair to call the Senate to order.

The PRESIDING OFFICER. The Senator's point is well taken. The Senate will please be in order.

Mr. ARMSTRONG. Mr. President, I invite the attention of my colleagues to this brief explanation from the House committee report: "Reason for change:"

Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will please come to order. Those Senators wishing to converse will retire to the cloakroom.

Mr. ARMSTRONG. Mr. President, let me quote in full the brief paragraph of explanation from the House committee report which sums up succinctly why this amendment is well justified:

The substantial inflation which our country has experienced over the past decade and is likely to face in the near future has produced serious problems with the present law taxation of gains from the sale of assets held for long periods of time. Because a taxpayer's basis for tax purposes is determined by historical cost, a taxpayer can have substantial gains for tax purposes even though the real value of the assets (i.e., adjusted for inflation) has not increased. Even though the tax treatment of capital gains is modified significantly by other provisions of this bill, gains which reflect only inflationary increases in value would nonetheless remain subject to tax in many cases. Moreover, in many instances individuals with the same marginal tax rate may have an equal amount of real gain taxed at a different rate due to the combination of inflationary pressures and the length of their holding period for the asset. For these reasons, bill includes a provision for inflation adjustments to a taxpayer's basis in certain assets for purposes of determining any gain on the sale or exchange of that type of asset.

Mr. President, for those who have just entered the Chamber or who may have just tuned in, what I have just quoted is the explanation of the indexing provision which was contained in the House committee report prior to the time the House adopted a virtually idential amendment.

I also wish to call attention to an explanation of the reason and the justice and the fairness of this amendment which was contained in an article published in the Wall Street Journal on July 27, 1978, by the distinguished economist Martin Feldstein, which makes the same point. I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 27, 1978]

INFLATION AND CAPITAL FORMATION

(By Martin Feldstein)

During the past decade, effective tax rates have increased dramatically on capital gains, on interest income and on the direct returns to investment in plant and equipment. Investors in stocks and bonds now pay tax rates of nearly 100 percent—and in many cases more than 100 percent—on their real returns.

This change has taken place without public debate and without legislative action, though Tuesday's vote by the House Ways and Means Committee to "index" capital gains may finally have placed the matter on the political agenda. Our tax system was designed for an economy with little or no inflation. But if current rates of inflation persist, the existing tax laws will continue to impose effective tax rates of more than 100 percent on investment incomes. To make matters even worse, the current tax laws imply that future tax rates will depend haphazardly on future rates of inflation and therefore cannot be predicted at the time that investment decisions are being made.

These extremely high tax rates and the uncertainty about future tax rates are a cloud that hangs over both the stock market and business investment decisions. Several recent studies at the National Bureau of Economic Research that quantify the effect of inflation on the taxation of in-

vestment income and therefore on the incentive to investment show these dramatic effects.

A SUBSTANTIAL INCREASE

Inflation is particularly harsh on the taxation of capital gains. Under current law, when corporate stock or any other asset is sold, a capital gains tax must be paid on the entire difference between the selling price and the original cost even though much of the nominal gain only offsets a general rise in the prices of consumer goods and services. Taxing nominal gains in this way very substantially increases the effective tax rate on real price-adjusted gains. Indeed, many individuals pay a substantial capital gains tax even though, when adjustment is made for the change in the price level, they actually receive less from their sale than they had originally paid.

In a recent study at the National Bureau of Economic Research, Joel Slemrod and I measured the total excess taxation of corporate stock capital gains caused by inflation and the extent to which this distortion differs capriciously among individuals. We found that in 1973 individuals paid capital gains tax on $4.6 billion of nominal capital gains on corporate stock. When the costs of these shares are adjusted for the increase in the consumer price level since they were purchased, this gain becomes a loss of nearly $1 billion.

The $4.6 billion of nominal capital gains resulted in a tax liability of $1.1 billion. The tax liability on the real capital gains would have been only $361 million. Inflation thus raised tax liabilities by nearly $500 million, approximately doubling the overall effective tax rate on corporate stock capital gains.

Although adjusting for the price change reduces the gain at every income level, the effect of the price level correction is far from uniform. In particular, the mismeasurement of capital gains is most severe for taxpayers with incomes under $100,000.

In the highest income class, there is little difference between nominal and real capital gains; in contrast, taxpayers with incomes below $100,000 suffered real capital losses even though they were taxed on positive nominal gains. In each income class up to $50,000, recognizing real capital gains makes the tax liability negative. At higher income levels, tax liabilities are reduced but remain positive on average; the extent of the current excess tax decreases with income.

Inflation not only raises the effective tax rate, but also makes the taxation of capital gains arbitrary and capricious. Individuals who face the same statutory rates have their real capital gains taxed at very different rates because of differences in holding periods. For example, among taxpayers with adjusted gross incomes of $20,000 to $50,000, we found that only half of the tax liability on capital gains was incurred by taxpayers whose liabilities on real gains would have been between 80 percent and 100 percent of their actual liabilities. The remaining half of tax liabilities were incurred by individuals whose liabilities on real gains would have been less than 80 percent of their actual statutory liabilities.

In short, our study showed that inflation has substantially increased—roughly doubled—the overall effective tax rate on corporate stock capital gains. Although this estimate relates to 1973 (because that is the only year for which data of this type are available), the continuing high rate of inflation means that the tax distortion for more recent years is likely to be even greater.

The second major problem that inflation causes in our tax system is in the treatment of depreciation. Under current law, the amount of depreciation that is allowed on any asset depends on its original cost. When inflation raises the price level, the real value of these depreciation allowances is reduced. This reduction in the real value of depreciation that is caused by the historic cost method of depreciation is equivalent to a substantial increase in the rate of tax on corporate and other investment income.

In 1977, the historic cost method of tax depreciation caused corporate depreciation to be understated by more than $30 billion. This understatement increased corporate tax liabilities by $15 billion, a 25 percent increase in corporate taxes. This extra inflation tax reduced net profits by 28 percent of the total 1977 net profits of $53 billion. This is the single most important adverse effect of inflation on capital formation.

This brings me to the final tax problem caused by inflation, the failure to distinguish between nominal interest and real interest. This problem is fundamentally different from the problems involved in capital gains taxation and in depreciation. The nature of this difference is still not widely appreciated. The difference is extremely important, however, because it implies that changing the tax treatment of interest is less urgent than the other changes. Let me explain why.

It is clear that taxing *nominal* interest income imposes an unfair burden on bond owners and other lenders. But allowing a deduction for nominal interest expenses also provides an unfair benefit to corporations and other borrowers. When markets have had a chance to respond fully to the higher rate of inflation, interest rates will adjust to reduce the unfair burden on lenders and to reduce the unfair advantage of borrowers.

If all borrowers and lenders had the same marginal tax rate, the market adjustment of interest rates could eliminate all inequities, leaving borrowers and lenders with the same real after-tax rates of interest that they would face in the absence of inflation.

Let me emphasize, however, that this rough, long-run justice would only be achieved if the current method of depreciation is replaced by price-indexed or current cost depreciation. If we stay with our current system of depreciation, interest rates will fail to adjust fully and bondholders will suffer a substantial permanent fall in their real after-tax returns.

In a recent NBER study Lawrence Summers and I showed that, roughly speaking, with our current system of depreciation and taxation, each 1 percent rise in the expected rate of inflation will induce a 1 percent rise in the market rate of interest. The real rate of interest will remain unchanged, but the real *after-tax* rate of interest will fall sharply. This is, in effect, the mechanism by which firms transfer some of the adverse effect of historic cost depreciation to bondholders.

The magnitude of this effect is large enough to imply effective tax rates of more than 100 percent on interest income. Consider what has happened since the early 1960s. The inflation rate was then only 1 percent, and the 5 percent nominal yield of Baa bonds provided a real yield of 4 percent. An investor with a 40 percent marginal rate obtained an after-tax yield of 3 percent, and a *real* after-tax yield of 2 percent. By comparison, during the past three years a Baa bond yielded 10 percent, but consumer prices rose 6 percent. An investor with a 40 percent marginal rate obtained a 6 percent after-tax yield but a *real* after-tax yield of zero. In short the effect rate of tax on real income was 100 percent.

IMPERFECT BUT . . .

The meaning of this calculation is clear. If historic cost depreciation is continued, taxpaying bondholders will receive little or no after-tax income. This can be remedied by allowing bondholders and other lenders to include only *real* interest receipts in their taxable income. But this should be seen as only an imperfect way of dealing with the more basic problem of depreciation. Moreover, it is important to limit this change in the treatment of interest to bondholders; reducing the deduction taken by corporations to their real interest payments without adjusting depreciation rules would only transfer the full burden of mis-measuring depreciation to equity investors.

Replacing the current method of depreciation is, therefore, the key problem. If this is done, adjusting the taxation of interest income is of secondary importance. The specific method of depreciation that is adopted—replacement cost depreciation, general price indexing or immediate expensing of investment—is a much less important issue than the general principle that the value of depreciation must be insulated from the effects of inflation.●

Mr. ARMSTRONG. Mr. President, I also invite the attention of my colleagues to the observations of Donald T. Regan, who, at the time this article appeared in the May 21, 1978, issue of the New York Times, was the chairman and chief executive officer of Merrill, Lynch, Inc. He points out:

A recent study by two Harvard University researchers for the National Bureau of Economic Research concludes that our theoretical taxpayer is far from alone in losing money in real terms—partly because of inflation and partly because of the capital gains tax on the phantom profits he records when selling his investment. The study concludes that the $4.5 billion of nominal capital gains by individuals on corporate stock sold in 1973 becomes a real captial loss of nearly $1 billion when inflation is taken into account. And to add insult to injury, the study says the individuals paid nearly $500 million of capital gains taxes because of the distorting effect of inflation."

So, Mr. President, the only real issue here is the extent to which we should tax phantom gains, appreciations in nominal values which do not reflect the real value increase, the extent to which we are willing to tax only profits.

The amendment the Senate has adopted, and which I hope will not be reconsidered, is not a drastic amendment. It does not change the capital gains tax rates. It merely says that when a taxpayer computes his tax, he may first escalate his basis, the cost of acquisition of an asset, by the amount of change in the gross national product deflator from January 1, 1985, to the date of the sale.

I point out the 1985 date for two reasons; first, to make clear that there is no revenue effect during the reconciliation period; second, to make absolute-

ly clear that this does not apply to any assets which may have held for long periods of time. It does not relate to any assets that are now in the hands of any person.

It is purely prospective, both in its computation and in its effective date.

So, Mr. President, unless there is more to be said, I think we are ready to go ahead to a vote and I certainly hope we will not reconsider.

Mr. BUMPERS. Mr. President, if the Senator will just yield, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 20 minutes and 30 seconds.

Mr. BUMPERS. I yield such time as the Senator from Nebraska may take.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. EXON. I thank the Chair and thank my friend from Arkansas.

Mr. President, I sincerely hope that the Senate will take another look at what it just did. I wish to advise the Chair and the Senate that this Senator is a cosponsor of the balanced budget amendment. The balanced budget amendment is designed to begin to address, a tiny step in the right direction, a major concern of the majority of Americans and supposedly a major concern of the 62 or 63 cosponsors that are a part of the balanced budget amendment.

Mr. President, I might be all wrong. But it seems inconsistent at best to this Senator that anyone who is cosponsoring a balanced budget amendment can simultaneously stand in the well and cast his vote to further reduce the income of the Federal Government even though it is set ahead 3 years until 1985.

I see this hypocrisy practiced time and time again on the floor of both the House of Representatives and the Senate.

What message are we sending? We are sending a message, it seems to me, that it is all right for us to posture here and promise someone that in 1985 we are going to give them a tax break.

Can there really be any question, Mr. President, that one of the main reasons for the difficulty that faces us today is the greatest spending and the highest deficits in our history, with further and further extension of the national debt which some people believe is a major concern for the ever high interest rates, the highest real interest rates in our history? And here we are supposedly in good conscience, supposedly informed, going to reduce the revenues of the Federal Government further in 1985?

I say to the sponsor or sponsors of this amendment or the some 60 Senators who voted for this amendment that I, too, would support it. I would be asking, if I could have the attention of the sponsor. The Senate is not in order, Mr. President.

The PRESIDING OFFICER. The Senator's point is well taken.

The Senate will please be in order.

Mr. EXON. I pose this question of the sponsor of the amendment, my friend and colleague from Colorado. Would he be willing to accept an amendment to the amendment that he has offered that said this amendment would go into effect in 1985 if by that time we have a balanced budget? If so, I would enthusiastically join him in support of this amendment.

Mr. ARMSTRONG. Mr. President, I would not be willing to accept such an amendment. I strongly favor the notion of a balanced budget at the earliest possible date, but I think that is unrelated really to the justice of this amendment.

Mr. EXON. With that explanation, Mr. President, I remain firmly opposed, therefore, and hope that the Senate will come to its senses and recognize that it just cast a vote that is not, is not, I emphasize, in truth and principle eliminating any chance for a balanced budget any time in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I am willing to let the Senator from Colorado yield to the Senator from Oklahoma to use some of his time if he wishes.

Mr. DOLE. Mr. President, I wish to move onto other items, if we might. Perhaps we can accommodate the Senator from Arkansas getting another vote or however we want to proceed. We have just counted up—29 amendments, and we wish to move on to one.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I yield 2 minutes to the Senator from Oklahoma.

Mr. NICKLES. I thank the Senator from Kansas.

Mr. President, if the Senator from Colorado would answer briefly: I am concerned about having, I guess, equity between investments. Presently we have people investing in banks, money market funds, bonds, and stocks certainly which would apply in this case, and real estate and others.

Would the Senator's amendment discriminate against people who are investing strictly for current income as compared to those who might be investing for either current income and capital gains? In other words, would the stock markets have an undue advantage now for investment as compared to banks and other types of investment?

Mr. ARMSTRONG. Mr. President, if the Senator will yield to me, I note first that as usual he has gone right to the heart of the matter, and in fact the amendment which the Senate has adopted restores an inequality which now exists.

The present law provides beginning in January 1985 for indexing the individual current income tax rates. That is the way that money market funds and savings account passbooks interest is taxed. We permit people to index their tax brackets for inflation.

We do not have any corresponding provision for capital gains which is the kind of situation that arises, say, for the sale of houses or farms or businesses, or other kinds of capital assets but that is what this amendment will do. The amendment we have passed. So, I believe that far from discriminating against any other kind of investment it simply provides the same kind of treatment for capital assets as we already have for ordinary income.

Mr. NICKLES. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. BUMPERS. Mr. President, I take strong exception to the explanation the Senator from Colorado gave the Senator from Oklahoma. I consider him dead wrong.

In 1985 indexing is going to go into effect. Capital gains are not taxed separately. If you index capital gains and if your asset doubles in value over a 10-year period and you sell it, and, if during that same period of time the CPI has gone up 50 percent, you may make a gain of $5,000. For example, you make $10,000 over a 10-year period and the CPI has gone up $5,000. The taxable portion of that additional $5,000 is not going to be taxed at the 20-percent rate we have today. It is going to be taxed as ordinary income which is indexed according to the Senator's own amendment.

What we are doing here is double indexing capital gains. Make no mistake about that. That is exactly the way the tax form will be filled out.

The Senator from Colorado made a point a while ago as to why we have capital gains in the first place, and he is dead right. The capital gains rate was allowed so that income earned over a long period of time was not taxed all at once as though earned at once. Because of inflation, and because we want to encourage people to invest, we have in 3 years reduced the capital gains rate from 49 percent to 28 percent to 20 percent. Now this bill reduces holding period from 1 year to 6 months. What else can we do except to abolish it?

I go home and I hear people talk about that "tax and spend, tax and spend" Congress. That is deplorable. The only thing I know worse is cutting taxes and spending, cutting taxes and spending.

The 1982 budget submitted by the President was $33 billion higher than 1981, and the defense budget was $34 billion higher.

Therefore, except for the increase in defense spending, the budget in 1982 would have actually been $1 billion less than it was in 1981. And would that not be a happy day?

We cannot have it both ways. We cannot continue to vote for all that spending either and cut taxes the way we are cutting taxes under the Senator's amendment.

When his amendment is fully effective in today's dollars it will cost the U.S. Treasury between $2.5 billion and $3 billion. It would not be fully effective until the inflation rate reached 100 percent over what period that time was from 1985, but at that point you figure out how much money the Treasury would be losing if right now it was losing $2.5 billion.

I seriously object to this. I believe many thoughtful Senators will change their opinion on this proposal. Double indexing is something nobody ever dreamed we were doing, and yet that is what we are doing here.

Mr. President, unless somebody else wishes to speak I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time? The Senator from Kansas.

Mr. DOLE. What would the Senator from Arkansas like us to do?

Mr. BUMPERS. I would like an up-or-down vote on the motion to reconsider, and if that fails that is it. I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back on the motion?

Mr. BUMPERS. I yield back my time.

Mr. DOLE. I yield back my time.

The PRESIDING OFFICER. All time is yielded back, the question is on agreeing to the motion of the Senator from Arkansas to reconsider the vote by which the amendment was agreed to. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Florida (Mrs. HAWKINS) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KENNEDY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 35, nays 61, as follows:

[Rollcall Vote No. 244 Leg.]

YEAS—35

Baucus	Hart	Metzenbaum
Biden	Hayakawa	Mitchell
Boschwitz	Heinz	Nunn
Bumpers	Hollings	Pell
Burdick	Huddleston	Pryor
Byrd, Robert C.	Jackson	Randolph
Chafee	Kassebaum	Riegle
Cranston	Leahy	Sarbanes
Dodd	Levin	Sasser
Eagleton	Lugar	Stennis
Exon	Mathias	Tsongas
Glenn	Matsunaga	

NAYS—61

Abdnor	Durenberger	Nickles
Andrews	East	Packwood
Armstrong	Ford	Percy
Baker	Garn	Pressler
Bentsen	Gorton	Proxmire
Boren	Grassley	Quayle
Bradley	Hatch	Roth
Brady	Hatfield	Rudman
Byrd, Harry F., Jr.	Heflin	Schmitt
	Helms	Simpson
Cannon	Humphrey	Specter
Chiles	Jepsen	Stafford
Cochran	Johnston	Stevens
Cohen	Kasten	Symms
D'Amato	Laxalt	Thurmond
Danforth	Long	Tower
DeConcini	Mattingly	Wallop
Denton	McClure	Warner
Dixon	Melcher	Weicker
Dole	Moynihan	Zorinsky
Domenici	Murkowski	

NOT VOTING—4

Goldwater	Inouye
Hawkins	Kennedy

So the motion to reconsider the vote by which the amendment was agreed to was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Will the Senator from Kansas yield to me briefly?

Mr. DOLE. I yield.

Mr. BAKER. I indicated earlier that I would like to see reduced time on the amendments that still remain. I am advised there are more than 20 still remaining, with just more than 6 hours of time remaining. In order to accommodate the maximum number of Senators and still try to finish this bill within the time provided by statute, I think that it is desirable that we should consider a reduction of time.

Therefore, at this time, I ask unanimous consent that the time for debate on the amendments remaining be limited to 30 minutes equally divided, with the exception of an amendment to be offered by the Senator from Wisconsin on interest and dividend withholding.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, I ask the distinguished majority leader about the amendment to strike the 10-percent withholding. I believe that is by Mr. HOLLINGS and Mr. KASTEN. Is that the amendment to which the majority leader referred?

Mr. BAKER. Yes, that is the amendment to which I referred.

Mr. ROBERT C. BYRD. There is a second amendment by Mr. PRYOR dealing with tips that would have to be removed from the 30 minutes.

Mr. BAKER. Mr. President, I exclude the interest and dividend withholding amendment as it may be offered and one related to tips as may be offered from the request for the limitation of 30 minutes each.

Mr. STENNIS. Will the Senator yield to me, Mr. President?

Mr. BAKER. I yield.

Mr. STENNIS. Mr. President, I have not used anything more than just a few minutes, 2 or 3 minutes' time, in this debate. But there will be one amendment offered by the Senator from New York in which I am vitally interested. That pertains to industrial revenue bonds. The bill proposes to terminate the program within 2 or 3 years. I want to try to get the body to strike that provision. We understand it will be gone into again later. They have gone into it some in the committee already. I would need a little more time than 30 minutes.

Mr. BAKER. I say to my friend from Mississippi that I fully understand his position and indeed I am sympathetic to his position. I might say that it is my understanding that certain parties who have a great concern in this respect, particularly the junior Senator from New York (Mr. D'AMATO) and the distinguished chairman of the committee, may have worked out a compromise that may or may not be acceptable to the Senator from Mississippi on this subject. But just to make sure that we do not unduly limit the opportunity for debate, I modify my request, Mr. President, to exclude any amendment that may be offered on revenue bonds.

Mr. DOLE. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. DOLE. We will be happy to yield time from the bill.

Mr. STENNIS. It is just so that arrangements may be made for me to have 15 or 20 minutes. All of this originated in Mississippi in 1936.

Mr. BAKER. And it has spilled over a little into Tennessee.

Mr. STENNIS. Maybe it has spilled over a little, but it can be reformed.

Mr. KASTEN. Will the Senator yield?

Mr. BAKER. I yield to the Senator from Wisconsin.

Mr. KASTEN. As cosponsor of the amendment on withholding, I believe we would be willing to agree to a 1-hour time limit equally divided. If the Senator from South Carolina would agree to that, I believe 1 hour equally divided would be satisfactory.

As the author of the amendment on tips, I have no objection to a time limit on that amendment. It could be one-half hour equally divided, al-

though there may be others who have objection to it that I do not know about. I have no objection to one-half hour equally divided on the amendment on tips.

Mr. BAKER. I thank the Senator.

Mr. President, since the matter was identified by the minority leader, why do we not leave it as one of the exceptions, and I will say to my friend from Wisconsin I would like to make a further request later to reduce this item if we can clear it on the minority side and all around on both sides, of course.

Mr. President, to recap, it would be that any amendment would be limited to 30 minutes equally divided, except for one on interest and dividend withholding, one on tips, and one on industrial revenue bonds.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Reserving the right to object, I have no objection to this request.

May I ask the distinguished majority leader if it could be agreed that votes would be stacked between 6:30 and 7:30 p.m. today?

Mr. BAKER. I do not mind that.

Mr. President, there are a number of Senators on the floor. I might put that question now, if any Member would be discommoded by the request of the minority leader, that between the hours of 6:30 p.m. and 7:30 p.m. that no rollcall votes which might be ordered would occur but would be stacked to occur following 7:30 p.m.

Mr. President, may I also say that under these circumstances if more than one vote is ordered, and I doubt that there would be between 6:30 and 7:30, I would be willing to shorten all the votes after the first vote. But let us leave that until the event.

Mr. BRADLEY. Will the Senator yield?

Mr. BAKER. I yield.

Mr. BRADLEY. Would it be possible to proceed with amendments where a rollcall vote is not necessary?

Mr. DOLE. I would have no objection to that. I think we can finish the whole bill by 7:30, but maybe not. [Laughter.]

Mr. BAKER. Mr. President, the suggestion I made on stacking votes would in no way interfere with measures to be disposed of by a voice vote.

Mr. ROBERT C. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, let me say that next the Senator from Maine will be recognized, then the Senator from Ohio, then the Senator from Washington, and perhaps the Senator from Illinois for amendments that will be agreed to. We can dispose of them quickly.

UP AMENDMENT NO. 1119

(Purpose: To amend the Internal Revenue Code of 1954 to provide targeted rate schedules to replace the across-the-board tax cuts enacted by the Economic Recovery Tax Act of 1981)

Mr. MITCHELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Maine (Mr. MITCHELL) proposes an unprinted amendment numbered 1119.

Mr. MITCHELL. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . TARGETED RATE REDUCTION.

(a) RATE REDUCTION.—Subsections (a) through (e) of section 1 of the Internal Revenue Code of 1954 (relating to tax imposed) are amended to read as follows:

"(a) MARRIED INDIVIDUALS FILING JOINT RETURNS AND SURVIVING SPOUSES.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who makes a single return jointly with his spouse under section 6013, and every surviving spouse (as defined in section 2 (a)), a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	11% of the excess over $3,400.
Over $5,500 but not over $7,600	$731, plus 14% of the excess over $5,500.
Over $7,600 but not over $11,900	$525, plus 16% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,213, plus 19% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,992, plus 21% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,874 plus 25% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,974 plus 29% of the excess over $24,600.
Over $29,900 but not over $35,200	$5,511 plus 33% of the excess over $29,900.
Over $35,200 but not over $45,800	$7,260 plus 42% of the excess over $35,200.
Over $45,800 but not over $60,000	$11,712 plus 48% of the excess over $45,800.
Over $60,000	$18,528 plus 50% of the excess over $60,000

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	10% of the excess over $3,400.
Over $5,500 but not over $7,600	$210, plus 12% of the excess over $5,500
Over $7,600 but not over $11,900	$462, plus 14% of the excess over $7,600.
Over $11,900 but not over $16,000	$1,064, plus 17% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,761, plus 18% of the excess over $16,000
Over $20,200 but not over $24,600	$2,517, plus 23% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,529, plus 26% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,907, plus 30% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,497, plus 41% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,843, plus 47% of the excess over $45,800.
Over $60,000	$17,517, plus 50% of the excess over $60,000.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $3,400	No tax.
Over $3,400 but not over $5,500	10% of the excess over $3,400.
Over $5,500 but not over $7,600	$210, plus 11% of the excess over $5,500.
Over $7,600 but not over $11,900	$441, plus 12% of the excess over $7,600.
Over $11,900 but not over $16,000	$957, plus 16% of the excess over $11,900.
Over $16,000 but not over $20,200	$1,613, plus 17% of the excess over $16,000.
Over $20,200 but not over $24,600	$2,327, plus 22% of the excess over $20,200.
Over $24,600 but not over $29,900	$3,295, plus 25% of the excess over $24,600.
Over $29,900 but not over $35,200	$4,620, plus 28% of the excess over $29,900.
Over $35,200 but not over $45,800	$6,104, plus 40% of the excess over $35,200.
Over $45,800 but not over $60,000	$10,344, plus 46% of the excess over $45,800.
Over $60,000	$16,876, plus 50% of the excess over $60,000.

"(b) HEADS OF HOUSEHOLDS.—There is hereby imposed on the taxable income of every individual who is the head of a household (as defined in section 2 (b)) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	11% of the excess over $2,300.
Over $4,400 but not over $6,500	$231, plus 14% of the excess over $4,400.
Over $6,500 but not over $8,700	$525, plus 16% of the excess over $6,500.
Over $8,700 but not over $11,800	$877, plus 19% of the excess over $8,700.
Over $11,800 but not over $15,000	$1,466, plus 21% of the excess over $11,800.
Over $15,000 but not over $18,200	$2,138, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,874, plus 27% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,305, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,001, plus 41% of the excess over $28,200.
Over $34,100 but not over $44,700	$8,174, plus 45% of the excess over $34,100.
Over $44,700	$12,944, plus 50% of the excess over $44,700.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	10% of the excess over $2,300.
Over $4,400 but not over $6,500	$210, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,700	$462, plus 14% of the excess over $6,500.
Over $8,700 but not over $15,000	$770, plus 18% of the excess over $8,700.
Over $15,000 but not over $18,200	$1,904, plus 21% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,576, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,848, plus 28% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,332, plus 40% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,452, plus 44% of the excess over $34,100.
Over $44,700	$12,116, plus 50% of the excess over $44,700.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $4,400	10% of the excess over $2,300.
Over $4,400 but not over $6,500	$210, plus 11% of the excess over $4,400.
Over $6,500 but not over $8,700	$441, plus 12% of the excess over $6,500.
Over $8,700 but not over $15,000	$705, plus 17% of the excess over $8,700.
Over $15,000 but not over $18,200	$1,776, plus 20% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,416, plus 24% of the excess over $18,200.
Over $23,500 but not over $28,800	$3,688, plus 28% of the excess over $23,500.

Over $28,800 but not over $34,100	$5,172, plus 39% of the excess over $28,800.
Over $34,100 but not over $44,700	$7,239, plus 43% of the excess over $34,100.
Over $44,700	$11,797, plus 50% of the excess over $44,700.

"(c) UNMARRIED INDIVIDUALS (OTHER THAN SURVIVING SPOUSES AND HEADS OF HOUSEHOLDS).—There is hereby imposed on the taxable income of every individual (other than a surviving spouse as defined in section 2(a) or the head of a household as defined in section 2(b)) who is not a married individual (as defined in section 143) a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	11% of the excess over $2,300.
Over $3,400 but not over $4,400	$121, plus 14% of the excess over $3,400.
Over $4,400 but not over $6,500	$261, plus 16% of the excess over $4,400.
Over $6,500 but not over $8,500	$597, plus 17% of the excess over $6,500.
Over $8,500 but not over $10,800	$937, plus 19% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,374, plus 21% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,815, plus 23% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,298, plus 27% of the excess over $15,000.
Over $18,200 but not over $23,500	$3,162, plus 31% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,805, plus 35% of the excess over $23,500.
Over $28,800 but not over $34,100	$6,660, plus 43% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,939, plus 48% of the excess over $34,100.
Over $41,500	$12,491, plus 50% of the excess over $41,500.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax
Over $2,300 but not over $3,400	10% of the excess over $2,300.
Over $3,400 but not over $4,400	$110, plus 12% of the excess over $3,400.
Over $4,400 but not over $8,500	$230, plus 14% of the excess over $4,400.
Over $8,500 but not over $10,800	$804, plus 17% of the excess over $8,500.
Over $10,800 but not over $12,900	$1,195, plus 18% of the excess over $10,800.
Over $12,900 but not over $15,000	$1,573, plus 21% of the excess over $12,900.
Over $15,000 but not over $18,200	$2,014, plus 24% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,782, plus 28% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,266, plus 32% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,962, plus 42% of the excess over $28,800.
Over $34,100 but not over $41,500	$8,188, plus 47% of the excess over $34,100.
Over $41,500	$11,666, plus 50% of the excess over $41,500.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $2,300	No tax.
Over $2,300 but not over $3,400	$10% of the excess over $2,300.
Over $3,400 but not over $4,400	$110, plus 11% of the excess over $3,400.
Over $4,400 but not over $6,500	$220, plus 12% of the excess over $4,400.
Over $6,500 but not over $8,500	$472, plus 15% of the excess over $6,500.
Over $8,500 but not over $10,000	$772, plus 16% of the excess over $6,500.
Over $10,000 but not over $12,900	$1,140, plus 17% of the excess over $10,000.
Over $12,900 but not over $15,000	$1,497, plus 20% of the excess over $12,900.
Over $15,000 but not over $18,200	$1,917, plus 23% of the excess over $15,000.
Over $18,200 but not over $23,500	$2,653, plus 26% of the excess over $18,200.
Over $23,500 but not over $28,800	$4,031, plus 30% of the excess over $23,500.
Over $28,800 but not over $34,100	$5,621, plus 41% of the excess over $28,800.
Over $34,100 but not over $41,500	$7,794, plus 46% of the excess over $34,100.
Over $41,500	$11,198, plus 50% of the excess over $41,500.

"(d) MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—There is hereby imposed on the taxable income of every married individual (as defined in section 143) who does not make a single return jointly with his spouse under section 6013 a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	11% of the excess over $1,700.
Over $2,750 but not over $3,800	$115, plus 14% of the excess over $2,750.
Over $3,800 but not over $5,950	$262, plus 16% of the excess over $3,800.
Over $5,950 but not over $8,000	$606, plus 19% of the excess over $5,950.
Over $8,000 but not over $10,100	$996, plus 21% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,437, plus 25% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,987, plus 29% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,755, plus 33% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,630, plus 42% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,856, plus 48% of the excess over $22,900.
Over $30,000	$9,264, plus 50% of the excess over $30,000.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If the taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	10% of the excess over $1,700.
Over $2,750 but not over $3,800	$105, plus 12% of the excess over $2,750.
Over $3,800 but not over $5,950	$231, plus 14% of the excess over $3,800.
Over $5,950 but not over $8,000	$532, plus 17% of the excess over $5,950.
Over $8,000 but not over $10,100	$880, plus 18% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,258, plus 23% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,764, plus 26% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,453, plus 30% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,248, plus 41% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,421, plus 47% of the excess over $22,900.
Over $30,000	$8,758, plus 50% of the excess over $30,000.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $1,700	No tax.
Over $1,700 but not over $2,750	10% of the excess over $1,700.
Over $2,750 but not over $3,800	$105, plus 11% of the excess over $2,750.
Over $3,800 but not over $5,950	$220, plus 12% of the excess over $3,800.
Over $5,950 but not over $8,000	$478, plus 16% of the excess over $5,950.
Over $8,000 but not over $10,100	$806, plus 17% of the excess over $8,000.
Over $10,100 but not over $12,300	$1,163, plus 22% of the excess over $10,100.
Over $12,300 but not over $14,950	$1,647, plus 25% of the excess over $12,300.
Over $14,950 but not over $17,600	$2,310, plus 28% of the excess over $14,950.
Over $17,600 but not over $22,900	$3,052, plus 40% of the excess over $17,600.
Over $22,900 but not over $30,000	$5,172, plus 46% of the excess over $22,900.
Over $30,000	$8,438, plus 50% of the excess over $30,000.

"(e) ESTATES AND TRUSTS.—There is hereby imposed on the taxable income of every estate and trust taxable under this subsection a tax determined in accordance with the following tables:

"(1) FOR TAXABLE YEARS BEGINNING IN 1982.—

"If taxable income is:	The tax is:
Not over $1,050	11% of taxable income.
Over $1,050 but not over $2,100	$115, plus 14% of the excess over $1,050.
Over $2,100 but not over $4,250	$262, plus 16% of the excess over $2,100.
Over $4,250 but not over $6,300	$606, plus 19% of the excess over $4,250.
Over $6,300 but not over $8,400	$996, plus 21% of the excess over $6,300
Over $8,400 but not over $10,600	$1,437, plus 25% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,987, plus 29% of the excess over $10,600
Over $13,250 but not over $15,900	$2,755, plus 33% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,630, plus 42% of the excess over $15,900
Over $21,200 but not over $28,300	$5,856, plus 48% of the excess over $21,200.
Over $28,300	$9,264, plus 59% of the excess over $28,300.

"(2) FOR TAXABLE YEARS BEGINNING IN 1983.—

"If taxable income is:	The tax is:
Not over $1,050	10% of taxable income.
Over $1,050 but not over $2,100	$105, plus 12% of the excess over $1,050.
Over $2,100 but not over $4,250	$231, plus 14% of the excess over $2,100.
Over $4,250 but not over $6,300	$532, plus 17% of the excess over $4,250.
Over $6,300 but not over $8,400	$880, plus 18% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,258, plus 23% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,764, plus 26% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,453, plus 30% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,248, plus 41% of the excess over $15,900.
Over $21,200 but not over $28,300	$5,421, plus 47% of the excess over $21,200.
Over $28,300	$8,758, plus 50% of the excess over $28,300.

"(3) FOR TAXABLE YEARS BEGINNING AFTER 1983.—

"If taxable income is:	The tax is:
Not over $1,050	10% of taxable income.
Over $1,050 but not over $2,100	$105, plus 11% of the excess over $1,050.
Over $2,100 but not over $4,250	$220, plus 12% of the excess over $2,100.
Over $4,250 but not over $6,300	$478, plus 16% of the excess over $4,250.
Over $6,300 but not over $8,400	$806, plus 17% of the excess over $6,300.
Over $8,400 but not over $10,600	$1,163, plus 22% of the excess over $8,400.
Over $10,600 but not over $13,250	$1,647, plus 25% of the excess over $10,600.
Over $13,250 but not over $15,900	$2,310, plus 28% of the excess over $13,250.
Over $15,900 but not over $21,200	$3,052, plus 40% ofthe excess over $15,900.
Over $21,200 but not over $28,300	$5,172, plus 46% of the excess over $21,200.
Over $28,300	$8,438, plus 50% of the excess over $28,300.".

(b) CONFORMING AMENDMENT.—Clauses (i) and (ii) of section 3402(a)(3)(B) of such Code (relating to withholding changes made by section 101(b) of the Economic Recovery Tax Act of 1981) are amended to read as follows:

"(i) on July 1, 1982, as if the reductions in the rate of tax under section 1 reflected in the tables for taxable years beginning in 1982 were effective on such date, and

"(ii) on July 1, 1982, as if such reductions reflected in the tables for taxable years beginning after 1982 were effective on such date.".

Mr. MITCHELL. Mr. President, I yield to the Senator from Ohio.

Mr. GLENN. Mr. President, I ask unanimous consent that the amendment of the Senator from Maine be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1120

(Purpose: Relating to transitional rules for leasing.)

Mr. GLENN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio (Mr. GLENN) proposes an unprinted amendment numbered 1120.

Mr. GLENN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, line 21, strike out "or".

On page 236, line 6, insert "or" at the end thereof.

On page 236, between lines 6 and 7, insert the following:

"(C) which is placed in service before July 1, 1982, and with respect to which—

"(i) an agreement to which subsection (f)(8) applies was entered into before August 15, 1982, and

"(ii) the lessee under such agreement is a qualified lessee (within the meaning of section 211 (d)(5) of the Tax Equity and Fiscal Responsibility Act of 1982),

In the new matter inserted in lieu of lines 3 through 11 of page 243, strike out "subparagraph (A) or (B) of subsection (i)(8)" and insert in lieu thereof "subparagraph (A), (B), or (C) of subsection (i)(8)".

On page 244, strike out line 7 and insert "—

(A) placed in service before July 1, 1983, if—".

On page 244, line 8, strike out "(A)' and insert "(i)".

On page 244, line 12, strike out "(B)' and insert "(ii)".

On page 244, line 15, strike out the end period and insert in lieu thereof ", or".

On page 244, line 15 and 16, insert the following:

(B) placed in service before July 1, 1982, and with respect to which—

(i) an agreement to which section 168(f)(8)(A) of the Internal Revenue Code of 1954 applies was entered into before August 15, 1982, and

(ii) the lessee under such agreement is a qualified lessee (within the meaning of paragraph (5)).

On page 245, between lines 5 and 6, insert the following:

(5) Qualified lessee defined.—

(A) IN GENERAL.—The term "qualified lessee" means a taxpayer which is a lessee of an agreement to which section 168(f)(8)(A) of such Code applies and which—

(i) had net operating losses in each of the three most recent taxable years ending before July 1, 1982, and had an aggregate net operating loss for the five most recent taxable years ending before July 1, 1982, and

(ii) which uses the property subject to the agreement to manufacture and produce within the United States a class of products in an industry with respect to which—

(I) the taxpayer produced less than 5 percent of the total number of units (or value) of such products during the period covering the three most recent taxable years of the taxpayer ending before July 1, 1982, and

(II) four or fewer United States persons (including as one person an affiliated group as defined in section 1504(a)) other than the taxpayer manufactured 85 percent or more of the total number of all units (or value) within such class of products manufactured and produced in the United States during such period.

(H) CLASS OF PRODUCTS.—For purposes of subparagraph (A)—

(i) the term "class of products" means any of the categories designated and numbered as a "class of products" in the 1977 Census of Manufacturers compiled and published by the Secretary of Commerce under title 13 of the United States Code, and

(ii) information—

(I) compiled or published by the Secretary of Commerce, as part of or in connection with the statistical abstract of the United States or the Census of Manufacturers, regarding the number of units (or value) of a class of products manufactured and produced in the United States during any period, or

(II) if information under subclause (I) is not available, so compiled or published with respect to the number of such units shipped or sold by such manufacturers during any period.

shall constitute prima facie evidence of the total number of all units of such class of products manufactured and produced in the United States in such period.

Mr. GLENN. Mr. President, I rise to offer an amendment to the transitional rules covering safe harbor leases. This amendment has been agreed to by the chairman and ranking minority member of the Senate Finance Committee. I know of no objections. The amendment resolves a serious problem that the Finance Committee's reform of safe harbor leasing creates for a major employer in my State. Before I turn to a discussion of this amendment, however, I want to briefly address the issue of safe harbor leasing.

Last year, in an effort to address the unique capital requirements of depressed, critical industries—such as autos, steel and airlines—the Finance Committee created safe harbor leasing. This measure was less direct and more complicated than other proposals, such as refundable tax credits, but had merit—in the eyes of its creators—because it relied on the free market sale and exchange of assets and tax credits. In short, it kept the Government out of the capital allocation business.

Unfortunately, the lack of careful deliberation and the cunning of corporate lawyers combined to distort the intent and pervert the spirit of safe harbor leasing. Abuses of safe harbor leasing were spectacular and triggered a reaction that now threatens to literally emasculate this program. In the same hasty manner that Congress enacted this measure, it now seeks to destroy it. Just as the abuses of safe harbor serve as evidence of private greed, so do the manner and uneven results of last year's tax bill serve as testimony to the inadequacies of our tax policymaking process. For just as the enactment of safe harbor leasing brought a windfall of unintended benefits to profitable firms, so does its elimination carelessly jeopardize the survival of struggling, critical industries.

Safe harbor leasing was created for legitimate public policy concerns. Although accelerated depreciation and other business tax incentives contained in the Economic Recovery Act helped profitable firms meet their capital requirements, they do little to improve capital formation in our struggling basic industries. Safe harbor leasing addressed that problem by enabling unprofitable firms to sell unusable tax credits to finance badly needed investments. The capital formation problems of our basic industries that justified safe harbor leasing last year are even worse today. Continued high interest rates and a depressed economy have made new investments even more difficult for our basic industries. Their only opportunities to generate capital for plant modernization and job creation lie in the provisions of safe harbor leasing. Yet some in this body would eliminate those opportunities and damn the fate of our basic industries for the sins of their rich corporate cousins. In other words, they would have us throw the baby out with the bath water.

Mr. President, I want to express my appreciation to Senators DOLE and LONG for helping me prevent such unnecessary and unwarranted excess in a situation affecting the lives and well-being of my constituents. In the tax reform bill before us today, the Senate Finance Committee advances several modifications of safe harbor leasing to eliminate problems and cure abuses of the original statute. Unfortunately, the complex transitional rules in the committee's revision have created serious difficulties for a major employer in my State. This company, which is in a critical industry, acted in good faith in attempting to comply with the letter and spirit of the safe harbor provisions and now finds itself caught in a legislative crack.

In order to prevent an unnecessary injustice, I am offering an amendment—which has agreement on both sides of the aisle—to insure that the revised safe harbor provision as enacted and implemented will be fair and efficient.

The transition rules included in the committee bill permit property placed in service until July 1, 1983, to be covered by the old rules. But in order to qualify for this grace period, the committee proposal requires that the property be tied to a 7-month window period predating the committee's action.

The situation facing my constituents is one which the transitional rules evidently did not contemplate. This com-

pany's proposed lease agreement involves thousands of pieces of property which would require an analysis of as many as 15,000 documents to verify that the transitional rules are applicable. The property was placed in service before the committee took action and the bulk of the property would qualify under the bill's language.

It is impossible, however, to inventory the thousands of individual transactions connected with this property to determine which pieces fall within the 7-month window before the 90-day lease agreement period expires.

My amendment clearly insures that the committee's proposed transitional rules do not foreclose the safe harbor transaction with which this company is involved and gives special recognition to the legality of this transaction as part of the new tax bill.

Since the transaction in question must be completed by August 15, 1982, this amendment would have no substantial impact on revenues projected for fiscal years 1983 through 1985. For Ohio and Ohio citizens this amendment means jobs, productivity and an opportunity to continue to compete in the marketplace. It conforms the letter of safe harbor leasing reforms with the spirit of our endeavors to shape a fair and efficient tax policy. I urge my colleagues to support it.

Mr. METZENBAUM. Mr. President, would the Senator from Ohio be good enough to explain the amendment a bit more?

Mr. GLENN. Yes; the transition rules were set up for a narrow time period for large corporations. One in particular that we are interested in, in Ohio, would be placed into a time box where they could not really take advantage of this bill as other companies could. They have some 15,000 subcontracts in the company, which takes a longer time period to put the package together. We have discussed this with the floor managers of the bill and they agreed that this time period for the company should be lengthened out.

Mr. METZENBAUM. What would be the revenue impact?

Mr. GLENN. They have estimated it was around $30 million in the original estimate—it would be $100 million over the whole period of this. That would be recovered in later years.

Mr. METZENBAUM. Mr. President, would the floor manager yield for a question?

Mr. DOLE. Yes, Mr. President.

Mr. METZENBAUM. Can the Senator from Kansas give us further elaboration on this transitional amendment of the Senator from Ohio? It is a $100 million impact. How many companies will be affected? I understand a company in Ohio will be affected. I am concerned about that but I would like to know its total impact.

Mr. DOLE. Let me say very quickly this is one of the many problems we are going to have during the course of the evening because of the changes made in the safe harbor leasing. We virtually cut that program in half in the Finance Committee.

We have American Motors and I think Ford Motor Co.—a lot of people will have a lot of problems. We hope to work them out.

As to American Motors and the safe harbor lease transition rules, on July 1, 1982, the Senate Finance Committee agreed to modify substantially the rules governing safe harbor leasing. American Motors Corp., along with many other major corporations, understood that property placed in service before the committee's action would be governed by the old rules. Instead, the transition rules included in the committee's bill permitted property placed in service until July 1, 1983, to be covered by the old rules. But in exchange for this 1-year grace period, the bill required the property to be tied to a 7-month window period predating the committee's action.

AMC is concerned with thousands of pieces of property involved in building the new AMC-Renault automobile, the Alliance. This property was placed in service before the committee's action, and much of it would fall within the window period set forth in the bill. But AMC will not be able to inventory this property to determine which individual pieces fall within this window period before the 90 days it has to lease the equipment expire. Moreover, its investment bankers have told it that buyers will not accept a warranty from AMC on this issue.

AMC believes that property placed in service before the committee's action should not be tied to any other dates predating such action. Only property relying on the 1-year grace period—if it survives—should be so tied. If this correction is not made, AMC will lose a large source of much-needed cash—cash which it had already factored in to its financed planning.,

We believe, after consulting with Treasury, that this is a reasonable amendment and should be agreed to.

I might say that, in conversation with the chairman of the board of this company, I learned it is a matter of virtually life and death for American Motors. So, through the efforts of the Senator from Ohio and the Senator from Wisconsin (Mr. KASTEN) and others, we have been able to come to this agreement.

Mr. METZENBAUM. This Senator from Ohio is not questioning the need for the American Motors amendment. I just want to be certain that the window opening is not so broad that a number of other companies will go through it. Do I understand correctly that it is only one company? Is that the understanding?

Mr. DOLE. It is a very small window; yes, Mr. President.

Mr. METZENBAUM. I have no objection.

Mr. GLENN. If there is no further discussion, I am glad to move to a vote.

Mr. KASTEN. Mr. President, I join with the distinguished Senator from Ohio in supporting this amendment.

The amendment is of vital importance to the people of Wisconsin, and paticularly Kenosha, Wisc. It will help to assure that the American Motors plant there will stay open and productive.

This amendment will provide the incentive needed to allow American Motors to finance their "Alliance" automobile. This new line of automobiles is critical to the continued employment of thousands of workers, both in Kenosha, and around the country.

An addition, Mr. President, this amendment does not alter the revenues to be gained from the tax package now before us. It is, therefore, an amendment that can be supported on both sides of the aisle.

Mr. DOLE. Mr. President, I yield back my time.

Mr. GLENN. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1120) was agreed to.

● Mr. LEVIN. Mr. President, I am pleased to see that it was possible to reach an agreement on this amendment. As I have indicated before, leasing is vital to the automotive industry's attempt to modernize and compete with foreign producers. It is essential if we are to save jobs and create new jobs in my home State of Michigan and throughout the country. This amendment will prevent the changes made from current law by the committee bill from interfering with the kinds of transactions which implement the original intent of the safe harbor leasing provisions. I thank the committee for accepting the amendment.●

Mr. PROXMIRE. Mr. President, the revisions of the safe harbor leasing provisions contained in the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, have caused some unanticipated and unintended problems. As with all technical documents, certain circumstances cannot be forseen.

One such example deals with the effect of the leasing repeal provisions on American Motors Corp. American Motors is in the process of producing the new Alliance automobile. This $200 million project involves lease agreements under the current permitted leasing provisions. However, under

the conditions imposed in this bill, these leasing arrangements could not proceed. The 90-day rule mandates that these agreements be completed by early August. It is impossible for American Motors to change to the new set of rules within this time period.

For this reason I support language which would state that those assets placed in service prior to July 1, 1982, should be treated as qualifying under the existing law. The Glenn amendment accomplishes this and I give it my full support.

It simply is a managerial impossibility for American Motors or another institution in similar circumstances to review the purchase orders, contracts, work orders, invoices, and related documentation for between 10,000 and 15,000 separate components in order to change over to the new set of rules. Yet without such a modification, potential buyers cannot be assured that there are appropriate tax benefits attached to each.

Allowing American Motors to continue with its leasing arrangements under current law will pose no substantial revenue loss, if any, for fiscal year 1983. Yet without such relief this corporation faces a financial situation that can at best be described as bleak.

The Glenn amendment makes a fair and equitable adjustment that should be supported by the Senate.

AMENDMENT 1976

(Purpose: To clarify the definition of qualified mass commuting vehicles)

Mr. MITCHELL. Mr. President, I yield to the Senator from Washington.

Mr. GORTON. Mr. President, I call up amendment 1976 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington (Mr. GORTON) proposes an amendment numbered 1976.

On page 287, at the end of line 23, insert the following new subsection:

(d) QUALIFIED MASS COMMUTING VEHICLE.—Subparagraph (A) of section 103(b)(9) (defining qualified mass commuting vehicle) is amended—

(1) by inserting "ferry," after "rail car", and

(2) by striking out "mass commuting services" in clause (ii) and inserting in lieu thereof "mass transportation services".

Mr. GORTON. Mr. President, this amendment has reference to mass transportation services and makes certain that mass transportation services by ferry will be treated exactly as services by rail or by bus in connection with safe harbor leasing provisions. It has been cleared with the distinguished chairman of the committee and the distinguished ranking minority member. The staff felt there was a good chance that present law could be interpreted so as to cover ferries, which are, of course, vitally important in the State of Washington. If that is true, of course, this has no revenue impact at all, but it does treat them identically and represents a change. The impact will be $10 million or less. I ask for the adoption of the amendment.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, this is a very minor amendment. I think the revenue loss is around $5 million. It is a commuting vehicle matter, an extension of what was in the leasing provision last year. The amendment has been discussed. As I understand, it was approved by Treasury officials and approved on both sides of the aisle. I have no objection to the amendment.

Mr. GORTON. Mr. President, seeing him on the floor, I suspect my senior colleague (Mr. JACKSON) will join me as a cosponsor.

Mr. JACKSON. Mr. President, I ask unanimous consent that I may be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JACKSON. I support the statement made by the junior Senator from Washington (Mr. GORTON).

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1976) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1119

The PRESIDING OFFICER. The Senator from Maine.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, this amendment redirects part of the 1982 and 1983 tax cuts away from upper-income taxpayers to those in the middle and lower brackets by replacing the across-the-board marginal tax rate reductions with a set of rate reductions skewed to taxpayers with incomes less than $50,000 a year. It does this while retaining the maximum marginal tax rate of 50 percent.

In effect, every American family with an income of less than $50,000 a year would get a greater portion of the tax cuts in 1982 and 1983, while every family with an income above $50,000 a year would get a slightly smaller portion. Those at the upper end would still achieve the vast majority of the benefit that is now the case, but it would redirect the cut in some part toward middle- and lower-income taxpayers in our country.

The revenue totals of the bill would not be affected by my amendment and, as I said, my amendment would not change the maximum marginal tax rate of 50 percent. This amendment makes good sense from the standpoint of equity and from the standpoint of economic policy. It is equitable because it gives more of the tax cut to those taxpayers that pay the greatest share of total personal income taxes. Last year, the administration argued that across-the-board rate cuts were fair, and that anything else would be a redistributive tax cut. That argument ignored the fact that inflation and social security taxes were raising the total tax liabilities of lower- and middle-income households disproportionately more than upper-income households. The tax cut, if it were to be fair, should have been tailored to reflect this fact.

Unfortunately, the bill signed into law last year did not. Instead, that bill gave taxpayers making more than $50,000 a year over 60 percent of the net tax cut, even though they contribute about one-third of personal income taxes.

Let me repeat that.

Before the tax bill passed last year, those persons in our society who make more than $50,000 a year paid about a third of the income taxes, but under that tax bill they received nearly two-thirds of the tax reduction. Conversely, those who make less than $50,000 a year, who pay nearly two-thirds of the taxes, received about a third of the reduction. Now, that is not fair.

One of the most serious problems we face in this country is the enormous growth of tax evasion, the continuing and increasing failure of Americans to voluntarily pay their taxes.

One of the principal reasons why that is occurring in such an increasing amount is because of the perception by Americans that the tax code is not fair, that those at the upper end of the income scale achieve benefits which are not available to everyone else and as a result do not pay their fair share. And they are right.

Consider what the Senate has done this evening. We have considered a large number of amendments to the tax bill. The only substantive amendment that has been adopted has been an amendment to benefit those who use capital gains taxes. And who uses them? The Senator from Arkansas gave some figures on it a while ago. Let me add one.

Taxpayers who make more than $50,000 a year in our country represent less than 6 percent of the total of all taxpayers, and yet they realize 63 percent of the tax benefits that result from the preferential treatment given to capital gains.

If we keep going in the direction that this tax policy is heading, we will have to amend Lincoln's immortal statement to say, "This is government of the rich people, by the rich people, and especially for the rich people."

That is exactly what the tax policy that we have adopted is moving us toward, and as a result more and more middle-class working Americans are not paying their taxes because they say it is not fair.

Tax deductions, tax preferences, tax shelters, capital gains treatment, while legally available to all Americans, are as a practical matter available to only those at the upper end of the income scale. In the middle are the working Americans, the overwhelming majority of our citizens who work and pay their taxes, and they are becoming disillusioned and as a result a cancer is spreading in American society. That cancer is tax evasion, tax avoidance, people cheating on their income taxes.

The principal reason for that increase in tax evasion is the perception which is based on the reality that the Tax Code is not fair, is designed to benefit the wealthy and is designed to require working people to pay their full share while the wealthy avoid their share. The tax cut we passed last year fosters, furthers, and enhances that perception because that is just exactly what it does. It provides disproportionate benefits for those at the upper end of the income scale.

Adoption of this amendment would help to reverse that trend. It would permit a slight, a modest increase in the amount of the reduction that goes to taxpayers making less than $50,000 a year. Every family in the United States with a total family income of less than $50,000 a year—and that comprises 94 percent of all American families—would get a greater portion of the tax cut if this amendment were adopted. The amendment makes sense not only from the standpoint of equity but it is sound economic policy.

Last year, when the administration came before the Congress and urged us to adopt its tax program, we were told that we had to cut taxes for the wealthy because they would save the money. Supply-side economics said that we need to increase the rate of savings in this country so that the money will then be available for investment in plant and equipment.

Witnesses before the Senate Finance Committee told us that you cannot give most of the tax cut to middle- and lower-income people because they will spend it if you do, and we do not want it spent, we want it saved.

Mr. President, the economic philosophy of the administration has made a 180° turn. Now we are told by every economic spokesman for the administration, and by the President of the United States in a nationally televised press conference, that we are going to get out of this recession because the American people are going to spend the cut that they get on July 1. "Consumers are going to lead the recovery," we are told by everyone associated with the administration up to and including the President of the United States.

If that is true, then what we should be doing, if we really want to get out of the recession, is to give the money to the people who the administration last year told us would spend it if we gave it to them as a result of the tax cut. If the administration was right last year in their analysis of what people would do with the cut and if they are right this year with their analysis of the necessity of increased consumer spending to get out of the recession, then the administration should be up here leading the charge for this amendment, because it is the one thing that will in fact help us to get out of the desperate economic situation which we are now in.

From a standpoint of equity, from a standpoint of fairness, from a standpoint of economic policy, from a standpoint of trying to lift this country out of the mire of recession in which it now finds itself, this amendment makes a great deal of sense. I am, frankly, astonished and amazed that the administration will not support it.

Every day we read that the President says, "Why do they say that I favor the rich and not the poor? I do not really favor the rich," the President says. "I am concerned about the poor."

Well, here is a chance for the President to demonstrate it in something more than words, in something more than just rhetoric. Here is a chance to demonstrate by action that the President is concerned about middle and lower income people and working people in our society. Here is a chance for every Senator to demonstrate that concern.

I repeat what I said at the outset. Before the President's tax program was passed, those in our society who make more than $50,000 a year paid one-third of the income taxes. Under the President's program, they have received nearly two-thirds of the tax reduction. The effect of the reduction goes primarily to those making more than $50,000 a year.

Mr. President, by any standard that is not fair. The American people know it is not fair. The American people demand that it be changed. I urge my colleagues to support this amendment from the standpoint of equity, from the standpoint of economic policy, from the standpoint of saying for once in the debate over this tax bill that we care something about the little man.

I ask the Senate, is there no limit to the concern that we will exhibit for those wealthy persons in our society? Is there no limit to the indifference that we are showing to those at the lower end of the economic scale in our society? This amendment gives us a chance to do what is right for the people of this country, the working people of this country, and for the economy.

I urge the adoption of the amendment, Mr. President.

The PRESIDING OFFICER (Mr. JEPSEN). The Senator from Kansas.

Mr. DOLE. Mr. President, first I want to ask a question of the Senator from Maine.

I think many of our colleagues, including some on each side, hope this vote might not occur until 7:30. Does the Senator from Maine have any objection to this being the first vote at 7:30?

Mr. MITCHELL. Not if it will accommodate my colleagues. I understand that there are to be no votes between 6:30 and 7:30. I hope we can have it before then, but if other Senators will be accommodated by moving it up, it will be all right.

Mr. DOLE. Senator BAUCUS, Senator CHILES, and Senators on this side made the request.

Mr. MITCHELL. I agree to that, Mr. President.

Mr. DOLE. I say to the Senator that I am going to permit an up-and-down vote on the amendment. It is not germane. I think the Senator wants an up-and-down vote, so that will not be a problem.

Mr. President, this amendment was discussed briefly in the committee, and I believe that the Senator from Maine presented it properly. I just cannot support it.

I believe that if we are really concerned about fairness and equity, we will all vote to support this bill on final passage tonight.

We talked about those we have taken on in this bill—the rich, the powerful, the big banks, the big oil companies, the highly paid professionals, the insurance companies, the big restaurants. Obviously, the big banks are fighting tooth and toenail with respect to withholding interest on dividends, as well as people who do not pay their taxes.

I do not think the people have been concerned very much, but is has been very difficult to hold the package together. It is still being held together. I hope the Senator's amendment will be defeated and that we can all join in defeating the other amendments and get to final passage. It will not happen quite that quickly.

I just cannot support the Senator's amendment, for reasons I have outlined before.

Unless the Senator wants to be heard further, I am willing to set aside the amendment temporarily and to agree that this be the first vote at 7:30.

Mr. MITCHELL. That is agreeable.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I understand that the Senator from Oklahoma has another amendment that has been cleared and is not controversial. I ask unanimous consent that the amendment, for himself, Senator DODD, and Senator DURENBERGER, be considered now.

Mr. BOREN. That is correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1121

(Purpose: To clarify the status of certain private foundations and trusts owning certain business enterprises)

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. BOREN), for himself, Mr. DURENBERGER, Mr. DODD, and Mr. NICKLES proposes an unprinted amendment numbered 1121.

Mr. BOREN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 454, strike out lines 1 through 5 and insert in lieu thereof the following:

SEC. 292. EXEMPTION FROM THE EXCESS BUSINESS HOLDING PROVISIONS FOR PRIVATE FOUNDATIONS AND TRUSTS OWNING CERTAIN BUSINESS ENTERPRISES.

On page 454, line 6, strike out "Section" and insert in lieu thereof "(a) Private Foundations.—Section".

On page 458, line 21, strike out the quotation marks and the second period.

On page 458, between lines 21 and 22, insert the following:

"(iv) The divestiture requirements of section 4943 of the Internal Revenue Code of 1954 shall not apply to the stock of an incorporated business enterprise held by any private foundation if the foundation meets the following conditions:

"(I) On March 1, 1913, and at all times thereafter, the private foundation primarily operated and maintained facilities for the long-term care, comfort, maintenance, or education of permanently and totally disabled persons, elderly persons, needy widows, or children.

"(II) On May 26, 1969, the private foundation owned 100 percent of the voting stock in one or more incorporated business enterprises.

"(III) Before July 2, 1950, the foundation formed the incoporated business enterprise described in subclause (II), or acquired the stock in such enterprises by gift, devise, or bequest.

"(IV) Neither the donor of such assets or of such stock in the incorporated business enterprises nor any member of his family (within the meaning of section 4946(d) of such Code) is a manager of such foundation (as defined in section 4946(b) of such Code) on or after April 1, 1940.

"(V) On May 26, 1969, and at all times thereafter, the business of the enterprise or enterprises owned by the foundation and described in subclause (II) is of substantially the same character as the business which was conducted by such enterprise on the date of its formation by the foundation or on the date of the last gift, devise, or bequest of the stock of such enterprise to the foundation by any donor.

For purposes of this clause, a care facility described in subclause (I) owned by a private foundation through a holding company all the voting stock of which is owned directly by the foundation on the dates designated by this clause shall be treated as being owned directly by the foundation for these purposes. This clause shall apply to the private foundation only if the foundation does not acquire any stock or other interest in any business enterprise on or after May 26, 1969, which would otherwise constitute excess business holdings under section 4943 of such Code.

"(v) The divestiture requirements of section 4943 of the Internal Revenue Code of 1954 shall not apply to the stock of an incorporated business enterprise or Bank Holding Company held by any private foundation if the foundation meets the following conditions:

"(I) On May 26, 1969, the private foundation owned 100 percent of the voting stock in an incorporated business enterprise or Bank Holding Company (as defined in the Bank Holding Company Act of 1956).

"(II) The stock, described in subclause (I) was acquired by the foundation solely by gift, devise, or bequest before December 31, 1966.

"(III) Neither the donor of such stock nor any member of his family (within the meaning of section 4946(d) of such Code) is a manager of such foundation (as defined in section 1946(b) of such Code) on or after December 31, 1956.

"(IV) On May 26, 1969, and at all times theraftер, the business of the enterprise or Bank Holding Company described in subclause (I) is of substantially the same character as the business which was conducted by such incorporated business enterprise or Bank Holding Company on the date of the last gift, devise, or bequest of the stock of such enterprise or Bank Holding Company to the foundation by any donor or member of his family.

For purposes of this clause, a business enterprise owned by a private foundation through a holding company (other than a Bank Holding Company) all the voting stock of which is owned directly by the foundation on the dates designated by this clause shall be treated as being owned directly by the foundation for these purposes. This clause shall apply to the private foundation only if the foundation does not directly acquire any stock or other interest in any business enterprise on or after May 26, 1969, which would otherwise constitute excess business holdings under section 4943 of such Code.".

(b)(1) Trusts.—For purposes of the Internal Revenue Code of 1954, a trust—

(A) substantially all of the assets of which on November 19, 1950, consisted of stock in a newspaper publishing company,

(B) which has an unexpired interest devoted to one or more of the purposes described in paragraph (1) or (2) (B) of section 170(c) of such Code, and

(C) which has as one of its primary purposes the continued management of a newspaper publishing company in order to benefit the community.

shall not be treated as a private foundation by reason of paragraph (1) or (2) of section 4947 (a) of such Code (relating to application of taxes to charitable and split interest trusts).

(2) This subsection shall apply to taxable years beginning after November 20, 1978.

Mr. BOREN. Mr. President, this amendment, which I offer on behalf of Mr. DODD, Mr. DURENBERGER, Mr. NICKLES, and myself, is a noncontroversial amendment which has been cleared on both sides of the aisle.

This amendment relates to the section of the law dealing with private foundations and the operation of businesses by those foundations. It deals with three specific instances in which there are business operations maintained by foundations which have a purely public purpose.

Mr. President, in Sand Springs, Okla., is a unique organization that blends the generous services of a charitable organization with the business initiatives of private enterprise. The Sand Springs Home provides care for orphans and widows, and it supports itself fully through its business holdings. A provision in the Tax Code, however, could force the home to lose these holdings, and this amendment would allow the home to continue providing the same valuable services it has provided for nearly 75 years.

The Sand Springs Home was established in 1908 and has cared for a total of 800 dependent children since then. The home also provides facilities in which widows can live and raise their children. Currently, there are 35 orphans at the home, with a total of 370 widows and their children. There is a waiting list of 160 widows, all with at least two children.

There can be no doubt that the home is fulfilling its charitable purposes. The founder, recognizing the value of such organizations, established a generous endowment, which has allowed the home to be completely self-supporting. The home has never sought public contributions. The assets of the home are managed by a board of trustees, who are appointed by the Oklahoma Grand Master of the Ancient Free and Accepted Masons. Since its formation the home has spent $20 million for its charitable services.

The assets of the Sand Springs Home include several tracts of land, investments in government obligations, and 100 percent of the stock in several local businesses. In addition to providing the home's operating costs, these businesses give work opportunities to both the widows and the young people at the home. A provision in the Tax Act of 1969 may force the home to lose ownership of these interests.

When Congress wrote the 1969 law, a number of individuals created foundations to avoid paying estate taxes on inherited family enterprises. To stop this practice, Congress passed a provision to force all foundations to divest

themselves of majority ownership in all enterprises. As a result, private foundations who show no hint of tax fraud or abuse must nevertheless divest their holdings. My amendment would exempt the Sand Springs Home from this overly broad provision.

There are several reasons the Senate should pass this amendment. First, the reasons Congress passed the divestiture requirements are not remotely similar to the circumstances surrounding the Sand Springs Home's establishment. Exemption of the home from divestiture requirements would have no effect on budget receipts through fiscal year 1987. In addition, there is precedent for this legislation, for the U.S. Senate has passed similar measures in the past.

Finally, and in my opinion most important, the divestiture requirement leaves the home's future uncertain. On Wednesday of last week, the home's board of trustees voted to expand its services and begin providing care for many of the 160 widows on its waiting list. They obviously cannot do this if they are forced to sell their businesses.

The value of the Sand Springs Home is clear. Its service to the homeless of Sand Springs is unique. Losing its business holdings would severely limit these important services.

Mr. President, I think it would certainly be a matter of affirming sound public policy to approve this amendment and assure that the many helpless people who are being served by these particular foundations would continue to be able to be served in the most efficient way possible. This would simply allow those foundations to continue to operate as they have in the past.

I urge the adoption of the amendment.

I yield at this point to the Senator from Minnesota.

Mr. DURENBERGER. Mr. President, I support the amendment proposed by the Senator from Oklahoma and others.

This amendment to section 292 of the bill adds language that will have the effect of exempting the Otto Bremer Foundation, along with the two other foundations given relief in the committee's bill, from the divestiture requirements of section 4943 of the Code.

During the committee's deliberations when my distinguished colleague, the Senator from Colorado, Mr. ARMSTRONG, offered his amendment that is section 292 of this bill, he stated that it was his understanding that the language covered the Otto Bremer Foundation as well. As I shared in that understanding, I did not offer additional language. Unfortunately, this is not the case and thus the need for my amendment today.

The Otto Bremer Foundation is unique in that it is the only private foundation that is also a registered bank holding company. The bank holding company operates in Minnesota, Wisconsin, and North Dakota.

The Foundation is caught in a conflict between the private foundation requirements set out in section 4943 of the Code and applicable Federal banking laws.

Under section 4943 of the Code, the Foundation is required to divest itself of ownership in the bank holding company to no more than 50 percent by 1989. But because of the McFadden Act, the Foundation is unable to sell to other domestic purchasers and because of antitrust regulations cannot sell to Minnesota-domiciled purchasers. Foreign purchasers are not interested because the company is not located in a money market center or in the Sun Belt or other growth areas. So the only answer is to become a publicly held company and sell its stock by a public offering.

But, because final regulations under section 4943 have not been issued in many years—and given all the activity we are generating with this bill, I do not anticipate they will get issued in the foreseeable future—the holding company and its underlying banks are restricted in their operations.

The result is that the stock is not marketable. And if the stock is not marketable, the Foundation cannot comply with the divestiture rules of section 4943.

I have discussed this amendment with the majority and minority managers of the bill and understand it is acceptable to them.

I ask for the adoption of the amendment.

Mr. BOREN. Mr. President, I yield to the Senator from Connecticut to offer a further explanation.

Mr. DODD. Mr. President, the New London Day Trust is a very narrow, specific situation involving only that particular periodical and trust, the latter of which was established for the purpose of serving the community in which the newspaper resides. Any excess profits generated by the paper, which is substantially owned by the Day Trust, are to be given to charity.

That was the intent of the original publisher of the newspaper, and the provisions contained in this amendment will allow that trust to continue to serve the designs of the original publisher of the paper.

Mr. President, a purpose of this amendment is to permit the Day, a New London, Conn., daily publication, to continue its services as a community newspaper and as a contributor to local charities and nonprofit causes.

The Day was founded by Theodore Bodenwein, a German immigrant with ambitious and constructive ideas. In 1938, Mr. Bodenwein's will created a split-interest trust to own his paper and, upon his death, to pay 10 percent of its dividends to charitable organizations and the remaining 90 percent to his heirs until their deaths. Since the death of the last family member in 1978, all profits not reinvested in the newspaper have been distributed to charitable organizations in the community, as Mr. Bodenwein's will instructed.

However, in March of 1981, the Internal Revenue Service ruled that the trust was in fact a private foundation, and that under the terms of the Tax Reform Act of 1969, the trust would be required to take actions which would put it out of business as a supporter of local, nonprofit causes. In addition, the trust would have faced additional tax liabilities which could very well have resulted in its having to pay taxes in excess of its income. This amendment will allow the Day to continue to receive the tax law advantages of a split-interest trust. In these times of fiscal austerity, particularly in the area of social services, it is imperative that we encourage private sector contributions of the sort provided by the Day trust. Mr. Bodenwein and the Day trust ought to serve as examples of philanthropic generosity which is admired and respected, and not taxed to the point of uselessness. For more than 40 years, the Day trust has set a shining example. Today, I propose that we allow this to continue by adopting this amendment.

I am delighted to support the amendment as offered by the Senator from Oklahoma.

I urge its adoption.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that the Senator from Minnesota (Mr. BOSCHWITZ) be included as a cosponsor of this amendment also.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who desires time?

Mr. DOLE. Mr. President, I yield back my time.

The PRESIDING OFFICER. Does the Senator from Oklahoma yield back his time?

Mr. BOREN. Mr. President, I am happy to yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma.

The amendment (UP No. 1121) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, is the committee amendment still pending?

The PRESIDING OFFICER. Yes, it is.

89-059 O-86-19 (Pt.13)

Mr. DOLE. Mr. President, I ask unanimous consent that an amendment Mr. STEVENS intends to propose may be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1122

(Purpose: To amend the Internal Revenue Code of 1954 to clarify the status of certain amateur athletic organizations)

Mr. STEVENS. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) proposes an unprinted amendment numbered 1122.

Mr. STEVENS. Mr. President, I aks unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following new section:

That (a) section 501 of the Internal Revenue Code of 1954 is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) SPECIAL RULES FOR CERTAIN AMATEUR SPORTS ORGANIZATIONS.—

"(1) IN GENERAL.—In the case of a qualified amateur sports organization—

"(A) the requirement of subsection (c)(3) that no part of its activities involve the provision of athletic facilities or equipment shall not apply, and

"(B) such organization shall not fail to meet the requirements of subsection (c)(3) merely because its membership is local or regional in nature.

"(2) QUALIFIED AMATEUR SPORTS ORGANIZATION DEFINED.—For purposes of this subsection, the term 'qualified amateur sports organization' means any organization organized and operated exclusively to foster national or international amateur sports competition if such organization is also organized and operated primarily to conduct national or international competition in sports included on the program of the Olympic games or the pan-American games or to support and develop amateur athletes for national or international competition in such sports.".

(b)(1) Subsection (c) of section 170 of such Code (defining charitable contribution) is amended by adding at the end of paragraph (2) the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of this paragraph.".

(2) Subsection (a) of section 2055 of such Code (relating to transfers for public, charitable, and religious uses) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(3) Subsection (a) of section 2522 of such Code (relating to charitable and similar gifts) is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).".

(c) The amendments made by this section shall take effect on October 5, 1976.

Mr. STEVENS. Mr. President, I am presenting this amendment to try and deal with a very serious problem relating to the tax exempt status of certain amateur sports organizations.

This amendment is an important measure which can lift a tax barrier to our Nation's efforts for the Olympics, and all amateur sports competitors. Bills similar to this amendment have had hearings in both the House and Senate, and to my knowledge everyone, including the Treasury Department, wants to solve this problem immediately.

The text of this amendment is identical to the bill that I introduced in 1981, S. 1757.

Briefly, let me outline the problem to the Senate. In 1976, Congress amended section 501(c)(3) of the Revenue Code by section 2702 of the Tax Reform Act of 1976, which made it easier for certain amateur sports organizations to receive tax exempt status.

This amendment was the product of efforts on the part of those who strongly supported amateur sports and was intended to help clear up the inconsistencies in the tax code and assist those organizations that were organized and operated to foster national and international sports competition.

During consideration of this amendment in conference committee, language was added excluding from consideration for tax exempt status those organizations which provided training facilities and equipment.

That action was taken, according to the conference committee report and statements on the Senate floor, to prevent health spas and social clubs from obtaining a tax windfall.

Unfortunately, Mr. President, even though the clear intent of Congress was not to deny tax exempt status to amateur sports organizations which foster competitive sports, and who provide training facilities and equipment, that is precisely what has happened.

The Internal Revenue Service, feeling that their hands are tied in this matter, has read the statute literally to mean that no tax exempt organization may provide training facilities and equipment.

Mr. President, for 5 years, and especially since the 1978 Amateur Sports Act spun off new national governing bodies for competitive sports, this statute has caused tremendous financial problems for the amateur sports world and that is why our immediate action is necessary. Many of the development drives that assist and prepare our Olympic athletes and other national and regional amateur sports programs are at a standstill simply because it is necessary for many of these organizations to provide training facilities and equipment and they cannot receive tax exempt status under the current interpretation.

Not only has this ambiguity in the tax code caused the sports organizations grief, but it has created an administrative headache to the service as well. As I understand it, there are over 100 501(c)(3) applications pending at the Internal Revenue Service, on which no action can be realistically taken until this ambiguity is cleared up.

My good friend, Mr. VANDER JAGT, of Michigan, has assisted on this legislative effort in the House. This is simply a technical clarification of what I believe has always been the congressional intent in according these amateur sports organizations a tax-exempt status, and as I have indicated, these organizations cannot hold on financially any longer without their tax status question being settled.

As far as I know, the cost to the Treasury is inconsequential. There should be none, and it should have been taken into account under the 1976 amendments to the Internal Revenue Code anyway, when we told these organizations we were creating a tax-exempt status for them.

I do appreciate the courtesy of the distinguished manager of the bill, the Senator from Kansas, and I hope that he will be able to agree to this amendment.

Mr. METZENBAUM. Mr. President, will the Senator from Alaska yield for a question?

Mr. STEVENS. I am happy to yield.

Mr. METZENBAUM. Can we get a copy of the amendment? I am trying to get one.

Mr. DOLE. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the time not be charged to anyone at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, while negotiations are going on, I wonder if we might temporarily set the amendment aside and take up another one or two amendments that are ready to go.

Mr. STEVENS. Mr. President, I am happy to do so.

I wonder if the Senator from Ohio has had a chance to review the legislation.

Mr. METZENBAUM. Give me 5 minutes.

Mr. DOLE. We can take one or two others.

Senator GARN raises a good point that if we do not charge the time of the quorum calls we will be here until next week.

The Senator from Illinois sought recognition.

Mr. DIXON. Mr. President, I thank the Senator from Kansas.

Mr. STEVENS. Mr. President, if the Senator will yield, I think the Senator from Ohio is willing to withdraw an objection to the amendment of mine.

Mr. METZENBAUM. Yes.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. All time is yielded back.

Mr. STEVENS. I yield back my time.

The PRESIDING OFFICER. All the time having been yielded back, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (UP No. 1122) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. STEVENS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from Illinois be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1123

(Purpose: To clarify the tax status of certain members of religious orders)

Mr. DIXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON, for himself, Mr. LONG, Mr. JOHNSTON, Mr. PERCY, Mr. EAGLETON, and Mr. DANFORD) proposes an unprinted amendment numbered 1123.

Mr. DIXON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 425, between lines 13 and 14, insert the following new section:

SEC. 274A. CLARIFICATION OF TAX STATUS OF CERTAIN MEMBERS OF RELIGIOUS ORDERS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1954, a member of a religious order who—

(1) is required to take a vow of poverty and obedience,

(2) is required to wear a religious habit and live in a convent, and

(3) performs qualified services,

shall be treated as an agent of such order while performing such qualified services.

(b) QUALIFIED SERVICES.—For purposes of this section, the term 'qualified services' means services—

(1) which are performed by a member of a religious order,

(2) which are required by the religious order to be performed,

(3) which are performed by such member as an employee of a leprosarium operated by the Public Health Service, and

(4) any remuneration with respect to which—

(A)(i) is paid to such order, or

(ii) if paid to such member, is, pursuant to the vows of poverty and obedience taken by such member, the property of such order, and

(B) may be used or disposed of only at the direction of such order.

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to services performed after September 30, 1977.

Mr. DIXON. Mr. President, this amendment involves the very small religious order known as the Daughters of Charity who work in a leprosarium in Louisiana. They have taken the oath of poverty. All of their funds are passed through their religious order.

Mr. President, I ask unanimous consent that the distinguished Senators from Louisiana, Senator RUSSELL LONG and Senator BENNETT JOHNSTON, the distinguished Senators from Missouri, Senator JACK DANFORTH and Senator TOM EAGLETON, and my colleague, the senior Senator from Illinois, Senator PERCY, be shown as cosponsors with me on this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, Treasury has approved the amendment which essentially absolves them of taxes if they belong to the religious order, wear their religious habits, live in a convent, and work in this leprosarium.

I think it is entirely nonobjectionable, and I yield to the Senator from Kansas, the distinguished manager of this bill, for any further comments he may care to make.

Mr. DOLE. Mr. President, the Internal Revenue Service is justifiably concerned about tax protestors who evade taxes by establishing a so-called church and taking a vow of poverty.

However, there should be little argument that the nuns that the Senator from Illinois wants to exempt from tax are working under a bona fide vow of poverty and should not be subject to tax.

It would seem that a narrow exception would be a reasonable compromise which would allow the Treasury Department time to work out a satisfactory solution to this tax protestor problem while developing reasonable guidelines for nonabuse situations and without establishing an adverse precedent.

I understand there are some people who gather together and call themselves a church so they can evade tax.

That is not, of course, the case with the amendment of the Senator from Illinois. In fact, I am well acquainted with Sister Evangeline Thomas who has a direct interest in this amendment. I know of the great work they are doing.

I have no objection to the amendment. I understand it has been cleared by the distinguished Senator from Louisiana (Mr. LONG). The Treasury has no objection—it has reservations but no objection.

I am prepared to yield back the remainder of my time.

Mr. DIXON. I yield back the remainder of my time and I move the adoption of the amendment.

The amendment (UP No. 1123) was agreed to.

Mr. DIXON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agree to.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I suggest the absence of a quorum with the time to be equally charged.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

QUALIFIED RETIREMENT PLANS

Mr. THURMOND. Mr. President, many of my constituents are extremely concerned over provisions of this bill dealing with qualified retirement plans. While I support the necessity of this bill as a means of reducing the projected budget deficits, I question the wisdom of some of its provisions, including those pertaining to qualified retirement plans. The effect of most of these provisions is to reduce the amount of contributions that can be made to qualified plans. I am concerned that these provisions were adopted with insufficient attention given to their impact on the establishment of new plans and the very continuance of existing plans.

These changes will force virtually all pension and profitsharing plans to be amended, at a considerable cost to the plan sponsor. The burden of making these changes, coupled with the reduced incentives for establishing and maintaining plans, may cause a significant number of plan cancellations. This would adversely affect all participating employees, not just the principals in the sponsoring corporation. In other words, these limitations on retirement plan contributions will not only impact the professionals and business owners who have established the plans. The effect will extend to the nurses, clerical workers, secretaries, laborers, and other employees who now participate in these pension and profitsharing plans.

Beyond this, there is no doubt that the reduction of contributions to plans

will have an adverse effect on long-term savings. This undermines the basic thrust of the 1981 tax reduction bill, which was designed to encourage greater savings by individuals.

In spite of my concern over the provisions in this bill, they are far less damaging to private plans than the provisions of H.R. 6410, introduced a few weeks ago in the House of Representatives by Congressman RANGEL. We do not know what the House will do with respect to these provisions when this bill reaches that body. However, there is great concern that the House will go substantially beyond the provisions of the Senate bill, and will adopt the additional restrictions and limitations set forth in H.R. 6410. This would be very, very damaging to the private pension sector. The provisions of H.R. 6410, in my judgment, are particularly unfair to the owners and employees of small corporations.

Regardless of what the House may do, I sincerely hope that the conferees will not go beyond the provisions adopted in the Senate. Thus, I strongly urge the distinguished chairman of the Finance Committee, who has so skillfully managed this bill, to stand firm in the conference with the House against any further damaging changes in these qualified pension and profit-sharing plans.

Mr. President, I ask unanimous consent that several letters, indicative of hundreds which I have received on this subject, be printed in the RECORD following these remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CHADBOURNE, PARKE,
WHITESIDE & WOLFF,
New York, N.Y., July 21, 1982.

Senator STROM THURMOND,
Russell Senate Office Building.,
Washington, D.C.

DEAR SENATOR THURMOND: The next several weeks will be critical for this Nation's private pension system. Congress will either damage that system irreparably or it will resist the pressures to deal harshly with private pensions in the name of cutting tax benefits for the rich. If Congress takes the first course, that would be a national calamity. I would also view it as an enormous personal loss. I write you from this narrower perspective, because I was the IRS's first Assistant Commissioner for Employee Plans and Exempt Organizations ("EPEO") following enactment of ERISA in 1974.

The entire IRS, as well as the Department of Labor and PBGC, and other government agencies as well—Treasury, SEC, Social Security, EEOC, FTC, to mention a few—invested enormous energy and expense in implementing ERISA for fully five years after its enactment. The Division of IRS which I headed, EPEO, alone devoted substantially all its expanded manpower, and some 20 supergrades, and tens of millions of dollars of budget appropriations to the determination letter program associated with the requalification of hundreds of thousands of pension and profit-sharing plans, necessitated by enactment of ERISA. Audit efforts in the employee plans area, as well as in the charitable and exempt organizations areas, grinded essentially to a halt for at least four years while this determination letter effort was underway.

Much of that will have been wasted, for it will all have to happen once again, if provisions similar to those contained in the so-called Pension Equity Tax Act, introduced by Mr. Rangel (H.R. 6410), or even the slightly less devastating but still far-reaching pension provisions included in the Senate Finance Committee's tax and budget reconciliation package, become law. The plan amendments that would become necessary, as a result of the pervasive changes in plan design that the proposed legislation would require, will rival those associated with the initial enactment of ERISA in 1974.

The revenue estimates for the pension proposals, as projected by the Joint Committee on Internal Revenue Taxation, are $300 million in 1983 and $800 million in 1984. Others have speculated that the cost to business of implementing these pension changes would exceed $1 billion-tax deductible expenses, I might note. But what will be the direct government costs for gearing up and carrying out the renewed monitoring efforts necessitated by all of these plan amendments? I would estimate a minimum of $100 million for just IRS, DOL and PBGC in each of the next two fiscal years. However, you should most certainly demand such estimates from the affected government agencies before you embark upon a legislative overhaul of the magnitude that has been proposed for the private pension system. When these new direct government costs, plus the additional tax revenue losses due to business tax deductions for the newly required expenses of amending plans, are added together, the revenue savings from the proposed restructuring of the pension system will be sharply reduced, if not eliminated entirely. That is a most significant fact, since these changes in the pension system are offered as revenue-enhancing measures!

Of course, one might say that whatever the cost in revenue, changes in the tax structure designed to achieve greater tax equity are justified. There are, I submit, two short answers to this. First, any major changes in so complex a statute as ERISA should be effectuated only with the most careful and prolonged deliberation, such as is not possible in the context of a budget reconciliation process. Second, there can be little doubt that the "pension equity" that is introduced through this legislation will prove to be a Pyrrhic victory for its proponents, because the small companies of this country will opt out of the pension system in droves, for these principal reasons:

(1) The "game will not be worth the candle" for the small business proprietors, for whom there must be significant personal advantage if they are to be motivated to provide pensions for their employees; and

(2) The legal, actuarial and administrative expenses of one more round of plan amendments, after the several such rounds necessitated by ERISA and its accompanying regulations, will clearly be more than the small business community will accept.

Hence, pension "equity" will become pension denial. I need not tell you what that will do to the Social Security system, let alone the private pension program.

I urge that you personally do all in your power to prevent pension legislation from being enacted in haste, lest you, your colleagues and the Country's retirees grieve at leisure.

Sincerely yours,

ALVIN D. LURIE.

PALMETTO ORTHODONTIC SERVICES,
Greer, S.C., July 16, 1982.

Re Pension "Equity" Bill H.R. 6410.

Senator STROM THURMOND,
Senate Office Building,
Washington, D.C.

DEAR SENATOR THURMOND: I want to express my extreme displeasure with the possible changes proposed in H.R. 6410, the Pension "Equity" Tax Bill of 1982, and similar legislation pending in the Senate. It is obvious that someone is trying to do a railroad job through Congress. Action is expected very soon which does not give adequate time for a free flow of information on the Bill.

At first blush, it would seem that the Bill is attempting to equalize corporate plans with Keogh plans and raise additional revenue for the United States Government. In reality, the Bill will jeopardize the retirement security of working Americans, and it will result in lower revenue on a long-term basis. There are several fallacies in this belief:

(1) Most wealthy persons who are contributing to the maximum in their pension plans have the means and sophisticated tax resources to hire professionals for other tax shelters. They will scale back their pension and profit-sharing plans to these new limits and curtail or eliminate the benefits for rank-and-file employes. The law may mean a virtual elimination of many small retirement plans. We will seriously consider eliminating our plan because of the extra overhead expense.

(2) This plan will line the pockets of tax-shelter salesmen. It will not raise significant additional revenue for the United States Government because the people who could afford to put extremely large amounts of money into retirement plans will invest in tax shelters. They will not be affected by this legislation. The people who will be affected are the rank-and-file employees whose benefits will be cut.

(3) The entire ERISA pension and profit-sharing scheme has been designed to encourage rank-and-file benefits when benefits are given to the highly-compensated employees. This has been a very effective tool for giving additional pension benefits to all employees because it is required to obtain the tax advantages offered by Internal Revenue Code Sections 401 and 501.

(4) The Bill represents an unconscionable attempt to discriminate against small business and professionals, doctors, lawyers, architects, engineers, accountants, dentists, veterinarians, pharmacists, and all other persons in the service area. Why should Congress permit this type of negative discrimination? You can be certain that the professional people around the country, all of who have to work every day for their living, will rise up against people who support this legislation. I will personally be very opposed to any individual who votes for this legislation.

(5) The 1981 Tax Act represented a major victor for big business. Through a combination of qualified stock options, equipment leasing rules, fast depreciation write-offs, special investment tax credit incentives, and other "goodies", recent newspaper articles and economic studies have shown that most major corporations will not pay any income tax, or a very slight amount. Those same

corporations adopt discriminatory, non-qualified deferred compensation arrangements. They are "non-qualified" because they only provide benefits for the executives. Small business and professional associations do not do this because they cannot take advantage of tax incentives offered to big business and they are generally willing to put up with the ERISA restrictions in order to fund pension plans for the executives and other employees. You are creating a two-tiered system here, one which allows executives only to be funded with special benefits in major U.S. corporations, while restricting benefits for small business and professionals.

(6) This Bill reverses the basic policy of encouraging investments which will provide jobs. This Bill will put increasing presure on the social security system. The benefits for rank-and-file employees will be reduced because the plans will be curtailed or eliminated.

(7) I urge you to work strongly against HR 6410, and any similar legislation. Please keep me advised of the progress of this Bill and any similar Bill in the Senate.

(8) Philosophically, I have another complaint about HR 6410. Congress exempts itself and other governmental employees from social security. Small businessmen pay social security taxes for their employees and they must pay those taxes into a system that is functionally bankrupt. In addition, congressmen and senators and government employees have federal pension benefits indexed with social security. There is a double-dipping and triple-dipping in the pension system. Many federal employees retire with a tremendous pension benefit and they join social security for a short period of time to get an additional social security benefit. This Bill will reduce the retirement security of middle and working class people everywhere in America.

Very truly yours,

CHARLES D. ATKINSON, D.D.S., M.S.D.

THE CITIZENS AND SOUTHERN NATIONAL BANK OF SOUTH CAROLINA,
Columbia, S.C., July 15, 1982.

Re The Pension Equity Act of 1982—H.R. 6410.

Hon. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: The above Bill was introduced May 19, 1982 by Congressman Rangel of New York apparently in an effort to generate immediate tax revenues. Based on the context of the Bill as reported, we consider this proposed legislation to be hastily conceived and not at all in the best interests of employees throughout this country who have been forewarned, even by the President's Commission on Pension Policy, to rely more and more on individual effort and the private pension systems to provide for retirement.

We understand also that the Senate Finance Committee met on July 1 to consider similar legislation and has in process a proposal that would essentially copy the Rangel Bill.

The major thrust of the Economic Recovery Tax Act of 1981 (ERTA) was directed toward incentives designed to encourage employees to establish and maintain retirement accounts as supplements to company plans and social security. H.R. 6410, if enacted, would be a reversal in principle from ERTA and would inject more confusion and inconsistency into the retirement system.

The provisions of the Bill limiting, and in most respects reducing, heretofore allowable contributions and benefits would discourage the formation of new retirement plans by smaller businesses and especially by the professional service corporations and rules. Such discouragement would simply increase the burden on our unstable social security system to provide more and more retirement benefits for these individuals who otherwise could have been covered by a private company plan.

We anticipate also that many smaller companies will decide to discontinue their existing retirement plans due to the new rules, new bureaucracy and increased administration and costs inherent in the passage of such a far-reaching Bill. As you may recall, this was the reaction of many companies following the enactment of the Employee Retirement Income Security Act on 1974 (ERISA).

ERISA was the result of almost ten years of study and preparation and the process of changes in that law and the issuance of final regulations thereunder still continue to this date. H.R. 6410 would add more complexity to this legislative area which may already be the most difficult to understand and administer. As we are now settling somewhat in the aftermath of ERISA, H.R. 6410 comes along and creates havoc again.

We believe that legislative change of the magnitude represented by H.R. 6410 should warrant very careful and deliberate consideration and that such consideration should be made in political environment not pressured by current budget deficits. The self-help concept that has been fostered by the present Administration would be dealt a severe blow and be perceived by employees across the country as another ill-conceived and untimely effort to generate current tax revenues at the expense of future retirement benefits.

We serve in a fiduciary capacity for several hundred corporate retirement plans throughout the state. We have notified these plan sponsors of the negative effect H.R. 6410 could have on their current retirement programs.

Please help us defeat this proposed legislation now under consideration by committees in both the House and the Senate.

Sincerely,

DENNIS C. ADAMS,
Vice President,
Pension Development.

T. R. W. WILSON MEMORIAL LABORATORIES,
Greenville, S.C., July 15, 1982.

Hon. STROM THURMOND,
Senator from South Carolina,
Washington, D.C.

DEAR SENATOR THURMOND: I am very much disturbed by several proposals being discussed in the Senate Finance Committee which would change drastically the pension and profit-sharing plans for professionals "in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting." The corresponding bill in the House, H.R. 6410, ironically enough is called "The Pension Equity Tax Act of 1982". What both of these proposals actually do is create a discriminatory situation for those participants in corporate pension plans opposed to those participants in professional pension plans. The original acts were set up to end this gross discrimination. The current proposals would restore the glaring inequities. According to my information, the proposed plan would reduce the maximum annual contribution limit, place a 2-year freeze on the cost of living adjustment, increase the early retirement age from 55 to 62, reduce the cumulative total dollar amount limitation of benefits, and prevent a person from borrowing on his plan. We have been as liberal as the law allows with our employees and consider that our pension and profit-sharing plan is a real benefit. However, if these benefits are truncated, it would place us at an unfair competitive advantage with private industry. Not only that, in these days of high interest rates and continuing inflation, the pension and profit plan is frequently the only source from which our employees can borrow money at reasonable interest rates, if they can borrow money at all.

I am grateful for the small tax cut which was put through by the Reagan Administration last year, even though it was somewhat delayed. However, it was more than offset by an increase in my Social Security tax. Since this increase in Social Security tax did not increase my ultimate benefits, I can only consider it a form of income tax which the government is too dishonest to call an income tax. However, if this present destruction of the professional pension and profit-sharing plan goes through, I and my colleagues and employees will be in much worse shape as far as our ultimate retirement and present day existence than we were two years ago under the Carter Administration. I believe this entire proposal is a total reversal of the publicly supported Reagan Administration philosophy to reduce or maintain at present levels the amount of taxes to which a person is subjected. I would appreciate very much your opposition to these proposals.

Thank you.

DONALD G. KILGORE, Jr., M.D.

GREENVILLE, S.C., *July 16, 1982.*

Hon. J. STROM THURMOND,
U.S. Senate,
Washington, D.C.

DEAR SENATOR THURMOND: I am concerned about the recently agreed revenue raising proposals of the Senate Finance Committee and H.R. 6410 (The Pension Equity Tax Act) as they are related to reduction in benefits from retirement programs.

According to a recent editorial in the Wall Street Journal, it is estimated that 68 percent of those now in private pension plans would suffer reduced benefits.

At a time when everyone is concerned about the future of Social Security, it seems unfortunate that Congress would attempt to place further limitations on private pension plans.

Further, with recovery and growth dependent on generating more private savings and investment, it does not appear logical to start draining the capital in private pension pools.

We need bigger and better private pension systems, not weaker ones.

Your consideration of the harmful effects of this bill will be appreciated.

Respectfully,

GORDON E. WILLIAMS.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

Mr. DOLE. And let it be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from New Jersey may be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1124

Mr. BRADLEY. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Jersey (Mr. BRADLEY) for himself and Mr. BRADY proposes an unprinted amendment numbered 1124.

Mr. BRADLEY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section:

Title III of the Communications Act of 1934 is amended by inserting immediately after section 330 therein the following new section:

VERY HIGH FREQUENCY STATIONS

SEC. 331. It shall be the policy of the Federal Communications Commission to allocate channels for very high frequency commercial television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State, if technically feasible. In any case in which a licensee of a very high frequency commercial television broadcast station notifies the Commission to the effect that such licensee will agree to the reallocation of its channel to a community within a State in which there is allocated no very high frequency commercial television broadcast channel at the time of such notification, the Commission shall, notwithstanding any other provision of law, order such reallocation and issue a license to such licensee for that purpose pursuant to such notification for a term of not to exceed five years as provided in section 307(d) of the Communications Act of 1934.

Mr. BRADLEY. Mr. President, this amendment regarding a very high frequency television station in New Jersey has been dealt with by the Senate on thrge separate occasions, the last time by a vote of 86 to 4. It is cleared by Senator PACKWOOD, Senator DOLE, and Senator LONG. I offer it on behalf of Senator BRADY and myself.

Mr. DOLE. Mr. President, I have discussed this amendment. It is not germane, but it is a very important amendment and I am not going to raise any point of order on germaneness. It has previously passed the Senate by 86 to 4. It involves a very high frequency station in New Jersey. I am willing to accept the amendment. It has been cleared by the distinguished Senator from Louisiana.

I yield back the remainder of my time.

Mr. BRADLEY. Mr. President, I yield back the remainder of my time. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Jersey (Mr. BRADLEY).

The amendment (UP No. 1124) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BRADLEY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I yield to the Senator from Oklahoma.

UP AMENDMENT NO. 1125

(Purpose: To exempt interest payments of $100 or less from the withholding requirements)

Mr. NICKLES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oklahoma (Mr. NICKLES) proposes an unprinted amendment numbered 1125.

Mr. NICKLES. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 475, line 22, strike out "$10" and insert in lieu thereof "$100".

Mr. NICKLES. Mr. President, the amendment that I have deals with the withholding of interest and would increase the threshold at which the banks and savings and loans or other institutions would have to withhold interest. Presently in the law it says that if their interest income on an annual basis was $10 or less they would not have to withhold taxes.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Senate will be in order.

Mr. NICKLES. I thank the Chair.

The present law, as it is in the bill as drafted by the Finance Committee, has a threshold that says if your interest is $10 or less, you will not have to have withholding. The effect of my amendment is to increase that from $10 to $100.

Mr. President, I think all Members should know the effect of this amendment, because I am sure that everyone will be asked this question. If we increase that up to $100, which I hope that we will do and which I am pleased that the Finance Committee chairman and also the administration have agreed to this, it would have a very important effect because what it will do will exempt a greater number of small accounts that are in savings and loans and in banks from mandating that they have to have withholding. In other words, you could have $1,000 in a bank account and if it was paying 8-percent interest, the interest would be $80 and, therefore, it would not be mandated that they would have to withhold on that account.

So the real important aspect of this is that we will be eliminating the mandatory withholding on the interest of small accounts if that interest is less than $100 a year. That boils down to $25 a quarter.

If they happen to have passbook savings and they are earning 5¼ percent, they could have almost $2,000 in their account and not to have withholding taken out of their interest income. So I think it is a very positive thing. I think it will save millions of small savers from having an unnecessary penalty of withholding from their accounts.

I thank the Senator from Kansas for his assistance and also the assistance of his staff and the administration in working with me to come up with this exemption. The Senator from Kansas has other exemptions for persons that pay small amounts of income tax who will not have withholding. He also put in an exemption for persons who are over the age of 65. I compliment him on both of those exemptions.

I think this exemption, too, will go a long way toward restoring a little commonsense to this withholding amendment. It will save banks and S. & L.'s and other institutions a great deal of headaches and paperwork where they will not be required to withhold on small accounts. For example, if a person's interest income was $20 per quarter under the bill as it is, they would have to withhold $2. Now they will not have to do that. Certainly withholding $2 is not worth the time and expense for that institution to withhold that amount, report it, send it to the IRS, and later have the taxpayer probably file for a refund.

So I think it is a commonsense amendment. I think it will help restore some commonsense to this withholding section for interest, and I urge its adoption.

Mr. DOLE. Mr. President, the committee bill provides that the payor of minimal interest payments may elect not to withhold payments which aggregate less than $10 if made on an annual basis. The amendment offered by the distinguished Senator from Oklahoma, I think, is an excellent amendment and should go a long way in dispelling any fears, with all the other protections we have built in to the withholding section of our bill. I hope this will ease passage or make it more difficult to knock out the with-

holding section which will follow this amendment.

The amendment of the Senator from Oklahoma increases the $10 minimal amount in the committee bill to $100. The revenue effect in 1983 is $47 million, in 1984 is $33 million, and in 1985 is $35 million, for a total of $115 million.

Under this provision, no withholding will be required when the amount withheld on an annual basis would be less than $100. This will eliminate a substantial amount of nuisance paperwork on small transactions.

Mr. President, I commend the distinguished Senator from Oklahoma, who has been working on ways to make the withholding of interest and dividends work. He has been very helpful the past 2 days as we have sought ways to make certain we could assure our colleagues that what we were doing is consistent with tax compliance and at the same time that we are not making any change that would unduly impact on people 65 years of age or over, low-income Americans, or anybody with a small amount or minimal amount of interest or dividend income. We think this amendment is very helpful. I hope it will be adopted. I commend the Senator from Oklahoma.

Mr. KASTEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. KASTEN. Mr. President, I join in supporting the amendment of the Senator from Oklahoma. I think it is clearly the direction in which we want to be going. I hope that we go further, that we knock out this entire provision. The fact that we are recognizing the need for this exemption, I think, is important, and I hope that the Senator's amendment passes.

At the same time, I think it is important to point out, in the process of adding another exemption along with the other exemptions that we have already added, we are simply increasing the paperwork, increasing the forms, increasing the number of applications that people have to fill in order now to comply with this yet another exemption.

So it is a step in the right direction, but, as we put more and more exemptions into the system, we demonstrate, I think, the essential wrongness of the idea of withholding on savings and dividends.

I support the efforts of the Senator, and I hope that his amendment will be agreed to.

Mr. NICKLES. Will the Senator yield?

Mr. KASTEN. I am pleased to yield.

Mr. NICKLES. Mr. President, I point out to the Senator that under the bill, there is a $10 threshold level which gives banks and other savings institutions the option of not withholding unless aggregate annual interest exceeds this threshold. All we are doing is increasing that threshold from $10 to $100. I think there is presently a minimum amount of administrative overhead in the bill due to the $10 threshold and by increasing that threshold I do not think we will be increasing the paperwork.

Conversely, they can put this increased threshold in their computers and say that if an individual's interest payment on a quarterly basis is less than $25, no withholding will be withheld. I think that will greatly assist them in reducing the amount of nuisance paperwork. I think this expansion of the threshold will really be to the benefit of the banks and savings institutions.

Mr. President, I ask for the yeas and nays on my amendment at the appropriate time.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DANFORTH. Mr. President, let me commend the Senator from Oklahoma for what I think is a very constructive effort in trying to work something out with the chairman of the Finance Committee. Clearly, the issue of withholding of interest and dividends is the biggest issue in this bill. It is the one that gives most Senators the most problems.

Many of us, if we were able to have our wishes to the utmost, would not want to have any provision for withholding of interest and dividends.

On the other hand, we found ourselves in the Finance Committee with the duty, a duty that was imposed not by our own wishes but was imposed on us by the Congress as a whole. We had to come up with a figure, with a dollar amount. We had to come up with some $98 billion in increased revenue over a 3-year period of time.

Nobody likes to raise taxes. We like to reduce taxes. Most of us on this side of the aisle have been talking for as long as I have been here in the Senate about what we could do to bring taxes down, not what we could do to increase the revenues of the Federal Government.

When we were faced with the task of responding to the requirements of the budget resolution, we put together a package, and the package was not anything that delighted anybody. But one of the things we thought about was, is it possible to increase revenue without raising taxes? Is it possible to increase revenue without raising the taxes that are otherwise due and owing?

The answer to that question, in part, was, yes, it is. We could do it by collecting those taxes which already are due and owing from taxes. If we could do a better job of collecting taxes, we will not have to go so far in raising taxes.

Really, the issue that is involved in the whole question of the withholding of interest and dividends is whether or not we are going to accomplish that objective, whether or not we are going to attempt to meet the mandate that was given us through better collection procedures. That is what has been involved.

I know that the chairman of the Finance Committee has been working very hard, as has the President, as has our majority leader, in trying to keep this package together, because what is involved in this whole issue of dividends and interest is not just dividends and interest. It is a question of trying to keep together a package.

I was leaving the Capitol Building a couple of days ago and somebody said to me, "Is the package still together?"

Really, an amendment which would go right to the heart of the withholding question goes right to the heart of the package and goes right to the heart of our economic program. It goes right to the heart of whether or not we, on this side of the aisle, can do the job of leadership which the voters have given us to do. That is what is involved in this issue.

I want to express my admiration to the Senator from Oklahoma in going so far, in working with the Senator from Kansas, and accomplishing so much. The Senator from Oklahoma has much to take credit for, not only in achieving this amendment, which he will achieve, but also in, hopefully, saving this bill.

Mr. DOLE. Mr. President, if there are no more requests for time—are there any more requests for time?

Mr. President, I am prepared to yield back any remaining time.

Mr. NICKLES. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DOLE. Mr. President, I ask unanimous consent that this vote follow the vote on the Mitchell amendment when the voting begins at the hour of 7:30, unless that hour should be changed.

The PRESIDING OFFICER. Under the previous order, without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask that it be in order to now recognize the distinguished Senator from Wisconsin.

Mr. KASTEN. Mr. President, I ask unanimous consent that the amendment I am about to offer be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1126

(Purpose: To delete the withholding on interest and dividends provisions and to require statements to be filed by the taxpayer with respect to interest, dividends, and patronage dividends)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Wisconsin (Mr. KASTEN), for himself, Mr. HOLLINGS, Mr. MATTINGLY, Mr. JEPSEN, Mr. PRESSLER, Mr. MITCHELL, Mr. JOHNSTON, Mr. EXON, Mr. RIEGLE, Mr. FORD, Mr. PROXMIRE, Mr. HUDDLESTON, Mr. ROBERT C. BYRD, Mr. PRYOR, Mr. EAGLETON, Mr. BENTSEN, Mr. SASSER, Mr. HEFLIN, Mr. MELCHER, Mr. DECONCINI and Mr. RANDOLPH, proposes an unprinted amendment numbered 1126.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 510, between lines 4 and 5, insert the following:

"(4) Duplicate statement to be included in return of person with respect to whom information is furnished.—A duplicate of the statement required to be furnished to a person under paragraph (1) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.

On page 538, after line 19, insert the following new section:

SEC. 317. STATEMENTS TO BE FILED BY TAXPAYER WITH RESPECT TO DIVIDENDS AND PATRONAGE DIVIDENDS

(a) Dividends.—Section 6042 (relating to returns regarding payments of dividends) is amended by adding at the end thereof the following new subsection:

"(e) Duplicate statement to be included in return of person with respect to whom information is furnished.—A duplicate of the statement required to be furnished to a person under subsection (c) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

(b) Patronage Dividends.—Section 5044 (relating to returns regarding payment of patronage dividends) is amended by adding at the end thereof the following new subsection:

"(f) Duplicate statement to be included in return of person with respect to whom information is furnished.—A duplicate of the statement required to be furnished to a person under subsection (e) shall be included with the return of the person receiving such statement for the taxable year which ends with or within the calendar year to which the statement relates.".

On page 468, beginning with line 9, strike out all through page 501, line 7.

On page 501, line 8, strike out "Part II—Holding Period for Capital Assets" and insert in lieu thereof "Subtitle A—Holding Period for Capital Assets".

On page 501, line 9, strike out "SEC. 310." and insert in lieu thereof "SEC. 301.".

On page 505, line 13, insert "or" after the comma.

On page 505, line 17, strike out "or".

On page 505, Strike out lines 18 through 20.

On page 505, line 23, strike out "and tax deducted and withheld".

On page 509, line 9, insert "and" after the comma.

On page 509, lines 12 and 13, strike out ", and" and insert in lieu thereof a period.

On page 509, strike out lines 14 through 16.

Mr. KASTEN. Mr. President, this amendment is being offered by myself and Senator HOLLINGS. I want to point out that Senator HOLLINGS had a large part in the drafting of this amendment, particularly the section having to do with information reporting.

Mr. President, our amendment would strike the interest and dividend withholding provisions from this bill.

These provisions are not new to Congress. In 1980, an overwhelming majority of Republican and Democratic Senators defeated this proposal because it was simply not good public policy. Two years have passed, and nothing has changed. The problems with withholding are still unresolved.

If the Senate votes to mandate withholding a total of 400 million interest and dividend bearing accounts would be affected. Approximately half of these—that's 200 million accounts—would be entitled to exemptions. It is ironic that, at a time when Americans are demanding a reduction in the paperwork burden of Government regulations, we would vote to increase the flow of paper by approximately 200 million. And every time a new account is opened or stock is traded, another new form must be filed.

Mr. President, it is the low-income taxpayer who will bear the greatest burden of these withholding provisions. Even with the exemptions for the low-income and low-income elderly, the IRS will be over withholding on those who can least afford to give the Federal Government an interest-free loan. For example, married people under 65 with taxable income greater than $9,750 and less than $17,342 would be caught in an over withholding trap. Their income will be too high to qualify for the low-income exemption, but their tax liability is less than the 10 percent withheld.

The withholding trap also applies to those over 65. The American Association of Retired Persons opposes the Finance Committee withholding provision, because of the difficulties of locating and exempting all of the elderly Americans who deserve to be exempted.

There are many other technical problems with withholding that are difficult to solve. What do you do about the uncompetitive situation set up when one bank in town is exempted from withholding for a year or two, and another must comply immediately? What becomes of compounding interest and reinvested dividends? How would a financial institution allocate withdrawals that occur before a withholding date? The list goes on and on.

Despite all of the problems withholding would cause, there is still no incentive for the big cheaters to pay all their tax liability under this system. A taxpayer in the 50-percent marginal rate tax bracket with $1,000 in interest income would have $100 withheld. He would still owe $400 in taxes, but knowing that the IRS does not necessarily track this information, there is little incentive to report and pay this at the end of the year.

But Mr. President, the essence of the problem is that at a time when we are trying to encourage savings, at a time when we are trying to encourage investment, we are being asked to accept a provision which would undermine both.

If you want more of something in our economic system, you must provide an incentive. If you want less of something in our economic system, there are two things you can do: You can tax it, or you can regulate it.

Here we are, after adopting an economic recovery program designed to encourage savings, investment, risk taking, entrepreneurship, excellence, and accomplishment, turning around and attempting to pass a provision which, by taxing and regulating savings and dividends, will work to dampen that economic spirit and work as a disincentive toward savings and investment.

This provision goes in the opposite direction of all we have worked to achieve in the past year and a half. It is an unworkable, costly, burdensome, and counterproductive proposal, and I hope my colleagues will join me in voting for its defeat.

Mr. President, I yield to the Senator from South Carolina (Mr. HOLLINGS), the cosponsor of this amendment. I thank him for his help and support.

Mr. HOLLINGS. Mr. President, I thank my distinguished colleague from Wisconsin.

I ask unanimous consent that the following be added as cosponsors if they are not already listed: Mr. MITCHELL, Mr. JOHNSTON, Mr. EXON, Mr. RIEGLE, Mr. FORD, Mr. PROXMIRE, Mr. HUDDLESTON, Mr. ROBERT C. BYRD, Mr. PRYOR, Mr. EAGLETON, Mr. BENTSEN, Mr. WEICKER, Mr. PRESSLER, Mr. SASSER, Mr. LEVIN, Mr. MELCHER, Mr. DECONCINI, and Mr. RANDOLPH.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, my amendment deletes from the bill the required withholding of 10 percent of interest and dividend income.

Withholding has been offered before. It has been defeated before and it should be defeated now. The withholding provision would be costly, discourage savings, and impose additional paperwork burdens at a time when we are trying to reduce paperwork, promote savings, and cut costs.

Financial institutions throughout the Nation are strapped, none more so than our saving and loans. To require withholding on interest and dividends could impose as much as $1.5 billion in

additional costs on these already hard-pressed institutions.

While the institutions themselves would bear some of the expense, there is no question they would be forced to pass on a portion of the cost to their customers. So the withholding provision is a double-edged sword. While extra financial burdens jeopardize the standing of the institutions in which so many Americans invest the fruits of their livelihood, withholding will also cut into those individual livelihoods by adding higher service charges and greater interest rates on loans.

If the withholding provision promises hardship for financial institutions and their clients, it also undermines the effort to promote greater personal savings throughout the Nation. This administration has argued as an article of faith that we need to stimulate savings. Few would dispute the argument. Without savings, the Nation deprives itself of desperately needed capital upon which business and industry might draw for the kind of expansion and renewal necessary to create more jobs. The withholding feature of the bill, however, will tend to discourage savings. It would take money out of private hands, and deprive the capital markets of important sources of funds.

It is claimed that requiring withholding will yield $4.3 billion in additional revenues to the Government in 1983. Yet, only about $1.3 billion of that—less than one-third—is estimated to come from additional taxpayer compliance. The remainder would be derived from acceleration of tax payments—money that is eventually paid anyway. In order to collect something on the order of $1 billion in new revenues, the withholding provision would impose hundreds of millions in new costs on financial institutions and the American people.

Let us be realistic. Withholding is not necessary to increase compliance—the bill already does that, giving the Secretary of the Treasury discretion to require submittal of 1099 forms with tax returns. My amendment removes the discreation and makes the forms mandatory. This will insure that all interest and dividends paid are accounted for by the taxpayer to the IRS, and makes withholding an unnecessary burden.

The withholding proposal could have a direct, adverse impact on the elderly. They would be required to file a certificate with their financial institutions in order to demonstrate their exempt status, and prove they are elderly. Thus, withholding would foist upon senior citizens an affirmative act, another nagging burden as onerous to a frail individual as the overall withholding provision would be to troubled financial institutions.

Withholding is in this bill because administation chieftains would have us believe that there is some sort of conspiracy afoot to avoid these payments. I do not question the need to achieve full compliance with our tax laws. But the bill has compliance features enough already. Moreover, preliminary IRS figures for 1981 show a compliance rate of 89 percent for interest and 85 percent for dividends, admittedly not perfect, but certainly perfectable—and without recourse to a withholding scheme likely to spawn more questions about our tax laws, generally.

We do not need this withholding provision. We have affirmed that before, and we should reaffirm it now.

The withholding provision is not likely to be cost effective. It would not produce a flood of new revenues, but the revenues it would produce would come at substantial cost to both financial institutions and taxpayers.

At a time when we are searching for less complex tax laws, withholding would sew another costly administrative patch on the crazy quilt of the Federal Tax Code. I hope my colleagues will join in supporting my amendment to strike the withholding provision from the bill.

Mr. President, the purpose of withholding is to bring about compliance with our tax laws. At the present time, we have 89 percent tax compliance of those receiving interest income and 85 percent compliance for those receiving dividend payments. So the gimmick here is to pick up the additional 11 to 15 percent. Fundmental to the collection of income taxes is the filing of the W-2 form. We have 98.7 percent compliance with that filing of the W-2 form. So it is only reasonable to assume that if we require the 1099 form to be filed with the individual's tax return, that would bring about full compliance. That is what we have done as cosponsors of this measure.

We are not trying to help evade taxes or avoid compliance. Our amendment makes mandatory the filing of the 1099 forms. Under the Finance Committee bill, it is discretionary and could be required by the rules and regulations promulgated by the Secretary of the Treasury. It is mandated by this amendment.

Once we have mandatory filing, in essence, we have collected $1.3 billion. That is really the only additional amount of money collected under the bill. I learned this on the Committee on the Budget some years ago, because this has been in course now for about 6 years: They have an "exaggeration" requirement at the Treasury Department. Every Secretary of the Treasury comes forward and says we are going to collect billions of dollars if we just have tax withholding on interest and dividends. The fact of the matter is that Treasury itself has stated that 75 percent of that $4.3 billion estimated for 1983 by the Finance Committee is really accelerated payments and not new money.

So, in reality, Mr. President, we are trying to collect some $1.3 billion. As I stated just a moment ago, under the compliance section in our amendment, we get that $1.3 billion. Assuming the accuracy of the Finance Committee's and Senator DOLE's argument—which I am sure he will make—you will find that what we get from this withholding provision is $1.3 billion at best. This does not really put the Finance Committee bill out of whack, because, as reported, it exceeds the reconciliation instruction. But we are not relying on that cushion. I reemphasize the compliance section.

If we look, then, at the accelerated payments going in to the Government, what we would be doing, in essence, is taking $3 billion out of capital markets that is really immediately reinvested. Some 2 million investors receiving interest and dividends immediately reinvest. So it is reasonable to assume that that $3 billion interest-free loan that would go to the Government would be taken out of the capital market and could not be reinvested.

I plead with my colleagues to understand this measure, because it is not good Finance Committee legislation. It is a very poor bill. Senator DOLE himself and many others said so just 2 years ago in Senate Concurrent Resolution 92.

Mr. President, I ask unanimous consent that Senate Concurrent Resolution 92, of the 2d session of the 96th Congress, with a list of cosponsors, as reported by the Finance Committee, be printed in the RECORD at this point.

(Mr. RUDMAN assumed the Chair.)

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. CON. RES. 92

Declaring that the Congress does not favor the withholding of income tax on interest and dividend payments

Mr. Chafee (for himself, Mr. Dole, Mr. Lugar, Mr. Goldwater, Mr. DeConcini, Mr. Hatch, Mr. Durkin, Mrs. Kassebaum, Mr. Stafford, Mr. Tower, Mr. Humphrey, Mr. McClure, Mr. Cochran, Mr. Church, Mr. Helms, Mr. Pressler, Mr. Ford, Mr. Garn, Mr. Randolph, Mr. Danforth, Mr. Hayakawa, Mr. Thurmond, Mr. Pryor, Mr. Zorinsky, Mr. Hatfield, Mr. Mathias, Mr. Wallop, Mr. Young, Mr. Schmitt, Mr. Cohen, Mr. Heinz, Mr. Roth, Mr. Laxalt, Mr. Durenberger, Mr. Baker, Mr. Stevens, Mr. Warner, Mr. Armstrong, Mr. Stone, Mr. Percy, Mr. Glenn, Mr. Leahy, Mr. Morgan, Mr. Nunn, Mr. Bumpers, Mr. McGovern, Mr. Tsongas, Mr. Schweiker, Mr. Hart, Mr. Eagleton, Mr. Boren, Mr. Metzenbaum, Mr. Melcher, Mr. Stewart, Mr. Williams, Mr. Levin, Mr. Gravel, Mr. Nelson, Mr. Riegle, and Mr. Bentsen) submitted the following concurrent resolution; which was referred to the Committee on Finance.

July 23 (legislative day, June 12), 1980. Reported by Mr. Long, without amendment.

Declaring that the Congress does not favor the withholding of income tax on interest and dividend payments.

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the enactment of a withholding tax on interest and dividend payments would be detrimental to the economic well-being of the United States.

DISAPPROVAL OF WITHHOLDING ON INTEREST AND DIVIDENDS

July 23 (legislative day, June 12), 1980.—Ordered to be printed.

Mr. Long, from the Committee on Finance, submitted the following.

Report—To accompany S. Con. Res. 92

The Committee on Finance, to which was referred the resolution (S. Con. Res. 92) with respect to declaring that the Congress does not favor the withholding of income tax on interest and dividend payments, having considered the same, reports favorably thereon without amendment and recommends that the resolution be agreed to.

I. SUMMARY

Under present law, there is no withholding on interest and dividends paid to U.S. investors. Earlier this year, the administration recently proposed that these types of payments be subject to withholding. This resolution would express that it is the sense of the Congress not to favor the withholding of income tax on interest and dividend payments.

H. GENERAL DISCUSSION OF THE RESOLUTION

Present law

Under present law, there is no withholding on the interest and dividends of U.S. investors. While not subject to withholding, most interest and dividend payments must be reported by the payor to the recipient and to the Internal Revenue Service.

ADMINISTRATION PROPOSAL

The Administration has proposed a broad-based program of withholding on interest and dividend payments at a rate of 15 percent. Generally, the proposal would require withholding on payments by commercial, industrial, and financial institutions (and similar organizations) to individuals, partnerships, and certain trusts. Individuals who reasonably expect to be wholly free from tax liability would be exempt from withholding. (These individuals would file an exemption certificate with the interest and/or dividend payor.) The proposal also contemplates that the Secretary of the Treasury would have authority to prescribe regulations implementing additional individual exemptions from withholding, taking into account both the burden on withholding agents and the needs of individuals subject to withholding.

ESTIMATED REVENUE EFFECT OF THE ADMINISTRATION PROPOSAL

The Administration proposal would increase receipts by $3.4 billion in fiscal year 1981. Of this, $2.4 billion would be attributable to a speedup of collections which would otherwise occur in fiscal year 1982. (These estimates, however, do not take account of exemptions which have been proposed by the Administration subsequent to its original proposal.)

COMMITTEE RESOLUTION

Since the current system of withholding on wages and salaries was initiated, there have been several proposals for extending withholding to interest and dividend payments. The Committee has never approved such proposals in the past and it is the judgment of the Committee that it will not approve any such proposal now. The Committee is concerned that the proposal to withhold income tax on interest and dividend payments could work hardships on those individuals least able to afford them, such as retirees who depend on social security and dividend and interest income. In addition, the Committee believes that the proposed exemptions from withholding, which are designed to make the system more equitable, would make the withholding system unacceptably cumbersome and costly to administer. Because of these concerns, the Committee has reported this resolution which affirmatively states that it is the sense of the Congress that the enactment of a withholding tax on interest and dividend payments would be detrimental to the economic well-being of the United States.

III. VOTE OF THE COMMITTEE IN REPORTING THE RESOLUTION

In compliance with paragraph 7(c) of Rule XXVI of the Standing Rules of the Senate, the following statement is made relative to the vote by the Committee to report the resolution.

The resolution (S. Con. Res. 92) was ordered favorably reported by voice vote.

Mr. HOLLINGS. Mr. President, if you look at that list, you will find my authority. The chairman of the Finance Committee himself, and almost 60 Senators at that time cosponsored that resolution opposing the recommendation of President Carter. How is it that what was outrageous and untenable, unwise, and fiscally unsound under President Carter now constitutes great wisdom under President Reagan?

The cost in actually instituting a withholding system for the banks, the savings and loans, the credit unions, and other financial institutions will be some $1.5 billion. Another $500 million per year will be needed to maintain liquidity in the financial system. So, again looking at it fiscally, as a budgeteer would, what we are doing is costing the Treasury some $2 billion to collect $1.3 billion, when that $1.3 billion could be collected simply by the compliance section being mandated in our amendment.

The bottom line, as Senator KASTEN has pointed out, is that this withholding system will add to the bureaucracy. It is astonishing that an administration elected to diminish regulation, and reduce Government intrusion in private endeavor, is now proposing to add more bureaucracy, more regulation, and more intrusion. The fact is that there are 88 million savings accounts in commercial banks; 34 million time deposits; 6 million interest/bearing transaction accounts—like NOW accounts; 100 million stockholder and bondholder accounts; 90 million savings and loan accounts; millions of credit union accounts; and over 170 million savings bonds that are redeemed each year. The list does not stop there.

If we are going to have to pay these additional costs, if we are going to have to set up an account when somebody comes in with a savings bond you are going to refuse to cash the savings bond. This has not really been thought through. The burden has been on the committee to find some $20 to $25 billion and they are trying to take credit for it with the so-called $3 billion on the withholding amendment. I say take credit for the $1.3 billion that could actually be applied to the deficit by only accepting the compliance part of this amendment.

There is the argument. I guess I will hear it and I will be able to argue at the time, that here you have the wage earners subjected to withholding taxes and only the fat cuts are not going to have the withholding.

Of course, that is totally inaccurate. On the one hand, fat cats do pay taxes. They are the ones hiring all the accountants. They make their estimated returns and they make them quarterly, so in reality you already have withholding on the so-called fat cats.

But what this particular measure will affect is the relatively modest income person with savings in a savings and loan, credit union, or small bank savings account. This bill will impose an extra burden on them.

I am glad to try to propose an answer to that particular argument, but more than anything else you turn around by 180 degrees the policy of trying to promote savings as was emphasized by the Senator from Wisconsin. The year before last we exempted $200 of interest and dividend income for the individual, $400 for a couple, from income tax payments. We wanted affirmative action to promote saving in this country. And here now in a very callous fashion, with the added bureaucracy—uneconomical, burdensome, and intrusive—they are going to add this withholding scheme at the cost of $2 billion in order to get $1.3 billion in additional revenue.

Mr. President, I plead with my colleagues that this is unsound and unwise policy. Let us not go overboard in trying to find additional revenues with an entirely new bureaucratic system when the revenues could easily be reached by increased compliance simply by filing, as we do the W-2 form, the 1099 form when you pay your income tax. That is required by the amendment, and I urge its support.

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I think I pretty well stated my views on the subject in connection with the amendment that was offered by the Senator from Oklahoma. I would just like to state very briefly that this is truly a killer amendment. This is an amendment which would kill the bill, I

think. That is, something like $12 billion I believe is involved in this, a very substantial part of the total bill.

I must say I admire those who have offered the bill because what an awesome responsibility to assume not only for the question of taxation of interest and dividends but for the bill itself, and maybe in a larger sense for the economy of this country.

This particular provision in the bill is not one which increases the tax liability of anybody. It is simply a provision to assure that taxes that are due and owing will be collected.

It seems to me that it is much preferable to collect taxes which are due and owing than to increase the tax liability of people, particularly at a time of recession.

But for those who say, "Well, if we raise revenue, fine; we are all for raising revenue; we realize under the budget resolution we have to raise revenue, but do not do it this way," I can tell Senators that in the Finance Committee we would have appreciated their thoughts on how to raise the revenue during the consideration of this matter 2 weeks ago.

Mr. President, I yield now 5 minutes to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I have worked closely with the chairman of the Finance Committee on the problem of tax compliance since last December, to come up with methods to collect revenue before we talked about raising taxes on particular groups of people or the public in general. In early March Senator DOLE and I introduced the Tax Compliance Improvement Act. We included sections that would attempt to recover unreported interest and dividend income. I think they are good provisions that Senator DOLE and I thought would accomplish the goals that we wanted to accomplish.

At the time we introduced the bill, we knew they would not bring in the amount of revenue that withholding would yield. We set objectives in that bill that were unrelated to revenue targets. We hoped we could accomplish what withholding would accomplish at a slower pace. Now, we needed more revenue for this bill to comply with the budget resolution. We had to measure all of those things.

We decided to support withholding in this instance because it would bring in more revenue and it would lessen the tax gap to a greater extent.

This is not a position we relish because, quite frankly, we would like to have people who have income from interest and dividends complying with the tax laws to the same extent that working men and women with wage withholding comply—that is 99-percent compliance. How do I as a member of the Finance Committee justify 11-percent noncompliance on interest income when we only have 1-percent noncompliance on wages?

How do I justify to the working men and women of my State, who have 99-percent compliance, that it is all right for 15 percent of the tax on dividends to go uncollected and unreported?

How can I justify that we have $4.1 billion of unreported, uncollected tax from interest and $3.6 billion of uncollected tax on dividends when the working men and women of this country who have their wages withheld are having taxes collected on 99 percent of their income?

This is a matter of fairness. It is a matter not just a question of raising money rather it is a matter of treating various categories of income equally and collecting taxes owed. It is just that plain and simple.

I could stand here and argue in good faith with good points as did the Senator from Missouri, this is the heart of the tax bill and if this provision is defeated perhaps our whole effort of economic revitalization will fall also. This bill is very important to reducing the deficit, but that is not the most important aspect of this legislation.

We are trying to bring fairness and equity to the tax policies of the Federal Government. We do not have fairness and equity now. This will bring more equity. It will bring more justice. It also adds in $4½ billion to our revenue targets, one-fourth of what we need in the first year. This is very important. It is a large chunk of money. I think each one of us ought to ask, Where is that money going to come from if we defeat this provision?

On whom are you going to impose a new tax to raise that amount of money? How are you going to justify raising a new tax or imposing a new tax when in fact we are not collecting the taxes that are already owed and that everybody agrees should be paid and that is simply unreported income?

That is where we are with this amendment, and that is why I am supporting it.

I have gotten here, first of all, by trying to do it by increased tax compliance. That would bring in a lot of revenue but not as much as this will bring in. What we are after now will accomplish two goals—equity and fairness—and this is the way to accomplish it.

Requiring withholding on interest and dividends is an action the Senate Committee on Finance took with great reluctance. The Internal Revenue Service estimates that 15 percent of dividend income and 11 percent of interest income is not reported. This contrasts with a 99 percent reporting rate for wages, which are withheld by Federal law. Faced with this problem, the committee adopted withholding on interest and dividends.

While drafting our compliance bill, Senator DOLE and I were confronted by these serious noncompliance statistics. We attempted to draft a more narrow solution to the problem based on the information provided by the Internal Revenue Service. The majority of interest income that is inaccurately reported stems from two basic causes. If the taxpayer provides an inaccurate social security number to the financial institution or the payor of interest, a mismatch occurs because of the inaccurate number. Our bill requires the taxpayer to be notified that a bad number has been reported to the Internal Revenue Service and gives the taxpayer 7 days to correct the mistake. If the mistake is not corrected, the payor would be ordered by the Internal Revenue Service to begin withholding on the account. The second reason the Internal Revenue Service is unable to match interest income to a taxpayer's return is that the taxpayer has not provided a social security number. Our bill would impose a penalty on a payor of interest who accepts an account without receiving a taxpayer identification number. We felt these provisions narrowly addressed the immediate problem and would raise enough money to improve compliance substantially.

Nevertheless, the huge revenue estimate for instituting a system of withholding on interest and dividend payments compelled the committee to take this action rather than choose other alternatives that would actually increase taxes on individuals.

While mandatory withholding has always been controversial, this provision was drafted in an attempt to alleviate as much hardship as possible. Banks and savings and loan associations would be permitted to elect to defer withholding on payments of interest until the last day of the year in which they made interest payments as long as the account's balance did not fall beneath the reporting threshold. This would free financial institutions from initiating complicated withholding systems to be triggered as often as interest is paid to their depositors. This alternative requires only an annual calculation by the bank if the depositor keeps his or her money with the same financial institution.

Furthermore, the committee provided exemptions to certain individuals, some to be obtained by filing an exemption certificate with the payor, and other exemptions to be granted as a matter of statutory right. Low-income individuals who had tax liability of less than $600—$1,000 for joint returns—in the preceding year may be exempt from withholding upon the filing of a certificate. Also, elderly taxpayers with tax liability of less than $1,500, or $2,500 if they file a joint return, may also be exempt from withholding upon the filing of an exception certificate. If a couple is married

and either spouse is 65 or over, the couple would be considered exempt from the withholding requirement. According to the committee staff, if a couple files a joint return using the standard deduction, they will be exempt from withholding unless their income exceeds $22,214 using the 1982 tax rates. It is the committee's intention to try to exempt as many elderly and low-income individuals as possible and we have succeeded in exempting 90 percent of the elderly. Another class of exempt taxpayers would be those who receive payments by consumer cooperatives. Also, payments on small amounts of interest on U.S. savings bonds would be exempt from withholding if the payment of interest is $10 or less for the year. Payments by small financial institutions may also be exempt from the withholding requirements as described above. These provisions are designed to eliminate the harsh operation of instituting a withholding system on interest and dividends. It is the committee's hope that a carefully crafted provision with sensible exemptions will create optimal compliance and minimal administrative burdens.

Mr. DOLE. Mr. President, the Senator from Kansas believes he can stand here and advocate this amendment because I advocated it in 1976, along with Senators LONG, PACKWOOD, ROTH, DOMENICI, HOLLINGS, STEVENS, CRANSTON, PROXMIRE, KENNEDY, HART, WEICKER, PELL, and STAFFORD. We are Senators who were here in 1976 who supported a 15-percent withholding.

I am surprised that the Senator from South Carolina has changed his mind, because we have all these exemptions built in to limit the impact of the provision.

It seems to me that if we want the centerpiece of this package to go down the drain, a $12 billion provision, if we want to excuse some people from paying taxes in America, then we can kill this provision in the bill.

I know all the pressure that is coming from the big banks. But I would note that the top 20 banks in this country paid taxes of less than 0.2 of 1 percent on $2 billion last year. They should be trying to help us collect money from people who do not pay taxes before we try to impose a tax on someone else.

I know all about the pressures and all about the lobbies. But having voted in 1976 for 15 percent withholding, I think I can stand here now with some credibility. That amendment in 1976 was rejected by a vote of 35 to 55. There were 35 Senators who supported that amendment, and 14 are still in the Senate.

The economic policy of the President of the United States is on the line, I say to my Republican colleagues. Our ability to lead in this country is on the line—the Republican Senate.

In November 1980, the American people said, "Let's give the Republicans a chance." A chance to do what? To try to balance the budget. To try to stop runaway spending. To try to bring down interest rates. To try to get the country back on the right track.

I think this is a test of leadership for the Republican Party. It is also a test of leadership in the area of tax reform. Do we want tax reform or do we want to talk about tax reform?

Believe me, putting this package together was not easy. I want to extend credit where credit is due, to the six Republicans on that committee who are running for reelection in 1982—in vote after vote for tax reform, they had the will to take on the big interests of America.

I guess we cannot satisfy everyone. I know that some people have legitimate concerns about this amendment.

Maybe I am prejudiced, but again I will stake my credibility on it, that I voted for withholding, for 15 percent, and for no exemptions, and so did the Senator from South Carolina, who is here tonight trying to wreck the package—a man who advocated $180 billion in new taxes during consideration of the budget resolution. Where will new taxes come from? You may try to do away with the third year, or wreck the President's program. Now we are asked to follow the Senator from South Carolina tonight in an effort to wreck the President's program.

Believe me, it is frustrating trying to raise $100 billion. I say to my Republican colleagues that this is our test. We will have some Democratic support, for which I am thankful. We have Democrats who are interested in tax reform. This is a fairness package. It is a package on which we spent months and months.

I talked to the President about withholding. He said, "What is wrong with withholding on dividends and interest?" Why should not people pay taxes? Why should 13 percent and 19 percent not pay taxes on interest and dividend income?

Why should anybody ask your neighbor or my neighbor or somebody in your State or my State to pay more taxes because somebody does not report interest and dividends?

The compliance rate of working people is 99 percent. Taxes are taken right out of their checks, and they should be here screaming for this amendment. It is not the working people of America who are worrying about tax evasion. It is not low-income Americans. It is the people with some means who are investing and have dividends and interest and do not pay taxes.

I wish to pay tribute to the Senator from Iowa (Mr. GRASSLEY). When we introduced the Grassley-Dole measure in March of this year, a lot of people said, "It is a public relations gimmick. They are going to have a big press release." We had a big press conference, and I guess a lot of people said, "That's never going anywhere. It is just talk about tax compliance."

However, in this provision, because of the interest of the distinguished Senator from Iowa, we are picking up $30 billion in tax compliance. We are picking up another $28 billion in closing loopholes. That is 60 percent of the 98.3 percent. Also, in many other areas we are going after people who should have been gone after a long time ago. Some are mistakes made in the bill last year and some were made 5, 10, 15, or 20 years ago.

I say to my colleagues that this is a test of leadership. I am not trying to scare any Democrats away from efforts to defeat this proposal, but the Republicans are the majority party.

The President has worked hard to get this package passed. He has made phone calls and has had private visits, which he should do. But if anyone thought the President was backing away from this package, I think that has been laid to rest.

I know of all the objections to withholding. I remember 1976. I have some great speeches made by Senators which I should like to read, but we do not have time.

The distinguished former chairman of the committee, Senator LONG, made a great speech on the merits of withholding. Others made good speeches in 1976 on the merits of withholding. They are very good. They convinced me. [Laughter.] There I was, a member of the minority party, voting with the Democrats for withholding, because it was right.

Mr. LONG. Mr. President, will the Senator yield on my time?

Mr. DOLE. I will yield on my time.

Mr. LONG. Permit me to say to my distinguished colleague that I have been on both sides of that issue, so I guess I can support the arguments on both sides of it now. I appreciate the fine argument the Senator has made.

Mr. DOLE. I am reminded of the old saying: Some of my friends are for it, and some of my friends are against it, and I am going to stick with my friends. [Laughter.]

I know how the PAC's are out there working—the Political Action Committees—the bank PAC's. If I paid as little taxes as banks in this country, I would be up here saying we should have this measure; because if we do not get it—this is not a threat—we are going to be $12 billion short, and between now and the time we finish this bill tonight, we will have to find a way to pick up the $12 billion.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. DECONCINI. I am not as familiar with this as is the Senator from Kansas or the Senator from Louisiana and others who have been on the Finance Committee.

Is this a similar proposal to that which was made 2 or 3 years ago by the previous administration?

Mr. DOLE. In that case, it was 15 percent. It did not have the exemptions that this provision has. It did not have the $100 floor that the Senator from Oklahoma has included.

I think there are some rather major differences.

Mr. DECONCINI. I cannot remember the exact date. Was that roughly 3 years ago?

Mr. DOLE. It seems so long. I cannot remember when President Carter was here.

Mr. DECONCINI. I just wonder if the Senator has the number of Republicans who voted in opposition to that effort that was put forth by the Carter administration. I know as a Democrat I voted against it to my best recollection because I thought it was a mistake then.

Mr. DOLE. I will be happy to furnish that for the RECORD and put the vote in the RECORD along with the vote in 1976.

Mr. DECONCINI. That will be helpful.

Mr. DOLE. Mr. President, I ask unanimous consent to have printed in the RECORD that material.

(The material will be supplied for printing in tomorrow's RECORD.)752-753S

Mr. DOLE. I believe there are major differences between that provision and the provision before us now and there have been major changes made to satisfy some of the real concerns; and there are real concerns.

But I ask those who are going to vote against the package to explain why Americans who do not pay taxes should not pay their taxes. If we are not going to withhold from the rich people why should we withhold from the working man and woman. Maybe we should repeal the withholding tax.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. DECONCINI. I wonder if the Senator asked the same question when it was before us proposed by the Carter administration.

Mr. DOLE. I may have. I voted for it in 1976. That was before the Carter administration. I do not want to get into all that. I wish to finish my statement. I doubt that many votes are going to be changed.

The PRESIDING OFFICER. Under the previous order, 7:30 p.m. having arrived, the Senate will now vote in relation to the amendment offered by the Senator from Maine.

Mr. DOLE. Mr. President, I ask unanimous consent that we defer that procedure until we finish the debate on this amendment and then we can have three votes back to back.

The PRESIDING OFFICER. Is there objection?

Mr. GRASSLEY. Mr. President, reserving the right to object, while the Senator from Kansas was gone, out of respect for another Senator speaking to me, when I was sitting in the Senator's chair with one of the staff, Senator METZENBAUM asked, and I gave him my word, that there would be no unanimous-consent while he was gone for a period of time.

So I do not care what action the Senator takes, but I should bring that to his attention.

Mr. DOLE. I do not think the Senator from Ohio will object.

Let me suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I understand that the Senator from Ohio has no problem with this. I think what he is concerned with is some unanimous-consent request on time limits or on some amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, for 1981 the preliminary study of income and current Federal taxes for large commercial banks shows the following:

Total results for 18 large banks show an income of $3,378,066,000. Their consolidated income—U.S. source only—was about $2.03 billion. They paid about a minus $5,565,000 in taxes. The tax rate on U.S. and foreign source income is minus 0.2 percent. The tax rate on U.S. source income was minus 0.3 percent.

Mr. President, I know there are other Members who wish to speak on this amendment. I do not want to take all the time.

Again I say it is a very important amendment. It is a key to this entire Finance Committee package.

I say to my colleagues I hope they have some confidence in what we did in the Finance Committee and I hope that the amendment will be defeated and that we will adopt the provision in the Finance Committee bill.

Mr. THURMOND. Mr. President, will the Senator yield to me?

Mr. DOLE. I am happy to yield.

Mr. THURMOND. Mr. President, the question of whether Federal income tax should be withheld from interest and dividend earnings is a very close issue.

When a similar but more far-reaching proposal was put forward by other administrations, I opposed it. My opposition to the measure at that time was based in part on the additional regulatory burden imposed on depository institutions. In addition, I was especially concerned that persons who had no tax liability and who might not otherwise have to file a tax return, particularly low-income and elderly persons, would be required to do so in order to secure a refund of taxes withheld from their savings. The proposal now before the Senate does not have these major flaws.

With the report of the Reagan administration, the Senate Finance Committee has recognized the problems inherent in this proposal and has established six exceptions to the withholding requirement imposed by this bill. Specifically, there are exceptions for:

First, payments to certain low income and elderly individuals;

Second, payments to other exempt recipients such as corporations and nominees;

Third, certain payments by consumer cooperatives;

Fourth, payments of small amounts of interest on U.S. savings bonds;

Fifth, at the election of the payor, payments which would aggregate less than $100 during the taxable year, if made on an annual basis; and

Sixth, payments by certain small financial institutions exempted by regulations issued by the Secretary.

The reporting requirements of this bill are not substantially different from those now required of institutions paying interest and dividends. Currently, a form 1099 must be issued showing the amount of interest on dividends paid to each recipient. The additional task of withholding 10 percent of the amount paid and remitting this to the IRS in this era of computerized, electronic data processing should not be unreasonable. The alternative means of insuring that interest and dividend income is reflected on tax returns would be for the IRS to audit each and every return. It is obvious that this would be an extremely costly, time consuming, and intrusive process that would be opposed by virtually all taxpayers.

The case for withholding is based on the premise that no one has the right to cheat on taxes. To the extent that persons do not pay taxes which they are legally obligated to pay based on interest, dividend, and other income, the tax burden on honest taxpayers is increased. The administration and, especially the Treasury Department, strongly contend that this withholding proposal, with its protections for senior citizens, low income persons, and small financial institutions, is reasonable and a necessary tax compliance tool. While I continue to harbor some doubts about the wisdom of the proposal, I am willing to support it at

this time in order to ascertain whether the worthwhile objective behind it can be achieved without an undue burden on those affected.

The PRESIDING OFFICER. Who yields time?

Mr. KASTEN. Mr. President, I yield such time as he may need to the Senator from Iowa, the cosponsor of the amendment.

Mr. JEPSEN. Mr. President, first of all, I wish to commend and thank my good friends, Senator DOLE and Senator GRASSLEY, for their hard work on this bill. I agree with just about everything that Senator DOLE said just a few minutes ago. In fact the Senator from Kansas and I agree most of the time on most things. On this particular issue, however, I must say that it is my opinion that the Finance Committee has overestimated the underreporting of interest and dividends currently. I oppose the committee proposal and respectfully submit the following four points for Senate consideration:

First. The committee proposal groups millions of the elderly and family savers in this country with the thousands who are purposely evading taxes. All people affected by the committee action have their interest and dividends reported to the IRS on 1099 forms each and every year. Therefore, I believe the committee is grossly overestimating the amount of revenue to be collected.

Second. Financial institutions are already required to notify the Internal Revenue Service of interest and dividends paid.

Third. Imposition of withholding will impose a substantial cost for financial institutions. There are costs associated with implementing a new system, costs associated with not having the withheld money in their accounts, and there are costs associated with determining the exemptions for the elderly and the low income contained in the legislation. Under the terms of the proposal all savings and banking institutions would have to have a crystal ball and a crew of detectives to comply with the withholding parameters.

Mr. President, we have here an example of more Government redtape, more Government paperwork, all of which is nonproductive and a further drag on our economy.

Fourth, and finally, Mr. President, individuals are going to be the big losers, as they always are, when individuals, lose the use of their own money; as they will under the committee proposal. The IRS is already receiving $50 billion per year excess money. They call it a float over at the Treasury. The float is a result of overwithholding. In many cases the Government has this extra money for as long as 18 months to 2 years—interest free.

In conclusion Mr. President, I suggest that extending withholding to interest and dividends will compound Government regulation and bureaucracy levy more redtape, and result in more nonrecoverable expenses and overhead for the taxpaying, law abiding businessmen and women and the financial institutions they manage.

Mr. HOLLINGS. Mr. President, our distinguished colleague from Kansas (Mr. DOLE), the Senator from Kansas and I did have that provision in 1976. But we have learned over a 6-year period not to rely on Secretaries of the Treasury when they are looking for revenues, and thereby I opposed it in 1978, I opposed it in 1980, and I oppose it in 1982.

I had the distinguished Senator from Kansas support, the distinguished Senator from South Carolina, and the distinguished Senator from Missouri, who now calls it a killer amendment on July 22, 1982, but who, on May 6, 1980, thought it was most justifiable and very much needed.

I put in the RECORD his resolution. They would not even wait for the measure to come up on a Finance Committee bill, but they put it in with some 60 cosponsors—we can call the names, they are in the RECORD here. They are all vacillating around here and addressing those things that are not involved, No. 1.

The Finance Committee bill has not made the 1099 form mandatory, but only optional as required by the Secretary of Treasury. We have made the filing of the 1099 forms mandatory in our amendment. So when the Senator from Missouri starts talking about collecting taxes which are rightfully owed, I agree with him. That is exactly what we want, and that is what our amendment will do.

When the Senator from Iowa talks about fairness, that is exactly what we want, and that is why I have the increased compliance in the amendment. But what we want is fairness to the small institutions and freedom from the bureaucracy, just what the Senator from Iowa was elected upon. You are turning 180°. You are reregulating everybody. You have $2 billion in regulations and over 400 million forms. You are going to add 400 million forms at a cost of $2 billion just to collect $1.3 billion in revenues.

The Secretary of the Treasury testified to the Finance Committee that 75 percent of the $4.3 billion was accelerated payments, not new money, to satisfy Senator DOMENICI's deficit. So let us get our figures straight. Do not come out here wandering around talking about $12 billion, and my amendment being a killer amendment.

I joined the Senator from Iowa, I voted against Senator MATTINGLY from Georgia, his amendment when he tried to take out the compliance.

I am for fairness. I am for tax payment, and we have got it in this amendment.

If you want to snooker around with the Secretary of Treasury, then go ahead and vote against this particular amendment, but do not come up here and use vague figures of 13 and 19 percent. The Senator from Iowa used the accurate figure, 11 percent.

We are limited on time. I could go down the list, but I can tell you this about taking on the big interests. We have got the small people. The big interests, the "fat cats" are estimating their taxes. This amendment is for the little people.

The PRESIDING OFFICER. Does the Senator from Wisconsin yield further time to the Senator from Georgia?

Mr. KASTEN. How much time is there remaining?

The PRESIDING OFFICER. Six minutes.

Mr. KASTEN. I would be happy to yield 2 minutes to the Senator from Georgia (Mr. MATTINGLY), a cosponsor of the amendment.

Mr. MATTINGLY. I would like to thank the Senator from Wisconsin and the Senator from South Carolina.

I would just like to say, of course, I do favor the compliance improvements in this bill, and I also favor this amendment that is being put forward by us.

Just to clarify a couple of things, I think we are all against tax cheaters. But how do you separate compliance from coercion? I think that is the question. I think what was written into the Finance Committee bill is more coercion than it is trying to get compliance. I have felt strongly all along that if the 1099 form used social security numbers, if we mandate that they use social security numbers, there would be no problems for the IRS to crosscheck. That is how you get compliance.

IRS does have a duty, and if the correct numbers were put on the 1099's we would have no problem in getting that money.

I would like to ask the Senator from Kansas, the chairman of the Committee on Finance, just one question about which I am not quite clear. In the first year what percent of the money are we taking in that the Senator says we would take in is acceleration versus money that we would normally get if everybody complied?

Mr. DOLE. In the first year it is two-thirds acceleration, one-third compliance. Then it reverses in the outyears.

Mr. MATTINGLY. I guess that is one of my points. I think we ought to write language in the bill to get the one-third and not go out and accelerate the money from everybody's paycheck into the Federal Government. So that is one of the main reasons why

I do rise and support this amendment because I think it is fair.

Mr. KASTEN. Mr. President, I thank the Senator from Georgia.

There are a large number of individuals and groups who would come forward in support of this amendment. I would like to just bring to the attention of the Senate that the National Association of Mutual Savings Banks says:

Withholding will take billions of dollars directly out of the savings flow and will be a major disincentive to personal savings.

Accordingly, and on behalf of the 3 savings banks in Wisconsin and their 22,000 account holders, we urge you to support the Kasten/Hollings amendment.

The Credit Union National Association says:

1. Withholding a portion of dividend and interest income could drive funds away from corporate equities, bonds, and other savings mechanisms.

2. Withholding would lower the real rate of return on some investments by denying investors the use of withheld funds. This could make investments less attractive.

3. Withholding would impose extensive operating cost burdens on savings institutions and increase paperwork burdens.

4. A better approach for improving compliance on interest and dividends would be to improve the information reporting system."

I would like to point out to the Members of the Senate that is exactly what this amendment would do.

The American Bankers Association says the following:

The proposal to impose withholding tax on interest and dividends is a disincentive to saving and investment that comes at a high cost to the public. The impact of withholding will reduce savers' and investors' earnings otherwise attained through reinvestment and compounding by an estimated $3 billion. Not only will savers and investors be deprived of this income, the Treasury will be deprived of up to $1 billion in taxes payable on those earnings.

If the purpose of withholding tax on interest and dividends is to increase compliance, the ABA believes that this purpose can be better accomplished, with far less cost and inconvenience to the public, through the broadened information reporting required by the taxpayer compliance provisions contained in H.R. 4961.

The American Association of Retired Persons says the following:

Withholding on interest and dividends. The Finance Committee bill would impose a 10 percent withholding requirement on interest and dividend payments. Although an exemption procedure will be created for low income elderly and for others who expect to have no tax liability, it will be the individual's responsibility to secure the exemption certificate and to forward it to the payor of interest or dividends.

We fear that the exemption process will frequently fail to operate properly, and a serious overwithholding problem will result. By placing the burden on the individual to exempt him/herself from withholding, the proposal brings many elderly people into the taxpaying system who have not been in it for years. This problem is further complicated by a January 1, 1983, effective date, which certainly is not sufficient time to get the word out about the exemption process.

We believe that a number of crucial questions regarding interest and dividend withholding remain unanswered. In addition to the workability of the entire exemption process, Congress has not addressed the question of the value of withholding on small accounts. Since many elderly savers are small savers, an automatic exemption for small accounts would lessen the likelihood of overwithholding. Also, considerable savings in administrative costs could be gained with this approach.

As the withholding proposal stands presently, we must oppose it. Too many elderly people rely on interest and dividend payments to meet daily living expenses for these changes to be hurried through Congress.

Mr. President, group upon group upon group of people oppose the concept of withholding on savings and dividends, and I hope this amendment will be agreed to.

I ask unanimous consent to have these letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL ASSOCIATION OF
MUTUAL SAVINGS BANKS,
New York, N.Y., July 22, 1982.

Hon. ROBERT W. KASTEN, Jr.,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KASTEN: During the Senate's consideration of HR. 4961, the Tax Equity and Fiscal Responsibility Act of 1982, Senators Robert W. Kasten, Jr. and Ernest F. Hollings will offer an amendment to strike from the bill the provisions imposing withholding of taxes on interest and dividends.

The National Association of Mutual Savings Banks is strongly opposed to withholding at the source. Withholding will take billions of dollars directly out of the savings flow and will be a major disincentive to personal savings. Moreover, the massive computer reprogramming necessary for withholding, coupled with the difficulties in implementing an exemption system for certain accountholders, will require a lead time of at least nine months thereby greatly reducing the revenue impact in fiscal year 1983.

Accordingly, and on behalf of the 3 savings banks in Wisconsin and their 22,000 accountholders, we urge you to support the Kasten/Hollings amendment.

Sincerely,

SAUL B. KLAMAN,
President.
HERBERT W. GRAY,
Chairman.

CREDIT UNION
NATIONAL ASSOCIATION, INC.,
Madison, Wis., July 21, 1982.

Hon. ROBERT W. KASTEN, Jr.,
U.S. Senate, Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR KASTEN: The Credit Union National Association supports your amendment to remove withholding of tax on interest and dividends from H.R. 4961, now before the Senate.

Some of the best arguments against withholding of taxes on interest earnings as proposed in the Tax Equity and Fiscal Responsibility Act of 1982 (H.R. 4961), are summarized in the Joint Committee on Taxation print (JCS 24-82). The print, prepared for the Committee on Finance, states:

"Arguments against the proposal:

"1. Withholding a portion of dividend and interest income could drive funds away from corporate equities, bonds, and other savings mechanisms.

"2. Withholding would lower the real rate of return on some investments by denying investors the use of withheld funds. This could make investments less attractive.

"3. Withholding would impose extensive operating cost burdens on savings institutions and increase paperwork burdens.

"4. A better approach for improving compliance on interest and dividends would be to improve the information reporting system."

The Credit Union National Association, Inc. (CUNA) is an association of credit union Leagues representing each State, the District of Columbia and Puerto Rico. Through the Leagues, CUNA represents over 20,000 federally and state chartered credit unions serving over 46 million members.

Credit unions now fully comply with the law in reporting interest and dividend earnings to both individuals and the IRS. Furthermore, CUNA has not objected to any of the provisions in the Dole/Grassley tax compliance bill, now a part of H.R. 4961, meant to close the compliance gap. The new compliance tools include:

Extension of reporting requirements to all interest bearing instruments.

New penalties for filing incorrect 1099 forms with the IRS.

Requiring persons filing large numbers of returns to file on magnetic tape and related formats.

Semi-annual compounding of interest on funds due the government. Presently simple interest is charged on over-due funds. (Ironically, withholding would deny taxpayers the benefits of compounding on the 10 percent tax withheld on interest earnings.)

Withholding on annuities, including IRAs, would be automatic upon distribution of funds (previously voluntary) unless the individual elects otherwise.

The establishment of a mandatory withholding system that would bathe taxpayers and businesses in a new set of government forms and procedures is unjustified and must be resisted until it is known that the above procedures have failed to bring compliance.

Requiring credit unions to withhold taxes on the earnings of our member/savers will cause the return on their savings to be reduced by the cost of administering such a program along with the direct loss due to the inability to compound those amounts forwarded to Treasury.

In light of the fact that two-thirds of the benefits to the government would come in a one-time acceleration of revenue, the costs imposed on credit unions and their members are unnecessary. As the accompanying brochure reveals, over 60 percent of credit unions have assets of less than $1 million. Requirements, such as withholding of taxes on interest and dividends, processing exemption certificates and other paperwork related to collecting taxes, will prove extremely burdensome on these institutions.

Sincerely,

JOSEPH N. CUGINI,
Chairman.

AMERICAN BANKERS ASSOCIATION,
Washington, D.C., July 14, 1982.

DEAR SENATOR: The Senate Finance Committee approved the Tax Equity and Fiscal Responsibility Tax Act of 1982 (H.R. 4961) on Monday, July 12th. The full Senate may consider the bill next week. The bankers of the nation support efforts to move toward a more responsible Federal fiscal policy, including reductions in expenditures and necessary increases in taxes. Although other items in the bill increase the taxes banks pay and the operational costs they incur, the American Bankers Association accepts a special responsibility to bring to your attention one aspect of this measure that may have unanticipated adverse effects on the economy as a whole and on individual savers and investors.

The proposal to impose withholding tax on interest and dividends is a disincentive to saving and investment that comes at a high cost to the public. The impact of withholding will reduce savers' and investors' earnings otherwise attained through reinvestment and compounding by an estimated $3 billion. Not only will savers and investors be deprived of this income, the Treasury will be deprived of up to $1 billion in taxes payable on those earnings.

According to the United States Treasury, taxpayers are reporting 85 percent of interest and dividend income subject to reporting. When this compliance figure is compared with the approximately 75 percent of the individual income tax returns that generate tax refunds—over $53 billion for 1981—it indicates that most of the anticipated revenue gain from withholding results from a one-time cash flow surge in 1983 from accelerated collection of taxes. Most of this money will have to be refunded in fiscal year 1984. The Treasury Department's explanation of the initial withholding proposal in February confirms that three-fourths of the increased revenue for fiscal year 1983 is a "change in timing". It is, therefore, only a temporary increase in the cash flow from the taxpayers to the Treasury; not a real increase in revenue. This should not be accomplished at the expense of the overwhelming majority of individuals who save and invest and pay their taxes.

If the purpose of withholding tax on interest and dividends is to increase compliance, the ABA believes that this purpose can be better accomplished, with far less cost and inconvenience to the public, through the broadened information reporting required by the taxpayer compliance provisions contained in H.R. 4961. Such an approach avoids overwithholding and the reduction in yield which would result from withholding on accounts where interest is compounded frequently. It also avoids extending the intrusive presence of government regulations and forms into the daily lives of millions of savers and investors. Why should elderly individuals living on fixed incomes have to fill out exemption forms in order not to have those incomes diminished by a tenth? The ABA believes that it is premature to substitute a mandatory withholding system for a working information reporting system before we have seriously tried to improve our information system. The ABA pledges its cooperation with the IRS and the Treasury in developing an improved, more effective, and more efficient reporting system.

In addition to the impact of withholding on individuals, the proposed system of exemptions and exceptions creates a system of such complexity that neither the IRS, many of the financial institutions that pay interest, nor many of the corporations that pay dividends will be able to implement the system by January 1, 1983. The implementation of such a system requires not only legislation, but regulations and interpretations of those regulations that the Treasury Department likely will be unable to issue with sufficient lead time.

In addition to problems of complexity, financial institutions will be faced with substantial costs in designing and putting into place withholding systems to deal with the vast array of investments and financial services offered to the public. When one also considers the many personal interactions between individuals and their banks, the need to develop procedures and train employees to answer customers' questions and the need to communicate with customers about how the new system will affect them, it becomes clear that implementing a withholding system involves a great deal more than merely reprogramming a computer. Furthermore, it is a widespread misperception that a system of withholding can now be implemented with relatively little effort because of the increased use of the computer.

This proposal has been rejected repeatedly by the Congress whenever it has been proposed in the past. The ABA believes that the reasons for rejecting this proposal in the past remain sound. No new evidence has been brought forward to turn to a proposal regarded in the past as a bad idea into a good idea.

Sincerely,

WILLIS W. ALEXANDER.

CITIBANK,
New York, N.Y., July 22, 1982.

Re cost to the public of withholding on interest and dividends—over $3 billion per year.

U.S. SENATE,
Washington, D.C.

DEAR SENATOR: Citibank urges you to oppose the provision in the Senate Finance Committee bill to impose withholding-at-source on interest and dividends. As indicated by the attached memorandum, it is estimated that the withholding proposal reported by the Senate Finance Committee in its tax increase bill on July 2 would cost the public probably more than $3 billion per year. These costs to the public are based upon two principal factors:

1. Withholding on interest would reduce savings due to the loss of interest compounding on amounts of tax withheld in subsequent quarters of each taxable year. Similarly, withholding on dividends on a quarterly or other short-period basis would reduce earnings on dividend amounts withheld, which would otherwise go into income-earning investments. It is estimated that the cost to the public due to reduced interest compounding and dividend reinvestment would be $1.7-2 billion annually.

2. The annual cost of administering withholding on interest and dividends, including processing exemption certificates, and greatly expanded information reporting, would impose heavy burdens on the financial sector. It is estimated that the administrative costs of withholding for the private sector would be at least $1.5 billion per year and probably more.

These costs would, of necessity, be passed on to depositors and investors in the form of lower interest payments, reduced dividends, extra service charges, special fees, etc. These increased costs to the private sector do not inclue the additional, extremely high annual costs to the Federal government for implementing withholding, or the huge cost of the additional paperwork burdens which would be imposed on the public—due to the exemption certificate and confirmation procedures required by the withholding provisions of the Senate Finance Committee bill.

It is apparent that the several differing revenue increase projections under the Senate Finance Committee proposal do not take these factors into account. Therefore, any revenue expected to be derived by the government from withholding would necessarily be directly, as well as indirectly, reduced by these costs.

It is respectfully urged that you consider these factors in assessing any proposal to impose withholding on interest and dividents.

Yours very truly,

JOHN F. ROLPH III,
Vice President, Tax Legislation.

COST TO THE PUBLIC OF WITHHOLDING ON INTEREST AND DIVIDENDS, CITIBANK, N.A., JULY 19, 1982

The proposed withholding of income tax from periodic interest payments would reduce the total amount of interest that people earn. That would happen because the withheld interest would not be available, as it now is, for compounding in future quarters. The amount would be in the neighborhood of $1.5 to 2 billion, before taking into account exemptions that may be provided and the amounts that people currently pay on interest and dividend income in their estimated-tax returns. In addition, compliance costs for banks and other institutions—which would be passed on to individuals in the form of reduced interest and higher service charges—probably would amount to about $1.5 billion. This brings the total cost of withholding to the public to around $3 billion per year.

The table lists estimates of outstanding household financial assets which would be subject to withholding under the current proposal.

Year-end 1981

Financial Assets:	*Trillions*
Interest-bearing checkable deposits	$0.1
Savings deposits	.3
U.S. Savings bonds	.1
Small time deposits	.9
Money market fund shares	.2
Large time deposits	.2
Short-term treasuries	.1
U.S. Agency issues	.1
Open market paper	(1)
Corporate and foreign bonds	.1
Long-term Treasuries	(1)
Corporate equities	1.1
Total interest bearing	2.0
Total equities	1.1
Total [2]	3.1

[1] Less than $50 billion.

[2] All figures are based on Federal Reserve data. Equities and bonds are at market value. The table excludes household-owned mortgages, municipals, and minor amounts of other interest-bearing assets.

To roughly estimate the interest and dividend income from these assets, one can use a weighted-average rate of return (at current interest rates) of 11 percent on the market value of interest-bearing assets and 6 percent of equities. This yields an income stream of about $220 billion on interest-bearing assets and roughly $65 billion on eq-

uities. So total interest and dividend income potentially subject to withholding is around $285 billion. This figure will, of course, rise in future years as people build up their holdings of deposits, securities and equities. It will fluctuate with interest rates, dividend payout, regulatory changes and shifts in the composition of assets. For convenience, we could assume interest and dividends of around $300 billion in 1983. Estimates by the Senate Finance Committee suggest that some $25 billion of interest income and some $10 billion of dividend income are not reported under the current system.

Tax withholding at a 10 percent rate would potentially extract from households about $30 billion per year. If households received and reinvested this sum of $30 billion, at an annual rate in the neighborhood of 11 percent, they would receive an interest income—in the absence of withholding—of approximately $1.7 billion. In other words, the $30 billion represented a "withholding fund" that the Treasury wants to extract from them. In the absence of withholding, this fund would begin at zero on the first of January and climb to $30 billion by the end of the year, for an average outstanding value of $15 billion, which would earn $1.7 billion if invested at 11 percent. Allowing for the inevitable estimating errors, it seems reasonable to put the potential income loss at $1.5 to 2 billion.

This is an estimate of the potential loss that people would suffer. The actual loss would be less, to the extent that households would receive exemptions from withholding, to the extent that households currently do not reinvest their interest and dividend income; and to the extent that households pay estimated taxes on a quarterly basis.

It's difficult to precisely estimate compliance costs for financial institutions. But Citibank's projections of its own cost factors indicate a startup cost—designing and installing new computer software, for example—of several million dollars. Much more troublesome, the running operating costs, year in and year out, for compliance with the proposed law are around $7 million per year.[1] The cost burden would be proportionately higher at some other lenders, proportionately lower at others. Citicorp, of course, accounts for only a small fraction of the $2 trillion in deposits and securities shown in the table—only about one half of one percent. Blowing up that $7 million to cover all those institutions and agencies that issue securities and offer deposits suggests a total, economy-wide compliance cost of around $1.5 billion.

These costs of administering withholding, reporting, and exemption procedures provided in the proposed law would not be borne by the shareholders of banks and corporations. These costs would be passed right on to the depositor and the investor in the form of lower interest payments, extra service charges, special fees, etc. Therefore, the visible, out-of-pocket, costs of withholding on interest and dividends would run around $3 billion. Much of this would be not just a redistribution of income at the expense of individuals but an extra layer of absolute inefficiency.

The cost of calculating individual income-tax liabilities—largely borne by individuals—would be larger than it is today. The proposal would create new costs in preparing and filing exemption statements, calculating and filing complicated withholding and information reports, and handling all those forms when they pour into the Treasury. The extra paperwork and computer-work imposed on individuals and on the Treasury is, of course, over and above the explicit, visible $3 billion.

[1] Another bank, First & Merchants National Bank of Richmond, with assets of $2.6 billion, estimates annual processing costs of $2.5 million.

U.S. LEAGUE OF SAVINGS ASSOCIATIONS,
Washington, D.C., July 19, 1982.

DEAR SENATOR: The Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961, recently reported by the Finance Committee, contains a matter of great concern to savings and loan associations, their savers and the investing public. Title III, Subtitle A, of that legislation would impose a requirement of 10 percent withholding on interest and dividends at source. This provision allegedly nets the Treasury $4.3 billion in increased revenues in fiscal year 1983.

The U.S. League of Savings Associations remains supportive of the Senate's resolve to put our Government's fiscal house in order and we stand ready to assist in responsible efforts to assure compliance with our federal tax laws. However, we must oppose the plan set forth in Title III, Subtitle A. Furthermore, we are obliged to bring to your attention serious questions about the accuracy of the revenue bonus projected under the 10 percent withholding-at-source plan advocated by Treasury and adopted by the Finance Committee. Because withholding is a disincentive to savings and investment, creates paperwork and customer relations problems for interest and dividend payors, and comes at a time of unstable economic conditions in the financial community, an accurate assessment of the real budgetary implications of this withholding plan should be available before the Senate votes on this proposal.

The advertised revenue gain from withholding of $4.3 billion for fiscal year 1983 is comprised of two parts: accelerated payments and increased compliance. According to the plan first proposed by the Treasury in February, approximately 75 percent of the first year's revenue gain comes from accelerated payments. In dollar terms, that amounts to over $3 billion of the alleged $4.3 billion revenue gain.

Is this withholding estimate realistic and will these anticipated accelerated payments in fiscal 1983 be forthcoming?

First, the Tax Bill itself delays withholding until January 1, 1983—three months into the fiscal year.

Second, institutions could not implement the plan until the issuance of essential Treasury regulations and interpretations. Without Treasury regulations and interpretations, an institution could not develop a workable withholding scheme. Once developed, an institution must then notify its depositors that withholding will occur, describe the mechanism it will employ, and respond to customer inquiries.

The sensitive nature of any withholding scheme and its attendant customer relations difficulties make it clear that withholding involves a great deal more than reprogramming a computer. Therefore, even after enactment and issuance of Treasury regulations and interpretations, implementation of withholding will be delayed well into the 1983 fiscal year. As a result we estimate $2 billion of the $3 billion in accelerated payments will be lost for fiscal 1983.

Third, the remaining $1 billion of accelerated payments from withholding also seems to be inflated. Details now available indicate that depositories will have the option of withholding annually on passbook and NOW accounts. (Passbook and NOW accounts comprise over 20 percent of our total deposit base). Also, an escrow or "float" opportunity may be provided to offset institutional costs—which, in turn, reduces anticipated accelerated payments. Furthermore, small depositories may be exempted from the tax collection responsibility. Each of these features will erode the $1 billion bonus still available from tax accelerations.

Fourth, under the plan, individuals will be able to reduce their estimated tax payments (if applicable) by the amount of taxes withheld from their interest and dividend income. Also, because of a provision in the 1981 Economic Recovery and Tax Act, wage earners are now permitted to reduce their wage and salary withholding based upon anticipated withholding from interest and dividend income. Surely we are obliged to inform out savers about these options, which, while reducing over-withholding by individuals, also means a reduction in accelerated revenues forecast by the Treasury.

The preceding points create a great deal of doubt whether any or all of the $3 billion in revenue acceleration from withheld taxes will indeed be forthcoming in fiscal year 1983. In addition, we estimate that a large portion of the increased compliance expected in 1983 ($1.3 billion) could be achieved by expanding the information reporting program (used since 1962 by depositories) to bearer obligations, as well as U.S. Treasury debt securities, as mandated elsewhere in H.R. 4961. We strongly support this long overdue expansion of the information return reporting coverage.

Thus, if support for withholding is solely based upon revenue considerations, all Senators should be aware that at least $3 billion—or 75 percent—of the expected revenue pickup from withholding in fiscal year 1983 will not be collectible.

The U.S. League urges your careful assessment of the revenue projections forecast for Title III, Subtitle A, of H.R. 4961 (as amended by the Finance Committee) before voting on this ill-conceived plan to boost tax collections from interest and dividend income sources.

Sincerely,

ROY GREEN,
Chairman

INVESTMENT COMPANY INSTITUTE,
Washington, D.C., July 15, 1982.

DEAR SENATOR: On behalf of 12 million mutual fund shareholders, the Investment Company Institute opposes the interest and withholding provisions of the Senate Finance Committee Tax Bill. The Institute joins other organizations, representing a variety of financial institutions and their millions of shareholders and depositors, in requesting that you not support the revival of the discredited idea of forcing financial institutions to withhold 10 percent of the dividends and interest due American investors and savers. Repeated consideration over the years has shown this proposal to be inequitable, costly, and inefficient.

Like previous withholding schemes on interest and dividends, the current proposal is inequitable because it will involve overwithholding in many cases. Despite plans to issue so-called exemption certificates, many taxpayers, particularly elderly persons of relatively modest means, will end up having to reclaim from the government, as long as a year after the fact, monies which never should have been withheld in the first

place. In addition to the substantial hardships created for persons dependent on dividends and interest to meet current living expenses, there will be a loss of earnings to those taxpayers who would have reinvested the dividends and interest withheld from them. In 1981, this factor alone would have cost 12 million mutual fund investors over $110 million in dividends.

Withholding on interest and dividends will be costly because it will impose an enormous administrative burden on all financial institutions. It has been estimated that implementation of the withholding provisions will require the issuance and processing of over 400 million exemption certificates. Withholding from some accounts but not others (as well as monitoring for switches in category) will involve the installation of a complicated and expensive system which will be only partly susceptible to automated processing by computer. It has been estimated that in the mutual fund industry the additional costs of administration will be between $1.50 and $2.00 per account annually, in addition to very substantial installation costs. This could add as much as $36 million on an annual basis to the expenses of operating mutual funds—costs which will inevitably be borne by mutual fund shareholders.

Finally, the withholding scheme is inefficient in view of the revenues produced, the lost earnings to shareholders and depositors on monies withheld from them, the administrative costs of collection and the processing of exemptions and claims for refunds. It simply is not a cost efficient way of raising revenue.

In the past several years, great strides have been made by the Internal Revenue Service in administering the existing system of matching the information that lists the recipients of interest and dividends with the tax returns filed by these persons. All segments of the financial services industry have always been willing to discuss improvements in the present system designed to make tax evasion even more difficult. For example, the Institute earlier this year testified in support of a bill to withhold interest and dividends from accounts which fail to supply the IRS with taxpayer ID numbers. The adoption of a proposal would be much less costly and more efficient because it would focus precisely on the problem of tax evasion and provide a specific remedy for dealing with it. Unlike the withholding provisions of the Finance Committee Bill, it would not subject all American investors and depositors to a blunderbuss approach to snare a relative handful of tax delinquents.

In short, we view the proposal to withhold on dividends and interest as harmful to millions of Americans investors and savers, as a regressive step in the administration of the tax laws, and as one which will further complicate our already overly complex tax system. It represents a radical departure from efforts of the Congress and the Administration to reduce the burden of government on all Americans.

Sincerely yours,

DAVID SILVER.

MUTUAL FUNDS OPPOSE WITHHOLDING PROPOSALS

WASHINGTON, D.C., July 15.—The Investment Company Institute, the national association of mutual funds, sent a letter to all United States Senators today urging them to oppose the provisions of the Senate Finance Committee's tax bill for withholding 10 percent of the dividends and interest due to investors and savers. It calls the provisions "inequitable, costly and inefficient."

The withholding system would have cost mutual fund investors over $110 million in lost earnings on money deducted from their accounts in 1981, it says. The proposals would create particular hardship for people who depend on dividends and interest to meet current living expenses.

The provisions would impose "an enormous administrative burden on all financial institutions" the letter goes on. They could add as much as $36 million a year to the expenses of mutual funds alone, which would inevitably be borne by their 12 million shareholders.

To make tax evasion more difficult, the Institute supports measures to withhold interest and dividends from accounts which fail to supply the IRS with taxpayer ID numbers. But it calls the Finance Bill provisions "a blunderbuss approach to snare a relative handful of tax delinquents."

JULY 21, 1982.

DEAR SENATOR: On behalf of our members, the undersigned organizations wish to express adamant opposition to withholding at source of taxes on interest and dividends. After extensive discussions with the Treasury, industry representatives were unable to resolve the substantial technical problems involved in implementing the proposed exemptions. We remain convinced that the proposal would prove costly and virtually unworkable. Moreover, withholding would be a major disincentive to savings and investment. We therefore urge you to support the Kasten-Hollings amendment to strike withholding at source from the pending tax bill.

Sincerely,

American Bankers Association, Chamber of Commerce of the United States, Credit Union National Association, Independent Bankers Association of America, Investment Company Institute, National Association of Federal Credit Unions, National Association of Mutual Savings Banks, United States League of Savings Associations.

WISCONSIN CREDIT UNION LEAGUE,
West Allis, Wis., July 15, 1982.

Subject: Withholding of Taxes on Interest and Dividends.

Hon. ROBERT W. KASTEN, JR.,
U.S. Senate,
Washington, D.C.

SENATOR KASTEN: Credit unions in Wisconsin strongly oppose withholding on interest and dividends. The Wisconsin Credit Union League represents 598 League member credit unions and voices their united objections.

The proposal, if passed, would put all credit unions in the tax raising business. It would be a most expensive procedure for credit unions (over 300 league-member credit unions have less than $500,000 in assets and operate with part-time and voluntary help).

We consider the proposal provided as unworkable, unfair and costly. Please help Wisconsin credit unions, representing one and a half million members, by voting down the withholding on interest and dividends.

Sincerely,

JOHN P. HILL,
President.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield 5 minutes to the Senator from New Jersey, Senator BRADY.

The PRESIDING OFFICER. The Senator has approximately 3½ minutes remaining.

Mr. DOLE. I yield another 1½ minutes to the Senator off the bill.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADY. Mr. President, I am sure, as all Senators have, I have been getting phone calls today and during the past week as we have discussed this tax bill. And the phone calls have been from the people, the banks and the thrift institutions, both large banks, small banks, big thrifts, and small thrifts. And although they know this is difficult work they have to do and it is new ground they are going to be plowing, just as it was new ground when we withheld from wages many years ago, they are willing to do it. They do not like it, they think it is going to be difficult, but they are willing to do it because they know we need the revenue for this tax bill in order not to have the deficit become any larger than it is.

So it seems to me that we have heard from the people that have to collect this money. They do not like it, but they are willing to do it.

Second, it seems to me this is simple sense to collect the taxes that are due rather than to impose some new ones. I do not know what we would do with this bill if we do not get this amount of revenue, whether it is exactly $12 billion or some higher figure. It seems to me we have to go back to the drawing board. Whether you call it a killer amendment or not is a matter of words.

Finally, I think we have all been talking for a long time about the fairness of the tax system. The editorials that I have read during the last week or 10 days indicate to me that the papers across the country very much feel that this is a fair tax bill. And one of the things we are trying to do is impress the American people that we are trying to be fair.

If the papers around the country and the TV people that have been commenting on it think it is fair, I think that is some indication that we are on the right track.

For these three reasons: First, that the people that collect the taxes think they can do it—it may cost some money, it is difficult, it is new, but they are willing to do it; second, the simple sense to collect taxes that are due rather than impose some new ones; and, third, that it is fair and this is the part of the bill that we ought to support.

So, for those reasons, I oppose the amendment of the Senator from Wisconsin and urge everyone to support the tax bill.

Mr. DOLE. Mr. President, let me congratulate the distinguished Senator from New Jersey. He is one Senator in the Chamber who is totally objective. He is going to be leaving here in a few months. He probably is the only one who understands this issue. He is out there in the real world. The rest of us are here. [Laughter.] So he understands the amendment and he knows what he is talking about.

I hope that everybody listened carefully. I certainly appreciate his willingness to speak out in favor of what I consider a step in the right direction.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the American Council of Life Insurance.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

AMERICAN COUNCIL OF LIFE INSURANCE,
July 22, 1982.

Hon. ROBERT DOLE,
Chairman, Committee on Finance,
U.S. Senate,
Washington, D.C.

DEAR MR. CHAIRMAN: I am pleased to advise you that the Board of Directors of the American Council of Life Insurance—representing some 550 life insurance companies throughout the country—has today unanimously endorsed the provisions of the Tax Equity and Fiscal Responsibility Act (H.R. 4961) designed to improve taxpayer compliance through the withholding on interest and dividends.

The nation's life insurance business strongly supports efforts by the Congress to reduce the Federal budget deficit, which your tax package will help to achieve. The withholding provisions adopted by the Finance Committee are an integral part of this legislation. The IRS has estimated that some 15 percent of dividend income and 11 percent of interest income is not reported by taxpayers. Clearly such a loophole must be closed.

It is vital that tax legislation be enacted this year that will raise the necessary funds to reduce the budget deficit. To strike the withholding provisions would seriously erode the important objectives sought in H.R. 4961. The ACLI Board of Directors, therefore, urges that such an amendment be defeated.

Best regards,
Sincerely,

ROBERT F. FROEHLKE.

Mr. DOLE. Mr. President, I will also ask unanimous consent to have printed in the RECORD certain material that shows, for example, that nearly 90 percent of all elderly people are eligible for exemption under this Finance Committee amendment. We made every effort to make certain we did not impact on the elderly people and the low-income people. I would like to include all of that material in the RECORD because I think it is important and it should be part of the legislative history. We have answers to some of the questions raised in letters and I believe we have answers to some of the arguments raised in the letters and we believe they are valid.

Mr. President, I ask unanimous consent that that material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

The following are points on the elderly exemption responses to industry concerns, and on the paperwork burdens of withholding.

ELDERLY EXEMPTION FROM WITHHOLDING

I. 1982 gross income of exempt taxpayer (assume no deductions): Single, $13,323; married: $22,214.

These levels will be higher in later years when the tax reduction in ERTA are fully effective. For example, in 1984 the $1500/$2,500 line will fall at: Single, $14,450; married, $24,214.

II. The effective rate of tax on each dollar of gross income of a non-exempt elderly person exceeds 11 percent. Thus, the 10-percent withholding will not result in any overwithholding.

III. Nearly 90 percent of all elderly people are eligible for the exemption:

There are 26 million Americans over 65.

11 million file tax returns.

8.3 million of those filing have dividend and interest income.

Only 2.7 million of those returns show tax above the $1,500 ($2,500) exemption limit

The 2.7 million non-exempt taxpayers earn $48 billion in interest and dividends.

CONCERNS RAISED BY BANKING INDUSTRY AGAINST INTEREST AND DIVIDEND WITHHOLDING

1. Concern. It would be preferable to have vigorous enforcement effort in conjunction with the information reporting systems.

Withholding, once in place, will be far less intrusive and costly than the use of thousands more enforcement agents, auditors, additional and higher fees and penalties. Such added coercive measures would not only further complicate administration of the law but would result in disrespect for the voluntary systems.

2. Concern. The costs of instituting a system of withholding is too burdensome, including the start-up costs and yearly maintenance expenses.

Start-up costs will be reimbursed by way of float.

Employers are required to bear the cost of maintaining the wage withholding system.

Much of the additional maintenance costs after start-up will result from compliance with information reporting requirements already in place.

Maintenance costs estimates show such expenses are not overly high, in addition such costs are deductible.

3. Concern. The system of exemption certificates:

(a) Costs too much because banks must solicit customers for their exemption certificates.

Solicitation by payors of exemption certificate is not required by the proposal.

The Internal Revenue Service will assume a significant role in the notification process.

(b) Will result in overwithholding on the elderly and infirm.

If the elderly had tax liability in the previous year of less than $1,500 ($2,500 on a joint return), they are entitled to file exemption certificates.

The Internal Revenue Service and Social Security Administration will help such persons in filing their exemption certificates during the start-up period.

(c) Is too burdensome on banks because they are being asked to enforce and police the system.

This is untrue because banks and all other payors will be entitled to rely on the exemption certificates they receive without a need to investigate if such certificates are in regular form.

4. Concern. The system of withholding proposed will reduce savings by Americans. Savings will be deterred by increased charges and reduced interest rates.

The reduction in yields on savings deposited with banks or other institutions will be so minimal as to not affect the investment decisions of reasonable investors. For example, if withholding occurs erroneously on a $10,000 deposit yielding 9 percent a year (paid quarterly), the depositor will lose $4.88 of interest income. The effective yield from the investment would therefore be reduced by five one-hundredths of one percent.

Further, the reduction in yield will be across-the-board so as one will have a competitive advantage.

Only tax evaders in fact lose because of withholding. No one argues that tax evasion is an appropriate savings incentive.

PAPERWORK ASPECTS OF WITHHOLDING

I. The withholding system works with existing tax reporting and payment requirements.

Payors must report dividend and interest payments aggregating $10 or more to the Internal Revenue Service. The proposed withholding system will use these same reports.

Payors must withhold income taxes from the employees and deposit those taxes with the Treasury on a regular basis. The same deposit system (modified to provide "float") will be used for withholding taxes on dividends and interest.

Taxes will be withheld only when the payor, under its data processing system, pays or credits amounts to recipients. Thus, only slight modifications need to be made to existing data processing systems.

II. Withholding certificates will not be a burden.

Banks, etc. will be compensated for their start-up costs which will include costs of accepting and processing initial applications.

The Internal Revenue Service or Social Security Administration will be able to notify elderly recipients of the exemption rights and the Internal Revenue Service can make information available on its toll-free number.

Certificates once filed would remain in effect until revoked.

Since certificates depend only on prior year tax liability and age, they would not change more than once a year. Most certificates for the elderly would remain in effect permanently.

Not all persons eligible for exemption will file certificates. In 1981, over 70 million of the 93 million individuals filing returns received refunds. These refunds averaged $679 despite the fact that the wage withholding system is designed to allow taxpayers to avoid overwithholding and despite efforts by the Internal Revenue Service to reduce voluntary overwithholding.

People who first become eligible for exemption because they reach age 65 will be use to withholding and may not choose to exempt themselves.

III. Recipients will benefit from withholding.

Taxes on complying taxpayers can be kept down by collecting tax due from individuals who don't report interest and dividend income.

Taxpayers will not have to declare and pay estimated tax as often since some tax will be paid through withholding.

Taxpayers will pay-as-they-go and therefore not be shocked by unexpected (and hard to manage) tax liabilities in April.

Mr. DOLE. Mr. President, I yield 5 minutes off the bill to the Senator from Idaho.

The PRESIDING OFFICER. Under the time agreement on the amendment, the time of the Senator from Kansas has expired. The Senator from Idaho is recognized under the time on the bill.

Mr. SYMMS. Mr. President, I thank the distinguished chairman for yielding.

Mr. President, I think our chairman has done a very excellent job of crafting a bill that complies with this budget resolution. I think many of us that are supporting the bill have strong philosophical problems with the proposition of increasing revenue to the Federal Treasury.

However, the reality of the situation is that we have to pass legislation to comply with the budget. We simply must put in place a budget so that those people who are making investments, those people who are managing financial portfolios for pension funds, those individuals who are investing in our capital markets will be assured that some semblance of order is being made by the Congress with regard to the budget process.

From a philosophical standpoint, I say to my good friend, the Senator from Kansas, that I remember well that when I was in college at the University of Idaho majoring in agriculture one of my professors Dr. George Woodbury, dean of the School of Horticulture, spoke of the evils of the withholding tax on earned income—in an agriculture course, no less. He said, "Some day this withholding tax will lead to prolific spending in Washington, where the politicians will spend everything and probably even more than they can raise." Well, that has happened.

I would like to do away with all withholding and let every American come in on the 15th of April as a responsible citizen and file his income taxes and pay the bill. But the fact of the matter is that since we do not have withholding on unearned income, 20 percent of the people earning interest and dividend income are not paying taxes on that income.

Now we are faced with the unpleasant task of raising revenue. Since we are already withholding taxes on earned income, and those individuals are being forced to comply with the law 99 percent of the time, why not equalize the law and withhold on interest and dividend income considering the fact we have to raise the revenue?

I appeal to my colleagues that are considering voting for this amendment. I have the greatest respect for my friends from Wisconsin and Georgia and others who are supporting this measure. However, if we want to get a package passed tonight we had better not vote for this amendment no matter how appealing it is.

That is why, Mr. President, I am going to stand with the Senator from Kansas who has worked so diligently to craft a bill that makes the best of a very bad situation. I hope after the elections that this Congress will come back and make some real reforms on long-term entitlement spending so we can, in fact, get control of our real problem.

I urge all my colleagues, no matter how difficult a vote this is, to vote down this amendment. If this amendment passes, we will be sending a very bad signal, in my judgment, to the financial markets and to all Americans that the Congress of the United States really is not going to come to grips with the long-term management and control of the Federal budget process.

So, I think all Members will be very well advised that it may seem to be a tough vote politically but, in the long run, you will be casting a vote that will help to implement the budget.

I yield the floor.

Mr. DOLE. Mr. President, I thank the Senator from Idaho not only for his statement but for his work in the Senate Finance Committee, which has been exemplary. I appreciate his flawless support as we have gone through this very difficult exercise.

I yield 1 minute to the Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the distinguished Senator from Nevada (Mr. CANNON) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, with all respect to my colleague from New Jersey, if he would read our amendment, the first two sections mandate compliance through the filing of the 1099 form.

The reason we have 99 percent tax compliance on the wage earners is because people must file their W-2 forms. If we also required filing the 1099 form, it is reasonable to presume that we will have 99 percent compliance there, all without the filing of some 4 million additional returns and additional regulations, the $2-billion cost to set up the withholding system, and the $500 million to make the financial system as liquid as it was before withholding.

I thank my distinguished colleague from Kansas.

Mr. DOLE. Mr. President, I want to yield to the Senator from New Mexico and then to the distinguished majority leader.

I do not want to quarrel with my friends, the Senator from Wisconsin and the Senator from South Carolina, but their amendment takes about 90 percent of the savings in the first year and about 80 percent thereafter. It just takes out about $10 billion. That is all. Maybe we can pick up the $10 billion in some other way. Maybe the banks would like to pay a higher minimum tax. We will consider that, if we lose.

I yield to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I will not argue the technical parts of this amendment. I want to tell the Senate what I think we ought to do tonight. I do not think we ought to wait very long to do it. We ought to reduce the expected deficit of this country by passing this bill, and we ought to do that by the exact amount that this distinguished Finance Committee has asked us to.

Mr. President, today the Budget Committee, at the request of seven other standing committees, sent to the Senate another bill. It will reduce that deficit another $12 billion. If you add those, the $12 and the $118 billion in this bill, you have a real, not hypothetical, not made up, a real $130 billion reduction in the cumulative deficit of this country for the next 3 years.

Mr. President, there are people who do not want to be for this tax bill, raising $98 billion in 3 years, because they have their own game plan. They thought maybe we should raise $175 billion, a sum spoken of tonight. There are some who think we should have raised $200 billion in new taxes. But we are not hearing about that. We are hearing about the specific agenda. They would like to have their druthers.

I ask Senators, what would you tax? Is it not interesting? We would all have a different item to tax. Some said we should tax imported oil. We should put on a $10 per barrel tax, somebody said, and make a lot of money. It would help the domestic industry. Others said to get rid of the third year of the tax cut. We voted on that about six times, and there are not enough votes for that.

So what do we do? We sit here tonight when the Finance Committee has brought us a bill which basically is a collect-by-compliance bill, and a bill that has been heralded as fair and equitable. Many who are opposed to this amendment are not opposed to raising taxes. Some want to raise even more, but not this kind.

Mr. President, I am reminded of a story about economists. One of my people was telling me, "Why don't you tell the story about Mr. Brezhnev and the economists?"

He was watching a May Day parade. The missiles came by, the army came by, and then 12 men came by with gray hair and dark suits. He said to his friend, "Are they spies?" His friend said, "No, they are economists. Think of the havoc they are going to wreak on America when we turn them loose there."

Mr. President, I do not know what economists are telling us to do these days. Some have said we should force interest rates down with national usury laws, others are saying cut the taxes, others are saying cut the budget, others say spend more money.

I do not know what the consensus is. But I can tell you this, that commonsense tells this Senator that this is a rare opportunity for this institution to do what is absolutely, patently right, to reduce the deficit of this country by $118 billion. We are changing significant and substantive laws that we would not look at for 15 years. We will raise about $98 billion in taxes, while leaving in place 75 percent of last year's tax cut.

Mr. President, I urge that we not shirk that responsibility. We have this chance now. Next week we have the other reconciliation bill. We can at least say to the American people when we pass them both, "We did our share in an election year during a recession. We changed major, substantive entitlement laws of this land, setting precedents that Congress would not set in years past."

I do not think we should be stopped by this kind of argument: Have we or have we not exempted senior citizens; is it 90 percent of them who will not pay tax or is it 83 percent; how much is real compliance and how much is collecting in advance?

Nearly 90 percent of all elderly people are eligible for the exemption. Even that national group that wrote us and said, "Do not do this." It was marvelous to read their letter because they are just like everybody else here. They said, "Raise the $98 billion. We think we need the taxes to get this country going and to get the interest rates down. But do not do it this way."

We will not get there, Mr. President, if each of us has an agenda, our druthers, which tax to change and which not. In fact, I do not think this Senate could have had a Finance Committee in these kinds of times bring a fairer bill to the Senate floor. I just cannot believe we could have put together a team of staff and Senators with a chairman like Senator DOLE to bring a fairer bill to this body in these times.

And now tonight, to say because of this issue we are going to tell the American people they cannot have deficit reduction, they are not going to have this bill, leads me to believe that this amendment is the wrong thing to do. I hope we do not pass it.

Mr. HAYAKAWA. Mr. President, in the second session of the 96th Congress, I introduced Senate Resolution 411, expressing the sense of the Senate that no Federal withholding tax be imposed on dividends and interest received by any citizen or resident of the United States.

It is now the second session of the 97th Congress. The fiscal situation has changed; philosophies have changed. A Federal withholding tax on interest and dividends is now being seriously proposed. However changes have been introduced that make the present proposal more acceptable than that proposed by then-President Carter. The new legislation being proposed exempts individuals living on fixed-interest or dividend income and individuals having little or no income tax liability. I understand that the provision calling for withholding of a flat rate of 10 percent on payments of interest and dividends in H.R. 4961 would also exempt certain tax-exempt institutions, corporations, and the low-income elderly.

Mr. DOLE. The Senator from California is correct.

Mr. HAYAKAWA. Is it true that exemption certificates similar to IRS W-4 forms may be filed for exemptions by individuals who had no income tax liability in the preceding year or are 65 years or older and whose tax liability was $600, $1,000 on a joint return, or less in the preceding year?

Mr. DOLE. The Senator is correct again. This provision has been included in the tax package to improve taxpayer compliance, not to be unfair to the elderly or low-income who are honest taxpayers. The Internal Revenue Service estimates that 15 percent of dividend income and 11 percent of interest income is not reported by taxpayers. Withholding would improve voluntary compliance and provide up to 20 percent of the total amount of revenue generated by the complete proposal.

Mr. HAYAKAWA. I ask the Senator that when discussing this provision of H.R. 4961, he carefully consider the individuals who rely on meager investments to supplement their pensions. They will find it difficult, if not impossible, to survive if they have to wait for a refund of any Federal withholding tax on interest and dividends.

Mr. DOLE. I will certainly keep the Senator's concern in mind.

In fact, I instructed the officials of the Treasury Department and the Internal Revenue Service to do the same, and we appreciate the Senator underscoring this important fact.

Mr. HAYAKAWA. I thank my distinguished colleague.

Mr. DOLE. I thank the Senator from California.

● Mr. DURENBERGER. Could the Senator from Kansas confirm the understanding of this Senator with respect to the application of the withholding provisions of the bill to Treasury bills? I understand that withholding will be required on Treasury bills under the same conditions that apply to similar debt obligations of private issuers.

Mr. DOLE. The Senator is correct. In particular, the Senator may wish to note the discussion of original issue discount on page 235 of the report of the Committee on Finance where Treasury bills are expressly described as subject to withholding.●

● Mr. BRADLEY. I would like to ask the distinguished Senator from Kansas to clarify my understanding of the definition of construction contract in the provision of H.R. 4961 entitled "Modification of Regulations on the Completed Contract Method of Accounting."

It is my understanding that the definition of construction contract in this provision includes contracts for the installation of large electrostatic precipitators and sulfur dioxide scrubbers which are installed in powerplants to trap pollutants.

Mr. DOLE. The understanding of the Senator from New Jersey is correct. These items are considered integral components to the powerplant. However, the definition of construction contract does not include a contract for the manufacture of pollution control equipment such as large electrostatic precipitators and sulfur dioxide scrubbers.

Mr. BRADLEY. I have read section 222 of the committee's bill and its report on that section and I would appreciate it if you would clarify the new approval requirements as they may apply to issuers of certain bonds within section 103(b) of the code.

Mr. DOLE. Certainly. Two such requirements are proposed. First a public hearing, with reasonable notice thereof, must be held prior to the approval of the bonds, and second, after that hearing an elected public official or legislative body must approve the issuance of the bonds.

Mr. BRADLEY. My questions about these requirements may be best addressed by focusing on a particular governmental entity, the Port Authority of New York and New Jersey, and its existing bond authorization procedures. Of course, for the purpose of my questions, I will assume that the bonds involved would be industrial development bonds within section 103(b).

The Port Authority of New York and New Jersey is a bistate governmental instrumentality of the States of New York and New Jersey. It was created in 1921 by compact between the two States, with the consent of the U.S. Congress. In general, the port authority provides transportation, terminal, and other facilities of commerce within the Port of New York

district which comprises an area of about 1,500 square miles in both States and includes the cities of New York and Yonkers in New York State, Newark and Jersey City in New Jersey, and over 200 other municipalities, including all or part of 17 counties, in the two States. The authority itself consists of 12 commissioners, six from each State, appointed by the Governor thereof with the advice and consent of the respective State senates. The actions they take at authority meetings, including the authorization of the issuance of the authority's obligations, are subject by bistate legislation to gubernatorial approval or veto.

Now, with respect to the port authority, typically there is more than one governmental unit which may have jurisdiction over the geographic areas in which the various authority facilities to be financed by such a borrowing are located—specifically, governmental units includes municipality in either the State of New York or the State of New Jersey, the port authority which owns, leases, and/or operates each of the facilities and the two States. It would appear that the required public hearing could be held by the port authority, with the appropriate approval to be given by the two Governors. Thus both the public hearing and public approval requirements would be met.

Mr. DOLE. That would satisfy the requirements of the bill, provided the hearing takes place in the jurisdiction where the facilities will be located.●

● Mr. SASSER. Mr. President, I wish to lend my strong support to the amendment to strike the language in the tax bill which would impose Federal withholding taxes on interest and dividend income. This provision should never have been included in this bill, and I want to commend my colleague, Senator HOLLINGS, for his leadership in moving to strike this provision of the tax bill. I am pleased to be a cosponsor of this amendment by Senator HOLLINGS and Senator KASTEN.

Mr. President, I have always believed that the imposition of a withholding tax on this type of income is both unworkable and counterproductive. Such proposals have been suggested in previous sessions of the Congress, and have been rightfully dropped without serious consideration.

The committee proposal on withholding of interest and dividends will work a significant hardship on our financial institutions. Savings and loan institutions will pay $435 million to put this withholding system in place. Credit unions would pay $378 million to put the withholding system in place.

Foremost in this debate, however, is the adverse impact that the withholding tax has on the individual depositor/investor. In hearings on Tuesday in the Senate Banking Committee, Federal Reserve Board Chairman Paul Volcker reiterated the pressing need to promote savings and investment in order to rebuild our capital base. On that point, Mr. President, I know that we are all in agreement. Yet, the withholding provisions of the committee bill provide a serious savings disincentive.

This savings disincentive affects both large and small savers and investors. The largest investors, capable of and accustomed to using their larger interest and dividend income upon receipt, would be encouraged to move large accounts overseas. For smaller, community-oriented accounts, money would be taken out of local areas where funds would be run through local economies. At both ends of the scale, therefore, you have a withdrawal of capital from our economic base.

I would like to quote briefly from among the many communications that I have received on this issue. These comments reflect the widespread opposition to the withholding provision.

In a telegram from one of the largest banks in the Southeast:

> Urge you to delete from the tax bill as now approved by the Senate Finance Committee withholding 10 percent of interest and dividends . . . counterproductive to consumer savings and investments, costly to paying companies and IRS can police inclusion for taxable income from information already supplied to them.

In a letter from a small community bank in Tennessee:

> The additional operating costs associated withholding on interest and dividends and the potential loss of deposits could prove to be the final blow to many banks and Savings and Loans in Tennessee who are barely hanging on at this time.

And also very much to the point, in two letters from savers, some of whom have no tax liability even with withholding:

> I think this (the withholding proposal) is very unfair; it would work a hardship on the little fellow that has to count every penny he has to live on, the people on fixed incomes, the retired people, that try to save a few pennies for a rainy day.

And:

> My husband I have been filing and paying income taxes ever since he began to earn enough to have to pay income taxes years ago and we have filed and paid what was due our government regularly and on time. Moreover, years ago we began to file estimated tax returns and have paid our estimated tax each quarter when due. I am now widowed and my sole income we managed to save during his working years. Is it fair under these circumstances that I be penalized by the loss of interest that is held out before my taxes are due?

In sum, Mr. President, the withholding of interest and dividend income provisions should not be part of this tax bill. I urge adoption of the Hollings-Kasten amendment which I have cosponsored.●

● Mr. BENTSEN. Mr. President, I oppose the provision in the committee bill requiring the withholding of dividend and interest payments by financial intermediaries. My opposition is based on a number of features of this proposed provision which will create an administrative nightmare and impose a substantial new burden and redtape on the private sector—and quite likely yield substantially less tax revenue than projected. Before reviewing those factors in detail, Mr. President, let me make this especially significant point:

This provision assumes that recipients of interest and dividends are tax cheats—that they willfully underreport interest and dividend income to dodge the Internal Revenue Service. That assumption simply does not square with fact. Indeed, taxpayer compliance in the areas of interest and dividend income is second only to compliance in the area of wages. Almost 90 percent of interest and 85 percent of dividend income is reported now—and a good portion of the remainder may well be received by individuals with little or no other taxable income to report—elderly widows and widowers, for example—and who owe no tax on that interest and dividend in any case.

SUSPECT REVENUE ESTIMATES

There are two factors at work which will tend to reduce, perhaps sharply reduce, the revenues estimated to be generated by the withholding provision. First, as I just noted, the prospect exists that current unreported dividend and interest payments are not taxable anyway. Second, the enormous cost of establishing and maintaining the elaborate police mechanism—involving every entity which disburses interest and dividends—is a tax deductible expense. It will be borne directly by disbursing agents and involve:

The development of completely new computer programs;

The purchase of additional computer capacity;

The consolidation of interest and dividend payment system;

The development of some scheme to identify those exempt interest and dividend recipients whose payments cannot be withheld; and

The development of some sort of jury rigging to deal with withholding of bearer-bond interest and other tax-exempt accounts.

All of that expense will be tax deductible, of course, and will notably erode any gain in tax receipts under this provision. In fact, the net revenue effect of this hastily drawn provision may be zero for all anyone knows. And that, Mr. President, is my point. There is an inadequate hearing record on this provision—like so many other components of this bill—and we know the results of this sort of hasty lawmaking: Inequitable and complicated tax laws which weaken the confidence

of taxpayers from the Atlantic to the Pacific, and jeopardize voluntary compliance—the heart of our tax system. The sad experience of France and many less developed nations regarding taxpayer avoidance should not be lost on the majority party here in the Senate. Individuals are far more clever at hiding income than bureaucrats and policemen are at finding it. Ill-considered and hastily drawn tax laws are not good laws regardless of the underlying merits of such laws.

LOW INCOME EXEMPTION

The withholding provision makes a nod toward the low income and elderly reporting problem by an exemption clause. This clause is scarcely workable and will be an administrative nightmare. In fact, I predict that Congress will be receiving letters and complaints regarding the bureaucratic procedures to carry out these exemptions until the day the entire withholding provision is scrapped. Let me hasten to add that I support the intent of the exemption clause, although I oppose the entire withholding provision. I am firmly convinced, however, that it is an overwhelming task to determine which passbook interest payment, which bond interest check, which money market fund dividend, which stock dividend, which reinvested stock dividend, which stock dividend paid in stock, and which taxable bearer-bond interest is being received by individuals exempt at a given time from this cumbersome withholding provision. Exemption is based on age and income, variables which obviously change at least from year to year—and sooner in many cases. And if, through some combination of luck and extravagant cost, a workable exemption mechanism is established, the chore on those elderly and lower income recipients of interest and dividends to update information will be onerous. It will add another piece of redtape flowing from Washington to snarl our elderly, waste their time, and expose them to criminal penalty for little reason. In addition, few Americans are willing for their income to be placed on Wall Street computer records. Yet, that will be the precise result of this exempt,on provision. It requires that disbursing agents hold a portion of everyone's interest and dividends—withholding which those exempt individuals can avoid only by revealing one of their most intimate personal facts—their income. Members of Congress must reveal their income for good reason. What good reason is there to impose that same requirement on every elderly or lower income person?

UNWILLING POLICEMEN

I do not want to suggest that the disbursing sector of our economy—the bankers, money market funds, thrifts, and brokerage houses—are eager to don the uniform of tax collectors. They are not. Indeed, they strongly resent having the Federal Government impose this added burden on them. They are certainly not equipped, as I noted earlier, to deal with the paperwork and expense of this new job—much less to pick and choose when to exempt and when not to exempt individuals from its provisions. It is an open question, as well, whether the IRS can manage the flood of new data and paper which will be generated by this provision. After all, over 100 million Americans receive interest or dividend payments—from savings accounts for 1-month old babies to fund college educations, to 90-year old widows with 25 shares of A.T. & T. The average corporate stockholder alone holds less than 100 shares.

The Finance Committee—and the Members of the Senate—should not be lulled into a belief that they are imposing a minor burden on eager disbursing agents involving only a few additional pieces of paper.

ADMINISTRATIVE NIGHTMARE

I have stressed the administrative nightmare the withholding provision will create. This issue is of greatest concern to the financial intermediaries who must act as policemen under this provision. I would like the flavor of this prospective chore to be clear to each Member here. The Western Stock Transfer Association in San Francisco has written every Senator, outlining the difficulty which such intermediaries will have in complying with this provision. I want to quote from that letter now:

> Banks would have severe problems in implementing the withholding of tax since many of their dividend and interest paying functions are independent of each other. Frequently, the records of these payments are kept on different computer systems within the bank. For example, shareholder records are maintained independently of bondholder records. The records for registered bondholders are separate from the records of bearer bonds. Interst paid on passbook savings is treated differently from the interest paid on a certificate of deposit, and so on. To integrate these multiple sources of payment into a single, unified withholding system would be a monumental and expensive task.
>
> In addition, the proposal would require that banks withhold tax from interest payments made when coupons detached from bearer bonds are presented for payment. Most bearer bonds today are tax exempt issues of States, municipalities, and their agencies, and would therefore not be subject to withholding. It does not seem reasonable to expect that tellers in thousands of branch bank offices throughout the [land] would be sophisticated enough to readily differentiate between taxable and tax exempt issues, and to withhold tax from only taxable bonds.
>
> Further, the proposal would require that the bank paying the bearer coupon prepare a form indicating that tax has been withheld and to file a copy of the form with the Internal Revenue Service. Many thousands of these forms would have to be prepared evey month, and this data would in turn have to be entered into the IRS computers.

CONCLUSION

To summarize, the withholding provision is unjustified in terms of taxpayer compliance. It will make every brokerage house, bank, credit union, and thrift institution an agent of the IRS. It may well generate very little new tax revenue. And, it will generate an enormous amount of new regulations and redtape. Indeed, this provision could well be called the "Red Tape Growth Act of 1982."●

● Mr. CHILES. Mr. President, I will be brief but I do want to voice my very deep concern over the 10-percent interest and dividend withholding provision contained in the tax reconciliation bill. I am pleased that the Senator from Wisconsin has raised this issue.

Like others, I am deeply concerned over the size of the Federal deficit and I believe it is hindering our efforts to improve the Nation's economy. I am convinced that we have to shrink these deficits if we are to regain economic health. In order to do this I believe we have to make further spending cuts even though we have made great strides in this effort. But I also believe we cannot afford to completely overlook the revenue side of the ledger. Accordingly, I congratulate the distinguished chairman of the Finance Committee for his efforts in this difficult task of pulling together a revenue raising package that meets the budget reconciliation requirements.

While there are some provisions in this package that I believe he is right on target with, I am greatly concerned over a number of others. I am particularly troubled that, once again, we are looking at the old standby revenue raiser, the imposition of withholding on interest and dividend income. This is certainly not a new idea and I am no more convinced now than I was several years ago that this is a wise or even necessary measure. At a time when the economy needs all the savings it can muster, we are considering this proposal that will act as a disincentive to saving. This can only have the effect of making money harder to get and more expensive. In fact, it has been estimated that withholding will reduce savers' and investors' reinvestment and compounding earnings by some $3 billion. In addition, this proposal is troubling because it will involve overwithholding in many instances. This is of special concern to many of Florida's elderly who depend on interest and dividends to meet everyday expenses. Even though this provision contains so-called elderly exemptions, many people will have to reclaim from the Federal Government as much as a year later, moneys, which in my opinion, should never have been withheld in the first place. Also, I be-

lieve it is an imposition to require elderly citizens to have to fill out exemption forms.

It also could not be a worse time to impose this burden on the financial institutions. At a time when many financial institutions are struggling, the last thing they need is another Federal paperwork nightmare. Even if withholding legislation is approved there will be followup regulations and interpretations necessary for implementation. Because of this, its highly unlikely that withholding could be placed into effect by the January 1, 1983, target date. Banks, S. & L.'s, credit unions and corporations that pay dividends would be faced with enormous costs and headaches in designing and putting into effect withholding systems. Exemption procedures and registration would have to be worked out and employee retraining would be necessary. It is my understanding that withholding will require the issuance of some 400 million exemption certificates. Systems would have to be able to withhold from some accounts but not others and would have to monitor switches in category. In short, I believe that withholding involves much more than just a slight modification of institutional procedures and reprograming of a computer.

I want to point out to my colleagues that American taxpayers are already reporting 85 percent of the interest and dividend they receive so, we are talking about going after only 15 percent in noncompliance. What we are thinking about doing here is creating a regulatory and paperwork dinosaur designed to do a job that could much more effectively be done using existing information and procedures. Financial institutions already file 1099 forms with the IRS that show earned interest income and the bill helps insure compliance by requiring that individual taxpayers submit their 1099 forms with their tax returns. This will help assure that there will be a matchup of interest and dividend information.

I hope my colleagues will carefully consider this ill-advised and ill-conceived withholding provision and I hope we will be successful in eliminating it from the tax bill.●

● Mr. PELL. Mr. President, I strongly support the provisions of the tax bill requiring the withholding of Federal income tax on payments of interest and dividends.

This provision is a matter of justice, fairness, and compliance with tax laws.

As every worker knows, the wages that he earns are subjected to withholding of Federal income taxes on every pay day, whether he is paid by the week, or the month.

Partly as a result of that highly successful withholding system, the Treasury Department estimates that 99 percent of all wages are reported on income tax returns, and taxes are paid on those wages.

But, no withholding of taxes is now required on income that is earned in the form of interest or dividends on invested money. Taxpayers are expected to report that dividend or interest income when they file their tax returns. But the fact is that many taxpayers do not report their interest or dividend income. The Treasury Department estimates that as much as 15 percent of dividend income, and as much as 11 percent of interest income is not reported by taxpayers—and taxes are just not paid on that income.

Mr. President, you can call this failure to report income noncompliance or tax evasion, but there is another single, simple clear word for it—cheating. There is one very effective way to stop the cheating and that is to withhold the taxes due on interest and dividends, just as we withhold the taxes due on wages and salaries of the average American.

And, in fact, under this provision, the withholding of taxes on interest and dividends proposed by the bill is more modest than the withholding of taxes on wages. The withholding of taxes on wages is designed to be as close as possible to the actual taxes due, while the withholding of taxes in interest and dividends is limited to just 10 percent, which in most cases will be less than the actual tax due. But the withholding will provide a strong incentive for each taxpayer to report all interest and dividend income to obtain the credit for the taxes withheld.

Fairness requires that income from interest and dividends be given the same treatment as the hard-earned wage income of workers.

There is a further strong budgetary reason for withholding of taxes on interest and dividends. The Treasury Department estimates that withholding will increase revenues by $12 billion over the next 3 years. That is tax revenue that would be owed, but not paid, unless we have withholding. At a time when we are faced with huge budget deficits that threaten to undermine the health of our economy, we cannot afford to overlook $12 billion in revenue that is now being lost to tax cheaters.

The major argument made against withholding of taxes on interest and dividends is the cost and complexity of paperwork required of financial institutions to accomplish the withholding. I am confident, however, that with the aid of computers this withholding should be no more complex than the withholding of taxes on wages and salaries.

Finally, it should be noted that the withholding provisions include exemptions from withholding for low-income persons, and for the elderly who owe less than $1,500 in taxes for a single person or $2,500 for an elderly couple.

For all of these reasons I believe withholding of taxes on interest and dividends is required and justified.●

DIVIDEND AND INTEREST WITHHOLDING PROVISIONS

Mr. DOLE. Mr. President, the new withholding rules on interest and dividends include special rules which apply to original issue discount. Under new rules included in this bill, the stripped coupons and the stripped bond are treated as original issue discount obligations.

We recognize that the withholding rules may present some difficulties when a coupon bond is converted to OID instruments. Prior to a strip, the redemption of coupons would constitute interest, and withholding would occur when the coupons were redeemed. When the bond is stripped, basis is allocated to the coupons and OID income is recognized annually. Thus, in the year of redemption only a part of the amount paid is interest income on which there should be withholding. Difficulties arise because the party with the obligation to withhold may not know that the bond was stripped or may not know the holder's basis, date of purchase, or other information required to determine OID.

The Secretary, by regulations, may provide a mechanism by which the holder of stripped coupons or bonds may notify the payor that a coupon or bond is to be treated as an OID for withholding purposes. The notification would include sufficient information for the payor to determine the proper amount of withholding tax. Unless the payor receives such notification, the payor would be expected to withhold as if coupons had not been detached and the coupons and bonds were not OID instruments. The regulations should provide that if a payor receives such a notification, the payor may rely on the notification and the information contained therein in determining the amount to be withheld when a coupon or bond is redeemed.

Mr. CHILES. Will the Senator yield?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Michigan.

Mr. LEVIN. I thank the Senator.

Mr. President, I wonder if the Senator from Kansas would respond to an inquiry of mine. I am very much concerned, as are many others here, about financial institutions that will be impacted by the administrative burdens of this bill.

Section 309 provides that the Secretary of the Treasury shall prescribe regulations which delay the application of some or all of the withholding provisions to small financial institutions until such time such institutions are able to comply with the requirements of the provisions.

There are many financial institutions in this country, and not just small ones, who are faced with problems, who are under great pressure already, and who may indeed be burdened administratively by requirements of withholding.

Assuming this amendment is defeated, my intention would be to offer an amendment which would apply that proscription to the Secretary of the Treasury to provide that he shall provide regulations which delay the application of withholding provisions to institutions no matter what size until such time such institutions are able to comply without undue burdens with the requirements of the provision.

My question to my friend from Kansas, who has done such an excellent job in managing this bill, is what his position would be on such an amendment in the event it is offered, assuming that the amendment of my friends from South Carolina and Wisconsin is defeated?

Mr. DOLE. If the Senator will yield, I have discussed this matter with the Senator from Michigan and also with the staff of the Treasury Department. I am willing to accept the change and they are willing to accept the change providing the Secretary with the ability to defer the application under the provision referred to by the Senator from Michigan.

Mr. President, I would like to yield to the distinguished majority leader to close the debate on our side.

Mr. BAKER. I thank the Chairman. May I begin by congratulating Senator DOLE, of the Finance Committee, and Senator DOMENICI as chairman of the Budget Committee, and, indeed, all Members of the Senate, for continuing in their efforts to put this Nation's financial and fiscal affairs in order.

Mr. President, the next step in this arduous process is the Kasten amendment. This amendment must be examined in the context of how it relates to the task that the Congress of the United States, specifically the Senate, undertook when this body adopted a widely heralded budget resolution in an effort to reduce approximately a $180 billion deficit to something less than $110 billion, a big budget action.

It was not an easy fight; it was a difficult fight. But we passed it. It passed in the House of Representatives, it has survived the conference on the disagreeing votes of the two Houses, and it has now been adopted by Congress.

Included in the resolution is a section known as reconciliation, which has somehow taken on a magical meaning. In truth, all it amounts to is the simple proposition; that we now go forward and perform on the promises we made to the American people? Was the budget resolution that we adopted a paper tiger, or does it have teeth? When we adopted the budget resolution, were we shoveling smoke or did we mean it? That is the question before us.

This deliberation is the first major test of whether we are serious about putting our house in order. As meritorious as the contentions are that were made by the Senator from Wisconsin and others on this subject, and undoubtedly because of the burden it will cast on some financial institutions and even individual citizens, we must nonetheless consider it in the context of whether we are really serious about putting the budget in order—about complying with that instruction.

Some will argue that we ought to do it some other way, that we ought to find some other source of revenue. Mr. President, you can always argue that. As long as there are a hundred of us in this Chamber, there will be essentially a hundred different views in how we should raise the revenue to operate the Government of the United States.

It is like a lawsuit. You can negotiate forever, but finally, when you try that case, it has an ending; it has a verdict and a judgment. That is the way it is in this debate. We can argue forever about what the relative merits of some other approach would be, but finally, in our system, it has to end.

We are at the end now. We finally have to decide, are we shoveling smoke, or are we serious? Was the budget amendment a paper tiger, or does it have teeth?

I am sympathetic to the provision providing for withholding on dividend and interest for several reasons. The argument of simple equity appeals to me most.

I had one Member of this body say, "Look, I am not even in favor of withholding on earned income, though we do it." If we are going to do it at all, we ought to do it. If we are going to withhold on my salary, and yours, withhold on your wages and mine, we ought to withhold on interest and dividends.

What is the rationale for excepting them and making them a special class, who have the use of that money while none of the rest of us do?

The proposal, as reported by the Committee on Finance, is an extraordinary measure, I think, for raising a significant amount of revenue without raising taxes. That is not sleight-of-hand. It is collecting the taxes that are due by removing the special advantage that those who receive dividends on interest have enjoyed through all of these years as measured against those who are wage earners, salary earners, and have that tax withheld from their salary or wages or earnings.

I think it is fair. I think it is equitable. I think it is highly desirable. I think, as much as I respect the Senator from Wisconsin, the amendment should be defeated.

Mr. President, if it is not defeated, this bill will have lost its meaning. We will have lost so much revenue that we no longer will have complied with the instruction that the Senate, itself, placed upon itself to find the money to reduce that deficit. If we lose this amendment, we have lost this bill for all practical purposes.

So, Mr. President, I urge that we carry through on the commitment we made to the country to reduce the deficit. I urge that we comply with the instruction we gave ourselves to find revenue and reduce expenditures. I urge that we recognize that, finally, this must come to an end, as it will tonight, I trust.

I urge that we convince the country, as we should, that we mean it when we adopt a budget, that we will meet the first challenge that comes our way to test whether we were serious or not.

Mr. President, this vote is perhaps the most important vote that we shall have on budgetary and fiscal matters during this session of Congress. Let us not fail.

Mr. HOLLINGS. I ask for the yeas and nays, Mr. President.

Mr. BAKER. Mr. President, before I yield the floor, I understand the yeas and nays have been requested.

THE PRESIDING OFFICER (Mr. GRASSLEY). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, there are three votes back to back, do I understand correctly, under the order previously entered?

The PRESIDING OFFICER. The Senator is correct.

Mr. BAKER. Mr. President, I ask unanimous consent that the first vote be a 15-minute rollcall vote and the next two be 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I share the goals of the majority leader and, as the majority leader and the Senator from New Mexico know, as a member of the Budget Committee, I supported the budget targets. But we are facing a critical choice.

This is indeed one of the most important votes we will face in this session, because we have before us a choice between balancing the budget with cuts in spending, and by creating real growth in our economy; or, for balancing the budget by increasing taxes. We also have a choice as to what kinds of taxes we raise. It is clear that savings and investment are key to economic growth, are major elements of jobs. Here we attacking savings and attacking investment with new taxes and with more regulation.

There are many alternatives that will not hamper growth or cost us more jobs. Today we should stand in favor of the people who are saving. We should stand hand in hand with the people who are investing. We should

be on the side of the people who are working to provide the basis for growth—real growth—in this economy, the kind of growth that will provide new jobs and reduce the budget deficits in the years ahead.

There is no justification for new taxes on savings, for new taxes and regulations. Now is the time to stand in support of savings, in support of investors, and in support of this amendment.

AMENDMENT NO. 1119

The PRESIDING OFFICER. Under the previous order, it was agreed that we would vote on the amendment offered by the Senator from Maine. On that note, the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Missouri (Mr. EAGLETON) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 245 Leg.]

YEAS—43

Baucus	Exon	Mitchell
Bentsen	Ford	Moynihan
Biden	Glenn	Nunn
Boren	Hart	Pell
Bradley	Heinz	Proxmire
Bumpers	Hollings	Pryor
Burdick	Huddleston	Randolph
Byrd, Robert C.	Jackson	Riegle
Cannon	Johnston	Sarbanes
Chiles	Kennedy	Sasser
Cohen	Leahy	Specter
Cranston	Levin	Stennis
DeConcini	Matsunaga	Tsongas
Dixon	Melcher	
Dodd	Metzenbaum	

NAYS—53

Abdnor	Gorton	Murkowski
Andrews	Grassley	Nickles
Armstrong	Hatch	Packwood
Baker	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Brady	Hayakawa	Quayle
Byrd, Harry F., Jr.	Heflin	Roth
	Helms	Rudman
Chafee	Humphrey	Schmitt
Cochran	Jepsen	Simpson
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Long	Thurmond
Domenici	Lugar	Tower
Durenberger	Mathias	Wallop
East	Mattingly	Warner
Garn	McClure	Zorinsky

NOT VOTING—4

Eagleton	Inouye	Weicker
Goldwater		

So Mr. MITCHELL's amendment (UP No. 1119) was rejected.

Mr. DOLE. Mr. President I move to reconsider the vote by which the amendment was rejected.

Mr. McCLURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1125

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oklahoma (Mr. NICKLES). On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), would vote "Yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—97

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Zorinsky
East	Melcher	

NOT VOTING—3

Goldwater	Inouye	Weicker

So Mr. NICKLES' amendment (UP No. 1125) was agreed to.

UP AMENDMENT NO. 1126

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Wisconsin (Mr. KASTEN).

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER), and the Senator from Connecticut (Mr. WEICKER), would each vote "yea."

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE), would vote "yea."

The PRESIDING OFFICER (Mr. ARMSTRONG). Are there any other Senators who wish to record their vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—48

Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Biden	Hart	Nunn
Boren	Hawkins	Percy
Bumpers	Heflin	Pressler
Burdick	Helms	Proxmire
Byrd, Harry F., Jr.	Hollings	Pryor
	Huddleston	Randolph
Byrd, Robert C.	Jepsen	Riegle
Cannon	Jackson	Sarbanes
Chafee	Johnston	Sasser
Chiles	Kasten	Schmitt
DeConcini	Leahy	Stennis
Dixon	Long	Tsongas
Eagleton	Matsunaga	Zorinsky
East	Mattingly	
Exon	Melcher	

NAYS—49

Abdnor	Garn	Nickles
Andrews	Gorton	Packwood
Armstrong	Grassley	Pell
Baker	Hatch	Quayle
Boschwitz	Hatfield	Roth
Bradley	Hayakawa	Rudman
Brady	Heinz	Simpson
Cochran	Humphrey	Specter
Cohen	Kassebaum	Stafford
Cranston	Kennedy	Stevens
D'Amato	Laxalt	Symms
Danforth	Levin	Thurmond
Denton	Lugar	Tower
Dodd	Mathias	Wallop
Dole	McClure	Warner
Domenici	Metzenbaum	
Durenberger	Murkowski	

NOT VOTING—3

Goldwater	Inouye	Weicker

So Mr. KASTEN's amendment (UP No. 1126) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, may we have order?

The PRESIDING OFFICER. The Chair has recognized the Senator from Kansas but the Senator may not continue until the Senate is in order. The Senate will come to order.

The Senator from Kansas may now proceed.

Mr. DOLE. Mr. President, I ask unanimous consent that an amendment of the distinguished Senator from Nevada, Senator CANNON, may be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I might say in advance of the Senator offering the amendment that it is a noncontroversial amendment, as the Senator from Nevada will explain. It is an amendment that should be adopted. It has been cleared by Senator LONG, myself, and others.

UP AMENDMENT NO. 1127

(Purpose: To exclude from resources burial spaces and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program)

Mr. CANNON. Mr. President, on behalf of myself and Senators DECONCINI, CHAFEE, BURDICK, ANDREWS, MOYNIHAN, and MELCHER, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Nevada (Mr. CANNON), for himself, Mr. DECONCINI, Mr. CHAFEE, Mr. BURDICK, Mr. ANDREWS, Mr. MOYNIHAN, and Mr. MELCHER, proposes an unprinted amendment numbered 1127.

Mr. CANNON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 185, between lines 11 and 12, insert the following:

BURIAL PLOTS AND EXPENSES

SEC. 186. (a) Section 1613(a) of the Social Security Act is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon; and

(3) by inserting after paragraph (6) the following new paragraphs:

"(7) the value of any burial space (subject to such limits as to size or value as the Secretary may by regulation prescribe) held for the purpose of providing a burial place for the individual, his spouse, or any other member of his immediate family; and

"(8) any funds set aside for burial or cremation expenses, but only as provided in subsection (d).".

(b) Section 1613 of such Act is further amended by adding at the end thereof the following new subsection:

"Funds Set Aside for Burial or Cremation Expenses

"(d)(1) In determining the resources of an eligible individual and his spouse (if any) who is living with him in the same household, there shall be excluded an amount that is separately identifiable and has been set aside to meet the burial or cremation expenses, and related expenses, of such individual or spouse if the inclusion of any portion of such amount or amounts would cause the resources of such individual, or of such individual and spouse, to exceed the limits specified in paragraph (1) or (2) (whichever may be applicable) of section 1611 (a).

"(2) If the Secretary finds that any part of the amount excluded under paragraph (1) was used for purposes other than those for which it was set aside, he shall reduce any future benefits payable to the eligible individual (or to such individual and his spouse) by an amount equal to such part.".

(c) The amendment made by subsections (a) and (b) shall become effective on the date of the enactment of this Act.

On page 32, amend the table of contents by adding the following item after the term referring to section 185: "Sec. 185. Burial plots and expenses.".

The PRESIDING OFFICER. The Senator will suspend momentarily while the Chair endeavors to obtain order in the Chamber. The Senate will come to order before the Senator will be permitted to continue.

The Senator may proceed.

Mr. CANNON. Mr. President, I understand this amendment is acceptable to the managers of the pending bill. It is noncontroversial and corrects an omission of the social security law that constitutes an insensitive and appalling test of eligibility for supplemental security income.

Because the law is silent on this subject, burial spaces and funeral arrangements are being counted as assets for determining eligibility for SSI. For many elderly Americans, they are being faced with the macabre choice between lifesaving welfare assistance and giving up their plans for disposition of their bodily remains. The pending amendment would simply exclude funerary assets from being counted against eligibility for SSI.

Mr. DOLE. As a defender of the interests of older Americans, I can readily appreciate the dilemma described by the Honorable Senator from Nevada. In order to qualify for SSI benefits, an individual can only possess $1,500 in assets or $2,250 for a couple. Under existing law, certain essential resources are exempt from this assets calculation, including a home, a car, property used for self-support, and reasonable amounts of life insurance. Is the Senator from Nevada suggesting that burial arrangements be added to this list?

Mr. CANNON. Precisely. All of these exclusions should be made in recognition of the fact that certain resources and contingencies are essential to everyday living—and, yes, even to preparing for death—and otherwise eligible applicants for vital assistance should not have to dispose of these items in order to qualify. SSI applicants are further confronted with the realization that their final resting place may not be with their spouse or family, but rather in some pauper's grave chosen by the State. Limitations are included in the amendment that would give the Secretary of Health and Human Services the discretion to set a fair and reasonable value limitation of funerary resources.

Mr. DOLE. I have no problems with accepting this amendment. Forcing many elderly citizens to, in effect, choose between welfare benefits over their funerary plans is an unfair and horribly insensitive choice. As a Senate leader dedicated to the interests of senior citizens, the Senator from Nevada is to be complimented for pursuing this matter of importance to thousands of older Americans nationwide. Further helping to expedite this situation, I understand that the House Ways and Means Committee has approved a similar provision in its reconciliation package.

Mr. President, I think this is an excellent amendment. It has been cleared very carefully by staff on both sides. I commend the distinguished Senator from Nevada for offering it. We thought we might take care of it by a colloquy, but we were advised it would be better to proceed with the amendment.

I thank the Senator from Nevada for fulfilling a very important obligation to a lot of people.

I yield back the remainder of my time.

Mr. CANNON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Nevada (Mr. CANNON.)

The amendment (UP No. 1127) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. CANNON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(The following proceedings occurred later:)

Mr. DOLE. Mr. President, earlier this evening an amendment was offered by the distinguished Senator from Nevada (Mr. CANNON) which the Senate approved. The amendment would allow a needy individual to exclude an amount he set aside for burial expenses in determining eligibility for supplementary security income. Having examined the text of the amendment, we feel that the Secretary of Health and Human Services should be allowed to prescribe reasonable limits on how much an individual may set aside.

I submit a modification to the Cannon amendment that would give the Secretary this authority. I ask unanimous consent that it be in order to modify the amendment and that the amendment be so modified. I have discussed this with the distinguished Senator from Nevada, and he has no objection. This was raised by one of the staff members of the committee.

I send the modification to the desk.

The modification is as follows:

Modification of Cannon Unprinted Amendment No. 1127 on page 2, line 4, after

"amount", insert "(subject to such limits as prescribed by the Secretary)".

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. DOLE. Mr. President, with respect to the amendment just offered by both Senators from Maine, it is suggested that we add at the end of the amendment the words "in a new plan." I ask unanimous consent that that amendment, which has been adopted, be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Conclusion of later proceedings.)

Mr. DOLE. Mr. President——

The PRESIDING OFFICER. If the Senator will suspend briefly, the Chair reminds all Senators and others in the Chamber that the Senator from Kansas has been recognized and wishes to address the Chamber and cannot be heard unless the Senate is in order

Mr. DOLE. Mr President, I will yield to the Senator from Michigan in just about a minute, but I understand both Senators from Utah and the Senator from Hawaii have an amendment that perhaps we can take up. I think the Senator from Michigan has a technical amendment which we discussed a few moments ago and one which we think is a good amendment and which should be accepted.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from Michigan may be in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I thank the Chair.

UP AMENDMENT NO. 1128

(Purpose: To exempt certain financial institutions from the withholding requirement until they are able to comply without undue burden)

Mr. LEVIN. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan (Mr. LEVIN) for himself and Ms. BRADLEY proposes an unprinted amendment numbered 1128.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 500, line 16, strike the following: "which are small financial institutions".

On page 500, line 17, after the word "comply" add the following: "without undue burden".

Mr. LEVIN. Mr. President, we have just adopted an amendment which provides for withholding savings account interest. Section 309 directs the Secretary of the Treasury to adopt regulations which delay the application of the withholding provision for small financial institutions until such time as such institutions are able to comply with the requirements of such provision.

Mr. President, financial institutions of all sizes, not just small ones, are under great pressure in this country. It is not just these small financial institutions which might be burdened by these additional withholding requirements which will be imposed.

This amendment would apply the direction to the Secretary of the Treasury to delay the withholding requirement to all financial institutions, not just small financial institutions, and direct the Secretary of the Treasury to delay the new withholding requirements for all financial institutions until such time as such institutions are able to comply without undue burden with the requirements of the new withholding provision.

That is the simple, straightforward gist of this amendment. It says that we should do for all financial institutions that might be burdened by these new requirements as we have previously done in the bill for small financial institutions.

Mr. HAYAKAWA. Mr. President, may we have order?

The PRESIDING OFFICER. The point of order from the Senator from California is well taken. The Chamber is noisy. The Chair requests all Senators to retire from the Chamber if it is their desire to converse.

Mr. LEVIN. I thank the Senator from California and I thank the Chair.

Mr. President, the straightforward purpose of this amendment is to provide that the Treasury withhold the new withholding requirement from all financial institutions, not just small ones, until these institutions are able to comply "without undue burden," the added words of this amendment, with the requirements of the new withholding requirement.

I understand the manager of the bill is supportive and agreeable to this amendment. Under those circumstances, I yield back the remainder of my time on this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, this is the same amendment I discussed with the distinguished Senator from Michigan about 30 or 40 minutes ago. It is a good amendment. It has been cleared with Treasury. It has been cleared on both sides. I am very pleased to accept the amendment.

Mr. BRADLEY. Mr. President, I would like to compliment the Senator from Michigan on the amendment. I think it is a very good amendment. I think it preserves the possibility that no institution will even come close to failing because of a burdensome requirement.

Mr. LEVIN. I thank my friend from New Jersey. This will apply to financial institutions of all size where difficulty could exist in complying with it.

Mr. HAYAKAWA. Will the Senator from Michigan yield for a question?

Mr. LEVIN. I am happy to.

Mr. HAYAKAWA. When he speaks of a delay in getting the system of withholding going for a period of time, how long a period of time is he thinking of?

Mr. LEVIN. The bill does not specify a time, I say to my friend from California. The bill presently reads that the Secretary of the Treasury shall prescribe regulations which delay the new rules, in section 309. It does not say for how long but it limits it to small financial institutions. My amendment does not change the delay part of the provision. It continues to use that word "delay." It does not specify a time period any more than the original bill language specifies a time period. But it applies the same rule to all financial institutions as the bill did to small financial institutions and adds the language "until such time as such institutions are able to comply without undue burden." Those are the new words, "without undue burden." But there is no change in the language that specified "delay."

Mr. HAYAKAWA. Does the distinguished Senator believe that this amendment would cover a period of perhaps a year?

Mr. LEVIN. I would not put a time period on it. I think it should be delayed until financial institutions, whatever their size, can comply with the regulations without undue burden. Whatever time is necessary is the intent of this amendment.

Mr. KASTEN. Will the Senator from Michigan yield for a question?

Mr. LEVIN. I yield.

Mr. KASTEN. I did not understand the beginning part of the amendment, but is it the intention of the Senator that the withholding requirement would be delayed for all financial institutions until all financial institutions are deemed able to comply, or is it his intention that we dribble them in as one group after another indicates they were willing to comply?

Mr. LEVIN. The language would provide that the Secretary of the Treasury shall delay applying these regulations to institutions until they are able to comply without undue burden. That will allow flexibility. I do not think they ought to be dribbled in institution by institution. Obviously, there ought to be some cohesiveness in the approach, but it does allow flexibility to the Secretary of the Treasury. More important, the purpose is not to give flexibility to the Secretary, but the purpose is to give financial in-

stitutions, whatever size, large or small, the opportunity to make the case to the Secretary of the Treasury that the regulations should be delayed until they can be complied with without undue burden. That is the leverage that it gives to the financial institutions regardless of their size.

The PRESIDING OFFICER. The Senate will be in order.

Mr. KASTEN. If the Senator from Michigan will yield for a further question, and I would also like the chairman to reply to the same question, it is my understanding and it is my hope that the intent of this language is that we wait until it is deemed possible that all financial institutions, regardless of size, are able to comply, and at that time all financial institutions will come in under this new provision. In other words, we would not want a large, computerized bank in a city to come in on day one and wait for 2 years to require a small country bank that did not have computers to come in, and during that time we would have in the same area one bank that was withholding and another that was not. It would be my hope that it is the intent of the Senator from Michigan, with the agreement of the Senator from Kansas, the chairman of the committee, that at a certain time all institutions would comply and all would fall in, but until we establish the fact that all institutions can comply, then no institution would fall in. Is that the intention?

Mr. LEVIN. That is not the intent. The intent is that any institution covered by the regulation, large or small, would not comply if there was undue burden, until such time as they can be covered without undue burden. The Secretary of the Treasury would not have to wait to apply the rules because there is another class of institution which would be covered without undue burden.

Mr. KASTEN. I hope the Secretary of the Treasury will also take into consideration the problem that could occur when one institution in a marketing area which would be forced to comply on day one and another institution in the same marketing area for some reason or another was unable to comply. We do not want to force them to go through huge expenses of software and hardware in order to make them comply, but at the same time we want to be aware of the marketing difficulties this will create if you withhold in one place and not in another.

Mr. LEVIN. I understand what the Senator is saying, and I think there is a real problem, which he has identified in the debate. I might point out to the Senator that the present language of the bill makes a distinction between small institutions and other institutions, and it takes the same problem in terms of possible competitive edge. We would not want this amendment to compound that problem.

Mr. KASTEN. I would like the amendment to suggest that neither the big one or the small one would be pushed to comply until both can comply.

Mr. LEVIN. I understand the desire of the Senator. But that is not quite the intent. It gives greater flexibility to the Secretary of the Treasury, but its major intent is not to give the flexibility to the Secretary of the Treasury but it is to give the opening to institutions, whatever their size, to persuade the Secretary of the Treasury that new regulations should not be put into effect because they are unduly burdensome. That is the principal intent of this amendment.

I understand what the Senator is saying. I do not go quite as far as the Senator would like in that regard, but I think it is intended to go a long way to meet the concerns which have been very properly identified by the Senator from Wisconsin.

Mr. KASTEN. Mr. President, I support the efforts of the Senator from Michigan. I hope the Secretary of the Treasury, with the discretion in the language of the bill, would also recognize the marketing problems that could come up, and take into consideration these marketing problems which could come up. There is no point in forcing expenses onto the small institutions but neither do we want to create a noncompetitive situation.

Mr. DOLE. Mr. President, let me say to both Senators, particularly the Senator from Michigan, the author, that, as I said earlier, this gives greater flexibility, which is what he is trying to provide. I think the Senator from Wisconsin identifies a problem that could occur. There are probably a number of those. They should not be forced to do something when there is some undue burden. That is what the Senator from Michigan provides. In my view it is a good amendment and should be accepted. I yield back the remainder of my time.

The PRESIDING OFFICER. Is all time yielded back? Does the Senator from Michigan yield back his time?

Mr. LEVIN. I yield back my remaining time.

The PRESIDING OFFICER. All time has been yielded back. The question is on agreeing to the amendment.

The amendment (UP No. 1128) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1129

Mr. DOLE. Mr. President, I send an amendment to the desk on behalf of myself and Senator DODD and ask for its immediate consideration.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), for himself and Mr. DODD, proposes an unprinted amendment numbered 1129.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 376, insert the following new subsections immediately after line 22:

"(c) PROHIBITION AGAINST DEDUCTION OF INTEREST IN EXCESS OF AMOUNT CREDITED TO GROUP PENSION POLICYHOLDERS.—Section 805(a) (relating to the determination of policy and other contract liability requirements) is amended by adding at the end thereof the following:

"'(f) Special limitation for group pension contracts. For periods beginning after July 2, 1983, the amount determined under paragraphs (2) and (3) of subsection (a) for policy and other contract liability requirements for group pension contracts shall not exceed the amount of interest actually credited to the policyholder whether such crediting is through premium rate computations, reserve increases, excess interest, experience rate credits, policyholder dividends or otherwise. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection.

"(d) PROHIBITION AGAINST CHANGING THE QUALIFICATION STATUS OF LIFE INSURANCE COMPANIES.—For any taxable year ending before January 1, 1985, a taxpayer shall not be treated as other than a life insurance company (as defined in section 801(a) of such Code) because of the effect of amounts held under contracts described in section 805(d) of the Internal Revenue Code of 1954, but which do not contain permanent annuity purchase rate guarantees."

On page 384, insert the following new paragraph immediately after line 16:

"(3) Special Rule for Participating Contracts.—In the case of an annuity contract which is not a qualified contract because it fails to satisfy the requirements of subparagraph (B) of paragraph (2), such contract shall be treated as meeting such requirement if, at the election of the taxpayer issuing such contract, the amount taken into account as qualified guaranteed interest for purposes of this section is limited to 92½ percent of the total amount paid or credited with respect to such contract and such total amount (or portion thereof) shall not be taken into account as a deduction under any other provision under this part. Similar rules shall apply with respect to such amounts for purposes of subpart C of this part. The election under this subsection shall be made at such time and in such manner as may be required under regulations prescribed by the Secretary."

On page 392, on line 22, strike out "120" and insert in lieu thereof "60".

DEFINITION OF LIFE INSURANCE COMPANY

Mr. DODD. Mr. President, this amendment preserves the status quo concerning qualification as a life insurance company by placing a moratorium in Internal Revenue Service actions in this area for the duration of the "stopgap" period. There is no reve-

nue effect because this proposal is actually the assumption everyone has made in arriving at the revenue estimates under this legislation.

The IRS has recently notified companies that they are reviewing the technical factors which determine whether companies which are commonly recognized as major life insurance companies will be taxed as life insurance companies or instead will be reclassified as property/casualty insurance companies. A ruling which would overturn the longstanding classification of companies as life insurance companies would alter the carefully crafted "stopgap" tax agreement underlying the legislation proceeding through Congress.

A ruling permitting large life insurers to be taxed as property/casualty companies would provide significant tax benefits to mutual companies while at the same time significantly and adversely affecting their competitors which are large stock companies by, in effect, destroying carefully considered statutory provisions that have been in the law for years.

Therefore, Congress should adopt a rule in the legislation now pending which would have the effect of continuing to consider companies which everyone recognizes as life insurance companies the same way they have been for years, as life insurance companies. This proposal assures tax compliance by all members of the industry and preserves competitive balance.

Mr. DOLE. Mr. President, this matter was called to my attention by the distinguished Senator from Connecticut (Mr. DODD). We have been working, both yesterday and today, with Treasury and the insurance industry, and it is my understanding that there has been resolution of all the differences and all the problems. I shall try to explain it very briefly. If I need assistance, I am certain the Senator from Connecticut will be helpful.

QUALIFICATION OF COMPANIES AS LIFE INSURANCE COMPANIES

The Senator from Kansas has been concerned that some life insurance companies might inadvertently be disqualified from life insurance status for tax purposes if the IRS were to issue adverse letter rulings in this rather complicated area.

This Senator has some reluctance to grandfather aggressive tax planning techniques which, although having some basis in the law, are not free from doubt as to outcome. However, there are many areas of the tax law concerning life insurance companies that should be reviewed. That is the rationale behind including life insurance provisions in this bill which will sunset after 3 years. This temporary rule for rulings relating to qualification of life insurance companies is consistent with the concept of providing a relatively short period of time for a full-scale review of the system of life insurance taxation. In that spirit, this Senator would say that the first portion of this amendment is reasonable.

THE 100-PERCENT DEDUCTION FOR PENSION BUSINESS

This amendment, more importantly, clears up a problem left unresolved by the bill as reported.

Mr. President, in the Finance Committee we were moving rather quickly and the staff worked all weekend and all the following week trying to put the documents together, but there are always some problems that have not been resolved. The bill is intended to allow a 100-percent deduction for amounts credited on pension business, no more and no less. However, under the language now in the bill, there is a possibility that companies would take more than a 100-percent deduction. This amendment would make certain that this could not happen in the future.

I commend the distinguished Senator from Connecticut for helping us correct what could have been an area of abuse.

DEDUCTION OF CERTAIN AMOUNTS CREDITED TO ANNUITY BUSINESS

The committee bill allows companies to deduct 100 percent of amounts credited on deferred annuity business if it is sold on a nonparticipating basis, that is, if dividends are not paid, based on experience. The effect of this provision is that mutual life insurance companies would be able to deduct only 77½ percent of amounts credited because they do not issue unparticipating annuity contracts and participating contracts are limited to a 77½-percent deduction for the company.

The amendment essentially would allow mutual companies to deduct 92½ percent of amounts credited on an annuity business. This 7½-percent differential reflects the ownership interest in the company of a mutual company's contract holders. It is consistent with the committee bill which provides a 77½ percent safety net for mutual companies and an 85-percent safety net for stock companies for deductibility of policyholder dividends.

This Senator believes that the amendment provides a reasonable result consistent with the Finance Committee's action.

WITHDRAWAL OF CERTAIN AMOUNTS IN ANNUITY FORM

Finally, the amendment would provide that no penalty would be imposed upon an individual who takes the money from his deferred annuity in essentially equal installments over a 60-month period. The Finance Committee bill provided that amounts would have to be withdrawn over a 120-month period in order to avoid the 10-percent penalty.

This Senator is satisfied that the potential for abuse of deferred annuities as short-term investment vehicles will be substantially limited if individuals must receive their accumulations over a 5-year period.

Mr. President, I think that fully explains the amendment unless the distinguished Senator from Connecticut has something to say.

Mr. DODD. Mr. President, I think the Senator did an excellent job of explaining the measure. It is a highly complicated matter. This is an interim provision. For 3 years we will have a stopgap period in which we are trying to work out a comprehensive tax approach to life insurance and to insurance generally. I am pleased that the chairman of the committee, the distinguished Senator from Kansas, has offered this amendment. I am delighted to cosponsor it with him. I urge my colleagues to support the amendment.

Mr. METZENBAUM. Mr. President, if the Senator from Kansas will yield, what revenue impact, if any, would this amendment have?

Mr. DOLE. Zero.

Mr. METZENBAUM. I thank the Senator from Kansas.

Mr. DOLE. Mr. President, I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1129) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1130

(Purpose: To eliminate withholding on certain qualified written notices of allocation if less than 50 percent of such notice is paid in money or qualified check)

Mr. DOLE. Mr. President, I ask unanimous consent that the amendment of the Senator from North Dakota (Mr. ANDREWS) be in order.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ANDREWS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from North Dakota (Mr. ANDREWS), for himself, Mr. BAUCUS, Mr. GRASSLEY, Mr. DURENBERGER, Mr. BOSCHWITZ, Mrs. KASSEBAUM, Mr. ZORINSKY, Mr. DOLE, Mr. PRESSLER, Mr. EXON, Mr. ABDNOR, Mr. HEINZ, Mr. DOMENICI, Mr. DANFORTH, Mr. HUDDLESTON, Mr. COCHRAN, Mr. MELCHER, Mr. GORTON, Mr. WALLOP, Mr. JEPSEN, Mr. SYMMS, Mr. SASSER, and Mr. EAGLETON, proposes an unprinted amendment numbered 1130.

On page 481, line 13, strike out "(as defined in section 1388(c))".

On page 481, line 15, strike out "as defined in section 1388(d)".

On page 482, line 14, strike out "and".

On page 482, strike out lines 15 through 17 and insert in lieu thereof the following:

"(ii) a qualified written notice of allocation described in section 1388(c)(1)(A) shall be taken into account at its stated dollar amount, and

"(iii) a qualified written notice of allocation described in section 1388(c)(1)(B) (and not in section 1388(c)(1)(A)) shall be taken into account only if 50 percent or more of such qualified written notice of allocation is paid in money or by qualified check.

"(D) Definitions.—For purposes of this paragraph—

"(i) Qualified written notice of allocation.—The term 'qualified written notice of allocation' has the meaning given to such term by section 1388(c).

"(ii) Nonqualified written notice of allocation.—The term 'nonqualified written notice of allocation' has the meaning given to such term by section 1388(d).

"(iii) Qualified check.—The term 'qualified check' has the meaning given to such term by section 1388(c)(4).

Mr. ANDREWS. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors: Senators BAUCUS, GRASSLEY, DURENBERGER, BOSCHWITZ, KASSEBAUM, ZORINSKY, DOLE, PRESSLER, EXON, ABDNOR, HEINZ, DOMENICI, DANFORTH, HUDDLESTON, COCHRAN, MELCHER, GORTON, WALLOP, JEPSEN, SYMMS, SASSER, EAGLETON, and BURDICK.

This is a technical amendment that allows doing away with withholding on cooperatives' patronage dividends where less than 50 percent are paid in cash. It takes care of the small neighborhood cooperatives and takes care of a technical error in the bill. I hope it will be adopted. I yield to my colleague from Montana (Mr. BAUCUS) a cosponsor of the bill.

The PRESIDING OFFICER. Without objection, the Senators named by the Senator from North Dakota will be added as cosponsors.

Mr. BAUCUS. Mr. President, as the Senator from North Dakota has so aptly described the amendment, it takes care of a technical oversight which occurred when the committee adopted the withholding on interest and dividend provisions.

Mr. President, I am pleased to be a cosponsor of this amendment which concerns withholding on patronage dividends. This amendment corrects what I feel is an oversight in the drafting of this legislation.

Patronage dividends are used by agricultural cooperatives—they represent price adjustments allocated to coop members after the cooperative determines its cost of doing business.

There are several good reasons why patronage dividends should not be included in the bill.

First, patronage dividends should not be subject to the withholding provisions because, to my knowledge, there have been no hearings in the Senate or the House to determine the effects of this move on the operation of the co-ops. This has not been proposed since 1962—when it was soundly defeated.

Second, the entire amount of the patronage dividend must be declared by a co-op patron as income in the year received. The only effect of subjecting patronage dividends to withholding is having tax revenue flow to the Treasury earlier in the year.

I believe this benefit is overshadowed by the tremendous paperwork burden created for cooperatives and the cash flow burden on farmers: Farmers simply cannot afford another loss of operating cash—they are already hard pressed to generate cash flow with today's rising cost of production and low farm prices.

Mr. President, I have not seen a specific tally by Treasury of the revenues generated by subjecting patronage dividends to withholding. I believe—at the very least—we need this calculation before passing this measure—which has a devastating impact on the operation of farm co-ops.

Remember, the entire amount of ordinary dividends or interest income is available to the recipient. On the other hand, only 20 percent of a patronage dividend is subject to tax as income.

The practical effect of imposing a 10-percent withholding on patronage dividends—as the bill does now—would be to reduce the cash portion a farmer receives of the patronage dividends by 50 percent. This occurs because 10 percent of the total patronage dividend is subject to withholding; 10 percent of the total is withheld from the cash portion—and only 20 percent of the total is paid in cash.

Mr. President, a vote against this amendment is a vote against cooperatives. A vote against this amendment is a vote against farmers, and ultimately a vote against the consumer.

I believe the damage done by this section of the bill far outweighs the benefits to the Treasury. It needs to be changed.

Mr. President, I ask unanimous consent that a position paper of the National Council of Farmer Cooperatives be printed in the RECORD following my statement. I also ask that a statement by the National Farmers Union be printed in the RECORD.

I urge adoption of the amendment.

There being no objection, the material was ordered to be printed in the *Record*, as follows:

NATIONAL COUNCIL OF FARMER COOPERATIVES,
Washington, D.C. July 21, 1982.

PATRONAGE DIVIDENDS SHOULD NOT BE SUBJECTED TO THE WITHHOLDING PROVISIONS OF H.R. 4961

"Patronage dividends" are not dividends in the ordinary sense of the word. Instead they represent price adjustments allocated to members after the cooperative has determined its cost of doing business for the year involved.

In order for the cooperative to qualify under the Internal Revenue Code for a deduction on patronage dividends paid to patrons, at least 20 percent of the payment must be in cash and the patron must consent to treat the entire amount of the patronage dividend as income in the year received. The patron thus incurs tax liability on the entire amount. The following simple example will illustrate.

Assume a farmer cooperative has net margins of $500,000. It determines that patron X is entitled to 1/500th of the margin based on the value or amount of business done with the cooperative. Therefore, patron X is entitled to receive a $1,000.00 patronage dividend, $200.00 of which is required to be paid in cash. The other $800.00 is allocated to patron X on the cooperative's books as an equity interest to be revolved out on a timetable approved by the Board of Directors. Nevertheless, patron X pays a current tax on the total amount of the patronage dividend, both the cash and the noncash portion.

The example demonstrates the difference between ordinary dividends or interest (where the entire amount is immediately available to the recipient) and a patronage dividend (where the recipient not only receives a lesser amount in cash but also pays tax on amounts not received but merely allocated on the books). The practical effect of imposing a 10 percent withholding on patronage dividends in the example shown above is that the farmer patron will have the cash portion of his patronage dividend reduced by 50 percent since $100.00 (10 percent of the entire patronage dividend) will be withheld from the $200.00 cash payment. Such a requirement places a tremendous cash flow burden on farmers at a time when they can ill afford it.

The Internal Revenue Service estimates that 15 percent of dividend income and 11 percent of interest income is not reported by taxpayers. In contrast, all patronage dividends paid by former cooperatives are reported on Form 1099-PATR. Thus, withholding is not needed to assure that patronage dividends are fully reported for income tax purposes.

Finally, the bookkeeping requirements and cost associated with a withholding system will utimately be borne by the farmer-patrons, since cooperatives operate at cost for the mutual benefit of their members.

For all the foregoing reasons, the National Council of Farmer Cooperatives submits that patronage dividends should not be subjected to the withholding provisions of H.R. 4961.

NATIONAL FARMERS UNION,
July 20, 1982.

URGENT LEGISLATIVE MESSAGE

To: Members of the U.S. Senate.
From: Carl W. Ek, Legislative Assistant.
Subject: Treatment of Patronage Refunds in H.R. 4961.

The National Farmers Union respectfully requests that you support any amendments to delete provisions in H.R. 4961 which are injurious to farmer cooperatives.

Section 301 and 304 of the Tax Equity and Fiscal Responsibility Act of 1982 both contain language which, if adopted, might seriously impair the American cooperative system. Patronage refunds, the essence of this self-help enterprise, constitute the

equity a farmer holds in his cooperative and should not be treated in the same manner as interest or dividend income. Moreover, the directive requiring cooperatives to report all patronage payments exceeding $10 would place a costly and inequitable burden on accounting procedures. Finally, this proposal would have no significant impact upon the federal budget; it would only serve to further erode the diminished financial condition of American farmers.

Mr BAUCUS. I thank the Senator from North Dakota for his leadership in this matter.

Mr. ANDREWS. Mr. President, I thank the Senator from Montana. These are small local cooperatives which, in many cases, simply do not even have the facilities to handle the withholding.

Mr. METZENBAUM. Mr. President, will the Senator from North Dakota yield for a question?

Mr. DOLE. Mr. President, let me state beforehand that, again, this amendment has been under consideration for the last several days. The Senator from Montana and the Senator from North Dakota and the Senator from Kansas reviewed the amendment. I have discussed it with Treasury officials. I think it has been cleared on both sides. We are prepared to accept the amendment. I know the Senator from Ohio has a question.

Mr. METZENBAUM. The only question I have is, what is the revenue impact, if any?

Mr. ANDREWS. To the best of my knowledge, there is none.

Mr. DOLE. Mr. President, we were advised by the Treasury that it is negligible.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP 1130) was agreed to.

Mr. DOLE. I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the Senator from Utah, Mr. HATCH, has an amendment, along with Senator MATSUNAGA and Senator GARN.

Mr. METZENBAUM. If the manager of the bill is prepared for an amendment, I am prepared to offer one if nobody else is ready to go.

Mr. DOLE. Fine.

UP AMENDMENT 1131

(Purpose: To provide that proposed increases in the unemployment tax shall not become effective until such time as a program has been enacted providing for 13 additional weeks of unemployment compensation for workers who have exhausted their eligibility for regular and extended benefits)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) for himself, Mr. KENNEDY and Mr. RIEGLE proposes an unprinted amendment numbered 1131.

On page 429, between lines 6 and 7, insert the following:

(c) The amendment made by subsections (a) and (b) shall not become effective with respect to any calendar year to which they would otherwise apply unless, prior to January 1, 1983, there has been enacted into law a program, which shall become effective in calendar year 1982, under which Federal payments are to be made to provide, or to reimburse States for the cost of, not less than 13 additional weeks of eligibility for unemployment compensation, for workers who have exhausted their rights to any regular unemployment compensation, and, in the case of a State in which an extended benefit period is in effect, have exhausted their rights to any extended unemployment compensation.

Mr. METZENBAUM. Mr. President, the amendment I am offering today provides that the increases in unemployment tax shall not become effective until Congress enacts a program to provide 13 additional weeks of unemployment compensation for workers who have exhausted their eligibility for regular and extended benefits.

Today, approximately 2 million people have exhausted their regular and extended unemployment benefits. These are workers who have paid into the system, the same hard-working people the President of the United States described during his Presidential campaign as "American's unsung heroes and heroines."

Last month in Ohio I heard the stories of some of those who have exhausted their benefits. People with 17 and 18 years of seniority are on the street without hope of being called back to work. Men and women are watching their cars and homes being repossessed and parents are being forced to abandon their dream of higher education for their children.

People who never before thought that they would be forced to turn to welfare, are finding after they apply that they are not qualified.

These are people who have played by the rules. They have paid their taxes and worked hard all their lives without asking for assistance. And now, when they need the help of the Federal Government, it is not forthcoming.

In fact, the response of Congress and the administration to the urgent needs of the unemployed has been the reverse of what is needed.

With 10 million Americans out of work, this Congress and this administration have virtually eliminated trade readjustment assistance and CETA. And the Congress and the administration have changed the formula that triggers extended benefits by not counting the men and women already in the extended benefits program, thereby making it harder for States to qualify for extra assistance. As a result, Indiana with an unemployment rate of 11.4 percent, along with Massachusetts, Delaware, Minnesota, Arkansas, Maine, New Jersey, and Missouri are not on the extended benefits program. This change has affected over 80,000 people in these States alone.

And finally, this Congress and this administration have tightened the eligibility for welfare and food stamps which had made it even harder for those who have exhausted their benefits to receive assistance of any sort.

My amendment would provide assistance to people who urgently need it. Quite simply, it says if we are going to increase unemployment taxes, let us also enact an additional 13 weeks of unemployment benefits for workers who have exhausted their eligibility for regular and extended benefits.

The amendment does not mandate the type of program which must be enacted. It leaves to the appropriate committee the prerogative of working out the details of the legislation. But the amendment does say that if we are going to have the tax, we should also be assisting those who, through no fault of their own, are in need.

I believe this is a fair exchange. It is the least we can do to help alleviate the pain and suffering that millions of Americans are experiencing. I urge my colleagues to support this amendment to show to those who are unemployed that we understand their plight and will respond with compassion.

Mr. President, this amendment is a very simple and elementary one. We are increasing the unemployment taxes under this legislation by an amount approximating, I believe, $6 billion over a period of 3 years. There is nothing moving in the Senate to take care of the unemployed workers of this country, and all this amendment says is that although we are increasing the taxes, that increased tax provision will not be operable until such time as Congress enacts legislation extending the period of unemployment benefits for an additional 13 weeks.

The House is already moving in this direction. I think it is reasonable to assume that the House will enact the legislation. I think it is fair to explain to the Members of the Senate that al-

though there will be some budgetary impact, it is not of major proportion, and on the House side allowances have already been made for the budgetary implications.

Mr. President, I reserve the remainder of my time and ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. The yeas and nays have been asked for. Is there a sufficient second? There is sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. I suggest the absence of a quorum to be charged equally.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. JEPSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is informed that there is a rollcall in progress. Does the Senator ask unanimous consent that the order for the quorum call be rescinded?

Mr. JEPSEN. Mr. President, that is what I was about to do. I was going to ask unanimous consent that the order for the quorum call be rescinded.

Mr. STENNIS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk resumed the call of the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that Mr. Keith Barton be allowed the privileges of the floor for the remainder of the evening.

The PRESIDING OFFICER. Without objection, Mr. Barton will be allowed privileges of the floor for the remainder of the evening.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MOYNIHAN. Mr. President, in the same manner as has been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. JEPSEN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LEAHY. Mr. President, regular order.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk resumed the call of the roll.

Mr. LEAHY. Regular order.

The PRESIDING OFFICER. Regular order is for the clerk to call the roll and the clerk will continue the call of the roll.

The legislative clerk continued to call the roll.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. JEPSEN. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued and completed the call of the roll. The following Senators answered to their names:

[Quorum No. 43 Leg.]

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Garn	Moynihan
Baker	Glenn	Murkowski
Baucus	Gorton	Nickles
Bentsen	Grassley	Nunn
Biden	Hart	Packwood
Boren	Hatch	Pell
Boschwitz	Hatfield	Percy
Bradley	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Bumpers	Heflin	Pryor
Burdick	Heinz	Quayle
Byrd, Harry F., Jr.	Helms	Randolph
	Hollings	Riegle
Byrd, Robert C.	Huddleston	Roth
Cannon	Humphrey	Rudman
Chafee	Jackson	Sarbanes
Chiles	Jepsen	Sasser
Cochran	Johnston	Schmitt
Cohen	Kassebaum	Simpson
Cranston	Kasten	Specter
D'Amato	Kennedy	Stafford
Danforth	Laxalt	Stennis
DeConcini	Leahy	Stevens
Denton	Levin	Symms
Dixon	Long	Thurmond
Dodd	Lugar	Tower
Dole	Mathias	Tsongas
Domenici	Matsunaga	Wallop
Durenberger	Mattingly	Warner
Eagleton	McClure	Zorinsky
East	Melcher	

The PRESIDING OFFICER. A quorum is present.

The question is on agreeing to the amendment of the Senator from Ohio. All time has expired.

Mr. DOLE. Mr. President, has time expired on the amendment?

The PRESIDING OFFICER. Time on the amendment has expired. Does the Senator yield himself time on the bill?

Mr. DOLE. Just about 2 minutes.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Mr. President, I will just take a minute or two. The hour is late and there are several more amendments.

Let me advise my colleagues that the Senate Finance Committee has scheduled a hearing on the question of additional weeks of unemployment compensation benefits for Thursday, July 29, at 9:30 a.m.

I might say this is the direct result of the request of the distinguished minority leader, Senator ROBERT C. BYRD, who asked me if we could do that, and we did it very promptly. In fact, we scheduled it the day after the request was made, and agreed that we could do it, so I hope we can have hearings on this very important provision.

I think before we act, before we lock the Congress into the enactment of this very expensive program, we should allow the Committee on Finance to have the opportunity to study the issue.

The Senate is currently debating a reconciliation bill, a bill designed to reduce the Federal deficit and bring Federal spending down, and here is an amendment to take Federal spending up. Again it would seem to me, although I am sympathetic with what the distinguished Senator from Ohio wishes to do, I hope we can defer a decision until after we have had some hearings. I have some other fine remarks in this statement.

Before we act on this subject, before we lock the Congress into enactment of this very expensive program, it seems to me we should allow the Finance Committee the opportunity to study the issue and evaluate whether or not a full year of unemployment benefits is necessary or justified.

The Senate is currently debating a reconciliation bill—a bill designed to reduce the Federal deficit and bring Federal spending—at least that portion of the Federal budget under the jurisdiction of our committee—under control. The addition of an expensive spending amendment will only mean we must look elsewhere for either more savings or more revenues.

On the more basic subject of the Senator's amendment, I would remind my colleagues that unemployment compensation is designed to provide income support during relatively short spells of unemployment. However, there are times when the duration of unemployment benefits should be increased. This is why we enacted the extended benefits (EB) program.

The EB program "triggers on" during periods of high unemployment on a State-by-State basis. Three extra months, 13 weeks, of benefits are payable to persons who continue to be out of work after 6 months, 26 weeks, of regular benefits paid under the State unemployment compensation program. That is a total of 9 months of unemployment compensation benefits. In my opinion, that should be the maximum responsibility for the Nation's unemployment compensation program.

Economic studies have demonstrated that the length of time that claimants

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collect benefits rises as the available duration of benefits is extended. Obviously, claimants tend to delay serious job search efforts until benefits are nearly exhausted.

The proposed additional 13 weeks of benefits would be financed totally out of general revenues—thereby contributing to the deficit, by at least $1 billion in fiscal year 1982 through fiscal year 1983.

Not only would there be a large Federal budget impact, but costs of the existing unemployment insurance system would rise as claimants receiving regular State benefits delay taking new jobs. State unemployment trust funds are already seriously overburdened. Many are running in the red. The States would be forced to either raise taxes on the employers or borrow from the Federal Treasury to pay the increased cost of the regular and extended benefit program.

The adverse financial effect of Federal supplemental benefits during the 1970's is further illustrated by the findings of a recent tax foundation study. That study indicated that the extended and supplemental benefit programs added about 30 percent to the costs of the regular program. I would remind my colleagues that the regular State programs are financed totally through taxes on employers in that State.

The experience of the Federal supplemental benefits program of the mid-1970's also demonstrates the fact that the increased claims load and longer availability of benefits kept the State administrative agencies from providing adequate job market services.

Extending unemployment benefits to a year's duration transforms the program from short-term income maintenance to something like welfare. The example of the Federal supplemental benefits program illustrates the problems of extending benefit duration to relatively long periods of time. The unemployment compensation program developed the same types of bureaucratic flaws and abuses that are a feature of welfare.

Because of the advent of the two wage-earner family and other demographic changes, the insured unemployment rate of 4 percent or 5 percent in the current State triggers no longer represents the emergency that would warrant a costly extension of benefit duration.

In more than half the U.S. households with an unemployed husband, another family member has a job, according to the Labor Department. A recent Department study found that a typical autoworker's family income falls comparatively little, from an average of $25,000 to $20,000 a year, when he is laid off; wives or children take jobs and the autoworker receives jobless benefits and other assistance.

So I would urge my colleagues to oppose the amendment. The Finance Committee will study the various bills and take action.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that I may have 3 minutes since the time is used up in the quorum call.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. What was the request?

The PRESIDING OFFICER. The request is that the Senator be recognized for 3 minutes.

Mr. LONG. Mr. President, I will yield the Senator 3 minutes on the bill.

Mr. METZENBAUM. I appreciate the courtesy of the Senator from Louisiana.

This amendment—I will repeat it—is very simple and elementary. I was one of those few, in fact, who voted on this side of the aisle for the FUTA tax yesterday. I think there was need for the FUTA tax, but the fact is I think there is also a need for extended unemployment benefits to be increased an additional 13 weeks, and this is the only provision in the bill that would provide any help to unemployed workers in this country.

It is an amendment supported by the AFL-CIO; it is an amendment supported by unemployed workers throughout the country.

It does not affect the validity of the FUTA tax but merely provides that the FUTA tax shall not become effective with respect to any calendar year in which it would otherwise apply unless prior to January 1, 1983, which would certainly give the Finance Committee plenty of time to act, there has been enacted into law a program which will become effective in calendar year 1982 for the additional 13 weeks.

I think it is a reasonable approach. I think it should be pointed out that the House has already recommended from the committee a bill to extend unemployment benefits for an additional 13 weeks.

I yield to the Senator from West Virginia the remainder of my time.

WE NEED SUPPLEMENTAL UNEMPLOYMENT BENEFITS

Mr. ROBERT C. BYRD. Mr. President, I rise today to support the amendment that has been proposed by the distinguished Senator from Ohio, Senator METZENBAUM. The Senator from Ohio correctly has pointed out to this body that the reconciliation bill before us today contains increases in the Federal unemployment tax that over the next 5 years will total $12 billion.

And yet, Mr. President, this bill, which touches in some way virtually every program within the jurisdiction of the Senate Finance Committee, does not provide one thin dime to the 10.4 million persons who currently are unemployed and either have exhausted or soon will exhaust their regular and extended unemployment benefits.

The economic statistics irrefutably demonstrate that this Nation entered into the current recession in July of last year. Ironically, this recession, that began 6 months after the current administration took office, officially commenced within a few days of enactment by Congress of the administration's supply-side economic program. The record is unassailable: Since that day, the recession has only grown more serious. Despite almost daily claims by administration spokesmen that "we are about to turn the corner" toward economic progress, we remain mired in a national economy tragedy.

The administration's economic program has failed to date. As David Stockman revealed in his statements to William Greider last fall, it is now and always has been only a Trojan Horse to sneak the old philosophy of "trickle down" economics into law.

Voodoo economics has extracted a terrible price in human misery. Nowhere can this be seen more clearly than in the unemployment statistics. In the Labor Department's report last month, 10½ million people were counted as unemployed—and that is on a seasonally adjusted basis. President Reagan has said he does not believe the world is seasonally adjusted. If one takes the raw figures, 10.9 million were counted as unemployed—over 9.8 percent of the workforce. This, of course, does not count the rapidly increasing number of discouraged workers who have failed in their efforts to find work for so long that they simply have given up looking; there are over 1.5 million of these. Nor does it count the several hundred thousand workers who have been forced to work only part time because they are not able to secure full time work. It is these people who are the most serious casualties of the current recession, Mr. President.

What has the administration done to help these people? I am distressed to say that the administration proposed and the Congress accepted billions of dollars in reductions in unemployment insurance benefits within the Reconciliation Act of 1981. And the unemployed have felt only the tip of that iceberg—because some of the harshest reductions have been lying dormant for a year, and will not take effect until late September, when hundreds of thousands of persons will lose eligibility for extended benefits.

How does this record contrast with the way in which previous administrations—and the Senate when it was under Democratic control—dealt with recessions when unemployment was higher than normal—although considerably lower than today?

In 1971, Mr. President, there were 5.1 million unemployed persons, and the unemployment rate was 5.5 percent. In 1974, the next significant recession, the unemployment rate reached 7.2 percent and 6.6 million persons were out of work. During each of those times, a temporary program of supplemental benefits was enacted—increasing from 39 weeks to 52 weeks, and in one case 65 weeks, the period during which the unemployed are eligible for unemployment benefits.

On May 18 of this year, with 21 original cosponsors, I introduced a bill to establish a temporary supplemental benefits program: S. 2542. Although it is not the ultimate solution to the problem of unemployment, I think it is an essential step that a compassionate nation must take when a tenth of its work force has been idled by a recession.

What has happened in the 2 months that have passed since then? Unemployment has risen even further. Thousands more people have exhausted their unemployment benefits. And nothing has been done with the bill I introduced or with any similar measure here in the Senate. The House Ways and Means Committee, on the other hand, has reported a bill such as this twice—and, in fact, attached its bill to the House companion for the very bill we are considering here today.

I am advised that the Senate Finance Committee now has set hearings on this bill in Washington and in several other cities at the end of this month. I intend to testify. But those hearings, and the testimony I and others will offer, will not provide so much as a penny of badly needed assistance to even one unemployed person.

How bad does the unemployment situation have to get before the administration thinks it is bad enough to do something about it? How many more millions of persons must lose their jobs, and lose their unemployment benefits, before the majority in the Senate concludes that we must do something? How much longer must we wait?

But most troubling of all is the fact that we have no assurance whatsoever that the Senate Finance Committee ever intends to report supplemental benefits legislation.

It is for that reason, Mr. President, that I will support the amendment offered by the Senator from Ohio, and will urge my colleagues to support it as well. While this bill has been under consideration by the Senate, I have supported amendments that would delete the increase in the Federal unemployment tax, because I think now—while businesses are struggling, and before we even begin an economic recovery that must include hiring back millions of unemployed workers—is the worst possible time to increase the costs to employers of hiring workers. If there are other amendments to delete or delay this tax increase at this time, I expect to support them. But if we fail in our efforts to delete or delay this tax increase, I believe it is essential that we obtain an ironclad commitment that we will not limit our actions to returning the unemployment insurance trust fund to a stable posture, but that we also will do something for unemployed people in this country who daily are losing their homes, their life savings, and their self-respect. The Senate must act on supplemental benefits legislation, and it must act promptly. This is nothing less than an obligation to 10½ million unemployed persons and their families.

Consequently, Mr. President, I will support this amendment.

EMK STATEMENT ON METZENBAUM AMENDMENT/ UNEMPLOYMENT TAX

Mr. KENNEDY. Mr. President, I rise in support of the amendment offered by the Senator from Ohio. Yesterday, this body failed to adopt the amendment offered by Senator BENTSEN to delete the provisions in the bill which increased the unemployment taxes exmployers have to pay. That amendment failed by three votes in its effort to protect small businesses from increased Federal taxes.

The pending amendment is designed to protect workers and their families from the ravaging effects of high unemployment. Last month the Department of Labor reported that 10,400,000 Americans are out of work—almost 2 million more than last year. Yesterday, the Department released a report that 1 of every 5 Americans has been unemployed for a period of time in the last year.

The most important program available to help these workers during their extended joblessness is unemployment insurance. But these benefits are running out for thousands of men and women who have run out of work for extended periods of time.

Senator METZENBAUM'S amendment would authorize the Finance Committee to develop a supplemental benefits program to give unemployed workers who have exhausted their benefits an additional 13 weeks of income.

Without such a program, many of these workers will be forced to go on welfare. They have already exhausted their savings, and many have sold their cars and furniture so that their families can survive. These funds could mean the difference between keeping their homes and having the banks foreclose.

In past recessions, Presidents of both parties have recognized the need to provide additional weeks of unemployment benefits to the long-term unemployed. Job programs have also been available to ease the pain of recession.

This is the first time in the last 25 years that the Government has failed to respond with temporary help to relieve the plight of the unemployed.

I urge my colleagues in the name of compassion and fair play to support this amendment. Working men and women who have lost their jobs through no fault of their own need our help now.

Mr. DOLE. Mr. President, I yield 1 minute to the distinguished Senator from Virginia, Senator HARRY F. BYRD, JR.

Mr. HARRY F. BYRD, JR. Mr. President, will the distinguished Senator from Kansas yield for a question?

Mr. DOLE. Yes.

Mr. HARRY F. BYRD, JR. As I understand the statement just made by the Senator from Kansas he is opposed to this amendment?

Mr. DOLE. Yes.

Mr. HARRY F. BYRD, JR. It will be an expensive amendment. It would add to the cost of the program, and the chairman of the Committeee on Finance is opposed to the amendment, is that correct?

Mr. DOLE. The Senator is correct. I am opposed to the amendment at this time. I oppose the amendment.

We do have hearings scheduled for a week from today. I acted as quickly as the Senator from West Virginia made the request to schedule hearings.

It is $700 million to $1 billion in cost. I am very sympathetic to what the Senator from Ohio wishes to do, but I hope we can do it in an orderly way, have hearings next Thursday, and maybe we can report out something that will satisfy most everyone in the Senate.

Mr. HARRY F. BYRD, JR. It would have a $1 billion increase in cost of Government, and we should take a little time.

Mr. DOLE. Yes, I think we ought to have at least 1 hour's hearing. [Laughter.]

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The PRESIDING OFFICER (Mr. DANFORTH). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 48, nays 49, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—48

Baucus	Ford	Metzenbaum
Biden	Glenn	Mitchell
Boren	Hart	Moynihan
Bradley	Hatch	Nunn
Bumpers	Hatfield	Packwood
Burdick	Heflin	Pell
Byrd, Robert C.	Heinz	Proxmire
Cannon	Hollings	Pryor
Chafee	Huddleston	Randolph
Chiles	Jackson	Riegle
Cranston	Kennedy	Sarbanes
DeConcini	Leahy	Sasser
Dixon	Levin	Schmitt
Dodd	Mathias	Specter
Eagleton	Matsunaga	Tsongas
Exon	Melcher	Zorinsky

NAYS—49

Abdnor	East	Murkowski
Andrews	Garn	Nickles
Armstrong	Gorton	Percy
Baker	Grassley	Pressler
Bentsen	Hawkins	Quayle
Boschwitz	Hayakawa	Roth
Brady	Helms	Rudman
Byrd, Harry F., Jr.	Humphrey	Simpson
	Jepsen	Stafford
Cochran	Johnston	Stennis
Cohen	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Laxalt	Thurmond
Denton	Long	Tower
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
Durenberger	McClure	

NOT VOTING—3

Goldwater	Inouye	Weicker

So Mr. METZENBAUM's amendment (UP No. 1131) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1132

Mr. LONG. Mr. President, I yield to the Senator from Connecticut.

Mr. DODD. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Connecticut (Mr. DODD), for himself, Mr. DURENBERGER, Mr. LONG, Mr. EXON, Mr. HOLLINGS, Mr. DECONCINI, and Mr. WARNER, proposes an unprinted amendment numbered 1132.

Mr. DODD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 201, line 6, insert "CERTAIN" after "ON".

On page 201, line 8, strike "obligation" and insert in lieu therof "industrial development bond (within the meaning of section 103(b)(2)) and any mortgage subsidy bond (within the meaning of section 103A(b)(1))".

Mr. DODD. Mr. President, I ask unanimous consent that Mr. DURENBERGER, Mr. LONG, Mr. EXON, Mr. HOLLINGS, Mr. DECONCINI, and Mr. WARNER be included as cosponsors of this amendment.

The PRESIDING OFFICER (Mr. BAKER). Without objection, it is so ordered.

Mr. STENNIS. Mr. President, may we have order?

The PRESIDING OFFICER. The Senator's point is well taken. Senators will please take their seats. The Senate will be in order.

The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

Mr. President, I had intended to offer two amendments to the committee bill which would have deleted the committee's proposed changes in the tax treatment of State and municipal obligations. I believe those changes were essential——

Mr. DANFORTH. Mr. President, the Senate is not in order.

The PRESIDING OFFICER (Mr. GARN). The Senator is correct. The Senate is not in order. The longer there is noise, the longer it will take to finish this evening's session. I suggest to Senators that they cease their conversations. The Senator from Connecticut is entitled to be heard.

The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President.

Mr. President, I believe that those changes that I had intended to offer were essential to protect one of our cities' very last options to finance their massive capital needs in the coming decades.

I ask unanimous consent that a statement describing those amendments and the need for them be printed in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

The committee bill reduces from 100 to 85 percent the amount of interest that financial institutions can deduct in connection with their purchase of tax-exempt municipal obligations acquired after December 31, 1982. The committee bill also includes interest earned on municipal bonds as a new preference item in the alternative individual minimum tax.

In short, Mr. President, the bill before us proposes to eliminate the feature that makes these securities attractive to both corporate and individual investors. My amendments would reverse that decision.

The provisions in the committee bill have been described as simply the elimination of tax advantages for banks and wealthy investors.

That is true . . . but it is only a partial truth.

If that were the whole story, Mr. President, I wouldn't be here. Or maybe I would be here trying to find a way to strengthen what the committee had done.

But the real losers are not wealthy corporations or individuals. The victims of the committee action were the cities of the United States and their citizens. And they are victimized at absolutely the worst possible time. We have already taken away from America's cities virtually every financial resource they had to maintain their economic infrastructure and make capital improvements. About the only thing they have left is their borrowing power. The bill before us proposes to tax that power and thereby cripple one of their last resorts.

Mr. President, the cities cannot afford it and the Nation cannot afford it.

Here is what we have already done to American cities:

Since 1980, we have cut community development block grants by $300 million.

We have cut UDAG by $235 million.

EDA has been halved.

Mass transit—down $1.2 billion.

Highway assistance—down $440 million.

Sewer construction grants—cuts of $1.2 billion.

And it is going to get worse. The budget resolution we recently adopted slates housing assistance for a $9 billion cut.

In my judgment, Mr. President, we will soon rue the day that we made those decisions.

However, I am not here to complain about those decisions or to try to re-open old battles. But I do think the time has come to say that enough is enough.

It is a fact that those programs are either reduced, decimated, or gone completely. It is a fact that borrowing by issuing bonds is one of the few remaining financial options of municipal governments. It is a fact that if we alter the tax advantages covered by those securities their attractiveness to investors would be ruined.

In fact, Mr. President, it is possible to do a cost-benefit analysis of those provisions in the bill.

The benefits: the federal government will have a revenue gain of about $150 million in the first year—by the most generous estimate.

The cost: state and local government will have added borrowing costs of about $1 billion.

In other words, for every dollar the federal government gains, state and local governments would pay $6.60. If that is the "new federalism," it is time to go back to the old version.

The reason for the effect I have described is fairly obvious, Mr. President. If the interest on municipal bonds becomes even partially taxable, they lose much of their competitive status for investors compared with other opportunities.

The only option state and local governments would have would be to raise the interest paid on their obligations.

The Municipal Finance Officers' Association estimates that as tax-exempt issues become less attractive relative to other investments, the yield on tax-exempts will increase by between 1.25 and 1.5 percent in order to attract banks and individuals to the new issue market. This increase in rates will result in higher first year, tax exempt borrowing costs by conservative estimates of $1 billion. This must be considered against the first year revenue gain from this proposal of at the very most $150 million. In the case of long-term bonds, these increased costs would extend in the future each year the bonds are outstanding and be added to the additional cost associated with the new issues.

Mr. President, it is not a good bargain.

Who will pay for those increased costs, Mr. President? There are really two answers.

First, the middle-income residents of our cities will pay them in higher local taxes—usually of property, sales, and other regressive varieties.

Second, our cities will pay them in deteriorating infrastructure. Tax exempt bonds

build public schools, maintain mass transportation systems, construct roads, and bridges, bring water supplies to city residents, and keep sewers and waste disposal systems operating.

Even with the availability to tax exempt bonds, the ability of cities to maintain those essential services is open to serious questions. Whether American cities have a future remains to be seen.

It is estimated that at least one-half and maybe two-thirds of our communities cannot undertake modernized development until major investments are made in their basic facilities, given the major reductions over the past two years in direct federal assistance programs which I have already cited, any increase in local borrowing costs will only speed this deteriorization and add to the already staggering future costs of maintaining this nation's life support systems. Whether or not tax-exempt financing is the most efficient means for addressing these problems, for the present, it is about the only thing that is available.

The provisions in the bill pull the plug on the major financial life support systems of our cities. The small gain in revenues simply does not justify the disastrous consequences for state and local governments. We can avoid that disaster by adopting these amendments.

Mr. DODD. It is clear, Mr. President, that those amendments, however, could not receive majority support. Therefore, I am offering a revised amendment that makes at least a partial restoration of the ability of State and local governments to attract investors to projects constructing improvements in the public infrastructure. Frankly, we ought to do more. But this amendment will go a small way toward restoring our urban economic health.

It represents, in my judgment, a significant improvement over the committee provisions.

Let me describe very briefly, Mr. President, if I can, what the amendment I have sent to the desk does. Under the committee bill, interest on tax-exempt obligations of State and local governments is included as a new preference item for purposes of the individual alternative minimum tax. This revised amendment deletes from the application of the minimum tax interest on tax-exempt general-obligation and revenue bonds issued by public bodies for the purpose of providing public facilities and capital expenditures in connection with the delivery of governmental services. That is what this amendment does.

As I mentioned at the outset, Mr. President, I had wanted us to go further because, frankly, after we have substantially reduced Federal expenditures to assist our cities, counties, and States with needed infrastructure dollars to improve highways, sewage systems, water systems, this is the last resort that many of our localities will have to finance needed capital improvements in their communities.

I had intended to offer amendments, as I mentioned at the outset, that would have been broader in their application. But I recognize at this late hour that we cannot do all of the things all of us would like to do. I am grateful to the chairman of the Committee on Finance and the ranking minority member of the committee for their advice and counsel on this new amendment. It is, I think, a step in the right direction. I think it will provide some needed relief for our cities and our communities that are desperately trying to provide for new capital improvements.

Mr. LONG. Mr. President, will the Senator yield me 5 minutes?

Mr. DODD. Before yielding to my good friend, if I may, Mr. President, I ask unanimous consent that Senators ZORINSKY, HEFLIN, and MOYNIHAN be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana.

Mr. LONG. Mr. President, will the Senator yield?

Mr. DODD. I am delighted to yield.

Mr. LONG. Mr. President, the Senator from Louisiana explained yesterday and put into the RECORD a substantial amount of information to explain why he was opposed to taxing State and municipal bond interest. I, like the Senator from Connecticut, would like to strike everything in the bill which would tax the bonds of State and municipal governments. But though I would like to do that, Mr. President, I doubt very much that we can succeed unless we are able to persuade the leadership on the Republican side of the aisle to go along with us on this matter.

So far, the chairman of the committee, with the support of his colleagues, has not lost on an amendment he wanted to defeat. My guess is that unless we can persuade him to see our point, we are not going to prevail on this matter. We were able to work out a compromise with the Treasury and with the chairman of the committee, and they are willing to go along with the proposal that we are now offering. Our amendment would exempt from the minimum tax on individuals the tax-exempt obligations of State and municipal governments.

The exemption does not include industrial development bonds, nor does it include mortgage subsidy bonds, but it does take care of the full-fledged obligations and the revenue bonds of the State and local governments.

Mr. President, in my judgment, this amendment protects the principle of the immunity of one level of government from taxation by another. That, to me, is a very important principle.

This amendment is in the nature of a compromise. I would have liked to go further. But I think this is the best that can be done under the circumstances.

Mr. President, I thank the chairman of the committee for his consideration in this matter. I recommend to the Senate that it agree to the amendment. I think it is the best we can do under the circumstances.

Mr. STEVENS. Mr. President, who controls time on this side?

Mr. DANFORTH. Mr. President, the committee is going to accept the amendment offered by the Senator from Connecticut with some reservations, at least by the Senator from Missouri. I would like to explain briefly the concept behind this portion of the bill.

Mr. STEVENS. Will the Senator yield for a moment?

Mr. DANFORTH. Certainly.

Mr. STEVENS. Mr. President, I would like to inquire of the Senator, if he is in agreement with the amendment, who is going to control time against the amendment?

The PRESIDING OFFICER. The time is controlled by the majority leader or his designee. If the manager of the bill does not——

Mr. STEVENS. With due respect to my friend from Missouri, there are some of us opposed to this amendment, and I would not like to see the time used up by people who support the amendment. I would like to see that the Senator from New York and the Senator from Mississippi and I have some time to talk about this, because it is going to eliminate an amendment that we thought we had worked out already. I would like to have the time for opposition to this amendment reserved for those who oppose the amendment.

The PRESIDING OFFICER. The Chair advises that it is up to the majority leader or his designee.

Mr. BAKER. Mr. President, my understanding is that the time on this side was designated on the opening day of debate to the distinguished chairman of the Committee on Finance.

The PRESIDING OFFICER. Then it is up to the chairman of the Finance Committee to designate who controls the time in opposition to and the minority manager who controls it in favor of the amendment.

Mr. DOLE. Mr. President, it is my understanding that the amendments are now limited to 30 minutes.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. How much time is remaining on the bill?

The PRESIDING OFFICER. Some 8 minutes and 59 seconds to the proponents and 13 minutes to the opponents.

Mr. DOLE. Mr. President, I can see that we have about maybe a dozen amendments left and some are going to require extensive debate. I would be willing to yield some time in opposi-

tion. We have not done anything with this amendment that was not already in the bill. We have a lot of bond lawyers outside who have been knocking on people's doors. That is what has happened.

Mr. STEVENS. This Senator has not talked to any bond lawyers, but he is a pretty good lawyer himself. He can read. I want some time in opposition and I am sure the Senator from New York does and the Senator from Mississippi as well.

Mr. D'AMATO. Mr. President, I say to the distinguished Senator from Kansas I certainly would like to make an observation with regard to this amendment. I do not think it is going to take a great deal of time.

Mr. DOLE. I would be happy to yield 10 minutes. That leaves about 5 minutes on the bill. That leaves about 10 minutes to the Senator from Alaska, the Senator from New York.

Mr. DANFORTH. Mr. President, I would be happy to take 5 minutes and that is it. As far as I am concerned, if I could have 5 minutes, Senator STEVENS could have the rest of the time on this side, or the Senator from New York (Mr. D'AMATO), or whoever would like it.

With that understanding, Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I think some facts are in order, but first of all, the rationale of this particular provision in the bill.

Last year, when we passed the tax bill, a lot of people said this is a rich person's bill, the whole idea of the 1981 Tax Act was to try to confer benefits on the wealthy. The response to that, of course, is that there is no justification in any tax bill to try to confer benefits on the wealthy. The point of any tax program is to try to get the economy moving in the right direction. That was the theory behind the tax bill of 1981.

This bill, I think, gives further ammunition to those who would argue that the tax program we embarked on in 1981 was not designed to favor a few individuals but was, in fact, a program of economic recovery—because this is truly a tax reform program aimed at a very small portion of the taxpayers of this country who pay virtually no tax at all on very large incomes.

As a matter of fact, this alternative minimum tax would affect a total of 280,000 individual taxpayers out of a grand total of about 75 million to 78 million individual taxpayers. It is not a tax on bonds. It is not a tax on industrial development bonds. It is not a tax on tax shelters. It is an alternative minimum tax. It says that when a taxpayer computes his tax liability, he also computes an alternative tax, and the alternative tax does not kick in until after deductions for mortgage interest, charitable contributions, medical and casualty losses, the individual, if he is married, has an income of over $40,000 a year, and then over the $40,000, between $40,000 and $60,000 the rate is only 10 percent, and over $60,000 it is only 20 percent. That is the theory of the alternative minimum tax.

Now, the argument has been made that this is going to have some effect on the bond market. That is the point of the amendment of the Senator from Connecticut, but I would point this out, that with respect to the bond market 75 percent of the bonds that are sold in this country are not sold to individuals. Some 75 percent of the bonds that are sold are sold to nonindividuals, to banks, to corporations, and so on. And of the 25 percent that are sold to individuals, an estimated 10 percent of that 25 percent or about 2½ percent are sold to individuals who would be covered by the alternative minimum tax.

As a matter of act, the purchase of tax-free bonds would make no sense at all to a person who paid no tax. It would only make sense to a person who was in a bracket which would require a 20-percent tax. Then it would make sense for a person to have the revenue that would be incurred by buying a tax-free bond.

Mr. President, the effect of this would be zero on the bond market, but out of deferrence to the Senator from Connecticut and the worries that were created in the minds of the Governors and others that maybe there would be some psychological effect, I was willing to agree on my part to the amendment of the Senator from Connecticut.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. As I understand it, the Senator from New York could use the remainder of the time on the amendment. There is no need to yield time on the bill.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I have labored long and arduously among a majority of this Senate to attempt to get the Treasury Department's thinking in conformance with a majority of this body. That is not too easy. Sometimes it is rather difficult, and sometimes when we think that we have worked out an agreement with the leadership and those who are handling this bill, we find out that the Treasury Department after signing off has another way of coming around to skin the cat, so to speak, and so it is with this amendment.

I compliment my learned colleague from Connecticut, because this is a good amendment except that it does not go far enough. The Treasury Department must have said to him, "If you want our support, you must drop out industrial revenue bonds." They know full well what that does. It creates an inferior bond.

People may say, "Well, that in the Finance Committee version anyway," knowing full well that we had an agreement with respect to industrial revenue bonds. An agreement which moved back the sunset date, created a new schedule for acclerated depreciation, and in fact struck a compromise. I should have listened to my good friend and colleague, the senior Senator from Mississippi (Mr. STENNIS) who said, "We have the votes, let's take them on."

Well, I would like to mention that as far as I am concerned that agreement does not stand. I keep my word, and I would expect that the leadership and those people who are part and parcel of this agreement would do what is honorable, do what is rights and not come in the back door and make the industrial revenue bonds inferior, because that is what they are going to be. I would just as soon have an up or down vote on the IDB's. That is what I am going to ask for later on. I am going to submit the original amendment to strike the Finance Committee proposal.

Let me mention something else. Members of the Finance Committee say, "We have got to stick together, don't offer amendments," but they offer amendments when they want and move them at their pleasure. I would like my chance.

Mr. STEVENS. Will the Senator yield?

Mr. D'AMATO. I certainly will.

Mr. STEVENS. How much time remains in opposition, Mr. President?

The PRESIDING OFFICER. Four minutes and thirty seconds.

Mr. STEVENS. Let me just take 2 minutes to explain my problem. I have been working along with the Senator from New York and others, and also with my friend from Louisiana, with regard to this amendment in terms of the minimum tax. The effect of the amendment of the Senator from Connecticut as drafted is that income an individual has from IDB's will be taxed but income that an individual has from general obligation bonds will not be taxed.

With a weak municipal bond market to begin with, no one is going to buy IDB's. So the effect of the amendment of the Senator from Connecticut is to try what Senator STENNIS and Senator D'AMATO and many have been working on here for 2 or 3 days, trying to find a middle ground in terms of the IDB's. We had just worked it out, I say to Senators, about 30 minutes ago. I must say my friend from Mississippi is not too happy with it and neither are we, but we had worked it out and now this amendment destroys its validity because no one will buy IDB's if your

income is going to be taxed when, under the minimum concept, you can buy general obligation bonds that are nontaxable, as opposed to IDB's.

I think the case is there. The gentleman from Connecticut has not gone far enough. We hoped that he would go to the extent that the Senator from Louisiana discussed with us, and there would be no problem about it because there should not be inequality in municipals. The market is too soft, and no one is going to buy IDB's if this passes.

Now, I say to my good friend from Louisiana, I said I would support his amendment. I cannot support this. I hope the Senate does not support it, because it is creating such an inequity that those people who are trying to market IDB's will not be able to do it. I yield any time I have remaining to the Senator from Mississippi.

Mr. STENNIS. Mr. President, may I ask someone to yield me 5 minutes?

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. STENNIS. Mr. President, may I have 5 minutes?

Mr. LONG. Mr. President, I would like to speak to this matter briefly, if I may.

Mr. President, if Senators want to have taxed every kind of State obligation that can be taxed, then they should vote down this amendment. If they do vote it down, we will be left with the committee amendment under which the minimum tax will apply to all kinds of State obligations. If the individual's income falls under that minimum tax, he will pay the minimum tax of either 10 or 20 percent as the case may be on all kinds of State obligations.

Now, Mr. President, there had been a doctrine, generally recognized since the beginning of this Nation, of reciprocal immunity: the Federal Government would not tax the State governments and the States would not have power to tax the Federal Government without its consent. We would seek to protect that doctrine.

As far as these general obligations and revenue bonds are concerned, their interest would be exempt from the individual minimum tax. But as for the housing subsidy bonds and the industrial development bonds, the Treasury, and most members of the committee, too, are not willing to exempt those kinds of bonds from the minimum tax on individuals. Only 25 percent of those bonds are held by individuals.

Mr. President, up to this point the Senate has not voted to tax a State government itself, and when you tax the interest on a State bond, you are taxing the State itself. The principle of not taxing the State itself is one we would protect if this amendment is agreed to.

If the amendment is not agreed to, Mr. President, we will be taxing the State itself, and I fail to see how we are then going to exempt industrial development bonds.

So far as I am concerned, let the people who want to do something for industrial development bonds offer their amendment in their own right and have it considered on its merits.

We have an agreement with the chairman of the committee and with the Treasury that they are willing to exempt the full faith and credit bonds of the States and municipalities. If you do not get some relief for the obligations of the States, what they are directly obligated for, you will not be able to get relief for anything.

If the Senate votes this amendment down, you will be struck with the situation that there is no help for the States, no help whatever, and in due course they will be taxed like any other taxpayer. I hope that will not happen.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. LONG. I yield for a question.

Mr. STEVENS. Mr. President, this amendment is subject to amendment, as I understand it. Why do we not go back to the amendment that the Senator from Louisiana discussed with us and make the municipals not subject to the minimum tax?

Mr. LONG. If this amendment is agreed to, the States and localities will be in better shape than they were to start with under the committee bill. If the amendment is agreed to, there will still be ways for the Senator to amend the bill further. He should go ahead and offer his amendment then.

I have been around here quite some time on this bill and I have seen that the chairman of this committee has not been defeated on anything, and I doubt that he is going to be. Since he is willing to go along with this amendment, we should get it agreed to. If this amendment is not agreed to, there will be no help for the States with regard to anything in this bill.

As far as I am concerned, we have done as much as we can do. Under the committee bill all kinds of State obligations would be subject to tax, including industrial development bonds. After negotiating, we arrived at an agreement that the Treasury was willing to go along with, and my impression is that the chairman of the committee was also willing to go along with it.

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. LONG. I yield the Senator 5 minutes on the bill.

Mr. STENNIS. I thank the Senator.

Mr. President, I do not know of anything that is more complicated than a tax question.

Here, at the end of the consideration of this bill, with all the complications that go with different kinds of taxes, this amendment, so far as we are concerned, was a complete surprise. We have been working all day regarding the provision in the bill with reference to revenue bonds, over a 50-year policy, language in the bill that terminates them within a couple of years. I was opposed to that, as were several members of the majority and some in the minority, and we have worked out what I think is going to be a very practical solution to the matter, so far as this bill is concerned.

I was yielding as much as, if not more than, anyone else. I have been talking to the leaders, and this is a total surprise, to come in at the very last minute with this. I cannot conceive of our doing a more confused act than to try to pass on these matters.

Could we not at least pass on this well developed, well known subject, which is rather simple and would not take long—the provisions in the present bill that the committee passed with reference to these revenue bonds?

Let us pass on that and settle it. Then, if something else has to be done, let us take it in an orderly way, where there is some chance for it to be understood. Otherwise, I submit that this is total confusion, and I do not believe that the manager of the bill or the Senator from Louisiana would want this to happen.

So let us go back to the fundamentals and pass on this other matter, which is not going to be settled in accordance with my wishes, but I am going to agree to something in it.

Mr. GLENN. Mr. President, may we have order? We cannot hear the Senator.

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

Mr. STENNIS. I appeal particularly to those who are handling the bill: Let us pass on this first amendment which has been worked up and considered and is easily understood. It relates to present law. Let us pass on that. Then, if we have to take up another one, all right.

I have never seen anyone treated this way with reference to a pending matter that is already in a bill and everybody knows what it means. I hope that order can prevail.

Mr. DURENBERGER. Mr. President, does any time remain to the proponents?

The PRESIDING OFFICER. Yes, 5 minutes and 3 seconds.

Who yields time?

Mr. DURENBERGER. Mr. President, will the Senator yield me 3½ or 4 minutes?

Mr. DOLE. I yield.

Mr. DURENBERGER. Mr. President, has been said about confusion is absolutely right. After raising the cig-

arette taxes, the telephone excise taxes, and a variety of other taxes affecting State and local governments we are only now getting asked what kind of impacts those decisions will have on State and local governments.

The question now is the minimum tax on tax-exempt bonds. Tax-exempt bonds are not only the municipal bonds that the Senator from Alaska is talking about. Municipal bonds are used to build highways, streets, schools, waterworks, sewers, bridges, mass transit, and parks facilities. All the basic infrastructure under our cities was built with municipal bonds. And today those municipal bonds are in trouble.

They are in trouble, first, because the other part, the tax-exempt bond market, the private purpose side, has exploded. Fifty-five percent of the municipal market is now devoted not to those public purposes, but to private purposes. As a result the margin between the general obligation bond and the taxable corporate bond has narrowed. The spread used to be in the neighborhood of 30 percent ot 40 percent. That is how much was the interest advantage of tax-exempt bonds. Today, because of the flood of private purpose bonds in the market, the spread is something like 17 percent. What we are trying to do here is to provide a little breathing room for general obligation bonds.

In addition to growth in private purpose bonds, we have created other competing instruments like, IRA's, Keoghs, and all-savers certificates.

All we are asking by this amendment is whether or not it is proper to provide special relief for the tax-exempt bonds of State and local governments as opposed to the private purpose bonds. I think this amendment correctly draws that distinction. It does not ban industrial development bonds at all. It simply says that the general obligation bond will not be taxed.

Mr. DOLE. I yield myself 3 minutes on the bill.

Mr. President, I wonder if we might have the attention of the Senator from Mississippi and others. I hope I can explain the committee's role in all this. I think we may be in the middle of something here that might be just a big misunderstanding.

I was not in the negotiations. I walked in after things had been worked out, and I agreed to both agreements—the one made earlier by the distinguished Senator from New York and the Senator from Mississippi and others, and the one by the Senator from Connecticut, the Senator from Missouri, and the Senator from Louisiana. I say that so that I will not be accused of trying to manipulate something or deceive someone.

The amendment would modify the provision of the individual minimum tax, which includes the hundreds of tax-exempt bonds, to apply only to industrial development bonds and mortgage subsidy bonds. As a result, interest earned on general obligation bonds and other bonds that are not used by a taxable person in a trade or business would not be considered a preference item.

The amendment loses some money, about $50 million, but that is the way we negotiate some of these things. People have different views. Statistics show that IDB's are crowding out bonds that are used for traditional purposes, as the Senator from Minnesota just pointed out, such as streets and schools.

This amendment takes these public purpose bonds out of the individual minimum tax, and that is all it does. It is only for this type of bond that the argument that the bond buyer pays a sort of de facto tax to the governmental borrower really makes any sense.

You can talk all day about mortgage bonds, industrial development bonds, and general obligation bonds, but we are talking about a minimum tax that applies to about 280,000 wealthy individuals in this country, maybe 250,000. We were trying to get some handle on it and make certain everybody gets to pay some tax in America, even the rich. Some have not done so for a long time. So we took this very difficult step, a very small step. That is really what the issue is.

Nothing has been done to disrupt the agreement on IDB's. I just say as far as the Treasury officials and the joint committee and the other committee no one went in there and made a deal that disrupted anyone's earlier deal. Nor is anything new in the bill. IDB's have been in the finance bill from the start. They simply remain in the bill.

I must say that I think everyone recognizes they have been in there all this time, and we have a lot of people, and I do not suggest anything improper, a lot of people around outside who suddenly say, "Oh, you cannot do this. We cannot have 280,000 rich people paying taxes. They do not know how to make out the return. They never paid tax before."

Mr. STEVENS. Mr. President, will the Senator yield me some time off the bill?

Mr. DOLE. When I finish.

Mr. DODD. Mr. President, will the Senator yield?

Mr. DOLE. The Senators in opposition had no problem when both IDB's and general obligation bonds were in the bill. What we do here is certainly no different. In fact, it is better. We carved out some obligations. I think that is better, not worse.

It does not, I might say again, as far as I understand, unless something happens in the agreement I was not a party to, disrupt anyone's agreement. I did not make the agreement. The parties negotiated the agreement and now they do not like the agreement. I cannot help it.

So under the committee bill, to the extent that it affects the market at all, it affects buyers of IDB's, too.

Senator LONG's amendment does not change that. Those bonds were in yesterday and they are in now, and nothing has been changed except I would say again to my colleagues we are here just about the 11th hour on this bill and one thing we want to try to retain if we can is a little equity in the bill.

There are a lot of people in this country who do not pay taxes. Some are poor and some are rich. It just seems to me what we have done is just a very small step.

I hope that we could work out the differences. I think once it is fully understood that no one got into anyone's agreement, I did not try to deceive anyone. I will stake my life on it. So I just suggest we go ahead and vote on this amendment and maybe we can figure out something that we should have figured out earlier.

If someone overlooked something do not blame me for it. We did not change anything.

Mr. STEVENS. Mr. President, will the Senator yield me 3 minutes off the bill?

Mr. DOLE. I yield.

Mr. DODD. Mr. President, will the Senator yield 1 minute?

Mr. STEVENS. Mr. President, I wish to say this. If the Senators wants equity, then put the Government general obligation bonds back in because all this means is that if you are wealthy enough to make the investment decision, and I think anyone who has that kind of money can understand the difference in tax bills, just buy general obligation bonds and you will not pay any tax under the minimum tax—on this bond income. No one who is going to be considering a minimum tax implication is going to buy IDB's or mortgage subsidy bonds.

Mr. President, what that is, as the occupant of the chair knows, is housing bonds. All of the bonds that are issued by our housing agencies, our State housing agencies, that are included in income from those purchasing such bonds will be in the minimum tax. The income from IDB's will be a minimum tax preference. These individuals are the ones that provide jobs. They are the people who provide employment in the private sector for building homes, building docks, building small businesses. Income from IDB's and the mortgage subsidy bonds is going to be subject to taxation.

Mr. President, let me tell you I do not know if any one of you has been hit by the minimum tax. I did one year. I lost enough money that I had to go back and recompute what I

should owe. It is an interesting thing what goes back in preference items.

This bill changes all of that. This is a new concept and the people who are rich enough are going to know the difference, and this is the death knell of IDB and of mortgage subsidy bonds.

It means that the municipal bond market is only going to be general obligation bonds and as far as I am concerned I will tell the Senator from New York any arrangement we made with the Treasury Department as far as I am concerned is off. I am sure the Senator from Mississippi feels the same way.

We have to go back to the original amendments on IDB's because this means we have to make IDB's even more attractive so that they can possibly have some market. They will have no market for the wealthy people after this. They have to be attractive enough for the not so wealthy people now and that means they have to have a further incentive.

We have to go back to the ACRS change that the committee wants to make. We have to go back in the sunset provision and go back in the other provisions that relate to IDB's because there will be no IDB market for those individuals who invest in IDB's once this passes.

If we are talking about equity, I say to my friend from Kansas, this is the most inequitable provision I have ever seen related to the bond market, and I cannot understand the arrangement that has been made.

Mr. D'AMATO. Mr. President, will the Senator from Kansas yield me several minutes for a question?

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, how much time remains? I do not know how much time remains.

The PRESIDING OFFICER. Some 2 minutes and 24 seconds to the opponents of the amendment; 2 minutes and 32 seconds for the proponents.

Mr. DODD. The Senator has 2 minutes.

Mr. D'AMATO. All right.

Mr. President, I echo the sentiments of the distinguished colleague from Alaska.

I ask the committee chairman to report and include industrial revenue bonds in this amendment because I know the sponsors of it do not oppose that. We are not talking about great revenue losses. I think he said $30 million.

I ask that the Senator include industrial revenue bonds because the effect of this amendment will almost vitiate the compromise we have struck, and I also want to state that in no way should my remarks be taken to imply that the Senator from Kansas was less than honorable in working out that agreement, I know he sticks to his word. The Treasury Department, though, found another way to come and lower the effectiveness and use of industrial revenue bonds.

Mr. DODD. Mr. President, will the Senator yield time on the bill?

Mr. DOLE. There is another minute remaining to the opponents.

Mr. DODD. I thank the Senator.

The PRESIDING OFFICER. The proponents have 2 minutes and 32 seconds.

Mr. DODD. Will the Senator yield a minute?

Mr. LONG. The Senator has time of the proponents.

Mr. DODD. Mr. President, first of all, I ask unanimous consent that the distinguished Senator from Montana (Mr. MELCHER) and the distinguished Senator from South Carolina (Mr. THURMOND) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it so ordered.

● Mr. SASSER. Mr. President, I rise in support of the amendment offered by Senator DODD.

I support the amendment because it resolves some very serious intergovernmental problems caused by the proposed taxation of interest income of State and local bonds.

Were this provision of the tax bill approved, the Federal Government would place itself in the position of taxing State and local securities for the first time.

It is a basic constitutional principle that the States are immune from Federal taxation. Adoption of the provision would open the door for full-scale Federal taxation of State and local tax-exempt securities.

From its first decision in *Pollock* v. *Farmers' Loan & Trust Company*, 157 U.S. 429 (1895) to the 1976 decision in *National League of Cities* v. *Usery* 426 U.S. 833, the Supreme Court has affirmed the immunity of States from Federal tax interference. To quote the National League decision: The imposition of a tax on securities now considered tax-exempt would "operate to directly displace the States' freedom to structure integral operations in ares of traditional governmental functions." The borrowing power of the States reflected in tax-exempt securities, is an essential component of the ability to conduct "traditional governmental functions."

Mr. President, if the committee's proposed tax on the interest income of State and local bonds were adopted, interest rates on these bonds will increase by as much as one-half percent. Now that one-half percent increase is going to cost Tennessee an estimated $82 to $98 million for all bonds issued in 1932. The Municipal Finance Officers Association estimates that the interest rate increase will cost State and local governments a total of $1.5 billion in the first year alone.

Let us look at the practical effects of the committee proposal on the citizens of this Nation. Tax-exempt bond issues now provide State and local government with the financing required to build new roads, replace or repair older highways, build bridges, and encourage industrial development among other things. But if we reject this Dodd amendment, where will the States get the financing required to undertake these essential services? From the taxpayer—through more regressive sales and property taxes, which require middle and lower income taxpayers to spend a higher percentage of their disposable income to meet their tax obligation.

Mr. President, the capital financing needs of State and local governments in the coming years are truly prodigious. Indeed, the recent issue of the Morgan Guaranty Survey for July 1982 indicates that by 1985, the funding gap for the financing of major public buildings, highways, sewer, water, and other essential public facilities may stand at $185 billion in real terms; that is, 1972 dollars. Such costs will only increase if the Senate Finance Committee's action on this matter is not reversed.

The committee proposal is of questionable constitutionality. It increases the costs of State and local capital financing, and it adds to the tax burdens of State and local taxpayers; therefore, I urge adoption of the amendment offered by Senator DODD.

Mr. President, I ask unanimous consent that the Morgan Guaranty Survey for July 1982 article on this subject be printed in its entirety at the conclusion of my remarks.

There being no objection, the Survey was ordered to be printed in the RECORD, as follows:

THE MORGAN GUARANTY SURVEY

(Published monthly by Morgan Guaranty Trust Company of New York)

[Charts not printed in RECORD]

REBUILDING AMERICA'S INFRASTRUCTURE

A decade of neglect has left the nation's infrastructure—its roads, bridges, tunnels, water systems, public transport—in serious disrepair. Engineers estimate that the interstate highway system, which handles half of the nation's road traffic, is deteriorating at the rate of 2,000 miles per year—closing down lanes in many sections. Nearly half of the 560,000 bridges in the U.S. are inadequate or structurally deficient. New York's transit system is barely able to function. Houston faces mammoth traffic snarls; some of its waste-treatment facilities are strained. Many areas of the Sunbelt face major problems of water supply. Sewer lines in many Midwest areas hinder industrial and residential growth.

Crumbling facilities are beginning to take a toll. Increasingly, people across the country are experiencing service disruptions, congestion, and delays. The result is reduced efficiency, stunted productivity, and rising costs. Indeed, the decay of public facilities is beginning to undermine the private sector, is starting to raise a barrier to economic growth, and is threatening U.S. competitiveness in the export market. Most

European nations and Japan, in contrast, have maintained high levels of infrastructure investment. France, for example, has improved its rail roadbeds to handle a train that can speed 250 miles per hour between Paris and Lyon. Fortunately, U.S. officials are increasingly aware of the size and complexity of the problem—a vital first step in marshaling public support for a rebuilding program.

Deterioration of public facilities is the result of a dramatic cutback in capital spending by states and localities—both on new projects and on repair and maintenance of aging facilities. During the 1950's and most of the 1960's, state and local nonresidential investment (in constant 1972 dollars) grew at a brisk rate to a peak of $22 billion in the late 1960's. Such outlays more than kept up with the growing population. But a subsequent decline had by the end of the 1970's reduced public-facility outlays to a fraction of the earlier spending pace.

Some of this cutback reflected completion of the interstate highway system and reduced needs for educational facilities following a decline in the growth of the school-age population during the late 1960's and early 1970's. Even when these factors are taken into account, however, the growth of public spending showed a sizable decline during most of the 1970's (bottom panel of chart on page 12).

The significance of such sharply reduced spending on public facilities is shown in the table on page 13. As the top line indicates, spending on state and local structures—adjusted to account for slowing in the growth of spending on highways and schools during the Seventies—rose at an average annual rate of 2.4 percent between 1950 and 1980. In the past two years, however, such outlays rose at a mere 0.7 percent rate, below the growth rate of the population. During this period, investment in public facilities has sagged a cumulative $25 billion (in constant 1972 dollars) below what it would have been if the adjusted growth trend had been maintained. If this pattern continues, the constant-dollar "gap" in spending for public facilities will widen to $182 billion by 1985* (right column in table). In current dollars, this would be equivalent to $500 billion—or five interstate highway systems.

BEHIND THE SAG

The cutback in spending can be traced in part to changing priorities. With the advent of the "Great Society" in the mid-1960's, all levels of government began to shift emphasis away from capital projects and toward social-welfare programs. At the federal level, for instance, construction grants as a share of total grants to states and localities fell from 44 percent in the early 1960's to 25 percent by the late 1970's. Other factors also played a part in holding down spending on public facilities. Among them:

Credit restraint. The increased use of monetary policy to reduce inflation—together with attendant rises in interest rates—has been a key factor. In contrast to the 1960's, when a low rate of inflation and stable interest rates permitted states and localities to raise funds for capital projects in the bond market, credit restraints over much of the past decade created an inhospitable climate for such borrowing. As a result, spending on capital projects sagged (chart at top of page 14).

During the past two-and-a-half years, moreover, high and volatile interest rates have caused state and local governments to postpone trips to the long-term debt market. Instead, they have turned increasingly to the short-term market through the issuance of bond-anticipation notes and tax-exempt commercial paper.

This shift to shorter maturities reflects a decision by state and local officials to carry on capital projects with short-term funds in the hope that long-term rates will fall. While long-term rates in recent months have eased somewhat from last year's levels, lately they have backed up again. In this climate, budget and financial planners remain reluctant to issue long-term debt at historically high rates. This reluctance—together with increased congestion in the short-term market—has had a depressing effect on all but the most essential capital projects.

Budget squeeze. Sluggish economic growth (which depressed state and local revenues from income and sales taxes) and a wave of tax-and-expenditure limitations that swept the country in the late Seventies also played a part in slowing spending for public facilities. Many jurisdictions, forced to adjust their budgets to meet essential services, curbed capital outlays. The capital budget typically is the first to be pared in any adjustment, since operating budgets have much larger and more vocal constituencies.

Federal grants. Even more important, the poor performance of public investment during the past decade also reflects swings in federal grants-in-aid—opening the spigot, turning it off, then opening it again. In an attempt to hold down federal spending, President Nixon early in the 1970s impounded funds appropriated by Congress (especially for highway and sewer construction). That restraint faded as revenue-sharing funds began to flow in 1973. During the 1974–75 recession, however, many states and localities funneled an increasing portion of revenue-sharing funds into income-support programs (such as Aid to Families with Dependent Children) and scaled back spending on capital projects. To offset these cutbacks, Congress passed a public-works grants program in 1976. But in the late 1970's, lawmakers—concerned about inflation and the budget deficit—cut back that program. More recently, cutbacks in construction grants have proceeded at an accelerated pace in response to the Reagan Administration's policy of spending restraint. The resulting yo-yo pattern in federal grants, shown in the chart at bottom of page 14, has disrupted capital-spending plans in countless communities.

In addition, Washington's regulatory procedures—aimed at monitoring state and local use of federal grants—often have had disruptive effects. While review of projects financed by the federal government is appropriate, the cumbersome process too frequently has resulted in lengthy construction delays and escalating project costs.

WHAT TO DO

Clearly, repairing this country's crumbling infrastructure—and stemming further decay of public facilities—will be a huge task requiring massive resources. The repair bill for the nation's bridges alone, according to Transportation Department estimate, is $47 billion in current dollars. The bill for years of neglect in other areas is similarly large. Where will the money come from?

In May, President Reagan decided against seeking a proposed five-cent-a-gallon increase in the federal tax on gasoline. The $5 billion of revenue that such a tax would raise each year was to have gone for highway and bridge repair and for mass transit.

Despite the loss of revenue entailed, the President's decision is undertandable. A gas tax increase, an unpopular move even in a non-election year, would have had the undesirable effect of raising consumer prices at a time when official policy is aimed at reducting inflation. The task ahead, moreover, has grown beyond merely raising federal gasoline taxes a few pennies. In fact, the burden of financing improvements in public facilities cannot be left to the federal government; states and localities need to shoulder most of the load.

Even so, there is room for improvement in the federal role. An important step would be for Congress to set up a public construction trust fund—financed by excise or other consumption taxes. The aim of such a fund should be to provide a more stable flow of federal grants to states and localities—reducing the uncertainties and disruptions associated with the swings in federal financing of the past decade. Such stabilization would encourage communities to undertake long-term, capital-intensive porjects and better enable them to finance such projects in the bond market.

In addition, a national capital budget—which would set priorities for the rebuilding task—is an urgent need. It should be included in the regular budget submitted by the President each January. In conjunction with drawing up a national capital budget, the Administration should review federal regulatory procedures with the aim of streamlining the grant-approval process.

Similarly, efforts to improve state and local performance should include creation of capital-budget commissions to coordinate public-works activities at those levels of government. Even more important is the need for these units to come to grips with the financing of capital projects. During the past year, many state and local governments have levied new user fees to cover the costs of providing various public services, ranging from water delivery to recreational activities. In addition, many states are planning to extend the use of tolls on bridges and highways. User fees and the resulting flow of revenues should help to maintain access to credit markets for many of those jurisdictions.

Still, in many cases review of existing state and local taxes is needed to determine if they are achieving their original aim. Many states, for example, rely on vehicle-registration fees to finance highway improvements. Since these fees often are based on the weight of the auto, revenues have remained stable or have declined as cars have become smaller and lighter. To increase revenues, registration fees could be based on the sale price of the vehicle.

Recently, some jurisdictions have attempted to increase their cash flow by using sale/lease back arrangements in which governmental units sell off property and lease it back. In addition, increased use is being made of grant-anticipation notes, letters of credit, zero-coupon bonds, and floating-rate bonds. Despite the proliferation of these financial innovations, however, states and localities will have to rely for the most part on traditional means of finance, such as general obligation and enterprise bonds.

*The long-run growth rate of 2.4 percent used to derive the gap is conservative by historical standards. For example, during the 1925–40 period, spending on public facilities rose at an average annual rate of 4.3 percent—slightly higher than the 1950–80 growth rate of 3.8 percent (unadjusted for the slowdown in spending on highways and schools in the Seventies).

Such sources are especially suited to those areas where the needs are the greatest—municipal buildings, streets, and conservation projects.

Finally, public officials need to resist the tendency, demonstrated often in recent years, to transfer funds from the capital budget to the operating budget when revenue shortfalls occur. Such political expediency fails to face up to today's urgent needs and merely shifts the burden to coming generations. But time is running out for further postponement of capital spending; the bill for past neglect is now coming due.

CHANGES IN NET STOCK OF STRUCTURES—AND THE EMERGING "GAP"

[Average annual percent change in stocks in 1972 dollars, except for gap—1972 dollars in billions]

	1950–60	1960–70	1970–80	Adjusted growth trend	1980–85	1985 Infrastructure gap
Total	4.4	5.1	2.0	2.4	0.7	$182.2
Buildings:						
Educational	6.9	6.1	1.5	1.6	−0.4	47.4
Hospital	3.1	2.4	2.4	2.6	0.2	8.4
Other (offices, police stations, courthouses, etc.)	4.6	6.4	3.9	5.0	1.6	37.3
Highways, streets, and bridges	4.3	4.6	1.0	1.0	0.0	45.9
Conservation and development	4.7	9.7	2.2	5.5	1.3	10.0
Sewer	4[1	4.1	4.9	4.4	3.1	15.2
Water	2.7	4.1	1.5	2.8	1.7	7.3
Other (transit systems, airfields, and public energy facilities)	1.6	6.1	3.5	3.7	2.5	10.7

Note: Net stock of structures is that of state and local governments, excluding housing. Adjusted growth trend is average annual growth over 1950–80 period for each component except highways and educational facilities; growth trend for those components is assumed to be the 1970–80 average in order to allow for completion of the interstate highway system and slowing growth of the school-age population.

Projection to 1985 based on average growth in 1980–81 period.

Infrastructure gap represents the difference between value of capital stock estimated by using adjusted growth trend and value calculated at growth rate projected for 1980–85 period.●

Mr. DODD. Mr. President, in conclusion, let me say to those who are talking about the IDB's I said at the very outset I wish we could have done more. I wanted to do a lot more, not because I care about helping banks or 280 or 280,000 wealthy people in the country but because over the last year or so we have absolutely decimated in this country the Federal financial support for the infrastructure needs of the cities and States. We cut out $205 billion in UDAG, half the money for UDA, mass transit is down $1.2 billion, the highway system $440 million, sewer construction is cut off $1.2 billion.

I do not see any way our cities and States are going to get the revenues in order to meet their capital improvement needs.

So I would have done more. But we are living in this Chamber in the world of doable, what we can do. So this amendment is designed to achieve what we can do.

As the distinguished Senator from Louisiana pointed out, the chairman of the Finance Committee has a 100-percent batting record, and I did not want to see us leave here without anything. So this amendment was designed to do what we could achieve some bipartisan support on. That was the reason for the amendment.

Those who want to offer another amendment to do something with the IDB's, I hope they may have the opportunity. But that is what has happened to this particular proposal.

I thank the Senator from Kansas.

The PRESIDING OFFICER. Who yields time?

Mr. LONG. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, let me just make clear to Senators that the Senator from Louisiana and the Senator from Connecticut have both been trying to prevent the States and localities from being taxed by taxing interest on their bonds. As far as we are concerned, we would be pleased to see the industrial development bond interest left out of the minimum tax on individuals as well as left out of the corporate minimum tax.

Mr. President, it is important to us that we not levy a tax on the State government itself, and when you tax the borrowing of the State, which is an essential function of government, you are taxing the State government.

That is how I look at it. In working to do what we could to try to protect the constitutional principle that we should not tax a State government on its essential function, we worked out the best compromise we could get. The Treasury and the chairman of the committee were willing to go along with us in saying that we would not apply the minimum tax for individuals to the interest on general obligations of States and localities. The individual minimum tax is the one that is a direct tax on the interest itself in the committee bill. We agreed not to apply that individual minimum tax to the interest on State general obligation and revenue bonds.

Mr. President, as far as the industrial development bonds are concerned, as many people know, the State does not pledge its full credit. The people who are at risk are the people who build these plants and other projects, and I do not believe they are protected by the Constitution, Mr. President.

It seems to me that whatever Congress wants to do by statute it will do. But those who want to do something about industrial development bonds, I would urge them to work out the best deal they can or offer the best amendment they can, and muster the most support they can, and I would be pleased to support their amendment if they can come up with a good amendment.

But, Mr. President, the Senator from Louisiana says again if the Senate does not agree to this amendment there is not going to be any relief for the States and municipalities at all. I fail to see how anyone who helps to vote down an amendment which would keep us from taxing the State itself hopes to get an amendment agreed to where the State is less directly involved. This is the case when some corporation comes in and gets the Senate to go along with them for issuing industrial development bonds where the State does not pledge its credit.

I hope we will vote to give at least this much relief to the State and local governments in raising money for their essential functions.

Mr. DANFORTH. Mr. President, I support this amendment. But I think, however, the debate has gotten way off point. With or without this amendment anybody will be able to buy an industrial revenue bond or a general obligation bond tax free. Anybody will be able to do it.

The fact of the matter is that all this amendment does is say that individuals, wealthy individuals, only wealthy individuals, will no longer be able to arrange their affairs through a whole range of tax shelters and whatever so that they pay no taxes or virtually no taxes at all.

This does not go to the question of buying the bonds. This only goes to the question of those few individuals, 280,000 out of 75 million taxpayers in this country, who are wealthy and pay no taxes because they have arranged their affairs in that way.

Mr. BRADLEY. Mr. President, will the Senator yield for a question? Just so I can understand what this amendment is, does this amendment take general obligations bonds out of the minimum tax?

Mr. DOLE. Yes.

Mr. DANFORTH. Yes. The answer is, "yes."

Mr. BRADLEY. Out of the minimum tax.

Mr. DANFORTH. Yes.

Mr. DOLE. Mr. President, I will just take 1 minute. I know we want to get this finished. No one is getting sleepy because if we put this off until next week there will be 5,000 amendments.

In 1971 in all bonds it was about $24 billion; in 1981 it went to $54 billion, and the revenue loss on industrial, the revenue loss is about $4 billion to the Treasury. But if you take a look at what has happened over those years, the school, the water and sewer, the

highway and bridge bonds have all gone down, and the private purpose bonds have all gone up. It seems to me that we ought to vote on this amendment. Let us vote on this amendment. We will try to figure out something that maybe was not addressed before. But I hope we can proceed with this amendment.

Mr. THURMOND. Mr. President, the amendment that I have cosponsored with Senators DODD, LONG, and others makes a very small change in this bill, but one that is very important to the financial operation of our cities, counties, and States.

The amendment would modify the individual minimum tax provisions in the bill by deleting from the list of new "tax preferences" interest earned on tax-exempt, general obligation bonds issued by State and local governments.

Mr. President, the minimum tax provisions contained in this bill are aimed at requiring all taxpayers with substantial economic income to pay at least some income taxes. This is an objective with which I fully agree. However, the real impact of including State, county, and municipal tax-exempt bonds in the list of preferences that are subject to the minimum tax would be either to drive up the interest rates on these bonds, or to severely reduce the quantity of bonds that could be sold. On the other hand, if the changes proposed in this bill become law, the fear of State and local government officials is that the market for these bonds will be severely damaged. On the other hand, even if State and political subdivision bonds could be sold, the burden of resulting higher interest rates would fall on the taxpayers who must pay the interest and principal on these bonds.

It is apparent, then, that the ultimate impact of this tax will be transferred from the purchasers of tax-exempt obligations to the States, counties, and cities, and eventually to all of the taxpayers within their boundaries.

At a time when many cities and counties are experiencing financial difficulties, it is incumbent that we not make matters worse for them. The inclusion of tax-exempt bonds in the list of preferences is a step in the wrong direction. It will have a substantial adverse impact on the market for tax-exempt bonds that will be felt by almost every taxpayer in the form of higher State, county, and city taxes. It is quite clear that the impact of these provisions is not going to be felt solely by the purchasers of tax-exempt bonds, but ultimately by all of the taxpayers who will pay the increased cost that these provisions will mandate.

I hope my colleagues will support this amendment for the benefit of all cities, counties, and States that depend on tax-exempt general obligation bonds for financing.

INDUSTRIAL REVENUE BONDS

● Mr. WALLOP. Mr. President, section 223(b)(2) of the bill pertaining to "Cost Recovery for Certain Property Financed With Tax Exempt Bonds" provides that the amendments changing the recovery method will not apply with respect to facilities—

(i) the construction, reconstruction, or rehabilitation of which began prior to July 1, 1982, or

(ii) with respect to which a binding agreement to incur significant expenditures was entered into prior to July 1, 1982.

Is it correct to interpret this exception to still apply in a circumstance where as of July 1, 1982, the owner of a plant or property has begun construction of a facility covered by an industrial revenue bond or has a binding agreement to incur significant expenditures on such a facility but later transfers the rights, title and obligations with respect to such facility to a wholly owned domestic subsidiary?

Mr. DOLE. Yes, if the transfer is prior to the facility being put into operation.●

The PRESIDING OFFICER. Who yields time? Do the Senators yield back their time?

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. Does the Senator from Connecticut yield back his time?

Mr. DODD. Yes.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Connecticut.

Mr. DOLE. Have the yeas and nays been ordered?

Mr. STEVENS. Mr. President, I am going to move in just a minute to table this amendment because there is another amendment which deals with all three that is fairer, and the way to do it is the way the Senator from Louisiana and the Senator from Connecticut originally intended, and the way to keep equality in all three is to either tax all three or do not tax all three. But to take just one out and make the GO bonds have a special privilege, in my opinion, is wrong. The way to do it is the way the Senator from Louisiana originally wanted to do it.

It is for that reason that I move to table the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from Connecticut. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 16, nays 81, as follows:

[Roll Call Vote No 249 Leg.]

YEAS—16

Biden	Hawkins	Packwood
Bradley	Heinz	Proxmire
Brady	Jepsen	Roth
Chafee	Kasten	Stevens
Cohen	Mitchell	
D'Amato	Murkowski	

NAYS—81

Abdnor	Ford	Metzenbaum
Andrews	Garn	Moynihan
Armstrong	Glenn	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Pell
Bentsen	Hart	Percy
Boren	Hatch	Pressler
Boschwitz	Hatfield	Pryor
Bumpers	Hayakawa	Quayle
Burdick	Heflin	Randolph
Byrd, Harry F., Jr.	Helms	Riegle
	Hollings	Rudman
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Chiles	Jackson	Schmitt
Cochran	Johnston	Simpson
Cranston	Kassebaum	Specter
Danforth	Kennedy	Stafford
DeConcini	Laxalt	Stennis
Denton	Leahy	Symms
Dixon	Levin	Thurmond
Dodd	Long	Tower
Dole	Lugar	Tsongas
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Zorinsky
East	McClure	
Exon	Melcher	

NOT VOTING—3

Goldwater	Inouye	Weicker

So the motion to lay on the table UP Amendment No. 1132 was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the motion to lay on the table was rejected.

Mr. LONG. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1132) was agreed to.

Mr. DOLE. Mr. President, could I make one observation?

Mr. President, there is a number of amendments and I think nearly all of them can be disposed of very quickly if we can have the attention of Members. Would most Members like to finish this evening? To those who have differences, if they can go off and settle them we can work this out.

UP AMENDMENT NO. 1133

Mr. PACKWOOD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon (Mr. PACKWOOD), for himself, Mr. MATSUNAGA, Mr. BENTSEN, and Mr. ROTH, proposes an unprinted amendment numbered 1133.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 349, between lines 2 and 3, insert the following:

"(5) SPECIAL RULE FOR HOME CONSTRUCTION OR RENOVATION.—The amount of any applicable loan transaction used to acquire, construct, reconstruct, or substantially rehabilitate any qualified dwelling (within the meaning of section 55(e)(4)(B)) which is used or is to be used (determined at the time such applicable loan transaction is entered into) as a residence of the employee or of a member of the family of the employee (within the meaning of section 267(c)(4)) shall not be taken into account under paragraph (1), except that the aggregate amount of loans to an employee to which this paragraph applies may not exceed the greater of

"(A) $10,000, or

"(B) the lesser of $50,000 or one-half of the amount of the present value of the nonforfeitable accrued benefit of the employee. The dollar amounts under this paragraph shall be reduced by the amount described in paragraph (1)(B).

On page 349, line 3, strike out "(5)" and insert in lieu thereof "(6)".

Mr. PACKWOOD. Mr. President, I have sent to the desk an amendment to relax new restrictions on borrowing from pension plans imposed by the tax bill as reported by the Senate Finance Committee.

This amendment is intended to help preserve an existing source of residential financing.

The Finance Committee bill limits lending by pension plans to employees to $10,000. This amendment liberalizes this limit. Under the amendment, the limit would be the higher of $10,000, or one-half of the employee's nonforfeitable benefit. In no case could the employee's total borrowing from the pension plan exceed $50,000. These higher limits apply only for housing loans.

Our principal purpose in offering this amendment is to preserve the right of employees to borrow funds from their pension plans to buy a house or to renovate a house. People of Oregon and around the country are facing severe difficulty in financing the purchase or renovation of a home. In Oregon, there is substantial unemployment and hardship caused by the housing slump. High Federal deficits lead to high interest rates, which in turn have caused this slump.

This amendment will help preserve one source of funds for residential and other borrowing. I believe it would be imprudent for Congress to rule out this source of financing now.

Pension lending programs are helpful to employees and fair to pension plans. As under current law, loans to employees must bear a "reasonable rate" of interest. This protects the investment income of the pension plan. It also gives the employee an interest rate which is probably below what he or she would pay through a commercial mortgage or other loan.

Under current law, and also under this amendment, pension plan borrowing must be made available to all employees on a nondiscriminatory basis. This assures that this is not a benefit limited to a few people who run the company.

I believe loans from pension plans for mortgages or home improvements are an excellent and legitimate use of pension funds. Next to a pension itself, homeownership is a vital key to retirement security for all of us.

Mr. President, I know of no objection to the amendment.

Now, Mr. President, I would like to attract the attention of Senators CHAFEE and DOLE to discuss an interpretive question about the paragraph on page 321 of the committee report on the tax bill.

THE PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Rhode Island.

Mr. CHAFEE. I would like to clarify a paragraph on page 321 of the committee report relating to investment programs by pension plans in loans fully secured by property, which may include investment in mortgage loans to participants. As the Senator knows, such programs are not only a good investment for plans but also a great help to our depressed housing industry.

My understanding of this paragraph is as follows: Suppose that a plan with a large number of participants, such as a multiemployer plan, a plan of a State or local government, or a plan of a large corporation, invests $10 million in a program of residential mortgages. Suppose further that under this program the plan invests in loans to participants which are fully secured by the participant's house. The loan may secondarily be secured by the participant's account or benefit under the plan. My understanding is that no portion of those loans would be treated as distributions. I want to be absolutely certain of this.

Mr. DOLE. That is correct. If the loans are part of an investment program of such a plan and are fully secured by the property purchased with the loan proceeds, no portion of the loans will be deemed a distribution.

Mr. CHAFEE. I would now like to ask the honorable Senator from Oregon whether his amendment would affect the meaning of this paragraph. I want to be assured that the amendment would have no effect.

Mr. PACKWOOD. That is correct. My amendment in no way is intended to affect your understanding in this area, as confirmed by our most capable chairman.

Mr. DOLE. That is correct.

Mr. CHAFEE. Thank you, Mr. President.

Mr. DOLE. Mr. President, this is a very narrow amendment. I know of no objection to the amendment.

Mr. MATSUNAGA. Mr. President, I rise in support of the amendment as a cosponsor of it, along with Senator BENTSEN.

Mr. President, the committee recognized the need for pension plan participants to borrow from their plans; and the committee established a ceiling of $10,000 so as not to permit loans to diminish retirement savings substantially.

Workers have borrowed from their plans to buy their homes, to pay for their children's college education, and to cover medical emergencies. The $10,000 limit would restrict such loans and has the potential of reducing the incentive for retirement savings by curbing access to these funds.

Our amendment would increase that ceiling to $50,000; this higher limit would provide greater flexibility and cover more needs. Moreover, since a loan above $10,000 would be limited to one-half the worker's accrued benefits, the worker will still retain significant pension savings.

This is a good amendment and I urge its adoption.

Mr. PACKWOOD. Mr. President, I yield back the remainder of my time.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BRADY). All time having been yielded back, the question is on agreeing to the amendment.

The amendment (UP No. 1133) was agreed to.

Mr. DOLE. Mr. President, I ask that it be in order to recognize the Senator from Utah to offer an amendment.

The PRESIDING OFFICER. Without objection, the Senator is recognized.

UP AMENDMENT NO. 1134

(Purpose: To permit the deduction of construction period interest and taxes for certain construction projects planned on or before July 1, 1982)

Mr. HATCH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Utah (Mr. HATCH) proposes an unprinted amendment numbered 1134.

Mr. HATCH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

Mr. METZENBAUM. Objection. I ask that the amendment be stated.

The bill clerk read as follows:

On page 228, strike out lines 17 through 20 and insert in lieu thereof the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) CERTAIN PLANNED CONSTRUCTION.—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(e)(B) if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982, and filed with a governmental regulatory agency, and

(B) such construction commences before January 1, 1984.

Mr. METZENBAUM. I thank the Chair.

Mr. HATCH. Mr. President, give us one more second. We want to consult with the Senator from Ohio, and I think we can resolve this problem.

Mr. President, today I am introducing an amendment to section 209(e) of H.R. 4961 which will provide for a minor change in the effective date of section 209 of the bill in order to alleviate a hardship to corporations which are directly and materially adversely impacted by the bill's extension of section 189 of the Internal Revenue Code to corporations.

A number of corporations involved in major construction on a regular and continuing basis have had written plans in effect since prior to July 1, 1982, the date the Finance Committee announced its decision to extend section 189 to corporations. These construction projects have been planned in reliance on current law and, on that basis, substantial economic and planning commitments have been made prior to the date of the Finance Committee's actions. For example, certain State or local approvals are requested in the normal course of events for many of those projects, such as zoning approvals or variances, environmental impact reports, coastal commission approval, fire and safety approval et cetera. In a number of these cases, it will not be possible to commence construction by the end of 1982, as the bill would presently require, due to unresolved legal impediments such as lawsuits or the pending requests for various State or local government approvals.

In these limited circumstances, application of the new provisions of the bill would cause undue hardship, and in some cases possibly, cancellation of construction projects which provide a high level of employment at a time when increased employment in the construction industry is most needed. Many of these projects are slated for urban development areas.

In order to provide a transitional buffer to the major impact of the committee's change in the Code and to limit the application of my amendment to insure that it does not affect the revenue goals of this bill, I have included two restrictions to its application. First, each construction must be pursuant to a written plan in existence prior to July 1, 1982 and as to which any approval from any Federal, State, or local governmental unit is requested in writing in the normal course of events; and second, each construction must actually commence before January 1, 1984.

Mr. President, this amendment is highly important to our economy in terms of employment and urban development, and it has virtually no revenue impact as proposed. I urge its acceptance.

Mr. President, this amendment is supported by Senator GARN and Senator MATSUNAGA. They both support it strongly. I hope that it will be accepted. I understand that both sides are willing to accept it.

The PRESIDING OFFICER. Who yields time?

Mr. MATSUNAGA. Mr. President, will the Senator from Utah yield?

Mr. HATCH. I yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I support the amendment described by the Senator from Utah.

The committee bill requires the capitalization and 10-year amortization of construction-period interest and taxes. Corporate taxpayers may not deduct such payments under present law.

The committee's effective date upsets the financing of various projects which had already reached an advanced stage.

Our amendment would provide a more equitable transition rule for certain projects. It would permit these projects to continue under the current law, provided the taxpayer shows a degree of reliance on the current law. This reliance could be shown by the taxpayer's application for the necessary development permits. Certain other restrictions are included in the amendment to limit its revenue effect.

I urge its adoption.

Mr. HATCH. Mr. President, I send a modification to the desk which corrects a technical defect that the Senator from Ohio and I have been working on.

The PRESIDING OFFICER. The Senator is entitled to modify his amendment.

Mr. HATCH. We shall send it to the desk in just a moment.

Mr. President, I ask unanimous consent that we may set this aside temporarily with the right to bring it back when ready.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1135

(Purpose: To provide for coverage of hospice care under the medicare program)

Mr. DOLE. Mr. President, I yield to the distinguished Senator from Pennsylvania for an amendment.

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be in order at this time.

The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania (Mr. HEINZ) for himself and Mr. DOLE, Mr. PACKWOOD, Mr. DURENBERGER, Mr. CHILES, Mr. CHAFEE, Mr. ROTH, Mr. DANFORTH, Mr. GRASSLEY, Mr. SYMMS, Mr. BENTSEN, Mr. MATSUNAGA, Mr. DOMENICI, Mr. PERCY, Mr. HATCH, Mr. STAFFORD, Mr. QUAYLE, Mrs. KASSEBAUM, Mrs. HAWKINS, Mr. GORTON, Mr. COHEN, Mr. PRYOR, Mr. ANDREWS, Mr. HAYAKAWA, Mr. GLENN, Mr. CANNON, Mr. TSONGAS, Mr. BURDICK, Mr. SPECTER, Mr. KASTEN, Mr. SARBANES, Mr. NUNN, Mr. ZORINSKY, Mr. MATTINGLY, Mr. FORD, Mr. RIEGLE, Mr. WARNER, Mr. LEVIN, Mr. SCHMITT, Mr. DENTON, Mr. BOSCHWITZ, Mr. NICKLES, Mr. WALLOP, Mr. MELCHER, Mr. PRESSLER, Mr. D'AMATO, Mr. STEVENS, Mr. THURMOND, Mr. SIMPSON, Mr. DIXON, Mr. SASSER, Mr. LEAHY, Mr. BAUCUS, Mr. MOYNIHAN, Mr. JEPSEN, Mr. HUDDLESTON, Mr. METZENBAUM, Mr. HOLLINGS, Mr. DECONCINI, Mr. BRADLEY, Mr. DODD, Mr. BUMPERS, Mr. JOHNSTON, Mr. HART, Mr. EAGLETON, Mr. EXON, Mr. PELL, and Mr. RANDOLPH proposes an unprinted amendment numbered 1135.

At the end of subtitle A of title I add the following new section:

HOSPICE CARE

SEC. 122. (a)(1) Section 1811 of the Social Security Act is amended by striking out "and home health services" and inserting in lieu thereof "home health services, and hospice care".

(2) Section 7(d)(1) of the Railroad Retirement Act of 1974 is amended by inserting "hospice care," after "home health services.".

(b)(1) Section 1812(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and", and by adding after paragraph (3) the following new paragraph:

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each with respect to which the individual makes an election under subsection (d)(1).".

(2) Section 1812 of such Act is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each during the individual's lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part by (or through) a particular hospice program instead of certain other benefits under this title.

"(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the

Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this title with respect to—

"(i) hospice care provided by another hospice program (other than through arrangements with the particular hospice program) during the period, and

"(ii) services furnished during the period, other than physicians' service furnished by the individual's attending physician and other than services provided by (or under arrangements with) a hospice program, that are determined (in accordance with guidelines of the Secretary) either to be related to the treatment of the individual's condition with respect to which a diagnosis of terminal illness has been made or to be equivalent to (or duplicative of) hospice care.

"(B) After an individual makes such an election with respect to a 90-day period, the individual may revoke the election during the period, in which case—

"(i) the revocation shall act as a waiver of the right to have payment made under this part for any hospice care benefits for the remaining time in such period and (for purposes of subsection (a)(4) and subparagraph (A)) the individual shall be deemed to have been provided such benefits during such entire period, and

"(ii) the individual may at any time after the revocation execute a new election for a subsequent 90-day period, if the individual otherwise is entitled to hospice care benefits with respect to such a period.

"(c) An individual may, once in each such period, change the hospice program with respect to which the election is made and such change shall not be considered a revocation of an election under subparagraph (B).

"(D) For purposes of this title, an individual's election with respect to a hospice program shall no longer be considered to be in effect with respect that hospice program after the date of the individual's death or if earlier, the date the individual revocation or change of election with respect to that election takes effect.".

(c)(1) Section 1814(a) of the Social Security Act is amended by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and", and by inserting after paragraph (7) the following new paragraph:

"(8) in the case of hospice care provided an individual in—

"(A)(i) the first 90-day period—

"(I) the individual's attending physician (as defined in section 1861(dd)(3)(P)), and

"(II) the medical director (or physician member of the interdisciplinary group described in section 1861(dd)(2)(B)) of the hospice program providing (or arranging for) the care,

each certify, not later than 2 days after hospice care is initiated, that the individual is terminally ill (as defined in section 1861(dd)(3)(A)), or

"(ii) the second 90-day period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;

"(B) a written plan for providing hospice care with respect to such individual has been established (before such care is provided by, or under arrangements made by, that hospice program) by the medical director (and the interdisciplinary group described in section 1861(ad)(2)(B)) of the hospice program, and is periodically reviewed by the individual's attending physician and by such medical director and group; and

"(C) such care is being or was provided pursuant to such plan of care.".

(2)(A) Section 1814(b) of such Act is amended by inserting "(other than a hospice program providing hospice care)" after "The amount paid to any provider of services".

(B) Section 1814 of such Act is further amended by adding at the end the following new subsection:

"PAYMENT FOR HOSPICE CARE

"(i)(1) Subject to the limitation under paragraph (2) and the provisions of section 1813(a)(5), the amount paid to a hospice program with respect to hospice care for which payment may be made under this part shall be an amount equal to the costs which are reasonable and related to the cost necessary in the efficient delivery of needed hospice care, or which are based on such other tests of reasonableness as the Secretary may prescribe in regulations (including those authorized under section 1861(v)(1)(A)). The reasonable costs incurred in providing necessary nutritional and dietary counseling shall be allowable overhead cost items, but the costs incurred in providing bereavement counseling shall not be an allowable cost item. No counseling services shall be reimbursed as separate services.

"(2)(A) The amount of payment made under this part for hospice care provided by (or under arrangements made by) a hospice program located in a region (as defined by the Secretary) for an accounting year may not exceed the 'cap amount' for the region for the year (computed under subparagraph (B)) multiplied by the number of medicare beneficiaries in the hospice program in that year (determined under subparagraph (C)).

"(B) For purposes of subparagraph (A), the 'cap amount' for a region for a year is computed as follows:

"(i) The Secretary, using records of the program under this title, shall identify individuals (or a representative sample of such individuals) who died during the base period (as defined in clause (v)), with respect to whose death the primary cause of death was cancer, and who, during the 6-month period preceding death, were provided benefits under this title.

"(ii) The Secretary shall determine a national average medicare per capita expenditure amount by (I) determining (or estimating) the amount of payments made under this title with respect to services provided to individuals identified in clause (i) during the 6 months before death, and (II) dividing such amount of payments by the number of such individuals.

"(iii) The Secretary shall then compute a regional average medicare per capita expenditure amount for each region, by adjusting the national average medicare per capita expenditure amount (computed under clause (ii)) to reflect the relative difference between that region's average cost of delivering health care and the national average cost of delivering health care.

"(iv) The 'cap amount' for a region for an accounting year is 40 percent of the regional average determined under clause (iii) for that region, increased by the same percentage as the percentage increase in the medical care expenditure category of the Consumer Price Index for all urban consumers (United States city average), published by the Bureau of Labor Statistics, from the fourth month of the base period to the fifth month of the accounting year.

"(v) For purposes of this subparagraph, the term 'base period' means the most recent period of 12 months (ending before the date of the enactment of this subsection) for which the Secretary determines he has sufficient data to make the determinations required under clauses (i) through (iii).

"(C) For purposes of subparagraph (A), the 'number of medicare beneficiaries' in a hospice program in an accounting year is equal to the number of individuals who have made an election under subsection (d) with respect to the hospice program and have been provided hospice care by (or under arrangements made by) the hospice program under this part in the accounting year, such number reduced to reflect the proportion of hospice care that each such individual was provided in a previous or subsequent accounting year or under a plan of care established by another hospice program.".

(d)(1) Section 1861(u) of the Social Security Act is amended by inserting "hospice program," after "home health agency,".

(2) Section 1861(w)(1) of such Act is amended by striking out "or home health agency" and by inserting in lieu thereof "home health agency, or hospice program".

(3) Section 1861 of such Act is further amended by adding at the end the following new subsection:

"HOSPICE CARE; HOSPICE PROGRAM

"(dd)(1) The term 'hospice care' means the following items and services furnished to a terminally ill individual (as defined in paragraph (4)), by a hospice program under a written plan (for providing such care to such individual and immediate family) established by the medical director (and by the interdisciplinary group described in paragraph (2)(B) of the program, and periodically reviewed by the individual's attending physician and by such medical director and group—

"(A) nursing care provided by or under the supervision of a registered professional nurse,

"(B) physical, occupational, or speech therapy,

"(C) medical social services under the direction of a physician,

"(D)(i) services of a home health aide who has successfully completed a training program approved by the Secretary and (ii) homemaker services,

"(E) medical supplies (including drugs and biologicals, but only such drugs and biologicals as are reasonable and necessary for palliation and management of terminal illness) and the use of medical appliances, while under such a plan,

"(F) physicians' services, and

"(G) short-term inpatient care (including both respite care and procedures necessary for pain control and acute and chronic symptom management) in an inpatient facility meeting such conditions as the Secretary determines to be appropriate to provide such care, but such respite care may be provided only on an intermittent, nonroutine, and occasional basis and may not exceed 5 consecutive days in any case.

The care and services described in subparagraphs (A) and (D) may be provided on a 24-hour, continuous basis only during periods of crisis (meeting criteria established by the Secretary) and only as necessary to maintain the terminally ill individual at home.

"(2) The term 'hospice program' means a public agency or a private organization, or a subdivision of any such entity, which—

"(A)(i) is primarily engaged in providing the care and services described in paragraph (1) and makes such services available (as needed) on a 24-hour basis,

"(ii) provides for such care and services, and for dietary and nutritional counseling, and for bereavement counseling for families, in individuals' homes, on an outpatient basis, and on a short-term inpatient basis,

"(iii) provides the services listed in subparagraphs (A), (C), and (F) of paragraph (1) directly, and provides the remainder of the services listed in paragraph (1) directly or through arrangements with other hospice programs, and

"(iv) provides assurances satisfactory to the Secretary that the aggregate number of days of inpatient care described in paragraph (1)(G) provided in any 12-month period to individuals who have an election in effect under section 1812(d) with respect to that agency or organization does not exceed 20 percent of the aggregate number of days during that period on which such elections for such individuals are in effect;

"(B) has an interdisciplinary group of personnel which—

"(i) includes at least (I) one physician (as defined in subsection (r)(1)), (II) one registered professional nurse, (III) one social worker, and (IV) one pastoral or other counselor, employed by the agency or organization,

"(ii) provides the care and services described in paragraph (1), and

"(iii) establishes the policies governing the provision of such care and services;

"(C) maintains central clinical records on all patients;

"(D) does not discontinue the care it provides with respect to a patient because of the inability of the patient to pay for such care;

"(E)(i) utilizes volunteers in its provision of care and services in accordance with standards set by the Secretary, which standards shall ensure a continuing level of effort to utilize such volunteers, and (ii) maintains records on the use of these volunteers and the cost savings and expansion of care and services achieved through the use of these volunteers;

"(F) in the case of an agency or organization in any State in which State or applicable local law provides for the licensing of agencies or organizations of this nature, is licensed pursuant to such law;

"(G) maintains management responsibility for all hospice services furnished to an individual who has made an election under section 1812(d) to receive such services from such hospice program, regardless of the location or facility in which such services are furnished; and

"(H) meets such other requirements as the Secretary may find necessary in the interest of the health and safety of the individuals who are provided care and services by such agency or organization.

"(3)(A) An individual is considered to be 'terminally ill' if the individual has a medical prognosis that the individual's life expectancy is 6 months or less.

"(B) The term 'attending physician' means, with respect to an individual, the physician (as defined in subsection (r)(1) whom the individual identifies as having the most significant role in the determination and delivery of medical care to the individual at the time the individual is to be provided hospice care.

"(4) The term 'immediate family' means, with respect to an individual, the individual's spouse, parents, and children, and another person (not employed by a hospice program providing hospice care to the individual) who has assumed (as determined in accordance with guidelines of the Secretary) primary responsibility for assisting in the care of the individual.

"(5) A hospice program which is certified as a provider of another type, shall be deemed, for purposes of certification as a hospice program, to have met any requirements under this subsection which are also requirements for certification as such other type of provider. The Secretary shall coordinate surveys for determining certification under this title so as to provide, to the extent feasible, for simultaneous surveys of an entity which seeks to be certified as a hospice program and as a provider of another type. Any entity which is certified as a hospice program and as a provider of another type shall maintain separate cost reporting records with respect to costs incurred in providing hospice services and in providing other services under this title.".

(e) Section 1813(a) of such Act (as amendd by section 103 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(5)(A) The amount payable for hospice care shall be reduced by a coinsurance amount equal to—

"(i) the lesser of $10 per prescription, or an amount equal to 10 percent of the charge per prescription, for any drugs and biologicals provided on an outpatient basis by (or under arrangements with) the hospice program,

"(ii) the home health copayment amount for the applicable calendar year with respect to any visits, beginning with the twentieth visit in such calendar year, for home health aide services or homemaker services provided by (or under arrangements with) the hospice program, and

"(iii) 5 percent of the reasonable cost of any respite care provided by (or under arrangements with) the hospice program, but not to exceed the inpatient hospital deductible applicable for the year in which the individual's election under section 1812 (d)(1) began.

"(B) During the period of an election by an individual under section 1812 (d)(1), no copayments or deductibles other than those under subparagraph (A) shall apply with respect to services furnished to such individual which constitute hospice care, regardless of the setting in which such services are furnished.".

(f) Section 1862(a) of the Social Security Act is amended—

(1) by inserting ", or, in the case of hospice care, which are not reasonable and necessary for the palliation or management of terminal illness" before the semicolon at the end of paragraph (1);

(2) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1))" in paragraph (6) after "comfort items"; and

(3) by inserting "(except, in the case of hospice care, as is otherwise permitted under paragraph (1))" in paragraph (9) after "custodial care".

(g)(1) Section 1863 of the Social Security Act is amended by striking out "and (cc)(2)(I)" and inserting in lieu thereof "(cc)(2)(I), and (dd)(2)".

(2) Section 1864(a) of such Act is amended—

(A) by inserting "or whether an agency is a hospice program" in the first sentence after "home health agency,"; and

(B) by striking out "or home health agency" in the second sentence and inserting in lieu thereof "home health agency, or hospice program".

(3) Section 1865(a) of such Act is amended by striking out "or (o)" in the last sentence and inserting in lieu thereof "(o), or (dd)".

(4) Section 1866(b)(4)(A) of such Act is amended by inserting "or hospice care" after "home health services".

(h) The amendments made by this section shall apply to hospice care provided on or after January 1, 1984, and prior to September 20, 1986.

(i) The Secretary of Health and Human Services shall continue all demonstration programs in effect on the date of the enactment of this act relating to hospice care until December 31, 1983. Prior to December 31, 1983, the Secretary shall submit to the Congress a report on the effectiveness of such demonstration programs, including an evaluation of the cost-effectiveness of hospice care, the reasonableness of the 40 percent cap amount for hospice care as provided in section 1814(i) of the Social Security Act (as added by this section), proposed methodology for determining such cap amount, proposed standards for requiring and measuring the maintenance of effort for utilizing volunteers as required under section 1871(dd) of such Act, an evaluation of physician reimbursement for services furnished as a part of hospice care and for services furnished to individuals receiving hospice care but which are not reimbursed as a part of the hospice care, and any proposed legislative changes in the hospice care provisions of title XVIII of such Act.

(j)(1) The Secretary of Health and Human Services shall conduct a study and, prior to January 1, 1986, report to the Congress on whether or not the reimbursement methodology and the benefit structure for hospice care under title XVIII of the Social Security Act are fair and equitable and promote the most efficient provision of hospice care. Such report shall include the feasibility and advisability of providing for prospective reimbursement for hospice care, an evaluation of the inclusion of payment for outpatient drugs, an evaluation of the impact of expanding hospice care reimbursement to include nutritional, dietary, and bereavement counseling as hospice care, and any recommendations for legislative changes in the hospice care reimbursement or benefit structure.

(2) The Comptroller General shall monitor and evaluate the study and the preparation of the report under paragraph (1).

(k) The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act (relating to the cap amount), section 1861(dd)(1)(G) of such Act (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iv) of such Act (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate in a viable manner as a hospice program under title XVIII of the Social Security Act.

Mr. HEINZ. Mr. President, my amendment represents a unique opportunity to include as part of the Tax Equity and Fiscal Responsibility Act a provision that will improve benefits for medicare beneficiaries while saving money for the social security trust funds.

That amendment, which I am offering today, along with Senators DOLE, PACKWOOD, DURENBERGER, CHILES, CHAFEE, ANDREWS, COHEN, KASSEBAUM, ROTH, GLENN, PRYOR, BENTSEN, DANFORTH, PERCY, BURDICK, QUAYLE, STAFFORD, CANNON, HAWKINS, GRASSLEY, TSONGAS, HAYAKAWA, HATCH, and many others for a total of 68 cosponsors will expand medicare to cover hospice services. Hospice, as many of my colleagues know, is a method caring for the terminally ill. Hospice care is designed to help the terminally ill continue their lives with as little disruption as possible. Therefore, it emphasizes supportive services such as home care and pain control, rather than cure-oriented institutional treatment.

Mr. President, when one talks about the terminally ill, one thinks of people in the last several months of their lives. Yet the term, "hospice," really is a concept that is designed to alleviate much of the distress attendant upon both the patient and the family. The hospice concept emphasizes palliative care—it emphasizes the alleviation of the psychological, spiritual, and emotional stress that people are under when confronted with a terminal illness. And therefore, "hospice" really means living and living in dignity.

Mr. President, this amendment is based upon legislation introduced in this session by the distinguished chairman of the Finance Committee, and Mr. PACKWOOD, Mr. LONG, myself, and others, and is now cosponsored by more than 50 Members of the Senate. This amendment does, however differ in several significant respects from the bill introduced by the distinguished Senator from Kansas, including the following.

My amendment provides for two benefit periods of 90 days each for each beneficiary. The implementation date of this provision is December 31, 1983, which will allow ample time to fully evaluate the current hospice demonstrations. Reimbursement is based on reasonable costs, with a limit set at 40 percent of the average medicare per capita expenditure during the last 6 months of a beneficiary's life reflecting regional differences. We have also included in the amendment measures to guard against excessive utilization while maintaining the integrity of the hospice benefit.

Mr. President, I want to point out that this amendment, if it is adopted, will permit humane treatment of the terminally ill outside of hospitals, for the most part—$300-a-day hospitals—and will permit their care and treatment in noninstitution, typically home settings.

The amendment saves money. CBO has completed a cost estimate as follows: zero cost the first year, a savings of $11 million the second year, and a savings of $22 million the third year—for the very simple reason that this offers an alternative to the present, very costly mix of traditional medicare services for the dying.

Mr. President, at present, 50 percent of patients currently in hospice programs are medicare beneficiaries, but medicare does not pay for many essential hospice services. As a result, the system encourages hospice providers to bill for more costly services at acute care rates to protect the patients.

As chairman of the Senate Special Committee on Aging, I recently held a hearing on the issue of medicare coverage for hospice services. Families of hospice patients told me that the services enabled them to keep their dying family members at home as long as possible; that it provided support needed to cope with the terminal illness—support not received in other settings; and that hospice was more humane and less expensive than traditional care.

Mr. President, over 300,000 medicare beneficiaries, expected to die of cancer during 1983, are currently denied access to hospice care.

Expenditures for medicare enrollees in their last 40 days of life—which is the typical length of stay for hospice care—in 1981 accounted for $4 billion, most of which was for hospital care.

Technological advances in modern medicine have helped to prolong life. In many ways, this has led to a system of health care which focuses almost exclusively on curing illness through hospital based medical care.

Frequently, the special needs of those for whom there is no cure is neglected, or at best, relegated to secondary considerations.

Hospice care represents an alternative method of caring for the terminally ill with a special emphasis on maintaining the quality of the last days of life. This amendment will insure that medicare beneficiaries will not be denied access to this frequently preferable mode of care—an assurance that is long overdue.

It is my understanding that the distinguished chairman of the Senate Finance Committee is prepared to accept this amendment. I thank him and his very capable staff for their assistance on this important amendment.

Mr. GLENN. Will the Senator yield?

Mr. HEINZ. I am happy to yield to Senator GLENN, who is a cosponsor.

Mr. GLENN. May I have 2 minutes?

Mr. HEINZ. I do not know how much time I have on this.

Mr. GLENN. Mr. President, I am pleased to join Senator HEINZ as a sponsor of this amendment which would provide medicare coverage for hospice services, with an emphasis on those services which are provided in the home. Previously, I cosponsored S. 1958 which would allow medicare-eligible Americans an opportunity to choose between either hospice or traditional treatment for terminal illnesses.

I believe that we should support the right of terminally ill patients to receive the type care they desire. Also, by substituting hospice care for the regular medicare hospital benefit, the Congressional Budget Office estimates that this would mean a medicare savings of $16 to $17 million over a 3-year period, 1983-85.

I ask the Senator, he had some figures that are different from the ones I had on savings. It is nice we can stand on the floor of the Senate and argue about which of us has the biggest saving proposed in a particular piece of legislation. The figures I have is that this would save $16 to $17 million over a 3-year period. I believe the Senator's figures were larger than that. In any event, if it is a saving and better care, I am for it.

Mr. PACKWOOD. Mr. President, I urge Senate adoption of the Heinz-Dole-Packwood amendment to provide hospice services to terminally ill medicare patients.

For those of my colleagues who might not be familiar with the term hospice, it refers to physical and emotional support in allowing a terminally ill patient to die with dignity and, in most cases, in his or her own home.

As one Senator who has long advocated a strong home care program for senior citizens, this amendment furthers that goal. It provides a series of services offering the terminally ill medicare patient the choice to pass away in his home. More importantly, this amendment, as estimated by the Congressional Budget Office, will "save" the Government money. Let me repeat this—CBO estimates the amendment will save the Federal Government money. It will do so because it will allow the individual to spend his last days at home or in a hospice facility—and not in a hospital.

Specifically, this proposal would provide:

1. Up to 180 days of hospice coverage;

2. Outpatient drug coverage for pain relieving drugs;

3. Nursing services, therapy, home health aide coverage, respite care, physician services, and short-term inpatient hospitalization.

Mr. President, the Heinz-Dole-Packwood amendment is an important step toward helping seniors. It saves the Federal Government millions of dollars, and it places a very important new program into medicare—a program to allow people to die in their own homes in a humane way—and not in a hospital.

Mr. DOLE. Mr. President, I commend the Senator from Oregon for that fine statement.

HOSPICE CARE

Mr. President, 4 years ago, this Senator made a statement on the Senate floor extolling the virtues of alternative methods of care for the terminally ill. I indicated at that time that most American hospitals were designed to give acute, highly technical and aggressive care, designed to prolong life. While this design is generally a good one, the needs and problems of the terminally ill are unlike those handled best in this atmosphere.

I believed in 1978, and continue to believe today, that we must examine how we can best meet the needs of the terminally ill. In discussions with individuals who are terminally ill and in conversations with their families we hear many unmet needs verbalized time and time again. These needs revolve around self-control, decisionmaking, relief of pain, rights of privacy and the right of the patient to know the truth about their prognosis.

The legislation embodied in the amendment being offered today is an outgrowth of our early efforts to determine how best to assist individuals who are terminally ill.

Hospice care is increasingly recognized as an alternative way of caring for the terminally ill. It is a mode of care that emphaizes palliative care—medical relief of pain—rather than curative care and is designed to address the physical, psychological, and spiritual needs of the patient and the emotional needs of the family. Hospice care is typically regarded as more humane and less expensive than conventional hospital care and treatment for the terminally ill.

THE HOSPICE CONCEPT

The term hospice has come to mean physical and emotional support and dignity to thousands upon thousands of individuals around the world.

The concept of hospice care carries with it the thought of living, not of death and dying. This model of care and treatment is long overdue in the United States.

The hospice approach to care for the dying is a program of active medical attention whose chief characteristics are the sophisticated management of severe pain and optimum use of home care. Hospice care may be available through home care, outpatient services, or an inpatient program. Care is provided by a multidisciplinary team made up of nurses, physicians, and other providers. Psychological, spiritual, and sociological needs are regarded as important to care as the treatment of physical complaints.

The hospice movement has grown dramatically within the last few years. In 1979, the General Accounting Office reported 59 operating hospices. Today, there is a hospice movement in every State with estimates of operating hospices ranging from 600 to 700, with several hundred others in the planning stage.

PREVIOUS ACTION

In 1978, at the urging of this Senator and others, a hospice task force was formed within the Department of Health, Education, and Welfare to examine the hospice movement in the United States, and the appropriate role the Federal Government might play in hospice care. One of the outgrowths of these early actions was the announcement by the Department of Health, Education, and Welfare, of their intention to conduct demonstration projects with organizations providing hospice services. The demonstration projects permitted the waiver of certain statutory and regulatory requirements to allow coverage of hospice services provided to medicare beneficiaries and medicaid recipients.

The demonstration, which actually began on October 1, 1980, consists of a 24-month experimental phase during which hospice services will be reimbursed. Twenty-six sites were selected for participation in this HCFA demonstration program. We understand that the earliest preliminary results of these studies will be available in late 1982.

Other activities in the hospice area have also been helpful to us in developing this legislation. The Warner-Lambert Foundation recently commissioned an independent costs analysis on the fiscal impact of caring for the terminally ill in the current medicare system as opposed to a medicare system which included the hospice alternative.

The National Cancer Institute also conducted a 3-year demonstration program on the costs of hospice care.

Blue Cross plans in several States have studied the comparative costs of caring for the terminally ill in the traditional system against the costs in a hospice. Other private insurance companies have also conducted analysis prior to adding the hospice benefit to group health policies.

The Congressional Budget Office has looked into hospice programs as part of its effort to estimate the costs for the hospice legislation—S. 1958—I introduced in December 1981 along with many of my colleagues. CBO found that while the addition of hospice benefits to medicare might result in a small cost increase in the first 2 years after implementation, for subsequent years increased utilization of the hospice option in lieu of more conventional hospital treatment for the terminally ill would result in long-term program savings. CBO estimated that for the hospice proposal—H.R. 5180 as revised by the House Ways and Means Committee—$16.5 million could be saved by the medicare program in 1985.

All the information gathered thus far from these projects and evaluations have been helpful in drafting the amendment on behalf of hospice care offered here today.

PURPOSE OF AMENDMENT

In general, the amendment would permit medicare beneficiaries who are expected to die within 6 months to elect to receive a full range of hospice services. The kinds of services covered include those now covered as home health services plus physicians' services, short-term institutional care, respite services—to periodically relieve family members of the burden of caring for the patient—homemaker services, and outpatient prescription drugs.

A beneficiary could elect to receive hospice benefits for no more than two periods, each lasting no more than 90 days each. In electing hospice benefits, the beneficiary would waive entitlement to all the nonhospice benefits available under medicare except for benefits for his attending physician, who might, in some cases, wish to continue caring for the patient in conjunction with the hospice physician.

A hospice would be reimbursed under part A of medicare for its covered costs subject to a ceiling which attempts to insure that the hospice payments would not exceed the amount that would have been spent by medicare had the patient been treated in a traditional setting.

The amendment offered today is a modification of the bill—S. 1958—which the Senator from Kansas introduced in December 1981. It has been modified in ways intended to keep costs for the proposal within an acceptable range. As I mentioned earlier, CBO has estimated a long range cost savings to medicare if a hospice proposal of this type is enacted. But admittedly CBO also found a short-term cost increase attached to the bill as originally introduced in December. Consequently, we have been looking at ways to get those initial costs down. Some of the changes we have incorporated have also been approved by the House Ways and Means Committee in its budget recommendations.

One of the most important modifications is the inclusion of nominal cost-sharing amounts on certain covered services, namely outpatient drugs, home health services, and respite care. The importance of cost sharing as a mechanism to control program costs cannot be underrated. Imposition of cost sharing on a new benefit such as outpatient drugs provided through a hospice program is essential to keep costs for this expanded benefit at an acceptable level. CBO cost estimates for the hospice proposal have previously indicated that a large part of any additional cost for a hospice benefit would be due to the coverage of outpatient drugs. Therefore, we are recommending that outpatient drugs

provided under a hospice program be subject to a cost-sharing amount of 10 percent per prescription or $10 per prescription, whichever is less.

In addition, our amendment would make home health services under a hospice program subject to the same coinsurance we have proposed be applicable to other home health benefits covered under medicare; that is, a 5-percent coinsurance starting with the 20th visit. It would seem fair that medicare beneficiaries opting for a hospice program not be exempted from the cost-sharing amounts we are recommending be imposed on beneficiaries using nonhospice home health benefits. Respite care, wherever provided, would also be subject to a 5-percent copayment for each day of care. However, the total amount the patient would be liable to pay could not exceed the amount of the annual inpatient hospital deductible.

CONCERNS REGARDING COST

As indicated earlier, we have received CBO cost estimates indicating that implementation of a hospice proposal along the lines we have outlined today will ultimately result in a long-term savings to the medicare program. Such estimates, however, have necessarily been based on the rather limited data available at present costs of hospice programs compared to conventional treatment costs.

We feel that the findings from the HCFA demonstrations will greatly enhance our ability to make projections about the cost-effectiveness of hospice care and the wisdom of covering such services under medicare. Accordingly, we are requesting that the Secretary's report examine such issues as: The cost-effectiveness of the hospice benefit; the appropriateness of the cost-sharing amounts imposed on benefits; the method for determining the 40-percent cap on reimbursement to hospice programs; ways to assure a so-called maintenance of effort with regard to use of volunteers under hospice programs; and other issues related to the satisfactory implementation of the hospice benefit.

We would further like to emphasize our desire that the report address the adequacy of the reimbursement methodology to be applied to hospice care programs. Questions have been raised over the ability of the Department, based on existing data, to accurately predict the average level of medicare expenditures in a given region for terminally ill patients in the last 6 months of life. Therefore, we feel it is essential that the Secretary, in his report to Congress, document the Department's ability to make such calculations and to administer the 40-percent hospice reimbursement cap. We would expect the report to include any recommendations for legislation needed to assure that the hospice benefit does not result in long-range cost increases in the medicare program.

In keeping with our amendment requiring a pre-implementation report on the HCFA hospice demonstrations, we are establishing December 31, 1983, as the effective date of the benefit. This would allow the Department of HHS to evaluate the findings of the HCFA demonstrations and to incorporate recomendations based on these findings in the pre-implementation report discribed above. This time would also permit Congress to consider any legislative modifications that might be necessary as a result of the Secretary's findings.

Mr. President, I feel that we now have before us a workable vehicle with appropriate safeguards to assure the program is not abused. In this context, I would like to have printed in the RECORD an editorial from the Washington Post in support of the hospice benefit expansion.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Apr. 12, 1982]

MEDICARE AND THE HOSPICES

The American medical system is very well geared to care for people whose ailments or disabilities are curable or, at least, controllable. It is much less well suited to care for those whose illnesses are no longer treatable. A bill before Congress would extend to terminally ill persons covered by Medicare the possibility of seeking "hospice" care, a method of care designed to help dying people remain free of pain and in their homes for as long as possible.

In the past several years, over 400 hospice programs have been started around the country. There is no single model of hospice care, but there are several essential features of it. Hospice care is strictly limited to persons who are no longer receiving curative treatments. While inpatient care may be provided, the aim of the programs is to keep patients comfortable in their homes as long as possible, involve family members in patient care and help families to adjust both before and after the patient's death. Volunteers are used extensively, although doctors and other professionals are on-call around the clock for home visits.

The most important advantage of hospice care is that many patients and families find it a humane and comforting alternative to the high-technology medicine offered by regular hospitals. However, because of its emphasis on in-home care and the use of volunteers, hospice care can be far less expensive than hospital care or nursing home care, the normal alternatives for the terminally ill. The excellent Hospice of Northern Virginia, for example, has found that its cost of providing in-home care is about $68 a day compared with an average cost of $503 a day for final admissions to local hospitals. Even when patients must be moved to the hospice facility, the daily cost is only $270.

Because a very large proportion of Medicare costs are spent on patients in the last year of life, hospice care promises substantial savings for the program. The Health and Human Services Department, however, is concerned that if hospice care coverage is not properly circumscribed, it could be exploited by proprietary firms set up to take advantage of the new authority, and end up costing more than it saves. HHS would prefer to wait for action until the results of a demonstration project have been analyzed. Congress is also being barraged by other types of health-care providers—everything from skilled nursing homes to music therapists—who think they should be covered, too.

The history of government health programs would cetainly sugggest caution in any extension of coverage. But more than two years are likely to elapse before HHS has completed its study—the results of which are unlikely to be conclusive. In the meantime, hospices currently covered by Medicare as part of the study may have to close down when the project ends next fall, and many other patients will be denied access to a form of care that has shown itself to be humane and efficient. Safeguards are needed to make sure that hospice coverage is not abused, but strickly limited coverage is better than no coverage at all. The bill should be passed.

Mr. DOLE. Our experience with the medicaid mills and other unscrupulous health care operations has taught us that we must move with utmost caution in the development of a hospice benefit. But move we must—the growth of the hospice movement is a long-range goal—an effort to ameliorate some of the existing conditions for the terminally ill in hospitals is something that must begin today. We must also push our health manpower education system to more fully prepare health professionals to deal with the problems of the terminally ill and of their families.

We must all work together to provide for those in our society who are near death, an environment that recognizes them as individuals: individuals with dignity seeking only to spend their last days and hours peacefully in a manner of their choosing.

Mr. President, I support the amendment of the distinguished Senator from Pennsylvania. It is about a 30-month provision, and it does save about $33 million.

Mr. BENTSEN. Mr. President, as a cosponsor of S. 1958—the hospice bill—I am pleased to join Senator HEINZ in cosponsoring the pending amendment to permit hospice care for the terminally ill to be reimbursed under medicare.

The hospice approach to caring for the dying involves the use of a multidisciplinary team including physicians, nurses, and other health and support service professionals. Physical, psychological, and spiritual needs are considered important in providing care to the patient. My own State of Texas now has 19 hospices, most of which offer a full range of services including treatment at home and greater family involvement in the care of individual patients. I would like to emphasize for those who may question the advisability of expanding the number of reimbursible services, that this amendment will not increase the costs of the medi-

care program. Those eligible for hospice benefits would already be entitled to medicare reimbursement for hospital, nursing home, or home health care. By choosing hospice services, other medicare benefits are waived, though if the patient prefers to return to full hospital care he is permitted to do so.

Mr. President, I firmly believe we should begin in earnest to explore alternative approaches to the delivery of health care—both to better control costs and to encourage greater participation by the family. This amendment, which is projected to save at least $33 million over the next 3 years is a timely and necessary step in that direction. In addition, the quality of care for the terminal patient—too often characterized by the sterile environment of an institution—will be markedly improved by providing individuals the option to spend their last weeks at home or in a home-like setting with family members at their side. I urge my colleagues to join me in support of the pending amendment.

Mr. COHEN. Mr. President, I am pleased to join with my colleague on the Senate Special Committee on Aging, Senator HEINZ, in cosponsoring the amendment to extend medicare coverage for hospice care services.

Earlier this year, I joined with a number of my colleagues in support of legislation introduced by the distinguished Senator from Kansas, Senator DOLE, to expand benefits under medicare to include hospice services for the terminally ill. Our original bill, S. 1958, was an attempt to focus attention on this innovative and important alternative to institutional health care in long-term care facilities. Since that time, over half the Senate has joined in cosponsoring the bill, and support has grown substantially for the House companion bill.

I have learned from firsthand visits to hospice facilities in my own State that hospices offer a special system of support and caring for terminal patients and their families. As a member of the Aging Committee, I hope later this fall to conduct a hearing on the concept of hospice care.

Experts estimate that even though over 300,000 terminally ill patients may be eligible for hospice care by the year 2000, only from 10 to 40 percent will use it. However, one analysis shows that the number of patients likely to use hospice services would increase five times if hospice costs were covered.

The amendment being offered today represents an important first step in this direction. It would provide for medicare coverage for hospice service for two benefit periods of 90 days each. It would reduce the reimbursement cap included in S. 1958 from 75 to 40 percent of the average per capita cost of health expenditures for a medicare beneficiary suffering from a terminal illness.

The amendment also adds a 10 percent copayment on outpatient drugs (per prescription) or a $10 maximum per prescription, whichever is met first.

And, it would stipulate that the copayment on home health care should conform to the home health copayment requirement in the medicare statute as agreed to by the Senate earlier, requiring a 5-percent copayment after the 19th visit.

In addition, the amendment would require the Secretary of Health and Human Services to continue the 26 ongoing hospice demonstrations until implementation of this provision. The Secretary is required to report to the Congress on the demonstration projects prior to implementation of the legislation, specifically on the cost effectiveness of the hospice benefit, the reasonableness of the 40-percent cap, the retention of volunteer services, evaluation of physician service reimbursement for physicians within or outside the hospice benefit, and any other recommendations for legislative changes based on demonstration findings. Finally the amendment includes a sunset provision to the bill to go into effect on September 30, 1986.

It is important to note that this amendment only addresses one part of hospice care. It seeks only to alter the reimbursement system, not the volunteer effort which is the heart of the hospice care. In Maine, 20 such volunteer groups have coalesced to form a statewide network organization to broaden community involvement and awareness of hospice care. Their participation is crucial, and I am confident that this amendment will encourage their efforts by giving medicare patients the option of hospice care.

There can be many settings for hospice care, ranging from semi-institutionalized care to home-based health care. Volunteers help in this effort in support of families where a member has a terminal illness. Their compassionate and humane care is the central part of any hospice program. I hope that congressional efforts in this area will increase their ability to serve as many patients as possible.

I commend my colleagues for the work they have done in drafting this amendment, and I urge its adoption.

Mr. QUAYLE. Mr. President, Americans deserve a better way of death. John Wayne was regarded as one of our great American heros. He was destined to die an American death—one filled with pain and suffering.

Racked with pain as the result of the terminal stages of cancer, John Wayne was presented with two choices by his doctors. He could be pain free, but unconscious for most of the time as the result of the high doses of pain medication. The other choice was that he remain unmedicated, awake and alert, but in great pain and discomfort. Because he wanted to spend as much time as possible with his family, John Wayne chose the latter.

Regrettably, this scene is replayed over and over again every day in every hospital in this country. But it doesn't have to be. We now have a third alternative for the terminally ill patient.

The dying patient who does not want heroic, life-sustaining measures forced on him; the dying patient who wants to be pain free and conscious to enjoy those final precious moments with his family; the family of the dying patient who wants help in going through this traumatic time—these situations can all be met with the introduction of a hospice program.

The hospice approach has been used in the United Kingdom for over 15 years. It has been gaining in popularity here in the United States ever since people discovered that it offers the terminally ill and their families a way to approach death with dignity.

Under hospice, dying patients are kept pain free but alert. They and their families are guided through the four stages of dying by teams of health professionals. Families are assisted as they help their family member through this final phase of life. Families are offered bereavement support after the patient has died—a sound investment considering that these family members often become ill themselves if they are not given the proper emotional support.

Unfortunately, the hospice movement here has not been as pervasive as it needs to be because many of these services are not covered by the medicare insurance program. An investment in hospice is one that will reap benefits—in dollars as well as in the improved quality of life for the terminally ill patient.

I strongly support the effort of my colleague (Mr. HEINZ), as he offers this amendment today.

Mr. SYMMS. Mr. President, I am very pleased to be a cosponsor of this amendment.

I do not believe that the medicare system should discriminate between the types of available care in the final days of an individual's life.

This proposal recognizes the humanitarian aspects of hospice care by allowing individuals who must rely on the medicare system for their medical coverage.

Hospices provide a very humanitarian alternative means of care for the terminally ill patient. The theory upon which this type of care is based simply allows the terminally ill to choose to spend their last days in a serene, peaceful manner.

I congratulate my colleagues on their efforts in proposing this amendment.

HOSPICE CARE UNDER MEDICARE

● Mr. CHILES. Mr. President, I am pleased to be a sponsor of this amendment to provide medicare reimbursement for hospice services.

There should be little question about the provisions of this amendment. It has broad support.

Since I joined with Senator DOLE, Senator HEINZ, and others to introduce our hospice bill (S. 1958) last December, over 50 Senators have become cosponsors.

There is also wide support in the House where a companion bill has over 300 cosponsors, and the Ways and Means Committee has already included provisions similar to this amendment in their reconciliation bill.

Hearings have been conducted in the House. On this side, we have all received a lot of thoughtful comments on the original hospice bill. I know I have, from families who have participated in hospice programs and from many very dedicated people in my own State who have organized hospice programs and who are now serving hundreds of terminally ill patients.

The amendment we have before us now is the product of a careful and thoughtful fine tuning of our original bill.

We are all very conscious of rising health care costs and the problem they pose for the integrity of the medicare program itself. Because of this, there was some initial concern about possible additional medicare costs as a result of the hospice reimbursement proposal.

But we have now had time to make some adjustments and to develop good cost estimates. The result is that the Congressional Budget Office estimates that the net effect of our amendment over a 3-year period will be a savings to medicare of at least $16 million.

It is not always easy to find ways to strengthen and improve medicare benefits without additional cost. But in this case, we have an amendment which will make much needed improvements—and save the medicare program money at the same time.

I believe we are now ready to recognize hospice services under medicare. What our amendment would do is permit medicare beneficiaries who are terminally ill to elect to receive a full range of hospice services instead of utilizing their medicare hospital insurance benefit. Services would include physician and nursing care when needed, home health aide and physical and speech therapy, pain-killing drugs, and emotional support for a patient and bereaved family members.

Hospice services would be available primarily in a patient's home, but limited inpatient days would also be part of the benefit to provide a respite for family members and to accommodate specific short-term patient needs.

What this amendment offers is an alternative to costly, often painful, and frequently unwanted hospital care for the terminally ill patient. It offers a terminally ill medicare beneficiary the possibility of a supportive and caring environment.

For many years, the plight of the terminally ill patient was a story of despair. Too often, they had no say in a choice of treatment, or in where they would spend their last days. Sometimes they weren't even told of how serious their conditions were, or even of the chances of their recovery. There was often little choice but to stay hooked up to machines, living the final days of life confined to a hospital bed, with restricted visiting hours, noisy corridors, and tubes and machines.

But times have changed. We have seen the development of hospice programs. In a hospice program, a dying patient and his family can be together, in their own home. The patient can be comfortable, in familiar surroundings. The patient and his family can help develop a plan of care, and the patient can continue a relaxed, developing relationship with his family.

Hospice programs have brought out the best in our communities. The backbone of the hospice movement has been the involvement of volunteers. Volunteers began hospice programs. They have been the people who provide counseling and emotional support for families. They have often been professional medical personnel who contribute their services to a hospice program.

The bill we originally introduced recognized the importance of continuing this involvement of community volunteers by requiring that any hospice program certified for medicare reimbursement include a strong volunteer component. The amendment we are offering today includes this requirement, and further strengthens it.

Bereavement counseling for family members, which is so important in any hospice program, would be a required hospice component. But at the same time our amendment would not set a new precedent for medicare reimbursement for counseling services for family members, who are not medicare beneficiaries. I think this is a wise adjustment to our original bill. It will help insure that hospice programs which qualify for medicare reimbursement for the medical and home care services provided to patients will remain fully supported by community volunteers.

Mr. President, we have a number of well-developed hospice programs in Florida. The State has a licensing program for hospices, one that has matured and been adjusted based on experience. A lot of the lessons we have learned are reflected in this amendment.

We have included reimbursement ceilings which help to emphasize the more flexible and less costly home care component of hospice programs. Qualifying hospice programs would be encouraged to make full use of existing community health services such as home health agencies and hospitals and nursing homes, rather than establishing additional services. A hospice patient's own physician would be fully involved in the care provided. The benefit period has been altered to more accurately reflect the average length of stay in a hospice program now. Our original bill had provided for two 180-day benefit periods. This amendment limits the total hospice benefit period to 180 days, divided into two separate 90-day periods. The average length of stay in a hospice program now is between 40 and 50 days. Many patients do, of course, require a longer stay than the average and this benefit period will provide enough flexibility to insure that once a patient enters a hospice program he will not be forced to leave.

I urge all my colleagues to support this amendment.●

● Mr. GRASSLEY. Mr. President, I rise in support of the amendment.

Mr. President, hospice care is a humane, compassionate alternative to traditional health care for terminally ill patients. In our rush to extend life, I am afraid that we have tended to overlook people's need to confront death. Hospice care offers not only medical care, but emotional and spiritual counseling for terminally ill patients. Hospice care is a long overdue effort to be sensitive to the needs of a group of people we have been tempted to ignore as a society, either because of our fear of our own mortality, or because our efforts have been concentrated on extending life.

Mr. President, if we are truly concerned at all aspects of the quality of health care in the United States, we ought to bring hospice care into our health care delivery system.●

HOSPICE PROGRAMS

● Mr. BRADLEY. Mr. President, the hospice legislation now before us refects the creativity and adaptability of the American people. The hospice movement began in the United States less than 10 years ago. It has spread rapidly through the country as a compassionate and cost effective form of providing care to terminally ill patients. In different parts of the country, hospices took on different forms—free standing, profit and nonprofit, hospital or nursing home-based. In order to benefit from this rich experience HHS Secretary Joseph Califano, at President Carter's direction, held a national Hospice Conference and began a study of the costs and experiences of the different types of hospices in the country. The demonstra-

tions are just now coming to an end and the analysis will take an additional 1 to 2 years.

Based on the early findings of this and other smaller studies, hospices will save money. These preliminary findings have allowed the Congressional Budget Office to assure us that the cost of care for patients in community based hospices will be less than that of care for comparable patients treated conventionally. There is no question but that hospice care is desirable. Many of the concepts of hospice care are similar to those in my social security title XXI long-term care bill. These concepts, encourage home care for patients, through a financially flexible and administratively responsible patient care assessment team which allows patients to be cared for in their home rather than in institutions.

At the same time, there are many unanswered questions about long-term care and about hospice care. The legislation before us does not have the full benefit of the results of the national demonstration program or of complete congressional deliberation. As a result there are several provisions that give me concern. The bill, nevertheless, should be passed so that we can begin to benefit from what is clearly a superior way of caring for the dying.

I am concerned however that we might be preventing all who need hospice care from receiving it. We also may be limiting the types of hospice care that will be available without knowing if this is desirable. By imposing copayments on dying patients who have already paid hospital and part B deductibles and who have had large and continuing health care costs for medicines and doctors, we may discourage people who would like to use hospices from being able to afford hospice care. Discouraging the use of hospices is not in the national interest because these patients will remain in hospitals at a much higher cost to government.

This bill may also destroy hospital or nursing home-based hospices. These hospices may be caring for a sicker group of hospice patients. Nearly all their patients come directly from acute hospital beds to these less expensive and more appropriate hospice beds before returning to their homes. Some of these very ill terminal patients spend little time at home before dying.

The average patient cost for those units may well exceed the levels of cost acceptable under this bill. Such hospice will not therefore be eligible for medicare payment and may have to close. The last days of those who are able to use hospice care are spent in greater comfort and security. This comfort and peace of mind are appreciated by both the patients and their families.

I hope that with the passage of the hospice bill we do not preclude the full opportunity to benefit from the hospice concept. I will work to improve and broaden hospice care until it is available to all who need it no matter how sick they may be. For today, this is a promising start.●

Mr. DOLE. Mr. President, I am prepared to yield back all my time on this side.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOLE. I yield back my time.

Mr. HEINZ. I yield back my time.

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Pennsylvania.

The amendment (UP No. 1135) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1134

Mr. DOLE. Mr. President, now we return to the amendment of the distinguished Senator from Utah.

Mr. HATCH. Mr. President, a modification is at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (UP No. 1134), as modified, is as follows:

On page 228, strike out lines 17 through 20 and insert in lieu thereof the following:

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1982, with respect to construction which commences after such date.

(2) CERTAIN PLANNED CONSTRUCTION.—The amendments made by this section shall not apply with respect to construction of property which is used in a trade or business described in section 48(a)(3)(B) if—

(A) such construction is conducted pursuant to a written plan of the taxpayer which was in existence on July 1, 1982 and as to which approval from a governmental unit has been requested in writing, and

(B) such construction commences before January 1, 1984.

Mr. HATCH. Mr. President, I believe that both sides accept the amendment as so modified.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOLE. I yield back my time.

Let me say that this amendment has been discussed with Treasury. It has been cleared on both sides. It has Democratic and Republican sponsors, and I am prepared to yield back the time.

Mr. HATCH. I move the amendment.

The PRESIDING OFFICER. All time is yielded back.

The amendment (UP No. 1134) as modified, was agreed to.

Mr. HATCH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1136

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The bill clerk read as follows:

The Senator from South Carolina (Mr. THURMOND), for himself, Mr. HEFLIN, Mr. HOLLINGS, and Mr. DENTON, proposes an unprinted amendment numbered 1136.

Mr. THURMOND. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

That Section 292 of H.R. 4961 is amended—

(1) by striking out at the end of subparagraph (ii) (II) the year "1965" and substituting therefore the year "1966".

(2) by striking out at the end of subparagraph (ii)(III) the year "1938" and substituting therefor the year "1953".

(3) by striking out subsection (iii)(III) and substituting therefor.

"(III) the term 'chain of newspaper publications' means four or more newspaper publications which—

"(aa) are not published in a single city, community, or metropolitan area, or after December 31, 1978, within one State,

"(bb) are controlled, directly or indirectly, by the same person or persons, and

"(cc) on the date of enactment did not have a combined average daily circulation in excess of 600,000."

(4) by adding at the end thereof as subsection (IV) the following:

"(IV) For purposes of Clause (III) a morning and evening, or week-end or Sunday newspaper or combination thereof, published in a single city, community, or metropolitan area, by or under the direction of substantially the same principal publisher, shall be counted as only one newspaper publication."

Mr. THURMOND. Mr. President, under this proposed amendment to section 292(ii) of H.R. 4961 as reported by the Senate Finance Committee, Public Welfare Foundation of Washington, D.C. will not be required to divest itself of the interests which it held on March 26, 1969, in several small, independent newspapers—the Spartansburg Herald and Journal, Inc., the Gadsden Times, Inc., and the Tuscaloosa News, Inc.—in order to avoid the excise taxes under section 4943 on excess business holdings. This exemption from section 4943 divestiture requirements would not apply to

any interests which may be held by Public Welfare Foundation in any other business enterprise.

I might say that Senator HOLLINGS joins me on this amendment, Senator HEFLIN of Alabama joins on this amendment, and Senator DENTON of Alabama joins on this amendment.

Mr. METZENBAUM. Will the Senator from South Carolina yield for a question?

Mr. THURMOND. I will be pleased to.

Mr. METZENBAUM. Is this the specific amendment that the Senator and I discussed earlier?

Mr. THURMOND. It is the specific amendment that the Senator looked over and had no objection to.

Mr. METZENBAUM. I thank the Senator.

Mr. THURMOND. It is estimated that this provision will have no effect on budget receipts since absent the requested legislation divestiture will be required.

Public Welfare Foundation was formed as a tax exempt charitable corporation in 1952 under the laws of the State of Delaware. It is so recognized by the Internal Revenue Service. Since its organization, through October 31, 1981, it has made grants for recognized charitable purposes which aggregate in excess of $23,500,000. In its fiscal year ended October 31, 1981, Public Welfare Foundation made charitable grants totaling $3,963,000 and in the current year it is making grants at the annual rate of approximately $5 million. These charitable grants have been made possible through Public Welfare Foundation's ownership of three locally published newspapers, that is, the Spartanburg Herald and Journal, the Gadsden Times, and the Tuscaloosa News. Each of these newspapers, since 1966, has been owned by the Foundation in a separate, fully taxable, wholly owned, subsidiary corporation. Prior to the formation of these subsidiaries, the newspapers were owned directly by the Foundation. Each such subsidiary is operated by local persons. All editorial control is exercised at the local level by those employees.

Under present law Public Welfare Foundation would be required to divest itself by 1989 of at least 50 percent of its ownership in each of said corporations. However, under existing economic conditions, if Public Welfare Foundation were to be able to maintain its present level of charitable grants ($5 million), pay the 2 percent excise tax imposed on private foundations, and pay its reasonable administration costs (presently less than $325,000), Public Welfare Foundation would have to realize such a substantial sum from the sale of its newspaper interests that it is not unreasonable to anticipate that, for a purchaser to be of sufficient size to be able to finance such an acquisition of Public Welfare Foundation's interests, it probably would be one of the very large newspaper chains. Thus, further concentration of the ownership of local newspapers by large chains would be a likely result. And, if the Foundation, under section 4943(c)(4), were, during the next 15-year transitional period to retain the permissible 49 percent interests before it was required to further reduce its holdings, it would be placed in the disadvantageous position of being a minority shareholder, under the domination of the majority shareholder, possibly a large chain, with a resulting limited market and a depressed price for any subsequent sale of its minority interests.

Accordingly, these amendments would permit the Foundation to continue to own the local newspapers, and make it possible for the present local publishers, editors, and other employees to publish these newspapers, locally. The Foundation (after payment of fully and regular corporate income taxes, at the newspaper corporation level) would be able to continue to make charitable grants of a magnitude consistent with its generous 30-year history.

If, as section 292 of the Senate Finance Committee version of H.R. 4961 recognizes, it is appropriate for the ownership of the Broadmoor Hotel to be retained by the El Pomar Foundation, and the ownership of the Houston Chronicle with an average daily circulation of less than 500,000 to be retained by the Houston Endowment, it is no less appropriate for the Spartanburg Herald & Journal, the Gadsden Times and the Tuscaloosa News, with combined average daily circulation, of approximately 110,000 (less than one-fourth that of the Chronicle) to be retained, in order to prevent the further concentration of ownership of local newspapers and make possible continued generous local and national charitable grants by Public Welfare Foundation.

Under these amendments, safeguards against their potential abuse or misuse have been built in, for a Foundation to qualify must have been in existence prior to 1953, must have owned the newspapers involved since prior to December 31, 1966, and the newspapers must not have a combined average daily circulation in excess of 600,000.

Because Public Welfare Foundation's newspapers are owned and published through fully taxable subsidiaries, full corporate taxes will continue to be paid on the newspapers' income. Thus, no revenue loss should result if the proposed amendment is adopted for absent the requested legislation the Foundation would be required to divest itself of the three newspaper subsidiaries because of the 200-percent penalty tax otherwise imposed under section 4943(b).

Mr. President, in closing I want to say, because Public Welfare Foundation newspapers are owned and published through fully taxable subsidiaries, full corporation taxes will continue to be paid on the newspapers' income, thus no revenue loss shall result if the proposed amendment is adopted, for absent the requested legislation the Foundation would be required to divest itself of the three newspaper subsidiaries.

Mr. President, this has been submitted to the managers of the bill, the distinguished and able Senator from Kansas, the distinguished and able Senator from Louisiana and I believe they have agreed to accept the amendment.

Mr. DOLE. It has been cleared and checked with Commissioner Metzenbaum, so I think we are ready to go.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. I support the amendment. I yield back my time.

Mr. THURMOND. Mr. President, I yield back my time.

The PRESIDING OFFICER. Does the minority yield back its time?

All time is yielded back.

The amendment (UP No. 1136) was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LONG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1137

(Purpose: Making technical amendments)

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The bill clerk read as follows:

The Senator from Idaho (Mr. SYMMS) proposes an unprinted amendment numbered 1137.

Mr. SYMMS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 529, line 15, strike out "$250" and insert in lieu thereof "$600".

Mr. SYMMS. Mr. President, I believe that the provision requiring direct sellers who elect the alternative method to file blank 1099 forms; that is, the blank 1099's with names and social security numbers, for people

who have received less than $50 in bonuses for the year but who have purchased more than $250 worth of products in a year for resale is unreasonable.

First, it adds to the tremendous burden of paperwork already borne by the small business person, yet gives little or no useful information as to his liabilities to the IRS.

Second, since these forms will be filled out by hand by the small business person and then most likely discarded by the IRS, this requirement will only add to the enormous amount of paperwork already received by the IRS.

Third, under most buy-sell systems, the direct seller filling out these blank 1099 forms on other direct sellers has no knowledge of how much, if any, of the product was bought for resale.

The purchase of $250 worth of products in a year for resale is an unrealistic threshold by which to determine whether someone is in business to generate a profit. In fact, most companies' sales kits cost more than $250.

Mr. President, the amendment is a very simple amendment. It has been approved by the minority, by the majority, by Treasury, and all other parties. It very simply makes a change which will probably in the end raise more revenue for the Treasury.

I yield back my time.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. This particular amendment has been under discussion even prior to the Senate Finance Committee markup, and it has been worked out to the satisfaction of the Treasury because of the diligent efforts of the Senator from Idaho. I am willing to accept the amendment. I think there is no objection on the other side.

The PRESIDING OFFICER. Will the minority yield back its time?

Mr. LONG. I yield back my time.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment of the Senator from Idaho.

The amendment (UP No. 1137) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1138

(Purpose: Relating to transitional rules for leasing)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The bill clerk read as follows:

The Senator from Maine (Mr. COHEN) proposes an unprinted amendment numbered 1138.

Mr. COHEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 235, lines 5 and 6, strike out "June 25, 1981" and insert in lieu thereof "June 25, 1981 (March 31, 1981, in the case of property described in section 211(d)(5)(B) of the Tax Equity and Fiscal Responsibility Act of 1982)".

On page 245, between lines 5 and 6, insert the following:

(5) Special rule for certain property used in the production of paper.—

(A) IN GENERAL.—In the case of property described in subparagraph (B), paragraph (2)(B) shall be applied by substituting "March 31, 1981" for "June 25, 1981".

(B) PROPERTY USED IN PRODUCTION OF PAPER.—Property is described in this subparagraph is such property is used in the production of paper.

Mr. COHEN. Mr. President, this is in the nature of a technical amendment which would change the transition for property used in the production of paper from June 25, 1981, to March 31, 1981. An eligible property would be property used only in the production of paper. The reason for this is to accommodate a major construction project which was started early in order to accommodate the particular needs of the State of Maine and those in New England; namely, the very short construction period. This is a very important project in my State. It would employ some 200 workers when the project is complete. We have very high unemployment. Paper companies are perhaps the major employer in the State. It has the support of the Senator from Kansas. The Senator from Maine (Mr. MITCHELL) is joining me in this effort, and I know of no objection to it.

Mr. DOLE. Mr. President, this involves the transition rule. It has been worked out with the help of the Treasury and both Senators from Maine.

Mr. MITCHELL. That is correct.

Mr. DOLE. I know of no objection to the amendment.

I yield back the remainder of my time.

Mr. COHEN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1138) was agreed to.

Mr. DOLE. Mr. President, the Senator from Illinois has an amendment. He has been waiting all day.

[The following proceedings occurred after midnight:]

AMENDMENT NO. 1975

Purpose: Relating to application of at risk rules in leasing situation.

Mr. DIXON. Mr. President, I ask unanimous consent that it be in order to consider my amendment at this time. The amendment is No. 1975. I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Illinois (Mr. DIXON), for himself and Mr. NUNN, proposes an amendment numbered 1975.

Mr. DIXON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 242, line 8, strike out "(J)" and insert "(K)".

On page 243, line 11, strike out the end quotation marks and the end period.

On page 243, between lines 11 and 12, insert the following:

"(J) COORDINATION WITH AT RISK RULES.—

"(i) IN GENERAL.—For purposes of section 465, in the case of property placed in service after the date of the enactment of this subparagraph, if—

"(I) an activity involves the leasing of section 1245 property which is qualified leased property with respect to which an election is in effect under subparagraph (A), and

"(II) the lessee of such property (as determined under this paragraph) would, but for this paragraph, be treated as the owner of such property for purposes of this title,

then the lessor (as so determined) shall be considered to be at risk with respect to such property in an amount equal to the amount the lessee is considered at risk with respect to such property (determined under section 465 without regard to this paragraph).

"(ii) SUBPARAGRAPH NOT TO APPLY TO CERTAIN SERVICE CORPORATIONS.—Clause (i) shall not apply to any lessor which is a corporation the principal function of which is the performance of services in the field of health, law, engineering, architecture, accounting, actuarial science, performing arts, athletics, or consulting.".

Mr. DIXON. Mr. President, I ask unanimous consent that the names of Senator TSONGAS, Senator HEFLIN, Senator MOYNIHAN, Senator BENTSEN, Senator PERCY, Senator ROBERT C. BYRD, and Senator DURENBERGER be added as cosponsors of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DIXON. Mr. President, the amendment I am offering today, along with my distinguished colleague and cosponsor, Senator SAM NUNN, the ranking member of the Senate Small Business Committee, and others, is designed to eliminate the discrimination against closely held corporations under the Treasury Department's tax leasing regulations.

In other words, the sole purpose of this amendment is to treat small businesses exactly as large businesses are treated under the safe harbor leasing provisions recommended by the Fi-

nance Committee in the Tax Equity Act of 1982.

Currently, because of the Treasury's application of the so-called at-risk rules, closely held corporations are virtually precluded from buying another company's tax credits. Closely held corporations, those in which 50 percent or more of the stock is held by five or fewer shareholders, are, for the most part, small businesses. I see no valid reason for excluding a vital component of the business world from taking advantage of safe harbor leasing.

The costs are minimal compared to the rise in investment we hope to witness by modifying the at-risk rules to include closely held corporations. Although it is difficult to arrive at the exact revenue impact of this proposal, with the exclusion of professional corporations from the benefits of these leasing provisions, the Joint Tax Committee has estimated the loss of this provision at $90 million over the next 3 years. Professionals, such as lawyers, athletes, actors, and doctors, will continue to be prohibited from using safe harbor leasing as a tax shelter.

In a Small Business Committee hearing held March 2, 1982, Mr. John Chapoton, Assistant Secretary of the Treasury for Tax Policy, testified that the Treasury would not oppose a legislative solution to bring about equality in this area.

The benefits of leasing extend to many sectors of the business community—from manufacturing to agriculture, with the net farm income for the period 1981-82 as low as the depression years and small business investment depressed, it makes no sense to me to restrict this potential investment and growth.

This amendment has the support of the United States Chamber of Commerce, the National Small Business Association, the National Federation of Independent Businesses, the National Association of Wholesaler-Distributors, Small Business United (representing seven regional small business associations including "SBANE"), the National Venture Capital Association, the Southeast Lumber Manufacturers' Association, the National Association of Small Business Investment Companies, the National Association of Development Companies, and others.

My good friend and colleague, SAM NUNN of Georgia, said in his statement on behalf of the bill we introduced, "If leasing is to remain, I cannot justify the continued arbitrary exclusion of a vital sector of our Nation's economy." Nor can any of us justify it, Mr. President, and so I commend this amendment to my colleagues.

Mr. President, I ask unanimous consent that letters from the U.S. Chamber of Commerce and others be printed in the RECORD at this time.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CHAMBER OF COMMERCE,
July 20, 1982.

Hon. ALAN J. DIXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DIXON: The U.S. Chamber of Commerce supports your effort to make safe-harbor leasing available to closely-held companies. This change will benefit many of our 255,000 members, more than 85 percent of which are small firms. Safe-harbor leasing is an essential part of the Economy Recovery Tax Act and deserves to be extended to small, closely-held campanies. Without this change, small businesses which are viable but temporarily unprofitable. are at a disadvantage compared to both larger firms and profitable small firms. Your amendment would help create the "level playing field" everyone professes to seek.

Cordially,

HILTON DAVIS,
Vice President.

NATIONAL ASSOCIATION OF SMALL BUSINESS INVESTMENT COMPANIES,
Washington, D.C., July 20, 1982.

Hon. ALAN J. DIXON,
Dirksen Senate Office Building,
Washington, D.C.

DEAR SENATOR DIXON: I wish to express the support of our Association for the Dixon-Nunn Amendment to the pending tax revenue measure, S. 4961.

The National Association of Small Business Investment Companies believes that your amendment removing unwarranted obstacles to the use of safe harbor leasing by closely-held businesses is in the best interests of the national economy in general and of the independent sector in particular.

Thank you for taking the lead in pressing for this important change in S. 4961.

Sincerely,

WALTER B. STULTS,
President.

NATIONAL ASSOCIATION OF WHOLESALER-DISTRIBUTORS,
Washington, D.C., July 20, 1982.

Hon. ALAN J. DIXON,
U.S. Senate,
Washington, D.C.

DEAR SENATOR DIXON: I was heartened to hear that you were co-sponsoring legislation to eliminate the application of the 465 "at risk" rules to Safe Harbor Leasing.

I also understand the Treasury Department supports this position provided an exclusion for professional corporations is included. We have no problems with that position.

As you know, NAW and other small business groups testified at hearings before the Senate Small Business Committee, urging, in the interest of equity, that the arbitrary and discriminatory application of section 465 to Safe Harbor lessors be eliminated.

There is no rational justification for that provision and we strongly support your effort to amend the Senator Finance Committee revenue package (H.R. 4961) to achieve that technical change.

As always, your sensitivity to the concerns of small business is greatly appreciated.

If we can be of any assistance, please let me know.

JOHN H. FITCH, JR.,
Vice President,
Government Relations.

Mr. NUNN. Mr. President, I am pleased to join my good friend, and colleague on the Senate Small Business Committee, Senator DIXON, in cosponsoring this amendment to insure that small businesses are statutorily permitted to participate in the safe harbor leasing program which we enacted last year as part of the Economic Recovery Tax Act.

As enacted in 1981, the safe-harbor leasing provisions of the Economic Recovery Tax Act permit owners of property who cannot use the tax benefits of ownership—such as the accelerated cost recovery system (ACRS) depreciation and the investment tax credit—to lease some of these tax benefits to taxpayers who can use them. The safe-harbor leasing provisions essentially guarantee that, for Federal tax purposes, qualifying transactions will be treated as leases, and the lessor will be treated as the owner of the property.

Despite the debate about the process by which the leasing provisions were enacted, and the obvious overuse of the permitted transactions by certain major corporations, the leasing statute on its face appears to expressly permit most small business to purchase tax benefits from other losing companies.

Regrettably, Treasury's leasing regulations discriminate against small business by denying closely held corporations the opportunity to take advantage of the provisions in safe harbor leasing to buy another company's unused investment tax credits and depreciation deductions as well as others are allowed to do. Closely held corporations are generally defined as a company where 50 percent or more of the stock is held by five or fewer shareholders, and are predominantly small businesses.

The exclusion for these firms from the lessor side of the safe harbor transaction comes not from anything in the leasing provisions themselves, but rather through Treasury's application of the so-called at-risk rules established in secton 465 of the Internal Revenue Code. That section limits the losses that certain companies may deduct from their taxes to an amount equal to the amount at risk in a particular activity. According to Treasury, the concept of the at-risk rules which were first introduced in the Tax Reform Act of 1976 was a measure to restrict tax shelters by affecting the timing, as opposed to the calculation, of deductions. The at-risk rules require that deductions be matched dollar for dollar with the taxpayer's investment. Generally, individuals, subchapter S corporations, and closely held businesses are subject to the at-risk rules.

In a speech to the Tax Society of New York University on October 5, 1981, after the enactment of the leasing statute but before Treasury issued

its regulations, Assistant Secretary of the Treasury for Tax Policy John Chapoton stated that the regulations would apply the at-risk rules only to the lessee of the equipment, not the lessor, consistent in his view then, with the underlying purpose of the leasing statue. However, in the regulations which were issued, Treasury concluded that the at-risk rules had to be applied to certain lessors in the safe harbor leasing scheme. With the application of the at-risk rules, and safe harbor lessee or lessor that is subject to the at-risk rules have restrictions placed on the timing of both the ACRS deductions and the investment credit available because of the lease. Treasury readily acknowledges that, because of the at-risk rules, closely held corporations may be effectively precluded from safe harbor leasing by operation of the at-risk rules. Furthermore, it was Treasury's often repeated view, despite the inequity, that they could not change this result in regulations without express statutory authority.

The amendment I am today cosponsoring with Senator DIXON will provide Treasury with that express statutory authority.

Mr. President, we on the Senate Small Business Committee were concerned about the application of the at-risk rules to safe harbor leasing which acted to arbitrarily preclude certain businesses from participating as lessors. On March 2, 1982, under the leadership of Senator WEICKER, the chairman of the committee, and Senator D'AMATO, the chairman of the Urban and Rural Economic Development Subcommittee, our committee held a hearing on the usability of safe harbor leasing by small business. At that hearing, Assistant Secretary Chapoton responded to my questions to the Department's position on legislation such as we are introducing today.

I specifically asked Secretary Chapoton:

Senator NUNN. I understand you are saying this morning that Treasury will not oppose a carefully drafted legislative amendment repealing the application of the at-risk rules to the lessor. Is that right?

Mr. CHAPOTON. That is right.

Senator NUNN. Do you have such a proposal yourself?

Mr. CHAPOTON. We have not actually drafted one, but we certainly have in mind what we would not oppose.

Senator NUNN. Will this be not opposing it or will this be an official administration endorsement?

Mr. CHAPOTON. It would be an endorsement of such a proposal. In view of the controversy of the leasing provisions, we do not feel that we should now be coming forward to broaden the leasing rules, but we are certainly not going to oppose this change.

I trust that Secretary Chapoton's view will still hold for this amendment.

This proposal is similar in substance to the bill Senator DIXON and I jointly sponsored last week (S. 2733). That legislation was explicit in its treatment of the at-risk rules by amendment to section 465 of the Internal Revenue Code which contains those rules. However, because of the parliamentary situation under which the pending legislation has been brought to the floor for consideration, it would be impossible to offer that bill as an amendment. Rather we have had to rewrite the proposal to conform to the legislative form now pending.

But there is one substantive difference between our bill and this amendment. At the suggestion of Treasury, we have made it clear that, even though the at-risk rules would be modified for closely held corporations, professional corporations—such as doctors, lawyers, and even athletes—would not be exempt.

If this amendment is adopted, as it should be, the effect will be that closely held corporations will be subjected to the same requirements, and open to receive the same benefits, as other businesses are.

Mr. President, I know we are very concerned about the revenue impact of this bill. Based upon the best informal estimates that we have been able to obtain from both the Treasury and the Joint Tax Committee is that the amendment, with the exclusion of the professional corporations, will have a maximum revenue loss of $50 million in each of the next 3 years.

Despite the merits of removing this artificial barrier to small business participation as lessors in the safe harbor leasing transaction, there is still a question whether there will be a surge in the use of these leases by small businesses. Like their counterparts in the business community, small business is feeling the effects of the current recession, and the unacceptably high interest rates. But unlike their fellow larger businesses, small business is far less capable of withstanding the duration of the current economic downturn. The number of small business failures grows daily, shattering almost all previous records. There may not be many small businesses which are financially capable of participating as a lessor in a safe harbor lease transaction, but, to the extent that small business is capable, they should not be prevented from participation.

Mr. President, I still have serious reservations that leasing is an efficient way of addressing the pent-up investment desires of the industrial sector. I have even deeper reservations that we should, or must compensate businesses because they are unable to fully utilize all of their available tax credits and deductions. Even the most recently revised Treasury estimates of the revenue loss to the Government with the current leasing law is $41 billion cumulatively through fiscal year 1987. But if leasing is to remain, I cannot justify the continued arbitrary exclusion of a vital sector of our Nation's economy.

Mr. President, I congratulate Senator DIXON for taking the leadership of this issue, particularly at this time. I am pleased to join as a cosponsor of his amendment, and to work with him and others to see that this anomaly is reversed as expeditiously as possible.

Mr. DIXON. Mr. President, the amendment has been cleared with the distinguished Senator from Kansas, the manager of the bill, and other Members who are concerned with this subject. I shall appreciate the support of the Senate.

Mr. DOLE. Mr. President, this amendment involves closely held corporations. It is an amendment we considered in the committee. It was offered at that time by the distinguished Senator from New York. We were told at that time—and the reason why it was not accepted in the committee—that it had a $300 million price tag. We have since learned that that was exaggerated about tenfold, so I apologize to the Senator from New York. Had we known that, we would have taken it that evening.

The amendment is now being offered by the distinguished Senator from Illinois, and I know of no objection to the amendment. I know that the Senator from New York supports the amendment.

Mr. MOYNIHAN. Mr. President, I thank the chairman for his gracious remarks.

Those things happen, and, characteristically, he handles them in the end. I do appreciate this. It is a sensible amendment.

Mr. DIXON. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota (Mr. DURENBERGER) be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. I yield back the remainder of my time.

Mr. DIXON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1975) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1139

Mr. COCHRAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Mississippi (Mr. COCHRAN) for himself and Mr. PERCY proposes an unprinted amendment numbered 1139.

Mr. COCHRAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 292, strike out lines 4 through 12 and insert in lieu thereof, the following:

(f) EFFECTIVE DATES.—The amendments made by this section shall apply to distributions after August 31, 1982, except that such amendments shall not apply to distributions which are either:

(i) made by any corporation if—

(1)(A) on July 22, 1982, there was a ruling request by such corporation pending with the Internal Revenue Service as to whether such distributions would qualify as a partial liquidation, or

(B) within the 1-year period ending on July 12, 1982, the Internal Revenue Service granted a ruling to such corporation that the distributions would qualify as a partial liquidation, and

(2) such distributions are pursuant to a plan of partial: liquidation adopted by the corporation's board of directors before September 1, 1982 (or, if later, 90 days after the date on which the Internal Revenue Service granted a ruling pursuant to the request described in paragraph (1) (A)).

Mr. COCHRAN. Mr. President, this is in the nature of a technical amendment designed to alter the transitional rule under section 226 of the bill relating to corporate takeovers. The amendment would permit companies which are in the middle of corporate restructuring to complete the corporate transaction without a tax penalty. The transaction involved would not involve the abuse to which section 226 is directed. Any company in position to be covered by this amendment would have already incurred substantial costs planning this corporate transaction and complying with applicable Federal law. It would be unfair to have this new provision apply to pending cases.

I understand this amendment will not affect the revenue projections of the bill because the provision was not intended to catch pending situations, but rather only future transactions.

I know of no opposition to the amendment in the Senate or at the Treasury and I hope the managers of this bill can accept it.

Mr. PERCY. Mr. President, I am pleased to cosponsor this amendment with the distinguished Senator from Mississippi (Mr. COCHRAN).

Mr. President, I ask unanimous consent to have printed in the RECORD my letter to the chairman of the Committee on Finance dated July 21, 1982.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. SENATE,
Washington, D.C., July 21, 1982.

Hon. ROBERT DOLE
U.S. Senate,
Washington, D.C.

DEAR BOB: I hope you will lend your support to an amendment being sought by an Illinois company to the Tax Equity and Fiscal Responsibility Act.

The amendment, a copy of which is attached, would add a transition rule to Title II concerning mergers and acquisitions. This transition rule would allow my constituent company to complete a partial liquidation which was devised by the company in order to minimize the possibility of an unfriendly takeover. I understand that one of the purposes of the changes proposed in H.R. 4961 is to make the tax laws less conducive to takeovers. Ironically, without a transition rule in this case, the Illinois company could very well become a target of just the type of takeover the Finance Committee is seeking to avoid.

Work on this transaction began last winter and so far the company has spent over $750,000 in connection with the project. I am unable to disclose the name of the company because it is in the midst of a filing with the SEC and such disclosure is illegal. However I do know it to be a major Illinois company with operations in several other states including Mississippi. My distinguished and able colleague Thad Cochran and I agree that this amendment is essential to insure justice and fairness.

I would appreciate any assistance you could lend us on adding such a transition rule to this legislation.

Warm personal regards,

[SIGNED]

CHARLES H. PERCY,
United States Senator.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. COCHRAN. I yield

Mr. METZENBAUM. The amendment appears not to be objectionable, but I want to be certain this amendment has nothing to do with the Gulf Oil-Cities Service merger.

Mr. COCHRAN. It is not the intention of this Senator to affect that in any way whatsoever. This is not related in any way to the Gulf Oil Co.

Mr. METZENBAUM. I thank the Senator.

I have no objection.

Mr. DOLE. Mr. President, this matter was brought to my attention by both Senators from Mississippi (Mr. STENNIS and Mr. COCHRAN).

Present law treatment of a partial liquidation would continue to apply to any distribution if the distributing corporation has a ruling request pending with the Internal Revenue Service on July 22, 1982, seeking partial liquidation treatment, or the corporation was granted a ruling within 1 year prior to July 12, 1982, that the distributions would qualify as a partial liquidation. In either case, the plan of partial liquidation must be adopted by the corporation's board of directors before September 1, 1982, or, if later, within 90 days after the date on which the ruling granting a partial liquidation treatment is granted.

So far as I know, there is no objection to the amendment. It is another one of those transition rules, and—as the Senator from Ohio questioned—it does not affect Gulf Oil Co.

I yield back the remainder of my time.

Mr. COCHRAN. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1139) was agreed to.

Mr. COCHRAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. COCHRAN. Mr. President, I ask unanimous consent that the name of Senator STENNIS be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are getting down to about four amendments on which there will be rollcall votes. If Senators who have those amendments will withhold for a few moments, I think there are two other amendments we might dispose of.

The Senator from Rhode Island has one AFDC amendment which has been cleared. Senator WALLOP, Senator TOWER, and perhaps Senator PRESSLER have amendments. That would leave the amendment of the Senator from Alaska, the Senator from Ohio (Mr. METZENBAUM), the Senator from Arkansas (Mr. PRYOR), and the Senator from Montana (Mr. BAUCUS), unless we have forgotten someone.

Mr. D'AMATO. The Senator from New York.

Mr. DOLE. Excuse me. That is in process. That could be a major amendment. Also, Senator GORTON has an amendment. We have made some agreement with Senator GORTON on the airplanes.

UP AMENDMENT NO. 1140

(Purpose: To change the effective dates of the AFDC and child support provisions to October 1, 1982, and to provide additional time for States to amend their State laws when necessary)

Mr. CHAFEE. Mr. President, I send an amendment to the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment is in order.

The amendment will be stated.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. CHAFEE) proposes an unprinted amendment numbered 1140.

Mr. CHAFEE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 156, line 8, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 157, line 9, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 157, line 18, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 159, line 2, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 161, line 5, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 165, line 7, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 167, line 14, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 156, line 8, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 157, line 9, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 157, line 18, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 159, line 2, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 161, line 5, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 165, line 7, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 167, line 14, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 173, line 2, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 173, line 14, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 174, between lines 2 and 3, insert the following:

DELAYED EFFECTIVE DATE IN CASES REQUIRING CONFORMING STATE LEGISLATION

SEC. 163. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part A of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

On page 178, line 4, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 178, line 11, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 178, between lines 11 and 12, insert the following:

DELAYED EFFECTIVE DATE IN CASES REQUIRING STATE LEGISLATION

SEC. 174. In the case of a State with respect to which the Secretary of Health and Human Services has determined that State legislation is required in order to conform the State plan approved under part D of title IV of the Social Security Act to the requirements imposed by any amendment made by this subtitle, the State plan shall not be regarded as failing to comply with the requirements of such part solely by reason of its failure to meet the requirements imposed by such amendment prior to the end of the first session of the State legislature which begins after October 1, 1982, or which began prior to October 1, 1982, and remained in session for at least twenty-five calendar days after such date. For purposes of the preceding sentence, the term "session" means a regular, special, budget, or other session of a State legislature.

On page 179, line 22, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 181, line 8, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 183, lines 2 and 3, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 184, line 6, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 185, line 11, strike out "the date of the enactment of this Act" and insert "October 1, 1982".

On page 32, amend the table of contents by adding the following item after the item referring to section 162:

SEC. 163. Delayed effective date in cases requiring State legislation.

On page 32, amend the table of contents by adding the following item after the item referring to section 173:

SEC. 174. Delayed effective date in cases requiring State legislation.

Mr. CHAFEE. Mr. President, this amendment has been cleared with both sides. The amendment does two things.

First, it requires that the numerous changes mandated by H.R. 4961 for AFDC, Child Support Enforcement (CSE) and Supplemental Security Income (SSI) be implemented on October 1, 1982, rather than on the date of enactment as proposed by the Tax Equity and Fiscal Responsibility Act.

The justification for such an amendment is that the numerous and complicated changes mandated by H.R. 4961 cannot feasibly be implemented in August when passage of the act is expected.

Second, it adds language to H.R. 4961 that allows waivers of the effective date when State law impedes either immediate implementation or implementation on October 1, 1982, of provisions of the bill relative to AFDC, CSE, and SSI. Under this amendment the Secretary must find that an October 1, 1982, implementation date is not possible. The State will then have until the end of its legislative session to bring into compliance its laws relating to the changes.

This amendment gives reasonable consideration to the possibility that State laws may conflict with the new Federal statutes and allows time for States to repeal or revise these laws. These amendments parallel last year's budget cutting legislation (Public Law 97-35), which took effect at the start of the fiscal year and allowed for the same limited waiver authority.

The bill before the Senate provides that changes in AFDC, SSI, and child support enforcement be effective on enactment. Obviously, it is impossible that those complicated changes can be effective on enactment, so we provide that they be effective on October 1.

In those instances where State law changes are required, the Secretary of HHS can give the State a waiver in order to come into compliance.

Mr. President, I ask unanimous consent that the name of the Senator from New York (Mr. MOYNIHAN) be added as a cosponsor of this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I ask unanimous consent that the Senator from Pennsylvania (Mr. HEINZ) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. Mr. President, I move its passage.

The PRESIDING OFFICER. Do Senators yield back their time?

Mr. DOLE. I understand the Senator from New York is a cosponsor of the amendment.

Mr. MOYNIHAN. I am a cosponsor.

Mr. DOLE. I support the amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. CHAFEE. I yield back our time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Rhode Island.

The amendment (UP No. 1140) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SARBANES. Mr. President, will the manager of the bill yield for a question?

Mr. DOLE. I am happy to yield.

Mr. SARBANES. Mr. President, what is the manager's intention with respect to the proceedings today?

Mr. DOLE. I think we are making good progress, and I hope we might finish this morning.

Mr. SARBANES. Does the Senator know if it is the intention then to be in session on Friday, if we continue to stay on this morning and finish this bill? Do we intend then to be in session Friday?

Mr. DOLE. I can consult the majority leader and perhaps—in fact I think he is now meeting or discussing with the minority leader. Perhaps they will have an announcement.

He is not discussing with the minority leader as the minority leader is seated there at the table. [Laughter.]

It would have been a good idea, I guess.

Mr. LEAHY. Mr. President, will the distinguished Senator yield for a unanimous-consent request?

Mr. DOLE. Mr. President, I am happy to yield to the Senator from Vermont.

Mr. LEAHY. Mr. President, Congress has for more than two decades acted on the belief that a society which expects its citizens to do all they can for their country when they are well is a society which must do all it can for its citizens when they are ill.

Congress created the medicare health insurance program for the Nation's elderly and disabled. It created the medicaid health insurance program for low-income families. It enacted legislation to allow all Americans to claim a tax deduction for extraordinary medical expenses.

Today, Congress debates the Tax Reconciliation Act of 1982. It contains many positive provisions to control the rampant inflation in the cost of health and hospital services which affect every single American. But it also contains provisions which would alter significantly our two decade old commitment to providing health care to elderly, disabled, and disadvantaged Americans. The legislation, as approved by the Finance Committee, would require elderly and disabled Americans to pay $1.4 billion more for their health care over the next 3 years. It would require low-income Americans to contribute toward the cost of most health services received. It would alter the current tax deduction for extraordinary medical expenses so that only those expenses which exceeded 7 percent of an individual's income could be deducted.

Of particular concern are the medicare provisions which would force the elderly and disabled, who require three times more medical assistance than other Americans, to contribute greater amounts toward the cost of their health care.

The Finance Committee approved changes in the medicare program to increase the amount of the deductible which the elderly and disabled are required to pay for physician services. This would cost these Americans an additional $475 million over the next 3 years.

The Finance Committee approved a provision to require the elderly and disabled to pay 25 percent of the medicare program's costs by increasing the monthly insurance premium paid. This change is but a poorly disguised reduction in social security benefits, as the monthly premium is automatically subtracted from social security checks. It would cost these Americans an additional $750 million over the next 3 years.

The Finance Committee approved a provision to require those individuals receiving medical services in the home to pay for a portion of the cost of each visit. This change would cost an additional $175 million over the next 3 years.

The Finance Committee also approved a provision to eliminate the Federal payment to the States to purchase medicare insurance for physician services on behalf of medicaid beneficiaries.

Why should the Senate oppose these changes?

First, they do not serve to reduce Federal costs for health care. They merely shift those costs to the elderly, disabled, and disadvantaged citizens of this Nation. Hospitals and other providers of health care shift the costs to all their patients. Insurance companies raise the costs of their premiums they charge for the supplemental medical insurance the elderly and disabled are forced to buy because of the inadequacies in Federal health programs. Fully $5 billion in health and hospital costs were shifted to medicare and medicaid beneficiaries in 1981 because of changes approved by Congress. The reductions in medicare and medicaid proposed today are three times the amount already approved.

Second, the proposals to increase the amount which the elderly and disabled must pay for this health care will not, as some claim, make them more cautious in seeking health care because they are more conscious of those costs. But I ask my colleagues, how much more conscious of these costs can they be when you consider that they are already paying 40 percent of the health costs out of their own pockets, an overwhelming $1,400 a year?

How much more aware of the costs of health care do we need to make them when they are already paying 20 percent of their income for health and hospital care? Coverage under medicare has become so inadequate that the elderly are paying as much of their income for health care as they were before the medicare program was enacted in 1965.

If the medicare and medicaid reconciliation proposals before Congress are adopted in full, elderly and disabled Americans will pay 79 percent more in 1987 for the health services they need than they did in 1981. Seventy-nine percent, Mr. President, cannot be tolerated by the elderly, by those in Congress who continue to believe in the commitment of which I have already spoken.

Third, the Finance Committee's proposal will, in some cases, serve to increase the Federal Government's expenditures for health care. Its proposal to institute copayments for home health services received by medicare beneficiaries makes no sense. Enactment of this provision will discourage the use of home health services by the 6 million elderly Americans whose incomes are at or near the poverty line.

Study after study has shown that home health services are far less costly than care provided in an institution or nursing home. They have shown that as many as 1 in 4 of the Nation's nursing home residents could be cared for at home, at a lesser cost, if adequate home health services were available. Federal expenditures for nursing home care were 10 times that for home health care. If we are to reduce Federal expenditures for long-term care for elderly and disabled individuals with chronic illnesses, then we should be encouraging the growth, not the limitation of home health services.

There are many ways in which to reduce the soaring hospital and medical costs which affect all Americans. There are many ways in which to reduce the Federal Government's share of these costs without requiring the elderly and disabled to pay even more for their health care. I support many of the Finance Committee's proposals to adjust the amount and manner in which the Government provides payments to hospitals for care provided to elderly Americans. The committee approved several changes which will forcefully address rising hospital costs by limiting annual increases in hospital reimbursement under medicare, and by requiring a change in the way hospitals are reimbursed from the current retrospective, or after the fact basis, to a prospective basis under which hospitals agree in advance to provide care for a set cost.

I support other provisions approved by the Senate Finance Committee to limit costs for certain physician services and care provided by nursing homes. And I support the committee's proposal to increase funding for the medicare contractors program. Under this program, investigations are undertaken to determine the validity of payments made to medicare providers of health care. It has been estimated that for every $1 spent for this program, $5 is recovered by the Government through the rejection of invalid medical claims, If necessary, I will offer an amendment to expand this program in the Senate Appropriations Committee to recover $300 million in medicare waste, fraud, and abuse.

These are but a few of the actions which Congress could and should take to reduce health inflation and spending. It need not resort to further increasing the financial burden on elderly and disabled Americans.

During the course of debate on this legislation, I supported amendments offered by Senators BRADLEY and BAUCUS to eliminate the harmful provisions of the Tax Reconciliation Act. I regret that the Senate did not approve these amendments. It did, at least, approve the minor modifications proposed by Senator DURENBERGER to limit the increase in what elderly and disabled Americans will have to pay for their health care from the original $1.4 billion to $1 billion. I will support all other amendments which will further decrease this burden on these citizens.

Mr. DOLE. Mr. President, is the Senator from Wyoming (Mr. WALLOP) in the Chamber? Is the Senator from Texas (Mr. TOWER) in the Chamber?

While they are coming perhaps we should proceed with the amendment of the Senator from Alaska. He has been waiting patiently. Then the Senator from Ohio will follow the Senator from Alaska.

UP AMENDMENT NO. 1141

(Purpose: To clarify provisions relating to Section 189 of the Internal Revenue Code)

Mr. STEVENS. Mr. President, I ask unanimous consent that it be in order to consider my amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska (Mr. STEVENS), for himself and Mr. MURKOWSKI, proposes an unprinted amendment numbered 1141.

At page 228, strike the period at the end of line 20 and add the following, ", but shall not apply to the Alaska Natural Gas Transportation System (15 U.S.C. § 719) and its related facilities.".

Mr. STEVENS. Mr. President, I yield myself such time as I may require.

This amendment is cosponsored by my colleague from Alaska.

Mr. President, this amendment relates to the effective date provisions of section 209 of the bill. Section 209 of the bill would amend section 189 of the code in order to require that corporations capitalize and amortize construction period interest and taxes attributable to the construction of nonresidential real property. Under present law, the capitalization requirement is only applicable to individuals and closely held corporations.

My amendment to the effective date provisions of the bill merely makes it clear that the provisions of section 189, as amended, will not be applicable to the Alaska Natural Gas Transportation System and related facilities.

Mr. President, I expect most Senators would be surprised to know that the revenue estimates for buildings covered by section 189 includes property such as pipelines, particularly in light of the statement by the Assistant Secretary of the Treasury, Mr. Chapoton, before the Finance Committee at the time this change was voted. Let me read you Mr. Chapoton's answer to the Senator from Texas, Senator BENTSEN, when asked what types of properties are covered by section 189:

Mr. BENTSEN. Let me understand then would it include structures affixed to the ground, such as farm implement sheds, pipelines, the rest of it?

Mr. CHAPOTON. No, it would not. It would include only buildings.

Only after the vote of the Finance Committee were Senators told that the revenue estimates for the measure do include pipelines. While revenue estimates are not law they should be consistent with what Senators are told is the intended effect of a change in law. My amendment, then, seeks to make clear that the Alaska Natural Gas Transportation System is not covered by this change to section 189. Exclusion of the project has little or no impact on the revenue estimates for this bill.

Specifically for fiscal years 1983 and 1984 there would be no revenue cost for the Alaska pipeline project under section 189. Under the present schedules, interest and taxes for the project would not commence until 1985 at the earliest. In 1985, there is only a small revenue impact—approximately $20 million—due to deduction of interest and taxes by the Alaska pipeline project.

The real issue is there is no Federal tax revenue to be counted unless the project is built. I hope Senators are very clear on this point—a change in the tax rules for the Alaska pipeline project at this point may close off any possibility of raising the massive capital required to build it.

The opposite is also true, however, for when the Alaska pipeline project is complete the Federal Government stands to collect billions in future revenues—sums that would dwarf any supposed "loss" of revenues attributed to this amendment. The revenue estimators cannot have it both ways. They cannot count losses to revenue from passage of my amendment and ignore the revenue losses if this project fails due to a retroactive change in the tax laws for a national energy project.

The construction of the Alaska pipeline project has been delayed because of the uncertain economic conditions. The issuance of the permanent certificate of convenience and necessity by the FERC has also been delayed. The delay has increased the financial risks to the companies involved in the project, which were already enormous. Hundreds of millions of dollars have already been spent by those companies. The provisions of the existing tax law, including the deductibility of construction period interest and taxes, are an integral part of the companies' plans and expectations. This proposal, assuming that it is applicable to pipelines, amounts to changing the rules in the middle of the game.

The potential consequences of this legislation on the Alaska pipeline project will be to increase the difficulty of obtaining adequate financing. Because of the very long construction period, the companies will be required to forgo interest and tax deductions for some 5 years, and only then begin to recover those lost deductions over the next 10 years. This change in the tax law dramatically affects the rate of return to the sponsor companies involved, and such a change, after the companies involved have spent literally hundreds of millions in reliance upon the current law, is unfair and unnecessary.

Congress has on numerous occasions expressed its support for expeditious delivery of gas from this national energy project. No other national project offers us the chance to dramatically increase the security of our energy supplies which can be obtained by completion of the Alaska gas pipeline. This legislation, unintentionally and inappropriately, places an even greater burden on the companies seeking to add this natural resource to our existing available energy supplies.

My amendment only looks for equitable treatment for the Alaska pipeline project. The bill, as presently written, exempts any taxpayer who begins construction of a project before the end of the year. Because of Federal regulatory requirements the Alaska pipeline project cannot begin until it receives all necessary permits. Under this bill, a taxpayer who turns a shovel of dirt between now and the end of the year is exempted. Meanwhile, a national energy project that has already spent hundreds of millions of dollars on capital expenditures may not be exempted. This is patently absurd.

Let me summarize why this amendment is so important and why it is consistent with our purpose in this bill.

First, it has virtually no revenue impact during the 3 years covered by the budget resolution.

Second, it is consistent with the understanding given to the members of the Senate Finance Committee when they approved this provision.

Third, it is vital to the future of a national energy project—the Alaska gas pipeline—which may never be constructed if we change the tax rules for the project in midstream.

I hope my colleagues will give serious thought to an apparently unintended impact of this bill. I ask them to support this amendment and our country's energy future.

Mr. President, I placed on each Member's desk a letter concerning this amendment.

Very simply the bill changes the process for the treatment of interest and taxes during construction on a major project. The Alaska natural gas pipeline is already under construction, in our opinion. Over $400 million has been spent on that project. The rights of way have been initiated, and the surveying has been initiated. But the Federal Energy Regulatory Commission requires that the project's proponents demonstrate that it has $30 billion up front before they can start laying the pipe.

In order to meet the FERC requirement showing that sufficient capital is available to complete this project, the very fact that interest and taxes during construction could be expensed is part of the financing plan. If the provisions of the bill as they appear in section 209 amending section 189 of the existing code is applied to the Alaska Natural Gas Transportation System, it may well mean that it would destroy the financing ability of the pipeline.

I urge Members of the Senate to examine the letter that my colleague and I have made available to the Senate and urge Senators to support this amendment which I consider to be a technical one.

This project cannot afford the uncertainty of whether or not a court would rule that the pipeline is already under construction for purposes of section 189. Without my amendment section 189 may destroy the financing capability of those who seek to obtain the money to build this enormous project.

Remember, this project will bring nearly 15 percent of the Nation's known gas reserves to market in the south 48. The 2,600-mile pipeline will be the largest project completed in this country and the largest privately financed project in the world.

Incidentally, it is not as large as the Russian pipeline which will be 4,200 miles in length, but the Russian system does not face the requirement of a Federal Energy Regulatory Commission telling them the money has to be up front before they can lay pipe. Governments of countries purchasing Siberian gas are subsidizing the Russian pipeline. That is why it is going ahead and ours is not.

Mr. President, I am pleased to answer any questions about the amendment. I am hopeful it will be accepted.

I might state it has no revenue loss in 1983 and 1984 because the pipeline is not under construction. It is held in abeyance right now because of inability to prove the availability of $30 billion committed before the project is commenced.

Mr. METZENBAUM. Mr. President, I ask the minority manager and the minority side to yield to me 10 minutes.

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Under the rules, if the manager of the bill or the majority leader favors the amendment, is not the time assigned to the minority?

The PRESIDING OFFICER. The Senator is correct.

Mr. LONG. Then if the majority favors the amendment, I would assume the time would be assigned to me in opposition.

Does the Senator desire 5 iminutes?

Mr. METZENBAUM. Ten minutes.

Mr. LONG. I yield 10 minutes to the Senator.

Mr. BAKER. Mr. President, will the Senator permit me to make a statement before he starts?

Mr. METZENBAUM. Yes.

SENATE SCHEDULE

Mr. BAKER. Mr. President, sometime ago it became obvious that we could not finish this bill by 12 o'clock midnight. As I indicated this morning, I had hoped we could do that and I would not ask the Senate to remain past midnight.

Once again I proved that I am not a good prophet, not a reliable prognosticator.

I am going to ask the Senate to stay past 12 o'clock not because I am anxious to stay any more than anyone else is but it seems clear to me we are within striking distance of finishing and it also seems clear from the conversation of Members that it is our preference that we stay tonight and complete action on this measure.

Mr. President, therefore, I wish to announce that we will stay and attempt to finish this bill tonight and assuming that we succeed in that, and I am sure we can, I will not ask the Senate to be in on Friday but instead will recess over until Monday next.

Mr. ROBERT C. BYRD. Mr. President, will the distinguished majority leader yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I agree with the majority leader that this will be the best course of action to take, that if the Senate does stay now and finish this, the Senate should not be in tomorrow.

I wish to ask the distinguished majority leader what his plans may be for taking up House Joint Resolution 494, the joint resolution with regard to the Presidential certification on conditions in El Salvador.

Mr. BAKER. Mr. President, I thank the minority leader. He and I have had an opportunity to discuss that in the course of this day, and I in turn have discussed it with the chairman of the Foreign Relations Committee and the Senator from North Carolina (Mr. HELMS).

I may say in answer to the minority leader's question that if we are not in tomorrow, and I expect that to be the result, it would be my intention to try to schedule that either Monday or Tuesday.

I have no desire to see this go overboard by reason of the expiration of the deadline. I wish to consult with the chairman and with Senator HELMS on the choice of those days, but I do not expect then it to be a problem.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished majority leader. I hope we will be able to bring it up on Monday because as I understand it Wednesday is the deadline.

Mr. PERCY. Mr. President, will the majority leader yield to me?

Mr. BAKER. I yield.

Mr. PERCY. I hope also it will be Monday, but I ask that it not be taken up until after 2 p.m. to accommodate the ranking minority Member.

Mr. BAKER. Mr. President, I will consult with all Senators and especially with the chairman and the ranking minority Member and the Senator from North Carolina who expressed a particular interest in this.

Mr. THURMOND. Mr. President, will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. THURMOND. Is there any chance of taking up the constitutional amendment for a balanced budget?

Mr. BAKER. I apologize to the chairman of the Judiciary Committee. I had looked for him and I did not find him, and it is my fault.

What I would like to do is to come back, if we finish late this morning on this bill, to recess over until Monday rather than Friday, and then we will be back on the constitutional amendment on Monday.

Mr. THURMOND. I thank the Senator very much.

Mr. PELL. Mr. President, will the Senator yield? I just want to make the record clear. The earlier the better. I will be back. I would hope it would be taken up on Monday.

Mr. BAKER. I thank the Senator and I will confer with him.

ORDER FOR CONVENING TIME FOR FRIDAY VITIATED

Mr. President, let me do it the way: I ask unanimous consent that the order for the Senate to convene on Friday at 9 o'clock be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 11 A.M. MONDAY, JULY 26

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business this day it stand in recess until Monday at 11 a.m.

Mr. DECONCINI. Mr. President, reserving the right to object, is the Senator going to finish this bill tonight?

Mr. BAKER. Yes; we are going to finish this bill tonight.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. METZENBAUM. Mr. President, am I correct in my understanding that the time used by the majority leader is not charged to the Senator from Ohio's time?

The PRESIDING OFFICER. That is correct. It is charged against the majority leader's time.

Mr. METZENBAUM. Mr. President, deja vu, it is the Alaska Natural Gas Pipeline revisited. Here we are again at 12:20 in the morning, and the Alaska Natural Gas Pipeline is back to the U.S. Senate asking for special consideration. When I say special consideration I believe the Members of this body will recollect full well the debates that have occurred on the floor of this body concerning the Alaska Natural Gas Pipeline, the waiver that the President gave to the instructions and law as enacted by a previous Congress and as set forth by a previous President.

You will recollect that the Alaska Natural Gas Pipeline received special privileges about being able to charge consumers whether or not they were ever able to use the gas. The Alaska Natural Gas Pipeline has promised they would not include the cost of constructing the production facilities, but that was changed to the extent of $6 billion.

The Alaska Natural Gas Pipeline was not to have the oil companies owning a part of the production facilities. That was changed. All across the board the rules have been changed and changed and changed for the Alaska Natural Gas Pipeline.

Let me explain what we have here this morning. The Committee on Finance, in its wisdom, saw fit to provide that corporations would be required to capitalize their interest and taxes during construction, and that is the way the bill reads. Now, I am not here advocating that position or opposed to it, although I commend the Committee on Finance for putting it into the law. That is the way the bill reads.

There is nothing in the bill that says there is a special exemption for the auto plants in Detroit or Cleveland; there is nothing in the bill that provides a special exemption for the steel companies in Pittsburgh, in Youngstown, in Alabama, and wherever they may be.

There is nothing in the bill that provides that any single segment of the economy has a special exemption. Oh, no. But one comes along and says, "We want a special exemption. We want to be treated specially. We have always been treated specially by the U.S. Congress."

They waived the laws as they were passed by prior administrations, prior congressional bodies, and now we come back and say, "OK. You said that construction has to be capitalized for everybody in the country, but the Stevens amendment that is on the floor at the moment says with the exception of the Alaska Natural Gas Pipeline."

Nobody can give you any logical reason for that except the fact that it is special privilege, special treatment. Why? There is no reason why unless we just roll over and play dead, as we have in the past, for the Alaska Natural Gas Pipeline in giving them whatever they want.

But if you are going to treat them in the same manner as every other industry in this country, then you have to vote "no" on the Stevens amendment because the Stevens amendment just provides for one single exception, and that exception is for the Alaska Natural Gas Pipeline.

I think that is wrong, and I think we are talking about substantial numbers of dollars, not in 1983, not in 1984, because they cannot get it built as fast as they thought they were able to and as fast as they told us they would. But no matter how you slice it it will cost the American people additional dollars.

Several months ago we provided that the consumers would pick up the responsibility, that they would be exposed, that they would pay the costs if the pipeline was never built. Now we are back here saying to the American public, to all of the American public, "One more exemption, one more chance, one more opportunity for the Alaska Natural Gas Pipeline to get special privileges."

I think it is wrong, Mr. President, and I hope this body will see fit to defeat the amendment.

I further hope that the managers of the bill will recognize the special privileges that are inherent in this amendment, and if the Alaska natural gas pipeline is to get those special privileges then every other single industry in this country is entitled to the same consideration, and you ought to repeal the amendment you just brought to the floor.

Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. STEVENS. I thank the Senator for asking for the yeas and nays. As a courtesy I am sure it is to allow the proponent of the amendment to ask for that in the event he wants to modify the amendment, but I do not want to modify this amendment, and as a matter of fact, I thank the Senator from Ohio for his support. Had he not spoken out that way I am sure many Members would have voted against the amendment.

We passed a similar amendment for the Senator from Utah to deal with the Marriott Corp. because their hotels have been held up due to local problems of clearance of zoning and other matters.

We cleared another amendment similarly on this subject.

As I indicated, our pipeline is under construction. I think $600 million expended on a project means it is under construction. But the project cannot stand the uncertainty the Senator from Ohio would enjoy instigating. I am certain the Senator from Ohio could decide to file suit against the Alaska pipeline again, and I am sure he has a great many of his young friends who are willing to take on cases like that. We are sorry to have to beat him in court so often, but it does take time that we can no longer afford.

I want to point out this does not lose any money for the Treasury. There is no way for this project to provide funds for the Treasury unless it can be constructed. I am sure all Members of the Senate know there was an announcement that project sponsors are going to delay the initiation of the project and are not attempting to get approval to initiate the project until interest rates and the general economy improve. Measures such as this may assure that no project will exist to provide gas to consumers or revenue for the Treasury.

But I do thank the Senator from Ohio for once again showing his impartiality in dealing with my State and the project that contemplates bringing gas to his constituents. I am sure his constituents will be very pleased to hear that he would rather see no transportation system or a higher cost system to provide them the enormous reserves known to exist and others likely to exist and to be served by this project.

Again, I really am indebted to him for his impartiality in dealing with any subject that applies to my State. I can assure him of a similar impartiality in any amendment or bill he brings before the Senate.

Mr. DOLE. Mr. President, I want to ask the Senator from Alaska, because I have some reservations about this amendment, not that it may not be totally meritorious, but we had just to change the law, the change we just made that the Senator mentioned, the Senator from Alaska, very minor change, maybe hardly any cost at all, but this is substantial. I think it is $400 million and up if the pipeline is built.

Mr. STEVENS. That is right.

Mr. DOLE. I do not know whether the pipeline is going to be built or not. I had to leave the Chamber for a

minute. Did the Senator from Alaska indicate why there should be a distinction with the Alaska pipeline, or does it not apply generally?

Mr. STEVENS. As I indicated, at the time this matter was before the Senator's committee, the distinguished Senator from Texas asked the representative of the Treasury Department whether this amendment covered—let me read from Senator BENTSEN's statement. He said:

Well, let me understand then would it include structures affixed to the ground, such as farm implement sheds, pipelines, the rest of it?

Mr. Chapoton said: "No, it would not. It would include only buildings."

The impact of this amendment was originally proposed by the Senator's Finance Committee and was not intended to cover pipelines. But our feeling is that the Alaska pipeline is under construction.

As I said, they have been in our State. They have cleared the right-of-way. They surveyed out a great portion of the right-of-way. But the problem is they have not laid any pipe. There is a chance the pipeline may not be considered to be under construction. So at the time Sponsors put the money in the ground for laying the pipeline, the argument could be raised that this pipeline was not under construction as a project and, therefore, the deadline of December 31 applies to it. That is, if this amendment to section 189 in the code applies to pipelines at all.

We know that there will be no pipeline laid before December 31 of this year. This project must not be subjected to the risk of failure to comply with a hypotechnical interpretation of this section.

The most important thing is there is no revenue loss now. There will not be any revenue loss until the pipeline is laid. But this section, if it is applied after the construction has commenced by $600 million, it means changing the rules for this pipeline—contrary to what the Senator from Ohio says, Congress is not changing the rules for any other project for which $600 million has been expended.

So we are not seeking an exception. We are seeking for the Senate to make the interpretation that this project is under construction now. If it is, then this section certainly will not apply to our project. I am not attempting to decide the question of whether it applies to pipelines in general.

Mr. MELCHER. Will the Senator yield?

Mr. STEVENS. I yield to the Senator from Montana.

Mr. MELCHER. Mr. President, I am not going to allow the Senator from Alaska to stand on this floor alone as if this project only involves Alaska. I was in Glasgow, Mont., just a few weeks ago visiting with some of the pipeline inspectors that are looking at the welds of this pipeline that is already laid. That is the eastern leg.

I am quite familiar with the previous history of the legislation that has gone into the Alaska natural gas pipeline, the waiver provision that we had to adopt in order to find out whether a gas pipeline from Alaska was going to be built. And one of those provisions was the eastern leg. It is under construction. It will carry gas, if not from Alaska, from Alberta. It will carry gas through Montana into the Midwest to provide needs of natural gas consumers.

Now, whether or not the financing of this entire project from the Prudhoe Bay field in Alaska to the lower 48 States is going to be possible or not, I do not know. But the eastern leg is under construction.

Whom are we trying to kid around here? There are a lot of things in this tax bill I do not like, and this particular section of the bill is one of them. I do not know what this new addition to the tax law is going to do to future pipeline construction financing. But this particular pipeline, at least as far as the eastern leg, at least as far as the intent of Congress in adopting those waiver provisions in previous legislation, is under construction.

What the Senator from Alaska is trying to clarify is that there is no tomfoolery by the Department of the Treasury or by the courts to later say that, "Well, this pipeline wasn't under construction when this tax bill was adopted and therefore this new requirement for taxes applies to it."

I would prefer that we left this section entirely out of the bill because I do not know what it is going to do to future pipelines. After all, whatever the taxes are, whatever the cost of construction on any pipeline, whether it is oil or gas, is going to be paid by the consumer. Who do we think is going to pay for it? Certainly the people that build it are going to get the cost of construction, whatever it is, into the tariff base for transporting that gas or oil, whatever that amount is then paid by the consumers of the product.

So the main point that the Senator from Alaska has made is that, in our judgment, the Alaskan natural gas pipeline is already started under construction and, therefore, this section cannot apply to it. I am here to tell you that that is my judgment. I will tell everybody that wants to oppose this amendment that what is constructed there in eastern Montana out of Alberta is part of this system and what Congress intended when it adopted the waiver when all the provisions that went into this and previous legislation was that that is part of that system. Therefore, this amendment is a clear enunciation by Congress that this section of the bill clearly does not apply to this natural gas pipeline system.

If it is part of that system, perhaps the argument can be made: "Well, then, the section will not apply." Well, I am just here to say that I do not want any interpretation by the Secretary of the Treasury or the courts to lay that aside and say, "No, it wasn't started, because it wasn't started in Alaska."

Mr. LONG addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. LONG. Mr. President, I yield myself 2 minutes on the bill.

Mr. President, I was not familiar with this amendment, and I have heard two good arguments made. But let me just tell the Senate that when we draw up major bills like this and we fix effective dates, we usually do not fix those dates in a vacuum. We fix them with reference to what the situation is and we have a way of moving them forward or moving them back, depending on how the situation is going to work out. We do take into consideration things like the Alaska pipeline.

Do you want to say that the Alaska pipeline is not going to be able to deduct construction period interest and taxes, or are you going to say they are going to have to capitalize them and carry them forward?

It would be fair to ask, when we act on something of this sort, whether we want to change interest on construction loans to adversely affect the Alaskan pipeline.

Frankly, I do not recall if we focused on the matter. But it seems to me that when we agreed to an act of congressional authorization and Government policy, we wanted the pipeline to go forward and the law at that time would permit the deduction of construction period interest and taxes. It seems to me that if we focused on the issue, we would have said that we did want to allow these deductions for the Alaskan pipeline. It is underway; work is being done on the subject and a huge amount of money is being spent on it.

It seems to me that was the basic question we should have decided: did we want to stop the Alaskan pipeline or did we not want to stop the Alaskan pipeline. There is no doubt in my mind that if you had told these people when they were building the pipeline that you were going to make them capitalize their interest during the construction period, they would have had to stop dead in their tracks and probably start all over again.

My thought is that we ought to say that we do not intend to apply this to the Alaskan pipeline. Having heard the arguments for both sides, I am constrained to believe that if we want to build the Alaskan pipeline, we

ought to go ahead and vote with the Senator from Alaska.

Mr. BENTSEN. Will the Senator yield?

Mr. LONG. Yes.

Mr. BENTSEN. The interesting thing is we did address it that night. We referred specifically to it. The legislative language is there.

The Senator from Alaska has read my comment and read the reply of the Assistant Secretary of the Treasury for tax policy, section. He stated that this was excluded.

Now, what the Senator from Alaska is trying to do is further clarify that. Frankly, you have a unique situation when you try to build a pipeline of that magnitude. It is going to take a long time. And if you are talking about not being able to expense interest over that period, I think you put in jeopardy the construction of the pipeline. I think it is terribly important for the energy needs of our country and I am pleased to support the senior Senator from Alaska.

Mr. LONG. The fact is that the gas that we have in Louisiana and Texas is going to run out some day, and this country is going to be needing that Alaskan gas.

Mr. STEVENS. Mr. President, I yield such time as my colleague from Alaska desires.

Mr. MURKOWSKI. I thank my colleague, the senior Senator from Alaska.

I rise to remind my colleagues that this was formulated as a multiyear project. The Senator from Montana is absolutely correct, the eastern leg is under construction and, as a matter of fact, the formal dedication of that will take place on October 5.

My point is that construction started under specific game rules and these game rules were that the builder can deduct interest and property taxes while construction is underway. To suggest that those game rules be changed at this juncture, I think, is truly unjust and certainly not in the best interests of our Nation or in our interest in securing a greater degree of energy independence.

I say to you that with the situation in the Mideast, we need all the domestic energy resources developed in this country that we possibly can, and the Alaska pipeline, which I will again remind you will be the largest privately financed construction project in the history of the free world, nearly $40 billion, needs to go forward under the same set of rules that were in effect when the program was originally initiated. Therefore, I urge my colleagues not to support any situation that would suggest that the rules be changed at this late time.

I thank the Senator for yielding.

Mr. DOLE. Mr. President, as the Senator from Texas pointed out, we had a misunderstanding about an amendment that he thought was in the bill. We went back and read the transcript, we listened to the recordings, and there was a misunderstanding. Someone from the joint committee had made one explanation, and the Senator from Texas directed the question to Mr. Chapoton, and he said it was covered. Then there was a later discussion. Everything was up in the air.

One reason I am concerned about this amendment—one reason I am not concerned is that it does not cost anything until 1985—is I wonder if we are being fair to the Senator from Texas who thought he had an agreement to cover all pipelines. We indicated to the Senator from Texas at that time it was a $500 million problem we could not handle. He graciously agreed that if that was the problem, he understood. Is that a correct recitation of what happened?

Mr. BENTSEN. I would say to the distinguished chairman that is correct. There apparently was a misunderstanding. But I also think in fairness to what the Senator from Alaska stated, the matter of facing long-term energy problems is so strong that I think we ought to specifically take care of this problem of charges during construction. I think they ought to be able to charge off interest and taxes during construction.

Mr. DOLE. I want the RECORD to show that this was discussed and the Senator from Texas understood that I was not telling him one thing while we were preparing to do another thing. That is a serious consideration. We did discuss it that night. We did not discuss it fully enough, it turns out. There was a $500 million misunderstanding. The Senator from Texas knows that we had a problem.

Mr. METZENBAUM. Will the Senator from Kansas yield for a question?

The PRESIDIMG OFFICER. All time of the proponents has expired. The Senator from Louisiana has 3 minutes.

Mr. METZENBAUM. Will the Senator from Louisiana yield for a question?

Mr. LONG. I yield.

Mr. METZENBAUM. It is my understanding that as the bill comes to the floor, pipelines are treated as all other construction with respect to the expensing of taxes, with respect to capitalizing interest on taxes.

Mr. DOLE. The Senator is correct.

Mr. METZENBAUM. Therefore, if the amendment of the Senator from Alaska were to be agreed to, it would indeed provide a special exemption that does not exist for any other pipelines, for any other pipelines in the country; is that correct?

Mr. DOLE. That is correct. But it is probably based on a misunderstanding the night the committee met. But that is correct.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. The Senator from Louisiana has 2 minutes remaining.

Mr. STEVENS. Will the Senator yield for one question?

Mr. LONG. I yield.

Mr. STEVENS. We are not seeking any special exemption. If the Alaska pipeline is under construction, this bill certainly does not cover it, does it?

Mr. LONG. That is my understanding.

Mr. STEVENS. All we are saying is that the Senate finds the Alaska pipeline is under construction.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the amendment of the Senator from Alaska. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) and the Senator from Connecticut (Mr. DODD) are necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER (Mr. GORTON). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 80, nays 16, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—80

Abdnor	Ford	McClure
Andrews	Garn	Melcher
Armstrong	Glenn	Moynihan
Baker	Gorton	Murkowski
Baucus	Hart	Nickles
Bentsen	Hatch	Nunn
Boren	Hatfield	Packwood
Boschwitz	Hawkins	Percy
Brady	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Randolph
Byrd, Harry F., Jr.	Helms	Roth
	Hollings	Rudman
Byrd, Robert C.	Huddleston	Sarbanes
Cannon	Humphrey	Sasser
Chafee	Jackson	Schmitt
Chiles	Johnston	Simpson
Cochran	Kassebaum	Specter
Cranston	Kasten	Stafford
D'Amato	Laxalt	Stennis
Danforth	Leahy	Stevens
DeConcini	Levin	Symms
Denton	Long	Thurmond
Dixon	Lugar	Tower
Domenici	Mathias	Wallop
East	Matsunaga	Warner
Exon	Mattingly	Zorinsky

NAYS—16

Biden	Grassley	Pressler
Bradley	Jepsen	Proxmire
Cohen	Kennedy	Riegle
Dole	Metzenbaum	Tsongas
Durenberger	Mitchell	
Eagleton	Pell	

NOT VOTING—4

Dodd Inouye Weicker
Goldwater

So Mr. STEVENS' Amendment (UP No. 1141) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, let me, if I may, just have a minute. We have an amendment by both Senators from Texas that will take about 1 minute. The Senator from Wyoming, I think we have been able to accommodate. The Senator from Tennessee (Mr. SASSER) I understand may have an amendment. Senator GORTON has an amendment which we could dispose of, I would think, within 2 minutes.

We have now worked out, I hope—I believe—the agreement with the Senators from New York, Mississippi, and Alaska.

The Senator from Mississippi wanted 20 minutes. We only have 33 minutes.

Mr. DANFORTH. Mr. President, I wonder if I may inquire, I am delighted to know if anything can be worked out. I do not know what has been worked out. This is something that I have been very much involved in, but if there is going to be debate on it, I want to make sure that I am going to be able to manage at least some of the time or have some time myself.

Mr. DOLE. I will give the Senator most all the time.

The PRESIDING OFFICER. The Senator from Kansas should know that all time left is now under the control of Senator LONG.

Mr. DOLE. Good. I would like to have the Senator finish this.

Mr. LONG. The Senator can have half of my time. Whatever I have I will share with him. That is a charitable proposition.

Mr. DOLE. I am not trying to foreclose anyone. The Senator from Montana has a very important amendment. If we lose something, we have got to repeal safe harbor leasing, so he is going to be the cleanup hitter. Maybe we can take these amendments that are very quick and then move on to the amendment of Senator PRYOR. Would that be all right?

Mr. PRYOR. Mr. President, I say to the distinguished manager that arrangement would be all right, providing I have at least a few moments to explain the amendment. I think if I do not have those moments——

Mr. DOLE. Fine.

Mr. PRYOR. How many more amendments are there, I would like to ask?

Mr. DOLE. I think there are three that can be disposed of within 5 minutes. That is keeping in mind the concerns of the Senator from Missouri. I know we can take care of the Senator from Texas right now. Let us do that one and then proceed.

UP AMENDMENT NO. 1142

(Purpose: Relating to tax-exempt obligations)

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an unprinted amendment numbered 1142.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 278, line 6, insert ", the chief elected State legal officer of the executive branch," before "or".

On page 278, line 8, insert "chief elected executive" before "officer".

On page 287, after line 23, insert the following:

(d) POLLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITY.—Subsection (b) of section 103 is amended by adding at the end thereof the following new paragraph:

"(12) POLUTION CONTROL FACILITIES ACQUIRED BY REGIONAL POLLUTION CONTROL AUTHORITIES.—

"(A) IN GENERAL.—For purposes of subparagraph (F) of paragraph (4), an obligation shall be treated as described in such subparagraph if it is part of an issue substantially all of the proceeds of which are used by a qualified regional pollution control authority to acquire existing air or water pollution control facilities which the authority itself will operate in order to maintain or improve the control of pollutants.

"(B) RESTRICTIONS.—Subparagraph (A) shall only apply if—

"(i) the amount paid, directly or indirectly, for the facilities does not exceed their fair market value,

"(ii) the fees or charges imposed, directly or indirectly, upon the seller for any use of the facilities after the sale are not less than the amounts that would be charged if the facilities were financed with obligations the interest on which is not exempt from tax, and

(iii) no person other than the qualified regional pollution control authority is considered after the sale as the owner of the facilities for purposes of Federal income taxes.

"(C) QUALIFIED REGIONAL POLLUTION CONTROL AUTHORITY DEFINED.—For purposes of this paragraph, the term 'qualified regional pollution control authority' means an authority which—

"(i) is a political subdivision created by State law to control air or water pollution,

(ii) has within its jurisdictional boundaries all or part of at least two counties (or equivalent political subdivisions), and

"(iii) operates air or water pollution control facilities.".

On page 228, line 1, strike out "(d)" and insert in lieu thereof "(e)".

Mr. TOWERS. Mr. President, this amendment, which has been cleared with the distinguished managers of this bill, addresses two basic problems in the IDB area. This amendment clarifies the availability of tax-exempt financing for the acquisition of certain pollution control facilities by a qualified regional pollution control authority. Under the code, tax-exempt industrial development bonds may be issued to provide pollution control facilities. However, the Internal Revenue Service interprets this provision to be inapplicable where bonds proceeds are to be used to acquire an existing facility, which may then be operated to treat pollutants from one or several companies.

Various facilities may have been installed by one or more companies to control pollution in a particular area. As time passes, however, and as other companies generate pollution, it may become increasingly difficult to maintain the required level of pollution control for the overall area. In such case, a regional pollution control authority may determine that it is necessary to acquire and operate an existing facility in order to maintain or improve the level of pollution control in this area. The authority may achieve this, for example, by controlling the release of water pollutants from several initial treatment facilities and then blending and treating the amounts so released. These operations are as important to overall pollution control as the original construction of the facilities. For this reason, an amendment is needed to make it clear that tax-exempt bonds may be used for the acquisition by a qualified regional pollution control authority of an existing facility in such circumstances.

A qualified regional pollution control authority is defined for this purpose as a political subdivision which has been created by State statute for the purpose of controlling pollution, and which has within its boundaries all or part of at least two counties. Furthermore, the authority must agree, pursuant to a contract or covenant in a bond resolution or bond trust indenture, to operate and maintain the pollution control facility that is to be acquired with the proceeds of the bonds. And, finally, in answer to concerns of the Treasury and the joint committee that the purchase of these existing pollution control facilities from industrial owners might serve merely as a device to refinance the existing facility and pass through the benefits of tax-exempt financing to the industrial owner, the amendment

provides that the amount paid for the facilities must reflect their fair market value and the seller may not receive any other compensation for the facilities, directly or indirectly, including any adjustment in fees or charges imposed by the regional authority.

This part of the amendment would apply with respect to bonds issued by a qualified regional pollution control authority after the date of enactment.

The other portion of this amendment expands the definition of "applicable elected representative" to include the highest elected legal officer of the executive branch of a State.

I am pleased to offer this amendment with my distinguished colleague from Texas (Mr. BENTSEN) and respectfully urge its adoption.

At this point I should like to yield to my distinguished colleague.

Mr. BENTSEN. Mr. President, I joint my distinguished colleague from Texas in seeking to remedy a situation that was brought to the attention of Senator TOWER and myself in 1972 by the Gulf Coast Waste Disposal Authority.

For the past 10 years, the gulf coast has sought clarification of the tax regulations under section 103 to permit tax-exempt financing for certain acquisitions of existing pollution control facilities when needed to achieve effective compliance with Federal or State requirements through a regional system of water pollution control.

The authority is a regional instrumentality of the State of Texas created in 1969 by the Texas Legislature to improve water quality and regulate and control pollution from municipal and industrial wastes. To that end it has financed the installation of new water pollution control facilities for various parties. In certain cases, however, the overall treatment and reduction of water pollutants can best be accomplished if an existing pollution control facility can be acquired with tax-exempt financing and operated in a coordinated manner with other control facilities. This would appropriately further the authority's regional regulation of waste discharges to minimize the total amount of polluting of the waters within its jurisdiction.

After these 10 years of attempts to seek an administrative remedy through the Internal Revenue Service, it has become eminently clear that any solution must be legislative. To that end, we have worked with the Finance Committee, the Joint Committee on Taxation, and the Treasury Department in providing a mutually agreed-upon solution represented by this amendment. I am pleased to join my fellow Texan in offering the amendment and I urge its adoption.

Mr. DOLE. Mr. President, I yield back the remainder of my time.

Mr. TOWER. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. BRADY). The question is on agreeing to the amendment.

The amendment (UP No. 1142) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, both Senators from Washington have an amendment which I think can be disposed of, and the Senators from Illinois (Mr. DIXON and Mr. PERCY) are cosponsors of the amendment.

UP AMENDMENT NO. 1143

(Purpose: Relating to leasing transaction rule)

Mr. GORTON. Mr. President, I call up an amendment which I have at the desk.

The PRESIDING OFFICER. Without objection, the amendment is in order.

The amendment will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. GORTON), for himself and Mr. PERCY, Mr. JACKSON, and Mr. DIXON, proposes an unprinted amendment numbered 1143.

Mr. GORTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 245, between lines 5 and 6, insert the following:

(5) Special transition rule for certain aircraft.—For purposes of paragraph (2) and section 168(i)(8) of such Code, in the case of property which is an aircraft—

(A) paragraph (2) and section 168(i)(8)(B) of such Code shall be applied by substituting "January 1, 1984" for "July 1, 1983", and

(B) construction of such aircraft shall be treated as having begun during the period referred to in paragraph (2)(B) and section 168(i)(8)(B)(ii) of such Code, if, during such period—

(i) construction of a subassembly was commenced, or

(ii) the stub wing joiner occurred.

Mr. GORTON. Mr. President, the distinguished chairman of the Finance Committee, in an attempt to roughly cut safe harbor leasing in half, has set up definitions pursuant to which construction of a particular commodity—in this case, aircraft—must have taken place between the initial date of safe harbor leasing and February 20 of this year and must be delivered no later than July 1, 1983. In connection with aircraft and several American manufacturers, that is an extremely narrow definition and disqualified almost all of them.

We have come to an agreement to extend that delivery period by 6 months and to precisely define commencement of construction which adds more but far from all aircraft under order at this time.

The amendment is agreed to by the Senator from Kansas, and I recommend its adoption.

Mr. JACKSON. Mr. President, I wish to corroborate the statement of my distinguished colleague from Washington.

I believe this amendment is necessary to carry out the original intent of the action taken by the committee.

Mr. PERCY. Mr. President, I would like to commend my good friend, the distinguished Senator from Washington (Mr. GORTON) for his initiative on this important matter.

Many airlines contracted for new aircraft years ago, only to see their financial resources sapped. Aircraft on the order books would have been canceled last year were it not for the passage of safe harbor leasing. If we changed the rules in midstream now, we would be saddling airlines with equipment they would not have kept last year without the leasing law. Such capital-intensive industries cannot buy so-called off-the-shelf equipment. It takes years to build this equipment. The Gorton amendment makes the changes in leasing more equitable and I give it my enthusiastic support.

Mr. DOLE. Mr. President, this amendment has been under discussion for the past several days. I think the Senators from Illinois and Washington did not get what they wanted, but they got about all they could, under the circumstances. I believe that the amendment in its present form is acceptable and should be adopted.

The PRESIDING OFFICER. Is all time yielded back?

Mr. DOLE. I yield back the remainder of my time.

Mr. GORTON. I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1143) was agreed to.

Mr. JACKSON. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JEPSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, we have now worked out a rather difficult problem. I think both Senators from Mississippi are satisfied, as are the Senator from Alaska and the Senator from New York. I understand that the distinguished junior Senator from New York will soon be prepared to offer two amendments, both of which have been agreed to.

UP AMENDMENT NO. 1144

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. GORTON). Without objection, the amendment is in order.

The amendment will be stated.

The bill clerk read as follows:

The Senator from New York (Mr. D'AMATO), for himself and Mr. STENNIS, Mr. WEICKER, Mrs. HAWKINS, Mr. SPECTER, Mr. MURKOWSKI, Mr. HUDDLESTON, Mr. PRYOR, Mr. HEFLIN, Mr. DIXON, Mr. WARNER, and Mr. DENTON, proposes an unprinted amendment numbered 1144.

Mr. D'AMATO. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On line 4, page 274, strike "1985", and insert "September 30, 1987".

On lines 8 and 9, page 274, strike "December 31, 1985," and insert "September 30, 1987".

On line 10, page 274, strike "December 31, 1985," and insert "September 30, 1987".

On page 274, between lines 24 and 25, insert the following:

(e) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—Paragraph (6) of section 103(b), as amended by subsections (a), (b) and (c), is amended by adding at the end thereof the following new subparagraph:

"(O) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—This paragraph shall not apply to an issue if—

"(i) more than 25 percent of the proceeds of the issue are used to provide a facility the primary purpose of which is one of the following: automobile sales or service, the provision of recreation or entertainment; or

"(ii) any portion of the proceeds of the issue is to be used to provide the following: any private or commercial golf course, country club, massage parlor, tennis club, skating facility (including roller skating, skateboard, and ice skating), racquet sports facility (including handball and racquetball court), hot tub facility, suntan facility, racetrack.

On line 25, page 274, strike out "(e)" and insert in lieu thereof "(f)".

On page 275, between lines 11 and 12, insert the following:

(4) CERTAIN FACILITIES.—The amendment made by subsection (e) shall apply to obligations issued after December 31, 1982.

On page 282, strike out the table between lines 12 and 13, and insert in lieu thereof the following:

"In the case of:	The recovery period is:
3-year property	3 years.
5-year property	5 years.
10-year property	10 years.
15-year public utility property.	15 years.

Beginning with line 20, page 282, strike out through line 4, page 283, and insert in lieu thereof the following: "recovery period of 15 years."

On line 12, page 283, insert "sewage or" after "in connection with a".

On line 14, page 283, insert "sewage or" after "which provides".

On line 18, page 283, insert "sewage or" after "all of the".

Mr. D'AMATO. Mr. President, this amendment is a compromise and is a result of rather intensive negotiations and other things. [Laughter.]

I thank the distinguished chairman of the Senate Finance Committee and Senator LONG. I thank Senator STENNIS, who has been steadfast in his support. I also thank a number of other Senators who have played an instrumental part, including the junior Senator from New Jersey (Mr. BRADY) and Senator DURENBERGER from Minnesota.

I am pleased to have a number of cosponsors of this amendment, which, I think, strikes a reasonable compromise in retaining industrial revenue bonds through September 30, 1987, and which meets some of the objections by limiting a number of their uses.

Our amendment is designed to protect the vital interests of America's small businesses. Our amendment strikes two provisions included in H.R. 4961, which would make it much more difficult for small businesses to obtain the capital they need to survive in today's marketplace.

The industrial development bond—IDB—program is, and has been, one of the most vital financing options available to small businesses across the Nation. By making necessary capital both affordable and available, IDB's have created tens of thousands of new jobs, allowed thousands of small businesses to thrive and expand and generated substantial additional Federal revenue by increasing both corporate profits and payrolls.

IDB's are a vital tool of economic development. We need the economic stimulus they provide. IDB's are also the essence of federalism. By placing control at the State and local, as opposed to the national level, citizen input is possible and the final decisions are made by those who best know the needs of their own community.

However, despite these numerous and obvious advantages inherent in the program, H.R. 4961 places severe restrictions on IDB usage. Two of these provisions are especially onerous: One denies full A.C.R.S. depreciation benefits to IDB users, the other completely repeals the small-issue IDB program effective December 31, 1985. Section 223 would make those small businesses which obtain low-cost financing with IDB's a different class of taxpayer from all others.

While every other business would be allowed to depreciate its assets using the short-life, accelerated method this Congress adopted last year as part of the Economic Recovery Tax Act, IDB users would have to depreciate their assets over substantially longer lives and would be restricted to using only the straight line method of depreciation. This is inherently unfair. The other provision, subsection c of section 221, would terminate, at the end of 1985, whatever small part of the IDB program still existed after section 223 took effect. This crippling and subsequent killing of IDB's cannot be allowed at this time.

Our amendment makes four changes in H.R. 4961. First, and most importantly, it delays the sunset by 21 months until September 30, 1987. This will give Congress adequate time to carefully study this valuable program and make arrangements for its preservation. Our amendment also greatly lessens the impact of the A.C.R.S. tradeoff contained in H.R. 4961. Although straight line depreciation will still be required, the short depreciable lives—15-10-5-3—embodied in A.C.R.S. will be preserved. Further, our amendment rectifies an oversight of the Finance Committee by exempting sewage facilities, as well as solid waste facilities, from the A.C.R.S. restriction. Finally, our amendment makes great strides in eliminating those well reported abuses in the IDB program. Henceforth, IDB's will not be available to finance automobile dealerships, recreational, and entertainment facilities.

However, we propose no alteration to any of the other sections of H.R. 4961 which deal with IDB's. H.R. 4961, therefore, will still require public hearings before any IDB's could be issued, the written approval of the highest elected official in the local jurisdiction before any IDB's could be issued, the registration of all IDB's, and full reports on IDB usage to the Treasury on a quarterly basis.

The first three of these additional provisions, along with the new facilities exclusions included in our amendment, will go a long way toward eliminating any abuses which may exist in the present IDB program. They will insure the credibility of IDB projects and the accountability of bond transactions. The uniform national reporting system will, for the first time, insure full disclosure of IDB-financed projects and will provide Congress with comprehensive and accurate information on the volume of IDB sales, their purposes, and their impact on the municipal bond market.

Our concern, however, is that the imminent—December 31, 1985—demise of small issue IDB's is irresponsible. This sunset date will allow inadequate time for Congress to assess the data contained in the newly required reports to Treasury. The additional 21 months provided for by our amendment will permit the thorough and energetic review of this vital program which we enthusiastically support.

The loss of A.C.R.S. under the guise of a tradeoff intended to avoid a "double-dip" is inconsistent with the original intent of industrial development bonds and hampers the goals of employment creation, revitalization of depressed local economies, and inducement of investment in productive capital equipment.

The forced tradeoff between IDB financing and A.C.R.S. depreciation benefits would result in the allocation of these bonds to marginally profitable or unprofitable companies since

IDB's would then only be attractive to firms that are unaffected by the impact of the loss of A.C.R.S. Thus, we are forced to disagree with what the A.C.R.S. tradeoff provision in H.R. 4961 would do. We do not want to reserve IDB's solely for the use by losing businesses.

Our amendment has a negligible revenue effect in 1983 and reduces the static revenue gain in 1984 and 1985 by $300 million. These figures, however, fail to take account of the well-known "reflow" effects of the IDB program. Every study of IDB's which has taken reflow into account, including one done by former Under Secretary of the Treasury Norman Ture, has shown clearly that IDB's are net revenue raisers for the Federal Treasury. More importantly, given today's economic climate, IDB's generate jobs which would otherwise not have been created.

During the past decade, IDB's have been responsible for the creation or retention of 80,666 jobs in my own State of New York. Similar successes have been recorded in other States. Ture's carefully researched analysis shows undeniably the increases in employment, GNP, and gross private domestic investment, as well as the increases in Federal revenue, that result from IDB usage. Ture concludes that:

> IDB's are productive instruments for promoting economic development by making savings and investment more attractive to individuals and businesses. Their use results in overall gains in capital formation, employment, and output, rather than merely changes in the location of economic activity * * * the resulting expansion of tax bases—individual and corporate income and payroll taxes—generate(s) net gain in tax revenues for the Federal Government and for the State and local governments of the issuing jurisdictions.

A study by Prof. Roger C. Kormendi and Thomas T. Nagle of the University of Chicago echoes the conclusions of Ture. However, they go even further. Not only do they convincingly demonstrate that IDB's result in net gains for the Federal Treasury when reflow is taken into account, they also dispute Treasury's and CBO's static revenue loss estimates. Kormendi and Nagle estimate that a billion dollars of IDB's cost the Treasury no more than $2.7 to $4.3 million without reflow. Thus, even if the entire $10 billion of IDB's which some estimate will be issued next year were eliminated, the static revenue gain would be no more than $27 to $43 million. A.C.R.S. restrictions and the eventual repeal of the small-issue IDB program will not raise revenue for the Federal Government. It will simply cripple America's small business community.

To demonstrate how IDB use generates tax revenue, let me detail one example with which I am intimately familiar—the Nassau and Suffolk County, N.Y., industrial development bond program. As a former presiding supervisor of the town of Hempstead on Long Island, I have been a long time observer and participant in the economic development of my community. IDB's have been one of the most important tools for this development.

In 1980 and 1981, $195,973,000 worth of IDB's were issued in Nassau and Suffolk Counties; 14,055 jobs were created or retained. These jobs generated direct payrolls of $198,139,370, using the conservative estimate that these jobs exist for 10 years, that no raises are granted during that time, and the payrolls are subject to a 20-percent marginal tax rate, the Federal Government will receive $496,078,740 in income tax receipts. This is more than 10 times the $48,993,250 in revenue that Treasury claims that it loses as a result of issuing the volume of bonds that were issued on Long Island during this period.

But this is not all. Another $99,019,684 in State income taxes would be generated during the next 10 years, again using conservative estimates of no raises and a 5-percent marginal tax rate. At least $39,607,874 in State and local sales taxes would be generated when these payrolls were spent. Social security and unemployment taxes add even more to the revenue raised from the issuance of these IDB's.

The capital raised using this IDB financing was used to build 4,631,542 square feet of new structures on Long Island. This will result in additional property tax revenue of at least $69,471,644 over the next 10 years. Finally, all this new business activity results in numerous secondary effects as additional support jobs and economic activity is inspired. That is, IDB use generates a "snowball effect." Thus, to provide revenue loss estimates for the industrial development bond program without taking reflow into account is simply wrong.

There is no reason, therefore, to adopt the A.C.R.S. tradeoff and imminent repeal provisions contained in H.R. 4961. Officials in my State estimate that the A.C.R.S. tradeoff provision alone would result in the curtailment of the New York program by 25 to 50 percent. In other States I have heard of projected cutbacks of as high as 70 percent. We should not now be depriving these small businessmen of needed IDB financing. In contrast, the much less restrictive A.C.R.S. tradeoff provisions contained in our compromise amendment will leave 90 percent of the small issue industrial development bond program intact in my State and elsewhere.

In closing, I should just like to point out that IDB's should be evaluated in light of their original intent which was to "allow communities to provide assistance to small businesses." We should not now renege on that promise. IDB's have become an increasingly important alternative to facilitate the recovery and growth of local communities. They must be preserved.

I believe we have accomplished a happy compromise that many people have sought. I am certain there will be a number of people who could offer additional areas that might be excluded or that might be included. This amendment represents about 17 months of negotiations and other things, as I have indicated. I believe it represents the best thinking of this body. It has the support of the distinguished chairman of the Finance Committee as well as the Treasury Department.

Mr. METZENBAUM. Mr. President, will the Senator yield for a question?

Mr. D'AMATO. I yield.

Mr. METZENBAUM. Does this amendment, as presently drafted, include the exceptions that were in the amendment offered by the Senator from Ohio in an earlier tax bill and which have been discussed previously with the Senator from New York?

Mr. D'AMATO. It contains all those, with the exception of ski resorts and restaurants.

Mr. METZENBAUM. The restaurants will still be permitted to use the industrial revenue bonds to open McDonald's hamburger joints?

Mr. D'AMATO. That is correct.

Mr. METZENBAUM. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. DANFORTH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DANFORTH. Mr. President, as I understand it, the Senator from New York has proposed two amendments to the bill. Has one been sent to the desk?

The PRESIDING OFFICER. Only one amendment has been sent to the desk.

Mr. DANFORTH. May I ask the clerk to report the amendment or, in lieu of the clerk reading the amendment, may I ask that it be summarized?

The PRESIDING OFFICER. By whom? [Laughter.]

Mr. DANFORTH. Mr. President, I ask that the clerk read the amendment.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On line 4, page 274, strike "1985", and insert "September 30, 1987".

On lines 8 and 9, page 274, strike "December 31, 1985," and insert "September 30, 1987.

On line 10, page 274, strike "December 31, 1985," and insert "September 30, 1987.

On page 274, between lines 24 and 25, insert the following:

(e) RESTRICTIONS ON FINANCING CERTAIN FACILITIES.—

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. STENNIS. Mr. President, will the Senator yield?

Mr. DOLE. I yield.

Mr. STENNIS. Mr. President, under all the circumstances—and part of the circumstances was that I did not have enough votes—I am happy that this splendid adjustment has been made. It involves some very kind understanding and real statesmanship on the part of the leaders on the bill.

The Senator from New York (Mr. D'AMATO) has worked diligently on this matter, with a fine understanding.

This is the old program that we are terminating in 1987, which originated in my State almost 50 years ago, right in the middle of the Depression, by a businessman-Governor we had. He conceived the concept of having small villages, little towns, and counties issue these bonds.

And they paid themselves out, so to speak. They were exempt from taxes and, therefore, brought a good price. And it was a marvelous program and still runs and has been kept in bounds and dedicated to the little factory concept and the machinery that goes with it.

I think the whole program fell in bad company, so to speak, by encompassing too many activities and matters that were not really for employment, but the concept of the whole thing was employment for people to make a living, and that is the great purpose that it served.

I just hope that those who represent this adjustment here can prevail and sell it in the conference so as to preserve it and I believe, Mr. President, and I think most every State would be interested in this, that this fine program should be continued and it will be continued under a more restricted form with a better understanding and carried on.

I cannot reconcile the idea with the conditions as they are now with unemployement and we are stopping or providing for the stopping of a program that supplies the very need there of this employment.

But that will be several years in the future before it is actually stopped.

So I am most grateful. I have followed this thing really for many years, and I wish to see it come back into full bloom. I believe it is self-sustaining. After all, it creates the jobs, the people pay the taxes, and that goes in to the Treasurer and I have proof here of illustrations that that fully reimburses the Treasurer for the tax exemptions that went with the bond.

In that way it has been an amazing self-payment proposition.

So that is my recommendation. I hope that it can get a very large vote and be sustained as much as possible, of course, in conference.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I rise in support of this amendment and the second amendment.

I do so being responsive to a number of small communities in my State.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Virginia Municipal League and a letter from the office of the city manager, Suffolk, Va., both dated July 13, 1982, in support.

There being no objection, the letters were ordered to be printed in the Record, as follows:

VIRGINIA MUNICIPAL LEAGUE,
Richmond, Va., July 13, 1982.

Hon. JOHN WARNER,
U.S. Senate, Washington, D.C

DEAR SENATOR WARNER: We urge your opposition to two provisions of the Senate Finance Committee's tax package when it reaches the Senate Floor. These two provisions will increase the cost of long term borrowing for all local governments. The first is the provision which will affect the ability of commercial banks to deduct all of the interest they pay on loans to carry municipal bonds. The second is the provision which will tax tax-exempt municipal bonds when they are held by individuals making over a certain income.

These provisions will exacerbate an already critical problem localities are facing in the bond market as the cost of municipal bonds are beyond the reach of many local governments. We understand that Senator Long may be introducing an amendment to achieve this purpose. Your support of an amendment to delete these two provisions from this tax package will be greatly appreciated.

Thank you for your time and consideration of this important issue.

Sincerely,

RAYMOND RATCLIFF,
Mayor, Pulaski, Va.

CITY OF SUFFOLK, VIRGINIA,
Suffolk, Va., July 13, 1982.

Hon. JOHN W. WARNER, Jr.,
U.S. Senate,
Washington, D.C.

DEAR SENATOR WARNER: It has come to the City of Suffolk's attention that on July 1, 1982, the Senate Finance Committee reported a major tax bill which will adversely affect the municipal bond market. One of the most negative features of the tax bill for local governments is that it would impose a new minimum tax on individuals and corporations that for the first time would tax interest on municipal bonds. In addition, these new taxes would effectively raise municipal interest rates on general obligation, industrial development and mortgage revenue bonds to nearly the same levels as taxable bonds. Thus, the tax exemption for state and local bonds would be virtually eliminated. The City of Suffolk urges your strong opposition to such a measure.

This City, as I am sure is the case with other Virginia localities, has depended on municipal bonds as a vital financing alternative. These bonds have not only provided for needed capital improvements within our community, but have aided in the creation and expansion of commerical activities. Most importantly, municipal bonds have assisted in the development of new employment opportunities for the citizens of Suffolk and have protected current jobs in a time when unemployment has reached extraordinary levels. Without the tax exempt status for state and local bonds, the detrimental effects that would ensue would be disastrous; consequently, we urge you to support deleting state and local bonds from the minimum tax.

The City of Suffolk strongly opposes the Federal Government trying to resolve its financial ills at the expense of local governments by attempting to eliminate one of their most important financial options, the municipal bond market. Again, we respectfully request your support in maintaining the tax exempt status of municipal bonds for local governments.

Sincerely yours,

JOHN L. ROWE, Jr.,
City Manager.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I yield back my time. I believe I am about out of time.

The PRESIDING OFFICER. Does the Senator from New York yield back his time?

Mr. D'AMATO. Mr. President, I ask unanimous consent that the Senator from Wisconsin (Mr. KASTEN) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. D'AMATO. Mr. President, I also ask unanimous consent that the Senator from Illinois (Mr. DIXON), the Senator from Missouri (Mr. DANFORTH), and the Senator from South Carolina (Mr. THURMOND), and the Senator from Virginia (Mr. WARNER), be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from New York.

The amendment (UP No. 1144) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. D'AMATO. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. There is another amendment.

Mr. D'AMATO. Yes.

Mr. DOLE. On this one the Senator from Missouri wishes to be heard.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I ask unanimous consent that I may call up an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

UP AMENDMENT NO. 1145

(Purpose: To remove tax-exempt interest as an item of tax preference for individuals)

Mr. D'AMATO. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New York (Mr. D'AMATO) proposes an unprinted amendment numbered 1145.

Mr. D'AMATO. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 194, line 22, strike out "or (13)".

On page 197, line 5, strike out "paragraphs (1) and (13)" and insert in lieu thereof "paragraph (1)".

On page 199, line 24, insert "and" after the comma.

On page 201, line 3, strike out ", and" and insert in lieu thereof a period.

On page 201, strike out lines 4 through 13.

(The names of the following Senators were added as cosponsors of the amendment: Mr. THURMOND, Mr. MATTINGLY, Mr. PRESSLER, Mr. KASTEN, Mr. MELCHER, Mr. DIXON, Mr. STENNIS, Mr. ROTH, Mr. WEICKER, Mr. MURKOWSKI, Mrs. HAWKINS, and Mr. SPECTER.

Mr. D'AMATO. Mr. President, this amendment costs approximately $30 million.

The chairman of the Finance Committee and Senator LONG have agreed that this amendment is one that they will support.

The fact of the matter is that this amendment keeps all tax-exempt bonds tax exempt. They are treated equally. Individuals who purchase industrial bonds and mortgage subsidy bonds will not have to pay an additional premium. I believe that is as it should be.

In order to save time, I will answer any questions concerning my amendment. However this amendment has been the subject of intensive negotiations, and I wish to thank the chairman of the Finance Committee for his indispensable aid in a situation that needs rectifying. Additionally, Senator LONG has helped to bring this amendment to the floor. The passage of this amendment will insure equality of tax treatment with respect to tax exempt bonds. This is as it should be. I urge adoption of this amendment.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. DANFORTH. Mr. President, may I ask the chairman of my committee how much time I might be able to have.

Mr. DOLE. Mr. President, how much time is remaining?

The PRESIDING OFFICER. Nine minutes to each side.

Mr. DOLE. Five minutes.

Mr. DANFORTH. Five.

Mr. President, I will not be long in stating this. I will only say this, that this minimum tax provision was one of the key reform measures in this bill. It has now been substantially diluted by a deal which contravenes an existing arrangement and I was not part of the discussion.

The issue before us is not the taxation of industrial revenue bonds. The issue before us is whether a handful of wealthy individuals can so arrange their affairs so as to avoid paying any taxes at all.

Without this amendment anyone can buy an industrial revenue bond and have that bond not taxed. That is not the point.

The point is whether an individual who makes hundreds of thousands of dollars can so avail himself of an array of bonds, of tax shelters, of various gimmicks so that he pays nothing at all.

The minimum tax is an alternative tax. It does not apply to the first $40,000 of income at all, and then it is stepped up in two steps and it gets up to a maximum of $20,000. So it is aimed only at very wealthy people who pay none or virtually no taxes at all.

Mr. President, this is a antitax reform, antitax equity amendment. It does not protect the industrial revenue bonds.

Of all the industrial revenue bonds that are sold 75 percent are not even sold to individuals. They are sold to institutions. Of those that are sold to institutions it has been estimated by the Treasury Department that maybe 10 percent are sold to people who would be touched by the minimum tax at all.

So it does not help the industrial revenue bonds. That is a bogus issue. It is an amendment which substantially curtails a major reform measure in this bill.

Mr. CHAFEE. Mr. President, will the Senator yield me 1 minute?

Mr. DOLE. I yield 1 minute.

Mr. CHAFEE. Mr. President, this amendment really guts the minimum tax. We adopted the minimum tax as a reform so that everyone in the United States would pay some tax.

Now we opened a little loophole a little while ago when we adopted the Dodd amendment. Those who bought the municipal general obligation bonds had this loophole they could go through. Now we are widening it to a cavernous opening that would permit all IDB's to qualify and anyone who votes for this in effect is saying the rich can get away with paying no taxes. We have worked it out for you. This is a great big opportunity. We have backed away from our sense of reform that everyone would have to pay something.

I do hope we will reject this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, if I might say I never heard such an overstatement of a amendment that cost only $30 million. Why someone would think this is going to be a great tax loophole is beyond me. My gosh, the Senators know that is not so. We are talking about $30 million in revenues.

If a Senator wants to talk about driving trucks through loopholes then talk about establishing a flat tax system. Let us not go ahead and pander to the public by saying that this is the panacea for the rich. The fact of the matter is that it is not.

I did not come along and suggest we should make the interest on general municipal bonds taxable or not taxable. The Committee on Finance said we should eliminate part of their tax advantage. Then it was decided that the proposal would hurt municipal governments. I suggest that the same logic that says it is going to drive up the costs of municipal governments for general obligation bonds is the same logic that applies in the case of industrial revenue bonds and mortgage subsidy bonds.

I want to tell you something. I resent the idea that someone talks for the rich. I do not talk for the rich. Let us talk about real tax reform. Let us not look at this bill as being a panacea and remedying all the alleged loopholes in the IRS Code. This is not the time to attack programs that create jobs, these are very, very difficult times. This amendment helps create jobs, it is needed and equitable.

The PRESIDING OFFICER. Who yields time?

Mr. D'AMATO. Mr. President, I ask unanimous consent that Senators MELCHER, DIXON, and KASTEN be added as cosponsors.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. DANFORTH. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote or change their vote?

The result was announced—yeas 58, nays 39, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—58

Abdnor	Glenn	Murkowski
Andrews	Hatch	Nunn
Baker	Hawkins	Percy
Baucus	Heflin	Pressler
Bentsen	Helms	Pryor
Burdick	Hollings	Randolph
Byrd, Robert C.	Huddleston	Riegle
Cannon	Jackson	Roth
Cochran	Jepsen	Sasser
Cohen	Johnston	Schmitt
D'Amato	Kasten	Specter
DeConcini	Kennedy	Stafford
Denton	Laxalt	Stennis
Dixon	Leahy	Stevens
Dodd	Levin	Thurmond
Eagleton	Long	Tsongas
East	Matsunaga	Warner
Exon	Mattingly	Zorinsky
Ford	Melcher	
Garn	Mitchell	

NAYS—39

Armstrong	Domenici	Moynihan
Biden	Durenberger	Nickles
Boren	Gorton	Packwood
Boschwitz	Grassley	Pell
Bradley	Hart	Proxmire
Brady	Hatfield	Quayle
Bumpers	Hayakawa	Rudman
Byrd, Harry F., Jr.	Heinz	Sarbanes
	Humphrey	Simpson
Chafee	Kassebaum	Symms
Chiles	Lugar	Tower
Cranston	Mathias	Wallop
Danforth	McClure	
Dole	Metzenbaum	

NOT VOTING—3

Goldwater	Inouye	Weicker

So the amendment (UP No. 1145) was agreed to.

Mr. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1146

Mr. DURENBERGER. Mr. President, I send an unprinted amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota (Mr. DURENBERGER), for himself, Mr. DOLE, Mr. BOSCHWITZ, Mrs. KASSEBAUM, and Mr. ANDREWS, proposes an unprinted amendment numbered 1146.

Mr. DURENBERGER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 537, after line 13 insert

"(C) For purposes of subparagraph (B) an allocation shall be treated as made in good faith if—

(i) made in accordance with Treasury regulations or,

(ii) in the absence of such regulations, made by allocating 7 percent

of the gross receipts from each serving period among employees described in this paragraph who worked during such period in proportion to the hours worked by the employee during the serving period. For purposes of the preceding sentence, a serving period is, with respect to any day, a period of not more than 6 hours during which the same menu is offered."

Mr. DURENBERGER. Mr. President, this amendment addresses one of the principal problems with the language of section 316—a problem that many of my Minnesota constituents believe will produce an atmosphere of continuing conflict between employees and employers.

Section 316 mandates that when the percentage of gross receipts reported as tips falls below 7 percent, the employer must allocate the difference among his or her employees. On one of two basis:

First, an agreement between employees and employers, or

Second, in the absence of agreement, in the manner determined by such employer in good faith.

The problem is that this language provides absolutely no guidance on what constitutes "a manner determined * * * in good faith." The employer is forced to guess at his peril.

The amendment resolves that problem by creating a statutory standard which will be deemed to constitute a good faith apportionment. That standard is not exclusive;

The amendment expressly authorizes the Treasury to formulate additional regulations defining alternative apportionment mechanisms that will be deemed to constitute good faith.

The parties are still free to negotiate their own alternate system.

This amendment simply provides the parties with some basic guidelines on what will be deemed to constitute good faith guidelines that will protect them while further regulations are being developed.

The amendment is revenue neutral. I move its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I think it is a good amendment. I yield back the remainder of my time.

Mr. DURENBERGER. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Minnesota.

The amendment (UP No. 1146) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRYOR. Mr. President, I have a unanimous-consent request and I am hopeful that I will gain favorable consideration of this request.

Mr. President, I ask unanimous consent to proceed for 15 minutes to be evenly divided without this 15 minutes being charged to the bill.

Mr. GARN. Mr. President, reserving the right to object.

Mr. PRYOR. Mr. President, I would like to tell my colleagues that the amendment that is forthcoming, which I am offering with Senator KASTEN and others, is a very complex amendment. We have only, I think, some 13-to-14 minutes remaining.

I am very hopeful that we can acquire some 15 additional minutes to be utilized in the discussion of this amendment and perhaps inclusive of an amendment to be offered by the Senator from Montana (Mr. BAUCUS).

It is only 15 additional minutes. We are now in the 20th hour timeframe. I would beseech and hopefully receive the favorable attention and support of my colleagues in this 15-minute request.

Mr. GARN. Mr. President, reserving the right to object, in the 8 years I have been here, I have been in many late night sessions. This is the same old story we get involved in. We go through quorum calls not charged to either side all week long. We have quorum calls because Senators are not here to offer amendments. Somehow there is some magic in the middle of the night in getting up and making speeches that nobody is listening to, that the President does not care about, and nobody reads the CONGRESSIONAL RECORD at home.

The issues are well-defined. Somebody wants 15 minutes on this side and then that sparks an argument on that side, and somebody else wants 15 minutes. Until the time has expired, and I might change my mind——

Mr. SARBANES. Mr. President, will the Senator yield?

Mr. GARN. I object.

Mr. SARBANES. The quorum calls were charged against the time under the rules.

Mr. GARN. There were quorum calls all week not charged against either side.

Mr. SARBANES. But the quorum calls come out of the 20 hours.

Mr. GARN. There were unanimous-consent agreements all week long where quorum calls were not charged to either side. At this time, I object.

The PRESIDING OFFICER. Objection is heard.

UP AMENDMENT NO. 1147

(Purpose: To delete provisions relating to employer reporting with respect to tips)

Mr. PRYOR. Mr. President, I send an amendment to the desk and ask for its immediate consideration and, Mr. President, I ask for the yeas and nays.

THE PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. PRYOR), for himself, Mr. KASTEN, Mr. PRESSLER, Mr. DECONCINI, Mr. MITCHELL, Mr. INOUYE, Mr. HEFLIN, and Mr. DIXON, proposes an unprinted amendment numbered 1147.

Mr. PRYOR. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 535, beginning on line 9, strike all through page 538, line 19.

Mr. PRYOR. Mr. President, I am going to take a very few moments, because we only have a very few moments, in offering this particular amendment in behalf of myself, Mr. KASTEN, Mr. HEFLIN, Mr. DIXON, Mr. DECONCINI, and Mr. PRESSLER.

This amendment strikes section 316 of this Finance Committee bill. What is section 316? Many of us know; many of us do not. Frankly, up until 2 days ago, I did not. Since that time I have had the opportunity to talk to a number of people who are in the service business, who are in the restaurant business. I have talked to many people who operate small cafes and restaurants across the State of Arkansas.

Section 316 of the finance bill is a section which literally, I say to my colleagues, deputizes a posse of motel, restaurant, and cafe owners to become a national surveillance squad on waiters' and waitresses' tips. No, it does not only apply, as the title might indicate, to the Marriotts, the Hiltons, or the giant corporations of America. This section applies to any establishment with 10 employees or more. It applies to the mom and pop corner cafe. It applies to Fort Smith, Ark., as we discussed earlier, to Mother's Cafe.

Here is how section 316 works: Any restaurant in this country must take 7 percent of its gross sales and assume that the employees of that restaurant or motel or hotel have earned 7 perent of those gross sales in tips.

For example, an individual establishment takes in $100,000; 7 percent of this is $7,000. Ten employees. This would mean that the restaurant owner would furnish to the IRS a statement saying that John Jones, employee, had earned $700 in tips.

But what about Sue Smith, who is a part-time employee? This legislation does not address that particular problem.

We are creating, Mr. President, a bureaucratic monster. We are putting this monster on the backs of the small businesses of this country, and we are creating, in addition, an adversary relationship between the employer and the employee.

We are, second, driving out businesses by the thousands, small business people who simply do not have the sophistication in their operation to deal with this new burden which section 316 of this bill places upon them.

We pass antipaper legislation, we pass antiregulatory legislation, and then we come back the next month and we pass an additional piece of legislation. We come forward with more crippling legislation in this particular bill that is going not only to intimidate businesses but is going to mean that many small businesses simply cannot comply.

I would like to conclude, Mr. President, by saying that in this particular legislation we are considering tonight, and please if you remember nothing else that I say because my time has gone, we are imposing the possibility of criminal and civil sanctions on every restaurant owner, cafe owner, and motel owner in this country if they do not fairly allocate or estimate the gross earnings among the employees.

This particular section is a monstrous piece of legislation. In fact, I think it is the worst idea for collecting taxes that I have seen since I read the story 3 months ago about how the Internal Revenue Service was going to continue collecting our taxes once the nuclear bomb hit. They have a plan for that.

Mr. President, I will only conclude by saying this, and I apologize, that we are facing 200 bankruptcies a week in this country. If section 316 remains in this legislation, we are going to drive out additional businesses which represent, I think, the best of the free enterprise system.

I yield to a cosponsor, Mr. KASTEN.

Mr. KASTEN. Mr. President, this amendment is identical to the one I intended to offer. I am pleased to join with my friend and colleague Senator PRYOR as an original cosponsor, and I urge my fellow colleagues to join us in deleting section 316 from the bill.

Everyone agrees that taxpayer compliance in reporting tip income is a complex problem. But the tip reporting provisions of this bill were added at the last minute, during committee markup, without hearings, and no one seems to be able to explain how the requirements would work.

The bill states that restaurant and hotel owners or operators must provide the IRS with first, food and beverage sales totals, second, charge sales totals, and third, charge tip totals. The employer must then allocate 7 percent of the gross sales to each of his tipped employees after figuring the proportion of tips they have received.

The bill fails to answer such practical questions as: How do you make an accurate estimate of how much each employee receives in tips? You certainly cannot allocate the same percentage of gross sales to a waiter who served customers during an expensive banquet and to another waiter who worked a breakfast shift during a slow week day. Such factors as number of hours worked, type of shift worked, days of week worked, location of tables, and type of function served must be taken into account. This recordkeeping hassle would be complicated by the fact that many restaurant employees are part time or seasonal and tipping practices vary for different occasions.

What about the tip pooling and splitting arrangements that many waiters, busboys, and bartenders devise for themselves? Many food service workers are never directly tipped, yet they receive a significant portion of their income through these tip sharing arrangements. Under current law, any employee who receives $20 or more a month in tips is a tipped employee. And how does a restaurant owner handle the reporting requirement for the fellow who parks the cars, the hostess, the girl checking coats? This bill would force an employer to keep track of all the tip splitting and pooling transactions that take place in his restaurant every day of the year.

There is a misconception that this proposal is only directed at large restaurants. In fact, a restaurant with as few as 10 employees—that includes dishwashers, cooks, cashiers, and so forth—would have to comply with this tremendous new paperwork burden.

What this provision really does is put the restaurant owner or operator in an adversarial role with his employees. He becomes a kind of in-house IRS agent—checking up on his employees, calculating how much they make and, therefore, how much they owe—and if he does not comply, he faces a Federal penalty.

This incredible new burden on restaurants and hotels across the country—many of which are small, family operated enterprises—is not only ill-conceived, but unnecessary. Under current law, an employee who receives tips in excess of $20 a month must report all such tips in a monthly statement furnished to his employer. The employer must generally take these tips into account in determining the amount of tax to be withheld from the employee's wages. Employers are also required to retain charge receipts and employee tip statements to facilitate IRS audits. The way to solve the tip problem is to target larger establishments and conduct extended audits, using information which already exists.

It is difficult to justify a provision which would force small businesses to do the job the IRS should be doing itself. I urge my colleagues to join me in voting against this unworkable and

costly provision by voting to strike section 316 from the bill.

Mr. PRYOR. I yield to the Senator from Illinois.

Mr. DIXON. Mr. President, I call to the attention of my colleagues the tip-reporting provision of the tax bill we are now considering.

While a fair and equitable method of taxing tips is everyone's objective, the proposals contained in the tax bill before us will not accomplish this goal.

Employers with 10 or more employees would be required to furnish the IRS each employee's share of tip income of an amount equal to 7-percent of gross sales. The 7 percent amount would be allocated among tipped employees in proportion to their respective shares of all tips received by the employees of the establishment. The exact allocation for each employee would be made by either a mutual agreement of the employer and the employees or, in the absence of an agreement, by the determination of the employer.

Mr. President, it would be virtually impossible for an employer to fairly allocate a percentage of gross sales to an employee as tips. In the restaurant business, for example, some waiters and waitresses deal in a higher volume of sales than others. This is true of employees in most businesses, but "salesmanship" in the restaurant business is largely contingent on factors beyond the employee's control, such as hours worked, days of the week worked, type of work shift, table location, and types of dining occasions.

In order to be fair to all employees, Mr. President, an employer would have to consider a wide range of variables which are too elusive to judge with any degree of accuracy. In short, this provision would compel an employer to attribute income to his employees with little knowledge regarding the truth of his statement.

The other major objection I have to this approach on tips is that, at a time when we hear so much about cutting back on regulation of business, we should not by new legislation create an onerous burden on business. The workload and recordkeeping required by this tip-reporting provision would, Mr. President, impose an undue imposition on the affected industries.

The final result can only be increased costs, and a rise in overhead means consumers will be paying more for their meals and other expenses. Increased prices in this period of economic recession do not make sense, particularly when many of our restaurants and related businesses are closing their doors.

Taxes on tips may need attention, Mr. President, but, unfortunately, the provision before us is not the answer.

Mr. President, I support the position taken by my colleagues, the Senator from Arkansas and the Senator from Wisconsin.

As this evening closes, I think we ought to look at the bill we are voting on. This is the bill, this big book. The pages in question are four pages in this piece of legislation which says that this particular section will apply to large food or beverage establishments in the country. Then it defines further down as follows what is a large food or beverage establishment. Any restaurant which normally employs more than 10 employees on a typical business day.

I can tell you, Mr. President, that that applies to almost every mom and pop restaurant in America. This legislation further says that it shall be up to the employee and the employer to agree upon the percentage of the tips that each of the employees earns. But in the event that there is a disagreement, I want to read what the bill says. It says:

> In the absence of an agreement under subparagraph (a), the determination shall be made by the employer.

So, if an employer had a disagreement with one of his employees, it would be within the power of the employer to determine the amount of tips that the employee had earned.

Mr. President, I thought that this session of the Congress was devoted to taking the Government out of the business houses of America. I have never seen a piece of legislation in my entire career in the practice of law that did more to put Government into the individual small business house in America than section 316 of this bill. I certainly support the amendment offered by the Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent that the Senator from Montana (Mr. MELCHER) and the Senator from Nevada (Mr. CANNON) be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I yield to the Senator from Nevada.

Mr. CANNON. I thank the Senator.

Mr. President, the explanation indicates that the employers will continue to withhold only on amounts reported to them by their tipped employees. Would that not open up the possibility that the next step now would be a requirement that the employees withhold on the basis of that 7 percent, which is already used for computation purpose?

Mr. PRYOR. It is very conceivable, according to some people who have looked at this legislation, that we might possibly collect less tax because of the very problem that the Senator from Nevada has mentioned. I appreciate the question.

Mr. President, I ask unanimous consent that the Senator from Tennessee (Mr. SASSER) be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. I ask unanimous consent to add Senator ZORINSKY also, of Nebraska, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I support the amendment striking the tipping provision from the tax bill.

As chairman of the Business, Trade and Tourism Subcommittee of the Commerce Committee, I am cosponsoring this amendment because I am very concerned over the effects that the tipping provision would have on the tourism industry.

Senator INOUYE very rightly called this provision an administratve nightmare. The burden that would be placed on the tourism industry is simply too large.

Tourism is the second most important industry in my home State of South Dakota. In fact, even during these difficult economic times, South Dakota's tourism industry is having a good year.

Most of the fine businesses that bring visitors to South Dakota, and keep them coming back, are small businesses. These are the businesses that the IRS wants to burden.

In addition, it is important to note that the employees of these small South Dakota businesses are not highly paid. In fact, the vast majority of then make less than the minimum wage.

I think that the Treasury Department's contention that these low-paid workers are cheating the Government out of billions of dollars cannot be substantiated. To my knowledge, the IRS has no concrete figures to back up their claims.

If we want to increase taxpayer compliance, that is a commendable goal. However, we must do it in a fair and equitable manner. We should not single out one group of tipped employees, ignoring the doormen, bellhops, barbers, and so forth, who are also tipped employees. We must not strangle our small businesses with unnecessary redtape.

For these reasons, I ask my colleagues to join me in supporting the amendment to strike the tipping provision.

Mr. DOLE. Mr. President, the provision of the Finance Committee bill that was read by the Senator from Illinois has already been changed by the amendment of the Senator from Minnesota.

The 7-percent estimated tip rate would provide only a 50-percent compliance rate in many fancy restaurants. It is less than the tip rates that prevail in any region of the country.

Mr. President, this is a $2 billion amendment. That is, it reduces the revenue from the bill by $2 billion. As

everyone in this room knows, we do relatively little to improve compliance. The present tip compliance rate for tips is about 14 percent, a little higher than drug dealers and others who engage in other illegal activities.

Let us be fair about it. A lot of people work in restaurants and hotels and have their taxes withheld from wages. They pay their taxes. All we are trying to do is bring a little uniformity into taxpayer compliance patterns. We have told the unions and told the restaurants we are going to try to work any technical problems out in conference. We have tried to persuade others of that.

I yield briefly to the Senator from Missouri, who has a very telling letter on this subject.

Mr. DANFORTH. Mr. President, the Elms Hotel in Excelsior Springs, Mo., is historic in that that was where Harry Truman spent his election night in 1948. The general manager of the hotel wrote me as follows in April about the Taxpayer Compliance Improvement Act, which was much stiffer than what is in the bill before us. He said:

THE ELMS,
Excelsior Springs, Mo., April 16, 1982.

Senator JOHN C. DANFORTH,
Russell Senate Office Building,
Washington, D.C.

DEAR SENATOR DANFORTH: I just read your letter to Mr. Charles L. Jones, Executive Vice-President of Missouri's Hotel and Motel Association. I support the provisions of S. 2198 (Taxpayer Compliance Improvement Act of 1982) which would require employers to report charged tips paid to employees. My position is in direct opposition to the American Hotel and Motel Association of which I am a member. I feel that everyone employed should pay their fair share of taxes and I further believe that far less than 20 percent of tip income is reported on income tax returns.

I have discussed this issue with my bookkeeper and he assures me that S. 2198 would only increase his work effort 10 minutes daily. As a matter of fact we have been withholding taxes on charged tips for two months now. We also require our employees to record their cash tips on the back of their time cards and we withhold taxes on these tips.

Just thought you would like to know that some people in the hotel industry support your stand on this issue.

Sincerely,

KENNETH D. BELL,
General Manager.

Mr. BUMPERS. Will the Senator yield for a question?

Mr. DANFORTH. I am not managing the time and I am a little hesitant to use up Senator DOLE's time, since it is so limited.

Mr. BUMPERS. Mr. President, I can ask the question of anybody. The letter is a very magnanimous letter on Mr. Bell's part. But I notice he mentioned charged tips all the way through here. The thing Senator PRYOR is trying to get at does not deal with charged tips. I do not think anybody is questioning that.

Mr. BAKER. Mr. President, is all time expired?

The PRESIDING OFFICER. All time has expired.

Mr. BAKER. Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. PRYOR. Mr. President, may I make a request before that motion is made?

Mr. BAKER. Surely.

Mr. PRYOR. I would like to sincerely plead with the majority leader and the manager of the bill that this particular amendment not be tabled. I know I am asking a lot, but I know this amendment affects literally millions of people. I think it is one we need a clear-cut decision on. I am making that request respectfully to the majority leader, to have an up-or-down vote and not a tabling motion.

Mr. BAKER. Mr. President, I do not have any preference. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. PRYOR. I appreciate that response.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN (after having voted in the negative). Mr. President, on this vote I have a pair with the distinguished Senator from Hawaii (Mr. INOUYE). If he were present and voting, he would vote "aye." I have already voted "nay." I therefore withdraw my vote.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER), the Senator from Pennsylvania (Mr. HEINZ), and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 70, nays 25, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—70

Abdnor	Cranston	Heflin
Andrews	D'Amato	Helms
Baucus	DeConcini	Hollings
Bentsen	Dixon	Huddleston
Biden	Dodd	Humphrey
Boschwitz	Durenberger	Jackson
Bradley	Eagleton	Jepsen
Bumpers	East	Johnston
Burdick	Exon	Kassebaum
Byrd,	Ford	Kasten
Harry F., Jr.	Garn	Kennedy
Byrd, Robert C.	Glenn	Laxalt
Cannon	Hart	Leahy
Chiles	Hatch	Levin
Cochran	Hawkins	Long
Matsunaga	Pell	Specter
Mattingly	Pressler	Stafford
Melcher	Proxmire	Stennis
Metzenbaum	Pryor	Stevens
Mitchell	Randolph	Thurmond
Moynihan	Riegle	Tsongas
Murkowski	Sarbanes	Warner
Nickles	Sasser	Zorinsky
Nunn	Schmitt	

NAYS—25

Armstrong	Gorton	Quayle
Baker	Grassley	Roth
Brady	Hatfield	Rudman
Chafee	Hayakawa	Simpson
Cohen	Lugar	Symms
Danforth	Mathias	Tower
Denton	McClure	Wallop
Dole	Packwood	
Domenici	Percy	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Boren, against

NOT VOTING—4

Goldwater	Inouye
Heinz	Weicker

So Mr. PRYOR's amendment (UP No. 1147) was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, the Senator from New York wants to offer an amendment, and I guess he wants a voice vote.

Mr. MOYNIHAN. Yes.

The PRESIDING OFFICER. The Senator from New York.

UP AMENDMENT NO. 1148

Mr. MOYNIHAN. Mr. President, on behalf of myself; Mr. BAKER, the majority leader; and Mr. MATSUNAGA, I send to the desk an amendment which would modify the provision in the bill before the Senate having to do with section 936, which contains the tax provisions for Puerto Rico and other possessions of the United States.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York, for himself and Mr. BAKER, and Mr. MATSUNAGA, proposes an unprinted amendment numbered 1148.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

1. On page 261, change line 14 by inserting a period after the word "property," and by striking lines 15 through 22.

2. On page 266, add the following after line 16:

"(5) ELECTION OUT.—

(A) IN GENERAL.—The rules contained in paragraphs (1) through (4) do not apply for any taxable year if an election pursuant to subparagraph (D) is in effect to use one of the methods specified in subparagraph (C).

(B) ELIGIBILITY.—

(i) REQUIREMENT OF SIGNIFICANT BUSINESS PRESENCE.—An election may be made to use one of the methods specified in subparagraph (C) only if an electing corporation has a significant business presence in a possession. In addition, an election may remain in effect for any subsequent taxable year only if such electing corporation maintains a significant business presence in a possession. If an election is not in effect for a taxable year because of the peceding sentence, the electing corporation shall be deemed to have revoked the election.

(ii) DEFINITION.—For purposes of this subparagraph, an electing corporation has a "significant business presence" in a possession if

(I) the total conversion expenses incurred by the electing corporation in the possession in producing products, or rendering services, including compensation for labor, depreciation, and other allocable direct or indirect expenses as provided by regulations, are not less than 25 percent of the difference between (a) the gross receipts from services performed for unrelated persons, or from sales by the affiliated group to unrelated persons of the product produced, in whole or in part, by the electing corporation in the possession, and (b) the cost of materials purchased from unrelated persons, or

(II) substantially all of the manufacturing activity connected with a product is conducted in the possession, but the electing corporation still fails to meet the test specified in subparagraph (B)(ii)(I).

An electing corporation must satisfy either test separately with respect to each product area in which the electing corporation conducts its activities, and an election may be made only with respect to services or products within those product areas for which the significant business presence test is satisfied.

(iii) SPECIAL RULES.—An electing corporation which produces products or renders services in a possession on [date of enactment] must meet the significant business presence test in a possession for its first taxable year beginning after December 31, 1985. The Secretary shall prescribe regulations setting forth an appropriate significant business presence test for start-up years of other electing corporations, for the implementation of the test specified in subparagraph (B)(ii)(I) in cases where the product produced by the electing corporation does not have an independent resale price, and for other appropriate cases in a manner consistent with the tests specified in subparagraph (B)(ii).

(C) METHODS OF COMPUTATION OF TAXABLE INCOME.—If an election of one of the following methods is in effect pursuant to subparagraph (F), an electing corporation shall compute its income in accordance with whichever method is elected.

(i) COST SHARING.—

(I) AMOUNT OF COST SHARING.—If an election of this method is in effect, the electing corporation must bear a share of the amount of product area research for that taxable year which is incurred by the affiliated group of which the electing corporation is a member. Such share shall not be less than the same proportion of such product area research which the amount of "possession sales" bears to the amount of "total sales" of the affiliated group. The amount of product area research incurred solely by the electing corporation in a taxable year (including amounts paid under any bona fide cost sharing agreements with unrelated persons) will be offset against the amount of the electing corporation's cost sharing under this method for that year.

(a) PRODUCT AREA RESEARCH.—For purposes of this section, the term "product area research" includes (notwithstanding any provision to the contrary) the research, development and experimental costs, losses, expenses and other related deductions (including amounts incurred for the acquisition of research or similar items, or for the performance of research or similar activities by another person, and qualified research expenses within the meaning of section 44F(b)) which are properly apportioned or allocated to, and a ratable part of any such costs, losses, expenses, or other deductions which cannot definitely be allocated to, the same product area as that in which the electing corporation conducts its activities.

(b) AFFILIATED GROUP.—For purposes of this subsection, the term "affiliated group" shall be defined with reference to section 482.

(c) POSSESSION SALES.—For purposes of this section, the term "possession sales" means the sales for the year by members of the affiliated group of which the electing corporation is a member of products produced, in whole or in part, by the electing corporation in the possession which are in the same product area as is used for determining the amount of product area research, and of services rendered in the possession in such product area to unrelated persons.

(d) TOTAL SALES.—For purposes of this section, the term "total sales" means the total sales for the year by members of the affiliated group of which the electing corporation is a member of all products in the same product area as is used for determining the amount of product area research, and of services rendered in such product area, to unrelated persons.

(e) PRODUCT AREA.—For purposes of this section, the term "product area" shall be defined by reference to the three-digit classification of the Standard Industrial Classification code. The Secretary may provide for the aggregation of two or more three-digit classifications where appropriate, and for a classification system other than the Standard Industrial Classification code in appropriate cases.

(II) EFFECT OF ELECTION.—Solely for purposes of determining the amount of its gross income for a taxable year, if an election of this method is in effect, the electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property described in subsection (h)(3)(B)(i) which has been transferred to such electing corporation pursuant to applicable legal requirements and which is related to the products produced by the electing corporation. Such electing corporation shall not be treated as the owner (for purposes of obtaining a return thereon) of any intangible property described in subsection (h)(3)(B)(ii) through (v) or similar items. Notwithstanding the preceding sentence, an electing corporation shall be treated as the owner (for purposes of obtaining a return thereon) of intangible property which was developed and is owned solely by such corporation in a possession, intangible property described in subsection (h)(3)(B)(i) acquired from unrelated persons, and any intangible property described in subsection (h)(3)(B)(ii) through (v) or similar items which relate to sales of products or services rendered to unrelated persons for ultimate consumption in the possession in which the electing corporation conducts its trade or business.

(iii) SPECIAL RULES.—

(a) The amount of the cost sharing determined under subparagraph (C)(i)(I) shall reduce the amount of the deductions otherwise allowable to the appropriate domestic member or members (other than an electing corporation) of the affiliated group of which the electing corporation is a member, or, if there are no such domestic members, to a foreign member of such affiliated group as the Secretary may provide under regulations.

(b) An electing corporation computing its taxable income under this method shall not be denied use of the resale price method for purposes of inter-company pricing under section 482 merely because the reseller adds more than an insubstantial amount to the value of the product by the use of intangible property.

(c) The amount of qualified research expenses, within the meaning of section 44F, of any member of the controlled group of corporations (as defined in section 44F(f)) of which the electing corporation is a member shall not be affected by the amount of cost sharing required under this method.

(ii) PROFIT SPLIT.—

(I) GENERAL RULE.—If an election of this method is in effect, the electing corporation's taxable income shall be equal to 50 percent of the combined taxable income of the affiliated group of which the electing corporation is a member derived as a result of the sale by the affiliated group to unrelated persons or foreign affiliates of products produced or services rendered, in whole or in part, by the electing corporation in a possession.

(II) COMPUTATION OF COMBINED TAXABLE INCOME.—Combined taxable income shall be computed separately for each product produced or type of service rendered, in whole or in part, by the electing corporation in a possession. Combined taxable income shall be computed (notwithstanding any provision to the contrary) by deducting all expenses, losses, and other deductions properly apportioned or allocated to such sales, and a ratable part of all expenses, losses, or other deductions which cannot definitely be allocated thereto, which are incurred by the affiliated group. In computing the combined taxable income, the amount of the share of product area research described in subparagraph (C)(i) shall be taken as a deduction instead of the actual amount of research, development, and experimental costs, expenses, and related deductions for the taxable year which would otherwise be deductible.

(III) DIVISION OF COMBINED TAXABLE INCOME.—The electing corporation shall be entitled to 50 percent of the combined taxable income computed in the manner provided in subparagraph (C)(ii)(II). The remainder of the combined taxable income, computed without regard to the last sentence of subparagraph (C)(ii)(II), shall be allocated to the appropriate domestic member or members (other than an electing corporation) of the affiliated group of which the electing corporation is a member, or, if there are no such domestic members, to a foreign member of such affiliated group as the Secretary may provide under regulations.

(D) UNRELATED PERSON.—For purposes of this paragraph, the term "unrelated person" means any person other than a person related within the meaning of paragraph (3)(D) to the electing corporation.

(E) ELECTING CORPORATION.—For purposes of this subsection, the term "electing corpo-

ration" shall mean a domestic corporation for which an election under this section is in effect.

(F) WHEN AND HOW MADE.—

(i) IN GENERAL.—An election under subparagraph (A) to use one of the methods under subparagraph (C) shall be made with the tax return of the electing corporation for the first taxable year beginning after December 31, 1982. If an election of one of such methods is made, such method must be used for each taxable year thereafter until such election is revoked by the electing corporation under subparagraph (F)(iii). If any such election is revoked by the electing corporation under subparagraph (F)(iii), such electing corporation may make a subsequent election under subparagraph (A) only with the consent of the Secretary.

(ii) MANNER OF MAKING ELECTION.—An election under subparagraph (A) to use one of the methods under subparagraph (C) may be made in such a manner as the Secretary shall prescribe by regulations.

(iii) REVOCATIONS.—An election may be revoked for any taxable year—

(I) beginning before the expiration of the year described in subsection (e)(2)(A) only with the consent of the Secretary, and

(II) beginning after the expiration of the year described in subsection (e)(2)(B) without the consent of the Secretary.

(iv) AGGREGATION.—All electing corporations in the same affiliated group producing products in the same product area must elect to compute their taxable income under the same method. In addition, all members of such affiliated group must consent to an election.

(G) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection.

3. On page 271, add the following after line 11:

"(4) ELECTION OUT.—The rules contained in section 936(h)(5) shall be applicable to a domestic corporation which is described in subsection (e)(1)(A). For purposes of applying section 936(h)(5) to such a corporation, the words "Virgin Islands" shall be subsituted for the word "possession."

4. On page 259:

a. On line 2, strike "90" and insert "65".

b. Amend line 20 to read as follows:

be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60.".

5. On page 266, line 22 strike "90" and insert "65".

6. On page 271, amend line 15 to read as follows:

age shall be substituted for "65 percent":

"For taxable years beginning in calendar year:	The percentage is:
1983	55
1984	60.".

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the name of Mr. STEVENS be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN. Mr. President, may we have order?

Mr. DOLE. Mr. President, I have assured the Senator from New York and the Senator from Tennessee that we are going to do the best we can for Puerto Rico in the conference. They have a real problem, and I pledge to do the best we can. I hope we defeat this amendment on a voice vote. I know that Senator LONG and other conferees are concerned about this, and I think we can probably work it out.

Mr. MOYNIHAN. Mr. President, the chairman of the Finance Committee has repeated his concern in this matter before, and we take it with absolute confidence.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1148) was rejected.

UP AMENDMENT NO. 1149

(Purpose: Modifying the lessor and lessee caps for safe-harbor leasing)

Mr. BAUCUS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Montana (Mr. BAUCUS), for himself and Mr. BUMPERS, Mr. SASSER, Mr. ARMSTRONG, and Mr. EAGLETON, proposes an unprinted amendment numbered 1149.

Mr. BAUCUS. Mr. President, I ask unanimous consent that reading of the amendment to dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 229, line 16, strike out "by more than 50 percent".

On page 229, lines 22 and 23, strike out "by more than 52 percent".

On page 229, beginning with line 24, strike out all through page 230, line 17.

On page 235, beginning with "but" on line 9, strike out all through page 236, line 14, and insert in lieu thereof a period.

On page 241, line 15, strike out "45" and insert in lieu thereof "0".

On page 241, line 16, strike out "40" and insert in lieu thereof "0".

On page 243, beginning with ", but" on line 7 strike out all through "property" on page 243, line 11

Mr. BAUCUS. Mr. President, this amendment is a grand opportunity to make up the revenue we lost on the last amendment.

The PRESIDING OFFICER. Unfortunately, the Senator is out of order. All time has expired.

Mr. BAUCUS. Mr. President, I ask the indulgence of the majority leader, and ask for 10 minutes on the amendment, to be equally divided.

Mr. DOLE. Mr. President, I ask unanimous consent that we might have 10 minutes, equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. I object.

The PRESIDING OFFICER. Objection is heard.

The question is on agreeing to the amendment.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I understand how Senators feel about this. It is very late. But I hope we will provide some time for debate on this amendment.

I ask unanimous consent that there be 8 minutes, equally divided, for debate on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. Mr. President, reserving the right to object, I ask if there are any other amendments that are going to be called up.

Mr. DOLE. Mr. President, there is an amendment by the distinguished Senator from South Dakota, an amendment by the distinguished Senator from Ohio, perhaps one by the distinguished Senator from Tennessee, and one by the Senator from Colorado. Some of these will take about 1 minute. There is one by the Senator from Missouri. The Senator from Kansas will have to have enough to pick up $3 billion.

Mr. BAKER. Mr. President, I renew my request. I ask unanimous consent that there be 8 minutes—4 minutes to a side—on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. Reserving the right to object, are there time agreements on the other amendments, Mr. President?

The PRESIDING OFFICER. All time has expired.

Mr. BOSCHWITZ. Can we obtain time agreements on the other amendments?

The PRESIDING OFFICER. That would be up to the majority leader and the will of the Senate.

Mr. BAKER. Mr. President, I modify the request to be 4 minutes, equally divided, 2 minutes on a side.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The Senator from Montana.

Mr. BAUCUS. Mr. President, on behalf of myself and Senators BUMPERS, ARMSTRONG, EAGLETON, and SASSER, I send an amendment to the desk and ask for its immediate consideration.

THE AMENDMENT

Mr. President, our amendment would repeal safe harbor leasing. Our amendment would end the trading of tax benefits as of July 1, 1982. Our amendment does not change the transition rules in the committee bill. Nor does it affect the special provisions provided for mass transit.

Our amendment would raise an additional $2.2 billion between 1983 and 1985—$0.3 billion in 1983, $0.7 billion in 1984, and $1.2 billion in 1985. Earli-

er JTC estimates show an even greater revenue effect: $5.6 billion over the next 3 years. But much more than revenue is at stake here. Much more. What is at stake is public trust in the tax system and, hence, in the ability of Government itself to govern fairly and justly.

INTRODUCTION

Anyone who has read a newspaper this month knows that these are the times of taxpayer disgust. To an overwhelming majority of Americans the Tax Code is too complex. It is impossible to understand.

Mr. President, none of us should be surprised that Americans increasingly perceive our tax laws as unfair.

The Tax Code is littered with a hodgepodge of subsidies, loopholes, deductions, credits, and misguided trickle-down economic programs.

From a total of 50 in 1967, tax loopholes—or tax expenditures or preferences, as they are sometimes called—now number 104. From $36 billion in 1967, tax loopholes now cost $270 billion—an increase of 750 percent. Left untouched, these tax loopholes are estimated to cost $450 billion in 1987.

Tax loopholes now equal nearly one-third of the Federal budget.

Who benefits from these loopholes or tax expenditures?

The 3 out of 10 Americans who itemize there tax returns.

The popularity of flat tax is proof that Americans are fed up with the Tax Code. They think it is unfair. And they think the rich are using it to get richer, while the average taxpayer gets poorer.

Tax leasing is just one of the exemptions, credits, and deductions that fill the Tax Code. But it has become symbolic of the code's unfairness.

Our tax system is akin to a time bomb ready to explode and safe harbor leasing is its fuse.

We can act today—not in 1985—to dampen that fuse.

We can act today—not in 1985—to restore some public confidence in the fairness of our tax laws.

We can act today—not in 1985—to reduce the deficit further and to thereby lower interest rates.

We can act by repealing outright one of the most outrageous tax loopholes ever devised.

WHAT IS SAFE HARBOR LEASING

Safe harbor leasing was little more than a footnote to the so-called Economic Recovery Tax Act (ERTA). But it has become the symbol of a tax loophole gone wild.

Safe harbor leasing is not leasing at all. It merely is a way for corporations to buy and sell unused tax credits and deductions. Technically, it permits a firm with little or no tax liability to finance its purchase of property by calling the financing arrangement a lease. The resulting sale transfers two tax breaks to the paper lessor: The first is an investment tax credit that represents a direct subsidy from other taxpayers. The second is a rapid tax depreciation which creates an interest-free loan from the Treasury.

Trading tax benefits, via leasing, gives profitable corporations who would otherwise pay their fair share of income taxes total relief from such tax liability. For example, one highly profitable company—General Electric—collected a $150 million refund from the Treasury for past year's taxes thanks to safe harbor leasing. And without leasing, GE would have paid $250 million in taxes.

Tax leasing is, in reality, a gimmick. It provides an artificial means of transferring the benefits of artificial depreciation—and artificial revenue.

This is the first opportunity to change safe harbor leasing. The Finance Committee recognized that there are problems. But its bill only goes part way toward correcting the situation.

THE FINANCE COMMITTEE BILL

The committee bill limits the ACRS and interest deductions and the investment credits that may be claimed by the lessor; limits the amount of the lessee's property that may be leased; limits the amount that the lessor may reduce its tax liability through safe harbor leasing; and limits the length of the lease term. The Finance Committee bill severely restricts the use of tax leasing by profitable companies and eliminates its use by multinational corporations. Finally, the Finance Committee bill sunsets leasing in 1985.

But the Finance Committee bill does not go far enough soon enough. That is why I am proposing complete repeal.

TAX LEASING IS INEFFICIENT

Safe harbor leasing permits transactions only to avoid taxes.

That is outrageously inefficient.

The function of a safe harbor lease is to sell tax benefits that cannot be used by one company to another company that has a tax liability. Such a transaction involves hordes of attorneys, accountants, and financial magicians.

According to a Joint Tax Committee staff analysis, nearly $140 million in fees—or 2 percent of the transaction benefits—went to the third parties who arranged leases prior to February 20, 1982. According to the same analysis, the "efficiency" of safe harbor leasing transactions was about 75 percent. In other words, the amounts received by the seller/lessees—who where the intended beneficiaries—was 25 percent less than if they had received a direct check from the Treasury.

Safe harbor leasing is inefficient in another way. It misallocates scarce capital. While the intended beneficiaries of leasing are large capital-intensive companies that are in trouble, tax leasing also subsidizes large capital-intensive companies which are not in trouble. In fact, it also benefits large, profitable companies that are not in trouble and that are not capital-intensive.

Mr. President, it has never been thought necessary to guarantee a business that it will not suffer a true economic loss. yet, safe harbor leasing does exactly that.

LEASING AND SMALL BUSINESS

Those who feast at the table of tax-break sales are mostly large industrial corporations. A few scraps can find their way to small businesses, but the scraps are hardly worth the cost of the meal.

The cost of the meal is an increased Federal deficit, which increases the Government's need to compete for credit. That, in turn, adds pressure to keep interest rates high and to make it more difficult for small businesses to get credit.

Mr. President, safe harbor leasing has failed miserably to help small business. Yet small firms—now experiencing record bankruptcies—are the traditional backbone of the American economy. Small businesses produce 8 out of 10 new jobs, 35 percent of GNP, and most of the technology innovations that benefit all of us.

Mr. President, repeal of safe harbor leasing is strongly supported by the National Federation of Independent Businesses. This is further supported by the American Business Conference who represent medium-size high-growth companies. They have stated that leasing inhibits the flow of capital from dwindling industries to high-growth efficient businesses. There is no better testimony, I submit, to the effect of leasing on small businesses than their endorsement of repeal.

CONCLUSION

As we consider revenue measures that will eventually touch every American, I ask my colleagues support in the interest of equity and fairness to end tax benefit trading.

Arguments in support of leasing are extremely weak. The companies who have lobbied hardest for leasing want to retain these subsidies to offset poor business decisions made before enactment of safe harbor. For example, nearly all of the aircraft currently being subsidized by leasing were ordered before 1981. The aircraft industry is suffering from excessive capacity brought about by poor business decisions made after the Airline Deregulation Act of 1978. We can not unfairly bail out these companies with tax subsidies while letting the free market system decide the business fortunes of others.

If we intend to move toward more fairness in the tax system, subsidies like leasing must be repealed. If we intend to encourage American busi-

ness and specifically small business, the record budget deficits which are contributing significantly to the sustained high interest rates choking the American economy must be reduced.

Capital is scarce and expensive. Safe-harbor leasing does nothing to help while increasing the Treasury's demand for borrowed capital.

It is incredulous to expect average taxpayers to comply with our voluntary tax system when they see large corporations trading tax benefits. I believe Amercian taxpayers find this activity repugnant. I know I do.

For these reasons, Mr. President, I urge my colleagues to support this amendment to end safe harbor leasing.

Mr. ROBERT C. BYRD. Mr. President, I rise in opposition to the amendment that would repeal the safe harbor leasing provisions enacted in 1981. This provision of the Economic Recovery Tax Act has been an effective means for some of the industries hardest hit by this severe recession—steel, mining, automobiles—to raise badly needed capital.

My concern is for the future economic health of those basic industries, which employ many thousands of West Virginians. For industries that are laying off workers, cutting production dramatically, and closing plants, the safe harbor leasing provisions are essential. Without some form of safe harbor leasing, the industries that I have mentioned would be largely unable to utilize the tax incentives contained in the 1981 law. These incentives include the investment tax credit and the accelerated cost recovery system. The fundamental purposes of such incentives is to help create broad-based growth opportunities in our economy and to serve as a stimulus for the creation of jobs. In short, these are provisions designed to increase the productivity of our industries.

It is a matter of equity that the productivity-oriented tax reductions be available to all industries, not just a lucky few. The safe harbor leasing provisions help assure that the economic incentives in the 1981 tax law are available to a broad range of American's industrial firms.

The mining industry and the steel industry have both used the safe harbor leasing provisions extensively. These industries both require enormous amounts of capital investment to create new facilities or to modernize existing plant and equipment. At the same time, both industries have been devastated by sustained high interest rates—a condition which has made borrowing to satisfy their capital needs prohibitively expensive. The result has been large-scale layoffs and plant and mine closings.

For the steel and mining industries, safe harbor leasing represents an innovative means of capital formation. It represents a chance to raise capital to modernize facilities. Most important, it provides a jobs-financing mechanism for these industries. For the thousands of miners and steelworkers who are laid off right now in West Virginia, repeal of this provision would be a step in the wrong direction.

The bill reported by the Finance Committee is likely to be a negative force on capital formation in our economy. To avoid making this bill an even bigger drag on the economy, I urge my colleagues to reject the amendment.

REPEAL SAFE HARBOR LEASING

Mr. SASSER. Mr. President, I rise in support of the Bumpers-Baucus-Armstrong amendment to repeal the safe harbor leasing provisions of Economic Recovery Tax Act which was passed last year. These provisions, which have been surrounded by controversy since their inclusion in the tax bill, allow corporations with unused tax breaks to, in effect, sell them to other businesses that can use them.

Almost half of American companies have no taxable income though most of these are profitable. They pay no tax as a result of existing tax credits and deductions. Leasing was added to last year's bill by the administration when it became concerned that these businesses would have no incentive to increase their capital spending even given the bill's generous accelerated depreciation provisions.

Conservation estimates of the cost of this provision run to some $29 billion over the next 5 years.

Now, it is well and good to offer incentives to business to encourage their expansion. It is especially wise to offer incentives to the productive and efficient small businesses of this Nation to encourage their critical role as job creator and innovator. I supported last year's tax bill in part because it contained certain small business tax breaks that I felt were greatly needed.

I question, however, the retention of the costly leasing provision at a time when we are faced with projections of record, $100 billion plus, budget deficits. The risks posed by such deficits, and their effect on interest rates are too great.

In addition, the use of leasing by giant corporations making tremendous profits calls the equity of our tax structure into question. For example, Occidental, a profitable oil company, recently sold the tax benefits of some $95 million in investments. Because Occidental showed losses on its U.S. operations it was unable to use these tax breaks even though it made millions in profits on its foreign operations.

At a time when the taxes of hard-working individuals are characterized by steady increases, it is not fair to allow billion dollar businesses to reap such tax windfalls as the safe harbor leasing provisions allow.

It is also not fair to allow big firm benefits while small firms, already disproportinately burdened by high-interest rates and a stagnant economy, are effectively excluded. According to a story in the February 8, 1982, Wall Street Journal: "Small businesses don't get anywhere near the tax benefits big companies receive from the safe harbor leasing provisions of the Economic Recovery Tax Act of 1981."

Mr. President, small business constituents of mine tell me that for the most part they cannot take advantage of leasing. In fact, the law specifically prohibits small, closely held corporations from taking advantage of leasing by operation of the at-risk rules.

And every one of the small business people that I have talked to about leasing raised the problem of its impact of budget deficits.

When you are forced to pay 2 or 3 points over the prime interest rate for your operating capital, you quickly learn about those things that have an impact on interest rates. And budget deficits are among those things that affect the interest rates a small business pays.

There is simply no place for multi-million-dollar tax breaks to multibillion-dollar profitable corporations at a time of record deficits, record interest rates, and record small business failures.

I urge my colleagues to vote in favor of this amendment.

Also, Mr. President, I ask unanimous consent that a letter and factsheet sent to me by Mike McKevitt, director of Federal legislation for the National Federation of Independent Business, which is opposed to tax leasing, be inserted into the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

NATIONAL FEDERATION OF INDEPENDENT BUSINESS,
Washington, D.C. April 22, 1982.

Hon. JAMES R. SASSER,
U.S. Senate,
Washington, D.C.

DEAR JIM: NFIB member firms support repeal of the safe harbor leasing provisions of the Economic Recovery Tax Act of 1981. These provisions not only discriminate against smaller, non-capital intensive firms, but the vast majority of the small business community has been purposefully prevented from using them by IRS regulations. In a February, 1982 poll of our 520,000 small business owner-members, NFIB discovered that 63% of the firms polled thought these tax breaks for unprofitable businesses should be repealed only, 27% favored retaining them, while 10% were undecided.

In a period of huge federal budget deficits and devastatingly high interest rates it is disingenuous in the extreme to argue that the safe harbor leasing provisions of the ERTA hold the key to economic recovery. Of immensely greater importance, to a much large segment of the business community, would be dramatically reducing proposed deficit levels, allowing interest rates

to come down, while keeping the lid on inflation.

Just as with many of our nation's well intentioned social welfare programs, this business welfare program is too expensive and, in fact, counterproductive. Take the money for this big business give-away and reduce the deficit—your main street small business owners will thank you.

I've enclosed a short analysis for you on this issue, if I can provide you with further information don't hesitate to call me.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director, Federal Legislation.

Enclosure.

SMALL BUSINESS AND SAFE HARBOR LEASING

The safe harbor leasing section of the Economic Recovery Tax Act of 1981 (ERTA) has caused extensive debate and concern over its economic impact. Insofar as small business is concerned the debate has centered around whether the economic benefits of leasing are being distributed evenly within the business community.

The practice of leasing equipment or the sale and leaseback of equipment has been enjoyed by businesses for some time. Through its rulings, IRS has maintained several tight restrictions on such deals to insure that there is an economic justification to the transaction and to insure that the motives for entering into the lease were not primarily the reduction of tax liability. The safe harbor leasing section in ERTA removed these IRS rules, allowing firms, in most cases, to buy or sell investment tax credits and depreciation deductions openly to insure the lowest tax liability to the buyer and seller.

ERTA's safe harbor leasing provisions did, however, impose certain restrictions to prevent the tax benefits from being transferred to individuals. The practical effect of this was to exclude most small businesses from being lessors, or buyers, of the tax credits. The restrictions state that a lessor must be a corporation, other than a subchapter S corporation or a closely held corporation, and must have a minimum at risk investment in the equipment. The majority of small firms are not corporations, and those that are mostly fall into the category of closely held corporations. Therefore, the restrictions generally preclude small firms from such investment transactions.

It is on the lessee's, or seller's side that what benefits there are to small firms seem to have been provided. Small firms, in fact any firm, can sell its unusable tax credits and depreciation deductions if it can find a buyer, negotiate the legal and tax aspects of the transaction, afford the legal and accounting fees, and lastly, even afford to purchase equipment in the first place. To even the casual observer, the legal and technical obstacles would seem somewhat beyond the scope and capabilities of an average small business owner.

However, notwithstanding the difficulties involved in arranging a lease transaction, some small firms might be able to recognize benefits from utilizing the safe harbor leasing rules, especially if they are new firms or are unprofitable in the year of the investment. For new firms, the reason is that such firms usually have no taxable profits in early years, forcing them to carry over net operating losses and unused investment tax credits. However, because of the time value of money, these carried-over benefits lose value, making the ability to sell them in the year of investment a financially attractive prospect.

As beneficial as this might appear to be, NFIB members view such a tax benefit as a direct government subsidy to unprofitable firms. For this reason, 63 percent of NFIB's membership voted against retention of safe harbor leasing in a recent Mandate poll.

The Treasury Department has analyzed the utilization of the safe harbor leasing rules as reported on IRS form 6793. The data, as of this date, has not been analyzed by size of firm, but Treasury has been requested to provide such data. Nevertheless, preliminary comments about small business utilization can be made from the available information.

Out of 16,036 leases which were entered into, 8,870 represented leases with property valued at less than $100,000. The total value of all leases in this category were $224 million. However, the value of all leases were $19.332 billion, so just 1.2 percent of the total of all leases were of the $100,000 or less size. The next category of leases values was $100,000 to $1 million, which represented only 5.4 percent of the total value of all leases.

With this pattern of utilization in dollars, it is all too clear that the large dollar transactions comprised the bulk of all leases. Furthermore, since it is common for large numbers of multiple purchases of smaller value to take place, it is quite possible that many of the smaller purchases were made by larger firms.

Recent news articles confirm that the major beneficiaries of the leasing rules are the larger multi-national conglomerates, for whom safe harbor leasing has been a true windfall. Many large firms have been able to wipe out large tax liabilities, some as high as $400 million for 1981.

It is argued, by some, that if leasing is repealed, the sorely needed economic recovery will not materialize. Closer to the truth is that economic recovery will not materialize if the deficit and interest rates remain at their current levels. Lower interest rates will help vastly more businessmen and individuals than the few thousand firms benefiting from safe harbor leasing.

Mr. GRASSLEY. While I do not favor my able colleague from Montana's amendment, since I was a party to the Finance Committee compromise, I will support Senator DURENBERGER. Nevertheless, the Senator from Montana has raised some good points which I would like to elaborate upon.

An issue of particular concern to my constituents who are involved in the purchase of agricultural equipment has been the tax treatment of leases. One of the greatest benefits to these constituents in the safe harbor leasing provision was the elimination of the requirement that a farmer purchase an asset at the end of the lease term for fair market value. Safe harbor leasing enabled buyers and sellers to set a fixed purchase price option when the contract was negotiated, enabling the seller to offer the buyer better terms. Not only was the availability of a fixed purchase price option term advantageous because it enabled the farmer and the seller to construct an economically efficient transaction, it also provided the farmer-purchaser with a greater degree of certainty.

In the late 1970's, there was a heavy demand for farm equipment. A farmer who purchased equipment in the early 1970's on a 5-year lease would find that at the expiration of the lease term the fair market value of that same tractor was greater than the original purchase. Remembering this recent lesson, many farmers are reticent to engage in a lease transaction unless they are given the certainty of a fixed price purchase option. Hence, the effect of repealing safe harbor leasing is to greatly diminish sales of agricultural implements.

As a party to the leasing compromise I was unaware that the phasing out of safe harbor leasing would have such a dramatic impact on agricultural equipment purchases. While the agricultural implement market will function well after 1985 when the fixed purchase price option will be law and safe harbor will be totally phased out, until 1985 the sale of agricultural equipment may be very difficult. This unfortunate result flows from the fact the current compromise language precludes any lessee from purchasing more than 45 percent of his equipment annually under the safe harbor provisions. It is not uncommon for a farmer's major purchase for any taxable year to be an agricultural implement ranging from $50,000 to $175,000 in price. Because only 45 percent of the property that a farmer may purchase can be covered by a safe harbor lease, if a farmer acquires only one piece of equipment in a taxable year, only a portion of that acquisition can be leased to a farmer with a fixed purchase price option. If the fixed purchase price option is removed, a lease transaction is a more expensive way of acquiring agricultural equipment than the outright purchase of the equipment financed with a 17.9-percent interest rate. The current agricultural recession is well publicized. Very few of my constituents can afford to purchase farm equipment at an 18-percent interest rate; therefore, it is likely that very few farmers will buy new equipment and unemployment in this industry, like Deere & Co., International Harvester, and J. I. Case will remain high. The plight of farm implement manufacturers and their dealership networks is well documented. This unfortunate change in the tax law may only hasten the demise of many fine firms and their dealers.

This committee compromise virtually eliminates any beneficial effect of leasing for most of my constituents until 1985. I urge all of my colleagues to adopt a provision which provides some relief to those farmers throughout the Nation who are feeling the effects of the current recession. These are not the individuals who are engaging in the well-publicized tax benefit transfers. They are farmers who need

the certainty the fixed purchase price option provides in planning for their businesses in these uncertain economic times. I ask your support for the compromise before us which permits the acquisition of up to $150,000 in farm implements in a leasing transaction, using the fixed purchase price option.●

● Mr. CHAFEE. Mr. President, I want to express a concern that the new restrictions on safe harbor leasing may discourage U.S. corporations from repatriating overseas earnings and reinvesting them in the United States. I do not believe it was the intention of the Finance Committee that such an effect should occur.

A major employer in my State, for example, has foreign operations from which it repatriates a substantial amount of its foreign profits each year—more than 50 percent, in fact. That revenue is then invested in Rhode Island to upgrade plant and equipment, to create more jobs and more competitive products. Last year, 30 percent of this firm's domestic capital expenditures were financed with foreign earnings.

Because the company is bringing home overseas profits, it is entitled to a foreign tax credit. The foreign tax credit is a longstanding principle in our tax laws. However, changes in the safe harbor leasing provisions of H.R. 4961 will require a firm to calculate its foreign tax credit based on taxable income without regard to any safe harbor lease transaction it may have entered.

While the purpose of the leasing changes is to prevent abuses, this particular provision appears to restrict the ability to use foreign tax credits and, thereby, discourages the repatriation of foreign earnings to be invested in the United States.

It is my hope that this unintended problem can be resolved during conference between the Senate and the House on H.R. 4691. I know the chairman of the Finance Committee is aware of the situation, and I would be happy to work on it with him at the appropriate time.●

Several Senators addressed the Chair.

Mr. LONG. Mr. President, I yield myself 2 minutes in opposition.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Mr. LONG. Mr. President, the committee has tightened up enormously in the area of safe harbor leasing, so much so that what the committee agreed to was agreed to by a vote of 20 to 0 with Mr. BAUCUS voting "aye." What we have in the bill has already been enormously tightened. To do what the Senator is asking for amounts to putting an enormous tax on failing companies who are having a very difficult time making it in the midst of a cruel recession. It amounts to voting many of them out of business.

We have tightened up so much that a great number of people cannot use the leasing provisions at all. To go beyond that is actually voting to destroy a great number of companies that deserve a chance under the existing rule.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. DOLE. Mr. President, I yield the remainder of my time to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent to address the Senate for 1 minute.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. I object.

Mr. ARMSTRONG. Mr. President, I ask unanimous consent to address the Senate on the subject of safe harbor leasing for 45 seconds.

Mr. BOSCHWITZ. Mr. President, I object.

The PRESIDING OFFICER. The Senator has 45 seconds remaining.

Mr. DOLE. I yield the remainder of my time to the Senator from Colorado.

Mr. ARMSTRONG. Mr. President, I thank the Senator for yielding.

I rise in support of the amendment which the Senator from Montana has offered and briefly can summarize the reasons why it should be adopted.

Testimony before the Finance Committee persuades me that first safe harbor leasing has been significantly abused; subsidizes unprofitable investment; discriminates against small businesses and startup businesses relying on used equipment; distorts the neutrality of tax laws; diverts investment toward depreciable assets and away from such vitally necessary investments as new and patentable technology, research, and energy exploration; promises to be a huge budget buster in later years; is an inefficient use of capital.

Mr. President, this amendment, if adopted, will just about put the tax bill back on target with reconciliation needs in light of the other amendments adopted.

For all of these reasons I urge adoption of the amendment.

SAFE HARBOR LEASING

Mr. President, to the unitiated, safe harbor leasing—new to the American vocabulary—may invoke visions of a rented yacht anchored restfully on placid waters.

Far from it. Safe harbor leasing is far and away the most stormy tax issue of the day. Originating from last year's tax cut law, safe harbor leasing refers to provisions removing all previous restraints on corporate equipment leasing transactions. It permits cash-starved corporations to sell their unused tax credits to other firms needing tax deductions to reduce their tax liability. The stakes are incredibly high. Safe harbor leasing could affect as much as $150 billion in new plant and equipment purchases over the next 6 years, and $30 billion in Federal revenue.

Without safe harbor, some firms will cancel huge equipment purchases, and others may be forced into bankruptcy. But retaining safe harbor will certainly disadvantage some firms, possibly also to the point of bankruptcy.

With so much at stake, the battle lines were drawn soon after Congress enacted safe harbor a year ago. The pitched battle is between those who believe safe harbor is the only lifeline keeping the auto, steel, airline, and other economically distressed industries in business and those who argue that safe harbor is nothing more than corporate food stamps.

The battle came to a head last week during Finance Committee action on the Tax Equity and Fiscal Responsibility Act of 1982. The result is a compromise which eliminates the most objectionable features of safe harbor leasing.

But the reform does not repeal safe harbor outright and therefore falls short of what should be done. Like many in Congress, I share the conclusion of Dr. Alan Greenspan, once Chairman of the President's Council on Economic Advisers, that this leasing "is the equivalent of food stamps for undernourished corporations."

Safe harbor leasing should be repealed. Safe harbor:

Has been significantly abused;

Subsidizes unprofitable investments;

Discriminates against small businesses, and startup businesses relying on used equipment;

Distorts the neutrality of tax laws;

Diverts investment toward depreciable assets, and away from such vitally necessary investments as new and patentable technology, research, and energy exploration;

Promises to be a huge buster in later years;

Is an inefficient use of capital;

Undermines taxpayer confidence in the fairness and equity of the tax system; and

Undermines more promising and efficient efforts to assist American business—large and small—to prosper, flourish and remain profitable.

To understand fully why safe harbor leasing merits repeal requires a review of past and present tax policy and theory, as well as grasping the future consequence of safe harbor leasing. Equally important is the transformation in public opinion about private enterprise, and how safe harbor undermines the currently healthy American attitude toward profitable businesses.

Private business is now basking in new found public popularity. Americans now believe in the necessity of capital formation, thrift, productivity, and profit. This is reflective in public opinion polls, skyrocketing enrollment in college business schools, and union wage concessions that improve the bottom line.

It has not always been that way. The 1970's saw public attitudes about successful enterprises sour. "Capitalistic pigs," "price gougers" and "obscene profits" were the popular catch words. An antibusiness attitude emerged in the Nation and was reflected in Congress. Americans elected policymakers advocating wage, price, and credit controls, punitive tax rates, heavy Government regulation of business, enforced corporate social responsibility, Government job creation programs, and other nonsensical endeavors.

This antibusiness attitude—and its attendant laws, regulations and judicial findings—took its toll. Government regulation eroded profitability, to the point where Chrysler Corp.—one of the companies who now look to safe-harbor leases to generate desperately needed cash—spends $160 million monthly in regulation compliance. Profits as a percent of the gross national product nosedived 50 percent in the a decade. Key indicators of the Nation's economic vitality faltered. Plant modernization was deferred, productivity slipped, patented technology declined, the stock market stagnated, bankruptcies proliferated while taxes and inflation eroded company profits and worker paychecks.

But public opinion began to change when the antibusiness policies led to the inevitable result of fewer jobs, inability to compete against foreign firms and a decline in modernization and productivity. A new appreciation for the business world began to emerge. Belatedly, Congress realized that new economic policies were needed to get business moving again.

President Reagan reflected this conviction, and last year persuaded Congress to enact his economic recovery tax program. It cut individual and business taxes across the board, and provided economic incentives for new plant and equipment purchases.

But that plan as amended by Congress went too far. Congress sanctioned a near panic effort to assist, at almost any cost, large businesses regardless of their profitability. Just as the congressional pendulum once swung too far against the interests of business, it now swings too far in the direction of bailing out big business. A backlash is in the works and could undermine the healthy new respect for enterprise, ingenuity and profit. This backlash will be triggered by such recent headlines as "Attempt To Cut Poor Firms' Taxes Allow Rich Ones To Pay No Taxes" and "The Great Business Giveaway" and "New Tax Game the Big Guys Play."

Headlines, like appearances, are often deceiving. Corporate America does not consist of wholesale tax evaders. But like any other taxpayer, corporations have the right, even the duty, to do all they legally can to minimize their tax liability.

That is exactly what large American businesses are doing with safe harbor leasing. They are exploiting—in ways not contemplated by Congress—overly generous and misguided leasing provisions.

In essence, safe harbor is a tax transfer mechanism, pure and simple. Safe harbor allows corporations to sell their unused tax credits to other firms that need tax deductions to reduce their corporate tax liability. Safe harbor leasing is a true bonanza for big business. Consider the following:

General Electric used safe-harbor leases so effectively that it received a tax refund of $150 million, even though it had income of $1.65 billion. GE strongly supports repeal of safe harbor, saying it simply cannot be justified.

Amoco, Inc. bought $417 million in safe-harbor leases, and cut its taxes substantially while reducing wildcat exploration 20 percent because of a "tax induced capital shortage."

Occidental Petroleum had total earnings of $710 million, but paid no taxes in part because safe-harbor leases preserved foreign tax credits it had received for oil payments made in part to Libya.

The New York Transit Authority—even though tax-exempt—used safe-harbor leasing last year because of a special exemption written into law. The leases were used to buy foreign manufactured subway cars. The middlemen received a tidy profit, $1 million on the total $15 million transaction.

These are the horror stories showing the consequences of safe harbor leasing. But these are only part of the story. Safe harbor is big business. Since August, $17.4 billion in equipment has been leased under the new rules, and the transfer of unused tax benefits reduced Federal revenue by $4 billion. By 1987, the total revenue loss could easily exceed $30 billion on leases worth $150 billion.

I want to stress that I do not criticize these companies or any others which have taken advantage of the safe-harbor leasing provisions. They are perfectly justified in doing so. Every taxpayer is required to fully comply with provisions of law which are to the taxpayer's disadvantage and has, in my opinion, a corresponding right to fully utilize favorable Tax Code sections. What I do criticize is the law itself.

But political perception, horror stories and sheer volume alone are not enough to justify repeal of safe harbor leasing. What is safe harbor leasing, how does it work and can the tax principle it represents be justified?

BACKGROUND ON THE LAW PRIOR TO SAFE HARBOR LEASING

Only taxpaying property owners can claim depreciation deductions and investment credits. Companies that pay no taxes may not claim these tax benefits.

As a result, nontaxable companies rent equipment from taxable companies that can benefit from tax deductions and credits. This produces lower taxes for the company owning the property, and lower rental fees for the company leasing the equipment. Equipment leasing is a major means of providing equipment users with capital equipment. In 1981 alone, $40 billion in capital equipment was leased.

But there is a potential tax abuse in these leasing arrangements, and it depends on whether a particular arrangement is actually a lease, or merely a case of the nominal owner just financing the equipment that is used and essentially owned by the company paying no taxes. If the IRS determines that the arrangement is truly a lease, then the lessee can deduct the rental payments as a business deduction, and the lessor can deduct the depreciation and claim investment tax credits. If the arrangement is merely a financing transaction and the lessee is the true owner of the property, then only he can deduct the depreciation and claim investment tax credits.

The determination of a lease often is done on a case-by-case basis relying on three past IRS rulings. Essentially, five requirements must be met that insure the lessor has an equity investment in the lease, will profit from the lease independent of the tax benefits and that the lessee does have a direct financial investment interest in the leased property.

REASONS FOR CHANGE

Under the old law, corporations losing money (and, therefore, paying no taxes) could not fully benefit from depreciation deductions. These unused deductions only added to existing operating losses.

The new tax law changed depreciation schedules by permitting firms faster tax write-offs—known as accelerated depreciation, or ACRS—of equipment purchases. The new ACRS schedule benefits profitable firms by reducing their taxes and, thus, increases working capital for more business expansion. At the same time, however, ACRS does not help unprofitable or marginally profitable firms which cannot take advantage of accelerated depreciation. To help such firms, Congress enacted safe harbor leasing.

SAFE HARBOR LEASING

In tax theory, a safe harbor means that a tax benefit will be granted without challenge if the taxpayer applying for the benefit meets specified requirements. This taxpayer has sailed into a "safe harbor."

Last year's tax bill provided a safe harbor for determining whether a transaction was a lease or a financing arrangement. To qualify for the safe harbor, five easily satisfied conditions had to be met. The conditions are so loose that virtually any leasing transaction qualifies as a lease, regardless of who owned what property for what purpose under what terms. For example, the new law permits a lessor to receive the tax benefits associated with equipment ownership even though he may not in fact actually own the equipment.

The bottom line is this: Safe harbor repeals what had been a fundamental principle or tax law. Formerly the substance of a transaction rather than its form determined Federal income tax treatment. It also used to be a basic rule of tax law that a transaction must serve some general business purpose aside from merely reducing taxes. Because leasing is a transferability provision, many of the transactions will have no business purpose other than tax reduction. In other words, safe harbor permits a corporation unable to use its tax deductions and credits to sell them to a corporation that can, even though property never changes hands and no new business investment occurs.

Consider the following hypothetical example: Seller Corp. cannot use the tax benefits associated with a $10 million equipment purchase. It sells the tax benefits (ACRS deductions and investment tax credits) to Buyer Corp. for $2 million cash plus a 9-year note for $8 million. Buyer Corp. then leases the equipment back to Seller Corp. with lease payments equal to the note payments. Thus, no cash changes hands after the initial transaction. After 9 years, Seller Corp. purchases the equipment for as little as $1. The Seller Corp. retains titled ownership to the equipment, so all that really changes hands is tax benefits for upfront cash.

In this example, who got what? Buyer Corp. received a $1 million investment tax credit and a 5-year write-off of the equipment under ACRS. Seller Corp. gets $10 million in equipment for $8 million. The reduction in equipment cost is actually provided by the U.S. Treasury, and ultimately the American taxpayer, yet no actual new business investment actually occurred.

The question comes down to this: Should other taxpaying Americans (who earn an average of $19,000) have his tax money foot the tax bill to help some large corporation reduce its tax liability through a paper transaction of absolutely no economic substance?

In my judgment, the answer is, no.

This is not idle or abstract tax theory. Safe harbor adversely affects real-world business decisions.

The classic example of this exists in the airline industry. Some airlines seek to use cash made available through safe harbor leasing to help buy new fuel efficient, modern, quiet, safer planes. Undoubtedly these equipment purchases will create new jobs in airplane manufacturing companies, and make the industry more competitive. But other airline companies point out that the industry is already plagued by excess seat capacity, and the last thing the industry needs is more planes. These firms also rely on used planes that do not qualify for safe harbor leases. So, in essence, with enactment of safe harbor leasing, Congress has said it favors one company over another in this economically distressed industry, and that it favors large businesses over smaller, newer firms.

That should not be Government's role.

Safe harbor leasing advocates argue that leasing is the principal means by which ACRS benefits are distributed evenhandedly and efficiently between profitable and unprofitable companies, that safe-harbor is not a radical new departure from the old law, that the press has distorted the impact of safe-harbor leasing and that safe-harbor does not prop up inefficient companies.

These and other arguments simply do not hold water, in my opinion. Here is why safe harbor leasing should be repealed.

SAFE HARBOR HAS BEEN ABUSED

The cases cited earlier—GE, Amoco, Occidental Petroleum and others—reflect the significant potential for abuse of safe harbor.

SAFE HARBOR LEASING SUBSIDIZES UNPROFITABLE INVESTMENTS

Dr. Alan Greenspan equates leasing with food stamps for undernourished corporations. The reality is even harsher than that because leasing causes corporations to misallocate their resources for purely tax-induced reasons.

Even worse, leasing permits a corporation that pays no tax to receive the cash value of its investment tax credits and depreciation deductions.

Incredible though it may seem, six corporate supporters of safe harbor leasing testified before the House Ways and Means Committee that they would rather see leasing maintained than the corporate income tax repealed.

SAFE HARBOR SKEWS INVESTMENT TOWARD DEPRECIABLE ASSETS

Safe harbor does not apply either to intangible drilling costs or other intangible assets. Therefore, leasing makes investment in plant and equipment more attractive than drilling for oil, or investment in research and development.

SAFE HARBOR DISTORTS THE NEUTRALITY OF THE TAX LAW

The goal of tax policy is to equalize the cost of capital for all businesses. Yet leasing permits nontaxable companies to sell their tax benefits, and pay a far lower effective tax rate than their taxable competitors.

SAFE HARBOR LEASING IS UNAVAILABLE TO SMALL BUSINESSES

To quote Mike McKevitt of the National Federation of Independent Business:

Just as with many of our Nation's well intentioned social welfare programs, this big business welfare program is too expensive, and in fact, counterproductive. Take this money . . . and reduce the deficit . . .

SAFE HARBOR LEASING DISTORTS PROFITS

Because cash received in safe harbor leases is treated as gain, a shareholder will be misled as to corporate profitability from operations. In fact, some lease brokers report that the only reason some major transactions are being done is to provide a "kick" to earnings.

SAFE HARBOR LEASING WILL BE EXPANDED IF NOT REPEALED

Because leasing violates so many fundamental tax principles, it will be impossible to limit its application. For example, efforts are already underway in Congress to extend safe harbor leasing to tax-exempt institutions, municipal fire departments and to cove intangible drilling costs.

SAFE HARBOR LEASING UNDERMINES PUBLIC CONFIDENCE IN THE TAX SYSTEM

To quote the Joint Tax Committee's "Analysis of Safe Harbor Leasing":

A fundamental principle of U.S. tax policy has been that the tax system should be structured so as to appear to be as fair as possible. Studies show that voluntary compliance with the tax laws declines rapidly to the extent people believe the tax system to be inequitable. . . In the months after its enactment, the safe harbor leasing provisions appear to have been the subject of widespread public perceptions of unfairness, perceptions which could be injurious to a tax system based on voluntary compliance.

SAFE HARBOR REPEALS FUNDAMENTAL PRINCIPLES OF TAX LAW

A safe harbor lease does not have to have any economic substance as a lease. It is a paper transaction, a mere transfer of benefits. It used to be that a lease had to show a positive cash flow as well as profit, and the lessor had to actually own the equipment as well as have a minimum investment in the property. Safe harbor leasing repealed these sensible rules.

For all of these reasons and more, Congress should repeal safe harbor leasing.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DURENBERGER. Mr. President, this vote is really a test of where we place our priorities. Yes, it may be possible to score a few political points with a few people by playing politics with leasing. But at whose expense?

At the expense of the 10,000 aerospace workers whose jobs depend on orders that cannot be built without safe-harbor leasing as a financing mechanism?

At the expense of this Nation's basic industries like rail, steel, and automobiles, industries whose ability to invest and modernize swing so heavily on continuation of leasing?

At the expense of farmers and farm equipment dealers, who have used safe harbor to finance farm investments when the recession and falling farm income took away cash flow?

There are three points, Mr. President, that every Senator should bear in mind when voting on this amendment.

First, it is essential to bear in mind that the language in this bill eliminates each and every one of the loopholes that led to abuse of safe-harbor leasing over the past 6 months.

The original law was hastily drafted, and frankly, poorly drafted. Companies like General Electric and Occidental Petroleum found loopholes in the law and crawled through them. But the language Senator DOLE and I incorporated in this bill closes all of those loopholes:

It takes companies like Occidental, whose foreign tax credits would shelter leasing benefits, out of the leasing market.

It closes the notorious "General Electric" loophole by preventing any company from carrying back acquired tax benefits to prior years.

It puts firm limitations on the degree to which any company—lessor or lessee—may participate in safe-harbor leasing.

There are numerous additional changes, and I will not take the Senate's time to reiterate each one in detail. But the real measure of their impact lies in the dollars they save. And the Joint Tax Committee confirms that by closing these loopholes, the bill saves at least $7.3 billion over the next 3 years.

Second, Mr. President, while we review what the compromise does it is essential to recognize what it does not do. By preserving the essence of safe-harbor leasing—without the loopholes—the amendment does not return us to the old "leverage-leasing system," which provided huge windfalls for the big leasing companies and lawyers and accountants, and such meager returns for the basic industries we are trying to help.

Contrary to popular belief, the use of leasing as a tax-transfer mechanism did not originate with the safe-harbor provisions in ERTA. They started in 1962 with I.T.C. On the contrary, tax transfers were at the heart of the conventional leverage-leasing transactions that took place with regularity prior to the adoption of safe harbor. The problem was that under the complex rules governing leverage leasing, all the "leverage" in the transaction belonged to the leasing company. As a result, the leasing companies were able to retain a disproportionate share of the tax benefits, with a disproportionately small share passing through to the lessee. The safe-harbor rules were constructed to change this balance of power in favor of the lessee, and by any reasonable criteria they have accomplished that objective.

Treasury's audit of 1981 tax returns reveals that under safe-harbor leasing, an average of 84 percent of the tax benefits passed through to the lessee. Under the leverage leasing system, the percentage rarely exceeded 40 or 50 percent.

Safe harbor leasing also simplifies these transactions tremendously, cutting down the expense for lawyers, accountants, and other middlemen. United Airlines recently observed that under the old leverage leasing law, its airplane leases ran an average of 292 pages in length. Under safe harbor, these leases average 17 pages.

Treasury's audit established that middlemen costs for safe harbor leases have averaged about 1 percent of the tax benefits—a decrease of up to 500 percent from the middlemen rakeoffs under the old leverage leases. You know as well as I do that it is not the leasing company who pays these expenses, and the greater efficiencies that come with safe harbor have enabled farmers, farm equipment dealers, and other small businesses to gain the benefits of leasing to a degree that would be impossible under the old law.

There should not be any confusion in any Senator's mind about who wins and who loses if we pass this amendment, repeal safe harbor leasing, and go back to the old leverage leasing law. You just have to look out in the hallway and see who is lobbying for safe harbor, and who is lobbying for repeal. Who has been fighting for reform and retain safe harbor? Steel companies, automobile companies, farmers, mass transit authorities and other lessees. Who has been lobbying for repeal and return to leverage leasing? General Electric and the other big leasing companies.

General Electric Credit was the biggest profiteer under the old leverage leasing law. GE fought hard to prevent the passage of safe harbor. When it did pass, GE was the biggest abuser of the new laws loopholes—a tactic apparently designed to fill the GE coffers while assuring that the new law would be repealed. And now GE has been the loudest voice calling for repealing safe harbor and return to the old leverage leasing system—a system that would once again mean windfall profits and near monopoly for—you guessed it—General Electric Credit.

Mr. President, I do not believe that Congress proper role is to insure large profits for leasing companies. By restoring a system that halves the lessees returns and quadruples the rakeoff to legal and accounting middlemen. And that is exactly what you are going to get if Congress votes today to repeal the Durenberger-Dole compromise. This vote presents a remarkably clear choice between the interests of the large leasing companies and the interests of the basic industries, the farmers, and the steel and auto workers this law was designed to benefit.

I am voting with the lessees, Mr. President, and I urge every one of my colleagues to do the same.

Finally, it is essential to recognize that for all its problems, safe-harbor leasing has done a tremendous amount of good. Audits at Boeing and McDonnel-Douglas show that safe-harbor leasing has been directly responsible for preserving more than 10,000 jobs in the aerospace industry alone. Although precise figures are not available, the impact on steel and autmobiles has certainly been comparable.

Safe harbor is facilitating more than $500 million in investments to modernize the Nation's steel facilities and a nearly equal investment in the essential modernization of our automobile production facilities at Ford, Chrysler, and American Motors.

Safe harbor has also cited as the singlemost important factor in keeping the Nation's farm equipment dealers in business through this recession.

In what I believe was an excellent editorial last April, the Minneapolis Tribune describes safe-harbor leasing as a good law with a bad image. The test we face today is whether the U.S. Senate is willing to consider this kind of issue on its image or on its merits. The Finance Committee has gone a long, long way to cure this image problem by adopting an amendment which closes the loopholes which produced it. And any Senator who thinks this body can improve its public image by giving General Electric what it wants and returning to the old leverage leasing system is badly mistaken. The right vote on this amendment is no.

Mr. RIEGLE. Mr. President, I strongly believe that we should maintain the basic provisions of safe harbor leasing and the accelerated cost recovery system enacted last year to stimulate business investment. Not only have these provisions encouraged the growth of many new businesses, they

have also meant millions of dollars in reinvestment aid to ailing Michigan industries.

The situation in my State is critical. Michigan has the highest unemployment rate in the country. I cannot envision any substantial improvement in the near future if the Congress strips distressed industries of the only incentive they were given in last year's Economic Recovery Tax Act.

The automobile industry desperately needs the capital to improve its products and increase productivity in order to meet foreign competition. Because the industry is at the low point of its economic cycle, investment tax credits and the ACRS incentives are useless to most auto manufacturers. Safe harbor leasing has given them the incentive to invest, and it has done so in a practical manner.

For example, Ford Motor Co.'s 1981 expenditure for facilities and tooling in the United States amounted to slightly more than $1 billion. Spending levels in 1982 will be substantially higher. Ford received $153 million in safe harbor leasing revenue in 1981. Without the benefits of safe harbor leasing, Ford might have had to close more plants and lay off more workers to reduce overhead. Chrysler Corp. and American Motors Corp. also gained urgently needed capital through safe harbor transactions. And not only do these automakers benefit, but their suppliers, severely hurt by the automobile industry's depressed condition, reap some of the rewards as well.

I support proposals to place limitations on the percentage of total tax liability for which a firm may use the safe harbor leasing provision. No profitable firm should be allowed to use the provision to completely offset its tax liability. We must make certain, however, that the safe harbor leasing rules remain available to companies who could otherwise utilize the new depreciation rules.

Safe harbor leasing is equitable tax policy. It creates no new tax credits or deductions. It eliminates the need for companies presently in need of cash for new equipment and retooling of products to merge with profitable corporations in order to survive. And most importantly, it will help to bolster our national economy and put Americans back to work.

Mr. LEVIN. Mr. President, I rise to oppose the amendment offered by my good friends from Arkansas and Montana.

The safe harbor leasing provisions of last year's tax bill are not a work of art. They are, however, a roundabout procedure for achieving an essential goal. These provisions permit an unprofitable company to sell tax benefits generated by a new investment to a profitable company that can utilize the tax benefits. Then the unprofitable company can invest the money from the sale of these benefits in new plants and equipment.

The safe harbor leasing provisions can stand some improvement, and the Finance Committee's version goes in the direction of taking care of the abuses. For example, the committee version will allow a buyer of tax deductions and credits to eliminate not more than half of its tax liability as a result of safe harbor leasing. This provision is important if leasing is to avoid being classified in the public's mind as a tax boondoggle.

But we must distinguish between the need for reform and the stampede to repeal. Safe harbor leasing taken as a whole has primarily benefited the distressed industries in need of retooling to improve their productivity. I know that in my State of Michigan, the automobile industry has been able to utilize the leasing provisions to make new investments in equipment which would have been impossible under the leasing rules which were in effect prior to last year's tax bill. In a study by Arthur Anderson and Co. released earlier this year, it was found that most of the companies which sold their tax deductions and credits were in the distressed industry category.

Therefore, the remedy for the problems with safe harbor leasing is not outright repeal. Repeal would frustrate the basic goal of last year's business tax reduction by saying that those firms which are most in need of incentives for capital investment will be unable to take any advantage whatsoever of those incentives. Repeal would lessen the possibility that some businesses in this country would be able to accumulate the capital necessary to improve their productivity and compete effectively with foreign producers. Finally, repeal would cost jobs among businesses and industries which are already reeling under the pressure of high interest rates.

So, the Senate must be careful not to rush to totally repeal safe harbor leasing in an effort to achieve some symbolic, victory over tax loopholes for business. I urge my colleagues to consider the real, and not only the symbolic, consequences of their acts. If businesses starving for capital are unable to make new investments, that is not a real victory. If businesses on the edge of solvency are forced to close their doors, that is not a real victory. And if people on the assembly line are forced to go on the unemployment line, that is not a real victory.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Montana.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 31, nays 66, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—31

Armstrong	Ford	Proxmire
Baucus	Hart	Pryor
Biden	Hatfield	Quayle
Boren	Helms	Roth
Bumpers	Hollings	Sarbanes
Byrd, Harry F., Jr.	Leahy	Sasser
	Lugar	Simpson
Cranston	Metzenbaum	Stennis
Denton	Nickles	Stevens
Dodd	Nunn	Tsongas
Eagleton	Pell	

NAYS—66

Abdnor	Exon	Matsunaga
Andrews	Garn	Mattingly
Baker	Glenn	McClure
Bentsen	Gorton	Melcher
Boschwitz	Grassley	Mitchell
Bradley	Hatch	Moynihan
Brady	Hawkins	Murkowski
Burdick	Hayakawa	Packwood
Byrd, Robert C.	Heflin	Percy
Cannon	Heinz	Pressler
Chafee	Huddleston	Randolph
Chiles	Humphrey	Riegle
Cochran	Jackson	Rudman
Cohen	Jepsen	Schmitt
D'Amato	Johnston	Specter
Danforth	Kassebaum	Stafford
DeConcini	Kasten	Symms
Dixon	Kennedy	Thurmond
Dole	Laxalt	Tower
Domenici	Levin	Wallop
Durenberger	Long	Warner
East	Mathias	Zorinsky

NOT VOTING—3

Goldwater	Inouye	Weicker

So the amendment (UP No. 1149) was rejected.

Mr. DURENBERGER. Mr. President, I move to reconsider the vote by which the Baucus amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1150

Mr. DANFORTH. Mr. President, on behalf of myself and Senator PERCY, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. BOSCHWITZ. Mr. President, point of order. Is there any time left to consider amendments?

The PRESIDING OFFICER. The Senator from Minnesota has made a point of order. There is no time for debate. However, Senators may call up their amendments. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri (Mr. DANFORTH), for himself and Mr. PERCY, proposes an unprinted amendment numbered 1150.

Mr. DANFORTH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DANFORTH. Mr. President, this amendment relates to the so-called——

The PRESIDING OFFICER. There is no time for debate.

Mr. DANFORTH. Parliamentary inquiry. It is my understanding that there was a unanimous-consent agreement for 2 minutes to a side to explain what the amendments were.

The PRESIDING OFFICER. The Senator is not correct.

Mr. DANFORTH. Mr. President, I ask unanimous consent to proceed for 1 minute to explain this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. ROBERT C. BYRD. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk proceeded to read the amendment.

The PRESIDING OFFICER. The Senate is not in order. Please remain quiet so we may hear the clerks report.

Mr. BOSCHWITZ. Mr. President, I withdraw my objection.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request that the amendment be read.

The amendment is as follows:

After line 12, page 292 insert "Such amendments shall also not apply to distributions made pursuant to a plan of partial liquidation adopted before July 1, 1982; distributions made pursuant to a plan of partial liquidation adopted before October 1, 1982, where control (within the meaning of section 368(c) of the Internal Revenue Code of 1954) was acquired after December 31, 1980, and before July 1, 1982, and the conduct of the business by the distributee is conditioned on approval by a State regulatory authority; and distributions made pursuant to a plan of partial liquidation adopted within 90 days after the acquisition is approved by a Federal regulatory agency where control (as so defined) is acquired after July 1, 1982, pursuant to a binding contract outstanding on December 31, 1980; distributions made pursuant to a plan of liquidation adopted before October 1, 1982, where control (as so defined) was acquired after December 31, 1981, and before July 1, 1982.

Mr. DANFORTH. Mr. President, this amendment, offered on behalf of myself and Senator Percy, pertains to the so-called transitional rules relating to mergers and acquisitions. It has to do with when the merger and acquisition section comes into play where some transactions were substantially completed or in the major stages at the time the Finance Committee considered this bill.

Mr. METZENBAUM. Will the Senator from Missouri assure the Members of this body that this amendment will not affect the pending Gulf-Cities Service merger?

Mr. DANFORTH. Yes, I will.

Mr. President, present law treatment will apply to any distributions pursuant to a plan of partial liquidation adopted by July 1, 1982.

Present law would also apply to distributions in any case where the control of the distributing corporation was acquired between January 1, 1981, and June 30, 1982, and the conduct by the distributee of the business to be acquired in the distribution is subject to approval by a State regulatory agency. Present law will apply to this case only if a plan of partial liquidation is adopted by October 1, 1982.

Present law would also continue to apply in any case where control is acquired after July 1, 1982, pursuant to a binding contract outstanding on December 31, 1980, if completion of the acquisition is subject to approval by a Federal regulatory agency and a plan of partial liquidation is adopted within 90 days after final approval is granted.

Present law would also apply where control was acquired during the first 6 months of 1982 and a plan of liquidation is adopted before October 1, 1982.

Mr. PERCY. Mr. President, I ask unanimous consent that a letter I sent to Senator DOLE, dated July 21, 1982, be printed in the RECORD that would explain the nature of this amendment.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 21, 1982.

HON. ROBERT DOLE,
U.S. Senate,
Washington, D.C.

DEAR BOB: Beatrice Foods Co. has brought to my attention a particular problem it has with the section of partial liquidation of the merger and acquisition provisions of the pending tax bill.

On January 13, 1982, Beatrice purchased all of the stock of several of the subsidiaries of Northwest Industries for $580 million. This acquisition met with the approval of Northwest Industries. It was not a "hostile" takeover. At the time of agreement, the transaction was structured to allow for future partial or complete liquidation. Unfortunately, Beatrice appears to be caught by the transition rules proposed by the Finance Committee. Though Beatrice relied on the law in effect on January 13, they appear to be penalized by being forced to complete their liquidation and distribution by August 31. Such a rapid liquidation, without adequate time for appraisal, could prove very costly to the company.

Beatrice suggests a revised transition rule which would permit acquisitions made within a reasonable period before the Senate Finance Committee acted to complete the transaction in an orderly manner by adopting a plan of partial liquidation within two years of the date of the acquisition and completing distribution under that plan no later than July 1, 1984. This period of time roughly parallels the time the same company would have had under existing law to adopt a plan of complete liquidation.

I believe this provides equity for those who relied on present law but does not reopen the partial liquidation provision to those who made no such reliance.

Warm personal regards,

CHARLES H. PERCY,
U.S. Senator.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Missouri (Mr. DANFORTH). All those in favor say "aye." Opposed, "no."

The "noes" appear to have it.

Mr. DANFORTH. Mr. President, I ask for a division.

The PRESIDING OFFICER. A division is requested. Senators in favor of the amendment will rise and stand until counted.

Will members of the staff please step to the rear? Members of the staff will please take their seats.

Mr. FORD. There are no seats left.

The PRESIDING OFFICER. Those opposed will please rise and stand until counted.

On a division, the amendment (UP No. 1150) was agreed to.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

UP AMENDMENT NO. 1151

(Purpose: To amend Internal Revenue Code of 1954 to provide for the disclosure of returns and return information for use in criminal investigations, and for other purposes)

Mr. NUNN. Mr. President, on behalf of myself, Senator GRASSLEY, Senator DOLE, Senator ROTH, Senator CHILES, Senator RUDMAN, Senator HOLLINGS, Senator DOMENICI, Senator ZORINSKY, Senator BOREN, Senator DECONCINI, Senator STENNIS, Senator BENTSEN, Senator LONG, Senator PRYOR, and Senator COHEN, I call up an amendment which passed the Senate overwhelmingly last year, which has not revenue loss, no revenue gain, no effect whatsoever, which has passed the Ways and Means Committee on June 9——

The PRESIDING OFFICER. Debate is not in order.

Mr. NUNN [continuing]. With the approval of the Justice Department——

The PRESIDING OFFICER. Debate is not in order.

Mr. NUNN. [continuing]. And which will give the Internal Revenue Service authority to go after organized crime in the narcotics field. Mr. President, I call that amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself, Mr. GRASSLEY, Mr. CHILES, Mr. DOLE, Mr. ROTH, Mr. RUDMAN, Mr. HOLLINGS, Mr. DOMENICI, Mr. ZORINSKY, Mr. BOREN, Mr. DECONCINI, Mr. STENNIS, Mr. BENTSEN, Mr. LONG, Mr. PRYOR, and Mr.

COHEN, proposes an unprinted amendment numbered 1151.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SECTION 1. CONFIDENTIALITY AND DISCLOSURE OF RETURNS AND RETURN INFORMATION.

(a) IN GENERAL.—Subsection (i) of section 6103 of the Internal Revenue Code of 1954 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraphs (1), (2), (3), (4), and (5) and inserting in lieu thereof the following:

"(1) DISCLOSURE OF RETURNS AND RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), any return or return information with respect to any specified taxable period or periods shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers and employees of any Federal agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding pertaining to the enforcement of a specifically designated Federal criminal statute (not involving tax administration) to which the United States or such agency is or may be a party,

"(ii) any investigation which may result in such a proceeding, or

"(iii) any Federal grand jury proceeding pertaining to enforcement of such a criminal statute to which the United States or such agency is or may be a party.

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) APPLICATION FOR ORDER.—The Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, may authorize an application to a Federal district court judge or magistrate for the order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) there is reasonable cause to believe based upon information believed to be reliable, that a specific criminal act has been committed,

"(ii) there is reasonable cause to believe that the return or return information is or may be relevant to a matter relating to the commission of such act, and

"(iii) the return or return information is sought exclusively for use in a Federal criminal investigation or proceeding concerning such act, and the information sought to be disclosed cannot reasonably be obtained, under the circumstances, from another source.

"(2) DISCLOSURE OF RETURN INFORMATION OTHER THAN TAXPAYER RETURN INFORMATION FOR USE IN CRIMINAL INVESTIGATIONS.—

"(A) IN GENERAL.—Except as provided in paragraph (6), upon receipt by the Secretary of a request which meets the requirements of subparagraph (B) from the head of any Federal agency or the Inspector General thereof, or, in the case of the Department of Justice, the Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney ge a22jy6.754General, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, any United States attorney, any special prosecutor appointed under section 593 of title 28, United States Code, or any attorney in charge of a criminal division organized crime strike force established pursuant to section 510 of title 28, United States Code, the Secretary shall disclose return information (other than taxpayer return information) to officers and employees of such agency who are personally and directly engaged in—

"(i) preparation for any judicial or administrative proceeding described in paragraph (1)(A)(i),

"(ii) any investigation which may result in such a proceeding, or

"(iii) any grand jury proceeding described in paragraph (1)(A)(iii),

solely for the use of such officers and employees in such preparation, investigation, or grand jury proceeding.

"(B) REQUIREMENTS.—A request meets the requirements of this subparagraph if the request is in writing and sets forth—

"(i) the name and address of the taxpayer with respect to whom the requested return information relates;

"(ii) the taxable period or periods to which such return information relates;

"(iii) the statutory authority under which the proceeding or investigation described in subparagraph (A) is being conducted; and

"(iv) the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation.

"(C) TAXPAYER IDENTITY.—For purposes of this paragraph, a taxpayer's identity shall not be treated as taxpayer return information.

"(3) DISCLOSURE OF RETURN INFORMATION TO APPRISE APPROPRIATE OFFICIALS OF CRIMINAL ACTIVITIES OR EMERGENCY CIRCUMSTANCES.—

"(A) POSSIBLE VIOLATIONS OF FEDERAL CRIMINAL LAW.—

"(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) which may constitute evidence of a violation of any Federal criminal law (not involving tax administration) to the extent necessary to apprise the head of the appropriate Federal agency charged with the responsibility of enforcing such law. The head of such agency may disclose such return information to officers and employees of such agency to the extent necessary to enforce such law.

"(ii) TAXPAYER IDENTITY.—If there is return information (other than taxpayer return information) which may constitute evidence of a violation by any taxpayer of any Federal criminal law (not involving tax administration), such taxpayer's identity may also be disclosed under clause (i).

"(B) EMERGENCY CIRCUMSTANCES.—

"(i) DANGER OF DEATH OR PHYSICAL INJURY.—Under circumstances involving an imminent danger of death or physical injury to any individual, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal or State law enforcement agency of such circumstances.

"(ii) FLIGHT FROM FEDERAL PROSECUTION.—Under circumstances involving the imminent flight of any individual from Federal prosecution, the Secretary may disclose return information to the extent necessary to apprise appropriate officers or employees of any Federal law enforcement agency of such circumstances.

"(4) USE OF CERTAIN DISCLOSED RETURNS AND RETURN INFORMATION IN JUDICIAL OR ADMINISTRATIVE PROCEEDINGS.—

"(A) RETURNS AND TAXPAYER RETURN INFORMATION.—Except as provided in subparagraph (C), any return or taxpayer return information obtained under paragraph (1) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party—

"(i) if the court finds that such return or taxpayer return information is probative of a matter in issue relevant in establishing the commission of a crime or the guilt or liability of a party, or

"(ii) to the extent required by order of the court pursuant to section 3500 of title 18, United States Code, or rule 16 of the Federal Rules of Criminal Procedure.

"(B) RETURN INFORMATION (OTHER THAN TAXPAYER RETURN INFORMATION).—Except as provided in subparagraph (C), any return information (other than taxpayer return information) obtained under paragraph (1), (2), or (3)(A) may be disclosed in any judicial or administrative proceeding pertaining to enforcement of a specifically designated Federal criminal statute or related civil forfeiture (not involving tax administration) to which the United States or a Federal agency is a party.

"(C) CONFIDENTIAL INFORMANT; IMPAIRMENT OF INVESTIGATIONS.—No return or return information shall be admitted into evidence under subparagraph (A)(i) or (B) if the Secretary determines and notifies the Attorney General or his delegate or the head of the Federal agency that such admission would identify a confidential informant or seriously impair a civil or criminal tax investigation.

"(D) CONSIDERATION OF CONFIDENTIALITY POLICY.—In ruling upon the admissibility of returns or return information, and in the issuance of an order under subparagraph (A)(ii), the court shall give due consideration to congressional policy favoring the confidentiality of returns and return information as set forth in this title.

"(E) REVERSIBLE ERROR.—The admission into evidence of any return or return information contrary to the provisions of this paragraph shall not, as such, constitute reversible error upon appeal of a judgment in the proceeding.

"(5) DISCLOSURE TO LOCATE FUGITIVES FROM JUSTICE.—

"(A) IN GENERAL.—Except as provided in paragraph (6), the return of an individual or return information with respect to such individual shall, pursuant to and upon the grant of an ex parte order by a Federal district court judge or magistrate under subparagraph (B), be open (but only to the extent necessary as provided in such order) to inspection by, or disclosure to, officers

and employees of any Federal agency exclusively for use in locating such individual.

"(B) APPLICATION FOR ORDER.—Any person described in paragraph (1)(B) may authorize an application to a Federal district court judge or magistrate for an order referred to in subparagraph (A). Upon such application, such judge or magistrate may grant such order if he determines on the basis of the facts submitted by the applicant that—

"(i) a Federal arrest warrant relating to the commission of a Federal felony offense has been issued for an individual who is a fugitive from justice,

"(ii) the return of such individual or return information with respect to such individual is sought exclusively for use in locating such individual, and

"(iii) there is reasonable cause to believe that such return or return information may be relevant in determining the location of such individual.

"(6) CONFIDENTIAL INFORMANTS; IMPAIRMENT OF INVESTIGATIONS.—The Secretary shall not disclose any return or return information under paragraph (1), (2), (3)(A), or (5) if the Secretary determines (and, in the case of a request for disclosure pursuant to a court order described in paragraph (1)(B) or (5)(B), certifies to the court) that such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.".

(b) CONFORMING AMENDMENTS.—

(1) Subsection (p) of section 6103 of such Code (relating to procedure and recordkeeping) is amended—

(A) by striking out "(6)(A)(ii)" in paragraph (3)(A) and inserting in lieu thereof "(7)(A)(ii)",

(B) by striking out "(d)" in paragraph (3)(C)(i) and inserting in lieu thereof "(d), (i)(3)(B)(i),",

(C) by striking out "such requests" in paragraph (3)(C)(i)(II) and inserting in lieu thereof "such requests or otherwise",

(D) by striking out "(i) (1), (2), or (5)" each place it appears in paragraph (4) and inserting in lieu thereof "(i) (1), (2), (3), or (5)",

(E) by striking out "(d)" each place it appears in paragraph (4) and inserting in lieu thereof "(d), (i)(3)(B)(i)," and

(F) by striking out "subsection (i)(6)(A)(ii)" in paragraph (6)(B)(i) and inserting in lieu thereof "subsection (i)(7)(A)(ii)".

(2) Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of information) is amended by striking out "(d)" and inserting in lieu thereof "(d), (i)(3)(B)(i),".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of enactment of this Act.

SEC. 2. CIVIL DAMAGES AGAINST UNITED STATES FOR UNAUTHORIZED DISCLOSURES BY AN EMPLOYEE.

(a) IN GENERAL.—Subchapter B of chapter 76 of the Internal Revenue Code of 1954 (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7430 as section 7431 and inserting after section 7429 the following new section:

"SEC. 7430. CIVIL DAMAGES FOR UNAUTHORIZED DISCLOSURE OF RETURNS AND RETURN INFORMATION.

"(a) IN GENERAL.—

"(1) DISCLOSURE BY EMPLOYEE OF UNITED STATES.—If any officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(2) DISCLOSURE BY A PERSON WHO IS NOT AN EMPLOYEE OF UNITED STATES.—If any person who is not an officer or employee of the United States knowingly, or by reason of negligence, discloses any return or return information with respect to a taxpayer in violation of any provision of section 6103, such taxpayer may bring a civil action for damages against such person in a district court of the United States.

"(b) NO LIABILITY FOR GOOD FAITH BUT ERRONEOUS INTERPRETATION.—No liability shall arise under this section with respect to any disclosure which results from a good faith, but erroneous, interpretation of section 6103.

"(c) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) the greater of—

"(A) $1,000 for each act of unauthorized disclosure of a return or return information with respect to which such defendant is found liable, or

"(B) the sum of—

"(i) the actual damages sustained by the plaintiff as a result of such unauthorized disclosure, plus

"(ii) in the case of a willful disclosure or a disclosure which is the result of gross negligence, punitive damages, plus

"(2) the costs of the action.

"(d) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce any liability created under this section may be brought, without regard to the amount in controversy, at any time within 2 years after the date of discovery by the plaintiff of the unauthorized disclosure.

"(e) RETURN; RETURN INFORMATION.—For purposes of this section, the terms 'return' and 'return information' have the respective meanings given such terms in section 6103(b).".

"(b) CONFORMING AMENDMENTS.—

(1) Section 7217 of such Code (relating to civil damages for unauthorized disclosure of returns and return information) is hereby repealed.

(2) The table of sections for part I of subchapter A of chapter 75 of such Code is amended by striking out the item relating to section 7217.

(3) The table of sections for subchapter B of chapter 76 is amended by striking out the item relating to section 7430 and inserting in lieu thereof the following:

"Sec. 7430. Civil damages for unauthorized disclosure of returns and return information.

"Sec. 7431. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to disclosures made after the date of enactment of this Act.

SEC. 3. DISCLOSURE FOR USE IN CERTAIN AUDITS BY GENERAL ACCOUNTING OFFICE

(a) IN GENERAL.—Paragraph (7) of section 6103(i) of the Internal Revenue Code of 1954 (relating to disclosure to Comptroller General), as redesignated by section 1(a), is amended by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

"(B) AUDITS OF OTHER AGENCIES.—

"(i) IN GENERAL.—Upon written request by the Comptroller General of the United States to the head of any Federal agency, any returns or return information obtained under this title by such Federal agency for use in any program or activity shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making an audit authorized by law of such program or activity.

"(ii) INFORMATION FROM SECRETARY.—If the Comptroller General of the United States determines that the returns or return information available under clause (i) are not sufficient for purposes of making an audit of any program or activity of a Federal agency, upon written request by the Comptroller General to the Secretary, returns and return information (of the type authorized by this title to be made available to the Federal agency for use in such program or activity) shall be open to inspection by, or disclosure to, officers and employees of the General Accounting Office for the purpose of, and to the extent necessary in, making such audit.

"(iii) REQUIREMENT OF NOTIFICATION UPON COMPLETION OF AUDIT.—Within 90 days after the completion of an audit with respect to which returns or return information were opened to inspection or disclosed under clause (i) or (ii), the Comptroller General of the United States shall notify in writing the Joint Committee on Taxation of such completion. Such notice shall include—

"(I) a description of the use of the returns and return information by the Federal agency involved,

"(II) such recommendations with respect to the use of returns and return information by such Federal agency as the Comptroller General deems appropriate, and

"(III) a statement on the impact of any such recommendations on confidentiality of returns and return information and the administration of this title.

"(iv) CERTAIN RESTRICTIONS MADE APPLICABLE.—The restrictions contained in subparagraph (A) on the disclosure of any returns or return information open to inspection or disclosed under such subparagraph shall also apply to returns and return information open to inspection or disclosed under this subparagraph.".

(b) CONFORMING AMENDMENT.—Subparagraph (C) of section 6103(i)(7) of such Code (as redesignated by this Act) is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A) or (B)".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the day after the date of the enactment of this Act.

Mr. NUNN. Mr. President, I ask unanimous consent that the Senator from West Virginia, Senator RANDOLPH, the Senator from West Virginia, Senator ROBERT C. BYRD, Senator SASSER, Senator MELCHER, Senator THURMOND, Senator FORD, Senator MOYNIHAN, Senator JOHNSTON, and Senator CANNON be added as cosponsors.

The PRESIDING OFFICER. They are accepted en bloc.

Mr. NUNN. Mr. President, I rise to offer an amendment to H.R. 4961, which will amend the Tax Reform Act of 1976. Senator CHILES joins me in introducing this legislation. The amendment will restore the Internal Reve-

nue Service to the role it once played in cooperative law enforcement efforts aimed at organized criminals and narcotics traffickers. This amendment is identical to S. 2565, which I introduced on May 25, 1982, and which has been cosponsored by Senators GRASSLEY, DOLE, ROTH, CHILES, RUDMAN, DOMENICI, ZORINSKY, BOREN, DECONCINI, STENNIS, BENTSEN, LONG, PRYOR, HOLLINGS, and COHEN.

Moreover, this amendment is the product of a long history of efforts to responsibly and fairly amend the Tax Reform Act. It is similar to S. 732, which I and 19 other cosponsors introduced in the Senate on March 17, 1981. S. 732 was passed by the Senate on July 27, 1981, as amendment No. 492 to the Economic Recovery Act of 1981. Unfortunately, a similar amendment was not enacted by the House of Representatives. The conference report concerning these provisions recommended full hearings on H.R. 1502 in the House and on its companion bill, S. 732, in the Senate prior to passage.

Hearings in both the House and Senate were held shortly after the conference report was issued. I call attention to the efforts of Senator GRASSLEY, as chairman of the Subcommittee on Oversight of the Internal Revenue Service, in conducting very thorough and bipartisan hearings on S. 732 and the issue of tax disclosure. Senator GRASSLEY, as well as Senator DOLE, as chairman of the Senate Finance Committee, and their staffs worked long and hard on this issue and joined me in introducting S. 2565. I also recognize the efforts of Congressman RANGEL, chairman of the House Oversight Subcommittee, as well as Congressman ROSTENKOWSKI, the chairman of the House Ways and Means Committee, who devoted many hours of study to this same legislation. Both of the subcommittees received considerable testimony on all sides of this issue.

As a result, I introduced S. 2565, identical to the amendment I now offer. This legislation is the result of joint bipartisan efforts of the interested parties in both the Senate and the House. By agreement, we arrived at an acceptable compromise bill. It is identical to a bill which Representative RANGEL, chairman of the House Oversight Subcommittee of the Committee on Ways and Means, introduced in the House on May 5, 1982. The House bill was approved and reported out of the House Committee on Ways and Means on June 9, 1982. This amendment not only reflects a consensus of agreement between the Senate sponsors and the House Committee on Ways and Means, but also the Department of Justice, whose representatives worked closely with staff during the drafting process.

The reforms contemplated by this amendment are strongly supported by facts and evidence produced in Senate hearings. Specifically, the amendment is a direct outgrowth of extensive work done by the Permanent Subcommittee on Investigations, where I served as chairman during the 96th Congress and currently serve as ranking majority member.

Our subcommittee spent a large part of the last 3 years investigating various aspects of organized crime, labor racketeering, and narcotics trafficking. As I look back on our studies and hearings, I am astounded at the size and sophistication of these triple menaces to the well-being of our Nation.

The "underground economy" is estimated at upward of $124 billion a year, of which the traffic in illegal narcotics amounts to somewhere between $68 and $89 billion. Included in these astronomical figures are an estimated $25 to $50 billion in unreported and untaxed profits.

All of this money has had a tremendous inflationary impact on the economy of several regions of the country, especially Florida, Texas, and the Southwest areas bordering Mexico. Even my home State of Georgia has experienced an increase in narcotics trafficking, for as enforcement authorities have cracked down on smuggling into Florida from South America, many traffickers have moved their operations northward.

The permanent subcommittee explored this problem extensively, and in December of 1979 we conducted very thorough hearings on illegal narcotics profits. We issued a comprehensive report on this investigation in August 1980 (S. Rept. No. 96-887).

It has long been recognized that financial investigations, relying on financial and tax records, are one of the most effective tools in piercing the veil of secrecy that protects those at the top of any organized crime ring—be it a drug smuggling operation or a traditional organized crime family.

Indeed, it was the ability of the Internal Revenue Service to conduct sophisticated financial investigations that sent such notorious mobsters as Al Capone and Frank Costello to jail on income tax evasion charges when other agencies were unable to gather enough evidence of nontax crimes to have them indicated, much less convicted.

We found, however, that even though organized crime and narcotics trafficking have become bigger and more sophisticated than ever before, the one law enforcement agency that the kingpin criminals fear most—the IRS—had withdrawn from the fray.

Prosecutors and others involved in Federal law enforcement testified before our subcommittee that they were hindered in doing financial investigations by the reluctance of IRS to lend them a hand in attacking those who call the shots in organized crime and narcotics trafficking. This testimony was given to the Subcommittee on Investigations not only in the "Illegal Narcotics Profits" hearing in 1979, but in virtually every hearing we have conducted over the past 3 years concerning law enforcement issues. Again and again, when we held hearings on organized crime and the use of violence in 1980, when we held hearings on the Labor Department's investigation of the Central States pension fund in 1980, in hearings on waterfront corruption in 1981 and, most recently, again in hearings on international narcotics trafficking last November, we have heard the same refrain: The withdrawal of IRS from joint law enforcement investigations of organized crime, labor racketeers and narcotics traffickers has had a severely adverse effect upon law enforcement efforts against these criminals groups.

We found that there were two prime reasons for this withdrawal by the IRS. One was the disclosure provisions of the Tax Reform Act of 1976. The other was a general attitude on the part of IRS officials that the agency only should collect taxes and not serve in any capacity as a nontax law enforcement agency.

IRS ATTITUDE

Between 1974 and 1980, a series of IRS Commissioners and their top aides took the view that IRS should stick to "tax administration"—by which they meant tax collection and only tax collection—and out of the general law enforcement arena.

The IRS decision to stick with tax collection only and avoid criminal law enforcement was welcomed by some who believe that the only proper function of the IRS is tax administration. But these people ignore the simple fact that tax administration goes hand in hand with criminal enforcement. The IRS has been and always will be involved in criminal law enforcement because tax evasion is the end result of any crime that is committed for profit.

The question is not whether we want IRS to be involved in law enforcement for they always have been and always will be. The question is: Whom do we want IRS to concentrate its criminal enforcement efforts on? By adopting the policy of "tax administration" only, the IRS unwittingly altered the focus of its investigations away from the racketeers and drug dealers, who pay no tax on their illicit income, and onto the average, law-abiding citizen who does pay tax on his legally earned income.

The Permanent Subcommittee on Investigations hearings in 1979 and 1980 revealed numerous examples of the problems this attitude created for

Federal law enforcement and the adverse impact it was having. Partially as a result of our subcommittee's work, the Carter administration ordered IRS to step up its investigations of suspected narcotics dealers and organized criminals. IRS has devoted more of its resources to these efforts, and it has adjusted some of its policies and interpretations with respect to the disclosure of nontax criminal evidence.

Moreover, since 1980, new leadership in the Internal Revenue service has promulgated a series of regulations encouraging joint tax and nontax criminal investigations with other Federal law enforcement agencies. Several joint investigations have been conducted under these guidelines with great success, among them "Operation Greenback" in Florida. I submit that it was never the intent of Congress, in passing the Tax Reform Act of 1976, to restrict or prohibit these joint investigations. On the contrary, this type of joint investigation is to be encouraged if we are ever to really strike the drug dealers and professional racketeers where they are most vulnerable and where it will hurt them the most—in the pocketbook. I want to commend the IRS for correcting its prior policy, and I believe I speak for all who support the amendment I am introducing today when I stress that this joint enforcement must continue. These changes within the IRS are steps in the right direction. However, the old erroneous attitude of the IRS is only a part of the reason why the IRS withdrew from the enforcement fight against drug dealers and racketeers. We still need to fine tune the Tax Reform Act of 1976 in order to remove some serious and unnecessary roadblocks to IRS active participation in Federal law enforcement.

THE TAX REFORM ACT OF 1976

The disclosure provisions of the Tax Reform Act of 1976 are found in section 6103 of the Internal Revenue Code of 1954 (26 U.S.C. 6103). They were enacted in the dying days of the 94th Congress and were intended to avoid future abuses of a "Watergate" nature.

Until the act became effective, tax returns were considered to be public records, and access to them was governed by Presidential Executive order. Many Federal agencies, including the White House, had easy access to tax returns for a wide variety of uses.

During the Watergate investigations, it was revealed that the Nixon White House had used tax returns to pressure potential campaign contributors and certain other individuals who were on a White House "enemies list," and that the administration had ordered IRS to conduct audits of its "enemies."

It also was revealed by the Senate Judiciary Committee that an IRS special service staff collected and disseminated information about thousands of individuals and groups which the IRS considered to have "extremist views and philosophies."

In short, various congressional committees found that tax returns and tax information were made available to a number of Federal agencies for many questionable purposes. I think all of us would agree that such disclosure represented an abuse of taxpayer privacy.

I want to point out, however, that the Permanent Subcommittee on Investigations was unable to document any abuse of tax information on the part of a Federal prosecutor.

The Watergate abuses were political abuses, not law enforcement abuses. A study done for Congress in 1976 by the Congressional Research Service and entitled, "Internal Revenue Service: History and Matters Dealing With Oversight of Its Practices and Procedures," shows that not only was the attempted misuse of IRS information political in nature, but also that the White House failed miserably in its attempt to misuse the IRS.

Yet, although the problem in 1976 was political, we did not even address the problem of political abuse in the Tax Reform Act of 1976. The Commissioner of the Internal Revenue Service frankly admitted in his testimony before our subcommittee that the Watergate abuses which spawned the Tax Reform Act were not even addressed by the act. He said that under current law, if the President told him to go out and audit political enemies, he would not be prohibited from doing so by the Tax Reform Act.

But to cure these perceived abuses, the Tax Reform Act made tax returns and most other information gathered by the IRS confidential and subject to disclosure by IRS only in accordance with very strict procedures. These procedures apply across the board and govern disclosure to all Federal agencies. They are so sweeping that they can be compared to the use of a sledgehammer to kill an ant.

Because of the nontax criminal disclosure provisions in section 6103(i), the average citizen is now the main target for IRS resources. The testimony and statistics developed by 1980 bear this out. Since the 1976 act, IRS efforts in organized crime cases had dropped over 50 percent. Since the 1976 act, IRS efforts against major narcotics traffickers had dropped almost 75 percent. In the fiscal year 1979, IRS could only confirm 9 or 10 convictions against major narcotics dealers. This is despite the fact that narcotics generate $68 to $89 billion a year.

Our investigation has convinced me that the disclosure provisions of section 6103, coupled with the way they had been interpreted and enforced by IRS, have had a highly detrimental effect on our Federal law enforcement system.

In the hearings before the Permanent Subcommittee on Investigations on Illegal Narcotics Profits, Oliver B. Revell, then the Deputy Assistant Director of the FBI in the Criminal Investigative Division, told us:

> The [1976] act's disclosure provisions often hamper the FBI's investigation of major ongoing white-collar crime and organized crime cases. When disclosure is sought to assist in the timely issuance of search warrants, or other legitimate law enforcement functions, the delays incurred are excessive to the requirement of investigation. When disclosure is sought, delays of three months are common. Delays of six to nine months have been reported on many occasions.
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> The act has resulted in unnecessary waste of taxpayers' dollars, budget funds and investigative time in that the IRS is usually unable to advise us of the cases on which it is working, which precludes us from obtaining close cooperation with IRS and leads, in some instances, to the FBI unknowingly conducting duplicative investigations. * * * It also leads to us being unable to obtain records which have been previously obtained by the IRS and pertain to [an FBI] ongoing investigation. So it delays our investigation and sometimes causes it to be closed because we cannot obtain records that have already * * * been obtained by IRS, when we didn't know of their investigation until we engaged in our investigation.

The Federal law enforcement system is complex and sophisticated. We do not have a Federal police state. Instead, we have a series of agencies broken down by criminal jurisdiction that must operate with a high degree of coordination and cooperation. It is not unusual, in fact it is quite common, to combine the skills and information of many agencies to achieve any measure of success in criminal enforcement.

IRS has a fine tradition and history of being one of the most effective law enforcement agencies, especially in cases involving high echelon criminals. Obviously, since the purpose of criminal ventures is to make money, very few substantive crimes can be committed without some tax consequence, therefore, IRS always has been—and continues to be—a key agency both in terms of financial expertise and in terms of financial information.

Some of the provisions of the Tax Reform Act, however, have caused a severe breakdown in our delicate and complex Federal law enforcement system. It has taken up to 13 months simply to receive the assistance of IRS agents in joint investigations. The Tax Reform Act has helped to create a bureaucratic nightmare in cases where Federal agencies should willingly assist each other.

THE "CATCH 22"

It is possible, of course, for other agencies to obtain tax returns and other IRS-gathered information under section 6103. However, they must

apply for a court order in order to get tax returns, and they must make written requests to obtain other IRS information about nontax crimes such as forgery, bribery, or narcotics violations that comes from sources other than tax returns.

In either situation, the requesting agency must describe the information it seeks to obtain.

The court order and written request requirements have created a catch-22 situation. Since IRS agents are forbidden to tell the other agencies of the criminal evidence they gather, it is virtually impossible for these other agencies even to know that such information exists, much less to describe that information with such particularity that they can satisfy the requirements for a court order or written request.

In other words, section 6103 required Federal investigative agencies to go through elaborate request procedures to obtain information that they may not even know that IRS has.

In November 1981 our subcommittee heard testimony from Jay Ethington, an assistant U.S. attorney for the northern district of Texas for the last 10 years. Mr. Ethington, who had prosecuted about 100 different narcotics traffickers, states:

> We have a provision in the disclosure aspect of the Tax Reform Act that says I can gain the authority to get disclosure from IRS agents by going to a Federal judge and getting a court order, but before I can get that court order, I have to get authority from the Department of Justice. To get that authority, I must disclose the information that the IRS agent has that he is going to give me, but he won't give that to me until we get authority. So, we are in a "Catch-22" situation.

This catch-22 situation has made it all but impossible for the FBI, DEA, and other agencies to receive the necessary information and cooperation from the IRS.

Moreover, the application for a court order and the written request for disclosure may be made only by the Attorney General or his assistant, or by the head of a Federal agency. This centralization of all disclosure in a handful of high officials causes unnecessary delay in securing disclosure. A prosecutor in Los Angeles, for example, must secure authority to seek disclosure from an official 3,000 miles away. Most commonly, however, the prosecutor's immediate supervisor, such as the U.S. attorney or the strike force attorney in charge, will be far more familiar with the investigation and far more knowledgeable about the need for disclosure than will the remote official.

DISCLOSURE AMENDMENTS

Our amendments to the Tax Reform Act of 1976 will not scrap the privacy safeguards written into that act. They will strike a balance so that IRS can and will cooperate with Federal prosecutors.

Let me try to dispel some of the unfounded fears of our disclosure amendment by explaining how its provisions will protect the privacy of tax returns and other information supplied to IRS. I am sure that once these provisions are understood—and I admit this is an intricate, sometimes confusing area of the law—they will be accurately seen for their privacy merits as well as their attempt to improve law enforcement.

First, I want to point out that these amendments to the 1976 act leave the vast majority of that act intact. They do not alter the provisions of the 1976 act which prohibit loose distribution to Government agencies. The amendments are aimed at one isolated, specific subsection of the Tax Reform Act disclosure provisions which, in effect, prohibits the IRS from cooperating and exchanging information with other Federal law enforcement agencies.

Second, the amendments give IRS no additional power or authority whatsoever. The amendments do not alter the ability or power of IRS to obtain information in any manner. They do not alter the ability of the IRS to transfer information concerning the average citizen who earns his money legally. The amendments merely allow the IRS to cooperate and exchange information under a very carefully restricted legislative scheme involving court orders and formal written requests concerning criminals who earn their money from illegal means.

Third, the types of information which could be disclosed only by ex parte court order remain the same. This includes tax returns and all supporting attachments, such as W-2 forms, lists of charitable donations, and various other schedules. Information which is protected now by court order will continue to be so protected.

Let us look at the judicial standards that the Justice Department would have to meet before it could gain access to the information protected by court order. In order to obtain an ex parte order, Justice Department attorneys would have to present information believed to be reliable that establishes reasonable cause to believe that a specific criminal act has been committed. Those attorneys would have to establish that the information is sought exclusively for use in a Federal criminal investigation or proceeding, and they would have to establish that the information cannot reasonably be obtained elsewhere, under the circumstances, from another source. Finally, they must show that there is reasonable cause to believe that the information may be relevant to a matter relating to the commission of the criminal act.

We recognize that the information contained in tax returns can normally be secured from sources other than the IRS. In a grand jury investigation, for example, subpenas can be issued to a person's bankers, employers, partners, accountants, and associates in order to secure the records needed to re-create a person's income. However, such means are enormously and unnecessarily time consuming. Also, they vastly increase the risk of disclosing the investigation to the potential defendant and his associates, which in many cases could adversely affect the investigation itself or expose the potential defendant to unfair public attention. Thus, when we speak of reasonably securing the information from other sources, we are recognizing that, in many but not all cases, it would be too time consuming to go to other sources, or that going to other sources could jeopardize the integrity of the investigation.

The standards we propose are essentially the same standards that must be met under Federal law in order for authorities to wiretap our telephones or put listening devices in our homes and offices. It seems to me that if these standards are sufficient to protect the privacy of our most personal conversations, they also are sufficient to protect our tax information.

In addition to these privacy protections, I would point out that the amendment—unlike the existing provision of the Tax Reform Act—would channel all requests for court-ordered IRS information through the Justice Department. Only one agency would be permitted to obtain this information, and the requesting official in every case would be a Government attorney.

Our disclosure amendment is laden with safeguards for the privacy of all information we can reasonably expect to keep private. There will be no wholesale scrapping of privacy here. There will be no "sellout" to a few law enforcement authorities who might like to see their work made easier. There certainly will be no attempt here to create a breeding ground for a repeat of the so-called Watergate abuses. And there certainly will be no "meat-ax" attempt to butcher the Tax Reform Act.

On the other hand, we believe we offer a very balanced, well-thought-out effort to fine tune section 6103 of the Internal Revenue Code which, as the record clearly indicates, needs to be done.

These amendments are the product of over 2 years' hard work on the part of several congressional subcommittees, the Justice Department, and the IRS itself. They have been developed in the broad daylight with the views of all sides considered.

No one who is concerned about the privacy of tax returns or a repetition of the abuses of tax information should fear this amendment. Hard-

working, law-abiding taxpayers can rest assured that the information they supply IRS will remain within that agency where it belongs.

The only people that need fear this legislation are narcotics traffickers and organized crime figures and white-collar criminals who are cheating other taxpayers by not paying their fair share. In cases where criminal ventures generate profits, IRS must have the capability to cooperate with and exchange information with the Federal investigate and prosecutive agencies.

It is in this very small area—criminal tax evaders—that we seek our primary change so that IRS and other Federal law enforcement agencies can work even more effectively together against these criminals than they can today. As it now stands, the Tax Reform Act of 1976 makes it much easier for IRS to go after the average taxpayer than the criminals. This is a complete reversal of the societal priorities that we should be encouraging.

CONCLUSION

Mr. President, for generations the Internal Revenue Service led the way in this Nation's battle against organized crime and narcotics trafficking, but since 1977 it has hidden behind the disclosure provisions of the Tax Reform Act to stay out of the fray.

It is the time for us to decide that IRS shall become once again the effective force for justice that it was in the days of bootleggers and rumrunners. This amendment will send IRS a clear and unmistakable signal that it should do just that.

We have spent many long hours in drafting what we feel is a very well-reasoned amendment. In doing so we have achieved a fair and responsible consensus of opinion amongst interested parties in both the Senate and the House as well as the very agencies who will be most affected by this legislation. We retain very important privacy safeguards that will prevent any repetition of Watergate-type abuses. At the same time, we impress upon IRS our intention to have it cooperate fully with the fight against the ever-increasing organized crime and narcotics problems facing the Nation. After years of effort, we have at long last reached a broad-based, bipartisan compromise on how to improve the Tax Reform Act of 1976 and thereby improve our Federal law enforcement efforts. It is now time of act.

Mr. President, I ask unanimous consent that a section-by-section summary of the amendment be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF PROPOSED AMENDMENT TO H.R. 4961, AMENDING 26 U.S.C. 6103, 26 U.S.C. 7213, AND 26 U.S.C. 7217

This legislation would streamline and clarify provisions of the Internal Revenue Code governing access to tax information for use in non-tax criminal investigations and prosecutions. The amendment combines the results of both Senate and House hearings on tax disclosure. The most changes proposed would substantially assist federal law enforcement authorities in combatting narcotics trafficking, organized crime and white-collar offenses involving large sums of money. At the same time, the amendment preserves the safeguards for taxpayer privacy established in 1976.

SECTION 1

Disclosure Pursuant to Court Order [26 U.S.C. 6103(i)(1)]:

The revised § 6103(i)(1) preserves the structure of the existing court order provision. The modifications are intended only to clarify existing law and to make the literal terms of the statute comply with actual practice.

For example, the standards in existing (i)(1), if read literally, require a factual showing that cannot be made unless the prosecutor seeking access is already in possession of the information sought. Courts have interpreted this language in a common-sense fashion to require proof only of those facts a federal prosecutor can realistically be expected to demonstrate: that there is reasonable cause to believe a specific federal crime has occurred or is occurring, that there is reasonable cause to believe tax information is relevant to that offense, that the information cannot be reasonably obtained, under the circumstances from another source, and that the information will be used exclusively for investigation and prosecution of that offense. The bill would substitute these standards for those of existing law. Because this merely codifies present practice, it has no practical effect on taxpayer privacy or tax administration. It does, however, reduce the potential for widely varying judicial results and the extreme chilling effect that the unrealistic language of current law has on federal prosecutors who need tax information for legitimate law enforcement purposes.

The proposed standard is more reasonable, with the added safeguard of prosecutorial intervention. The main criticism of the present standard was that it was impossible to meet. Therefore, no one used it. The proposal modifies the third requirement that the Government prove the financial information cannot be obtained from any other source. The fact is that the financial information is "available" elsewhere, but the Government would have to completely reconstruct a taxpayer's bank records to duplicate the information on the return. This third requirement of the present act also requires the Government to prove that the tax return was the most probative evidence of the crime to be proven. Since this section deals only with non-tax crimes, the tax return itself would never be the most probative evidence of the crime. Only the actual financial records would qualify. Thus an impossible standard would be deleted.

The new standards also recognize that there are instances when securing the information from other sources will be too complex or time-consuming, or will jeopardize the investigation and its integrity. In these instances, as well as others depending on the circumstances, it is reasonable to secure the information from the IRS.

The new (i)(1) modifies the class of federal officials who may authorize an application for a court order. Existing law requires all such applications to be routed through Washington for approval before being presented to the court, a requirement which results in substantial delay and paperwork. The new (i)(1)(B) would permit United States Attorneys, special prosecutors appointed under 28 U.S.C. 593, and Attorneys-in-Charge of Organized Crime Strike Forces in the field to present applications directly to the appropriate Federal court for consideration.

The bill would delete the authority currently possessed by all heads of federal agencies to approve (i)(1) applications, thereby centralizing application authority in a single agency, the Department of Justice, where it can be more effectively coordinated. Since 1976, only five applications for (i)(1) orders have been signed by non-Justice Department entities; this change will not, therefore, adversely affect federal agencies.

Finally, the new (i)(1) provides that court orders may be granted by U.S. Magistrates as well as U.S. District Judges. Magistrates are now authorized to grant analogous applications such as those for search and arrest warrants.

Disclosure Pursuant to Formal Law Enforcement Request [26 U.S.C. 6103(i)(2)]:

The revised § 6103(i)(2) clarifies existing law governing requests for return information other than taxpayer return information. As amended, (i)(2) would permit requests to be made by the heads of Federal agencies, Inspectors General, the Director of the FBI, the Administrator of the Drug Enforcement Administration, United States Attorneys, special prosecutors, and Attorneys-in-Charge of Organized Crime Strike Force field offices, as well as Justice Department officials. This avoids the necessity of routing all requests through Washington. In addition to the heads of agencies now authorized to request (i)(2) information, the bill would grant similar authority to the 15 Inspectors General whose mandate is to combat fraud, waste and abuse in federal programs.

Finally, the revised (i)(2) would modify the factual showing required to support a disclosure of return information other than taxpayer return information by requiring "the specific reason or reasons why such disclosure is, or may be, relevant to such proceeding or investigation". Current law requires a showing of materiality. Like the (i)(1) court order requirement, a prosecutor cannot always show the materiality of tax information to a case without access to the information sought.

IRS-initiated Disclosure [26 U.S.C. 6103(i)(3)]:

The bill encourages IRS to initiate reports of non-tax crime to law enforcement authorities. The new § 6103(i)(3) allows the Secretary the discretion to make such reports to the head of the appropriate Federal law enforcement agency. It permits disclosure of taxpayer identity where information constitutes evidence of a non-tax Federal crime by that taxpayer. This provision reasserts the intention of the Congress that IRS must develop and maintain a system by which its agents who discover evidence of non-tax criminal activity will be able to quickly refer that information to the appropriate law enforcement officials.

Emergency disclosure

The new § 6103(i)(3)(B) would permit IRS, in its discretion, to report to the appropriate law enforcement agencies any circumstances involving imminent danger of death or physical injury to any individual or the imminent flight of any individual from Federal prosecution. This authority for disclosure in rare emergency situations is patterned on the similar provisions of the Financial Privacy Act of 1978 (12 U.S.C. 3414(b)).

Admissibility of Tax Information [26 U.S.C. 6103(i)(4)]:

Finally, the compromise bill would amend (i)(4) of § 6103 to provide that returns and taxpayer return information may be used in judicial and administrative proceedings upon a finding that the information is probative of a matter in issue relevant to the commission of a crime, or the guilt or liability of a party. The bill allows that information to be disclosed in judicial or administrative proceedings pertaining to enforcement of a Federal criminal statute or related civil forfeiture which may be pursued in addition to or in lieu of criminal prosecution.

The amendments to (i)(4) also clarify that returns and return information may be disclosed to a defendant pursuant to the Jencks Act, discovery provisions of the Federal Rules of Criminal Procedure or other discovery requirements. This explicitly protects a defendant's Due Process rights and is consistent with current practice.

The new § 6103(i)(4)(B) also allows disclosure of return information (other than taxpayer return information) without the special findings of relevance applicable to returns and taxpayer return information.

Section 6103(i)(4)(C) prevents the admissibility into evidence of information disclosed under subparagraphs (A)(i) or (B) where the admission would identify a confidential informant or impair a civil or criminal tax investigation.

Disclosure to locate fugitives

The new § 6103(i)(5) allows disclosure of return information by court order in order to locate fugitives from justice where a Federal arrest warrant has been issued for that individual. The showing required for disclosure is similar to that required for normal court ordered disclosure of return information.

The new § 6103(i)(6) prevents any disclosure of return and return information under paragraphs (1), (2), (3)(A), or (5) by the Secretary if such disclosure would identify a confidential informant or seriously impair a civil or criminal tax investigation.

The final portion of Section 1 of the bill contains certain technical conforming amendments necessitated by the changes made in § 6103 set forth above. The bill makes amendments under Section 1 effective on the day after enactment of this Act.

SECTION 2

Civil remedy

Section 2 would amend the civil remedy section of the Internal Revenue Code to make federal agencies liable as defendants in suits alleging unauthorized disclosure of tax information by Federal officers or employees, as opposed to the individual making the disclosure. This change would conform to the Financial Privacy Act of 1978 (12 U.S.C. 3417) and the Administration's proposed Tort Claims Act amendments.

Under present law, civil suits may be filed against both the federal agency and the employee involved. This creates a potential conflict of interest requiring retention of private counsel to represent the employee. Moreover, it is unduly harsh to place federal employees who work with tax information regularly in the position of risking financial ruin daily for any mistaken disclosure.

Of course, federal employees would continue to be subject to aministrative sanctions, including dismissal, for any negligent disclosure as well as criminal prosecution for any willful, corrupt or malicious abuse of tax information. In the event of unlawful disclosure by a non-government employee, the bill imposes civil liability upon the person making the disclosure, as is the case under present law.

The bill limits damages for disclosure to the greater of $9,000 per act of unauthorized disclosure or the sum of actual and, where disclosure is willful or grossly negligent, punitive damages, plus the costs of action. The statute of limitations for such actions is set as two years from the discovery of the unauthorized disclosure by the plaintiff.

Finally, Section 2 includes technical conforming amendment necessitated by the changes made above. Section 2 amendments are made applicable to disclosures made after enactment of this Act.

SECTION 3

Disclosure for Use in GAO Audits [26 U.S.C. 6103(i)(7)]:

Section 3 of the bill authorizes disclosure of returns and return information obtained by or available to a Federal agency under this title when requested in writing by the Comptroller General where necessary for a GAO audit of the program or activity to which the original disclosure related. Within ninety days of the completion of the audit, the Section requires written GAO notice to the Joint Committee on Taxation regarding the nature of the information involved and recommendations as to further use of the information.

Mr. GRASSLEY. This bill strikes a delicate balance between the need of law enforcement for access to tax information and the need to protect the privacy of taxpayer information. This bill clearly sets forth the procedure law enforcement officials must employ to obtain this information. It requires a Federal district court judge or a magistrate to make certain findings before granting a request for return information, that is information submitted to the IRS on tax returns and supporting documents. Lesser standards are required for the disclosure of taxpayer return information—submissions by third parties to the IRS—and these new standards are stated in this bill.

One of the criticisms of the disclosure provisions enacted in 1976 is that they are too complex and cumbersome for U.S. attorneys in the field to use effectively. Senator DOLE and I hope that this bill and the committee report language will clarify these procedures to enable law enforcement personnel to obtain this information quickly. Our intent in drafting this bill is to facilitate the exchange of revelent information between Federal agencies pertinent to the commission of a crime. It is also our intent that Federal agencies continue to work in tandem on joint tax investigations to catch individuals who are committing crimes and failing to pay tax on the proceeds of their illegal criminal activity.

We have strived to protect taxpayer information from fishing expeditions by law enforcement authorities. Information submitted by the taxpayer may only be obtained by court order; supporting information may be obtained by written request. The showing another Federal agency must make is carefully delineated in this bill. Our aim was to protect taxpayer submissions to the IRS to insure the system of voluntary compliance was not undermined. As chairman of the Subcommittee on Oversight of the Internal Revenue Service, I intend to see this goal achieved.

During the past two Congresses, Senator NUNN has examined the issue of the appropriate use of tax information in nontax criminal investigations and introduced legislation to solve this problem. The introduction of this bill culminates a strong commitment on his part to improve law enforcement. He and his staff on the Permanent Subcommittee on Investigations are to be commended for their hard work in this area. Chairman DOLE also deserves praise for forging this compromise among parties with widely divergent interests. His patient pursuit of compromise legislation and the efforts of his staff to achieve this goal have made the introduction of this bill possible. Senator ROTH and his staff on the Permanent Subcommittee on Investigations have made valuable contributions to the legislation we are introducing today.

In short, this bill represents the agreement of a variety of Senators and Government agencies with very disparate interests. It is a reasonable approach to a difficult problem which merits serious consideration by all of my colleagues.

Mr. NUNN. Mr. President, I hope the managers will accept the amendment.

Mr. DOLE. Mr. President, the Senator stated it accurately.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. NUNN).

The amendment (UP No. 1151) was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

UP AMENDMENT NO. 1152

(Purpose: To allow the investment tax credit for soil and water conservation expenditures)

Mr. PRESSLER. Mr. President, on behalf of myself, Mr. JEPSEN, Mr. GRASSLEY, Mr. ANDREWS, Mr. ABDNOR, and Mr. KASTEN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota (Mr. PRESSLER), for himself, Mr. JEPSEN, Mr. GRASSLEY, Mr. ANDREWS, Mr. KASTEN, and Mr. ABDNOR, proposes an unprinted amendment numbered 1152.

Mr. PRESSLER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 225, between lines 19 and 20, insert the following new subsection:

(c) INVESTMENT CREDIT FOR SOIL AND WATER CONSERVATION EXPENDITURES.—Paragraph (1) of section 48(a) (defining section 38 property) is amended—

(1) by striking out the period at the end of subparagraph (G) and inserting in lieu thereof ", or";

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of soil and water conservation expenditures (within the meaning of section 175(c)), that portion of such expenditures for the taxable year (other than that portion attributable to property which otherwise qualifies as section 38 property) which the taxpayer does not elect under section 175 to treat as expenses which are not chargeable to capital account.";

(3) by inserting "or (H)" after "subparagraph (F)" in the last sentence thereof; and

(4) by inserting ", or 7 years, respectively" after "growing period" in the last sentence thereof.

On page 225, line 20, strike out "(c)" and insert in lieu thereof "(d)".

On page 225, line 21, strike out "Subsection (a)" and insert in lieu thereof "Subsections (a) and (c)".

On page 225, line 22, strike out "subsection (a)" and insert in lieu thereof "subsections (a) and (c)".

Mr. PRESSLER. Mr. President, I have introduced an amendment to H.R. 4961, which would allow farmers to use the investment tax credit for soil and water conservation expenses. This amendment is similar to S. 569, a bill introduced by Senator JEPSEN and cosponsored by me and 27 of my colleagues.

Coming from a family farm, I am well aware that soil erosion is a major problem in America today, but due to the need to reduce Government spending, we must look for new methods to promote soil conservation. Currently, farmers may take a deduction for soil and water conservation expenses under section 175 of the IRS Code for not exceeding 25 percent of their gross income. There are also several Government programs to assist farmers in soil conservation practices, but they do not provide any financial incentives for farmers to install soil conservation measures. Farmers' investments in shelterbelts, terraces, and other conservation practices are expensive and do provide a return for several years.

The administration, and particularly the Office of Management and Budget, have proposed further reductions in soil conservation spending. These proposals have been criticized by Midwestern Governors and my colleague, Senator JEPSEN, at the Midwest Governors conference. With diminished funding for soil conservation programs and proposals to further reduce this funding, it is important that alternative soil conservation incentives be implemented. My amendment would provide some modest financial incentives to farmers by allowing them to receive an investment tax credit for soil conservation expenses not provided for under section 175. The cost of my amendment would be less than $11 million according to figures provided by the Joint Committee on Taxation. In the long run, it would increase revenues by increasing agricultural production.

Agriculture is the backbone of the American economy and is essential to improvements in our balance of trade, but soil erosion is threatening farm productivity. Over 5 million tons of topsoil are lost annually to erosion nationally and USDA studies estimate that at this rate, corn and soybean yields could be reduced by as much as 30 percent in the next 50 years as the fertility of the soil declines. When the Midwest was settled, there was an average of 30 inches of topsoil—but now we have less than 5 inches. With the current depressed farm economy, farmers cannot afford to take land out of production in order to install soil conservation measures without reasonable financial incentives. If American farmers are to reverse erosion trends in order to continue to feed the world's people, they must be given incentives to install soil conservation measures.

It is a well-accepted principle of our tax system that businesses should be encouraged to invest in new technology which will provide jobs and stimulate the economy. Should we not also encourage our farmer businessmen and businesswomen to invest in the renewal of land resources which provide our own citizens and many foreign consumers an abundance of agricultural products?

Mr. GRASSLEY. Mr. President, as a farmer and former member of the House Agriculture Committee, I have long been very concerned about the problems our country faces with soil erosion. I need not remind those present today that soil erosion presents one of our Nation's most serious long-term challenges. In 1977, about half of our 413 million acres of cropland were comprised of soils exposed to moderate, high, or very high risk of damage by sheet or rill erosion. This exposure has resulted in over 4 billion tons of soil lost yearly. In my home State of Iowa our farmers lose about 10 tons of topsoil per crop acre each year, which gives the State the great misfortune of ranking first in the Nation in soil erosion. Such loss of our vital resources is more than a threat to our farmers, but seriously threatens the Nation's future potential as a provider of food and fiber for our own people and for those around the world.

There is no need for me to belabor the point that we are suffering intolerable levels of soil erosion and that our future relies upon the resolution of the problem. What we need to decide is how we can turn this disastrous trend around—how can we best bring soil erosion within acceptable levels. Clearly, we are not suffering such huge losses for lack of effort—we have been fighting soil erosion for nearly 50 years and presently have over 30 Federal programs to assist soil conservation efforts by providing loans, cost-sharing funds, research, educational, and technical assistance. Yet with all this effort, we are still losing.

Some may argue that we have not directed enough money to the effort. I cannot argue with that, but the problem is that the Federal Government does not have all the money that it would take to bring erosion under control. Earlier this year, USDA Secretary Block pointed out that it would take $250 billion to bring erosion under control. It is plain that we do not have that kind of money during these times of severe budget constraints. But one of the things that we can do is make certain what money is expended for this effort is used in the most effective way available.

I believe that this has been one of our major problems—we have been spending money in a way that does not maximize conservation effort. This is why we need to try a different approach, and I firmly believe that tax credits for conservation expenditures could better help our work in curbing soil and water erosion.

I first began work on the idea of tax credits for soil conservation expenditures back in 1977 when I introduced the first bill providing such incentives for soil conservation purposes ever presented to Congress. During subsequent years, I continued my effort in this area. Needless to say, I was very pleased when I joined the Senate Finance Committee upon my arrival to the Senate last year because now I am a member of the key committee that can help me work for the enactment of my tax credit ideas.

Moreover, I believe that the idea of tax credits for soil conservation expenditures has come into its own time. Clearly, our past soil conservation efforts have been inadequate—the continued high rates of erosion across the country, particularly in my home State of Iowa, attest to this fact.

Some might wonder why we need tax credits when we already have tax deductions available for soil conserva-

tion efforts. The simple fact is that deductions do not provide as good of an incentive. They provide incentives of varying degree depending upon the taxpayer's tax bracket. A person in a higher tax bracket is far more likely to be able to take advantage of a deduction. Also, with the new tax breaks, these deductions will become even less attractive.

A tax credit, however, is a much stronger incentive, as well as a far more effective inducement for wider utilization because taxpayers are treated equally regardless of the size of the tax liability.

This provision is in true harmony with the philosophy of less Federal intervention. No new bureaucracy would be needed to administer the program. Government supervision over expenditures would be minimized since no new appropriations would be necessary. In short, this is the type of legislation that is most attractive to Americans today—it provides an incentive or inducement, but it does not allow the Government to interfere with the decision making process of the individual.

SEVERAL SENATORS. Vote.

Mr. DOLE. Mr. President, parliamentary inquiry. If the cost is negligible, then it would meet the standard we spelled out earlier.

The PRESIDING OFFICER. The Chair is not able to answer such an inquiry.

The question is on agreeing to the amendment of the Senator from South Dakota (Mr. PRESSLER).

The amendment (UP No. 1152) was agreed to.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

UP AMENDMENT NO. 1153

(Purpose: Striking the increase in the limitation on medical and dental expenses)

Mr. METZENBAUM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio (Mr. METZENBAUM) proposes an unprinted amendment numbered 1153.

Mr. METZENBAUM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 204, line 13, strike out "FOR MEDICAL AND DENTAL EXPENSES AND".

On page 204, strike out lines 15 through 20, and the matter inserted between lines 20 and 21.

On page 204, line 21, strike out "(c)" and insert in lieu thereof "(b)".

On page 206, line 10, strike out "(d)" and insert in lieu thereof "(c)".

Mr. METZENBAUM. Mr. President, I ask unanimous consent to be heard for 3 minutes in order that I might explain my amendment. It is a rather significant amendment.

The PRESIDING OFFICER. The Senator is out of order.

Mr. BOSCHWITZ. Mr. President, reserving the right to object, is the Senator going to ask for a rollcall vote?

Mr. METZENBAUM. Yes.

Mr. BOSCHWITZ. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. METZENBAUM. Mr. President, I suggest the absence of a quorum, but I might say I would be very happy to withdraw that request——

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, will the Senator withhold the quorum call?

The PRESIDING OFFICER. There is a quorum call in progress.

The legislative clerk resumed the call of the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, can I ask the Senator from Minnesota to consent to 3 minutes of debate before we kill this amendment?

Mr. BOSCHWITZ. Mr. President, I do not know how many more we have.

Mr. DOLE. This is almost the last one.

Mr. BOSCHWITZ. I withdraw my objection.

Mr. METZENBAUM. I thank the Senator.

Mr. President, the Finance Committee bill would trim two major medical expense deductions and thereby raise taxes for millions of elderly and middle-income Americans. My amendment would strike the committee's effort to scale back medical expense deductions and retain current law.

Under the committee bill, the total health insurance premium which can be deducted by an individual would be reduced to $100 from the current level of $150.

The committee would also raise the floor for deduction of medical expenses to 7 percent of adjusted gross income from today's 3-percent level.

These changes would raise about $4 billion. The bulk of that will come out of the pockets of elderly and middle-income taxpayers.

The taxes of 16 million Americans would rise an average of $114 if the Finance Committee proposals are adopted. Of these, 14 million earn less than $50,000 a year, and nearly 4½ million taxpayers in the $20,000 to $30,000 income category would experience a tax hike of $98 a year.

The changes would be most devastating for the elderly, particularly the low-income elderly.

Almost 65 percent of all dollars itemized for medical expenses by people over the age of 65 are deducted by those with an average adjusted gross income of less than $20,000.

Furthermore, total medical expenses in excess of 3 percent represent 20 percent of total itemized deductions for persons over 65.

The medical expense deduction is one of the Tax Code's few provisions which clearly aids the average taxpayer.

Mr. President, there have been no abuses of the medical deductions. There is not rampant taxpayer fraud. The current law simply recognizes the fact that many persons run up enormous medical expenses which are not covered by health insurance and provides a cushion for these taxpayers.

The committee's provision appears to be a handy way to raise $4 billion. But I would suggest that before we start raiding this area, we close some of the truly egregious loopholes that encourage tax abuses.

Surely, we can find $4 billion elsewhere. All we need is the courage to take on some of the special interests, rather than taking the easy road of cutting back on one of the few tax breaks enjoyed by those without powerful lobbyists to represent them.

What we are really talking about here is whether or not we are going to place upon middle and poor Americans the cost of their medical care and not permit them to deduct in excess of 3 percent as presently the law.

The PRESIDING OFFICER. Let us have silence in the Chamber, please, so the Senator can be heard.

Mr. METZENBAUM. It is whether or not we are going to take away the $150 expenses that are deductible and reduce that amount to $100.

Mr. President, I ask for the yeas and nays. I think the amendment speaks for itself. It is a question of putting back the law as it presently is.

Mr. DOLE. Medical expenses are a highly emotional issue. But we must keep our heads, examine the facts, and then decide whether current law really accomplishes what we all feel it should accomplish.

We are all concerned with providing better medical care to the American people, especially for low- and middle-income families. The fact is, a tax deduction is an inefficient and inequitable way to implement that concern. Tax deductions are never worth more than 50 percent of an expenditure. Moreover, they are only worth that much to the wealthy taxpayers in high tax brackets. The lower income taxpayers do not really benefit from this deduction nearly as much as the wealthy. And the wealthy, attracted

by the deductibility of certain so-called medical expenses, often take deductions for frivolous or questionable expenses.

This deduction does not really help the poor or lower income taxpayer pay for important medical expenses. It does subsidize many questionable expenditures.

For example: Clarinet lessons to correct teeth defects; contact lens insurance; a reclining chair; face lifts, and other cosmetic surgery; elastic stockings; hair transplants for a balding 24-year-old man; and organic foods.

Public and private health insurance now covers all but 5 to 8 percent of the American people. Most of the uncovered are from lower income families who generally do not itemize deductions, and thus do not benefit from this deduction. Even if they do itemize, the value of the deduction is very small.

The medical deduction has been allowed since 1942. For most of the last 40 years, the deduction was subject to a low ceiling, as well as a floor ranging from 3 to 5 percent. With the committee's amendment, the medical deduction rule will still be much more liberal than the rule in the 1954 Tax Code. That rule placed a $5,000 ceiling on medical deductions, together with a 3-percent floor. The result was no tax relief for catastrophic medical expenses. The committee amendment has no ceiling; thus, the floor simply limits the deduction to genuinely burdensome medical expenditures.

A 7-percent floor is not too restrictive. For a couple earning $20,000, it means they can deduct expenses over $1,400. This is lower than the $2,000 threshold contained in Senator LONG's proposal to provide Federal catastrophic health insurance. This threshold is fairer to low-income families, because it varies directly with income.

This deduction was placed in the tax law when private and public health insurance was rare. In 1945, only 32 million Americans were covered by private health insurance, and there was almost no Federal health insurance. In 1980, more than 186 million Americans were covered by private health insurance, and many more are covered by medicare and medicaid.

Today, between 92 and 95 percent of the population is covered by health insurance. The medical expense deduction does not effectively help the remaining 5 to 8 percent who are not covered. Perhaps we should review proposals to expand Federal health insurance programs. But a tax deduction for medical expenses is not really a solution to the problems faced by uncovered individuals.

The medical expense deduction serves only one function well. It reduces tax liability substantially when catastrophic medical expenditures reduce a family's ability to pay taxes. For this function, raising the floor is an appropriate change.

The medical expense deduction is very inefficient, since IRS bureaucrats and tax lawyers are not expert in determining what sorts of medical and health expenditures should be deductible to further sound health policy. An example of questionable tax and health policy is found in an IRS ruling that allows a medical expense deduction for hair transplants and electrolysis, but disallows amounts paid for tattoos and ear piercing. Are these items really distinguishable? Should hair transplants and electrolysis be subsidized by the Federal Government? Do we really want the IRS and the Tax Court spending their time and resources on these issues? I ask unanimous consent to include this ruling in the RECORD.

There being no objection, the ruling was ordered to be printed in the RECORD, as follows:

REVISED RULE 82-111, JUNE 1, 1982, INTERNAL REVENUE BULLETIN

SECTION 213.—MEDICAL, DENTAL, ETC., EXPENSES (26 CFR 1.213-1: MEDICAL, DENTAL, ETC., EXPENSES)

Medical expenses; hair transplants; hair removal through electrolysis; tattoos; ear piercing. Expenditures for hair transplants performed by a doctor and expenditures for removal of hair through electrolysis performed by a licensed technician are amounts paid for medical care expenses. Expenditures for tattoos and ear piercing are not amounts paid for medical care.

Revised rule 82-111

Issue

Are expenditures made under the situations described below amounts paid for medical care as defined in section 213(e) of the Internal Revenue Code?

Facts

Situation 1.—The taxpayer pays for hair transplants performed on the taxpayer by a dermatologist or plastic surgeon.

Situation 2.—The taxpayer pays for hair removal through electrolysis performed on the taxpayer by a state licensed technician.

Situation 3.—The taxpayer pays for a tattoo inscribed on the taxpayer's arm by a "tattoo artist."

Situation 4.—The taxpayer pays for an ear piercing procedure performed by a licensed physician.

Law

Section 213(a) of the Code provides that there shall be allowed as a deduction the amount by which the amount of the expenses paid during the taxable year for medical care of the taxpayer exceeds three percent of the taxpayer's adjusted gross income.

Section 213(e)(1) of the Code provides that the term "medical care" means amounts paid for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body.

Section 1.213-1(e)(1)(ii) of the Income Tax Regulations provides that amounts paid for operations or treatments affecting any portion of the body are deemed to be for the purpose of affecting any structure or function of the body and are therefore paid for medical care. See also Rev. Rul. 76-332, 1976-2 C.B. 81; Rev. Rul. 73-603, 1973-2 C.B. 76; and Rev. Rul. 73-201, 1973-1 C.B. 140.

Analysis

Situation 1.—In performing a hair transplant, a dermatologist or surgeon removes a hair and its follicle from the fringes of the scalp and transplants it into a bald area on top of the head. The operation requires the transplanting of many tiny plugs of tissue, including the skin and subcutaneous layers. In order for the procedure to succeed, the implant must "take" in much the same way as any other graft must survive in its new location. See R. Rothenber, The Complete Surgical Code 109 (1974).

In *Mattes* v. *Commissioner*, 77 T.C. 650 (1981), page 5, this Bulletin, the Tax Court concluded that because the scalp is a part of the body, the transplantation of the taxpayer's hair from one portion of the scalp to another through a surgical procedure certainly affected a structure of the body. The Tax Court further held that the hair transplantation undergone by the taxpayer was a treatment for a physical defect within the meaning of "medical care" under section 1.213-1(e)(1)(ii) of the regulations.

Situation 2.—Hair removal through electrolysis is a form of epilation by electric current. A fine needle with a rounded tip is attached to an electrode and inserted into the hair follicle parallel to and touching the hair approximately three to five millimeters below the surface of the skin to the base of the follicle. The electric current concentrates at the tip of the needle and is transmitted to the cells of the hair bulb, thereby permanently destroying the hair root or papilla. See E. Epstein, Skin Surgery 216 (2d ed. 1962).

Because this operation penetrates the entire length of the follicle and destroys living tissue, it affects a structure of the body, the skin and subcutaneous layers.

Situation 3.—Tattooing is done by pricking the skin with coloring matter. Generally a form of dye is injected into the skin to represent various figures and designs using a power driven multiple spiked tool. See G. Lewis, Practical Dermatology 311 (2d ed.)

Tattooing, in contrast to hair transplants and hair removal through electrolysis, is not a procedure that affects a structure or function of the body. It is merely a method of pigmenting the skin without affecting the subcutaneous layers.

Situation 4.—Ear piercing is generally done by piercing the earlobe with a large needle after deadening the area to be pierced. After the ear is pierced, generally, gold or stainless steel earrings are attached until the ear heals. Earrings must be worn regularly after healing to prevent the hole from closing through natural tissue growth. Without regular wear, the hole will grow shut.

Ear piercing, because it is a superficial procedure, and because of its impermanent effect does not affect a function or structure of the body within the meaning of section 213 of the Code and the regulations thereunder.

Holdings

Situation 1.—Expenditures by the taxpayer for hair transplants are amounts paid for medical care as defined in section 213(e) of the Code.

Situation 2.—Expenditures by the taxpayer for hair removal through electrolysis are amounts paid for medical care as defined in section 213(e) of the Code.

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Situation 3.—Expenditures by the taxpayer for tattooing are not amounts paid for medical care as defined in section 213(e) of the Code.

Situation 4.—Expenditures by the taxpayer for ear piercing are not amounts paid for medical care as defined in section 213(e) of the Code.

Mr. DOLE. Will the Senator yield?

Mr. METZENBAUM. I yield.

Mr. DOLE. We lowered it from 10 to 7, and the Senator from Kansas would go further but we do not have the money. We intend to go further in conference.

Mr. METZENBAUM. I appreciate the efforts of the Senator from Kansas to move in the right direction. I think we have not gone far enough. I appreciate his efforts in attempting to do that. In spite of that, it is my feeling that we ought not to put this burden on poor- and middle-class Americans.

Mr. BOSCHWITZ. Mr. President, would the Senator be satisfied with a voice vote? It is after 3 o'clock in the morning.

Mr. METZENBAUM. I will not be satisfied with a voice vote, but I would be very happy if the majority leader wants to limit the rollcall vote to 5 or 10 minutes.

Mr. BAKER. Mr. President, I cannot do that. Senators are off the floor and it takes time to get them here. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. METZENBAUM. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Ohio. The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—46

Baucus	DeConcini	Hollings
Bentsen	Dixon	Huddleston
Biden	Dodd	Jackson
Bradley	Eagleton	Johnston
Bumpers	Exon	Kennedy
Burdick	Ford	Leahy
Byrd, Robert C.	Glenn	Levin
Cannon	Hart	Long
Chiles	Hawkins	Mathias
Cranston	Heflin	Matsunaga
Melcher	Proxmire	Schmitt
Metzenbaum	Pryor	Specter
Mitchell	Randolph	Tsongas
Moynihan	Riegle	Zorinsky
Nunn	Sarbanes	
Pell	Sasser	

NAYS—51

Abdnor	East	Nickles
Andrews	Garn	Packwood
Armstrong	Gorton	Percy
Baker	Grassley	Pressler
Boren	Hatch	Quayle
Boschwitz	Hatfield	Roth
Brady	Hayakawa	Rudman
Byrd, Harry F., Jr.	Heinz	Simpson
	Helms	Stafford
Chafee	Humphrey	Stennis
Cochran	Jepsen	Stevens
Cohen	Kassebaum	Symms
D'Amato	Kasten	Thurmond
Danforth	Laxalt	Tower
Denton	Lugar	Wallop
Dole	Mattingly	Warner
Domenici	McClure	
Durenberger	Murkowski	

NOT VOTING—3

Goldwater	Inouye	Weicker

So Mr. METZENBAUM'S amendment (UP No. 1153) was rejected.

Mr. DOLE. I move to reconsider the vote by which the amendment was rejected.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1154

(Purpose: To amend the Tax Reform Act of 1969 with respect to the application of the excess business holding provisions to private foundations)

Mr. DOLE. Mr. President, I yield to the Senator from California.

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) for himself and Mr. CRANSTON, an unprinted amendment numbered 1154.

At the appropriate place add the following new section:

SECTION 1. APPLICATION OF DIVESTITURE REQUIREMENTS.

Paragraph (4) of subsection (1) of section 101 of the Tax Reform Act of 1969 is amended by adding at the end thereof the following new subparagraphs:

"(D) Subject to the provisions of subparagraph (E), the 15-year period described in section 4943(c)(4)(B)(ii) for the disposition by any private foundation of excess business holdings shall be suspended for an additional 5-year period, beginning when the 15-year period described in section 4943(c)(4)(B)(ii) would end but for this subparagraph, with respect to holdings in an insured institution (as defined in section 408(a)(1)(A) of the National Housing Act (12 U.S.C. 1730a(a)(1)(A))) and in each savings and loan holding company (as defined in section 408(a)(1)(D) of the National Housing Act (12 U.S.C. 1730a(a)(1)(D))) that owns stock of such insured institution (or that owns stock of a savings and loan holding company that owns stock of such insured institution), if, on May 26, 1969—

"(i) the private foundation and disqualified persons with respect to the private foundation (as defined in section 4946(a)(1)) together would have owned directly at least 80 percent of the voting stock of such insured institution had each such savings and loan holding company been dissolved on that date and its assets distributed to its shareholders;

"(ii) at least 80 percent of the fair market value of the assets of the private foundation was represented by its ownership of voting or nonvoting stock of such insured institution and of one or more such savings and loan holding companies; and

"(iii) the outstanding principal balance of residential loans held by such insured institution exceeded $2,000,000,000.

"(E) The suspension of the 15-year period provided in subparagraph (D) shall apply only if and for so long as—

"(i) from and after the end of such 15-year period, the private foundation shall have irrevocably divested itself, its disqualified persons, and its related and subordinate parties (as defined in section 672(c)) of the power to vote such of its voting stock of such insured institution and of each such savings and loan holding company that, in each case, would constitute excess business holdings but for subparagraph (D); and

"(ii) by the end of each 1-year period following the end of such 15-year period, the number of shares of voting stock of such insured institution, and of each such savings and loan holding company, owned directly or indirectly by the private foundation, is not, in each case, more than (I) the number of such shares that does not constitute excess business holdings (determined without regard to subparagraph (D)), plus (II) 10 percent of the number of such shares that would have constituted excess business holdings at the end of the 15-year period but for subparagraph (D), multiplied by the number of years remaining in the additional 5-year period described in subparagraph (D).

"(F) The savings and loan holding companies described in subparagraph (D) shall be deemed to be business enterprises for purposes of chapter 42.

"(G) The divestiture of the power to vote voting stock, pursuant to subparagraph (E)(i), shall not cause the stock in question to be considered as other than voting stock held by the private foundation.".

SEC. 2. EFFECTIVE DATE.

The amendment made by this Act shall be effective as of May 26, 1969.

Mr. BAKER. Mr. President, I ask unanimous consent that the Senator may have 1 minute to explain his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HAYAKAWA. Mr. President, I am proposing with Senator CRANSTON, an amendment which is similar to two provisions in H.R. 4961. This amendment amends section 4943 of the Internal Revenue Code to provide the Ahmanson Foundation with a limited extension of the time within which it must dispose of stock holdings in H. F Ahmanson Co., the holding company of Home Savings of America, the largest savings and loan association in the United States. This amendment will allow the Ahmanson Foundation to avoid sales of H. F. Ahmanson stock at significantly depressed prices. I understand this amendment has been

cleared on both sides. I urge its adoption. It has been cleared by Senator CRANSTON, Senator METZENBAUM, and by my colleagues on the Republican side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment UP. 1154 was agreed to.

Mr. HAYAKAWA. I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1155

Mr. HAYAKAWA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

Mr. EXON. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. Has not the time expired for consideration of these amendments?

The PRESIDING OFFICER. Amendments are in order, but they must be disposed of without debate.

Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. HAYAKAWA) proposes an unprinted amendment numbered 1155.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 534, line 21 strike "during" and insert in lieu thereof "before the close of the".

Mr. HAYAKAWA. Mr. President, I ask unanimous consent for 1 minute to explain the amendment.

Mr. EXON. Mr. President, I object.

Mr. STEVENS. Mr. President, I ask that the amendment be read. It works on both sides of the street.

The PRESIDING OFFICER. The clerk will read the amendment.

The legislative clerk read as follows:

On page 534, line 21, strike "during" and insert in lieu thereof "before the close of the".

The PRESIDING OFFICER. The question is on the amendment of the Senator from California.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. HAYAKAWA. Mr. President, may I have half a minute to explain specifically that this amendment modifies the requirement that State and local governments——

The PRESIDING OFFICER. Debate is not in order.

Mr. EXON. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. Mr. President, I ask for the yeas and nays.

Mr. EXON. Mr. President, regular order.

Mr. STEVENS. Let him have the minute. It will take 15 minutes to have a vote. We need at least a minute or 2 minutes on each one of these in spite of the fact that time has expired. Fair is fair.

Mr. EXON. Point of order, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. EXON. Are the rules of the Senate that the minority whip is allowed to debate when others are not?

The PRESIDING OFFICER. Nobody is permitted debate.

Mr. STEVENS. The minority whip is not debating.

The PRESIDING OFFICER. Debate is not in order.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. HAYAKAWA addressed the Chair.

The PRESIDING OFFICER (Mr. DURENBERGER). The Senator from California.

Mr. HAYAKAWA. I am given to understand——

The PRESIDING OFFICER. There is a quorum call in process.

Mr. HAYAKAWA. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from California.

Mr. HAYAKAWA. I am given to understand that Senator LONG and others on the Democratic side have given their consent——

Mr. ROBERT C. BYRD. Mr. President, we cannot hear the Senator, what is he saying?

Mr. HAYAKAWA. Mr. President, I am offering this amendment, along with Senators CRANSTON, D'AMATO, HAWKINS, and MURKOWSKI to correct a problem created by a requirement in this bill that will cost the State of California $4 million and will have a similar impact on many other States. Specifically, this amendment modifies the requirement that State and local governments notify during the month of January, taxpayers that any refund they may have received in the previous tax year is taxable as income to the Federal Government. Because the bill requires notification only during January, States will have to make a separate mailing to all taxpayers, at considerable cost. In mailing fees alone, this provision will cost California taxpayers, as I said before, $4 million.

This amendment simply allows States to notify taxpayers sometime prior to the end of January. With this degree of flexibility, States could enclose the notice with the refund check, or with other tax information mailings. Thus, States would not be required to incur additional mailing expenses, but the intent of the bill would be met.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

The amendment (UP No. 1155) was agreed to.

Mr. HAYAKAWA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1156

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. I thank the Chair. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Colorado (Mr. HART) proposes an unprinted amendment numbered 1156:

On page 460, strike out line 5 and all that follows through line 20.

Mr. LONG. Mr. President, I suggest the absence of a quorum.

Mr. HART. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Louisiana has suggested the absence of a quorum. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I wonder if we might have unanimous consent that we have 2 minutes on each side on this amendment.

Mr. EXON. Reserving the right to object, could we have some indication as to how long we are going to proceed under these conditions? It seems very strange for a fairly new Member of the body; we are passing laws and nobody knows what they are doing. Maybe that is customary, but it seems a little unusual to me.

May I please inquire of the manager of the bill as to how many amendments are left?

Mr. DOLE. Mr. President, if the Senator will yield, this is the last known amendment except the Senator from Kansas has one to raise the corporate

minimum from 15 percent to 20 percent. That picks up $800 million. We would need only $2 billion more.

THE PRESIDING OFFICER. Is there objection to the request of the Senator from Kansas?

The Chair hears none, and it is so ordered.

Mr. HART addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. HART. Mr. President, this amendment seeks to strike a provision from the bill which the Senator from Colorado interprets to permit the deductibility of certain foreign illegal payments for bribes. As the Senator from Colorado reads pages 164 and 165 of the committee report, payments made illegally to foreign governments or to foreign interests in some circumstances are deductible on presumably American corporate income tax forms. This amendment would strike that provision and not permit those deductions.

I hope my colleagues will support this amendment.

I reserve the remainder of my time.

Mr. CHAFEE. Mr. President, the provision in the act now, which the Senator from Colorado seeks to strike, permits the deductibility of payments that are permitted under the Foreign Corrupt Practices Act that exists under our law now. These are permissible under our Foreign Corrupt Practices Act. This conforms the Internal Revenue Code with that. It would permit those payments to be a deductible item.

Mr. HART. Mr. President, will the Senator yield for a question?

Mr. CHAFEE. I yield.

Mr. HART. Can the Senator tell me what the phrase on page 165 of the committee report, "grease payments," means? [Laughter.]

Mr. CHAFEE. That is an acceptable term that is used to refer to payments for ministerial or clerical duties, nondiscriminator duties performed by lower level government employees. For example, a payment to a customs officer to speed up processing one's goods through customs.

Mr. HART. Is that why it is in quotes?

Mr. CHAFEE. Those payments are to make things move faster, and it all translates into jobs for Americans. [Laughter.]

This is a bill that favors the working men and working women of America.

Mr. DOLE. And other countries.

Mr. CHAFEE. It has been approved by Treasury. [Laughter.]

Mr. HART. Mr. President, I rest my case.

The PRESIDING OFFICER. Who yields time?

SEVERAL SENATORS. Vote! Vote!

Mr. CHAFEE. Mr. President, I recommend that the amendment by the Senator from Colorado be defeated, on behalf of the working men and women.

The PRESIDING OFFICER. Who yields time?

Mr. HART. I yield back the remainder of my time.

Mr. BRADLEY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. BRADLEY. Mr. President, I withdraw my request.

Mr. HART. Mr. President, I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado. All those in favor signify by saying "aye."

All those oppose signify by saying "nay."

The ayes appear to have it.

Mr. HART. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Colorado. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER), are necessarily absent.

Mr. CRANSTON: I announce that the Senator from Hawaii (Mr. INOUYE), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 46, nays 51, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—46

Baucus	Ford	Mitchell
Biden	Glenn	Moynihan
Boren	Hart	Nickles
Bradley	Hatfield	Nunn
Bumpers	Heflin	Pell
Burdick	Hollings	Proxmire
Byrd, Robert C.	Huddleston	Pryor
Cannon	Jackson	Randolph
Chiles	Johnston	Riegle
Cohen	Kassebaum	Sarbanes
Cranston	Kennedy	Sasser
DeConcini	Leahy	Specter
Dixon	Levin	Tsongas
Dodd	Matsunaga	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NAYS—51

Abdnor	D'Amato	Hawkins
Andrews	Danforth	Hayakawa
Armstrong	Denton	Heinz
Baker	Dole	Helms
Bentsen	Domenici	Humphrey
Boschwitz	Durenberger	Jepsen
Brady	East	Kasten
Byrd, Harry F., Jr.	Garn	Laxalt
Chafee	Gorton	Long
Cochran	Grassley	Lugar
Mathias	Roth	Symms
Mattingly	Rudman	Thurmond
McClure	Schmitt	Tower
Murkowski	Simpson	Wallop
Packwood	Stafford	Warner
Percy	Stennis	
Pressler	Stevens	
Quayle		

NOT VOTING—3

Goldwater	Inouye	Weicker

So Mr. HART's amendment (UP No. 1156) was rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. JEPSEN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I ask unanimous consent that I may have 2 minutes to explain what the problem is.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, we are right now about $2.8 billion shy of the mark mandated by the budget resolution.

I have a number of amendments that I think could satisfy that. I have one that is precisely $2.8 billion and one that I think might be acceptable and I intend to offer that amendment and if it can be agreed upon that would end it.

It would simply provide that only 50 percent of business meals are deductible when the meals are consumed other than on travel status. That is, all expenses would be deductible if the individual is away from home; but only half would be deductible.

UP AMENDMENT NO. 1157

I send that amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1157:

On page 228, after line 20, insert the following:

SEC. 210. DEDUCTION FOR BUSINESS MEALS.

(a) IN GENERAL.—Paragraph (1) of section 274(e) (relating to deductions for entertainment, etc.) is amended by adding at the end thereof the following new sentence:

"Notwithstanding any other provision of this title, no deduction shall be allowed under this chapter for 50 percent of the expenses (other than expenses in connection with travel away from home) otherwise described in the preceding sentence."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

Mr. DOLE. Mr. President, if I could have 1 additional minute I could further explain the amendment.

The present law treatment of meal and entertainment expenses encourages taxpayers to charge personal expenses to the Treasury.

Unfairness and abuse result under present law because meal and enter-

tainment deductions are allowed for expenses that are essentially for the personal benefit and enjoyment of individuals who do not include any amount in income as a result of the expenditures.

Finally, it should be remembered that the personal benefits of meal and entertainment deductions accrue largely to upper income taxpayers.

I just suggest that this is a good amendment.

If one talks about more equity, here is a chance to do a little equity in the middle of the night.

Mr. KENNEDY. Mr. President, will the Senator yield for a question?

Mr. DOLE. I yield.

Mr. KENNEDY. If the Senator from Kansas offered an amendment which reduced the percentage of reduction from 10 to 9 percent the third year of the tax cut, my understanding is that is approximately $3 billion and would accomplish the same; is that correct?

Mr. DOLE. I think that is accurate, but I would not dare do that. [Laughter.] I might say the Boston Globe endorsed this amendment last week. [Laughter.]

Mr. HART. Mr. President, would the Senator yield for a question?

Mr. LONG. Mr. President, I make a point of order that the amendment is not germane to the bill.

The PRESIDING OFFICER. The Chair has not had an opportunity to examine the amendment.

The Chair is not aware that there is a provision in the bill dealing with deductions for meals. Apparently this introduces new matter into the bill, and therefore, would be nongermane and the point of order of the Senator from Louisiana is sustained.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

Mr. KENNEDY. On whose time?

Mr. DOLE. I do not care.

Mr. KENNEDY. Regular order, Mr. President.

The PRESIDING OFFICER. Did the Senator from Kansas suggest the absence of a quorum?

Mr. DOLE. Is a quorum call not in order?

The PRESIDING OFFICER. It is in order. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SPECTER). Without objection, it is so ordered.

UP AMENDMENT NO. 1158

Mr. DOLE. Mr. President, I send to the desk a committee amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

Mr. ROBERT C. BYRD. Mr. President, is the chairman speaking on behalf of, or is he authorized by, a majority of the committee to submit this amendment?

Mr. DOLE. The answer is "yes." I have contacted myself and 10 others; 11 members of 20.

Mr. ROBERT C. BYRD. And 11 have so authorized?

Mr. DOLE. Yes.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE), on behalf of the Committee on Finance, proposes an unprinted amendment numbered 1158:

On page 228, after line 20, insert the following:

SEC. 210. DEDUCTION FOR BUSINESS MEALS.

(a) IN GENERAL.—Paragraph (1) of section 274(e) (relating to deductions for entertainment, etc.) is amended by adding at the end thereof the following new sentence:

"Notwithstanding any other provision of this title, no deduction shall be allowed under this chapter for 50 percent of the expenses (other than expenses in connection with travel away from home) otherwise described in the preceding sentence."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

Mr. LONG. Mr. President, I will just take 15 seconds. This is a matter that has been voted on time and time again. It has been overwhelmingly defeated. Tonight the Senate voted to protect the waiters from what was in the committee bill and to protect the restaurant owners. This pending amendment will hurt the waiters and restaurant owners more than what the Senate voted to save them from.

I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. Mr. President, if I could take 15 seconds to make the argument that this amendment benefits upper income taxpayers. It raises the $2.8 billion that we need to meet our budget requirements. I hope the amendment might be adopted.

Mr. DECONCINI. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. DECONCINI. Is this amendment germane to the bill?

The PRESIDING OFFICER. This amendment is a committee amendment and sets the parameters for germaneness and, therefore, is germane per se.

Mr. MITCHELL. Mr. President, will the chairman yield for a question? I want to ask if it is not true that if the Senate were to vote to defer the third year of the tax cut for only those taxpayers whose incomes are in excess of $150,000 a year, would that not yield approximately $3 billion, which is almost exactly the amount the chairman has indicated is lacking here?

Mr. DOLE. I am not certain. I would have to look that up while we have the rollcall on this. I would be glad to check.

Mr. MITCHELL. Mr. President, the information I have is that that is true, and I suggest it for the chairman's consideration as a way out of this impasse. There have been 4 days of rhetoric here on all sides about how much we want to do something for little people and how much we are not just for the wealthy.

I repeat again, this would defer the third year of the tax cut only for those taxpayers whose incomes are in excess of $150,000 a year. That would raise $3 billion in income and would break the impasse so we could vote on the bill and go home.

Mr. DOLE. That is probably what this amendment does right here.

Mr. MITCHELL. Mr. President, a parliamentary inquiry. Is it in order for me to propose this as a substitute?

The PRESIDING OFFICER. The amendment is a second-degree amendment and the substitute will be a third-degree amendment and would not be in order.

Mr. DECONCINI. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Arizona will state his parliamentary inquiry.

Mr. DECONCINI. Mr. President, the Chair advises this is a committee amendment. Are there rules that govern the notice of meeting of the committee and when did it meet, can the Chair advise?

Mr. DOLE. Under the rules of the Committee on Finance, we do not have to meet. We just have to find and poll our members.

Mr. DECONCINI. There are no rules for meeting of the Finance Committee?

The PRESIDING OFFICER. The ruling is that a committee amendment can be offered on behalf of the committee by a majority thereof without a meeting.

Mr. DECONCINI. Without any formal meeting or notice of meeting?

The PRESIDING OFFICER. The Senator is correct.

Mr. HART. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. HART. Mr. President, I wonder if the Senator from Kansas could state whether the business entertainment expenses affected by this amendment are the same business entertainment expenses that would have been reduced by an amendment offered by the Senator from Colorado some 2 months ago, the revenues from which would have been applied to the school lunch program, reducing the deductibility from 100 percent to 70 percent at that time? Are those the same busi-

ness entertainment expenses that this amendment applies to?

Mr. DOLE. I do not recall that amendment, but I believe that both amendments addressed certain business meal deductions.

Mr. HART. I raise the question since I think a number of people, particularly on the other side of the aisle, voted against that amendment at that time. That was to reduce not to 50 percent but from 170 percent.

Mr. LONG. I ask for the yeas and nays, Mr. President.

The PRESIDING OFFICER. The yeas and nays have been ordered.

SEVERAL SENATORS. Vote!

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Hawaii (Mr. INOUYE) is necessarily absent.

Thr PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 57, nays 40, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—57

Abdnor	Grassley	Percy
Andrews	Hart	Pressler
Armstrong	Hatfield	Proxmire
Baker	Hayakawa	Quayle
Baucus	Heflin	Riegle
Boren	Heinz	Roth
Brady	Helms	Rudman
Chafee	Humphrey	Sasser
Cochran	Kassebaum	Schmitt
Cohen	Kennedy	Simpson
D'Amato	Laxalt	Specter
Danforth	Lugar	Stafford
Denton	Mathias	Stevens
Dole	McClure	Symms
Domenici	Metzenbaum	Thurmond
Durenberger	Murkowski	Tower
East	Nickles	Tsongas
Garn	Packwood	Wallop
Gorton	Pell	Warner

NAYS—40

Bentsen	Dodd	Levin
Biden	Eagleton	Long
Boschwitz	Exon	Matsunaga
Bradley	Ford	Mattingly
Bumpers	Glenn	Melcher
Burdick	Hatch	Mitchell
Byrd, Harry F., Jr.	Hawkins	Moynihan
	Hollings	Nunn
Byrd, Robert C.	Huddleston	Pryor
Cannon	Jackson	Randolph
Chiles	Jepsen	Sarbanes
Cranston	Johnston	Stennis
DeConcini	Kasten	Zorinsky
Dixon	Leahy	

NOT VOTING—3

Goldwater	Inouye	Weicker

So the amendment (UP No. 1158) was agreed to.

Mr. DOLE. I move to reconsider the vote, Mr. President.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1159

(Purpose: Making technical amendments)

Mr. DOLE. I send to the desk a technical amendment that has been cleared with the distinguished Senator from Louisiana.

Mr. DECONCINI. Will the Senator tell us, how many inches is that?

Mr. DOLE. About half an inch. There are 43 pages, but they are technical in nature.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Kansas (Mr. DOLE) proposes an unprinted amendment numbered 1159.

Mr. DOLE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 40, line 3, strike out "Section 11" and insert "Section 4".

On page 40, line 6, strike out "(j)" and insert "(g)".

On page 54, line 23, after the period insert the following "Such premium amount shall be the amount which would have been determined for months in the 12-month period beginning July 1, 1982, if the amendments made by this section had applied for premiums for all of such 12-month period.".

On page 56, line 5, strike out "may" and insert "shall".

On page 98, line 19, strike out "or (iv)" and insert "or (v)".

On page 173, strike out lines 7 through 10 and insert the following: "amount, if determined to have been paid by the State in recognition of the difference between the current or anticipated needs of a family for a month based upon actual income or other relevant circumstances for such month, and the needs of such family for such month based upon income and other relevant circumstances as retrospectively determined under section 402(a)(13)(A)(ii), shall not be considered income within the meaning".

On page 184, line 11, strike out "1616(b)" and insert "1616(a)".

On page 184, line 12, insert "(b)" after "212".

On page 184, line 15, insert "(including benefits payable under an agreement under section 1616(a) of this title or section 212(b) of Public Law 93-66)" after "this title".

On page 184, line 21, strike out "1616(b)" and insert "1616(a)".

On page 184, line 22, insert "(b)" after "212".

On page 188, line 8, strike out "chapter" and insert in lieu thereof "subchapter".

On page 188, line 14, strike out "section 33" and insert in lieu thereof "section 33(a)".

On page 189, line 25, strike out "subparagraphs" and insert in lieu thereof "paragraphs".

On page 190, lines 13 and 14, strike out "paragraph (2)(A)" and insert in lieu thereof "subparagraph (A)".

On page 191, line 22, strike out "53(b), 44C(b)(1)" and insert in lieu thereof "53(a), 44C(b)(5)".

On page 192, line 21, insert "which are taken into account in computing the net operating loss" after "year".

On page 193, line 17, insert "(other than a deduction allowable in computing adjusted gross income)" after "year".

On page 194, line 6, insert "for purposes of the regular tax" after "year".

On page 198, lines 7 and 8, strike out "subparagraphs (A) and (C)" and insert in lieu thereof "subparagraph (A) or (C)".

On page 198, line 11, strike out "subparagraphs" and insert in lieu thereof "subparagraph".

On page 198, line 25, strike out "and".

On page 199, strike out lines 1 through 5 and insert in lieu thereof:

"(B) $30,000 in the case of an individual who—

"(i) is not a married individual (as defined in section 143), and

"(ii) is not a surviving spouse (as so defined), and

"(C) $20,000 in the case of—

"(i) a married individual (as so defined) who files a separate return, or

"(ii) an estate or trust.

In any case to which subparagraph (C) applies, paragraph (1) of subsection (a) shall be applied by substituting '$10,000' for '$20,000' each place it appears.

On page 199, line 10, insert "72(q)," after "72(m)(5)(B),".

On page 201, line 7, strike out "acquired" and insert in lieu thereof "issued".

On page 201, line 13, after "year." insert the following: "For purposes of this paragraph, sections 1232A and 1232B shall be applied as if such sections did not contain any exemption for obligations the interest on which is exempt from tax.".

On page 201, line 18, strike out "(13), and (14)" and insert in lieu thereof "and (13)".

On page 202, beginning with line 19, strike out all thrugh page 203, line 3, and insert in lieu thereof the following:

(A) by striking out subsection (a),

(B) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) ESTATES AND TRUSTS.—In the case of an estate or trust, the sum of items for tax preferences for any taxable year shall be apportioned between the estate or trust and the beneficiaries in accordance with regulations prescribed by the Secretary.", and

On page 203, line 7, insert "and" after the comma at the end thereof.

On page 205, line 14, strike out "after application of subparagraph (A)" and insert in lieu thereof "(determined after application of subparagraph (A))".

On page 205, line 18, insert "JOINT RETURNS.—" before "For".

On page 205, line 23, insert "COORDINATION WITH ESTATE TAX.—" before "No".

On page 207, line 14, strike out "of such Code".

On page 211, line 5, insert "and shall be recognized notwithstanding any other provision of this title" after "income".

On page 213, line 22, strike out "(A)" and insert in lieu thereof "(B)".

On page 214, line 21, strike out "(A)" and insert in lieu thereof "(B)".

On page 216, between lines 19 and 20, insert the following:

"(6) COORDINATION WITH COST DEPLETION.—The portion of the adjusted basis of any property which is attributable to intangible drilling and development costs or mining exploration and development costs shall not be taken into account for purposes of determining depletion under section 611.

On page 218, line 8, strike out "is" and insert in lieu thereof "would (but for this paragraph) be".

On page 218, line 17, insert "(determined without regard to this section)" after "allowable".

On page 223, line 9, strike out the end quotation marks and end period.

On page 223, between lines 9 and 10, insert the following:

"(4) RECAPTURE OF REDUCTIONS.—

"(A) IN GENERAL.—For purposes of sections 1245 and 1250, any reduction under this subsection shall be treated as a deduction allowed for depreciation.

"(B) SPECIAL RULE FOR SECTION 1250.—For purposes of section 1250(b), the determination of what would have been the depreciation adjustments under the straight line method shall be made as if there had been no reduction under this section.".

On page 224, line 16, strike out "paragraph (1)" and insert in lieu thereof "subsection (a)".

On page 225, in the matter following line 14, strike out "credit" and insert in lieu thereof "credits".

In the new matter inserted in lieu of the end period on page 225, line 2, strike out "June 25" and insert in lieu thereof "August 13", and strike out "January" each place it appears and insert in lieu thereof "July".

On page 229, line 1, strike out "Subtitle B" and insert in lieu thereof "Part II".

On page 230, line 15, insert "of" after "(ii)".

On page 232, line 5, insert "elected" before "qualified".

On page 240, line 15, strike out "clause (v)" and insert in lieu thereof "clause (v))".

On page 244, line 1, strike out "subsection" and insert in lieu thereof "section".

On page 244, line 18, insert a comma at the end thereof.

On page 245, strike out line 11 and insert in lieu thereof the following: "(11), and (12) as paragraphs (10), (11), (12), and (13), respectively,".

On page 246, strike out lines 2 and 3 and insert in lieu thereof "paragraphs (9), (10), (11), (12), and (13) as paragraphs (8), (9), (10), (11), and (12), respectively.".

On page 247, line 19, strike out "any rule or".

Clause (ii) of section 212(c)(1)(B) of the Act (as inserted in lieu of lines 15 through 18 of page 246) is amended by adding at the end thereof the following new sentence: "For purposes of subclause (II), in the case of an individual, there shall not be taken into account any agreement of any individual who is a related person involving property which is used in a trade or business of farming of such related person which is separate from the trade or business of farming of the lessee described in subclause (II).".

On page 272, strike out lines 5 through 7, and insert in lieu thereof the following:

(d) EFFECTIVE DATE; SPECIAL RULE.—

(1) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1982.

(2) TREATMENT OF CERTAIN SALES MADE AFTER JULY 1, 1982.—

(A) IN GENERAL.—In the case of any disposition of intangible property made by a corporation after July 1, 1982, and before the beginning of such corporation's first taxable year beginning after December 31, 1982, for purposes of applying sections 934 and 936 of the Internal Revenue Code of 1954 with respect to taxable years ending after July 1, 1982, any gain or loss from such disposition shall be treated as gain or loss from sources within the United States.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to any disposition by any corporation of intangible property if—

(i) the requirements of clause (i) or (ii) of section 936(h)(3)(A) of the Internal Revenue Code of 1954 (as added by subsection (a)) are met by such corporation with respect to such property or,

(ii) such disposition is to a person who is not a related person to the corporation.

(C) SUBSECTION DOES NOT AFFECT ELIGIBILITY.—The provisions of this paragraph shall not apply for purposes of determining whether the corporation meets the requirements of section 936(a)(2) of such Code or of paragraphs (1) and (2) of section 934(b) of such Code.

(D) DEFINITIONS.—For purposes of this paragraph, the terms 'intangible property' and 'related person' have the respective meanings given to such terms by subsection (h) of section 936 of such Code (as added by subsection (a)).

On page 273, line 2, insert "(other than a governmental unit)" after "person".

On page 276, beginning with line 4, strike out all through page 277, line 3, and insert in lieu thereof the following:

"(A) IN GENERAL.—An obligation shall satisfy the requirements of this paragraph if such obligation is issued as a part of an issue which has been approved by—

"(i) the governmental unit—

"(I) which issued such obligation, or

"(II) on behalf of which such obligation was issued, and

"(ii) each governmental unit having jurisdiction over the area in which any facility, with respect to which financing is to be provided from the proceeds of such issue, is located (except that if more than 1 governmental unit within a State has jurisdiction over the entire area in which such facility is located, only 1 such unit need approve such issue).

"(B) APPROVAL BY A GOVERNMENTAL UNIT.—For purposes of subparagraph (A), an issue shall be treated as having been approved by any governmental unit if such issue is approved—

"(i) by the applicable elected representative of such governmental unit after a public hearing following reasonable public notice, or

"(ii) by voter referendum of such governmental unit.

On page 277, line 4, strike out "(B)" and insert in lieu thereof "(C)".

On page 277, line 9, insert "pursuant to such plan" after "issued".

On page 277, line 14, strike out "(C)" and insert in lieu thereof "(D)".

On page 277, line 19, strike out "(B)" and insert in lieu thereof "(C)".

On page 277, line 22, strike out "(D)" and insert in lieu thereof "(E)".

On page 278, line 4, insert "of such unit" after "body".

On page 278, line 6, insert "of such unit" after "official".

On page 279, line 5, insert "other" after "any".

On page 279, line 10, insert "qualified" after "for".

On page 279, line 13, strike out "solely".

On page 279, line 21, strike out "(2d)" and insert in lieu thereof "(2nd)".

On page 280, strike out lines 9 through 12 and insert in lieu thereof the following:

"(D) the name, address, and employer identification number of—

"(i) each initial principal user of any facilities provided with the proceeds of the issue,

"(ii) the common parent of any affiliated group of corporations (within the meaning of section 1504(a)) of which such initial principal user is a member, and

"(iii) if the issue is treated as a separate issue under subsection (b)(6)(K), any person treated as a principal user under subsection (b)(6)(L)), and".

On page 280, line 16, strike out "extention" and insert in lieu thereof "extension".

On page 280, line 25, insert "and" after "1982,".

On page 281, strike out lines 1 and 2.

On page 281, line 3, strike out "(C)" and insert in lieu thereof "(B)".

On page 281, line 22, insert "from taxation" after "exempt".

On page 283, line 5, strike out "paragraph" and insert in lieu thereof "subparagraph".

On page 284, line 15, strike out the end quotation marks and end period.

On page 284, between lines 15 and 16, insert the following:

"(E) EXCEPTION WHERE LONGER RECOVERY PERIOD APPLICABLE.—Subparagraph (A) shall not apply to any recovery property if the recovery period which would be applicable to such property by reason of an election under subsection (b)(3) exceeds the recovery period for such property determined under subparagraph (B).".

On page 285, lines 3 and 23, insert "the original use of which commences with the taxpayer and" after "facilities".

On page 290, line 17, strike out "as an incomplete" and insert in lieu thereof "as in complete".

On page 290, lines 24 and 25, strike out "section 101 of the Revenue Enhancement Act of 1982" and insert in lieu thereof "section 226 of the Tax Equity and Fiscal Responsibility Act of 1982".

On page 291, after line 8, insert the following:

(A) Paragraph (2) of section 306(b) (relating to exceptions).

On page 291, line 11, strike out "(A)" and insert in lieu thereof "(B)".

On page 291, line 13, strike out "(B)" and insert in lieu thereof "(C)".

On page 291, line 15, strike out "(C)" and insert in lieu thereof "(D)".

On page 291, line 17, strike out "(D)" and insert in lieu thereof "(E)".

Section 226(e)(2) of the Act, as inserted between lines 18 and 19 of page 291, is amended to read as follows:

(2) Paragraph (1)(B) of section 306(b) (relating to exceptions) is amended by inserting "or section 302(e)" after "section 302(b)(3)".

On page 291, immediately before line 19, insert the following:

(3) Paragraph (1) of section 543(a) (relating to personal holding company income) is amended—

(A) by striking out "and" at the end of subparagrah (A),

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new subparagraph:

"(C) dividends to which section 302(e) would apply if the corporation were an individual.".

On page 291, line 19, strike out "(3)" and insert in lieu thereof "(4)".

On page 292, line 13, strike out "OR" and insert in lieu thereof "OF".

Section 227(a)(1) of the Act (as inserted on page 292, beginning with line 15) is amended by striking out "(relating to recog-

nition of gain on distribution of appreciated property in redemption of stock)" and inserting in liew thereof "(relating to appreciated property used to redeem stock)".

The heading for section 227(a)(2) of the Act (as so inserted) is amended by striking out "involving a" and inserting in lieu thereof "with respect to".

On page 293, line 12, strike out "38" and insert in lieu thereof "338".

On page 301, line 8, strike out "limitation" and insert in lieu thereof "liquidation".

On page 302, line 8, strike out "section 334(b)(2)" and insert in lieu thereof "section 334(b)(2))".

On page 302, line 9, strike out "section 334(b)(2) or 338" and insert in lieu thereof "section 334(b)(2)), 338".

On age 303, line 13, strike out "section 617(h)(2)" and insert in lieu thereof "section 617(h)(3)".

Section 229(d) of the Act (on page 303) is amended to read as follows:

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to any target corportation (within the meaning of section 338 of the Internal Revenue Code of 1954 as added by this section) with respect to which the acquisition date (within the meaning of such section) occurs after August 31, 1982.

(2) TRANSITIONAL RULE.—If an acquisition date under paragraph (1) occurred after December 31, 1981, and before September 1, 1982, the purchasing corporation (within the meaning of section 338 of such Code) may, not later than November 15, 1982, elect to have the amendments made by this section apply. In no event shall the time for making an election under such section 338 expire before November 16, 1982.

On page 304, strike out lines 5 and 6, and insert in lieu thereof the following: "shall modify the income tax regulations relating to accounting for long-term contracts to—".

On page 304, line 16, insert "activities of the taxpayer" after "contract".

On page 304, lines 21 and 22, strike out "(within the meaning of Income Tax Regulation 1.451-3)".

On page 305, line 2, strike out "contracts" and insert in lieu thereof "contract".

On page 307, lines 5 and 6, strike out "Income Tax Regulation 1.451-3" and insert in lieu thereof "regulations".

On page 308, strike out lines 1 through 8, and insert in lieu thereof the following:

"(3) SPECIAL RULES.—

"(A) TIME OF COMPLETION.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982, solely by reason of any modification to regulations made under subsection (a)(1), shall be treated as having been completed on the first day of such taxable year.

"(B) AGGREGATION AND SEVERANCE.—Any contract of a taxpayer which would (but for this paragraph) be treated as having been completed prior to the first taxable year of such taxpayer ending after December 31, 1982—

"(i) solely by reason of any modification to regulations made under subsection (a)(2), or

"(ii) solely by reason of any modifications to regulations made under both paragraphs (1) and (2) of subsection (a),

shall be treated as having been completed on the first day after December 31, 1982, on which any contract which was severed from such contract (by reason of the modifications made by subsection (a)(2)) is completed (determined after the application of any modifications to regulations made under subsection (a)(1).

On page 317, line 24, insert open quotation marks before "(3)".

On page 319, line 15, strike out "June 19" and insert in lieu thereof "June 9".

On page 321, line 13, insert "after June 9, 1982," before "disposes".

On page 323, line 11, strike out "under section 103".

On page 323, line 12, strike out "and (b)(2)" and insert in lieu thereof ", (b)(1), and (b)(4)".

On page 324, line 24, strike out "(defining section 51" and insert in lieu thereof "of section 51 (defining".

On page 326, line 25, strike out "subparagraph" and insert in lieu thereof "subparagraphs".

On page 327, between lines 22 and 23, insert the following:

(e) CONFORMING AMENDMENTS.—Paragraph (15) (A) of section 51 (e) (relating to special rules for certifications) is amended—

(1) by inserting "(or in the case of paragraph (8), from the participating school)" after "agency" in clause (i), and

(2) by inserting "or such school" after "agency" in clause (ii).

On page 327, line 23, strike out "(f)" and insert in lieu thereof "(g)".

On page 328, line 3, strike out "subsection (c)" and insert in lieu thereof "subsections (c) and (e)".

On page 329, line 2, insert "By Decedent's Estate" after "Payments".

On page 336, beginning with line 24, strike out all through page 337, line 2, and insert in lieu thereof the following:

(d) TRANSITION RULES FOR DEFINED CONTRIBUTION FRACTION.—Section 415(e) is amended by adding at the end thereof the following new paragraph:

On page 337, line 3, strike out "(4)" and insert "(6)".

On page 337, line 4, insert "for years ending after December 31, 1982" after "fraction".

On page 337, line 15, strike out "1981" each place it appears and insert in lieu thereof "1982".

On page 339, line 8, strike out "or (7)" and insert in lieu thereof "(7), or (10)".

On page 339, line 12, strike out "over" and insert in lieu thereof "or".

On page 340, line 12, strike out "not meeting" and insert in lieu thereof "failing to meet".

On page 342, strike out lines 14 through 16, and insert in lieu thereof "for the year or any preceding year beginning after December 31, 1982".

On page 352, strike out lines 1 through 6, and insert in lieu thereof the following:

"(II) a lay person,

as an employee of a church, a convention or association of churches, including an organization described in section 414 (e) (3) (B) (ii), shall be considered as years of service for 1 employer, and".

On page 353, line 12, strike out "in a foreign country" and insert in lieu thereof "outside the United States".

On page 353, line 14, strike out "clause (ii)(II)" and insert in lieu thereof "clause (i)(II)".

On page 354, line 12, insert "defined contribution" before "program".

On page 354, line 14, strike out "or" and insert in lieu thereof "including".

On page 354, line 15, insert "under section 403(b)" after "benefits".

On page 356, line 11, strike out "or" and insert in lieu thereof "including".

On page 358, strike out lines 12 through 15.

On page 362, strike out lines 15 through 22, and insert in lieu thereof the following:

"(24) Any group trust which otherwise meets the requirements of this section shall not be treated as not meeting such requirements on account of the participation or inclusion in such trust of a trust which is a part of a governmental plan (within the meaning of section 414(d)) to which contributions are made by the employer or employees for the purpose of distributing to such employees for retirement purposes (or their beneficiaries) the corpus and income of the fund accumulated by the trust in connection with such plan.".

On page 363, line 16, strike out "Reinsurance Agreements" and insert in lieu thereof "Conventional Coinsurance Contracts".

On page 363, line 17, strike out "reinsurance agreement, the reinsurer" and insert in lieu thereof "conventional coinsurance contract, a life insurance company (hereinafter referred to as 'the reinsurer')".

On page 363, line 18, strike out "the reinsured" and insert in lieu thereof "another life insurance company (hereinafter referred to as 'the reinsured')".

On page 364, lines 2 and 3, strike out "the reinsurance agreement" and insert in lieu thereof "such contract".

On page 366, line 12, strike out "(and not by the reinsurer)" and insert in lieu thereof "and the reinsurer in the same manner as such amounts would be taken into account under a modified coinsurance contract to which section 820(a)(1) of such Code (as so in effect) does not apply".

On page 367, line 6, insert "of such Code" after "810".

On page 367, line 6, insert "with respect to contracts described in subsection (a)" after "account".

On page 367, line 8, insert "(but not below zero)" before "for such".

On page 367, line 18, strike out "determined under" and insert in lieu thereof "under the contract (except to the extent otherwise provided in".

On page 367, line 19, insert a parenthetical after "delegate".

On page 371, line 2, strike out "coinsurance contract" and insert in lieu thereof "reinsurance agreement".

On page 371, line 5, strike out "contract" and insert in lieu thereof "agreement".

On page 371, line 7, strike out "CONTRACTS" and insert in lieu thereof "AGREEMENTS".

On page 371, lines 11 and 12, strike out "Coinsurance Contract" and insert in lieu thereof "Reinsurance Agreement".

On page 371, line 14, strike out "coinsurance contract" and insert in lieu thereof "reinsurance agreement".

On page 371, line 19, strike out "contract" and insert in lieu thereof "agreement".

On page 372, line 2, strike out "contracts" and insert in lieu thereof "agreements".

On page 372, insert "if the taxpayer elects for any taxable year," after "(B)".

On page 374, line 23, strike out "and".

On page 375, line 4, strike out the end period and insert in lieu thereof ", and".

On page 375, between lines 4 and 5, insert the following:

(4) by striking out "(2) and (3)" and inserting in lieu thereof "(2), (3), and (4)".

(c) CONFORMING AMENDMENTS.—Section 1561(b) (relating to certain short taxable years) is amended—

(1) by striking out "and" at the end of paragraph (2),

(2) by striking out the comma at the end of paragraph (3) and inserting in lieu thereof a comma and "and",

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the amount (adjusted as provided in section 809 (f)(3)) to be used in computing the limitation under paragraph (1) or (2) of section 809(f),", and

(4) by striking out "(2), or (3)" and inserting in lieu thereof "(2), (3), or (4)".

On page 382, line 9, after the end period insert the following: "In the case of a taxable year beginning in 1981, the preceding sentence shall be applied by substituting 'September 16' for 'July 1' and 'September 15' for 'June 30'.".

On page 382, line 25, strike out "(g)" and insert in lieu thereof "(f)".

On page 383, strike out lines 17 through 19 and insert in lieu thereof the following:

"(B) a rate or rates of interest which—

"(i) meet the requirements of clause (i) of subparagraph (A), and".

On page 385, line 3, strike out "(g)" and insert in lieu thereof "(f)".

On page 385, line 8, strike out "(g)" and insert in lieu thereof "(f)".

On page 385, line 12, strike out "(g)" and insert in lieu thereof "(f)".

On page 385, line 20, strike out "section 805(f)(1)(A)(ii)" and insert in lieu thereof "subparagraph (A)(ii) or (B)(ii)(I) of section 805(f)(1)".

On page 387, strike out lines 14 through 18, and insert in lieu thereof the following:

"(i) the cash value of the contract (determined without regard to any surrender charge) immediately before the amount is received, over

"(ii) the investment in the contract at such time.".

On page 388, strike out lines 16 through 20, and insert in lieu thereof the following:

"(B) TREATMENT OF POLICYHOLDER DIVIDENDS.—Any amount described in paragraph (1)(B) shall not be included in gross income under paragraph (2)(B)(i) to the extent such amount is retained by the insurer as a premium or other consideration paid for the contract.".

On page 389, strike out lines 13 through 18, and insert in lieu thereof the following:

"(C) CERTAIN LIFE INSURANCE AND ENDOWMENT CONTRACTS.—Except to the extent prescribed by the Secretary by regulations, this paragraph shall apply to any amount not received as an annuity which is received under a life insurance or endowment contract.".

On page 390, line 4, strike out "or".

On page 390, between lines 6 and 7, insert the following:

"(IV) provided for employees of a life insurance company under a plan described in section 805(d)(3), or".

On page 392, line 22, strike out "or".

On page 392, line 24, strike out the end period and insert in lieu thereof ", or".

On page 392, line 23, insert "trust," before "or".

On page 392, after line 24, insert the following:

"(F) allocable to investment in the contract before July 2, 1982.".

On page 393, strike out lines 1 through 5.

On page 394, strike out lines 3 through 5, and insert in lieu thereof the following:

(c) Effective Dates.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect on July 1, 1982.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to distributions after December 31, 1982.

On page 394, line 17, insert "at any time" after "not".

On page 394, line 18, strike out "any" and insert "such".

On page 394, lines 21 and 22, strike out "as of the end of the contract year is not" and insert in lieu thereof "is not at any time".

On page 394, lines 23 and 24, strike out "as of the end of each contract year" and insert in lieu thereof "at such time".

On page 395, line 14, insert ", and with respect to any charges for qualified additional benefits," after "benefit)".

On page 395, line 15, insert "or (E)" after "(A)".

On page 395, line 22, insert "minimum" before "rate" and strike out "under" and insert in lieu thereof "upon issue of".

On page 396, line 3, strike out "and" and insert in lieu thereof "or".

On page 396, after line 24, insert the following:

"(E) ADJUSTMENTS.—The guideline single premium and guideline level premiums shall be adjusted in the event of a change in the future benefits or any qualified additional benefit under the contract which was not reflected in any guideline single premium or guideline level premiums previously determined".

On page 396, lines 12 and 23, insert "(determined without regard to any qualified additional benefit)" after "insured".

On page 396, line 15, strike out "entered into" and insert in lieu thereof "issued".

On page 397, line 9, strike out "timing or" and insert in lieu thereof "both timing and".

On page 397, lines 22 and 23, strike out "as of the end of" and insert in lieu thereof "during".

On page 399, line 2, strike out "as of the end of a contract year".

On page 399, line 6, strike out "such date" and insert in lieu thereof "the end of the contract year".

On page 400, strike out lines 10 through 12, and insert in lieu thereof the following: "meeting the requirements of such section for any period before the date on which such contract meets such requirements. Any death benefits paid under a flexible premium life insurance contract (within the meaning of section 101(f)(3)(A) of such Code) before the date which is 1 year after such date of enactment shall be excluded from gross income.".

On page 403, line 14, insert "(including the performance of services)" after "output".

On page 407, line 19, before the end period insert "(unless otherwise provided by this title with respect to individuals described in subsection (c)(2))".

On page 409, line 10, insert "determined" before "without".

On page 411, strike out lines 11 through 14.

On page 415, line 22, insert "for the same calendar quarter" after "unemployment tax".

On page 417, line 14, strike out "(f)" and insert in lieu thereof "(g)".

On page 417, line 17, strike out "(f)" and insert in lieu thereof "(g)".

On page 419, strike out lines 4 through 12 and insert in lieu thereof the following:

(14) Section 6214(b) (relating to tax court jurisdiction over other years and quarters) is amended—

(A) by striking out "or" before "of gift tax" and inserting in lieu thereof a comma, and

(B) by inserting ", or of employment tax for any calendar quarter" after "calendar quarter" the first place it appears.

On page 426, line 9, strike out "218" and insert in lieu thereof "210".

On page 427, line 8, strike out "calendar years" and insert in lieu thereof "remuneration paid".

On page 429, line 5, strike out "calendar years" and insert in lieu thereof "remuneration paid".

On page 430, between lines 10 and 11, insert the following:

(3) CONFORMING AMENDMENT.—Section 1402(b) is amended in the next to last sentence by striking out "and" before "(B)" and by inserting before the period the following: ", and (C) includes, but only with respect to the tax imposed by section 1401(b), compensation paid for medicare qualified Federal employment (as defined in section 3121(u)) which is subject to the tax imposed by section 3101(b) and 3111(b)".

On page 437, line 14, strike out "5" and insert "(5)".

On page 438, line 25, strike out the end quotation marks and the end period.

On page 447, line 18, strike out "on" and insert in lieu thereof "after".

On page 449, line 1, insert "and" after "reels".

On page 449, line 15, insert "and" after "materials,".

On page 452, line 1, strike out "(other than on boast" and insert in lieu thereof "which are".

On page 452, line 12, strike out "fishing)" and insert in lieu thereof "fishing".

On page 453, line 1, strike out "REPEALED" and insert in lieu thereof "ELIMINATED".

On page 454, line 17, strike out "the assets" and insert in lieu thereof "of the operating assets".

On page 455, line 13, strike out "the assets" and insert in lieu thereof "of the operating assets".

On page 455, line 16, strike out "subparagraph" and insert in lieu thereof "clause".

On page 455, line 20, strike out "subparagraph" and insert in lieu thereof "clause".

On page 455, line 22, strike out "subparagraph" and insert in lieu thereof "clause".

On page 457, line 7, strike out "subparagraph" and insert in lieu thereof "clause".

On page 457, lines 11 and 12, strike out "subparagraph" and insert in lieu thereof "clause".

On page 457, lines 13 and 14, strike out "subparagraph" and insert in lieu thereof "clause".

On page 460, lines 7 and 8, strike out "of the Internal Revenue Code of 1954".

On page 460, line 10, insert "would be unlawful under" before "the laws".

On page 460, line 13, insert "is unlawful under" before "the".

On page 460, line 16, strike out "would be" and insert "is".

On page 460, line 19, insert "the" before "enactment".

On page 462, line 7, insert "the" before "enactment".

On page 469, line 5, strike out "subsection" and insert in lieu thereof "subchapter".

On page 469, line 6, insert "a payment shall be treated as made, and" after "Secretary,".

On page 469, line 8, insert a comma after "agent".

On page 469, line 13, strike out "subparagraph (B)" and insert in lieu thereof "subparagraphs (B) and (C)".

On page 469, line 24, strike out "any" and insert in lieu thereof "the".

On page 470, line 18, insert "and cash equivalent" after "cash".

On page 471, line 10, strike out "(2)" and insert in lieu thereof "(3)".

On page 471, line 16, strike out "(3)" and insert in lieu thereof "(4)".

On page 471, line 23, strike out "(4)" and insert in lieu thereof "(5)".

On page 472, between lines 2 and 3, insert the following:

"(c) LIABILITY FOR PAYMENT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the withholding agent shall be liable for the payment of the tax imposed by this section which such agent is required to deduct and withhold under this section and shall not be liable to any person (other than the United States) for the amount of any such payment.

"(2) RELIANCE ON EXEMPTION CERTIFICATES.—The withholding agent shall not be liable for the payment of tax imposed by this section which such agent is required to deduct and withhold under this section if such agent fails to deduct and withhold such tax and such failure is due to reasonable reliance on an exemption certificate delivered to such agent under section 3452(g) which is in effect with respect to the payee at the time such tax is required to be deducted and withheld under this section.

On page 472, line 21, insert "or" after the comma.

On page 473, line 23, insert "an individual retirement plan or" after "(B)".

On page 474, line 14, strike out "and".

On page 474, line 16, strike out the period and insert in lieu thereof ", or".

On page 474, between lines 16 and 17, insert the following:

"(K) to the extent provided in regulations—

"(i) a financial institution,

"(ii) a broker, or

"(iii) any other person specified in such regulations,

which collects any payment of interest, dividends, or patronage dividends for the payee or otherwise acts as a middleman between the payor and payee.

"(3) PAYOR MAY REQUIRE CERTIFICATION.—At the election of the payor, a person described in paragraph (1)(B) shall not be treated as an exempt recipient for purposes of this section with respect to any payment of such payor if an exemption certificate is not in effect with respect to such person.

On page 475, line 15, strike out "redemption" and insert in lieu thereof "payment".

On page 475, line 16, insert "Interest" after "Minimal".

On page 475, line 18, insert "interest" after "minimal".

On page 476, line 22, insert "a payment of" after "receive".

On page 477, strike out lines 7 through 11.

On page 477, line 12, strike out "(2)" and insert in lieu thereof "(1)".

On page 477, line 14, strike out "(3)" and insert in lieu thereof "(2)".

On page 478, strike out lines 3 through 6 and insert in lieu thereof the following:

"(i) interest on any obligation if such interest is exempt from taxation under section 103(a) or any other provision of law,".

On page 478, line 23, strike out "or".

On page 479, between lines 2 and 3, insert the following:

"(III) such amount is original issue discount (within the meaning of section 1232(b)(1)), or".

On page 479, strike lines 3 through 7, and insert in lieu thereof the following:

"(vi) any amount paid—

"(I) by a foreign corporation, or

"(II) partnership composed in whole or in part of nonresident aliens,

not engaged in trade or business within the United States.

On page 479, line 4, insert "by a" after "or".

On page 482, line 19, strike "means" and insert in lieu thereof "includes".

On page 482, line 23, strike out "or".

On page 483, line 3, strike out the period and insert in lieu thereof ", or".

On page 483, between lines 3 and 4, insert the following:

"(D) a person described in section 3452(c)(2)(K) which collects such payment for the payee or otherwise acts as a middleman between the payor and the payee".

On page 486, line 22, strike out "(B)" and insert in lieu thereof "B".

On page 488, line 20, strike out "(e)" and insert in lieu thereof "(c)".

On page 490, line 3, strike out "paragraph (3)" and insert in lieu thereof "paragraph (2)".

On page 490, line 5, strike out "(4)" and insert in lieu thereof "(3)".

On page 494, line 4, strike out "section 3452(f)(1)(A)" and insert in lieu thereof "section 3452(g)".

On page 494, line 17, strike out "section 3452(f)(1)(A)" and insert in lieu thereof "section 3452(g)".

On page 494, line 21, strike out "subsection (f)(1)(B) of section 3452" and insert in lieu thereof "section 3452(g)(1)(B)".

On page 494, line 23, strike out "subsection (b)(1)(B)" and insert in lieu thereof "section 3452(g)(1)(B)".

On page 498, between lines 16 and 17, insert the following:

(18) Section 3403 (relating to liability for tax) is amended by striking out "this chapter" and inserting in lieu thereof "this subchapter".

On page 500, line 6, strike out "subtitle" and insert in lieu thereof "part".

On page 501, strike out lines 1 through 7, and insert in lieu thereof the following:

(c) TEMPORARY RULE FOR WITHHOLDING CERTAIN EXEMPTIONS.—Until regulations are prescribed by the Secretary of the Treasury or his delegate under section 3452(c)(1)(B) of the Internal Revenue Code of 1954 (as added by this part), the payor may treat any person whose name reasonably indicates that such person is described in paragraph (2) of section 3452(c) of such Code (other than subparagraph (J) or (K) thereof) as an exempt recipient.

On page 507, line 3, insert "and" at the end thereof.

On page 507, strike out lines 11 through 14 and insert in lieu thereof the following:

"(B) interest on any obligation issued before January 1, 1983, if such interest is exempt from taxation under section 103(a) or any other provision of law,".

On page 507, line 21, strike out "or".

On page 507, line 22, insert "or" at the end thereof.

On page 507, between lines 22 and 23, insert the following:

"(v) to any person described in subparagraph (C), (E), (F), (G), (H), or (I) of section 3452(c)(2),".

On page 507, line 25, strike out "governmental unit" and insert in lieu thereof "government or international organization".

On page 508, line 1 and 2, strike out "an international organization,".

On page 515, line 17, strike out "(e)" and insert in lieu thereof "(f)".

On page 516, line 8, strike out "(e)" and insert in lieu thereof "(f)".

On page 516, line 8, strike out "(f)" and insert in lieu thereof "(g)".

* * * * *

On page 517, line 18, insert "unless, at the time of payment of such principal or interest, such obligation is in registered form", after "person".

On page 518, line 15, insert ", unless at the time of issuance the issuer is a foreign corporation that is not a controlled foreign corporation (within the meaning of section 957), a foreign investment company (within the meaning of section 1246(b)), or a foreign personal holding company (within the meaning of section 552) and the issuance did not have as a purpose the avoidance of section 163(e) or this subsection" after "163(e)".

* * * * *

under subsection (a) by all employees for such period exceeds 7 percent of the gross receipts described in paragraph (1)(A) for such period, or

"(B) such establishment adds a service charge to each check which is equal to 10 percent or more of the check.

On page 537, line 14, strike out "(4)" and insert in lieu thereof "(5)".

On page 538, line 5, strike out "(5)" and insert in lieu thereof "(5)".

On page 538, line 10, strike out "5053" and insert in lieu thereof "6053".

On page 541, line 17, strike out "6041(g)" and insert in lieu thereof "6041A(g)".

On page 550, line 6, insert "section 31," before "this chapter".

On page 559, line 18, strike out "the greater of".

On page 559, strike out lines 23 through 25.

On page 560, line 15, strike out "so".

On page 563, line 2, strike out "of tax for" and insert in lieu thereof "for tax of".

On page 564, line 19, insert "by reason of such assistance" after "document".

On page 566, line 15, insert "any" before "mathematical".

On page 567, line 16, strike out "Part III" and insert in lieu thereof "Subtitle C".

On page 575, line 9, strike out "Part IV" and insert in lieu thereof "Subtitle D".

On page 576, line 18, strike out "2" and insert in lieu thereof "3".

On page 590, line 4, strike out "Part V" and insert in lieu thereof "Subtitle E".

On page 605, line 12, strike out "$25,000" and insert in lieu thereof "$24,000".

On page 610, line 22, insert "forms or" before "regulations".

On page 611, line 14, strike out "Part VI" and insert in lieu thereof "Subtitle F".

On page 617, line 17, strike out "Part VII" and insert in lieu thereof "Subtitle G".

On page 639, strike out all beginning with "of" on line 25 through "taxes)" on line 2 of page 640 and insert in lieu thereof "of section 9502 of the Internal Revenue Code of 1954".

In title IV, redesignate references to "Act" as references to "title".

Mr. DOLE. I can assure my colleagues these are purely technical amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1159) was agreed to.

EXCISE TAX EXEMPTION FOR CERTAIN HELICOPTERS ENGAGED IN QUALIFIED FUNCTIONS

Mr. STEVENS. Mr. President, I would like to make some additional comments on sections 281(b) and 282(a) of this bill and the exemptions for certain helicopter uses from the relevant excise taxes that would be imposed upon them.

Specifically, the section on fuel taxes reads in part:

No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, natural resources, or

(2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations).

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to title IV of the Tax Equity and Fiscal Responsibility Act of 1982 during such use.

Essentially the same qualified purpose test is also used in section 2826 for the air transportation tax.

Now, Mr. President, I have stated the purpose for these excise tax exemptions is because timber and natural resource operations are very important to many of the States in our Union, including my own. These aircraft do not use federally funded facilities in their operations.

However, the committee report language relating to this fuel tax exemption is somewhat unclear on some of the fine points concerning how this exemption is to be applied. For purposes of clarity in understanding my concerns, I ask that the committee commentary on the helicopter fuel tax exemption be printed at this point in my remarks.

The material follows:

EXEMPTION FOR FUELS USED IN CERTAIN HELICOPTERS

The committee bill also provides for an exemption (via a refund or credit) for fuels used in helicopters when the helicopters are used for certain qualified purposes, if the helicopter does not (1) take off from or land at a facility eligible for assistance under the Airport and Airway Development Act of 1970, as amended, or (2) otherwise use Federal airway system facilities or services.

Specifically, the fuels taxes will not be imposed when the helicopter is used for (1) transporting individuals, equipment or supplies in the exploration for, or the development or removal of, natural resources, or (2) the planting, cultivation, cutting, or transportation of, or caring for, trees (including logging operations). For example, fuels used by helicopters which are transporting persons engaged in the exploration for petroleum will qualify for exemption from the fuels tax under the natural resources exemption, when departing from, or arriving at, heliports or airports not eligible for ADAP assistance; however, if in its flight pattern, a helicopter follows FAA air navigation signals, the fuel used in that flight is not exempt from the excise tax. The committee intends that this exemption will cover helicopters used in transporting persons and property from the Outer Continental Shelf (within the meaning of section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. 1331)) when engaged in natural resources operations, and when the requirements concerning nonuse of the FAA system are satisfied.

The forestry exemption covers fuels used in tree farming and timber harvesting activities. This is intended to include, for example, fuels used by helicopters engaged in fire control or insect control of trees, as well as in tree cultivation and in logging operations.

The exemptions from the fuels tax provided by this provision apply only to fuels used in the qualifying activities. If fuel is delivered into the fuel supply tank of a qualified helicopter and such fuel is used partly for qualified purposes and partly for nonqualified purposes, the tax will apply to that portion of the fuel which is used for the non-qualified purposes. In addition, the committee intends that the rules and regulations under sections 4041 and 6427 will govern the application of these exceptions. Thus, present law registration, refund, and credit procedures will apply.

Mr. STEVENS. In the committee commentary the statement is made that—

The Committee intends that this exemption will cover helicopters used in transporting persons and property from the Outer Continental Shelf . . . when engaged in natural resource operations, and when the requirements concerning the non-use of the FAA system are satisfied.

Frankly, my concern, Mr. President, is that by way of example the committee may unintentionally provide the IRS the opportunity to severely limit the scope of this exemption.

I understand my distinguished colleagues, the Senator from Louisiana and the Senator from Oregon, also share my concerns. They both continue to have a substantial interest in this provision since reviewing it in the Finance Committee markup, and I wonder if my friend from Louisiana would mind an inquiry from me on this section.

Mr. LONG. I would be happy to share my thoughts with the Senator from Alaska.

Mr. STEVENS. It is, is it not, the intent of the committee that any helicopter engaged in natural resources exploration, development, or removal be exempt from the applicable excise taxes as long as they do not utilize FAA or ADAP facilities or services? In other words, these exemptions apply not just to those helicopters going to and from OCS sites, is that correct?

Mr. LONG. The Senator is correct.

Mr. STEVENS. And am I correct in stating that while the helicopters are engaging in the qualified purpose, their continuous flight plans, exploration areas, or operation sites are irrelevant as long as they do not involve ADAP FAA facilities or services?

Mr. LONG. The Senator is again correct.

Mr. STEVENS. Assume for a moment a helicopter takes off from an ADAP or FAA facility for an extended 3-month exploratory mission in the Alaska bush. Assume also that it is on a continuous flight plan for that 3-month period before it returns to the ADAP or FAA facility. In between, for the many months that it performs its qualified purpose, it uses no other ADAP or FAA facilities or services whatsoever. It obtains its fuel from non-ADAP facilities. Must the helicopter's owners pay the fuel tax for all the refuelings that never involved ADAP or FAA facilities or services? Must it also pay the transportation tax?

Mr. LONG. No; the intent of the section is only to make nonexempt the fuel that has a logical connection with the use of FAA or ADAP facilities or services. In the case you present, it is my judgment that the first full refueling of the aircraft when out in the bush would be the start of fuel tax exemption. On the inbound flight at the end of the 3-month period, the point of departure for the ADAP or FAA facility would be the termination point for the helicopter's fuel tax exemption. I wish to point out that while not every case will be clear when exempt or nonexempt status exists, it is not the intent of this section to penalize extended missions for helicopters which only for a small part of a continuous several week or several month flight plan used an FAA or ADAP facility to start or terminate their operations. I would like to add that where applicable, the air transportation tax should be similarly apportioned between exempt and nonexempt portions of the flight.

Mr. STEVENS. I thank the Senator, and have only one other question. When using the term "natural resources" does this also include hard rock mining?

Mr. LONG. It most certainly does.

Mr. STEVENS. I thank the Senator for his insight and courtesy, and now turn to my good friend from Oregon on some questions I have concerning timber operations in the context of this provision.

I ask the Senator from Oregon if the same ADAP/FAA facilities or services test that has just been described for natural resources as a qualified purpose is any different from that which would be applied to timber operations.

Mr. PACKWOOD. No, it is not, but I want to thank the Senator for giving me the opportunity to comment on the problems he has presented today, particularly with respect to the extended mission scenario that has been discussed.

In Oregon, and I suspect it is much the same anywhere that helicopters are used in timber operations, helicopters may be serviced at an ADAP or FAA facility. They then are assigned to several weeks or months in remote

areas where they have no further contact with these facilities. Clearly, my colleagues are right in pointing out that the fuel tax is not to follow them for extended missions simply because they depart or return from the facility. The tax should be apportioned, as was pointed out.

Mr. STEVENS. I thank my good friend from Oregon for his views, and for further clarifying matters for me. I now ask the distinguished manager of the bill for the majority one simple question, and that is whether everything he has heard on this matter is a correct interpretation of the committee's work, as amended?

Mr. DOLE. I have listened carefully to the distinguished Senators' comments on this section and find them to be entirely accurate.

Mr. STEVENS. Mr. President, I thank all my colleagues who have helped me in focusing on these sections so that the Department of the Treasury may be clear in our intent. I yield my time back to the distinguished floor manager for the majority.

FUEL TAX ON HELICOPTER OPERATIONS IN THE U.S. TUNA INDUSTRY

● Mr. HAYAKAWA. Mr. President, I wish to clarify a question of congressional intent with my colleague, Senator DOLE, the chairman of the Finance Committee, relating to the provisions in this tax bill providing an exemption from the proposed tax increase on aviation fuels. The language of this exemption, contained in section 281(b) of the bill, I believe applies to fuel consumed by helicopters that are used by the U.S. tuna fleet based in my State.

The bill proposes a tax increase on aviation fuel for noncommercial uses, raising the 3 cent tax on gasoline fuels to 12 cents and the 7 cent tax on nongasoline fuels to 14 cents. Section 281(b) provides an exemption for certain helicopter uses, that is, for helicopters used in the timber industry, and it reads in relevant part, as follows:

No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for the purpose of—

(1) transporting individuals, equipment, or supplies in the exploration for, or the development or removal of, natural resources,

but only if the helicopter does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970, or otherwise use services provided pursuant to title IV of the Tax Equity and Fiscal Responsibility Act of 1982 during such use.

The exemption is aimed at easing the otherwise increased tax burden on our natural resources industries that are suffering during these economically difficult times. The U.S. tuna industry, unfortunately, is facing its most serious economic difficulties in over 50 years. Plants have closed in the homeport of the tuna vessels, San Diego, and nearly 50 vessels sit idle in that port, some waiting for weeks to unload their catches. Warehouses are overstocked and foreign imports this year will likely double the 10-percent share of the market they captured in 1981. The fleet needs this exemption if it hopes to remain competitive during the next few years.

Under the exemption in section 281(b), helicopter fuels are not subject to the tax increase if two tests are satisfied. First, the helicopter must be used in exploring for, developing, or removing natural resources. Sixty U.S.-flag tuna vessels are equipped with helicopters. These aircraft serve as long-range eyes for the vessel as it searches thousands of square miles of open ocean for schools of the wide-ranging tuna, a fairly abundant natural resource caught by the fleet in the south, central, and eastern Pacific Ocean as well as in the Atlantic. The helicopters carry trained observers who then guide the fishing vessels to the fish. Obviously, the use of these helicopters fits test No. 1 under the proposed exemption.

The second requirement is that the helicopters not use airport facilities eligible for assistance under the Airport and Airway Development Act of 1970 or FAA airport services. The tuna fleet helicopters meet this test as well. They take off and land on platforms atop the superstructure of the vessels and are guided by radio beacons and radios from the vessels. Obviously, they can rely on no FAA facilities when they operate in the middle of the world's oceans. Only incidentally, when using land facilities for repair or service, would they use FAA navigation aids and services. When fishing they are on their own.

For these reasons, I wish to clarify with the chairman of the Finance Committee the intent that helicopters used by the U.S. tuna fleet in its tuna fishing operations be accorded the exemption in section 281(b).

Mr. DOLE. I concur with the Senator from California in his analysis of section 281(b). Clearly, the tuna fleet's helicopters are eligible to make use of the exemption under the facts you outlined.

Mr. HAYAKAWA. I thank the Senator for his views and assistance on this question.●

Mr. GLENN. Mr. President, we face many complicated questions today concerning a complex tax bill. Before we conclude our consideration of this bill, I would like to raise a question that I believe deserves further thought and exploration, if not today then at some point in the future. That question concerns the exemption of two private foundations from the excess business holdings provision of the Internal Revenue Code.

The Tax Reform Act of 1969 required private foundations to divest themselves of excess business holdings within a period of 10, 15, or 20 years. Many worthy foundations are now facing the divestiture deadline. But two such foundations—one of which owns all the voting stock in a resort hotel, and another with voting stock in a corporation operating a major newspaper would be exempted under section 292 of this bill from the divestiture requirement.

Because forced selling of stock in profitable corporations can be disadvantageous to both charitable organizations and the communities they serve, this issue should not be considered lightly. But if the need for such an exemption applies to the two foundations in question, we must ask whether it applies equally to other foundations as well. And if such an exemption is not called for in other cases, perhaps we should examine more closely whether it is called for in the two cases at hand.

Now is not the time to slow these deliberations to ponder this question. But in the days ahead, as both Houses of Congress have more time to ask both the bigger and smaller questions about this tax bill, this issue should be among those studied more thoroughly.

Mr. SYMMS. Mr. President, before the passage of this bill, I wish to make several comments with regard to the mergers and acquisitions section of this bill.

The mergers and acquisitions section of this bill seeks to address and resolve important tax policy issues affecting corporate acquisitions. While I agree with the objective of the bill that the tax system should neither encourage nor discourage corporate takeovers, I am deeply concerned that the bill's provisions will substantially affect many important transactions unrelated to corporate acquisitions.

Specifically, I believe there are some unintended and extremely damaging consequences of the sweeping provisions in the bill which effectively repeal the traditional tax treatment of partial liquidations. It has been a fundamental element of our tax treatment of corporations and shareholders, at least since the Revenue Act of 1924, that shareholders receiving property in a partial liquidation are entitled to capital gain treatment and that, except for recapture, there is no double taxation upon a partial liquidation. It is my understanding that this provision imposes a double tax in the case of all partial liquidations and denies capital gain treatment at the shareholder level in some transactions that have traditionally been partial liquidations—that is corporate contractions. The adverse effects of these changes on small- and medium-size businesses will be substantial and are neither necessary nor clearly justified to solve tax avoidance problems.

Similarly, the pro rata distribution of assets constituting a separate trade or business in a partial liquidation, with the shareholders continuing to hold and operate such assets in partnership form, without sale by them, can serve important business purposes. It may even be an antitakeover measure. The shareholders pay tax on such a distribution. It is by no means clear that gain should also be recognized at the corporate level, with double taxation consequences, in such a case.

This measure also substantially changes the tax consequences of stock redemptions and the purchase by a company of the stock beyond what is necessary to prevent any tax avoidance that has been identified. I believe these unnecessarily broad changes will have very unsettling and unforeseeable consequences. They will add more complexity to our already overly complex tax system.

Consequently, I believe that we will have to revisit these provisions again simply because the results and implications of these provisions require more careful and thoughtful consideration. The Senate Finance Committee did not hold hearings on this issue until after the markup of this tax bill, and during the hearing, Treasury clearly and purposefully misrepresented the facts and their intent in advising the Members of the implications of the provisions in this bill which was drafted with their assistance.

In summary, it is clear that the proposed corrections are wholly disproportionate to the perceived abuses and this new legislation will unfairly impact on a countless number of "legitimate" transactions.

I ask unanimous consent to have printed in the RECORD testimony that was given by Mr. Herbert L. Camp on behalf of the New York State Bar Association tax section. It provides detailed comments on these provisions as well as suggestions not only to improve, but to simplify the law as well.

There being no objection, the testimony was ordered to be printed in the RECORD, as follows:

STATEMENT OF HERBERT L. CAMP

My name is Herbert L. Camp. I am Co-Chairman of the Committee on Corporations of the Tax Section of the New York State Bar Association. The Tax Section has over 2,800 members, all of whom are lawyers with a professional interest in taxation. They include practicing lawyers, judges, professors of law, corporate counsel, and officials and employees of the Treasury Department and the Internal Revenue Service.

I am pleased to testify with respect to S. 2687 (the "Bill"), introduced by Senator Danforth, concerning certain tax aspects of corporate takeovers. The Bill is substantially identical to H.R. 6725, introduced by Mr. Stark on June 28, 1982, and is similar to H.R. 6295, previously introduced by Mr. Stark.

I would like to comment particularly on Title II of the Bill, dealing with proposed new section 338 of the Internal Revenue Code (the "Code"), and Sections 101 and 102 of the Bill, dealing with, respectively, partial liquidations and redemptions using appreciated property.

I. GENERAL

The Tax Section is in favor of parts of the Bill which seek to abolish certain provisions of the tax law which, perhaps contrary to Congress' intention, may unduly facilitate certain corporate acquisitions. The Tax Section is opposed, however, to enactment without further study of those parts of the Bill which go beyond the correction of those perceived abuses. The Bill in its present form contains many complicated provisions. There is a significant risk that the Bill, if enacted without change, will produce an unworkable set of rules which the Congress will find necessary to delay pending further study, as has happened repeatedly in the case of section 382 of the Code (involving loss carryovers).

Congress should, we believe, note the example of the Installment Sales Revision Act of 1980, which most agree, was a significant improvement in the tax law. That Act took over one year to approve, and was a single-purpose bill. The present Bill is in distinct contrast to that situation in that it is to be taken up as part of a broad revenue raising proposal, under intense time pressure, and without the deliberate study and reflection of the professional community. The result will, we fear, not be improvement of the tax law, but only its complication.

II. SECTION 338

A. Description of section 338

Title II of the Bill would, essentially, repeal section 334(b)(2) of the Code and substitute for it new section 338. Under the new section, a corporation acquiring 80 percent or more of the stock of another corporation (the "Target Corporation") within a certain time period could elect to treat the Target Corporation as if it had sold all its assets in a section 337 transaction at a price based on the purchase price for the stock.

Significantly, the section 338 election as to a Target Corporation would also apply to all its direct and indirect subsidiaries ("Target Affiliates"), including foreign subsidiaries. Sections 338 (e) and (g)(3)(B). Moreover, the section 338 election would be deemed made as to a Target Corporation (and therefore as to all Target Affiliates) if any asset of the Target Corporation or a Target Affiliate were acquired by the purchasing corporation during a period (called the "Consistency Period") beginning one year before the acquisition period and ending one year after it. Section 338(d)(1).[1]

As a result of that rule, a corporation acquiring assets in a section 337 transaction would be deemed to have elected under section 338 with respect to any acquired subsidiaries (because such subsidiaries would be Target Corporations and assets would have been acquired, within the Consistency Period, from an affiliate (the parent which sold in the section 337 transaction)). Likewise, if a corporation were liquidated under sections 331 and 336 of the Code, and its assets, or some of them, including subsidiaries, were sold by the shareholders to an acquiring corporation, section 338(e) would require that if section 338 were elected as to one acquired subsidiary, it would have to be made as to all acquired subsidiaries.

The election under section 338 is to be made within 75 days after the acquisition of the requisite 80% stock interest.

B. Comments

1. General

The Tax Section is in favor of the repeal of section 334(b)(2) and the substitution of an election not requiring an actual corporate liquidation in order to treat the transaction as an asset acquisition. The effect under the Bill would be to shorten considerably, compared to present law under section 34(b)(2), the maximum period between the effective date of the stock acquisition and the deemed asset purchase. The Tax Section believes that the resulting elimination of complicated interim earnings and profits calculations and other adjustments to tax basis is a desirable simplification of the tax law.

2. Election Period

We believe that 75 days is far too short a time period in which to determine the desirability of, and make, the section 338 election. Whether the election is desirable will depend in the usual case on a complex interplay of factors, including valuations, discounting of tax benefits, and determination of recaptures. Moreover, there would appear to be no detriment to the parties of the government if the election period were extended. We would suggest that the acquiring corporation be permitted to make its section 338 election as late as the actual filing date of the first tax return (its own or the seller's) for a period after the acquisition, since that is the first time it will make a difference whether the election is made. Alternatively, the election period could end 9 months (plus 15 days) after the acquisition, since, in many cases, neither return would be filed before then (taking into account extensions of time).

3. Basis

The Bill provides that the basis of assets under a section 338 election is the purchasing (electing) corporation's basis for the acquired stock, properly adjusted for liabilities and other relevant items. Where 100% of the Target Corporation's stock is acquired, the basis calculation should be relatively straightforward, and that is a distinct improvement over present law. It is not entirely clear, however, what the basis is in the case of a less-than-100 percent purchase of stock. Presumably, the Target Corporation's existing asset basis continues to the extent of the percentage of stock not acquired. For instance, if only 80 percent of the Target Corporation is purchased, for $8 million, liabilities of the Target Corporation are $4 million, and the assets have an old tax basis of $6 million, then the assets should have a new basis of $12.4 million (8 million, plus 80 percent of $4 million, plus 20 percent of $6 million.)[2] Perhaps the basis rules in such a case could be spelled out in the statute or the legislative history.

Also, a case could be made to treat certain preferred stock, not acquired by the acquiring corporation, like a liability for purposes of basis calculations. For instance, if 100 percent of the common stock of a Target Corporation were acquired for $8 million,

[1] An exception is provided, so that there would be no deemed election, in the case where the acquiring corporation's basis in the asset was determined by reference to the transferor's basis or the transfer was an ordinary-course-of-business sale. Section 338(d)(2).

[2] Another way to look at it is to observe that, in a 100 percent purchase (for $10 million), basis would be $14 million, or an $8 million step-up; 80 percent of $8 million is $6.4 million, which, when added to the existing $6 million of basis, equals $12.4 million.

there were no liabilities, the assets had an old basis of $2 million and there were $2 million in liquidating value of preferred stock, which was not acquired, then treating the preferred stock as stock would produce a new asset basis of $8.4 million, but treating the preferred stock as a liability would result in a new asset basis of $10 million.

4. Subsidiaries

We have great difficulty with the complex rules in proposed section 338 which mandate that the election apply to all subsidiaries (including, as mentioned above (pages 3-4), in section 337 and certain section 331 situations).

We understand that those complicated provisions are included in order to avoid giving a purchaser a "selective" step-up in basis. We do not believe that the buyer's choice as to which corporations should be subject to a step-up in basis, with attendant recaptures, is an abuse. The corporate tax law has for many years permitted a purchaser that choice, and a change at this point would dramatically affect the value of existing corporations that own subsidiaries. The practical effect of the solution in the Bill requiring complete step-up and recapture for all subsidiaries is to go well beyond the elimination of tax provisions which unduly favor corporate takeovers, and may be to stop altogether many acquisitions which otherwise would occur and the consummation of which would be healthy for U.S. commerce.

In the first place, the provisions as to subsidiaries seem to be premised on an exaggerated view of a corporation's ability under present law to tailor its assets in connection with a takeover transaction. The proposed treatment of subsidiaries is not necessary to deal with the situation where a target corporation, in anticipation of its sale, rearranges its affairs, for instance, by placing in a subsidiary assets which would not be desired, because of heavy recaptures, to be stepped up. Such a rearrangement could well be subject to a section 269 or other[3] attack. Even if not, however, it could be considered part of an overall plan so that section 338 would apply to the assets of the Target Corporation and those so placed in a subsidiary. That would make it unnecessary to have an automatic rule requiring that all subsidiaries be the subject of the election.

Second, if the Target Corporation has historically conducted business in subsidiaries, there seems to be no good reason to treat the purchase of stock of subsidiaries as an asset purchase merely because the parent corporation's assets are purchased, or treated as purchased. Such treatment in effect ignores the separateness of the various corporate entities which would theretofore have been respected. On the other hand, the separateness continues to be respected for other purposes. For instance, the liquidation of a parent corporation does not fail to be a complete liquidation merely because its subsidiaries are not also liquidated.

Third, the proposed treatment of subsidiaries is particularly onerous in the case of foreign subsidiaries that are controlled foreign corporations. A step-up in asset basis with respect to such subsidiaries is not likely to result in any decrease in U.S. taxation; but under section 338 the assets of each foreign subsidiary will be deemed to have been disposed of, and apparently each subsidiary will be deemed liquidated, in every section 338 situation. In that event the United States shareholder would be taxable on income equal to the "all earnings and profits amount" of the foreign subsidiaries or, at the election of the shareholder, all the gain on the liquidation would be taxable, and section 1248 would apply to the extent of post-1962 earnings and profits. See, Temp. Reg. § 7.367(b)-5.[4] Moreover, the deemed asset sales by the subsidiaries will produce recapture of depreciation with respect to personal property which will increase their earnings and profits which in turn are taxed under either section 367 or section 1248.

Because of the increase in earnings and profits, a "dilution" of any foreign tax credit associated with the subsidiary's earnings and profits will also result.[5] There is no reason to accelerate the taxation of the earnings and profits of foreign subsidiaries in a takeover situation; foreign profits will still be subject to U.S. taxation when actually realized, by sale or distribution, in later years. Such manditory acceleration of tax may well frustrate, or at least greatly complicate, normal acquisitions which are beneficial to the U.S. economy.

The extension of section 338 to subsidiaries will also cause taxation of accumulated DISC income of lower-tier DISC subsidiaries. As in the case of foreign subsidiaries, the sale of the stock or assets of the remote parent of the DISC seems to be an inappropriate reason to end the DISC deferral; the result will be to eliminate the favorable export incentive of the DISC structure.

Another consequence of the extension to subsidiaries could arise in the case of life insurance subsidiaries, which would be deemed to have sold their assets and could, as a result, incur substantial—and we believe unintended—tax liability, well beyond mere recaptures, as a result of the transaction.

Finally, the extension of section 338 to subsidiaries makes the section far more complicated and burdensome than it would be without such extension.

We strongly recommend that the provisions of the Bill which require that the section 338 election be applicable to subsidiaries be deleted. A separate section 338 election should be available for each subsidiary that was acquired by "purchase," provided that each higher-tier subsidiary in the chain of which the subsidiary was a part so elected. At most, section 338 could include a provision to the effect that the election would extend to assets transferred from the Target Corporation to its affiliates within two years of the acquisition, unless the taxpayer established that the transfer was not effected for the principal purpose of avoiding a section 338 election as to them. If, following enactment of the Bill in that form, it became apparent that a strengthening of section 338 were required, that could occur; but it is not desirable at present to take so radical a step as the Bill now contemplates.

III. REDEMPTIONS USING APPRECIATED PROPERTY

A. Description of bill

Section 102 of the Bill would repeal sections 311(d)(2) (A), (B), (C) and (G) of the Code. Those sections provide four exceptions to the general rule of section 311(d), that a corporation recognizes gain on the distribution of property in redemption of stock. The exceptions are: (1) a distribution of assets to a 10% or more shareholder, in complete redemption of his stock held at least one year (section 311(d)(2)(A)); (2) a distribution of stock or debt of a 50% or more owned subsidiary (section 311(d)(2)(B)); (3) distributions in certain Sherman or Clayton Act proceedings (section 311(d)(2)(C)); and (4) certain distributions under the Bank Holding Company Act (section 311(d)(2)(G)).

B. Comments

1. General

The Tax Section believes that a reduction in the scope of section 311(d)(2)(B) is called for. We do not believe, however, that it is necessary or desirable to repeal that section, and we see no reason for significant change in or repeal of sections 311(d)(2) (A) and (C) at the present time.

The issue of broadscale repeal of the section 311(d)(2) exceptions, as opposed to amendments merely to deal with perceived abuses, raises the fundamental question whether a corporation should recognize gain (or loss) on the distribution of its property to its shareholders.

Present law follows the rule of *General Utilities & Operating Co.*, v. *Helvering*, 296 U.S. 200 (1935), which is codified in sections 311 and 336 of the Code. Under that rule, a corporation generally does not recognize gain or loss on property distributions to shareholders, whether as dividends, in redemption of shares, or in liquidation.

In 1969, Congress amended section 311 to provide for recognition of gain (but not loss) in certain corporate redemptions. At that time, the exceptions to gain recognition now at issue were enacted.[6] The impetus for the 1969 legislation was a perceived abuse—certain corporations, principally insurance companies, were using appreciated portfolio securities to retire stock.[7] The 1969 amendment did not constitute, nor would it appear that there was any intent that it should, a broad attack on the *General Utilities* concept, put was rather merely a narrowing of its scope.

It is apparent that one impetus for the Bill's proposal concerning section 311 is a particular perceived abuse. (See the discussion of section 311(d)(2)(B), below.) It may also be appropriate, at some point, to re-examine the fundamental concept involved, the *General Utilities* rule. We suggest, however, that the present Bill be confined to urgent changes to deal with abuses, and that the re-examination be done apart from

[3] See, *Telephone Answering Service Co.* v. *Commissioner*, 63 TC 414 (1974), aff'd., 546 F.2d 423 (4th Cir. 1976), cert. denied, 431 U.S. 914 (1977) (no complete liquidation where some assets remain in corporate solution after the transaction).

[4] Another possibility would be to view the transaction as a sale of stock of the first tier foreign subsidiary subject to section 1248. Under section 1248, gain recognized on the sale of stock of a controlled foreign corporation by a United States shareholder is generally taxed as a dividend to the extent of the controlled foreign corporation's post-1962 earnings and profits. Section 1248 tax applies already in the case of first-tier foreign subsidiaries of a target corporation whose assets are sold or which is liquidated, even if gain is generally not recognized under sections 337 or 336. Section 1248(f) of the Code. Under the Bill, the election (or deemed election) under section 338 with respect to a domestic subsidiary could in effect result in section 1248(f) treatment of lower-tier foreign subsidiaries.

[5] On the other hand, no step-up is likely to be allowable for foreign tax purposes, with the results that future foreign taxes will be higher than using U.S. concepts of taxable income, and that excess foreign tax credits may result in later years. In the end, there could be substantial unwarranted double taxation, United States and foreign, on the foreign earnings.

[6] Section 311(d)(2)(G) was enacted in 1976.

[7] See, S. Rept. No. 91-552, 91st Cong., 1st Sess., at 279.

the Bill, without the pressures attendant to a hastily conceived bill to raise critical revenues.

In that re-examination, Congress should focus on the extent to which a double-tax system is appropriate where corporate property is distributed to shareholders. The present rule—*General Utilities*—results in a partial integration system. The Bill's broadscale repeal of the section 311(d)(2) exceptions would move significantly away from that integration. That is a fundamental change which may or may not be desirable, but we see no good reason to put it into effect now, without thorough study and debate.

2. Section 311(d)(2)(B)

The Tax Section believes that section 311(d)(2)(B) should not be repealed now, but should be narrowed so as to eliminate its availability in corporate acquisitions.

In a number of recent, well-publicized transactions, corporations have been able to dispose of subsidiaries to buyers which acquired the stock of the corporation with a view to a redemption exchange. Whether the disposition is a redemption exchange, and thus tax-free under section 311(d)(2)(B), has produced much debate.[8] Essentially, the issue, which is common to most transactions involving three parties (here, the corporation, the buyer, and the selling stockholders of the corporation), is whether (1) the subsidiary was transferred to the buyer for stock which it acquired from the selling stockholders, or (2) the subsidiary was sold to the buyer for cash which the corporation used to buy in its stock from the selling stockholders. Either construction is consistent with the end result, but under one construction the transaction is taxable to the corporation and under the other it is not.

We believe that the benefits of section 311(d)(2)(B) should be available only to historic shareholders of a corporation, not to persons which buy shares with a view to exchanging them for corporate assets. Accordingly, we believe that section 311(d)(2)(B) should be amended to provide that it does not apply to a redemption of stock held for less than two years.[9] We suggest two years because we believe that there is no doubt that a potential purchaser would not hold corporate stock (usually a minority position) for two years to obtain corporate assets, and that the corporation would likewise not want its shares to be held by that purchaser for so long a period.[10] As a result, a two-year holding period under section 311(d)(2)(B) would effectively preclude its use in a corporate takeover. More sweeping change than that is not warranted at present.

The suggested amendment of section 311(d)(2)(B) should also be accompanied by a provision to permit the distribution of a corporate subsidiary, otherwise qualifying under that section, to a diverse group of shareholders, where there is obviously no takeover context. An example is a distribution to all or most stockholders of a publicly-held corporation (even a pro-rata redemption); in that example it would be difficult to establish the various holding periods of public shareholders so as to demonstrate compliance with the amended provision.

3. Section 311(d)(2)(A)

We are not aware that section 311(d)(2)(A) has been effectively used as a takeover device.[11] On that basis, we would suggest that there is no need to repeal or alter the section. However, if our suggestion of a two-year holding period under section 311(d)(2)(B) is adopted, it would seem logical to have the same holding period established for section 311(d)(2)(A).

4. Section 311(d)(2) (C) and (G)

The distributions involved in section 311(d)(2)(C) are not used in corporate takeovers. Moreover, they are essentially involuntary transactions arising under the antitrust laws. We see no reason to eliminate that exception in the context of a bill to make the tax law neutral as to corporate takeovers.

As to section 311(d)(2)(G), involving distributions under the Bank Holding Company Act and section 1101 of the Code, such distributions would not occur after December 31, 1980 and the elimination of section 311(d)(2)(G) therefore appears appropriate.

5. Partial Liquidations; Spin-offs

We discuss partial liquidations more generally in IV, below. We note here, however, that the tightening of section 311(d)(2) would also call for tightening of partial liquidations and section 355 transactions.

Assuming for the moment that the partial liquidation provisions are not repealed (as is our recommendation), it would be necessary to prevent a buyer from acquiring corporate stock to be surrendered in a partial liquidation (tax-free to the corporation under section 336) for a desired corporate asset. Indeed, the *Standard Linen* case itself involved that kind of partial liquidation. We suggest that the same two-year holding period as is suggested under section 311(d)(2)(B) requirement be added in the partial liquidation context to confine the use of a partial liquidation to historic shareholders.

As to section 355, we believe that attention should be given to the question whether corporate assets can be acquired, in a takeover context, on a tax-free basis using the tax-free spin-off provisions. For instance, it is at least arguable that section 355 could be applicable to the distribution of a 100 percent owned subsidiary to a stockholder in redemption of its stock, even though such stock was recently acquired for cash in order to be used in the redemption. If section 355 does apply, then there would be no tax to the distributing corporation, even if the recommended amendments were made (or if the Bill's provisions were enacted in toto) with respect to sections 311 and 346. Accordingly, Congress should prevent section 355 from being used as a corporate takeover vehicle just as sections 311(d) and 346 could be used. The failure of the Bill to cover that point is an excellent example of why legislation in the complex area of Subchapter C should be undertaken only with deliberate care, and not as part of an intense, accelerated revenue-raising package.

IV. PARTIAL LIQUIDATIONS

A. Description of bill

The Bill would repeal the partial liquidation provisions of section 346 of the Code, and amend section 302 of the Code so as to permit sale or exchange (capital gain) treatment to a shareholder in certain transactions now qualifying as partial liquidations.

B. Comments

1. General

The partial liquidation provisions of the Code have been used in certain recent takeovers. We believe that there is one significant loophole in the present scheme (the elimination of investment credit recapture under the Consolidated Return Regulations) which should be closed, and that a case could be made that there is another possible loophole (deferral of depreciation and other recaptures under such Regulations) which might well be closed. Beyond that, we do not believe that it is clear that any change in law is warranted.

2. Investment Credit Recapture

Under present regulations, the distribution of assets in a partial liquidation to a corporate shareholder does not result in investment credit recaptures if the parties file a consolidated tax return. We believe that, in a takeover context, i.e., where the credits were earned before affiliation, that is clearly wrong and that the Consolidated Return Regulations should be amended prospectively or that a legislative override of the Regulations should be enacted.

3. Depreciation Recapture

Under present regulations, the distribution of assets in a partial liquidation in a consolidated return situation is a deferred intercompany transaction, so that income recaptures are recognized, but deferred and restored (i.e., added to income) as the basis step-up is used by the distributee. Where the item being recaptured (e.g., depreciation) was earned prior to consolidation, it is arguable that deferral is inappropriate. (Deferral is certainly appropriate to the extent the item was earned during, rather than before, consolidation.) On balance, we would recommend that the Consolidated Return Regulations be amended, prospectively, to eliminate deferral for recapture of pre-affiliation items, or that a similar legislative override be provided.

4. Other Changes

It is arguable that, in a consolidated (or even in any intercompany) situation, basis step-up to a distributee corporation should not occur selectively (*i.e.*, in a partial liquidation) at all. The argument would be that section 334(b)(2), which presumes a complete liquidation, should be the exclusive route to a step-up in basis, and that in a mere partial liquidation, the corporate parties, both distributing corporation and distributee corporation, should be treated the same as if the assets were not distributed in liquidation, but instead under section 301 of the Code. (That would result in basis carryover, not step-up.)

Such a rule could be adopted by regulation if it were confined to corporations filing consolidated returns, but the logic of the rule would seem applicable to all intercompany situations, whether consolidated returns are filed or not. That suggests a legislative solution.

We take no position whether the foregoing rule should be adopted. The consolidat-

[8] Compare *Standard Linen Service, Inc.*, 33 T.C. 1 (1959) (acq.), with *Idol* v. *Commissioner*, 319 F.2d 647 (8th Cir. 1963), aff'g 38 T.C. 444 (1962). See also L.R. 8042140.

[9] Indeed, even one year might well be enough. As mentioned below (page 17), the one year holding period of section 311(d)(2)(A) seems to have prevented its use in takeover contexts.

[10] A provision should be included to the effect that stock held by a person that had a contractual right to exchange the stock for a subsidiary of the issuer would not be considered as being held for purposes of the holding period requirement.

[11] That is because of the one-year holding period requirement in the section. See Rev. Rul. 80-221, 1980-2 C. B. 107, for an attempt to use section 311(d)(2)(A) in a takeover context. The attempt was not successful.

ed return recapture rule changes recommended in paragraphs (2) and (3), above, may be adequate to deal with corporate takeover problems in the partial liquidation context. We do feel strongly, however, that there is no good reason to repeal the partial liquidation provisions as applicable to distributions not in an intercompany context.[12] We recommend that section 346 be retained in its present form for distributions other than to 80% corporate shareholders. Thus, section 336 would still prevent recognition of gain to the distributing corporation in such a partial liquidation. The section 302 amendment would be unnecessary in that event.

We note that under proposed new section 302(a) (section 101(c) of the Bill), it might be necessary to have an actual stock redemption in order for the section to apply. That is the rule under section 302, although the rule under section 346 is different.[13] If proposed section 302(e) is enacted, it should be made clear that the rule of *Fowler Hosiery* will apply.

V. EFFECTIVE DATES

A. Description of bill

The provisions of the Bill relating to sections 338 and 334(b)(2) apply to acquisitions occurring after August 31, 1982. The amendments to sections 331 and 346 apply to distributions after that date.

B. Comment

The Tax Section believes that the foregoing August 31 effective date should be changed to the later of the date of enactment or December 31, 1982. As a general matter, we think that the effective dates in the Bill should not be so soon as to disrupt pending transactions which were planned and as to which there has been reliance, including the incurrence of transaction costs, on existing law, at least where the result under current law was acknowledged by the government. For instance, the consolidated return treatment of recaptures in a partial liquidation is clear under the regulations and the Internal Revenue Service (the "Service") has issued frequent favorable rulings on the subject.[14] Transactions may be pending which will not close by August 31, but which were planned based on those authorities and pursuant to which taxpayers have incurred substantial costs. It would be unfair for the effective date of Title I of the Bill to be so soon as to apply to such transactions.

As to the section 311 amendments (i.e., the essential amendment to (or repeal of) section 311(d)(2)(B)), the corporate takeover technique involved is obviously not clearly permitted by the Service and may well be challenged by it. On the other hand, the correct result is by no means clear and may vary from case to case depending on the facts. Under the circumstances, we believe, the effective date should permit existing law (as to which no inference should be drawn from any amendment to section 311) to apply to transactions which are closed before 1983.

As to section 338, a prompt effective date would not be objectionable if the section only applied (as we strongly recommend) to the Target Corporation and those subsidiaries elected by the purchaser. Extension of section 338 to all subsidiaries, however, would in fairness call for a more delayed effective date. Parties could be substantially committed to many transactions (although there might not technically be binding contracts) in contemplation of existing section 334(b)(2), and if section 338 is to apply to subsidiaries, such transactions should be permitted to close based on existing law. We therefore recommend that the effective date of section 338 be December 31, 1982, rather than August 31, 1982, provided, however, that a transaction which is substantially binding on the parties (apart from customary closing conditions, such as financial condition, updating of warranties, third party consents and approvals, etc.) on July 1, 1982 be permitted to close after 1982 under existing law.

[12] Among other situations in which it is appropriate to retain section 346 is that of a family or other dispute among shareholders, and resulting division of a business (not qualifying under section 355).

[13] See *Fowler Hosiery* v. *Commissioner*, 301 F.2d 394 (7th Cir. 1962); Rev. Rul. 79-257, 1979-2 C.B. 136; Rev. Rul. 81-3, 1981-1 C.B. 125.

[14] See, e.g., L.R. 8204064.

Mr. MITCHELL. Mr. President, I intend to vote against this bill—the so-called Tax Equity and Fiscal Responsibility Act of 1982.

It is with some regret that I oppose this bill, as it does contain a number of worthwhile provisions. Indeed, I am as much in favor of "tax equity" and "fiscal responsibility" as any Member of the Senate. But any action that we take to accomplish these goals must reflect a clear understanding of our budget priorities and current economic conditions. Unfortunately, the bill before the Senate does not do so.

I have several objections to this bill. First, I do not agree with the approximately $13 billion in reductions that the bill makes in the medicare program over the next 3 years. As reported, the bill would distribute the cuts in the following manner: Hospitals would absorb 49.3 percent of the reductions, physicians 18.9 percent, employers and health insurance plans 15.5 percent, and beneficiaries 16.3 percent.

One result will surely be the shifting of additional costs from the providers of health care to those individuals covered by private health insurance. The most serious result, however, is that rising health care costs will be passed along to medicare beneficiaires, to the elderly who frequently are the least able to afford increased out-of-pocket costs.

While the overall costs of the medicare program have been increasing rapidly, the result has not been due to a larger number of beneficiaries. Rather, it is due to steadily rising hospital costs and physician fees. By adopting these proposals, we are simply passing along those same costs to the most vulnerable members of our society.

Proponents of the cuts argue that beneficiaries should consider the costs of health care and be given an incentive to keep those costs down. Yet, the elderly already pay 30 percent of their overall health care costs and, under the medicare program, must pay 40 percent of their physicians' bills.

My colleague from Montana, Senator BAUCUS, offered an amendment which would have deleted the three medicare cuts that will most severely affect the elderly. I supported his proposal, but unfortunately it was defeated by a vote of 46 to 53.

A compromise amendment was then unanimously adopted that would mitigate that effect to some degree. Specifically, the amendment would impose a 5-percent copayment on home health visits beginning with the 20th visit. Further, it would provide for an increase in the deductible for medical expenses under part B of medicare in 1984 and 1985, eliminating the increase in 1983. And finally, it would sunset after 1985 the provision which will hold constant the premium under part B as a percentage of program costs.

The bill also makes over the next 3 years $2.2 billion in cuts in the medicaid program, $1.4 billion in reductions in the aid to families with dependent children program, and $450 million in cuts in the supplemental security income program.

On the whole, I find these program reductions regrettable. They strike at the poor and the elderly who have already been asked through legislation passed last year to bear more of the costs for health care and basic needs. And they shift costs to the States and to the providers of care. These cuts could have been avoided altogether had the committee chosen other means of raising revenue, such as by repealing the oil industry tax breaks enacted last year.

Second, I believe that any bill that is intended to improve equity in the tax system must address the inequity of last year's tax cut. Once inflation and higher social security taxes are considered, that tax bill gives taxpayers earning more than $50,000 a year almost two-thirds of the tax cut, even though this group contributes only one-third of total income taxes. This distribution of tax benefits is clearly unfair.

Efforts were made by myself and others to restore some sense of equity to the personal income tax cut. I offered an amendment that would have given middle-income taxpayers a greater share of the tax cut.

While these efforts were not successful, the one successful amendment affecting individuals will result in even greater inequity in the Tax Code. I am referring to the amendment that provides for the indexing of capital gains taxation to inflation. The existing special treatment of capital gains is extremely beneficial to the wealthy. Over 60 percent of the capital gains benefit accrues to the richest 6 percent of all taxpayers. Extending this special tax treatment even further by indexing capital gains only compounds the unfairness in the Tax Code.

I admit that there are important tax reform measures included in the bill, but they pale in comparison to the failure to deal with the inequity of last year's tax cut and of the capital gains amendment.

A third reason for opposing the bill deals with specific tax provisions. I believe certain provisions do not contribute to tax reform but instead threaten to be highly unfair or counterproductive. For example, the restrictions of the medical expense and casualty loss deductions will squeeze middle-class taxpayers and expose them to greater financial losses from unexpected events.

Also, the increased unemployment tax will be especially burdensome on small businesses. I do not believe that, as we are seeking an economic recovery, we should add to the costs of hiring new workers. Furthermore, I oppose the higher excise taxes, primarily the increase in the cigarette and telephone excise taxes. These only add another regressive element to our tax system. Finally, the interest and dividend withholding proposal will result in inconvenience for taxpayers, particularly the elderly, and in administrative burdens on financial institutions. Other proposals that would be less burdensome could have been substituted for the withholding measure.

TREATMENT OF INTANGIBLE DRILLING COSTS UNDER H.R. 4961

● Mr. NICKLES. I would like to engage in a brief colloquy with the chairman of the Finance Committee (Mr. DOLE) to clarify language contained in the report of the committee.

On page 120 of the report, describing the treatment of Intangible Drilling Costs (IDC's), the report states in the last paragraph: "The new 15-percent cutback rule will apply only to otherwise expensed IDS's."

Under the bill, integrated oil companies, that is, companies not eligible for percentage depletion, are required to capitalize and amortize 15 percent of their IDC's as if they were 5-year ACRS property eligible for investment tax credit but without availability of safe harbor leasing treatment. As to the remaining IDC there is an annual election to capitalize all or any portion of such IDC under the same new rules as required for the 15 percent.

My concern is that this statement in the committee report could be misconstrued to mean that even after losing deductibility of 15 percent of their total IDC's a taxpayer would be denied deductibility of an additional 15 percent of the remaining 85 percent of their total IDC's. For example, if I have $100 of total IDC's I am required to capitalize and amortize $15 as if it were 5-year ACRS property. As to the remaining $85, I can elect either to currently expense as under present law, or capitalize and amortize as 5-year ACRS property any portion of the remaining $85, but I would not be denied deductibility of an additional 15 percent of the $85 if I elect to deduct those IDC's.

Is this the understanding of the Senator from Kansas?

Mr. DOLE. The Senator is correct. The denial of deductibility of 15 percent of intangible drilling costs applies only to 15 percent of the total amount of IDC's which an integrated oil company has in any taxable year. It is not intended that the 15-percent cutback would be applied twice, that is, to both the 100 percent of total IDC's and again to the remaining 85 percent. This would be a double penalty which was never intended by the committee.●

● Mr. BENTSEN. It is the understanding of the Senator from Texas that under the accounting method changes for long-term contracts, a contract which is not expected to be an "extended period long-term contract" would not become an "extended period long-term contract" because of unforeseeable circumstances which are abnormal and which a reasonable businessman could not anticipate based on his prior experience with similar long-term contracts under similar conditions. For example, some weather delays can be anticipated and will result in an "extended period long-term contract." On the other hand, abnormal and unusual weather delays which are unforeseeable and could not be reasonably anticipated under the circumstances will not result in the contract becoming an "extended period long-term contract." Would the Senator from Kansas agree that this understanding is correct?

Mr. DOLE. The understanding of the Senator from Texas is correct.●

● Mr. WALLOP. Mr. President, in the committee report at page 201 there is a footnote which states:

In order to prevent avoidance of the new cost allocation rules, it is anticipated that Treasury may be required to amend both the regulations relating to the completed contract method and the regulations relating to the full absorption inventory costing method.

Could the Senator please explain more fully what the Finance Committee had in mind as to what changes, if any, would be made with respect to taxpayers who, although their contracts are considered long-term contracts under the bill, have consistently reported income on an accrual basis as each unit under a multiunit contract is shipped?

Mr. DOLE. Mr. President, the committee intends that taxpayers would be able to use the accrual-shipment method for multiunit long-term contracts. However, the committee recognized that some taxpayers which report income under the accrual method of accounting may obtain the same benefit of deferring income until completion of a contract as so taxpayers using the completed contract method of accounting. For example, if a taxpayer had a contract to produce one large item, income from the contract would not be reported until shipment whether the taxpayer was using the completed-contract or accrual-shipment method of accounting.

The committee bill directs the Treasury Department to revise its cost-allocation regulations for long-term contracts to properly allocate all costs to long-term contracts of taxpayers using the completed-contract method. the committee was concerned that taxpayers accounting for long-term contracts under the accrual method not receive better treatment than taxpayers using the completed-contract method. Therefore, the committee intended that the IRS change its cost-allocation regulations for inventories in the case of where the use of the accrual method for long-term contracts results in the same deferral benefits at the completed-contract method. However, it was not the intention of the committee to change the cost-allocation rules for inventories in the case of contracts which are not eligible for the long-term contract accounting rules of present law.●

MEDICARE TAX ON FEDERAL EMPLOYEES

● Mr. PRYOR. Mr. President, I am opposed to the proposed 1.3-percent medicare tax on Federal and postal employees called for by this bill. This newly proposed tax places an unwarranted burden on millions of postal and Federal employees without any corresponding increase in benefits. The new tax combined with other reductions in Federal benefits called for under the first concurrent budget resolution for fiscal year 1983 would result in an inequitable and disproportionate burden being placed on Federal workers.

This proposal, which has been recommended by the administration and adopted by the Finance Committee, would require Federal and postal employees to pay an additional 1.3 percent hospital insurance tax on the first $32,400 in annual salary. At age 65, such employees would then qualify for medicare coverage. This new tax imposes a serious burden on Federal employees and results in a reduction in pay without any real increase in benefits. An employee making $27,000 a year would have to pay an additional $351 annually, or $13.50 each paycheck. This new tax would place an unfair burden on these employees since the new tax would be in addition to the 7 percent they already pay into the retirement program and the payment they already make into a Federal Employee Health Benefits plan. The new medicare coverage which would be provided would not result in any new benefit coverage since the

Federal Employees Health Benefits program already provides nearly identical benefits. In essence, many postal and Federal workers would pay for medicare protection which they would never receive. The medicare tax also would increase sharply over the next 4 years. The tax rate will increase from 1.3 percent in 1983-84 to 1.35 percent in 1985 to 1.45 percent in 1986. The maximum tax base would increase from $35,400 in 1983 to $45,600 in 1986. As a result, the take home pay of Federal employees would be correspondingly reduced further exasperating the inequity of this measure.

The employees who would be brought under the new tax have already made many sacrifices at the hands of congressional budget cutters. They have had their retirement benefits systematically reduced on a piece-by-piece basis, they have had their pay frozen and capped at unrealistically low levels, they have had job security reduced by furloughs and RIF's, and they face even more drastic cutbacks in their pay, benefits, and job security during this budget-cutting season.

Although many argue that Federal and postal employees receive a windfall medicare benefit, that is simply not true. The fact that some Federal employees already became eligible for medicare is due to the fact they earned such benefits. No Federal worker can receive medicare coverage through any other means except by qualifying under law and paying into the system like every other citizen that qualifies under medicare.

The levying of the medicare tax, although it would have an immediate impact on the solvency of the hospital insurance trust fund, is also shortsighted, in my opinion, because it will impose greater burdens on the fund in the future as the millions of new beneficiaries reach medicare eligibility. Further, Congress will have to appropriate $600 million for the Government's employer medicare tax matching contributions. The CBO estimates that the health insurance tax will have to be matched by the Government at a $600 level. This means that the proposed medicare tax will not raise any new revenue.

Based on these arguments, I am opposed to this provision which imposes new taxation on Federal and postal employees.●

DEFERRAL OF TAX ON DIVIDENDS REINVESTED IN QUALIFIED ORIGINAL ISSUE PLANS

Mr. WARNER. Mr. President, I want to express my concern that H.R. 4961 provides, in section 243, for the termination of the dividend reinvestment legislation which was enacted into law as recently as August of last year in the Economic Recovery Tax Act of 1981—section 3211. My distinguished colleague from New Jersey, Mr. BRADY, joins me in this statement.

That legislation provides for the deferral of taxes on dividends reinvested under original issue plans of qualified utilities—with an annual limitation of $750 for an individual taxpayer and $1,500 for a joint return. It was adopted—as part of a compromise reached in the conference on the 1981 act—for a 4-year trial period ending in 1985. Its purpose was to encourage increased savings, investment, and new common stock capital formation to help in the financing of basic utility facilities which are essential to the well-being of our national economy. I feel strongly that it ought to be retained for at least the 4-year trail period.

First, we now have concrete evidence that this legislation is doing exactly what it was intended to do and that it represents one of the outstanding successes of the 1981 act. Some 2 million stockholders—and they are primarily the smaller stockholders—are now reinvesting dividends under qualified plans. Such reinvestment increased 26.2 percent in the first quarter of 1982—as compared with the fourth quarter of 1981—an increase almost five times greater than the average quarterly increase in 1981. In the first quarter of 1982, some $345 million of new common stock capital was provided through such reinvested dividends, along with an additional $100 million under the cash option provisions of qualified plans.

The need of these capital-intensive utilities for new capital has in no way diminished. And, it is clear that the new common stock capital provided under the qualified plans has been and is being used to finance essential capital facilities.

Second, the estimated revenue gain resulting from the proposed repeal represents less than 1 percent of the total revenue gain objective and, as I understand it, this estimate excludes completely any consideration of "feedback". On the other hand, we have the judgment of reputable economists that the increased common stock capital provided in response to the tax deferral provision will increase business fixed investment, national output and employment and will provide a significant stimulus to the national economy which, over a 3-year period, would produce additional taxable revenues offsetting or exceeding the initial revenue losses.

Third, it is very clear that a substantial number of stockholders participating in these qualified plans have acted in reliance on the tax deferral incentive provided by Congress for a 4-year period. It seems to me to be highly unfair and bad congressional policy now to pull the rug out from under these stockholders and to repeal this legislation after only 1 year.

I fully appreciate the pressures to enact a revenue-raising bill which will meet the budgetary targets—and the problems which would be created by efforts to modify, section by section, the bill reported by the Finance Committee. Accordingly, I am not now proposing any revision in the section dealing with repeal of the dividend reinvestment legislation. I take comfort in the fact that when this provision was initially considered by the Finance Committee on the merits, a majority, including Senators from both sides of the aisle, voted for its retention. I hope that the other body will not join in the repeal of the highly constructive dividend reinvestment legislation; and, if it does not, I hope that our representatives at the subsequent conference will recede on this issue.

● Mr. DURENBERGER. I would call to the attention of the Senator from Kansas section 233 of this bill for the purpose of clarifying a provision in that section. In general, this section reduces capital recovery deductions available to projects financed with industrial development bonds by denying the ACRS schedule for accelerated depreciation to those projects and substituting another depreciation schedule. Some exceptions are made. There are some types of facilities that will continue to qualify for ACRS even though they are financed by tax-exempt bonds.

One such type of facility is residential rental property as defined by section 103(b)(4)(A) of the code. Section 103(b)(4)(A) was amended in 1980 to limit qualified housing in several ways. At that time there were some projects grandfathered in even though they did not meet the new definition. These projects had already been approved by local governments and were in the pipeline. My purpose in calling to the attention of the Senator this section is to ascertain whether the projects that were grandfathered in under the 1980 amendments will also be considered residential rental property for the purposes of the exception in section 233 of this bill.

Mr. DOLE. The Senator is correct. All residential rental property which qualifies for tax exemption under section 103(b)(4)(A) including those projects which were grandfathered under the 1980 amendments will be eligible for both tax-exempt bond financing and ACRS capital recovery.●

● Mr. BENTSEN. Mr. President, subtitle D of title II of the bill before us deals with the taxation of life insurance companies. Several features of this section are similar to the provisions of legislation providing special temporary rules for taxing the income of life insurance companies (S. 2353) which Senators CHAFEE, BOREN, DURENBERGER and 37 of our other colleagues joined me in sponsoring earlier this year.

The provisions in subtitle D of H.R. 4961 are not exactly like those pro-

posed in S. 2353. While the reported language of some of the more complex life insurance tax provisions pose some technical problems, they have been brought to the Finance Committee's attention and they have been worked out in the spirit of true cooperation to make the provisions operate as intended.

One of the major objectives underlying the Bentsen-Chafee bill was to mitigate temporarily the adverse effects of certain defects in the existing rules for taxing the life insurance companies and to lay the foundation for the more detailed study required to find permanent solutions to problems involved in taxing the life insurance business. It was the intention of the sponsors of S. 2353 that, once the stopgap bill had been enacted, the Treasury, the Congress and the life insurance industry would begin to work together toward finding these permanent solutions to defects in the Life Insurance Company Income Tax Act of 1959.

Mr. President, should H.R. 4961 eventually be enacted into law, I urge the administration to take the lead in establishing a working group to address this important tax policy issue and to start on the long-term reform of life insurance taxation. The industry and the Congress are anxious to begin this cooperative venture with the Treasury. The Bentsen-Chafee bill was an important and constructive first step in this direction and I am anxious that the process be continued without delay.●

Mr. DOLE. Mr. President, I want to commend the Senator from Texas (Mr. BENTSEN) and the Senator from Rhode Island (Mr. CHAFEE) for their tireless efforts in working with the Treasury Department, the Finance Committee, and the life insurance industry in fashioning an acceptable solution to the taxation of life insurance companies. They have both made an important contribution to creating a solid foundation on which to develop a more comprehensive reform of the taxation of the life insurance business.

I fully agree with the Senator from Texas that initiatives must now be taken by the administration, the Congress, and the life insurance business to work together to carefully examine the manner in which these companies are taxed and to develop a just and equitable solution to the defects in the 1959 law. The measure we are debating today provides only a 3-year solution and I see this bill as the beginning of the road, not the end. I look forward to working with the Senators from Texas and Rhode Island on this important tax policy issue.

IDB HEARINGS AND APPROVAL

● Mr. DURENBERGER. I would like to bring to the attention of the Senator from Kansas section 222 of this bill which relates to public approval of industrial development bonds. I bring this matter up to make sure that there is no confusion as to the requirements set forth in that section.

The committee report describing the public hearing requirement states the following on page 170:

If the voter referendum alternative is not used, the bill requires that a public hearing be held by the issuer of all tax-exempt IDBs and by each governmental unit in which any facility with respect to which bond proceeds are to be used is located. In the case of multiple governmental units within a State having concurrent jurisdiction over the geographic area of the location of the facility, only the issuer and one of the units having jurisdiction over the area where the facilities are located are required to hold public hearings.

The committee report further describes the requirement for elected official approval in the following terms:

Following the public hearing and prior to issuance of the bonds, the applicable elected representative of each governmental unit holding the required hearing must approve issuance of the bonds.

Now it is my understanding and I hope the Senator from Kansas will confirm this, that this language is included in the committee bill primarily to prevent a particular kind of abuse that was occurring. Some governments and quasi-governmental agencies have been issuing bonds, the proceeds of which were being used to build facilities that were located entirely outside the jurisdiction of the issuing government or authority, without the concurrence of the governments where the facilities are located.

However, I am concerned that this language might be interpreted to require two public hearings and approval procedures in circumstances where one would suffice to assure that the affected public is heard and their rights protected by their elected representative.

I am speaking of the situation where a State agency—say a State housing finance agency—issues a bond the proceeds of which are used to build a qualified housing project. Now, under the provisions of the bill, the housing finance agency would have to hold a hearing and an elected official of the State government would have to approve the issue. But the bill might also be read to require a separate hearing by the local government with jurisdiction over the land on which the project was to be built.

Further, it might appear that a local elected official would also have to approve the bond. In the case I cite, I do not believe that we intended to require two hearings and two approval procedures. Provided that the project is to be built within the State, no second hearing or second approval should be necessary in this instance. I would ask the Senator from Kansas if this is a correct interpretation of the provision.

Mr. DOLE. The Senator from Minnesota is correct. In these cases he cites only one hearing and one elected official approval would be required, provided the elected official is an elected official of the governmental unit having jurisdiction over the area where the bond-financed facilities are located. The hearing would be conducted by the State agency and the approval would be by the chief elected State executive officer or his designee.●

Mr. DECONCINI. Mr. President, I intend to cast my vote against final passage of H.R. 4961, the 1982 medicare cut and tax increase bill.

This is not an easy vote. I have spent many hours pondering what is the proper course for me to take—proper for the people of Arizona and proper for the Nation as a whole. In the final analysis, however, the issue comes to this: Is this legislation the right way to partially offset what will be the largest deficit in American history? The answer is "No."

Unfortunately, the administration which entered office with high hopes and the full backing of the American people has faltered in its economic policies. The 1980 election put us all on record in favor of fiscal responsibility, and most especially a balanced Federal budget. The administration convinced itself that this could be accomplished by simultaneously increasing defense spending, and decreasing taxes.

The result of these actions has been a massive recession which still shows no real signs of abating and Federal deficits far in excess of those contemplated in previous years. Now, the administration has decided that the deficits created by its own policies are intolerable and asks Congress to pass the largest peacetime tax increase in history.

The rational approach to fiscal matters should have been to decrease taxes commensurate with decreases in Federal spending. Many of us in Congress have asked the President to reconsider the orignial tax cut bill and to phase in those cuts as the Federal budget can absorb them. That still remains the proper course of action.

The bill we have before us today will strike a powerful blow against middle-income Americans, although it seeks to masquerade as a bill which closes corporate loopholes.

The tax increase bill will double the excise tax on telephone service, an action that will have special impact on Arizonans in light of recent and very substantial increases in telephone rates.

The tax increase bill initiates the withholding of dividends and interest payments to individuals at great cost in paperwork for financial institutions like savings and loan companies which

are already going bankrupt because of the deteriorating economic situation. It will also impact on retired persons who rely upon their interest and dividends to make ends meet. I fought this proposal when it was advanced by the Carter administration and its advocacy by the Reagan administration has not affected its total inappropriateness.

The tax increase bill dramatically increases the total amount of medical expenses a family must incur before they can be taken as a deduction. It also reduces from $150 to $100 the amount of insurance premiums that can be deducted, an action that will impact upon practically every single filer of an itemized return.

The tax increase bill will double—from 8 to 16 cents—the Federal excise tax on cigarettes. Whatever one's views on the harm that may accrue from smoking, this type of tax penalizes only the poor and middle-income persons.

The tax increase bill raises the wage base upon which business—including hard-hit small business—will have to pay FUTA—Federal Unemployment Tax Act. It also increases the FUTA tax rate.

The tax increase bill reverses some of the capital formation—that is, productivity enhancing—changes in depreciation allowances enacted last year which I cosponsored.

The tax increase bill also substantially reduces the basis upon which the investment tax credit is calculated, further reducing the incentives to invest in our undercapitalized economy.

The tax increase bill does close some corporate tax loopholes, but leaves hundreds of others wide open. First, it is totally deceptive to believe that closing these loopholes will not affect average taxpayers. Taxes are a cost of doing business, and businesses will simply pass them on. So, we will all pay in the long run.

Second, the selective closing of loopholes is a mixed blessing. It is a process whereby Congress decides that this loophole is better than that loophole and therefore it penalizes or rewards businesses according to who had the best lobbyists. The rational approach to the terrible problem of our Tax Code—the approach which I have sponsored in S. 2147—is to scrap the present system in favor of a broad-base flat-rate tax. It eliminates all loopholes for individuals and corporations and applies a reasonable tax on all income. This would provide the Government with sufficient revenue and restore basic equity to a system whose fundamental unfairness has gotten out of hand.

The time, Mr. President, when the administration and Congress will have to acknowledge that this Nation's fiscal affairs are in dissaray is close upon us. We are like helpless bystanders trying to stop massive hemorrhaging with band-aids. The American people—certainly the people of Arizona—are tired of the deceptions and false promises. They do not want "pie in the sky" promises; they do not want free lunches; they do not want what is not rightfully theirs.

However, they do demand that their elected representatives place commitment to the country above the empty rhetoric of campaign promises and election strategies. They want commonsense, common decency, and common fairness to be the rule and not the exception.

First, the present tax system must be fundamentally transformed to meet the dual needs of revenue raising and equity. The flat-rate tax is the best way to achieve this. Second, we must pass a constitutional amendment requiring a balanced Federal budget as a means of forcing Government to live within its means in the face of constant political temptation. Third, we must keep our taxes as low as possible without going into national debt by adopting rational, not irrational, fiscal policies.

In the meantime, Mr. President, I find the 1982 tax increase bill unacceptable. I proposed that we reduce the deficit by cutting certain Federal programs, like foreign aid. We cannot continue to take and take from the American people while we open our Treasury to foreigners. Generosity and altruism have their place, but our obligations are to our own citizens first. And, those citizens, Mr. President, are suffering from unemployment, high interest rates, poor productivity, a lack of capital investment, a decimated housing industry and an unprecedented number of bankruptcies.

When there are alternatives to raising taxes at a time of extreme economic hardship, we owe it to those we represent to pursue those alternatives. If we can cut foreign aid, eliminate waste, reduce the number of trips Government officials take and the number of cars the Government buys, we should. Raising taxes should be a method of last resort, not a substitute for making difficult decisions about the size, role and function of the Federal Government.

I cannot in good conscience support a measure which increases taxes on American working men and women by $100 billion at a time when many millions are out of work and are experiencing the desperation of shattered dreams.

Mr. KENNEDY. Mr. President, I oppose passage of this bill because of its unjust tilt against average taxpayers and the elderly who are sick.

This extraordinary package of unprecedented tax increases and excessive spending cuts is being sought by the administration for one reason only—as a fig leaf over the incredible Federal budget deficits caused by the unfair Reagan tax cuts of 1981 and the administration's massive increases in spending for defense.

The most objectionable features of the bill are those that inflict heavy new sacrifices on the elderly and the poor, slashing billions of dollars in spending for medicare and medicaid. The increase in the part B premium, the increase in the deductible, and the increase in home health costs mean that at the very time when they are sick and can least afford it, millions of senior citizens will be required to pay hundreds of millions of dollars out of their own pockets for health care.

And these increases are only the beginning of the nightmare of higher health care costs awaiting the elderly under this measure. The billions of dollars saved by limits on medicare payments to physicians and hospitals will not be absorbed by the providers of health care. Instead, these costs will be shifted—to the elderly, to the young, to working men and women. The record is clear that as medicare payments are cut, more and more physicians refuse to accept medicare reimbursement as payment in full. Instead, they accept medicare as partial reimbursement, and then bill the elderly for the rest. Such practices are an affront to the concept of medicare and they should not be fostered by any action of this Congress.

In a very real sense, this legislation asks the most vulnerable older Americans to pay for the Reagan administration's failing economic policy. In combination with the administration's repeated attempts to slash social security, the cuts in medicare demonstrate the callous and insensitive nature of the Reagan program.

In addition, while the bill does contain a number of worthwhile tax reforms, I believe that it flunks the test of basic fairness to average taxpayers. At the very least, the Senate should have postponed the third year of the Reagan tax cut for the wealthiest individuals, and deferred the indexing of the tax laws until a balanced budget is achieved.

Although the bill raises $98 billion through tax increases over the next 3 years, it carefully avoids any significant increases in taxes on the oil industry, which will continue to enjoy some of the most lucrative and least justifiable tax loopholes in the entire Internal Revenue Code.

For these reasons, I believe the pending bill falls short of the goal of fair tax and spending policy, and it does not deserve to pass.

Mr. MURKOWSKI. Mr. President, the Finance Committee reconciliation bill contains a provision that troubles me greatly. I am referring to the pro-

vision which repeals the trans-Alaska pipeline windfall profit tax adjustment. Although the repeal of the TAPS adjustment will result in some increased revenues in the coming years, I am concerned that it may have some detrimental long-term effects on our ability to achieve a greater degree of energy independence. What we must understand is that this is actually an add-on tax on Alaskan oil production over and above that prescribed by Congress policy decision in 1979. Moreover, Congress included this provision for some sound policy reasons—reasons some find convenient to ignore in our zealous search for new revenues.

Essentially, the purpose of the TAPS adjustment is to provide producers of the Sadlerochit Reservoir in Prudhoe Bay with a guarantee that wellhead prices and the windfall profit tax liability will not increase merely because of a decrease in the cost of transporting oil through TAPS. The TAPS adjustment allows an increase in the adjusted base price of Prudhoe Bay oil shipped through TAPS equal to the difference between the producers cost of moving oil through TAPS and $6.26, which was the average of tariffs during 1979.

Mr. DOLE. Will the Senator yield for a question?

Mr. MURKOWSKI. I will, Mr. President.

Mr. DOLE. The Senator from Alaska is essentially saying that the TAPS adjustment was enacted to protect TAPS owners from a potential double penalty resulting from a pending regulatory action by the Federal Energy Regulatory Commission (FERC) that might cause a decrease in tariffs.

Mr. MURKOWSKI. The Senator is correct. If FERC imposed a decrease in TAPS tariffs, not only would the pipeline income accruing to the pipeline owners decrease, but windfall profit tax liabilities would increase. Congress foresaw this possibility in 1979 when it was drafting the windfall profit tax.

Mr. STEVENS. Will the Senator yield on that point, Mr. President?

Mr. MURKOWSKI. Yes, I will, Mr. President.

Mr. STEVENS. I would like to elaborate on what Senator MURKOWSKI has just said. Prudhoe Bay production is the only domestic oil whose wellhead price calculations depend on transportation costs as well as international market prices. Accordingly, inclusion of the TAPS adjustment was a recognition by Congress that the windfall profit tax was enacted to capture increased oil company revenues due to decontrol of U.S. crude prices at the wellhead and was not intended to penalize producers for regulatory changes in the cost of transportation. We must also recognize that the repeal of this provision puts FERC in a conflict of interest position because an arbitrary change in the TAPS tariff can be used to substantially increase Government revenue. Absent the TAPS adjustment, all Prudhoe Bay oil could incur inequitably higher windfall profit tax liabilities than the other tier 1 producers whose posted prices at the wellhead are not affected by fluctuating pipeline tariffs.

Mr. DOLE. Will the Senator yield?

Mr. STEVENS. I will, Mr. President.

Mr. DOLE. In my own State of Kansas, crude oil is generally sold at the wellhead but such is not the case for Alaskan oil. As Senator STEVENS has said, Alaskan oil seems unique in that it is not sold at the wellhead, but at the points where it can either be refined or introduced into pipelines which can deliver it to refineries. These points, which are located primarily on the U.S. west and gulf coasts, are also the places where market prices are established by competition with imported and other domestic crudes. Thus, while other domestic crude oil is generally sold before transportation costs are incurred, the Prudhoe Bay oil sales price includes tranportation costs.

Mr. MURKOWSKI. The chairman of the Finance Committee is absolutely correct. Senator BAUCUS, the author of the amendment in the Finance Committee which proposed the removal of the TAPS adjustment, justified the amendment on the basis that there was no compelling reason to treat TAPS oil differently than any other oil for purposes of the windfall profit tax. Now I have great respect for my colleague from Montana and the other members of the Finance Committee who voted for the Baucus amendment; however, I fear that they might have lost sight of the basic fact that Senator STEVENS just made: the uniqueness of Prudhoe Bay oil. Again, Prudhoe Bay production is the only domestic oil whose wellhead price calculations vary with transportation costs. When the TAPS tariff falls, the wellhead price will rise, since the oil is sold at market prices. While it costs less than a dollar to move a barrel of oil produced in the lower 48 to the refinery, it costs from $5 to $7 just to move a barrel of North Slope oil from Prudhoe Bay to Valdez. This is indeed a unique situation.

Mr. STEVENS. Will the Senator yield?

Mr. MURKOWSKI. Yes, Mr. President, I will yield.

Mr. STEVENS. I believe we have adequately outlined the reasons why Congress put the TAPS adjustment provision in the Windfall Profit Act in the first place. Alaskan oil is not priced like lower 48 oil, it costs a substantial amount more than lower 48 oil costs to produce and the adjustment provision insures that Alaskan producers and the pipeline owners will be treated fairly with regard to their windfall profit tax liability in light of these unique situations. I want to turn this discussion toward the possible result of the removal of the TAPS adjustment. Basically, the removal of the TAPS adjustment would have a number of negative impacts on the economies, production, and transportation in frontier areas. This means less domestic supply from an area holding 50 percent of U.S. potential recoverable reserves and could prevent development of known reserves that might increase output from TAPS in the short run and assist projects such as the northern tier pipeline. We simply are reducing Alaska's role in assisting national energy security.

Mr. MURKOWSKI. Will the Senator yield on that point?

Mr. STEVENS. Yes, Mr. President.

Mr. MURKOWSKI. I would like to elaborate on the point just made by Senator STEVENS. The removal of the TAPS adjustment will reduce funding available for further exploration and production work in the lower 48 States as well as Alaska. Moreover, it will cast a doubt on the feasibility of obtaining a reasonable return on investment in all frontier activities. Mr. President, it is probably true that at least half of all new U.S. reserves of oil and gas will be found in the Alaskan Arctic—secure, domestic, reliable sources of energy. It is not going to be easy to develop these resources and Lord knows it is not going to be cheap. I yield to the senior Senator from Alaska.

Mr. STEVENS. The implication of what my good friend from Alaska, Senator MURKOWSKI, has said is most troubling, Mr. President. By repealing the TAPS adjustment, we are creating additional uncertainties that must be faced by industry engaged in frontier oil and gas exploration and production. This will cause a shift in investments away from Arctic development, which is clearly our hope for greater energy independence. Finally—and this is the prospect that troubles me greatly—we have increased the possibility of further modifications to the windfall profit tax. Repeal of the TAPS adjustment creates some serious difficulties, but further modifications that may be under consideration in the House Ways and Means Committee would be dangerously destructive to the need to develop our domestic resources in the Arctic.

Mr. MURKOWSKI. Will the Senator yield on that point, Mr. President?

Mr. STEVENS. Yes, I will be happy to yield.

Mr. MURKOWSKI. On the subject of oil and gas lease revenues—I believe our colleagues should be aware that 16 Federal lease sales are planned for the Alaska Outer Continental Shelf over the next 5 years. Adjustments in other windfall profit tax provisions could

lead to a decrease in both the number of companies bidding on those leases and the size of the bids—possibly by a significant amount. In a single one of those lease sales scheduled for fall of this year, it has been estimated that Federal revenues from this sale could fall from $2.6 billion to $1.4 billion—and that is just one lease sale. Thus, what was intended as a revenue raiser may in fact cost the Federal Government substantial amounts of income. I am also concerned about the implications of its repeal on our endeavors to achieve a greater degree of energy independence, which is, as we all know, inexorably tied to our national security. We know that Arctic Alaska is a key to our energy future, but just how much oil and gas can we expect to find there?

The National Petroleum Council estimates that 24 billion barrels of recoverable but undiscovered oil, as well as 109 trillion cubic feet of natural gas, lie in an area running from the Aleutian chain to North Slope. Now those are just the median estimates in the range of possibilities—the actual amounts could be much higher.

Mr. STEVENS. I believe it is also important to note that any prospects for the discovery of new, giant oil fields of the likes of Prudhoe Bay in the United States are limited to frontier areas in Alaska.

Another point I wish to make goes back to the reason Congress put the frontier windfall profit tax provisions in place. It is, of course, a fact that it is much more difficult and expensive to develop new energy resources in the Arctic. Climatic conditions, remoteness, limited drilling seasons, complex geology, and the need to protect the sensitive Arctic environment all contribute to these higher costs. Without incentives such as the Arctic Circle windfall profit tax exemption in place, Arctic resources will not be developed in the same timeframe—if they will be developed at all.

Mr. MURKOWSKI. I believe it is also important to note that current and planned expenditures of billions of dollars by a number of U.S. oil companies in the Arctic were undertaken with the understanding and expectation that oil discovered there would not be subject to the windfall profit tax. Changing the rules of the game now would be inequitable, and it would lead to reductions in planned private sector expenditures resulting in lower domestic production.

Mr. DOLE. Will the Senator yield?

Mr. MURKOWSKI. I will, Mr. President.

Mr. DOLE. I have listened to and participated in this colloquy with great interest, and I would like to commend the Senators from Alaska for their thoughtful discourse on this subject. I would take this opportunity to assure my friends from Alaska that I did not vote for the TAPS adjustment repeal in the Finance Committee and I am sure we will take another look at the issue in conference.

Mr. MURKOWSKI. I greatly appreciate the remarks of the chairman of the Finance Committee—I find a great deal of encouragement in what he says. And while it had been my plan to offer an amendment to delete the provisions in this bill repealing the TAPS exemption, I will not do so now. I would also like to commend the chairman of the Finance Committee who has labored long and hard to bring this bill before us today.

Mr. STEVENS. Mr. President, I want to associate myself with the remarks of my colleague from Alaska. I agree fully with his assessment of the TAPS adjustment deletion and hope that we can prevent it from becoming law. We simply cannot afford to make shortsighted policy decisions such as this one that earn a minimal amount of revenue while jeopardizing production of vital national energy resources. It is my understanding that this provision is motivated by independent petroleum jobbers seeking punitive measures against Alaska's major producers. This is not a revenue measure, and I hope we can look into the motivation and true effect of the measure prior to conference.

Mr. ANDREWS. Mr. President, I wish to join the Senators in opposing the Finance Committees treatment of the TAPS adjustment. The windfall profit tax was aimed at a particular economic event—a sharp rise in crude oil prices in the world market resulting from the OPEC cartel, and deregulation, which brought those who supported the windfall profit tax, the sharp increase in crude oil prices did not necessarily reflect demand/supply requirements, but reflected at least to some degree, the price level dictated by the cartel. For that reason, it was the decision of Congress and the administration to tax up to 70 percent of crude oil price increases over the controlled price levels.

However, there was a recognition that where a wellhead value was significantly affected by the cost of transporting oil to market, as in the case of the TAPS pipeline, any reduction in the cost of transportation, which might result from expansion or more efficient use of the pipeline, would not constitute a "windfall" in the OPEC sense. Therefore, the TAPS adjustment provided that reductions in the pipeline tariff would be added to the crude oil base price so that the windfall margin subject to taxation would not be increased by pipeline tariff reductions.

One of the proposed extensions of the TAPS transportation system is the Northern Tier Pipeline Co., which was planned to move Alaskan North Slope (ANS) crude from Seattle to the northern tier States and the midcontinent of the United States. The future of the northern tier pipeline is inescapably joined to future crude oil discoveries in Alaska, our brightest oil frontier. The northern tier project will be largely dependent upon Alaskan crude; of the estimated capacity of 933,000 barrels per day, it is expected that at least 600,000 barrels per day would come from ANS crude. New oil must be found and pipeline expansions and extensions must be built. Those expansions and extensions will be built by the companies which discover and develop the new reserves.

Of course, the TAPS adjustment does not apply to the northern tier project; the substantial cost savings that would be brought about by the northern tier project would increase the wellhead value of North Slope crude and that increase of net wellhead value would be subject to the windfall profit tax. Thus, the windfall profit tax itself, was a significant obstacle standing in the path of northern tier. Now the Finance Committee is sending even more adverse signals to the oil pipeline industry and the financial community that is called upon to finance new pipeline projects. That signal is that if the oil industry brings about a more efficient use of transportation facilities, the benefit of that use will not flow to the owners of the resource, but 70 percent of the benefit will be taken by the Federal Government. In the case of Alaskan crude, the State takes 25 percent of the wellhead value; the Federal Government takes 70 percent of the remaining increase in value; the benefit of a company investing in a downstream pipeline facility to provide more efficient transportation of oil to market is becoming almost nonexistent.

The finanical community must feel confident that the northern tier pipeline will be essentially full for at least 20 to 25 years before it will provide the funds to finance that project. Consequently, it is essential that there be stable economic climate which will encourage the oil industry to continue to explore for and develop new reserves on the North Slope. New reserves will be harder to find and more expensive to develop. Elimination of the TAPS adjustment to the industry and the financial community sends a signal of inconsisent tax policy. Under the proposed provision in the bill if you make successful investments, in transportation facilities and increase the value of your product at its source, the Federal Government will take 70 percent of that increased value. That action will be a major disincentive to oil industry participation in the search for additional reserves in the Alaskan North Slope.

If anything, the TAPS adjustment should be expanded. It should provide

that any increase in crude oil value resulting from reduction in the cost of crude oil transportation through U.S. pipelines, should be added to the base price, and be exempt from the windfall profit tax. That is the kind of signal that tax policy should send to industry. It should be a signal of incentive and consistency. I will do what I can to assist the Senators in revising this provision at conference with an eye toward restoring the adjustment.

Mr. MELCHER. Mr. President, I also rise to join my colleagues in opposing the attempt to repeal the trans-Alaska pipeline adjustment currently in the windfall profit tax bill. The thrust of that adjustment and other "Frontier" provisions in the bill is to inspire additional production from the North Slope of Alaska.

The amendment passed in the committee runs directly counter to this overriding national policy. The TAPS amendment would have us endure great uncertainty regarding the economic factors of exploration and development of the enormous oil and gas resources that the State of Alaska potentially offers the Nation. We must carefully consider such significant charges in policy. There have been no hearings or any type of examination of this issue in either body of Congress. In fact, there was no attempt by the committee late on the night of passage to truly assess the impact of this measure.

For less than $100 million in revenue next year, Congress is jeopardizing production of existing reserves in Alaska, and diminished investment in the overall effort to explore high potential, high cost, Arctic regions.

What disturbs me even more is the fact that this measure was not adopted in an attempt to create equity in tax policy or even to raise substantial revenue.

Clearly, we are tampering with what was already an equitable system for calculating windfall profit taxes from North Slope fields. Our national policy on Arctic oil and gas should be to continue incentives for further development.

Of particular concern to me is the impact on the northern tier project. This is one of a number of important transportation systems that can transport North Slope oil to oil refineries in the lower 48 that need stable supplies of crude. How can the financial community be expected to demonstrate its confidence by investing in such facilities if Congress is signalling its unwillingness to stand behind its commitments of only 2 years past? My point is that not only is oil production from the Arctic hampered through this type of backtracking, the secondary effect is the financial markets simply will not respond as national interest dictates when there is no certainty that investment rules will remain the same and that the huge potential of Alaskan oil will continue to be delivered.

Remember, we are talking about a region providing nearly 20 percent of our entire domestic supply. Projects such as the northern tier pipeline depend on this supply and this project is very important to the energy and economic well-being of my State as well as all others that would be served by northern tier.

I would suggest to the Senators from Alaska and to the chairman that they are not alone in their concern with this amendment. Our national energy policy requires that we evaluate the effects of our actions here on the entire system. Many States need a project like a northern tier that is dependent upon enhanced production from our potential domestic oil and gas regions. Investment stability depends upon a consistent policy.

This is certainly not the effect of this proposed congressional action and speaking for Montanans I join in support of my colleagues who have just spoken in opposition to changes in treatment of the TAPS adjustment. I hope that it is possible to restore the adjustment as the bill moves through Congress.

● Mr. BAUCUS. Mr. President, earlier this evening, by unanimous consent, Senators STEVENS, MURKOWSKI, and DOLE entered into a colloquy concerning the bill's elimination of the trans-Alaska pipeline system adjustment to the windfall profits tax.

I understand this is a somewhat lengthy colloquy, but since none of the words were spoken on the floor, it is difficult for me to rebut whatever the Senators from Alaska may be saying in support of the TAPS adjustment in order to balance the record this evening.

However, for the record, I would point out that the three major oil companies who will be forced to pay a higher amount of windfall profits tax because of the committee's elimination of this adjustment, continue to make several arguments to support their cause. They say that repeal of the adjustment double penalizes them for FERC decisions to lower their pipeline tariffs. They say that pipeline transportation savings will be lower if this adjustment is repealed. They say that somehow we are changing the tax rules in the middle of the game. They say that eliminating the TAPS adjustment will send signals that will be harmful to future frontier oil development or even to future oil pipelines.

I have read or heard what these three oil companies have to say, and all of these arguments are easily rebutted: Elimination of the TAPS adjustment simply works to apply the windfall profits tax on the Alaska oil subject to the tax on a basis somewhat closer to that of the oil produced in my State and all other States. It simply gets aid of a phantom freight rate written into the code that no-longer reflects the cost of transporting this oil through the pipeline.

Mr. President, as I said, it is relatively easy to rebut the arguments being made by these three companies, but it is impossible to rebut arguments made by my colleagues tonight when the remarks are included in the RECORD by consent without having been spoken. I will read the RECORD tomorrow and prepare a response. Tonight all I can do is call this situation to the attention of the Senate.

I ask unanimous consent that my remarks be placed in the RECORD directly following the colloquy I just mentioned.●

● Mr. WARNER. Mr. President, there is a proposal in the bill about which I am seriously concerned because of its potential adverse impact on the objective of increasing investment in productive assets in the United States.

In the provisions dealing with safe-harbor leases, the legislation is written, in effect, to reduce the amount of foreign tax credit a taxpayer may claim if the taxpayer is a lessee of property under a safe-harbor lease.

The intent of the reform provisions of this bill is to end abuses by some taxpayers. I support this intent, but the provision related to the foreign tax credit throws the baby out with the bath.

The impact of this provision is to create a disincentive to repatriate profits from foreign subsidiaries to invest in the United States. If a taxpayer who has been losing money in the United States brings back foreign dividends from foreign subsidiaries to invest in new equipment in the United States, the taxpayer will be denied credits for the foreign taxes paid on the repatriated income. Alternatively, the taxpayer must give up the right to help finance his domestic investment as a lessee under a safe-harbor lease.

I believe that it is important to reconcile this conflict between the safe-harbor-leasing rules, as amended to end the abuses, and repatriation of foreign profits for reinvestment in the United States. I would hope that an opportunity will be available in conference to work out a rule that would serve as an incentive to repatriate foreign earnings for investment in the United States and permit the taxpayer to utilize the new, restricted safe-harbor-lease rules as in the case of other U.S. taxpayers.

Mr. LEVIN. Mr. President, I commend the committee for its efforts to eliminate the abuses of the safe-harbor-leasing provisions. However, in the area of foreign tax credits, the committee appears to have gone off course and the result will adversely affect legitimate leasing transactions

or discourage repatriation of foreign profits for investment in the United States. I hope that during the conference on this legislation, it will be possible to reach an agreement which meets the committee's understandable concern that the leasing provisions of last year's bill be tightened up to avoid abuse, but, at the same time, still allows leasing to achieve its original goal of giving unprofitable U.S. operations the capital necessary to modernize.

Mr. DOLE. Mr. President, I am sensitive to the issues raised by the Senator from Virginia and the Senator from Michigan, and look forward to doing our best to resolve them in conference.●

● Mr. DODD. Mr. President, I am opposed to the requirement contained in this bill that will force employers to provide primary health insurance for their older workers. The bill does exempt certain firms from this requirement by limiting it to employers having 20 or more employees.

However, Mr. President, there seems to be a great deal of confusion over which employers are to be exempted from the new requirement of providing health insurance for the working aged. The press release which the Finance Committee sent out on June 25 announced that the committee had agreed to exempt employers of fewer than 25 regular workers from this new provision. Yet the report language to H.R. 4961 ordered to be printed on July 12 states that only employers of fewer than 20 regular workers will be exempted from this new responsibility.

Senators should first be advised that this bill will only exempt employers of fewer than 20 regular workers. As such, they should also be advised that this bill does not adequately exempt small businesses from the burden of providing health insurance for their older workers.

The medicare working aged proposal simply shifts costs from the Government to private employers. These private employers are going to be faced with a choice of either, one, letting their older workers go, or two, reducing health benefits for all their workers.

Among private employers, small businesses will be least able to accommodate the drastic rise in health costs this bill will mean for them. Thus, small businesses will most likely be forced to let their older workers go.

The vast majority of workers over age 65, Mr. President, work in small businesses. Any movement by small businesses to let their older workers go will have a drastic effect on the already declining participation of those over 65 in the labor force.

In 1950, close to 40 percent of all men aged 65 and over remained in the work force. By 1970, only 27 percent of such older men were working. In 1980, that figure dropped to 19 percent and the figures for 1981 and 1982 are even lower.

But given the shortfall in social security funds, we want to encourage longer work-lives and discourage workers from retiring at age 65. The latest testimony to the Senate and House Aging Committees shows that $10 billion a year could be added to social security; $40 billion to combined Federal, State, and local tax funds; and over $200 billion to our GNP if the same percentage of those over 65 who were working in 1970 were working today. So the last thing we want to do is discourge older workers from staying on the job.

Seven percent of all older workers are employed in firms which have between 20 and 25 full-time employees. By lowering an initial exemption from firms with fewer than 25 regular employees to firms with fewer than 20 regular employees, this bill will adversely affect some 95,200 older workers.

As it stands now, Mr. President, the provision modifying health coverage for the working aged is penny-wise and pound-foolish. Suppose for the sake of argument that those 95,200 older workers I mentioned above were to lose their jobs because their employers could not afford to provide them the same health benefits that they provide to younger workers. If they were just to receive the minimum social security benefit of $122 a month, in 1 year they would cost the old age and survivors trust fund $139,372,800. That is $20 million more than the cost of my amendment over 3 years.

In short, Mr. President, the proposal to make medicare the secondary payor and the company health plan first payor for workers aged 65 to 69 will cost us far more out of the OASDI trust fund if these workers lose their jobs than it will save in the short-term out of the medicare portion of the trust funds.

Mr. President, a recent Harris poll revealed that 50 percent of all retirees want to work. We have every reason to do everything we can to encourage them to do so. For this reason, I oppose modifying health coverage for the working aged.●

EFFECTIVE DATES FOR FACILITIES CONSTRUCTION OF WHICH BEGAN PRIOR TO JULY 1, 1982

● Mr. TOWER. Mr. President, the bill would deny ACRS—accelerated cost recovery system—with respect to property financed by tax-exempt bonds. Section 223(b)(2)(A)(I) provides an exception for facilities, the construction of which began prior to July 1, 1982. There are several matters I would like to clarify.

Is it the committee's intent that, for example, a project which includes the acquisition, refurbishment, and construction of land, docks and wharves, storage tanks, and related equipment and infrastructures, all as described in the inducement resolution passed prior to the commencement of construction on the project, is to be considered a single "facility" within the meaning of section 223(b)(2)(A)(I)?

Mr. DOLE. The Senator is correct.

Mr. TOWER. And is it also the Senator's understanding that if construction of the facility began prior to July 1, 1982, and before the entire facility is completed, certain components of the facility, including components under construction, are sold and new tax-exempt bonds are issued to finance the purchaser's acquisition of such components and completion of the entire facility prior to the facilities being placed in service, the exemption for construction begun before July 1, 1982, would be available and, thus, ACRS would be available to the purchaser with respect to all components of the facility?

Mr. DOLE. That is also correct.●

● Mr. SPECTER. Mr. President, I am submitting this statement on behalf of Senators BAKER, DANFORTH, and WALLOP, concerning the Dingell-Johnson provisions of the bill.

We have been working with a number of manufacturers who contend that many Taiwanese and Japanese manufacturers are fraudulently reducing their taxes under Dingell-Johnson through use of dummy trading companies. Since the tax is levied at first sale, these manufacturers are able to reduce the amount of tax by having the manufacturing company sell to the trading company at less than the true value and thereby reducing their tax. The profit is then accredited at a later bona fide sale. In addition, they are also able to reduce the amount of their ad valorem tariff payment. The various corporate relationships between these foreign manufacturers and trading companies cast serious doubt as to whether these sales are bona fide.

This situation will be exacerbated by provisons in the Finance Committee bill which broaden the items subject to taxation.

It is crucial that the Treasury Department, and where applicable, the Customs Service, conduct full and expeditious investigations of these potential violations of trade law. Upon completion of these investigations, violators should be prosecuted to the fullest extent of the law.

Only this week, Matsui, a Japanese steel company, pleaded guilty to charges of conspiring to provide fictitious prices to the Customs Service to circumvent the trigger price mechanism. Matsui and its employees engaged in forgery, destruction of documents, preparation of phony invoices, submission of false documents and backdating of documents.

I understand that a similar civil case is pending against one fishing tackle importer. Where evidence is presented, this and other investigations should be broadened to include other companies engaged in these activities. It is my sense and the sense of the other Members on whose behalf I am submitting this statement, that expeditious and prompt investigations be made of these charges. It is also our sense that an amount equal to the amount accruing from any recovery of tariffs or taxes for fraudulent activity be paid into the Dingell-Johnson fund. The hearings scheduled next year to review Dingell-Johnson should be used to review the progress of these investigations and to bring any additional information to the attention of the Treasury Department.

It is important to note that the amounts equal to the amount of the taxes and tariffs which are deposited into the Dingell-Johnson fund have no protectionist intent, but rather are for recreational and other similar purposes. Thus, it is the same American sportsman that purchased the equipment who is penalized by fraudulent efforts to avoid the tax and the tariff. It is for this reason that an amount equal to the amounts recovered through investigations should be placed into the Dingell-Johnson fund.●

Mr. COHEN. Mr. President, I rise to express my support for the tax reforms contained in H.R. 4961, the Tax Equity and Fiscal Responsibility Act of 1982.

In passing the budget resolution last month, Congress gave the Senate Finance Committee the formidable task of increasing Federal revenues by over $98 billion in the next 3 years. Members in both Houses recognized the need to find sources of substantial revenues in order to reduce the enormous deficits we are now facing. By some estimates, Federal deficits would reach $200 billion annually for the next 3 years if no significant changes are made on both the spending and revenue sides of the budget equation.

Under the able leadership of Senator DOLE, the Senate Finance Committee has not merely met its obligation under the budget resolution, but has developed a sound package of tax reforms that go far in correcting major inequities that exist in our tax laws. The tax bill we are considering today takes bold steps toward making our tax system fairer and simpler. It strengthens the minimum tax on individuals so that persons with high incomes cannot whittle down their tax obligation by combining many tax benefits. It also closes gaping tax loopholes that big businesses have enjoyed for too long. It scales back provisions of the present law that allow some businesses to defer tax payments for up to 10 years, removes tax havens for multinational oil companies, and reduces tax preferences by 15 percent for corporations. These and other loopholes closed by the bill are tax benefits that corporations have taken at the expense of the Federal Treasury and the economy as a whole. Even worse, they have been enjoyed at the expense of the individual taxpayer, whose yearly tax bill has gone up, and up, and up in order to pay for the special breaks given to these big businesses and special interests. Closing these loopholes, in the face of intensive lobbying efforts and high odds at stake for big business, was no easy task to achieve—and it is a welcome reform.

The bill also corrects some of the excesses of last year's tax bill, the Economic Recovery Tax Act of 1981. I supported ERTA as necessary to reduce tax rates for individuals at all income levels and to provide new investment incentives for businesses. I have often stated, however, that last year's bill went too far in piling special interest provisions on top of these basic tax reforms. The bill before us today recognizes that these benefits cannot be tolerated in a time of budget austerity. For example, it substantially reduces—and repeals in 1985—the safe-harbor leasing provisions under which businesses have avoided substantial tax liabilities by selling unused tax benefits. It scales back excessive depreciation provisions that allow some businesses to enjoy negative tax rates, and it eliminates preferences given to certain shareholders.

Third, the bill makes important reforms that are designed to increase taxpayer compliance. The extent of noncompliance with our tax laws is staggering: by Treasury estimates, the revenue lost by the Federal Government from noncompliance was approximately $95 billion in 1981. By 1985, this figure would rise to $133 billion if no change is made in our tax laws. The vast majority of the underpayment is attributable to underreporting of income, to overstatement of deductions, credits, and exemptions, and to a failure to file tax returns. The tax bill seeks to recover some of this revenue through increased information reporting, limited withholding, and strengthened penalties for noncompliance. All these efforts only begin to scratch the surface of the vast noncompliance problem, but they are a necessary first step in recovering these lost billions that are owed to the Federal Government.

Finally, I support the bill on the basis of some elements it does not contain. It does not scale back the individual rate reductions that were passed last year in order to reverse the trend of rising taxes for all taxpayers, at all income levels. It does not affect the indexing provision under which individuals will be freed from automatic tax increases imposed by inflation through "bracket creep." It does not impose an oil import fee. It does not eliminate the basic deductions on which low- and middle-income taxpayers depend to make ends meet. In fact, 85 percent of this bill will not affect the tax burden of the average taxpayer. Instead, most of its provisions are aimed at persons and businesses who are able to afford, but have not been paying, their fair share of taxes.

For these reasons, therefore, I support H.R. 4961. As with any major piece of legislation, there are, of course, particular provisions with which I disagree. One area of particular concern to me is the increased authority that the compliance provisions of the bill give to the Internal Revenue Service. Since coming to Congress, and particularly in my work on the Subcommittee on Oversight of Government Management, I have been appalled by the many opportunities for abuse of authority by administrative agencies, particularly the IRS. By increasing reporting requirements of both individuals and businesses, and imposing stricter penalties for noncompliance with our tax laws, the IRS will enjoy more authority than ever before, and the potential for abuse of its power is very real.

In passing the compliance provisions, Congress must assure that the agency, in promulgating regulations and enforcing the provisions of this tax bill, will at all times safeguard the due process and privacy rights of taxpayers and will not place undue administrative hardships on businesses, particularly small businesses, and individuals in complying with the tax law. Vigilant and rigorous congressional oversight of the IRS will be more important than ever before to assure that the agency does not exceed the scope of its authority.

Finally, Congress must insure that the IRS is giving taxpayers adequate assistance in knowing what their duties are under the tax laws. Through stiffer penalties and more reporting requirements, the consequences for noncompliance will be very high, and the IRS should provide taxpayers with education and assistance in understanding their tax obligations rather than providing traps for the unwary. This will be especially important for the elderly, taxpayers in rural areas, and undereducated individuals who have difficulty understanding, and cannot afford or have access to persons who can assist them in understanding the complexity of the tax laws.

Recently, we have heard many calls from persons on both sides of the aisle to replace our present tax system with a simpler system that would limit the ability of taxpayers to shield income from taxes through the use of com-

plex and sophisticated tax loopholes and benefits. Such a complete overhaul of our tax system may indeed come to pass at a later date if Congress determines that it would guarantee equity for low- and middle-income taxpayers. The bill that we are voting for today goes far in moving toward these same goals of equity and simplicity in our tax laws, while working within the context of our present Tax Code. It is an important step in the right direction. For these reasons, I believe H.R. 4961 is a necessary package of tax reforms that I urge the Senate to approve.

Mr. EAGLETON. Mr. President, I intend to vote against H.R. 4961 because I believe there are better ways to make up our revenue shortfall. But, at the same time, I must acknowledge the masterful legislative work of the distinguished chairman of the Finance Committee, Senator DOLE. He has managed to carefully craft a sizable tax increase bill and at the same time to convince a lot of the members of this body, many influential members of corporate America, and members of the press that this bill cuts back unjustified preferences in the Tax Code and improves compliance to insure that everyone pays their fair share of tax.

Last summer, I spoke out against the inequities of the Economic Recovery Tax Act. In addition to the deep tax cuts made by that bill, at the behest of the administration, Congress added further egregiously costly tax benefits to an already sizable tax bill. Among those were the safe-harbor-leasing provision, the "give back" of part of the windfall profits tax to the oil companies, and the indexing provision.

That simultaneous combination of massive tax cuts and massively increased defense spending brought us exactly what the experts predicted—massive deficits. That was not only my prediction; that was also the professional belief of many of the most conservative economists in the Nation including one I greatly admire and respect, Henry Kaufman of Salomon Bros. As he said to the National Press Club in April 1981:

> Massive tax cuts, large leaps in defense spending, and a slowdown in other Government outlays will not, in my opinion, be enough. These measures will place an extraordinary strain on monetary policy, leading to further distortions in financial markets, much higher interest rates, and additional fragility of our financial system.

These large deficits have, in fact, become reality. We are staring at $100 billion plus deficits for this year, next year, and several years down the road. As a result, we have now finished consideration of this year's tax increase bill to offset some of the damage done by last year's massive tax cut bill.

In my opinion, the American people would be better served if instead, we took the tack of doing some major surgery on last year's tax bill rather than adding 700 pages of new tax law to our already complex and convoluted tax code. Frankly, my recommendations include the following:

Repeal of year 3 of the tax cut—the 10 percent due on July 1, 1983;

Repeal the safe-harbor leasing provision;

Repeal the give back of the windfall profit tax to the oil companies;

Repeal other of the excessive tax revenue provisions.

Furthermore, I would cut the growth rate of the defense budget from the Reagan 8.1 percent real growth rate to a 5-percent real growth rate and save $90 billion over 5 years.

But, as things now stand, we will do none of the above. Instead, I believe, we are doing a Band-Aid job on the budget. I foresee this 1982 tax increase bill as the first of other tax increase bills. We gave away entirely too much revenue last summer—revenue that we did not have to give away. Now we are paying the price by piddling with new taxes and closing so-called tax loopholes such as the medical deduction or the telephone excise tax.

Furthermore, just today, Congress added two provisions to the bill that I find especially objectionable: One is the sunset amendment on the cigarette tax; the other is the indexing of capital gains. Both of these latter two amendments do not take effect until 1985, just as the indexing of income taxes in last year's so-called Economic Recovery Tax Act does not take effect until 1985.

This has caused me to wonder. Why this concerted, dedicated effort to enact into law in 1981 and 1982 a whole host of fiscally ruinous measures to take effect in 1985?

The answer, I fear relates to philosphy and the desire of some in this body to impose a staggering economic millstone around the neck of whatever administration that may assume power in 1985. When one begins to consider the revenue losses in 1985 which will be created by the various and sundry provisions written into the 1981 tax bill and this 1982 tax bill which provisions have a delayed effective or trigger date in 1985, one then begins to realize that the President of the United States inaugurated in January 1985 will have an absolutely colossal revenue crisis on his hands the very minute he takes the oath of office. That President will have to pull off a Franklin Roosevelt "First 100 Days" effort simply to undo the delayed sabotage of our Nation's revenue engendered by both the 1981 and this 1982 tax bill.

Thus, as we focus on the revenue shortfall in the next 2 fiscal years, we must remember that we are only talking peanuts. The revenue shortfall beyond that, the one created by all of these provisions with a 1985 effective date, is the revenue shortfall of nightmarish proportions.

Therefore, because this bill could have been written in a far more equitable way and because this bill continues the premeditated mischief begun last year of enacting revenue ruinous provisions with a delayed time bomb date of 1985, I must vote against this bill.

Mr. SYMMS. Mr. President, prior to the passage of the Tax Equity and Fiscal Responsibility Act of 1982, I would like to make a few remarks.

First, I would like to commend the chairman of the Finance Committee for his diligent efforts in formulating this tax package. Raising taxes is never pleasant nor popular. However Senator DOLE recognized the responsibility of the Finance Committee to implement the targets set for our committee by the budget resolution, which for the record, was fully supported by President Reagan. That responsibility included large spending cuts and tax increases. For the most part, I believe the chairman has crafted a package that is as fair and equitable as possible, both in spending cuts and tax increases.

Second, as many of you know, I have never supported raising taxes. In fact, this is the first time during my tenure as a Member of Congress that I have ever supported a tax increase bill. I have always and will continue to believe that the Government needs to reduce spending, and in particular, control entitlement programs.

However, as a member of the Budget Committee it became apparent that in order to reach a concensus on the budget and obtain substantial spending reductions, it would be necessary to agree to some tax increases.

The majority of the Congress supported that budget resolution, and I believe it is extremely important that we implement it, even though all of us may not like some aspects of that resolution, such as tax increases.

The Finance Committee, in an attempt to craft a spending reduction and tax increase package fully agreed that we should try to meet our target in as fair a manner as possible. In developing a bill to raise $100 billion in taxes over 3 years, we were able to preserve without change the individual rate cuts and indexing which were promised and enacted last year. We were able to raise the needed revenue by emphasizing several tax policy objectives other than raising marginal tax rates. To achieve this, the bill eliminates many unintended benefits and maintains the basic objective of this bill which is fairness to the American people.

We developed a package of measures designed to improve compliance with existing tax laws. It would be extremely unfair to the vast majority of

honest taxpayers to increase their taxes without making the utmost effort to collect substantial revenues from those who are not paying what they already owe under existing law.

Also, we were determined to make sure that high income individuals could not avoid paying some tax through the use of various incentive provisions enacted over the years. It is simply not fair for the average income taxpayer to have to pay a huge tax bill, while much wealthier individuals who have the means to invest in tax-sheltered investments are able to pay no taxes at all.

In the area of corporate tax increases, I was not totally pleased with all of the measures that are in the bill, but an attempt was made to try to eliminate unintended benefits as a result of various incentive measures enacted over the years.

In closing, I would like to state that while I believe that it is very important to implement legislation which will install the budget, I do not believe that long-term economic recovery will occur until Congress addresses itself to controlling the 60 percent of the budget which is growing out of control. A capitalist system cannot survive without long-term capital markets. Those capital markets will not be restored until Congress addresses itself not only to putting a budget in place but to also controlling the significant portion of the budget that is not being controlled.

I only hope that the administration and the House of Representatives will want to take responsible action on entitlement reform after the November elections.

● Mr. HAYAKAWA. Mr. President, earlier this year, it became apparent that continuing the current spending levels along with our present tax policies would result in an unacceptably large deficit. Responding to the instability of the economy—the recession, high interest rate levels, and declining inflation—the Senate adopted, during the week of June 21, 1982, the First Concurrent Budget Resolution for fiscal year 1983. Provisions mandated revenue increases of $20.9 billion in fiscal year 1983, $34.2 billion in fiscal year 1984, and $43.9 billion in fiscal year 1985.

The Senate Finance Committee should be commended for the difficult task of developing a package generating these revenue increases. The plan to tighten loopholes, broaden the tax base, and enhance taxpayer compliance affects both individuals and businesses equally. This is a fair and equitable way of spreading the tax increases among the hard working men and women of this country.

Although I would have preferred that we resolve the budget crisis by reducing spending rather than increasing taxes, I support the revenue increases contained in the Tax Equity and Fiscal Responsibility Act of 1982, H.R. 4961. This tax policy plays an essential role in attempting to reduce our budget deficit while maintaining the integrity of President Reagan's economic recovery program. We must generate enough revenue through taxes to operate the Federal Government so borrowing can be reduced. Government borrowing must be reduced so that interest rates can come down to more acceptable levels for all Americans. This is the first substantive legislative effort by the Senate toward bringing the deficit under control. It is important that we revamp our current tax system and strive for fairness and equity for all taxpayers.

The present tax code has become a burden on the economy, relying almost completely on taxpayer compliance. Over the past several years, the special deductions, exclusions, and credits have had the overall effect of adding increased complexity and less equity to the tax system. Eliminating tax loopholes and special deductions, as this bill does, is a step in the right direction. I am pleased that the bill contains a provision directing the Secretary of the Treasury to study the advisability of developing an alternative tax system. A flat tax system is an alternative which I believe should be considered. It would reduce the complexity of our present system as well as improve equity and efficiency. Such a system would save billions of dollars in tax preparation costs. It would also eliminate the economic distortions which credits and deductions impose on taxpayer behavior. Finally, I believe American productivity would be increased.●

Mr. BRADLEY. Mr. President, I must oppose adoption of H.R. 4961 on several grounds. First, I believe that some of the spending cuts are unfair and unsound. This bill will increase the out-of-pocket health care costs for millions of elderly Americans who need skilled nursing care in their home, or who must visit the doctor or purchase a medical appliance.

I am especially troubled by the prospect of copayments for home health care. This provision can only be counterproductive from a health policy, as well as an economic standpoint. Home health care services are most frequently used by the oldest, sickest, and poorest members of American society. Imposing new charges for these services will only encourage them to resort to more and lengthier hospital stays thereby making the whole medicare program more costly.

The provision that shifts the costs of these medicare programs to the States is also unwise. The net effect of this change is to require the States either to reduce medicaid services for everyone or to increase their medicaid budget. Given the fiscal problems of most of our States we all know this latter alternative is simply not feasible. Last year's budget cuts prevent the States from maintaining their existing medicaid programs, let alone expanding them in the face of this new onslaught. So what this bill in fact says to the poor, the old, and the sick is that they are going to see health services cut back even further. Mr. President, to this Senator, such an outcome is simply unacceptable.

Second, I see little evidence that the proponents of this legislation are prepared to acknowledge the origins of the serious problems confronting our economy. Yet understanding the cause of our present economic difficulties is essential to developing sustainable, effective solutions for the long haul.

What are the origins of the problem? In my judgment our economy's current poor performance and dubious prospects are directly attributable to the imbalance in our fiscal and monetary policies.

Last year, Congress adopted a 3-year tax cut that reduced Federal receipts by $750 billion over a 5 year period. We also voted to increase defense spending by $150 billion, while cutting nondefense programs by only $135 billion. Taken together, these actions committed us to a highly stimulative fiscal policy at a time when inflation was widely perceived as the primary threat to our economic well-being.

To counter the inflationary thrust of its tax and defense programs, the administration urged, and the Federal Reserve implemented, an unprecedentedly tight monetary policy. Relying exclusively on tight money to combat inflation has produced the record high interest rates that are choking off growth and laying the foundation for protracted economic stagnation here an abroad.

Because our fiscal and monetary policies are working at cross purposes, the much touted supply-side tax cuts have not led to the surge in work, saving, and investment we were promised. Instead, they have produced record high interest rates, record unemployment and the worst recession in 50 years. And if the administration decides that the November elections require them to ease up on monetary policy for awhile, we face the threat of renewed inflation and further erosion of the public's confidence in government.

The bill before us simply does not address these problems. At most, it takes a few modest steps toward correcting the excesses in last year's tax bill. What it does not do is acknowledge that we would be much better off today if we had reduced spending in 1981 and limited ourselves to a 1-year tax cut fairly designed to offset social security tax hikes and bracket creep. Only by admitting our past mistakes

can we avoid deluding ourselves into settling for short run solutions to what are in fact long-run problems.

I am also disturbed by the nature of the tax increases we are voting on. While some the bill's provisions merit the label "tax reform," many of them unfairly and unnecessarily burden low and middle income taxpayers. These are the very groups hardest hit by the recession and least able to insulate themselves from its effects.

Along with many of my Democratic colleagues, I offered amendments to modify the most unfair elements of the spending cuts and tax increases reported by the Finance Committee. On the tax side, my amendment deleted the increased excise taxes on cigarettes and telephone services. It eliminated the provisions raising the floor for deductible medical expenses and casualty losses from 3 percent to 7 percent of adjusted gross income and increasing the unemployment tax for business. Each of these provisions imposes an unfair burden on those members of society who are most affected by the recession and who are least able to bear the additional tax burden.

On the spending side, the amendment deleted provisions imposing higher out-of-pocket costs to older Americans in the medicare program and making State governments responsible for the cost of insuring doctors' fees and other nonhospital expenses in the medicare program.

To more than offset the loss of revenues from these changes, my amendment also specified that the third year of the 1981 tax cut would be modified when it takes effect next July 1. As modified, the full tax cut would go to all families with incomes under $46,500. A smaller percentage would go to families with incomes ranging from $46,500 to $78,700, and for families with incomes above $78,700, the tax cut would be deferred until Congress balances the budget. My reason for structuring the modification in this way is that I do not believe it is too much to ask taxpayers with incomes above $78,700 to defer their tax cut till we balance the budget if their doing so enables us to avoid increased costs for medicare, for small businesses, for American workers struggling to make ends meet. On the contrary, I think it is only fair that the burden of coping with the recession be fully shared by all. Unfortunately, all these provisions were defeated.

Notwithstanding my objections to the bill, I am encouraged that the supply siders' willingness to correct at least some of ERIA's excesses signals a new, more promising direction. Hopefully, it signals understanding that from the economy's standpoint it is not just cutting taxes that is important. What matters most is the way we cut taxes. There is no free lunch. We cannot afford to lower taxes unless we close loopholes at the same time. Failing to recognize this fact got us into the mess we are in today. If and when we can acknowledge this we will be taking a major step toward a new tax policy that guarantees Americans the fair and efficient tax laws they need and deserve.

WITHHOLDING INTEREST AND DIVIDEND INCOME

Mr. PERCY. Mr. President, I rise to support the amendment now before us, offered by my distinguished colleague from Wisconsin (Mr. KASTEN).

The issue of withholding interest and dividend income has been before this Chamber in the past and I opposed it then. The reasons I opposed it in past years is still valid today: Why push off onto the private sector a job the Internal Revenue Service is unwilling to do itself?

That is the major question before us today as we consider the Kasten amendment. We know that for many years financial institutions and dividend-issuing corporations have been required to submit Form 1099 to IRS, detailing the interest paid and the dividends mailed out each year to each saver or stockholder. The IRS has had this information for years. But they have chosen not to use it to enforce the law that requires all Americans to pay taxes on this type of investment income. IRS has not chosen to use this data because they maintain it is not cost effective for them to do so. Let me repeat that: It is not cost effective for them to do so.

The bill before us tonight makes the assumption that if it is too costly for the Government, that the private sector ought to do it. That is the most novel form of contracting-out for Government services that I have ever heard of.

This is the reason that I have opposed this before. Collection of income taxes is the legitimate function of Government. We should not pawn that responsibility off on the private sector. That is reason enough to oppose withholding on interest and dividend income, but there are a few others I would just like to cite.

There seems to be some concern that the actual revenue estimate for this section is overestimated by as much as $3 billion. I cannot vouch for any of the revenue estimates used on this section, but mention has been made of it here tonight. It causes me concern and I would not want to include a section in this bill that has a questionable revenue estimate.

The economy is too much in need of Federal fiscal responsibility for us to play around with numbers. We know of ways we can indeed reach the nearly $5 billion that we are told withholding will raise. I would like to mention one area where I would like to see the revenue raised. Should this amendment pass, thereby knocking the withholding out of the bill, I will suggest the gasoline tax as an alternative revenue source. I realize the parliamentary problem before us. A gasoline tax would not be germane under the rules by which this bill is being considered. Should the Kasten amendment carry, though, my colleagues may wish to modify this rule—as we are permitted to do by appealing the ruling of the Chair—and make consideration of such an amendment germane.

GASOLINE TAX

Increasing the gasoline tax would be a viable alternative for offsetting the revenues that would be lost if the withholding provisions are eliminated. My colleagues should be well aware that the gasoline tax has not been raised since 1959. There has not been a single change in the tax since then to account for inflation. If inflation had been considered, we would see today about a 12 cent tax. Obviously, a more realistic tax rate is needed. According to administration estimates, for every 1 cent increase in the tax on gasoline, there is approximately $1 billion in additional revenues. In other words, a 5 cent tax would more than offset the revenues expected from the withholding provisions.

Yet, the benefits of such a tax go far beyond simply a quick fix source of revenue. It could help tackle some of our more basic economic problems. A gasoline tax is expected to have a strong effect on further dampening consumption, and thereby reducing our oil imports. Although we have made dramatic reductions in our oil imports over the past year, we still remain highly vulnerable to disruptions in the Middle East. Perhaps, more importantly, we continue to see an annual oil import bill of close to $7.6 billion, which would better be spent in the United States, stimulating jobs and adding to our economic recovery. The Congressional Research Service has estimated a 13 cent tax on gasoline at $1.30 a gallon would reduce imports by 5 percent in the short run and 10 percent over time.

On July 22 I met with Illinois Road Builders Association representatives, Ed Monoscalco and Larry Lucas, as well as Illinois general contractors, W. B. Salzman and Vincent P. Bongiovanni. Chief among their concerns was the need for an increased gasoline tax to fund new construction and reconstruction of our Nation's highways.

Gasoline tax revenues could help our Nation's highways and mass transit systems from further deterioration. The highway system is critical to the health of our economy. According to the Department of Transportation, 93 percent of all trips, 75 percent of all freight movements (by value) and 65 percent of all military shipments take place on the highway system. This is a system in which more than 4,000

miles, or 10 percent of the system, is in need of immediate resurfacing or replacement. Similarly, as GAO investigations have shown, bridges across the country are crumbling and our mass transit systems are decaying.

The time is ripe for such a tax. Because gasoline prices are relatively stable, people and businesses will be able to more easily adapt to a few pennies in price. These few pennies can be viewed as an insurance policy against future dramatic price increases or long gasoline lines. Indeed, these are pennies which will stay in the U.S. economy rather than dollars flowing to OPEC. In addition, over time a drop in imports can help tame the price of world oil, in turn dampening our own inflationary problems. Furthermore, as the price increased spurs conservation and encourages the trend toward more fuel efficient cars, alternative energy sources, such as alcohol fuels, will be given greater opportunity to develop.

Mr. President, I ask unanimous consent to have printed in the RECORD at the end of my remarks the CRS compliation of revenue estimates from a gasoline tax, along with a copy of an editorial which appeared several months ago in the Chicago Sun-Times. The article points out very clearly that we have a rare opportunity right now to break our addiction to a $7.6 billion oil habit.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. President, aside from the two points I have already made against withholding, there are several others that have factored in my decision to support the Kasten amendment.

As I implied earlier, there will be a tremendous cost to banks, savings and loan associations, and credit unions. Start-up costs for these financial institutions will be as much as $1.5 billion. At a time when we hear daily from S. & L. executives about the shaky nature of many savings institutions, now is not the time to load them with new regulatory burdens and more redtape. That is what this section of the bill would do. It flies in the face of our strong congressional effort—one I have supported and encouraged for years—to cut Federal regulations.

An added and highly important aspect of this debate is the effect the withholding will have on savings and investment. It is unlikely—to say the least—that withholding will encourage Americans to save more. After all, withholding will cut their return on investments and may convince some marginal savers to just spend their interest income rather than have the Government automatically take it.

There are certainly ways in which the law can be enforced so that the 10 to 15 percent of returns that do not pay their complete tax on investments will be caught. I strongly support compliance with the law and this legislation provides some new tools to increase the measure of compliance. We should look to these means first and only if they should fail should we consider turning to the use of withholding.

I urge my colleagues to support the Kasten amendment.

The exhibit follows:

EXHIBIT 1

TABLE I.—REVENUE GAIN FROM INCREASES IN FEDERAL EXCISE TAX ON GASOLINE, FISCAL YEARS 1981–84

[In millions of dollars]

	1981	1982	1983	1984
Administration:				
2¢/gal. (March 1981) [1]	2,000	2,000	2,000	2,000
5¢/gal. (October 1981)	5,000	5,000	5,000	5,000
Senate Budget Committee (October 1981):				
4¢/gal. (excluding diesel)		1,900	2,500	2,300
4¢/gal. (including diesel)		2,400	3,400	3,300
Wharton Econometric (February 1980):				
50¢/gal.	43,800	41,900		

[1] The dates in parentheses represent the dates the revenue gains were reported, not the dates the tax increases were to become effective.

Note.—The above table was taken from a Congressional Research Service Memorandum of Feb. 23, 1982 to the House Post Office/Civil Service Committee from Salvatore Lazzari, Analyst in Taxation, Economics Division.

Sources: (1) The administration's estimates are obtained from: Broder, David S., and Herbert H. Denton. Gas-Tax Raise Weighed. Washington Post, Mar. 2, 1981. p. A1, A3; and Gasoline Tax Might Rise 5 cents a Gallon to Offset Possible Cuts in U.S. Road Funds. Wall Street Journal, Dec. 17, 1981. p. 5. (2) The Senate Budget Committee estimates are obtained from: Bureau of National Affairs Inc. Daily Tax Report, Oct. 28, 1981. p. G–4. (3) The Wharton econometric estimates are in: U.S. Library of Congress. Congressional Research Service. The Economic Effects of Proposed Gasoline Taxes. Report No. 80–61E, by Richard A. Nelson, Mar. 19, 1980. Washington, 1980. p. 11.

[From the Chicago Sun-Times, Feb. 28, 1982]

RAISE THE FEDERAL GAS TAX

The worldwide oil glut is forcing OPEC and other petroleum producers to cut their prices. Gasoline prices are dropping, too. After nine rough years of steadily rising fuel costs, that's good news, right? not entirely. Reagan administration officials say oil supplies are up primarily because recessions here and abroad have cut demand—less because of conservation and energy efficiency. When the slump ends, renewed industrial and individual demands will soak up the glut.

We wish that analysis were wrong. By now, Americans should be well into a new era of conservation awareness that would outlast the recession. But apparently we are not. Lower gasoline costs seem to be reviving consumers' interest in big cars at the expense of conservation.

Auto dealers and others say that new-car buyers are stressing dependability over fuel economy. That's a worrisome shift. Two years ago 33 percent of car buyers listed fuel economy as their top concern. Fewer than half of those still rank economy first.

What foolishness. Such lack of concern will only strengthen OPEC's hand again and skyrocket all energy prices to new levels.

Although big cars do get better mileage than they once did, full-size models still gulp more fuel—especially in city driving—than their smaller brethren. But there is a way to limit our myopic love affair with big cars:

Raise the federal gasoline tax.

That levy has been stuck at 4 cents a gallon since 1959. An increase of 4 or 5 cents a gallon, once urged by Transportation Secretary Drew Lewis, would generate billions for highway repair and mass transit, and possibly help reduce soaring federal deficits.

And it would remind motorists of an essential fact: Fuel misers can still help ease our depencence on foreign oil barons.

Mr. PERCY. Mr. President, Congress frequently passes new tax legislation. Some might say that Congress changes the tax laws too frequently. Certainly there is something to be said for leaving our tax laws alone for a few years so that businesses and individuals would know what was in store and not have the uncertainty of constantly changing laws. But recent tax law changes will lead to better performance of the economy and this bill, H.R. 4961, is no exception.

Just last year we passed one of the most important tax bills ever considered by Congress. It reduced taxes for individuals and business and gave back to all Americans more of their hard-earned salaries for use in consumption and saving as each taxpayer saw fit. We returned money to the pockets of all taxpayers and we enacted a number of new incentives to spur savings and investment in our economy. On the business side, last year's tax reduction put in place a modern depreciation system that brings our own tax system up to date with the tax system of our economically successful allies like Japan and West Germany.

Last year's tax cut was based on the premise that the private sector should not have an ever-increasing burden of taxation placed on it. Without the passage of last year's tax cut, revenues as a percent of our gross national product would have climbed to 24 percent by 1987. That would have been a steady rise upward from a historical level of about 19 percent to 20 percent. Like spending, revenues have been gobbling up an ever larger share of our national economy. But with the 1981 tax cut, this enormous tax burden has begun to be reduced and under the laws now on the books, revenues will be only 18 percent of GNP by 1987. That is immense progress on the tax front and I believe it will ultimately help put the economy on a high productivity, low inflation course.

Now this year, we are confronted with a different economic picture than we were last year. Most importantly, inflation has been substantially subdued. Rather than running at the double digit rates of 12 percent and 13 percent that it did in 1979 and 1980, inflation last year dropped to 8.9 percent and in the first 6 months of this year, it has fallen even further to about 3 percent. Real progress has been made against inflation, which just a year ago was the major economic concern mentioned by my Illinois constitutent.

Interest rates have surfaced as the primary economic concern in Washington these days. Although a look at interest rates over the past 2 years reveals that not all rates are higher today than they were in 1980. Some

are in fact lower. But despite the relative decline in interest rates in recent months, they are still entirely too high. Our economy cannot function when there is a prime rate of 16 percent or more. It may be better than the prime rate of 21 percent we knew a few years ago, but it is too high for business that rely on that credit for daily operations and expansion.

Economists have told us time and again that there is one source for these high interest rates, namely, the Federal budget deficit. The 1970's saw cumulative Federal deficits of over $400 billion. We were not anywhere near a balanced budget in those years. Then this year the largest budget deficits in the Nation's history were projected by the President in his budget message last winter. Budget deficits in the magnitude of $100 to $200 billion were foreseen for several years into the future.

There could be only one responsible congressional reaction to budget projections of this magnitude: Cut spending and raise revenues enough to close that gap that was in turn keeping interest rates high.

The bill that is before us today, H.R. 4961, is part of that response. None of us here today relish the thought of raising taxes. But we have an extraordinary challenge before us. We simply must undercut the high interest rates plaguing the economy. That is agreed by all of us here to be the No. 1 priority.

The Senate began this year with a plan to reduce those deficits. It is a combination of spending reductions and modest tax increases. This bill before us today is the first piece of that legislative package that gives substance to our pledge in the budget resolution to rein in that deficit. Some observers in the financial markets have said they are skeptical, that Congress was not serious in its efforts to curb the deficit. This bill proves them wrong.

The Senate budget resolution passed by Congress last month directs us to raise nearly $100 billion in revenues in the next 3 years. H.R. 4961 will do that by broadening the tax base and improving the compliance with existing tax laws. This bill also makes substantial cuts in a wide range of spending programs within the jurisdiction of the Finance Committee. In fact, the emphasis in the Senate's plan calls for the preponderance of deficit-closing measures to fall in the spending category.

The new revenues raised in the bill account for only 26 percent of the total of $378 billion in deficit reduction called for in the budget resolution. Most of that deficit reduction comes from controlling authorizations and appropriations and from the favorable economic consequences we expect will flow from firm congressional action to make these changes.

The tax bill before the Senate is designed so that about 85 percent of the increased revenues will come from provisions that will not affect the tax burden of the average taxpayer. Furthermore, three-fourths of the increased revenues come from improved compliance and measures to broaden the tax base.

I want to strongly commend Senator DOLE and the Senate Finance Committee for putting together a bill that meets the mandate of the Congress in raising modest revenues to close the deficit. They have done an exceptional job of addressing the Tax Code and in drawing up a number of provisions that will make the tax system fairer and more equitable.

The rest of the $378 billion in budget reductions mandated by the budget resolution will be addressed by Congress in the near future. Today is the deadline for congressional committees to report their savings and I anticipate that legislation will be on the floor in a few weeks.

I have generally supported the Finance Committee's legislation these last few days, although I disagreed with the committee's plan to force financial institutions to collect interest and dividend income through withholding. I have addressed my concerns about that provision in remarks earlier so I will not belabor them here. I supported Senator KASTEN's effort to remove this section from the bill, but we failed by a vote of 47 to 50. Had it succeeded, I know we could have found a number of ways to make up the revenue loss. A nickel increase in the Federal tax on gasoline, for example, would have raised more than the revenue forecast to be raised by dividend and interest withholding. So I parted ways with the committee on that point, but otherwise supported the outlines of this bill.

This bill makes it clear that the Senate supports low taxes for all Americans as long as everyone pays a fair share of taxes. It addresses a number of important issues with regard to tax equity. It should play a major role in bringing down interest rates and reviving the economy.

ACCELERATED CORPORATE TAX PAYMENT

Mr. DOLE. Mr. President, the Finance Committee bill contains a provision which will require the acceleration of estimated corporate tax payments in order to avoid the underpayment of estimated tax penalty. The provision provides that for all corporations, for 1983 and thereafter, the amount of estimated tax payments required in order to avoid the underpayment penalties will be increased from 80 percent to 90 percent of current year's tax liability. In addition, after 1985, a large corporation will not be able to avoid the underpayment of estimated tax penalty by basing its estimated tax payments on the corporation's prior year's tax liability.

It has come to the attention of this Senator that the acceleration of estimated tax payments may cause a hardship for some retail corporations. These corporations generally have significant fluctuations in income from year to year. In addition, most of the income of some retail corporations may be obtained through the sale of goods over a relatively short period of time.

This Senator is concerned that the accelerated corporate tax payment provision of H.R. 4961 not cause undue hardship on any corporation because of its unique circumstances. It is my intention to study this provision carefully before going to conference with the House on H.R. 4961.

TAXPAYER BILL OF RIGHTS PROVISIONS

● Mr. GRASSLEY. Mr. President, I rise in strong support of three related amendments which are critical to insure greater protections for American taxpayers. These amendments were among those contained within a larger legislative package collectively known as the Taxpayer Bill of Rights, which was the subject of hearings in my Subcommittee on Oversight of the Internal Revenue Service. They were adopted in the Republican caucus prior to Finance Committee markup. I plan to introduce the entire package soon and will attach it as an amendment to the next tax bill.

During those hearings, it became increasingly apparent that additional protections were necessary to strengthen the public's perception of fairness in our tax system and in those who administer our tax laws. In my view, these provisions help to accomplish that goal—and should be adopted.

The first of these measures would require the Internal Revenue Service to give taxpayers information about their rights. Although this may seem overly simplistic, it is a valuable tool to make sure taxpayers are aware of their legal standing, and of their options and requirements. Second, before the Internal Revenue Service could seize a taxpayer's property, it would be required to send the final notice of tax deficiency by certified registered mail—guaranteeing proper notification. Finally, after a taxpayer has paid his tax deficiency, any lien on his property must be discharged within 30 days. This measure is crucial to force the sometimes slow-moving Federal bureaucracy to move in an expeditious fashion.

These measures will go far in aiding taxpayers in their dealings with the IRS and grant them broader protections. By more specifically defining taxpayer's rights, I am confident the passage of such provisions will help

develop a greater feeling of cooperation and trust with the Internal Revenue Service, and subsequently, lessen any resentment the public harbors toward the service.

I hope all of my colleagues will join me in this effort. I welcome their support of this initiative.●

● Mr. GRASSLEY. Mr. President, I commend Senator DOLE and his able staff for addressing a problem of potentially great magnitude to my State and 20 other States. These States make payments to elderly clients which permit those older persons to hire people to provide basic care. The people who provide the care to the elderly clients are called chore workers. They perform such services as caring for yards, helping with laundry, giving the elderly baths, running errands, and shopping for those individuals. The State provides the elderly person with a sum of money to cover the cost of these services. This program has been very effective in Iowa in creating a greater sense of community by encouraging people to help their elderly neighbors. Also, it has the added advantage of providing certain basic care to elderly clients enabling them to stay out of nursing homes and other institutions.

The classification of these workers for tax purposes has long been a problem for both the Internal Revenue Service and the States. The IRS has argued that States should be withholding FICA and FUTA taxes on the payments made to elderly clients. The States maintain that they are not employing the elderly person, rather the elderly person is employing others to provide basic services. The States further argue that they do not know the identity of these service providers. Discovering the identity of these service providers and programing that information into their computers would cost more than they currently spend on the program. The States argue persuasively that these administrative costs are greater than the cost of the program. This dilemma prompted Congress to include health care programs within the moratorium on independent contractors which expired at the end of last month.

Senator DOLE'S new bill on independent contractors contained within this measure sets forth a series of safe harbor requirements to determine whether or not an individual is an independent contractor or an employee. Unfortunately, determining whether or not the elderly person or the service provider is an independent contractor or an employee would not alleviate the States' problem. Although it appears that under Senator DOLE'S tests chore workers and elderly clients might not be independent contractors, even if both were considered independent contractors the elderly client would have reporting responsibilities. If the elderly client made payments over $600 annually to any one service provider, he or she would have to file a form 1099 with the Internal Revenue Service each year stating the amount of the payments and providing the name, address, and social security number of the service provider to whom the payments were made.

Senator DOLE agreed to modify his bill to exempt home health programs from the definition of employment for employment tax and information reporting purposes. These home health care programs are exempt from the definition of employment only if cash grants are made to the elderly or disabled persons which are not more than 20 times as great as the State's maximum daily allowable nursing home reimbursement under title XIX of the Social Security Act. Also, elderly clients receiving cash grants may not have monthly incomes over 250 percent of the monthly SSI payment standard under title XVI of the Social Security Act. In addition, service providers must be supervised by the grant recipient, in this case the elderly client, although State and local employees may provide some insubstantial services. Finally, the State must tell the client to notify service providers of their Federal tax responsibilities. In my view, States should also instruct elderly clients that they should tell the service provider that no social security is being withheld from his check; consequently, this work experience will not contribute to the accumulation of quarters necessary to qualify for social security. I thank Senator DOLE for accommodating my suggestion and eliminating these home health care workers from the definition of employment. The State of Iowa expressed the fear that the excessive recordkeeping that might be required by the States would render their program too costly to administer. Discontinuation of this program would result in a net loss to the Federal Treasury. The average service provider in Iowa receives $266.81 per month. The entire cost of the program is financed by the State. If home service is discontinued and the elderly individual is unable to provide for himself at home, that person is often forced into a nursing home. The Federal and State medicaid costs are $555.61 per month. This combined Federal and State contribution is much more expensive than the foregone FICA and FUTA taxes.

Not only would such a policy be more expensive in economic terms, it would be very costly in human terms. The revenue numbers are not as compelling as the desirable public policy of keeping elderly individuals in their own homes as long as possible. Numerous studies have found that the elderly who remain in their own neighborhoods have much better health than their counterparts who are placed in nursing homes or are receiving other forms of institutionalized care. The advantage of being surrounded by friends and the dignity of providing for oneself in old age are powerful factors in keeping our Nation's elderly a healthy and vibrant force in our communities. This provision would help our 20 States pursue that goal.

I thank the members of the committee for adopting this suggestion and permitting these important programs to continue. Senator DOLE'S support of this provision and his staff's willingness to work on a solution to this problem have made my support of the independent contractors provision unequivocal.●

FLAT-RATE TAX

● Mr. GRASSLEY. Mr. President, I intend to support this tax bill, but with one caveat. There is much work to be done to reform the existing Tax Code. The present code has outlived any usefulness it might have had. It is in major need of repair. I hope this body will recognize that need, and assist several of us on the Senate Finance Committee who wish to conduct an exhaustive study of how to construct a fair, simple, and efficient tax code that will help facilitate our transition to an aggressive economy.

Several proposals have surfaced in Congress in recent months which address the need for tax reform. Each one has merit and, although I believe we are being premature in considering the "form" of tax reform before an analysis of the problem, I embrace the thrust of each of those proposals in that they all move toward tax simplicity and fairness.

Mr. President, there are other more fundamental questions to be answered before we can establish the ideal Tax Code. We must fully understand why tax reform is necessary and what transitional problems might arise. We must understand the nature of the problem first, identify our economic goals, and then construct a tax system that will help us achieve those goals. Half the battle will be won if we simply ask the right questions.

Our first objective is to understand the nature of our existing Tax Code. Much has been said about the erosion of our tax base. But there is a more fundamental problem: We simply tax the wrong things.

We tax savings and investment, but we encourage consumption and debt. Individual decisions are made on the basis of what makes good tax sense rather than good economic sense. We have an economy bent on debt and consumption. That is no way to build an economy. It leads to bankruptcy, to a destruction of the economy such as we are experiencing now.

If we are to make a successful transition to an aggressive, dynamic economy, then we must first recognize and

correct the bias in our tax structure toward debt and consumption. We must shift the tax away from work and savings. The decisions of individuals must make good economic sense as well as good tax sense. The two should be interchangeable.

What form should such a tax code take? Should it be a flat-rate system? A progressive one? A gross income tax? A consumption tax? These are questions which must be answered by detailed study.

There are, however, immediate economic points to be made for a flat-rate system over a progressive one. A progressive tax system has an adverse effect on the two most important prerequisites for a dynamic economy; namely, healthy production and capital formation. A flat-rate system, on the other hand, is compatible with these.

Progressivity retards future production by maintaining high marginal tax rates along the tax ladder. Assuming the world is not static, the effects of any tax code should be weighed against future income, not present income. For example, you can tax a millionaire at a 50-percent rate the first year, but that millionaire will not be foolish enough the second year to generate a similar amount of work effort.

Even if the top rate were 25 or 28 percent, those taxed at lower rates would suffer a disadvantage to earning more. Why tax someone more heavily just because he works a few more hours, days or weeks than his neighbor? Proponents of a progressive tax system fail to take the effects of future income into account.

Progressivity also discourages capital formation by short circuiting the dynamic of creating capital. New and innovative businesses often bring in large profits early on in their existence. These businesses are the source of future jobs and growth. They need capital to develop. Yet we tax their profits at alarming rates in a progressive system, thereby choking off jobs, productivity, and capital. Without a turnover in capital through these innovative ventures, we are undermining the key to a dynamic economy. Furthermore, we are stifling competition, which gives the edge to large, existing firms. This is certainly no way to build an aggressive economy.

A flat-rate tax must be perceived as the ultimate in fairness because it eliminates the disadvantage facing lower income earners and small businesses. The dynamic of an economy should be from the bottom up, meaning that the smallest entities should be given the biggest break. Only a low flat-rate tax can provide that break.

There are also immediate economic points to be made in favor of lower income tax rates in exchange for certain credits and deductions. Credits and deductions are taken at the expense of savings. They allocate resources to inefficient sectors, causing a supply/demand disequilibrium in those sectors.

In a tax code riddled with credits and deductions, we consume goods before we produce them, in effect. Who needs to work this week for next week's purchases when we can work next week for this week's purchases, and get a tax break? Why save for college tuition when there are loans and grants available that are a more attractive offer? Why save now to buy a car next year, when you can get one now, pay later, and get a tax break? The point is that credits and deductions, like progressivity in a tax code, retard the ability of the economy to operate efficiently.

The chief problem with a flat-rate tax is not economic, for clearly a flat tax stands superior to a progressive one, or to one marked by credits and deductions.

The problem we face with the flat tax is getting there.

What is needed at this time more than anything else is analysis and studies of the impact of a flat tax on all the various sectors of the economy. We must fully understand what the effects will be on the economy when credits and deductions are eliminated. We must understand its effects on small businesses, small savers, impoverished industries, corporations, and so on. Without such an exhaustive analysis, adoption of any form of a broad-based, low-rate system from our current high-rate, narrow-based system would cause serious dislocation and transition problems.

Our studies must show the exact size of various tax bases and tax rates that would be feasible. We must determine if these different systems are administrable. We must have thorough debate on considerations of fairness and equity.

The Senate Finance Committee will conduct hearings this fall on the feasibility of certain flat-tax systems. The hearings will give us an opportunity to explore and understand all the problems associated with our tax reform goals.

I commend the Finance Committee chairman (Mr. DOLE) on his insight into the enormous complications involved in the process of tax reform, and for his responsiveness to the need to hold hearings. I hope that my other colleagues, both on the committee and in the Senate as a whole, will join in this effort to correct what is clearly a monumental problem.

Thank you, Mr. President.●

CHURCH RETIREMENT INCOME ACCOUNTS

● Mr. BENTSEN. I would like to make an inquiry about the church plan provisions of H.R. 4961. I understand the bill would permit a church, including a church pension board, to establish or maintain retirement income accounts which are to be treated as annuity contracts described in section 403(b) for purposes of the Code.

Mr. DOLE. I agree with the Senator's interpretation of the bill. In addition, church retirement income accounts are not required to contain a guaranteed annuity rate table just as custodial accounts described in section 403(b)(7) are not required to provide guaranteed annuity rate tables.●

NEW RESERVE COMPUTATION METHOD

● Mr. BENTSEN. Mr. President, I have a question concerning the committee's amendment relating to life insurance company taxation. The particular provision limits the amount deductible for reserves to the extent attributable to so-called guaranteed excess interest. My question is whether the limitation has any effect when a company sets the premiums it will charge on the basis of anticipated earnings.

Mr. DOLE. The new reserve computation method is limited in scope to contracts which provide for the accumulation of interest that is payable to policyholders. For example, the new reserve computation method would be applicable to so-called excess interest contracts where the interest is separately stated and guaranteed in excess of State law valuation rate beyond the end of the taxable year. The new method would not be applicable, however, to policies which do not guarantee a separately identifiable excess interest component beyond the taxable year. For example, the provision would not apply to annuity contracts purchased by a qualified pension plan primarily to provide periodic retirement benefits due under the plan to participants.●

● Mr. ROTH. Mr. President, section 223(b)(2)(A)(ii) of the bill provides that the amendments denying ACRS depreciation to certain property financed with the proceeds of certain tax-exempt obligations shall not apply to facilities with respect to which a binding agreement to incur significant expenditures was entered into prior to July 1, 1982. Furthermore, section 223(b)(2)(B)(ii) of the bill provides that such amendments do not apply to facilities financed by the proceeds of certain refunding obligations if significant expenditures are made with respect to the facility prior to January 1, 1983. May I ask the distinguished chairman of the Finance Committee if I am correct to assume that "significant expenditures" are generally expenditures for the facilities financed with tax-exempt obligations equal to 20 percent of the estimated cost of the facilities financed with tax-exempt obligations, but may be lower than 20 percent in cases involving the construction of very large and costly facilities where the construction of such

facilities takes place over several years.

Mr. DOLE. The Senator is correct. While "significant expenditures" will ordinarily be 20 percent of the cost of the facilities financed with tax-exempt bonds, a lower percentage may be appropriate under certain circumstances where such facilities are very large, costly, and are constructed over a period of several years.●

ACRS DEPRECIATION

● Mr. ROTH. Mr. President, section 223(b)(2)(a) of the bill provides that the amendments denying ACRS depreciation to certain property financed with the proceeds of certain tax-exempt bonds shall not apply to facilities the construction, reconstruction, or rehabilitation of which began prior to July 1, 1982, or with respect to which a binding agreement to incur significant expenditures was entered into prior to July 1, 1982. Section 223 (b)(2)(B) of the bill provides that in the case of certain facilities financed by the proceeds of certain refunding obligations, the amendments denying ACRS depreciation do not apply if significant expenditures are made prior to January 1, 1983. May I ask the distinguished chairman of the Finance Committee if I am correct in assuming that in the case of facilities financed by the proceeds of such refunding obligations, the amendments also shall not apply if the provisions with respect to commencement of construction, reconstruction, or rehabilitation of the facilities prior to July 1, 1982, or a binding agreement to incur significant expenditures having been entered into prior to July 1, 1982, are met?

Mr. DOLE. Yes; the distinguished senior Senator from Delaware is correct. The issuance of the refunding obligations will not cause facilities financed by the original obligation to be ineligible for ACRS depreciation if construction, reconstruction, or rehabilitation of the facilities prior to July 1, 1982, or a binding agreement to incur significant expenditures with respect to such facilities was entered into before July 1, 1982, and provided the refunding complies with the requirements of present law.●

EXCEPTIONS TO ACCELERATED COST DEDUCTION RESTRICTION

● Mr. ROTH. Mr. President, I would ask the distinguished chairman of the Finance Committee whether the exceptions to the effective dates on the restrictions on the availability of accelerated cost recovery deductions for property with respect to which tax-exempt financing is provided that is found at section 223(b)(2)(A) (i) and (ii) applies to all facilities qualifying for those exceptions including certain new air or water pollution control facilities.

Mr. DOLE. Yes, the Senator is correct. Provided the facilities that are financed with tax-exempt obligations qualify for the exceptions, it does not matter whether or not they are air or water pollution control installed in connection with a plant or property in operation before July 1, 1982.●

SOLID WASTE DEPOSIT FACILITIES

● Mr. ROTH. If the Senator would yield, I wish to ask if the Senator could clarify certain provisions in section 223(a) of the bill. My inquiry relates to the exception for solid waste disposal facilities which appears on page 283 of the bill—section 168(f)(12)(C)(ii) of the Code.

Am I correct that a solid waste disposal facility which receives waste from individual residents, commercial, industrial, municipal, utility, agricultural establishments, and others would come within the exception?

Mr. DOLE. The Senator is correct. A solid waste disposal facility which serves a city, county, or any other governmental unit and which collects waste from the general public would come within the exception. The example you gave of collecting from individuals and all types of business and municipal establishments constitutes the general public. Facilities which serve a single private user or a group of users, such as a facility which serves a single industrial park or other similar area, would not qualify.

Mr. ROTH. Does it make any difference whether Government employees or private companies are employed to collect the waste?

Mr. DOLE. No; it does not so long as the Government employees or private companies collect waste from the general public. Nor does it make any difference whether the governmental unit or a private company actually runs or operates the facility.

Mr. ROTH. May the facility dispose of waste from the residents of more than one governmental unit?

Mr. DOLE. Yes; the facility need not be limited to serving residents of a single governmental unit. For instance, waste could be collected from the general public outside the governmental unit.

Mr. ROTH. Would a facility which receives waste from a large manufacturing plant qualify?

Mr. DOLE. Such a facility would qualify if substantially all of the solid waste processed is collected from the general public. By that, we generally mean at least 90 percent of the total waste. Therefore, whether such a facility would qualify depends upon whether the single plant contributes more than 10 percent of the waste processed and whether the other 90 percent is solid waste from the general public.

Mr. ROTH. My last question is whether a facility qualifies if it does not collect and process some waste, or if it only collects and processes wastes from a part of a city or other governmental unit?

Mr. DOLE. Yes; so long as the facility meets the requirement of serving the general public. The solid waste facility would not have to accept solid waste from every area of the governmental unit, nor would it have to accept every type of solid waste. However, a facility which only collects and processes one particular type of industrial waste, such as hazardous chemicals, would not be eligible.●

● Mr. HART. Mr. President, I am voting against this bill because it continues a pattern of unfairness begun with last year's tax act. We cannot balance the mistakes of last year's unfair spending cuts and tax reductions—that have proved unwise and unproductive—on the backs of America's poor and elderly.

On the spending side of this year's bill, I supported Senator BAUCUS' amendment to strike the provisions in the Finance Committee bill that first, require copayment for home health care; second, index medicare part B deductible to the Consumer Price Index; and third, set medicare part B deductible at 25 percent of program cost. These three provisions do nothing more than reduce current benefits, increase out-of-pocket health expenditures for the elderly, and impede access to services in the case of home health care.

This bill is not an effort at cost containment. It is not a reasonable response to the financial and medical constraints facing our Nation's elderly. It ignores the real causes of inflation in the health care industry and forces the elderly, already financing 43 percent of their medical expenses out of their own pockets, to pay even more.

We should be considering ways to improve the delivery and availability of essential health services rather than cutting the medicare program and shifting rising medical costs to elderly Americans. The elderly pay more than 19 percent of their income for health care costs. The elderly get sick more frequently than the rest of our population and incur costs three times greater on average than that incurred by most citizens. Medicare beneficiaries simply cannot tolerate further increases in their out-of-pocket expenses or further reductions in their medicare coverage.

The medicare amendment adopted by the Senator is less objectionable than the Finance Committee bill. However, it means the elderly will still pay approximately $1 billion from their pockets—money they cannot afford.

The tax side of the bill does not compensate for the inequity of the spending reductions in H.R. 4961. While the Finance Committee bill moves in the right direction in tight-

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ening a variety of tax loopholes opened during the 1981 Tax Act, the final bill still allows the wealthiest taxpayers an inequitable share of the tax breaks.

For example, the Armstrong amendment to index capital gains taxes allows higher income taxpayers an even larger tax break on capital assets—assets on which they currently pay only 20 percent. In times of severe fiscal budget deficits, America cannot afford unproductive and unjust tax loopholes.

I supported amendments by Senator BRADLEY and Senator MITCHELL to reapportion the third year tax cut to benefit lower and middleincome taxpayers. In 1981, families earning less than $50,000 paid two-thirds of the income tax in this country. These same people received only one-third of this year's tax cut. The failure of these initiatives to equalize the tax burden in America across income groups are indicative of a dangerous precedent on tax and spending measures that has come to characterize a Republican-dominated Senate.

We must stop cutting funds for the Nation's needy while simultaneously legislating unproductive tax breaks to the country's wealthy citizens. Our needy citizens cannot afford the deterioration in lifestyles these spending cuts impose. Our middle-class residents will no longer bear the inequity of a tax system that takes their money and returns tax cuts to the wealthy. And all Americans suffer from tax cuts that cause crippling high interest rates without real economic gain. In the interest of halting a dangerous, inequitable pattern in fiscal action, I oppose the Tax Equity and Fiscal Responsibility Act of 1982.●

● Mr. DANFORTH. Mr. President, no politician likes to raise taxes; we like to reduce them. And we have been spoiled in recent years by having regular opportunities to "cut" taxes to offset inflation-induced tax increases. Last year we enacted the largest tax cut in history.

Unfortunately, we went too far. Our focus was correct; that is, tax changes intended to spur savings and investment and to reduce the effect of "bracket creep" on individuals, but we went too far in terms of lost revenues.

Had the economy not plunged into recession, perhaps last year's bill would have provided the needed tonic for economic recovery.

We believe that last year's tax program will work. But so far it has not.

We face staggering deficits in the next few years. These deficits are the product and bad habits developed in recent years—principally the habit of spending more for worthy purposes than we can afford. We increased spending on social programs at the expense of our defense capabilities, and inadvertently created some areas of vulunerability which must be corrected. And we ran into a recession—an economic status which adds to spending needs; for example, unemployment benefits, food stamps, welfare benefits, et cetera, while reducing tax revenues. The result is intolerably high deficits which feed inflation expectations for the future. Those expectations in turn put intolerable pressure on interest rates. High interest rates stop investment cold. It is all a vicious cycle which we simply have to break.

I agree with the general thrust of the President's strategy on how to break the cycle. We must reduce the deficit and do all that we can to encourage economic growth through increased savings and investment.

We made important progress in both areas last year. This bill is the next step in that process. It would reduce spending by $17.5 billion over 3 years and increase revenues by $99 billion during that period. In other words, this bill alone will reduce the deficit by about $116 billion over the next 3 years.

We can send no stronger signal to the American people, to the financial community, and to foreign governments regarding our resolve in getting our economic house in order.

I think we can be particularly proud of the revenue-raising provisions in this bill. The pride results from the fact that this was a highly unpleasant task, one which most people thought we could not do, and one in which most of our Democratic colleagues hoped we would fail. We did not. We faced a tremendous challenge—in an election year no less—and we met it. The result helps restore my faith in the Senate, and I was proud to play a part in this process.

I must also say that I could not have higher praise for my colleague from Kansas, the chairman of the Finance Committee, who demonstrated unparalleled leadership and courage in putting this bill together.

The product of our labors will raise nearly $100 billion in tax revenues that would not otherwise have been received. More to the point, it would do so in a way that preserves the essence of the capital formation changes made last year. The focus of this bill is tax equity and tax compliance. This bill is tax reform.

Last year we cut taxes. This year we propose to reform the tax system to assure that everyone pays a fair share of taxes, that we reduce incentives for unproductive tax shelters, that we increase compliance with current law, and that we modify undesirable tax preferences.

This was not a free lunch. Reasonable people disagree on what constitutes a tax preference. And there is no denying that this bill will inflict more than $100 billion worth of pain. But our options were limited, and I believe we followed the right course.

I hope the House will see its way clear to follow a similar course.●

INSURANCE COMPANY TAX PROVISIONS IN H.R. 4961

● Mr. CHAFEE. Mr. President, earlier this year I was pleased to take the lead with Senator BENTSEN in cosponsoring legislation to correct some abuses as well as inequities in the current tax laws affecting life insurance companies. I particularly want to thank the 39 other Senators who joined us in sponsoring this bill, including a majority of the Finance Committee members.

When S. 2353 was originally offered, I noted that it was a 2-year stopgap measure, one that balances the need to increase tax revenues with the need to make some short-term corrections in the Internal Revenue Code. Leaders in the life insurance business and many Members of the Congress had pledged to forge ahead next with a more comprehensive reform to insure that the industry is paying its fair share of taxes.

The rules enacted over two decades ago to tax the income of life insurance companies are simply not working properly or fairly in today's economic environment. The special tax formula adopted in 1959 was developed at a time of low inflation—less that 1 percent. Furthermore, the life insurance business' share of total corporate taxes almost doubled from 1959 to 1978, even though the industry's income increased at a lower rate than the income of corporations generally. This increase in life insurance taxes under existing law is harmful to policyholders as well as life insurance companies.

The Bentsen-Chafee bill and many of the provisions incorporated in this tax bill—H.R. 4961—represent a constructive step in the right direction on the highly complex issue of the taxation of life insurance companies. However, much additional work needs to be done, particularly as—with the exception of the repeal of ModCo—the temporary provisions of H.R. 4961 expire in just 2½ years. Accordingly, I am hopeful that the administration will take the necessary initiatives to begin working with the Congress and the life insurance business to develop a final, comprehensive overhaul of the 1959 Life Insurance Company Income Tax Act to make sure a proper and fair balance is reached.●

THE IMPACT OF A BASIS ADJUSTMENT ON HISTORIC PRESERVATION

● Mr. CHAFEE. Mr. President, I support the provision in H.R. 4961 requiring an adjustment to the basis for depreciation equal to one-half the investment tax credit.

There is justifiable concern that the incentive to perform certified historic

restorations rather than nonhistoric rehabilitations will be reduced when the 50-percent basis adjustment is applied. The fine tuning we made last year in the rehabilitation tax credit provisions that increased the value of the credit for historic preservation will be lost.

As my colleagues will recall, the Economic Recovery Tax Act of 1981 provided a 25-percent investment tax credit for certified historic rehabilitation projects. We also adopted a 20-percent investment credit for rehabilitations of buildings over 40 years old, and a 15-percent credit for structures over 30 years old. For the 15 and 20-percent categories, however, we required a full basis adjustment in order to create a wider margin between them and the 25-percent category, reflecting the higher costs of doing historic rehabilitations.

Under H.R. 4961, a basis adjustment will also be required for property eligible for the 25-percent credit. Experts in historic preservation believe that this change will make it relatively more attractive to do nonhistoric restorations of valuable and irreplaceable historic properties because such restorations are less expensive, and the difference in tax benefits is not that great.

While I do not propose an amendment to correct the problem at this time, I think it raises a serious enough concern to warrant thorough review by the Finance and Ways and Means Committees of the rehabilitation tax credit provisions in the Tax Code. It would be a tragedy to find our Nation's historic treasures being irreparably damaged by improper commercial renovations simply because of an imbalance in tax incentives.

There are a number of ways to remedy this imbalance, and I will be working with my Senate colleagues and the historic preservation community to find the best solution.●

● Mr. CHAFEE. Mr. President, I wish to address myself to the two amendments concerning medicare which were earlier offered by my colleagues from Montana and Minnesota.

During consideration of the budget resolution earlier this year, I expressed my concern about the effect which a reconciliation instruction for large savings in medicare and medicaid might have on beneficiaries. The Budget Committee originally contemplated making over $25 billion in cuts in medicare and medicaid over the next 3 years. Due to the efforts of Senator DURENBERGER, myself, and others, that figure was reduced substantially, and it was hoped that when the Senate met in conference with the House, the figure would be reduced even further. Somewhat unexpectedly, the House approved a level of cuts which was nearly that approved by the Senate. Consequently, what emerged from the conference was a requirement that medicare and medicaid expenditures be reduced by nearly $14 billion over the next 3 years.

I believe that the Finance Committee made a good faith effort to find that level of savings through a variety of measures aimed primarily at providers. Nonetheless, the committee was still constrained to include at least three provisions which were the subject of the amendments by Senators BAUCUS and DURENBERGER and which have a direct effect on beneficiaries. In so doing, the committee saw fit to report out a bill which would have saved approximately $1.7 billion more in medicare and medicaid than was required by the budget resolution.

While I believe that it is necessary that we control Federal spending in order to reduce the Federal deficit and bring down interest rates, I do not feel that we should place undue burdens on beneficiaries—particularly when we are not compelled to do so. Therefore, I opposed the medicare and medicaid package which was considered in the Finance Committee. And for this reason, I supported the efforts by my colleague from Montana to eliminate provisions which would have a direct impact on the out-of-pocket expenses of beneficiaries.

In most instances, beneficiaries already pay deductibles, copayments, medigap premiums, medicare premiums, and bills for uncovered or partially covered services. Elderly people require more medical attention than others in our society and often are least able to afford it. That is why we have a medicare program, and why we should work to contain the amount of money which beneficiaries must pay out of their pockets for health care.

Given the failure of Senator BAUCUS' amendment to carry, I was heartened that Senator DURENBERGER was able to offer a compromise amendment which reduced the burdens on medicare recipients, I am particularly pleased that the provision requiring that the part B deductible be tied to the Consumer Price Index was struck and replaced with a less onerous provision. With respect to the home health copayment provision, and the "sunsetting" of the part B premium provision, I commend my colleague for working to limit the increase in out of pocket expenses for the elderly.

In accepting this amendment, my colleagues from Minnesota and Kansas agree to a modification of the amendment, as suggested by the senior Senator from Massachusetts. Though discussion on this modification was brief, it is extremely significant. My good colleagues deserve praise for their sensitivity to two issues which are easily overlooked, namely the assignment rate under medicare, and the extent to which doctors pass along to beneficiaries costs for which those providers are not reimbursed.

Like my colleague from Massachusetts, I am concerned about the fact that doctors can and do pass along to beneficiaries fees which they are not able to collect from the Federal Government. A refusal to accept medicare's "reasonable rate," together with the patient's 20-percent coinsurance as payment in full allows a doctor to seek from the beneficiary additional fees. Roughly half of all medicare claims are processed on that basis; in other words, beneficiaries are liable for fees over and above the 20 percent in half of all cases.

I believe that doctors in this country owe a special obligation to the poor and to the elderly. I am mindful of the fact that medicare and medicaid have not always reimbursed doctors at a level which they perceive to be fair. However, I know of no case in which a doctor has been driven out of business or into poverty as a result of having to accept what medicare and medicaid determine to be reasonable reimbursement levels. On the other hand, many have received a handsome living from participation in these programs. Perhaps the levels of reimbursement have been lower than what doctors would ordinarily charge their patients. Yet, I believe that doctors normal charges are, in many cases, sufficiently high so that the actual fees as paid by the Government, are not grossly unjust. There is no doubt about the fact that doctors have performed vital services for Americans; many have given of their time and expertise with utterly selfless devotion. At the same time, doctors have, for the most part, been rewarded with generous salaries and opportunities for leading very comfortable lives. Moreover, a large number of doctors received substantial Federal assistance in the financing of their educations. I believe that doctors ought to remember this assistance and the contribution that nearly all Americans have made toward allowing them to enjoy the best that society offers as they consider their commitment to the elderly.

In this light, I commend my colleague from Massachusetts for his suggestion that we look into the possibility of mandating assignment under medicare. Certainly we need to explore whether the provisions of this bill which affect doctors will have an indirect effect on the out-of-pocket expenses of beneficiaries, I look forward to the Department of Health and Human Services and the Finance Committee taking prompt action in exploring this issue. Moreover, we need to look further at the ramifications of mandatory assignment. In my State, the assignment rate has traditionally been very high. However, other States suffer from very low rates. I also look

forward to examining the ways in which we can improve those rates. I hope that discussion of this issue among doctors, the elderly, researchers and policymakers will be stimulated by the actions taken on this bill, and that all parties will reexamine the issue of responsibility for accepting the burden of paying for the health care needs of the Nation's elderly.●

● Mr. LEVIN. Mr. President, I think that Senator DOLE did an amazing job in reporting out this legislation; it is complex, it is controversial and, in many important areas, it is correct in its analysis of where needed revenue can be raised. But I have concluded that while this is a bill which I admire in many respects, I cannot support it.

First, I believe that partisan rather than economic concerns have insulated the Kemp-Roth 25-percent tax cut from realistic reassessment. The equitable alterations in the third year of that tax cut proposed by Senator BRADLEY clearly deserved the support of the Senate. Only political considerations prevented adoption of this modification of the President's approach. The country would have been better served, in terms of basic equity, if the Bradley proposal had been adopted. We would have avoided the need to resort to regressive excise taxes, and we could have minimized the unfair treatment of the middle- and lower-income groups which has characterized the overall Reagan program.

Second, I disagree with the provision of the committee bill to increase from 3 to 7 percent of adjusted gross income the floor above which medical expenses are deductible. I supported the amendment to strike this provision from the bill. The committee's action will deprive millions of Americans who have incurred substantial medical expenses of this legitimate recognition by the Tax Code of the effective reduction in their income and in their ability to pay taxes.

Third, I was disturbed by the increase in the Federal unemployment tax—FUTA tax. I do not believe that this is the time to increase the tax on employers per employee which may discourage the new hirings which are essential if we are to get out of this current recession. I wish the amendment by Senator METZENBAUM to link this increase with the creation of a Federal supplemental benefits program, which would have provided an additional 13 weeks of unemployment benefits for States which are experiencing high rates of unemployment, had succeeded. I will continue to work for the creation of such a program.

So I could not have supported the tax portion of this bill without qualification. But on balance I could have supported it. However, this bill was much more than a tax bill.

In the medicare and medicaid areas that the bill contains the most objectionable elements. Although the Durenberger amendment reduced the level of the cuts for medicare by $1 billion over 3 years, over $12 billion in cuts remain. Last year's reconciliation spending cut bill made significant cuts in medicare. Now we are asked to take a second swipe at some of the most vulnerable members of our society. I cannot support this. The requirement of copayment by a medicare recipient after a certain number of home health care visits reduces the probable use of this service—a service which not only has saved the Federal Government by avoiding expensive hospital care, but which has also made it possible for families to meet their medical needs in ways that minimize the social disruption associated with illness. Other changes, including the medicare reimbursement to hospitals, the delay in the initial eligibility for medicare coverage, and the changes in in-patient radiological and pathological services all constitute unacceptable changes in the ways needed medical services are provided and paid for. As for medicaid, the bill contains a repeal of the current prohibition against nominal copayments for mandatory services to categorically eligible medicaid recipients except in certain circumstances. Again, many of these people are the same people who were asked to endure the Reagan program cuts last year. Once was too much; twice is intolerable.

Finally, Mr. President, I must also object to this bill because of the way in which it has misused the reconciliation process in particular and the budget process in general. The clash on airport development was an example of this abuse, but the bill is repleat with other illustrations of inappropriate legislative activity. I am concerned about the implications that passage of this bill would have on the integrity of the legislative process in the Senate. My vote against this bill is designed, in part, to protest this attack on the legislative process.

I am pleased that the bill allows safe harbor leasing to continue in some form. If safe harbor leasing had been repealed entirely, it would have frustrated the basic goal of last year's business tax reduction by saying that those firms which are most in need of incentives for capital investment would have been unable to take any advantage whatsoever of those incentives. Leasing is vital to the automotive industry's attempt to modernize and compete with foreign producers. It is essential if we are to save jobs and create new jobs in my home State of Michigan and throughout the country.

However, in some instances the committee bill may have gone beyond what was necessary to tighten upon the leasing rules in order to avoid their abuse. I hope that the committee is open to reviewing these matters during the conference with the House in order to assure that the essential elements of leasing are preserved.

I was also pleased that the Senate adopted my amendment dealing with the provision of the bill on withholding of interest and dividends. My amendment will give financial institutions of various sizes the opportunity to show the Secretary of the Treasury that the application of the rules on withholding should be delayed because they could not immediately comply with the new regulations without encountering an undue burden. With this amendment added to the bill's withholding provision, I felt that I was able to support this provision of the bill. In its amended form, the bill will improve the rate of compliance with taxes owed on interest and dividend income, and at the same time avoid having financial institutions which can show an undue burden from having to deal with the withholding requirement on top of all their other current financial problems.

Mr. President, I recognize the need to raise additional revenues and restrain Federal spending in an effort to reduce the deficit. This bill accomplishes those purposes, and in many ways it achieves them in an acceptable fashion. I commend Senator DOLE on his political courage and skill in bringing such a controversial bill out of committee and to the floor. But I cannot support several of its key components. I do not share its philosophic reluctance to modify the basic 3-year tax plan, and I cannot accept the burden it places on our senior citizens and middle- and low-income taxpayers. Accordingly, I will vote against this bill.●

Mr. BAKER. Mr. President, a New York Times editorial characterized the Tax Equity and Fiscal Responsibility Act of 1982 as a "surprisingly constructive piece of legislation," which, "would go a long way toward making the tax laws more equitable."

A Washington Post editorial stated that the Senate Finance Committee, in constructing the new tax bill, "has taken large steps toward making the Tax Code simplier and fairer." The editorial ended by declaring that the Finance Committee "needs—and deserves—the full support of the administration, the Congress and the public."

A Boston Globe editorial predicts that "if all or most of the tax package gets through the House and the Senate unscathed, the entire Nation will gain."

And finally, the Los Angeles Times titled their editorial on the tax bill as "A Piece of Art."

Mr. President, the above statements are part of one of the most widely ac-

claimed endorsements of a major piece of tax legislation in several years. They are a tribute to, and a reaffirmation of, a measure that will aid this country in its efforts to reduce the size and scope of the Federal deficit.

I am aware of the fact that the road to final consideration of this measure has been an arduous one. But, I am most pleased that we are about to approve this measure, and I would like to take this opportunity to thank Finance Committee Chairman DOLE, ranking member Senator LONG, and the rest of the Finance Committee and staff for their tireless efforts and dedicated work on behalf of this bill.

The PRESIDING OFFICER. The question is on agreeing to the first committee amendment.

Mr. FORD. Mr. President, what committee amendment did we just support?

FIRST COMMITTEE AMENDMENT

The PRESIDING OFFICER. We have not yet announced the result.

The question is on the first committee amendment containing parts 1 through 3, as amended.

Mr. DOLE. Mr. President, I ask unanimous consent that the second committee amendment be eliminated.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the second committee amendment is title IV, is it not?

Mr. DOLE. That is correct.

Mr. ROBERT C. BYRD. That is the title that violates rule XV, paragraph 5. It would fall on a point of order.

Mr. President, is it proper to ask the Chair if that would have fallen on a point of order because it violates rule XV, paragraph 5?

The PRESIDING OFFICER. It would fall.

Mr. ROBERT C. BYRD. I thank the Chair.

The Senator now wishes to ask unanimous consent to delete it?

Mr. DOLE. I do.

Mr. ROBERT C. BYRD. I have no objection, Mr. President.

The PRESIDING OFFICER. Does the Senator wish to retain that part of the amendment striking the House language?

Mr. DOLE. Would the Chair repeat the question?

The PRESIDING OFFICER. Does the Senator wish to retain that part of the amendment which strikes the House language?

Mr. DOLE. Yes, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is now on agreeing to the remaining committee amendments.

Mr. DOLE. I ask unanimous consent they be considered en bloc.

The PRESIDING OFFICER. It is a single amendment.

Mr. DOLE. Well, consider it in en bloc.

Mr. LONG. Mr. President, I ask for the yeas and nays on passage of the bill.

The PRESIDING OFFICER. The question first is on the amendment.

The first committee amendment, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

Mr. LONG. Mr. President, I ask for the yeas and nays on passage of the bill.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The bill having been read the third time, the question is, Shall it pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

I further announce that, if present and voting, the Senator from Arizona (Mr. GOLDWATER) and the Senator from Connecticut (Mr. WEICKER) would each vote "nay."

Mr. CRANSTON. I announce that the Senator from Hawaii, (Mr. INOUYE) is necessarily absent.

I further announce that, if present and voting, the Senator from Hawaii (Mr. INOUYE) would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—50

Abdnor	East	Nickles
Andrews	Garn	Packwood
Armstrong	Gorton	Percy
Baker	Grassley	Pressler
Boschwitz	Hatch	Quayle
Brady	Hatfield	Roth
Byrd, Harry F., Jr.	Hayakawa	Rudman
	Heinz	Schmitt
Chafee	Helms	Simpson
Cochran	Humphrey	Specter
Cohen	Jepsen	Stafford
D'Amato	Kassebaum	Stevens
Danforth	Laxalt	Symms
Denton	Lugar	Thurmond
Dole	Mathias	Tower
Domenici	McClure	Wallop
Durenberger	Murkowski	Warner

NAYS—47

Baucus	Chiles	Hart
Bentsen	Cranston	Hawkins
Biden	DeConcini	Heflin
Boren	Dixon	Hollings
Bradley	Dodd	Huddleston
Bumpers	Eagleton	Jackson
Burdick	Exon	Johnston
Byrd, Robert C.	Ford	Kasten
Cannon	Glenn	Kennedy
Leahy	Mitchell	Riegle
Levin	Moynihan	Sarbanes
Long	Nunn	Sasser
Matsunaga	Pell	Stennis
Mattingly	Proxmire	Tsongas
Melcher	Pryor	Zorinsky
Metzenbaum	Randolph	

NOT VOTING—3

Goldwater	Inouye	Weicker

So the bill (H.R. 4961), as amended, was passed.

The title was amended so as to read, "An Act to provide for tax equity and fiscal responsibility, and for other purposes.".

Mr. DOLE. Mr. President, I ask unanimous consent that 200 copies of H.R. 4961 as passed be printed for use of the Committee on Finance.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make any necessary technical and clerical corrections in the engrossment of the Senate amendments to H.R. 4961.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, we have just enacted here in the Senate one of the most complex pieces of tax legislation that has come before this body since I have been here in 28 years.

The able chairman of the Finance Committee handled this matter in a most exemplary manner. I wish to commend him and the able Senator from Louisiana as managers of this bill, and I wish to say that I have never seen more expertise shown in handling a piece of legislation than was shown in the handling of this particular measure by the chairman of the Finance Committee, the distinguished Senator from Kansas.

He is to be highly commended, and I think we are all in his debt.

Mr. DOLE. Mr. President, I wish to say one word.

I thank all Members of the Senate because we have had good debate. We have been able, I think, to accommodate many Senators on each side even though they could not vote for the bill on final passage. I think we have had a good working relationship and we will continue that relationship.

I also pay special thanks to the Finance Committee staff on both sides and the joint committee staff for their tireless efforts. They have been working on this for a matter of 5 or 6 months and, while we have been working part of that time, the joint committee staff, the Finance Committee staff on both sides, and all the legislative assistants of different Senators have been working on this bill pretty much full time for a long time, and we certainly thank them and the Senate legislative counsel for their untiring efforts.

Mr. LONG. Mr. President, I wish to commend the distinguished senior Senator from Kansas for the truly magnificient performance that he achieved here in the Chamber in managing this bill.

The Senator was in good humor. He was extremely effective. He prevailed on almost every amendment and at almost every turn. As a matter of fact, I thought he was going to prevail on every amendment, and he did, until some time after 3:30 a.m. this morning.

His performance I think is in the very best traditions of the Senate, and I join with all other Senators in wishing him what will surely be a memorable birthday.

Mr. DOLE. That was yesterday.

Mr. LONG. I think his management of the bill was truly exceptional.

Mr. DOLE. I thank my colleague for his help during the consideration of this bill and particularly in the Chamber the past several days.

I think we have worked well together and I appreciate it very much.

Mr. LONG. I thank the Senator.

Mr. BAKER. Mr. President, I take this opportunity to express my gratitude to the distinguished Senator from Kansas and the distinguished Senator from Louisiana for their tireless effort to assist in working the will of the Senate.

It was a difficult and complex piece of legislation. The Senate committed 34 hours and 45 minutes of its time to the debate of this measure. There were 29 rollcall votes, 20 of them during this day of session: We agreed to 48 of those amendments, we rejected 14, 3 were withdrawn, and 2 were ruled nongermane.

Mr. President, that is a prodigious legislative job and I cannot overstate my admiration for the Senator from Kansas, the Senator from Louisiana, and all other Members who participated so actively in this matter.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I join with those of us who have expressed commendations concerning the performance of the very able Senator from Kansas. He has demonstrated a skill, presence of mind, an overall knowledge of the subject matter of the legislation that excites the admiration of all Senators.

I voted against the bill, but nonetheless I compliment him and I salute him for the competence that he has shown and for the fairness that he has shown and for his constant good humor and inimicable wit which keeps us all in good spirits at least most of the time.

Mr. President, I wish to express my admiration to the manager of the bill on my own side of the aisle. Mr. LONG is recognized by all, of course, as a very competent and able legislator, and one who has a thorough knowledge of the subject matter of the tax measures to come before the Senate.

We on this side of the aisle certainly, and I think the Senate, have benefited by his guidance on this particular piece of legislation, and I personally want to thank him on behalf of myself and on behalf of the Senate for the work he has done in conjunction with this bill.

He, too, voted against it. But, nevertheless, he has contributed a great deal in the deliberations on this measure.

THE CONSTITUTIONAL AMENDMENT MANDATING A BALANCED BUDGET

Mr. EAGLETON. Mr. President, I speak this morning in opposition to Senate Joint Resolution 58, which proposes an amendment to the Constitution to require a balanced Federal budget and to limit Congress taxing and spending powers. Sixty-two of my colleagues have cosponsored this resolution, so there is little uncertainty as to the outcome of the vote.

In my opinion, a constitutional amendment to balance the budget is a poor solution to our current budgetary problems. It is unworkable, counterproductive, and has all the potential for being most harmful to our economy. Nevertheless, the current administration—which has brought and will continue to bring us a string of budget deficits higher than any in American history—seems to believe that an amendment to the Constitution will make those deficits go away. Recent action by the Finance Committee to raise taxes for the next 3 years still leaves us with a deficit of at least $100 billion for fiscal year 1983—following on the heels of a $115 billion plus deficit for fiscal year 1982. Were the constitutional amendment to have force of law today, how and where would the budget be brought into balance, and more importantly, what impact would that effort have on our economy?

As Santayana said, "Those who cannot remember the past are condemned to repeat it." Between the Civil War and World War II, there were six financial crashes and two long depressions that sent this country into economic and political turmoil. Throughout it all, Congresses and Presidents struggled conscientiously to balance the budget and to pay off the war debts. In fact, until the 1930's our economic policy—ardently supported by Democrats and Republicans alike—was based on the premise that the budget must be balanced at any cost.

THE PANIC OF 1873

The United States had paid off its Federal debt in the 1830's, but it had had to borrow heavily to finance the Civil War. However, after the war, the budget was consistently in surplus and, once again, the national debt was slowly reduced. The social costs to the country were tremendous. Banks, then as now, used Government bonds as reserves. As the debt was retired the money supply became tighter. The situation was exacerbated when Congress put the country back on the gold standard. The resulting collapse of private credit caused the first of the great American financial panics in 1873, which threw the country into a depression that lasted 5 years; 20 years later, the country found itself in a similar panic, leading again to a depression and an unemployment rate that soared to nearly 20 percent as the century came to a close.

THE CRASH OF 1929 AND THE GREAT DEPRESSION

When the Depression began in 1929, Federal budget policy was firmly anchored to the idea that the budget should be balanced annually. The 1920's had been a decade of surpluses; debt incurred during World War I had been sharply reduced.

The 1931 budget was submitted by President Hoover on December 2, 1929; at that time surpluses were estimated for 1930 and 1931. At no time during the calendar year 1930 was there a direct admission that large deficits might soon be incurred. In fact, at first both the President and Secretary Mellon believed that the stock market crash in 1929 affected speculators mainly and left American business sound. The 1932 budget, released in December 1930, also indicated surpluses for the fiscal years 1931 and 1932. What actually happened is shown by the table below.

ESTIMATED AND ACTUAL BUDGET SURPLUSES AND DEFICITS, FISCAL YEARS 1930–33

[In millions of dollars]

	Initial budget estimate	Revised budget estimate	Actual surplus or deficit
Fiscal year:			
1930	+614	+856	+738
1931	+758	+262	−462
1932	+499	−1,711	−2,735
1933	−923	−1,146	−2,602

As the Depression deepened, it became apparent that the budget projections had been far too optimistic and that the Treasury would be faced with larger deficits than any previously incurred in peacetime. The first quarter of 1931 was the first quarterly period to show a deficit.

Consequently, President Hoover worked for an early return to a balanced budget as the dominant goal of his economic policy. Deficits announced for 1931 and 1932 were of unprecedented magnitude for peacetime standards. Hoover refused to consider borrowing because it interfered with "recovery of employment by detouring

capital away from industry and commerce into the Treasury of the United States." Instead, he recommended a 2-year tax increase.

In early 1932, Hoover called a balanced budget "the very keystone of recovery" and predicted that an unbalanced budget would prolong the depression indefinitely. This view was accepted by the Democrats as well as Republicans. When the 1932 tax bill was under consideration, Jouett Shouse, chairman of the Democratic National Executive Committee urged party Members in Congress to support a nonpartisan plan to balance the budget.

The drive for a balanced budget gained momentum during the spring of 1932. In the President's opinion, congressional action on the tax bill and economy measures was being delayed unnecessarily. "Nothing," he said, "is more necessary at this time than balancing the budget." When the end of May arrived without further congressional action, the President personally went to the Senate which then passed the tax bill that same day. Yet, even this was not enough to achieve a balanced budget as the economy continued to deteriorate.

While the insistence on a balanced budget in the face of such economic circumstances might seem unusual today, it should be remembered that a balanced budget in the 1929-33 timeframe was considered necessary—indeed, essential—"not merely for maintaining unimpaired the credit of the Government, but also for reinvigorating the entire credit structure of the country" as Secretary of the Treasury Mellon stated. In making a balanced budget the primary policy goal, the President, officials of the executive branch, and the leadership of both parties in Congress were acting in accordance with the traditional principle of a balanced budget in peacetime.

A balanced budget was also an issue in the 1932 election. In a major economic address delivered in Pittsburgh, Franklin D. Roosevelt indicted the Hoover administration for delayed action and lack of courage in balancing the budget. During the campaign, the Democrats continued to charge that the party in control had "recklessly" neglected to maintain control of the country's finances.

The last budget submitted by the Hoover administration—the 1934 budget, which was submitted after the election—confirmed the fact that there would be a budget deficit. In order to balance the budget, President Hoover once again recommended tax increases and "drastic reductions in expenditures." Shortly thereafter, Franklin Roosevelt became President.

Many economic historians, with the benefit of 20-20 hindsight, of course, argue that as Hoover and Mellon continued their fervent quest for a balanced budget in a rapidly deteriorating economy, they exacerbated the downward economic slide. (On this general subject matter see: "Economic Instability and Growth," (Harper & Row), by Robert Gordon, Chapter 3, "The Great Depression;" Financial History of the United States, (McGraw Hill), by Studenski and Kross, Chapter 27, "The Gloomy Years;" Federal Budget and Fiscal Policy 1789-1958, (The Brookings Institute), by Lewis Kimmel, Chapter IV, "The Hoover Years: Conflicting Views.")

JOHN MAYNARD KEYNES

Clearly, conventional economic wisdom was not working and new thoughts began to stir. In England, John Maynard Keynes published a book in 1936 entitled "The General Theory of Employment, Interest and Money" which revolutionized economic thinking. According to Keynes, the Federal budget should be employed as the balance wheel of the economy. Instead of a balanced budget at any cost, budget deficits and the national debt were wisely employed by Republican and Democratic administrations alike to stimulate the national economy when necessary, beginning with the administration of Franklin Roosevelt.

The other side of Keynesian theory, of course, was that in conditions of full employment and an expanding economy, it was essential to run a surplus budget to avoid inflation. I would be the first to concede that that part of Keynes too often has been ignored and we have paid a price for it as, for example, when Lyndon Johnson decided to fight the Vietnam war without seeking a tax increase. The resulting deficit during the robust economy of the time kindled inflationary pressures which we are still feeling today.

The central point of Keynesian theory, Mr. President, is that neither a deficit budget nor a balanced budget are good or bad in themselves. Everything depends on the economic situation we are in. At times a deficit budget to stimulate the economy is the only policy that makes sense. At other times a balanced budget is the only sound policy to pursue.

The central point, Mr. President, is that we should not permanently and perpetually worship at either altar. A budget is not some article of religious faith. It is a practical tool for trying to manage an intricate economy when things slip out of gear. Like any other tool, it has to be used with reason and it has to be appropriate to the problem we are trying to solve.

That flexibility is precisely what this amendment would take away. It seeks to bind us permanently and perpetually to a budgetary creed regardless of the economic situation we face. It converts what should be a means to an end into an end in itself and it could lead us to economic disaster.

CONCLUSION

Today it seems that we are forgetting the lessons of the past. America, generally speaking, has been prosperous for so long that our prosperity is now taken for granted. People do not know or do not remember the painful costs exacted from our country when a balanced budget was mandated, not by force of the Constitution, but by force of the dogma of conventional wisdom. They do not remember that in past chapters of our history we clung to the goal of a balanced budget even if it brought about economic hardship and strain.

F. Scott Fitzgerald once said that the "test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time." Perhaps that would explain the recent tolerance of the Reagan administration for huge budget deficits while supporting an amendment to the Constitution to make them go away. Fitzgerald and I disagree in this case. Budget arithmetic has no place in a Constitution that is devoted to the rights and obligations of the American people. Budgets are bound to economic circumstances that shift with the wind and have no regard at all for absolute laws. That fact should be all too clear to an administration which, in the space of 1 year, has been forced to alter its carefully charted course as economic events have undermined its goals.

Several months ago, in an article in the Chicago Tribune, columnist Stephen Chapman wrote:

> Apart from providing for the operation of the government, the Constitution is supposed to put certain fundamental issues beyond the reach of public opinion. That is why we have a Bill of Rights: to guarantee that the majority does not use democratic means to repeal the rights of minorities.
>
> It takes an inventive mind to argue that the collective populace has an inalienable right to have no more than 20.3 percent of its income taken in taxes. . . .
>
> The answer is that Americans don't want to make the sacrifice required to balance the budget and constrain federal spending. The day Americans summon the will to demand austerity, Congress will provide it. No constitutional amendment can substitute for that will.

Mr. President, there are two dangers associated with this amendment to the Constitution. One is the danger that the amendment would not be enforced; the second is the danger that it ritualistically will be. Put another way, this amendment will be either the great American "con job" or the great American economic "strangler." Either result makes it unworthy of constitutional sanctification.

Mr. President, I ask unanimous consent that a series of newspaper columns and editorials be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Star, June 2, 1981]

BALANCED BUDGET PROPOSAL SIMPLY WOULDN'T WORK

(James J. Kilpatrick)

The road to hell, so the maxim reminds us, is paved with good intentions. The Senate Judiciary Committee has taken off down that road in a cloud of commendable motives.

The committee has proposed a constitutional amendment to compel adoption of balanced federal budgets. The proposal is preposterous.

The committee's intention, to repeat, is altogether sound. If there is a prime cause of the inflation that afflicts our economy, it lies in the inability of successive Congresses to control federal spending. Only twice in the past 50 years has Congress achieved a small surplus. The accumulating deficits now approach one trillion dollars. Money pours out of the Treasury at the rate of two billion dollars a day, or $22,000 a second.

Almost no one questions the desirability, as a general proposition of balanced budgets. John Randolph of Roanoke long ago proclaimed what he termed "the philosopher's stone" of sound fiscal management: "It is pay as you go, sir! Pay as you go!" But no parliamentary masters ever have devised a mechanism for making Randolph's rule enforceable.

The Senate committee's pending effort follows in this futile tradition. Section One of the proposed amendment directs Congress prior to each fiscal year to adopt "a statement of receipts and outlays for that year in which total outlays are no greater than total receipts." Any schoolboy with a tally stick could run up such a statement in a moment. All that is required is that one conjure up a list of revenues, $700 billion; and in a parallel column a list of outlays, $700 billion. So much for the statement.

A WAIVER, OF COURSE

The proposed amendment continues by saying that "the Congress may amend such statement." Precisely so. If an invitation to dishonest budgeting were engraved by Tiffany's, it could not convey a clearer meaning. In particular exigencies, by a three-fifths vote in each house, Congress could waive the limitation.

In its second section, the amendment would command that total receipts for a given fiscal year "shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year." The provision is gauzier even than "privileges and immunities" or "due process of law." The "national income" is a work of statistical guesswork. The "rate of increase" in this fictional compilation is thus illusory. Whatever these conjectures might be, they would require that anticipated revenues for the fiscal year that ends Sept. 30, 1990, be linked to the "national income" in the calendar year 1988. This is nonsense.

The third section says that Congress may waive the whole idea of a balanced budget whenever a declaration of war is in effect.

A MIND-BOGGLER

Section Four boggles the mind: "The Congress may not require that the States engage in additional activities without compensation equal to the additional costs." What state activities are "additional" activities? And what does this have to do with a balanced federal budget?

A fifth section attempts to define "total receipts." A sixth section would make the amendment effective in the second fiscal year following ratification.

I do not mean to be overly critical, but a constitutional amendment without effective means of enforcement is a nullity. It carries no more weight than a resolution endorsing safe driving. Simply to declare that the budget shall be balanced is to echo Glendower's famous boast that he could summon spirits from the vasty deep. "Why, so can I," says Hotspur, "or so can any man; but will they come when you do call for them?"

Over the years I suppose I have scrutinized 50 versions of a balanced budget amendment. Politically speaking, the effective versions are not feasible, and the feasible versions are not effective. I am impelled to the conclusion that the only remedy for fiscal extravagance is to elect frugal people to the Congress. To paraphase Justice Stone's famous observation on the Supreme Court the only check upon the spending power is the members' own sense of self-restraint.

That laudable characteristic is a rare and feeble quality in Congress, but it offers a better hope than the flawed proposal now heading for the Senate floor.

[From the Washington Post, June 21, 1982]

THE BALANCED BUDGET AMENDMENT (I).—FORMULA FOR A DEPRESSION

The constitutional amendment to require a balanced budget now has 60 sponsors in the Senate. That makes it very likely to be passed when it comes to the floor, perhaps this week. The immediate motive here is wretchedly trivial—to provide a little shelter for a conservative Senate as it raises the federal debt limit. Because the federal budget deficit is rising under Mr. Reagan, most of those 60 senators are feeling highly vulnerable on the subject of debt and, before lifting the limit, they want an opportunity to demonstrate their allegiance to fiscal orthodoxy. It is an absurd reason for tampering with the Constitution.

By enforcing the rule of a balanced budget, this amendment would leave no discretion whatever to a president and Congress to combat recessions. Theoretically, the amendment would allow a deficit by a three-fifths vote in each house of Congress. In reality, governments are always slow to acknowledge economic trouble ahead, and it is utterly unlikely that Congress could react sufficiently quickly or unanimously, to avert real damage. Under the iron commandment of continuous balance, a recession like the present one would quickly turn into a true depression on a scale that this country has not seen since the 1930s.

The senators who support this amendment speak for a part of America that has been prosperous so long that it takes prosperity for granted, and no longer remembers the fearful cost that a country pays for obscurantist policy. When private demand declines, as it periodically does, the process quickly becomes self-perpetuating unless it is offset by public demand—that is, deficit spending by the government. While it is currently fashionable to deride Keynesian doctrine, Mr. Keynes' answer to recession was right 45 years ago, is right today and will continue to be right in the future. One sincere testimonial to it comes from the Reagan administration, which is relying on it to end the present recession and is explicitly counting on next month's tax cut—and the larger deficits that it will cause—to pull the country back into a pattern of faster growth.

Undoubtedly it would be desirable to run the federal budget fairly close to balance over a period of years, taking the better times and the worse ones together. But to declare that the budget must necessarily balance every year, good or bad, unless the country is actually at war, is to invite the scarifying spirals of the 1930s and the 1890s. It is grotesque for senators and a president who cannot get their current deficit under $100 billion to support, piously, constitutional language putting it at zero. Conservatives in particular might note that there are only two ways to do it quickly—a tremendous reduction in Mr. Reagan's defense plans or a tremendous increase in taxes. Senators sponsoring this amendment might usefully be asked which alternative they support.

One sturdy Republican, Charles McC. Mathias of Maryland, describes this amendment correctly when he terms it the instrument of "sluggards and cowards," incapable of the hard thinking and the hard votes that orderly budgets require.

[From the Washington Post, June 22, 1982]

THE BALANCED BUDGET AMENDMENT (II).—FORMULA FOR CHAOS

The constitutional amendment to force a balanced budget reflects several different kinds of serious errors of judgment. As we have argued previously, the insistence on a continuous balance, under all circumstances, in boom and in recession, is extremely dangerous as economic policy. A subsidiary objection, but not a trivial one, is the attempt to write an economic statistic, the national income, into the Constitution.

The national income accounts are very good statistics, but they don't belong in basic law. Congress has occasionally written statistics into statutes in recent years, and the results would not encourage sensible people to expand the practice. In one notable case, Congress pegged Social Security to the consumer price index, innocently intending to protect retired people from inflation. But the index then began rising much faster than inflation because of a peculiarity in the formula. The effect was to increase Social Security benefits a good deal faster than inflation, at the expense of people who were still working—a thing that Congress never intended. Economic indicators are complex and, in unexpected conditions, will often react in unexpected ways.

The question arises because the proposed amendment tries to prevent bracket creep—the process through which inflation raises revenues by kicking taxpayers into higher brackets. Federal revenues could not constitutionally rise faster than the previous year's national income, under this amendment, unless Congress explicitly enacted legislation permitting it. Since revenues automatically rise faster than incomes in a business boom, Congress would have to pass tax legislation in every boom year.

The Commerce Department periodically revises its national income accounts. Under the amendment, the revisions would threaten to put the government retroactively in violation of the Constitution, by lowering the figures for past years' income.

This amendment is an extreme example of the impulse to take all discretion out of economic policy, at whatever cost to rational government. Its purpose is to put the economy under an automatic pilot, guaranteed to be impervious to changing circumstance and necessity. It is an impulse hostile to the principle of democratic representation, as

Congress embodies it. It attempts to substitute a computer and a number. But the economic statistics are designed only to serve people who make decisions, not to replace them.

[From the New York Times, Mar. 24, 1982]

FAKE AMENDMENT, FALSE BALANCE

President Reagan's election appeared to head off the misguided drive to amend the Constitution to require a balanced budget. He promised balance by 1984 and hardly seemed to need a gun at his head. But with that promise in ruins, the amendment drive has been revived. And Mr. Reagan himself is thought to be moving toward leading the parade. He is said to favor a version that passed the Senate Judiciary Committee last spring.

The only thing that has changed, however, is the political weather. The amendment is still a terrible idea.

In strictly economic terms, such an amendment can in fact be harmful. For in times of recession, like the present, Federal deficits are desired even by avowed conservatives. Deficits can stimulate spending and cushion the decline.

Why then require balance for all time? Only for transient political reasons.

Republicans alarmed by the projected Reagan deficits suddenly find the amendment attractive armor. It would be one way of reassuring the voters in November that the Grand Old Party has not gone berserk. The President no doubt shares that calculation: embracing the amendment might restore his reputation for fiscal conservatism even though it would not take effect until the next administration, in 1985.

But what may be clever politics is not at all good policy. The barriers against deficit spending ought to be temporal, not constitutional. A President's misguided tax policy or zealous spending, or the lack of discipline in Congress, ought to be addressed with legislation and the rules of the budgetary process.

What is more, the words with which the Senate would clutter the Constitution are really just a charade. They appear to require budget balance in every fiscal year, but a modest three-fifths of Congress could lift the restriction any time. And although the amendment speaks of holding the growth of Federal revenues to the growth rate of the economy, a simple majority of Congress could break that rule at will.

In fact, the only thing to be said for this measure is that it would ward off the clamor for a budget amendment by constitutional convention. That can be required by 34 states; 31 have now requested it and two more may join this spring. Yet the procedure has never been tried and poses unknown risks. A convention might not limit itself to budget issues, and challenges to its actions could throw government into a major legal crisis.

Some Washington officials therefore see Congressional action as the lesser of two evils. But there is a much better way to appease the public's anxiety: Move toward a balanced budget in the right way—by reducing defense spending, slowing the growth of Social Security benefits and raising taxes after the recession ends.

[From the New York Times, May 3, 1982]

LEADERS, NOT LAWS, BALANCE BUDGETS

As political camouflage, Mr. Reagan's enthusiastic endorsement of a constitutional amendment requiring a balanced budget made sense. The message seemed to be, forget that it was he himself who has insisted on enormous permanent tax cuts before making proportionate spending cuts. Forget that in February it was he who said that the resulting deficits "will not jeopardize the economic recovery." Forget, too, that he dismissed Senator Holling's February initiative for a freeze on most spending. That was before the prospect of a 12-digit deficit became a giant political liability.

As the means to "save our economy," the amendment is a fraud.

The version Mr. Reagan apparently wants is so riddled with escape hatches that it would have little disciplinary effect on the budget process. And if tougher language were substituted, thus creating a truly effective check on deficit spending by the Government, great economic damage might result.

The proposed amendment that has won informal White House approval was written last year by the Senate Judiciary Committee. It would require a balanced budget in each fiscal year, but would allow a three-fifth's majority in Congress to override the requirement. It would also require Congress to limit the growth of spending to the rate of growth in the economy, though a simple majority of Congress could shelve that rule.

Wouldn't Congress rather vote for those overrides than enforce balance on the backs of veterans or Social Security pensioners or farmers? Most likely it would. But creating a set of constitutional ties that really bind could lead to disaster.

In spite of what the President says, there is no sound economic logic for the Federal Government "to do what each of us does with our own family budgets—spend no more than we can afford." Government deficits can provide a cushion of purchasing power that limits the loss of output and employment recessions.

The current recession is, arguably, the worst since 1937. Unemployment nationwide is at or near record highs. If an effective balanced-budget amendment had been in effect since the recession began last year, however, it would have forced Congress to reduce spending or raise taxes by more than $100 billion. That would have wiped out millions more jobs.

Everyone agrees that the Federal Government's flexibility to spend more than it taxes is a permanent invitation to special interests to grab a piece of the action. But far more important than this drawback is the way that flexibility actually functions to cushion cycles in economic activity.

The truth is that there is no magic bullet for fiscal responsibility. To check waste in government takes high-quality leadership—something neither Mr. Reagan nor Congress is currently providing.

[From the Kansas City Times, May 1, 1982]

THE MISBEGOTTEN AMENDMENT

President Reagan, who has been quite unsuccessful at balancing the federal budget, now proposes that future presidents and Congress be forced to do so. His threatened big stick to get Congress to enact a balanced budget amendment to the Constitution is a letter-writing campaign by the American public.

The voters must see through this ploy. The administration is the biggest reason for the grass-roots movement for a balanced budget because of its failure to control deficits. Yet Mr. Reagan probably would not have to live with the results of this folly. Even if the amendment is adopted by two-thirds of Congress and then ratified by three-fourths of the states, it would be several years before it became law.

The president has been nebulous about support of an amendment until recently. He previously worried out loud that its adoption only would result in higher taxes being imposed by Congress, which would find itself with no other way to meet government services.

But a Republican-endorsed balanced budget amendment could sell well with voters back home as GOP candidates face re-election this November. We don't think the president has overlooked that point. In fact, it probably is what prompted him to get on the bandwagon.

If voters don't see through this political hat trick, Congress will be hamstrung in its deliberations over budget and tax policy. Higher taxes and a deeper recession down the road might very well be the result. And a fiscal code would be written indelibly into the U.S. Constitution. In short, the amendment amounts to extremely poor public policy.

[From the New York Times, July 16, 1982]

BALANCED BUDGET CANDY

Go ahead and vote for the balanced budget amendment. Believe me, you've got nothing to lose.

But I don't think it's a good idea to freeze restrictions on deficits and spending into the Constitution. Someday we might decide we want a deficit again, to stimulate the economy.

No problem. The amendment wouldn't actually force you to balance the budget, or even limit Federal spending. You could get out of the obligation to balance with a three-fifths majority, and it would take only a simple majority to get rid of the spending limit. In a real pinch, you can always hide spending in off-budget cookie jars, like capital accounts or loan guarantees.

What's the point, then?

The point, my friend, is what your vote will say to the folks back home. You just went along with the first $100 billion deficit in the nation's history. Your constituents may not understand economic policy but they sure don't like the idea of Government going deeper into debt every year. Why do you think the President is making such a play for the amendment? Remember all those campaign speeches about the evils of deficit spending? He's got a reputation to protect—and so do you.

Those requirements for the votes to authorize deficits and unlimited spending still bother me. I sure don't want to go on the record with votes on those issues.

No big deal. In the first place, we're talking about a constitutional amendment. It has to be ratified by 38 states, so it can't take effect for years. And there's a good chance the special interests will kill it, anyway. If it does survive, by then the panic over deficits may very well have subsided. You may not even have to feel embarrassed about voting for a deficit. But if you do, you can always say it's all in the name of Social Security or defense or whatever. The folks back home won't complain about that.

I have to agree that it looks like a cheap vote.

Cheap and sweet. This balanced budget thing is pure political candy: all benefit; no risk at all.

O.K. But there's still that other point.

What's that?

Is it really a good idea to clutter up the Constitution with a phony amendment like this? And what if it turns out to be worse than phony? What if having to take all those three-fifths and majority votes makes it impossible for Congress to function? Isn't that what we should be talking about, instead of how this lets us look better to voters upset by all the current deficit talk?

[From the New York Times, May 11, 1982]

DEFICITS AND "DEFICITS"

(By Robert L. Heilbroner)

Alarmed at the size of the mounting deficit, President Reagan has come out for a constitutional amendment to enforce a balanced Federal budget. After the amendment is ratified, the Government will be allowed to spend only what it takes in as taxes. No more borrowing, with its horrendous consequences. Financial virtue will have been restored.

I have a suggestion to make. Why not strengthen the fight against profligacy by widening the amendment to include deficits of all kinds? Specifically, why not make it unconstitutional for businesses to spend more money than they take in as their normal revenues?

There is, of course, a very good reason, small matters of constitutionality aside. It is that a prohibition on business "deficits" would bring an end to much economic expansion. When A.T.&T. wants build a satellite, it doesn't normally pay for it from the revenues generated by your telephone calls. It goes out and borrows the money for its new capital investment, or issues new stock. So does Exxon and I.B.M. and the rest of the Fortune 500.

Of course, corporate borrowing and spending isn't called a "deficit." It's called business investment. Nor are the corporate bonds or new stocks looked on as evidence of profligacy. They simply indicate that the process of capital formation has been going on, giving us productive assets that we can kick with our feet, and securities that we can put into safe-deposit boxes. As a result, when we discover that A.T.&T.'s long-term debt has gone up $32 billion in 1975 to over $50 billion today, we don't talk about profligacy, we talk about growth.

But why isn't this also true of Government? If it is productive for A.T.&T. to borrow money to loft a satellite, why isn't it all right for the Government to do the same thing? If it is growth-producing for Ford or General Motors to borrow money or issue shares to modernize their plant and equipment, why isn't growth-producing for the Government to modernize the road system so that we can drive the new models without breaking their axles? If it is praiseworthy for I.B.M. to go to the public for money to finance a new research facility, why isn't it equally praiseworthy for the Bureau of Standards or the National Institute of Mental Health to do the same thing? If it is good to build airplanes and apartment houses and steel plants on borrowed money, why is it bad to borrow money to build public transportation or public housing or public waste-reclamation plants?

But, it will be said, the capital expansion of private firms generates additional sales for them, out of which they will be able to pay the interest on their additional debt. True. And isn't it also true that the capital investment of the public sector generates additional gross national product out of which more tax revenues will arise to finance the added interest on the public debt?

Thus the balanced-budget amendment may save us from profligacy, but it may also force us into poverty, exactly as if the amendment applied to the private sector. For the Government sector, like the private sector, builds for the future, as well as using up wealth in the present. When we spend our public income for arms or postal services, we are consuming our wealth, as we do when we spend our private incomes for sporting rifles or telegrams. To give the budget-balancers their due, perhaps we should limit our public consumption expenditures to the normal flow of tax incomes that the public sector enjoys. But when we spend money for harbors or dams, or for aid to P.S. 162, we are increasing our future capacity to produce, just as surely as when we spend it on machine tools or an Ivy League education. There is absolutely nothing to be said for limiting investment spending, which is growth-producing, to our normal incomes, whether these incomes are derived from sales or taxes.

Looking at the functions of Government as investment or consumption does not tell us whether or not the Government is making wise political or social decisions. It does not even give us a guide as to whether the Government is making intelligent *economic* decisions. It is possible to make very bad investment choices and very wasteful consumption expenditures. Washington has plenty of examples of both to show for its money. So do Pittsburgh, Detroit, and Middletown, U.S.A.

Nevertheless, breaking down the Government budget into investment and consumption does not help remove what I consider to be the single most serious impediment to the effective use of our economic potential. This is the tendency to think of all Government spending as *essentially* consumption, and usually wasteful consumption at that. Before we fasten ourselves into a balanced-budget straitjacket, we should remember that American economic growth depends just as crucially on borrowing and spending for investment in the public sector as it does in the private.

[From the Chicago Tribune, Apr. 8, 1982]

OUTLAWING THE BUDGET DEFICIT

(By Stephen Chapman)

If you believe F. Scott Fitzgerald, Ronald Reagan is anything but the ignorant halfwit portrayed by his critics. Despite his large deficits, the President likes the idea of a constitutional amendment to require a balanced budget. Fitzgerald assured us that the "test of a first-rate intelligence is the ability to hold two opposed ideas in the mind at the same time."

Reagan's critics, however, can rally behind Ralph Waldo Emerson. Congressional Democrats have spent the last 14 months lambasting Reagan for not balancing the budget. Yet they are opposed to an amendment to require what they demand. Emerson insisted that "a foolish consistency is the hobgoblin of small minds."

At the risk of revealing a small, second-rate mind, let me take my stand for consistency. As Reagan knows, deficits no more cause inflation or high interest rates or any of the other ills ascribed to them than toads cause warts. So there is no point in outlawing them, least of all by constitutional amendment.

What is important to the economy is not how much the government takes in taxes, but how much it spends. That is the sum of its claim on the nation's resources. If cutting revenues puts pressure on Congress to reduce spending, then a deficit is even beneficial.

This is more or less what Reagan has been saying for the last few months in defense of his tax cut. But last week he implicitly endorsed the balance-the-budget amendment before the Senate.

Sponsored by the National Taxpayers Union and the National Tax Limitation Committee, it requires a balanced budget every year and restricts increases in revenues to the rate of growth of the economy. The idea is to freeze Washington's share of the nation's output (now about 20.3 percent). The amendment has 53 co-sponsors.

There are other flaws besides its focus on the imaginary damage wrought by deficit financing. The first is the danger that the amendment won't be enforced. The second is the danger that it will be.

Federal budgets are not known for their pinpoint accuracy. They require estimates about hundreds of unforeseeable developments. If inflation is lower than expected, revenues will drop by billions of dollars. If interest rates rise, spending will rise too.

The amendment requires Congress, at the beginning of each fiscal year, to match expected spending and revenues. The cynical might note that Congress can do so with ease: all it has to do is choose congenial economical assumptions. If the two figures don't match at the end of the year, tough luck—the taxes have been collected and the money spent.

The only way to avoid this is to prevent Congress from adopting a fraudulent budget at the outset. If the courts rule that no citizen has the right to sue, Congress will be free to do as it pleases. Otherwise, the whole matter will have to be litigated. In the end, a judge will either approve the original budget or write his own.

Thus the judiciary will intrude into one more area historically reserved for elected legislators. Conservatives who oppose judicial activism shouldn't count this as progress.

The amendment's supporters insist that if Congress really doesn't want to balance the budget, it doesn't have to. Three-fifths of the members of both houses can vote to waive the requirement, or else a majority can declare war. But if the shackles are so flimsy, why bother to impose them at all?

One answer is that unbalancing the budget will be politically risky, discouraging Congress from doing it. Don't bet on it. To run deficits now, Congress has to vote every year to raise the debt ceiling, exposing individual members to public condemnation. Every year, after perfunctory gestures toward fiscal continence, Congress manfully braves the risk.

There is also a philosophical objection to the amendment. Reducing government spending is a wholly admirable goal. But doing so in this way misunderstands the purpose of a constitution.

Apart from providing for the operation of the government, the Constitution is supposed to put certain fundamental issues beyond the reach of public opinion. That is why we have a Bill of Rights: to guarantee that the majority does not use democratic means to repeal the rights of minorities.

It takes an inventive mind to argue that the collective populace has an inalienable right to have no more than 20.3 percent of its income taken in taxes. Nor is a minority in danger here. The sponsors say that 80 percent of Americans want a balanced budget. If so, why don't they elect representatives who will provide them?

The answer is that Americans don't want to makes the sacrifices required to balance the budget and constrain federal spending. It's easy to tell a pollster you want a balanced budget but not so easy to accept a cut in your favorite federal program. The day Americans summon the will to demand austerity, Congress will provide it. No constitutional amendment can substitute for that will.

[From the Christian Science Monitor, June 23, 1982]

COMPUTING THE COST OF A BALANCED BUDGET AMENDMENT

(By Gerald W. McEntee)

In recent testimony before the House Judiciary Committee, Office of Management and Budget Director David Stockman said that the now favored the proposed balanced budget amendment. Administration supporters claim that the constitutional amendment would impose needed fiscal restraint on a spendthrift federal government. With President Reagan's own budget deficit now expected to top $100 billion. Mr. Stockman's statements are a little like saying: "All the things I have done are good. Now let's make sure nobody ever does this again."

Support for the balanced budget amendment among many Republicans and some Democrats represents a convenient escapehatch for members of both parties. It is an ideological talisman they can hang around their necks while stumping for votes in the fall elections. It also shifts political fire away from this year's enormous federal deficits.

So far, the debate over the amendments has focused on political considerations. Very little thought has been given to the actual impact of the legislation.

All previous constitutional amendments, with the exception of the prohibition amendment, have been enacted to achieve goals which could not have been achieved by existing statute. The balanced budget amendment is an exception.

The amendment would write fiscal policy into the constitution. The result is that Congress and the president would have a far more limited range of options in dealing with economic circumstances, shifting financial conditions, and national security crises. Specific difficulties such as a surge in demand for entitlement benefits would be harder to address on a timely basis.

As soon as President Reagan endorsed the balanced budget amendment, the American Federation of State, County and Municipal Employees asked Data Resources Incorporated to initiate an economic simulation study of the proposal.

Among the DRI assumptions, and it's a pretty large assumption given the present political climate, is that President Reagan will get about half of his nondefense cuts this fiscal year. The DRI study also assumes implementation of the amendment in FY (fiscal year) 1985.

Here's what the DRI study found:

Unemployment would jump by 2,650,000, or 2.2 percent by FY 1987.

The total gross national product would decline by 5.6 percent by FY 1987, or a total of $519 billion between FY 1985 and FY 1987.

The federal budget in FY 1987 would be cut $163 billion. In fact, there would be an average federal budget decline of 14 percent for the years FY 1985–1987.

State and local government revenue would be slashed $49 billion in FY 1987.

Cutbacks averaging 14 percent in the federal budget would force large reductions in all major federal functions. For example totally eliminating federal grants to state and local government—that means closing down medicaid, social services, the Highway Trust Fund, Aid to Families with Dependent Children, waste water treatment, education aid, revenue sharing, and a host of other programs—would only save about $60 billion. That's less than half the cuts which would be required if the balanced budget amendment were law.

One of the major tradeoffs, say supporters, would be reduced inflation. But, according to the DRI study, the inflation rate would only drop from 7.2 percent to 6.9 percent in FY 1987. So, we gain a three-tenths of 1 percent advantage over the cost of living if the amendment is in force in 1987. In return, we pay for each one-tenth of a percent drop in inflation with 900,000 jobs!

The balanced budget amendment is a poor solution to mounting federal deficits. In addition, it would severely hamper policymaking. The amendment should be rejected by the Congress because it will not stand the test of time, or circumstances.

[From the Los Angeles Times, May 31, 1982]

ON BALANCE, A BAD IDEA

President Reagan, facing a string of budget deficits higher than any in American history, wants to amend the Constitution to make them go away.

Given the circumstances, it is an idea wholly without logic, except the desperate logic of a man caught fishing in a neighbor's lake who might argue for stricter enforcement of poaching laws.

A Constitution that forces Congress to balance the budget every year is, in the abstract, a comforting thought that probably has broad appeal for taxpayers.

That may have crossed the President's mind when he lobbed up the idea during his Thursday television address designed to marshal support in his budget confrontation with Congress.

But most budget specialists doubt that such an amendment would work any more than the United Nations has stopped wars or than laws against stealing stop people from stealing.

Given the inventiveness of government when it is determined to spend money, a constitutional stricture probably would leave Americans even more in the dark about where their money goes than they are now.

Even without the pressure of the Constitution, Congress often creates special accounts to finance federal programs that do not show up on the budget. Such an amendment would make the temptation to hide spending even greater.

Strict enforcement of such an amendment would throw the Reagan Administration into chaos today unless it were willing to conspire with Congress to hide more than $100 billion in federal expenditures.

David A. Stockman, the President's budget director, understands the flaws in the concept. During his confirmation hearings last year, Stockman testified that a balanced-budget amendment is not "a very workable solution."

For one thing, he said, there is no accepted definition of spending. In a dispute, the question would be thrown to the courts becasue there is no other mechanism for enforcing such a restriction. Once involved, the courts probably would not stop short of writing their own version of a budget.

The President put the amendment proposal in a context of carrots and sticks. He has tried the carrot of negotiations to persuade Congress to hold down spending, he said, and now it is time to turn to the balanced-budget stick.

Stockman clearly believes that an amendment would be a paper stick that would buckle and wrap itself around the first big deficit it hit. We agree.

We also feel that budget arithmetic has no place in a Constitution that is devoted to absolute rights and obligations under law. Budgets are bound to economies which rise and fall without regard to absolute law. It would be a serious mistake to mix the two.

ENACTMENT OF THE SMALL BUSINESS INNOVATION DEVELOPMENT ACT

Mr. WEICKER. Mr. President, today represents a major watershed for small business. Today, I watched as the President signed into law the Small Business Innovation Development Act, legislation which I was proud to cosponsor, and which several of us have worked on for many months.

I would once again like to commend Senator RUDMAN for his outstanding leadership in bringing the innovation bill through the legislative process. Believe me, that was no easy accomplishment. The opposition was tough, but in the end, thanks to Senator RUDMAN and other dedicated supporters, such as Congressman JOHN LAFALCE, who did a superb job of promoting the bill in the House, the small business community was the winner.

I also want to thank this administration for its unwavering support of S. 881, the original version of this bill. By signing this bill into law today, President Reagan has shown that he recognizes and appreciates the contributions that small business makes to our economy in the form of innovations, jobs and technological advancement. This new law will increase the opportunity of small business to make those contributions, and thus will benefit us all in the years ahead.

Mr. RUDMAN. Mr. President, today I had the honor and the priviledge, with many others, to witness the President sign S. 881 into law. The ceremony was significant because it represented, I believe, a major step in the President's economic recovery program. The President endorsed S. 881 early in the legislative process and worked to insure its passage in both the House and Senate. I commend him for his leadership and look forward with him to a reaping of the benefits that will flow from the legislation.

Mr. BAKER. Mr. President, I want to take this opportunity to congratulate my distinguished colleague from New Hampshire, Senator RUDMAN, chairman of the Subcommittee on Innovation and Technology, and my distinguished colleague from Connecticut, Senator WEICKER, chairman of the Small Business Committee, on the En-

actment of Senate bill 881, the Small Business Innovation Research Act of 1981.

Together, Senators RUDMAN and WEICKER fought a minefield of objections, and a gauntlet of procedural maneuvers, to bring to the floor and pass, a bill that will provide badly needed funds to the thousands of American small businesses that engage in research and development.

As we all know, R. & D. is the linchpin of our economy—the driving force behind our great technology advances of the past and the expansion of productivity in the future. High technology companies are providing a greater share of new employment opportunities, with rapidly increasing productivity and lower prices. And small firms perform even better on these measures, producing many times the innovations per R. & D. dollar than their larger counterparts. And yet, less than 4 percent of Federal R. & D. funds presently go to small business. This legislation provides not only more funds for small R. & D. firms, but does it with a program that has proven its efficacy. The NSF program, after which this legislation is modeled, has been very successful—providing a phased and rational means of bringing new companies into the Federal R. & D. network.

I applaud the sponsors and promoters of this bill. Research and development is one of the essential ingredients to getting our economy back on track. This program will help insure that development.

Mr. HAYAKAWA. Mr. President, we celebrate a modest victory today as the President signed into law the Small Business Innovation Development Act of 1982. The measure requires Federal agencies with annual research and development budgets of more than $100 million to set aside 1.25 percent of those funds for small firms and independent innovators.

One might ask: Why is such a sensible action the cause for celebration? The answer to that is that this "sensible" legislation, approved in the Senate by 90 to 0, and in the House by 353 to 57, was subjected to one of the strongest lobby efforts mounted in the last several years against a so-called "small business" bill. While statistics consistently show that small and independent operators are more innovative and flexible than many large firms or university laboratories, some of our most prestigious universities and health organizations mounted a very vocal opposition campaign. Some of the most respected newspapers in the country printed the opposition point of view almost word-for-word. The campaign succeeded in making passage a difficult, contentious procedure where it should have received proper consideration and been passed in a more measured way. But we who support the measure did overcome and the President gave it his support.

The bill calls for a program modeled after the very successful one that the National Science Foundation pioneered, and I extend to them my most sincere compliments for the way they conducted the program and the results they achieved. As an original cosponsor of the Senate version, S. 881, I chaired a small business committee hearing in the "Silicon Valley" area of California, where so many brilliant, small innovators have made that name synonymous with creativity and progressive action. It is the place where, according to George Gilder in his popular book, "Wealth and Poverty," a second industrial revolution erupted. Gilder wrote:

> It happened in hundreds of small companies, these were the boffins, the callow geniuses of the semiconductor and microprocessor revolution, turning the world's most common matter, the substance of sand, into an incomparable resource of mind: A silicon chip the size of a fly, with computing powers thousands of times greater than a million monks adding and subtracting for millennia—an infinitesimal marvel that extends the reach of the human brain incomparably further than oil, steel, and machines had multiplied man's muscle in the industrial age.

Many of these "boffins" stepped out of the university laboratories and scientific libraries into the vanguard of modern industry. Perhaps this is what the opposing university spokesmen feared, but it is something our civilization must keep alive if the United States is to retain its technological wizardry.

We now have it as a law of our land to spend a portion of our huge research and development budgets with small high-technology firms and innovators for Government-approved R. & D. projects in areas ranging from defense and space to biomedical research. It will not be easy to make the program a success. The most important role now must be played by the small innovators themselves to qualify for the grants and to fulfill the promise we know is there. We are counting on them.

Mr. HATCH. Mr. President, I am very pleased to see the results of a year's worth of legislative work and compromise finally come to fruit with the Presidential approval of S. 881, otherwise known as the Small Business Innovation Research Act of 1981.

The accomplishments of small businesses in providing the market with new technology and responding to changing market conditions have always been, and continue to be, remarkable. It is a well known fact that small businesses continually outperform large businesses in the area of research and development. A study by the Office of Management and Budget indicates that between the years of 1953 and 1973, almost half of all major U.S. innovations came from firms with less than 1,000 employees.

Small business innovations not only supply the Nation with vital new technology, but also provide the Nation with additional jobs. A MIT study indicates that firms with 500 or less employees provided 87 percent of all new jobs in the United States between 1969 and 1976. In fact, this study identified small technology firms as the best job creators in the Nation.

Despite this evidence, Federal research and development funds have consistently bypassed small firms. In 1980, for example, 60 percent of total research and development funds were conducted into only 35 firms.

As passed by Congress, this legislation allocates 1.25 percent of research and development funds from each Federal agency with an R. & D. budget over $100 million to small business.

After the system has been phased in, some $400 million of Federal research and development funds will be specifically targeted for small high technology firms. Targeting funds in this way will, in my opinion ease our entrance into the high technology era and simultaneously increase our Nation's productivity.

As we all know, the U.S. productivity level has fallen well below that of other industrial nations over the past 10 years. While this decline can be attributed to a variety of factors, the slowdown in technological innovation has certainly been a primary one. This bill will lay a solid foundation for reversing this trend, by allocating research dollars to that sector of the business community who has already made outstanding contributions in this field.

Consequently, I am also of the belief that this bill admirably complements President Reagan's wish to stimulate the economy and enhance national productivity.

For these reasons, I am delighted and honored to have been a cosponsor of this legislation and I thank my colleagues whose support and hard work have made this day possible.

Mr. D'AMATO. Mr. President, these are times of debilitating economic hardship. No one can refute this fact. Unemployment is at a staggeringly high 9.5 percent. In addition, there were 522 business failures during the week of July 1, 1982. During the same week last year, there were only 292. This year to date, there have been a total of 11,948 business failures, while last year, there were 8,235 during the same period. As public servants, we are entrusted with the grave responsibility of serving the vital interests of this Nation. Part of this responsibility entails the creation of a thriving, burgeoning America in which a high standard of living, healthful growth

and productivity, and full employment prevail. We should try unceasingly to reach these laudable goals.

As an original cosponsor of S. 881, I believe that this bill, the Small Business Innovation Development Act of 1981, will move our Nation along the path toward attainment of these coveted goals. S. 881 mandates that all Federal agencies with annual research and development budgets of more than $100 million establish small business innovation research programs to tap the resources of small innovative firms; to facilitate the conversion of federally funded research results into commercially viable products and services; and to increase the share of the Federal R. & D. budget allocated to small business, beginning with two-tenths of 1 percent in the first year, rising to 1.25 percent in the fourth year. No agency can reduce the percentage they are currently allocating to small business concerns.

In the United States, 96 percent of all businesses are small businesses. They produce 43 percent of the private sector gross national product. Furthermore, a National Science Foundation study concludes that small business is approximately 4 times as innovative as medium-sized firms and approximately 24 times as innovative as the largest firms. Yet a study by the Office of Management and Budget's Office of Federal Procurement Policy reveals that only 3.5 percent of total Federal R. & D. funds go to small firms.

Small businesses are superior cost-effective innovators, holding the key that will unlock the door to an economic revival. Small businesses excel at technical innovation, which leads to job creation. This innovation also enhances productivity and spurs economic growth. In addition, by strengthening the role of small firms in federally funded R. & D., our Nation's role as a world leader in technological innovation will be preserved.

Therefore, I ardently supported the passage of S. 881, and I commend the President for signing it into law. S. 881, the Small Business Innovation Development Act of 1981, will serve our Nation well by tapping one of its crucial, most valuable resources, the small business community.

Mr. GORTON. Mr. President, as one of the original cosponsors and a strong supporter of S. 881, the Small Business Development Act of 1982, I am pleased today to speak on behalf of this important piece of legislation.

S. 881 will provide for a phased-in process by which 1.25 percent of Federal research dollars will be set aside for utilization by small business firms. By bringing this concept to fruition, we are encouraging two outcomes of vital importance to the U.S. economy—expansion of innovative technology and stimulation of the vital small business sector.

The United States has long been a leader in advancement of scientific and technological research and development. In recent years, however, international competition has increased and we must strive more intensely to maintain the edge needed for an expanding economy. An important part of our commitment as Members of Congress is to pursue policies which help to make this happen. By setting aside this percentage of Federal research dollars for awards to small businesses, we are acting on our faith in the innovative and productive capacity of this segment of our economy. I do not believe we will be disappointed.

History indicates that a significant percentage of new technology is the product of entrepreneurs who have the creativity and the flexibility to put untried ideas into practical use. These individuals and their coworkers can be credited with many of the inventions and technological advancements that have improved all of our lives. This administration and this Congress are making important strides toward the goal of using Government to promote rather than deter this innovative activity. I am pleased to be a part of efforts to achieve this goal and I feel S. 881 is a significant step in the right direction.

It is a credit to the efforts of Senator RUDMAN and many of my other colleagues in the Senate and the House that this measure has proceeded to passage in such a timely fashion. President Reagan, who has been a consistent advocate on behalf of measures which encourage growth of the private sector, has expressed his support by signing S. 881 into law. I commend the President and the Members of Congress for moving forward with this legislation. I feel it will make a significant contribution to the expansion of technological innovation and the strengthening of our economy.

Mr. NUNN. Mr. President, today the President signed into law S. 881, the Small Business Innovation Development Act of 1982. His approval represents both the culmination of many years of work by small business advocates within and outside of Government to reach this point, as well as a starting point for the small business entrepeneur to increase their participation in meeting Federal research and development needs. The President's approval also represents a significant milestone in the visibility and strength of our Nation's small business community.

Mr. President, the Federal Government devotes over $44 billion of its agencies' budgets for research and development. The Federal Government also funds over half of all research and development work in this Nation. Yet, our best estimates are that the same small businesses which have repeatedly been shown to have the greatest potential for inventions and innovations, have only received approximately 5 percent of those R. & D. funds.

The enactment today of the Small Business Development Act of 1982 will begin a concerted effort to increase the historical share of small business participation in the Government's research programs.

We know that the small business innovation research (SBIR) programs which will be established in 11 agencies pursuant to this legislation can be successful. We have a track record to prove it. For example, since 1977, Congress directed the National Science Foundation to set aside a specific portion of its research and development budget to help promote research by small business. The program works. Similarly, the Department of Defense unilaterally established its own small business advanced technology program (DESAT). Their program works.

The Small Business Innovation Development Act which the President has approved, has been closely modeled after these two programs. It is most important to underscore that, throughout the development of this legislation, my primary concern has been to assure that the research that is conducted by the non-Federal sector be of the highest quality, and that there are sufficient controls in place to insure that agencies have the flexibility to design, fund, and carry out their research needs. I am satisfied that this law meets those tests.

Mr. President, I again want to congratulate Senator RUDMAN, the chairman of the Small Business Committee's Innovation and Technology Subcommittee, for his continued outstanding leadership on this legislation since its introduction in April 1981. Similarly, Senator WEICKER, the chairman of the full committee, has consistently worked to bring about the final passage of this proposal. Many others in and outside of Congress, too numerous to mention, have had a significant role in shaping this legislation from its inception in 1979 through today.

I am sure that the dedication that my congressional colleagues, Small Business Administration officials, and the small business community have shown in bringing this bill to the White House for the President's signature will be continued as we carefully review the crucial next step of implementation. Today marks the first day of our renewed efforts to increase small business participation in this Nation's vital research missions.

Mr. BAUCUS. Mr. President, I want to join my colleagues in expressing great satisfaction over the passage of the Small Business Innovation Act,

and its signature into law by the President. It is good legislation, good for small business, and good for the country as we strive to improve our competitiveness worldwide.

Research and development are key to that competitiveness, and we already know that in the past, major innovations introduced into the market were produced 24 times more frequently by small business than by big business. Small business outshone medium sized businesses four times. Other statistics show that firms with less than 500 employees provided 87 percent of all new jobs in the United States between 1969 and 1976, and the best job creator was found to be the small technology based firm.

With such evidence, it is surprising that there is any hesitancy in supporting research and development by small firms. Well, we have now finally shown we do support such efforts. This new law will help small businesses obtain "a piece of the pie." Sure, it might be easier for the dispensers of research funds simply to give out the money to large, well represented firms which can spend a lot of money being represented. But the evidence is that once they get such funds, they are not as good at turning out the final innovative product. Small business does that best. Yes, it might take a little more effort to be sure small business gets a chance to obtain such funds, but we can no longer afford to ignore our best resource.

This act does that. I am proud to have been a cosponsor of the original legislation. I am proud that it has become law. And I am proud that we are taking another step forward in making ourselves more competitive.

Mr. LEVIN. Mr. President, today is an important day for small business and this Nation. Today, President Reagan signed into law S. 881, the Small Business Innovation Act of 1981. I am pleased he has taken this action.

I believe this act holds great potential for small business, the Government, and the economy. Small businesses selected to do research under the Small Business Innovation Research (SBIR) programs established by this act will receive up-front capital so necessary to initiate research in their field of expertise.

The Government, in turn, will make use of the demonstrated innovative capabilities of small firms in achieving the Government's R. & D. goals. Moreover, increased reliance on small businesses for the Government's R. & D. needs should insure greater competition for Government research and a higher quality of research.

Finally, the economy as a whole should benefit. The act encourages private-sector investments to commercialize the research conducted by small businesses under the SBIR program. Commercialization of many of the newly developed technologies and processes will ultimately create new products and improve the competitiveness of American goods and services in the world marketplace, thereby increasing employment and tax revenues.

Nevertheless, despite the great potential this act holds, I am aware that a number of universities are deeply concerned about a significant reduction in Government-funded basic research by universities, as well as a reduction in the quality of Government-funded research generally. As signed into law, the act contains the substance of an amendment proposed by Senator SCHMITT which would prohibit agencies from "raiding" their basic research funding in order to support the SBIR programs. In addition, the act contains, in a slightly altered form, an amendment proposed by Senator GLENN requiring the General Accounting Office (GAO) to report on the operation of the SBIR programs and to review the effect of these programs on agencies' overall basic research programs. It is my hope these changes will ease somewhat the concerns of the universities.

Again, Mr. President, I am pleased this legislation has been signed into law.

Mr. TSONGAS. Mr. President, it is with great pleasure that I take note of the President's signing of the Small Business Innovation Act. The passage of this bill is a clear demonstration of this Government's belief in the unique productiveness of the small business community. The level of commitment it represents stems from a confidence in the special role the small business community plays in generating the new ideas needed to fuel tomorrow's economic growth. A flourishing small business community full of new firms with new products and ideas offers us the greatest prospects for significant economic growth.

Earmarking a small percentage of research and development budgets of Federal agencies acknowledges the fact that it takes more effort to work with a number of small firms than with a handful of larger organizations. This bill creates the administrative incentive to make that additional effort. I am convinced we will find this extra effort well rewarded by a high return in innovation and job creation.

Concern has been expressed that this measure will result in harmful cutbacks in research and development funds to other nonprofit research organizations like our universities. I believe these sentiments are more a product of the prospects of cutbacks in overall civilian research and development budgets.

The percentage earmarked for small businesses in this legislation is small: 0.1 percent in the first year; 0.3 percent in the second year; 0.5 percent in the third year; 1 percent in the fourth year; and 1.25 percent in all subsequent years.

During this 5-year phase-in, I urge all of my colleagues to work to diminish the concerns of the university community by reversing the dangerous trend of reductions in research and development budgets. These cutbacks are the worst form of false economy. When we reduce our financial commitment to research and development we reduce our investment in a brighter economic future.

There can be no more discouraging sign of our commitment to long-term economic growth than finding the sources of tomorrow's wealth, the research and development community, reduced to struggling over a shrinking pie of financial commitment. By passing this legislation we have affirmed our commitment to the small business community. I would like to encourage my colleagues to follow this action by redoubling our commitment to the larger research and development community.

I would like to close by thanking a few of my colleagues for their special efforts on behalf of this legislation. Senators RUDMAN, WEICKER, NUNN, HUDDLESTON, KENNEDY, and LEVIN all deserve particular credit for their vigorous and longstanding efforts on behalf of this legislation.

Mr. DIXON. Mr. President, I would like to take this time to comment on the Small Business Innovation Research Act of 1981, which the President has signed. This bill, of which I was a cosponsor, is designed to increase the role of small business in Federal research programs. The support of the President, as well as the 90 to 0 vote that the bill obtained in the Senate, are important steps forward for small firms engaged in technological research, as well as an important instrument for insuring that the U.S. Government utilizes the most efficient form of technological research.

The United States is quickly losing its status as the world leader in the area of technological advancement. Countries such as West Germany and Japan are making more efficient use of their research and development funding than the United States.

It has been proven that small businesses provide the most cost efficient technological research in the United States, despite the fact that small businesses are continually discriminated against in the selection process used to make research contracts.

Large businesses and large universities and research institutions continue to receive most of the government's major research grants, despite the great efficiency of small business. Furthermore, small businesses are the largest employers in the United

States, and possess the greatest potential for job growth in the country.

S. 881 not only approaches the problem of loss of American status in the research and development area, but also proposes answers for the growing problem of unemployment in the United States. It stimulates technological advancement and makes Federal research and development spending much more efficient than it is presently. It accomplishes these two goals while also stimulating economic growth in the sector of the American economy that has the greatest potential to provide work for the large number of unemployed in the United States.

The specific details of S. 881 are modeled after the National Science Foundation small innovation research program, which has been successfully stimulating the use of small businesses in the NSF's research projects for 5 years.

S. 881 mandates that agencies that have a research and development budget of more than $100 million, allocate 1 percent of their research budget to projects that are being handled by small businesses. The funds that are allocated to small businesses will be used to develop technology that is commercially feasible as well as technologically important.

The funding for the commercial processing of this technology will be supplied by the private sector. This means an increase in investment, which the American economy needs so badly. The technical assistance given to these firms will increase their competitiveness. All of this will be accomplished with the use of currently available funds. There will be a reallocation of funds from large businesses and research institutions, to efficient small businesses. Therefore, in the long run, it will save the American Government money by better utilizing the resources available.

All in all, the Small Business Innovation Research Act of 1981 will be beneficial to the American Government, the economy, and the people of the United States.●

Mr. ABDNOR. Mr. President, I am pleased to offer my support for S. 881, the Small Business Innovation Research Act of 1982. I also praise the Senator from New Hampshire (Mr. RUDMAN) for his excellent insight in best improving Federal support for business.

This legislation comes at a most critical time for business when such congressional action is essential and can stimulate economic growth. The major advantage of this bill is that it increases aid to small business. Fifty percent of all major innovations come from firms with fewer than 1,000 employees. In other words, small business plays a significant role in overall business productivity.

Yet, small firms presently have inadequate access to Federal Research & Development (R. & D.) money. This occurs despite the fact that a National Science Foundation survey showed that smaller firms produce up to 24 times more innovation per R. & D. dollar than larger ones.

Without increasing the Federal budget, this proposal provides small enterprises up to $400 million more per year for R. & D.—a significant improvement.

By allowing more small businesses access to Federal R. & D. funds, business productivity will increase as will the overall economic climate. Ultimately, all Americans will benefit by improved economic conditions.

Mr. ANDREWS. Mr. President, passage of S. 881, the Small Business Innovation Research Act, by the Congress and its approval by President Reagan demonstrate the serious concern Congress has for the backbone of this country's economic system, our small businesses. By earmarking 1¼ percent of an agency's Research and Development funds for small business we are encouraging that segment of our business area that contributes to new ideas almost imperceptibly.

We all know that small businesses are our most efficient resource and also provide the lion's share of all new jobs created each year. Many of them are high-technology firms which have an exceptional record of developing new ideas, new products and processes that contribute to the progress of our Nation. Both the private and public sectors are beneficiaries of the unique contributions made by America's small businesses.

Mr. President, all of us can take pride in this piece of legislation which is long overdue.

Mr. BENTSEN. Mr. President, as one of the cosponsors of S. 881, the Small Business Innovation Research Act, I am pleased to note that President Reagan signed this bill into law today.

This bill will add to our Nation's productivity by increasing the involvement of small businesses, the most dynamic and innovative sector of our economy, in our research and development efforts. Rather than allowing government bureaucrats to award all R. & D. contracts to large corporations with an established reputation, this bill will require that they earmark 1.25 percent of their R. & D. budget for small businesses on a competitive bid basis.

Since the Federal Government accounts for about half of all the R. & D. work done in the United States, government policies on R. & D. spending have a major impact on both small business companies interested in R. & D. and in the amount of technological research in this country. Studies have repeatedly shown that small businesses are more cost effective in developing innovative new ideas.

According to the National Science Foundation, small businesses produced about half of all major U.S. innovations over a 20-year period. They produce four times more innovations per R. & D. employee than do large firms, and small firms produce up to 24 times more innovation per R. & D. dollar than do large firms.

The importance of innovation to the American economy cannot be overstated. It has been estimated that 50 percent of American economic growth stems from technological innovation. As it has been established that small business R. & D. efforts provide the greatest return on our technological investment, I believe that the Small Business Innovation Act is clearly an important step forward.

Mr. COCHRAN. Mr. President, I am pleased President Reagan has signed into law the Small Business Innovation Development Act, and I am proud to have been a cosponsor of this important legislation.

Small business truly is a cornerstone in our free enterprise system. Small firms employ over half of the labor force, and account for 38 percent of the Nation's gross national product.

Small businesses are traditionally leaders in innovation and technological advancement. They provide the combined energies of individual initiative with a firsthand knowledge of consumer needs to play one of the most vital roles in our economy.

Through this new law, a stronger research and development relationship between the small business sector and the Federal Government is created. The Small Business innovation research program at the National Science Foundation has been found effective and well-run. By mandating SBIR programs, the bill will improve and expand our country's research and development efforts, which are necessary to the restoration of a healthy and strong national economy.

I believe this legislation provides new ways to meet current economic challenges, and I want to commend the Small Business Committee and its able chairman, the Senator from Connecticut (Mr. WEICKER), for the superb work they have done in getting this initiative before the Senate and enacted into law.

Mr. COHEN. Mr. President, the Small Business Innovation Act, introduced last year by Senators WEICKER and RUDMAN and signed today by President Reagan, is a major victory for small business nationwide.

In my own State of Maine, I am reminded daily that small businesses are the economic and commercial backbone of our communities. If we are serious about creating jobs and strengthening the economy, we must help the

small and independent businessman survive and prosper. The Small Business Innovation Act, in my view, is an important step in the recognition of small business' ability to actively contribute to our economic health.

Small businesses account for 97 percent of the Nation's total business units and create over 50 percent of the jobs in the U.S. work force. It is reasonable and responsible for the Federal Government to offer this important sector of our national economy every opportunity to participate in federally-funded research and development activities.

I have no doubt that small businesses nationwide will benefit from this legislation and, in turn, the benefits will be passed on to both consumers and taxpayers. I am pleased to have been involved in this piece of legislation and I am certain that the economic benefits will soon be recognized.

Mr. DOLE. Mr. President, I commend President Reagan as well as Members of both the Senate and the House for making the Small Business Innovation Development Act of 1982 law. This is an excellent piece of legislation which will prove beneficial not only to the small businesses to which it is directed but also to the Nation at large. This Senator is confident that our goals of increased productivity, more jobs, and new and better products will be enhanced by this act.

For over 200 years, small businesses have been the backbone of this great Nation. In an economy sometimes dominated by Goliaths, small firms often produce like Davids. Small businesses account for a majority of new jobs in this country. In addition, research dollars funneled through small businesses multiply in resultant innovations. In spite of the heavy burden the current economic slowdown has placed on the small business community, this Senator reaffirms his belief that these firms can continue to benefit our economy in ways that belie their size.

Over the past decade, the rate of productivity increase in the United States has fallen behind that of many other developed countries. Our declining productivity is partly attributable to a slowdown in our rate of technological innovation. Yet, that segment of our private sector which leads in innovative advances—small business—has received a relatively small portion of Federal research and development grants. If the United States is to remain a competitive and productive force in today's world markets, we must make as efficient use as possible of our limited research and development resources. Thus, without appropriating any additional funds, the Small Business Innovation Development Act of 1982 will set aside some of the research and development funds awarded by Federal agencies for small businesses.

Mr. President, this legislation will foster increased economic activity and new jobs—not by large spending programs, but through better use of available resources. By diverting a portion of research and development funds to smaller firms, we are consciously recognizing the role that technological innovation and development must play in the reignition of our economic system. That we may be so confident that our scientists and engineers will, with products and inventions heretofore not conceived, carry our economic banner into the next century is testimony to our great economic system itself—and to the spirit of our people.

This act is the kind of legislation with which we can all take heart. Without raising taxes or appropriating additional funds, we have a program which will create new jobs, stimulate economic growth, and augment this Nation's competitive posture abroad. With a broadening base of wage earners, perhaps complemented by a simplified and more equitable tax system desired by many of us, we can truly be confident of our future. By ordering priorities within the parameters of existing funding levels, and not by expanding or inventing spending programs, Congress, in enacting the Small Business Innovation Act of 1982, has truly taken a positive step.

Mr. EAST. Mr. President, the passage of the Small Business Innovation Development Act will be of incalculable benefit to the small business community and to the Nation as a whole. This act requires Federal agencies with research and development budgets above $100 million to set aside 1.25 percent of those funds for small firms. Thus, without increasing the Federal budget, we will assist small business in developing new products and new technologies to enrich our national life.

I do not denigrate the importance of pure scientific research or the contributions of the scientific community. Nevertheless, I do not think we should lose sight of all that we owe to inventor-entrepreneurs. Samuel Morse was a painter; the Wright brothers were bicycle repairmen; Alexander Graham Bell was a teacher of the deaf. Yet these visionary amateurs gave us the telegraph, the airplane, and the telephone. In our own day we owe the Xerox machine and the Polaroid camera to the same type of individual.

Small businesses are frequently pioneers in all kinds of new endeavors. They are also more likely to take the major risks without which material progress is impossible.

Mr. President, we are frequently told nowadays that America is losing its competitive edge. I reject this notion. I believe that this new legislation will help us to retain our honored position as the world's leading innovator. I salute the small business community of America, and I hope it will exploit to the full the opportunities presented by the Small Business Innovation Development Act.

Mr. GARN. Mr. President, I am pleased to join with many of my distinguished colleagues this day in honoring the small business community of America. This is an appropriate time for us to acknowledge the importance this sector of America's free enterprise system has in this country and the role it will play in its future. President Reagan today has signed S. 881, the Small Business Innovation Research Act of 1981. The 97th Congress, which has made important strides in reviving the economy, can be proud of its efforts to get this revolutionary piece of legislation into the President's hands.

We all know that small business men and women represent a strong force within the American economic system and serve a basic structural element of our free enterprise system. The enactment into law of S. 881 will reinforce this structure, and will make research and development funds more available to small businesses. A great deal of research has been conducted over the years which has consistently documented where the innovative sector of this country lies, and I am delighted that the Congress has now recognized these studies and acted accordingly. Some of these facts have been stated and restated on this floor many times, but they deserve to be repeated once again. Among other things, firms with fewer than 1,000 employees are responsible for one-half of the major U.S. innovations. Furthermore, the smaller firms are more cost-effective, producing up to 24 times more innovations per research and development dollar expended than larger firms. When one considers that small businesses account for 43 percent of the gross national product, we probably should insure that even more Federal money is made available to the small firms of this country. I do not consider myself anti-big business or pro-small business, but rather pro-business, and Federal research and development funds should be available to all businesses no matter the size of the firm. I am very pleased with the signing into law of S. 881 and the long-term benefits it will help to provide, directly and indirectly.

Since small firms have one of the fastest rates of growth in net new employment, sales, exports, productivity, net revenue, and tax dollars in our economy, this legislation should play a major role in strengthening our economy in future years. Small business needs and deserves this sort of support and assistance. I hope that the recognition of this fact, as signified by the enactment of this legislation, provid-

ing expanded funding for research and development, will mean that the Congress and the administration will give growth attention to the small business sector and continue to search for ways of improving their ability to play their vital role in the American economy. We should make a concerted effort to do something about the burdensome regulations and redtape that hinder small businesses from thriving and functioning effectively. I urge the administration to move rapidly to implement the provisions of S. 881 as soon as possible.

Again, Mr. President, I commend the work of the sponsors and supporters in both the House and the Senate, and I applaud the President, who today is inaugurating a Federal program that is warranted, overdue, and of great benefit in both the short-term and the long-term process of our Nation's small business community. We can be proud of this accomplishment.

Mr. HEINZ. Mr. President, as an original cosponsor of S. 881, the Small Business Innovation Development Act of 1982, I would like to congratulate my colleagues, Senators RUDMAN and WEICKER, the sponsors of this measure, for their success in gaining passage of this legislation.

It is a well known fact in industry that small firms are often the most innovative segment of our economy. Though they are the most efficient users of research and development resources, small businesses have not been given the opportunity they need to participate in Federal R. & D. programs because of their limited resources.

It is now estimated that only 3.5 to 4 percent of the Federal R. & D. dollar is spent with small firms. This low proportion is not only unacceptable and unfair, it is short-sighted as well, considering the excellent past record small businesses have compiled and the potential contributions that they can make—job creation, innovations, tax revenues, and export sales.

Small firms would benefit from the assistance of additional Federal R. & D. contracts, and so would the taxpayer. Small firms are efficient and careful in their use of funds and have no large bureaucracy to support.

The taxpayer will benefit in other ways, especially through job creation. Small businesses of 100 or fewer employees create over 85 percent of all new jobs in the United States. In my home State of Pennsylvania, for example, over 70 percent of all workers are employees of small businesses and 99.6 percent of all firms have 500 employees or less. Clearly, small businesses and the jobs they create are an integral part of Pennsylvania's economy. Nationwide, they are an essential key to our country's economic rejuvenation.

Because of the importance of small business in our economy, I cosponsored the Small Business Innovation Development Act. This legislation would insure that small businesses obtain a portion of Federal research funds by requiring each qualifying agency to devote a part of its R. & D. budget to fund small, innovative businesses. Under this act, certain Federal agencies would establish small business innovation research programs to carry out the provisions of the bill. These programs would be similar to those of the National Science Foundation.

Mr. President, we know this program can work in most agencies. The National Science Foundation program has been especially successful. The Department of Defense has also recognized the importance of introducing small business participation into its research efforts by creating its own small business research program.

The purpose of S. 881 is not to infringe upon the funding available to large firms and educational institutions, but rather to utilize all segments of our Nation's development resources in Federal R. & D. programs, and I emphasize it will not result in additional Federal expenditures.

Mr. President, the time has come for us to invest in the entrepreneurial talent of small businesses by including them in Federal R. & D. programs. By doing so, we use Federal funds more efficiently and help spur innovation, and it is innovation which is critical to sustain our technological edge in highly competitive foreign markets.

Mr. President, I join my colleagues in encouraging the President to sign into law the Small Business Innovation Development Act of 1982. The potential contributions of small business enterprises are too great to ignore. This legislation is good for small business, good for the U.S. economy, and good for the American taxpayer.

Mr. JEPSEN. Mr. President, the small business sector is the backbone of the American economy. Much of the innovation and technology development that has made the American economy prominent in the world as an industrial power emanated directly from the small business sector. The innovative, high technology industries of today that are forging new frontiers in the commercial and scientific world are composed largely of small businesses. Numerous studies have shown that productivity growth in small firms is the primary engine for productivity growth in the Nation's economy. Little wonder, then, that studies on job generation have shown that about 80 percent of new job growth in this country comes from the small business sector.

For too long, public policy has overlooked these startling facts about the importance of the small business sector. An equally important, and related, area of benign neglect in public policy is in the transfer of scientific knowledge from the laboratory to the commercial world. A long gestation period is often required before advances in basic science result in improved industrial technologies and marketable goods and services. Unfortunately, small, innovative businesses have been denied an important role in Federally funded basic and applied research on the assumption that this can best be done by universities, large corporations and Federal laboratories. The result is that potentially new technologies and products that would raise productivity and strengthen the American economy lay dormant for long periods, often decades.

The Small Business Innovation Act of 1981 will rectify this deficiency by giving small, innovative businesses more competitive access to Federal R. & D. funds. The commercial application of new advances in science are often impeded by technical and engineering barriers that must be overcome. The Small Business Innovation Act of 1981, by giving small businesses access to Federal R. & D. funds will be able to remove these barriers and impediments in a more efficient manner. The result will be a speeding up of the process of technological transfer to the betterment of the American economy.

Mr. KASTEN. Mr. President, I rise in support of S. 881, the Small Business Innovation Act of 1982. I am a cosponsor of this important legislation, which will contribute to the creativity and innovation of America's small businesses.

Massive layoffs by large corporations in my home State of Wisconsin have seriously hindered economic productivity and growth. Opportunities created by this bill will pump new life into Wisconsin's economic climate through small businesses. Research studies have shown that small businesses efficiently and effectively utilize research and development (R. & D.) dollars in a manner not capable of larger companies. Continued nurturing of small businesses through R. & D. funding creates many opportunities for improved technology.

This bill will prove beneficial not only to small businesses but, just as importantly, to American taxpayers. Increased R. & D. can result in additional jobs, increased productivity, improvement in personal lifestyles and a healthy economic atmosphere.

There will be only winners, no losers through the implementation of this bill. Quick enactment of the Small Business Innovation Act will be a sound investment in the future welfare of all.

Mr. McCLURE. Mr. President, today, President Reagan signed the

Small Business Innovation Research Act. I am proud to rise today with many of my colleagues and praise this very important piece of legislation. Not only does this legislation give small business a chance to compete on a more equal basis for research and development grants from Government agencies but it does not cost the American taxpayer anything.

This legislation establishes a small business innovation program for every Federal agency that currently spends more than $100 million a year in research and development. These innovation programs will be modeled after the highly successful one run by the National Science Foundation. Each agency will set aside a small percentage, increasing to 1.2 percent over a 5-year period, of their budget for the program. Granted, 1.2 percent appears to be a small, insignificant figure but with our massive Federal budget this could amount to over $1 billion for small firms over the next 5 years. This is much needed incentive in an industry severely strangled by high interest rates.

Over the years small business has been ignored for their massive contributions to our society. Not only has small business provided the majority of growth and innovation over the years but, small business employs over half of the private sector work force and over the past 5 years has generated over 80 percent of the new jobs in this Nation. Now, due to simplified procedures, small firms compete for research grants from the Government. Before this legislation was enacted, small companies could not justify the time and effort it took to fight a losing battle in attempting to acquire a Government contract. Besides the complicated procedures that must be conquered, the rules are stacked against small business.

President Reagan, in his March 1 message to Congress on small business, cited the "success of the American economy is critically dependent upon the preservation of real opportunity for small business." This administration, even more so than previous Republican administrations, is committed to small business. Specifically, the President has a strong desire to "assure unrestricted access for small business to all segments of our economy." The President went further in his statement and says that "by unleashing small business from the burden of unnecessary taxation and regulation, we enable men and women small business owners to increase their contributions to our society's economic and employment growth." I wholeheartedly agree with the President's assessment and feel that, as soon as he signs this legislation, a vehicle will be in place to help us accomplish this goal.

I applaud Senators RUDMAN, WEICKER, and the entire Small Business Committee for their hard work and diligence in producing this important piece of legislation. In the past, Government studies indicate that small firms are nearly three times as innovative as large firms. I compliment their continued efforts to release this pent up energy and creativity in a fashion that will help small business owners, the American people and not cost the taxpayer anything.

Mr. MURKOWSKI. Mr. President, as a cosponsor of the Small Business Innovation Development Act of 1982, I am pleased that this act is being enacted into law. Senator RUDMAN and Senator WEICKER are to be commended for their efforts in obtaining congressional passage of this act.

This country is facing a relative decrease in technological innovation. For example, the U.S. Patent Office issued 61,227 patents in 1980, as opposed to 70,131 patents in 1970. Even more significant, the share of those patents issued to foreign residents increased from 25 to 40 percent. Given the close connection between a nation's productivity and its technological innovation, it should come as no surprise that our productivity growth rate has declined from 3 percent during the 1950's and the first half of the 1960's to negative rates during 1978, 1979, and 1980. If we are to remain competitive with the other industrial nations of the world these dangerous trends must be reversed.

A key part of the solution to the problem of declining technological innovation and productivity lies in unleashing the forces of the small businesses of this country. Small businesses and individual inventors consistently account for more than half of our inventions and innovations. Between 1953–73, small businesses produced 24 times as many technological innovations per research and development dollar as large businesses. Yet, despite these success rates, small businesses receive only 3.5 to 4 percent of the Federal research and development funds. This low percentage of funds received by small businesses becomes even more significant when it is recognized that the Federal Government finances approximately one-half of the research and developement that goes on in the United States.

The low level of small business participation in Federal research and development projects can be attributed to institutional barriers, particularly a preference by Federal agencies to deal with large firms. The Small Business Innovation Development Act of 1982 would change this by requiring Federal agencies to set aside a portion of their outside research and development funds for small business contracts. The result of this set-aside program will be that small businesses will have the financial resources that they need to increase this Nation's technological innovations.

I am particularly pleased that the enactment of this legislation will mean a greater participation by Alaskan small businesses in Federal research and development projects in my State. As Alaska continues to help fill the energy and defense needs of the United States, there will be ever-increasing opportunities for research and development in those areas. The Arctic provides a vast natural laboratory were there are unique opportunities to study climatology and geophysics. Alaskan small businesses can make a significant contribution to research in these areas.

Mr. ROTH. Mr. President, the signing of S. 881, the Small Business Innovation Development Act of 1982, into law is an important step which Congress has taken to show its support and encouragement for the small business community in its research and development activities. As cosponsor of this legislation, I am enthusiastic about the future growth of technological advancements in the United States.

At a time when our position in the world marketplace is declining, the need for technological advancements and innovations is great. Remaining competitive in the world marketplace will require our Government's help and support to private industry in their R. & D. efforts.

In the past, small companies have been discriminated, overlooked and under utilized, by the Federal Government's R. & D. procuring agencies. Although small business receives 60 percent of Federal R. & D. contracts under $10,000, small businesses receive only 24 percent of all Federal R. & D. contracts over $10,000 and 6.8 percent of the total of Federal contract expenditures.

It is unfortunate that the Government has continued to award R. & D. contracts to large business concerns when small firms are generally two and one-half times as innovative per employee as larger firms. Additionally, 99.8 percent of the businesses in the United States are small businesses. In my own State, the State of Delaware, all but 60 of the 12,000 businesses located in Delaware are small businesses.

By directing Federal R. & D. expenditures to small businesses, which will be accomplished through the Small Business Innovation Development Act, we are enhancing the ability of this country to remain a leader in the world marketplace. In addition, new job opportunities will result and venture capital will be made available to small firms who have been most adversely affected by the recession.

Mr. SPECTER. Mr. President, I am happy to note that the Small Business

Innovation Research Act has now been passed by both Houses of Congress.

It was once said that what is good for General Motors is good for the United States. It can be just as accurately said that what is good for small business is perhaps even better for the United States. Small business provides a diversity of opportunities for work for people in commerce, industry, and service occupations. This range of opportunity is critical in a State such as Pennsylvania where we have disadvantaged ghetto youth, displaced workers in the mill towns of western Pennsylvania, and unemployed workers in our small rural communities. Many States share these problems.

In this time of economic problems, it was inventive for Senator RUDMAN to have introduced this bill which, rather than spending additional money, allocates a percentage of Government agency research and development funds for small business innovation research programs. I am especially pleased to have been a cosponsor of this bill.

The enactment of this legislation addresses the need for Government to help strengthen the technological capacity of the private sector. It is a much better course to look to the private sector, especially the small business portion, where increased productivity, greater cost consciousness and good old-fashioned American competition will assure a better deal for the taxpayer and the Government agencies rather than to expanding those agencies. This legislation, by requiring several major Federal departments and agencies to establish small business innovation research programs and to target specified amounts of research and development funds to small business, will accomplish these purposes.

Mr. STAFFORD. Mr. President, I speak as an enthusiastic supporter and cosponsor of S. 881, the Small Business Innovation Development Act of 1982. This measure, by setting aside specified Federal research money for small businesses, recognizes the tremendous potential of small businesses to perform dramatic innovative research for the country.

Many studies have shown clearly that small business holds the keys to expanding employment and offers the most efficient means of carrying out high technology research.

Small businesses are producers almost of infinite variety, consumers of discrimination, testers, developers, trainers of the young, riskers and darers, social examples of thrift and enterprise.

A study done for the U.S. Office of Procurement Policy in 1977 concluded that:

> Small firms have compiled a striking record of innovation in the private sector. Firms with less than 1,000 employees accounted for almost one-half of major U.S. innovations during the period 1953–73 . . .

Other studies show that small firms, defined as those with 20 or fewer employees, created more than two-thirds of new employment in the private sector between 1969 and 1976.

Still, congressional testimony clearly establishes that small business research and development efforts are being short-changed by Federal procurement policies favoring the large defense industries. Through this carefully crafted legislation, Congress is decreeing a shift in policy that will reengage the high technology resources peculiarly inherent in small firms. I endorse one change made by the other body, which would limit the amount of basic research funds that could be diverted from any agency's budget to small business to 1.25 percent. I also regard favorably an additional provision added by the other body which exempts from the law the highly sensitive intelligence communities. By no means is this meant to imply that small business is not capable of handling the technology of modern intelligence gathering and analysis; rather, this provision is designed solely as a means of limiting access that otherwise would be expanded unwisely to these matters.

I am very optimistic for the bill and expect its benefits to the country will be very great. Its true success will depend on the willing adherence to the law of the agencies covered and to the ability of small business itself to fulfill the promise we anticipate for it.

Both may be assured that the Congress will monitor them closely and, for the sake of the country, wishes them well in their endeavors.

Mr. SYMMS. Mr. President, our Nation stands alone in history as the standard of human initiative and freedom. Our form of government is unique in that it was established as a shield to protect God given freedoms and liberties from usurpation by tyranny.

Because we as a nation of free men and women are able to exercise these God given rights, we are a people known for our creativity and productivity. It is when we are not free or are in some way hindered in exercising these rights that creativity and productivity suffer.

To insure that this creativity and innovation are continued I am proud to be a cosponsor of S. 881, the Small Business Innovation Research Act of 1981. No sector of our society has added more to our national well-being than that of small business. When unhampered by Government interference, the creativity and inventiveness of men and women involved in private enterprise have led to major advances and improvements in our way of life. Much of what we enjoy every day has its origins in the creativity of small business.

Federal policymakers often forget the contributions of small firms. Small business has been our Nation's most efficient and fertile source of new technology. Between 1952 and 1973, small firms accounted for almost one-half of major U.S. innovations, and they did this 50-percent cheaper than if it had been done by large firms or the Government.

Also, small innovative businesses create jobs and stimulate economic growth. Between 1969 and 1976, small business provided 87 percent of all new jobs in the United States. We all know that innovation creates new jobs, increases productivity, adds to the competitiveness of U.S. products in overseas markets, and stimulates economic growth. Surely we are to be thankful that we have the creative force of the small businessman and woman.

But, Mr. President, I am very concerned that our Nation is not fully promoting and utilizing this vast creative resource. Over the past decade our Nation has experienced a decline in innovation. As other nations have increased their research efforts, we seem to have entered a period of little creative development. One of the causes of this decline is the failure of Federal policymakers to fully realize the suppressive effect of Federal involvement and legislation on small business' private enterprise creativity.

We in the Federal Government must provide the leadership that will create a climate where private innovation and creativity may once again flourish.

S. 881 goes far in doing this. Not only does it recognize the abilities of the individual and the private sector, it also seeks to stimulate increased private activity in the creation of new innovations. This can be promoted by requiring Federal agencies to allocate certain amounts of research and development funds to small business. The infusion of such funds into small business, the most prolific source of new technology, will spark a creative upsurge affecting all levels of our economic life for the better and increase our competitive stance among other nations.

Mr. President, I am pleased that small business and private enterprise are once again being recognized for the contributions they offer our society.

Mr. RIEGLE. Mr. President, today President Reagan signed into law the Small Business Innovation Research Act of 1981. This legislation fulfills one of the top recommendations of the 1980 White House Conference on Small Business, and recognizes the critical role that small business plays in our national economy. It is well known that in terms of magnitude and

impact, small business is among the most productive sectors of our economy, accounting for virtually all new private sector employment, at least half of all major innovations, and nearly 50 percent of our yearly GNP.

This legislation, which was approved unanimously by the Senate last December, will direct needed Federal attention and resources to our most productive areas. Some of the greatest successes that we have seen in this Nation in terms of large corporate entities such as A.T. & T., GM, Kellogg, and many thousands of others, began as small independent businesses, a few people with large ideas and practical knowhow. I believe that the maximum effort possible to encourage continuation of this historical trend should be made, and that the Small Business Innovation Research Act of 1981 is an important step in that direction.

As we are all painfully aware, our country has fallen behind in some areas of research and development, and we have seen a corresponding drop in productivity. I feel that this legislation will help to inspire new innovation and a resurgence of private sector development that is key to our economic revival. I firmly believe that the future health and vitality of the economy will depend in large measure upon the economic performance of small businesses. I would like to see a continuation of the beginning made by the Congress with the enactment of the Small Business Innovation Research Act of 1981. As an original cosponsor of this legislation in the Senate, I stand ready to continue this effort.

MISS APRIL ABEL OF JOHNSTON, S.C., AMERICA'S YOUNG MISS 1982-83

Mr. THURMOND. Mr. President, the title of America's Young Miss is an exclusive distinction given to the young lady who possesses the highest qualities of beauty, talent, character, and charm. These characteristics accurately describe this year's winner, Miss April Abel, of Johnston, S.C., who was crowned America's Young Miss 1982-83 on June 26.

Miss Abel, the lovely 15-year-old daughter of Mr. and Mrs. C. Ashley Abel, fulfilled her dream at the climax of a 3-day contest sponsored by America's National Pageant Productions. I am especially pleased that the pageant's sponsor chose Sumter, S.C., as this year's location for the event, and I know that Miss Abel was thrilled to receive this coveted award in her home State.

In addition to becoming America's Young Miss, Miss Abel was chosen as Miss Congeniality, and also won the talent award for her tap dance rendition of "It Don't Mean a Thing."

Mr. President, I take particular pride in Miss Abel's achievement because she is a student at the educational institution which bears my name, Strom Thurmond High School, in Edgefield, S.C. At Strom Thurmond High, she earned the title of Miss Freshman 1982, and she is an active member of the concert band and the student council.

Among the many prizes Miss Abel will receive are a $1,000 college scholarship, the America's National official gold necklace and stickpin, and courses in dancing and modeling.

Mr. President, I know that the people of South Carolina join me in congratulating Miss Abel on this outstanding accomplishment, and we are proud to have a young lady of this caliber represent well our State and Nation as America's Young Miss 1982-83.

Mr. President, I ask unanimous consent that an article from the July 1, 1982, edition of the Citizen-News newspaper appear in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the (Edgefield County) Citizen-News, July 1, 1982]

APRIL ABEL CROWNED YOUNG MISS AMERICA

On Saturday night, June 26, S.C. Young Miss April Abel was crowned America's Young Miss 1982-83. First runner-up was West Virginia Young Miss Cecelia Connors; 2nd runner-up was Georgia Young Miss Kendra Tomlinson and 4th runner-up was North Carolina Young Miss Leslie Ching.

April also received the Miss Congeniality Award and the Talent Award. She has had ten years instruction in dancing and performed a tap routine to "It Don't Mean a Thing."

When crowned America's Young Miss April received a $1,000 scholarship to the college of her choice, crown, robe, scepter, trophy, flowers, an 11"x14" portrait, a weekend beach vacation, the American's National official gold necklace and stick pin and a dance and modeling course.

April is the 15 year old daughter of Mr. and Mrs. C. Ashley Abel of Johnston, and the granddaughter of Mr. and Mrs. Ashley Abel of West Palm Beach, Florida, and the late Mr. and Mrs. H. O. Newman of Prosperity, S.C.

She is a rising sophomore at Strom Thurmond High School where she is a member of the concert band, a member of the student council and is Miss Freshman 1982. She is a member of Johnston United Methodist Church.

The American's National Pageant Production sponsored this the first American's Young Miss and America's Teen Miss Pageant June 24, 25, 26, in Sumter, S.C. Judging was based on the following: Evening Gown 25 percent, Swimsuit 25 percent, Judges Interview 25 percent and Talent 25 percent.

Florida's Teen Miss Dawn Michele Lewis was crowned America's Teen Miss. 1st runner-up was Georgia Teen Miss Dottie Jo Brown; 2nd runner-up was Virginia Teen Miss Julie Redmon; 3rd runner-up was North Carolina Teen Miss Sherri Hastins; and 4th runner-up was South Carolina Teen Miss Michelle Cox.

FARM POLICY ENDANGERED?

Mr. HELMS. Mr. President, the programs announced by the Secretary of Agriculture and the actions taken by the Senate Agriculture Committee last week will go a long way to strengthen the farm economy. However, more stringent, costly measures being considered by the House of Representatives should be opposed.

On July 14, Secretary Block announced the 1983 wheat program and an increase in export credit financing. On July 16, the Senate Agriculture Committee adopted an amendment I proposed to encourage agricultural exports and provide cash flow assistance to farmers. According to the Congressional Budget Office, my amendment would expand exports, increase farm prices, and provide net savings to the taxpayer.

Now I understand that the House Agriculture Committee is considering even more stringent measures to deal with the farm economy. Members of the House are proposing legislation that would require a reduction of one-fourth in wheat acreage, pay farmers not to plant that acreage, and increase price supports at the same time.

While I share these Members' concern for the farm economy and I certainly recognize their right to pursue this legislation, I do not believe that their approach is necessary or even in the ultimate best interest of agriculture.

The House proposal would require U.S. farmers to reduce wheat acreage by 25 percent to qualify for program benefits, at the same time that foreign growers are expanding their production of the same crop. A 25-percent acreage reduction in the United States will only allow our competitors around the world to sell more grain at our expense.

Canada has urged its farmers to pursue all-out production. If Canadian farmers carry out their expressed planting intentions for 1982, they will have expanded acreage by 20 percent in 3 years. Argentina is reportedly considering bringing into cultivation a potential 20 to 25 million additional acres. Australia is expected to have record plantings of wheat this year.

In the June World Grain Situation and Outlook circular, the U.S. Department of Agriculture made estimates of the area to be harvested for 1982-83 crops. A comparison with area harvested for the 1981-82 crop demonstrates how other countries are expanding production so as to usurp traditional U.S. customers.

In Canada, the area harvested for wheat is projected to increase by 3 percent. In Argentina, the increase is 9 percent. In Australia, the increase is 5 percent. meanwhile, in the United States the area harvested is projected to decline by nearly 4 percent.

In the face of this expanded competition, the House proposal would place further restraints on American farmers while foreign growers produce more and sell more.

Are the supporters of this proposal tacitly suggesting to competitor nations that they should continue expanding their area planted to crops and eroding U.S. markets?

Is it the intent of the supporters of this proposal to return U.S. farm policies and programs to the days when U.S. farmers produced strictly for a domestic market?

Are they telling the European Community that the United States will cease its challenges to their excessive governmental subsidization of their agricultural production, and that we accept the negative impacts on our agricultural exports? I hope not.

Such action would be tantamount to a unilateral withdrawal by the United States from our share of world markets. These are markets which the American farmer cannot afford to lose.

Now, I recognize that there is a need for an acreage reduction program in the United States. In fact, the Secretary of Agriculture is already implementing one. But a paid diversion of the scale that has been suggested goes too far, and acreage reductions should be coupled with a strong export enhancement program to keep us competitive.

My amendment represents a balanced approach which includes incentives to participate in acreage reduction programs along with export enhancement provisions.

Under my amendment, farmers participating in USDA's voluntary acreage reduction programs would receive an advance portion of anticipated deficiency payments on 1982 and 1983 crops of wheat, feed grains, cotton, and rice.

It would provide eligible farmers 70 percent of estimated 1982 deficiency payments as soon as possible after October 1, 1982. Farmers would be able to receive up to 50 percent of the estimated 1982 deficiency payments at the time they sign up for an acreage reduction of set-aside program. The Secretary of Agriculture would be authorized to provide such advance payments for the 1984 and 1985 crops.

This should improve the cash flow situation for many economically stressed farmers and be an added incentive to restrain overproduction. It would not create new costs to the taxpayer, but in a case where the Government is going to make payments anyway, it will allow farmers to put the capital to more productive use.

Also, my amendment would instruct the Secretary of Agriculture to use at least $175 million but not more than $190 million of CCC funds to meet the unfair competitive practices of other countries so as to enhance American exports. These authorities could only be used in cases where sales of U.S. products are being lost due to the subsidies of another country.

I believe it is high time that we confront the unfair trade practices of the European Community head on. The EC has been subsidizing exports of European wheat, feed grains, sugar, broilers, and other products. In doing so, they displace American exports and depress American farm prices.

Now, President Reagan and Secretary Block have taken a firm stance against these practices of the EC, and I commend them for it. But the fact is that the EC has not stopped their unfair trade practices.

While no one in this country is asking for a trade war, the truth is that our markets have already been invaded. The EC is unfairly displacing our export markets through export subsidies, and it is time we gave them a dose of their own medicine.

Such action should counter the unfair practices of other countries, and encourage demand for U.S. farm products.

I am pleased that the Senate Agriculture Committee adopted my amendment. It incorporates features of bills which have been introduced by Senators COCHRAN and HUDDLESTON, Senator GRASSLEY, and Congressman HAGEDORN, so a great deal of credit should go to them.

According to the Congressional Budget Office, the export promotion part of my amendment would produce significant savings. CBO assumes—rightly so, I am sure—that the administration would employ the most cost-effective means of stimulating exports. This would stimulate $500 million in additional exports in 1983, $450 million additional exports in 1984, and $400 million additional in 1985.

CBO assumes the additional exports to be 30 percent wheat, 30 percent corn, 15 percent soybeans, 10 percent cotton, 8 percent rice, and 7 percent other commodities. These expanded exports are projected to increase prices and result in commodity program savings of $291 million, $239 million, and $183 million in fiscal years 1983 through 1985, respectively.

In other words, my amendment is not only good for farmers and good for trade policy, it is also good for the taxpayers of America.

I might also note that the Secretary of Agriculture's announcements last week represented a positive response to the concerns of several Senate leaders.

On April 29, 1982, Senators BAKER, DOLE, COCHRAN, DOMENICI, and myself wrote to Secretary Block urging certain actions to aid the farm economy. We encouraged him to announce 1983 commodity programs as soon as possible and to implement the farm storage facility loan program.

Secretary Block announced the 1983 wheat program on July 14, more than a month prior to the statutory deadline. The National Association of Wheat Growers called it "likely the earliest wheat program announcement in history."

On the same day, the Secretary announced that USDA will resume approval of new applications for farm storage facility loans. Disbursement of $40 million in loans will begin after October 1, which will help farmers make storage plans for 1982 crops.

I am pleased by this positive response to both of the suggestions offered by this group of Senators.

In summary, a number of actions have already been taken to help farmers and encourage agricultural exports. More drastic measures such as a paid land diversion and increased price supports will move U.S. farmers out of markets, rather than into them. Such action should be opposed.

We must maintain and expand our share of world markets if American farmers are to receive real profits in the marketplace. Such profits are good for the agricultural economy and good for the Nation's economy as well.

ILLINOIS NATIONAL GUARD CONFERENCE

Mr. PERCY. Mr. President, earlier this year, I had the pleasure of attending the annual Illinois National Guard conference, held in Peoria. At the conference, I had the welcome opportunity to express my appreciation and admiration of the leaders of the Illinois National Guard for the vital contribution which they and their fellow guardsmen make to our national defense. Without a National Guard, we would have no hope of maintaining an All-Volunteer Force and would have to shoulder the extra burdens of a much larger standing Army.

At the conference, I advised the Illinois Guard of Senate Concurrent Resolution 52, introduced by Senator GARN and cosponsored by quite a number of Senators. I am especially gratified that the language of this resolution, expressing the sense of the Congress that the members of the National Guard deserve public recognition for their dedicated service and urging their civilian employers to grant them time off for military training exclusive of their earned vacation, has now been incorporated in S. 2248, the fiscal year 1983 defense authorization bill passed by the Senate in May.

Mr. President, to our sincere regret and sorrow, this year's conference took place in the shadow of a tragic crash the preceding week of an Illinois Air Guard KC-135 tanker from the 126th Air Refueling Wing based at

O'Hare Airport. The accident, which killed 27 military personnel, including 4 Illinois guardsmen, was a terrible reminder of the dangers and risks confronted by our citizen-soldiers in performing their duties.

During my visit back home in Illinois that week, I called on the family of M. Sgt. Richard A. Chrome, the boom operator of the tanker, who perished in the crash and who was almost a neighbor in my hometown of Wilmette. As I told the audience at the conference, the painful and tragic reminder of this terrible accident must move us to redouble our efforts to provide the Reserve components with modern equipment. In particular, we must continue to fully support the JT-3D and CFM-56 re-engining programs for our aging KC-135 fleet.

Mr. President, I ask unanimous consent that the resolutions adopted at the conference, along with the remarks offered by two of the principal speakers, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

RESOLUTIONS ADOPTED

1. The National Guard Association of Illinois extends its deepest sympathy to the family, friends, and fellow guardsmen of those killed in the 19 March 1982 crash of the aircraft belonging to the 126th Air Refueling Wing.

2. The National Guard Association of Illinois goes on record in support of the Illinois National Guard Scholarship program to insure increased opportunities for all Illinois citizen soldiers.

3. In conjunction with the National Guard Association of the United States, the National Guard Association of Illinois supports the removal of the recently enacted federal pay cap as to the affect it has on the National Guard personnel.

4. The National Guard Association of Illinois supports the program for relocation and modernization of facilities to enhance the continuing programs of the Illinois National Guard.

5. The National Guard Association of Illinois supports the Army, Reserve Component/Active Component partnership and the Active Air Force Advisory Wing Program to increase continuity under the total force concept.

WELCOME BY LT. COL. ALDO ZORDAN, PRESIDENT, NATIONAL GUARD ASSOCIATION OF ILLINOIS

Ladies and gentlemen, I welcome you to the 13th Annual Banquet of the National Guard Association of Illinois. For many of you this has been a long day beginning with the senior NCO breakfast at 0700 continuing through the business session all day, and now finally the time for relaxation and enjoyment.

Following on those kind words from Chaplain Haddick, I know there is a deep sense of loss, regret and compassion that hangs over all of us tonight for those military members who died so tragically last weekend. Although only 4 of the 27 who perished were guardsmen, we are all on the same team. Many last minute cancellations were the result of funeral arrangements scheduled for this afternoon in different areas. Other guardsmen too, died suddenly during the past year although not so many at once. And yet . . . life continues . . . so let us remember and treasure the fond memories of our fallen comrades and enjoy the companionship of our fellow guardsmen gathered here together this evening. Our associations goals are to foster, promote and advance the well-being of the Illinois Guard . . . lets join and dedicate ourselves to these issues with renewed vigor.

SPEECH DELIVERED BY MAJ. GEN. LOUIS C. BUCKMAN, HQ SAC/DO

Thank you Lt. Col. Zordan, Senator Percy, Maj. Gen. Phipps, and Maj. Gen. Walker.

Ladies and gentlemen, Thank you for your invitation to join you here tonight at your annual conference. It is indeed a pleasure for me to address a group of individuals such as yourselves who—as evidenced by your membership in an association with the National Guard—are voluntarily concerned about the defense of our country. It is your spirit of patriotism and service that has been such an important factor in our proud history. I share with you the sorrow over the tragic loss last weekend of 27 dedicated Air Guard and Air Force Reserve personnel, also the needless loss of four Air Guard crewmembers in Arizona.

Tonight I would like to talk about where we are strategically in our country and in SAC today compared to the U.S.S.R; secondly about the President's program for strategic force modernization, and thirdly, how the National Guard and its ardent supporters fit into the picture. First: where do we stand today in the strategic balance between the United States and the Soviet Union? Actually, the word could be "strategic imbalance" vice strategic "balance." This is because today the reality of the Soviet threat looms larger than ever. It has been stated many times that: when we build, they build; when we stop building, they build. Let me put this into perspective for you.

Since the late 1960's, the Soviets have increased their active duty forces by almost 1 million people. Our forces are at their lowest total since 1950 . . .

The Soviets have a force today of 50,000 tanks; we have 11,000. They outnumber us by almost five to one. they have a total of 8,100 fighter aircraft; we have 4,560—almost a two to one advantage for the Soviets. In fiscal year 1982 the Air Force will purchase 207 aircraft. If we buy a roughly comparable number for the Navy, we come out at something less than 500 for the Nation. The Soviets will build 1,300 combat aircraft this year. Strategically, the Soviets boast the larger intercontinental ballistic missile force, almost 1,400 to our 1,052. Since the 1960's, the Soviets have increased their intercontinental nuclear delivery vehicles sixfold, our numbers remained static. I remind you that our latest ballistic missile and penetrating bombers are of the 1960 vintage.

The driving factor for the need to increase our defense expenditures resides in this growing Soviet threat, and their unrelenting emphasis on building an even stronger military force. By comparison, the Soviet percentage of gross national product devoted to defense shows that their appropriations for military expenditures are 50 percent higher than those of the United States when measured in dollars. The net result is that the Soviets spent 450 billion dollars more on defense over the last 10 years than we did—creating a shift in the nuclear balance of power.

With this somewhat gloomy strategic "imbalance" in mind, I would like to now turn to what we are doing about the situation: i.e., President Reagan's strategic modernization plan. His package is based upon national strength and is premised upon the idea that to survive, we must have the will and capability to meet the Soviet challenge head-on, capitalizing on the enemy's weaknesses while optimizing our own strengths.

Secretary of Defense Weinberger summarized our defense strategy very well when he said,

"We must be prepared to meet Soviet military power; however it might be used. We have to be stonger than we were before because the Soviets are stronger. Otherwise, we will not be able to deter the conflict we all want to avoid. And if deterrence does fail, we must be able to win and to survive."

The President's five point strategic modernization plan is aimed at being able to fully implement this strategy. His program includes:

(1) Improvements in command and control systems for our forces; (2) modernization of the strategic bomber force; (3) deployment of new submarine launched missiles; (4) the improvement of our land based missiles, as well as reducing their vulnerability; and (5) the restoration of our strategic defenses.

I would now like to briefly describe the five mutually reinforcing elements of the program. First, we will significantly upgrade our strategic communications and control systems that will lead to a more reliable capability to command and control our forces before, during, and after an exchange of nuclear weapons. Our goal is to make these communications and control systems as strong as the nuclear systems they support. This requires enhanced warning and attack assessment, mobile command centers that could survive an initial attack, and more survivable communication links.

Second, we will modernize the bomber force by procuring 100 B-1 bombers as soon as possible, and continue a vigorous advanced technology bomber program leading to deployment in the 1990's. Near-term capability will be enhanced through deployment of cruise missiles on our newer B-52's, B-52 electromagnetic pulse hardening, additional electronic countermeasures equipment for our B-52 force, and re-engining our KC-135 tankers. In addition, the procurement of up to 60 KC-10's has been proposed.

Third, we will proceed with a step-by-step ICBM modernization program by continuing MX missile research and development and deploying at least 100 MX missiles. In the near term, a limited number of these missiles have been proposed to be placed in existing ICBM silos. In addition, we will pursue an aggressive research and development effort on long term basing options for MX; deceptive basing, deep underground basing continuous patrol aircraft, and ballistic missile defense, to allow selection of the best candidate no later than 1984. Any of these basing options will increase the survivability of the land based missile force.

Fourth, we will continue to modernize the sea-based force and make it more capable. We will develop the larger and more accurate Trident II D-5 missile and will deploy it starting in 1989. Also we will continue to produce Trident submarines at a steady rate of one per year. In addition, we will commence early deployment of nuclear-armed, sea-launched cruise missiles on general purpose submarines.

Finally, we will increase funding for strategic defensive systems including upgrading of surveillance and warning systems, limited air defense, and the ballistic missile defense mentioned previously.

Presently there is much debate on the cost of the President's proposed defense program. This is as it should be since it involves large dollars in the national budget. However, I would like to make the following points. Defense takes approximately 6 percent of the gross national product while social programs consume approximately 12 percent. The rate of real growth in defense in the last 15 years has been 1.1 percent while medicare rose 22.1 percent, social security 6.7 percent, higher education 9.1 percent and housing assistance 18.8 percent. This year we Americans will spend as much money for soft drinks as we will buying aircraft and missiles for the U.S. Air Force—about $18 billion. The price of freedom is high but we can and must expend the necessary national assets.

How do you guardsmen and Guard supporters fit into the picture? First, you view real and vital augmentation to the Army and Air Force active forces as well as navy support. Your involvement with the Strategic Air Command insures that we can meet our worldwide refueling commitments in peacetime and wartime. Today's environment requires that we be capable of force projection anywhere anytime. This takes tankers to not only get the bombers and fighters there but also to support the required massive troop and cargo movements. Our C-141s and C-5s need the longer "legs" that come from inflight refueling just as much as our B-52's and F-4's.

While the Air Force is getting newer, more fuel efficient aircraft, our refueling requirements are increasing. Because of an ever increasing competition for our tanker resources the 126 ARW at O'Hare International Airport and the 12 Air National Guard tanker units are needed more and more. Also to help meet this demand we are getting more KC-10's into the inventory with the Air Force Reserve providing the usual professional aircrews.

Perhaps an equally important way you can contribute to a strong national defense is you vocal support of the President's defense programs, point out to your neighbors and elected officials the need to meet the Soviet challenge and the consequences of not meeting it. As Sir John Slessor observed, "It is customary in democratic countries to deplore expenditures on armaments as conflicting with the requirements of the social services. There is a tendency to forget that the most important social service a government can do for its people is to keep them alive and free."

Finally, I would be remiss if I did not mention an aspect of our readiness which is interwoven throughout all that we have discussed here tonight—and that is people. Only people—professionally trained, highly motivated, and personally dedicated—can transform rhetoric into capabilities.

We in the Strategic Air Command demand much of our people in terms of absolute dedication and near perfection in those aspects of their jobs involving our mission. I think this type of discipline works—and works well. I am proud of the people in SAC—they are a first-class team of professionals and I am proud that the National Guard is a vital part of that team.

The Soviets may be able to close the gap in weapons production and to narrow the gap in military technology, but they will never come close to the spirit, the dedication, and the initiative of the men and women in the Armed Forces of the United States.

You in the National Guard typify this most important asset of ours: dedicated people with spirit and initiative prepared and willing to voluntarily meet the challenges that lie ahead. It is a distinct privilege to be here with you tonight. Thank you.

CAPTIVE NATIONS WEEK

Mr. PERCY. Mr. President, this week we in the United States join in the 24th observance of captive nations Week. At this time of special remembrance of captive nations, we demonstrate our solidarity with all those who endure continued captivity under communism. More important, we rededicate ourselves to their legitimate aspirations for independence and freedom.

THE FEDERAL GAS TAX

Mr. PERCY. Mr. President, I would like to bring to my colleague's attention an editorial that appeared in the Chicago Sun-Times several months ago which is particularly relevant to today's debate on the Tax Equity and Fiscal Responsibility Act of 1982 (H.R. 4961). The article discusses the many advantages of increasing the current 4 cents-per-gallon tax on gasoline which has not been raised since 1959.

First, a gasoline tax could help reduce our gasoline consumption and, thereby, our oil imports, cutting significantly our annual foreign oil bill of $76 billion and our vulnerability to unforseen disruptions in the Middle East. Second, it could provide immediate revenues to help reduce our soaring Federal deficit. Finally, it could help our Nation's highways and mass transit systems from falling further in disrepair. The merits of such a tax, as outlined by this article, are certainly worth more careful consideration by the Congress.

Mr. President, I ask that the following article from the Chicago Sun-Times, dated February 28, 1982, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Chicago Sun-Times, Feb. 28, 1982]

RAISE THE FEDERAL GAS TAX

The worldwide oil glut is forcing OPEC and other petroleum producers to cut their prices. Gasoline prices are dropping, too. After nine rough years of steadily rising fuel costs, that's good news, right? Not entirely.

Reagan administration officials say oil supplies are up primarily because recessions here and abroad have cut demand—less because of conservation and energy efficiency. When the slump ends, renewed industrial and individual demands will soak up the glut.

We wish that analysis were wrong. By now, Americans should be well into a new era of conservation awareness that would outlast the recession. But apparently we are not. Lower gasoline costs seem to be reviving consumers' interest in big cars at the expense of conservation.

Auto dealers and others say that new-car buyers are stressing dependability over fuel economy. That's a worrisome shift. Two years ago 33 percent of car buyers listed fuel economy as their top concern. Fewer than half of those still rank economy first.

What foolishness. Such lack of concern will only strengthen OPEC's hand again and skyrocket all energy prices to new levels.

Although big cars do get better mileage than they once did, full-size models still gulp more fuel—especially in city driving—than their smaller brethren. But there is a way to limit our myopic love affair with big cars:

Raise the federal gasoline tax.

That levy has been stuck at 4 cents a gallon since 1959. An increase of 4 or 5 cents a gallon, once urged by Transportation Secretary Drew Lewis, would generate billions for highway repair and mass transit, and possibly help reduce soaring federal deficits.

And it would remind motorists of an essential fact: Fuel misers can still help ease our dependence on foreign oil barons.

THE MACHINE TOOL INDUSTRY AND NATIONAL DEFENSE

Mr. JEPSEN. Mr. President, as a member of the Armed Services Committee, I have been concerned for some time about the ability of our defense base to respond in the event of a national emergency. Of particular concern is the American machine tool industry, whose capacity to respond is being sharply eroded by an alarming jump in imported equipment.

The Joint Economic Committee, of which I am vice chairman, has held extensive hearings on the impact of imports on our defense base. Based upon the record of these hearings, I am prepared to introduce, at the appropriate time, measures which will maintain our defense industrial base—and, most particularly, our domestic machine tool industry—in the face of further deterioration caused by imports.

Last year, 36 percent of the machine tools installed by American industry came from overseas; 30 percent of the machine tool dollars spent by American industry went for imports. This compares to a 7-percent market share 10 years ago and a 12-percent market share just 5 years ago.

One out of every seven dollars spent by American industry in 1981 for machine tools went to Japan. The Japanese penetration of the American machine tool market increased annually on a geometric basis from 1976 to 1979. Since that time, it has increased by about 50 percent each year. Japan has concentrated its machine tool exports to the United States on those product lines which are the most critical to our defense needs.

How did all of this occur? To be sure, there are many factors, one of the most important of which is the encouragement of the Japanese machine tool industry's export activities by the Japanese Government. The industry has been directly and indirectly subsidized, and the Government has also countenanced, if not encouraged, the formation of a cartel for the purpose of invading the American machine tool market.

Recently, Houdaille Industries Inc., of Fort Lauderdale, Fla., filed a petition under title 26, United States Code, section 48(a)(8)(D), to make certain classes of Japanese machine tools ineligible for the investment tax credit because of alleged unfair trade practices. Mr. President, I ask unanimous consent that the summary of the Houdaille petition be printed in full in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

ANALYSIS OF HOUDAILLE PETITION

INTRODUCTION

Houdaille Industries Inc., has petitioned the President of the United States to exercise discretion afforded to him under 26 U.S.C. § 48(a)(8)(D) to make Japanese manufactured numerical controlled machining centers and numerical controlled punching machines ineligible for the investment tax credit (ITC). In order for this section to be invoked it need only be shown that Japan maintains nontrade barriers which substantially burden U.S. trade in a manner inconsistent with trade agreements, or that it engages in discriminatory acts or policies restricting trade including tolerance of international cartels.

SUMMARY

The Houdaille petition documents an array of Japanese Government policies and practices which have created, assisted and protected an alleged Japanese machine tool industry cartel. It traces the manner by which MITI organized and concentrated the Japanese machine tool industry by creating market allocations, fostering price fixing, and providing immunization from Japan's antimonopoly laws. It also details the many types of special financial assistance which have been provided to the Japanese machine tool industry.

OUTLINE

JAPANESE MACHINE TOOL CARTEL

A. Definition of cartel.—"a combination of independent commercial enterprises designed to limit competition."

B. Organization of cartel.—Extraordinary Measures Law for Promotion of Machinery Industry (1956) ordered MITI to organize and rationalize the machinery industry by issuing instructions for concerted actions involving production quotas, joint purchasing combines, restrictions on product manufacturing, etc.

Japanese companies were granted immunity from the Antimonopoly Law and their actions have been ignored by the Fair Trade Commission.

Goals of the EML (cartel) are to: Modernize and increase manufacturing capacity; centralize and concentrate manufacture of product lines in order to improve quality and performance and to reduce costs through specialization; standardize parts and purchasing methods; and establish collaborative research institutions.

C. *Supervision and operation of cartel.*—Machinery Industry Council was established within MITI.

MITI issues directives for Japanese companies regarding performance, quality, and cost objectives by machinery category.

MITI issues directives regarding the acquisition of new facilities, retirement of old facilities, utilization of manufacturing technology, etc. even to the extent of specifying the precise machines to be acquired or disposed of.

MITI may bar companies from manufacturing specific products.

MITI arranges concentrated manufacturing agreements among Japanese companies to: Determine appropriate sizes for companies; "rationalize" managements; establish orderly allocation of total industry production by machine type; arrange exchange of equipment and technology among companies; approve manufacture of new products; and set specific industry production goals by product type.

MITI directs development and production of NC machine tools including production targets and sponsors an agreement for the orderly export of NC lathes and NC machining centers to the United States including determination of prices to be charged.

MITI supervises and fosters machinery industry relationships with companies in related industries such as control manufacturers, robot and tool manufacturers, etc.

MITI directs organization of overseas sales and service organizations.

MITI establishes and maintains common data banks for the industry.

MITI fosters industry efforts to collectively fix and determine prices on exports to the United States.

MITI encourages joint production, marketing, research and export efforts.

MITI standardizes customer terms and conditions for the industry to avoid competition over terms.

MITI arranges mergers of companies to foster centralization of production and economies of scale.

MITI determines which companies will perform research and which companies will receive the results of research and prevents duplication of research efforts.

II. FINANCIAL SUPPORT AND INCENTIVES

A. Tax benefits.—Deductions for bad debt reserves are allowed at 20–100 times actual losses experienced specifically for the machine tool industry.

New equipment can be depreciated to the extent of ½ to ⅔ of cost in the year of acquisition.

Companies receive a tax credit equal to 10 percent of the cost of equipment scrapped.

Companies receive a 20 percent R. & D. tax credit on incremental R. & D. even if government funded.

Japanese machine tool companies are allowed deductions to create a number of other reserves which are not good deductions in the United States.

B. Concessionary loans.—Loans at low or no interest are available to the machine tool industry for its own use.

Similar loans are available to machine tool companies to finance customer purchases.

Loans made for R. & D. are forgiven if the R. & D. is unsuccessful.

C. Grants.—Grants are made to the machine tool industry by the Japan Research Development Corp. and the Agency for Industrial Science and Technology.

D. Other financial assistance.—A portion of the proceeds from motorcycle and bicycle races is funneled to the machine tool industry.

Control of sugar imports was given to the machine tool industry from the early 1950's to the mid 1960's generating enormous capital for the industry.

APPENDIX

CHRONOLOGY OF LAWS, DIRECTIVES, AND REGULATIONS

1952 Export and Import Trading Law (EITL).—The purpose of the EITL is to establish orderly export and import trade and allows persons qualified by the EITL to engage in certain types of concerted activities (cartels) in connection with items to be exported.

1956 Extraordinary Measures Law for Promotion of Machinery Industry (1st EML).—The purpose of EML was to establish by law the authority of MITI to guide and plan the future of the machinery industry.

Cabinet Order No. 238.—An enforcement order identifying the specific machinery which the 1st EML is to cover.

MITI Ordinance No. 63.—Basically the first of a series of "regulations" issued as a result of any EML's legislated which cover production volumes, methods, capacity, financing, etc.

1957 MITI Ordinance No. 112.—Supplements Ordinance No. 63.

1960 Agreement Regarding Concentrated Manufacturing (ARCM).—An Agreement among machine tool manufacturers which basically reiterates the directives of MITI with respect to allocation of markets by product, size and management of companies, production methods, etc. This was periodically amended to provide for updating new production levels, technology, market changes, etc.

1968 MITI Ordnance No. 304 and 305.—Supplements No. 63.

1971 Standard Regarding Notifications of New Products (Standard).—This superseded the ACRM of 1960 but intended to preserve the same anti-competitive arrangement in a new, more subtle guise.

Extraordinary Measures Law for Promotion of Specific Electronic Industries and Specific Machinery Industries (2nd EML).—This law brought certain electronic manufacturers under the auspices of MITI heretofore not covered, and reaffirmed the protection and aid which would be afforded the machine tool industry.

Cabinet Order No. 197.—An enforcement order identifying industrial production to be covered by the 2nd EML and the method by which it would be fostered.

MITI Ordinance No. 346.—Supplements No. 63.

1978 Extraordinary Measures Law for Promotion of Specific Machinery and Information Industries (3rd EML).—Twenty-two years after passage of the 1st EML Japan continues to consider the MT industry as a "start-up" fledgling business which requires certain protections as such. This law also brought under its auspices the growing software industry which augments its NC and CNC equipment.

Cabinet Order No. 342.—Enforcement order for 3rd EML.

MITI Ordinance 608, 609, 614, 615.—Supplements Ordinance No. 63.

Mr. JEPSEN. The net effect of all this—regardless of who is to blame—

has serious implications for the national defense of the United States. Machine tools are one of the most essential components of the defense industrial base. Not one plane can be made, not one missile produced without hundreds and thousands of intricate machine tools. Once we lose the domestic capability to build a given specialized machine tool, it could take as long as 18 months to restore that capability. It would take even longer before those newly produced machine tools could be used to produce the weapons we would need in the event of national emergency.

The national defense implications of weakness or deterioration in this sector are self-evident. We are already foreign-source dependent on a majority of materials that are critical to defense production requirements. To overcome this situation, a national stockpile of strategic and critical materials is maintained. There is no such stockpile of machine tools to insure that available production capacity during an emergency, nor is one proposed, since machines would lose their usefulness if maintained in long-term storage.

I am looking at many alternatives to insure that we maintain the necessary base of machine tool producers in this country. If the tax bill now before us were being considered under rules permitting a broader division of tax policy, I might consider offering an amendment denying the 10-percent investment tax credit to foreign machine tools. Using 1981 import figures, this amendment, if enacted, would increase revenues by up to $143 million annually—10 percent of the 1981 machine tool import figures of $1.43 billion. It would also give our domestic machine tool industry important import relief in its times of troubles. Most important, it would help preserve an industry which is critical to our Nation's industrial base. Machine tools are the foundation of our entire industrial economy and—most critically—to the creation of modern armaments. Mr. President, given the very tight germaneness rules under which we are considering this reconciliation tax bill, I will defer consideration of any such amendment until another time. However, I did want to call my colleagues' attention to the serious problems posed to our Nation's security by the recent quantum jump in the import penetration of foreign machine tools.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Chirdon, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

HOUSE BILL REFERRED

The following bill, which was ordered held at the desk until the close of business on July 22, 1982, was referred to the Committee on the Judiciary:

H.R. 5380. An act to recognize the organization known as American Ex-Prisoners of War.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3865. A communication from the Secretary of Defense transmitting, pursuant to law, a report on the Defense Department's cooperation with civilian law enforcement officials; to the Committee on Armed Services.

EC-3866. A communication from the Director of the Federal Emergency Management Agency transmitting, pursuant to law, the stockpile report for April to September 1981; to the Committee on Armed Services.

EC-3867. A communication from the Deputy Assistant Secretary of the Air Force for Logistics transmitting, pursuant to law, a report on a decision made to convert the base information transfer center function at McClellan Air Force Base, Calif., to performance under contract; to the Committee on Armed Services.

EC-3868. A communication from the Director of Facility Requirements and Resources, Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics transmitting, pursuant to law, notice of the intention to proceed with seven construction projects for the Guard and Reserve Forces; to the Committee on Armed Services.

EC-3869. A communication from the Comptroller of the Currency transmitting, pursuant to law, the annual report on the activities of the Depository Institutions Deregulation Committee; to the Committee on Banking, Housing, and Urban Affairs.

EC-3870. A communication from the Chairman of the Board of the United States Railway Association transmitting, pursuant to law, the Association's 1981 report on the performance of Conrail; to the Committee on Commerce, Science, and Transportation.

EC-3871. A communication from the Director of the National Park Service transmitting, pursuant to law, a list of properties entered in the National Register of Historic Places during the week June 27 to July 3, 1982; to the Committee on Energy and Natural Resources.

EC-3872. A communication from the Secretary of Energy transmitting, pursuant to law, the annual report on the State energy conservation program for calendar year 1981; to the Committee on Energy and Natural Resources.

EC-3873. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Better Planning Can Reduce Size of Wastewater Treatment Facilities, Saving Millions in Construction Costs"; to the Committee on Environment and Public Works.

EC-3874. A communication from the Fiscal Assistant Secretary of the Treasury transmitting, pursuant to law, the 11th annual report on the airport and airway trust fund; to the Committee on Finance.

EC-3875. A communication from the Assistant Secretary of State for Congressional Relations transmitting, pursuant to law, a report on the emigration and human rights policies of the Government of Haiti; to the Committee on Foreign Relations.

EC-3876. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, international agreements other than treaties, entered into by the United States within the previous 60 days; to the Committee on Foreign Relations.

EC-3877. A communication from the Director of the Administrative Office of the U.S. Courts transmitting, pursuant to law, reports on the financial condition of the judicial retirement system and the judicial survivors' annuities system for the year ending December 31, 1981; to the Committee on Governmental Affairs.

EC-3878. A communication from the Mayor of the District of Columbia transmitting, pursuant to law, a report of the activities of his office relative to the D.C. urban renewal land disposition program; to the Committee on Governmental Affairs.

EC-3879. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of District of Columbia Act 4-207; to the Committee on Governmental Affairs.

EC-3880. A communication from the Chairman of the District of Columbia Council transmitting, pursuant to law, a copy of District of Columbia Act 4-208; to the Committee on Governmental Affairs.

EC-3881. A communication from the Secretary of Agriculture, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3882. A communication from the Chairman of the Federal Mine Safety and Health Review Commission, transmitting, pursuant to law, the annual report of the Commission on compliance with the Government in the Sunshine Act for calendar year 1981; to the Committee on Governmental Affairs.

EC-3883. A communication from the Assistant Secretary of Housing and Urban Development (Administration), transmitting, pursuant to law, a report on the intent of the Department to amend an existing Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3884. A communication from the Assistant Secretary of the Interior (Indian Affairs), transmitting, pursuant to law, a plan for the use and distribution of certain Indian judgment funds; to the Select Committee on Indian Affairs.

EC-3885. A communication from the Attorney General, transmitting, pursuant to law, the third report to the Congress on implementation of the Parental Kidnapping

Prevention Act of 1980; to the Committee on the Judiciary.

EC-3886. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Adverse Opinion On The Financial Statements Of The Student Loan Insurance Fund For The Fiscal Year Ended September 30, 1980"; to the Committee on Labor and Human Resources.

EC-3887. A communication from the Administrator of the Small Business Administration, transmitting, pursuant to law, volumes I and II of the 1981 annual report on the activities and accomplishments of the Small Business Administration; to the Committee on Small Business.

EC-3888. A communication from the Administrator of Veterans' Affairs, transmitting, pursuant to law, the 1981 Annual report of the Administrator of Veterans' Affairs; to the Committee on Veterans' Affairs.

EC-3889. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a report entitled "Rural Housing Programs: Long-Term Costs and Their Treatment in the Federal Budget"; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3890. A communication from the Administrator of the National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the deep seabed mining environmental research plan for 1981-85; to the Committee on Commerce, Science, and Transportation.

EC-3891. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, the final study on the proposed Florida National Trail; to the Committee on Energy and Natural Resources.

EC-3892. A communication from the Assistant Secretary of the Army (Civil Works), transmitting, pursuant to law, the annual report on the administration of ocean dumping activities for Calendar Year 1980; to the Committee on Environment and Public Works.

EC-3893. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to permit disclosure from tax records of the addresses of individuals who have defaulted on health education loans; to the Committee on Finance.

EC-3894. A communication from the General Services Administration, transmitting, pursuant to law, the Federal motor vehicle fleet report for fiscal year 1981; to the Committee on Governmental Affairs.

EC-3895. A communication from the benefits manager of the Farm Credit Banks of Texas, transmitting, pursuant to law, the report on the Farm Credit Banks of Texas pension plan for the plan year ended December 31, 1981; to the Committee on Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 425. Resolution to authorize the Select Committee on Ethics to provide training assistance to its professional staff (Rept. No. 97-501).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 430. Original resolution relating to members on the part of the Senate of the Joint Committee of Congress on the Library.

By Mr. JEPSEN, from the Committee on Armed Services, with an amendment in the nature of a substitute:

S. 1814. A bill to amend title 10, United States Code, to require the Secretary concerned to comply with the terms of certain court orders in connection with the divorce, dissolution, annulment, or legal separation of a member or former member of a uniformed service and which affect the retired or retainer pay of such a member or former member, and for other purposes (with additional views) (Rept. No. 97-502).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2355. A bill to amend the Communications Act of 1934 to provide that persons with impaired hearing are insured reasonable access to telephone service (Rept. No. 97-503).

By Mr. ROTH, from the Committee on Governmental Affairs, without amendment:

S. Res. 431. Original resolution increasing the limitation on expenditures by the Committee on Governmental Affairs for the training of professional staff; referred to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. STAFFORD, from the Committee on Environment and Public Works:

Nancy A. Maloley, of the District of Columbia, to be a Member of the Council on Environmental Quality.

By Mr. HATCH, from the Committee on Labor and Human Resources:

Eleanor Thomas Elliott, of New York, to be a Member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1985.

(The above nomination from the Committee on Labor and Human Resources was reported with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee on the Senate.)

Mr. HATCH. Mr. President, for the Committee on Labor and Human Resources, I also report favorably a nomination list in the Public Health Service which has previously been printed in the CONGRESSIONAL RECORD of May 24, 1982, and, to save the reprinting of this list on the Executive Calendar, ask unanimous consent that these nominations lie on the Secretary's desk for the information of Senators.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. CANNON (for himself, Mr. RIEGLE and Mr. FORD):

S. 2767. A bill to authorize the operation of the existing U.S. land remote sensing satellite system and to provide a process for transfer of elements of such system to the private sector, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BURDICK:

S. 2768. A bill for the relief of Albert Korgel; to the Committee on the Judiciary.

By Mr. SYMMS:

S. 2769. A bill to amend the National Trails System Act by designating the Pacific Northwest Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. KENNEDY:

S.J. Res. 216. A joint resolution prohibiting the Secretary of the Interior from implementing the 5-year Outer Continental Shelf oil and gas leasing plan until the Secretary has taken certain actions to conform the plan to the purposes and requirements of applicable law; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MATHIAS from the Committee on Rules and Administration:

S. Res. 430. An original resolution relating to members on the part of the Senate of the Joint Committee of Congress on the Library; placed on the calendar.

By Mr. ROTH, from the Committee on Governmental Affairs:

S. Res. 431. An original resolution increasing the limitation on expenditures by the Committee on Governmental Affairs for the training of professional staff; referred to the Committee on Rules and Administration.

By Mr. BAKER (for himself, Mr. ROBERT C. BYRD, Mr. THURMOND, Mr. ZORINSKY, and Mr. EXON):

S. Res. 432. A resolution paying tribute to Mary Alice Richards; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CANNON (for himself, Mr. RIEGLE, and Mr. FORD):

S. 2767. A bill to authorize the operation of the existing U.S. land remote sensing satellite system and to provide a process for transfer of elements of such system to the private sector, and for other purposes; to the Committee on Commerce, Science, and Transportation.

LAND REMOTE SENSING SATELLITE AUTHORIZATION ACT OF 1982

● Mr. CANNON. Mr. President, last Friday, NASA successfully launched an Earth remote sensing satellite known as Landsat D. Landsat D is the fourth satellite launched by the United States for the purpose of sensing the Earth's natural and environmental resources. The first such satellite was launched in 1972, and in the intervening decade, much has been learned about the benefits of this

space technology. I would like to congratulate the fine Government/industry teams that accomplished this challenging undertaking.

NASA has played the critical R. & D. role in developing these satellites. Beyond R. & D., however, the continuing role of the Federal Government in an operational remote sensing system has been the subject of much wheel spinning.

Successive administrations have struggled with the question of what is the appropriate role of Government and the private sector in the remote sensing area. Both the Carter and the Reagan administrations established the goal that the private sector would take over the Landsat system. The key question, is, however, how soon and under what terms would this transition occur?

The present administration has been considering how to transition Landsat to the private sector, but no viable proposal has surfaced. The latest pronouncement by President Reagan in his national space policy address on July 4 contained nothing new.

Last year, I suggested an approach that one could pursue to meet the goal of transferring the Landsat system to the private sector and at the same time protect U.S. public interests. This year, at a hearing before the Committee on Commerce, Science, and Transportation, Dr. John W. Townsend, Jr., testified and presented a very similar approach. Today, I am introducing a bill based on this approach, the Land Remote Sensing Satellite Authorization Act of 1982, with Senators RIEGLE and FORD as cosponsors.

I am introducing this legislation because we currently face a policy stalemate regarding Landsat. Our lack of attention and action is not in the United States best interest. Only our competition, in this case our international trading partners, benefit from our policy impasse. This is a key conclusion of a recently issued report by the Congressional Office of Technology Assessment, on which I serve as a member of the OTA Board.

In a major study entitled, "Civilian Space Policy and Applications," the OTA candidly points out the challenge we face. They state:

International competition in space applications is a reality. The Europeans and the Japanese have targeted specific space technologies for development and they will soon be providing stiff competition for services heretofore offered only by the United States . . . unless the United States is prepared to commit more of its public and private resources to space than it now does, it will lose its preeminence in space applications during the 1980s. Both technological and commercial leadership are at stake. The U.S. leadership position will depend not only, or even primarily, on spending more money, but on effectively allocating our technical, financial, and institutional resources to meet international competition.

Specifically referring to Landsat, the OTA report indicates that:

The future of U.S. civilian satellite land remote sensing is in considerable doubt. The question of what to do with the system is a critical one for the future of the management and development of U.S. natural resources. Whatever is decided, the question should be resolved with dispatch.

The report also states:

One promising means of effecting transfer to the private sector would be to commercialize the space and ground segments at different rates. The ground segment already has a strong private component; the small but important value-added industry, which processes and enhances satellite data to meet particular user needs, is certainly growing, if not yet flourishing. The remainder of the ground segment, the receiving and processing centers, could be operated by the private sector provided continuity of dataflow from the space segment were assured. In the next 5 to 10 years, the market is not likely to sustain commercial operation of the entire satellite land remote sensing system without substantial direct or indirect Government fundings.

The bill I am introducing follows this phased-in approach toward commercialization. It recognizes that a value-added and information processing industry already exists. The basic data handling is currently run by the Government, but much of it in fact is contractor operated. This portion of the Landsat system could be transitioned to the private sector on a competitive basis. Under this legislation, the space segment would continue to be the responsibility of the Federal Government until such time as it can be evolved on a competitive basis. Thus, the Government would provide data continuity essential to building the Landsat market.

I hope this legislation will help focus the discussion and develop a consensus on how to proceed to protect this valuable U.S. resource. By inaction, we only fritter away the lead built up by our scientists and engineers and funded by U.S. taxpayers. I do not find that an acceptable course of action. Mr. President, I hope the Committee on Commerce, Science, and Transportation will hold hearings on this legislation so that we might have a chance to resolve this matter in the remaining days of the 97th Congress.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2767

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land Remote Sensing Satellite Authorization Act of 1982.".

FINDINGS, PURPOSE, AND POLICY

SEC. 2. (a) FINDINGS.—The Congress finds and declares that—

(1) remote sensing from satellites can assist the rational management of the Earth's natural resources and environment by providing data on the geological, biological, hydrological, agricultural and other natural features of the Earth's surface;

(2) the United States is the world leader in developing land remote sensing technology through the experimental Landsat program;

(3) remote sensing data from satellites has been valuable and useful and is expected to be in greater demand in the future if it is available on a continuous, timely and reliable basis;

(4) the Federal Government should, for the near future, continue to be responsible for the space segment of the existing United States land remote sensing satellite systems, so that the market for data from such a system will become more mature; and

(5) the private sector has the technical ability and financial resources to own and operate the data-handling segment of the existing United States land remote sensing satellite system and, therefore, authority to transfer the data-handling segment to the private sector should be provided.

(b) PURPOSES.—It is declared to be the purposes of the Congress in this Act that—

(1) the Secretary of Commerce shall be responsible for the operation of the space segment of the existing United States land remote sensing satellite system, with authority to lease or contract such operation to the private sector;

(2) the Secretary of Commerce shall establish a process for transferring the data-handling segment of the existing United States land remote sensing satellite system to the private sector and shall transfer such segment, if the Secretary determines such transfer to be feasible and cost effective; and

(3) any United States land remote sensing satellite system shall be operated in a manner consistent with international obligations of the United States.

(c) POLICY.—It is declared to be the policy of the Congress in this Act that—

(1) the United States should take steps to ensure, on a non-discriminatory basis, dissemination of data from any United States land remote sensing satellite system;

(2) all nations have the right to acquire data from space systems in outer space and to disseminate that data widely; and

(3) space technology developed by United States Government programs should be transferred to the private sector whenever feasible and cost-effective.

DEFINITIONS

SEC. 3. As used in this Act, unless the context otherwise requires, the term—

(1) "data" means a set of signals received by sensors on a satellite that are useful in describing or viewing the Earth's resources, features or environment;

(2) "data-handling segment" means that portion of the existing United States land remote sensing satellite system that receives, processes, stores and manages data transmitted from a satellite, including the aggregation or processing of such data into usable information, except that such term does not include the space segment, as defined in paragraph (4) of this section;

(3) "Secretary" means the Secretary of Commerce;

(4) "space segment" means that portion of the existing United States land remote sensing satellite system associated with satellite operation and control, and includes the satellite, its sensors, and associated equipment and facilities for tracking, guidance, and command purposes, except that such term

does not include the data-handling segment, as defined in paragraph (2) of this section; and

(5) "United States land remote sensing satellite system" means a system of one or more satellites operating in outer space, the purpose of which is to obtain data on the geological, biological, hydrological, agricultural, and other natural features of the Earth's surface, and includes the space segment and data-handling segment, except that the term does not include any satellite which is intended for (A) national security uses; (B) commercial telecommunications; (C) weather observation and forecasting; or (D) research and development.

AUTHORITY OF THE SECRETARY

SEC. 4. (a) IN GENERAL.—The Secretary shall be responsible, in accordance with the provisions of this Act, for—

(1) the operation and general oversight of the existing United States land remote sensing satellite system;

(2) the operation of the space segment, including the leasing or contracting of such operation to the private sector, if the Secretary determines such operation to be feasible and cost-effective;

(3) the transfer of the data-handling segment to the private sector, as provided in section 5 of this Act; and

(4) the coordination between the space segment and the data-handling segment.

(b) OVERSEEING THE SYSTEM.—(1) The Secretary shall acquire from the National Aeronautics and Space Administration all portions of the existing United States land remote sensing satellite system, except for those portions which are devoted solely to research and development. Data from any research and development portion should be made available as soon as possible for the purposes of this Act.

(2) The Secretary shall prepare a comprehensive overall plan, with periodic amendments as necessary, for the operation of the existing United States land remote sensing satellite system, including—

(A) procuring or acquiring launch services;

(B) operating and maintaining the space segment, including methods for reducing costs;

(C) leasing or contracting the space segment to the private sector;

(D) transferring the data-handling segment to the private sector;

(E) determining the satellite assets needed for continuity of data for ten years after the date of enactment of this Act; and

(F) stimulating private sector efforts to provide satellite assets needed for continuity of data.

(c) COOPERATION WITH OTHER AGENCIES.—The Secretary shall coordinate the operation of the existing United States land remote sensing satellite system with each department or agency of the Federal government interested in such system or its data.

(d) INTERNATIONAL NEGOTIATIONS.—The Secretary, with the guidance of the Secretary of State, may hold discussions with international bodies or foreign governments in order to carry out the policies, purposes, and provisions of this Act.

TRANSFER TO PRIVATE SECTOR

SEC. 5. (a) COMPETITIVE PROCESS.—The Secretary by regulation shall establish as expeditiously as practical a competitive process for transferring the data-handling segment of the existing United States land remote sensing satellite system to the private sector, if the Secretary determines such transfer to be feasible and cost-effective. Such process shall include procedures for—

(1) receiving, reviewing and deciding upon proposals to own and operate the ground system; and

(2) developing conditions to ensure compliance with the provisions of this Act and coordination with the operation of the space segment.

(b) PROCUREMENT PROCEDURES.—The competitive process established under this section shall not be subject to Federal procurement procedures established under title 41, United States Code, and regulations implementing that title.

PROHIBITION OF REPRODUCTION FOR SALE OR DISTRIBUTION OF DATA AND BASIC INFORMATION PRODUCTS

SEC. 6. (a) PROHIBITED ACTS.—It shall be unlawful for any person to reproduce for sale or distribution, or to sell or distribute, any data or basic information product produced by the existing United States land remote sensing satellite system, except in accordance with conditions specified by the Secretary. In setting forth such conditions, the Secretary shall consider the fair use of data by agencies of the Federal Government, and for teaching and research purposes.

(b) PENALTY.—(1) Any person who violates any provision of subsection (a) of this section, or any regulation issued under such subsection, shall be subject to a civil penalty of not to exceed $5,000 for each such violation.

(2) Any such penalty may be compromised by the Secretary. In determining the amount of the penalty, or the amount agreed in the compromise, the appropriateness of such penalty to the size of the business of the person charged and the gravity of the violation shall be considered. The amount of such penalty, when finally determined, or the amount agreed upon in the compromise, may be deducted from any sums owed by the United States to the person charged.

(d) JURISDICTION.—(1) The United States district court shall have jurisdiction, for cause shown, to restrain or enjoin violations of subsection (a) of this section upon petition by the appropriate United States attorney, or the Attorney General on behalf of the United States.

(2) Actions under paragraph (1) of this subsection may be brought in the district where any act or transaction constituting the violation occurred or in the district court where the defendant is found, is an inhabitant or transacts business. Process in such cases may be served in any other district or where the defendant is an inhibitant or wherever the defendant may be found.

(3) In any action brought under this subsection, subpenas for witnesses who are required to attend a United States district court may run into any other district.

REGULATIONS

SEC. 7. The Secretary is authorized to establish such regulations as may be necessary to carry out the provisions of this Act.

APPLICABILITY OF THE NATIONAL AERONAUTICS AND SPACE ACT OF 1958

SEC. 8. (a) Except as otherwise provided in this Act, the Secretary shall, in carrying out his functions under this Act, have the same powers and authority the Administration has under the National Aeronautics and Space Act of 1958 to carry out its functions under that Act.

(b) Nothing in this Act shall be construed to reduce or otherwise affect the authority of the Administration under the National Aeronautics and Space Act of 1958 to continue the research, development, design, testing, and evaluation of remote sensing components, subsystems, and systems for experimental purposes.●

● Mr. RIEGLE. Mr. President, as the ranking minority member of the Subcommittee on Science, Technology, and Space, and as a Senator from a State which has been involved in Landsat from the beginning, I would like to express my support for the Land Remote Sensing Satellite Authorization Act introduced today by Senator HOWARD W. CANNON. I believe that this bill proposes a reasonable and viable approach to transitioning the Landsat system to the private sector in that it retains Federal responsibility for the space segment of the system until the market for data becomes more mature, while authorizing the transfer of the data handling segment to the private sector. In establishing a process whereby Landsat is eventually evolved into the private sector, the bill accomplishes such important goals as insuring the continuity of data for Landsat users and maintaining our position as the world leader in remote sensing technology.

The highly successful operation of the experimental satellites Landsat 1, 2, and 3 has demonstrated the value of remotely sensed data to the management of the Earth's resources and environment. Remote sensing from satellites provides fundamental data on the geological, biological, hydrological, and agricultural features of the Earth's surface. This data has been utilized in such areas as management of agricultural resources, the location of mineral and energy deposits, land use, flood control, and pollution control.

However, it is extremely important to note that we will not be able to reap these benefits in the long term unless the necessary data is available on a continuing basis. This continuity will be provided by Landsat D, which was successfully launched on July 16, and the followup satellite Landsat D.

I would also like to point out that one very important factor in the use and demonstration of the value of remote sensing data has been the excellent work done by the Environmental Research Institute of Michigan (ERIM). This not-for-profit corporation has been involved with Landsat development from the start, in engineering and research as well as finding new uses for Landsat products. The significant contributions which ERIM scientists have made to the development of the Landsat system include essential refinements to the multispectral scanner, high resolution radars, laser scanners, and advanced processing systems. Finally, the Applications Division of ERIM, which has been joined by the Bendix Earth Resources

& Data Center, gives ERIM what is considered to be the largest nongovernment processing facility in the world. We in Michigan are very proud of these accomplishments and look forward to further successes from ERIM.

ERIM has also played a significant role in maintaining the U.S. position of preeminence in the area of remote sensing—a position which will be seriously challenged when France launches its SPOT system in 1984. Unless we take firm steps to resolve the various policy questions about the U.S. role in operational remote sensing systems, we will be ill-equipped to meet this challenge and consequently will stand to lose our leadership position. I believe that this bill marks an important beginning in this process and will eventually lead to the successful resolution of this issue.●

By Mr. SYMMS:

S. 2769. A bill to amend the National Trails System Act by designating the Pacific Northwest Scenic Trail, and for other purposes; to the Committee on Energy and Natural Resources.

DESIGNATION OF PACIFIC NORTHWEST SCENIC TRAIL

Mr. SYMMS. Mr. President, today I am introducing legislation to designate the Pacific Northwest Trail as a part of the National Trail System. The legislation would recognize this 1,200-mile backpacking trail extending from Olympic National Park in Washington to Glacier National Park, Mont.

The present route consists of pieced-together parts of old trails, country roads, stock driveways, and logging roads. The trail is endowed with some of the most spectacular scenery and hiking territory in the country. It links a variety of Northwest country traversing mountain ranges and lakes, desert-like lowlands, rainforest, alpine areas, and beaches. It is the perfect retreat for countless Americans seeking temporary escape from their busy lives.

Since the late 1960's the number of backpackers in this country has been growing at a tremendous rate. Today there are literally millions of Americans who participate in backpacking each year. It is apparent that backpacking is no short-lived fad but a resurgence of the traditional American love for the outdoors, Backpacking is widely recognized as one of the least expensive and most satisfying forms of recreation, Unfortunately, this new found popularity has often led to overcrowding of campsites and trails.

The Pacific Northwest Trail would be a perfect trail to help ease the overburdened National Trails System. The 1,200-mile trail would offer hikers literally hundreds of places where they could start their hiking trips, and its length would accommodate hikes varing from a single day to excursions several days long, or even a month's worth of hiking.

Hikers on this remarkable trail are not only treated to the great Northwest's beauty, but to its history as well. The Indian past survives in the legends of the Kettle Range's white mountains, and in the perfectly preserved 500-year-old village which archeologists are uncovering at Cape Alava. The pioneer period confronts and fascinates backpackers in the form of log cabins in old clearings, and the recollections of oldtimers that live along the trail. Whidbey Island can even boast an authentic blockhouse. All across the Northwest there are interesting traces of early travelers—explorers, such as Ross and Thompson; and forgotten trappers, homesteaders, miners, and foresters. To walk the trail is to learn American history firsthand—it is a very personal experience that will not easily be forgotten.

The designation of the Pacific Northwest Trail will also have a beneficial economic impact upon our region. Income will accrue to local merchants from outfitters, trail crews, and the many visitors that will need campgrounds and motel accommodations. In a region where so many enterprises have risen and fallen over the years, trail-based recreation can offer a modest yet firm boost to local economies.

Public support for the trail has been overwhelming. Last February, the Washington State Legislature passed unanimously a resolution urging President Reagan and the U.S. Congress to include the Pacific Northwest Trail in the National Trail System. I would like to ask unanimous consent to include a copy of the Washington State Resolution at the end of my statement.

Volunteerism is a major theme of this administration, and to go along with this theme the Pacific Northwest Trail is to be developed and maintained by local volunteers. The bill asks for no appropriations of any kind, nor does it provide powers of condemnation or Federal purchase of land.

The bill calls for the official inclusion of the trail in the National Trails System. The people of Idaho, Montana, and Washington want the trail. They have even organized themselves to mark and maintain the trail without financial reward. They are not asking for powers of condemnation to blaze their trail, since, for all practical purposes the trail already exists.

The State of Washington has by unanimous consent shown to us that they are willing to support the trail, and have urged its formal recognition. I urge the adoption of this legislation, which, in keeping with the purposes of the National Trails System Act, will provide for the ever-increasing outdoor recreation needs of an expanding population, and will promote public access to travel within, and enjoyment and appreciation of the open-air outdoor areas of the Nation.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

SENATE RESOLUTION 1981-45

Whereas, The Pacific Northwest Trail is one of several interstate wilderness trails in the United States; and

Whereas, The Pacific Northwest region is abundantly blessed with natural beauty, especially in its mountains and forests; and

Whereas, The enjoyment of the region's natural environment through involvement in outdoor recreational activities is an important part of the lives of many of the residents of the state of Washington; and

Whereas, The establishment and maintenance of trails is essential to provide access to wilderness areas; and

Whereas, The Pacific Northwest Trail offers a unique opportunity to experience the variety of nature in the Pacific Northwest region by linking this state's natural areas with those of neighboring states: Now, therefore, be it

Resolved, By the Senate of the State of Washington, That the administration and Congress are urged to recognize the valuable contribution to outdoor recreational activity made by the Pacific Northwest Trail by including it within the national trail system; and

Be it further resolved, That copies of this resolution be immediately transmitted to the Honorable Ronald Reagan, President of the United States, the Secretary of the Interior, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of Congress from the State of Washington.

HOUSE RESOLUTION No. 82-116

Whereas, The Pacific Northwest Trail is one of several interstate wilderness trails in the United States; and

Whereas, The Pacific Northwest region is abundantly blessed with natural beauty, especially in its mountains and forests; and

Whereas, The enjoyment of the region's natural environment through involvement in outdoor recreational activities is an important part of the lives of many of the residents of the state of Washington; and

Whereas, The establishment and maintenance of trails is essential to provide access to wilderness areas; and

Whereas, The Pacific Northwest Trail offers a unique opportunity to experience the variety of nature in the Pacific Northwest region by linking this state's natural areas with those of neighboring states;

Now therefore, be it resolved, By the House of Representatives of the state of Washington, That the administration and Congress are urged to recognize the valuable contribution to outdoor recreational activity made by the Pacific Northwest Trail by including it within the national trail system; and

Be it further resolved, That copies of this resolution be immediately transmitted to the Honorable Ronald Reagan, President of the United States; the Secretary of the Interior; the President of the United States Senate; the Speaker of the United States House of Representatives, and each member of Congress from the state of Washington.

Adopted February 11, 1982.

By Mr. KENNEDY:

Senate Joint Resolution 216. Joint resolution prohibiting the Secretary of the Interior from implementing the 5-year Outer Continental Shelf oil and gas leasing plan until the Secretary has taken certain actions to conform the plan to the purposes and requirements of applicable law; to the Committee on Energy and Natural Resources.

LEGISLATION PROHIBITING THE IMPLEMENTATION OF THE OUTER CONTINENTAL SHELF LEASING PLAN

● Mr. KENNEDY. Mr. President, today I am introducing legislation to block the 5-year Outer Continental Shelf oil and gas leasing plan approved by Secretary of Interior, James Watt, yesterday. Congressman MARKEY and Congressman STUDDS are introducing today similar legislation in the House of Representatives.

I am compelled to take this action because I believe that the plan Secretary Watt has approved seriously threatens the Nation's fragile coastal areas, our marine environment and the fishing industry and other industries which depend on these resources. Offshore energy development is an important national objective and one that I fully support. But we can develop these resources in an orderly fashion without recklessly jeopardizing the environment.

In my view, the plan approved yesterday effectively violates key provisions of the Outer Continental Shelf Lands Act Amendments of 1978 and the Coastal Zone Management Act of 1972 as amended. Those provisions are designed to insure that energy development is performed with the necessary environmental protections and they require that Federal leasing activities are consistent with State coastal zone programs. The Watt plan runs roughshod over these congressional mandates and chooses instead an irresponsible process that will pit the Federal Government against the States, environmental groups and the fishing industry. Ironically, this contentious process will result in endless litigation and delays, distorting what should be and what could be an orderly process of energy development.

The joint resolution introduced today will require that the Secretary of Interior rewrite the 5-year plan to conform to the laws now on the books. Perhaps then we can develop our offshore resources as Congress intended—safely, with respect and care for our irreplaceable and priceless coastlines and marine environment.●

ADDITIONAL COSPONSORS

S. 1698

At the request of Mr. DENTON, the name of the Senator from Tennessee (Mr. SASSER) was added as a cosponsor of S. 1698, a bill to amend the Immigration and Nationality Act to provide preferential treatment in the admission of certain children of U.S. Armed Forces Personnel.

S. 1825

At the request of Mr. ARMSTRONG, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1825, a bill to prohibit price support for crops produced on certain lands in the western part of the United States which have not been used in the past 10 years for agricultural purposes, and for other purposes.

S. 1958

At the request of Mr. DOLE, the name of the Senator from Missouri (Mr. EAGLETON) was added as a cosponsor of S. 1958, a bill to amend title XVIII of the Social Security Act to provide for coverage of hospice care under the medicare program.

S. 2027

At the request of Mr. ROBERT C. BYRD, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2027, a bill to provide for an accelerated study of the causes and effects of acid precipitation, to provide for an examination of certain acid precursor control technologies, and for other purposes.

S. 2338

At the request of Mr. PERCY, the names of the Senator from Colorado (Mr. HART), and the Senator from Vermont (Mr. STAFFORD) were added as cosponsors of S. 2338, a bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials.

S. 2420

At the request of Mr. HEINZ, the names of the Senator from Alabama (Mr. HEFLIN), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from Kentucky (Mr. HUDDLESTON) were added as cosponsors of S. 2420, a bill to protect victims of crime.

S. 2428

At the request of Mr. MATHIAS, the name of the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of S. 2428, a bill to amend title 18 of the United States Code to strengthen the laws against the counterfeiting of trademarks, and for other purposes.

S. 2455

At the request of Mr. HEINZ, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 2455, a bill to extend the targeted jobs tax credit.

S. 2565

At the request of Mr. NUNN, the name of the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 2565, a bill to amend the Internal Revenue Code of 1954 to provide for the disclosure of returns and return information for use in criminal investigations, and for other purposes.

S. 2623

At the request of Mr. COHEN, the name of the Senator from South Dakota (Mr. PRESSLER) was added as a cosponsor of S. 2623, a bill to amend and extend the Tribally Controlled Community College Assistance Act of 1978, and for other purposes.

S. 2648

At the request of Mr. PELL, the names of the Senator from Massachusetts (Mr. TSONGAS), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of S. 2648, a bill to provide for the continuation of the National Diffusion Network.

S. 2700

At the request of Mr. CANNON, the name of the Senator from Montana (Mr. MELCHER) was added as a cosponsor of S. 2700, a bill to amend title XVI of the Social Security Act to exclude from resources burial plots and niches and certain funds set aside for burial or cremation expenses for purposes of the supplemental security income program.

S. 2730

At the request of Mr. HEINZ, the name of the Senator from Illinois (Mr. PERCY) was added as a cosponsor of S. 2730, a bill to place a moratorium on continuing disability investigation terminations under titles II and XVI of the Social Security Act.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the names of the Senator from Minnesota (Mr. DURENBERGER), the Senator from Arizona (Mr. DECONCINI), the Senator from Iowa (Mr. JEPSEN), and the Senator from Kentucky, (Mr. FORD) were added as cosponsors of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week".

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Missouri (Mr. DANFORTH), and the Senator from Maine (Mr. COHEN) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week".

SENATE JOINT RESOLUTION 208

At the request of Mr. GLENN, the name of the Senator from Illinois (Mr. DIXON) was added as a cosponsor of Senate Joint Resolution 208, a joint resolution with regard to Presidential certifications on conditions in El Salvador.

SENATE JOINT RESOLUTION 211

At the request of Mr. DODD, the names of the Senator from Arkansas (Mr. BUMPERS), the Senator from New Hampshire (Mr. HUMPHREY), and the Senator from Montana (Mr. MELCHER)

were added as cosponsors of Senate Joint Resolution 211, a joint resolution to authorize and request the President to designate July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf."

SENATE CONCURRENT RESOLUTION 109

At the request of Mr. ARMSTRONG, the name of the Senator from Utah (Mr. GARN) was added as a cosponsor of Senate Concurrent Resolution 109, a concurrent resolution expressing the sense of the Congress that legislation should be passed in order to make the Government Printing Office more cost-effective and efficient.

AMENDMENT NO. 1906

At the request of Mr. COCHRAN, the name of the Senator from North Carolina (Mr. HELMS) was added as a cosponsor of amendment No. 1906 intended to be proposed to S. 2607, an original bill to amend and extend certain Federal laws relating to housing, community and neighborhood development, and related programs, and for other purposes.

AMENDMENT NO. 1945

At the request of Mr. CRANSTON, the name of the Senator from West Virginia (Mr. ROBERT C. BYRD) was added as a cosponsor of amendment No. 1945 intended to be proposed to Senate Joint Resolution 58, a joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

AMENDMENT NO. 1972

At the request of Mr. FORD, the names of the Senator from South Carolina (Mr. HOLLINGS), the Senator from North Carolina (Mr. EAST), the Senator from Ohio (Mr. METZENBAUM), the Senator from North Carolina (Mr. HELMS), and the Senator from Virginia (Mr. WARNER) were added as cosponsors of amendment No. 1972 proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

AMENDMENT NO. 1983

At the request of Mr. HOLLINGS, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of amendment No. 1983 intended to be proposed to H.R. 4961, a bill to make miscellaneous changes in the tax laws.

SENATE RESOLUTION 430—ORIGINAL RESOLUTION REPORTED RELATING TO SENATE MEMBERS OF THE JOINT COMMITTEE OF THE CONGRESS ON THE LIBRARY

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

SENATE RESOLUTION 430

Resolved, That Mr. INOUYE of Hawaii be, and is hereby elected, a member of the Joint Committee of Congress on the Library vice Mr. Williams of New Jersey, resigned.

SENATE RESOLUTION 431—ORIGINAL RESOLUTION REPORTED RELATING TO EXPENDITURES OF THE COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on Rules and Administration:

SENATE RESOLUTION 431

Resolved, That section 13(b)(2) of Senate Resolution 333, Ninety-seventh Congress, agreed to March 11, 1982, is amended by striking out "$1,500" and inserting in lieu thereof "$8,500".

SENATE RESOLUTION 432—RESOLUTION PAYING TRIBUTE TO MARY ALICE RICHARDS

Mr. BAKER (for himself, Mr. ROBERT C. BYRD, Mr. THURMOND, Mr. ZORINSKY, and Mr. EXON) submitted the following resolution; which was considered and agreed to:

SENATE RESOLUTION 432

Whereas, Mary Alice Richards has served as an exemplary Secretary for Personnel Administration to the Senate Sergeant at Arms for 15 years and her country for over 30 years;

Whereas, she has throughout the 97th Congress, been responsible for the personnel records of over 1,200 current Sergeant at Arms employees, providing assistance and counsel to the Sergeant at Arms and Department Heads on personnel policies and procedures, maintaining patronage records and assisting in administering the patronage system, and placing thousands of Senate employees on the payroll;

Whereas, she has served the Senate, especially the Sergeant at Arms and the Secretaries of the Majority and Minority, with extraordinary competence, dedication, and loyalty; Now therefore be it

Resolved, that the Senate of the United States extends its appreciation and gratitude to Mary Alice Richards for her faithful service to the Senate and to the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Mary Alice Richards.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT ON A BALANCED BUDGET

AMEDMENT NO. 1985

(Ordered to be printed and to lie on the table.)

Mr. TSONGAS submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

Mr. TSONGAS. Mr. President, I am offering an amendment in the nature of a substitute to Senate Joint Resolution 58 because I think we can move more quickly and effectively to balance the Federal budget. My amendment is not a constitutional amendment. I believe it will bring about lower deficits more rapidly than a constitutional amendment. I also believe it will result in an improved budgetary process. Rather than mandating a simplistic rule of budgetary behavior, it will focus our attention directly on the difficult budgetary choices to be made.

Simply, the amendment has two basic provisions:

First, it calls upon the President to submit a balanced budget 6 short months from now in January for fiscal year 1984.

Second, it distinguishes operating expenditures from capital expenditure so that the impact of deficit spending might be more appropriately evaluated.

RATIONALE FOR REQUESTING BALANCED FISCAL YEAR 1984 PRESIDENTIAL BUDGET

My basic objection to Senate Joint Resolution 58 as it now stands was aptly summed up in a Washington Post editorial:

It is grotesque for Senators and a President who cannot get their deficits under a $100 billion to support, piously, Constitutional language putting it at zero.

It is my colleague and friend, Senator MATHIAS, who said:

I do not think we should use the Constitution as a figleaf to cover our embarrassment over that deficit.

I concur with that sentiment wholeheartedly. Voting for the balance-the-budget amendment answers none of the difficult questions that so perplexed this body a few short weeks ago when it voted for a budget resolution with deficits of over $115 billion. This amendment will constrain none of the budget choices to be made in this Chamber until long past 1984. That is a couple of elections away. From a politician's perspective, an election away is as good as forever. Two elections away is the stuff dreams are made of. We can use the constitutional amendment to advertise our commitment to fiscal restraint without making any of the tough choices. I do not believe the Constitution is the proper place for such advertising.

This amendment is offered by individuals who I know are genuinely committed to the concept of a balanced Federal budget. They see this amendment and the delays in a balanced budget inherent in it as a last resort after all else has failed. They would prefer not to wait until halfway through the 1980's to achieve a goal they have struggled for over the past decade. They have tried everything else they say; a constitutional amendment is all that is left.

I do not agree. Why do we have to wait for 2 fiscal years after all the States ratify this provision to achieve a balanced budget? I am not willing to wait—the cost to the economy is too great. Our economy needs strong medicine and needs it fast. The unemploy-

ment rate stands at 9.5 percent. Over 10 million people are out of work, looking hopelessly for employment in an economy that lies listlessly dead in the water. Interest rates remain stubbornly high, and as they do the number of corporate and personal bankruptcies mount. Every 5 minutes of every business day, another business goes bankrupt. My amendment calls upon the President to submit a balanced budget in January for fiscal year 1984. That is 6 months away; we need wait no longer. I favor a 6-month wait over an indefinite number of years. With this amendment we can create a budget process that bears fruit quickly. We can have figs rather than mere figleafs.

This amendment has a second advantage that neither the constitutional amendment or the statutory substitutes offered so far enjoy—it is enforceable.

No one could litigate over a breach of a constitutional balanced budget amendment; no Congress could take a prior one to court for failing to abide by a statutory requirement. But each year, the President must offer a budget, and should he or she fail to do so, any Member of Congress can call upon the power of the courts to compel him or her to do so.

Some may say, that this provision does not guarantee a balanced budget because Congress may change the President's budget. If we do so, we face the greatest political arbiter of them all—public opinion. Each of us will face the polls and try to explain our failure to give the President what he or she asked for, and what the law calls for—a balanced budget. As has been pointed out, we are all in violation of the law now—we are required to balance the budget by the statute my colleague, Senator BYRD, introduced. What is currently lacking is a method to enforce that law and make it function. I believe my amendment will do just that.

RATIONALE FOR DISTINGUISHING CAPITAL EXPENDITURES FROM OPERATING OUTLAYS

In the President's own words, this amendment calls upon the Federal Government "to do what each of us does with our own family budget—spend no more than we can afford." He appeals to the basic logic that you simply cannot afford to continue to spend more than you bring in.

I believe the President's elixir sounds appealing, but can offer bad medicine for a family, business, or government. What if families had no access to borrowing? They could not borrow to buy a car, or a home, or to send their children to school. They would have to forgo all of the benefits such investments could make to their future standard of living. Prohibiting such borrowings makes no economic sense. As long as a family enjoys a sufficient and reliable source of future income with which to cover the expense of borrowings, it is irrational to prohibit it.

It has been argued that the balanced budget amendment will cause the Federal Government to do no more than State governments already do. Thirty-nine States are cited as having constitutional provisions limiting their ability to incur budget deficits. An additional eight States have similar statutory constraints. A listing of all State limitations is included as table V of the committee report. Fortunately, for virtually all of these States, provisions remain to allow the State to borrow to cover its expenditures for capital assets such as roads, schools, and utilities.

A description of the mechanisms used by States to finance capital assets without violating their constitutional and statutory covenants is included in attachment 1.

Attachments 2 and 3 show that the average State debt burden as a percentage of general expenditures is over 9 percent.

Wisely, States have learned the painful lessons of the pay-as-you-go budgetary philosophy. Rather than hamstring their own economic development, they have developed alternative financing mechanisms that guarantee a balanced operating budget and prudent capital investment.

Again some have argued that a balanced budget amendment would force the Government to operate more like a business. Robert Heilbronner in a recent editorial in the New York Times displayed the flaw in that analysis: Intelligent corporations borrow to finance investments—should governments do otherwise?

Much of the debate over the balanced budget amendment has swirled around issues like the validity of Keynesian analysis and the role of deficit spending in providing economic stability.

Government deficits are increasingly viewed as a debatable policy tool that results in restrictions on private markets. We should not forget that government has another responsibility aside from providing economic stability; government provides the public infrastructure that makes private enterprise feasible. Borrowing is an important part of creating and maintaining our public infrastructure. Richard Musgrave, the foremost expert in public finance describes this logic in straightforward fashion:

> . . . taxes should equal outlays, i.e. that the budget should be balanced. Such at least should be the case regarding the financing of current public services. Capital expenditures, on the other hand, are appropriately loan-financed, with the debt thus incurred amortized over the life of the asset.

In accord with this logic, my amendment excludes the expenditures for capital expenditures from the directive to the President to balance expenditures with revenues.

The exclusion of capital expenditures will lead for the first time to the development of a capital budget of the U.S. Government. This much discussed goal will cause the Federal Government to engage in a budgetary process similar to that conducted by most businesses and other nonprofit and governmental entities.

It will highlight those items for which the Government has committed itself to future interest payments. These items require additional scrutiny to insure that they can generate the return necessary to meet those future commitments.

It has been argued that the development of a capital budget is merely a step designed to remove pressure for lower deficits. This argument is fostered by the type of analysis contained in special analysis D of the budget, "Investment, Operating, and Other Budget Outlays." With this material, one might argue that the White House estimated $91 billion deficit for fiscal year 1983 would have been used to purchase $155.3 billion in investment-type expenditures.

This line of analysis would suggest that we could afford to borrow even more this fiscal year.

There are two shortcomings to this line of analysis. The first is that not all of the items included currently in special analysis D can prudently be classified as capital expenditures. Research and development, and training programs are widely viewed as investments, but their return is so uncertain that they are rarely covered by borrowings in any enterprise.

My amendment uses a much narrower definition of capital expenditures including only fixed asset or additions to fixed assets. Further, it calls upon the Comptroller General to issue guidelines for the proper classification of capital expenditures.

Second, I believe that rather than alleviating the pressure to lower deficits, a capital budget will only add additional weight to the case for lower deficits. A Peat, Marwick, Mitchell study done for the Congressional Budget Office suggests that creating an exemption for capital expenditures of the sort that would be bondable in most States would have reduced Federal expenditures by less than $25 billion in fiscal year 1978. This amendment will keep the pressure on for lower deficits.

Further, the President would be called on to justify the capital expenditure program to be financed with debt. At a time when the cost of capital to the Federal Government exceeds 13 percent, few investments could prudently be considered likely to meet such a high hurdle rate of return.

The development of such a capital budget will lead to a byproduct equal in importance to the incentives it gives to improved budget control. It will lead to increased attention to the status of the Government's assets. It will bring attention to the often hidden state of our public assets. This infrastructure is in critical need. In a most alarming report, Dr. Pat Choate estimates that our Nation's system of highways, bridges, streets, sewers, and systems are decayed. Avoiding their collapse may require the investment of a mind-boggling $3 trillion—the size of the entire United States GNP.

CONCLUSION

For those who believe my amendment still leaves too much budget leeway, I say tighten it. But I urge my colleagues to adopt a standard we can live by beginning today. The public is demanding more than figleaves to cover embarrassment over high deficits and magic elixirs that promise cure-alls for our economic woes. In good faith, we must respond as quickly and as wisely as we can.

Mr. President, I ask unanimous consent that certain tables and materials prepared by the Congressional Research Service be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD as follows:

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., October 10, 1978.

From: Economics Division
Subject: State Instrumentalities Issuing "Non-Guaranteed Debt"

Legislative authority to contract long-term debt without requiring an amendment to the State constitution is granted in seventeen states. In eleven of these—Connecticut, Delaware, Illinois, Louisiana, Maryland, Massachusetts, Minnesota, Montana, New Hampshire, Tennessee, and Vermont—there is no restriction on the amount to be borrowed but extraordinary legislative majorities are required for passage; while in six—Georgia, Hawaii, Mississippi, Pennsylvania, South Carolina, and Wisconsin—limitations exist on the amount to be borrowed.[1] This memorandum brings together selected references which describe the legal devices used by the States to issue indebtedness which the courts have held does not contravene the constitutional prohibition on the use of the State's "full faith and credit" pledge for repayment.

All of the 50 States have issued some form of non-guaranteed debt as of June 30, 1980, either through State dependent agencies or separately organized activities (e.g., highway toll facilities and auxiliary enterprises at State institutions) or by State created special district-governmental entities. A tabulation in 1976 listed 677 such agencies in all the 50 States excepting Wyoming (See table 1). For the most part, the non-guaranteed debt has been issued for such traditional State functions as transportation facilities, educational facilities, and hospitals. The compilation in Table 2 illustrates the type of State activity for other than these traditional functions.

TABLE 1—SEPARATELY CONSTITUTED FUNCTIONS OF STATE GOVERNMENTS

	Dependent agencies	Dependent activities	Special district governments
Alabama	30	4	2
Alaska	9	4	0
Arizona	2	5	1
Arkansas	7	2	0
California	8	0	4
Colorado	0	1	4
Connecticut	11	3	1
Delaware	6	0	1
Florida	13	1	2
Georgia	15	6	6
Hawaii	5	0	0
Idaho	3	1	0
Illinois	13	3	17
Indiana	7	1	1
Iowa	0	4	3
Kansas	3	1	2
Kentucky	18	2	2
Louisiana	51	8	12
Maine	12	1	2
Maryland	6	4	3
Massachusetts	21	0	2
Michigan	12	1	0
Minnesota	3	2	2
Mississippi	8	3	2
Missouri	4	0	7
Montana	3	0	0
Nebraska	2	0	0
Nevada	1	1	0
New Hampshire	5	1	1
New Jersey	15	3	6
New Mexico	4	0	2
New York	28	9	6
North Carolina	7	3	0
North Dakota	3	0	1
Ohio	13	6	2
Oklahoma	11	3	0
Oregon	2	2	0
Pennsylvania	12	3	5
Rhode Island	10	3	0
South Carolina	8	4	0
South Dakota	5	2	0
Tennessee	5	1	3
Texas	3	1	18
Utah	2	1	1
Vermont	7	3	1
Virginia	9	1	11
Washington	5	0	0
West Virginia	8	1	2
Wisconsin	7	0	0
Wyoming	0	0	0
Total, 50 States	446	105	[1] 126

[1] Multi-state agencies have been counted only once in the total, but appear in each State that is a party to the compact.

Source.—Compiled by the Congressional Research Service from unpublished sources of the U.S. Bureau of the Census.

TABLE 2.—STATE NONGUARANTEED DEBT ISSUED FOR PURPOSES OTHER THAN HIGHWAYS, EDUCATION, HOSPITALS, AND WATER TRANSPORT AS OF DECEMBER 1975

Alabama—State building authority lease purchase arrangements ($12.2 million); Industrial Development Authority ($13.2 million); and Pollution Control Finance Authority ($4.9 million).

Alaska—State housing agencies ($86.5 million); international airports ($31.2 million); and the State Development Corporation ($18.0 million).

Arizona—Coliseum and Exposition Center Board ($5.9 million).

Arkansas—State building authority lease purchase arrangements ($8.5 million); park system revenue bonds ($6.5 million); and Department of Pollution Control and Ecology ($1.4 million).

California—Department of Water Resources ($380.0 million); State Exposition and Fair ($13.0 million); and Mount San Jancinto Water Park Authority ($8.2 million).

Colorada—Department of Social Services—state nursing home ($1.4 million).

Connecticut—Housing Finance Authority ($150.8 million); and Department of Commerce—development authority ($15.0 million).

Delaware—Community Affairs and Economic Development ($19.7 million).

Florida—Lease purchase agreements ($21.5 million); Recreational Council ($18.3 million); and Key Acqueduct Authority ($11.3 million).

Georgia—State building authorities lease purchase agreements ($24.5 million); and State parks ($26.5 million).

Hawaii—Airports Division, Department of Transportation ($227.5 million).

Idaho—(None except by universities).

Illinois.—Building Authority ($429.3 million) for university, hospitals, and other State facilities; Housing Development Authority ($182.0 million); Health Facilities Authority ($9.7 million); and Armory Board ($.7 million).

Indiana.—State law Enforcement Academy Building Commission ($3.2 million); Indiana State Fair Board and other lease purchase arrangements ($5.8 million).

Iowa.—(None except by universities).

Kansas.—Armory Board ($.4 million); and State Board of Health ($1.3 million).

Kentucky.—State Property and Buildings Commission ($99.1 million); and Pollution Abatement Authority ($23.8 million).

Louisiana.—State building authorities lease purchase arrangements ($53.4 million); and the Louisiana Stadium and Exposition District ($128.7 million).

Maine.—State Housing Authority ($48.7 million); Municipal Bond Bank ($10.4 million); and Evergreen Valley Development Corporation ($4.5 million). (The totals reported by Moody's is $33.7 million higher than the amount shown by the Census Bureau).

Maryland.—(None except as specified in the table).

Massachusetts.—Housing Finance Agency ($104.5 million); Health and Educational Facilities Authority ($189.3 million); and Wood Hole, Martha's Vineyard and Nantucket Steamship Authority ($14.4 million).

Michigan.—Hospital Finance Authority ($22.5 million); Housing Development Authority ($308.4); and State Natural Resources Commission ($11.7 million).

Minnesota.—Housing Finance Agency (30.0 million).

Mississippi.—(Data not available on portion of bonds issued for port facilities which are not backed by the full faith and credit of the State).

Missouri.—Board of Public Buildings ($18.7 million); and Park Board ($1.4 million).

Montana.—(Data not available on obligations other than those issued by the colleges and university).

Nebraska.—(None except as specified in table).

Nevada.—(None except specified in table).

New Hampshire.—Higher Education and Health Facility Authority ($16.6 million); and Water Resources Board ($2.6 million).

New Jersey.—Health Care Facilities Financing Authority ($33.9 million); Housing Finance Agency ($155.3 million); Mortgage Finance Agency ($384.1 million); and New Jersey Sports and Exposition Authority ($302.0 million). (The last two agencies appear not to be included in the Census Bureau tabulation).

New Mexico.—(Data not available on obligations other than those issued by the educational institutions.).

[1] CRS memorandum of December 1, 1977, "Constitutional limitations on State spending and size of State debt in the 50 States," by Lillian Rymarowicz, p. 4.

New York.—New York State Power Authority ($1,215.3 million); Urban Development Corporation ($761.5 million); State Mortgage Agency ($156.3 million); Atomic and space Development Authority ($9.8 million); Job Development Authority ($68.8 million); Battery Park City Authority ($247.4 million); New York City Housing Development Corporation ($51.2 million); and New York City Educational Construction Fund ($63.6 million).

North Carolina.—(None except as specified in table).

North Dakota.—(None except as specified in table).

Ohio.—Water Development Authority ($151.5 million); Department of Natural Resources ($8.9 million); and Public Facilities Commission ($408.9 million).

Oklahoma.—Capitol Improvement Authority—lease purchase—($31.0 million); Industries Authority ($89.4 million); and Railroad Maintenance Authority ($6.0 million).

Oregon.—(Has no non-guaranteed debt).

Pennsylvania.—General State Authority ($767.5 million); State Public School Building ($667.2 million); and Higher Educational Facilities Corporation ($141.3 million). (As of June 30, 1974, no debt has been contracted by three newly created State agencies-Industrial Development Authority, Housing Finance Agency and Nursing Home Loan Agency).

Rhode Island.—Health and Educational Building Corporation ($33.8 million); Industrial Building Authority ($33.6 million); and Housing and Mortgage Finance Agency ($67.1 million).

South Carolina.—Public Service Authority ($383.9 million).

South Dakota.—Building Authority ($6.9 million); Health and Educational Facilities Authority ($3.1 million); and Housing Development Authority ($27.0 million).

Tennessee.—Housing Development Agency ($32.9 million).

Texas.—The Census Bureau does not classify the following agencies as State agencies: Canadian River Municipal Water Authority ($84.8 million); Lower Colorado River Authority ($103.1 million); Trinity River Authority ($78.8 million); and Coastal Industrial Water Development ($170.0 million). The Armory Board indebtedness ($2.5 million) is included.

Utah.—(None except by universities).

Vermont.—Educational and Health Buildings Financing Agency ($20.3 million); Housing Finance Agency ($13.8 million); and Vermont Municipal Bond Bank ($115.5 million).

Virginia.—Public School Authority ($106.8 million); and Housing Development Corporation ($52.5 million).

Washington.—Columbia Storage Power Exchange ($265.9 million); and Public Power System ($319.3 million).

West Virginia.—State Building Commission-lease purchase ($33.6 million); State Parks Commission ($2.2 million); Armory Board ($5.8 million); and Housing Development Fund ($29.2 million).

Wisconsin.—State Agencies Building Corporation ($130.0 million educational, $170.0 million all other purposes); State Public Building ($13.1 million); and Housing Finance Agency ($37.6 million).

Wyoming.—Capitol Building Commission ($4.2 million).

Source.—Moody's Municipal and Government Manual, 1975 (2 volumes).

We hope this information is of use to you. Please feel free to call if any questions arise.

LILLIAN RYMAROWICZ,
Analyst in Public Finance.

STATE EXPENDITURES FOR DEBT SERVICE (I.E. DEBT REDEMPTION AND INTEREST) IN MILLIONS OF DOLLARS AND AS A PERCENT OF GENERAL REVENUES FROM THE STATE'S OWN SOURCES, FISCAL YEAR 1977

	General revenues	Total debt service	Debt redemption	Interest	Total debt service as a percent of State general revenues
Total	$121,190.6	$12,011.1	$6,874.8	$5,136.3	9.91
Alabama	1,752.6	105.5	55.1	50.4	6.02
Alaska	946.2	106.9	57.7	49.2	11.30
Arizona	1,364.1	6.7	2.3	4.4	.49
Arkansas	929.5	13.0	6.1	6.9	1.40
California	14,343.2	603.4	316.6	286.8	4.21
Colorado	1,388.8	16.9	9.2	7.7	1.22
Connecticut	1,782.8	441.7	280.8	160.9	24.78
Delaware	500.2	98.0	64.6	33.4	19.59
Florida	3,697.6	156.9	57.4	99.5	4.24
Georgia	2,192.8	133.6	69.2	64.4	6.09
Hawaii	877.7	132.9	56.8	76.1	15.14
Idaho	433.1	3.8	1.3	2.5	.88
Illinois	6,034.3	377.6	178.8	198.8	6.26
Indiana	2,666.9	55.2	27.1	28.1	2.07
Iowa	1,558.7	10.6	4.8	5.8	.68
Kansas	1,168.4	35.6	22.8	12.8	3.05
Kentucky	1,877.2	215.9	120.5	95.4	11.50
Louisiana	2,235.6	143.4	69.6	73.8	6.41
Maine	580.8	61.2	33.4	27.8	10.54
Maryland	2,662.4	290.9	148.1	142.8	10.92
Massachusetts	3,477.3	666.7	364.9	301.8	19.17
Michigan	5,763.5	255.3	150.2	105.1	4.43
Minnesota	2,916.0	162.1	107.3	54.8	5.56
Mississippi	1,168.7	74.0	33.7	40.3	6.33
Missouri	1,840.2	83.3	62.7	20.6	4.53
Montana	399.0	8.6	5.1	3.5	2.16
Nebraska	748.5	7.6	4.8	2.8	1.02
Nevada	378.6	5.2	2.7	2.5	1.37
New Hampshire	292.7	53.1	36.7	16.4	18.14
New Jersey	3,865.0	542.0	306.2	235.8	14.02
New Mexico	877.6	18.5	12.0	6.5	2.11
New York	12,927.7	4,787.4	3,183.7	[1] 1,603.7	37.03
North Carolina	2,794.8	112.8	51.8	61.0	4.04
North Dakota	451.7	6.3	2.8	3.5	1.39
Ohio	4,359.4	310.6	137.2	173.4	7.12
Oklahoma	1,503.8	71.2	25.6	45.6	4.73
Oregon	1,340.3	156.1	49.4	106.7	11.65
Pennsylvania	6,276.4	584.6	193.0	391.6	9.31
Rhode Island	588.0	69.7	45.0	24.7	11.85
South Carolina	1,501.5	110.8	61.8	49.0	7.38
South Dakota	302.2	12.5	2.0	10.5	4.14
Tennessee	1,792.2	102.2	48.4	53.8	5.70
Texas	6,007.6	198.7	85.4	113.3	3.31
Utah	688.2	13.9	6.8	7.1	2.02
Vermont	302.3	49.2	26.8	22.4	16.28
Virginia	2,611.8	88.9	43.8	45.1	3.40
Washington	2,492.7	123.2	57.3	65.9	4.94
West Virginia	1,048.4	144.7	81.2	63.5	13.80
Wisconsin	3,178.5	176.2	102.2	74.0	5.54
Wyoming	303.2	6.0	2.1	3.9	1.98

[1] Includes $285,800,000,000 of interest payment for municipal assistance corporation debt and $267,300,000,000 interest payments on State housing finance agency debt.

Source: State Government Finances in 1977.

DEBT SERVICE PAYMENTS AS A PERCENT OF GENERAL REVENUES FROM STATE SOURCES, FISCAL YEAR 1977 (IN DESCENDING ORDER)

Percent	Number of States	States [1]
15 to 37	7	New York (37), Connecticut (24.8), Delaware (19.6), Massachusetts (19.2), New Hampshire (18.1), Vermont (16.3), and Hawaii (15.1).
10 to 14.9	8	New Jersey (14), West Virginia (13.8), Rhode Island (11.9), Oregon (11.7), Kentucky (11.5), Alaska (11.3), Maryland (10.9), and Maine (10.5).
5 to 9.9 [2]	11	Pennsylvania (9.3), South Carolina (7.4), Ohio (7.2), Louisiana (6.4), Mississippi (6.3), Illinois (6.3), Georgia (6.1), Alabama (6), Tennessee (5.7), Minnesota (5.6), and Wisconsin (5.5).
2.5 to 4.9	11	Washington (4.9), Oklahoma (4.7), Missouri (4.5), Michigan (4.4), Florida (4.2), California (4.2), South Dakota (4.1), North Carolina (4), Virginia (3.4), Texas (3.3), and Kansas (3.1).
0.5 to 2.4	13	Montana (2.2), New Mexico (2.1), Indiana (2.1), Utah (2), Wyoming (2), Arkansas (1.4), North Dakota (1.4), Nevada (1.4), Colorado (1.2), Nebraska (1), Idaho (0.9), Iowa (0.7), and Arizona (0.5).
9.91	50	National average. [2]

[1] Rankings are based on 4 digit decimals.
[2] National average.

Source: Computations by CRS from data in State Government Finances in 1977 issued by the U.S. Bureau of the Census.

DEFICITS AND DEFICITS

(By Robert L. Heilbroner)

Alarmed at the size of the mounting deficit, President Reagan has come out for a constitutional amendment to enforce a balanced Federal budget. After the amendment is ratified, the Government will be allowed to spend only what it takes in as taxes. No more borrowing, with its horrendous consequences. Financial virtue will have been restored.

I have a suggestion to make. Why not strengthen the fight against profligacy by widening the amendment to include deficits of all kinds? Specifically, why not make it unconstitutional for businesses to spend more money than they take in as their normal revenues?

There is, of course, a very good reason, small matters of constitutionality aside. It is that a prohibition on business "deficits" would bring an end to much economic expansion. When A.T.&.T. wants to build a satellite, it doesn't normally pay for it from the revenues generated by your telephone calls. It goes out and borrows the money for its new capital investment, or issues new stock. So does Exxon and I.B.M. and the rest of the Fortune 500.

Of course, corporate borrowing and spending isn't called a "deficit." It's called business investment. Nor are the corporate bonds or new stocks looked on as evidence of profligacy. They simply indicate that the process of capital formation has been going on, giving us productive assets that we can kick with our feet, and securities that we can put into safe-deposit boxes. As a result, when we discover that A.T.&T.'s long-term debt has gone up from $32 billion in 1975 to over $50 billion today, we don't talk about profligacy, we talk about growth.

But why isn't this also true of Government? If it is productive for A.T. & T. to borrow money to loft a satellite, why isn't it all right for the Government to do the same thing? If it is growth-producing for Ford or General Motors to borrow money or issue shares to modernize their plant and equipment, why isn't it growth-producing for the Government to modernize the road system so that we can drive the new models without breaking their axles? If it is praiseworthy for I.B.M. to go to the public for money to finance a new research facility, why isn't it equally praiseworthy for the Bureau of Standards or the National Institute of Mental Health to do the same thing? If it is good to build airplanes and apartment houses and steel plants on borrowed money, why is it bad to borrow money to build public transportation or public housing or public waste-reclamation plants?

But, it will be said, the capital expansion of private firms generates additional sales for them, out of which they will be able to pay the interest on their additional debt. True. And isn't it also true that the capital investment of the public sector generates additional gross national product out of which more tax revenues will arise to finance the added interest on the public debt?

Thus, the balanced-budget amendment may save us from profligacy, but it may also force us into poverty, exactly as if the amendment applied to the private sector. For the Government sector, like the private sector, builds for the future, as well as using up wealth in the present. When we spend our public income for arms or postal services, we are consuming our wealth, as we do when we spend our private incomes for sporting rifles or telegrams. To give the budget-balancers their due, perhaps we should limit our public consumption expenditures to the normal flow of tax incomes that the public sector enjoys. But when we spend money for harbors or dams, or for aid to P.S. 162, we are increasing our future capacity to produce, just as surely as when we spend it on machine tools or an Ivy League education. There is absolutely nothing to be said for limiting investment spending, which is growth-producing, to our normal incomes, whether these incomes are derived from sales or taxes.

Looking at the functions of Government as investment or consumption does not tell us whether or not the Government is making wise political or social decisions. It does not even give us a guide as to whether the Government is making intelligent economic decisions. It is possible to make very bad investment choices and very wasteful consumption expenditures. Washington has plenty of examples of both to show for its money. So do Pittsburgh, Detroit, and Middletown, U.S.A.

Nevertheless, breaking down the Government budget into investment and consumption does not help remove what I consider to be the single most serious impediment to the effective use of our economic potential. This is the tendency to think of all Government spending as essentially consumption, and usually wasteful consumption at that. Before we fasten ourselves into a balanced-budget straitjacket, we should remember that American economic growth depends just as crucially on borrowing and spending for investment in the public sector as it does in the private.

AMENDMENT NO. 1986

(Ordered to be printed and to lie on the table.)

Mr. DOMENICI (for himself, Mr. CHILES, Mr. PERCY, Mr. BENTSEN, and Mr. JOHNSTON) submitted an amendment intended to be proposed by them to the joint resolution, Senate Joint Resolution 58, supra.

IMMIGRATION REFORM AND CONTROL ACT OF 1982

AMENDMENT NO. 1987

(Ordered to be printed and to lie on the table.)

Mr. HELMS (for himself and Mr. EAST), submitted an amendment intended to be proposed by them to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

Mr. HELMS. Mr. President, today I am submitting an amendment which would remove from S. 2222 the provisions for amnesty of illegal aliens. While I commend the distinguished Chairman of the Immigration and Refugee Policy Subcommittee for his perseverance in bringing a comprehensive immigration reform bill to the floor of this body, I must respectfully disagree with the decision to grant amnesty to millions of foreigners who entered our country illegally and who are living here illegally.

My amendment therefore would delete the amnesty provisions of S. 2222. Basically, it would delete title III in its entirety, the title that supplies the authority for legalization. References in other sections relating to amnesty would also be deleted from the bill and the titles would be renumbered appropriately.

MILLIONS OF ILLEGALS CURRENTLY HERE

Attorney General William French Smith testified on July 21, 1981 that, "We have lost control of our borders." Under this bill, illegal aliens who arrived prior to January 31, 1982—a mere 6 months ago—would be allowed to remain in our country. How many illegal aliens are currently here? While the exact number is impossible to calculate, estimates range from some 3½ million to over 10 million. Some estimates even range as high as 15 million. The administration is currently using a figure of 6 million which, it would appear, is a conservative estimate. Whatever the exact figure is, it is clear that effective measures are necessary to regain control of our borders.

EFFECTS OF AMNESTY

Mr. President, this bill would create a so-called legalization program which would give a legal right to millions of illegal aliens to remain permanently in these United States. It may well be that this amnesty proposal would create a precedent for further declarations of amnesty for those who might potentially be drawn here by the first amnesty program, drawn by the hope that the law would be set aside. The amnesty program in S. 2222 would give a legal right to millions of illegal aliens to seek any job that an American worker has or might be able to find. S. 2222 would give a legal right to millions of illegal aliens to full welfare benefits either immediately or after a

2-year wait in a temporary resident status.

Other potential effects on our society of S. 2222 as currently drafted could include a polarization between Hispanic-Americans and non-Hispanic-Americans. Additionally, polarization could well occur within the Hispanic/American community between those who have legally settled here and those involved in an amnesty program. Amnesty also creates a moral problem in that it rewards law-breakers. In a society such as ours, respect for the law is fundamental to the well being of our local communities and to our Nation as a whole. Therefore, there should be no amnesty provisions in S. 2222.

AMNESTY COULD INCREASE ILLEGAL FLOW

Amnesty for the millions of illegal aliens currently in these United States would establish a dangerous precedent which could well encourage additional illegal immigration. Additional millions of desperate people could head to the United States on the heels of economic chaos or political chaos in their homelands. For example, between the Rio Grande and the Panama Canal there are over 100 million people. If only 10 percent of these people flee economic chaos or political chaos engendered by Communist expansion in this area the illegal population could very well be doubled in this country.

An Associated Press report from Mexico City on July 14, 1982, states that American officials predict that, "One of Mexico's worst recessions since World War II probably will increase the flow of Mexicans going illegally to the United States in search of jobs and a better life." Inflation in Mexico is running at some 60 percent per year and Mexico's foreign debt could reach some $80 billion in the near term. The Mexican peso was devalued by 40 percent in February of this year further adding to Mexico's economic problems.

By the end of 1982, it is expected that some 1 million Mexicans will be unemployed. Unemployment and underemployment now total about 45 percent of the labor force in Mexico and Mexico needs to create over 850,000 new jobs every year just to keep up with its population growth which is one of the highest in the world. Mexico is a resource rich country with oil reserves which are well known as well as mineral and potential agricultural wealth. Yet, Mexico for decades has adopted a type of socialist experimentation—including so-called land reforms—which has brought the country to its current straits. We would hope that Mexican Government and all governments in the region would encourage policies which will lead to real economic growth. We should not adopt our immigration laws just to bail out other nations from the effects of decades of poor economic policies.

AMNESTY AND U.S. UNEMPLOYMENT

Mr. President, there are today almost 10 million Americans out of work. Congress should be making every effort to remove illegal aliens from our work forces and should avoid voting for legislation which will grant them legal rights and benefits through an amnesty program. It should be understood that illegals are at work in a broad spectrum of fields. Attorney General William French Smith testified last July that:

> Only 15 percent of the illegals are estimated to work in agriculture; 50 percent are employed in service industries; and 30 percent are in blue collar jobs.

The Federation for American Immigration Reform has pointed out that, "Half of all new jobs created in the late 1970's went to legal and illegal immigrants." FAIR also has pointed out that "There is not a single labor market that immigrants enter in which the majority of workers are not Americans." Marvin Stone, editor of U.S. News & World Report, has pointed out in this regard that, "If newcomers show skill and initiative as workers and entrepreneurs, they often cut in on the livelihood of local people and arouse hostility; if not, they lean heavily on the public purse."

As the Attorney General has said, only 15 percent of the illegals are in agricultural jobs. It is a myth that illegal aliens seek and obtain only low-paying jobs; indeed, a number of studies and reports have found that illegal aliens obtain well-paying jobs. For example, the Phoenix Gazette of December 9, 1981 in reference to a nuclear reactor plant in Arizona stated that, "Immigration officials said they believe the relatively high wage scale, which begins at about $10.50 per hour, has attracted a large population of illegal workers." Human Events ran a story on December 12, 1981 which described a case in Elgin, Ill., in which Immigration and Naturalization Service officers "arrested 69 aliens who earned between $4.50 and $13 an hour." Within hours, the Human Events story reported, "hundreds of local residents had applied for these jobs, all of which were filled within 3 days."

Prof. Donald L. Huddle of the Department of Economics at Rice University has written a report on "Undocumented Workers in Houston Non-Residential and Highway Construction: Local and National Implications of a Field Survey." Professor Huddle has estimated, for example, that one-third, and possibly more, of the workers in the construction industry in the Houston area are illegals. He notes that "residential construction is more heavily infiltrated by illegals than is commercial construction." This is because unions "still act as a partial barrier" in the commercial construction field. The wages earned by illegals ranged from $4 to $9.50 per hour. A study by Frank Bean and Allan King at the University of Texas for Governor Clement's task force on immigration was quoted in The Houston Post of April 7, 1982 and estimated that 1 in every 5 Texas Hispanics is illegal.

From his research, Professor Huddle extrapolates that, "For the United States as a whole, the number of illegals working in construction may reach an estimated 1 million or more." He then goes on to state that "The wages collected by the illegals in construction nationally probably exceed $7 billion per year and could well be over $9.5 billion."

Former Secretary of Labor, Ray Marshall, has stated that removing illegal aliens from the work force could cut our unemployment rate in half. According to Professor Huddle's research:

> The amnesty provisions of the Simpson Mazzoli bill are too generous * * * giving amnesty to illegals * * * will be costly in terms of implementation, will cost unemployed American citizens hundreds of thousands if not millions of jobs, and lead to many more millions of relatives of illegals not now in the United States becoming legalized in the future."

It is important to consider a report by the Congressional Budget Office which shows that each unemployed American received $7,000 annually in unemployment benefits and other public assistance. Thus, 10 million unemployed Americans cost the taxpayers a minimum of $70 billion annually. This does not include the loss of revenues to the Federal Government from tax payments generated by working Americans.

Where there is a genuine need for seasonal foreign workers, for example, in the agricultural field, the answer is a temporary quest worker program. Amnesty is not the answer. In fact, by giving permanent resident status and access to our generous welfare programs to millions of illegals currently in low-paying agricultural jobs to move away from this type of work and into the welfare system.

AMNESTY WILL INCREASE WELFARE COSTS

Mr. President, amnesty would increase welfare costs dramatically. Many millions of illegal aliens would qualify for various welfare programs—AFDC, SSI, medicaid, food stamps, State, and local assistance, and public housing. A number of factors currently are holding the use of welfare programs by illegal aliens down. These include the fear of discovery by authorities and the percentage of illegal aliens who are working males with their families across the border. Amnesty would change the situation significantly.

The National Association of Counties, in their newsletter County News of June 7, 1982 stated that:

Such a legalization program would constitute a costly new Federal mandate which would require State and localities to provide increased services and assistance to illegal aliens granted residency status. As legal residents, they would become eligible for cash and medical assistance not available to illegal aliens. NACo estimates that the total cost to State and local governments for providing such assistance would exceed one-half billion dollars in the first year of legalization alone.

The association is opposing legislation giving amnesty illegal aliens if the Federal Government is not willing to pick up the added billions of dollars of local and State welfare and service costs.

The administration has just released figures which assume an illegal population of 6 million aliens. As noted earlier, this is a conservative estimate. Yet, the administration's cost figures based upon this conservative estimate show that the increased costs in welfare payments under this bill would be some $10 billion in the first 4 years alone. The following table indicates the comparison of the Senate version of Simpson-Mazzoli, the House version of Simpson-Mazzoli, the administration bill, and the proposed Grassley amendment.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

COMPARISON OF VARIOUS IMMIGRATION LEGISLATIVE PROPOSALS' WELFARE COSTS OVER PRESIDENT'S BUDGET

[In millions of dollars]

	Fiscal year 1983			Fiscal year 1984			Fiscal year 1985			Fiscal year 1986			Total 4 year		
	Federal	State	Total	Federal	State	Total	Federal	State	Total	Federal	State	Total	Federal	State	Total
Simpson/Mazzoli (Senate) [1]	642	425	1,067	1,283	880	2,163	1,877	1,146	3,023	2,473	1,442	3,915	6,275	3,893	10,168
Simpson/Mazzoli (House) [2]	448	282	730	895	565	1,460	1,093	688	1,781	1,390	810	2,200	3,825	2,345	6,178
Administration bill [3]	77	45	122	182	108	293	216	126	342	309	180	489	787	459	1,246
Proposed amendment [4]	154	90	244	309	180	489	309	180	489	309	180	489	1,081	630	1,711

[1] Permanent resident (PR) status for illegal aliens here before Jan. 1, 1978. Temporary resident (TR) status for aliens here before Jan. 1, 1982, with PR status after 2 years. PR's eligible for AFDC, medicaid, SSI, food stamps. TR's eligible for SSI and medicaid. Estimated 4,800,000 persons eligible (1,200,000 PR's and 3,600,000 TR's).

[2] PR status for illegal aliens here before Jan. 1, 1978. TR status for aliens here before Jan. 1, 1980, with PR status after 2 years. Same welfare eligibility as Senate version. Estimated 2,700,000 persons eligible (1,200,000 PR's and 1,500,000 TR's).

[3] TR status for illegal aliens here before Jan. 1, 1980, and PR status after 10 years from date of entry. PR's eligible for AFDC, medicaid, SSI, and food stamps. TR's not eligible for welfare benefits. Estimated 2,700,000 persons eligible (600,000 PR's and 2,100,000 TR's).

[4] PR status for illegal aliens here before Jan. 1, 1976. TR status for aliens here before Jan. 1, 1981, with PR status after 4 years. PR's eligible for AFDC, medicaid, SSI, and food stamps. Estimate does not include welfare benefits for TR's. Estimated 3,600,000 persons eligible (600,000 PR's and 3,000,000 TR's).

Mr. President, the welfare costs for the administration bill are misleading if viewing the administration figures alone because the figures presented by the administration are only fiscal year 1983–86 figures. Outyears, from fiscal year 1987 and beyond will show a great ballooning effect as more legalized aliens become eligible for welfare programs. Essentially, the administration bill postpones the additional billions of dollars of welfare costs to a future date, although the administration does not admit that the first 4 years would cost some $1.2 billion.

Mr. President, for a fraction of the increased welfare costs that amnesty would entail, the enforcement capabilities of the Immigration and Naturalization Service could be substantially strengthened. Not only could enforcement be made more effective, but also, jobs could be opened up for hundreds of thousands, if not millions, of Americans as enforcement activities take effect over a period of time.

AMNESTY CAN POLARIZE OUR SOCIETY

Mr. President, I fear that the granting of amnesty to millions of illegal aliens could polarize our society. With 10 million Americans out of work, with our economy suffering from unbalanced budgets, and with increasing crime and lack of respect for our laws, amnesty could engender a tremendous backlash.

This backlash could affect relations between Hispanic and non-Hispanic Americans generally as well as between illegal Hispanic and Hispanic-Americans who have either legally settled here themselves or whose parents or ancestors came to land to settle. It is not just illegal Hispanic aliens that we are talking about, of course, there are illegal aliens here from all parts of the world. We must not allow, through an amnesty program, the polarization of our society.

Referring to illegal Mexican aliens, it is important for this body to consider the opinion of Hispanic Americans who are legal citizens. The Dallas Times Herald, for example, on June 3, 1982, carried an article entitled, "Illegal Alien Issue Splits Hispanic Citizens." The article pointed out that:

In Dallas, most of the complaints to the U.S. Immigration and Naturalization Service about illegal aliens come from Mexican-Americans.

The article goes on to state that the regional INS Director, William Chambers, reported that 85 percent of the complaints about illegal aliens are made by Mexican American citizens. He added that:

A lot of people are surprised by this, and it used to be that Mexican-Americans did not get into reporting illegal aliens. But they (Mexican-Americans) are being much more adversely affected than previously. The illegal aliens go into their neighborhoods to live and they are in direct competition with them for jobs.

In an article published by the Washington Post on July 19, 1982, additional information is presented which demonstrates that polarization is already in progress. For example, the distinguished State Senator Hector Uribe who represents the lower Rio Grande Valley in Texas was quoted as warning that:

Those most traumatized (by the Supreme Court's education decision) are Mexican-Americans at the lower rung of the ladder. They see themselves paying for the education of illegal aliens' children. And they see their jobs being taken away by these illegal aliens.

The Post article pointed out a study by the Institute for Constructive Capitalism at the University of Texas which found that among various demographic groups, Mexican American citizens were those most likely to believe that illegal immigration was the most important problem facing Texas. Another study, a poll taken by the Southwest Polymetrics Co. of Austin, Tex., found that 58 percent of those surveyed in the Lower Rio Grande Valley—State Senator Uribe's district—opposed free education to illegal alien children. Among the Mexican American respondents to the poll, the percentage of negative respondents was even higher.

Raul Besterio, superintendent of schools in Brownsville, Tex., expressed his sentiments in the Post article and the sentiments of many Mexican-American citizens stating that:

Think how I feel. I'm a Mexican-American. People say why are you against your own people, Well, I'm an American. I was born and raised here. The Federal Government made me a Mexican-American.

Mr. President, the polarization process has begun in our country between illegal aliens and our fellow citizens. This body must face up to this fact and act in a responsible manner to prevent any escalation in this process and to heal the wounds that already exist.

Mr. President, it is wrong to reward lawbreakers. It is wrong to set in motion a program which will encourage further lawbreaking and which will polarize our society. Citizenship in

our great Republic is too precious to grant in a vast blanket program to millions of foreign nationals who have flagrantly violated our laws. We expect our fellow citizens to obey the law. We proudly say that this is a nation of laws. Yet, amnesty for millions of illegal aliens—for millions of conscious lawbreakers—would show our own citizens and indeed the world, that our great country cannot muster the will necessary to enforce our own very generous immigration laws.

What will the working man and woman in this country think of this massive surrender? What will the children of the working man and woman of this country think of this surrender? Will it teach them respect for the law? Or, will it engender disrespect for the law and for our institutions? My office has been deluged by phone calls and letters opposing amnesty for illegal aliens. The public outcry against amnesty for millions of illegal aliens may well exceed anything that we in this Congress have experienced in recent years.

Our duty, as representatives of the citizens of these United States of America, is to protect the interests of the American people. We are not here to legislate bailouts for foreign governments whose internal policies have led to severe problems in their own countries. These governments must accept the responsibility to improve the conditions in their own countries in order to achieve progress.

Mr. President, I hope that all of my colleagues will carefully consider the far-reaching consequences of amnesty for illegal aliens before they vote on S. 2222. What may appear to be the easy way out of a difficult and grave problem will cost the American taxpayer billions of dollars, and could encourage even more illegal immigration as well as a loss of respect for our own legal system and institutions. My amendment would correct this error.

CONSTITUTIONAL AMENDMENT IN A BALANCED BUDGET

AMENDMENT NOS. 1988 THROUGH 1996

(Ordered to be printed and to lie on the table.)

Mr. CRANSTON submitted nine amendments intended to be proposed by him to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. WALLOP. Mr. President, I would like to announce for the information of the Senate and the public the scheduling of public hearings before the subcommittee on public lands and reserved water.

On Friday, July 30, beginning at 9:30 A.M. The subcommittee will receive testimony on the following bills:

S. 2752, to amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations and further borrowings for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes;

S. 2754, to amend the act of August 7, 1961, providing for the establishment of Cape Cod National Seashore, Mass., as amended;

S. 2755, to amend the act of October 21, 1970, establishing the Sleeping Bear Dunes National Lakeshore, Mich., as amended;

S. 2756, to amend the act of October 26, 1972 (86 Stat. 1181), as amended, to increase the authorization of appropriations for Perry's Victory and International Peace Memorial National Monument, and for other purposes;

S. 2757, to amend the act of March 10, 1966, providing for the establishment of the Cape Lookout National Seashore, N.C., as amended;

S. 2715, to establish the National Park Visitor Facilities Fund, and for other purposes;

S. 1349, to amend the act of October 9, 1965 (79 Stat. 969), to make available for appropriation to the National Park Service franchise fees collected pursuant to this act; and

H.R. 6290, to increase authorizations of appropriations for land acquisition for Voyageurs National Park, Cape Cod National Seashore, Cape Lookout National Seashore, and Sleeping Bear Dunes National Seashore.

On Wednesday, August 4, beginning at 2 p.m., the subcommittee will receive testimony on S. 894, to exempt rural electrical cooperatives from fees under the Federal Land Policy and Management Act of 1976; and H.R. 861, to amend the National Trails System Act by designating additional national scenic historic scientific trails, and for other purposes.

Both hearings will be held in room 3110 of the Dirksen Senate Office Building. Those wishing to testify or who wish to submit written statements for the hearing record should write to the Subcommittee on Public Lands and Reserved Water, room 3104, Dirksen Senate Office Building, Washington, D.C. 20510.

For further information regarding these hearings you may wish to contact Mr. Tony Bevinetto of the subcommittee staff at 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Commerce Committee be authorized to meet during the session of the Senate at 9 a.m. on Thursday, July 22, to hold a full committee markup on S. 2172, the Cable Telecommunications Act of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMERS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Consumer Subcommittee of the Commerce Committee be authorized to meet during the session of the Senate to hold an oversight hearing at 10 a.m. on Thursday, July 22, to review the authority of the Federal Trade Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

KEEPING TABS ON THE MILITARY-INDUSTRIAL REVOLVING DOOR

● Mr. PRYOR. Mr. President, the revolving door connecting Defense Department officials and the contractor community has raised serious questions recently. I have brought the issue to the floor of the Senate, in fact, and I bring it up again today. My concern is whether defense plans, programs, and spending are being conducted in the best interest of the American taxpayer.

The widespread use of former DOD personnel as consultants and contractors has been documented many times. Much of this was done at hearings last year conducted jointly by the Senate Subcommittee on Civil Service, Post Office, and General Services along with the House Subcommittee on Human Resources. At that time, the General Accounting Office presented a report prepared at my request detailing this and other abuses in the use of consultants by the Defense Department.

I was, therefore, distressed to learn that DOD is seeking to remove the requirement that consultants and contractors fill out brief reports on their employment. Such reports bring at least a small ray of sunshine to this dark and questionable area, and they should not be discontinued.

In an article in the June 1982 issue of Common Cause, Florence Graves carefully details the Defense Department's efforts to dismantle this disclosure rule. Her article, entitled "The Runaround," should be given serious attention, and I commend it to my colleagues.

I ask that the above-mentioned article be printed in the RECORD.

The article follows:

[From Common Cause, June 1982]

THE RUNAROUND

(By Florence Graves)

It's a costly and burdensome requirement. Those are two reasons why the Department of Defense (DOD) thinks now is the time to get rid of a regulation that requires certain civilian and military employees, who job-hop through the revolving door between the Pentagon and defense contractors, to report their moves on a simple form which could

reveal whether they are involved in conflict-of-interest situations.

In Washington, the revolving door through which federal and private industry employees shuttle is well-known. Congress has tried for years to police the traffic to assure that employees are doing their jobs in the public rather than in their own interest.

The path connecting defense contractors, DOD officials and military officers is particularly well-traveled, and for years critics have worried about the effect of cronyism and mutual understanding on the spiraling defense budget. Are some using their present or former positions to feather their own or their companies' nests?

For example, what role did the revolving door play in Lockheed's enormous $2 billion C-5 A transport plane cost overrun that made headlines in 1968? Sen. William Proxmire (D-Wis.) thinks former Lockheed employees "with an obvious, direct, financial and personal interest" played a significant role.

Are there other government officials like Malcolm Currie, who, as the third-ranking DOD official, approved in the mid-70s the development of the Roland missile, which netted his former company, Hughes Aircraft, a $104 million contract—even though Pentagon officials reportedly said the Army did not want the missile? Currie then left DOD in 1977 to rejoin Hughes. His move was legal, but raised eyebrows nevertheless. (Currie denies any wrongdoing, and says the missile was chosen by the Army.)

With the defense budget expected to soar to $263 billion by 1983—and with nearly half that ($119 billion) going to defense contractors, the question is even more important today than it was 12 years ago when Proxmire proposed this revolving door disclosure regulation after he learned that 2,124 former high ranking military officers were employed by the 100 largest defense contractors.

Proxmire became concerned that the trend "represents a distinct threat to the public interest" because military officers could use their influence and connections to affect decisions on contracts with their companies and active duty officers could be less than aggressive in their negotiations with contractors, knowing they might well be hired by the contractor upon retirement.

On the theory that "sunlight is the best disinfectant," Proxmire proposed requiring certain civilians and military officers who leave the Pentagon to work for a defense contractor doing $10 million or more worth of business with the DOD to complete a one-page form describing their current and former positions. contractor employees taking jobs with the Pentagon would also be required to report for three years after they changed jobs.

While conflict-of-interest statutes were already in place (and they were later strengthened), Proxmire felt they weren't being adequately enforced, and he reasoned that a reporting requirement open to the public would be one way to identify potential conflicts and also would serve to some extent as a deterrent.

But Larry Korb, assistant secretary of defense for manpower, reserve affairs and logistics, says the Pentagon reviewed the 12-year-old regulation and concluded that its costs simply outweigh its benefits.

Just how costly is the regulation? Korb pauses a couple of seconds. "I'd say it's considerable because we had in 1980 something like 1266 individuals" who filled out the forms. "You're talking about a tremendous amount."

How much money are we talking about? "Again, it depends on whether you're talking about direct or indirect [costs]. I would say it costs the government several million dollars a year for all of the things involved in this report."

But you are just guessing. "Well," says Korb, "it's an estimate. If you want to get down and talk about from start to finish, processing the paper, mailing the things out, having them come back in, being compiled, Xeroxed, reproduced and sent over [to Congress], I would say it probably costs the taxpayers several million dollars.

But you don't know for sure. "Well," says Korb, "my figures are as good as anybody else's who's commented on this thing."

Korb's figures may be as good as anyone else's who has commented on this regulation but his figures—or lack of figures—also give you an indication of the kind of analysis done before the Pentagon proposed eliminating it.

Another indication of the seriousness—or lack of seriousness—with which the Pentagon regards this regulation is the fact that David ("Doc") Cooke, the Defense Department's own designated agency ethics officer—the person responsible for advising employes about potentical ethical and conflict-of-interest problems—was not aware the Pentagon was trying to eliminate the regulation.

"When was this?" Cooke asked when interviewed about the proposal which has been in the works for at least a year.

Early in the interview, Cooke described the regulation as the only system he knows of that tracks post-employment conflicts and "a method of ensuring that proper standards of conduct are being followed."

Later, Cooke said he had been caught "somewhat cold" by the interview and hastily added that if Defense Department officials want to get rid of the regulation, "I assume they have a thoroughly documented and reasoned position."

But an analysis by Common Cause magazine shows the Pentagon has only flimsy documentation to substantiate its position.

Furthermore, an informal survey of senior Defense Department officials who came to DOD from defense contractors also shows the lack of seriousness with which this regulation is regarded. In fact, Common Cause magazine picked six high-ranking Defense Department officials at random and found that four had not filed as required by law. Failure to file is a misdemeanor carrying a penalty of up to $1,000 and/or up to six months in jail. Spokesmen for those who did not file said they were simply unaware of the requirement.

Those who had not filed by the 1982 filing deadline include:

Richard DeLauer, undersecretary of defense for research and engineering, previously a member of the board of directors of TRW, Inc.

James Goodrich, undersecretary of the Navy, former chairman of the board of Bath Iron Works Corporation.

T. K. Jones, deputy undersecretary of defense for strategic and theater nuclear forces, who served as program and products evaluation manager for the Boeing Company.

Donald Latham, deputy undersecretary of defense for communications, command, control and intelligence, who was division vice president of engineering at RCA Government Systems Division.

But these officials' failure to file is not unusual.

A comprehensive study, published in 1975, of the reports filed between 1969 and 1973 by the Council On Economic Priorities (CEP), a public interest group, found that more than one-third of those who should have filed failed to do so on more than one occasion.

In the 12 years the regulation has been in effect, we could find no evidence that anyone has ever been penalized for failing to file.

Moreover, Pentagon officials say they have never found even one potential conflict-of-interest situation after reviewing thousands of forms over the years, even though the CEP study and a subsequent 1980 followup study found a significant percentage of what appeared to be "potential conflict-of-interest situations" that would at least bear investigation.

Korb, who came to the Pentagon from the conservative American Enterprise Institute, where he was director of defense policy studies, says the liberal CEP may claim to have found abuses, but "I would submit to you" that "nothing has been done" to correct them because "people have recognized the point of view of that particular group."

But Proxmire says, "God knows, the Defense Department has a bias, too." He says the real problem is that "the Defense Department just has no interest in disciplining or controlling conflicts of interest."

Gordons Adams of the CEP says Defense Department officials have always detested this law and are using the excuse of overregulation "as a cover for reducing public access to important public information." Why? Because, he says, DOD officials prefer "to avoid widespread public disclosure of information on the procurement [of weapons] process." But Korb says, "If you're saying that this [the revolving door] is a great problem, the burden of proof is on you . . . We've sent our rationale up to Congress and it's now up to them to act on the bill" (now attached to the Military Pay Bill).

In addition to actual conflicts of interest, Proxmire is worried about what he considers to be an equally disturbing but more abstract problem. He described it several years ago: "The danger to the public interest is that these firms and the former officers they employ have a community of interest with the military itself. They hold a narrow view of public priorities based on self-interest. They have a largely uncritical view of defense spending . . .

"In too many cases they may see only military answers to exceedingly complex and diplomatic and political problems. A military response or the ability to make one may seem to them the most appropriate answer to every international threat."

It's what President Eisenhower warned of in his farewell speech more than 20 years ago—"the military-industrial complex." It's what Adams calls the "iron triangle." Author of a recent book investigating the politics of defense contracting, Adams says an "iron triangle" binds Congress, the Pentagon and defense contractors in a mutually beneficial relationship that brings contractors "so close to government that they not only carry out military policy but also create it."

While neither Proxmire nor Adams would deny military and contractor personnel the right to accept jobs with defense contractors and with the Pentagon, they do believe the job changes should be carefully moni-

tored. Adams says the forms provide one way for the public to keep track of the movement of people back and forth between the Defense Department and defense contractors, a movement Adams says "creates a set of reinforced perceptions, expectations, mutual friendships, log rolling, trading of favors, et cetera, many of which are quite legal, but which reinforce the closed nature of the entire defense policy-making apparatus. So what you get is a bunch of people who only speak to each other, who never even feel the need to consider alternatives."

Take T. K. Jones, for example. Deputy undersecretary of defense for strategic and theater nuclear forces, T. K. Jones is one of the Defense Department officials who failed to report this year. He is probably best-known around Washington as the mastermind of the "shovel theory" of civil defense. He is convinced that in the event of a nuclear attack, "everybody's going to make it if there are enough shovels to go around."

The shovels, he told The Los Angeles Times earlier this year, are needed to build shelters in the countryside. "Dig a hole; cover it with a couple of doors and then throw three feet of dirt on top. It's the dirt that does it," Jones was quoted as saying.

Jones, whose theory has left those proposing arms limitation in wide-eyed wonder, had a chance, thanks in part to some Defense Department contracts, to refine his ideas at the Boeing Company, one of the largest U.S. defense contractors, which did more than $2.5 billion in defense business in 1981.

The Times reports that while at Boeing, Jones attempted to follow the instructions of Soviet defense manuals by covering machinery with dirt and exploding TNT in the vicinity. "He concluded that the Soviets' plans for evacuating their urban populations, packing dirt around factory machines and digging simple shelters covered by doors and dirt were highly effective," The Times says.

When the administration changed, T. K. Jones took another turn through the well-traveled revolving door linking contractor and Defense Department personnel. It was his third time through. In August 1971, he left Boeing, where he had been a design and systems engineer and a deputy program manager, to become a staff specialist for strategic arms assessment in the office of the deputy director of research and engineering. He later served with the U.S. SALT delegation as senior technical advisor to SALT negotiator Paul Nitze and as a staff assistant to the SALT group at the Penagon. Then in 1974 he left the Pentagon and went back to Boeing as deputy requirements and strategy planning manager.

Now that he's in a significant policymaking position at the Department of Defense, working for a president who favors an expanded civil defense program, T. K. Jones and his shovel theory may be taken quite seriously.

Of course, the public and the press have a comparatively easy time monitoring the T.K. Joneses and the Alexander Haigs of this world (remember, Haig went from commander-in-chief of NATO forces to president of United Technologies, a major defense contractor, before moving on to head the State Department).

But what about the lower profile, although still influential, government and defense contractor officials? Without these forms, the press and public would have no way to keep tabs on potential problems nor to acquire the data to use as the basis for proposing additional reforms.

How serious is the conflict-of-interest problem? Pentagon officials reason that because in 12 years they have never found even one potential conflict of interest after reviewing thousands of forms, there must be no problem.

Gordon Adams of the CEP says if the Pentagon has never found a problem, it's because the Pentagon doesn't take the forms seriously and hasn't really tried to determine whether there are abuses.

Indeed, William Amis, the Defense Department official in charge of the forms, says he hires for one month a year a clerical worker who doesn't have even paralegal training to review the forms for potential conflicts of interest and to compile a statistical summary for Congress. (Amis says the forms have already been reviewed once for conflicts of interest by the military departments who receive them first.)

In his study, Adams examined the reporting forms of employees of just eight major defense contractors and found the revolving door path well worn. Between 1970 and 1979, he found that 1,942 civilian and military employees moved between the Department of Defense or the National Aeronautics and Space Administration (NASA) and these eight defense contractors. The defense contractors hired 1,672 of these employees, while 270 contractor employees went to work for DOD/NASA. Adams closely examined the forms filed by civilians and found that, based on the employees' own descriptions, 24 percent were in positions that constituted "an appearance of a potential for a conflict of interest."

Another strong indication of a potential problem is a study recently completed for Sen. David Pryor (D-Ark.) by the government's watchdog, the General Accounting Office (GAO). In his search for waste in the Defense Department, Pryor has targeted the $2.6 billion spent every year by DOD on private consultants.

The GAO studied 256 contracts and found potential problems in all but one. Equally alarming, the GAO found 51 percent (accounting for $52.2 million) involved former Pentagon officials, and the GAO questioned "the degree of influence used by former top level DOD officials in securing contracts with DOD."

For example, the GAO found that a $294,597 contract to survey drug and alcohol use and abuse within the military services was awarded to a firm whose vice president was a former director of the Pentagon's drug and alcohol abuse program. The Army awarded a $29,995 contract to prepare an annual report on DOD research facilities to a former DOD employee who for seven years at the Pentagon helped to prepare the report.

But Assistant Secretary of Defense Korb says if there is a problem it will show up on other forms military officers and civilians must complete.

While the Pentagon's proposal to Congress to repeal this regulation makes only passing reference to this point, Korb now says an important reason for repealing the regulation is that it duplicates other laws.

He points to the financial disclosure provisions of the Ethics in Government Act that cover high-ranking civilians and generals in the military, and the statement of employment form that retired military officers must complete to get their retirement pay. This requirement is intended primarily to determine whether retired officers are breaking the criminal law that forbids them to ever sell anything to the department from which they retired and a civil law that forbids them for three years from selling to other military departments.

But as Korb himself finally conceded in an interview, the information provided on these two forms and the persons required to fill out these forms are not the same as the information required and persons covered by the reporting requirements he wants to get rid of. The public financial disclosure provision does not cover military officers below the rank of brigadier general nor does it cover those who leave government. In addition, the questions asked concerning job duties request minimal information.

The military statement of employment form does not cover civilians who enter or leave government, and these forms are not open to the public.

"There's no perfect substitute" for the reporting requirement, Korb agrees, but "again, is there some wholesale violation of the spirit or intent of the law? As far as I know, there's no evidence of anything like that."

But if Korb doesn't think there's enough evidence of a problem, a 1978 GAO report may explain why. The study found that neither the reporting requirement the Pentagon wants to get rid of nor the statement of employment requirement for retired officers are adequately enforced. The GAO found the following weaknesses in both requirements:

Neither requires sufficiently detailed data to facilitate the identification of violations.

Officials do not review the reports for all possible violations.

Neither system's effectiveness has been evaluated.

There are no assurances all those required to file do so.

"The data collected is not always analyzed to determine if persons are complying with the law or regulations. These agencies often just tabulate and summarize the data and submit it to Congress."

Finally Korb offered, "I think the real question is does the fact that you have to fill out the form make people any more honest?"

Sen. Proxmire and Gordon Adams of the CEP say "yes." Proxmire argues that even though the Pentagon does not adequately enforce the reporting law, the fact that the law is on the books and that the forms are open to the public (Adams calls it "the white heat of public disclosure") means it serves to some extent as a deterrent.

Assistant Secretary of Defense Korb, however, argues that the conflict-of-interest laws, which would continue to be in effect even if this law is repealed, are deterrent enough.

Here are some other arguments made by the Pentagon which appear to have flimsy documentation:

The law is "an extensive administrative burden" on contractors. The law does not require contractors to do anything—nothing. While the Pentagon sends a letter to contractors asking them to inform their employees that are covered by the regulation, they are not required to do anything.

A survey of 12 major defense contractors found that while some ask their legal departments to individually inform those who should report, several just print a notice in the employee newsletter and others do nothing.

Furthermore, the Pentagon has no written evidence—neither letters nor a log of telephone calls nor conversations—to verify that contractors have complained about the

form. William Amis, the official in charge of the forms, says "a few" contractors in passing conversation have questioned the form; Assistant Secretary of Defense Korb says "several" have complained to him—a small sample by anyone's definition of the more than 400 contractors whose employees were covered by the law last year.

The law is a burden on individuals. "How long would you say it takes to fill out a form?" asks Korb in a tone that suggests the answer is days. The public relations director for the Boeing Company, George Weiss, volunteered that when he filled one out "it was a very simple process" that took "a matter of seconds."

The reports take up a lot of space. Both Korb and Amis emphasized that the reports for the last 12 years now occupy about 20 linear feet—the equivalent of a three foot wide, seven foot high bookcase that would fit easily in a small office and even more easily in the Pentagon which has 3,705,793 square feet of usable space not including closets and hallways. Proxmire suggests that if they take up too much space, the reports could be put on microfilm.

The public rarely uses the forms and Congress never uses them. William Amis says only approximately four people have looked at the forms since 1977. He does not have a log to document the use but instead depends on his memory. Amis had never heard of the two books published by the Council on Economic Priorities, well-publicized in defense circles, that analyzed the reporting forms and made recommendations for reform. Korb says he is familiar with the books, but dismisses them as starting with "a pretty strong bias."

Amis also conceded that he did not know the extent to which the duplicate forms sent to Congress have been used and agreed it is at least "possible" they have been used extensively.

An aide to Proxmire says he refers at least a half a dozen reporters to the forms every year.

In its proposal, the Pentagon states that "to our knowledge the report has never been used by Congress," but Proxmire says he certainly has used them as one investigative tool when he exposed in 1975 the fact that some defense contractors had entertained military and congressional personnel with parties at hunting lodges on the Maryland shore, goose hunts, rides on corporate jets and yachts, and football tickets.

In addition, CEP's analysis of the forms gave Proxmire and Rep. Charles Bennett (Fla.) even more ammunition for their proposed law that would guard against conflicts of interest while allowing federal employees to use their expertise. The bill would prohibit federal employees for two years from working for a contractor with which they had had substantial dealings.

Both Proxmire and Adams think the revolving door problem is potentially so serious that the form should be strengthened rather than eliminated, and recommend that the Defense Department become a true watchdog and aggressively pursue potential conflicts of interest.

Others have suggested that instead of asking the Pentagon to police itself, the forms should be sent for evaluation to the Office of Government Ethics.

Concludes Proxmire, "I seems absolutely ironic for us to kill the reporting requirement at the very time we're greatly expanding the defense operations" that have "become so controversial."

The Defense Department, he reiterates, just doesn't "have any interest in enforcing conflict-of-interest" laws.●

THE NOMINATION OF GEORGE SHULTZ

● Mr. MURKOWSKI. Mr. President, I rise to express my support for the nomination of George Shultz to be this Nation's 60th Secretary of State. I regret that other important matters forced me to be in Alaska at the time of the vote on his nomination. After having talked with Mr. Shultz personally and having reviewed the statement he made at his confirmation hearings, I am confident that George Shultz can provide the stewardship we need in this vital post.

Mr. Shultz has served under five of the last six Presidents, including terms as the Secretary of Labor, Secretary of the Treasury, and Director of the Office of Management and Budget. More recently, he served as a member of President Ford's Foreign Intelligence Advisory Board. It is also my understanding that President Reagan has frequently relied on George Shultz for his advice and assistance over the years.

Mr. Shultz' expertise in matters of international trade and economics is of special importance in view of the very serious problems which exist today. In terms of our relations with Western Europe and Japan, trade and economic concerns are probably the most pressing current issues. I plan to follow closely Mr. Shultz' actions with regard to trade sanctions on the Soviets and the Poles.

I pledge to Secretary Shultz my full cooperation and I wish that it would have been possible for me to be here to vote for his confirmation. The challenges he faces are substantial and complex, but if we are to maintain this Nation's leading position in world affairs, these challenges must be met.●

THE NEED FOR FLEXIBILITY ON POLAND'S NATIONAL DAY

● Mr. MURKOWSKI. Mr. President, today marks a dark day in the history of the Polish nation. July 22 is the 38th anniversary of the founding of the Lublin government in Poland. This government was installed after the invasion of Poland by the Soviet's Red Army during World War II. The Soviets, laying claim to having liberated Poland from the Nazis, placed Poland's first Communist regime in power and dubbed it the Lublin government. In fact, the government was made up of pro-Soviet apparatchiks who were willing to subvert Polish independence and freedom in return for being assured leading roles in the new government. Since this gloomy conclusion to Poland's post-war status, July 22 has been declared Poland's National Day.

For over 200 years preceding World War II, Poland's National Day was May 3, the date in 1791 when Poland's most democratic constitution was signed. However, with the intrusion of the Red army into Poland a new national celebration was created in an effort to legitimize the new government.

Poland's National Day is of great importance to the current junta and the domestic situation there. General Jaruzelski is aware that the Polish people are hardly in the mood to celebrate the anniversary of the founding of a system which has brought increased repression and continued economic decline, especially since the declaration of martial law in December of 1981.

We are all aware that Poland's economy has been in bad shape for some time. However, many may not be aware of the continued decline in Poland's economic situation since the imposition of martial law last year. The perpetuation of Poland's failing economy becomes all the more important when one considers that the stated rationale for the December crackdown was to return calm and a healthy economy to Poland.

Poland's economy is plagued by poor organization, shoddy workmanship and waste, a fall in exports, severely curtailed imports of raw materials, and a steep decline in the nation's standard of living.

The prices of food and many other goods were increased as much as fourfold at the beginning of this year, while wages have been frozen. Many people cannot even afford to buy their monthly food ration, creating a flourishing black market in unused ration coupons.

After dropping 2 percent in 1980, the total output of Poland's factories and mines fell 14 percent last year and roughly 8.5 percent during the first 6 months of 1982. The output of many key consumer goods is down 20 to 40 percent from last year.

Supplies of processed feed for livestock are now down 55 percent. Poland is unable to purchase the grain needed to keep livestock and poultry at normal production levels. This could lead to random slaughtering and worsening meat shortages. This pattern is one that is alarmingly similar to one we see in the U.S.S.R.

Poland's Parliamentary Planning Commission has noted that "despite the concerted efforts of the political leadership, the Government, and society, the recession has not been halted." It was announced that overall industrial production in the first half of 1982 was 6 percent lower than the same period last year.

An outstanding debt of nearly $26 billion still cripples the Polish nation, costing them $3.5 billion each year in servicing costs. Overall, the Poles owe

$10 billion in 1982 debts alone. Western creditor banks are currently negotiating with the Poles on when these debts and the interest will be repaid. It is now quite evident that the Poles, Western bankers, and the U.S. Government all drastically overextended themselves during the 1970's in terms of loan policy.

It is clear that Soviet-style communism has failed to provide the Polish people with a decent standard of living since its inception on July 22, 1944. The spread of despair has increased due to the failure of the Central Government to turn around the economy after the institution of martial law.

Since they have crushed any real influence Solidarity had over economic planning, the junta is solely to blame for the economic mess Poland is in. If the Polish people are less than excited about their "National Day," it is because of the government's insistence on tight adherence to a rigid, unappropriate economic system.

How the Polish public have reacted to this year's "National Day" festivities remains unclear. However, it is doubtful that the regime has allowed their subjects to express their longstanding distaste for the Russians and their brand of socialism.

I am most pleased that General Jaruzelski has approved the release of some political prisoners and has lightened restrictions on individual freedoms in an effort to placate public opinion at home and in the West. Unfortunately, over 600 persons will still remain in jail. However, it is my belief that the Soviets will not allow any real loosening of the repressive grip the junta has over the Polish people. Recent statements in Izvestia and Pravda have strongly urged continued tight control. Condemnations of the Catholic Church's large role in Polish society have become heated, with Moscow rejecting the visit of Pope Paul IV this August. In the past, what Moscow has "suggested" has become policy in Warsaw. Therefore, I am not optimistic about the possibilities for further reform in Poland this summer.

Nevertheless, it is my strong hope that General Jaruzelski will have the courage to ignore Soviet ostracism and sit down with the leaders of the Catholic Church and Solidarity in a spirit of unity to decide the economic and political future of Poland. I will be watching the development of plans to form a "National Committee for Rebirth" with great interest.

If church officials and moderate members of Solidarity are allowed to participate in this body, it can forge a popular, flexible economic program for Poland's future. If not, this body could become an instrument for the continued suppression of the interests of Polish workers and society in general.

The underground leaders of solidarity have recognized the need for calm and cooperation. They have called on their membership to observe a moratorium on antigovernment protests for the rest of this month and have challenged the authorities to return the gesture by renewing dialog with the suspended trade union.

Now, as Poland experiences a day which symbolizes despair, disappointment, and shattered dreams it is my hope that the American people and the U.S. Government will continue to support the aspirations of the Polish people. President Reagan has maintained a firm policy of refusing to allow U.S. participation in the construction of the Soviet pipeline. The President has rejected the concept of continuing to make loans to Poland and has stated that Western banks should keep up the pressure on Poland to repay her debts. All these efforts are designed to convince the Government of Poland that we are seriously concerned about the repression of free trade unions, the abuse of human rights, and the continuation of martial law in Poland. The President's policies deserve our support. We must continue to do all we can to urge a peaceful solution of the Polish crisis by all interested parties inside Poland.●

TESTIMONY OF MARK B. FELDMAN ON S. 708, BUSINESS ACCOUNTING AND FOREIGN TRADE SIMPLIFICATION ACT

● Mr. CHAFEE. Mr. President, one of the ways in which the current Foreign Corrupt Practices Act has made it difficult for U.S. companies to do business overseas is the negative way in which the act is perceived by foreign governments.

During the Senate Banking Committee hearings on S. 708 we heard the testimony of Mr. Mark B. Feldman, a former deputy legal adviser with the Department of State with extensive experience in dealing with the problem of questionable corporate payments to foreign government officials. Mr. Feldman's perspective on the international implications of the Foreign Corrupt Practices Act is very instructive and I ask that his testimony before the Senate Banking Committee on May 21, 1981, be inserted into the RECORD following my statement.

The testimony follows:

STATEMENT OF MARK B. FELDMAN

Mr. Chairman, Members of the Committee: I appreciate the opportunity to testify this morning in support of S. 708, a measure introduced by Senator Chafee and several other Senators to amend and clarify the Foreign Corrupt Practices Act of 1977. At the outset I wish to make clear that I am speaking this morning only for myself. Having resigned from the Department of State last Friday, I no longer can speak for the Government. Nor am I speaking for the law firm I joined on Monday or for any client.

If my views are of interest to this Committee, it is because I have been the action officer in the Department of State on matters relating to questionable corporate payments abroad since the first disclosures in 1975. Over the past six years, I have participated in the various interagency efforts to develop a policy response to this problem. I have worked closely with officials from the Department of Justice and the Securities and Exchange Commission to try to minimize the foreign policy problems arising out of payments investigations, and I have represented the United States in its vigorous but futile efforts to develop an international agreement to control bribery and extortion involving foreign officials in international commercial transactions.

As I have stated many times in the past, corruption of foreign officials involved in international commerce is an evil of serious practical as well as moral concern to the United States. Bribery and extortion involving foreign officials distorts international trade and investment; it weakens friendly governments in foreign countries important to U.S. interests; and it undermines public confidence in the free enterprise system and in other established values and institutions.

It has been important that the United States take the lead domestically and internationally to try to deal with this problem. I believe we have been successful in disciplining American companies from contributing to the corruption which is endemic in so many societies around the world. However, experience has demonstrated that some of our measures have overshot the mark; that the United States should not seek to impose its values on other countries at the expense of all other U.S. interests in those countries; and that the international community is not yet prepared to join with the United States in a meaningful international response to this problem. While much good has been done, the United States has paid a price for its unilateral legislation, zealous enforcement programs and unrealistic diplomatic objectives. This Committee will serve the national interest well by reviewing the Foreign Corrupt Practices Act to see what should be preserved and what should be revised.

This morning I will address myself to the prohibition of bribery in Sections 103 and 104 of the Act. Others, more expert than I, will address the accounting provisions and the proper role for the Securities and Exchange Commission under this statute. In the short time available to me, I would like to discuss some of the problems for United States trade and U.S. foreign relations and to describe to you the obstacles to international action on this issue.

As to trade, I have no doubt that U.S. exports have been damaged by the Foreign Corrupt Practices Act. It is difficult to quantify the impact of various legal disincentives for U.S. exports, but the Task Force on export promotion established by President Carter concluded that, next to U.S. tax policy, the Foreign Corrupt Practices Act constitutes the most serious legal disincentive for U.S. exports at this time.

The fact that it is difficult to document the loss of business due to bribery by U.S. competitors does not make the concern any less real. To me the most convincing evidence is the determination with which our major trading partners have resisted U.S. efforts to establish international controls over bribery and extortion involving foreign offi-

cials. Some of our closest allies have told us privately that payments are necessary in certain foreign markets and that their economies are not strong enough to risk the loss of business in those markets by curtailing payments by their companies. In other quarters abroad, I believe there is a cynical satisfaction that United States legal restrictions make their products more competitive with ours in third countries.

There is a serious question whether the adverse trade consequences of the FCPA are due to its prohibition of bribery of foreign officials or whether they stem primarily from ambiguities in the law, from certain overbroad provisions, and from over-zealous enforcement policy. I do not know the answer to that question, but I am convinced that uncertainties in the law and enforcement policies have cast a shadow over the foreign operations of U.S. business far longer than Congress intended when it adopted the FCPA.

In my view, the most serious of these uncertainties and policies relate to (1) so-called "facilitating" payments to foreign officials and (2) the regulation of activities of commercial agents in foreign countries. S. 708 addresses both of these difficulties and deals with them effectively.

FACILITATING PAYMENTS

Section 5(b) of the bill would provide that criminal penalties shall not apply to any payment to a foreign official which is customary in the country where made and the purpose of which is to facilitate or expedite performance by the foreign official of his official duties. This provision merely spells out the intent of Congress in adopting the FCPA in the first place, but it is critical that this intent be made explicit because of uncertainties that have arisen in the enforcement of the law.

When corporate payments abroad became a subject of serious discussion in the Executive Branch and in the Congress, it was generally recognized that new U.S. legislation on this subject should not cover "grease payments". For example, both Senator Frank Church and Secretary of Commerce Elliott Richardson took the position in 1976 that "grease payment" should be excluded from any payments legislation. (See Remarks of Senator Church, Congressional Record, S 19800, November 12, 1975; letter from Secretary of Commerce Richardson to Senator William Proxmire, June 11, 1976.)

The reason was evident. In a great many developing countries civil servants are poorly paid, and it is a customary practice to provide them gratuities. The name varies from country to country but the idea is the same. Such payments may be required to process papers, to clear goods through customs, or even to make an overseas phone call. Whatever the moral validity of this practice, it would be impossible to do business in large areas of the world without such payments.

The FCPA as drafted had a very narrow focus. It was intended to prevent bribes made to foreign officials to obtain, to retain, or to direct business to any person. (e.g., section 104(a), FCPA, 18 U.S.C. 78 dd-2.) The evil to which the statute was directed was the payment of large sums to government officials to obtain contracts that might have been awarded to competitors on the merits. The Act was not intended to police the myriad small payments which are a matter of everyday life in many countries.

This intent is unmistakable in the Act's definition of "foreign official" which expressly excludes employees "whose duties are essentially ministerial or clerical." (e.g., Section 104 (d) (2)). Indeed, when the language of the FCPA is compared with other bills considered by the Congress, it is clear the bribery provisions of the Act apply only to the competition for business; they were not meant to apply, for example, to the numerous local regulations applicable to foreign investments that present so many opportunities for extortion and bribery.

Despite this clear legislative focus, enforcement officials have made it known they are not sure that grease payments are excluded from the Act. At times they have implied that any payment made in connection with a contract or investment could be classified as being for the purpose of obtaining or retaining business.

A case often cited is the hypothetical—or not so hypothetical—situation where a customs official, who fails to receive his accustomed gratuity, ignores a shipment of perishable goods lying in the harbor. The frantic company official in the field must then decide whether to lose the shipment or to risk violating the law. I recall one seminar on the Act where a member of the bar expressed doubts he could advise his client that a facilitating payment to save the shipment would not violate the law. One enforcement official told me privately he thought the attorney guilty of timidity, but the Justice official present did not share that view. S. 708 should put this question to rest.

AGENTS FEES

I turn next, to the question of agents fees. The FCPA punishes management not only for corrupt payments made by it but also for payments to any person—typically a sales agent—"while knowing or having reason to know" that some of the money will be passed on to a foreign official for a forbidden purpose. The argument for this provision is that it is necessary to close a loophole for the payment of bribes by management through third parties.

The problem is the ambiguity of the phrase "having reason to know" compounded by the guidance by law enforcement agencies as to the precautions necessary to avoid culpability under this provision. For instance, Justice officials are known to believe that firm instructions to an agent not to pay bribes may not be sufficient precaution even when an agent receives a customary fee for his services. Companies are encouraged to take other measures to ensure that agents do not engage in a frolic of their own including such measures as refusing to pay agents' fees into bank accounts in third countries, or requiring access to the agent's books and records.

The predictable response of many agents to such proposals by U.S. companies is to refuse to do business with them. Foreign businessmen have no desire to become enmeshed in procedures required by U.S. law or to risk embarrassing inquiries into their business practices. They can find other customers for their services.

As a matter of public policy, it is appropriate that a statute prohibiting bribery should prohibit bribes made through third persons. It does not follow that the United States should seek to regulate the practices of foreign agents doing business with U.S. firms at arms-length. Such regulation intrudes too deeply into the mores of foreign countries and places too great a burden on U.S. trade and investment overseas. S. 708 deals effectively with this issue by penalizing a U.S. concern that corruptly directs or authorizes an unlawful payment by a third party.

GIFTS AND HOSPITALITY

There are several other helpful features in S. 708. Section 6(b), for instance, excludes gifts given as a courtesy or in return for hospitality and payment of expenses, such as travel and lodging, relating to the demonstration of products or operations. This provision clarifies an ambiguity which has troubled corporate executives. Section 6(b) also clarifies that the Act was not intended to prohibit payments that are lawful under the laws of the foreign official's own country. Both of these clarifications conform to the original intent of the Act.

Section 7 addresses another legitimate concern of U.S. business by making clear that conduct which is lawful under the Foreign Corrupt Practices Act is not to be prosecuted under the mail fraud and wire fraud statutes (18 U.S.C. 1341 and 1343). I was surprised when Justice first began to prosecute foreign payments cases under these statutes. When the Richardson Task Force reviewed legislation that might be implicated by illicit payments abroad, no one suggested that these statutes were applicable. The letter from the Secretary of Commerce to the Chairman of this Committee of June 11, 1976 reviews the legislation thought to be applicable at that time. No mention is made of wire fraud or mail fraud.

The debate was whether the Government should adopt a criminalization approach or a disclosure approach. It seems doubtful to me that Congress would have gone to the trouble of adopting the FCPA in 1977 if it thought that the traditional mail fraud and wire fraud statutes already prohibited the conduct to be punished by the new Act.

GUIDELINES, REVIEW PROCEDURES AGREEMENTS

I am less enthusiastic about the provisions of S. 708 relating to guidelines, review procedures and international agreements. The provisions of Section 8 relating to guidelines and review procedures may be worth experimenting with but I do not entertain great hopes that they will help. The provisions of Section 10 relating to agreements I am sure will not work.

As the State Department officer heretofore responsible for our diplomatic efforts to negotiate an international agreement to prohibit bribery and extortion involving foreign officials, I am pessimistic that international action can be achieved in the near future that will eliminate the competitive disadvantage of the U.S. business operating under the Foreign Corrupt Practices Act. I am not at all sure that the particular arrangements contemplated by Section 10(a)—standards of conduct for business practices and an agreement for rates of commission—would be effective if they could be achieved. An agreement to adopt and to enforce laws penalizing the bribery of foreign officials, as sought by the United States over the last five years, could be more effective. However, our experience demonstrates that there is no international interest in such an arrangement at the present time.

It might be of interest to review briefly the history of U.S. diplomacy to achieve an international agreement on illicit payments. That initiative was first announced by Deputy Secretary of State Robert Ingersoll in hearings before this Committee in March 1976. At the time we thought there were reasonable prospects for success, because the UN General Assembly in December 1975 had adopted by consensus a resolution calling upon home and host governments to co-

operate to eliminate bribery by multinational enterprises. However, a number of industrial and developing countries resisted initiation of negotiations of such an agreement in the United Nations.

After several years of intense diplomatic effort, including a number of personal initiatives by President Carter, the United States achieved several resolutions by Heads of Government and Ministers endorsing an agreement in general terms, and we succeeded in negotiating the terms of an agreement based on the concept of criminalization in a Committee of the UN Economic and Social Council. However, the United States was never able to obtain a decision by the Council to convene a diplomatic conference to conclude an agreement on illicit payments. We made a major diplomatic effort to convene such a conference in 1978 and in 1979, and we made a final effort to do so in 1980. All of these efforts failed because the developing countries insisted on linking negotiation of an agreement on illicit payments with the adoption of a broad UN code of conduct for multinational enterprises.

When U.S. efforts in the United Nations failed, President Carter decided to press for international agreement among the industrial countries who have been meeting annually at the Economic Summit. Although President Carter received general assurances of support for this initiative from Heads of Government, those assurances did not translate into cooperation at the working level. The Reagan Administration has decided not to pursue the Carter initiative in the Summit process, and is now considering other, more low key procedures for keeping the idea alive.

Personally, I believe that it is in the U.S. interest and in the general international interest to work towards an eventual agreement that will discourage bribery in international trade. However, I do not believe the United States can expect early progress on such an agreement, and I question how much further major diplomatic capital should be expended in that effort. There is a strong implication in Section 10(c) of S. 708 that the U.S. should consider taking retaliatory action against our trading partners who do not match our efforts in restraining bribery of foreign officials. I doubt the benefits of such a policy would justify the costs.

I have concluded my testimony on the provision of S. 708, but I would be remiss if I did not say a word about another dimension of this issue—and that is the potential foreign policy problems that could arise out of the administration of the Foreign Corrupt Practices Act. Although the Act prohibits conduct by U.S. nationals and not by foreign officials, it necessarily involves U.S. law enforcement agencies in the investigation of the conduct of foreign officials in their own countries. It is hard to overestimate the potential damage to U.S. relations with another country if we find ourselves investigating and disclosing misconduct by the Head of Government or other senior officials of that country. It is not hard to imagine that corruption exists at high levels of some governments that are very important to United States interests in the world. It is likely that one day the policies of this Act and critical U.S. foreign policy interests will come into sharp conflict.●

MIRACLE IN MERIDIAN

● Mr. SYMMS. Mr. President, on Sunday, July 11, more than 350 people gathered to worship at the brandnew Treasure Valley Baptist Church, a southern-style sanctuary on the outskirts of Meridian, Idaho.

The completion of the church and the size of the congregation that gathered for the very first service there is a testament to the dreams—and the determination—of the young pastor, Buddy Hoffman.

Six years ago, Buddy and Jody Hoffman arrived in Idaho fresh out of Bible college and rented a room in a TV studio for weekly services. The first week only two people showed up. But Buddy was not discouraged. He was determined to become a preacher and to build a church. And he believed that if you want something and work hard enough for it, it will happen. As a child he had overcome polio because the word "can't" was never in his vocabulary. Surely his dream to build a church and preach there could also come true.

And now it has.

The story of how it happened—the "Miracle in Meridian"—is related in a fine article by Silvia Horkley in the July 14 edition of the Ada County Valley News. I want to congratulate my friends Buddy and Jody Hoffman on the realization of their dream, and I ask that the article by inserted in the CONGRESSIONAL RECORD.

The article follows:

UNDAUNTED PASTOR INCREASES FOLD

(By Silvia Horkley)

When Pastor Buddy Hoffman came West to establish his own Independent Baptist Church in August, 1976, he rented the conference room at KTVB, Channel 7 Studios in Boise, printed up and distributed 10,000 flyers, and prayed a lot.

Two people showed up.

Undaunted, he printed 10,000 more flyers, and true to his odds, got two more people. With the first two himself, his wife, Jody, and another friend, that made seven.

This past Sunday, Pastor Buddy stood before a standing room only congregation of more than 350 worshippers, thanking them for the beautiful new church they had all helped to build with their own time, sweat and money.

The Treasure Valley Baptist Church, which can be seen on the south side of Interstate-84 just east of Meridian, is finally a reality.

A dream, which many said wouldn't happen, came true, thanks to the belief and dedication of the people who spent every spare minute hammering, sawing, painting, spackling, sheetrocking, and the thousands of tasks that erecting a building requires.

The new building reverberated Sunday with the collective joyful voices of a people who had fought a battle and won. And Pastor Buddy, as he is affectionately called, has been their leader.

Douglas Guy Hoffman, Jr., a small but dynamic man with a boyish face that's somewhere between angelic and mischievious, was born a little over 28 years ago in Atlanta, Georgia. He still retains a southern drawl.

When he was only 10 months old, Hoffman contracted polio. He relied on crutches and braces until he was five, and then was able to get by with just the leg braces.

At that time, some of the medical profession thought it best not to try to exercise a polio victim's atrophying extremeties, but rather just have the person rely on the support of braces. The doctors said that Buddy, as his dad nicknamed him, would never be able to run or ride a bike as other kids do.

In response to this news, Hoffman's parents promptly went out and bought a bicycle for their son, which they parked on the front porch so he could see it often. Out of sheer determination, he learned to ride it.

"My mother always said that 'can't' isn't in our dictionary," Hoffman said. "We can do anything we want to do."

"Actually, having polio is one of the greatest things that ever happened to me," he says earnestly. "It taught me that when people say something can't be done, it just means it's a little bit harder.

"There's no such word as can't. If you make up your mind to do something, and you really want to do it, you can."

After high school, Hoffman underwent a muscle transplant for his wasted leg muscles, and today gets around just fine, except for a barely noticable limp.

Though he is only 5'7", his arms and shoulders are well developed. He admits he works out regularly and can bench press over 200 pounds. He says he doesn't want to take any chances of having his body waste away again.

As far as preaching goes, it's nothing new to him. He comes from a long line of preachers.

"We've had pastors and preachers in every generation since the Civil War," he boasts.

As for himself, he wasn't positive that the preaching life was for him, and even his grandmother tried to talk him out of it.

"She told me, 'We've got enough preachers in the family. You be rich,' " he laughs.

Hoffman says if you can be happy doing anything but preaching, then you haven't been called.

"I know I was called," he says positively. He says he tried other jobs at which he could make some good money, but they didn't cut the mustard.

"I always had to think, what am I doing now that 100 years from now will make any difference?" he said.

After Hoffman's humble beginnings at KTVB, the small congregation moved to a room rented from the YMCA. The third time they met, there were 25 people, a respectable roomful.

After meeting at the YMCA for a while, their numbers expanded and they moved to the Locust Grove Grange, where they have been for the last several years.

It has been cramped, crowded and inconvenient. They held Sunday School classes in vans outside. The nursery was in the furnace room. But the people still came, and Hoffman says they were grateful just to have a place to meet.

As Hoffman has become stronger in the leadership of his congregation, he has also expanded his interests and has become involved in a cause that is at once popular and very unpopular, depending on who one asks.

Hoffman is the Idaho chairman of the Moral Majority, a group which has burst into public consciousness of recent, questioning everything from abortions to humanism taught in the public schools.

Hoffman's reason for getting involved is the abortion issue, which he views purely and simply as murder.

He explains that as a teenager, he found library pictures of Jews being slaughtered in concentration camps and could not believe

that human beings could treat each other in such a manner. His eyes redden at the thought.

Hoffman said he asked a favorite uncle if he had known what was happening, and the uncle admitted he had.

"What did you do about it," Hoffman said he asked his uncle, only to be told there was nothing that could have been done.

Hoffman says when his children discover there was a time that innocent children were murdered before they were born, and ask him if he knew about it, he will have to say yes.

"And when they ask me what I did about it, I want to be able to say, 'Everything in my power,' " he said.

"But there are a lot of things Dr. (Jerry) Falwell (national director of the Moral Majority) does that I don't necessarily agree with. I'm not rightwing on every issue," he said.

Hoffman feels that perhaps the Moral Majority has outlived its usefulness and the hoopla made over its existence overshadows any actual good it may do, he said. He is seriously considering resigning his chairmanship, and attending more to the matters at hand, like his new church, he said.

"This church is a miracle in Meridian," he said. Because of the great amount of donations, including a pipe organ, a piano, the copper cross that graces the top of the structure, the pulpit, the baptismal fount, and the countless hours of donated labor, the church was built for just a fraction of what it would have cost to have it built professionally.

Actually, it still is not totally completed, and may not be for some time. There are still some floors to be carpeted, a parking lot to be paved, and pews—which cost $14,000—are needed to replace the rows of folding chairs in the sanctuary. But these and other things can wait until the money is raised, Hoffman says.

"We have an aversion to debt," he said.

"Besides, I feel that if it is God's work, he will provide. This church is a testimony to that fact."●

JIM WATT, SECRETARY OF THE INTERIOR

● Mr. SYMMS. Mr. President, Jim Watt, the Secretary of the Interior, has been one of the most controversial figures in the Reagan administration. I think it is fair to say that no Cabinet officer, even including the Secretary of Labor, has received such universally bad press. Jim Watt has been attacked in the press for everything he has done.

Under the circumstances, Mr. President, I was a little bit surprised to read the results of a recent poll conducted by the Gallup organization, on the public's perceptions of Jim Watt. Interestingly enough, Jim Watt receives a very favorable rating from the people of the country.

He is not the best known of the Reagan Cabinet officers. Cap Weinberger and Donald Regan were known to more people than Watt. Only 80 percent of Americans felt they knew enough about Watt to rate him, while the numbers for Weinberger and Regan were 84 and 82 percent.

And Watt is not the most popular of Cabinet officers. Weinberger received a favorable rating of 73 percent, while Regan weighed in at 71 percent. Watt's rating, while somewhat lower, was still over 60 percent. To me, that is a remarkable figure, given the treatment of Watt in the press.

Mr. Gallup, in analyzing these figures, cautions that "these are ratings of each man as a person, not job performance ratings." Well, Mr. President, maybe so, but my perception is that the press has talked very little about Jim Watt (or the other two, for that matter) as individuals, and a very great deal about him as a Secretary of Interior. I doubt seriously that the public at large knows whether Jim Watts beats his dogs or has crab grass in his lawn. They do know what he proposes on wilderness and environmental matters, because that is what they have been told.

And with all they have been told, and as distorted as it has often been, they still retain a 61 percent favorable view of him. Mr. President, I suggest that that is nothing short of remarkable, and a tribute to a great public servant, our Secretary of the Interior, Jim Watt.

I ask that the attached Gallup poll be printed in the RECORD.

The information follows:

GALLUP POLL—THE CABINET

PUBLIC'S KNOWLEDGE OF CABINET MEMBERS

According to Gallup, respondents "were asked whether they have a favorable or unfavorable opinion of members of the (Reagan) Cabinet who have figured prominately in the news in recent months. . . . The survey also sought to determine the percentage of persons surveyed who know each of the men tested well enough to offer a rating. The following table shows the awareness levels for each Cabinet member."

Know enough about person to rate him

	Percent
Weinberger	84
Regan	82
Watt	80

AMERICA RATES CABINET MEMBERS

"Following are the total favorable ratings (based on the top five positions on a 10-point scale) and unfavorable ratings (based on the bottom five positions) of the aware group." Gallup notes, "It is important to bear in mind that these are ratings of each man as a person, not job performance ratings."

[In percent]

	Favorable	Unfavorable
Weinberger	73	27
Regan	71	29
Watt	61	39

(Nationwide survey based on 1,584 in-person interviews; published June 17, 1982; conducted April 30-May 3.)●

COST-OF-LIVING ADJUSTMENTS FOR FEDERAL CIVILIAN AND MILITARY RETIREES

● Mr. WARNER. Mr. President, on Tuesday, July 20, the Senate Governmental Affairs Committee approved a 4-percent ceiling on annual cost-of-living adjustments for retired Federal workers

This 4-percent cap is less than half the 8.7-percent COLA these retirees received this year, and less than two-thirds of what the Congressional Budget Office estimates they would otherwise get under the existing no-limits linkage of the cost-of-living adjustment to the Consumer Price Index.

This morning, Mike Causey of the Washington Post wrote a well-balanced and factual account of the effect this 4-percent COLA cap will have on Federal retirees, and the political and legislative history leading up to the adoption of this cap.

From my perspective, Mr. Causey's concluding statement goes to the heart of my concern for Federal retirees and for the integrity of Congress.

Causey writes:

Most feds realize their retirement plan is one of the nation's best. They help pay for it and, unlike Social Security, pay taxes on it. It is one reason they came into government. But a lot of them wish Congress and the White House would tackle the problem—inflation—not their catch-up-with-inflation raises.

Mr. President, I ask that Mike Causey's column from today's Washington Post be printed in its entirety in the RECORD for all Senators to read.

The column referred to follows:

[From the Washington Post, July 22, 1982]

FEDERAL RETIREES HAVE A COMMON INTEREST

(By Mike Causey)

The 1.7 million federal retirees who would be put on a 4 percent COLA (cost-of-living adjustment) diet for the next three years come in all shapes and sizes, but have a few important things in common:

All either worked for Uncle Sam long enough to earn an annuity, or were married to somebody who did. All have seen promised benefit cutbacks in recent years.

Many feel that politicians of both parties—especially Republicans and particularly President Reagan—con them at election time with pension-protection promises that fade after the votes are counted.

Some retirees are doing well, thanks to the government retirement system. But the majority are living modestly. They watch the Consumer Price Index the way deep-sea fishermen watch the barometer.

Earlier this week the Senate Governmental Affairs Committee went along with the budget (already approved by the Senate and House) which caps the next three annual pay and pension adjustments for federal workers and retirees at 4 percent.

Retirees now get a raise each March to match the previous year's rise in living costs. Five months ago they got an 8.7 percent raise.

Lots of retirees think they have gotten a bad rap from the media, which has fre-

quently quoted a few retired members of Congress and former federal officials who complain that their own retirement checks are embarrassingly high.

Some points about retirees:

They are scattered across the nation (heavy in Florida, California, Virginia and Texas) and 110,000 live in foreign countries. There are 100,000 former military and feds here.

Their average age is 66.9 years. Their average age at retirement is 59.3 years.

There are 1.3 million retirees; 458,000 survivors.

The average monthly annuity is just over $1,000. The average survivor benefit is just under $450.

More than 1,000 get monthly pensions of less than $50. About 74,000 get less than $200 a month, and 270,000 get less than $500 a month.

About 10,000 retirees (mostly long-service, high-salaried officials and members of Congress) get about $3,000 monthly.

Percentage raises for retirees during the late 1970's period of high inflation went up faster than pay of federal employes, because pay was frequently capped by Congress or the White House.

Some top-paid workers who retired during the period of double-digit inflation (when pay was capped) now get annuities that are higher than their former salaries. Retirees blame inflation for this, not the system.

The annual payout to retirees is over $15 billion a year, plus $2.4 billion to survivors. Washington area retirees get over a billion dollars a year. Retirees range from relatively well-off ex-supergraders to former clerks who live from month to month.

The U.S. retirees whom politicians and the media see tend to be from the financial elite, the ones who have good incomes, second careers and summer homes. They rarely hobnob with ex-civil servants living in Georgia trailer parks, or apartments in College Park.

Last election two candidates—Jimmy Carter and John Anderson—proposed limiting retirees to one COLA raise a year. Candidate Ronald Reagan pledged, in writing to the National Association of Retired Federal Employees, that he would not tamper with their twice-yearly adjustments if elected.

A followup poll by NARFE showed that better than 80 percent of its half million members voted for Reagan. The poll results were hardly public before Reagan proposed—and Congress agreed—to eliminate the September COLA adjustment, and give retirees one raise a year.

Most feds realize their retirement plan is one of the nation's best. They help pay for it and, unlike Social Security, pay taxes on it. It is one reason they came into government. But a lot of them wish Congress and the White House would tackle the problem—inflation—not their catch-up-with-inflation raises.●

NAVY'S CONGRESS RATINGS: SCORE THEM ZERO

● Mr. COHEN. Mr. President, this week's issue of Defense Week has an article, "Navy Political Index Rates the Congressmen (Stevens 57, Warner 100", which should give us all cause of concern.

According to the article, I was fortunate enough to rate 100 under the Navy's system, so I should, I suppose, be pleased. I must say, however, that I am not.

Members of the military are trained to defend our Nation, not to rate Members of Congress. Ours is a nation of civilian rule, not military control. Elected officials should not have to feel that their every vote is being placed under the careful scrutiny of military judges who are rating their friendliness on defense issues.

The Defense Week piece quoted a Navy legislative affairs office staff member as saying 11 recent "representative pieces of legislation" served as the basis for the ratings. Further, he said, every member of the Congressional Military Reform Caucus was rated. In the officer's words. "We concentrate on them more than on any other group."

I have two reactions to this. First, I can only conclude that the legislative affairs office may have too many personnel and too few things to do. If they have time to codify and commit to paper a refined rating system concentrating on a selected group of elected officials, it strikes me that they may have too much time on their hands. Perhaps the Navy needs to review whether it has an overstaffing problem.

What troubles me more, though, is what I perceive as an "us against them" kind of attitude underlying the decision to rate reform caucus members. This attitude, reflected earlier in the statement of a high ranking Air Force officer who described the reform movement as an "internal threat" to the military, is, I believe, an unhealthy one.

I find this combative approach by the military to the reform caucus offensive. The caucus was formed to introduce new ideas, to challenge old concepts, and to see whether we can supply some fresh approaches that will strengthen our defense capability.

That some military officials feel a need to focus on us, to place our votes under a microscope, is objectionable to me. This entire exercise could only encourage an unhealthy competition among the services for their own ratings games.

Members of Congress could, if we wished, play the same game. The services, and their representatives who testify before us, could be rated on how forthcoming they are, how devious, obstructive, or nasty. I am certain that officers up for promtion would not want Members of Congress to file a numerical rating which would be taken into account as they proceed up their career path.

Members of Congress realize when they cast votes that they are not doing so in a vacuum. They know that special interest groups will be selecting representative votes and rating them. That is a fact of life.

But for individuals in one branch of the Government to rate those in another branch is unacceptable. There is simply no place for that sort of thing.

And I am especially troubled by the apparent premise of the Navy ratings. TED STEVENS is no less committed to a strong national defense than I am, yet he scores "a lowly 57," in the words of Defense Week.

Do the people who devised this rating system feel there is something wrong with constructive dissent? I do not feel, for instance, that my opposition to reactivating the aircraft carrier *Oriskany*, an action apparently not included in the Navy's ratings, is an anti-defense vote. Rather it reflects my belief that such a step would not substantially enhance the Navy's capabilities and that its cost could not be justified.

That, then, is my problem with this sort of ratings system. I recognize that our military services, and all other Government agencies, closely follow how we vote on their programs. They have, I know, a keen interest in what we do. But singling out one group of members, because of their commitment to "military reform," for special review and a codified ratings system is distressing.

I am contacting the Secretary of the Navy, John Lehman, personally to urge him to stop this activity. We must all work together on behalf of a strong national defense. The Navy's ratings only run counter to that goal.●

ADMINISTRATION URGED TO CONTINUE WITH STRONG STAND AGAINST STEEL SUBSIDIES

● Mr. HEINZ. Mr. President, on Monday, July 26, I will initiate a colloquy on the current trade crisis in the steel industry and I invite all interested Senators to participate. I do so because I believe that we are rapidly approaching a critical juncture for the American steel industry, as pressure to resolve the outstanding steel cases intensifies.

Thus far the administration is to be commended for taking a strong stand in support of strict adherence to free market principles and international trading rules. I am concerned, however, that growing pressure from the European Community to find some easy way out of their responsibilities may end up landing on receptive ears in Washington in the interests of expediency.

That, Mr. President, would be most unfortunate. The facts in these cases could not be more clear. European steel subsidies violate both U.S. law and international agreements which the Europeans have signed. We went through 5 years of negotiations to produce those agreements. We made significant concessions of our own to reach them. We did so because they

represent major increases in discipline over subsidies, dumping, and other unfair trade practices that plague the international commercial system.

The essence of our trade policy since then has been to encourage broader participation in those codes and to promote the discipline embodied in them through encouraging strict adherence to their provisions.

The pending steel cases represent the most serious test of the codes to date. Simply put, the Europeans do not want to accept the responsibilities they agreed to undertake in 1979. They do not want the rules enforced. They do not want to make the hard economic decisions about their own steel industry that the market requires them to make. They would rather export their unemployment to the United States.

Nevertheless this is a test we must meet. First, our own steel industry demands it. Capacity utilization is currently hovering near 40 percent. Over 115,000 steelworkers have been laid off. Major plant shutdowns have occurred. Not to defend our own industry—particularly when it is consistent with our own law and with our international obligations to do so—is to turn an already serious situation into a major disaster.

Second, the survival of discipline in the international trading system demands it. As I noted, this is the first serious test of the rules we all agreed to in 1979. To fail this test now is to make inevitable further, even more serious breaches in the future. Obviously conditions in the European steel industry are difficult. They are difficult here as well. That is precisely why this threat to the trading system is so great. The solution to that problem is not to seek to evade the rules, to countenance subsidies, dumping, and other efforts to avoid the reality of the marketplace, but rather to permit the market system to operate as it was intended.

That is precisely what our administration's policy has been thus far, and it is precisely what it should continue to be. To emphasize that fact to all concerned, I have asked for time on the Senate floor Monday to discuss this issue in greater detail with my colleagues, and, along with the rest of the steel caucus executive committee, I am circulating a letter to the Secretary of Commerce which I hope other caucus members will join me in signing. I encourage all my colleagues to join in the colloquy Monday and to sign this letter, copies of which have been sent to all caucus members. Mr. President, I ask that the letter and some additional background information be printed in the RECORD.

The material follows:

HEINZ URGES ADMINISTRATION NOT TO "BACK AWAY" ON IMPORTED STEEL

WASHINGTON.—Senator John Heinz today warned the Reagan administration not to "back away" from its strong stand against heavily subsidized European steel imports.

Speaking as Chairman of the 47-member Senate Steel Caucus, Heinz said, "What is at stake here is both the survival of our steel industry and the principle of free trade embodied in the international agreements the Europeans have signed. This principle is too important to abandon in the interest of expediency."

Referring to news reports that the European Community will attempt to use the settlement authority in current law on a case-by-case basic rather than continuing to negotiate an overall steel settlement, Heinz said, "This tactic is nothing more than a ploy to circumvent the international agreements the United States and the European Community signed in 1979 and to find an 'easy road' that will allow them to avoid their responsibilities."

Pennsylvania's senior Senator also praised Commerce Secretary Baldridge for "thus far taking a strong position in support of enforcing our law" but expressed concern that "other voices" in the Administration might be beginning to weaken in the interests of maintaining smooth relations with Europe.

"With the American steel industry operating at 40% capacity and with nearly one-third of America's steelworkers unemployed, the Reagan Administration cannot expect the Congress to stand by and permit the further dismemberment of U.S. industry," Heinz said.

"The Administration has come to Congress seeking support for such tariff cutting initiatives as the Caribbean Basin proposal. It is also asking us to oppose domestic local content legislation for automobiles. The President cannot expect Congress to go along with such efforts if he is simultaneously going to abandon a basic American industry that has consistently proven its case before the Department of Commerce and the International Trade Commission."

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., July 22, 1982.

To the Senate Steel Caucus Staff:

The recent announcement by the European Community that it plans to seek settlements of the pending complaints within the provisions of the Trade Agreements Act with respect to the products covered in the complaints, rather than through the comprehensive approach it had been engaged in thus far, has increased the pressure on our government and aroused some concern that these cases could be concluded in a way not acceptable to the industry and not broad enough to eliminate the injury being suffered.

Accordingly, it would be helpful at this point to send some messages of encouragement to the Administration, Secretary Baldridge in particular, urging him to hold firm to the course he has been taking thus far.

To that end, Sen. Heinz has prepared the attached letter and has reserved time on the floor on Monday for a colloquy on the subject of the trade crisis in the steel industry. Also enclosed is some additional information and background on recent developments.

If your senator wishes to sign the letter or participate in the colloquy, please contact Bill Reinsch of Sen. Heinz' office (x46324) by noon Friday. Events are moving quickly on this issue right now, and it is important that we act immediately if we are to have any influence on the outcome.

Sincerely,

JOHN HEINZ.

U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, D.C., July 22, 1982.

Hon. MALCOLM BALDRIGE,
Secretary of Commerce,
Washington, D.C.

DEAR MR. SECRETARY: We are writing to urge you to continue your strong stand in support of adherence to agreed upon international trading rules and against subsidized steel imports.

We believe your Department's decisions thus far reflect our view that the Europeans are clearly subsidizing their steel production in violation of U.S. law and GATT agreements at the expense of American workers. Far from a "protectionist" action, the Administration's efforts on steel thus far have served to vigorously enforce the rule of law and the principle of the free market in the face of growing evidence that the European Community would prefer to ignore both those standards. Ultimately, the result of your policy will be a stronger international trading community as well as a stronger American steel industry.

As members of the Senate Steel Caucus, we are particularly interested in the latter and are increasingly concerned about declines in capacity utilization—now down to 40 percent—and employment—over 110,000 workers are currently laid off—that are causing serious economic distress in many parts of the country. Not to fully enforce our trade laws at this critical juncture will turn an already serious situation into a major disaster.

We are aware, however, that as the time for a suitable settlement diminishes, pressure to settle on any terms will increase. Already the European Community has launched a major campaign to that end, and we are concerned that other voices in the Administration may pick up that cry of expediency and advocate a settlement short of what is needed to fully eliminate the injury being suffered. Many of us have, in the past, supported Administration proposals for freer trade despite short term adverse consequences for American industries. We did so knowing that at the same time this Administration stood firmly behind the principle of fair trade as well, meaning strict adherence to international rules and agreements; and that industries injured by unfair imports would be supported with the full weight of the government. That support is now being tested. If the Administration does not respond, particularly in a case like steel where U.S. law, international agreements, and our own economic interests all coincide, we would expect considerable reluctance on the part of Members of Congress generally to support freer trade initiatives and to resist legislation like the local content bill.

Accordingly, we hope you will hold firm to the position you have taken thus far and will not agree to any steel settlement that does not satisfy the industry as being sufficiently broad to fully eliminate the injury suffered.

Sincerely,

JOHN HEINZ.●

ONE OF THREE KIDS IN 1980 ON WELFARE BEFORE 18

● Mr. MOYNIHAN. Mr. President, Mr. Gus Tyler, assistant president of the International Ladies' Garment Workers' Union, has recently written a fine article on the status of children on welfare. This is a useful summary of a serious national problem, one that deserves this body's attention. I ask that this article be inserted in the CONGRESSIONAL RECORD:

The article follows:

ONE OF THREE KIDS BORN IN 1980 ON WELFARE BEFORE 18

(By Gus Tyler)

NEW YORK.—One out of every three children born in the year 1980 will be "on relief" before reaching the age of 18.

That is the disturbing and, for many, startling conclusion of Senator Daniel Patrick Moynihan of New York. "The descent into welfare dependency is so chronic," writes Moynihan in The New Republic magazine, "that how we deal with it can legitimately be thought of as the question of how the nation will care for its children."

For Moynihan, this question of "dependency," and especially of dependent children, is not new. Under three Presidents—Kennedy, Johnson, and Nixon—he has given major chunks of his critical thinking to the question of children, growing up—or trying to grow up—in the seemingly dissolving American family. His latest research is spurred by the Administration's proposal to turn Aid for Dependent Children over to the states.

It's the worst time to do so, argues Moynihan, because the dependency ratio—the percentage of children who will be eligible for assistance—is growing. Since 1940, there has been a rise "in the proportion of children who receive public assistance." The 1980 ratio—one out of three—is "four times the 1940 ratio."

The root of the problem is, of course, not the kids, but their parents. "The welfare population today is associated to a substantial degree not with widowhood (the basis for the original law on aid to families with dependent children) but "with abandoned female-headed families, or those that never had a father at home in the first place." Whether white or black, female-headed families have an income that is less than half that of husband-wife families. There has been a "feminization of poverty" in America.

Child dependency is growing, is national, and is a serious threat to the future of America. It is the kind of massive, overall, many-faceted problem that dare not be neglected and should not be swept under the rug by turning it over to the states.

"The only clear policy prescription that emerges from the almost half-century of experience with the AFDC program is that the time has come to make it a truly national program, as was done with every other provision of the original Social Security Act of 1935."

To turn the American future over to the states is to trivialize the problem of the nation's children. Some states, with above average cash and conscience, will act; other states will not. Some will raise standards; others will lower them.

But in the long run, all standards will come down, because those dependent families living in poor or poorly intentioned states will move to the more generous states. As the burden grows in the latter, pressure will grow to reduce benefits. The states will begin to contest one another on who can offer less as a way of dumping undesired kids on to other states.

The assumption of responsibility by the Federal government will not, Moynihan says, solve the problem of growing dependency. At best, it will cope with a spreading disease.

Federal responsibility, however, could mean more than providing for the unfortunate children. It could establish a center, a national site, for digging into the source of the social malady to cure the disease.●

A COURT SAYS NO TO BILINGUAL EDUCATION

● Mr. HUDDLESTON. Mr. President, last week, the Fifth U.S. Circuit Court of Appeals reversed a lower court decision which required bilingual education for all Mexican-American children in Texas public schools. This ruling is important for its shows that while we have an obligation to teach Spanish-speaking children English, it does not have to be done with bilingual education.

Many Spanish-speaking people in this country are demanding bilingual instruction so that their children can have equal educational opportunities. However, by using bilingual education, they are more interested in helping to maintain the child's home language and culture than in having the child learn English. We must remember that the goal is to teach these children English, not to maintain the child's culture. Teaching English can be achieved by means other than bilingual education which the Fifth U.S. Circuit Court of Appeals recognized by its ruling.

Mr. President, I ask that an article and editorial from the Washington Post about this case be printed in the RECORD.

The material follows:

[From the Washington Post, July 13, 1982]

TEXAS SCHOOL BILINGUAL EDUCATION REJECTED

NEW ORLEANS.—A Federal appeals court yesterday threw out a lower court decision requiring bilingual education for all Mexican-American children in Texas public schools.

The 5th U.S. Circuit Court of Appeals reversed U.S. District Court Judge William Wayne Justice of Tyler, Tex., who ruled that Mexican-American students were receiving unequal treatment and ordered school officials to provide bilingual instruction.

A three-judge panel of the 5th Circuit questioned the "entire factual underpinning" of the case and declared that Justice had overstepped his legal bounds. The judge declined comment.

A legal watchdog group set up to protect Mexican-Americans in Texas first filed suit against the State, claiming it had discriminated against Mexican-Americans by banning the Spanish language in public schools.

Justice decided that violated the rights of minorities and on April 17, 1981, ordered school officials to provide bilingual instruction to all Mexican-Americans with limited English proficiency.

Texas officials appealed, claiming the "no Spanish rule" was created to provide the best possible environment for teaching Mexican immigrants English—and not to discriminate.

[From the Washington Post, July 20, 1982]

BILINGUAL JUSTICE

In the ordinary course of things, there isn't much reason to pay attention to a court decision that affects the schools of just one state, but a recent decision of the Fifth Circuit Court of Appeals involving the state of Texas is an exception. The issue involved is an important one: how to educate children whose native language is Spanish. It is particularly important in Texas, where 22 percent of the nation's 3 million Spanish-speaking schoolage children live. And its importance has been increased by the Supreme Court decision last month, which overturned a Texas law and required that state henceforth to educate children of illegal aliens, the large majority of whom in Texas are Spanish-speaking.

Finally, the decision is important because it is so sensible. The appeals court here was faced with an order issued by a single district judge requiring that every public school in the state of Texas provide Spanish-speaking pupils with instruction in Spanish in every grade. The order was entered even though the Texas legislature—admittedly, acting under pressure because of the court's ruling—passed a law requiring special instruction for Spanish-speaking pupils, but giving schools a choice between a number of programs. The appeals court overturned the trial court's ruling, making the common-sense point that "the issue is essentially a pedagogic one: how best to teach comprehension of a language. Neither we nor the trial court possess special competence in such matters."

This is not to say that nobody does. On the contrary, school districts all over the country, faced with increasing numbers of non-English-speaking students, have experimented with a variety of approaches and have found many that work. They have also found that different students, coming from a variety of backgrounds and entering school at different ages, need different approaches. The Reagan administration this spring wisely abandoned the attempt to tell local school districts they have to provide instruction in the child's first language. Now the courts in the important state of Texas have done the same thing. "There is no legal or research basis," one expert writes in the Harvard Educational Review, "for the federal government to advocate or require a specific educational approach."

These rulings do not mean that our schools do not have an affirmative obligation to provide special help to pupils speaking a foreign language. They do. But they should not be forced to rely on a single, rigid approach by either the Department of Education or the courts. And they should not lose sight of the goal—a goal whose worth and feasibility has been demonstrated again and again by the past century of our history. That goal is to teach children to speak and write English. We should give educators the leeway to abandon bilingual education programs that mistakenly keep children learning primarily in their native language and deny them the opportunity to master the language in which business and public affairs in this country are conducted.●

DEDICATION OF THE FRANK B. SWAPKA SPORTS COMPLEX

● Mr. LEVIN. Mr. President, on Saturday, July 24, the citizens of Dearborn Heights, Mich., will dedicate the Frank B. Swapka Sports Complex.

Frank Swapka was a dedicated public servant, a concerned citizen, an outstanding community leader, and a friend.

Born in Collinsville, Ill., on March 7, 1907, he moved to Detroit in 1928 where for many years he worked as a plant superintendent and chemical engineer for the Ford Motor Co. In 1942, he went to work for the city of Dearborn, Mich. He served that city well during his tenure as director of the department of public works, city assessor, and building department director.

Frank Swapka left public service from 1951 to 1963 to work in private industry, but his interest in serving his community did not waiver. He was a charter member of the Dearborn Elks. In 1962, he became a resident of Dearborn Heights, Mich. and there he assisted in organizing the Dearborn Heights Rotary and Chamber of Commerce. Frank Swapka was founder of the Dearborn Heights Benevolent Association and active in the Goodfellows.

In 1963, Frank Swapka was again called into public service as director of public works for the city of Dearborn Heights. He served in that position until his retirement in 1976. He also served as a Wayne County supervisor during a portion of that time.

However, after a very brief retirement, Frank Swapka's knowledge and talents were needed once again, and in 1978, while I was campaigning for the U.S. Senate, he was out on the hustings campaigning for mayor of Dearborn Heights. I particularly value the opinions of local elected officials like Frank Swapka because they so often know best the needs of their community.

Unfortunately, Mayor Frank Swapka never was able to finish his first term in office, for he died on March 14, 1980. He left his wife Agnes and four daughters and the many friends he had made during years of public service.

It is a fitting tribute that this sports complex be named for Frank Swapka, for he believed that communities should provide for the needs of their citizens. He would be delighted that the additional baseball diamonds, tennis courts, basketball courts, as well as open play area, picnic ground, and playground will bring enjoyment to the citizens of the community that for so many years he called home.

The honor which Mayor Frank Swapka receives with this dedication he truly deserves. I am pleased for his memory, proud to have known him, and delighted that the community which had the benefit of his services for so long continues to benefit from that service.●

SALT LAKE BASIN

● Mr. McCLURE. Mr. President, in these days of 5-hour flights from coast to coast, air-conditioned cars, and other travel luxuries, it is difficult to imagine the perils that early settlers faced. Traveling was filled with sickness and danger, and the land they found and settled was in no way trouble free. The early pioneers were a determined, hard-working, proud breed. Among these pioneers, a small group of Mormon settlers had come to find a home.

Led by Brigham Young, these settlers had come across the Nation, driven from their homes in New York, Pennsylvania, Ohio, Missouri, and Illinois to the Great Salt Lake basin. This valley of arid waste, parched soil, and deposits of salt and alkali was to become their home.

It was through their hard labor and deep conviction that the Salt Lake basin became a productive valley. Canals and ditches were dug for irrigation, the soil began to produce more than the thickets of sagebrush which the Mormons had first seen. As later pioneers arrived, they must have found hope in knowing what could be done after seeing the progress in the Salt Lake basin. Pioneer settlements expanded into Idaho, Nevada, Arizona, and even into northern New Mexico.

One hundred and forty-five years after the day Brigham Young, stricken by sickness and fatigue from the 1,200-mile journey, decided this was to be the place for his Mormon settlers, the Salt Lake basin is a place of productivity that spreads into Idaho. It is these first Mormon pioneers who found their way to this barren land and labored to build a fruitful, rich homeland that we commemorate this Saturday on Pioneer Day. These settlers contributed greatly to Idaho's past and present and should be remembered and honored with our thanks.●

BRING INTEREST RATES DOWN

● Mr. McCLURE. Mr. President, I would like to share a June 14, 1982, Fortune magazine article entitled "How To Bring Interest Rates Down." We all know the crippling effect these high rates are having on our recovery. Unfortunately, economists, academicians, and politicians have been unable to agree on the right prescription that will get these crippling rates down. Several dangerous ideas have been gaining momentum during this election year. Unfortunately, the most notable is the ill-advised notion to "reflate" the economy by allowing the money supply to grow much more rapidly than its current rate. This article quickly dispels this dangerous inclination and makes it very clear that this may give us temporary reduction in rates, in the long run it would inflict serious damage on our recovery and perhaps permanent damage in our war with inflation. As the article states:

A jolt of easy money puts downward pressure on rates for a few days or weeks, but credit markets have become so sensitized to the effect of monetary policy on inflation that sustained doses of loose money send interest rates soaring.

What our economy needs the least is unaccountable spending coupled with an exorbitantly loose money supply. Confidence in our monetary policy must be restored and held consistent if the financial markets are to correctly assume that the war with inflation will not be abandoned. The article asserts that, in 1977, when the former Chairman of the Federal Reserve, Arthur Burns, buckled under political pressure from the Carter administration and deserted his 2 year anti-inflation fight, interest rates soared to rates that are still choking us. These heights were reached at the end of the fastest 6-month increase in money supply in nearly 30 years and were a very large contributing factor to our current recession. With a grim track record like this I am not surprised that money managers are skeptical about the seriousness of this administration's efforts, especially with the magnitude of this election year's pressure.

In testimony this week before the Senate Banking Committee, Chairman of the Federal Reserve, Paul Volcker stood behind these arguments and reaffirmed the importance of controlling inflation through steady monetary policy. By calling for release of this control we are only raising inflationary fears.

While I may not agree with Chairman Volcker on all counts, I do agree with his statements before the Banking Committee, and I do agree with him when he states that "considerably more remains to be done to bring the deficit under control as the economy expands." There is no doubt that getting a solid downward trend on our budget deficit is the best thing this Congress can do to pave a road to recovery. Calling an end to our control of the money supply is surrendering the war with inflation and will mean that all the pain and suffering have been done in vain.

I ask unanimous consent that my comments and the accompanying article be reprinted in full in the CONGRESSIONAL RECORD:

HOW TO BRING INTEREST RATES DOWN

(By A. F. Ehrbar)

(Supply-side Congressman Jack Kemp and James Tobin, liberal Keynesian Nobel laureate; Senate Majority Leader Howard Baker and Walter E. Fauntroy, black representative from the District of Columbia; Irving Kristol, eminent neoconservative, and Fran-

çois Mitterrand, Socialist President of France.)

What could possibly unite all those odd couples in a common cause? They all are part of a swelling crowd that blames high interest rates on excessively tight money and wants the Federal Reserve to loosen up in order to get rates down and the economy moving. The campaign has been particularly strident in Congress, where some members have been trying to get the Fed to double its growth target for M_1 this year (see box, page 69). Howard Baker, one of the cast of characters above, doesn't go quite that far but he has been grousing that the Fed should "get its boot off the neck of the economy."

Interest rates are indeed painfully high, and several policy changes would help bring them down. However, the old trick of pumping out more money simply won't work nowadays. For the past two years faster money growth has quickly led to higher rates, not lower ones. A jolt of easy money still puts downward pressure on rates for a few days or weeks, but the credit markets have become so sensitized to the effect of monetary policy on inflation that sustained doses of loose money send rates soaring. Similarly, interest rates have dropped sharply during the periods when money has been tightest. As the chart on page 68 demonstrates, the record on this point is quite clear.

One policy step that would obviously help is putting clamps on a federal budget deficit that threatens to grow like a cancer for the next three years. But it would be a mistake to think—as Salomon Brothers economist Henry Kaufman and some other Wall Street pundits maintain—that the prolonged squabbling over the budget is the only or even the primary cause of the problem. Jumps in interest rates have tracked much more closely with news about the money supply than they have with news about the deficit. Short-term rates fell last September and October, for instance, when the markets were adjusting to the first gruesome projections of $100-billion deficits—and money was tight. Rates have also fallen over the last couple of months while the budget news got worse. Again, money has been tight.

LET'S HEAR IT FOR PAUL

The real key to getting interest rates down is to build confidence that monetary policy will stay on the tight, anti-inflation course charted by Fed Chairman Paul Volcker. What we've learned recently is that it's taking a lot longer than anyone anticipated to restore confidence in the Fed.

That really shouldn't be so surprising. After all, it took a decade and a half to persuade most people that high and rising inflation had become a permanent feature of American life. Investors who bought bonds in 1976, when inflation was fleetingly below 5% and interest rates were half their current levels, took a shellacking they won't forget. As Volcker keeps reminding congressional committees, the Fed has to earn back its credibility with "persistence and performance." It's entirely possible that lenders might not be convinced for another year or two, until we've gone through an economic recovery without the familiar pattern of accelerating monetary growth and renewed inflation.

But some changes in the way the Fed carries out its policy might shorten the time frame dramatically. The most important reform would be to eliminate the gyrations in money growth that we've had since late 1979. In a famous change of policy then, the Fed said that it would stop worrying so much about interest rates and just hold money growth on a steady course.

Astonishingly enough, however, the average monthly change in the growth rate of M_1 has more than doubled since then. (M_1 includes currency and all checking accounts.) To put the point in pharmaceutical terms, the money supply has been swinging between uppers and downers ever since the Fed promised to give it a couple of aspirin. A growing body of evidence suggests that trimming these gyrations in money growth would lessen the broad swings in interest rates and, by some estimates, might reduce rates several percentage points. If money growth remained steady on the declining path the Fed has promised, rates would fall further as confidence grew.

The surest confidence builder and interest-rate reducer of all, symbolized in the concrete number at the right, would be a legislated "monetary rule" that severely circumscribed the Fed's ability to create money. One version of such a rule would require the Fed to cut the growth of the monetary base gradually to a non-inflationary level of 1.5% or so, and then keep it there forever. (The monetary base consists of currency and bank reserves and can be thought of as the root from which the various M's grow. The base rose 4.3% from the fourth quarter of 1980 to the fouth quarter of 1981, and 8.2% the year before.) No amount of legislation can guarantee non-inflationary policies, of course. But a monetary rule offers the best hope that Volcker and President Reagan—and their successors—won't return to the ruinous practices of the recent past.

NO TIME TO GOOSE

Support for a monetary rule isn't exactly sweeping the country, but it is an idea that has been gaining more and more attention. In the last few years, just about everyone has come to accept the monetarist proposition that we can't have price stability if money grows too fast and we can't have persistent inflation if money doesn't grow too fast.

In the same vein, a large majority of economists would agree that goosing the money supply to boost economic growth—even in the depths of a recession—is a dangerous and ultimately self-defeating course. The latest cycle of high interest rates got started in 1977 when former Fed Chairman Arthur Burns abandoned a two-year anti-inflation effort and caved in to the Carter Administration's demands that he do something about unemployment. By the time Reagan took office in January 1981, T-bills were at 15.7%, the commercial-paper rate was 17.2%, and the federal funds rate was 19.4%. Those nosebleed heights were reached at the end of the fastest six-month increase in the money supply in at least 30 years.

Money has, on average, been extremely tight since then, and undoubtedly was the major cause of the recession. At the same time, inflation fell faster than most people thought possible. In other words, this "intractable" problem was not so tough as all that. A good deal of the progress—to a rate of only 1% in the first quarter—is due to the recession. But the underlying inflation rate has dropped by around four percentage points. So too have short-term interest rates. By the middle of May, the federal funds rate was down five percentage points from its January 1981 level, and T-bill rates were down 3.4 points. In other words, short-term rates have moved pretty much in step with inflation despite the Fed's stringency.

The confounding mystery about interest rates is why real rates got so high in 1980 and why they haven't come down at all. The real interest rate is the nominal rate minus expected inflation; with inflation likely to be around 5% this year, the real rate on short-term debt is up in a numbing 7% to 9% range. No one has offered a fully adequate solution to that riddle, but the Fed's monetarist critics have come up with the most complete and consistent one so far. As they see it, a primary cause of high real rates has been the enormous increase in the variability of money growth since the Fed changed its operating procedures in October 1979. The swings in money growth haven't been random bounces from month to month. Instead, three- to six-month spurts of extreme looseness have been followed by periods when the Fed's brakes seemed locked.

Karl Brunner and Allan Meltzer, the co-chairmen of the Shadow Open Market Committee, a monetarist group that critiques Fed policy, contend that the credit markets are so distrustful of Fed promises that they interpret each new swing in money growth as the best indicator of future policy. An extended period of excessive money growth feeds fears that inflation is about to take off on another upward spiral. Then a dose of tight money reassures lenders and brings interest rates down. Says Brunner: "We now know that the Fed has pursued an anti-inflation policy for the last 2½ years. But no one could have known it during the period, and no one can say with any confidence that the policy will continue."

Worse still, say Brunner and Meltzer, the big sustained swings in money growth have raised the underlying level of uncertainty about future policy, causing lenders to demand a higher "risk premium." By Meltzer's econometric calculations, the new uncertainty created by volatile money growth accounts for two to four percentage points of the increase in real rates.

The uncertainty quotient in long-term rates probably is much larger. Under the old rule of thumb that double-A bond rates consist of the expected long-term inflation rate plus a 3% real rate, the present 15% rates would indicate that long-term inflation expectations are around 12%. But if that were true, corporations wouldn't be so reluctant to issue bonds paying 15% interest. It seems more likely that bond rates reflect some subjective assessment of wildly divergent possibilities about the future. Investors may be saying: okay, long-run inflation could be close to zero—but it could also be up above 25%. In a split-the-difference gamble, a 12% premium might look about right.

The level of long-term rates and the consequent dearth of new bond issues also account for some portion of the increase in real short-term rates. Unwilling to borrow long term at 15%, corporations have bunched all their credit demands into the short end of the market, pushing short rates up. By paying through the nose short term, companies preserve the chance of getting a lower long-term rate six months or a year from now.

Chairman Volcker and Stephen Axilrod, the Fed's powerful director of monetary-policy research, argue that money growth has been so erratic because of a series of unprecedented short-run shifts in the demand for money and credit. The Fed's view is that it has taken a middle course in reacting to those demand shifts, allowing interest rates

to move more than it would have permitted under the old operating procedures, while accepting greater deviations in money growth than the new procedures were supposed to produce.

THE MESSAGE FROM BONDS

The monetarists maintain that the Fed has cause and effect backward. They argue that the swings in money growth have played havoc with inflation expectations, amplifying the normal shifts in credit demand and causing the big movements in interest rates. They draw strong support for their views from the fact that long-term as well as short-term interest rates have become more volatile. If independent, short-run shifts in the demand for credit really were the problem, only short-term interest rates would be affected. Since long-term rates have also become more volatile, something is happening that is continually altering long-term expectations. The guiltiest-looking suspect around is volatile money growth.

Monetary experts generally agree that the Fed could do a substantially better job of hitting its growth targets if it tried. No one asserts that the Fed can control M1 precisely on a weekly or monthly basis. But studies by members of the Shadow—and by Fed economists—show that the Fed could hold M1 growth within a two-percentage-point band on an annual basis and could come within two percentage points of a specific target (as opposed to a target range) on a quarterly basis. And the Fed could control the monetary base with pinpoint accuracy because it can manipulate bank reserves at will. The base serves as an excellent proxy for the transaction balances that M1 measures; the growth of the base and M1 rarely diverge by more than one percentage point.

The monetarists believe that the Fed should establish a desired growth rate for a single monetary aggregate and stick to it. Brunner and Meltzer acknowledge that this would produce more week-to-week variation in short-term interest rates but insist that the economy would be better off. By their analysis, refusing to accommodate temporary blips in credit demand would affect only the shortest of short-term rates; if a change in credit demand is truly temporary, it shouldn't alter the price of longer-term credit. Longer-term rates would actually be steadier and lower, and business would have an easier time making long-range financing and planning decisions.

"The federal funds rate would bounce around a lot," says Meltzer, "but there would be less variation in the rates on loans with maturities of six months or more, and all rates would be lower."

Incredible as it sounds, the Fed's Stephen Axilrod agrees with a good part of Meltzer's prediction. In one of his standard defenses of Fed policies, Axilrod argued in a recent Federal Reserve Bulletin that the Fed has to adapt policy to interest-rate pressures. But at a conference that Brunner and Meltzer hosted in April, Axilrod said that he too believed that firmer control of the money supply would increase the variability of only the shortest-term interest rates. When asked why that would be so bad, he replied: "I don't see any problem with that kind of volatility, but people in the market tell us they don't like it."

This fundamental debate over monetary policy has been obscured lately by all the wrangling over financial innovation. Critics of monetary targeting have been saying that the advent of money-market funds, NOW accounts, and other new financial vehicles has made it increasingly difficult to measure money, let alone control it.

It's quite true that innovation has complicated life at the Fed, but there is no evidence that money has become less definable or controllable. Much of the case against rigorous targeting rests on the assertion that the growth rates of M1 and M2 were wildly out of sync last year. In fact, the difference between the M1 and M2 growth rates was less than it had been in 1975 and 1976, before the onslaught of innovation. More important, the relationships betwen M_1 and both the monetary base and nominal GNP haven't changed in any statistically perceptible way. All that's happened is that the Fed has had to redefine the aggregates to include the new instruments as they've been created.

AN URGE TO FOOL AROUND

The principal problem with the Fed's present strategy isn't that it is incapable of eliminating inflation; it will work if money stays tight long enough. The greatest trouble is that the uncertainty spawned by erratic money growth needlessly raises the social costs of an anti-inflation policy and reduces the chance that the Fed will be allowed to follow through.

The prospect of yet another failed inflation fight has persuaded a large number of monetarists and even a few Congressmen that the time has come for a monetary rule. A rule would smooth the road to stable prices in three ways. It would minimize the social costs of a disinflationary policy. It would remove monetary policy from the arena of day-to-day politics; Presidents and Congress would still have the same urge to fool around with the Fed, but they'd have to enact new legislation to do it. And a monetary rule would hobble the Fed's own instincts to manipulate interest rates and finetune the economy. A monetary rule might also serve as a catalyst for better fiscal policy. Deprived of the printing press, Congress would be more likely to respond to the anguished cries of credit-sensitive industries by actually doing something about the deficit.

Advocates of a rule have put forth several specific proposals for how it should be written. Some want to put an upper limit on the growth of the monetary base. Others, including Brunner and Meltzer, would state the rule in terms of a specific growth rate. The details of a rule aren't terribly important, however, so long as it holds money growth to a level consistent with price stability. The differences among the growth rates being talked about are smaller than the spread between the bottom and top of the Fed's target range for M_1 now, which is 2.5% to 5.5%.

If the rule were applied to the monetary base, growth of around 1.5% would be compatible with stable prices. That growth, plus the average 2% to 2.5% annual increase in the "velocity" of the base, would finance real GNP growth of 3.5% to 4% with zero inflation (velocity is the number of times a dollar "turns over" each year). The stable-price growth rate for M1 would be around 0.5%, since its velocity rises 3% to 3.5% on average.

Opponents of a rule, including Volcker, argue that it would be folly to legislate a fixed growth rate for money when the definitions of the aggregates keep changing. Another objection to a rule is that the appropriate growth rate may change even if the composition of the targeted aggregate remains the same. That could happen if, say, velocity began rising more slowly.

Brunner has suggested a scheme that appears to deal with those objections quite handily. He points out that financial innovations don't affect the monetary base, so it could be used without any worries about changing definitions. Alternatively, if the rule were stated in terms of M1, he would leave the matter of defining and measuring M1 to the Fed. Brunner says an independent commission could work out the benchmark, non-inflationary growth rate, as well as the procedures for adjusting it.

With monetarism under furious attack in Washington and on Wall Street, the prospects for adopting a monetary rule may appear somewhere close to zero. That's probably true for now, but there are indications that a rule could become a winning issue over the next couple of years, especially if the current anti-inflation effort proves as short-lived as its predecessors—just as the bond market fears.

Sentiment for a rule has already progressed beyond the classrooms, and a movement has begun forming in Washington. The strongest support comes, unsurprisingly, from the monetarists in the Reagan Administration. In the House, Democrat Stephen L. Neal of North Carolina has had a bill before the banking Committee for several years that would require the Fed to reduce money growth—he doesn't specify which measure—gradually to less than 3 percent and keep it there. Senator Roger W. Jepsen, an Iowa Republican, supported a monetary rule during the Gold Commission deliberations. He will be chairman of the Joint Economic Committee next year if the Republicans retain control of the Senate.

KEEPING MUM, FOR NOW

The pro-rule forces on the Hill have kept a discreet silence this year, partly out of fear that the loose-money crowd might seize on the proposal as a device to force the Fed to raise its growth targets. In addition, it would be futile to push for a rule until Henry S. Reuss, a Wisconsin Democrat, retires at the end of this year. He adamantly opposes the idea, and most House Democrats defer to his judgment on monetary issues.

Rule or no rule, the one imperative now is that money growth remain on a decelerating, disinflationary path. With unemployment at a postwar high and elections approaching, that may be a politically poisonous choice. But the economy has already absorbed a large share of the costs of ending inflation. To give up again would simply mean that the poor souls in the unemployment line and all those bankrupt builders and car dealers had suffered in vain. As the Fed so correctly observed in its annual report to Congress this year. "A failure to continue on the current path would mean that the next effort would be associated with still greater hardship."

THE REFLATION CAMPAIGN IN CONGRESS

"It's the first time I can remember," says Republican Congressman Stewart B. McKinney, "when all my big guys were singing the same song." The big guys are executives at many of the 20 Fortune 500 companies headquartered in Fairfield County, Connecticut, part of McKinney's district, and the song is the familiar lament that intersest rates, oh, interest rates, must come down. The singing, at a meeting with these influential constituents last month, helped persuade McKinney to sign on with an emerging coalition in Congress that has

been putting enormous pressure on the Federal Reserve to abandon the inflation fight.

Most members of the coalition, including McKinney, would vociferously deny that they've grown soft on inflation—"That seems to be in the same political bracket as sexual relations with teenagers," one congressional aide explains—but how else to characterize a group that is insisting the Fed raise its monetary-growth targets? At least three members of the group—Democratic Senators Daniel Patrick Moynihan of New York, Jim Sasser of Tennessee, and Donald W. Riegle of Michigan—actually admit their monetary prescription would boost the inflation rate. If nothing else, that's some kind of new high in political candor.

Eliminating inflation is, at bottom, mostly a matter of political will, and that will has once again started to crumble just as the Fed's monetary stringency has begun to produce some solid progress. Large corporations, as McKinney's story shows, have now joined home builders and car dealers in pleading for relief. Says Du Pont Chairman Edward G. Jefferson, expressing an attitude increasingly prevalent among the boardroom set, "The greatest risk right now is not inflation but the risk of continued stagnation."

AN OVERLOAD OF COLLECTIBLES

This time around, the pressure to reflate (as the Europeans call it) appears to be getting an extra push from people who loaded up with collectibles and other inflation hedges. Owners of high priced homes and Mississippi bottomland have been discovering that what they bought weren't really hedges, but big bets on continuing high inflation. (Du Pont made one such bet when it acquired Conoco.) Observes an investment banker, referring to the paper losses some of his Wall Street cohorts are facing on the lavish places they call home: "The sagging New York co-op market could be the death of disinflationary monetary policy."

Another group that's discovered a strong interest in renewed inflation are the Senators and Congressmen who've been leaning on the Fed. As inflation falls, so does bracket creep, leaving legislators with less revenues to dispense. Says Edwin H. Yeo, a former Treasury under secretary for monetary affairs: "Congress got two tax cuts last year. Reagan gave them one and Volcker gave them a second. That's playing havoc with the politics of giveaways."

The politicking over monetary policy has gone largely unnoticed in a Washington fixated on budget deficits, but it has been hectic and fierce. Both Republicans and Democrats involved in the unsuccessful budget negotiations with the White House, for instance, wanted looser money as part of any compromise.

The first overt move to push the Fed toward faster money growth was made by Representative Henry S. Reuss, a Wisconsin populist and chairman of the Joint Economic Committee. In March, Reuss persuaded Fernand St Germain, chairman of the Banking Committee, to endorse a monetary-policy report calling for the Fed to make up for its extreme tightness last year with extra slack this year. The numbers in the report suggest that M1 should increase 10.7% this year—nearly double the Fed's top target of 5.5%.

St Germain sent a copy of the draft report to Fed Chairman Paul Volcker, along with the daunting request that the entire open-market committee appear before the Banking Committee at 5 p.m. on March 30 to answer questions about what they had decided at the regular meeting of the committee earlier that day. Mortified by Reuss's strong-arming, Volcker began lobbying and defeated the report in committee. With that, St Germain dropped the summons. The committee has since adopted a milder recommendation tying looser money to a tighter budget.

Moynihan, who's up for reelection this year, has been leading a similar campaign in the Senate. He, Sasser, and Riegle introduced a budget plan on March 31 that included a call for 9.7% M1 growth this year, based on logic much like Reuss's. Moynihan's plan came complete with a computer projection showing that inflation, instead of continuing to decline, would rise from 6.7% this year to 7.5% in 1983 and 7.4% in 1984.

The Moynihan plan died when the Senate's Republican majority pushed through a budget compromise in early May, but the fast-money crowd did manage to get a clause into the Senate Budget Committee's bill saying it is "the sense of Congress" that the Fed "shall" reevaluate its targets if Congress reduces the deficit substantially. The House Budget Committee approved the same clause a week later. Democrats in both the Senate and House plan to take on the Fed again in June or July. If interest rates haven't dropped much by then, the reflators will push for a congressional resolution directing Volcker to raise his targets.

BIGGER THAN THE BUDGET

In resisting the pressure from Congress, Volcker's most important ally thus far has been Ronald Reagan, the one man who really counts. The history of monetary policy shows that the Fed delivers whatever Presidents want, and Reagan has so far stuck to his initial support for declining money growth. But he hasn't been out front defending the Fed's policy, and he's under pressure from Republicans worried about November.

However the monetary debate comes out, it's likely to have a larger and more lasting effect on the economy than all the tussling over the budget. As Robert E. Weintraub, a senior economist at the Joint Economic Committee, points out, the question of whether M1 grows 4% or 8% this year is far more important for the future course of inflation than trimming $50 billion from an $825-billion federal budget.

A STRAITJACKET (WITH SOME ZIPPERS) FOR THE BUDGET

The nightly newscasts in coming months are bound to include a rising chorus of ululations from Washington spenders warning against the proposed balanced-budget amendment. The amendment now has the endorsement of President Reagan (candidate Reagan always liked it), and should clear the Senate soon by the necessary two-thirds margin. In the House, Peter Rodino has had the proposal locked safely away in the Judiciary Committee he heads, but sponsors think they have enough votes to call it to the floor.

The amendment would make life less congenial on Capitol Hill by erecting barriers—though not insurmountable ones—to deficits and tax hikes. It would not, as its critics claim, dangerously reduce the flexibility of economic policy, but it would add a bias for less spending and less taxing to a system where most of the incentives currently operate in the opposite direction. Congress might not always abide by the amendment's provisions but would at least be under some moral and political pressure to do so.

The proposal before the Senate and House combines ideas put forth by the National Taxpayers Union, an outfit that wants balanced budgets, and the National Tax Limitation Committee, a group that wants to stanch federal spending. It would require Congress to adopt a budget in which projected spending is no larger than projected tax receipts. Congress could amend the budget as the year went along, but projected receipts would still have to equal or exceed all outlays, including off-budget items.

In addition, the amendment would limit the increase in taxes in any fiscal year to the percentage increase in GNP in the prior calendar year. For instance, if GNP rose 8% in 1982, revenues couldn't rise more than 8% in fiscal 1984 (beginning October 1, 1983). In theory, the limit on tax increases, combined with the balanced-budget requirement, would have the effect of limiting the share of GNP going to the federal government. If taxes didn't rise relative to GNP and spending didn't exceed taxes, spending couldn't increase as a percentage of GNP.

Without a safety valve, these provisions would be a recipe for political and economic chaos: Congress would have to raise taxes or cut expenditures during recessions in order to keep the budget in line with revenues. Budget cuts or tax hikes could worsen and prolong a slump.

However, the amendment contains three escape clauses that would avert such purposeless pain. The entire amendment could be waived in time of war. In peacetime, with the approval of 60% of all the members of both houses (not just 60% of the votes cast) Congress could run as big a deficit as it pleased. Congress could also increase taxes relative to GNP by a vote of more than half the members of both houses. Some increase in the share of GNP taken by government will be necessary when the baby-boom generation retires, boosting the proportion of nonworkers in the economy.

The principal thrust of the amendment isn't to achieve balanced budgets, though that's a goal an overwhelming majority of the public endorses (see "Americans' Hate Affair with Deficits," page 77). Rather, the framers of the amendment have in mind putting a brake on the growth of spending. Says economist Milton Friedman, an architect of the amendment: "I think a balanced budget is important for political reasons—so that legislators who vote for spending also have to vote for the taxes to pay for it. But our emphasis has always been on limiting taxes and spending."

The proposed amendment has flaws, but they don't seem crippling. Proponents have never come up with a satisfactory answer to how it would be enforced if Congress chose to ignore the provisions. In fact, Congress has never paid the slightest attention to a law it passed in 1978 requiring balanced budgets from fiscal year 1981 onward. Given the uncertainties of budget forecasting, Congress might miss the mark by tens of billions even after a good-faith effort. The proponents of the amendment simply say we'll have to rely on the political process to throw out rascals who openly defy the Constitution. Presumably taxpayers would also be able to sue Congress and the President. Would the Supreme Court enjoin the Treasury from increasing its debt?

Now that 31 states (of the necessary 34) have called for a constitutional convention to write a balanced-budget amendment, Congress is almost certain to bring the matter to a vote. In an election year, it will

be a tough proposition to oppose. As the debate progresses, we're bound to hear plenty of wailing about putting the budget in a straitjacket. But after ten years in which we've run up $406 billion in deficits, that may seem the proper attire.●

RECLAMATION REFORM—S. 1867

● Mr. MITCHELL. Mr. President, I would like to express my opposition to S. 1867, the reclamation reform bill of 1982, passed by the Senate on July 16.

As amended by Senator METZENBAUM, S. 1867 would make major revisions in the 1902 Reclamation Act, which established a Federal program to provide subsidized irrigation water for farmers in the West. The original act was designed to encourage small, family-owned farms by limiting the size of farms eligible to receive subsidized water to 160 acres. Administrative interpretations of law later increased this to 320 acres for a farm owned by a husband and wife. In recent years, however, many people have circumvented the original intent of the 1902 law by leasing additional land over the 320 limit.

There is no doubt that much has changed since 1902. Farm sizes in general have grown to take into account modern farming practices. I recognize this fact. The bill before us, however, goes well beyond simple reform and, I believe, is contrary to the original intent of the 1902 act.

The bill, as amended, establishes a 1,280 acre limit on both owned and leased land. I am not convinced that such a large acreage limitation is necessary to accommodate modern farming practices. In 1980, an Environmental Impact Statement, prepared by the Department of Interior, found that 87 percent of the reclamation farms in the West were 320 acres or smaller; while a full 97 percent were 960 acres or less. Given this, it is clear that a 1,280 acreage limitation is not "necessary" to accommodate modern farming techniques.

In my view, the purpose of reclamation is to encourage farmers to cultivate semiarid regions of the West without providing them with an unnecessary subsidy. I believe that the acreage limitation established in this bill will simply encourage large profitable corporations to buy up small farms. At a time when family farms are disappearing in this country at an alarming rate, I do not believe the Federal Government should be encouraging this trend even further. In my view, this does not represent sound farm policy and is not in the best national interest.

Under current law, reclamation farmers in the 17 western-most States enjoy a considerable subsidy because they are not required to repay the interest on the cost of reclamation projects. In fact, the Congressional Budget Office has estimated that water districts in the West repay, on the average, only 16 percent of the total cost of these projects. This subsidy is not available to farmers in any other region of the country, including my home State of Maine.

S. 1867 attempts to address this by charging farmers the "full cost," including interest, for water on those acres over 1,280. Although the Metzenbaum substitute uses a rate of interest which more accurately reflects the true cost of borrowing to the Treasury, the 1,280 acreage limitation is so high that less than 3 percent of the farms in the West will be required to pay this "full cost." The other 87 percent will continue to receive a full subsidy on their Federal water.

In conclusion, Mr. President, let me say that I support efforts to reform reclamation law. I cannot, however, support a bill which is contrary to the intent of the 1902 act and which, I believe continues a massive Federal subsidy to a few western farming interests, at the expense of the American taxpayer.●

RETIREMENT OF HERBERT L. FOREST

● Mr. LEAHY. Mr. President, I rise today to honor a most distinguished dairyman. After 48 years as a dedicated public servant, Herbert L. Forest has retired from his position as "Mr. Dairy" in the Department of Agriculture.

In the 1930's and 1940's, when the dairy industry was in complete disarray, Mr. Forest played a key role in the formation of the Federal milk marketing order system that stabilized the dairy industry then and today provides an orderly marketing system for milk for 120,000 dairy farmers and 80 percent of all grade A milk delivered.

Mr. President, Mr. Forest's job has not been without its delicate moments. Yet his genius consistently shined through as he picked his way between what Congress provided, what the courts allowed, what producers, processors, and consumers desired, and what we knew was necessary to operate and preserve the program in the public interest. Mr. Forest has been cited many times by all segments of the dairy industry. In 1976, he received the Department's Distinguished Service Award for exceptional dedication, accomplishment, and leadership on dairy issues.

Mr. President, we all owe a debt of gratitude to Mr. Forest. I know the dairy farmers in my home State of Vermont would agree. We will all miss you, "Mr. Dairy." Thanks for a job exceptionally well done.●

FOREIGN CORRUPT PRACTICES ACT

● Mr. CHAFEE. Mr. President, I request that an article which appeared in the International Construction Newsletter of July 1982, concerning hearings before the House Energy and Commerce Subcommittee on Telecommunications, Consumer Protection, and Finance on the Foreign Corrupt Practices Act, be inserted in the RECORD following my statement.

The article follows:

HOUSE HEARINGS ON FCPA

Congressman Timothy Wirth's Subcommittee on Telecommunications, Consumer Protection and Finance held a fourth and final day of oversight hearings, June 8, on the Foreign Corrupt Practices Act of 1977. Jack Richards, Vice President for Governmental Affairs of the N. W. Kellogg Company, a subsidiary of Wheelabrator-Frye, Inc., testified on behalf of International Engineering and Construction Industries Council [IECIC]. IECIC is comprised of the AGC, the National Constructors Association, the American Consulting Engineers Council and the American Institute of Architects.

Mr. Richards began his remarks by saying, "At the outset, let me state, positively, that we do not believe bribery of foreign officials is an acceptable way of doing business. Companies represented by the IECIC associations are well-established, reputable leaders in the engineering-construction industry who cannot afford the certain ramifications of illicit payments and the accusation of inapproprate or illegal business transactions. Our members have developed their strong reputations in world markets by offering a better product, sophisticated technologies and by establishing themselves as responsible business partners. We consider illicit payments unethical and not in the best interests of U.S. exports of goods and services."

The purpose of this fourth day of hearings, according to subcommittee staff, was to hear directly from the business community the actual impact the FCPA is having on their business. Speaking from over twenty years of career experience overseas in engineering and construction activities, Mr. Richards told the subcommittee, "I know that many U.S. firms are reluctant to undertake projects in many countries because of their concern over the application and associated penalties of the law . . . I wish I could tell you precisely that U.S. industry in any given year lost X billion dollars because of the provisions of the law. Unfortunately, there are many contributing causes for lost U.S. export business; and it is extremely difficult, often impossible, in every case to distinguish the primary reason for a lost contract."

Mr. Richards went on to highlight three aspects of the current law's impact on U.S. exports and gave examples of each. Briefly, the three cases are: [1] unwillingness on the part of U.S. firms to engage in commercial arrangements such as joint ventures in countries whose routine business practices may be challenged under the FCPA; [2] uncertainty in the definition of facilitating payments under the law has caused companies to withdraw completely from business activity in some countries and; [3] confusion over extent to which U.S. firms are held responsible for the actions of third party in-

termediaries which they are often required by local law to employ.

In closing, Mr. Richards urged the committee to consider favorably the adoption of amending FCPA legislation consistent with the general provisions of H.R. 2530 and the final S. 708. IECIC believes clarifying amendments to the FCPA is of "extreme importance to our industry and will represent a major step in the development of our U.S. export enhancement policy."

Following the testimony from the two business panels present, Chairman Wirth began a dialogue questioning the usefulness of many provisions in the Senate-passed clarifying amendments. Mr. Wirth stated in several cases he found the proposed language changes just as ambiguous as the current law. Despite the testimony from the business community stating that business understood and could live with the new language, Mr. Wirth continued to seek precise definitions on many points such as "facilitating payments" and the "reason to know" standard in the bribery provisions of the law.

Mr. Richards offered Mr. Wirth the assistance of a business community task force comprised of the Chamber of Commerce of the U.S.A., the Emergency Committee for American Trade, the National Association of Manufacturers and IECIC in helping to achieve definitions and language he could accept. This task force, on June 11, sent a five page response to Mr. Wirth covering all his concerns raised at the hearings. The willingness of the business community to respond quickly to the Congress should be taken as an indication of the importance placed on amending the FCPA this year.

IECIC, agreeing with views expressed in previous testimony, said Mr. Richards, has problems "with regard to the excessive and unrealistic accounting and reporting standards mandated by a strict interpretation of the Foreign Corrupt Practices Act" and the ambiguities in the bribery provisions of the current law. "Chief among our concerns is the extent to which a U.S. company can be held liable for the actions of its foreign agents overseas and the problems surrounding the determination of an illicit payment." He voiced IECIC's support for the way Senate-passed S. 708 had addressed these concerns.●

MLRS: A SUCCESSFUL WEAPONS PROGRAM

● Mr. BUMPERS. Mr. President, the cost of today's modern weapons are mind-boggling: $30 million for one F-18 fighter, almost $3 million per M-1 tank, $3.5 billion for a nuclear aircraft carrier. Time and again, we receive reports of staggering cost overruns and complex military systems that do not perform as advertised. Last year, for example, the actual costs of 47 major weapons programs exceeded expected costs by more than $50 billion. It is such a rare event to find a program that is militarily effective, on schedule, and on budget, that I feel the American people should know about it. They deserve some encouraging news concerning how their hard-earned defense dollars are being spent.

The system I am referring to is the multiple launch rocket system, better known as the MLRS, which is being built for the Army by the Vought Corp. in Camden, Ark. The MLRS is an unguided, surface-to-surface 230-mm rocket system that is mounted on an armored vehicle that can travel up to 64 kilometers per hour. It can fire up to 12 rockets, each with a range in excess of 30 kilometers, individually or in rapid sequence. The mission of the MLRS is critical yet straight-forward: to prevent enemy forces from assembling prior to launching attacks on friendly forces. Deployed 5 to 10 kilometers behind our front lines, it will carry out this mission with devastasting efficieny as it fires its 12 rockets and then moves quickly to another position to avoid detection. Using these "shoot and scoot" tactics will increase both its effectiveness and its survivability on the modern battlefield.

Congress watchdog for cost overruns is the General Accounting Office (GAO), which usually has little good to say about the way the Department of Defense spends money. But earlier this year, the GAO published a report titled "The Army's Multiple Launch Rocket System Is Progressing Well and Merits Continued Support," and concluded that the MLRS "has excellent potential for significantly increasing the Army's artillery capability," and that the program is meeting its cost and schedule goals. In fact, while the costs of most systems have spiraled out of sight, the program acquisition costs of the MLRS actually fell by 12 percent during the last 9 months of 1981. No wonder the MLRS project manager, Army Col. Monte Hatchett, was named Project Manager of the Year.

The ingredients of the MLRS' success include the Army's clear need for the system; a $50 million investment of private capital, including a new 500,000-square-foot production facility in Camden's Highland Industrial Park, by the Vought Corp.; a pool of highly skilled labor and the presence of major subcontractors like Atlantic Research Corp. and the Brunswick Corp. in Camden; and fixed price contracts. As a result, Congress has authorized more than $400 million for the MLRS program for fiscal year 1983. The cost effectiveness of the program will be enhanced even more when the Army concludes a multiyear procurement contract for the MLRS.

By the end of fiscal year 1990, 276 MLRS launch vehicles, 363,000 tactical rockets, and 28,000 training rockets will have been produced at an estimated total cost of almost $4 billion. In addition, the United States, France, Germany, and the United Kingdom have agreed to coproduce the MLRS in Europe, and to deploy it throughout the NATO Alliance.

The MLRS is an example of how the weapons development and procurement system is supposed to work. I hope that this program will be studied by contractors and military managers, and that its lessons can be applied to the production of future weapons systems. We need a strong defense, but the only way we will achieve that goal is to build weapons, like the MLRS, that make military sense and that are cost effective.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have a few final and concluding details to attend to if the minority leader is prepared to consider these items at this time.

TRIBUTE OF MARY ALICE RICHARDS

Mr. BAKER. Mr. President, I send to the desk a resolution for myself and the distinguished minority leader, Senator ROBERT C. BYRD and for Senators THURMOND, ZORINSKY, and EXON, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 432) paying tribute to Mary Alice Richards.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BAKER. I acknowledge the retirement today of one of the Senate's most loyal and dedicated employees, Miss Mary Alice Richards of the Sergeant at Arms Office. She is retiring after 30 years of Government service, 15 years of which she has been with the Sergeant at Arms Office. Miss Richards is the secretary for personnel administration for the Sergeant at Arms. In that capacity she has personally put many thousands of Senate employees on the payroll. She has maintained the personnel records of more than 1,200 current Sergeant at Arms employees, assisting them with retirement procedures and medical claims. She has also provided counsel to the Sergeant at Arms and department heads on personnel policies and procedures. Further, Miss Richards was also responsible for maintaining patronage records and worked with the secretaries of the majority and minority in administering the patronage system

Miss Richards is a native of Omaha, Nebr., and will be returning there soon to pursue a nursing career. The U.S. Senate owes a great measure of gratitude to Mary Alice and will long remember her devotion to this institution. And while we acknowledge and thank Mary Alice Richards for her extraordinary service to the U.S. Senate, we also wish her happiness in her re-

tirement from the Senate and godspeed in a new and challenging future.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield? It is a pleasure to pause at this time after a very long day to pay tribute to one of our most dedicated Senate employees. I am happy to be able to join the majority leader in recognizing the long and distinguished service of Mary Alice Richards of the Sergeant at Arms Office.

Miss Richards over the past 15 years has assisted literally thousands of Senate employees in her position as secretary for personnel administration. It is very appropriate that Mary Alice is about to enter a new field of service—that being the nursing profession. I know that she will serve her new career with the same degree of diligence and patience as she has served the Senate and so many of her fellow colleagues.

Mr. President, I know my colleagues join me in wishing Mary Alice Richards the very best in the years ahead and to give her our sincere thanks for her loyal and dedicated service.

Mr. THURMOND. Mr. President, I wish to associate myself with the splendid remarks of the majority and minority leaders.

Mr. ZORINSKY. Mr. President, I am very proud to be able to commend a native Nebraskan who has served the U.S. Senate for 15 years. Mary Alice Richards, secretary for personnel adminstration of the Sergeant at Arms Office, will conclude her tenure as a Senate employee today to return to Omaha to begin an entirely new career.

My wife Cece and I have known Mary Alice for many years and while we regret that she is leaving the Senate and the Washington area, we are very excited that she is returning to Nebraska. We both intend to follow her nursing career with great interest, and we know she will take to the nursing profession the same care and understanding of people as she exercised while here in the Nation's Capital.

Mr. EXON. Mr. President, I wish to join my colleagues in paying tribute to Mary Alice Richards upon her retirement from the Senate.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 432) was agreed to.

The preamble was agreed to.

The resolution, together with the preamble, are as follows:

S. RES. 432

Whereas, Mary Alice Richards has served as an exemplary Secretary for Personnel Administration to the Senate Sergeant at Arms for 15 years and her country for over 30 years;

Whereas, she has throughout the 97th Congress, been responsible for the personnel records of over 1,200 current Sergeant at Arms employees, providing assistance and counsel to the Sergeant at Arms and Department Heads on personnel policies and procedures, maintaining patronage records and assisting in administering the patronage system, and placing thousands of Senate employees on the payroll;

Whereas, she has served the Senate, especially the Sergeant at Arms and the Secretaries of the Majority and Minority, with extraordinary competence, dedication, and loyalty: Now therefore be it

Resolved, That the Senate of the United States extends its appreciation and gratitude to Mary Alice Richards for her faithful service to the Senate and to the Nation.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to Mary Alice Richards.

ORDER FOR THE RECOGNITION OF CERTAIN SENATORS ON MONDAY, JULY 26, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the two leaders under the standing order on Monday, July 26, three Senators be recognized on special orders of not to exceed 15 minutes each: Senators HEINZ, PRYOR, and NUNN, in that order.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON MONDAY, JULY 26, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that after the execution of the special orders there be a period for the transaction of routine morning business to extend not past the hour of 1 p.m. in which Senators may speak for not more than 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BAKER. Mr. President, on Monday after the execution of the program as just outlined, the Senate will return to the consideration of the constitutional amendment on the balanced budget. The Ford amendment will be the pending question.

EXPRESSIONS OF APPRECIATION

Mr. BAKER. Mr. President, I have no further business to transact. I will inquire of the minority leader if he has any matters he wishes to bring before the Senate.

Mr. ROBERT C. BYRD. Just to thank the majority leader for his characteristic courtesy which he has shown to the minority during the deliberations on this bill.

I marvel at his equanimity at all times. I think it is worthy of emulation, and certainly worthy of mention.

I personally admire him greatly and I thank him for his understanding and his courtesies extended to my colleagues on this side of the aisle and to me personally.

Mr. BAKER. Mr. President, I am deeply grateful, and I hope I can acknowledge without any further elaboration what I have said privately to the minority leader on many other occasions. What a fine example he has set in his service as majority leader and how shamelessly I emulate that, and I am pleased with that opportunity.

RECESS UNTIL 11 A.M. ON MONDAY, JULY 26, 1982

Mr. BAKER. Mr. President, if there is nothing further to come before the Senate, and no other Senator is seeking recognition, I move now, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11 a.m. on Monday next.

The motion was agreed to; and the Senate, at 5:01 a.m. recessed until Monday, July 26, 1982, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1982:

SECURITIES AND EXCHANGE COMMISSION

James C. Treadway, Jr., of the District of Columbia, to be a Member of the Securities and Exchange Commission for the term expiring June 5, 1987, vice Bevis Longstreth, term expired.

THE JUDICIARY

William M. Acker, Jr., of Alabama, to be U.S. district judge for the northern district of Alabama vice Frank H. McFadden, resigned.

DEPARTMENT OF JUSTICE

Faith P. Evans, of Hawaii, to be U.S. Marshal for the district of Hawaii for the term of 4 years vice Edward N. Keliikoa, resigned.

U.S. METRIC BOARD

Harry J. Staszewski, Jr., of Pennsylvania, to be a Member of the U.S. Metric Board for the term expiring March 23, 1988, vice Sandra R. Kenney, term expired.

NATIONAL SCIENCE FOUNDATION

Edward A. Knapp, of New Mexico, to be an Assistant Director of the National Science Foundation, vice William Klemperer, resigned.

APPALACHIAN REGIONAL COMMISSION

Winifred Ann Pizzano, of Virginia, to be Federal Cochairman of the Appalachian Regional Commission, vice Albert P. Smith, resigned.

Jacqueline L. Phillips, of Maryland, to be Alternate Federal Cochairman of the Appalachian Regional Commission, vice William E. Albers.

DEPARTMENT OF AGRICULTURE

Wilmer D. Mizell, Sr., of North Carolina, to be an Assistant Secretary of Agriculture, vice James C. Webster, resigned.

EXTENSIONS OF REMARKS

CHESAPEAKE BAY INFORMATION PROJECT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. DYSON. Mr. Speaker, I think it is fair to say that one of the most productive, beautiful, and well-known bodies of water in the world is the Chesapeake Bay. I have had a lifelong interest in the waters of the Chesapeake and am proud of the fact that much of the district I represent is "Bay Country." Like all estuaries, the Chesapeake Bay is vulnerable to the depredations of man—whether intentional or not. Over the years, many organizations have studied the bay to seek a greater understanding of its cycles, its strengths and weaknesses.

A new endeavor of citizens who are working to strengthen bay improvement programs through better coordination of research information dissemination is the Chesapeake Bay information project. Our former colleague Gilbert Gude, presently Director of the Congressional Research Service, made a presentation to these citizens which points up how important it is that all policymakers—whether bay community leaders or Congressmen—need the very best of information systems to deal with the complex issues of today.

I commend this speech to your attention.

INFORMATION AND RESEARCH SYSTEMS IN THE SERVICE OF DECISIONMAKING

(By Gilbert Gude, Director, Congressional Research Service)

Your invitation to discuss the establishment of a Chesapeake Bay information center is most appreciated. When people are in government, they are always involved in some type of information communication but for more than 5 years now I have been involved with an institution which is totally committed to research and transfer of information to the United States Congress. The Congressional Research Service, CRS works exclusively for Congress—for all the Members and all the committees; and CRS scope—information, reference, and research—covers all subject areas including estuarine and coastal shelf problems which are of congressional interest. The inquiries from Members and staff—by phone, letter or in person—exceed 370,000 a year and the number of requests has increased at an average rate of almost 9 percent each year over the past decade. The Service employs about 825 people—550 of whom are professionals.

But let me assure you that CRS did not spring forth—Juno-like—from the legislative brow in its present form. It evolved at a very slow pace from a small staff of librarians in days when Government—in fact all society—moved leisurely, to a highly complex information, reference and research system, with automation capability; such evolution rarely follows a smooth path—there inevitably are the ruts of trial and error.

Several principles of CRS account for this evolution. One is embodied in the concept that CRS is in the information and research management business. A few decades ago, the problems we faced were exacerbated by lack of knowledge; but today it is not lack of information but really information overload which often makes problem solving difficult. For this reason CRS sends materials to Congress only at the request of the Members or committees or staff; none of our issue briefs, reports or other materials are provided unless each has been requested. We do not pamphleteer nor lobby Congress; this means, of course, that we serve Congress in a nonpartisan, objective mode; if there is one thing that is not needed in Washington today, it's another advocate or pressure group—sometimes it seems that the lobbies are cloning all over town. So your planning committee's recommendation that your proposed center should provide unbiased and timely information on issues that affect bay publics is on target.

CRS also heartily concurs with your planning committee's stipulation of timeliness. We labor continuously to meet congressional deadlines—provide research in time for a committee hearing, or information in time for a statement to be made in scheduled debate. Fortunately, not every Member of Congress nor every committee is on the phone making requests at one time; we are able to structure our workload. Sometimes we must negotiate a deadline, supplying some material or part of the research initially and then serve up the balance at a later time.

In order to respond to a large number of diverse requests, the CRS professional staff is comprised both of generalists—librarians or information specialists—and subject area specialists—researchers, analysts, lawyers, economists, oceanographers, experts in renewable resource. These professionals serve as shared staff, for all Members of the Senate and House and all of the committees. For example, a researcher in our Environment and Natural Resources Division could, in the course of several days, be assisting a committee in analyzing draft legislation to establish a coastal barrier resources system, talk by phone with legislative staff in a Member's office concerning problems of oil pollution and at the same time be preparing an issue brief which will be available to answer recurring questions from a number of offices which are not seeking detailed analysis but a succinct but well stated overview.

Through the system of shared staff CRS endeavors to use its personnel economically and efficiently. Analysts and specialists are grouped into seven research divisions including the Environment and Natural Resources Policy Division which does much of the estuarine and coastal zone work, and SPRD which approaches these problems from a scientific analysis position. CRS librarians with professional training in library and information science and who might be termed information generalists—are located in the Library Services Division and the Reference Division. The arts and science team in the Reference Division would handle marine estuarine and coastal shelf questions.

In examining information and research work your planning committee has raised an important problem—how to supply the requester with precisely the needed information. I has often been said that 95 percent of the job of providing the needed information involves how well the question is asked. In CRS we have a series of institutes for Member and committee staff to help them to work effectively with CRS information and research resources and how to design and clearly delineate the structure of a project.

Good professionals—analysts, researchers and librarians—not only look to numerous sources of prepared material to carry out their work, but consult professionals in other institutions, both governmental and private, to keep abreast of developments in all of the particular fields. We don't mind picking brains. A CRS bibliographer who specializes in the environmental area can call on the librarians in NOAA, EPA or at Columbia University for information concerning current literature. At the same time, a CRS oceanographer will be on the same kind of a first name basis with State Department experts as to developments in the law of the sea area and ocean scientists at Woods Hole, Mass., on some of their latest work on ocean currents and pollution. Professional meetings are an extremely vital point for keeping abreast of new theories and new studies.

As to keeping current in the estuarine and coastal environmental areas, the 3,000 serials which CRS bibliographers scan every month include *The Water Resources Bulletin, Potomac Basin Reporter, Estuaries, Coastal Zone Management Journal, Clean Water Report, Marine Fisheries Review, National Fisherman, Field and Stream, Water Spectrum and Environment.* CRS bibliographers also scan research studies by Government and private groups, as well as congressional publications about the Chesapeake Bay.

The various outside data bases consulted in the marine, estuarine and coastal areas are *"Enviroline," Oceanic Abstracts, Nexis,* and the *New York Times Infobank.*

In order to carry out its mission, CRS is obliged to tailor its response to the needs of its congressional constitutents. Different situations call for different products or modes. One mode, oral communication, is on the increase. Our researchers not only discuss matters with Members or staffers by phone but often visit congressional offices or committees to provide briefings in particular areas. Seminars and workshops are popular media. As opposed to the printed report; such oral programs provide the opportunity for a dialogue.

Just as the oral communicaton of information ranges from a quick phone call to an all-day seminar, CRS written products are similarly targeted to those being served. One-to-10 page memos are often utilized to

answer specific requests, such as "would like the current status of Federal funding for shore protection of the Chesapeake Bay under the Corps of Engineers Rivers and Harbors Act and NOAA's Coastal Zone Management Act;" "supply background information on plans to build a super-tanker port in Texas"; and "supply information on anticipated impact of offshore oil and gas operation on coastal North Carolina."

CRS is also directed by statute to anticipate congressional information and research needs. One of the most commonly used tools is the computerized issue brief. We have at this time approximately 375 issue briefs in the system on all subject areas of substantial congressional interest, ranging from "Abortion" and "Acid Precipitation" to "Urea-Formaldehyde Foam Insulation" and "Yellow Rain." Issue briefs seldom run more than 15 pages printed out or retrieved on terminal screens; they are designed to give a legislative assistant or a Member of Congress a quick overview of a specific issue. "Oil Spill Liability and Compensation" is a typical issue brief: it runs a total of 9 pages; it starts with a definition of the issue. Background and policy analysis of this brief includes a discussion of oil handling trends and spill rates, effects of oil pollution and a discussion of compensation for oil spills. The brief then discusses the current proposals and current issues, which include preemption, liability, coverage, and a discussion of the appropriate funding level and the fund maintenance. The brief concludes with a discussion of specific bills introduced and a chronology of legislative events which affect oil pollution liability and compensation. This issue brief was introduced in April 1981 and, as of the first of this month, had been updated 12 times. The technology of the system makes it possible to update these IB's on a daily basis if necessary and, indeed, in such cases as the Iranian hostage crisis and the Falkland Islands war, this occurs daily on dozens and even hundreds of days. Issue briefs are available to Members and staff not only in hard copy, but on office computer screens.

In addition to the issue briefs, a heavily used CRS product is the CRS report, usually from 20–100 pages in length; reports provide indepth analysis or examination of a specific aspect of congressional concern. Typical of the CRS report is the "Federal Role in Barrier Island Development."

Bibliographies are also a popular item in the congressional community. These, too, are prepared to cover fast-moving issues. In accordance with our efforts to work more closely with Congress in the reference-research areas, we recently developed the research guide. Congressional staff use these guides as a bibliographic road map, which traces the literature best suited to explore a particular aspect of a subject area.

Another product of the Congressional Research Service Library Services Division is the selective dissemination of information system, known as the SDI. This very popular and heavily used system provides CRS researchers and analysts and congressional subscribers, a weekly listing of articles in their particular subject areas of interest. Those subscribers to the SDI who would be interested in estuarine and coastal zone matters would subscribe to the interest terms: "Fisheries, water pollution, water resources development, and waterways." Three by five cards delivered weekly give annotated citations of all current articles in journals dealing with the subject areas. Subscribers can then order the printout of those particular articles in which he or she is interested. This saves an individual from screening or trying to read dozens and dozens of periodicals on a weekly basis.

We continually monitor the usage and effectiveness of our various products by questionnaires and consultations. We have been very gratified that, regardless of political philosophy or party registration, the various services are utilized to a relatively equal degree by all Members; this applies, for example, to the attendance at our seminar programs: We find that a Member-only breakfast seminar on MX missile siting which starts at 8 o'clock in the morning will have a good ratio of Democrats and Republicans, conservatives, moderates and liberals. This not only would hint that our programs are useful to all of the Members regardless of political persuasion, but also that Members of Congress wish to hear the pros and cons—a fair analysis of all sides of the issues. Any information research system should be continually sensitive to these factors and ready to adjust to changing needs of its clientele.

As I have pointed out, the Congressional Research Service is very specifically directed to serve only the legislature; our appropriations limit us to provide information and research to the Congressional community. Members, in carrying out their representational function, sometimes provide CRS materials to constituents; for example, a resident of the Chesapeake Bay region who asks his or her Congressman for information on oil spill liability. In a substantial number of cases, major projects which our research divisions prepare for committees are printed at the request of the committee by the Government Printing Office and are available to the general public. At the direction of Congress, we list twice a year those CRS products which Congress has put into the public domain. Also at the direction of Congress, the Government Printing Office publishes an ongoing series, known as the *MLC—Major Legislation of the Congress*—which is derived from our issue brief system and gives an overview of how Congress is dealing with major issues of the day. Congress also directs GPO to print the *Bill Digest*, which is prepared by CRS and gives a listing and summary of bills under consideration. So a substantial amount of CRS work that is most likely to be helpful to the general public does go into the public domain.

In conclusion, I hope this overview of the Congressional Research Service is helpful to your deliberations. We—you and I—and so many citizens of our democratic society have a dedication to the principle of the free exchange of information as well as objective research and intellectual investigation. We believe mankind is best served when these principles are most nearly fulfilled. But the burgeoning growth of all sciences and sophisticated information technology of today makes it difficult for the decision maker, the architects of policy, to always have, in a timely manner, the best knowledge available in the most helpful form. And so we, you and I, can agree on one final point: Our work is cut out for us. Good Luck!●

THE WILD AND SCENIC RIVERS BILL

HON. JAMES WEAVER

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. WEAVER. Mr. Speaker, today I am introducing a bill to designate some of Oregon's finest free-flowing streams as wild and scenic rivers. This bill would call for studies of four rivers, to evaluate their potential as wild and scenic rivers, and would immediately designate four others. Those streams designated as wild and scenic are the North Umpqua, the north fork of the John Day, and the south fork of the Owyhee, and the Illinois. The rivers to be studied are the north fork of the Smith, the Grande Ronde, McKenzie, and the Chetco.

All of these rivers, except the North Umpqua, have been inventoried by the appropriate agency and qualify for protection. This inventory took nearly 2 years and encompassed over 280,000 square miles in 7 States. These rivers were identified as having particularly significant resource values. The North Umpqua has been studied extensively by the Oregon State Parks Department and recommended to be included in the State wild and scenic system. It is a superb fishery and attracts steelhead fishermen from around the world.

These rivers are all outstanding streams, offering recreation, fisheries habitat, water supplies, and unbounded esthetic pleasures. These rivers qualify for protection and are favored by a broad cross-section of Oregonians who enjoy the pleasures of free-flowing streams.

I will do my best to see this vitally important legislation passed, and urge all of my colleagues to give it their full support.●

IDA NUDEL

HON. BOB SHAMANSKY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SHAMANSKY. Mr. Speaker, Ida Nudel serves as a perfect representation of the thousands of Soviet citizens determined to emigrate from the U.S.S.R.

Ida Nudel has been denied this basic right and has been treated unjustly by the Soviet Government. After applying for a visa in 1971, she was not only refused permission to emigrate but was also banned from the job market. Despite the fact that she was under close surveillance by authorities and was barely able to support herself, she dedicated herself to the Soviet prison-

ers of conscience and earned the heroine reputation as "Guardian Angel of the Prisoners." After 7 years of fighting for human rights, she was sentenced to Siberian exile simply for expressing her wish on a sign: "KGB, give me my visa."

This strong woman was released this past spring and deserves to become united with her only living relative in Israel.

Last year, the number of Jews seeking to emigrate from the Soviet Union rose to its highest level ever. The number permitted to leave, however, sank to less than 10 percent of the 1979 level. The United States, which stands so strongly for the freedom of the oppressed, cannot pass up any opportunity to continue to press the Soviet Union to comply with the international agreements supporting human rights, agreements which the U.S.S.R. has signed.

I recently received a letter from Ida Nudel's sister, Elena Fridman. I would like to insert it in the RECORD at this point.

KIRYAT SHARETT,
Holon, Israel, June 27, 1982.

Hon. ROBERT N. SHAMANSKY,
House of Representatives,
Washington D.C., U.S.A.

DEAR CONGRESSMAN SHAMANSKY: I am deeply moved and encouraged by your concern and activity on behalf of my sister, Ida Nudel, as expressed in your letter to Ambassador Anatoly Dobrynin dated February 26, co-signed by you and 73 of your colleagues in the U.S. House of Representatives. If you receive any response from Ambassador Dobrynin you can well appreciate how anxious I will be to have you share it with me.

Ida's release from Siberian exile and her return to her Moscow apartment on March 26 sparked hope and anticipation in my heart. I thought it might be the first step toward our long-awaited reunion in Israel. Instead, it turned out to be the beginning of a new round of the Soviet authorities' campaign to further embitter her life.

This time they have evidently decided to throw her into a bureaucratic maze which seems to provide no way out and is obviously designed to strangle her hope and spirit.

Immediately after having received her I.D. card from the police in Moscow, Ida went to the Ovir office to again apply for an exit visa to Israel. There she was told that such application could only be received from persons who are resident in the district. Since no address was written into her new I.D. card, she would have to apply for a residence permit. Ida's subsequent application for the reinstatement of her permanent residence status in Moscow has now been turned down. She does not know where she will live if she is indeed forced out of her apartment in Moscow.

Of equal concern is the fact that Ida has expressed her need to enter a hospital for long overdue treatment of her heart condition. This is also impossible because hospital facilities in Moscow are unavailable to nonresidents. During conversations in Moscow, Ida has indicated that what kept her going during her difficult exile were the thousands of letters she received from well-wishers around the world. I believe that continuing the flow of letters now is the most important thing we can do. The only address I can give you is that of her Moscow apartment. I do not know whether letters will actually reach her there, but I believe we must try for as long as this is her only address:

U.S.S.R.
Moscow.
Yunikh Lenintzev St. No. 79.
CPRP. 6, Apt. 28.
Nudel, Ida.
(Personal Delivery—Acknowledgment of Receipt Requested.)

Obviously, I would also be very grateful if you would continue to place pressure on the Soviet authorities so that they might finally relent in this senseless campaign and allow Ida to go.

Sincerely yours,

ELENA FRIDMAN.●

SMALL BUSINESS ADMINISTRATION PERSONNEL REFORM ACT OF 1982

HON. PARREN J. MITCHELL

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. MITCHELL of Maryland. Mr. Speaker, today, I have introduced a bill entitled "The Small Business Administration Personnel Reform Act of 1982."

For at least the last 12 years SBA has been the subject of intense criticism regarding the political abuse of its personnel management system. Generally regarded as a "political dumping ground", SBA continues to fall short of achieving congressionally mandated goals due, in great measure, to a management system which places more importance on political affiliation than management expertise. These problems not only deprive the small business community of the most effective delivery of programs and services, but also deprive SBA's work force of an equitable opportunity to fully develop their career potential. We must put an end to this situation now or continue to face the consequences of an organization which has the reputation of being the most politically motivated agency in this city.

The history of SBA's politically abused personnel system is well known.

In the late 1960's and early 1970's SBA's politically abused personnel system came under attack by the House Banking Committee which had legislative jurisdiction over SBA at the time.

In August of 1974, the U.S. Civil Service Commission—now the Office of Personnel Management—issued a report entitled "Alleged Political Influence in Personnel Actions at the Small Business Administration". The report concluded, among other things, that illegal political considerations resulted in the selection of district directors and that:

A number of improper or illegal personnel actions have been taken by SBA as a result of efforts to provide preferential treatment of some candidates and employees; and in some cases, the personnel actions which resulted from preferential treatment were based on considerations of political support.

In 1979, SBA was again accused of politically motivated personnel actions for its adoption of a rotation policy for district directors. The legality of the rotation system was sustained by the Merit Systems Protection Board. However, persistent rumor exists that the challenge to SBA's actions was not as vigorous as it could have been. Nonetheless, it should be noted that GAO has criticized the policy. In a report dated August 26, 1980 (B199588) GAO concluded:

While SBA's rotation policy, itself, does not violate any law or regulation, we feel that the policy was not adequately developed and implemented. The SBA district directors were not formally consulted on the need for such a policy nor given an opportunity to provide input into its development. Also, alternative arrangements were not considered nor explored with directors who might refuse to accept a reassignment. In the interests of fairness, equity, and cost to the Government, we feel that, at a minimum, these steps should have been taken before implementing the policy.

The "cost" referred to by GAO is quite substantial. Seven district directors were rotated in 1979 at an estimated cost of $117,596, or $16,800 for each.

When the former SBA Administrator took office in 1981 he too continued the tradition of questionable personnel practices. By January 1982, he had directed the reassignment to different geographic locations of 10 employees who were GS-14 or above. No substantive justifications for these actions were ever provided. Employees resigned rather than accept reassignment; hundreds of thousands of taxpayer dollars were spent on those forced to relocate; and yet SBA still cannot even articulate a standard for ordering a reassignment in the first place.

Most recently, my committee staff has uncovered the fact that none of SBA's schedule C employees have performance standards: No schedule C occupying a grade of GS-13, GS-14 or GS-15 is included in SBA's merit pay system and none of its noncareer senior executive service employees are included in a merit appraisal system. These latter two facts may well constitute yet another violation of the Civil Service Reform Act. We are told that the Office of Personnel Management will render a decision on these issues.

In addition to politically motivated personnel practices, the SBA organizational structure is both top heavy and layered with unneeded tiers of political appointees.

As of March 31, 1982, SBA has a total work force of 5,061. Of this

amount, 1,207 or 24 percent were carried on the central office payroll and 530 or 10.5 percent were carried on the payrolls of the 10 regional offices. Therefore, we can estimate that about 34 percent of the total work force lies outside of the districts. The districts, however, are the agency's primary delivery system for services to the small business community.

In addition to a top-heavy organizational structure, SBA has imposed layers of political appointees in such a way as to militate against effective management. For example, there are 18 political appointees in the regions and 31 political appointees in the central office: 14 in the Office of the Administrator; 5 in External Affairs; 3 each in the Inspector General's Office and in Minority Small Business; 2 in Management Assistance; and 1 each in Field Management, Advocacy, Finance and Investment, and Policy, Planning and Budget. One additional political appointee not included in the total of 49 is stationed at the White House for purposes not yet fully known. Of the 49 appointees, 39 are in grades GS-13 or higher or in the SES. Since these 39 do not even have performance standards, one wonders whether they are really needed or, if these positions are needed, whether career employees could adequately serve in most of these jobs. Nonetheless, there seems to be no reason in logic why an agency of only 4,200 permanent full-time employees must have a turnover of at least 39 top managers every time a new administration comes to power.

It is my belief that the proposed legislation I introduce today will go a long way to remedy these problems. The bill has seven major provisions:

First, the bill would make it illegal for any employee to take, direct others to take, recommend or approve personnel actions on the basis of the political activity or affiliation of an individual. In addition, an employee directed or solicited to take such actions must report that fact to the Inspector General. Violators are subject to disciplinary action and civil fines.

Second, the bill would reduce from 49 to 7, the number of political appointees employed by the agency. This would make the agency less of a political dumping ground.

Third, the bill would provide a standard for the directed reassignment of all employees and offer specific due process guarantees to those employees above GS-13 who are the subject of a reassignment. Employees above this grade level are most susceptible to politically motivated reassignments.

Fourth, the bill would provide for advance notice and employee participation in all rotation policies.

Fifth, the bill would allow the Merit Systems Protection Board to divest SBA of part or all of its personnel authority upon a "pattern or practice" determination of illegal personnel actions.

Sixth, the bill would impose reporting requirements on SBA to advise the Congress with respect to the planned or actual reassignment of high ranking employees and to advise of possible and actual discipline of employees for engaging in proscribed political personnel practices.

Seventh, the bill would require that at least 70 percent of the work force be assigned to district offices by September 30, 1985, and at least 80 percent by September 30, 1987.

All portions of the bill would become effective on the date of enactment except those provisions which deal with the conversion of noncareer to career positions, which become effective on June 1, 1984.

If we are to provide the small business community the types of services and programs it so desperately needs, we must insure that SBA is well managed. If we are to provide Federal employees the opportunity for full career development, they must be free from political reprisal and other forms of abuse.

I know that many of my colleagues have heard horror stories from their constituents about SBA's politically abused personnel system and about the lack of adequate field personnel, and about tiers and tiers of upper level bureaucrats in Washington whose only qualification for office was their political activities in the last election. This bill now gives the Congress its chance for a meaningful response.●

TERMINATION OF SOCIAL SECURITY COVERAGE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. PICKLE. Mr. Speaker, hundreds of nonprofit organizations and many State and local government entities are scheduled to terminate social security coverage for their employees during the next 2½ years, primarily to save money. This problem is extremely serious and is growing. When these employers terminate converage, their employees are usually seriously disadvantaged, losing disability, survivor, and possibly retirement protection from social security. The social security trust funds are also harmed by the loss of revenue, potentially over $1 billion per year. For those employees who are already permanently covered under social security by their past work, termination of coverage just means that the cost of their benefits must be borne by all other workers who are still paying taxes into the system; shifting the cost in this way is grossly inequitable, and represents a drain on the payroll tax system that should not be tolerated.

Many of these employers have been convinced by high-pressure consulting firms that they can replace social security for their employees at a lower cost than the payroll tax they now pay. That is just not possible, and I recommend to my colleagues the excerpts from an analysis done by an independent consultant of one such replacement plan that I have inserted in the extensions of remarks in today's RECORD. Opting out is bad for the employee and bad for social security, and it must be stopped.

I submit the following analysis for the information of my colleagues:

TERMINATION OF SOCIAL SECURITY COVERAGE

Employers who terminate Social Security coverage for their employees on the assumption that they can replace social security protection at a lower cost should think again. The following is an excerpt from an analysis of the National Security Retirement Program, a plan that has been heavily marketed by that company as an adequate, lower-cost replacement for Social Security. The analysis was done by Donald F. Smith and Associates of Princeton, New Jersey, at the request of several hospital associations, and underscores the difficulty of "replacing" Social Security, as well as the shoddy selling techniques used by those who are pushing these replacement plans.

THE PROMOTIONAL MATERIAL

National Security's promotional material for the employer generally provides the same benefit information as the employee booklet plus additional information on the mechanics of withdrawal from Social Security and cost information on the alternate program. Since this report is directed at the benefits, the employee booklet will be examined in detail rather than the employer material.

The literature promoting the withdrawal from Social Security and that explaining it to employees is filled with incomplete statements. Every one of us has simplified an explanation of something to save time or to keep from boring the reader. This is perfectly acceptable so long as the whole story is presented. Many of the statements in the employee booklet concerning the alternative plan just plain leave out all the if's, and's, and but's. Much of the material presented to the employer is also over-simplified.

Another problem is the way figures are used. Numbers can almost always be presented in such a way as to show the conclusion the writer would like.

The following pages will examine some of the specific statements made in the literature promoting the National Security Retirement Program in an attempt to see to what extent the entire story is being presented. It cannot help but seem nit-picky because it is the details of Social Security and National Security that are most widely different.

The following excerpts have been cut from the leaflet describing the National Security Retirement Program to the employee. A complete copy of the booklet will be found in the pocket in the rear of this report.

Statement No. 1

Recently published statistics indicate that even with the new taxes imposed by the De-

cember, 1977 legislation, the Retirement Fund will be bankrupt by the year 2030, the Disability Fund by the year 2007, and the Medicare Fund by 1989.

This will occur even though the maximum F.I.C.A. taxes will triple by 1987. (See chart below)

Year	Tax rate	Taxable wage	Max. tax
1978	6.05	$17,700	$1,070.85
1979	6.13	22,900	1,403.77
1980	6.13	25,900	1,587.67
1981	6.65	29,700	1,975.05
1982	6.70	31,800	2,130.60
1983	6.70	33,900	2,271.30
1984	6.70	36,000	2,412.00
1985	7.05	38,100	2,686.05
1986	7.15	40,200	2,874.30
1987	7.15	42,600	30,045.90

If the employee looks at the maximum tax column, he sees that the maximum tax goes from $1,070.85 to $3,045.90—it triples. The fact is that you have to be earning $42,600 currently to be subject to this increase. It would appear that this is a point that could be very easily missed. For most hospital employees, the percentage of tax increase is merely the increase in the tax rate which amounts to about 18 percent over 10 years (plus an additional 18 percent for the employer).

Statement No. 2

"2. Are there any savings involved by choosing the Alternative Program?

"The National Security Plan was designed not only to provide more attractive benefits for employees, but also to provide the employee opportunity for substantial savings. With Social Security taxes increasing to 7.15 percent by 1987 and to 7.65 percent by 1990, the National Security Alternative Plan allows the hospital to set a lower contribution rate. For example, setting the rate at 6.13 percent (the same as S.S. for 1979) would still provide more attractive benefits for most hospital employees without the need to increase future years' payroll tax rate as does Social Security."

This statement requires that the future duplicate the present with no benefit increases. If Social Security benefits are increased, the employee is going to want like increases and they will cost more. As mentioned before, changes in interest rates or life expectancy will also affect cost. Since the disability and survivor benefits are insured, poor claims experience would mean cost increases. This answer seems to indicate that the employer is going to pick up all of these costs.

Statement No. 3

"4. Compare the Survivorship benefit in Social Security with the Alternative Program.

"Under Social Security, Survivorship provides only a lump sum death benefit of $255.00. Any other survivorship benefits are welfare oriented, based on dependent children. The more the beneficiaries, the greater the benefits—up to the family maximum. If the widow is under age 60 and there are no dependent children, she receives no monthly survivor benefits until age 60. If she is caring for a dependent surviving child, she will receive a monthly benefit until the child becomes 18, then goes into a "black-out" period to age 60.

"The National Security Plan provides a substantial death benefit payable to any heir or even the estate—in lump sum or any option selected by the heir without regard to dependency. National Security benefits would be payable in addition to any benefits due from Social Security."

This answer is really incomplete. It does not say that the widow will get a life income starting at age 60 and that the surviving divorced wife may get one also. It stipulates that the Mother's benefit will stop when the child becomes age 18—but it can go on forever if the child is totally disabled before age 22. It also does not stipulate that the benefit can be paid to a father as well. And what about the dependent parent's benefit? Or, the divorced mother's benefit? The answer is really only touching on a small part of the Social Security benefit.

Statement No. 4

"5. Compare the Disability benefit in Social Security with the Alternative Program.

"The National Security Plan provides an insured disability benefit which is comparable to the Social Security benefit in most cases. For persons without dependent children, the National Security benefit will be greater. For lower income young workers with the family maximum benefit, the National Security benefit will be smaller unless supplemental coverage is provided. Those rare cases would be identified during the preparation period analysis, so proper provision could be made.

"Since young worker disability cases are more likely to be accident originated, integration of benefits is significant. Workmen's compensation in job related cases would be integrated with other benefits, whether other benefits are Social Security or National Security, so that total benefits would be the same. (Social Security Administration statistics disclose that the majority of the claims they pay are to participants over age 50 where little or no dependency is involved.)"

The answer to this question recognizes that there are some problems replacing the Social Security disability benefits and that supplemental coverage must be provided for the younger, lower income worker with several dependents. Obviously, the intention is to take care of the present employees with supplemental coverage. Will future employees be handled so carefully? If the answer is yes, then there is no problem. If it is no, that is another matter. Again, the replacement coverage ignores the Disabled Widow's and Widower's Benefit as well as the Divorced Wife's Benefit.

Statement No. 5

"6. Compare the Retirement benefits in Social Security with the Alternative program.

"With Social Security, a person has only the right to receive a monthly pension for his lifetime (and a surviving spouse for the spouse's lifetime). He owns nothing and has no asset or estate in the Social Security benefit which he could bequeath to an heir. He has no right to a specified benefit amount or guarantee that it will not be reduced.

"Projected National Security benefits compared with Social Security benefits (using conservative assumptions) show that National Security benefits are *substantially* better for the participant alone and considerably better for participant and spouse. This is solely on a lifetime annuity basis which is the only method available to compare directly with Social Security. National Security has much more flexibility so that beneficiaries can select any of the various settlement options including *lump sum.*

"The most notable difference is that the participant owns his National Security account. He is 100% vested from the first contributions. It is part of his estate, which he may bequeath to any heir or beneficiary, it is his property."

These paragraphs stipulate that Social Security benefits are not guaranteed and imply that the National Security benefits are. Neither half of the story is accurate. On the one side, Social Security does stipulate a formula whereby the amount of the various benefits can be determined. Granted, Congress can always revise the formula. However, the formula will be changed to another formula. It is also a great deal harder to get agreement on Social Security changes through Congress than to get a hospital's board of directors to agree to a benefit change.

On the other side, the National Security benefits are not guaranteed. The amount of the retirement benefit depends first on the hospital (and the employee) continuing their contribution rates. Then the insurance company must earn at least the investment rate projected to the employee. Finally, there must be no change in mortality so the cost of buying a life income at the employee's retirement remains the same as it is when the original benefit projection is made. If interest rates should fall rapidly or there is a change in life expectancy, and the employer does not increase its contributions accordingly, then the employee will get a lower benefit. This is a long way from "certainty as to future benefits."

The strongest plus for the National Security plan is that the retirement benefit is funded through a tax sheltered annuity and that the proceeds belong to the employee. This gives the single employee with no eligible survivors an advantage over the Social Security system. However, the answer to the question does not cover any of the problems such as using up the employee's tax sheltered annuity exclusion allowance or what happens if Congress changes the tax sheltered annuity rules. These were discussed under Retirement Benefits on page 30.

The second paragraph of this statement says that National Security benefits are better and "this is solely on a lifetime annuity basis which is the only method to compare directly with Social Security." A lifetime annuity pays benefits for the life of one person. On the death of that person, all benefits stop. If the original annuitant wishes benefits continued after his death, then he must take a reduced benefit himself in order to provide this continuation. the National Security plan requires that the employee's monthly benefit be reduced if a survivor benefit is provided.

When there is a benefit payable to the spouse or other eligible dependent, Social Security is not a lifetime annuity in the normal insurance usage of the term since there is no reduction in the employee's benefit to provide the continued benefits. It is a joint and survivor annuity. This means it pays the full benefit while both are alive and a reduced benefit if neither person dies. However, unlike the normal insured benefit, the employee does not receive a larger benefit if he does not want the survivor coverage of if he does not have eligible survivors. Since any form of survivor annuity costs more than a single lifetime annuity, the projected benefits for National Security are overstated because they are life annuities.

Finally, Social Security benefits are subject to cost of living adjustments once the benefits begin. This means that even in those cases where an employee's projected benefit at age 65 is truly greater under Na-

tional Security, Social Security may catch up in a very few years and even exceed the National Security benefit if the cost of living continues to increase. This is a valuable and expensive feature under Social Security. Actuaries estimate it would require contribution increases of 25 percent to 50 percent just to add a modest 3 percent annual increase to a plan with no such automatic increases.

Statement No. 6

"7. Compare the Medicare Benefits.

"Eligibility for Medicare basic benefits (Part A) devolve to persons age 65 who are entitled to monthly retirement benefits under Social Security, or who have received Social Security disability benefits for two years.

"Many employees will be fully qualified for Social Security benefits through prior or subsequent Social Security covered employment, thus be eligible for Medicare basic benefits. Many other employees are married and would derive Medicare basic benefits through a working spouse fully qualified under Social Security.

"Medicare basic benefits (Part A) may be purchased by anyone not covered through Social Security qualification. In the few cases where this might occur, greater National Security retirement benefits would enable purchase of Medicare basic benefits. If the hospital desires, the National Security Program can provide a Medicare benefit through a Medicare Reserve Fund to purchase Medicare benefits for employees not covered at retirement.

"It is anticipate that Medicare eligibility soon will be a moot point, because it seems inescapable that Medicare will become part of some National Health Insurance Program with universal coverage."

Medicare benefits can be purchased for $89.00 per month by persons age 65 and over, but cannot be purchased by a disabled person or one on kidney dialysis who is under age 65. If the employer is keeping a fund to provide Medicare benefits for those not otherwise eligible, then there is no problem other than the question of adequacy of the fund. If the employer is saying that the retirement benefits will be sufficiently large to cover this expense and still equal the Social Security retirement benefits plus the taxes thereon, the figures should be reviewed carefully. The last paragraph about Medicare becoming a part of some National Health Program is pure conjecture.

Statement No. 7

"8. What about the financial stability of an Alternative program?

"Social Security was on the verge of bankruptcy before the tax increases were passed in December, 1977. Those increases will still leave the system bankrupt in approximately the year 2030. What compounds the situation is the constantly shrinking ratio of workers to beneficiaries. There is little hope for relief from population growth; in fact, the demographic bulge from the post World War II baby boom exacerbates the situation.

"The logical alternative will be reduced benefits. There is no assurance or contractual obligation that Social Security benefits will not change. Benefits and entitlement are as much subject to the whim of Congress as are tax rates and covered wage bases. As Congress acts to keep the System within available resources, some probable changes will be: to raise the retirement age, to tax Social Security benefits, to tax a non-working spouse in order to qualify for a spouse's benefit, to eliminate spouses benefits and compute the benefit solely on the individual's own earnings record, to eliminate or reduce indexing for inflation, to include additional causes for reduction of benefits.

"By contrast an alternative plan, in many ways, has greater financial stability. It is based on contractual obligations so the participants have certainty as to future benefits. The participants own their plan, the assets are part of their estate. They are 100% vested and control disposition of their plan assets. Retirement benefits are funded so that accumulated earnings build up the retirement fund. Future benefits do not rely upon taxes from the future worker pool to pay the benefits in the "chain letter" fashion. Earnings from funding are what produce the financial stability of the private plan which Social Security does not have."

The implied guarantee aspect of the retirement benefit was covered under Statement No. 5.

Statement No. 8

"10. What effect will an alternative program have on the transient employee?

"A transient employee usually has greater combined benefits because the benefits for the period covered by National Security are invariably greater than any reduction of Social Security benefits for that period.

"An individual employee would not be penalized by changing jobs to and from Social Security covered employment. His Social Security coverage does not have to be consecutive. It can be intermittent or whatever, so long as he has forty quarters of coverage at any time prior to retirement."

This answer ignores the currently insured requirement for Social Security. It says the employee will not be penalized which is not necessarily true.

Statement No. 9

"11. How will an alternative program compensate for the fact that Social Security benefits are tax free?

"During the accumulation years, participants under National Security enjoy reduced income taxes when it is of greater value to most persons. During retirement years, with extra exemptions and other tax advantages, most persons would have limited taxes which would be more than covered by the larger benefits. Also, as Social Security benefits rise in relation to wages and salaries of currently employed persons, there will be increasing pressure to tax Social Security benefits.

"On the other hand, Social Security taxes paid by employees are out of after-tax dollars; and the employee receives no current tax advantage during the working years."

Again, the answer ignores the disability coverage. Social Security disability benefits are non-taxable and the replacement long term disability benefits are taxable after the first $100 per week. Effective this year, the employer must report all "sick pay" payments to the government and the employee on the employee's W-2 form. If the plan is insured, the insurer must have the information to the employer by the 15th of January and the employer must have it to the employee by the 31st of January. If the employee so requests, the employer must withhold income tax payments from the long term disability payments. There is none of this additional paperwork with Social Security.

Statement No. 10

"14. What happens to an individual's eligibility if he stops paying Social Security?

"If an individual stops paying F.I.C.A. taxes, his eligibility for Social Security benefits depends on his individual circumstances. Once he is fully insured (40 quarters of coverage), he is fully insured for life. If he does not have 40 quarters of coverage, he may acquire the needed quarters at any future time to reach fully insured status."

The answer to this question ignores the currently insured requirement for disability coverage. It implies that the employee will not lose anything which is not true.

Statement No. 11

"16. What effect does participation in an alternative program have on a young employee not insured yet under Social Security?

"If a young employee, not insured yet under Social Security, remains under National Security for all working years until retirement, the benefits are better. If, at some point, the employee leaves National Security and goes under Social Security coverage long enough to become fully insured for Social Security benefits, the combined benefits are substantially greater than Social Security benefits alone would have been. This is so because the National Security fund continues to accumulate earnings over the years until retirement age."

This answer must be read carefully. All it says is that the retirement benefits are better because the employee remains under National Security for all years to retirement. That assumes he did not die and did not become disabled so those benefits are not being compared. The new employee has the same problems as were mentioned previously for disability, survivors and Medicare coverage, compounded by the fact that he has to wait longer for Social Security coverage if he should ever leave the National Security coverage.

The last sentence is inaccurate. The reason the person will have substantially higher benefits if he gets a combination of National Security and Social Security is precisely because of the "welfare" aspects of Social Security—the minimum benefit and the PIA structure which favors those with short years of coverage and low earnings.●

MRS. CAROLINE PUTNAM RECEIVES 1982 JEFFERSON AWARD

HON. EDWARD P. BOLAND

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. BOLAND. Mr. Speaker, this morning the American Institute for Public Service presented its 1982 Jefferson Awards for significant achievements in the field of public service in the United States. I am pleased to inform my colleagues that one of my constituents, Mrs. Caroline Putnam of Springfield, Mass., was selected as a recipient of one of this year's awards for outstanding public service benefiting local communities.

The Jefferson Awards recognize the dedication, sacrifice, and achievements of individuals who serve the American people. The award for service in local communities is designed to highlight

the activities of those private individuals whose extraordinary efforts on behalf of others have benefited society. I know of no one more deserving of this award than Caroline Putnam.

For more than 35 years, Caroline Putnam has been working to insure that black students have an opportunity to obtain a college education. Long before it was fashionable, Mrs. Putnam established an organization to solicit funds to provide scholarship assistance for black students. Each year 100 students receive a 4-year commitment from Mrs. Putnam's scholarship program. For thousands of men and women, that commitment made their education possible. Their lives, and the life of our society, have been immeasurably enriched by the hard work and the farsightedness of Caroline Putnam.

Mr. Speaker, it was characteristic of Mrs. Putnam that in accepting the Jefferson Award at the Supreme Court this morning she chose to accentuate the work of the scholarship program, rather than take any personal credit for it. She recounted an incident that I think best portrays her assessment of the value of the program. She told of a scholarship recipient who, 10 years after graduation, came to Mrs. Putnam to offer a contribution to the scholarship fund. The graduate said, "I can never thank you enough for what you did for my children when you educated me." That moving tribute is a testament to the value of Mrs. Putnam's efforts. I am pleased that the American Institute for Public Service has chosen to recognize those efforts with the prestigious Jefferson Award.

I would like to include at this point in the RECORD, the other distinguished Americans who received this year's Jefferson Award. The list follows:

THE 1982 JEFFERSON AWARDS

The Greatest Public Service by an Elected or Appointed Official; The Honorable Howard H. Baker, Jr.

The Greatest Public Service Performed by a Private Citizen; Bob Hope.

The Greatest Public Service Benefiting the Disadvantaged; The Honorable Claude Pepper.

The Greatest Public Service Performed by an Individual Thirty-five or Under; The Honorable Henry Cisneros.

Outstanding Public Service Benefiting Local Communities; Dallas Doyle, Montana. Richard Marvin Garrett, South Carolina; Helena Kyle, North Carolina.

Caroline Putnam, Massachusetts; Ruth Heinz and Lorraine Schreck, Wisconsin.●

LET'S NOT PLAY POLITICS WITH SOCIAL SECURITY

HON. DAN LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. LUNGREN. Mr. Speaker, I have become extremely concerned in recent weeks to learn that the Speaker of the House and other Democrats are attempting to turn social security into a November 1982 election year issue. The unfortunate result from these attempts is to unnecessarily confuse and instill fear in millions of social security beneficiaries.

On July 8, 1982, the Speaker was reported in the Washington Post as calling Republican television ads an effort to "lie to the American people." The implication was that President Reagan truly did not intend to keep his promise that social security beneficiaries would receive their full 7.4 cost-of-living adjustment this July 3.

These accusations are nothing more than false and unfair. Never once during the budget negotiations this past spring did President Reagan officially advocate changing the July cost-of-living adjustment for social security beneficiaries.

Those that would attempt to turn social security into a political football for self-gain will have to stand by their own action and individual records. It is ironic that a review of the facts shows that it was the ranking Democrat on the Senate Budget Committee that offered a proposal on February 10, 1982, to change the social security cost-of-living adjustment. Specifically this proposal offered to defer the cost-of-living adjustment for July 1982, delay it until October for future years, and provide a smaller cost-of-living adjustment in future years until the social security trust fund levels were higher. In addition, last year during the budget reconciliation consideration, it was the Democrat-controlled Ways and Means Committee which reported out a proposal to change the July cost-of-living adjustment. It was also the Democrat-controlled Budget Committee which brought this proposal for consideration to the House floor which contained the same provision.

In order that all the facts be known on this issue, I insert the versions of both committee reports and the House bill regarding the proposed change in the cost-of-living adjustment on social security benefits at this point into the CONGRESSIONAL RECORD.

The reports follow:

EXPENDITURE REDUCTIONS UNDER BUDGET RECONCILIATION PROCESS

(Report of the Committee on Ways and Means U.S. House of Representatives on H.R. 3850; together with additional views

* * * * *

6. TRANSITION TO COST-OF-LIVING INCREASES ON A FISCAL YEAR BASIS (SECTION 206)

Present Law and Background

The cost-of-living increase provision enacted in December 1973 intentionally put the benefit increase on a fiscal year basis in order to avoid creating a substantial outlay increase in the fiscal year 1974 budget. The fiscal year at that time was on a July to June basis. In 1977, the fiscal year was moved to an October to September basis, but the month in which the benefit increase in provided was not similarly changed.

Explanation of Provision

Section 206 of the bill provides for moving the payment of the cost-of-living increase to October instead of July 1982. In addition, it provides that an ad hoc increase would be paid in July 1982 which would be equal to one-half the increase in the cost-of-living from the first quarter of 1981 to the first quarter of 1982.

In October 1982 a second benefit increase would be computed based on the increase in the CPI from the first quarter of 1981 to the March through May period of 1982 (a fourteen-month inflation period as compared to the present 12-month period) and the remainder of the benefit increase equal to this amount would be paid. The October increase plus the ad hoc increase in July would equal the increase in the CPI over the 14-month measuring period. In this way, beneficiaries would receive a total increase based on 14 months of inflation, from January 1981 to March of 1982. Future automatic increases after 1982 would be based on the CPI change in the March through May period each year and would be payable in October of each year, restoring the payment to the first month of the fiscal year. The changes made by this section would also make corresponding changes in the cost of living adjustments provided under Tier 1 and the survivors and spouses's maximum benefits of Tier II of the Railroad Retirement Service, and under the needs-tested veterans' pension programs.

OMNIBUS RECONCILIATION ACT OF 1981

(Report of the Committee on the Budget, House of Representatives, to accompany H.R. 3982, a bill to provide for reconciliation pursuant to section 3 of the first concurrent resolution on the budget for fiscal years 1982, 1983, and 1984; together with supplemental, additional, and minority views)

* * * * *

In October 1982, a second benefit increase would be computed based on the increase in the CPI from the first quarter of 1981 to the March through May period of 1982 (a 14-month inflation period as compared to the present 12-month period). This increase would be adjusted to reflect the ad hoc increase paid in July, so that the October increase plus the ad hoc increase in July would equal the increase in the CPI over the 14-month measuring period. In this way, beneficiaries would receive a total increase based on 14 months of inflation, from January 1981 to March 1982. Future automatic increases, after 1982, would be based on the CPI change in the March through May period each year, and would be paid in October of each year.

H.R. 3982—AS INTRODUCED

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1981".

* * * * *

TRANSITION TO COST-OF-LIVING INCREASES ON A FISCAL YEAR BASIS

SEC. 15206. (a) Section 215(i) of the Social Security Act is amended by striking out "base quarter" and "cost-of-living computation quarter" each place they appear and in-

serting in lieu thereof "base period" and "cost-of-living computation period", respectively.

(b)(1) Section 215(i)(1)(A) of such Act is amended to read as follows:

"(A) the term 'base period' means (i) the three-month period ending on May 31 in each year after 1981, or (ii) any other three-month period ending on the last day of August, November, or February, in which occurs the effective month of a general benefit increase under this title;".

(2) Section 215(i)(1)(B)(ii) of such Act is amended by striking out "most recent calendar quarter" and inserting in lieu thereof "most recent three-month period specified in subparagraph (A)(ii)".

(3) Section 215(i)(1)(C) of such Act is amended to read as follows:

"(C) the Consumer Price Index for a base period, a cost-of-living computation period, or any other three-month period shall be the arithmetical mean of such index for the three months in such period.".

(c)(1) Section 215(i)(2)(A)(ii) of such Act is amended—

(A) in the matter preceding subdivision (I), by striking out "effective with the month of June" and inserting in lieu thereof "effective with the month of September"; and

(B) in the second sentence, by striking out "calendar quarter" and inserting in lieu thereof "three-month period".

(2) Section 215(i)(2)(A)(iii) of such Act is amended by striking out "months after May" and inserting in lieu thereof "months after August".

(3) Section 215(i)(2)(B) of such Act is amended by striking out "after May" each place it appears and inserting in lieu thereof "months after August".

(4) Section 215(i)(2)(C)(ii) of such Act is amended—

(A) by inserting "beginning" immediately before "in a calendar year"; and

(B) by striking out "such quarter" and inserting in lieu thereof "such period".

(5) Section 215(i)(2)(D) of such Act is amended—

(A) By inserting "beginning" immediately before "in a calendar year"; and

(B) by striking out "such quarter" and inserting in lieu thereof "such period".

(d)(1) The amendments made by the preceding provisions of this section shall apply with respect to increases in benefits under section 215(i) of the Social Security Act after 1982.

(2) The amendments made by such provisions shall also apply with respect to the increase in benefits under such section 215(i) in 1982; except that the "base period" in 1981 for purposes of computing such increase shall be the "base quarter" in such year determined without regard to such amendments.

(3) Section 215(i)(4) of the Social Security Act is amended—

(A) by striking out "This subsection" and inserting in lieu thereof "(A) Except as provided in subparagraph (B), this subsection"; and

(B) by adding at the end thereof the following new subparagraph:

"(B) Under regulations of the Secretary, in applying this subsection as in effect in December 1978 pursuant to subparagraph (A), the amendments to paragraphs (1) and (2) made by section 206 of the Social Security Spending Reduction Amendments of 1981 shall apply to this subsection as then in effect with respect to benefit increases thereunder as provided in paragraphs (1) and (2) of subsection (d) of such section 206.".

(e)(1)(A) The Secretary of Health and Human Services (hereinafter in this subsection referred to as the "Secretary") shall, in accordance with the provisions of this subsection, increase each monthly benefit payable under title II of the Social Security Act by the amount specified in paragraph (2)(A) of this subsection. Any amount so increased that is not a multiple of $0.10 shall be decreased to the next lower multiple of $0.10. Any increase under this subsection shall be applied before the application of section 215(g) of the Social Security Act (as amended by section 104(a) of this Act).

(B) The provisions of this subsection (and the increase in benefits made hereunder) shall be effective only for months after May 1982 and prior to September 1982.

(2) The increase in social security benefits authorized under this subsection shall be provided, and any determinations by the Secretary in connection with the provision of such increase in benefits shall be made, in the manner prescribed in section 215(i) of the Social Security Act, without regard to the amendments made by this section, for the implementation of cost-of-living increases authorized under title II of such Act, except that—

(A) the amount of such increase, expressed as a percentage increase, shall be equal to one-half the amount of the percentage increase which would, but for this subparagraph, be applied under the preceding provisions of this paragraph to the primary insurance amounts and amounts of total monthly benefits described in section 215(i)(2)(A)(ii) of such Act;

(B) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(e) of such Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(1)(C)(i)(II) of such Act, such increase shall be determined without regard to paragraph (2)(B) of such section 202(e); and

(C) in the case of any individual entitled to monthly insurance benefits payable pursuant to section 202(f) of such Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), including such benefits based on a primary insurance amount determined under section 215(a)(1)(C)(i)(II) of such Act, such increase shall be determined without regard to paragraph (3)(B) of such section 202(f).

(3) The increase in social security benefits provided by this subsection—

(A) shall not be considered to be an increase in benefits made under or pursuant to section 215(i) of the Social Security Act, and

(B) shall not (except for purposes of section 203(a)(3)(B)(iii) of such Act) be considered to be a "general benefit increase under this title" (as such term is defined in section 215(i)(3) of such Act);

and nothing in this subsection shall be construed as authorizing any increase in the "contribution and benefit base" (as such term is used in section 230 of such Act), or any increase in the "exempt amount" (as such term is used in section 203(f)(8) of such Act).

(4) Nothing in this subsection shall be construed to authorize (directly or indirectly) any increase in monthly benefits under title II of the Social Security Act for any month after August 1982, or any increase in lump-sum death payments payable under such title in the case of deaths occurring after August 1982. The recognition of the existence of the increase in benefits authorized by the preceding provisions of this subsection (during the period it was in effect) in the application, after August 1982, of the provisions of sections 202(q) and 203(a) of such Act shall not, for purposes of the preceding sentence, be considered to be an increase in a monthly benefit for a month after August 1982.

(5) In the case of an individual to whom monthly benefits are payable under title II of the Social Security Act for May 1982 (without the application of section 202(j)(1) or 223(b) of such Act), and to whom section 202(m) of such Act is applicable for such month, such section shall continue to be applicable to such benefits for the months of June through August 1982 for which such individual remains the only individual entitled to a monthly benefit on the basis of the wages and self-employment income of the deceased insured individual.

HONORING WACIL McNAIR, EDITOR OF THE SNYDER DAILY NEWS

HON. CHARLES W. STENHOLM

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. STENHOLM. Mr. Speaker, perhaps the three things that add the most to the quality of life in a small town are its schools, its churches, and its newspaper. Few towns the size of Snyder, Tex., can boast of better schools, better churches, or a better daily newspaper.

If any one single individual can be credited with the success of the Snyder Daily News, it would surely be Wacil McNair, editor for over 30 years.

On July 30, 1982, McNair will be recognized for his many contributions to the entire community of Snyder. I would like to join his many friends in expressing my thanks and congratulations for his many years of service.

After graduating from Hardin-Simmons University in 1942, McNair began his newspaper career in his hometown, working for the Gilmer Mirror, followed by a brief period of work with the Big Spring Herald. Work at Big Spring was interrupted for 2 years during World War II, in which McNair served in the Coast Guard.

When McNair went to the Snyder Daily News, it was to become the eventual place of his retirement more than 30 years later. The leadership that he displayed in the position as editor of the paper will be remembered for many years to come. As a past president of the Snyder Chamber of Commerce and an active member of the United Way, Kiwanis, and numerous other civic activities, McNair extended his service to the community through various other positions as well.

It is my personal honor to be able to call the attention of this body to such a commendable history of personal service as shown by Wacil and his wife of 39 years, Margie. The McNairs have more than earned the respect and admiration they will be receiving in Snyder on July 30, and I add my hearty congratulations in this special tribute.●

IS THE UNITED STATES UNWITTINGLY SUPPLYING THE PLO WITH ARMS?

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. GREEN. Mr. Speaker, I would like to bring to my colleagues' attention a very serious allegation: that the Saudis have supplied the PLO with arms bought from and manufactured in the United States. If this is true, it violates the provisions of the Arms Export Control Act, and has serious implications for stability in the Mideast and for our relationship with the Saudis.

The Israelis have found evidence in PLO camps they have captured that American M-16 rifles are going to the PLO via Saudi Aradia. The Israelis have also found transcripts of PLO meetings during which a Saudi representative allegedly promised to meet the PLO's arms needs. It is well known that the Saudis provide financial support to the PLO. But to learn that they are supplying U.S. arms is shocking. Our arms agreements, under the Arms Export Control Act, prohibit this. Such exchanges violate every notion of good sense and stability. U.S. arms in PLO hands are an appalling thought.

I have written to President Reagan urging that this highly disturbing allegation be fully investigated. This allegation raises new concerns about the indiscriminate arms sales policies this administration is pursuing, and about our relationship with the Saudis in the aftermath of approval of the sale of AWACS. I would ask that my letter be printed in the RECORD at this point so that my colleagues are aware that the United States may be unwittingly supplying the PLO. Thank you.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 21, 1982.

Hon. RONALD REAGAN,
President, The White House, Washington, D.C.

DEAR MR. PRESIDENT: The events in Lebanon and elsewhere in the Midwest have obscured a small but significant and dangerous finding: that arms produced in the United States are finding their way to the Palestine Liberation Organization and perhaps to other terrorist groups.

The presence of U.S. arms in the PLO camps in Lebanon has been documented by the Israelis who captured PLO stores. Some of these weapons and ammunition apparently were sold by the United States to Saudi Arabia. The Israelis also have produced transcripts of a PLO leadership meeting during which a Saudi representative allegedly promised to meet the PLO's arms needs.

There have been numerous reports in the past of close cooperation between the PLO and other terrorists groups. Thus the United States may unwittingly and tragically be an arms supplier to terrorists worldwide.

T" 's is despite the fact that the United States has attempted to prevent unauthorized possession of its arms. The Arms Export Control Act prohibits the transfer of U.S. arms to a third party without the permission of the President.

The weapons sold to the Saudis and found in the PLO camps suggest that Saudis may have violated the Act. Given the danger that terrorist groups create for all nations, I recommend that the Administration suspend all arms shipments to Saudi Arabia until a full investigation is made of the movement of the U.S. weapons and ammunition supplied to that country.

I would also recommend greater restraint by the United States in the sale of arms to any nations sympathetic to terrorists groups and a clear warning that any nation guilty of arming terrorists will suffer a complete cutoff of American military supplies.

Failure to restrain the improper third-party use of U.S. arms can result in America's arms being aimed at its own allies, other innocent people and perhaps our own citizens.

Sincerely,

BILL GREEN,
Member of Congress.●

THE CLINCH RIVER PROJECT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SCHNEIDER. Mr. Speaker, our colleague from Pennsylvania, the Honorable LARRY COUGHLIN, has been speaking out against the Clinch River project since 1971. We owe him a debt of thanks for his persistence and dedication in defending the interests of the American taxpayer against those of the narrow corporate interest groups that have profited from this boondoggle.

In the past year, an accumulation of new evidence has dramatically underscored what the gentleman from Pennsylvania has been telling the Congress for the past 10 years: that the Clinch River project is one of the most economically unsound investments the Federal Government has ever undertaken. In June of 1981, the Department of Energy's Los Alamos Laboratory pointed out that uranium would have to be $165 a pound—about eight times its present cost—in order for breeder reactors to begin to compete with light water reactor technology already on the market. In December of last year, DOE projected that uranium prices in the year 2020—the last year for which DOE has estimates—would be about $88 a pound. In other words, in 40 years we will be just halfway to the point where breeder reactors can even begin to attract commercial interest.

This spring, the Department of Energy's own blue-ribbon Energy Research Advisory Board recommended postponement of construction of the Clinch River project. Finally, in March of this year, the General Accounting Office—once a staunch supporter of the CRBR project—began a series of reports documenting the incredible cost overruns that have plagued the purchase of steam generators for the plant. Last week, the GAO issued a comprehensive blue book report pointing out that the timetable for commercialization of the breeder had slipped far beyond DOE's original expectations.

The controversy surrounding the Clinch River project has attracted attention from the national media, which has rightly noted that the debate over the future of what has become a symbol of pork-barrel politics will test whether the Congress can reject the pleas of corporate lobbyists and stand up for the public's interest. I would like to call particular attention to an editorial featured in the Philadelphia Inquirer last month, which appropriately recognizes the leadership that the gentleman from Pennsylvania has displayed on this important issue. I feel confident that this year the Congress will vindicate our colleague from Pennsylvania and the taxpayers he has worked so hard to represent by voting to terminate the Clinch River breeder reactor. The editorial follows:

[From the Philadelphia Inquirer, June 24, 1982]

ROLL CALL ON CLINCH RIVER

In a letter sent to President Reagan last week, 91 members of the House—Republicans and Democrats—argued forcefully for an end to federal funding for the Clinch River Breeder Reactor. "This project alone threatens to drain $2.5 billion from our limited energy research budget over the next several years," they wrote.

Uranium reserves have almost doubled in the decade since Clinch River's inception and nuclear generating requirements have been cut to one-sixth of original projections for the year 2000, according to the letter, producing a glut of uranium. Clinch River was designed to demonstrate fast-breeder technology, which produces enriched uranium for commercial nuclear power plants.

The letter cited a study by the Los Alamos National Laboratory that estimated the price of uranium would have to rise to $165 a pound before breeder reactors would become economical replacements for the standard light-water reactors now in general use in the United States. They also noted:

"The study points out that keeping construction costs under control will be the key to the economic survival of nuclear power. The Los Alamos report also found that fuel

costs, which breeder technology is intended to alleviate, are a relatively unimportant component of the cost of nuclear-generated electricity.

"In today's budget climate we are unable to support the expenditure of an additional $2.5 billion to finance the demonstration of a specific technology without convincing evidence that such an investment is a matter of compelling national interest . . . We find no compelling reason to proceed with the construction of the Clinch River Breeder Reactor at this time. We therefore support the deauthorization of this project."

The battle in the Congress to deauthorize funding of Clinch River—on which $1.1 billion already has been spent although no ground has been broken—has been waged for years. Opponents of the project hope this year to garner enough bipartisan support to defeat the project if a vote comes to the House floor. Efforts to that end last year, vigorously led by Rep. Lawrence Coughlin (R., Pa.), failed by a 206-186 vote.

Any member of Congress concerned about making necessary economies in federal spending would be extremely hard-pressed to defend a multibillion-dollar expenditure of tax revenues on a project as superfluous as the Clinch River Breeder Reactor. That Clinch River survives as a drain on the Treasury today is solely a testament to politics. The project is a favorite of Senate Majority Leader Howard Baker, from Tennessee, where it is sited. Pork barrel cannot be tolerated, particularly in today's economy.

A number of names are missing from the list of 91 representatives calling for de-authorization of Clinch River, including the following members from the Philadelphia area: from Pennsylvania, Joseph Smith, Charles F. Dougherty, James K. Coyne and Richard T. Schulze, and from New Jersey, James J. Florio, William J. Hughes and Edwin B. Forsythe. All House seats are up for election this year.●

COMMISSION ON INTERNATIONAL VISITORS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. FINDLEY. Mr. Speaker, as a member of the House Committee on Foreign Affairs, I am very much aware that the greatest contributions to international peace and understanding often derive from the efforts of individuals rather than governments. In Springfield, Ill., we are privileged to have a group of dedicated individuals, led by Mrs. Clascenna Hinton Harvey, who comprise the Springfield Commission on International Visitors. President Reagan has rightly paid tribute to the commission in a recent letter to Mrs. Harvey which follows below.

Volunteers from the Springfield Commission welcome visitors of all nationalities to our city, take them into their homes, and befriend them. The lasting impression of the United States and the American people carried away by foreign visitors are in large part the result of efforts of people like Mrs. Harvey and the other Springfield volunteers who care deeply about people and who want to promote international peace and understanding. And the entire community has benefited by the greater knowledge of the world beyond our own frontiers which we gain through these visits of foreign nationals.

We of Springfield can be proud that we have much to share with visitors from every corner of the world: our wonderful city, our Lincoln monuments, and most of all, our concerned and involved citizens such as the volunteers at the Commission on International Visitors.

THE WHITE HOUSE,
Washington, June 1, 1982.

DEAR MRS. HARVEY: For some time I have been aware of the role played by the National Council for International Visitors (NCIV) and its affiliates in furthering United States foreign policy objectives. As a member of NCIV, your organization has helped to strengthen America's relations with other countries. NCIV volunteers across the country have enabled thousands of important international visitors to return to their homelands with a better understanding of the United States and its people. Through their association with NCIV, our foreign guests have learned about the role of volunteers in America and their contribution to the inherent strength of this nation.

The assistance your organization provides to Government-sponsored exchange programs, including the International Communication Agency's International Visitor Program, contributes significantly to the successful partnership between the private and public sectors which this Administration heartily endorses and encourages. I commend your members, staff and community sponsors for their commitment to improved international understanding and cooperation.

You have my thanks and best wishes for the future.

Sincerely,

Ronald Reagan.●

A TRIBUTE TO NIELS ANDERSEN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. CONTE. Mr. Speaker, I am pleased today to honor a man of great talent who is admired very much by his community. This man is Niels Andersen, secretary of the Dalton Republican Committee of Dalton, Mass., a town located in the heart of the beautiful Berkshire Hills. My pleasure is tinged with sadness, however, since Niels is moving to Michigan at the end of this month.

For many years Niels was the hard-working editor of the Dalton-Hinsdale News-Record, a respected weekly newspaper in my district. As secretary of the Dalton Republican Committee, Niels is responsible for the "Dalton Plan for Social Security Reform," an innovative proposal to solve the problems of the social security system. The "Dalton Plan" is now receiving serious study form the National Commission on Social Security Reform.

I commend Niels for his public-spirited devotion to solving the problems of our society. I wish him all the best in his new position as Dean of Outreach at Jordan College in Cedar Springs, Mich. I am sure that Niels will be as much of an asset to the Wolverine State as he has been to my beloved Bay State, and while I am sorry to see him leave the first district, I am confident that he will continue his good work for this country. Thank you, Mr. Speaker.●

RESOLUTION OPPOSING EPA RELAXATION OF LEAD STANDARDS

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. BEDELL. Mr. Speaker, today I am introducing a resolution addressing a serious danger threatening our Nation's public health. On February 22, 1982, the U.S. Environmental Protection Agency proposed a rule to change the amount of lead additives that many be put in motor gasoline. Contradicting the testimony of many American scientists, including the National Academy of Sciences, the EPA has proposed relaxing a regulation that serves as a major defense against the dangers of childhood lead poisoning.

When Congress passed the Clean Air Act in 1970, it authorized the EPA to control or prohibit the sale of motor vehicle fuels or fuel additives if their emission products would endanger the public health. In accordance with section 211 of this law, the EPA in November of 1973 promulgated a rule that decreased the amount of lead antiknocks allowed in motor fuel through a 5-year phased reduction program which began in 1975. This rule was issued after extensive studies of the health effects of lead.

The EPA based its 1973 decision on the weight of scientific evidence proving lead to be a poisonous substance capable of causing brain damage and mental retardation. The Agency concluded that the combustion of gasoline contributed the largest fraction of lead reaching the environment, accounting for at least 90 percent of all airborne lead. In addition, it discovered that lead from gasoline may be ingested in breathing and through the ingestion of dust and dirt in urban areas.

The lead reduction program has been a major success. Since 1976, the amount of lead being added to the environment from gasoline dropped from 190,000 tons to 90,000 tons in 1980, ac-

cording to the National Center for Health Statistics. The Center for Disease Control (CDD) has reported that this decrease has resulted in a 36.7 percent reduction in the overall mean blood-lead level of the U.S. population.

The studies by the CDC point to a close relationship between the amount of lead in gasoline and the concentration of lead in our bodies. Consequently, it would be a grave mistake to thwart the progress we have made in fighting lead poisoning in the United States by increasing the lead content of gasoline.

New evidence released since the EPA's initial ruling has concluded that the level of lead in human blood that may be considered "safe" is lower than originally thought. In addition, it is established that children are the most endangered segment of the population to high levels of lead in their blood. A report by the National Center for Health Statistics has concluded that 4 percent of all children between the ages of 6 months and 5 years suffer from elevated blood-lead levels, 12.2 percent of all black children have high levels of lead in their systems, and over 18 percent of black children from low-income families have dangerous levels of lead in their blood.

According to Ben Ewing, Chairman of the National Academy of Science's Committee on Lead in the Human Environment, which recently released its major report, "Lead in the Human Environment," we no longer have a sufficient margin of safety to merit the introduction of more lead into the environment. In fact, many other scientists believe there is no safe level of lead for humans.

Mr. Speaker, can we justify increasing the significant hazard to our children's health that would result from a change in the lead standards?

My distinguished colleague from Connecticut (Mr. MOFFETT) has held oversight hearings on EPA's handling of this rulemaking procedure. He has brought forth victims of lead poisoning and their families to testify before his subcommittee on the pain and hardships they have suffered. Can any one of us state a willingness to increase the risk that our own children may never, because of lead emissions, achieve all he or she may be intellectually capable of attaining?

The EPA's proposal would continue an exemption granted small refiners—those whose capacity does not exceed 50,000 barrels per day crude oil or bona fide feedstock—in 1979 in response to the oil shortage of that period. EPA is also considering whether general relaxation or rescission of the 0.5 gram per gallon lead standard, currently being followed by large refiners, is warranted, and is questioning whether small refineries should be allowed a different standard than the large oil refineries.

These proposed changes have been offered in response to the administration's strong interest in easing the impact of regulations on American industries. The lead standard was cited at the beginning of President Reagan's term as a target for the Presidential task force on regulatory reform, headed by the Vice President.

Who exactly will benefit from such a regulatory relief? According to the National Petroleum Refiners Association—the NPRA represents small and independent oil refineries who would be affected by this ruling—the independent refiners it represents have been damaged competitively by the EPA's equivocation on this issue. Some small refiners have already invested in expensive equipment to enable them to meet the October 1, 1982 deadline, at which time they were to have come into compliance with the standard. Thus, the ERA's expressed interest in extending the exemption may penalize those refiners who have complied with the rule.

My resolution also calls attention to the availability of alternatives to lead additives marketed today as alcohol fuel octane enhancers. According to a presentation by an energy analyst at the 1982 NPRA Annual Meeting, ethanol has and will continue to play an important role in meeting today's growing demand for high-octane fuels. In fact, he adds that in may cases these fuels can be highly competitive with lead antiknocks, the most inexpensive octane enhancers currently available.

The EPA has continually claimed that increasing the amount of lead in small refiner's gasoline would not affect air quality, claiming that these small refiners serve rural areas with no lead problems. However, the EPA's own Dr. Joel Schwartz has stated in an EPA memorandum that no less than six major U.S. cities are currently served by small refiners: Mobile, San Antonio, Memphis, Indianapolis, and Shreveport. Second, as I have pointed out, many top scientists agree that there may be no safe level of lead in the human body.

While I recognize the role played by lead in our energy industry by boosting octane inexpensively, it makes little sense to increase our dependence on this highly poisonous substance when alternatives exist in the marketplace. It is important to emphasize that many of the Nation's small refiners have not hesitated to comply with the Federal Register regulation. The role of government in insuring our strong energy supplies has a major impact on the shape of the petroleum industry—let us not impose regulations to aid a small portion of this industry to the disadvantage of the responsible parties who have made good-faith efforts to follow the law.

The health of our children should not be endangered to protect the interests of a small group of businesses. Mr. Speaker, I urge the prompt consideration of this resolution, and I hope that my colleagues will offer it their full support. The text of the resolution follows:

H. RES.—

Whereas, lead is a known toxic metal responsible for approximately $1 billion in national health care costs;

Whereas, the National Center for Health statistics has concluded that four percent of all children aged 6 months to 5 years have an elevated blood-lead level indicating the need for therapy;

Whereas, the National Academy of Sciences concludes that the most important elements in lead control strategies include reductions of lead emissions from gasoline combustion; and

Whereas, viable, environmentally benign alternatives to lead anti-knock additives exist and are currently marketed as ethanol and methanol octane enhancers: Now, therefore, be it

Resolved, That the Environmental Protection Agency's current requirements respecting the average lead content of gasoline manufactured by refiners (including small refiners) should be retained in their present form and should not be made less stringent.●

SALUTE TO NANCY PERRY-DUARTE

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. MILLER of California. Mr. Speaker, I would like to call the attention of the House of Representatives to the recent presentation of the Martinez Junior High School PTA Honorary Service Award to Nancy Perry-Duarte.

Nancy has been an active participant in a wide variety of community activities and services on behalf of young people in Contra Costa County. She has worked closely with Camp Fire, 4-H, and Job's Daughters for many years.

She has also been a longstanding member of the PTA, and served as president of the junior high school group for 2 years. At the John Swett Elementary School, she helped to produce the school newspaper, served as the chair of the health fair, was a delegate to the State PTA, and offered valuable leadership in the playground project.

Mr. Speaker, Nancy Perry-Duarte has earned this award by making extraordinary contributions of service to her community, and especially to the children and youth of our county. I am sure that all Members of the Congress join me in congratulating her on this award, and expressing our appre-

ciation to her for her continuing work on behalf of our young people.

NICE NANCY

Perhaps she herself was modestly surprised, but friends and acquaintances of Nancy Perry-Duarte applauded vigorously with knowing pleasure recently when the busy and attractive Martinez resident was announced as recipient of the Martinez Junior High School PTA Honorary Service Award.

Junior High School Principal Pat Gemma, in making the presentation, told of Mrs. Duarte's many accomplishments and recited a lengthy list of services she had performed for youth in our community. In addition to offering leadership in Camp Fire (Nancy served her first group while still in high school), and assistance to 4-Hand Job's Daughters, she has long been active in PTA, serving for two years as president of the Junior High School group, and giving faithful service in many ways before that at John Swett Elementary School.

There she was invaluable in producing the school newsletter, served as chairman of the school Health Fair, was a delegate to the State PTA Convention, and was a prime organizer in the playground project.

She has also served on the Contra Costa Grand Jury.

Alhambra High School student, Nancy Quadros, seemed to sum up the feelings of many when, presenting a bouquet of roses to the honoree, she stated, "She is a very generous lady and is always doing something for someone else, thinking of them first instead of herself."

The Honorary Service Award has become somewhat of a tradition in Nancy's family; both of her parents, Al and Charlene Perry, have also been accorded the honor.●

REPAIR, REPLACE, OR NO LONGER USE

HON. WILLIAM F. CLINGER, Jr.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. CLINGER. Mr. Speaker, in our cities, towns, and byways, it is painfully obvious that much of our public infrastructure—highways, sewers, ports, bridges, water systems—must be repaired, replaced, or no longer used.

The following article, which appeared in the New York Times on July 18, describes the seriousness of the problem:

[From the New York Times, July 18, 1982]

ALARM RISES OVER DECAY IN U.S. PUBLIC WORKS

(By John Herbers)

In Pittsburgh, the United States Steel Corporation contends that it is paying at least $1 million a year to detour its trucks 26 miles around a major bridge that the state closed two years ago for lack of repair.

In Albuquerque, motorists are up in arms because sewer lines are crumbling under the streets, many of which have become impassable as the city struggles to make piece-by-piece replacements.

In Houston, the magazine Texas Monthly asserted that it had counted 1.5 million potholes in a city that is a center of great wealth.

In New York, broken water mains, subway failures and the deterioration of other facilities above ground and below have become so common that the seemingly mundane subject of "the infrastructure" has become a prominent issue for both the city and state governments.

News of a neglected and decaying infrastructure—public facilities such as water systems, sewers, streets, highways, bridges and rails, which undergird life and commerce in every community—has taken on a new prominence on the national scene at a time when the country is suffering from a recession, high unemployment, decline of much of its basic industry and the reduction of public services by governments at all levels.

The situation is similar to that of a family whose income has been cut, that is behind on the mortgage payments and unable to buy shoes for the children, and then learns that tree roots have plugged the drainage pipes, the furnace must be replaced and termites have weakened the foundation of the house.

In the urban policy report the Administration made public last week, President Reagan said he wanted to do something about the infrastructure problem but had not decided what.

Meanwhile, a bipartisan coalition is growing in Congress to force action by the national Government, partly on the ground that Mr. Reagan's goal of revitalizing American industry cannot be reached until something is done about inadequate public facilities. Many Democrats say that repairing public works would provide jobs for many of the unemployed.

One difficulty is that public works projects have been so fragmented between the various levels of governments that no one knows the extent of the decay, or how much money would be needed for repairs and new construction necessary to support the economy and quality of life at reasonable levels.

Only in the past year or so has the concern of policy makers about the neglect of basic public works grown urgent. Studies by George E. Peterson of the Urban Institute and by Pat Choate and Susan Walter of the Council of State Planning Agencies documented the inadequacy of public facilities, not only in older, fiscally troubled cities such as New York and Boston but in suburban and rural communities in every region of the nation.

Their findings have been confirmed and expanded by a number of Government agencies and by Congressional investigations. These are some of the more serious deficiencies cited:

Obsolete and decaying bridges. The Transportation Department recently classified 45 percent of the nation's 557,516 highway bridges as "deficient or obsolete." Replacement or repair could cost $47.6 billion, the department said.

Crumbling highways. The 42,000-mile interstate system, begun in the 1950's and not yet completed, is deteriorating at a rate that would require reconstruction of 2,000 miles a year, in addition to a backlog of 8,000 miles in need of rebuilding that accumulated because of cuts in financing in recent years. The condition has contributed to costly traffic jams on the expressways of most major urban areas.

Deteriorated rail facilities. The condition of roadbeds and rolling stock of Conrail and other rail systems is so poor that some officials say there are no reliable estimates available on the cost of replacement and repair. But frequent derailments and delays in shipments attest to the need, according to a range of officials.

Leaking water and sewer mains. The Urban Institute, in a survey of 28 cities, found that 10 of them, Cleveland, St. Louis, Pittsburgh, Tulsa, Philadelphia, Hartford, Kansas City, Mo., Cincinnati, Buffalo and Baltimore, were losing 10 percent or more of their treated water because of deteriorated pipes. And the survey did not include New York and Boston, with two of the leading all-time water-leaking systems. Probably a larger problem, from the standpoint of waste, is leaky sewers, in which ground water flows into the pipes, adds to the volume of sewage and greatly increases the cost of treatment.

Shortage of capacity of many facilities. A survey conducted by the Economic Development Administration in 1978 showed that half of the nation's communities had wastewater treatment systems operating at full capacity, meaning they could not support new economic or population growth without costly new construction.

The estimates of need tend to become astronomical. Nationally the figures run into the trillions. Last fall, the New York State Legislature estimated that $8 billion to $10 billion a year would be needed in New York State for repairs, replacement and construction of the infrastructure, which would double current expenditures.

A more precise expression of need was published by the Joint Economic Committee of Congress, which said that New York City alone over the next few years would have to service, repair or replace 1,000 bridges, two aqueducts, one large water tunnel, several reservoirs, 6,200 miles of streets, 6,000 miles of sewers, 6,000 miles of water lines, 6,700 subway cars, 4,500 buses, 25,000 acres of parks, 17 hospitals, 19 city university campuses, 950 schools, 200 libraries and several hundred fire houses and police stations.

The causes of neglect and decay are more easily documented than the extent of need. Mr. Choate, an economist and a former Federal official who is now the senior analyst for a giant corporation, said in a paper prepared for the House Wednesday Group, made up of moderate Republican representatives, that investments in capital projects had declined sharply.

"The nation's public capital investments fell from $33.7 billion in 1965 to less than $24 billion in 1980, a 30 percent decline," he wrote. "Public works investments dropped from $174 per person in 1965 to less than $110 per person in 1980, a 36 percent decline, and shrank from 3.6 percent of the gross national product in 1965 to less than 1.7 percent in 1980, a 54 percent decline."

In the 1960's and 70's, public works projects frequently were delayed so that the Government could finance such endeavors as the Vietnam War, social programs, education and space exploration. Nevertheless, the Federal Government assumed a much larger share of public works costs, which previously had been borne by state and local governments. In 1957, the Federal Government paid 10 percent of the costs. By 1980 its share had risen to 40 percent.

RESPONSIBILITY FRAGMENTED

The responsibility for maintaining public facilities, Mr. Choate pointed out, was fragmented between 100 Federal agencies, 50 state governments, 3,042 countries, 35,000 general-purpose governments, 15,000 school districts, 26,000 special districts, 2,000 area-

wide units of government, 2,000 interstate compacts and nine multistate regional development organizations.

But the Federal Government, the dominant player, never achieved any rational method for allocating the funds. Mr. Choate said Federal laws favored new construction over repairing of existing facilities.

Public works money, which often has been handed out for purposes of politics rather than need, became increasingly subject to waste and fraud, according to Mr. Choate and others. In 1980 alone, 219 state and local public officials were convicted of criminal abuse of public funds, a figure three times greater than the 1970 level.

At the same time environmental requirements enacted in the 1970's increased the need for higher expenditures for public works.

Many authorities say they believe, however, that the greatest cause for inadequacy of public facilities lies in the spread of the population and industry out of the central city to suburbs and remote communities around the nation.

Retired people moved in large groups into new communities, many in rural recreational areas; factories settled along the freeways and new urban development sprang up near them; state governments spread their colleges over once remote areas; people migrated from the old industrial cities to the South and West, where urban and rural sprawl was greatest; after the 1980 census the Federal Government designated 36 former small towns as metropolitan areas. All this new development required enormous amounts of capital investment for streets, curbs, water and sewer facilities, airports and other facilities.

DEMAND IN CITIES REMAINED

But the new growth did not lessen the demand in the thinned-out central cities. The infrastructures in old cities, which suffered heavy population losses, serve many vacant lots, half-empty buildings and closed factories and warehouses. But the facilities must usually be maintained as though they were being used at capacity.

At a recent conference on land use sponsored by the Engineering Foundation in Rindge, N.H., Philip Finkelstein of the Center for Local Tax Research in New York pointed out that when the city government suggested that it could no longer afford to maintain basic facilities in the South Bronx, where many buildings had been abandoned, there was a storm of protest and the suggestion was dropped.

"I don't think there is any way to do that with any degree of acceptability," he said, in reference to a suggestion that there be a contraction of public facilities in the cities.

Americans in 1982 are separated as never before by great stretches of pavement, communication and electric lines and water and sewer pipes. Many authorities are questioning whether the nation can any longer afford to maintain what it already has built and continue to provide for new communities.

LAND USE AT THE HEART

Harry E. Pollard, president of the Henry George School of Social Science of Los Angeles, said the way it is now, "A bus driver in order to collect one acre of people has to drive five acres to find them. And he has to drive past five miles of sewer pipe instead of one. It is a land-use problem. If you have to finance five miles for every one you will forever be in financial trouble."

According to a number of authorities, no national administration has succeeded in bringing order to the chaos of public works spending. The Carter Administration, they said, was beginning to coordinate Federal spending so that priorities could be established.

The Reagan Administration, according to those officials, abandoned the coordination but to some extent has stopped the use of Federal funds for capital projects in new areas. For example, it refused to finance water treatment plants in new communities around Orlando, Fla. The rationale was that if people there wanted new communities they could finance them themselves.

FUTURE OF FEDERAL ROLE

Yet even high White House officials acknowledged that the Reagan Administration had no comprehensive policy on public works, except that it intends to drastically reduce the Federal role. Richard S. Williamson, assistant to the President for intergovernmental relations, said Mr. Reagan wanted to help the cities with their infrastructure problems, and he ordered that this concern be put in the Administration's urban policy report that went to Congress.

The report, however, sought to show that the picture was not so bleak as had been depicted. It pointed out that demand had lessened for schools and new highways and said many cities were moving on their own to step up capital projects. And it pointed to local innovations. New York, for example, had switched emphasis from new buildings to repairing streets, bridges, mass transit, water and sewage systems. Other cities, such as Boston, were putting the authority for public works in the hands of independent commissions for greater efficiency, while others, such as Cleveland, were enlisting private interests for help.

The Federal Government's role, the report said, was to gather information about more cost-effective methods of financing public works while "other aspects of Federal aid remain to be determined."

Meanwhile, members of Congress have stepped into the void. Some have been spurred by such reports as bridges being closed for long periods in Kansas City, Mo., while motorists drive blocks out of their way and school children in Altoona, Pa., having to leave their bus, walk across a bridge and wait for the empty bus to follow because the bridge can no longer support the weight of both children and bus.

PROPOSAL BY HOUSE MEMBERS

Two Pennsylvania Representatives, William S. Clinger Jr., a Republican, and Robert W. Edgar, a Democrat, have been pushing legislation for a capital budget that would require the Administration to take an inventory of capital needs and assign priorities for spending on public works, as a first step toward long-term recovery.

They were joined in their effort by such diverse leaders as Speaker Thomas P. O'Neill Jr. and Representative Jack Kemp, the conservative Republican from Buffalo, who were among a number of Congressmen signing a letter to Mr. Reagan asking him to consider the idea. A similar bill has been introduced in the Senate by Christopher J. Dodd, Democrat of Connecticut.

Meanwhile a number of Democrats around the country have taken up the issue on grounds that rebuilding the nation's capital plant would fight unemployment.

In New York, Assembly Speaker Stanley Fink has made repairing of the infrastructure one of his major concerns and Governor Carey, in the recent legislative session, proposed increases in taxes and fees to help pay the costs. The tax legislation, however, was defeated, in part because it was an election year. Officials on the national and state levels predict the issue will become more heated in the years ahead.

In response to questions about how the nation could let basic facilities decay to the extent that many authorities say they have, Maury Seldin, president of the Homer Hoyt Institute, a nonprofit foundation in land economics, and a professor at American University, said, "We as a nation are accustomed to living on uppers and downers."

He said that in recent years the nation had become accustomed to "taking a fix" for whatever bothers it without much thought to the long-range consequences, especially in response to various special interests that can command support for narrow goals, and policy is fragmented.

He called for a maturing of the political processes so that various interests could reach compromises for the overall good and "be willing to settle for a fair shake." ●

COMPLICATED UNEMPLOYMENT BENEFITS FORMULA

HON. DON BAILEY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. BAILEY of Pennsylvania. Mr. Speaker, another consequence of the legislative changes enacted last year by the Omnibus Budget Reconciliation Act was felt this week. Maryland triggered off the Federal-State extended unemployment benefits program, thereby denying extended unemployment benefits to many thousands of workers who have exhausted their regular unemployment benefits.

The cause of Maryland's triggering-off was not that unemployment in Maryland is getting better. In fact, Maryland lost its ability to pay extended benefits because it failed to meet the complex formula enacted last year by the Omnibus Budget Reconciliation Act. In that act, the Federal Government required the States to show a certain ratio of unemployed workers to the State's total work force. That insured unemployment rate must be at least 5 percent, plus 20 percent higher than the average of the same period of the previous 2 years. In addition to this higher threshold, however, the way in which the insured unemployment rate is calculated was also changed.

The calculation now made does not include individuals who have exhausted their extended benefits or are currently receiving extended benefits. By excluding these individuals, the insured unemployment rate is underestimated and, as a consequence, States like Maryland and Michigan triggered-off the extended benefits program. Other States are expected to trigger-off the program between now and the end of the year. This is not speculation, but a certainty since the thresh-

olds will increase to 6 percent at the end of September.

Mr. Speaker, my friend and subcommittee chairman, HAROLD FORD, and I introduced H.R. 6340 last May 11 to restore some realism and accuracy to the term "insured unemployment rate." This bill will restore previous law, whereby the insured unemployment rates was based on the number of individuals applying for both regular and extended benefits. Using this formulation, States will continue on the extended benefits program and not trigger-off, as have Maryland and Michigan, because of the large percentage of individuals who are receiving extended benefits or have exhausted all their benefits.

In the name of fairness and equity, Mr. Speaker, I encourage my colleagues to support this bill and provide continuity of benefits in this time of high unemployment and deep recession. Before we begin consideration of enacting a supplemental unemployment benefits bill, let us make a change in the way by which the insured unemployment rate is calculated so that we can insure that those most in need will be helped.●

GAVEL TO GAVEL: A REAL CONTRIBUTION

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SIMON. Mr. Speaker, I want to call to the attention of my colleagues a booklet delivered to their offices today. It is entitled "Gavel to Gavel: A Guide to the Televised Proceedings of Congress," and it was produced by the Benton Foundation and printed by the Roosevelt Center for American Policy Studies.

Alan Green and Bill Hogan, two Washington journalists who have studied and written about this body, and about communications and the media, have presented our complicated lives in an interesting and clear fashion, so that anyone who watches us on C-SPAN can better understand what goes on here.

I am particularly pleased with the booklet for a number of reasons, not the least of which is that the two sponsoring institutions have their roots in Illinois. The Benton Foundation has grown from the success and interests of the late Senator William Benton, one of our most illustrious public servants in this century. It is an innovative foundation concerned with communications and public policy. Charles Benton, its president, is himself an exceptional public servant who has been Chairman of the National Commission on Library and Information Sciences. Marjorie Benton has been a stalwart leader of many public-spirited efforts, including serving as Chair of the Save the Children Federation and as the U.S. Representative to UNICEF. I commend them and their board members for their concern and effort to make this institution of democracy better understood by the people of America.

The Roosevelt Center is new, the creation of a young and very successful Chicago businessman, Richard Dennis. While Mr. Dennis is himself a Democrat, he has insisted on a bipartisan board of trustees, running the political spectrum from John Culver, our former colleague, and economist Lester Thurow, to Laurence Silberman, former Deputy Attorney General in the Nixon administration and then Ambassador to Yugoslavia.

The center describes itself accurately as "a nonpartisan institution taking its name and inspiration from three Roosevelts—Theodore, Franklin, and Eleanor—who courageously addressed our national future, brought clarity to America's vision of itself, and thereby gave new strength and direction to our people." I know some of the Roosevelt Center's leaders and expect great things from it.

Both of these institutions represent the best of the American tradition of the independent sector working with those of us in public life. I commend to you their booklet, encourage you to make it available to your constituents, and hope that all citizens who watch the House in action on television will ask one of us for a copy of "Gavel to Gavel" so that they will better understand the processes of this body.●

THE FEDERAL EXCISE TAX ON DISTILLED SPIRITS SHOULD NOT BE INCREASED

HON. VIC FAZIO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. FAZIO. Mr. Speaker, one of the many revenue-enhancement proposals being discussed in Congress is raising the Federal excise tax (FET) on distilled spirits. Proposals range from indexing the FET to inflation to doubling the tax rate. For sound and equitable public policy reasons, Congress should avoid any temptation to selectively target the distilled spirits industry for any tax increase.

Distilled spirits products already bear the highest tax burden in the Nation. Fully 47 percent of typical retail bottle price goes into Federal, State, and local treasuries. The Federal tax share of the spirits retail price—26 percent—is double the tax share on cigarettes, 5 times that of airline tickets, 8 times that of gasoline, 4 times that of beer, 15 times that of wine. In 1981, the spirits industry paid $6.8 billion in excise and other product taxes to the government, $3.9 billion to the Federal Government alone. The Federal tax alone is equal to taxpayments of nearly $11 million each day by this industry. Clearly, the distilled spirits industry, which pays income taxes and social security taxes in addition to this tax burden, pays more than its fair share already.

Any increase in the FET will preempt a major State revenue source at a time when the States are being asked to assume new responsibilities and financial burdens. While the Federal excise tax on spirits has not been increased since 1951, State tax rates have increased substantially. State revenue per gallon of spirits has risen by 120 percent since 1951. Today the States are relying preponderately on excise taxes on spirits and other products to help eliminate rising budget deficits. So far this year, roughly three-fourths of the States have proposed some kind of spirits tax increase. Any increase in the FET will cost the States excise revenues from reduced sales. Just as important, the States will find it difficult to rely on this tax source for future revenues if preempted by the Federal Government.

Congress will not find its revenue-enhancement goals furthered greatly by selective and punitive taxation of the spirits industry. The Distilled Spirits Council of the United States, representing spirits manufacturers, has estimated that a 100-percent FET increase would lead to spirits price increases up to 50 percent and a consumption drop of 20 to 25 percent. The "shock impact" of such an unprecedented tax increase could lead to even more serious losses for the industry. This in turn means little revenue gain for the Government. The Senate Finance Committee has estimated that a 100-percent FET increase might bring in about $2 to $2.5 billion. The Joint Tax Committee estimated that indexing the FET to inflation might bring in a mere $200 million in fiscal year 1983. Even these figures probably are overestimates, since the Government will suffer lost revenues because of State tax increases that reduce sales, lost income taxes from reduced industry profits and employment, and potential illegal spirits production. Further, if spirits alone is targeted for a tax increase, this could lead to consumers switching to substantially lower taxed beer and wine, further reducing revenue potential. These impacts are not idle industry guesses. An 80-percent tax increase in Australia in 1978 lead to a 40-percent spirits price increase and a 26-percent drop in consumption. Tax increases in the United Kingdom in 1981 led to a marginal revenue increase—0.6 percent—that was one-sev-

enteenth of what the United Kingdom Treasury predicted. Denmark, following a 37-percent tax increase in 1977, saw its revenues actually fall in 1978 and, as of 1981, revenues have not yet reached pre-tax-increase levels. Such unanticipated, adverse revenue effects could occur in the United States.

Singling out the spirits industry for punitive taxation also punishes the thousands of industry workers, suppliers, wholesalers, and retailers located throughout the country in a time of national economic distress. There are an estimated 826,000 full-time jobs in the beverage alcohol industry as a whole, the majority of them small retailers. There are an estimated 398,000 business establishments which would face economic losses, and in some cases bankruptcy, from further taxation of spirits. Even a 5-percent loss in jobs and business means over 40,000 jobs and 20,000 businesses threatened.

Finally, no one should delude himself that by raising the FET we can deal with the problem of alcohol abuse. The alcoholic has an illness that does not respond to economic reason. He needs treatment, not taxation. Those who use alcohol in excess, and do not respond to the legal and social sanctions against misuse, are least susceptible to price changes. It is the roughly 100 million consumers who drink alcohol responsibly, moderately, and legitimately who will be impacted by a tax increase. Further, excise taxes are regressive taxes which hit low- and middle-income families hardest. Spirits are not a "luxury" item consumed only by the rich. Millions of low- and middle-income Americans use spirits responsibly and can ill afford additional regressive taxes.

Past Congresses, in Republican and Democratic administrations, have recognized the inequity of excise taxes and have eliminated excise taxes on many products. No one is asking for the elimination of the excise tax on spirits. A vote against a spirits tax increase is not giving the industry a special tax break, it is simply recognition that the industry and its consumers already pay more than their fair share in taxes.●

LATEST GAO REPORT CALLS CLINCH RIVER PROJECT AN IMPORTANT AND NECESSARY DEVELOPMENT STEP

HON. ROBERT A. YOUNG

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. YOUNG of Missouri. Mr. Speaker, as a member of the Science and Technology Committee, I have been deeply involved with the demonstration and development of the liquid metal fast breeder reactor (LMFBR). Recently GAO delivered a report upon the request by Chairwoman BOUQUARD of the Energy Research and Production Subcommittee regarding the LMFBR. This report reassesses the GAO previous determinations regarding the viability and necessity of the Clinch River breeder reactor project. I would like to place in the RECORD at this time the chairwoman's remarks.

REMARKS OF CHAIRWOMAN BOUQUARD

Marilyn L. Bouquard, Chairwoman of the Subcommittee on Energy Research and Production in the House, received a GAO report today entitled "The Liquid Metal Fast Breeder Reactor—Options for Deciding Future Pace and Direction." Mrs. Bouquard requested the GAO study in November, 1981 in order to obtain a reassessment of the GAO previous determinations regarding the viability and necessity of the Clinch River Breeder Reactor Project (CRBRP). This project represents the principal demonstration plant focus with the U.S. Liquid Metal Fast Breeder Reactor (LMFBR) research and development program.

The GAO examined its previous positions on the Department of Energy's Breeder program and Clinch River project in terms of three questions and concluded that:

"The important fact is that a demonstration plant along the size and scale of the CRBR project is an important research and development step. Once this step is completed the next logical step would be to follow it at some future time by a commercial size breeder reactor such as the proposed large development plant."

The most important question which the GAO asked was "Is the Clinch River project still an important step in developing the breeder option?" On this point, Mrs. Bouquard cited the strong GAO endorsement of the Clinch River project. "As it has in the past, GAO continues to believe that a Clinch River-type demonstration project is a necessary step in developing the breeder option. If the LMFBR is to be developed to the point where industry can use it, an intermediate-sized plant such as the Clinch River project is a logical and prudent step to gain important operational experience on breeder reactor performance, reliability, maintainability, safety, environmental acceptability, licensability, and economic feasibility."

The other two questions with the GAO answers are:

(1) "How long can domestic uranium supplies fuel conventional nuclear reactors? Based on the Department's latest projections on the growth of nuclear power and available domestic uranium supplies, uranium supplies appear adequate to fuel conventional reactors well past the year 2020."

Mrs. Bouquard pointed out "Thus, a commerical deployment decision on the breeder will have to be made well before 2020 and this timing matches the present construction timetable for CRBR with a stretched out schedule for the next breeder (prototype) plan."

(2) "When will breeder reactors be economical? The Department's most recent study shows that a commerical breeder reactor would most likely be economical in the 2025 to 2035 time frame."

On the economics issue, the Subcommittee Chairman noted "Low cost breeder designs require Clinch River as a critical intermediate step to provide plant operating experience for scaling up to larger and more economic systems. In fact, the GAO concludes that breeders should become economical just about the projected initiation date for commercial deployment, i.e., 2025."

The Tennessee Democrat also remarked on the GAO's rejection of the option to terminate the LMFBR program. The report states "In GAO's opinion, the uncertainty inherent in projecting far into the future persuasively argues against the termination option." Mrs. Bouquard concluded with a discussion of the program options of continuation under the DOE's present schedule or the possibilities of restructuring the program and concluded "I believe unless the climate for utility investment is changed dramatically, that the program will be restructured and the logical way to do this is to keep the CRBR project on schedule and defer or stretch out the next step, the Large Developmental Plant (LDP). The GAO has provided a service to the Congress by pointing out the significant risk attendant to other options for restructuring the program. There is clearly no substitute for Clinch River as a focus for the breeder reactor technology program!"●

SOLIDARITY WITH IDA NUDEL

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. PEPPER. Mr. Speaker, 11 years ago Ida Nudel, a courageous Jew living in the Soviet Union, sought permission to emigrate to Israel. She had a dream of rejoining her only family, her sister, in a country where she could pursue her faith in freedom. In our country we have been richly blessed with freedoms that we often take for granted, so much so that it is difficult for us to believe that people in other nations are denied such fundamental liberties. We can see how reprehensible it is for the Soviet authorities to continually deny Ida Nudel permission to travel to her spiritual homeland, and as an expression of solidarity with her and with all Jews kept in the Soviet Union against their will, I call upon Americans to persist in their criticism of the repression which has been inflicted on this heroic woman and all who wish to emigrate.

Although the case of Ida Nudel is well known in the United States, and our leaders and citizens have publicly supported her tenacious efforts to obtain an exit visa, our outcry has gone unheeded and Ida remains locked in the Soviet Union against her will. In 1978, she was arrested for publicly expressing her desire to emigrate. Nearly 4 years later, she was released from internal exile in Siberia and upon her return to Russia has discovered that she will not be allowed to live in Moscow, where she was raised, and that she will not be able to attain residence in any city. Since March, Ida Nudel, an educated economist, has been homeless and unemployed and

reduced to the indignity of having to roam the countryside in search of food and a bed. Now is the time for us to speak out, before the Soviets succeed in breaking her spirit and extinguishing her hope.

As Americans, we cherish our freedom to worship as we please and our freedom to travel. Ida Nudel, who has selflessly comforted and assisted other Soviet Jews who have attempted to emigrate, desires to know that freedom which is so dear to us. And so I call upon the Members of this body and all Americans to join me in publicly expressing our support for Ida Nudel by urging the Soviet authorities to grant her an exit visa and praying for the long-overdue fulfillment of her dream.●

TRIBUTE TO THE 187TH AIRBORNE REGIMENTAL COMBAT TEAM, THE "RAKKASANS"

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. BONER of Tennessee. Mr. Speaker, the famed 187th Airborne Regimental Combat Team, the "Rakkasans," will be celebrating their first reunion in Nashville this week. My hometown is proud to be the host city for this first-ever reunion of over 500 Rakkasans and their families.

The Rakkasans were selected out of seven available airborne regiments and deployed to Korea in July and August 1950. They served there until the armistice and were the only American airborne troops who fought in Korea.

While in combat, and particularly during the two combat jumps, the paratroopers of the 187th earned the respect of their fellow soldiers and allies and that of the enemy as well.

Originally, part of the 11th Airborne Division during and immediately after World War II, the Rakkasans have fought in World War II, Korea, and the 3d Battalion of the 187th, in Vietnam. The battle credits and streamers on the regimental colors are a testament to the heroism of the airborne soldiers of the U.S. Army.

Though only recently organized, the 187th ARCT Association, "Rakkasans," already number in excess of 700 active members and the membership is growing daily. Dedicated to the preservation of the regimental traditions and to the spirit of American airborne forces, the Rakkasans take their place on the roll of associations that honor the proud regiments of the U.S. Army.

Mr. Speaker, Tennessee, the Volunteer State, and the city of Nashville are proud to be selected by these veterans as the site of their first reunion, and I am proud to be able to record this event for history.●

WOMEN IN COMBAT—HEADING FOR REALITY

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. McDONALD. Mr. Speaker, I have been inundated with vituperative nonsense over a period of years now because of my opposition to women in combat, and in fact, in combat support units. With the exception, as I have stated often enough, those noble women of the nursing profession, there should not be women in proximity to the combat environment.

It appears that the military is now looking at the reality of the situation, and not at the political animals, who for reasons only they know, continue to expose the potential of the women of America to get killed in combat.

Now comes a current, and I must say, honest article on this situation from Long Island Newsday, issue of June 20, 1982. The author, who should be commended for his objectivity, is Arnold Abrams. There is contained therein the usual claptrap—for want of better terminology—from the National Organization of Women (NOW), that President Reagan is carrying out a war against women. Would that Judy Goldsmith, spokesperson of that organization, volunteer for the next Ranger training course at Fort Benning, in my home State of Georgia. For my part, just as the saying was true in World War II that, "There are no atheists in the foxholes of Bataan," so, too, with the exception of militant ignoramuses, there should be no women in combat.

Would that my colleagues now seriously consider my bill, H.R. 976, that would remove women from the military academies. I do not object to a separate academy for women, but on examining the objective article of Arnold Abrams, and carrying it right down to elementary basic training, my colleagues will see, objectively, a truism that cannot be denied. The article follows:

ARMY STUDIES LIMIT ON WOMEN'S ROLE

(By Arnold Abrams)

Four years after officially integrating women within its ranks, the U.S. Army is reassessing their military role and their effect upon combat readiness.

The far-reaching review is likely to result in a lower recruitment quota for females and, more important, greater restrictions on the range of duties they will be assigned. Those policy changes are expected to be announced by Oct. 1, the start of the next fiscal year.

Prompting the reassessment, which involves various studies that will go into a "Women in the Army" report due at month's end, were field commanders' concerns about the steadily increasing presence of female troops—who now account for nearly 10 per cent of the 789,000-member service—in combat-connected positions.

Those concerns focus largely, but not exclusively, upon the lack of strength and stamina that the Army says were demonstrated by female soldiers during the past decade, when their numbers climbed from about 17,000 in 1972 to approximately 76,000 at present.

Army figures show that the educational and learning ability of female soldiers generally exceeds that of male soldiers. However, Pentagon authorities believe that females' physical differences, coupled with other problems related to them, could prove significance in combat conditions. Although women are barred from battle units, they are permitted to serve in close support contingents—such as supply, maintenance, medical and signal companies—that operate in combat zones and are an important part of the fighting effort.

The Army reassessment, which also is likely to affect the other services—where about 112,000 women serve with more than 1 million men—is described by military sources as a long-overdue measure designed to produce a more effective fighting machine.

"We've let the number of women in this service grow like Topsy without taking a hard look at potential effects," said a field-grade officer familiar with the review process. "It's not the Army's job to serve as a social agency. However worthy the women's movement, its goals are not part of our primary mission. Our concern should be combat readiness, period."

Feminists, however, regard the review—and its likely results—as an assault upon their cause. "It is outrageous," said Judy Goldsmith, vice president of the National Organization of Women. "It is another example of the Reagan administration's war on women. It is a direct slap in the face to women already in service and to those contemplating a military career."

Also expressing unease over the review was Maj. Gen. Mary Clarke, who was the Army's top-ranking female before retiring recently after 36 years' service. "The duty performance of the average woman soldier is a solid, quality performance—too good ever to return to an all-male force, or a force with only a few token women," she asserted in an open letter to army women.

"The bottom line for the Army is the mission," Clarke's letter continued. "Do women really contribute to mission readiness? Anyone who asks that question seriously man or woman, needs to question his or her assumptions and prejudices, and instead face facts. It is the quality of women's service which gives an affirmative answer to the readiness question."

According to knowledgeable military sources, problems concerning female soldiers were brought to the attention of Gen. Edward C. Meyer, the Army chief of staff, during the past year. Meyer's informants were described as "officers who felt secure enough to level with the boss about politically sensitive issues."

Those officers, sources said, also cited specific problems with females and statistics to support their views. The problems included:

Pregnancy. As many as 10 percent of female soldiers are pregnant at any given time.

Attrition. About 45 percent of females do not reenlist, compared with 32 percent for males.

Logistics. That includes the need for separate sleeping quarters, toilet facilities and clothing patterns.

Meyer reportedly was told that the cumulative effect of such problems, coupled with the questions of strength, has reduced combat readiness.

The Army's initial response was to order a recruiting "pause" to hold the number of women in enlisted and officer ranks at about 75,000. That decision, made last year, represented a retreat from President Jimmy Carter's policy, which called for 87,500 women in an expanded Army by 1985.

Although Army officials discount any direct connection, that pause came as the all-volunteeer force started to overcome serious recruiting problems—problems that were partly alleviated in recent years by increased intake of women.

At present, the combination of high unemployment, continuing recession and improved military pay has allowed recruiters to fulfill their quotas while complying with Army educational standards. It also has reduced their reliance upon female volunteers.

Another Army action, formally announced last month but actually implemented at various bases in January, was to eliminate coeducational companies in basic training. Those units were made all-male and all-female, according to a military spokesman, to "facilitate the Army's toughening goals and enhance the soldierization process."

Drill sergeants and training company commanders offer a simpler explanation for that policy change. It is their opinion that significant capability differences between male and female soldiers undermine a training unit's performance.

"Everyone familiar with basic training knows that a mixed unit invariably presents problems," said Capt. Vandon Jenerette, commander of an all-female basic training company at New Jersey's Ft. Dix. "The girls' lack of physical ability holds the guys back and forces trainers to compromise on standards—it's as simple as that."

Jenerette made that point recently as his company was learning to handle live ammunition on Ft. Dix's firing range. Surrounding him was a group of not-so-sharp-shooting recruits describing their difficulties.

"I couldn't help it, sir," said one trainee. "I was so scared, my heart was beating like mad, and my hands wouldn't hold still. And every time I fired, the gun jumped and my eyes closed."

Jenerette, a 15-year veteran at age 33, flinched slightly but kept his voice soft and smile steady. "Well, if you're going to act scared, better do it with your eyes open," he replied. "Watching what you're shooting at will give you a better chance of hitting it."

Afterward, the company commander reflected upon that conversation. "If she had been a guy," he said, "I would have responded differently. I would have stated, in no uncertain terms, that when firing, you don't close your eyes and you keep your goddamn hands steady. But you can't talk that way to girls. They start crying, and you don't get anywhere.

Agreeing with Jenerette was Sgt. Michelle Cork, a female drill instructor who has handled all-female and all-male training companies and now works with a male unit in Ft. Dix.

"I'd prefer a male company any time," said Cork, 34, an eight-year veteran. "Females have too many personal problems and too many physical weaknesses. Their tendency to get weepy doesn't help any, either."

A third major Army measure, initiated earlier this year in response to female-related problems, was to establish separate physicial standards—which will be announced soon—for each of the Army's 350 military occupation specialties.

Although equally applicable to males and females, those standards—which would be distinctly higher for combat zone duties—are expected to have an appreciably greater screening effect upon women.

"People might think, for example, that physical strength has little to do with a medic's duties," said Lawrence J. Korb, assistant secretary of defense for manpower. "But what happens if the body of a big soldier has to be removed quickly from a combat area, and a female medic simply is not strong enough? That would create serious problems—which, by establishing strict physical criteria, is what we want to avoid."

Korb, who will review all suggested policy changes and then send his own recommendations to Defense Secretary Caspar W. Weinberger, denied any link between the reassessment process and the Reagan administration's attitude toward feminist causes.

"No government decision is free of political ramifications," said the 42-year-old Pentagon official, who previously worked at the American Enterprise Institute, a Washington think tank, and on the Reagan administration's transition team. "But no pressure has been put on me by the White House or the secretary of defense. I am concerned with personnel and readiness, and my recommendations will reflect that responsibility."●

CAUTION NEEDED ON OVERSEAS MILITARY COMMITMENT

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SIMON. Mr. Speaker, the excellent magazine, "World Press Review," which reprints articles and comments from newspapers and magazines around the world, has an article in a recent edition by Christian d'Epenoux which appeared in the newsmagazine "L'Express" of Paris.

It is about the Sudan.

It talks abut the President Gaafar Nimeiri and the country of Sudan, the largest country geographically in all of Africa.

President Nimeiri has shown courageous leadership and has been a good friend of the United States and stability in the Middle East.

But in the article there is one sentence that our policymakers ought to be aware of, and somehow or not, it says: "But a highly visible American presence, with its military assistance mission and large contingent of oilmen, could play into the hands of the opposition."

It was not too long ago when the Sudan, along with Egypt, was considered to be in the Soviet orbit.

President Nimeiri is not a puppet of the United States nor of any other country, but is fiercely independent and we want him and the Sudan to stay that way.

But those who want to put American troops or American Embassy personnel too visibly around the world do a disservice to these countries. Uncle Sam is not uniformly admired and respected.

We simply need to look to Libya and her current difficulties and remind ourselves that a formerly friendly regime in Libya was toppled, many people believe, because of the presence of an American military base in that country.

Let us do what we can to give help to stabilize the Middle East. But let us do it in a low-key way.

[From the World Press Review, May 1982]

STRAINS IN THE SUDAN: A WESTERN ALLY'S TRAVAILS

(By Christian d'Epenoux)

The saying, "patient as a Sudanese," is appropriate: Any other country in a similar condition would long since have exploded, but not the Sudan. This immense, parched land of 500 tribes—seventeenth among the world's poorest countries and a sensitive flank of the Red Sea beside the Horn of Africa—remains united in its resignation.

At regular intervals the country runs out of money for oil. Without oil the economy approaches collapse. Lending countries grudgingly continue sending aid and the government manages to scrape through. France's Elf Aquitaine has invested heavily in oil exploration in the Sudan, but production—if it materializes—is not expected until 1989.

How much longer can President Gaafar Nimeiri—fifty-two but prematurely aged by illness and the crushing weight of his burden—keep this cracked edifice standing? Nimeiri has escaped almost a dozen assassination attempts and two failed coups d'etat in the past thirteen years. Libyan Col. Muammar Gaddafi has named Nimeiri to be killed, and every night Tripoli radio urges the Sudanese to rebel against alleged corruption and privilege.

Last January it seemed that a groundswell would sweep everything away; austerity, popular discontent, and political crisis made an explosive combination. The International Monetary Fund (IMF) warned sternly that the Sudan would receive no new advances without serious fiscal reform. Nimeiri eliminated state subsidies for basic commodities—oil, sugar, flour—and prices skyrocketed.

In December the government had gone a step too far: It reduced students' stipends for trips to their homes. In early January Khartoum University students marched through the city burning shops and overturning cars. For the first time the demonstrations took a decidedly zenophobic turn against the IMF and the U.S., whose cultural center was stoned. But the army intervened, the capital's four universities were closed, and order was restored.

During the next week the provinces erupted. About fifty died in clashes in a dozen cities. On Jan. 13, the violence subsided as suddenly as it had come.

Many believed the shaken president would preach détente. Instead he summoned provincial governors, ministers, party dignitaries, and military leaders to his offices to discuss his policies. Perceiving ambition among the squabbling officials and insolence among the military leaders who questioned his repressive austerity measures, Ni-

meiri dismissed Vice President and Defense Minister Abdel-Majid Khalil, the Politburo and Central committee members, and other party principals. He also retired twenty-two military officers.

Against this troubled landscape problems in southern Sudan acquired new salience. In 1972 Nimeiri had ended a seventeen-year rebellion that pitted the Moslem and Arab North against the animist, Christian, and African South. Today the South appears to hold the country's most promising oil reserves, and Southerners accuse Khartoum of seeking to appropriate the treasure by readjusting provincial borders.

Who would want to fish in these troubled waters? The young officers are said to be too preoccupied with their promotions and fringe benefits. Their ranks are padded with officers from Egypt—the privileged ally and protector—who would not hesitate to come to the regime's assistance. But in many respects the army remains a mystery.

The Moslem Brotherhood, active in the university, has been skillfully neutralized at higher levels: Three members are in the government. But a highly visible American presence, with its military assistance mission and large contingent of oilmen, could play into the hands of the fundamentalists.

The Mahdists, with three to four million faithful in a population of 18 million, constitute the strongest potential opposition. Saadek al-Mahdi, a descendent of their founder, led a bloody uprising backed by Gaddafi in 1976. Nimeiri has since pardoned him, but this intelligent and learned man again is restless—as if awaiting his hour.

To keep control Nimeiri—with the financial support of the West and the Gulf states—must maintain an exhausting vigilance. That would become impossible were the domestic truce broken.●

PRESIDENT'S POLICIES

HON. ANDY IRELAND

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. IRELAND. Mr. Speaker, as a part of the President's policies to effect Soviet actions toward the Polish people, the administration is considering various options regarding the grain sales to the Soviet Union. I think it's important that each of us become familiar with the issues surrounding this important and controversial foreign policy issue. Therefore, I am submitting the following letter to Business Week by Mr. Richard A. Lenon, the chairman and chief executive officer of the International Minerals and Chemical Corp. regarding this matter. I know that you and our colleagues will find this information very helpful.

INTERNATIONAL MINERALS
& CHEMICAL CORP.,
Northbrook, Ill., July 8, 1982.

MR. JOHN L. COBBS,
Editor, Business Week, McGraw-Hill Building, Avenue of the Americas, New York, N.Y.

DEAR MR. COBBS: Your editorial "A rough, right decision" (July 5) calls for an embargo on future grain sales to the Soviet Union. Such a step would be a major add-on to the burden already draped around the shoulders of the U.S. farmer and the domestic agricultural community generally. It is unlikely that any intended message would be heard; our allies, with their more pragmatic export policies, could be expected to smile, shrug, and go about their business, while the Soviets would turn, as before, to other readily available sources.

Much of the nearly $1 trillion investment in U.S. agriculture has been made on the premise that upwards of 40 percent of crop output would be sold into export markets. Unfortunately, this country's growth in share of international agricultural markets has come to a halt, and our use of embargos as a political tool has contributed greatly to the problem.

Looking at the most recent one, the 1980/81 Russian grain embargo, a study by Schnittker Associates estimates that this action cost our country $11.4 billion in national output, almost 310,000 jobs, and $3.1 billion in personal income—plus several billions more in direct government costs. The ill effects still linger in product oversupply and international uncertainty as to the reliability of the U.S. as a supplier.

We will applaud and support firm U.S. economic actions for constructive purposes, but an embargo on grain to the Soviets would be counterproductive—ineffective abroad, and severely damaging to the American farmer, struggling to survive in an already difficult economic situation.

Sincerely,

RICHARD A. LENON,
Chairman.

[From Business Week, July 5, 1982]

A ROUGH, RIGHT DECISION

The U.S. will pay a substantial price for the Reagan Administration's decision to ban European licensees of U.S. companies from selling oil and natural gas equipment to the Soviet Union (page 21). But it is a price that has to be paid if our repeated protests against the continued repression of the Polish people are to have any substance. The decision, although it will disappoint some U.S. business interests and anger some allies, deserves support.

The immediate target of the new ban is the Soviet plan for a 3,700-mi. pipeline to transport natural gas from Siberia to Western Europe and thus earn badly needed foreign exchange. General Electric Co. has licensed four European companies to build compressors with an advanced type of rotor for the pipeline. The Administration's refusal to allow sale of this and other equipment to the Soviets will delay the pipeline several years or, some experts think, kill it altogether.

The ban clearly adds to existing strains between the U.S. and its allies and may cause more difficulties in resolving differences on such matters as export credits and subsidized European-made steel being sold in the U.S. But if the U.S. had permitted the equipment sales to go forward, why would the Soviets have taken this country's future protests over Poland, Afghanistan, or other Communist outrages any more seriously than they have taken past ones? Six months have gone by since the crackdown in Poland, and as the President says, "little has changed." In this context the ban adds a welcome measure of credibility to U.S. policies. The Administration now ought to strengthen its stand by imposing an embargo on future grain sales to the Soviet Union. This action would demonstrate to our allies that they are not being asked to carry a disproportionate burden and to the Soviets that their aggressive behavior will bring penalties, not just words.●

THE PLIGHT OF EVGENII CHUDNOVSKY

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. STUDDS. Mr. Speaker, I appreciate this opportunity to participate in the Congressional Vigil for Soviet Jewry.

The Congressional Vigil is a chance for us all to join voices in protest against the gross violations of human rights in the Soviet Union. The freedom to choose one's place of residence and allegiance is the most basic and fundamental of civil liberties. To deny this right—as the Soviet Union has repeatedly done by refusing emigration visas to Soviet Jews—is to demand the attention and condemnation of free peoples everywhere.

There are hundreds of Soviet Jews who currently find themselves in the unenviable predicament of being mistreated in their home country and yet not allowed to leave. Today I would specifically like to address the plight of one of these men—a Evgenii Chudnovsky of Kharkov.

Mr. Chudnovsky was a research physicist at Kharkov State University prior to applying for permission to emigrate in 1979. Mr. Chudnovsky had received an invitation to join his uncle in Israel for a "reunification of the family." Thus planning to relocate his family in the Holy Land, Mr. Chudnovsky applied for emigration visas for himself, his wife Marina, and their 9-year-old daughter Yulia. The visas were denied to the Chudnovskys on the grounds of "insufficient kinship" with their relatives abroad.

Since the time of his unsuccessful visa application, Mr. Chudnovsky has been barred from scientific libraries, forbidden to continue his physics tutorials, and banned from publication in any Soviet scientific journal. Marina's English lessons are now the Chudnovskys' only source of income.

As a result of Mr. Chudnovsky's efforts to establish a Jewish University for young Soviet refuseniks, his telephone has been disconnected, his house searched and ransacked, and many of his papers and belongings confiscated. All of this has had a devastating impact on Evgenii Chudnovsky's health. Several months ago, at the young age of 33, Chudnovsky had a severe heart attack from which he has not yet fully recuperated.

Evgenii Chudnovsky and his family have faced extraordinary suffering, yet they are not alone in bearing the brunt of such religious persecution. Many Jewish leaders unable to leave

the Soviet Union are currently being harrassed for their involvement in religious organizations. As morally responsible and concerned individuals, we must make every effort to let Soviet leaders know that we deplore these violations of human rights. I am sure that my colleagues would like to join me in beseeching the Soviet Union to grant visas for Evgenii Chudnovsky and his fellow Jewish refuseniks, and to discontinue such policies of oppression and abuse.●

REVENUE ENHANCEMENTS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. HUBBARD. Mr. Speaker, as we deal with the budget reconciliation process with the House committees making headway toward the goals set in the fiscal 1983 budget resolution, a constituent of mine, Dan Leslie, of Kirksey, Ky., has written me a very thoughtful letter, expressing his strong opposition to increasing taxes. I believe Mr. Leslie's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

MAY 13, 1982.

Congressman CARROLL HUBBARD,
Mayfield, Ky.

DEAR MR. HUBBARD: I have written to you earlier and appreciate your reply and concern. However, after listening to the President's speech and the Democratic response on Thursday, April 29, 1982, I feel I must remind you and your colleagues of my and my family's stand in reference to the budget.

I am still greatly upset by the tax cut Congress voted for themselves, but angered by the talk of more taxes for the people who are willing and able to work to support this country. It seems to me that raising or adding any taxes will only add to the depression of the existing taxpayers. What is both wanted and needed is some relief or aid to the tax ridden people of America.

I realize I do not understand all the problems and pressures you have concerning the new budget, but I do understand my own problems and higher taxes would only increase them. I also realize we must all share some of the suffering and hard times of this recovery. I just feel that we, the taxpayers, do our suffering each time we look at the 30 to 35 percent deducted from our checks which we seem to have no control over.

Please sir do not picture me as a doom and gloom, hard-hearted, person. I am not. I thank God every day for the privilege of living in this great country. All I ask for is some overdue consideration of the taxpaying public.

Sincerely yours,

DAN LESLIE,
Tax Paying American.●

ABORTION AND THE HIPPOCRATIC OATH

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. McDONALD. Mr. Speaker, being a physician, as well as a Member of this House, I would like to bring a matter of utmost importance to the attention of my colleagues. The Hippocratic Oath has been the guiding influence to physicians since at least 300 years before the birth of Christ. Hippocrates, considered the Father of Medicine, in that oath stated in part: ". . . I will not give a woman a pessary to produce abortion."

It appears that in this latter half of the 20th century, humanist moral-less practitioners of murder of the unborn child are attempting to revise the centuries old solemn Oath of Hippocrates. God forbid if these murderers succeed.

On June 24, 1982, John F. McManus, in his column, "The Birch Log" took to task, those who would, and are, doing their best to conveniently revise the Oath of Hippocrates. Mr. McManus' column dealing with this attempt at a recent graduation of medical degree students at Tufts University in Massachusetts is presented for the benefit of my colleagues and interested physicians who continue to follow the "true" oath. Article follows:

THE BIRCH LOG—THE OATH OF HYPOCRITES

BELMONT, MASS.—The celebrated Greek physician Hippocrates who lived from 460 to 380 B.C. is recognized as the Father of Medicine. Works attributed to him are the oldest medical writings still in existence. Although these technical treatises make interesting reading today, the fame attached to his name derives not from whatever medical procedures he recommended, but from the regimen of medical ethics he penned in his remarkable "Hippocratic Oath."

What Hippocrates gave to the world provides solid proof that both an exemplary code of conduct and a lofty professional ideal characterized the medical profession even from his day. That code or ideal can be summarized best in the simple dictum: "Do no harm!" A doctor has always been expected to be a purifier, not a contaminator; a healer, not a wounder; a life-giver, not a killer. Because doctors swore allegiance to the Hippocratic Oath, their profession deservedly earned noble reputation.

ABORTION PROSCRIBED

The Oath has only a few specific prohibitions in its less than 300 words. These appear as follows: I will give no deadly medicine to any one if asked, nor suggest any such counsel; and in like manner I will not give a woman a pessary to produce abortion.

How significant that the once-sacred Hippocratic Oath would condemn not only the practice of abortion but also the mere suggestion of it.

But these are enlightened times, and today in the United States the most common surgical procedure is legal abortion. The shocking statistics include the snuffing out of the lives of three unborn infants per minute, 182 per hour 4,383 per day and 1,600,000 per year.

OATH ITSELF DESTROYED

It is only a minority of physicians who have become doctors of death. But by turning on an oath that ennobled their profession, they have disgraced it. As might be expected in a profession that allows for such horror, those who sanction abortion have even arranged to destroy the oath itself.

At the May 30th Tufts University commencement in Medford, Massachusetts, the 151 recipients of medical degrees swore a revised and shortened oath which the University had the boldness still to label "The Hippocratic Oath." The corresponding passage in this new version reads: ". . . I will exercise my Art, solely for the cure of my patients and the prevention of disease and will give no drugs and perform no operation for a criminal purpose and far less suggest such thing."

The practice of abortion is not mentioned. In its place we find that these new doctors have sworn only to avoid those operations which have "a criminal purpose." If the law allows for abortion, then the taking of a life is not a crime even if Hippocrates himself thinks it is. Since the Father of Medicine was not enlightened enough to understand this, his oath shall be revised to allow for legalized murder of the unborn. Following on this principle, some doctors obviously could be persuaded to murder the aged, the infirm or the socially or politically unwanted—if doing so were made legal. The revision should be called "The Oath of Hypocrites."

Tufts University medical graduates used this oath for the first time in 1982. Officials at the school say that it originated in 1981 at Duke University, and the Tufts Class of 1982 chose it from several possible oaths and declarations. A 1957 Tufts Medical School graduate who noticed the dramatic change expressed his dismay over the matter to us. He called the entire abortion issue "the Achilles heel of the liberals" which might be their undoing. Coming from a man who formerly delighted in being called a liberal, we considered a small sign of hope for the future.●

UNDERCUTTING U.S. INTERESTS AT THE WORLD BANK

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. PATTERSON. Mr. Speaker, the World Bank has served U.S. interests well since its creation at the Bretton Woods conference in 1944. The Reagan administration reaffirmed U.S. support for the World Bank in its recent report, "U.S. Participation in the Multilateral Development Banks in the 1980s."

Unfortunately, the United States is falling behind in its contributions to the World Bank's soft loan window, the International Development Association—IDA. As a result, IDA has been forced to reduce sharply its lending levels to its recipients, the poorest nations on Earth.

In an article published in the Christian Science Monitor on July 4, 1982,

Catherine Gwin warned that U.S. interests could be seriously compromised if we continue to fail to make good on our IDA pledge. U.S. commercial and economic interests could suffer if growth rates in the developing world slow and the demand for our exports contracts. Our ability to influence the policy of the World Bank could also diminish.

The dangers Ms. Gwin is alerting us to are real and pressing. I include her article in the RECORD.

[From the Christian Science Monitor, July 14, 1982]

THE PRICE OF GOING IT ALONE IN THE WORLD BANK

(By Catherine Gwin)

Current United States policy toward the world Bank lacks the support of America's economic allies and diminishes its influence over the course of international financial cooperation.

The immediate cause of this isolation is Washington's failure to meet its part of an internationally negotiated refunding of the International Development Association (IDA) for the period 1981-83. IDA is the "soft loan window" of the World Bank which makes interest-free, 50-year loans to the world's poorest countries. Although Congress authorized the full three-year, $3.24 billion contribution, it appropriated significantly less in 1981 and 1982 than the US pledged and now plans to stretch out payment of the remainder due past 1983.

Other donors disapprove. Therefore, despite a burdensharing provision in the IDA replenishment—whereby a cutback by one major donor would be matched by cutbacks by others—several countries have recently broken with US policy and have committed to their full 1982 IDA installments.

Opposition of others to recommendations in a recent US government report on the World Bank and other multilateral development banks is a second reason for America's growing isolation and declining influence. Despite a generally favorable assessment of the performance of these institutions, the report proposes that the US reduce in real terms future contributions to the "soft loan windows" of the banks; and phase out paid-in capital, which would limit future expansion of the bank's lending capacities. To offset these measures, the report recommends ways that the bank might strengthen its role as a catalyst for greater private flows to developing countries. Desirable as that catalytic function might be, it cannot yield substantially increased resources for development in the near term.

In both making the IDA cutbacks and drafting the recent report, the U.S. seems to have been too quick to assume that other major donor countries—faced, like the U.S., with budgetary constraints—would welcome significant reductions in resource transfers and in the World Bank's role. Although it is now too late to affect the 1983 foreign assistance budget, it is worth considering the costs of the current course of action to U.S. national interests. It is also worth considering how to limit the damage.

At a minimum, the U.S.'s actions reduce the economic benefits it derives from the processes of economic growth and development helped by World Bank loans. Consider two points. Every dollar from the U.S. leverages some $15-$20 in development finance from the World Bank, which borrows, against contributions, from the private markets in order to lend to developing countries. These countries are today the fastest growing markets for U.S. goods and services. Moreover, U.S. firms secure a large share of the contracts offered under bank loans—$6.4 billion in contracts to U.S. businesses for $935 million in total U.S. contributions to the bank.

Washington's present course may also diminish the likelihood that bank financing will continue to suit U.S. foreign policy interests. Over the years, the World Bank has promoted economic development policies supportive of a free, open, and stable world economy. It is in the U.S. interest that these policies be continued, and a dynamic World Bank, able to help countries finance and manage economic adjustment, growth, and the elimination of abject poverty, is one of the best means for encouraging that. Moreover, today's largest World Bank borrowers are countries of importance to America.

Finally, current policy undercuts American ability to influence World Bank operations at a time when reforms are needed to respond to changing international economic relations. The administration wants World Bank resources to be redirected and reserved for countries that have not benefited from the direct expansion of private bank lending. The administration also wants the bank to do more to encourage countries to adopt sounder macroeconomic policies. These are important issues. But the U.S. no longer carries sufficient weight in the bank to enforce it views.

After three decades of playing a dominant role in the bank, the U.S. has let the gap narrow between its share of contributions and votes and the shares of others. This is an appropriate response to the increased economic importance of others.

However, if the U.S. is not to forgo as well its ability to exert constructive influence, it must neither unilaterally back out of internationally negotiated agreements nor try to dictate reforms.

Instead of either paying the piper and calling the tune or going it alone, the U.S. should learn to exercise leadership in the pursuit of common goals. And, as a modest indication of the ability to do that, Washington should commit itself to make good on its IDA pledge by no later than 1984.●

MODIFICATION TO SYNAR AMENDMENT TO H.R. 6030

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SYNAR. Mr. Speaker, on Monday, July 19, 1982, I inserted in the Extensions of Remarks section of the CONGRESSIONAL RECORD a statement explaining an amendment I intend to offer to the Department of Defense Authorization Act of 1983, H.R. 6030.

Today I am inserting a slight modification of that amendment so that the intent of my amendment can be better understood by interested Members.

The original language of the amendment requested that the secretary of Defense study the viability of using long-range manned bombers, equipped with antiship missiles, "as an alternative to" aircraft carriers and carrier battle groups in the defense of vital sealanes. The modified version of my amendment makes it clear that the Secretary should also consider the use of bombers as "a supplement to" carriers in that naval defense role.

It was never my intent to limit the Secretary's analysis to a study of bombers as an alternative, since I realize that there are several other naval missions which carriers can perform that cannot be accomplished by other means. The goal of my amendment is to get the Secretary's views on the ability of bombers to perform a sealane defense mission, either as an alternative or supplement to more traditional carrier battle groups.

The modified version of my amendment follows:

AMENDMENT TO H.R. 6030, AS REPORTED OFFERED BY MR. SYNAR OF OKLAHOMA

Page 26, after line 22, add the following new section:

REPORT ON THE USE OF LONG-RANGE MANNED BOMBERS

SEC. 902. Not later than March 1, 1983, Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of both the Senate and the House of Representatives a report containing an analysis of using long-ranged manned bombers equipped with air-launched antiship missiles to defend vital, strategic shipping lanes (including the United Kingdom, Greenland, Iceland Gap) as an alternative or a supplement to using air-craft carriers and air-craft carrier groups to defend such shipping lanes.●

LEV SHAPIRO—KEEPING FREEDOM ALIVE

HON. BOBBI FIEDLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. FIEDLER. Mr. Speaker, as part of the 97th Congressional Class for Soviet Jewry, I speak today out of concern and in admiration for a very brave man and his family. Lev Shapiro has become one of the most widely known refuseniks through his courage. It is dangerous for any Soviet citizen to meet with foreigners, to write letters abroad expressing his desire for freedom and his opposition to the policies of the regime. For a Jew, it is more dangerous still. For a refusenik, one liable to arrest on almost any pretext, it shows his commitment to freedom for himself, his family and, indeed, for all the refuseniks who wish to leave the Soviet Union. I believe that we in the Congress have an obligation to speak out for Lev Shapiro and his family. To that end, I am proud to have introduced House Resolution 506, calling for their freedom. I urge all my colleagues in the House of Representatives to join in this statement in support of Lev Shapiro and,

through that, for all of the beleaguered Soviet Jewish community.

Soviet Jewry has been suffering under the most severe repression since the death of Stalin. In June, only 182 exit visas were issued—the lowest amount in 10 years and down 96 percent from the number of visas issued in 1979. In the past, only pressure from outside the Soviet Union has yielded any results for the pleas of the Jewish community. We must not allow this pressure to be reduced now.

The magnitude of the numbers of people who have suffered for being refuseniks cannot be allowed to blind us to the fact that the statistics are made up of individuals such as Lev and Elizaveta Shapiro and their child, people who wish only to live free. The Soviet Union is a nation plagued by shortages and shortfalls, but nothing is in shorter supply than freedom. In a country where we may live as we please, we can easily forget that each Soviet Jew has his internal passport stamped with his religion, that the privilege of living in major cities is sparingly doled out, that letters and phone calls abroad are routinely censored. These are the conditions under which Lev Shapiro and his family must live. From there, over the years they have been refuseniks, life has become progressively worse, with Lev Shapiro being attacked in print in Soviet publications. There is no promise things will not deteriorate further for this family. That is why it is important that we all join in letting the Soviet Union know that we insist on freedom for the Shapiros. That is why I have introduced House Resolution 506 and why I am proud to speak out, today, for Lev Shapiro and his family. Our American tradition of freedom and justice requires no less.●

JANE FONDA REVISITED

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. DORNAN of California. Mr. Speaker, in a recent interview—May 6, 1982—in Stars and Stripes, former pro-North Vietnamese radical and war-activist Jane Fonda went to great lengths to explain and justify her antiwar activities.

Fonda unapologetically informs us that she was initially approached by American deserters who had served in Vietnam and that she was "hotheaded and didn't know what I was getting into." But this did not prevent her from going to Hanoi in 1972 and, like a traitor, warning the Vietnamese that the United States was planning to bomb the dike system of North Vietnam. Nor did she hesitate to characterize those POW's who claimed that they were being systematically tortured as liars. Senator JEREMIAH DENTON and James Stockdale, both of whom spent nearly 8 years as POW's, had a far different story to tell than Ms. Fonda upon their release and they have subsequently written movingly of their hellish torture and imprisonment.

As Barbara P. Wyatt, author of an excellent and deeply moving book on our POW's, "We Came Home: POW's of Vietnam," has convincingly pointed out in a followup to the Fonda interview:

People had hoped that Fonda and Hayden had changed, but from the interview in Stars and Stripes, it is obvious that while they have changed their appearance, and are no longer dressed in the frantic attire of the sixties, their ideology is the same.

Mr. Speaker, I would like at this time to submit for the RECORD the eye-opening interview with Fonda in Stars and Stripes as well as the rebuttal essay in Stars and Stripes by Barbara Wyatt.

The articles follow:

FONDA, REVISITED: ANTI-WAR ACTIVIST ACKNOWLEDGES ERRORS IN SEEKING SOCIAL CHANGE

It's an old saw that as the twig is bent, so grows the sapling, and with Jane Fonda, the mighty tree that is the actress, bears the bitter fruit of wisdom learned too late.

Spoiled in her youth, eminently talented yet uncertain, educated to be the role she must play but not knowing who she was to herself, or aware of the seriousness of that other role the individual dons before his fellows, Fonda became the focal point of the Vietnam soldier's anger against the Nation he knew had let him down.

Fifteen years later, in an interview with Stars and Stripes, Fonda and her husband, Tom Hayden, classified their activities and addressed the issues that still remain volatile and unresolved.

Hayden, who is running for a seat in the California assembly, believes that the problems resulting from the use of herbicides should be addressed at the state level via commissions, especially in light of the failure of the federal government to address the concerns.

He also pointed out that the Vietnam veterans as a group, "need to become more involved in the political process" so that they can become educated voters.

Responding to why he thought the anti-war movement had impacted negatively on those who served in Vietnam, Hayden asked if there were polls to substantiate this. He said many of the incidents of cruelty towards returned combat vets were isolated incidents and not representative of the norm.

According to Hayden, "we were all at war during that time."

Hayden said he has met with local groups of veterans and that his plans contain future meetings with others.

Hayden left after the few comments, and Fonda replied for the balance of the interview.

HISTORY OF ANTI-WAR MOVEMENT INVOLVEMENT

Fonda said that she first became involved in 1967 with the anti-war movement while she was living in France, married to a French actor.

She noted that the French had strong feelings against the US commitment in Vietnam, due to their own experiences in Southeast Asia and their withdrawal following the defeat at Dien Bien Phu in 1954.

American deserters who had served in Vietnam, she said, were seeking out public figures to spouse their cause and approached her for support.

Many of them were being harboured in Europe by sympathetic resident Americans who believed their accounts of the atrocities committed against the Vietnamese; Fonda believed them also.

"I was totally non-political at the time and didn't even know where Vietnam was," she said. It was then that she began "to research the situation of the United States' involvement in Vietnam" and her association with a former Green Beret, Donald Duncan.

When her marriage ended, Fonda returned to Hollywood, and in conjunction with Duncan and others, began the Save Our Soldiers (SOS) movement.

She freely admits that elements of SOS were from the far left and that she was "hot headed and didn't know what I was getting into."

Curiously, Fonda says that she began to "realize then that the only way to end the US involvement in Vietnam was to radicalize US soldiers who had served there. They had the credibility to speak on the topic."

It was for these reasons that Fonda began to tour campuses and address their GI audiences, and visit US military installations and read the troops the Uniform Code of Military Justice.

Often, she said, "I was thrown off some of these bases, screaming and cursing," because when she first began working with the anti-war movement, she believed that "by screaming, you could bring forum for her concerns.

Instead, she participated in the Winter Soldier project which was an attempt to document the realities of Vietnam, including the atrocities allegedly committed by U.S. personnel in Southeast Asia.

With other entertainers, Fonda informed the Press the Army Campaign to "present a balance to Bob Hope" (who was traveling in Vietnam with the USO shows) and toured military bases in the US and overseas.

She remembers four occasions when she tried to gain admittance to S. Vietnam but was denied entry by the authorities, and believes it was because of the hearty response she received from US troops on her visits to Japan, the Philippines and other bases.

"They received me with clapping and cheering and the authorities were afraid that my presence in the Republic of Vietnam, especially change."

In retrospect, Fonda said she believes she acted unwisely. Simply screaming brings about little, if any change."

It was during this period that Fonda began to work with the Vietnam Veterans Against The War, "before they were a radical left group."

Following the massacre at My Lai, Fonda continued that she was contacted by some European intellectual leaders who were putting together a war crimes tribunal, but she did not find this an appropriate note in the war, would adversly affect military discipline and morale in country.

In answer to the statement that she was and continues to be perceived as being against those who served in Vietnam, Fonda became visibly upset and adamantly stated that during her anti-war activities, she had begun her speeches with the remarks: "Soldiers (those in RVN) are not the enemy."

Telling her audiences that "soldiers are not to blame for the war", should have been sufficient proof of her intentions.

Fonda said she could understand why the Vietnamese were viewed as the enemy by those who were being shot at (US troops), but she did not see the Vietnamese as the enemy.

The strong reaction to her anti-war activities, Fonda blames on the fact that she was viewed by some as the American ideal, particularly following the movie Barberella in which she was a "sex symbol." According to the actress, her activities "were seen as a betrayal of the American dream."

She continues to maintain that FBI files document that she was a target of the "dirty tricks" campaign of the Watergate era and that there was a deliberate attempt to discredit her, personally and professionally.

Firmly stating that she is not now and never has been a Communist, she noted that it was difficult, if not impossible, for her to obtain work during this period.

In 1972, as a result of reading the Pentagon Papers, Fonda went to Hanoi to warn them that the U.S. was planning to bomb the dike system of North Vietnam. "This would have upset the agricultural system of North Vietnam and resulted in the death of over one million of the citizens of the north from famine."

She pointed out that she was not the only one to visit North Vietnam during that period of the war, including veterans groups, government officials and "even Ramsey Clark. But none of them received the publicity that my trip did."

While Fonda was in North Vietnam, she broke her leg and became a patient in a NVM hospital. During her stay, she said she observed many incidents of deformed children, including those with flipper-like deformities and cleft palates, born to women who claimed to have been in areas sprayed by the U.S. with defoliants and other chemicals.

"I began to realize that the same thing must be happening to the U.S. troops in the South."

On the issue of her controversial comments on the POWs, Fonda said that her exact words on the matter were, "Those POWs who implied a systemic policy of torture, were lying."

Yet she was quick to point out that she believes that some of the POWs were tortured. In addition, she notes that many of the pilots went down in remote areas which they could have demolished by their own bombs, and "it is surprising that many of them were kept alive by the illiterate peasants."

Based on what she was told by a POW who was of Chicano-Indian descent, Fonda said that the condition the POW's were found in could have been due to the fact that they were for the most part pilots who were middle class whites and not used to the conditions of the street.

She also believes that racism was a factor as the "pilots were being told what to do by little yellow men."

Fonda continues to believe that Nixon used the return of the POW's to "whip up blinding hatred for the North Vietnamese" and that those with the best stories, were put on tour.

She reiterates that she did not view her visit to Hanoi as collaboration as she did not view the North Vietnamese as the enemy.

When asked whether she believes the families of the POW's/MIA's are owed an accounting, she agreed that it is cruel to keep them in limbo.

She added that the North Vietnamese are experts in the area of public relations, and "I cannot see from a logical viewpoint, what advantage would be in it to continue to hold the remains of POW's of live Americans."

In order to address the POW and MIA issue, and the policies of the government of Vietnam, including the re-education camps, Fonda thinks the U.S. should follow the example of Sen. Ted Kennedy (Mass.) and call for normalization of relations with Vietnam.

"We should establish diplomatic pressure there," she added.

When asked what she thinks the U.S.-Vietnam combat veteran deserves, she replied, "Help; financial, moral, and psychological support."

She agreed that in many cases the media had created a negative image of the Vietnam veteran and that this had been a grievous handicap.

Fonda sees the most expeditious route to achieving the goals of Vietnam veterans as that of becoming unified and educated political force.

TRAITOR: "ONE WHO BETRAYS A CONFIDENCE OR TRUST; ONE WHO ACTS PERFIDIOUSLY OR TREACHEROUSLY; SPECIFICALLY, ONE WHO VIOLATES HIS ALLEGIANCE AND BETRAYS HIS COUNTRY; ONE GUILTY OF TREASON."

—WEBSTER.

(By Barbara P. Wyatt)

Fonda stated in the interview that she was living in France and the "American deserters who had served in Vietnam were seeking out public figures to espouse their cause and they approached her for support."

Why would they choose her? What made them believe that she was ripe for their cause? Why would she want to be the spokeswoman for them?

She listened to their tales of atrocities, she was not an authority on government, history, wars, politics, international relations—yet she seized this self-serving opportunity to make a name for herself. She spoke to anyone who would listen.

She knew, of course, the good name of her father was known, but Fonda was not well known, so off she took with the bevy of malcontents as her cheering crowd.

Taking the paragraph from the interview is *Stars and Stripes*, curiously Fonda says, she began "to realize then that the only way to end the U.S. involvement in Vietnam was to radicalize U.S. soldiers who had served there. They had the credibility to speak on the topic." Why did she think that she knew more about where and why we should be involved in Vietnam than the U.S. Government?

Somehow her priorities were reversed. She felt a greater obligation to go to Hanoi to warn them that the U.S. was planning to bomb the dike system of North Vietnam, stating that "This would upset the agricultural system of North Vietnam."

She apparently felt little compassion for the families of Americans who had given their lives or for the POW's who were held incommunicado in the prisons, nor the Americans who believed that once you make a commitment to help a nation, you live up to that promise.

An act such as hers would be similar to handing over the plans for the fortification of West Point during the Revolution. For such an act Benedict Arnold was branded a traitor!

Fonda noted that while being a patient in a North Vietnamese hospital, she observed many incidents of deformed children born to women who claimed to have been in areas sprayed by U.S. defoliants. That any child must suffer from the acts of war is cruel, yet such was the cost of the Communist take-over, not the help that the Americans were trying to render the South.

Has Fonda noted the number of boat people, the concentration camps, the massive restrictions by the Communists to allow any freedoms, especially to those who wish to leave?

There is evidence of much brutality. Ask the little Cambodian children who have been terrorized by seeing their parents slaughtered. I do not note any charge by Fonda against the Communists for those evil deeds.

She spoke of the POW's, stating "Those POW's who implied a systematic policy of torture were lying." How does she know?

I'll take the words of a Jeremiah Denton, now a U.S. Senator, who spent 7½ years as a POW. Having to appear on television in North Vietnam, threatened with further torture if he didn't condemn America for being in the war, he blinked the Morse Code Torture for the world to know why he was submitting to such indignities.

I believe a James Stockdale, a POW who can readily tell of the torture team who, with their deadly dramatic art, knew how to tie a man in ropes. Listen to the description by Admiral Stockdale who was the recipient of such horrors.

Note if you meet Jerry Driscoll or Dick Stratton the permanent rope marks on their wrists and the cigarette burns on Dick's arms.

Kneeling on bricks for hours, being kept awake for days and nights in front of an open window in the winter, sitting on a stool and being knocked off by your captors, time after time, to see how far you will go, having your appendix taken out without sedation, spending almost five years in solitary, having deadly foot-long centipedes and scorpions, six foot cobras, bamboo vipers and spiders as big as a man's outstretched hand, leave their tracks as they crawl through your cage. Those are some of the tortures that our POW's were forced to endure.

How do I know this? When the POWs came off the plane, I watched them and thought their messages should be saved and thus, I compiled a book with a response from each of them. Throughout the book, there is a sense of mission from these men. They returned home with honor. They, in all but several isolated cases, had sought to be a credit to their country.

It hurt them deeply to be bombarded over the loud speakers by their captors with the propaganda that Fonda was promoting. It was very difficult to languish in a prison cell with a person from America visiting your captors and telling the world you were being well treated.

Fonda stated that she believed there was a racism factor as the "pilots were being told what to do by little yellow people." There is no doubt that the POWs didn't like those "little yellow people," but it wouldn't matter the color—an enemy is an enemy.

There was a hatred of the Dutch for the Germans, the Moors for the Spanish, the South Vietnamese for the North Vietnamese, so to make such a statement displays not only a lack of clear thinking, but a basic inability to understand human beings in a time of war.

Californians are aware that Fonda with Tom Hayden, strongly suggested to Gover-

nor Jerry Brown that he appoint Edison Miller to the Orange County Board of Supervisors.

Who was Edison Miller and why would they promote such a person? He was one of two officer POWs who allegedly cooperated with the enemy . . . helping the captors and refusing to help the other POWs.

The governor abided by the Fonda/Hayden choice and Edison Miller was given the honor.

Americanism was expressed at the polls because when he had to run for the seat, he was soundly defeated.

People had hoped that Fonda and Hayden had changed, but from the interview with *Stars and Stripes*, it is obvious that while they have changed their appearance, and are no longer dressed in the frantic attire of the sixties, their ideology is the same.

These latest comments merely remind us where they stood when Americans were responding to their country's call.

Rather than attempt to summarize the deep-seated feelings of those who experienced the hardships and frustrations of Vietnam, I will conclude with a page from my book. This was written by Captain Darrel E. Pyle, an Air Force Captain who was imprisoned from June 13, 1966, until his release in 1973.

"The day was February 12, 1973. The location was Gia Lam Airport, North Vietnam. The sky was broken to overcast, and the air was chilled by the winds which swept down from China. I sat in a bus beside a bombed-out hangar and watched a plane taxiing toward the runway. The plane was a 141 and had big letters which said, United States Air Force.

"I was crying. Before the plane could take off, another 141 broke through the overcast and roared over my head. My plane . . . my chariot had come to take me home.

"Home. What is home? Home is America. What is America? Is America 200 million people who will look at me in disgust and throw things at me because I've given seven years of my life to a cause I so fervently believe in?

"Is America thousands of people carrying Viet Cong flags down the main streets of America? Is America Jane Fonda and Ramsey Clark who tell me I've been well treated when I can too vividly recall the horrors of the past years? What is America?

"America. America is thousands of people holding signs which say, 'We Love You.' America is people holding Old Glory and shouting, 'Welcome Home!'

"America is a bumper sticker, a bracelet, a hand shake, a hug, a letter. America is a tear drop in the eye of a stranger. America is a huge sign: You Were Never Forgotten.

"As you read this hold your head high and puff out your chest. What is America? You are America . . . be proud."●

IMMIGRATION REFORM AND CONTROL ACT OF 1982

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. MAZZOLI. Mr. Speaker, the Immigration Reform and Control Act of 1982, H.R. 6514, attempts to focus U.S. Government efforts against illegal immigration on those areas where enforcement is likely to be effective.

Under present law, every visitor from abroad must obtain a visa from a U.S. Embassy or consulate before entering our country. This is true whether the applicant is a short-term business visitor from a country with strong ties to the homeland who is very likely to return home, or whether the person is from a country who might be using the business-visitor status as a ruse or dodge to enter the country and never return home.

H.R. 6514 proposes to change this and allow certain short-term visitors into the United States without having to obtain a visa if they come from a country whose citizens return home at the end of their visit abroad—if they have low visa refusal rates.

Specifically, the legislation provides for a 3-year pilot program which would enable visitors from five countries, selected by the Attorney General and the Secretary of State, with low visa refusal rates to come to the United States without first obtaining a visa.

These visitors would have to purchase nonrefundable, nontransferable airline tickets. Each visitor would still be required to undergo an examination by an official of the Immigration and Naturalization Service at the port of entry. Should the immigration offical determine that the visitor is inadmissible, the visitor would have to immediately return to his or her country.

This nonimmigrant visa waiver proposal will allow U.S. Consular officials abroad to deploy their thin resources more appropriately to concentrate on countries where there are historical patterns of fraud and where the Consular Officer is an important obstacle to illegal entry into the United States.

Before the nonimmigrant visa waiver program can begin, however, H.R. 6514 requires that the Immigration and Naturalization Service develop a workable system for tracking the arrival and departures of visitors. The Service is hopeful of having such a system operating next year, and the immigration reform bill gives them the added incentive to get it in place.

For reasons of balance and reciprocation, nations which permit U.S. citizens to enter their borders without first obtaining a visa feel strongly that their citizens should be able to enter the United States without visas.

Recently I met with Lord Bethell, a citizen of the United Kingdom and a member of the European Parliament. He described the significance of the nonimmigrant visa waiver program for America's European allies. A copy of Lord Bethell's recent article in The Times of London about the nonimmigrant visa waiver program is included at the end of my remarks.

Senator ALAN SIMPSON and I feel this pilot program is the proper approach to the nonimmigrant visa waiver issue. It would be foolhardy to abolish totally visa requirements. But it would also be unreasonable and rigid not to experimentally lift visa requirements for qualifying nations.

[From the Times of London, July 12, 1982]

GIVE ME YOUR JET-LAG MASSES

(By Nicholas Bethell)

Thanks to Sir Freddie Laker and the cheap satellite telephone call, North America is no longer a mere dream for Britons. In several early years of this century, we are told, a million Europeans went to the United States and stayed there; three-quarters of its people are of European origin. In the 1940s and 1950s the invasion was the other direction: first the soldiers, and then the tourists.

Now we are reciprocating. Two million west Europeans will have been to the United States by the end of 1982. Our huddled masses yearn to breathe the air of San Francisco's freedom. The wretched refuse of our teeming shore feels at home, it seems, along the Miami coastline. The Americans, almost as badly hit by recession and unemployment as we are, welcome this new trade, but there is one way in which they do not reciprocate. They insist on each of us obtaining a visa before starting our journey.

We know of course that the "all others" channel at Heathrow's Terminal 3 makes an unhappy first impression on American visitors here, especially after an all-night flight, but at least neither we nor the other west European countries impose on them the indignity of the visa. The simple fact is that the relationship between the old and the new world has changed since the last century.

"Give me your tired, your poor," the Statue of Liberty is supposed to be saying. Nowadays this means those who cannot afford a travel agent to get the visa painlessly for them. There are few things more calculated to make one feel tired and poor than a day spent queueing in the July heat outside the Grosvenor Square embassy in London.

Consul General Robert Maule has a staff of 74 exclusively engaged in issuing us with nonemigrant visas. Gone are the days when each applicant had to swear that he was not a communist, would not assassinate the President and did not intend while in the United States to commit any immoral sexual act. Things are simpler today—a quick computer check and if you come out clean, you get your visa, valid indefinitely and without fee.

Mr. Maule will issue about 75,000 this year, nearly as many as all the consuls in the other nine European Community countries combined. It is boring, repetitive, cursory work. When I told him last week that American law will probably be changed to allow British citizens to enter his country without visas, he said this was the best news he had heard for months.

The good news as outlined by Congressman Romano Mazzoli during a European Parliament visit to Washington on June 23 is that a Bill to reform the Immigration and Nationality Act will establish a pilot programme under which the citizens of several countries, including Britain, will receive visa waiver privileges. If it is passed—and Mr. Mazzoli seems optimistic—it will be a step towards ending a humiliating and unfair piece of non-reciprocity in European-American relations.

The Bill's passage will be complicated. There are some 6 million illegal immigrants

in the US and unemployment is touching 10 per cent of the work-force. Of course the immigrants are mainly from Mexico and the Caribbean rather than from Europe, but the European Community is still being blamed for many of America's ills, in particular by subsidizing food and steel exports. Congressmen are in no mood, either to relax immigration laws or to do Europe favours, especially in an election year.

But the question of imbalance over visas continues to press. It was raised by Mrs. Thatcher with Mr. Reagan in Washington in February last year. "We regularly take up this question with the Americans," wrote Lord Carrington last December and the Belgian Foreign Minister, Mr. Leo Tindemans, also broached the subject last month. On June 14 the 10 European Community foreign offices informed the US government of their concern at a small but basic injustice. It is therefore possible that the Bill may be swallowed by the Congressmen.

The State Department, led by Ambassador Diego Asencio, has long favoured a reform abolishing visa requirements for what they term the "Top 25" visitors from countries whose citizens are seldom refused entry and who seldom violate immigration law. A cut-off point of 2 per cent refusals or violations, as provided in the Mazzoli bill, would leave on the right side of the line all west European countries except Portugal.

Their representations, it seems, are no longer being dimissed as the "storied pomp," of "ancient lands", in the harsh words inscribed above New York harbour. West Europeans still flow across the Atlantic by the million, but their landing points are the Empire State Building and Disneyland, rather than Ellis Island, and they contribute to rather than threaten America's economy. US officials in the European consulates would be better employed on more productive work, perhaps in preventing illegal immigration. During the rest of this year the passage of the Mazzoli Bill will be watched in Europe with interest and its signature by Mr. Reagan will be greeted with more than a symbolic transatlantic cheer.●

FTC USED CAR RULE PROPERLY REJECTED

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. PORTER. Mr. Speaker, it is unfortunate that national reporting of Congress rejection of the Federal Trade Commission's "used car rule" obscured both the real meaning of the votes and the merits of the rule itself.

Instead, reporters largely emphasized the national consumer lobby's innuendo that the outcome in both Houses of the Congress—even though nearly 70 percent of the Senators and Congressmen opposed the rule—was dictated by the volume of campaign contributions that had flowed from the automobile dealers in the last election.

While any group of 535 people undoubtedly contains some "bad apples," in my judgment the overwhelming majority in Congress are honest, hard-working people whose votes cannot and are not bought by contributions. To suggest that they can be in advance of a particular vote on an important issue, undermines the faith in representative government that is so important to the functioning and future of our country.

In fact, campaign contributions flow to those who generally share the same philosophy of government as the contributor. And in this case, although it was not widely made known, this was an issue of great moment philosophically regarding the role of the Federal Government.

The FTC "used car rule" would have required used car dealers—but not private sellers—to post a sticker on all their used cars informing buyers of known and suspected defects in 52 prescribed areas. Dealers would be faced with fines by the FTC of up to $10,000 for each violation.

Rejection of the rule by overwhelming margins in each House was made under a new law adopted in 1980 giving the two Houses of Congress the right to veto FTC regulations thought to be unwise or unnecessary. This was the first test under this new law and therein lay the significance of this vote on the "two House veto."

In my judgment, the used car rule, on its merits, was properly rejected. The small promise the rule contained to help consumers was clearly overwhelmed by the realities of a huge new bureaucracy in Washington, further damage to an American industry already reeling from heavy regulation and multiple business failures, and the further undermining of individual initiative and a sound free market economy.

You and I know that a large percentage of buyers of used cars from dealers having a problem, would file a complaint with the FTC. Why not? It would cost them nothing and maybe the dealer would settle for something just to get the agency off its back, even when the dealer knew nothing about the particular defects in the car it sold. Dealers would become, under the rule, almost guarantors that the used cars they sold were free of any defects. To avoid liability they would have to inspect every car at a cost of $150 to $350. And who would pay that cost? You and I as consumers, with the attendant discouragement of trade-ins, reducing discounts offered the new car buyers and further depressing the new car market.

For the FTC in Washington, not only would a huge bureaucracy of inspectors be needed to police American's 2,000 used car lots, but a whole new phalanx of administrative law judges would be needed to handle the tens of thousands of cases that would be filed. For the dealers, legal help in abundance would be needed. The winner: The lawyers.

No, it seems to me at some point we have to trust ourselves as individuals and trust our free market system. Nothing requires any of us to buy used cars from any particular dealers, or indeed from any dealer at all. In fact, 50 percent of the used cars purchased every year in America are bought from private sellers through classified ads not covered by the FTC rule. If a consumer is unhappy or unsure about used car dealers, the choice is easy—do not buy from them. If enough people feel strongly this way, the message will get through loud and clear. In fact, many used car dealers already offer warranties and some allow unconditional returns within certain time limits.

Finally, I know of no dealer who has remained in business for long who would not permit his prospective buyers to take a used car to a mechanic for a thorough inspection before purchase. I have bought many used cars, but never have I purchased one without having it inspected independently of the seller, whether a dealer or a private party.

Yes, there are unscrupulous dealers in the industry. Perhaps a large new bureaucracy in Washington would ultimately ferret them out. But the cost to our system, and to ourselves as consumers and taxpayers, would have been incredibly high. Democracy depends upon each one of us being able to make reasonably sound individual judgments. That is the premise of our entire economy and political system. In a sense, the FTC "used car rule" ultimately was a test of our belief in this system we hold so dear.●

CAPTIVE NATIONS WEEK

HON. JOSEPH F. SMITH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. SMITH of Pennsylvania. Mr. Speaker, I rise today to join with my colleagues in expressing my utter abhorrence of Communist oppression and aggression throughout Eastern Europe. It is our duty, as elected representatives of the freest nation known to man, to continually remind the so-called leaders of the Soviet Government that we do not and will not accept the blatant denial of innate human rights. The unfortunate persons who happen to be imprisoned by Soviet domination are unable to speak our for themselves or make civil attempts to bring about a positive movement toward world peace and freedom which is why we, the inhabitants of the free world, have an obligation to speak out for them.

Through misinformation and virtual brainwashing, the inhabitants of these captive nations, as well as the populus

of the Soviet Union itself, are led to believe that the United States of America is the supreme embodiment of evil and the biggest threat to world peace. Do these deprived people know that, during the recent and ongoing international emergencies concerning the Falkland Islands and the Israeli invasion of Lebanon, the United States has been the supreme negotiator, making ever attempt to be fair to all parties involved, in order to achieve a long-lasting peace. Where has the Soviet Union been during these crisis situations? As usual, the U.S.S.R. did release idle threats aimed more directly at the United States rather than at the specific nations involved in the conflict. I openly challenge the Soviet Government to broadcast these daily proceedings of the U.S. House of Representatives in their country in order for the Soviet people to see what democracy is all about. After that fantasy is complete, I would then turn the cameras on Mr. Brezhnev and company to see in what direction they intend to further the sin of Communist oppression.

It is of vital importance that we verbalize our discontent of Soviet policies, not just during this Captive Nations Week, but during every week of every year until oppressed people such as Ida Nudel and Pavel Zaslzvsky have the opportunity to live out the rest of their lives in freedom.

No appropriations have to be made for us to continue our outcries against Soviet confinement behind the Iron Curtain. No debates or partisan splits need take place over this issue. All members of the free world must rally together to form a diplomatic siege around the Soviet Union.

In ancient times, a word equal to the word "rights" did not exist. Instead they had words equating responsibility and oligation. Today, we in this country do have a word for rights as well as the ideology behind it. But by attaining this standard of human rights, we must not lose sight of the responsibility that goes along with it—the obligation to promote freedom and human rights in every corner of the world until Soviet oppression, as we know it, ceases to exist.●

A DRAFT ISN'T NEEDED

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. PAUL. Mr. Speaker, when our Government prosecutes young Americans for refusing to register for the draft, the sacred cause of liberty is undermined. It is freedom which makes America special and worth fighting for. So long as we take care to keep America free, there will be no shortage of volunteers when America is threatened.

How can we have so little confidence in our young people? Could it be that they are wiser than those who urge conscription? Perhaps they recognize the difference between what is morally justified—defending our own freedom—and what is morally repugnant—projecting American interests abroad, and intervening illicitly in foreign conflicts.

I believe that the draft is pernicious and self-defeating. Registration was reinstituted in order to send a signal to our so-called allies and the Russians. I cannot imagine a more preposterous pretense for subverting the freedoms of American citizens. I urge my colleagues in Congress, and those responsible in the administration, to reconsider this damaging policy.

In a recent editorial in the New York Times, Mr. Doug Bandow made the case against the draft with all the clarity and logic which those familiar with his work have come to expect. He argues persuasively that the draft would not only be morally wrong, but imprudent, and uneconomical.

Doug Bandow has recently moved from his post at the White House to the editorship of Inquiry magazine. What is a great loss for the White House will be a boon for Inquiry. I highly commend the following excellent piece by Doug Bandow to my colleagues:

[From the New York Times, April 19, 1982]

A DRAFT ISN'T NEEDED

(By Doug Bandow)

WASHINGTON.—The All-Volunteer Force was created in 1973, but the issue of how to man our military has not died. Despite the success of the All-Volunteer Force, there are still many people calling for a draft to strengthen our national defense.

A draft, however, would do nothing of the kind. Coercing people to serve would increase costs, decrease retention of military personnel, fail to improve both the quality of the armed forces and the degree to which they represent a cross-section of our society, create national disunity, and destroy fundamental values that make America worth defending.

Conscripting labor doesn't reduce costs; it increases and shifts them. Instead of paying a volunteer, say, $15,000—enough to convince him to forego or delay other career opportunities—the Pentagon would pay a draftee, say, $7,500. That means that the draftee in effect is taxed $7,500. Indeed, a defense cost supposedly too great to be borne by the entire society would instead be borne by 18- to 26-year-old males. Such economic expediency is unworthy of a free society.

A draft would not even significantly reduce budgetary costs. Though more than half of the military budget goes to personnel—$80 billion out of $156.1 billion in fiscal 1981—most of that is for career servicemen, civilians, and retirees. Only $6.6 billion was used to pay first-term active-duty servicemen—those who would be drafted.

Thus, if draftees' pay were slashed 50 percent, the savings would be only $3.3 billion. Cuts in recruiting costs might save a half billion dollars more. But there would be added costs of registration, classification, induction, and enforcement of the draft, as well as higher training costs caused by the inevitable decline in retention of first-termers.

A draft would also exacerbate the military's severest personnel problem: retaining skilled noncommissioned officers. The draft cannot directly increase the number of skilled career noncoms because it brings in only untrained 18-year-olds. Also, it hikes the cost of retaining a career force of a set size because of higher turnover among first-terms. This is so because draftees, resentful, re-enlist in smaller numbers than volunteers.

Reinstituting the draft would not increase the quality of armed forces personnel. The proportion of 1981 enlistees scoring highest in intelligence tests is as high today as it was during the draft in the 1960's and 1970's. In 1981, 81 percent of the people entering the armed forces were high school graduates.

Since the military already is nearly a cross-section of our society, conscription would be unlikely to increase that representativeness. For example, the overall educational attainment of military personnel is higher than that of their civilian counterparts: 69 percent as against 36 percent are high school graduates, and 14 percent as against 16 percent are college graduates.

Moreover, the parents of young servicemen are only slightly more blue-collar and less-educated than parents of the servicemen's civilian contemporaries, according to an Ohio State University poll. The educational aspirations of the young servicemen exceed those of their civilian counterparts, it shows.

Finally, though blacks are overrepresented in the military—while 12 percent of the population is black, 19 percent of the overally military and 30 percent of the army is black—the proportion of those serving edged downward in 1981. Indeed, because qualified blacks volunteer and re-enlist in greater numbers than whites, a draft would significantly affect the military's composition only if virtually no volunteers were accepted and if blacks were actively discouraged from re-enlisting.

As for coercion, with the history of violence and controversy it has engendered, it would seriously divide America again. To face the possible challenges in years ahead, we need to forge a consensus on foreign and defense policy. Reinstituting conscription would make acquiescence, let alone consensus, unattainable.

Most important, a draft is inimical to the fundamental principles that constitute the foundation of our country. We have manned our forces with volunteers for most of our history, and for good reason: Requiring involuntary service violates fundamental individual rights.

Indeed, even if free citizens in a free society owe service to the state, why should only the young be liable? National defense benefits everyone; therefore, everyone should be liable. A volunteer military financed by universal taxation, and not the draft, spreads the burden.

A draft will not enhance our national security. Indeed, if America has lost the moral authority to persuade its people to voluntarily defend their freedom, then it has lost something that no amount of coercion will restore.●

OBSERVING CAPTIVE NATIONS WEEK, 1982

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. LEBOUTILLIER. Mr. Speaker, as has been the tradition for the past 24 years, the U.S. Congress has once again observed Captive Nations Week with a special order on July 21, 1982.

Without question, the remarks entered into the RECORD are of value in demonstrating the sincere intent of the United States to always hold that the countries under the Communist yoke are not free.

Regrettably, the number of captive nations has not diminished since Armenia first lost its freedom in 1920 along with numerous other Eurasian republics. Most recently, Afghansitan was added to the list of captive nations in 1980 when 100,000 Soviet troops arrogantly invaded that nation. To the credit of the Afghani people, the cost to the Soviets for their war mongering has been considerable.

Twenty-four years and 31 countries after the first Captive Nations Week was proclaimed, the United States and the West have at their disposal the resources to free the 31.

By making use of the ever-growing trade dependency of the Soviet Union on the West, the United States must exact a great price from the Soviets if they wish to continue to benefit from technological, economic, and agricultural exchanges with the United States and the West.

Until such time as the Soviets withdraw from Afghanistan, release their vice-like grip on Poland and desist from their unrelenting program of revolution for export, the United States and the West must play their trump card and force the Soviets to moderate their actions by cutting off all trade.

In effect, by trading with the Soviet Union, the United States and the West are providing the Soviets with the material and capital by which they finance their totalitarian empire. By forcing the Soviets to rely more heavily on their own resources to meet the needs of their own people, the United States and the West can bring about a moderating of Soviet designs—the beneficiaries of which would be the Russian people and the citizens of the 31 captive nations.

Captive nations will be freed only when the Soviet Union is forced to back down from its aggressive armament, infiltration, subversion game plan. That day of freedom can be hastened by forcing the Soviets to grant more and more freedom to the people they currently subjugate. The means to moderate Soviets designs exist.

For the sake of the 31, the United States and the West must undertake that mission. Failure to do so amounts to complicity in the enslavement of millions of human beings. While the profit motive is an enormous factor in this question, the principal motive commands far greater consideration.

By forcing the Soviets to divert resources from their military to the needs of their people, greater freedom can be achieved—which is after all the objective of Captive Nations Week, to make these nations free once more.●

S.J.R. 11

HON. BILL NICHOLS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. NICHOLS. Mr. Speaker, during the July Fourth recess many Alabamians expressed to me their frustration over our present tax laws. They are too complicated, they are confusing, and many believe they are unfair.

Many here in Congress have proposed scraping our present system in favor of a so-called flat-rate tax system. While there are many variations on this theme, each concept does have merit. It offers simplicity, a perception of fairness, and the opportunity to restore confidence to the tax system.

I have consponsored H.R. 5868, which calls for a comprehensive study of the flat-rate tax system by the Department of the Treasury. This study may help to resolve some of the confusion surrounding the various provisions of the bills pending in Congress and may provide insight for Members of Congress so that we better understand the alternatives available to us.

The Alabama Legislature has also embraced this legislation and has urged the U.S. Congress to support H.R. 5868.

For the benefit of the Members of this body, I submit for the RECORD a copy of the Alabama resolution. I believe it will be of interest to all of my colleagues.

S.J.R. 11

(By Mr. Kirkland)

Enrolled,

S.J.R. 11, Encouraging the Alabama Congressional Delegation and the Entire Congress To Support H.R. 5868 and S. 2376.

Whereas, H.R. 5868 and S. 2376, introduced respectively in the United States House of Representatives and the U.S. Senate, are companion bills designed to initiate the most significant change in our Federal Tax System since the first Income Tax Law was adopted almost seven decades ago; and

Whereas, the aforementioned bills call upon the Treasury Department to conduct a study detailing the economic and administrative consequences of adopting a flat rate Gross Income Tax System; and

Whereas, preliminary studies by a prominent Washington economist indicate that the GIT rates would not exceed 7½% for any class of taxpayers, a far cry from the tremendous burden now heaped upon the shoulders of the American taxpayer; and

Whereas, this legislation also would serve to drastically reduce or eliminate the complicated tax paperwork now required of individuals, business and government as well; and

Whereas, following completion of the Treasury Department's study, a compehensive bill to change from our present net income tax system to the new GIT system would be introduced in the 98th Congress (1982-83) to provide for a fair and simple income tax system for all Americans; now therefore,

Be it resolved by the Legislature of Alabama, both houses thereof concurring, That we strongly urge the Alabama Congressional Delegation and the entire Congress to support legislation for the Gross Income Tax System and direct that copies of this resolution be dispatched to each member of the Alabama Delegation, and to the presiding officers of each House of Congress, with a further request that this resolution be placed in the Congressional Record evidencing Alabama's support of a fair and equitable system of taxation.●

NUCLEAR NONPROLIFERATION POLICY

HON. MORRIS K. UDALL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. UDALL. Mr. Speaker, last week marked the 37th anniversary of the detonation of what by current standards was a crude nuclear explosive device. This past Monday we were informed by the Washington Post that a computer manufactured by an American company is destined for use in a plant which will produce heavy water in Argentina; that heavy water will be essential to the operation of an Argentine reactor capable of producing plutonium like that used in the first nuclear explosive detonated at Almogordo in 1945. Unfortunately, the Reagan administration seems reluctant to take the steps which might forestall acquisition of nuclear weapons by countries that might still be persuaded of the folly of their course. Today's New York Times carries an excellent article by Mr. BINGHAM who succinctly summarizes both the dangers and opportunities of our predicament. I am inserting this article in the RECORD for those of my colleagues who have not yet seen it:

[From the New York Times, July 21, 1982]

DON'T LET ARMS RACE MUSHROOM

(By JONATHAN B. BINGHAM)

WASHINGTON.—Horrified by a world in which two nations are unable to halt a lethal arms race? Imagine trying to work out arms control among half a dozen or more third world countries convinced that it is in their national security interests to build up nuclear arsenals.

Unless the exporters of nuclear technology and fuel become increasingly circumspect, this horrendous task could soon be necessary.

Argentina and Brazil, rival South American neighbors, have ambitious nuclear power programs that seem to have military as well as commercial ends. Significantly, neither country has agreed to inspection of all its nuclear facilities—so-called full-scope safeguards—by the International Atomic Energy Agency, which is responsible for verifying that nuclear fuel and technology are used strictly for commercial purposes.

Similarly, South Africa, Israel, Iraq and Pakistan—all nations facing sharp regional tensions—are widely believed to be pursuing a nuclear weapons capacity through their commercial nuclear programs. Again, none has agreed to full safeguards.

In recognition of the dangers, the Reagan Administration has advanced a quid pro quo formula for nuclear trade: The United States will be a reliable supplier of nuclear fuel and technology if recipient nations, many of them also nuclear suppliers, cooperate in curbing nuclear sales to countries that present proliferation risks.

Unfortunately, that policy has to date added up to all quids and no quos.

Last year, just before the economic meeting of heads of state in Ottawa, the Senate and the House, without a dissenting vote, passed resolutions calling on President Reagan to work out concrete ways to restrain all nuclear suppliers. The President, however, did not raise the issue at Ottawa. Instead, he joined in a final declaration that skimmed over the dangers.

Before the Versailles economic meeting this year, the House and Senate again unanimously passed resolutions calling on the President to discuss nuclear-supplier restraint. This time the declaration did not mention the issue.

Meanwhile, South Africa, unable to receive nuclear fuel it contracted to buy from the United States because of its record in the fight against the spread of nuclear arms, has bought uranium from Switzerland and other European countries. France is fabricating the uranium into fuel assemblies. Brazil, in a similar situation, has acquired nuclear fuel from West Germany for a new reactor. In neither instance did the United States try to dissuade its allies from helping these countries. In fact, the United States waived a $20 million penalty against Brazil for putting uranium that had not been enriched by the United States into its reactor, contrary to agreement.

Now the Administration has approved a policy to permit the export of reprocessing technology, used in extracting plutonium from nuclear fuel, to Japan and Common Market countries and to allow them to reprocess American-supplied nuclear fuel without obtaining American approval in each case. Republican and Democratic administrations have opposed such moves because plutonium is the material from which modern nuclear weapons are made.

While the Administration has been explicit in saying what concessions it intends to make to other countries, it has yet to indicate what cooperation it wants in return.

Fortunately, it is not too late. The United States should ask suppliers to agree not to export nuclear fuel and technology to any country that does not have nuclear weapons and that does not permit full-scope inspection of its nuclear plants.

As a collaterial measure, the United States would also need to urge nuclear suppliers to provide more money to the international inspection agency. Today, the agency's $30 million annual budget, smaller than that for the Portland, Ore., Police Department, is inadequate. A small contribution from each supplier nation could double its money.

These proposals could be expected to have wide acceptance. Canada and Australia as well as the United States already require full-scope safeguards as a condition of their nuclear exports. West Germany has promised similar restrictions providing that all other suppliers agree to them. Even the Soviet Union, also a nuclear supplier, has indicated a willingness to go along under such conditions. At the very least such proposals would signal our concern, which has not been given concerte affirmation by this Administration.

To continually miss the opportunities for voicing these concerns and for pressing a proposal for restraining nuclear trade is to risk an even more difficult challenge later—arms control negotiations on a far wider scale than any of us care to contemplate today.●

MR. PAVEL ZASLAVSKY

HON. JOSEPH F. SMITH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. SMITH of Pennsylvania. Mr. Speaker, I rise today in an effort to improve emigration for Soviet dissidents and refuseniks. Countless Soviet Jews are victims of the oppressive Soviet system. As soon as they file an application for an exit visa to emigrate to Israel, almost as a rule, they are immediately fired from their jobs. Without jobs and a source of income to support themselves, the Soviets arrest them on charges of "parasitism." Once charged, it is impossible to be granted an exit visa. Forced into the role of outcast in society, they become victims of harassment, persecution, and physical and mental abuse. This is an intolerable situation that we, as Americans who deeply value human rights, must not let go unnoticed and uncensured.

Today, I would like to focus my colleagues' attention on the case of Mr. Pavel Zaslavsky, who had been subject to brutal harassment by the Soviet authorities. Mr. Zaslavsky has been driven by the one goal of raising his child in Israel with his wife, Irina. However, after he made his wish known to the Soviet authorities by applying for an exit visa in 1979, he was promptly fired from his job as an aeronautics engineer, and he was forced to terminate his activity in Jewish cultural activities in Moscow. Mr. Zaslavsky and his family face many new obstacles in their quest for freedom, but I strongly believe that by making this human injustice public, and by not waivering in our determination to press for his freedom that we can move closer to the day when free emigration is possible for Mr. Zaslavsky and all refuseniks.

Our effort to secure the right of emigration for all those daring to face new lives as free men and women must be renewed and continued. For Mr. Pavel Zaslavsky and his wife, Irina, and their daughter, Lina, let us dedicate ourselves to helping them realize their wish of living together in Israel.●

WILDERNESS PROTECTION MEASURE DESERVES OUR SUPPORT

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. VENTO. Mr. Speaker, for over a year there has been an intense debate taking place on the question of whether to allow oil and natural gas leasing in wilderness areas. The debate arose because the present administration in their rush to open public lands, proposed granting leases in several environmentally fragile areas. The outcry that resulted from this proposal crossed party lines and included Democrats and Republicans alike united in their concern to see that the essential wilderness character of these areas was not compromised.

The House Interior Committee held a number of hearings, including one I chaired in St. Paul, Minn., to gather information on the need and desirability of allowing oil and gas leasing within wilderness areas. The result of these hearings was to repudiate the plan set forth by Secretary of the Interior James Watt in H.R. 5603 and substitute bipartisan compromise legislation, H.R. 6542 to provide for the continued protection of wilderness areas.

I commend to the attention of my colleagues, the following Minneapolis Star and Tribune editorial, which outlines the actions taken to date on the wilderness issue and the further hurdles that remain before the necessary safeguards for wilderness areas from the harmful effects of oil and gas drilling are in place. I urge my colleagues positive support when H.R. 6542 is brought to the floor.

The editorial follows:

[From the Minneapolis Star and Tribune, July 12, 1982]

CLOSING A WILDERNESS ACT LOOPHOLE

The House Interior and Insular Affairs Committee has passed important, bipartisan legislation to close a loophole in U.S. wilderness protection. The resolution soon will come before the full House. It likely will pass. But to survive the Senate the legislation will need active support from influential Republicans like Minnesota Sen. Dave Durenberger. The resolution gives Republicans running for reelection, like Durenberger, a chance to demonstrate their environmental concern.

The Wilderness Act permanently closes existing wilderness areas to mineral leasing

at the end of 1983. To date, few leases have been allowed. By seeking to speed up the tempo, the Reagan administration has aroused bipartisan opposition. Congressional pressure induced Interior Secretary James Watt earlier this year to impose a moratorium on leases for 1982. Thus, only in 1983 are leases possible without congressional consent.

Watt followed up his moratorium with a widely publicized profession of concern for wilderness protection. He proposed making all wilderness off-limits to oil and gas leases until the year 2000. But except for 1983, existing wilderness areas already are off-limits—not to 2000, but for good. And Watt's plan did not specify what would happen after the turn of the century.

Wilderness supporters in Congress rightly recognized the hollowness of Watt's plan. They also recognized that the easiest solution is congressional action to close the 1983 lease window. The resolution now before the House does that. It is sponsored principally by New Mexico Rep. Manual Lujan Jr., ranking Republican on the House committee, and Rep. John F. Seiberling, D-Ohio, chairman of the public lands and national parks subcommittee.

The resolution is a barebones compromise. It would cover 32.6-million acres of designated wilderness and land being considered for designation. Alaskan lands and those administered by the Bureau of Land Management would be exempted. The resolution would allow mineral exploration "compatible with the preservation of the wilderness environment." It also would permit wilderness mineral development, with congressional approval, in the event of "urgent national need."

That last provision is just right. Congress defines and designates wilderness; Congress should have a role in deciding when and for what purposes that designation is withdrawn.

The resolution's biggest hurdle is Sen. James McClure, R-Idaho, chairman of the Senate Energy Committee. McClure wants to add a deadline for deciding what additional lands will be designated wilderness. After the deadline, all nondesignated land would be released for mineral exploration and other uses.

The release provision deserves examination, but separately. The Lujan-Seiberling resolution is a narrowly drawn, sound response to the 1983 lease loophole. It deserves to be considered on its merits by both houses, not used as a bargaining chip. It also deserves discussion by senators seeking reelection, and by those who would take their place.●

THE PLO MUST GO

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. LENT. Mr. Speaker, the continuing very delicate negotiations now in progress to achieve a peaceful resolution of the critical situation in Lebanon tend to obscure what is really at stake there. For the first time in more than a decade, the world has a chance to eliminate a nest of terrorism which has actively supported, encouraged, and conducted terrorist activities against not only Israel, but against freedom-loving governments around the globe.

I have been greatly encouraged by President Reagan's recognition of the fact that the PLO is an instrument of international terrorism actively supported by the Soviet Union. However, it appears to me that many Americans are overlooking this vital fact, when they condemn Israel for its actions of self defense in Lebanon. The Israelis have given us the chance to clean out this nest of terrorists. The PLO must leave Lebanon as part of any peaceful settlement.

A recent New York Times article by Israel's Consul General in New York, the Honorable Naphtali Lavie, details the grim history of the PLO's activities in Lebanon. I find Ambassador Lavie's article most illuminating. It deserves the thoughtful consideration of every Member of the Congress interested in a peaceful solution of the current situation in Lebanon. I ask that Ambassador Lavie's article be reprinted in full at this point in the RECORD, and I urge every one of my colleagues to give it thorough study in considering future U.S. policies in the Middle East.

[From the New York Times, July 2, 1982]

THE EFFECT OF THE P.L.O. ON ITS LEBANESE HOSTS

(By Naphtali Lavie)

It will take a convoy of trucks several weeks to remove the weapons and ammunition Israel has captured from the Palestinian terrorists in Lebanon. But even now we know enough to confirm what many have long suspected: that within the past decade, the military arm of the Palestine Liberation Organization has been transformed into a quasi-army, organized in battalion and brigade formations, supported by Soviet-supplied guns, rocket launchers, mortars and tanks, and providing, in the meantime, an umbrella for like-minded terrorist organizations from Europe, Asia and the Arab world.

Much of what has been said about the invasion has dealt with Israel's motives, the death of Lebanese civilians and prospects for a more lasting peace. But it is worth reflecting on the nature of the enemy Israel confronts.

The Palestinian terrorists, backed by the Syrians, destroyed the delicate fabric of the Lebanese society so that Lebanon ceased to exist as an independent entity. The P.L.O., by force of arms, seized whole areas of the country, evicting residents, terrorizing the population and usurping Lebanese governmental authority. This violent suppression of sovereignty was euphemistically labeled "a state within a state." The Syrian troops assigned by the Arab countries to perform their so-called "peacekeeping" mission soon became one of the warring factions. Arriving to save the Christians from P.L.O. massacre, they joined forces with the P.L.O. onslaught. Instead of bringing peace, the Syrians intensified the fighting in pursuit of their aspirations to annex Lebanon as part of greater Syria. Even today the Syrians do not recognize Lebanon as an independent nation.

Under the protection of the Syrian troops, the P.L.O. expanded its occupation in southern Lebanon and in the Beirut area, turning farming villages and urban centers into bases of international terrorism. Members of the West German Baader-Meinhof gang, the Italian Red Brigades and the Japanese Red Army are only some of the terrorists trained and armed by the P.L.O. in Lebanon. Among the thousands of terrorist captured in Lebanon were those from Iran, Iraq, Yemen, Libya, Kuwait, Bangladesh, Jordan and Europe. And this is by no means the full extent of the evidence attesting to the dimensions of the terrorist activities originating from P.L.O. bases in southern Lebanon.

Documents carried by captured terrorists confirm the statement by Zehdi Labib Terzi, the P.L.O.'s United Nations observer, on Sept. 11, 1979: "There's no secret about it. Our boys go to the Soviet Union and socialist countries for military training. We get direct consignment of Soviet weapons."

Years of P.L.O. terror aimed at targets in Israel, Lebanon, Europe, Africa and Asia resulted in the loss of hundreds of innocent lives. Civil air traffic became an insufferable burden for passengers because of the constant threat of hijacking. The cause of the Palestinians has not been advanced; on the contrary, P.L.O. activities have brought more suffering to them. According to Lebanese reports, nearly 100,000 people were killed in the civil war, begun in 1975, in which the P.L.O. and the Syrian forces played their diabolical role.

Israel's operation in southern Lebanon was undertaken to remove the threat of terror against its citizens. At the same time new options for the Lebanese people and for the Palestinians have been created. Without military intimidation from Syrian troops and P.L.O. gangs, and effective central government can now reassert itself. All foreign troops—including Israel's—should leave Lebanon. Only in this way can the Lebanese reestablish their social and cultural institutions, and only then will an effective Lebanese government be restored. In the interim there may be a need for a multinational task force to assure that the explosive conditions that existed before June 6 do not recur.

The Palestinians in areas under Israeli control will not be free to negotiate self-government in accordance with the Camp David procedures. Those Palestinian leaders who privately expressed concern that P.L.O. coercion prevented them from reaching a settlement with Israel now have this opportunity.

The Egyptian-Russian connection, which precluded reconciliation between Egypt and Israel, was severed after the 1973 war. This paved the way for the peace between Egypt and Israel. Like Egypt, Lebanon, once again master of its own destiny, can renew and strengthen its ties to the United States and to the West.

The Lebanese, like Israelis, have the legitimate and elementary right to exist as a sovereign people in their own country, safe and secure. Lebanon and Israel used to have a peaceful border. In restoring this peace a great contribution will have been made toward a reasonable and promising solution to the Israel-Arab dispute. Only in this way can an equitable and lasting settlement for the Palestinian people be reached.

[Ambassador Naphtali Lavie is Israel's consul general in New York.]●

GEOGRAPHIC DISTRIBUTION OF FEDERAL FUNDS

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. BONER of Tennessee. Mr. Speaker, I am pleased to introduce today legislation which seeks to continue and improve the information citizens have on the distribution of Federal spending throughout the U.S. economy. This information is even more vital today as Congress is making major changes in Federal spending and is considering sweeping changes in the responsibilities of Federal, State and local governments. We as legislators, as well as citizens at all levels, need to know how these changes will affect the different regions, States and localities. I know that I need to know and understand the regional implications of policy changes which are presently being proposed.

For about two decades, the United States has compiled data on the distribution of Federal outlays by varying levels of government. Reports entitled "Geographic Distribution of Federal Funds" have been published annually by the Community Services Administration for the Executive Office of the President. These reports have been an invaluable resource for Members of Congress and others who want to understand the regional impact of Federal activity.

For the past 2 years, the Office of Management and Budget has been hostile to the collection of such data. The data had been used by several Members to dispute OMB's claims that the President's budget cuts were fair and equitable to all regions. In fact, States in the Northeast and Midwest lost about $95 on a per capita basis as a result of the budget cuts last year, while Western States gained approximately $45 per capita according to the data collected.

Late last year, the data for fiscal year 1981 had already been prepared by Federal agencies and was ready to be submitted. Then, on December 14, 1981, Federal agencies were ordered not to report the data for fiscal year 1981. I felt then, and feel even more strongly now, that the decision by the Office of Management and Budget was a grevious mistake in that it greatly harmed the ability of Congress to understand the economic impact the congressional budgetary decisions were having on the various regions and levels of our governments.

Last December my colleague from Tennessee, (Senator SASSER) requested that the General Accounting Office both review the decision to terminate the publication of the geographic distribution of Federal funds reports as well as making a recommendation as to possible legislative remedies of the problems created by the OMB decision. Mr. Speaker, without objection I would seek unanimous consent to insert the letter from the Comptroller General at this point in my remarks.

COMPTROLLER GENERAL
OF THE UNITED STATES,
Washington, D.C., March 10, 1982.

Subject: Maintenance of the Geographic Distribution of Federal Funds (GDFF) Information System.

Hon. JIM SASSER,
U.S. Senate.

DEAR MR. SASSER: In response to your December 17, 1981, request, we have reviewed the Geographic Distribution of Federal Funds information system and several others in relation to the need for maintaining such information continuously. In doing so, we generally agree with you and your colleagues that a need exists for a comprehensive and quality information system on the geographic distribution of Federal funds. Such a system would assist the Congress, the executive branch, and others in understanding and assessing how congressional budget decisions affect regions, States, and localities. An information base is especially needed today given the rapid changes being proposed in Federal budget policies and the associated redefinition of the Federal-State role in conducting programmatic activities. An information base similar to the GDFF would help policymakers and legislators at all levels of Government in assessing the effects of funding shifts between and among Federal program areas.

Consistent with this view, we have developed two legislative alternatives for your consideration in addressing the maintenance of a GDFF type information base, see enclosures I and II. The legislative proposals address and delineate roles and responsibilities of the General Accounting Office (GAO) and the executive branch in maintaining an information base. Additionally, the alternatives address some procedural and standards development and audit activities necessary to improve the quality of data captured by the information base.

Notwithstanding the legislative alternative pursued, personnel and data processing resources will be required to successfully perform the requisite functions associated with the maintenance of this type of information base. Under legislative alternative I, in which the GAO is assigned the primary responsibility for operating the system, we estimate the first 3 years' cost to be $2.5 million. In each of the first two years the estimated costs would be $800,000 and in the third year costs would rise to $900,000. Under alternative II, in which the executive branch is assigned the lead responsibility for system operations and GAO an oversight and audit role, we estimate that for the same 3 year period costs would total $2.55 million. In this case, costs total $750,000, $850,000 and $950,000 in the first, second, and third year respectively. A more detailed breakdown of these cost estimates is included in Enclosure III.

ELIMINATION OF THE GDFF INFORMATION SYSTEM

To date, the GDFF had been the only fully operational system that attempted to capture and report obligations of all Government administered funds at the local level. It reported data from approximately 32 Federal agencies, including the Departments of Defense and State and the Agency for International Development, in the following programmatic and administrative areas: (1) domestic financial assistance, (2) procurement activities and (3) salary and expense payments to Federal employees. Given this system's scope and coverage, notwithstanding some of its known imperfections in data coverage and accuracy it had been used as a significant resource for several years in assessing the regional impact of Federal spending. The elimination of the GDFF information system as directed by OMB in December 1981 has created a short-term gap (1 to 3 years) in the availability of these data. As a result, not only are these data currently not available for analytical purposes, but the effect of Federal spending over time can no longer be assessed (trends).

Currently, the executive branch operates and maintains two information sources that are similar to the GDFF. Additionally, it is in the process of implementing a third source which when fully operational will capture and report a significant amount of the budgetary data previously reported by the GDFF. Although these sources are more likely to report a more accurate and complete set of data in their specific areas, neither of the two operational sources nor the one being implemented will be capable of depicting a global view of Federal expenditure activities as did the GDFF. These other sources are highlighted below.

The Federal Procurement Data System (FPDS) is fully operational and it assembles, organizes, and reports contract data from all Federal agencies and commissions. Agencies' contract and procurement divisions report procurement data on each transaction over $10,000 and summary data for contract actions less than $10,000. Each transaction is reported by zip code, county, city, State, territory and by principal place of performance.

The Federal Aid to States (FAS) which is an annual Department of Treasury publication, captures outlays for grants-in-aid to State and local governments. However, it reports data at the State level only. Being grants-in-aid oriented, this publication does not capture and report Federal obligations or expenditures for loan programs, procurement activities, Federal salaries and Administrative expenses, and several major agencies including the Department of State, the Agency for International Development and significant portions of the Department of Defense.

The Federal Assistance Awards Data System (FAADS) is a Federal domestic assistance oriented data system. It is currently in the implementation stage. It is estimated to be fully operational sometime during calendar year 1983. When fully operational, it will report Federal obligation data quarterly at the local recipient level. Because the system is "domestic assistance oriented," it was not designed to capture related Federal obligations or expenditures such as salaries and expenses of Federal employees, Federal procurement activities, and significant portions of the Department of Defense.

In viewing these other data sources singularly, none approximate the scope and coverage of the GDFF. However, from a collective view the potential exists for approximating the scope and coverage of the GDFF. Specifically, when FAADS is fully operational and used in conjunction with the FPDS, essentially the same data set can be captured and reported as was that by GDFF, except salary and expense payments to Federal employees and portions of the Department of Defense.

Table 1 depicts the areas of source coverage and the approximate dollar level of Federal funds for fiscal year 1980.

TABLE 1.—AREAS OF COVERAGE BY SOURCE AND APPROXIMATE FISCAL YEAR 1980 DOLLAR VALUE

Source	Grants, loans, other assistance	Procurement	Federal salaries and expenses	Dollar level (billions)
GDFF	Yes	Yes	Yes	[1] $528
FPDS	No	Yes	No	110
FAS	Limited	No	No	96
FAADS	Yes	No	No	[2] 377

[1] Dollar value and areas of coverage for FAADS, FPDS, and FAS are reflected in the GDFF, along with Federal salary and expense obligations.
[2] Assumes FAADS was fully operational in fiscal year 1980.

A significant disparity can be seen between the GDFF and any of the others. A smaller difference would exist between the dollar value of GDFF and the collective dollar value of the FAADS and FPDS. Given these differences, the status of the FAADS system, and the absence of GDFF, the Congress, the executive branch, and others will lose some ability in assessing the economic effect of congressional budgetary decisions in regions, States, and localities over the next few years.

OVERLAP AMONG THE SEVERAL DATA SYSTEMS

If the executive branch were to continue operating the GDFF in addition to FAADS, FPDS, and FAS, a high degree of overlap and redundancy would exist. The following examples illustrate this potential overlap:

Both the GDFF and FAADS systems capture budgetary data on all domestic assistance programs at the local level.

The GDFF and FPDS systems both capture and report Federal procurement activities at the local level.

The GDFF and FAS both report budget data on Federal grants-in-aid programs to State and local governments, although the GDFF captured and reported budget data in more detail.

FAADS captures and reports data on all domestic assistance oriented activities, which includes grants-in-aid programs data published in the FAS.

Clearly, a significant amount of unnecessary overlap and duplication would exist among these data sources. In the current budget environment, it is imperative that we get the most out of every dollar invested in capturing and reporting information. Accordingly, opportunities should be explored to maintain comprehensive and quality budget information by program area at the local level. At the same time, unnecessary redundancy in data collecting, processing, and reporting should be eliminated.

MAINTAINING THE GDFF INFORMATION SYSTEM

As indicated earlier, the elimination of the GDFF has created a short-term gap in the availability of Federal expenditure data at the local level. Accordingly, it should have been maintained at least until other executive systems are (1) fully operational, (2) integrated, and (3) approximate the current scope and coverage of the GDFF. Maintaining this system would insure the ability of the Congress, as well as others, to assess the economic effect of Federal budget decisions at the local level. During the maintenance period, the executive branch should explore alternatives for phasing out undesirable redundancy in data gathering and reporting activities. In doing so, it should remain sensitive to the continuous information needs of the Congress.

LONGER TERM CONSIDERATIONS

To insure the continuous collecting, processing, and reporting of geographic distribution of Federal funds systematically and comprehensively, we have developed two legislative alternatives. Both alternatives recognize the critical need for improving the quality and consistency of the type of budgetary data captured and maintained. Accordingly, they both delineate the promulgation of procedures and standards for data collection and verification. Additionally, both alternatives recognize the need to insure adherence to standards. In general, the legislative alternatives are:

Legislative Alternative I—The primary responsibility for maintaining and operating the geographic distribution of Federal funds information base would be assigned to GAO. The GAO would be responsible for performing all functions associated with developing, implementing, updating, and maintaining the information system. The executive branch would only be required to collect and report data to the GAO in accordance with prescribed standards, guidelines, and procedures.

Legislative Alternative II—This alternative would direct the GAO to promulgate data collection procedures, guidelines, and standards. Also, the GAO would monitor and conduct periodic audits of the adherence to these standards. On the other hand, the executive branch would be charged with carrying out and performing all operational activities associated with maintaining the geographic distribution of Federal funds information base. These operational activities would include, but would not be limited to (1) collecting, reviewing, validating, and processing input data; (2) updating and maintaining the information systems; and (3) generating required outputs for users, including the regional data analysis centers.

If either of these alternatives is to be pursued, we strongly recommend that it be alternative II. That approach would create the opportunity to consolidate, streamline, and reduce undesirable overlap and duplication among existing systems. There are other reasons for preferring alternative II (1) executive agency program managers possess the knowledge and awareness of program activities, (2) data collection would be closer to the source in which programs are operated, and (3) computer facilities are in place. I would find it very difficult to support alternative I.

This information has been forwarded to the Honorable Donald W. Riegle.

Sincerely yours,

CHARLES A. BOWSHER,
Comptroller General of the United States.

Mr. Speaker, the legislation I am introducing today is the same as reported by the Senate Committee on Governmental Affairs last May 12, and is the product of extensive hearings by the other legislative body as well as being based on the recommendations made by the General Accounting Office. I wish to stress that the GAO's report indicated that there is a great need for continuous information about the geographic distribution of Federal funds so that "* * * policymakers and legislators at all levels of government (will have help) in assessing the effects of funding shifts between and among Federal program areas." Without such information, it will be impossible to discern the effect of Federal spending over time and thus no proper assessments can be made.

Without such information we, as policymakers, will be left floundering in our own ignorance. And while I admit that even a blind pig will find a truffle every once in awhile, policy decision should not be left to such whim. Therefore, it is imperative that the Congress have as solid an informational base as possible on which to make judgments about forthcoming New Federalism proposals. It is my belief that this legislation will provide that necessary informational base.●

A TRIBUTE TO GASTON FAISON

HON. EUGENE JOHNSTON

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. JOHNSTON. Mr. Speaker, Mr. Gaston Faison served his friends and neighbors in Guilford County, N.C. as a chairman of the Board of County Commissioners. Most of the time he was known simply as "Brother."

Brother Faison knew how to help people in need of a friend because he understood human weakness. Many years ago, Brother Faison fell into a deep, dark hole—addiction to alcohol. But he pulled himself out of that hole and dedicated himself to service to others ever since.

Brother Faison recognized what was important in life and what was not. The fact that he was stricken with cancer was not so important to him. He set his goals and he stuck to them. It always added up to doing something for others and never worrying about himself. But he never tried to change other people. One of his favorite bits of philosophy was this:

Accept with grace the things in life you cannot change, such as other people's attitudes.

Another was this:

Change the things in life you can, such as your own attitude.

Brother Faison didn't try to change other people's attitudes, but he did despite himself. He taught everyone who knew him that people can change themselves and that in every person, no matter how deep or dark his own problems may be, there is that glorious human potential. Brother Faison reached his human potential. He died Saturday, July 17, his body destroyed by cancer but his soul and spirit never conquered. He was a man as fulfilled as any could ever be, for he left thousands of friends who were proud, as I was, to call him Brother. Truly Guilford County, the people of North Carolina, and the Nation have lost a "Brother."●

WHERE'S THE OUTRAGE OVER "YELLOW RAIN"?

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. LAGOMARSINO. Mr. Speaker, Mr. Ernest Conine, an editorial writer in the Los Angeles Times, raises a useful point for discussion in his commentary, appearing July 19 in the Times, on the Soviet use of chemical warfare. He asks "Where's the Outrage Over Yellow Rain"?

Mr. Conine's discussion of the Soviet violations of two international agreements presents a clear understanding of why there has been so little public criticism of the Soviets. I urge my colleagues to review his thoughtful analysis.

[From the Los Angeles Times, July 19, 1982]

WHERE'S THE OUTRAGE OVER "YELLOW RAIN"?

(By Ernest Conine)

Sometime this fall, a U.N. investigating team is supposed to issue a final report on whether the Soviet Union and its allies have used deadly chemical and biological weapons in Southeast Asia and Afghanistan.

The known evidence is damning, especially in the case of Laos and Cambodia. But if you expect the U.N. report to trigger worldwide condemnation of Moscow and demands for a new, cheatproof treaty to prevent such violations of international law, you are almost certainly going to be disappointed.

To begin with, the U.N. report is unlikely to be a hard-hitting, unambiguous indictment—for several reasons.

The investigation itself has been a lethargic exercise. This is not too surprising, considering that it has been conducted under the administrative control of U.N. Under Secretary-General Viacheslav A. Ustinov, a Soviet citizen.

Even if this were not the case, the investigators were denied access to the Communist-run areas where, according to witnesses, so-called "yellow rain" and other killing substances were used. The detectives, in other words, were not allowed to visit the scene of the crime.

The real problem, however, is not lack of evidence—information collected by American and other non-U.N. investigators supports a presumption of guilt—but the absence of political will to do anything about it.

That reluctance is especially pronounced among Third World nations—which is peculiar, considering that the target populations have all been people with yellow or brown skins—but it also exists within the American and allied governments.

Considering the horrible nature of chemical and biological weapons—the State Department's "conservative" estimate is that at least 10,000 people have died—the outrage gap is itself outrageous.

A defecting Laotian air force pilot told of being on chemical-dropping duty for two years. U.S. investigators have collected many eyewitness accounts of gas bombs dropped on villages in Laos and Cambodia by Soviet-made planes.

In accounts that were remarkably similar in detail, refugees described the death throes of victims suffering from burning of the eyes, nose and throat; diarrhea; internal hemorrhaging; profuse external bleeding through the nose and other orifices, and, finally, "jerking like fish when you take them out of the water."

Various kinds of chemicals appear to have been used. But samples of vegetation, rock scrapings, blood and urine smuggled out from battle areas in Laos and Cambodia have been identified by Shester Mirocha, a University of Minnesota expert on the subject, as an organic toxin called T2.

According to scientists, the fungus that produces this family of poisons does not occur in nature in Southeast Asia, but has long been known in Russia.

Author Sterling Seagrave reports that when he was in Thailand collecting material for his book, "Yellow Rain," Thai and American radio monitors picked up radio intercepts from Soviet and Vietnamese military transmissions mentioning four separate chemical-warfare depots.

One identified the Soviet Union as the source of the chemicals in the depots. And satellite photographs of the four sites "showed them to be high-security areas surrounded by barbed-wire and chain-link fences."

Physical evidence from Afghanistan so far is missing, but eyewitness accounts bear a strong similarity to those in Southeast Asia.

If the Soviets have manufactured biotoxins and used them directly or distributed them to Vietnamese and Afghan government forces, they are clearly in violation of two international agreements that they have signed.

One is the Geneva protocol of 1925, which outlawed the use of poison gas and "bacteriological methods of warfare." The other is the Biological Weapons Convention of 1972, which made it illegal "to develop, produce, stockpile or otherwise acquire or retain" biological weapons.

The Soviet Union, of course, indignantly denies guilt. In his recent message to the U.N. disarmament conference, Leonid I. Brezhnev piously pronounced his country the "convinced champion" of the elimination of chemical weapons from "the face of the Earth."

But neither the Soviets nor the governments of Laos and Vietnam have seen fit to accept President Reagan's proposal that they grant "full and free access" to their territories so that the truth may be determined.

Actually, way back in the 1960's witnesses who were considered reliable by both the British and American governments told of Soviet use of mustard gas and what appeared to be nerve gas in the civil war in Yemen, on the Saudi Arabian peninsula. But the world paid little attention.

Intelligence agencies and other outside experts did perk up in 1979, however, when an outbreak of anthrax occurred at Sverdlovsk, in an area of the Soviet Union closed to foreigners. At least 200 people were said to have died.

The Soviets admitted the outbreak, but claimed that it resulted from careless handling of contaminated food. U.S. intelligence sources said then, and say now, that the real cause was an explosion at a bacteriological-weapons factory. But no international inspection was permitted. Against this background, it is disgraceful that the world may be willing to let the Soviets off the hook.

Many Americans have been reluctant to accept the allegations against Moscow for fear that the result would be to help the Reagan Administration make its case for resumption of nerve-gas production, which was unilaterally halted by President Richard M. Nixon in 1969.

Others are seemingly unable to comprehend the difference between the criminal carelessness with which Agent Orange and other defoliants and herbicides were used by U.S. forces in Vietnam, and the Soviet-sponsored employment of far more deadly gases for the specific purpose of slaughtering human beings.

Finally, there are those who do not want anything, including a squabble over Soviet violations of international conventions on biological and chemical weapons, to get in the way of negotiations to reduce nuclear arms.

Even the Reagan Administration, which has been vigorous so far in pushing the case against the Soviets, may well lose its zeal as its political commitment to the strategic arms reduction talks grows deeper.

That is unfortunate, but the sense of priorities that it reflects is respectable. Much less defensible is the see-no-evil, hear-no-evil tendency that appears to be prevalent in the Third World.

After all, the Soviet Union has not yet used the horrible stuff against its predominantly white adversaries in the West. T2 and other deadly gases have been used only against men, women and children in Asia and the Near East—including Muslim Yemen and Afghanistan.●

TAXPAYERS COALITION AGAINST CLINCH RIVER

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. COUGHLIN. Mr. Speaker, last month the Taxpayers Coalition Against Clinch River was initiated and its plans for terminating funding for the Clinch River Breeder Reactor were announced. I would like to take this opportunity to endorse the coalition and to bring to your attention the coalition's arguments against the Clinch River project.

Given the facts outlined in the following coalition publication, which I am inserting today in the CONGRESSIONAL RECORD, I believe we cannot rationally justify continued substantial investment in Clinch River. This breeder reactor escaped termination by a 20-vote margin in the House and an even closer 2-vote margin in the Senate last year. I urge you to join me in calling for a vote again this year on this issue and in supporting an end, once and for all, to the dubious and expensive Clinch River Breeder Reactor. We can no longer afford to gamble on a project that will adversely affect our economy and our entire energy outlook in the long run.

The coalition publication is as follows:

TAXPAYERS' QUESTIONS ABOUT THE CLINCH RIVER BREEDER REACTOR

A breeder reactor is a nuclear reactor that produces fuel while it generates electricity. A Liquid Metal Fast Breeder Reactor (LMFBR) is a breeder reactor that uses a liquid metal, most often sodium, to cool the reactor and keep the nuclear chain reaction going. Most current reactors, called Light Water Reactors (LWRs), use water for these purposes.

Breeder reactors have long appealed to nuclear physicists because they offer the promise of inexhaustible energy, with each successive breeder reactor producing more fuel for the next reactor. With this goal in mind, the federal Atomic Energy Commission conceived the Liquid Metal Fast Breeder Reactor Project in 1969. In 1972, President Nixon announced the federal government's commitment to building an LMFBR along the Clinch River near Oak Ridge, Tennessee. In 1973, the AEC signed an agreement with TVA and a consortium of over 700 public and private utilities to build the Clinch River Breeder Reactor (CRBR) as a cooperative demonstration project.

Since 1973, the CRBR has been controversial in Congress and among energy experts. In 1981, Congress approved the project's funding by the closest margin yet—20 votes in the House of Representatives and only 2 votes in the Senate.[1] Senators and Representatives of both political parties, and all philosophical views on government spending and nuclear power, charged that continued federal funding of the CRBR in the face of record budget deficits would be wasteful, unnecessary and unwise.

The following questions and answers will help you decide whether they are right.

Q: Do energy experts rate the CRBR as a high priority research project?

A: DOE's own blue-ribbon Energy Research Advisory Board, in a 1981 report on "Federal Energy R&D Priorities", ranked the CRBR as a lower priority item. "The ERAB believes that the construction of a breeder reactor demonstration at this time is not an urgent priority and thus, under current budget constraints, recommends that such a demonstration be delayed until a future time."[2]

Q: How much has the CRBR's cost escalated over the past decade?

A: The estimated cost of the CRBR has increased more than seven-fold.

The original estimate in 1971 was $400 million.[3]

The estimate rose to $700 million in 1972.[4]

It jumped to $2 billion in 1977.[5]

The current estimate is $3.57 billion, and ground has not yet been broken.[6]

Q: How much will the CRBR finally cost?

A: The CRBR's final cost could be over $7 billion. The first-full scale commercial fast breeder reactor, the French Super Phenix, is expected to cost at least $6 billion when it is completed in 1983.[7] A 1981 Rand Corporation report prepared for the Department of Energy emphasized that, for pioneer energy projects, capital cost estimates are poor predictors of actual capital costs. According to the Rand report, these projects average 100 percent cost overruns.[8]

Approximately $1.1 billion had been spent on CRBR by September, 1981; $2.5 billion still must be appropriated to complete the project at current cost estimates.[9] Once construction begins costs can be expected to rise even further.

Q: How much of CRBR's cost will private industry pay?

A: American taxpayers will bear over 90% of the cost. The ceiling on the private utilities' share is frozen at $257 million—only 7.2% of the projected total cost. The CRBR project was originally portrayed as an equal partnership between the U.S. government, the nuclear industry, and the nation's electric utilities. However, in the 1973 Letter of Agreement between the Atomic Energy Commission and the utility consortium, the government agreed to be responsible for all cost overruns beyond the initial estimate.[10] In addition, the private utilities' lawyer indicated in a Congressional hearing last year that, because of recent delays in the project's construction, the utilities feel free to renege on even that limited commitment.[11]

Q: How much would it cost the taxpayers to terminate the Clinch River Breeder project?

A: In 1981, the House Science and Technology Committee voted to defund the CRBR and set aside $44.5 million to cover the project's closeout costs.[12] This amounts to 1.74% of the cost to complete the project.

Q: Will CRBR help the nuclear industry out of its current slump?

A: Building the CRBR will not make nuclear power more cost-competitive with other ways to generate electricity or with improved energy efficiency. It will not hasten progress toward nuclear waste disposal, nor produce solutions to and of the safety and reliability problems now plaguing light water reactors.

Mason Willrich, Vice-President for Corporate Planning of the giant West Coast utility, Pacific Gas and Electric Company, recently put the industry's needs in perspective: "U.S. electric utilities may be understandably reluctant to order additional nuclear power plants as long as the cleanup of the Three Mile Island accident remains stalled . . . It seems to me ironic that the federal government is now pushing ahead with the Clinch River demonstration breeder reactor at a time when a disabled light water reactor immediately threatens the future of the light water reactor industry. There will be no market for breeder reactors unless there is a prolonged period of expansion in the market for light water reactors. If the Reagan administration intends to revive and maintain a viable nuclear power option in the United States, the Three Mile Island cleanup should have, in the near term, a higher priority in the use of scarce government funds than breeder reactor development."[13]

Q: Would any federal reactor research programs prove more beneficial than CRBR to the nuclear industry and its consumers?

A: A more promising research area according to Henry D. Sokolski, visiting scholar at the Heritage Foundation, is DOE's extended burnup program, which is aimed at improving the efficiency of existing reactors. Sokolski pointed out in recent House testimony that the extended burnup program could save utility customers at least $13 billion by the year 2000, at a cost of $33 million in current dollars—a 385/1 benefit/cost ratio! However, the administration proposes to impair this program's effectiveness, drastically reducing its funding by 80%.[14]

Q: Do projected American energy use patterns justify continued development of the CRBR?

A: During the 1970's, the U.S. energy picture changed in ways that have invalidated the basic assumptions on which CRBR was justified.

Assumption: The 7% annual electrical growth rate that prevailed between 1960–73 would continue through the rest of the century.

Reality: Electricity growth rates have dropped below 3% annually. A November, 1981 House Science and Technology Committee report concluded that overall U.S. energy use is dropping, and this trend is not temporary. This report also predicted that electricity demand growth will increase at a rate well below 2% per year.[15]

Assumption: Nuclear power would account for much of that electricity growth.

Reality: The Energy Information Administration now predicts that nuclear power will contribute 145–185 gigawatts of electricity in the year 2000, less than 15% of the previously-projected 1200 gigawatts.[16] Most

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[1] U.S. Congress House, Roll Call No. 161, Energy and Water Development Appropriations Bill for Fiscal Year 1982. H.R. 4144, 97th Congress, 1st Session, 24 July 1981, Congressional Record 127: H4862; U.S. Congress, Senate, Roll Call No. 355 Leg., Energy and Water Development Appropriations Bill for Fiscal Year 1982, H.R. 4144, 97th Congress, 1st Session, 4 November 1981, Congressional Record 127: S12875.

[2] Energy Research Advisory Board. "Federal Energy Research and Development Priorities" (Washington, D.C.: Department of Energy, November 1981).

[3] Atomic Energy Commission Authorizing Legislation—fiscal year 1972, p. 702.

[4] Commissioner James T. Ramey, Atomic Energy Commission, Hearing before the Joint Committee on Atomic Energy, "LMFBR Demonstration Plant." 9 September 1972, p. 30.

[5] U.S. Congress House, Debate on ERDA Authorization for Civilian Research and Development, Fiscal Year 1978, H.R. 6796, (95th Congress, 1st Session, 20 September 1977, Congressional Record 123: H9697. (Statement of Rep. Tom Harkin).

[6] Department of Energy, "Draft Environmental Impact Statement on LMFBR Program," December 1981, p. 56.

[7] Electrical World, "Breeder Progress Shifts Overseas." Gordon D. Friedlander, 19 October 1980.

[8] Edward W. Merrow, Kenneth E. Phillips and Christopher W. Myers, "Understanding Cost Growth and Performance Shortfalls in Pioneer Process Plants" (Santa Monica: Rand Corporation, 1981).

[9] Project Management Corporation, "1981 Annual Report," (Oak Ridge, Tennessee Project Management Corporation, 1982), p. 3.

[10] Letter of Agreement between the Project Management Corporation and the Atomic Energy Commission, 1973.

[11] Carl Hobelman, Counsel, Breeder Reactor Corporation, testimony before House Committee on Science and Technology, "Close Out Costs, CRBR," 11 May 1981, p. 36.

[12] House Committee on Science and Technology, "Close Out Costs, CRBR," 11 May 1981, p. 95.

[13] Mason Willrich, Vice President-Corporate Planning, Pacific Gas and Electric Company, "Prospects for Nuclear Power in the United States," Uranium Institute, Sixth Annual Symposium, 3 September 1981, p. 6.

[14] Henry David Sokolski, Heritage Foundation, testimony before the Subcommittee on Energy Conservation and Power, U.S. House of Representatives Energy and Commerce Committee, Washington, D.C., 11 March 1982, p.10.

[15] Investigations and Oversight Subcommittee, U.S. House of Representatives Science and Technology Committee, "Energy Demand Forecasting and its Appropriate Role in Planning and Policy," November 1981.

[16] Energy Information Administration, 1981 Annual Report to Congress, Volume III, "Projections," February 1982, DOE/EIA 0173 (81)/3, p. 2.

outside experts consider EIA's current estimate to be high.[17]

Assumption: Uranium would be scarce and expensive by the year 2000.

Reality: The cancellation of over 60 U.S. nuclear power plant orders since 1975, together with the drop in electrical demand growth and the development of new uranium reserves, has created a uranium glut.[18] During 1980, twice as much uranium ore was mined as was used in U.S. reactors.[19] Meanwhile, DOE's National Uranium Resource Evaluation (NURE) program report points to a 50% increase over previous uranium resource projections. An additional 50% improvement in efficiency of uranium use would result from fairly simple modifications in the fuel design and management of existing LWRs and advances in enrichment technology.[20]

Uranium now costs much less than was projected in the 1970's; the most recent spot market price is only $23/lb.[21] A June, 1981 study by Los Alamos National Laboratories found that the breeder will not be economical until the price of uranium reaches $165/lb.[22] A November, 1981 Energy Research Advisory Board report concluded that the break-even price may reach $400/lb.[23]

Q: Will breeder reactors ever cost less than standard light water reactors?

A: A 1979 update of a 1975 American Enterprise institute economic analysis concluded that the breeder will provide no cost savings over LWRs in the foreseeable future. This analysis indicates that the breeder cannot be economically viable until well into the next century.[24]

The General Accounting Office recently advised Congress that "a commercially deployed LMFBR will probably not be needed until well past the year 2020—the furthest that DOE now makes nuclear power projections."[25]

The original argument for developing the CRBR was that more efficient fuel utilization would make it cheaper than an LWR. However, construction costs, rather than fuel, represent the largest share of a nuclear reactor's total cost. The world's first and only commercial-sized breeder (in France) will cost more than twice as much to build as an LWR.[26]

Q: Will the Clinch River Breeder Reactor reduce our dependence on foreign oil?

A: The CRBR will not lessen our dependence on foreign oil. U.S. oil demand is largely for transportation and other liquid fuel uses. Only 7% of the oil we consume is used to generate electricity.[27]

Oil-generated electricity dropped from 16.6% of all U.S. electricity in 1978 to 10.6% in 1980. (In 1981, it dropped again to 8.9%). In that same 1978–1980 period coal-generated electricity increased from 44.3% to 50.4%, but nuclear-generated electricity dropped from 12.5% to 10.9%.[28] These figures demonstrate that coal, not nuclear, is replacing oil as a fuel for electric power plants. This has already happened in the TVA region, which CRBR would serve; TVA does not now operate any oil-fired baseload power plants.

If the $2.5 billion that is needed to finish CRBR were instead spent on insulating American homes, we would save the equivalent of 48 million barrels of oil each year for the next 25 years, at a cost of only $2 per barrel of oil equivalent saved.[29]

Q: Do we need to build the CRBR to keep up with foreign breeder programs?

A: The foreign breeder programs have not proceeded as rapidly or as successfully as anticipated. The Japanese and European programs have been plagued by significant schedule slippages and enormous cost escalations. The French Super Phenix reactor, scheduled for completion in late 1983, will cost an estimated $6 billion.[30] As James L. Cochrane of the CIA Office of Economic Research said in January, 1981, ". . . the French Breeder program faces strong economic problems that portend a bleak future for its survival, much less its expansion—contrary to what is presented in the popular and trade press."[31] Since then, the French government has deferred plans to build four more commercial breeder reactors.[32]

Q: Is CRBR an essential element of our nuclear energy research and development program?

A: Building the CRBR is not necessary to continue advanced breeder reactor R&D. LMFBR research could focus on the Fast Flux Test Facility that is now operational at Hanford, Washington, and other active breeder research and development projects. The federal budget includes sufficient funds for an ongoing breeder research program without the Clinch River Breeder. The 1983 DOE budget allocates $1.016 billion for nuclear fission programs, of which $324 million is for the breeder research program—in addition to the $252.5 million for the Clinch River Breeder.

Q: Is the CRBR's design technically up to date?

A: Conceived more than a decade ago, the CRBR relies on outdated technology. The CRBR "loop" type reactor vessel is already six or more years behind the "pool" designs the French have built, and when complete will be at least sixteen years out of date.[33]

In a 1976 design review, Burns & Roe, the CRBR architect-engineer, and Rockwell International, a major CRBR subcontractor, indicated that the "pool" design is safer, faster to build, and less expensive than the "loop" method. Despite their analysis, DOE and Burns & Roe continue to employ the "loop" technology in the CRBR design.[34]

Q: Is the CRBR's development proceeding smoothly and economically?

A: CRBR has severe technical and management problems. A 1981 investigation by the House Energy and Commerce Committee's Oversight Subcommittee staff revealed that CRBR's prime contracts are inadequately drawn and badly administered. Contracts were approved without cost ceilings, firm schedules or performance guidelines.[35] More recently, the U.S. Comptroller General concluded that "many aspects of the contracting process are questionable". As a result, key components, such as the prototype steam generator, have come in years late and 1000% over cost.[36]

The Comptroller General, Congress' watchdog over federal spending criticized in a May 1982 report, DOE's plan to buy a full set of steam generators without thoroughly testing the prototype, a financially risky move that DOE adopted on the basis of advice from a panel of nuclear industry consultants.[37] The safety and reliability of the CRBR will depend heavily on the performance of the steam generators, key components that have prematurely failed in a number of conventional reactors.

As early as 1973, Burns & Roe, the major subcontractor, debated whether to continue with the Clinch River project. In an internal document, Burns & Roe admitted that "the PMC General Manager has privately advised Burns & Roe to get out of the LMFBR job now, since it does not have a chance of success and could harm us badly" and that "the PMC organization has lost much of its desire and determination to manage the project and, perhaps, the ability to do so."[38]

Q: Is federal funding of the Clinch River Breeder Reactor (CRBR) consistent with a free-market energy policy?

A: The case against federal funding for the CRBR is stronger than ever. "After a careful, in-depth review of the economics of the project, I have come to the conclusion that it is totally incompatible with our free

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[17] Remarks of Commissioner Victor Gilinsky, Nuclear Regulatory Commission, World Nuclear Fuel Markets International Conference on Nuclear Energy, Washington, D.C., 10 October 1981, p. 2.

[18] Atomic Industrial Forum. "Historical Profile of U.S. Nuclear Power Development" (Bethesda, Md.: Atomic Industrial Forum, 31 December 1981), p. 15.

[19] New York Times, "Glut of Uranium Hurts Miners", 22 December 1981, p. A1.

[20] Report of the Nonproliferation Alternative Systems Assessment Program, "Nuclear Proliferation and Civilian Nuclear Power," Executive Summary (Washington, D.C.: Department of Energy, June 1980), pp. 9-11.

[21] "Nuclear Fuel," Volume 7, Number 6, 15 March 1982, p. 17.

[22] R. W. Hardie and G. R. Thayer, "Analysis of Nuclear Power Economics" (Los Alamos: Los Alamos National Lab., June 1981), p. 18.

[23] Energy Research and Advisory Board see note 2), Appendix D, p. 8.

[24] Brian G. Chow, "Economic Comparison of Breeders and Light Water Reactors" (Los Angeles: Pan Heuristics, 1979); Brian G. Chow, "The Liquid Metal Fast Breeder Reactor: An Economic Analysis" (Washington, D.C.: American Enterprise Institute for Public Policy Research, 1975).

[25] U.S. General Accounting Office Internal Draft, "The Liquid Metal Fast Breeder Reactor—Options for Deciding Future Pace and Direction," May 27, 1982.

[26] Frank von Hippel, Center for Energy and Environmental Studies, Princeton University, testimony before the Subcommittee on Energy Conservation and Power, U.S. House of Representatives Energy and Commerce Committee, Washington, D.C., 5 November 1981.

[27] Monthly Energy Review, Energy Information Administration, March 1982, pp. 6 and 25.

[28] Monthly Energy Review, Energy Information Administration, March 1982, p. 25.

[29] Solar Energy Research Institute (SERI), "A New Prosperity: Building a Sustainable Energy Future" (Andover, Mass.: Brick House Publishing, 1981), p. 54.

[30] See note 7.

[31] Electrical World, "French Breeder Feels Hard Heel of Economics," January 1981.

[32] Nuclear Engineering International, July 1981, p. 25; Nuclear News, November 1981, p. 64; Private communication from Commisseriat a l'Energie Atomique (CEA) to House Energy Conservation and Power Subcommittee staff, January 1982.

[33] Henry David Sokolski, see note 14, p. 5.

[34] Rockwell International Atomics International Division and Burns & Roe Corporation Breeder Reactor Division, "Pool-Loop-Hybrid LMFBR Plant Comparison," Submitted to ERDA and EPRI, 30 June 1976.

[35] Memorandum from Oversight and Investigations Subcommittee Staff, House Energy and Commerce Committee, to John D. Dingell, Chairman, "Preliminary Findings—The CRBR Project: A Cost and Technical Fiasco," 16 July 1981.

[36] Comptroller General of the United States, "While the Clinch River Breeder Reactor Steam Generator Contract Could Not Have Been Terminated for Default, Many Aspects of the Contracting Process are Questionable" (EMD-82-37), 17 March 1982.

[37] Comproller General of the United States, "Revising the Clinch River Breeder Reactor Steam Generator Testing Program Can Reduce Risk," May 25, 1982 (GAO/EMD-83-75).

[38] Burns & Roe Corporation, "Corporate Positions Regarding the LMFBR Program", (internal document), 1973.

market approach to energy policy", then-Congressman David Stockman said in 1977.[39] In the December 1981 Atlantic Monthly interview, Stockman confided that the breeder would escape the budget axe because "Clinch River is just life and death to Baker" and Senate majority leader Howard Baker's support was needed for passage of Reagan's economic plan. The Clinch River Breeder Reactor has never been an economically sensible project, and yet it continues to be funded by an administration that claims to reject government subsidies for energy development.●

TERMINATION OF SOCIAL SECURITY COVERAGE

HON. J. J. PICKLE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. PICKLE. Mr. Speaker, yesterday I placed in the CONGRESSIONAL RECORD an analysis of one of the plans being offered to employers as an "alternative" to social security. As that analysis shows, there is no alternative to social security as far as the beneficiary is concerned. The committee, and I know many Members, are concerned that State and local governments and nonprofit organizations which currently have the option of terminating coverage for their employees are under much pressure now to do so.

As a further aid to Members in addressing this problem I enclose today a further analysis of the decision process faced by employers who are considering terminating coverage for their employees and replacing it with one of these "alternative" plans. Both portions of this analysis were done by Donald F. Smith and Associates of Princeton, N.J., at the request of several hospital associations.

ALTERNATIVE TO SOCIAL SECURITY

SELLING THE EMPLOYER

This section examines the various arguments which are used to sell the employer on opting out of Social Security. They fall into three major categories—to save money; to have more control over the benefits; and because Social Security is going bankrupt.

TO SAVE MONEY

1. The rising cost of Social Security is widely cited as the reason for looking for an alternate program. Actually, the tax rate is only scheduled to increase 18 percent from 1978 through 1987.

2. The high increase in Social Security costs has forced employers to reduce pension benefits. It is very difficult to reduce the benefits provided under a pension plan and it is doubtful that many employers have done so because of the rise in Social Security costs. Even when Social Security benefits were decreased by the 1977 amendment, the large majority of employers maintained their benefit level and paid the additional cost.

3. An employer can control costs by excluding temporary and part-time employees. The employer can legally exclude part-time and temporary employees. However, since the employer is already providing Social Security benefits for these people, just dropping their benefits would seem to be bad public relations provided the employee understands the extent of his loss. Many part-time employees intend to return to full-time work when family responsibilities change. These employees work just enough to keep fully and currently insured status for Social Security so this would be a major loss for them. For other employees, their part-time hospital employment is a second job which boosts their overall earnings. They also would lose benefits.

4. The millions of dollars that could be saved by the hospital over the next ten years is often pointed out. This looks better on paper. When you look at the actual dollar savings as a percent of total budget, it is really quite small. The savings figures also fail to mention the increased administration burden that falls on the employer. The employer will never be able to accurately estimate the increased time spent in explaining the system to new employees, handling claims that previously were handled by Social Security, filing reports with ERISA, having to deal with employee requests for benefits and with all the claim review procedures required by ERISA instead of letting the Social Security administration take care of all that.

There is no motivation for an employer who has withdrawn from Social Security even to try to measure these items since it cannot rejoin Social Security. It is also unlikely that anyone would be willing to stand up and say that they made the switch but it was more costly than they anticipated.

The future administrative burden would appear even heavier than the current one. Just project the current turnover rate 20 years into the future and add ERISA's requirements and you have a nightmare. The employer has a continuing responsibility for every dollar collected for every employee who ever worked for it, no matter for how short a time. Every time one of them gets disabled, even 5 or 10 years after they terminate, they are going to be looking for a benefit and someone at the hospital will have to take time to answer them or else answer to the Department of Labor. The alternative is to force payment of account balances under a certain amount at the time of termination. Then the employee must roll the amount over into an Individual Retirement Account in order not to lose the retirement benefit or have additional taxable income. Chances are many employees will not make the rollover unless they already have an established Individual Retirement Account.

National Security will service the account by enrolling new employees, answering questions and processing terminations. How? By mail? By hotline? By personal visit once a month? How much compensation do they get to do it? If their service slows down, or they go out of business, with whom does the hospital replace them? There is not much competition in this field. What happens if future legislation requires the employer to change back to Social Security in a few years? The record keeping will go on forever with no new money coming in. Who pays the costs then? The employee pays the cost through reduced earnings on his invested funds.

MORE CONTROL

1. Employers have control over National Security but they do not have control over Social Security. This is fanciful. If the employer wants to stay in business, it needs to stay competitive with Social Security to stay in the job market. This substantially limits the employer's control.

2. Because of this presumed "control over costs," planning and budgeting can be precise. This is not true. An employer gets far more notice of an impending change in Social Security than the 30 days notice it will get from an insurance company if the long term disability, survivor benefits, or life insurance need a rate increase. The interest rates credited to the Tax Sheltered Annuity contracts used for retirement benefits follow the general trends in long term interest rates and are subject to change annually after the initial guarantees run out.

3. The literature selling the alternate plan to employers stipulates that the employer can control the contribution rate and wage base. This is really not accurate if the employer is going to provide benefits which actually replace Social Security. Every time Social Security goes up, the employer's plan must respond and that is going to cost more money. On the other hand, if interest rates paid on Tax Sheltered Annuities fall, the employer may have to increase contrubutions to maintain benefits that are equivalent to Social Security. Another factor which will affect the employer's cost is its claims experience under the survivor and disability coverages. These are insured benefits and subject to rate increases if claims experience is bad. Most employers have only to look at their medical care or disability cost for the past 5–10 years to realize what little chance they have of controlling the costs.

The employer can set a rate and stick with it. That just means that benefits will reduce if costs increase. Consider the cost of living adjustments under Social Security disability and retirement benefits. Granted, the cost of living adjustments are currently causing problems for Social Security. However, it is also what is making Social Security work for today's beneficiaries. The alternate plan is not solving any difficulties by saying "maybe excess interest earnings will help take care of the problem." It is avoiding the problem.

Actually, long term disability coverage is a very volatile coverage. It is particularly susceptible to economic downturns. The market for it runs hot and cold. Hospital's have a class of employee that is a worse than average risk. In addition, the size of the employer is relatively small so there is no effective spread of risk. These factors combine to produce a very unstable cost.

SOCIAL SECURITY WILL BE BANKRUPT

The Social Security retirement fund will be bankrupt by the year 2030, the disability fund by 2007, and the Medicare fund by 1989. Some estimates are even worse than these. This is a favorite with everyone. However, it is difficult to see how the U.S. Government could let the Social Security system go bankrupt and default on its promises to its citizens. It would produce collapse of our domestic economy. In addition, it would ruin our credit with other countries. If you would default on your own taxpayers, what would you do to another country?

The Social Security system is becoming more and more important politically. As we rise up the pyramid toward one retiree for each worker, the political power of the retir-

[39] David Stockman, Conservative Economics and Free Market Philosophy Say "No" to the Clinch River Breeder Reactor Project, U.S. House of Representatives, Washington, D.C., 17 September 1977, p. 1.

ees increases. An example of this was the recent drop in President Reagan's popularity which was attributed almost entirely to his proposals to cut back Social Security.

Statistics on bankruptcy do not mean that it is going to happen, only that something is going to change—either benefits, costs, or funding methods or some combination thereof. Depending on what happens, the alternate plan will become more or less attractive. Financing Medicare differently is the most likely first step. Moving the retirement age to 67 or 68 is also likely.

The benefits from the alternate plan are already taxable in total, so if the benefits provided by the employer's half of Social Security become subject to income tax, the two plans would be equal in that respect. If Social Security is funded in whole or part from general revenues, non-covered employees will be paying twice.

MAKING THE DECISION

There are no independent "experts" on the subject of opting out of Social Security. The situation is further complicated by the fact that while the Social Security Administration is usually given a chance to present their side, their employees do not know enough about insurance, tax sheltered annuities, actuarial assumptions, and tax law to argue their case effectively. This means that the employer must rely on the information presented by the selling company.

This section of the report will examine the typical decision process briefly. Then, the information on which the decision is made will be examined in more detail.

THE DECISION PROCESS

The typical employer who is considering opting out of Social Security files its notice of intention to withdraw from Social Security after some preliminary investigations into the subject. During the two year waiting period before the withdrawal becomes effective, most employers have massive studies conducted to prove that they can get out of Social Security and still provide better benefits (or at least comparable ones) and save money for both the employer and the employee as well.

The study usually includes individual benefit illustrations for each employee, showing the anticipated benefits under Social Security and the alternate plan. These illustrations, along with the employee booklet, are presented to the current group of employees for their reaction. If the reaction is positive, the employer usually goes ahead with the alternate plan. If it is negative, the employer stays with Social Security.

Because of this, it is vitally important to examine the information given to the employee to see if he really has all the information needed to make a decision which will affect all of the present and future employees for the forseeable future. The next part of this section will examine the employee promotional material in detail.

There is one further question that should be considered. Is the employee capable and willing to look as far into the future as this decision requires? It could easily be argued that the current national mentality is to grab it now and spend it quickly. It will cost more or be worth less tomorrow. Our present high level of inflation has made it difficult for the average person to look five years down the road. This has a decided effect on the employee's ability to make a decision which is as awesome and long term as opting out of Social Security.

The average employee probably does not look five years down the road to see the disability benefits he may be losing (if he is even aware he is losing them). He probably does not even look two years down the road. In fact, he may not look past the 1 percent additional take-home pay or the 6 percent of pay he no longer has to pay income taxes on. He gets a nice illustration that shows he will have higher retirement benefits 10, 20, or 40 years down the road. He probably does not even believe that. He just thinks that if his employer has checked it out and says it's okay, he will believe it. After all he reads in the paper, he does not have too much confidence in Social Security either!

What is actually happening is the employee is passing the buck back to the employer, not making a real decision. It is easier to go along with your employer and not rock the boat than to fight. In the absence of a union, probably only a small majority of employees would risk their jobs by standing up against an idea like this—especially when they have been kept informed right along so nothing was secret. The problem is compounded by the fact that they cannot possibly have the expertise to rebut such an idea. The best they could offer is their gut reaction to the subject and that is not considered valid for making a decision.

This report is not going to touch on the subject of who should have responsibility for this decision. But an employer considering a change should examine just how the decision will actually be made and upon what information the decision will be based. The answer may be surprising.

Comment

A major undercurrent of all of the above statements is that the retirement benefit is the only one most employees will ever enjoy, so concentrate on that. The argument is true. However, most people carry fire insurance but only 1 house in 1,200 will burn down. That is what insurance is all about. It lets the insured person sleep at night.

The alternate plan focuses on the savings element of Social Security—the retirement benefit—and a few of the other major benefits and ignores many of the insurance aspects which are present in all of the other coverages. It is rather like buying a standard fire insurance policy instead of homeowners coverage. What happens when the pipes break?

The government has accepted the role of our keeper by designing a program which provides for both savings and insurance. If the employer is going to replace government, he should be willing to accept the responsibility as well. It is agreed that people are lulled a little because the Social Security benefits are not as great as they think, but the benefits are a lot better than none at all.●

HAIR-TRIGGER MISSILES

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. LAGOMARSINO. Mr. Speaker, a recent editorial in the Los Angeles Times discusses the dangers related to Soviet intentions to place its strategic missiles on "hair trigger alert" so that they could be fired on extremely short notice. It also describes U.S. intentions to deploy the MX and Pershing II missiles to offset the Soviet advantage of their SS-20 missiles aimed at Western Europe.

The editorial presents a thought-provoking analysis of the best approach to arms reduction negotiations in order to reduce the level of nuclear tension between the two nations. I urge my colleagues to give thoughtful consideration to this commentary.

The editorial follows:

[From the Los Angeles Times, July 18, 1982]

HAIR-TRIGGER MISSILES

Defense Minister Dmitri F. Ustinov is the sort of dominant figure in the Soviet Military-industrial complex that Robert S. McNamara was in his heyday as defense secretary in the Kennedy and Johnson administrations.

It follows that, when the Communist Party newspaper Pravda devotes a full page to his ruminations on the strategic balance and the strategic arms reduction talks with the United States, it's worth taking notice.

Ustinov, defending the Kremlin's announced policy not to be the first to use nuclear weapons, strongly hinted that the Soviet Union was increasingly inclined to put its strategic nuclear missiles on a hair-trigger alert so that they could be fired on extremely short notice.

Western analysts believe that Ustinov's article was to some extent intended to reassure Soviet military men that, despite the Kremlin's propagandistic no-first-use declaration, the Soviet Union would not be left vulnerable to a U.S. attack.

It is important to recognize, though, that Ustinov's article also contains a sobering message for both the Reagan Administration and its critics as the START negotiations proceed in Geneva.

The strategic nuclear missiles in the Soviets' arsenal outnumber the Americans' by about 2,350 to 1,700. The warheads on missiles on each side number about 7,500, but the Soviets could put many more on their superheavy missiles that have no counterpart, at present, on the American side.

On the other hand, the United States enjoys a numerical edge in bombers, and a qualitative advantage in cruise missiles and submarine-fired ballistic missiles.

U.S. strategic planners have become increasingly concerned by the theoretical ability of the Soviet land-based strategic missiles to knock out the American fleet of 1,000-odd Minuteman missiles in a surprise attack. At the same time, the Soviets have deployed a large force of SS-20 missiles capable of hitting any target in Western Europe.

The U.S. response has been the development of the larger, more survivable MX missiles for deployment within the continental United States, and acquiescence in West Germany's desire for a European-based fleet of ballistic and cruise missiles to counterbalance the Soviet SS-20s.

The problem is that both the MX and the Pershing 2 missiles conditionally scheduled for deployment in West Germany can be seen by the Soviets as threatening first-strike weapons. From Moscow's view, they could be used to knock out the Soviet Union's command and control system and its land-based nuclear deterrent.

In other words, the deployment of the MXs and Pershing 2s would give the Soviets the same reason for nervousness, if not a bit more, that the United States already feels

as a result of the superheavy Soviet missiles aimed at the United States.

From the war-avoidance point of view, this is about the worst possible situation: each side possessing weapons that are capable of knocking out the other's basic nuclear deterrent, but that are themselves vulnerable to preemptive attack.

Some well-meaning Americans, in arguing against the MX, have suggested that a theoretical Soviet first-strike capability is meaningless, since the U.S. President could launch the Minuteman missiles on a warning of attack, leaving nothing but empty holes for the Soviets to hit.

Given the chance of computer or human error, that is a frightening prospect—just how frightening should be obvious when you hear the same idea coming from Ustinov. Human survival should not be allowed to depend so heavily on the reliability of glitch-prone computer and radar systems.

Reagan, in his opening negotiating proposal, has suggested that the MX and the Pershing 2 are bargaining chips that can be canceled if the Soviets dismantle their SS-20s and a substantial portion of their land-based missiles. He has also offered to consider Soviet counterproposals dealing with the areas in which the United States is ahead—presumably including bombers and sea-based missile technology.

The rational thing would be for the two sides to work out an agreement that would place the strictest limitations on weapons that could be used for first strikes by either side—weapons that increase the chance of accidental war.

The Soviets show no indication so far of being willing to negotiate that kind of agreement.

The challenge facing the Reagan team is to persuade the Soviet leaders to change their minds. That will require firmness and flexibility—plus a willingness to control the elements in the American defense establishment that look on the MX and the Pershing 2 as "must" projects that cannot be bargained away even for major Soviet concessions.●

DANGER IN FDA

HON. LARRY McDONALD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. McDONALD. Mr. Speaker, I am a Democrat who in principle supports many of the economic objectives of the Reagan administration. The administration makes a good case that we in Congress have had a hand in creating many of our current economic problems: High taxes, inflation, overregulation, and a bloated Federal bureaucracy; a bureaucracy that has come to be called the unelected government.

In his book "The Twilight of Authority," Dr. Robert Nisbet points out that bureaucrats unanswerable to either the executive or legislative branch of the Federal Government pose perhaps the greatest challenge to what remains of the American representative public created by the Nation's founders.

However, while I agree with Dr. Nisbet, I find the Reagan administration is, in too many instances, to blame for helping to perpetuate unelected government. In other words, the Reagan administration has, for reasons that remain a mystery, retained in key Government posts bureaucratic holdovers from a previous administration. Many of these holdovers do not share the Reagan administration's stated political philosophy of maximizing free choice and minimizing coercion.

Recently, the columnist Jeffrey St. John, for the Washington Report, a weekly national newspaper, highlighted one example of the Reagan administration retaining a key bureaucratic post, an official who disagrees with the stated goals of the administration. According to Mr. St. John in the July 1982 issue of the Washington Report, Food and Drug Administration Commissioner Arthur Hull Hayes retained Dr. Sanford Miller at the FDA. He is the Director of the Bureau of Foods and was appointed by President Carter back in 1977. Dr. Miller, by his own admission, is a liberal activist from New England, who was prepared to pack his bags and go back to Boston when the Reagan administration came to power to January of 1981. But oddly, according to Mr. St. John, Dr. Miller was asked to stay on by the administration. Mr. St. John noted that, since staying on, Dr. Miller has continued to advance policies and programs which run counter to the Reagan administration's philosophy regarding the fight to reduce inflation.

I recommend to my colleagues Mr. St. John's Washington Report article, and also an interview with FDA's Chief of the Bureau of Foods, Dr. Miller, that appeared in the June 1982 issue of Food Engineering magazine. Perhaps, after reading both of these articles, my point might be clearer. Perhaps Shakespeare's words in Julius Caesar are a message for the Reagan administration and Commissioner Hayes, when it comes to the problem of what to do with unelected bureaucrats. Shakespeare wrote:

The trouble dear Brutus, is not in the stars, but in ourselves • • •

For the benefit of my colleagues who have expressed similar concerns, the two articles follow:

BUREAUCRATIC HOLDOVERS ARE GUARDING THE FORT AGAINST REAGANOMICS

(By Jeffrey St. John)

"The experience of the past," observed historians Will and Ariel Durant, "leaves little doubt that every economic system must sooner or later rely upon some form of the profit motive to stir individuals and groups to productivity.

"Businessmen left relatively free from transportation tolls and legislative regulation can give the public a greater abundance of food, homes, comfort and leisure than has ever come from industry managed by politicians, manned by governmental employees, and supposedly immune to the laws of supply and demand."

The Durants' dictum better than anything sums up the Reagan philosophy of government in principle, as opposed to practice. The distinction between principle and practice is important because of bureaucratic holdovers who are immune to the lessons of history, evidence, experience and voters' changes in the White House.

In just about every department of the executive branch, officials appointed by the Carter administration continue to occupy important positions. They also continue to make policy contrary to stated White House desires or directives. However, the problem of bureaucratic holdovers cannot be blamed entirely on circumstances outside the administration's control.

FDA OFFICIAL STAYED

Take, as an example, the case of Carter liberal holdover Sanford A. Miller, director of the Food and Drug Administration's Bureau of Foods. In an interview published in the June 1982 issue of Food Engineering Magazine, he admits that he was prepared to move back to Boston when the Reagan administration came to town with its pledges of business deregulation.

However, Miller also admits that after conversations with Health and Human Services Secretary Richard Schweiker and Reagan-appointed FDA Commissioner Arthur Hull Hayes, Jr., plus consumer advocates, he changed his mind.

"Although I don't believe that anyone is indispensable, there are times when an individual can make a difference, and this seems to me to be one of those times," he said.

Decoding this is not difficult. What Miller means is that he can seize the initiative and pursue policies of the past while co-opting Schweiker and Hayes, the latter appointed with no food experience. Miller has apparently "educated" the HHS secretary and the FDA commissioner.

"To this day," Miller states, "no one in Washington understands why this administration put the pressure on me to stay. I simply don't agree with the administration on many issues, yet I must say that the FDA has been treated better now relative to past administrations. Secretary Schweiker has been a tower of strength supporting us right down the line. Furthermore, Commissioner Hayes is one of the most outstanding the agency has ever had."

Miller has spent the last year and a half gathering allies in Congress, the media and the consumer movement in a campaign to gut efforts at deregulation of the food industry in several critical areas.

Part of this campaign has included public attacks on the food industry. "The industry occupies a position in which few of its claims are accepted by the public," he said recently, adding. "The problem of industry credibility is one of concern. To solve it, the industry must begin to develop a greater sense of its own responsibility and importance to the community."

AGENCY HAS COST CONSUMER

The FDA's past public record of responsibility and credibility is well worth reviewing, especially the costs it has created for consumers in overregulation and endless delays in granting approval of new drugs. By contrast, the food industry's record when it comes to inflation has been one reason why the administration has been so successful in reducing inflation.

At least this is what President Reagan's chief economic adviser, Murray L. Weidenbaum, told this writer recently. "The food industry has one of the lowest rates of infla-

tion of any part of the American economy. And that has really helped in important ways in getting down the overall rate of inflation," he said. However, if Miller at the FDA has his way, he will help return us to double-digit inflation by continuing past regulatory policies.

INTERVIEW WITH FDA'S SANFORD MILLER

(By Mel Seligsohn)

One of the most significant features of the Reagan Administration has been its ongoing purge of bureaucrats appointed by previous liberal administrations. FDA's Dr. Sanford Miller has been with the agency as Director of the Bureau of Foods for four years. As both a hold-over from the Carter years and a self-professed liberal, Miller should have been on his way home to Boston on the first train after the inauguration.

Instead, Miller has stayed on—and on. According to the following exclusive interview, Miller says he really has no choice since he feels compelled to help the agency resolve "the great issues that are in the process of discussion and resolution," and which he has helped shape since he came to Washington.

This may be true, but the same might have been said by hundreds of other liberal thinkers in the government—just about all of whom are gone with the wind. Miller has been able to hang in for several-additional key reasons: he is extremely popular among both his staff, consumer groups, and the food industry, and he has been an indispensable help to FDA Commissioner Arthur Hull Hayes, Jr., who came to his job with virtually no food experience.

Indeed, Miller says that it was a series of conversations with Hayes that convinced him that though he sometimes feels like a "black sheep" politically in Washington, he should hang on for at least three more years, after which he hopes to resume his teaching at MIT. His and the agency's challenge he outlined for his Bureau of Foods colleagues in a memo announcing his intention to stay, stemming finally rumors that his exit was imminent.

"We have accepted a significant portion of the burden in determining the future of food safety and quality in the United States. As a result of this challenge and other developments, we are being asked to review the entire philosophy on which our activities are based. At the same time, we are also being asked daily to perform tasks better with fewer resources."

It's Miller's fate to have head the Bureau at a critical time. Changes in science and food technology have made a review of current food safety legislation imperative. Historically, major changes in the laws governing this area occur about every 20 years. Since the last change was made in 1958, a new law is overdue. Framers of the law will have to tackle the problem of what to do about the Delaney clause, the inflexible anticancer stipulation that the food industry has found so burdensome and hard to work with over the years.

Miller believes, despite the seemingless endless battle of words, that a change in the law will happen, although he won't put a date on when. "It might take a year. It might take ten. You never know when an issue is this complex," he says. If the process does take 10 years, no one would be surprised if the man heading the Bureau of Foods is still Sanford Miller.

FE: When we interviewed you four years ago, you said that you would not stay on in your post for more than two or three years. What happened to change your mind?

Miller: I still feel that this job should not be viewed as a career situation, however, since that time a number of things have happened. I was supposed to leave just after the 1980 election but at that time I was asked to stay on until a new commissioner was appointed. When he came he asked me to stay on basically because he didn't have any experience in the food area.

I was glad to because I didn't want to see two years of my work go down the drain because of the unfamiliarities with food issues of the new people. The fact is, however, I was preparing to move back to Boston early this year and had enrolled my daughter in school there. Then after conversations with the new commissioner, Secretary Schweiker and people in the consumer movement, I changed my mind. Although I don't believe that anyone is indispensable, there are times when an individual can make a crucial difference, and this seemed to me one of those times.

The Bureau, after all, has been working for years on issues such as food safety legislation, and more rational use of scientific activities. Now we have both a Commissioner who listens and a sympathetic head of the Department of Health and Human Services. So, it seemed to me that this was the time to push these ideas through.

FE: What changes is FDA pushing for?

Miller: There is a real need for the re-organization of our food category system. Now, the law provides for different standards of safety for different food substances. For example, Congress decided in 1958 that substances such as additives that are incidental but unavoidable contaminants to the food supply ought to be regulated in a different way than ordinary food additives. The standards are different because it was felt that food additives are more easily controlled and therefore ought to be subject to tighter standards.

Since that time, however, I think we've come to understand that people are consuming more and more processed and formulized foods. At the same time, we're beginning to see things that might be considered harmful in such natural foods as spices that we didn't know existed until recently. Under the current law, for example, we probably should ban black pepper, but we don't because it's not a rational thing to do. The Commissioner has a certain area of regulatory discretion and this is one of the areas he prefers to use it.

But you can only stretch an interpretation so far. So we think it's time to evaluate this matter and establish, for instance, a category of substances called Traditional or Basic Foods, substances that have a long history of use in society, which we need to get out from other parts of the current law.

With Delaney—and here's where the problem is best illustrated—no one argues that carcinogens shouldn't be regulated differently than anything else. There are some people, of course, that pooh-pooh the whole issue, but they don't suffer from cancer. Nevertheless, everyone who knows something about this agrees that science in the past 25 years has changed to such an extent that we really must broaden the scientific inquiry upon which we make decisions regarding carcinogens in the food supply. The question is how do we open this up without leaving any loopholes for something really dangerous to slip through?

FE: Is anything new on the horizon at the bureau in the area of food irradiation?

Miller: Only what is generally known. We are going ahead with a proposal allowing the use of irradiation under 100 krad. However, having said that I must add that I have no idea how long this proposal will take going through the agency.

FE: What will the Administration's budgetary cutbacks mean to the Bureau of Foods and its programs?

Miller: Of all the regulatory agencies in Washington, the FDA has probably been treated the best. This is due to several factors, but perhaps most importantly is that our Commissioner is so special, and so highly thought of by the Administration. The doesn't mean we haven't been affected. While none of our programs have been cut, we haven't received any additional funds to expand or start new programs.

In fact, I would say that there have been no cutbacks but reduced resources to deal with problems. If we were actually cutback, we would have even less. The truth is, however, we've been doing less for the last several years anyway, particularly in the area of economic issues—food adulteration, for example. But this is not a result of the current Administration. FDA has not been treated well for the past 10 years in terms of funding. Indeed, we're doing better with Reagan than with Carter in this respect.

FE: Is it indeed true that inspectors from FDA are coming around less often to food plants?

Miller: Yes, in some industries it's true. We've tried, however, to maintain our activities in what we call high-risk areas, for example, certain low-acid canned foods, but in other areas we've cut back.

FE: Does this relate in any way to your statements that there have been more major recalls of food recently than any time in memory?

Miller: It may, but I don't really know. It would be easy for me to surmise that the food industry is getting sloppy because they know we don't have the resources to deal with them, but I can't say for certain. It might also be one of those crazy statistical glitches. If it is food industry policy, however, then processors must be among the stupidest people ever to walk on earth, because eventually the government would come back supported by even the most conservative congressmen with the most rigorous food safety regulations ever. Again, however, I have no idea if this is the case.

There's no question, however, as to the extent of the problem. Since the first of this year, we've had five major recalls. We've had nothing like this in the memory of anyone now here at FDA, certainly not in my four years. It's hard to say whether these recalls involve either major or minor food companies, but in either case if a company is cutting back on quality control because the inspector is not coming around as often, it is making a grave mistake.

FE: There's some question now that despite all the talk and debating that food safety legislation is a dead issue. How do you view this?

Miller: There are two aspects to this. In the first place, we're very close to public hearings on new legislation. This is a major step forward. These hearings will give the main antagonists a chance to be heard. They, of course, include those who simply want agency activity of any kind pulled back as a matter of principle, and those on the other side who see any changes in the food safety law as cause for alarm, fearing that once the process begins the door will open too wide.

Interestingly, critics of the first kind in the food industry seem to be growing fewer and fewer as their lawyers point out that if FDA moves out of certain areas related to food safety the personal and corporate liability of the processor increases tremendously. There has been a lot of re-thinking about this in the food industry recently.

However, the debate that will ensue from the hearings could go on for one year or 10 years before a law is produced. Nevertheless, the fact that Senator Hatch and Senator Kennedy, both representing differing views over what should be done can sit down and discuss the issues, leads me to believe that it won't take that long before a new law is produced. The story being circulated that Senator Kennedy had disavowed any interest in a revision of the law at this time is simply not true, by the way.

FE: How do you feel about the voluntary sodium labeling program? Will it work?

Miller: I think it will. I have always felt that the food industry has a special role to play in our society. This program has been an opportunity for it to express its social responsibility. I believe the industry is coming through beautifully. On the other hand, both the FDA Commissioner and HHS Secretary Schweiker have made it clear how important this issue is and made it clear that a voluntary program doesn't work, regulation by the government will surely follow. Through voluntary efforts, about 40 percent of the food supply will be labeled within a year, perhaps as much as 70 percent. I believe that pressure from the public will force completion of the program.

FE: Your political orientation is liberal, and you were brought in by a liberal President. With the on-going purge from the bureaucracy of people such as yourself, do you ever feel like a black sheep?

Miller: To this day no one in Washington understands why this Administration put the pressure on me to stay. I simply don't agree with the Administration on many issues, yet I must say that FDA has been treated better now relative to past Administrations. Secretary Schweiker has been a tower of strength supporting us right down the line. Furthermore, Commissioner Hayes is one of the most outstanding the agency has ever had, including my friend Don Kennedy.

FE: How will the Food Safety Council's proposals relate to the debate over new legislation? Will it have any impact?

Miller: The Council's activities involving the development of the "tree decision," the process by which food safety decisions are made, was a very successful activity. The agency has its own method of making such decisions, and in time we'll be publishing a document spelling out how the amount of testing should be commensurate with the potential risk. The Council's approach is valid, but not necessarily the one the agency will take.

The second issue that the Council tackled—how to evaluate the social and economic climate in which a food safety decision is made—was not so successful. The problem is infinitely more complex. It's simply not quantifiable. Everyone, it seems, wants the agency to be completely efficient and at the same time they want total control over what the agency does.

Those who talk about public input into the regulatory process should keep in mind that the most laborious and difficult process we have is in setting tolerances. We've used it once in 25 years. It's so complicated because it insists that everyone has to have a chance to participate. The second most difficult process is for standard setting, which is extremely slow. Yet both these are the ones that permit the most public input.

FE: What have you accomplished in the past four years that you feel strongly about?

Miller: We've re-organized ourselves so that we believe we're better prepared to deal with what's coming down the line. Several years ago we put out a research plan that outlined what problems we saw ahead and what resources we felt were necessary to deal with them. It was the first time that this had ever been done in the federal government.

We've also tried to make regulatory decisions in a more rational manner. We now believe that decisions are being made at FDA using the most up-to-date state-of-the-art techniques. In addition, I've done everything I can to allow our very competent staff of scientists here the room to express themselves. When I got here, there was a different environment. We've had no major personnel changes in the past four years.●

R. & D. IN THE FISCAL 1983 BUDGET

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DYMALLY. Mr. Speaker, I rise today to bring to the Members' attention a most important collection of remarks concerning the fate of the Nation's research and development policy and activity for the next 3 years. In his editorial in the July 16 issue of Science magazine, Dr. Willis H. Shapley, consultant to the American Association for the Advancement of Science, spells out the disastrous effects of our budget resolution on R. & D. "Even under optimistic economic assumptions, total funding available for nondefense R. & D. faces a reduction in constant dollars of as much as 30 percent over the 5-year period fiscal year 1983 to fiscal year 1987," says Shapley, "unless continued high deficits, substantial increases in taxes, a major cutback in defense, or some combination of these becomes acceptable economically and politically."

Equally important from my personal perspective, and the perspective of the Congressional Caucus for Science and Technology, is the current crises in science and engineering education. Shapley points out a serious challenge in this area. "There is the challenge to all of us to see that something, besides talking, is done about the problems of science and engineering education at all levels. Our decentralized education system needs leadership. Will the Federal Government provide it? If not, who will?"

I urge my colleagues to read carefully the entire editorial, which follows. Shapley's message is a call to all of us for responsibility.

R & D IN THE FISCAL 1983 BUDGET

The President's budget for fiscal year 1983 treated R & D fairly well, given the economic exigencies and the policy orientations of the Reagan Administration. Within these policies, some fine-tuning of the amounts for R & D deserves serious consideration; some of this may be done by Congress as it acts on the details of the budget. What will be the outcome in Congress? The spending targets in the budget resolution leave open the possibility that the R & D budgets finally approved by Congress could approximate closely the recommendations in the President's budget.

For budget function 250, the only category that consists entirely of R & D (National Science Foundation, Department of Energy general research, and NASA), the resolution provides exactly the same amounts as in the President's budget. This is preferential treatment. The general congressional guideline of freezing 1983 budgets for discretionary spending at the fiscal 1982 budget levels would have meant a cut of about 10 percent.

Totals for most of the other functions also seem adequate to include the amounts budgeted for R & D, except for national defense R & D, where the 3.6 percent reduction in total budget authority could mean a cut of as much as $1 billion in the $4.4 billion increase recommended in the budget.

The final outcomes, however, will depend on how R & D is treated by Congress in the detailed authorization and appropriations bills, and whether the appropriations bills as passed are acceptable to the President. Detailed congressional action could produce R & D budgets that are revised, perhaps improved, versions of the President's budget. But a presidential veto and another standoff between the President and Congress would probably result again this year in percentage across-the-board reductions applied indiscrimminately to R & D along with other programs.

The longer term outlook for R & D is, at best, bleak. Even under optimistic economic assumptions, total funding available for nondefense R & D faces a reduction in constant dollars of as much as 30 percent over the 5-year period fiscal year 1983 to fiscal year 1987, unless continued high deficits, substantial increases in taxes, a major cutback in defense, or some combination of these becomes acceptable economically and politically. The establishment of plans and priorities for federal support of R & D within a total level of resources that is declining in real terms is the single greatest challenge facing the scientific and technical leadership in the government and the scientific and technical community as a whole.

There are plenty of other challenges. I will mention only three:

(1) There is the challenge to all of us to see that something, besides talking, is done about the problems of science and engineering education at all levels. Our decentralized education system needs leadership. Will the federal government provide it? If not, who will?

(2) There is the challenge to industry to show that the U.S. private sector, in the favorable regulation and tax environment of the Reagan Administration, can match competition from other nations in developing and marketing new and improved products based on advances in science and technology.

(3) There is an urgent challenge to Congress and the Executive Branch to find ways to temper the operation to the budget proc-

ess. I counted 160 distinct steps in the budget process as it now "works." At a minimum, we must insulate from controversies on overall budget policy the core of largely noncontroversial functions of government for which the range of likely budget adjustments does not have an appreciable impact on the size of the deficit, the level of revenues, or the state of the economy. We should be able to conduct important activities like R & D within the framework of approved long-range plans and clearly defined fiscal envelopes, without the continual disruptions and uncertainties that characterize the present budget process.

FOOD STAMP ACT AMENDMENTS OF 1982 (SECTION-BY-SECTION SUMMARY)

HON. FREDERICK W. RICHMOND

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. RICHMOND. Mr. Speaker, I would like to enter into the RECORD a section-by-section summary of the Food Stamp Act Amendments of 1982 (H.R. ——) that was reported out of the Domestic Marketing, Consumer Relations, and Nutrition Subcommittee on July 20, 1982.

SECTION 1—SHORT TITLE

Provides that the Act may be cited as "Food Stamp Act Amendments of 1982".

SECTION 2—ROUNDING RULES

Requires that in calculations of the Thrifty Food Plan, both deductions and the individual case computations will be rounded down to the nearest dollar, rather than rounded to the nearest dollar. As in the past, the unrounded number will continue to be used as the basis for updating the deductions the following year (after the October 1983 adjustment, in which the $85 standard deduction figure and $115 shelter CAP figure specified in law are used as the base).

SECTION 3—DISABLED VETERANS AND SURVIVORS

Expands the definition of "elderly and disabled member", wherever it appears in the Food Stamp Act, to include a veteran, a surviving spouse of a veteran, or a child of a veteran who is disabled or receives veteran's compensation.

SECTION 4—COORDINATION OF COST-OF-LIVING ADJUSTMENTS

Requires that cost-of-living adjustments provided on July 1 in Social Security and other federal programs not be counted against food stamp benefits until October 1, when the cost-of-living adjustment to the Thrifty Food Plan is made.

SECTION 5—ADJUSTMENT OF DEDUCTION

Provides that the adjustment to shelter/dependent care deductions will take place on October 1, 1983 and every October 1 thereafter. Current law provides that the standard and the shelter/dependent care deductions will be adjusted on July 1, 1983; therefore, under the amendment, the adjustments to both deductions and to the Thrifty Food Plan will take place on the same dates, reducing the work required by state food stamp administrators.

On October 1, 1983, a new series of adjustments will begin, using $85 for standard deduction and $115 for the shelter CAP as the base. Each adjustment the following years should use as the base the unrounded numbers from the previous years.

SECTION 6—ELIMINATION OF STUDIES

Eliminates the requirements for the Department of Agriculture to conduct studies of the financial resources requirements of the Food Stamp Program, the effect of the elimination of the purchase requirement; the feasiblity of recoupment, and the Consumer Price Index. These are studies or reports that have been completed by the Department.

SECTION 7—CATEGORICAL ELIGIBILITY

Establishes at state-option, categorical eligibility as to resources for AFDC households in which all members of the household are AFDC participants.

SECTION 8—IMPROVEMENT IN COST-EFFECTIVENESS OF MONTHLY REPORTING SYSTEMS

Expands the number of households who are exempt from monthly reporting.

SECTION 9—JOB SEARCH

Establishes State option to require job search at the time of application for benefits.

SECTION 10—ALTERNATIVE ISSUANCE SYSTEM

Authorizes the Secretary the authority to require that state agencies develop alternative issuance systems when the Secretary, in consultation with the Inspector General, determines that these systems will protect the integrity of the Food Stamp Program. The Secretary will also be given the authority to test innovative methods of delivering food stamp benefits.

SECTION 11—ELIMINATION OF INITIAL MONTH ALLOTMENTS OF UNDER $10

Eliminates benefits of less than $10 for the initial month or period of food stamp eligibility; households affected would receive the full amount to which they are entitled for the following months or periods

SECTION 12—PROMPT REDUCTION

Permits a State agency to take immediate action to reduce or terminate benefits if the agency receives clear, written information from the household that indicates such a benefit reduction or termination is required.

SECTION 13—DUPLICATION OF BENEFITS

Requires states that have cashed-out the SSI portion of their food stamp caseload or who operate pilot programs in which cashing out the food stamp benefits is tested to match their "cash-out" files with those of regular Food Stamp Program to determine if there is any duplication of benefits.

SECTION 14—STATE ERROR RATE REDUCTION

Sets targets for error reduction by States and imposes sanctions for States failing to meet the targets. All States would be required to lower their error rates to 5 percent or less by fiscal year 1985. During fiscal year 1983 and fiscal year 1984, interim error rate targets would be set which would require steady error rate reduction toward the goal of getting error rates down to 5 percent by fiscal year 1985. States failing to achieve their error rate target in any year would lose a portion of the Federal share of their State food stamp administrative costs. The greater the amount by which the state's error rate exceeds the target, the larger share of administrative funds that the state would lose. An incentive feature would be retained for States achieving exceptionally low error rates.

SECTION 15—AUTHORIZATION FOR APPROPRIATIONS

Extends authorization for the Food Stamp Program through September 30, 1985, consistent with the Farm Bill. Removes funding ceiling or "cap".

SECTION 16—PUERTO RICO

Prohibits cashing out of food assistance in the Commonwealth of Puerto Rico after October 1, 1983. Directs the Secretary of USDA to conduct a study, at no additional cost to the program, to assess the impact of the current food assistance block grant program and to report to Congress on the findings six months after enactment of this law.

SECTION 17—AMENDMENTS MADE BY THE OMNIBUS BUDGET RECONCILIATION ACT OF 1981 AND THE AGRICULUTRE AND FOOD ACT OF 1981

The amendments in the 1981 Reconciliation Act and the 1981 Farm Act, except for the amendments concerning retrospective accounting and periodic reporting, will take effect upon enactment of this Act.

SECTION 18—EFFECTIVE DATES

Except as otherwise provided the amendments made by this Act will take effect upon enactment.●

A BILL TO REPEAL EXPORT CONTROLS

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. FINDLEY. Mr. Speaker, I am today introducing, along with the gentleman from Washington (Mr. BONKER) legislation to repeal the unilateral U.S. sanctions imposed on December 30, 1981 and June 22, 1982 by the United States on the Soviet Union.

This legislation is a revision of H.R. 6564 which Mr. BONKER and I introduced on June 10, 1982. After further consideration and the extension of the sanctions on June 22, we felt it necessary to modify the language to make it clear that all foreign policy controls imposed on those two dates, not just those which relate to oil and gas construction and pipeline equipment, should be terminated. I would stress that the controls which would be ended are foreign policy controls. This legislation does not weaken in any way national security controls or protection of U.S. defense secrets.

As I have long argued, unilateral U.S. export controls on goods which are widely available from other nations have no impact on Soviet behavior. They merely send U.S. business and jobs overseas to competitors such as Komatsu of Japan. The United States should not rely on the crutch of U.S. unilateral export sanctions to demonstrate that it is reacting to events in Poland but should devise more effective strategies for influencing global events.

Simply, these sanctions have never worked and they will not work in the future. The Soviet pipeline will be

built, and American companies will continue to suffer because of unilateral sanctions that do not have the support of our allies.

The pipeline sanctions represent a foreign policy travesty and an economic injustice. The United States should convince the Soviet Union to respect U.S. interests through a strong U.S. defense and a coordinated effort with our allies to restrict credits and subsidies for the Soviet Union.

American companies and workers should not be punished by the misguided foreign policy of the U.S. Government. The answer to influencing Soviet behavior in Poland is a multilateral, unified Allied effort. The answer is not to impose sanctions on U.S. goods while Japanese and European sales of the very same goods to the U.S.S.R. remain unfettered.●

OIL PIPELINE DEREGULATION

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. FIELDS. Mr. Speaker, I along with several of my distinguished colleagues from the Public Works and Transportation Committee are introducing legislation to deregulate the transportation of oil and oil products through pipelines.

Mr. Speaker, in the absence of any competitive forces in the markeplace, Government regulation has stepped in to play an important role as the guardian of the American public against unfair or monopolistic rate setting. However, in the 75 years since the Interstate Commerce Commission first began rate regulation of oil pipelines, the growth of competition in this industry has flourished. Additionally, when the Federal Energy Regulatory Commission—FERC—assumed the regulatory responsibilities in 1977, even greater competition ensued. With the existence of this competition, the need for continued Government regulation of oil pipelines is no longer justified or warranted.

Presently, there is a network of more than 227,000 miles of petroleum and petroleum product pipelines nationwide, which transports 87 percent of all domestic crude oil and accounts for more than 25 percent of all intercity freight. In addition, pipelines are the most environmentally safe and cost effective means of transporting petroleum and petroleum products. Accordingly, they are an essential natural resource and play an integral role in our national fight to reduce the overall cost of petroleum and its related products.

Mr. Speaker, over the past several years, Congress has made tremendous progress in the field of regulatory reform, with particular emphasis on transportation. The deregulation of airlines and interstate trucking coupled with greater competition has proven to be a financial asset to the American public. The benefits of deregulation come not only through reduced rates but also through a greater variety of services now available in these industries. This deregulation has not, contrary to popular misconceptions, wreaked economic havoc on the market and the delivery of these services. Rather, it has provided increased services and efficiency to the public at a reduced cost.

Mr. Speaker, surely these amenities should be extended to oil pipelines. With the growth of this industry, shippers now have a wide variety of options open to them, including intermodal, intramodal, and shipper exchange. The availability of these options has created competitive pressures which in turn have resulted in the establishment of fair and equitable prices for shippers and ultimately, the consumers.

However, despite this demonstration of healthy competition and the adequate shipper/consumer protection provided, FERC remains burdened with the responsibility of setting rates for oil pipelines. Further, FERC is saddled with the dilemma of how to methodically and satisfactorily set rates for this industry. Heretofore, FERC has been unable to come up with an adequate method simply because it is impossible to establish a system of rates designed to foster competition when in fact, competition is already present.

Mr. Speaker, the time has come to relieve FERC of this regulatory burden of ratemaking and let the marketplace work its will.

The legislation we are pleased to introduce today does not eliminate total regulation of oil pipelines. Common carrier obligations and sanctions against discriminatory behavior will remain in tact and enforced. Instead, Mr. Speaker, our bill is designed to alleviate the very real burden of regulatory ratemaking. By eliminating this unnecessary regulation, American consumers will benefit immensely through stable and competitive pricing of oil transportation. I urge expeditious consideration and passage of this legislation.

Thank you, Mr. Speaker.●

THE PLIGHT OF NANDOR BERGER

HON. GEORGE C. WORTLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. WORTLEY. Mr. Speaker, I would like to take this opportunity to bring to the attention of my colleagues, the plight of Nandor Berger, his wife Anzhella, and their daughter Erika, who have repeatedly been denied permission to emigrate from the Soviet Union to Israel.

Nandor Berger served in the Soviet Army as a guard in a food storehouse from 1972 until 1974. He was not privy to any secret information. However, when he applied to emigrate to Israel in 1975, he was refused on the grounds of his military service. Subsequent to the application, Anzhella, a third-year chemistry student, was expelled from Uzhgorod University.

The Bergers have no permanent residence and are forced to move frequently. All of Nandor's relatives are in Israel. The Bergers would very much like to join Nandor's mother, brother, and sister there.

In spite of repeated refusals, the Bergers continue to file for exit visas in the hope that they will one day be able to join their family in Israel. Soviet Jews continue to be persecuted. The Bergers are only one of the many families who have suffered and been denied the freedom to join relatives outside the Soviet Union.

As Americans, we take the pleasure and priviledge of freedom for granted. It is something our forefathers fought to preserve and today it remains the basis of our society. But we are the lucky ones. The Bergers have not been so fortunate. I would like to urge you, as Americans who share the joy of freedom, to work with me for the cause of the Berger family. Soviet Jews have suffered, and been denied their freedom for too long. We must work together to see that this suffering and persecution ceases.●

SORTING OUT THE FACTS ON EL SALVADOR

HON. ELDON RUDD

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. RUDD. Mr. Speaker, opponents of the Reagan administration's program of economic and security assistance to El Salvador have freely utilized a wide range of statistics and clever rhetoric designed to misinform the American public on the situation in Central America.

These administration critics have sought to color the public's perception of conditions in El Salvador to give credence to the same sort of propaganda being disseminated by the leftists factions—whose primary objective is to bring the Salvadoran Government and the nation's already troubled economy to its knees. A major component of the leftist strategy is to concentrate on influencing America's public opinion. To this end, the spread

of misinformation among our media had been used effectively.

The prestigious publication, Policy Review, recently printed an article by LaSalle College economics professor, Joseph P. Mooney, appropriately entitled, "El Salvador—True and False." Professor Mooney's article addresses some of the common statistical facts which have been skewed by those who wish to use these facts to discredit the elected government in this small nation. Professor Mooney corrects these misperceptions with accurate figures regarding El Salvador's social and economic conditions.

The attached article is an excerpt from Professor Mooney's piece.

EL SALVADOR—TRUE AND FALSE

(By Joseph P. Mooney)

Mark Twain once remarked, "Get the facts first and then you can distort them as much as you please." Some opponents of U.S. policy in El Salvador have taken his advice to heart. They recite a depressing array of statistical facts about El Salvador that are intended to shock the public into opposing military and economic aid to the Salvadorean government. As a result, they often become institutionalized truths.

Statistics which are most often used to distort the reality of El Salvador include the following: 2 percent of the population owns 60 percent of the land; 50 percent of the population has a per capita income of $120 or less per year; 50 percent of the children die before age five; unemployment is more than 40 percent; and economic and social conditions were worsening during the 1970s leading to increased social unrest. But as poor as El Salvador is, its social and economic conditions are not as bad as they are portrayed. The facts are quite different from the "facts."

First, 2 percent of the population do not own 60 percent of the land. Since March 1980 El Salvador has undertaken a significant program of land reform. About 260 of the largest farms (1235 acres or more) have been expropriated. Another 60 were sold voluntarily to the government. These farms encompass about 23 percent of the country's 1,600,000 acres of cropland. In addition, tenants and sharecroppers working small farms which they did not own have been made legal owners. Moreover, when land reform was enacted, the government also nationalized the banking system as well as the export of coffee, cotton, and sugar.

The assertion that 50 percent of the people have per capita incomes of $120 or less per year is also untrue. Cash income is not always the same as total income; indeed the income of rural peasants in poor countries is mostly in crops they produce for themselves. Since per capita cash income in El Salvador almost tripled between 1969 and 1982, from $250 to $680—and in 1969 only 18 percent of the population had annual per capita incomes of $75 or less—it is obvious that the percentage of the population with per capita incomes less than $120 is far, far less than 50 percent.

The claim that 50 percent of the children die before age five is wildly inaccurate. The correct figure is 8.3 percent, which is bad enough but nowhere near the absurd figure tossed around by Ed Asner, the North American Congress on Latin America, and other supporters of the Marxist-Leninist Left. All informed observers agree that the rate of population growth from 1970 to 1980 was 3 percent, primarily because the overall death rate declined from 10 per 1,000 in 1970 to 7 per 1,000 in 1980. Clearly, the population could not grow at 3 percent a year if anywhere near 50 percent of the children died before age five.

Unemployment might be 40 percent, but no one really knows because, like all poor countries, El Salvador has no reliable data on unemployment. Whatever the actual rate is, it is high—the result of an economy that is a shambles because of the civil war.

Reporters and academics have frequently claimed that the increase in violence during the 1970's resulted from worsening economic and social conditions. But the evidence shows that the country was making considerable progress until the violence increased in recent years. From 1970 to 1978, Gross Domestic Product, adjusted for inflation, increased by 5 percent a year and real per capita product increased by 2 percent a year. Morever, food production increased by 44 percent—the second highest increase among the nineteen Latin countries, exceeded only by Brazil.

During this period, life-expectancy increased, the death rate decreased, and illiteracy declined; the percentge of government expenditures spent on public health, housing, and education was consistently among the highest in Latin America.

There is, of course, no doubt that poverty and inequality plagued El Salvador and that the political system was repressive. In short, the internal conditions of the country were typical of an underdeveloped country, although El Salvador is far from the poorest or most repressive. These conditions contributed to the outbreak of violence in the 1970s, so it is true that some of the fundamental causes of social turmoil were internal. However, the American Left has exaggerated the severity of economic and social conditions in El Salvador to make the case that the civil war is a purely internal uprising of oppressed peasants. Cuban and Nicaraguan involvement is dismissed as minor or nonexistent.

There can be no question whatsoever that the social turmoil in El Salvador was exploited by Cuba and Nicaragua, and the result was a sharp increase in violence in 1980 and 1981. Because of the high level of violence and the convincing evidence of Cuban and Nicaraguan aid to the insurgents, military aid from the U.S. is essential and justified. But the campaign of disinformation, including the use of the specious statistics, has weakened the Reagan administration's case for continued military and economic aid. A most disturbing aspect of the publication and continued use of phony statistics is that, except for unemployment data, the correct data are readily available in standard sources, such as the Statistical Abstract of Latin America, the publications of the World Bank, and the Inter-American Development Bank. Could it be that those who regularly use spurious data are deliberately misleading the American people?●

THE NEED FOR BAIL REFORM

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. MAZZOLI. Mr. Speaker, I would like to commend to the attention of my colleagues in the House of Representatives the following letter from Robert A. McConnell, Assistant Attorney General, U.S. Department of Justice.

The information contained in this correspondence pertains to an operation entitled FIST III. The purpose of this special operation was to locate and detain major criminal fugitives.

The success of the FIST operation is welcome news. But, it only underscores the flaws in our current bail procedures.

The statistics prove dramatically that we must reform our bail laws to insure that criminals are not allowed to roam the streets freely, committing additional crimes while awaiting trial.

The material follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AFFAIRS,
Washington, D.C., June 29, 1982.

Hon. ROMANO L. MAZZOLI,
Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

DEAR CONGRESSMAN MAZZOLI: As a Member of the Committee on the Judiciary, we felt that you would like to know that the Department announced last week the arrest of 302 fugitives in the New York City area. Enclosed for your information are facts relative to Operation FIST III, the third special operation to locate major fugitives during this fiscal year. The statistics on the operation highlight some of the most serious problems we face in law enforcement. For example, 57 percent of those arrested had previously been involved in violent crime. Those arrested were responsible for 3,014 previous arrests and convictions.

While the Operation FIST series has had dramatic results, the operations have also highlighted the pathetic state of our current bail procedures. As you know, FIST I (in the Miami area last fall) resulted in the arrest of 76 fugitives. Twenty-eight of these were arrested as fugitives for failure to appear or bond defaults on prior charges. In spite of this, 40 percent of these people who had a history of failing to appear again were given the opportunity to post a new bond or were released on their own recognizance. FIST II in the Los Angeles area had similar statistics. FIST II resulted in the arrest of 102 fugitives of which 17 were arrested for failure to appear or bond defaults in prior cases. Even with that experience, 40 percent of this group again were given the opportunity to post new bonds or were released on their recognizance. The figures for FIST III are even more dramatic! Of the 54 arrested for failure to appear or bond default in prior cases, 70 percent had the opportunity to post new bonds or were released on their own recognizance. Ten were released on their own recognizance. This situation is an outrage!

Much of the violent crime in our country is committed by habitual offenders but federal bail laws fail to give our courts the authority to make responsible release determinations with respect to dangerous offenders. Under present law, the only issue a judge may consider in setting pretrial release conditions is whether the defendant will appear for a trial. The Administration, like many in the Congress, believes that there is an urgent need for legislation to improve federal bail laws. Our proposals in this regard are contained in Title I of the Violent Crime

and Drug Enforcement Improvements Act of 1982, which, with your cosponsorship, was introduced in the House as H.R. 6497 on May 26, 1982, with bipartisan support. This legislation, among other things, would permit danger to the community to be considered in determining whether to release a defendant pending trail; provide consecutive sentences for crimes committed on pretrail release and increase the penalties for bail jumping. If we are to be serious about fighting the crime menace this legislation needs to be enacted quickly. The legislation would also make other necessary changes to correct the imbalance favoring the lawless over the law. We would greatly appreciate your active assistance in moving this legislation forward as rapidly as possible.

Yours sincerely,

ROBERT A. MCCONNELL,
Assistant Attorney General.

FACTS ON FIST III

The Department of Justice today concluded the third special operation in this fiscal year to locate major fugitives. The operation which was conducted jointly by the United States Marshals Service and the New York City Police Department resulted in the arrest of 302 persons wanted in the New York City area. It focused primarily on Federal fugitives for whom warrants were outstanding and individuals designated as Career Criminals by the New York City Police Department.

Of the fugitives taken into custody, 57% were previously involved in violent crime and the total number arrested were responsible for 3,014 previous arrests amd convictions.

This special enforcement project was called Operation FIST III, for Fugitive Investigation Strike Team, and was carried out by the U.S. Marshals Service and the New York Police Department over a 10 week period. Using an abandoned warehouse on the East River as its headquarters, the FIST team began this operation in mid-April which culminated June 23, with the closing of 440 outstanding warrants.

FIST I was conducted by the Marshals in Miami last Fall and resulted in the arrest of 76 fugitives. FIST II was completed this past February in Los Angeles and resulted in 102 arrests.

The FIST III operation was an example of the Justice Department's overall effort of having maximum participation between Federal and local law enforcement toward the objective of reducing violent crime.

Through this type of assistance from Federal law enforcement agencies to local law enforcement and the newly established nation-wide network of Law Enforcement Coordinating Committees, the Department of Justice is continuing to give top priority to the reduction of violent crime throughout our nation.

The FBI program is an important component of the Department's overall efforts to concentrate all available resources against dangerous, major offenders.

FIST III arrests of 302 fugitives includes the apprehension of 147 state or local fugitives in the New York City area. The operation focused primarily on individuals for whom warrants were outstanding and the subjects were in a fugitive status. Of the 302 arrested during the operation 81 were charged with narcotics violations. The others had prior arrests for a variety of offenses—including murder, bank robbery, kidnapping, assault, armed robbery, mail theft, weapons and counterfeiting.

The operation resulted in the seizure of approximately two pounds of cocaine, heroin, marijuana, 45,000 quaaludes, with an estimated street value of $400,000, 21 guns and $2500 in bribe money. Highlighting the operation was the arrest of William Joseph Arico wanted by Italian authorities for murder and wanted in this country for escape, bank robbery and jewel theft.

A total of 43 personnel from the New York City Police Department and the U.S. Marshals Service brought this operation to a successful conclusion.●

SKELTON PRAISES LOVERCAMP'S LETTER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. SKELTON. Mr. Speaker, last month the National Research Council of the National Academy of Sciences released a report which purported to show a link between diet, specifically the eating of meat, and cancer. Shortly, after the report appeared, I received a letter from a constituent, Mr. Fred Lovercamp, the president of the Missouri Port Producers Association. Because Mr. Lovercamp's letter puts the dispute over this report into perspective better than anything I have seen, and I am inserting it in the RECORD so that all of our colleagues in the House will have the opportunity to read it. As Mr. Lovercamp points out, newsstories often dwell on the most sensational aspects of such a report, failing to question whether the report's conclusions are based on conclusive scientific evidence or not. Fred Lovercamp advocates a commonsense approach in these matters. The text of his letter follows:

Once again the red meat industry is the victim of a glamorized news story based on a report without conclusive scientific evidence to support the statements made. I have reference to the report issued by the National Research Council of the National Academy of Sciences carried nationally by the news media the week of June 14, 1982.

Following are quoted excerpts from the report as presented by the media: "In general, the evidence suggests that some types of diets and some dietary components tend to increase the risk of cancer, whereas others tend to decrease it—The mechanisms responsible for these effects are not fully understood, partly because nutritive and nonnutritive components of foods may interact to exert effects on cancer incidence. . . .

Eat less food high in any kind of fats, saturated or unsaturated. The main sources of fat in the American diet are meats, whole-milk dairy products and cooking oils.

Eat very little salt-cured, salt-pickled and smoked foods, including sausages, smoked fish and ham, bacon, hot dogs and bologna and other so-called luncheon meats."

I am convinced the average consumer will not dwell on the negative aspects of the report but only on those statements which link the eating of meat products with cancer. The damage has been done. Even though counter explanations are presented first impressions are more lasting. Follow-up articles are not as newsworthy and therefore will not get national television coverage, and will be small items lost in the mid sections of printed media.

There have been in the past the antibiotic residue scare, the nitrite issue, the danger of micro-wave cooking of pork, to name a few. All of these have either been modified or retracted, but irreparable damage to the industry was done.

I am a strong proponent of freedom of expression and the press, but equally strong in feeling that with rights are accompanying responsibilities. As a pork producer I know that if conclusive evidence were presented that the product caused cancer I would be among the first to stop eating the product. Moreover, neither I or any other pork producer would continue to produce a product that would have such effect on our fellow human beings. We feel we are producing a healthful, nutritious product to provide food for an ever increasing population, and should not have to continuously combat such inconclusive and false information which has a negative effect on our product.

I am sending a copy of this letter to all of our Missouri lawmakers in Washington, D.C., and can with confidence express the feeling of over 6,000 members of the Missouri Pork Producers Association that hopefully legislation which would require some measure of accountability on agencies or individuals who make and/or publish information without conclusive evidence to back up their claims.

Since publication of reports such as the one I have reference to in this letter, as well as similar misleading information to the public, can have a devastating effect on an industry I feel there should be some protection for those industry people so affected.●

A LEGISLATIVE SOLUTION TO A BALANCED BUDGET

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. HYDE. Mr. Speaker, in an understandable frustration at the budgetary excesses of this Congress, and in anticipation of the justifiable anger of the taxpaying electorate, many of us are casting about for a legislative solution that will force responsibility and discipline on a Congress addicted to profligate spending. The most popular solution being advanced is an amendment to our Constitution mandating a balanced budget. I have grave misgivings that this is an effective or even appropriate remedy, and I have written an article expressing these concerns, portions of which appeared in the op-ed pages of the Chicago Tribune and Washington Post.

I dislike burdening my colleagues with lengthy reading, but I earnestly hope before further commitments to the amendment make its passage by Congress an accomplished fact, that they will at least consider the problems discussed in this article.

89-059 O-86-26 (Pt.13)

Congressman WILLIAM HUGHES of New Jersey and I have introduced a bill (H.R. 6834) that meets some of these objections, and I trust in the debate that will develop, our statutory remedy to the seemingly intractable problem of enormous deficits will be given attention.

[The article follows:]

UNRAVELING THE ONION—THE BUDGET BALANCING ACT

(By HENRY J. HYDE)

There is a powerful train roaring down the track, gathering momentum every day—it's called a Constitutional Amendment to Balance the Budget. Many Congressmen are concluding that the better part of wisdom is to jump aboard rather than get rolled over by such trifling considerations as "will it work?"

The proposed amendment requires Congress to adopt a balanced budget every year, with a super-majority three-fifths vote needed to spend more than the government takes in. Revenues could not exceed the previous year's increase in national income, but this could be waived by a simple majority of the House and Senate. This latter proviso has the considerable virtue of requiring a specific vote to increase taxes, and thus Congress could no longer rely on deficit spending and bracket creep as sources of federal largess.

Back in 1975 some prescient taxpayers became convinced that Congress as an institution lacked the will to say "no" to more and more federal spending (after all, how else does a politician demonstrate sensitivity and compassion?) and that only the mandate of a Constitutional Amendment could achieve a balanced federal budget.

Our Founding Fathers provided two procedures to amend the Constitution, one where Congress initiates the amendment and the other where a Constitutional Convention does so. This latter method has not been used since our Constitution was first drafted by the Convention of 1787 and submitted for ratification. Any amendment, whether adopted by Congress (with a two-thirds vote of both Houses) or by a Convention, must be ratified by 38 states to be adopted.

Since Congress, dominated by political survivors, shows little zeal to inhibit its power of the purse, these taxpayers began a drive to obtain the necessary (34) state legislatures to call for a Convention to consider a Balanced Budget Amendment. By 1979, (30) states had passed the requisite resolution, but then the drive seemed to run out of steam. However, as the size of the contemplated deficits—exceeding $100 billion—began to sink in, the crusade took on new life and Alaska, on January 18th became the 31st state. This began to capture the attention of Congressional leaders and a strategy of "launching a turtle" was devised—hold prolonged hearings in the hope that the anti-deficit frenzy will die down. Such hearings are intermittently held by a House Judiciary Subcommittee chaired by Peter W. Rodino, Jr. (on which I serve) with no end in sight.

Paraphrasing Joe Louis' famous remark about Billy Conn, "we can run but we can't hide" from the issue. As enormous deficits loom and as Congress demonstrates its unwillingness to perform major surgery on the budget, a closer look at this proposal is very much in order.

The driving force for balancing the budget arises from the almost universally held conviction that most of our serious economic ills—inflation, high interest rates, recession—can be traced to deficit spending. Republicans have always believed this with theological fervor, but now even Democrats are joining the ranks of the true believers.

We are endlessly reminded that a propsective $100 billion deficit is the "highest in history", but just what does this mean? Granted such a deficit would be the largest in history, but then so is the entire budget! Deficits ought to be measured against the size of the economy and the savings pool available to finance them. In 1976 the deficit was $66 billion in an economy of $3.1 trillion—a smaller deficit!

Of course high deficits are not harmless. They cause great anxiety in the money markets, especially when combined with a suspicion that inflation is not dead, only sleeping. But there are cogent arguments that the role of deficits are not that crucial in destabilizing our economy—but such arguments have few adherents in Washington these days, certainly not among Republicans and conservative Democrats.

If deficit spending is the devil, what price exorcism? What side effects might a balanced budget amendment cause to the national economy? The effect will be profound, because only twice in the past twenty years have we had a budget in balance.

The President's budget is sent to Congress in January, about eight months before the fiscal year begins. It is based on explicit economic presumptions which, as time passes and the free economy operates, may be validated, or, more likely, invalidated. There are so many unpredictable factors in financing government such as the timing of actual expenditures where long lead times are involved (as in multi-year programs), the presence of open-ended programs such as unemployment benefits and the future payment of as yet undetermined interest rates on the national debt. The point is—and it's an important one—federal revenues and expenditures cannot be precisely predicted nor controlled, the budget is significantly affected, not only by the program proposed but by the underlying assumptions about the performance of the economy. These are always optimistic, because no administration wants to predict failure for its economic policies.

There is an ongoing relationship between fiscal policy (or how much taxes shall we raise and how shall we spend these funds?) conducted by an elected Congress and monetary policy (at what rate shall our money supply grow?) conducted by the Federal Reserve Board. The latter group is independent and conducts its policy under conditions of confidentiality, whereas Congressional deliberations are quite public. Assuredly if fiscal discretion is limited by an amendment, increased reliance on monetary policy will follow in the event of economic destabilization. One can confidently predict that in such event the independence of the Federal Reserve Board would soon be under sharp assault.

In January, 1981, during David Stockman's confirmation hearings as Director of the Office of Management and Budget, he expressed serious reservations about a constitutional amendment to prevent deficit spending. On May 19, 1982, however, Mr. Stockman testified before our House Judiciary Subcommittee in favor of such an amendment, thus echoing President Reagan's support which was announced in his March 31st press conference.

Back in January, Stockman testified "but I think the very practical problem is how do you define spending? Once you begin to unravel that onion, it unravels and unravels forever . . . There are any number of innovative means that could be developed to circumvent that kind of . . . amendment."

Since January, however, it has become painfully apparent that Congress lacks the courage to make necessary cuts in entitlements and there is stubborn resistance to substantial tax increases. This creates the spectre of huge deficits and perpetually high interest rates. What to do?

Whenever problems are created by complex social or economic forces, there is an almost irresistable tendency to seek answers in slogans, cliches and populist asseverations. These include worthy goals to be achieved but often are woefully short on technical details concerning workability and ultimate consequences. The Equal Rights Amendment and the Nuclear Freeze Resolution are examples of stating desirable goals—but which raise serious questions that must be responsibly addressed. What of definitions? Enforceability? What new and unanticipated problems might arise? Ought we not spend some time thinking about these?

I suggest before we get emotionally and politically committed to any such proposition, some attention to detail is essential if we are not to be confronted with a new and equally frustrating set of difficulties.

What are some other problems with a Balanced Budget Amendment? Can we make some changes that will make it work?

First of all, should the Constitution be cluttered with economic policy prescriptions? Should it contain fiscal mechanisms so inflexible that unforeseen circumstances might require either legislative paralysis or cynical constitutional evasion? Too often reform laws are adopted and the first response of Congress is not how to conform but how to evade the new law. The debt ceiling law is a prime example.

Congress may feel it is lifting the burden of hard choices by transferring fiscal policy to the Constitution, but business cycles, with their contractions and expansions, are an unavoidable part of a free economy; when the economy contracts the same hard choices will present themselves. Shall we vote to raise taxes or try for a three-fifths vote to create a deficit? Or, toughest choice of all, shall we sharply cut spending?

Mr. Stockman was quite correct last January when he adverted to the ability of Congress to innovate when it comes to spending. True, some conventional off-budget outlays would be covered by the amendment, but what about indirect spending such as loan guarantees and federal mandates to both the private and non-federal public sector? Will Congress, in a perverse form of federalism toss some seriously burdensome fiscal responsibilities to impoverished state and local governments?

To those of us who worry about judicial activism on the part of unelected lifetime tenured federal judges, are we transferring budget decisions that belong in Congress to the courts?

One hates to be technical as the Budget Balancing Train rolls down the track, but there is a time-lag between policy action and cash impact, and won't this create a bias towards increasing taxes rather than lowering spending?

The experts tell us that cash flow changes resulting from new tax policy can be realized within three months, whereas cash flow changes owing to new spending policy re-

quire from three months to three years to enact, implement and realize.

Under the proposed Amendment (S.J. Res. 58, H.J. Res. 350), to increase the deficit, a super majority (60 percent) vote is required. To increase taxes requires only a simple majority. The latter may thus be easier to achieve and hence the bias towards increasing taxes.

There is a double bias against defense spending: under the amendment the only way to incur a deficit for defense by majority vote, is in the event of a formal declaration of war by Congress. But such declarations are anachronistic in the contemporary world. They bring into play a whole litany of war-time laws involving treason, censorship, trading with the enemy and a panoply of emergency powers that, under the particular circumstances, might be unwarranted and unwise. The most serious problem involves the impact such a declaration would have on other nations—soon allies of other countries would be following suit and a giant and irreversible step towards World War III would be taken. There are many dangerous situations where a partial mobilization might be appropriate or where, due to a state of belligerency elsewhere, it might be vital that we take steps to beef up our defense forces short of a declaration of war. But under the Amendment a 41 percent minority of Congress could block such action. Is this wise? Remember, just before Pearl Harbor the draft passed by only one vote in the House. We must exercise the greatest care not to paralyze our government in time of emergency.

To state the problem is to suggest a solution: change the requirement from a declaration of war by Congress to a Presidential declaration of national emergency affecting our national security interests.

The other bias against defense rests in the fact that, in an economic crunch, where outlay reductions are necessary to balance the budget, the last target will be entitlements and the first target will be the "controllable outlays," and 70 percent of these are for defense.

While recognizing the adoption of such an amendment might signal the money markets that we are serious about eliminating budget deficits, one can easily imagine a scenario where this Congress adopts such an amendment and four years or so are consumed in the ratification and implementation process. By then, many members of the present Congress will be gone, but in the interim, it will be spending as usual. The Wall Street Journal has termed this exercise "a game of Constitutional cop-out."

On the other side of the argument, some powerful allies are working effectively, including Milton Friedman, the National Taxpayers Union and the National Tax Limitation Committee and others—knowledgable and deserving of great respect. They present some virtually irresistable arguments—which can be summarized in seven short words: The federal budget is out of control.

David Stockman, in his Judiciary Subcommittee testimony in support of the Amendment, pointed out:

"Under current law, the Congressional Budget Office estimates that non-defense entitlements will cost $359 billion in fiscal 1983, and $1.2 trillion over the next three years. That huge sum embodies the essence of the fiscal problem and deficit crisis now upon us." Yet in the face of triple digit deficits and non-defense entitlement spending reaching one-half trillion a year in fiscal 1987, the Budget Resolution so agonizingly adopted recently by Congress has hardly reassured the financial markets that we are even close to balancing the budget.

Just what it takes to jolt Congress out of its relentless urge to spend is the big question. But wasn't that what the election of 1980 was all about? The voters really have the last word if only they will use it!

This issue is too important to remain bottled up in a subcommittee of Congress. It ought to be debated by the House and Senate.

But it would be a shame—a crying shame—if the Balanced Budget Amendment becomes just another artful dodge by Congress to avoid making the many hard choices inherent in the budgetary process, and essentially, at the heart of representative democracy.

ENHANCEMENT OF AVIATION SAFETY THROUGH TECHNOLOGY

HON. MARJORIE S. HOLT

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mrs. HOLT. Mr. Speaker, I am a firm believer in the enhancement of aviation safety. In this connection, we should do our utmost to exploit technology and the state of the art to augment flying safety for the passengers, our communities, and both commercial and general aviation. Recently, the Baltimore Sun carried a timely editorial, dated June 25, 1982, entitled "Orderly Skies." I commend it to my colleagues.

ORDERLY SKIES

Is it worth $9 billion to make the nation's airways safer? The answer has to be yes, though the price tag may sound as melodic as a sonic boom. J. Lynn Helms, head of the Federal Aviation Administration, is counting on the user-fee approach favored by the Reagan White House to make the investment palatable to Congress. He would have the Treasury come forth with an original appropriation of $3.9 billion, with the remainder to be funded through user fees over a 12-year period.

We leave it to Congress to figure out the finances. What is crucial in Mr. Helms' proposal, outlined at a recent convention in Baltimore, is a desire to make the world's safest air control system even safer. It also could become more efficient and faster-moving in the process.

The proposed $9 billion traffic control system would, for example, guide airline pilots from Los Angeles to New York by computer. This sort of advanced technology will soon be necessary because the 100,000 planes flying today (not all at once) will grow to 200,000 in nine years.

The FAA contends that the proposal would pay for itself in the long run and save $25 billion by the end of the century. It is the sort of arithmetic that has won the support of the Reagan budget office and generated favorable comment on Capitol Hill. Without the advances in computerized automation that the plan envisions, the number of air controllers would have to be increased to 28,000, Mr. Helms maintains. The traffic-control system is still trying to recover from last year's strike: It is slowing increasing the 9,500 controllers now at work toward the pre-strike level of 14,000.

One selling point is the fact that those who travel by air would pay for the bulk of the improvements through an increase in the tax on airline tickets—from 5 to 8 percent—and higher tariffs for aviation fuel.

Economics aside, airline passengers and pilots should find comfort in some features of the FAA's plan that includes an increase from two minutes to 10 minutes in the warning time for avoiding mid-air collisions. In addition, the proposed new system will provide pilots of both airliners and private planes minute-by-minute updates of weather conditions at their destinations.

Air passengers, especially the "white knuckle" breed that never lets go of the arm rests, can only applaud such promised marvels of technology.●

YOUNG MEN SHOULD NOT BE DENIED STUDENT AID

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. FORD of Michigan. Mr. Speaker, I strongly oppose the proposed amendment to H.R. 6030, the Department of Defense authorization bill, to prohibit young men who have failed to register for the draft from receiving Federal student aid assistance.

There are several justifications for disagreeing with the goals of this amendment. First, I believe that this measure is unconstitutional. It deprives young men of due process, in violation of the fifth amendment to the Constitution, and violates the 14th amendment by not providing for equal protection under the law. The amendment presumes a person guilty of not registering and potentially punishes him for a crime for which he has not been convicted, in violation of article 3, section 2, clause 3 of the Constitution. At the same time, the amendment fails to recognize the plight of the student, who for religious reasons, may desire conscientious objector status but has no outlet through the regular registration process to achieve this goal.

Mr. Speaker, our current Selective Service statutes provide for appropriate judicial procedures to try suspected offenders. In fact, if convicted, the defendant faces a maximum sentence of up to 5 years imprisonment and/or a $10,000 fine—no slight penalty.

Further, the implementation of an amendment of this nature would substantially increase the costs of administering the Federal student aid programs at a time when we have slashed the staff and administration budgets. Without question, it would spur massive quantitites of paperwork and further intrusion into the personal lives of individuals by the Federal Government, as a check was run on approximately 1.4 million 18- to 24-year-old

male student aid recipients. I am afraid this would cause even more delays in processing financial aid awards than we are currently experiencing. I do not stand alone in this belief. In a July 13 memo to Budget Director David A. Stockman on this amendment, Secretary of Education Terrel H. Bell stated that:

> The means to accomplish that end would require a level of unnecessary Federal intrusion and administrative complexity and burden which we roundly oppose.

Reportedly, Mr. Stockman agrees that another approach would be more satisfactory as well.

The issues before the House in regard to this amendment do not have anything to do with whether or not one disagrees with the draft. That is already the law. What I am recommending is that we reject a policy which is unnecessary, which discriminates against young men, which would be a regulatory nightmare, and which violates due process. I urge my colleagues to reject this unwise amendment.●

AMERICA'S MISSING CHILDREN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. SIMON. Mr. Speaker, an especially devastating tragedy descends on several U.S. households on any given day. It is the tragedy of missing children—children abducted by strangers, children who run away and never come back, children who are abandoned, children who become lost for one reason or another. Estimates about the numbers of children who disappear each year and who are not runaways fall generally between 50,000 and 100,000, but no one knows for sure.

There are far too many case histories that read like those of Adam Walsh or Etan Patz: Youngsters who disappear virtually from under the noses of their parents and who are later found dead, like Adam, or never found at all.

An unnecessary stumbling block to solving the growing backlog of cases is a lack of coordination among law enforcement departments and the Federal system, in great part because of our only halting use of an excellent crime-fighting tool. If your car is stolen, it is immediately logged on a register that any policeman can check. But if your child is missing, the information available to help in your search is nowhere near that useful and complete.

The proposed Missing Children Act, H.R. 3781, would provide a far more extensive use of this tool, the FBI's National Crime Information Center computer, to help track information about missing children. We propose creation of a missing children file on the computer, and also, for the first time, a file to collect information about unidentified bodies of children and adults. The added expense would be minimal, and the benefits would be great. We owe it to our children to make full use of all the tools at our disposal in the search for missing youth.

In its current issue, the Reader's Digest details the scope of the problem and provides a glimpse of the special kind of anguish which the families of missing children must endure. The article, by Gary Turbak, originally appeared in Kiwanis Magazine. I commend it to the attention of my colleagues:

MISSING: 100,000 CHILDREN A YEAR

(By Gary Turbak)

About 8:30 a.m. on January 7, 1980, Katheleen Mancil drove her daughter Marian Batson to school in Inverness, Fla. "See you tonight," Katheleen called as the petite, blue-eyed 16-year-old stepped from the car.

But she did not see Marian that night. Or the next. Or the next.

No one remembers seeing Marian after she left her mother's car. The day after her disappearance, her purse was found in a trash can about 25 miles from the school. She had joined the swelling ranks of children simply labeled missing.

Sheila and Katherine Lyon, ages 13 and 11, journeyed to a suburban shopping center on March 25, 1975, and were never seen again. In early October 1980, two-year-old Brandy Barlow vanished from her front yard. The list goes on.

Probably the most publicized missing-child case of late has been that of six-year-old Etan Patz. On May 25, 1979, Etan walked alone for the first time to his Manhattan school-bus stop and has not been seen since. Methodical searches with bloodhounds, helicopters, psychics, and phalanxes of police have failed to turn up any clues.

These are not isolated cases. Everyone close to the missing-child problem agrees that it is a large one—and growing. Statistics, however, are tough to come by. Boundaries between runaways, parental kidnap victims and children stolen by strangers tend to blur.

The best estimates are that about a million American youngsters leave home each year, with 90 percent returning in two weeks. Approximately 100,000 children are thus unaccounted for. Add another 25,000 to 100,000 stolen by divorced or separated parents, and the total becomes significant. "Kids who just disappear present a big problem that people had better start opening their eyes to," says Det. Sgt. Dick Ruffino of the Bergen County, New Jersey, Sheriff's Office.

Yet no single U.S. agency concerns itself exclusively with missing children on a national scale. Automobiles, handguns and silverware can be registered, traced and recovered more easily than children. "Our priorities are mixed up," says Ken Wooden, director of the National Coalition for Children's Justice. "If someone steal a car, he can be traced and caught because we have a computer system for tracing stolen cars. But children apparently aren't that important to us."

Each missing-child case has its own poignant drama and irony. In July 1976, 12-year-old Dee Scofield disappeared while running an errand at a Florida shopping center. Two days later, a classmate reportedly saw Dee looking out a van window, desperately forming the word "Help" over and over with her lips. Dee Scofield has never been found.

On October 18, 1981, Jimmy Rogers, 14, left his Hanson, Mass., home for a friend's house. He may have hitched a ride. He has not been seen or heard from since.

"Child snatching, kidnapping and the ugly things that happen to these kids are so horrendous that people refuse to deal with them," explains Stan Patz, father of missing Etan. "Trying to handle cases like ours on a local level is a tremendous impediment. We need a centralized, national clearinghouse with information about which children are missing and how they can be identified."

But most cases fall to local police, against whom some parents of missing children raise a litany of complaints. because so many children do run away from home, police label most missing kids runaways. And unless the child is very young or evidence of foul play exists, police commonly will not act on a missing child report for 24 hours. The reason: sheer work volume. A surfeit of violent crimes—most with injured victims and plenty of evidence—takes priority over the "maybe" crime of a missing youngster.

The heart-rending tragedy, of course, occurs when the child is not a runaway and could possibly have been helped if immediate action had been taken.

On the morning after Christmas, 1974, 13-year-old Janna Hanson went to a friend's house. A short time later, Doreen Hanson drove by to pick up her daughter; Janna wasn't there. Doreen immediately went to the police, but they wouldn't search for 24 hours.

When police did finally begin an investigation, it was too late. Janna's body was found after several months, and evidence indicated she had been murdered on December 26.

Parents also complain bitterly about the FBI's refusal to help find missing children. The FBI becomes involved in a missing-child case only when there's proof of a kidnapping—such as a ransom note—or evidence that the child was taken across state lines.

"The first-time disappearance of a minor should be prima facie evidence that a kidnapping has taken place," says John Clinkscales, whose son Kyle disappeared six years ago "The FBI could then become immediately involved, and there might be a chance of finding some of these children. We need help."

And answers. Parents always ask the inevitable: *Why? Why would someone steal a child? Why my child?* There are many answers, yet no answers.

A million couples a year divorce in the United States, and many of these cases result in child snatchings. For love, hate, spite or revenge, one parent steals a child from the other.

In December 1974, Gloria Yerkovich said good-by to her four-year-old Joanna as the girl left to spend the weekend with her father. She didn't want to go, but a court order had said she must.

Joanna never returned. The separation that was to last a weekend has stretched to 7½ years.

Despicable as a parental kidnapping is, these children may be more fortunate than others. At least there's a chance they will go

to school, grow up and lead a more or less normal life.

When a stranger steals a child, anything can happen. Parents of missing children hope that their child will end up in a loving, caring family, perhaps through blackmarket adoption. The cruel truth is that a missing child stands a fair chance of being murdered. Each year an estimated 2,500 children in the United States disappear and later are found murdered.

While the abduction and murder of a child is a senseless, psychotic act, many children are used for much more calculated reasons. Says Ken Wooden, "Kids are constantly being sought for the lucrative child-prostitution business. Most police departments and public officials aren't doing anything about it."

If fear about what may be happening to a missing child is the parents' primary emotion, frustration is the second. Often, little more is done once local police exhaust all leads. Teleprinted missing-child reports from one city do not carry a high priority in another. Verbal descriptions alone are often useless.

Out of desperation, parents turn to posting fliers and driving by parks and other areas frequented by children. "It's a totally helpless feeling," says Stan Patz. "There's just nothing more we can do."

In the past few years, however, various groups have been formed—usually by parents or relatives of missing children—to advise and comfort distraught parents. One such organization is Child Find, Inc., Box 277, New Paltz, N.Y. 12561. It maintains a toll-free number (800-431-5005) to be used by children searching for their parents or parents trying to identify missing children. Another organization is SEARCH, which publishes *The National Runaway/Missing Persons Report*, a magazine containing photos, descriptions and personal data that can help identify the missing. The report is distributed about every three months to 22,000 agencies and individuals in law enforcement, security, medicine and social service. SEARCH's address is 560 Sylvan Ave., Englewood Cliffs, N.J. 07632. (All correspondence should include a stamped, self-addressed envelope.) Phone: 201-567-4040.

But such efforts are not likely to solve the problem overnight. At present, hope is a parent's most sustaining weapon.

For some families, that hope does not cease even after a child's body is found. Says Doreen Hanson: "After our daughter's remains were discovered, we still kept searching, at least in our minds. For weeks after, I would see a girl on the street who resembled my daughter and I would hope in my heart that it was Janna.

"No one on the outside can understand the trauma taking place in a family that has a child missing. The frustration, the not knowing, the agony are beyond explanation."●

IN RECOGNITION OF CAPTIVE NATIONS WEEK

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mrs. HECKLER. Mr. Speaker, for 24 years this Congress has been observing Captive Nations Week. Every Chief Executive since President Eisenhower has set aside the third week in July for this purpose.

In our observation, we salute the brave people in over 30 nations around the world that live under the yoke of tyranny and of Marxist-Leninist ideology. In Eastern Europe, in parts of Asia, and within the Soviet Union itself, people lack the personal and political liberties that we so cherish here in the United States.

That these captive peoples worldwide have continued to maintain their ideals—their belief in human dignity and liberty—should be an example to us all and should serve to remind us of just how precious our freedom is.

As we take this time to speak out for their freedom, we should also recognize the countrymen and countrywomen of those in the dominated nations. The people from these captive nations who fled to the United States have worked tirelessly for their friends and relatives who have remained behind.

Since last year's observance of Captive Nations Week, we have seen an abrupt and brutal end to the growing light of freedom in Poland. The imposition of martial law in that nation in December 1981 provided a stark picture of life under a totalitarian regime. Afghanistan continues to be shadowed by the guns of the Soviet Union. Dissidents in Soviet Latvia, Estonia, Lithuania, and the Ukraine are harassed and persecuted.

Let the oppressors listen as we again raise our voices. We will not stop until all peoples in the world live in freedom.●

LETTER ON DENIAL OF SOVIET EXIT VISA

HON. JOHN L. BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. JOHN L. BURTON. Mr. Speaker, I wish to include for the RECORD my letter to the San Francisco Bay Area Council on Soviet Jewry concerning the denial by the Soviet Union of an exit visa to Ms. Tamara Belopolskaya.

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 19, 1982.

BAY AREA COUNCIL ON SOVIET JEWRY,
San Francisco, Calif.

DEAR FRIENDS: I regret that previously scheduled commitments prevent my joining you at the rally today to be held at the Soviet Consulate, in support of Tamara Belopolskaya and her attempts to emigrate from the Soviet Union.

Ms. Tamara Belopolskaya has unjustly been denied an exit visa from the Leningrad emigration office six times since her husband, Valery Krylov, was allowed to leave the U.S.S.R. last November. The last time she submitted her application, presenting an official invitation from her husband to join him in San Francisco, it was denied, and she then informed them that she will not eat until she receives permission to join her husband. She has thus lived only on water since June 28, and I understand that her husband will begin a fast today in her support.

The Soviet authorities have already been approached in this case, where I have written to both Mr. Andrei Bokov, Director of the Leningrad OVIR and Mr. Gregory Romanov, First Secretary of the Communist Party of Leningrad, on May 18, 1982, requesting that Ms. Belopolskaya be allowed to join her husband, but I have yet to receive a reply.

I fully support your rally, and find it fitting to remember all those whose rights to travel freely are curtailed, and to demand that they be given the opportunity to be reunited with their loved ones. I once again implore the Soviet authorities to grant Ms. Belopolskaya an exit visa so that she may be reunited with her husband.

I join you in this rally in speaking out against injustice. Please add my voice to yours in calling for Tamara Belopolskaya's emigration.

Peace and friendship,

JOHN L. BURTON,
Member of Congress.●

THE FTC AND ADVERTISING BY PROFESSIONALS

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. LENT. Mr. Speaker, recently, the American Management Association published a book by my constituent, Mr. Irwin Braun of North Merrick, N.Y. entitled "Building a Successful Professional Practice With Advertising." Mr. Braun, president of Braun Advertising Inc. of New York City, is an acclaimed authority in his profession, and his book was selected by Library Journal as one of the best business books of 1981.

I have inserted the first chapter of the book in the RECORD today because of what Mr. Braun says about an issue before the Congress. The Energy and Commerce Committee is considering the reauthorization of the Federal Trade Commission. A controversial part of that reauthorization concerns the regulation of the learned professions by the FTC and the 1977 Supreme Court decision on advertising by lawyers that touched off that controversy. Mr. Braun speaks to that issue in this chapter and I recommend that my colleagues consider his views.

CHAPTER 1—BEYOND THE SUPREME COURT DECISION

"It's a disgrace." . . . "It's not for me." . . . "It won't last." . . . "It demeans the profession." . . . These are some of the comments I have heard from professionals regarding advertising by their colleagues. It doesn't surprise me. Recent surveys of lawyers, dentists, and physicians indicate that the majority are against advertising at this time.

So why am I writing this book? Because I can confidently predict that in the not too

distant future the vast majority of professionals will be engaged in some form of communication. It could be on radio or TV; in the Yellow Pages, newspapers, or magazines; by direct mail; or outdoors. This prediction is based on current trends in professional advertising, the new concepts in the marketing of professional services, and the changing demographics of the tradition-bound professions.

Advertising by professionals has intensified since the Supreme Court ruled in 1977 that lawyers could advertise their fees. Most professions have seen their local and state associations draft new codes of conduct regarding advertising. Some have simply prohibited the use of false or misleading claims. Others have adopted strict codes prohibiting the use of guarantees, discounts, endorsements, or free consultations. Professionals are also prohibited from engaging in sensational, comparative, or flamboyant advertising.

Despite all the restrictions, The New York Times reported (February 12, 1979) that there had been widespread violations and abuses by professional advertisers in New York State. One lawyer ran an ad which contended that he never lost an uncontested divorce case. These violations prompted the New York City Consumer Affairs Commissioner to conclude that professional advertising is "a mess."

But who are these advertising professionals? According to a study conducted by the American Bar Association, they are mostly attorneys whose income is low. The American Bar Association found a definite relationship between advertising and income. When a lawyer's income is low, the likelihood of advertising is high. As income rises, the incidence of advertising decreases.

In most cases, these advertising professionals are recent graduates of professional schools who do not want to wait ten years to build a practice. This is a generation that was raised on mass communications and knows its impact. And these young people recognize that advertising could be a medium not only for attracting patients and clients but for educating them as well.

One young lawyer who opened a practice in a suburban shopping center said, "Advertising helped get my name known." He opened his practce without a client. A dentist in Tucson said, "Why should we exclude advertising from the other tools we employ in our practice? Properly handled, it helps us to reach out and treat people who might otherwise never receive proper dental care."

On the other hand, some professionals who advertise are established practitioners who are trying to reposition their practices. Noted criminal lawyer F. Lee Bailey and his associate, Aaron J. Broder, used small classified ads in Chicago and Los Angeles and on the front page of The New York Times to advertise their specialty in aircraft disasters. This prompted Advertising Age (January 15, 1979), the leading publication in the advertising business, to state, "With F. Lee Bailey, who is probably the nations' best-known lawyer, opting to advertise and doing it on the front page of the country's most influential newspaper, it is rather clear that legal advertising is here to stay."

MARKETING PROFESSIONAL SERVICES

The influence of these advertising professionals is already beginning to be felt. The prices of certain routine services have dropped considerably where there has been intense fee advertising. One physician who set up a cosmetic surgery center said, "Advertising promotes healthy competition, and competition promotes lower fees."

The 1980s will be a decade when professionals will experience a new kind of competition. The number of professionals is increasing each year, and the government is forecasting surpluses even for physicians in a few years. There is already an oversupply of lawyers, and the competition continues to grow. Furthermore, the increased scrutiny of professionals by the media, government, and consumer groups has also heightened competition. Finally, we can anticipate that competition in the marketplace will grow as more and more professionals devise new concepts for marketing medical, dental, and legal services. These mavericks would like to do to their professions what H&R Block did for tax preparation: standardize the service and deliver it to the greatest number of consumers.

One such innovator was a dentist who was rapidly setting up dental centers in a retail chain throughout the country. "Dentistry," he said, "is still being practiced as it was 75 years ago, with dentists barely tapping the market of this $10 billion industry." A young lawyer who was busily setting up legal clinics all over the United States predicted, "You will see a real revolution in the way professional services are delivered in this country." This revolution is the marketing of professional services for the first time to the American public. What is marketing? Simply stated, marketing is analyzing the marketplace and taking advantage of the results of the analysis. It is the way most businesses sell a product or service. More than any other business function, it seeks to expand volume and profits by determining the needs of consumers and satisfying them.

To market your services, you need to identify what your clients/patients want and then fill the need. And you have to determine how much they are willing to pay for these services, so that you can still make a profit.

Marketing can give you a certain image, which may appeal to either a broad or limited segment of the population, depending upon what you want to accomplish. A practitioner can't be all things to all people. Define what makes you unique, and communicate this to your specific audience.

Communication has always been a vital ingredient in the marketing mix. Without it, selling any product or service in this communications-oriented society would be practically impossible. No matter how good a product or service is, you still have to sell it to the ultimate consumer. The old adage "Build a better mouse trap and the world will beat a path to your door" will not work in this age of communications.

Some of the largest companies in this country, like Procter & Gamble, are known for their marketing expertise. They use research to develop new products that fulfill a particular consumer demand and need. They then use all the components of the marketing mix—advertising, public relations, sales, and promotion—to deliver a product or service to a target audience at a competitive price.

Some of the recent trends in marketing professional services are discussed below.

CLINICS

Clinics are springing up all over in malls, shopping centers, storefronts, and department/discount stores—as daring professionals devise new techniques for delivering dental, legal, and medical services. These clinics recognize that the middle class has always been shortchanged when it comes to professional services. The middle class is being squeezed as the price of these services soars beyond the inflation rate. As a result, nearly half of all Americans do not seek regular dental care, according to a survey made by the American Dental Association in 1978. Similar findings for legal services have been well documented in major research studies. Close to 70 percent of the U.S. population do not have adequate access to attorneys. Furthermore, lawyers are consulted for slightly less than a third of all problems that could be called legal problems, reported the American Bar Association Commission on the Need for Legal Services in 1978.

Recognizing a need, lawyers have been opening clinics at an unprecedented rate. "There may be a legal clinic in every neighborhood in five to ten years. It is inevitable that this kind of operation will succeed," said Gary C. Huckaby, chairman of the American Bar Association's Committee on Delivery of Legal Services.[1] Before 1977, just a handful of clinics existed; by 1979, the number had soared to over 700.

What are these clinics? They are simply high-volume, high-efficiency firms. They range from local operations to multistate chains, from sparsely furnished offices to plush facilities employing the latest technology. The key to the clinic concept is to reduce the work load in the office by using preprinted forms, standardized procedures, and work sheets that can be handled by paraprofessionals and staff personnel. Equally important is the use of ancillary personnel to perform routine procedures that were previously done by professionals. Traditionally, lawyers have billed their time on an hourly basis: $75, $100, or $200 per hour. Clinics work on the principle of being more efficient and getting more done within the hour so they can then pass on the savings to the consumer.

Equally important, clinics concentrate on recurrent problems of the average citizen so that they can keep costs low. Legal clinics handle a wide variety of problems, including criminal cases, uncontested divorces, domestic relations, landlord-tenant cases, bankruptcies, real estate closings, and name changes. Complex litigation is handled by outside consultants who are hired on an "of counsel" basis and share the fee charged by the clinic. The administrative work is done by the clinic.

Clinics also save money by buying supplies in volume and using inhouse services (like dental laboratories). Computers are used to store and retrieve information, as well as to assess the management of each office.

Clinics depend on a large number of clients walking in and have learned that the road to success is paved with advertising. Stephen Meyers of The Legal Clinic of Jacoby & Meyers said, "Advertising is what makes it possible to generate a clientele large enough for us to deliver services efficiently."

PROFESSIONAL SERVICE CENTERS IN CHAIN STORES

More and more mass merchandisers, such as Montgomery Ward (No. 1), are setting up professional service centers where store customers can find legal, dental, optical, health-testing, and other services. The stores lease the space to the professionals or have other financial arrangements. Because of the large volume of clients, the fees

[1] "Legal Clinics: The Bargain Bar," National Law Journal, February 12, 1979.

charged by these professionals are generally lower than those charged by solo practitioners.

The professional center is a response to the one-stop shopping trend that is sweeping the country. Now that close to one out of two women work, people want the convenience of going to one place for all their shopping needs. They want to save time and money. And because of the high costs of operating a car, people are confining their shopping to one or two familiar stores that they trust.

Convenience is an important benefit offered by these in-store professionals. In addition to being centrally located, the service centers have day and evening hours, are open seven days a week, take credit cards, and have ample parking facilities.

The professionals recognize the importance of store traffic. One practitioner who opened a chain of dental centers said that "close to one out of three new patients is produced through store traffic." The loudspeakers in these stores announce the availability of professional services. Store circulars, flyers, and signs also point the consumer toward the professional center.

In addition, centers advertise continuously in newspapers and on radio. They also use transit and outdoor advertising. These centers enjoy another advantage: What they pay for advertising media is a fraction of what others pay. Because the chains in which they are located purchase large amounts of newspaper, radio, and other advertising, they pay the lowest possible rates. The professionals benefit from the volume discounts earned by the store and, consequently, they run extensive ad campaigns.

GROUP AND ASSOCIATION ADVERTISING

Groups of professionals are banding together to advertise under an umbrella name. This is happening among lawyers, dentists, oral surgeons, chiropractors, and accountants. These groups have anywhere from ten to several hundred members who pool their financial resources to hire advertising agencies to create programs that attract new patients and clients. One such group of lawyers uses radio exclusively and promises to put consumers in touch with specialists for their particular problems. Another group of dentists advertises in newspapers only, under the caption "Personal dental care at low fees," and lists the fees in the ad. In many cases, these advertising groups are associations, such as the American Dental Association, the American College of Surgeons, the American Medical Association, and regional and state bar associations. Some are trying to create favorable images for their members, while others are actually acting as referral services.

A lot of professionals like this approach because their names are never mentioned in the advertising. The only time an individual name is revealed is when the consumer calls a central telephone number for additional information.

PREPAID LEGAL, MEDICAL, AND DENTAL PLANS

Another trend that we can expect to see more of in the future is the rise of prepaid legal, medical, and dental plans. This is occurring throughout the United States as companies, unions, and credit unions offer employees/members extra benefits. They can buy these services in volume at a greatly reduced cost. These organizations can also see that quality control is maintained and that their employees get the best services at a reasonable cost.

Health maintenance organizations (HMOs) are typical of these types of prepaid professional plans. HMOs emphasize preventive medicine in order to eliminate the need for serious treatment later on. Payment is generally administered by a third party—an employer, a union, or a professional organization. The employee does not have to contend with bills, claim forms, or deductible payments.

The growth of HMOs is unprecedented as companies and unions question the effectiveness of their present third-party health programs. They want to see more innovation and greater efficiency in medical care. They also want lower premiums to reflect these changes.

Various national studies indicate the effectiveness of the HMO. Compared with conventional insurance plans, HMOs have an average of 200 fewer hospitalization days per thousand members and 25 percent fewer surgical procedures. Employees subscribing to HMOs have a 17 percent lower absenteeism rate compared with employees covered by standard insurance plans.[2] Other professional plans are also growing in size. The National Resource Center for Consumers of Legal Services reports that by 1985 an estimated 20 million Americans will be covered by prepaid legal plans, as compared with about 12 million in 1979.

FRANCHISES

There are significant indications that many professionals may go the franchise route. Government statistics reveal that 90 percent of all franchised businesses succeed over a two-year period compared with 20–30 percent of all independent businesses. The franchisers hope to do for the professionals what Century 21 did for real estate: establish an image of professionalism with a saturation advertising program.

The management of these franchises will consist of entrepreneurs and professionals, each having control over different aspects of the operation. Many professionals recognize the value of working with marketing, management, and advertising experts who can guide them in building a successful practice. The businessmen will be involved in developing marketing programs, including advertising and promotion. They will use television and other mass media to build an image for a particular franchiser. They will also be concerned with setting up management systems to help the practitioner become more efficient. The professionals will be responsible for establishing quality assurances and defining the parameters for acceptability from practitioner to practitioner. Quality control will be a major concern for these franchises.

In some cases, franchisers will seek independent practitioners; in other cases, they will set up offices in chain stores and then franchise them to individual practitioners to operate. The cost of buying a franchise could be several thousand dollars. In most cases, there will be a monthly percentage-of-gross charge to help cover advertising and management expenses. The financial arrangements will vary from franchise to franchise.

PACKAGED PROFESSIONAL SERVICES

In the future, you can also expect to see major American packaged goods companies getting into health care, legal, and other services. For example, a dentifrice manufacturer might set up dental care centers where dentistry is practiced and toothpaste, brushes, fluoride mouth rinses, cavity-proof plastic sealants, and other related products are sold. Such companies have the marketing expertise and financial strength to deliver services to the vast majority of Americans. They recognize that by using the latest technology, they can deliver a variety of professional services and products at a reasonable cost.

THE GROWING NUMBER OF PROFESSIONALS

Another reason I can predict that the majority of the professionals will be engaged in some form of advertising in the future is the number of new practitioners entering the ranks each year, with a resulting increase in competition. Professional schools are turning out practitioners at an unprecedented rate, and the numbers keep increasing. Just look at the figures:

Profession	Total number employed (1979)	Number entering per year
Lawyers	420,000	35,000
Physicians	350,000	14,000
Accountants (CPA's)	190,000	15,000
Dentists	110,000	6,000

As surpluses build up, the reluctance to advertise will lessen. Also, it appears that the acceptance of advertising is greatest among the younger lawyers, dentists, accountants, and physicians. Recent studies of students in professional schools indicate that a good percentage of these future practitioners are in favor of advertising to build their practices. One dental school conducted a survey of its freshmen and found that 32 percent planned to advertise upon graduation. Medical Economics (August 6, 1979), survey medical student leaders and discovered that these leaders "see nothing wrong with advertising and are likely to use it in their practices."

THE GOVERNMENT'S ROLE

There is another important factor that I would like to mention: the role of the government. The Federal Trade Commission has assumed an aggressive posture to see that all attempts at curtailing competition in the professions are eliminated. The government recognizes that the cost of dental, medical, and legal services has gone up way beyond the current rate of inflation. Medical costs, for example, soared 240 percent between 1968 and 1980, faster than the cost of any other basic living need, including food. One out of every 11 dollars spent by consumers is on health services. The government is inclined to keep these costs in line. It recognizes that open competition will bring the fees down on dental, medical, and legal services, and it will be pressing national, state, and local organizations to drop restrictions on professional advertising.

ADVERTISING CAN PRODUCE RESULTS

Has advertising by professionals worked? Yes, whenever the practitioner used knowledgeable advertising people. In many cases, however, professional advertising has been poor indeed. The ads, full of bold black type, tend to sell too hard and to make other professionals resentful and uncertain as to where it will all end. You see these low-image ads everywhere: "Dentures $50." "Divorces—Uncontested $150." "Dental Examination Free." On radio and television, you hear boasts of "surprisingly low cost" or "just tight budget" professionalism. From what I have observed so far, most professional advertisements tend to be amateurish

[2] National Association of Health Maintenance Organizations, "National Report," 1980.

and one-shot deals with no understanding of the need for continuity. In fact, an American Bar Association commission study concluded that most advertising by lawyers has been poorly planned and ineffective, both in spreading the message about legal services and in attracting new clients for specific practitioners.

Advertising has become a very sophisticated business over the last decade. It is no longer a hit-or-miss proposition. Advertisers want to know what they are getting for every dollar spent. They want accountability, and they use highly developed techniques to determine advertising effectiveness.

The average professional doesn't have the expertise or time to create innovative, effective communications programs. But with a little knowledge of advertising and what to expect from it, practitioners working with communications experts can create practice-building programs that project their individual strengths to specific audiences.●

KEEP THE OCOEE OPEN 100 DAYS A YEAR

HON. ROBIN L. BEARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. BEARD. Mr. Speaker, today I am introducing a resolution to persuade the Tennessee Valley Authority to permit white-water rafting on the Ocoee River in Tennessee for 100 days a year by having TVA suspend power generation using the waters of that river during that time period. Having recently experienced the excitement and beauty of a trip down the Ocoee in a raft, I can assure my colleagues that this unique natural resource should be denied to no one.

To the great chagrin of the Nation's white-water enthusiasts, the TVA has placed a small electric generating flume on the Ocoee River, which effectively transforms the turbulent waters of the Ocoee into a mere trickle of a stream. The power generated by this particular flume represents a minuscule portion of the TVA's total power generation: 0.0007 to be exact.

This resolution asks that the TVA defer generation for 100 days per year and let the waters of the Ocoee provide its natural excitement for the some 70,000 rafters who venture to the Ocoee each year. The resolution further asks that the TVA abandon its position that compensation for this minimal loss of generating potential be provided by either the rafters or the Government; neither are obligated to pay for a natural resource.

The revenues forgone amount to only $250,000 per year—a paltry sum when compared to the $6 billion nuclear reactor investment which had to be abandoned when the TVA finally acknowledged that it had miscalculated power demand in the Tennessee Valley. This $250,000 represents one-sixteenth of the total tourism dollars spent in the Ocoee region each year. Perhaps the TVA should be reminded that economic development in the Tennessee Valley is a primary objective of its founding charter.

H. CON. RES. 382

Whereas the natural resources of the United States should be available to all persons;

Whereas the annual electric energy to be generated by the Ocoee number 2 flume will represent only seven ten-thousandths of the total electric energy (1,015,000,000 megawatt hours) to be generated by the Tennessee Valley Authority in 1983;

Whereas the loss of electric energy from not operating the Ocoee number 2 flume for 100 days is only 14,600 megawatt hours;

Whereas there are more than 70,000 persons white water rafting on the Ocoee River each year; Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the Tennessee Valley Authority should not divert water from the Ocoee River, Tennessee, for the operation of the Ocoee number 2 flume for a minimum of 100 days per year, between April 1 and October 1 of each calendar year, and should not charge user fees for white water rafting on such river.

SECRETARY WATT, ONCE AGAIN, DRILLING IN TROUBLED WATERS

HON. TOBY MOFFETT

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. MOFFETT. Mr. Speaker, on July 21, 1982, the Department of the Interior announced its decision to go forward with a deeply flawed 5-year leasing program for the development of oil and gas on the Nation's Outer Continental Shelf. While such development can take place, under certain circumstances, in manners consistent with the protection of sensitive offshore ecosystems, the new Interior proposal will not provide adequate safeguards.

My Subcommittee on Environment, Energy and Natural Resources has been conducting an exhaustive investigation of the Interior's plans for these off-shore leases since early 1981. It is unfortunate, but essentially the case, that no more thought went into their latest proposal than that which surfaced relative to the leases in California.

On July 12, 1982, I along with many of my House colleagues wrote the Secretary and criticized this latest revised plan. Our letter is printed below.

It is my understanding that our colleagues from Massachusetts, Representatives MARKEY and STUDDS, will file a resolution of disapproval against this proposal in the near future. They certainly have my support, based upon the investigative work of my subcommittee. We have shown that the Secretary is "drilling in troubled waters," and urge that the newly announced plan be rejected.

The letter follows:

ENVIRONMENT, ENERGY, AND NATURAL RESOURCES SUBCOMMITTEE, OF THE COMMITTEE ON GOVERNMENT OPERATIONS,

Washington D.C., July 12, 1982.

Hon. JAMES G. WATT,
Secretary, Department of the Interior,
Washington, D.C.

DEAR SECRETARY WATT: The orderly development of oil and gas resources on the Outer Continental Shelf is a vital national interest. Pursuant to that interest the Congress required in the OCS Lands Act Amendments (OCSLAA) of 1978 that the Administration prepare a five-year OCS plan to ensure that exploration and development occur in an orderly and environmentally safe manner. We have reviewed your revised five-year plan for OCS development and seriously question whether it defines a program that can be carried out with the proper environmental safeguards as required by law. We also have serious questions concerning the fair market return to the public that will ensue from this program.

The following problems with your five-year program must be addressed before this plan goes forward:

1. The Department of the Interior has failed to give serious consideration to objections made by virtually every coastal state on the size, timing, and location of lease sales off their coasts. Furthermore, Interior has attempted to minimize states' ability to have a meaningful partnership with the federal government over the manner and scope of development off their coasts. The Administration's failure to address the concerns of the states e.g. OCS air quality, pipeline use and tanker transport prohibitions, and its attempts to minimize state input have resulted in increased litigation against the Department of the Interior, further delaying a program already behind schedule.

2. A primary concern of the states which we share is that the new area-wide offerings place an excessive burden on agency field staff. The offering of entire planning areas severely limits the staff's ability to gather and analyze, prior to leasing, sufficient detailed information concerning environmental and marine life effects as well as the onshore impacts of oil and gas exploration and production. Likewise, both government and industry will be strained to collect adequate and accurate pre-lease information on available oil and gas reserves and geologic hazards. These area-wide offerings and the accompanying abandonment of tract-specific analysis of environmental risks, will make it difficult to meet the requirements of the National Environmental Policy Act; similarly, it is questionable whether the requirements of the OCSLAA to balance energy production with environmental and other concerns can be met. The U.S. Geological Survey should continue to provide site specific resource estimates and geohazard information. The present environmental studies program must be preserved and strengthened.

3. The plan does not adequately consider other very important coastal resources dependent upon healthful natural ecosystems, nor does it thoroughly examine potential effects from OCS drilling and production operations on the economies of businesses related to those resources. Specifically, the program does not provide adequate protec-

tion for the fisheries of Georges Bank, the commericial and sport fisheries and tourist industries of California and Oregon, or the fisheries of Alaska. The plan tends to understate and in some cases ignore the likely technological limitations of industry for exploring and developing frontier areas when faced with many new and unfamiliar challenges.

We urge you to revise your streamlining OCS program so that information necessary for informed decisionmaking is available prior to each lease sale.

Moreover, the streamlining procedures which shorten the leasing process in frontier areas from an average of 44 months to 24 months will not allow sufficient time for states and local governments to collect and analyze information so that they can plan for the on-shore impacts of development and so that environmentally sensitive areas can be adequately protected.

4. The program fails to provide sufficient time to analyze the information generated by the first sale in a particular area before reentry is permitted in a second sale. Most areas will experience second leases in two years. This timing problem is particularly critical in the many frontier areas being offered for lease, where little data already exists on the environmental sensitivity of hydrocarbon potential and value of those areas. It will be impossible, for example, to gather sufficient information from the first sale at Georges Bank. As the Massachusetts delegation has pointed out, two and one-half years after that sale more time is still needed to obtain and analyze environmental information before the next lease sale is held in the North Atlantic.

5. Finally, on economic grounds we question the wisdom of offering virtually the entire coast of the United States for sale in just five years. At a time when the oil market is glutted and the price of oil is depressed, it is folly to make available the entire Outer Continental Shelf. Lease bids will be driven down by present oil market conditions, by the huge increase in the number of tracts offered, and by the inability of industry and Interior to analyze accurately the potential of these huge areas. The Department's decision to turn fair-market value determinations over to the "market" under such conditions only increases the likelihood that the public will not realize a fair return.

All of these concerns have already been expressed to the Department of Interior by the coastal states and other interested parties. We believe that your proposed plan lacks the Congressionally-mandated balance between potential environmental and coastal impacts and resource development. We urge you to reconsider this misguided and unnecessarily hasty program in light of the many objections that have been raised and to withdraw it in favor of a more realistic, environmentally sound and fiscally responsible one.

Sincerely,

Toby Moffett, Don Bonker, Don Edwards, Phillip Burton, Henry A. Waxman, Barney Frank, Tom Lantos, Barbara B. Kennelly, George E. Brown, Jr., Thomas J. Downey, William Ratchford, Leon Panetta, Norman Y. Mineta, John Burton, Al Swift, James Weaver, Thomas Foglietta, Sam Gejdenson, Les AuCoin, Ron Wyden, and James Scheuer.●

EL SALVADOR—NOT ANOTHER VIETNAM

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. SHUMWAY. Mr. Speaker, I recently read an article penned by Edward L. Fike, editorial page editor of the San Diego Union. Entitled "El Salvador—Not Another Vietnam," the article hits the nail on the head as far as I am concerned. I commend it to my colleagues' attention.

EL SALVADOR—NOT ANOTHER VIETNAM

(By Edward L. Fike)

A 14-foot "Specter of Death"—a macabre hooded figure labeled "U.S. Military Aid"—led a march in downtown San Diego recently in observance of International Women's Day. About 75 members of the Women's Peace Action group marched alongside this grotesque giant. Each woman wore a black gown to demonstrate grief for the women of El Salvador. All bore identical signs reading "U.S. Out of El Salvador."

As the originators of this protest had unquestionably hoped, a dramatic photograph of the death march went forth over the newspaper wire services to tell the world that, even in San Diego—this den of militaristic right-wingers—there burns a pure flame of outrage over U.S. policy in El Salvador.

Similar anti-American demonstrations are being orchestrated around the world; thousands of protesters have taken to the streets in European cities to portray the United States as chief villain in El Salvador's tragedy.

"If the warmongers in the Reagan administration would only cease and desist," presumably all would be sweetness and light in Central America. Strange voices echo this preposterous theme across our land and abroad. Ed Asner, the Hollywood actor, is a sad example. Exploiting both his credibility as television's incorruptible journalist, Lou Grant, and his presidency of the powerful 55,000-member Screen Actors Guild, Mr. Asner recently announced that he and a group of actors and filmmakers had donated $25,000 to buy medical supplies for the Marxist guerrillas, who are fighting to overthrow the lawful government in El Salvador.

When asked if he favored a communist takeover of El Salvador, Mr. Asner hedged a bit finally said ". . . if they choose communism, so be it . . ."

The tragedy, so obvious to everyone except Mr. Asner and his fellow liberals, is that the civil war in El Salvador is precisely aimed at denying a choice to the poor people of that ravaged little country. The last thing the guerrillas want is to give El Salvador a choice. Knowing they can't win at the ballot box, the Marxists stepped up their violence in order to sabotage the national elections held last March.

One must wonder why Mr. Asner and his coterie are not sending help to the tragic victims of communism instead of to the communists. In their expressed humanitarian concerns, they care more about Marxist guerrillas than about Cuban refugees, or the boat people fleeing Vietnam, or the millions of Afghan refugees crowded in squalid camps just outside the borders of their invaded land.

Hollywood hearts bleeding for today's Marxist guerrillas in El Salvador are as outrageous as would be, for example, American groups sending medical aid to the Nazis invading France and the lowlands during World War II. For, the hard truth is that the Cubans and Soviets have invaded Central America and they and their Marxist surrogates are primarily responsible for the bloodbath in El Salvador!

But while the ultra-liberals of this country confuse public opinion and seek to paralyze U.S. policy, the truth is there for those who seek it. Even the liberal Washington Post has the integrity to place proper blame on Marxist terrorism. A recent article by a Post correspondent in El Salvador related widespread guerrilla terrorism: "In three church-run centers near the provincial capital of San Vicente there are 1,500 refugees who say that left-wing guerrilla terrorism has ruined their lives. . . . The bloodshed has displaced some 500,000 persons or 10 percent of the population—as though all the people of California were suddenly homeless, penniless, frightened, and spread out across the United States."

Nevertheless, no assistance we know of is being organized in the United States for these devastated Salvadorans, and their grievous story goes largely untold. Without question, the Marxists are getting the best of the war of words in this country and around the world.

The government of El Salvador lacks the propaganda skills and experience of the Marxists, particularly the Cubans. The anti-communist cause in Central America has no zealous followers in this country to agitate in the streets and to command media coverage.

The result is that the Reagan administration's effort to sustain El Salvador against siege by Cuba and the Soviet Union has itself become the issue—instead of the establishment of a communist beachhead on the mainland of the Western Hemisphere. Senator Robert Byrd wants to tie the President's hands completely in El Salvador. He and others preach the arrant nonsense that in the tiny country of El Salvador the United States faces another Vietnam, and endless Asian-like quagmire.

The stark truth is that we face a national disaster in the communist takeover of all Central America and, as night follows day, a spreading bloodbath next door in Mexico. We are on the defensive and losing in an area of vital strategic importance to the United States. But public opinion remains confused and tentative.

If the United States is so divided as to be paralyzed in the face of such rising danger in Central America and the Caribbean, can anyone, least of all the Soviets, believe Americans would shed blood to defend Persian Gulf oil or European allies, or anything short of bombs falling on the White House?

Mr. Asner and his allies are right about one thing. We ought to be certain that El Salvador is not another Vietnam—with its defeat, its unending human tragedy, and its legacy of fear and appeasement!●

SOCIAL SECURITY DISABILITY BENEFITS

HON. ROBERT W. DAVIS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DAVIS. Mr. Speaker, I have introduced legislation today which will help to ease the hardships caused to many of the recipients of social security disability benefits whose eligibility is being reevaluated.

The Social Security Amendments of 1980 required an escalation of continuing disability investigations (CDI's). Previously, disability beneficiaries were reviewed only periodically to determine whether their physical or mental impairments continue to meet the disability requirements of the law. After two studies showed that approximately 18 percent of those receiving social security disability payments no longer met the eligibility criteria, the 1980 amendments included a provision that all those with nonpermanent disabilities be reviewed every 3 years and those whose conditions are permanently debilitating be reviewed every 5 years.

We would all agree that those who have regained their ability to work should be removed from the benefit rolls. However, the Social Security Administration (SSA) has gone way overboard in trying to weed out the 18 percent who are able to return to work. Recent SSA statistics demonstrate that for the period of October 3, 1981, through May 21, 1982, 234,721 CDI's were processed. Of that number 106,825—or 45.5 percent—were terminations. The rate of eventual reversals is close to 66 percent nationwide. While well over half of the terminated cases result in benefits being restored after the hearing, this does not ease the hardship created by many months without an income.

My bill will improve the present continuing disability investigation (CDI) procedure by:

Shortening the administrative appeals process by eliminating the statistically redundant State agency reconsideration for CDI's;

Extending the "grace period" in which benefits can be paid while the appeal is pending;

Resuming disability payments if SSA's hearing decision is not rendered within 9 months from the date the hearing request was filed;

Creating a uniformity of standards whereby all review levels would use the same disability eligibility guidelines. These guidelines would be determined by statute or subject to Federal rulemaking requirements;

Requiring a review for continuing entitlement within the first 3 years following the initial finding, with subsequent reviews at the discretion of the Secretary; and

Prohibiting a finding by SSA that the beneficiary can return to work unless a medical improvement can be demonstrated in the beneficiary's condition or combined effect of several conditions.

The tremendous hardships caused by the escalation of CDI's is common to each of our districts. Thousands of truly disabled individuals are being summarily removed from the benefit rolls. They must endure many months without an income while proceeding through an appeals process ill-equipped to handle this influx of cases. Most of these people are later reinstated—often after the repossession of appliances, cars and even homes. It is imperative that we act quickly to address this problem.

The legislation follows:

H.R. 6837

A bill to amend title II of the Social Security Act to improve the administration of such title with regard to disability benefits

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Social Security Disability Benefits Act of 1982".

EXPEDITED APPEALS PROCESS

SEC. 2. (a) Section 221 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(j) Whenever an individual receiving disability insurance benefits, or child's, widow's, or widower's insurance benefits based on disability, is determined not to be under a disability (whether as a result of a review under this section or otherwise), such individual—

"(1) may take any action provided by or permitted under this title to contest such determination immediately upon receipt of the earliest notice from the applicable State agency (or the Secretary) that such determination has been made, without the necessity of waiting for any formal notice of the actual termination of such benefits; and

"(2) shall in any case be entitled under subsection (d) to a hearing with respect to such determination (as described in the third sentence of section 205(b)) without the necessity of first obtaining reconsideration of the determination by such agency (or the Secretary).".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act (without regard to whether the determination involved was made before or after such date).

EXTENSION OF PERIOD BEFORE TERMINATION OF DISABILITY BENEFITS

SEC. 3. (a)(1) The second sentence of section 223(a) of the Social Security Act is amended—

(A) by striking out "third month" each place it appears and inserting in lieu thereof "seventh month"; and

(B) by striking out "15 months" and inserting in lieu thereof "19 months".

(2)(A) Sections 202(d)(1)(G), 202(d)(6)(E), 202(e)(1) (last sentence), 202(f)(1) (last sentence), and 223(e) of such Act are amended by striking out "third month" each place it appears and inserting in lieu thereof "seventh month".

(B)(i) Sections 202(d)(1)(G), 202(e)(1) (last sentence), and 202(f)(1) (last sentence) of such Act are amended by striking out "15 months" and inserting in lieu thereof "19 months".

(ii) Sections 216(i)(2)(D) and 223(e) of such Act are amended by striking out "15-month period" and inserting in lieu thereof "19-month period".

(3) Section 1631(a)(5) of such Act is amended by striking out "second month" and inserting in lieu thereof "sixth month".

(b) The amendments made by subsection (a) shall apply with respect to disability insurance benefits (and supplemental security income benefits based on blindness or disability) for months ending with or after the date of the enactment of this Act, but only in the case of individuals who are entitled to such benefits for one or more months ending with or after such date.

RESUMED PAYMENT OF DISABILITY BENEFITS DURING APPEAL

SEC. 4. (a) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"RESUMED PAYMENT OF BENEFITS DURING APPEAL

"(g)(1) In any cases where—

"(A) an individual is a recipient of disability insurance benefits, or of child's, widow's, or widower's insurance benefits based on disability,

"(B) such individual is determined not to be under a disability, and as a consequence such individual is determined not to be entitled to such benefits,

"(C) a timely request for a hearing as provided in section 205(b) with respect to the determination that he is not so entitled is made under section 221(d), and

"(D) as of the end of the ninth month following the month in which the request for the hearing is made, no decision upon such hearing (without regard to whether the decision constitutes the final decision of the Secretary) has been made,

the payment of such benefits, and the payment of any other benefits under this Act based on such individual's wages and self-employment income, shall be resumed for an additional period beginning with the month following the ninth month referred to in subparagraph (D) and ending with the month preceding the month in which a decision is made upon such hearing (without regard to whether the decision constitutes the final decision of the Secretary).

"(2) If the decision (referred to in paragraph (1)) upon the hearing affirms the determination that the individual is not entitled to the benefits, any benefits paid under this title (for months in such additional period) pursuant to the resumption of benefit payments under this subsection shall be considered overpayments for all the purposes of this title.".

(b) The amendment made by subsection (a) shall apply with respect to determinations (that individuals are not entitled to benefits) which are made on or after the date of the enactment of this Act.

TERMINATION OF BENEFITS BASED ON MEDICAL IMPROVEMENT

SEC. 5. (a) Section 223 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"TERMINATION OF BENEFITS BASED ON MEDICAL IMPROVEMENT

"(h)(1) Except as provided in paragraph (2), an individual who is a recipient of benefits under this section, or child's, widower's, or widow's insurance benefits based on disability, may be determined not entitled to such benefits as a consequence of a determination that he is not under a disability only if the Secretary makes an affirmative finding that—

"(A)(i) there has been a medical improvement in the condition or conditions constituting the physical or mental impairment on the basis of which entitlement to such benefits was originally determined such that, when taking into account solely such condition or conditions, the individual is no longer under a disability under the standards for disability in effect at the time the entitlement to such benefits was originally determined, and

"(ii) the individual is not suffering any other physical or mental condition or conditions which, when taken as a whole together with the condition or conditions referred to in clause (i), constitute a physical or mental impairment on which a determination of disability may reasonably be based, without regard to whether any such condition individually constitutes such an impairment, or

"(B) the original determination that such individual was under a disability was clearly erroneous under the standards for disability in effect at the time the entitlement to such benefits was originally determined.

"(2) Paragraph (1) shall not apply in the case of a determination that an individual who is a recipient of benefits is not entitled to such benefits based upon a finding made in accordance with subsection (d)(4) that services performed or earnings derived from services demonstrate such individual's ability to engage in substantial gainful activity, or based on a finding of fraud.".

(b) The amendment made by subsection (a) shall apply with respect to determinations made on or after October 1, 1982.

PERIODIC REVIEW OF DISABILITY DETERMINATIONS

SEC. 6. (a) Section 221(i) of the Social Security Act is amended to read as follows:

"(h) In any case where an individual is determined to be under a disability, such determination shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, within three years after the date of the determination; except that where a finding has been made that the disability is permanent, such review (if any) may be conducted at such time as the Secretary determines to be appropriate. Where the review of a determination under the preceding sentence results in a finding that the individual continues to be under a disability, any subsequent review of the same determination shall be at the discretion of the State agency or Secretary (as the case may be); and at the completion of any review under the preceding sentence which results in such a finding the State agency or Secretary shall determine whether any such subsequent review appears to be appropriate and, if so, when it is likely to be conducted. In notifying any individual that he or she is entitled to benefits based on disability at the time of the initial determination of such disability, or that he or she continues to be entitled to such benefits as a result of a finding made upon a review under this subsection, the Secretary shall include a notice of whether a review or subsequent review under this subsection will be scheduled and, if so, the expected date of that review.".

(b)(1) Except as provided by paragraph (3), the amendment made by subsection (a) shall apply only with respect to reviews of disability determinations made in the case of individuals whose initial month of entitlement to benefits (based on the determination involved) is a month after September 1982; and section 221(i) of the Social Security Act (as in effect immediately prior to its amendment by this Act) shall be of no force or effect after September 30, 1982.

(2)(A) In the case of individuals whose initial month of entitlement to benefits based on disability was a month before October 1982, reviews of disability determinations for purposes of continuing eligibility shall be made at the discretion of the Secretary but (except as provided in subparagraph (B)) shall be limited in any calendar year to a number of cases which, when added to the number of cases (other than those involving disabilities found to be permanent) that are reviewed for the first time in such year under section 221(h) of the Social Security Act, does not exceed the total number of cases in which entitlement to disability insurance benefits under section 223 of such Act began in the preceding calendar year.

(B) In addition to the reviews permitted under subparagraph (A) in any calendar year, the Secretary may in his discretion review disability determinations in selected cases involving other individuals whose initial month of entitlement to benefits based on disability was a month before October 1982, but only to the extent that the Secretary affirmatively determines that the review of the selected cases will be cost-effective while assuring that sufficient personnel and administrative processing time will be available for the conduct of reviews of the highest possible quality under such section 221(h).

(3) Findings and decisions made as a result of reviews conducted under paragraph (2) of this subsection shall thereafter be treated for purposes of the second and third sentences of section 22(h) of the Social Security Act as though they had been made as a result of reviews conducted under the first sentence of that section.

UNIFORM STANDARDS FOR DISABILITY DETERMINATIONS

SEC. 7. Section 205(a) of the Social Security Act is amended by adding at the end thereof the following new sentences: "The Secretary shall assure that uniform standards are applied at all levels of adjudication in making determinations of whether individuals are under disabilitites as defined in section 216(i) or 223(d). Such uniform standards shall be consistent with applicable law and regulations, shall be subject to the requirements of section 553 of title 5, United States Code (relating to administrative procedure with regard to rule making), and shall be treated as public information required to be published in the Federal Register under section 552(a)(1) of such title (relating to public information; agency rules, opinions, orders, records, and proceedings), except that, in applying such section 552(a)(1) to such uniform standards, the last sentence thereof shall be disregarded.".●

CAPTIVE NATIONS WEEK

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. LAGOMARSINO. Mr. Speaker, on Monday, President Reagan proclaimed this to be Captive Nations Week, in accordance with a resolution passed by the Congress in 1959, directing the President to issue a proclamation each year "Until such time as freedom and independence shall have been achieved for all the captive nations."

In 1959, there were 22 nations listed in the original decree. Since that time, 11 other nations have been added to that list, including most recently Afghanistan and Nicaragua. The willingness of the Soviet Union to impose its will on other nations must not be underestimated. The examples of Soviet military action against Hungary in 1956, Czechoslovakia in 1968 and Afghanistan in 1979 demonstrate clearly that the Soviets will resort to force to impose their domination of other people.

While many have criticized the Reagan administration for its sanction against the Soviet Union's pressure against Poland, I believe they have served to deter the Soviets from invading Poland. Unlike the previous occasions when the Soviets marched troops in, especially in Afganistan, where they believed there would be little cost—ither political or economic—the sanctions have made it clear that there are severe costs that the Soviets must pay. They also must recognize that those costs will be even greater if they do not soon reduce the pressure on Poland and force an end to martial law.

I wish to commend this administration for its policy of characterizing Soviet threat and intimidation for being exactly what it is: A violation of the basic human rights of people to live and express themselves as they so choose. The Reagan administration policies represent, I believe, the basic spirit underlying the original resolution declaring Captive Nations Week:

It is vital to the national security of the United States that the desire for liberty and independence on the part of the peoples of these conquered nations should be kept steadfastly alive.

That is a policy not just for 1 week each year but for every week every year, and I am glad to see that it is being put into practice.●

END DEFICIT SPENDING

HON. WILLIAM J. HUGHES
OF NEW JERSEY
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. HUGHES. Mr. Speaker, over the past decade and longer, it has become increasingly clear that the Federal Government—especially the Congress and the President—must take effective action to get its fiscal house in order.

In particular, the problem of perennial deficit spending has now pushed the national debt past the $1 trillion level. Moreover, under current budget and tax policies, baseline deficit spending is projected to add another $400 or even more billions to that mind-boggling debt over the next few years.

For these spendthrift policies, we have paid a terrible toll. The purchasing power of the dollar is well below half of what it was in 1967, just 15 years ago, as inflation has destroyed savings and pensions, and wracked the hopes of the Nation's workers.

We have gone through wage and price controls, and endured a "boom and bust" economy as the Federal Reserve Board has attempted to control the money supply by raising interest rates, only to lower them again when unemployment became unbearable.

Today, we are in the midst of a protracted recession—a depression in some sectors of our economy, such as the housing and automobile industries—as the Fed has turned the screws tighter to offset the explosive inflationary impact of our current huge deficits. Some 10 million Americans want to work, but cannot find jobs.

Our Nation's agriculture, the backbone of our economy and the breadbasket of the world, has never been so threatened in recent history as farmers are squeezed between the vice jaws of falling commodity prices and draconian interest rates.

And, at the same time, by our actions, we have committed the terrible sin of saddling future generations of Americans—our progeny—with a crushing burden of debt.

Let me say to my colleagues that this is not a new problem, but it has become worse with each passing year, as each larger and larger deficit is piled up on top of the old.

That is why many among us were sounding the alarm years ago. We called for the adoption of sunset legislation, so that Federal programs would be questioned and pruned on a regular basis. We voted against debt increases, and against budget and spending proposals—no matter how well intentioned—which were bigger than we could afford.

Then, in 1978, we voted for an amendment that would mandate a balanced budget no later than 1981, a mandate we have tragically ignored.

The American people have recognized that failure, and they are now calling for the adoption of strong measures that will mandate a balanced budget.

They know that, in planning their own budgets for their families and businesses, they cannot spend more than they earn year in and year out. They expect their National Government to act just as responsibly in allocating their hard-earned tax dollars.

In response to that demand, the idea of a constitutional amendment for a balanced budget has caught on and grown in popularity. It holds out to the American people the hope that, at long last, fiscal responsibility will become firmly imbedded into our national policymaking progress.

As simple and as forthright as this appeal may be, however, it may prove to be a false hope. Indeed, enshrining this untested and untried concept into the Constituiton is a course fraught with economic danger, and burdened with delay.

Even if it were to be ratified tomorrow, by its own terms, it could not take effect until the second fiscal year following its ratification. And of course, ratification will take a number of years. This means more years of huge deficits, more years of high interest rates, more years of stagnation and underutilization of our industrial base, and more years of high unemployment.

This type of passing the buck to future Congresses, perhaps even to a future President, is not what the American people have in mind.

Accordingly, today I am joining with my good friend and colleague on the other side of the aisle, Mr. HYDE, in introducing legislation that will mandate a balanced Federal budget at all times, commencing with the 1984 fiscal year.

We have chosen this course for a number of reasons:

First. The American people demand and deserve action to balance the budget and eliminate deficits now, not in 1985 or 1986, the earliest dates we could hope to ratify a constitutional amendment to achieve the same result;

Second. This legislation can be adopted by a simple majority—without need for the two-third's votes required to approve a constitutional amendment, a number that may prove to be illusive.

Third. Legislation of this nature can be amended to cure defects if need be or eliminate loopholes, whereas defects in a constitutional amendment can be cured only by going once again through the arduous course of obtaining a two-thirds vote in the Congress and by three-fourths of the legislatures in the States; in the interim, because the Constitution is the supreme law of the land, we would be forced to operate under a defective process.

Fourth. An amendment to the Constitution is wholly unnecessary because there is currently no impediment—other than the lack of courage by this and preceding Congresses and Presidents—to adopting a balanced budget. There is nothing in the Constitution which prohibits this Government from exercising fiscal discipline.

Just as importantly, the adoption of legislation—as opposed to the straitjacket approach of a constitutional amendment—would give us time to work with this particular process to make sure that it is effective and in the public interest, and to make the refinements which might be required.

To this list of reasons, I would like to add my own warning to my colleagues as to how such a constitutional amendment might be enforced, a subject which has received very little attention. If, in setting revenue and spending policies, this Congress becomes stalemated among ourselves or with the President, we may very well find the courts being forced to arbitrate national priorities.

Let us ask ourselves how the proposed amendment would be implemented, and whether we really want the courts to set levels of military spending, ordering tax increases, or second guessing the level of social security benefits.

Do we, frankly, believe that the courts have done such a great job, in adjudicating complex social and economic issues, that we would be willing to abrogate to them one of the Congress most fundamental responsibilities?

Certainly the framers of our Constitution—the handiwork of Madison, Franklin, Washington, and others among our greatest thinkers—would not have thought so. Nor did they ever intend for this great document to become a vehicle for solving transitory economic or social issues—particularly in cases where the Constitution itself does not present a barrier to placing into law the consensus of the American people.

Many of our current scholars believe that a truly effective balanced budget amendment would have to be longer than the original Constitution, and would probably defy understanding by average Americans. Pursuing such a course would certainly make a mockery of this great document, particularly since the same goal can be accomplished legislatively, and much sooner.

I believe the course we are proposing will work, it will work now, and it will avoid the dangers inherent in enshrining an untested budgeting process in the supreme law of the land.

What the American people are demanding is fiscal discipline.

The legislation we are proposing will provide that discipline, and it could become law tomorrow if we so choose.

Let us make that choice; let us prove to the American people that we can act responsible, and in a way that will not do serious harm to our Constitution.

I urge all of my colleagues to carefully study the approach we have advocated, and join us in finally acting to end deficit spending in the fastest and most effective way possible.●

ANIMAL RIGHTS DAY

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. MICA. Mr. Speaker, Mrs. Gertrude Maxwell of Palm Beach, Fla., has requested that December 17 be declared "Animal Rights Day" by the Congress. I know of Mrs. Maxwell's humane concerns for the rights of all animals, and a congressional resolution would be especially timely considering recent events in south Florida. I know it requires 218 Members to cosponsor this legislation in order for the Subcommittee on Census and Population to give a favorable report. I have informed Mrs. Maxwell that I will be pleased to introduce an "Animal Rights Day" resolution when I have received the commitment of 217 other Members to cosponsor. Should any Member wish to cosponsor this resolution, please do not hesitate to contact my office.●

EASTERN EUROPE—THE ALPHA AND OMEGA OF THE WORLD STRUGGLE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DERWINSKI. Mr. Speaker, this week marks the 24th anniversary of Captive Nations Week, an observance in which we join to pay tribute to the courageous people of the captive nations, and to reaffirm our strong support for their desire to regain their basic human rights.

Dr. Lev E. Dobriansky, Chairman of the National Captive Nations Committee and a professor at Georgetown University, recently addressed the annual World Anti-Community League's conference. I wish to insert this statement for the Members attention:

EASTERN EUROPE—THE ALPHA AND OMEGA OF THE WORLD STRUGGLE

Ladies and Gentlemen, participants in this significant NARWACL Conference, it is indeed an honor for me to address you on the subject of Eastern Europe, which I have long argued is historically the alpha and omega of the continuing world struggle. It has not been easy to maintain this fundamental ground with all sorts of media-concentrated attention on sporadic events ranging from Peiping to Lebanon to El Salvador and now the Falkland Islands. But what else is new as we reflect back on the fleeting events of the past three decades, involving Korea, Cuba, Vietnam and the Mideast? None of these, alone or in toto, could possibly overshadow the prime truth in our complex world that Eastern Europe remains, and will remain, the alpha and omega of the contemporary world struggle.

At the very outset, let me emphasize that in presenting this basic perspective it is not intended to minimize the significance and importance of these episodic and some also persistent developments. On the contrary, they have borne and bear proportionate meaning to the world struggle. Not to be misunderstood, my initial point is one of a scale of relative importance, viewed objectively. As to the alpha of the perspective, there can be no question as to the origin of the struggle, starting with the first imperialist conquests of Soviet Russia (the RSFSR) in the period of 1918–22, leading to the coerced formation of the USSR. Scholars, analysts, officials, commentators, and reporters differ in opinion on this. What is the nature of their differences? Very simply, some have knowledge and understanding of these facts, many just don't. Worse still, some of the latter are even unwilling to learn and choose to go their insular ways.

Eastern Europe as the omega of our present world struggle is really the more important problem. Those who don't know the alpha can be readily referred to competent research materials. Those who do know—or pretend to know—have in many instances failed to sharpen and refine their concepts in terms of alpha knowledge or have lost the moorings of their basic perspective as they become progressively immersed in eruptive developments far beyond the sphere of Eastern Europe. To cite just one mooring of this basic perspective as to why Eastern Europe is and will remain the omega of the world struggle: in essential power terms, the USSR alone has a $1.3 trillion GIP (Gross Imperial Product) that exceeds the combined GNPs (Gross National Products, e.g. Bulgaria) and GMPs (Gross Multinational Products, e.g. Yugoslavia) of all the other Red totalitarian states in Central Europe, Asia and Cuba. If the product mix is considered (sophisticated weapons, conventional arms prowess, etc.) the disparity widens; if, in addition, the so-called satellites in Central Europe (East Germany, Romania, etc.) are properly viewed as integral parts of Moscow's outer empire, the power base is magnified far beyond anything Mainland China in combination with the other totalitarian states can possibly equate.

THE POLISH CRISIS

In the light of this basic perspective the crisis that emerged in Poland last December takes on monumental proportions. In a real sense it represents the most serious crack in the Soviet Russian Empire since World War II. I spent considerable time on national radio networks endeavoring to put this chief point across. The Solidarity movement in Poland was unprecedented, workers spontaneously organizing themselves to repudiate the supposed vanguard leadership of the Communist Party and properly demanding free voice and participation in an efficient management of the economy. The movement was one for progressive freedom, and anyone who thinks that freedom can be compartmentalized in this world of ours—the economic as against the political, the political as against the cultural and religious and so forth—is really not of this world.

Other essential features of this crisis must be taken note of, for the crisis has not passed yet. One is that once again it reawakened Western interest and concern as to where on this planet the chief source of global trouble and danger exists. It also revealed once again our unpreparedness to capitalize on the crisis. It may well be if the promise of intensified sanctions is not met, that the '81–82 Polish crisis will be strung up on the line of its precedents—the Czecho-Slovak one of '68, the Hungarian of '56 and the East German one of '53. Another vitally important point, virtually untouched in this period of commentaries and analyses of the crisis, is the inevitable overspill-effect of the unique Solidarity movement. An overspill not only in other sectors of Moscow's outer empire, but even, more importantly, also in its inner empire, the USSR itself. Workers' strikes and attempts at free unionism have even preceded Poland's Solidarity movement in Estonia, Russia and Ukraine.

The story of this critical development has not been concluded. The slick, Russian-contrived self-invasion of Poland and Moscow's perennial play on time and diversion will not conclude it, unless the West succumbs once again into a "business-as-usual" behavior, which could be plainly characterized as simple appeasement once again. Myopic "pragmatism" is the typical word to cover this trail in areas of diplomacy. In this crack in the empire the dominant facts are that Solidarity is doomed to extinction, the Polish Church under Archbishop Jozef Glemp is striving to eliminate the many suppressions imposed by martial law, and resistance pockets exist throughout Poland. The Prime point is what kind of accounting will be stage by the democratic governments of the West when martial law is finally lifted. Will they acquiesce or intensify the sanctions pressed by our President? This is the dominant point for the period ahead.

NOT TO BE FORGOTTEN AFGHANISTAN

Not to be forgotten in this type of integrative thinking is the other continuing crisis in Afghanistan. To be sure, Afghanistan is not a part of Eastern Europe, but by virtue of its rape by Moscow it becomes functionally related and has to be integrally considered in terms of the current, total picture. One obvious, important aspect is the concurrency of two ongoing crises facing imperialist Moscow. The opportunity for capitalizing on this time factor should also be quite obvious.

The over two-year, stern resistance by the Afghan patriots deserves the highest tribute of the Free World. However, one continues to wonder how much practical assistance has been extended to them. The exploitive use by Moscow of non-Russian soldiers in its most recent, attempted conquest—Turkestani, Byelorussians, Ukrainians and others—has not been seized upon by us or the West in any radio mobilization and concentration on these troops. Nor is there any such mobilization in consort with Mideast friends and others on the divide-and-conquer technique applied by the Russians in Afghanistan—Pathans against Hazaras, Uzbeks against Tadzhiks, etc.—with the country tribalized

and ethnocized. The old Russian technique employed 60 years ago in Turkestan, now with its five republics in Central Asia.

With these two ongoing crises, and a developing one within the USSR, can you visualize imaginatively what a concerted, nation-to-nation program could produce in behalf of peace, security and freedom? The developing crisis in the USSR engenders both the succession problem of the illegitimate Moscow government (the power plays of the Chernenkos and the Kirilenkos) with Brezhnev, following Kosygin and Suslov, bouncing back only too often, and mounting economic difficulties that the West, in concert, could judiciously intensify. Here we have a triangle of crises that must be interpreted iterrelatedly and plans worked out accordingly in a new nation-to-nation foreign policy, based on reciprocity, peace, security and freedom.

In this regard, another crisis of thought and perspective—a hopeful turning point—was provided last month is a most impressive ceremony at The White House proclaiming Afghanistan Day. In his remarks the President emphasized, "The Soviet Union must understand that the world will not forget—as it has not forgotten the peoples of the other captive nations from Eastern Europe to Southwest Asia—who have suffered from Soviet aggression." The necessary conceptual link-up—Afghanistan, Poland and all of the captive nations—is signified here. In his remarks on the occasion Vice President Bush elaborated this link-up further by saying, "But let's not forget the other nations that have suffered the same fate, both within and without the Soviet Union . . . countries from the Baltic States to the Ukraine to Uzbekistan."

THE CAPTIVE NATIONS FRAMEWORK

These two official statements are adequate to indicate that current thinking in our policy areas in finally on the captive nations thematic track. They suggest, too, the beginning of what could be accurately defined as a Nation-to-Nation foreign policy, which has been the essence of Public Law 86-90 (the Captive Nations Week Resolution) since its enactment in July 1959.

Now just a few, essential observations on this track of thinking. This law on our books is the only statutory commitment to the freedom of all the captive nations that one can find among all the parliaments of the world. The causal reasons for this disparate condition are many, but it would appear that much work lies ahead on the international scale. Interestingly enough, by documented record since World War II, no thematic idea has so consistently evoked concern and vituperation from Moscow, Peiping and the other totalitarian Red regimes than has the synthetic concept of captive nations as embodied in Public Law 86-90. The late Mikhail Suslov was especially acerbic in his reactions. If this is so, and indeed it is, the question then is why hasn't the central idea of the law been methodically implemented? It is far from being a single idea chiefly because as a fundamental framework of both reference and rational motivation it generates countless other ideas as it gains operational implementation.

Regarding Eastern Europe in particular, the simple answer to the question lies in the educational realm. Twenty years are just a speck of time to overcome myths, fables and perpetuated misconceptions concerning Russia, the USSR, its captive non-Russian nations. For example, even today you hear the misleading nomer "the Soviets", as though they are people or a nation or an ethnic group. In the USSR Soviets are councils of peasants and workers, rubber-stamp to be sure. Where did we derive this fudge term that serves only to misguide us in tailored policies to deal with such realities as Soviet Russian imperio-colonialism, the Soviet Russian Empire, the stark multinational vulnerabilities of this last remaining major empire on this planet? This is just one example; there are numerous others, such as merely "Soviet Empire", "Marxist imperialism", "Marxism-Leninism" and similar fables.

Briefly, then, the captive nations schema, based on historical, genetical analysis, starts at the beginning with the first Soviet Russian conquests of Armenia, Georgia, Ukraine and others before the very forced formation of the USSR and has neatly accommodated all subsequent conquests down to Afghanistan. The fact that parts of the totalitarian world, such as Peiping or Belgrade, may be temporarily at odds with Moscow—in no way alters the firm validity of the framework. The Polish self-invasion and Afghanistan's tragedy are additional confirmations in our period of this fundamental framework. If finally we are confidently on this track and its advancement of a Nation-to-Nation policy, then the time has come for a considerable conceptual sanitization, emphasizing the utter bankruptcy and myth of communism, the basic real force of Soviet Russian imperio-colonialism, and the captive non-Russian nations in Eastern Europe, extending to the Urals and even beyond.

POTENTIAL CAPTIVE NATIONS IN THE FREE WORLD

Today, El Salvador, Nicaragua; yesterday Ethiopia, Angola; beyond that, Vietnam, Laos and Cambodia, and the links continue backward. There's nothing new in this sequence, the techniques are as old as traditional Russian imperialism with its Tartar legacy. The only superficial things new are their Leninist nomer, the facade of communism, the perverted use of Marxism, and different geographical stages with different actors. This may appear as a bold and exaggerated generalization, and admittedly would require at least a college semester to justify. But the fact is that in long breadth and in essential substance this is generally so. Transient phenomena lend themselves to complexity, but it has always been the task of objective scholarship to penetrate the complex to its simple, not simplistic, determinants. And in our contemporary period this is not at all difficult within the framework of the captive nations analysis as well as synthesis.

This point can be elaborated at length, but permit just the question, "How much power would the Soviet Russian base within the USSR have to pursue these 'influence', 'subversions' and 'aggressions' in the non-totalitarian world were it without its extensive non-Russian resources both within and without the USSR?" In other words, what bearing has this external capacity to appear as the only other "super-power" on the status of Eastern Europe—again extending to the Urals? A measure of reflection within the captive nations framework would reveal the predominant point, among many others, of a multinational, unjust exploitation of the resource both within unvested Russia and the captive non-Russian nations for these global adventures toward dominion on the part of Moscow.

I urge you and our fellow-citizens to reflect on this dimension. East Germans, Czechs, Ukrainians, Moslem Turkestanis and others are heavily involved in Moscow's cold war, paramilitary and other operations in the Free World, an enormous range of resource exploitation to realize the potential captive nations in the non-totalitarian world. In your readings or TV listening have you ever heard of this basic dimension of multinational exploitation of captive nations by an imperial regime that vacuously professes to be the "Marxist" defender of the exploited. Poor Karl, if he were alive today, he would be the strongest anti-communist in terms of the Soviet Russian version and perversion. Aside from paramilitary operational Leninism, which fundamentally rests on the old Russian imperialist divide-and-conquer principle—so well seen in Afghanistan today—the only philosophical legitmacy the imperial Moscow regime can rest on today is its perversion of Marxism. Without the captive nations in Eastern Europe—and in another non-imperialist sense including the unvested parts of the Russian nation within the USSR, which has been captive to the essentially barbarian institutions of Muscovy for nearly five centuries—the RSFSR, Soviet Russia itself, would be a second-rate power today.

TRADE, PIPELINES, NUCLEAR FREEZES, ETC.

To the tune of still more provocative applications of this captive nations approach, with particular power and practical emphasis on the East European base, let me suggest these following ideas. One is the matter of trade, including the debate on the Soviet Russian pipeline to Western Europe. Having followed this carefully for three decades, I cannot but agree with Dr. Anthony Sutton of the Hoover Institution in California that through our myopic trade practices we and our West European allies have been substantially feeding the growth of this Soviet Russian monster—in terms of know-how and technology—to threaten our collective security today. After really three decades of vacillating and vague trade policy toward the USSR and Eastern Europe in general, the present Polish crisis provides us with the first galvanizing opportunity to squeeze the economic screws on the deteriorating USSR economy. Calling a default on Polish obligations would have sparked repercussions on both sides. The opportunity is still at hand to pursue a poltrade policy, intermixing political with economic values in our exchanges with Eastern Europe. In short, again with perspective on the problem, our Western European allies have every reason to complain about our vacillating politico-economic policies over the past quarter century. The opportunity, in the wake of the Polish crisis, is to do what must be done now, not as we have feeding the Soviet Russian imperial economy with "aid" through "trade".

Finally, as though this were without Moscow's involvement, the antinuclear campaigns in Western Europe and now here are in process. The patent illogic of the "freeze idea" and "the no-first nuclear strike declaration" are resurgences of past expressions of nuclearitis. We heard this in the 50's, again in the 60's, and now again. This strain of thinking can lead us back to Bertrand Russell's campaign for "Better Red than dead". Patently, these are roads along non-confidence and ultimate surrender. Aside from the technicalities and megatonage, etc., this reminds us of the paralysis conveyed by St. Petersburg through the West European countries with its "steamroller of millions of soldiers".

My chief point here is simply why through all this media, official and private, and particularly by these frenzied groups, doubtlessly with Moscow's indirect nudges and assistance, none has pressed for a consensus on the nuclear arms race behind the Iron Curtain. This mounted pressure would certainly give validity to the restraint cause, for which I and any rational being is for, with realism. Plainly, the challenge here to the zero-earth and similar movements is what resources are you prepared to offer to extract this captive nations consensus on the nuclear race—or are these millions who have no voice in the issue?

As I have tried to show, take each transient issue that whips up popular emotions, if you don't know the background, you're devoid of evolutional perspective, you're plainly vulnerable to the incessant Cold War tactics of imperialist Moscow. No matter how one approaches it, in the last analysis Eastern Europe remains the alpha and omega of the world struggle.●

SOVIET JEWRY

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. WEBER of Minnesota. Mr. Speaker, as a member of the 97th Congressional Class for Soviet Jewry, I believe the plight of the many people seeking to emigrate from the Soviet Union—the so-called "refuseniks"—must again be brought to the attention of Congress and the American people. Despite increased public awareness of continued visible oppression in Poland, Afghanistan, and other nations within the Soviet bloc, the "quieter" cases of thousands of Soviet citizens seeking emigration visas are no less deserving of our wholehearted encouragement and support.

According to the National Conference on Soviet Jewry, June figures for Soviets emigrating with Israeli visas have dropped from peak figures of 4,500 in June 1979 to a mere 182 this year—the sharpest decline in over a decade. This trend should figure prominently in any assessment of the Soviet Union's commitment, or lack thereof, to human rights, and should be placed high on the agenda of any future United States-Soviet negotiations.

As a demonstration of our concern for the Soviet Union's abysmal human rights performance, members of the 97th Congressional Class for Soviet Jewry have "adopted" various refusenik authorities. My family is Moisey Shtein, his wife Musia, and daughter Anna, who first applied for emigration visas to Israel over 3½ years ago. To date, they have been repeatedly refused, and are still waiting to join Musia's parents and sister in Israel.

Ironically, they had been granted the necessary permit only 2½ months after their initial application, and had sold all their belongings, resigned from their jobs, and sold their apartment in anticipation of the move to Israel. Shortly after that, however, a phone call from the OVIR told them that their permit had been revoked and that they would not be allowed to leave. To date, they still have not been given a legitimate explanation from authorities on any level as to the grounds for their refusal, being told only that it was related to Moisey's army service, completed over 13 years ago. That service happened to consist of working in horse stables for a rocket unit—rockets which he never saw.

Since we are marking the 24th anniversary of Captive Nations Week this week, I think this would be a fitting time to lend our support to Moisey Shtein, his family, and the thousands of others like them in the Soviet Union who are being continually denied their most basic of human rights. We must continue to let the Soviet Union know that this type of continued and unwarranted repression will not go unnoticed and will not be tolerated by the American people.●

LAW OF THE SEA TREATY

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. FIELDS. Mr. Speaker, I am entering into the RECORD for the benefit of my colleagues testimony by Mr. Doug Bandow, recently given before the Foreign Affairs Committee.

Mr. Bandow is currently editor of Inquiry magazine, and a senior policy consultant at the CATO Institute. He formerly served as a Special Assistant to the President, and was a Deputy Representative to the 10th and 11th sessions of the LOS Conference.

STATEMENT OF DOUG BANDOW

The Reagan Administration has taken a courageous stand in voting against the proposed Law of the Sea Treaty, an action, I might add, which was supported by all of the leading members of the U.S. delegation in New York. This vote should now be followed by a firm rejection of the treaty, and the new world order for which it stands.

The Law of the Sea Conference is not an isolated negotiation, but rather, an integral part of an international network of conferences, commissions, and organizations, through which the developing nations have been waging economic and political war on the developed states, under the banner of the New International Economic Order (NIEO)—a euphemism for old-fashioned greed.

The Third World nations want to create new, and restructure old, international organizations, to give them control, allowing them to enforce the mandatory redistribution of the wealth of the West. Their greedy demands extend to money, preferential commercial terms, natural resources, expropriated property, and technology.

Unfortunately, they have been succeeding. The Second Conference on the Global Environment recently concluded, with a predictable call for the establishment of the NIEO. The so-called Moon Treaty is based on precisely the same fundamental premises as the Law of the Sea Treaty. Further, the United Nations Conference on Trade and Development (UNCTAD), the World Health Organization, the United Nations Industrial Development Organization (UNIDO), and the Commission on Transnational Corporations all are continuing work on redistributive, burdensome, and perverse regulations and programs.

Related to the NIEO is the New International Information Order, which translates into restrictions on the world press. These efforts have been led by the United Nations Educational, Scientific, and Cultural Organization (UNESCO). If resources are the common heritage of mankind, it is only logical that information is as well.

What we are seeing is a wholesale attempt to institute totalitarian global management based on principles that have manifestly failed again and again at the national level. Signing the Law of the Sea Treaty is so important because it would legitimize these principles.

The treaty would, for the first time in history, establish an international institution under Third World domination to redistribute international wealth. Proprietary American technology would be subject to involuntary transfer, and terrorist groups would be eligible to share in revenues from an international body. And a byzantine, stifling, and discriminatory international regulatory system for natural resources would be created.

Perhaps the greatest tragedy of the treaty is not that it is so obviously and grossly against our interest, but that it is against the interest of the developing countries as well. Instead of freeing developing country peoples from the stultifying economic systems, corruption, and political oppression that make them poor, the treaty would create yet another counter-productive bureaucracy that would retard economic growth and make it harder for these peoples to escape poverty. This is an international disaster, not an achievement.●

PLAYING POLITICS WITH SOCIAL SECURITY

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DUNCAN. Mr. Speaker, the future of the social security system has become a political football to many Members, rather than the serious matter it should be to my colleagues. All too often this important issue simply becomes a matter of political pandering. A recent editorial in the July 12, 1982, issue of the Knoxville News-Sentinel reviews one such incident of this nature.

The editorial follows:

POLITICAL PANDERING

Democratic leaders are fuming over a Republican party television commercial claiming credit to President Reagan for the 7.4 percent cost-of-living increase in Social Security benefits that went into effect July 1.

They have a point, since Reagan was in no way responsible for the extra money. It was an automatic increase provided by legislation enacted years ago.

Even so, the Democrats are a bit nervy in complaining about Republicans misleading the public in Social Security. Just last fall, the Democratic National Committee misused Social Security in sending out a highly misleading pitch for campaign contributions.

There was no mention of the Democratic committee on the outside of the envelope. It looked as if it came from the Government and contained this notation: "Important—Social Security Notice Enclosed."

Inside was a letter saying that Reagan and the Republican party are out to destroy the Social Security system and that the Democrats are desperately trying to save it. The letter was signed by Rep. Claude Pepper, chairman of the House Select Committee on Aging.

Interestingly, the congressman who lent his name to that deceptive piece of Democratic committee work is among party leaders screaming the loudest about the "big lie" of the current Republican TV commercials.

From this corner, it appears that the two parties are about tit for tat in spreading lies about Social Security. They ought to cease and desist.

Instead of bragging about how much they have done to keep Social Security benefits jacked up, they ought to be concentrating on how to make the system solvent.

Their pandering to the elderly for votes makes it harder to bring about the adjustments necessary to ensure that Social Security will be available to future generations.●

PROCLAMATIONS IN SUPPORT OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DERWINSKI. Mr. Speaker, in our observation of Captive Nations Week, it is important to let the world know that we, in the United States, have strong ideals of liberty and self-determination. These basic rights of human liberty is a dream that we want all peoples to be able to enjoy.

Therefore, I was especially pleased to note the great many proclamations that were issued by our Governors and mayors in observance of Captive Nations Week. I would like to share some of these with my colleagues.

The first is from the State of Connecticut, the Governor, the Honorable William A. O'Neill; which is followed by proclamations issued by the Honorable Tom Bradley, mayor of the city of Los Angeles, Calif.; the Honorable Randy Tyree, mayor of the city of Knoxville, Tenn.; and the Honorable Gordon Bricken, mayor of the city of Santa Ana, Calif.

OFFICIAL STATEMENT—STATE OF CONNECTICUT

The principles of justice and freedom which lie at the heart of our democracy are the primary source of our nation's continuing strength and vitality. The American people share with men and women the world over a deep and abiding respect for these cherished ideals.

Yet for countless people around the globe, the realization of these inspiring concepts remains only a bright hope. These are the citizens of the Captive Nations, whose governments restrict the social, economic, political, religious and educational liberties that are the birthright of every man and woman.

The dedicated members of the Connecticut Committee for Captive Nations are to be commended for their active concern for the plight of these people. This outstanding organization helps stimulate public awareness of the denial of basic human rights in many nations.

Each year, this excellent association sponsors a week-long observance in recognition of the spirit and perseverance of the people who long for liberation from oppressive rule.

I am therefore pleased to designate the week of July 18 through 24, 1982 as Captive Nations Week in Connecticut, in tribute to the courage and idealism of the freedom-loving citizens of Captive Nations and in support of the Committee's commitment to assisting in their quest for self-determination.

PROCLAMATION—CITY OF LOS ANGELES

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the Captive Nations:

Now, therefore, I, Tom Bradley, Mayor of the City of Los Angeles, do hereby proclaim the week of July 18-24, 1982 as "Captive Nations Week" in Los Angeles, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PROCLAMATION—CITY OF KNOXVILLE, TENN.

By Executive order of His Honor the Mayor it is hereby proclaimed:

Whereas: The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others; and

Whereas: The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas: The freedom loving peoples of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas: The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations,

Now, therefore, I, Randy Tyree, Mayor of the City of Knoxville, Tennessee, do hereby proclaim the week of July 18-24, 1982, to be: "Captive Nations Week" in our City, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PROCLAMATION—CITY OF SANTA ANA

Whereas, The desire for liberty and independence by the overwhelming majority of peoples in the Captive Nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate further aggression; and

Whereas, The freedom-loving peoples of the Captive Nations look to the United States as the citadel of human freedom and human rights; and

Whereas, The Congress of the United States, by unanimous vote, passed Public Law 86-90 establishing the third week of July each year as Captive Nations Week:

Now, therefore, I, Gordon Bricken, Mayor of the City of Santa Ana, do hereby proclaim the week of July 12-18, 1982, to be: "Captive Nations Week" and urge all citizens of Santa Ana to join with me in observing this week through an appropriate expression of sympathy and support for the people of the Captive Nations.●

A LETTER TO THE PRESIDENT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DYSON. Mr. Speaker, Mrs. Carol Leyon's sixth grade class in Cecilton, Md., recently wrote to President Reagan on subjects important to them. As you can imagine, some were interested in those things entertaining to sixth graders. In fact, one young man wished every child could have a video game, especially "Pac Man."

Others, though, stressed qualities such as love as important to them.

Miss Lynn Cullen of Earleville, Md., said,

I wish all the children in the world would have food, clothing and shelter, but I wish one thing more than all the others: to let every child in the world have lots of love and affection.

Mr. Speaker, I think it is remarkable that a person as young as Lynn would be so compassionate and concerned about her fellow man. Lynn will be celebrating her birthday this Saturday. I would like to wish her every happiness on her 12th birthday.●

CAPTIVE NATIONS WEEK ADDRESS

HON. F. JAMES SENSENBRENNER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21 1982

● Mr. SENSENBRENNER. Mr. Speaker, I approach this 24th observance of Captive Nations Week with somewhat mixed emotions. It is indeed heartening that this body has again seen fit to reserve 1 week of its schedule to officially commemorate the valiant struggle of oppressed people throughout the world to gain their freedom. However, I am also saddened that this occasion is necessary at all. For in taking part in a 24th observance of Captive Nations Week, we must necessarily accept some responsibility for failing to achieve the goals which we expressed in the speeches of our 23 previous opportunities.

It is time for us to realize that we cannot be content with accumulating a great volume of prose professing adherence to the basic beliefs of freedom and liberty upon which our Nation was founded. Rather, we must commit ourselves and dedicate our resources to actively secure and promote the ideals which made this country a great protector of basic human freedoms.

If anyone doubts that life without liberty cannot be tolerated, let them draw their conclusions from the newspaper headlines of this past year. There the reader would discover accounts of Afghan rebels laying down their lives in a refusal to be downtrodden by Soviet troops despite seemingly insurmountable odds. Also evident would be reports of numerous Solidarity members who continue their opposition to Communist domination underground. I seriously doubt that any American citizen does not sympathize with the trials of those people currently suffering under a repressive regime whether it be anywhere from Latvia to South Vietnam. However, we should also realize that these people cannot continue the struggle alone, and that we should assist them whenever we are able. Only then can we be satisfied that the ideals of our Founding Fathers have been preserved not only in this Nation, but also throughout the world.

On this occasion, let us focus our attention on all the people of the globe who have not let their desire for freedom be choked by the grip of their oppressors. Let us salute the millions who have kept the dream of liberty alive not only for themselves, but also for their children, lest they forget that the freedom of which they now only dream was once theirs to hold.

It is fitting that we renew our commitment to the captive nations only a few weeks after we celebrated the anniversary of our own independence. Let us hope that in the near future, the people who continue their persistent efforts to gain the freedoms currently denied them by their captors will be able to share the joy and pride which we experience when each firework explodes.

The plight of these oppressed nations does not lie only with the people of these captive countries, but also with the American people who share their dreams and who strive to render next year's commemoration of Captive Nations Week obsolete. Let us not be satisfied with issuing a distant statement expressing our eventual goals. Let us instead join the people of the world in the achievement of those goals.●

WEATHERIZATION; A PRIORITY PROGRAM

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mrs. SCHNEIDER. Mr. Speaker, for the past decade our country has faced a severe energy crisis. Not only has the lack of energy resources caused physical hardships, but escalating costs as well. Based on a recent nationwide survey conducted by the National Council of Senior Citizens, the average U.S. household spends about 5 to 6 percent of its income on energy costs. The average low-income household—below 125 percent of poverty line—spends an average 19 percent of its annual income on energy.

The elderly are most devastated by rising energy costs. One out of every four poor elderly households spends more than 40 percent of its income on energy in the winter. Further, about 17 percent of the elderly heat with fuel oil, as opposed to 60 percent heating with natural gas. Well over 80 percent of the elderly in my district heat with fuel oil. Needless to say, energy costs for fuel oil consumers are much higher on the average than for natural gas customers. Although the problem still exists, Americans have reduced consumption dramatically. This has been achieved partially through weatherization programs established by the Federal and State governments.

Weatherization has proven to be one of the most cost-effective investments ever undertaken by the Federal Government on behalf of the American people. The statistics in New England tell the story. Since the program's inception, 63,100 homes in the New England region have been weatherized. This has resulted in an annual savings to these households of $14.7 million.

My own State of Rhode Island is one of those that has borne the brunt of rising energy prices over the last decade. The average heating bill for the coldest month in Rhode Island is $300 and the average check to a senior citizen living independently is $280. We are proud of our weatherization program in Rhode Island, which has so far weatherized 7,700 homes in our State. This program allows needy individuals to obtain much needed insulation and minor repair to their homes. Thirty-seven percent of the households served by the Rhode Island program have been occupied by senior citizens, and 15 percent by handicapped individuals. These needy individuals are most appreciative of our efforts to help them save energy and fuel dollars. This is what some Rhode Islanders have to say:

From Riverside:

I could never keep this home without the help—I am sure I will be much warmer.

From East Providence:

I was extremely impressed with the efficient way in which the work was carried out. I would like to take this time to compliment the program, and hope that programs such as this will continue.

If there are any doubts about the worthiness of the program, I think this testimony will put them to rest.

The program is administered and operated at the grassroots level, providing useful employment and hands-on experience in conservation. When the State had to economize after last year's cuts in the weatherization program, the State recruited several crews from among the inmates at the Adult Correctional Institution. After a 4-week classroom training and orientation, the inmates were allowed to put their education into practical use in the community.

In 1980, 20,000 people were employed through the CETA weatherization program. If a small proportion of expected Federal employment funds are combined with existing Department of Energy weatherization funds, tens of thousands of jobs will be created in fiscal year 1983 alone.

Considering the long-term benefit of weatherization and the state of the economy, I feel it is necessary to receive maximum return on investment. By continuing our support for programs such as weatherization, we can achieve that goal. I intend to work

with other Members of Congress who believe in the weatherization program. I feel confident that we will succeed.●

GAO FINDINGS ON CETA

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. HAWKINS. Mr. Speaker, I would like to bring to the attention of my colleagues a recent report by the U.S. General Accounting Office (GAO) titled: "CETA Programs for Disadvantaged Adults: What Do We Know About Their Enrollees, Services, and Effectiveness? (IPE-82-2)" In this report GAO provides a technical review of program administrative data and evaluative studies on adult-oriented employment and training services to assess the performance of CETA. With new legislation under consideration to replace CETA, and unemployment a severe and persistent problem for both unskilled economically disadvantaged job seekers and newly displaced workers, it is worthwhile to review the performance of CETA for what it can tell us about improving future programs.

On the positive side, GAO reports that CETA has been successfully targeted to serve the disadvantaged. CETA's enrollees generally were disadvantaged in terms of low education levels, low income, and little employment history or stability. For early participants in CETA, the available information is encouraging. Their previous decline in earnings and employment reversed, and their circumstances continued to improve for the next 2 years—the longest period for which data are available. Also, fewer households reported receiving AFDC or food stamp benefits after CETA than before it.

On average, direct earnings gains from CETA were moderate ($300–$400 per person the first year after the program), but GAO notes that looking a single year after the program is not sufficient to address whether people have been put on better earnings paths. Other analyses suggest that many women and low earners experienced substantial improvements in earnings.

Through contrasting the job placement rates reported for CETA by the U.S. Department of Labor (DOL) with those from a survey of CETA enrollees, GAO reports that DOL has probably underestimated the rate at which CETA participants found jobs. In terms of monitoring the performance of employment and training programs, however, GAO cautions that job placement rates are not by themselves a satisfactory nor sufficient standard. By themselves, these rates fail to inform us about the quality of a job or whether the individual is likely to retain it. Lastly, in contrast to the generally encouraging findings, GAO stresses the need for better public-private coordination in order to improve the likelihood that people move into the private sector where most new jobs are created.

The GAO report provides a realistic description of the complexity of a service system that has sought to foster flexibility in matching local resources with widely varying needs of unskilled and cyclically unemployed persons. The Job Training Partnership Act, H.R. 5320, a bill soon to come before you, incorporates the targeting and local flexibility aspects of CETA that were successful in the past, while requiring more thorough performance monitoring procedures and increased private sector involvement. This bill proposes establishing a community public-private training and employment system that avoids service disruption, capitalizes on existing local expertise, and fosters improvement in areas where such are needed.●

THE ANT MAN

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. EDGAR. Mr. Speaker, I would like to bring to my colleagues' attention the following article which appeared in the July 22 edition of the Philadelphia Inquirer describing the work of my friend, Prof. Burt Weiss of Drexel University.

THE ANT MAN

(By Dick Pothier)

Drexel University researcher Burton Weiss switched on a tape recorder in his laboratory yesterday. A series of strange, squeaky, almost alien sounds—the sounds of ants "talking"—came from a loudspeaker.

The ants may have been calling for help, or telling other ants to get out of their way, or warning other ants of an intruder, or communicating as-yet-unknown messages.

Weiss, an associate professor of psychology at Drexel, isn't sure yet what the ants are saying. But he means to find out.

It is tempting to say that Weiss, who has turned part of his cramped office into a huge ant colony, is trying to communicate with ants. And in a sense that is true, although Weiss has never expected to carry on an intelligent conversation with an ant.

What he would like to learn, however, is how to decode and then reproduce the "alarm" or "warning" sounds his ants make, because then man might be able to stop the species of ant he is studying from devouring billions of dollars worth of crops a year in tropical areas of the Americas and parts of the United States.

Weiss has built the world's largest known laboratory colony of an ant species called Attine ants. Several million Attines march tirelessly through the corridors and tunnels of a 145-chamber ant "city" that Weiss carefully maintains.

Attine ants, Weiss explained, have several pecularities that make them interesting subjects for study.

For one thing, they make audible sounds by rubbing together a "rasp and file" mechanism on their abdomens. Weiss has recorded those sounds and played them back at slow speed in an attempt to learn what they are saying to other ants. So far, he hasn't cracked their code, except to learn that one sound is a cry for help to other ants.

The second reason he studies Attine ants is that they can strip a large farm field of green leaves or sprouts in just one day—and they are probably doing so today somewhere in Central or South America.

"They control their environment," Weiss said. "No farmer in South and Central America, and in some portions of the American south, can grow any product unless the Attines let it grow. They are the dominant species in many parts of Central and South America.

"In fact, the reason that South America is known for coffee and bananas is that these ants leave those crops alone. But if you try to grow tomatoes or corn or most other crops in areas where the Attines live, they'll simply strip acres of fresh plants as soon as they grow."

It might eventually be possible, he said, to place sound-producing units around crops and broadcast the Attine sounds for alarm, or "keep away."

Weiss said the Attines do not eat the green leaves they strip so voraciously. Instead, they use the plants to do their own "farming."

The half-inch-long worker ants cut the plants up with their sharp mandibles, or jaws, and carry them into their colonies to use as the medium on which to grow their real food—small, mushroom-like fungus growths.

In interconnected plastic boxes in Weiss's lab, his ants are growing dozens of "fungus gardens" for food. Weiss places a handful of leaves in the colony each day, and the worker ants continually cut up and carry small pieces into the heart of the colony, the fungus gardens.

"The thought of ants farming their own food is fascinating—unless you're a farmer in South or Central America," Weiss said.

Weiss obtained the original "starter ants" for his ant colony during a trip to Panama.

In addition to researching ant conversations, Weiss is taking part in a Drexel research project that recently discovered that the Attines have no cholesterol in their body—a "remarkable" finding, he said, that could cause the revision of several basic biological theories about life on earth.

"Up to now, it's been believed that every animal on Earth required at least some cholesterol in its nervous system. The belief has simply been that no animal can live without the substance, which is necessary to produce hormones."

The discovery that Attine ants have no cholesterol, Weiss said, may not have any practical significance. "But it's impressive to learn that here, for the first time, is an animal that exists without cholesterol."

Attine ants, Weiss said, "are just ferocious. The soldier ants can chew through shoe leather, and several times I've been pinched enough to draw blood."

Even army ants and fire ants steer clear of the Attines, whose "attack" sounds can bring millions of fierce soldier Attines to the scene of any intrusion into their underground colonies, Weiss said.

The Attines organize their lives in still-mysterious ways, Weiss said. Some of them forage for food, others cut it up and carry it to fungus gardens, and still others dispose of waste or dead ants in "refuse chambers."

"And they decide what goes where, not me. A while back I tried to start a new fungus garden for them in a new chamber. I put some of their food in the chamber. But they just came and carried it away—they didn't want one there, and they're in charge, not me."

PLIGHT OF GREGORY GEISHIS

HON. THOMAS M. FOGLIETTA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. FOGLIETTA. Mr. Speaker, I wish to update my colleagues on the plight of Gregory Geishis, a young Soviet Jew who is still awaiting an exit visa for emigration to Israel.

In October 1978, Mr. Geishis, then an honor student at the Leningrad Institute of Electrical Communications, applied for an exit visa to Israel. Five months later, he was notified that his application had been denied. The reason given for the denial was Gregory's failure to apply with his parents. Shortly thereafter, Gregory was expelled from school and denounced as a traitor. Gregory then reapplied for an exit visa with his family. It, too, was denied, this time because Gregory's mother is a communications engineer. The Soviets claimed that they could not allow a member of so "sensitive" a profession to leave the country.

Gregory Geishis applied five more times over the next 13 months for an exit visa. During this period, he and his family were continually harassed by the KGB and the Soviet police. His final rejection came just before the opening of the 1982 Olympic games. A few days later, Gregory Geishis was drafted by the Red army.

The U.S.S.R. denies emigration visas to anyone who has had contact with "state secrets," and this would include even perfunctory military service. Gregory declined induction in the sure knowledge that serving in the military would forever preclude his emigration. Soviet authorities summoned him to a police station for a hearing. Upon his arrival at the station, Gregory was arrested. On August 8, 1980, Gregory Geishis was sentenced to 2 years in a Soviet labor camp. This past July 14, he was released from prison, but Gregory Geishis is, by no means, free.

The plight of Gregory Geishis is the plight of thousands of Soviet Jews. In June 1982, only 182 Soviet Jews were allowed to emigrate. That is the lowest monthly figure since the late 1960's, and it represents a 96-percent drop from June of 1979.

Mr. Speaker, I thank the 77 of my colleagues who joined me in expressing our concern for Gregory's situation in a letter to Soviet Ambassador Dobrynin, and I commend my many colleagues for their continued efforts on behalf of Soviet Jews.

Mr. Speaker, one of the portraits in this gallery is of the Babylonian leader Hammurabi, who one declared, "the strong shall not oppress the weak." Let us continue to endeavor to secure freedom from this oppression by the strong of Gregory Geishis.●

OPM BALKED IN ATTACK ON JOB SENIORITY RULE

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DERWINSKI. Mr. Speaker, as the ranking minority member of the House Post Office and Civil Service Committee, I have a longstanding interest in the overall effectiveness of the Federal personnel system.

In efforts to protect the integrity of the civil service retirement system and in the implementation of civil service reform, I have had the opportunity to work closely with my colleagues from the northern Virginia area, Hon. STAN PARRIS and Hon. FRANK WOLF, who have both consistently demonstrated dedication and devotion to the well-being of their large Federal employee constituency. FRANK and STAN were towers of strength in preserving and extending the innovative Federal personnel program which provides for a flexible workweek for Federal employees.

Therefore, I was pleased to see the following article in the July 26 Federal Times, which accurately describes the key role that they played in blunting and assaulting the job seniority rule:

OPM BALKED IN ATTACK ON JOB SENIORITY RULE

(By Bill Andronicos)

Pressure from two Republican lawmakers has prompted the Reagan administration to temporarily halt a plan that would sharply limit current practices of retaining Federal employees on a seniority basis.

Office of Personnel Management chief Donald J. Devine apparently decided not to go through with the plan after conferring with Virginia Representatives Stan Parris and Frank Wolf.

After those meetings, OPM suddenly scrapped a news release which was to have announced details of the program.

The OPM proposal originally was to have been made in October, but a few weeks ago there were indications that it would be announced in late July or early August.

In a letter to Devine, Wolf charged that the administration's plan would devastate employee morale and could have "serious repercussions for the governing of our country."

The proposal called generally for emphasizing performance rather than seniority in determining which employees would go and which would stay during reductions-in-force (RIFs).

Despite OPM's claims that such a plan would enhance retention of women and minorities during job reductions, critics cast a skeptical eye on the government's sincerity.

Opponents described the proposal as a political ploy that would enable the administration to replace large numbers of career professionals by eliminating certain jobs, reorganizing agencies and departments and replacing abolished jobs with patronage jobs.

"In addition to the unfairness to the more experienced employees, this plan could jeopardize the running of our government by destroying the continuity and expertise that is at the heart of operations, such as defense, social security, health inspection and others." Wolf said.

The American Federation of Government Employees charged that the proposed regulations would mark a return to the spoils system. AFGE, which represents more than 700,000 federal workers, said the plan would "rip apart the last shred of employee security in the federal sector."

The OPM news release describing the plan was dated June 15 but was never distributed.

A copy obtained by Federal Times shows that the plan also called for major changes in the "bumping" and "retreat" procedures that make it possible for workers slated for a RIF to take the jobs of other employees who would not otherwise be affected.

The plan would have made it virtually impossible for highly-paid professionals to move into clerical and secretarial jobs while retaining earnings ranging from $40,000 to $50,000.

This was one of the points Devine emphasized in the OPM release. "The movement of higher-graded professionals into clerical or even menial jobs, while retaining their professional pay is something the taxpayer just won't tolerate any longer," he said.

The proposed rules would have prohibited employees from dropping more than one grade during a RIF.

In another statement, Devine contended that the proposal would have been beneficial to women and minorities.

Saying that over the past year, the government had confirmed some of its worst fears about the present RIF rules, the OPM director noted that many of these regulations date back to World War II.

"By shifting the emphasis on job performance, we'll be making sure that women and minorities in the federal work force who've proven themselves to be good employees get to keep their jobs instead of being booted out the door because they haven't been around long enough," Devine continued.

He added that the people can no longer tolerate a situation in which some of the government's best and most dedicated employees lose their jobs while others keep them simply because they have been employed longer by the government.

"For the first time, we're going to make sure that performance on the job gets a higher priority than seniority when deciding who is fired in a RIF," Devine said.

He also touched on the importance of the proposal on employee morale, which he said is seriously affected by the present "bump" and "retreat" provisions that bring about considerable disruption in work operations when employees take the jobs of workers who would not have originally been affected by an agency's RIF orders.

"Under the present rules, we displace three or four employees for every one we must separate," Devine said. "This can have a devastating effect on morale, especially

since our very best employees stand an equal chance of being hit with the very worst."

In addition, Devine had charged that the current RIF rules have a "ruinous" effect on governmental efficiency, adding that they produce results "which outrage every taxpayer."●

MAN IS BORN FREE

SPEECH OF

HON. TOM HARKIN

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. HARKIN. Mr. Speaker, "Man is born free, yet he is everywhere in chains." Centuries after he wrote them, Rousseau's words ring true. This week we commemorate the promise of freedom for over 1 billion people in nations held captive by the Soviet Union. Americans are complacent about our own civil liberites and political rights. We should not forget that tyranny and oppression have been the rule of governments throughout history and not the exception. This is true today, and most countries are still ruled by a few for the few.

The United States of America is a beacon of hope for people whose freedon is yet a dream. For our democracy to continue and to thrive, we need free thought and free speech, both at home and abroad. During Captive Nations Week we remember the oppressed, and by so doing help preserve our own liberites and advance the cause of those without similar blessings. Unless we are true to our political tradition, the American experiment will falter. Unless we advocate human rights for all people in all lands, we may lose our own. May we never stumble, for as Thomas Paine wrote,

Those who expect to reap the blessings of freedom must undergo the fatigue of supporting it.

In the captive nations, freedom is a dream. It is a dream that all the forces of darkness cannot dispel. The light may be dim for some, but with efforts such as ours it will never be extinguished. To aspire for liberty requires courage in adversity and perseverance amidst acquiescence. I am inspired by the perseverance of Solidarity in Poland, whose members do not relent in their struggle. I am fired by the courage of Afghans, who continue to fight a hostile occupation force. I struggle along with Lithuanians, Latvians, and Estonians who demand greater cultural autonomy.

On a smaller scale, I have adopted a "refusenik" in the captive nation of Georgia. Victor Popovsky and his family have tried, since 1974, to assert a basic right of all people, the right to emigrate and live in a land of their own choosing. I have petitioned the Soviet Ambassador and the Kremlin to set this family free. In their fight, large or small, these people will not yield. America holds out the promise of freedom, and they hold up the example of the valor and fortitude required to obtain what we already have.

Our commitment to the negotiating process does not translate into acceptance of Soviet oppression of their own minorities or the citizens of the captive nations. My attention to repression in other parts of the world will never lessen my fervent opposition to the denial of basic human rights in any land.

This is not the place to dwell on captive nations outside the Soviet bloc. But I would be remiss not to mention at least one, East Timor. This country was formerly part of the Portuguese empire. In 1975, after a short civil war, the people of East Timor declared themselves independent. Their independence was tragically brief.

On December 7, 1975—our own day of infamy in 1941—the Indonesians invaded this little country; 80 percent of the weaponry came from the United States. In the Fall of 1977, the Indonesians almost ran out of bullets. The United States, joined by England, West Germany, and France, bailed them out. By the end of 1978, the Indonesian Army had all but destroyed the armed independence movement. There was widespread famine in 1979 and 1980. There is concern again today that famine will repeat itself.

Just as the Estonians, the Latvians, and the Lithuanians, the people of East Timor hunger for independence. They too, have been subdued by overwhelming force. But the spirit of resistance continues and one day in the future, we can hope, that they will be given a chance for genuine self-determination.●

FEDERAL TAX CUT IS OFFSET BY STATE AND LOCAL TAX INCREASES

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. PEASE. Mr. Speaker, the July 1 cut of 10 percent in Federal income taxes is unlikely to put much money into the pockets of consumers in my own State of Ohio because Federal tax decreases are matched—almost to the dollar in some cases—by State and local tax increases.

This is a topic that I discussed in my most recent weekly newspaper column. It follows:

WASHINGTON REPORT

Nearly all economists agree that tax cuts stimulate activity in the national economy and can help lift the nation out of a recession.

Everyone knows that Ohio is in the depths of a recession. We could certainly use help getting out of it.

But the July 1 cut of 10 percent in federal income taxes is unlikely to put much money into the pockets of Ohio consumers because federal tax decreases are matched by state and local tax increases.

The federal government is consciously cutting aid to the states and localities while increasing their responsibilities. Result: higher state and local taxes.

According to a recent chart in the Cleveland Plain Dealer, the new 50 percent surcharge in the Ohio state income tax will offset much of the reduction in the federal income tax.

For example, a family of four earning $15,000 per year should have seen its weekly payroll deduction for federal income tax go down on July 1 from $27.80 to $26.30—a reduction of $1.50 per week.

Also on July 1, due to the new 50 percent surcharge adopted by the Ohio legislature, the same family would have seen its weekly payroll deduction for the Ohio state income tax go up from $3 to $4.50—an increase of $1.50 per week.

Thus, the family would enjoy no net gain. It would pay $1.50 less per week to the federal government and $1.50 more to the state government.

The $25,000 per year family of four does a little better. Its federal income taxes should have gone down by $6.60 per week. Its state income tax weekly deduction should have risen $4.17. The net gain would be $2.43 per week.

But even that gain is questionable because the Ohio legislature raised the sales tax from 4 cents to 5 cents—a 25 percent increase—last fall. For a $25,000 a year family, that works out to $1.04 per week in extra tax burden.

Further, the legislature broadened the base of the State sales tax to apply, for example, to the labor portion of house repair bills and to cigarets. That's 14 cents a week for the pack-a-day smoker.

The state gasoline tax just went up too on March 1. That's about 28 cents per week for an average family.

Finally, I should mention local property taxes. Because the state government has been strapped for money, it cut state aid to local schools substantially. Voters have been deluged with requests for property tax increases for schools, mental health programs, drug enforcement groups, law enforcement, county health departments, programs for the mentally retarded, township governments, city governments, etc.

For every one new mill of property tax approved by the voters, the owner of a $50,000 house pays 30 cents per week of additional taxes. A new seven-mill school levy would cost $2.10 per week.

My point is this. What we are seeing is a very substantial shift of tax burden from the federal level to the state and local levels.

Some people may derive special pleasure from paying less federal income tax even though the savings is offset by higher state and local taxes. But the pocketbook of the average taxpayer isn't likely to know the difference.●

CONTRACTING OUT FOR SERVICES

HON. DANIEL B. CRANE
OF ILLINOIS
IN THE HOUSE OF REPRESENTATIVES

Thursday, July 22, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, I would like to take this opportunity to make a few observations about the current debate on the A-76 contracting out provisions of the Defense Department authorization bill. In this regard there are two points I would like to make.

First, if it is shown that contracting out will save the taxpayers money, small businesses will benefit when work is actually contracted out. We are all pointedly aware of the economic condition of small business at this time.

Second, I believe it would be unwise to deny the Defense Department the flexibility to contract out if the need is there, for we can never predict what our national security needs will be at any future date.

For these two reasons I would urge my colleagues to oppose any limitations on contracting out in conjunction with the current DOD authorization bill.

To illustrate how the A-76 procedure works in practice, I would like to share with my colleagues the following article by Edwin Harper in Government Executive magazine:

CONTRACTING OUT FOR SERVICES—WHY THE WHITE HOUSE MEANS BUSINESS ON THE A-76 BUSINESS

(By Edwin Harper)

This Administration means business about A-76.

Let's start by talking for a minute about what A-76 is. It is a process to insure that the American taxpayer is getting his money's worth. Its purpose is to make sure that this question gets asked: "Is the taxpayer getting his money's worth if Government Employees perform this task or if the task is performed by the private sector?"

Intuitively, asking this question is noncontroversial. But if it is so noncontroversial why are we here today, 26 years after A-76 was originally issued, discussing "implementing new policies"?

I really do not know why, but let me advance a few hypotheses:

Over the years some 20 agencies have said, "I'm an exception, and I don't want to be bogged down in any more red tape—Let's just get the job done and we will worry about A-76 some other time."

Others might argue, "Everthing I do is Government Business and therefore should be done by Government Employees who are already on board."

Finally, some managers are afraid to implement A-76 because they think "it will generate fears among their employees that they might be put out of a job."

Let me cover the last point first, because it is the most fundamental and pervasive concern that you will find with respect to A-76.

A couple of years ago an A-76 cost study was done which showed there would be savings to the taxpayer to turn the guard service at a federal facility over to a private contractor. The Congressional Delegation representing the area in which the facility was located was very upset about federal employees in their district losing jobs. Then it was pointed out that none of these people would necessarily lose their jobs because one of the requirements of A-76 is that all federal employes in a function which is contracted out—have first call on those jobs—for which they are qualified—with the contractor.

In fact, we have not done a good enough job over the years of explaining how fair A-76 actually is to a federal employee working in an area which might be contracted out.

OMB Circular A-76 offers considerable protection for affected Government employees. For instance, the circular requires that existing in-house activities will not be converted to contract unless it will result in a savings of at least 10 percent in estimated Government personnel-related costs. This biases the cost comparison in favor of continuing the activity in-house and prevents "flip-flop" of performance mode by providing for conversions only when savings are significant.

The circular also requires that agencies reorganize Government operations for the most efficient performance before undergoing cost studies. This will ensure the function is being performed in the most efficient and effective manner practicable, and make it more competitive with contractor operations.

The circular also recognizes personnel regulations, which assure any displaced employees of:

Priority consideration for placement in other Government positions, with Government paid training; and

Grade retention for two years and continuing pay retention when assigned to a lower grade.

Service Contract Employees employed by the contractor must be paid at least the wages and fringe benefits prevailing for similar work in the locality, as determined by the Department of Labor.

This prevents the contractor from "undercutting" Federal pay scales. The contractor must also give employment preference to disadvantaged persons and veterans, comparable to requirements or federal employment.

The formal cost comparison procedure, which specifies how the costs of an in-house operation and contract operation are developed, ensures equity and fairness. Finally, the appeals procedure required by the circular provides an opportunity for any affected party to challenge improper decisions.

The bottom line is that employees who are "riffed" will have future employment with the contractor selected to perform the service.

Let's go back to one of the other arguments—it's all Government business, so it should all be done by Government employees. I feel that collecting income taxes is clearly Government business and we should not contract it out. However, the commercial and industrial services which support the collection of those taxes should be contracted out if an A-76 cost comparison shows that it is more economical to do so. There is nothing inherently governmental about sweeping the floors in an IRS office.

Finally, let's get back to the excuse that "A-76 stands in the way of getting the job done, so let's ignore it." That kind of rationale may sell when the Government is flush with money, but it won't sell when we must make herculean afforts to keep the budget deficit within reasonable bounds. Today, part of getting the job done must be to do the job with the minimum resources necessary. A-76 is a help—not a hindrance—in getting the job done.

That is not to say that there are not significant problems with A-76 which we need to eliminate. But what A-76 does is bring the benefits of competition to the acquisition of commercial and industrial services required by Government.

VALUE OF COMPETITION

A dictionary definition of "competition" (Webster's Seventh Collegiate Dictionary) shows that competition involves the "efforts to two or more parties to secure the business of a third party by the offer of the most favorable terms.

Competition is a very important concept, because it is the basic allocative mechanism in our economy. Competition should mean that the customer gets the best product at the lowest price. It seems axiomatic that the more competitors there are that a customer has to choose from, the more likely it is that the customer will get the best buy.

In this context we are talking about the Federal Government deciding whether or not to provide goods and services to itself or to allow others to compete to provide those goods and services. In other words, one of the major competitors is also the customer and that competitor/customer has, for practical purposes, unlimited resources and powers to influence the buying decisions.

OMB's Circular No. A-76 endeavors to bring meaning back to the word competition where it involves the Government. A-76 states the general policy of reliance on competitive private enterprise for commercial or industrial products and services required by the Government. This policy is based on the premise that, in this democratic free enterprise system, the Government should not compete with its citizens, and that the private enterprise system is the primary source of national economic strength.

THREE FUNDAMENTAL FEATURES

The Government's current policy of reliance on the private sector is built on three fundamental features of A-76:

First, it recognizes that efficiency in Government operations is one of the Administration's primary obligations to the American taxpayer;

Second, it requires that cost analysis be conducted to determine if an existing in-house activity should be converted to contract operation; and

Third, it requires that the cost analysis be comprehensive, consistent and equitable.

Aggressive implementation of A-76 will ensure economical performance of Government Operations.

This emphasis on contracting-out is not a mindless philosophic commitment to "free enterprise" but it represents an acknowledgment of our fiduciary responsibility to the American taxpayer to make the most efficient possible use of his tax dollar for the purposes authorized by the Congress.

A-76 PAYS OFF

Competition for Government business fosters efficiency and economy in the Federal Government. The Defense Department's experience in the last three years of vigorously implementing A-76 proves the case. A total of 440 cost studies were conducted by the three military services. Sixty percent—or 264—of these studies involving 11,000

full-time jobs resulted in a decision to convert to private sector contractors. The savings are projected to be $90 million annually.

Further, a recent GAO report on GSA's cleaning costs found that their in-house costs are needlessly higher than the private sector. The GAO estimated that in four regions studied, GSA could have saved approximately $16 million during 1980 had it contracted for cleaning being done by its own custodians.

We estimate that the Government currently operates thousands of commercial or industrial activities subject to A-76 cost studies with an annual operating cost of about $6 million and with about a $3 billion capital investment. The vast majority of these activities has never been subject to competition. If these activities were subject to the cost comparison studies required by A-76, we estimate that about 154,000 personnel spaces could be converted to contract operations with a 5-year cumulative savings between fiscal year 1982 and 1987 in excess of $5 billion. These savings will continue to accrue thereafter.

The potential for such savings has been recognized for a long time—since the first Bureau of the Budget bulletin on contracting-out was issued in 1955.

REAGAN SUPPORTS A-76

President Reagan has made the implementation of OMB Circular A-76 an integral part of his economic recovery program, as evidenced by the following actions:

The President affirmed his support of this program last March in his 1982 Budget Message which stated "It is the general policy of the administration to rely, whenever possible, on the competitive private sector . . . OFPP is, therefore, working with agencies to . . . increase agency compliance with OMB Circular No. A-76."

A memorandum, a bulletin and a series of letters were sent to all Executive Agencies and Departments in April 1981 reaffirming the policy and requiring it be vigorously implemented.

The OMB Bulletin to all executive agencies and departments required them to submit detailed information on their implementation of the program and its impact on their future budget submissions. We are analyzing these reports now, and it appears the savings from implementation of A-76 will be even greater than originally estimated.

In June 1981 Circular No. A-11, instructions for preparing the President's budget, was revised to further strengthen linkages between budget submissions and agencies' overall implementation of A-76.

A-76 IMPROVEMENTS

We recognize that the private sector (and some in the public sector) may view implementation of the policy as it is presently written, as cumbersome and perhaps inefficient, because of the requisite cost comparisons.

Because we have recently found some inequities and cumbersome procedures in cost studies, the Office of Management and Budget is undertaking an effort to re-examine the current cost comparison methodology to streamline it and make it as efficient as possible.

Accordingly, proposed changes to the circular were announced by David Stockman at a Joint Economic Committee hearing on October 28, 1981. At that hearing, short-range as well as long-range efforts to streamline the process were announced.

Implementation of Transmittal Memorandum No. 6, which was issued Jan. 26, 1982 accomplished the short-range changes set forth in the October 28, 1981, testimony; i.e., clarify existing policy and streamline and simplify the cost comparison procedures. No policy changes are contained in the transmittal memorandum.

An interagency task group from the major agencies met during the period February through April 1982 to streamline and simplify the cost comparison handbook and to propose numerous changes to the circular which the administration is presently reviewing. We expect to adopt many of the task group's recommended changes and will fold them into a draft revision which will be published in the Federal Register for a 60-day public comment period. Our target date for release of this draft is July 1, 1982 after careful consideration of all the public comments received on the draft revision.

In summary, in no real sense is the Government a competitor—it is an arbitrator of economic decision when it "competes" with private enterprise; thus, we must have an A-70 process to fairly compare Government versus private sector provision of commercial and industrial services. This administration fully supports the competitive free enterprise system. Business provides the spark which enhances competition and, therefore, makes the most efficient use of our Nation's resources.

Economy and efficiency in Government and reward of the private sector for initiative and productivity are necessary ingredients in our formula for economic renewal.

Let me conclude by going back to the beginning of our discussion. I speculated why A-76 had not been aggressively implemented. Now let me assert why A-76 can and should be aggressively implemented now:

1. It is fair to federal employees.

2. Too many commercial and industrial services have been buried under the cloak of "it's a Government activity."

3. Implementing A-76 aggressively will have direct and indirect effects which will save the American taxpayers hundreds of millions of dollars.●

HOUSE OF REPRESENTATIVES—*Friday, July 23, 1982*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. WRIGHT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, D.C.,
July 22, 1982.

I hereby designate the Honorable JIM WRIGHT to act as Speaker pro tempore on Friday, July 23, 1982.

THOMAS P. O'NEILL, Jr.
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Lift us, O Lord, above the limited horizons of our lives that we may see Your world more clearly and know Your will in our daily tasks. Forgive us from selfishness and any narrow view that keeps us from fellowship with people from different backgrounds. Inspire us with Your spirit that we will see others as part of Your act of creation and we will share with others the bounty and resources and opportunities of a free people. Strengthen the bond of love that You have first given us that we may live in peace one with another. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

ARGENTINA SHOULD NOT BE GIVEN THE MEANS TO PRODUCE NUCLEAR WEAPONS

(Mr. SHAMANSKY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHAMANSKY. Mr. Speaker, I was shocked to read earlier this week that the administration has authorized the export of a control system for a nuclear facility vital to Argentina's efforts to secure nuclear independence. This system would be used at a heavy-water plant, a critical element in the production of materials that could be used in nuclear weapons.

Argentina refuses to reject the idea of acquiring nuclear weapons. Its government is repressive, and its territorial ambitions are well known. Given these circumstances, Argentina should not be given the means to produce nuclear weapons. Yet, the administration is doing just that. I, therefore, am cosponsoring a resolution urging the President to reconsider this decision and terminate the sale of this technology.

In testimony before the Subcommittee on International Economic Policy and Trade, the Department of Energy promised to make improvements in nuclear policy. We on the subcommittee are still waiting for those improvements to occur in fact.

If we do not see positive nonproliferation action by the administration, we then must move forward quickly to enact H.R. 6032, the Nuclear Nonproliferation Policy Act, which I am cosponsoring.

Sophisticated nuclear technology in the wrong hands is even more dangerous to world peace than pipes and valves. Unfortunately, this administration cannot understand the potentially Earth-shattering impact of its decision to sell nuclear technology to the junta in Buenos Aires.

MR. WATT, STOP!

(Mr. RATCHFORD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RATCHFORD. Mr. Speaker, regrettably, the antienvironment hogs are at the trough again. Interior Secretary James Watt has approved plans to offer 1 billion acres of offshore waters—almost the entire Outer Continental Shelf—for oil and gas exploration.

One billion acres will be up for grabs over the next 5 years. Apparently, the Secretary prefers to resurrect the wasteful, no-holds-barred approach to offshore energy exploration that has been rejected by the American people, as well as the U.S. Congress.

Slow down, Mr. Secretary. Restore some sense in our offshore exploration. Put reason back into oil and gas development. Keep responsible limits on offshore leasing, and maintain adequate environmental safeguards.

Please, Mr. Secretary, save something for future generations.

NUCLEAR ARMS REDUCTION LEGISLATION

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BENNETT. Mr. Speaker, the speech of the gentleman from Illinois (Mr. ERLENBORN) on July 21 brought to my attention the great changes made in the nuclear arms reduction legislation that the Foreign Affairs Committee has brought out. Like him, I had not realized that House Joint Resolution 521 included an endorsement of SALT II. I am not sure I endorse that proposal because I have not studied that treaty in detail, and I do not support it if it is intended to freeze a superiority in nuclear weapons for the Russians. I do not approve freezing a superiority for Russians in military arms and weapons. Under these circumstances, I disassociate myself from approval of House Joint Resolution 521 as now drafted.

OLYMPIC COIN MAILING LIST

(Mr. ANNUNZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANNUNZIO. Mr. Speaker, yesterday the Olympic coin bill became law. The law, however, will be meaningless unless the American people get behind the program and purchase the coins. If all of the coins are sold, $600 million will be split between the U.S. Olympic Committee and the 1984 Los Angeles Olympic games.

Although the first group of coins, 90-percent silver dollars, will not be available until early next year, it is anticipated that orders for the coins, which will cost between $20 and $25, will begin to be accepted in the early fall.

Since many Members have newsletters, radio shows, and television programs aimed at their constituents, I am certain that Members will want to advise their constituents that they can make certain that they receive one of the first Olympic coins by being placed on the U.S. Mint's mailing list. To be placed on the list all that is necessary is for a person to send their name and address to the U.S. Mint, 55 Mint Street, San Francisco, Calif. 94175.

People who are on the mint mailing list will automatically receive Olympic coin order forms.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

UNITED STATES REJECTS THE CONCEPT OF CHEMICAL WARFARE

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, yesterday the House acted with great wisdom in adopting the Zablocki-Bethune amendment deleting funding for binary chemical weapons.

There would be nothing to be gained from these weapons. We would never use them except in defense, and if Soviet and American troops are ever engaged it will not be with weapons as limited as these.

The important point now is to publicize around the globe that the United States rejects the concept of chemical warfare—the first use of which so revulsed the world 65 years ago—and the Soviets not only are producing such weapons but using them repeatedly on innocent and unarmed people of the Third World.

The sign of an aggressive and innovative administration is to turn a perceived policy defeat into an advantage for our country. I urge President Reagan and Secretary of State Schultz to put their maximum efforts into letting the people of the Third World know the difference between the United States and the Soviet Union on this important question of humanity.

□ 1010

TAX BILL FROM OTHER BODY IN VIOLATION OF CONSTITUTION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, article 1, section 7 of the U.S. Constitution says: "All bills for raising revenue shall originate in the House of Representatives"—a clearer statement regarding the origination of tax legislation cannot be made. The other body has now passed and sent to the House a tax bill in violation of the Constitution and in violation to the oath of every Member of the other body who voted on this matter.

I am calling on you to fulfill your constitutional responsibilities and demand—through court proceedings, if necessary—that this measure be declared null and void. It is your responsibility and ours as Members of the House to obey the Constitution and in this issue it is crystal clear.

Although the issue of damage to the economy through increased taxation at this particular time is a most serious issue, the overriding issue is the mocking of the Constitution that has gone on. Every proposal in the other body's bill originated in the other body—even though they skirt the clear intent of the Constitution by using a minor House tax bill after removing all of its language. This continued defiance and low regard for law and the Constitution has been a significant contributor to the precarious economic and political conditions that threaten our Nation today.

Increasing taxes at this particular time will prove disastrous to our economy. The Founding Fathers, realizing that Representatives in the House would remain closer to the will of the people, intended that we be solely responsible for originating tax bills and never once dreamed that political chicanery would allow the Senate even to offer such a bill.

If the other body's version is not declared null and void as a result of the low regard for the Constitution that exists in this city, at least, Mr. Speaker, see to it that this bill is fully debated and open for full amendments by the House. I cannot see how we, the Members of the House, can sit idly by condoning and acquiescing in this ruthless abuse of the Constitution.

PERMISSION FOR COMMITTEE ON POST OFFICE AND CIVIL SERVICE TO FILE REPORT ON H.R. 6785

Mr. FORD of Michigan. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service may have until midnight tonight, Friday, July 23, 1982, to file a report on the bill, H.R. 6785.

The SPEAKER pro tempore (Mr. BENNETT). Is there objection to the request of the gentleman from Michigan?

There was no objection.

FRENCH COMPANIES VIOLATE U.S. CONTRACTS

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, I can understand perfectly well why the European community wants to construct the Soviet gas pipeline. I have absolutely no quarrel with that. I cannot understand, however, why French President Mitterrand ordered French companies to violate contract provisions they had with U.S. companies, contracts that simply and clearly state that licensees will abide by U.S. export law. Something much larger than the pipeline is at stake here and that is Mr. Mitterrand encouraging French companies to abrogate commercial contracts with U.S. companies, something which forms the basis of all international trade.

CAPTIVE NATIONS WEEK

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, I wish to thank the Members for the cooperation they gave the gentleman from New York (Mr. STRATTON) and myself this week in the commemoration of Captive Nations Week.

I would like to call to the attention of the membership that in this Captive Nations Week the President personally signed the proclamation at a public ceremony, the first time in the history of this observance that this was done. I believe this dramatizes the determination of the administration to face up squarely and effectively against international communism with the recognition that the defeat of communism can come from internal collapse, as the captive peoples rebel against their Red tyrants.

BALANCED BUDGET LEGISLATION

(Mr. HUGHES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUGHES. Mr. Speaker, today I am introducing, along with my colleague from Illinois (Mr. HYDE), balanced budget legislation that would require the Congress to eliminate deficit spending after September 30, 1983.

There is no question that the Congress and the President must move decisively to get our Nation's fiscal house in order. By the same token, we are under a solemn duty to act responsibly.

The legislation we are proposing is the responsible way to achieve a balanced budget, and it would do so far sooner than would be possible under the proposed constitutional amendment. At the same time, it would avoid the serious dangers inherent in cementing highly complex and untested economic language into the Constitution.

Our bill, like the proposed constitutional amendment, provides for balanced budgets except during times of declared war or national emergency, or when otherwise voted by three-fifths of both Houses.

Unlike the proposed constitutional amendment, our balanced budget legislation can be enacted into law without delay, any wording defects can be cured without having to retrace the arduous process of amending the Constitution. Most importantly, it requires the Congress—not the courts—to determine this country's fiscal policy. That is precisely what will happen in the event of legislative stalemate under a constitutional balanced budget amendment.

Finally, this legislation enables us to act now to bring deficit spending under control, instead of passing the buck to future Congresses and perhaps future administrations.

PERSONAL EXPLANATION

(Mrs. SCHNEIDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHNEIDER. Mr. Speaker, due to unavoidable delay, I was unable to return to Washington last Thursday, July 15, 1982, to record my votes on rollcalls 184, 185, and 186. Had I been present, I would have voted "aye" on each and wish that the record would so reflect.

CONSTITUTIONAL AMENDMENT FOR A BALANCED BUDGET

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I just walked in here and heard the 1 minute of one of the other gentlemen from the other side of the aisle. He spoke about why it would be better for us to have legislation requiring a balanced budget as opposed to a constitutional amendment. I would just suggest to the gentleman that we already have such legislation. It has been passed in this House on two occasions; in fact, it was attached to the Bretton Woods legislation just a couple of years ago. If there is one thing that has been crystal clear it is that we have been able to ignore it year after year, session after session, Congress after Congress. Unfortunately, it appears that unless we have an outside discipline in this House we do not have the will, the guts, the courage, to have balanced budgets on a regular basis as opposed to unbalanced budgets on a regular basis. I would suggest that while it may sound good that we could pass a piece of legislation immediately requiring us to have a balanced budget, it is not necessary because it is already on the books. We ignore it, and evidently we need something stronger, and that is the reason why we need a constitutional amendment. I think most Members of the House would want to follow the Constitution since it is tougher to avoid or violate that than to violate our own legislation such as the type we already have.

Mr. HUGHES. Mr. Speaker, will the gentleman yield?

Mr. LUNGREN. I yield to the gentleman from New Jersey.

Mr HUGHES. I thank the gentleman for yielding.

What we have on the books is a pronouncement that we are going to have a balanced budget by a certain date. It has no teeth.

Mr. LUNGREN. That is true.

MODIFYING BAR MEMBERSHIP REQUIREMENTS FOR U.S. MAGISTRATES

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 2706), to amend title 28, United States Code, to modify the bar membership requirements for U.S. magistrates, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

□ 1020

Mr. SAM B. HALL, JR. Mr. Speaker, reserving the right to object, the 90th Congress enacted the Federal Magistrates Act in 1968. This act built upon the existing commissioners system. It created the judicial position of U.S. magistrate, transferred the criminal responsibilities of the old commissioners, granted increased duties in the criminal area, and expanded judicial responsibilities in the civil area.

In 1976 Congress amended the act to further clarify and define the duties of a U.S. magistrate. While the reforms made in the 1976 amendments clearly broadened the powers of the magistrate, it did not provide a plan to insure the quality of the magistrate; it left the appointment of the magistrate in the hands of the district courts. This naturally led to a disparity in quality of magistrates.

Early in the 95th Congress, a proposal was formulated with the expressed goals "to render consistent the utilization of magistrates, and at the same time to maintain flexibility in the Federal judicial system." Finally, the Federal Magistrate Act of 1979 was enacted by the 96th Congress. In recognition of the fact that the U.S. magistrate plays an integral and important role in the Federal judicial system, the 1979 act provided detailed legislative requirements for merit selection of U.S. magistrates. It provided that all new full- and part-time magistrate appointments, or reappointments, are contingent upon the magistrate having been a member of the bar of the highest court of his State or territory for at least 5 years and that all selections must be pursuant to standards and procedures promulgated by the Judicial Conference of the United States.

While this was the language the conference committee used, the final draft of the bill required that the magistrate "is, and has been for at least 5 years, a member in good standing of the bar of the highest court of the State in which he is to serve * * *."

While the goals of this legislation are certainly laudable, the particular language used has led to some inequitable situations and has prevented several qualified individuals from becoming magistrates. It insures the quality of magistrates, but does not take into consideration highly mobile nature of our society.

In accordance with section 9 of the Federal Magistrate Act of 1979 the Judicial Conference of the United States made a report to the Congress. The Judicial Conference found that—

> The language of the 1979 amendments has excluded some qualified individuals for consideration for magistrate positions because they have changed their residences . . . therefore, the language of the 1979 amendments should be modified to separate the two requirements of local bar membership and five year's bar membership. It should be sufficient simply to require that a magistrate be a member in good standing in the bar of the highest court of the state of appointment and a member of the bar of the highest court of any state for a period of at least five years.

In conclusion, this bill, S. 2706, simply separates the bar membership requirements for U.S. magistrates, while insuring the quality. It requires that a magistrate be a member of the bar of the highest court of the State of appointment and that he has been for at least 5 years a member in good standing of the bar of any State.

(Mr. SAM B. HALL, JR. asked and was given permission to revise and extend his remarks.)

Mr. KASTENMEIER. Mr. Speaker, will the gentleman from Texas yield under his reservation?

Mr. SAM B. HALL, JR., Yes, I yield to the gentleman from Wisconsin.

Mr. KASTENMEIER. Mr. Speaker, briefly, the House is entitled to an explanation and I will make it very brief indeed. It is not a controversial measure. It is a technical measure. It has been discussed and cleared with the other side, with the gentleman from Virginia (Mr. BUTLER) who represents the committee.

The purpose of this measure is to cure an oversight made in the Magistrates Act of 1979. Under the provisions of the current law, 28 U.S.C. 631, before a magistrate can be appointed such a person must be a "member in good standing of the bar of the highest court of the State on which he is to serve for at least 5 years." While the sole purpose of the provision was to require bar membership of at least 5 years, the way the statute was written such membership has to be in the same State as the proposed State of appointment. The purpose of this more or less technical amendment is to rewrite this requirement so that the propective magistrate need only be a member of the bar of any State for 5 years before the appointment.

This amendment has been evaluated by members of the Subcommittee on Court, Civil Liberties, and the Administration of Justice. We can assure this House that this amendment comports with the actual intent of the Magistrates Act.

This legislation unanimously passed the Senate on June 30, 1982.

I urge the House to adopt this bill.

Mr. BUTLER. Mr. Speaker, will the gentleman yield?

Mr. SAM B. HALL, JR. I yield to the gentleman from Virginia.

Mr. BUTLER. Mr. Speaker, I, too, want to be identified with this legislation, and to say that we on our side concur in the wisdom of it and have no objection to it.

Mr. SAM B. HALL, JR. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The clerk read the Senate bill, as follows:

S. 2706

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 631(b)(1) of title 28, United States Code, is amended by striking out "He is, and has been for at least five years, a member" and inserting in lieu thereof the following: "He has been for at least five years a member in good standing of the bar of the highest court of a State, the District of Columbia, the Comonwealth of Puerto Rico, or the Virgin Islands of the United States, and he is a member".

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

COPYRIGHT OFFICE FEES AMENDMENTS

Mr. KASTENMEIER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4441) to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none, and, without objection, appoints the following conferees: Mr. KASTENMEIER, Mr. BROOKS, Mrs. SCHROEDER, and Messrs. FRANK, RAILSBACK, BUTLER, and SAWYER.

There was no objection.

CHEROKEE NATION OF OKLAHOMA

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 530 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 530

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be read for amendment under five-minute rule. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER pro tempore. The gentleman from South Carolina (Mr. DERRICK) is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN) pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 530 provides for the consideration of H.R. 2329, the Cherokee Indian Claims Act and it is an uncomplicated rule. It merely provides for 1 hour of general debate to be divided equally between the chairman and the ranking minority member of the House Judiciary Committee. Any germane amendment will thereafter be in order under the 5-minute rule.

Prior to vote on final passage, one motion to recommit is in order. No waivers were requested or provided.

Mr. Speaker, H.R. 2329 waives the statute of limitations with regard to two claims against the Federal Government by the Cherokee, Choctaw, and Chickasaw Indian Nations of Oklahoma.

In the early 19th century, the Federal Government granted those nations a simple patent to 96 miles of the Arkansas River.

When the Federal Government began construction of the McClelland-Kerr Arkansas River Navigation System, it removed sand, gravel, and other minerals from that area of riverbed without compensation to the Indians.

In 1970, the Supreme Court ruled that those above-mentioned Indian nations did, in fact, own the riverbed and, after a 3-year evaluation by the Federal Government, negotiations were begun between the Department of the Interior and the Cherokees to settle the claim.

The Cherokees agreed to a Department proposal in late 1977 but in 1978, the Department notified the Cherokees that it would not settle the claim. By this time, the statute of limitations had expired and the Cherokees were left with no judicial recourse.

The second claim deals with railway right-of-way across Indian lands. By treaty with the United States, the Cherokee, Choctaw, Creek, Seminole, and Chickasaw Indian Nations agreed to set aside a portion of their lands for right-of-way and stations to railroads designated by the Congress. Upon abandonment by the railroads, these lands were to revert to the respective Indian nations.

The Congress, however, through subsequent legislation in 1906, extinguished the reversionary rights of the tribes and the courts have disallowed claims filed at various times since.

H.R. 2329 waives the statute of limitations for these two disputes and vests authority in the Court of Claims or the U.S. District Court for the Eastern District of Oklahoma for a determination.

Previously, this bill failed passage under suspension of the rules on March 19, 1982, by a vote of 174 to 215.

I know of no controversy regarding this rule and urge its expeditious approval.

Mr. Speaker, I reserve the balance of my time.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, the gentleman from South Carolina has explained the provisions of the resolution and also the details of the bill.

The bill confers jurisdiction on certain courts of the United States to pass judgment on certain claims of the Cherokee Nation of Oklahoma.

I urge adoption of the resolution and the bill when it is discussed on the floor of the House.

Mr. Speaker, I have no requests for time and yield back the balance of my time.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. SYNAR. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Oklahoma (Mr. SYNAR).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2329, with Mr. ANNUNZIO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Oklahoma (Mr. SYNAR) will be recognized for 30 minutes, and the gentleman from California (Mr. MOORHEAD) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. SYNAR).

□ 1030

Mr. SYNAR. Mr. Chairman, I yield myself such time as I may consume.

Chairman, I rise in support of H.R. 2329, legislation which I introduced to waive the statute of limitations to allow the Cherokee, Choctaw, and Chickasaw Nations to bring two claims against the Government in two specific, and longstanding, cases. I am happy to have my friend and colleague, TOM KINDNESS, join me in support of this legislation. As you may recall, TOM had previously opposed one portion of the bill, but I am happy to say that his concerns have been addressed and he will be speaking in support of H.R. 2329 shortly.

The full Judiciary Committee favorably reported the legislation by unanimous voice vote. It's a very simple, straightforward bill which, after many years, provides an equitable and fair resolution of two particular claims. I would note at this point that these cases effect only three tribes in Oklahoma. They are factually unique and have no impact at all on any other Indian claim or water rights issue which might be pending elsewhere in the country.

I would further point out—and I want to emphasize this—that the legislation awards no compensation whatsoever to any of the three tribes. Nor does it make any judgment as to the merits of the two claims. It simply waives the statute to allow the tribes to present their cases before a court of law.

I first want to briefly describe the two claims and, later, I would be glad to respond to any questions which anyone might have.

The first claim arises out of construction of the Arkansas River navigation system, which Congress authorized in the early 1940's. At the time of construction, Congress and the Interior Department erroneously believed that a 96-mile stretch of the Arkansas River belonged to the State of Oklahoma. In fact, the bed and banks of that 96-mile stretch had been granted in fee simple patent to the three Indian Nations under treaty. The Supreme Court confirmed the tribes' ownership in 1970.

During construction of the navigation system, riverbed resources belonging to the tribes were irrevocably destroyed. The tribes were not granted compensation for these resources.

In 1974, the Department of the Interior invited the tribes to negotiate a settlement for the taking of sand and gravel from the riverbed. These negotiations lasted for several years and the Government even went so far as to survey the property in anticipation of the settlement. The Department sent a proposed settlement to the tribe for their review and signature. However, when the tribe did sign and return the Government's own proposal, the Department abruptly reversed positions and refused to sign. Critically, by that time, the statute of limitations had lapsed.

In abruptly changing positions, the Department relied on the legal concept of navigational servitude to justify taking the tribe's property without compensation. However, in testimony before the subcommittee, the Justice Department admitted that navigational servitude had never before been applied in this fact situation and that the only way to ultimately know if it was applicable was to go to court; exactly the approach we suggest today.

When questioned about this claim 3 years ago in a Senate hearing, the Department also at that time responded that the three tribes would simply have to sue the Government: Again, exactly what this legislation proposes.

The second claim involves what are commonly known as railroad station grounds, which the three nations granted throughout Oklahoma in the late 1800's. In making these grants of land to the railroads, the three tribes retained full reversionary rights to the land and upon abandonment by the railroads, the tribes should have regained the land. However, a 1906 act of Congress gave away those lands to municipalities—without the permission of the tribes—and without awarding them any compensation. The act specifically authorized the Secretary of Interior to seek compensation or recovery for the tribes, but the Department—the legal trustee for the tribe—made no attempt to do so at that time or at any time since the lands were given away.

In fact, in a similar case in Oklahoma involving the Creek Nation, the Department legally fought the tribe for almost 50 years before the Creeks finally won their claim, and settled the case.

The tribes have provided ample information as to why they did not, or were precluded from, pursuing their claims. But importantly the Department of the Interior has provided us with no information whatever to explain why they have failed, for over 75 years now, to pursue these claims on behalf of the tribes, as the law authorized them to do and as their fiduciary responsibility would mandate.

Needless to say, the statute of limitation has expired on this claim. And, as in the riverbed case, the Indian nations ask only that they now be permitted to try and protect their own property rights before a court of law.

Finally, I want to make one last point about the station grounds case. The tribes do not wish to seek recovery of any of the lands. Their only intention is to seek compensation for the dollar value of the lands as of the time of the taking—1909. They are asking Congress to allow them the right to try and recover what they should have received in the first place: fair and just compensation for their tribal lands which were given away to third parties.

I want to conclude on a personal note. Along with other Members of the Oklahoma delegation, as well as many Members who have provided assistance along the way, I have been trying for several years now to resolve these two claims in a way which will be fair and equitable for all the parties involved. I sincerely believe that this legislation provides such a solution.

We are not asking Congress to authorize or appropriate money to pay the tribes. We are asking only that the three Indian Nations be permitted to resolve the claims in a court of law. We do not make this request lightly.

We do it only because the history of the two cases shows that time and time again the Interior Department has refused to protect the property rights of these tribes, despite their legal obligation to do so. The Department's actions throughout the years represent nothing less than a total neglect of their duties, and an endless string of broken promises and bad faith negotiations.

These cases are begging for an equitable solution. It does nothing more than give the three Indian nations their day in court. It is long overdue, and I urge all of my colleagues to support this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. MOORHEAD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this bill has two separate claims in it. The first claim deals with the Arkansas riverbed and the minerals extracted therefrom by the Army Corps of Engineers.

Since the Supreme Court has decided in Choctaw Nation against Oklahoma that the Cherokee Nation owns the riverbed, they should be entitled to compensation. The matter has been carefully studied for several years under several administrations. All parties reached the conclusion that the

Cherokees were entitled to compensation.

Negotiations began in earnest and the papers were drawn up to conclude the matter, but the Government backed out. I suspect the past administration was neglectful in settling this matter with the Cherokees.

This bill does not ask for money, but it merely seeks authority to battle the issue in court.

With respect to the railroad land claims, we had a major dispute in the House the last time this bill came up. We did not have the facts before us that were necessary to come to a reasonable conclusion.

I understand that the gentleman from Ohio (Mr. KINDNESS) and Mr. SYNAR, the author of the bill, have worked together on this matter and have come to some basic understandings as to the facts, and we have before us information that indicates that the total amount of money that is involved is about $1,288,000 and that the land is not actually being claimed itself.

For that reason, I now support this legislation and ask for an "aye" vote.

Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio (Mr. KINDNESS) to discuss further the negotiations.

Mr. KINDNESS. Mr. Chairman, I thank the gentleman from California for yielding to me.

Mr. Chairman, I will not burden our colleagues with a great deal of detail. I think the content and the meaning and the intent of the legislation have been well represented by the gentleman from Oklahoma (Mr. SYNAR) the author of the bill, and by the gentleman from California (Mr. MOORHEAD).

I want to touch on just two points to provide assurance to our colleagues that there has been diligent and appropriate attention given to this bill since it was previously brought to the floor of the House under suspension of the rules.

At that time, my opposition was based primarily on concern about the second claim included in the bill with respect to which we had insufficient information to know what the scope of the action was that we were undertaking.

As the gentleman from California has said, that has been resolved, and I would urge the members of the Committee that there is a very complete and reasonable listing available of those lands and I personally am satisfied that the scope of the claim is reasonable in that respect.

Mr. Chairman, I would like to insert a listing of the lands attached to a letter dated July 19, 1982, from the gentleman from Oklahoma, addressed to this gentleman, so that the listing of those lands will be a part of the record.

The list of the lands follows:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 19, 1982.

Hon. THOMAS KINDNESS,
House of Representatives,
Washington, D.C.

DEAR TOM: Enclosed is an updated listing of the railroad station grounds plats. The new information which was written in was provided to us by the Tribe. The Tribes' attorneys indicate that this completes the survey which they have had performed on the station grounds areas.

I would like to point out, in particular, that the station grounds area in Tulsa, Oklahoma is listed as having no value and "not applicable." As the notation at the bottom indicates, this is because the Tulsa station was the only plat which was actually purchased by the railroads; therefore, no compensation will be sought for that plat. The only other applicable plat located within Tulsa is listed under the Missouri-Kansas-Texas railroad, at 3.77 acres, valued (as of 1909) at $24,633. You should be aware that the vast majority of station grounds plats located within Tulsa belonged to the Creek Nation, who settled their case last year. For the Creeks, there were twelve separate plats within Tulsa, totaling 42.47 acres, for which they received a 1909 valued compensation of $319,911. Additional information on the Creek Nation plats in Tulsa, and compensation for them, is available as part of the public record in the Creek Nation v. U.S. case.

I would like to reemphasize several points about this matter:

(1) The Tribes have no intention or desire to seek recovery of the properties themselves; they are seeking only compensation for the value of the properties based on the 1909 dollar value of the lands.

(2) The station grounds properties may or may not be located strictly within the limits of the towns enumerated. The Tribe has indicated, in fact, that in the vast majority of cases, they will not be.

(3) As the additional notation at the bottom of page two indicates, the Tribes' attorneys have advised them that station grounds plats within the Deeded (or Outlet) lands are not eligible for compensation. Therefore, they have been excluded from the list.

Tom, I sincerely hope this satisfies your concern over knowing exactly where these plats are located within Oklahoma. And, again, I can only strongly emphasize that the Tribes have no desire whatsoever to try and recover the lands themselves. They seek only the compensation they should have been awarded in the first place.

Please call me if you have any questions, or have your staff get in touch with Sandra Zeune in my office.

With kindest regards.

Sincerely,

MIKE SYNAR,
Member of Congress.

PRELIMINARY VALUE INDEX AS OF MARCH 31, 1982—CHEROKEE NATION RAILROAD DEPOT STATION GROUNDS VALUE AS OF JUNE 30, 1909

Railroad and station	Exhibit numbers	Acreage	Value
AT&SF:			
Dewey	101	10.04	$8,747
Bartlesville	95, 96	13.77	149,955
Ochelata	102, 103, 104	28.55	43,527
Ramona	105	13.77	12,000
Vera	88, 106	13.77	11,996
Collinsville	77, 78	13.77	59,982
Owasso	94, 105	16.54	25,217
Tulsa	92	(1)	(2)
KCS:			
Westville	29	8.51	7,414
Stillwell	29	17.22	15,002
Bunch	29	13.77	11,996
Marble City	29	17.22	15,002
Sallisaw	29, 87	17.22	15,002
Gans	29, 82	17.22	15,002
Redland	86	17.22	15,000
Ballard	29	17.22	15,002
Stillwell	39	17.22	15,000
MVRR:			
Porum	60, 61	10.00	8,712
Keefton	58, 59	10.00	8,712
Tulsa	93	3.77	24,633
MKT:			
Welch	48	9.18	8,000
Bluejacket	42, 43	9.18	7,998
Vinita	44, 45, 47	9.18	7,998
Adair	50, 51	9.18	7,998
Pryor	53, 54	9.18	7,998
Chouteau	52	9.18	7,998
Dewey	98, 99, 100	9.18	7,998
Bartlesville	97	4.59	49,985
MoPac:			
Lenapah	35L, 62	13.77	11,996
Nowata	35L, 63	13.77	20,994
Watova	64	13.77	482
Talala	35L, 80	13.77	11,996
Oolagah	35M, 79	13.77	11,996
Claremore	75, 76	10.33	44,997
Tiawah	35M	13.77	11,996
Ft. Gibson	35H, 57	13.77	20,994
Braggs	35D, 56	13.77	11,996
Vian	35A, 35B, 86	13.77	20,994
Sallisaw	35J, 87	13.77	59,982
Hanson	35I, 83	13.77	11,996
Muldrow	84, 85	13.77	11,996
Cherokee	35H	13.77	11,996
Illinois	35D	13.77	11,996
Inola	35M	13.77	20,994
SL&SF:			
Fairland	68	13.77	21,000
Afton	65, 66, 67	32.52	141,657
Vinita	45, 46	23.69	103,194
Chelsea	74	9.18	7,998
Bushyhead	71	2.29	1,995
Verdigris	81	2.29	1,995
Catoosa	73	9.18	8,000
Dawson	90, 91	4.59	19,994
Catale	72	2.29	1,995
Unidentified	31	4.59	3,999
Ft. Gibson	31, 57	4.59	6,998
Tahlequah	31, 34	9.18	59,982
Welling	31, 34	9.18	7,998
Christie	31, 32	9.18	7,998
Westville	31, 32	9.18	7,998
Grove	49	4.59	4,000
Subtotal		614.12	1,204,594
Update additions		+98.70	+83,482
Total		712.82	1,288,076

PRELIMINARY VALUE INDEX AS OF MARCH 31, 1982—CHEROKEE NATION RAILROAD DEPOT STATION GROUNDS VALUE AS OF JUNE 30, 1909—Continued

[1] Was 13.17.

[2] No value. Not applicable. Tulsa station grounds was the only plat actually purchased by a railroad company. Therefore, the tribe seeks no compensation for it.

Note.—This list does not separate the locations by number of sites but shows only the composite number of acres. This list does not include those stations located in either the Deeded or Outlet areas due to current lack of correctly detailed plats. Further note: Attorneys for the Tribe have advised the Tribe that the Deeded (or Outlet) lands will not be eligible for compensation. Therefore, they have been excluded from this list.

Mr. KINDNESS. Mr. Chairman, concerning the other aspect of concern, when the bill was before the House under suspension of the rules recently, was that there was some objection from the Department of Justice concerning the first claim.

□ 1040

That is a claim that has to do, very simply, with compensation for taking gravel, construction material for the construction of public works in the river, taking that gravel and not compensating the owners of that gravel for it, the Cherokee Nation and others, which had a right to be com-

pensated for that gravel, that construction material. Compensation is a universal rule of such takings.

However, the Justice Department had taken the position throughout several administrations that anything in the river used for the purpose of construction was not subject to compensation. The matter ought to be litigated at the very least to determine this.

In a very comparable case, another Indian tribe has been compensated for the taking of construction material in the same circumstance. I think it is a very mistaken position that the Department of Justice has taken over a periods of years, and furthermore the obligation of the United States and this Congress to serve, in effect, as trustee for these Indian tribes and nations that are involved in such dispute has not been diligently carried out. The responsibility is ours to give that opportunity to litigate any remaining legal questions to these tribes and the Cherokee Nation that are involved in the claims.

I would urge support of the bill at this point, Mr. Chairman.

Mr. MOORHEAD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania (Mr. WALKER).

Mr. WALKER. Mr. Chairman, I thank the gentleman from California for yielding. I, too, rise in support of the bill, primarily because I received the assurances of my colleagues from Oklahoma, Ohio, and California that the basic problems affecting this bill have been resolved, and that we no longer have problems with the language.

I do think it is important to point out for the RECORD, however, that the administration still does oppose this legislation. They have indicated that because it would waive the statute of limitations that bars the filing of Indian claims against the United States for the sole benefit of several Indian nations in Oklahoma, they find the bill objectionable and do not support it. I just felt that it is important to put that in the RECORD, even though many of us in the House feel the main problems have been resolved. The administration's position should be reflected somewhere along the line in case they decide to take action against this legislation at a later date.

I thank the gentleman for yielding.

Mr. MOORHEAD. Mr. Chairman, I yield 6 minutes to the gentleman from Nebraska (Mr. BEREUTER).

Mr. BEREUTER. Mr. Chairman, I thank the gentleman for yielding me this time. I rise in opposition to the legislation, and at least at this point I will need to have some clarification on a number of points. I think perhaps a colloquy between the gentleman from Oklahoma (Mr. SYNAR) and myself may help to establish a legislative record that is important for future legislation that may come before this House and the Congress.

As chairman of the Minority Task Force on Indian Affairs in the Interior and Insular Affairs Committee of this House, I have to say that our concerns are the precedents that we may be establishing. Basically, it goes back to the concern about whether or not what we are doing here today will leave the door open for such claims to be filed in the future regardless of the time limitations that have been established for such claims.

I would like to ask the gentleman from Oklahoma if he would be willing to inform this Member and for the RECORD how we may differentiate the circumstances in this instance, where I think the claims indeed do seem to be legitimate, from future actions by other tribes that may come before the committees of this House and before the Congress.

Mr. SYNAR. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I will be pleased to yield.

Mr. SYNAR. Mr. Chairman, I think that is a very good question, because this has been a major concern, whether or not we are setting a legal precedent. To our knowledge, no legal precedent for any future case is involved for two unique reasons concerning the riverbed portion of the two claims.

The only river ever held in fee simple patent by anyone other than the Federal Government was the Arkansas River, which was ruled in 1972 to be held by these tribes. Therefore, there would never be a case throughout the country which would have a similar fact situation and is unique.

Concerning the station grounds case, this is unique to Oklahoma, unique to Oklahoma lands, and there is no legal precedent there. In working with the gentleman from Ohio, this was a major concern of ours and the committee, and we are satisfied that no legal precedent is involved that would affect any future case in any other part of the country.

Mr. BEREUTER. I think the case is quite clear in the instance of the riverbed. Would the gentleman care to enlarge upon the situation with respect to the station grounds?

Mr. SYNAR. The station grounds is very simple in that the original act was to have reversionary interest of the lands back to the Indian tribes. The changes in the situation were that the act was changed and the land was given to the municipalities. This was done by the trustee of those various tribes, the Interior Department, without their consent. During the last 15 years the Creek Nation has been fighting a similar case, and after 50 years has resolved the matter in favor of the tribe. The trustee or fiduciary responsibility of the Interior Department had failed. Only if that particular case was to occur again, where the Interior Department had failed the fiduciary responsibility, would there ever be a similar case of land reversions of this nature.

Mr. BEREUTER. I would ask the gentleman, and yield time to him for the purpose of debate, to respond to this question: If he would trace for me very briefly the reasons why the amount of time has ensued, why the tribes were not able to bring this matter to conclusion before the time limits had expired.

Mr. SYNAR. I think that is a very good question, and I could respond in two ways. First of all, as the gentleman is familiar, having worked on the Indian Affairs Committee, the sophistication of legal counsel of the tribes has only been a recent phenomenon. Prior to probably the last 10 years, the tribes were totally dependent upon the Interior Department to prosecute and protect their interests, both property and personal, in their trustee and fiduciary responsibility. The issue is whether or not the Interior Department in their trust responsibility legitimately represented the interests of the tribe at the time in 1909 when this all occurred. I think the answer, if one reviews the history, is that is not the case.

Second, if one looks at the good faith efforts, and one who would use reasonable viewing of the situation as these cases are proceeding, one would look at the history over the last 50 years; court case after court case after court case had been rejected on these particular lands. It was only when the Creek Nation finally did win the suit that the other tribes were really put on notice that this for the first time would give them an opportunity to rethink their position concerning the station grounds.

So, if one looks at the good faith responsibility, and just looking at it reasonably, the tribes had no indication that they could ever win. But failing that, let me say that they did not, it was not their responsibility; it was the responsibility of the Department of the Interior in its trustee and fudiciary responsibility role to prosecute this case in a reasonable and timely manner, which they did not.

Mr. BEREUTER. I thank the gentleman for those comments. I think the colloquy has been helpful in distinguishing this case from others that may come up before the body. I would like to commend the gentleman for his diligence and the effort with which he has pursued this matter with respect to his constituents and native Americans. I no longer stand in opposition to the legislation.

However, I would like to make it clear that I do not agree that the United States, as part of its trust responsibility to Indian tribes, was re-

sponsible for prosecuting any railroad station claims during that time when tribes could file actions against the United States under the Indian Claims Commission Act of 1946. That act required the United States to provide notice to tribes that they could and should bring any and all claims they had against the United States by August 1951, but it did not put the burden of actually bringing those actions on the United States.

Congress has waived the 1951 filing deadline set in the Claims Commission Act only three times, and then in cases where evidence was presented that clearly established that extenuating circumstances prevented the tribes from filing their claims or otherwise having them heard on their merits. The evidence provided by the Oklahoma members and the tribe concerning the Oklahoma railroad station claims appears to establish such extenuating circumstances. In particular, it appears that the Cherokee Tribe did not bring its claims before the Indian Claims Commission because of a 1943 Supreme Court ruling which held in part that the proper course of action of the tribes was against the railroads themselves rather than the United States. This ruling made it appear futile to any law firm to bring a case against the United States under the Claims Commission Act. Subsequently, just before the statute expired, the Seminole and Creek Tribes refiled their station land claims before the Commission and ultimately, in 1974, prevailed. The Cherokee, with claims virtually identical to those of the Seminole and the Creeks, were left without an avenue to get them before the Court.

Therefore, it appears that in the interests of justice and maintaining fair and honorable dealings by the United States with the Indian tribes, the Cherokee should have an opportunity at long last to bring their railroad station claims before the Court of Claims.

□ 1050

Mr. SYNAR. Mr. Chairman, I thank the gentleman from Nebraska (Mr. BEREUTER).

Mr. Chairman, I yield 2 minutes to the gentleman from Ohio (Mr. SEIBERLING).

Mr. SEIBERLING. Mr. Chairman, being a member of both the Committee on the Judiciary, which reported this bill, and the Committee on Interior and Insular Affairs, which has jurisdiction over Indian affairs, I have more than a passing interest in this case.

Anyone who knows the history of the Cherokee Nation and the tragedy that befell it because of what we all recognize now were wrongful actions by the United States cannot help but feel that the very least we can do is to give this tribe and others similarly situated their day in court.

Now, why have they not had their day in court? Because, as the gentleman from Oklahoma (Mr. SYNAR) has very clearly spelled out, the Department of the Interior, for whatever reason, some years ago failed in the discharge of its fiduciary obligation to those people who were in effect wards of the United States for this purpose. I suggest that this case is unique, simply because, after having failed and after the time expired under the statute of limitations, the United States said, "Sorry, but now you cannot proceed even though we now recognize you may have a just claim. You cannot proceed, simply because the statute of limitations has expired."

All we are trying to do is to correct that situation in this case, so that they can get into court and let the court decide on the merits whether the tribes have a valid claim or not.

Mr. Chairman, I think the gentleman from Oklahoma (Mr. SYNAR) has done the right thing in bringing this before us again, and I want to commend him for it.

Mr. SYNAR. Mr. Chairman, I yield 5 minutes to the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Chairman, first of all, I want to commend particularly the gentleman from Oklahoma (Mr. SYNAR) for the aggressive, outstanding leadership he has given to this issue. This issue really became a problem before the gentleman from Oklahoma (Mr. SYNAR) was elected to Congress in 1978.

What we have before us today is a matter of equity and trying to reestablish a precedent of good faith between the Federal Government and these particular Indian tribes. This good faith was breached when the Federal Government broke an agreement in 1977, the year before the gentleman from Oklahoma (Mr. SYNAR) was elected. Mr. SYNAR has done an outstanding job of trying to correct the problem.

Second, let me state that there is no budget impact whatsoever with this legislation. No outlays are encompassed in this legislation.

What happened is that these Indian tribes in 1970 received an award from the Supreme Court acknowledging that they had ownership to parts of the Arkansas riverbed. In 1973, 1974, and 1975 the Congress through legislation asked the Department of the Interior to place a value on this land. That value was determined. In 1976 and 1977, the Indian tribes negotiated with the Department of the Interior, reaching an agreement in 1977, the year the statute of limitations would have expired.

In 1978 the Department of the Interior reneged upon that agreement, did not acknowledge an agreement, and consequently left the tribes defenseless, with the statute of limitations having passed, and that became the reason why this legislation was necessary.

So to reestablish good faith between the Government and the Indian tribes, and to establish equity in that particular case, I hope that all Members will support this legislation that the gentleman from Oklahoma (Mr. SYNAR) has brought forth. It gives the tribes the right to go to court to get a judicial determination of whether the Government should compensate for the property.

Mr. Chairman, I particularly want to thank the gentleman from California (Mr. MOORHEAD) and the Members of the majority and minority sides, who have been so cooperative in this regard.

Mr. SYNAR. Mr. Chairman, I yield 2 minutes to the gentleman from Oklahoma (Mr. MCCURDY).

Mr. MCCURDY. Mr. Chairman, I wish to rise in support of the bill and in support of the position of my colleague, the gentleman from Oklahoma (Mr. SYNAR). The gentleman has done an excellent job and has been very diligent in bringing this matter to the floor to provide some equity and relief for the Cherokee Nation and the Indian tribes in Oklahoma who, I think, have been wronged.

Mr. Chairman, this is an excellent bill. I urge my colleagues to support it, and again I would like to commend my colleague, the gentleman from Oklahoma (Mr. SYNAR) for his diligent leadership in this matter.

Mr. SYNAR. Mr. Chairman, I thank the gentleman from Oklahoma (Mr. MCCURDY) for his remarks, and I yield myself such time as I may consume.

Mr. Chairman, let me conclude the general debate by again echoing the sentiments of my colleague, the gentleman from Oklahoma (Mr. JONES), and thanking the gentleman from California (Mr. MOORHEAD) and the gentleman from Ohio (Mr. SEIBERLING) for their diligent work. During the discussions and the debate in the presenting of this bill, both these gentlemen, who do not have large Indian tribes in their districts, have been fair and reasonable and have brought forth legitimate concerns. I have enjoyed working with them, and I thank them for their help on this legislation.

● Mr. UDALL. Mr. Chairman, I rise in support of the bill, H.R. 2329, to allow the Cherokee Nation of Oklahoma to file certain claims against the United States in the Court of Claims.

This legislation was referred jointly to the Judiciary Committee and to the Committee on Interior and Insular Affairs. The Judiciary Committee acted first on this legislation and, because of the very thorough record that committee made on the bill and in order to

avoid duplication of effort, my committee deferred to Judiciary on the legislation. Of course, this was done without prejudice to our continuing jurisdiction over these matters.

Mr. Chairman, this bill authorizes the Cherokee Indians of Oklahoma to file with the Court of Claims any claims against the United States it may have arising out of its ownership of portions of the Arkansas River and claims it may have with respect to the taking of its lands for railroad purposes.

Authorizing the filing of these claims would, in some respects, be a departure from the statute of limitations in the Indian Claims Commission Act. However, I feel that the facts in the two claims involved are sufficiently unique and the reasons for the tribe failing to meet the time limits are sufficiently reasonable as to permit this exception.

This bill does not constitute a congressional determination of the merits of these claims nor does it settle the claims. It merely allows the tribe to have its day in court to litigate the issues.

Mr. Chairman, I urge favorable action on the bill.●

Mr. SYNAR. Mr. Chairman, I yield back the balance of my time.

Mr. MOORHEAD. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

H.R. 2329

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act of August 13, 1946, as amended (the Indian Claims Commission Act, 60 Stat. 1049, 1052; 25 U.S.C. 70k), jurisdiction is hereby conferred upon the United States Court of Claims, or upon the United States District Court for the Eastern District of Oklahoma, to hear, determine, and render judgment, under the jurisdictional provisions of section 2 of the Indian Claims Commission Act of August 13, 1946, as amended (60 Stat. 1049, 1050; 25 U.S.C. 70a), on any claim which the Cherokee Nation of Oklahoma may have against the United States for any and all damages to Cherokee tribal assets related to and arising from construction of the Arkansas River Navigation System, including, but not limited to, the value of sand, gravel, coal, and other resources taken, the value of damsites and powerheads of dams constructed on that part of the Arkansas riverbed within Cherokee domain in Oklahoma, without the authority or consent of said Cherokee Nation; and also on any claim which the Cherokee Nation of Oklahoma may have against the United States resulting from any action under section 14 of the Act of April 26, 1906 (34 Stat. 137, 142), wherein the United States gave away to third parties lands for what are known as station grounds of railroads, said lands being segregated from Cherokee Nation tribal lands without compensation to said Cherokee Nation of Oklahoma therefor; all of said lands or interests therein being held by said Cherokee Nation by virtue of treaties and by patent issued by the United States granting said lands to said Cherokee Nation in fee simple, or otherwise: *Provided,* That any tribe, nation, band, or group may bring a claim arising out of the circumstances described in section of this Act, if said claim is held in common with the Cherokee Nation of Oklahoma. Any party to any action thus brought under this Act shall have a right to review, as provided under existing law.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the bill be considered as read, printed in the RECORD, and open to amendment at any point.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

COMMITTEE AMENDMENTS

The CHAIRMAN. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 1, line 3, strike out "That," and insert in lieu thereof "That (a)".

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the next committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 24, strike out the colon and insert in lieu thereof a period.

The committee amendment was agreed to.

The CHAIRMAN. The Clerk will report the last committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, line 24, strike out "*Provided*" and all that follows thereafter through page 3, line 5, and insert in lieu thereof the following:

(b) Notwithstanding sections 2401 and 2501 of title 28, United States Code, and section 12 of the Act approved August 13, 1946 (25 U.S.C. 70k), the Court of Claims or the United States District Court for the Eastern District of Oklahoma shall have jurisdiction to the same extent as under subsection (a) of this Act to hear, determine, and render judgment on any claim of the Choctaw Nation and on any claim of the Chickasaw Nation against the United States for any damages to any tribal assets, lands, or interests of such Nations arising from the actions of the United States described in such subsection.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the committee amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The committee amendment was agreed to.

The CHAIRMAN. Are there any other amendments?

If not, under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. BENNETT) having assumed the chair, Mr. ANNUNZIO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2329) conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma, pursuant to House Resolution 530, he reported the bill back to the House with sundry amendments adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment? If not, the Chair will put them en gros.

The amendments were agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. WYLIE. Mr. Speaker, I object to the vote on the ground a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 293, nays 26, not voting 115, as follows:

[Roll No. 209]

YEAS—293

Akaka	Carney	Duncan
Alexander	Chappell	Dwyer
Anderson	Cheney	Dyson
Andrews	Clausen	Eckart
Annunzio	Clinger	Edwards (AL)
Anthony	Coats	Edwards (CA)
Applegate	Collins (IL)	Edwards (OK)
Aspin	Collins (TX)	English
AuCoin	Conable	Erdahl
Bailey (PA)	Conte	Evans (DE)
Beard	Corcoran	Evans (IA)
Bedell	Coughlin	Fary
Benedict	Courter	Fascell
Benjamin	Coyne, William	Ferraro
Bennett	D'Amours	Fiedler
Bereuter	Daniel, Dan	Fields
Bevill	Daniel, R. W.	Flippo
Bingham	Dannemeyer	Foglietta
Blanchard	Daschle	Foley
Bliley	Daub	Ford (MI)
Boggs	Davis	Forsythe
Boland	de la Garza	Fountain
Boner	Deckard	Fowler
Bonker	Dellums	Frank
Bouquard	Derrick	Frenzel
Brinkley	Derwinski	Frost
Brooks	Dickinson	Garcia
Brown (CA)	Dicks	Gaydos
Brown (CO)	Dixon	Gejdenson
Broyhill	Donnelly	Gephardt
Butler	Dorgan	Gibbons
Byron	Dougherty	Gilman
Campbell	Downey	Gingrich
Carman	Dreier	Glickman

Gonzalez	Lungren	Rostenkowski
Goodling	Markey	Roukema
Gore	Marlenee	Roybal
Gradison	Marriott	Russo
Green	Martin (IL)	Sabo
Gregg	Martin (NC)	Sawyer
Guarini	Martinez	Scheuer
Gunderson	Matsui	Schneider
Hagedorn	Mattox	Schroeder
Hall (OH)	Mazzoli	Schulze
Hall, Ralph	McCurdy	Schumer
Hall, Sam	McDade	Seiberling
Hamilton	McEwen	Sensenbrenner
Hammerschmidt	McHugh	Shamansky
Hance	Mica	Shannon
Harkin	Michel	Sharp
Hawkins	Mikulski	Shaw
Heckler	Miller (CA)	Skeen
Heftel	Miller (OH)	Smith (IA)
Hendon	Mineta	Smith (NE)
Hightower	Minish	Smith (NJ)
Hiler	Mitchell (MD)	Snowe
Hillis	Molinari	Snyder
Holland	Moore	Solarz
Holt	Moorhead	Spence
Horton	Morrison	St Germain
Howard	Murphy	Stangeland
Hoyer	Murtha	Stark
Huckaby	Myers	Stenholm
Hughes	Natcher	Stokes
Hunter	Neal	Stratton
Hutto	Nelligan	Studds
Jacobs	Nowak	Synar
Jeffords	Oberstar	Tauke
Jeffries	Obey	Tauzin
Jenkins	Ottinger	Taylor
Jones (NC)	Oxley	Traxler
Jones (OK)	Panetta	Udall
Kastenmeier	Parris	Vander Jagt
Kazen	Pashayan	Vento
Kemp	Patterson	Volkmer
Kennelly	Pease	Walgren
Kildee	Pepper	Walker
Kindness	Perkins	Wampler
Kogovsek	Petri	Washington
LaFalce	Peyser	Waxman
Lagomarsino	Pickle	Weaver
Lantos	Porter	Weber (MN)
Latta	Price	Weber (OH)
Leach	Pritchard	Weiss
LeBoutillier	Quillen	Whitley
Lehman	Rangel	Whittaker
Leland	Ratchford	Whitten
Lent	Regula	Williams (OH)
Lewis	Reuss	Winn
Livingston	Rinaldo	Wirth
Loeffler	Roberts (KS)	Wolf
Long (LA)	Robinson	Wolpe
Lott	Rodino	Wright
Lowery (CA)	Roe	Wylie
Lowry (WA)	Roemer	Yates
Lujan	Rogers	Yatron
Luken	Rose	Zablocki
Lundine	Rosenthal	

NAYS—26

Archer	Hansen (UT)	Ritter
Ashbrook	Hartnett	Roberts (SD)
Bethune	Johnston	Roth
Coyne, James	Lee	Shelby
Crane, Daniel	McCollum	Smith (AL)
Crane, Philip	McDonald	Staton
Gramm	McGrath	Swift
Grisham	Patman	Wortley
Hansen (ID)	Paul	

NOT VOTING—115

Addabbo	Burton, John	Emerson
Albosta	Burton, Phillip	Emery
Atkinson	Chappie	Erlenborn
Badham	Chisholm	Ertel
Bafalis	Clay	Evans (GA)
Bailey (MO)	Coelho	Evans (IN)
Barnard	Coleman	Fazio
Barnes	Conyers	Fenwick
Beilenson	Craig	Findley
Biaggi	Crockett	Fish
Bolling	DeNardis	Fithian
Bonior	Dingell	Florio
Bowen	Dornan	Ford (TN)
Breaux	Dowdy	Fuqua
Brodhead	Dunn	Ginn
Broomfield	Dymally	Goldwater
Brown (OH)	Early	Gray
Burgener	Edgar	Hatcher
Hefner	Moffett	Simon
Hertel	Mollohan	Skelton
Hollenbeck	Montgomery	Smith (OR)
Hopkins	Mottl	Smith (PA)
Hubbard	Napier	Solomon
Hyde	Nelson	Stanton
Ireland	Nichols	Stump
Jones (TN)	O'Brien	Thomas
Kramer	Oakar	Trible
Leath	Pursell	Watkins
Levitas	Rahall	White
Long (MD)	Railsback	Whitehurst
Madigan	Rhodes	Williams (MT)
Marks	Richmond	Wilson
Martin (NY)	Rousselot	Wyden
Mavroules	Rudd	Young (AK)
McClory	Santini	Young (FL)
McCloskey	Savage	Young (MO)
McKinney	Shumway	Zeferetti
Mitchell (NY)	Shuster	
Moakley	Siljander	

□ 1110

Messrs. HARTNETT, PHILIP M. CRANE, ROTH, WORTLEY, BETHUNE, JAMES K. COYNE, McCOLLUM, and ROBERTS of South Dakota changed their votes from "yea" to "nay."

Mr. TAUZIN changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SYNAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous matter, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 2643, AIRPORT AND AIRWAY IMPROVEMENT ACT

Mr. FROST. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 489 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 489

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2643) to provide for the improvement of the Nation's airport and airway system, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Pubilc Works and Transportation, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, and two hours to be equally divided between the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Pubilc Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived, and each section of said substitute shall be considered as having been read. It shall be in order to consider the text of the amendments recommended by the Committee on Science and Technology now printed in the bill, and the text of the bill H.R. 6193 reported by that committee, if offered as amendments to said substitute. After the disposition of all other perfecting amendments to said substitute, it shall be in order to consider an amendment adding a new title to said substitute consisting of the text of the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill H.R. 4800, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. Said amendment shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole, except pro forma amendments for the purpose of debate and germane amendments recommended by the Committee on Ways and Means. Upon the adoption of said amendment, no further amendment to the bill shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1120

The SPEAKER pro tempore. The gentleman from Texas (Mr. FROST) is recognized for 1 hour.

Mr. FROST. Mr. Speaker, for purposes of debate only I yield the customary 30 minutes to the gentleman from Mississippi (Mr. LOTT), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 489 technically provides for the consideration in the Committee of the Whole of H.R. 2643, the Airport and Airway Improvement Act of 1981. However, it is a relatively complex rule which deals with three distinct bills and I would therefore urge the Members' attention.

This is a modified open rule which provides for 4 hours of general debate to be divided among the three committees of jurisdiction as follows: 1 hour

equally divided between the chairman and ranking minority member of the Committee on Public Works and Transportation; 1 hour equally divided between the chairman and ranking minority member of the Committee on Science and Technology; and 2 hours equally divided by the chairman and ranking minority member of the Committee on Ways and Means.

The resolution waives section 402(a) of the Budget Act which prohibits the consideration of any bill which authorizes new budget authority for a fiscal year unless that bill has been reported by May 15 preceding the beginning of the fiscal year for which it becomes effective. The waiver is necessary because various provisions of H.R. 2643, as introduced, authorize appropriations for fiscal year 1981 and the bill was not reported by May 15, 1980.

The resolution would also make in order consideration of a Public Works Committee amendment in the nature of a substitute now printed in the bill as original text for purposes of amendments under the 5-minute rule and waives points of order which may lie against the substitute or against H.R. 4800 for failure to comply with clause 5, rule XXI, which prohibits appropriations in a legislative bill. This waiver is necessary because provisions of H.R. 2643 and H.R. 4800 permit the Secretary to obligate already appropriated funds, transfer funds, or may otherwise constitute an appropriation, each section of the substitute will be considered as read.

With regard to the Committee on Science and Technology, its recommended amendments now printed in the bill are made in order for consideration, and, if offered, the text of H.R. 6193 (relating to 1983 authorization for FAA research, engineering, and development), as an amendment to H.R. 2643.

House Resolution 489 provides for an open rule up to this point. After the disposition of all perfecting amendments to the substitute, it will then be in order to consider the text of H.R. 4800 as recommended by the Committee on Ways and Means as a new title to the substitute. Clause 7 of rule XVI (relating to germaneness) is waived against consideration of the amendment.

No amendments would be allowed under the rule to this title except for pro forma amendments for debate and germane amendments of the Committee on Way and Means. No division of the question is in order on H.R. 4800.

Once this amendment is adopted, no further amendment will be in order, the committee will report the bill back to the House with adopted amendments. As usual, members may request a separate vote on any amendment adopted to the bill or substitute.

One motion to recommit with or without instructions is in order.

Mr. Speaker, H.R. 2643 is a large and complex piece of legislation reflected in the number of committees claiming jurisdiction and in the amount of time which the Rules Committee seeks to provide for general debate. I, therefore, will provide a cursory explanation of its provisions here and leave the details to the more knowledgeable committees of record.

H.R. 2643 provides reauthorization for numerous airport and airways development programs which had expired in 1980 and had been continued under the omnibus reconciliation bill and the Supplemental Appropriations Act of last year.

It provides $450 million per year—fiscal year 1981 through fiscal year 1983—in direct spending authority from the airport and airway trust fund for the airport development aid program (ADAP).

It further authorizes appropriations for airport facilities and equipment, aviation research, engineering and development, aviation security, training for State and local aviation personnel, and FAA operation and maintenance of the airport and airway system.

The Science Committee added authorization for FAA research and development for fiscal year 1981 and 1982 and H.R. 6193, if offered, would add FAA R. & D. authorizations for fiscal year 1983.

Finally, through H.R. 4800 the Ways and Means Committee recommends to the House several modifications of airport and airway revenue policies.

In 1980, the jet fuel tax expired and the gasoline tax was reduced from 7 cents per gallon to 4 cents per gallon for general aviation. H.R. 4800 sets both taxes at a level of 12 cents per gallon for the 18-month period ending December 31, 1983. After that time taxes will revert to the present level.

The domestic air passenger ticket tax is maintained at its present 5-percent rate and the international departure tax is reinstated and increased from $3 to $5.

The bill also transfers the revenues raised from the aviation related excise taxes from the general fund to the airport and airways trust fund for the 18-month period ending December 31, 1983.

This is obviously an important piece of legislation which affects the safety and efficiency of our air transportation system and hence each Members' constituency. I urge my colleagues to support this rule and move to expeditious consideration of H.R. 2643.

Mr. Speaker, I reserve the balance of my time.

□ 1130

Mr. LOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this rule. While I am ordinarily an advocate of rules which are more open than this one, I do feel that the handling of this matter by the Committee on Rules has been appropriate.

I want to stress from the outset that the current administration has expressed support for this rule.

As the gentleman from Texas has already explained, what we will have before us if this rule is adopted is legislation reported from three committees of this House. The rule which the Rules Committee has granted provides that the Public Works Committee's substitute will be considered as an original bill for purposes of amendment and will therefore serve as the principal vehicle for consideration of this matter.

The Committee on Science and Technology has reported an amendment to this bill and also a separate piece of legislation, H.R. 6193, both of which authorize research and development by the Federal Aviation Administration at levels different from those provided in the Public Works version. This rule permits consideration of these committee proposals as amendments to the Public Works bill.

In addition, the Committee on Ways and Means has reported H.R. 4800, which if adopted would add a new title to this bill making certain changes regarding the revenues which come into the airway trust fund. Consideration of this separate bill as an amendment to the Public Works bill is therefore provided for under this rule.

Clause 7 of rule 16, the germaneness rule, must be waived in order for the Ways and Means portion to be offered as an amendment. In addition, because of the time factor, section 402(A) of the budget act has to be waived, since new budget authority is required to be reported by May 15 of the year preceding the beginning of the fiscal year for which it becomes effective. Clause 5 of rule 21 must also be waived since provisions of the Public Works version and Ways and Means proposal could be construed to contain appropriations in a legislative bill.

Under this rule, there will be 4 hours of general debate—2 hours for the Ways and Means Committee and 1 hour each for Science and Technology and Public Works.

None of the amendments will themselves be subject to amendment. However, a motion to recommit with or without instructions is provided.

Mr. Speaker, as reluctant as I usually am to support rules which close off all but committee amendments, I am convinced that this is the correct approach in this instance. The Secretary of Transportation has asked the House to adopt this rule as the best method of getting a bill passed in this area. Because of the importance of enacting the legislation without delay, I urge my colleagues to support the rule.

89-059 O-86-27 (Pt.13)

Mr. Speaker, I do have requests for time, but first I do want to reemphasize that I am supporting the rule and I will be supporting the previous question.

Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I ask the Members of the House to vote against the previous question on this rule.

The tax title of the bill that this rule brings to the floor, H.R. 2643, once again is a closed rule. Once again Members of the House are being told, "You don't know enough about tax policy, you don't know enough about public policy, you don't know enough about aviation policy to have the right to make some decisions for yourself. They have been made for you and you just take it or leave it."

There are several important amendments I think my colleagues on the House floor can understand and ought to have the right to vote on. These amendments were requested of the Rules Committee, but were not voted upon by the Rules Committee.

If the previous question is defeated, I will offer a substitute modified closed rule which will allow three amendments to the tax title of this bill.

The first amendment will reduce the general aviation fuels tax from 12 cents down to 8 cents. That is not too difficult to understand.

Second, there are carryover aviation taxes that will still be allowed to go on under this bill after most of the other taxes in this bill sunset. I simply will offer an amendment to make all the taxes sunset. That, too, is not very difficult to understand.

Third, there is a special tax preference that air passengers going to Alaska and Hawaii receive special treatment that other passengers across the country do not. The gentleman from Minnesota (Mr. FRENZEL) will offer an amendment to correct that and I think you will concur that it also is not too difficult for Members of the House to understand.

These three amendments have the support of the ranking minority members of the Ways and Means Committee, the Public Works Committee, and the Aviation Subcommittee of the Public Works Committee, which is all of the committees that this bill went through in its route to coming to you on the House floor.

The first amendment would reduce the general aviation fuels tax from the present 12-cent-a-gallon level in this bill down to 8 cents. The 12-cent level is not needed. An 8-cent gasoline tax will leave $2.1 billion of unobligated surplus funds in the trust fund at the end of the authorization period of this bill, $2.1 billion more than anybody has authorized to spend will still be there.

Second, the general aviation industry is already paying $1.80 a gallon for fuel and does not need to have us raising that fuel any higher than it need be.

Third, this bill triples—I repeat, triples the current tax paid on aviation gasoline. It is a 400-percent increase for jet fuel.

An 8-cent-a-gallon tax is still higher than was included in the previous 10-year aviation tax history, so the amendment I will offer will, in fact, raise taxes on what they are now by doubling and raise taxes over what they ever were on aviation fuel; but to triple it or to increase it 400 percent is uncalled for when you are still going to have a balance of $2.1 billion left when this authorization bill is finished.

Further, the general aviation industry is in a slump. An unnecessarily excessive tax will simply make that slump worse.

Unit sales of private aircraft are down 46 percent over last year. Unemployment in the general aviation industry is some 25 to 30 percent of unemployed. These taxes will just make that worse.

It seems to me, Mr. Speaker, there is no point in raising a tax that is dedicated to a trust fund and those taxes in that trust fund are not going to be spent.

This trust fund is a prisoner of the unified budget and efforts to hold its outlays from that trust fund down to bring down deficits.

Now, while I support the FAA plan that will ultimately at some point in the future spend those funds, the point is that we are supposed to raise taxes to meet the authorized spending of this bill and that will happen with an 8-cent-a-gallon gasoline tax and still leave a surplus of $2.1 billion.

The second amendment I intend to offer will eliminate the carryover aviation taxes. When this bill expires, some taxes continue even though the tax portion of the bill sunsets most of the taxes.

These taxes are the result of legislative loose ends or just sloppy lawmaking. These taxes will not go into the trust fund, but go into the general fund.

In the past 21 months since the last aviation fuel tax expired, these carryover taxes paid by aviation consumers, some $2 billion, did not go into the trust fund for aviation growth and for aviation safety, but went into the general fund.

The SPEAKER pro tempore. The time of the gentleman from Louisiana has expired.

Mr. LOTT. Mr. Speaker, I yield 1 additional minute to the gentleman from Louisiana.

Mr. MOORE. Mr. Speaker, I thank the gentleman.

This amendment, this second amendment, failed in the Ways and Means Committee by one vote—by one vote.

I want to conclude by saying that I think the Congress has the duty to raise the taxes to meet the authorization levels. In the entire 10-year history of this trust fund, the tax receipts have always been higher than the authorization levels and the appropriation levels have always been below the authorization level; so what it boils down to is that we are just raising taxes to sit in a fund and not be spent, in violation of what they are supposed to be spent for—for aviation safety.

Mr. Speaker, I urge that we reject this rule, vote down the previous question and allow us to begin to exhibit some sort of tax and fiscal restraint and policy by giving some control over these funds that are not being spent, but are just being collected and sitting there.

Mr. FROST. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. MINETA).

□ 1140

Mr. MINETA. I appreciate the gentleman's yielding this time to me.

Mr. Speaker, it is particularly important that we vote "yes" on the previous question and adopt a rule permitting prompt consideration of legislation to renew the Nation's airport and airway programs for fiscal years 1982 and 1983. These important programs, which have been in effect since 1970, are fully supported by taxes paid by users of the system. Renewal of the programs is critical if our aviation system is to be able to handle the demands which will be placed on it during the coming decade.

For example, our air traffic control system now uses computers and radar technology which is more than 20 years old and is becoming increasingly expensive to operate and maintain. Unless the system is modernized, it is estimated that the number of severely congested airports will grow from the current 11 to 91 by the year 2000.

The administration has recently submitted detailed plans for modernizing the airway system. The modernization will make the system much more efficient and productive. FAA estimates that its proposal for modernization will save $43 billion in operating costs to the Government between now and the year 2000 at an estimated capital cost of $10 billion.

The needs for airport capital development are equally great. It would make no sense to develop the world's best airway system to accommodate aircraft in the air, but have no place for them to land.

Airport development needs have been estimated at $12 billion over the next decade. Unless this development

is undertaken, capacity constraints, which are already becoming a problem in some major airports, will become more prevalent. Congestion will increase and significant delays will become normal.

H.R. 2643 will enable us to begin meeting the needs of aviation for the decade of the 1980's. The funding levels which our committee will support on the floor are the minimum required to begin the capital development of airports and airways which will be required if our system is to continue to be safe and efficient.

H.R. 2643 needs to go forward as promptly as possible. Until this legislation is passed, FAA will have no authority to make ADAP grants for fiscal 1982. Unless this legislation is enacted well before the end of the fiscal year, we may lose an entire year of airport development.

Passage of this legislation is also necessary to end the highly inequitable tax situation which has existed since October 1980. Since that time taxes paid by aviation users have been going into the general fund or the highway trust fund rather than the aviation trust fund. This is a great inequity to the airlines and their passengers, and to general aviation, who are paying user taxes but not having them set aside for aviation needs as promised by the Congress in 1970. This inequity must be remedied promptly.

I would also emphasize that the legislation reported by our committee, H.R. 2643, would be under an open rule, so that any Member with a disagreement with any portion of H.R. 2643 would have the opportunity to offer an amendment.

Mr. Speaker, I urge my colleagues to join with me in voting "yes" on the previous question and adopting a rule today so that we can promptly pass legislation to renew the airport and airway programs.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, I rise in opposition to this rule and urge the defeat of the previous question.

However, from the outset I would like it understood that the gentleman from Louisiana, (Mr. MOORE) and myself have no quarrel with the fine work of the gentleman from California (Mr. MINETA) and his subcommittee, not with their portions of the bill. Our attack on the rule and the previous question have nothing to do with their section of the bill. We support it.

What we want to do is to give this body the opportunity to make some choices on the Ways and Means part of the bill, which we find excessive.

I do support the Moore amendments and the Moore rationale, and I would like to be associated with the remarks just made by the gentleman from Louisiana, but I want to use my time this morning to talk about the amendment which I hope to introduce. It is printed in the RECORD on page H3273 of June 8, 1982.

Under the present law, individuals flying to Hawaii and Alaska are exempt from paying the domestic airline ticket tax. Under this bill, that tax is 5 percent. Instead, these passengers pay the international departure tax and are treated as though they were flying to a foreign country, not to the 49th and 50th States of our Union.

Now, due to the fluctuations in air travel ticket prices, the revenue estimates vary on how much this special-interest tax break for travelers to Hawaii and Alaska get. The low estimate, I understand, is that this benefit will cost the Treasury at least $40 million each year.

What Members have to understand is that this is a subsidy paid by all of the passengers who pay a regular ticket price for flying all around the United States, and the subsidy that they pay is given to those more affluent passengers who can afford to fly to Alaska or Hawaii for a vacation. Some very simply called this an outright gift from regular flying passengers to vacation travelers.

Whatever it is, at a time when Congress has to raise extra tax revenues, Congress should certainly not allow an unproductive special-interest tax break to continue in this part of the Tax Code.

Now, the supporters of this exemption usually argue that the flight is over water and they do not need all the wonderful FAA protection that over-ground flights get. However, they forget that flights between New Orleans and Miami, between here and the Northeast, between here and Florida, are also overwater flights and the principal FAA support is in taking off and landing anyway.

Obviously, those flights use the system. Passengers ought to pay what everbody else pays.

These States are the most recent additions to our Union. I think they are proud members of our Union and I think they would want to be treated like other citizens. They are not international destinations. They are not territories or possession. They are States.

I urge the defeat of the previous question in order that the entire House may have the opportunity to cast its vote against the continuation of an expensive, unnecessary, special-interest tax break for a select group of rather affluent vacationers.

The vote in favor of continuing this tax break was 17 to 14 in the Ways and Means Committee, which indicates to me there is substantial bipartisan support for eliminating this special tax break.

Mr. Speaker, going on to the Moore amendments, they do seek to moderate unneeded tax increases, and those amendments are especially meritorious. The gentleman from Louisiana (Mr. MOORE) is trying to raise taxes just enough to finance the system which the gentleman from California (Mr. MINETA) would like to put in operation. Even though there will be a large surplus in the fund after the Moore amendments were adopted, if they were to be adopted, we do seek to moderate the tax increases so that we do not provide an extra-large amount in the fund. We know this Congress always looks for ways to spend out of that fund.

There have been three or four attempts, some for noise reduction, some for special buildings at airports, some even for roads leading to airports, from this fund. We think it is better if the taxes finance only what the gentleman from California thinks is necessary to improve the system in the future.

With respect to general aviation, the gentleman from Louisiana has made the point, I think, very well. General aviation is being overtaxed in this bill, and the Moore amendment to moderate the increase should be passed.

Mr. Speaker, I urge defeat of the previous question.

□ 1150

Mr. FROST. Mr. Speaker, I yield 5 minutes, for debate only, to the gentleman from Illinois (Mr. ROSTENKOWSKI), the chairman of the Committee on Ways and Means.

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman from Texas (Mr. FROST).

Mr. Speaker, I rise on behalf of the Committee on Ways and Means to speak in favor of the rule granted by the House Rules Committee for consideration of H.R. 4800, the Airport and Airway Revenue Act of 1982. I urge my colleagues to support the Committees on Ways and Means and on Rules by supporting the closed rule on H.R. 4800. This measure will be offered as a separate financing title to H.R. 2643, the Airport and Airway Improvement Act of 1982, as reported by the House Committee on Public Works and Transportation.

H.R. 4800 extends and reinstates various aviation excise taxes in order to finance the airport and airway trust fund through December 31, 1983. Under the bill, the domestic air passenger ticket tax would continue at its present 5-percent rate, and the air freight waybill tax would be reinstated at its prior rate of 5 percent. The international departure tax would be reinstated at a rate of $5 per person. The fuel tax for noncommercial general aviation would be imposed at 12 cents per gallon for both gasoline and

jet fuel, and the aircraft tire and tube taxes would continue at their present rates. The aircraft use tax of prior law would be repealed for both commercial and general aviation.

The revenues from these excise taxes are needed to provide adequate funding over the short term for the spending on airport and airway programs that will be proposed by the House Public Works Committee. In addition, action on these taxes is long overdue. In 1980, several of these taxes were allowed to lapse or were automatically reduced by congressional inaction, and it is past time to reinstate these excise taxes at more appropriate levels.

I recognize that tax increases are never popular, and these are no exception. Yet, I would point out that the Committee on Ways and Means is presently required under the reconciliation instruction for the first concurrent resolution on the fiscal year 1983 budget to raise over $20 billion in taxes for fiscal year 1983. H.R. 4800 will make a very modest contribution toward that target, by raising $355 million in fiscal year 1983, but it is nevertheless a necessary and an equitable contribution. Indeed, a failure to achieve this modest tax increase, because of the objections of a few, would certainly call into question the will and ability of the House to meet the revenue goals it has established for itself as part of the budget process.

I would like to point out, too, for the benefit of those House Members who are not following the actions of the Senate Finance Committee closely, that the revenue bill passed by the Senate contains much higher aviation excise tax rates. The Senate bill will, in contrast to H.R. 4800, increase fiscal year 1983 revenues from these taxes by $813 million, more than twice the size of the tax increase in H.R. 4800 in fiscal year 1983, and substantially more over the entire period.

Finally, those opposing this rule would do so in order to propose amendments that were fully debated in the Committee on Ways and Means and were rejected. One amendment proposed to reduce the fuel tax rate on general aviation fuel from 12 cents to 8 cents. This amendment was rejected in committee on a rollcall vote by a substantial margin. An 8 cents fuel tax would reduce the tax burden on these taxpayers to a level below that paid in 1980, before the aircraft use tax and jet fuel tax expired and the aviation gasoline tax rate dropped from 7 cents to 4 cents per gallon. Another amendment would repeal all of the aviation excise taxes at the end of 1983, under the guise of forcing the Committee on Ways and Means and the Congress to act prior to that date to revise or extend these taxes. The committee also rejected this proposal. While we would fully expect to act on these taxes prior to December 31, 1983, an unavoidable failure to do so could mean as much as $1.3 billion in lost revenues for fiscal year 1984 under the proposed amendment.

Mr. Speaker, I make these points to assure my colleagues that the Committee on Ways and Means fully and fairly considered these matters. The committee's bill deserves the support of the House, and I ask for its support of the rule provided on this measure. The House has many important agenda item before it, and it is time to act expeditiously on this measure, which has been under consideration by the Committees on Ways and Means and on Public Works since last year. Every month of delay has cost the Treasury badly needed and deserve revenues.

Mr. LOTT. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CLAUSEN).

Mr. CLAUSEN. Mr. Speaker, let me say at the outset that I find myself in agreement with most of what has been said by our distinguished chairman of the Aviation Subcommittee as it relates to the need to modernize the airport and airway system. But I do have strong reservations about the rule and the manner in which it is being presented.

In particular—and this will be discussed very extensively during the debate and in the final disposition of the legislation, possibly next week—there is a substantial need for the construction of an adequate airport system in this country. As a matter of fact, we are falling behind. There is a desperate need for the establishment of an integrated airport system, with particular emphasis on providing the types of reliever airports that are very much needed in order to assure access for general aviation aircraft into metropolitan areas.

But, let me move to the reason I rise in opposition to the rule being presented, and I want to urge my colleagues to vote down the previous question on the rule. I urge them to take this action so that we can bring up amendments which would not otherwise be in order if House Resolution 489 is adopted. In its place, we intend to support an amendment in the nature of a substitute which has been alluded to, which will be offered by the gentleman from Louisiana, and which would allow separate votes on those amendments to the Ways and Means Committee tax provisions.

But, I am going to focus my remarks on the first amendment, which would decrease the general aviation fuel tax from 12 cents to 8 cents per gallon. I firmly believe that fairness and equity require that all Members of this body have an opportunity to vote separately on this important issue. As many of my colleagues are aware, much of general aviation does not—and I repeat—does not use the elaborate air traffic control and airway systems routinely used by the airline and the very sophisticated business aircraft. In spite of this, the Ways and Means Committee reported out a tax that has the potential of being three times the existing rate for gasoline, from 12 cents versus 4 cents.

I am sure the Members can understand a pilot's view that another 8 cents tacked onto the price of aviation fuel would make a pretty intolerable situation even worse, and in addition—and this is an area where we have to have some concern—there are many small business fixed-base operators who are on the marginal line today who would surely be irreparably harmed or forced to shut down if pilots refused to purchase fuel at prevailing prices.

Mr. Speaker, I suggest that the high price of general aviation fuel has already done severe damage to the industry by making it more difficult for our citizens to afford to fly. Deliveries of new general aviation aircraft are down markedly, and manufacturers have been forced to lay off a substantial number of workers. Therefore, I would urge my colleagues not to exacerbate the situation without submitting this issue to the full membership of the body for a separate vote.

So, Mr. Speaker, in summary, the proposed tax increase would triple the currently paid fuel tax of 4 cents per gallon, and a 12-cent tax would hurt the little guy. Business flyers, as the Members know, can deduct this as a business expense. The personal private pilot cannot.

Let me relate a little bit of my own experience, having been involved in aviation a goodly portion of my life. I can tell the Members that some 95 percent—95 percent of all aviation is general aviation, and 95 percent of them are involved in flying clubs, involved in experimental aircraft, as well as small business owners, so we are talking about a number of people that do not in fact utilize the air traffic control system being constructed essentially for the enroute traffic requirements of our air transportation system.

□ 1200

In addition, although the increase is justified as a user charge, I say that 95 percent of general aviation flies VFR and does not use that air traffic control system. By VFR I am talking about flying under visual flight rules and not under the instrument flight rules normally used by the airlines and business aviation.

An 8-cent-a-gallon fuel tax, which the Aircraft Owners and Pilots Association incidentally indicated they would support—they have agreed to this—would make the tax twice as

much as general aviation now pays for gasoline. They are willing to pay their share but see a tripling of the tax as unfair.

Mr. Speaker, I urge a vote against the previous question.

Mr. FROST. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Speaker, I rise in support of the rule that has been recommended for floor consideration of H.R. 2643, the Airport and Airway Imporvement Act of 1982. This bill represents the culmination of the cooperative efforts of the administration and three House committees, Ways and Means, Science and Technology, and Public Works and Transportation. This rule accordingly provides for the orderly consideration of a complex, long-overdue bill that deserves the full support of this body.

The redevelopment program that is funded and authorized by this legislation is urgently needed to modernize outdated and antiquated computer and other equipment in our Nation's airports. Recent events in New Orleans and at our own National Airport, whatever their causes, only serve to underscore the national urgency of this important redevelopment program. This country and this Congress, I believe, overwhelmingly support taking whatever steps are necessary to insure that our airports and airways are as safe as possible for the many millions of air travelers in this country.

Mr. Speaker, I particularly want to speak at this time in support of the Rules Committee's wise decision to provide a closed rule for the revenue provisions of the airport and airway improvement legislation that we will soon take up. These provisions, which were reported by the Ways and Means Committee in H.R. 4800, revitalize the separate airport and airway trust fund, which was allowed to expire in 1980, and establish tax levels that will insure that the trust fund is adequately funded to meet the needs of the redevelopment program.

The tax levels contained in this legislation represent the results of long and comprehensive bipartisan negotiations between Congress and the administration. H.R. 4800, the bill reported by the Ways and Means Committee, was originally sponsored by Mr. ROSTENKOWSKI, the able chairman of the committee, and Mr. CONABLE, the distinguished ranking minority member of the committee.

Moreover, the tax levels set in this bill are by no means onerous. In fact, they are generally substantially lower than the levels proposed by the President in his budget request last winter. The administration, for example, requested that the air passenger ticket tax be increased from the present level of 5 to 8 percent. The Ways and Means Committee, after careful deliberation, would continue this tax at its current 5 percent level. The administration requested that the gasoline fuel tax for general—noncommercial—aviation be raised from its present level of 4 cents per gallon to 12 cents per gallon this year, increasing to 20 cents per gallon by the end of 1986. The Ways and Means Committee would increase this tax to 12 cents per gallon.

Nevertheless, a last-minute effort was made in the Ways and Means Committee to reduce the tax levels contained in this legislation, and thereby the revenues for the trust fund. This effort, I believe, was poorly conceived and is clearly contrary to the best interests of the air travelers. of this Nation. The committee soundly defeated each of the proposals put forth during this effort. The levels reported by the Ways and Means Committee provide the necessary funding for the long-sought and long overdue improvements to our Nation's airway and airport system. Moreover, the Ways and Means Committee was careful to provide that most of the provisions of this bill will expire on December 31, 1983, to insure that Congress will thoroughly review the trust fund tax levels and projected trust fund authorizatons in advance of that deadline.

Mr. Speaker, I also want to take this opportunity to speak in support of a longstanding provision, section 4262(b) of the Internal Revenue Code, which the Ways and Means Committee voted to retain during markup of H.R. 4800. Under this provision, which was enacted 26 years ago when the air passenger ticket tax was first enacted, the air passenger ticket tax applies to all portions of commercial flights that occur over the United States up until the plane leaves and after it reenters the territorial limits of the United States. Portions of such flights that occur over water or foreign territory are subject, under H.R. 4800, to a $5 per person international departure tax in lieu of the overwater portion of the air passenger ticket tax.

Section 4262(b) was first enacted in 1956 when Congress first established the air passenger ticket tax and has existed unchallenged ever since in recognition of the unique geographic location of Hawaii and Alaska, the principal States affected by this provision. The vast distances that separate these two States from the rest of the United States, render residents of Hawaii and Alaska totally dependent upon air transportation to conduct personal business and commerce with the mainland. Section 4262(b) thus has the effect of making the boundaries of Alaska and Hawaii contiguous with the mainland United States for purposes of calculation of the air passenger ticket tax, while recognizing the distinction that exists between purely domestic flights and flights to and from these two States, which involve travel over international territory or water.

The reasons that existed in 1956 for enacting this longstanding provision are just as relevant and valid today as they were then. Puerto Rico and the Virgin Islands are not subject to the overwater portion of the air passenger ticket tax, so that although Hawaii and Alaska are States, and not territories, any different treatment of flights to and from Hawaii and Alaska would clearly be inequitable. A different political status does not erase the 2,500 miles of ocean or foreign land that separates Hawaii and Alaska from the mainland United States.

Increased air fares would have a chilling effect on tourism, Hawaii's main industry, at a time when Hawaii's economy is already reeling from a drop in the world price of sugar, serious challenges from lower priced imports of agricultural products, and from the current, deep recession. However, it would be a mistake to characterize this provision as a subsidy or special tax break for tourists, wealthy or otherwise. Island residents doing business with the continental United States made up a substantial portion of the 3.1 million individuals who traveled round trip between these two locations in calendar year 1981, although exact figures are not available. Although airlines servicing Hawaii are currently experiencing a temporary fare war, transportation between the mainland and Hawaii and Alaska is exceptionally expensive, and any additional tax would only serve to further isolate these two States from the mainland United States.

Finally, flights over water to and from Hawaii and Alaska do not utilize the ground safety and support systems that are funded by the revenues collected from the air passenger ticket tax. Although such flights do take off from and land at domestic airports, the ticket tax does apply to all portions of the flights that occur over land and up until the plane leaves and after it reenters the territorial limits of the United States. Furthermore, Coast Guard or other rescue services that might be called upon to respond to any emergency that occurred over water are not funded from the airport and airway trust fund.

Mr. Speaker, we cannot have an airport and airway redevelopment program unless there are adequate revenues provided for the trust fund to finance that program. Anything short of providing the maximum in safety and comfort for the millions of Americans who use our airport and airway system each year is clearly unacceptable. Therefore, Mr. Speaker, I urge my colleagues to support the closed

rule that the Ways and Means Committee voted in favor of by a margin of 2 to 1. The Ways and Means Committee's overwhelming support for a closed rule reflects, I believe, this Congress and this country's full support for taking whatever steps are necessary to insure that our airways and airports are as safe as possible for the traveling public.

Mr. LOTT. Mr. Speaker, I yield 4 minutes to the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, I rise to urge my colleagues to defeat the previous question and later to support an amendment in the nature of a substitute which would make in order the three amendments heretofore discussed. First reduce general aviation fuel tax from 12 cents to 8 cents per gallon; second, terminate all user taxes on December 31, 1983; and third, modify the tax levied on commerical air transportation between Hawaii and Alaska and the coterminus United States.

On the issue of the general aviation fuel tax, I suggest to my colleagues that if we adopt House Resolution 489 as reported and go on to adopt a 12-cent-per-gallon fuel tax, we will be exacerbating an already grave situation for the general aviation industry.

According to AOPA in the first 2 months of this year, sale of Avgas was 24 percent below average. This is the lowest amount since 1960. It is especially alarming when one realizes that there are four times as many aircraft flying today.

Moreover, if an oil import tax of 8 cents per gallon is added, then general aviation users will be burdened with a tax that is three times higher than it has ever been and five times higher than it is today.

As evidence of the depressed state of the general aviation industry, the General Aviation Manufacturers Association estimates that its rate of unemployment is 38 to 40 percent. Deliveries of aircraft were down by 41 percent between 1978 and 1981 and down an additional 52.9 percent between May 1981, and May 1982. Needless to say, this is not an industry which can afford a 12-cents-per-gallon fuel tax when the price of fuel has already priced many potential pilots out of the market; that is, national average; Avgas—$1.95; Jet A—$1.71.

The second amendment which would be made in order if the gentleman from Louisiana's amendment to House Resolution 489 is adopted would terminate all aviation trust fund taxes on December 31, 1983, the date ADAP program would expire.

As reported, the ways and means tax title would provide that effective January 1, 1984, the same situation would exist as we have today; that is, a 5-percent passenger ticket tax with revenues going into the general fund and a 4 cent tax on Avgas and a tax on tires and tubes flowing into the highway trust fund.

The users have been paying O. & M. expenses through appropriations acts ($800 million in 1982) plus an additional $1.4 billion annually because the 5-percent ticket tax revenues have, since October 1, 1980, been going into the general fund. In addition, another $15 million per year has been going into the highway trust fund.

Or put another way, while aviation users are contributing substantially more to FAA operations and maintenance than ever before, they are being forced to contribute another $1.4 billion to the funding of non-aviation programs. And, to add insult to injury, there has not even been an airport development aid program since October 1, 1981. OMB has not been eager for a ADAP program. They like the idea of drawing down the trust fund while the aviation user taxes have gone with the Treasury. I submit to my colleagues that aviation users have been treated very unfairly.

Accordingly, to prevent this inequitable situation from arising in the future, I would urge my colleagues to make in order an amendment which would terminate all aviation user taxes effective December 31, 1983. If the authorization is itself renewed beyond fiscal year 1983, we would expect that the congress would act to keep all user taxes flowing into the aviation trust fund, something we would wholeheartedly support.

The final amendment which would be made in order if the gentleman's amendment to House Resolution 489 is adopted would eliminate the preferential tax treatment which Hawaii and Alaska have received on commercial air transportation.

As reported, the ways and means title treats the over-water or international portion of transportation between Alaska or Hawaii and the coterminus United States in the same manner as it treats transportation that begins or ends in a foreign country. The amendment would eliminate this situation and treat flights involving Hawaii and Alaska just the same as if they involved flights between points in the lower 48 States. According to the Joint Committee on Taxation, it would also raise $32 million in additional revenue to the trust fund beyond that generated by the Ways and Means reported version.

For the foregoing reasons, I urge my colleagues to defeat the previous question and to support an amendment to House Resolution 489 which would make these other amendments in order.

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. DASCHLE).

Mr. DASCHLE. Mr. Speaker, I rise in opposition to ordering the previous question.

● Mr. ROBERTS of South Dakota. Mr. Speaker, I rise in opposition to a modified closed rule on H.R. 2643/H.R. 4800, and I support the modified rule proposed by Mr. MOORE.

As my colleagues have pointed out, there is dispute as to the need to continue a holdover aviation tax, and dispute as to the size of the aviation fuel tax.

While I believe in the general concept of user fees and taxes, they must be equitable and unburdensome. I feel that the aviation fuel tax as formulated by the Ways and Means Committee is unfair to general aviation, and does little to benefit South Dakota and other rural States. Under the formula for distribution of the trust fund, the portion South Dakota and its aviators will receive, is grossly disproportionate to the amount those aviators will pay into the fund.

Open debate of the issues allows an honest evaluation of the merits of this tax plan, and I urge that my colleagues vote against the previous question and support the Moore rule.●

Mr. LOTT. Mr. Speaker, I have no further requests for time.

Mr. FROST. Mr. Speaker, we have no further requests for time, and I move the previous question on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

Mr. MOORE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 135, nays 178, not voting 121, as follows:

[Roll No. 210]

YEAS—135

Akaka	Fary	Lehman
Annunzio	Fascell	Leland
Anthony	Fenwick	Long (LA)
Applegate	Ferraro	Lott
Aspin	Foglietta	Lowery (CA)
AuCoin	Foley	Lowry (WA)
Bailey (PA)	Ford (MI)	Luken
Benjamin	Fowler	Lundine
Bennett	Frank	Lungren
Bingham	Frost	Markey
Blanchard	Garcia	Martinez
Boner	Gaydos	Matsui
Brown (CA)	Gejdenson	Mattox
Byron	Gephardt	McDade
Chappell	Gibbons	McHugh
Cheney	Gore	Mica
Conable	Gramm	Michel
Conte	Guarini	Mikulski
Coughlin	Hall (OH)	Miller (CA)
Coyne, William	Hance	Mineta
de la Garza	Heftel	Minish
Dellums	Howard	Mitchell (MD)
Derrick	Hughes	Murphy
Dicks	Hutto	Natcher
Dingell	Jenkins	Nelligan
Dixon	Jones (NC)	Nowak
Donnelly	Jones (OK)	Oberstar
Dougherty	Kastenmeier	Obey
Downey	Kennelly	Ottinger
Dwyer	Kildee	Panetta
Dyson	Kogovsek	Patterson
Eckart	LaFalce	Pease
Edwards (CA)	Lantos	Pepper

Peyser	Roybal	Tauke
Pickle	Russo	Traxler
Porter	Sabo	Udall
Price	Scheuer	Vander Jagt
Quillen	Schumer	Vento
Rangel	Shannon	Washington
Ratchford	Solarz	Waxman
Reuss	St Germain	Weaver
Rodino	Stark	Weiss
Roe	Stokes	Wirth
Rosenthal	Studds	Yates
Rostenkowski	Swift	Zablocki

NAYS—178

Alexander	Goodling	Oxley
Anderson	Gradison	Parris
Andrews	Green	Pashayan
Archer	Gregg	Patman
Ashbrook	Grisham	Paul
Bedell	Gunderson	Perkins
Benedict	Hagedorn	Petri
Bereuter	Hall, Ralph	Pritchard
Bethune	Hamilton	Regula
Bevill	Hammerschmidt	Rinaldo
Bliley	Hansen (ID)	Ritter
Bonker	Hansen (UT)	Roberts (KS)
Bouquard	Harkin	Roberts (SD)
Brinkley	Hartnett	Robinson
Brooks	Heckler	Roemer
Brown (CO)	Hendon	Rogers
Broyhill	Hightower	Rose
Butler	Hiler	Roth
Campbell	Hillis	Roukema
Carman	Holt	Sawyer
Carney	Horton	Schneider
Clausen	Hoyer	Schroeder
Clinger	Huckaby	Schulze
Coats	Hunter	Sensenbrenner
Coleman	Ireland	Shamansky
Collins (TX)	Jacobs	Sharp
Corcoran	Jeffords	Shaw
Courter	Jeffries	Shelby
Coyne, James	Johnston	Skeen
Crane, Daniel	Kazen	Smith (AL)
Crane, Philip	Kemp	Smith (IA)
D'Amours	Kindness	Smith (NE)
Daniel, Dan	Lagomarsino	Smith (NJ)
Daniel, R. W.	Latta	Snowe
Dannemeyer	Leach	Snyder
Daschle	LeBoutillier	Spence
Daub	Lee	Stangeland
Davis	Lent	Staton
Deckard	Lewis	Stenholm
Derwinski	Livingston	Stratton
Dickinson	Loeffler	Synar
Dreier	Lujan	Tauzin
Duncan	Madigan	Taylor
Edwards (AL)	Marlenee	Volkmer
Edwards (OK)	Marriott	Walgren
Emerson	Martin (IL)	Walker
English	Martin (NC)	Wampler
Erdahl	Mazzoli	Weber (MN)
Evans (DE)	McCollum	Weber (OH)
Evans (IA)	McCurdy	Whitley
Fiedler	McDonald	Whittaker
Fields	McEwen	Whitten
Flippo	McGrath	Williams (OH)
Forsythe	Miller (OH)	Winn
Fountain	Molinari	Wolf
Frenzel	Moore	Wortley
Gilman	Moorhead	Wylie
Gingrich	Morrison	Young (AK)
Glickman	Myers	
Gonzalez	Neal	

NOT VOTING—121

Addabbo	Brown (OH)	Edgar
Albosta	Burgener	Emery
Atkinson	Burton, John	Erlenborn
Badham	Burton, Phillip	Ertel
Bafalis	Chappie	Evans (GA)
Bailey (MO)	Chisholm	Evans (IN)
Barnard	Clay	Fazio
Barnes	Coelho	Findley
Beard	Collins (IL)	Fish
Beilenson	Conyers	Fithian
Biaggi	Craig	Florio
Boggs	Crockett	Ford (TN)
Boland	DeNardis	Fuqua
Bolling	Dorgan	Ginn
Bonior	Dornan	Goldwater
Bowen	Dowdy	Gray
Breaux	Dunn	Hall, Sam
Brodhead	Dymally	Hatcher
Broomfield	Early	Hawkins
Hefner	Montgomery	Skelton
Hertel	Mottl	Smith (OR)
Holland	Murtha	Smith (PA)
Hollenbeck	Napier	Solomon
Hopkins	Nelson	Stanton
Hubbard	Nichols	Stump
Hyde	O'Brien	Thomas
Jones (TN)	Oakar	Trible
Kramer	Pursell	Watkins
Leath	Rahall	White
Levitas	Railsback	Whitehurst
Long (MD)	Rhodes	Williams (MT)
Marks	Richmond	Wilson
Martin (NY)	Rousselot	Wolpe
Mavroules	Rudd	Wright
McClory	Santini	Wyden
McCloskey	Savage	Yatron
McKinney	Seiberling	Young (FL)
Mitchell (NY)	Shumway	Young (MO)
Moakley	Shuster	Zeferetti
Moffett	Siljander	
Mollohan	Simon	

□ 1220

The Clerk announced the following pairs:

On this vote:

Mr. Rahall for, with Mr. Hollenbeck against.

Mr. Fazio for, with Mr. Rudd against.

Mr. Addabbo for, with Mr. McKinney against.

Mr. Florio for, with Mr. Young of Florida against.

Mr. Mollohan for, with Mr. Bailey of Missouri against.

Mr. Bonior of Michigan for, with Mr. DeNardis against.

Mrs. Boggs for, with Mr. Hyde against.

Mr. Zeferetti for, with Mr. Siljander against.

Mr. Gray for, with Mr. Solomon against.

Mr. Richmond for, with Mr. Napier against.

Mr. Nelson for, with Mr. Chappie against.

Mr. Clay for, with Mr. Mitchell of New York against.

Mrs. Collins of Illinois for, with Mr. Whitehurst against.

Mr. Dymally for, with Mr. Martin of New York against.

Mrs. Chisholm for, with Mr. Rousselot against.

Mr. Hawkins for, with Mr. Fish against.

Messrs. ALEXANDER, HOYER, COLEMAN, VOLKMER, WALGREN, and GRISHAM changed their votes from "yea" to "nay."

Ms. MIKULSKI and Mr. OBERSTAR changed their votes from "nay" to "yea."

So the previous question was not ordered.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MOORE

Mr. MOORE. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. MOORE: Strike all after the resolving clause and insert in lieu thereof the following:

That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2643) to provide for the improvement of the Nation's airport and airway system, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed four hours, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Public Works and Transportation, one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science and Technology, and two hours to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Public Works and Transportation now printed in the bill as an original bill for the purpose of amendment under the five-minute rule, all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived, and each section of said substitute shall be considered as having been read. It shall be in order to consider the text of the amendments recommended by the Committee on Science and Technology now printed in the bill, and the text of the bill H.R. 6193 reported by that committee, if offered as amendments to said substitute. After the disposition of all other perfecting amendments to said substitute, it shall be in order to consider an amendment adding a new title to said substitute consisting of the text of the amendment in the nature of a substitute recommended by the Committee on Ways and Means now printed in the bill H.R. 4800, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI and clause 5, rule XXI are hereby waived. Said amendment shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole, except pro forma amendments for the purpose of debate, germane amendments recommended by the Committee on Ways and Means, and the following amendments: (1) amendments to said amendment printed in the CONGRESSIONAL RECORD of June 16, 1982, by, and if offered by, Representative MOORE; and (2) an amendment to said amendment printed in the CONGRESSIONAL RECORD of June 8, 1982, by, and if offered by Representative FRENZEL, and said amendments if offered shall not be subject to amendment, or to a demand for a division of the question in the House or in the Committee of the Whole, except pro forma amendments for the purpose of debate. Upon the disposition of said amendments, no further amendments to the bill shall be in order. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Louisiana (Mr. MOORE) is recognized for 1 hour.

Mr. MOORE. Mr. Speaker, I appreciate those Members of the House, my colleagues, who voted down the previous question on the rule, to now make in order three amendments to be offered to the tax portion of this bill when it comes up for consideration later next week.

The amendment to the rule which I have now offered does, as we said in debate, make in order three amendments.

First, to lower the tax on general aviation from a tripling down to a doubling, 12 cents a gallon to 8 cents.

Second, to sunset all taxes. The bill drawn by the Ways and Means Committee sunsets almost all of the taxes, but there are some carryover taxes that are not sunsetted and that do not go to general aviation but are simply put into the general fund. This has happened just because of a curious happenstance of the way these taxes were drawn over the years.

The second amendment will cause all of the taxes to be sunsetted, so the Ways and Means Committee will be starting from scratch 2 or 3 years from now to put these taxes back on again and put them into the trust fund.

The third amendment will be offered by my colleague, the gentleman from Minnesota (Mr. FRENZEL), which deals with the airline passenger ticket tax as it applies to Alaska and Hawaii.

□ 1230

Mr. Speaker, that is what the amendment to the rule does.

Mr. Speaker, I yield 30 minutes, for the purposes of debate only, to the gentleman from Texas (Mr. FROST).

Mr. FROST. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, this legislative procedure is certainly not encouraging in terms of what might take place on the floor of the House of Representatives in the next several weeks.

What the Ways and Means Committee did, and I would like to explain this to the membership, was to modify and reduce the tax levels that the administration had proposed for raising revenue for the airport and airways system.

What has happened here is that the House has not agreed to those modifications.

I can see very clearly that, when the tax measure that the Ways and Means Committee will be considering in the next few weeks is up for debate, we are not going to get as much cooperation as we expected from the administration and from the minority.

May I say that I feel I have an obligation as Chairman of the Committee on Ways and Means, and I am trying to meet that obligation and serve this Congress by attempting to comply with the reconciliation instruction of the first budget resolution. But what is happening ultimately is that Members think we can play high political theater and not meet our responsibilities with respect to the deficits that have been incurred because Congress passed the Economic Recovery Tax Act of last year.

I just want to make this final observation—the Senate bill provides for much higher revenues from aviation taxes than does this measure. This bill is a modification of what the administration had suggested. What will happen ultimately is that when the Committee on Ways and Means bring a revenue measure in the neighborhood of $20 billion for this fiscal year to the floor, it is going to be even more painful for my colleagues, particularly those on the other side of the aisle, to support. But if I cannot expect the support of the minority and if we are going to go through the hassle of writing a bill and then not get the cooperation of this administration, I see no reason in the world why I should even reconvene the committee to consider tax legislation in the next week or two.

Mr. MOORE. Mr. Speaker, in answer to my distinguished chairman, these humble amendments we are offering have nothing to do with the future of a tax bill to meet the first budget resolution. I think the chairman knows that. We offered these amendments in committee. One of them lost by one vote in the Ways and Means Committee and has no revenue implications at all.

Mr. ROSTENKOWSKI. The very same measure passed by the Senate just last night raises much more money than does this provision.

Mr. MOORE. I say to my committee chairman that he admonishes me almost every meeting of our committee that we ought to have differences in any tax bill so that the chairman has the right to go to conference and have something to negotiate with the other body on. I do not think that is a real problem.

Mr. ROSTENKOWSKI. I agree that we ought to have negotiations and we ought to go to a conference and have differences, but, gentlemen, when we come back, I am sure that you have to recognize that the vote will be for the higher level of taxes recommended by President Ronald Reagan.

Mr. MOORE. I simply say, Mr. Speaker, I do not think that necessarily follows. We will be going to conference with a lesser figure here, one with a higher figure there, then the Members of the House will have a chance to vote on this tax and many others at a later time in a conference report or subsequent tax bill.

Let me give the gentleman an idea of how much money we are talking about. This bill that is going to be before us next week will raise $1.78 billion next year. The first amendment that this amended rule will make in order that I am going to offer lowers that by $50 million—$50 million out of $1.78 billion. That is chicken feed. Most people do not pay any attention to that minor a change.

The second amendment that I would make in order does not actually affect revenues at all. All it does is clarify what is going to be sunsetted so that we know all these taxes end on a certain date and the Ways and Means Committee does not have other taxes that are still continuing and going into the general fund.

The third amendment I will let the gentleman from Minnesota (Mr. FRENZEL) identify but that actually raises revenue and I am told even more than makes up for what my first amendment will reduce.

The chairman will be going to the conference committee actually with the same tax dollars as his bill, or perhaps even more.

Let me first yield to my colleague, the ranking member of the Aviation Subcommittee, the gentleman from Kentucky (Mr. SNYDER).

Mr. SNYDER. I thank the gentleman for yielding.

The Joint Committee on Taxation has indicated to us that the loss on the first amendment is $40 million. The gain on the Frenzel amendment is $32 million. So it is pretty much a wash, insofar as revenues are concerned.

But let me suggest to my colleagues that I think the critical amendment is the one that lets the taxes expire when the program expires. I bet most of you sitting here probably think that ticket tax on your airline tickets is going into the airport trust fund today, but it is not, because when the program expired that allowed the reduced ticket tax to go into General Treasury; $1.4 billion annually is collected under the pretense of going into the trust fund but it is not. It goes into general revenues. OMB loves it the way it is. That is the reason why we have not had an airport development aid program for a couple of years. They did not want one. They are able to draw down out of the trust fund and let the revenues go into General Treasury. The only way we can preserve the program in the days ahead, if you want a trust fund from ticket taxes and some other aviation related taxes to go for the development of the airport system as it has in these recent years, is to allow that tax to expire when the program expires. Do not let it funnel over into general revenues, which is what any administration would like when they have deficits. We have had no program now for over a year. We got the last one in the reconciliation bill. It expired over a year ago. The money has been going

into general revenues, not into the trust fund, and that is what we do not want to happen when this authorization expires. We want to say when the authorization expires, the tax expires, and if you want another authorization then come on let us put one together and levy the taxes for the trust fund at that time.

It only makes good sense for the aviation community across the country and for every community that is supportive of this program.

Mr. MOORE. Mr. Speaker, one of the two amendments that I will be offering that the amended rule will make in order, as just indicated, does nothing more than reduce from a tripling down to a doubling of the tax on private aircraft owners and pilots. I think that is equity. We are only talking about $50 million out of $1.78 billion. That is inconsequential.

The second amendment is the one the gentleman from Kentucky was just talking about, the one that failed by one vote in the Ways and Means Committee. That one will see to it that we do not keep ourselves in a box, that OMB Directors under President Carter, since I have been in Congress, and President Reagan, have put us in. That box is that taxes go in the trust fund and they sit and they are not spent for airport safety. Almost every airport in the country except the 35 largest need additional safety equipment. It is not allowed to be spent by OMB but the money just collects and sits there.

Even with the two amendments that I am offering there will be over a $2 billion balance in the trust fund when this authorization bill ends. So it is not like we are cutting back on the authorization, we are more than funding the authorization bill. There will be $2 billion left there when it is finished.

Mr. Speaker, there is no excuse for continuing to raise taxes like that beyond that.

Mr. Speaker, I move the previous question on the amendment and on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the amendment in the nature of a substitute offered by the gentleman from Louisiana (Mr. MOORE).

The amendment in the nature of a substitute was agreed to.

The SPEAKER pro tempore. The question is on the resolution, as amended.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 5203, FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. DERRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 528 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H.R. 5203

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Agriculture, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the five-minute rule and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1240

Mr. DERRICK. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Tennessee (Mr. QUILLEN), pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 528 is the rule providing for the consideration of H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. This is a straight open rule allowing any germane amendment to be offered under the 5-minute rule. There are no waivers of points of order. The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and the ranking minority member of the Committee on Agriculture. It is in order to consider the amendment in the nature of a substitute recommended by the Committee on Agriculture now printed in the bill as an original bill for the purpose of amendment under the 5-minute rule, and each section shall be considered as having been read. Upon conclusion of the bill, one motion to recommit with or without instructions will be in order.

Mr. Speaker, H.R. 5203 extends the authorization for appropriations under the Federal Insecticide, Fungicide, and Rodenticide Act through September 30, 1984. The bill also contains a number of amendments to the act which were adopted by the committee after several days of markup sessions and extensive hearings.

The bill covers a wide variety of issues, several of which are controversial, which I am sure will be thoroughly debated by the House during consideration of the legislation. Among the major amendments to the act are changes in the procedures used by the EPA in registering pesticides; additional provisions to current law to protect pesticide manufacturers' trade secrets and research data; changes in the States' authority to regulate the sale or use of federally registered pesticides; and new protections for agricultural workers. To carry out the purposes of these amendments and the act, H.R. 5203 authorizes $56.3 million for fiscal year 1983 and $59.7 million for fiscal year 1984.

Mr. Speaker, although several provisions in the legislation have engendered considerable debate, I know of no opposition to this open rule. I urge my colleagues to adopt House Resolution 528 so that the House may consider H.R. 5203.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

(Mr. QUILLEN asked and was given permission to revise and extend his remarks.)

Mr. QUILLEN. Mr. Speaker, there is no controversy on the rule that I have heard about. It is a good rule. It is merely an extension of the Federal Insecticide, Fungicide, and Rodenticide Act with some modifications, much needed modifications.

Mr. Speaker, I urge adoption of the rule.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Virginia (Mr. WAMPLER).

Mr. WAMPLER. Mr. Speaker, I rise in support of this rule providing for consideration of H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

These amendments to FIFRA are not without controversy, but I have every confidence that Members in debating the issues will be able to resolve the controversial matters and produce a piece of legislation that can be signed into law by the President.

In that regard, I am sure there are Members in this Chamber who may have been advised that the administration may well oppose House passage of H.R. 5203 unless it is amended to delete section 11 of the bill, which deals with the authority of States and amends the authorization to reduce funding for EPA. I have not seen a signed letter from the administration

indicating a final administration position and I should like to state that although I was told the administration opposed this provision on the day that the Rules Committee considered the request for a rule, I have since learned that the matter is still under active review at the Office of Management and Budget, and so it would be my recommendation that we proceed in an orderly fashion to consider the merits of this legislation and at a later time we can expect to hear from the administration on its position on the bill.

I will not take further time to explain the various features of this legislation, leaving that task to be dealt with when the general debate takes place.

Mr. Speaker, I would urge adoption of this rule so that we may consider the amendments to FIFRA that are vital to securing a workable law for pesticides.

[From the Washington Post, July 22, 1982]

PESTICIDES AND FEDERALISM

If you're worried that the stuff you spray around you garden or kitchen might be killing something other than bugs and germs, you might want to pay some attention to the reauthorization of the Federal Insecticide, Fungicide and Rodenticide Act (the ultimate government acronym: FIFRA—just try to say it). Amendments being recommended by the House Agriculture Committee could give you additional reason for concern.

At the urging of the chemical industry, the committee would make it much harder for states to set more stringent controls on pesticide use than those set by the federal government. Until now, FIFRA policy has followed the general pattern of other health, safety and environment legislation—federal law sets minimum standards, but also allows states to set stricter requirements if they see fit.

Few states have seen the need—or been willing to devote the substantial resources—to go beyond the minimum standards set by the Environmental Protection Agency for registering pesticide products. A notable exception is California, which set up a full-scale review process a few years ago and rapidly built up a large backlog of unprocessed registrations. Chemical manufacturers were understandably irked by long delays. They were also bothered by California's requests for expensive additional data on product safety and usefulness—although such requests were made in only a small percentage of cases.

Businesses can to to court to contest state actions that seem arbitrary or capricious or greatly disrupt the flow of interstate commerce. But lawsuits are expensive and time-consuming, and the industry wants Congress to require states to process registrations promptly and get EPA approval for requests for additional data on products—other than agricultural products of specific local concern.

California admits that, until it recently increased staff and simplified the review process, its program was inefficient. But the state also points to many cases in which it—and other states—have been well ahead of EPA in pointing out substantial public health hazards. The National Association of State Departments of Agriculture and a broad array of health, environmental and labor groups also question the wisdom of restricting state initiative in an area of traditional concern. The administration opposes the idea not only because EPA already has too much to do, but also because the new restriction would be so clear a contradiction of its emphasis on giving states more control over their affairs.

There are good reasons not to build unneeded bureaucratic obstacles to prompt review of new chemical products; many of them may be both more efficacious and safer than the ones they replace. But the people of a state also have the right to insist on higher standards in matters that concern them. If the California government opts for an overzealous approach, citizens of the state will pay the price of worm-ridden gardens and germ-infested toilet bowls—and they will surely take their case to the state legislature. And there—not in Congress—is where the matter belongs.

CHEMICAL SPECIALTIES MANUFACTURERS ASSOCIATION,
Washington, D.C., July 23, 1982.

MS. MEG GREENFIELD,
Editorial Page Editor, The Washington Post, Washington, D.C.

DEAR MS. GREENFIELD: The Chemical Specialties Manufacturers Association (CSMA) takes exception to the factual inaccuracies and the misleading implications contained in your July 22, 1982 editorial concerning household pesticides. CSMA represents over 425 firms, many of which manufacture non-agricultural pesticides including disinfectants and sanitizers; home, lawn and garden insecticides; and a wide variety of other pesticide products for home, industrial and institutional uses.

Each and every one of these products is rigorously reviewed at the federal level by the EPA under the requirements of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Manufacturers are required to test products extensively to meet very strict health and safety standards before EPA permits a new product to be marketed. The development and collection of these data to support a federal registration can take from four to six years and can cost manfacturers up to four million dollars. You can not categorize and summarily dismiss these federal safeguards by referring to them as "minimum requirements".

The specific amendment to FIFRA contained in Section 11 of H.R. 5203, now being considered in the House of Representatives, is intended to correct a problem which now exists in the State of California, but has the potential for developing in a number of other states. It can not be solved by the actions of a single state legislature.

Contrary to the statements in the editorial, some 80-85 percent of applications for registration have been affected by the State of California's policy of requiring the development of new data and additional review of existing data on the same products already registered by EPA and most other states. This does not represent a "small percentage."

Further, the amendment does not require EPA approval for requests for additional data, it merely allows the EPA to review a state request for additional data when the applicant for a registration believes that the request is arbitrary or capricious. The amendment maintains precisely the same authority the states now have. It permits each state to request additional data above and beyond the EPA requirements. No state is prevented from regulating the sale or use of a pesticide, and may at all times exercise its right to deny, to ban, to suspend or to cancel the registration of a product.

Finally, the implication that household pesticide products, including disinfectants, sanitizers, cleansers, etc., can harm people under normal conditions of use is inflammatory and misleading. No state, including California, has ever substantiated any situation where these products have been found to present a substantial public health hazard. This kind of careless statement regarding products which greatly contribute to public health and convenience is completely irrelevant to the legislative issues under consideration.

Sincerely,

RALPH ENGEL,
President.

Mr. DERRICK. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, I basically support the FIFRA bill and the rule that we have provided for the FIFRA bill.

I wanted to take this time to alert Members of an amendment that I will be offering when the FIFRA bill comes on the floor next week. That amendment will be to strike section 11 of H.R. 5203. Basically, what section 11 does right now is it transforms a very simple four line provision authorizing States to establish a pesticide program stricter than the Federal program. It takes that simple four line provision that we have had in the FIFRA bill since 1972 and it changes it into a very complex, convaluted administrative nightmare that requires 137 lines to describe.

Congress has repeatedly in the past supported the authority of States to impose health, safety, and environmental standards tailored to local needs.

In addition to FIFRA, such flexibility is contained in the Clean Air Act, the Occupational Safety and Health Act, the Surface Mining Reclamation and Control Act, the Natural Gas Pipeline Safety Act, and the Flammable Fabrics Statutes.

Current State authority, section 24(A) of FIFRA to regulate federally registered pesticides was established, as I said, in the 1972 amendments. Since that time administrations of both parties have upheld this approach to State-Federal interactions in the pesticide regulations.

In a recent letter to the Agriculture Committee, the Environmental Protection Agency reaffirmed the Reagan administration's support of current law and strong opposition to section 11 of H.R. 5203.

Basically, the issue we are dealing with is whether or not a State can fashion its own pesticide regulations to its own individual needs. What we have is the Federal law and we say if the States want to tailor a law specific to their needs, that may be stricter

than the Federal law, they are allowed to do so.

As I said, the administration has a statement of their policy. It is said that the administration opposes passage of this bill unless section 11 is deleted.

I would point out that the administration is not alone in opposing section 11. My amendment is also supported by the National Association of State Departments of Agriculture; the AFL-CIO; United Farmworkers; Oil, Chemical, and Atomic Workers; International Chemical Workers; and Bakery, Confectionery, and Tobacco Workers International. Joining labor and the administration in opposing these provisions are public interest groups representing a wide range of concerns including: March of Dimes; American Public Health Association; National Wildlife Federation; Friends of the Earth; National Audubon Society; Migrant Legal Action; Consumer Federation of America; and the National Coalition Against the Misuse of Pesticides.

These all support the continuation of the present law that we have, which is to allow the States to tailor their own pesticide regulations to their own needs.

I wanted to alert Members to this amendment that I am sure will be debated at length next week and to urge your support of deleting section 11 from the FIFRA bill as it is now written.

Mr. DERRICK. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. YATES. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 301, nays 2, answered "present" 1, not voting 130, as follows:

[Roll No. 211]

YEAS—301

Akaka	Bevill	Carney
Alexander	Bingham	Chappell
Anderson	Blanchard	Cheney
Annunzio	Bliley	Clausen
Anthony	Boner	Clinger
Archer	Bonker	Coats
Ashbrook	Bouquard	Coleman
Aspin	Brinkley	Collins (TX)
AuCoin	Brooks	Conable
Bailey (PA)	Brown (CA)	Conte
Bedell	Brown (CO)	Corcoran
Benedict	Broyhill	Coughlin
Benjamin	Butler	Courter
Bennett	Byron	Coyne, James
Bereuter	Campbell	Coyne, William
Bethune	Carman	Crane, Daniel
Crane, Philip	Hunter	Price
D'Amours	Hutto	Pritchard
Daniel, Dan	Ireland	Quillen
Daniel, R. W.	Jacobs	Rangel
Dannemeyer	Jeffords	Ratchford
Daschle	Jenkins	Regula
Daub	Johnston	Reuss
Davis	Jones (NC)	Rinaldo
de la Garza	Jones (OK)	Ritter
Deckard	Kastenmeier	Roberts (KS)
Derrick	Kazen	Roberts (SD)
Derwinski	Kemp	Robinson
Dickinson	Kennelly	Rodino
Dicks	Kildee	Roe
Dixon	Kindness	Roemer
Dougherty	Kogovsek	Rogers
Downey	LaFalce	Rose
Dreier	Lagomarsino	Rosenthal
Duncan	Lantos	Rostenkowski
Dwyer	Latta	Roth
Dyson	Leach	Roukema
Eckart	LeBoutillier	Roybal
Edwards (AL)	Lee	Russo
Edwards (CA)	Lehman	Sabo
Edwards (OK)	Leland	Sawyer
Emerson	Lent	Scheuer
English	Lewis	Schneider
Erdahl	Livingston	Schroeder
Evans (DE)	Loeffler	Schulze
Evans (IA)	Long (LA)	Schumer
Fary	Lott	Seiberling
Fascell	Lowery (CA)	Sensenbrenner
Fenwick	Lowry (WA)	Shamansky
Ferraro	Lujan	Shannon
Fiedler	Luken	Sharp
Fields	Lundine	Shaw
Flippo	Lungren	Shelby
Foglietta	Madigan	Smith (AL)
Foley	Markey	Smith (IA)
Ford (MI)	Marriott	Smith (NE)
Forsythe	Martin (IL)	Smith (NJ)
Fountain	Martin (NC)	Snowe
Fowler	Martinez	Snyder
Frank	Matsui	Solarz
Frenzel	Mattox	Spence
Frost	Mazzoli	St Germain
Garcia	McCollum	Stangeland
Gaydos	McCurdy	Stark
Gejdenson	McDade	Staton
Gephardt	McEwen	Stenholm
Gibbons	McGrath	Stokes
Gilman	McHugh	Stratton
Gingrich	Mica	Studds
Glickman	Michel	Swift
Goodling	Mikulski	Synar
Gore	Miller (CA)	Tauke
Gradison	Miller (OH)	Tauzin
Gramm	Mineta	Taylor
Green	Minish	Traxler
Gregg	Mitchell (MD)	Udall
Grisham	Molinari	Vander Jagt
Guarini	Moore	Vento
Gunderson	Moorhead	Volkmer
Hagedorn	Morrison	Walgren
Hall (OH)	Murphy	Walker
Hall, Ralph	Natcher	Wampler
Hammerschmidt	Neal	Washington
Hance	Nelligan	Waxman
Hansen (ID)	Nowak	Weaver
Hansen (UT)	Oberstar	Weber (OH)
Harkin	Obey	Weiss
Hartnett	Ottinger	Whitley
Hawkins	Oxley	Whittaker
Heckler	Panetta	Whitten
Heftel	Parris	Williams (OH)
Hendon	Pashayan	Winn
Hightower	Patman	Wirth
Hiler	Patterson	Wolf
Hillis	Paul	Wortley
Holt	Pease	Wright
Horton	Pepper	Wylie
Howard	Perkins	Young (AK)
Hoyer	Petri	Zablocki
Huckaby	Pickle	
Hughes	Porter	

NAYS—2

McDonald	Yates

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—130

Addabbo	Andrews	Atkinson
Albosta	Applegate	Badham
Bafalis	Evans (IN)	Napier
Bailey (MO)	Fazio	Nelson
Barnard	Findley	Nichols
Barnes	Fish	O'Brien
Beard	Fithian	Oakar
Beilenson	Florio	Peyser
Biaggi	Ford (TN)	Pursell
Boggs	Fuqua	Rahall
Boland	Ginn	Railsback
Bolling	Goldwater	Rhodes
Bonior	Gray	Richmond
Bowen	Hall, Sam	Rousselot
Breaux	Hamilton	Rudd
Brodhead	Hatcher	Santini
Broomfield	Hefner	Savage
Brown (OH)	Hertel	Shumway
Burgener	Holland	Shuster
Burton, John	Hollenbeck	Siljander
Burton, Phillip	Hopkins	Simon
Chappie	Hubbard	Skeen
Chisholm	Hyde	Skelton
Clay	Jeffries	Smith (OR)
Coelho	Jones (TN)	Smith (PA)
Collins (IL)	Kramer	Solomon
Conyers	Leath	Stanton
Craig	Levitas	Stump
Crockett	Long (MD)	Thomas
Dellums	Marks	Trible
DeNardis	Marlenee	Watkins
Dingell	Martin (NY)	Weber (MN)
Donnelly	Mavroules	White
Dorgan	McClory	Whitehurst
Dornan	McCloskey	Williams (MT)
Dowdy	McKinney	Wilson
Dunn	Mitchell (NY)	Wolpe
Dymally	Moakley	Wyden
Early	Moffett	Yatron
Edgar	Mollohan	Young (FL)
Emery	Montgomery	Young (MO)
Erlenborn	Motti	Zeferetti
Ertel	Murtha	
Evans (GA)	Myers	

□ 1300

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

NOTIFICATION TO SEEK RESTRICTIVE RULE

Mr. FORD of Michigan. This is to notify Members that when the Committee on Post Office and Civil Service appears before the Committee on Rules to request a rule for the consideration of the bill H.R. 6785, I may seek a rule which limits amendments. However, I will ask that the rule permit an amendment placing a 4-percent cap on cost-of-living adjustments for civil service, Foreign Service, and military retirees.

PERMISSION TO FILE CONFERENCE REPORT ON S. 2332, ENERGY POLICY AND CONSERVATION ACT AMENDMENTS

Mr. SHARP. Mr. Speaker, I ask unanimous consent that the managers may have until midnight tonight to file the conference report on the Senate bill (S. 2332) to amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

CONFERENCE REPORT (H. REPT. No. 97-663)

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2332) to amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendment of the House to the text of the bill and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by the House amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Emergency Preparedness Act of 1982".

SEC. 2. INTERNATIONAL ENERGY PROGRAM AMENDMENTS.

(a) EXTENSION.—Subsection (j) of section 252 of the Energy Policy and Conservation Act (42 U.S.C. 6272(j)) is amended by striking out "August 1, 1982" and inserting in lieu thereof "at midnight December 31, 1983".

(b) LIMITATIONS.—(1) Section 251 of the Energy Policy and Conservation Act (42 U.S.C. 6271) is amended by adding at the end thereof the following new subsection:

"(e) No rule under this section may be put into effect unless—

"(1) an international energy supply emergency, as defined in the first sentence of section 252(1)(1), is in effect; and

"(2) the allocation of available oil referred to in chapter III of the international energy program has been activated pursuant to chapter IV of such program.".

(2) Section 252 of such Act (42 U.S.C. 6272) is amended by adding at the end thereof the following new subsection:

"(m) The authority granted by this section shall apply only to the development or carrying out of voluntary agreements and plans of action to implement chapters III, IV, and V of the international energy program.".

SEC. 3. ENERGY EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—Title II of the Energy Policy and Conservation Act, relating to standby energy authorities, is amended by adding at the end thereof the following new part:

"PART C—ENERGY EMERGENCY PREPAREDNESS

"CONGRESSIONAL FINDINGS, POLICY, AND PURPOSE

"SEC. 271. (a) FINDINGS.—The Congress finds that—

"(1) a shortage of petroleum products caused by reductions in imports of petroleum products may occur at any time;

"(2) such a shortage may be sufficiently large to cause severe economic dislocations and hardships, or constitute a serious threat to public health, safety, and welfare; and

"(3) prior to the occurrence of such a shortage, the Federal Government has a responsibility to be prepared to mitigate the adverse impacts of such a shortage as a supplement to reliance on free market pricing and allocation of available petroleum product supplies.

"(b) POLICY.—The Congress declares that it shall be the policy of the United States that the Federal Government shall be prepared prior to any shortage of petroleum products to respond to energy emergencies, pursuant to authorities under provisions of law other than this part, as a supplement to reliance on the free market to mitigate the adverse impacts of a shortage of petroleum products on public health, safety, and welfare.

"(c) PURPOSE.—The purpose of this part is to carry out the policy in subsection (b) by providing for the preparation of comprehensive energy emergency response procedures to be available for use by the President under authorities contained in any provision of law other than this part.

"PREPARATION FOR PETROLEUM SUPPLY INTERRUPTIONS

"SEC. 272. (a) DESCRIPTION OF AVAILABLE LEGAL AUTHORITIES.—(1) The President shall submit to the Congress no later than November 15, 1982, a memorandum of law which describes the nature and extent of the authorities available to the President under existing law to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

"(2) The memorandum of law required by paragraph (1) shall be prepared by the Attorney General, in consultation with the Secretary of Energy.

"(3) The memorandum of law submitted to the Congress pursuant to this subsection shall—

"(A) include the following subjects—

"(i) activities of the United States in support of the international energy program and the December 10, 1981, International Energy Agency agreement entitled 'Decision on Preparation for Future Supply Disruptions' including—

"(I) the National Emergency Sharing Organization;

"(II) emergency sharing systems; and

"(III) the supply right project;

"(ii) activities of the United States pursuant to its energy emergency preparedness obligations to the North Atlantic Treaty Organization;

"(iii) development and use of the Strategic Petroleum Reserve;

"(iv) Government incentives to encourage private petroleum product stocks;

"(v) reactivation of the following Executive Manpower Reserves:

"(I) the Emergency Electric Power Reserve;

"(II) the Emergency Petroleum and Gas Reserve; and

"(III) the Emergency Solid Fuels Reserve;

"(vi) energy emergency response management in coordination with State and local governments; and

"(vii) emergency public information activities; and

"(B) distinguish among——

"(i) situations involving limited or general war, international tensions that threaten national security, and other Presidentially declared emergencies;

"(ii) events resulting in activation of the international energy program; and

"(iii) events or situations less severe than those described in clauses (i) and (ii).

"(b) COMPREHENSIVE ENERGY EMERGENCY RESPONSE PROCEDURES. —(1) Not later than December 31, 1982, the President shall submit to the Congress comprehensive energy emergency response procedures for implementation, in whole or in part, of the authorities described under subsection (a).

"(2) The comprehensive energy emergency response procedures shall—

"(A) describe the various options the President would consider using to implement the authorities described in the memorandum of law submitted under subsection (a) to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States, including a description of the likely sequence in which such options would be taken;

"(B) specify how appropriate governmental actions in response to international and domestic energy shortages would be slected and implemented under such options, particularly which official or governmental entity would select and implement such actions, and what procedures would be used in doing so; and

"(C) recommend any additional statutory authority the President considers necessary to respond to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States.

"(c) DISCLAIMERS.—(1) Nothing in this part, or in the comprehensive energy emergency response procedures submitted pursuant to subsection (b), shall—

"(A) limit the authority of the President under any provision of law to respond to a reduction in the amount of petroleum products available to the United States; or

"(B) grant any authority to the President to respond to a reduction in the amount of petroleum products available to the United States.

"(2) No State law or State program in effect on the date of the enactment of this part, or which may become effective thereafter, shall be construed to be superseded by any provision of this part.".

(b) CONFORMING AMENDMENT. —The table of contents for the Energy Policy and Conservation Act is amended by adding after the item relating to section 255 the following new items:

"PART C—ENERGY EMERGENCY PREPAREDNESSAS6343

"Sec. 271. Congressional findings, policy, and purpose.

"Sec. 272. Preparation for petroleum supply interruptions.".

SEC. 4. STRATEGIC PETROLEUM RESERVE AMENDMENTS.

(a) REQUIRED RATE FOR FILLING RESERVE.—(1) IN GENERAL.—Subsection (c) of section 160 of the Energy Policy and Conservation Act (42 U.S.C. 6240(c)) is amended to read as follows:

"(c)(1)(A) The President shall immediately undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities, to the extent funds are available pursuant to section 167(b)(2) and (b)(3), at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least the minimum required fill rate until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 500,000,000 barrels.

"(B) Subject to subparagraph (C), the minimum required fill rate shall be 300,000 barrels per day for purposes of subparagraph (A), unless there is in effect a finding by the President in his discretion for good cause that compliance with such rate would not be in the national interest. Any finding by the President under this subparagraph takes effect on the date such finding is trasmitted to the Congress and ceases to have effect at the end of the fiscal year in which such finding was made. Any such finding trasmitted to the Congress shall include a statement of

the facts upon which the finding is based. Any such finding shall not be subject to judicial review.

"(C) The minimum required fill rate shall be 220,000 barrels per day for purposes of subparagraph (A) during the period in which any finding by the President under subparagraph (B) is in effect.

"(D)(i) If funds are available in any given fiscal year after fiscal year 1982 to achieve an average annual fill rate higher than the minimum required fill rate in effect under subparagraph (C), the minimum required fill rate shall be the highest practicable fill rate achievable, subject to the availability of appropriated funds.

"(ii) The Impoundment Control Act of 1974 (31 U.S.C. 1400 and following) shall apply to funds made available under section 167 (b) and (e).

"(2) After the Strategic Petroleum Reserve reaches a level of 500,000,000 barrels, the President shall immediately seek to undertake, and thereafter continue, petroleum products acquisition, transportation, and injection activities at a level sufficient to assure that the petroleum products in the Strategic Petroleum Reserve will be increased at an average annual rate of at least 300,000 barrels per day until the quantity of petroleum products stored within the Strategic Petroleum Reserve is at least 750,000,000 barrels.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect July 1, 1982.

(b) INTERIM STORAGE.—

(1) AUTHORITY FOR IMPLEMENTATION.— Section 159(f) of the Energy Policy and Conservation Act (42 U.S.C. 6239(f)) is amended by striking out "and" at the end of paragraph (3), by striking out the comma at the end of paragraph (4) and inserting "; and " in lieu thereof, and by inserting after paragraph (4) the following new paragraph:

"(5) the storage of petroleum products in interim storage facilities,".

(2) USE OF SPR PETROLEUM ACCOUNT; CONFORMING AMENDMENTS.—(A) Section 167 of such Act (95 Stat. 619; to be codified at 42 U.S.C. 6247) is amended by adding at the end thereof the following:

"(e)(1) Except as provided in paragraph (2), nothing in this part shall be construed to limit the Account from being used to meet expenses relating to interim storage facilities for the storage of petroleum products for the Strategic Petroleum Reserve.

"(2) In any fiscal year, amounts in the Account may not be obligated for expenses relating to interim storage facilities in excess of 10 percent of the total amounts in the Account obligated in such fiscal year. If the amount obligated in any fiscal year for interim storage expenses is less than the amount of the 10-percent limit under the preceding sentence for that fiscal year, then the amount of the 10-percent limit applicable in the following fiscal year shall be increased by the amount by which the limit exceeded the amount obligated for such expenses.'.

(B) Section 159 of such Act (42 U.S.C. 6239) is amended by adding at the end thereof the following new subsection:

"(h)(1) No amendment to the Strategic Petroleum Reserve Plan relating to interim storage facilities shall be required prior to the storage of petroleum products in such facilities.

"(2) Petroleum products stored in interim storage facilities pursuant to this part shall be considered to be in storage in the Reserve.

"(3)(A) No action relating to the storage of petroleum products in existing interim storage facilities in the Reserve shall be deemed to be 'a major Federal action significantly affecting the quality of the human environment' within the meaning of that term as it is used in section 102(2)(C) of the National Environmental Policy Act of 1969.

"(B) For purposes of this paragraph, an interim storage facility shall be considered to be an existing interim storage facility if it—

"(i) is in existence on July 1, 1982;

"(ii) was constructed in a manner appropriate for storing petroleum products; and

"(iii) is not modified after July 1, 1982, in any manner which substantially increases the storage capacity of the facility. Any modification of such facility may not include replacement or reconstruction.

"(4) The term 'interim storage facilities', when used in this part, may include any vessel which meets the applicable requirements under this part.".

(C) Section 160(e)(4) of such Act (42 U.S.C. 6240(e)(4)) is amended by striking out "crude oil" and inserting in lieu thereof "petroleum product".

(c) STRATEGIC PETROLEUM RESERVE DRAWDOWN PLAN.—On or before December 1, 1982, the President shall transmit to the Congress a drawdown plan for the Strategic Petroleum Reserve consistent with the requirements of section 154 of the Energy Policy and Conservation Act. Such plan shall be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan. Such amendment shall take effect on the date it is transmitted to the Congress and shall not be subject to section 159(e) of such Act relating to Congressional review. Subsequent amendments to such plan shall be in accordance with subsections (d) and (e) of such section 159.

SEC. 5. CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION.

(a) IN GENERAL.—Part A of title V of the Energy Policy and Conservation Act (42 U.S.C. 6381 and following) is amended by adding at the end thereof the following new section:

"PETROLEUM PRODUCT INFORMATION

"SEC. 507. The President or his delegate shall, pursuant to authority otherwise available to the President or his delegate under any other provision of law, collect information on the pricing, supply, and distribution of pertroleum products by product category at the wholesale and retail levels, on a State-by-State basis, which was collected as of September 1, 1981, by the Energy Information Administration.".

(b) CLERICAL AMENDMENT.—The table of contents for such Act is amended by inserting the following new item after the item relating to section 506:

"Sec. 507. Petroleum product information.".

SEC. 6. REPORTS TO CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS.

(a) IMPACT ANALYSIS.—(1) The Secretary of Energy shall analyze the impact on the domestic economy and on consumers in the United States of reliance on market allocation and pricing during any substantial reduction in the amount of petroleum products available to the United States. In making such analysis, the Secretary of Energy may consult with the Secretary of the Treasury, the Secretary of Agriculture, the Director of the Office of Management and Budget, and the heads of other appropriate Federal agencies. Such analysis shall—

(A) examine the equity and efficiency of such reliance,

(B) distinguish between the impacts of such reliance on various categories of business (including small business and agriculture) and on households of different income levels,

(C) specify the nature and administration of monetary and fiscal policies that would be followed including emergency tax cuts, emergency block grants, and emergency supplements to income maintenance programs, and

(D) describe the likely impact on the distribution of petroleum products of State and local laws and regulations (including emergency authorities) affecting the distribution of petroleum products.

Such analysis shall include projections of the effect of the petroleum supply reduction on the price of motor gasoline, home heating oil, and diesel fuel, and on Federal tax revenues, Federal royalty receipts, and State and local tax revenues.

(2) Within one year after the date of the enactment of this Act, the Secretary of Energy shall submit a report to the Congress and the President containing the analysis required by this subsection, including a detailed step-by-step description of the procedures by which the policies specified in paragraph (1)(C) would be accomplished in an emergency, along with such recommendations as the Secretary of Energy deems appropriate.

(b) STRATEGIC PETROLEUM RESERVE DRAWDOWN AND DISTRIBUTION REPORT.—The President shall prepare and transmit to the Congress, at the time he transmits the drawdown plan pursuant to section 4(c), a report containing—

(1) a description of the foreseeable situations (including selective and general embargoes, sabotage, war, act of God, or accident) which could result in a severe energy supply interruption or obligations of the United States arising under the international energy program necessitating distributions from the Strategic Petroleum Reserve, and

(2) a description of the strategy or alternative strategies of distribution which could reasonably be used to respond to each situation described under paragraph (1), together with the theory and justification underlying each such strategy.

The description of each strategy under paragraph (2) shall include an explanation of the methods which would likely be used to determine the price and distribution of petroleum products from the Reserve in any such distribution, and an explanation of the disposition of revenues arising from sales of any such petroleum products under the strategy.

(c) REGIONAL RESERVE REPORT.—The President or his delegate shall submit to the Congress no later than December 31, 1982, a report regarding the actions taken to comply with the provisions of section 157 of the Energy Policy and Conservation Act (42 U.S.C. 6237). Such report shall include an analysis of the economic benefits and costs of establishing Regional Petroleum Reserves, including—

(1) an assessment of the ability to transport petroleum products to refiners, distributors, and end users within the regions specified in section 157(a) of such Act;

(2) the comparative costs of creating and operating Regional Petroleum Reserves for such regions as compared to the costs of continuing current plans for the Strategic Petroleum Reserve; and

(3) a list of potential sites for Regional Petroleum Reserves.

(d) STRATEGIC ALCOHOL FUEL RESERVE REPORT.—The Secretary of Energy shall, in consultation with the Secretary of Agriculture, prepare and transmit to the Congress no later than December 31, 1982, a study of the potential for establishing a Strategic Alcohol Fuel Reserve.

(e) MEANING OF TERMS.—As used in this section, the terms, "international energy program", "petroleum product", "Reserve", "severe energy supply interruption", and "Strategic Petroleum Reserve" have the meanings given such terms in sections 3 and 152 of the Energy Policy and Conservation Act (42 U.S.C. 6202 and 6232).

And the House agree to the same.

That the House recede from its amendment to the title of the bill.

JOHN D. DINGELL,
PHILIP R. SHARP,
TOBY MOFFETT,
JAMES T. BROYHILL,
WILLIAM E. DANNEMEYER,

And, solely for consideration of section 167(f) of the Energy Policy and Conservation Act, as added by section 3(b)(2)(A) of the House amendment:

JOHN BREAUX,
EDWIN FORSYTHE,
Managers on the Part of the House.

JAMES A. MCCLURE,
LOWELL P. WEICKER, Jr.,
PETE V. DOMENICI,
MALCOLM WALLOP,
J. W. WARNER,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2332) to amend the Energy Policy and Conservation Act to extend certain authorities relating to the International Energy Program, to provide for the Nation's energy emergency preparedness, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The House amendment to the text of the bill struck out all of the Senate bill after the enacting clause and inserted a substitute text.

The Senate recedes from its disagreement to the amendment of the House with an amendment which is a substitute for the Senate bill and the House amendment. The differences between the Senate bill, the House amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SECTION 1. SHORT TITLE

This section provides that the Act may be cited as the "Energy Emergency Preparedness Act of 1982".

SECTION 2. INTERNATIONAL ENERGY PROGRAM AMENDMENTS

Extension

Subsection (a) amends section 252(j) of the Energy Policy and Conservation Act (EPCA) (42 U.S.C. 6272(j)) to extend from August 1, 1982, to December 31, 1983, the expiration date of section 252. That section authorizes U.S. oil companies to participate in voluntary agreements for implementing the allocation and information provisions of the Agreement on an International Energy Program (IEP). That program provides a mechanism for an oil allocation system to be utilized by the participating countries in the event of a major oil supply disruption by the countries which participate in the International Energy Agency (IEA). Section 252 also provides a limited defense against antitrust suits that may be brought against United States oil companies participating in the IEP.

Limitations

The conferees adopted the substance of the Senate bill's provisions but made various modifications. In paragraph (1) of new section 251(e) of EPCA the phrase "or remain in effect" was deleted. This change was made for two reasons. First, it was necessary to make clear that upon official deactivation of the IEP emergency sharing system, any rule or order previously issued under section 251 would continue to be enforced to ensure that it is carried out effectively and equitably. Second, the deletion was necessary to foreclose an interpretation of the language leading to the conclusion that all activities relating to implementation of a rule or order would be terminated instantly upon deactivation of the IEP allocation measures. The deletion was made in recognition of the fact that it may be necessary to continue certain types of activities following deactivation of the IEP emergency sharing system. For example, it is possible that mandatory oil supply transactions might be needed after deactivation to satisfy allocation obligations previously incurred during the operation of the system, or to make allocation adjustments after the receipt of additional data. It also may be necessary to make adjustments in the supplies of participating U.S. oil companies to distribute equitably the burdens of participating in the IEP emergency sharing system.

The language of paragraph (2) of new section 251(e) of EPCA was changed in its entirety to make more specific the intent of the conferees that "the measures provided for under Chapter III" referred to in the Senate bill were those measures regarding "the allocation of available oil". The amendment of sections 251 and 252 was undertaken to preclude any misinterpretation of the scope of the authority conferred by those sections. Accordingly, the new subsection (e) of section 251 provides that no rule under such section may be put into effect unless an "international energy supply emergency" is in effect and the oil allocation measures referred to in Chapter III of the IEP have been activated pursuant to Chapter IV. It is the intent of the conferees that section 251 provide only the authority necessary to require oil companies to take actions to fulfill the international oil allocation obligations of the United States under Chapters III and IV of the IEP. The international allocations of oil under Chapters III and IV only can be activated when the group of participating countries as a whole or an individual IEA country sustains a minimum 7 percent reduction in base period oil consumption. Thus, section 251 provides no legal basis for ordering United States oil companies to participate in any oil sharing activities prior to activation of the IEP emergency sharing system.

Section 252 of EPCA is amended by adding a new subsection (m), which expressly limits the authority of section 252 to actions taken to implement the allocation and information provisions of the IEP, contained in Chapters III, IV, and V. The intent of the conferees is to ensure that the antitrust defense contained in section 252 cannot be extended to activities not within the allocation and information provisions of the IEP as originally signed by the United States in 1974. Thus, the antitrust defense would not apply to any actions taken by United States oil companies in response to so-called "subcrisis" supply disruptions, if such actions were not also authorized by Chapters III, IV, or V of the IEP. A subcrisis supply disruption is one that is less than the 7 percent shortfall in base period oil consumption necessary to activate the IEP emergency sharing system.

SECTION 3. ENERGY EMERGENCY PREPAREDNESS

in general

Section 3(a) amends Title II of EPCA, which relates to standby energy authorities, by adding at the end thereof a new part regarding Energy Emergency Preparedness.

Congressional findings, policy, and purpose (Sec. 271)

The conferees adopted the Senate provisions regarding findings (sec. 271(a)), policy (sec. 271(b)), and purpose (sec. 271(c)), after making several modifications and conforming changes.

Preparation for petroleum supply interruptions (Sec. 272)

Description of Available Legal Authorities: A new section 272(a) of EPCA requires the President by November 15, 1982, to submit to the Congress a memorandum of law describing the nature and extent of the authorities under existing law available to the President for his use in responding to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States. The memorandum of law must be prepared by the Attorney General in consultation with the Secretary of Energy.

The conferees adopted the Senate provision requiring that the memorandum of law submitted to the Congress address several of the subject areas or programs currently being reviewed or developed by the Department of Energy.

Comprehensive energy emergency response procedures

A new section 272(b) of EPCA directs the President to submit to the Congress no later than December 31, 1982, comprehensive energy emergency response procedures which the President would consider using to implement the authorities described in the memorandum of law under subsection (a) in responding to a severe energy supply interruption or other substantial reduction in the amount of petroleum products available to the United States. The procedures submitted by the President must include a description of the likely sequence in which they would be undertaken.

The principal modification to Part C of Title II made by the conferees was the addition of disclaimer language in section 272(c). This language makes clear the intent of the conferees that Part C of Title II neither confers additional authority on the President, nor limits his authority under any provision of law, in responding to reductions in petroleum supply availability to the United States. Additionally, section 272(c) makes clear the intent of the conferees that the provisions of Part C would not in any fash-

ion preempt state laws or programs already in effect or which would become effective after enactment of this Part. The authorities of the states to enact laws in anticipation of, or in response to, energy emergencies remain unaffected by this legislation.

SECTION 4. STRATEGIC PETROLEUM RESERVE AMENDMENTS

Section 4 amends sections 159, 160, and 167 of EPCA.

Required rate for filling reserve

Section 4(a) amends section 160(c)(1) of EPCA to require the President to fill the SPR at an average annual rate of at least the minimum required fill rate until 500 million barrels are in storage. The minimum required fill rate will be determined in one of three ways.

Subparagraph (B) establishes the minimum required fill rate of 300,000 barrels per day. Under this subparagraph, the President may make a finding that compliance with the 300,000 barrel per day rate would not be in the national interest for good cause. For instance, the President may find that:

(i) compliance with such rate significantly impairs the ability of the United States to respond to a severe energy supply interruption;

(ii) compliance significantly impairs the ability of the United States to meet its obligations under the international energy program; or

(iii) compliance is inappropriate due to economic conditions affecting the general welfare.

If he makes such a finding and transmits it to Congress, accompanied by a statement of the facts upon which the finding is based, the minimum required fill rate shall be 220,000 barrels per day, as required by subparagraph (C).

Subparagraph (D) establishes the minimum required fill rate that would be in effect where funds are available in any given fiscal year after fiscal year 1982 to achieve an average annual fill rate higher than the minimum required fill rate in effect under subparagraph (C). In such cases, the minimum required fill rate shall be the highest practicable fill rate achievable subject to the availability of appropriated funds.

Appropriation Acts will necessarily govern the availability of funds. The purpose of subparagraph (D) is to express the policy that the President shall fill the SPR at the highest practicable fill rate achievable subject to the availability of funds.

The use of the term "annual" in subsection (c) is intended to refer to the fiscal year.

Interim Storage

Section 4(b) clarifies the authority of the Secretary of Energy to take various actions (i.e., promulgate rules, enter into contracts, acquire storage space or land, purchase oil, etc.) in order to store oil in interim storage facilities. This section also allows the use of up to 10 percent of the SPR Petroleum Account obligated in each fiscal year for expenses relating to storage of SPR oil in interim storage facilities. If the amount obligated for interim storage in a particular fiscal year is less than the 10 percent allowed by this provision, then the following fiscal year's 10 percent limit is increased by the dollar amount of the carryover from the previous year.

Further, this section provides that any action relating to the interim storage of oil in any existing facility is not deemed to be a "major Federal action significantly affecting the quality of the human environment" under the National Environmental Policy Act (NEPA). An existing facility for interim storage is a facility which was in existence on July 1, 1982; was constructed in a manner appropriate for storing petroleum products; and is not modified after July 1, 1982, in a manner which substantially increases the storage capacity of the facility. The term "interim storage facility" specifically allows the use of vessels which meet the applicable requirements under this part. It is the intent of the conferees that the NEPA waiver for vessels will be allowed only if the vessels meet the requirements of new section 159(h)(3) of EPCA. It would not be expected that a container cargo freighter or a fishing vessel would meet such requirements. Although the conference agreement permits some modification of the facilities used for such interim storage, it is not contemplated that replacement or reconstruction of such facilities would be permitted without NEPA compliance.

The conferees intend that the Department of Energy, in determining the type of facilities to be used for the interim storage of petroleum products in the Strategic Petroleum Reserve, shall consider floating storage as well as on-shore storage. Furthermore, the conferees recognize the extreme importance of maintaining a cost-effective, secure, and ready Reserve and therefore expect that the use of interim storage facilities to supplement existing permanent storage shall be undertaken in such a fashion to ensure that interim storage costs are minimized and that adequate security measures are employed. For example, to the extent that the Department chooses to employ vessels for interim storage, the conferees expect that the Department will consider the security aspects of using U.S. crews on such vessels.

There are widely differing estimates of the costs of expanding the permanent storage capacity of the Strategic Petroleum Reserve through the construction of new, above-ground, steel tank storage. The conferees expect the Department of Energy to review the estimated cost of steel tank storage and to analyze the impact on the economy of Federal expenditures for such steel tank storage.

Strategic petroleum reserve drawdown plan

Section 4(c) requires that the President transmit to Congress no later than December 1, 1982, a drawdown plan for the SPR consistent with the requirements of section 154 of EPCA. Such plan is to be transmitted to the Congress as an amendment to the Strategic Petroleum Reserve Plan and be subject to EPCA and any requirements for regional hearings. However, the amendment shall take effect on the date it is transmitted and not be subject to the Congressional review period which would otherwise be required by section 551(c), In addition, the amendment shall not be subject to section 159(e) relating to Congressional approval or disapproval of amendments to the Strategic Petroleum Reserve Plan. However, amendments to the plan made after the submission required by this subsection shall be in accordance with sections 159(d) and (e).

SECTION 5. CONTINUATION OF PETROLEUM PRODUCT INFORMATION COLLECTION

Section 5(a) amends Part A of title V of EPCA by adding at the end thereof a new section 507 regarding the collection of petroleum product information.

The conferees adopted the provision in the House bill with one modification. As a result, "product category" was added as another specification for the type of information to be collected. The conferees added the following language to the end of the provision: "which was collected as of September 1, 1981, by the Energy Information Administration." This language is intended by the conferees to serve as the means for determining the particular types of product categories to be collected, and for resolving other issues pertaining to the scope and level of detail of the required information. Further, it is intended that the information to be collected under the authority of this section will be collected by the Administrator of the Energy Information Administration.

The conferees expect that end-use information will be collected and published for the residential, commercial, industrial, and utility sectors.

The reference to September 1, 1981, is not to be construed to require only the information that was collected, or required to be collected, on that particular date. Rather, the conferees intend that the information requirement include all types of petroleum product information collected by the EIA as of that date. However, this requirement does not prescribe the particular collection methods to be employed. For example, the provision would not require the use of any particular data forms used prior to September 1, 1981. In addition, the authority granted by this section is not intended to expand the number of product categories for which information was previously collected. this provision would not prevent consolidation of forms.

SECTION 6.—REPORTS TO THE CONGRESS ON PETROLEUM SUPPLY INTERRUPTIONS

Impact analysis

Section 6(a) requires that within one year of enactment, the Secretary of Energy (in consultation with other agencies) must submit to Congress and the President a report analyzing the impact on the U.S. economy and U.S. consumers of reliance on the free market to allocate and set prices for supplies of oil during substantial reductions in available supplies to the United States.

Strategic petroleum reserve drawdown and distribution report

The conferees adopted the House provision which requires the President to submit to Congress a report containing information specified in this provision and discussed in the House report (H. Rept. 97-585, Part 1).

Regional reserve report

Section 6(c) requires the President to submit to Congress no later than December 31, 1982, a study assessing the costs and benefits of establishing regional petroleum storage as part of the Strategic Petroleum Reserve.

The Conferees intend that the study will describe the status and substance of any discussions or negotiations regarding cooperation with Canada either in supplying oil for, or providing support for, a regional petroleum reserve for use by the United States.

Strategic alcohol fuel reserve report

The conferees adopted the House provision requiring preparation and submission to Congress of a study assessing the potential for a strategic alcohol fuel reserve.

The conferees intend that the study contain—

(1) an assessment of the priority end uses which could be satisfied by use of alcohol in lieu of petroleum products;

(2) an evaluation of the relative economic benefits of establishing a Strategic Alcohol Fuel Reserve to supplement or supplant a portion of the Strategic Petroleum Reserve, including projections of relative costs, impacts on balance of trade, and domestic employment;

(3) an analysis of the projected impact on the cost and operation of agricultural programs administered by the Federal government, including, but not limited to, estimated impacts on prices of domestic agricultural commodities and the cost of storage thereof; and

(4) assessments of alternative storage and distribution options.

JOHN D. DINGELL,
PHILIP R. SHARP,
TOBY MOFFETT,
JAMES T. BROYHILL,
WILLIAM E. DANNEMEYER,

And, solely for consideration of section 167(f) of the Energy Policy and Conservation Act, as added by section 3(b)(2)(A) of the House amendment:

JOHN BREAUX,
EDWIN FORSYTHE,
Managers on the Part of the House.

JAMES A. MCCLURE,
LOWELL P. WEICKER, Jr.,
PETE V. DOMENICI,
MALCOLM WALLOP,
J. W. WARNER,
HENRY M. JACKSON,
J. BENNETT JOHNSTON,
WENDELL H. FORD,
Managers on the Part of the Senate.

PERSONAL EXPLANATION

(Mr. PEPPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEPPER. Mr. Speaker, yesterday, Thursday, July 22, I had the privilege of leading a senior citizen's rally in Detroit, Mich. Unfortunately this caused me to miss a number of votes on amendments to H.R. 6030, the Defense Department authorization bill. I would like to take this time to read into the RECORD my position on those votes that I was not able to be present for.

Rollcall No. 201, on resolving into the Committee of the Whole, I would have voted "yea."

Rollcall No. 202, to prohibit use of authorized funds for procurement of binary chemical weapons or for production facilities for such. I would have voted "aye."

Rollcall No. 203, to authorize funds for production of binary chemical munitions, with an equivalent number of unitary chemical weapons from the existing arsenal be rendered useless. I would have voted "nay."

Rollcall No. 204, deletes $54 million in authorization for production of binary chemical weapons. I would have voted "aye."

Rollcall No. 206, an amendment that sought to delete the procurement authorization for the B-1 bomber. I would have voted "nay."

RADIO BROADCASTING TO CUBA ACT

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 529 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 529

Resolved, That upon the adoption of this resolution it shall be in order, section 402(a) of the Congressional Budget Act of 1974 (Public Law 93-344) to the contrary notwithstanding, to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Incorporated, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and thirty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be read for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Foreign Affairs now printed in the bill in italic as the original bill for the purpose of amendment under the five-minute rule, and all points of order against said substitute for failure to comply with the provisions of clause 5, rule XXI are hereby waived. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1310

The SPEAKER pro tempore. The gentleman from Florida (Mr. PEPPER) is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, I yield 30 minutes to the able gentleman from Missouri (Mr. TAYLOR), pending which I yield myself such time as I may consume.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield for just one moment?

Mr. PEPPER. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, let me ask the gentleman, am I correct in assuming or did I hear that there was a waiver of the budget process involved in this legislation?

Mr. PEPPER. Yes, that is involved. I will explain that more fully here in my statement.

Mr. MITCHELL of Maryland. It exceeded the limitation imposed by the budget?

Mr. PEPPER. No, it does not exceed the budget ceiling, but it does violate the Budget Act and I will state that more accurately in my statement.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman.

Mr. PEPPER. Mr. Speaker, House Resolution 529 provides for the consideration of H.R. 5427, the Radio Broadcasting to Cuba Act. The resolution provides 1 hour of general debate, 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Foreign Affairs, and 30 minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce.

This is an open rule, allowing any germane amendments to be offered, including the amendment reported by the Committee on Energy and Commerce.

The rule also waves points of order against the bill under section 402(a) of the Congressional Budget Act, prohibiting consideration of authorization bills not reported by May 15 before the fiscal year for which the bill is effective, and under clause 5 of rule XXI, prohibiting appropirations in a bill reported by a legislative committee. The 402(a) waiver is necessary because the bill contains a supplemental authorization for 1982, while the legislation was not reported by May 15, 1981.

However, the Foreign Affairs Committee has agreed to offer a floor amendment making the bill effective for fiscal year 1983, thus curing the Budget Act violation.

The waiver of clause 5, rule XXI, was included in the rule because several sections of the bill give the Board of International Broadcasting the power to make grants and payments and use reimbursements received from the other agencies, for the purpose of developing Radio Marti without action by the Appropriations Committee.

Finally, Mr. Speaker, the rule makes the amendment in the nature of a substitute reported by the Foreign Affairs Committee in order as an original bill for the purposes of amendment and provides a single motion to recommit with or without instructions.

Mr. Speaker, H.R. 5427 authorizes $17 million for the construction of a new radio station to be called Radio Marti, of course, in honor of the great patriot and emancipator, Jose Marti of Cuba, to further the open communication of information to the people of Cuba. This station will be comparable to our Radio Free Europe program and will be operated by the U.S. Board for International Broadcasting. This new radio information effort is necessary to counteract the hundreds of hours of propaganda beamed weekly to the Cuban people by the Cuban and Soviet Governments.

Mr. Speaker, I think primarily the reason behind this proposal to create Radio Marti is to give information that carries with it the truth about what is going on in Cuba to those people who were once a part of the priceless island of the Carribbean—the "Jewel of the Caribbean," as Cuba was called.

That beautiful, fertile island, which was once the proud home of such great patriots as Jose Marti, now, of course, is the turf, the dominion, and the area under the direct and despotic control of Castro and communism, aided and abetted, of course, at an upper level by the Russian Government.

The people of Cuba are not being told what is happening to their economy or what is happening to their agriculture and that information is so vitally important to them. They are not told about how their sons are being sent to serve Russian military and political purposes to many nations of the world. The sons of Cuban mothers are dying upon foreign soil, not to defend Cuba, their homeland and all that they hold dear, but to perpetuate the dominion and the imperialistic control that is aspired to by the Soviet Government.

We are telling them that the people of the United States want to be their friends. They have been our friends for a long time. We gave them freedom, sacrificing American blood and treasure to do so, and we set an example when we liberated them. In spite of the fact that we had a treaty that bound them to us for a much longer time, we liberated them to their own freedom to enjoy for themselves.

So they know that we have been their friends. We are simply telling them that if they would get rid of these communistic dictators and if they will throw off the Russian yoke and become the people of Cuba again with their own free government and their own democratic institutions, America is still their friend and will gladly work with them and help them in every way we can to enjoy the highest potential of which they are capable.

So this institution will try to tell those people the truth instead of the lies which they are fed now by Cuban communistic and Russian propaganda.

Mr. Speaker, this bill will authorize the consideration of a very meritorious measure. I hope the rule will be speedily adopted and the measure favorably considered by this House.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. PEPPER. I am glad to yield to the distinguished gentleman from Maryland.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman for yielding.

I still want to find out a little bit more about what was waived in the budget process.

Mr. PEPPER. Mr. Speaker, the problem was section 402(a) of the Budget Act requires that a bill which provides new budget authority for a fiscal year must be reported by May 15 of the preceding fiscal year or it will not be eligible for consideration.

Mr. MITCHELL of Maryland. Oh, I see.

Mr. PEPPER. This bill was not reported by May 15, 1980, and the introduced bill contains and authorization for fiscal year 1981.

Mr. MITCHELL of Maryland. That was the only waiver?

Mr. PEPPER. We had to waive that requirement of the Budget Act.

Mr. MITCHELL of Maryland. That was the only waiver?

Mr. PEPPER. As far as I know, that was the only budget waiver.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman very much.

I was concerned that we would find a way to waive a rule so that we can spend some more money when at the same time we are ruthlessly trying to cut funds that attack social problems.

Mr. PEPPER. Mr. Speaker, I would not want the gentleman not to be fully informed.

What we do also is we do waive the rule against inclusion of appropriation in an authorization bill, because we do propose to allow the institution that runs this Radio Marti to make grants and payments and to use reimbursements received from other agencies that are proper and relevant in a case like this and when it is for the advancement of the program.

In this case there would be an instance of an appropriation of money in a way that does not go through the Appropriations Committee. That is a relatively small amount, but that is why the waiver is needed.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman.

Mr. PEPPER. There was one other question about the Budget Act violation. We waived the Budget Act, but as I mentioned in my statement, the distinguished Committee on Foreign Affairs has agreed to offer an amendment on the floor to make this effective only for fiscal year 1983 so that the Budget Act violation would be cured.

Mr. MITCHELL of Maryland. Mr. Speaker, I thank the gentleman.

The intent, of course, is laudable, and I generally support rules. I think bills ought to be heard on the floor.

But I swear it is awfully difficult for me to understand, when we are slashing away at medicare, medicaid, and everything else and creating a potential internal danger for this Nation by alienating a whole lot of people, why we have to spend money on this. I guess the explanation will come out in the debate.

Mr. PEPPER. Mr. Speaker, I say to my able friend, the gentleman from Maryland, that I am sure he knows there is nobody in this Chamber who is more opposed to cuts in social programs than I have been.

Mr. MITCHELL of Maryland. I realize that.

Mr. PEPPER. I share the gentleman's view 100 percent. But the appropriation that is authorized is $17 million. As believed by the administration and many of the supporters of the bill, it is in the national interest that we have this institution, and we think the advantage to be derived will greatly exceed the $17 million that will be involved in this expenditure.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield to me?

Mr. PEPPER. I yield to the gentleman from Iowa.

□ 1320

Mr. SMITH of Iowa. I would say to my very good friend from Florida, however, maybe one of the reasons they do not need the authority to exceed the budget in 1982 so much is that the military is already building the facility and moving a transmitter in, so they have taken care of part of their problem through military appropriations. That might be one reason they do not need it quite so badly.

Mr. MITCHELL of Maryland. Even before this body has acted on the legislation?

Mr. SMITH of Iowa. Even before the body has acted.

Mr. MITCHELL of Maryland. It assumes we are going to just roll over and play dead?

Mr. SMITH of Iowa. And the military will take care of it.

I wonder, my good friend, you say that you are going to tell the Cuban people to "throw off the yoke." Does that mean that if there is another Bay of Pigs that we are going to send in troops and help them?

Mr. PEPPER. I do not understand the purport of the gentleman's question.

Mr. SMITH of Iowa. The gentleman in his statement said that we are going to tell, through Radio Marti the Cuban people to "throw off the yoke and to free themselves." Does that mean that if we have another Bay of Pigs this time that we will send in troops to help them? What are we going to do to help them throw off the yoke the next time?

Mr. PEPPER. I would rather not speculate about a contingency like that. I will allow my friend to form his own judgment.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may require.

Mr. Speaker, House Resolution 529 is an open rule under which the House

will consider the President's proposal for a new radio station to broadcast to Cuba as part of the administration's effort to counter Cuban and Soviet influence in Central America.

This rule waives section 402(a) of the Budget Act against our consideration of the legislation, H.R. 5427. This waiver is necessary because the Committee on Foreign Affairs did not report the bill prior to May 15, 1981. The waiver is supported by the Committee on the Budget, because the Foreign Affairs Committee intends to offer a floor amendment curing the Budget Act problem.

The rule makes in order a Foreign Affairs Committee substitute as an original bill for the purpose of amendment under the 5-minute rule, and waives clause 5 of rule XXI against our consideration of the substitute. This waiver is necessary because certain portions of the Foreign Affairs Committee substitute may constitute appropriations in a legislative bill.

Last, Mr. Speaker, the rule divides the time for general debate between the Committee on Foreign Affairs and the Committee on Energy and Commerce, which will offer a committee amendment.

The legislation this rule makes in order, H.R. 5427, authorizes appropriations of $10 million in fiscal 1982 and $7.7 million in 1983 for a U.S.-based radio broadcasting station which will broadcast to Cuba. Under the amendment to be offered by the Committee on Foreign Affairs designed to correct the Budget Act problem, the authorization will become $17.7 million for 1983.

Mr. Speaker, the legislation is fairly controversial, because some Members do not support the administration's foreign policy efforts in this area.

Let me just say, the station is designed to provide the Cuban people with information they cannot get under their repressive regime headed by Castro.

Mr. Speaker, there was not much controversy about this rule in the Committee on Rules, and I urge its adoption.

Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DERWINSKI), a member of the Committee on Foreign Affairs.

Mr. DERWINSKI. Mr. Speaker, the proposed new U.S. radio programing to Cuba, Radio Marti, will reach the audience most likely to influence the Cuban regime: the people of Cuba. For more than 20 years, they have received a steady diet of heavily censored and strongly anti-American indoctrination.

Castro's totalitarian regime controls the dissemination of information in Cuba. Radio Moscow is the only international broadcasting targeted specifically to Cuba. Cuba, on the other hand, operates an extensive broadcasting effort abroad in more than a half dozen languages and Indian dialects.

U.S. commercial broadcasts which can be received in Cuba are sporadic, most are not in Spanish, and not one is directed specifically to the Cubans on the island. Existing service provided by the Voice of America is limited, moreover, in time and scope: less than 6 hours a day in Spanish is designated for all of Latin America. No single program is tailored to the interests of Cuban audiences.

U.S. radio broadcasts to Cuba from Radio Marti will provide what would be essentially a Cuban domestic radio service, complementing the Voice of America which gives world news. Radio Marti would provide the truth so desperately sought by the captive people of Cuba.

Radio Marti is a bargain proposition. The $10 million sought for the first fiscal year would be a small price to pay for the gift of truth to the Cuban people. A small price indeed to pay for weapons of words rather than the vastly more costly weapons of war.

The administration has asked for Radio Marti as one aspect of its policy of containment of Fidel Castro. The beleaguered Cuban people will appreciate our providing them with true and accurate information. We, in turn, rely on the value of truth in the ideological struggle forced upon us. Truth is one of our most potent and important weapons. Let us use it.

The radio broadcasts would also help project U.S. policy in the Caribbean. A clear U.S. policy in America's backyard strengthens U.S. credibility in the face of Soviet encroachment in Latin America.

I urge the House to adopt the rule.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. HARKIN).

Mr. HARKIN. Mr. Speaker, while I do not oppose the rule, since it is an open rule, I do oppose the fact that the budget was waived, that points of order on the budget were waived. I really believe that what we have before us ought to be retitled, and the new title ought to be "The Dr. Strangelove Act of 1982."

Mr. PEPPER. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Florida.

Mr. PEPPER. Maybe I did not make it clear in my statement. This is only a technical waiver because the committee assured the Rules Committee that it would offer an amendment on the floor deferring this expenditure until fiscal 1983. So, a waiver would not in that case be required.

Mr. HARKIN. So, we will have a chance to vote against that amendment, too.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. HARKIN. I yield to the gentleman from Florida.

Mr. FASCELL. I do not think, since the gentleman is opposed to the bill, he would want to vote against that amendment, because the amendment takes out the 1982 authorization and makes it just for 1983. That is not only within the budget, but it is not even an add-on to the budget. So I do not think the gentleman would want to vote against that amendment.

Mr. HARKIN. You want me to vote for it?

Mr. FASCELL. I think you should, if you are going to be consistent with your position.

Mr. HARKIN. We all ought to vote for it, right?

Mr. FASCELL. Right. I think everybody should vote for that amendment.

Mr. HARKIN. But no one ought to vote for the bill, which I started to say ought to be retitled, "Dr. Strangelove Act of 1982." The reason I say that is because I have information, verifiable information, and I will name the names next week, of individuals who made the following statements:

There was an individual in the Defense Department who said that this is "an international game of chicken and the United States will not blink."

With Radio Marti the United States will be "drawing a line across which Castro will know he cannot step without paying for it."

Or how about this one: Cuban interference with Radio Marti would be a violation of international law, and the United States would then have legal justification for going in and "surgically removing" their transmitters.

How about this one: Someone who helped the administration plan Radio Marti from the very beginning, not connected with either the Defense or the State Department, said that if Cuba elects to jam Radio Marti it would be "an act of war." Also, that a radio station in Iowa that would be affected by this ought to be proud to be on the front lines of finally putting "Castro in his place."

I know there are some well-meaning individuals in this body. I do not question their intentions in bringing this bill to the floor.

But what I do question is where the genesis of this began. With a small group of individuals in the White House and around the White House who, as they have said, want to "put Castro in his place."

So this, I think, is a very Dr. Strangelovean type of bill to bring up.

Aside from that, it is a waste of money, $17.7 million. We have two radio stations in Miami already, WINZ Radio and WQBA. Any of you who have ever traveled in the Caribbean listened to WINZ Radio. It goes all over Cuba, all day, and I think all night playing music and having com-

mercials. I would suggest that if we want to spend our $17.7 million we ought to just buy commercials on WINZ Radio and tell the Cuban people how great America is. Is this not the administration that worships the temple of the free marketplace? Let us just buy some commercials on WINZ Radio and beam the truth to Cuba.

I think we ought to have a new title for this bill. I would suggest at least the following:

How about "The $17.7 Million Boondoggle Broadcasting to Cuba Act?"

How about "Throwing Money at the Castro Problem Through Broadcasting to Cuba Act?"

Or how about this one, "The Cuban Refugee Recruitment Through Broadcasting to Cuba Act," because the one thing we have learned in the past from our broadcasting to Southeast Asia is that is what brought all of these millions of refugees out. So even if this bill does what the authors purport it does, we are going to have more Cuban refugees in this country than we even have today.

But I think perhaps the best title of all for this bill ought to be the "John Foster Dulles Cold War Mentality Memorial Radio Broadcasting to Cuba Act," which to me is what this bill is all about.

But I just want you to know that aside from all of this there are very legitimate reasons over and above this to be opposed to this bill.

□ 1330

Mr. Speaker, I will insert in the RECORD with my remarks a list of all of the groups opposed to this piece of legislation:

IOWA CATTLEMEN'S ASSOCIATION,
Ames, Iowa, April 13, 1982.

Hon. TOM HARKIN,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN HARKIN: The Iowa Cattlemen's Association is very concerned about the impact that the possible jamming of "Radio Marti" by the Cuban government would have on the farm programming of radio station WHO in Des Moines, Iowa. Farmers rely very heavily on early morning farm news, market reports and weather reports on WHO to plan their farm schedules. The loss of WHO's signal would affect many producers in several states, not just those in Iowa. I have been interviewed on WHO several times and have had feedback from producers in several states concerning my comments.

Perhaps the message that "Radio Marti" would carry to Cuba is necessary. However, if the Cuban government were to jam the 1040 kHz signal little would be accomplished. This seems to be a foolish waste of dollars which are not plentiful today. We've learned from representatives of Palmer Communications, Inc. that another 50,000 watt AM station, already owned by the State Department, is used only six hours per day and could be used for the "Radio Marti" effort. Careful consideration should be given to this alternative. This alternative "Voice of America" station operates on 1180 kHz.

In view of the proposed costs of establishment of "Radio Marti" to operate at 1040 kHz and, more importantly, the valuable and irreplaceable services offered to farmers by current WHO programming, I urge you to reconsider this ill-advised decision and to consider all of the alternatives and consequences prior to making a final decision.

We appreciate your support for our position on this matter.

Sincerely,

JOHN HENNING, *President.*

IOWA BEEF IMPROVEMENT ASS'N.,
April 8, 1982.

Re "Radio Marti"—the threatened jamming of 1040 k.H.z.

Hon. TOM HARKIN,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE HARKIN: We have been advised the U.S. State Department has planned to beam a message to Cuba on 1040 k.H.z. and Cuba has let it be known they will jam the frequency with ten times the power that is broadcast. This will create a problem for many people in Iowa and the Midwest as frequency 1040 is "Clear Channel WHO Radio". The early morning and late evening are critical times for farmers to get the latest weather, markets and agriculture news. Palmer Communications Inc., licensee of radio WHO, is the source of this information for over 100,000 farmers in the Midwest. Using this frequency for a message to Cuba and having it jammed will do irreparable damage to WHO and deprive many farmers of this essential information. We strongly urge the U.S. Government to reconsider plans to use 1040 k.H.z. for "Radio Marti" and explore the use of "Voice of America" frequency 1180 for this purpose. The efforts of this country to educate the Cuban people as to what is happening in the world is a commendable endeavor and one that we support, but it must be done in a way that does not impair our society and economic strength. Using 1040 k.H.z. is potentially quite damaging to the food producing Midwest.

We will appreciate your consideration and support on this problem.

Sincerely yours,

VAREL BAILEY,
President, IBIA.

IOWA FARM BUREAU FEDERATION,
West Des Moines, Iowa, March 31, 1982.

Hon. RONALD REAGAN,
President of the United States,
Washington, D.C.

DEAR MR. PRESIDENT: We are concerned about the effect of the government's proposal to establish Radio Marti on the same frequency as Radio Station WHO in Des Moines.

Many farmers throughout Iowa and the Midwest depend upon WHO for farm news, grain and livestock and weather reporting at all hours of the day.

It is our understanding that the Cuban government has announced plans to jam the proposed Radio Marti station with a 500,000 watt AM station on the same frequency. If this occurs, the effective signal for Station WHO on frequency 1040 will be reduced to 45 miles during early evening, nighttime and pre-sunrise broadcasting.

We've been told that the State Department already has a 50,000 watt AM station that operates no more than 6 hours per day on the 1180 frequency. It seems logical to use this facility which is located near the proposed site of the new station in Florida and which is already beamed toward Cuba.

In this period of overwhelming need for restraints on federal spending, the decision to use an existing facility and already-assigned frequency makes economic sense. To spend additional money and risk the jamming of WHO's highly regarded farm and news broadcasts would be costly to Iowa farmers, Iowans and taxpayers.

We respectfully ask that you favorably consider our request to protect a valuable domestic broadcast station's service to Americans while finding a way to communicate the truth to the Cuban people.

Sincerely,

DEAN KLECKNER, *President.*

IOWA DEPARTMENT OF AGRICULTURE,
Des Moines, Iowa, April 7, 1982.

Hon. TOM HARKIN,
Washington, D.C.

DEAR TOM: I am enclosing a copy of the letter I sent to President Reagan regarding the issue of "Radio Marti." I feel that WHO has provided a tremendous service to the citizens of Iowa, particularly the rural population through their farm broadcasting service.

The proposal by the Presidential Commission to use "Radio Marti" on a separate channel 1040 kHz will definitely shrink the ability of farm broadcasts during those critical hours to reach out in the radius it now covers. In fact, in eastern, northeast and northwest Iowa our Iowa stations will not have the benefit of the farm broadcast service, whereas now that service reaches out into a wide radius to the Canadian border, as far east as western New York and Pennsylvania, as far south as Louisiana, and as far west as Wyoming and Colorado.

I hope that you will try and urge the Presidential Commission to use the principal option available in the best interests of the economy and service to Iowa and to other areas which WHO currently serves.

Thank you for your support on this issue.

Sincerely,

R. H. LOUNSBERRY,
Secretary of Agriculture.

IOWA DAIRY INDUSTRY COMMISSION,
Ankeny, Iowa, April 1, 1982.

THE PRESIDENT OF THE UNITED STATES,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Recently I became aware of the State Department's plan to operate a 50,000 watt AM station, designated as "Radio Marti." Also, according to information I have received, "Radio Marti" would operate on a frequency of 1040 kHz, the same as radio station WHO of Des Moines, Iowa.

I understand the purpose of "Radio Marti" is to tell ". . . the truth to the Cuban people about their government's domestic mismanagement and its promotion of subversion and international terrorism in this hemisphere and elsewhere . . ." While I believe the Cuban people have a right to hear this information, and while it may serve our national interest, Mr. Castro most assuredly would not stand idly by. In fact, he has announced plans to jam "Radio Marti" broadcasts with a 500,000 watt AM station, also using the 1040 kHz frequency.

Who, then wins this political battle of the airwaves? No one. But there are losers—those being radio station WHO and the hundreds of thousands of midwestern farmers who depend on their early evening,

night-time and pre-sunrise broadcasts. Farmers, as you know, Mr. President, depend on accurate weather and market information, and here in the midwest they have counted on WHO for over 50 years to bring this information to them.

I also believe, Mr. President, that to ask taxpayers to foot the bill for this multi-million dollar project that will not achieve its goal due to Castro's plan to jam the station is wrong.

Thank you for your time and consideration of this matter.

Sincerely,

KEITH R. MAXEY,
Executive Secretary.

IOWA SOYBEAN ASSOCIATION,
West Des Moines, Iowa, March 25, 1982.

RONALD REAGAN,
President, United States of America,
The White House, Washington, D.C.

DEAR MR. PRESIDENT: WHO Radio of Des Moines, the station on which I used to hear your broadcasts of the Drake Relays, is in serious trouble if the Department of State goes ahead with plans for "Radio Marti" on a frequency of 1040 kHz.

Proposed jamming of "Radio Marti" by the Cubans would effectively eliminate early morning and late evening broadcasts of farm markets, weather, and news so vital to midwest agriculture.

Iowa's Clear Channel WHO Radio has an outstanding farm department that provides needed, up to the minute agricultural information. Interruption of this service would mean the loss of a valuable news source on which farmers make costly decisions.

There must be a better way!

Thank you for your serious consideration of this matter.

Sincerely,

RAYMOND HECK,
President, Iowa Soybean Association.

IOWA CORN GROWERS ASSOCIATION,
March 26, 1982.

Hon. TOM HARKIN,
U.S. House of Representatives,
Rayburn House Office Building,
Washington, D.C.

DEAR CONGRESSMAN HARKIN: The enclosed letter describes the concern with which the Iowa Corn Growers Association views the proposed Department of State 50,000 watt "Radio Marti" plan.

If the plan goes into effect and Cuba jams the transmission as anticipated, consequences for Iowa agriculture will be severe, as dusk-to-dawn programming on WHO will be affected.

Farmers in Iowa truly do depend on WHO for weather and market information. I find WHO "Farm Radio" a reliable source of the information so crucial to my operation.

In light of the fact that the Department of State has a reasonable alternative to broadcasting on the same frequency as WHO, I feel that proceeding with this plan would be a real disservice to Iowa farmers. I trust you will take whatever action you deem appropriate to direct the State Department to avoid interference with the 1040 kHz frequency.

Sincerely,

ROBERT BOYLE,
Director.

IOWA CORN GROWERS ASSOCIATION,
March 26, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: The Iowa Corn Growers Association would like to bring to your attention a situation that we feel has severe implications to the majority of the 110,000 Iowa corn producers.

We understand the Department of State plans to operate a 50,000 watt AM radio station designated as "Radio Marti" on a frequency of 1040 kHz. Proposed programming is directed toward the people of Cuba. Additional information we have obtained indicates that if such a station would operate, the Cuban government would jam that frequency with a signal being broadcast from a 500,000 watt station. Such a situation would seriously affect a major farm radio station in Iowa, WHO, operating on their assigned frequency of 1040 kHz.

We can appreciate the need to provide the Cuban people with accurate and reliable information about their government, however, the adverse effect this will have on Iowa agriculture we feel merits selecting another alternative.

Jamming of the 1040 kHz frequency would prevent farmers in a 200 mile radius of Des Moines from receiving the WHO farm programming from dusk to dawn. Of major concern to us is the weather reporting services during late evening and early morning hours in the planting and harvesting seasons. Obviously, during these seasons of the year the weather conditions are very critical to farmers and they depend on the predawn radio weather reports to determine work activities for the day. WHO has devoted substantial resources to provide sophisticated weather reporting services that are needed by farmers. The loss of this information to Iowa farmers could cause considerable financial losses to these grain producers as well as affect the U.S. and world food supplies in a drastic manner.

Additionally, farmers depend upon the timeliness of radio for much of their market information and farm news. Most of the farm news is provided in the time slots of 5:30 a.m. to 6:30 a.m. and during the noon hour. Thus, interference on the 1040 frequency during early morning hours would prevent most farmers in Iowa from receiving the critical market information plus coverage of issues that you and your Administration have selected as high priorities such as soil conservation, increased agriculture exports, additional basic research related to agricultural production and marketing and a short-term priority of farmer awareness and participation in the 1982 farm program.

We are advised that an alternative to the present plan is available. The "Voice of America" presently operates a 50,000 watt station on the frequency of 1180 kHz within a short distance from the proposed "Radio Marti" site. Additionally this station operates no more than six hours per day and could be used for the project "Marti" effort.

Mr. President, based on the serious consequences that the loss of WHO weather, market and farm information would have on Iowa's farmers and the economy, we strongly urge you to encourage the Department of State to chose an alternative to the present 1040 kHz "Radio Marti" proposal.

Sincerely,

DAN STADTMUELLER,
President.

IOWA DAIRY PRODUCTS ASSOCIATION,
Ankeny, Iowa, April 15, 1982.

THE PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: Representatives of Palmer Communications, Inc., licensee of Radio Station WHO, Des Moines, Iowa, have been advised that the Cuban government has announced plans to operate a 500,000 watt AM station on WHO's frequency of 1040 kHz, which will jam its broadcasts and reduce its early evening, nighttime and pre-sunrise coverage from 800 to 45 miles. The supposed purpose of the Cuban plan is to jam the 50,000 watt AM station, designated as "Radio Marti", which the state department proposes to operate on the same frequency of 1040 kHz directionalized toward Cuba.

We understand the purpose of "Radio Marti" is to tell ". . . the truth to the Cuban people about their government's domestic mismanagement and its promotion of subverion and international terrorism in this hemisphere and elsewhere . . ." Although this effort may serve our national interest, it will also antagonize the present Cuban administration and it appears certain they intend their proposed 500,000 watt AM station to jam "Radio Marti." Unfortunately, in doing so at this point, they will also jam the early evening, nighttime and presunrise broadcasts of WHO, depriving Iowa farm families, and thousands of others in surrounding states, of the farm service programs the station broadcasts during those hours.

We are also advised that the "Voice of America", a state department agency, already owns another 50,000 watt AM station presently operating on the former I-A Clear Channel of 1190 kHz, from a site no more than 30 miles from that under consideration. That station is already beamed toward Cuba. We also understand it operates no more than 6 hours per day, and could be readily used for the proposed "Radio Marti" effort and would probably kill the plans for the proposed 500,000 watt Cuban station at the 1040 kHz frequency.

In view of the irreparable loss of agricultural news, commodity markets, and weather reporting service, thousands of midwestern families would suffer if WHO's early evening, nighttime and pre-sunrise broadcasts are jammed, we urge you and your colleagues to propose reassignment of the "Radio Marti" effort to the frequency of 1180 kHZ now being used part time. To precipitate the jamming of WHO's farm and agricultural broadcasts would be a disservice to midwestern families vitally in need of this reporting service on a regular daily basis.

In addition to maintaining the status quo of WHO's broadcast efforts, substantial funds could be saved in avoiding construction of a duplicate unneeded facility by the government. We will appreciate your consideration of our position on this important matter.

Respectfully yours,

MARSHALL O. INMAN,
Executive Secretary.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Speaker, the legislation currently before us involves a great deal more than the establishment of Radio Marti. The

policy implications, both domestic and foreign, underlying adoption of this bill in its present form are profound.

The establishment of a no-nonsense news program to be beamed in Spanish to Cuba makes sense—assuming it is not jammed. But a good idea becomes a bad one if it is likely not to work. President Reagan is in the position of a quarterback who has called a pass in the huddle and walks up to the line of scrimmage and sees a defensive alignment likely to foil the play called. Based on newly available intelligence information that Castro has the capacity to jam broadcasts, the administration should reconsider its strategy.

To understand the situation we are in, it is important to understand the background of this legislation.

If current plans are implemented, Radio Marti will broadcast on 1040 kHz—precisely the same frequency as WHO of Des Moines, Iowa. The 1040 kHz frequency was chosen because the signals emitted by Radio Marti from Florida to Cuba would cause relatively little interference for WHO and other private broadcasters in the United States. However, the government survey that led to this frequency selection did not take into account the effects of potential Cuban jamming to prevent Radio Marti from reaching its intended audience.

We do know that Castro has both the capacity and the stated desire to jam Radio Marti with a 500-kilowatt transmitter. If this occurs, Cuban jamming would restrict WHO's range to a 30-mile radius of Des Moines and jeopardize the functional viability of America's best known agricultural and talk show station. Instead of sending a clear signal from Minnesota to Louisiana and from Wyoming to Pennsylvania, WHO would barely reach Ames. Towns as close as Grinnell and Iowa City and Ottumwa would be deprived of a familiar and valuable source of news and entertainment. And, most importantly, few Cubans would receive the news intended for their ears.

The potential for Presidential embarrassment is extraordinary if current Administration plans are not modified. President Reagan, who began his work career with Palmer Broadcasting, has always identified with and expressed great fondness for WHO. If WHO's frequency is used for Radio Marti, Castro will be given enormous incentive to jam its initial broadcasts and thus thwart an Administration initiative to which the President has lent his personal prestige.

Jamming is not a difficult art. It is just expensive. The fact that Castro is so insecure as to feel compelled to block "truth" from invading Cuba's shores is a reflection of a leader in trouble. The concern I have is that a commendable idea—the establishment of Radio Marti—does not cause the President such embarrassment as to increase the prospect of militant retaliations on our part against Cuba.

For months, Secretary Haig obliquely warned of the possibility that the administration may "go to the source" and commence significant moves against Cuba. There are a few in inner circles in Washington that appear bent on confrontation with Cuba. One strategically placed Pentagon appointee went so far as to tell WHO representatives that jamming Radio Marti might be considered an "act of war."

Somewhere a more responsible perspective must be found. The jamming of Radio Marti is not equivalent to the sinking of the Maine. Should Radio Marti not have the effect our Government might hope, care must be taken not to overreact. Interventionism has not served us well in the immediate past. It is not likely to in the immediate future. The Bay of Pigs mentality reflected in the desire to establish confrontational policies with Cuba demand reconsideration. Now is the time to de-escalate rather than increase inciteful rhetoric in the Caribbean region. Another confrontation with Russia over Cuba has all the "déjà vu" earmarkings of man's pride jeopardizing man's fate.

Beyond the grave foreign policy questions posed by Radio Marti, questions that touch the heart of our constitutional system have been raised by the actions of the administration. I am saddened to learn that this administration, which is so committed to preserving the Constitution and its meaning, has already expended funds, without authorization or appropriation, from the Department of Defense, for the construction of a four-tower-array system in the Florida Keys. These towers are ostensibly to be used by the Navy, but everyone knows they are intended for Radio Marti. Such efforts to circumvent our constitutional process strikes at the heart of our system of government. The implications for this manner of decisionmaking is not characteristic of a constitutional government.

Mr. Speaker, we have much more to lose than we have to gain by establishing Radio Marti. Castro, intelligence sources tell us, has never been lower in Cuban public esteem. Cuba's economy is in disarray and Cuban mothers, not unlike their American counterparts, have grave reservations about sending their sons to fight civil wars on foreign soil. Dictatorships have a habit of collapsing from the weight of incompetence and ideological rigidity. Great power intervention in the affairs of small states all to frequently makes martyrs out of villains. Generally it ensconces rather than curtails the authority of petty potentates. The greatest threat to Castro is to ignore him. Restraint is the order of the day.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the able gentleman from Colorado (Mr. WIRTH).

Mr. WIRTH. Mr. Speaker, I rise in support of the rule for H.R. 5427, the Radio Broadcasting to Cuba Act. This rule, which provides an open rule with 1 hour of general debate, to be divided equally between the Committee on Foreign Affairs and the Committee on Energy and Commerce, has been agreed to by both committees. It will insure adequate discussion of the proposal by all interested parties and will enable all Members to offer appropriate amendments.

There is, however, a minor problem with respect to a necessary Budget Act waiver for 1982 which I understand will be corrected by an amendment to be offered by my distinguished colleague from Florida (Mr. FASCELL). This amendment will obviate the need for a Budget Act waiver for 1982 by moving the effective authorization date forward to October 1, 1982—the beginning of fiscal year 1983.

Mr. Speaker, this technical waiver, however, will not address another very serious budgetary problem which has been completely overlooked in the rush to enact this legislation. It has come to my attention, and the attention of several other Members of Congress, that the facility to be used by Radio Marti has, in fact, already been constructed at Saddlebunch Key in Florida. Why are we voting on legislation to authorize funds to construct and operate a radio station when the Department of Defense has already constructed this station? I would like to provide the Members with the sequence of events which have led me to conclude that the executive branch has expended funds without any congressional authorization.

On September 18, 1981, Under Secretary of Defense Fred Ikle wrote to Assistant Secretary of Commerce Bernard Wunder:

> On request of the Assistant to the President for National Security Affairs, the Department of Defense is preparing to provide, upon enactment of authorizing legislation, a medium-wave [AM] transmitter facility for Radio Broadcasting to Cuba.

Four days later, on September 22, 1981, President Reagan signed an Executive order creating the Presidential Commission on Broadcasting to Cuba. This legislation was introduced over 3 months later, on February 2, 1982.

Mr. Speaker, while the Committee on Foreign Affairs and the Committee on Energy and Commerce were holding hearings and deliberating on the legislation before us today, the U.S. Navy was proceeding with construction of a facility to be turned over for use by Radio Marti when the authorizing legislation is passed. Based on the letter from Under Secretary of Defense Ikle to Assistant Secretary of

Commerce Wunder, and on a report in the June 7, 1982 issue of Broadcasting magazine that the Navy was in the process of constructing the facility, I wrote to Assistant Secretary of State Thomas Enders, who is in charge of the Radio Marti project, to inquire about possible unauthorized construction and to caution the administration that such construction would be illegal. Mr. Enders responded in a June 18 letter that:

> There are no plans to make Radio Marti operational, over any facility, and that the administration will spend no public moneys to that end prior to the enactment of authorizing legislation.

But note that in the Enders' letter, there was no assurance at all that the facility had not been constructed for use by Radio Marti, only that Radio Marti would not become operational until authorizing legislation was passed. This strikes me as an obvious back-door means of constructing a facility for use by Radio Marti without obtaining the necessary congressional authorization.

Mr. Speaker, I call to the attention of my colleagues a June 16, 1982, story which appeared in the Miami Herald which states that Lt. Cmdr. Mark Neuhart, a public affairs officer for U.S. Caribbean forces, admitted that the transmitter facility being built by the Navy in the Florida Keys is designed for Radio Marti. Subsequent to this Miami Herald report, the Defense Appropriations Subcommittee staff conducted an investigation into the matter and concluded that the Navy is building a facility for Radio Marti. The New York Times, in an editorial appearing in this morning's paper states:

> The Navy says it is already building four 250 foot antennas in Key West, even before Congress has voted a dime for this objectionable and extravagant project.

Mr. Speaker, article 1, section 9, clause 7 of the Constitution of the United States says:

> No money shall be drawn from the Treasury, but in consequence of appropriations made by Law.

It is apparent that the executive branch, under the guise of a Department of Defense national security requirement, has proceeded with the construction of a facility which it planned from the outset to turn over to Radio Marti—despite the fact that Congress has not enacted authorizing legislation.

Mr. Speaker, while the rule before us is a fair one, I must question why we are adopting any rule for this legislation if the executive branch has seen fit to proceed with Radio Marti before the U.S. Congress has granted its approval and authorized the expenditure of taxpayers' money.

□ 1340

This is one of a whole series of events related to Radio Marti that make it indeed not only a questionable venture but one that I hope when we get to Radio Marti, Members will not only vote for our amendments, but then will vote down this whole sad project.

Mr. TAYLOR. Mr. Speaker, I yield 5 minutes to the gentleman from Iowa (Mr. TAUKE), a member of the Energy and Commerce Committee.

Mr. BEDELL. Mr. Speaker, will the gentleman yield?

Mr. TAUKE. I yield to the gentleman from Iowa.

Mr. BEDELL. I thank the gentleman for yielding.

I rise in opposition to this legislation and I join my other colleagues from Iowa and would like to associate myself with their remarks and I commend them for their action on this piece of legislation.

Mr. TAUKE. Mr. Speaker, I am sure that today and next week we will have every opportunity to discuss many of the details of Radio Marti during the course of the debate on this legislation. But it occurs to me that today we should take a moment to pause and think about the logic of the proposal before us. Basically the proposal before us is designed to broadcast the truth about Castro to the Cuban Government, yet the problem that we have with the proposal before us is that that broadcast is going to take place on the AM frequency, a frequency that is easily jammed. Even the proponents of this legislation have indicated in testimony before the various committees and in debate on the issue that, yes, an AM station can be easily jammed, or counterbroadcasting can easily prevent the station from being heard in Cuba.

Now if we take the position of those who support this legislation on face value and say that if the information we were going to broadcast to Cuba would have a dramatic effect on Castro and the Cuban Government, then it seems to me it also is fair to assume that Castro will take the relatively easy step of preventing this material from being heard by the Cuban people.

Now, if we are going to make a foreign policy expenditure or an expenditure for foreign policy reasons that will have virtually no impact on those who are supposed to hear the message, then one has to ask what other implications does this policy have?

The first major implication that it has is that there will be retaliation for this policy against domestic broadcasters in this country.

So while it may seem from a foreign policy standpoint to be a risk worth taking, one must look then at the domestic implications, and I think then one has to conclude that it is a risk that perhaps should not be taken, because when Castro decides to prevent the Radio Marti from being heard within Cuba he has basically two choices, either he can jam the station, which would have little impact on the United States but would prevent it from being heard in Cuba, or he can interfere with the station by broadcasting on the same frequency.

He has indicated he intends to do the latter and he has more than indicated that he is building the stations right now to broadcast 500 kilowatts on the same frequency as Radio Marti. That of course would have disastrous indications for a number of broadcasters in this country. In essence, we would be sacrificing them to a foreign policy decision which probably will never be able to be successful in its implementation.

There are some who are suggesting that we have no other alternatives. The fact is there are other alternatives. The first alternative and one which I will discuss at greater length in debate is to broadcast on shortwave. That is what we do with "Radio Liberty," that is what we do with "Radio Free Europe." The reason we do it is because it is the accepted form of international broadcasting.

The second reason we do it is because it is not easily jammed. True, not many Cubans have shortwave receivers but it better to reach the few who do than to reach none at all on the AM band.

A second alternative is to use the Voice of America station. In fact today, Voice of America, Radio Marathon, which broadcasts into the Caribbean, broadcasts only 5 hours a day; 19 hours a day it is not used. It, too, is a 50,000 watt station; for 10 years it, too, carried programs about Cuba. In fact, there was a program begun in 1963 directed toward the Cuban people that was 5 hours a day. For lack of information, it gradually dwindled from that 5 hours a day down to half an hour a day, and in 1973 was taken off the air.

If this is a mission that we really want to fulfill, why not use the existing station that is there, that has been used before, the Cubans allegedly are accustomed to listening to, to broadcast the information that we wish to relay to the Cuban people?

I guess it just appears to me that after looking at this proposal that from a logical point of view there are other alternatives besides erecting a new station. If we erect a new station it undoubtedly will not have the desired impact of reaching the Cuban people but will have substantial negative impact on domestic broadcasters in this country. The sacrifice we are asking them to make is not outweighed by the benefits that we will achieve from this proposal.

Mr. PEPPER. Mr. Speaker, I yield 5 minutes to the able gentleman from Iowa (Mr. SMITH).

Mr. SMITH of Iowa. Mr. Speaker, I want to point out that if we vote for this rule we are not voting just for another Radio Free Europe or something like that.

The gentleman from Colorado (Mr. WIRTH) and I both indicated earlier they are already building the station. The report tends to help with this on page 6 by indicating that they are to use an existing facility. It will be existing by the time this bill passes and the military expect to secure reimbursement out of this bill. That is the way they would use an existing facility.

Also, there are some other dangerous differences between Radio Free Europe and the proposed station in this bill. Not only is Radio Free Europe not an AM, but it is so far away they cannot jam us from Sri Lanka. In addition to that this bill actually permits the military to furnish support and services for this station. That is something we have never permitted in Radio Free Europe. We prohibit broadcasts and rebroadcasts from over there for use in the United States but they will hear these broadcasts from here, and I think that is dangerous. There is no way to keep them from recording the broadcasts because the broadcasts will be made from right here and somebody in Florida can pipe it from Miami back up to New York or somewhere else in the United States any way.

Mr. MITCHELL of Maryland. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Maryland.

Mr. MITCHELL of Maryland. I thank the gentleman for yielding.

The gentleman said the military will provide support and services?

Mr. SMITH of Iowa. It is in the bill that they can provide support and services.

Mr. MITCHELL of Maryland. Does that mean they might be the disc jockeys, the announcers?

Mr. SMITH of Iowa. I think the way they have proceeded so far indicates they do not care what we think it means, they are going to do whatever they want.

Mr. MITCHELL of Maryland. They are thumbing their nose at the Congress?

Mr. SMITH of Iowa. That is what it amounts to.

Mr. TAUKE. Mr. Speaker, will the gentleman yield?

Mr. SMITH of Iowa. I yield to the gentleman from Iowa.

Mr. TAUKE. I thank the gentleman for yielding.

I hesitate to ask the gentleman to give up his time. I do think that the point he made about the interference of the military in this project is critically important.

When asked why the State Department insisted on building a new facility instead of using the Voice of America station already built in Marathon, Fla., it is the same type of station, the Assistant Secretary Enders said the Voice of America station would not have the same credibility that Radio Marti would have.

I think if Radio Marti is built by the military and it is being broadcast from a military base in Florida, it certainly will not have the same credibility as a Voice of America station, it will have a lot less credibility.

Mr. SMITH of Iowa. Under this bill they permit the Assistant Secretary of Commerce to determine the frequency. Whoever heard of such a thing? Radio stations all over this country that broadcast on an AM frequency have to secure permission from the FCC. In this bill, the Assistant Secretary of Commerce would determine the frequency. If they jam that frequency 1 week, he can turn to another frequency.

If you vote against this bill, the radio station you save may be your own. This is no ordinary bill we are talking about here.

Also, they say the need to get the truth to Cuba. They are going to give them some radio music and some ballgames and some newscasts, and tell them the truth about Castro.

□ 1350

They may decide to give us the truth about Reagan.

Anyway, we do know that what they are describing as the programing for Radio Marti amounts to public radio for Cuba. We are cutting down on public radio for this country, but now, this bill would furnish public radio for Cuba.

How much sense does this bill make to those who really read the bill? I know very few people have read the bill carefully. Those who think they need not read it carefully may not know what it does until they appropriate the frequency in a radio station in their area; but read this bill and I think most will agree that they should vote no on this bill.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I rise in very strong support of this bill and the rule that is presently before the House.

We have heard a great deal of talk in this House today with regard to the question of whether we were overreaching, the question of the value of such a station. Well, I think what we are talking about is the value of truth. We have talked to many of the refugees who have come into this country just recently and found that they did not even know about the adventurism of Castro in Africa. They have no idea of the meddling of that government in Central America. They do not know what their government is doing.

History will show that there is no greater weapon in the arsenal of the United States than the truth.

Mr. SMITH of Iowa. Mr. Speaker, will the gentleman yield briefly?

Mr. SHAW. I yield to the gentleman.

Mr. SMITH of Iowa. It seems to me, in all candor, that saying Cubans are unable to hear the truth is really a condemnation of the Miami radio stations. They reach two-thirds of the people in Cuba. Why have they not been telling them the truth?

Mr. SHAW. What we are talking about is a Spanish speaking station that will talk about Cuba. We heard here mention of WQBA, we heard mention of WINZ, two wonderful stations that are in Dade County, Fla.; however, they are speaking to the people in the Miami area, to the Cuban community in Miami, as well as the rest of the community. They are beamed to the Caribbean, but they are not talking about what needs to be told, and that is, the Cuban people need to be told the truth about Cuba, and the truth will make them free.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time.

Mr. PEPPER. Mr. Speaker, I just want to say this. This a fair rule. We are not now debating the merits of the bill that this rule would authorize the House to consider. I hope the House would adopt this rule.

Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. PEPPER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 254, noes 22, answered "present" 1, not voting 157, as follows:

[Roll No. 212]

AYES—254

Akaka	Brinkley	Coyne, William
Alexander	Brooks	Crane, Philip
Anderson	Brown (CO)	D'Amours
Andrews	Broyhill	Daniel, Dan
Annunzio	Byron	Daniel, R. W.
Anthony	Campbell	Dannemeyer
Archer	Carman	Daschle
Ashbrook	Carney	de la Garza
Aspin	Chappell	Deckard
Bailey (PA)	Cheney	Derrick
Benedict	Clausen	Derwinski
Benjamin	Clinger	Dickinson
Bennett	Coats	Dicks
Bereuter	Coleman	Dingell
Bethune	Collins (TX)	Dixon
Bevill	Conable	Dougherty
Bingham	Conte	Dreier
Blanchard	Corcoran	Duncan
Bliley	Coughlin	Dyson
Bonker	Courter	Eckart

Edwards (OK)	LaFalce	Ritter
Emerson	Lagomarsino	Roberts (KS)
English	Lantos	Roberts (SD)
Erdahl	Latta	Robinson
Evans (DE)	LeBoutillier	Rodino
Fary	Lee	Roe
Fascell	Lehman	Roemer
Ferraro	Lent	Rogers
Fiedler	Lewis	Rose
Fields	Livingston	Rosenthal
Flippo	Loeffler	Roth
Foglietta	Long (LA)	Roybal
Foley	Lott	Russo
Ford (MI)	Lowery (CA)	Sawyer
Forsythe	Lowry (WA)	Scheuer
Fountain	Lujan	Schneider
Fowler	Luken	Schroeder
Frank	Lungren	Schulze
Frenzel	Markey	Sensenbrenner
Frost	Martin (IL)	Shamansky
Garcia	Martin (NC)	Shannon
Gaydos	Martinez	Sharp
Gephardt	Matsui	Shaw
Gibbons	Mattox	Shelby
Gilman	Mazzoli	Skeen
Gingrich	McCollum	Smith (AL)
Glickman	McCurdy	Smith (NE)
Goodling	McDade	Smith (NJ)
Gore	McDonald	Snowe
Gradison	McGrath	Snyder
Gramm	McHugh	Solarz
Green	Mica	Spence
Grisham	Michel	Stangeland
Guarini	Mikulski	Stark
Gunderson	Miller (OH)	Staton
Hagedorn	Mineta	Stenholm
Hammerschmidt	Minish	Stratton
Hance	Molinari	Swift
Hansen (ID)	Moore	Synar
Hansen (UT)	Moorhead	Tauzin
Hartnett	Morrison	Taylor
Hawkins	Murphy	Traxler
Heckler	Natcher	Udall
Heftel	Neal	Vander Jagt
Hendon	Nelligan	Vento
Hightower	Nowak	Volkmer
Hiler	Oberstar	Walgren
Hillis	Obey	Walker
Holland	Ottinger	Wampler
Holt	Panetta	Waxman
Horton	Parris	Weaver
Howard	Pashayan	Weber (OH)
Hoyer	Patman	Whitley
Huckaby	Patterson	Whittaker
Hunter	Paul	Whitten
Hutto	Pease	Williams (OH)
Jacobs	Pepper	Winn
Jeffries	Perkins	Wirth
Jenkins	Petri	Wolf
Johnston	Pickle	Wortley
Jones (NC)	Porter	Wright
Jones (OK)	Price	Wylie
Kazen	Ratchford	Yates
Kemp	Regula	Zablocki
Kogovsek	Rinaldo	

NOES—22

Bedell	Leach	Smith (IA)
Boner	Leland	Stokes
Daub	Miller (CA)	Tauke
Downey	Mitchell (MD)	Washington
Edwards (CA)	Rangel	Weiss
Evans (IA)	Sabo	Young (AK)
Kastenmeier	Schumer	
Kildee	Seiberling	

ANSWERED "PRESENT"—1

Gonzalez

NOT VOTING—157

Addabbo	Bolling	Clay
Albosta	Bonior	Coelho
Applegate	Bouquard	Collins (IL)
Atkinson	Bowen	Conyers
AuCoin	Breaux	Coyne, James
Badham	Brodhead	Craig
Bafalis	Broomfield	Crane, Daniel
Bailey (MO)	Brown (CA)	Crockett
Barnard	Brown (OH)	Davis
Barnes	Burgener	Dellums
Beard	Burton, John	DeNardis
Bellenson	Burton, Phillip	Donnelly
Biaggi	Butler	Dorgan
Boggs	Chappie	Dornan
Boland	Chisholm	Dowdy
Dunn	Jeffords	Railsback
Dwyer	Jones (TN)	Reuss
Dymally	Kennelly	Rhodes
Early	Kindness	Richmond
Edgar	Kramer	Rostenkowski
Edwards (AL)	Leath	Roukema
Emery	Levitas	Rousselot
Erlenborn	Long (MD)	Rudd
Ertel	Lundine	Santini
Evans (GA)	Madigan	Savage
Evans (IN)	Marks	Shumway
Fazio	Marlenee	Shuster
Fenwick	Marriott	Siljander
Findley	Martin (NY)	Simon
Fish	Mavroules	Skelton
Fithian	McClory	Smith (OR)
Florio	McCloskey	Smith (PA)
Ford (TN)	McEwen	Solomon
Fuqua	McKinney	St Germain
Gejdenson	Mitchell (NY)	Stanton
Ginn	Moakley	Studds
Goldwater	Moffett	Stump
Gray	Mollohan	Thomas
Gregg	Montgomery	Trible
Hall (OH)	Motti	Watkins
Hall, Ralph	Murtha	Weber (MN)
Hall, Sam	Myers	White
Hamilton	Napier	Whitehurst
Harkin	Nelson	Williams (MT)
Hatcher	Nichols	Wilson
Hefner	O'Brien	Wolpe
Hertel	Oakar	Wyden
Hollenbeck	Oxley	Yatron
Hopkins	Peyser	Young (FL)
Hubbard	Pritchard	Young (MO)
Hughes	Pursell	Zeferetti
Hyde	Quillen	
Ireland	Rahall	

□ 1400

The Clerk announced the following pairs:

On this vote:

Mr. Nelson for, with Mr. Dellums against.

Mr. Florio for, with Mr. Bonior of Michigan against.

Mrs. Boggs for, with Mrs. Collins of Illinois against.

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. FASCELL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Inc.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. FASCELL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 239, nays 8, answered "present" 1, not voting 186, as follows:

[Roll No. 213]

YEAS—239

Akaka	Frost	Obey
Alexander	Garcia	Panetta
Anderson	Gaydos	Parris
Andrews	Gephardt	Pashayan
Annunzio	Gibbons	Patman
Anthony	Gilman	Patterson
Archer	Gingrich	Paul
Ashbrook	Glickman	Pease
Aspin	Gonzalez	Pepper
AuCoin	Gore	Petri
Bailey (PA)	Gradison	Pickle
Bedell	Green	Price
Benedict	Grisham	Rangel
Benjamin	Guarini	Ratchford
Bennett	Gunderson	Regula
Bereuter	Hagedorn	Rinaldo
Bethune	Hansen (ID)	Ritter
Bevill	Hansen (UT)	Roberts (KS)
Bingham	Heftel	Roberts (SD)
Blanchard	Hendon	Robinson
Bliley	Hightower	Rodino
Boner	Holland	Roe
Bonker	Holt	Roemer
Brinkley	Howard	Rogers
Brooks	Hoyer	Rose
Brown (CO)	Huckaby	Rosenthal
Broyhill	Hunter	Roth
Butler	Hutto	Roybal
Byron	Jacobs	Russo
Campbell	Jones (OK)	Sawyer
Carman	Kastenmeier	Scheuer
Carney	Kazen	Schneider
Cheney	Kemp	Schroeder
Clinger	Kildee	Schulze
Coats	LaFalce	Schumer
Coleman	Lagomarsino	Sensenbrenner
Collins (TX)	Lantos	Shamansky
Conable	Latta	Shannon
Conte	Leach	Shaw
Corcoran	Lee	Shelby
Coughlin	Lehman	Skeen
Courter	Leland	Smith (AL)
Coyne, William	Lent	Smith (IA)
Crane, Philip	Lewis	Smith (NE)
Daniel, R. W.	Livingston	Smith (NJ)
Dannemeyer	Loeffler	Snyder
Daschle	Long (LA)	Solarz
Daub	Lowery (CA)	Spence
de la Garza	Lowry (WA)	Stangeland
Deckard	Lujan	Stark
Derrick	Luken	Staton
Dickinson	Lungren	Stenholm
Dicks	Markey	Stratton
Dingell	Martin (IL)	Swift
Dixon	Martin (NC)	Tauke
Dougherty	Martinez	Tauzin
Downey	Matsui	Taylor
Dreier	Mattox	Traxler
Duncan	Mazzoli	Udall
Dyson	McCollum	Vander Jagt
Eckart	McCurdy	Vento
Edwards (CA)	McDade	Volkmer
Edwards (OK)	McDonald	Walgren
English	McGrath	Walker
Erdahl	McHugh	Washington
Evans (DE)	Mica	Waxman
Fary	Michel	Weaver
Fascell	Mikulski	Weber (OH)
Fenwick	Miller (OH)	Whitley
Ferraro	Mineta	Whittaker
Fiedler	Minish	Whitten
Fields	Molinari	Williams (OH)
Flippo	Moore	Winn
Foglietta	Moorhead	Wirth
Foley	Murphy	Wolf
Ford (MI)	Natcher	Wright
Forsythe	Neal	Wylie
Fountain	Nelligan	Yates
Fowler	Nowak	Zablocki
Frank	Oberstar	

NAYS—8

Emerson	Miller (CA)	Wortley
Evans (IA)	Sabo	Young (AK)
Johnston	Seiberling	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—186

Addabbo	Applegate	Badham
Albosta	Atkinson	Bafalis

Bailey (MO)	Fuqua	Montgomery
Barnard	Gejdenson	Morrison
Barnes	Ginn	Mottl
Beard	Goldwater	Murtha
Beilenson	Goodling	Myers
Biaggi	Gramm	Napier
Boggs	Gray	Nelson
Boland	Gregg	Nichols
Bolling	Hall (OH)	O'Brien
Bonior	Hall, Ralph	Oakar
Bouquard	Hall, Sam	Oxley
Bowen	Hamilton	Perkins
Breaux	Hammerschmidt	Peyser
Brodhead	Hance	Porter
Broomfield	Harkin	Pritchard
Brown (CA)	Hartnett	Pursell
Brown (OH)	Hatcher	Quillen
Burgener	Hawkins	Rahall
Burton, John	Heckler	Railsback
Burton, Phillip	Hefner	Reuss
Chappell	Hertel	Rhodes
Chappie	Hiler	Richmond
Chisholm	Hillis	Rostenkowski
Clausen	Hollenbeck	Roukema
Clay	Hopkins	Rousselot
Coelho	Horton	Rudd
Collins (IL)	Hubbard	Santini
Conyers	Hughes	Savage
Coyne, James	Hyde	Sharp
Craig	Ireland	Shumway
Crane, Daniel	Jeffords	Shuster
Crockett	Jeffries	Siljander
D'Amours	Jenkins	Simon
Daniel, Dan	Jones (NC)	Skelton
Davis	Jones (TN)	Smith (OR)
Dellums	Kennelly	Smith (PA)
DeNardis	Kindness	Snowe
Derwinski	Kogovsek	Solomon
Donnelly	Kramer	St Germain
Dorgan	Leath	Stanton
Dornan	LeBoutillier	Stokes
Dowdy	Levitas	Studds
Dunn	Long (MD)	Stump
Dwyer	Lott	Synar
Dymally	Lundine	Thomas
Early	Madigan	Trible
Edgar	Marks	Wampler
Edwards (AL)	Marlenee	Watkins
Emery	Marriott	Weber (MN)
Erlenborn	Martin (NY)	Weiss
Ertel	Mavroules	White
Evans (GA)	McClory	Whitehurst
Evans (IN)	McCloskey	Williams (MT)
Fazio	McEwen	Wilson
Findley	McKinney	Wolpe
Fish	Mitchell (MD)	Wyden
Fithian	Mitchell (NY)	Yatron
Florio	Moakley	Young (FL)
Ford (TN)	Moffett	Young (MO)
Frenzel	Mollohan	Zeferetti

□ 1420

So the motion was agreed to.

The result of the vote was announced as above recorded.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5427, with Mr. RATCHFORD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Florida (Mr. FASCELL) will be recognized for 15 minutes; the gentleman from California (Mr. LAGOMARSINO) will be recognized for 15 minutes; the gentleman from Colorado (Mr. WIRTH) will be recognized for 15 minutes; and the gentleman from New Jersey (Mr. RINALDO) will be recognized for 15 minutes.

The Chair recognizes the gentleman from Florida (Mr. FASCELL).

□ 1430

Mr. FASCELL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, as we all know, the House will adjourn at 3 o'clock, and the Committee will rise at that time. When we are in the House, I will request unanimous consent for all Members to revise and extend their remarks in general debate on this matter. And in order to get the bill presented and to have both proponents and opponents make their presentation here today, and perhaps conserve some time for the rest of the Members, I will just briefly do that and submit my remarks for the RECORD.

The purpose of the legislation, of course, is to increase the broadcasting capabilities of the United States. Despite all of the issues that have been raised in the discussion on the rule, suffice it to say that I think there are clear and sensible responses to all of those issues, and we will address those, each one, in the course of the amendment process under the 5-minute rule. There is, as usual, more than one side to this issue. There are more than two. There are probably three or four. So I would not want my colleagues who are listening in on this or watching it to be overly consumed by the crocodile tears that they have heard so far. There is a need here. The need is clear. And we will address that, Mr. Chairman, and I would hope that our colleagues would approach the matter, as they usually do, in a very responsible, openminded way. We will have ample opportunity to discuss many amendments, some frivolous, some humorous, some ridiculous, and, hopefully, they will all be disposed of under the 5-minute rule.

Mr. Chairman, I rise in support of H.R. 5427, legislation to authorize support to Radio Broadcasting to Cuba. The purpose of this legislation is to increase the broadcasting capabilities of the United States in the Caribbean by establishing a new broadcast service to be called Radio Marti. In particular, this enhanced international broadcast capability would allow the United States to provide accurate, up-to-date and uncensored news and information to the people of Cuba regarding Cuban activities at home and abroad. The bill also provides discretionary authority to provide compensation to U.S. broadcasters for expenses they might incur in mitigating the effects of Cuban interference on domestic U.S. broadcasts.

The need for such a service is clear. Cuba is a nation located just 90 miles off the coast of the United States, yet it is truly an island both in terms of the forced physical isolation of its populace and the isolation of its people from free access to information. Although the people of the United States currently provide the basic human right of greedom of information to the peoples of the Communist bloc nations of Eastern Europe as well as the people of the Soviet Union through the broadcasts of Radio Free Europe and Radio Liberty, no such broadcasting service is provided the people of Cuba who also live in a closed society. Their right to know is confirmed in the Universal Declaration of Human Rights. The value of such broadcasts has been well tested over time, most recently during the ongoing crisis in Poland. The people of Cuba have an equal right to know. Aside from our demonstrated commitment to the free flow of information worldwide, that island presents a national security interest that we cannot ignore.

This bill would amend the Board for International Broadcasting Act to state that the United States supports the right of the Cuban people to seek, receive, and impart information and ideas through any media regardless of frontiers. The BIB, the parent organization for RFE/RL, Inc., is uniquely capable of producing a similar indigenous broadcast service for the people of Cuba.

Perhaps more importantly, this bill provides an opportunity for us to expand and improve America's public diplomacy activities. To ignore this opportunity to radio the truth to the Cuban people is to abdicate our responsibility and to surrender our integrity to the diet of anti-American sentiments fed to the Cuban people by Cuba and the Soviet Union. The United States has a message to deliver and the way to deliver it is through public diplomacy.

Public diplomacy is not a propaganda effort. It is news. It is objective reporting. It is a major element of the nitty-gritty operations of a modern foreign policy which seeks to strengthen mutual understanding among peoples through communication and educational programs. It is diplomacy that may be practiced, not just between diplomats in foreign offices, but in people-to-people contact which can offset the huge, tightly controlled, and pointed broadcast efforts of the Soviets.

The Soviets spend millions on a broadcasting effort which includes broadcasts of Radio Moscow twice a day. They currently outspend us about 7 to 1 in their broadcasting and information efforts around the world. The United States currently broadcasts through the Voice of America fewer than 6 hours a day in Spanish language broadcasts to the whole of Latin America. This is not a targeted broadcast which could provide the Cubans the free, indigenous radio which they are now denied.

In drafting this legislation, both committees of jurisdiction, Foreign Affairs and Energy and Commerce, paid strong attention to choice of frequency on which Radio Marti would operate. It provides that the Assistant Secretary of Commerce for Communications and Information identify a frequency, in consultation with the FCC and after receiving public comment, which will provide protection to nongovernment radio broadcasters in the United States. In addition, it provides a mechanism for the U.S. Government to focus on the problems in the U.S. domestic broadcast industry which already exist because of Cuban interference. Private U.S. broadcasters have long been plagued by the interference from illegal Cuban broadcasts. Aside from calling for a Presidential task force to analyze the depth of the problem and to seek a practical solution, the bill authorizes the FCC to instruct the Board for International Broadcasting to compensate U.S. broadcasters for expenses they incur in mitigating the effects of Cuban interference on their operations.

We are aware that some Members of Congress have expressed concern that broadcasting interference from Cuba would increase if Radio Marti were to become operative. Those who hold this view should be reminded that the problem of Cuban interference has been with us for 10 to 15 years. The most serious interference has been directed against my own Florida broadcasters, yet they support the creation of Radio Marti.

Radio Marti seems at least to have brought the interference problem into focus and has lifted it to a level where it can be discussed seriously. Whether or not Radio Marti broadcasts to Cuba, the Cubans have been interfering with and will continue to interfere with U.S. domestic broadcasting efforts if their participation in the last regional broadcasting conference is any indication. We have seen no evidence that Cuba plans to sign the regional broadcasting agreement drafted in Brazil last November. On the contrary, the Cubans walked out of that conference before an agreement was reached. Instead, Cuba is going ahead with its plan to build, among others, two 500 kilowatt transmitters which would by far surpass the power needs of Castro's island. These plans were formulated long before legislation for Radio Marti was ever drafted. There is no reason to believe that Castro will lose interest in constructing these transmitters or in broadcasting to the United States if Radio Marti is not authorized and established.

The solution to the problem of Cuban interference lies not in Radio Marti, but in bringing Cuba to the international bargaining table and making it a responsible member of the hemisphere in the areas of international broadcast allocation and regulation. It does not lie in a choice by the United States to forego its international responsibilities regarding the right of freedom of information.

At this point, I would like to insert into the RECORD the "Dear Colleague" letter which has been circulated to the Members and which addresses the questions raised about H.R. 5427.

I urge my colleagues to support this legislation.

COMMITTEE ON FOREIGN AFFAIRS,
Washington, D.C., July 22, 1982.

DEAR COLLEAGUE: H.R. 5427, to establish a new radio station, "Radio Marti", to broadcast to Cuba, is scheduled for floor action on Friday, July 23. This is an important foreign policy initiative about which there has been much misinformation. The purpose of this letter is to give you a bipartisan view of what is proposed and why, based on detailed consideration of the bill by both the Foreign Affairs Committee and the Energy and Commerce Committee.

The Administration has undertaken a series of measures to increase the cost of Cuban adventurism and to moderate Cuban foreign policy. Radio Marti is one of these measures. Its purpose it to make the Cuban people more aware of the costs to them of Castro's mismanagement at home and adventurism abroad and to provide them with the information needed to make informed judgments on these policies and actions and to try to hold their government more accountable. Radio Marti would broadcast to Cuba information and programs similar to those broadcast by Radio Free Europe (RFE) and Radio Liberty (RL) behind the Iron Curtain.

This concept of Radio Marti is based on the right of the people of Cuba "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with Article 19 of the Universal Declaration of Human Rights. Nonetheless, opponents of the measure have raised a number of questions.

Some have questioned why an AM frequency has been proposed for Radio Marti. The answer is that AM receivers are common in Cuba some 2.12 million receivers at last estimate. Shortwave receivers are not. Cuba does not use shortwave broadcasting domestically, so the average Cuban does not need to own one. Furthermore, since the Revolution, shortwave sets have been very difficult to acquire. Shortwave broadcasts would thus probably reach only the political elite. While the International Radio Regulations state that "in principle" the AM band is for domestic service, in practice it is well established that this band is also used for international broadcasting. The BBC, Deutsche Welle (West Germany), Radio Free Europe, Voice of America, Radio Moscow and Radio Havana all use the AM band in addition to shortwave for their international broadcasts.

Another question concerns the reason for the $10 million authorization for the radio. The cost of Radio Marti is not "gold plated," as has been charged, and cannot be compared to the cost of establishing a commercial station for domestic broadcasting. The closer analogy lies with Radio Free Europe and Radio Liberty. Radio Marti's costs include not only expensive four-tower directional antennas but also high personnel and administrative costs related to its inique research and program development requirements. These include Spanish language requirements, studios, reporters and researchers based in U.S. cities and overseas.

Some have also asked why the Voice of America could not serve Radio Marti's purposes. The VOA is a highly inapproprate entity for this purpose because VOA's purposes and operations are radically different from those of Radio Free Europe and Radio Liberty and thus from those proposed for Radio Marti. VOA's mission is worldwide and its primary purposes are to present world news and to express and explain U.S. official policy and American society and institutions. The Charter does not contemplate a surrogate "home service" like Radio Marti. For the same reason, Radio Free Europe and Radio Liberty have maintained separate identities and operations from those of the VOA. Attempting to focus on the news of one country such as Cuba would violate the Charter of the Voice of America and would completely change the nature of its broadcating efforts.

Much concern has also been expressed about the problem of Cuban radio interference with U.S. broadcasters and whether Radio Marti will worsen this problem. These concerns are addressed in this bill, and we discussed extensively in committee, but with recognition that the problem of Cuban interference with U.S. domestic broadcasting predates Radio Marti by at least fifteen years and should be considered as separate issue. Indeed, the very broadcasting who today are most seriously damaged by Cuban interference—those in Flordia—are strongly in favor of the creation of Radio Marti. The fundamental point is that Cuban interference with broadcasting efforts in the United States wil not cease if Radio Marti does not go on the air.

Long before Radio Marti, in the mid-1960's, the Castro government embarked on a program to redesign its domestic AM broadcasting system and to initiate broadcasting directed toward the United States and other neighboring countries. New Cuban plans to increase significantly the number and power of its AM radio stations to meet both internal and external requirements were announced in 1979 as part of a five-year plan and were submitted to the International Frequency Registration Board in May 1980. Where Cuban's plans to be implemented, its stations would cause greatly increased interference with U.S. broadcasters. Cuba's broadcasting plans were made known well before our announcement in September 1981 that we intended to establish Radio Marti. The problem of increasing Cuban interference is a separate and distinct issue which will remain whether Radio Marti goes on the air or not.

The question of how Cuba would react to Radio Marti is unanswerable at this time, although logic and technology dictate three possibilities:

1. Cuba may take no action at all. The Voice of America has been broadcasting to Cuba for more than 21 years and Cuba has not seriously tried to jam or interfere with these broadcasts.

2. Cuba may seek to prevent Radio Marti's signals from reaching its Cuban audience. In this case, jamming by low-powered transmitters would be targeted to the island of Cuba, that is, to the Cuban radio receivers, and would have no appreciable effect on U.S. broadcasters, including those using the same frequency as Radio Marti. It also would not prevent reception of Radio Marti in Cuba.

3. Cuba may try counterbroadcasting, similar to its "Radio Dixie" broadcasts of

the 1960's appealing to minorities in the United States. However, Cuban intentions to broadcast with high power on 1040 kHz and 1160 kHz predate Radio Marti and are not in reprisal for Radio Marti. In fact, Cuba chose 1040 kHz as a broadcast frequency, in contravention of the old North American Regional Broadcasting Agreement, of which Cuba was a signatory, before the United States chose the same frequency for Radio Marti. There is no reason to believe that Cuba will relinquish its interest in 1040 kHz if Radio Marti does not go on the air, or if Radio Marti broadcasts on another frequency.

In fact, Cuba is already broadcasting on 1160 kHz with high power, despite the rejection by the 1981 Rio Conference of Cuba's application to use that and many other frequencies. Even if Cuba uses frequencies not allocated to it, the use of directional antennas could prevent interference with U.S. domestic broadcasting. Furthermore, Cuba may broadcast to the Caribbean and Central or South America rather than to the United States.

Some have suggested that another AM frequency be chosen for Radio Marti even though the above objections still apply. Furthermore, if an off-band AM frequency were chosen it would be tantamount to a rejection of Radio Marti. Broadcasts on off-band frequencies are difficult to hear without good AM receivers, which means that part of the Cuban audience would not be reached by Radio Marti. In addition, these frequencies are not internationally regulated, which means that the United States would have no legal basis for objections to Cuban interference.

If the U.S. were to delay or back down on Radio Marti in the hope of reducing the likelihood of increased Cuban interference, Castro would interpret this as a sign of weakness. His intransigence on the interference problem would increase, and the threat to U.S. broadcasting would grow, not diminish.

The best way to solve this problem is through negotiations with Cuba, but efforts to do this have not been fruitful, either under the last Administration or this one. The Cubans showed no flexibility or interest in accommodation during bilateral talks on frequencies on several occasions last year. Their withdrawal from ITU's regional AM broadcasting conference last year after the rejection of its frequency proposals clearly ratified Cuba's outlaw status in the field of international telecommunications. Cuba appears unwilling to negotiate seriously on this issue at this time.

The State Department is very much aware of the interference problem and is working with the National Association of Broadcasters to develop a position acceptable to U.S. broadcasters should the opportunity for talking to Cuba present itself.

Radio Marti is a non-confrontational, peaceful initiative which could be implemented quickly and easily at relatively low cost. We urge your vote for H.R. 5427 without weakening amendments.

Sincerely,

James T. Broyhill, Matthew J. Rinaldo, Norman F. Lent, Edward R. Madigan, L. A. (Skip) Bafalis, Clement J. Zablocki, Dante B. Fascell, Larry Winn, Jr., Edward J. Derwinski, Dan Mica.

Mr. Chairman, I yield such time as he may consume to the gentleman from Puerto Rico (Mr. CORRADA).

Mr. CORRADA. Mr. Chairman, I rise in support of H.R. 5427, the Radio Broadcasting to Cuba Act as it was reported by the Foreign Affairs and Energy and Commerce Committees.

This bill constitute a very important element of the U.S. foreign policy toward Cuba and is completely consistent with the realities of Cuban-American relations at present time.

It is a plain fact that Cuba, under Fidel Castro dictatorship has been continuously conducting its foreign affairs toward the United States in a provocative and aggressive way.

Cuba is exporting its Communist propaganda, arms and subversion to every corner of the world from nearby Central America, South America and the Caribbean to far away places like Africa.

Puerto Rico and its 3.2 American citizens have been constantly affected by Cuban interference with the internal affairs of our island in its relatiaonship with the United States and by the encouragement of subversive activities in Puerto Rico.

It is a very well known fact that every year the Cuban Government urges the United Nations Decolonization Committee to intervene in the U.S. domestic affairs and presses that organization to express itself in support of the independence of Puerto Rico. The ultimate goal of the Cuban Government is to transform our Puerto Rican democratic society into a Communist totalitarian regime.

In such circumstances this bill establishing Radio Marti, to disseminate our democratic values and the truth about Cuba to Cubans, is not only proper but necessary.

We, as American citizens, enjoy the privilege of living in a free democratic society in which the human being is the most valuable element. We have freedom of religion, association, expression and every other constitutional protection against tyranny. It is not proper for us to neglect our responsibility to disseminate our democratic values especially to these whose slavery is nurtured by keeping them in a state of ignorance.

I would not consider, even for a second, that any commercial or business interest would be important enough as to relinquish our responsibility.

I am sure that any technical or particular problem that may arise from the implementation of this act would be corrected within a span of time.

On behalf of my fellow Puerto Rican constituents and of the Cuban community living in Puerto Rico, I urge all my colleagues to support and vote in favor of H.R. 5427 as it was reported by the committee.

Mr. FASCELL. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Chairman, I rise in support of H.R. 5427, providing for the broadcasting of accurate information to the people of Cuba, as amended.

At the outset, I would like to commend the gentleman from Florida (Mr. FASCELL) for his expert stewardship of this important legislation and the gentleman from Illinois (Mr. DERWINSKI) for his support and guidance. I would also like to thank the Committee on Energy and Commerce, in particular Chairman DINGELL, Mr. WIRTH, Mr. BROYHILL, and Mr. RINALDO for their cooperation in reporting this legislation to the House.

Mr. Chairman, this bill as amended by the two committees, represents a judicious and fair balance between U.S. foreign policy interests and domestic concerns.

With respect to our foreign policy interests, the legislation would provide the people of Cuba with accurate information about Cuba and Cuban activities worldwide. The broadcasting would be carried out under the aegis of the Board for International Broadcasting which also oversees the activities of Radio Free Europe and Radio Liberty.

Radio Free Europe and Radio Liberty have long served as beacons of news, information and ideas to the oppressed peoples of the Soviet Union and Communist Eastern Europe. The operation of these radios is an integral part of U.S. foreign policy serving in particular our interest in promoting the free flow of information and ideas, regardless of frontiers, a right which is confirmed under the Universal Declaration of Human Rights. H.R. 5427, as amended, would provide to the people of Cuba, who exist under the Marxist dicatorship of Fidel Castro, the same free market of news and information now denied to them.

The bill, as amended by both committees, recognizes that our foreign policy initiatives often have a domestic impact in the United States. Because of the possibility that the Castro government may retaliate with jamming and other interference activity which would affect domestic U.S. radio stations, the committees' amendments authorize the Federal Government to pay compensation to U.S. broadcasters for expenses they may incur as a result of any retaliatory Cuban interference.

Mr. Chairman, H.R. 5427, as amended by the Committees on Foreign Affairs and Energy and Commerce is an improvement over the original executive branch request. The bill, in its present form, is both balanced and fair with respect to our foreign policy and domestic needs. I urge its approval.

Mr. FASCELL. Mr. Chairman, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 5427, legislation to authorize the establishment of Radio Marti.

The administration proposed the creation of this new radio station for broadcasting to Cuba as one of the few peaceful options available to the United States in confronting the insidious penetration of Cuban aggression in this hemisphere. By broadcasting news reports and commentaries to the people of Cuba, Radio Marti would serve the same vital role as Radio Free Europe and Radio Liberty serve in broadcasting to the Soviet bloc in Europe.

For tens of millions of East Europeans, the most reliable information about their country comes from the outside world. There is no comparable source of news for those living in Cuba. The Radio Marti project is consistent with international law, which is in contrast to the Cuban Government's practice of jamming U.S. domestic stations. The illegal Cuban broadcasts have already continued more than 10 years and are a serious problem; however, we cannot base U.S. policy on some threat from the Cubans that they will increase their jamming activities. The creation of Radio Marti is an important ingredient in bringing to the Cuban people the reality of their Government's failure at home and its subversive activities abroad.

The concept of Radio Marti is based on the right of the people of Cuba "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with article 19 of the Universal Declaration of Human Rights. Nonetheless, opponents of the measure have raised a number of questions.

Some have questioned why an AM frequency has been proposed for Radio Marti. AM receivers are common in Cuba—some 2.12 million receivers at last estimate—whereas shortwave receivers are not. Cuba does not use shortwave broadcasting domestically, so the average Cuban does not need to own one. Furthermore, since the revolution, shortwave sets have been very difficult to acquire. Shortwave broadcasts would thus probably reach only the political elite. While the International Radio Regulations state that "in principle" the AM band is for domestic service, in practive it is well established that this band is also used for international broadcasting. The BBC, Deutsche Welle (West Germany), Radio Free Europe, Voice of America, Radio Moscow and Radio Havana all use the AM band in addition to shortwave for their international broadcasts.

Another question concerns the reason for the $10 million authorization for the radio. The cost of Radio Marti cannot be compared to the cost of establishing a commercial station for U.S. domestic broadcasting. Radio Marti can be compared with Radio Free Europe and Radio Liberty. Its costs include not only expensive four-tower directional antennas but also high personnel and administrative costs required by its unique research and program development requirements. These include Spanish language requirements, studios, reporters, and researchers based in U.S. cities and overseas.

Some have also asked why the Voice of America could not serve Radio Marti's purposes. VOA's purposes and operations are radically different from those for Radio Free Europe and Radio Liberty and thus from those proposed for Radio Marti. VOA's mission is worldwide and its primary purposes are to present world news and to express and explain U.S. official policy and American society and institutions. The charter does not contemplate a surrogate "home service" like Radio Marti. For the same reason, Radio Free Europe and Radio Liberty have maintained separate identities and operations from those of the VOA. Attempting to focus on the news of one country such as Cuba would violate the charter of the Voice of America and would completely change the nature of its broadcasting efforts.

Much concern has also been expressed about the problem of Cuban radio interference with U.S. broadcasters and whether Radio Marti will worsen this problem. These concerns are addressed in this bill, and were discussed extensively in committee, but with recognition that the problem of Cuban interference with U.S. domestic broadcasting predates Radio Marti by at least 15 years and should be considered as a separate issue. Indeed, the very broadcasters who today are most seriously damaged by Cuban interference—those in Florida—are strongly in favor of the creation of Radio Marti. The fundamental point is that Cuban interference with broadcasting efforts in the United States will not cease if Radio Marti does not go on the air.

Long before Radio Marti, in the mid-1960's, the Castro government embarked on a program to redesign its domestic AM broadcasting system and to initiate broadcasting directed toward the United States and other neighboring countries. New Cuban plans to increase significantly the number and power of its AM radio stations to meet both internal and external requirements were announced in 1979 as part of a 5-year plan and were submitted to the International Frequency Registration Board in May 1980. Were Cuba's plans to be implemented, its stations would cause greatly increased interference with U.S. broadcasters. Cuba's broadcasting plans were made known well before our announcement in September 1981 that we intended to establish Radio Marti. The problem of increasing Cuban interference is a separate and distinct issue which will remain whether Radio Marti goes on the air on not.

The question of how Cuba would react to Radio Marti cannot be answered at this time, although logic and technology dictate three possibilities:

One, Cuba may take no action at all. The Voice of America has been broadcasting to Cuba for more than 21 years and Cuba has not seriously tried to jam or interfere with these broadcasts.

Two, Cuba may seek to prevent Radio Marti's signals from reaching its Cuban audience, jamming by low-powered transmitters Cuban radio receivers. This would have no appreciable effect on U.S. broadcasters, including those using the same frequency as Radio Marti. It also would not prevent reception of Radio Marti in Cuba.

Three, Cuba may try counterbroadcasting. However, Cuban intentions to broadcast with high power on 1040 kHz and 1160 kHz predate Radio Marti and are not in reprisal for Radio Marti. In fact, Cuba chose 1040 kHz as a broadcast frequency, in contravention of the old North American Regional Broadcasting Agreement, of which Cuba was a signatory, before the United States chose the same frequency for Radio Marti. There is no reason to believe that Cuba will relinquish its interest in 1040 kHz if Radio Marti does not go on the air, or if Radio Marti broadcasts on another frequency.

In fact, Cuba is already broadcasting on 1160 kHz with high power, despite the rejection by the 1981 Rio conference of Cuba's application to use that and many other frequencies. Even if Cuba uses frequencies not allocated to it, the use of directional antennas could prevent interference with U.S. domestic broadcasting. Furthermore, Cuba may broadcast to the Caribbean and Central or South America rather than to the United States.

Even with the establishment of Radio Marti, the United States will still remain far behind the Soviet Union and Cuba in the amount of resources and time devoted to international radio broadcasts. I believe it is essential that we meet this challenge and provide for the creation of this new voice of truth for the Cuban people.

It is often charged, and by many in this body, that the United States is losing the battle of ideas and that we are not doing what we should to counter the Soviet Union. Unfortunately, although we clearly have the best of the argument, that is not being

made known to the world, and especially to Cuba. Radio Marti will be an important element in the battle of ideas.

I urge my colleagues to support H.R. 5427.

Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 5427 to provide for the broadcasting of accurate information to the people of Cuba and for other purposes.

As in other Communist countries around the world, the people of Cuba have for more then 20 years been denied access to an uncensored view of their country and the world. They are a captive target of state controlled dissemination of information. Between Radio Moscow and the other Cuban domestic programs, they have been subjected to a constant barrage of pro-Soviet, anti-American propaganda with little or no knowledge of their own Government's exploits.

The truth is a precious commodity for all people. In Europe we have all seen the important role that Radio Free Europe has played giving hope to the millions behind the Iron Curtain. Most recently we saw how important RFE was to the Polish people as a shining light in the darkness of Soviet-dominated official Communist media.

The establishment of Radio Marti will help provide a type of domestic radio service for Cuba that complements the Voice of America. As the VOA focuses on world news and the U.S. official views of those events, Radio Free Europe, Radio Liberty, and now Radio Marti will provide uncensored news on the domestic events of the nations they serve.

In the mission statement of the Board for International Broadcasting which oversees the operation of Radio Free Europe, it describes what such radio stations are designed to do and not to do. Likewise, Radio Marti will "seek to create neither 'American Radio,' in the narrow national sense, nor 'exile radio,' sense of organized political opposition, but an international radio. It is international in the breadth of its coverage, its freedom from national or sectarian bias, its dedication to the open communication of accurate information, and a broad range of democratic ideas."

The proposed new radio broadcasts to Cuba will reach the audience most likely to influence the Cuban Government, the Cuban people. They deserve the right to know what the Castro regime is doing in their name and what they themselves must endure at home and abroad to support those policies. As stated in a Miami Herald editorial last fall (October 6, 1981):

There is no freedom of expression in Cuba. The flow of information is tightly controlled by the Communist dictatorship. As long as that remains true, the U.S. Government has a right—even a duty—to fill the void by broadcasting to Mr. Castro's captives.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Chairman, I rise in very strong support of this legislation.

Mr. Chairman, the most powerful force in the world is still "what people think." But because it is an intangible it is more difficult for some to appreciate this concept. Therefore, we spend billions on physical hardware for military defense but peanuts on the most important tool in our arsenal, the ideas of hope and democracy.

For more than 22 years the Cuban people have lived in a police state. They have been denied access to information, and have been subjected to intentionally distorted and false information. The security of many nations is threatened seriously by Cuban activities. Radio Marti will be informing the Cuban people of this fact. It will attempt to counteract the propoganda dumped on the Cuban people by telling them the truth. It is the Cuban people's right to know what their Government is doing not only to them, but to millions of others.

Radio Marti will carry news about Cuba to Cuba. This would provide a balance to the current broadcasting it now receives by Radio Moscow, which is the only international radio service with special programming targeted to Cuba.

A consulting firm surveyed Cubans who fled their home country and the results showed the people still living in Cuba want and need to know the truth about what is going on in their country. It would be much wiser to spend dollars informing Cuban people of the truth than having to spend those same dollars on military aid to counteract the misconceptions and propaganda the Cubans now receive. The Cuban people deserve the truth. Radio Marti will tell the truth.

Mr. LAGOMARSINO. Mr. Chairman, I yield such time as he may consume to the gentleman from Iowa (Mr. LEACH).

Mr. LEACH of Iowa. Mr. Chairman, I appreciate the gentleman yielding, and I will reserve any further comments until next week.

Mr. LAGOMARSINO. Mr. Chairman, I yield back the balance of my time.

Mr. WIRTH. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Florida used the words "humorous, ridiculous, and frivolous," which I think is probably a relevant description of the piece of legislation before us.

I rise in opposition to the bill.

As chairman of the Telecommunications Subcommittee, my concern over this legislation relates very strongly to the devastating impact that the establishment of Radio Marti would have on American broadcasters and the radio listening public.

There are a variety of concerns that are very, very serious in this, related to a rampant cold war mentality that exists, and is irrelevant in 1982.

Mr. Chairman, I rise in opposition to the bill. As chairman of the Telecommunications Subcommittee my initial concern over this legislation related to the devastating impact the establishment of Radio Marti would have on American broadcasters and the radio listening public. After referral of this bill to my subcommittee and consideration of it by the full Energy and Commerce Committee, I remain convinced that the "Radio Broadcasting to Cuba Act" represents an ill-conceived proposal which is likely to have extremely harmful consequences to American broadcasters and their audiences.

The Energy and Commerce Committee's jurisdiction over this bill is limited to the issues involving interference caused by the inevitable Cuban retaliation to Radio Marti's operation. Our committee adopted an amendment which gives domestic broadcasters some very limited protection against this threat. However, it is my firm belief that if Radio Marti becomes operational along the lines proposed by the administration, there is no way our broadcast industry and the public it serves can be properly protected against the Cuban interference which will ensue. Moreover, beyond these issues related to the integrity of the Nation's broadcast system, I have another grave concern with this legislation. To state it as plain and simply as possible—Radio Marti is a waste of the taxpayer's dollar—it is a facility which is totally unnecessary in order that its purported foreign policy objective be met.

The proponents of this legislation argue that it is purely speculative whether the Cuban Government will retaliate against Radio Marti broadcasting news and information to the Cuban people. But any realistic assessment of this situation leads one inevitably to the conclusion that the probabilities of Cuban interference are great, and leads me to ask the question, is it fair to ask the broadcast industry to assume this heavy burden which will be cast upon it?

The Cuban Government has threatened to build a 500 kilowatt station—that is 10 times more powerful than the most powerful American broadcast station—in order to block Radio Marti from reaching the Cuban people. Not only would this render Radio Marti useless but would wreak havoc with our own airwaves. Such Cuban countermeasures could also take the form

of counterbroadcasting propaganda to the United States, jamming Radio Marti's broadcasts, constructing a high-powered transmitter on Radio Marti's frequency, or simply exacerbating interference problems in general. In fact, if Radio Marti incites the Cubans into moving ahead with the frequency shifts and new station inventory it proposed last fall, over 200 AM radio stations in 32 States and the District of Columbia would suffer significant interference. Such countermeasures would literally devastate the U.S. broadcast industry and cost broadcasters millions of dollars to overcome.

There can be no doubt that Cuba is an international telecommunications "renegade" that has no intention of abiding by international agreements in this area, and, thus, Radio Marti is nothing more than needless provocation. Cuba is already operating a high powered station that is causing interference as far away as Salt Lake City and which the Cuban Government states is intended as retaliation against Radio Marathon, the Voice of America station already broadcasting into Cuba. I am extremely concerned that in an effort to further this administration's foreign policy objectives, Radio Marti could well lead to a radio war with Cuba—and its victims will not be Fidel Castro's government, but rather, American broadcasters and radio listeners.

But this issue aside, there is simply no need for Radio Marti, and the proposal represents a totally wasteful expenditure of Federal funds. This bill authorizes $17.7 million for Radio Marti. The people of Cuba are already able to listen to the Voice of America's Radio Marathon, as well as to our own commercial radio stations in south Florida. What could possibly give the Cuban people a better sense of American life and truthful news reporting than being able to tune into these commercial Spanish language stations? I do not believe that the Government should spend any money at all for Radio Marti in light of the administration's proposed budget cuts in funding for public broadcasting which bring news and information to the American public. In fact, the administration has recommended totally abolishing the very limited Federal program that provides assistance for the construction of public broadcasting stations in parts of the country which are presently unable to receive public radio. This is extremely disturbing in light of the administration's gold-plated request for this project which seeks funding far in excess of the cost of constructing such a facility.

I urge my colleagues, at the very least, to join me in adopting the Energy and Commerce Committee amendments which provide some limited protection for American broadcasters, but further urge them to join with me in opposition to this legislation.

[From the New York Times, July 23, 1982]

RADIO WAR WITH CUBA

One can imagine how indignant Ronald Reagan would be if a Democratic Administration spent money it didn't have to create a superfluous propaganda station, all to placate an ideological claque. That pretty well describes his Administration's determination to establish Radio Marti, to broadcast to Cuba. The Navy says it is already building four 250-foot antennas in Key West, even before Congress has voted a dime for this objectionable and extravagant project.

About the only argument for the station is that Fidel Castro is threatening a radio counterattack if Radio Marti is built. Cuba could send signals that would interfere with broadcasts of 200 AM stations in 32 states. No one would want to appear to yield to such Castro bluster.

But that aside, what affirmative reasons are there to build the station? Does the White House really believe that Cubans need special propaganda to expose the lapses of Communism? In truth, what has most unsettled Mr. Castro's tyranny are the stories told by more than 100,000 visiting exiles of their success in the United States. Perversely, in order to look tough on Cuba, the Reagan Administration has made traveling to Havana harder, not easier.

The evident reason for starting Radio Marti is to appease Congressional right-wingers and provide employment for loyalists like F. Clifford White, recently named to head the station. Mr. White managed Barry Goldwater's 1964 run for the Presidency and James Buckley's Conservative Party Senate victory in New York in 1970.

Building antennas before Congress even votes the $10-million "start-up" costs may not be legal, and those masts may be usable for defense, as the State Department argues. But starting a radio war on Cuba promises nothing more useful than static.

● Mr. DINGELL. Mr. Chairman, I rise in opposition to H.R. 5427, the Radio Broadcasting to Cuba Act. This legislation authorizes the establishment of the administration's ill-conceived Radio Marti project, which purportedly would broadcast the truth to the Cuban people.

After having been reported by the Committee on Foreign Affairs, this legislation was sequentially referred to the Committee on Energy and Commerce for consideration of portions of the legislation falling within the committee's jurisdiction over telecommunications. The Commerce Committee adopted amendments designed to protect the integrity of the U.S. broadcasting system and the jurisdiction of the Federal Communications Commission. However, the very operation of Radio Marti on the AM band, as proposed by the administration, poses a serious threat of interference to the domestic radio broadcasting industry that could deprive the listening public of valuable programing that is currently available.

Radio Marti is a blatant example of this administration's skewed spending priorities. At a time when the administration has cut funding for public broadcasting to the bone, it proposes to spend $17.7 million for radio broadcasting that may never reach the Cuban people due to the very real possibility that the Cuban Government will jam Radio Marti's signals. This jamming could disrupt broadcasts emanating from over 200 U.S. radio stations in 32 States.

The impacts of Radio Marti on the domestic radio industry were not even publicly aired until after the proposal was submitted to the Congress. But these impacts are of little concern to the administration, which views this project as a game of chicken with Fidel Castro. The product of this rigidly ideological cold war mentality is a project with speculative benefits at best and serious adverse domestic consequences at worst.

While the stated Goal of Radio Marti is laudable, the numerous problems surrounding the cost effectiveness, technical feasibility, and sociopolitical impacts of Radio Marti demand that this proposal be shelved. These problems are identified in the report of the Committee on Energy and Commerce and I urge the Members to read the committee's report before voting on this bill next week.

Mr. Chairman, I ask unanimous consent to have inserted in the RECORD at this point an editorial which appeared in today's New York Times that concisely describes the defects of Radio Marti and its highly questionable foreign policy justifications.

Mr. Chairman, I urge the Members to reject this legislation. The editorial follows:

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ists like F. Clifford White, recently named to head the station. Mr. White managed Barry Goldwater's 1964 run for the Presidency and James Buckley's Conservative Party Senate victory in New York in 1970.

Building antennas before Congress even votes the $10-million "start-up" costs may not be legal, and those masts may be usable for defense, as the State Department argues. But starting a radio war on Cuba promises nothing more useful than static.●

Mr. WIRTH. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas (Mr. LELAND).

Mr. LELAND. Mr. Chairman, I rise in oppostition to this legislation. I would ask that the record reflect that I be associated with the remarks of the gentleman from Colorado (Mr. WIRTH), the chairman of the Telecommunications Subcommittee.

It is my hope that the House will exercise its ability to look beyond the agitated and provocative rhetoric of the administration and defeat this legislation. H.R. 5247 is poorly conceived and wasteful. It richly deserves the term "boondoggle."

Three points must be made about Radio Marti:

First, it will not do what it is intended to do. Flooding the Cuban airwaves with midfrequency broadcasts from the United States telling people in Cuba that their human, political, and economic liberties are being abridged will change nothing. The Reagan administration cannot have it both ways. If the Cuban Government is politically inclined and strong enough to subjugate its people, it is probably strong enough to handle the discontent the Radio Marti broadcasts are intended to foment.

It also disturbs me that the White House and the State Department believe it is necessary to spend $18 million for duplicative radio broadcasts designed in part to tell people whose freedoms have been abridged and whose lives have been adversely affected by the Castro government that their freedoms have been abridged and their lives affected. They were probably the first to know. That is an idea very much like Ronald Reagan addressing the Nation and beginning the speech by saying "some of you out there in America are poor."

The truth is, at a technical level, most of the Radio Marti broadcasts will not be heard by the people of Cuba or at the very best, the static will be punctuated by an occasional burst of anti-Castro rhetoric. The Cubans have made it clear that they will jam the Radio Marti broadcasts, And by rejecting the use of a shortwave frequency, which is more difficult to jam, the administration has made the Cubans' job easier.

If we are really concerned about improving the lot of the Cuban people; if we are really concerned about offsetting the influence of the Castro government in Central America; if we are really concerned about countering Soviet influence in Havana, and through Havana, in Latin America—what we need is a rational foreign policy that allows us the same diplomatic relationship and communication with Cuba that we maintain with the Soviet Union and China. A new batch of anti-Castro radio broadcasts will not only fail to improve the lot of the Cuban people, it will make not only fail to improve the lot of the Cuban people, it will make it even more difficult for some future and enlightened administration to open lines of communication with Cuba—communication which will enhance our national security and serve our foreign policy interests.

My second major objection to Radio Marti involves the technical problems the system will create for American broadcasters. Existing Cuban radio broadcasts already create frequency interference for American radio stations, not only in Florida and along the gulf coast, but in States much farther north. It is anticipated, by supporters and opponents of Radio Marti alike, that the anti-Castro broadcasts will produce a similar effort by the Cuban Government, but at a power level five times higher than Radio Marti. We are talking about signal interference that will adversely affect a substantial number of radio stations and millions of listeners.

At the very least, the Radio Marti legislation should have given some consideration to the technical problems which will result from the anti-Castro broadcasts. They should have required, as has been suggested to the State Department, that the Radio Marti broadcasts be on shortwave, as are the Voice of America and Radio Free Europe broadcasts.

This bill should also have required, given the administration's desire to take over an existing AM frequency for Radio Marti, that the process of allocating that frequency be in the hands of an independent agency with technical expertise in this area and with a rulemaking process that will allow public-interest questions to be aired and considered. The F.C.C., not the N.T.I.A., should be responsible for the technical allocation of the Radio Marti frequency. But knowing that the time delay associated with a conscientious and thorough consideration of that allocation would further subject the Radio Marti concept to public scrutiny, the State Department rejected F.C.C. jurisdiction—after agreeing to such jurisdiction in a meeting with members of the committee.

But how does the administration deal with the serious technical problems which will result from Radio Marti? They are asking us to approve nearly $8 million, almost half of the total cost of this legislation, to compensate U.S. broadcasters subject to signal interference or frequency displacement. Our answer ought to be a resounding "No."

My third objection to Radio Marti combines the first two. Radio Marti broadcasts will not succeed in altering the nature of the government in Cuba or the political deprivations or human rights problems which have befallen the Cuban people because the broadcasts will not be heard in Cuba. Radio Marti will succeed in creating serious problems for U.S. broadcasters. And in the process, we will allow the administration to spend $18 million on this boondoggle. That is $18 million that will not be spent on school lunches or health care or job training or cost-of-living adjustments in benefits for the elderly and the disadvantaged. That is $18 million down the drain, as part of a seriously misguided foreign policy and at a time when we are telling the American people they must sacrifice and accept less in benefits from essential programs because this is a time that calls for austerity. Frankly, if we pass this legislation, we have given lie to that austerity argument once and for all.

And what does the adminstration say in the face of these serious objections to Radio Marti? They say, and with a straight face, that Radio Marti is a matter of national security. And they have the audacity to tell the Congress that in questioning the rationale behind Radio Marti, and its chaotic effects, that we are meddling in U.S. foreign policy. If the Congress does not have a right to address foreign policy questions, who does? That argument gives voice to an arrogance that we must not tolerate. It is an insult to this body.

And the arrogance of the Reagan administration concerning Radio Marti is not limited to their rhetoric. They are playing an appropriations shell game with us. They have begun construction of the towers they intend to use for Radio Marti before we have decided the issue.

The administration believes that if they raise the flag of national security and assert that only the administration is capable of properly considering such foreign policy questions, Congress will roll over and play dead and give them whatever they want. I don't believe Congress is prepared to accept such arrogance. We have demonstrated our willingness to accept our constitutional responsibility to address foreign policy matters in this body, either directly or through the authorization and appropriation processes.

If we are truly concerned about the plight of the Cuban people * * * if we believe that Castro's Cuba represents a national security question for the United States and for other Latin American Nations—we must demand that the Reagan administration for-

mulate a policy toward Cuba that will allow this country to use political and economic influence in direct contact with Cuba, just as we seek to influence policies in Moscow and Peking and other Communist capitals through a diplomatic relationship. That would be a reasonable course of action for this body, given our deep concerns about Castro's Cuba. Giving the administration $18 million for the Radio Marti boondoggle is far from a reasonable response. It amounts to an abbrogation of our good judgment and our constitutional responsibilities.

Mr. WIRTH. Mr. Chairman, I reserve the balance of my time.

Mr. RINALDO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to speak in support of H.R. 5427, which authorizes the creation of Radio Marti.

This station will broadcast to the Cuban people—not propaganda—but news, entertainment, and other programs, just as if they had a free, uncensored station in their own country.

Radio Marti is an important foreign policy initiative, one which is enthusiastically backed by the President, the State Department, and a blue ribbon, nonpartisan Presidential panel.

The bill was overwhelmingly reported by the Foreign Affairs Committee by a vote of 20 to 5, and by the Energy and Commerce Committee, on which I serve, by a vote of 23 to 3.

In the Commerce Committee, we adopted an amendment designed to protect the interests of U.S. radio broadcasters that National Telecommunications and Information Administration, which will choose Radio Marti's frequency, must insure that the frequency chosen will produce the least interference from any Cuban countermeasures.

The amendment also requires that NTIA receive public comment on the choice of frequency.

Our action assures that NTIA will fully consider the interests of all affected parties.

One issue underlies the criticisms that have been made by a minority against Radio Marti.

It is the fear that if Radio Marti broadcasts on the AM band, Castro will retaliate by counterbroadcasting on the same frequency, thereby interfering with American broadcasting in this country.

Radio Marti has to be on AM because most Cubans have only AM radios: They have virtually no access to shortwave receivers and would be subject to imprisonment if they utilized a shortwave radio.

This, Mr. Chairman, is the central issue, and it goes to the very existence of Radio Marti.

The truth of the matter is that the fear of Cuban interference is largely unfounded.

Such interference is completely speculative. Castro could more effectively keep Radio Marti from his people by jamming, which would not affect broadcasters in the United States.

With respect to counterbroadcasting, Castro has been causing interference with U.S. broadcasters since the mid 1960's.

In 1979, he announced a 5-year broadcasting plan, that, if implemented, would greatly increase such interference.

These plans were made known well before Radio Marti was proposed on September 23, 1981.

Castro's actions demonstrate that if he wants to broadcast propaganda into our country, he will do so, and that he will choose whatever frequency he wants, whether it's the one chosen by our Government for Radio Marti or any other.

Even if Castro tries to destroy Radio Marti by counterbroadcasting on the same frequency, he would cause major problems in countries with which he tries to maintain good relations, such as Mexico.

Furthermore, his station would itself lose effectiveness because of mutual interference with any affected U.S. station as well as Radio Marti.

That brings us to the main point, Radio Marti is not the cause of Cuban interference with U.S. broadcasters. Cuban interference is a separate issue which has existed for over 15 years.

Mr. Chairman, there is a fundamental issue at stake in this debate. If we appease Castro by abandoning Radio Marti—or by crippling it, as the proposed amendments would do—Castro will, like all dictators, see our action as a retreat. He will be more likely, not less, to interfere with U.S. broadcasting in the future if we let him dictate our actions today.

Enactment of this bill will convey our determination to stand up for our rights under international broadcasting treaties and will further the interests of our broadcasters, not harm them.

Enactment of H.R. 5427 will also bring some light into the darkness that envelops the Cuban people.

Radio Marti will communicate information and ideas that will enable them to think and act like all free men and women, instead of as puppets of their leader, who usurps their rights and sends young Cubans to distant countries to fight as mercenaries, and in many cases, to lose their lives.

Mr. Chairman, this bill is, in the highest sense, human rights legislation.

I urge enactment of H.R. 5427 to communicate the truth and offer hope to the people of Cuba.

Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina (Mr. BROYHILL).

Mr. BROYHILL. Mr. Chairman, I rise in support of H.R. 5427, the Radio Broadcasting to Cuba Act. This legislation has been requested by the administration and is an important part of U.S. foreign policy toward Cuba. It was favorably reported by the Foreign Affairs Committee by a vote of 20 to 5. It was then sequentially referred to the Energy and Commerce Committee, where it was again favorably reported by a vote of 23 to 3.

The bill would establish a new Government radio station, to be called Radio Marti, which would be similar to Radio Free Europe and Radio Liberty. Its purpose is to broadcast to the Cuban people objective information about Cuba and Cuban activities throughout the world.

Our country needs to counteract the steady barrage of anti-American propaganda which the Cuban people receive from the Castro government and from Radio Moscow, the only international broadcast service targeted specifically to Cuba. Radio Free Europe and Radio Liberty are known and relied upon by millions of listeners in Eastern Europe and the Soviet Union for their objective information and interesting programing. Radio Marti will offer the same wide appeal to the Cuban people, who have been deprived of this type of programing under Castro's government. Such an effort to inform the Cuban people is essential in view of the increasingly belligerent activities of the Cuban Government in the Caribbean and throughout the world.

We must insure that the bill establishing Radio Marti does not set up roadblocks in the way of its speedy and effective implementation. For example, it is vital that Radio Marti operate on the AM radio band rather than on shortwave. Shortwave is not the predominant means of receiving radio programing in Cuba, as it is in other parts of the world. In order to reach the largest Cuban audience, the use of the AM band is essential for Radio Marti.

It is also important to avoid lengthy and unnecessary delays in selecting a frequency for Radio Marti. The Energy and Commerce Committee amendment provides that the National Telecommunications and Information Administration (NTIA) will assign a frequency for Radio Marti. This agency, which is a part of the Department of Commerce, is charged with managing the Government's share of the frequency spectrum, and it is appropriate that it select the frequency for Radio Marti.

Assignment of Radio Marti's frequency by NTIA will also avoid the long delays which are inherent in any proceeding before the Federal Communications Commission. An FCC proceeding, with judicial review, could

well delay the implementation of Radio Marti for up to 6 years. Such a delay would, in effect, be the death knell for Radio Marti.

At the same time, the bill provides that the potential impact on U.S. broadcasters is taken into consideration in the establishment of Radio Marti. NTIA is required to receive public comment from interested parties and must consider certain factors set forth in the legislation affecting interference and harm to broadcasters which may result from countermeasures taken by Cuba.

I urge the adoption of the Energy and Commerce Committee amendments and the passage of the bill.

At this point, I would call attention to Members the views of Representatives ZABLOCKI, FASCELL, WINN, DERWINSKI, MICA, BROYHILL, RINALDO, LENT, MADIGAN, and BAFALIS expressed in a "Dear Colleague" letter.

DEAR COLLEAGUE: H.R. 5427, to establish a new radio station, "Radio Marti," to broadcast to Cuba, is scheduled for floor action on Friday, July 23. This is an important foreign policy initiative about which there has been much misinformation. The purpose of this letter is to give you a bipartisan view of what is proposed and why, based on detailed consideration of the bill by both the Foreign Affairs Committee and the Energy and Commerce Committee.

The Administration has undertaken a series of measures to increase the cost of Cuban adventurism and to moderate Cuban foreign policy. Radio Marti is one of these measures. Its purpose is to make the Cuban people more aware of the costs to them of Castro's mismanagement at home and adventurism abroad and to provide them with the information needed to make informed judgments on these policies and actions and to try to hold their government more accountable. Radio Marti would broadcast to Cuba information and programs similar to those broadcast by Radio Free Europe (RFE) and Radio Liberty (RL) behind the Iron Curtain.

This concept of Radio Marti is based on the right of the people of Cuba "to seek, receive, and impart information and ideas through any media and regardless of frontiers," in accordance with Article 19 of the Universal Declaration of Human Rights. Nonetheless, opponents of the measure have raised a number of questions.

Some have questioned why an AM frequency has been proposed for Radio Marti. The answer is that AM receivers are common in Cuba—some 2.12 million receivers at last estimate. Shortwave receivers are not. Cuba does not use shortwave broadcasting domestically, so the average Cuban does not need to own one. Furthermore, since the Revolution, shortwave sets have been very difficult to acquire. Shortwave broadcasts would thus probably reach only the political elite. While the International Radio Regulations state that "in principle" the AM band is for domestic service, in practice it is well established that this band is also used for international broadcasting. The BBC, Deutsche Welle (West Germany), Radio Free Europe, Voice of America, Radio Moscow and Radio Havana all use the AM band in addition to shortwave for their international broadcasts.

Another question concerns the reason for the $10 million authorization for the radio. The cost of Radio Marti is not "gold plated," as has been charged, and cannot be compared to the cost of establishing a commercial station for domestic broadcasting. The closer analogy lies with Radio Free Europe and Radio Liberty. Radio Marti's costs include not only expensive four-tower directional antennas but also high personnel and administrative costs related to its unique research and program development requirements. These include Spanish language requirements, studios, reporters and researchers based in U.S. cities and overseas.

Some have also asked why the Voice of America could not serve Radio Marti's purposes. The VOA is a highly inappropriate entity for this purpose because VOA's purposes and operations are radically different from those of Radio Free Europe and Radio Liberty and thus from those proposed for Radio Marti. VOA's mission is worldwide and its primary purposes are to present world news and to express and explain U.S. official policy and American society and institutions. The Charter does not contemplate a surrogate "home service" like Radio Marti. For the same reason, Radio Free Europe and Radio Liberty have maintained separate identities and operations from those of the VOA. Attempting to focus on the news of one country such as Cuba would violate the Charter of the Voice of America and would completely change the nature of its broadcasting efforts.

Much concern has also been expressed about the problem of Cuban radio interference with U.S. broadcasters and whether Radio Marti will worsen this problem. These concerns are addressed in this bill, and were discussed extensively in committee, but with recognition that the problem of Cuban interference with U.S. domestic broadcasting predates Radio Marti by at least fifteen years and should be considered as a separate issue. Indeed, the very broadcasters who today are most seriously damaged by Cuban interference—those in Florida—are strongly in favor of the creation of Radio Marti. The fundamental point is that Cuban interference with broadcasting efforts in the United States will not cease if Radio Marti does not go on the air.

Long before Radio Marti, in the mid-1960's, the Castro government embarked on a program to redesign its domestic AM broadcasting system and to initiate broadcasting directed toward the United States and other neighboring countries. New Cuban plans to increase significantly the number and power of its AM radio stations to meet both internal and external requirements were announced in 1979 as part of a five-year plan and were submitted to the International Frequency Registration Board in May 1980. Were Cuba's plans to be implemented, its stations would cause greatly increased interference with U.S. broadcasters. Cuba's broadcasting plans were made known well before our announcement in September 1981 that we intended to establish Radio Marti. The problem of increasing Cuban interference is a separate and distinct issue which will remain whether Radio Marti goes on the air or not.

The question of how Cuba would react to Radio Marti is unanswerable at this time, although logic and technology dictate three possibilities:

1. Cuba may take no action at all. The Voice of America has been broadcasting to Cuba for more than 21 years and Cuba has not seriously tried to jam or interfere with these broadcasts.

2. Cuba may seek to prevent Radio Marti's signals from reaching its Cuban audience. In this case, jamming by low-powered transmitters would be targeted to the island of Cuba, that is, to the Cuban radio receivers, and would have no appreciable effect on U.S. broadcasters, including those using the same frequency as Radio Marti. It also would not prevent reception of Radio Marti in Cuba.

3. Cuba may try counterbroadcasting, similar to its "Radio Dixie" broadcasts of the 1960's appealing to minorities in the United States. However, Cuban intentions to broadcast with high power on 1040 kHz and 1160 kHz predate Radio Marti and are not in reprisal for Radio Marti. In fact, Cuba chose 1040 kHz as a broadcast frequency, in contravention of the old North American Regional Broadcasting Agreement, of which Cuba was a signatory, before the United States chose the same frequency for Radio Marti. There is no reason to believe that Cuba will relinquish its interest in 1040 kHz if Radio Marti does not go on the air, or if Radio Marti broadcasts on another frequency.

In fact, Cuba is already broadcasting on 1160 kHz with high power, despite the rejection by the 1981 Rio Conference of Cuba's application to use that and many other frequencies. Even if Cuba uses frequencies not allocated to it, the use of directional antennas could prevent interference with U.S. domestic broadcasting. Furthermore, Cuba may broadcast to the Caribbean and Central or South America rather than to the United States.

Some have suggested that another AM frequency be chosen for Radio Marti even though the above objections still apply. Furthermore, if an off-band AM frequency were chosen it would be tantamount to a rejection of Radio Marti. Broadcasts on off-band frequencies are difficult to hear without good AM receivers, which means that part of the Cuban audience would not be reached by Radio Marti. In addition, these frequencies are not internationally regulated, which means that the United States would have no legal basis for objections to Cuban interference.

If the U.S. were to delay or back down on Radio Marti in the hope of reducing the likelihood of increased Cuban interference, Castro would interpret this as a sign of weakness. His intransigence on the interference problem would increase, and the threat to U.S. broadcasting would grow, not diminish.

The best way to solve this problem is through negotiations with Cuba, but efforts to do this have not been fruitful, either under the last Administration or this one. The Cubans showed no flexibility or interest in accommodation during bilateral talks on frequencies on several occasions last year. Their withdrawal from ITU's regional AM broadcasting conference last year after the rejection of its frequency proposals clearly ratified Cuba's outlaw status in the field of international telecommunications. Cuba appears unwilling to negotiate seriously on this issue at this time.

The State Department is very much aware of the interference problem and is working with the National Association of Broadcasters to develop a position acceptable to U.S. broadcasters should the opportunity for talking to Cuba present itself.

Radio Marti is a non-confrontational, peaceful initiative which could be implemented quickly and easily at relatively low

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cost. We urge your vote for H.R. 5427 without weakening amendments.

Sincerely,

James T. Broyhill, Ranking Minority Member, Committee on Energy and Commerce; Matthew J. Rinaldo; Norman F. Lent; Edward R. Madigan; L. A. (Skip) Bafalis; Clement J. Zablocki, Chairman, Committee on Foreign Affairs; Dante B. Fascell, Chairman, Subcommittee on International Operations; Larry Winn, Jr.; Edward J. Derwinski; Dan Mica.

Mr. RINALDO. Mr. Chairman, I yield such time as he may consume to the gentleman from New York (Mr. LENT).

Mr. LENT. Mr. Chairman, I rise in support of H.R. 5427, the Radio Broadcasting to Cuba Act authorizing the operation of Radio Marti. I want to congratulate the gentleman from Florida (Mr. FASCELL), the gentleman from California (Mr. LAGOMARSINO), and the gentleman from New Jersey (Mr. RINALDO), for their leadership in bringing this matter before us.

Radio Marti will be transmitted over the AM band from a station in south Florida to the citizens of Cuba. The bill recognizes the importance of broadcasting over the AM band, as opposed to shortwave, because more Cubans have access to AM radio. Radio Marti will be important to the foreign policy of the United States in the Caribbean, and especially important to the information-starved Cuban people. Assistant Secretary of State Thomas Enders said it best when he remarked that Radio Marti will give the Cubans "the means to hold their Government accountable."

There are some who question the usefulness of such broadcasting to Soviet-dominated countries, but I think we need only look at the success of Radio Free Europe and Radio Liberty over the past 30 years to see the value of these programs. Those of us fortunate enough to live in a democracy recognize the importance of many sources of information. I believe we have a responsibility to extend to the oppressed citizens of the world the same privilege we take for granted here at home. The broadcasting of news and information from the West may not break down the barriers the Soviets have erected, but it will give those oppressed citizens some hope that might otherwise have been lost, and reason to consider the fate and direction of their nation.

I strongly urge my colleagues to support this legislation.

● Mr. BROOMFIELD. Mr. Chairman, H.R. 5427 represents an important component in our country's efforts to counter Castro's subversive activities throughout the hemisphere, as well as to promote one of our Nation's most cherished principles—the free flow of information and ideas. As it presently stands, the United States has no broadcasting entity which specifically communicates the truth about Cuba to the Cuban people. While the Voice of America does broadcast to countries in Latin America, its coverage of news and events is meant to be general in nature, and highlights occurrences on a worldwide basis. What H.R. 5427 would do, is to establish a broadcasting service that details news of specific interest and concern to the Cuban people. We already provide such a service to the oppressed people of Eastern Europe and the Soviet Union. I am speaking of Radio Liberty and Radio Free Europe. This same concept is embodied in this legislation before us. It would set up radio broadcasting to Cuba, commonly known as Radio Marti.

Once established, Radio Marti would fill a crucial void in information for the Cuban people. A void created by Castro's Communist domination of all information sources within Cuba with Radio Marti in service, the Cuban people would have knowledge of Castro's economic failures at home, as well as his subversive adventures in Central America and Africa. The Cuban people would be able to learn about their country's efforts to undermine democratically elected governments in our own region. And they would obtain additional information concerning the Soviet Union's domination of important elements within Cuba.

This bill is important not only because it serves as a counterweight to Castro's propaganda machine, but because it is consistent with America's own philosophy of affording an opportunity for the Cuban people to hear all sides of an issue and to decide, for themselves, where the truth lies. Castro has been filling the airwaves for years with propaganda and rhetoric designed to delude his people into accepting the Communist version of reality. I believe we have an obligation, not only to the people of Cuba, but to our own citizens and to millions more in the hemisphere, to insure that the people of Cuba have a chance to hear the truth about Castro's activities. To delay in approving this legislation, is to risk the further spread of Castro's influence beyond the already established beachheads in Nicaragua and Grenada.

I should note that the International Telecommunication Union, an organ of the United Nations, has already approved our use of certain radio frequencies for Radio Marti.

I urge the adoption of H.R. 5427. It is in America's long-term interest to do so, and it is in the long-term interests of the Cuban people as well.●

● Mr. ENGLISH. Mr. Chairman, today we are debating the merits of directing special U.S. broadcasts to the people of Cuba. I have developed a special interest in this subject in my role as chairman of the Subcommittee on Government Information and Individual Rights. The subcommittee has oversight jurisdiction over all government international broadcasting activities.

Last October, my subcommittee conducted a hearing on the administration's proposal to create Radio Marti. As chairman of the subcommittee I support legitimate efforts to promote the free flow of information, not only within this country but throughout the world. I strongly support the international broadcasts sponsored by this country in the past. Therefore, I would be delighted if I could give undivided support to Radio Marti. Unfortunately, I cannot.

At my subcommittee's hearing, I learned that the United States has previous experience in broadcasting to Cuba. Not many Members are aware of those old programs. Before starting a new broadcast, we should look at the record and see what can be learned from the past.

In 1962 the Voice of America began broadcasting a program to Cuba for approximately 5 hours daily. By 1973, the program broadcast schedule had dwindled to a half hour per day. On July 1, 1974, the special Cuban programing went off the air. The program was reportedly phased out because its continuation was not warranted due to lack of news. Items previously carried in the Cuban broadcasts were continued in a new format and broadcast to Cuba, the Caribbean, and Latin America.

It is still unclear what Radio Marti will broadcast to Cuba. Through the Voice of America, the United States presently broadcasts 5½ hours of Spanish language programing to Cuba and other countries of Latin America every day. The VOA program includes news of the United States as well as news of international importance and special significance to Latin America. In addition to the U.S. Government broadcasts, Cuba can receive U.S. commercial radio broadcasts. Obviously, the Cuban people are not isolated from the rest of the world.

I asked the administration to explain what information Radio Marti will provide. I was told that the citizens of Cuba will receive information regarding the activities of its Government. One example mentioned was the presence of Cuban troops in Angola. Of course, I agree that this is information that the Cuban people should have. The same news should be of interest to the rest of Latin America and I assume that it is presently a part of current VOA broadcasts to Cuba and the rest of Latin America.

What other programing could we broadcast that would be of special interest to the people of Cuba? It may sound like a bad joke but the only direct answer I received to this ques-

tion was that Radio Marti could broadcast live baseball games. Baseball is certainly the great American pastime, and I am delighted that there are others in the world who appreciate the game. I just wonder whether we need to spend so much money to export baseball to Cuba.

At the time of the subcommittee hearing, I was deeply disturbed by the lack of organization regarding this project. The administration witnesses who testified at the hearing admitted that they were unprepared to argue their case in support of Radio Marti. That was almost 9 months ago. Today, just like the questions about programing, other important questions about Radio Marti remain unanswered.

One of these questions relates to the resources that will be devoted to Cuban broadcasting. Limited financing has hindered the ability of both Radio Free Europe/Radio Liberty, and the Voice of America to reach their designated audiences in Iron Curtain nations and elsewhere in the world with a strong, reliable signal. Due to lack of funding, VOA continues to operate vacuum tube studio equipment purchased in 1954.

Further, research and development funds have not been made available to Radio Free Europe/Radio Liberty to study the effects of jamming or to assess future technological needs. Only this week, the President acknowledged the serious nature of these deficiencies. I sincerely believe that the $17.7 million proposed for the operation of Radio Marti would be put to better use updating the operations of Radio Free Europe/Radio Liberty and the Voice of America.

At a time of strict budget cuts, I wonder if it makes sense to spend so much money on a project of questionable value and one that could increase international broadcasting tension within this hemisphere. Will Radio Marti give us the biggest bang for the buck?

Cuban radio interference within the United States is already a severe problem. The broadcasts of Radio Marti could well increase the chances of Cuban retaliation and result in interference to U.S. radio broadcasters. Recognizing this fact, H.R. 5427 provides for interim assistance to U.S. broadcasters experiencing Cuban-caused interference. While this is only fair, it raises again the questions about the application of scarce resources to new ventures that have such undesirable consequences.

In the final analysis, problems of increased interference, the uncertain content of Radio Marti programing, limited resources available to other U.S. international broadcasters, and the cost of the project, all make it difficult for me to generate any enthusiasm about Radio Marti. As sympathetic as I am to the purpose of Radio Marti, I still have many doubts about the details.

Nevertheless, I want to commend the Committee on Foreign Affairs and the Committee on Energy and Commerce. There is no question that their work on the legislation has resulted in a measure far superior to the original proposal submitted to Congress by the administration. A number of the amendments proposed on the floor today promise to further improve this legislation. These changes, along with careful and thoughtful planning and implementation, could still result in a workable U.S. broadcast presence in Cuba.●

● Mrs. HOLT. Mr. Chairman, I rise in support of H.R. 5427 because it is high time that we help get the truth to the Cubans enslaved by communism. More importantly, the bill addresses the nagging problem of illegal radio interference from Cuban stations that have plagued U.S. radio stations in the last 15 years. I would like to share with my colleagues a resolution adopted by the Maryland-District of Columbia-Delaware Broadcasters Association calling for prompt and strong action against Cuban interference and ask that it be inserted in the CONGRESSIONAL RECORD at this point.

The text of the resolution follows:

RESOLUTION

Be it adopted this 17th day of June, 1982, by the members of the Maryland-District of Columbia-Delaware Broadcasters Association, in convention assembled, that:

Whereas, radio broadcast stations in the the standard broadcast band throughout the United States have been receiving illegal destructive electrical interference from radio stations operating within the Republic of Cuba for almost fifteen years; and,

Whereas, radio stations in Florida and numerous other states have been specifically adversely affected by the destructive interference emanating from Cuba; and,

Whereas, reports have been received that additional radio broadcast stations in the standard broadcast band within the Republic of Cuba are either under construction or are proposed to be constructed, all of which would operate with power greatly in excess of the maximum 50 kilowatts permitted in the United States; and,

Whereas, these new "super power" Cuban stations would cause destructive interference to the nighttime operations of most United States standard broadcast stations, including those operating within Maryland, the District of Columbia, Delaware and Northern Virginia, and in some instances would reduce the nighttime interference-free service areas of standard broadcast stations by over 90 percent; and,

Whereas, negotiations between the United States and Cuba have been unproductive in reaching a solution to this devastating problem caused both by existing and proposed Cuban stations in the standard broadcast band.

Whereas, Maryland-District of Columbia-Delaware Broadcasters Association is composed of most of the broadcast stations operating in Maryland, the District of Columbia, Delaware and Northern Virginia, all of whom are desirous of maintaining the integrity of their nighttime service so as to permit their continued operation in the public interest.

Now, therefore, be it resolved:

That the members of Maryland-District of Columbia-Delaware Broadcasters Association, urge the United States Government to take the strongest possible action looking toward the adoption and enactment at the earliest possible time of a statute, treaty, compact or executive order which would result in resolving the Cuban interference problem in a manner satisfactory to broadcasters in the United States; and,

Be it further resolved:

That a copy of this resolution be sent to members of Congress and Senators from Maryland and Delaware, the non-voting delegate from the District of Columbia, the Senators and members of Congress from the 8th and 10th Congressional Districts of Virginia, the Chairman of the Federal Communications Commission and the Secretary of State.

WILLIAM F. LEFEVRE,
Secretary.●

● Mr. GOODLING. Mr. Chairman, in establishing Radio Marti, a news radio station geared exclusively to the needs of the Cuban people, we have an excellent opportunity to not only spread the truth of what goes on in America, Cuba, and the world, to the Cuban people, but also to take positive nonmilitary action in strengthening the security of the United States. The Cuban people are presently barraged morning, noon, and night by Castro's self-serving propaganda; some of it they probably believe, some of it they probably disbelieve while most of it probably leaves them in doubt as to what they should believe. Through Radio Marti we can offer the Cubans an alternative and a window to the world. They will get news concerning not only American and world events, but more importantly about Cuban events; happenings in Cuba which directly affect and concern them. We should remember that during the most uncertain days of the Polish crisis, even the Polish leaders had to resort to listening to Radio Free Europe broadcasts to learn what was happening in Poland. In a possibly similar situation in Cuba, the Cubans through Radio Marti would also have accurate information which otherwise would be denied them.

Critics may argue against the cost, and make charges of duplication of Voice of America and Spanish language stations from Florida, but these arguments are rather weak. While the cost may at first seem a lot, stop a minute and ask what is the price of truth. How can you attach a dollar tag to truth and say it is too much? Radio Marti would not duplicate other broadcasting stations simply because the focus of Radio Marti would be on the concerns of the Cubans. The Voice of America seeks to let other peoples know what is happening in America and what America is about; the Spanish language programs in Florida are geared to the Spanish-speaking popu-

lation of Florida and are filled with local news which would be meaningless to the people of Cuba. Radio Marti, on the other hand, will offer them news about their concerns and will focus on their needs. In this aspect it will be totally unique, and very worthwhile.●

● Mr. BAFALIS. Mr. Chairman, I want to take this opportunity to express my strong support for H.R. 5427, establishing Radio Marti to broadcast to Cuba.

Through Radio Marti, the captive Cubans will learn the truth—about their failing economy, about their regime's expansionism throughout the world, and what their Russian "benefactors" are really up to.

For more than two decades, Cubans have been held hostage on an island prison—inundated with propaganda devised by Government-controlled media, insulated and isolated from news of volatile world conditions created by their own dictator—Fidel Castro.

Radio Marti will, at long last, offer these 10 million shackled citizens a choice between the truth and the blatant lies circulated by Castro's repressive regime.

Cuban mothers will learn that their sons are dying on foreign soil—not in the defense of their homeland.

Cuban families will become aware of the real state of their nation's economy, and the bleak, dismal future that awaits them and their children.

The Cuban Government will be exposed for what it really is: a perpetrator of worldwide terrorism and a puppet for the Soviet Union.

Through Radio Marti we will be able to launch the most massive nonmilitary barrage against the Castro regime in recent times—so the minds of the Cuban people can be liberated.

We are in a position to offer an alternative to the unrelenting bombardment of propaganda dished out by the Castro regime. Propaganda that distorts and twists the truth. Propaganda that brainwashes the people into believing that guns are better than butter; that shortages of food and clothing are a way of life they must accept for the good of their country. Propaganda that defiles and maligns America.

Radio Marti—named in recognition of the great Cuban patriot and liberator Jose Marti—can be our counterattack.

This important foreign policy initiative is long overdue. Its purpose is simple enough: To make the Cuban people acutely aware of the personal price they are paying for their despotic leader's mismanagement and adventurism so they can make judgments on policies that will make their government more accountable.

With frequency we vehemently condemn human rights violations, and one of the most blatant offenders is just 90 miles from our shores. In accordance with article 19 of the Universal Declaration of Human Rights, the people of Cuba have the right to "seek, receive, and impart information and ideas through any media regardless of frontiers."

The authorization of $17.7 million is a small price to pay to reach out with the gift of truth to more than 2 million Cuban families who own radios, and the millions more who will find a way to receive Radio Marti's message.

With the first beam transmitted to Cuba from Radio Marti, we will mark the beginning of the end of two decades of darkness and deception.

Mr. Chairman, if we are sincere in our concern over the fate of these 10 million Cuban citizens, it is incumbent upon us to take whatever steps necessary so that Radio Marti can spread the word of freedom. I urge my colleagues to join me in support of this legislation.●

● Mr. SEIBERLING. Mr. Chairman, the Akron Beacon Journal for July 17 contains an excellent editorial concerning the dubious wisdom of spending Federal taxpayers' dollars to finance an anti-Castro radio station. Since H.R. 5427, which would authorize such a station, is scheduled for action by the House later this week, I am offering this timely editorial for printing in the RECORD.

As the editorial points out, in addition to the $17 million that the bill would authorize, it also authorizes assistance to U.S. radio stations that might suffer interference by Cuban retaliation. Since Cuban jamming could affect 200 stations in 32 States, the disruption is significant and could cost as much as $40 million to alter the domestic stations to overcome the interference.

The editorial also points out that the planned broadcasts come at a time when United States-Cuban relations show signs of thawing for the mutual benefit of both nations. The editorial concludes that, instead of spending millions to make Castro look bigger than life to the rest of the world, it would be better to open up two-way lines of communications with Cuba and work toward improved relations.

The full text of the editorial follows:

ANTI-CASTRO U.S. STATION NOT WORTH THE PROBLEMS

The Reagan administration is a step closer to getting approval of a radio station to broadcast our propaganda to Cuba, to counter the propaganda Cubans receive from their own government.

No one is really quibbling with that goal. Certainly not the House Energy and Commerce Committee, which voted 23-3 this week to send to the House floor a bill that would authorize $10 million for the venture.

But critics have been attacking the radio proposal for two reasons: that the returns won't justify the cost, and that Cuban jamming devices would disrupt broadcasts of many American radio stations.

Under the bill, the cost would be $10 million in fiscal 1982 and $7.7 million in 1983. The bill also includes provisions to fund assistance to U.S. stations that might suffer interference by Cuban retaliation. But a Congressional Budget Office report said the alterations to domestic radio facilities that would be needed to overcome the interference might cost $40 million.

So, who cares if Cuba jams a few weak stations in south Florida? But the problem doesn't stop there—it could affect 200 stations in 32 states.

In fact, the most outspoken critics of the radio proposal include two staunch Republican gentlemen from Iowa—Sen. Charles Grassley and Rep. Tom Tauke—who say the interference would most harm station WHO in Des Moines, which would share frequency 1040 with Radio Marti, the proposed Cuban station.

WHO, it is claimed, would be reduced from a broadcasting radius of 800 miles to one of only 45 miles. Farmers throughout the Midwest and Canada would lose an important source of information on crops, livestock and weather. No one questions the patriotism of these people, say the Iowans, but this is asking too much.

The two main arguments against the station—cost and the threat of retaliation—contain sound reasoning. A third criticism should be added: timing.

The planned broadcasts come at a time when U.S.-Cuban relations show slight but unmistakable signs of thawing, for the mutual benefit of both nations.

Cuba's President Fidel Castro has made no secret of the fact that he is looking for markets and investors within this hemisphere. Cuba's current major trading partner, the Soviet Union, has its own economic troubles and President Castro would like to broaden Cuba's trade base.

Of course, the 21-year-old U.S. embargo on trade with Cuba is still in effect. But increased trade ties could broaden our own markets—for farm products and technology—and help lure Cuba, economically at least, back into the Free World sphere.

This is no time to return to the old Cold War rhetoric toward Cuba if there is a chance at opening up of relations. like it or not, any Caribbean initiative—like the one proposed by President Reagan—will have to consider Cuba's presence in the area.

And there is the flip side to the propaganda dilemma. Sen. Christopher Dodd attacked the radio idea and said he was embarrassed to be hearing a plan to spend "$17 million to make Castro look bigger than life" to the rest of the world.

A better way would be to open up two-way lines of communications with Cuba and work toward improved relations.

The only defense of the station seems to be that it shows the world the Reagan administration is still tough on communism. No one doubts that. But this particular way of showing it should be reconsidered.

When even the folks in Des Moines are against it, it looks like a bad idea.●

Mr. RINALDO. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. WIRTH. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. FASCELL. Mr. Chairman, I have no further requests for time, and I yielded back the balance of my time.

The CHAIRMAN. All time has been yielded back.

Mr. FASCELL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. GARCIA) having assumed the chair, Mr. RATCHFORD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5427) to authorize support to Radio Broadcasting to Cuba, Inc., had come to no resolution thereon.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and to include extraneous material, in the general debate on the bill, H.R. 5427.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1440

ADJOURNMENT TO MONDAY, JULY 26, 1982

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that when the House adjourns today it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

THE SENIOR COMMUNITY SERVICE PROGRAM

(Mr. McDONALD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDONALD. Mr. Speaker, during election years, one expects a lot of rhetoric for the benefit of special interest groups. Usually, there is little action to benefit the Nation or its economy but rather a lot of pandering that, in the long run, proves to be harmful to our future.

This was the case recently on a vote regarding a concurrent resolution expressing the sense of Congress that funding appropriated for title V of the Older Americans Act, the senior community service employment project, should be maintained in future years at the level necessary to insure that its current jobs and other services be maintained or expanded.

On the surface, this resolution sounded magnanimous and full of compassion for our fine elderly citizens. As could have been expected, it passed by an overwhelming margin in the House. I voted against it for several reasons.

First. I do not dispute the intrinsic worth of a senior community service program. I am well aware that our older citizens have much to offer their communities and Nation and that too often they are shunted aside by the "now generation." My concern centers around which segment of government should finance such a program. With a budget deficit of more than $100 billion this year, it should be obvious that the Federal Government does not have the money. I have absolutely no objection to programs of this nature, and local and State governments, and perhaps private enterprise, might wish to consider maintaining and expanding this program. State and local governments generally have to operate within balanced budgets, lack the massive money-absorbing bureaucracy of the Federal Government, and allow local people to have more control over their own programs.

Second. It is pure hypocrisy for Congress to decry massive budget deficits and overspending by the Federal Government and to sponsor balanced budget amendments—while at the same time "playing to the grandstand" with proposals that add to the Federal deficit.

Third. It is wildly inaccurate to claim that Federal programs "pay for themselves" and do not end up costing the taxpayers. If overspending by the Federal Government "paid for itself" as is claimed for virtually every domestic program contained within the budget, we would not have $100 billion deficits or trillion dollar national debts today.

Fourth. Such resolutions are, in themselves, meaningless because Congress will either appropriate the funds, or it will not. Therefore, one must assume that the purpose of such proposals is simply another liberal ploy to encourage partisan and philosophical demagoguery prior to the November general elections. Liberals—and many "conservatives"—are quite aware that they will be painted as ogres, "haters of the elderly," and uncompassionate individuals if they vote against such grand sounding proposals.

Fifth. Spending on the Federal level for this and similar programs actually worsens the lot of those it is designed ostensibly to help. Federal overspending robs the elderly and forces their backs against the wall by creating inflation. Inflation destroys the purchasing power of the elderly, more than any other group, because so many are dependent on fixed incomes. So while the "seen hand" of Federal largesse may have the public relations image of "helping" the elderly, the "unseen hand" of Federal deficits, debt and inflation soon destroys any positive effects that earlier "help" may have had.

Sixth. Such resolutions actually make prostitutes of many politicians because they, in effect, "sell" their votes for the programs in return for the votes of specific groups on election day. In other words, the "unspoken agreement" is that the various lobbying groups will urge their members to vote for Congressman X because he voted for the program pushed by that lobbying group. The problem is that the money of current taxpayers—and future taxpayers, considering the national debt—is being used to "buy" the votes.

Finally, this process and the lack of courage on the part of many politicians are the reasons why our Nation is in such an awful economic mess today.

We must realize the Federal Government cannot "give" something to anyone, or any group, that it has not first taken away from someone else. This is especially true where deficit spending is concerned because it obligates money from future taxpayers.

With our national defenses desperately in need of rapid rebuilding—it has been "postponed" for more than a decade due to commitments for "social" spending—and our economy in dire straits, the American people deserve more than irresponsible rhetoric and demagoguery from Congress. Unfortunately, in the case of this vote, they did not get it from the majority of House Members.

THE REAL COSTS OF THE B-1

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DICKS. Mr. Speaker, as we debate and examine various aspects of the defense authorizations bill for fiscal year 1983, I think it is important to exercise additional scrutiny on the cost estimates which are being provided to us by the Pentagon, and especially by the Air Force. Yesterday, you will recall that I argued—perhaps too long—that we should not accept the Air Force and DOD recommendation to restart the C-5 production line and pay $128 million each for a new fleet of 50 of the large cargo planes. We have to remove all unnecessary ex-

penditures from the budget of the Defense Department this year, because, as every Member here knows, we have an afforedability problem which is getting worse year by year.

I want to call the Members' attention to a rather incredible revelation which occurred just yesterday morning in the Defense Appropriations Subcommittee that I hope you will keep in mind as we complete the debate over the defense authorizations bill. This morning, representatives of the General Accounting Office testified to the subcommittee that the baseline cost of the B-1 airplane, our Nation's most expensive military aircraft, was underestimated when the Air Force convinced Congress to approve the B-1 over the advanced technology bomber last year.

The GAO reported today that the cost estimate approved by the Deputy Secretary of Defense excluded cost elements that will be incurred and are usually included in a program estimate. According to two independent estimates—both of which were available to the Secretary of the Air Force last year before the B-1 budget was presented—the baseline cost of the B-1 bomber may be as much as 25 percent greater than the Air Force said it would be. Members of Congress were told a year ago that the fleet of 100 B-1 bombers would cost the taxpayers a total of $20.5 billion, even though they had estimates that showed costs could exceed $25 billion. That means instead of costing $200 million per plane, we are going to be paying $250 million per plane. And that is in current-year dollars. The preliminary estimate by the Congressional Budget Office for the actual cost of the B-1's in the years they are delivered is about $400 million per plane. Ladies and gentlemen, we cannot afford this kind of cost escalation, and we certainly cannot tolerate the deception which is being practiced by the Air Force on the B-1 bomber, and I am sure, on other weapons systems.

In fact, GAO representatives testified they had an exceedingly difficult time getting DOD's own independent cost estimates. It was not until they threatened legal action that DOD made these documents available.

I think we have simply got to be more vigilant in questioning the over-optimistic figures and "best-case" estimates that are being handed to us by the Air Force in this case, and by the other branches in justifying other weapon systems. Our distinguished majority whip stated yesterday that Congress must not abdicate its responsibility in exercising its budgetary control over the agencies of the executive branch. If we want the Air Force to do our job for us, and just submit its budget unquestioned, we might as well close up shop here.

I hope the Members who are here today and who are watching these proceedings will take heed, and will begin to question more aggressively the testimony of the well-meaning but often inaccurate representatives of the armed services. The shock of a 25-percent cost under statement on the B-1 bomber, just a year after we approved it, should jolt us all into a renewed sense of skepticism as we finish debating the fiscal year 1983 defense appropriations bill.

I include in the RECORD important excerpts from the GAO briefing on the real costs of the B-1:

STATEMENT OF DONALD E. DAY

Mr. Chairman and Members of the Committee, we are pleased to be here today to discuss the cost estimates for the B-1B aircraft program. As you know, the Air Force's program cost estimate was reviewed independently by a team from the Air Force and a team from the Office of the Secretary of Defense in late 1981. The independent reviewers also prepared estimates of their own but the Air Force and Department of Defense were reluctant to give us access to the details of those estimates, and not until June 1982 were we provided information and comparisons from the independent analyses.

Mr. Robert Murphy from our Cincinnati Regional Office will give a briefing on the details of the cost estimates in just a moment, but first, I would like to emphasize two points. One, these independent estimates are not new—the results were available to the Deputy Secretary of Defense before he issued a directive on November 4, 1981, concerning management of the B-1B program. Second, despite the controversy surrounding the estimated cost of the B-1B, we think the Air Force and Office of the Secretary of Defense are making a concerted effort to acquire the B-1B program within its estimated cost baseline of $20.5 billion (fiscal year 1981 dollars).

The independent estimating teams generally dealt with (1) the adequacy of the baseline estimate as proposed, (2) the exclusion of certain necessary program costs from the baseline, and (3) the cost associated with potential future growth in the program.

Both the Air Force and OSD independent teams surfaced concerns about the $20.5 billion baseline estimate, indicating that certain assumptions leading to the baseline estimate were optimistic. Air Force officials responsible for managing the B-1B program believe their baseline estimate is justified by experience with the earlier B-1A program. Our briefing compares the estimates and provides certain information about the cost issues.

Since October 1981, an important concern to us has been the exclusion of certain program costs from the B-1B baseline. Those costs, such as acquisition of simulators, certain engineering programs for the engines, acquisition of equipment needed to provide the Air Force an in-house depot maintenance capability, etc., could add up to over $1.4 billion. We believe excluding these costs from the B-1B baseline provides poor visibility of the B-1B program acquisition cost as well as annual funding requests. We believe OSD and Air Force guidance on establishing program baselines needs to be improved to provide uniformity in establishing baselines and reporting them to the Congress.

With these few introductory remarks, I would now like to turn the briefing over to Mr. Murphy. Please feel free to ask questions as we go.

OVERVIEW OF B-1B COST ESTIMATES (ALL DOLLARS ARE FISCAL YEAR 1981)

B-1B SPO estimate: 20.5 billion baseline.

Air Force independent estimate: $21.01 billion baseline; $1.453 billion identified as appropriate additions to SPO baseline; about $1.1 billion in other potential costs if program scope is expanded

OSD independent estimate: risk analysis indicated SPO baseline cost may be exceeded by $4.74 billion (to $25.27 billion); $1.433 billion identified as appropriate additions to SPO baseline; $.474 billion in potential costs if program scope is expanded.

More detailed comparison later.

SUMMARY COMPARISON OF ESTIMATES

[In billions of fiscal year 1981 dollars]

Cost category	SPO	Independent estimate	
		Air Force	OSD
"Baseline":			
Airframe	9.885	11.258	11.285
Engine	1.770	1.885	1.800
Avionics	2.885	3.165	3.515
System test	.535	.253	.535
Eco/management reserve	.700	.800	1.162
Nonrecurring production	1.500	1.500	1.500
Support equipment	1.800	1.075	2.588
Other program costs	.355	.314	.355
Initial spares	1.100	1.100	1.730
Multi-year procurement	(.800)	(.900)	0
ALCOM and LF/VLF	.800	[1].563	.800
"Baseline" total	20.530	21.013	[2]25.270
Identified additions to baseline:			
Simulators	0	.340	[3].300
CED/CIP	0	.187	[3].150
Organic depot capability	0	.237	.400
Misc. (first destination transp. other)	0	.028	.100
Interim contractor support	0	.034	.263
Facilities improvement (contractor production)	0	.008	[3].070
Retrofit costs	0	.567	0
Manufacturing technology	0	0	[3].150
Baseline additions total	0	1.453	1.433
Total recommended baseline	20.530	22.466	26.703

[1] The Air Force team estimated the cost for only an external ALCM capability.
[2] Although the OSD report did not include a "baseline" estimate of $25.27 billion, its assessment of potential added costs due to risk, when added to the SPO baseline, totals $25.27 billion.
[3] Although not included in the SPO baseline, these items are identified as related programs on the B-1B SAR.

SUMMARY COMPARISON OF COST ESTIMATES

[In billions of fiscal year 1981 and then-year dollars]

Description	SPO	Independent estimate	
		Air Force	OSD
"Baseline" program, fiscal year 1981 dollars	20.53	21.01	25.27
"Baseline" program, then-year dollars	29.23	28.45	(1)
Escalation indices as of	(2)	(3)	

[1] The OSD estimating team reviewed the B-1B costs only in terms of fiscal year 1981 dollars.
[2] May 1982.
[3] September 1981.

POTENTIAL COSTS IF PROGRAM IS EXPANDED

[In billions of fiscal year 1981 dollars]

Item[1]	Cost estimate		
	SPO	Air Force independent estimate	OSD independent estimate
AFT bay enlargement	0	.623	0
Fatigue test article	.120	.071	.070
Additional flight testing	0	.104	.104
Forward looking infrared	.140	.097	.125
Low band transmit	.070	.014	(2)
Communications countermeasures	.210	.082	(2)
CAT D/PAL CD	.080	.066	.065
Electromagnetic pulse testing	.024	.008	(2)
Avionics standards	.145	(.004)/.110	.110
Total	.789	1.071–1.185	.474

[1] There are no current approved plans to incorporate these items in the B-1B. The AFT bay enlargement to accommodate cruise missiles and CAT D/PAL CD incorporation have been rejected by OSD. The remaining items represent potential costs to the current program, or future costs to provide additional capabilities.
[2] No estimate.

COSTS INCLUDED AT LEAST PARTIALLY IN OTHER WEAPON SYSTEM BASELINE ESTIMATES BUT EXCLUDED FROM THE B–1B BASELINE

Cost element	Some costs (not necessarily all) included in weapon system's baseline estimate		
	F–15	F–16	A–10
Continuing engineering development	Yes	No	Yes.
Engine component improvement program	do	do	Do.
Interim contractor support	do	Yes	Do.
Production facilities improvement	do	No	Do.
Simulator development and production	do	Yes	Do.
Development of depot support capability (nonengine)[1]	do	do	Do.
First destination transportation[1]	do	do.[2]	Do.

[1] Not initially part of the $20.5 billion baseline, but subsequently directed to be included.
[2] R.D.T. & E. only.

OBSERVATIONS

B-1B baseline cost estimate approved by the Deputy Secretary of Defense excludes cost elements that will be incurred and are usually included in a program estimate. During acquisition of the B-1B, over a billion dollars will be funded in program elements not identified specifically with the B-1B baseline estimate.

Guidelines on what should be in the baseline are unclear. Other weapon systems have also excluded certain directly related acquisition costs from their estimate.

Excluding program acquisition costs from the baseline provides poor visibility of annual requests for funds as well as total program costs.

REDUCTION IN TELEPHONE SERVICE BETWEEN THE WEST AND THE SOVIET UNION

(Mr. FASCELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. FASCELL. Mr. Speaker, as Chairman of the Commission on Security and Cooperation in Europe, the Government body charged by law with monitoring the implementation of the Helsinki Final Act, I was greatly disturbed by a recent development that I consider a violation of at least two provisions of the Final Act.

I am referring to recent reports that the Soviet Union has begun to drastically reduce the number of telephone lines connecting that nation with Western Europe and the United States. According to several reports from Moscow, approximately two-thirds of the international circuits with the West will be taken out of service. On July 15, 20 of the 24 lines from Vienna, Austria, to Moscow were shut down by the Soviet Postal Service. Britain, France, the Federal Republic of Germany, and Finland have also been notified of plans for similar cutbacks in phone service. The Commission on Security and Cooperation has been informed by the American Telephone & Telegraph Co. that 8 of 23 long-lines from the United States to the Soviet Union are scheduled to be removed.

Soviet authorities have claimed that these steps are necessitated by technical factors that will not be corrected until 1984. If this is true, these are very convenient technical factors. It is no secret that the Soviet Government is concerned about telephone communications, particularly from Vienna, Austria, between recent Soviet emigres and their friends and relatives who have remained in the Soviet Union. Soviet Foreign Minister Gromyko was recently quoted as telling Austrian President Kirchschlaeger that, "There are good telephone calls, and there are bad ones."

And obviously, the Soviet security apparatus will have less difficulty monitoring the reduced volume of calls to and from the West.

In connection with these cutbacks, the Soviet Union has eliminated direct-dialing from Moscow to the West, a move that has prompted numerous protests from Western diplomatic circles, including our own American Ambassador. Direct dialing systems from abroad, which from the time of the Moscow summer olympics until November 1981 included not only Moscow, but also the cities of Leningrad, Tallinn, Kiev, and Minsk, have also been reduced to the point of virtual nonexistence.

Mr. Speaker, the Helsinki Final Act declared that the participating states:

Make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating states, and to contribute to the solution of the humanitarian problems that arise in the connection.

In addition, the participating states pledged to facilitate the flow of information between journalists and the information organs that they represent. Information is difficult enough to come by behind the Iron Curtain. These latest developments will make it even more arduous for Western journalists and newspersons to communicate from the Soviet Union to their home offices.

Mr. Speaker, Senator ROBERT DOLE, co-Chairman of the Commission on Security and Cooperation in Europe, and I have directed a letter to the Soviet Ambassador to the United States, Mr. Dobrynin, protesting this violation of the Helsinki Final Act and calling for a restoration of the previous levels of telephone communications between the Soviet Union and the West.

The letter in full follows:

COMMISSION ON SECURITY
AND COOPERATION IN EUROPE,
CONGRESS OF THE UNITED STATES,
Washington, D.C. July 23, 1982.

Hon. ANATOLY DOBRYNIN,
Soviet Ambassador to the United States,
Washington, D.C.

DEAR MR. AMBASSADOR: As Chairman and Co-Chairman respectively of the Commission on Security and Cooperation in Europe, charged by the American Government with monitoring implementation of the Helsinki Final Act of 1975, we would like to call your attention to events that we feel constitute a grave violation of the provisions of the Helsinki Final Act.

We are referring to the announcement by the Soviet Ministry of Communications concerning drastic reductions in telephone connections between the Soviet Union and the nations of Europe, and the United States. It is our understanding that such drastic reductions have already taken place between Austria and the Soviet Union, with similar steps planned for the Federal Republic of Germany, France, Great Britain, Finland, the United States, and perhaps other Helsinki signatory states.

Mr. Ambassador, we feel that these steps are a clear violation of the human contacts provisions of the Helsinki Final Act and a direct contradiction to the provisions of the Final Act that call for an improvement in the ability of journalists to communicate with the information organs they represent.

We must convey to you our deep disappointment over this action by the Soviet Government and our strong protest over yet another step backwards from the commitments which your government undertook when Secretary Brezhnev signed the Helsinki Final Act on August 1, 1975. It is difficult to accept repeated Soviet assurances of an intent to return to Madrid in November to complete a comprehensive and balanced concluding document at the CSCE review meeting when the continuing pattern of behavior by the Soviet Union since the Madrid Meeting began indicates nothing but contempt for the undertakings of the Helsinki Final Act.

We hope you will convey our concern about these matters to your authorities in Moscow.

Sincerely yours,

DANTE B. FASCELL,
Chairman.

BOB DOLE,
Co-Chairman.

USURPATION OF AUTHORITY BY THE NAVY

(Mr. VENTO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VENTO. Mr. Speaker, it is ironic that during the week the House considers the DOD authorization for fiscal year 1983, an authorization of

over $180 billion, we learn that the Pentagon and, in particular, the U.S. Navy has been using Federal funds to conduct a covert intelligence operation aimed against the Members of Congress participating in the Military Reform Caucus.

This gross usurpation of authority by the Navy was reported this past Monday in Defense Week and is contained in yesterday's CONGRESSIONAL RECORD.

The Plans and Policy Division of the Navy's Office of Legislative Affairs have breached the bounds of ethics and even legality, by preparing an analysis of the Military Reform Caucus in terms of philosophy, membership, and concerns. Beyond this, they provided a rating system for members of the caucus. Among those who received copies were the Chief of Naval Information and the Secretary of the Navy. The documentation was not classified and thus presumably intended for public distribution.

The purpose of this campaign seems clear. Despite record high Defense budgets, the Navy is employing tactics to intimidate Members of Congress into rubber stamping Navy pet projects. The Navy wants a blank check and is seeking to eliminate congressional oversight of the Pentagon budget and congressional efforts to eliminate DOD waste.

Mr. Speaker, it is imperative that the House conduct an investigation into this situation. The expenditure of public funds to influence the Members of Congress—or even to influence the composition of Congress—is specifically illegal under title 18 of the United States Code and the Hatch Act. We know what the Navy did here. What we do not know is what other ratings and other information on Congress the Pentagon has compiled for use at a time of their choosing.

The Military Reform Caucus is a group interested in providing an efficient and strong national defense in the face of a changing technical military environment. We disagree on specifics but share a common concern. For the Navy to secretly investigate and rate Members of Congress in the way it did is the height of arrogance which could have a chilling effect on the deliberations of Congress.

Mr. Speaker, there is no legitimate reason for the Navy to have investigated the caucus or any Member of Congress. Such misbehavior goes beyond the misuse of appropriated funds for lobbying. This issue is a clear violation of the constitutional separation of powers. Under the guise of congressional relations, the Navy is secretly interfering with congressional internal affairs in order to dominate the decisionmaking process.

The House must respond to this flagrant abuse of our system of government. The basic question is who really gives the orders? Is it the democratically elected officials or the Pentagon? What was the purpose of this poll, and what other similar secret activities against Congress have been conducted by the Pentagon?

I am requesting a full investigation by the House Judiciary and Government Operations Committees. I urge my colleagues to support efforts to eliminate these abuses and to restore the proper balance to our decisionmaking process.

GENERAL LEAVE

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 489, the rule on the airport and airway development bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PRESIDENT SIGNS CAPTIVE NATIONS WEEK PROCLAMATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DERWINSKI) is recognized for 5 minutes.

● Mr. DERWINSKI. Mr. Speaker, as we conclude this year's official Captive Nations Week observance, I wish to draw attention to one of the most dramatic events which highlighted this annual commemoration. For the first time in the history of this observance, a special Presidential signing of the Captive Nations Week Proclamation was held.

On Monday, President Reagan joined with over 400 distinguished guests from ethnic organizations, newspapers, and fraternal groups from across the country as well as many Members of both the House and Senate in a ceremony in the White House Rose Garden. Joining President Reagan on the podium, were many of our former colleagues who cosponsored the original resolution which was signed into Public Law 86-90 in 1959. This law established Captive Nations Week to be observed annually during the third week in July.

While the official week draws to a close, it is important for us to continue to carry the spirit and dreams of the captive peoples in our hearts and pray that their desire for human liberty will soon be answered.

Mr. Speaker, at this point in my remarks, I wish to insert the 1982 Captive Nations Week Proclamation of the President of the United States, the Honorable Ronald Reagan, and his remarks at the signing ceremony at which he used the occasion to voice a strong verbal statement against Soviet tyranny and expansion of totalitarianism:

REMARKS OF THE PRESIDENT AT SIGNING CEREMONY FOR CAPTIVE NATIONS WEEK PROCLAMATION

The PRESIDENT: Thank you very much. Thank you. I heard all that applause that you were getting. I almost didn't come out. (Laughter).

Six weeks ago when I visited our friends and allies in Europe, I found a warm response to this nation's call for a global campaign for freedom. Our straightforward criticism of totalitarianism regimes and our willingness to promote the ideals of individual liberty and representative government struck a responsive chord among Europeans and I believe many other millions of people around the globe.

Yet, even as I expressed our confidence that the ideals of freedom and the aspiration of self-government would ultimately triumph over those who wished to subordinate the individual to the state, I was confronted with the hard evidence of just how difficult this struggle will be.

In Berlin, a grey, grim monument of steel and stone stands as a reminder of those whose self-proclaimed goal is the domination of every nation on earth.

The tragedy of our time is that this goal has been so widely achieved. Throughout the Baltic States, Eastern Europe and Asia, now in Africa and Latin America, nation after nation has fallen prey to an ideology that seeks to stifle all that's good about the human spirit, even as it attempts to justify communist rule.

This extension of totalitarianism has not come about through popular movement or free elections. It's been accomplished instead by military force or by subversion practiced by a tiny revolutionary cadre whose only real ideal is the will to power.

It hasn't meant, as promised, a new classless society or the dictatorship of the proletariat. It has, instead, meant forced labor and mass imprisonment, famine and massacre, the police state and the knock on the door in the night.

And it has also meant the growth of the largest military empire in the history of the world. An empire whose territorial ambition has sparked a wasteful arms race and whose ideological obsession remains the single greatest peril to peace among the nations.

The ominous growth of this danger, the human suffering that it has caused, is clearly the most important news event of our generation. And it is, as I've said, the tragedy of our time.

In 1959, the Congress of the United States, spurred on by the ruthless and bloody attack in 1956 on the free Hungarian government first decided to commemorate the heroism and fortitude of those living in nations in which the right of self-determination has been denied.

Today, in this Captive Nations Proclamation, and at this first public signing of this proclamation, we keep faith with this tradition and with those to whom it is intended to give hope and moral substance.

Today, we as a nation, also remind ourselves of the preciousness of our freedom, renew our sacred resolve that someday all the people of the earth will enjoy the God-given rights of free men and women. (Applause.)

We renew especially our hope that those countries of eastern Europe, Asia, Africa and Latin America now under communist domination will someday regain their national sovereignty and, again, enjoy the dig-

nity of their own national traditional. (Applause.)

Since that—since that first Captive Nation's Resolution passed by the Congress, we've seen equally distressing examples of the assault on the human spirit. The independent people of Afghanistan are giving their lives resisting aggression of the bloodiest kind. And, again, in Poland, the suppression of the rights of Polish workers, the imprisonment of the leaders of Solidarity. All of this, sustained and directed by Soviet military might, is another tragic chapter in the quest of the Polish people for freedom and national sovereignty.

We in the West must do more than merely decry attacks on human freedom. The nature of this struggle is ultimately one that will be decided, not by military might, but by spiritual resolve and confidence in the future of freedom especially in the face of the decaying and crumbling dreams of Marxism/Leninism. (Applause.)

Lenin advocated resorting to all sorts of strategems, artifices, maneuvers, illegal methods, evasions and subterfuges. We in the West have at our command weapons far more potent that defeat, deceit and subterfuge. We have the power of truth. Truth that can reach past the stone and steel walls of the police state and create campaigns for freedom and coalitions for peace in communist countries.

How long can one simple fact be ignored or overlooked: that only the totalitarian states mark their borders with walls and barbed wire to keep their people from fleeing the "worker's paradise."

Some months ago I received a letter from Solidarity leaders who were in the free world during the crackdown by the ruling military junta. These leaders pointed out that totalitarian regimes can be "eroded only from within by nonviolent, popular pressure. Our Polish experience shows how efficient such a drive for change can be. Our adversary is fully aware that our resistance cannot be sustained without a free flow of information and ideas."

These leaders went on to say, "We appeal to you for the same appreciation of the power of ideas and the effectiveness of broadcasting as their carrier. In the long run it may prove to be the least expensive and the most effective option at your disposal."

Today let me make it clear that we intend to move forward consistent with budgetary requirements with a program to modernize our primary means of international communication, our international radio system. (Applause.) In carrying out this vital element in our forward strategy for freedom we will be redeeming the pledge I made to the American people during the campaign, a pledge deeply felt at the time and deeply felt today. This plan of modernization for a relatively modest expenditure over a number of years will make it easier for millions of people living under communist rule to hear the truth about the struggle for the world going on today between the forces of totalitarianism and freedom.

The sad fact is that the Voice of America, Radio Free Europe, and Radio Liberty have been neglected for many years. Their equipment is old and deteriorating, their programming resources strained. Little has been done to counter the jamming that has intensified in recent years.

The Soviets, I think you should know, spend three to four times more to jam foreign broadcasts than we spend to transmit them. And somebody—we can only speculate as to their identity—perpetrated a devastating bombing of Radio Free Europe and Radio Liberty's headquarters last year.

I want to extend my appreciation to the Congress for agreeing recently to reorganize the management of these international broadcasting channels, and I especially want to urge them today to approve the funds so desparately needed to bring to the people of Cuba through Radio Marti the truth about the struggle between freedom and totalitarianism. (Applause.)

We can fully appreciate the fear of those who do not want the truth to reach the people of the communist world, those who are willing to violate flagrantly the Helsinki Agreements or even to engage in terrorist violence to stifle the truth. For the events in Poland during the last two years show that when given air time and a little breathing space the truth becomes a powerful weapon, one which even the most repressive police states must fear.

We are confident that in Poland, Afghanistan, and in all the Captive Nations the forces of totalitarianism have won only a temporary fleeting victory. Against the appeal of democratic ideas, against the hunger and thirst of men and women who would be free, the threat of martial law, imprisonment, or any of the other artful forms of repression can never win lasting triumph.

In an interview that was published here before his imprisonment Lech Walesa spoke of "the wheat that can grow on the stones," of how brutal repression only seems to strengthen the hope and hunger of those who long for freedom. And he said, "Our souls contain exactly the contrary of what they wanted. They want us, the communist rulers, not to believe in God, and our churches are full. They wanted us to be materialistic and incapable of sacrifices. We are anti-materialistic and capable of sacrifice. They wanted us to be afraid of tanks and of the guns. And instead, we do not fear them at all." (Applause.) The love of liberty, the fire of freedom burns on in Poland just as it burns on among all the peoples of the Captive Nations.

To the leaders of Solidarity, to the people of Poland, to all those who are denied freedom, we send a message today. Your cause is not lost. You are not forgotten. Your quest for freedom lives on in your hearts and in our hearts. (Applause.) God willing, we will see a day when we shall speak together of the joys of freedom and of the wheat that grows on stones. (Applause.)

Now, I better——

Q. Mr. President?

The PRESIDENT: What?

Q. "God Bless America," would you sing it with us?

The PRESIDENT: You will have to start.

(The President joins the assembled in singing "God Bless America.")

The PRESIDENT: Thank you. (Applause.) Thank you very much.

Now, I am going to sign this before you all catch cold. (Laughter.)

(The President signs proclamation. Applause.)

Thank you all. Thank you very much. Now get in the shade.

[A Proclamation by the President of the United States of America]

CAPTIVE NATIONS WEEK, 1982

During the past year, we have witnessed another tragic demonstration of the failure of tyranny to compete with the principles of freedom. The imposition of martial law in Poland on December 13, 1981, served as a bitter reminder that the quest for freedom and self-determination can only be restrained by force. It clearly demonstrated the moral bankruptcy of a system which has been unable to earn the support of its population after more than 35 years in power.

The same repression imposed on the Polish people is evidenced in various ways in other captive nations dominated by foreign military power and an alien Marxist-Leninist ideology. The brutal suppression of sovereignty in Afghanistan and the bondage of the captive peoples of Eastern Europe continue. Among the oppressed we must also count the peoples of many nationalities within the Soviet Union itself; they are victims of long decades of repression.

Twenty-three years ago, by a joint resolution approved July 17, 1959, (73 Stat. 212), the Congress authorized and requested the President to proclaim the third week in July as Captive Nations Week.

This week offers Americans an opportunity to honor our Nation's founders whose wisdom and commitment to self-determination and liberty have guided this country for more than 200 years. Let us once again reaffirm our faith that the aspiration for freedom will ultimately prevail over the rule of force and coercion which denies human rights to so many other parts of the world today.

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby designate the week beginning July 18, 1982, as Captive Nations Week.

I invite the people of the United States to observe this week with appropriate ceremonies and activities and to reaffirm their dedication to the ideals which unite us and inspire others.

In witness whereof, I have hereunto set my hand this 19th day of July, in the year of our Lord nineteen hundred and eighty-two, and of the Independance of the United States of America the two hundred and seventh.

RONALD REAGAN.[1]

BANKING COMMITTEE MONETARY POLICY REPORT AND CHAIRMAN VOLCKER'S PREDICTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia (Mr. PARRIS) is recognized for 30 minutes.

Mr. PARRIS. Mr. Speaker, in a 3-hour hearing before the Banking, Finance and Urban Affairs Committee earlier this week, on Tuesday of this week, Chairman Volcker of the Federal Reserve Board indicated that the growth targets of the monetary aggregates will remain unchanged for the balance of 1982 and for 1983 and at the same time the Chairman in accordance with the Humphrey-Hawkins legislation provided the Banking Committee with a midyear monetary policy.

The Chairman stated in his testimony on that occasion in part:

The hard fact remains that we cannot escape our dilemmas by a decision to give up the fight on inflation—by declaring the battle won before it is. Such an approach would be transparently clear—not just to

you and me—but to the investors, the businessmen and the workers who would, once again, find their suspicions confirmed that they had better prepare to live with inflation, and try to keep ahead of it. The reactions in financial markets and other sectors of the economy would, in the end, aggravate our problems, not eliminate them. It would strike me as the cruelest blow of all to the millions who have felt the pain of recession directly to suggest, in effect, it was all in vain.

I recognize months of recession and high interest rates have contributed to a sense of uncertainty. Businesses have postponed investment plans. Financial pressures have exposed lax practices and stretched balance sheet positions in some institutions—financial as well as non-financial. The earnings position of the thrift industry remains poor.

But none of those problems can be dealt with successfully by re-inflation or by a lack of individual discipline. It is precisely that environment that contributed so much to the current difficulties.

Now, I think all of us, Mr. Speaker, can generally agree with that statement by the Chairman of the Federal Reserve Board, but does it really say anything? Is that statement political rhetoric or bureaucratic rhetoric or is it truly a statement of operating principles by the Chairman of the Federal Reserve Board?

The Chairman was appointed as Chairman of the Federal Reserve Board by President Carter. He is an experienced, knowledgeable and qualified gentleman. He exercises his judgment in the accomplishment of his responsibilities in a sincere manner; but now for the bad news.

When two people agree on everything, Mr. Speaker, one of them is not thinking.

I rise as one Member of this Congress who most assuredly does not agree on some of the positions of the Federal Reserve Board in regard to monetary policy. I take this time on the floor of the House today to reiterate for the benefit of my colleagues, some of the debate that took place in that committee earlier this week in the hearing that we had on Tuesday of this week.

I am increasingly astonished, Mr. Speaker, at the certainty with which the Federal Reserve Board predicts the Nation's economic future. I have the privilege of serving as chairman of the House Task Force on Economic Policy. Over the last year or 2 I have had the opportunity to discuss our economic situation with literally hundreds of economists around this Nation. Very few of them can agree on our economic forecast. Very few of them can agree on the Federal Reserve Board's continuing policies of tight money.

In fact, very few of them can agree on whether or not it is even possible to accurately measure the money supply, something that the Federal Reserve Board claims that it does every day.

Before 1800, Edmund Burke said, "Parsimony is not economy." That advice is almost 2 centuries old, but I submit that the Federal Reserve Board could benefit and the Nation might very well prosper if it took that advice to heart.

I realize that the Board takes considerable pride in their dedication to tight money goals; but frankly, Mr. Speaker, I have the sinking feeling that their efforts to control inflation solely through the use of monetary policy and thereby save the economy are on par with the PLO's efforts to save West Beirut.

When the battle is over, they may very well be able to claim a philosophical victory, but at what price? If the Nation's economy is reduced to a pile of rubble, the battle will have been won, but the war will be lost.

As recently as last week, Robert Ortner, one of the administration's top economists and the Commerce Department's chief economist, said that if the Federal Reserve sped up money growth, interest rates would come down and the economy could begin to grow again without reigniting inflation. He said:

With production down the way it is, it would not be damaging or inappropriate if the Federal Reserve Board sped up money growth and consciously brought down interest rates.

During the Ford administration, Chairman Volcker's predecessor, the distinguished gentleman, Dr. Arthur Burns, increased the money supply to stimulate the economy and end the then existing recession in the 1974–75 period. The results were positive and the inflation rate held steady for months. It has, therefore, I submit, been proven that there is at least a limited period of high economic activity, increasing monetary supply and stable inflation rates that is available to us to help an economic recovery in these trying times. Why in heaven's name do we not use it?

Where is Mr. Volcker's crystal ball? How can he be so certain that he, and only he, knows the answer to this Nation's economic problems? Where does he get the information that makes him so infallible, and why does he not share it with us mere mortals?

I do not suggest this, Mr. Speaker, in a vitriolic, unkind or personal way, but I submit to the Chairman of the Federal Reserve Board that there is alternative judgment in these difficult questions.

I think we would like to know the answers to the questions I have just posed, even if they are rhetorical; because if the chairman of the Federal Reserve Board, Mr. Speaker, is wrong, a possibility that I realize he is understandably reluctant to accept, he will have done this Nation irreparable harm. Instead of being remembered as the George Washington of modern monetarist theory, he may and surely will find himself reviled as the Benedict Arnold of an economic disaster.

□ 1450

The monetary history of this Nation since the Federal Reserve Board's adoption of the principle of attempting to administer the hopelessly difficult task of measuring money has been nothing short of a disaster.

What has happened is that we have substituted rules and replaced them by random whims. The problem is that the United States has no long-term monetary policy at all; nothing that inspires confidence; nobody trusts the continuing value of money. The economy worldwide is precariously dependent on short-term debt.

We alternate between robbing lenders with inflation and robbing borrowers with deflation. There is no way of knowing which is coming next. So activities requiring long-term financial commitments are severely restricted, like real estate mortgage transactions.

At the same time, economic recovery is inhibited and financial markets are in total disarray.

Alan Reynolds, in a recent article inserted in the CONGRESSIONAL RECORD by our colleague, the gentleman from New York (Mr. KEMP), states in part:

The year 1973 represented the high-water mark of monetarism. By then all of the old fashioned obstacles to scientific demand management had been toppled. The United States took the silver out of coins in 1964. We lifted the gold cover on Federal Reserve notes in 1965. We set the gold price free in March of 1968. We reneged on converting foreign dollars into gold on August 15, 1972, and officially embraced floating exchange rates in March of 1973.

The monetarists cheered. They had provided the intellectual rationale for the demolition of all institutional constraints on monetary policy. There was a promise to replace the old rules with the new rules. But it has not happened.

Samual Brittain says, "The defects of monetarism are that it concedes too much power to official intervention, underrates the influence of competition in providing money substitutes, and takes official statistics far too much at their face value."

Karl Brunner in 1968 coined the term "monetarism," but monetarism is a part of Keynesian economic theory, a tradition of demand management. The tools are slightly different, but the objective is still to manage the rate of growth of aggregate demand. Whether over short or longer periods of time, monetarism begins with the seductive premise that the rate of growth of spending or demand, sometimes called nominal growth of GNP, depends on the rate of growth of money, M, plus velocity, V. Converting the old quantity equation into annual percentage increases then, it is M plus or minus V equals GNP.

Now, if we could count and control M, and if we knew or could predict velocity, then we would reach the

Keynesian heaven of being able to manage aggregate demand. The only trouble is that nobody, but nobody, can do any of those things, including the Federal Reserve Board.

The definition of what even is money in this Nation and in this economy has been changed four times since 1978. Basically, the goal of managed money is to control $3 trillion in annual spending through periodic adjustments in about $45 billion of bank reserves, and I submit, Mr. Chairman, that that is not an easy task.

While inflation has declined, interest rates have continued at their unacceptably high rates. Never before in the history of the greatest economy that the world has ever known have interest rates persisted near the 20-percent level under different administrations with totally different fiscal policies. Never has the economy suffered 2 years of back-to-back recessions. Never have we seen such volatility in interest rates since the current policy was begun by the Federal Reserve.

The issue, Mr. Speaker, is how do we break the logjam? Where is our economic recovery? What do we do and how do we provide investment capital that this Nation so greatly needs?

The answer is the problem of the general level of the money supply, and the fact is that it is unacceptably low; it is tight, and the regulations are excessively restrictive.

The logjam would be broken if the Federal Reserve Board loosened up the money supply for the next 12 months or so. If they did that, the economy could begin to grow without reigniting inflation, consistent with and in conjunction with a policy of fiscal restraint being adopted by this Congress.

I very strongly believe in the President's program, with its emphasis on reducing budgets and taxes and encouraging business investment, but capital spending is not going to turn around in the near future with the low operating rates of industrial production in America's factories and these current interest rates remaining at present levels. With tight money and high interest rates, the depressed economy is feeding on itself.

Let me make it clear, Mr. Speaker, that I am not suggesting that we eliminate all M-2 targets and appropriate restrictions on monetary policy. I do not agree, however, that current monetary policy is appropriate in these difficult economic times.

I simply believe that it is too tight and has been that way now for too long, all to the serious detriment of our economic activity, the welfare of the American citizens, and in the interests of our economic recovery.

Hopefully, interest rates will drop in the near term, and they are trending down. A long-term solution, however, will require increasing somewhat the monetary growth aggregates in conjunction with the Federal Government ending its fiscal spending binge. As long as the Federal Government consumes most of the Nation's savings and credit funds, capital will continue to be in short supply and expensive.

This, Mr. Speaker, is and will continue to be the greatest Nation on this planet. Never before have any societies enjoyed the benefits of individual political, religious, and economic freedom that we have, and we must, through appropriate fiscal and monetary policy, preserve this Nation for the benefit of our children and our children's children.

ST GERMAIN CONDEMNS WORLD BANK LOAN FURTHER DEPRESSING U.S. TEXTILE INDUSTRY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Rhode Island (Mr. ST GERMAIN) is recognized for 15 minutes.

● Mr. ST GERMAIN. Mr. Speaker, I speak today in order to call to the attention of my colleagues the significance of a recent decision of the World Bank authorizing a textile industry loan in the Philippines. The loan is in the amount of $157.4 million and is to be used for the purposes of "textile sector restructuring," and was made to the Development Bank of the Philippines and the Board of Investments.

In their review of this project, and in their recommendation of its approval, members of the Reagan administration argued that exports of yarn, fabric, and garments from the Philippines were of such low volume as to be no problem to the United States, and that subsequent domestic demand for textile products—within the Philippines—would absorb any increase in production capacity reached over the next few years. Given this rationale, they recommended and voted approval of the loan.

Not only was poor and incorrect analysis used to justify making this loan, Mr. Speaker, but the loan was made at highly subsidized terms thereby further making our textile industry less competitive. If only our businesses, farmers, or consumers could get a loan on terms similar to that given to the Philippines, we would soon be out of this severe recession we are now in. Listen to these terms of the World Bank loan to the Philippines to subsidize their textile industry. The loan is for 20 years, with an initial grace period of 5 years and interest at 11.6 percent a year.

It would be beneficial, indeed, if our consumers and producers would obtain loans with these terms. Maybe then, for example, the bankruptcy rate for businesses, now the highest ever, would diminish.

There are however, Mr. Speaker, other important facts that ought to be considered before passing judgment on this decision, inasmuch as they pertain to the textile industry. Here, I would draw attention to some very important statistics to be borne in mind:

First, over the past 20 years, the overall growth rates in productivity in the U.S. fiber industry, the fabric industry, and the apparel industry, have exceeded the average growth in productivity for the economy. These industries are, therefore, very important contributors to the U.S. economic portfolio.

Second, increases in apparel imports, however, over the years have deprived not only the U.S. apparel industry, but also its suppliers in the U.S. fiber and fabric industries, of a significant share of domestic growth in the United States. Our fiber and fabric industries, which are competitive in world export markets, are often denied the opportunity to grow by serving the largest apparel exporters—mainly from the Far East market areas.

Third, these large and growing apparel exporting countries either pursue protectionist policies or have industrial or regional structures that link together fiber, fabric, and apparel production in order to increase their competitiveness in fiber and fabric. The United States does not enjoy this type of production environment, nor has it sought to establish it.

Fourth, by using linkage to foreign apparel producers selling into U.S. markets, foreign fiber and fabric makers are able to gain volume and resulting production efficiencies sufficient to increase their competitiveness at a rapid rate, while the competitiveness of U.S. producers—denied both domestic market growth and growth through sales to large apparel exporting countries—slowly continues to erode.

Mr. Speaker, these are the conditions that are driving this country headlong toward the adoption of protectionist legislation; and, while I am not speaking today as an advocate of this approach, it is becoming increasingly difficult for many of us to overlook this option for many of our industries. Textiles is but one of a multitude of examples to be considered.

The administration's decision was reached with full knowledge that our textile/apparel trade deficit is headed toward a record $6 billion for the year—a deficit that has increased by 44 percent during the January-May 1982 period alone over the same period in 1981.

The administration's decision was reached with full knowledge that unemployment in the textile industry stands at 12.5 percent as of last May. Employment, at 775,000 persons is down by 84,000 from last year. And fi-

nally, the administration's decision was reached with full knowledge that production has dropped by 15 percent, and imports continue their impact on declining production.

Mr. Speaker, our trade agreement with the Philippines is due to be renegotiated next month. We can only hope that our representatives will take serious note of other equally distressing trends perhaps best depicted by the fact that our imports in textiles from the Philippines grew from $212 million in 1980 to $260 million in 1981, while our exports of textiles to the Philippines dropped from $39 million in 1980 to $37 million in 1981. It is evident that the loan granted by the World Bank can only have one direct effect—to upgrade the spinning, weaving, and knitting capacity of the Philippine industry—eventually to the point where there will no longer exist any need for purchases of raw material from the United States.

I cannot understand how this administration can vote in favor of a loan which can have no effect domestically other than further depressing employment and production in one of our most depressed industries—the textile industry.

Mr. Speaker, legislative jurisdiction over the World Bank and its affiliates resides within the House Committee on Banking, Finance and Urban Affairs, of which I have the honor to be chairman. I want to note for all today, that the next appearance of administration officials requesting additional funding for the World Bank before our committee will feature some very hard and blunt questioning. I will demand answers as to both motivation and results drawn from such choices as are evidenced through this most recent administration loan action. Voting in favor of a World Bank loan to upgrade the textile industry in the Philippines, was a vote to further strangle the textile industry in the United States.●

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 5 minutes.

● Mr. ROSTENKOWSKI. Mr. Speaker, this week we celebrate the 24th anniversary of National Captive Nations Week. It is a time in which we should all join in expressing our support for the people of 31 captive nations throughout the world. We should affirm our strong intentions to help these millions of men and women who are enslaved within these Communist-dominated nations.

The basic human rights that we as Americans enjoy are expressly denied to these people behind the Iron Curtain.

It is especially appropriate today to pause to remember these men and women in light of the suppression of the Solidarity movement in Poland. Hundreds and thousands of Poles are suffering under the imposition of martial law, and this week provides a real opportunity to rededicate ourselves to helping movements like Solidarity to become viable alternatives to Communist oppression.

I join with my other colleagues to renew our vital committment to freedom throughout the world and pray that one day, there will be no need for a Captive Nations Week.●

HEARING ON HUMAN RIGHTS IN GUATEMALA SET

(Mr. PATTERSON asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PATTERSON. Mr. Speaker, like many Members of Congress, I have been troubled for a long time by the reports from Guatemala. I think that we have all hoped that the Rios Montt regime which took over in the military coup in March would protect the basic human rights of the Guatemalan people. Some of the early signals coming from the Rios Montt government were indeed hopeful. More recent developments, however, are worrisome.

The International Financial Institutions Act requires the U.S. Executive Director at each of the multilateral development banks to oppose loans to any country which is a gross and consistent violator of internationally recognized human rights. A loan is pending at the Inter-American Development bank which raises this issue with regard to Guatemala.

I received information yesterday from Deputy Assistant of State Stephen W. Bosworth on the status of human rights in Guatemala. The letter does not adequately answer questions about extra-legal killings and torture in Guatemala. His letter and my response to it follow this statement.

Because of the wide interest in U.S. policy in this area, I have scheduled a hearing of the subcommittee for Thursday, August 5, at 10 a.m. in room 2128 of the Rayburn Building to examine this issue. The letter follows:

DEPARTMENT OF STATE,
Washington, D.C. July 15, 1982.

Hon. JERRY M. PATTERSON,
Chairman, Subcommittee on International Development, Institutions and Finance, House of Representatives.

DEAR MR. CHAIRMAN: I, too, believe we had a very useful discussion on June 16, and am extremely pleased at your willingness to take another look at the pending Guatemalan loan application for a rural telecommunications system.

I cannot emphasize strongly enough the favorable contrast between the current human rights situation in Guatemala and the situation last December when your Subcommittee held a hearing on this project. Much remains to be done in the human rights area in the country. We remain watchful of developments, including the manner in which the recently imposed martial law is implemented, but we note that the new government has taken some major human rights steps. In view of this marked change, the Administration is confident that supporting this loan to the new Guatemalan Government is fully consistent with the provisions of Section 701 of the International Financial Institutions Act. I am enclosing background information on some of the human rights actions taken in Guatemala since the March 23 coup. Please feel free to share this information with other members of the Committee.

As you know, the rural telecommunications systems loan proposal has been pending action in the Board of Executive Directors of the Inter-American Development Bank (IDB) since last December. We believe it is timely for this project to proceed. It is a worthwhile project, and, more importantly, approval would send a signal of U.S. support for the improvements the new Government has made.

We acknowledge that legitimate questions could be and were raised about the directness of the basic human needs impact as well as other aspects of this project. Nonetheless, we believe that with modifications along the lines discussed after the December 8, 1981 hearing, the project could have been improved and construed as eligible for an exception. However, since our recommendation for U.S. approval no longer hinges on such as exception, we see no need to pursue this aspect of the matter further.

Before any action is taken on this loan, we will be coordinating with Treasury regarding consultations required under Section 701. We hope to be in the position to indicate U.S. support for this loan in the IDB before the end of July. I am, of course, prepared to discuss the matter further with you if you wish after reviewing the enclosed background on the current situation in Guatemala.

Regarding another matter raised in our recent meeting, I would like to assure you that both we and Treasury are actively seeking support for prompt passage of the authorization legislation for the new replenishment of the African Development Fund. We are consulting with your staff on how best to pursue this objective. We look forward to prompt, favorable action on this bill, which would be an important signal of continuing strong U.S. support for the multilateral development banks.

Once again, I would like to express my appreciation for our frank discussion on June 16. We look forward to a continuing exchange of views on such matters.

Sincerely,

STEPHEN W. BOSWORTH,
Deputy Assistant Secretary for Inter-American Affairs.

HUMAN RIGHTS ACTIONS—GUATEMALA

PROMISES

In a March 24 diplomatic note the Junta pledged "to respect human rights and fundamental liberties." This promise was reaffirmed on April 5 when the junta announced its 14 point outline of government.

At a March 24 press conference Rio Montt announced his idea for a spiritual rebirth of the country that would require "changing the faces (in government)" and fostering a

respect for law by disarming those who do not have responsibility for carrying weapons. A day later Rios Montt announced that an investigation of ex-government officials would be carried out.

Junta member Maldonado said at a press conference that police had orders to find persons "kidnapped" during the previous administration. He said the kidnappers would be brought to trial.

AMNESTY

The GOG completed a 30-day amnesty program for guerrillas and certain members of the security forces June 30. It provided a written guaranty that the amnesty would be honored and an offer to work with those taking advantage of the program.

Junta Member Maldonado Shaad told the press May 25 that the decree was not intended to protect members of the security forces who took the law into their own hands. Rather it was meant to exonerate those who fought subversion openly in combat, in the mountains. Those who acted on their own, even if they were in positions of authority, remain subject to the courts.

GOG modified the amnesty decree on May 31 to permit guerrillas "to turn themselves into Departmental governors and municipal mayors, as well as to the following institutions: Guatemalan Red Cross, University of San Carlos and its extensions, private universities, professional schools and churches of all cults," . . . in order that said institutions will immediately notify the closest military authority . . ." Prior to this guerrillas had to turn themselves in to military authorities only.

Rios Montt reportedly said that "all Guatemalans who are abroad, forced by personal circumstances under the previous regime may return to the country and begin work in favor of Guatemala." (Reuter, April 27)

RELATIONS WITH THE CHURCH

The Roman Catholic Episcopal Conference met with Rios Montt March 31. The president of the Conference reported to the press afterwards that the meeting was an "important opening of channels of communication with the junta. They offered us guarantees so that we would carry out our work in the areas of our expertise." Bishop Penados added "I believe the junta can establish a government of honesty and hard work."

According to Bishop Penados the junta said that the 60-70 priests who had to leave Guatemala because of threats to their lives are free to return to Guatemala provided they can obtain a letter from Cardinal Casareigo attesting to their good standing within the Church.

Former President of the Episcopal Conference, Bishop Gerardi, previously in self-imposed exile in Costa Rica has returned to Guatemala.

CORRUPTION

A growing list of former government officials are being brought before the courts to determine if there is sufficient grounds to bring indictments.

Orders were issued to prevent former officials associated with the corruption in the Lucas Administration from leaving the country. Some have been detained as they attempted to leave the country.

The government announced it has suspended 125,000 government payment orders in an effort to uncover alleged corruption by former government officials.

The National Peripheral Highway Project was also canceled and junta member Colonel Gordillo publicly stated that the contract will be carefully investigated and if found illegal those involved will be vigorously prosecuted.

Arrest of former Minister of Education Colonel Clementino Castillo Coronado was announced on May 26. Castillo is the first military officer of senior rank known to have been arrested by the junta.

Junta Member Maldonado Shaad announced on May 26 that an order has been issued for the arrest of another military officer, Colonel Jorge Mario Reyes Porras, former director of the Peten Department Development Organization.

ELECTIONS

On March 29 Rios Montt was quoted as saying that he was "working hard to hold completely honest elections as soon as possible."

The April 28 Statute of Government pledges the junta "to create a spirit and juridical/political environment that will guarantee the directing of the country to a legal constitutional system that will result in a democratic government based on popular elections." It outlines a specific list of officers, under both the former Lucas administration and the military junta now in place, who are not eligible for participation in any future popular election.

Following a April 16 meeting of the junta and political party leaders, former presidential candidate Anzueto said that political parties are going "to participate in drafting the new electoral law, and establishing the electoral systems, using past experiences and up to date and practical methods to minimize the possibilities of fraud and to make it more representative of the peoples's will."

Giving no details on the elections, Rios Montt stated on May 17 that constituent assembly elections would be held at the end of the year. (El Grafico, May 18)

HUMAN RIGHTS ORGANIZATIONS

Junta member Maldonado Shaad said in mid-April that Amnesty International or any other human rights organization was welcome to come to Guatemala.

Reportedly Rios Montt told a reporter on April 27 that human rights in Guatemala can be investigated by any international organization adding that "we are going to change the attitude of this government and are going to be concerned about the people." (AFP, Guatemala City, April 27)

The GOG accepted an invitation to attend the June 24-28 session in Geneva of the UN Working Group on Forced or Involuntary Disappearances.

Guatemala participated in the ILO conference in Geneva June 2-23. Two democratic labor leaders were on the delegation.

At the end of May the GOG invited the Inter-American Human Rights Commission to visit the country.

REFUGEES

100 refugee families which began fleeing Chimaltenango last December as a result of "massacres by armed unknowns" asked the junta to provide assistance, primarily food and water. They also indicated that they would be willing to return if the army guarantees their safety. The refugees claimed that "the number of massacred families has dropped since the new government came to power." (Prensa Libre, April 14)

A military source has stated that recent guerrilla attacks in Chimaltenango province have driven some 300 peasants to take refuge in a camp six miles outside Guatemala City. The army, Red Cross and National Emergency Committee are providing food, medical care to the camp.

On May 25 the Government signed an agreement with the FAO which provides food aid valued at $2,019,000 to feed 125,000 displaced persons in northwest Guatemala for four months. The program will be administered by CARITAS and the National Emergency Committee.

REDUCTION IN VIOLENCE

Urban violence has decreased significantly since the coup.

Rural violence, while significantly high, appears, when identifiable, to largely be the responsibility of the guerrillas.

Embassy reporting indicates in April, for the first time since it began keeping records, the percentage of killing by the left surpassed that of the right, "non-attribution", or the GOG. All GOG killings reportedly took place in combat.

The notorious Commando Seis, officially a 60-70 man investigation unit of the national police, but allegedly a hit squad, has been reorganized.

National police are now ordered to show badges and give names and numbers when stopping citizens for questioning.

An April 1 news item reported the arrest of two police guards of the National Police School in Esquintla by a unit of the Mobile Military Police. The two guards were accused of "kidnapping" a waitress from a bar in that town.

A complaint department has been established in the national police headquarters. As of mid-April a thousand people had sought information about missing persons.

Police "freed" San Carlos University Dean Alfonso Velasquez Perez who had been kidnapped February 18.

The national police is under investigation by its new commanders. Reportedly five police chiefs have been dismissed. An investigation of the Corps of Detectives may result in similar actions.

Reportedly private security forces are being disarmed in compliance with Rios Montt's March 24 directive. Up to 2,000 bodyguards assigned to former officials of the Lucas Administration have returned to uniformed service in the national police.

Junta member Maldonado Shadd indicated that an investigation had begun into the matter of 164 military commissioners (Sheriffs) who had been accused by campesinos of murder, rape and pillage.

An investigation has reportedly begun into the complaint of the citizens of a rural town that the deputy-chief of police committed numerous "crimes against human rights" such as unwarranted arrest, extortion and illegal entry into private homes.

The Government on April 23 removed the two most senior police officials in the Department of Suchitepequez and charged them with negligence in permitting two prisoners to be kidnapped and two others to be killed while being transported between prisons.

Newspapers reported May 18 that 58 policeman had been dismissed and formally charged with a variety of crimes.

MISCELLANEOUS

The Ministry of Interior permitted a student mock demonstration on April 2, a traditional annual lampooning of the government, which was banned last year.

The GOG obtained a peaceful resolution to the takeover of the Brazilian Embassy on May 12 in contrast the violence surrounding the takeover of the Spanish Embassy in January 1980.

On May 18 the appeals court ordered the release of three Guatemalans who had been

imprisoned for the murder of Father Stanley Rother in July 1981. The release terminated what appeared to be a grave miscarriage of justice.

On June 15 Rios Montt reportedly stated this government was seeking unconditional talks with the guerrillas.

AREAS OF CONCERN

On July 4 President Rios Montt announced that Juan Jose Hurtado, a Guatemalan doctor reportedly kidnapped on June 24, had been detained by the Guatemalan Government for being a "communist". While regrettable, the GOG, in contrast to its predecessor, acknowledged, although belatedly, Hurtado's detention.

In an attempt to deal more effectively with the guerrilla threat the Guatemalan Government instituted on July 1 a series of martial law decrees that establishes courts of special jurisdiction to try persons found guilty of specific charges of subversion, cancels all licenses to bear arms, authorizes searches of houses and cars without court orders, establishes GOG control over television and radio broadcasting and authorizes summary justice under battlefield conditions as specified in the military code. The decrees are valid for thirty days.

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON INTERNATIONAL DEVELOPMENT INSTITUTIONS AND FINANCE,
Washington, D.C., July 20, 1982.

STEPHEN W. BOSWORTH,
Principal Deputy Assistant Secretary of State for Inter-American Affairs, Department of State, Washington, D.C.

DEAR MR. BOSWORTH: Thank you for your letter responding to my inquiry on the basis for changing U.S. voting policy toward Guatemala at the multilateral development banks. I also very much appreciated your commitment to the African Development Fund legislation.

I am disappointed, however, by the quality of the background information attached concerning Guatemala and deeply concerned that, based on such information, the Department appears to have made a highly questionable assessment about the current status of human rights in Guatemala. I would agree that some of the early signals coming from the Rios Montt government were hopeful. Much of the background information you provided draws on that earlier period. More recent developments, however, are more worrisome.

I am disappointed that the information cited in the attachment comes so often from the Guatemalan press or government and rarely from any independent source or U.S. investigation. There is little evidence of efforts to check the accuracy of the information or to independently gather other information. This becomes a particular problem when quotations in the press from deposed junta members Colonels Maldonado Schaad and Gordillo are cited as authorities on future plans of the regime.

Much of the information was not relevant to the sepcific questions raised by Section 701. The interest of the new government in punishing corruption and (before the recent State of Seige declaration) reforming electoral law, as you indicate, is positive, but it is not relevant to Section 701.

I am concerned, too, about what seems to be a selective use of quotations and information. For example, General Rios Montt is quoted (in the "Promises" section) making a statement supportive of human rights in March. He has been quoted more recently and more specifically, however, stating that "human rights is an international topic which they use to annoy a government or people which is against communism" (*Prensa Libre*, May 10) and condemning subversives "hiding behind human rights" (Guatemala City Domestic Service, July 2). Statements, however, are not my main concern.

As I indicated in my June 13 letter, I am interested in knowing "the background and evidence that you can share to substantiate Guatemala's new qualification under Section 701." I am interested in learning the extent to which torture, holding prisoners without charge and extra-legal execution by the government continue or do not continue to take place and the extent to which the government does or does not locate, try and punish those who committed such abuses under the previous regime.

I have spoken with other members of the Subcommittee on International Development Institutions and Finance concerning this issue. Because of the wide interest in U.S. policy in this area, I have scheduled a hearing of the Subcommittee for Thursday, August 5 at 10:00 a.m. to examine this issue. I will write separately to Secretary Schultz to ask that the State Department testify. I will also contact Secretary Regan to ask that any action on this loan be delayed pending our hearing.

I look forward to continuing to exchange views with you on this matter.

Sincerely,

JERRY M. PATTERSON,
Chairman.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. PHILLIP BURTON (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. HOLLENBECK (at the request of Mr. MICHEL), for today, on account of official business.

Mr. DENARDIS (at the request of Mr. MICHEL), for today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PARRIS) to revise and extend their remarks and include extraneous material:)

Mr. DERWINSKI, for 5 minutes, today.

Mr. PARRIS, for 30 minutes, today.

(The following Members (at the request of Mr. RATCHFORD) to revise and extend their remarks and include extraneous material:)

Mr. ST GERMAIN, for 15 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. ROSTENKOWSKI, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KINDNESS, and to include extraneous material, during debate on H.R. 2329 in the Committee of the Whole today.

Mr. FORD of Michigan, at end of debate on House Resolution 528.

Mr. PATTERSON, and to include therein extraneous material, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,071.

(The following Members (at the request of Mr. PARRIS) and to include extraneous matter:)

Mr. DANIEL B. CRANE.
Mr. GOODLING in two instances.
Mr. BURGENER.
Mr. ROBERTS of South Dakota.
Mr. GOLDWATER.
Mr. DERWINSKI in three instances.
Mr. GILMAN in two instances.
Mr. PORTER.
Mr. SAWYER.

(The following Members (at the request of Mr. RATCHFORD) and to include extraneous matter:)

Mr. HUBBARD.
Mr. LAFALCE.
Mr. WOLPE.
Mr. ADDABBO.
Mr. FRANK.
Mr. BREAUX.
Mr. KASTENMEIER.
Mr. SWIFT.
Mr. LEHMAN
Mr. D'AMOURS.
Mr. OTTINGER.
Mr. HAMILTON.

ADJOURNMENT

Mr. RATCHFORD. Mr. Speaker, I move that the House do now adjourn.

Accordingly (at 2 o'clock and 59 minutes p.m.), under its previous order, the House adjourned until Monday, July 26, 1982, at 12 o'clock noon.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees and an individual traveling under an authorization from the Speaker concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1982 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON WAYS AND MEANS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of Member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Hon. Barber B. Conable	4/6	4/8	Dominican Republic		184.00						184.00
	4/8	4/9	Colombia	5,272.70	86.00						86.00
	4/9	4/11	Antigua		314.00						314.00
	4/11	4/12	Venezuela	492.20	115.00						115.00
	4/12	4/14	Costa Rica	7,035	150.00						150.00
Transportation by Department of Defense							522.00				522.00
							3,042.00				3,042.00
Hon. Sam M. Gibbons	4/6	4/8	Dominican Republic		184.00						184.00
	4/8	4/9	Colombia	5,272.70	86.00						86.00
	4/9	4/11	Antigua		314.00						314.00
	4/11	4/12	Venezuela	492.20	115.00						115.00
	4/12	4/14	Costa Rica	7,035	150.00						150.00
Transportation by Department of Defense							5,181.44				5,181.44
Hon. J. J. Pickle	4/6	4/8	Dominican Republic		184.00						184.00
	4/8	4/9	Colombia	5,272.70	86.00						86.00
	4/9	4/11	Antigua		314.00						314.00
	4/11	4/12	Venezuela	492.20	115.00						115.00
	4/12	4/14	Costa Rica	7,035	150.00						150.00
Transportation by Department of Defense							5,181.44				5,181.44
Hon. Fortney H. (Pete) Stark	5/28	6/2	Italy	480.624	372.00		614.10				986.10
Thelma J. Askey	5/9	5/12	France	1,548	258.00		1,850.00				2,108.00
Ann Flaig DuLaney	4/26	4/30	Switzerland	876.85	445.00		1,470.00				1,915.00
Franklin C. Phifer, Jr.	5/16	5/22	Belgium	17,265	395.00		858.00				1,253.00
Committee total					4,017.00		18,718.98				22,735.98

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, July 1, 1982.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMISSION ON SECURITY AND COOPERATION IN EUROPE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Moller, Herbert	4/5	4/12	Rome, Italy	616,824	468.00		[3] 1,810.35				
	4/12	4/16	Portugal		400.00						
Committee total					868.00		1,810.35				2,678.35

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.
[3] Round trip.

DANTE FASELL, Chairman, July 1, 1982.

AMENDED REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, MICHAEL MAREK, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN MAR. 2 AND MAR. 9, 1982

Name of member or employee	Date		Country	Per diem [1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]	Foreign currency	U.S. dollar equivalent or U.S. currency [2]
Michael Marek	3/2	3/4	Belgium		73.51						73.51
	3/4	3/7	Poland		241.49						241.49
	3/7	3/8	Austria		83.00		25.43				108.43
	3/8	3/9	Italy		78.00						78.00
Transportation (military aircraft)							4,348.00				4,348.00
Committee total					476.00		4,373.43				4,848.43

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MICHAEL MAREK, June 30, 1982.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4431. A letter from the Chairman, Federal Labor Relations Authority, transmitting a report of violation of the Anti-Deficiency Act, pursuant to section 3679(i) of the Revised Statutes, as amended; to the Committee on Appropriations.

4432. A letter from the Secretary of Energy, transmitting the fifth semiannual report on alternative fuels production, pursuant to title II of Public Law 96-126; to the Committee on Appropriations.

4433. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-226, "Compulsory/No-Fault Motor Vehicle Insurance Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4434. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-224, "Lorton Regulations Approval Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4435. A letter from the Chairman, Council of the District of Columbia, transmitting D.C. Act 4-225, "Project Setoff Liability Act of 1982," pursuant to section 602(c) of Public Law 93-198; to the Committee on the District of Columbia.

4436. A letter from the Chairman, National Advisory Council on Vocational Education, transmitting the Council's 1981 annual report, pursuant to section 443(2) of the General Education Provisions Act; to the Committee on Education and Labor.

4437. A letter from the Acting Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of May 1982 on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the

Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4438. A letter from the Acting Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting a report covering the month of April 1982 on the average number of passengers per day on board each train operated, and the on-time performance at the final destination of each train operated, by route and by railroad, pursuant to section 308(a)(2) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4439. A letter from the Acting Vice President for Government Affairs, National Railroad Passenger Corporation, transmitting the financial report of the Corporation for the month of February 1982, pursuant to section 308(a)(1) of the Rail Passenger Service Act of 1970, as amended; to the Committee on Energy and Commerce.

4440. A letter from the Benefits Manager, New York Life Insurance Co., Sacramento Farm Credit Employees' Retirement Plan, transmitting a report for the plan year from January 1, 1981, through December 31, 1981, for the Sacramento Farm Credit Pension Plan, pursuant to Public Law 95-595; to the Committee on Government Operations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. Report on allocation of budget totals to programs under the first concurrent budget resolution for fiscal year 1983 (Rept. No. 97-659). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 6782. A bill to amend title 38, United State Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemmity compensation for surviving spouses and children of veterans, and for other purposes; with an amendment (Rept. No. 97-660). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. Report on allocation of budget totals to subcommittees (Rept. No. 97-661). Referred to the Committee of the Whole House on the State of the Union.

Mr. EDWARDS of California: Committee on the Judiciary. H.R. 6663. A bill to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure; with an amendment (Rept. No. 97-662). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee of conference. Conference report on S. 2332. (Rept. No. 97-663). Ordered to be printed.

Mr. FORD of Michigan: Committee on Post Office and Civil Service. H.R. 6785. A bill, to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983 (Rept. No. 97-664). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. PHILIP M. CRANE (for himself and Mr. DANIEL B. CRANE):

H.R. 6852. A bill to amend the Internal Revenue Code of 1954 to exclude tips from gross income; to the Committee on Ways and Means.

By Mr. KASTENMEIER:

H.R. 6853. A bill to amend title 18 of the United States Code to codify certain offenses regarding military service, and for other purposes; to the Committee on the Judiciary.

By Mr. VOLKMER:

H.R. 6854. A bill to provide financing assistance for agricultural export sales; to the Committee on Foreign Affairs.

By Mr. WALKER:

H.R. 6855. A bill to eliminate the permanent appropriation of funds for the compensation of Members of Congress; to the Committee on Appropriations.

By Mr. WEAVER:

H.R. 6856. A bill to increase royalties on nonrenewable oil and gas production from public lands, to establish a renewable resources trust fund, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. DERRICK:

H.J. Res. 546. Joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures; to the Committee on the Judiciary.

By Mr. FROST:

H.J. Res. 547. Joint resolution proposing an amendment to the Constitution of the United States which prohibits the Congress from making any law which causes the total amount of money expended by the United States in any fiscal year to exceed the total amount of revenue of the United States received during that fiscal year; to the Committee on the Judiciary.

By Mr. GILMAN:

H.J. Res. 548. Joint resolution calling for peace in Northern Ireland and the establishment of a united Ireland; to the Committee on Foreign Affairs.

By Mr. HEFTEL:

H.J. Res. 549. Joint resolution proposing an amendment to the Constitution altering Federal budget procedures; to the Committee on the Judiciary.

By Mr. PERKINS (for himself, Mr. GOODLING, Mr. HAWKINS, Mr. JEFFORDS, Mr. FORD of Michigan, Mr. COLEMAN, Mr. PHILLIP BURTON, Mr. KRAMER, Mr. GAYDOS, Mr. ERDAHL, Mr. CLAY, Mrs. FENWICK, Mr. BIAGGI, Mr. DENARDIS, Mr. ANDREWS, Mr. SIMON, Mr. MILLER of California, Mr. MURPHY, Mr. WEISS, Mr. CORRADA, Mr. KILDEE, Mr. PEYSER, Mr. WILLIAMS of Montana, Mr. RATCHFORD, Mr. KOGOVSEK, Mr. WASHINGTON, and Mr. ECKART):

H. Con. Res. 384. Concurrent resolution expressing the sense of the Congress that the United States should maintain Federal involvement in, and support for, the child nutrition programs, and for other purposes; jointly, to the Committees on Education and Labor and Agriculture.

By Mr. MURPHY (for himself, Mr. BEILENSON, Mr. LAFALCE, Mr. YATRON, Mr. PEASE, Mr. PAUL, Mr. BARNES, Mr. GRADISON, and Mr. ERLENBORN):

H. Res. 533. Resolution providing for abolition of the page system and employment of college student messengers in the House of Representatives; to the Committee on House Administration.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

444. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to P.O.W.'s and M.I.A.'s; to the Committee on Foreign Affairs.

445. Also, memorial of the Legislature of the State of Louisiana, relative to Federal criminal statutes relating to the insanity defense; to the Committee on the Judiciary.

446. Also, memorial of the Legislature of the State of Louisiana, relative to Haitian refugees; to the Committee on the Judiciary.

447. Also, memorial of the Legislature of the State of Louisiana, relative to the foreign meat inspection program; to the Committee on Rules.

448. Also, memorial of the Legislature of the State of Louisiana, relative to hazardous waste treatment and disposal sites; jointly, to the Committees on Energy and Commerce and Public Works and Transportation.

449. Also, memorial of the Legislature of the State of Louisiana, relative to H.R. 6115; jointly, to the Committees on the Judiciary and Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. FOGLIETTA introduced a bill (H.R. 6857) for the relief of Hanshen Fu, Hsiao-Chi Chu, Hsiao-Lin Chu, and Huifang Lin Fu; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1918: Mr. MCKINNEY.
H.R. 3607: Mr. LANTOS.
H.R. 4657: Mr. BOWEN.
H.R. 4842: Mr. EVANS of Iowa.
H.R. 4898: Mr. BENEDICT.
H.R. 5684: Mr. ROE and Mr. BINGHAM.
H.R. 5752: Mr. LUJAN and Mr. MARKS.
H.R. 5920: Mr. GAYDOS and Mr. ROE.
H.R. 6463: Mr. RAILSBACK.
H.R. 6536: Mr. DOUGHERTY, Mr. EDGAR, Mr. SUNIA, Mr. FORSYTHE, Mr. SMITH of Pennsylvania, Mr. WORTLEY, Mr. CLINGER, Mr. BARNES, Mr. FAZIO, Mr. GINGRICH, Mr. DUNCAN, Mr. DE LA GARZA, and Mr. MITCHELL of Maryland.
H.R. 6591: Mr. FLORIO.
H.R. 6665: Mr. CORRADA.
H.R. 6674: Mr. PEYSER and Mr. KILDEE.
H.R. 6729: Mr. BARNES, Mr. BINGHAM, Mr. FLORIO, Mr. FRANK, Mr. HUGHES, and, Mr. VENTO.
H.R. 6753: Mr. MCCOLLUM, Mr. BAFALIS, Mr. GUNDERSON, Mr. OXLEY, Mr. CHAPPIE,

Mr. McDADE, Mr. THOMAS, Mr. LAGOMARSINO, Mr. YOUNG of Florida, Mr. EMERSON, Mr. ROBERTS of South Dakota, Mr. KOGOVSEK, Mr. MARRIOTT, Mr. CHAPPELL, Mr. PEPPER, Mr. KILDEE, Mr. OTTINGER, Mr. HUBBARD, Mr. DASCHLE, Mr. ROE, Mr. CORRADA, Mr. BEDELL, Mr. CORCORAN, Mr. SANTINI, Mrs. BOUQUARD, Mr. MONTGOMERY, Mr. SCHUMER, Mr. YOUNG of Alaska, Mr. CLAUSEN, Mr. ERTEL, Mr. FAUNTROY, Mr. LONG of Louisiana, Mr. ERDAHL, Mr. CLINGER, and Mr. AKAKA.

H.R. 6755: Mr. FASCELL, Mr. BINGHAM, Mr. YATRON, Mr. IRELAND, Mr. MICA, Mr. BARNES, Mr. BOWEN, Mr. DERWINSKI, Mr. WINN, Mr. GILMAN, Mr. LAGOMARSINO, Mr. GOODLING, Mr. PRITCHARD, Mrs. FENWICK, Mr. DORNAN of California, Mr. LEACH of Iowa, Mr. LEBOUTILLIER, and Mr. HYDE.

H.R. 6774: Mr. PEPPER and Mr. DWYER.

H.R. 6775: Mr. PEPPER and Mr. DWYER.

H.J. Res. 486: Mr. ERTEL and Mr. PEYSER.

H.J. Res. 489: Mr. DWYER, Mr. LOWRY of Washington, Mr. MOAKLEY, Mr. BEILENSON, Mr. FORD of Tennessee, Mr. WEISS, Mr. ROSENTHAL, Mr. STARK, Mr. LANTOS, Mr. ERTEL, Mr. PANETTA, Mr. SHAMANSKY, Mr. CONTE, Mr. FAZIO, Mr. FRANK, Mr. BROWN of California, Mr. BARNES, and Mr. BRODHEAD.

H. Res. 446: Mr. SUNIA, Mr. HERTEL, Ms. MIKULSKI, Mr. DYMALLY, Mr. WAXMAN, Mr. ROE, Mr. RATCHFORD, and Mr. DWYER.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2643

By Mr. BROWN of Colorado:

—Page 147, after line 21, add the following new section:

SEC. 31. RELEASE OF DEED RESTRICTIONS.

(a) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of subsection (b) of this section, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(b) Any release granted by the Secretary of Transportation under subsection (a) shall be subject to the following conditions:

(1) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(2) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(3) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

H.R. 5203

By Mr. HARKIN:

—Page 63, strike out line 21 and all that follows through line 10 on page 69.

H.R. 6370

By Mr. BAILEY of Pennsylvania:

—Add the following new section at the end of the bill:

EXPORT OF CURRENCIES TO VIETNAM

SEC. 605. (a) No person shall export from the United States any currency directly or indirectly to any person in Vietnam.

(b) Any person who violates the provisions of subsection (a) shall be fined not more than $10,000 or imprisoned not more than one year, or both.

(c) The President shall issue such regulations as are necessary to carry out this section.

(d) If the President determines that the Government of Vietnam is returning to Vietnam those Vietnamese nationals whom that Government has sent against their will to other Communist countries, then the President may suspend the provisions of this section.

EXTENSIONS OF REMARKS

WHERE DO WE GO FROM HERE?

HON. BARNEY FRANK
OF MASSACHUSETTS
IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. FRANK. Mr. Speaker, earlier this year Sol C. Chaikin, president of the International Ladies' Garment Workers' Union, made a very thoughtful and comprehensive speech on the need to rethink several areas of public policy to the conference of the Americans for Democratic Action. A number of commentators have called on those who are critical of the Reagan program. Not simply to reject the President's proposals, but, in fact, to offer constructive programs of their own. The speech which Chick Chaikin gave to the ADA is a first-rate example of how critics of the President ought to meet that challenge. Drawing on his experience as the leader of a major American trade union, as well as his wide-ranging knowledge about public policy problems, both domestically and internationally, Mr. Chaikin presented to the ADA both a thoughtful analysis of American society and a reasoned set of proposals as to how to deal with these problems. I ask that this very useful speech be reprinted here.

WHERE DO WE GO FROM HERE?

Two crucial tasks confront every liberal-minded American. The first is to re-establish the progressive coalition that elected Presidents Roosevelt, Truman, Kennedy, Johnson and Carter. Old friends—labor, minorities, urbanites, women, intellectuals, consumer and environmental groups—must reach out to one another and refind the strength that makes them the true political backbone of the country.

The second major task is to hammer out a program that addresses the difficult problems facing our nation. FDR's promise of decent housing, decent health care, decent education and decent living conditions for all Americans, the goals of full employment and low inflation set forth in the Humphrey-Hawkins bill still await fulfillment.

In this major address to the Franklin and Eleanor Roosevelt Centennial Conference of the Americans for Democratic Action, Sol C. Chaikin, President of the International Ladies' Garment Workers' Union, offers a program toward meeting both of these goals. This agenda for the '80s promises more than a rebirth of the economy. In President Chaikin's words, it "would mean a rebirth of the American Spirit."

—EDUCATION DEPARTMENT, ILGWU.

May I begin by thanking ADA for inviting me to address this distinguished assembly. To the International Ladies' Garment Workers' Union, to like minded organizations and individuals, to me personally, it is more than just a passing incident. I see this moment as a symbolic renaissance, a time for the rebirth of the liberal coalition.

The hour is well timed. This is the one hundredth anniversary of Roosevelt's birth. Surely, according to some religious or cultural tradition, every one hundred years a new prophet should appear to restate and to renew the faith. Though, obviously, I do not fulfill that role, I should like to think that the hour has come for us and that, somewhere out there, he or she waits for our call.

In 1947, when ADA was born, my predecessor, David Dubinsky, was one of the founding fathers. ADA was then a kind of government-in-exile, made up of old New Dealers, Rooseveltians, who felt like outsiders in the first days of Harry Truman. Indeed, the earliest effort of ADA was to find an alternate candidate to Truman.

In 1948, Truman won the nomination—contrary to the best desires of ADA. To the credit of the organization, once Truman was nominated, he won the backing of ADA—and he was elected.

In this victory, both Truman and ADA had unlikely assists from Henry Wallace and Strom Thurmond. Mathematically, Wallace and Thurmond should have insured the election of Republican Dewey. Wallace drained off support of a "leftist"—basically pro-Soviet—wing of the Democratic Party. Thurmond, the Dixiecrat candidate, drew off the support of a "rightist"—basically segregationist—wing of the Democratic Party. By the numbers, Truman had to lose with his own party torn three ways.

But he won because politically he was liberated from the incubus of the fellow travelers on the left and the segregationists on the right. He was able to run as a liberal in the great American tradition of championing human rights both internationally and domestically, both politically as embodied in our first Bill of Rights and economically as embodied in Roosevelt's Second Bill of Rights when he proclaimed the right to a job, a decent income, a home, education, health care.

In the years since Truman, the liberal coalition has lost some of its cohesion. It really never fell totally apart: witness the elections of Kennedy, Johnson, Carter and the near-miss of Humphrey. But the coalition did lose some of its glue: the dedication to human rights, economic and political, here and around the globe.

The reasons are not hard to find. Our success produced some schisms. The relative affluence we have enjoyed until recently made our common economic dedication—full employment—less urgent. New issues pressed to the fore: civil right, women's rights, gay rights, student rights, children's rights, environment, nuclear energy and disarmament. In many cases, movements became single-issue minded, subject to all the internal factionalism of the passionately political. No issue, of course, was more divisive than Vietnam, tearing us apart ideologically, by generation, by a division between most intellectuals and most of labor, and finally by a campaign in which ADA backed Eugene McCarthy and others of us favored Hubert Humphrey.

INDUCING RECESSION

In that election of 1968, Richard Milhous Nixon was narrowly elected. But he interpreted his thin margin as a mighty mandate to reverse the direction of American policy. Seizing upon an inflation rate of between four and five percent in 1968 (an annual rate that we would today find most acceptable), Nixon proposed a policy of combatting inflation by inducing recession. He decided that it is proper national policy to manufacture unemployment.

Because of the ill repute into which Nixon subsequently fell, it is tempting to say that the perverse politics of deflating by a depression is the aberration of an evil genius. The truth is that the Nixon policy was the logical and necessary expression of a wholly unacceptable philosophy that has dominated our national attitude for more than a decade.

That doctrine holds that inflation is caused by people having too much money. Not all people, but some. America's working and middle classes, those who work for wages and salaries, have too much. America's poor, who depend on welfare and food stamps and rent supplements have too much. The only people who do not have too much are the richest, who do not have enough to invest to provide jobs for the rest of us.

The solution is elementary. Hold down wages and salaries, hold down expenditures for the poor, enlarge the income of those who have more than they need.

The policy, hinted at by Eisenhower, stated more boldly by Nixon, is under President Reagan the decisive dogma of the Administration. It is called "supply-side" economics.

In practice, it is three policies wrapped into one:

The first policy is to restrain the economy, to allow unemployment to rise and then to continue at painfully high rates. The second policy is to write a tax code that will enrich the richest at the expense of everyone else. The third policy is to try to balance the budget by cutting into the social programs of those who need federal aid. All three programs add up to a massive redistribution of income from the bottom through the middle to the top—a redistribution not accomplished by the invisible hand of the market but by the very visible hand of the government.

The mischievous mix is a formula for social explosion. We have a growing population living in a shrinking economy. Inevitably, social tensions must mount as each of us turns against the other in the struggle to maintain our group's share of the pie. This Hobbesian state of civil war will be sharpened as our limited income is redistributed to the top, igniting the poorest and most volaltile elements in the country to explode.

At such a time—as in the time of the Great Depression and World War II—the various popular movements that make up the liberal coalition should find a natural cause to coalesce and to form the core of a national rededication to a common course of action. To begin with, as so often in the past, we will find our unity less in our friendship for one another and more in a common fear and foe.

But in politics, unlike in algebra, a double negative does not make a positive. We need

a program that is something more than a rejection of what confronts us.

A popular proposal—for openers—is to cut and stretch out the military budgets and to transfer the funds to social programs. The notion is appealing. It has an ethical appeal, a rejection of the obscene policy of spending more to kill people while spending less to keep people alive. It has an economic appeal, for money poured into armaments eats up resources without providing consumer goods and is, therefore, inflationary. It has a humanitarian appeal, because if we are ever to set our missiles on their deadly mission we would end up with a cosmic holocaust. It has a pragmatic appeal, especially after Admiral Rickover's scathing attack on waste in the military.

All this must prompt us to insist that the defense budget be scrutinized with all the industry that we apply to other programs so that military expenditures do not become just a welfare program for defense contractors.

We must support every move to hold down or reduce the level of armaments through talks and agreements with the Soviet Union, whether the negotiations to do so are called SALT, START or just plain HALT.

While such efforts are both necessary and desirable, it would be a great illusion on the part of American liberalism to assume that reduced expenditures on the military would solve our economic problems or that a unilateral halt to arms spending would enhance opportunities for greater peace and freedom in the future.

We are now committed to spending about $200 billion a year for defense. That represents about 7 percent of our Gross National Product of $3 trillion. About half the military expenditures are for personnel. Funds for hardware represent about 4 percent of GNP.

That 4 percent is no mean sum. But it is less than the cost of a 9 percent unemployment rate; it is a fraction of the cost of artificially inflated interest rates; it is less than the cost of tax expenditures, that deceptive euphemism for tax loopholes. The arms budget dwindles alongside the costs of the destructive economic policies of the last decade.

Let us consider the arithmetic. If we did what the Humphrey-Hawkins Act legislated us to do, our economy would be running at full capacity instead of the present 70 percent of capacity. Another trillion dollars a year would be added to our GNP. The military budget would be about 5 percent of the GNP. At present tax rates, another trillion in the economy would yield an additional $200 billion a year, enough to balance the budget and to provide an added $100 billion of social programs.

Maintaining a strong defense posture is economically possible for America. It is also politically necessary!

If we disarm, the Soviet Union is not likely to follow our noble example. Its prime fear is not only America but its own empire—inherited from the Czars and greatly expanded by the present occupants of the Kremlin. Russian excesses in Afghanistan and Poland are mere hints of Russia's fears that someday all its minorities, in and around the Soviet Union, will sooner or later demand their freedom. Russian arms, in the first place, are aimed at their own enslaved people and those in their eastern satellites!

Russia has an economic as well as a political compulsion to maintain extensive military power. It cannot feed itself. It will soon become dependent on Third World countries for materials. It seeks economic hegemony in distant lands and military control over vital sea lanes.

What we must hope is that the Soviet Union will find that the cost of its military machine is prohibitive and that the extraordinary expenditures are causing more economic and political problems than they are solving. At such time, real progress in mutual arms reduction may be possible.

But until then, it is unrealistic and undesirable for the United States to deny itself adequate military strength and it is unnecessary for us to do so if we determine to make full utilization of our economic potential.

THE SOLUTION IS GROWTH

Our ability to meet our domestic needs and to fulfill our international obligations—to put it more bluntly, to afford both guns and butter—depends upon economic growth.

Priority Number One in a program for the '80's is economic growth. And to grow we must redistribute the national income by reversing the present direction of maldistribution. That redistribution is demanded for both equity and efficiency.

Equity insists that the present gap between top and bottom is intolerable. Too few have too much; too many have too little. Our one nation indivisible is turning into two nations, badly divided, between the privileged and the rest of us—the poor, the near poor, and the about to be poor.

Present maldistribution is unworkable as well as unfair. It is inefficient.

Ours is a market economy. The American market consists of the 85 percent of the families dependent on wages and salaries for their income. If that market is shrunk, as we have been systematically shrinking it for at least a decade, then the entire economy must shrink.

Our first priority is to strengthen our market economy by strengthening our market, namely, the income of the families that live on wages and salaries.

In redistributing income, there are crucial priorities. At the top of the agenda are the working poor.

I refer to those in the labor force who are employed full time, work a full year, but whose after-tax take-home buying power is so low that they find themselves either below the poverty line or barely above it. Among them are to be found five million workers who depend on the Federal Minimum Wage of $3.35 per hour to provide for their earnings.

These working poor can be found in fairly well-defined sections of our society: in labor-intensive manufacture, in the service trades, in retailing, in clerical jobs. They are the non-affluent sectors in our allegedly affluent economy. They are the secondary layer in our two-tier economy.

They are not people who are jobless; they have jobs. They are not without skills; indeed, in some cases they have more skills than their sisters and brothers in the primary sector. They are the hapless victims of their occupational circumstance.

In this lower tier of the economy, there is a disproportionately large number of women and minorities. Indeed, the gap between the wages of women and men is primarily due to this occupational segregation of the labor force. The same is true for the lower pay of minorities.

As we address ourselves to the redistribution or income, we must not only have an eye on achieving greater equity as between the super-rich and the rest of us but also as between the primary and secondary layers of our two-tier society.

A redistribution of income must be accompanied by a reexamination of America's place in the world economy. Here we have two concerns: the import of goods and the export of capital.

We live in a time when the economy has become internationalized. Major nations are increasingly involved in buying from and selling to other nations. And precisely because economic energies are no longer confined to national boundaries, the U.S. cannot be an island unto itself—an island of free trade in an ocean of protectionism.

In the last decade, labor-intensive manufacture has lost many hundreds of thousands of jobs that were eroded in waves of imports from countries where wages are counted in pennies, not dollars. In many cases, these imports are the products of American manufacturers using foreign labor to produce cheaply—not to give a bargain to the American consumer, but to enlarge the profit margins of the manufacturer, or the retailer, or the importer—or all of them.

The people who were hit hardest and first by these tidal waves of imports are the workers in labor-intensive manufacture. They are the working poor now threatened with imported unemployment.

But the import flu, like any other virulent contagion, has not been confined to labor-intensive manufacture. It has spread to electronics, TV, steel, auto, computers. The disease that was once the occupational hazard of light manufacture has hit all American manufacture.

The import of goods is only one half the problem; the other half is the export of American capital.

In the last decades, one of America's greatest exports has been the export of production. Multinational corporations have taken what David Ricardo would have called our natural advantages—namely, capital and technology—and have located these factors of production in other lands, using overseas facilities as a platform from which to launch exports to the U.S.

This flow of commodity import and capital export is responsible for the deindustrialization of America.

In allowing goods to flow in and capital to flow out, the United States is unique among the industrial nations of the world. We are the victims of laissez faire policies when laissez faire is long dead—if it ever existed.

The time has come when liberals who see through the nonsense of laissez faire domestically also reject the myths about the desirability or even the possibility of such conduct internationally. Free trade is a myth; fair trade is a must!

We must as a nation evolve a rationale policy of fair trade.

The deindustrialization of America, however, is not due solely to our laissez faire attitudes on trade and capital export; manufacture in the United States has been on the decline also because of our similar attitude on domestic investment.

The American steel industry is obsolete; virtually no new plant has gone up in the last forty years. Renewal of that vital industry is necessary not only to meet international competition, but also to serve our domestic needs and to do so in a way that uses state of the art technology.

To encourage steel producers and other manufacturers of vital products to invest in new facilities, our government has written tax laws to provide new riches to some of the richest in our land.

But, instead of investing this newfound wealth in modernization, our mega-corporations have opted to play the merger game. U.S. Steel buys Marathon Oil. Others buy Conoco. Each day they buy one another in a speculative spree that does not add one new tool for modernization, does not add one job, does not turn out one additional product.

We know, as we should have known, that to redistribute income to the top with the expectation that this new capital in the hands of the capitalists will mean more production, more jobs, more modernization is a vain hope. We can not entrust our capital resources to the whims of laissez faire.

What we need are national goals, such as modernization of the steel and auto industry, such as development of supplemental sources of energy, such as new towns and cities, such as a national system of health care, such as purification of our waters and detoxification of our soil and access to capital at modest rates of interest for small business.

We must add to our investment in human capital. Young people should be encouraged and aided financially in their quest for a college education. Workers should be invited to seek higher skills, training and retraining.

We cannot leave the decision to do these things to the big investors. Too often they will choose to speculate rather than invest. They will opt for the fast buck, for the capital gain, for taking care of the insiders in the merger game.

The major decisions on how our capital and human resources are allocated must be made by those entrusted with the public interest.

Our tax laws should encourage targeted investment and should discourage the use of our precious capital for gambling. If someone prefers to speculate, then the winnings ought to be taxed at least as heavily as earned income and, preferably, more heavily. Rewards should go to those who put their money where the national interest dictates.

To set targeted goals—whether through tax policy or through the use of the process envisioned in the Humphrey-Hawkins Act—can do more than spur growth, more than modernize, more than lift productivity. Targeted goals can also combat inflation.

The four most inflationary factors have been fuel, food, housing and health care.

It should be a national target to expand our sources of fuel, both in diversity and quantity.

It should be a national target to unleash, rather than restrain, our agricultural output.

It should be a national target to provide housing, building in new places and tearing down the rot in old places.

It should be a national target to provide adequate health care for all and to devote a greater share of our resources to promote continued good health.

More fuel, more food, more housing, and more health are all ways to increase supply to hold down prices. This is the kind of supply-side economics that we should be promoting.

AN AGENDA FOR THE 1980'S

We must always remember that the mark of a civilized society is what we do for those of us who have the least, not what we do for those who have too much!

What I have tried to do is to suggest an Agenda for the '80's.

It calls for growth; it proposes a redistribution of income with special attention to the neediest; it suggests the need for realistic economic policies in our international economy; it urges a public presence in the allocation of capital resources to stimulate targeted growth to meet national needs and to battle inflation.

The realization of such a program would do move than revive our economy. It would open new opportunities to women and minorities; it would offer an attractive future to the young; it would restore our self-confidence as a nation.

Around such a standard, the many elements that once composed the liberal coalition should once more reassemble to write great new chapters in our history. It would be our living memorial to Roosevelt and to our other heroes in our liberal pantheon.

We are an abundant land—fabulously so. We do not lack resources. We do not lack talent. But we do lack a vision for the future of our nation.

In the absence of such a vision, we are lost—and the young are doubly lost because they grew up in the recent decades when our war against the Great Depression was an item for the history books.

Together we can create such a vision. To me, the rebirth of our economy, with plans reaching from now into the next century, would mean a rebirth of the American Spirit.●

GUARANTEED STUDENT LOAN PROGRAM—THOUGH NOT SUBSIDIZED—NEEDED FOR MIDDLE INCOME STUDENTS, TOO

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. PORTER. Mr. Speaker, this is the time of year when students are finalizing plans for higher education or vocational training programs for the fall. For many, the decisions they face are further complicated by the confusion and uncertainty surrounding the availability of financial assistance.

Along with many other valuable programs, student aid has suffered its share of cutbacks for fiscal 1982. And, in the months ahead, Congress will be considering requests for further reductions for fiscal 1983.

There is no doubt that Congress must reduce the rate of Federal spending and move quickly toward a balanced budget. But as the rate of increase in the Federal budget is scaled back, determining priorities becomes increasingly important. This involves putting money into worthwhile programs while taking it away from others that have proved unnecessary or unworkable.

One of my highest priorities is education, and I am concerned that adequate funding be provided for student loans, including graduate student loans. Higher education is one of the strongest foundations on which our country rests and its continued support is a solid investment in our future.

Although the guaranteed student loan—GSL—program has been in existence for many years, it began expanding rapidly in 1978 when the loans were made available to all students regardless of income. Federal expenditures for interest subsidies rose from $331 million in 1977 to close to $3 billion projected for 1982. The program now serves nearly 4 million students.

Two major problems emerged as the program developed:

Many students whose families could afford to fund their educations took advantage of the low-interest Government-subsidized loans while using their own money for higher yielding investments.

Many students failed to repay the loans causing a severe drain on the program's funding pool.

In 1981, these problems were addressed by the Reagan administration. A "needs" test was instituted for students who wished to borrow funds at a subsidized interest rate of 9 percent, and a strong program was initiated to collect overdue loans.

However, as part of this proposal the administration wanted to eliminate student loan funds entirely for students who did not meet the "needs" test. I objected to this proposal because it would have completely eliminated many middle-income students whose parents simply do not have on hand the extremely large sums of money necessary today for educational costs.

Consequently, I sponsored a proposal to allow independent students or parents who would otherwise be ineligible for student loans because they do not meet the "needs" test to borrow up to $2,500 annually at market interest rates. This is intended to enable all students to obtain GSL's for higher education, although not at the subsidized rate. This idea was adopted by Congress, although the unsubsidized rate was pegged at 14 percent. Unfortunately, not all States have enacted the legislation necessary to make these loans available. Further changes in the law are needed this year to insure that this program will work as intended.

As a member of the House Appropriations Committee, I also supported a measure this spring to add $1.3 billion in supplemental funds to the fiscal 1982 GSL appropriation. This would include funds for graduate as well as undergraduate student loans. A smaller request by the administration for $978 million in supplemental funds, which would have completely excluded graduate student loans, was rejected by the committee. Again, the presumption that funds are readily available for students simply because they have reached the graduate level, in my judgment, is not warranted.

The $1.3 billion in supplemental funding must be approved by Congress

and signed by the President to take effect.

I also have cosponsored House Resolution 422, expressing the sense of Congress that graduate and professional students should remain eligible for GSL's and that funds for campus-based student assistance should not be further reduced. This resolution has 91 cosponsors and currently is pending in the House Education and Labor Committee.

It should be remembered that a student loan program in which all borrowing is repaid has no costs except administrative overhead and interest subsidies. With vigorous collection efforts to insure that loans are, in fact, repaid and with interest subsidies made available only to needy students, the GSL program should stabilize and real costs should actually decrease substantially in the future.

Those students interested in additional information on student assistance for 1982 can obtain a booklet entitled: "A Guide to Federal, State and Private Financial Aid to College Students," by calling my Northbrook service office at 272-0101.

The booklet explains the five basic Federal student aid programs and their eligibility requirements. It is a valuable resource tool for students planning their educational futures.●

RADIO WAR WITH CUBA

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. OTTINGER. Mr. Speaker, I am including in today's RECORD an excellent editorial which appeard in today's New York Times concerning the Reagan administration's ridiculous proposal to create a propaganda radio station for Cuba—Radio Marti.

The administration has yet to provide one credible reason to create this station. As the Times' editorial notes: "Starting a radio war on Cuba promises nothing more useful than static."

I urge my colleagues to vote against H.R. 5427, which authorizes $17.7 million to establish Radio Marti, and I commend this important editorial to their attention:

RADIO WAR WITH CUBA

One can imagine how indignant Ronald Reagan would be if a Democratic Administration spent money it didn't have to create a superfluous propaganda station, all to placate an ideological claque. That pretty well describes his Administration's determination to establish Radio Marti, to broadcast to Cuba. The Navy says it is already building four 250-foot antennas in Key West, even before Congress has voted a dime for this objectionable and extravagant project.

About the only argument for the station is that Fidel Castro is threatening a radio counterattack if Radio Marti is built. Cuba could send signals that would interfere with broadcasts of 200 AM stations in 32 states. No one would want to appear to yield to such Castro bluster.

But that aside, what affirmative reasons are there to build the station? Does the White House really believe that Cubans need special propaganda to expose the lapses of Communism? In truth, what has most unsettled Mr. Castro's tyranny are the stories told by more than 100,000 visiting exiles of their success in the United States. Perversely, in order to look tough on Cuba, the Reagan Administration has made traveling to Havana harder, not easier.

The evident reason for starting Radio Marti is to appease Congressional right-wingers and provide employment for loyalists like F. Clifford White, recently named to head the station. Mr. White managed Barry Goldwater's 1964 run for the Presidency and James Buckley's Conservative Party Senate victory in New York in 1970.

Building antennas before Congress even votes the $10-million "start-up" costs may not be legal, and those masts may be usable for defense, as the State Department argues. But starting a radio war on Cuba promises nothing more useful than static.●

CREDIT FOR TRYING?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. DERWINSKI. Mr. Speaker, the recent developments in Poland must be judged with care and with recognition of the fact that policy decisions by the Polish regime are dictated by Moscow.

Therefore, I commend to the Members the lead editorial in this morning's (July 23) Washington Post. I believe it to be right on target:

CREDIT FOR TRYING?

Should the West give Poland credit for trying to ease martial law? Literally, that is the question posed by Gen. Jaruzelski's latest moves. He has freed another batch of political prisoners, eased certain curbs on travel and communications, held out the possibility of receiving Pope John Paul II next year, and vaguely offered to suspend martial law altogether if tensions subside. In return, he asks the West to lift the sanctions, on credits, debt rescheduling and so forth, that it imposed when he declared martial law last December.

Serious people, and not only Europeans itching to break NATO's December ranks and go back to business as usual, think that President Reagan should respond. Their theory is that Gen. Jaruzelski's policy of gradual relaxation and reform is the only feasible one available to him and that Mr. Reagan could encourage the process by matching strides. True, NATO had asked in December, and it asked again in May, for the release of all detainees, for the end of martial law and for the resumption of a state dialogue with Solidarity and the Catholic Church. However, to stick with these ambitious goals (it is argued) hobbles efforts for a more realistic pace of change, allows Warsaw to shift the onus for the country's economic duress to the United States, and forces it to rely more heavily on Moscow.

We do not dismiss every aspect of this theory of the case. We note, however, that so far the Reagan-inspired theory on which NATO is operating is showing results. The evidence is not simply that the Soviet Union is being forced to divert resources to keep the Polish economy from going belly up. The evidence is that the Jaruzelski regime has been moving by stages toward the NATO goals. It is always possible, of course, to overplay a good hand. But just when the regime has eased up a bit is no time for a premature payoff that might remove its incentive to keep moving.

Lech Walesa and some 600 others remain incarcerated. It is only some of the rigors of martial law, not the structure, that have been eased. The responsible popular forces of Solidarity and the church are far from receiving the roles that they deserve and that Poland desperately needs.●

THE INTERNATIONAL DRUG TRADE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. HAMILTON. Mr. Speaker, I would like to insert my Foreign Affairs Newsletter for July 1982 into the CONGRESSIONAL RECORD:

THE INTERNATIONAL DRUG TRADE

The use of illegal drugs in the United States ranks among our most severe social problems. Dangerous drugs claim the lives of hundreds of people each year, cause psychological problems for thousands of others, and are a chief source of violent crime. The retail value of illegal drugs used in the United States is estimated to approach $100 billion annually.

It is truly an international problem. Most of the dangerous drugs consumed in this country come from outside our borders. Heroin is produced from poppies grown in Southeast Asia (Burma, Laos, and Thailand), in Mexico, and in Southwest Asia (Iran, Pakistan, and Afghanistan). Cocaine is produced from coca plants grown in Peru and Bolivia and is shipped to the United States through Ecuador and Colombia. Although some marijuana is produced in the United States, much of it comes from Colombia and Jamaica.

At the national level, there are many programs, both private and public, designed to combat the use of illegal drugs. For instance, there are programs of education, law enforcement, and rehabilitation. These efforts at home are supported by international efforts to limit the availability of drugs, but it is important not to underestimate the extreme difficulty of stopping international drug traffic.

As strange as it may seem to an American, there is no widespread consensus on the need to stop international drug traffic. Some countries consider it a uniquely American problem. They do not attempt to control it themselves, and they do not see why they should help us control it. Also, the regions where the raw materials for drugs are produced are so rural and isolated that effective policing of them is not possible. The entire American market for opium, for example, could be supplied from the produce of a few square miles of land tucked away in rugged, remote mountains. Cutting off dangerous drugs at our borders is yet another problem. In fact, it is a herculean task.

More than 65 million automobiles and trucks, 300,000 airplanes, and 150,000 ships come into this nation each year. It is extremely costly to stop and search even a fraction of those vehicles.

The goal is to lower the rewards and raise the risks of participation in the international drug trade. The enormous profits to be gained from trafficking in drugs, and the rather small risks of capture, conviction, and incarceration, currently make the gamble worthwhile. The figures are really quite remarkable. The grower in Bolivia may receive $1,000 to $10,000 for enough coca leaves to make one kilogram of cocaine (a kilogram is about 2.2 pounds), but when the final product sells on the streets of American cities its value will be $800,000. One kilogram of heroin goes for 1.2 million to $1.6 million, yet the Pakistani farmer who cultivates the poppies receives only $350 to $1,000. A pound of marijuana may give the Colombian grower three dollars, but the American dealer will charge as much as $900 on the street.

The United States has taken a variety of steps to assist other countries in the campaign to suppress international drug traffic. The Bureau of International Narcotics Matters, part of the Department of State, spends $40 million each year for bilateral and multilateral programs. These funds provide training to law enforcement officers, help with the purchase of equipment, aid in the development of economic alternatives for growers, and support various programs of prevention and treatment. American-supported initiatives of crop eradication and substitution are underway in Peru and Bolivia. Mexican and American law enforcement officials have worked together to stanch the flow of illegal drugs across our southern border. United States has provided several countries with aircraft for spraying crops and boats for patroling coastal waters. American assistance helps distribute literature against the production and use of dangerous drugs. These are important initial steps, but even in light of the recent congressional hearings have concluded that our narcotics programs are drifting and need more attention if they are substantially to reduce the flow of illegal drugs into this country.

The outlook for limitings the supply of dangerous drugs in the United States is not favorable. We have not been able to cut the supply of heroin coming from Southwest Asia. Although Pakistan is a target of much American aid, American officials have not given priority to narcotics control there. The supply of heroin is once again increasing. Equally poor prospects for control exist in the cocaine and marijuana markets. The popularity of cocaine is rising, and programs to eradicate coca plants in South America have not produced lasting results. The success of such programs depends in part on additional American assistance. The supply of marijuana is increasing, too, and predictions are that domestic production will become more important in the market. Only a major crackdown at home and abroad could curtail the traffic in marijuana.

The many difficulties we have encountered should not deter our efforts to stop international durg traffic, but they should make us realize that there is no quick and complete solution to the problem. The best we can expect to achieve is a noticeable reduction in the quantity of dangerous drugs entering the United States.

Tougher steps can and should be taken. For example, the Foreign Assistance Act of 1961 gives the President the power to suspend economic and military assistance to countries which do not move to halt the production and transportation of drugs. In our negotiations with drug-producing countries, the President could mention the fact that he might use his power. Also, we should not overlook the law's requirement that the United States oppose any loan by a multilateral devlopment bank, such as the World Bank, to countries failing to implement measures to restrict the production and distribution of durgs.●

PEACE IN NORTHERN IRELAND

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. GILMAN. Mr. Speaker, today I am introducing legislation which calls for peace in Northern Ireland and the establishment of a unified Ireland.

There is no justifiable reason why violence and strife should continue in Ireland on either side. Innocent people—both Protestants and Catholics, civilians and military personnel—are being subjected to the cruellest torture of all: uncertainty. In Northern Ireland, indeed throughout the whole of the British Isles, the population does not know when, where, or whom violence will strike. The certain factor, is however, that it will strike.

A unified Ireland is a goal that is sound, popular, and necessary if violence is to be eliminated. My legislation calls for the elimination of U.S. military assistance to Great Britain for use in Northern Ireland, excepting the very necessary NATO assistance that we provide for world peace.

The United States has a positive role to play in the peace process in Northern Ireland, and by providing military assistance for use in that region only exacerbates the situation.

Mr. Speaker, in inviting my colleagues to support this proposal, I insert the entire text of my proposed legislation at this point in the RECORD:

H.J. RES. 548

Joint resolution calling for peace in Northern Ireland and the establishment of a United Ireland

Whereas the continuing strife in Northern Ireland is a cause of deep concern to Americans of all faiths and political persuasions; and

Whereas the Nation of Ireland has been partitioned against the wishes of the majority of the Irish people; and

Whereas the Governments of the United Kingdom and of Northern Ireland have failed to end the bloodshed and have failed to establish measures to meet the legitimate grievances of the minority in Northern Ireland; and

Whereas our Nation's relationship with the Government of the United Kingdom of Great Britain has been supportive; and

Whereas reports have indicated that the United Kingdom of Great Britain has been purchasing military supplies and equipment from the United States for use in Northern Ireland; and

Whereas after hundreds of years of bitter confrontation, hopes for a lasting peace in Northern Ireland remain dim: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the House of Representatives and the Senate of the United States of America urge the President of the United States to direct the representative of the United States to the United Nations to call upon that body to request full respect for the civil rights of all the people of Northern Ireland, the termination of all political, social, economic, and religious discrimination, the settlement of the question of the unification of Ireland and that the people of Northern Ireland have a free opportunity to express their will for union and that this be attained by an election of the people of all Ireland, north and south, under the auspices of a United Nations Commission for Ireland, to be designed by the General Assembly pursuant to articles 11 and 35 of the charter, which shall establish the terms and condition of such election; and be it further

Resolved, That the United States of America shall discontinue all military aid and training programs with the United Kingdom of Great Britain which are related to the suppression of the minority in Northern Ireland and which are not directly related to North Atlantic Treaty Organization commitments and that the United States of America shall embargo the exportation of all weapons and ammunition to the United Kingdom of Great Britain which are related to the suppression of the minority in Northern Ireland and which are not exclusively reserved for North Atlantic Treaty Organization usage.●

TRIBUTE TO CAPT. DONALD M. TAUB

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. ANDERSON. Mr. Speaker, I am honored to pay tribute to a man who is retiring after having served his Nation and community for a quarter of a century. Capt. Donald M. Taub is leaving the U.S. Coast Guard after 26 years of service. On July 28 his friends will gather at the Navy Officers' Club in Long Beach, Calif., to honor his dedicated service to his country.

Captain Taub has enjoyed experience in many different posts while an officer in the Coast Guard. He attended the U.S. Coast Guard Academy where, in 1956, he received a B.S. degree in engineering. After graduating, he served as a deck officer and as an engineer aboard several Coast Guard vessels in the North Atlantic. He then was appointed commanding officer of Cape Athol Loran Station in Greenland, where he served from 1959 to 1960.

Captain Taub then held positions in San Francisco and New York, as a

marine inspector, and as a naval architect. He spent a year in the Coast Guard's marine industry training program, and served as engineer officer aboard a Coast Guard vessel which saw service in Vietnam.

In 1973, Captain Taub was assigned at La Seyne, France, as project officer for the inspection of the first U.S.-flag LNG-LPG liquefied gas carriers. He transferred to Rotterdam in 1975, where he was appointed senior inspector—material to the first Marine inspection office outside of U.S. territory.

In August 1976, Captain Taub served the dual role of commanding officer, Port Safety Station, Long Beach and as captain of the port of the Los Angeles/Long Beach zone. In this capacity he also served as the Federal predesignated on scene coordinator for all coastal pollution incidents, one of which included the explosion of the tankship *Sansinena* in Los Angeles Harbor. In 1978, he was reassigned as Chief, Marine Safety Division, 11th Coast Guard District Headquarters in Long Beach, the post he has continued to hold to the present day. In this position he has been responsible for the marine inspection of vessels and personnel; the safety of port facilities, cargo, and vessel operations; and the marine environmental protection programs in the southeren California area, also serving as chairman of the coastal water pollution regional response team, which consists of Federal and State agencies.

Captain Taub has been a member of numerous professional organizations, including the Society of Naval Architects and Marine Engineers; Society of Port Engineers; American Welding Society; and the American Society of Mechanical Engineers. He is a past vice president of the Los Angeles area chapter of the National Defense Transportation Association, and is active in the maritime committees of our local chambers of commerce.

This officer's contributions to the safety and security of our Nation and community have been invaluable. On behalf of the Los Angeles/San Pedro community, I want to say thank you to Capt. Donald Taub for all you have done for us. My wife Lee joins me in wishing Don, his wife Jean, and their three children, Kate, Susan, and Robert, all the best in the years ahead.●

KENT COUNTY WINS NEW COUNTY ACHIEVEMENT AWARD

HON. HAROLD S. SAWYER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. SAWYER. Mr. Speaker, I would like to extend my heartiest congratulations to the Kent County Department of Social Services upon receipt of the New County Achievement Award. This highly distinguished and notably deserved award was presented by the National Counties Association at the association's 47th annual convention, held last week.

Kent County can loudly boast of its remarkable training and placement program, as it has placed more than 2,000 public assistance recipients in jobs in the Grand Rapids area. This, in turn, has created nearly $7.5 million in savings, alone.

This is a can do program in which everyone benefits—the people themselves, the taxpayer, and the employer. Kent County is a strong believer in its public assistance recipients; they are employable, and they can find work; they just need a little help in doing it, and the Kent County Department of Social Services provides the needed assistance in getting these people back to work.

I became very interested in the program after learning about it from Evert Vermeer. Realizing the potential success, I worked hard in obtaining its initial funding and making my colleagues aware of its worthiness and value. Kent County was then chosen as one of the five demonstration sites, throughout the Nation, to take part in an experimental placement program. They have obviously passed with flying colors.

Recognition should also be given to the Grand Rapids and Wyoming public schools and the South Kent community education program, as these instructors provide substantial support in their time and efforts to make this placement program a success.

I strongly encourage my colleagues to take a look at our program. With unemployment levels at record highs, it is time to utilize the placement programs that work and get our people out of the welfare lines. The Kent County Department of Social Services provides such a program—we are proud of it, and I hope we can share our success with other communities across the Nation.●

SHORTAGE OF SCIENCE AND MATH TEACHERS—WE MUST ADDRESS THE CRISIS NOW

HON. DAVE McCURDY

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. McCURDY. Mr. Speaker, our national need for scientific and technical manpower and expertise is growing rapidly. Yet we are faced with a critical shortage of science and math teachers to train our future scientists, engineers, and technicians. Education experts agree that we need to establish programs to attract and retain teachers, including salary boosts, summer retraining programs, and increased industry investment in education. Last week I introduced H.R. 6774 and H.R. 6775, which are designed to increase the current pool of qualified science and math teachers in our public schools and insure an adequate supply of science and math teachers for the future.

A recent article by Gregory M. Lamb pinpoints the science and math education problem and discusses what we can do to solve it. Mr. Lamb pays particular attention to increasing industry's role and investment in education. I would like to direct my colleagues' attention to this enlightening article.

[From the Christian Science Monitor, July 12, 1982]

WHO WILL TEACH THE NEXT GENERATION OF HIGH-TECH SCIENTISTS?

(By Gregory M. Lamb)

The fuel needed to power America's high-technology industries is already in short supply—and the critical situation is worsening.

The raw material that drives these fast-evolving companies—an educated work force ready to become tomorrow's engineers, systems analysts, programmers, technicians—is not being produced in adequate quantity or quality by the nation's high schools, sources within both the education and business communities say.

Headlines telling of declining public school enrollments and teacher layoffs have not told the entire story. Although the need for qualified teachers in many subject areas has plummeted, the nation's public schools now face a serious shortage of teachers in the sciences. The reason: an explosion of interest by students in technical fields such as engineering and computers and an exodus of qualified teachers to better-paying jobs in industry.

"Students aren't stupid; they read the newspaper. They know where the jobs are," says Dr. Elizabeth Useem, associate professor of sociology at the University of Massachusetts in Boston. The "Star Wars" generation is growing up; engineering is now the most popular major for males entering college, she says.

The US Bureau of Labor Statistics predicts a 93- to 112-percent increase in computer services jobs in this decade, with the demand for systems analysts increasing up to 80 percent and for computer programmers, 60 percent.

But at a time that both job-oriented teenagers and high-technology companies are anticipating continued demand for scientific and technical manpower, local public schools have a reduced capacity to respond to that demand:

New York, the nation's second-most populous state, has only thirty-two 1982 college graduates planning to teach junior or senior high school math. The State University of New York (SUNY) at Albany, with over 15,000 students, hasn't graduated a physics teacher for six years.

In New Hampshire, only one college graduate this year is planning a career teaching mathematics, according to a state department of education spokesman.

In the Pacific states (California, Oregon, Washington), 84 percent of newly hired science and math teachers lack the requisite state education department courses for teacher certification. The National Science Teachers Association says.

Twenty-five states have a "critical" shortage of high-school physics teachers, according to a recent national study conducted by Iowa State University; 20 states critically need math and science teachers.

Dr. Useem has just completed the second of two studies examining high school math and science programs in the nation's two leading high-tech regions: northern California's Santa Clara Valley ("Silicon Valley") and the "Golden Horseshoe" along Route 128 west of Boston. If secondary school curricula reflecting today's technological revolution could be found anywhere, she reasoned, it should be in these regions.

In her first study, completed last August, she found major deficiencies in California's schools. Only 15 percent of male high school students and 7 percent of females took three or more years of science, about half as many as the national average and far below rates in Japan, the Soviet Union, and West Germany.

There were also the overall problems of shortened school days and larger classes resulting from funding cutbacks at the schools. Although willing to donate funds, personnel, and equipment to colleges and univesities, nearby high-tech industries showed little sympathy for the money squeeze at the high-school level.

Ms. Useem's just-released Massachusetts study. "Education in a High Technology World: The Case of Route 128," pinpointed another serious problem: potential teacher shortages. In a survey of math and science teachers in eight high schools along the 128 belt she found that only two-fifths of these instructors plan to remain in teaching.

And few new teachers are coming in. "You walk into one of these schools," she said, "and there's hardly anyone [in math or science] under the age of 40. One science faculty had no one under the age of 40. And there are no student teachers."

Until recently, high-tech industries have seemed little concerned aobut the problem.

"Industry has been reticent to participate; they felt it wasn't their problem, that schools could take care of themselves," says Jan McDonald of the Department of Teacher Education at SUNY-Albany.

In late May, Dr. McDonald's department held a seminar on the state of high-school science and math for industry leaders in the Albany area. "Many left with their mouths gaping," she says. The concerns, she adds, suddenly became personal: "Who's going to teach my kids or grandchildren?"

"We're only beginning to get [high-tech industry] people concerned," agrees B. J. Rudman, human-resources consultant to the Massachusetts High Technology Council, a highly visible corporate-interest group representing 124 companies, with 115,000 workers. His own opinion, he says, is that "if we [the industry] don't jump into this, the problem won't be solved. I don't know if we'll see a big government push to solve this issue."

Corporations are spending somewhere between $40 billion and $100 billion each year on corporate training, compared to total university operating budgets of $20 billion to $30 billion, says Dr. Arnold K. Weinstein, an analyst at Arthur D. Little, Universities won't be able to invest in much-needed new laboratories and technical facilities. "That's why we're seeing companies like Wang, IBM, and Xerox investing in education," says Dr. Weinstein.

But designing a larger industry role is not an easy task, Mr. Rudman cautions. "Companies have a hard time trying to figure out how to address the problem," he says, pointing out that Massachusetts alone has hundreds of local school districts, and that there's little coordinated planning among them. One prominent business leader in Dr. Useem's California study observed: "The problems are so big, so bureaucratic and complicated that you don't know where to begin."

In contrast, industry effort is well under way at the college level. In February, for example, a meeting of leaders from engineering schools and high-tech firms agreed on a "2 percent solution." Companies set a goal of spending 2 percent of their research and development funds, $14 million to $15 million a year, to aid the schools.

But help for high schools has been sporadic, at best, although a so-called "computer bill" was the subject of recent hearings in the U.S. House of Representatives. It would provide greater tax write-offs—up to 30 percent of the company's taxable income in the first year—for corporations donating equipment to elementary and secondary schools.

Although that bill has already gained the backing of some education groups, Dr. Useem and Mr. Rudman agree there is a more essential need: programs to attract and keep qualified teachers. Starting teaching salaries in the $11,000-to-$13,000 range, Dr. Useem says, cannot attract graduates who can draw as much as $10,000 more in private industry. And veteran teachers need some "zip" put into their work lives, she says, through programs like summer internships in industry.

In additior., companies could supply scholarships for those planning classroom careers, says Mr. Rudman, as well as share their knowledge and skills through workshops for teachers. Individual companies also could lend key personnel to schools and form one-to-one partnerships with individual high schools, adds David Giguere, a spokesman for the New England Board of Higher Education. Security Pacific Bank in California, the General Electric Company in New York City, and the Bell System in Bridgeport and New Haven, Conn., are doing this now, he says.

"The companies are already paying the price," Dr. Useem contends. "Many already have large training programs, almost like universities. They're having to do a lot of remedial math, remedial writing."●

AMERASIAN CHILDREN—MEETING OUR RESPONSIBILITIES

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. LEHMAN. Mr. Speaker, a few years ago, an episode of the classic television comedy series "MASH" opened the eyes of Americans to the plight of the Amerasians—half American, half Asian children fathered by U.S. servicemen in Asian countries. As the offspring of non-Asian fathers, Amerasians are considered social outcasts in their Asian homelands as a result of their racial impurity.

In the episode of "MASH," an Amerasian child is left with the "MASH" unit. The entire unit, becoming more and more attached to the child, attempts to win for this born loser a free life in America. Exhausting every possibility—including the Red Cross, the Army, and the American Embassy—they soon realize the futility of their task. Other nations, including the English, the French, and the Dutch, have taken responsibility for the offspring of their servicemen while in Asia. Only the United States has turned its back on these children. "MASH's" favorite daughter became a victim of this policy and was left at a monastery which was her only source of hope.

Now, almost 10 years after Vietnam and over 25 years after the Korean war, the United States still has its back turned to Amerasians. We must no longer choose to forget our own sons and daughters in Asia. We must pass legislation to allow Amerasian children to come more easily to our country.

The Immigration Reform and Control Act of 1982, H.R. 6514, would permit Amerasian children under the age of 21 with sponsorship or under adoption to freely step foot upon our shores.

I strongly support this legislation, but it will come too late for one very special Amerasian girl named Kang Ok Boon who will turn 21 on August 15. She is called Rosemary by her American foster family. For much of her life, she endured physical beatings and emotional pain while self-convinced she was an inferior being as a result of her American father. Last year, I introduced a private bill on Rosemary's behalf, H.R. 684.

Currently, Kang Ok Boon is in the United States on a medical visa while she undergoes heart surgery. Hopefully, this private legislation will be passed soon so that Rosemary can remain in the United States with her new American family and become an American citizen.

The following articles look at the Amerasian problem and the plight of Rosemary on a very direct and personal basis. I am sure you will find the articles informative and persuasive—for the Amerasians' sake and for Rosemary's.

AMERASIANS—A STINT IN KOREA OPENED SOUTH HILL FAMILY'S EYES

(By Gordon Koestler)

Chief Warrant Officer Robert J. Cornyn, a South Hill resident, has logged 19 years in the Army. He's been satisfied with his military career and life with Uncle Sam's Army, but there's one aspect of U.S. foreign policy with which he disagrees.

The U.S. does not recognize the existence of Amerasian children—half American, half Asian—even though, as Cornyn puts it, the kids are "a direct result of U.S. foreign policy."

Amerasian—children, mostly found in Korea, Vietnam, Thailand and Laos, are usually the product of an Asian woman and an American serviceman. Amerasians exist in the Philippines and Japan as well, but those countries cultures are more open and willing to accept them as equals—not so in the other countries, especially Korea and Vietnam.

Cornyn has frontline knowledge of the Amerasian plight. He and his wife, Linda, have adopted five Amerasian children and are working on a couple more—that's in addition to their own three children.

While visiting Korea some years ago, Cornyn became aware of the problem when he was invited by a friend to visit a mission run by Maryknoll Father Alfred Keane. What he saw both appalled and touched him.

There were the forgotten children, the result of the chance mixing of cultures. There were children who were beaten by their peers because they did not fit Korean culture, children who were sick because no one would care for them, children who caught in the gray between the black and white of American foreign policy.

Cornyn explains that the general exclusionist philosophy of Korean life does not provide for the existence of Amerasian children. And since the U.S. government, which has been shipping U.S. servicemen in and out of Korea for more than 30 years, refuses to claim or even allow for their care. Amerasians are truly children without homes.

Cornyn and his family got involved in an attempt to provide those homes and change his country's disavowal of the children's existence.

Besides adopting the children and working with others as both foster parents and sponsors, Cornyn has worked on behalf of pending U.S. legislation to change the way the government looks at Amerasians.

There are bills in both houses of Congress which, if passed, would change U.S. laws to allow for Amerasians to come to America as any other immigrant would and not relegate them to nonentities.

The House of Representatives is conducting hearings on its bill, and lobbyists in the Senate are currently lining up co-sponsors for that version of the legislation.

Cornyn said the Reagan Administration, all seven Washington representatives and Sen. Henry Jackson support the legislation. Sen. Slade Gorton currently does not, evidentally thinking the Amerasian question should be dealt with as part of a comprehensive immigration law, Cornyn said.

He added that concerned constituents could write the senator and ask him to support the proposed change.

With all the kids coming and going in and the luggage strewn about, the Cornyns admit their five-bedroom house looks more like an airport sometimes. And keeping up with the children, aged 16 years to 18 months can be a struggle.

"To say it's not taxing is totally insane," said Linda Cornyn. "Sometimes it just takes a big yell to get it all out."

Unfortunately for the Amerasians still in Korea and other unabiding countries, "a big yell" won't solve their problem. But they do have the benefit of people like the Cornyns on their side.

HALF AND HALF, AND A CITIZEN OF?

(By Robert J. Cornyn)

Her American name is Rosemary. And like most mixed-blood children growing up in Korea, she has a bitter story to tell.

She is an Amerasian (half American and half Asian), a word coined by the late author Pearl S. Buck, who recognized the suffering and plight mixed-blood children face in Asia.

When Rosemary was young she was beaten frequently because she had her father's American face. The beatings left her bruised and in pain. But pain and bruises fade after time. Emotional pain does not.

The saddest part of this true story is the fact that in Rosemary's mind she actually believed that she deserved the beatings.

She was raised to believe that she was inferior because of her mixed-blood heritage. Approximately 40,000 half-American children have been left in Korea, Thailand and Vietnam during the past decade to face the same sad fate. Increased public awareness and proposed congressional legislation represent new hope that these children will soon be able to claim their American heritage.

Today there are thousands of Amerasian children and young adults in Southeast Asia. Our half-American children suffer most in those nations whose culture has been influenced by certain familial beliefs tied to the Buddhist and Confucian religions such as Korea, Thailand and Vietnam.

One's first reaction is to criticize these countries for the inhumane manner in which our children are treated. But this is a mistake. Only through empathy and mutual understanding will a fair and meaningful solution to the problem ever be found.

In Korea the problem is probably at its ugliest because of the constant flow of servicemen in and out of the country and the harsh realities of Korean life.

Korean culture spans more than 5,000 years and has been greatly influenced by Confucianism, which is not just a religion. It is a philosophy with a strong code of moral ethics and a built-in hierarchy.

Confucianism teaches the "correctness" of human relationships and promotes the organization of the family unit. It also teaches that family relationships and bloodlines are much more important than any sense of community belonging.

Within the Korean family, it is the father who holds the key to his child's future success. All social position and legal relationships descend from the father.

The Amerasian, however, has no "father" in a land where the father determines who he or she is.

Perhaps the greatest single barrier to the Amerasian has been the Korean attitude toward racial purity.

Koreans are a Mongoloid race whose members immigrated from China thousands of years ago. They are generally taller and more robust than other Orientals and are proud of their racial purity.

The close family relationships and adherence to pure bloodlines taught and practiced by Koreans have reinforced their dedication to family so that what they practice is, in effect, a racist doctrine when it comes to considering Amerasians.

Americans often have a difficult understanding the concept, having been weaned on the myth of "the Great Melting Pot." To us, the term "Amerasian" might mean the blending of two great cultures. But to a Korean, the term is an insult and a mockery of their racial purity.

American presence in the "land of the morning calm" has enabled Korea to rebuild both her economy and her military prowess. Today, Korea is frequently referred to as "the Great Success Story of the East."

But while America has played a major role in helping her achieve this success, we have also given her the tragedy of the Amerasian child.

Typically, the Amerasian is born of a woman who has taken temporary residence with an American (primarily servicemen). In some cases the mother and father live together for a year or two, but often the father leaves Korea even before his child is born.

Sometimes a stateside father will write and even send money for support. But the contact soon dwindles and the mother is left with her child—destitute and disowned by her family members for the "disgrace" she has brought upon them.

Although adoption would be the best solution for the child, the mother keeps him—often because he is the only object of love in her life.

As the child grows up and enters school, he is faced with hostility and harassment from his classmates and an attitude of indifference from his teachers.

Many Amerasians drop out of school because of the pressure. Many are told over and over that they cannot learn anything because they are half-breed and are, therefore, inferior. Many young Amerasians begin to believe this falsehood and give up on their lives without giving themselves a chance.

Of the few Amerasians who do complete formal schooling, only a handful are emotionally prepared to become productive members of society. And since the Amerasian has no "father," he has no one to help him obtain a job, as spouse or a "social position." Paternal influence in these matters is a Korean tradition, and because of it the Amerasian finds an obstacle any time legal identification is required.

In Thailand Amerasians have not experienced as much hostility because most of them are still relatively young, and the Thai state religion teaches a degree of tolerance. In Vietnam, however, Amerasians are regarded as the "dust of life."

In Korea they are often referred to as "wild seed" or "person in between who belongs to no one." The Amerasian exists in a twilight zone on the peripheries of the Korean and American culture—never to be part of either.

The Rev. Alfred V. Keane, Maryknoll missionary has been working hard during the past several years to help the Amerasian children of Korea obtain their basic human rights, foundling St. Vincent's home for Amerasians near Seoul, Korea.

St. Vincent's is a home for Amerasians Keane found living in the streets and slums. To some, St. Vincent's is a home full of love and understanding. For the first time in their lives, the children are treated with respect and compassion. But more importantly, they are waiting to go to America and be adopted.

Keane has arranged well over 900 adoptions in the United States and has tried to convince servicemen of their responsibilities. In addition Keane has also championed legislation in the U.S. Congress to help the Amerasian obtain his American heritage.

In January, 1981, Rep. Stewart McKinney of Connecticut introduced a bill—House Resolution 808—at the request of Father Keane. The bill, if passed, would change U.S. immigration law to provide some relief to the Amerasians of Korea, Laos, Thailand and Vietnam.

In October, 1981, Sen. Jeremiah Denton of Alabama introduced a similar bill—Senate 1698, also at the request of Keane.

Denton's bill expands the number of nations involved and includes relief for Amerasians in Taiwan, Okinawa and the Philippines.

Both bills are designed to allow these children to take advantage of the "first" and "second" immigration priorities: unmarried sons and daughters of U.S. citizens. (Amerasians are currently classified "seventh" priority: "all others." Very few persons ever immigrate under "seventh" priority.)

The only factor preventing Amerasians from claiming their birthright today is that they are illegitimate for immigration purposes and are not considered sons and daughters of U.S. citizens.

Passage of HR 808 and S 1698 would erase the label of "illegitimacy" and would enable Amerasians to claim the American heritage denied them for so many years.

The legislation would not change the number of persons allowed to immigrate into the United States. Rather, it will give priority to these half-American children who cannot survive in their native country.

Both bills represent hope and the chance for a decent way of life for thousands of half-American children stranded in a society unwilling to accept them.

The Amerasian has faced severe hardships during the past several years, and their suffering will only become worse unless positive steps are taken soon. Nothing is more tragic than a wasted existence. We all deserve a chance to improve our lot in life.

With care and understanding by the American public and with positive action now to change U.S. immigration law, America can rewrite the last page of the diary chronicling her actions in Asia and can close the cover with honor, decency and compassion.

Rosemary is still waiting for the day when she may be allowed to come to the land of her father. She is bitter, but she also understands that some things take time.

Time is running out for Rosemary, however. In addition to her American facial features, she has also inherited a severe heart condition.

Treatment is not available in Korea for her, for in Korea it is necessary to post the money in advance, especially if the prospective patient is poor. It would also be unusual to waste such specialized medical treatment on a mixed-blood child.

Rosemary's only hope is to come to America, the land of her birthright, where surgery and the hope for a decent life can be hers.●

A TRIBUTE TO THE KALAMAZOO JUNIOR SYMPHONY

HON. HOWARD WOLPE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. WOLPE. Mr. Speaker, over the past 13 years, in various levels of government, it has been my great honor to represent the people of Kalamazoo, Mich. Those who have had the pleasure to live in, or visit, Kalamazoo, know that it is a very special community that harbors a deep sense of civic pride.

This week, those of us from Kalamazoo have a little more about which to be proud. Some of the younger members of the community were the recipients of a great and prestigious honor: the Kalamazoo Junior Symphony took first place in the youth orchestra division of the 11th annual Youth and Music Festival in Vienna, Austria. The symphony, I might add, was in competition with other youth orchestras from all around the globe.

I rise today simply to congratulate the members of the symphony, their director, Dr. Robert Ritsema, and the many people of the Kalamazoo area for their determined support and encouragement of the arts.●

NATURALIZATION OF EDDIE NATATON AND YAI SUPAWIT BURANAKUL

HON. DANIEL B. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. DANIEL B. CRANE. Mr. Speaker, I would like today to announce the naturalization of 10-year-old Eddie Nataton Buranakul and 11-year-old Yai Supawit Buranakul, the children of Dr. Bhirom and Sue Buranakul. The family is originally from Thailand, but now they make their home in Danville, Ill.

It gives me great pleasure to welcome Eddie and Yai in becoming a part of our great Republic which protects the freedoms and liberties of all individuals.

As Eddie and Yai take their vows, it is my wish that they understand that there were those who gave their last full measure of courage so that we could all live in peace and harmony. This is the land of the free and the home of the brave and since I know Eddie and Yai personally, I am sure they will make us all proud of them as citizens of the United States.

Again, Mr. Speaker, let me congratulate Eddie and Yai on this very important day in their lives.●

FIVE-YEAR OCS LEASE PLAN

HON. JOHN B. BREAUX

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. BREAUX. Mr. Speaker, I believe the Washington Post editorial of today regarding the recently announced Interior Department revisions to the 5-year OCS plan deserves favorable comment.

The Merchant Marine and Fisheries Committee, which had has a longstanding interest in the issue of offshore oil and gas production, has made many attempts to streamline the process for the exploration and production of our offshore hydrocarbon resources. In the last Congress, our Select OCS Committee published a report advocating many of the revisions that have been incorporated in the Department's new 5-year leasing plan.

This plan has come under criticism from some quarters as inconsistent with the balance Congress has tried to establish between expeditious resource development and the concerns of coastal State and local governments about the environmental and socioeconomic impacts of such development. I believe that the Post editorial correctly reports that this new proposal does not in anyway lessen the safeguards that Congress has enacted and serves the "useful purpose of establishing a reliable inventory of the sites where the industry's technical work points to promising prospects." I believe it is incumbent upon all of us in the Congress to carefully study this bold new plan, and I urge the Members to look behind the rhetoric, as the Post has done, and support this balanced effort to find increased domestic sources of energy.

The Washington Post article follows:

GOING OFFSHORE WITH MR. WATT

The Interior Department's plan for offshore oil exploration is not necessarily a bad one, despite Secretary James G. Watt's excessive enthusiasm for it. Mr. Watt keeps lathering it up in rhetoric that he borrows from the oil industry, and that alone is enough to make most other people suspicious. But there's good reason to accelerate offshore drilling. As for the impact on the environment, the protective laws are sharp and strong. As Mr. Watt has already discovered, if he does not uphold them, the courts will do it for him—vigorously.

In the past, the government has accepted oil companies' proposals for drilling sites only in designated areas. Mr. Watt is now inviting the companies to propose sites almost anywhere in the coastal waters. In those cases where the department chooses to go ahead with the proposal, it will then begin the usual process of preparing an environmental impact statement and notifying state governments. All of those safeguards remain in force. The idea of entertaining proposals anywhere has incensed some of the coastal states. But it serves the useful purpose of establishing a reliable inventory of the sites where the industry's technical work points to promising prospects.

Offshore oil is one of those splended issues that invites everyone to work up a fine fit of righteous wrath, and Secretary Watt's choice of words always encourages that reaction. But it's important to remember that the future of offshore production is a good deal less than the assured bonanza, merely waiting to be tapped, that the secretary's exhortations might lead an incautious listener to suppose.

Currently, about one-eighth of this country's domestic oil comes from the offshore wells, nearly all of them in the Gulf of Mexico. For the past several years, that flow has been slowly falling. The eastern Gulf, which oil geologists once rated as extremely hopeful, has produced almost noth-

ing. There's been a good deal of drilling along the length of the Atlantic coastline, with little to show for it. There has been one important find in the Pacific, at Santa Barbara. But the Gulf of Alaska, advertised several years ago as endlessly rich in prospects, has been an enormously expensive disappointment so far. It is precisely this diminished hope for large discoveries offshore than makes the case now for widening the search.●

INTEREST AND DIVIDEND WITHHOLDING UNNECESSARY

HON. NORMAN E. D'AMOURS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. D'AMOURS. Mr. Speaker, early this morning the Senate rejected by a very close rollcall vote of 47 to 50 an amendment to remove from the Senate's proposed tax increase bill a provision imposing a new 10-percent withholding tax on interest and dividends.

Since this important issue now moves to the House of Representatives I want to urge my colleagues to cosponsor legislation I have introduced with 41 of our colleagues, House Concurrent Resolution 255, opposing any new interest and dividend withholding tax. Members wishing to cosponsor House Concurrent Resolution 255 should call Mike Radway or Jeff Lawrence at 5-5456.

The Senate withholding proposal should be rejected because it is inequitable, it is not necessary, it creates burdensome new paperwork requirements, it creates mainly a "one shot" gain for the Treasury that cannot be repeated in future years, and it probably cannot be implemented in the timeframe contemplated by the Senate.

I would like to share with my colleagues statements issued by the American Bankers Association, the Independent Bankers Association of America, and the Investment Company Institute explaining in some detail why the Senate withholding proposal will not work, is not necessary, will impede economic recovery, and will be a major burden for taxpayers, financial institutions, businesses, and the Government.

The statements follow:

AMERICAN BANKERS ASSOCIATION,
Washington, D.C., July 14, 1982.

DEAR SENATOR: The Senate Finance Committee approved the Tax Equity and Fiscal Reponsibility Tax Act of 1982 (H.R. 4961) on Monday, July 12th. The full Senate may consider the bill next week. The bankers of the nation support efforts to move toward a more responsible Federal fiscal policy, including reductions in expenditures and necessary increases in taxes. Although other items in the bill increase the taxes banks pay and the operational costs they incur, the American Bankers Association accepts a special responsibility to bring to your attention one aspect of this measure that may have unanticipated adverse effects on the economy as a whole and on individual savers and investors.

The proposal to impose withholding tax on interest and dividends is a disincentive to saving and investment that comes at a high cost to the public. The impact of withholding will reduce savers' and investors' earnings otherwise attained through reinvestment and compounding by an estimated $3 billion. Not only will savers and investors be deprived of this income, the Treasury will be deprived of up to $1 billion in taxes payable on those earnings.

According to the United States Treasury, taxpayers are reporting 85 percent of interest and dividend income subject to reporting, when this compliance figure is compared with the approximately 75 percent of the individual income tax returns that generate tax refunds—over $53 billion for 1981—it indicates that most of the anticipated revenue gain from withholding results from a one-time cash flow surge in 1983 from accelerated collection of taxes. Most of this money will have to be refunded in fiscal year 1984. The Treasury Department's explanation of the initial withholding proposal in February confirms that three-fourths of the increased revenue for fiscal year 1983 is a "change in timing". It is, therefore, only a temporary increase in the cash flow from the taxpayers to the Treasury; not a real increase in revenue. This should not be accomplished at the expense of the overwhelming majority of individuals who save and invest and pay their taxes.

If the purpose of withholding tax on interest and dividends is to increase compliance, the ABA believes that this purpose can be better accomplished, with far less cost and inconvenience to the public, through the broadened information reporting required by the taxpayer compliance provisions contained in H.R. 4961. Such an approach avoids overwithholding and the reduction in yield which would result from withholding on accounts where interest is compounded frequently. It also avoids extending the intrusive presence of government regulations and forms into the daily lives of millions of savers and investors. Why should elderly individuals living on fixed incomes have to fill out exemption forms in order not to have those incomes diminished by a tenth? The ABA believes that it is premature to substitute a mandatory withholding system for a working information reporting system before we have seriously tried to improve our information system. The ABA pledges its cooperation with the IRS and the Treasury in developing an improved, more effective, and more efficient reporting system.

In addition to the impact of withholding on individuals, the proposed system of exemptions and exceptions creates a system of such complexity that neither the IRS, many of the financial institutions that pay interest, nor many of the corporations that pay dividends will be able to implement the system by January 1, 1983. The implementation of such a system requires not only legislation, but regulations and interpretations of those regulations that the Treasury Department likely will be unable to issue with sufficient lead time.

In addition to problems of complexity, financial institutions will be faced with substantial costs in designing and putting into place withholding systems to deal with the vast array of investments and financial services offered to the public. When one also considers the many personal interactions between individuals and their banks, the need to develop procedures and train employees to answer customers' questions and the need to communicate with customers about how the new system will affect them, it becomes clear that implementing a withholding system involves a great deal more than merely reprogramming a computer. Furthermore, it is a widespread misperception that a system of withholding can now be implemented with relatively little effort because of the increased use of the computer.

This proposal has been rejected repeatedly by the Congress whenever it has been proposed in the past. The ABA believes that the reasons for rejecting this proposal in the past remain sound. No new evidence has been brought forward to turn a proposal regarded in the past as a bad idea into a good idea.

Sincerely,

WILLIS W. ALEXANDER.

INDEPENDENT BANKERS
ASSOCIATION OF AMERICA,
Washington, D.C., July 16, 1982.

DEAR SENATOR: It is our understanding that the Tax Equity and Fiscal Responsibility Tax Act of 1982 (H.R. 4961) will be considered by the full Senate early next week.

The small banks of this nation are sensitive to the need to bring the Federal deficit under better control and support Administration and Congressional action to address this problem. Many of our bank members, in turn, were troubled by the huge revenue losses contained in last year's tax bill, and publicly and privately questioned whether such losses were consistent with our future economic stability. The third year of the across-the-board tax cut was particularly troublesome to many of our bankers who, on a day by day basis, see the havoc that the burgeoning deficit and resulting high interest rates are causing their customers and their communities.

We are highly sympathetic to Senate Finance Committee and Administration efforts to achieve better tax compliance to increase revenue. However, we feel that the proposals in the pending tax bill which would convert depository institutions into tax collectors for the government through the scheme of withholding of interest and dividends at source are a shotgun blast approach to the compliance problem when a rifle shot would do the trick. We also feel that the approach contained in H.R. 4961 could be counterproductive in terms of reducing incentives to save by reducing the saver and investor earnings otherwise attained through reinvestment and compounding. In turn, Treasury would be deprived of the substantial taxes payable on such earnings.

We are also convinced that the proposal will lead to an expensive, overwhelming paperwork morass of a frightening magnitude. It is almost as if the Government has thrown up its hands and is saying: we cannot match dividend and interest payment reports with the appropriate tax returns so let the private sector do it for us. Many of our small banks are, of course, far less equipped to undertake this task than is the Government.

We appreciate the fact that the President called us in on Monday, July 12 to discuss this matter. We appreciate his concerns and those of his Secretary of Treasury. We have offered to work with the White House and the Treasury looking toward better compliance without opening the Pandora's box of

withholding at source which will affect hundreds of millions of interest payments that banks make to their depositors.

We also would like to commend Senator Bradley and Senator Long for exploring in Committee that withholding at source should be limited to dividend payments at this time. In our meeting with the President, the securities industry made it clear that they would be happy to accept withholding at source for dividends in exchange for a reduction of the long-term capital gains period from one year to six months. The cooperation of the securities industry should also be secured in cracking down on those who don't report capital gains to the Treasury. Secretary Regan has indicated that only 56% of all capital gains are reported to the Treasury. Treasury, in turn, estimates that taxpayers are reporting 85% of interest and dividend income subject to reporting.

We will be pleased to work with the Administration and the Congress looking towards enhancing the compliance system. But this problem can be addressed without putting in place an onerous and possibly counterproductive system of withholding at source for interest payments.

Sincerely,

ROBERT L. MCCORMICK, Jr.,
President.

INVESTMENT COMPANY INSTITUTE,
Washington, D.C., July 15, 1982.

DEAR SENATOR: On behalf of 12 million mutual fund shareholders, the Investment Company Institute opposes the interest and withholding provisions of the Senate Finance Committee Tax Bill. The Institute joins other organizations, representing a variety of financial institutions and their millions of shareholders and depositors, in requesting that you not support the revival of the discredited idea of forcing financial institutions to withhold 10 percent of the dividends and interest due American investors and savers. Repeated consideration over the years has shown this proposal to be inequitable, costly, and inefficient.

Like previous withholding schemes on interest and dividends, the current proposal is inequitable because it will involve overwithholding in many cases. Despite plans to issue so-called exemption certificates, many taxpayers, particularly elderly persons of relatively modest means, will end up having to reclaim from the government, as long as a year after the fact, monies which never should have been withheld in the first place. In addition to the substantial hardships created for persons dependent on dividends and interest to meet current living expenses, there will be a loss of earnings to those taxpayers who would have reinvested the dividends and interest withheld from them. In 1981, this factor alone would have cost 12 million mutual fund investors over $110 million in dividends.

Withholding on interest and dividends will be costly because it will impose an enormous administrative burden on all financial institutions. It has been estimated that implementation of the withholding provisions will require the issuance and processing of over 400 million exemption certificates. Withholding from some accounts but not others (as well as monitoring for switches in category) will involve the installation of a complicated and expensive system which will be only partly susceptible to automated processing by computer. It has been estimated that in the mutual fund industry the additional costs of administration will be between $1.50 and $2.00 per account annually, in addition to very substantial installation costs. This could add as much as $36 million on an annual basis to the expenses of operating mutual funds—costs which will inevitably be borne by mutual fund shareholders.

Finally, the withholding scheme is inefficient in view of the revenues produced, the lost earnings to shareholders and depositors on monies withheld from them, the administrative costs of collection and the processing of exemptions and claims for refunds. It simply is not a cost efficient way of raising revenue.

In the past several years, great strides have been made by the Internal Revenue Service in administering the existing system of matching the information that lists the recipients of interest and dividends with the tax returns filed by these persons. All segments of the financial services industry have always been willing to discuss improvements in the present system designed to make tax evasion even more difficult. For example, the Institute earlier this year testified in support of a bill to withhold interest and dividends from accounts which fail to supply the IRS with taxpayer ID numbers. The adoption of such a proposal would be much less costly and more efficient because it would focus precisely on the problem of tax evasion and provide a specific remedy for dealing with it. Unlike the withholding provisions of the Finance Committee Bill, it would not subject all American investors and depositors to a blunderbuss approach to snare a relative handful of tax delinquents.

In short, we view the proposal to withhold on dividends and interest as harmful to millions of American investors and savers, as a regressive step in the administration of the tax laws, and as one which will further complicate our already overly complex tax system. It represents a radical departure from efforts of the Congress and the Administration to reduce the burden of government on all Americans.

Sincerely yours,

DAVID SILVER.●

CAPTIVE NATIONS WEEK

HON. BARBER B. CONABLE, JR.

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. CONABLE. Mr. Speaker, this third week in July brings the 24th observance of Captive Nations Week. Since 1959, when President Eisenhower signed Public Law 86-90 establishing Captive Nations Week, we have taken this occasion to focus attention upon the captive people of totalitarian nations, and to emphasize our commitment to those voices in Soviet-dominated nations, which their governments attempt to silence.

The voices of freedom are not easily silenced, however, as the Soviet Union repeatedly is reminded, most recently by the courageous Afghan rebels and Polish solidaritists who refuse to fall as silent victims to Soviet tyranny.

We must take this occasion to reaffirm our dedication to the spread and preservation of human rights and to the people who refuse to accept tyrannical rule. While we seek to increase prospects for world peace by way of trade and cultural exchange with the Soviet Union, we cannot ignore their millions of political captives. We must not forget those who have been forced to flee their homelands in search of freedom; we must not forget those like, Yuri Balovienkov, who is being denied the right to see his wife and child in the United States, because an oppressive government will not allow him to leave.

Our 24th observance of Captive Nations Week coincides with the assembly of the Polish Communist Party. Let us hope that in a country starving for freedom our display of affinity will provide sustenance.

American citizens have been blessed with the joys of personal freedom for over 200 years. However, for over 1 billion people on Earth freedom remains an elusive goal. For them freedom is but a dream, a distant vision. Our purpose remains to give it material substance so that more and more people will know the joys of freedom.●

THE ACADEMIANS

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. PATTERSON. Mr. Speaker, I would like to address the House today and request the attention of my colleagues to honor a distinguished group of citizens from Orange County, Calif. Several retired educators, college presidents, and chancellors have formed an organization, the Academians, for the purpose of promoting the value of higher education.

The Academians has a membership of over 150 former educators, who, under the leadership of Dr. Martin M. Weitz, are committed to the pursuits of higher education. The Academians have contributed countless hours of their professional experience in efforts to demonstrate how higher education enriches life.

Each year, the Academians sponsor guest lectures and seminars on education which draw tremendous audiences. This year, their May 13 program featured guest speaker Dr. J. Robert Evans, dean of undergraduate studies for the National University of San Diego and Orange County. In his address to educators, Dr. Evans spoke about the rapid changes in the field of education since World War II and examined important adjustments in demography which will affect educational objectives in the future. He also emphasized that "dollars spent on education are not lost, but must be looked upon as an investment * * * one with a

vitally important return in terms of our Nation's future."

Time and time again, in the House of Representatives, we have debated questions concerning our national role in education. In his speech, Dr. Evans reminded us of the importance of our mission here in promoting higher education and training which will reverse the trends of unemployment and foster productivity so necessary at this time.

Today, only 17 percent of our adult population is college educated. Today, we must devote our resources to higher education. Please join me in commending the Academians for their tireless spirit in improving the quality and accessibility of education to insure a more meaningful and prosperous tomorrow.●

THE FUTURE FEDERAL ROLE IN CHILD NUTRITION POLICY

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. GOODLING. Mr. Speaker, today I am pleased to join the distinguished chairman of the Committee on Education and Labor, the gentleman from Kentucky (Mr. PERKINS) in introducing a House concurrent resolution relating to the national school lunch and child nutrition programs.

This resolution expresses the sense of the Congress that:

First, current national efforts to reduce malnutrition should continue;

Second, a uniform national guarantee of nutrition assistance should continue through Federal leadership and the maintenance of support for Federal nutrition programs; and

Third, the responsibility of Federal child nutrition programs should not be turned back to the States.

Mr. Speaker, I cannot lend my support to the concept of turning back to the States all responsibility for achieving child nutrition goals. This approach fails to acknowlege either an adequate future Federal commitment to or an appropriate Federal role in achieving these child nutrition objectives. Clearly, it does not address the nutrition needs of youngsters from low-income families.

Few will quarrel with the statement that a child's basic nutrition needs do not vary from State to State. The administration's plan, however, does not recognize the fact that a child residing in a State with a low tax base is less likely to receive a nutritionally adequate diet than is the child whose family resides in a State with an adequate or more favorable tax base.

In short, we have a continuing obligation to insure that the nutrition needs of our truly needy youngsters—wherever they may reside—are adequately met. This is and must remain a national priority and goal. Similarly, to the end that basic nutrition needs are satisfied, I firmly believe that we have an on-going obligation to insure that child feeding programs receiving Federal assistance maintain the objective of providing certain recommended dietary allowances (RDA) of nutrients for children, as established by the National Academy of Sciences.

On the other hand, I do not believe that we can or will continue to "do business as usual" in the area of child feeding. We can and must continue to scrutinize all phases of our child nutrition programs as well as the interrelationships among these activities. Limited resources should not be wasted by duplicating benefits. Fraud, abuse, and mismangement cannot be tolerated. Overly complex and often contradictory federally imposed regulatory requirements must be eliminated. A continuing Federal role or presence does not preclude affording the States and local program administrators with a greater degree of flexibility in designing and effectively implementing child nutrition programs tailored to better meet their special needs.

From my perspective, in the months ahead, our challenge will be one of working to establish a balanced partnership among the Federal, State, and local levels in achieving longstanding child nutrition goals that are universally agreed upon.

The resolution that I am joining my colleagues in the House in introducing today, should signal to the administration that many of us in the Congress deeply believe that we have a permanent national commitment to meeting the nutrition, educational, and health needs of our Nation's children. This is a commitment that we will not abandon.●

PATRIOTIC AMERICAN FEELS HIS SERVICE TO HIS COUNTRY HAS BEEN FORGOTTEN

HON. AL SWIFT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. SWIFT. Mr. Speaker, since the election of 1980, this Government has adopted a series of policies aimed at controlling spending. Only last summer this Congress voted to save money by restricting the eligibility for unemployment benefits among American service men who choose not to reenlist. This is shortsightedness of the worst kind. Further—this policy has the tawdy overtones of shanghaiing citizens—at least coercing reenlistment rather than encouraging it. We are not saving anything at all; we are losing something more precious than dollars, the pride and dedication of a patriot.

We simply cannot ignore the very real, and very painful consequences of these policies upon our own citizens, citizens in this case who have chosen to serve their country. If allowed to continue, these kinds of injustices, brought about by the budget slashing madness of this administration, will result in a loss of faith in our great country by our most patriotic Americans.

I would like to submit for the record, Mr. Speaker, the following letter: a classic example of a strong, patriotic American who feels his service to his country has been forgotten and that he has been abused by his own Government.

I am married and have one child. At the present time I am unemployed and have been actively seeking work since being discharged from the U.S. Navy on March 31, 1982.

I served in the U.S. Navy for six years, and attained the rank of E-5. My major reason for leaving the navy was the long family separation. I received an honorable discharge.

My problem is this, I am having a difficult time finding employment with the economy in such bad shape. Therefore I have filed for unemployment benefits.

Due to a law passed last summer by our Congress and President, I cannot receive any benefits. Because I have a good re-enlistment code and could have signed a new contract, if I had wanted to, I am being penalized!!

Sir, I feel that it is pretty disgusting when a man serves his country for six years, three of which were sea duty, and then chooses not to sign a new contract, his government abandons him when he needs some help. I even forced the Navy to change some incorrect information on my discharge physical so that if our country were in trouble and needed men right away, I could re-enlist.

I have been to many countries and there is none greater than the United States and I'll be the first one in line to defend her. But my pride is slipping away as I watch her turn her back on the men and women who serve her.

I gave six years of my life to serve in the military and I felt that was enough for now. Sure, I can go back in and be accepted with open arms, but I would feel like I was being forced into it. I honestly feel that this was part of the reason that the law was passed. I've seen several people who have gone back into the service because they were not able to financially hold out until a civilian job came up. I think this a rotten way to keep people in the military!! I won't be pressured!!

Sir, as you can guess, I am rather angry with the system. If I don't find work soon I'll be forced to apply for food stamps and welfare. Never before have I had to ask for assistance from any government agency, but before I'm pressured into something, I'll soak the system for all I can get. It truly hurts me to feel this way.

Mr. Speaker, it hurts me also to have to report to my colleagues the disillusionment of a patriot, the disenchantment of a citizen. We must not continue to pursue these unjust policies.●

COMMEMORATION OF CAPTIVE NATIONS WEEK

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. McHUGH. Mr. Speaker, I am privileged to add my voice in tribute to the people of the Captive Nations. These 1 billion people under totalitarian domination remind those of us who live in the free world that the price of liberty is great, and that the blessings of a free and independent life cannot be taken for granted.

The principle of self-determination of nations is one that has consistently been supported by the United States in its foreign policy. It is more important than ever that our foreign policy continue to reflect that principle, because throughout the years in which the Soviet forces in particular have imposed their will on subjugated countries, the love of the captive people for liberty has not dimmed. They deserve our support, and the support of all freedom-loving peoples.

May the day dawn soon when freedom will have buried its own undertakers!●

FAILURE OF YOUNG MEN TO REGISTER FOR THE DRAFT

HON. ROBERT W. KASTENMEIER

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. KASTENMEIER. Mr. Speaker, today I am introducing a bill that addresses a serious and growing problem in our criminal justice system—the failure of young men to register for the draft. According to recent estimates from the General Accounting Office, over a half million young men have failed to register for the draft. This alarming level of noncompliance has significant consequences for our entire Federal law enforcement.

Regardless of how one feels about draft registration, it is obvious that the Department of Justice cannot prosecute and our Federal prisons cannot hold all those persons who have failed to register for the draft. Equally obvious is the fact that the current penalty for nonregistration is totally proportionate with the severity of the offense. Under current law, the penalty for nonregistration is 5 years and a $10,000 fine.

The basic purpose of the bill I am offering to this body is to modernize the draft registration statute and to reduce to a rational level the penalties for nonregistration. The basic format and policy results found in this bill are largely taken from the proposed criminal code as approved by the House Judiciary Committee last Congress. See 96th Congress, H.R. 6915, proposed sections 1314 and 1315, House Report 96-1396 at 100 and 101. A copy of the pertinent portion of the committee report is appended as attachment A. I hope that my colleagues will see the wisdom of redefining this offense and in setting realistic penalties.

I wish also to take this opportunity to inform the House of my intention to pursue the topic of draft registration in a hearing before my Subcommittee on Courts, Civil Liberties and the Administration of Justice on July 28, 1982, at 10 a.m. in room 2226 RHOB.

APPENDIX A

SECTION 1314—AVOIDING MILITARY OR ALTERNATIVE SERVICE

This section carries forward part of 50 U.S.C. App. 462, which proscribes certain conduct that violates the selective service laws, including failure to register, report for, and submit to, induction; failure to report for a physical examination; and failure to report a change of address or to carry one's selective service card. Current law, however, is awkwardly drafted and fails to distinguish between conduct violating less significant regulations and conduct that seriously jeopardizes the integrity of the selective service system.

Subsection (a) makes it an offense for someone who has a duty to register or report for military service, be inducted into military service, or perform alternative service, to fail to perform such duty with the intent to avoid military or alternative service. The requirement that the actor engage in conduct with a specific intent carries forward current law. *United States* v. *Jacques*, 463 F.2d 653 (1st Cir. 1972); *United States* v. *Boardman*, 419 F.2d 110 (1st Cir. 1969), *cert. denied*, 397 U.S. 991 (1970), *Silverman* v. *United States*, 220 F.2d 36 (8th Cir. 1955).

Subsection (b) makes the offense a class D felony during war or a national defense emergency (a term defined in section 1320 (relating to definitions for subchapter) of the proposed code) and a class E felony if the offense is under pargraph (2), (3) or (4) of subsection (a) at any other time. Subsection (b)(2) also provides that an offense under paragraph (a)(1) is a class E felony if the conduct constituting the offense occurs during a time when persons are being inducted into the military. Subsection (b)(3) provides that an offense which occurs under circumstances other than those listed in subsection (b)(1) or (2) is a class C misdemeanor. Thus, the effect of subsection (b)(3) is to grade as a class C misdemeanor the failure to register for military service when there is no lawful authority to induct persons into the military service. This grading reflects the view that nonregistration, when induction is not authorized, is of a less serious nature than the other offenses defined by this section. The present law penalty is the equivalent of a class D felony.

The Committee decided to classify the offense on the basis of whether or not the United States was at war, viewing a wartime violation of this section as presenting a greater risk to national security. The use of the terms "war" and "national defense emergency" means that the section will reach Congressionally declared wars and situations involving substantial armed conflict prior to a Congressional declaration of war (but in combination with the provisions of the National Emergencies Act, such coverage would last no more than six months).

Subsection (c) provides a defense for persons who have registered for military service and who have been found qualified for alternative service, but who refuse to perform such service because of bona fide religious belief. This defense is applicable only where the prosecution is for a failure or refusal to report for or perform alternative service. By specifically setting forth this defense, the Committee does not mean to affect any judicially created defenses to prosecutions for failing or refusing to register for military service, to report for or submit to an examination to determine fitness for military or alternative service, or to report for and submit to induction. See section 721 (relating to nature and effect of defense) of the proposed code. The Supreme Court has held that first amendment guarantees provide a defense if the requisite circumstances exist. *Gillette* v. *United States*, 401 U.S. 437 (1971); *Welsh* v. *United States*, 398 U.S. 333 (1970); *United States* v. *Seeger*, 380 U.S. 163 (1965).

Subsection (d) provides for extraterritorial jurisdiction where the actor is a United States national (as that term is defind in 8 U.S.C. 1101). This provision is based upon the nationality principle of international law. There is also Federal jurisdiction over the offense if it is committed within the general or special jurisdiction of the United States. See section 111(b) (relating to Federal jurisdiction) of the proposed code.

Section 1315—Fraud with respect to military or alternative service

Subsection (a) makes it an offense for someone to use fraud with intent to: (1) avoid or delay the performance of alternative service; or (2) impair a proper determination of the existence or nature of a person's military or alternative service obligation. This carries forward those provisions of 50 U.S.C. App. 462 which proscribe the use of false statements or other deceptive practices to "knowingly hinder or interfere with" military or alternative service. This section also carries forward part of 18 U.S.C. 2388, which requires that the defendant's act "willfully obstruct the recruiting or enlistment service". The Committee narrows the scope of these two current law provisions by eliminating conduct that may be protected by the first amendment (e.g., "counsels" in 50 U.S.C. 462(a)). The Committee concluded that these changes obviated the need to require a specific intent to hinder, interfere with, or obstruct the military service. The term "fraud" is defined in section 101 (relating to general definitions) of the proposed code.

Subsection (b) grades the offense as a class D felony if the offense is committed during a time of war or national defense emergency and a class E felony in any other case. See discussion of section 1314 (relating to avoiding military or alternative service) supra.

Subsection (c) sets forth a defense if the fraud concerned a fact that was not material. This materiality requirement is derived from current law. *United States* v. *Kamber*, 458 F.2d 918 (7th Cir. 1971), cert. denied, 407 U.S. 910 (1972).

Subsection (d) provides for extraterritorial Federal jurisdiction where the actor is a United States national (as defined in 8 U.S.C. 1101). This provision is based upon the nationality principle of international law. Pursuant to section 111(b) (relating to

Federal jurisdiction) of the proposed code, there is Federal jurisdiction over an offense under this section if the offense is committed within the general or special jurisdiction of the United States.●

CAPITAL OWNERSHIP DEVELOPMENT PROGRAM

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. ADDABBO. Mr. Speaker, yesterday the chairman of the House Committee on Small Business, introduced for him and myself H.R. 6823, a bill to amend the capital ownership development program of the Small Business Administration.

It is the product of years of frustration on the part of Members of Congress and disadvantaged businesses—frustration with failure of the Small Business Administration to do its duty to implement properly Public Law 95-507.

As past chairman of the Small Business Oversight Subcommittee and as original sponsor of Public Law 95-507, I am disappointed with SBA's disregard of Congress intent. The stated purpose of that law, among others, was to "foster business ownership by business owners who are both socially and economically disadvantaged" and "to promote the competitive viability of such firms * * *." It is now clear that the Small Business Administration has no intention of recognizing this purpose, and would rather destroy administratively this program. Without legislative action, there will be a disastrous loss of thousands of jobs, loss of tax revenue and increasing pressure on social programs. Legislation is sorely needed to insure that SBA management pursues a course of business development, rather than paying lipservice to the needs of small disadvantaged firms. The bill does two things: One, it specifies criteria that must be used to determine a firm's competitive viability; and two, it prevents SBA from counting gross receipts or employment attributable to the performance of 8(a) contracts when computing the size of the firm.

Because SBA has failed to develop the necessary economic criteria for determining viability, SBA has allowed the program to be subject to criticism for failing to recognize when a firm should be graduated or terminated. In addition, SBA has failed to issue regulations which would stop the unfair practice of counting gross receipts and employment associated with 8(a) contracts for purposes of determining whether a firm is "small." A firm should not be terminated from the 8(a) program for being "large" if, when computing the gross receipts or employment attributable to contracts outside the 8(a) program, the firm is still below the regulatory thresholds.

I would urge all Members to support this legislation, to prevent the failure of hundreds of businesses which are close to economic viability.●

CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. DERWINSKI. Mr. Speaker, the strong support that still flourishes in our country for the spirit of Captive Nations Week is evidenced by many of the diverse local observances that are held to mark this anniversary. I should like to bring the attention of the Members to the following expressions of support for Captive Nations Week—resolutions issued by the South Florida Captive Nations Committee; a proclamation by Hon. Edward J. King, Governor of the Commonwealth of Massachusetts, and a proclamation by Hon. Marion Barry, Jr., Mayor of the District of Columbia:

SOUTH FLORIDA
CAPTIVE NATIONS COMMITTEE,
Miami, Fla., July 8, 1982.

Invitation: To the Annual Observance of Captive Nations Day to be held by the South Florida Captive Nations Committee on Saturday July 24, 1982 from 12 Noon until 2:30 P.M.

Where: The Observance will begin at 12 Noon on the steps of the Dade County Court House, West Flagler and N.W. 1st. Avenue. We would like at least eight from each different nationality representatives in native costume to be present here. After a short program we shall proceed with a motorcade along West Flagler Street to N.W. 22nd Avenue, there turning right and proceeding to the Polish American Club. In the motorcade not more than two cars can take part from each nationality.

We cordially invite members of organizations who are in sympathy with those who live in captivity and who can imagine the suffering of people living under the brutal oppression of dictators to join us during this Annual Observance. The program will be held in the Polish American Club at 1250 N.W. 22nd Avenue. All freedom loving people are welcome.

We are pleased to advise our fellow members and friends of our Committee that the political leaders of our City, County, State and Country have been invited to this Observance. The Mayor's and Governor's Office promised to proclaim July 24, 1982 as Captive Nations Day. This year we will remember thirty Captive Nations living behind the Iron and Bamboo Curtains.

We respectfully ask the clergy of our State of Florida to remember the Captive Nations in their pastoral prayers on July 25, 1982. We also urge the news media, the newspapers, radio and television newscasters to remember the plight of the Captive Nations during this Observance.

Our prayer is for all Captive Nations to find the road to Peace, Freedom, Democracy and Independence.

In the name of the Committee:

Rev. John Paul Nagy,
General Chairman.
ANDREJ GROMADSKI,
Co-Chairman.

PROCLAMATION—COMMONWEALTH OF MASSACHUSETTS

Whereas the week of July 18-24, 1982, is observed nationally as "Captive Nations Week" dedicated to nations under Communist domination; and

Whereas the imperialistic policies of Russian Communists have led to the enslavement of the peoples of Ukraine, Armenia, Poland, Byelorussia, Cossackia, Georgia, Idel-Ural, North Caucasia, Turkestan, Estonia, Latvia, Lithuania, Azerbaijan, Albania, Romania, Czecho-Slovakia, Bulgaria, North Korea, Hungary, East Germany, Tibet, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, and Afghanistan; and

Whereas the establishment of national and independent States by all captive nations and the decolonization of the Soviet Union Empire would contribute significantly to a just and lasting peace in the world and the freedom of all nations; and

Whereas the 1982 "Captive Nations Week" serves as an appropriate forum to manifest public support for freedom and independence of all captive peoples everywhere;

Now, therefore, I, Edward J. King, Governor of the Commonwealth of Massachusetts, do hereby proclaim the week of July 18-24, 1982, as "Captive Nations Week" and urge all citizens of the Commonwealth to take cognizance of this event and to participate fittingly in its observance.

PROCLAMATION—DISTRICT OF COLUMBIA

Whereas the imperialistic politics of several leading countries have led to the subjugation and enslavement of many peoples; and

Whereas the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitues a powerful deterrent to any ambitions of the leaders of these countries to initiate a major war; and

Whereas the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as "Captive Nations Week" and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with the support for the just aspirations of the captive nations:

Now, therefore, I, the Mayor of the District of Columbia, do hereby proclaim the week of July 18-24, 1982, as "Captive Nations Week" in Washington, D.C., and call upon all of our residents to join with me in observing this week by offering prayers and dedicating our efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.●

IDA NUDEL

HON. PHILLIP BURTON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. PHILLIP BURTON. Mr. Speaker, today we recognize Ida Nudel's continued struggle for freedom from Soviet oppression. Her 11-year plight clearly demonstrates the Soviet Union's continued denial of the most basic rights and liberties to its citizens.

Ida Nudel's crime was expressing her desire to emigrate to Israel by hanging a poster from her balcony. For this she suffered 4 years of humiliation, harassment, and hatred in a Siberian exile camp.

Although she has recently been released from exile, Ida Nudel is now trapped in a bureaucratic vice. Because the Soviet Government refuses to issue her a residence permit, Ida Nudel cannot obtain an exit visa to Israel nor can she receive needed medical assistance for her failing health.

Mr. Speaker, we cannot let the world forget the plight of Ida Nudel and other Soviet Jews. We must continue to do everything in our power to end the Soviet mistreatment of its Jewish population. I strongly urge the Soviet Government to end its harassment of Ida Nudel immediately and to allow her to emigrate to Israel. We must make the Soviet Union realize that freedom is not just characteristic of American society, but an inherent human right.●

SOCIAL SECURITY PROBLEMS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. HUBBARD. Mr. Speaker, as the Congress awaits the recommendations of the National Commission on Social Security Reform with regard to finding the answers to solve social security's problems, a constituent of mine, Attorney William E. Payton, of Greenville, Ky., has written a thoughtful letter, expressing his recommendations as to changes and adjustments that could benefit the social security system. I believe Mr. Payton's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

MAY 27, 1982.

Re Social Security.
Hon. CARROLL HUBBARD, Jr.,
House Office Building,
Washington, D.C.

SIR: I wish to give you my thoughts as to how perhaps the Social Security program may be benefited by appropriate changes and adjustments.

First, these ideas are not original and I would strongly recommend that you pass this information on to the committee or those members in Congress studying how to best tinker with the system; most of these comments are gleaned from the September, 1981, issue of Consumer Reports.

1. From the inception, the payroll tax and right to receive benefits at retirement was supposed to be isolated from politics and changing ideas of each new administration and the Social Security system should retain this principle.

2. We are simply in a short term problem in that prices rose faster than wages thereby creating a temporary problem in that less Social Security monies were collected than paid out under the consumer price index adjustments; if prices and wages return to their normal pattern, this short term problem will be alleviated.

3. In the not too distant future, the "depression era" babies will be retiring and this should ease the problem somewhat.

4. With respect to the long term problem, that is the baby boom or World War II babies retiring thereafter, and the low birth rate now, in all fairness government employees and any other employees not covered by the Social Security system should be brought into the system and this should be done immediately to increase the base for payments into the system.

5. Life expectancy has increased since Social Security was created in the 1930's and in all fairness, the retirement age should gradually be increased up from 65.

6. If necessary, general tax revenue funds should be used on a temporary basis to cover shortfalls in the system accounts.

I do not believe the solutions proposed above are radical or too difficult to implement; something should be done immediately rather than simply waiting until after the general election in November and continuing the rhetoric about saving Social Security.

I simply think that all of you should take the initiative and do something rather than simply put the problem off.

I do not ask for you to reply but I simply would ask that you pass this on to the appropriate members working on this problem.

Yours very truly,

WILLIAM E. PAYTON.●

CAPTIVE NATIONS WEEK

HON. WILLIAM J. HUGHES

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. HUGHES. Mr. Speaker, once a year, we dedicate a week to bringing world attention to captive nations—nations dominated by the true imperialist power of the modern world, the Soviet Union. Since World War II, the U.S.S.R. has come to dominate 31 nations. The citizens of these nations live without the basic liberties which civilized people have a right to expect—freedom of speech, press, religion, assembly, and culture.

Under the iron reign of the Soviet Union, there is no room for individuals of diversity, originality, or expression. Instead, those who manifest these traits are punished, exiled, imprisoned, and sometimes killed. We have only to look to the Baltic States—where priests are murdered, dissidents imprisoned, and native cultures suppressed—to understand the brutality of Soviet rule. We need search no farther than Poland to find an example of the denial of the will of an entire people by a heartless, Soviet-dominated regime. And we need only listen to the cries of the natives of Afghanistan to understand that, without our steadfast vigilance, many more countries will be added to the ranks of captive nations, new victims of Soviet aggression.

So let us remember the plight of captive people today, of individuals denied the basic dignity which only freedom can afford. And let us work and pray for the day when the people of the world can share one invaluable gift—their liberty.●

THE SMALL BUSINESS ADMINISTRATION PERSONNEL REFORM ACT OF 1982

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. ADDABBO. Mr. Speaker, yesterday the chairman of the House Committee on Small Business introduced for him and myself H.R. 6824, entitled "The Small Business Administration Personnel Reform Act of 1982."

Through numerous hearings it is apparent that SBA continues to suffer from personnel management abuses and ineptitude. In light of the severely limited resources available to SBA, legislation is needed to insure that those resources are expended without regard to politics. As it is now, too many slots in SBA are political appointments, and SBA has illegally placed them beyond scrutiny since there are no performance standards for schedule C employees. Also, noncareer senior executive service employees are not part of the merit appraisal system.

There are other defects in SBA's personnel structure which discourages adequate program delivery to small businesses. More than one-third of SBA's total work force is outside of the district offices, even though this is where the actual direct service to small firms is provided. SBA simply is too top heavy.

To correct these and other problems, this bill:

First, reduces from 50 to 7 the number of political appointees, effective June 1, 1984;

Second, requires that at least 70 percent of the SBA work force be assigned to district offices by the beginning of fiscal year 1986, and at least 80 percent by fiscal year 1987;

Third, provides for specific due process protections for managers that are reassigned;

Fourth, makes it illegal for an employee to exercise his duties on the basis of political motivations;

Fifth, allows the merit systems protection board to intercede upon a finding that there is a "pattern or practice" of illegal personnel activity;

Sixth, specifies certain requirements for employee rotations, reassignments, or disciplinary actions based on the violation of specified personnel laws and regulations; and

Seventh, requires that the Inspector General investigate and report to Congress violations of specified personnel laws or regulations.

I would urge all members to cosponsor this legislation to insure that SBA is able to provide the kind of service that the small business community deserves.●

SUGAR

HON. DAN MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. MICA. Mr. Speaker, during the past several months many Members have expressed concern about the role of sugar in the domestic and international economy. I thought that perhaps some light could be shed by someone who actually grows sugarcane and knows quite a great deal about the subject. Mr. John Tiedtke grows sugarcane in Palm Beach County, Fla., and I would like to insert his correspondence for the RECORD.

THE DOMESTIC SUGAR INDUSTRY

The question of whether the United States Government should give some protection to the domestic sugar industry during periods of distressed world prices is really a question of whether the United States should maintain this industry or permit it to go out of business.

It is surprising that much of the media has singled out the legislation protecting the domestic sugar industry for criticism instead of the other farm crops, when this industry is the one which can be protected without the problems which arise in the operation of the other parts of the farm bill. The advantages of the sugar program are:

1. The industry can be maintained at no cost to the Federal Government.

2. Sugar is extremely cheap in comparison with other foods, particularly in relation to its value.

3. Unlike the rest of the crops in the farm program, sugar is produced in Florida. It makes a major contribution to the economy and the employment of the state.

4. The world price of sugar is subject to much violent fluctuations than that of other crops, making it impossible for farmers to depend on it for their sales, or the consumers to depend on it for their source of supply.

I would like to explain those statements.

Since 1938 the United States Congress has encouraged farmers to invest in the sugar industry with the legislation that protects them against periodic gluts on the world market. As a result, the American sugar industry has invested billions of dollars in good faith to supply this need.

Florida has 300,000 acres of land producing over 1,000,000 tons of sugar annually worth, at 20¢ per pound, $400,000,000.00. This is an important contribution to our economy and employs thousands of workers. Furthermore, for the nation, it reduces imports and therefore reduces our unfavorable balance of trade. In normal times the domestic sugar industry reduces the trade deficit by approximately two billion dollars.

The continuation of the sugar program by the United States Government is a matter of life and death for the industry, because unlike most crops, there will periodically be such a surplus of world sugar that it will knock the world price substantially below any country's cost of growing it. Eighty-five percent of the world production is sold in a way that gives the growers a fair price. The remaining fifteen percent which has no home is dumped on the world market at whatever price it will bring, which has varied in the last ten years from under nine cents to sixty-five cents per pound. This is because the world market is such a small part of the world production that a small variation in the world supply will cause a great percentage change in the amount of surplus, and therefore, cause a drastic effect on the price.

There have been statements given to the press that the sugar program is costing the consumer a certain amount of money. No one can make such a statement without knowing what the price of sugar will be in the future. If the writer of the article could predict the future price of sugar or any other commodity or the stock market he would have the financial world at his feet. Judging from the past it is very unlikely that the price of world sugar will remain below the cost of production very long. The most reasonable prediction today is that growers throughout the world will reduce their acreage and cause another world shortage. If this happens and we have no domestic source of supply it is pure fantasy to think that we could acquire eleven milion tons from the world market every year with any degree of assurance of either the price or the supply. Do prudent businessmen place their reliance in obtaining a necessary raw material on suppliers who are temporarily selling their product at a price which is below their cost or production?

The "developed" countries know this and protect their sugar industries by maintaining a floor price, which in most cases is higher than ours. This is because sugar is so cheap in relations to its value that these countries consider it foolhardy to risk losing their supply in order to save a few cents a pound during periods of distressed prices.

Unlike the programs for the other crops in the farm bill, which have cost the United States government billions of dollars, the sugar program should cost the U.S. Government nothing. It just requires the consumers to pay the cost of production during periods of world surplus. Is there any good reason why consumers should be entitled to buy it below cost? Furthermore, in the long run, the program will not cost the consumers anything, because what they might gain one year from temporary, very low world prices, is not as important as the loss of their supply and very high prices during periods of world shortage.

It is no our purpose to critize the protection of the other crops in the farm bill. Agriculture is quite unlike industrial production, in that a factory can be shut down when the product is in surplus. However, by the time a farmer sees this situation developing he has already planted his crop and has no choice but to continue to spend money on it. With most basic crops, unless production is limited, the only protection available is a government loan or purchase program. Perhaps it is not a bad idea to limit the production of all crops that want protection in the farm bill.

If the writers of these articles attacking the sugar program were really interested in lowering the cost of food, they would turn their attention to the items which cost several dollars a pound and are a significant part of the family grocery bills, rather than this item which costs only a few cents, yet is invaluable in transforming foods, which would otherwise be dull and tasteless, into attractive dishes. Think of all the baked goods and soft drinks and the cup of coffee which require only a touch of sugar to become palatable. The cost of the sugar in these items is negligible. Most people would pay ten times the normal price of sugar if they had to, to get it.

The current propaganda claims that the foreign countries which sell us sugar will be injured if we institute quotas. For forty years the Sugar Act controlled the supply of sugar in this country with quotas. This cost the United States Government nothing and required no government purchases. It was a great benefit to the countries which sold us sugar because it enabled them to receive our domestic price instead of the world price. The only trouble today is that our government waited so long to act that there are temporary dislocations.

It is important to note that the exporting countries sell us no less sugar under quotas than they do under a tariff system. Either system must restrict imports to the point where our domestic price reaches the desired level. It takes exactly the same number of tons to do this under the tariff system as it does under quotas. The only difference is that with quotas the exporting countries would receive our price instead of the world price. Why would this hurt them?

It is the refiners who really object to quotas and are back of this unfavorable publicity because quotas make it more difficult for them to play the American farmer against world competition. I will not go into this any further at this time as it is off the subject. But a study of who is behind this propaganda would bring out interesting information.

The newspapers recently reported the case of a refiner on the eastern seaboard who could not unload a boatload of sugar, and who predicted that he would be unable to continue operating because of his inability to buy raws. That particular ship was from a non-quota country that anyone in the sugar business should have known for weeks would not be allowed to unload if we imposed quotas. The refiner was gambling that he could unload the sugar before quotas were put into effect.

Furthermore, Florida has shipped sugar to this refiner before and he admitted that he knew he could buy all the raws he wanted from us now.

JOHN TIEDTKE.●

89-059 O-86-29 (Pt.13)

AGRICULTURAL PROBLEMS AND CHALLENGES

HON. JOHN J. LaFALCE
OF NEW YORK
IN THE HOUSE OF REPRESENTATIVES

Friday, July 23, 1982

● Mr. LaFALCE. Mr. Speaker, for those of us who are unabashed supporters of increased U.S. exports, reports of growing agricultural trade surpluses are welcome indeed. We are all well aware that the dollars we earn from agricultural exports help to offset our energy imports and thus contribute substantially to maintaining a healthy balance of payments. As foreign markets have expanded, American farmers have continued to meet the demand by coaxing greater yields from existing acreage and by bringing additional land into production. Unfortunately, both of these practices have increased the strain on our soil and water resources, with potentially disastrous long-term effects for our agricultural productivity.

The 36th Congressional District of New York, which I represent, has an active farming sector with nearly 2,500 farms covering over 300,000 acres. Although we are blessed with a relatively gentle topography, soil erosion continues to be a problem on over 23,000 of those acres, while the productivity in other areas is reduced by poor drainage. These and other conservation problems have been vigorously addressed by local soil and water conservation districts, which have worked closely with Soil Conservation Service professionals to provide technical assistance and encourage farm owners to develop conservation plans. In practice, this program has proven to be enormously successful, with leadership and initiative coming from participating farmers themselves and thus reflecting local needs.

In the 36th District, 1981 was a good year for agricultural conservation. Approximately 70 conservation plans were developed to protect nearly 10,000 acres and conservation measures put into effect included contouring, conservation tillage, and water management practices. More recently, construction commenced on a major watershed improvement project which, completed, will increase the productivity of over 6,500 acres of Oak Orchard muck. Local conservation leaders have expressed dismay that this progress is threatened by deep budget cuts in conservation programs and by new administration priorities. Specifically, they have urged that soil conservation programs targeted to the most critical erosion problems consider not just the rate of topsoil loss but also the depth of the underlying topsoil base. Loss of an inch of topsoil is far more harmful when the underlying topsoil layer is thinner. When examined in this context, many of our local erosion problems are just as critical as topsoil losses in midwestern areas which, while they may have greater loss in absolute terms, begin with a much deeper topsoil base.

The challenge to reexamine our Nation's long-term soil conservation policies is especially ironic now, when low farm prices are forcing many farmers to cut back on conservation practices in order to survive short-term economic stresses. The current oversupply of agricultural commodities should make this an ideal time to retrench and reduce the pressure on soil resources, but prices and interest rates will not permit farmers to limit their production. Instead, they must cut new corners and extract even more from their land. As the following article reprinted from the Wilson Quarterly makes perfectly clear, we all have a big stake in resolving this contradiction. We cannot go on forever exploiting the wealth of our natural resource base without taking steps to better protect it. It is in our-long term interest to help and encourage farmers to address conservation problems before our farmland resources are permanently depleted.

The article follows:

FARMING THE LIMITS: LAND, WATER, AND ENERGY

(By Tom Fulton and Peter Braestrup)

The biggest single new fact about America's agriculture is that U.S. farm exports are expected to reach a record 170 million tons this year, despite the fact that the world is mired in an economic slowdown.

"At the rate exports are increasing," notes Lauren Soth, columnist and former editor of the Des Moines Register and Tribune, "the danger of overexploitation of the land . . . is becoming imminent. Yet exports have been the lifeblood of American agriculture and are vital to farm prosperity."

Therein lies the dilemma.

The old surpluses are gone. One-third of the nation's 400 million acres pf prime cropland is devoted to export production. We now export 60 percent of our wheat, more than half of our soybeans, and nearly one-third of our corn. The U.S. Secretary of Agriculture, John Block, himself an Illinois corn and soybean farmer, observes, "Expansion is a key to a market-oriented agricultural policy."

For the Reagan administration, as for its predecessors, there is another reason to push farm exports: their dollar value, some $41 billion in 1980, constituted a major offset to the $80 billion the United States paid for imported oil. The net U.S. farm-trade surplus in 1980 was $24 billion; the United States spent $17 billion for imported coffee, rubber, cocoa, bananas, tea, spices, and other farm products.

Such pressures have begun to stir debate among academic specialists and within farm groups and the U.S. Department of Agriculture (USDA) bureaucracy. To most Americans, the discussion may seem remote; it rarely gets into the mass media. Food is something that comes ready-packaged at the supermarket and seems to cost more every time one reaches the checkout counter.

But new farm issues, aside from the perennial congressional debates over subsidies to some types of farming, are emerging. Some minor matters get a lot of media attention, such as scattered foreign ownership of U.S. farmland, the loss of farms to suburban sprawl, and the importance of "corporate agribusiness" in California vegetable production and Delaware broiler output. But the major new national issues revolve mostly around the future use and sufficiency of land, water, and energy—and, to varying degrees, their seriousness stems from the pressure to produce more food for export.

BETWEEN MANKIND AND OBLIVION—TOPSOIL

Let us begin with the land itself.

During the long years of crop surpluses and federally subsidized retirement of up to 60 million acres of cropland, the erosion of topsoil was ignored. More USDA "conservation" subsidies went to farmers for liming and other production-enhancing techniques than for expensive terracing, contour farming, and the like. The new postwar technology permitted farmers to use cheap chemical fertilizer, not manure, to omit soil-building clover and grass from crop rotations, and to keep planting corn and soybean row crops year after year. The sudden surge of export demand in the 1970s merely reinforced the trend.

The results were dramatic.

After 40 years of federal effort and $30 billion in outlays to promote conservation, the USDA estimated in 1977 that soil erosion was a major problem on more than 20 percent of the nation's cropland. Annual erosion rates exceeded 10 tons of topsoil per acre (twice the tolerable level) on 32 percent of the land in crops such as soybeans in the Southeast and on 19 percent of the acreage in crops such as corn and wheat in the Midwest. An annual soil loss of 10 tons per acre equals the loss of one inch of topsoil every 15 years.

In Iowa, the thickness of the rick black topsoil, which the first settlers plowed during the mid-1800s, has diminished in some places from two feet to one. If such depletion continues unabated, according to the federal government's estimates, the Midwest's yields of corn will probably decline as much as 30 percent by the year 2030.

Why are so many U.S. farmers "mining" the soil? The farmer, it is important to remember, is in business to grow and sell a crop at the least possible short-term cost. Given the pressures of inflation and high land prices, as well as keen competition for the land, he has no incentive to do otherwise. It is easier, faster, and cheaper on the rolling land in Iowa, for example, to practice straight-row cultivation of corn and soybeans than to follow the contours of the hillsides, even though the resultant erosion is five times greater. Plowing fields in the fall eases the farmer's workload during the busy spring planting season, although it increases erosion by 10 percent.

Government price supports and the demand for U.S. corn and soybeans overseas now give the farmer every incentive to plant row crops on marginal (hilly) land, to rent more of such land, and to maximize short-term benefits. In effect, the farmer has relied on fertilizer to compensate for the loss of topsoil; fertilizer use doubled between 1960 and 1975, and yield per acre has increased as well.

Cutting back overall production of corn, soybeans, and wheat and cultivating less in-

tensively would raise farm prices because less food would be produced. A major attempt to curb soil erosion, and thus avert long-term penalties to society as a whole, implies either cost to the farmer or some added cost to the taxpayer or consumer. One proposed "massive" plan of conservation measures to "minimize the national sediment load" would eliminate 90 percent of cropland erosion but would cost $13.4 billion.

Other proposals are far more modest, but almost no plan suggested thus far fails to inflect pain on someone One new approach that is gaining favor among farmers is "no-till" or "minimum tillage" cultivation, in which the ground is left unplowed and largely undistrubed, the weeds and grass are killed off by herbicides, and the next crop is seeded into the trashy residue of the previous one. This technique reduces erosion by as much as 80 percent on hilly land. It requires fewer tractor trips (hence less tractor fuel), helps retain ground moisture, and takes less of the farmer's time. But the expanded use of herbicides alarms environmentalists. The effective use of these chemcial weedkillers requires sophistication and care; the threat of herbicidal runoff into water supplies frightens many local citizens.

Other conservation techniques, such as instituting crop rotation (corn, then oats, then clover, then corn again), interseeding alfalfa with corn, and stip-cropping (sod and corn), are all well known, but mandating their use would impose a short-term financial burden on the farmer, especially the small farmer. In effect, he must interrupt or curtail production of more lucrative crops like corn. Proposals have been made by some USDA administrators to link other benefits that farmers receive from the government, such as crop allotments or low-cost loans, to their compliance with accepted conservation measures. This stern approach, known as cross-compliance, has not geen greeted with cheers by Congress or by export-minded farmers.

THE WATER TABLE IS VANISHING

From the Dakotas, Nebraska, Kansas, Oklahoma, and Texas to the West Coast, it is water—not land—that is the big issue. In the most arid regions, agricultural development has meant irrigation—in the beginning through private efforts, and then through the 1902 Reclamation Act, which brought federal and state subsidies for cheap water projects to make the desert bloom.

All told, irrigated acreage has doubled to 56 million acres since 1950. It now accounts for more than one-fourth of the nation's crops and nearly one-seventh of the nation's total prime cropland. In the East, irrigation is used to permit double-cropping—rice and soybeans, for example, in the Mississippi Delta. But its big impact has been in the West, where the thirst for water is enormous. Arizona's citrus farmers and California's celery and lettuce growers simply could not exist without subsidized irrigation.

The federal government currently spends some $5 billion a year on the managing and planning of water projects, mostly under the auspices of the U.S. Department of the Interior. Without federal subsidies, little irrigation would take place. Indeed, water projects have been pushed well beyond what pure economic feasibility would permit. The water subsidy for California's Wetlands project, for example, runs to $1,540 per acre, roughly equal to the cost of the land itself.

Taxpayers have dug into their pockets twice for these irrigation projects: first, for the direct subsidy, and second, for the crop price-support programs that were required, in part, because of the surpluses produced on these subsidized lands. Consumers, on the other hand, have benefited (in the short run, at least) from lower food prices.

Most of the more feasible water projects have already been built; the exploitation of the Colorado, the Rio Grande, and other rivers is almost complete. Farmers have begun to tap ground water. In California, ground water has provided 40 percent of the total amount of water used since 1953. In Arizona ground water has provided almost half since that same year. With the current heavy pumping, the water level is falling, and the draw-down continues. Farmers are simply drilling deeper to get their water—and at extra expense. Water itself remains cheap; it's priced below its true cost and utility.

However, a water shortage seems to be near. On the high plains, stretching from Nebraska to eastern New Mexico and from Colorado to the Texas Panhandle, irrigation has come from water in the eight-state Ogallala aquifer, an underground lake. In some places, its water is currently being depleted 14 times faster than it is being replaced. Net aquifer depletion in Texas runs from one to five feet per year. Given the rising cost of fuel for pumping, irrigation in some areas may prove uneconomical well before the water runs out. But the fact remains that the Ogallala aquifer is being emptied considerably more quickly than it is being recharged.

All told, perhaps one-fourth of America's irrigated croplands use underground water faster than it is being renewed. Moving water by pipeline or canal from the Mississippi to northern Texas or New Mexico would cost more than $400 per acre foot, more than 10 times what farmers say they can afford for irrigation water.

Almost every region west of the Mississippi, according to the U.S. National Water Assessment, has an insufficient amount of water from all sources for future agricultural production, based on present levels of use. The federal government estimates that Western farmers' demand for water will have risen only 6 percent from 1975 to the year 2000; but the demand for water by all other users—industry, municipalities, miners—will increase by 81 percent. And the prospects for bringing in enough extra water to satisfy the needs of developers of oil shale and processors of Western strip-mined coal are dim.

ENERGY USE IS INCREASING

As everybody knows, U.S. agriculture is energy-intensive. Total tractor horsepower has more than doubled since 1951. More field work, the field-picking and shelling of corn, the use of bigger and bigger combines, and the general trend toward labor-saving machines have all required more fuel. Less obviously, U.S. farmers also use sizable amounts of fuel for operating irrigation pumps, drying corn and other harvested crops, heating animal pens and breeding cages, and transporting crops to market. Most important, petrochemicals are used in fertilizers and insecticides.

Thus, for corn, the energy outlay per acre in gasoline equivalents is as follows: fertilizer (mostly nitrogen), 40 gallons; natural gas for drying the corn, 20 gallons; tractor fuel for tillage and cultivation, 10 gallons; herbicides and insecticides, 5 gallons. In sum, it takes about 75 gallons of gasoline equivalents to produce and harvest one acre of corn.

One current research effort is devoted to reducing the use of chemical fertilizers, especially nitrogen. Growing legumes (clover, alfalfa, vetch) adds nitrogen to the soil "organically." A test using these legumes in a crop rotation produced as much protein and cost less in terms of chemical fertilizer than did the usual "corn-on-corn" monoculture that many farmers currently practice. But for a cash-grain farmer, the economics are poor. He cannot sell the legumes for as much money as he could get for the corn. The dwindling number of mixed livestock-grain farmers, on the other hand, can use clover and alfalfa in rotation and thereby save on chemical nitrogen—livestock can eat the legumes as hay or pasture and provide manure that is returned to the soil as fertilizer.

For most farmers, nitrogen fertilizer will remain a major energy item. While fuel prices rose 207 percent from 1973 to 1980, the price of nitrogen-rich anhydrous ammonia fertilizer went up 161 percent. More efficient use of such fertilizer is likely as its cost continues to rise. But the elimination of nitrogen fertilizer would mean a significant drop in U.S. agricultural output.

As for fuel, farmers, like everyone else in America, will adjust. For some in the West, reduced water supplies and the higher cost of fuel for pumping will cause a shift to the production of more valuable crops on irrigated land, from alfalfa to corn, for example. To reduce fuel costs in the Midwest, there will be greater incentives to go to minimum tillage for corn or soybeans, thus reducing both tractor time and soil erosion. Other farmers will use solar heat to warm hog houses and milking parlors; still others will rely on windmills for part of their electricity. Livestock farmers may use methane derived from hog or cow manure, as practical methods of producing and bottling the gas evolve.

Nourished by federal loan guarantees and tax breaks, the infant gasohol industry is designed to reduce U.S. dependence on foreign oil. A mixture of 90 percent gasoline and 10 percent ethyl allcohol (ethanol), gasohol was pushed strongly by President Carter's administration. In 1980, total output of ethanol increased 300 percent, to 150 million gallons.

The federal government has projected a rapid buildup in production capacity that will make it possible to produce enough alcohol from all sources—10 billion gallons—to "stretch" U.S. gasoline supplies 10 percent by 1990.

FOOD FOR FUEL?

In the case of ethanol, one possible long-term problem lies in the fact that corn is now the cheapest, most practical feedstock. (Indeed, Carter's critics saw his 1980 promotion of gasohol largely as a sop to Midwestern corn farmers angered by his partial embargo on U.S. grain exports to the Soviet Union.) One bushel of corn makes two and a half gallons of ethanol. At current production levels, the effect on the overall demand for corn is insignificant.

A fast buildup, however, would have a major impact. According to Purdue economist Wallace Tyner, production of four billion gallons of ethanol in 1984 could lead to a 30 percent increase in corn prices. Many farmers would then switch to growing corn for the new ethanol market rather than soybeans or other lower-priced crops. Higher U.S. corn prices could hurt exports of the grain; incentives to cultivate additional erosion-prone marginal land might increase. So

would the cost of feeding hogs, cattle, and chickens—and so would consumer meat prices. And some critics claim that current methods of making ethanol (including growing and processing the corn) consume more total energy than they produce.

There has been much rhetoric, particularly among environmentalists and Farm Belt politicians, about threats to the future of the family farm. Merely defining the family farm or the small farmer has caused some difficulty. The decline in the total number of farms and the increase in the average farm's acreage usually start the discussions. But these numbers conceal as much as they reveal.

BIGGER MAY NOT BE BETTER

One can start at the top. One-fifth (477,000 in 1974) of all farms are what the USDA calls "primary" farms: in 1974 they earned more than $40,000 in gross sales of what they grew. That year, they accounted for more than 78 percent of all U.S. farm output. Their operators are overwhelmingly farmers and their kinfolk, not agribusiness corporations. Almost half of these farms are crop farms (grain, cotton, sugar, tobacco). Within this primary group is an elite: 64,000 farms with more than $200,000 in sales that account for 40 percent of farm output.

The primary farms are the big engines of U.S. production. Their owner get more than 75 percent of their revenue from crops and livestock. They own 70 percent of the nation's farmland and rent much of the rest. They are in the best cash position to buy more, and their predominance is growing.

Four-fifths of all farms in America are in the under-$40,000 gross sales category. What now keeps most of these family farms going is off-farm income—factory wages, salaries, dividends, retirement benefits. From 1960 to 1974, nonfarm income per farm increased, on the average, about 7 percent per year. The trend has given farm families a financial security not found in agriculture, which is volatile in both yield and price, and thus has averted the further depopulation of the countryside.

Indeed, one-third of America's farms sell less than $2,500 worth of farm products a year, but in 1978 their owners' average family income slightly exceeded the national median of $17,640. These may be small farmers, but contrary to the claims of subsidy-seeking farm lobbyists, no longer are small farmers necessarily needy, low-income folk.

How big is the most efficient farm? A long-accepted notion was that the capital-intensive new technology, particularly mechanized equipment, made bigness synonymous with efficiency and lower consumer food prices. Every farm is different; raising wheat in Kansas is not the same as raising cotton in Texas. Yet with bigness, it was said, came lower production costs to the farmer per bushel of wheat per bale of cotton, and per pound of beef on the hoof.

But at some point, more efficiency and more acreage cease to march together. A 1979 USDA technical study indicated that most—90 percent—of the economies of scale could be captured on family farms of relatively small acreage. But achieving the last 10 percent required that farms more than double in size.

For example, an Iowa corn and soybean farmer in 1979 could reach the 90 percent efficiency level with only 300 acres, selling $60,000 worth of crops. To attain 100 percent efficiency, the same farmer would have to work 640 acres, selling $145,000 worth of crops. (As it happened, such primary farms in Iowa averaged 401 acres and $123,000 in gross sales.) The most powerful incentive to buy or rent more land may simply be the desire among farmers to increase family net income, not to become more efficient.

The government helps this along. Federal subsidies to producers of corn, wheat, and other commodities are based on the national-average costs of producing each crop. The larger, more efficient farmers specializing in corn or wheat have lower-than-average costs; hence the subsidies tend to provide them with a windfall gain. In 1978, 1 percent of the farmers, those with large farms, got 29 percent of all the federal commodity program's payments. Since subsidies are paid on a per-bushel basis, these farmers, in turn, can put extra cash into buying more land. Thus, indirectly, federal crop payments have an unequal effect; like the tax laws, they tend to favor the bigger farmer.

Land, water, energy—these elements shape the long-range problems facing American agriculture. But, like the long-range energy problems evident to specialists but ignored by politicians during the 1950s, they have received little serious attention in Congress, the media, or the White House. Any major remedies involve financial burdens on farmers, consumers, or taxpayers. Hence, they also promise political pain to elected officials. It is much easier to inveigh against high meat prices or corporate agribusiness or federal meddling.

Thus, few of the real issues cropped up in the congressional debate over the 1981 farm bill, which will guide federal policy through 1985. In essence, the Congress is simply tinkering with the farmer's safety net—the crop-subsidy legislation created during the Great Depression of the 1930s. Both Republicans and Democrats view the new export surge as a boon, keeping up grain prices and reducing farmers' need for subsidies.

However, as columnist Lauren Soth observes, America cannot possibly feed the world or continue to serve as a ready-reserve granary, as it has for the Russians. Its best land is already under cultivation; the pressure to "mine" more land and more water is already high. Fairly soon, the United States will have to decide whether to restrict exports and pay farmers to conserve land or to risk the long-range loss of the productivity of America's soil. U.S. agriculture is, in effect, experiencing a bonanza that, unexamined, could ruin us all.●

HOUSE OF REPRESENTATIVES—*Monday, July 26, 1982*

The House met at 12 o'clock noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Eternal God, we thank You for the promises that You have given us and the eternal hope that gives us peace. Grant that in the hearts of all Your people there will be a measure of thanksgiving for the blessings of life and for the opportunities of service. We pray that Your Spirit will comfort those who know sadness or adversity and give strength to every heart and soul. May Your presence never leave us and may we continue to walk through life confident of Your perfect love that will never let us go. In Your holy name, we pray. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 6530. An act to establish the Mount St. Helens National Volcanic Area, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 6530) entitled "An act to establish the Mount St. Helens National Volcanic Area, and for other purposes," disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. McCLURE, Mr. HATFIELD, Mr. WALLOP, Mr. JACKSON, and Mr. BUMPERS to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 114. Concurrent resolution to congratulate the National Aeronautics and Space Administration and all persons involved in the success of the test flight phase of the Space Shuttle program.

LEAD RESOLUTION

(Mr. BEDELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEDELL. Mr. Speaker, last week I introduced a resolution addressing a serious danger facing our Nation's public health. On February 22, 1982, the U.S. Environmental Protection Agency proposed a rule to consider increasing the amount of lead additives that may be put in motor gasoline. This proposal contradicts the testimony of American scientists, including the National Academy of Sciences, who have strongly urged our continuation of all efforts to decrease the amount of lead entering our environment.

My resolution expresses opposition to any changes in the lead phase-down schedule which would increase the amount of lead allowed in gasoline, and points to the availability of alcohol fuels as viable octane-enhancing alternatives to lead.

I also urge my colleagues to cosign a letter I am circulating that will be sent to EPA Administrator Anne Gorsuch, expressing our opposition to EPA's proposed changes. I circulated this letter several weeks ago, and have received the strong support of many of our colleagues involved in energy issues before Congress.

The seriousness of this matter merits a strong response from Congress. I urge your support in reducing the level of lead in our environment.

THE BUDGET

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, the House is beginning the very critical task of implementing the fiscal 1983 budget. It is the final and most important phase of the budget process.

I think the House can be divided into two factions on implementation. The first, of which I am a member, intends to see our budget implemented pure and simple.

The other faction stands in total defiance of the budget we adopted and intends to sabotage it.

Their strategy is no secret. They intend to exploit the process so it can be used to their advantage in the November elections. It is an old song and dance that has been played over and over again for nearly 2 years on such issues as social security and medicare, taxes and housing.

To those who belong to this faction, the budget process and our Nation's economic recovery are expendable, if it means a partisan political advantage this fall.

It is tragic that we have come to this, but I am glad it is finally coming out into the open.

I hope there are enough Members of this House who have the courage to stand by their convictions in the face of adversity. I just cannot believe that the American people will turn out anyone who puts the courage of his conviction above the exploitation of our Nation's economic health for the sake of partisan political gain.

POTATO RESEARCH AND PROMOTION ACT AMENDMENTS OF 1982

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2160), to amend the Potato Research and Promotion Act, with Senate amendments thereto and disagree with the Senate amendments.

The Clerk read the title of the bill.

The Clerk read the Senate amendments, as follows:

Page 6, after line 13, insert:

STRENGTHENING THE FARM ECONOMY

SEC. 5. (a) It is the sense of Congress that the President should work with the Board of Governors of the Federal Reserve System in implementing policies that will, as soon as practicable, reduce the rate of interest farmers must pay to obtain credit for necessary production items.

(b) It is further the sense of Congress, with full recognition that inflation rates that affect farm production costs are declining and that efforts have already been made by the Administration to improve conditions in the farm economy, that the President and the Secretary of Agriculture should use the broad authorities vested in them by Congress to take expeditious action to strengthen commodity prices received by farmers and provide credit assistance to farmers, with particular attention to be given to the following possible courses of action:

(1) an increased effort to encourage farmers to participate in the recently announced voluntary reduced acreage programs for the 1982 crops of wheat, feed grains, upland cotton, and rice that are designed to avoid the adverse economic effects of excessive production of these commodities;

(2) the early consideration and announcement of the terms and conditions of the commodity programs for the 1983 crops;

(3) as a complement to any reduced acreage program, the implementation of a voluntary paid land diversion program in 1983 for producers of wheat, feed grains, upland cotton, and rice, if necessary;

(4) recognizing that loan rates and target prices for the 1982 crops have been announced, the establishment of price support loan rates for the 1983 crops of wheat, feed grains, and rice at levels higher than those

announced for the 1982 crops, so as to provide more adequate price protection to farmers;

(5) the active pursuit of an aggressive export development program directed toward opening new markets for United States agricultural commodities using all the authorities available to them, including the Commodity Credit Corporation Charter Act and the Agricultural Trade Act of 1978, recognizing the efforts already made by the Administration to expand United States export sales of agricultural products by means of—

(A) a 12 per centum increase in the budget for foreign market deveopment programs of the Foreign Agricultural Service;

(B) a $2,500,000,000 budget for the export credit guarantee program;

(C) meetings between the Secretary of Agriculture and foreign government officials of equivalent rank (i) to affirm the United States position as a reliable supplier, and (ii) to encourage officials in major markets to reduce their use of export subsidies and other unfair trade practices that reduce the United States share of trade with third country markets and to reduce import restrictions; and

(D) proposed increases in the programs under title I of Public Law 480:

(6) with full recognition that officials of the Department of Agriculture have indicated that the total forced liquidations of farm operations in 1982 (as a result of delinquencies in repayment of Farmers Home Administration farm loans) will not exceed 1 per centum of all farmers holding Farmers Home Administration farm loans nor substantially exceed the previous year's level—

(A) provision for deferrals on repayment and foregoing foreclosures whenever practicable, of Farmers Home Administration farm loans for borrowers who can show that (i) they are not now able to meet their debt obligations without unduly impairing their ability to meet essential farm needs (including family subsistence) due to circumstances beyond their control (based on the individual circumstances of the borrower) and (ii) they will have the ability to repay their loans once the deferral period is over (with any such deferral to be for such period of time as the Secretary deems necessary based on the borrower's individual circumstances); and

(B) permitting such farm borrowers to obtain reamortization or rescheduling of their loans to provide equitable repayment terms (including an interest charge at the original rate established for the loan) consistent with their farm and financial condition; and

(7) the use of the Secretary's discretionary authority to implement the economic emergency loan program when existing farm operating loan program funds have been exhausted.

(c) It is further the sense of Congress that the President, in nominating persons for positions on the Board of Governors of the Federal Reserve System that will become open in 1982, should ensure that agricultural interests are provided fair representation on the Board.

Amend the title so as to read: "An Act to amend the Potato Research and Promotion Act and to express the sense of Congress regarding the strengthening of the farm economy.".

The SPEAKER. Is there objection to the request of the gentleman from Texas?

Mr. HANSEN of Idaho. Mr. Speaker, reserving the right to object, may I ask has this been cleared with the minority leadership?

Mr. DE LA GARZA. Mr. Speaker, will the gentleman yield?

Mr. HANSEN of Idaho. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Yes; it has. The gentleman from Virginia (Mr. WAMPLER) is in agreement with the action we take today.

Mr. HANSEN of Idaho. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

A motion to reconsider was laid on the table.

THIRTEENTH ANNUAL REPORT OF NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND NATIONAL HOUSING PARTNERSHIP—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Banking, Finance and Urban Affairs:

(For message, see proceedings of the Senate of today, Monday, July 26, 1982.)

THE 1981 ANNUAL REPORT OF U.S. ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, referred to the Committee on Foreign Affairs:

(For message, see proceedings of the Senate of today, Monday, July 26, 1982.)

PHILIP C. HABIB—AN ABLE DIPLOMAT

(Mr. DERWINSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DERWINSKI. Mr. Speaker, given the delicacy of the Middle East situation, no other diplomat could play the unique and effective role being played by Special Envoy Philip C. Habib.

Any politically motivated or sensationalistic criticism of Mr. Habib is contrary to the national interests of the United States and could jeopardize the opportunity for peace in Lebanon and the Middle East which exists.

Mr. Habib is a retired diplomat and did not volunteer to fill his current post. He was called back and asked to serve. As a retiree augmenting his income as a consultant to the Bechtel Group, Inc., in a naturally legitimate manner, no one could have surmised he would be so heavily involved in the current negotiations.

To imply any conflict of interest is either cheap politics or sensationalism at its worst.

Given our goals, which are to restore a viable Lebanon and provide Israel with the security it has not had earlier from terrorist attacks, thus diffusing tensions in the Middle East, the diplomatic challenge Mr. Habib is pursuing is the greatest facing anyone in the world at this time. He should be allowed to meet this great challenge unfettered by unwise and unfounded attacks on his Bechtel association.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken Tuesday, July 27, 1982.

DELAYING EFFECT OF CERTAIN CHANGES IN THE FEDERAL RULES OF CIVIL PROCEDURE

Mr. EDWARDS of California. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6663), to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure, as amended.

The Clerk read as follows:

H.R. 6663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding the provisions of section 2072 of title 28, United States Code, the amendments to rule 4 of the Federal Rules of Civil Procedure as proposed by the Supreme Court of the United States and transmitted to the Congress by the Chief Justice on April 28, 1982, shall take effect on October 1, 1983, unless previously approved, disapproved, or modified by Act of Congress.

SEC. 2. This Act shall be effective as of August 1, 1982, but shall not apply to the service of process that takes place between August 1, 1982, and the date of enactment of this Act.

The SPEAKER. Is a second demanded?

Mr. McCLORY. Mr. Speaker, I demand a second.

The SPEAKER. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER. The gentleman from California (Mr. EDWARDS) will be recognized for 20 minutes, and the gentleman from Illinois (Mr. MCCLORY) will be recognized for 20 minutes.

The Chair recognizes the gentleman from California (Mr. EDWARDS).

Mr. EDWARDS of California. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on April 28, 1982, the Supreme Court sent to Congress a group of proposed amendments to the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, and the Rules and Forms Governing Habeas Corpus Proceedings. These proposed amendments were promulgated pursuant to provisions known as the Rules Enabling Acts. The acts authorize the Court to propose amendments to existing rules of "practice and procedure" by transmitting them to Congress no later than May 1 after the start of a regular session. The amendments take effect 90 days after transmission, unless Congress acts to the contrary. The purpose of the 90-day delay is to provide Congress with an opportunity to review the proposals.

The Court's proposed amendments to the civil rules make changes in rules 4 (c) and (d)(7), which deal with who may serve process and the manner in which service must be made. Rule 4(c) presently authorizes service of process by a U.S. marshal or a deputy marshal, by a specially appointed process server, or by someone authorized to serve process by the law of the State in which the court sits. Rule 4(d)(7) permits service of process upon certain defendants by mail in accordance with the law of the State in which the court sits.

The proposed amendments to rule 4(c) are intended by the Court to reduce the role of marshals in serving process in private civil actions. Report of the Judicial Conference Committee on Rules of Practice and Procedure, in House Document 97-173 at 14. Thus, the proposed amendments to rule 4(c) permit service of a summons and complaint by any nonparty who is 18 years of age or older. Marshals are authorized to serve a summons and complaint only in specified circumstances: First, on behalf of a party authorized to proceed in forma pauperis; second, where a statute requires the marshals to serve process; and third, where a court, to assure that service is properly effected, orders a marshal to serve the process.

The proposed amendment to rule 4(d) permits service of a summons and complaint by mail, and requires, where mail service is used, that the mail be certified. The amendment also eliminates the option presently in the rule to follow State law in regard to mail service.

The purpose of H.R. 6663 is to postpone the effective date of these amendments so that we can take a close look at them. The use of certified mail for the service of process does not appear to be the most effective and reliable system of mail service and may lead to a significant number of challenges to judgments entered by default. Moreover, while I am not aware of any objection raised about the goal of reducing the role of marshals in the service of civil process, it is likely that the proposed amendments, as drafted, will not have that result. Finally, other proposed amendments to rule 4 create ambiguities that can only be resolved by litigation.

A congressional review of the proposed amendments, which H.R. 6663 will permit, will enable us to draft legislation that will insure reaching a goal of reducing the marshals' role in serving process, that will develop an effective and reliable system for service by mail, and that will clarify any ambiguities.

The proposed amendments' reliance upon certified mail as the sole method of mail service appears to be misplaced. Certified mail is not a dependable method of providing adequate notice: Mail carriers may not make the necessary inquiries to assure that mail is delivered to the proper person; there may be difficulty in reading signatures on the receipts; or the postal authorities may not be able to determine whether mail has been "unclaimed" or "refused," the latter providing the basis for a default judgment under the new subsection.

My own State of California has used a different system of mail service for over 10 years with much success. The California system permits service by ordinary mail with a notice and acknowledgement of receipt form attached (Cal. Civ. Proc. Section 415.30 (West 1973).) If the defendant returns the acknowledgement form, as most do the case continues on schedule. If the acknowledgement is not returned, personal service is required. Because proposed subsection (d) eliminates the option to follow local law, the Federal courts in California would no longer be able to use this most effective method of service.

With regard to the goal of reducing the role of marshals in serving process, the amendments to subsection (c) do not appear to succeed in reaching that goal. The proposed amendments require marshals to serve process where commanded to do so by statute. One statute, 28 U.S.C. 569(b), requires marshals to serve all process of a court of the United States. In order to achieve the desired result, it appears to be necessary to alter the language of the proposed amendment or to amend the language of 28 U.S.C. 569(b). The Department of Justice has recommended amending section 569(b), and the Subcommittee on Courts, Civil Liberties and the Administration of Justice has scheduled hearings for September 9, 1982, on H.R. 3580, a bill to amend section 569(b).

Finally, the proposed amendment creating new subsection (j) requires further consideration as well. The new subsection commands a judge to dismiss without prejudice an action against a defendant who has not been served within 120 days of the filing of the complaint. A problem occurs when a statute of limitation expires after filing but before service is made. The new subsection requires dismissal, but without prejudice. However, if there is such a dismissal but the action does not survive for purposes of the statute of limitation, then there has been a dismissal with prejudice. Neither the text of the new subsection nor the advisory committee note lends guidance on this point.

The new subsection is also unclear as to whether service has been "made" when service is timely but defective through no fault of the party. These and other ambiguities in the subsection should be resolved.

H.R. 6663 postpones the effective date of the proposed changes in rule 4 until October 1, 1983. This additional time will permit us to insure that the Federal Rules of Civil Procedure utilize the most efficient and reliable system of mail service, that they actually reduce the role of U.S. marshals in servi ,g process, and that they are as free as possible of ambiguities requiring costly litigation to clarify.

I urge my colleagues to vote for the bill.

● Mr. RODINO. Mr. Speaker, the bill before us, H.R. 6663, simply delays the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure. I agree with the gentleman from California that we need to delay the effective date to give us time to perfect the proposed amendments.

H.R. 6663 concerns only rule 4; it does not affect the proposed changes to the Federal Rules of Criminal Procedure or the habeas corpus rules contained in the Supreme Court's order of April 28, 1982. If H.R. 6663 is enacted, those changes will still take effect on August 1, 1982.

Mr. Speaker, while these proposals come to us from the Supreme Court, the Court did not draft them. An advisory committee of the Judicial Conference drafted them. When the first draft of the changes in rule 4 met substantial opposition, the advisory committee redrafted the changes and submitted the second draft to the Judicial Conference, which in turn, sent it to the Supreme Court for approval. We

received the submission directly from the Supreme Court. Thus, the specific proposed amendments to rule 4 that are before us have never been exposed to public comment.

Practitioners, judges, and process servers have nevertheless raised objections to the changes. Some of those objections appear to have some foundation and ought to be considered. Service of process is such an important part of civil litigation, that we ought not condone any changes without careful consideration of them.

The Committee on the Judiciary has received no complaints about the underlying purpose of the changes, to diminish the role of U.S. marshals in serving process. It has, however, received complaints that the proposed changes will not serve that purpose. The exception in proposed rule 4(c)(2)(b), which provides that marshals must serve process when authorized to do so by statute, swallows up the general rule against service by marshals because 23 U.S.C. 569(b) requires the marshals to serve all process coming from courts of the United States. In addition, it has been complained that the exclusive method of mail service prescribed—certified mail, restricted delivery—is not the most effective way to achieve notice of claims, and that removing the option to follow effective local laws in serving certain defendants is unwise and unnecessary. Finally, it has been suggested that new provisions for limiting the time within which papers must be served are unclear and may have unanticipated and unfair consequences, especially as regards statutes of limitation. The ambiguity in the language of the proposed rule, it is pointed out, is not resolved in the advisory committee notes.

These complaints are serious and require us to exercise our responsibility to oversee the rulemaking process. H.R. 6663 will provide us the time to consider the complaints and draft whatever legislation may be necessary to insure that the proposed amendments actually reduce the role of marshals in serving process, provide for the most reliable and effective form of mail service, and are as free of ambiguities as possible.●

□ 1215

Mr. McCLORY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first of all, I want to commend the gentleman from California, the chairman of the Subcommittee on Civil and Constitutional Rights, for his very clear explanation of this measure and to join in expressing support of H.R. 6663. I wish also to acknowledge that since a subcommittee of the House Judiciary Committee will schedule hearings on this subject, that it is entirely appropriate that we should enact this bill in order that we can have an opportunity for hearings on proposed amendments, which otherwise would take effect on August 1.

The changes in the rules of civil procedure which were recommended to us by the Chief Justice contain a number of changes, quite a number, as a matter of fact, and it is just with respect to this one recommendation that we are suggesting that the Congress take a look at it and that we defer action at this time. It is necessary that we do take action, because otherwise the rules do become effective automatically.

I do think that the change with regard to the service of process justifies exploration by the Judiciary Committee in public hearings.

The amendments, which take effect on August 1, unless Congress acts, establish a uniform procedure for service of process by registered mail in Federal civil cases. As the gentleman from California has indicated, there is a different type of process serving in the State of California, and may I say likewise in the State of Illinois, a simplified procedure which I judge would be replaced by this uniform practice which is embodied in rule 4 if it becomes effective.

The change marks a departure from the current practice permitting use of State procedures in the various Federal districts.

In addition, rule 4 currently permits service of process by those authorized to serve under State law and this is deleted by the Supreme Court's amendment.

The Department of Justice, the Postal Service, and the Administrative Office of the U.S. Courts all should be heard from, as well as other interested parties. We have a responsibility under the rulemaking process to scrutinize proposed changes when a controversy arises such as this. We simply cannot act within the effective date in all cases and, consequently, it seems to me we should defer action here.

I do not believe that every amendment promulgated by the Supreme Court should be delayed; but in cases such as this, Congress should permit a full and open examination of the issues. There is no urgency about the enactment of rule 4. Therefore, I think it is extremely important that we take action on this measure.

I am, therefore, very much in support of the measure.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. EDWARDS of California. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BROWN of California). The question is on the motion offered by the gentleman from California (Mr. EDWARDS) that the House suspend the rules and pass the bill, H.R. 6663, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. EDWARDS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT AMENDMENTS OF 1982

Mr. DE LA GARZA. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. DE LA GARZA).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5203, with Mr. MILLER of California in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Texas (Mr. DE LA GARZA) will be recognized for 30 minutes, and the gentleman from Minnesota (Mr. HAGEDORN) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Texas (Mr. DE LA GARZA).

Mr. DE LA GARZA. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the bill, H.R. 5203.

The bill contains a number of amendments to the Federal Insecticide, Fungicide, and Rodenticide Act and is the result of extended consideration of the issues covered by the proposed legislation during a period of approximately a year by the committee and the Subcommittee on Department Operations, Research, and Foreign Agriculture, under the able direction of Mr. GEORGE BROWN of California. In total the subcommittee held 6 days of hearings—both in Washington and in the field—and the subcommittee and full committee devoted 7 days to busi-

ness sessions for markup of the legislation. In addition, individual members have had considerable discussion among themselves and with the many interested parties concerning the various issues covered by the bill.

The bill that results from these deliberations covers a wide variety of issues and takes account of the various views presented in a fair and balanced manner, while at the same time maintaining the statute's basic protection of the public health and the environment.

First, H.R. 5203, as reported by the committee, extends the authorization for appropriations under FIFRA through September 30, 1984. The funding authorization for the next fiscal year is in the amount of $56.4 million and 6 percent in excess of that amount for the fiscal year 1984. The limit on appropriations for fiscal year 1983 would maintain funding for salaries and expenses and abatement, control and compliance at fiscal year 1982 levels, but should be sufficient to operate the program on a sound basis. The authorization of appropriations for the current fiscal year merely confirms the extension of the act that occurred through the appropriation process since the authorization for this period was delayed by consideration of the issues covered by this bill. The bill also extends the term of the scientific advisory panel through 1987 and strengthens its composition and resolves a number of problems arising in the administration of the act.

REGISTRATION PROCEDURES

Among the major amendments to the act are changes made in the procedures used by EPA in registering pesticides. Under the act no person may distribute or sell any pesticide which is not registered with the administrator. As a condition of approval for registration, the Administrator must make a number of determinations including a determination that the pesticide will perform its intended function without an unreasonable adverse effect to health or the environment. Applicants for pesticide registrations must submit data or make reference to data previously submitted to EPA to substantiate claims regarding the pesticide.

The amendments changes the rules regarding the sharing of data submitted to EPA in support of a pesticide registration. They would provide a 15-year period of exclusive use for: First, data submitted to support an application for the registration of a pesticide containing a new active ingredient initially registered after September 30, 1978, second, data submitted after September 30, 1978 to register new uses of a previously registered pesticide, and third, data submitted after the date of enactment of H.R. 5203 for an experimental use permit. Under current law, in the case of data submitted to support an application for a new registration, exclusive use protection is provided for a period of 10 years followed by a 5-year period during which a subsequent applicant must pay compensation for use of the data. The amendment would lead to a phaseout of requirements for data compensation by 1993. The extension of exclusive use protection was added to enhance the economic incentive for firms to conduct costly long-run pesticide research and development programs.

H.R. 5203 also provides a substantially modified procedure governing the joint development of additional data to support existing registrations of pesticides.

The procedures for developing additional data under existing law have been unsatisfactory and subject to litigation. The importance of revising the system is underscored by the agency's intention to impose requests for replacement studies on dozens of older, yet widely used pesticides. The bill provides that when the Administrator requests additional data to support the existing registrations of a pesticide, all companies holding a registration on the product are given 180 days to join together in a task force convened specifically for the purpose of satisfying the agency's data requirements. A simple formula is established by which members of a task force can share in the cost of developing the data taking into account both the relative size of each individual company's share of the market and the up-front risks entailed in developing data which may or may not assure continued access to the marketplace.

Data developed by a task force is afforded 15 years of shared exclusivity from the date of submission although other registrants may buy into the task force after its completion by paying an equal share of the cost of producing the data in proportion to the number of companies participating in the task force.

In order to facilitate the administration and implementation of the new registration process, H.R. 5203 directs the Administrator to compile, with the cooperation of the industry, an index of studies previously submitted to satisfy given data requirements. A purpose of the index among others, is to provide the industry with a complete inventory of studies, including their status with respect to compensation and/or exclusivity. From this inventory, subsequent applicants who desire to cite other registrants' data, rather than develop their own, will have a complete and regularly updated guide showing the availability of studies which they may cite in order to satisfy a given data requirement.

Because of the time needed to develop and implement the data index, the majority of the features of the new registration system will not become effective upon passage of this act. In general, the old system is kept in place during an 18-month interim period.

DISCLOSURE OF HEALTH AND SAFETY DATA

Another change in the act relates to the provisions in section 10 of FIFRA concerning disclosure of health and safety test data submitted by an applicant for registration of a pesticide.

The amendments to section 10 embodied in H.R. 5203 attempt to equitably resolve disputes that have arisen in the implementation of the 1978 amendments to FIFRA. Data submitters have represented that the 1978 amendments do not provide adequate protection to prevent the disclosure of research data to competitors which could in turn, result in the use of such data by competitors for commercial purposes. Interest groups concerned with the safety of pesticides have represented that they need access to health and safety data to assess pesticide risks, and EPA has stated that such access is desirable if the agency's decisions are to command public confidence. The amendments attempt to accommodate these interests.

The amendment is designed to provide complete access to copies of health, safety, and environment data by those members of the public who are not associated with the pesticide industry, and assure their ability to communicate and make public information in such studies concerning health, safety, and environmental effects, while at the same time protecting the proprietary interest of the owner or submitter of studies in preventing competitors from having access to the data or making unauthorized use of the data.

There would be a greater degree of protection provided innovative methods and technology. Such protection is strictly limited. It would cover only an item of information that describes scientific method or technology—or a method of combining known technology—which is: Innovative; not otherwise available to the public; used for the purpose of obtaining product chemistry, environmental chemistry, residue chemistry, or metabolism data; substantially different from known methods or technologies; and capable of providing, if disclosed, a significant advantage to competitors of the submitter of the data. In no event can an item of data be considered an innovative method or technology for longer than 5 years after the date of submission.

This type of data would be made available only to independent scientists, scientists in Federal or State agencies, and scientists acting on behalf of nonprofit health, environmental, or labor organizations to permit them to conduct a peer review or replicate the study. They would be authorized to communicate with each

other and with EPA, but not otherwise disclose the innovative methods or technology to the general public unless the Administrator determined that it was necessary in the public interest because of concerns as to protection of health, safety, and the environment. A procedure is provided whereby they can obtain summaries of innovative methods or technology which can be freely disclosed to the public.

AUTHORITY OF THE STATES

The third major issue addressed by H.R. 5203 relates to the authorization of the States to regulate the sale and use of any federally registered pesticide. Under section 24(a) of FIFRA a State is authorized to regulate the sale and use of such a pesticide so long as it does not permit the sale or use prohibited by EPA.

Industry representatives testified before the committee on a number of complaints regarding the operation of the pesticide registration program in the State of California. That State had recently enacted a statute patterned after FIFRA, and persons wishing to sell a federally registered pesticide in California must obtain approval from California Department of Food and Agriculture (CDFA) before being allowed to distribute the pesticide in the State. The industry representatives sought a change in FIFRA which would provide certain constraints on the ability of the State to request data beyond the data which had already been submitted to EPA for approval of a pesticide, and to otherwise expedite State action.

On the other hand, representatives of the State of California, the National Association of State Departments of Agriculture, and environmental groups supported retention of the current language of section 24(a) on the basis of States rights and on the grounds that industry complaints with the California program were exaggerated.

The committee held a number of hearings on this issue throughout the course of a year both in Washington and in the field and adopted a compromise contained in H.R. 5203 which reconciles the differences between the two contending sides on a fair and equitable basis.

The amendments to section 24(a) do not in any way modify the right of a State to make regulatory decisions pertaining to the sale or use of a federally registered pesticide, and to exercise authority to base such sale or use. In addition, each State may continue to request data above and beyond the data required by EPA. The amendments are addressed solely to providing for a review of a State's requests for data and to providing constraints on the period of time a State may take in reaching certain registration decisions.

The bill facilitates the States obtaining data which previously had been submitted to EPA by an applicant. H.R. 5203 specifically authorizes a State to obtain from EPA any data needed in its regulation of the sale and use of a pesticide under section 24(a). This includes trade secret data—which is not available to the public—on the condition that the State does not disclose the data publicly unless EPA has decided to release such data.

The bill also preserves the prerogative of a State to request additional data with respect to any restricted use pesticide, or any general use pesticide used for agricultural purposes in the event of special local concerns. A State's data request in such situations is not subject to review, and the only condition imposed by the statute is that the applicant must be provided written notice and justification for the requested data.

A review by EPA is provided in the case of special local concerns for pesticides which are classified for general use and used for nonagricultural purposes. In such event, the State's request for data is subject to EPA review and may be overruled or modified if it is determined that the State's request is arbitrary or capricious. In any event, the Administrator's determination in such cases is subject to judicial review.

A similar type of review is provided in case a State makes a request for data that is not available from EPA and does not involve a special local concern of the State. In such event, the consideration by the State is no different than that reviewed by EPA in its original registration decision. If the Administrator has not taken action within a designated period, approval of the State's request would be presumed.

In addition, time requirements have been set out in H.R. 5203 for handling of applications for registration by a State which are comparable to the time requirements that currently apply in many States. Again these requirements do not apply to cases of special local needs.

The approach taken in the committee amendment is comparable to the approach taken in other provisions of FIFRA. For example, the States have been given primary enforcement responsibility for pesticide use violations under FIFRA. Nonetheless, the act provides for the Administrator to have enforcement responsibility in those States which have not adopted adequate enforcement statutes or in the case of a State's failure to assure enforcement of pesticide use violations.

Similarly, States are authorized to conduct a program for the training and certification of applicators that apply restricted use pesticides if a State program has been approved by the Administrator. Whenever the Administrator determines that a State is not conducting a certification and training program in accordance with an approved plan, if appropriate corrective action is not taken, the Administrator can withdraw approval of the plan and the function would then be undertaken by the EPA.

NEW PROTECTIONS TO THE PUBLIC

The committee has adopted in H.R. 5203 a number of amendments intended to enhance the effectiveness of the act's safeguards against hazards associated with the manufacture and use of pesticides. The provisions address concerns brought to the committee's attention by farmworker and labor organizations, environmental groups, farmers, and public health organizations.

One provision would assure that pesticides are used safely. When found necessary, the Administrator is directed to promulgate new regulations within 1 year to establish minimum field reentry standards for farmworkers, including appropriate methods to assure that farmworkers are adequately informed of the standards. Such steps are prudent and necessary wherever people can be regularly expected to come into contact with crops recently treated with pesticides.

Another provision in H.R. 5203 mandates that States, in carrying out their primary enforcement responsibilities, must undertake appropriate field investigative action as soon as possible, and in no event more than 5 days after receipt of a complaint that an agricultural worker may have been injured by a violation of FIFRA. This mandate applies to those cases of pesticide injury where a delay beyond 5 days in conducting an appropriate scientific investigation of the facts surrounding a case would jeopardize the ability of the investigating officials to substantiate or refute the substance of the claim. The committee is deeply concerned that inconclusive enforcement actions may be undermining the existing protections afforded agricultural workers in FIFRA, and believes that this provision will help assure timely and more satisfactory investigative actions.

Another important new provision added to FIFRA by H.R. 5203 makes it unlawful to discharge from employment or otherwise take adverse employment action against any employee because that person has exercised rights or filed complaints concerning alleged violations of FIFRA. Such protection is also given to workers testifying in an FIFRA proceeding or participating in an investigation of the facts surrounding an alleged violation of this act.

The committee has adopted a comprehensive set of remedies designed to assure that a worker's rights will be protected against such discriminatory treatment. These include provisions

for filing of employee complaints with the Secretary of Labor, and for that Secretary to order the person committing any violation, after investigation, to take action to abate the violation, reinstate the employee to his former position with back pay, compensatory damages and where appropriate, exemplary damages. Any such order may be appealed to the appropriate U.S. court of appeals. These employee remedies are patterned after those included in other Federal statutes.

MISCELLANEOUS PROVISIONS

There are also a number of other miscellaneous amendments contained in H.R. 5203. The committee was repeatedly faced with the dilemma of resolving conflicting interests and concerns strongly held by different segments of society over how our Nation's pesticide law should be structured and administered. These positions have been thoroughly and forcefully presented to the committee over the last year. In balancing these conflicting interests in H.R. 5203, the committee has adopted provisions which it views as fair and equitable compromises that preserve the integrity of the statute.

Mr. Chairman, I urge the Members to join in supporting enactment of H.R. 5203.

Mr. HAGEDORN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982.

This legislation popularly referred to as FIFRA, is indeed a complex piece of legislation. It has been often stated that there are very few individuals here on Capitol Hill who understand the act. The legislation that we are considering today is the result of many hours of hearings, meetings, and markup sessions, and is truly a compromise bill in every sense of the word.

FIFRA as enacted in 1972 has been the subject of numerous court challenges to many of its provisions. Congress in attempting to make it work has amended it in a major way on two previous occasions, in 1975 and 1978, and now is once more attempting to respond to various complaints as to the workings of this act by fashioning these amendments contained in H.R. 5203.

As I previously noted, the amendments were arrived at after a long process of meetings with all interested parties, and it is my considered opinion that we have a bill that responds to most of the problems raised by various witnesses at the subcommittee hearings and should be approved by the House with a minimum of amendments. Personally I can support the legislation as it now reads without further amendments, but I am aware of several amendments that will be offered and the debate on these amendments will further clarify the issues and allow this body to work its will.

One of the most controversial of amendments that will be offered is the one striking section 11 of the bill, dealing with the authority of States. The proponents of this amendment argue that the language as contained in H.R. 5203 impinges on a State's rights. Much, much more will be said on this matter when we consider this legislation under the 5-minute rule, but I would take a few minutes to clarify the position of the administration on this amendment. Last week there were some indications that the Office of Management and Budget would recommend a veto of this bill if section 11 remained in the bill as it is and if the budget authorization figures were not lowered to the amount as recommended in the President's 1983 budget submission.

Last Friday, when Congressman WAMPLER took the floor in support of adopting the rule for consideration of this legislation, he cautioned that the jury was still out and that it was his understanding that OMB was in fact still reviewing its position on section 11 as contained in H.R. 5203. Late Friday evening, I am advised, the word was given that after reviewing section 11 a decision was made by OMB to oppose passage of the bill only if the budget figures were not in line with the President's 1983 budget recommendations. Obviously, after the review OMB came to the conclusions that they no longer opposed inclusion of section 11 in the legislation.

Mr. Chairman, I will not take further time to elaborate on the various features of this legislation. An adequate explanation has already been provided, and I would conclude my remarks by recommending to my colleagues that we approve this important legislation.

● Mr. WAMPLER. Mr. Chairman, I wish at this time to indicate my support for H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982. This legislation reflects a compromise that we have been able to forge and I would hope that we can pass this bill without too many changes.

Approximately a year ago the Subcommittee on Department Operations, Research, and Foreign Agriculture undertook the process of amending FIFRA. The last major amending process occurred in 1978 and various changes have been called for almost from that date but the initial reaction was to allow a little time for the 1978 amendments to be implemented before attempting further changes. After the passage of time and the effects of certain court decisions it soon became obvious that additional amendments would be necessary if the observable deficiencies in the 1978 amendments were to be corrected. I hope all in this Chamber understand the FIFRA is a very complex piece of legislation with many issues that are not easily resolved. Numerous court cases over the years reflect how various interest groups perceive the legislation and are willing to take the issues involved to court. We as legislators are asked to clear the air and this is what we have attempted to do in this legislation we are bringing to you today.

A series of hearings brought out the problem areas, and witnesses provided recommended solutions. In a series of meetings between the interested parties which covered many months and required many drafts and redrafts we finally have perfected this legislation. The so-called major amendments deal with changes to sections 3, 10, and 24.

Section 3 concerns the registration of pesticides. One of the major changes provides for a period of exclusive use of 15 years for data submitted to support an application for registration. It is this research data that is so costly to produce. Testimony received indicated that millions of dollars are expended for research to develop a pesticide and it is this data that should be protected under both the exclusive use provisions and the trade secrets provisions. More will be said later about trade secrets. The effect of this change is to substitute 15 years of exclusive use protection for the 10 years of exclusive use protection plus 5 years compensation as contained in the present law. Data compensation has not been a success and this legislation in effect phases out data compensation by 1933.

Another issue addressed in section 3 is "cite-all". Congress thought it cleared up this issue in the 1978 amendments but the interpretation placed on the law by the EPA created considerable controversy. We have more precisely stated in this legislation that an applicant may satisfy data requirements by submitting its own developed data, by citing data previously submitted to EPA by another registrant, or by combining these two methods as long as the applicant is not precluded from using another's data by the exclusive use of data compensation provisions. It should be pointed out that EPA is not precluded from reviewing all data available to determine whether the product will cause unreasonable risks to the environment. It just means that a producer is not required to offer to pay compensation for a variety of studies that may or may not have a bearing on the decision to be made by EPA to issue a registration.

Another change in the registration process deals with procedures for developing additional data to support the existing registrations of pesticides. This is referred to in the trade as "defensive data." For a variety of reasons

EPA is reviewing and requiring this additional data on previously registered pesticides. New procedures have been established for sharing the cost of developing this data. Registrants are required to participate rather than permitted to participate as in present law and data developed receives 15 years exclusive use, shared by the joint task force that produces the additional defensive data.

There are many other changes to section 3 that I will not take the time to enumerate. Suffice it to say that both large and small producers of pesticides and formulators of pesticides have agreed to these amendments as well as EPA, who must implement the law, and all feel that these amendments will make for a better method of registering pesticides while still protecting the environment.

Let me now turn to the amendments to section 10, dealing with trade secrets. The controversy that exists, pits the companies which manufacture chemicals used in pesticides against public interest groups who are concerned with pesticide safety. The manufacturers which are required to furnish data in order to secure a registration feel thay have a proprietary interest in the data, which if improperly divulged to competitors will cause them economic harm. The public interest groups, on the other hand, feel they must have access to health and safety data in order to assess pesticide risks. Although EPA is charged with the protection of the environment, the public interest groups feel that the EPA for many reasons has not met that obligation; consequently the need to have data reviewed by independent scientists. The amendments we are bringing to you in this legislation are designed to meet the needs of both of these groups. It seems to me that we should try to protect the manufacturer's trade secrets in order that they will continue to do the research necessary to produce the pesticides which are so vitally needed by our farmers to help them produce the food and fiber this country needs. At the same time we must be concerned with safeguarding the health and safety of our citizens. The amendment fashioned in the legislation is a compromise that was developed by all the interested groups and accepted by them. Since the amendments appear to be a good balance between the conflicting views I urge that they be accepted as written.

The amendments to section 24, the authority of the States, are the last of the major amendments that I would like to discuss. A State continues to be authorized to regulate the sale or use of any federally registered pesticide or device so long as it does not permit a sale or use prohibited by EPA. This has not been changed. The amendments do provide new authority for an EPA review and override for certain State data requests and do impose time limits on the time period during which the States must act to approve or deny registration applications.

These amendments are an outgrowth of a situation that has occurred in California primarily, although a few other States also may be involved. Testimony received indicated that long delays occurred in the registration process in California and that additional data was required to be submitted over that required by EPA without showing the need or reason for the additional data. The complaints centered on the fact that requirements over and above the FIFRA requirements make it very hard to have a nationwide market when a particular State causes delays thereby causing economic hardships.

It should be noted that in working out a compromise the Committee provided that the State retain its ability to request additional data with respect to any restricted use pesticide or any general use pesticide used for agricultural purposes in the event of special local concerns pertaining to an increased risk of any unreasonable adverse effect on the environment or reduced efficacy of the pesticide within the State. Thus a distinction is drawn between agricultural and nonagricultural products in the case of a special local concern which, it appears, would comprise the bulk of California registrations. It should be pointed out that there is a deep division between various groups on this issue, with the one group advocating no change in current law and the other group supporting this compromise as worked out by committee staff.

It has been my position that we do not need 50 little EPA's and this compromise does not create that much of a burden on EPA and should expedite the process of registration. Additionally, the agricultural producer interests in California feel that changes are required; consequently I have supported this compromise.

Additional minor amendments are included in H.R. 5203, such as extending the authorization authority for funding for 2 years until September 30, 1984, extending the Scientific Advisory Panel authority until September 30, 1987, and providing that members of the panel be appointed to staggered terms of office and insuring that there be multidisciplinary representation on the panel, to include the disciplines of toxicology, pathology, environmental biology, and related sciences.

Further minor amendments include providing protection to workers through the promulgation of regulations, if found necessary, to establish minimum field reentry standards and to develop methods of advising farmworkers of these standards; strengthening the certification and training programs; making changes in the enforcement program; providing that information furnished to foreign governments as to the cancellation or suspension of the registration of a pesticide shall not include trade secrets material; making changes in the unlawful acts and penalty sections; and authorizing EPA to phase out a registration in addition to a cancellation or change.

This, Mr. Chairman, is a rather comprehensive review of H.R. 5203, and I would urge my colleagues to approve this legislation.●

□ 1230

Mr. DE LA GARZA. The able chairman of the subcommittee, Mr. GEORGE BROWN of California, let me say here, though, that I think that Mr. BROWN merits a commendation not only from me as chairman of the committee, but from the whole committee, and certainly the people of the United States concerned with this legislation for the fairness that he has demonstrated throughout the process, the diligence and dedication with which he presided over the subcommittee.

I know that he has problems, or might have problems with several parts of the legislation, but disregarding those, which of course he would have to protect as an individual Member at a later time, he has above and beyond the call of duty been fair to everyone who has come before the committee, from a migrant worker to corporate presidents and everyone in between has been treated with fairness and with respect as they presented their differing or contested views to the subcommittee.

With that, Mr. Chairman, I would yield the balance of the time to Mr. BROWN, the chairman of the subcommittee, to use as he sees fit and to manage the balance of debate on this legislation.

Mr. BROWN of California. I thank the chairman very much.

Mr. Chairman, the distinguished gentleman from Texas (Mr. DE LA GARZA) has already given an excellent explanation of the history of the committee's dealing with this admittedly complex piece of legislation, and I would not elaborate on what he has already said. I do very much appreciate his extremely complimentary remarks.

Mr. Chairman, the bill before us today, H.R. 5203, is the product of more than a year of work by the House Agriculture Subcommittee on Department Operations, Research, and Foreign Agriculture. The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) has been on a 1-year reauthorization since the last major changes to the act in 1978. Our goal this year was to incorporate needed changes into the act to allow its reauthorization for a 2-year period. I am convinced that the Environmental Protection Agency has adjusted to the

changes made in 1978 and will perform its job better without the uncertainties which a yearly reauthorization brings.

The first major area where change was needed was section 3 of FIFRA. This section deals with the registration of pesticides with EPA and, over the last few years, a number of problems have developed which have placed an administrative burden upon the agency and the industry. In the amendments contained in section 3 of H.R. 5203, we have attempted to bring about a greater degree of cooperation within the pesticide industry in the development and sharing of data submitted to EPA in support of a pesticide registration. The language was worked out in close cooperation with EPA, the industry, and various Members of Congress, and has not generated any controversy.

The second major area where change was needed was section 10 of FIFRA, which deals with the protection and disclosure of data submitted to EPA in support of a pesticide registration. The 1978 amendments to FIFRA called for the release of health and safety data, excluding any trade secrets data. After a long round of court cases, the release provision was upheld. However, the industry feared that foreign competitors, many not bound by international patent agreements, could reconstruct a chemical formula based upon information contained in the health and safety data package. Environmental and labor groups wanted the widest possible disclosure of this data. EPA, faced with setting up a program for orderly release, sought guidance on this issue.

Thus began one of the most arduous and complex negotiations on this legislation. The issue was finally settled in a compromise presented to the subcommittee by a group comprised of industry, environmental, labor, and EPA negotiators. As with all compromises, it pleases no one group completely. There are still areas of controversy, upon which we will see some discussion during this debate. However, I am satisfied that we have reached the best compromise possible.

The other major area of controversy centered on section 24(a) of FIFRA, which deals with the role of the States in regulating pesticides. This provision was put into law in 1972 and has served well since then. However, a situation has developed in one State which prompted part of the pesticide industry to complain that there existed a de facto restriction on marketing products in that State due to the State's extensive data requirements. The industry sought changes to Federal law which would deal with that problem.

The subcommittee drafted compromise language to address the problem and then set out to encourage that State to correct the situation on its own. The State responded with numerous regulatory and administrative changes but, unfortunately, the now unnecessary language remains in H.R. 5203, a situation which I hope will be corrected during the consideration of this bill. If anyone requires a more detailed explanation of this situation, I would refer them to the additional views contained in the report which accompanies H.R. 5203.

The State to which I am referring is California, the only State which has set up a comprehensive pesticide regulatory system. Due to the extensive use of pesticides in that State—upward of 20 percent of the national volume is used in California—and due to the large numbers of specialty crops and the variety of climatic conditions present, the State decided to establish a comprehensive pesticide regulatory system in 1972. The system has grown as our knowledge about pesticides has grown, and it is currently funded by the State at a level of $18 million.

In recent years, the State has begun to require additional health and safety data, due to the factors of volume and climate and crop variability just cited. However, this system was understaffed and delays developed in registration. There were also regulatory bottlenecks in the system. This situation prompted the industry to turn to Congress, after it had failed to gain redress in the courts. During the course of the last year, a number of changes have been made. The unnecessary data call-ins have been eliminate and the State now concentrates upon essential health and safety data. They have also established a system where products can be conditionally registered, pending receipt of the requested data.

The State hired 30 new professionals in recent months for their program and their backlog has dropped from 1,000 applications in Janurary of 1980 to its present level of 125. With 135 new applications received per month in California, the reduction in the backlog is to be applauded. Also eliminated was a major conflict with Federal law which caused many applications to be denied. The State has also set up an Office of Administrative Law, a independent body to which regulatory problems can be appealed. Initiated in 1980, this body has not yet been asked by the industry to review the pesticide regulatory system in the State.

But the issue here is not one State, but the rights of all States. The House, in 1971, approved the current language by a vote of 289-90. A challenge to the right of a State to duplicate the Federal registration process was dismissed in Federal court. Now the issue is before Congress again in H.R. 5203.

The language in section 11 of H.R. 5203, which would amend section 24(a) of FIFRA, is strongly opposed by the administration. It is strongly opposed by a number of State organizations, such as the National Association of State Departments of Agriculture, the Council of State Governments, and the Southern Legislators Conference. It is opposed by the AFL-CIO and numerous individual unions. It is opposed by the United Methodist Church, the National Council of La Raza, the March of Dimes, and other community, religious, and public health groups. And it is opposed by nearly every environmental group. When a diverse group such as this opposes an amendment, we should be on our guard.

Section 11 contains two parts: One would allow EPA review of health and safety data requests made by a State and would provide for a Federal veto of some requests. The other part imposes mandatory deadlines upon a State within which it must come to a decision on pesticide applications. Taken together, these two parts of section 11 propose a major Federal intervention in State regulation.

In the first instance, the EPA is placed in the role of arbiter between the States and the regulated industry, a role which will consume needed manpower in order to second-guess the State government's decision. The State may be forced to endure another level of bureaucracy and will lose its right of independent judgment granted in 1972. There are also provisions for judicial review of many of these determinations which would force States into Federal courts to defend their actions.

Now, the proponents of this section point out that a State may still cancel a pesticide if it has a "concern." This is correct—the section 11 language does not deal with the right of a State to cancel a pesticide. The State is just being restricted from obtaining some of the data which it may require in order to make a sound regulatory decision. The logic of this situation escapes me. If a State wants to make a decision in a state of ignorance, that is fine, according to this argument. However, if a State wants the information which it believes is necessary to make the sound regulatory decisions which industry and the public are demanding, then we impose restrictions. The proponents of section 11 are apparently endorsing making regulatory decisions based upon some undocumented "concern," since they seek to restrict access to hard data.

And then, for good measure, the proposed changes to section 24(a) would impose deadlines upon this process, the second part of section 11 which I mentioned above. A State has 60 days to decide registration requests and 120 days to decide new use and new ingredient requests. If the State cannot make a decision to approve or deny

the request within these time periods, it must conditionally register the product. This provision will require major new legislative and regulatory changes in every State. Few States have the existing authority to conditionally register pesticides. Many State systems require more than receipt of health and safety data for registration. Existing State requirements such as fee payment, appointment of resident agents or attorneys-in-fact, or submission of labeling, could take longer than the deadlines allow and force States to make arbitrary or capricious decisions. This is what proponents of section 11 have referred to in CONGRESSIONAL RECORD statements as the establishment of an "orderly registration procedure at the State level." There will be order, at least a new order, but at the expense of rationality.

Some of the proponents of section 11 say that this is not Federal preemption and that precedent for these changes exists elsewhere in FIFRA. They cite sections 18, 24(c), and 27 of the act as justification. From the State perspective this is a bit like saying, "Now that we have removed three walls from your house, we would like to take off the roof". Unlike the three other specific actions, the changes contained in section 11 go to the heart of the State programs. These proposed changes would restrict access to health and safety data and impose time restrictions which would affect the entire State program, including the three functions cited above. The States feel that they have given up too much in the past under FIFRA and have drawn the line, steadfastly refusing to accept any changes to section 24(a).

Some of the proponents of section 11 maintain that we are not dealing with only one State. They maintain that other States have "attempted to expand their pesticide programs to exceed or at least duplicate Federal requirements." Attempting to expand and actual expansion are two different situations. Legislation should be based upon fact and not upon probability. During testimony taken over the course of the last year, the subcommittee heard State after State maintain that they had no desire to duplicate the California system or even the Federal system. That no other State has expanded its pest regulation program is testimony to the ability of the groups supporting section 11 to work effectively on the State level, something I encourage them to continue to do. Perhaps striking section 11 will even provide them with the incentive to exhaust the remedies available to them in California.

However, it is certain that States will increase their requests for health and safety data in coming years. Recent tragic events have shown the need for better data of this sort being in the hands of State officials. Groundwater poisonings from pesticide runoff in New York, Wisconsin, Tennessee, Florida, and California are examples of trouble due to unique conditions in various States. States will be faced as well with an increasing burden as the Federal Government seeks to delegate more pesticide authority to the States. State governments should be encouraged to maintain health and safety data on pesticides, not discouraged, I believe that a rational review of sound data is the only way that we can seek to balance the public health needs with the benefits which carefully used pesticides provide.

For these and many other reasons, I feel that section 11 needs to be deleted from H.R. 5203.

There are other sections of this bill which will generate some debate. One major provision is the restoration of language contained in an earlier draft of H.R. 5203, which would have amended section 16 of FIFRA to allow a private right of action to persons aggrieved by the misuse of a pesticide. This provision was struck during full Agriculture committee markup of the bill on a 21-to-20 vote. Having worked hard to craft a fair compromise in H.R. 5203, I was distressed that this provision was struck. I am supporting its being amended onto the bill during House consideration.

The provision is needed to maintain a balance in the legislative proposals. It is also needed to correct a grey area of law which exists presently. With State enforcement of this Federal statute, proper jurisdiction for suits brought because of damages incurred due to pesticide misuse has been hard to determine. The State courts argue that they do not have jurisdiction because it is a Federal statute. The Federal courts tell aggrieved parties that jurisdiction is not spelled out in the act and they are reluctant to accept jurisdiction. this problem exists in other statutes as well, such as the Commodity Futures Trading Act. What we seek to do is correct this problem in FIFRA.

With that description, I would like to commend Chairman DE LA GARZA for his support during this process. It has been long and hard and has tried the nerves of Members and staff alike. I would especially like to applaud the efforts of Mr. WAMPLER, the ranking minority member on both the full Agriculture Committee and the subcommittee. His strength, rationality, and indulgence during the last year have been major factors in the subcommittee's success in bringing this bill forward. I look forward to future legislative initiatives with the strength of these two gentlemen involved.

● Mrs. SNOWE. Mr. Chairman, while I am in support of most of the provisions in this bill, H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act, I am in opposition to section 11 which seeks to weaken the authority of States to administer their own pesticide programs that are designed to meet the legitimate safety concerns of their local citizens.

Specifically, section 11 of this bill creates an additional level of bureaucratic review by placing the Environmental Protection Agency between the industry and the States for data requests. Under these conditions, the EPA would decide on a case-by-case basis the authority of a State to act under special local conditions.

Because Federal resources are scarce due to EPA budget cutbacks, it would appear that the EPA will not have enough officials to review States' requests, thus, resulting in a backlog of registration applications. Needless to say, section 11 will create a Federal nightmare of bureaucratic redtape, and that is why I have joined with many of my colleagues in their effort to delete this controversial section from the bill.

Mr. Chairman, the State of Maine has benefitted greatly under its registration authority in the existing legislation. In 1980, the State instituted a pesticide review system and a registration process to address the legitimate public concerns about pesticides and inform the public of the State decisions concerning pesticides. In addition, a medical panel was established to review data on those pesticides of particular interest because of their widespread use or because of known medical or environmental problems.

Although this review system is relatively expensive, the process is quick, and insures that the State can collect health and environmental data from pesticide manufacturers whenever the State determines that Federal data is inadequate. I also might add, that because of this successful review system, in every case of major concern to the State of Maine, the State has been able to act more quickly than the Federal Government. It should be understood that we can not be too careful in protecting the health of our citizens, and the quality of our lakes and rivers.

In summary, Mr. Chairman, Maine has used its registration authority responsibly and has exercised sound judgment regarding environmental and health regulations. The authority of States to administer their own pesticides regulations and programs must be maintained. I ask, therefore, that the existing authority be preserved, and that section 11 be deleted from this bill.●

□ 1245

Mr. DE LA GARZA. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. HAGEDORN. Mr. Chairman, we have no further requests for time, and I yield back the balance of our time.

Mr. DE LA GARZA. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. WHITE) having assumed the chair, Mr. MILLER of California, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5203) to amend the Federal Insecticide, Fungicide, and Rodenticide Act, had come to no resolution thereon.

CONCERNING SUCCESSFUL COMPLETION OF TEST FLIGHT PHASE OF SPACE SHUTTLE PROGRAM

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Science and Technology be discharged from further consideration of the joint resolution (H.J. Res. 541) concerning the successful completion of the test flight phase of the Space Shuttle program, and ask for its immediate consideration in the House.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. McGRATH. Mr. Speaker, reserving the right to object, and I shall not object, but I do this to give the chairman of Committee on Science and Technology an opportunity to explain the joint resolution.

Mr. FUQUA. Mr. Speaker, will the gentleman yield?

Mr. McGRATH. I yield to the gentleman.

Mr. FUQUA. Mr. Speaker, I appreciate the gentleman's yielding to me.

Mr. Speaker, today we pay tribute to the successful completion of the test flight phase of the Space Shuttle, and to the men and women who made it all possible. House Joint Resolution 541 congratulates the National Aeronautics and Space Administration and all persons involved in the success of the test phase of the Space Shuttle program. I am pleased to say that the Senate passed an identical resolution on July 21, 1982.

On July 4, 1982, Astronauts Thomas Mattingly and Henry Hartsfield piloted the orbitor *Columbia* to her fourth perfect landing. In just four test missions, the Space Shuttle proved itself to be the world's most advanced spacecraft, capable of routinely carrying to and from space a wide variety of scientific, commercial, and military payloads.

Mankind's routine presence in space began on April 14, 1981, when the *Columbia* made her successful maiden voyage. Piloted by Astronauts John Young and Robert Crippen, *Columbia* proved herself to be a technological triumph.

Joe Engle and Richard Truly commanded the second Shuttle launch on November 12, 1981, marking the first time a space vehicle was reused after orbital flight. STS-2 also delivered into orbit science and space applications experiments, and the remote manipulator system, developed by our Canadian friends.

STS-3, launched last April and piloted by Jack Lousma and C. Gordon Fullerton, continued the successful testing of the Space Shuttle system, reaffirming it as no less than a technological and engineering marvel.

The Space Shuttle system now becomes operational with flight five. This flight will carry paid-for commercial satellites and is scheduled for launch in November of this year. The designation of the Shuttle system as an operational Space Transportation System signals a new meaning to space and space transportation. The *Columbia* and the new completed *Challenger*, and two orbitors now under construction, the *Discovery* and the *Atlantis*, will routinely fly to and from space.

The Shuttle will transport a fully equipped scientific laboratory known as the Spacelab which was built by the European Space Agency. Experiments involving special alloys and materials will be performed yielding new products which cannot be produced on Earth.

The Shuttle will also place into orbit satellites which will enable us to learn more about our Earth and our atmosphere. Communications and remote sensing systems will continue to be improved.

Mr. Speaker, in closing let me put this occasion in proper perspective. We are at the genesis of a new era in space exploration. The decisions we make in the next few years will be critical as we begin to forge mankind's future relationship with the space environment.

We are truly at an historic milestone, and today we applaud those who have brought us to this occasion. We congratulate the National Aeronautics and Space Administration, and the brilliant industry team, prime contractor, Rockwell International, and associate contractors, Martin Marietta and Thiokol. Their dedication, along with thousands of Shuttle subcontractors and workers, have enabled this Nation to achieve what men have dreamed of for centuries. Their accomplishments open the space frontier for our future exploration, for the benefit of the people of the United States, and for all mankind.

Mr. BROWN of California. Mr. Speaker, will the gentleman yield?

Mr. McGRATH. I am happy to yield to my colleague, the gentleman from California.

Mr. BROWN of California. Mr. Speaker, I would like to commend my colleague from California (Mr. HAWKINS) for introducing this House joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program. As my colleagues know, the test flight phase of the Space Shuttle program included four test flight missions. Those now completed, the Shuttle has been declared operational.

The Space Shuttle is designed to be reusable and to allow routine access to and from space. The system allows great flexibility of use and shows great promise for commercial as well as scientific applications. This includes the important function of placing satellites in orbit which will serve to observe weather, monitor Earth resources, and improve communications.

Mr. Speaker, I believe the space program can contribute greatly not only to our national pride, but to our economy. Jobs creation and technological spinoffs in areas we might not even dream of are results of our space program. The Space Shuttle can be a part of the benefit provided our country of the space program. This is just the beginning and I hope we use the Shuttle's capabilities wisely.

Mr. McGRATH. Mr. Speaker, I hope that the committee chairman will allow those of us on the minority side to become cosponsors of the joint resolution also.

Mr. Speaker, I rise in support of House Joint Resolution 541. I want to join with my colleagues in congraulating NASA, the astronauts, and the thousands of workers in the aerospace industry who contributed to the success of the shuttle testing programs. With the conclusion of the fourth test flight of the space transportation system, we are entering into a new era of operational space shuttle missions. We have demonstrated that routine access to and from space is indeed possible.

Further shuttle missions will bring sceintific, commercial, and military payloads to and from space, and will further the technological advances of the United States in a number of areas. We will be able to utilize the unique qualities of the space environment to develop metals, crystals, and pharmaceuticals that cannot be produced on Earth. We will be able to place satellites in orbit which will observe weather, improve communications, monitor crop yields, and enhance our national security.

The vast base of technology from our space program supplies a continuous stream of goods and services which provide immense benefits to mankind. We take for granted our weather forecasting, global telecommunications network, computers, and calculators, without a second thought that these

services and products exist because of the space program. As we continue our activities in space, these benefits will continue to multiply.

Once again, I want to congratulate all those involved with the shuttle testing program, and look forward to many successful missions in the years ahead.

Mr. BROWN of California. If the gentleman will yield further, I might point out that we did include the minority Members from California.

Mr. McGRATH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The Clerk read the joint resolution, as follows:

H.J. RES. 541

Whereas, when the Space Shuttle Columbia returned to Earth with a blazing reentry and a perfect landing on July 4, 1982, at Edwards Air Force Base, California, the National Aeronautics and Space Administration completed successfully the test flight phase of the Space Shuttle program and entered into a new era of operational Space Shuttle missions;

Whereas in four test flight missions the Space Shuttle Columbia, a reusable spaceship designed to provide routine access to and from space for a wide variety of scientific, commercial, and military payloads, lived up to her promise as the world's most advanced spaceship;

Whereas in these four flight missions the Space Shuttle Columbia was lifted from the Earth by a thundering set of rockets, orbited in the vacuum of space like a satellite, served as a laboratory for a variety of scientific experiments, and, finally, landed on the Earth like a conventional airplane;

Whereas the Space Shuttle Columbia, the newly completed Space Shuttle Challenger, and their sister spaceships now under construction, the Space Shuttle Discovery and the Space Shuttle Atlantis, will be able to fly repeatedly to and from space as an operational space transportation system;

Whereas the Space Shuttle orbiters will accommodate an unprecedented variety of payloads, including Spacelab, a fully equipped scientific laboratory provided by the European Space Agency;

Whereas, utilizing the unique qualities of the space environment (including weightlessness and a near perfect vacuum), special alloys, metals, glasses, crystals, and pharmaceuticals, which cannot be produced on Earth, will be produced aboard the Space Shuttle orbiters;

Whereas the Space Shuttle orbiters will be used to place in orbit satellites which will carry out functions such as observing weather, providing improved communications, providing navigational aids, discovering mineral deposits, monitoring crop and timber yields, and assisting in the monitoring of arms control agreements;

Whereas the Space Shuttle orbiters will also be used to place in orbit the world's most powerful space telescope and to launch scientific probes to explore the planets;

Whereas the Space Shuttle program is a national enterprise that requires tens of thousands of skilled workers to design, develop, test, and evaluate the various components of the Space Shuttle system;

Whereas the Space Shuttle program has been judged by independent research organizations to have a positive effect on the national economy by creating jobs and by spurring the development of advanced technologies; and

Whereas the test flight period of the Space Shuttle program has demonstrated the world leadership of the United States in operating a reusable spaceship and is a source of great national pride: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress congratulates the National Aeronautics and Space Administration, the members of its astronaut corps, the prime contractor, the associate contractors, the thousands of subcontractors, and the tens of thousands of dedicated workers who contributed to—

(1) the successful completion of the test flight phase of the Space Shuttle program; and

(2) the entry of the United States into a promising new era of space flight for the benefit of the people of the United States and all mankind.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that all Members be permitted to have 5 legislative days within which to revise and extend their remarks on the joint resolution just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

THE QUESTION OF FURTHER AID TO EL SALVADOR

(Mr. MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous matter.)

Mr. MILLER of California. Mr. Speaker, over the weekend I had the opportunity and the honor of hearing Mr. William Ford address a dinner in San Francisco of individuals; namely, attorneys and doctors concerned with human rights in El Salvador. Mr. Ford is the brother of Ida Ford, one of the four American churchwomen who were murdered in El Salvador on December 2, 1980.

I make this point, Mr. Speaker, because very shortly we will be considering two questions. One is further aid to the country of El Salvador, under the guise of promoting a land reform program that has basically been repudiated by the new government since the election and, second, the President of the United States, on July 28, will have to certify to this House that in fact El Salvador is moving forward and in compliance with basic human rights as we have come to understand them in this hemisphere. I think if the President does that he will be violating the law of this country because nobody agrees that that in fact is taking place in El Salvador.

More importantly, I think the President and the State Department owe it to the names of these four murdered American citizens to come forth with the data to push on El Salvador to prosecute the guilty parties prior to any consideration by this House of any additional aid to the Government of El Salvador.

I would like to share the letter from Mr. Ford to myself outlining the problems he and other families have had in dealing with the FBI, the CIA, and the State Department and a decent response to their questions about their murdered members of their family.

The letter follows:

UPPER MONTCLAIR, N.J.
June 30, 1982.

Hon. GEORGE MILLER,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE MILLER: My sister, Ita Ford, was one of the four American churchwomen murdered in El Salvador on December 2, 1980. The families of these women have been largely ignored or rebuffed when they sought information from U.S. Government agencies about the death of their sisters. Permit me to summarize some of the difficulties faced by the families of the women, in their efforts to learn what happened, and who directed and carried out this terrible crime.

1. Secretary Haig and Ambassador Kirkpatrick have smeared the good names of the women with suggestions that they were political activists supporting the guerillas, and were killed for their actions. As recently as April 20, 1982, Ambassador Enders wrote to Mike Donovan, a brother of one of the murdered women that two of the women were killed upon their return from a meeting in Nicaragua with a Sandinista official. This is not so, and Ambassador Enders knew it was not so when he wrote the letter.

2. For over a year, no real investigation was conducted by the Salvadoran government, our government did nothing to push the Salvadorans, and so evidence has likely been lost and the recollections of witnesses grow faint.

3. For over a year the families have been repeatedly told by State and the F.B.I. that the Salvadorans had assembled and were forwarding to the F.B.I. the fingerprints and weapons of the approximately 85 National Guardsmen on duty the night of the murders. This material has never reached the F.B.I. The families have been given, by the F.B.I. and State, conflicting and confusing stories about the role of the F.B.I. in the investigations. It appears taht the F.B.I. may be troubled by State's political rather than investigatory approach.

4. The F.B.I., C.I.A., State Department and Defense Ingelligence Agency have delayed and evaded responding to requests for information made by the families. In fact, the C.I.A. demanded proof from the families that the women were dead, before it would consider the request. What should our government have to hide about the murders?

5. The State Department and the Salvadorans insist that only the five National Guardsmen now in custody in El Salvador were involved in the murders. There are clear and convincing facts that the crime was ordered by high ranking Salvadoran officials, yet the "investigation" has been conducted to limit the ranks of the accused to low level enlisted personnel.

6. Evidence linking the murders of the women to the same men accused of murdering the two American land reform advisers has not been pursued.

7. The families are not told the current status of the investigation, when and where the trial of the six will take place and what arrangements will be made to have the families represented at the proceeding, as provided by Salvadoran law.

The list of difficulties is longer, but that is a fair sample of the list. The difficulties the families have experienced seem to come from a basic cause: the decision of the United States government to support a government of gangsters in uniforms.

I ask for your help in two ways:

1. Will you help the families to arrange a meeting with the Director of the F.B.I. or his delegate, so the families can learn the facts about the "investigation"?

2. Will you request State, C.I.A., F.B.I. and Defense Intelligence Agency to cooperate with the families' requests for documents relating to the death, and investigation of the deaths, of the four women?

I will give you any specific background information which I have and you want.

Thank you.

Sincerely yours,

WILLIAM P. FORD.

CONSTITUTIONAL BICENTENNIAL

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey (Mr. RODINO) is recognized for 5 minutes.

● Mr. RODINO. Mr. Speaker, I am introducing a bill today to establish a commission to encourage and coordinate the bicentennial of the adoption of our Constitution. Our Constitution is truly a remarkable document. It has served as the fundamental charter of our Nation. It has guided us through two centuries of growth and progress, constantly guided by the basic concept that ours is a nation of laws. It has served to protect our rights as individuals and preserve those essential freedoms which the Founding Fathers were seeking when they came to this country.

Mr. Speaker, I think it is important for each American to understand the myriad of rights and responsibilities which our Constitution embodies. In order to encourage this understanding, I believe that the bill which I have introduced today will create an overall program to encourage observances and activities across this Nation to commemorate the historic events associated with the Constitution.

Mr. Speaker, I hope that Members will join me in supporting this bill.●

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BROWN of California) to revise and extend their remarks and include extraneous materials:)

Mr. GONZALEZ, for 15 minutes, today.
Mr. ANNUNZIO, for 5 minutes, today.
Mr. COELHO, for 5 minutes, today.
Mr. RODINO, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. HANSEN of Utah, and to include extraneous matter:)

Mr. PHILIP M. CRANE in two instances.
Mr. BEREUTER.
Mr. MICHEL in two instances.
Mr. DERWINSKI in 10 instances.
Mr. BETHUNE.

(The following Members (at the request of Mr. BROWN of California) and to include extraneous matter:)

Mr. RODINO.
Mr. MINETA.
Mr. ANDERSON in 10 instances.
Mr. GONZALEZ in 10 instances.
Mr. BROWN of California in 10 instances.
Mr. ANNUNZIO in six instances.
Mr. JONES of Tennessee in 10 instances.
Mr. BONER of Tennessee in five instances.
Mr. BARNES in three instances.
Mr. DE LUGO.
Mr. LEHMAN.
Mr. SEIBERLING in 10 instances.

ADJOURNMENT

Mr. BROWN of California. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 52 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 27, 1982, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4441. A letter from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to U.S.C. 112b(a); to the Committee on Foreign Affairs.

4442. A letter from the Comptroller General of the United States, transmitting a report improving the administration of Federal public disaster assistance to reduce costs and increase the effectiveness (GAO/CED-82-98, July 23, 1982); jointly, to the Committees on Government Operations and Public Works and Transportation.

4443. A letter from the Comptroller General of the United States, transmitting a report on the new U.S. valuation system for imported products and the effectiveness of its implementation (GAO/GGD-82-80, July 26, 1982); jointly, to the Committees on Government Operations and Ways and Means.

4444. A letter from the Comptroller General of the United States, transmitting a report concerning the need for the IRS to find out how to best structure its compliance activities (GAO/GGD-82-34, July 23, 1982); jointly, to the Committees on Government Operations and Ways and Means.

4445. A letter from the Comptroller General of the United States, transmitting a report on failure to implement regulations to reduce the cost to the medicare program and its beneficiaries for prolonged rentals of durable medical equipment (GAO/HRD-82-61, July 23, 1982); jointly, to the Committees on Government Operations, Ways and Means, and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 5900. A bill to promote economic revitalization and facilitate expansion of economic opportunity in the Caribbean Basin region; with amendments (Rept. No. 97-665, Pt. I). Ordered to be printed.

Mr. ZABLOCKI: Committee on Foreign Affairs. H.R. 6755. A bill to authorize assistance to promote economic revitalization in the Caribbean Basin region; with amendments (Rept. No. 97-666). Referred to the Committee of the Whole House on the State of the Union.

Mr. RODINO. Committee on the Judiciary. H.R. 1799. A bill entitled: "The Export Trading Company Act of 1981"; with amendments (Rept. No. 97-637, Pt. II). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ALEXANDER:

H.R. 6858. A bill to amend the Agricultural Act of 1949 to improve the price received by producers for the 1983 crop of rice; to the Committee on Agriculture.

By Mr. DE LUGO:

H.R. 6859. A bill to amend or repeal certain provisions of the Organic Acts applicable to the Virgin Islands and Guam, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. LONG of Maryland:

H.R. 6860. A bill to restore the Federal extended unemployment compensation program providing up to 39 weeks of benefits for laid off workers; Jointly, to the Commit-

tees on Ways and Means and Education and Labor.

By Mr. RODINO (for himself and Mr. MCCLORY):

H.R. 6861. A bill to establish a commission to encourage, plan, develop, and coordinate the commemoration of the bicentennial of the Constitution; to the Committee on Post Office and Civil Service.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 850: Mr. DREIER.

H.R. 5511: Mr. VENTO, Mr. FISH, Mr. HUGHES, Mr. OTTINGER, Mr. DYMALLY, Ms. MIKULSKI, Mr. CONYERS, Mr. BRODHEAD, and Mr. TAYLOR.

H.R. 5727: Mr. MURPHY, Mr. MOLLOHAN, Mr. ZEFERETTI, Mr. LEE, Mr. FORD of Michigan, Mr. BEVILL, Mr. ROTH, Mr. YATRON, Mrs. MARTIN of Illinois, Mr. MCEWEN, Mr. WILSON, Mr. FITHIAN, Mr. LEWIS, Mr. MOTTL, and Mr. ECKART.

H.R. 5911: Mr. MCKINNEY.

H.R. 6036: Mr. EVANS of Georgia, Mr. DWYER, Mr. GILMAN, Mr. ADDABBO, Mrs. CHISHOLM, Mrs. SCHNEIDER, and Mr. BAILEY of Pennsylvania.

H.R. 6154: Mr. RINALDO and Mr. DWYER.

H.R. 6155: Mr. RINALDO and Mr. DWYER.

H.R. 6166: Mr. SHAMANSKY, Mr. JEFFORDS, Mr. GRAY, Mr. EDGAR, Mr. AUCOIN, Mr. SMITH of New Jersey, Mr. FRANK, Mr. CARNEY, and Mr. HERTEL.

H.R. 6488: Mr. COELHO and Mr. PETRI.

H.R. 6577: Mr. ERLENBORN, Mr. GINGRICH, Mr. LIVINGSTON, and Mr. FARY.

H. Con. Res. 342: Mrs. MARTIN of Illinois, Mr. LUKEN, Mr. FAZIO, Mr. MCCLORY, Mr. MONTGOMERY, Mr. MADIGAN, Mr. MARRIOTT, Mr. DAVIS, Mr. MYERS, Mr. COATS, Mr. CAMPBELL, Mr. SEIBERLING, Mr. YOUNG of Missouri, Mr. CONYERS, and Mr. DWYER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

535. The Speaker presented a petition of the Board of Trustees, Village of Glencoe, Ill., relative to an immediate bilateral freeze of nuclear weapons; which was referred, jointly, to the Committees on Armed Services and Foreign Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 6030

By Mr. SYNAR:

—Page 26, after line 22, add the following new section:

REPORT ON THE USE OF LONG-RANGE MANNED BOMBERS

SEC. 902. Not later than March 1, 1983, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of both the Senate and the House of Representatives a report containing an analysis of using long-ranged manned bombers equipped with air-launched antiship missiles to defend vital, strategic shipping lanes (including the United Kingdom, Greenland, Iceland Gap).

SENATE—*Monday, July 26, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 11 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

May we have a moment of silence as we remember the Meese family on this sad day in their lives.

Holy, holy, holy, Lord God Almighty, which was, and is, and is to come.—Revelation 4: 8

Worthy art Thou, our Lord and God, to receive glory and honor and power, for Thou didst create all things, and by Thy will they existed and were created.—Revelation 4: 11.

Gracious God and Father, the Founders of our Republic understood this fundamental truth and upon it based their conviction of human equality, human rights, and a government whose purpose was to secure these rights and whose authority was derived from the people. Grant us to see, O God that as we undermine this foundation of our Government, we, sooner or later, jeopardize the superstructure which was built upon it. As we forsake the root of our national uniqueness, we forfeit the fruit.

Help us to comprehend, dear God, that this is one explanation for the futility of out best human efforts today. We are struggling to preserve the benefits of a belief which we no longer hold to be true. We have smashed the foundation and are striving to prevent the superstructure from collapsing.

Forgive the secularism, the antisupernaturalism which we have exchanged for faith in a Creator God which motivated our Founding Fathers. Restore unto us their beliefs that we may recover the riches of the legacy they transmitted to us before it is too late. We pray this in the name of Him who is the Light of the world. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. TOWER. Mr. President, I ask unanimous consent that the Journal of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SCOTT MEESE

Mr. TOWER. Mr. President, it is my sad duty to inform the Senate of the death of Scott Meese, an employee of the Senate Republican Policy Committee.

All of us know his parents of course, and to them we extend our deepest sympathies.

Scott was only 19 and about to enter his sophomore year at Princeton. He had interned in Senator LAXALT's office last summer and was one of the early applicants for this year's intern program at the Policy Committee.

He was put in charge of the seminar program which the committee sponsors for college students in Republican offices, and because of his hard work, it was a most successful endeavor.

But more than anything else, we will remember Scott for the delightful person he was. He was a hard-working, dedicated, bright young man with a superb sense of humor. Many of you have met Scott and will understand how deeply affected those of us who worked with Scott are at the news of this tragedy.

Mr. BAKER. Mr. President, I join with my colleague, Senator TOWER, in expressing my deepest sympathies to the family and friends of Scott Meese.

Scott was a bright and personable young man, at the beginning of a promising adulthood and a limitless future. Those who came to know him in the course of his work at the Policy Committee, came to respect and admire him.

His tragic death at the age of 19 is a tragedy for us all, and I am sure that I speak for the entire Senate, when I say that he will truly be missed.

Mr. LAXALT. Mr. President, last Friday, Scott Meese, the son of Ed and Ursula Meese, was killed in a car accident. Scott was 19. He had just finished his freshman year at Princeton and was working as a summer intern for the Republican Policy Committee. Last summer, Scott worked for me as an intern on my Judiciary Committee staff. All of us who knew Scott deeply mourn his passing and share Ed and Ursula's grief.

This past weekend has been filled with grief for all who knew Scott. And, I suspect we shall grieve for some time to come. Today I should like to remember Scott less somberly, in a way more suited to his personality, to his exuberance. I should like to honor Scott by remembering him as we knew him.

Mr. President, Scott Meese was a great kid, a terrific young man. That really says it all—all the fun, the intelligence, the integrity, the wit, and the energy of Scott Meese.

Scott was comfortable among people of all types and ages. His quick wit and outgoing manner livened up any conversation. His lively personality attracted people; you just liked being around Scott. He would be the target of jokes, and would give it back to the jokester in spades. He was the type of guy you always included, always invited to join a group doing whatever. You could always count on Scott to add something special.

Mr. President, at work Scott Meese was as enthusiastic an intern as I have ever had. The work given to interns is rarely glamorous, but Scott accepted even the most tedious tasks with good cheer. Once when he had to copy almost a whole book, he joked about "slaving over a hot Xerox machine," but he did the job. He was always ready to participate in less work-related activities, playing on our softball team, beating individual staffers in tennis, becoming friends with almost everyone—in short, generally making our lives more fun while enjoying himself.

For those who did not know Scott well, his affability was apparent, but also was his relative maturity. Being the son of a man in high public office put very unique strains on Scott, strains with which a person his age rarely has to deal. Yet, whether at college or working here on the Hill, Scott dealt with those pressures with a grace striking for a person so young.

Mr. President, I know Ed and Ursula Meese were close to Scott, and they were rightly proud of him. He brought joy to their lives as he did to the lives of all his friends. We will miss Scott sorely, but remembering him—savoring those good times with him—must always lift our sadness. We can regret that he did not have the opportunity to fulfill all of his promise for the future, but we cannot really be sad for Scott. Scott took advantage of the time God gave him and lived his life fully, indeed to a degree not shared by many people who live much longer. I hope we all do as well.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

To Ed and Ursula Meese, we send our most profound condolences to be sure. But we also have to add a wink and a smile for the happiness we all shared with Scott. He was a wonderful young man, a great credit to his parents. God willing, I look forward to seeing him again.

THE DAY IS DONE

Mr. BAKER. Mr. President, I ask unanimous consent that this week's poem, "The Day Is Done," by Phoebe Cary, be printed in the RECORD.

THE DAY IS DONE

The day is done, and darkness
From the wing of night is loosed,
As a feather is wafted downward,
From a chicken going to roost.

I see the lights of the baker,
Gleam through the rain and mist,
And a feeling of sadness comes o'er me,
That I cannot well resist.

A feeling of sadness and longing
That is not like being sick,
And resembles sorrow only
As a brickbat resembles a brick.

Come, get for me some supper,—
A good and regular meal—
That shall soothe this restless feeling,
And banish the pain I feel.

Not from the pastry bakers,
Not from the shops for cake;
I wouldn't give a farthing
For all that they can make.

For, like the soup at dinner,
Such things would but suggest
Some dishes more substantial,
And to-night I want the best.

Go to some honest butcher,
Whose beef is fresh and nice,
As any they have in the city
And get a liberal slice.

Such things through days of labor,
And nights devoid of ease,
For sad and desperate feelings,
Are wonderful remedies.

They have an astonishing power
To aid and reinforce,
And come like the "finally, brethren,"
That follows a long discourse.

Then get me a tender sirloin
From off the bench or hook,
And lend to its sterling goodness
The science of the cook.

And the night shall be filled with comfort,
And the cares with which it begun
Shall fold up their blankets like Indians,
And silently cut and run.

SENATE SCHEDULE

Mr. BAKER. Mr. President, I take this opportunity to advise Members that I have consulted with the minority leader and apprised him of the schedule as I see it for the balance of the session before the Labor Day recess.

I had previously indicated to him that it is my feeling that if we could complete action on the balanced budget amendment, which is now pending, and four other items—specifically, the second reconciliation bill which is due to be available, I believe, on Thursday of this week; the urgent supplemental appropriations bill relating to pay and allowances, which is not here but which is anticipated to be received by the Senate soon from the House of Representatives; the immigration reform bill, which is on the calendar and which we have attempted to schedule once or twice before; and the second debt limit, which will include the debate on matters such as abortion and perhaps prayer in public schools—if we complete action on those—four items in addition to the balanced budget amendment, it will be my intention to ask the Senate to recess on August 20 instead of the 27th of August, which would make our break for the Labor Day period coincide with that of the House of Representatives.

In order to meet that schedule, however, Mr. President, it is necessary, in my judgment, to notify the Senate that we may be in session late on any weekday, not just on Thursdays, as is regularly the case. Therefore, I advise the minority leader and other Senators that, from this day forward, they should not be surprised if it is necessary to have a late evening beyond the usual 6 or 6:30 recess or adjournment hour in order to give us a fair shot at completing action on these several measures.

I must also say, Mr. President, there is some possibility of a Saturday session during that period if we get in a bind and if we have to have that extra time in order to transact the business that I have just described. I assure Members that it is not my intention to regularly schedule Saturday sessions, but rather, to do so only in the event that it is absolutely necessary in order to accomplish this agenda of legislation and other matters which may come before the Senate that require immediate and urgent attention.

To repeat, Mr. President, I have advised the minority leader and I state now for all Senators that, in addition to the balanced budget amendment which is now pending, if we can finish the second reconciliation bill, the new urgent supplemental appropriations bill which we expect to receive shortly, the immigration reform bill, and the debt limit, it will be my intention to ask the Senate to recess on August 20 instead of August 27.

If we do not complete those items, we shall have to take all or such parts of the following week as may be necessary in order to do so.

Mr. ROBERT C. BYRD. Mr. President, will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. ROBERT C. BYRD. Mr. President, this seems to me to be a very reasonable schedule. I ask the majority leader when he anticipates the action on the debt limit bill. I doubt he is in a position to answer that at this time.

Mr. BAKER. Mr. President, I expect the debt limit bill will be reported by the Committee on Finance within the next few days. I anticipate, however, that we probably must do reconciliation and the supplemental before we do debt limit, since they are both very urgent in nature. I would not be surprised to see us do immigration before the debt limit as well. So it may be that debt limit will be the last several days before we go out, which I hope will be on August 20.

Mr. ROBERT C. BYRD. Mr. President, I hope the Senate can attain the schedule set out by the majority leader. It is my understanding that the other body will go out also around the 20th of August. I hope this body can complete its work in time to go out at the same time the other body goes out for the Labor Day recess.

I appreciate the courtesy the distinguished majority leader has shown to all Members in stating at this early date his intentions with respect to the program. I think it gives us all an opportunity to schedule our own personal matters accordingly. I hope that, while we may not be in agreement on every facet of the subject matter of the legislation that comes up, we can work together in facilitating the overall program that the majority leader has laid out.

Mr. BAKER. Mr. President, I am most grateful to the minority leader. I look forward to that, as he always does cooperate in matters of schedule. I am reasonably optimistic that we can do these things and complete action on them by August 20.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I yield to Mr. PROXMIRE 3 minutes from my time.

Mr. PROXMIRE. Mr. President, I thank the Democratic leader.

LET US DO ALL WE CAN TO STOP THE SPREAD OF NUCLEAR ARMS

Mr. PROXMIRE. Mr. President, on July 19, the Christian Science Monitor carried an article by Prof. Richard Wilson, the chairman of the physics department at Harvard University urging our government to pursue a consistent policy of resisting the terrible threat of nuclear proliferation, Wilson concludes that we should consider the possibility of selling nuclear reactors only to those nations that have signed the nonproliferation treaty of 1978 or agree to full scope safeguards in their countries. He suggests that to those countries which have signed the treaty, nuclear materi-

als may be sold for civilian purposes in the spirit of the nonproliferation treaty, but sold for a purpose, to wit, to discourage them from acquiring facilities which could be used secretly for bomb-making.

As more nations acquire the ability to conduct nuclear war the prospects of our children or grandchildren living out their lives diminish. This Government has no more important, no more vital responsibility than to do all we can to stop the spread of the capacity to make nuclear war.

Mr. President, I ask unanimous consent that the article entitled "Nuclear Sales to China?" be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Christian Science Monitor, July 19, 1982]

NUCLEAR SALES TO CHINA?

(By Richard Wilson)

The report that the United States is considering the sale of nuclear reactors to China raises once again the question of consistency in the U.S. policy of attempting to prevent proliferation of nuclear weapons.

At first glance, the proposal will not add to the number of nuclear weapons in the world, nor to the number of nations possessing them. The sale of reactors, and any nuclear fuel, would be accompanied by guarantees that such reactors and fuel would not be used for making bombs.

This is a believable guarantee, because China has demonstrated that it has other reactors, and other uranium which will make bomb-grade fissionable material much more easily. But, as we follow the logic carefully, there are traps down this road.

Four years ago the U.S. Congress was in considerable turmoil about selling nuclear fuel to supply the Tarapur reactors in India. India made the same guarantees as China and is happy to repeat them and in addition allow limited international inspection to be sure that the guarantees are kept. Again, the guarantees are believable. India has indeed exploded a nuclear device, but has not used fuel from Tarapur for that purpose. India has four heavy-water reactors, two at Rajastan (one supplied by Canada) and two more nearly complete at Kalapakkum, which have on-line fuel changing facilities and are better suited for the "short burn" necessary to produce bomb-grade plutonium.

Yet the Non-Proliferation Treaty (NPT) of 1978 forces us to break our agreement with India to provide fuel for Tarapur. Three distinct reasons have been advanced for breaking the agreement. First, we are upset that the India of Gandhi and Nehru exploded a nuclear device and is no longer a symbol of peace; second, we are upset that India hoodwinked Canada and, while obeying the letter of an agreement not to use Canadian fuel for bombmaking, broke the spirit by substituting its own fuel in the Canadian-supplied Rajastan I reactor; and third, we want to send signals to Pakistan that we disapprove of India's bombmaking.

We are willing to use civilian nuclear power and a country's need for energy to exert pressure on that country to desist from its military programs. This pressure can be exerted until a country has a well-developed manufacturing capability of its own for nuclear power plants.

The same principle is likely to arise in Israel. At the time of President Mitterrand's visit in March, it was announced that the Guy Mollet committee set up in the 1960s on nuclear cooperation between India and France, was being reactivated, and that one of the topics for discussion is the sale of nuclear reactors to Israel. Presumably, American reactor manufacturers will want to be allowed to compete for this business. Yet Israel has not signed the NPT, has rejected all international inspection, and probably has atomic bombs waiting to be assembled. Even if China agrees to inspection of the particular reactors, the situation is not the same as for India—in India we broke an agreement and in China and Israel there are no agreements to break.

It is, unfortunately, cheaper to make a bomb than to make a large nuclear power reactor. Suppose, therefore, we agree to sell reactors freely to all countries that have made bombs and make trouble for other, less-developed countries. Do we not invite others who merely want reactors to make bombs first? Is it more sensible to sell reactors to a country, such as South Africa or Israel, which has not signed NPT and only accepted limited inspection, and to worry (as the American public worried in June 1981) about selling reactors to a country, such as Iraq, which has accepted all inspections the international community requested?

These are important questions, and other political considerations must clearly be involved. But in general, these political considerations should be used to extend our caution rather than to relax it.

Priority should be given to supporting international treaties such as NPT. The sale of one or two reactors to China, or to Israel, will not bail out the US nuclear reactor industry; nor will it solve, by itself, the energy problems of these countries.

In the absence of such overriding political considerations, US policy should try to be consistent; one consistent possibility is to sell nuclear reactors and nuclear fuel only to nations that have signed NPT or agree to full-scope safeguards on all nuclear facilities in their countries. To those countries which have signed NPT nuclear materials may be sold for civilian purposes in the spirit of NPT to encourage their economies but to discourage them from acquiring facilities which could be used secretly for bombmaking.

WISCONSIN'S FORT McCOY WINS NATIONAL ENERGY CONSERVATION AWARD

Mr. PROXMIRE. Mr. President, one of the newest and most important categories by which military organizations are evaluated is the Energy Conservation Award. This award gives recognition for the soundness of a unit's overall energy program as well as the overall energy conservation achievements of the unit.

The Secretary of the Army has just announced that Fort McCoy, Wis., has received the Army Energy Conservation Award for fiscal year 1981 in the Reserves category. Futhermore, Mr. President, the winners of all services' Reserve awards were judged on a Defense Department-wide basis. Fort McCoy also won that honor.

The Wisconsin National Guard also demonstrated its prowess in the energy conservation area. They were not able to give Wisconsin a clean sweep in Army energy conservation honors among nonactive duty elements. But they were selected as first runnerup for this competition for Guard units.

Wisconsin has a long history of civic responsibility and that includes the full participation of the military units within our State borders. We are particularly proud of the contribution of the National Guard and Reserves in Wisconsin and this award for energy conservation is just another in a long list of reasons why.

DISMAL U.S. RECORD IN RATIFYING U.N. HUMAN RIGHTS TREATIES

Mr. PROXMIRE. Mr. President, the protection of human rights on an international level has been clearly mandated by the U.N. Charter. Articles 55 and 56 of this charter require a U.N. member to promote human rights and to take joint affirmative action on human rights issues. Furthermore, article 1 states that one of the principles of the U.N. is to "encourage respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion." Despite the U.N. Charter's efforts to protect individual human rights and the U.S. endorsement of that charter, our record in participating in U.N. international human rights agreements is appalling.

Traditionally, the Congress and the Executive have emphasized the obligations of the United States to protect and promote human rights through the establishment of international agreements. And our domestic system of government has vigorously protected the fundamental rights of its citizens better than that of any other country. Despite this rhetoric and our domestic efforts to protect individual rights, the United States has only ratified a small number of international human rights agreements. The United States has ratified five U.N. human rights treaties and five OAS treaties, none of which is considered a major international human rights treaties. The United States has not ratified over 30 human rights treaties in which it was invited to participate. The Genocide Convention is among those treaties that the United States has not ratified.

I ask unanimous consent that a table listing international human rights conventions and U.S. action on their ratification be printed in the RECORD.

The PRESIDENT pro tempore. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PROXMIRE. The table was compiled by the Congressional Research Service and illustrates that, while we would like to think of ourselves as human rights advocates, our record shows that we have not translated our thoughts into action. We proclaim our Nation as a leader in the international human rights field, yet we have not signed half of the U.N. international human rights treaties and agreements that we have been asked to sign. Particularly tragic is the fact that we have not signed the Genocide Convention which would simply make it a crime to destroy in whole or in a part a national, ethnical, racial, or religious group. It is necessary, Mr. President, if the United States is to maintain any credibility in the world with respect to human rights, that we seriously consider the Genocide Convention along with other human rights treaties, and in the near future, give our advice and consent for ratification.

EXHIBIT 1

The following table lists international human rights conventions and U.S. action on their ratification:

Convention	U.S. action
United Nations conventions:	
International Covenant on Economic, Social and Cultural Rights.	Signed, submitted to Senate.
International Covenant on Civil and Political Rights	Do.
Optional Protocol to the International Covenant on Civil and Political Rights.	None.
International Convention on the Elimination of All Forms of Racial Discrimination.	Signed, submitted to Senate.
International Convention on Suppression and Punishment of the Crime of Apartheid.	None.
Convention on the Prevention and Punishment of Genocide.	Signed, pending before the Senate.
Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity.	None.
Slavery Convention (League of Nations)	Acceded.
Protocol Amending the Slavery Convention Signed at Geneva on 25 September 1926.	Ratified.
Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery.	Acceded.
Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others.	None.
Convention on the Nationality of Married Women	Do.
Convention on the Reduction of Statelessness	Do.
Convention Relating to the Status of Stateless Persons.	Do.
Convention Relating to the Status of Refugees	Do.
Protocol Relating to the Status of Refugees	Acceded.
Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.	Signed, but not submitted to Senate.
Convention on the International Right of Correction	None.
Convention on the Political Rights of Women	Acceded.
Convention on the Elimination of All Forms of Discrimination Against Women.	Signed, submitted to Senate.
International labor organization conventions:	
Convention Concerning Freedom of Association and Protection of the Right to Organize.	Pending in U.S. Senate.
Convention Concerning Abolition of Forced Labor	Do.
Convention Concerning Employment Policy	Do.
Right to Organize and Collective Bargaining Convention.	None.
Equal Remuneration Convention	Do.
Discrimination (Employment and Occupation) Convention.	Do.
United Nations Educational, Scientific and Cultural Organization (UNESCO) conventions:	
Convention against Discrimination in Education	Do.
Protocol Instituting a Conciliation and Good Offices Commission to be Responsible for Seeking a Settlement of any Dispute which May Arise between States Parties to the Convention against Discrimination in Education.	Do.
Inter-American conventions:	
Convention Establishing the Status of Naturalized Citizens Who Again Take up their Residence in the Country of their Origin.	Ratified.
Convention between the American Republics Regarding the Status of Aliens in their Respective Territories.	Ratified with the exception of articles 3 and 4.
Convention on the Nationality of Women	Ratified.
Convention on Extradition	Ratified, subject to reservations.
Inter-American Convention on the Granting of Political Rights to Women.	None.
Convention on Asylum	None.
Convention Relative to the Rights of Aliens	Do.
Convention on Nationality	Do.
Convention on Political Asylum	Do.
Inter-American Convention on the Granting of Civil Rights to Women.	Do.
Convention on Diplomatic Asylum	Do.
Convention on Territorial Asylum	Do.
American Convention on Human Rights	Signed, submitted to Senate.

Mr. PROXMIRE. Mr. President, once again I thank the distinguished Democratic leader.

Mr. ROBERT C. BYRD. Mr. President, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. HATFIELD). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR HEINZ

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania (Mr. HEINZ) is recognized for not to exceed 15 minutes.

Mr. TOWER. Mr. President, I yield the remainder of my time under the standing order to the Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I thank my friend from Texas for yielding his time to me for this colloquy, the subject of which is the American steel industry.

S. 2770-S. 2771—TO PROVIDE IMPORT RELIEF FOR THE SPECIALTY STEEL INDUSTRY

THE AMERICAN STEEL INDUSTRY

Mr. HEINZ. Mr. President, I might say at the outset that the colloquy that I and other members of the Steel Caucus will be participating in this morning and during the course of the day, comes at a most propitious time. We all read that the administration late last week rejected the offer made by the European Community to settle the steel cases, and had told Europeans to come back with a substantially improved offer.

It is highly likely that some kind of an offer will be forthcoming between now and August 24, the date on which the investigation of the duty petitions filed many months ago becomes a concluded investigation, and at which time countervailing duties will be assessed in full on all items on which injury has been found. Indeed, this is a very long and significant list.

So, Mr. President, it is an extremely timely occasion that my colleagues and I rise to address the Senate on this issue. It is also timely, Mr. President, because the American steel industry is in the midst of its most serious crisis in the postwar era.

Capacity utilization is currently hovering around 40 percent. Over 115,000 steelworkers are laid off with an additional 26,000 on short weeks. Imports have been steadily increasing to the point where they now account for over 40 percent of the U.S. market. By any standard of measurement, this is an industry in real difficulty.

Yet, at the same time, the steel industry is fundamental to the American economy. It supplies virtually every sector, from automobiles, construction, railroads, shipbuilding, aerospace, defense, oil and gas, agriculture, industrial machinery and equipment, the appliances, utensils and beverage containers. The fortunes of this industry—good or ill—will have a major impact on the rest of the economy.

Obviously, the steel industry's problems are many, not the least of which is the current state of the economy which has recently depressed steel demand. Current projections are for 1982 shipments to be below 80 million tons, compared to a 1981 level of 87 million tons, and a 1979 peak of 100 million tons. The extreme depression in construction and automobiles—both sectors responsive to high interest rates—has been a most important factor.

Equally clearly, given the multiple problems, there are multiple remedies. One such, the so-called steel stretchout legislation, was enacted last year. It enables companies to extend the compliance deadline in the Clean Air Act under certain conditions to give them more time to invest in and install the needed pollution control equipment.

Similarly, last year the Congress passed major tax legislation that should assist significantly in aiding capital formation in the industry.

But the purpose a number of us have in speaking today, Mr. President, is to discuss trade; for it is the major component of the current crisis and may prove to be the factor most difficult to control, inasmuch as it is not totally a domestic issue.

Trade is also not a new problem. Steel import restraints have been proposed in one form or another since the 1960's. The trigger price mechanism was in effect from 1978 to 1980 and then again in 1981. Although these programs achieved some short-term results, mostly in terms of improving price levels, none of them provided long-term solutions to the growing problems of global overcapacity and

the failure of noncompetitive steel industries to adjust.

The latter problem has become more and more a factor in the difficulties of the past several years. While we have continued to practice the ethic of the free market system, the Europeans, quite plainly, have not. Subsidies and dumping have increased as European governments attempt to stay in power and forestall social unrest and unemployment by maintaining steel jobs and production at any cost. Hence the tremendous Government subsidies.

In the beginning those were social policy decisions any government is entitled to make for itself. However, it has become apparent in the past few years that maintaining steel production through subsidies require substantial exporting in order to unload the excess supply. The chief victim of that export has been the United States, meaning that the European steel process has been at our expense. And that, Mr. President, is unacceptable.

It is all well and good for European Community governments to say their steel industry is in bad shape—which it is; or to argue they need time for adjustment—which they do. But their adjustment plans have consistently been behind schedule thanks to foot-dragging be member nation governments, while exports here have increased. I have no intention of explaining to the steelworker in Pittsburgh or Youngstown or Gary or East Chicago that has to give up his job in order to help his Belgian, French, or Italian colleague keep his. My responsibility, the responsibility of the Senate, the resonsibility of the administration, is to our own people—to take those actions which will be good for them both in the long term and in the short term.

That responsibility does not preclude compromise, and it does not preclude a recognition that steel is a global industry where multilateral solutions may be necessary and appropriate. In fact, I think there is much to be said for an international steel agreement which would include limits on financing new capacity in third countries, guidelines on adjustment, and, if necessary, global import restraints. But progress in that direction must begin with a recognition of where the problems are and whose responsibility it is to begin fixing them. And, as I said in this Chamber last Thursday, the responsibility in this case—both legal and economic—is clear.

European steel subsidies violate both U.S. law and international agreements which the European Community member nations have signed. We went through 5 years of negotiations to produce those agreements. On our part we made significant, substantive, concessions, like the abolition of the American selling price, the wine-gallon-proof-gallon system, and the acceptance of an injury test in subsidy cases. What we seem to have received in return was a lot of promises. Promises to adhere to the discipline of the codes that had been negotiated. Promises to reduce or eliminate subsidies, dumping, and other unfair trade practices. Promises to open up Government procurement.

We accepted all those promises, Mr. President, because they contained the hope of greater discipline over unfair trade practices and the hope of more markets for American products. And we accepted them because we believe in a free market system that functions according to prescribed rules that all parties adhere to. Promoting those rules has been the essence of our trade policy ever since, and I for one believe that should continue to be our policy.

But I must say, Mr. President, that in the intervening years since 1979 when we finished negotiating the Tokyo round and enacted the Trade Agreements Act of that year, I have heard a lot from the people in this country injured by the concessions we made in the Tokyo round and very little from anyone who has gained by those agreements. And now, the system we sought to establish at that time faces its most serious test. Simply put, the European Community and its member states do not want to accept the responsibilities they agreed to undertake in 1979. They do not want the rules enforced. They do not want to make the hard economic decisions about their own steel industry that the market requires them to make.

They would rather export their unemployment to the United States. They are screaming very loud about our efforts to hold them not only to their word, but to the letter and spirit of international law. Mr. President, despite the screams, despite the alleged serious consequences to trade relations, this is a test we must meet, because both our own industry and the international trading system, one based on the concept of free and fair trade, are at stake.

I need say no more about the desperate situation in our steel industry. Those of us with steel facilities in our State see it every time we return home. Not to defend our own industry, particularly when it is consistent with our own law and with our international obligations to do so, is to turn an already serious situation into a major disaster. It is also to abandon the people who elected us.

There is an issue here beyond the survival of the American steel industry, Mr. President. That is the survival of a fair and equitable trading system based on mutually acceptable rules of the game. Some people in this country bemoan the revival of the days of the Smoot-Hawley tariff or a return to the "begger-thy-neighbor" policies of years ago every time anyone in Congress starts to talk about imports being a problem.

Mr. President, no one, including me—most specifically me—wants to return to that era of depression, but to avoid it, we must understand the reason for it. That reason, in my judgment, was the failure at that time to develop an international trading system based on free market principles, based on the theory of comparative advantage, based on universally accepted rules for participation in that system.

Mr. President, this country was a great leader during and after World War II. In 1943, our leaders of the free world went to Bretton Woods, N.H., and at Bretton Woods, we developed a system with exactly those goals in mind that I just mentioned. At Bretton Woods, we developed that system and we have maintained it ever since, at least up to now. Now we face problems more intractable, a world more complex, and power more diffused than ever before. The old solutions seem to be losing their attractiveness in favor of even older solutions, a return to the mercantilist policies of the past.

Mr. President, that is what is at stake in this controversy. Not just our steel industry, and not just the European steel industry, important though they both are. It is the survival of a free world trading system that is the issue, because it cannot survive unless nations are willing to accept their responsibilities and end their subsidies.

That is precisely what our administration has sought to accomplish thus far, and it is precisely what it should continue to do. I am sure that the other 45 members of the Senate Steel Caucus join me in applauding the efforts of Secretary of Commerce Baldrige and Under Secretary Olmer to enforce the law. They are not being too tough. They are fairly and vigorously enforcing the laws we wrote tin 1979, laws which are entirely consistent with the GATT and the various codes negotiated during the Tokyo Round—most specifically, the subsidies code and the antidumping code. Beyond that, they have been more than open in their desire to reach a fair and equitable settlement of this matter with the Europeans, one which meets the requirements of our laws. I know we all want them to continue on this same course. I particularly note the Secretary's decision last Thursday, as I stated at the outset, to reject the latest European offer, which was, I understand, a proposal by the four worst offenders to reduce their imports 10 percent below last year's levels, and a promise by the other producers not to fill that gap. Given the 30-percent increase in imports from the European

Community during that period, it is easy to see that the offer did not even begin to meet the standards of fully eliminating the injury suffered and being better for the domestic industry than a continuation of the investigation—standards, I might add, Mr. President, which we painstakingly, after weeks and months of negotiation with then USTC Bob Strauss, wrote into the law in 1979. I was deeply involved in the drafting of that section among others. I remember well how the then administration wanted carte blanche to settle almost any case almost any way they wanted. I opposed that kind of settlement authority.

Indeed, I must say I was skeptical about any kind of settlement authority, but I ultimately agreed to one which is narrowly circumscribed in the law today, one which contains a number of guarantees that the domestic industry will have its injury fully offset. I do believe the Department of Commerce is to be commended for thus far fully adhering to the letter and spirit of the law in that respect.

Parenthetically, Mr. President, I note that there is one area of the law where I believe the Department has erred. This is its refusal to make a judgment on the presense of critical circumstances prior to its preliminary findings of dumping or subsidy. The law is quite clear on this point. The legislative history, I think is particularly obvious. But the Department has apparently chosen to interpret it differently, wrongly; I think, because of that, injuriously to the steel industry. But overall, the record is good thus far.

Despite this overall good record thus far, recent news reports have caused some concern to me and other members of the Steel Caucus. These reports indicate that the Europeans think Secretary Baldrige may be "too tough," and they are reportedly increasing pressure on the administration to settle these cases on terms unfavorable and unacceptable to the domestic industry. Thus far, that has not happened, but it is worth noting at this point how committed those of us in the caucus are to an equitable, acceptable solution and how important it is that our Government maintain the strong stand in support of the MTN agreements that it has thus far taken.

Mr. President, I state this not only to send a message to the European Community, but also to make it clear to others in our own Government that we in Congress hold very strong views on this matter. We in Congress wrote this law. We in Congress made it tough on purpose—precisely to prevent the kind of devastating unfair trade practices and actions that we are experiencing right now in steel.

Today it is steel, tomorrow, it may be some other product, it may be some other set of States, it may be some other industries.

I say, Mr. President, that it is terribly important that the law continue to work now against those kinds of unfair trade actions.

So far the law is working to stop that action. It is absolutely essential that we let it continue to work and not seek some expedient end to the matter that might make for short-term peace at the bargaining table but will produce long-term chaos in the international trading system.

At the same time, Mr. President, the Caucus in holding open the possibility that additional legislative action might be necessary. The House Steel Caucus has already introduced comprehensive quota legislation, covering both carbon and specialty steel products. I am not proposing that at this point. The domestic industry has chosen to take its chances with existing law, since the offending practices are so clearly in violation of it. Should that law not be vigorously enforced, however, the industry, and the Congress, retain the option of producing a legislative remedy that will succeed where the administration might choose to fail.

The area of specialty steel, however, is something of a different matter. The pending trade cases which have produced the frantic negotiations in recent days do not generally include specialty products. This is not to say that industry is not experiencing the same problem. They are. Indeed, a section 301 petition has been filed covering a broad range of specialty products against four major European producers and one other country. In addition, the specialty industry has filed a number of antidumping and countervailing duty cases against various producers on several different products. Those cases are also making their way through the administrative process, and the industry has won each of the rounds that have been fought thus far.

Nonetheless, I remain concerned that, even with the successful conclusion of these cases, the specialty steel industry will not receive the full measure of relief to which it is entitled by law. Unfair trade practice cases are expensive to file and to pursue. This is a small industry, compared to the carbon steel industry, and it has been difficult for them to marshall the resources necessary to seek redress in all the cases where it is warranted. They cannot afford to hire hundreds of lawyers as some of the big steel companies can. They cannot afford to hire the batteries of Washington lobbyists and consultants to expedite the handling down here that some of the big steel companies can. These specialty steel companies are smaller companies. I might add that there is for them the danger that a negotiated settlement in carbon steel might not also include specialty steel products, thereby creating some incentive on the part of the Europeans to shift production in the direction of those product categories not covered by any agreement. Finally, the critical importance of specialty steel to our defense and aerospace industries makes it absolutely essential we retain a viable domestic industry fully equipped to meet our national security needs.

For those reasons, Mr. President, I am today introducing two bills intended to provide full protection from unfair imports of specialty steel. The first is straightforward quota legislation. It directs the President to establish quotas in each of six major specialty steel categories—plate, bar, rod, sheet and strip, alloy tool steel, and pipe and tube—based on the market penetration of imports during the 1978–80 period. In my judgment this is the most recent representative period prior to a renewed onslaught of subsidized imports, and as observers will note, even so, the levels of U.S. market share allocated to imports are quite high in a number of the product categories—nearly 36 percent for rod and 44.5 percent for pipe and tube, for example. In addition to these aggragate levels, the President is given authority to allocate market share among the various foreign suppliers. The bill makes no attempt to make that judgment on a country by country basis. This is a matter better left to the Executive. Finally, the bill calls for updating the quotas every 6 months based on actual sales over the same period the preceding year.

The second bill approaches the same problem through the use of the expertise of the International Trade Commission. The bill states that Congress finds the specialty steel industry has been injured by imports according to the same criteria provided in the so-called escape clause mechanism—sections 201–203 of the Trade Act of 1974, which, incidentally, is the act under which the industry received relief in 1976. In other words, section 1 of the bill substitutes the judgment of Congress for that of the ITC with respect to a finding of injury. Section 2 of the bill then directs the Commission to develop an appropriate remedy pursuant to section 201(d)(1)(A) of the Trade Act of 1974. Generally speaking such remedy would be a quota or a tariff. Following the presentation of the Commission's remedy to the President, the President is directed to implement it without change. The main difference between this bill and the first bill is that the second one substitutes the judgment of the Commission for that of Congress in determining the extent of relief that is appropriate in this

case. The Commission has ample experience in such task and is well acquainted with this particular industry through past investigations under a number of different provisions of the law.

It is my hope, Mr. President, that one or the other of these bills will be enacted into law soon in order to stem the tide of unfairly traded imports into this country. At a later point, should circumstances warrant, I will be prepared to introduce broader legislation covering other parts of the steel industry as well. For the time being, however, I plan to pursue these proposals for specialty steel as well as encourage the efforts of all caucus members in supporting the strong position the administration has taken thus far in steel matters and in urging them to continue to hold firm against this attack on the GATT system.

Mr. President, I ask unanimous consent that the text of both bills be printed at this point in the RECORD.

There being no objection, the bills were ordered to be printed in the RECORD, as follows:

S. 2770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Specialty Steel Fair Trade Act of 1982."

SEC. 2. ESTABLISHMENT OF QUANTITATIVE LIMITATIONS

(a) Effective fifteen days following the date of enactment of this Act, quantitative limitations on imports of stainless steel and alloy tool steel are established. These limitations are to be calculated as detailed in subsections (b), (c), (d) and (e) of this section.

(b) On the first day of October each year beginning October 1, 1982, the Secretary of Commerce will announce quantitative limitations for the six months commencing on the first day of January of the following year. On the first day of April each year, the Secretary of Commerce will announce quantitative limitations for the six months commencing on the first day of July of that year.

(c) For the period of time between the date of enactment and January 1, 1983, the Secretary shall, within 15 days following the date of enactment, announce quantitative limitations determined by taking the applicable product lines under subparagraph (e) of imports of the applicable product lines under subparagraph (e) for the first six months of 1982 and multiplying that number by the number obtained by dividing the number of months remaining in 1982 by six.

(d) The quantitative limitations for each six months period announced by the Secretary of Commerce shall be determined by taking the percentage indicated in subsection (e) of total apparent domestic consumption of each product category for the six month period beginning one year earlier than the date the new limitation takes effect.

(e) The following percentages shall be used to calculate quantitative limitations:

Product and applicable import percentage share of domestic markets:

	TSUS item numbers
Sheet and strip (7.7 percent)	607.7610
	607.9010
	607.9020
	608.2600
	608.2900
	608.4300
	608.5700
Plate (6.5 percent)	607.7605
	607.9005
Bar (18.5 percent)	606.9005
	606.9010
Rod (35.9 percent)	607.2600
	607.4300
Alloy tool steel (26.5 percent)	606.9300
	606.9400
	606.9505
	606.9510
	606.9520
	606.9525
	606.9535
	606.9540
	607.2800
	607.3405
	607.3420
	607.4600
	607.5405
	607.5420
	607.7205
	607.7220
	607.8805
	608.3405
	608.3420
	608.4905
	608.4920
	608.6405
	608.6420
	609.4520
	609.4550
Pipe and tubing (44.5 percent)	610.3705
	610.3175
	610.3745
	610.3765
	610.5130
	610.5210
	610.5215
	610.5235

SEC. 3. ALLOCATION OF QUANTITATIVE LIMITATIONS

The President may, after consultation with all nations having an interest in supplying stainless steel or alloy tool steel products to the United States, negotiate multilateral or bilateral agreements establishing for periods beginning on or after the date of enactment of this Act, quantitative limitations on United States imports of such products from such countries, within the total quantitative limitations set forth in section (1).

SEC. 4. ADMINISTRATION OF QUANTITATIVE LIMITATIONS

(a) Import limitations established under this Act shall be administered by the Secretary of Commerce. The Secretary may issue such regulations as may be necessary or appropriate to carry out the purposes of this section.

(b) Whenever the Secretary of Commerce determines it to be necessary to avoid disruption of regional markets, he shall provide by regulation that the proportionate share of total imports and imports in any category from any nation entering through any port of entry in or near such regional markets shall not exceed the proportionate share of such imports entering through such port during the preceding three calendar years. The Secretary shall conduct the review required to make such a determination at least annually.

(c) Six months before the expiration of five years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Congress as to the effects of the imports limitations established under this Act on (1) the economic soundness of the specialty steel industry and the employment opportunities in such industry, (2) the general economy, (3) the U.S. balance of payments, and (4) the national security, together with his recommendations as to whether such import limitations should be continued, modified, or revoked. Before making such report, the Secretary shall conduct a hearing at which all interested parties shall have an opportunity to be heard.

SEC. 5. TERMINATION

The provisions of this Act shall continue in effect until Congress acts on the recommendation of the Secretary of Commerce to modify or revoke the import limitations, as set out in section (3)(c). In no event shall the import limitations established in section (a) terminate in less than five years from the date of enactment of this Act.

S. 2771

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The Congress determines, in lieu of the International Trade Commission, that imports of specialty steel products listed in Schedule I are being imported into the United States in such increased quantities as to be a substantial cause of injury to the domestic industry producing articles like or directly competitive with the imported articles, consistent with section 201(b)(1) of the Trade Act of 1974.

SEC. 2. (a) The International Trade Commission shall report the finding in section 1 to the President along with the Commission's recommendation for import relief pursuant to section 201(d)(1)(A) of the Trade Act of 1974.

(b) The President shall promptly implement the recommendation of the International Trade Commission without change and without regard to the procedures of section 202 of the Trade Act of 1974.

Schedule I

Product:	*TSUS item numbers*
Sheet and strip	607.7610
	607.9010
	607.9020
	603.2600
	608.2900
	608.4300
	608.5700
Plate	607.7605
	607.9005
Bar	606.9005
	606.9010
Rod	607.2600
	607.4300
Alloy tool steel	606.9300
	606.9400
	606.9505
	606.9510
	606.9520
	606.9525
	606.9535
	606.9540
	607.2800
	607.3405
	607.3420
	607.4600
	607.5405
	607.5420

	TSUS item
	607.7205
	607.7220
	607.8805
	608.3405
	608.3420
	608.4905
	608.4920
	608.6405
	608.6420
	609.4520
	609.4550
Pipe and tubing	610.3705
	610.3175
	610.3745
	610.3765
	610.5130
	610.5210
	610.5215
	610.5235

THE AMERICAN STEEL INDUSTRY SUFFERS SERIOUS INJURY THROUGH FOREIGN IMPORTS AND WEAKENED ECONOMY

Mr. RANDOLPH. Mr. President, a few weeks ago, speaking from my desk, I told Members of the U.S. Senate, and through correspondence which followed and such media comment as took place, that there were more employees working today in just one, just one, fast-food company—McDonald's—than were working at that time in all the steel plants of the United States of America; some 400,000 in McDonald's and a much lesser number now in steel. Steel workers who have lost their jobs now number 110,000.

I did not do that as a gesture or a play on words. I was attempting, and hopefully in a proper manner, to give to the American people the distressing picture of the steel industry in the United States of America.

Earlier today, the present chairman of our Senate steel caucus, Senator HEINZ, addressed our Members on the conditions, the tragic economic conditions, which exist in the steel industry of this country.

Again, I join with concerned colleagues who are vitally interested in steel issues. I urge our administration to maintain a strong position in support of, first of all, our domestic steel industry, so vital to our overall economy, and to reject any settlement of the steel trade cases which will further bring injury to American steel companies and American steelworkers.

Mr. President, I stress anew that the tragedy in the steel industry continues to worsen. I wish from that time, when I spoke several weeks ago, until now, that there had been an improvement, but the tragic condition worsens.

And regretfully, I must say, apparently our economy worsens on a broad spectrum.

Last year, the steel plants of America were operating at 70 percent of capacity. Earlier this year, in April, they were operating at 50 percent of capacity.

What is the operating capacity of the domestic steel industry as I speak today? A shocking 40 percent. Steel production this year, we believe will be the lowest since 21 years ago, in 1961.

What is the seriousness of this plight of which I speak, of heavy and heavier unemployment in the steel industry? Mr. President, one-third of domestic steelworkers are unemployed. The unemployment rate continues to stagnate at 9.5 percent nationally. This dire distress is a problem for us to grapple with now.

This figure is even higher in steel States, such as West Virginia, where the unemployment stood in May of this year at 10.9 percent. We cannot continue to allow unfairly priced steel imports from across the seas to force our workers into the unemployment lines in greater numbers and thus cause the steel companies to suffer even heavier financial losses.

Subsidized steel imports, I emphasize, must not be permitted to destroy the American steel industry. We recognize that this industry is critical to the national strength of our Nation and basic to the productive well-being of our economic system and the consuming public in this country.

I earnestly hope administration officials will be encouraged by my comments and the comments of Senator HEINZ in this Chamber today. The administration concern, and I do not minimize it, is a concern that is present. But more and more, the administration and the Nation must stand firmly behind our American steelworkers—American steelworkers not now employed. The number of workers unemployed and American steel companies suffering financially cuts too deeply.

I trust that all segments within the U.S. Government and also at State levels, when possible, will resist efforts to solve the problems with subsidized steel imports in a negative manner. Such ill-advised action would be unacceptable to domestic steelmakers and further injure American steelworkers and their families.

Mr. President, our people as a whole, not just steel producers and steelworkers, are faced with a crushing, terrible economic crisis. This problem, to be solved hopefully sooner rather than later, calls for a crusade of every official, every person or group of concerned citizens, who provide a constructive proposal or program or project, an effort to be helpful.

No partisan effort is in order. We must work together, work together perhaps as we have not realized that we must work together, on a policy issue of this kind; and work in cooperation, with diverse viewpoints of course. We must secure a commitment and do it now, now, now. We must turn this industry upward.

It is for us now to recognize that the undergirders on which the economic structure of America stands are being ripped apart. We need a shoring up as well as a stronger base to keep this house of American industry intact.

● Mr. HUDDLESTON. Mr. President, I have joined a number of my colleagues in sending a letter to Commerce Secretary Baldrige encouraging him to pursue a hard line against subsidized steel imports.

The steel industry has been one of the hardest hit sectors of our economy in the current recession. Downturns in the automobile, building, and equipment industries have severely depressed the demand for steel. Add to that the unfair labor practices of some Europeans, long known by the industry and finally documented by the Commerce Department in June, and it is small wonder that the steel industry has fallen into a dangerous depression.

The U.S. steel industry today is operating at barely 40 percent of capacity compared to 81.4 percent just 1 year ago. Over 110,000 workers are currently laid off, sending ripple effects through related industries and depressing entire communities. Our industrial base, vital to our national defense and economy, is jeopardized. We clearly have reached a critical juncture, and without fair but unyielding action, we could be facing a major disaster.

The Commerce Department determined in June that steelmakers in some European countries are receiving government subsidies amounting to as much as 40 percent of their production costs. It is not "protectionist" to take action against such patently unfair practices. In fact, to fail to do so would compromise the principles of free trade which are central to the international trade agreement both we and the Europeans signed.

We must send a strong message to our trading partners that the United States expects fair trade in our markets and the vigorous enforcement of our trade laws, and I urge the Secretary of Commerce to hold to that course.●

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Arkansas (Mr. PRYOR) is recognized not to exceed 15 minutes.

Mr. PRYOR. Mr. President, with the permission of the Chair, I yield my place and time to the distinguished Senator from Georgia, and then after he has finished his special order and his remarks, I should like to be recognized.

The PRESIDING OFFICER. Without objection, the Senator from Georgia is recognized.

Mr. NUNN. Mr. President, I thank my colleague from Arkansas. I will take just a few minutes.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, Senator CHILES and I continue to speak daily on the pressing need for reform of habeas corpus proceedings in our criminal justice system. Our courts are overburdened and overtaxed with needless and repetitive habeas corpus petitions. Despite that fact, the Senate persists in failing to act to alleviate the problem. Senator CHILES and I have offered one clear and effective legislative remedy: the proposals for habeas corpus reform in S. 2543 which today remain untouched on the Senate Calendar.

As I mentioned last week, Senator CHILES and I are not alone in calls for congressional attention to this problem. The public, as well as Federal judges themselves, have become more and more willing to vocalize their frustrations with the needless delay and uncertainty which current habeas corpus laws produce within our criminal justice system. Again this morning, I call the Senate's attention to relevant and pertinent comments from a member of the Federal judiciary.

Those comments stem from the case of Willie Lee Darden, yet another criminal offender whose ultimate punishment was postponed via a delayed petition for a writ of habeas corpus.

On September 8, 1973, Darden robbed Carl's Furniture Store in Lakeland, Fla. In doing so, he victimized Mr. and Mrs. Carl Turman, the store's owners, as well as Phillip Arnold, a 16-year-old neighbor who came to the aid of the Turmans. Darden fatally shot Mr. Turman between the eyes in his wife's presence. He then shot the Arnold boy three times, leaving permanent injuries, including a bullet lodged in his neck at the time of Darden's trial. Finally, he sexually accosted Mrs. Turman prior to leaving the scene of his crimes.

The State of Florida subsequently charged Darden with first degree murder, robbery, and assault with intent to commit murder. At Darden's trial in January 1974 the State produced both Mrs. Turman and Phillip Arnold as eyewitnesses against him, in addition to substantial and credible circumstantial evidence. The jury convicted him of the charged crimes and he was subsequently sentenced to death.

Darden's direct appeal of that conviction was denied by the Florida Supreme Court in 1976. The following year the Supreme Court of the United States denied his petition for a writ of certiorari in the case. For the next 2 years, Darden pursued clemency requests within the State system. In May 1979, the Governor issued a death warrant based on Darden's 1974 conviction. Only after that warrant was signed, some 6 years after Carl Turman's murder, did Darden file a petition for a writ of habeas corpus in Federal court. Darden's petition required the Federal court to fully examine and review again trial issues decided and affirmed in the State system many years before. In May 1981, nearly 8 years after Darden's criminal acts, the Federal district court found his claims to be "unfounded" and denied his petition for a writ of habeas corpus.

In issuing his opinion, Federal District Judge William Terrell Hodges took care to include an "epilogue" which should be of special interest to this Congress in considering legislation to amend the statutes governing habeas corpus proceedings. Judge Hodges pointed out that cases like Darden's serve "* * * to fuel a growing public frustration concerning the administration of criminal justice" which in turn results in "an overall loss of confidence on the part of the public in its court system." On the problem of delay and needless relitigation of issues, the judge noted that, as current law does not require Federal courts to defer to earlier State court determinations, "Of necessity, the habeas corpus proceeding is always a rehashing of constitutional issues already decided in State courts."

Of particular relevance to the Senate's consideration of habeas corpus reform is that part of the opinion which specifically suggests that shortcomings in habeas corpus relief are statutory in nature, and not mandated by consitutional tenets. As such, Judge Hodges clearly emphasized that the solutions to these problems must come from Congress, rather than the courts themselves. He states:

> While there is great clamor for statutory redress of our present law concerning habeas corpus relief, all involved should remember . . . that the existing law is itself of statutory origin. It was not created, and cannot be amended, by the courts. Given the statute it would be a gross violation of law of a judge's oath of office if he should arbitrarily decline to entertain a proper petition filed under it; and to the extent there is widespread belief that the federal courts have somehow 'bootstrapped' their own authority to indiscriminately meddle in state court criminal prosecutions . . . unjustified and unnecessary damage is being done to the very system of judicial administration in which all of us are so vitally interested. Those who wish to debate the need for change should focus their attention and the brunt of their remarks upon the statute, and the Congress, not the Courts.

The "need for change" to which Judge Hodges refers has reached the point where reform can no longer be responsibly delayed by this Congress. As the Darden opinion so clearly points out, change must come from this Congress and from the legislation which we must enact. S. 2543 would affirmatively require deference to full and fair State determinations of factual issues as well as enact a 3-year statute of limitations on habeas corpus proceedings. I suggest that the Senate, by passage of those provisions, can act responsibly and fairly to fully restore public confidence and respect for our criminal justice system.

ORDER OF BUSINESS

Mr. NUNN. Mr. President, I yield to the Senator from Arkansas. I thank him for his consideration. I appreciate his courtesy.

If I can be recognized under my special order, I will yield all that time to the Senator from Arkansas, if he needs that time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I appreciate the Senator from Georgia yielding me that time. I do not think I will require it, but I will hold it in reserve.

OPERATIONAL TESTING OF WEAPONS

Mr. PRYOR. Mr. President, last fall, Russell Murray II, former Assistant Secretary of Defense, testified in a Senate hearing that during the early Pacific patrols of World War II, U.S. submarine crews discovered a dangerous problem with their torpedoes when they encountered enemy ships near Pearl Harbor.

The torpedos, fired with deadeye accuracy, hit their targets with an ominous thud. Shell after shell failed to explode. When officers complained of the problem, no one believed them until the crew of the *Tinosa* came home with their bone-chilling account. They told of eight dud torpedoes fired straight into the hull of a Japanese merchant ship. None of the eight exploded.

Long-delayed operational tests of the weapon—tests designed to simulate wartime conditions as closely as possible—finally were conducted. Twenty months after the start of the war, the testers found a problem in the torpedo firing pin that was corrected easily.

In the meantime, we had missed countless opportunities for attack and left our own men exposed and vulnerable to assault once they had telegraphed their presence by pounding dud torpedoes into the hulls of enemy ships.

For some time, I have been concerned about the dependability of weapons the Department of Defense is providing to American servicemen. We all have heard the horror stories of the M-16 rifle, the disturbing reports of failures in the M-1 tank, and the criticisms about the performance of the Maverick missile system, the Bradley armored tank, the AH-64 helicopter and many other costly weapons systems.

On May 13, in the early hours of the morning during debate of the defense authorization bill, I introduced an amendment which I believe would take the first step in guaranteeing better quality control and safety in the weapons issued to American troops. The late hour prevented a full discussion of this important legislation, and I withdrew it. This was done on the basis of an understanding expressed by the chairman of the Armed Services Committee, floor manager of the bill—who, by the way, I see in the Chamber at this time—that the matter would be fully considered in hearings by the Governmental Affairs Committee.

On Thursday of this week, I will introduce legislation to address this problem and I invite the support of my colleagues.

The need for independent operational testing has been well-documented. Defense experts have been telling us for more than a decade operational that testing—the process designed to evaluate a weapon's performance in real life-and-death situations—has been the most sadly neglected activity in the weapons procurement process.

I am pleased that this issue is receiving increased attention. The cover story of this week's National Journal by Michael R. Gordon entitled "Billion-Dollar Failures May Slip Through Pentagon Weapons Testing Net" presents a thorough, careful analysis of this issue. I commend it to all my colleagues and ask unanimous consent that it be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PRYOR. Mr. President, in the continuing quest for more and better weapons, the services have downplayed the importance of operational testing. Many in the Defense Establishment, particularly the contractors and weapons promoters, have argued that operational testing slows down the acquisition cycle and unnecessarily delays delivery of the most advanced weapons to our troops. This argument was advanced in 1977 by the Defense Science Board task force, and it is well worth noting that three-quarters of the members of that Board were representatives of the technical community—companies whose products would be subject to independent testing.

More objective sources have painted a different picture.

A blue ribbon panel appointed by President Nixon issued an exhaustive study in 1970 which concluded that operational testing conducted by the services was not effectively identifying faulty weapons and halting production in time for life-saving improvements to be made.

The panel concluded that operational testing lacked objectivity, and received little guidance or encouragement from the upper levels of the Pentagon. The study said that data gathered through tests rarely was distributed to key decisionmakers who could use test scores to evaluate a weapon's worthiness.

The General Accounting Office has warned us time and time again that the services are falling short in their responsibility to test and weed out ineffective weapons.

The GAO has criticized the services for doctoring test scores, "babying" their exotic weapons through the testing process and using overly qualified personnel to conduct tests which are intended to serve as an indicator of how well a weapon will perform in the hands of the average soldier.

Finally, the GAO has criticized DOD for withholding key information from Congress about operational test results—data which could be used to make better informed decisions about funding for multibillion dollar weapons projects.

The weapons procurement process has been fraught with the most blatant conflicts of interest. Because operational testing is tied so closely to the Pentagon's research and development arm, we have a situation where the developers and promoters of weapons also play a direct role in passing judgment on their performance.

In other words, we are in the same situation in testing our weapons systems today as we would be if we were asking students to grade their own final exam papers.

Predictably, the Pentagon and the military-industrial complex have vigorously fought any attempts made over the years to change the operational testing structure. Such attempts have been viewed as a threat to the bureaucrats and corporate officials who have staked their professional reputations on pushing new weapons into production.

After President Nixon's blue ribbon report was issued, DOD made a transparently half-hearted effort to comply with recommendations that testing be handled by an independent office with civilian leadership.

But, the "civilians" appointed to the job were in most instances retired generals who had been out of their Pentagon jobs only a matter of weeks. The office's funding and authority was questioned at every turn. Finally, the independent testing office was reorganized and placed under the control of the Defense Department's research and development branch. So, we have the same song, but only now the second verse.

Mr. President, I believe it is time to renew our efforts to guarantee more objective and thorough weapons testing.

I am now developing legislation which I will introduce on Thursday of this week which would create a separate and distinct operational testing office. This office would report directly to the Secretary of Defense on adequacy of tests conducted by the services for new weapons systems. It also would evaluate whether test results confirm that the new hardware is effective and ready for combat use.

An independent operational testing office is neither a new nor radical concept. An overwhelming body of evidence tells us that such an office would drastically improve the weapons acquisition process.

It also is not an attack on this country's commitment to a stronger national defense, a commitment to which we will devote $1.6 trillion from our Federal budget during the next 5 years.

It is simply a demand for better quality control and objectivity. We cannot afford to pour precious resources into sophisticated weapons which fail our men on the battlefield.

There is no place in any war for weapons which do not work.

Mr. President, I also ask unanimous consent to have printed in the RECORD an article by Morton Mintz in yesterday's Washington Post entitled "Fiasco in Weaponsland," which gives a detailed discussion of the problems with the Maverick missile.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. PRYOR. Mr. President, the General Accounting Office recently released, at my request, an unclassified version of a report on the Maverick missile which raises questions about its effectiveness and demonstrates clearly the value of realistic operational testing. These documents, the GAO report, and the Post article should have the attention of all our colleagues at this time.

EXHIBIT 1

[From the National Journal, July 24, 1982]

BILLION-DOLLAR "FAILURES" MAY SLIP THROUGH PENTAGON WEAPONS TESTING NET

(By Michael R. Gordon)

Early in World War II, a U.S. submarine came upon the Tonan Maru, a Japanese merchant ship. The submarine fired eight torpedoes, all of which struck their target. None exploded.

The problem, said Russell Murray II, assistant Defense secretary for program analysis and evaluation in the Carter Administration, lay in the torpedo's firing pin, which had worked well in engineering tests but had not been fully tested at sea.

The Japanese, Murray told the Senate Governmental Affairs Committee last fall, did things differently. They "subjected their topedoes to proper operational testing before the war—live shots at sea against real hulls," a procedure that paid off at Pearl Harbor.

Some 40 years after this incident, there is still plenty of controversy over how the Pentagon tests its weapons. Only the names of the weapons have changed; they now include the billion-dollar Aegis guided-missile

cruiser, which is intended to protect naval battle groups against attack from planes and sea-skimming missiles, and the Pershing II missile, a nuclear weapon that the United States seeks to deploy in West Germany. And the list goes on: the Army's Patriot anti-aircraft missile, the Air Force's tank-killing Maverick missile and its advanced medium-range air-to-air missile (AMRAAM).

At the heart of the controversy, critics charge is a Pentagon bureaucracy so enamored of its new weapons that it often cannot fairly judge their real-life capabilities. And the military decision makers, they say, are heavily influenced by the defense industry that produces its weapons.

"The conflict of interest just stares you in the face," Murray said in an interview. "None of the reforms implemented by [deputy Defense secretary Fran C.] Carlucci get at the biggest problem of them all: the need to have an independent office to do operational tests."

That sort of criticism comes from Congress as well. "What we are doing is having the military-industrial complex test the weapons it develops," complained Sen. David Pryor, D-Ark. "That's like having a student grade his own final exams."

In an effort to transform the Pentagon's testing procedures, Pryor has asked the General Accounting Office (GAO) to conduct a series of studies on weapons testing and is prodding the Governmental Affairs Committee, on which he sits, to hold hearings on the issue later this summer. Pryor is also working on legislation that would create an independent weapons testing office in place of the current testing directorate in the Pentagon's research and engineering office, which has the primary responsibility for weapons development.

Added to the conflict-of-interest issue are such problems as the cost of testing sophisticated weapons and the inherent difficulties of simulating battle conditions in an age when military technology is changing rapidly. Vice Adm. Robert R. Monroe, director of the Navy's research, development, test and evaluation office, said that because of these kinds of problems, the Pentagon runs a risk that "billion-dollar systems" could be "totally ineffective."

Few other Pentagon officials are willing to criticize the testing process for the record, although many commented on the condition that their names be withheld. But defenders of the current system are highly vocal.

Some defense contractors and Pentagon research and engineering officials contend that testing is competently executed and that a new testing office would only lengthen the time it takes to get badly needed systems to the field. As things stand now, they say, the acquisition cycle is already too long.

Other defenders of the current system speak in harsher terms. "I think independent testing is pure goddamn balderdash and a waste of money," said Rear Adm. Wayne E. Meyer, project manager of the Aegis system. "I've never seen independent testing make a better product."

CONFLICTING APPROACHES

Putting the testing controversy in perspective requires some background into how the United States and the Soviet Union develop their weapons. As some experts tell it, the superpowers have different approaches to weapons design and production.

As a general rule, the Soviet method is said to be more evolutionary than that of the United States, which puts a greater premium on achieving significant technological advances.

The Soviets have made "a conscious decision to stay further below the leading edge of technology in what they field," said Leonard Sullivan, a defense consultant, former assistant Defense secretary for program analysis and evaluation and former principal deputy director for defense research and engineering. This reflects their concern that systems on the frontiers of technology might be too difficult to maintain and too complicated for Soviet troops to operate, he said.

As some see it, the U.S. emphasis on state-of-the-art weapons technology puts a premium on thorough testing. But many testing controversies have sprung up over the years.

One problem, in the view of critics, is the reporting of test results. The Maverick anti-tank missile is case in point. In the 1960s, the Air Force developed a Maverick that used a television camera to pick out targets. In the 1970s, the Air Force made a major effort to develop a version of the missile that would create images from the targets' thermal energy. In was intended to overcome problems in identifying targets that plagued the old Maverick and to give pilots the ability to fire in bad weather and at night.

As the system is explained by the GAO, the new version of the Maverick shows a target on a special video display. The pilot can "lock" the missile onto the target and launch it. This capability is called "launch and leave" because, as the GAO describes it, "the pilot can presumably turn away after launching the missile and leave the area with evasive maneuvers while the missile should stay locked onto, and eventually kill, the target that the pilot selected."

It worked well in theory, but the test results were not encouraging. Anthony R. Battista, a House Armed Services Committee staff member and an engineer by training, noted in an interview that actual test results were distorted.

In one case, he said, the Air Force contended that the Maverick could lock onto its targets at greater ranges than seemed possible from his viewing of Air Force films. Battista said he insisted on flying in the planes used in the Maverick test and confirmed that the Air Force claims were exaggerated.

Murray says he had a similar experience. While the Air Force reported that the Maverick program was proceeding without major problems, Murray says, he saw Air Force films that showed that the pilots experienced great difficulty in locking onto their targets. The films convinced Murray that an independent testing office was needed.

Critics of Pentagon testing are also concerned about the way service officials score maintenance tests. In essence, testers record each maintenance failure, however small. But later, at special scoring conferences, service officials discount minor maintenance failures that, in their view, would not seriously interfere with performance in actual combat.

Dina Rasor, who heads the Project on Military Procurement, a public-interest group, said that in one test of the M-1 tank at Fort Knox, Ky., "a group of senior officers and civilians from various commands threw out all but 171 of the 1,007 maintenance actions." That gave the tank a "chargeable" maintenance failure rate—the distance it runs before it breaks down—of 93.97 miles, Rasor wrote in Reason magazine. "It just happens that the goal the Army set for itself for this point in the tank development was 90 miles between failures," she noted.

A similar pattern can be seen in the testing of the Army's advanced attack helicopter, the AH-64. In a May 1982 report, the GAO noted that Army tests showed that the helicopter could fly an average of 17.9 hours between mission failures, which was close to the Army's objective of 17 hours. But this figure, the GAO said, reflected only failures that caused "actual aborts" and that were related to certain hardware problems. If failures resulting from crew and maintenance errors and unknown causes were considered, the GAO said, "operational mission reliability" would drop to an average of 3.5 hours between failures.

The GAO has generally said that the latter measure, which includes failures from a variety of causes, is a better indication of how the system would perform in combat. But some Pentagon officials say their scoring procedures are needed to compensate for the zealousness of the Army's testing procedures, which often identify minor maintenance problems, and to distinguish major deficiencies from less important ones.

Another set of problems stems from what critics call "success-oriented" tests. Battista, who also believes there is a need for an independent testing office, cited early tests of the Phalanx, a ship defense system that employs a rapid-fire 20-millimeter weapon to attack close targets, as a case in point. Early tests of the Phalanx, Battista said, used "soft" target drones that were easy to destroy. At the direction of his committee, he says, the Navy later used more durable, and therefore more realistic, drones.

Yet another example of success-oriented testing cited by Battista are the tests of the airborne warning and control system (AWACS) plane. In 1975 testimony, the Air Force contended that recent tests had shown that AWACS planes could survive a "moderate" scale of attack. But military officials conceded under questioning that they did not employ the type of tactics in the test that would likely be used by the enemy. Specifically, they admitted, the tests did not show what would happen if the enemy tried to use electronic countermeasures—called "jamming"—on planes sent out to protect the AWACS plane.

Battista said that the Air Force's test spurred congressional skepticism about the real capabilities of the aircraft and undermined support for what he considers a valuable program.

Yet another problem with testing stems from the use of conractor personnel, according to some defense experts. In a recent article, Army Capt. Bruce E. Arlinghaus, an instructor at the U.S. Military Academy, observed that precision guided munitions systems that are to be tested "often come with corporate representatives who 'look after' and initially teach people how to use them. These 'tech reps' know the system, can keep it working and can teach and train people how to use it better. If the system is adopted, very few in the military will be able to match their knowledge, maintenance ability or standards of training."

Contractor representatives were also present at a 1976 test of the Army TOW (tube-launched, optically tracked and wire-guided) anti-tank missile. The test was specifically designed to assess a new laser sight for the missile that allowed it to be fired at night. "To do the test, we selected the best gunners," a participant said, adding that the gunners had to have special security clearance and were given 60 days of special training.

The system performed well. But the test raised questions as to whether the Army could achieve the same level of performance without substantially increasing the training it provides gunners.

Nuclear weapons systems have been subject to some key testing limitations. In some cases, the terrain at test ranges has constrained efforts to make tests more realistic. The GAO has noted, for example, that much of the terrain at the White Sands (N.M.) test range and other western test ranges bears little resemblance to Soviet territory. Yet these ranges are used to test strategic cruise missiles.

The Air Force long ago gave up efforts to fire Minuteman missiles out of operational silos. An Air Force spokeswoman cited cost concerns because the silos are damaged in firings. But experts also note that three out of four efforts during the 1960s to fire missiles out of working silos failed when the missiles did not get out of their silos.

Other testing problems are apparently matters of economics. Neither Congress nor the services have generously financed programs for drones and other targets. Project managers often have to pay for them out of their weapons development budgets, and some complain that this practice handicaps realistic testing.

Adm. Monroe added that jamming is a key testing weakness because it is difficult both to simulate Soviet efforts to disrupt American weapons and to replicate Soviet missiles and radar systems to determine whether U.S. jamming efforts would work.

"It's almost impossible to get good electronic warfare representation of enemy radars and enemy missiles," he said. "In trying to get inside enemy circuitry, we're just in our infancy."

PERSISTENT QUESTIONS

Whether these sorts of testing problems represent the exceptions in a procurement system that churns out billions of dollars of equipment each year or reflect deep institutional problems is the key question.

The way the Pentagon's testing system works now, each service assesses whether weapons meet their design specifications, an evaluation that is called "developmental testing." In addition, the services have separate agencies that assess how well the systems perform in simulated combat conditions, a procedure that is called "operational testing."

These tests are generally carried out in several stages. As an official in the office of the Defense Secretary explained it, the first step in developmental testing is to define the concept of the weapons system and subject it to engineering tests. A complete prototype is usually then tested.

While developmental testing proceeds, operational testing, which is supposed to be important to the Pentagon's decision to order full-scale or limited production, begins. But this stage of the testing process is done too late to influence the initial development decision, which is made by the Defense System Acquisition Review Council, a committee of service officials and assistant Defense secretaries that is headed by Richard D. DeLauer, a former executive vice president of TRW Inc. and now Defense undersecretary for research and engineering and the Pentagon's chief acquisition executive.

In Monroe's judgment, the testing problem is aggravated by pressure from defense contactors, project managers and other Pentagon officials to push ahead with new programs.

To meet tight shipbuilding schedules and comply with the bureaucratic need to prepare budgets years in advance, Monroe said, decisions to buy "long lead time" components and to go ahead with full production are made while research and development is still going on. "We're starting to buy something and I don't know what the hell it is," he said.

The Pentagon's emphasis on concurrent testing and production of weapons is "terrible," he said. "We can't build good hardware that way."

Some of Carlucci's management initiatives, Monroe said, are making matters worse for testers. One of Carlucci's initiatives, for example, is to leave the final "milestone" production decisions up to the services instead of the Defense System Acquisition Review Council.

Monroe hailed some of Carlucci's reforms, however. One, to provide more hardware "test pieces," has helped the weapons testers, he says.

There is also controversy over what sort of monitoring is done by the office of the Defense Secretary.

In 1970, the Defense Department convened a "blue ribbon" panel of academics, contractors and business and labor leaders to review several defense issues, including testing.

The panel's recommendations led to the creation of independent operational testing agencies in each of the services. In addition, the panel called for a separate testing and evaluation directorate within the office of the Defense Secretary to monitor the service agencies. It was established and placed for administrative purposes within the Pentagon office of research and engineering, a move that has been a continual source of internal dispute.

The testing office's mandate specified that it was to report directly to the Secretary or deputy secretary. But despite this independent access, some argue that the research and engineering office has acquired too much influence over the directorate.

A veteran Pentagon official who is familiar with the office says that Alfred Starbird, the Army lieutenant general who was the first director of the testing office, was the most independent and showed no reluctance to bypass the head of the research and engineering office to bring his opinions to the deputy secretary. Since then, the directorate's clout and independence have gradually diminished, he said.

Monroe said that since the testing office is "organizationally tied into the hierarchy" of the research and engineering office, its independence is diminished. If research and engineering takes a firm position on a test policy issue, he said. "It's tough for [the directorate] to march off in a different direction."

Concern over the testing office's independence—or lack thereof—surfaced during the Carter Administration transition in 1976. An early proposal to restructure the Pentagon would have created the position of undersecretary for evaluation to oversee program analysis and evaluation, the testing office and the department's comptroller.

That never happened, but soon after Harold Brown took over as Defense Secretary, plans were hatched to transfer operational testing to the office of program analysis and evaluation, where it would be directed by Murray and Thomas P. Christie, now deputy director of the office of program analysis and evaluation for general purpose forces.

The ensuing power struggle over control of the testing office underscores the intensity of opposition to an independent test office among defense contractors and the rest of the research and development community.

As Murray tells it, the proposed transfer ran into trouble almost immediately. It was resisted by the Defense Science Board, an advisory body whose members include representatives of such defense contractors as TRW and Martin Marietta Corp., and by William J. Perry, the new undersecretary for research and engineering.

Perry and Murray clearly had two very different approaches to weapons development. In an interview, Perry said the transfer would have hurt his drive to reduce the time it takes to develop weapons systems. "We were taking 10 or 12 years," he said. "I wanted to get that down to five or six years."

In Perry's view, this meant that the Pentagon would have to conduct developmental and operational testing in tandem, with production beginning for some weapons systems while important testing on them was still going on.

Some of Perry's argument was endorsed by Pentagon testers. One said that shifting operational testing to the program analysis and evaluation office was not a good political move because the office has an adversary relationship with the services. And Monroe charged that the analysis and evaluation office had strong views about which weapons the Pentagon ought to develop and might have sought to use test data to "bomb out" some systems.

Murray, on the other hand, argued at the time that developmental and operational testing needed to be kept separate in order to provide checks and balances on the procurement process. As he put it in his later testimony to the Governmental Affairs Committee, shortcutting operations tests "may get hardware into the field sooner, but not working hardware." Murray complained that the Pentagon bureaucracy too often "has inflicted half-developed systems on our forces in the field and given high technology a reputation it may not deserve."

The dispute between Murray and Perry was fought out in several forums. After Brown approved the transfer, the Defense Science Board convened a study panel on acquisition questions headed by DeLauer, who became Perry's successor. The panel criticized the move and complained that extensive testing had already unduly lengthened the time it took to produce weapons.

Murray replied that there was little evidence that testing was responsible for the delay in getting weapons to the field, a view buttressed by a 1980 Rand Corp. study on weapons system acquisition that was prepared for Perry and the Air Force and that concentrated on aircraft. Although the study cites "some slight evidence" of longer intervals between "first flight testing" and "operational delivery," it said that "statistical support for such a trend is very weak and is certainly inadequate by itself to justify any change in policy."

Brown went ahead with the transfer of operational testing authority to Murray's office, but gave it an additional staff of only eight. When Murray requested a much larger staff, he was offered three more positions. Several months later, operational testing reverted to Perry's control.

CONSTRAINED INFLUENCE

Just how well the testing office functions now is a matter of contention. It is headed by Isham W. Linder, a retired admiral who was appointed by Perry and is described as capable, honest and dedicated by Murray.

Though the testing directorate is housed within the research and engineering office, its charter provides for the independent reporting of test results to the Defense System Acquisition Review Council and to the Defense Secretary. The testing office is also charged with approving service test plans.

Critics inside and outside the Pentagon maintain that the office's influence is constrained. A former test official who has worked under Linder said that test evaluations prepared by the office staff are sometimes "chopped" before they reach the Defense Secretary. "It's a difficult situation," the former official said. "You're not really going to send something up that [research and engineering] doesn't like." Perry said that when he was in office, he controlled the testing office's appointments, its budget and the scope of some of its plans.

A defense official familiar with the testing office said that Linder is not aggressive in disputes between his office and the services over access to service test data. The practice of having undersecretaries for research and engineering select the head of the testing office, he said, ensures that the director of the office will not be "a strong guy."

He also noted that Linder's position as a deputy to DeLauer limits his influence. "This building functions on symbols like that," he said. In general, he said, the testing office is dependent on DeLauer to push some of its initiatives, such as its recommendation that the services buy more realistic devices to simulate enemy threats.

Murray says Linder is in an impossible position. "He's underneath the engineering community, in particular an undersecretary who has opposed independent testing with all of his might," he said. DeLauer was not available for comment.

Other officials complain of the widespread assignment of the uniformed military to the testing directorate as a potential, if not actual, conflict of interest. They note that the former head of air and land warfare test programs in the office became the project manager for the Patriot missile.

Currently, the office includes officials who have worked on the M-1 tank program, among other systems. The current deputy director for tactical air and land warfare systems in the test office, Eugene Fox, is an active Army brigadier general.

The concern of service loyalists for advancement, critics say, may affect test evaluations. "Some military staff people don't like to alienate their parent services that they have to go back to for advancement," said a Pentagon official.

Another criticism is that the office is stretched far too thin to monitor the Pentagon's weapons programs effectively. It has an official staff of about 30, but according to one official, only 14 are directly involved in evaluating tests for all tactical and strategic weapons systems. The office has only three officials to oversee Army tests, a significant number in light of the Army's modernization program to field a slew of new systems.

Beyond that, officials say, the testing office is under pressure because of the tendency to mix developmental and operational testing to shorten the acquisition cycle. Carlucci's philosophy of "controlled decentralization," which grants the services more authority adds to the pressure.

In general, argued a Pentagon official, the users of new weapons systems do not have a sufficient part in the weapons development process. While the commanders of troops in the field have an important role in establishing weapons requirements, he said, they have little influence over the sort of systems that are eventually produced. To grant the commanders more of a voice in weapons development, he said, "would require the Pentagon to create something like an undersecretary for forces."

Linder and some other testing officials take issue with these criticisms. Linder asserts that his independence is not compromised by the current arrangement and says he reports test results directly to Defense Secretary Caspar W. Weinberger and "around DeLauer." He said he had never been subjected to pressure from DeLauer or Perry.

He also denies that the testing office is understaffed. While the extensive use of military officals, he said, is "something to watch carefully," he said that they provide valuable expertise.

"Service guys have a strong sense of loyalty for whomever they work, said an official in the testing office. "We work for the Defense Secretary."

Asked about the office's impact, a Pentagon official replied that it "caused project managers to make changes . . . about 50 percent of the time." As an example, he pointed to the Army's AH-64 attack helicopter. "They were going to full production and the fire control system wasn't operating." he said. The testing office, he said, forced the Army to test the weapon some more.

The office, officals say, also pressured the Army to conduct more tests on the reliability of the engine in the M-1. It alerted Carlucci to the need for more tests, an official says, and as a result, Carlucci added to his list of 32 management reforms one that urges the services to develop more prototypes so that weapons testing can begin sooner.

But much of the office's purported influence is hard to assess. Linder says he submitted a critical evaluation of the Maverick missile a month before *The Washington Post* printed a series of damaging articles about the system. But an Air Force official credits the publicity from the *Post's* article—not Linder's report—with the Defense System Acquisition Review Council's subsequent decision to hold off on a large-scale purchase of the missiles.

To Monroe, the independence of Linder's office is not a key issue because he maintains that service test agencies are effective. A totally independent test office, in his opinion, would only create management problems for the Defense Secretary because the Pentagon leadership needs an acquisition executive like DeLauer to resolve many of the testing issues.

But he added that the system works against thorough testing and evaluation. "For every voice that says, 'Don't proceed, fix it first,'" he said, "there are nine that say, 'Move ahead and we'll fix the problems later.'"

AEGIS: A HIGH-PRIORITY NAVAL DEFENSE PROJECT, BUT WILL IT WORK WHEN THE CHIPS ARE DOWN?

Rear Adm. Wayne E. Meyer has posted a sign in his Crystal City (Va.) office that nicely sums up his management philosophy. Rule No. 1, the sign proclaims, is that the project manager is always right. Rule No. 2, it adds, is that Rule No. 1 must always be obeyed.

As the project manager for the Aegis air defense cruiser for the past 12 years, Meyer has earned a reputation as one of the most successful managers in the military. By sheer force of personality and a lot of smarts, it is commonly said, he has made the Aegis program a reality.

But despite Meyer's drive, critics say, the Aegis is a classic case in which an assumed need to move ahead with the development of a system has restricted the system's testing program. As a result, they say, there is considerable uncertainty about what the system can really do.

The Aegis is a high-priority Navy project that has drawn increased attention since the Falkland Islands conflict revealed the threat that sea-skimming missiles such as the French-built Exocet pose to surface ships, including aircraft carriers. Navy Secretary John Lehman has called the Aegis the "key to survival of the battle group." The system is described by its contractors, RCA Missile and Surface Radar and the Ingalls shipbuilding division of Litton Industries Inc., as the "shield of the fleet."

In essence, the Aegis is a combination of highly sophisticated radars, missiles and other weapons that are deployed on specially designed cruisers. A Defense Department report puts the cost of an individual Aegis-equipped ship at more than $1 billion, and the Navy would like to buy 17 of them through fiscal 1987. The first Aegis air defense cruiser, the *Ticonderoga*, has already undergone sea trials.

As described by RCA, the ship's radar would be able to detect hundreds of aircraft and missiles, maintaining "continuous surveillance of the skies from the wavetops to the stratosphere." Unlike conventional radars, which use a rotating radar antenna, the Aegis antenna is four sided. Each side contains more than 4,000 small radars that send out hundreds of pencil-thin radar beams.

Upon tracking a potential target, the Aegis system would use another signal to determine if the plane or missile is "friend or foe," an RCA spokesman said. If the latter, the Aegis would attempt to shoot it down; surface-to-air missiles would be fired and radar information gathered by the Aegis computer would be used to direct Standard missiles toward the target with midcourse commands.

Then, in a process called "illumination," a separate radar, using a conventional radar dish, would bounce radar signals off the target so that the missile could home in on the reflected radar energy. The Aegis, Meyer said, could have 18 missile salvos in the air at one time.

That's not all the Aegis system is supposed to do. It also has a computerized weapons control system to direct anti-aircraft fire from its Phalanx air defense system, the cruiser's five-inch deck guns, its rocket-launched torpedoes and its depth charges.

The Aegis also includes an operational test and readiness system, a computerized diagnostic system that is designed to pinpoint maintenance problems in the complex array of computers and radars.

RCA notes in its press releases that the system's "effectiveness has been proved" in "rigorous" tests. But some critics complain that the test results have been less than reassuring. A study for the Defense Systems Managment College by Booz Allen and Hamilton Inc. that was based in part on internal Pentagon documents noted that in

1978, the Defense Secretary's office "approved production of the system in spite of substantial evidence of inadequate (test and evaluation) data." Both the department's testing office and its office of program analysis and evaluation, the report observed, felt that "there was insufficient evidence that Aegis would function effectively in a high-threat environment."

As the critics tell it, the testing limitations were many. For one, a complete prototype was never put to sea and tested. A proposal to this effect was advanced by the Center for Naval Analysis, a research organization financed by the Defense Department.

What sea tests were conducted, on the ship *Norton Sound*, involved only one face of the Aegis radar system. Other missing elements, the Booz Allen report noted, were parts of the command and control system and the operational readiness test system.

Another limitation of the tests, in the view of a naval expert familiar with the Aegis testing program, concerned the drone aircraft and missiles used as targets. The drones, a Pentagon expert on aerial targets said, were "not anything like" some Soviet cruise missiles in terms of "low-fast threat."

Thomas S. Amlie, former technical director of the Naval Weapons Center at China Lake, Calif., said the drones also bore faint resemblance to an Exocet-type threat. According to a Navy chart on the *Norton Sound* test, the drones and missiles used in "low-altitude" test firings have considerably larger length, body diameter and wing span than Janes' 1981 "All the World's Weapons Systems" attributes to Exocets. Nor can they fly as low as Exocets, which fly lower than 10 feet above the water.

The Booz Allen report said that there were only seven firings of the Standard-2 missile during the operational tests, which were conducted in 1977. Other test data show that the targets in these tests were not lower than 200 feet.

The number of simultaneous targets that were fired at was also limited. Meyer said that during the *Norton Sound* tests, the Aegis never had to face more than two missiles at once. In the two instances that it faced two missiles, he said, the targets were destroyed. But in 1983, he said, the *Ticonderoga* will face six simultaneous targets in a test.

There is likewise controversy over another part of the Aegis test program, which took place on land near Moorestown, N.J., where the Navy built a test center complete with a simulated ship deck near the RCA Missile and Surface Radar offices.

The Navy built two of the Aegis' four radar faces there and has tested them by tracking air traffic in the Northeast air corridor. Contractor literature stresses that Navy fighters also tested the system under "combat conditions." F-14s and A-4s were flown near the test site, as were other planes with special jamming equipment. But there were some constraints. The land-based system was not tested against extremely low-flying threats because the Navy was enjoined from directing high-powered radar beams very low to the ground. Operational test data show that the Aegis had some tracking problems when planes practiced a maneuver called "weaving tracks," in which they frequently crossed paths.

Most of the combat tests used simulated targets programmed into the Aegis detection system and simulated missile firings. And testing the system was limited, data show, because the Navy was changing the system so much that testers found it hard to assess its effectiveness. The test data also indicate that the Aegis computers showed a rate of small maintenance failures that was five times greater than the goal.

Beyond that, in the view of a naval expert close to the testing, the land-based test exercise had an air of artificiality. "Just think about the fact that you have a land-based system across the freeway from the manufacturer of the product," the expert said, "That's very different from an air-sea environment."

Meyer and Robert R. Monroe, director of the Navy's research, development, test and evaluation office, take vehement exception to most of these criticisms. Regarding the *Norton Sound* exercise. Meyer said that to test a full prototype of the system would have been a waste of money. Even though only one of the four radar faces was tested, he said, that was sufficient because the Aegis radar is "a collection of repeatable systems."

He added that many of the drones used actually "overrepresented" much of the Soviet threat. Acknowledging that the latest sea-skimming Soviet SS-22 missile is "going to be tough," he said defense always lags behind offense.

Meyer said that cost was one reason that tests were not made with Exocet missiles. "I don't see anyone offering to buy me some Exocets," he said. Even acquiring the necessary drones for test firing, he said, was costly because the services have not given strong support to their drone programs and many drones were acquired "out of our budget."

Monroe and Meyer offer different explanations of the tests against low-flying missiles. Monroe said that at the time the tests were made, most cruise missiles could not fly much below 200 feet. But Meyer said that extensive low-flying tests were conducted during the developmental phase, including a successful one against a missile flying at lower than 50 feet.

Meyer said the Aegis's main mission is to defend against "saturation attacks" and attacks from low-flying missiles. But Monroe contended that the Aegis system is not "optimized" to deal with sea-skimming missiles. The Phalanx air defense system, a 20-millimeter gun that fires at incoming missiles, will remain the Navy's key defense against sea-skimming missiles, he said.

On the land-based testing. Meyer said the Aegis was recently tested successfully against planes making weaving tracks. He acknowledged that problems with the diagnostic testing system have hampered efforts to assess its effectiveness but said improvements are being made. He confirmed test data on maintenance failures but said the number of "interrupts" has declined greatly during trials on the *Ticonderoga*.

Monroe insisted that many of the criticisms were misplaced. "We probably got better results for the taxpayer by making wiser compromises on comprehensiveness, and without it being that much of a gamble. We did about as much testing as you can . . . and still make any progress."

A former tester disagreed: "Like a lot of tests, the Aegis tests were not designed to overly tax the system or show the user what you can or can't do with it. It will be a big improvement over what we've got now. But there will be a lot of uncertainty about what its capabilities are."

PUTTING THE PERSHING II MISSILE TO THE TEST

The Pershing II is not just another missile. Along with the gound-lanched cruise missile, it is part of NATO's planned deployment of new intermediate-range weapons. If deployed as scheduled next year, it would be the first U.S. missile in 20 years with sufficient range to strike Soviet territory from Europe.

According to NATO's "extended deterrence" doctrine, the Pershing would couple U.S. and European strategic interests by increasing the likelihood that any nuclear war in Europe would escalate into a U.S.-Soviet intercontinental exchange. To the European anti-nuclear movement, the Pershing II stands as a dangerously provocative weapon that would allow the United States to fight a limited nuclear war in Europe and invite a Soviet preemptive strike in a time of crisis.

Some experts on missile testing, on the other hand, question whether all this sound and fury signifies much of anything. Simply put, they wonder if the missile will work.

Questions about the utility of past Pershing missile tests are sensitive for the State and Defense Departments. In February, the General Accounting Office (GAO) produced a report that criticized some Pershing tests for being too success-oriented. (In another report, the GAO held that tests of the air-launched cruise missile have not been "operationally realistic.") (See NJ, 7/3/82, p. 1188.)

The Pershing report was presented in classified form to the Senate and House Armed Services and Appropriations Committees. But the State and Defense Departments expressed concern to the GAO about the suggestion of problems with the Pershing II; consequently, the report was not made public.

The tests discussed in the GAO report occurred in 1978, when the Army fired five modified Pershing I missiles over the White Sands (N.M.) test range as part of its advanced development test of the Pershing II's new guidance system. Unclassified portions of the secret GAO study note that the tests were somewhat limited in scope. The Pershing review was directed by Hyman Baras, director of the GAO's land warfare audits office.

The Pershing II contains a new terminal guidance system developed by Martin Marietta Corp. that, in essence, attempts to home in on its target by matching radar returns from terrain with a programmed "reference scene" of the target area. Much of the missile's accuracy will depend on the ability of the Defense Mapping Agency to craft accurate reference scenes from satellite photographs of Soviet target areas. But in the five advanced development tests, the Army took a shortcut.

As the GAO reported, "Target scenes were made by attaching a radar to an aircraft and flying it over the target area to determine the actual radar returns. The actual returns were then used to construct the target reference scenes for the missile's correlator." This, it suggested, provided the Army with more accurate reference scenes than could be developed for actual Soviet targets.

The GAO faulted the Army on another count. It noted that for three of the five firings, the Army "altered the target area by emplacing aluminum reflectors in a precise geometrical pattern to ensure that the area had a distinctive radar signature." The Army, the GAO reported, said the reflectors were needed because terrain of the test range lacked the distinguishable features of the Soviet Union. But the GAO concluded that "while some alteration of the target area may have been warranted, the high radar reflection provided by having the alu-

minum around the target. . . enhanced success in achieving correlation."

Even with these aids, the performance of the five test firings was less than impressive. According to David G. Harris, a spokesman for the Army Missile Command, one missile failed in the booster phase. Another went off course because of a radar malfunction, and a third went off the track because of computer problems. A fourth missile hit relatively close to the defined target area. Only one of the missiles landed within the target zone, which was marked by reflectors.

Harris confirmed the GAO's account of the tests but said they were still judged by the Army to be successful because they proved "the concept" of the missile. Harris also said that the missile correlator, which matches the stored reference scenes with the radar returns from the target area, worked well even when the missiles went off course. The tests were so successful, he said, that the Army dispensed with a scheduled sixth firing.

Harris's argument was supported by a former Armed Services Committee staffer. "It's not unusual to give yourself very favorable conditions in the early developmental phase to see if the concept will work," he said.

But some defense officials who monitored the tests were concerned. "The Army has done a good job, but they're working with a very sketchy test program," said one.

The GAO report also took issue with the "captive flight tests," in which the Army attached the missile guidance system to airplanes and flew over different terrain to test the correlator. The GAO wrote: "According to the Army, the captive flight tests to be held before the production decision will be equivalent to about 4,000 missile firings. In our view, they do not adequately demonstrate the system's accuracy. The captive tests only test the correlator's performance and not the performance of other components that affect missile accuracy."

Whatever one makes of these disputes, the Army is pushing ahead with the Pershing to meet its 1983 deployment deadline. Late last month, it signed a contract with Martin Marietta to begin production on a limited number of missiles even though no missiles had been flight-tested. The decision to go ahead with full-scale production, which will be made by the Defense System Acquisition Review Council, has been put off until November.

The future test program has also been shortened. Originally, the Army planned 28 missile firings, half of them "developmental" tests by the contractor and half "operational tests" supervised by the Army's Operational Test and Evaluation Agency and conducted by actual soldiers.

The developmental and operational testing stages have been combined and the number of test flights has been cut back to 18. Harris denied that the reduction reflects the Army's push to meet the 1983 deadline. Rather, he said, the merging of the operational and developmental tests is simply a more efficient way to test the missile.

Two of the 18 test missiles will be fired over the Atlantic. They are primarily intended to test the missile's propulsion system and will do little to test homing ability. The remaining 16 will be fired at targets at White Sands from within the missile test site or at long range from a launch site in Idaho. Harris said some of the reference scenes in the tests will also use data from airplanes. But most will have reference scenes produced by using the same procedures that are being employed to craft scenes of Soviet targets.

AMRAAM: "AN EXPENSIVE BIRD" OF LIMITED USE?

The Air Force is bullish about AMRAAM, the advanced medium-range air-to-air missile that it is developing in conjunction with the Navy.

As described by its enthusiasts, AMRAAM will be a formidable weapon. A key feature of the new radar-guided missile is its "fire and forget capability," which the Air Force's current radar-guided missile, the Sparrow, lacks.

To fire a Sparrow, a fighter pilot must use a plane's radar to "lock on" to a target. While the pilot is guiding the missile to the target, the plane's radar is unable to scan for other enemy planes.

Air Force officials say that simulated dogfights carried out at Nellis Air Force Base in Nevada showed that Air Force planes equipped with Sparrows were vulnerable to enemy attack while they were guiding the missiles to their targets. AMRAAM is designed to eliminate this vulnerability because each missile will contain its own radar.

Another key feature of the AMRAAM system is its "multi-shot" capability. As conceived, pilots would be able to shoot several AMRAAM missiles simultaneously at different enemy targets.

Much of the controversy is over tests the Pentagon has not done. In 1978, Russell Murray II, then assistance Defense secretary for program analysis and evaluation, and his deputy, Thomas P. Christie, pushed for some early "conceptual" tests that would include a mock air battle at Nellis.

To Murray, the rationale for the tests was clear. Tests of other air-to-air missiles had shown important limitations that were not foreseen by weapons designers. A series of tests in 1977 of follow-ons to the Claw and the Agile missiles at Nellis is one example. These heat-seeking missiles were designed to enable pilots to direct missile "seekers" at targets while their planes pointed away from enemy aircraft.

But the tests showed that the pilots had difficulty using this procedure in simulated dogfights. "The idea was that you would get this fantastic capability. But if you can't use it, how do you get an increase in capability?" asked John Boyd, a retired Air Force colonel and defense consultant who reviewed the test results.

With these tests in mind, Murray proposed a similar set of tests for AMRAAM to determine whether pilots could manage the multi-shot mechanism and how well the missile could perform in the face of enemy electronic jamming. The latter was an important consideration because much of the rationale for a long-range missile would be undermined if jamming forced pilots to maneuver relatively close to their targets before firing the missile.

Other parts of the tests would have shown whether AMRAAM should be deployed with an ordinary radar or a new "track-while-scan" radar.

Other reasons to conduct the tests were to see how the problem of distinguishing friendly from enemy aircraft would affect actual use of the missile and to determine the ranges at which the missile could be best used.

To run the tests, Murray said, planes would be outfitted with "seekers" that simulated the radar homing capabilities of the missile. The planes would then engage in mock battles while aircraft instrumentation would relay important performance data to computers below.

This testing plan didn't go far before it ran into trouble. For one thing, the Air Force opposed the tests because they would have forced it to expand its test range to deal with the missile's long range. That, it argued, would have cost money and delayed the program. A Pentagon official said that the program would not have been delayed had the Air Force immediately gone to work extending the test range, but as the dispute over how to test wore on, the argument became a self-fulfilling prophecy.

In addition, William J. Perry, then Defense undersecretary for research and engineering, opposed the plan. "It was an honest technical disagreement," Perry said in an interview. Perry supported the use of McDonnell Douglas Corp. flight simulators as a testing procedure. He said Murray's proposed test would have been artifical and "not better" than using simulators. But the Air Force initially opposed even this sort of test, according to Isham W. Linder, head of the Pentagon's testing directorate. Eventually, Perry Linder and the Air Force decided to rely on the simulators.

But that didn't end the controversy. In 1979, Murray sent two memos to Perry that pointed out that an estimate by an independent Pentagon cost analysis group put the cost of AMRAAM at 50 per cent more than that of the Sparrow. "The Sparrow is already so expensive that we are not able to afford more than two missile loads per F-15," he wrote.

Given the high cost of AMRAAM—the services initially projected $3.5 billion, but some experts predict more than $10 billion—Murray said he would withdraw his support for the program unless the Air Force agreed to real-life tests at Nellis. Now, Murray predicts that AMRAAM will turn out to be "an expensive bird with limited utility."

Some of his concerns may have been underscored by the results of recent simulator tests. The results were presented to Richard D. DeLauer, undersecretary for research and engineering, in the form of briefings by the Air Force and the Institute for Defense Analyses.

In essence, the briefings showed that planes armed with AMRAAMs often moved within visual range of their targets, negating one of the missiles' advantages and cutting down on its multi-shot capability, sources said.

Linder said the pilots tended not to use the beyond-visual-range capability because the test involved a "limited" combat scenario. He said that the simulation showed that the missile's high acceleration and independent ability to home in on targets were important attributes.

But he acknowledged that the test would have little impact on the basic engineering design of the missile. The test, he said, "has more to do with confirming the requirements" for the missile than with challenging them.

"Murray was too late," said Linder. "He wanted to start from the beginning. The sort of tests he wanted should be lined up for AMRAAM II."

EXHIBIT 2

FIASCO IN WEAPONSLAND

(By Morton Mintz)

Early next month a panel of Pentagon officials will make one of those multibillion-dollar decisions that help keep the Ameri-

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can defense budget in the fiscal stratosphere. In all likelihood, the panel will make the most expensive choice, and the evidence is compelling that it will be the wrong choice as well.

The weapon is the Maverick, a so-called "smart" weapon which contains its own elaborate guidance system. It is intended to be used by Air Force Fighters to destroy Warsaw Pact tanks in any future Soviet invasion of western Europe. The Air Force wants to order 61,000 Mavericks at a cost currently estimated at $5 billion.

Maverick is the embodiment of the pervasive, relentless passion in the Pentagon for highly complex, costly "solutions" to problems for which advanced but simpler and less expensive alternatives are available. In this case the alternative is a remarkable cannon of proven reliability as a tank killer.

In the view of many critics of Pentagon purchasing policies, the available cannon is a fine weapon, while the Maverick is a turkey. These experts argue that unless the Maverick can be proven to be a reliable improvement on the existing weapon, the Pentagon should not buy it.

The Pentagon likes the cannon, and is buying it in large quantities. But it also wants the Maverick—even at a cost of $5 billion or more.

The Air Force wants the Pentagon panel meeting next month to authorize "limited pilot production" of 200 second-generation Mavericks, a foot in the door that the Air Force hopes will lock in the ultimate purchase of 61,000 missiles. Alton V. Keel, assistant secretary of the Air Force for research, development and logistics, assured the House Armed Services Committee last March, "This missile will work and we can produce it."

Such arguments didn't impress committee staff expert Anthony R. Battista, who has studied Maverick test videotapes, interviewed test pilots, and flown in the rear seat of a test aircraft. "What justification have you to keep this program alive?" he asked. "It is five years now and we are getting the same arguments in favor of keeping it alive now as we did then. . . ." The Maverick, he told Keel, "would probably get more pilots killed than they would kill targets."

The General Accounting Office wants the panel to hold off, saying that five years of operational testing of the new Maverick have failed to show that it "can be used effectively by U.S. military personnel in combat." The missile did poorly even under "very favorable test conditions," such as alerting pilots to "what to look for," the GAO stressed in a report released July 2.

Ten days later, a reporter learned, two Mavericks, the last of 10 tested since February, flunked an operational test in Utah. The previous eight were found to have a less than 30 percent probability of working properly after being airborne for 14 hours, though they were supposed to be 85 percent reliable. After repairs, however, six of the eight missiles reportedly destroyed their targets, while two more failed. The Air Force declined to comment on either the GAO report or the recent testing.

Still, the odds are strong that the Pentagon panel—which rarely kills any weapons program that has advanced as far as Maverick has—will approve the first purchase of missiles.

The chairman of the panel, Under Secretary of Defense Richard D. DeLauer, is already on record as a staunch supporter of Maverick. "I've looked at the test data so far," he said in an interview early this year. "I've looked at the design. One of the guys who designed it sat in that chair. I have high confidence in his technical ability and his honesty to me." He was speaking of one of his predecessors as director of Pentagon research and engineering, Malcolm R. (Mal) Currie, vice president for missiles of Hughes Aircraft Co., Maverick's manufacturer.

"He and I went over the whole goddamn design," DeLauer said. "And, you know, we talked what the hell is the problem, how can we get [a component] to work a little better, what the production problems are. You know, we sat there as a couple of engineers. That's my goddamn life."

Moreover, the Pentagon claims that there is no alternative to the new Maverick. If the DeLauer panel turns it down, "I frankly don't know where we'd turn," Maj. Gen. James H. Marshall, the Air Force Chief of development and production, said in a December interview. "There's no other solution hanging on the horizon to go grab."

Yet even as he spoke, Air Force A10 squadrons were armed and poised for combat with the most lethal tank-killer available to tactical aircraft anywhere in the world. The weapon is a simple, inexpensive cannon—the first in 30 years that the Air Force has developed for airplanes.

The gun uses a radically new 30-millimeter shell with a unique incendiary penetrator. Nearly twice as heavy as lead, and moving at a speed of 3,240 feet a second, it cuts easily through side or rear armor. The heat generated in tearing through thick steel makes the penetrator burn fiercely, and bits and pieces scatter around the tank compartment, igniting fires and exploding ammunition. The rate of fire—from seven barrels—is 4,200 rounds per minute. Usually, a strafing burst of a mere 30 rounds or so kills a tank.

In operational tests at Nellis Air Force Base, Nev., in 1975 and 1976, "passes" by A10s against the sides or rears of 10 Soviet T62 main battle tanks gutted and destroyed six and totally immobilized the other four. The 60 percent kill rate was four times higher than had been predicted by computer studies during development of the gun, called the GAU8/A.

Cheerleaders for the new cannon are found even among advocates of the missile. "I'll never downgrade it," says Maverick's program requirements manager, Maj. Grant G. (Nick) Nicolai. A top jet pilot, he has logged more than 1,000 hours in the A10, which carries two missiles under each wing and the GAU8/A gun in its nose. For tank-killing at short-range, he says, the gun is "excellent . . . the best thing in the world for it's purpose."

However, Nicolai and other advocates of the Maverick think "its purpose" is too limited. They want another tank killer that can be used from much greater distances; they want a tank killer that is a missile, not a gun. As Maj. Nicolai put it, he thinks a pilot would want to have both weapons. "As a fighter pilot," he said, "I don't want to get my ass shot down. I want to live to come back to drink beer at the bar."

Others disagree, Col. John M. Verdi, a retired Marine Corps aviation weapons expert, led one of the first Marine fighter squadrons in Vietnam combat. For him, the choice between Maverick and the gun is no choice at all.

"If the question is, which would you rather take in against the target at interest, I would unhesitatingly say, 'guns,'" said Verdi, who holds the Legion of Merit and 30 air medals. "I wouldn't want that other sonofabitch," he told a reporter from his home in Santa Ana, Calif. "You have to have a gun on a plane that's going to fight somebody. Anything else is absurd."

The Air Force pays about $20 each for the 30mm armor-piercing rounds, which are made of "depleted" uraninum of very low radioactivity. A 30-round burst costs $600—less than one-hundredth the estimated cost of a single advanced Maverick.

The Air Force has been buying the "DU" rounds, which were independently developed and produced by Aerojet Ordnance Co. and Honeywell Corp., for about seven years. Now large amounts of the ammunition are "prepositioned," mainly in Europe, for possible use in battle. By the end of 1983, the Air Force expects to have an adequate war reserve of tens of millions of rounds.

Not for many years after that, if ever, could there be enough of the new Mavericks. It would take a decade after 1984, when full production may begin, for Hughes Aircraft, and possibly a second manufacturer, to build the desired 61,000, and the Air Force does not so much as claim that this number would constitute an adequate war reserve.

One crucial advantage of the cannon is logistics, and it has been powerfully documented by Col. Robert G. Dilger, a retired fighter pilot who managed the GAU8/A gun and DU ammo programs for the Air Force.

For a squadron of 16 functioning A10s, he said in a May 1980 talk to the American Defense Preparedness Association, a six-man ammunition ground crew is needed to reload the GAU8/A guns, each with 1,174 rounds; a 70-man crew is needed to reload Mavericks, four on each airplane. He also figured that the supplies airlifted in by a single C130 enable the squadron to make 520 firing passes with the gun, but only 60 with Mavericks.

To reload a single aircraft, the gun crew needs a half hour, sometimes as little as 15 minutes, compared with about 75 minutes needed by the Maverick crew, Dilger said. For each pass against a tank, the approximate ground time needed for the gun is two minutes; for the missile, 18 minutes. The more time an aircraft spends on the ground, the fewer the combat sorties it can fly.

A former Pentagon specialist in air warfare says he would forget Maverick and substitute under each wing of the A10 a four-barrel gun enclosed in a pod, the GEPOD 30, so as to enhance the aircraft's anti-tank capability while increasing its ability to take out air defenses. The pod and the GAU8/A fire the same armor-piercing ammunition. Both guns were developed by the General Electric Co. working with the Air Force.

Notably, James P. Wade, Jr., Under Secretary DeLauer's principal deputy, acclaims the 30mm pod. In a letter to the GAO, he pointed out that it evolved "from existing, proven hardware," that it has the "capability to kill multiple vehicles in a single pass," that its accuracy permits it to be used "in close proximity to friendly troops," and that it can be carried on numerous tactical aircraft in addition to the A10—the F4, F5, F15, F16 and A7.

The Tactical Air Force "does not have one single weapon which has the flexibility to attack many different types of targets," including tanks, armored personnel carriers, supply depots and bunkers, Wade wrote. The 30mm pod "provides a practical near term solution" because it "has the flexibility and lethality against this wide spectrum of targets and has demonstrated kill potential against enemy armor arrays."

Yet the Air Force refused for three straight years to fund the GEPOD 30, until Congress forced the money on it for fiscal 1980. This was but one of many signs that the enduring Air Force romance is not with the cannon, but with successive generations of Maverick missiles.

"I know they [Air Force leaders] don't like the gun," says Thomas S. Hahn, a member of the House Armed Services Committee staff from 1975 to 1980. "Missilery is what people are all enthused about." And missilery is what Congress has been going along with, despite staff skepticism.

"They hated guns, because guns are far too simple and are likely to compete with glamorous high technology," says a former Pentagon weapons analyst. "The Maverick backers were saying the gun [generically] is obsolete, even though we haven't begun to scratch the available new gun technology."

The romance with Maverick originated in the early 1960s, when President Kennedy revived sagging interest in conventional tactical weapons by abandoning the policy of massive retaliation for "a wider choice than humiliation or all-out nuclear action." The Air Force found itself with no effective way to attack small armored targets. Its thin-skinned jet aircraft, built for the entirely different mission of dropping bombs, were catastrophically vulnerable to defensive automatic weapons fire. Its 20mm Vulcan cannon, excellent for aerial combat, pelted a tank as ineffectually as raindrops pelt a window.

This situation spawned a fervent wish for a "stand-off" air-to-ground weapon, meaning one that would be fired, in theory, from outside the lethal envelope of air defenses. In July 1964 the wish became the father to an Air Force "operational requirement" for what would become the original Maverick, a day-time-only, television-guided missile that works on contrasts between a target and its lighter or darker immediate surroundings.

The Air Force "tested" the TV Maverick in ideally stark conditions in the sunswept Nevada and New Mexico deserts, firing it at dark tanks squatting on white sand. Despite warnings from critics that the missile would not work against normally camouflaged targets, the Air Force spent about $500 million to buy 20,000 Mavericks and sent some into combat in Southeast Asia. There, green enemy tanks melded into green vegetation, making the missiles nearly useless, according to Gen. John W. Vogt, who commanded U.S. air forces in the region.

Meanwhile, the Air Force stockpiled TV Mavericks as its primary antitank weapon in Europe, where the environment is green, wet and overcast much of the time. In 1975, Vogt, who had become commander of U.S. air forces in Europe, ordered the first realistic operational test, and the missile failed dismally.

This did not catch the Air Force flatfooted: it had prepared for just such a contingency by starting to develop the second-generation, heat-seeking Maverick, which uses infrared rays to sense thermal contrasts between an object and its warmer or cooler close surroundings. Its glory is that darkness does not affect it, so it can "see" 24 hours a day.

But the new Maverick has two main weaknesses. First, on the tiny cockpit screen, the images of many objects, such as sun-warmed rocks and burning bushes, can resemble the images of tanks. Second, it can be defeated by simple humidity; by thermal clutter, such as hot shell holes and flaming battlefield wreckage, and by enemy countermeasures, such as tank-gun firings. For the Maverick, says Battista, the House Armed Services staffer, all of this makes for a "world down there [that] is very, very cruel."

The Air Force objection to the cannon is twofold: It can be used only in daylight, and then only with excessive danger, because the aircraft cannot stand off a great distance from the target.

"The argument against the gun as the primary antiarmor weapon is that the pilot can't get in close enough to use it before getting shot," says Col. Verdi. The error in that is that standoff only buys the first [wrong] shot; then you have to close [in on] the enemy."

Some analysts go as far as to assert that the missile has no real utility at all in combat—even in daytime—and one of them says that this is shown by a fundamental paradox:

To spot a camouflaged object shrouded in battlefield haze and make sure it's a tank, an enemy tank, a pilot must see it with his eyes. At "eyeball" range—no more than 3,000 feet—he can't fire the missile, because it needs more distance to overcome the perturbations of launch so that its guidance system can take over. But at the much greater stand-off ranges at which the missile could home accurately, he can't spot the target out of the cockpit, and he can't be certain that the object outlined on his five-inch-square cockpit screen is the enemy tank.

A simple operational test would have revealed the dilemma even before the first TV Maverick was bought, says C. E. Myers Jr., a former Pentagon director of air warfare.

By persevering in its overriding commitment to Maverick, the Air Force has created a situation full of seeming anomalies:

It developed and has acclaimed the GAU8/A gun and the unique ammunition, but embraces only Mavericks—even the TV version it stopped buying in 1978.

As a primary argument for the new Maverick, the Air Force and the Pentagon have emphasized for many years that its infrared sensor works as well in darkness as in daylight, giving it night and adverse-weather capability. But they have yet to spend any money on adapting an infrared viewer as a nighttime gunsight. The Fairchild Republic Co., with its own money did such an adaptation, and it says, the experiment showed the cannon to be as accurate in darkness as in daylight.

Summing up the arguments: the rigorously tested gun is much safer to use than Maverick. It is cheap and classically simple, and its shells go where they are aimed. The questionably tested new Maverick is unreliably workable in combat. It is highly dangerous to use, costly and complex. It frequently fails to go where it is aimed, because its infrared guidance can be deceived and defeated. And the logistics strongly favor the gun.

Mr. PRYOR. Mr. President, I do not have any need for any additional time which might be allocated to me.

I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 1 p.m. with statements therein limited to 5 minutes each.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. RANDOLPH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GORTON). Without objection, it is so ordered.

(The remarks of Mr. RANDOLPH at this point are printed earlier in today's RECORD.)

ORDER OF BUSINESS

Mr. BAKER. Mr. President, what is the business pending before the Senate?

The PRESIDING OFFICER. We are presently in morning business under the previous order, which will extend to 1 p.m., at which point the Senate will resume consideration of Senate Joint Resolution 58.

Mr. BAKER. Mr. President, I anticipate that debate will occur on Senate Joint Resolution 58, the constitutional amendment for a balanced budget. I would not expect today to be a late day. There are a number of intervening circumstances that require a great number of Senators to be absent from the Hill today, including the funeral of a family member of a prominent administration official.

ORDERS FOR TUESDAY

ORDER FOR RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I indicated earlier that there are a number of people necessarily absent from the Hill today for a number of purposes. While we shall go on the balanced budget amendment at 1 o'clock, it seems clear to me that we are not going to get very far with it today. That also suggests to me that we ought to come in early tomorrow.

Mr. President, I ask unanimous consent that, when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR PERIOD FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND FOR CONSIDERATION OF SENATE JOINT RESOLUTION 58 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after recognition of the two leaders under the standing order tomorrow, there be a brief period for the transaction of routine morning business to extend not past the hour of 10 a.m. and that, at 10 a.m., the Senate resume consideration of Senate Joint Resolution 58.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS TOMORROW FROM 12 NOON UNTIL 2 P.M.

Mr. BAKER. Mr. President, tomorrow is Tuesday. It is the day for the usual caucuses on both sides of the aisle. The caucuses are of a quasi-official nature and are the meetings of all Senators on both sides which facilitate the action of the Senate, the formulation of the issues, and are thus important to the official functions of this group. Therefore, in order to accommodate those requirements, I ask unanimous consent that, at 12 noon tomorrow, the Senate stand in recess until the hour of 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR SENATORS TO SPEAK FOR 3 MINUTES DURING ROUTINE MORNING BUSINESS TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that Senators may speak during the period for the transaction of routine morning business tomorrow for not to exceed 3 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The following proceedings occurred later:)

EL SALVADOR RESOLUTION

Mr. BAKER. Mr. President, earlier today, the Senate gave its consent that we would convene at 9:30 a.m. tomorrow and go back on the resolution on the balanced budget at 10 a.m. Since that time, it has been called to my attention that we have a matter on which there is a deadline. I am speaking of the El Salvador resolution, House Joint Resolution 494, Calendar No. 713, that must be dealt with. In view of that, since that cannot be done today and since Wednesday is the deadline for dealing with this matter, I ask unanimous consent that the order to turn to consideration of Senate Joint Resolution 58 be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, it is my intention tomorrow to ask the Senate to go to the El Salvador resolution, House Joint Resolution 494, after the opening business is transacted, including the recognition of the two leaders and the transaction of routine morning business. It is not anticipated that resolution will take very long. Immediately thereafter, we shall be on the constitutional amendment resolution once more.

Mr. ROBERT C. BYRD. Mr. President, is the distinguished majority leader willing at this time to order that resolution in time for tomorrow morning?

Mr. BAKER. As far as I am concerned, I am willing to do that. It is my intention to do that, but I have not cleared through my process the matter of a unanimous-consent request to that end.

Mr. ROBERT C. BYRD. I thank the distinguished majority leader.

(Conclusion of later proceedings.)

EXTENSION OF TIME TO FILE REPORT ON RECONCILIATION BILL UNTIL 6 P.M. TODAY

Mr. BAKER. Mr. President, I ask unanimous consent that the Budget Committee may have until 6 p.m. today in which to file their report to accompany the reconciliation bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I am advised by the staff on this side that our Executive Calendar has certain items that are cleared for action by unanimous consent. I inquire of the minority leader if he is in a position to consider all or any part of those items. I am referring to those items under National Institute of Building Sciences on page 4 of the calendar, through the balance of that page, including the item under New Reports, the single item on page 5 under National Advisory Council on Women's Educational Programs, and nominations placed on the Secretary's desk in the Public Health Service on page 6.

Mr. ROBERT C. BYRD. Mr. President, the Senators on this side of the aisle are ready to proceed with the aforementioned nominations.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, in view of that, I ask unanimous consent that the Senate now go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask that the nominations so identified be considered en bloc.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

NATIONAL INSTITUTE OF BUILDING SCIENCES

The following-named persons to be members of the Board of Directors of the National Institute of Building Sciences:

Charles A. Doolittle, Jr., of Kansas, for a term of 3 years.

Van Norden Logan, of California, for a term of 3 years.

EXECUTIVE OFFICE OF THE PRESIDENT

Nancy A. Maloley, of the District of Columbia, to be a member of the Council on Environmental Quality.

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Eleanor Thomas Elliott, of New York, to be a member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1985.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Robert E. Dawson, to be assistant surgeon, and ending Arvo J. Oopik, to be senior assistant surgeon, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of May 24, 1982.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nominees were confirmed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

CREDIT FOR FINANCE CKMIITTEE RECONCILIATION BILH IS SHARED BY MANY

Mr. DOLE. Mr. President, In the early hours of last Friday morning, as we closed off our consideration of the Finance Committee reconciliation bill, I did not have an adequate opportunity to express my appreciation to all those who made this legislation possible. I should like to take the opportunity to do so now.

No legislation as detailed and complex as H.R. 4961 can be put together without a thorough, coordinated staff effort over a period of time. In the case of our reconciliation bill, the staff began work on the particular provisions early this year, in many cases even before the President's budget was released in February. The Finance Committee staff put in many extra hours over the past several months to help shape a bill that would be balanced, fair, and responsive to the concerns of Members of the Senate. Similarly, the Joint Committee on Taxation provided invaluable technical assistance and advice in helping us sort through various options, cost them out, and see that they made good tax policy sense. Their efforts should be greatly appreciated by every Member of Congress.

On the spending side, considerable help was provided by the Congressional Budget Office staff and by the staff of the Congressional Research Service. Everyone knows that making specific

program changes in such complicated programs as medicare, medicaid, and AFDC requires great care, and this professional staff support was invaluable in preparing the actual legislation.

Mr. President, the support of the Senate's legislative counsel is always important, and it was particularly important in the case of this wide-ranging bill. In particular, I thank Jim Fransen and Mike Geary for their work on the tax provisions, and Bruce Kelly for drafting the spending provisions. Their kind of professionalism does a great deal to make the legislative process run smoothly.

The Reagan administration, of course, also made a major contribution to the success of this legislation, from the President on down. The Treasury Department staff, led by Buck Chapoton and Dave Glickman, gave very strong support to our efforts on the tax side. Without their help, it would have been much more difficult to work out that problems Members raised with various aspects of the legislation, and to explain the significance of this major tax reform legislation. Treasury Secretary Don Regan, of course, again showed his outstanding leadership in helping to advance this bill. The Department of Health and Human Services and the Department of Labor also aided our effort in many ways in connection with program changes on the spending side.

Mr. President, a major legislative effort such as this makes us realize just how important the cooperation, dedication, and courage of our colleagues is to making the legislative process meaningful. This is particularly true, this year, in the case of the members of the Finance Committee. The Republican members of our committee, and their staffs, cooperated in an outstanding way to make some very tough decisions about the budget in an election year. This is a major achievement when you consider that six of our Republicans are running for reelection this year. This has been a long and difficult process, and I want all our Republicans—BOB PACKWOOD, BILL ROTH, JACK DANFORTH, JOHN CHAFEE, JOHN HEINZ, MALCOLM WALLOP, DAVE DURENBERGER, BILL ARMSTRONG, STEVE SYMMS, and CHUCK GRASSLEY—to know how deeply I appreciate their contribution.

It cannot be denied that, in some ways, this legislation has been the subject of more partisan debate than we might have hoped. Still, it would not have been possible without bipartisan cooperation in a number of areas, and I do want to thank the distinguished ranking minority member of the Finance Committee, RUSSELL LONG, for his invaluable help, even if we found in some cases that we had to agree to disagree. This process has been a learning experience for many of us, and I hope any disagreements will not interfere with the long and valued tradition of bipartisan action in the Finance Committee.

Mr. President, I know that this bill has been a difficult matter for many in the business community. Our goal, of course, has been to help the business climate by cutting the deficit and bringing interest rates down to restore confidence: Things we all know must be done. But the actions we have to take to accomplish these things are not easy, and the support we have had from the business community has been gratifying. I would especially like to thank the National Association of Manufacturers and the American Business Conference for their help, and I must mention also the support of Paul Thayer, chairman of the board of LTV and chairman of the chamber of commerce. Many other trade and business associations also cooperated in this effort, and many did much more than that: We owe them our thanks.

Finally, Mr. President, I must say that the prompt passage of this bill is a remarkable tribute to the Senate leadership. Without the tireless and dedicated efforts of HOWARD BAKER, we would not have come this far. I know that every Member agrees that the majority leader has been fair and judicious at all times in his dealings on this legislation, but I must add my personal note of thanks for a job exceptionally well done. Thanks to Senator BAKER, we have avoided the kind of acrimony and ill-will that might have accompanied such controversial legislation. The distinguished minority leader, Senator ROBERT C. BYRD, also deserves a vote of thanks for his cooperation on this bill, even though we seem to have a gentleman's disagreement about some of its contents. Senator BYRD has once again demonstrated that, even in partisan debate, he values fairness and honest dealing, and we all appreciate that.

Many others deserve credit: Senator DOMENICI and the members of the Budget Committee for their leadership in the reconciliation battle, and every Member who voted for this bill and for its key provisions. Without bipartisanship, this effort might well have collapsed: My thanks go to one and all who helped.

The President of the United States certainly went the extra mile with respect to this legislation. I am not certain how many phone calls the President may have made and how many visits he may have had with Members of the Senate, but it was an outstanding effort on the part of the President. I know that he appreciates the efforts of all those in the Senate and all those I may have mentioned in getting this bill through the Senate and to the House.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CHARITIES CAN BENEFIT FROM ARTIST'S WORKS

Mr. KASTEN. Mr. President, over the past few months, we have asked private organizations and charities to fill the gap left because of cutbacks in Government spending. One of the most effective methods charities have to raise money is to auction art works which have been donated by famous artists. Unfortunately, there is not the necessary incentive in the present Tax Code to encourage this fundraising.

Although collectors of creative works are allowed to deduct any of their gifts at full market value, artists may only deduct the cost of materials when making a charitable donation. Not only is this inadequate compensation to artists for their contributions, but it highly discourages them from donating their works to charity auctions and public and private institutions in the first place.

The present tax provisions are unreasonable and counterproductive. The changes proposed by S. 2225, the Artist's Tax Equity and Donation Act of 1982, would cost little, yet provide great benefits.

I understand this provision could not be included in the reconciliation tax bill; however, I hope the Senate will move quickly to enact this important tax reform. I strongly support this act and believe that there must be a revision in the tax law to insure and promote America's literary, musical, and artistic heritage while encouraging the creators of these works to donate their works of art for the benefit of the community.

Mr. President, on July 3 an excellent article on this issue, written by Dr. Daniel J. Boorstin, the Librarian of Congress, was printed in the Washington Post. I commend this article to the attention of my colleagues, and I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 3, 1982]

TO THE TUNE OF A FEW MILLION DOLLARS

(By Daniel J. Boorstin)

When a New York judge recently decided that the manuscripts of Igor Stravinsky should be sold to the University of California at Los Angeles for $1.5 million (as his widow wished) and not to the University of

Texas for $2 million (as his children preferred), he argued that the national interest and the cause of scholarship would be better served in that way. His heirs lost half a million dollars.

If there is a national interest in such matters sufficient to prevent sale of manuscripts to the highest bidder, there is a greater national interest in bringing together a great author's or composer's manuscripts for study in one institution where the creator wanted them to remain. Americans should be reminded that legislation in 1969 deprived creators of their right to claim the value of such donations as tax deductions when they gave their manuscripts to research libraries of universities.

The Stravinsky case is a classic demonstration of the social costs of the present tax policy. In the disposition of the Stravinsky archives, there were other losers: the Library of Congress and the people of the United States.

The Library of Congress acquired its first Stravinsky manuscripts in 1928, as the result of a commission by Elizabeth Sprague Coolidge. Stravinsky's ballet, Apollon-Musagete, received its premiere in the Coolidge Auditorium, which had been constructed at the library with Coolidge's generosity just three years earlier. As was customary, the manuscripts of the commissioned work was added to the collections of the library's music division. In 1940, the library purchased for $1,000 another work by Stravinsky, his Symphony in C.

In 1962, Stravinsky began to donate manuscripts to the library on a systematic basis: two manuscripts in that year, two more the next, nine additional manuscripts, in 1964, four in 1965, and so on through the 1960s. By 1969, the great composer, then in his late 80s, initiated discussions with the chief of the library's music division, Harold Spivacke, concerning the disposition of the entire body of his works, and there can be little doubt that, but for the enactment of the tax reform of 1969, the complete archive would have been placed in the national library.

Instead, the greatest portion of the papers is now divided between Los Angeles and Washington, and scholars must travel coast to coast to compare preliminary sketches with finished projects. Photocopying accomplishes little because Stravinsky used many inks in drafting his intricate masterpieces.

The President's task force on the arts and humanities, of which I was a member, recommended a revision in the tax law to restore the incentive to artists, composers and writers that existed before 1969. Legislation before the Senate—S2225—would accomplish this. These benefits would ensue: libraries and museums would acquire creative works without cost; artists, composers and writers would choose the institutions where their works in progress would be displayed and studied. The record of American civilization would be preserved and enriched by discouraging the dispersion of manuscripts for commerical reasons and by encouraging the prompt deposit of these works by their creators in institutions competent to preserve them.

Inflation and shrinking assistance by city, state and federal appropriations reduce the resources of libraries and museums. The $1.5 million committed by UCLA to the Stravinsky papers will not be available for other necessary university purposes.

We thrive on our heritage. Restoration of the tax incentive for gifts of literary, musical and artistic works to cultural institutions will benefit all Americans, present and future.

MARQUETTE UNIVERSITY HIGH SCHOOL SETS UNPRECEDENTED RECORDS IN FORENSIC COMPETITION

Mr. KASTEN. Mr. President, I would like to congratulate the coaching staff and members of the 1981-82 forensics team at Marquette University High School. This team shattered the standing records previously held in forensic competition in the United States. Marquette, annually a top-notch competitor, startled the opposing teams by winning a total of 134 rounds of competition.

I wish to cite this achievement, and also to commend these fine young men for an outstanding performance in speaking and debating, by asking unanimous consent that my July 20 letter to the team and a press release written by coach Edmund J. Fish be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Hon. ROBERT W. KASTEN, Jr.,
Washington, D.C., July 20, 1982.

DEAR MUHS DEBATERS: It is with great pleasure that I congratulate you on your victory in the recent National Forensics League tournament.

The superior performance shown by all members of the team reflects the hard work and long hours of research that must have preceded tournament competition. You should all be proud to know that by working together with a fine coaching staff you were able to achieve individual excellence and set new team records.

Again, congratulations on your sweepstakes victory!

Best regards,

Robert W. Kasten, Jr.

MARQUETTE HIGH FORENSICS TEAM SETS NEW NATIONAL RECORDS

In the National Forensics League Tournament recently held in San Francisco Calif. Marquette High School won its unprecedented 8th Grand National Sweepstakes title in record breaking fashion.

In winning their eighth title, Marquette shattered the old total of 86 cumulative rounds of speaking or debating by 48 rounds, accumulating at the end of the week a record 134 total rounds of competition. The Marquette squad, comprised of state or district champions, qualified a national record 12 contestants for the National Tournament. In addition, the team's performance enabled Marquette High to become the only school to ever win for a third time the Tau Kappa Alpha trophy which is annually awarded to the school accumulating the most rounds of national competition. In doing this, Marquette won the trophy by the largest total ever. Director of Forensics for Marquette, Mr. James M. Copeland became the first coach to surpass 1000 rounds of national competition. And coaches Ron Krikac, Edmund Fish, and James Copeland won coach of the year honors.

The winning Marquette team was comprised of:

Seniors—Paul Choi (8th place in Boys Extemp.). Dough Binzak (5th in Boys Extemp). Michael Hughes (tied for 8th in Boys Extemp). Christoper Roe (State Debate Champion). Richard Schmidt (State Debate Champion). Philip Jennings Jr., (State Original Oratory Champion), Michael Uy (State Dramatic Interp. Champion).

Juniors—Christopher Conrad (11th in Humorous Interp.). Kieth Joung (District Lincold Douglas Debate Champion). Robert Kroll (District Original Oratory Champion).

Sophomores—Anthony Scaduto (2nd in Original Oratory). Andrew Turner (State Humorous Interp. Champion).

Other Wisconsin winners included:

Lisa Backus of Pius IX H.S. (5th in Girls extemp).

Karla Slasser of Durand H.S. (2nd in Lincoln Douglas Debate).

Catherine Coy of Eau Claire Memorial H.S. (8th in Original Oratory).

Mr. KASTEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KASTEN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

THE PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

THE PRESIDING OFFICER. Under the previous order the Senate will resume consideration of Senate Joint Resolution 58, which the clerk will state by title.

The legislative clerk read as follows:

A joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

The Senate resumed consideration of the joint resolution (S.J. Res. 58).

AMENDMENT NO. 1933

Mr. THURMOND. Mr. President, if any Member of the Senate wishes to speak on this constitutional amendment to balance the budget, it is a good time for them to do so. We have ample opportunity to hear from the various Senators. If they have amendments, we would like for them to put those amendments before the Senate if they have not already been put before the Senate.

I believe Senator FORD's amendment is before the Senate now.

Mr. FORD. The Senator from South Carolina is correct. My amendment to the constitutional amendment is the pending business.

Mr. THURMOND. What I was hoping was that we could have debate

on these different amendments and maybe vote on all of them tomorrow without delay, if that would suit the Senator from Kentucky.

Mr. FORD. Well, the Senator from Kentucky is not prepared to accept that proposal now. We might be able to work out something that would be acceptable for voting beginning at 2 o'clock tomorrow.

Mr. THURMOND. We want to go forward. The majority leader has a lot of legislation pending, and we would want to cooperate with him all we can and get through this amendment as soon as possible.

Mr. FORD. I assure the Senator from South Carolina I would like to do the same thing, and I understand the problems under which the majority labors. But I have an amendment I think is of vital importance to this country. I am not sure how we are going to have a balanced budget when the present administration cannot balance the budget.

They want to mandate that Congress do it. However, I think it is equally important, if not more so, that the President submit to Congress a balanced budget. That way both the President and Congress will be on the same working wavelength. We are not on that wavelength now that we are facing a budget that has over a $180 billion deficit. Congress was only able to cut it less than half. If we are going to get to a balanced budget, we will need better cooperation here in this Chamber and from the President. I want to see to it that the American people get the balanced budget of the Federal Government that I believe they desire.

Mr. THURMOND. Well, of course, I have previously called to the attention of the Senator to page 2 of this constitutional amendment section 1 where the wording is:

> The Congress and the President shall insure that actual outlays do not exceed the outlays set forth in such statement.

We think that puts the responsibility on the President, too, and we think that means if you want to make legislative history that he will submit a balanced budget unless there is some vital reason why he should not, in which event then he may ask for three-fourths of the Members of both parties to aquiesce in the situation.

Mr. FORD. Well, the Senator says that it implies that. It only means the President will have to sign a budget. It does not mean he has to submit a budget that is balanced. There is no language in the proposed consitutional amendment that says that he must. He has all of the workers, he has the budget examiners who are now working on the budget for 1983-84.

He has the office of OMB; he has every Cabinet Secretary. He has hundreds and hundreds of people out there working to develop his budget that he will submit next year. We do not have that. Also, we work from his budget, not ours. We work from the budget he submits, and the first budget we see is the one he submits. If that is not a balanced budget, then we start out behind. I do not think that is the proper posture for Congress to be in.

Mr. THURMOND. Of course, we have the congressional budget now, too, and Congress has an obligation, in fact it is mainly their obligation. The President can only recommend. The President just has two powers: One is to recommend and the other is to veto, and the President recommends, but Congress has the responsibility to authorize appropriations, Congress has the responsibility to make appropriations, and we feel that the wording in here would be sufficient to take care of that regardless of who the President is.

By the time this amendment is passed, we do not know whether we will have a Republican or a Democratic President. Then it provides they have 7 years to pass it, and if they take several years to do it—of course, I think President Reagan will be elected if he runs again but, at the same time, this 7-year period—then it does not take effect until 2 years after it has been ratified by three-fourths of the States. We feel that gives ample time for the situation.

Mr. FORD. Well, I think the distinguished Senator from South Carolina left out one power of the President. He forgot the power of persuasion, and the power of persuasion is something that your President is given a great deal of credit for. He may have only two powers, as the Senator says, but he also has the power of persuasion because he is the President of the United States. When he takes a Senator or Congressman to the Oval Office, he lobbies them pretty good. I have been one who has been there, and I understand what he can do and how he operates. So if he does not propose a balanced budget, we are placed in an untenable position.

Mr. THURMOND. Well, the power of persuasion, is not an official—in other words, that is not an official function of his. It is not an official duty that he has.

Mr. FORD. It is just as official as the other powers he has because——

Mr. THURMOND. Was he able to persuade the Senator from Kentucky when he took him to the Oval Office?

Mr. FORD. No; he was not.

Mr. THURMOND. It does not always work.

Mr. FORD. He called me into the Oval Office to get me to approve the AWACS sale. I did not like it, I did not like it and he did not like it very much when I voted against the sale.

Another President, when I voted against him, patted me on the back and wrote me a personal letter to say that it was a good thing.

Mr. THURMOND. It depends on the issues involved.

Mr. FORD. There is not much difference in the issues.

Mr. THURMOND. I am in agreement with the Senator on the Panama Canal. We should not have acted on that treaty.

Mr. FORD. Is the Senator saying that when I vote against a Democrat I am right but when I vote against a Republican I am wrong?

Mr. THURMOND. Not necessarily. It depends on the particular issue. I have voted against Republicans and Democrats.

Mr. FORD. I have not noticed the Senator doing so in the past year and a half.

Mr. THURMOND. I have served as a Democrat, as a Republican, as an Independent candidate I got elected, and also as a write-in I got elected. I tried all parties, so I belong to all the people in every way. It really does not bother me which party is in so long as they stand for the right thing. Of course, today there is no question about the soundest party sitting in this House here today is the Republican Party because we have more conservative people here. In fact, I have always thought the Senator ought to be sitting on this side of the aisle himself.

Mr. FORD. Well, Senator, I have tried awfully hard to find some goodness in the hearts of those who say I ought to be on the other side, and that goodness does not seem to be out to embrace and say "Come with us." I am only seeking a little amendment here. However, the Senator says I am on the wrong track. If I am on the wrong track on this point, the Senator will not buy me on anything else.

Mr. THURMOND. Not necessarily. You come up with a real good idea and we will grab it quickly. [Laughter.]

Is there any other Senator here today who wants to speak or can we get any other Senator here who wants to debate this matter? We will be glad to have debate on it so that tomorrow we can begin to vote as soon as we can. Maybe they do not care to debate any more on this.

Mr. FORD. I say to the Senator from South Carolina that if this amendment, or one similar, is not in the constitutional amendment, you are going to lose some Senators that would like to vote for it. Right now you do not have enough votes to pass it.

I would say to the Senator from South Carolina that if this amendment, or one similar to it, is in the constitutional amendment to balance the budget, it has a much better opportunity of passing than in its present form.

Now, the Senator has already told me today that he is going to accept the so-called Domenici and Chiles amendments. At least one of those amendments deals with the relationship of the President and the Congress. If he is going to accept them, I cannot understand why he would not accept my amendment. I cannot understand why my amendment, which requires the President to submit a balanced budget, is not just as important as the other amendments which deal with the relationship of the President and the Congress.

Mr. THURMOND. We think the Domenici amendment will improve the situation, but we feel we have taken care of the point the able Senator from Kentucky has raised.

Mr. FORD. Well, the Senator keeps saying it is implied, but he does not know whether the President will or will not submit a balanced budget. He cannot stand here and tell me that it is going to be a fact. The distinguished Senator from Utah is on the floor now and he said the other day he could not guarantee it.

All I want is cooperation. And the best way I know to get it is to include it in the amendment, not leave it out. You can argue anyway you want to, but it just does not make political sense or legal sense to leave it out.

Mr. THURMOND. Suppose the President felt he had to submit a balanced budget and it might be unbalanced. But how could he submit an unbalanced budget, because he would then have to depend on the Congress, three-fifths of both bodies, voting for it? I think you have to give him some flexibility.

For instance, he may submit a budget that is not balanced but he would say that because this is such a vital matter that goes to the national security of the Nation or goes to the distinct welfare of the Nation and, therefore, he feels that both bodies ought to adopt this matter by a three-fifths vote of the House and three-fifths vote of the Senate.

Mr. FORD. Well, let me ask the Senator this: He says he is not going to accept any amendments.

Mr. THURMOND. I did not say we are not going to accept any amendments.

Mr. FORD. That was what you originally intended.

Mr. THURMOND. We will consider any amendments that are offered, but we hope it will not be necessary.

Mr. FORD. The administration has submitted and suggested an amendment to take out "in case of war" and add "in case of national security." Is the Senator going to accept that amendment?

Mr. THURMOND. We have made no decision on that.

Mr. FORD. The administration does not like the constitutional amendment. They want to change it.

Mr. THURMOND. We will give consideration, of course, to any amendments that are offered, but we just felt the amendment offered by the able Senator from Kentucky is not acceptable in this matter now.

Mr. FORD. Mr. President, I am willing to debate any Senator who wants to oppose my amendment. I think that the Congress will be in a much better position to balance the budget. My amendment and the proposed constitutional amendment are integral parts, in my opinion. They have a common objective that makes both ends of Pennsylvania Avenue start out from the same spot to insure the Federal Government does not continue to allow high deficits.

My distinguished friend from South Carolina says it may be 9 years before this amendment takes effect and there may be a Democratic President in office. Right now, I am not worried about whether we have a Democrat or a Republican. I am more worried about whether we have a balanced Federal budget or not.

The deficits that we are seeing today are causing the high interest rates. The President could submit any kind of budget he wants to under this constitutional amendment, whether it is a $50 billion deficit or a $250 billion deficit. Then it is ours to balance or, by a three-fifths vote of each House, we could approve an unbalanced budget.

Well, this is one Senator that does not even vote to increase the debt ceiling. I have seen a lot of changes in the feelings in this Chamber concerning the legislation to raise the debt ceiling. I have been one on the Democratic side who has opposed a Democratic President and voted against increasing the debt ceiling. But I noticed those on the other side who, time after time voted against the debt ceiling under a Democrat, are now under a Republican vote to increase the debt ceiling. One of the largest items in our future budget will be the interest we are paying on the debt this country owes.

You are trying to put a smokescreen over the largest deficit in the history of this Nation by saying you want a constitutional amendment for a balanced budget. It is not washing with the American people. They want a balanced budget, but they want both sides to be a part of it. That is all I am attempting to do.

You could say you do not think it is a good one, but you go out to the coffee clubs and ask those coffee clubs, as I did last week, what they think about the President submitting a balanced budget. They will tell you he ought to submit one because that would basically assure the Congress would pass one.

The President has his David Stockmans, his Secretary Regans, he has all of these people to come up here and cajole Congress. He has a White House full of lobbyists who come up here and stand outside that door and tell us how to vote. The budget at the White House went up 31 percent so they could have more employees to lobby us to get their budgets through.

Now we come down to the bottom line and it is whether you want a balanced budget or if you are trying to fool the American people. If you are trying to fool the American people, then vote my amendment down. If you are not trying to fool the American people and really, truly and honestly want a balanced budget, you will take my amendment. And when these people see that the Congress has finally balanced the budget and we are back on the right track, they can say it is because both ends of Pennsylvania Avenue are on the same wavelength. The President introduced a balanced budget, the Congress passed one, and that is in the best interest of the future of this great country of ours, particularly our children and our children's children.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Times, dated July 16, 1982, by Senator ORRIN G. HATCH, entitled, "Budget Rule: Yes—Politicians Need It."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 16, 1982]

BUDGET RULE: YES—POLITICIANS NEED IT

(By Orrin G. Hatch)

WASHINGTON.—The Senate this week began considering a balanced-budget amendment to the Constitution. With bipartisan support from more than 60 Senate cosponsors and more than 220 House co-sponsors, there is a realistic possibility that Congress may offer this amendment to the states for ratification as the 27th Amendment to the Constitution.

The most frequent criticism of the proposed amendment has been that it would "write economic policy into the Constitution." As Prof. Laurence Tribe of the Harvard Law School has observed, "The Constitution embodies fundamental law and should not be made the instrument of specific social or economic policies."

While I reject the implication that economic affairs are somehow foreign to the Constitution, I am nevertheless sympathetic to this criticism. I do not believe the Constitution ought to be amended to reflect economic theories that may happen to gain the support of ephemeral political majorities.

This criticism, however, badly misconceives the immediate amendment. Its primary objectives is not to write into the Constitution any permanent economic policy but rather to establish as an element of our national fiscal process a fundamental element of democratic government—account-

ability by elected representatives to the citizenry.

Such accountability is largely absent now because members of Congress do not have to vote to raise revenues in order to approve increased spending. They need not cast politically difficult votes to raise revenues commensurately but may simply resort to more deficit spending or do nothing and allow inflation in combination with our progressive tax system to produce automatically a greater share of the national wealth for the public sector.

In either case, Congress is free to respond to the concentrated political pressures of prospending groups with politically advantageous prospending votes without having to cast politically disadvantageous votes for higher taxes or reduced spending for other prospending interests. In other words, the virtually unlimited access by Congress to deficit spending and the regular availability of greater revenue through so-called tax-bracket creep operate to create a pronounced bias toward higher public spending.

Thus, year after year, public spending inexorably increases, whatever the genuine will of the people. The political advantages of prospending votes are direct and immediate to members of Congress, while the disadvantages of such votes—in the form of higher future inflation or unemployment or interest rates—are indirect and deferred. Indeed, there may be no disadvantages at all if those who are the victims of these economic ills are not sufficiently sophisticated to appreciate the causal relationship between the earlier spending and their present symptoms.

The proposed amendment would help overcome this institutional spending bias and establish a more equal competition in the fiscal process between organized and informed tax-spending interests and diffuse and ill-informed tax-paying interests. It would democratize the budget process by making it a more honest and open process. Congress would continue to be free to increase public spending but only in the event that it was equally prepared, as a condition, to vote for the necessary higher taxes or to go on record for a higher deficit. Tax increases would have to be voted explicitly rather than being implicitly imposed through deficit spending and inflation.

The proposed amendment merely says to Congress, in effect; "If you want to spend, let us, the people, know how such spending is going to be financed. If you want to tax, do so in an honest and aboveboard manner." So long as there is little more than a random relationship between decisions to spend and decisions to finance spending, our fiscal process will continue to be dishonest, with members of Congress perpetually able to avoid accountability for their spending and taxing decisions, perpetually able to escape public identification for their policies and perpetually able to reap the immediate political benefits of their actions while postponing indefinitely the political costs. Only a constitutional amendment can permanently right this process.

Mr. HATCH. Mr. President, I have listened with a great deal of interest to the comments my friend from Kentucky has made.

I believe that we have already expressed the case against his proposed amendment. I personally share the concerns of the Senator that the President not be exempted from the responsibilities of enforcing the provisions of this amendment. He raises an important issue. I believe, however, that the present amendment adequately deals with his concerns, while avoiding the weaknesses of his amendment. Let me summarize these points once more very briefly:

First, the amendment is superfluous in that its requirements are largely implicit in Senate Joint Resolution 58 already. If Congress is under a general responsibility—as it is—to balance its budget, then the President will effectively be under a similar obligation. In other words, the President's authority, in this regard, is largely limited to his informal responsibilities under law—not under the Constitution—to submit proposed budgets. To the extent that he submits something other than a balanced budget to Congress, after enactment of the amendment, he either has the burden of persuading three-fifths of Congress that it is necessary, or else risks losing all influence in the budget process. Whatever obligation is directly imposed upon Congress by this amendment will also be indirectly imposed upon the President by virtue of his role in the budget process.

Second, the amendment is harmful in that it would impose upon the Executive an absolute obligation to submit a balanced Federal budget, under all circumstances, without exception. This is totally inconsistent with the flexible obligation imposed upon the Congress to prepare a balanced budget unless three-fifths of the Members of each House of Congress conclude that a budget in deficit is warranted. In other words, while the present amendment provides flexibility to Congress with respect to the balanced budget mandate, the amendment from the Senator from Kentucky would impose a rigid and inflexible obligation with respect to the Executive. This obligation is inconsistent and unreasonable, and can only have the effect of requiring the Executive to submit a balanced budget under circumstances when he does not believe that such a budget is desirable or achievable.

Third, the amendment opens up questions that none of us can answer with certainty by imposing—for the first time—a direct, constitutional obligation upon the President of the United States to submit a budget. Presently, this obligation is derived solely from statute, not from the Constitution. The implication of this for the balance of power between the executive and the legislative is unclear. The present language in Senate Joint Resolution 58 does not upset the present separation of powers balance.

Finally, the amendment opens up the possibility for mischief in the event that a President who is at odds with the executive decides not to submit a budget until shortly prior to the outset of a fiscal year. In that event, Congress might have an unreasonably short period of time within which to prepare a budget in order to satisfy their own constitutional obligations under the proposed amendment. The amendment of the Senator from Kentucky would delay congressional passage of its budget until after receiving the budget required by section 1 of this article. This amendment opens up the possibility of unnecessary adversary relationships between the executive and the legislative that could work to the detriment of the budget process.

In conclusion, Mr. President, I emphasize that the objectives of the amendment of the Senator from Kentucky are desirable ones, and are shared by the managers of this bill. It is simply our conclusion that these objectives would be better incorporated in simple legislation than in the body of the proposed amendment. I strongly urge the rejection of the pending amendment.

Mr. President, I might point out that there will be implementing legislation required by this amendment and I think that we can place in that legislation what the distinguished Senator from Kentucky desires. That would be far more preferable than treating this constitutional amendment as though it were a statute designed to accommodate every desire of every Member of the Congress. The time is short, and if we want a balanced budget amendment it seems to me we have to take Senate Joint Resolution 58 and resolve many of these issues in good faith in the subsequent implementing legislation. I would suggest we do that.

Rather than cluttering up the present amendment, which some feel is already long enough, we can readily resolve them through implementing legislation. I will be the first to assist the distinguished Senator from Kentucky in helping to get his language into that legislation. There is little reason, however, to place it into this amendment.

I yield the floor.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

Mr. FORD. Will the Senator withhold?

Mr. THURMOND. Mr. President, I am glad to withhold.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, it seems that there is such a clamor to oppose my amendment which requires the President to submit a balanced budget. I think my colleagues will recall, and if they do not recall I would like to say to them, that I am not alone in my call for the President of the United States to submit a balanced budget to Congress. Many of my colleagues in this body, and I would like to specifically mention the distinguished Sena-

tor from Utah, have even voted to require the President to submit a balanced budget.

In the last Congress, the Senator from Utah, the Senator from South Carolina, the Senator from Virginia, the Senator from Alabama, and myself all voted to require the President to submit a balanced budget to Congress. It was the distinguished Senator from Oregon (Mr. PACKWOOD) who proposed that amendment requiring the President to submit a balanced budget. At that time, the proponents of the Packwood amendment argued that it would be very useful in arriving at a balanced budget to know which programs the President would cut to attain it. They argued that this would give Congress an additional alternative to the balanced budget offered by the Senate and offered by the House.

Now that the shoe is on a different foot, we find that they are not only speaking differently but they are voting differently.

It would be my thought, Mr. President, that we should have some consistency concerning the balanced budget. Where last year we voted to require the President to send a balanced budget to the Congress, this year we do not want to do it. I do not understand that. It may be because the majority has changed. That may have more than a significant part to play in it. But it just does not make sense to me where on one hand you are for it and on the other hand you are against it. If it is good enough for Congress to balance the Federal budget, it certainly is good for the President. If we do not have his leadership. regardless of who he or she might be in the long-term future of this country, then we are going to have a very difficult time finding those who are willing to vote for additional taxes to balance the budget.

I was amazed and a little bit amused Friday morning at about 4:45 when there was a lot of wailing and gnashing of teeth in this Chamber by certain Members who were being requested to vote for additional taxes.

Almost $100 billion in new taxes over the next 3 years. The pressure was on us. There was no pressure on the President to submit a package to Congress for new taxes. It is all right to submit a plan for cutting taxes, but not for raising additional revenues. Let us see that the pressure is the same at the Oval Office and here, in the Capitol Building.

Mr. President, I understand that we are going to lay this aside or recess until tomorrow. I am perfectly willing to do that.

Mr. BAKER. Mr. President, will the Senator yield to me?

Mr. FORD. I yield to the distinguished majority leader.

Mr. BAKER. Mr. President, I thank the distinguished Senator from Kentucky. He is right. I think it would be unwise to proceed very far with this matter today. It is important. The pending question, the Ford amendment, is one that deserves the consideration of every Senator. To tell the truth, we are far down on attendance this afternoon that I think all of us would be better served if we put this over until tomorrow.

Does the Senator from Virginia wish me to yield?

STATUS OF CONSIDERATION OF SENATE JOINT RESOLUTION 58

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield for a question?

Mr. BAKER. Yes.

Mr. HARRY F. BYRD, JR. What is the majority leader's plan with regard to this constitutional amendment resolution? We have been on it for 2 weeks. We have had very few votes on it. It has been set aside one or two times.

Mr. BAKER. Mr. President, let me tell the distinguished Senator I have had one or two conversations with the minority leader today on this subject. I expect us to be on this resolution all of this week. I hope very much to be able to finish it, perhaps even finish it on Thursday instead of Friday. As I have indicated to the minority leader and have previously stated on the floor, we shall be on this measure tkmkrrow, Wednesdax, and Thursday, and perhaps Friday.

Mr. HARRY F. BYRD, JR. Mr. President, in other words, it has priority?

Mr. BAKER. Mr. President, it does indeed, I shall do everything I can to see that it passes. I support the measure, and I think the time has come to deal with it.

Mr. HARRY F. BYRD, JR. I thank the distinguished majority leader.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I understand one Senator is on his way to the floor to speak, but not on this measure. If there is no other Senator seeking recognition on the pending business, I ask unanimous consent that there now be a brief period for the transaction of routine morning business to extend not past the hour of 2 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

ANNUAL REPORT OF THE NATIONAL CORPORATION FOR HOUSING PARTNERSHIPS AND THE NATIONAL HOUSING PARTNERSHIP — MESSAGE FROM THE PRESIDENT—PM 157

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs:

To the Congress of the United States:

I herewith transmit the Thirteenth Annual Report of the Independent National Corporation for Housing Partnerships and the National Housing Partnership, as required by Section 908(a) of the Housing and Urban Development Act of 1968.

RONALD REAGAN.

THE WHITE HOUSE, *July 26, 1982.*

ANNUAL REPORT OF THE ARMS CONTROL AND DISARMAMENT AGENCY—MESSAGE FROM THE PRESIDENT—PM 158

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to you the 1981 Annual Report of the U.S. Arms Control and Disarmament Agency. I believe that this report, the first submitted by my administration and the 21st submitted since the creation of the Agency, marks a real coming of age and maturity in our approach to arms control and disarmament.

In 1981, we began the first in a series of negotiations with the Soviet Union to reduce the threat of nuclear war. The Intermediate-Range Nuclear Force (INF) talks, begun by Ambassador Paul H. Nitze's team in November, are a model for future negotiations with the Soviet Union.

It is our intention to deal with the most potentially destructive and politically destabilizing weapons first. In the INF talks, begun in Geneva, we are seeking to have the Soviet Union dismantle its intermediate-range nuclear weapons in exchange for our

pledge not to deploy Pershing II and Cruise missiles as requested by the North Atlantic Treaty Organization in December 1979.

Subsequently, in the period to be included in next year's annual report, we have undertaken major new initiatives in the Strategic Arms Reductions Talks (START), and in seeking reductions in conventional arsenals in the negotiations on Mutual and Balanced Force Reductions (MBFR). These and other important arms control initiatives of my administration are reviewed in my address of June 17, 1982, to the United Nations' Special Session on Disarmament, provided for your further information in an annex to the attached annual report.

Rather than seeking upper limits in arms control treaties, we seek to bring about real arms control through negotiated reductions. We are dedicated to reducing the threat of nuclear war by gradually reducing nuclear arsenals so that only those weapons which can reasonably guarantee mutual deterrence remain.

I am firmly convinced that the road we are following is both rational and realistic. We have analyzed the Soviet approach to military strategy and the threat posed by Soviet forces. We have concluded that arms control must play a vital role in the conduct of our foreign policy and as a complement to our policy of deterrence.

We are committed to deterrence. We shall stand by our Allies and friends, and we shall consult with them regularly as we go about the business of reestablishing our conventional and nuclear deterrent forces. Deterrence has worked in Europe for more than 35 years.

As you read through this 1981 Annual Report, I hope you will find, as I did, that the measured and considered approach to arms control, made possible by an exhaustive review and analysis, has, for the first time, resulted in a well considered program to reverse the trends of the past and bring about lasting peace.

We intend to pursue arms control and disarmament through agreements that are understandable, verifiable, and equitable. I am certain that I shall be able to call your attention to similar progress in future annual reports.

RONALD REAGAN.

THE WHITE HOUSE, *July 26, 1982.*

MESSAGES FROM THE HOUSE

At 11:36 a.m., a message from the House of Representatives, delivered by Mr. Gregory, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for United States magistrates.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 2317. An act to recognize the organization known as the National Federation of Music Clubs.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4441) to amend title 17 of the United States Code with respect to the fees of the Copyright Office, and for other purposes; asks a conference with the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. KASTENMEIER, Mr. BROOKS, Mrs. SCHROEDER, Mr. FRANK, Mr. RAILSBACK, Mr. BUTLER, and Mr. SAWYER as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5228. An act to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress that funding for community service employment programs for senior citizens for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs; and

H. Con. Res. 310. Concurrent resolution expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement of the Cyprus conflict.

At 1:25 p.m., a message from the House of Representatives, delivered by Mr. Gregory, announced that the House disagrees to the amendments of the Senate to the following bill:

H.R. 2160. An act to amend the Potato Research and Promotion Act.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; and

H.R. 6663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.

HOUSE BILLS REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2329. An act conferring jurisdiction on certain courts of the United States to hear and render judgment in connection with certain claims of the Cherokee Nation of Oklahoma; to the Committee on the Judiciary.

H.R. 5228. An act to amend title 18 of the United States Code to implement the Convention on the Physical Protection of Nuclear Material, and for other purposes; to the Committee on the Judiciary.

HOUSE CONCURRENT RESOLUTIONS REFERRED

The following concurrent resolutions were read, and referred as indicated:

H. Con. Res. 278. Concurrent resolution expressing the sense of the Congress that funding for community service employment programs for senior citizens for fiscal year 1983 and subsequent fiscal years should be provided at levels sufficient to maintain or increase the number of employment positions provided under such programs; to the Committee on Labor and Human Resources.

H. Con. Res. 310. Concurrent resolution expressing the sense of Congress that the President should consider and undertake certain efforts to help promote a settlement of the Cyprus conflict; to the Committee on Foreign Relations.

HOUSE BILL HELD AT DESK

The following bill was ordered held at the desk until the close of business on Tuesday, July 27, 1982, by unanimous consent:

H.R. 6663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-1066. A petition from a citizen of San Francisco, Calif., urging the U.S. Senate to support Senate bill 6 to return America's currency to the gold standard; to the Committee on Banking, Housing, and Urban Affairs.

POM-1067. A resolution adopted by the City Council of Baltimore, Md., urging Congress to reject the cuts in domestic spending which are proposed in the President's 1982-83 budget; to the Committee on the Budget.

POM-1068. A joint resolution adopted by the legislature of the State of California; to the Committee on Environment and Public Works:

ASSEMBLY JOINT RESOLUTION No. 64

"Whereas, the growth of water hyacinth in the Sacramento-San Joaquin Delta and the Suisun Marsh has recently occurred at an unprecedented level; and

"Whereas, the resulting accumulations of water hyacinth obstruct navigation, impair other recreational uses of waterways, and have the potential for damaging manmade facilities in the delta and the marsh; and

"Whereas, the public interest requires that both state and federal agencies cooperate in undertaking an aggressive program for the effective control of water hyacinth; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully requests the United States Army Corps of Engineers to cooperate with the

state and local agencies in California in undertaking an aggressive program for the effective control of water hyacinth in the Sacramento-San Joaquin Delta and the Suisun Marsh; and be it further

Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senate and Representative from California in the Congress of the United States."

POM-1069. A joint resolution adopted by the legislature of the State of California; to the Committee on Environment and Public Works:

"Whereas, the deposition of acid chemical compounds in rain, snow, fog, and dry particles has been recorded in many parts of California, including environmentally sensitive regions such as the Sierra Nevada Mountains; and

"Whereas, the acid deposition problem in California is substantially different in nature from the acid deposition problem experienced in the Eastern United States; and

"Whereas, California continues to experience levels of air pollution which are adverse to public health and agriculture, and as a result there is a continuing need for improved scientific knowledge of the causes and effects of air pollution, and of advanced technologies to reduce harmful emission; and

"Whereas, the Congress has recognized the significance of the problem of acid deposition by enacting the Acid Precipitation Act of 1980, which established the Federal Interagency Task Force on Acid Precipitation and mandated the preparation of a National Acid Precipitation Assessment Plan to identify the causes, sources, and effects of acid precipitation; and

"Whereas, since 1981, the level of federal support for independent scientific research related to the causes, effects, and control of air pollution and acid deposition has been significantly reduced, and drastic cuts in research spending are proposed, by the federal administration for the 1983 fiscal year; now, therefore, be it

Resolved by the Assembly and Senate of the State of California, jointly, that the Legislature of the State of California hereby memorializes the President of the United States and the Congress of the United States to provide for a detailed study and evaluation of the problem of acid deposition in the Western United States in the development and implementation of the National Acid Precipitation Assessment Plan; and be it further

Resolved, that the Legislature memorializes the President of the United States, the Congress, and the Environmental Protection Agency to reverse the policy of reduced federal support for independent scientific research into the causes, effects, and control of air pollution and acid deposition; and be it further

Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency and to each Senator and Representative from California in the Congress of the United States."

POM-1070. A joint resolution adopted by the Legislature of the State of California; to the Committee on Environment and Public Works:

ASSEMBLY JOINT RESOLUTION No. 88

"Whereas, the United States District Court for the District of Columbia has held that the Environmental Protection Agency (EPA) must issue regulations covering dams as a point source category under Section 402 of the Clean Water Act (Public Law 92-500); and

"Whereas, in the case of National Wildlife Federation vs. Gorsuch issued on January 29, 1982, United States District Court Judge Joyce Hens Green ruled that certain water quality conditions associated with dams and reservoirs should be dealth with as a "discharge" of pollutants prohibited by Section 301 of Public Law 92-500; and

"Whereas, Judge Green has rejected EPA's long-held position that the National Pollutant Discharge Elimination System (NPDES) does not apply to releases from reservoirs and the Court has held that the EPA has violated a nondiscretionary duty in failing to regulate dams with NPDES permits; now therefore, be it

"Resolved, by the Assembly and Senate of the State of California, jointly, that Public Law 92-500 be amended to eliminate the application of National Pollutant Discharge Elimination System permits to releases from reservoirs; and, be it further

Resolved, that the Chief Clerk of the Assembly is directed to forward ckpies of this resolution to the President and Vice President of the United States, to the Administrator of the Environmental Protection Agency, to the Speaker of the United States House of Representatives, to the Chairman of the Senate Committee on Energy and Natural Resources, to the Chairman of the House Committee on Transportation and Public Works, and to each Senator and Representative from California in the Congress of the United States."

POM-1071. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 106.

"Whereas, It is important that consumers be assured of buying only sweet, ripe table grapes, and this assurance is provided with respect to domestic grapes by the application of state and federal quality standards; and

"Whereas, The federal quality standards do not apply to imported table grapes, and there is no assurance that these grapes meet the same sweetness and quality requirements that domestic grapes must meet; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to enact appropriate legislation to require that imported table grapes comply with the same federal requirements applicable to domestic table grapes regarding grade, size, quality, and maturity; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator tnd Representative from California in the Congress of the United States."

POM-1072. A joint resolution adopted by the Legislature of the State of California; to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 55

"Whereas, The United States Congress has currently under its consideration a number of legislative proposals which provide for the creation of enterprise zones; and

"Whereas, The California Legislature is also considering legislation which may result in the creation of some form of enterprise zones; and

"Whereas, It is deemed to be desirable that any legislation approved by the California Legislature with respect to enterprise zones should, to the extent feasible, be consistent with and complementary to the federal program; and

"Whereas, The proposed enterprise zone legislation currently before the Congress sets forth certain criteria and conditions required for the designation of enterprise zones such as population decline, chronic abandonment of housing or commercial buildings, and substantial tax arrearage in an area; and

"Whereas, There exists in certain regions of the country, areas of severe economic distress which are often characterized by conditions other than those described above; and

"Whereas, Certain of these characteristics which are prevalent in California and other western and southern states should be considered by the Congress as appropriate criteria or conditions for the designation of enterprise zones, such as a high refugee or immigrant population, economic dislocation as a result of boomtown phenomena associated with resource development projects, and areas substantially impacted by closure of major employers; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorialize the President and the Congress of the United States to consider conditions of economic distress which exist in the western region of the United States when determining the criteria which will be used in designating an area a federal enterprise zone; and be it further

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives and to each Senator and Representative from California in the Congress of the United States."

POM-1073. A joint resolution adopted by the Legislature of the State of Alabama; to the Committee on Finance:

"RESOLUTION

"Whereas, H.R. 5868 and S. 2376, introduced respectively in the United States House of Representatives and the U.S. Senate, are companion bills designed to initiate the most significant change in our Federal Tax System since the first Income Tax Law was adopted almost seven decades ago; and

"Whereas, the aforementioned bills call upon the Treasury Department to conduct a study detailing the economic and administrative consequences of adopting a flat rate Gross Income Tax System; and

"Whereas, preliminary studies by a prominent Washington economist indicate that the GIT rates would not exceed 7½ percent for any class of taxpayers, a far cry from the tremendous burden now heaped upon the shoulders of the American taxpayer; and

"Whereas, the legislation also would serve to drastically reduce or eliminate the complicated tax paperwork now required of indi-

viduals, business and government as well; and

"Whereas, following completion of the Treasury Department's study, a comprehensive bill to change from our present net income tax system to the new GIT system would be introduced in the 98th Congress (1982-83) to provide for a fair and simple income tax system for all Americans; now therefore,

"Be it resolved by the Legislature of Alabama, both houses thereof concurring, That we strongly urge the Alabama Congressional Delegation and the entire Congress to support legislation for the Gross Income Tax System and direct that copies of this resolution be dispatched to each member of the Alabama Delegation, and to the presiding officers of each House of Congress, with a further request that this resolution be placed in the Congressional Record evidencing Alabama's support of a fair and equitable system of taxation."

POM-1074. A joint resolution adopted by the city council of the city of Plainfield, N.J. urging Congress to initiate and enter into a mutual nuclear weapons freeze with the Soviet Union; to the Committee on Foreign Relations.

POM-1075. A resolution adopted by the city council of the city of Parama, Ohio, urging Congress to establish a permanent, international nuclear weapons ban; to the Committee on Foreign Relations.

POM-1076. A resolution adopted by the Penn Central Conference of the United Church of Christ urging the United States and the Soviet Union to stop the nuclear arms race; to the Committee on Foreign Relations.

POM-1077. A resolution adopted by the Penn Central Conference of the United Church of Christ supporting the efforts leading to nuclear freeze between all nations with nuclear weapons or nuclear weapon capability; to the Committee on Foreign Relations.

POM-1078. A resolution adopted by the Penn Central Conference of the Church of Christ urging the United States and the Union of Soviet Socialist Republics to freeze the production and deployment of nuclear weapons as an initial step toward nuclear disarmament; to the Committee on Foreign Relations.

POM-1079. A resolution adopted by the Jewish War Veterans, U.S.A., Department of New York, supporting the decision of the State of Israel in its determination and resolve to remove the constant threat to the lives of the population living in northern Israel; to the Committee on Foreign Relations.

POM-1080. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to pass laws redistricting the existing telephone companies' boundaries to correspond to State borders; to the Committee on the Judiciary.

POM-1081. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to adopt any and all laws and/or regulations necessary to prevent the further deaths of any handicapped children such as "infant Doe" who died of starvation in Bloomington, Ind., on April 15, 1982; to the Committee on the Judiciary.

POM-1082. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to pass the Human Life Amendment presently under consideration; to the Committee on the Judiciary.

POM-1083. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to adopt a constitutional amendment that will make an automobile, or any method of personal transportation, an extension of one's personal residence; to the Committee on the Judiciary.

POM-1084. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to reevaluate rules and regulations concerning foreign immigrations; to the Committee on the Judiciary.

POM-1085. A joint resolution adopted by the Legislature of the State of California; to the Committee on the Judiciary:

"ASSEMBLY JOINT RESOLUTION No. 68

"Whereas, The current regulations of the United States Parole Commission and the Bureau of Federal Prisons prohibit the notification of local law enforcement agencies of the presence of prisoners and parolees in the community except under prescribed circumstances; and

"Whereas, Adequate identification and information relating to federal prerelease prisoners and parolees residing in or temporarily domiciled in the state is not being released to the local law enforcement agencies and this effectively impedes the efforts of such agencies to protect the public; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact legislation giving the United States Parole Commission and the Bureau of Federal Prisons the authority to release all relevant information concerning persons under their respective jurisdictions who are or may be residing or temporarily domiciled while on parole, or who are or may be housed in a halfway house, residential community treatment center, or other prerelease facility, or who are or may be released from an institution on a furlough or other form of release prior to parole or discharge, in the State of California, and who have been convicted of a federal crime which could have been prosecuted as a felony under the penal provisions of this state, to local law enforcement agencies; and be it further

"Resolved, That the Legislature of the State of California respectfully requests the United States Parole Commission and the Bureau of Federal Prisons to promulgate the necessary regulations as soon as possible to facilitate the speedy ongoing exchange of relevant information between the commission and the bureau and affected local law enforcement agencies regarding federal prerelease prisoners and parolees who are or will be housed or paroled in their local communities and who have been convicted of a federal crime which could have been prosecuted as a felony under the penal provisions of this state.

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Parole Commission, the Bureau of Federal Prisons, and to the United States Department of Justice."

POM-1086. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION No. 94

"Whereas, The number of elderly Americans has been growing rapidly as evidenced by a daily net increase of 1,600 persons over the age of 65 in the United States; and

"Whereas, By the year 2030, older Americans are expected to comprise nearly 20 percent of this nation's total population, up dramatically from the current figure of 11.3 percent; and

"Whereas, Currently 1.5 million Americans, including 5 percent of persons over age 65, are confined to nursing homes or similar institutions, and this number is expected to grow to approximately 2 million people by the year 2000 unless present policies toward long-term care are reversed; and

"Whereas, In 1979 alone, nursing home care expenditures amounted to $17.8 billion in the United States, with 56.7 percent paid by the federal government; and

"Whereas, The need for long-term care is rapidly escalating and federal and state governments' ability to raise the revenues necessary to provide such care is limited, requiring a thorough reevaluation of programs that finance long-term care to avoid the prospects of a costly buildup of nursing home facilities; and

"Whereas, One alternative to institutionalization is increased use of home health care services; and

"Whereas, Movement in this direction has been retarded by federal Medicaid and Medicare policies that create financial incentives which favor care for the chronically ill elderly in nursing homes; and

"Whereas, Medicare's home health care coverage is aimed primarily at serving the elderly with acute care needs and, as a result, it largely excludes those who require extended care, with particularly restrictive requirements that recipients be homebound and services be performed by skilled professionals; and

"Whereas, Legislation in the form of S. 234 (Hatch, R-Utah) has been introduced in Congress to encourage establishment of home health programs, to provide expanded coverage of home health services under Medicare and Medicaid, and to encourage individuals to provide for the care of elderly dependents in the home, thereby deemphasizing premature and unnecessary institutionalization; and

"Whereas, S. 234 would amend the Public Health Service Act to provide grants to public and nonprofit private entities and loans to proprietary home health entities for the specific purpose of meeting the initial costs of establishing and operating home health programs, and for the training of professional and paraprofessional home health personnel; and

"Whereas, S. 234 would broaden eligibility standards for those needing home health care under Medicare to include skilled nursing care, the services of a homemaker home health aide on a part-time or intermittent basis, or physical, speech, occupational, or respiratory therapy; and

"Whereas, S. 234 requests the United States Department of Health and Human Services to assemble and study all available information on alternative reimbursement mechanisms for home health agencies in order to determine the most cost-effective and efficient ways of providing home health services; and

"Whereas, S. 234 provides a major incentive for development of home health care in the form of a five hundred dollar ($500) income tax credit available to individuals who support a dependent person in their home who would otherwise require institutionalization if adequate care at the home were unavailable; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, Respectfully memorializes the President and the Congress of the United States to enact the Community Home Health Services Act of 1981 in order to encourage the establishment of home health programs, to expand the coverage of home health services for the elderly and disabled under Medicare and Medicaid programs, and to encourage individuals to provide care for qualified dependents in the home; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Chairman of the Senate Labor and Human Resources Committee, to the Chairman of the House Energy and Labor Committee—Subcommittee on Health, and to each Senator and Representative from California in the Congress of the United States."

POM-1087. A resolution adopted by the Austin, Tex., Independent School District urging the Department of Education to authorize the continuation of schoolwide projects in schools of very high concentrations of ECIA chapter I eligible students; to the Committee on Labor and Human Resources.

POM-1088. A resolution adopted by the Associated Students of Western Washington University, Bellingham, Wash., urging Congress to pass laws insuring that nationwide election results will not be broadcast until all polls are closed so as not to affect voting patterns in most Western States; to the Committee on Rules and Administration.

POM-1089. A resolution adopted by the General Synod of the Reformed Church in America opposing the redistribution of our national resources to increased military spending at the expense of spending for social programs that meet essential human needs; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. 2774. A bill to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress) (Rept. No. 97-504.)

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. THURMOND, from the Committee on the Judiciary:

Patrick E. Higginbotham, of Texas, to be U.S. circuit judge for the fifth circuit;

E. Grady Jolly, of Mississippi, to be U.S. circuit judge for the fifth circuit;

Richard A. Gadbois, Jr., of California, to be U.S. district judge for the Central District of California;

James O. Golden, of Virginia, to be U.S. marshal for the District of Columbia for the term of 4 years;

Julio Gonzales, of California, to be U.S. marshal for the Central District of California for the term of 4 years; and

Eugene V. Marzullo, of Pennsylvania, to be U.S. marshal for the Western District of Pennsylvania, for the term of 4 years.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. HEINZ:

S. 2770. A bill to provide import relief for the specialty steel industry; to the Committee on Finance.

S. 2771. A bill to provide import relief for the specialty steel industry; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. RUDMAN, Mr. DANFORTH, and Mr. STAFFORD):

S. 2772. A bill to assist in the fair and effective enforcement of the antitrust laws; to the Committee on the Judiciary.

By Mr. HAYAKAWA:

S. 2773. A bill to amend the Export Administration Act of 1979; to the Committee on Finance.

By Mr. DOMENICI:

S. 2774. An original bill to provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1983 (S. Con. Res. 92, 97th Congress); from the Committee on the Budget; placed on the calendar.

By Mr. DENTON (by request):

S. 2775. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to include emergency assistance generally, to remove certain burdensome and unnecessary Federal administrative requirements on State programs, and for other purposes; referred to the Committee on Labor and Human Resource.

By Mr. RIEGLE (for himself, Mr. KENNEDY and Mr. METZENBAUM):

S. 2776. A bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative judge; to the Committee on Finance.

By Mr. ROBERT C. BYRD:

S. 2777. A bill to amend title 5, United States Code, to designate May 30 as Memorial Day; to the Committee on the Judiciary.

By Mr. MOYNIHAN:

S.J. Res. 217. Joint resolution authorizing the Secretary of the Interior to construct a National Law Enforcement Heroes Memorial; to the Committee on Rules and Administration.

By Mr. ROBERT C. BYRD:

S.J. Res. 218. Joint resolution to authorize and request the President to designate the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day"; to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (by request):

S.J. Res. 219. Joint resolution to designate the second Sunday of each September as "National Pet Memorial Day"; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEINZ:

S. 2770. A bill to provide import relief for the speciality steel industry; to the Committee on Finance.

S. 2771. A bill to provide import relief for the speciality steel industry; to the Committee on Finance.

(The remarks of Mr. HEINZ on this legislation appear earlier in today's RECORD.)

By Mr. GORTON (for himself, Mr. RUDMAN, Mr. DANFORTH, and Mr. STAFFORD):

S. 2772. A bill to assist in the fair and effective enforcement of the antitrust laws; to the Committee on the Judiciary

ENFORCEMENT OF ANTITRUST LAWS

● Mr. GORTON. Mr. President, today I am introducing, on behalf of myself and Senators RUDMAN, DANFORTH, and STAFFORD, legislation which would partially overturn, in a carefully confined manner, a 1977 Supreme Court ruling which has caused severe economic consequences to the States and their citizens. The case is Illinois Brick Co. against Illinois, 431 U.S. 720 (1977), in which the Court held that those who deal directly with an antitrust violator—direct purchasers—are entitled to sue that violator to recover damages for price fixing.

The States and their citizens normally are not direct purchasers—they purchase goods through independent retailers and other intermediaries. Frequently, these intermediaries pass on to the ultimate consumers the higher prices caused by illegal price fixing by the intermediaries' suppliers. Not only have the intermediaries not injured in such case, but they are reluctant to bring suit because they are dependent on a good relationship with their suppliers for future business success.

The States and their citizens, who pay the higher prices to intermediaries for the goods, are the true injured parties; but the Illinois Brick decision unfairly precludes these victims of this particularly blatant and costly form of antitrust violation from any means of redress. This has seriously eroded the fair and effective enforcement of the Nation's antitrust laws. Especially in these difficult economic times, it is essential that States be given the effective ability to fight price fixing which substantially increases the cost of goods to their citizens—as taxpayers and as consumers.

The Illinois Brick Court did recognize that the decision might conflict with the intent of the Federal antitrust statutes. It, therefore, invited the Congress, if it disagreed with the result in the case, to provide "clear directions * * * to the contrary." S. 1874 in the 95th Congress and S. 300 in the 96th were the Senate Judiciary Com-

mittee's responses to the Court's invitation. Although placed on the calendar, neither bill was considered on the floor of the Senate.

The bill we are today proposing also responds to the Supreme Court's invitation, but unlike the previous expansive and controversial proposals, it would take a more limited approach. It would overturn Illinois Brick (in part), but would limit prosecution on behalf of indirect purchasers to the U.S. Attorney General and the State attorneys general. The attorneys general would be able to prosecute on behalf of the States, and on behalf of the citizens of their States—parens patriae. In this manner, our proposal would permit indirect purchasers their day in court, but, by limiting prosecution to a set group of law enforcement officers, it would dispel any fear that reversing Illinois Brick might open the floodgates of private litigation and class actions.

This bill also would insure that defendants would not suffer multiple liability arising out of actions by both direct and indirect purchasers. Defendants would be allowed to prove as a partial or complete defense that the purchaser passed on additional costs in higher prices to subsequent purchasers. This would permit apportionment of any damage award to victims according to their actual losses. The proposal further would provide for attorneys' fees to defendants in the case of bad faith or vexatious prosecution. It would apply prospectively only. The bill, in fact, is identical in substance to amendment No. 1893, which the same Senators have proposed to S. 995, the Antitrust Equal Enforcement Act.

I believe this legislation is a responsible, carefully confined approach to the problem of restoring to our Federal and State governments the opportunity to initiate suit to recover dollars illegally appropriated from their taxpayers and citizens by price fixers and bid riggers. Both equity and current economic conditions demand that we not further delay taking this limited, but much-needed and overdue, step.

Mr. President, I ask unanimous consent to have printed in the RECORD a copy of our proposed legislation and a copy of a recent resolution of the National Association of Attorneys General strongly supporting this proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2772

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Clayton Act is amended by inserting after section 4H, the following:

"INDIRECT ACTIONS

"SEC. 4I. (a) In any action under section 4 of the Clayton Act, the fact that a State or any political subdivision thereof, and in any action under section 4A of the Clayton Act, the fact that the United States, has not purchased goods or services directly from a defendant shall not bar or otherwise limit recovery; and in any action under section 4C of the Clayton Act to secure monetary relief for injury sustained by natural persons to their property by reason of having purchased goods or services with respect to which there was an agreement by the defendant to fix prices in violation of section 1 of the Sherman Act, the fact that a natural person has not purchased goods or services directly from a defendant shall not bar or otherwise limit recovery.

"(b) In any action under section 4 of the Clayton Act, the defendant shall be entitled to prove as a partial or complete defense to a damage claim, in order to avoid duplicative liability to it, that the plaintiff has passed on to others, who are themselves entitled to recover under sections 4, 4A, or 4C of this Act, some or all of what otherwise would constitute plaintiff's damage.

SEC. 2. The amendments made by this Act shall not apply to any injury sustained prior to the date of the enactment of this Act.

SEC. 3. Section 4 of the Clayton Act (15 U.S.C. 15) is amended by adding at the end thereof the following: "The court may, in its discretion, award a reasonable attorney's fee to a prevailing defendant upon finding that the plaintiff has acted in bad faith, vexatiously, wantonly, or for oppressive reasons.".

SEC. 3. Section 1407(h) of title 28, United States Code, is amended by striking out "section 4C of".

RESOLUTION: ILLINOIS BRICK

Whereas, proposed legislation pending in the United States Congress that would have the effect of overruling the United States Supreme Court decision in *Illinois Brick Company* v. *Illinois,* 431 U.S. 720 (1977), is vitally important to the treasuries of state, federal, and local governments; the pocketbooks of all taxpayers and citizens; and the integrity of the free enterprise economy of this nation; Now therefore, be it

Resolved, that the National Association of Attorneys General:

1. Reaffirms its strong support for federal legislation to reverse the effects of *Illinois Brick* v. *Illinois,* 431 U.S. 720 (1977), so that state Attorneys General may pursue fully price fixing and bid rigging cases under the Sherman Act; and

2. Commends United States Senators Slade Gorton, Warren Rudman, John Danforth, and Robert Stafford for their efforts to bring such legislation to the floor of the Senate for consideration by the entire Senate; and

3. Authorizes the General Counsel of this Association to transmit these views to the Administration, the Congress and other interested individuals.●

By Mr. HAYAKAWA:

S. 2773. A bill to amend the Export Administration Act of 1979; to the Committee on Finance.

OIL EXPORT LEGISLATION

Mr. HAYAKAWA. Mr. President, today I am introducting legislation which could help the United States improve its relations with Mexico and Japan. Discussions with the Departments of Defense, Energy and Commerce have convinced me that my proposal to give the President the authority to export Alaskan oil to Japan in exchange for a similar amount of oil from Mexico makes sense. Although oil from Mexico is not the solution to our energy problems, it will help us reduce our dependence on Organization of Petroleum Exporting Countries (OPEC).

When the Congress debated this subject in 1979, many of my colleagues argued that because the Jones Act requires that products shipped from one American port to another must be carried in American-flagships, the Maritime Administration would suffer an undue hardship if we shipped oil to Japan in foreign-flag ships. Addressing this concern, my bill requires that Amercian-flag ships be used to transport the oil.

Presently about one-third of the approximately 1.6 million barrels of oil per day produced in Alaska is shipped through the Panama Canal to the Gulf of Mexico and Eastern States, at a cost of approximately $5 per barrel compared to $3 per barrel to ship oil from the Port of Valdez to the Far East. Not only would my proposal reduce the present transportation costs but it would also alleviate some of the problems which the President's eibargo of technology to the Soviets has placed on our allies, the Japanese.

Last month, the President prohibited the American firm, Schlumberger Ltd., from exporting its logging equipment to a consortium of Japanese companies for completion of the Sakhalin project. Under the Sakhalin project, the Japanese agreed 7 years ago to provide the necessary technology for exploring a Soviet gas field in the Sea of Okhotsk in exchange for 3 million metric tons of gas for 20 years from the Soviet Union. Although the Sakhalin project is almost complete, the Japanese desperately need American technology. The President banned the sale of this technology because the Sakhalin project is in the Soviet Union's Sea of Okhotsk. Meanwhile the Japanese have already spent $160 million and are not too pleased with the effects of our embargo. The Japanese are 88 percent dependent on imports to meet their primary energy needs. Japan needs a stable source of oil. We could supply them with some of this oil. If the President determined that oil exports were not in the national interest, he or she would have the authority to abandon our contract with Japan.

Mr. President, many people may wonder how I can even contemplate this subject at a time when we are so desperately trying to reduce our dependence on foreign countries for oil. Simply put, the United States would not lose any oil if my proposal were enacted. In exchange for the oil that we exported to Japan, we would receive the same amount of oil from Mexico, which has expressed an inter-

est in this proposal. Every barrel of imports from Mexico is a barrel less of imports from the Eastern hemisphere; both our national security and our balance of payment positions are thereby improved. At a time when our relations with Latin America are deteriorating, this proposed action speaks louder than words simply calling for improved ties between Mexico and the United States. Revenues which Mexico received from trade with the United States could be used to support revitalization and development projects in which our neighbor to the south has expressed an interest. As a key country in Latin America, Mexico could set an example to its neighboring countries in Central America, thereby encouraging them to develop their oil resources for export. Our new ties with Mexico could demonstrate that we are truly interested in improving our trade relations with Latin America.

Let me remind my colleagues that there is a glut of Alaskan oil on the west coast primarily because most of California's refineries cannot handle the heavy high-sulfur Alaskan crude. Consequently, we ship oil through the Panama Canal to the East and Gulf States which are capable of refining the heavy crude. Not only is the process costly but it is also cumbersome. Under the present plan, oil goes from Alaska's Port of Valdez on a large tanker to the Panama Canal. Since the tanker cannot fit through the canal, the oil is removed and placed on smaller vessels headed for the Gulf and Eastern States. The Panama pipeline scheduled to operate this winter will partially alleviate the complicated process.

However, Japan's refineries are also capable of handling the Alaskan crude. While Alaskan oil exports will not substantially reduce the amount of oil presently going through Panama, they will encourage production of Alaskan oil. Presently about 85 percent of Alaska's oil is produced in the Prudoe Bay. By 1986, the Kuparuk Field's present production of 50,000 barrels per day of oil is expected to increase by 250,000 barrels per day, Why not ship some of this oil to Japan? While we will not reduce our present oil supply because we will swap oil exported for oil imported, we shall reduce the trade deficit between Japan and the United States. At the same time we would strengthen our ties with Mexico and Japan. The United States would not lose one drop of oil. In fact, we could obtain a sweeter grade crude from Mexico. In addition, we would save approximately $2 per barrel in transportation expense, and generate higher Federal tax revenues.

Mr. President, I encourage my colleagues to join me in supporting this legislation. I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2773

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (d)(3) of section 7 of the Export Administration Act of 1979 (50 U.S.C. App. 2406), is amended to read as follows:

"(3)(A) Notwithstanding any other provision of this section or of any other law, including subsection (u) of section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), the President is authorized, subject to the provisions of subparagraph (B), to enter into a bilateral interntional oil supply agreement, with any country pursuant to the International Emergency Oil Sharing Plan of the International Energy Agency, pursuant to which the United States would export to such country crude oil from whatever source in exchange for an equal amount of crude oil from supplies owned or otherwise controlled by that country.

"(B) The President shall have no authority to enter into a bilateral agreement pursuant to subparagraph (A), unless he has first determined and published expressed findings to the effect that the exporting of such crude oil from the United States to such country (i) will result through convenience or increased efficiency of transportation in lower prices for consumers of petroleum products in the United States, and (ii) will be helpful to the United States in connection with its balance of payments.

"(C) In no case shall the President enter into any bilateral agreement pursuant to this paragraph unless such agreement contains provisions sufficient—

"(i) to assure that all oil exported pursuant to such agreement shall be shipped in United States-flagships, if such ships are available; and

"(ii) to enable the President to terminate or suspend any such agreement if the President determines that crude oil supplies of the United States are interrupted, threatened, or diminished, or such termination or suspension is otherwise essential to the national interests of the United States.".

By Mr. DENTON (by request):

S. 2775. A bill to amend the Low-Income Home Energy Assistance Act of 1981 to include emergency assistance generally, to remove certain burdensome and unnecessary Federal administrative requirements on State programs, and for other purposes; to the Committee on Labor and Human Resources.

THE LOW-INCOME HOME ENERGY ASSISTANCE ACT

● Mr. DENTON. Mr. President, I am introducing today, at the administration's request, a bill that amends the Low-Income Home Energy Assistance Act to allow program funds to be used to provide emergency assistance to low-income families, and to remove certain restrictions found in the current statute. The title of the block grant would be changed to the low-income home energy and emergency assistance block grant, and funding would be authorized at a level of $1.3 billion for both fiscal years 1983 and 1984.

The bill is particularly important in light of recent action taken by the Finance Committee to repeal the program for emergency assistance for needy families with children. Under this program, which was part of AFDC, States could provide emergency financial assistance to families with dependent children who faced such crises as eviction, illness, loss of employment, desertion, severe accident, natural disaster or wage garnishment.

With repeal of the emergency assistance program by the Finance Committee, there is no Federal program that contains authorizing language permitting financial assistance to victims of crises such as those mentioned above. This bill provides the necessary authorizing language and allows State officials, if they so choose, to provide emergency financial assistance services to any low-income households, not just those with dependent children.

In addition, the bill removes many unnecessary Federal requirements contained in the current low-income home energy assistance block grant statute. Although the block grant approved last year removed many of the most cumbersome requirements, this bill goes further and removes restrictions that were found, during the block grant's initial year of operation, to be ineffectual or duplicative.

The new bill simplifies the application process, requiring only that a State submit a report on the intended use of the block grant funds. The report need cover no more than the goals and objectives of the program, the activities to be funded to accomplish the goals, the types of households that will be served, the areas within the State where the program will be operated, and a description of the criteria and administrative methods for disbursing block grant funds.

The bill also simplifies State auditing requirements, removes the 15 percent ceiling on the amount of funds a State may spend for weatherization, gives State officials greater flexibility in choosing local agencies to carry out portions of the program and eliminates language specifying how States make payments to energy suppliers. The result of this streamlining will be increased State flexibility in the use of Federal block grant money.

This proposal is wholly consistent with the administration's goal of giving the States maximum discretion in the use of Federal money. Local officials are in the best position to determine who in their jurisdictions are most in need, and to determine how the funds can best be used to help these people. No highly detailed Federal program can hope to address the widely varying needs of 50 disparate populations. A far better approach is to give funds to the States with as few strings attached as possible, and to

allow them to formulate a program that meets their individual needs. This bill is a further step toward that goal. It returns substantial decisionmaking responsibility to the States, and allows them to use their funds to address a wider spectrum of problems than could be dealt with under current law.

I commend the administration for proposing this legislation, which will allow people who are victims of emergency circumstances often beyond their control to remain eligible for much needed assistance, and which broadens substantially the range of services that can be provided under this program.

As chairman of the Aging, Family and Human Services Subcommittee, which has jurisdiction over the low-income home energy assistance block grant, I can assure the Senate that the subcommittee will consider this proposal carefully and thoroughly.●

By Mr. RIEGLE (for himself, Mr. KENNEDY, and Mr. METZENBAUM):

S. 2776. A bill to provide that disability benefits under title II of the Social Security Act may not be terminated without evidence of medical improvement, to limit the number of periodic reviews, and to provide that benefits continue to be paid through a determination by an administrative law judge; to the Committee on Finance.

EMERGENCY SOCIAL SECURITY DISABILITY AMENDMENTS OF 1982

● Mr. RIEGLE. Mr. President, today I am introducing legislation designed to address the unnecessary and unintended suffering and hardship experienced by hundreds of thousands of social security disability insurance (SSDI) beneficiaries. As a result of the Social Security Disability Amendments of 1980, all nonpermanent disability cases must be reviewed at least once every 3 years and all permanent cases every 7 years. These reviews, called continuing disability investigations (CDI's), have resulted in hundreds of thousands of disabled persons facing the abrupt termination of their disability benefits only to have benefits reinstated after many months of reconsiderations and appeals. The bill I am introducing today for myself, the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Ohio (Mr. METZENBAUM) addresses the unanticipated problems created by the disability reviews.

Mr. President, the problems created by the CDI's has generated a great deal of anxiety and indignation among individuals concerned with the welfare of disabled Americans. The purpose of the 1980 amendments was to assure that individuals who were no longer disabled were removed from the disability rolls thereby helping to provide adequate funds for individuals truly in need of assistance. The rapid expansion of the social security disability insurance program during the 1970's together with the projected shortfalls in the disability insurance trust fund, led to the enactment of the review requirement. The 1980 amendments were never intended as a means of reopening hundreds of thousands of disability cases but rather were designed to improve the administration of the program and to remove individuals from the disability rolls who had medically recovered or who had returned to substantial employment.

Mr. President, what has happened instead is that the implementation of the 1980 amendments, which the administration voluntarily launched 9 months earlier than required by law, has resulted in the severe hardship of hundreds of thousands of disability beneficiaries who are forced to go without benefits for many months, and who must demonstrate at several different levels within the appeals process, that their disabilities continue and that they remain legally eligible for benefits. This would not be so troublesome if the majority of individuals who were forced to go through this process were individuals who were no longer disabled and, therefore, no longer eligible for benefits. However, this is not the case. About two-thirds of the terminations of current beneficiaries by the administration were reinstated after appeal.

Current data indicates that of all beneficiaries who are reviewed about 50 percent are initially terminated from the rolls. Of those 50 percent who appeal the decision, about 67 percent are later proven eligible for disability benefits in front of an administrative law judge. All of those individuals who are later shown to be eilgible must find alternative funds for basic sustenance, perhaps by selling their homes or other essential possessions, during the sometimes lengthy appeals process. Some beneficiaries have had to wait 6 to 12 months to get a hearing. Even though individuals who prove the continued existence of their disability will receive retroactive payments covering the period when their benefits were terminated, their previous financial status is often irretrievable. In addition, many of these beneficaries will lose up to 25 percent of their wrongfully terminated benefits in attorney's fees.

Mr. President, this is a situation that has not gone unnoticed by the Congress. The Subcommittee on Social Security of the Committee on Ways and Means first held hearings at which I testified in March of this year. The Select Committee on Aging in the House also held several days of hearings on this unfortunate and unnecessary situation. In the Senate, the Subcommittee on General Oversight and Government Management of the Committee on Governmental Affairs, under the leadership of Senators LEVIN and COHEN, held an indepth hearing on CDI's receiving testimony from aggrieved beneficiaries as well as from the Social Security Administration.

Numerous bills have been introduced that either attempt to enact comprehensive modifications in the review process or provide a series of short-term emergejcy measures designed to mollify some of the more onerous consequences of current practice until a more comprehensive and long-term response can be devised. A comprehensive approach—H.R. 6181—introduced by Representatives PICKLE and ARCHER in the House was ordered reported by the Committee on Ways and Means but pulled back after a controversy developed over certain key provisions. Although there appears to be a broad base of support for action on this matter in the Congress, as the history surrounding H.R. 6181 indicates, successful enactment of legislation remains in jeopardy until we can achieve a consensus on a single course of action. The bill I am introducing today is designed to provide that needed consensus.

The legislation which I am introducing today was developed by a broad-based coalition of groups concerned with the needs of disabled Americans. The proposal contains selected provisions taken from several other bills necessary to halt the wrongful termination of hundreds of thousands of disability beneficiaries until Congress is able to develop a more comprehensive solution. While all of the provisions contained in the bill I am introducing today are in other pieces of legislation, no single bill contains only these three essential provisions necessary for alleviating the needless suffering of disabled persons.

Section 1 of the bill requires evidence of medical improvement or instances of a clearly erroneous initial decision for purposes of terminating benefits. Section 2 of the bill slows down the number of disability reviews made at the discretion of the Secretary by limiting the number of reviews of current beneficiaries to the total number of new beneficiaries within the preceding calendar year. The review requirement for all new beneficiaries would be limited to an initial review after 3 years with all additional reviews at the discretion of the Secretary. Section 3 of the bill provides for continued benefits until a final determination has been made by an administrative law judge subject to the overpayment provisions in determinations not in favor of the beneficiary.

Mr. President, it is my hope that all of us who are deeply concerned about the needless suffering of innocent Americans can agree on the carefully balanced approach developed by this coalition of disability groups. It is ab-

solutely essential that we continue to strengthen and develop the bipartisan support that has emerged in response to this national tragedy.

Mr. President, I ask unanimous consent that immediately following the conclusion of my remarks there be printed the following material: A copy of a letter I received on July 23, 1982, signed by Jay B. Cutler, on behalf of the national organizations and disability groups that participated in the development of S. 2776, and the full text of S. 2776.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMERICAN PSYCHIATRIC ASSOCIATION,
Washington, D.C., July 23, 1982.

Hon. DONALD RIEGLE, Jr.,
Dirksen Senate Office Building,
U.S. Senate, Washington, D.C.

DEAR SENATOR RIEGLE: On behalf of the undersigned national organizations and their membership, representing disability groups as well as medical and other professional organizations, I wanted to express our deep appreciation for your leadership in efforts to ameliorate the tragic situation now confronting disabled individuals under the Social Security Disability Insurance Program.

As you are aware, we are extremely concerned that the Senate act promptly to protect those individuals whose benefits are being unjustly terminated due to the Social Security Administration's continuing disability investigations. We believe that the following three legislative provisions are critical to that effort:

(1) There must be evidence of medical improvement or that the original decision granting benefits was clearly erroneous before SSA may terminate disability benefits;

(2) The Continuing Disability Investigation (CDI) process be slowed down to assure that the reviews are being accomplished fairly and accurately;

(3) Benefits should be continued through the Administrative Law Judge level.

Draft language for each of these three provisions is attached.

Thank you for your continued concern, and we look forward to working further with you and your staff as we seek a mutual solution to this critical problem.

Sincerely,

JAY B. CUTLER,
Special Counsel and Director, Division of Government Relations, American Psychiatric Association.

On behalf of:
American Association of Psychiatric Services for Children.
American Foundation for the Blind.
American Mental Health Counselors Association.
American Occupational Therapy Association.
Association for the Advancement of Psychology.
Association of Psychiatric Outpatient Centers.
Association of Retarded Citizens of America.
Epilepsy Foundation of America.
Family Services Association of America.
National Alliance for the Mentally Ill.
National Association of State Mental Health Program Directors.
National Council of Community Mental Health Centers.
National Mental Health Association.
National Multiple Sclerosis Society.
National Society for Children and Adults with Autism.
Paralyzed Veterans of America.
United Cerebral Palsy Association.

S. 2776

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a)(1) section 223(d) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Except as provided in subparagraph (B), in order for a benefit under this section, or a child's, widow's, or widower's benefit based upon disability, to be terminated on the grounds that the physical or mental impairment or impairments on the basis of which such benefit was payable have ceased, did not exist, or are no longer disabling, the Secretary must determine and document that, based upon current medical evidence and such individual's medical history, there has been a medical improvement in the case of the individual's impairment or impairments of such a degree that such individual is no longer disabled under the criteria for evaluation of disability in effect at the time of such prior determination, or that the prior determination that such individual was under a disability was clearly erroneous under the criteria for evaluation of disability in effect at the time of such prior determination.

"(B) Subparagraph (A) shall not apply in the case of a termination of benefits based upon a finding made in accordance with paragraph (4) that services performed or earnings derived from services demonstrate an individual's ability to engage in substantial gainful activity.".

(2) The amendment made by paragraph (1) shall apply with respect to determinations (that individuals are not entitled to benefits) made on or after the date of the enactment of this Act.

(b)(1) Section 221 (i) of the Social Security Act is amended to read as follows: "(i) In any case where an individual is determined to be under a disability, such determination shall be reviewed by the applicable State agency or the Secretary (as may be appropriate), for purposes of continuing eligibility, within three years after the date of the determination; except that where a finding has been made that the disability is permanent, such review (if any) may be conducted at such time as the Secretary determines to be appropriate. Where the review of a determination under the preceding sentence results in a finding that the individual continues to be under a disability, any subsequent review of the same determination shall be at the discretion of the State agency or Secretary (as the case may be); and at the completion of any review under the preceding sentence which results in such a finding the State agency or Secretary shall determine whether any such subsequent review appears to be appropriate and, if so, when it is likely to be conducted. In notifying any individual that he or she is entitled to benefits based on disability at the time of the initial determination of such disability, or that he or she continues to be entitled to such benefits as a result of a finding made upon a review under this subsection, the Secretary shall include a notice of whether a review or subsequent review under this section will be scheduled and, if so, the expected date of that review.".

(2)(A) The amendment made by paragraph (1) shall apply only with respect to reviews of disability determinations made in the case of individuals whose initial month of entitlement to benefits (based on the determination involved) is a month after September 1982.

(B) In the case of individuals whose initial month of entitlement to benefits based on disability was a month before October 1982, reviews of disability determinations for purposes of continuing eligibility shall (notwithstanding the provisions of section 221(i) of the Social Security Act as in effect prior to the amendment made by paragraph (1)) be made at the discretion of the Secretary but shall be limited in any calendar year to a number of cases which, when added to the number of cases (other than those involving disabilities found to be permanent) that are reviewed for the first time in such year under section 221(i) of the Social Security Act, does not exceed the total number of cases in which entitlement to disability insurance benefits under section 223 of such Act began in the preceding calendar year.

(c)(1) Section 223 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"CONTINUATION OF BENEFITS DURING APPEALS PROCESS

"(g)(1) IN ANY CASE WHERE—

"(A) an individual is a recipient of disability insurance benefits, or a child's, widow's, or widower's insurance benefits based on disability; and

"(B) the physical or mental impairment or impairments on the basis of which such benefits are payable are found to have ceased, not to have existed, or to no longer be disabling, and as a consequence such individual is determined not to be entitled to such benefits,

such individual may elect (in such manner and form and within such time as the Secretary shall by regulation prescribe) to continue to have payment of such benefits and the payment of any other benefits under this Act based on such individual's wages and self-employment income (including benefits under title XVIII of this Act) continued until such time as the determination to terminate such benefits is affirmed by a final determination of the Secretary after a hearing pursuant to section 221(d), or if such individual does not request a hearing, until the time for requesting such a hearing has expired.

"(2)(A) Any benefits paid under this title by reason of paragraph (1) shall be considered overpayments if the decision after a hearing affirms that such individual is not entitled to such benefits, or if such individual fails to request a hearing.

"(B) Any benefits paid under this Act (including benefits under title XVIII), other than under this title, by reason of paragraph (1) shall not be considered overpayments solely on the grounds that entitlement to benefits under this title would have ceased but for the provisions of this subsection.".

(2) The amendment made by paragraph (1) shall apply with respect to determinations (that individuals are not entitled to benefits) made on or after the date of the enactment of this Act.●

● Mr. KENNEDY. Mr. President, I am pleased to join with Senator RIEGLE in introducing emergency legislation to correct the hardship that has been unintentionally inflicted on thousands of Americans receiving benefits under

the social security disability insurance program.

I have heard from men and women all across this country who have written out of desperation and fear that their disability checks will stop and they will be left with nothing. These individuals worked hard, often holding down two jobs, to provide for their families until they were forced to quite their jobs because of illness or injury. All would prefer to work but their physical condition makes it impossible. Their disability checks are often the only income coming in for their families. Now the Government, in the name of eliminating fraud and abuse, is unjustly terminating the benefits of these deserving Americans.

I would like to share some of their stories.

Mrs. Carol O'Connell Wood wrote me about her husband, Arthur who is so disabled he cannot write. He has suffered from a number of disabilities for approximately 18 years and has been receiving social security benefits since 1976, after undergoing surgery for a brain tumor a year earlier. He was notified last Februray 22 by the Social Security Administration that he was able to work, even though he had just been hospitalized on two separate occasions for major seizures related to his illness.

The Social Security Administration decided Mr. Woods fate based on the recommendation of a physician who spent less than half an hour with Mr. Woods. No tests were ordered, no specialists were called in.

In Mrs. Woods words—

My husband's disabilities have not gone away or improved. They have gotten worse—he gave 4 years of his life to defend this country and subsequently worked for the next 28 years—sometimes two jobs at a time—until he became totally unable to work. He has paid into the system and supported it for a long time. He should not have to be subjected to this kind of shabby treatment at a time in his life when he cannot handle it physically or mentally. It is a sad reflection on the people involved and on the administration now in office.

Clint Woodcock from Gulfport, Miss. also asked his wife to write me because he is paralyzed as a result of an accident he suffered in 1977. He has also been reevaluated by the Social Security Administration. If his benefits are cut off as Mr. Woods were, he and his family would lose their only means of support until they can complete the lengthy appeals process. Chances are he would win his case, but in the meantime he could lose everything he and his family still have.

Sandra Green from Foreman, Ark., also wrote about the plight facing her and her husband Donald who worked as a first-class carpenter until 4 years ago when he first developed rheumatoid arthritis. Donald Green is just 40 years old; is totally disabled, and was trying to support a wife and two daughters on his disability check until last November when social security cut him off. I would like Mrs. Green's letter to be printed in full along with the report filed by Donald Green's personal physician. Her words eloquently tell the story.

Mr. President, I ask unanimous consent to print the letter and report in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR MR. KENNEDY:

I am writing this letter in behalf of my husband, who was cut off of his Social Security Disability in Nov. 1981. I have been frantic trying to think of someone who really cares about the less fortunate in this country. I have been keeping up with the news and from what I can see, you are fighting Mr. Reagan's cold indifference proposals concerning the poor and sick more than anyone else so I am writing you. I don't know if you can help, but right now I am grasping at straws.

I know there are a lot of freeloaders drawing Social Security, I agree that those people should be cut off, but in my part of the country the one's that are able to work are still drawing their checks, and the one's that are really disabled have been cut off.

My husband has rheumatoid arthritis, he is 40 years old, he came down with this 4 years ago, until then he was a first class carpenter working for Brura & Root Const. Co. He had an excellent work record, did his job, showed up for work everyday, and was not lazy. Even after he came down with arthritis he still tried to work but could not, his doctor advised him to file for Social Security Disability because he would probably never be able to work again, so he did.

In Sept. of 1981 he was told to report to Dr. Larry Messer in Texarkana, Texas for a reevaluation examination which he did. Dr. Messer didn't tell him anything about his condition, he did a very poor examination, he mostly asked him about his condition. Evidently his diagnosis was that Donald was able to work. I know he is not, his doctor knows it, so does everyone that knows him. Mr. Kennedy, we haven't got a check in three months, this is all we have to live on, we have two girls 14 & 7 who have to be provided for. Donald is facing a grim future, he is in constant pain all the time, he can't work, no one would hire him if he tried, and believe me if he was able to work, he would make a lot more than he draws on Social Security. Here he is in the prime of his life, in pain all the time, and no money to care for his family.

Most of the people in this area were sent to Dr. Messer, I know a man personally that went to him and Dr. Messer told him right then that he would continue drawing his Social Security, and this man works every day he can as long as he can get paid in cash, he makes twice as much money as he draws on Social Security. Just this morning, I met a lady in the Social Security office who was there to file an appeal on her disability, she had been cut off and she went to the same doctor as Donald.

This lady was in tears and trembling like a leaf, she was a widow, lives by herself, no family at all and was unable to work and had been cut off her Social Security. Mr. Kennedy it was heartbreaking, she has had two operations on her spine, and could barely walk, I was so caught up with her sorrow and trying to cheer her up for a while. I forgot about my own misery. People in this area are not being judged by their medical records alone. I am sending a statement from Donald's doctor so you can judge for yourself and not just take my word for it.

I filed an appeal on Dec. 1, 1981, we hadn't heard a word up 'til now, I went to the Social Security office this morning to see what the hold up was, I was told that Donald's files were in Baltimore now and we should be hearing something in a few weeks.

Mr. Kennedy if there is any way at all you can help us it would be greatly appreciated. My husband is so desperate he says now that he is just a burden to his family. He can't take care of them and we would be better off if he were dead, at least the children would draw his Social Security then. I promised him that he would get it back; he needs it, and he's entitled to it. He worked for it and if it's the last thing I do I intend to see that he gets it back. We have to have it to live on, it's all we have.

Mr. Kennedy I've never begged for anything in my life, but I am begging you to help us. Since Mr. Reagan has become president everything has been turned upside down. I heard him speak about the economic help he was going to give to the countries in the Caribbean Basin. If we have the money to get other countries up on their feet, why do we take away from the poor and sick in our own country. I believe charity begins at home. I say this, Mr. Reagan had better do his worse in the next three years because he will never be elected by the people of this country again.

He has forgotten the people that put him there. I didn't, I am straight Democrat, so is my entire family. I hope you run again in the next election, you will win by a landslide. I'm telling you what I hear. I live with the kind of people that are suffering now; I know how they feel; there are people lined up at the food stamp office that I have talked to when I get my food stamps. They say they are ashamed to admit it but they voted for Ronald Reagan but they would never do it again. They say when Mr. Carter was President they did have a job.

I'm sorry I've written such a long letter but once I got started I couldn't stop. I want someone to know what's happening to people like us. I will give you my husband's name and S.S. No. in case there is something you may be able to do—Donald R. Green, [redacted].

Sincerely,

MRS. DONALD R. GREEN.

DRS. SHORT, TOWNSEND, BROWN, BAILES & JONES,
Texarkana, Tex., November 23, 1981.

Re Donald Green, A/N 80332091.

To whom it may concern:

Donald Green was reevaluated today because of severe rheumatoid arthritis. His disease is active in his neck, elbows, ankles and both hands. His motion range of his neck is 40 percent of expected normal range. He has swelling of the matacarpo-phalanges of joints of both hands. Both ankles are swelled, making fist only with great difficulty, grasp is poor quality. RA test positive on this date, Sed Rate 65. Impression: he is totally disabled for any type of work.

Sincerely,

HAROLD H. SHORT, M.D.

Mr. President, the legislation Senator RIEGLE and I are introducing is de-

signed to meet the crisis facing these and hundreds of thousands of other deserving Americans. Our bill, which has the support of 18 national organizations who serve the handicapped and disabled, includes 3 essential provisions. It would require that:

First, there be evidence of medical improvement or that disability benefits were granted in error before benefits are terminated.

Second, the disability reviews conducted by the Social Security Administration be slowed down to insure that adequate time and attention is devoted to the review process.

Third, no claimant's disability benefits be terminated until the appeals process is completed and an administrative law judge decides against the beneficiary.

This legislation does not address all of the problems facing the social security disability system. it is an emergency measure. I hope my colleagues on both sides of the aisle will give it careful consideration. In the name of fairness and equity and compassion we must act now.●

By Mr. ROBERT C. BYRD:

S. 2777. A bill to amend title 5, United States Code, to designate May 30 as Memorial Day; to the Committee on the Judiciary.

MEMORIAL DAY BILL

Mr. ROBERT C. BYRD. Mr. President, today I am introducing legislation to remove Memorial Day from the "Monday holiday law," and to restore the holiday to May 30.

Sadly, the 3-day weekend we have come to enjoy at the end of May has tended to obscure the intent of the holiday. The sentiment of the day has been lost in the waves of the beaches, on the greens of the golf courses, in the shops on the malls, or in other leisurely pursuits.

Honoring the dead has been a practice of many civilizations since time immemorial. The Druids, Greeks, and Romans decorated the graves of their loved ones with garlands of flowers. Today, Asians, Orientals, and Europeans of all races and nationalities perform ancient rituals in honoring the dead.

In America, the Civil War brought national recognition to the custom of decorating the graves of our fallen soldiers. Women, mourning the losses of their loved ones in the conflict, began the practice of placing flowers on the graves of the soldiers, Confederate and Federal alike. Services and ceremonies followed, and days were set aside for the special tribute.

Memorial Day was designated by the Congress to pay tribute to those who lost their lives in service to this Nation. The first Memorial Day, 100 years ago, honored those who fell in the War Between the States. Since that time well over 640,000 service men and women have lost their lives in battle. On Memorial Day our Nation pays tribute to all of those who have laid down their lives for our country.

Many States and towns, in the South and in the North, lay claim to the origin of Memorial Day. Altogether, their fervor encouraged the Commander in Chief of the Grand Army of the Republic, an organization of Union veterans, to set an official date for the observance. On May 5, 1868, Gen. John A. Logan issued an order to the local posts of the Grand Army whereby May 30, 1968, was to be observed:

* * * for the purposes of strewing with flowers or otherwise decorating the graves of the Comrades who died in defense of their country during the late rebellion and whose bodies lie in almost every city, village, or hamlet churchyard in the land. It is the purpose of the Commander-in-Chief to inaugurate this observance with the hope that it will be kept from year to year while a survivor of the war remains to honor the memory of the departed * * *.

My bill asks, in effect, that Memorial Day be allowed to stand alone, to return the attention of the Nation to the meaning of the holiday. Let us, as a people, remember, on that day, that others have died for our country that we may live in peace.

I urge my colleagues to cosponsor this measure.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 6103(a) of title 5, United States Code, is amended by striking out the item relating to Memorial Day and inserting in lieu thereof the following:

"Memorial Day, May 30.".

By Mr. MOYNIHAN:

S.J. Res. 217. Joint resolution authorizing the Secretary of the Interior to construct a National Law Enforcement Heroes Memorial; to the Committee on Rules and Administration.

NATIONAL LAW ENFORCEMENT HEROES MEMORIAL

Mr. MOYNIHAN. Mr. President, today I am introducing legislation that would authorize the construction of a national monument in honor of all police officers killed in the line of duty.

Such a memorial is long overdue. In the past we have paid tribute to the many individuals who have lost their lives in war. And with good reason I propose we honor the many men and women who have sacrificed their lives in the war against crime.

This legislation, which is identical to a bill introduced in the House of Representatives by Congressman BIAGGI, himself a much decorated former police officer, would authorize the National Law Enforcement Heroes Memorial to be built on Federal grounds near the FBI building here in Washington. The memorial would be funded solely by private contributions. No Federal expenditures would be required.

An advisory panel, composed primarily of active or retired police officers, would be appointed to develop recommendations on the precise location and design for the monument. The Secretary of the Interior would be in charge of constructing the memorial once plans have been completed and adequate funds raised.

In the past decade nearly 1,200 police officers were killed in the line of duty. While this memorial would serve as a special tribute to this supreme sacrifice, it would also serve as a constant reminder of our need to better protect those who continue to protect us. I urge my colleagues to support this legislation. These heroes must not be forgotten.

By Mr. ROBERT C. BYRD:

S.J. Res. 218. Joint resolution to authorize and request the President to designate the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day"; to the Committee on the Judiciary.

RAILROADS: PAST, PRESENT, AND FUTURE

Mr. ROBERT C. BYRD. Mr. President, today I am introducing a joint resolution to designate the week of August 30 through September 4 as "National Railroad Week" and September 4 as "National Railroad Day."

We Americans have long owed it to ourselves to set aside a time:

To recognize an industry which has done so much to build our Nation.

To recall its place in our history and in our folklore.

To acknowledge its vital role today.

And to examine its important prospects in our national future.

To a remarkable degree, our country owes its greatness and its strength to our railroads.

Reflect that only a century and a half ago we were a pastoral, small republic. Our people traveled, when they traveled at all, over dirt roads, on foot, by horseback or by carriage or wagon. We moved our goods by oxcart, canal barge or riverboat. Our young industries were restricted to the waterways and ports of the Eastern seaboard. The railroads changed all this.

They started small, led by backyard inventors and a few visionary entrepreneurs. A short coal-carrying line operated briefly in 1829, in Pennsylvania. In 1830, the single-horsepower Tom Thumb raced a rail car drawn by a single horse in a demonstration in

Maryland. A few months later successful, if primitive, service started on a 137-mile track laid in South Carolina.

These were the beginnings. They spawned 90 years of explosive growth. Within only 5 years 200 rail lines were being built or planned, more than a thousand miles of track had been laid, and the U.S. mail had been carried by rail for the first time, Andrew Jackson had become our first President to ride a train, and when the Baltimore Ohio Railroad Co. ran its tracks over the mountains to Wheeling and the Ohio River, the West was opened to development (1828–50).

There followed one of the most dramatic movements of people commerce and agriculture in world history. Vast reaches of virtually uninhabited land were occupied by settlers, cities sprang up and were linked by rail, factories, smelters and packing plants grew up at new industrial centers. Track reached the Mississippi and Missouri Rivers, and on May 10, 1869, at a Gold Spike ceremony at Promonotory in the Utah Territory the rails of the West were joined with those of the East to form the first continuous link of the Atlantic and Pacific coasts. By early in this century, in the space of a single lifetime, rail lines interlaced the Nation coast to coast. The railroads not only had hauled us swiftly and literally into the "Industrial Age," they also had brought in and helped to settle millions of the immigrants who changed and invigorated the diverse society which has become America. And, in the course of it, created a legend which forms an indelible part of our national heritage.

Railroad passenger stations—they are being restored in some cities—gave us a new form of architecture. The names of railroad builders, men of vision and robber barons alike, look large in our financial history. Stories of the fabulous private cars in which these and other rich traveled in the style of Eastern potentates, punctuate the annals of high society.

The railroads gave us Casey Jones, John Henry, Diamond Jim Brady. They gave us Westinghouse, Pullman, Chessie and Phoebe Snow—household names without number—as well as famous trains, the "Twentieth Century and Overland Limiteds," and the "Super Chief," to name only three.

In war times, railroads have played essential roles. The North's preponderance of rail lines to move troops and supplies helped to decide the outcome of the Civil War. In World War I virtually all troops and material moved across the Nation by rail, and in World War II, despite developing airlines and highway transportation, 90 percent of military shipments and 97 percent of troop movements within the country went by rail. In 1944, a record year, passenger travel by train reached 95.6 billion passenger miles. Even today, our military men put heavy reliance on the railroads in their planning for the contingencies of war.

At the peak, in 1916, railroad lines in the United States totaled 254,000 miles. The figure today is 185,000. Railroads in recent years have lost some of their glamour. No longer does nearly every American boy want to grow up to become a locomotive engineer. No longer do trains move every kind of freight—airplanes and motor vehicles have made large inroads on this as on passenger travel.

And yet, the railroads continue to be vital to the Nation. They haul commuters to and from work in the hundreds of thousands. Although we have fallen far behind Europe and Japan, our longhaul and overnight passenger trains—those that are left—remain popular. And, tonnages are greater than they have ever been in freight transport—the essential movement of bulky, heavy or specialized materials which make up the sinews of our economy, of finished products of all descriptions—often packed in truck trailers and moved piggy-back from city to city, or in containers and moved from port to port.

Our railroads are constantly evolving. Railroad planners are engaged heavily in research to meet the needs of the future. Perhaps the most significant challenge lies in the fact that trains can haul people and cargo using less energy than other forms of transport, with less air pollution. One senses a feeling of vitality in the industry, and a resolve to continue to grow and change to meet our needs as the 21st century approaches. Our railroads no longer monopolize the Nation's transportation, but they are now and will continue to be its backbone.

This year the citizens of the city of Grafton, W. Va., are planning the First Annual West Virginia Railroad Heritage Festival to celebrate the role the railroad played in the city, the State, and the Nation.

It is meet and right that West Virginia should honor the railroad; it was the first to benefit from interstate rail service. In the future, West Virginia stands to gain even more as coal is hauled from its hills in increasing quantities to the valley and ports for delivery nationally and abroad.

By introducing legislation to commemorate the railroads, I hope that railroad companies, railroad men and all of our people, will take note of the dates, join in a national tribute to the Iron Horse as it was in years gone by, and toast the Railroad Age to come.

Mr. President, I ask unanimous consent that the joint resolution be printed at this point in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 218

Whereas railroads were vital to American territorial expansion and industrial development in the nineteenth century;

Whereas railroads have contributed a rich and colorful culture to America in the form of art, literature, song, and architecture;

Whereas railroads have provided Americans with unexcelled luxury in travel;

Whereas historically, railroads have been the leaders in American freight and passenger traffic;

Whereas railroads are destined to lead the Nation in sophisticated, rapid freight and passenger transportation in the future; and

Whereas the important role of railroads in the development and future of the Nation deserves to be recognized: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the week of August 29, 1982, through September 4, 1982, as "National Railroad Week" and September 4, 1982, as "National Railroad Day" and calling upon all Government agencies and the people of the United States to observe the week and day with appropriate programs, ceremonies, and activities.

ADDITIONAL COSPONSORS

S. 1782

At the request of Mr. WEICKER, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1782, a bill to amend section 305 of the Federal Property and Administrative Services Act of 1949 pertaining to contract progress payments made by agencies of the Federal Government, providing for the elimination of retainage in certain instances, and for other purposes.

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator from Oregon (Mr. HATFIELD) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2027

At the request of Mr. ROBERT C. BYRD, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 2027, a bill to provide for an accelerated study of the causes and effects of acid precipitation, to provide for an examination of certain acid precursor control technologies, and for other purposes.

S. 2167

At the request of Mr. SPECTER, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 2167, a bill to amend the Unfair Competition Act of 1979 and Clayton Act to provide for further relief in the event of unfair foreign competition.

S. 2723

At the request of Mr. RIEGLE, the name of the Senator from Pennsylvania (Mr. HEINZ) was added as a cosponsor of S. 2723, a bill to expand the

supply of strategic skills in critical occupations in which there is a shortage of workers by providing retraining for experienced displaced workers from funds available for certain defense procurement.

SENATE JOINT RESOLUTION 205

At the request of Mr. EAST, the name of the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Joint Resolution 205, joint resolution to designate September 1982 as "National Sewing Month."

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), and the Senator from New Mexico (Mr. SCHMITT) were added as cosponsors of Senate Joint Resolution 207, joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week."

SENATE CONCURRENT RESOLUTION 61

At the request of Mr. MATTINGLY, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of Senate Concurrent Resolution 61, concurrent resolution to direct the Commissioner of Social Security and the Secretary of Health and Human Resources to conduct a study on steps which might be taken to correct the Social Security benefit disparity known as the notch problems.

SENATE CONCURRENT RESOLUTION 113

At the request of Mr. SYMMS, the name of the Senator from New Mexico (Mr. SCHMITT) was added as a cosponsor of Senate Concurrent Resolution 113, concurrent resolution recognizing and saluting the Benevolent and Protective Order of the Elks for its leadership in voluntarism in the United States.

AMENDMENT NO. 1956

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts (Mr. TSONGAS) was added as a cosponsor of amendment No. 1956 intended to be proposed to S. 2222, a bill to revise and reform the Immigration and Nationality Act, and for other purposes.

AMENDMENTS SUBMITTED FOR PRINTING

IMMIGRATION REFORM AND CONTROL ACT

AMENDMENT NOS. 1997 THROUGH 1999

(Ordered to be printed and to lie on the table.)

Mr. KENNEDY submitted three amendments intended to be proposed by him to the bill (S. 2222) to revise and reform the Immigration and Nationality Act, and for other purposes.

● Mr. KENNEDY. Mr. President, last week I submitted a series of amendments to S. 2222, the Immigration Reform and Control Act of 1982. Regrettably, there were technical errors in two of the amendments as drafted—amendments Nos. 1950 and 1952.

I am therefore resubmitting the corrected language as new amendments, and ask unanimous consent that their texts be printed at this point in the RECORD.

There being no objection, the amendments were ordered to be printed in the RECORD, as follows:

AMENTMENT No. 1997

On page 121, line 25, strike out "three hundred and fifty thousand" and insert in lieu thereof "two hundred and fifty thousand".

On page 122, beginning on line 1 with "(i)", strike out all through "residence," on line 5.

On page 122, line 6, strike out "(ii)" and insert in lieu thereof "(i)".

On page 122, line 8, strike out "such".

On page 122, line 9, strike out "(iii)" and insert in lieu thereof "(ii)".

On page 122, line 11, strike out "(iv)" and insert in lieu thereof "(iii)".

On page 124, lines 12 and 13, strike out "immediate relatives specified in section 201(b),".

On page 124, line 15, strike out "such".

On page 130, lines 19 and 20, strike out "immediate relatives specified in section 201(b),".

AMENDMENT No. 1998

Beginning on page 126 with line 22, strike out all through line 6 on page 127 insert in lieu thereof the following:

"(4) Unmarried brothers and sisters of citizens and previous fifth preference.—

"(A) Qualified immigrants who are the unmarried brothers or sisters of citizens of the United States, if such citizens are at least twenty-one years of age, and

"(B) Qualified immigrants who (i) as of the date of enactment of the Immigration Reform and Control Act of 1982 had received approval of a petition made on their behalf for preference status by reason of the relationship described in paragraph (5) of section 203(a) of this Act as in effect on the day before such date, and (ii) continue to qualify under the terms of this Act as in effect on the day before such date,

shall be allocated visas in a number not to exceed 10 per centum of such numerical limitation, plus any visas not required for the classes specified in paragraphs (1) through (3).

Mr. KENNEDY. Mr. President, in addition, I am offering another amendment to restore judicial review to aliens who may be deported on the grounds of exclusion under section 212(a) of the Immigration and Nationality Act.

As everyone who follows immigration law knows, section 212(a) as now written, is hopelessly vague and out of date. In fact,the Select Commission on Immigration and Refugee Policy voted to throw it out and completely rewrite it—which is the intention, I know, of the Subcommittee on Immigration and Refugee Policy.

However, until that is accomplished, I believe there must be some recourse to judicial review for persons caught in the vague and arbitrary exclusion provisions of existing law.

Mr. President, I ask unanimous consent that the text of this amendment be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

AMENDMENT No. 1999

On page 104, line 7, insert "or (C)" after "subparagraph (B)".

On page 104, between lines 15 afd 16, insert the following:

"(C) Any alien held in custody pursuant to an order of deportation on the grounds of exclusion under section 212(a) may obtain judicial review thereof by habeas corpus proceedings.●

AMENDMENT NO. 2000

(Ordered to be printed and to lie on the table.)

Mr. BAKER (for Mr. PRESSLER) submitted the following amendment intended to be proposed by him to the bill (S. 2222) supra.

● Mr. PRESSLER. Mr. President, today I am submitting an amendment to S. 2222, the Immigration Reform and Control Act of 1982. Section 213 of this bill contains a provision which would authorize the implementation of a limited, nonimmigrant visa waiver system. The goal of such a system is to facilitate international travel by waiving the visa requirement for foreign travelers to the United States from "low risk" countries.

However, in my opinion, the visa waiver system currently provided in S. 2222 is much too narrow to accomplish the goal of effectively facilitating foreign travel to the United States. My amendment would broaden the applicability of the visa waiver program so that it would cover most of our traditional political allies, trading partners, and sources of tourism revenue, which amounted to $12 billion in foreign trade receipts in 1881.

Under my amendment, the visa requirement would be waived for those nations having a traditionally low visa application refusal rate—under 2.5 percent annually. In addition, the plan specifies numerous safeguards to insure that there is no increase in the number of undesirable aliens entering the country. The program, designed by the State of Department, is both balanced and workable.

The problem with the plan currently in S. 2222 is that its terms are so restrictive that it wold apply to only approximately half a dozen countries. Under my amendment, approximately 28 nations would be covered, inlcuding many of our major allies and trading partners.

The long-standing need for a visa waiver system has been well-documented. The system is outmoded and its burdensome aspects far outweigh any possible benefits. However, in the last few years the need has become

more pressing due to the sharp increase in foreign visitors coming to the United States. Our embassies, whose staffs are already overtaxed, face increasing backlogs of visa applications and the situation shows no sign of improving any time soon.

The United States is one of the very few nations which still requires foreign travelers to carry a visa in addition to a passport. This means, for instance, that we are forcing British, French, and other Western Euopean travelers to obtain clearance from the American Embassy in their country before they can travel to the United States. The time consuming and cumbersome application process is not only an annoyance, but also discourages travel and therefore reduces our foreign trade income from tourism. For instance, would someone from Western Europe go to the trouble of waiting up to 12 weeks to obtain a visa for discretionary travel to the United States when they could travel virtually anywhere else in the world simply on a valid passport? Commonsense tells us that we are losing thousands of potential visitors every year.

This suspicion was confirmed during hearings I chaired last September on the visa waiver issue. As chairman of the Business, Trade and Tourism Subcommittee, I heard testimony from a variety of administration and industry witnesses. Estimates documented in this testimony indicated that the visa waiver program contained in my amendment would generate several hundred million dollars in additional trade revenue annually. If we can reduce the scope of this obstacle to travel, we will increase travel and tourism-related business, create jobs and increase tax revenues.

Because of the many benefits I have outlined, the visa waiver program contained in my amendment has attracted substantial support througout Government and industry. Some of the groups which have endorsed the plan include: Department of State, Department of Justice, Department of Commerce, Office of Management and Budget, Air Transport Association, Travel Industry Association, American Hotel and Motel Association, American Express, American Society of Travel Agents, National Tour Brokers Association, and National Council of State Travel Directors.

Let me again emphasize the economic importance of this subject as part of a unified congressional effort to improve the U.S. balance of payments. For instance, my home State of South Dakota had nearly 5 million tourists this past year to visit Mount Rushmore, the Black Hills, and other South Dakota communities, and to hunt, fish, and participate in many types of recreational activities. That is eight times the population of our State. Obviously, the economic impact of the travel and tourism industry on a national and international basis is enormous.

Increasingly, foreign tourists are coming to the United States to visit destinations and engage in activities which are uniquely American. This country faces stiff competition for the international tourist dollar. We must compete vigorously if we are going to attract a major share of the international travel market. An important first step in this direction is the elimination of a useless and burdensome requirement imposed on nations which have demonstrated no security threat to the United States.

Tourism is a vitally important part of U.S. trade in international markets. This industry created one-third of all new jobs in 1980. In fact, the tourism industry is now the second largest retail industry in the Nation, having surpassed the automobile industry. This expanding segment of our economy is not asking for a Government handout. It is simply trying to do business in the face of arbitrary and meaningless Government regulations. My amendment would modify one of the more onerous of these obstacles and would encourage the continued growth of a strong component of the U.S. economy.

Mr. President, I encourage my colleagues to support this amendment to S. 2222. I ask unanimous consent that the amendment be printed in the RECORD immediately following my remarks.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

Strike all of section 213 of the committee amendment beginning on page 147, line 21 and ending on page 154, line 14 and substitute the following:

VISA WAIVER FOR CERTAIN VISITORS

SEC. 213. (a) Section 212(d) (8 U.S.C. 1183(d)) is amended by adding at the end thereof the following new paragraph:

"(12)(A) The requirement of paragraph 26(B) of subsection (a) may be waived by the Attorney General and the Secretary of State, acting jointly, in the case of an alien who—

"(i) is applying for admission as a nonimmigrant visitor for business or pleasure for a period not exceeding ninety days:

"(ii) is a national of a country which extends, or is prepared to extend, reciprocal privileges to citizens and nationals of the United States;

"(iii) before such admission completes such immigration forms as the Attorney General shall by regulation prescribe;

"(iv) has a round-trip, nonrefundable, nontransferable, transportation ticket issued by a person who has entered into an agreement with the Attorney General guaranteeing transport of the alien out of the United States at the end of the alien's visit; and

"(v) has been determined not to represent a threat to the welfare, safety, or security of the United States.

"(B)(i) For the period beginning on the effective date of this paragraph and ending on the last day of the first fiscal year which begins after the effective date of this paragraph, a country shall be considered to be within the purview of subparagraph (A)(ii) of this paragraph only if, in the last two full fiscal years preceding the effective date of this paragraph, such country had an average nonimmigrant visa refusal rate, as determined by the Secretary of State, of less than 2 per centum (and no higher than 2.5 per centum in any one of those two years). For the purposes of this subparagraph, the term "average nonimmigrant visa refusal rate" means the number of nonimmigrant visas refused under section 212(a) and 214(b) for applicants of the nationality of such country at consular offices in said country as a percentage of the total number of such visa applications actually filed.

"(ii) For each fiscal year following the period specified in subparagraph (B)(i), a country considered to be within the purview of subparagraph (A)(ii) during such period shall not be considered to remain within the purview of subparagraph (A)(ii) unless, in the two fiscal years immediately preceding such fiscal year, it had either an average rate of exclusion and withdrawal of application for admission or an average rate of violation of nonimmigrant status, as determined in either case by the Attorney General which exceeded 1 per centum of the persons admitted to the United States in waiver of visa cases under this paragraph (or which exceeded 1.5 per centum of such persons in any one of those two years): *Provided*, That in determining the rate of violation of nonimmigrant status the Attorney General shall exclude from consideration those persons who remained for more than ninety days in the United States for reasons beyond their control or for trivial overstays (less than fifteen days), if there was no intention to remain permanently in the United States. Determinations required by this subparagraph shall be made as soon as practicable after the end of each fiscal year.

"(iii) If, at the end of any fiscal year following the period specified in subparagraph (B)(i), a country not previously considered within the purview of subparagraph (A)(ii) shall have a nonimmigrant visa refusal rate, as determined in the manner provided for in subparagraph (B)(i), of less than 2 per centum, such country shall be considered to be within the purview of subparagraph (A)(ii) for the next following fiscal year and shall thereafter be treated in the manner specified in subparagraph (B)(ii).

"(iv) If, at the end of any fiscal year following the period specified in (B)(i), a country previously considered within the purview of subparagraph (A)(ii) but which lost that status under the provisions of subparagraph (B)(ii) but which again shall have nonimmigrant visa refusal rate, as determined in the manner provided for is subparagraph (B)(i), of less than 2 per centum, such country shall be considered to be within the purview of subparagraph (A)(ii) for the next following fiscal year and shall thereafter be treated in the manner specified in subparagraph (B)(ii).

"(C) Notwithstanding the provisions of subparagraphs (A) and (B) of this paragraph, no alien shall be admitted without a visa pursuant to this paragraph if he has previously been so admitted and failed to comply with the conditions of his previous admission.

"(D) Notwithstanding any of the other provisions of this paragraph the Attorney General and the Secretary of State, acting jointly, may, for whatever reason, including

the national security, refrain from waiving the visa requirement in respect of nationals of any country which may qualify therefor under this paragraph or may, at any time, rescind any waiver previously granted under this paragraph.".

(b) Section 214(a) (8 U.S.C. 1184(a)) is amended by changing the period at the end thereof to a colon and by adding thereto the following: *"Provided,* That no alien admitted to the United States without a visa pursuant to section 212(d)(12), shall be authorized to remain in the United States as a nonimmigrant alien for a period exceeding ninety days from the date of this admission.".

(c) Section 245(c) (8 U.S.C. 1255(c)) is amended to read as follows:

"(c) The provisions of this section shall not be applicable to (1) an alien crewman; (2) an alien (other than an immediate relative as defined in section 210(b)) who hereafter continued in or accepts unauthorized employment prior to filing an application for adjustment of status; (3) an alien admitted in transit without visa under section 212(d)(4)(C); or (4) an alien admitted as a temporary visitor for business or pleasure without a visa under section 212(d)(12).".

(d) Section 248 (8 U.S.C. 1258) is amended by inserting after the word "except" the following: "an alien admitted as a temporary visitor for business or pleasure under section 212(d)(12).".

(e) Title II is amended by adding immediately following the heading "CHAPTER 8—GENERAL PENALTY PROVISIONS" a new section above which will be set forth a heading reading: "FAILURE TO COMPLY WITH CONTRACT GUARANTEES", and which shall read as follows:

"SEC. 270. (a) Every person transporting nonimmigrant aliens pursuant to section 212(d)(12) shall enter into a contract with the Attorney General guaranteeing that (1) such person shall issue aliens covered by that section round-trip, nonrefundable, nontransferable, transportation tickets; (2) such person shall not refund the cost of the return part of the ticket; (3) such person shall not cancel the return part of the ticket; and (4) such person shall be responsible for insuring transportation of such alien back to the country to which the return trip ticket was issued.

"(b) If it appears to the satisfaction of the Attorney General that such person has defaulted on any of the guarantees in paragraph (a) such person shall pay to the collector of customs for the customs district in which the port of arrival is located the sum of $1,000 for each and every default.

"(c) As used in this section the term 'person' includes, but is not limited to, the owner, master, agent, commanding officer, charterer, or consignee of any vessel or aircraft.".

(f) The table of contents for chapter 8 of title II is amended by inserting immediately after the chapter heading the following new item: "Sec. 270. Failure to comply with contract guarantees.".

On page 120 of the Committee amendment strike lines 9 through 24.

On page 147 of the Committee amendment strike lines 7 through 14 and 18 through 20.

On page 147, line 15 of the Committee amendment strike "(c)(1)" and substitute "(b)".

On page 153 of the Committee amendment strike all of the matter beginning on line 24 and ending on page 154, line 4.

On page 154, line 5 of the Committee amendment strike "(c)" and substitute "(b)".

On page 154 of the Committee amendment strike lines 8 through 14.

On page 165 of the Committee amendment, strike lines 8 through 22.

On page 165, line 23 of the Committee amendment, strike "(e)" and substitute "(d)".●

NOTICES OF HEARINGS

COMMITTEE ON THE BUDGET

Mr. DOMENICI. Mr. President, the Senate Committee on the Budget will hold hearings next week on the administration's midyear economic review. All hearings will be held in 6202 Dirksen Senate Office Building starting at 9:30 a.m.

The hearings and subjects are as follows:

Tuesday, July 27:

Dr. Alice Rivlin, Director, Congressional Budget Office, on the CBO mid-year report.

Wednesday, July 28:

The Honorable Paul Volcker, Chairman, Board of Governors of the Federal Reserve System on Federal Reserve policy.

Thursday, July 29:

Mr. David Stockman, Director, Office of Management and Budget on the Administration's mid-year Review of the economy.

Tuesday, August 3:

The Honorable Donald Regan, Secretary, Department of the Treasury on the Administration's mid-year Review of the economy.

For further information, contact Nancy Moore of the Budget Committee staff at 224-4129.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE OF COLLECTION AND FOREIGN OPERATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Collection and Foreign Operations, of the Select Committee on Intelligence, be authorized to meet during the session of the Senate on Monday, July 26, at 10 a.m., to hold a closed hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RURAL DEVELOPMENT, OVERSIGHT, AND INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Rural Development, Oversight, and Investigations, of the Agriculture Committee, be authorized to meet during the session of the Senate at 2 p.m. on Tuesday, July 27, to hold a hearing to consider rural development policy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 27, at 11 a.m., to receive a secret briefing from the Honorable John H. Holdridge on U.S. relations with China and Taiwan.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask uaninmous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 27, at 2 p.m., to hold a hearing to consider S. 1853, Radio Broadcasting to Cuba, Incorporated.

The PRESIDING OFFICER. Without objection, it is so ordered.

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Permanent Subcommittee on Investigations, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Tuesday, July 27, at 10 a.m., to hold an oversight hearing on the management of the Department of Energy Research and Development facility.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

THE REGISTRY OF INTERPRETERS FOR THE DEAF

● Mr. WEICKER. Mr. President, the Registry Of Interpreters For The Deaf will be holding its National Convention in the capital of my home State, Hartford, Conn. on July 24. The 5,000 members of this professional association of interpreters for the deaf from across the country deserve not only the recognition and support of the Senate but also Americans for their outstanding efforts in bridging the communication gap between the deaf and hearing worlds. Whether in the school, work place or place of worship, sign language interpreters do an invaluable service for this country and its nearly 14 million hearing impaired citizens. As a direct result of their diligent work in translating the spoken word to sign, in fact, deaf and other hearing impaired Americans have been able to enter the mainstream of our society.

In recognition of their continuing contribution in providing such access to the hearing impaired, my distinguished colleague from my home State of Connecticut, Senator DODD, introduced, Senate Joint Resolution 211 calling on the President to designate July 27, 1982 as "National Recognition Day For The Registry Of Interpreters For The Deaf." As a cosponsor of the resolution, I would like to take this opportunity to urge my colleagues to support this measure. Founded in 1964 to improve the quality of interpretative services to the deaf nationwide, the Registry has a solid and impressive record of service to this particular

special needs community. The agenda for this year's national convention demonstrates well the breadth and depth of this organization's commitment to enabling deaf persons to participate in every facet of American life. Workshops will be held on a wide range of issues and concerns from improving interpreting services in the public schools to the ethical dimensions of interpreting in mental health settings.

It is particularly fitting that this year's convention of the Registry should be held in Connecticut. The American School For The Deaf, the first institution of its kind to be established in the Nation, was founded in Hartford, Conn. in the early 19th century and remains a vital part of the community to this day. The Connecticut State Commission On The Deaf And Hearing Impaired, one of a number of State agencies serving the special needs of Connecticut's disabled citizens, also has been in the forefront in expanding advocacy and interpreting services in response to several State legislative initiatives.

Mr. President, The Registry Of Interpreters For The Deaf have contributed significantly to Connecticut's achievements on behalf of its hearing disabled citizens. These Connecticut activities add luster to this organization's distinguished 18-year record of assuring the highest standards for interpreters who make accurate communication possible between deaf persons and hearing persons. I congratulate The Registry Of Interpreters For The Deaf on their fine achievements as advocates for the disabled and wish them a pleasant and productive convention.●

IMMIGRANTS AND REFUGEES

● Mr. KENNEDY. Mr. President, the Senate may soon be considering S. 2222, the Immigration Reform and Control Act—legislation that will have a major impact upon our country's treatment and admission of immigrants and refugees.

Following the recommendation of the Select Commission on Immigration and Refugee Policy—and reflecting the findings of every administration's task force on immigration policies, including President Ford's, President Carter's, and President Reagan—the bill sponsored by our distinguished colleague from Wyoming (Mr. SIMPSON), treats the admission of immigrants and refugees separately.

This is a wise public policy and I strongly endorse this approach toward setting immigration limits. We should treat immigrants and refugees differently, because they are different—for a variety of important reasons.

This important point, Mr. President, has been forcefully made in a recent letter I have received from Roger Winter, Director of the United States Committee for Refugees. He thoughtfully reviews the reasons why we have historically treated refugees and immigrants differently, and why we should continue to do so.

I would like to share the complete text of his letter with my colleagues, and I ask that it be printed at this point in the RECORD.

The letter follows:

UNITED STATES COMMITTEE
FOR REFUGEES,
New York, N.Y. July 20, 1982.

DEAR SENATOR KENNEDY: When the Simpson/Mazzoli bill (S. 2222) to reform U.S. immigration policy reaches the floor of the Senate this month, it is expected that an amendment with major negative implications for international refugee protection will be offered by Senator Walter D. Huddleston of Kentucky. The anticipated amendment would include refugees who may be resettled in the U.S. along with all other immigrants to the U.S. under a single numerical limitation.

Traditionally immigrant and refugee admissions procedures have been separated because their underlying bases have been recognized as distinct. The concept of a single ceiling is seductively simple, but its implications hold serious threats. The combined approach to admissions has been considered and rejected by the Select Commission on Immigration and Refugee Policy and all other responsible authorities who have studied the matter in recent years.

This letter does not concern any particular level of refugee admissions, but rather the way the U.S. makes its decisions regarding admissions. The U.S Committee for Refugees, with its programs historically focused on international refugee concerns, feels that the impact of the Huddleston amendment will so affect U.S. refugee resettlement policy that the protection of refugees overseas is threatened.

Of course, resettlement has clear immigration impact which must be acknowledged directly and dealt with constructively. But the purposes, implications, and international outcomes of the two admissions processes are completely distinct. Whereas general immigration largely relates to family reunion, the rescue and resettlement of refugees is a human rights effort. Its base is ideological, seeking to uphold certain humanitarian principles and valuing the right of individuals to be free from persecution based on particular inherited or chosen distinctions.

Refugee resettlement has been kept separate from other immigration processes because of this intimate relationship with foreign policy and humanitarian concerns.

When the Refugee Act of 1980 was enacted, Congress chose to include what USCR believes is a sound procedure for determining the number of refugees to be admitted to the U.S. each year. To the extent there have been problems regarding refugee admissions in the 27 months since the "consultation" procedure was enacted, they are not attributable to the letter or intent of the law.

Senator Huddleston seeks to change the existing refugee admissions notwithstanding the fact that refugee admissions ceilings and actual admissions themselves have declined steadily since 1980. We believe his interest is to limit total admissions. There are serious questions about this objective; but even if the end were justified, the proposed approach is not. If a single numerical ceiling for immigrant and refugee admissions becomes law, USCR feels there would be four major unacceptable results:

1. Enactment would significantly limit the flexibility needed by the President to respond promptly to foreign policy matters in which refugees are a factor.

2. This restricted ability ceiling would be devisive domestically. Limited and undifferentiated numbers would pit those seeking to respond to refugee needs against nationality groups and those seeking to reunify families. Congress must be responsive to both groups, but through separate processes.

4. USCR believes enactment of a single numerical ceiling would send a chilling message to the world. The important principles of refugee protection are under assault in many areas. In some cases the actions and inaction of our government have directly contributed to this troubling phenomenon. Enactment now of such a restrictive amendment would further compromise the remaining moral leverage the U.S. has with the rest of the world in matters of refugee protection. In specific situations, such as that of Cambodians in Thailand, first asylum is so fragile that this enactment could cause the provision of haven there to be lost.

As citizens we all daily face the task of responding to many issues. So, of course, do members of Congress. With respect to the particular issue of a single numerical limitation on refugee and immigrant admissions, we believe many members of the Senate do not have a clear understanding of the potential results as set forth in this letter. You may wish to consider contacting them promptly to share your own thoughts.

Sincerely,

ROGER P. WINTER,
Director.●

S. 881—SMALL BUSINESS INNOVATION RESEARCH

● Mr. SCHMITT. Mr. President, I would like to congratulate my colleagues, Senators RUDMAN and WEICKER, for the outstanding leadership which they have shown in securing passage of S. 881, the small business innovation research bill. As the original cosponsors of this legislation, these Senators correctly recognized the exceptional contributions which small businesses make to innovation and productivity and crafted a bill to more fully capitalize on these contributions. The overwhelming support which this legislation drew in the Congress and from the administration is testimony to their insight and leadership.

During the Senate debate on S. 881 last December, I expressed two reservations about the legislation as it was presented to the Senate. First, I was concerned that funds to establish the small business innovation research (SBIR) programs not be taken disproportionately from federally supported basic research. Budgets for basic research, while comparatively small, are the critical sources of fundamental discoveries about ourselves and the world around us from which later

ideas for invention spring. Second, I was concerned that the research and development programs of our Government-owned, contractor-operated (GOCO) laboratories, like the Los Alamos National Laboratory and the Sandia National Laboratory, not be adversely compromised in the process of establishing SBIR programs.

For these reasons, I offered an amendment to S. 881 which limited the amount of funds which could be taken from Federal budgets for basic research and for research and development in GOCO laboratories. The Senate accepted both of these provisions. As Senator RUDMAN graciously noted at the time:

I believe it (the amendment) strengthens the bill, and I am very thankful that his (Senator Schmitt's) help has been forthcoming to make this bill even stronger than it was.

I was pleased to note that the legislation as passed by the Senate on June 29 retains intact my provision regarding basic research. Also, atomic energy defense research and development are exempted from the requirements for SBIR programs, thus accomplishing much of my original provision for GOCO laboratories.

Mr. President, this legislation will be important to the entire Nation and nowhere more so than in my State of New Mexico. Our exceptional concentration of high technology industries, both large and small, as well as universities and Government laboratories, provides the type of environment in which will thrive the innovation and productivity which S. 881 seeks to foster.●

SPEECH BY SECRETARY OF NAVY JOHN LEHMAN

● Mr. STENNIS. Mr. President, I have the pleasure of sharing with the Senate a very timely speech by the Secretary of the Navy, the Honorable John Lehman.

I am pleased to find that the Secretary gives proper recognition to the importance of the role of the naval oceanography program in supporting naval operations. I am confident that you share my sense of urgency for having a Navy that is capable of responding to threat in any form—at all times.

Our modern Navy employs weapons systems which are highly sensitive to the ocean environment in which they operate and the Navy oceanography program provides our fleet commanders with precise information they need, to use the environment to advantage—or to overcome its negative influences on modern weapons.

The Secretary also demonstrates how the national oceanography effort is closely linked to Navy programs and points out our need to give serious thought to moving forward with gaining greater rewards from the oceans to augment our dwindling land-based resources—living and nonliving.

Mr. President, I submit this speech for the RECORD.

The speech follows:

REMARKS BY HON. JOHN LEHMAN

GOING FOR THE HIGH GROUND IF THE DEEP SEAS

Much has been written since November of 1980 to interpret the "mandate" of the electorate. One interpretation that appeals to me is that, among many other things, that mandate embodied a firm bipartisan with to reject the pessimistic and Spenglerian vision of a declining American future. The trendy view of the post-Vietnam period that American power had peaked, that the American economy and standards of living would inevitably decline, and that Americans must readjust their sights and goals downward, was never accepted by the majority of Americans. World events that followed Watergate and the fall of Saigon—runaway inflation, the decline of the dollar abroad, the fall of the Shah and the failed rescue mission, all were interpreted by the reigning elites reduced expectations. Our President during those years lectured Americans that they, the American people, were the problem. They did not believe him. His advisors warned, and I quote, "Even if the U.S. could attain strategic superiority, it would not be desirable because I suspect we would occasionally use it as a way of throwing our weight around in some very risky ways . . . It is in the U.S. interest to allow the few remaining areas of strategic advantage to fade away."These were jarring words to Americans.

"The shining city on the hill" which President Reagan compaigned to achieve symbolized a deep and uniquely American optimism that has now been returned to American politics—an optimism genuinely bipartisan in nature.

Optimism is indeed a necessary precondition for us to undertake the two major national tasks before us. First, to reconstruct a national security equilibrium in which free institutions can flourish in the world and the enemies of freedom be deterred; and second, to reestablish the vitality and productivity of our economy.

To pursue simultaneously these two enormous national undertakings will tax the optimism of even the most uplifted spirits. It will require sustained and unswerving national leadership—private and public—and it will require much hard work and honest sacrifice. I believe, however, that it will be done. I believe deeply that the grand economic and security accomplishments of America over the last 200 years can truly be a mere prelude to the accomplishments of the future.

Today, in a most unique way, the defense and economic challenges of the future are at once combined and tested by man's last and greatest frontiers—the vast reaches of outer space, and the deep ocean areas of "inner space." Each represents staggering—and quite limitless—potential for providing solutions to our current security and economic difficulties. Each, after centuries of thought and inquiry—and decades of effort—has hardly been touched. It is said that more has been learned of both frontiers in the last 20 years than in the entire recorded history of man before that time. But much more is unknown than is known. 2,000 years ago, Seneca said, "The time will come when diligent research . . . will bring to life things which now lie hidden. Nature does not reveal her mysteries once and for all."

"Do you know the ordinances of the heavens?" asks the Book of Job. "Can you establish their rule on earth?"

To a considerable degree, the sureness and confidence with which our nation responds to that question—and seizes the opportunities in these two vitally important vastnesses—will provide the answer to the future of our economy, the quality of life of our people, their security, and indeed their very survival. Of the two we may well learn that—in our time at least—the deep ocean frontier is both the more challenging, and the more promising to us.

As Secretary of the Navy you will, I trust, indulge me in this parochialism and allow me to dwell upon some specific concerns. Today the value of the oceans to America stands out as one of our most important, ill-attended, and least-known priorities.

By now many of you may have heard a version of the litany to which I normally address myself in public remarks—the nature of our nation's long maritime heritage—our increasing dependency upon the seas for our allies, our energy, our resources and our trade—our treaty-bound national commitments to some forty nations across those seas—and, of course, the major and ambitious naval recovery program upon which we are now embarked to achieve a 600-ship Navy and clear maritime superiority within the decade.

The focus in a discussion of the purely military dimensions of our oceans is necessarily constrained to that two-dimensional interface between air and water—the surface of the seas—the air above the sea in which our tactical aircraft operate—and the relatively shallow depth wherein our submarines now deploy beneath the seas. This military focus, therefore, tends to distract us and draw our attention away from the true dimensions of the ocean's promise. For these dimensions extend from far beneath and deep ocean floor, where man's future hopes for energy and mineral resources may ultimately lie—to the complete ocean volumes which may one day feed an ever-hungrier world—through the ocean surface, where navies will become ever more prominent as instruments of national power and physical symbols of sovereignty—and beyond, into the vast regions of outer space above the seas.

As on any frontier, there is little separation between that which is militarily useful and that which serves fundamental human enterprise. Mapping, charting, deep ocean and coastal surveys, hydrographic analyses, study and forecasting of weather and acoustic conditions throughout ocean areas, and systems to monitor the characteristics and quality of the ocean ecosystem all benefit everyone—the military planner, the transoceanic supertanker, the deep ocean fishermen, and the weekend boater.

Oceanography is the key to the discovery of all that the seas now have hidden. Future success in, on, and above the oceans will be closely tied to our successes in oceanography. But militarily, we are becoming more aware that a favorable outcome in future conflicts grows daily more dependent on new knowledge from the seas. Today's naval weapons must perform at greater speeds and over greater distances than ever before. As we are being daily reminded in the exchanges in the Falkland Islands, war at sea is utterly unforgiving of any negligence, incapacity, or neglect. The difference between a ship being on the surface of the ocean—or

on the bottom—can often lie in very narrow margins of performance sensitivity to environmental factors. Weapons designers must know intimately and design carefully for the environmental conditions in which a weapon may be used. And the naval commander at sea must know how to use environmental conditions to best advantage to obtain a winning edge. Development of this knowledge is the principal focus of the United States Navy's oceanography program. In a military balance where the navy of our principal adversary is superior in numbers and near in comparable technology, it is likely that the navy with the better knowledge of the environment will have the war end on his terms.

Not long ago, the United States Navy held a virtual monopoly on the development of knowledge and experience in the deep ocean. Naval operations in World War II, and thereafter, had established the awareness in the Navy that oceanography was of the utmost importance. Today, while Navy programs and institutions dedicated to expansion of our ocean knowledge continue to flourish, our monopoly on advancement of knowledge does not. Private industry, marine oil exploration and ocean mining firms, and scientific societies, have eclipsed the Navy in many areas. Far more disturbing, other nations—including those not inclined to share information—have developed considerable knowledge and expertise in the deep ocean. The Soviet Union has undertaken an enormous effort in deep ocean exploration, yet little knowledge from their efforts has found its way into the scientific community.

While Soviet efforts provide virtually nothing to the growth of world knowledge and technology, the opposite is anything but true. Free world research and technology in the oceans has been consistently and ominously exploited by the Soviet Union. This is but one aspect of a much wider problem—the considerable hemorrhage of Western technology to the East—much of it military, and most of it willingly sold by Western companies. A current example of this is the new advanced technology sonar system being manufactured by the General Instrument Corporation in Massachusetts. Called SEABEAM, it is a civilian replica of the Navy's version and most capable. The Soviets want very much to obtain this sonar technology, and are endeavoring to purchase it directly or through intermediaries.

As we have recently seen in exhaustive testimony before Congress, the inability of the West to stem the niagara of technology to the East has given the Soviet Union an enormous leverage in their military buildup. We have saved them literally hundreds of billions of dollars in development costs in computers, microelectronics deep submersible technology, and—unfortunately—much more. The Reagan Administration has undertaken major initiatives to stem this flow and I believe they will be successful. In direct contradiction of the universality of knowledge and enlightenment, I am indeed advocating that—particularly on the frontiers of knowledge, in the deep oceans and outer space—we must not share militarily-applicable technologies with the East, and we must make tough efforts—not lip service—to keep a close hold on every advantage we develop.

Another of the several litanies that I generally give before public audiences is a catalogue of the many dramatic shortages that we have developed in our Navy over the last 20 years of steady budget cuts—a Navy half the size of the thousand ships we had then, with half the number of aircraft, and alarming shortages in missiles, ammunition, spare parts and equipment. These are the more visible manifestations of military weakness that President Reagan addressed in his campaign. But what should be much more alarming to thoughtful men is the equally drastic decline in basic research funding over those years. In the Navy, oceanography has been a direct casualty of that decline in funding. Twenty years ago, in the Kennedy Administration, we were devoting nearly 9% of our GNP to defense, and the Navy was devoting .76% of its budget to basic research including oceanography. Today, those percentages have declined from 9% of the GNP to 6%, and basic research from .76% of the Navy's budget to .4%—or about half. As a result, our Navy has—to a great extent—lost the basic pioneering leadership in the inquiry into ocean sciences that it has historically provided our nation. While there are some who would applaud this demilitarization of research, they would be shortsighted indeed to do so. Just as the pioneering leadership of our government space program has provided enormous spinoffs of technology to industry—and to the consumer—so too has naval oceanographic research been an engine of development and productivity for the oceans industry and for consumers everywhere in the world.

An example of what I mean was demonstrated recently off Southern California by scientists from Scripps, MIT, and Woods Hole. Termed acoustic tomography, this technique is patterned after the medical CATSCAN technique. A matrix of sound generating devices and acoustic receivers is emplanted over a large ocean area. Through complex mathematical inversion techniques, variations in acoustic travel times are translated into a "picture" of ocean structure. Here is a technique that holds great promise for synoptic mapping of ocean structure over large areas—a direct result of the combination of existing technology and innovative thinking.

Without question, the oceans will be the source for meeting many of mankind's future needs. While we may take some amusement from efforts by the American fishing industry to rename and hence to rehabilitate such tasty but unappealingly-named fish as the mudsucker, the ratfish, the tilefish, and the toadfish, that very effort points to the enormous, untapped food resources of the seas which lie fallow—while seven tenths of the world's people go to bed hungry.

As nation-states in the world declare and prepare their readiness for war over the sources of scarce energy and mineral supplies, we must take far more seriously the potential resource treasure in the deep seabed. While much of the debate has focused on the manganese and cobalt now readily available, we must realize that of the nearly two dozen strategic minerals on which America is now virtually wholly dependent on overseas sources, the existing evidence leads us to conclude that nearly all of these needs could be provided from the seabottom, and that sufficient quantities are available to meet the needs of not only America—but the rest of the world as well. The discovery of polymetallic sulphides escaping directly through fissures in the earth's crust on the ocean floor suggests mining prospects vastly more exciting than anything dreamed of just a few short years ago. And still we have not even scratched the surface of the bottom of the seas. As Seneca said, "Many discoveries are reserved for ages still to come, when memory of us will have been effaced." But we do have an obligation—to ourselves and mankind—to get on with those discoveries that lie within our reach today.

Because of this enlightened and visionary awareness of the promise within the deep oceans, the United States earlier this month had the courage and wisdom to vote against the acceptance of the current draft of the Law of the Sea Treaty. I have addressed the shortcomings of this deeply-flawed treaty before other audiences, and I shall not dwell upon them here. The effort that this Treaty Draft embodies was, I believe, ill-fated from the start. It was based on a fundamentally false ideological premise that the seas are somehow owned by all mankind, and that therefore a creation of the United Nations should assume the property rights and administer them. This is a clear example of how the abstract ideology of "mankind" so prevalent in recent years—and so dangerously incorrect—would operate to prevent all mankind from benefiting from the world's resources.

Instead of this flawed approach towards establishing a productive ocean's regime, I see instead a continued development of a pragmatic "common law" of the seas. Based upon the long-established principles of customary international law, I see the development of a web of bilateral and multilateral agreements based on national interests that will bring forth the benefits of the deep oceans to the world economy. The United States should—and I believe will—be the world leader in this vital development effort.

Happily for us there is a new vigor in the field of oceanography. Some of the best minds in the country have become involved—men of vision. One of these—not surprisingly a former naval person—Dr. Robert Ballard of the Oceanographic Institute at Woods Hole, has, I believe, provided us with the theme for the next decade and beyond. The United States undersea efforts should go for the "high ground" of the deep oceans. In the unfamiliar terrain of mountains, ridges, and seamounts, Dr. Ballard has already made sufficient discoveries to convince us that we are on the verge of an entirely new era of mountain exploration deep in the seas. With his pioneering exploration and research along the Atlantic Ridge—which splits the Atlantic basin north to south—he has begun to explore what we may come eventually to term "new continents." He has provided us sufficient evidence to know that here we must begin.

He reminds us that the average depth of the ocean is less than the distance from the Pentagon to the Oval Office. Yet, to date, our Navy has all but ignored these volumes of opportunity. *No longer.* The technology is now in hand to operate regularly to these depths, to master them, and to use them to enhance our national security—even as we open new worlds of mineral development.

Quite literally, it is indeed time for our nation to go for the high ground in the deep seas. As T. H. Huxley once said, "The known is finite, the unknown infinite; intellectually we stand on an islet in the midst of an illimitable ocean of inexplicability. Our business in every generation is to reclaim a little more land."

And so, I believe, we stand.●

VISTA SHOULD NOT BE ELIMINATED

● Mr. KENNEDY. Mr. President, since it took office, the Reagan administration has been attempting to eliminate VISTA programs. I have never understood the administration's opposition to a program that engenders self-sufficiency among the poor and disadvantaged in our country. I am proud to say that I have fought those attempts. And I am pleased that enough Senators and Congressmen have agreed with me to keep VISTA alive.

Nevertheless VISTA suffered deep funding cuts in the last 2 years. As a result, the number of volunteers available has been drastically reduced. This program can simphy not survive further cuts.

As we near the time when the administration asks us to eliminate VISTA through the appropriation process, I would like to remind the Senate of some of the important jobs performed by VISTA volunteers. I submit a letter I received recently from a sponsor of a VISTA volunteer, the Mental Health Association of Boise, Idaho, and ask it be in printed the RECORD. I urge my colleagues to study this eloquent testimony to the value of this important program.

The letter follows:

MENTAL HEALTH ASSOCIATION,
Boise, Idaho, July 8, 1982.

Senator EDWARD KENNEDY,
U.S. Senate,
Washington, D.C.

DEAR SENATOR KENNEDY: In April of 1982 the Mental Health Association in Idaho received a grant from the VISTA program to fund a full-time VISTA volunteer for one year. The volunteer is funded to coordinate a Mental Health Association-sponsored project for emotionally disturbed children. The objectives of the project are three-fold: (1) to develop and conduct a public awareness/education campaign regarding the needs of and services to Idaho's emotionally disturbed youth; (2) to institutionalize the effort by developing a volunteer organization of parents, teachers, legislators, mental health professionals and others which will, in turn, address long term goals; (3) and to establish a "Sponsor An Idaho Child" fund/program that would provide a non-profit mechanism for soliciting contributions from the private sector specifically for the care and treatment of Idaho's disturbed children. This fund would be created for those children and families that require financial assistance for their care, thus shifting some financial burden from the public system.

The Mental Health Association in Idaho has only two paid staff: the Executive Director and a part-time Administrative Assistant. The Director's role is purely administrative, dealing primarily with community relations and fund-raising. The Association relies heavily on volunteers to implement and carry through its programs. Because of the focus and scope of this particular project, normal volunteer participation simply would not be adequate. For this reason, a VISTA volunteer was requested. The volunteer has worked on the project since April 19, enlisting the aid of many local mental health professionals in volunteer capacities. The Association has contributed office space, resources, and supplies, as well as the time and energy of the Executive Director, who has lent much of her expertise to the publicizing of the program.

The Association project, now in its third month, has accomplished its first aim of assessing the needs of emotionally disturbed children and has begun to fucus on a specific program of public education. The Assocation, in conjunction with private and public mental health agencies, other agencies involved with children, (i.e. Department of Child Protection, Department of Youth Rehabilitation) the school system, parents and foster parents, has decided to concentrate on early identification of children at risk of becoming seriously emotionally disturbed, and on providing referrals to available treatment resources. The short term goals include the distribution of a brochure entitled: "Stress—It's Not Just For Grown-Ups" which lists observable behaviors by children that may indicate emotional disturbance and also gives alternatives for seeking possible treatment. In addition, a television spot is planned using a similar format. The long term goals include the sponsorship of educational work-shops on topics related to the mental health of children. The Association's State Annual Meeting in October will revolve around this issue; funding is being sought to allow day care providers and teachers to attend the conference free of charge.

The VISTA project is incredibly cost effective, if allowed to run its full year. According to our estimates, for the cost of the funding ($5,256 for one year), approximately 400 families will be directly impacted. These families are the ones who we expect will actually seek treatment from mental health professionals. Another several hundred will be effected through their participation in work-shops, support groups, and by seeking help through alternatives other than mental health professionals, such as their minister or pediatrician. By distributing brochures to day care providers and offering free or low-cost workshops for them on identification of disturbed young children and communication with the families, we expect to impact a sizable portion of that population.

However, the three months of funding that already has been provided will amount to wasted money if the VISTA program is ended in September. We understand that there is an attempt being made to limit VISTA's fiscal year 1983 budget to only $230,000. If this occurs, VISTA will be forced to close as of September 30. Over 2000 new VISTA volunteers, placed at projects from March 1 through April 15, 1982, will have to leave their projects. Since VISTA volunteers typically work in agencies similar to the Mental Health Association, which have no extra man-power, the projects will be left unfinished.

The results of closing VISTA ahead of schedule will be counter-productive in other ways as well. The impact on the VISTA volunteers, the sponsoring agencies, and the people served by VISTA will be enormous. As an example, the MHAI has been able to clearly identify a need for early identification of emotionally disturbance in young children. But, except for our proposed program, no other agency is making a concerted effort to reach parents and day care providers.

In a time when volunteerism and self-help is being promoted by the administration, the closing of VISTA, an agency devoted to both, can only be negative.

A minimum of $12 million is needed for VISTA in fiscal year 1983. This represents a budget reduction of well over 65 percent from last year. With a $12 million budget, VISTA can be kept alive and volunteers at projects until April of 1983.

This letter is being sent to you as a representative who can really make a difference. VISTA needs your support to continue and the Mental Health Association in Idaho needs VISTA's support to complete our goals. We would be pleased to share more details of our project if you are interested. We feel it is a worth while, low cost, highly efficient use of federal money and one that will better the quality of life for many families.

Sincerely,

BETSY GABEL,
Executive Director.●

STATEMENT OF PAUL OLIVER, PRESIDENT OF ELECTRONIC DATA SYSTEMS WORLD CORP., S. 708, BUSINESS ACCOUNTING AND FOREIGN TRADE SIMPLIFICATION ACT

● Mr. CHAFEE. Mr. President, the most compelling evidence of the need to eliminate the ambiguities in the Foreign Corrupt Practices Act comes from the U.S. companies who are involved in legitimate overseas business transactions. One of those companies, Electronic Data Systems World Corp., which does business in Europe, Latin America, the Middle East, and the Far East, submitted a statement to the Senate Banking Committee on June 1, 1981, listing the kinds of problems that it had encountered as a result of the lack of clarity in the Foreign Corrupt Practices Act. Mr. President, I ask that the statement of Mr. Paul Oliver, president of EDS World Corp., be printed in the RECORD.

The statement follows:

STATEMENT OF PAUL OLIVER

The Foreign Corrupt Practices Act of 1977, as written, constitutes a formidable disincentive to U.S. companies wishing to export products and services abroad. This position has been stated widely; among its most recent advocates are U.S. Trade Representative Bill Brock and Commerce Secretary Malcolm Baldridge, both of whom have commented as such since taking office in the Reagan Administration.

Statements in this vein are not difficult to substantiate. In a General Accounting Office survey of 250 of the 1,000 largest international U.S. corporations, 60 percent of the companies replied they could not compete successfully against foreign companies that reportedly are bribing foreign officials, according to a March 4, 1981 GAO report to Congress. The report elaborated on the findings, stating that, due to the sensitive nature of the overseas bribery issue, U.S. sales losses cannot be quantified easily.

A government interagency task force on export disincentives, established by the Carter Administration, estimated that the FCPA is responsible for a minimum loss of $1 billion in U.S. export income.

Other sources provide similar disturbing statistics. According to Engineering News-

Record (December 19, 1979), the total value of U.S. foreign contracts declined from $21.3 billion in 1975 (two years before passage of the FCPA) to $18.3 billion in 1978. In 1957, the United States boasted 21 percent of the world's export market; by 1979, the U.S. share was a mere 12 percent (Arab News, June 18, 1980). One year before the FCPA became law, the United States ranked first in the overseas construction market; a year following the passage of the act, the U.S. occupied fifth place in market share, behind Japan, Korea, West Germany, and Italy (Wall Street Journal, August 3, 1979). Of this phenomenon, a West Coast construction executive commented, "A good part of the reason for this is the 1977 law. The commissions we used to pay are still a social or business custom in some countries, but now they're crimes as far as we're concerned."

The Saudi Arabian construction market provides a closer analysis of the commercial decline of the United States abroad. As the largest current market for construction and other contracted services, it is probably also the world's most competitive market for these labor-intensive services. According to Saudi Report (November 12, 1979), U.S. contractors won 9 percent of all Saudi Arabian construction projects in 1975; the U.S. market share had fallen to 6 percent by 1978, and by 1979 was only 3 percent. More disastrous than these figures is the decline in the U.S. share of Saudi Arabian civil and military construction projects awarded by the U.S. Army Corps of Engineers. In 1975, 35 percent of the contracts were assigned to U.S. companies; this percentage dropped alarmingly to 5 percent in 1978. By 1979, U.S. contractors were winning barely 2 percent of these construction projects.

Consensus with the opinions of Brock and Baldridge was nearly unanimous in an "informed poll of more than a dozen British and European trade officials." The overall feeling of those questioned was that the United States indeed had lost overseas business as a result of FCPA restrictions (Wall Street Journal, August 3, 1979).

In addition to losses in overseas sales revenues, increased accounting costs instigated by FCPA accountability clauses have been of economic concern to U.S. companies. According to the March 4 GAO report, 72 percent of the survey's participants estimated an increase in corporate accounting costs of at least 11 percent as a result of perceived FCPA requirements. Some 22 percent of the responding companies said their accounting costs had risen more than 35 percent. In response to the GAO report, the Commerce Department noted that accounting cost increases would be much greater proportionately for small and medium-sized companies than for the large multinationals.

Staff increases created by corporate attempts to comply with FCPA standards comprise a large portion of the additional accounting expenses. According to Time magazine (March 16, 1981), one Wall Street entrepreneur dubbed the FCPA the "Accountants' Full Employment Act of 1977," noting that the law not only has forced companies "to beef up their internal audit staff," but to "double-check the propriety of even the most inconsequential payments." As an example, the article cites Xerox staff members in Cairo, Egypt having to obtain executive-level clearance to pay telex and telephone repairmen monthly tips totaling $8.00.

At a spring 1981 conference of the Institute of Internal Auditors (IIA) and the National Association of Corporate Directors (NACD), some attendees challenged the Federal Government to "put its own house in order" in light of the push toward increased corporate accountability brought on by the FCPA.

Speaking at the conference, former U.S. Treasurer Francine Neff received an ovation for her suggestion that "the public sector be no less accountable than the private sector." Following her speech, she commented to the press, "I just loved hearing Senator Metzenbaum talk about corporate governance, and then when I asked him if the Senate did not feel it had oversight responsibility regarding the accounting of government, he told me it would be too expensive." ("Accountable For What? Executives Push Changes in Corrupt Practices Act," Shirley Hobbs Scheibla).

An officer of EDS World Corporation, the international subsidiary of Electronic Data Systems Corporation (EDS), stated that accounting costs have increased as a result of complying with FCPA accounting standards. Although the total increase in costs has never been computed, he cited additional personnel requirements in the company's internal audit staff, added responsibilities for branch office accountants, and FCPA educational seminars for branch office general and financial managers as some of measures taken in response to the enactment of the Foreign Corrupt Practices Act.

The 1977 act was created in partial response to the public revulsion brought on by the events of Watergate. In a statement of policy issued August 28, 1980, the Securities and Exchange Commission acknowledged that the Senate committee studying the FCPA had recommended that the act be passed in order "to bring these corrupt practices to a halt and restore public confidence in the integrity of the American business system." EDS agrees with this line of reasoning, and with the following comments made by the House and the Senate during hearings on the FCPA, citing the adverse effects of bribery on both domestic and foreign policy:

"[Revelations of corporate bribery] shook the Government of Japan to its political foundations and gave opponents of close ties between the United States and Japan an effective weapon with which to drive a wedge between the two nations. In another instance, Prince Bernhardt of the Netherlands was forced to resign from his official position. . . . In Italy, alleged payments to officials of the Italian Government eroded public support for that Government and jeopardized U.S. foreign policy, not only with respect to Italy and the Mediterranean area, but with respect to the entire NATO alliance as well." (H-R Rep. 95-640, supra note 3, at 4-5).

And from the Senate:

"Corporate bribery of foreign officials. . . . affects the very stability of overseas business. . . . [and] is fundamentally destructive." (S. Rep. 95-114, supra note 3, at 4).

As represented by his bill S. 708 presently before the Senate, Mr. Chafee also is in agreement with the necessity of condemning the unethical and corrupt practices prohibited by the FCPA.

It is the way in which the Foreign Corrupt Practices Act was written, however, that has caused problems for U.S. companies operating overseas: both the antibribery and the accounting provisions are riddled with ambiguities that make any interpretation of the act uncertain at best, and the lack of a materiality standard in the accounting provisions prevents any corporate assurance that a particular set of internal controls is adequate. Moreover, U.S. companies are competing with foreign companies, not bound by U.S. law, for international business; under these circumstances, an international business; under these circumstances, an international approach to the control of corrupt payments is more logical. Mr. Chafee's bill presents some workable amendments to provisions included in the Foreign Corrupt Practices Act of 1977.

The March 4 GAP report points out that the ambiguities present in the FCPA antibribery statutes have made U.S. companies hesitant to pursue international contracts—a position that creates the likelihood of the loss of legitimate business. Among the ambiguities cited by the GAO survey participants are the infamous "reason to know" clause, intended to qualify the responsibility a company must take for actions performed by its foreign agents; the fine distinction between a bribe and a facilitating payment; and a form of "double jeapardy", a result of dual enforcement opportunities by the Department of Justice and the SEC.

Since passage of the FCPA, the public and private sector have debated the proper interpretation of the reason to know clause. Even the SEC hierarchy conflicts over this point. At the recent IIA-NACD conference, SEC Commissioner Philip A. Loomis, Jr. observed that on the question of corporate liability for a FCPA violation, there exists "a considerable difference of opinion in the Commission" in a case where the U.S. firm does not have controlling interest and does not involve itself in the daily management activities of its foreign corporation. In discussing an SEC statement of policy, outgoing SEC Chairman Harold M. Williams stated that the SEC uses percentage of ownership guidelines in enforcing the FCPA. However, the GAO survey report points out that policy statements, on which the SEC bases many of its arguments defending the present form of the Foreign Corrupt Practices Act, are always subject to change. Not bound by law, these statements offer little comfort to U.S. companies risking hefty fines or criminal prosecution.

In some countries, operating through local agents is essential for expatrite firms that wish to do business, required either by law or custom. Several U.S. companies hit hard by the FCPA agree that "it is impossible even to get on the bidding lists without paying what amounts to an 'entry fee' to a local agent who has good connections with the government in power." (Wall Street Journal, August 3, 1979).

In the same article, an executive of an engineering consulting firm headquartered in Beaver, Pennsylvania discusses the problems with dealing through a commission agent. "It is difficult to determine whether their services are legitimate and yet we're criminally liable if it turns out their services aren't legitimate," he observes, adding that his company has withdrawn from the pursuit of Middle East business since enactment of the FCPA.

According to a Time magazine article, "Big Profits in Big Bribery" (March 16, 1981), in order to operate in Saudi Arabia, a U.S. or other foreign firm must "be connected, via an agent or middleman, to a member of the royal family;" in other words, every expatriate company must have its own Saudi prince.

While EDS' personal experience has not found the princely requirement as vital as the Time article represents, an EDS World

manager says that, under Saudi Arabian law, any foreign company doing business with the Saudi Arabian Government must operate through a local agent. A company also may be restricted legally from accessing their agent's books, making it virtually impossible to know how the agent utilizes a commission once it is in his hands. According to the EDS World manager, EDS requires its Saudi Arabian agents to sign a statement certifying that any commission paid to them by the company will not be used for corrupt purposes. The EDS World representative went on to say that "agents are paid a commission on actual revenue we receive from customers. Presently, we pay their commissions as we receive monthly client payments," meaning that the agent does not receive a questionably large lumpsum payment, and he is responsible for seeing that EDS is paid by the customer before he can expect to collect his commission. However, the EDS World manager continues, saying that some foreign agents are pushing hard for a "large commission paid up front since our contracts usually involve a large down payment for start-up costs." While EDS has been successful to date in deterring such requests, the representative notes that other companies have agreed to agents' terms, and "it is becoming increasingly difficult not to meet their demands."

An EDS World manager who has worked extensively in the Far East agrees that EDS cannot examine the books of the Company's foreign partners or agents. "Our partner in Malaysia, however, has such an impeccable reputation, that I am confident all his dealings are above-board." Bribery is verboten in Singapore, which is rife with anti-corruption forces.

Mr. Chafee has recommended that payments made by foreign subsidiaries or agents be excluded from prosecution under FCPA unless the payment was authorized or directed by a U.S. representative of the company. Previous examples have shown the difficulty in "knowing" under the reason to know clause. The substitution of the clause with Mr. Chafee's amendment would constitute an invaluable step toward eliminating the act's ambiguity.

The Foreign Corrupt Practices Act defines a corrupt payment as any payment or gift made or promised "for the purpose of influencing any act, decision, or failure to act of a foreign official, foreign political party or official thereof, or candidate for foreign political office, or inducing such a person or party to influence any act or decision of such foreign government or instrumentality in order to assist a reporting company in obtaining, retaining, or directing business to any person." The problem with this definition arises in attempting to distinguish between a corrupt payment, forbidden by the act, and a facilitating payment, explicitly permitted by the act—in order to determine what constitutes a bribe according to the FCPA. The Time magazine article of March 16 notes that facilitating payments, or "so-called grease payments, such as fees to get low-level civil servants to perform their bureaucratic duties. . . . are specifically permitted on the grounds that petty corruption is unavoidable almost anywhere." The article goes on to state that allowing these payments creates a gray area "between that sort of bureaucratic paper shuffling and the discretionary authority of local officials to withhold approval for a project or license, and thereby extort not $50 or $100, but perhaps $10,000 or even $500,000 from a victimized company."

The lack of a standard of materiality, detailed later in this document, provides a partial explanation for the confusion over the point at which a payment becomes a bribe. Mr. Chafee's request that the term "facilitating payment" be redefined should answer definitively many uncertainties arising from this portion of the FCPA.

Attendees of the IAA-NACD conference voiced complaints citing and difficulties arising from the vagueness of the FCPA in outlining the terms of compliance with the act. The act is approximately four years old; compliance guidelines by the courts and SEC are few and far between.

The FCPA establishes a Department of Justice business review procedure through which companies may request an opinion as to whether or not a specific action is in line with the law. To date, approximately one year after establishment of the review procedure, only five companies have requested opinions. Of these requests, Justice has responded to four. Several reasons exist for the seeming unpopularity of the procedure. The interagency task force on export disincentives, established during the Carter Administration, has named as justification for not utilizing the procedure unfavorable publicity arising from the use of the review procedure, the indefinite delay that is inevitable in awaiting a decision by the Justice Department, and the risk of the disclosure of confidential statements provided to Justice.

Probably the major reason more companies do not take advantage of the Department of Justice review procedure centers around the SEC's refusal to participate in the review, and to be bound by the opinion ultimately issued by the Justice Department.

In a statement of policy dated August 28, 1980, the SEC states it is "aware of no difference of substance between the Commission and the Department of Justice with respect to interpretation of the bribery prohibitions."

The SEC explains the necessity of its noncooperative stance, because determinations involving Section 30A of the Securities Exchange Act of 1934 must consider motivation and intent as well as subject matter.

As the FCPA currently stands, a company requesting and receiving clearance for a proposed action under the Justice Department review procedure may not be prosecuted by Justice for the action involved. However, the company may be prosecuted by the SEC. In defense of its position, notes the SEC, "this policy statement elminates the possibility that the commission would commence an enforcement action with respect to transactions that are the subject of a favorable letter, issued prior to May 31, 1981, as part of the Department's FCPA Review Procedure."

The May 31 expiration date is now imminent, and, as mentioned earlier, policy statements are not legally binding and are subject to change. Obviously, if the review procedure is to succeed in its intent, revisions are required.

Mr. Chafee's bill requires formalization of the review procedure, requiring a response, binding on both Justice and the SEC, within 30 days of the submission of the request. Confidential information contained in a review letter would be exempt from disclosure under the Freedom of Information Act. These actions are necessary to allow the review procedure to fulfill the purpose for which it was intended. Additionally, Mr. Chafee's proposed bill would require that the Department of Justice issue guidelines describing specific conduct associated with export sales agreements and international transactions that are in compliance with the FCPA. Under the bill, the FCPA would constitute the sole substantive prohibition on international bribery, thus eliminating the possibility of prosecution under various laws pertaining to mail and wire fraud. The incorporation of these provisions into the Foreign Corrupt Practices Act is essential if the ambiguities contained in the antibribery clauses are to be eliminated.

"The Reagan Administration has already signaled its dissatisfaction with the act," states the March 16 *Time* magazine article, "and particularly its tendency through loose wording to cast a chill over the willingness of U.S. businessmen to push into foreign markets and thereby help boost U.S. exports. . . . The Administration seems to be indicating, whether intentionally or otherwise, that it is prepared to let enforcement of the act languish."

Any stance by a branch of the Federal Government that, in essence, ignores the existence of the FCPA is bound to be detrimental. By neither enforcing the act as written nor changing the provisions as needed, the Administration would only demonstrate disrespect for a Federal law, corrupting in itself. In addition, such a position would do nothing to alleviate the ambiguities in interpretation that are the principal cause for consternation.

Even the Justice Department appears to be having interpretive problems with enforcement of the FCPA. In an address on the Justice Department's program to provide foreign payments advice to U.S. businesses, See Heymann outlined a list of FCPA enforcement priorities. In other words, in the eyes of the Justice Department, some brides are more corrupt than others. For instance, according to the list of priorities, a company corruptly paying a foreign cabinet officer is more likely to face prosecution than a company that bribes an offical of lower rank.

The apparent difficulties related to enforcing the act as it is written demonstrate the necessity of changing the law in order to make it more enforceable. Clearing up the ambiguities included in the antibribery provisions is vital if U.S. companies are to understand the limitations within which they must operate internationally.

Since inception, the Foreign Corrupt Practices Act has been the United States' unilateral attempt to put a halt to international bribery. When corrupt payments are accepted as a fact of life throughout many parts of the world, so one-sided an attempt must fail.

That bribery constitutes the formidable norm in many countries is well supported. The Wall Street Journal article of August 3, 1979, discusses a number of foreign governments that "either look the other way when overseas bribery occurs," or worse yet, "surreptitiously encourage the practice in order to increase their exports and improve their balance of payments." The acceptance of corrupt money is common in the major portion of the globe: the developing African nations, the Far East, Central and South America, and the wealthy kingdoms of the Middle East.

International bribery takes many forms—often the method of payment is far more sophisticated than the cash-filled envelope passed across an empty chair. A popular method in the African nations is the creation of a cushiony job within the contracted project—a job that, of course, is given to

a friend or relative of some high-level official. In Mexico, weekend jaunts to Acapulco or Cancun are popular, with all accouterments, provided by the bidder. Corruption in Indonesia "is so family-oriented that in the early 1970s, President Suharto's wife Tien was known as 'Mrs. Ten Percent.'"

A recent Indonesian incident involved a $9,000-a-year government employee; upon his death, an estate totaling nearly $35 million was discovered, money allegedly paid to him by two German companies in connection with the construction of a Djakarta steel mill. (Time magazine, March 16, 1981).

The actions of the two German companies involved are not a rarity among European entities. "Bribery by West German companies to obtain foreign contracts isn't illegal. . . ." Moreover, it is tax deductible as a business expense (Wall Street Journal, August 3, 1979). The West German Federal Office for Foreign Trade Information, in a confidential memorandum, has warned corporations that they must be prepared to pay bribes that may run as high as 20 percent of the contract price (Time magazine, March 16, 1981).

Just last year, the Italian Government passed a law stating the legality of bribes paid by Italian companies to foreign officials. One Italian construction firm is developing an exclusive deluxe resort in Uruguay; so far none of the land has been offered for sale to the public. Instead parcels of land have been passed out to Latin American officials when a big deal has needed an impetus to close (Time Magazine, March 16, 1981).

Sir Frederick Catherwood, former chairman of the British Overseas Trade Board, expresses little doubt that a law similar to the FCPA would not receive popular support in the United Kingdom. Exports account for 30 percent of the U.K.'s GNP, as opposed to 8.5 percent of the GNP of the United States. "We who are much more valuable, would be killed," concludes Sir Frederick (Wall Street Journal, August 3, 1979).

The non-existence of a French law on bribery is explained by the head of a French company dealing in the Middle East, "The French authority know quite well that you cannot deal in those countries without payoffs." (Time magazine, March 16, 1981).

In 1979, a Belgian company was forced into bankruptcy after paying a $282 million "commission" for procurement of a $1.2 billion Saudi hospital contract (Wall Street Journal, August 3, 1979).

The Far East appears to be a hotbed for the paying of bribes as well as the receiving of them. The Japanese Government makes it a policy not to investigate the international business activities of Japanese companies; no agency similar to the SEC exists in Japan, although a short-lived one was created following World War II. In Tokyo, "the man-on-the-street reaction to questions about payoffs is that they are an established way of transacting business." (Wall Street Journal, August 3, 1979).

The Saudi Arabian Government recently banned the largest construction conglomerate in South Korea for two years, indefinitely imprisoning the company's resident manager, in response to a bribery attempt. The Korean firm had been the most successful construction contractor in Saudi Arabia prior to being barred from the country. (American Businessmen's Group of Riyadh).

Representatives of numerous U.S. companies have stated publicly that they believe they have lost international business over the issue of bribery. The Time magazine article of March 16 describes the typical contract in which the bribery question will arise—"a large project in an industry that is highly competitive but with little significant difference among the products," for example, a telecommunications or construction project.

Several corporate executives related their tales to the Wall Street Journal. For instance, a senior vice president in an Oak Brook, Illinois company felt that bribery at least partially was responsible for the loss of over $100 million in sales over a three-year period. Similarly, a firm based in Cleveland, Ohio refused to compete on a West African project upon learning they would be expected to pay some 13 percent of the contract value to the country's president and an aide.

The aviation market long has been known as a hotbed of loose payments. Stated one Lockheed Corp. official, "In many countries, rewarding the decision makers is still the way that things are done in the business community. It's pretty obvious that we now have less ability to get an audience or even the attention of the decision makers when they know we're restricted in paying fees."

The restrictions seemingly are working to the advantage of Lockheed's foreign competitors. Since the enactment of the FCPA, the European aviation consortium Airbus Industrie has been tremendously successful in marketing its A300 airliner to the government-owned airlines of Singapore, Indonesia, Thailand, Malaysia, and the Philippines. The sales all were accomplished within an 18-month period "at a time when U.S. companies were restrained from employing their past sales practices." (Wall Street Journal, August 3, 1979).

In the meantime, "Lockheed Corp., whose very name was synonymous with payoffs and freebies for foreign officials in the 1970's . . . no longer picks up even hotel bills for customers visiting its California headquarters for contract talks." (Time magazine, March 16, 1981).

Perhaps most familiar with corrupt payments stories are members of the U.S. Foreign Service working overseas. In 1979, the U.S. Embassy in Zaire sent a cable to the State Department, warning that the FCPA placed U.S. companies "at a distinct disadvantage." (Wall Street Journal, August 3, 1979).

An EDS World executive admits that he is certain the company has lost revenues over the question of bribes, but he could not cite the amount nor could he give specific incidents, A corporate manager, formerly in the Middle East, agreed that EDS had lost business when bribery became an issue, but declined to elaborate on the topic.

Another EDS World representative commented that he does not believe EDS has as large a problem as some companies with situations in which corrupt payments are expected. "We're selling an intangible product. It is too confusing to skew the results of a data processing plan." He agreed with a Wall Street Journal reporter's comment that companies offering a tangible competitive product in which differences are minute and difficult to differentiate are most likely to be the victims of bribery requests.

Because bribery is an international problem, it requires an international solution. Without an effective universal ban on corrupt payments, U.S. companies face the inherent disadvantage of competing against companies that can provide a little added incentive—and will, if that's what is necessary to win the contract.

According to the March 4 GAO report, over 50 percent of the survey participants agreed that a strong international agreement would increase the competitive ability of U.S. companies abroad. Since efforts to effect a universal anti-commercial bribery treaty have not been fruitful, the GAO report recommends that Congress monitor future efforts closely.

In light of the attitude toward bribery held by foreign competitors, and considering the fact that in many parts of the world corruption is considered a fact of life—often perfectly legal according to local law—it is imperative that the U.S. lead the push toward a worldwide moratorium on bribery. EDS is in complete agreement with Mr. Chafee's request, in his proposed bill to amend the FCPA, that the President of the United States should pursue negotiations of the treaties necessary to establish international standards of business conduct.

The accounting provisions of the Foreign Corrupt Practices Act are burdened with ambiguities similar to the uncertainties existing in the antibribery provisions. Terms like "reasonable assurance" and "reasonable detail" and SEC references to "state of mind" have clouded a definitive interpretation of the act and raised questions that elude positive answers.

Over 50 percent of the participants in the recent GAO survey termed the reasonable assurance rules for accounting controls and recordkeeping procedures as inadequate.

The SEC counters their agrument, stating that the reasonable assurance concept is consistent with the Commission's policy of allowing companies to set up their own standards.

The inexplicit nature of the reasonable detail concept has generated some frustrated discussion among members of the U.S. accounting profession. At the recent IIA-NACD conference, Donald L. Scantleberry, director of the GAO's Financial and General Management Studies Division, commented that he preferred "precise laws so that guessing isn't necessary." Under the FCPA, a company could be challenged on its decision to review all checks over $10,000; theoretically, the courts could decide that a review of all expenditures over $2,500 would constitute reasonable detail for that company.

What is missing in the accounting provisions set forth in the FCPA is a standard of materiality, a meaure favored by 70 percent of the GAO survey participants.

One IIA-NACD conference speaker warned that neither independent CPA reports nor internal accounting controls constitue FCPA compliance because these methods apply only to material items. Consequently, the best that corporate accounting staffs can hope to do is successfully second-guess the courts and the SEC.

When questioned about the adequacy of EDS World's accounting procedures in meeting FCPA requirements, a company official said he was satisfied the methods employed were effective and reasonable. When asked whether he was confident that the SEC would find EDS World's review and control procedures in compliance with FCPA, he admitted he could not guarantee such a ruling because of the loosely defined regulations. He added that he favored a standard of materiality but felt the minimum material requirement should be low enough that the smaller companies would

not suffer at the expense of the multinational conglomerates.

Policy statements issued by the SEC have argued strongly against a standard of materiality. SEC Commissioner Stephen J. Friedman, in a recent address to University of Kentucky students, commented that the absence of a materiality qualification was not a cause for alarm because although it complicates a company's position, it "does not give the SEC free rein." In an elaboration of the SEC's January 13, 1981 statement of policy, Chairman Harold M. Williams stated, "Internal accounting controls are concerned with misconduct that is material to investors, but also with a great deal of misconduct which is not." He added that he believes materiality is an inadequate control standard.

Mr. Chafee has made several recommendations in an effort to clear up these ambiguities. His proposed bill would define "reasonable assurance," "reasonable detail," and "in all material respects," as these terms now appear in Section 102 of the FCPA. The definition would make explicit the cost/benefit evaluation followed by the SEC in designing internal accounting controls. Said the SEC's Williams, "Thousands of dollars ordinarily should not be spent conserving hundreds."

To assure U.S. companies of the rules by which they are playing, it is time the SEC's policy statements and policy interpretations be consolidated into the law. Mr. Chafee's bill further advocates that the FCPA incorporate a materiality standard, and that the link between materiality and the preparation of financial statements in conformity with generally accepted accounting principles be reinforced. In light of the definitive guidelines these recommendations will create, the EDS World official commented that their adoption would certify compliance with FCPA standards.

Further confusion within the FCPA's accounting provisions arises out of the SEC's references to state of mind. Stephen J. Friedman said, in his recent speech, that the likelihood of a reoccurrence of a violation of the FCPA's accuracy requirements must be present before the SEC may obtain an injunction, and that the state of mind needed for criminal conviction would be absent in the case of an inadertent violation.

Harold M. Williams reinforced this opinion, stressing that the SEC would not take action against unintentional recordkeeping violations. He added that U.S. companies will not be prosecuted for falsification of records of which management "broadly defined" was unaware and "reasonably should not have known."

Mr. Chafee recommends that the FCPA incorporate provisions requiring the knowing falsification of books, a knowingly wrongful attempt to circumvent an internal accounting control system, or the deliberate maintenance of an inadequate control system to constitute a violation of the act's accounting provisions.

It appears Mr. Chafee is requesting simply that the SEC stand behind its statements. To clarify and solidify past policy statements by writing them into law would simplify enforcement and compliance with the act.

Even the SEC's Williams has admitted that it is time the SEC gave private industry a clearer idea of what is expected under the FCPA, adding that the act "can have a debilitating effect on activities of those who seek to comply with the law. . . . business resources may have been diverted from more productive uses to overly burdensome compliance systems which extend beyond the requirements. . . . The public, however, is not well served by such reactions."

No, the public is not well served when the law raises more questions than it answers. As outlined above, the accounting and antibribery provisions recommended by Mr. Chafee would go a long way in resolving many of the current questions and would minimize the loss by U.S. companies of legitimate overseas business.●

SMALL BUSINESS INNOVATION ACT

(Mr. BAKER submitted the following statement for Mr. PRESSLER.)

● Mr. PRESSLER. Mr. President, as an original cosponsor of the Small Business Innovation Act, I am particularly pleased that it has been signed into law.

This act, which will set aside a percentage of Federal agencies' research and development—R. & D.—budgets for small businesses, recognizes the important role that America's small businesses have played in our technological advances.

It is estimated that small businesses produce 24 times more innovations than larger businesses per R. & D. dollar. Yet today, these small businesses are facing difficult economic times which threaten their ability to continue their pioneering efforts. We also run the very real risk of losing the creativity and productive genius of a large segment of our population.

By insuring that small businesses have access to Federal R. & D. dollars, we are making a vital contribution to their efforts. In addition, we have done this without spending one additional taxpayer dollar.

It is my hope that the small business set-aside program will serve as a model of what a Government program should be—worthwhile, efficient and, ultimately, an energizing force in the American economy.●

ORDER FOR RECORD TO REMAIN OPEN UNTIL 6 P.M. TODAY

Mr. BAKER. Mr. President, I anticipate that the Senate will recess shortly. Therefore, I ask unanimous consent that Members may have until 6 p.m. today in which to introduce statements, bills, and resolutions into the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME TO REPORT RESOLUTION REQUIRED UNDER SENATE RESOLUTION 20

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Rules and Administration have until the close of business Tuesday, July 27 to report the resolution required under Senate Resolution 20, the so-called TV-in-the-Senate resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, let me say to begin with that I think all of these requests have been cleared with the minority leader. I state them now for his consideration and that of other Members.

ORDER FOR BILL TO BE HELD AT DESK—H.R. 6663

Mr. BAKER. Mr. President, I ask unanimous consent that H.R. 6663 be held at the desk until the close of business on Tuesday, July 27.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I see the Senator from California is in the Chamber. May I inquire if it is his plan to speak at this time?

Mr. HAYAKAWA. I do plan to speak, Mr. President.

Mr. BAKER. Mr. President, I know of no other Senator who is seeking recognition or plans to seek recognition in this period for the transaction of routine morning business. I have three routine requests to make.

Before I do so, I ask unanimous consent that when the distinguished Senator from California completes his remarks, the Chair place the Senate in recess according to the order previously entered, until 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, at the conclusion of the remarks—

Mr. STENNIS. Mr. President, will the Senator yield to me?

Mr. BAKER. Yes; I yield to the Senator from Mississippi.

Mr. STENNIS. Mr. President, I wonder if the majority leader would yield me 3 minutes?

Mr. BAKER. Mr. President, I ask unanimous consent that after the recognition of the Senator from California, the Senator from Mississippi be recognized, and at the conclusion of the remarks by the Senator from Mississippi, the Chair place the Senate in recess, according to the order previously entered, until 9:30 a.m. on tomorrow.

Mr. STENNIS. I thank the Senator very much.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from California.

(The remarks of Mr. HAYAKAWA in connection with the introduction of legislation are printed under Statements on Introduced Bills and Joint Resolutions.)

INDUSTRIAL DEVELOPMENT BONDS

Mr. STENNIS. Mr. President, last week, during the consideration of the Tax Equity and Fiscal Responsibility Act of 1982, I joined the distinguished Senator from New York (Mr. D'AMATO) and others in proposing an amendment easing some of the restrictions which the committee recommendations had placed on the industrial development bond program. I highly commend the Senator from New York (Mr. D'AMATO) and others who worked on this program, which has brought much good to the Nation as a whole.

This amendment was adopted by the Senate. I hope, however, that the House of Representatives will not take any action which will eliminate or unduly restrict this program.

I have long been a strong supporter of industrial development bonds. In fact, Mississippi originated this program and has used it to great advantage since 1936, while still in the heart of the Great Depression. During this period, industrial revenue bonds have been an important economic tool not only in my State but also in many other States. It has spread now to at least 48 of the 50 States, as I understand it.

These bonds have helped create jobs in industry where none existed before, and they are still producing jobs to this day, highly important jobs, because they are in small units and are the only source for any kind of industrial work in many of those communities.

I think it is a grave mistake, in the passage of a large revenue bill, to hastily and totally eliminate a program which is the only program in its field that is a going concern.

We are trying to get up other programs. We had the Lugar bill, and it fell by the wayside. We are trying to get up other programs that meet this situation at least in part. However, as the bill now stands, it will be entirely eliminated after a few years.

A particularly dramatic instance of the use of such industrial revenue bonds is found in the July 26, 1982, issue of Business Week magazine. This article, entitled "Luring Jobs to the Reservation," narrates how the Mississippi Band of Choctaw Indians used a $26 million industrial revenue bond to persuade American Greetings Corp. to open a 350-person card-finishing and packaging facility on its reservation near Philadelphia, Miss.

This is a significant and important step. It stimulates development and brings steady employment to members of the tribe, many of whom had never before experienced it. An executive of American Greetings stated that without the bond issue "we probably would not have looked at this deal very seriously."

The creation of jobs is very important to this country. It is particularly important to the Choctaw Indians since it creates jobs where none existed before. I am emphasizing this about this small tribe of Indians. It is a remnant of the original, fine—numerous for that time—group of Indians that sold out most of their land there and moved to what is now Oklahoma. With unemployment running at a 9.5-percent rate nationally and 11.6 percent in Mississippi, we cannot afford to pass up any opportunity to find and establish job possibilities.

Resort to the industrial development bond program by the Mississippi Band of Choctaw Indians is a significant and heartening development. It shows how important this program is, particularly at a time when Government training funds and other Federal work incentives are drying up. I believe it would be a serious mistake if Congress were to seriously restrict or kill this program, and I hope that this will not happen.

Mr. President, in order that there may be further circulation of this fine article, I ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

LURING JOBS TO THE RESERVATION

With federal funds for Indians cut to the bone and the Reagan Administration committed to making Indian tribes self-sufficient, tribal governments are developing a new sophistication in attracting industry to the reservation. The Mississippi Band of Choctaw Indians, for instance, used a $2.6 million industrial revenue bond to persuade American Greetings Corp. to open a 350-person card-finishing and packaging facility on its reservation near Philadelphia, Miss. Other tribes are experimenting with joint-venture agreements to develop reservation energy resources or are using revenue from grazing leases to modernize reservation facilities.

In the case of the Choctaws, the industrial revenue bond built and equipped the American Greetings plant, reducing the cost of financing the project by 2 percent to 3 percent and bringing steady employment to tribe members—many of whom had never before experienced it. Without the bond, says a company executive, "we probably would not have looked at this deal very seriously."

UNEMPLOYMENT

Indians efforts to woo private industry may mean the difference between stark poverty and hope for the future on many reservations. Of the 750,000 Indians who live on reservations, 75 percent earn less than $7,500 a year, according to the federal Bureau of Indian Affairs. Among the Mississippi Choctaws, unemployment runs 25 percent to 30 percent—and ran 35 percent to 40 percent before the recent opening of the American Greetings facility and another, smaller plant. And the figure is even higher at some other reservations.

"To deal with unemployment, you have to find job possibilities," says Phillip Martin, chief of the Mississippi Choctaws and president of the National Tribal Chairmen's Assn. "It's not easy. Doing business with the private sector is very competitive, very complicated. It takes a lot of preparation." Says Kenneth L. Smith, Assistant Interior Secretary of Indian affairs and a member of the Wasco tribe of Oregon: "We have to learn to depend on our own economies instead of the federal dollar."

Neither the tribes nor their white advisers expect the Indian-private industry partnership to flourish quickly or easily. "Indians have been wards of the government since treaty days, and they have to overcome generations of being dependent on the federal government," says Conley Ricker, chief executive officer of the American Indian National Bank (AINB) in Washington. But Ricker notes that this spring some 300 Indians representing 65 tribes—twice the number expected—attended an AINB seminar in Denver to hear details of what the Choctaws and other tribes have done to attract industry.

Indian interest in drawing industry to their reservations is not new. General Dynamics Corp., for instance, has operated an assembly plant on the Navajo reservation in Arizona since 1967, currently employing 100 Indians. But in the past, government training funds and other federal incentives were a major inducement, and under Reagan those funds are drying up.

SECURING LOANS

Now tribes are looking into sources of private financing for industry. Some are exploring ways of securing loans that would be used to make improvements on their reservations, then paying them off with revenues from tribal land leases or with income derived from tribal investments. One North Central tribe, for instance, borrowed $300,000 from AINB for debt consolidation and working capital and is currently repaying it with grazing revenues obtained from the lease of tribal land.

Other tribes are luring private investment by putting up their own resources or money. Resource-rich tribes, such as the Jicarilla Apaches of New Mexico (who have signed joint-venture agreements with two oil companies to develop oil and gas reserves on their reservation), are exploring partnership agreements for development of energy and timber resources. Such arrangements would make resource exploitation more profitable for Indians who, in the past, merely collected royalties or lease fees.

Some well-heeled tribes are spending their own money on facilities to attract industry. Last year the Salt River Pima-Maricopa tribes, which own land adjacent to upper-income Scottsdale, Ariz., put up nearly $1 million to build a high-security warehouse for Motorola Inc. "If you rent land, you're not doing as well as if you rent out a turnkey facility like the warehouse," says tribal attorney Richard B. Wilks.

SETTING UP INCENTIVES

But many tribes have neither resources nor money, and they are the ones most interested in attracting private-sector jobs. Indian Affairs' Smith believes that Administration-backed legislation to set up enterprise zones in areas of high unemployment, offering tax incentives to companies that locate in such zones, would help several reservations.

Some Indians feel, however, that their most effective instrument could be the industrial revenue bond. It is an essential tool for tribes without natural resources, tribes whose only resources are their people, argues the Choctaws' Martin. But Indians

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cannot legally issue such bonds. The Choctaws had to persuade nearby Philadelphia, Miss., to issue bonds for the American Greetings plant. Many tribal leaders are pinning their hopes on a bill sponsored by Senator Malcolm Wallop (Wyo.), now pending in Congress, that would allow Indian tribes to issue bonds. "It would put reservations on an equal status with counties and cities," says Charles E. Trimble, a member of the Oglala Sioux tribe and a consultant both to tribes and to private companies.

In addition to winning legal help, Indians must live down the effects of some of their past actions, such as the occupation of a Fairchild Camera & Instrument Corp. plant on the Navajo reservation in Shiprock, N.M., by a band of militant Indians in 1975. Those days are over, says Smith. "We have a lot more sophisticated tribal governments out there than a few years ago," he says.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER (Mr. COCHRAN). Under the previous order, the Senate will now stand in recess.

Thereupon, at 2:04 p.m., the Senate recessed until tomorrow, Tuesday, July 27, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 26, 1982:

VETERANS ADMINISTRATION

Everett Alvarez, Jr., of Maryland, to be Deputy Administrator of Veterans' Affairs, vice Charles Timothy Hagel, resigned.

DEPARTMENT OF JUSTICE

Charles L. Dunahue, of Colorado, to be U.S. Marshal for the district of Colorado for the term of 4 years vice Rafael E. Juarez, resigned.

Clinton T. Peoples, of Texas, to be U.S. Marshal for the Northern District of Texas for the term of 4 years. (reappointment).

IN THE AIR FORCE

The following-named officer under the provisions of title 10, United States Code, section 8036, to be Surgeon General of the Air Force:

To be surgeon general, USAF

Maj. Gen Max B. Bralliar, xxx-xx-xxxx FR, U.S. Air Force, Medical.

IN THE ARMY

The U.S. Army Reserve officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, sections 593(a), 3371 and 3384:

To be major general

Brig. Gen. Clifton C. Capp, xxx-xx-xxxx.
Brig. Gen. Mack J. Morgan, Jr., xxx-xx-xxxx.
Brig. Gen. James L. Pelton, xxx-xx-xxxx.
Brig. Gen. Norbert J. Rappl, xxx-xx-xxxx.
Brig. Gen. Garnet R. Reynolds, xxx-xx-xxxx.
Brig. Gen. John Ricottilli, Jr., xxx-xx-xxxx.

To be brigadier general

Col. Roger R. Blunt, xxx-xx-xxxx.
Col. Dean L. Linscott, xxx-xx-xxxx.
Col. Bernard H. Thorn, xxx-xx-xxxx.
Col. Foster Marshall, II, xxx-xx-xxxx.
Col. Stuart E. Harlowe, xxx-xx-xxxx.
Col. Harry J. Mott, III, xxx-xx-xxxx.
Col. George J. Vukasin, xxx-xx-xxxx.
Col. John R. Davis, xxx-xx-xxxx.
Col. Albert E. Gorsky, xxx-xx-xxxx.

The Army National Guard of the U.S. officers named herein for appointment as Reserve Commissioned Officers of the Army, under the provisions of title 10, United States Code, section 593(a), 3385, and 3392:

To be major general

Brig. Gen. Melvin J. Crain, xxx-xx-xxxx.
Brig. Gen. James W. Duffy, xxx-xx-xxxx.
Brig. Gen. John F. Gore, xxx-xx-xxxx.
Brig. Gen. Bruce Jacobs, xxx-xx-xxxx.
Brig. Gen. Joseph M. Lank, xxx-xx-xxxx.

To be brigadier general

Col. Douglas D. Bradley, xxx-xx-xxxx.
Col. Richard I. Braund, xxx-xx-xxxx.
Col. Willard G. Burks, xxx-xx-xxxx.
Col. Julius J. Chosy, xxx-xx-xxxx.
Col. Bernard G. Ehrlich, xxx-xx-xxxx.
Col. Melvin V. Frandsen, xxx-xx-xxxx.
Col. John M. Hilliard, Jr., xxx-xx-xxxx.
Col. David T. Kent, xxx-xx-xxxx.
Col. Charles H. Kone, xxx-xx-xxxx.
Col. Claude H. McLeod, xxx-xx-xxxx.
Col. Allan R. Meixner, xxx-xx-xxxx.
Col. Oliver W. Myers, xxx-xx-xxxx.
Col. Frank J. Schober, Jr., xxx-xx-xxxx.
Col. James H. Throwe, xxx-xx-xxxx.

IN THE MARINE CORPS

The following-named officer, under the provisions of title 10, United States Code, section 601, to be assigned to a position of importance and responsibility designated by the President under title 10, United States Code, section 601:

To be lieutenant general

Maj. Gen. Charles G. Cooper, xxx-xx-xxxx, U.S. Marine Corps.

IN THE NAVY

The following-named officer, under the provisions of title 10, United States Code, section 5143(b), to be assigned as Judge Advocate General of the Navy:

To be judge advocate general of the Navy

Rear Adm. James J. McHugh, xxx-xx-xxxx xxx-... Judge Advocate General's Corps, U.S. Navy.

IN THE ARMY

The following-named officers for appointment in the Regular Army of the United States, in their duty grades, under the provisions of title 10, United States Code, sections 531, 532, 533:

JUDGE ADVOCATE GENERAL'S CORPS

Majors

Luedtke, Paul J., xxx-xx-xxxx
Rothlisberger, Daniel L., xxx-xx-xxxx

Captains

Ayer, Francis H., xxx-xx-xxxx
Bailey, Patrick J., xxx-xx-xxxx
Bendahan, Jesse W., xxx-xx-xxxx
Bridges, Ila C., xxx-xx-xxxx
Brown, Harry D., xxx-xx-xxxx
Caldbeck, Thomas K., xxx-xx-xxxx
Campbell, John I., xxx-xx-xxxx
Chapin, Donna L., xxx-xx-xxxx
Charbonneau, Karen A., xxx-xx-xxxx
Child, Michael S., xxx-xx-xxxx
Currie, James S., xxx-xx-xxxx
Czarnowsky, Christyne A., xxx-xx-xxxx
Davis, Karen S., xxx-xx-xxxx
Dykstra, John M., xxx-xx-xxxx
Erickson Denise A., xxx-xx-xxxx
Erickson, Robert C., xxx-xx-xxxx
Franke, David S., xxx-xx-xxxx
Gnocchi, Franco C., xxx-xx-xxxx
Graham, Mark S., xxx-xx-xxxx
Hancock, Franklin S., xxx-xx-xxxx
Johnson, David H., xxx-xx-xxxx
Ingold, Bernard P., xxx-xx-xxxx
Lederer, Barbara M., xxx-xx-xxxx
Lomax, William E., xxx-xx-xxxx
Macargel, Donald T., xxx-xx-xxxx
McCelland, Gregory A., xxx-xx-xxxx
McPherson, Larry G., Jr., xxx-xx-xxxx
Martins, Paul, xxx-xx-xxxx
Marvin, Joanne R., xxx-xx-xxxx
Matthews, Wellington T., Jr., xxx-xx-xxxx
Moses, Ann M., xxx-xx-xxxx
Munns, Earle D., xxx-xx-xxxx
Perrin, John R., xxx-xx-xxxx
Shaw, Garreth E., xxx-xx-xxxx
Smith, Oren W., xxx-xx-xxxx
Struve, Donald W., xxx-xx-xxxx
Yee, Peter L., xxx-xx-xxxx

IN THE NAVY

The following-named lieutenant commanders of the Reserve of the U.S. Navy for permanent promotion to the grade of commander in the line, in the competitive category as indicated, pursuant to the provisions of title 10, United States Code, section 5912:

UNRESTRICTED LINE OFFICERS

Commander

Abele, Richard Sanford
Adams, James Ralph
Adams, Jesse Jean
Ajello, Julian Edward
Allen, Robert Paul
Anderson, David Keith
Anderson, Jack Weston
Anderson, John Wilson, Jr.
Anderson, Kenneth
Anderson, Norman William
Andrews, Thomas Earl
Arbios, Robert Arthur
Archer, Gregg Bowman
Augustson, John Stephan
Avison, David Bothwell
Babij, Raymond
Bach, Donald Leo
Bader, Lawrence Michael
Bader, Paul M.
Bailey, Thomas Edward
Baker, Ralph Norbert
Ball, John Douglas
Ballew, Paul Kesler, Jr.
Baltrum, Robert John
Bargman, George Richard
Barry, Stephen George
Barth, Joseph Tabor
Basilio, Anthony Charles, Jr.
Bassett, Timothy Sherrod
Baumgart, David Harold
Bayer, Ronald Keith
Beasley, Jay Rivers, Jr.
Beck, John Russell
Becker, Carl Robert, Jr.
Beckmann, Robert Lee, Jr.
Beedle, Darvin Elno, II
Beeley, Ronald L.
Beier, Edward Norton
Bellinoff, Alan Eliot
Beltz, William Russell
Bennett, Jerry Pat
Benson, Ray W.
Berck, Henry Fred, Jr.
Berdzar, Peter Francis
Bergan, Paul Martin
Bergen, Richard Patrick
Berlin, Bruce Alan
Berry, David Rockwood
Berry, Richard Alson
Beverage, Parker
Biolchino, Louis Michael
Birk, George Washington
Bishop, Duchess A.
Bjornson, Gary Bernard
Blair, William N.
Bland, Robert Fulton, II
Blessing, Peter Edward

Bliss, Arthur Carlin, Jr.
Blue, Bruce J.
Bodenhorn, Gregory Stuart
Boelte, William Frederick
Bogott, Thomas Allen
Borcik, Kathleen Riley
Borowski, Carl Ernest
Bower, William Meade
Boyd, David Edwin
Boyd, Richard Allen
Braatz, Matthew Pearce
Brabenec, John Joseph, III
Bracken, Robert Michael
Bradfield, Frank Leslie, Jr.
Bradley, Mark Howard
Brady, John Thomas, Jr.
Brengle, James Kenneth
Brennan, James Patrick
Brigman, Charles Ellis
Brooke, John Richard
Brooks, Kevin Bowen
Brose, Gregory William
Brown, Arthur Franklin, Jr.
Brown, Michael T.
Brown, Stephen Marion, Jr.
Buck, Gary Lee
Budzik, Dennis Michael
Bugg, Stuart Edward
Bunney, Michael Graham
Burgess, Benjamin F., III
Burkhead, Franklin, Jr.
Burr, Timothy Andrus
Buschmann, Robert Otto, Jr.
Butler, William Henry
Butterworth, Blaine Allen
Caldwell, Dwight Burnett
Caldwell, Mack Denson, III
Calhoun, James Noah, Jr.
Callahan, Francis Edward, Jr.
Cannon, Leslie Burton
Cantor, Terry Robert
Carmean, Carl Kirk
Carmichael, Hubert M., Jr.
Carpenter, Harold Francis
Carper, Thomas Richard
Carpi, Kenneth August
Carpien, Alan Hugh
Carr, Lawrence Patrick
Carroll, James Chester
Cavaliero, Richard Dennis J.
Chadbourn, Charles C., III
Cheek, Junius Paul, Jr.
Cheney, Wallace Hood
Cheves, Henry Middleton
Chew, Chett Thornton
Chmura, John Albert, Jr.
Choppe, William James
Cika, Robert John, Jr.
Cirre, Ronald Paul
Coane, Casey Williams
Colley, Douglas Jeremy
Collier, William Thomas
Collins, Henry Carl, Jr.
Collins, Peter Michael
Conrad, David Michael
Cook, Robert Allyn
Coonts, Stephen Paul
Corah, Frank L.
Corbin, James John Jay
Cornelius, Clifford James, Jr.
Couch, John Carey
Crabtree, Michael Calvin
Crandall, Kenneth P.
Crowley, James Robert
Crume, Larry E.
Cummins, Ronald H.
Curry, James Allan
Curry, Neil Charles
Dale, Lee Alan
Daly, John Joseph
Darcy, Herbert Joseph, Jr.
Daugherty, Thomas Patrick
Davidson, John Woodyard
Davies, William Edward
Dawson, Daniel Fielding
Dawson, Robert Earl
Deas, Harry Lee, III
Dec, Michael John
Degnan, James Edward
Delcampo, Charles Lawrence
Delcour, Charles Phillip
Dericks, Richard Munn
Desserich, Russell W., Jr.
Dickey, Lyle Moore, Jr.
Dickinson, Arthur Fredrick
Didier, Henry Nicholas
Digiuseppe, John Angelo
Dineen, Michael Francis
Dinkelspiel, Robert Louis
Dipietro, Richard Michael
Dissault, Jerry Michael
Dittmeier, David Allen
Dixon, Danny Michael
Dlwgosh, William Richard
Dobbs, Thomas Elwyn, Jr.
Doellinger, Johnny Lee
Domanski, Frank Peter
Donaldson, John Clement
Donnelly, William Wise, Jr.
Donohue, Brian Patrick
Dooley, Austin Lowell
Doub, Thomas Allan
Douglas, Charles Timothy
Dowd, Dennis Carter
Dowling, Michael Lamar
Downey, Gerald Josep, Jr.
Doyle, John Stuart, Jr.
Dragonette, Charles Newbert
Duck, John Robert, Jr.
Dunn, Harold Lee, Jr.
Dusa, Ronald John
Duval, Robert Lyerly
Dwyer, David Weldon
Dyckman, Dennis Vincent
Dyekman, Michael Dean
Earle, Otis Keener
East, Richard Hackett
Eastwood, James Wayne
Eberth, Robert William
Eckstrom, David C.
Egut, Ronald Stanley
Eicher, John Gibbs
Eisberg, Arthur Charles, Jr.
Elgin, John Warren
Ellingson, Luther Jerome
Ellsworth, Joseph Eugene
Elwell, Robert Gwynne
Engler, George Gilbert
Erickson, David Milton
Erickson, Richard Clark
Everett, David Harrell
Feeney, Joseph, Jr.
Ferguson, Eugene Maner
Ferris, William Taber, III
Field, Arthur Gallagher
Filipic, Matthew Victor
Fink, Robert Albert
Finkbiner, Paul Weber
Fischer, Claude Michael
Fisher, Daniel Franklin
Fisk, Alan E.
Flandreau, Mark Endicott
Fletcher, Michael Henry
Flynn, John Michael
Flyntz, Frank Joseph
Foote, David Calvin
Forbes, Jimmy McMillan, Jr.
Ford, Carolyn Sue
Ford, James Paul, Jr.
Ford, Peter Wayne
Forsyth, Graham Bruce
Fossum, Anton Phillip
Foulk, Robert Morris
Fox, Bruce Cana
Freas, William
Freed, Donald E.
Frohne, Charles Thomas, III
Frondorf, John Robert
Frost, James Henley
Fry, Joseph Francis
Fryer, Alton Dempsey, III
Frykenberg, John Stuart
Fulkerson, Glenn Michael
Fusco, Leslie Alphonso
Futch, Edward Ivey
Gallery, Philip D., Jr.
Garland, Michael Dennis
Garreau, Raymond Jeffrey
Garrick, Nicholas James
Garrison, Charles M., Jr.
Gaylord, William Kendall
Gehrs, Dick Ray
Geigel, Gary Winfield
Geis, Albert Harley
Genstil, Stephen Michael
Gentilella, John Angelo
Gerstner, Dietwald A. L.
Gerth, Stephen Brown
Gertsch, Richard E.
Gibbes, Asbury Hull
Gibson, Steven E.
Gilchrist, Lionel F., II
Gillis, Donald Joseph
Gilpatick, Carroll Hunter
Glor, Peter John
Gooding, Harry George, III
Goodman, William Lee
Goodwin, Richard Noel, Jr.
Gordon, Walter McGinnis
Gore, Charles Gordon
Gottschalk, Robert George
Gozzi, Marie Antoinette
Graves, William Roberts
Gray, David Judson
Gray, Michael Lewis
Greever, Charles Francis, III
Gresham, Henry Wallace, Jr.
Grinkevich, Paul Nicholas
Grovhoug, Joseph Geoffrey
Grunge, Lance Carter
Grzyb, Kenneth Raymond
Guilbert, Edward Hunt, Jr.
Gunnell, William Harold
Gustafson, Harry Leonard, III
Haase, Lee Francis
Hable, Richard Lee
Hall, Joseph Anthony
Hall, Kenneth Wayne
Hamberger, Thomas Lewis
Hamilton, Jimmie Joe
Hamm, James Henry, Jr.
Hampton, Hood Colbert, III
Handley, Joseph Edward
Hanover, Ross Louis
Hanrahan, John Dennis
Hansen, Mary Rita
Hanson, Charles P.
Hanson, Larry James
Hargrove, Harry Leftwich, III
Harmon, Paul Franklin
Harr, Willie Clyde, III
Hartman, Mileva Maria
Harvey, Daniel George, Jr.
Harvey, Douglas N.
Harvey, Walter Ray
Hatch, Robert Karl
Haupt, Eric Robert
Hawkins, Donald Orr, Jr.
Hay, Charles Francis
Hay, Donald Ross
Haynes, Anthony Christopher
Haysworth, Perry Beattie, Jr.
Hearn, Thomas William
Hectus, Stephen
Hedrick, Gordon Ray
Heffernan, Ralph Richard
Heimerl, Johanna F.
Helfrich, Patrick Clyde
Helton, William Richard
Henderson, Nathaniel P., Jr.
Hendren, Cyrus Eugene
Hendricks, Dale Wayne

Henesy, Larry Earl
Henry, Gary Wayne
Hercz, Peter Joseph
Herr, William Millard, Jr.
Herzog, Stuart Kenneth
Hester, Eugene Otis
Hill, Thomas Edward
Hobson, Francis Leon
Hodak, Gary Wayne
Hoecker, Douglas Gordon
Hoecker, Neil Edward
Hoesly, Marlen John
Hoffman, John Russell, Jr.
Hoffman, Warren William
Hoke, Howard Hunnell
Holden, Thomas W., Jr.
Hollomon, George Roger, Jr.
Holm, Clifford Milton
Homestead, Robert T., II
Honigschmidt, James Otto
Hotton, Ralph Andrew
Houin, Eric Joseph
Hovey, Glen Reid
Howe, Jeffrey Lorin
Howell, Richard Charles
Hoyt, Lewis Eugene
Huddy, Phillip John
Hudgins, Laddie Cale
Huf, William Langley
Hughes, Philip J.
Hutchinson, George
Hutchinson, John Kenneth
Hutchison, James Hutton
Imparato, John J., Jr.
Ish, Charles Bradwell
Jackson, Charles Anthony, Jr.
Jackson, Lawrence Tracey
Jacobs, David William
Jacobsen, George Robert
Jacobson, Mark Eugene
Jedrlinic, John Anthony
Jemison, Danny Joe
Jenks, Howard Benton
Jennings, William Edmund
Jernigan, Jasper Truett
Johnsen, Robert Lynn
Johnson, Ernest Frank Arthur
Johnson, Peter Herbert
Johnson, Robert Stephen
Johnston, John Leslie, Jr.
Johnston, John W.
Jones, John Herbert
Jones, John Robert
Jones, Richard Austin
Jones, Stephen James
Kahn, Joel Aaron
Kalashian, Daniel
Kaler, Robert Larry
Kalman, George
Kase, Stephen Arthur
Kassak, Edward Joseph
Keane, Walter Francis, Jr.
Keen, Gordon Lithgow, Jr.
Kees, Douglas Allen
Keiller, Stuart John
Kelly, David Martin
Kelly, Earl Glenn
Kelly, Richard Ellsworth
Kendrick, Ralph Lee
Kennedy, Bruce Alastair
Kennerly, John Charles
Kester, Rodger Paul
Kirby, John Michael
Kirk, Joe Irvin
Kissling, John Robert, Jr.
Kitchen, Denis Arthur, Jr.
Klapheke, Charles George, III
Kleinschmidt, Sharon Kay
Klote, Paul Joseph
Knapp, John C.
Knoerlein, Robert Joseph
Kocs, Donnell Kenneth
Kraft, Richard Louis
Kratovil, Edward William
Krause, Charles William
Kreutzer, John Leo
Kriz, Paul Jerome
Kroll, James, T.
Kruck, John William
Krueger, Paul Louis, Jr.
Kruger, Paul Melby
Kruse, Dean Harry
Kuehn, Leo Steven
Kuester, William Gerstner
Lambert, John P.
Lambert, Richard Warren
Lanning, John Thomas
Lant, James Hawthorne
Lapierre, Russell Robert
Larsen, Samuel H.
Lawrence, Robert Edwin, Jr.
Lawton, Robert Erle
Lear, Daniel Barrett
Lee, Lawrence Morton
Lee, Peter Wuntuh
Leeny, Michael James
Lehman, Benjamin Franklin
Lehman, Kenneth Paul
Lehre, Edward Joseph
Lemon, Ronald Scott
Leo, John Eric
Leonard, John Wallis
Lesher, James Earl
Lewis, John Slaton
Lewis, Wallace Leon, Jr.
Lieb, Philip Enochs, Jr.
Liebler, Craig Michael
Lilly, Michael Alexander
Lind, Robert Warren
Linton, Paul Allen
Little, John Thomas
Little, Osborne Morgan, Jr.
Logue, Donley C., Jr.
Lones, John Evan
Lowder, Jerold Richard
Lowe, James Thomas
Lush, Jerry
Luttrell, Robert Thomas, III
Lytle, Richard Allen
Maceluch, Robert William
MacKinnon, David Otto
MacKinnon, Richard Malcolm
Macomber, Mark Elwood
Madfes, David B.
Magee, John Douglas
Magnano, Joseph Antonio
Maihoff, Nancy Ann
Malone, John Harold
Maloof, James Michael
Mangin, Albert Mitchell
Manion, Charles Frank
Maples, Amos Lee
Mara, Gary N.
Marshall, James Mcknight
Martin, Richard Alan
Martin, Stephen Earnest
Martin, Stephen James
Martin, Thomas Francis
Martin, William Henry, III
Marucheau, Louis Joseph
Matetich, Michael Gary
Mathison, David Philip
Mauldin, James David Drane
Maule, Francis Eugene, III
Mayfield, Carl Criss, III
McCain, Robert Glen
McClane, Thomas Joseph
McClelland, William R., Jr.
McClenaghan, Alan James
McClenathen, William Richard
McClurg, John Patrick
McCoy, Donald Neely
McDonald, Thomas Ryan
McDowell, Robert Nelson
McDowell, William Lee, III
McElroy, William Charles, Jr.
McGee, Willie Eldridge. Jr.
McKenzie, David Roller
McLauchlin, George Carney
McLaughlin, Warren M., Jr.
McMikle, Steven Warren
McNeace, Dwight William
McPherson, Duncan, IV
McVey, Francis Bain
Meador, Garry Robert
Meckfessel, John Frederick
Meditz, James Richard
Meeker, John Baldwin, Jr.
Merizan, James Russell
Meyn, John Peter
Michaud, William Edward, Jr.
Michlitsch, Kenneth Mathew
Miller, James Gerald
Miller, Willard Hodges, Jr.
Mills, Jon Martin
Mintz, Darrell William, Jr.
Mitchell, Allen Raymond
Mitchell, John Patrick
Mondul, Donald David
Mongold, Joseph Winship
Montgomery, Howard Gromel
Montjoy, Robert Sabin
Moody, William Fenton
Moomy, David Howard
Moore, Jerry Wayne
Moore, Thomas Eric
Moran, Edward James
Moran, Michael Charles
Morell, Paul Leroy
Morey, Benjamin William
Morgan, Richard William
Morris, Hodges Carter
Morris, Richard Leroy
Morrison, Robert Culton, Jr.
Morse, Edgar Leroy, III
Moss, Carl Edward
Motl, Gerald Patrick
Mueller, Richard Gary
Mulhern, Edward Michael
Muller, Daniel Victor
Mulligan, Daniel B.
Muniz, Fred Louis
Munro, Thomas Joseph
Munyon, William Harry, Jr.
Murphy, Kenneth M.
Murphy, Ronald L.
Nakasone, Harriet Hatsuno
Naydan, Theodore Phillip
Neely, Alan Sanders
Nelson, Johnny Marvin
Nelson, Ronald Duane
Ness, Harry Hedley
Neville, Thomas Francis
Newcomb, Stephen Rowland
Nielson, Allen Lee
Nielsen, Richard F., Jr.
Noland, Juilus Lynn
Nordin, Michael Thomas
Norton, Edward Dennis
Nutter, Robert Wesley
Nygarrd, Verner Christian, Jr.
Ober, William Taylor
Obrien, Francis Donal
Obrien, John Francis
Ohalloran, Michael Joseph
Ohare, Robert Edward
Oki, George Makoto
Old, Thomas Ray
Olsen, John Franklin
Oneal, Robert Joseph
Orzech, James K.
Palmer, Patrick Phillip
Panning, Lawrence Harold
Parham, James Gary
Parizek, Bruce
Parker, Knox Frederick
Parrette, Richard Thomas, Jr.
Parrino, Sammy
Paryz, Lawrence Edward
Patak, Charles Thomas
Pavlock, August Thomas
Pawlak, William James

Pelayo, Javier Maria
Pell, John Herbert
Pelton, Thomas Earl
Perez, Richard
Perry, William Standwood
Petersen, Bruce Lawrence
Petersen, Donald Bishop
Petersen, Gary Louis
Petersen, Robert Elmer
Peterson, Dan Leroy
Peterson, Jon Palmer
Pettus, Gordon Leonard
Philipp, Robert Donald
Phillips, Charles Lewis, III
Phillips, Reed M.
Pier, Jeffrey Ross
Pittman, Robert Grimes, II
Porter, Terrance Michael
Post, John Geoffrey
Potwora, Raymond Paul
Pourciau, Norman Peter, Jr.
Presecan, Thomas Norman
Price, Robert Wayne
Proctor, Daniel Edward
Prouty, Charles Sanford
Puhlman, Robert Lee
Punches, Jeffrey Newton
Purdy, Robert Emmett
Purnell, Richard Hawes
Putnam, Hollis Thomas
Ragland, Willis Eugene, Jr.
Randall, Barry Thomas
Rasmussen, Nicholas Roberts
Redd, Richard Lewis
Redditt, Richard Whitson
Reeves, William Travis
Regal, Roger William
Regan, Kevin James
Reinheimer, Richard
Reynolds, Chester Louis, Jr.
Reynolds, Paul Forrest
Rhodes, James William
Rhodes, Robin
Ricci, Ronald Vincent
Rice, John Moak, III
Richardson, David Wilson
Rippel, George James
Roberts, Gary Gene
Rockey, Robert Daniel, Jr.
Rohn, Eric Gilbert
Rohrbach, Robert Richard
Rollins, James Alfred
Romback, Robert Wayne
Romberg, Steven Fredrick
Rosberg, Gordon Harry, Jr.
Rosemont, Robert Nelson
Rosengrant, Carl Warren
Ross, Robert Alton
Roth, William James, III
Rouleau, Joseph Raymond
Roy, Larry Wayne
Rozof, Chester Felix, Jr.
Rubano, Louis Francis
Rudolph, James Harris
Ruland, Thomas Christopher
Rumbaugh, Denis Eugene
Runella, Robert Paul
Russell, William Thomas
Rybar, Edward Paul, Jr.
Rydland, Robert Henry
Sale, James Michael
Salez, Nelson Charles
Samms, Floyd Tamerlane, Jr.
Sands, Ned Richard, II
Sanesi, Nelson Joseph, Jr.
Sanford, Robert L.
Sapp, Dennis Jay
Savage, Robert Lloyd
Scanlan, Paul Timothy
Scherkenbach, William Wagner
Schilling, Stephen Lenhart
Schiltz, John Allan
Schmidt, Edward John
Schmidt, John Anton
Schnell, Richard Allen
Schumacher, Gerald James
Schweitzer, Robert
Scott, Gerald Judson, Jr.
Scott, Jan Bernard
Scott, Michael John
Sears, Richard Irving, Jr.
Senger, James Marshall, Jr.
Sessions, Michael Dell
Seyle, Charles Eugene
Seymour, Donald Edward
Shaddock, James Michael
Sheddan, James Terry, Jr.
Sherman, Jeffry Bruce
Sherrill, Donald Gene
Shipley, Raymond Howard, Jr.
Shriver, Michael Carl
Siegel, Richard Bruce
Siegle, David Michael
Silverberg, Jon Friedolf
Silvert, Robert Miller, Jr.
Silvia, Michael F.
Simon, Conrad Joseph, Jr.
Sisk, Arnold Jay
Siuta, Raymond Albert, Jr.
Slehofer, Gerald Albert
Smethers, James Randall
Smith, Donald Wilson, Jr.
Smith, Joel Algernon
Smith, Larry Charles
Smith, Mark Allan
Smith, Randall Dean
Smith, Richard Crispin
Smith, Robert George
Snead, Melvin Robert, III
Snider, William Floyd
Sniffin, Dennis Wayne
Snodgrass, Randall William
Snyder, John Russell
Spalsbury, Clark Stanley, Jr.
Sparkman, Thomas B., Jr.
Sparrow, William Clayton, Jr.
Spellman, Thomas Michael
Spencer, Jerome Fredet
Spinelli, Robert Bryan
Spitzer, Jan Wayne
Sprague, Thomas Oren
Staebler, Charles A., III
Stafko, Ralph Eugene
Stagg, Frances I.
Stange, Mark Edward
Stanley, Robert Hugh, II
Stark, Willard Arthur
Staudmeister, Albert Larry
Stearns, Rodney Charles
Steinberger, Francis Edwin
Steinbracher, Alan King
Steiner, Walter Karl, Jr.
Stewart, Richard Russell
Stimac, Michael Vincent
Stine, Larry Winton
Stockreiter, Francis Michael
Stover, Allen Winston Kell
Strand, James Allan
Strassberger, John William
Straugh, Thomas William
Stroh, Ronald Dean
Struve, Donald Gregory
Sturm, Harold Francis, Jr.
Stutzman, Gary Dean
Suddeth, James Hannon, Jr.
Sullivan, William Robert, Jr.
Sundberg, Edward August
Sundberg, Gary Mark
Sutton, David Parks
Swan, Carl M.
Sweatt, William McClain, Jr.
Sweeney, James Daniel
Swistak, Anthony John
Symmes, John Cleves
Tabbert, Gary D.
Taimi, Thomas Michael
Taylor, Janice McGalin
Taylor, Kent David
Tejcek, Jerry Robert
Terhune, Robert Johnson
Theiss, Clifford Anthony
Thibodeaux, Jerry Joseph
Thiele, John Carl
Thomas, Richard Leo
Thompson, Anthony Robert
Thompson, James Magruder
Thompson, Michael Alan
Thomson, Peter Macalpine
Tinker, Dean Ferguson
Tkach, Michael Joseph
Tollison, Thomas Michael
Tracy, Wayne Robert
Trumbauer, John Edgar
Tschaepe, Kurt Otto Erich
Tuck, John Chatfield
Tuck, William Dean, II
Tucker, Daniel Clare
Turk, Edward John, Jr.
Turney, John Hudson
Twombly, Arthur Lee
Tyler, Joseph Edward
Tyrrell, Robert Grattan
Urmston, John Dennett, Jr.
Urquhart, Wiley Barnett, III
Vanbokkelen, William Requa
Vanderlofske, Peter Joseph
Vanoss, David Julius
Vanslyke, Thomas Howard
Velotta, John Charles
Vick, Kenneth Scott
Vickery, James Patrick
Voreck, Joseph Arnold
Wachowicz, Frederick Steven
Walker, James Joseph
Walsh, Joseph David
Walters, Richard Earl
Walls, Walter Edward
Ward, David Francis
Ware, Neil Doyle
Warren, Michael Laverne
Wathen, Matthew Kilmer
Watters, James Edward
Webb, Bruce Collin
Weekes, John Alfred
Wendt, Robert William
Werber, Douglas Michael
Weston, Peter
Wheeler, Peter Ryder
Wheeler, Richard Arlin
Whetsel, Martin Roy
White, Alfred Langley, Jr.
White, Charles Henry
White, Charles William
White, Henry Francis, Jr.
White, James Guy, II
Wickman, Victor Paul
Wilkinson, Douglas Roy
Williams, Douglas Bowne
Williams, Nathan Clark
Williams, Richard Anthony
Williams, Walter Kenneth
Willoughby, Paul Ralph
Wilson, Douglas Maclean
Winkelmann, Fred William
Wirth, Stephen Buffington
Witt, Ronald Charles
Wohlschlaeger, Richard R.
Wood, Frank Sherwin
Wood, John Baker
Woodford, Robert Graham
Woods, Alvin Doyle
Wright, Gary E.
Yarham, Larry Paul
Yates, William Pierce
Young, Howard Scott, III
Young, William Berkeley
Zoch, Donald George
Zuhr, Kenneth Christian

UNRESTRICTED LINE OFFICERS (TAR)

Commander

Ahern, Richard Matthew

Anderson, Jack E.
Barrett, Stephen D.
Barry, Thomas F.
Barton, Edward Brent
Bauer, Larry A.
Benner, Stuart C.
Birr, Douglas Raymond
Blatt, Norman William
Brandt, Rudolph C.
Broyles, Ned A.
Butler, Dwight Allen
Byrnes, Thomas G., III
Curry, Michael J.
Devalut, Richard H.
Dickinson, John F., II
Donnelly, William Joseph
Dunn, Alan B.
Dyer, Michael O.
Groenert, Edward Thomas, Jr.
Hooker, Gilbert N.
Holting, Peter R.
Jones, Ronald F.
Kane, Thomas J.
King, Edward G.
Kinneberg, Paul W., Jr.
Krier, Eugene M.
Lamm, Donald G.
Law, Earl W.
Lawlor, John Conrad, Jr.
Lustman, Ronald Raymond
Marks, Charles E.
Martin, Edward A.
McGowan, Edward R., III
Metz, Roger C., Jr.
Miller, Dana Fontaine
Miller, Karl W.
Paternoster, Joseph Carl
Rice, William T.
Rock, John S.
Sandweg, Robert F.
Scharf, James W.
Scribner, David A.
Smalley, Lewis Hathorn, Jr.
Spottswood, Stephen A.
Svanson, Gust G.
Tanner, Eric V.
Turner, James Edward, Jr.
Vaughters, Jon C.
Veal, Donald R.
Weed, Peter W.
Weesner, Wesley C.
Wright, Richard G.

ENGINEERING DUTY OFFICERS

Commander

Augustine, Francis John
Couchot, Ronald Edward
Dubbs, William Martin, Jr.
Frankenfield, William Harley
Harper, Henry Amos, Jr.
Homer, Joseph John, Jr.
Hough, Phillip G.
Isabella, Joseph Anthony
Israel, Stephen Seabrook
Kaczmarczyk, Francis Daniel
Kingsbury, Robert Lee
Krejci, Emil James
Matfin, William Henry
McKee, Robert Joe
Moore, Arnold Preston
Nelson, Richard Norman
Rich, Robert Thornton
Scott, Owen Frederick
Silva, Francis Eugene
Sjostrom, Leonard Carl
Smith, Robert Samuel
Solymossy, Joseph Martin
Spatafore, Joseph Louis
White, Charles D.
White, Raymond Dutton
Wolcott, Norman Maltby

AERONAUTICAL ENGINEERING DUTY OFFICERS (AERONAUTICAL ENGINEERING)

Commander

Allen, Terry Jon
Hegele, Linwood John

AERONAUTICAL ENGINEERING DUTY OFFICERS (AVIATION MAINTENANCE)

Commander

Abercrombie, Leroy Howard
Clark, Daniel Uz
Earnest, Randolph Cress
Goetz, Daryl Lee
Jamgochian, John Dwight
Lonergan, Harold Robert, Jr.
Maurer, Franklin Delano
McKnight, Loren Everet
Pearcey, Richard Charles
Steubing, Kenneth Michael

SPECIAL DUTY OFFICERS (CRYPTOLOGY)

Commander

Barg, John Frank
Bratiotis, Christos
Burkett, Jerome Phillip
Chludzinski, Cary Frederick
Conroy, James Michael
Dabney, Roger Lane
Dodge, Lee Allen
Fauth, Richard Lee
Foran, Michael Francis
Geiger, Gerald Albert
Hurley, Daniel Casper, Jr.
Marco, Richard Gilbert
McGroarty, James Patrick
Mulcahy, Peter Morin
Pokryfka, Richard Thaddeus
Simpson, John Bruce
Slipka, John Keith
Smith, Preston Harley, III
Stellrecht, Gregory Troy
Updike, Jon E.
Wells, Donald Lockwood
Williams, Ralph Maclean

SPECIAL DUTY OFFICERS (MERCHANT MARINE)

Commander

Bentley, Paul Cody
Curran, Hugh Donald

SPECIAL DUTY OFFICERS (INTELLIGENCE)

Commander

Ambrose, John Thomas
Adams, Frank Lewis
Amstutz, Mark Robert
Anderson, William Deal, III
Arnold, Thomas Edward
Bacco, Albert Michael
Bales, Alvin Schumann, Jr.
Ballard, John David
Barden, Ronald S.
Barnes Larry Ronald
Barron, Leo Edward
Bartlett, Dennis Alan
Bauer, Carl Thomas
Baylor, Larry Allen
Beck, Mary Ann
Blue, Ronald Robert
Boggess, Michael Ben
Bowie, Chester Winston
Braidwood, Douglas
Brandt, Donald
Brentzel, James Harold
Brezina, Wayne Theodore
Brogan, Ronald Dee
Bronzetti, Ronald Anthony
Brown, Dennis Adrian
Brown, Richard
Budenz, George C., II
Coogan, James Joseph
Cook, Edward L.
Cradock, James Emmett
Cristina, Anthony Edward
Curtis, Richard Mark
Dawson, Robert Michael
Dear, James Marvin
Deleot, Charles F., III
Demarco, Vito Salvatore
Desautels, Jeffrey Henry
Deugenio, Joseph Michael
Dillman, Robert Dobbs
Duecy, Charles Patrick
Erickson, Allen Bernard
Erickson, Eric John
Farver, Jean Jeffords
Fitzgerald, Albert V, III
Fitzpatrick, John Joseph
Foster, Alan Wilson
Fourcade, Emile Joseph, Jr.
Fraser, James Yates
Fritz, John Charles
Fuller, Richard Cromwell
Furtek, Frederick Ferdinand
Furth, Glenn Arthur
Gaston, Everett Blair
Genereux, Bruce Thomas
Girtman, Ben Edward
Gough, William Henry, Jr.
Grinde, Harlan Dale
Guyton, William Patrick
Harder, George Harold, III
Harnisch, Gerald Dean
Harrison, Reginald Woodrow
Harrod, Donald Michael
Hastings, Robert William, II
Hinman, David Arthur
Huelsman, Timothy William
Huey, Homer David
Johnson, James Raymond
Kaltenbach, Terry Mac
Keathley, Jerry Winfred
King, Ronald Stephens
Konopka, Anthony Philip
Kuipers, Frans Harmon
Kust, Edward Norman
Lambert, Edward James
Lambert, Raymond Joseph, Jr.
Larson, David L.
Lindall, William Noble, Jr.
Lunn, Phillip Moore
Macomber, Kenneth Dudley
Magyar, John Michael
Mannelli, Theodore Frank
Martin, Robert Stacy
McKenzie, Michael John
Miller, John Lindberg
Miller, Patrick Albertus
Moorehead, Josef Davis
Moss, Mel Darrell
Murdock, John William
Nelson, Robert Micheels
Nelson, William Neal
Newton, Alexander Alfred, Jr.
Nichols, Duncan Lawrence, Jr.
Page, Allen Richard
Palmucci, Victor Joseph
Parshall, Daniel T.
Peterson, Kenneth Leroy
Peterson, Vance Tullin
Pickle, Kenneth Scott
Probst, Reed Richards
Queen, Byron Ellis
Randall, Douglas Paul
Rasmussen, George Arthur
Reilly, Edward Churchill
Rentschler, Donald Richard
Ross, Raphael, III
Russell, Thomas Nathan, Jr.
Sauer, Daniel Warren
Schmidt, John Eugene
Secarra, Harry R.
Shaver, Keith Gary
Simmons, Herbert Truxton, Jr.
Stdizier, Charles Clifton
Stihler, Robert Ernest
Sullivan, Gary Marshal, Jr.
Summers, Robert Lee, Jr.
Swenson, Edwin Layton
Taylor, Thomas John
Thurman, Jack Edwin, Jr.
Tuggle, Bobbie Monroe
Tuttle, John Lobdell, Jr.
Vincent, Russell Alvin, Jr.

Weeks, Belton Edward, III
Weingart, Robert Paul
Willey, Dale Davis
Williams, Louis Ray
Williams, Randall W.

SPECIAL DUTY OFFICERS (INTELLIGENCE) (TAR)

Commander

Fish, Joseph R. Jr.
Liptak, William S., Jr.
McLeod, Roderick D.
Thompson, Larry Francis

SPECIAL DUTY OFFICERS (PUBLIC AFFAIRS)

Commander

Atkinson, Gean Brook
Brubaker, Herbert Minetree
Cragin, Charles Langmaid
Ford, Raymond Francis
Gallant, John Alexis, Jr.
Gowen, William Ricker
Henley, David Clement
Hiaring, Philip Edmund
Mueller, Ronald Raymond
Shaw, Frederick Geoffrey

SPECIAL DUTY OFFICERS (GEOPHYSICS)

Commander

Heburn, George Washington
Woxland, Daniel Allan

IN THE NAVY

Air Force Cadet Norbert F. Reichenbach to be permanent ensign in the line of the U.S. Navy, subject to qualification therefor as provided by law.

Bruce K. Bohnker, Naval Reserve officer, to be appointed a permanent lieutenant in the Medical Corps of the U.S. Navy, subject to qualification therefor as provided by law.

Capt. Theodore O. Paul, Medical Corps, U.S. Navy, to be appointed a permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named U.S. officers to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

McMeekin, Hayne D.
Mitas, John A.

The following named ex-Naval Reserve officers to be appointed permanent captain in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

McRoberts, Jerry W.
Sprinkle, Philip M.

Robert P. Geraci, ex-Naval Reserve officer, to be appointed a permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law.

The following-named medical college graduates to be appointed permanent commander in the Medical Corps in the Reserve of the U.S. Navy, subject to qualification therefor as provided by law:

Bartlett, John D.
Deiparine, Erico M.
Longo-Salvador, Jose A.
Salerno, Francesco M.
Valenzuela, Herminio C.

IN THE NAVY

The following-named U.S. Naval Reserve officer, to be appointed permanent lieutenant commander in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT COMMANDER

Lieutenant commander, USN, permanent

Otterman, Terry R.

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT

Lieutenant, line, USN, permanent

Abbott, Bruce Allen
Adams, Robert Keith, Jr.
Adolphson, Keith Victor
Albain, Thomas James
Albert, Steven Patrick
Alles, James Richard
Andersen, James Christian
Anderson, John Douglas
Armstrong, Danny Wayne
Ashley, Robert Lowell
Atwood, Mary Jane
Badini, James Michael
Bagby, Steven Mallard
Barkee, Jon Leonard
Barnes, J. Hunter
Bayer, Kent Michael
Beatty, Timothy Allen
Beauchaine, Duane Arthur
Beauchamp, Harry James
Berg, Christopher Joseph
Bernier, Oscar Lucian, Jr.
Blair, Philip Wayne
Blout, Robert Paul
Blum, Douglas Glenn
Bodenstab, Mark Harold
Bonderud, Denis Lee
Boswell, Carter Hale, Jr.
Bowman, James Leo
Boyce, John Conlin
Boyer, Michael Francis
Braun, James Henry, Jr.
Bregar, Kurt Joseph
Brenton, Robert Charles
Brittle, Jeffrey Scott
Brooks, Philip Wayne
Brown, William G.
Brubaker, Craig Whitney
Buesser, Frederick Martin
Busbee, Michael Lonnie
Callahan, Kim Francis
Campbell, Jeffrey Reid
Caputi, Anthony Paul, Jr.
Cayle, Jonathan Evan
Cerne, Victor Lee
Cherry, Albert Lee
Chmay, Peter Joseph, Jr.
Christensen, Peter Hugh
Chudacek, John Francis
Churchill, Steven Michael
Clark, Ann Maria
Clark, Kevin Joseph
Cohen, Roy Ian
Cole, Kenneth Dwight
Conway, Robert David
Cock, Thomas Broderick
Cooke, Barry Thomas
Corey, Billy Randolph, Jr.
Crawford, Nila Joy
Crews, Edward Lee, Jr.
Dadiomoff, Roger Steven
Danis, Carole Leigh
DeCosta, Daniel Lee
Dishart, Gregory Stephen
Ditzler, David Patrick
Dobbs, Thomas Vincent, Jr.
Dominicci, David Albert
Dudek, David J.
Dula, Peter William
Egler, Gerard T.
Elder, Robert Thurston
Enos, Charles Earl
Erwin, Clarke Marvin
Fahlberg, Andra Leigh
Featherston, Robert Henry
Fennecken, William Henry
Fornarotto, Joseph Robert
Foss, James Harold, Jr.
Francis, Richard Thomas
Freeman, Gregory Allen
Gauthier, Maurice Keith
Giles, Keith Douglas
Golden, John Michael
Goodin, Lawrence Theodore
Goodwin, Francis R.
Goodwin, Stephen Earl
Gorski, James John
Grandau, Frank Joseph
Gratas, Arthur Nicholas
Hall, Kirt Jay
Hanaoka, Dale Tsukasa
Handrop, Ronald Stephen
Harden, Richard Wayne
Harrison, William Gary
Hart, Silas Clinton, III
Hawkins, James Murdock
Hayes, Larry Eugene
Heiser, Charles Donald
Hendrix, Stephen Lynn
Hettich, Helen Elizabeth
Hicks, Richard Arthur, II
Hoffpauir, Gregory Michael
Hogan, Robert Louis
Holman, Harry Herndon
Holyfield, Freddie Lee
Horn, Howard Robert, Jr.
Hutchinson, Steven Wade
Jarvi, Dennis John
Johnson, Gregory Carl
Johnson, Jan Arthur
Junga, James Louis
Kachmar, Thomas Anthony
Kaiser, John Robert
Keller, Joseph Quentin
Kimmel, Arthur Leroy
Kirkwood, Jeffrey NMN
Klope, Joseph Chester, Jr.
Kohlenberger, Donald Mac E.
Kohler, Melvin Richard
Konrad, Nancy Ellen
Kratz, David Alan
Leary, David Allan
Lewis, Charles Dwight
Lewis, Terrence William
Littleton, Steven Taylor
Lott, Gus Kaderly, Jr.
Love, Ted Lamar
Lykken, Keith Alan
Lyon, David S.
MacCrossen, John Edwin
Mahaffey, Patrick David
Mahony, John Stephen
Mann Michael D.
Manna, Timothy John
Martin, David Wayne
Mayabb, Carl Martin
McCarthy, Kevin Francis
McDonnell, Robert Rankin
McDonnold, Michael Scott
McMullan, Andrew Whitney
McNerney, Peter Arthur
Mehling, Mark Alan
Meyer, John Nelson
Miller, Paul Kevin
Miller, Steve Don
Miller, Walter P.
Millette, Kenneth Gorman
Mills, David Lee
Miner, Scott Eugene
Mitchard, John Joseph
Mitchell, Chauncey Lawrence
Moffett, Paul Landes
Moore, Michael David
Morin, John Patrick
Nelson, Gordon K.
Newton, Bruce Paul
Nutter, Christopher Glenn
O'Connor, Patrick Edward
Olsen, Oswald Henry, Jr.
Pace, Deborah Lynn
Paddock, James William, Jr.
Panasiti, Dominic Anothony
Paul, Linda Sue

Pinner, Van Dewitt, Jr.
Podenak, Gary Lawrence
Polizzi, Theodore Raymond
Powers, Charles Lowery, II
Powers, John NMN
Prasnikar, Gary Steven
Pugliese, Paul Andrew
Rackley, Kim Alan
Rainwater, James William
Reagan, Scott Denton
Reindl, Charles Francis
Richardson, Zachary Methe
Ristvedt, Victor Gore, Jr.
Rivali, Stewart Warren
Robinson, Vernon Chris
Rockey, John Elton, Jr.
Roetzheim, William H., Jr.
Rogers, Richard Wayne
Rojek, Fredric Walter
Ross, John William
Roszel, Stephen S., VII
Rowe, Stephen Edward
Rozwell, Mark Francis
Runco, Susan Kay
Ruppert, Ralph Scott
Ruth, Douglas Alan
Ryan, William Raymond
Sands, Edward Frederick
Sanford, Katherine Lovejoy
Saunders, Richard Scott
Schiller, Philip Steven
Schlichter, William Anders
Schmidt, Kenneth Tarcisius
Schreiber, Jonathan Kim
Seeley, Neil Robert
Selman, Gary J.
Sharkey, Thomas Patrick
Spearer, Oliver Vassar, III
Sherman, Martha Catherine
Sherman, Scott Allen
Shiple, Mark Edward
Sinibaldi, Alan Mark
Smith, Bradley Allen
Smith, Daniel Joseph
Smith, Marie Teresa
Smith, Mark D.
Smith, Selven Layne
Snyder, Eric Sidler
Spence, William Douglas
Staab, Gerald Adrian
Staudenmaier, Timothy J.
Stearns, Raymond Treece
Steed, George William, III
Stephan, John Audley
Stephens, Fredric Milo
Stevens, Michael Alan
Stewart, William Guy
StJohn, Guy Files
Stroud, Geoffrey Anthony
Stuetzer, Scott Michael
Sullivan, Bill Joseph
Sutton, Michael Stuart
Swilley, Wayman Owen, Jr.
Swoish, Douglas Raymond
Szycher, Mark Edward
Thomas, Christopher Lee
Thomas, Lawrence S., III
Thompson, Daryl Scott
Thrailkill, Steven Michael
Tillerson, William Eugene
Timon, Charles NMN., Jr.
Toop, Robert Russell
Tournas, Alexander William
Upchurch, Robert Burton
Vanfossan, John Christophe
Vannortwick, Eric Davis
Vargo, Joseph Elmer, III
Vogel, Arthur Scott
Vonhoene, Paul Joseph
Walker, Stephen Paul
Wallace, Richard Alan
Ward, Peter Mark
Ware, Alan Frederick
Watkins, Dale Vickers, Jr.
Watkins, William Brian
Wayne, Thomas Phillip
Webb, Michael Anthony
West, Thomas Helin
Whetzel, Gary Lynn
White, Garry Ronald
Wicks, Donald Russell
Williamson, Oliver Timothy
Willis, Davis Robinson
Wilson, Robert Henry
Wirt, Robert Orville, Jr.
Wolfson, Craig Stanislaus
Wright, Robert Paul
Zwiep, John Daniel

The following-named U.S. Naval Reserve officers, to be appointed permanent lieutenant (junior grade) in the line of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, LINE, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), line, USN, permanent

Abercrombie, Lynne Margo
Aiken, Arlene Joan
Algert, David Christian
Allen, Joyce Marie
Alston, Thomas Porter
Appelwick, Elaine Carol
Arendt, Karen Mae
Blackstrom, Sharon Elizabeth
Bagnay, Yolanda Christine
Barber, Hope Love
Bass, Rhonda Shaffer
Baumgarten, Mary Catherine
Bednarczyk, Adalbert Antho
Blair, Leslie Allison
Boehnlein, Sherri Dianne
Bolyard, Roberta Bess
Booth, Michael Clinton
Bowers, Michael Henry
Boyer, Jane Denise
Bozzo, Robert Alan
Bradfield, Lynn NMN
Brashier, Deborah Jean
Bright, Edward Shippen
Bruner, Martha Ann Reading
Burge, Tonya Jo
Burgess, Mary Elizabeth
Butcher, Michael Gene
Byers, Keith John
Casey, Michael Scott
Chaldekas, Charles Nicholas
Chapman, Daryl Lynn
Cheney, Larry Glenn
Chiaravalle, Kevin Carl
Clamage, Evalynne Shear
Clark, Elizabeth Randolph
Clark, James Lonial
Classick, Michael Alan
Cody, Steven Earl
Conner, Debra McCormick
Cooper, Gregory John
Cooper, Richard Benjamin
Courtemanche, Linda Marie
Covington, Roy Hurt
Cruickshank, David Andrew
Daigle, Gary Alan
Dami, John William
Daniel, Eddie Whitfield
Daniels, Jean Marie
Davis, Ruby Lynette
Delvecchio, Anne Marie
Desimone, James Vincent A.
Diase, Sylvia NMN
Dilley, Linda Anne
Dixon, Ella Jean
Donovan, Arthur Steven, Jr.
Drury, Kim Marie
Duckworth, Frederick Bradley
Dunigan, Joseph Timothy
Eagen, Michael Martin
Elders, Karen Machiko
Elliott, Nancy Martha Moul
Enderle, Frank Xavier
Ensz, Richard Carlyle
Farrell, Kevin Clark
Finn, Michael Paul
Flanders, Moira Noreen
Fleming, David Alan
Fountain, Helen Leilani
Gaeta, Andrew Aldo
Gallardo, Gregory Frank
Gallo, Deborah Anne
Gardner, Phillip John
Geib, Suzanne Lynne
Giffin, Christopher Kyle
Gillespie, Raymond Doyle
Gillard, Carolyn Ann
Gossen, Robert James
Graeser, Kenneth Scott
Graham, Mary Malfroid
Grall, Pamela Rene
Gray, Linda Jean
Griffith, Charlotte Marie
Grimm, Patricia Doris
Gunggoll, Mark Ernest
Haggard, Terry Wayne
Harper, Pamela Joyce
Harrell, Charie Michele St
Hartshorne, Carrie Elizabe
Hartshorne, Steven Joseph
Harwood, Victor Kyrle, Jr.
Hebert, George Jonth
Heidhausen, Ines Ruth
Henderson, Sara Kim
Herlihy, Thomas Philip
Hestle, Thomas Martin
Hightower, Lonna Marie Hur
Hill, Ronald Coley
Holbaugh, Susan Kathryn
Hollstein, Randy William
Hummel, Jeffrey Robert
Ichinaga, Ellen Shizu
Ifill, Vincent Stolair
Ivers, Jesse William
James, Michael Lee
Johns, Marianne Singletary
Johnson, Laura Joyce
Johnson, Peter Alexander
Jones, Kenneth Lawrence
Jones, Mary Ellen
Jones, Alexander Rhonda Jan
Jordanek, Paula Lynn
Jorgensen, Pamela Anne
Joyner, James Otis, Jr.
Karr, Mark Evan
Kasler, James Fredrick
Kast, Paul Anton
Keating, Michael Timothy
Keiffer, Lawrence Edward
Kent, John Eliot
Kent, Vaughan Horatio
Kesner, John Cletus
Kettlewell, Mark Scott
Knopf, Susan Jane
Kobayashi, Larry Shigeki
Koenig, John Charles
Koundour Iotis Katherine M.
Kowalski, Samuel John
Laflamme, Linda Joy
Lange, Michael Prescott
Lange, Robert John
Larue, Arthur Edward, Jr.
Leathen, Elizabeth Kathlee
Leland, Scott Bronston
Lenke, Michael James
Lewallen, Terry Wayne
Loomis, Michael D.
Loughery, Herbert Anthony
Loughery, Jo Anne
Mackey, Lizbeth Lynn
Maehara, Barbara Louise So
Marsden, William Douglas
Martin, Carrie Elizabeth
Martin, Mary Ellen
Mase, Ronald Ray
Maxwell, Catherine Fern

McCaffrey, George Anthony
McDonald, Gary Wayne
McDonald, Joan Elizabeth
McDougall, Beatrice Jean
McElroy, Dru R.
McIntyre, Robert Francis
McKeon, Joseph Thomas
McLawhorn, John C.
McLean, Peggy Lee
McLennan, Toni Jeanne
Meyer, Clarence NMN
Mills, James Howard
Moore, Howard Earl, III
Moore, Kathy Reading
Moot, Jon Howlette
Mowery, Debra Lynette
Myhre, Edwin Erickson
Neal, Diane NMN
Near, Robert Chapman Heyl
Nolte, Paul Stuart
Offutt, Paul Curtis
Olone, Daniel James
Parsons, Betty Luann
Plumlee, Richard Allen
Ponsolle, Barbara Ann
Ports, Dawn Elizabeth
Potter, Meredith Austin
Redmond, Donald Duane, Jr.
Reichl, John Richard
Rengstorff, Carol Ann
Reynolds, Julia Ann
Rezendes, Lorrie Elaine
Richards, Christine
Riddle, Wanda Lynn
Ridnour, Alan Llewellyn
Riley, Michael William
Rogers, Laura Donohue
Rumph, Donna Maria
Runyan, Albert Damon
Runyan, Stefanie Kay
Rustchak, Janet Suzanne
Schluter, Richard Henry
Schulte, Michael William
Seigel, Steven Brian
Selekman, Robert James
Shuger, Scott Thaman
Simpson, David Myles
Skinner, Victoria Germino
Smith, Michael Alan
Soer, Stephanie Ann
Sorrell, Larry Wayne
Stabeno, Michael Eugene
Stephens, Scott
Stoll, Darrell Mark
Stouffer, Jill Windle
Stpieerre, David Brian
Swienton, Daniel Edwin
Tandy, Cy Spicer
Thompson, Debrah Lynn
Thuma, Charles Frederick J
Timme, Lloyd Leith
Tinsley, Michael Ray
Tuddenham, Elisabeth
Tuggle, William Coke
Uglow, Loyd Michael
Vanlente, Carolyn Anne
Veeder, Anthony Edward
Walden, Heather Jeanine
Walters, Cathy Darlene
Ward, Robert Orville
Ward, Thomas Spencer
White, Barbara Ann
Williams, Teresa Gail Abne
Winer, Gary Steven
Winger, Mary Theresa
Wright, William Allyn, Jr.
Yunker, Chris

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT

Lieutenant, Supply Corps, USN, permanent

Dequia, Edquardo
Gerety, David William, Jr.
Tim, Bartholomew Joseph
Ward, Vernon Michael

The following-named U.S. Naval Reserve Officers, to be appointed permanent lieutenant (junior grade), in the Supply Corps of the U.S. Navy, subject to qualifications therefor as provided by law:

U.S. NAVAL RESERVE, SUPPLY CORPS, LIEUTENANT (JUNIOR GRADE)

Lieutenant (junior grade), Supply Corps, USN permanent

Ammons, Michael NMN
Barr, Robert Charles
Barry, Douglas Alan
Bond, Michael Troy
Chitwood, Gregory Bryant
Cohen, Matthew Jerry
Davidson, Barbara Jean
Dugas, Patricia Minta
Dutton, Robert Randall
Fridman, Patricia Ann
Frymire, Louis Jackson, Jr.
Greene, Robert Edward
Hinton, Brian Lee
Loewenstein, Dennis Eliot
Lyons, Daniel Edward
McPeek, Michael Patrick
Michels, Stephen Gerard
Parker, Bradford Wayne
Stevens, Mark Randall
Sweeney, John Joseph, Jr.
Tripp, Terry Neil
Waite, Stephen Joseph
Weltzien, Brian Douglas
Williams, Michael Neil
Yates, John Thomas, Jr.

IN THE AIR FORCE

The following Air National Guard of the U.S. officers for promotion in the Reserve of the Air Force under the provisions of section 593(a) title 10 of the United States Code, as amended:

LINE OF THE AIR FORCE

To be lieutenant colonel

Maj. Phillip S. Core, [redacted]
Maj. Morgan C. Hendrickson, [redacted]
Maj. George M. Mitchell, Jr., [redacted]
Maj. James W. Stewart, [redacted]
Maj. Thomas F. Wratten, [redacted]

MEDICAL CORPS

Maj. Elvira C. Remo, [redacted]

CONFIRMATIONS

Executive nominations confirmed by the Senate July 26, 1982:

NATIONAL ADVISORY COUNCIL ON WOMEN'S EDUCATIONAL PROGRAMS

Eleanor Thomas Elliott, of New York, to be a member of the National Advisory Council on Women's Educational Programs for a term expiring May 8, 1985.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

NATIONAL INSTITUTE OF BUILDING SCIENCES

The following-named persons to be members of the Board of Directors of the National Institute of Building Sciences:

Charles A. Doolittle, Jr., of Kansas, for a term of 3 years.

Van Norden Logan, of California, for a term of 3 years.

EXECUTIVE OFFICE OF THE PRESIDENT

Nancy A. Maloley, of the District of Columbia, to be a member of the Council on Environmental Quality.

PUBLIC HEALTH SERVICE

Public Health Service nominations beginning Robert E. Dawson, to be Assistant Surgeon, and ending Arvo J. Oopik, to be Senior Assistant Surgeon, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on May 24, 1982.

EXTENSIONS OF REMARKS

SOVIET ATTEMPTS TO DESTROY UKRAINIAN CHURCHES

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. DERWINSKI. Mr. Speaker, the Senate version of House Concurrent Resolution 123, which seeks the resurrection of the National Churches in the Ukraine, was recently passed by the Senate. This version, Senate Concurrent Resolution 18, will be considered by the Subcommittee on Human Rights and International Organizations of the Foreign Affairs Committee tomorrow afternoon. For the benefit of the Members and especially those on the Foreign Affairs Committee, I wish to insert an article by Dr. Lev E. Dobriansky, chairman of the Ukrainian Congress Committee of America, which effectively discusses the attempts by the Soviet authorities to destroy the Ukrainian Orthodox and Catholic Churches in the Ukraine:

THE UKRAINIAN QUARTERLY—A JOURNAL OF EAST EUROPEAN AND ASIAN AFFAIRS

(By Lev. E. Dobriansky)

RELIGION, ECONOMICS AND POLITICS

Once again in the United States citizens are being confronted and challenged by an increasing intermixture of religion, economics and politics. To be sure, that isn't the first time this type of interaction has occurred. In this generation alone, the mix operated in connection with the Kennedy presidency, Vietnam and the conservative shift in 1980. The left-wing religionists held sway in the latter part of the 60's and through the 70's, right down to Iran and the issue of the American hostages. Now a new Moral Majority has upsurged with essentially the same characteristics of religious value imputations into the body politic, reinforced by cumulated, economic power.

This tri-dimensional pattern is, again, being analyzed and criticized by liberals and conservatives alike. Doubtlessly, we shall be going through another period of re-examining the place of the pulpit in society in general, the use of funds attracted by the religious appeal in influencing political campaigns, and the fundamental issue of the basic sphere of religious instruction and influence in a free and democratic society. That religious values and precepts apply absolutely to individual life patterns, there can be little rational question, raised even by atheists and agnostics. There unbridled extension into the body politic over and above the conduct of individuals and issues of social justice and human rights does, however, raise grave questions and endless controversy.

It is not my purpose to engage in this immediate controversy. Rather, the introduction was outlined to show the easy interrelationship of religion, economics and politics—or, if you will, positive scriptured values, economic power to advance them, and with target points in the political arena—as is currently at play on the American scene. Whatever his opinions or biases may be, even an uncritical observer can discern the activist intermixture, whether for better or for worse. The striking aspect of all this, however, is the apparent inability or sheer indifference of most individuals and groups indulging in this interplay to project their religious concerns on a plan which is perfectly legitimate for their efforts and international in scope. Without exaggeration, one of the most genocidal outrages of this century—religious in character—has been almost thoroughly neglected by organized religious bodies, both here and abroad.

There's no need to recount the public speak-outs of religious advocates concerning the supposed immorality of our stake in the Vietnam war, or the conditions surrounding Soviet Jewry, injustices in Brazil, Argentina, Chile and El Salvador and apartheid in South Africa. Any reader of the daily newspaper is aware of these involvements. In many of these and other cases there is much ground of justification and merit. Considerable economic resources, political agitation and religious concerns have been poured into these cases and more. Yet, for some reason (lack of knowledge, an obsessive dialogue with Moscow, over-cautious diplomacy, narrow lobby interests greased with financial contributions) a real act of religious genocide has met largely with silence from our chief organized religious bodies on this plane of unassailable propriety as concern religious values, appropriately channeled economic support, and political impact geared to fundamental national human rights. Needless to say, in God's eyes the plight of mankind is not restricted to any one area of this planet.

The long background

It is strange, to say the least, that the destruction of the Ukrainian Orthodox and Catholic Churches in Ukraine has not been of major concern to organized religious and human rights groups; concern in the activist sense of supporting and participating in attempts to crystallize this outstanding issue and to rectify it. All the elements for such cooperative support have been ever-present: religious and human rights values, uncontested scholarship on this heinous result of Stalin's genocidal policies, and successive opportunities to pinpoint the issue in public fora. As to why these elements failed to conjoin among those groups which normally display a natural and instinctive interest in such outrages is a question that perhaps can be answered in numerous ways and with varying application.

The background on the issue is long and detailed. Just concentrating here on its presentation in the U.S. Congress over the past three decades should be sufficient to indicate the mystery the surrounds the relative passivity of the organized religious and human rights groups with respect to this outstanding case of Stalinist religious genocide. Many books and pamphlets have been written on the subject, but I believe it serves a constructive purpose to center our attention on the development of official interest in the public forum.

On record, the first opportunity arose with U.S Senate consideration given to the Genocide Convention in 1950. It delivered testimony before a subcommittee of the Senate Foreign Relations Committee this whole issue of the destroyed Churches was elaborated upon.[1] I had the privilege of working at the time with Dr. Raphael Lemkin on the convention. Dr. Lemkin, a unique person, coined the term genocide and contributed heavily to the convention text. It can be truthfully stated that he sacrificed his life for the ratification of the convention by all governments. Regrettably, to this day the U.S. Senate has not ratified the treaty. It should be stressed, however, that Stalin's liquidation of two churches falls under genocide. Lemkin held this position, and so do I. The concept applies fully, and does not mean, as too many inaccurately think, just mass killings with intent to liquidate various groups and nations. Also, it should be noted that the USSR is a party to the treaty, having ratified it years ago.

The Select Committee on Communist Aggression and Takeover—the famous Kersten committee, under the chairmanship of Representative Charles J. Kersten of Wisconsin—provided another significant opportunity to press the issue of the two Churches. From 1952 to 1955, the committee held hearings across the country and assembled material on the now captive nations, slave labor and Russian concentration camps that far surpass anything that an Alexander Solzhenitsyn from his limited experience could possibly provide. The heavy contributions of this committee remain monumental to this day. As in the case of the first hearings on the Genocide Convention, the output of this congressional committee was widely publicized. And here, too, the genocide of the two Churches in Ukraine was emphasized in the hearings and incorporated in a special committee report prepared at Georgetown university.[2]

On the basis of this cumulative development, practically the next ten years showed references to the two destroyed Churches in one context or another. In discussion about the policy of liberation under President Eisenhower this crime of Stalin received adequate mention. In 1959, Congress passed the Captive Nations Week Resolution (Public Law 86-90) and in every Captive Nations Week observance since, the crime has been brought up. When Congress passed the Shevchenko Memorial resolution in 1960, calling for the erection of Shevchenko's statue in Washington, this religious issue was repeated time and time again, right down to 1964, when the statue was unveiled.

The obvious point is that these significant strides in our general American understanding of the captive nations. Ukraine and the non-Russian nations in the USSR, the Ukrainian poet laureate Shevchenko, and the traditionalized Captive Nations Week furnished occasions of national significance in which the persistent issue of the two Churches inevitably had to be raised, and on the technical plane of genocide. In short, the issue was never dimmed out: in fact, it was frequently reported in this nation's newspapers and periodicals. Many analysts who grasped the significance of the issue,

also began to relate it to other dominant facts. As they eventually saw, the two Churches were, after all, de facto national Churches by reason of their respective members in quantity in a non-Russian nation that by population is the largest of all the non-Russian nations both within the USSR and Eastern Europe. When such basic facts are related and seen as a whole, the genocidal nature of the destruction becomes more apparent.

Despite this cumulative development, the mystery for me and others was the relative silence of the organized religious and human rights groups toward the issue. Religion, economics and politics seemed to take diverse roads. In Congress, however, the development continued with hearings in 1965 on the state of religious freedom generally in the Soviet Union and Eastern Europe.[3] Testimony submitted at the time highlighted again the barbarous liquidation of the Ukrainian Catholic and Orthodox Churches in Ukraine. The thrust then was to generate positive congressional interest in the issue in the hope that some constructive action would be taken. As always in such situations, the political climate was appropriately taken into consideration, and it wasn't too conductive. Our government was becoming progressively involved in Vietnam, and in the years ahead the situation became even worse, complicated by such phenomena as the civil rights movement, campus unrest and riots, and growing confusion and disorientation on the American scene.

However, the issue of the two Churches was by no means buried. Points made in the testimony at this stage serves as guidelines for opportune discussion and consultation with legislators during this turbulent period. Briefly, when occasion afforded, it was a process of continuing education. There were many supporters in both chambers of Congress, but the heavy turnover in legislators certainly made the task more difficult. And the turnover wasn't solely by the electoral medium. For example, one of the most interesting in pressing the issue was the Senate Minority Leader, Everett M. Dirksen. My relations with the prominent leader were very close. Yet, he felt that the issue should be kept in abeyance as other perhaps more urgent issues required our concentrated energies at the time. One, for instance, was the much debated Consular Convention; another was East-West trade. Extensive testimony and counsel were given by this writer on both issues during this period. The Russian rape of Czecho-Slovakia in '68 involved much time and energy, too, in view of its implications for the non-Russian nations in the USSR. Then, the untimely death of this close friend, the unfortunate defeat of Senator Frank Lausche of Ohio, and other setbacks required new courses of action in dealing with the issue of the two Churches.

This brief description of a state of affairs is only to affirm the old and well-established truth that ideas, even the best of them, have to wait their time for fruition. Examples of this truth are endless. I guess the learned technique is simply to keep the ideational pot boiling. For instance, whether one agrees with them or not, the conservative ideas expressed in the '64 Goldwater campaign for the presidency took seventeen years to be accepted and tested with the new Reagan Administration. As will be shown below, I'm of the confident belief that the time has come for positive and constructive action on the issue under discussion. The process of addressing it was unavoidable. As in all such matters, it required patience, perseverance and, of course, deep conviction.

It wasn't until 1970 that the next formal and official opportunity arose to advance the issue of the two Churches. And, as a further, prominent example of what was described above, this was in connection with the broader issue of the Genoicide Convention, which after thirty years still has not been resolved. Additional testimony was given on the Convention, with concentration again on Stalin's genocidal policy toward the two Ukrainian Churches.[4] The position taken in earlier years had to be reinforced in view of the inaccurate and indiscriminate use made of the term genocide by some civil rights agitators and also anti-Vietnam war demonstrators. The testimony demonstrates the conceptual conformance of Stalin's annihilation of the two Ukrainian Churches with the technical definition of genocide as contained in the treaty. Many legislators have been persuaded of this.

The next round on the issue was six years later during further hearings on religious persecution in the Soviet Union.[5] As in previous years, the hearings provided an official occasion once again for a discussion of the issue. A careful analysis and reading of the sources quoted here would show that although the subject matter has been the same, its interpretative treatment differed from hearing to hearing as shaped by the contextual framework of the hearing and the objective circumstances of the period in which the hearings were held. In short, topical repetition was obviously unavoidable—what some foolishly call a single-issue preoccupation—but the relatedness of the issue to numerous others and the potential ramifications it possesses quickly develop into a multi-issue enterprise.

What's more, at this time careful distinctions of thought had to be drawn between religious persecution and religious genocide. Baptists, Pentecostals, Muslims, Jews and other religious groups in the Soviet Union have been severely persecuted, but institutionally, whether to a greater or lesser extent, they have remained in existence, in institutional being. This is not the case regarding the Ukrainian Orthodox and Catholic Churches in Ukraine. The people are not only being religiously persecuted, but their organized religious institutions have been genocided. The dire effects of this on the unity of a nation, indeed its existence as such, should not be too difficult for one to glean. This and other crucial points of distinction have had to be developed under the ostensible single-issue caption.

Strikingly enough, the heavy interrelationship of religion, economics and politics in the Soviet Union finds its harshest manifestation in the destruction of the two Churches. Regardless of its superficial and nominal constitutional provision on religious freedom, the central Moscow government in this Soviet Russian empire is avowedly atheist and committed to the obliteration of organized and personal religious beliefs anchored in the existence of God. It wields totalitarian economic power that dictates who is to receive resources and who is not for the necessary institutionalization of these respective beliefs held in common. And, for politics, Moscow can find it convenient to utilize its anti-religious stance and economic power to advance its objective of political domination by Russifying and genociding the basic, institutional sinews of a non-Russian nation like Ukraine. In brief, the nexus of religion (negative for Moscow), economics and politics in the Soviet Union is extensive, tight and barbarous.

On this and for subsequent inquiries, the writer extended this theme in an article showing the woven interconnection between imperialism and religious persecution and genocide in the Soviet Union.[6] The outstanding case and example? Naturally, again, the two genocided Churches. For a full, cultural understanding of this outrageous Stalinist crime, any critical observer has to go beyond the crime itself and causally explain its very possibility, the reasons for its execution and the motivations for the executed policy. At risk of repetition, this is scarcely a single-issue enterprise. The realistic approach is necessarily a holistic one, analytically and synthetically combining together all the main, existential factors contributing to the commission of the crime. And these are Soviet Russian imperialism, totalitarian rule, a skewed nationalities policy, and the fear of a powerful and tested expression of non-Russian nationalism.

By 1977 a new context emerged for the steady advancement of the two Church issue. This was the Helsinki Accords. Another official opportunity, another testimony and still another interpretative variation in the handling of the issue.[7] Baskets I and III of the Accords furnished more than adequate room to develop further the two Church issue. The interlocking aspects of all this were concisely and clearly set forth. In addition, an urgent plea was registered for our U.S. delegation to the Belgrade meeting to present the now well-developed case of the two decimated Churches. As somewhat expected, it shied away from it. Regrettably, the same held true for our delegation to the following Madrid meeting.

That year, too, the Senate Foreign Relations Committee reviewed again the prospects of ratifying, finally, the Genocide Convention.[8] And once again a fitting statement was submitted, emphasizing the two Church issue. It reiterated all the previous arguments, but by this time the issue was concretized and formally represented in the form of a congressional resolution aimed at specific Executive action on the subject. For several good reasons, this was not done and furthered in the period before. The spurious detente policy pursued by Nixon, Kissinger and Ford regarded such a venture as "provocative" and not in line with their appeasement inclinations. Frankly, I couldn't understand the logic of their position. To say the least, it was both exasperating and frustrating to witness this spectacle which finally came to an end with the new Carter Administration. There were even attempts to prevent the establishment by Congress of the sound Commission on European Security and Cooperation.

At the Republican national convention in Kansas City in 1976 the ringing cry was for the restoration of morality in our foreign policy. On the Democratic side the cry of human rights in our foreign policy was properly raised. Both really crystallized popular dissatisfaction and disgust with the detente policy pursued by the two administrations. The climate became more conducive for the furtherance of the two Church issue. The justification for a formulated resolution had now a basis. Moreover, as before, a new conceptual framework evolved for another formal presentation of the issue, this being the human rights foreign policy of the Carter Administration.

In September, 1980, the House Committee on Foreign Affairs conducted hearings on human rights in Eastern Europe and the Soviet Union. Yes, with the matter at hand, the same issue but seen in a different light and setting[9]. This has always been the case, one which has made the development of the issue interesting, engaging the self-enlightening. On philosophical grounds, the testimony presented several, constructive criticisms of the administration's human rights policy, as well as coherently incorporating the two Church issue. Action was not taken on the pending resolutions because of the national election year and all the electoral preoccupations this entails. However, a promise was made publicly and in print that action on resolutions pertaining to the two Church issue will be taken in the new Congress. And at this writing such action has already been taken by the U.S. Senate.

The time has come

As indicated above, resolutional effort on the issue became most practicable in this most recent period. A start was made on March 17, 1977, when Congressman Daniel J. Flood of Pennsylvania submitted for himself and others H.Con. Res. 165, seeking the resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine. He was joined in this by Representative Annunzio, Burke of Massachusetts, Delaney, Derwinski, Dodd, Giaimo, Koch, Moakley, Patten, Sarasin, Stratton, Walsh and Wydler. It was referred to the House Committee on International Relations, but no positive action was taken. This, so to speak, was the warmup period on this dimension.

The warmup was extended in the 95th Congress to the Senate side when, on June 14, 1978, Senator Barry Goldwater of Arizona submitted a similar resolution. S.Con. Res. 92 had the same objective. In his well-stated remarks at the time the once presidential contender stated "We must keep the issue alive. We must help the courageous and devout, fellow human beings in Ukraine who are preserving the survival of religion against tremendous odds and at great personal risk." [10]

In the following year Representative Flood re-submitted the resolution under H.Con.Res. 72. New sponsors included Representatives Conte, Philip Crane, Dornan and McDonald. Flood declared on the occasion, "In terms of human rights doctrine, this Stalinist genocide of the two churches is the most outstanding on record and must be redressed if national human rights are to be honored." [11] A variety of difficulties, including the departure of the chief sponsor from Congress and the passage of another resolution on the 20th Anniversary of Captive Nations Week, momentarily delayed progress on the two Church issue in the 96th Congress.[12] That resolution was H.Con.Res. 233.

The early period of the present 97th Congress saw the submission of Senate Concurrent Resolution 18, relating to religious freedom in Ukraine. Senator Goldwater and co-sponsors, such as Senators DeConcini, Dole, Heinz, Humphrey, Jepsen, Lugar, Metzenbaum, Williams, Hatfield, Zorinsky, Moynihan, Sarbanes and Dodd, enthusiastically endorsed it. In his statement Senator Goldwater forthrightly declard, "This fundamental democratic right of all mankind in the case of the Ukrainian nation can be best assured by permitting the resurrection of the Ukrainian Autocephalous Orthodox Church and the Ukrainian Catholic Church, as well as other religious bodies in the largest non-Russian republic in the U.S.S.R." [13]

Several weeks later, appropriately on May 1, Representative Edward J. Derwinski of Illinois submitted in the House H.Con.Res. 123 to seek the resurrection of the national churches in Ukraine. The resolution has 51 co-sponsors. On the occasion Congressman Derwinski observed, "The people of Ukraine continue to be victimized by the repressive internal policies of the Soviet government, which affect their cultural, political and religious freedoms." [14]

Immediately the month after, on June 16, the Senate Committee on Foreign Relations, which is under the able chairmanship of Senator Charles H. Percy of Illinois, voted out unanimously S. Con. Res. 18. Three days later, June 19, the Senate passed the resolution. Senator Goldwater stated this, "I am delighted that the Senate is about to pass Senate Concurrent Resolution 18. . . . The Soviet policy of massive and deliberate persecution of religious groups in Ukraine is, in my opinion, no less than a policy of genocide." [15] An article in a New York organ captioned the event under the term "genocide" and emphasized the measure "calls for the 'concrete resurrection' of the Ukrainian Orthodox Church and the Catholic Church. . . ." [16]

The next phase and beyond

With S. Con. Res. 18 passed by the Senate, the ball is in the House court. It is expected that promised action will be initiated soon on the Derwinski measure, S. Con. Res. 123. The easy combination of the two could promise a convenient concurrence. Talks and negotiations on both resolutions have been under way. The final passage of the concurrent resolution would conclude this long period of educational and resolutional effort. It would represent the final phase of this story, but by virtue of the content of the resolution it would also be the beginning of virtue of the content of the resolution it would also be the beginning of a new chapter of activity and movement toward its consummate objective. Plainly, the resolution is not mere wordage and rhetoric. It contains suggestive ideas that can lead to numerous imagined results of a most salutary nature. An understanding of these ideas and an imagination regarding their possible impact in diverse areas of human action can suggest numerous scenarios.

Religion, economics and politics in the non-totalitarian world might take a new turn in some measure with this resolution on the two Church issue. Surely, the current neglect and misdirected efforts of the organized groups and councils stand to be nudged a bit in the direction of the resolution's objective. Also, in the area of expanded familiarity with the issue, periodicals such as the Reader's Digest and others might respond more sensitively. The September, 1981 issue of the Digest, for instance, carries an article on "The Kremlin vs. the Church," focusing on the Russian Orthodox Church. One on this two Church issue would be even more fascinating and, doubtless, with greater significance and possible impact.

Or to dwell on another area, the corrective influence of the resolution on broadcasts by Radio Liberty would be felt sharply and in the right direction. Incredibly, a report on one of RL's Russian-language broadcasts has stated "Another broadcast upbraided Pope John Paul II for his support of the Uniate (Catholic Church of the Eastern Rite) clergy in the Ukraine," a clergy in the underground. The congressional resolution would be a virtual guarantee against such an operational absurdity. Simply put, the next phase is here: the beyond is fraught with real possibilities of achievement for American leadership.

FOOTNOTES

[1] Genocide Convention. U.S. Senate Hearings, 81st Congress, USGPO 1950, pp. 319-413.

[2] Communist Takeover and Occupation of Ukraine. Special Report No. 4. Select Committee on Communist Aggression and Takeover, Washington, 1955.

[3] Anti-Religious Activities in the Soviet Union and in Eastern Eruope. Hearings, Committee on Foreign Affairs, House of Representatives, USGPO, 1965, pp. 7-9.

[4] Genocide Convention. Hearings, U.S. Senate Committee on Foreign Relations, USGPO, 1970, pp. 165-174.

[5] Religious Persecution in the Soviet Union. Hearings, Committee on International Relations, USGPO, 1976, pp. 58-63.

[6] Imperialism, Religious Persecution and Genocide, The Ukrainian Quarterly, Autumn 1976, pp. 236-247.

[7] Basket Three: Implementation of the Helsinki Accords, Hearings v. II, Commission on Security and Cooperation in Europe, USGPO 1977, pp. 134-162.

[8] Genocide Convention. Hearings: U.S. Senate, USGPO 1977, pp. 114-116.

[9] Human Rights in Eastern Europe and the Soviet Union. USGPO, 1980, pp. 77-81, 193-204.

[10] "Reviving Religion in Ukraine," Congressional Record, June 14, 1978, p. S9176.

[11] "Resolution on the Resurrection of the Ukrainian Orthodox and Catholic Churches in Ukraine." Congressional Record, March 19, 1979, p. H1450.

[12] See Twentieth Observance and Anniversary of Captive Nations Week. House Document 96-365, USGPO, 1980.

[13] Congressional Record, April 27, 1981, p. S4000.

[14] News Release, Washington, D.C., May 1, 1981.

[15] "Free Exercise of Religion In the Ukraine". Congressional Record, June 19, 1981, p. S6538.

[16] Elisabeth Larson. "Soviet Policies Called 'Genocide'." The News World, New York, July 4, 1981.

[17] Jack Anderson, " 'Radio Liberty'—The Kremlin Thinks It's Great!" New York Post, April 14, 1981.●

LIFE IN THE SPIRIT OF LIBERTY

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, I was in my district during the July 4 recess participating in the myriad events that always attend that national holiday. There were inspirational messages, parades, picnics, and fireworks. It is always an exciting, fun-filled weekend throughout America.

Since the weekend was filled from dawn to dusk, I neglected my reading. Fortunately, a friend did not. He sent me the following article which appeared first in Guideposts magazine and was reprinted in the New York Times as an appropriate Fourth of July piece.

I found the article both moving and inspiring and would like to share it with colleagues who may have missed it, too.

KEEPER OF THE FLAME

(By Charlie DeLeo)

I've known her since the age of 9 when my fourth-grade teacher took our class of Lower East Side kids on a ferry ride to visit "Miss Liberty." I was spellbound, overawed

by the 302-foot (including her pedestal) structure towering above us, giddy over the adventure of climbing the narrow, winding 16-story staircase to the crown. A little fearful, our class gathered in front of the 23 windows in her diadem and stared down at the toylike ships in New York Harbor.

I felt a small shiver during that moment. It was the beginning of a beautiful, mystical relationship. Our teacher explained that this 225-ton woman symbolized much of what Americans hold dear—the active pursuit of freedom, a generous spirit and the welcoming of all peoples regardless of their backgrounds or circumstances.

As I grew older, I visited Miss Liberty on my own, or sometimes a friend and I would go on a summer's day to picnic in her shade and follow her gaze out to sea. Her look, I thought, was serene but resolute. There was an expression of strength and courage sculpted into her features.

In my late teens, I left my home and New York and the guardian of its harbor to go to Vietnam. When I returned home in 1969, I went aimlessly from one job to the next. I couldn't discover why.

On a spring day in 1972, I decided to take the ferry out to Miss Liberty's 12-acre island and collect my thoughts. As the boat plowed through the choppy waters, I felt an urging that I'd never experienced before. But there it was, very insistent. Ask for a job here! So, when I stepped off the boat, I walked into the office and did just that, and I was hired on the spot.

As a member of the maintenance crew, I scraped and painted Liberty's spiral staircases, cleaned her windows and replaced them with screens for the warm months, swept her paths and picked up candy wrappers and soda cans left behind by her visitors. Here at last I was caring for something, an intricate part of our heritage. My grandparents were among the throngs standing at a ship's railing, straining to catch the first glimpse of this statue; I feel fortunate to be one of those people responsible for her care.

Sometimes I take a coffee break while perched on one of her eight-foot-long fingers, where I sit in the open air 34 stories above the harbor. What a curious, great sensation to feel the brisk harbor breezes pushing at me and yet all the while feeling secure in that precarious place, secure in the hand of Liberty.

Liberty holds in her left hand a tablet emblazoned with our date of independence, "July IV, MDCCLXXVI." But it is what she holds in her right hand that has consistently fascinated me.

I remember the day, shortly after I began working at the statue, when I unlocked the metal gate leading to her right arm. I slowly climbed the 42-foot ladder—closed to tourists now—leading me through Miss Liberty's arm. The ladder, only 12 inches wide, ended at a trapdoor. I put any shoulder to the hatch and came out to the most glorious view of the Verrazano Bridge, New Jersey flatlands, Brooklyn docks and Manhattan skyscrapers.

There I was, standing just below the torch, its 200 panes of amber glass sending out a 2,000-watt beacon from four high-intensity sodium vapor lamps. I was so drawn to this lofty hideaway with its bird's eye view of God's world that I often took my lunch up there.

My supervisor learned of my frequent trips up to the torch and called me into his office one day. I knew he was going to yell at me because the right arm and torch were off limits.

Instead, he said, "Well, since you're spending so much time up there, I thought we'd just put you in charge of it. You'll have to keep the glass cleaned, check the stairs, maintain the area and see to it that the flame is always burning. What do you say?"

So now I'm the Keeper of the Flame. And I climb up every day to check the lamps and polish the amber panes so that the rays of light will continue to reach as far as possible.

The afternoon sun is high as I look out over the railing—out to the sea and the lands beyond, then over to the mainland with its factories and rows of homes and stiltlike office buildings. I think beyond to the suburbs and to the farms and to the cities and villages beyond them—to all parts of America.

And I say a prayer for all Americans. I pray that we will enjoy the fullness of life in the spirit of liberty; that we will cling to those ideals that have made our country a beacon around the world, and that every man, woman and child will come to know life, liberty and the pursuit of happiness that God intended for us all.●

STATEMENT ON VOTES

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. BARNES. Mr. Speaker, I am taking this opportunity to indicate my positions on votes taken last Thursday, July 22. On rollcall No. 202, the Bethune amendment to the Zablocki amendment, to prohibit procurement or production of binary chemical munitions, I would have voted "aye." On rollcall No. 203, the Courter substitute to the Zablocki amendment, I would have voted "no." On rollcall No. 204, the Zablocki amendment, as amended, I would have voted "aye." On rollcall No. 206, the Dellums amendment striking funds for the B-1 bomber, I was paired in favor of the amendment and would have voted "aye."●

BANGLADESH: THE OTHER SIDE OF THE STORY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. MICHEL. Mr. Speaker, on June 8, 1982, I inserted in the RECORD a piece from the New York Times which was highly critical of the way the nation of Bangladesh uses American foreign aid and food aid. This article came to the attention of my good friend and Illinois colleague, Senator CHUCK PERCY, the distinguished chairman of the Committee on Foreign Relations. He was kind enough to send me his views on the situation in Bangladesh which do not always agree with the rather harsh judgments expressed in the Times article. In the interest of fair play I want to insert the text of Senator PERCY's letter into the RECORD at this time:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, D.C., July 16, 1982.

Hon. ROBERT H. MICHEL,
U.S. House of Representatives,
Washington, D.C.

DEAR BOB: I read with interest your recent statements in the CONGRESSIONAL RECORD regarding Ann Crittenden's article in the June 5 *New York Times*. I would like to take this opportunity to comment on some of the points in the article.

The article is somewhat insensitive to the economic, social, and political limitations involved in working in a country as desperately poor as Bangladesh. Perhaps as a result, the article misses much of the real significance of the policy reforms and economic progress the Bangladesh government has achieved since I visited it in the midst of its war for independence from Pakistan that exploited "East Pakistan" to the point where the new Foreign Minister of Pakistan, Yaqub Khan, resigned from the army as a general and was jailed but later vindicated and freed.

Ten years ago, Bangladesh was a state approaching chaos. Governmental efforts and donor assistance by necessity focused on the immediate problem of feeding a hungry population and establishing the basic institutions needed to govern. By the mid-70's, our efforts had evolved into a complex development program which is increasingly concentrating on expanding productive capacity—not just keeping people alive. The challenge now is to sustain this important struggle by using our economic assistance program to encourage the Bangladesh government to continue making the necessary economic reforms.

Ms. Crittenden herself admits that increases in agricultural production "have outpaced population growth and malnutrition has become less prevalent . . . [and] . . . further gains in agriculture can probably be made in the near future." In a country where people live so very close to the margin and where food is the most important of political issues, this is a significant achievement. Since independence a decade ago, Bangladesh has also made measurable progress in other areas—notably a threefold increase in fertilizer distribution, a fifty percent increase in land under irrigation, and a fifty percent increase in real GNP. This is not to say the fundamental problems of under-development are close to being solved, but just that there is a trend and it is positive.

Her specific allegation regarding U.S. food aid to Bangladesh also displays a fundamental misconception of our program. U.S. food aid shipped to Bangladesh is distributed primarily through two programs, Food for Work (Title II of P.L. 480) and Food for Development (Title III of P.L. 480). Under the former, landless laborers sharecroppers, and other members of the rural poor are paid in kind to work on specific development projects. The projects chosen for this program are approved only after consultation with the Bangladesh government and usually involve such public works as building canals, water tanks, and roads. Under Title III, U.S. grain is sold either through the open market to moderate foodgrain prices for the entire population or through a modified ration system directed exclusively to the rural poor. No U.S. food aid is used in a quite separate program, which provides sup-

port to the relatively more affluent urban dwellers, civil servants, and military personnel.

Lastly, corruption is a serious problem in many countries, particularly in the developing world. Food aid programs have been designed to overcome the cultural bias toward corruption, and to deliver food only to those qualified to receive it. Despite these efforts, corruption undoubtedly still exists. In cooperation with concerned Bangladeshi officials, as well as private international voluntary agencies, our officials are continually checking how much of our food aid actually reaches the rural poor and devising stronger safeguards which can reduce the loss from corruption even further.

Bangladesh a decade ago was considered an economic disaster. This is no longer the case. The international community, as a whole, contributes significant funds to Bangladesh because it is considered a developmental success. Our participation in the program is greatly appreciated in Bangladesh, and has won us much respect there and elsewhere.

Warm regards,

CHARLES H. PERCY,
Chairman.●

ANALYSIS OF THE BALANCED BUDGET AMENDMENT

HON. ED BETHUNE

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. BETHUNE. Mr. Speaker, as usual, columnist George F. Will has made us search our souls—this time on the balanced budget amendment.

I take this occasion to insert his most recent analysis of the issue:

BALANCED BUDGET HOAX

(By George F. Will)

God, preparing condign punishment for hot air emitted in support of humbug, turned the temperature up to 90 the day the president addressed a rally for a constitutional amendment to require balanced budgets. The rally to make government—that questing beast—obedient to "the people" was for people with tickets. A ticket to a rally for an amendment to "require" balanced budgets calls to mind the invitation a Lady Colfax issued, after the First World War, to a luncheon to "meet the mother of the Unknown Warrior."

But members of the sainted public could get tickets. Red tickets were for employees of the Republican National Committee and high-level employees of the—if you"ll pardon the expression—government. They got to sit smack in front of the president. Blue tickets allowed lesser government employees to sit farther back from Himself. White tickets, handed out on the streets, put plain people, to whose salvation the rally was dedicated, at the rear.

Behind the president, stewing like prunes in their juices, were congress-persons and senators, some of whom sincerely support the amendment for which they were rallying. Legislators who did not feel ill-used obviously were properly used as applauding props.

Washington's air this season is thick with humidity and hoaxes, such as nuclear "freezes" that won't freeze anything, and "flat rate" tax programs without flat rates. So what is one more hoax among friends? This hoax—this trivialization of the Constitution—is, simultaneously, a confession of political in competence and an assertion of intellectual mastery—mastery not noticeable in the results of recent economic policies.

At precisely the moment when economists are especially bewildered by the inability of their theories to encompass events, politicians, running for cover from the electoral consequences of their activities, are proposing to constitutionalize an economic doctrine. They would graft something evanescent onto something fundamental.

Under the amendment, Congress would be required to adopt, prior to each fiscal year, a statement of receipts and outlays, the latter not to exceed the former. But such economic numbers are estimates made of warm taffy, all gooey and stretchable.

Neither clairvoyance nor candor can be counted on in Congress or the Office of Management and Budget. So who will enforce what on whom if—when—the numbers are significantly wrong? Will the president control outlays by impounding appropriated funds? Will courts superintend the appropriations process?

If the latter, will every taxpayer have standing to sue? No one can know until courts speak. And they will speak, because the amendment does not stipulate that controversies under it are not reviewable by courts. Were that stipulation made, the amendment would become a recipe for paralysis and lawlessness.

The amendment says that total receipts in any fiscal year may not be set to increase at a rate faster than the rate of increase of national income in the previous calendar year. The implication of this is that whatever else the government has recently got wrong, the current ratio of federal spending to national income is just about right.

But, then, the amendment would allow Congress to change this ratio by a simple majority vote. And by a three-fifths vote, Congress could authorize a deficit—which is what Congress has been doing for generations. So, to enable current incumbents to strike a pose, some incumbents want to clutter the Constitution with an amendment that might be, in practice, 98 percent loophole. It would be that, unless the political culture and congressional mores changed substantially, in which case the amendment would be beside the point.

The amendment is long, but should be longer. It depends on Congress' making precise projections, so it should contain 1,000 more clauses, four of which are:

Floods, hurricanes and other acts of God that wish to occur during the next fiscal year must register with OMB six months before the fiscal year begins, so Congress can know that relief-spending shall occur.

Agricultural commodities covered by price supports must inform the Agriculture Department if they are planning to materialize in inconvenient quantities in the next fiscal year.

Anyone planning to need unemployment compensation in the coming fiscal year must notify the Labor Department.

Before causing crises, tiresome foreigners must notify the U.S. Defense Department of any effects their crises will have on U.S. defense spending.

And . . . oh, yes: I love lobster, and own elm trees. Could Congress please require lobsters to grow on elm trees?

Sorry; I digress. It must be the heat.●

AN EDITOR SPEAKS!

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. BEREUTER. Mr. Speaker, the South Sioux City, Nebr., Star recently reminded us of an incident that was handled so well that it has almost been forgotten. The matter is the air traffic controller strike of last summer. President Reagan acted correctly in dismissing the strikers and the transition was so smooth that the Nation hardly noticed. Instead of setting a bad precedent, the President's action served as a warning to other vital public workers who do not have the right to strike. The Star's editorial makes the point well, and I include it in full in the RECORD.

THE PRESIDENT WAS RIGHT

It is has been almost a year since the Professional Air Traffic Controllers Organization called an illegal strike which led to their firing by President Reagan.

The president warned PATCO members they would be fired if they did not return to work. They didn't and the firing followed.

Public sentiment backed the president. There were warnings from PATCO members that the skies were no longer safe for air travelers but there was never any evidence that safety was affected by the president's action.

A year later it is hardly apparent that new workers for the most part have taken over the air controller jobs. Most people have probably forgotten there was an air controller's strike.

Meanwhile 10,900 controllers have sought to have their firings overturned through Civil Service channels. They have been unsuccessful.

The air controllers incident should serve as a warning to other essential government employees who might be inclined to strike.

A year later it is apparent President Reagan's action in firing the defiant air controllers was correct. His action may have averted strikes in some other areas of government.●

WHY I LIKE ESSEX COUNTY CONTEST

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. RODINO. Mr. Speaker, the county of Essex in New Jersey is celebrating its 300th anniversary this year. To observe the occasion, the county government sponsored an essay contest for students in grades one through six. An anniversary is certainly an appropriate time to both reflect upon the past and examine the present, and this was done in some very touching pieces by the youngsters of Essex County.

The essays are centered on the theme, "Why I Like Essex County." Written with an enthusiasm and sincerity which could only be achieved by youth, they remind us of some of the finest qualities of our county. An article about the competition, which appeared in the Newark Star-Ledger on July 19, 1982, includes several of the students' essays. In order to share their thoughts with my colleagues, and to recognize their efforts, I offer it for inclusion in the CONGRESSIONAL RECORD.

[From the Newark Star-Ledger, July 19, 1982]

EIGHT NEWARK SCHOOL KIDS ARE PRIZEWINNERS IN "I LOVE ESSEX" ESSAY CONTEST

In observation of Essex County's 300th anniversary this year, the county government sponsored an essay contest for students in grades one through six, keyed to the theme, "Why I Like Essex County."

Of the 750 entries, Juan Rivera, a student at Warren Street School, came in third, winning a $75 bond.

Seven other students from Newark recieved certificates from County Executive Peter Shapiro.

Here are the Newark students' essays:

I like Essex County because it is the place where I've been living for eight years. I love Essex County because it is the place where my home is, my friends, my school and my church. That is just part of what I like about Essex County. But there are other things that not only make me like or love Essex County. It makes me feel proud of it, and all the things that surround Essex County like libraries, the museum, parks, colleges, universities, modern buildings and historical places.

The Newark Public Library is one of the best in the United States for their large collection of books. The museum is one of the best for the art collection, their Fossil Program, the Junior Museum, which is the part of the museum that children enjoy most. The Planetarium, which is in Essex County, is my favorite.

When people from my family come to visit us, we make plans to visit the museum. We are also surrounded by very important colleges like the Essex County College, Rutgers University and the Newark Institute of Technology, which is across the street from my school.

We also have in Essex County good schools, high schools and vocational schools. The modern buildings are one of the things that shows the progress of Essex County but the historical places and buildings show me of the knowledge of the people of the past.

When I go out on vacation with my family or I spend a couple of days with my aunts and cousins in Jersey City, I miss Essex County and that's why I've learned to appreciate all the good things that Essex County provides me. Most of my plans for the future are focused somewhere in Essex County, because it is the place that I know I can have a lot of opportunities and I will get to know it better when I grow older.

JUAN RIVERA, Grade 3,
Warren Street School.

I like Essex County because there are a lot of schools, churches, parks and nice houses. I like the libraries because they are good places to read silently and they have good movies in the summertime. I like to go to the parks because there are fun things to do.

Most of all I like the way the men built Essex County College. I like to go downtown and see tall buildings. I also like to go to the malls to shop. We go to Westside Park for track and to Vailsburg Park for softball and May Ray Day. I love to go to Cherry Blossom Park on Sundays to look at the blossoms. Essex County is the best and prettiest county I have seen and been to. That's why I like Essex County.

SHARESE PORTER, Grade 3,
St. Rocco School.

I like Essex County because it is such a wonderful place to live in. Essex County has many interesting places to go to. One day I went to Turtle Back Zoo. The zoo has many kinds of animals. I like all the animals, especially the seals. They would eat the fish in a minute. The parrots were the loveliest parrots I have ever seen. After I saw the parrots I went to see the horses and ponies. I like Turtle Back Zoo very much.

Another day I went to Newark Airport. It is the best airport I have ever been to. The planes were more beautiful than any other airplanes in other airports. When somebody in my family has to go far so that they have to take a plane, they always go to Newark Airport. When they have to come back they take the plane to Newark Airport. I love living in such a wonderful place. More people should come to Essex County.

LILLIAN VENDRELL, Grade 3,
St. Columba School.

I like Essex County because there are many places that children can visit. Some of those places are museums, libraries, Turtle Back Zoo and parks.

I like to go to the parks in Essex County, especially Weequahic Park, because it is right down the street from my house. There are many activities for young people. I can go to the playground, or I can play baseball or basketball. Also, I can fish or play tennis. I like Essex County because there are lots of activities for children. These activities give young people something to do and help them to stay out of trouble.

I like Essex County because it is a nice place to live. There are several hospitals in case that someone gets sick. The county keeps certain streets clean. This is important, especially in the winter when snow is on the ground. The people in the county can still go where they want to go in all kinds of weather. There are shopping malls located in Essex County where people can shop for bargains.

A lot of famous people have lived in Essex County, for instance, Seth Boyden, Grover Cleveland, and Lucy B. Stone. Seth Boyden discovered the process of making patent leather. There is a housing project right down the street from my house that is named after Seth Boyden. Grover Cleveland was president of the United States. Lucy B. Stone led the fight for women's rights. All of these people helped to make Essex County a better place to live and I am glad that they lived here.

When I graduate from high school and think about continuing my education, there are many colleges and universities that I can go to, such as Essex County College, Rutgers University and Seton Hall University. I'm sure I'll have a hard time trying to decide which school to attend because many important people have graduated from these schools.

I really love living in Essex County and I want to stay here all my life.

MARTHA HODGES, Grade 6,
Dayton Street School.

I really cannot speak or write about all of Essex County, but I can write about the place I live, Newark, and places that I have occasionally seen.

The schools in Newark that I have been to have been educationally rewarding. I have also met a lot of nice teachers and friends in the school system. Boylan Street School, where I attend now, has been responsible for my seeing a lot of historical sites and it has taught me some history. For instance, we went on a trip to City Hall. There I saw and learned a lot. I saw different court rooms. We saw the set-up of the important people. The City Council sits around a table. I saw the Fire Department.

I have visited Vailsburg Park several times with my family and friends. I like the trees, the grass and the swings. The students of Boylan Street School went on a trip to the circus and Morristown, N.J.

I enjoyed it very much. We saw the clowns, and all sorts of animals. It was colorful and amazing to see the different tricks and acts. Every summer my sisters and brothers and I go to the Vailsburg Library. There they have arts and crafts, movies, puzzles, disco, picnics and so many other things. We enjoy them every year.

My father is a minister. We have visited many churches in Newark. My family and I enjoy going to the beautiful churches and the ones that are not so beautiful.

I said at the beginning that I haven't been to too many cities in Essex County but what I have seen I have enjoyed and I really enjoy and I really love Essex County.

DIONNE BAXTER, Grade 6,
Boylan Street School.

In the first place, I like Essex County because this is where I have lived a long time. I like its beautiful pools, parks and museums. I like the clean, fresh, foods in the supermarkets and grocery stores. It doesn't have very polluted air. Also, the people that live in Essex County keep the county clean and looking good.

We are kind to people who come from foreign countries. There are a lot of big hospitals. We have religious freedom to worship God any way we wish to. We also have a cathedral. There are big roller skating rinks, too. We have big, clean grammar schools, colleges, high schools and universities. The county has a lot of theaters and stadiums for you to watch your favorite shows. It has big, beautiful playgrounds. There are all kinds of restaurants, too. Big banks will loan you money any time. Well we also sell perfect furniture for your house.

There is also good transportation like buses, cars, subways, and trains. We have tall buildings to look at, big ice skating rinks for you to have a good time, and many fine clothes stores.

We have a lot of discos for you to spend a fun time. There are all kinds of fields that you can play any sport you like, for example, baseball, basketball, football, kickball, tennis and soccer. Our county is really a great one. We also have many places to go and visit. There are many beautiful sights for you to see. Many tourists like to spend their vacations here because of the beautiful hotels we have. One of the biggest hotels we have is the Hilton Hotel.

LUZ CRUZ, Grade 5,
Oliver Street School.

EXCLUDE TIPS FROM GROSS INCOME

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. PHILIP M. CRANE. Mr. Speaker, the treatment of tips under our Federal income tax is a source of problems for both taxpayers and tax collectors. Although a tip is a voluntary and gratuitous gift, it is currently required to be reported as part of the gross income of the recipient. The law requiring tax on these voluntary gifts has created an administrative nightmare. The reporting and filing requirements for tip income are overwhelming small businesses. It is economically impossible for an employer to act as a surrogate auditor—attempting to record and force tax payment on small tip amounts collected daily by their employees.

The Internal Revenue Service has been burdened with an unfeasible legal requirement. Wary of massive tax avoidance due to the failure of many workers to report their tip income, the IRS is spurred to delve further and further into the personal records of taxpaying employers and employees. The result is a poorly administered tax, inviting IRS encroachment into the lives of citizens, taxpayer nonconformance, and resentment of our voluntary tax reporting system.

The treatment of tips as a part of an individual's gross income is incongruous with the treatment of tip income under our unemployment compensation laws. When a worker is paying his taxes, the money he collects as tips is defined as "income." Yet should he suddenly find himself unemployed he will discover that his tips are now not considered income and will not count toward his unemployment compensation. Excluding tips from gross income will bring the income tax in conformity with the unemployment compensation laws.

Most people realize that the tax on tips is administratively impossible to collect. A congressional mandate was made which could not be fulfilled, rendering the law an hypocrisy. Because compliance cost is economically prohibitive, the law-abiding employer cannot be effectively law abiding. This paradox forces honest men and women outside of the law, while decreasing the credibility and force of law. The result has been a broadening of the underground economy, estimated to be over $90 billion in 1981. Enactment of this bill would account for a significant portion of the underground economy, releasing the Government's frustration over tax avoidance.

Equity requires that tips be given tax-free status. Since gifts are deductible to the donor and tax free to the recipient, tips should be treated the same way. Tips are today deductible as a business expense. The recipient of a tip should receive the full tax-free value of the services he or she renders.

Tip income should not be considered equal to a salary-earned income. Salary income is secure, consistent, and contractually guaranteed. Tips are voluntary, gratuitous, and subject to the sole discretion of the customer. Those employees receiving them lack certainty and security in their take home pay. Their income is subject to daily fluctuations. Providing them with a tax benefit compensates for this insecurity, so as to equalize their position with the secure wage earner.

Removing tips from gross income is another prolabor proposal targeted at the "little guy." Cab drivers, bartenders, bellhops, waitresses, porters, and others collecting tips, would have tax-free available cash for savings and investment. While workers who fail to report their tip income are forced to spend the money on consumption, rather than show unreported additions to their income, tax-free tips would allow workers to save and invest this money without fear of IRS investigations.

The service industry as a whole would improve if tips were given tax-free status. Tax-free tips would provide an important incentive and would enhance the quality of work in the service industry. The minimum wage laws would be unaffected by this bill, and employers would still be in compliance with the law.

In summation, excluding tips from gross income would simplify the Tax Code, remove many compliance and administrative problems, promote conformity between the income tax and the unemployment compensation laws, ease the frustration over the underground economy, promote tax equity, and provide an important tax benefit to the bottom of the labor class.●

FULL FUNDING NEEDED TO MEET THREAT OF TOXIC WASTES AND HAZARDOUS SUBSTANCES

HON. MICHAEL D. BARNES

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. BARNES. Mr. Speaker, the Maryland Conservation Council, a group of environmental, conservation, and sportmen's organizations, has written to me urging full funding for programs designed to protect the public's health and safety against the threat of toxic substances in our environment.

I strongly support the view of this organization, and I have written to the distinguished chairman of the HUD-Independent Agencies Subcommittee, Representative EDWARD BOLAND, expressing my hope that the level of appropriations to EPA for this purpose will reflect the urgency of the situation.

For the RECORD, I would like to include the letter and resolution which the Maryland Conservation Council sent to me:

MARYLAND CONSERVATION COUNCIL.

Hon. MICHAEL D. BARNES,
House of Representatives,
Washington, D.C.

DEAR REPRESENTATIVE BARNES: The Maryland Conservation Council delegate members unanimously passed a resolution urging substantial funding for U.S. Environmental Protection Agency implementation of legislation to control and reduce toxic substances and hazardous wastes.

I have attached a copy of the resolution for your consideration. A copy has also been sent to the other Maryland Senators and Congressmen and Congresswomen.

The Maryland Conservation Council is dedicated to preservation and wise use of "Maryland's natural and historic resources, as related to the total environment, through a program of cooperative action for the benefit and well-being of our citizens and our visitors". MCC in a council of Maryland environmental, conservation, and sportsmen's organizations representing about 30,000 members. (See attached roster.)

We appreciate any support you can offer to bring about adequate funding for EPA's toxic substances and hazardous waste control program. An unrecognized need five years ago, safe management and disposition of the toxic by-products of our industry must now have our highest priority in order to assure human, economic, and environmental well being into the next generation. The peril is real and of great urgency. Please act on our resolution to provide the EPA with adequate financial resources to carry out their mandated responsibilities, and urge your colleagues to do the same.

Yours truly,

BARBARA YEAMAN, *President.*

RESOLUTION OF THE MARYLAND CONSERVATION COUNCIL REGARDING EPA BUDGET INCREASE FOR TOXIC SUBSTANCES MANAGEMENT PASSED UNANIMOUSLY, JUNE 19, 1982

Whereas, the American public has become intensely concerned about toxic substances pollution; and

Whereas, Toxic substances are known to have severe environmental and public health effects. They have become pervasive in the food, environment, and in some cases the drinking water of the American people; and

Whereas, programs for controlling and reducing toxic substances and hazardous wastes in the envoronment by the Environmental Protection Agency (EPA) such as the Toxic Substances Control Act (TOSCA); the Resource Recovery and Conservation Act (RCRA); and the Safe Drinking Water Act have received inadequate budgets to permit effective implementation; and

Whereas, estimates based upon experience with PCB's and other programs and the workloads associated with these programs clearly indicate that the EPA requires a 1983 toxic substances management budget of $500 million to carry out existing legislative requirements; and

Whereas, this cost (inlcuding an addition for inflation) is les than $3.00 per capita per year; and

Whereas, the Maryland Conservation Council expresses its firm belief that a $3.00 per capita expenditure by the EPA to control and reduce the hazard of toxic substances and hazardous wastes in the nation would be desired and supported by a vast majority of Americans to protect the public health and environment today and in the future: Therefore, be it

Resolved, that the Maryland Conservation Council supports an additional $500 million to be added to the 1983 budget of the EPA to permit the implementation of existing legislation for controlling and reducing toxic substances and hazardous wastes in the environment; and that. . .

The Maryland Conservation Council requests that the Maryland Senators and Representatives to the United States Congress promote expenditure in the $500 million range (or $3 per capita) to implement present toxic substances legislation and hopes they will be joined in this endeavor by representatives of other States.●

THE REPORT OF THE U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 26, 1982

● Mr. MICHEL. Mr. Speaker, the U.S. Advisory Commission on Public Diplomacy recently published its 1982 report to the Congress and to the President of the United States. As you know, the bipartisan Commission is made up of distinguished Americans from various backgrounds who serve as public trustees for the International Communication Agency, our overseas information agency. The Commission is enjoined to assist the policies and programs of the agency and to report its findings to the President, the Congress, the Secretary of State, and the Director of the Agency.

At this time I am inserting in the RECORD the summary of the recommendations of this valuable report:

I. SUMMARY OF RECOMMENDATIONS

PUBLIC DIPLOMACY AND NATIONAL SECURITY

The International Communication Agency is little known within the United States and often overlooked, yet its role is vital to our national interest and the conduct of our foreign policy. Public diplomacy is as indispensable to our national security as military preparedness, and the Commission strongly urges that it be treated with the same urgency and concern.

STRUCTURAL RELATIONSHIPS

The Commission recommends that USICA's role in the foreign affairs community be institutionalized to ensure the regular participation of the Agency in the formulation and execution of American foreign policy. It urges that a Presidential Directive be issued implementing Congressional intent that the Director of USICA serve as a statutory advisor to the National Security Council and as the principal advisor to the President on foreign public opinion and the conduct of public diplomacy.

VOICE OF AMERICA

The Commission recommends that USICA take greater care to avoid actions and policies that can be easily misinterpreted and cast doubt on VOA's commitment to accuracy and objectivity.

The Commission welcomes the high priority USICA is giving to the expansion of VOA's worldwide transmitter network and to the modernization of its Washington facilities. It recommends that these initiatives be given appropriate support.

The Commission supports USICA's efforts to examine the most effective means of communicating with successor generation audiences. It recommends that this examination consider the cost, potential audience levels, and technical difficulties involved in medium wave broadcasting to Western Europe as well as the relative advantages and disadvantages of other media.

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

The Commission regards USICA's educational exchange and international visitors programs as among the most effective tools of public diplomacy and recommends that they be materially strengthened.

In view of the size of the East-West Center's budget and its potential for creating better understanding among the nations of East and West, the Commission recommends that the Center be comprehensively evaluated by an experienced team of professionals selected from the fields of higher education and cross-cultural communication.

TELEVISION

The Commission welcomes increased cooperation between USICA and the private sector, but it opposes private funding of major programs, particularly those articulating U.S. foreign policy.

The Commission recommends that USICA undertake a major study, drawing on the expertise of government and non-government specialists, to ensure that the Agency realizes the full potential of television programming and remains completely abreast of technological advances.

PROJECT TRUTH

The Commission is pleased to note the extensive interagency cooperation and coordination supporting this project and recommends that such coordination become the rule rather than the exception for U.S. public diplomacy efforts.

The Commission is concerned about the connotations of the name "Project Truth" and recommends that the Agency not utilize terminology that gives rise to suspicions that USICA is engaging in "propaganda."

RESEARCH

The Commission recommends that the staff and budget of the Office of Research be increased to provide the research capability required for national security and foreign policy needs. It should also have the resources to carry out regular and methodical evaluation of Agency programs and products.

U.S. ADVISORY COMMISSION ON PUBLIC DIPLOMACY

The Commission recommends that the President and the Congress ensure that appointments to the U.S. Advisory Commission on Public Diplomacy are made so as to protect the independence, continuity, genuine bipartisan character, and broad professional composition of the Commission.●

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 27, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 28

9:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

3110 Dirksen Building

9:30 a.m.

Budget

To continue hearings on the administration's midyear economic review.

6202 Dirksen Building

Finance

International Trade Subcommittee

To hold hearings on S. 2539, extending for 2 years the act implementing the International Sugar Agreement, 1977, and S. 2540, extending for 1 year the application of the International Coffee Agreement Act of 1980.

2221 Dirksen Building

Judiciary

Constitution Subcommittee

To hold hearings on S.J. Res. 164, proposing a constitutional amendment to provide that the compensation and allowances of Members of Congress shall be established biennially by the Supreme Court of the United States.

5110 Dirksen Building

Veterans' Affairs

To hold hearings on S. 2747, improving certain aspects of the VA's educational benefits programs and the Department of Labor's veterans' employment programs.

412 Russell Building

10:00 a.m.

Environment and Public Works

Environmental Pollution Subcommittee

To resume hearings on S. 2652, authorizing funds for and revising certain provisions of the Clean Water Act.

4200 Dirksen Building

Governmental Affairs
Permanent Subcommittee on Investigations
To continue hearings on Department of Energy's management of research and development facilities.
3302 Dirksen Building

Judiciary
To resume hearings on S. 818, S. 1558, S. 1106, S. 2658, S. 2669, S. 2672, S. 2678, and S. 2745, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building

*Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice
To continue hearings on alleged abuses relating to the ABSCAM investigation by the Department of Justice.
318 Russell Building

2:00 p.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To resume hearings on S. 2131, authorizing funds through fiscal year 1986 for the safe drinking water program.
4200 Dirksen Building

JULY 29

9:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

9:30 a.m.
Budget
To continue hearings on the administration's midyear economic review.
6202 Dirksen Building

Commerce, Science, and Transportation
To hold hearings on the nomination of Robert G. Dederick, of Illinois, to be Under Secretary of Commerce for Economic Affairs.
235 Russell Building

Finance
To hold hearings on the proposed extension of unemployment compensation benefits.
2221 Dirksen Building

Judiciary
To hold hearings on S.J. Res. 199, proposing a constitutional amendment providing for voluntary prayer in public schools and certain institutions.
2228 Dirksen Building

Labor and Human Resources
Business meeting, to mark up S. 1929, establishing an Interagency Committee on Smoking and Health to coordinate Federal and private activities to educate the public about the health hazards of smoking.
4232 Dirksen Building

10:00 a.m.
Banking, Housing, and Urban Affairs
International Finance and Monetary Policy Subcommittee
To hold oversight hearings on agricultural embargoes and the sanctity of contracts.
5302 Dirksen Building

Energy and Natural Resources
Water and Power Subcommittee
To hold hearings on S. 1918, establishing the Northeast-Midwest States Hydropower Financing Authority to make lower cost loans and loan guarantees for hydropower development.
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To continue hearings on S. 2652, authorizing funds for and revising certain provisions of the Clean Water Act.
4200 Dirksen Building

Foreign Relations
Closed briefing by officials of the Central Intelligence Agency on the Threshold Testban Verification negotiations.
S-116, Capitol

Governmental Affairs
Congressional Operations and Oversight Subcommittee
To hold oversight hearings on proliferation of indexation.
3302 Dirksen Building

Select Committee To Study Law Enforcement Undercover Activities of Components of the Department of Justice.
To continue hearings on alleged abuses relating to the Abscam investigation by the Department of Justice.
318 Russell Building

10:30 a.m.
Select on Intelligence
Closed briefing on intelligence matters.
4224 Dirksen Building

1:40 p.m.
Foreign Relations
To hold hearings on the nomination of Richard H. Ellis, of Virginia, for the rank of Ambassador during the tenure of his service as U.S. Commissioner on the U.S.-U.S.S.R. Consultative Commission.
4221 Dirksen Building

2:00 p.m.
Foreign Relations
To hold hearings on S. 2675, authorizing the Secretary of State to reimburse State and local governments for providing protection with respect to foreign consular posts located in the United States outside the area of Washington, D.C.
4221 Dirksen Building

JULY 30

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land bills, including S. 2752, S. 2754, S. 2755, S. 2756, S. 2757, S. 2715, S. 1349, and H.R. 6290.
3110 Dirksen Building

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the implication of U.S. export controls relative to the U.S.S.R. gas pipeline.
4221 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To hold hearings on the treaty ratification process and separation of powers.
2228 Dirksen Building

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central American region.
2221 Dirksen Building

AUGUST 3

9:30 a.m.
Budget
To resume hearings on the administration's midyear economic review.
6202 Dirksen Building

Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed Soil Conservation Service projects and to discuss the policy implications with regard to new construction starts recommended by the administration.
4200 Dirksen Building

AUGUST 4

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 894, exempting rural electric cooperatives and rural telephone cooperatives from payment of rental fees for rights-of-way granted to them with respect to public lands and lands within the National Forest System, and H.R. 861, designating additional national scenic and historic trails.
3110 Dirksen Building

AUGUST 5

10:00 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to resume consideration of proposed amendment to the Clean Air Act (P.L. 95-95).
4200 Dirksen Building

Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (P.L. 95-95)
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings on highway revenue and cost allocation issues
4200 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years, S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz., to the Pascua Yaqui Indian Tribe, and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business
3110 Dirksen Building

Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund)
4200 Dirksen Building

Environment and Public Works
Transportation Subcommittee
To continue hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

AUGUST 12

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Judiciary
Regulatory Reform Subcommittee
To hold joint hearings with the Committee on Small Business' Subcommittee on Government Regulation and Paperwork on the implementation of the Regulatory Flexibility Act (P.L. 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

Small Business
Government Regulation and Paperwork Subcommittee
To hold joint hearings with the Committee on the Judiciary's Subcommittee on Regulatory Reform on the implementation of the Regulatory Flexibility Act (P.L. 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

Veterans' Affairs
Business meeting, to mark up S. 2378, proposed veterans' disability compensation and survivors' benefits amendments, and proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the Student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

AUGUST 13

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

AUGUST 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 19

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATIONS

JULY 28

9:30 am.
Select on Indian Affairs
To hold hearings on S. 2153, providing for the distribution of funds awarded the confederated tribes on the Warm Springs Indian Reservation in Oregon by the Indian Claims Commission.
6226 Dirksen Building

2:00 p.m.
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

AUGUST 3

10:00 a.m.
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act by the Environmental Protection Agency.
4200 Dirksen Building

SENATE—*Tuesday, July 27, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

Let us pray.

God of our fathers, we praise Thee for the faith, dedication, courage, and sacrifice of those who conceived this Nation and brought it to birth despite trouble, tragedy, and hostile resistance. We thank Thee for their vision and wisdom which provided a Constitution and political system that continues to work after 200 years and which has generated the strongest free Nation in history.

Help the people to comprehend that a government of the people, by the people, and for the people cannot work if the people do not work it. Deliver the people from the illusion that they can elect public servants, abdicate their citizenship responsibility, expect the government to work without them, and blame the elected officials when it does not.

As the election nears, awaken the people to a fresh understanding of the partnership between them and their representatives, and help us Father God to fulfill the dream of our forebears. We ask this in the name of Him who is Lord of the nations. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, after the time for the two leaders has expired or been yielded back, there will be a period for the transaction of routine morning business in the remaining time until the hour of 10 a.m. in which Senators may speak for not more than 3 minutes each.

Mr. President, yesterday, in an on-again, off-again arrangement, we first said that we would return to the consideration of the balanced budget resolution at 10 a.m. and then vitiated that, and to display my absolute flexibility, I intend now to reinstate it.

ORDER TO RESUME CONSIDERATION OF SENATE JOINT RESOLUTION 58

So, Mr. President, I ask unanimous consent that at 10 a.m. this morning the Senate resume consideration of Senate Joint Resolution 58.

The PRESIDING OFFICER (Mr. HAYAKAWA). Without objection, it is so ordered.

Mr. BAKER. Mr. President, the reason for that is that while I had hoped to do House Joint Resolution 494, the El Salvador resolution, at 10 a.m., I am advised that certain principals involved in that debate cannot be available until 10:45 a.m. this morning and will not be in a position to vote on that measure if a rollcall is ordered until 2 p.m.

I understand that there is in process a unanimous-consent order in respect to that measure which has perhaps not been cleared all around but as soon as it is cleared, if it is cleared, I will make a further announcement.

Mr. ROBERT C. BYRD. We are working on it right now.

Mr. BAKER. I am advised by the minority leader that that clearance is in process but not yet complete. So when and if that request is agreed to and consent is given, I will make the further statement on the schedule.

Mr. President, however, in general terms the schedule this week will be the debate on Senate Joint Resolution 58, the balanced budget amendment. It is my hope and intention to try to finish that measure this week. That will be a difficult task, but the Senate is on notice from the statements on yesterday of the possibility of late sessions any day this week and the possibility of a Saturday session.

The time has come, I think, to resolve the issue and to dispose of the debate on Senate Joint Resolution 58 and the resolution itself.

There may be exceptions to that program for the week because almost inevitably other matters will come up that require the immediate attention of the Senate on a priority basis, sometimes on a privileged basis, or a number of items that may be presented by unanimous consent after the agreement of the minority leader and majority leader to those measures. But absent those routine matters, it is my full intention to pursue the debate on the balanced budget amendment and complete it this week.

Mr. President, it would be my hope that we could finish the debate on that measure by Thursday evening and lay before the Senate the reconciliation bill on Friday. The reconciliation bill, I am advised, will be available from the Budget Committee on Thursday during the day and would be available then for action by the Senate, I believe, on Friday under certain circumstances. It is a privileged matter, one that requires the immediate attention of the Senate, and I hope that we could finish the balanced budget resolution in order to take that up on Friday or Monday.

After the conclusion of the reconciliation bill, according to the schedule previously announced, we will go to the next urgent supplemental if it is available and to the immigration bill as may be desirable and ultimately to the second debt limit bill.

I have talked to the distinguished chairman of the Finance Committee about the second debt limit and requested that the committee consider that bill and report it to the Chamber in order to have it available for action during the month of August and prior to our recess for the Labor Day break.

Mr. President, do I understand that the request in respect to El Salvador has been cleared by the minority?

Mr. ROBERT C. BYRD. Mr. President, it has been cleared.

Mr. BAKER. I thank the minority leader.

TIME LIMITATION AGREEMENT—HOUSE JOINT RESOLUTION 494

Mr. President, I ask unanimous consent that at 10:45 a.m. today, the Senate turn to the consideration of calendar No. 713, House Joint Resolution 494, a joint resolution with regard to Presidential certifications on conditions in El Salvador, under the following time agreement:

Fifteen minutes under the control of the chairman of the Foreign Relations Committee, the Senator from Illinois, (Mr. PERCY);

Thirty minutes under the control of the ranking minority member of the Foreign Relations Committee, the Senator from Rhode Island (Mr. PELL);

Fifteen minutes under the control of the Senator from North Carolina (Mr. HELMS);

With the proviso that no amendments be in order and that following the conclusion or yielding back of time the Senate proceed to vote on the

adoption of House Joint Resolution 494;

Provided, that in the event a rollcall vote is ordered on House Joint Resolution 494, that the rollcall vote occur at 2 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, that concludes my statement of the program as we see it today.

We have a busy week before us, and I urge the cooperation of all Members, and I express my gratitude to the minority leader now for his help and assistance in reaching this place where we have some reasonable expectation of finishing the work of the Senate in order to get out on August 20 which is the date the House of Representatives recesses instead of August 27 which is the date previously announced.

DIGGES MORGAN

Mr. BAKER. Mr. President, for those who called the Republican cloakroom today, and for those who will call the Republican cloakroom tomorrow, hear this: Digges Morgan has hung up the phone for good to become an assistant in the Office of Legislative Affairs in the Department of Commerce.

Throughout the years, Digges has excelled in his duties in the Senate. During those occasional late evening sessions of this body, his quick wit and dry sense of humor have provided each of us with a needed lift. Digges Morgan has tremendous respect for this institution, and his diligence, courtesy, and assistance to its Members are evidence of that affection. He has distinguished himself not only as an extraordinary employee, but as a confidant to the individuals he has served.

Digges has served in the Senate for over 5 years, and was employed by our late colleague, Senator Bartlett, as an intern. Following his duties as an intern, he was employed in the document room, and began working in the cloakroom in January of 1979.

In his duties at the Department of Commerce, Digges will work closely with the Senate and we will look forward to our continued association with him. On behalf of all the Republican Members, I wish him and his lovely wife, the best of luck.

Mr. President, I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

Mr. ROBERT C. BYRD. Mr. President, I thank the majority leader.

Mr. President, I yield 5 minutes to the Senator from Wisconsin (Mr. PROXMIRE) and after that the remaining 5 minutes to the Senator from Florida (Mr. CHILES).

Mr. PROXMIRE. Mr. President, I will not take 5 minutes. I shall be brief.

HOW DO YOU STOP A NUCLEAR WAR WHEN COMMUNICATIONS ARE GONE?

Mr. PROXMIRE. Mr. President, I continue to bring to the attention of the Senate nightmares that will develop for us in the event of nuclear war with the Soviet Union. The latest relates to how you turn off a nuclear war. Because of the immensely destructive power of nuclear weapons, a nation that might be down to its last few hundred—and within a few years 15 or 20 nations will have more than that each. But a nation down to its last few hundred nuclear bombs could inflict absolutely devastating damage killing many millions of people in another country. So even after years of devastating attacks, the war would go on and on.

On July 22, in an article in the Washington Post Michael Getler called attention to another terrible dilemma that would confront us in the event of a nuclear holocaust between the United States and the Soviet Union. How would an American President communicate with the top Russian leader if our weapons had destroyed the Russian communication system and headquarters.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article ws ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 22, 1982]

HOW DO YOU TURN OFF NUCLEAR WAR WHEN THE LINES ARE ALL DOWN?

(By Michael Getler)

If a nuclear war with the Soviet Union ever started and an American president were trying to stop it, how would he communicate with Soviet leaders whose headquarters and communications systems may have been destroyed by rapidly counter-attacking American missiles?

"There's a real dilemma here that we haven't sorted out," according to retired Air Force Lt. Gen. Brent Scowcroft, the former top national security assistant to President Ford.

The conflict is essentially between an emerging American military strategy that puts heavy emphasis upon knocking out what Reagan White House adviser Richard Pipes calls "the nerve system of the Soviet leadership" and what Scowcroft points out is a presidential need to "communicate with the enemy" after an attack has begun.

The dilemma, in Scowcroft's words, is that "the kinds of controlled nuclear options to which we are moving presume communications with the Soviet Union; and yet, from a military point of view, one of the most efficient kinds of attack is against leadership and command and control systems. It's much easier than trying to take out each and every bit of the enemy's offensive forces."

The remarks of Scowcroft, Pipes and many other top military and civilian officials are contained in a just-released record of a symposium on strategic nuclear policies, weapons and command and control held last October at Bedford, Mass. The meeting was sponsored by the U.S. Air Force Electronic Systems Division and the Mitre Corp., an Air Force think tank.

The proceedings contain some of the most candid discussions ever made public on the problems of trying to maintain control over nuclear forces in an actual wartime situation, including detailed explanations of how a president would communicate with submerged U.S. nuclear missile-firing submarines.

The symposium was held just two weeks after President Reagan announced a six-year, $180 billion program to modernize U.S. strategic forces with new missiles and bombers. That program includes an $18 billion investment to try to improve presidential control over those weapons, to help the president communicate with those forces and to give him the information he needs in the midst of the chaos of an atomic war.

The president was praised by participants for being the first chief executive to put substantial funds into this unglamorous sector of the defense budget. Defense officials have long held that an improved ability to survive an attack and maintain communications would contribute to deterring Soviet attack.

At the same time, the U.S. is moving toward a strategy aimed at convincing the Soviets that they could not win a war because this country would retaliate against the Soviet command structure.

"Our present deterrent is geared toward attacking military objectives, command and control, and the nerve system of the Soviet leadership—that whole system that confronts us." Pipes said. "In Soviet terms that is far more menacing and therefore it is a great inducement, first of all not to strike, and secondly to come to the negotiating table, than the previous [strategy] had been."

Pipes added that "I personally do not believe that the Soviet Union would launch a preemptive nuclear strike against the United States out of the blue, no matter what the balance of power is. I just don't think that is in the cards. The great danger is that, in a world crisis in which there is an escalation of hostility between our two countries and where both begin to alert the forces and so on—where indeed war between us becomes possible—at that particular point they might strike preemptively."

Scowcroft said that even if a nuclear attack were to come in the midst of a crisis, it would still come as a surprise because of the magnitude of such a step, and the president "may have less than 10 minutes in which to make a decision and seek shelter."

Scowcroft, who remains intimately involved in strategic matters as a member of special commissions looking into new American weaponry, said the Defense Department requires confirmation that an attack is under way by more than one means of detecting that missiles have been launched, such as ground-based radar and infrared sensors on satellites.

The president then has to convince himself that missiles are actually en route. "Unless the Soviets are a lot dumber than I think they are, they will take that into account in planning their attack . . . and do their best to make the first indications as ambiguous as possible and thus force the president to take as much time as possible

and thus lessen the chances we would respond quickly," he said.

Getting the president the information he needs is a difficult task, Scowcroft said, and he will need to consult advisors who may not be available. If the President stays in Washington and would-be successors such as the vice president are dispersed to secret locations with their advisors, this would deplete the experts available to the president here and raises the question of whether military command centers would know who the president or top civilian authority is at any given time after an attack begins.

When the missiles actually have begun to land, Scowcroft said, the U.S. would be in what he calls "the automatic phase of the war . . . at which time the quick response (retaliatory) systems are discharged against predetermined targets and the battle plan unfolds more or less automatically." In other words, the initial presidential determination that the U.S. was under attack and his decision to respond would trigger a quick and automatic American response of some predetermined size.

The next phase would be trying to manage the conflict or end it, and for that the president would need to communicate with the remaining forces, the American people and the Soviets, Scowcroft said. That's where the new strategy of striking the Soviet leadership, as they might strike ours, bumps into the problem of ending the war.

Rear Adm. Paul D. Tomb, a member of the staff of the military Joint Chiefs of Staff, told the symposium that "unless all elements of our nuclear triad (land- and submarine-based missiles and bombers) receive the message prior to impact of Soviet reentry vehicles (missile warheads) we risk losing large segments of our retaliatory force."

One big question has always been whether messages would get to U.S. missile-firing submarines submerged in distant waters.

But Tomb describes several means to do this. Extremely low-frequency (ELF) transmitters based on land, he said, are not very good message carriers because the information moves slowly. But they are "very good bell ringers" to submarine commanders because they send out deep into the ocean a continuous signal that is part of the Joint Alerting Network. If that stops it means that the transmitter may have been destroyed and signals the commander to try another method to receive information.

The next most reliable system would be picking up very low frequency (VLF) transmissions from Navy airplanes or other transmitters using three different kinds of other antennas carried on submarines, including wire devices and special buoys.

If that doesn't work, Tombs said, a submarine could come close to the surface, pop another antenna just above the water and communicate via a Navy satellite that is part of the Submarine Systems Intelligence Exchange System. The commander could also come close to the surface and, with a radio antenna, monitor war messages being broadcast to surface ships on high frequency.

The symposium also was told by Navy officers that the extent of the Reagan administration's plan to put thousands of new cruise missiles on submarines, especially those to be aimed against land rather shipping targets, came as somewhat of a surprise.

One reason, according to a symposium commentator who was not identified in the published account, was that the cruise missiles—small torpedo-shaped flying bombs powered by jet engines—provided an opportunity for the U.S. quickly to add atomic punch "since we are seriously behind the Soviet Union."

"The second reason was that the missiles we will deploy in Europe," a reference to new ground-based cruise and Pershing II missiles, "are vulnerable to surprise attack. Indeed, their presence there, along with pre-positioned material, the nuclear storage and our dependence on runways and other attributes of mobilization, mean that to some degree we are making Europe into a gigantic Pearl Harbor."

The commentator said the U.S. would try to discourage the Soviets from striking at the land-based missiles and thus is adding the sea-based force as "a good way" to convince Moscow that the cruise missile threat cannot be easily removed.

WISCONSIN COMPANIES NO. 1 IN MANY FIELDS

Mr. PROXMIRE. Mr. President, I suppose everyone knows that Wisconsin is America's dairyland. We are No. 1 in cheese and beer. But how many realize how far out in front we are in so many other areas. We happen to be the biggest producers of such things as fireplaces, pens, engines, automotive batteries, customized sailboats, and hotdogs.

Take Briggs and Stratton, a marvelously productive firm in Milwaukee. Briggs and Stratton is No. 1 in two fields: car locks and engines. It produces about half the four-cycle, air-cooled gas engines in the world, a solid 5 million every year. And who are its nearest competitors? The Kohler Co. located where? In Kohler, Wis., and also the Tecumseh Products Co., which makes engines in Shboygan and Grafton, Wis.

Mr. President, last Sunday the Milwaukee Journal carried a fascinating article by Helen Pauly on how and why and where my State of Wisconsin is No. 1.

I ask unanimous consent to have it printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BADGER BIGGIES—WISCONSIN COMPANIES ARE NO. 1 IN MANY FIELDS

(By Helen Pauly)

If companies were athletes, Wisconsin fans would chant: "We're No. 1."

In one short day, it's not unlikely that you might drive to work in your car fitted with a Johnson Controls' battery, use a Parker Pen to write a letter, eat an Oscar Mayer hotdog for lunch, dust the coffee table with Johnson Wax's Pledge furniture polish, stop at a bank that uses Brandt Inc. coin payers, cut the lawn with a mower equipped with a Briggs & Stratton engine and then relax by listening to music on your Koss Stereophones and eating some hors d'oeuvres topped with Merkt Cheese.

These everyday items have a great deal more in common than their Wisconsin heritage. All are No. 1 sellers in their respective fields.

Surprising?

It might seem so, considering all the badmouthing Wisconsin takes these days.

But there still are many Wisconsin firms that remain leaders in their fields. No accurate count is kept, so any list of market leaders based in the state is bound to be incomplete. But some available figures indicate that a number of Wisconsin companies traditionally leave competitors eating their dust.

BACKBONE BUSINESSES

Critics have accused Wisconsin of footdragging in the area of developing high-tech businesses. They sometimes forget or overlook the fact that Wisconsin's backbone businesses still are the best in many fields. Wisconsin companies outsell competitors in fireplaces, pens, engines, automotive batteries, customized sailboats and hotdogs—things that most people will need, computer revolution or not.

And many other people gave up on Wisconsin when Milwaukee let its long domination of the brewing business slip away.

But if you bought a Sears Die Hard battery for your car last winter—you had a lot of company—it was made by Johnson Controls' battery division, Sears' exclusive battery supplier. Johnson Controls is the largest seller of automotive and replacement batteries in US. It also sells to all domestic new car manufacturers except General Motors.

Borg Instrument Inc. of Delavan is also a supplier to all US automakers, selling more than 55% of all quartz and electronic clocks found in new US cars. It also sells clocks to European car manufacturers.

When the car needs a tuneup, it's likely that your mechanic will work with tools made by Snap-on Tools Corp., Kenosha, the biggest independent manufacturer of professional mechanic tools.

LOCKS AND ENGINES

Briggs & Stratton Corp. is No. 1 in two fields—car locks and engines. B&S has about half of the worldwide market for the four-cycle, air-cooled gas engine, with unit sales of about five million annually. The engines are used in lawnmowers and snowblowers.

In fact Wisconsin nearly has the gas engine market sewn up. B&S main domestic competitors are Kohler Co., Kohler, and Tecumseh Products Co., which makes engines in Sheboygan Falls and Grafton.

Everyone loves a picnic, and some of the necessary ingredients are likely to be Wisconsin-made products. If it's cheese spread, there's a good bet that Merkt's cheese will be selected. Made in Bristol, Wis., by Merkt Cheese Co. Inc., the cold-pack cheese spread is the biggest seller in the U.S.—acing out the No. 2 seller, Kraft's Cracker Barrel.

Merkt's market share varies from city to city, but a spokesman said that in Milwaukee alone, the company held a 94.2% share of all the cold-pack cheese spread business.

At such gatherings you'll probably find that Oscar Mayer hotdogs and cold cuts—both No. 1 sellers in their fields—will anchor the picnic blanket. Oscar Mayer, based in Madison, now is owned by General Foods Corp.

Pass out the paper napkins—they probably were made by Fort Howard Paper Co., Green Bay, which ranks as the largest manufacturer of paper napkins, towels and toilet tissue fashioned from recycled paper products.

L. D. Schreiber Cheese Co. Inc., Green Bay, also is a leader in the food market. Ac-

cording to Robert W. Baird & Co., it is the largest manufacturer of substitute cheese products.

SEVERAL LEADERS

Johnson Wax in Racine has several No. 1 household products. Pledge furniture polish, Off insect repellent, and Glade room freshener are all the market leaders in their respective fields.

Wisconsin firms also lead the way in a number of business-related products and services.

Parker Pen Co. of Janesville ranks tops in two areas: It is the No. 1 manufacturer of high-quality pens and pencils worldwide. And its Manpower subsidiary, located in Glendale, is the biggest temporary help service in the world, with 800 offices in 31 countries. Last year, Manpower placed 600,000 persons in temporary office and industrial jobs.

The paper on which many an annual corporate report is printed may have been produced at a mill owned by Consolidated Papers Inc., Wisconsin Rapids, the world's largest producer of enamel printing papers for national publications and commercial printing jobs.

B. C. Ziegler & Co., West Bend, is the largest U.S. broker and underwriter of institutional bonds—for hospitals, churches and non-profit organizations.

Master Lock Co., a Milwaukee-based affiliate of American Brands, has had the padlock business under lock and key for years. The No. 1 producer in field, Master Lock last year sold $87 million worth of key and combination padlocks.

BANKS SUPPLIES

The same goes for Brandt Inc., of Watertown, Wis., which makes coin paying machines and high-speed coin sorters and counters used by cashiers at banks, savings and loans, checkout counters and ticket lines.

Marquette Electronics, located here, is the major manufacturer of diagnostic electrocardiagraph machines. Michael Cudahy, Marquette president, said his company had about 60% of the total worldwide market.

General Electric's Medical Systems Operation in Waukesha is the major worldwide manufacturer of such medical diagnostic-imaging equipment as CT scanners, X-ray equipment, ultra-sound and nuclear medical devices. GE believes that it has about 20% of the total worldwide market, moving just slightly ahead of its major competitor, Siemens, a West German company.

When it comes to home and recreation, Wisconsin firms again top the list. Sturgeon Bay is the home of Palmer-Johnson Inc., the world's largest builder of customized sailing yachts.

(If you have to ask, prices start around $500,000.)

Harley-Davidson, where managers recently bought the company back from AMF, remains the No. 1 manufacturer of heavyweight motorcycles.

Koss Corp., which invented the stereophone more than 25 years ago, still holds its No. 1 market share in that expanding industry.

In a field of about 20 competitors, Preway Inc., Wisconsin Rapids, is the top manufacturer and seller of prefabricated and built-in fireplaces in the U.S.

Preway President William Thomas Jr. said Preway had about 18% of the total market—but dominates the sale of prefabricated fireplaces to mobile homes with 85% of that market.

And when it comes to insuring the mortgage on your home, MGIC Investment Corp's Mortgage Guaranty Insurance Corp. is the largest private insurer of conventional mortgages in the U.S. MGIC, based in Milwaukee, now is owned by Baldwin-United Corp.

LOOKING AT THE MILITARY BALANCE

Mr. PROXMIRE. Mr. President, Newsday, the excellent and highly regarded newspaper on Long Island, N.Y., is publishing a series of articles analyzing and questioning comparisons of United States and Soviet military strength.

So often the public is bombarded with statistics and comparisons indicating that the United States has slipped into a posture of strategic inferiority. Our President, for example, has stated that the Russians have strategic superiority.

But what are the facts? Are we getting the whole story? Is there another side to the issue. That is the series of questions that Newsday is addressing and in so doing providing an excellent service to the reading public.

The issue of military spending comparisons; the question of simply counting units on both sides; looking at the conventional relationship including NATO and the Warsaw Pact members; measuring the strategic balance realistically; all of these critical arguments are discussed in depth.

While it is not possible to simplify the answers in a short paragraph, it can be said that the Newsday analysis casts doubt on the traditional way the military balance is presented to the public by the Pentagon and the administration.

There is a natural tendency in any military bureaucracy to inflate the threat and discount your own advantages. It is a worst case or conservative approach. Sometimes this is a proper and prudent method of analysis. Often it is not. And the Newsday article spells out just how it has been used and misused over the years. I recommend this article to all those interests in the U.S. defense posture.

I ask unanimous consent that the Newsweek article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

EXPERTS QUESTION BASIC PREMISE OF REAGAN'S MILITARY BUILDUP

(By Jim Klurfeld)

(President Reagan has made the growth of Soviet military power an issue of national concern. Many of his critics have questioned not so much the need for a defense buildup as its size and scope. In the next few months, Newsday will explore some of the issues in the debate over defense spending. The first series of articles looks at the major justification for Reagan's defense program—the Soviet threat—and the credibility of that threat. It was reported by Roy Gutman, Jim Klurfeld and Earl Lane of Newsday's Washington Bureau.)

WASHINGTON.—It is the largest peacetime military buildup in the nation's history: $1.5 trillion to build new intercontinental ballistic missiles, aircraft carriers, strategic bombers, airplanes and tanks and even to refit old battleships. The United States, says Defense Secretary Caspar Weinberger, must be ready to fight a war in any part of the world.

Behind the Reagan administration's defense buildup is a basic premise: that the Soviet Union, after two decades of unstinting military growth, has become militarily superior to the United States. In a recent interview with Newsday, Weinberger said once again that the Soviets were ahead. He states his concerns this way:

"The Soviets have been doing it [building up their military power] a long time, on a much bigger scale than we have, and they've never stopped, and no matter if there was a bad harvest, or whether their dreadful economy was even worse than normal or whether there was detente or SALT negotiations . . . they have never stopped and have gone on adding very much more than we have on almost every measure, each year."

But there is another view of the arms race. There are knowledgeable officials and military experts inside and outside the government who say that the United States is not in an inferior position to the Soviets. There is little dispute that the Soviet Union has made a tremendous effort to build up its military strength and that the trends have been in its favor. But the question of military balance—of who is ahead—is not so easily resolved.

A Newsday study suggests that there is more than one legitimate way to look at the military balance. Among the major findings are these:

That the extent of the Soviet buildup has been overstated.

That the disparity between the NATO and Warsaw Pact forces is not as great as the administration has claimed. One recent study argued that, if NATO mobilized quickly, the Soviets would be far from certain of winning a conventional battle, even if the United States did not resort to nuclear weapons.

That in the area of nuclear weapons there remains essential equivalence—balance. The Soviets have developed the ability to target American land-based nuclear missiles but still could not prevent a devastating U.S. retaliatory blow.

That the most important issues may be different from those being pushed into the forefront of the public debate. Instead of the defense debate being dominated by arcane, almost philosophical differences over nuclear fighting strategy, analysts say more attention should be paid to less dramatic issues such as the readiness of equipment, the training of forces, the future of surface ships, the use of technology and the elimination of at least some of the duplication of military effort within the alliance.

That gross cost comparisons of military spending may be misleading and even irrelevant. Most military analysts say it is more revealing to examine how a nation defines its interests and how it can protect those interests in specific areas of potential conflict.

Even some conservatives who have spoken out vociferously about the dangers of the Soviet buildup now say there is a danger of exaggerating the threat. "In the 1970's it was necessary to speak almost continuously

of the danger of underestimating Soviet power," said Sen. Daniel Patrick Moynihan (D-N.Y.), a member of the Senate Intelligence Committee and one of those who warned about the Soviet buildup. "In this decade it may prove equally urgent to warn against overestimating it. . . We would do well to cultivate a certain serenity about the limits of both our power and theirs."

GROSS SPENDING COMPARISONS

The most commonly used justification for the massive Reagan defense buildup has been a direct comparison of Soviet and American military spending. Citing CIA studies, the administration argues that the Soviets have been increasing their military spending by 3 to 5 per cent a year for 20 years. But, the officials say after Vietnam the United States began to cut back on its defense effort.

"We must now pay the bill for our collective failure to preserve an adequate balance of our military strength during the past decade or two," Weinberger said this year in his annual report. "While our principal adversaries engaged in the greatest buildup of military power seen in modern times, our own investment in forces and weapons continued to decline until very recently."

Central to the administration's argument is the much-quoted unclassified CIA study that claim that the Soviet Union is outspending the United States by 50 per cent on defense. But a closer look at the CIA figures demonstrates why such a comparison might be misleading.

One prominent expert on the Soviet economy questions the methodology of the CIA report and concludes that it seriously distorts Soviet defense spending. Franklyn Holzman, an economist at Tufts University, says the CIA figures could be exaggerating Soviet spending by at least 20 percent. Holzman says that by interpolating rubles into dollars and assigning values on the basis of U.S. costs, the CIA figures inflate Soviet spending.

Holzman also argues that the CIA comparison does not take into account the contributions of the allies—an area in which the West far outpaces the Warsaw Pact * * * .

There has also been a tendency to misinterpret the purposes of the Soviet naval buildup, according to government experts. The Russians have built hundreds of submarines and surface ships. It is a major military accomplishment. But it does not mean, as some have claimed, that the Soviets are about to challenge the U.S. for control of the seas.

The Soviet naval buildup has been primarily to protect its fleet of ballistic missile submarines and to harass U.S. ships in a war, according to U.S. government experts. The Soviet Navy does not have the ability to project Soviet power far and wide. The Soviets have a very limited marine force, about 12,000 troops (compared with 192,000 for the United States) and no large, nuclear-powered aircraft carriers. The United States has 13.

There are U.S. experts who believe the Soviets would someday like to achieve such a capability—but they say it seems to be a lower priority item.

"It is not a case of the Russians are coming," said one administration official who has special interest in power projection. "But it is a matter of realizing that they are beginning to get into this area."

STRATEGIC BALANCE

If there is one area where the experts agree that the Soviets are probably equal to the United States, it is their ability to launch a strategic attack against the U.S. mainland with long-range nuclear missiles. Reagan said at his March 31 press conference that he believed the Soviets were now superior in that area, but most analysts disagree. At most, they say, the Soviets have an edge in land-based strategic missiles.

When it comes to measuring the nuclear balance, the experts tend to become just as caught up in methodological issues as they do in trying to compare overall defense spending by the two superpowers.

Nuclear weapons have such overwhelming power, and the United States and Soviet Union have so many of them that many analysts argue that it is not practical to say that one side is ahead of the other. Each has the ability to destroy the other many times over

Specialists have tried to measure the power of nuclear weapons in three ways: total number of warheads, throw-weight (the amount of material a missile carries) and the total megatonnage (the amount of destructive power in an arsenal). The United States retains a lead in warheads (about 9,000 nuclear bombs, counting weapons delivered by strategic bombers, to 7,500 for the Soviets). But the Soviets have leads in the other two categories.

Jan Lodal, a nuclear arms specialist for the National Security Council during the Nixon and Ford years, argues that the best measure of nuclear capability is the number of warheads each side deploys. He says the balance is relatively stable. "The point is that the difference of even a few thousand warheads is not significant," Lodal said. "At some point it might become significant, but that would be at a much higher number—maybe 5,000 or more difference."

Lodal says the significant question is whether each side is confident that it can absorb a surprise first attack and still have enough weapons left to retaliate. That is called having a second-strike ability. As long as one nation has a second-strike ability, the argument goes, there is no incentive for the other side to strike first. It is the basic principle of deterrence.

There are other experts, many now in the administration, who argue that throw-weight and megatonnage also make a difference, especially in perceptions of power.

But the most persistent point made by Reagan during the campaign was that the Soviets, because they have more accurate land-based missiles than the United States, can theoretically target all the U.S. land-based ICBMs. That is the "window of vulnerability." Reagan and many in his administration argue that the U.S. ability to launch a second strike is in some doubt because of the window of vulnerability.

Others say that the United States, even if it lost all its land-based missiles, still would have 80 per cent of its nuclear warheads available for retaliation. The sea-based nuclear missiles and bomber force could still deliver a second strike. It is also argued that while a Soviet attack on land-based missiles is theoretically possible, it would be very difficult to coordinate. "It is just not a likely scenario," Lodal said.

Administration officials say the United States should be taking steps to eliminate even the possibility that the Soviets might try to knock out all American land-based missiles. The U.S. deterrent is based on three different weapons systems—the land-based, sea-based and air-based missiles (called the triad)—being able to survive a first strike. If the Soviets know one system cannot survive, it allows them to concentrate on ways to counter the other two legs of the triad.

Though the administration's charges about nuclear vulnerability may be overstated, some analysts say, prudence requires the United States to address two issues associated with nuclear strategy.

The command and control problem. If the Soviets were to launch a first strike, there are serious doubts whether the President and his top advisers would be able to survive it and to order U.S. forces to launch a retaliatory strike. Experts say that a vulnerable communications system undercuts the assuredness of a retaliatory strike and therefore undercuts deterrence. That is an area in which the Reagan administration is making a major effort.

But one expert, Thomas Shelling, a political economy professor at Harvard, says the solution is not so much in electronics as in thinking through what would happen in a nuclear exchange and devising alternatives. Shelling argues that such thinking is not being done.

The hair-trigger problem. To maintain a stable nuclear balance, each superpower must have confidence that it would be able to retaliate against any strike by its opponent. But the deployment of very accurate Soviet land-based missiles and of the planned U.S. MX and Trident D-5 missiles, which will also be very accurate, theoretically places both sides' land-based missiles at risk and puts a premium on the side that launches first.

That places a hair trigger on a nuclear war, say military experts. It might mean that one side or the other would launch its missiles on the warning of a strike from the other side, fearful it would lose too many weapons if it waited. That greatly increases the possibility of starting a nuclear war through miscalculation.

Debates over defense have tended to center on whether to increase or decrease military spending. This time, with general agreement that the Soviet buildup requires a renewed U.S. defense effort, the issue becomes one of sorting out goals, setting priorities and identifying real needs.

Mearsheimer looks at the Reagan defense budget and its high spending for strategic weapons and warhsips and warns that such an emphasis will likely mean a reduction in funds for NATO. That, he says, could tip the balance of forces in Central Europe dangerously in favor of the Soviets.

Seymour J. Deitchman, an analyst at the Institute for Defense Analysis, private defense consultants, warns that it is becoming so expensive to build warplanes and their weapons systems that the cost of shooting down a target will soon be higher than the target is worth. He says the United States must produce less expensive airplanes and concentrate resources in its weapons systems.

"The issue isn't how much is in the budget—we are already going to be getting a lot of money," said Deitchman. "The issues now is what you do with the money you are getting."

LET US STOP THE $3.6 BILLION CLINCH RIVER BREEDER REACTOR TURKEY

Mr. PROXMIRE. Mr. President, a Congress that should be in the business of cutting unnecessary and wasteful spending should take a hard, long

look at the Clinch River breeder reactor. As the New York Times reported in a recent editorial: It is uneconomic. It is dangerous. It is a "technological turkey."

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 24, 1982]

WHY PUSH PLUTONIUM?

The magic promise of breeder reactors has evaporated. People once expected that they would make plutonium out of inert uranium and that by the year 2000 such fuel would be needed for a thousand power reactors. But in the 40 months since the Three Mile Island accident, not a single new nuclear power reactor has been ordered in the United States. Work on 38 others has been abandoned. Uranium is in surplus, at a reasonable price.

The breeder reactor is uneconomic. It is also dangerous. It is "a technological turkey," as David Stockman said of the $3.6 billion Clinch River breeder when he was a Congressman.

Mr. Stockman was right then; he would be even more right now. Clinch River will produce energy that is 25 to 70 percent more costly than conventional reactors. Its technology will be obsolete long before 2025—the earliest date, in the view of the General Accounting Office, by which the nation might need a plutonium breeder. And building it requires sizable Federal subsidies.

Then why build Clinch River at all?

Why, 10 years and $1.2 billion after it was started, has the Administration begun a crash program to get it finished?

Why has a contract just been signed for manufacture of the breeder's steam generators—in the face of a G.A.O. report that warns of safety risks and calls for more testing?

Why, after two turndowns, has the Administration applied again to the Nuclear Regulatory Commission to start site preparation before preliminary approval of the breeder's design?

Why is the Administration determined to speed the arrival of a plutonium era that the Ford and Carter Administrations worked so hard to delay? No effective international control of separated plutonium seems possible. The use of plutonium as reactor fuel would widely distribute the substance employed as a nuclear explosive—and which could be made into bombs in a few hours by governments or terrorists.

Why this rush? The battle for the project by the Tennessee Congressional delegation has gained much ground since Senator Howard Baker became majority leader. Reagan conservatives add a messianic zeal for any nuclear enterprise. And the nuclear industry stirs fears of competitive disadvantage by playing up the breeder plants in Britain, Germany, Japan and, particularly, France.

But so what? Britain and France also built the Concorde; what does the United States gain by racing to invent another turkey? In any case, popular movements have halted West Germany's civilian nuclear program and slowed others abroad.

By 2025, fusion or other energy sources may make plutonium unnecessary as a fuel. In the interim, American competitiveness and world safety would gain far more if the United States confined its breeder efforts to research and development.

Why won't the Administration make the case for rushing into operation? Because there is none.

A POSTCARD FROM DACHAU

Mr. PROXMIRE. Mr. President, my staff members and interns provide a great deal of support for my effort to remind the Senate each day of the horror of genocide and the need to ratify the International Genocide Convention. They have been with me all the way, offering their assistance, their engery and their dedication. And yet I am sure that, at times, each of them has wondered whether this effort is worthwhile, and whether anything will ever come of it.

One of my former interns has asked and answered those questions. While traveling in Europe, he recently visited the concentration camp at Dachau. He immediately sent a postcard to my office. This is what he writes:

I thought I had some sense of the gravity of genocide from hearing all those speeches. Wrong.

I just visited a concentration camp, and it made the Holocaust so much more real and frightening. Walking around the grounds made me sick to my stomach and I wept.

I know that now I'll take the genocide speeches much more seriously. They do have an important place in the Senate.

Mr. President, my former intern is right.

The memory of the killing at Dachau is indeed sickening, and it is indeed a reason to weep. So is the knowledge that similarly senseless, needless killing is taking place right now in several parts of the world. And so is the certainty that the pointless racial, religious and national hatreds of humanity will give rise to yet more death and destruction in of the future.

For it is certain that the killings, the maimings, the torture, the disappearances, the burnings and the bombings will continue as long as there are people whose hatred, greed and anger will not be tempered by mercy and compassion. And that means they will continue as long as there are people.

This certainty leads to another, one that is more hopeful. This is the point that my former intern expressed: The certainty that no effort toward the prevention of genocide can possibly be useless. If we are one day able to put into place an effective international mechanism for the accomplishment of this goal—if we are one day able to avert the wholesale slaughter of a group of innocent people—then those who died at Dachau will not have died in vain.

Mr. President, for the sake of those who have died, of those who are now facing death, and of those who are certain to die in the future, I call upon the Senate to ratify the Genocide Convention.

I thank the distinguished minority leader, and I yield the floor. I yield back whatever time I have remaining to the Senator from Florida.

THE CRIME CONTROL ACT OF 1982, TITLE IV—HABEAS CORPUS REFORM

Mr. CHILES. Mr. President, I rise today as part of an ongoing effort to persuade the Senate to consider the issue of habeas corpus reform. For more than 2 months now, Senator NUNN and I have been coming here to the Senate floor to speak out on the abusive use of habeas corpus petitions, and the need for the Senate to pass legislation which will address this problem. We have undertaken this effort because we believe that the flood of unwarranted habeas petitions, which are filed by State prisoners to attack their State convictions, is having a damaging effect on our criminal justice system. The Senate has spent a considerable amount of time discussion ways to remedy breakdowns in the criminal justice system. We have addressed a number of issues, and we are making progress. This progress is evident in the time agreement which has been reached on S. 2572, the bipartisan crime bill. As one of the original sponsors of this legislation, I am, of course, absolutely delighted that we will be considering it. However, if we fail to take up the issue of habeas corpus reform, then we have left out an important element in the move to reinforce the criminal justice system.

The problem we have encountered with habeas corpus petitions is essentially threefold: First, a vast number of the prisoner petitions which are filed are frivolous. These petitions are either incomplete, ridiculous in their claims, or just a rehash of the same facts which the appellate court on the State level has already reviewed. Such frivolous petitions are the result of a prevalent view in our State prisons which holds that a habeas motion is a bonus opportunity to get off the hook. What makes that course especially appealing to the convict is that he does not even have to raise a point of innocence in a habeas petition; all he needs to do it to raise a legal technicality which he feels affected his State trial. The second part of the problem is that there is no time limit on when a prisoner can file a petition. Because of this fact many habeas petitions are filed years, or even decades, after the original trial. Allowing stale petitions can result in a situation in which the State is prejudiced. Oftentimes, valuable evidence has disappeared or key witnesses may no longer remember crucial details. Finally, the third part of the problem is that Federal courts have gone to unnecessary lengths in

reviewing habeas petitions. The Federal courts are to examine petitions in order to decide whether a constitutional right was violated during a State court procedure. Federal courts should not, however, delve into every aspect of a State court trial. Such action constitutes a relitigation of the same facts and issues which were decided in the State courts.

The results of this unwarranted petitioning and unnecessary review are damaging to the effective functioning of the courts. This can also be viewed as a threefold problem. First, the delays which result from habeas petitioning serve to dilute the notion of finality. If we expect the decisions of our courts to carry any weight, then there must be an understanding that a case will come to a close. We cannot allow prisoners to continually relitigate a case. Second, the flood of petitions which we have witnessed in recent years has been partially responsible for the tremendous backlog in our State and Federal courts. Prosecutors cannot concentrate on new cases when they are defending previous convictions. Third, the fact that Federal courts so easily call into question the decision of State courts serves to undermine the integrity of our State court system. A felon will have little concern for State proceedings if he feels he can get a new trial by appealing to the Federal level.

Concern over the effect that the abusive and repetitive use of habeas corpus petitions is having on our court system was recently the subject of a speech by Florida State Supreme Court Justice Ben Overton. Justice Overton had some particularly insightful observations, and I wish to share these observations with my colleagues here in the Senate. Justice Overton stated:

> The most important problem to be resolved, and a problem is clearly apparent in the public's eye, is the problem of substantial delays of criminal cases caused by the review process and the extensive proceedings that occur after an initial trial. We now have both the State court system and the Federal court system involved in one trial of one man for one offense. It is a procedure that I do not believe our criminal justice system can tolerate much longer and still have any credibility with the public. You should know that there are at least ten different possible court proceedings that can be had in a criminal case before it is final, whether it is a capital case where the death penalty is imposed, or a noncapital felony * * * The reason the Federal courts are involved with this process is the statutory authority granted to the Federal courts by the Congress (the Habeas Corpus Statute of 1867).

Many individuals have recognized that the reason the public is dissatisfied is because of these multiple proceedings and the lack of finality in the criminal justice process. We must find a way to at least eliminate part of the multiple proceedings we have in both the Federal and State courts to resolve the issue of one conviction for one offense. The cost of these proceedings is incalculable. But the cost to the credibility of the courts may be fatal. Without question, the credibility of the courts is deteriorating because of the problem.

Justice Overton went on in his speech to call on the public to prompt Congress to reform the habeas corpus statute. He stated:

> If there is going to be a solution to this dual court process and its delays, as it presently exists, that solution must come from public pressure to Congress to do something and amend the act that has caused the problem in the first place.

There is no question that Justice Overton is a man who knows the abusive use of habeas corpus as well as anyone. He has had to watch as cases which he reviewed and joined in denying relief for have ended up in Federal court and often been granted relief. He sees the problem clearly, and he knows where the problem must be solved—here in Congress.

Mr. President, I am calling on the Senate to heed the words of Justice Overton by addressing legislation which reforms habeas corpus procedures. We have an excellent opportunity to do this by taking up the proposal which Senator NUNN and I introduced. This proposal, S. 2543, makes a number of substantive changes in the habeas corpus statute which will help to dam up the flood of frivolous appeals. In the process, it will serve to put finality back into our criminal justice system. Let us take this action without any further delay.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business for not to extend beyond the hour of 10 a.m. with statements therein limited to 3 minutes each.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. KASSEBAUM). Without objection, it is so ordered.

SENATOR STROM THURMOND—RECIPIENT OF THE AUDIE MURPHY PATRIOTISM AWARD

Mr. DENTON. Mr. President, on the Fourth of July, Independence Day, Senator J. STROM THURMOND was honored as the recipient of the Audie Murphy Patriotism Award at the Spirit of America Festival in Decatur, Ala. Nothing could have been more fitting, for I know of no public figure in this Nation who is more deserving of the honor.

Throughout his illustrious career as teacher, circuit judge, member of the armed services, Governor, politician, and Senator, STROM THURMOND has been the epitome of patriotism.

STROM THURMOND volunteered for service in 1941 on the day that war was declared against Germany. During his military service, he participated in the Normandy invasion with the 82d Airborne Division. He was awarded 5 battle stars and 18 decorations, medals and awards, including the Legion of Merit with Oak Leaf Cluster, the Bronze Star with Valor, the Purple Heart, and many others. In 1977, he was also awarded the Congressional Medal of Honor Society National Patriot's Award.

During STROM THURMOND's career in the Senate, he has recognized and operated upon the necessity that this Nation remain militarily strong. As a member of the Senate Armed Services Committee, he has been an effective spokesman for our national defense and against the threat of expansionism and domination by the Soviet Union.

STROM THURMOND truly deserves the honors and recognition he has received. During my brief tenure in the Senate, I have acquired the utmost respect for him, and I am honored that I have had the opportunity to serve with him on the Judiciary and Armed Services Committees.

I believe the remarks that Senator THURMOND gave in Decatur on July 4, about the imperatives of our national defense and the need to reduce the size of our Federal Government, warrant the attention of all Members of the Senate.

I request that Senator THURMOND's speech be inserted in the CONGRESSIONAL RECORD following my remarks.

There being no objection, the address was ordered to be printed in the RECORD, as follows:

ADDRESS BY SENATOR STROM THURMOND

Senator Denton, Mr. Lee, Lieutenant Governor McMillan, Mayor Folmar, Ladies and Gentlemen, it is indeed a pleasure for me to be here in Alabama on this Independence Day. I deeply appreciate the honor which you have accorded me this evening. Throughout my 59 years of public service, I have always believed in and attempted to be guided by the qualities of patriotism and service to State and Nation which are exemplified by the Audie Murphy Patriotism Award—the principles which we celebrate on this day. I am honored and humbled to have been selected for this coveted award.

It is especially gratifying to be placed in the company of those distinguished individuals who have previously received this award—General of the Army Omar Bradley; two of my former colleagues in the Senate, James Allen and John Sparkman; Astronaut

John Young; Olympic Gold Medalist Jesse Owens; Country Music Star Johnny Cash; Secretary of State Alexander Haig; and, most recently, Senator Jeremiah Denton.

Tonight, I will try to keep my remarks brief. My wife, Nancy, tells me there ought to be a new Beatitude— "blessed are the brief, for they will be invited again." Recently, I was at a meeting where the guest speaker began by saying, "As I was shaving this morning, I was thinking of my speech and cut my face." When he had finished his speech, a member of the audience added, "Next time, he ought to think of his face, and cut the speech." I will try to remember that advice.

The people of Alabama have always been very special to me. In 1948, the people of this great State supported my candidacy for President, and I believe that this award is a reaffirmation that we share the same basic principles and beliefs.

In their traditions and actions, the people of Alabama have shown their dedication to the values which have made our Nation great. This is reflected in the high caliber of leaders which you have provided for our Country. It has been my pleasure to serve with many of these outstanding individuals during my 28 years in the United States Senate.

The contributions of Senator Lister Hill are well-known to students of history and observers of the Congress. The Hill-Burton Act, which has meant so much to the public health care area, was only one of his notable contributions.

Senator Hill was succeeded by James Allen, the finest parliamentarian I have known during my service in the Senate and a true gentleman in every sense of the world. Following Jim Allen's untimely death in June, 1978, his very capable and devoted wife, Maryon, served the state admirably.

Jim's right-hand man was Quentin Crommelin, a native of Alabama, who has most recently served as the dedicated and capable Director of my Staff on the Senate Judiciary Committee. Quentin comes from one of Alabama's most respected families, and is leaving my staff soon to assume a position of larger responsibility in the Government.

I have had the pleasure of serving with other distinguished Alabamians.

Senator John Sparkman served ably as Chairman of the Senate Foreign Relations Committee and was honored by his colleagues in the Democratic Party when he was chosen in 1952 as their nominee for Vice President of the United States.

More recently, I have had the pleasure of serving with Senator Donald Stewart, a capable young man who demonstrated skill in representing his state.

I congratulate you on the fine representation you now have in the Senate in Judge Howell Heflin and Admiral Jeremiah Denton. I am especially pleased to have both of these men serve on the Senate Judiciary Committee, which I chair. Judge Heflin, whose record of outstanding service on the Alabama Supreme Court speaks for itself, is a valued friend, and a well-respected colleague.

Of course, when I think of American patriotism, one man immediately comes to mind—Admiral, now United States Senator, Jeremiah Denton. Who can forget Admiral Denton coming off the first plane of American POWs and returning after over seven years of torture in North Vietnam and hearing his ringing tribute to our Country? He said simply, "We have been privileged to serve our Country under difficult circumstances. God Bless America." Surely, this man is a true American hero. His service in the Senate is a living tribute to the valor and devotion of Alabamians throughout our Nation's history. His performance in the Senate is truly of a high order.

For all of these reasons, involving my admiration for, and close association with, your State, this award holds a special meaning for me.

As I considered how I would respond to this special award this evening, I remembered a saying which serves as a warning to those who make speeches on this day. The Fourth of July, goes the saying, is the day when "both orators and artillerymen shoot blank cartridges." That is one tradition I will try to break tonight.

No acceptance speech at this Festival would be complete without a comment on the life of the man who is memorialized by this award. I am sure that you are familiar with the exploits and bravery of Audie Murphy, who was the most decorated American soldier of World War II. His actions will always be an inspiration to Americans as an example of courage, leadership, dedication to duty, and love of country. Audie Murphy was an American patriot in the finest sense of that term, and this award achieves a unique value by bearing his name.

It is also fitting that this award should be presented annually on Independence Day—a day set aside to celebrate all that is good about America—and indeed, we have much to celebrate today. The intent of Independence Day was captured quite well, I believe, in a letter which John Adams wrote to his wife. In that letter, Adams stated his belief that the date on which America declared her independence would be "the most memorable epoch in the history of America." He continued, "I am apt to believe that it will be celebrated by succeeding generations as the great anniversary festival. It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty. It ought to be solemnized with pomp and parade, with shows, games, sports, guns, bells, bonfires, and illuminations, from one end of this continent to the other, from this time forward forevermore." I am sure that John Adams would feel that this "Spirit of America Festival" has helped fulfill his prophecy.

As this Festival reminds us, we have so many to thank for the prize of freedom so gallantly, yet so costly, won. Every American age has had its heroes in the cause of freedom. Thankfully, responding to our Nation's call is a distinguishing characteristic of Americans, even though the duty to one's country often involves great personal peril and sometimes, even the sacrifice of one's life for this noble cause.

I would like to share with you a passage about the spirit of American people. In this passage, the writer uniquely comments on the sacrifices of several historic figures.

"Nathan Hale could have blamed George Washington and lived to a ripe old age. Instead, he died at 21.

"Paul Revere could have said: 'Why pick on me? It is the middle of the night. I cannot ride through Middlesex Village. Besides, I am not the only man in Boston with a horse.'

"Patrick Henry could have said: 'Yes, I am for liberty, but we must be realistic. We are small compared with the British, and someone is going to get hurt.'

"George Washington could have said: 'Gentlemen, you honor me. But I am just getting some personal matters settled and have much to do at Mount Vernon. Why don't you try General Gates? Also, you might say I have served my time.'"

These scenarios never occurred, because Nathan Hale, Paul Revere, Patrick Henry, George Washington, and countless Americans of more recent generations loved liberty more than life itself.

Today, preserving our liberty remains a burdensome proposition. It is burdensome because of the commitment that it requires, both personally and in terms of our national resources.

At present, there is no more important issue before the Congress and the American people than that of our national defense. Some say that we are spending too much money on defense and that we are pursuing a policy of provocation. Others add that the United States should declare a "freeze" on the development and deployment of nuclear weaponry in order to avert a nuclear war that threatens the extinction of civilization. I strongly disagree with both of these claims.

I would be the first to admit that a military force that is too large is wasteful. On the other hand, to diminish our military force beyond the level of strength necessary for the protection of our national interests is a grave threat to our security. Today, the percentage of our Federal budget committed to defense is at its lowest point since the attack on Pearl Harbor. Throughout the 1950s, we spent ten percent of our Gross National Product on national defense. During the 1960s, that fell to eight percent, and dropped further to only six percent during the 1970s.

Conversely, Soviet defense spending increased during the same time span and, as a result, the Soviet Union has greatly outspent the United States on defense. In the last decade alone, Soviet defense spending has exceeded that of the U.S. by $800 billion. The Soviets have now developed the largest peace-time military force in the history of man.

Some would have us believe that the United States enjoys a decisive technological advantage that offsets the numerical superiority in men and equipment enjoyed by the Soviet Union. This false claim is insidiously misleading, because it engenders a false sense of security. Perhaps, ten years ago, we did enjoy a decisive technological advantage. The truth today is that the Soviets are producing weapons systems technologically comparable to ours. In some systems, the Soviets lead the United States or possess capabilities we do not have.

There is but one choice for us as a freedom-loving people. We must continue the defense modernization efforts advocated by President Reagan to close the "window of vulnerability" which developed during the 1970s.

Repeatedly, we hear calls from a vocal minority for a nuclear arms freeze. While this movement has a superficial appeal, I believe such a freeze now would be highly detrimental to this Nation and to the Free World. If the United States were to enter into a freeze on nuclear weapons at current levels, we would irrevocably concede nuclear superiority to the Soviet Union. The Soviets would have no incentive to negotiate any arms reduction because we have intentionally granted them superiority.

A declaration by this country of no "first use" of tactical nuclear weapons could be disastrous as well, because the Communist world could use their overwhelming conven-

tional forces without fear of effective retaliation. Our European allies understand this because they are face-to-face with the massive conventional armaments of the Soviets and their Warsaw Pact allies. However, I do support the President's proposal of nuclear arms reductions provided that reductions on the Soviet side can be verified. This is just a beginning, however, and I hope that both the U.S. and the Soviet Union can soon agree to even greater reductions in both nuclear and conventional forces.

War—be it conventional or nuclear—is a terrifying prospect. I experienced first-hand the tragedy of war when I landed on D-Day during World War II with the 82nd Airborne Division. No one wants war, but we must realize that the best way to prevent this tragedy is to remain strong. I am personally committed to doing all that I can to ensure that a nuclear war is never fought anywhere in the world. I know that our President shares this commitment.

The desire and hope for peace is a natural human characteristic. There is, however, one inescapable reality: the price of liberty is a constant ability and unswerving commitment to protect it from destruction. If we have any less resolve than that, and if our resolve is not reflected clearly in our policies on national defense, then we will be condemned either to lose our freedom or to fight for it once again in the face of terrible odds. Peace through strength is our best, and indeed, the only realistic course.

A strong national defense is necessary to the preservation of liberty, yet a strong economy is vital to the health of the Nation as a whole. We are all aware of the economic realities that we face at present. You and I live with those problems daily in the form of unemployment, high interest rates, inflation, a huge federal deficit, and businesses burdened by unnecessary and stifling Federal regulations.

The policies of President Reagan have had an impact upon the economic state of the Nation. Interest rates have declined over the past year and a half by more than five percentage points, and inflation has slowed considerably. Of course, much remains to be done, but the progress so far is largely due to the efforts of the President to reduce the size of government, to reduce the Federal tax burden and to reduce the Federal deficit.

In charting this course, President Reagan has shown great courage. It would have been far easier to continue Federal spending for many programs, rather than face the wrath of those affected by this reduced spending. It would have been far easier to choose a middle-of-the-road approach to boosting defense spending and to pursue a moderate course in reducing bureaucracy than to face the tremendous opposition of special interest groups which are adversely affected by his actions.

For a full and lasting economic recovery, I believe it is important to pass the balanced budget constitutional amendment now pending in Congress. This amendment, of which I am the primary sponsor, has the President's support, and only through it can we achieve long-term economic success. I am convinced that the end result of these efforts will be a strengthened economy, although, of course, it will take time for us to realize this objective in full measure.

A final point which I wish to address is the initiative the President and Congress have taken to restore the balance of powers between the Federal and State governments as intended by the Constitution. It is a simple fact that the Federal government cannot continue to be all things to all people. We have seen the waste and the bridling of initiative that has resulted from Federal encroachment upon the powers, prerogatives, and responsibilities of the states and the people under our Constitution.

Thomas Jefferson wrote, "That government is best which is closest to the people." I might add that the government closest to the people also tends to be the most accountable and the most responsive. In this regard, I hail this redefinition of American Federalism, and I view it as a return to more effective and efficient government. I believe this approach will maximize individual freedom and initiative, which will lead to a strengthened America.

In conclusion, I wish to leave you with this thought: "A Nation is made great, not by its fruitful acres, but by the men who cultivate them; not by its great forests, but by the men who use them; not by its mines, but by the men who build and run them. America was a great land when Columbus discovered it; Americans have made of it a great Nation."

I challenge each of you to protect the blessings of this great Nation, and to pass on to future generations an America even greater than the one we received.

I am grateful for this fine award, and I thank you very much.

BALTIC FREEDOM DAY

Mr. BRADLEY. Mr. President, the modern history of the Baltic nations of Latvia, Estonia, and Lithuania is a tragic and tumultuous one. Mass deportations and executions have occurred during Soviet occupations of the region. In June 1941, Estonia lost more than 60,000 people, Latvia 35,000, and Lithuania 45,000 to mass arrests and executions when the Soviet Union attempted to gain control over the Baltic region. Soon after the German attack on Russia, the Baltic peoples were again the object of foreign persecution as the Nazis killed approximately 190,000 Jews in Lithuania, 90,000 in Latvia, and 4,500 in Estonia. When the Soviets returned in the fall of 1944, they reestablished Communist governments and dominated the population by deporting more than 500,000 additional citizens of the Baltic States.

Over the years, victims of the deportations to the Soviet far east have included educators, military personnel, politicians, businessmen, writers, publishers, and the families of those persecuted. In short, no one has been above suspicion in the Soviet campaign to bring the independent nations of Latvia, Lithuania, and Estonia under their control. In addition to terrorizing the population with executions, deportations, and the destruction of family life, the Soviet Union has attempted to squash the independent will and spirit of these courageous people by denying them freedom of religion and freedom of speech. The educational system may now only use the Russian language in the curriculum and the study of national history by Baltic youth is under the constant surveillance of the KGB. The culture is further decimated by quickly replacing those who have been deported with Russian settlers. Should this trend continue, Estonians and Latvians may soon be in the minority in their own republics.

In spite of this systematic repression of the Baltic nations, the peoples of this region have continued to keep their culture and language alive and have refused to abandon their religion. Under the constant threat of further repression and deportations, the Baltic people have bravely challenged Soviet infiltration and have refused to stand by quietly as their freedoms are stripped away. July is the month when we celebrate our own hard-won liberty and power of self-determination. I would like to join my colleagues in supporting the Baltics in their struggle for freedom.

What has enabled each country to maintain an individual identity in spite of Soviet efforts at Russification is the burning desire of the people for the right to self-determination. These people must fight every inch of the way to maintain their cultural, political, and historical identity. An officially established Baltic Freedom Day recognizes and proclaims the past of these people, thereby lending much-needed support and encouragement to their present and future struggle for dignity and freedom. The more emphatic our support, the closer that free future will come and the sooner current injustices will be relieved.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. The clerk will report the pending business.

The bill clerk read as follows:

A joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

The Senate resumed consideration of the joint resolution (S.J. Res. 58).

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. We are ready to proceed with the constitutional amendment. If any Senators have amendments to this amendment, we should like for them to come to the floor and offer those amendments at this time. We have been on and off of this constitutional amendment now

for several days, and we wish to proceed and wind it up as soon as possible.

I understand that the Senator from Kentucky (Mr. FORD) has an amendment, and if he wants to offer that at this time I wish the minority staff would ask him to come to the floor; we are ready to proceed.

And also the Senator from New York (Mr. MOYNIHAN) I understand may have some amendments; the distinguished Senator from Vermont (Mr. LEAHY) I understand may have an amendment, so if the minority staff could notify Senator LEAHY, Senator MOYNIHAN, and Senator FORD, we are ready to proceed.

I understand the distinguished Senator from Hawaii (Mr. MATSUNAGA) may also have an amendment. Will the minority side notify him, too, that we are ready to proceed.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FORD. Madam President, I ask unanimous consent that the order for the quroum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1933

Mr. FORD. Madam President, both the chairman of the Judiciary Committee and the floor manager of the bill, the Senator from Utah, are here.

On the first day we discussed my amendment to require the President to submit a balanced budget, I discussed with both of them the new responsibility that was going to be shifted to the States. The distinguished Senator from South Carolina is a former Governor, and we even call each other "Governor" because we have held that office in our respective States. I was under the assumption—it is probably erroneous to assume something—that section 4 was still in the bill. This section would not transfer new responsibilities to the States unless they would also be given the responsibility to tax. Even the Washington Post, in its article of Sunday, alluded to this section. Now we find out that somewhere between the committee vote and the Senate floor, section 4 has been eliminated.

I am sure that a statement has been prepared concerning this section and that the Senator is adequately prepared to give us the reasons why it has been deleted from the bill. As my colleagues know, I have a little interest in what happens to my State and the other 49 States in the balanced budget amendment. I am very concerned that the Federal indebtedness is going to be transferred to the States.

I believe a report was issued yesterday, by a very good authority, that said if this amendment is passed, the taxes within each State will increase an average of 37 percent.

Does either the Senator from South Carolina or the Senator from Utah have an answer to my question?

Mr. THURMOND. Madam President, section 4 of the proposed amendment was stricken by the full Judiciary Committee, by a voice vote, more than a year ago. The provision is still reflected in the committee report because the report was published shortly before this action and the bill itself was reprinted as a star print to drop the section. Section 4 was stricken at the behest of several Senators, notably Senators HEFLIN, DOLE, and GRASSLEY.

Although the section purported to limit the ability of the Federal Government to balance its budget by imposing new costs upon the States, the concern expressed by these Senators was that it might result in precisely the opposite situation. In their view, the implication of the language was that Congress had greater present authority than generally believed to impose such costs upon the States. They believed that the language was largely unnecessary because it did nothing more than reflect present law, anyway. Thus, the provision was stricken as a protection to the States.

Mr. FORD. I ask the distinguished Senator from South Carolina: How can the elimination of section 4 protect the States? How in the world can it protect South Carolina or Kentucky?

Mr. THURMOND. There is nothing in the amendment now as the amendment now reads that we feel puts any burden upon the States. We feel that the amendment is clear, concise, and I think it is res ipsa loquitur. It speaks for itself.

Mr. FORD. Let me ask the distinguished Senator: If we have a balanced budget we are going to cut spending by $100 billion. If we had it today, we are going to cut spending by $104 billion, and I believe the Secretary of the Treasury said the other day I will probably have a $130 billion deficit. We are going to have to cut a large amount or increase taxes. How much of a problem then is Congress creating for the States?

Mr. THURMOND. The trouble is both parties here in Congress have been spending too much over the years. It is true for the last 27 years that the Democrats had control of both bodies in Congress——

Mr. FORD. If I may interject, the greatest percentage of increase of the deficits was under the Republican administrations.

Mr. THURMOND. I could not say that. They are not responsible. In other words, Congress is responsible.

Mr. FORD. However, the President submits the budget.

Mr. THURMOND. Congress authorizes and Congress appropriates.

Mr. FORD. And the President submits the budget.

Mr. THURMOND. And the President recommends and vetoes.

I wish to say that it is the responsibility of Congress. But at any rate, the debt accumulated over $1 trillion. Some steps have to be taken. We cannot keep on as we are going. No individual could stay in business who does not balance his budget but once in 21 years, and that is what happened there in Congress. No corporation could stay in business that does not balance its budget but once in 21 years and twice in 25 years. That is what happened here in Congress. No Government can justifiably stay in business with those kinds of deficits.

We have faced a crossroads in this country. We have absolutely to take steps to cut down on the spending.

The public is demanding we do this. Taxpayers are demanding we do this. As a matter of fiscal responsibility we have an obligation to do this. It is my hope that we will pass this amendment and get on the way.

Congress has not shown the restraint to balance the budget. Therefore, I think it is going to take a constitutional amendment to bring that pressure upon Congress and to restrain them from spending more than we take in.

Mr. FORD. Let me say to the distinguished Senator from South Carolina rhetoric is fine. But some of us are going to have to look to the future.

Does the Senator think the President is not responsible? For 25 of the last 54 years Congress did a better job of budgeting than the Presidents. So at least half of the time Congress did a better job than the Presidents. At least half of the time Congress turned around and cut those budgets and reduced those budgets the President submitted. We should have this sort of cooperation.

So at least in 25 of those last 54 years Congress did better than the President.

Mr. THURMOND. They have not done well enough.

Mr. FORD. That is fine, but we have to have the cooperation of both the President and Congress.

Mr. THURMOND. After all, the responsibility for authorizing and appropriating under the Constitution is upon Congress.

Mr. FORD. The Senator said that.

Mr. THURMOND. All the President can do is to recommend. He only recommends. Congress does not have to follow that. He only recommends, I wish to repeat that. Then the President can veto. But it is the responsibility of Congress to authorize and appropriate and that is where we have gotten in trouble throughout these years.

Mr. FORD. The Senator keeps saying that. He keeps saying that and indicts himself. He indicts every Senator. He indicts every Congressman.

Mr. THURMOND. I indict everyone who spent, who advocated spending more than we have taken in. I am one of those who voted against big spending for years and the Senator can look up my record and see.

Mr. FORD. Did the Senator vote to not increase the debt ceiling last time?

Mr. THURMOND. I voted last time. We had a new President, President Reagan, and I knew what he stood for, balanced budgets, and I was willing to give him a chance.

Mr. FORD. Let me say this, then, Madam President——

Mr. THURMOND. The Government would come to a close, as the Senator well knows.

Mr. FORD. Why not try it for 24 hours and see the Government stop and see if these people care whether the bureaucrats write another regulation or spend another dime? Let us stop Government for 24 hours and see what happens out there. I wish to have it stop for 24 hours. We had 27 inches of snow 1 day and we did not do a thing for 3 days around here and everyone was happy. Not a bureaucrat went to work, not a Congressman came to the Chambers, and Government went on without us. I think we could try that for a while.

Mr. THURMOND. Why did the Senator not advocate that under President Carter? Why did he not advocate that under President Lyndon Johnson?

Mr. FORD. I was not here. The Senator was.

Let me say this, for 25 years——

Mr. THURMOND. The Senator from Kentucky was here when President Carter was here.

Mr. FORD. That is right, but I was not here under President Lyndon Johnson.

Mr. THURMOND. The Senator was here when President Carter was here. Did the Senator advocate it then?

Mr. FORD. Yes, I certainly did.

Mr. THURMOND. I do not recall the Senator's voice saying that then.

Mr. FORD. The Senator was not listening. He was not listening because I have and I have so voted.

Mr. THURMOND. Look up the record and bring it to this Senate and show it to me.

Mr. FORD. I am glad to bring my record here and lay it down before the Senator so he can see what I have done the last 8 years. I have voted many times against not balancing the budget.

Mr. THURMOND. Compare the Senator's record on spending with mine and take the organizations. Take the ACA. Take the ADA, and take the rest of them.

Mr. FORD. I am not here to argue about what has happened in the past, I say to my distinguished friend from South Carolina. I am here trying to get a balanced budget, and I think I have the answer. At 11 a.m. today a number of Senators are going to meet with the President. I understand they are going to talk about the balanced budget. I hope they ask him if he is willing to submit a balanced budget to Congress.

The thing that I wish to get straight here is that I am not saying what happened in the past. What is past is past. I am here now trying to correct the future for my children and my grandchildren, and I hope the Senator from South Carolina is doing the same.

What we have to have is the leadership and guidance of the oval office. That is what we have to have.

Mr. THURMOND. I think this constitutional amendment will provide that.

The PRESIDING OFFICER. Senators will suspend. The time has expired.

PRESIDENTIAL CERTIFICATIONS ON EL SALVADOR

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of House Joint Resolution 494, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 494) with regard to Presidential certifications on conditions in El Salvador.

The Senate proceeded to the consideration of the joint resolution (H.J. Res. 494).

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Madam President, I suggest the absence of a quorum, with the time divided equally.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Madam President, if there was ever a need for legislation on a particular matter, the case of the murdered churchwomen, the slain land reform specialists, and the disappeared freelance journalist in El Salvador is a prime example. When we formulated the certification requirements as part of Public Law 92-113, the International Security and Development Cooperation Act of 1981, we acted on the good faith of both the Salvadoran and United States Governments that in a few months time, the cases would be resolved and adjudicated. We, therefore, only required the President to certify, one time—at the first certification in January—that progress was being made in bringing to justice those guilty of these heinous crimes. We thought they would have been resolved long since, and there would have been no need to have included them in the certification that followed. Alas, because of the foot dragging, slow movement on the part of the Salvadorans, we find that is not the case.

Our experience, however, now demonstrates that the flurry of activity on these cases, which took place around the time of the first certification, has slowed to a virtual halt. Just after the first certification, five national guardsmen were indicted in the murders of the churchwomen. Unless something has happened in the last day or so, the only movement in the case is the Salvadoran court's investigation to determine whether the five guardsmen may properly be brought to trial. This incredibly slow process could very well result in the guardsmen never being brought to trial.

I understand, I hear rumors from downtown, there may be some activity, just as there was before the time of the first certification, showing another halting step forward. If there was, hooray. But, nevertheless, I think this measure should be passed, and there should be a requirement that when certification comes it include the case of the murdered Americans in El Salvador.

Lack of admissible evidence has been given as the reason for the Salvadoran court's inability to move forward on the case of the land reform specialists killed in the coffee shop of the Sheraton Hotel in January of 1981. Virtually no information has been produced by the inquiries into the disappearance in December 1980 of freelance journalist John Sullivan. It is obvious that the Government of El Salvador, and perhaps the U.S. administration, needs the prod of the certification requirement in order to work with more dedication and purpose toward bringing the guilty to justice.

In considering this measure, I hope my colleagues will note the overwhelming support it received in the House of Representatives—it was unanimously approved in the Foreign Affairs Committee and was adopted by the House of Representatives by a vote of 399 to 1. The administration supports the spirit of the measure as evidenced by the Secretary of State Shultz' statement during his confirmation hearing that:

I certainly would want to do everything I can to clarify the situation and see that responsible parties are brought to justice.

The cases of these Americans who lost their lives in El Salvador have to be regarded as more than a benchmark for measuring human rights progress in El Salvador. It is a moral question that weighs heavily on a vast

majority of the American people and on us in the Congress as their representatives. We must overwhelmingly approve this measure and send a loud message to the Government of El Salvador from the people of the United States. Justice must be served.

I think many of us come from States where these murders are of particular interest. I know in my own State of Rhode Island there is nothing that has arisen in the last year that has aroused people more than the murder of these four churchwomen. They had many connections in our State and were very fine people.

I have talked at some length with Mr. Ford, the brother of one of the murdered nuns, and I share his sense of frustration and feeling that there is real foot dragging, not on our part but foot dragging on the part of the Salvadorans.

I do not fault Ambassador Hinton or our Government in pressing on this matter. I do fault the Salvadorans in declining to be pressed.

(Mr. KASTEN assumed the chair.)

Mr. PERCY. Mr. President, I thank my distinguished colleague for once again indicating the importance of this issue and also indicating the bipartisan nature of it.

I do urge forthwith passage of the pending resolution, House Joint Resolution 494.

The House of Representatives passed House Joint Resolution 494 by a vote of 399 to 1. That is as close to unanimous as they can come. In fact, it is even better than a unanimous vote because it was a rollcall vote. Everyone had a chance to vote on it, study it, and to express themselves on it.

Likewise the Committee on Foreign Relations agreed unanimously to report out the similar Senate version, Senate Joint Resolution 208, on July 14.

I joined, together with the ranking minority member, Senator PELL, of Rhode Island, to write the Secretary of State on July 6 asking that he include full reporting on the issue in his certification report.

The substance of the resolution really should appear to be noncontroversial. Everyone wants justice to prevail in the case of the four American churchwomen, the two American land reform experts murdered in El Salvador. We all seek news and information on the missing journalist, John Sullivan.

On substantive grounds, the administration has absolutely no objection to the inclusion of this requirement in the certification. Indeed, I believe the reports have been included in the draft certification reports for some time.

In discussion with us and in briefings provided to staff, the evidence is that this is one area in which some positive steps have been made.

Let me just review briefly the facts in the case:

In May 1980, six national guardsmen were arrested in the slaying of the four American churchwomen. In February 1982, indictments were handed down against five of them, and the case was turned over to an administrative judge who, according to Salvadoran law, must review the evidence prior to convening a trial.

I understand that the judge is expected to complete his review in the near future and set a date for the trial. In short, the judicial process is working in El Salvador in this case.

In the case of the two land reform experts, a commission of inquiry has been formed like that which, in the nuns' murder investigation led to the arrest of the national guardsmen. I understand that the commission may be able to contribute positively to the resolution of this case in the not-too-distant future. This will be a very important step, for to date the evidence presented has been believed not sufficient to stand up in the Salvadoran courts. I am told that the AFL-CIO's American Institute of Free Labor Development, which hired the two land reform experts, is pleased with the recent progress in the case.

This, in itself, is an independent, objective source and the report on that source is a very important report to myself and to all of us, I should think.

In the case of John Sullivan, it is disappointing to have to say that there appear to be few clues so far. Nevertheless, I am told that the case remains very much open.

Clearly we remain a long way from resolution of these cases. Of course, the families of the churchwomen and the AIFLD (A-Field) employees are impatient that the cases are not solved yet. But we must remember that El Salvador's legal system has been under fire—literally—for many years now. It is working now. The United States has provided help when asked for it.

And I would like to pay tribute to the Federal Bureau of Investigation. I personally talked with the Director on a number of occasions, Judge Webster. He has assured me at all times that they have received cooperation. When their services have been requested, they have been provided and they have provided such expert advice and counsel as was fitting under the circumstances to assist in the solution of this problem.

The certification process has kept the need for continued progress constantly before the Salvadoran leadership and this steady pressure hopefully is going to produce results over time.

In sum, the information on progress in these several cases has already been included in reporting on human rights progress in El Salvador. With or without this resolution calling for certification on this issue, we would have received those reports. Calling for certification by the President does underscore our continued concern in these cases, and until these cases are resolved and brought to trial, no one doubts this concern will be with us and will influence our ability to provide continued support for El Salvador.

Mr. President, I must return to the Foreign Relations Committee to convene a meeting there. I know of no other Senators on this side who wish to speak, other than Senator HELMS, who has 15 minutes reserved in his own right. Therefore, Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield to the Senator from Massachusetts such time as he may need.

Mr. KENNEDY. Mr. President, today we are considering House Joint Resolution 494, an identical resolution to Senate Joint Resolution 208 which Senator GLENN, myself, and several other colleagues had introduced in the Senate.

House Joint Resolution 494 amends the requirements for Presidential certification for continued U.S. aid to El Salvador. It requires a finding in the President's second certification; which is due shortly, that the Government of El Salvador has used all of its resources to further the investigation into the murders of four American churchwomen and two American labor representatives, to bring to justice those responsible for those murders, and to fully investigate the disappearance of the journalist John Sullivan in El Salvador.

It is indeed a sad commentary of our times, and an even more tragic reflection of the bankruptcy of administration policy in El Salvador, that this Senate must again consider the lack of progress in investigating the murders of innocent American civilians in El Salvador. At the time of the first certification of military aid to El Salvador in January, which included this certification requirement which I and other Members of the Senate had introduced, President Reagan assured the Congress that the Salvadoran Government "has made good faith efforts both to investigate the murders of the six U.S. citizens in December 1980 and January 1981 and to bring to justice those responsible for those murders." Coupled with this statement was an assurance by the Salvadoran Minister of Defense that his Government would prosecute "within a very few days" the guardsmen suspected in connection with the murders.

Six months after this statement and nearly 2 years since the murders of the four chuchwomen, still no trial

has occurred and the Government of El Salvador continues to impede efforts to fully investigate these cases. According to a report released by the Lawyers Committee for International Human Rights on July 20, 1982—which appeared at my request in the RECORD on July 22—the Salvadoran Government has used a variety of tactics to assure that progress in the investigation is and will continue to be "lamentably slow." The lawyers claim that top officials are "hostile to the investigation or punishment of any security force members in this case." The presiding judge and prosecuting attorney have been directly hampered in their pursuit of justice through "intimidation by Government security forces and parliamentary activists." In addition, strict interpretations of requirements regarding information gathering and trial procedures have placed a tremendous burden on the full conduct of the investigation. The Government of El Salvador has also been consistently unwilling to "pursue evidence suggesting that higher ranking military officers or parliamentary groups may be involved in the killings." In conclusion, the lawyers note that there is "a distinct possibility that no one will be tried and punished for the murders."

The blame for inaction, however, does not fall on the Salvadoran Government alone. Regrettably, the U.S. Government has obstructed the complete and thorough investigation into the murders. According to the lawyers' report, agencies in the U.S. Government, principally the FBI, CIA, Department of State, and Defense Intelligence Agency have floundered in their commitment to pursue a "full and fair investigation of the murders." For example, according to the lawyers' report the State Department has failed to pursue fully the question of the possible involvement of particularly high-ranking Salvadoran officials, suspected to be involved in the murders.

Moreover, the report finds these Government agencies to be in direct violation of the intent of the Freedom of Information Act, greatly hampering the families of the murdered victims in their quest for justice. Under the FOIA, the families are entitled to gain access to all documents pertaining to the deaths of their loved ones. The agencies have refused to provide the information asked for by the families. Instead, the administration has been inattentive, uncooperative, and evasive—and more cruelly, insensitive—in its handling of the families' requests.

Mr. President, we should all be appalled by the lack of concern exhibited by both the Government of El Salvador and the Government of the United States. It is an outrage to the fundamental principles of justice and human decency upon which the Government of the United States is founded that there continues to be no resolution of these cases. It is certainly clear from the lawyers' reports and other such reports that the Government of El Salvador has not made "good faith efforts" to investigate the murders and "bring to justice those reponsible for those murders" as certified by the President in January.

I hope that my colleagues will support passage of House Joint Resolution 494, and that this resolution will emphasize to the President the insistence of Congress on a serious and complete investigation into the murders of the six Americans and the disappearance of John Sullivan if there is to be continued military aid to El Salvador.

Mr. President, I ask unanimous consent to have printed in the RECORD an article by the Council on Hemispheric Affairs, entitled "Certifying the Uncertifiable—Again," and a superb article that appeared in today's New York Times by former Ambassador White on the issue of human rights violations and the failure of the El Salvadoran Government to meet its responsibilities to those Americans who were brutally murdered in El Salvador, and their families.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

CERTIFYING EL SALVADOR

(By Robert E. White)

CATAUMET, MASS.—In 1981, Congress signaled its anger over the course of the Reagan policy toward El Salvador by inserting into the Foreign Assistance Act a twice-yearly certification requirement. Accordingly, all military aid will stop this month unless President Reagan warrants that the Salvadoran Government is making a concerted and significant effort to achieve progress on human rights, land redistribution, a political solution to the guerrilla conflict and free elections. As all evidence we have runs directly counter to these propositions, any document providing a rationale for Presidential certification will necessarily be long on unsubstantiated assertion and short on demonstrable fact. In spite of this, the President is expected to sign the certification provided him by a bureaucracy more comfortable with barren continuity than creative change.

All independent witnesses, including a highly professional study by the Americas Watch Committee and the American Civil Liberties Union, confirm that the slaughter of unarmed civilians goes on. How could it be otherwise? In spite of the many thousands of cases involving torture and murder by the Salvadoran armed forces, no officer or enlisted man has yet faced trial for any of these crimes. Nor will they. The refusal of the military high command of El Salvador to permit justice to take its course in the case of the four murdered American missionaries symbolizes the generals' determination to continue to use terror as a weapon against their own people.

It is true that an election was held in March this year that might have provided some evidence of progress toward Congressional goals. At least it had the potential until this month, when William J. Casey, Director of Central Intelligence, in obedience to God-knows-what imperative and with his customary exquisite sense of timing, publicly bragged that the Central Intelligence Agency had meddled in the election. As reported in The Wall Street Journal of July 16, Mr. Casey stated that "the C.I.A. was now again active in clandestine activities albeit in post-Watergate style." He added, "For instance, we helped out in the El Salvador election." Let us all hope that he operates as effectively against our nation's enemies as he does against the policy objectives of the Administration he serves.

The military and economic elites of El Salvador have developed their own rationale to justify their systematic extermination of political leaders, union members, clergy, journalists and peasants. They insist that the Reagan leadership secretly agrees with their terrorist methods and will continue to send aid because the alternatives is to see the revolutionaries victorious. If President Reagan certifies as true that which is known to be false, he will breathe new life into this chilling theory and at the same time undermine his own high reputation for honesty. He will also revive the specter of past administrations that chose to justify unpopular policies by concealing the facts from the American people.

Defenders of Presidential primacy in foreign affairs contend that Congress, by intruding so conspicuously into the domain of the executive branch, has simply asked to be lied to. They point out, correctly, that Congress is a blunt instrument in the conduct of foreign affairs and that any attempt by the legislators to play a continuing role in country-specific policy formation is likely to end in disaster. In the case of El Salvador, however, it is legitimate to argue that Congress had no intention of manacling the President or intruding into his domain but rather intended to compel high Administration officials to assess at least twice yearly whether our El Salvador policy was based on illusion or reality.

The appointment of a new Secretary of State known for candor and pragmatism gives the Reagan Administration an opportunity, if it wants to use it, to seek an honorable and sensible way out of this dilemma. One possible solution might be for the President to send a special message to Congress. The communication would state that the Secretary of State has thoroughly examined the record and based on the evidence is not completely convinced that all the Congressional considerations have been met. The President would say that in view of this disturbing report he has ordered his chief adviser on foreign affairs to review policy toward El Salvador fully and he would ask Congress to accept this message as the equivalent of certification pending the outcome of the policy reassessment. State Department lawyers could easily work out the appropriate legal language.

It is vital for the future of United States relations with Central America that President Reagan not continue to certify fantasy masquerading as fact, thereby providing a continuing whitewash of the brutal and corrupt Salvadoran military machine. The executive branch and Congress must work in harness if they are to forge a more creative and common-sense course in Central America. The Reagan Administration should look on the Congressional certification requirement on El Salvador due tomorrow as an opportunity to begin that cooperative effort.

CERTIFYING THE UNCERTIFIABLE—AGAIN

(A research memorandum compiled by the staff of the Council on Hemispheric Affairs.)

The presidential certification on progress in key reforms in El Salvador, which must be delivered to Congress by July 27, may invite even more controversy for the Reagan administration than did its prior assurance on January 28 (WRH 2/9/82).

State Department officials, worried about the slow pace on the reforms and the ongoing human rights violations, are pressuring Salvadoran authorities to deliver a better performance in order to avoid a major confrontation with Congress.

They have ample cause for concern. The following COHA report was forwarded to Capitol Hill offices. It reflects the general conclusions of studies by other human rights groups and legal organizations in recent weeks: that reforms have lost, not gained, ground since January.

Strong evidence suggests that five of the six original requirements for certification approved in December are not being fulfilled by Salvadoran authorities. Human rights violations continue: "substantial control" over the Salvadoran security forces has not brought an end to "indiscriminate torture and murder;" the government has not made "continuing progress" in the land reform; "good faith efforts" are not being made to bring about discussion of an "equitable political solution" among the parties to the conflict; nor in bringing to justice the killers of either four U.S. churchwomen or two U.S. agrarian advisers.

A review of the chronology of events surrounding the investigation into the deaths of the churchwomen (see box) suggests that the Reagan administrations's January certification notwithstanding, no progress whatsoever has been made in the case since it was declared at a "dead end" last December by the Salvadoran judge presiding in the case. In fact, lawyers representing the families of the victims said at a July 1 press conference in New York City that the State Department, CIA, FBI and the Defense Intelligence Agency all have consistently acted to prevent the families from gaining greater knowledge of the circumstances of the murders. The lawyers are filing suit under the Freedom of Information Act to force the State Department to comply with their requests for information concerning the case.

On June 23, Republican leaders in the House blocked consideration of new legislation which would again require President Reagan to certify that progress in the investigations is being made as a precondition to continued U.S. aid to El Salvador. The Senate Foreign Relations Committee also decided to suspend action on a Senate version of the bill (WRH 7/13/82).

The two suspects originally detained for the murders of the U.S. agrarian advisers have been released and no further legal action against them is expected.

The State Department cannot seem to decide what the exact scale of the political violence is currently. On June 6, State Department officials were quoted in the New York Times as claiming that the rate of politically motivated killings was about 250 per week. But when contacted by COHA three weeks later, department representatives suggested a rate of 50 per week.

At the time of this writing, no independent report has been issued with precise and comprehensive figures on the levels of violence in the past months, although the American Civil Liberties Union will soon release an updated version of a human rights study which it originally published in January. But a review of only a porition of the news reports dealing with political violence indicates that the practices of illegal abduction, torture, beheadings, and mass executions during counterinsurgency sweeps continue unabated (see chart).

The U.S. has trained three batallions—the Atlacatl, Belloso and Atonatl (the latter two in the U.S.)—which have reportedly been more effective in combat against the insurgents. But those same batallions also have been involved in indiscriminate killings of non-combatants on a large scale, according to reliable reports. Atlacatl commanding officer Domingo Monterroso himself told reporters, after a "cleanup" operation in early June in Chalatenango province, that among the 135 "subversives" claimed as killed were women and children, who Monterroso said acted as "messengers" and in other logistical roles for the guerrillas.

A New York Times article on July 4 quoted international relief workers in Honduras who said that some 200 unarmed persons were killed by soldiers and helicopter gunships in late May and mid-June while trying to cross the Sumpul River on the border with Chalatenango. The killings would have occurred in conjunction with the Atlacatl-led cleanup operation operation in the area at the time, and the relief workers said Honduran troops were involved as well.

The Reagan administration and officials of the Salvadoran government have made numerous representations to the Congress in public and private forums to assert that the land reform program is progressing, as the certification requirement stipulates. The basic argument is that the suspension of Phase III and the abolishment of Phase II on May 18 is only a temporary halt in the progress, and by taking that action the government has consolidated the gains made thus far.

Earlier, however, on April 26, the Constituent Assembly had passed Decree No. 3 repealing three decrees issued by the first revolutionary junta that formed the constitutional basis for the land, banking, and trade reforms. To attempt to reimplement reforms without the repealed decrees will now be constitutionally illegal. Statistics show that only 25-50 percent of the potential beneficiaries of Stage III ever got even provisional titles and an estimated 5,000-12,000 families have been evicted from their lands.

The U.S. Justice Department received on June 9 a statement from the Washington-based firm of Neill and Company, Inc., registering itself as an agent of the Salvadoran government. The contract which the company signed covers the period June 7, 1982, through January 31, 1983, and stipulates payment of $200,000. The services to be rendered by Neill and Company will be to: Render government relations and related legislative services to assist the Government, working with the Embassy of the Government in the United States, in increasing the amount of United States economic and military aid, in improving terms and conditions of such aid progressively and in general, providing such other appropriate assistance as will serve to achieve these purposes.

Given the hardly promising factual basis of the state of reforms in El Salvador currently, it would appear that Neill and Company will have its work cut out for it in putting a favorable light on the regime now in power.

POLITICALLY MOTIVATED KILLINGS SINCE JANUARY 28, 1982

1/30/82: At least 19 persons murdered in San Antonio Abad in San Salvador by government troops, according to relatives of the victims. (W Post, 2/1/81)

1/30/82-1/28/82: At least 452 non-combatant deaths are reported by the Socorro Juridico office, and attributed to either government forces of "unidentified assassins."

2/1/82-2/28/82: Twenty-nine persons, including women and children, are reported to have been abducted by uniformed and non-uniformed security agents and to have disappeared. (Commision de Derechos Humanos de El Salvador. No. 11, 4/10/82)

3/2/82: Two Christian Democratic Party officials are taken from their homes and found dead following day. (Socorro Juridico, 3/5/82)

2/17/82: Four Dutch journalists are killed by gunfire in Chalatenango. Contradictions later arise between government accounts and those of a special team of Dutch investigators, prompting the Dutch government to suggest the four were victims of a government ambush. (W Post, 4/15/82)

3/20/82-4/23/82: Socorro Juridico reports 751 non-combatant deaths at the hands of government forces and unidentified assassins.

4/21/82: At least 48 persons in village of Barrios are taken from their homes by army soldiers and shot, according to neighbors and relatives of the dead. A list prepared by survivors of the attack show that 25 of the victims were children younger than 12 years of age. (NY Times, 4/22/82)

4/24/82-5/14/82: Socorro Juridico reports 290 non-combatant deaths at the hands of security forces and unidentified assassins.

5/12/82-6/1/82: Twelve Christian Democratic leaders are reported murdered by unidentified assassins, presumably at the hands of rightwing political rivals. Six peasants between the age of 19 and 30 who were dragged from their homes in vicinity of San Salvador are found beheaded in El Playon. (NY Times, 6/1/82)

6/12/82: A massacre of approximately 200 Salvadoran refugees, mostly women and children, is reported to have taken place near the Rio Sumpul between El Salvador and Honduras. Written and taped testimony from 166 survivors and information given by relief workers, indicate joint participation by Honduran and Salvadoran government forces. It is the third major border massacre involving joint operations by the two countries in two years. (AIP, 6/24/82. NY Times, 7/4/82).

CHRONOLOGY OF NUNS' INVESTIGATION SINCE DECEMBER 13, 1981

12/13/81: The Salvadoran judge in charge of the case pronounces the investigation "at a dead end" (N.Y. Times, 12/14/81). The brother of one of the victims, William Ford, a Wall Street lawyer, charges that the State Department is either "unbelievably incompetent" or "uninterested" in its pursuance of the inquiry. (N.Y. Times, 12/14/81)

12/31/81: Congress approves certification requirement as a precondition for continued U.S. aid to El Salvador, setting Jan. 28 as the deadline for delivery.

1/15/82: Two weeks before certification must be made, the Salvadoran ambassador to the U.S. announces that charges will be filed against suspects in the case "within a month." (Cleveland Plain Dealer, 1/16/82)

1/21/82: The State Department and FBI are reported to be seeking a witness who

claimed to have seen the nuns' murders. According to sources, the witness could implicate members of the Salvadoran oligarchy. (Plain Dealer, 1/22/82)

1/21/82: The Reagan administration states its satisfaction with the progress of the 13-month-old investigation. Embassy spokesman says the case is closer to resolution than two months earlier. (Diario Las Americas, 1/23/82)

1/27/82: Associated Press reports the accused will go on trial within several days.

1/28/82: Salvadoran Defense Minister Guillermo Garcia announces the completion of a report by a special three-member commission charged with examining the case, and that accused will soon be presented in the courts. (W Post, 1/29/82)

2/7/82: A Salvadoran judge from Zacatecoluca, Mario Alberto Rivera, resigns from his responsibility as legal head of the case, citing medical reasons. He is the second judge to quit the case and to pronounce it at a "dead end." (Boston Globe, 2/8/82)

2/8/82: A suspect arrested in the case, a former member of the National Guard and born-again Christian, confesses his direct participation in the murders. His confession was described as being sufficient to bring to trial 6 of 8 suspects under arrest. (W Post, 2/9/82)

2/10/82: Salvadoran government spokesman describes the case as "practically cleared up" (Agence-France Press, 2/10/82). Salvadoran military authorities surrender six low-ranking National Guardsmen to civilian court, and the judge has 72 hours to decide if sufficient evidence exists to bring them to trial. (NY Times, 2/11/82)

2/13/82: Five of six detained suspects are indicted for felonious assault, and the sixth is released. Announcement of indictment is made by law clerk in Zacatecoluca and by President Duarte, but the judge responsible for case is not available for comment. Reports indicate that nagging suspicions persist about the involvement of higher authorities, based in part on an overhead radio transmission at the time of the arrival of two of the victims at Cuscatlan Airport the day of the murders. (W Post, 2/16/82)

2/14/82: Acting Archbishop Rivera y Damas voices his doubts on how "a sergeant [one of the detainees] could give orders unless before hand, at least in a general form, someone has opened the door for decisions of this nature to be taken." (NY Times, 2/15/82)

2/17/82: Assistant Secretary of State Thomas Enders informs the families of victims that no trial will be held for at least 6 months to a year.

5/16/82: Contents of a State Department report show that the FBI still lacks crucial evidence in the case. Fingerprints of two of the original six suspects have not been delivered by the Salvadoran government, so that they may be matched to prints found on the churchwomens' van. (W Post, 5/17/82. Plain Dealer, 5/17/82)

Mr. PELL. Mr. President, I yield such time as he may need to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I submitted Senate Joint Resolution 208 concerning this same subject, which is identical to House Joint Resolution 494. We are considering today House Joint Resolution 494 because the House moved a little more rapidly than we did. In order to save time, so we do not need to send a Senate version back over for House approval, I am very glad to support House Joint Resolution 494.

Mr. President, last year Congress conditioned the continuation of United States aid to El Salvador on that Government's progress on a number of important issues. That progress is to be certified to the Congress by the President every 6 months. One of the most visible and personal issues in our relationship with El Salvador is the unresolved murders of six American citizens.

Two of the four women murdered were from my home State of Ohio, so I have followed this case very, very closely from its onset.

Present law requires that the President certify, only in his first certification, that "he has determined that the Government of El Salvador has made good-faith efforts both to investigate the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders." Mr. President, I believe we all hoped that these cases would have been thoroughly investigated and those responsible brought to justice by this time. Unfortunately, as far as I am aware, no significant progress has been made on any of those cases since the Presidential certification in January of this year. I believe that the brutal murders of the Americans should not be allowed to drop from our consciousness nor be downrated in the context of our bilateral relationship with El Salvador. I believe the families of the murdered Americans deserve the persistence of their Government in seeing that the deaths of their loved ones are fully investigated; I believe the American people expect no less. The certification required tomorrow will insist that the Government of El Salvador be demonstrated to be making progress in protecting the human rights of its own citizens. What about the human rights of the Americans? What about justice for their memory? Do they deserve less? The purpose of the resolution is simple—to keep the unresolved investigations of the murders of the six Americans and the unexplained disappearance of another, the journalist John Sullivan, a priority issue in our bilateral relationship with El Salvador.

The House has approved this measure by a vote of 399 to 1. The Senate Foreign Relations Committee, nearly fully assembled, approved it with but a single objection. The administration has stated that they have no objection to the resolution. The resolution serves to insure that the Salvadoran Government and the American people both understand that this Government is still vitally interested in and concerned about progress in these cases, thus I urge my colleagues to give House Joint Resolution 494 the full measure of support it deserves.

Mr. President, when this comes up for a vote, I would ask that we have the yeas and nays. I do not object to stacking that vote to a later time this afternoon, which has been suggested. That is fine with me. I would like to have the yeas and nays on this and I ask for them at this time.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second at this time.

Mr. GLENN. We will wait for more Members to be on the floor. I wish to be on record and I wish the staff to note that I want the yeas and nays on this vote.

Mr. PELL. That is an excellent idea.

I yield to the Senator from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LEAHY. Mr. President, I would like to associate myself with the remarks made by the Senator from Ohio. Frankly, I cannot understand why there has been a problem getting this simple and just resolution to the floor for full Senate consideration.

Two weeks ago I raised this issue with Assistant Secretary of State Thomas Enders during a special hearing on El Salvador which I had requested. At this hearing I asked Secretary Enders if the State Department would support a resolution to include information on the six slain Americans in the upcoming certification report. And he said the State Department would support such a resolution. In fact, he said that they were going to be gathering the information anyway.

Mr. President, we must not lose sight of the underlying issue. We are talking about the murders of four American churchwomen—defenseless women of peace. No one, no one can dispute that. They were killed in December 1980. Over 18 months ago. No trial date has been set. We are talking about two American agricultural experts who were in El Salvador to assist in the land reform program. Men of peace and support. They too were killed, their murderers have not been brought to justice.

I can think of few other more important votes, than for the Senate to go on record in support of this resolution, to do what we can to investigate these deaths, and punish the culprits.

Mr. President, of course this issue goes beyond the death of the nuns.

According to Monday's Washington Post, the Reagan administration has new and clear-cut evidence that police in El Salvador have inflicted torture on Salvadoran citizens in recent months. We are not talking now about lower level security forces, random violence. We have evidence that a volunteer from the Green Cross, a leading

humanitarian agency, was tortured over several days in a secret section of the national police headquarters in downtown San Salvador. Downtown San Salvador.

Mr. President, let us be clear about this certification. On both the issue of the Catholic nuns and the general condition of human rights in El Salvador, the administration seems to be telling us that, yes, there are problems, but that these problems, these abuses are found in the lower levels of the military, done by rural civil defense and other security forces. Recently, Assistant Secretary of State Thomas Enders assured me that the military high command has pledged to end abuses and has issued orders to that end. Secretary Enders says:

It is a fact that reports of torture and execution of prisoners and the participation of individual members of the security forces in right-wing terrorist activity continue, and in some cases are credible. This is particularly true at lower levels of the military and civil defense.

Now, Mr. President, let us look at what happened in the case of the volunteer for the Green Cross. He was taken to the national police headquarters, and tortured on three separate occasions. All of this "for distributing medicines received through international channels to displaced persons * * *."

If the President certifies that there has been progress in human rights in El Salvador, all I can say is that he has a different definition of human rights than I do. In the past few days I have received report after report citing human rights abuses which continue to go on in El Salvador. Amnesty International, the Nobel Prize winning human rights group found that in recent months, there has been no improvement in the human rights situation. The American Civil Liberties Union and the Americas Watch Committee asserts that none of the conditions for certification have been met. Specifically, certification requires that military assistance or sales must stop unless the President certifies that the Government of El Salvador "is making a concerted and significant effort to comply with internationally recognized rights."

Mr. President, from what I have read and hear, there has been no progress in El Salvador—no progress in meeting those most basic conditions—security of the person—that would allow for the peaceful resolution for the problems in that country. How much will the American taxpayer be asked to bear, how much will we have to pay to make up for this "lack of progress" in El Salvador? The American public will not be fooled about this certification, and will be skeptical about the never-ending requests for more and more money to this poor, war-torn nation.

Mr. DODD. Mr. President, at the outset, let me commend my colleague from Rhode Island as well as our chairman of the Senate Foreign Relations Committee, Senator PERCY, I also want to commend Senator GLENN. It was Senator GLENN's resolution in the Senate which was offered on this issue some weeks ago. In an effort to expedite the matter, the committee recently approved the House resolution in order to have this become law before the 28th of July, the date when certifiction is required.

Mr. President, before getting into the substance of my remarks, I think it might be helpful to put this resolution in some sort of historical perspective.

In April 1981 when I wrote the certification bill and presented it to the Foreign Relations Committee, I included a one-time certification with regard to the investigation and prosecution of those responsible for the deaths of the churchwomen and the labor advisers.

It never occurred to me in April 1981 that I would be standing on the floor of the U.S. Senate in July of 1982 still pursuing that particular issue. It certainly did not occur to me in September of 1981 when the measure came before the Senate and was approved as an amendment to the foreign aid bill. It certainly did not occur to us in December of 1981 when the House and the Senate completed their conference on that bill. It certainly did not occur to us in the latter part of December when the President signed the legislation.

In fact, it was the assumption, I think, of all of us that by July of 1982 this matter would be successfully concluded. The fact that it is not, I think, speaks louder than any words that can be uttered on the floor of the Senate this morning in support of this resolution.

Mr. President, I will be brief in my remarks concerning the pending resolution.

To be sure, it is not a complex measure. It involves six names. Six individuals. Six Americans. A common ending. A common fate. And they share a common epitaph: Death in El Salvador. There is a seventh victim. "Disappeared" is how they refer to him. In life they were four churchwomen, two labor advisers, and a freelance journalist.

In many respects they represented the best that America has to offer. No, they were not attached to the official U.S. community, the Embassy. They were not members, as we say, of "the country team." And yet each of them, in a humble sort of way, represented the United States, our best traditions, our highest ideals, and what we stand for as a nation.

Death came to the four churchwomen on the evening of December 2, 1980, on a dirt road near the town of Rosario de la Paz. They were savagely assaulted and then executed gangland style, each with a bullet through the head, by members of the Salvadoran National Guard. Two days later their bodies were discovered in a makeshift grave not far from the San Salvador Airport.

A month later, January 3, 1981, the two American labor advisers met a similar fate. While seated in the coffeeshop of the fashionable Sheraton Hotel in downtown San Salvador two unidentified assassins approached their table, drew automatic pistols, and in a barrage of sudden gunfire brutally took their lives. Rodolfo Viera, head of the Salvador land reform program, unfortunately sat with his American colleagues that evening. He, too, fell victim to the assassins' bullets.

The freelance journalist? Who knows? The record, what there is of it, simply indicates that he "disappeared" from his San Salvador hotel room sometime in December of 1980. There has been no further word. Whereabouts unknown.

Tragic, brutal, senseless. These cases accurately reflect the firestorm of political violence that has become the hallmark of Salvadoran society. During the past 2 or 3 years, it is estimated that nearly 35,000 Salvadorans, mostly civilians, have perished. The ugly truth is that nobody really knows for sure how many have been assassinated. But what we know is that the human loss and the human tragedy virtually defy description and, frankly, it is totally beyond our comprehension 35,000, most of them civilian deaths, in a country of 5 million people would be comparable to 1,500,000 civilian deaths in our country. And no less incomprehensible is the fact that the Salvadoran Government, the Salvadoran judicial system, the Salvadoran authorities—none of them has been able to produce one single solitary conviction.

If 1½ million people in this country were to lose their lives in 3 years and if there was not one conviction, think of the outrage that would be expressed. And yet we are standing before this body as we will in the next few days with the administration coming forward and saying, "We can certify. We can certify. Things are improving in El Salvador."

Mr. President, in El Salvador death stalks the land and, it is the living who are on trial. Death to the subversives. Death to the churchwomen, to the journalists, the labor advisers. Their crime was to challenge the old order, to question the status quo and to attack the repression and injustice on which that country has been built for too many years.

These seven and others like them, we are told, are El Salvador's subver-

sives. Helping the have-nots, helping the downtrodden, the politically forgotten people of El Salvador—this is how the powers that be in El Salvador define subversion. Helping to educate the illiterate, helping to feed the malnourished, helping to cure the sick, helping to clothe the ragged, helping to house the homeless, helping to sustain the destitute—subversive activities, one and all, we are told.

In El Salvador, this kind of subversion is a crime. It is a capital crime. Were it possible, just ask the four churchwomen. Just ask the two labor advisers; ask the journalist. And certainly, if we could, we ought to ask the thousands of Salvadorans themselves.

Death is a way of life in that unhappy land. It will remain so, I am afraid, until deep-seated and fundamental changes are made in its economic, social, and political landscape. Our aid and our assistance must be dedicated to those changes. That dedication, that commitment, certainly can be no less than the dedication and the commitment made by those who have been struck down by an assassin's bullet, be they American, Salvadoran, Dutch, or Mexican.

The task before us, Mr. President, is to do all we can to insure that they did not die in vain. In a broader sense, then, Mr. President, this is the message contained in the resolution before this body. It should be adopted without any further delay.

I yield back the floor.

Mr. SYMMS. Mr. President, this measure, does not support the praiseworthy moral sentiment which it purports to represents. All Senators should desire to see justice done in the cases enumerated in this resolution. All Senators abhor the killing of innocent civilians by unknown assassins. But that is not the issue here.

The issue at stake today, Mr. President, is the foreign policy priorities of the Government of the United States. At this very moment, armed revolutionary groups roam the urban and rural regions of El Salvador, destroying the basic means of transportation, of sanitation, or work and production, and of sustenance of the Salvadoran people. Their stated aim is to intimidate the people of El Salvador into capitulation to guerrilla revolution. Murder, especially mass murder designed to intimidate their foes among the helpless peasants, is their most heinous weapon.

Mr. President, the people of El Salvador need only to look at neighboring Nicaragua to see how meaningless are the promises. How hollow are the slogans, of the glorious revolution. The Salvadoran people have resisted the guerrillas with all their might, most recently by defying the threats of death and retribution which the guerrillas promulgated before the March 28 elections. Happily, Mr. President, the people of El Salvador went to the polls in massive numbers to resoundingly renounce the guerrillas and everything they stand for.

In the light of this, Mr. President, one must wonder, what is the purpose of the resolution we see before us today? It does not mention the atrocities of the guerrillas; it does not mention the thousands of deaths which are directly attributable to the terrorists avowed aim of destruction and intimidation. It does not mention the millions of dollars of damage which the guerrillas have wrought on the Salvadoran economy. It does not mention the intimidation which millions of Salvadorans must face daily, merely to get out of bed and go to work in the morning, in defiance of guerrilla threats.

The measure properly addresses the unresolved deaths of six American citizens in crimes committed under a former government, and the more recent disappearance of an American journalist.

Mr. President, Senator HELMS has addressed the gravity of those crimes, and the corresponding role of the certification process, in his views which are attached to the report of the Committee on Foreign Relations to Senate Joint Resolution 208.

Mr. President, my only further comment concerns the amazing lack of proportion in the efforts of those who so strongly urged upon us the certification requirements for El Salvador in the first place. On the one hand, they never tire in their demands for improvement on the part of the Salvadoran Government. But what about the guerrillas? All we hear is, that the United States should treat them like civilized democrats, give them the seal of approval, the legitimacy of peaceful political parties who are just seeking reform.

Mr. President, there should be added to this legislation, and to this debate, a condemnation of the wanton violence of the terrorism and criminality which has convulsed El Salvador in recent years. Can there be only words of kindness, of conciliation, and democratic approval for the guerrillas? Must we save all our condemnation, our concern, and the force of our moral criticism for the Government of El Salvador? Of course it is imperfect; but it is our ally in fighting an insidious, lethal, and totally lawless terrorist force. Must be criticize our ally, and continually lend credibility, respectability, and the implication of normal human virtues to the depraved terrorists who have targeted that country?

Mr. President, if the Congress continues to send the message to the world that we are insensitive to the atrocities, the murders, the program for chaos and destruction, and the wanton violence which is the substance of the revolutionary guerrilla movement in El Salvador, then the world can only assume that history is on the side of the terrorist guerrillas, as far as this Congress is concerned.

That is the message with which I do not concur, Mr. President, and I must therefore oppose the resolution.

Mr. President, I ask unanimous consent that the additional views of Senator HELMS be printed in the RECORD.

There being no objection, the additional views were ordered to be printed in the RECORD, as follows:

ADDITIONAL VIEWS OF SENATOR JESSE HELMS OF NORTH CAROLINA TO SENATE JOINT RESOLUTION 208.

On its face, S.J. Res. 208 would appear to be an initiative that no one could reasonably oppose. It certainly seeks an end which we all support, the ultimate resolution of the tragic deaths of the three American nuns, one other woman religious worker, and two AIFLD representatives, all of whom were killed in El Salvador in December of 1980. Also, one American journalist is missing. Amidst all the violence which has been wrought upon the people of that tragic country, these deaths shock the conscience of our own citizens and emphasize the horror of the conflict in El Salvador.

It goes without saying that I fully support the desire of the American people to see justice done in these matters. But I do not believe S.J. Res. 208 will be helpful in that regard.

The resolution was reported on July 14 by the Committee on Foreign Relations for no more than five minutes as an unscheduled adjunct to a Committee vote on the nomination of George Shultz to be Secretary of State. In fact, S.J. Res. 208 was scheduled for the following day, Thursday, July 15, at noon. Thus the committee devoted almost no discussion to it and, in fact, precluded reasonable discussion of S.J. Res. 208 when the legislation was precipitiously called up for a vote and approval without a dissenting vote.

A number of the Members of the Committee on Foreign Relations are said to have misgivings about S.J. Res. 208—not about its stated goal, which I reiterate, we all share, but about unduly and perhaps unwisely inhibiting the certification process. Nonetheless, the Committee, in unseemly haste and with scarcely any consideration, voted out a bill which deserved careful consideration.

Proponents of the measure were obviously eager to rush its approval without any discussion at all; therefore, they were willing to forego the most nominal of courtesies by informing the Chairman of the Committee of their intention to bring it up virtually until they did so. Nor did they bother to inform the Chairman of the relevant Subcommittee on Western Hemisphere Affairs, who was managing a bill on the Senate floor in his role as Chairman of the Committee on Agriculture, Nutrition, and Forestry, even though they were surely aware that he desired to participate in the discussion.

There is, however, a more fundamental concern about this legislation: If the Committee had been given a chance to discuss the merits of this legislation, it would have been pointed out that S.J. Rse. 208 rests on a very questionable framework, namely, the certification process. Senators should bear in mind that the original legislation for this process passed the Senate by a mere four-vote margin. There were considerable appre-

hension, so evident in that close vote, that the certification requirements would not achieve their goal—that they would, instead, impede the policy of the United States as applied to the critical strategic situation in Central America.

I submit that events have borne out that apprehension. For, while the certification has the appearance of merely stipulating certain desiderata, the fact is that no such legislative prescription is needed. The Administration and Congress have made clear their shared support for the development of democracy in El Salvador and our contempt for excessive military violence.

It is worthy of mention, however, that the certification requirements make no reference whatever of atrocities committed by the terrorist guerrillas, even though these guerrillas in El Salvador are engaging in a brutal campaign of intimidation, terror and extermination of innocent people in El Salvador. Nonetheless, the same voices which urged us to adopt the certification requirement last year are now demanding that our Government require the Salvadoran Government to deal with the terrorists as equal partners in political negotiations. This is an incredible contradiction—that is given continued credibility by the pecularities of the certification process and the distortions which it introduces into American foreign policy.

Furthermore, we are now seeing millions of U.S. taxpayer dollars spend to prop up a once/prosperous economy in El Salvador, an economy which is now on the verge of collapse. And what led to this collapse? Will anyone pretend that the economy of El Salvador has not been devastated by the programs of nationalization which have ravaged the banking, export and agricultural functions in that country? Indeed, there is precious little El Salvador's economy left to expropriate. Any yet, the certification process has elevated the so-called "reform" process—which is really a process of revolutionary expropriation and nationalization—to the level of an unchangeable and permanent symbol, written in stone, defiant of all the historical realities which reflect its basic weaknesses and contradictions.

One further question: What about the democratic elections urged by the certification process? On March 28, El Salvador's citizens emerged in unanticipated numbers, twice as many as the most optimistic predictions, to elect a government to replace the self-proclaimed Revolutionary Junta. It was this Junta—an unelected handful of oligarchs—which initiated the "reforms" immediately after seizing power, thus effectively putting the most productive lands and industries, and vertually all the country's financial resources, under the control of the government. Here I use the term "oligarch" advisedly, because it refers to the rule by the few, which is precisely what the Revolutionary Junta was. And so it was the "few" within the Junta, along with an understaffed, but overzealous U.S. Embassy contingent, which orchestrated the so-called reforms which ground El Salvador's economy to a halt.

Nonetheless, on March 28, 1982, the people of El Salvador went to the polls to elect a truly representative government, and the results were impressive. But the proponents of the certification requirement for democratic progress in El Salvador were silent, after this victory for El Salvador's democracy and for American aims in this Hemisphere. Were they embarrassed by the remarkable turnout of El Salvador's voters? Are they now embarrassed by the functioning democracy and the Constituent Assembly, merely because it appears to be "conservative"?

It must not be overlooked that the Constituent Assembly is searching for ways to return El Salvador to the ranks of productive, free enterprise countries whose products can compete in the international marketplace. There are clear indications that the Constituent Assembly will probe the corruption and inefficiency of Revolutionary Junta's nationalization of banks, the export industry and the prime agricultural lands—actions which enriched certain insider groups under the Revolutionary Junta.

Would not such a proof constitute "progress"? Shouldn't the United States welcome efforts in El Salvador to make its economy efficient and free, so that American taxpayers will not be asked to prop up socialism, inefficiency and corruption?

There are many, many specifics which Americans would like to see achieved in El Salvador. We would like to see a victory over terrorism and guerrilla violence. We would like to see free markets which would give all Salvadorans more opportunity for work and for production. We would like to see real progress in the fight against socialism and corruption.

But these items are not included in the certification legislation. Thus, while they are far more fundamental than most of the items included in the certification statute, they take the back seat, both in the Government of El Salvador and in the U.S. State Department.

It is for this reason that I originally questioned the adoption of the certification legislation. Time has shown how ill-advised the certification process has been.

Instead of the strategic threat to the United States in the Central American region, or trying to formulate a policy to counter such a threat, the limited manpower of the U.S. Government is consumed in meeting deadlines for the submission of reports—red tape, in all candor, which becomes the launching pad for emotional dispute. Note, for instance, the events of the past few days concerning report data required in the certification due on July 28.

Admittedly, precise assessment of circumstances in Central America is ofter impossible. U.S. efforts to help bring stability to that region are too often frustrated by self-appointed experts who, while no doubt unwillingly, nonetheless lend comfort to the forces of terrorism. I am reminded of the recent capture by the guerrillas of the Assistant Defense Minister of El Salvador, Colonel Castillo. Castillo, when first captured, had though that his guerrilla captors were actually regular army units, because they were dressed in army uniforms. If Colonel Castillo could not distinguish the guerrillas from the army units they pretended to be, how could everyday observers, especially the international press corps, pretend to distinguish among all the perpetrators of violence within that country?

One thing seems clear. It is the stated policy of the guerrillas to wreak havoc in El Salvador, it is the policy of the El Salvadoran Government to extinguish the guerrilla threat and restore peace and harmony to the people of El Salvador in a democratic environment. But no certification requirement can adequately address that goal—only the common sense of legislators dealing with the day-to-day situation through policymakers in our country and abroad can do so adequately.

Had all the Senators in this body assembled all their desires for El Salvador and put them into a list embodied in certification requirements, the Governments of the United States and El Salvador would be spending all their time in submitting reports and formulating policies aimed at fulfilling the copious and often contradictory certification requirements alone, instead of the strategic threat in the regions. A few existing requirements have already shown how contradictory the requirements are. For instance, they state the desire for progress toward democratic institutions in El Salvador; in actuality, we have that progress in the results of the Constituent Assembly on March 28. However, the Constitutent Assembly, taking stock from the devastation wrought in the economy by the expropriations, is seeking ways to restore confidence in the agricultural sector, and as the same time to preserve the rights of new landowners to land along with the rights of former owners to compensation. But that move, insofar as it embodies a move away from socialism and toward free enterprise, is opposed by many who clamored for the certification process. El Salvador can have any government it wants, they imply, so long as it is socialist. Must the United States demand not only that the Salvadorans vote but that they vote the way we want them to, before they can expect our support?

Let me reiterate, in conclusion that the desire for the speedy resolution of the tragic matters, mentioned at the outset of these Additional Views, is a desire held by every Senator and, no doubt, by all Americans familiar with the situation in El Salvador. However, that desire does not automatically lead prudent legislators to a bureaucratic certification process as a best means of achieving such a goal. In fact, to incorporate such a requirement into existing legislation would serve only to distort further American policy toward El Salvador, a signal that would ill serve this body, or our country.

I sincerely believe that the Senate should reject S.J. Res. 208.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I believe this question is of such importance that we should have a rollcall vote.

Mr. HELMS. Will the Senator withhold asking for the yeas and nays? Then I shall cooperate with him.

Mr. PELL. I withhold that, Mr. President.

Mr. HELMS. I thank the Senator.

Mr. President, I think there can be no argument and there is no argument on the part of this Senator for the surface appearance of this resolution. It has a praiseworthy sentiment. There is no Member of the Senate who does not desire to see justice done in the cases enumerated in this resolution. There is no one who does not abhor the killing of innocent civilians by unknown assassins. But I wonder, Mr. President, if that is the real issue here.

The issue, I think Mr. President, may involve the credibility of the U.S. Government. At this very moment, armed revolutionary groups roam the urban and rural regions of El Salvador, bent on the destruction of the basic means of transportation, of sanitation, of work and production and of sustenance to the Salvadoran people.

Their obvious aim, their express aim is to intimidate the people of El Salvador into capitulation to guerrilla revolution. Murder and especially mass murder designed to intimidate their foes among the helpless peasants is their most callous weapon. My problem with this resolution, Mr. President, is that it does not address that aspect. In a moment, I am going to seek to correct that.

Mr. President, the people of El Salvador need only to look at neighboring Nicaragua to see how empty are the promises, how hollow are the slogans of the glorious revolution. The Salvadoran people have resisted the guerrillas with all of their might, most recently by defying the threats of death and revolution which the guerrillas promulgated before the March 28 election. Happily, Mr. President, and to the astonishment of many, the people of El Salvador went to the polls in massive numbers to renounce resoundingly the guerrillas and everything they stand for.

Yet what does the pending resolution have to say about these guerrillas, financed and nurtured and supported by Marxists? The distinguished occupant of the chair knows precisely what I am talking about. He knows who is exporting this revolution throughout Central America. He knows that it comes from the Soviet Union to Cuba to Nicaragua to El Salvador, the intent being to subject Central America—all of it—to Communist domination. Yet this resolution is silent about all of that.

Once in a while, I have some American say to me, "Well, what is in it for us regardless of what happens in Central America?" I shall tell you, Mr. President, what is in it for us. If we stand back, do nothing to support our anti-Communist friends in Central America—indeed, if we take action to intimidate these admittedly imperfect friends—then Central America will be taken over by the Marxists. And I daresay we shall have a repeat in Central America of precisely what happened in Cambodia and Vietnam, when we allowed that area to be taken over by Marxism. An estimated 10 percent of the population of those countries was willing to climb upon leaky boats to escape the tyranny of communism. Thousands died, nobody knows how many. But they did not want to live under the subjugation of communism.

Bear in mind that 10 percent figure, Mr. President, because let us apply it to the 100 million people who live between the Rio Grande and the Panama Canal—Central America.

If we, by not doing all that we can do to support our anti-Communist friends, allow Central America to become subjugated, then we can expect that not 10 percent but 15, 20, 25 percent—who knows what the percentage will be?—will try to escape. And they will not have to use leaky boats, Mr. President. They will walk north. They will walk over the borders. They will not be boat people, they will be feet people.

I ask my friends, what will the United States then do? Because there are more persons guarding this Capitol of the United States today than guard our entire southern border. What will we do with 10 million additional aliens—who do not speak English, who do not have jobs, who do not have homes, who do not have schools, who have nothing? Mr. President, if you think the economic difficulties now confronting this Nation are bad, wait until that happens.

That is the fault I find with this resolution. It addresses nothing about the Communist terrorists in El Salvador. It is totally lacking in balance and proportion.

Mr. President, I returned from North Carolina just a few minutes ago, and I learned, to my surprise, that, by unanimous consent, no amendment to this resolution will be in order. I ask the Chair if that is correct.

The PRESIDING OFFICER. The Senator is correct.

Mr. HELMS. I am saddened by that, but I want to give my friends an opportunity to let the Senate speak totally on the question, the additional question, I am raising. The yeas and nays have not yet been obtained; therefore, the amendment is subject to modification, I presume.

The PRESIDING OFFICER. The Senator should be advised that there is no amendment. The vehicle before the Senate is a House joint resolution.

Mr. HELMS. I understand. Did I use the word "amendment"? I meant resolution. The resolution would be subject to modification?

The PRESIDING OFFICER. The Chair advises the Senator that there is no way the House joint resolution can be modified at this time.

Mr. HELMS. Except, of course, by unanimous consent.

Well, let me put it this way, Mr. President. Let me read what I propose, and then perhaps my friend will accord me the courtesy of vitiating the unanimous-consent agreement of which I was unaware. It is a simple amendment I propose, and I will read it:

At the end of the joint resolution proposed with regard to Presidential certifications on conditions in El Salvador, add at the end thereof the following: "The third certification required under this section and all subsequent certifications may be met only if they include a determination by the President that the government of El Salvador has made progress in its efforts to control and defeat the terrorist guerrilla forces that have waged a war of violence, intimidation, murder, and lawlessness against the people of El Salvador and their democratically-elected government.".

Mr. President, I do not see why anybody would object to the control and defeat of the terrorist guerrilla forces. Therefore, I ask unanimous consent that the previous agreement, of which I had no knowledge, that no amendments would be in order, be vistiated so that I can offer this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. PELL. Mr. President, I should like the Senator to yield so that I may say why I object.

There is nothing wrong with the proposal of the Senator from North Carolina as a separate matter.

What we are trying to do here is to focus on the murder of these American citizens, and that alone. We are trying to put a spotlight on it.

There is no question that there are many other problems in that part of the world, but the focus of this resolution is a narrow one. If we amend it now, it will mean that it will have to go back to the House; whereas, as it is now, it takes effect without any further action by the House.

Mr. HELMS. Mr. President, I must say, with all respect to my friend, that I am astonished. I am not attempting to divert nor am I even suggesting that the spotlight be diverted one iota from the crimes enumerated in this resolution. All I am saying is, let us meet head-on an equally if not worse crime involving infinitely more deaths, more slaughter. Let us look at the whole matter in perspective.

I also propose implicitly that we address the peril of Central America falling to the Communists, and every member of the Foreign Relations Committee knows of that peril.

What if it does take a couple of days to send it back to the House of Representatives? What if it does? I see no harm in a small delay. So I am astonished that I am not accorded the courtesy of vitiating a unanimous-consent agreement to which I would not have agreed had I been here. I was told that my rights would be protected and that I would have time to speak.

But let the record be clear, as it will be clear, as to what has been objected to. The distinguished Senator from Rhode Island is objecting to the simultaneous consideration of the crimes against the Americans and the crimes against the Salvadoran people. I am astonished that the Senator has objected to consideration of encouragement of the freely elected Salvadoran Government's attempts to control and defeat the Marxist terrorists seeking to abolish human rights in El Salvador.

Mr. President, in the light of the objection—which I genuinely regret and which surprises me—I see no point in

further consuming the time of the Senate, except to raise this question: What is the purpose of the resolution we have before us? It does not mention the atrocities of the guerrillas; it does not mention the thousands of deaths which are directly attributable to the terrorists' avowed aim of destruction and intimidation. It does not mention the millions of dollars of damage which the guerrillas have wrought on the Salvadoran economy. It does not mention the intimidation which millions of Salvadorans must face daily, merely to get out of bed and go to work in the morning, in defiance of guerrilla threats.

The measure properly addresses the unresolved deaths of six American citizens, in crimes committed under a former government, and the more recent disappearance of an American journalist.

Mr. President, I have addressed the gravity of those crimes, and the corresponding role of the certification process, in my views which are attached to the report of the Committee on Foreign Relations to Senate Joint Resolution 208, and I ask unanimous consent that they be included printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HELMS. Mr. President, my only further comment at this time concerns the amazing lack of proportion in the efforts of those who so strongly urged upon us the certification requirements for El Salvador in the first place. On the one hand, they never tire in their demands for improvement on the part of the Salvadoran Government. But what of the guerrillas? All we hear is, treat them like civilized democrats, give them the seal of approval, the legitimacy of peaceful political parties who are just seeking reform.

Mr. President, is there no place in any of this legislation, or in the debate, for that matter, for a condemnation of the wanton violence of the terrorism and criminality which has convulsed El Salvador in recent years? Can there be only words of kindness, of conciliation, and democratic negotiations for the guerrillas? Must we save all our condemnation, our concern, and the force of our moral criticism for the government of El Salvador? Of course it is imperfect; but it is our ally in fighting an insidious, lethal, and totally lawless terrorist force. Must we criticize our ally, and continually lend credibility, respectability, and the implication of normal human virtues to the depraved terrorists who have targeted that country?

Mr. President, if Congress continues to send the message to the world that we are insensitive to the atrocities, the murders, the program for chaos and destruction, and the wanton violence which is the substance of the guerrilla movement in El Salvador, then the world can only assume that history is on the side of the terrorist guerrillas, as far as this Congress is concerned.

That is a message with which I do not concur, Mr. President, and therefore I cannot support the resolution. I do support the goal of obtaining justice for the victims of the crimes mentioned in the resolution, but I cannot support a resolution which isolates an unfortunate tragedy and elevates it out of the larger tragedy which has been taking place. I therefore intend to vote "present" on this resolution.

Mr. President, an article in today's Washington Times by Daniel James helps to put the El Salvador certification issue in perspective. Mr. James examined 51 articles by Raymond Bonner which appeared in the New York Times between January 11 and June 30 of this year in an effort to ascertain what kind of a message Mr. Bonner and the New York Times were presenting to the American people. What they show is the same kind of one-sided bias against the Salvadoran government and the Salvadoran people as is evident in the certification process of the present resolution.

As the Washington Times says,

Media image-making has all but supplanted public discussion of substantive issues in the Salvadoran crisis. Instead of debate over whether El Salvador is or is not moving towards some kind of democracy, there are unresolvable disputes over how many noncombatants have been killed in the raging civil conflict. This is the deliberate work of a worldwide disinformation campaign to persuade the United States to stop helping the Salvadoran government.

The effort to push this new certification through, although laudable on its face, is part of this campaign to present an unbalanced image of the efforts of the Salvadoran people to preserve their freedom and to ward off socialism and communism.

Mr. President, I ask unanimous consent that the article by Daniel James, "El Salvador certification: disinformation blurs issue," in the Washington Times of July 27, 1982 be printed in the RECORD at the conclusion of my remarks as exhibit 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 2.)

EXHIBIT 1

ADDITIONAL VIEWS OF SENATOR JESSE HELMS OF NORTH CAROLINA TO SENATE JOINT RESOLUTION 208

On its face, S.J. Res. 208 would appear to be an initiative that no one could reasonably oppose. It certainly seeks an end which we all support, the ultimate resolution of the tragic deaths of the three American nuns, one other woman religious worker, and two AIFLD representatives, all of whom were killed in El Salvador in December of 1980. Also, one American journalist is missing. Amidst all the violence which has been wrought upon the people of that tragic country, these deaths shock the conscience of our own citizens and emphasize the horror of the conflict in El Salvador.

It goes without saying that I fully support the desire of the American people to see justice done in these matters. But I do not believe S.J. Res. 208 will be helpful in that regard.

The Resolution was reported on July 14 by the Committee on Foreign Relations for no more than five minutes as an unscheduled adjunct to a Committee vote on the nomination of George Shultz to be Secretary of State. In fact, S.J. Res. 208 was scheduled to be considered at a special hearing scheduled for the following day, Thursday, July 15, at noon. Thus, the Committee devoted almost no discussion to it and, in fact, precluded reasonable discussion of S.J. Res. 208 when the legislation was precipitously called up for a vote and approved without a dissenting vote.

A number of the Members of the Committee on Foreign Relations are said to have had misgivings about S.J. Res. 208—not about its stated goal, which I reiterate, we all share, but about unduly and perhaps unwisely inhibiting the certification process. Nonetheless, the Committee, in unseemly haste and with scarcely any consideration, voted out a bill which deserved careful consideration.

Proponents of the measure were obviously eager to rush its approval without any discussion at all; therefore, they were willing to forgo the most nominal of courtesies by informing the Chairman of the Committee of their intention to bring it up virtually until they did so. Nor did they bother to inform the Chairman of the relevant Subcommittee on Western Hemisphere Affairs, who was managing a bill on the Senate floor in his role as Chairman of the Committee on Agriculture, Nutrition, and Forestry, even though they were surely aware that he desired to participate in the discussion.

There is, however, a more fundamental concern about this legislation: If the Committee had been given a chance to discuss the merits of this legislation, it would have been pointed out that S.J. Res. 208 rests on a very questionable framework, namely, the certification process. Senators should bear in mind that the original legislation for this process passed the Senate by a mere four-vote margin. There was considerable apprehension, so evident in that close vote, that the certification requirements would not achieve their goal—that they would, instead, impede the policy of the United States as applied to the critical strategic situation in Central America.

I submit that events have borne out that apprehension. For, while the certification has the appearance of merely stipulating certain desiderata, the fact is that no such legislative prescription is needed. The Administration and Congress have made clear their shared support for the development of democracy in El Salvador and our contempt for excessive military violence.

It is worthy of mention, however, that the certification requirements make no reference whatever of atrocities committed by the terrorist guerrillas, even though these guerrillas in El Salvador are engaging in a brutal campaign of intimidation, terror and extermination of innocent people in El Salvador. Nonetheless, the same voices which urged us to adopt the certification requirement last year are now demanding that our Government require the Salvadoran Government to deal with the terrorists as equal partners in political negotiations. This is an incredible contradiction—that is given con-

tinued credibility by the peculiarities of the certification process and the distortions which it introduces into American foreign policy.

Furthermore, we are now seeing millions of U.S. taxpayer dollars spent to prop up a once-prosperous economy in El Salvador, an economy which is now on the verge of collapse. And what led to this collapse? Will anyone pretend that the economy of El Salvador has not been devastated by the programs of nationalization which have ravaged the banking, export and agricultural functions in that country? Indeed, there is precious little of El Salvador's economy left to expropriate. And yet, the certification process has elevated the so-called "reform" process—which is really a process of revolutionary expropriation and nationalization—to the level of an unchangeable and permanent symbol, written in stone, defiant of all the historical realities which reflects its basic weaknesses and contradictions.

One further question: What about the democratic elections urged by the certification process? On March 28, El Salvador's citizens emerged in unanticipated numbers, twice as many as the most optimistic predictions, to elect a government to replace the self-proclaimed Revolutionary Junta. It was this Junta—an unelected handful of oligarchs—which initiated the "reforms" immediately after seizing power, thus effectively putting the most productive lands and industries, and virtually all the country's financial resources, under the control of the government. Here I use the term "oligarch" advisedly, because it refers to the rule by the few, which is precisely what the Revolutionary Junta was. And so it was the "few" within in Junta, along with an understaffed, but overzealous U.S. Embassy contingent, which orchestrated the so-called reforms which ground El Salvador's economy to halt.

Nonetheless, on March 28, 1982, the people of El Salvador went to the polls to elect a truly representative government, and the results were impressive. But the proponents of the certification requirement for democratic progress in El Salvador's democracy and for American aims in this Hemisphere. Were they embarrased by the remarkable turnout of El Salvador's voters? Are they now embarrassed by the functioning democracy and the Constituent Assembly, merely because it appears to be "conservative"?

It must not be overlooked that the Constituent Assembly is searching for ways to return El Salvador to the ranks of productive, free enterprise countries whose products can compete in the international marketplace. There are clear indications that the Constituent Assembly will probe the corruption and inefficiency of Revolutionary Junta's nationalization of banks, the export industry and the prime agricultural lands—actions which enriched certain insider groups under the Revolutionary Junta.

Would not such a proof constitute "progress"? Shouldn't the United States welcome efforts in El Salvador to make its economy efficient and free, so that American taxpayers will not be asked to prop up socialism, inefficiency and corruption?

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But these items are not included in the certification legislation. Thus, while they are far more fundamental than most of the items included in the certification statute, they take the back seat, both in the Government of El Salvador and in the U.S. State Department.

It is for this reason that I originally questioned the adoption of the certification legislation. Time has shown just how ill-advised the certification process has been.

Instead of the strategic threat to the United States in the Central American region, or trying to formulate a policy to counter such a threat, the limited manpower of the U.S. Government is consumed in meeting deadlines for the submission of reports—red tape, in all candor, which becomes the launching pad for emotional dispute. Note, for instance, the events of the past few days concerning report data required in the certification due on July 28.

Admittedly, precise assessments of circumstances in Central America is often impossible. U.S. efforts to help bring stability to that region are too often frustrated by self-appointed experts who, while no doubt unwillingly, nonetheless lend comfort to the forces of terrorism. I am reminded of the recent capture by the guerrillas of the Assistant Defense Minister of El Salvador, Colonel Castillo. Castillo, when first captured, had thought that his guerrilla captors were actually regular army units, because they were dressed in army uniforms. If Colonel Castillo could not distinguish the guerrillas from the army units they pretented to be, how could everyday observers, especially the international press corps, pretend to distinguish among all the perpetrators of violence within that country?

One thing seems clear: it is the stated policy of the guerrillas to wreak havoc in El Salvador; it is the policy of the El Salvadoran Government to extinguish the guerrilla threat and restore peace and harmony to the people of El Salvador in a democratic environment. But no certification requirement can adequately address that goal—only the common sense of legislators dealing with the day-to-day situation through policymakers in our country and abroad can do so adequately.

Had all the Senators in this body assembled all their desires for El Salvador and put them into a list embodied in certification requirements, the Governments of the United States and El Salvador would be spending all their time in submitting reports and formulating policies aimed at fulfilling the copious and often contradictory certification requirements alone, instead of the strategic threat in the regions. A few existing requirements have already shown how contradictory the requirements are. For instance, they state the desire for progress towards democratic institutions in El Salvador; in actuality, we have that progress in the results of the Constituent Assembly on March 28. However, the Constituent Assembly, taking stock from the devastation wrought in the economy by the expropriations, is seeking ways to restore confidence in the agricultural sector, and at the same time to preserve the rights of new landowners to land along with the rights of former owners to compensation. But that move, insofar as it embodies a move away from socialism and towards free enterprise, is opposed by many who clamored for the certification process. El Salvador can have any government it wants, they imply, so long as it is socialist. Must the United States demand not only that the Salvadorans vote, but that they vote they want we want them to, before they can expect our support?

Let me reiterate, in conclusion that the desire for the speedy resolution of the tragic matters, mentioned at the outset of these Additional Views, is a desire held by every Senator and, no doubt, by all Americans familiar with the situation in El Salvador. However, that desire does not automatically lead prudent legislators to a bureaucratic certification process as a best means of achieving such a goal. In fact, to incorporate such a requirement into existing legislation would serve only to distort further American policy toward El Salvador, a signal that would ill serve this body, or our country.

EXHIBIT 2

EL SALVADOR CERTIFICATION

(By Daniel James)

Last month, the American Ambassador to El Salvador, Deane R. Hinton, charged that *The New York Times* correspondent in that country, Raymond Bonner, was practicing "advocacy journalism" in his reporting from there. The newspaper's foreign editor, Craig R. Whitney, retorted that "Mr. Bonner has been reporting the situation in El Salvador in a fair and objective manner." Who is right?

I have examined closely 51 articles by Bonner which *The New York Times* published between Jan. 11 and June 30 of this year. Here are my findings, grouped according to the subjects that seemed to interest Bonner most.

Three articles resulting from two weeks Bonner spent in territory held by the Farabundo Marti National Liberation Front (FMLN), embracing five guerrilla factions, revealed a preference for calling the guerrillas "peasant fighters." Most frequently he calls them "rebels," but never "Marxists" or "Marxist-led" although the FMLN leadership is self-admittedly Marxist.

"I have always stayed away from calling groups Marxist-led," Bonner later confessed in a West Coast symposium, "because I don't know exactly what that means."

Even "calling them guerrillas has negative connotations," he worried. For that matter, "Calling them leftists . . . has negative connotations."

This attitude colors Bonner's reporting on El Salvador.

It leads him to portray the "peasant fighters" as the salt of the earth. In their territory, he finds "schools for children, health clinics and hospitals," while "Peasants are cultivating corn, sugar cane, beans and other crops." The local people dote on them: "a woman baked tortillas" for them, a storeowner "gave them bananas," and "refused to accept money" for soap, cigarettes and flashlight batteries they purchased.

Bonner can find only negative things to say about the guerrillas' foe, the Government's several armed and security forces.

Thus on Jan. 11, he found that they were "torturers," and also charged U.S. military advisers with participating in their "torture classes." The sole source of his story was a 21-year-old Salvadoran Army deserter who had peddled the same story to other U.S. media, which refused to swallow it. So obviously biased was it that *New York Times* publisher Arthur Ochs Sulzberger admitted it had been "overplayed."

Bonner nevertheless continued to depict the Salvadoran forces as depraved killers of innocents. On April 22 for example, he charged they had killed 48 peasants in the

village of Barios. His source? Local guerrillas and sympathizers.

A companion theme Bonner develops in his articles is that these indiscriminate killers are also ineffectual. There are he says, "increasing doubts that they can defeat rebel forces even with more United States aid" (Feb. 17). His source? Anonymous "diplomats."

On the other hand, "the guerrillas are stronger today than when the civil war began two and a half years ago" (June 27). His source this time? Not even anonymous "diplomats." Rather, he speaks vaguely of "cumulative evidence" without producing a shred ot it.

Bonner wrote eight major pieces on human rights violations allegedly committed by the Salvadoran armed and security services. All were based on doubtful sources.

In one, on Jan. 28, he charged the Army had committed a "massacre" in the village of El Mozote. Though it inhabitants totalled only 300, Bonner's "body count" ranged up to 926, a figure supplied by the Human Rights Commission of El Salvador. The HRC, he added, to endow it with respectability and authority, "works with the Roman Catholic Church"—a falsehood.

In the Mozote and subsequent articles, Bonner relied almost exclusively upon the HRC and two companion groups, the Legal Aid Office and the University of Central America, for figures for alleged government killings of noncombatants ranging as high as 16,276 for last year. Neither Bonner nor the New York Times ever told their readers these facts:

1. The key group, the Legal Aid Office, which Bonner repeatedly referred to as "of" the Salvadoran Catholic Church, wad disavowed three times, officially, between May 31, 1981 and Jan. 6, 1982, by the Church.

2. The Episcopal Conference, the Salvadoran Church's highest body, accused the LAO of disseminating "confusing information . . . abroad" or "simply [distorting it] for political reasons or partisan interests."

3. The Apostolic Administrator, Bishop Arturo Rivera y Damas, had charged the LAO's reports on human rights violations "have yet to attribute a victim to the guerrilla forces though the guerrillas claim some deaths themselves."

4. Neither the LAO nor the HRC possesses the minimum human, technical or material resources for the enormous task of investigating human rights violations throughout a country torn by civil strife. (During a personal visit to those groups in March, the writer saw only a handful of people in a tiny office bereft of such equipment as copying machines or computers and found the HRC person officiating at a rough-hewn table in the open air.)

5. The University of Central America is clearly linked to the guerrillas. (See below.)

Bonner wrote 17 pieces on the March 28 Salvadoran election for a constituent assembly, finding something positive to say about it only once: it was "probably the country's most democratic election" (Apr. 4).

In the same story, however, he gloomily predicted it would only result in "more bloodshed." To prove that true, he then wrote (Apr. 25) of an "increase" in violence since the election. Another *New York Timesman* in El Salvador, Richard Meislin, however, found violence "has fallen off sharply . . . since the elections" (May 6).

By early June, Bonner and his paper discovered the election had been "fraudulent." He said the Central Elections Council president, Dr. Jorge Bustamante, had "conceded that there might have been a 10 percent error" in the balloting, but Bustamante charged he was "misquoted." He wrote *The Times*, "I told your reporter that in any country—especially one without sophisticated electoral technology—an error of as much as 10 percent might be expected," but turned out to be "much less."

The *Times* did not publish Bustamante's denial.

Bonner next quoted a University of Central America magazine, *Central American Studies*, as charging "there are serious indications that lead to the confirmed reasonable conclusion that there was massive fraud."

He added the magazine had also reached the "conclusion that there was a pact between the United States, El Salvador's political parties and the army high command to respect the proportionality of the votes" notwithstanding the "fraud." The pact's purpose, "above all," was to "prove the fundamental thesis that the Salvadoran people were against the guerillas" (June 4) to Bonner, an unthinkable notion.

On June 14, Bonner produced a study by the magazine's parent body, the University of Central America, repeating the fraud charge but acknowledging 500,000 more people had actually voted than its publication had said.

Neither Bonner nor his paper checked their sources' reliability, or they would have discovered that:

1. UCA is a member-observer of the Democratic Revolutionary Front (FDR), the guerrillas' polictical arm.

2. FDR's president, Guillermo Ungo, had been a UCA editor.

3. An FDR-FMLN leader, Salvador Samayoa, had also been a UCA editor.

4. A top guerrilla leader, Roberto Roca, had been a Central American studies writer.

Nor did *The Times* or Bonner check their "fraud" findings with untainted professional sources such as Freedom House, whose own report on the March election found it "was not marred by gross fraud."

Finally, in six articles on El Salvador's land reform, Bonner tried to prove it was "blocked" by the right-wing Constituent Assembly the elections had produced. AID's Rural Development Division in the country issued a point-by-point rebuttal of many inaccuracies in his central piece, May 24, but not of it was printed in *The Times*.

The conclusions emerging from an examination of Bonner's 51 articles on El Salvador published in *The New York Times* from January though June 1982, are:

1. They contain few hard facts and much partisan opinion.

2. They rely heavily upon doubtful, even discredited, and often anonymous sources; they reflect little or no checking with other sources.

3. They fail to report criticisms—such as the Church's—or differences with preferred sources, and often camouflage the latter.

4. They reveal a basic sympathy with the Marxist-Leninist guerrillas while disingenuously refusing to characterize them.

5. They reveal, on the other hand, a deep prejudice against the Salvadoran Government which impedes objective or fair evaluation of it or its policies.

6. They add up to advocacy journalism, while parading under the guise of objective, or traditional, journalism.

The PRESIDING OFFICER. The time of the Senator from North Carolina has expired.

Mr. PELL. Mr. President, I ask for the yeas and nays on this matter.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

The yeas and nays were not ordered.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The Senator from Rhode Island controls the remaining time. Who yields time?

Mr. BRADLEY. Mr. President, I strongly support this resolution and am an original cosponsor of its Senate counterpart, Senate Joint Resolution 208. The administration won the support of the Congress for military and economic assistance to El Salvador because we recognize the importance of this nearby country to our foreign relations, and because we hoped to encourage the emergence of a democratic government there through support for moderate, reformist elements against extremists of the right and left. But because the Congress seeks to support progress, not reaction, in El Salvador, we required the President to certify progress concerning certain troubling conditions in El Salvador before disbursing U.S. aid. This certification must be made to the Congress every 6 months.

However, the original amendment required that only the first Presidential certification address whether the Government of El Salvador had made good faith efforts to investigate the murders of six American citizens, and to bring their murderers to justice. Frankly, it was not anticipated that the question of these horrible murders would remain unresolved for so long.

Much to my consternation, apparently little progress has been made in these cases, and it is reported that the attention of the Government of El Salvador to these slayings is diminishing. That Government's failure to resolve this important concern to all Americans makes it imperative that Congress reintroduce this matter into the aid certification process. That is the central purpose of this resolution. It also expresses the concern of the American people, about the disappearance of a seventh American, a journalist named John Sullivan, who has not been heard from since January of 1981. There has been no trace of Mr. Sullivan, who resided in New Jersey, since the day he checked into his hotel in El Salvador. I have been told that there is little reliable evidence as to his whereabouts, although the American Embassy has received letters claiming responsibility for his kidnapping.

Mr. President, the American people have a right to know what happened to their fellow citizens in El Salvador. They have a right to expect that those responsible for the loss of these fine Americans to their friends and com-

munities will be brought to justice. The condition placed on aid to El Salvador is the best way we have of telling the El Salvador Government that we expect reciprocity in our relations with them. We cannot allow them to ignore the murder of Americans. Further we expect support for the rule of law from a government which we have shown our willingness to support with aid and friendship.

Mr. President, I went along with some aid to El Salvador as the least-worst alternative in an effort to bring about peace, reform, stability, and democratic government in that small ravaged country. The support of El Salvador's people for the democratic process, demonstrated by the heavy election turnout last March, was a high note in the history of the development of democratic institutions. It encourages me to hold out hope for a near-term peace in that country. Since March the signals from the new government on human rights and social progress have been disappointing, but I am willing to wait and hope a little longer because the stakes are so high.

However, the fate of these seven Americans is important to all of us and important in a determination of future aid. Progress on the investigation of what happened to them and the punishment of those who killed them, in the case of the nuns and the labor organization workers, has been a condition of American aid until now, and should remain so. Mr. President I believe that the American people demand it, and so I hope we can pass this resolution today unanimously as a strong message to the Government of El Salvador.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the vote on this resolution will occur at 2 p.m.

Do Senators yield back their time?

Mr. PELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2 p.m. this afternoon.

Thereupon, the Senate, at 11:59 a.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

The joint resolution (H.J. Res. 494) was ordered to a third reading and read the third time.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, will the Chair state the question before the Senate?

The PRESIDING OFFICER. Under the previous order the Senate will now vote on House Joint Resolution 494 relative to the Presidential certifications on El Salvador.

The joint resolution having been read the third time, the question is, Shall it pass? The yeas and nays have been ordered and the clerk will call the roll.

Mr. HELMS (when his name was called). Present.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 95, nays 2, as follows:

[Rollcall Vote No. 258 Leg.]

YEAS—95

Abdnor	Ford	Melcher
Andrews	Garn	Metzenbaum
Armstrong	Glenn	Mitchell
Baker	Goldwater	Moynihan
Baucus	Gorton	Murkowski
Bentsen	Grassley	Nickles
Biden	Hart	Nunn
Boren	Hatch	Packwood
Boschwitz	Hatfield	Pell
Bradley	Hawkins	Percy
Brady	Hayakawa	Pressler
Bumpers	Heflin	Proxmire
Burdick	Heinz	Pryor
Byrd, Harry F., Jr.	Hollings	Quayle
	Huddleston	Randolph
Byrd, Robert C.	Humphrey	Riegle
Chafee	Inouye	Roth
Chiles	Jackson	Rudman
Cochran	Jepsen	Sarbanes
Cohen	Johnston	Sasser
Cranston	Kassebaum	Schmitt
D'Amato	Kasten	Simpson
Danforth	Kennedy	Specter
DeConcini	Laxalt	Stafford
Denton	Leahy	Stennis
Dixon	Levin	Stevens
Dodd	Long	Thurmond
Dole	Lugar	Tower
Domenici	Mathias	Wallop
Durenberger	Matsunaga	Warner
Eagleton	Mattingly	Weicker
Exon	McClure	Zorinsky

NAYS—2

East Symms

ANSWERED "PRESENT"—1

Helms

NOT VOTING—2

Cannon Tsongas

So the joint resolution (H.J. Res. 494) was passed.

Mr. DODD. Mr. President, I move to reconsider the vote by which the joint resolution was agreed to.

Mr. PELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BALANCE BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. The clerk will state the pending business.

The bill clerk read as follows:

A joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

The Senate continued with the consideration of the joint resolution.

Mr. FORD addressed the Chair.

Mr. THURMOND. Mr. President, could we agree on a time limtation on this resolution.

Mr. FORD. I would be delighted to agree on a time limit.

Mr. THURMOND. What time does the Senator want?

Mr. FORD. Whatever time the Senator from South Carolina wants.

Mr. THURMOND. Twenty minutes evenly divided.

Mr. FORD. That will be suitable to me. I understand there are some other Members of the Senate who would like to speak. If that is agreeable to them, I shall be more than happy to agree to 20 minutes evenly divided.

Mr. THURMOND. I make the request, Mr. President.

Mr. KENNEDY. Mr. President, reserving the right to object, and I shall not object. The Senator from New York and the Senator form Massachusetts have been trying to get the floor for some period of time. If we could have maybe 2 minutes prior to the beginning of this discussion.

Mr. THURMOND. Is it on this subject?

The PRESIDING OFFICER. The Senator from South Carolina is recognized. The Chair wishes to impose the normal procedures.

Mr. THURMOND. I ask unanimous consent for 20 minutes to a side equally divided, if there is no objection.

Mr. BRADLEY. Mr. President, will the Senator yield for a unanimous-consent request?

Mr. THURMOND. Is it on this subject?

Mr. BRADLEY. No, it is not. It is on the previous vote. I would like to have a statement printed.

Mr. FORD. Reserving the right to object, Mr. President, I wish to extend the courtesy to the distinguished Sen-

ator from New York, the distinguished Senator from Massachusetts and the distinguished Senator from New Jersey. So let us make it 25 minutes so we can give 20 minutes to each side, and 5 minutes to the Senator from New York and the Senator from Massachusetts.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Mr. President, reserving the right to object, the Senator does not mean that the Senator has to use the entire 10 minutes. He can give the time to anyone he wishes.

Mr. FORD. He can do anything he wants.

Mr. THURMOND. The Senator is agreeing to 20 minutes to a side, but 5 minutes additional to the Senator from Massachusetts.

Mr. FORD. Equally divided.

Mr. THURMOND. Five minutes for the two Senators or 5 minutes each?

Mr. FORD. Five minutes between the two.

Mr. THURMOND. I have no objection.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. Mr. President, I reserve the right to object. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. A quorum call is in progress.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DECONCINI. I object.

The PRESIDING OFFICER. Did the Senator from Arizona object?

Mr. DECONCINI. I withdraw my objection.

Without objection, the quorum roll was rescinded.

Mr. THURMOND. Mr. President, as I understand it, the agreement is for 20 minutes, equally divided, and 5 minutes in addition, equally divided between the Senator from New York and the Senator from Massachusetts.

Mr. FORD. That is my understanding with the Senator from South Carolina, so far as I am concerned.

Mr. THURMOND. With the time to be controlled by the managers of the bill on each side.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished Senator from South Carolina be agreeable to an up and down vote on the amendment by Mr. FORD? It seems to me that when we are trying to offer amendments to as important an action of the Senate as passing a constitutional amendment which will require years to ratify and which, equally, would require years to modify or repeal, we should have up and down votes on the amendments.

Mr. THURMOND. Mr. President, to save time, I will agree to an up and down vote.

Mr. ROBERT C. BYRD. I thank the Senator.

The PRESIDING OFFICER. Does the Senator from South Carolina include that in his request—the request for an up and down vote, as part of the unanimous-consent request?

Mr. THURMOND. It will be up and down, unless somebody makes a motion to table, and I have not made a motion to table.

Mr. FORD. Mr. President, I reserve the right to object. I hope the Senator will add the up and down vote to the unanimous-consent agreement.

Mr. THURMOND. I will be glad to include it, if there is any question about it. I will include it, Mr. President.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Who yields time?

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I yield myself 2½ minutes.

I send an amendment to the desk and ask that it be held at the desk.

The PRESIDING OFFICER. The Chair rules that an amendment is not in order at this time, until all time has expired on the first-degree amendment.

Mr. MOYNIHAN. Mr. President, I beg to correct myself. That is a Senate resolution, not an amendment.

The PRESIDING OFFICER. Is there objection to consideration of a resolution at this time?

Mr. DOMENICI. Mr. President, I object. I do not understand what we are doing. We have an amendment pending.

Mr. MOYNIHAN. Mr. President, it is the purpose of the senior Senator from Massachusetts and myself to speak 2½ minutes each to a separate matter and then to move on to the amendment by the distinguished Senator from Kentucky.

The PRESIDING OFFICER. Is the Senator from New York submitting the resolution for consideration at this time?

Mr. MOYNIHAN. Not for consideration at this time.

Mr. THURMOND. Mr. President, I did not understand that the Senator was going to speak on something else.

The PRESIDING OFFICER. The Senator from New York has been recognized for 2½ minutes——

Mr. MOYNIHAN. Which are rapidly expiring.

The PRESIDING OFFICER (continuing). On the pending amendment. The submission of a resolution is not in order at this time, except by unanimous consent.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that I be allowed to submit this resolution at this time and that we be permitted to use the 3 minutes remaining for discussion of it. We do not intend to ask for Senate action on the resolution at this time.

Mr. THURMOND. Mr. President, I will agree to that, on that condition.

Mr. DOMENICI. Mr. President, reserving the right to object, I do not understand. I inquire whether this resolution is relevant to the constitutional amendment that is pending.

Mr. MOYNIHAN. No, it is not. It is a matter several colleagues and I have been trying to bring before the Senate today. We have arranged these diminishing 5 minutes in order to do so. We merely wish to have the resolution introduced, so that it may be printed and distributed to the Senate.

Mr. DOMENICI. I object. I think they can have it printed and talk about it. I do not think it should be submitted. I do not even know what is in it. I do not know why we should agree to a unanimous consent.

The PRESIDING OFFICER. Objection is heard.

Mr. KENNEDY. Mr. President, a parliamentary inquiry. The Senator has a right to send to the desk a resolution, does he not?

The PRESIDING OFFICER. The Senator, during morning business, may send a resolution to the desk for appropriate referral. It would take unanimous consent to consider the resolution at this time.

Mr. KENNEDY. But does the Senator not have the right to send a resolution to the desk at this time?

The PRESIDING OFFICER. It takes unanimous consent to submit a resolution for referral, unless the Senate is in morning business.

Mr. MOYHIHAN. Mr. President, I would like to say for the record that this resolution is a proposal for a Senate response to the egregious and shameful behavior of the Secretary of the Interior whose inference of dual loyalty to a major American religious group has recently come to light. The response of most Americans has ranged from outrage to disappointment—the latter being the official White House response.

Mr. Watt's insensitivity has been denounced in the strongest terms in the press of this country for the last few days. I am not surprised that we are being denied an opportunity to discuss the matter on this floor for even 5 minutes.

Let there be no mistaking our intentions: We will be back.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. Mr. President, will the Senator from South Carolina yield 1 minute?

Mr. THURMOND. I yield 1 minute to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I do not think that is a fair statement by the Senator from New York, if his remarks are directed at this Senator. I did not even know what was in the resolution.

The egregious whatever it is is probably Jim Watt, now that I hear the Senator from New York, because he has spoken of that all over the country.

I have not denied you anything. There is pending before this body a constitutional amendment, with an amendment by the distinguished Senator from Kentucky (Mr. FORD). That is the pending business. You can speak on whatever you like, when you have time.

Mr. MOYNIHAN. It was agreed for us to have 5 minutes.

Mr. DOMENICI. I say to my good friend that if this Senator is going to agree to anything like that, I would like you to think about what you have said about the Senator from New Mexico, who did not know anything about what is in your resolution.

Mr. MOYNIHAN. I did not say he knew anything and I did not say he did not.

Mr. DOMENICI. I am the only one who objected, and I continue to object, and I regret that you would say that I am denying anyone an opportunity to speak to the issue you have referred to in such eloquent terms, without yet mentioning what it is.

Mr. MOYNIHAN. If I gave offense, I am sincerely apologetic. It was not my intention to cast asperations on the motives of the Senator from New Mexico. His motives are ever only honorable.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. KENNEDY. Mr. President, I have 2½ minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I say to the Senator from New Mexico that in the earlier part of the day, I had requested that the Senator from New York and I have the opportunity to be able to present this resolution with a brief time period, at 2 o'clock. There was an agreement, to satisfy both caucuses, to move to an immediate vote at 2 o'clock. Both the Senator from New York and I, at least, hoped that we would be able to have the opportunity to offer our resolution at this particular time, for a very brief time, to be able to submit it to the Senate.

But I do wish to indicate to the Senator from New Mexico as well as to the Senator from New York that we did inquire of the Republican policy committee whether it be appropriate to try and to be able to introduce the resolution. There was notification. I do not think they inquired as to the details of it. But there was notice that was provided to that side of the aisle that there would be such a resolution.

I realize that we were hopeful of getting this disposed of prior to the time of the pending amendment, and we have been here for a series of hours to try and do that.

The Senator from New York and I were trying to see if we could get some time before that, and I think there is more of a misunderstanding really than anything else.

But I do wish to say in probably the last 45 seconds, if I could have them, that I strongly support this resolution for the reasons that I have outlined in my statement and I would hope that the Senate will have an opportunity to address this issue on an up- or down-vote.

I think it is extremely important for us to go on record on this particular issue.

I also thank the Senator from New York.

Mr. MOYNIHAN. Mr. President, will the Senator from Kentucky yield to me an additional minute to address a question to the Senator from New Mexico?

Mr. FORD. I yield.

The PRESIDING OFFICER. The Senator from New York is recognized for 1 additional minute.

Mr. MOYNIHAN. Mr. President, I ask for the attention of the Senator from New Mexico.

In the light of what he has heard would he agree that no personal reference of any kind was intended. We have been, from the first part of today, trying to get nothing more than this resolution sent to the desk, and no personal inference of any kind was intended, as I already said. I wonder if I could hear him say that he has heard me say that.

Mr. DOMENICI. Mr. President, I heard what the Senator said. I appreciate his remarks.

It is my understanding that morning business in the Senate is for the exact purpose that the Senator from New York contends he desires, and I do not understand how he has been denied an opportunity when we had morning business. We will have morning business again before the day is out. I suggest he talk to the leaders, not to the Senator from New Mexico.

Mr. KENNEDY. Mr. President, if there is any time remaining, I wish to respond.

Mr. THURMOND. Mr. President, has anyone yielded time?

Mr. KENNEDY. Mr. President, I still have some time remaining.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have been here now for some 20 years, and if we are going to start invoking the rules denying individuals the right to put statements in the RECORD, I hope that that is going to be applied by the leadership on both sides now because that is an entirely different precedent. I respect the precedent of morning business, but I have been around here long enough that when there are matters of urgency and importance about which Members of this body feel strongly, the courtesy has been extended to them, and this is a matter that Members feel strongly about. To be denied that opportunity, I just wish to make clear—if that is what is going on, and is the rule we are going to abide by—that it is important to mark the time and the date because it has not been the rule we applied from the time I have been here.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, first I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, will the Senator yield 30 seconds to the Senator from New Mexico?

Mr. THURMOND. Mr. President, I yield a half minute to the Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am sure no one has misunderstood the Senator from New Mexico. I am sure that the Senator from Massachusetts did not intend to say what he said.

This Senator has nothing to do with what statements the Senator makes. My objection was to the submission of a resolution for consideration by this body with an amendment pending to a constitutional amendment, not to the Senator saying whatever he wishes, and I think he knows that. I just wish to make sure that the record is clear.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment being offered by the able Senator from Kentucky. It is a sincere effort, I am sure, to make the process of achieving a balanced budget a joint effort between the Congress and the President. I am sympathetic with that objective. This amendment is too. Section 1 states:

> The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

There is a clear intention in that language to make the President exercise every effort to achieve a balanced budget. We should not, however, bind the President into a situation that we are not willing to bind the Congress into, and by that I mean the ability of Congress to exceed a balanced budget by a three-fifths vote. Congress can vote if it so desires to have a deficit. The language of the Senator from Kentucky does not permit that exception for the President.

The President, under the constitutional provisions of article II has the power to recommend and to veto. Of course, we could pass legislation requiring the submission of a balanced budget, but I question the wisdom of putting such a requirement in the Constitution through the amendment process.

If the President, any President, were required to submit a balanced budget, and could not honestly do so, what alternatives does he have? Does he refuse to submit a budget saying he can only by law submit one that is balanced?

Mr. President, we must face the facts. Congress has put this country in debt and it is up to the Congress to reverse that situation. This amendment seeks to do that fairly and in a flexible manner. The President is not ignored. He must insure that outlays do not exceed those set forth in the statement. That is a difficult job in its own right.

I oppose the amendment and will vote against it.

Mr. FORD. Mr. President, I yield such time as the distinguished Senator from California may need to speak in favor of the amendment.

Mr. CRANSTON. I thank the Senator.

How much time does he have remaining?

Mr. FORD. We have 9 minutes remaining.

Mr. CRANSTON. Mr. President, will the Senator yield me 3 minutes?

Mr. FORD. Mr. President, I yield 3 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 3 minutes.

Mr. CRANSTON. Mr. President, a number of editorial writers and journalists have strongly criticized the wishful thinking underlying Senate Joint Resolution 58. Many of these writers are conservatives who strongly condemn the spending and tax policies of past administrations, among them are the Wall Street Journal, George Will, and Robert J. Samuelson.

I ask unanimous consent that copies of the commentaries be printed in the RECORD at the outset of my remarks.

There being no objection, the items were ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 21, 1982]

SOME SUMMERTIME READING

President Reagan journeyed up to the Hill the other day to put in a strong plug for the balanced budget/tax limitation amendment now wending its way through Congress. The Marine Band played stirring airs, the President gave a stem-winder of a speech and the assembled throng cheered its heads off.

Now there has been a lot of argument back and forth about the merits of the amendment. Would it indeed force the Congress to put its fiscal house in order? Or would our boodling classes find ways around the amendment, in order to continue taxing and taxing, spending and spending, electing and electing?

For ourselves, we have been asking what would happen if the amendment passed and the budget still wasn't balanced. Would the Supreme Court order the President and Congress to jail for 30 days on bread and water?

What's needed here, obviously, is a little serious discussion. So we looked up the text of the said amendment, to discover, among other things, that it's only slightly longer than the first five amendments to the Constitution, wherein such presumably important liberties as freedom of speech and religion, protection from unreasonable searches, and due process under the law are enshrined. But we guess serious matters like balancing the budget just don't lend themselves to such elegant and pithy expression. Judge for yourself:

Section 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement.

Section 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income in the last calendar year ending before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

Section 3.The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

Section 4. The Congress may not require that the States engage in additional activities without compensation equal to the additional costs.

Section 5. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall incude all outlays of the United States except those for repayment of debt principal.

Section 6. This article shall take effect for the second fiscal year beginning after its ratification.

Everybody who thinks this will instantly render Congress fiscally responsible, please let us know. All others, please go to the polls in November.

[From the Washington Post, July 25, 1982]

BALANCED BUDGET HOAX

(By George F. Will)

God, preparing condign punishment for hot air emitted in support of humbug, turned the temperature up to 90 the day the President addressed a rally for a constitutional amendment to require balanced budgets. The rally to make government—that questing beast—obedient to "the People" was for people with tickets. A ticket to a rally for an amendment to "require" balanced budgets calls to mind the invitation a Lady Colfax issued, after the First World War, to a luncheon to "meet the mother of the Unknown Warrior."

But members of the sainted public could get tickets. Red tickets were for employees of the Republican National Committee and high-level employees of the—if you'll pardon the expression—government. They got to sit smack in front of the President. Blue tickets allowed lesser government employees to sit farther back from himself. White tickets, handed out on the streets, put plain people, to whose salvation the rally was dedicated, at the rear.

Behind the President, stewing like prunes in their juices, were congress-persons and senators, some of whom sincerely support the amendment for which they were rallying. Legislators who did not feel ill-used obviously were properly used as applauding props.

Washington's air this season is thick with humidity and hoaxes, such as nuclear "freeze" that won't freeze anything, and "flat rate" tax programs without flat rates. So what is one more hoax among friends? This hoax—this trivialization of the constitution—is, simultaneously, a confession of political incompetence and an assertion of intellectual mastery—mastery not noticeable in the results of recent economic policies.

At precisely the moment when economists are especially bewildered by the inability of their theories to encompass events, politicians, running for cover from the electoral consequences of their activities, are proposing to constitutionalize an economic doctrine. They would graft something evanescent onto something fundamental.

Under the amendment, Congress would be required to adopt, prior to each fiscal year, a statement of receipts and outlays, the latter not to exceed the former. But such economic numbers are estimates made of warm taffy, all gooey and stretchable.

Neither clairvoyance nor candor can be counted on in Congress or the Office of Management and Budget. So who will enforce what on whom if—when—the numbers are significantly wrong? Will the president control outlays by impounding appropriated funds? Will courts superintend the appropriations process?

If the latter, will every taxpayer have standing to sue? No one can know until courts speak. And they will speak, because the amendment does not stipulate that controversies under it are not reviewable by courts. Were that stipulation made, the amendment would become a recipe for paralysis and lawlessness.

The amendment says that total receipts in any fiscal year may not be set to increase at a rate faster than the rate of increase of national income in the previous calendar year. The implication of this is that whatever else the government has recently got wrong, the current ratio of federal spending to national income is just about right.

But, then, the amendment would allow Congress to change this ratio by a simple majority vote. And by a three-fifths vote, Congress could authorize a deficit—which is what Congress has been doing for generations. So, to enable current incumbents to strike a pose some incumbents want to clutter the Constitution with an amendment that might be, in practice, 98 percent loophole. It would be that, unless the political culture and congressional mores changed substantially, in which case the amendment would be beside the point.

The amendment is long, but should be longer. It depends on Congress making precise projections, so it should contain 1,000 more clauses, four of which are:

Floods, hurricanes and other acts of God that wish to occur during the next fiscal year must register with OMB six months before the fiscal year begins, so Congress can know that relief-spending shall occur.

Agricultural commodities covered by price supports must inform the Agriculture Department if they are planning to materialize in inconvenient quantities in the next fiscal year.

Anyone planning to need unemployment compensation in the coming fiscal year must notify the Labor Department.

Before causing crises, tiresome foreigners must notify the U.S. Defense Department of any effects their crises will have on U.S. defense spending.

And . . . oh, yes; I love lobster, and own elm trees. Could Congress please require lobsters to grow on elm trees?

Sorry; I digress. It must be the heat.

[From the Washington Post, July 27, 1982]

THE CONSTITUTIONAL AMENDMENT—SO YOU WANT A BALANCED BUDGET . . .

There is so much impassioned support for the balanced budget amendment—fiery rhetoric in Congress, a presidentially led rally on the Capitol steps—that you have to assume both the president and Congress really wish that such a constitutional mandate were already in force. (Surely they wouldn't wish something on their successors that they're not willing to live with themselves? The question, then, is this: what would happen if Congress were to pass the amendment, and 38 state legislatures, eager to support this noble cause, rushed into special session and ratified it?

Well, look out. Closing the deficit would require cutting spending—or raising revenue—by at least $260 billion over the next three years, and possibly much more. This would be in addition to the $380 billion in deficit reduction measures that Congress is already painfully trying to enact just to get the deficit headed downward. Let's look at some of the choices Congress would have to make.

The easiest part of the budget to cut is usually the so-called "discretionary" domestic programs. These are mostly grants-in-aid to states for things such as pollution control, education, health and urban development. But these programs recently took huge cuts and are slated for $35 billion in further reductions over the next three years. In any case, the proposed constitutional amendment prohibits placing new fiscal burdens on states, so it's not clear that it would allow even the cuts in these programs that are already planned.

Another way to save the needed money is called "going after the entitlements." These are programs that more or less assure certain people, such as the poor or aged, of certain benefits. The trouble is that the programs that most people wouldn't mind cutting—welfare and food stamps—are small items in the budget, and they are already due for very big cuts.

That still leaves the big pension programs—Social Security, Medicare and military and civil service pensions. But Congress already plans politically risky curbs on all of these except Social Security. Even if Congress were to work up the courage to cut Social Security benefits, you'd have to cut benefits almost in half to get the needed savings. Not only is this out of the question, but, since Social Security is funded by an earmarked payroll tax, the funds shouldn't be used to cover other programs anyway.

That leaves defense. Even with the cutbacks voted in the budget resolution, it's worth noting that planned increases in defense spending will absorb all of the growth in general revenues over the next few years—and then some. This is why the deficit is so big even with cuts in other programs. But Congress has been busy in recent weeks voting for every big-ticket item the Pentagon wants so that there is little reason to expect it would be willing or able to make hard choices in this area.

As for raising taxes, Finance Committee Chairman Robert Dole has found little enthusiasm—and only a bare margin of Republican support—even for going after tax cheats.

This is why there is a day-dreamish quality about the current enthusiasm for a balanced budget amendment—a childish wish by Congress that if it were just forced by some outside power to do "what's right," all the real and urgent difficulties would fade away. That's not only foolish; it also distracts attention from the practical efforts being made by congressional leaders to get the deficit under control—efforts that are far more deserving of administration and congressional support than the pious and fatuous hopes embodied in the balanced budget amendment.

[From the Los Angeles Times, July 27, 1982]

THE BALANCED-BUDGET FANTASY—DECEITFUL MEASURE ALLOWS CONGRESS TO EVADE POLITICAL CHOICES

(By Robert J. Samuelson)

Politics is not only the art of the possible, but also the science of symbolism. Government itself does not excite most voters; in the main, it is too detailed and too dull. So politics steps in and creates excitement and drama by finding simpler substitutes for everyday complexities.

When President Reagan plugs the balanced-budget amendment, now being debated by the Senate, he is engaging in this age-old ritual. The fact that the national debt recently passed $1 trillion provides the proposed amendment with a further bit of sumptuous advertising. But this is one case where the real world's complexities overwhelm the symbol's simplicities.

The balanced-budget amendment springs from a political theory of public spending that increasingly diverges from reality. Defense and demographics, mainly the demographics of old age and ill health, are now driving the budget. If public-opinion polls mean anything, this spending (particularly by Social Security) enjoys wide support. The debate over the amendment completely bypasses these realities.

The presumption of the amendment is that, somehow, politics has become so twisted that government spending decisions have precious little to do with popular will. Spending is propelled upward (in this view) by hordes of individual interests that create their own program. Congress pleases individual groups by approving their programs, but doesn't displease the mass of voters by raising taxes. Spiraling deficits result.

If it's broke, fix it. To the amendment's supporters, the needed repair is to make deficits unconstitutional. Only by a three-fifths vote—or, during wartime, a simple majority—could Congress override this requirement. The aim is to create a discipline that does not automatically reward higher spending. If Congress wants higher spending, let it vote higher taxes.

Even the mildly cynical will wonder whether this amendment, if adopted, would inspire new levels of evasion. In debate, Sen. Daniel Patrick Moynihan (D-N.Y.) made this suggestion: "We can, of course, resolve this by declaring war every time we see a deficit coming along. We can make an arrangement with perhaps, Iceland. Everytime we saw a deficit coming, we declare war and then pay some kind of recompense to the Icelanders for having done so. . . . It would be something like a Reno divorce. It would not require any real hostilities."

As Moynihan undoubtedly knows, this insults Congress' intelligence. If so inclined, Congress is sufficiently sophisticated to achieve the same result without making itself the object of ridicule. Even Sen. Pete V. Domenici (R-N.M.), who is a supporter of the amendment, acknowledges a long list of possibilities: Use more federal loan guarantees, require private spending through regulation, and create a new "capital" budget with borrowings outside the regular budget.

But these objections really skirt the bigger issue. Does a large, systematic spending bias exist? If the political process is fundamentally skewed, as the amendment's proponents says, then its opponents need to address this defect. If the amendment wouldn't work, what would?

Anyone with even a superficial familiarity with Congress cannot dismiss the notion of a spending bias. Constituents regularly bombard members of Congress with pet projects. Until the late 1970s, actual spending patterns seemed to fit the theory snugly. Programs proliferated, many serving small constituencies.

But it's important to notice what's happening now. In the past three years, Congress has begun to squeeze many of these programs. Since 1979, domestic programs—excluding Social Security, health programs and pensions for government workers—have *decreased*, following a 20-year period in which they had grown (after adjustment for inflation) nearly 140%.

Apparently, the spending bias is not insurmountable. This history suggests a simpler explanation for spending changes: shifts in the political climate. Until four or five years ago, the climate tolerated—even encouraged—new programs intended for relatively small constituencies. A prosperous country believed in sharing. But rising tax rates, increasing inflation and slowing economic growth destroyed this consensus.

And there's the rub. The remaining programs generally enjoy public support. The budget cutbacks are restricting federal spending responsibilities to a few large areas: defense, the elderly (Social Security, Medicare and nearly half of Medicaid), Civil Service and military retirement, and interest on the debt. In fiscal 1981, these programs constituted roughly 70% of spending; under the 1983 congressional budget, that would rise to 80% by 1985.

This spending contradicts the proposed amendment's political message. Its sponsors suggest a simple solution: If people want more government services, let them support higher taxes; otherwise, let them be content with existing services. Unfortunately, neither life nor budgets are this simple.

As the population ages, and the old live longer, the overall level of spending increases even if individual benefits (adjusted for inflation) remain constant. The same thing happens if health costs continue to rise faster than inflation.

Consequently, constant benefits for individuals are not necessarily consistent with a constant share of government spending as a proportion of the economy's output (gross national product). Depending on the economy's performance, the problem might be small or large in the 1980s and 1990s. But after the turn of the century, when the "baby boom" generation begins to retire, the conflict will become enormous.

For the moment, this measure, posing as an effort to control spending, allows Congress to evade difficult political choices. For the future, it aggravates conflict because the proposed amendment does not mean what it is widely thought to mean. That this contradiction is wrapped in the mantle of the Constitution can only degrade that document's meaning and authority.

Mr. CRANSTON. Mr. President, I support the amendment to Senate Joint Resolution 58 being offered by my colleague from Kentucky (Mr. FORD) to require the President to submit a balanced budget to Congress.

I do so for two basic reasons.

First, The Senate should be on record, by a vote, whether it wants the President to submit a balanced budget to Congress.

Presidents currently by law are required to submit an annual budget to the Congress. The amendment being offered by Senator FORD would require, in addition, that the President's budget be balanced.

If we want a balanced budget, why not start the process by having the President submit to us a balanced budget?

The amendment, contrary to what its opponents would like to rescue the President from the necessity of submitting a rigorously balanced budget say, does not place the President in a straitjacket.

Under the Ford proposal the President would be free to append recommended modifications to his balanced budget, if he wished.

But his principal budget document would be required to be balanced.

There is absolutely no word—not a single word—in the Ford amendment which would prohibit the President from recommending modifications in an appended document which would put his principal budget out of balance.

Congress and the people, however, would be able to see what the President's balanced budget looked like and at the same time could evaluate his recommendations and reasonings for approving a budget modified so that outlays exceeded receipts or vice versa for that matter.

That does not seem to me to be a straitjacket.

It makes sense if we are to have a balanced budget requirement in the Constitution to have the President involved in the process.

In fact, it would be most desirable for the President to be required to submit a balanced budget to Congress.

Second, the President has access to the best and most complete budgeting information in the Government. That is the underlying reason for the 1924 law requiring him to submit a budget to Congress.

The Chief Executive is the one individual who presumably has an overall, unified, economic, and political program in mind. He speaks with one voice. He resolves questions with one vote. It is his role to provide leadership. If there is to be a constitutional mandate for balancing the budget, Congress should not leave it up to the discretion of the President whether he will submit a balanced budget. He should be required to submit one in the first instance at the outset of the process.

As I have stated, he can submit recommended modifications and deviations from a balanced budget but only after he has first submitted one in balance, and it seems to me we are entitled to see what a balanced budget would be from the person with the best equipment, the best staff, the best computers, the best economists, in numbers available to him, if not always in quality, to submit such recommendations to us.

The President's budget will be the standard against which everyone will measure the balanced budget of Congress.

The economic assumptions of OMB may, as they have in the past, deviate from those used by the Congressional Budget Office. Those differences, which are so vital to the issue of whether a budget will be in balance, should be openly aired so that informed and reasonable judgments can be made about the probability of success in attaining balance.

We ought to have on the record the economic assumptions the President would use in formulating a budget in balance, just as we will have in the case of Congress budget.

Since the President, under the proposal of Senate Joint Resolution 58 will have the duty to insure that actual outlays do not exceed statement outlays, the President should provide Congress with his best and most informed judgment as to what actual outlays will be.

Actual outlays under a balanced budget may differ considerably from actual outlays under a deficit budget.

For many economic reasons, actual outlays under a deficit budget could be less than actual outlays under a balanced budget. It is a simplistic and erroneous notion that a balanced budget necessarily means lower spending totals.

It would be a wise measure of foresight in a constitutional balanced amendment to require the President to project a balanced budget, discover what his spending commitments and fiscal discipline obligations will be, the taxes he will have to ask Congress to raise, and what program priorities he and his administration must forego or emphasize as the case may be.

For example, a President may discover that under a balanced budget, spending for unemployment costs and welfare costs might rise, and the economy stall under the weight of an untimely increase in taxes when cuts might be best prescribed. A balanced budget could present him with far greater spending control difficulties than a deficit budget in which variables in uncontrolled spending were limited through an economic program which promised sound prospects of a healthy economy which would be in balance, although the budget itself would be out of balance.

But such are the vagaries of balanced budgets and balanced economies that they do not necessarily coincide.

Obviously, meeting a constitutional mandate for balancing the budget will require great collaboration between Congress and the President. The best place to begin is by requiring the President to submit a balanced budget.

As I have observed repeatedly, we do not need to require any of this in a constitutional amendment. It can be done by statute.

But I fail to understand the reasoning of those Senators who insist upon a constitutional requirement that Congress adopt a balanced budget but who seem to be tumbling head over heels to rescue President Ronald Reagan from the requirement that he submit a balanced budget to Congress.

It could be that President Reagan does need rescuing from the rigors of attaining a balanced budget.

We all know hard and tough choices are involved.

Our President should be up to those tough decisions.

The thesis of those who urge an amendment to the Constitution is that Congress does not measure up to the toughness required of balancing the budget.

The President, by his record, does not measure up either.

If the reasoning of the supporters of Senate Joint Resolution 58 is correct, they should see the appropriateness of the amendment offered by Senator FORD and support it.

I will support it.

Not because I think this necessarily should be in the Constitution.

I will support the Ford amendment because if there is to be a constitutional balanced budget amendment it should be improved over Senate Joint Resolution 58. And one major necessary improvement is to require the President to submit a balanced budget as his principal budget document. As I have noted, this is not a harsh nor constricting requirement, since the President will be free to recommend reasoned modifications.

I might point out that the President under the Ford proposal is far less constricted than Congress is under Senate Joint Resolution 58.

Mr. President, I call the attention of my colleagues to the interaction of the proposed Ford amendment with the fourth sentence in section 1 of Senate Joint Resolution 58 which requires that the President shall insure that actual outlays do not exceed statement outlays.

I have argued earlier in the debate that this sentence of the resolution confers enormous powers upon the President and seriously erodes the separation of powers under the Constitution.

I will offer and will support modifications to this provision because it is poorly drafted and amounts to an open-ended grant of power to the President.

However, by requiring the President to submit a balanced budget, Congress might have a better understanding of the President's priorities and therefore where he might use his powers under section 1 to eliminate spending for programs and policies personally objectionable to him, although supported by Congress.

Since the President under the terms of Senate Joint Resolution 58 is brought directly into the process of controlling spending, through the use of unrestricted powers, it would appear to be good sense to bring him in at the start by requiring him to submit a balanced budget.

But as long as the President can stand outside the budget process, as he can under Senate Joint Resolution 58, free to jump in whenever it suits his political purposes, Senate Joint Resolution 58 is fatally flawed and should not be adopted for that one reason although, of course, I am convinced there are many other sound and solid reasons to oppose Senate Joint Resolution 58.

I say this to my friends who support Senate Joint Resolution 58: The glaring omission of the President from this resolution is a very serious error. It will lead to grave mischief in the future. It demeans the proposed constitutional requirement that budgets be in balance by excusing the President of the United States from the duty of submitting a balanced budget to Congress.

I urge adoption of the amendment offered by Senator FORD.

The PRESIDING OFFICER. The Senator has used his 3 minutes.

Who yields time?

Mr. THURMOND. Mr. President, I yield 4 minutes to the distinguished Senator from Iowa.

Mr. GRASSLEY. I thank the Senator for yielding.

Mr. President, I also rise in opposition to the amendment by the Senator from Kentucky.

The budget deficits that we have are not the fault of the President. Congress is to blame for creating these spending programs.

The purpose of the amendment of the Senator from Kentucky seems to be to make the President take the heat for the irresponsibility of Congress.

Senate Joint Resolution 58 is designed to correct for the systematic spending bias in our budgetary process. It simply strikes a more reasonable balance between the costs and benefits of the spending programs. Yet it allows for an unbalanced budget in those rare instances in which the prevailing economic conditions would make such a balanced budget undesirable.

Part of the beauty of this resolution is that it allows for fiscal flexibility. It does not lock some particular economic doctrine into our Constitution. It seems rather hypocritical to acknowledge the desirability of allowing such flexibility and to turn around and lock the President into some rigid requirement.

The amendment before us would require the President to submit a balanced budget to the Congress. The Senator from Kentucky seems to believe that this will prevent the Federal Government from imposing specific spending programs on the State governments. The Senator has stated that the effect of Senate Joint Resolution 58 would be the transferral of Federal indebtedness to the States. The Judiciary Committee considered that problem and debated and finally deleted language that would have explicitly prevented any such action by the Federal Government. This language in the original section 4 stated:

> The Congress may not require the States to engage in additional spending activities without compensation equal to the additional costs.

Regarding the allegation that this resolution would allow the Federal Government to saddle States with massive financial obligations, it is our contention, the contention of the sponsors of this constitutional amendment, that any such action by Congress would be a blatant violation of the 10th amendment to the Constitution, as well as the federalist constitutional principles articulated in numerous Supreme Court decisions on this matter.

Why was this section 4 deleted in the final version approved by the Judiciary Committee? It is our contention that this section did not create any new restrictions on the powers of the Federal Government. The committee report states:

> The Committee does not view this section as doing more than making explicit a policy that is already implicit in the institution of federalism created by the Constitution. It is not the intent of this section to modify any relationship conditioned by the Constitution at the time of ratification of the amendment. Specifically, no modification of the 10th amendment is intended.

It is our opinion that it makes no sense to amend the Constitution to prevent Congress from assuming powers that simply do not exist under the Constitution at present. To do so would almost lend credibility to the myth that such powers somehow exist. They do not exist. Since this issue was adequately addressed in committee, I believe that many of the reasons offered by the Senator from Kentucky for his amendment are not pertinent to this discussion.

Mr. THURMOND. Mr. President, I yield 2 minutes to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. DOMENICI. Mr. President, I must oppose the amendment offered by the Senator from Kentucky, Senator FORD. The Senator's objective—of forcing the President to give Congress a budget plan which calls for a balanced budget—is at first blush a laudable one. After all, it will be essential that Congress have the President's help in achieving the goal of a balanced budget.

But upon a closer look we will see that this amendment would not be a good provision to put in the Constitution. In the first place, it purports to restrain the President's flexibility to make budgetary recommendations he—or she—considers best for the country. I do not think we ought to put this type of constitutional restraint on what a President can recommend. The President should be free to recommend that Congress vote in an unbalanced budget if he believes that would be best for the country. It is Congress, after all, that has the constitutional obligation and power to provide for spending. The President has no independent power of the purse. So the constitutional amendment correctly places the primary responsibility for achieving budget balance squarely where it belongs—on Congress.

Moreover, if the Ford amendment were to become part of the Constitution, it could undoubtedly be circumvented by the President. Our recent experience with a legislative mandate

that the President submit a balanced budget shows what would likely happen if the Ford amendment were approved. In April 1979, Senators PACKWOOD and LONG succeeded in amending the debt limit bill to require that the President submit a balanced budget. A few months later, in his fiscal year 1981 budget submission, President Carter complied with the legislative mandate by including a few pages—buried deeply in the back of the budget—explaining all the dire cuts that would have to be made to balance the budget; 99.9 percent of the pages in the budget were devoted to explaining and defending the policies the President recommended. The budget had this to say about the alternative budget that would achieve balance:

To balance the budget in 1981, either taxes would have to be increased or Federal spending reduced below the restrained levels proposed in this budget, or a combination of both actions would be required. Increased taxes or decreased Federal spending would have secondary effects on the economy and therefore on other Federal programs. They would reduce real economic growth and employment and thereby reduce tax receipts and raise unemployment sensitive spending.

Every effort has been made in the 1981 budget and in the previous budgets of this administration to eliminate unnecessary spending.

In this budget, additional savings actions have been proposed . . . substantial operating efficiencies and cost reductions have been achieved and more are proposed. Substantial additional reductions cannot be achieved without further program reductions that would unavoidably cause important national needs to go unmet. For these reasons, the administration does not recommend that the reductions listed above be made. (These quotes are from pages 320 and 325 of the fiscal year 1981 Budget of the U.S. Government.)

The reality is that any President will recommend the budget policies he thinks best—whether or not the Ford amendment is in the Constitution.

My final reason for opposing the Ford amendment is that I think he is getting into an area that should be left to legislation. The adoption of this constitutional amendment will make a difference in the way the President and Congress interact in the development of the Federal budget. The President may need to be required to do some things he does not do now. But we have not yet worked on the implementing legislation. When we do, we will need to take a close look at how and when and in what form the President submits his budget recommendations. Any changes that are needed can be made in legislation and then revised later if experience indicates this is needed.

Later today I expect to call up printed amendment 1986, which is cosponsored by Senators CHILES, PERCY, and several other Senators. That amendment includes sense of the Congress language to the effect that implementing legislation must include defining the relationship between the budget statements to be required by this constitutional amendment and "overall procedures for development and adoption of the Federal budget." I believe we should make very clear legislative history that the President is going to have a lot to do to help Congress carry out this constitutional amendment. I do not think we should modify the amendment as Senator FORD proposes. I urge that the Ford amendment be defeated.

As I view the constitutional amendment before us it is not going to balance budgets. What it is going to do is eliminate at least 25 years of prejudice in favor of overspending, which is a natural consequence in this country of national politicians who overpromise and overcommit. As a consequence we have a prejudice to overspend.

This constitutional amendment, if adopted, will convert that prejudice from one that is overcommitting and overspending to one that is biased toward fiscal restraint and balance. That is why I am for it.

Spending restraint will not happen automatically. That is why my amendment makes it clear that it is by legislative enactment that Congress will implement this constitutional amendment.

Mr. President, the amendment that the distinguished Senator seeks is the kind of thing that should be in the legislation that Congress must adopt in order to implement this amendment. Congress should specify in legislation how the President should submit budgets, when, and what special provisions they should contain if the President recommends an unbalanced budget, and numerous other details.

There is ample reason not to burden the constitutional amendment with such a mandate. There will be times when Presidents will not submit balanced budgets because in their good judgment they tell Congress it should not balance the budget, that it ought to spend more or we ought to do something different than a balanced budget statement would require.

We ought to give Presidents that latitude, but we ought to give Congress complete latitude to draft legislation to implement this constitutional amendment to put the appropriate burden on the Executive with reference to budgets.

If we put the balanced budget mandate in for the President as Senator FORD proposes, we have not only denied him flexibility but, in a real sense, we have denied Congress flexibility in the future.

I thank the Senator for yielding.

The PRESIDING OFFICER. All time has expired.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Montana on the bill 4 minutes.

Mr. FORD. Mr. President, parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. FORD. How much time is there on the bill?

The PRESIDING OFFICER. There is no time on the bill available.

Mr. FORD. I did not think there was any on the bill.

The PRESIDING OFFICER. The Senator from Kentucky controls the time and he has 5 minutes remaining.

Mr. FORD. I yield 2 minutes to the Senator from Nebraska.

Mr. EXON. Mr. President, as the sponsors of the amendment know I am one of the cosponsors of a balanced budget amendment. I think from what I have heard we are going to have some difficulty in getting some votes to put this over, and I think we are wrong in taking the approach that seemingly is being taken by members of the Judiciary Committee that the amendment is sacrosanct as basically it came out of their committee.

Mr. President, there is nothing whatever wrong with the President of the United States being required to submit a balanced budget. If it is true that we want to have a balanced budget amendment workable, if it is approved by Congress and ratified by a sufficient number of the States, indeed the President of the United States, this President, this morning told me and nine other Senators that indeed he thought the President of the United States should be required in the constitutional amendment process to submit a balanced budget.

The President of the United States, being a Governor for 8 years, has had a great deal of experience in budget making. Certainly the statements that have been made by the able Senator from California with regard to the fact that there is no one in the Federal Government who has the resources at his command to come up with a balanced budget better than the President of the United States are indicative of this fact.

It seems to me that if we are really sincere about this effort, we would not raise objections to what I think is a very simple but very meaningful amendment that is being offered by my friend from Kentucky.

I reserve the remainder of my time.

Mr. FORD. As I understand it, Mr. President, I have the remainder of the time on the amendment?

The PRESIDING OFFICER. The Senator is correct. The time situation is this: The Senator from South Carolina's time has expired, and the Senator from Kentucky has 3 minutes remaining on the amendment.

Mr. FORD. I thank the Chair.

Mr. President, let us just get down to the facts. The question here is this: Should it be up to Congress and Congress alone to balance the budget or should the President be included with Congress in explicit terms as an equal partner? Should the President be included as an equal partner?

I would suggest to those who are so rigid that they will not accept any amendments, that they may be taking this amendment down. I suggest that if we ever have a balanced budget, it can only be accomplished by a Congress and a President working together.

I hope the distinguished Senator from South Carolina and the distinguished Senator from Utah will listen one more time. At the 11 o'clock meeting today, this President of the United States, when asked about the Ford amendment, said he did not object to it; that the Ford amendment was a good idea; that he submitted a balanced budget when he was Governor of California; 21 other State Governors have to do it, and it is nothing unusual for him, and he would be delighted to do it.

Now, if you are going to turn around and say the President does not know what he is talking about, that he should not have to submit a balanced budget, you go ahead and vote this one down. You will get another chance before you get through to vote on another one, and another one, and another one, until I guess we get cloture and then we will have 100 hours and we will have a little fun with it.

But let me tell you, contrary to all expectations and prior indications, the President of the United States proposed the largest deficit in the history of this Nation. Of course, they like to point to others that caused it. He likes to point the finger at Congress. And the way we are going now Congress will have all the blame.

If we had been submitted an unbalanced budget of $188 billion, it would be our responsibility under this amendment, to cut it $188 billion.

Now, I have listened to my distinguished friend from New Mexico and he said Congress was prejudiced toward an unbalanced budget. Let me just say this: You go back to Eisenhower, Kennedy, Johnson, Nixon, Ford, Carter, and Reagan, and every one of them had submitted an unbalanced budget. So there is nothing any more prejudiced toward an unbalanced budget than the President of the United States. Why not put us under the same umbrella and let us go.

The PRESIDING OFFICER. The time of the Senator from Kentucky has expired. All time has expired.

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senator from Montana may have 4 minutes.

Mr. FORD. Is this for or against my amendment?

Mr. THURMOND. It is against the amendment.

Mr. FORD. Mr. President, I ask unanimous consent that I may have 4 additional minutes.

Mr. THURMOND. That will be all right.

Mr. GOLDWATER. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. THURMOND. Mr. President, I ask unanimous consent that both sides have 4 additional minutes.

The PRESIDING OFFICER. The request is for 4 additional minutes of time on both sides. Is there objection?

Without objection, it is so ordered.

Mr. THURMOND. I yield such time out of the 4 minutes as he may require to the Senator from Montana.

The PRESIDING OFFICER (Mr. COCHRAN). The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, on the surface of the amendment offered to the Senate by the Senator from Kentucky, it seems to go in the same direction as Senate Joint Resolution 58; that is, to move toward a balanced budget.

But there are basic constitutional issues. The major difficulty with this amendment is that it puts into the Constitution the President's budget proposal authority. Presently, this authority is derived only from statute.

By "constitutionalizing" this process, it is unclear what the new relationship is between the President's budget and the congressional budget. Under present law, the President submits an informal budget and Congress is free to accept this budget, free to reject this budget, free to amend this budget, and free to ignore this budget.

Under Senator FORD's amendment, it seems to be the case that there would be but a single budget or statement. This budget or statement would be drawn up by the President for consideration by the Congress. A number of questions arise: Is Congress obligated to start off with the precise budget submitted by the President? Is it obligated to affirmatively approve changes in that budget? Is the burden of proof upon Congress to justify changes in the President's budget?

In other words, this amendment would sharply transform the nature of the budget process, and transform the relationship between the Presidential budget and the congressional budget. What is now simply a relationship based upon statute would be transformed into a constitutional relationship. There would be but a single budget, a budget proposed by the President under this amendment and a budget enacted by the Congress.

It would have to follow that budget. The implications of this change are potentially enormous. What are the implications for the impoundment authority of the President? What are the implications for item-veto authority? What are the implications for the existing separation-of-powers balance between the President and the executive? What are the implications for the congressional and the presidential roles in the budget process. Whereas Senate Joint Resolution 58 would leave this basic relationship unchanged, Senator FORD's amendment could open up enormous questions as far as the relationship between the executive and the legislative branches. The power of the executive branch would be enhanced in potentially enormous fashion.

I ask my colleagues to carefully consider the uncertainties of this amendment. I further observe that this amendment is strongly opposed by the leadership of this amendment in the House—both Republican and Democrat. If it is passed by the Senate, it poses a risk of harm to the passage of this proposed constitutional amendment.

Perhaps this same issue concerning the President's budget should be addressed in enabling legislation following passage and ratification of this proposed constitutional amendment.

I thank the chairman for yielding me that time. I reserve the remainder of whatever time might be remaining of the 4 minutes.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, how much time does the Senator from South Carolina have remaining?

The PRESIDING OFFICER. The Senator from South Carolina has 35 seconds remaining.

Mr. FORD. And I have 4 minutes remaining?

The PRESIDING OFFICER. The Senator has 4 minutes remaining.

Mr. FORD. I promise the distinguished Senator from Arizona that we are going to get to a vote very soon.

Let me just say this in closing. My amendment would allow the Congress to fully evaluate the President's recommendations for a balanced budget and incorporate this information into the decisionmaking process of Congress. In terms of political philosophy or political psychology, the effect may be somewhat greater. Instead of saying "yes" to every group, which would put an even heavier burden on Congress, the President would be forced to make some hard choices and to give less and, yes, in some cases, say "no," to allow us to view what tradeoffs the President would make each year between competing programs to a balanced budget.

Mr. President, we are going to be faced with three amendments. I have no particular disagreement with the distinguished Senator from New

Mexico and his amendment, but one of his amendments directly affects the relationship between Congress and the President. They are willing to accept that one, but will not accept mine. We have to go up or down.

Well, Mr. President, the administration has an amendment to this constitutional amendment and I understand the Judiciary Committee does not want to accept that one. Well, if they do not want to accept that one, maybe the administration will come down against this amendment before final passage.

I hope that we could get this country to a balanced budget. Twenty-one Governors in this country must submit a balanced budget. I was there. I had to do it. I had to say no. It is not easy, but it can be done. And this is what the country needs. If it is what the country wants, we better have both ends of Pennsylvania Avenue on the same wavelength.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. I believe we have 35 seconds remaining. I yield that time to the distinguished Senator from Utah.

Mr. HATCH. Mr. President, our distinguished friend and colleague, Senator DECONCINI has sent out an excellent "Dear Colleague" letter on this particular amendment. I think he makes some compelling points, as did the distinguished Senator from Montana (Senator MELCHER) in his statement today.

Mr. President, I ask unanimous consent that Senator DECONCINI's "Dear Colleague" letter, dated July 22, 1982, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, D.C., July 22, 1982.

DEAR COLLEAGUE: On Friday, July 23rd, I expect votes to be taken on an amendment or amendments that would have the effect of requiring the President to submit to Congress an annual balanced budget, without exception. I would oppose amendments of this nature for the following reasons:

Whereas S.J. Res. 58 is flexible enough to permit Congress to submit a deficit budget if ⅗ of its members believe that such a budget is warranted, this type of amendment would require the President to submit a balanced budget without exception. It would permit no circumstances under which the President could submit a deficit budget. The result would be excessive inflexibility and an increased tendency toward dishonest budgetary practices.

This type of amendment is superfluous in the sense that its requirements are largely implicit in S.J. Res. 58. If Congress is under a general responsibility to balance its budget, the President will be under a similar responsibility with respect to proposing a budget. Any President who submits something other than a balanced budget either has the burden of demonstrating to ⅗ of Congress why it is necessary, or else risks losing influence in the process.

This amendment would elevate to the Constitution for the first time an Executive obligation to submit any budget. This is currently the subject matter solely of statute, and Congress can if it wishes pass statutory language mandating the submission to it by the president of a balanced budget.

I believe that amendments requiring the President to submit a balanced budget could upset the carefully-crafted political balance that currently exists in the proposed Constitutional amendment. I urge you to oppose it.

Sincerely,

DENNIS DECONCINI,
U.S. Senator.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. FORD. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute and 10 seconds remaining.

Mr. FORD. I yield 1 minute and 10 seconds to the distinguished Senator from Nebraska, Senator EXON.

Mr. EXON. I thank my friend from Kentucky.

Mr. President, I have been listening with great interest to what I think are not very logical explanations of why we should not adopt this amendment. The Senator from Montana would cloud the issue seemingly by saying that we are giving the President more power. Certainly, the amendments that have been offered and, I understand, accepted by the managers of this bill, spell out very clearly what the Constitution has always held—that it is the Congress that has the right and the duty to pass a budget.

We are not changing that in the amendment offered by the Senator from Kentucky. What we are simply saying is that we think we should work together as Governors and State legislatures have for a long, long time to meet the requirements of a balanced budget.

It seems to me, Mr. President, that those who are taking the position that we should not insist that the President give us a balanced budget are wrong.

The PRESIDING OFFICER. All time has expired.

VISIT TO THE SENATE BY A DELEGATION OF PARLIAMENTARIANS FROM THE REPUBLIC OF KOREA

Mr. HAYAKAWA. Mr. President, it is my pleasure to present the distinguished delegation of Parliamentarians from the Republic of Korea: The Honorable Jong Chan Lee, the floor leader or the majority leader of the Democratic Justice Party; the Honorable Chung Soo Park, an independent; the Honorable Joong Yeon Cho, senior whip of the opposition party; the Honorable Duwan Pong, an independent; and the Honorable Churl Soon Yim, a member of the Democratic Justice Party and also of the Foreign Affairs Committee.

They are visiting our Nation's Capital on the occasion of the 100th anniversary of the Korean-American Friendship Treaty.

A 2-day conference organized by the Center for Strategic and International Studies will highlight the delegation's week long visit to Washington. Their visit during this centennial year of the establishment of diplomatic relations between our two countries is another example of the cooperation and mutual understanding that exists between us. I look forward to our continuing friendship during the next 100 years and we welcome them.

RECESS

Mr. THURMOND. Mr. President, I ask unanimous consent that the Senate stand in recess for 1 minute so that Members might meet our friends from Korea.

There being no objection, the Senate, at 3:11, recessed until 3:12 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. COCHRAN).

BALANCED BUDGET-TAX LIMITATION CONSTITUTIONAL AMENDMENT

The Senate continued with the consideration of the joint resolution (S.J. Res. 58).

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

I further announce that, if present and voting, the Senator from Nevada (Mr. CANNON) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 259 Leg.]

YEAS—45

Baucus	Ford	Mitchell
Bentsen	Glenn	Moynihan
Biden	Hart	Nickles
Boren	Heflin	Pell
Bradley	Hollings	Proxmire
Bumpers	Huddleston	Pryor
Burdick	Inouye	Randolph
Byrd, Harry F., Jr.	Jackson	Riegle
	Johnston	Sarbanes
Byrd, Robert C.	Kennedy	Sasser
Chafee	Leahy	Stennis
Cranston	Levin	Wallop
Dixon	Long	Weicker
Dodd	Mathias	Zorinsky
Eagleton	Matsunaga	
Exon	Metzenbaum	

NAYS—53

Abdnor	Goldwater	Murkowski
Andrews	Gorton	Nunn
Armstrong	Grassley	Packwood
Baker	Hatch	Percy
Boschwitz	Hatfield	Pressler
Brady	Hawkins	Quayle
Chiles	Hayakawa	Roth
Cochran	Heinz	Rudman
Cohen	Helms	Schmitt
D'Amato	Humphrey	Simpson
Danforth	Jepsen	Specter
DeConcini	Kassebaum	Stafford
Denton	Kasten	Stevens
Dole	Laxalt	Symms
Domenici	Lugar	Thurmond
Durenberger	Mattingly	Tower
East	McClure	Warner
Garn	Melcher	

NOT VOTING—2

Cannon Tsongas

So Mr. FORD's amendment (No. 1933) was rejected.

Mr. THURMOND, Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATCH. Mr. President, I Move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1986

(Purpose: To make clarifying changes in the proposed balanced budget constitutional amendment)

Mr. DOMENICI. Mr. President, I call up my printed amendment No. 1986 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico (Mr. DOMENICI), for himself, Mr. CHILES, Mr. PERCY, Mr. BENTSEN, and Mr. JOHNSTON, proposes an amendment numbered 1986.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 2, line 3, insert before the comma, ": First".

On page 3, line 21, after the word "shall" insert the following: ", pursuant to legislation or through exercise of their powers under the first and second articles,".

On page 4, line 2, strike "last calendar year ending" and insert in lieu thereof "year or years ending not less than six months nor more than twelve months".

On page 4, between lines 12 and 13, insert the following:

"SEC. 5. The Congress shall enforce and implement this article by appropriate legislation." and renumber the remaining section.

Add after the last section of the constitutional amendment: "Second, that it is the sense of Congress that legislation to implement this article shall include, but not be limited to, procedures for the development and adoption of the statement required by section 1, the relationship between the statement and the overall procedures for development and adoption of the Federal budget, procedures for calculating the maximum increase in total receipts pursuant to section 2, definitions and methods to implement section 3, and definitions of terms and accounting procedures. The statement of the sense of the Congress expressed in this paragraph shall not be submitted to the States as part of the resolution proposing an amendment to the Constitution of the United States.".

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

Mr. GRASSLEY. Mr. President, will the Senator withhold that suggestion?

Mr. DOMENICI. Yes.

Mr. GRASSLEY. Mr. President, I desire the floor in order to have a dialog with the Senator from New Mexico on his amendment. Will the Senator agree to that?

Mr. DOMENICI. Mr. President, the reason I ask for a quorum call is the Senator from New Mexico has to leave the Chamber for about 5 minutes and the distinguished Senator from Idaho was going to watch the floor for me. When I return I will be delighted to engage in a colloquy.

Mr. GRASSLEY. I will wait.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, the amendment that is pending was originally cosponsored by myself, Senators CHILES, BENTSEN, PERCY, and JOHNSTON.

I ask unanimous consent that Senator EXON be added as a cosponsor at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I made a lengthy floor statement almost 2 weeks ago, on July 13, in which I outlined a number of clarifying changes that I believed were needed in the balanced budget constitutional amendment. Also, on July 13, I sent out a "Dear Colleague" letter summarizing the changes I was proposing.

Mr. President, I ask unanimous consent that a copy of that letter be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET,
Washington, D.C., July 13, 1982.

DEAR COLLEAGUE: As you know, the Senate yesterday began floor consideration of S. J. Res. 58, the Constitutional Amendment to Balance the Budget. All Senators need to examine carefully this important resolution. This Constitutional Amendment would have considerable impact on the budget process and on federal macroeconomic policy. Because S. J. Res. 58 is such an important piece of legislation and because it will have a major impact on the future of the budget process, I am taking this opportunity to share with you my views on this amendment and my plans for offering several floor amendments to clarify it.

I have called for balanced federal budgets my entire political career. As Chairman of the Budget Committee I have worked as hard as I know how to achieve this crucial goal in order to strengthen the American economy. As a means to achieve this goal I have looked at many proposed Constitutional Amendments and joined as a cosponsor of S. J. Res. 58.

Today I made a lengthy floor statement expressing my hope that I will be able to vote for S. J. Res. 58. In my statement I set forth the concerns I have about the amendment and explained the changes I will seek before the Senate approves it.

Although I endorse the idea of a Constitutional Amendment, close examination of S. J. Res. 58 and careful analysis of how it will affect the budget process in the future reveals several potentially serious problems. I have developed several perfecting amendments to correct these problems and help assure that the Constitutional Amendment will achieve its objectives. A marked up copy of S. J. Res. 58 indicating these proposed changes is attached. I hope you will join me in sponsoring at least some of these perfecting amendments.

One of my concerns relates to enforcement. S. J. Res. 58 states that "the Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement." I believe that this sentence is dangerously vague and will likely lead to conflict over impoundment powers between the President and Congress. The Judiciary Committee's report on S. J. Res. 58 states "there is no intention to alter the division and separation of powers now characteristic of the relationship between the Congress and the President". (Report No. 97-151, p. 47.) My first amendment would add the words "by legislation" after the word "shall" and thereby make it clear that outlay control is to be established through legislation.

My second amendment deals with the voting requirements in S. J. Res. 58 and is designed to make the balanced budget amendment more consistent with other provisions of the Constitution. S. J. Res. 58 requires three-fifths "of the whole number" to pass an unbalanced budget and a majority "of the whole number" to pass a tax bill which will cause receipts to exceed the norms established by the amendment. The only other place in the Constitution that contains similar language is in the procedure used by the Senate to select a vice-president when the electoral college is deadlocked. My amendment would simply strike the phrase "of the whole number", thereby making the two voting requirements percentages of those present and voting.

My third amendment will be to strike the phrase "in the last calendar year ending before such fiscal year," from section 2. This phrase creates considerable uncertainty over how to measure receipt growth under the amendment. Because actual receipts in the current fiscal year will have to be established at the time the statement is being drafted for the next year, considerable controversy over which estimates to use is inevitable. In another amendment I intend to make it clear that procedures to be used to measure revenue growth shall be established by legislation.

My fourth proposal adds the words "or national emergency" after the word "war" in section 3. This change, similar to that recommended by David Stockman in testi-

mony before the House Judiciary Committee, will allow the Congress the flexibility to deal with emergencies short of war. A definition of "national emergency" will be included in the implementing statute.

My fifth proposal would add a catch-all paragraph on matters to be covered in implementing legislation. Many uncertainties will still exist about the effect of S.J. Res. 58 even with my amendments. However, it is far better to include most of these matters in legislation rather than crowd the Constitution with technical formulas. This final amendment will read: "Congress shall by legislation provide for the implementation of this article, including, but not limited to, procedures for calculating the maximum increase in total receipts pursuant to section 2, the methods of implementing and terminating waivers under section 3, and definitions of terms and accounting procedures." I intend to introduce and hold extensive hearings on an implementing bill starting in September.

My goal in offering amendments to S.J. Res. 58 is to make the Constitutional Amendment workable. It is not my purpose to weaken or side-track the amendment. Amendments to the Constitution are extremely important and quite difficult to change once ratified. We must make sure that we are doing everything possible to make S.J. Res. 58 an effective vehicle.

Please contact me or my Senate Budget Committee staff if you have any questions relating to the amendments.

Sincerely,

PETE V. DOMENICI.

Attachment.

S.J. RES. 58—BALANCED BUDGET AMENDMENT (STAR PRINT) WITH CHANGES PROPOSED BY SENATOR DOMENICI

(Deletions in brackets, additions in italic)

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths [of the whole number] of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall *by legislation* ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pursuant to this article shall not increase by a rate greater than the rate of increase in national income [in the last calendar year ending before such fiscal year,] unless a majority [of the whole number] of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war *or national emergency* is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total oulays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. This article shall take effect for the second fiscal year beginning after its ratification.[".]

"SECTION 6. Congress shall by legislation provide for implementation of this article, including, but not limited to, procedures for calculating the maximum increase in total receipts pursuant to section 2, the methods of implementing and terminating waivers under section 3, and definitions of terms and accounting procedures.".

Mr. DOMENICI. Mr. President, in the time since I made my floor statement, my staff and I have had many discussions with other Senators and their staffs to seek understanding and support for the changes I propose. The managers of the resolution and other Senators have been very responsive to the concerns I have expressed, and have helped me improve the amendments I have just offered and had the clerk read.

Last week, on July 19, I presented to the Senate my revised plans with respect to the amendments. I indicated in that second statement I would drop two of the five amendments I had originally discussed and proceed with the other three changes at the proper time.

Last week Senators CHILES, PERCY, and I circulated a second dear colleague letter discussing these amendments.

I ask unanimous consent that a copy of the July 21 letter be printed in the RECORD.

There being no objection, the letter was, ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE BUDGET
Washington, D.C., July 21, 1982.

DEAR COLLEAGUE: During the past week the Senate had been debating S.J. Res. 58, the Balanced Budget Constitutional Amendment. On Tuesday, July 13, Senator Domenici made a floor statement in which he outlined several potential problems in implementing S.J. Res. 58 and proposed several amendments to alleviate these problems.

The floor managers of S.J. Res. 58 and several other senators have reviewed and commented on Senator Domenici's proposals. We have now made changes in these proposals in cooperation with the managers of the bill who have indicated they will support our package of amendments as revised. Attached is a copy of S.J. Res. 58 indicating the changes to be made by the three amendments.

Our first clarifying amendment would add the words, "pursuant to legislation or through exercise of their powers under the first and second articles," after the phrase "The Congress and the President shall" in the last sentence of section 1. The purpose of this amendment is to make it absolutely clear that no change in relationships between Congress and the President, including the question of impoundment power, is being made by the last sentence of section 1.

Our second amendment will strike the phrase "last calendar year ending" from section 2 and insert in lieu thereof "year or years ending not less than six months nor more than twelve months". The purpose of this change is to allow Congress flexibility to select a period longer than one year as the base period for establishing the maximum rate at which federal receipts will normally be allowed to grow. The change will also permit the federal fiscal year to be made concurrent with the calendar year should Congress at some future date deem that change to be appropriate.

Our third proposed amendment encompasses the enforcement amendment introduced by Senator Chiles on July 1, and would add the following new section 5: "Congress shall enforce and implement this article by appropriate legislation." Language similar to this has been included in most recent constitutional amendments. We believe that detailed implementing legislation is an essential adjunct to this Constitutional Amendment and such language should be included.

In conjunction with the new section 5 language on implementing legislation to be included in the Constitutional Amendment itself, we believe it is necessary to establish very strong legislative history on the anticipated content of the implementing legislation. To accomplish this, we intend to seek adoption of the following language:

"It is the sense of the Congress that legislation to implement this article shall include, but not be limited to, procedures for the development and adoption of the statement required by section 1, the relationship between the statement and the overall procedures for development and adoption of the Federal budget, procedures for calculating the maximum increase in total receipts pursuant to section 2, definitions and methods to implement section 3, and definitions of terms and accounting procedures. The statement of the sense of the Congress expressed in this paragraph shall not be submitted to the States as part of the Resolution proposing an Amendment to the Constitution of the United States."

If you have questions about the above or are interested in co-sponsoring these amendments, please have your staff contact Bob Fulton (4-1458) or Terry Lyons (4-0542) of Senator Domenici's staff or call Rick Brandon (4-0836) of Senator Chiles' staff.

Sincerely,

LAWTON CHILES,
PETE V. DOMENICI,
CHARLES H. PERCY.

S. J. RES. 58

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein): First, That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

"ARTICLE —

"SECTION 1. Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts. The Congress may amend such statement provided revised outlays are no greater than revised receipts. Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject. The Congress and the President shall, pursuant to legislation or through exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the outlays set forth in such statement.

"SECTION 2. Total receipts for any fiscal year set forth in the statement adopted pur-

suant to this article shall not increase by a rate greater than the rate of increase in national income in the year or years ending not less than six months nor more than twelve months before such fiscal year, unless a majority of the whole number of both Houses of Congress shall have passed a bill directed solely to approving specific additional receipts and such bill has become law.

"SECTION 3. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

"SECTION 4. Total receipts shall include all receipts of the United States except those derived from borrowing and total outlays shall include all outlays of the United States except those for repayment of debt principal.

"SECTION 5. Congress shall enforce and implement this article by appropriate legislation.

"Second, that it is the sense to the Congress that legislation to implement this article shall include, but not be limited to, procedures for the development and adoption of the statement required by section 1, the relationship between the statement and the overall procedures for development and adoption of the Federal budget, procedures for calculating the maximum increase in total receipts pursuant to section 2, definitions and methods to implement section 3, and definitions of terms and accounting procedures. The statement of the sense of the Congress expressed in this paragraph shall not be submitted to the States as part of the resolution proposing an amendment to the Constitution of the United States.

"SECTION 6. This article shall take effect for the second fiscal year beginning after its ratification.".

Amend the title so as to read: "Joint resolution proposing an amendment to the Constitution altering Federal budget procedures.".

LIST OF AMENDMENTS TO SENATE JOINT RESOLUTION 58 TO BE OFFERED BY SENATOR DOMENICI

1. Add the words "by legislation" in the last sentence in section 1 which requires Congress and the President to "ensure" that actual outlays do not exceed the budget plan. This change will eliminate any implications that the amendment gives the President unilateral impoundment powers. The Judiciary Committee Report states that no change in existing relationships between the President and the Congress is intended.

2. Strike the words "of the whole number" in section 1 and 2, so that a vote to have an unbalanced budget will require a "yes" vote by three-fifths of those voting and a vote to raise taxes faster than national income will require a "yes" vote of a majority of those voting. These changes will make the amendment conform with other voting requirements contained in the Constitution.

3. Strike the words "in the last calendar year ending before such fiscal year," from section 2. This change retains the basic principle of limiting the growth of revenues to the growth of national income, but provides flexibility to use a longer or different base period than the last calendar year. The amendment as written is unclear as to how the revenue ceiling will be calculated and would prevent moving the fiscal year to January 1-December 31.

4. Add the words "or national emergency" after the phrase "in which a declaration of war" in section 3. This amendment would broaden the waiver provision in order to allow the Congress flexibility to respond to emergencies short of declared war. The definition of a "national emergency" and procedures for initiating and terminating waivers will need to be included in implementing legislation. David Stockman recommended a similar change in testimony before the House Judiciary Committee.

5. Add a new catch-all implementing section that states "Congress shall by legislation provide for the implementation of this article, including, but not limited to, procedures for calculating the maximum increase in total receipts pursuant to section 2, the methods of implementing and terminating waivers under section 3, and definitions of terms and accounting procedures." This change clearly gives to Congress the power to implement this Constitutional Amendment. This implementing legislation will cover the detailed procedures that do not properly belong in the Constitution.

Mr. DOMENICI. Mr. President, I am pleased that Senators BENTSEN, JOHNSTON, and EXON have joined Senators CHILES, PERCY, and me as cosponsors of this amendment. I believe, in fact, there is widespread support for the changes this amendment will make.

Let me describe the four parts of the amendment and explain briefly why I think each of these changes is necessary. My first proposal is to make clear that outlay control is to be achieved through legislation. The first change we propose is to the last sentence of section 1 of the proposed constitutional amendment. We propose to insert in that sentence the words "pursuant to legislation or through exercise of their powers under the first and second articles."

This will make it crystal clear that, in charging Congress and the President with the responsibility for insuring that actual outlays do not exceed outlays provided for in the budget statement approved by Congress, the constitutional amendment will not give the President or Congress any authority they do not already have except as may be specified by legislation adopted subsequent to the approval of the constitutional amendment.

Mr. President, there has already been considerable expression of concern here on the Senate floor during the earlier debate on this resolution about the question of whether this constitutional amendment would confer upon the President new powers to impound funds. The managers of the bill have stated their view that the constitutional amendment would give the President no impoundment powers that he does not already have, but they have acknowledged there is room for debate on the question of whether the President could claim a constitutional obligation to hold up spending of Federal money in order to keep actual outlays from exceeding the budget.

In a situation in which Congress was unable or unwilling to act either to revise the budget statement or keep spending from exceeding statement, I believe there could be room for confusion over the President's powers and obligations if the constitutional amendment were adopted as it is now worded.

With the change being offered, by myself and the distinguished cosponsors I have just described, we will have absolute protection against an interpretation that a President at some future time might claim that a Congress is being irresponsible and that he has a unilateral right and obligation to stop Federal spending—in areas he selects—in order to keep outlays from exceeding the budget statement then in effect.

Let me hasten to add that I personally believe Congress may find it necessary to give the President both some new powers and some new obligations in order for the objectives of this constitutional amendment to be achieved. The uncertainties of budgetmaking are such that actual spending will be very hard to keep within the approved budget plan—even if increased obligations are imposed legislatively on the President to monitor outlay experience and make progress reports to Congress, and even if the President is given greater powers to restrain spending.

But I feel the way to assign those duties and grant those powers to the President is through carefully developed, detailed legislation that cannot possibly be part of a constitutional amendment.

We have now had considerable experience with the Congressional Budget and Impoundment Control Act of 1974, including title X which establishes procedures for rescissions and deferrals. These impoundment control procedures have worked, but certainly they have not worked perfectly. We need some revisions to them, in my opinion, after nearly 8 years of experience with them. I am sure if Congress grants the President additional powers for rescission or deferral or, perhaps, some new type of power to control the growth of entitlements which, incidentally, is a very challenging kind of idea and which I predict will come one of these days, Congress will want to look within a few years to see whether it has gone too far or not gone far enough.

By making clear that subsequent legislation is necessary on the important matter of how actual outlays will be kept within the totals in the budget statement, we will preserve the prerogatives of Congress. It must be made eminently clear, once this constitutional amendment is adopted, that Congress either has given the President the requisite powers to control outlays or has retained them, in which event one or the other is going to be clearly responsible. I believe the

people take the constitutional amendment seriously, and as the national Government changes from the prejudice of spending in the past 30 years toward a more rational approach to fiscal restraint, that the people will demand and get accountability from their elected representatives.

They will know wherein the power lies because Congress will have the prerogative to give the President the authority, or to keep it itself; to give the Presidents of the future either a lot of power or very little.

As I said in my initial floor statement 2 weeks ago, I intend to produce shortly, in due course, a bill that will spell out the implementing procedures that I think are needed to enable the Federal Government to operate under this amendment. In that bill I will propose some changes in the impoundment powers. That will be not an amendment to this constitutional amendment but a bill, legislation.

My proposal, and those of other Members, will be fully debated, I am sure. Legislation to implement this constitutional amendment must be carefully crafted in all its detail before it becomes the law of the land.

The changes I am proposing to section 1 in this amendment will preserve the opportunity for a full debate on the outlay control issue and will assure that we are not putting something in the constitutional amendment that we will later regret.

My second proposal modifies the base period for measuring national income growth in section 2. It modifies the procedure by which the maximum growth of receipts will normally be established. Section 2 now provides that, unless Congress specifically adopts a law raising taxes, the level of receipts provided for in budget statements adopted by Congress shall not provide for a rate of growth faster than national income grew in the last calendar year ending prior to the fiscal year to which the budget statement applies.

The change that we are proposing would eliminate the reference to the last calendar year, and insert in its place a provision that receipts provided for in budget statements shall not normally increase by a rate greater than the rate of increase in national income in "the year or years ending not less than 6 months nor more than 12 months" before the fiscal year to which the budget applies.

There are at least three problems with the section 2 language as it now stands that are to be corrected by the amendment that the Senator from New Mexico and his cosponsors suggest. The first problem is that there may be distortions caused by using national income growth in a single calendar year as the general rule for measuring the permissible growth in receipts. There can be freakish twists in the economy in a single 12-month period that, in turn, would indicate inappropriate fiscal policies for an upcoming fiscal year.

For example, let us suppose that there was a brief, but very deep, recession in a calendar year, similar to what happened in 1980. Then let us further suppose that we had a prompt economic recovery and the economy showed signs of overheating. If this situation existed, the use of the change in national income in a single calendar year to establish maximum receipts would point to a fiscal policy of little or no growth of receipts and indeed to a cut in taxes. This would be precisely the wrong medicine for an overheating economy.

I understand very well that the Congress could overcome this problem by adopting a bill increasing taxes by votes of the majority of the whole number of both Houses. However, both bodies would have to agree on the tax provisions and the President would have to have his veto rights over the bill. So, I do not think we ought to put into the Constitution a rigid limit on the time period over which national income is to be measured in order to determine how fast revenues can grow without a change in the law.

My own view is that it would make sense to use 3- or 5-year average growth in national income, rather than a single 12-month period. But, in any event, it is advisable to provide Congress and the President with flexibility on this question so that if the period initially selected turns out to have been too long or too short it can be changed after some experience has been gained.

We need to establish a very clear history, however, that we do not intend or expect that Congress will change willy-nilly the base period for calculating growth of national income. If the Congress were to get into a pattern under which it changed the base period for national income growth each year, so that it could permit more growth in revenues, it would be on the way to undermining the effectiveness of this constitutional amendment.

(Mr. MATTINGLY assumed the chair.)

Mr. GRASSLEY. Will the Senator from New Mexico yield for a question?

Mr. DOMENICI. I am pleased to yield to the distinguished Senator from Iowa. I think the issue I am on is one he is concerned with.

Mr. GRASSLEY. I only wish to take the time of this body, to compliment the Senator for the statement that he just made. I think he has made it very clear that it is not his intent, in giving some leeway to the Congress to adjust the fiscal year, that this be used as a subterfuge to undermine the purpose and spirit of this resolution. Does the Senator agree with my analysis of his amendment?

Mr. DOMENICI. Yes; I agree with the Senator. I knew that he was concerned about that.

The distinguished chairman of the subcommittee, Senator HATCH, has inquired and will have a colloquy with the Senator from New Mexico on the same issue.

Mr. GRASSLEY. I thank the Senator.

Mr. DOMENICI. The Senator is most welcome.

Mr. HARRY F. BYRD, JR. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Will the Senator from New Mexico give an example as to how that not less than 6 months nor more than a year would work?

Mr. DOMENICI. If the fiscal year was October 1, then you would go back 6 months to April, and you could use a 12-month period or a longer period prior to that. If more time between the base period and the start of the new fiscal year were considered necessary, Congress could end the base period as much as 12 months before the start of the fiscal year—on September 30 of the prior year, if the fiscal year started on October 1.

Mr. HARRY F. BYRD, JR. Or you could go back 1 year, did the Senator say?

Mr. DOMENICI. Yes.

Mr. HARRY F. BYRD, JR. Not more than 1 year or not less than 6 months?

Mr. DOMENICI. That is correct.

Mr. HARRY F. BYRD, JR. That seems reasonable. I thank the Senator.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. DOMENICI. I will yield in just a moment. I say to the distinguished senior Senator from Virginia that he might note that in my original proposal I prescribed even greater flexibility. In no event has it been my intention to allow Congress to change the base period willy-nilly. But I have agreed with the sponsors of the amendment that, while we want some flexibility, we ought to put some parameters around it so we do not have picking and choosing. It is fairly rigid, yet the needed flexibility is there.

Mr. HARRY F. BYRD, JR. It seems to me what the Senator worked out is reasonable.

Mr. DOMENICI. I am pleased to yield to the Senator from New York for a question.

Mr. MOYNIHAN. I thank my distinguished friend for doing so.

May I first say that I rise to congratulate him on the provisions of his one amendment, which were introduced at first as three separate provisions. I am particularly pleased to see he perceives the need for greater flexibility in the revenue formula in sec-

tion 2 of the resolution before us, in which the rate of increase in receipts is to be limited by the rate of increase in national income in the preceding calendar year. He now proposes to amend this provision.

As the Senator knows, it is my view—and I do not think I am alone in this matter—that one of the great problems of this constitutional amendment is the problem of definition. The Senator spoke eloquently to this matter on the first day of debate. It must be determined, "What do we mean by this, and what do we mean by that?"

Absent clear and explicit definitions in the amendment—now, I do not want to put words in the Senator's mouth—but he contemplated resort to the courts will be made, as he contemplated. This is the normal practice of American law, and of constitutional law not the least, when a question of interpretation of terms arises. What is due process? What is a "person" under the law? Recall the 14th amendment's long history of definitions.

The Senator refers to national income, and the period from which we will calculate its rate increase under this amendment. Does he, then, have in mind a definition of national income?

Modern economics offer at least four major propositions about what is national income. It has been debated from the very first time the idea appeared. Economists do not agree precisely where the idea first appeared in a general form. Certainly, it was present in Adam Smith's "Wealth of Nations." As a quantified proposition, it begins with the work of Simon Kuznets in the 1930's, in his development of the category of gross national product and his effort to quantify gross national product.

The notion of national income is deeply embodied in Keynesian economic doctrine; yet it always has been one open to the wide range of interpretations that economists can bring to very general ideas.

For example, an elementary course in economics almost invariably will explore the dimensions of net national product, which is closely related to national income. Now, the services of a housewife do not get counted in the net national product, while those of a housekeeper do. Therefore, if a man marries his housekeeper, the net national product may go down. Or, if a wife arranges with her neighbor for each to clean the other's house in return for $5,000 a year, the net national product would go up by $10,000. You inevitably enter into endless yet reasonable questions of definition.

Does the distinguished Chairman have in mind a specific definition of net national product or of national income?

Mr. DOMENICI. I did not think the Senator would ever get around to asking the quesiton.

Let me say to my good friend it is not terribly relevant what the Senator from New Mexico thinks the definition should be because the report that the Judiciary Committee submitted with this resolution, on page 49, says it right, although I would intend by additional history we establish here on the floor to make it even more certain.

On page 49 of the Judiciary Committee report, the following statement appears in the first full paragraph:

> The precise concept of national income is intended to remain subject to the discretion of the Congress. Currently reported concepts include Gross National Product, Net National Product, National Income, Personal Income, Disposable Personal Income, and Gross Domestic Product. Any of these may be chosen, as might some new measure determined by the Congress.

I say to my good friend, that is not the only definition that we are going to have to come up with to implement this constitutional amendment and to make it effective for the American people, the great American economy, and national fiscal policy.

I do have as part of my amendment, I say to my good friend from New York, a sense of the Congress resolution that clearly indicates that it is our collective sense that legislation to implement this article shall include, but not be limited to—and it proceeds to say—"definitions of terms and accounting procedures."

While I do not intend to burden this constitutional amendment with as many words on implementing legislation as I originally proposed, there is a sentence that I do propose to add as an amendment with reference to Congress implementing this constitutional amendment by legislation. I think that is what the question goes to. I do not think this is going to be all that easy, but neither do I think it should mean that we will not have a good series of laws passed. If the American people go through the trouble, as prescribed in that document called our Constitution, to amend it as proposed in this constitutional amendment, then I submit that Congress is not going to take that charge lightly. The first episode in drawing a statute, which includes definitions, the period of time, what national income is, what is a receipt, what is an outlay—all of those things and more will be under extreme scrutiny by the American people. The adversary process that takes place in this body and the other, and a President in years to come who will be watching when we adopt implementing legislation with his right to inject his prescription by way of veto, if he does not think Congress is doing it right.

So I am not terribly frightened by the fact that Congress has to provide definitions. As I said earlier today when the Senator was not here, I believe the purpose of this exercise in constitutional restraint is to change the bias that has existed for at least 25 years. I did not say congressional or Presidential. I said the National Government's bias for overcommitting and overspending. This constitutional amendment will shift the bias if the people go through the trouble of adopting it. There will be a prejudice in favor of restraint and concern for budget balance. That is why I think that at this time in history it is important that we adopt it.

Mr. MOYNIHAN. Will the Senator yield for a brief question?

Mr. DOMENICI. I have a few more comments to make, but I will yield, yes.

Mr. MOYNIHAN. I have seen the Senator from New Mexico struggling in this direction, and must ask him as an attorney—and a distinguished one—would he not agree with me that, where a phrase is entered into the Constitution, the U.S. courts are free to declare what that phrase means, and routinely do so—and frequently in the course of doing so, declare a contrary statutory interpretation by the Congress as unconstitutional? Does it not follow that, no matter what implementing legislation we may later enact, we have thrust the budget into the courts?

I do not ask the Senator to answer the last question; but I do ask him as an attorney, is it not the case that since Marbury against Madison, the courts have held that it is their right to decide what the Constitution says. And that they frequently do say the Constitution says something quite different from what the Congress by statute has interpreted it to say?

Mr. DOMENICI. Let me say to my good friend from New York that he is far too complimentary of the Senator from New Mexico in terms of my legal expertise. While I am a lawyer, in all fairness I have had limited constitutional experience. I have however, discussed the matter of judicial review with the distinguished Senator from Washington, Senator GORTON, who will address this issue at length in a subsequent amendment. It appears to me that the U.S. Supreme Court has, from time to time, changed its views on what is a political decision and what is constitutional. But it is the understanding of the Senator from New Mexico that what Congress intends is that the Supreme Court certainly would interpret to see whether we have faithfully implemented this amendment. When it comes to substituting the Court's interpretation for ours on a definition, or what is a fiscal year, or what are receipts, and what is the content of the statement, then I believe that it would be chaos for this country if those kinds of issues end up

being determined regularly by any court. I am confident that is not going to happen.

I do not know that I am going to support the amendment of the distinguished Senator from Washington, but I do think he will raise the issue and talk very seriously about what we have learned in the past 8 or 10 years about the Supreme Court and its putting itself into legislative issues in ways that many did not contemplate when other amendments to the U.S. Constitution passed.

Mr. MOYNIHAN. May I just conclude by thanking the Senator. I look forward to Senator GORTON solving this problem, as I have now heard the Senator from New Mexico declare that if the Court begins to interpret these terms, chaos will result.

Mr. DOMENICI. I believe that could happen.

Mr. MOYNIHAN. Chaos, indeed, is what we are going to get under this amendment.

Mr. DOMENICI. But that does not mean we should stop amending the Constitution. The Supreme Court has become involved in interpretation that Congress did not contemplate when it approved many of the earlier constitutional amendments, but that does not mean that Congress should not have passed them.

I yield to the Senator from Iowa for a question.

Mr. GRASSLEY. I think that the discussion that we just witnessed raises some very relevant points. Even if the Supreme Court were to be involved in defining national income or in establishing the base unit for measuring growth of national income, the important thing is that that specific measure be used consistently. I do not believe that the Supreme Court will be involved in this matter to any great extent.

But even if the Supreme Court were to make such determinations, the critical point is that these measures are not manipulated by a future Congress. It does not matter whether the time unit is 1 year or 2 years or 3 years. It is imperative that once that determination is made that Congress measure against that benchmark on into the future—I think that is the important consideration.

Mr. DOMENICI. I say to my good friend that the fact is that Congress is going to have to pass some very difficult enabling legislation to carry out the purposes of this amendment. Congress could indeed attempt to get around it by the laws that it passes—and the Senator and I would acknowledge that that may be the case. We certainly cannot stand here and say they will not, that that is not a possibility. I do not think that means, as some are saying in the country, that perhaps we ought not to pass it. That is what a democracy is about. The people of this country are going to know, from the first set of enabling laws we pass on this, whether or not we are playing games or are serious.

If we choose to have more than 1 year as the measure of a budget, are we doing it with some consistency or some real goal or objective of getting control over the expenditures of our Government or not? That is going to be, in the best sense of the word, a true test of the legislators of this country either doing what people have asked or seeking to avoid it. I do not think people of this country collectively are going to let us get away with anything but a sincere effort in trying to put into effect the laws to carry this amendment out, once the people of America have adopted it.

I know my friend from Florida wants to speak. I have about 5 minutes, then I shall be through and yield the floor. For purposes of measuring my time, Mr. President, I yield 5 minutes to myself.

A second problem with section 2 of the constitutional amendment as it now stands is that the formula for calculating revenue growth is not a complete formula. Section 2 establishes how to obtain the percentage by which revenues will normally be permitted to grow. It does not specify what estimate of receipts for the current fiscal year the growth percentage will be applied to in order to establish the maximum revenues for the upcoming fiscal year.

In the report of the Judiciary Committee, a sample formula is presented which indicates that it was the intent of the drafters that the receipts provided for in the latest budget statement for the current fiscal year be the starting base for calculating maximum receipts for the coming fiscal year. I do not believe it is likely that Congress would be willing to establish the ceiling on receipts in the way the Judiciary Committee report suggests.

Let us take our most recent experience as an example on this point. Last year, in the first budget resolution for fiscal year 1982, Congress established a revenue floor of $658 billion for fiscal year 1982. In the budget resolution passed just last month, the fiscal year 1982 revenue figure was revised downward to $628 billion, a reduction of $30 billion from the estimate approved last year. Had the constitutional amendment been in effect, I do not believe Congress would have been willing to calculate fiscal year 1983 growth in receipts using an estimate of fiscal year 1982 revenues that was 1 year old and rendered inaccurate by later events.

What I am suggesting is that it is necessary to pin down by statute which estimate of revenues for the current fiscal year will be used in calculating the maximum revenues for the upcoming fiscal year. By amending section 2 in the way we are doing and having this discussion here on the floor, we are laying the ground work for having procedures for establishing the permissible growth of receipts spelled out in the implementing statute in a somewhat different way than the Judiciary Committee report contemplated.

The third problem with section 2 as it now stands is that it would preclude Congress from changing the Federal fiscal year to correspond to the calendar year. Senator ROTH and others have proposed that that be done. I see some merit in the idea given the fact that Congress is more and more on a 12-month schedule.

I am sure the drafters of Senate Joint Resolution 58 did not intend to preclude shifting the fiscal year to a calendar year. The reason the amendment would do that is a fairly technical one but is real nevertheless. The constitutional amendment as it now stands states that the growth of national income in the last calendar year ending prior to the fiscal year for which the budget is being prepared shall be the basis for growth of receipts in the coming fiscal year. The calendar year of course ends on December 31. If the fiscal year began on January 1, it would be literally impossible to have available the actual national income data for the last calendar year at the time the budget was being prepared. After the constitutional amendment is ratified, the budget statement for the upcoming fiscal year will need to be prepared several months prior to the start of the fiscal year—much as the first budget resolution is now. At that time, nothing but rough estimates of the national income growth in the current calendar year is available. If the fiscal year and the calendar year were the same, it would be a physical impossibility to carry out the terms of the amendment as it now stands.

The change we are proposing will replace the reference to "last calendar year" with provision for using the average annual increase in national income in the "year or years ending not less than 6 months nor more than 12 months" before the fiscal year for which the budget statement is being prepared. This will leave the flexibility to adopt any fiscal year Congress and the President may decide is appropriate, as well as flexibility on choice of the period for measuring national income growth. The only limitation is that the period must end not more than 12 months and not less than 6 months prior to the beginning of the fiscal year for which the budget statement is being prepared. This is to make it clear that the period to be used must be a recent one, but not so close to the upcoming fiscal year that good actual data are not available.

The change to section 2 included in the amendment I have offered will resolve satisfactorily all three of the problems I have described.

The third of my amendments addresses the need for recognizing that implementing legislation is essential. The third change proposed by the pending amendment is the addition of a new section—section 5—stating simply: "The Congress shall enforce and implement this article by appropriate legislation."

The Judiciary Committee recognized that implementing legislation would be necessary since the constitutional amendment sets out broad principles and would not be self-executing. The Judiciary Committee felt it was unnecessary to state in the constitutional amendment itself the requirement for implementing legislation since Congress and the President already have the constitutional obligation to see that all of the Constitution's provisions are carried out.

The distinguished Senator from Florida (Mr. CHILES) and I feel very strongly that it is important to state in the constitutional amendment the requirement that there shall be implementing and enforcement action by Congress. Provisions have been included in many recent constitutional amendments confirming the power of Congress to enforce the provisons by appropriate legislation. Confirmation that Congress must enforce and implement is essential in this case because of the fact that detailed implementing legislation and procedures will be an essential supplement to the constitutional amendment.

I initially thought it prudent to include in the provision to be added to the constitutional amendment specific mention of the key areas in which implementing legislation would be needed. I have become convinced that this is not necessary so long as very strong and very clear legislative history is established about the minimum content of implementing legislation.

To help provide that very strong and very clear legislative history, the pending amendment would add to Senate Joint Resolution 58 a sense of the Congress provision. This provision would be in the resolution, but would not be part of the constitutional amendment. It would not be submitted to the States for ratification.

This provision specifies five areas in which implementing legislation will be necessary, and makes clear that these are not necessarily the only aspects of implementation on which there will need to be legislation.

Let me mention each of the five areas and comment briefly on why implementing legislation is needed in each of them.

The first area in which legislation will be needed is in spelling out procedures for development and adoption of budget statements. It will be necessary to establish a timetable for preparing budget statements, to prescribe the content of the statements, to provide procedures for amending the statements, and to flesh out numerous other details.

A second area in which legislation will be needed is in defining relationships between the budget statements and overall procedures for development and adoption of the budget. It will be necessary to specify in legislation how the President's budget proposals will feed into the process of developing the congressional budget statement. Likewise, the way the budget statement fits into the overall congressional budget process, the relationship to reconciliation procedures, and the interactions between the development of the budget statement and the authorizing and appropriations processes will all need to be specified in implementing legislation.

A third area in which implementing legislation must flesh out the details is the procedure for establishing the maximum receipts which may be included in a budget statement without a change in the tax laws.—It will be essential to spell out in legislation the definition of national income to be used in implementing the constitutional amendment. Likewise, the period of time to be used in measuring national income growth will need to be specified in legislation.

A fourth area to be covered in implementing legislation is the waiver procedure under section 3. For example, how do the revenue growth and balanced budget requirements operate when a declaration of war is terminated? The report of the Judiciary Committee suggests a way of determining the base periods for national income and revenue growth when a waiver is terminated. I believe this should also be addressed in implementing legislation.

A fifth area also to be covered in implementing legislation are definitions of terms and accounting principles to be used in implementing the constitutional amendment. For instance, consistent with section 4 of the constitutional amendment it will be necessary to have clear definitions of the Federal activities to be scored as outlays and the income to be counted as receipts. Even the fiscal year to be used will be subject to redefinition by legislation. Growing numbers of both Houses are now calling for a 2-year budget and appropriation cycle. That debate could very well lead to a decision to change—or even to lengthen—the Federal fiscal year.

Mr. President, with the changes I have outlined I will be an enthusiastic supporter of the pending constitutional amendment. I will not repeat now the reasons I have decided to support this amendment. I laid those out in my July 13 floor statement. With the changes I and the other cosponsors of this amendment are now proposing, I am convinced that the constitutional amendment will be workable and that it will make a big difference—for the better—in the shape of future Federal fiscal policies. I urge adoption of the amendment.

Mr. President, I note that the distinguished senior Senator from Florida (Mr. CHILES) is in the Chamber. It is obvious from my statements here today that he is one of the prime cosponsors of the three amendments and the language of resolution indicating what we intend by way of implementing legislation.

I thank him for his kind help in preparing the amendment and in gaining support for it and for his support on other issues we have had with reference to the constitutional amendment up to this point.

Mr. CHILES. Mr. President, I am pleased to join Senator DOMENICI in offering this amendment. I compliment him on the work he has done, because I think the amendment makes important improvements in Senate Joint Resolution 58, the constitutional amendment to balance the budget.

I say to my good friend from New Mexico that it is in anticipation of passing this amendment that I have decided to become a cosponsor of Senate Joint Resolution 58.

Mr. President, I want to start off by complimenting the managers of the bill—Senator THURMOND, Senator HATCH, and Senator DECONCINI—who have shepherded it along to this point, where amending the Constitution to require a balanced budget has become a reality rather than a distant goal. They performed a service to the Nation that will long be remembered. I would also like to thank them for working with us to come to agreement on this amendment. I think we all agree that it makes some significant improvements while retaining the overall structure of Senate Joint Resolution 58.

I would like to highlight the enforcement provision of our amendment, which was drawn from the amendment which I introduced earlier. I believe that omission of an enforcement procedure was the major flaw of Senate Joint Resolution 58 as originally drafted. The public has had too many empty promises about balanced budgets, and I think they are fed up with those promises.

Some people have argued that under the "necessary and proper clause" (article 1, section 8), Congress has the overall authority to enact legislation to implement the constitutional provision, and that Senate Joint Resolution 58 adds the duty to balance the budget. All too often, however, Congress has failed to meet its duty. We

have sufficient authority right now to produce a balanced budget, but we do not have the political will to do so. That is why we believe the extra discipline of a constitutional amendment is required.

Our amendment, therefore, adds a new section 5. It says, simply and directly, "Congress shall enforce and implement this article by appropriate legislation." Not "should enforce," or "may enforce," or "shall have the power to enforce," but "shall enforce and implement."

The phrase "shall enforce and implement" was drawn carefully.

Implementing the article refers to setting out definitions and procedures for the annual requirement of adopting a statement of outlays and receipts.

Enforcing the article refers to tying the levels of outlays and receipts in the statement to the actual spending and taxation decisions which Congress makes each year. We make this clear in the section of the resolution added after the constitutional amendment. We say there that the legislation to implement this article shall include both procedures for developing and adopting the statement of receipts and outlays, and also procedures concerning "the relationship between the statement and the overall procedures for development and adoption of the Federal budget." That makes it clear that we must "close the loop" and make our entire budgetary process consistent with the requirement for a balanced budget and reduced level of taxation set forth in the constitutional amendment. The amendment will no longer be open to the objection that Members can vote for the principle of a balanced budget, then vote against the laws necessary to make it happen. I would also like to clarify that this new section 5 does not expand the powers available to Congress under the Constitution. Rather, it insures that these powers will be brought to bear on conforming the budget process to the overall strictures of this article. The key to enforcement is to enforce these limitations upon the multitude of spending and taxation decisions made by Congress and its committees.

Mr. President, to clarify the legislative record, I would like at this point to engage in a brief colloquy with the distinguished chairman of the Subcommittee on the Constitution, Senator HATCH, who has played a key role in developing Senate Joint Resolution 58 and guiding it toward passage.

First, I would like to ask if the distinguished Chairman, agrees that by adding the new section 5, we require Congress to adopt legislation both to implement the balanced budget procedures, and to enforce that its actual budgetary decisions regarding taxes and spending conform to the levels set forth in the annual statement of receipts and outlays, and conform to the tax limitation guidelines of section 2?

Mr. HATCH. Mr. President, I believe that the distinguished Senator from Florida, who has played an important role in the development of these provisions, is correct. Under article I, section 8 of the Constitution, Congress has the general authority to enact laws necessary and proper to carry out its specific constitutional authorities. The new section 5 specifies, further, that Congress is expected to exercise its authority under article I, section 8 to establish means for the effective implementation and enforcement of the proposed amendment. This clarifies and punctuates what I believe is implicit in sections 1 and 2 of the amendment. It makes as clear as we possibly can that there is a heavy burden upon Congress to insure that this amendment is given genuine effect. The Senator from Florida is also correct, in my opinion, when he emphasizes the importance of both the words "implement" and "enforce". Congress will be under clear obligation to conform its budgetary procedures with the requirements of the new constitutional provision. While the President will have similar responsibilities derived from article II of the Constitution, Congress will clearly be required, in my view, to establish by legislation how it proposes to abide by the dictates of the amendment.

Mr. CHILES. I thank the chairman.

I wish to ask the chairman to also confirm my understanding of the change our amendment makes to section 1.

The Judiciary Committee report stated that no new Presidential power with regard to impoundment of funds for spending control was created by Senate Joint Resolution 58. However, the last sentence of section 1 seemed to open the door to such an expansion of Presidential power. Does the chairman agree that the language we have added clarifies that actions by Congress and the President to insure that actual outlays do not exceed outlays in the statement, shall only be in the form of legislation or other existing powers such as the President's veto authority? Since the Supreme Court has previously ruled that the Constitution provides no implicit impoundment authority, the reference to "exercise of their powers under the first and second article," does not imply any impoundment authority.

Mr. HATCH. The Senator is absolutely correct. There has never been any intent on the part of the drafters of this amendment to establish impoundment authority of any kind in the executive.

My friend from Florida and others, however, have felt that this issue was so important that it should be further clarified. I respect their judgment in this regard and support this clarifying change.

I repeat again—it is the intent of this amendment that the President not be invested with impoundment authority by its provisions but only that the President be possessed of whatever authority he derives from article II of the Constitution, no more and no less.

The Senator from Florida, my good friend and colleague, is to be commended for his attention to this important issue, I personally express my gratitude to him for working as hard as he has on these amendments so that we can clarify some of these issues that have bothered a significant number of our colleagues.

Mr. DECONCINI, Mr. President, will the Senator from Florida yield?

Mr. CHILES. I yield.

Mr. DECONCINI. I add my thanks to the expressions of the Senator from Utah. I felt in working on this in the Judiciary Committee it was clear, but many of us do get too close to the forest to see the trees perhaps, and I think the Senator's amendment indeed clarifies it. There never was and certainly could not be spelled out any more distinctly that there is no impoundment authority vested here implied or otherwise.

I thank the Senator from Florida and agree with his observation.

Mr. CHILES. I thank both the distinguished chairman and the ranking minority member and compliment both of them again on their service to the Senate and the Nation in developing this vital amendment to the Constitution.

Mr. President, let me say that the last thing the country needs now is another constitutional crisis like the one we had back in the early 1970's when President Nixon tried to claim an implicit constitutional power to impound funds. It took years of litigation to resolve some of the legal disputes and many programs were disrupted in the mean time.

We clearly need some greater controls on spending and I am going to outline my proposed legislation later in this statement. Some people have proposed giving the President greater authority to withhold funds. I happen to disagree with that approach, and I will propose other methods which I think will be far more effective. But whatever approach we take ought to be carefully worked out in legislation. We ought not to put some pregnant phrase in the Constitution from which later officials may attempt to extract some progeny we did not clearly conceive. With the Domenici-Chiles amendment, we have narrowed the final sentence of section 1 to restrict Congress and the President to their current powers over spending and taxation.

I believe this colloquy with Senator HATCH and Senator DECONCINI has clearly established that Senate Joint Resolution 58 as amended makes no change in the current relationship among the three branches of Government.

Mr. President, while giving the President impoundment authority may seem appealing at first glance, I do not think many people have really thought through what impoundment would do to our democratic process.

There is a popular image Congress sitting here voting money for one or another special interest, for some fatcat lobby, while the President stands aloof and protects the national interest. While certainly there are some special interest votes, that is not mostly what goes on here. Mostly, Members of Congress, particularly those of us on the Budget and Appropriations Committees, spend many hours hearing local people tell us what programs are working and which can be cut. We meet with local school board members, citizens concerned about particular road or bridge projects, farmers who tell us what is happening with certain plant and animal diseases. Congress is the route for the average citizen to be heard on how the Federal Government spends their taxes. The staff of the OMB, or of the executive agencies' budget offices do not have those kinds of meetings. Yet that is who really determines impoundments. Those of us on the Appropriations Committee know that the major decisions, the ones that go to the President's desk, like the MX missile or social security, are not subjects of impoundment. Impoundments mostly deal with $10 million, $50 or $100 million decisions. While these are significant sums of money, they are far from the multibillion-dollar decisions on tax cuts, social security, and national defense which really determine what the deficit will be.

I have therefore opposed giving the President impoundment authority, because to do so would cut the public out of the decisionmaking process on Federal spending and go against what the founders of our country had in mind when they gave Congress the power of the purse in our Constitution.

Mr. President, I would like to add at this point that while I found the previous amendment by Senator FORD very appealing, I voted against it because of my concern to preserve our constitutional system of checks and balances. Right now, Congress has the preeminent role in taxing and spending, subject to the President's powerful veto authority. The President's budget is not now a constitutional matter—it is a proposal to Congress, submitted pursuant to legislative mandate. The Ford amendment would have given the President's budget a preeminent constitutional status. I believe that is something that we should not do, and I believe that when we adopt the implementing legislation to enforce this constitutional amendment, then we should require the President to submit a balanced budget, like we did back in 1979, but that should remain a matter of statute, not of constitutional authority.

Mr. President, I also wish to comment on some other aspects of Senate Joint Resolution 58 and our amendment to it.

The tax limitation provisions of section 2 are a critical part of the amendment. I have long been in favor of tax limitation. The Nunn-Chiles-Bellmon tax and spending reduction amendment to the 1978 tax bill was the first multiyear tax cut to pass the U.S. Senate. However, we made each year's tax cuts dependent on balancing the budget and holding outlays to a declining percent of gross national product. Senate Joint Resolution 58 made a major improvement over earlier proposed constitutional amendments which would have allowed the budget to be balanced by inflating up tax revenues. However, I have been concerned with writing a specific annual percent tax limitation formula into the Constitution.

In particular, under many circumstances, the particular formula specified in Senate Joint Resolution 58 could have been procyclical on the tax side. That is, it would cause tax receipts to be raised during a recession, aggravating unemployment. Conversely, it would require tax revenues to be cut during the year of rapid growth that typically follows a recession, which would aggravate inflationary pressures. I am sympathetic to the committee's desire to move away from economic projections, which introduce uncertainty and provide a temptation to juggle the numbers. The Domenci-Chiles amendment therefore keeps the system of basing the annual allowable percentage of revenue increase on actual prior-year data. However, we allow the use of several years of data, which would average out the effects of the economic cycle, and give a more stable base to the revenue guidelines.

Another concern that has been raised is whether the language of Senate Joint Resolution 58 opens up the possiblity of taxpayers' lawsuits, giving the judiciary a new role in directing budgetary activity. The committee report speaks at great length about the difficulty of obtaining standing to sue under this amendment, and the likely reluctance of the courts to take on political issues, stating that, "the amendment will be largely self-enforcing and self-monitoring." I would like to point out that our amendment, by requiring that "Congress shall enforce and implement this article by appropriate legislation," Makes it even more clear that we expect enforcement and implementation to be the job of Congress and legislation, not of courts and lawsuits. Coupled with our amendment to the last sentence of section 1 which restricts the President's role to that of executing legislation adopted by Congress, this amendment should make it clear that we do not intend to make any changes in the existing separation of powers among the three branches of Government.

PROPOSED ENFORCEMENT METHODS (BUDGET ACT AMENDMENTS)

Mr. President, there are many different ways that the Budget Act could be amended to enforce the new constitutional requirement for a balanced budget at a limited level of taxation. I have introduced one set of amendments to achieve this goal: I am sure other Members will introduce their own suggestions. I want to briefly describe my package of amendments at this point, so that Members and the public can see that enforcement is possible.

The key provisions of my package are:

First, require budget resolutions to show a balance of outlays and revenues;

Second, require a "payback" surplus to pay back any deficits incurred during a recession or other time that the waiver provision is involved. This will prevent the tendency to squeeze in permanent new spending programs when a recession makes a waiver necessary and keeps the national debt from being increased.

Third, require a temporary tax surcharge in the year after any "unanticipated deficits." This will offset the temptation to balance the annual statement by overoptimistic economic or estimating assumptions;

Fourth, codify "reconciliation" on the first budget resolution as a "deficit reduction bill";

Fifth, require that any year for which the current law outlays exceed current law revenues, there shall be a "deficit reduction bill" of sufficient magnitude to eliminate the deficit;

Sixth, define a method for limiting taxes and outlays as a percent of gross national product;

Seventh, prohibit offbudget spending;

Eighth, make 5-year budget limits binding, to prevent new entitlement spending from being adopted at a low cost, then ballooning in later years.

These provisions are consistent with the provisions of Senate Joint Resolution 58, and I hope the enforcement requirement which we have added in our amendment will give us the impetus to move ahead in the coming year. I think it would certainly be a good idea for Congress to get used to new procedures before the constitutional amendment actually takes effect.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank the Chair.

Mr. President, I have listened with great respect and attention to the statements by the Senators from New Mexico and Florida. I rise not in opposition to anything they have said, because I have already stated I will vote for this amendment. It attempts to deal with defects and difficulties that I believe are insuperable. But at least it does recognize certain defects and at least attempt to deal with them.

Mr. President, this goes to the question of what we actually do know and can know about economics. As I have said before, this amendment incorporates algebra into the Constitution. But it does far more than that. It requires us, under pain of constitutional avoidance or violation, to make statements which a responsible person concerned with the political economy simply cannot make.

Some little while ago—January 24 of this year—Mr. Walter Wriston, the distinguished chairman of Citibank and one of the leading bankers of our country, appeared on the television program "Face the Nation." He offered this definition of the budget deficit:

> The budget deficit, as you know, is the intersection of two guesses a year out-in-time. Insofar as I know, no one has ever hit a Federal deficit within a few billion dollars. When you get out 2 years they are almost useless, because a lot of things will happen between now and then.

Mr. President, just as an example of some of the things that might happen, I take the liberty of quoting from the highly regarded and widely renowned American political commentator, Mr. George F. Will. Mr. Will suggested a number of other amendments to add to this already too-long amendment in order, in his view, to have it make any sense; I quote him. He said:

> Floods and hurricanes and other acts of God that wish to occur during the next fiscal year must register with OMB 6 months before the fiscal year begins so Congress can know that relief spending shall occur.

Next he said:

> Agricultural commodities covered by price supports must inform the Agriculture Department if they are planning to materialize in inconvenient quantities in the next fiscal year.

Next he said:

> Anyone planning to need unemployment compensation in the coming fiscal year must notify the Labor Department.

And finally he said:

> Before causing crises, tiresome foreigners must notify the U.S. Defense Department of any effects their crises will have on U.S. defense spending.

Now, this is meant in the high and happy tradition of irony, but it speaks to the most profoundly serious matter. It says:

> Do not tamper with something so fundamental to the Republic as the Constitution. Do not require of the Congress that which the Congress cannot do—which is to make accurate forecasts with respect to these matters.

It is not within our powers to know the future, and it is the future that controls the precise levels Federal receipts and Federal outlays—which this amendment would bring to precisely balance.

Mr. President, just this morning our good friend and distinguished congressional servant—and I am sure she would recognize that as the term of honor it is intended to be—Dr. Alice Rivlin, presented the Congressional Budget Office's new preliminary forecasts for the budget deficits for fiscal years 1982 through 1985.

As Senators know, the first budget resolution for fiscal 1982 estimated a 1982 budget deficit of $76 billion. The CBO has now reestimated it at $111 billion.

The first budget resolution for fiscal 1983 projected a deficit in 1983 of $103.9 billion; the new CBO estimate is $141 billion to $151 billion, a range of $10 billion being the most narrow the Budget Office would attempt at this time.

Finally, for fiscal 1984—for which the first budget resolution we recently adopted projects a budget deficit of $60 billion—the CBO's current deficit estimate is $143 billion to $158 billion, a $15 billion spread and more than $80 billion more than we projected less than 2 months ago.

Clearly these deficits suggest a crisis in American fiscal management. Clearly, they require us to address matters such as monetary policy, as well as fiscal policy, and our recent budget resolution proposed that we do. But just as clearly it states to us that we are involved here in an effort which the Washington Post described this morning as having a dreamlike quality.

We did not come to the U.S. Senate to be dreamy about the Constitution. Some persons use harder language. Mr. George F. Wills' column is entitled "Balanced Budget Hoax." He refers to the fact that this amendment comes to us from an administration that has neither produced a balanced budget nor at this point even contemplates one in the course of its elected term. Instead, it has proposed the highest deficits in our Nation's history.

Mr. President, I ask unanimous consent that Mr. Wills' column be printed in the RECORD. I also ask unanimous consent that the Washington Post editorial on the constitutional amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, June 25, 1982]

BALANCED BUDGET HOAX

(By George F. Will)

God, preparing condign punishment for hot air emitted in support of humbug, turned the temperature up to 90 the day the president addressed a rally for a constitutional amendment to require balanced budgets. The rally to make government—that questing beast—obedient to "the people" was for people with tickets. A ticket to a rally for an amendment to "require" balanced budgets calls to mind the invitation a Lady Colfax issued, after the First World War, to a luncheon to "meet the mother of the Unknown Warrior."

But members of the sainted public could get tickets. Red tickets were for employees of the Republican National Committee and high-level employees of the—if you'll pardon the expression—government. They got to sit smack in front of the president. Blue tickets allowed lesser government employees to sit farther back from Himself. White tickets, handed out on the streets, put plain people, to whose salvation the rally was dedicated, at the rear.

Behind the president, stewing like prunes in their juices, were congresspersons and senators, some of whom sincerely support the amendment for which they were rallying. Legislators who did not feel ill-used obviously were properly used as applauding props.

Washington's air this season is thick with humidity and hoaxes, such as nuclear "freezes" that won't freeze anything, and "flat rate" tax programs without flat rates. So what is one more hoax among friends? This hoax—this trivialization of the Constitution—is, simultaneously, a confession of political incompetence and an assertion of intellectual mastery—mastery not noticeable in the results of recent economic policies.

At precisely the moment when economists are especially bewildered by the inability of their theories to encompass events, politicians, running for cover from the electoral consequences of their activities, are proposing to constitutionalize an economic doctrine. They would graft something evanescent onto something fundamental.

Under the amendment, Congress would be required to adopt, prior to each fiscal year, a statement of receipts and outlays, the latter not to exceed the former. But such economic numbers are estimates made of warm taffy, all gooey and stretchable.

Neither clairvoyance nor candor can be counted on in Congress or the Office of Management and Budget. So who will enforce what on whom if—when—the numbers are significantly wrong? Will the president control outlays by impounding appropriated funds? Will courts superintend the appropriations process?

If the latter, will every taxpayer have standing to sue? No one can know until courts speak. And they will speak, because the amendment does not stipulate that controversies under it are not reviewable by courts. Were that stipulation made, the amendment would become a recipe for paralysis and lawlessness.

The amendment says that total receipts in any fiscal year may not be set to increase at a rate faster than the rate of increase of national income in the previous calendar year. The implication of this is that whatever else the government has recently got wrong, the current ratio of federal spending to national income is just about right.

But, then, the amendment would allow Congress to change this ratio by a simple majority vote. And by a three-fifths vote, Congress could authorize a deficit—which is what Congress has been doing for generations. So, to enable current incumbents to strike a pose, some incumbents want to clutter the Constitution with an amendment that might be, in practice, 98 percent loophole. It would be that, unless the political culture and congressional mores changed substantially, in which case the amendment would be beside the point.

The amendment is long, but should be longer. It depends on Congress' making precise projections, so it should contain 1,000 more clauses, four of which are:

Floods, hurricanes and other acts of God that wish to occur during the next fiscal year must register with OMB six months before the fiscal year begins, so Congress can know that relief-spending shall occur.

Agricutural commodities covered by price supports must inform the Agriculture Department if they are planning to materialize in inconvenient quantities in the next fiscal year.

Anyone planning to need unemployment compensation in the coming fiscal year must notify the Labor Department.

Before causing crises, tiresome foreigners must notify the U.S. Defense Department of any effects their crises will have on U.S. defense spending.

And . . . oh, yes; I love lobster, and own elm trees. Could Congress please require lobsters to grow on elm trees?

Sorry; I digress. It must be the heat.

[From the Washington Post, July 27, 1982]

SO YOU WANT A BALANCED BUDGET . . .

There is so much impassioned support for the balanced budget amendment—fiery rhetoric in Congress, a presidentially led rally on the Capitol steps—that you have to assume both the president and Congress really wish that such a constitutional mandate were already in force. (Surely they wouldn't wish something on their successors that they're not willing to live with themselves?) The question, then, is this: what would happen if Congress were to pass the amendment, and 38 state legislatures, eager to support this noble cause, rushed into special session and ratified it?

Well, look out. Closing the deficit would require cutting spending—or raising revenue—by at least $260 billion over the next three years, and possibly much more. This would be in addition to the $380 billion in deficit reduction measures that Congress is already painfully trying to enact just to get the deficit headed downward. Let's look at some of the choices Congress would have to make.

The easiest part of the budget to cut is usually the so-called "discretionary" domestic programs. These are mostly grants-in-aid to states for things such as pollution control, education, health and urban development. But these programs recently took huge cuts and are slated for $35 billion in further reductions over the next three years. In any case, the proposed constitutional amendment prohibits placing new fiscal burdens on states, so it's not clear that it would allow even the cuts in these programs that are already planned.

Another way to save the needed money is called "going after the entitlements." These are programs that more or less assure certain people, such as the poor or aged, of certain benefits. The trouble is that the programs that most people wouldn't mind cutting—welfare and food stamps—are small items in the budget, and they are already due for very big cuts.

That still leaves the big pension programs—Social Security, Medicare and military and civil service pensions. But Congress already plans politically risky curbs on all of these except Social Security. Even if Congress were to work up the courage to cut Social Security benefits, you'd have to cut benefits almost in half to get the needed savings. Not only is this out of the question, but, since Social Security is funded by an earmarked payroll tax, the funds shouldn't be used to cover other programs anyway.

That leaves defense. Even with the cutbacks voted in the budget resolution, it's worth noting that planned increases in defense spending will absorb all of the growth in general revenues over the next few years—and then some. This is why the deficit is so big even with cuts in other programs. But Congress has been busy in recent weeks voting for every big-ticket item the Pentagon wants so that there is little reason to expect it would be willing or able to make hard choices in this area.

As for raising taxes, Finance Committee Chairman Robert Dole has found little enthusiasm—and only a bare margin of Republican support—even for going after tax cheats.

This is why there is a day-dreamish quality about the current enthusiasm for a balanced budget amendment—a childish wish by Congress that if it were just forced by some outside power to do "what's right," all the real and urgent difficulties would fade away. That's not only foolish; it also distracts attention from the practical efforts being made by congressional leaders to get the deficit under control—efforts that are far more deserving of administration and congressional support than the pious and fatuous hopes embodied in the balanced budget amendment.

TELL IT TO THE JUDGE

A number of sound arguments have been raised against the constitutional amendment to require a balanced budget besides the fact that no one (see above) has a clue how to achieve this noble goal. The amendment does not permit the flexibility government needs to adjust to different economic conditions. It tends to discourage honest budgeting and gives Congress and the administration an incentive to phony-up the numbers, so they can say there is no deficit when in fact there is. And there is the irony that this amendment is proposed by a president who has been unable to present a budget that is balanced for this year—or for any year in the foreseeable future.

But for those who find these arguments unpersuasive, let us advance another, in the hope that it might lead them to show the caution that is appropriate when alterations in the Constitution are proposed. It is this: the constitutional amendment purporting to require a balanced budget would be an open invitation to the courts to intervene in the budgetary process—a process that even the most activist courts heretofore have left pretty much alone.

To understand why the courts would intervene, consider some of the language in the amendment, and ask whether or not reasonable people might interpret it differently:

"Prior to each fiscal year, Congress is required to adopt a statement . . . in which total outlays are no greater than total receipts." Economists and budget analysts will always disagree on what should be counted as "outlays" and "receipts"; remember the fuss last year when David Stockman proposed that certain "off-budget" items should be included in the budget? If the amendment is ratified, such disputes might end up in court.

"The Congress and the president shall ensure that actual outlays do not exceed the outlays set forth in such statement." Who is supposed to enforce this? The local sheriff? There is undoubtedly a federal judge somewhere willing to try.

"Total receipts . . . shall not increase by a rate greater than the rate of increase in national income." National income is an even more elusive concept than government outlays or receipts. It is determined by statistical methods, about whose validity reasonable people can and do differ. Perhaps taxpayers who feel that the government's receipts and their own taxes have increased more rapidly than this clause allows would have standing to sue. Could a court then order taxes lowered? Which taxes? By how much?

"The Congress may not require that the states engage in additional activities without compensation equal to the additional costs." Anyone familiar with the assiduousness with which states lobby for greater federal aid and sue when they have the slightest hope of getting more will recognize that this clause will be the subject of hundreds of lawsuits. States will argue again and again that their "compensation" is not equal to "additional costs" or that activities are "additional." The courts will decide whether they are right.

We find it odd that so many conservatives who have inveighed against judicial activism are supporting a constitutional provision that would spawn so much litigation over undeniably political issues—how the government raises and spends money. We wonder if they have reflected on the fact that most of the sitting federal judges were appointed by President Carter, and that there are among their number many whom conservatives would consider dangerous judicial activists. It is possible to imagine misguided lower court decisions that, though ultimately overturned, could in the meantime change congressionally established policy on taxes, defense and domestic spending. Is this what the president and others who rejoiced at the results of the 1980 election want?

Mr. MOYNIHAN. I particularly call the attention of the distinguished Members of this body to the second part of the editorial, entitled "Tell It to the Judge."

Mr. President, there will be no way for our high courts to avoid interpretating the extraordinarily disputed, ambiguous and necessarily difficult terms of this amendment.

I hope we will show prudence. I hope we will recognize that the Congress must produce a balanced budget out of its own internal determination of the national need, and that only political will can bring it about. We cannot conjure it up through language. In the process of trying to do so, we will not only confuse and debase the Constitution, we also will further embroil the courts of our Nation with the executive and legislative branches. And in ways that threaten not just chaos—and "chaos" is the term chosen by the

distinguished Senator from New Mexico—but stalemate as well, which is as dangerous.

Mr. HATCH. Mr. President, as the distinguished Senator from New Mexico, Senator DOMENICI, has noted, the amendment that he is now offering has been developed in conjunction with the floor managers of the proposed constitutional amendment. I will dwell at greater length with the substance of this amendment momentarily, but I would like to express my admiration to the principal proponents of this amendment, the Senator from New Mexico and the Senator from Florida, Senator CHILES, for their efforts in its behalf. Although there has been some disagreement on whether or not the matters addressed in this amendment were already adequately addressed in Senate Joint Resolution 58, there has been absolutely no disagreement on the policies reflected by the amendment. Because the amendment deals with matters of paramount importance—impoundment, implementation—the managers of Senate Joint Resolution 58 have concluded that it is important to clarify these as well as possible. I believe that the immediate amendment achieves that clarification, and I rise in support of it.

I do, however, have one serious reservation about the structure of the proposed amendment, as opposed to its substance. The amendment would not only effect changes in the body of the proposed constitutional amendment, but it purports to add a separate resolution to the body of the pending joint resolution. I believe that there may be both parliamentary, and even constitutional, difficulties with doing this.

Under article I, section 7 of the Constitution, all legislation—including all joint resolutions—must go to the President for his signature. There is one important exception to this rule—joint resolutions which propose amendments to the Constitution. Under article V of the Constitution, such joint resolutions do not go to the President, but go directly to the States for ratification. See Hollingsworth against Virginia, 3 U.S. 378 (1798). What is being proposed here is that something other than a constitutional amendment proposal be placed in a joint resolution not going to the President. I am not sure that this is appropriate.

In effect, the proposed floor amendment would combine a joint resolution proposing a constitutional amendment with what is either a regular joint resolution or else a simple concurrent resolution. In either event, I believe that this is an impermissible marriage. Not only would we be combining a resolution requiring a two-thirds vote with one simply requiring a majority vote, but we would be combining a resolution that goes directly to the States under article V, with one that goes directly to the President.

I would emphasize to the Senator from New Mexico that there is no disagreement on my part with the substance of the resolution. The resolution would clarify some of the matters with which Congress must eventually deal in the form of implementation legislation if the balanced budget amendment becomes part of the Constitution. There is no disagreement that the resolution lists some of the matters that will have to be part of that resolution. Although I would recommend that we divide the proposed floor amendment, I want it to be clear that the only reason that this would be done would be because of parliamentary problems, not because of disagreement with the substance of the resolution. I would respectfully suggest this course of action to the distinguished chairman of the Senate Budget Committee.

(The following proceedings occurred later and are printed at this point by unanimous consent:)

Mr. DOMENICI. I want to modify my amendment in a way that has nothing to do with his amendment. I wonder if the distinguished Senator from California would have an objection. I was on my feet and did not address the Chair quickly enough.

Mr. CRANSTON. I am glad to agree to a unanimous consent to set mine aside momentarily so we could do that.

The PRESIDING OFFICER. The Senator from New Mexico still has the right to modify his amendment.

Mr. DOMENICI. I thank the Chair. I am sorry to have bothered the distinguished Senator from California.

Mr. President, Senator HATCH has raised an important concern. As I understand it, he agrees that implementing legislation will be essential, and that the subject areas mentioned in the sense of the Congress section of the Domenici-Chiles amendment must all be dealt with in the implementing statute.

What the distinguished Senator from Utah is concerned about is whether this type of sense of the Congress language is properly included in a joint resolution proposing a constitutional amendment.

I certainly do not want to place any clouds over Senate Joint Resolution 58 in regard to its standing under the Constitution. My intent in proposing to include the sense of the Congress language was to establish the strongest possible legislative history on congressional intent about the need for and content of a comprehensive implementing statute. I believe we can accomplish the same objective by modifying the amendment to delete the sense of the Congress language and at the same time making it clear that the substance of what was in that portion of the Domenici-Chiles amendment is indeed the expectation and intent of the Senate with respect to implementing the legislation.

AMENDMENT NO. 1986, AS MODIFIED

If the manager of the resolution would agree that to be the understanding, I would modify my amendment and send a modification to the desk.

Mr. CRANSTON. Will the Senator yield?

Mr. DOMENICI. I am pleased to yield.

Mr. CRANSTON. I want to thank the Senator for interrupting me for such a very fine and noble purpose. I think that improves his amendment.

Mr. DOMENICI. I thank the Senator.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1986) as modified, is as follows:

On page 3, line 21, after the word "shall" insert the following: ", pursuant to legislation or through exercise of their powers under the first and second articles,".

On page 4, line 2, strike "last calendar year ending" and insert in lieu thereof "year or years ending not less than six months nor more than twelve months".

On page 4, between lines 12 and 13, insert the following:

"SECTION 5. The Congress shall enforce and implement this article by appropriate legislation." and renumber the remaining section.

Mr. HATCH. Mr. President, I would like to ask the distinguished Senator from New Mexico a few questions with respect to the proper interpretation of proposed amendments.

First, would the Senator agree that Congress would be under an obligation to establish an appropriate based period under section 2 and maintain that base period? Congress could not appropriately establish a variable base period or periodically change the base period in order to artificially maximize levels of growth? It would have to be consistent, would it not?

Mr. DOMENICI. The Senator is correct. The purpose of my changes to section 2 is to allow the Congress flexibility in establishing a base period. This flexibility should not be construed to mean that Congress can shift the base period in order to avoid the restrictions of section 2. Such an effort to move the base period in order to artificially maximize allowable receipt growth would clearly be contrary to the purpose of this amendment.

Mr. HATCH. Second, would my friend from New Mexico agree that the concept of "rate" as used in section 2 continues to refer to the average, annual rate of economic growth?

Mr. DOMENICI. I agree with the Senator that the definition of the term "rate" in section 2 is not changed by my amendment. Even if the Congress chose to use a multiyear base

period, the growth rate would have to be annualized.

Mr. HATCH. Third, would my friend from New Mexico agree that the base period in section 2 would have to consist of a relatively recent period of years? In other words, while we limit the expiration date of the period, we are silent on the outset date. Would the Senator agree that the period cannot consist of an unreasonably lengthy period of years?

Mr. DOMENICI. The Senator is correct. It is important that the base period be a reasonably recent period of years. The purpose of my change to section 2 is to allow the base period to be a number of years if Congress decides that is appropriate. I would suggest that 3 or 5 years should be sufficient. I do not believe a base period longer than several years will be necessary.

Mr. HATCH. Finally, would the distinguished Senator from New Mexico agree that nothing that we are attempting to do in these amendments, either considered separately or together, is to affect the basic separation-of-powers equilibrium between the legislative and the executive branches? Each would continue to be possessed of their current constitutional powers, no more and no less. Is that correct?

Mr. DOMENICI. The Senator has stated my feelings exactly. The entire purpose of my amendment to section 1 was to make crystal clear that nothing in this amendment alters the separation of powers between the Congress and the President. In particular, in relation to the issue of impoundments, I do not believe this amendent creates any unilateral power for the President to impound.

Mr. HATCH. Mr. President, since the outset of this present amendment effort more than 4 years ago, we have tried to maintain this as a genuine consensus effort. We have gone through a long and difficult process in which we have tried to develop a proposed amendment that would have as broad support as possible among Members of Congress.

I believe that we have largely done this with Senate Joint Resolution 58. In an effort, however, to accommodate some recent concerns that have been raised by several Members of Congress, the managers of this bill have worked closely with Senator DOMENICI and Senator CHILES to fine tune some of the present language of the proposed amendment. The Senator from Washington (Mr. GORTON) has also played an important role. The language that is proposed by the distinguished Senator from New Mexico (Mr. DOMENICI) is the product of these discussions and, as such, I recommend that the full Senate adopt these changes.

As a participant in the effort to develop these amendments and further promote the amendment consensus, I would briefly like to explain my own understanding of these amendments. I believe that these views are shared by the distinguished Senators from Arizona (Mr. DECONCINI), and South Carolina (Mr. THURMOND). I hope that this discussion will supplement the legislative history of the amendment established by the committee report.

The proposed amendment to section 1 would clarify that the authority of Congress and the President to conform actual and planned levels of outlays is one derived from "legislation or through exercise of their powers under the first and second articles" of the Constitution.

This amendment arises in response to the concern that the proposed amendment might inadvertently extend impoundment power to the Executive. Although I believe that the committee report is clear in its rejections of such power, I am nevertheless sensitive to the fact that there are a number of Senators who have been concerned about this issue. The purpose of this first amendment to Senate Joint Resolution 58 is to absolutely clarify this point by making explicit that the source of any Executive power to enforce levels of outlays under this amendment will be derived from one of two sources—either throught legislation duly enacted by Congress, or through the exercise of authority under article II of the Constitution relating to Executive power. If there is no impoundment authority under article II—and I do not believe that there is—then the proposed amendment would clearly not invest the President with any such new authority.

I would emphasize then that the over-riding purpose of this first amendment is to clarify that no new substantive powers are granted to the Executive by the language of Senate Joint Resolution 58, but simply that the President is invested with new constitutional obligations in pursuit of which he is to exercise his article II authority. The drafters of Senate Joint Resolution 58, as well as the drafters of the proposed amendments, totally and absolutely reject any suggestion that the proposed amendment is designed to invest impoundment authority in the President of the United States.

At the same time, however, that we intend to make clear that Senate Joint Resolution 58 is not intended to affect the existing allocation of constitutional powers between the executive and legislative branches in favor of the executive, we also intend to make clear that we are not denying to the executive any authorities of which it may be possessed stemming from the second article of the Constitution.

While some may see the inclusion of the concept of "by legislation" as being redundant with the concept of article I authority, I believe that this language can be explained in the sense that there are various authorities derived explicitly or implicitly from article I that may arguably be outside the scope of a narrow definition of the concept of "legislation." These might include the authority of Congress to override a Presidential veto, congressional oversight and investigative authority, possible legislative veto authority—if that is determined to be constitutional—and so forth.

The amendment to section 2 would alter the definition of the base period established to determine the rate of national economic growth. This rate of growth is important in the formula by which we determine the presumptive level of budget for the forthcoming fiscal year. The proposed amendment would strike the reference to "the last calendar year ending" before the fiscal year in question, and substitute language that would allow some measure of congressional flexibility in establishing the proper base period. Congress would not be precluded from establishing a 2-year or 3-year or other period in determining the proper national economic growth rate.

At the same time, the proposed amendment would insure that nothing in Senate Joint Resolution 58 precludes Congress from adopting a calendar-year fiscal year. If they did so, Congress would not be required to use economic growth data—probably not even available at the outset of the calendar year—from the immediately preceding calendar year. Under Senate Joint Resolution 58, they would not be precluded from using data from the second preceding calendar year or any other year ending not less than 6 months and not more than 12 months prior to the fiscal year in question.

While I would personally prefer to maintain the present language of the amendment, again I understand and appreciate the concerns of my colleagues. I believe that the amendment to section 2 would retain what is most important about that section—the development of a known and certain figure of economic growth that can be used to determine permissible tax and spending levels for the forthcoming fiscal year. It is important in my view to retain a specific, historic base period, rather than having to involve Congress in the difficult and uncertain process of estimations.

Let me make a few general observations that I believe are implicit in the proposed amendment: First, it is clear that Congress must rely on a recent base period in measuring economic growth. The period cannot have ended more than 12 months before the fiscal year being planned and, although it is not explicitly stated, it is consistent with the purposes of the amendment

that the base period not be an unreasonably long one. The specific period is to be fashioned by Congress in legislation structured so as to minimize any procyclical impact of the amendment.

Second, while this change in language accords Congress slightly more flexibility in planning levels of spending and receipts, it is not its intention to encourage evasion or inconsistency on the part of Congress. Under the amended section 2, Congress will have the duty to set forth a clear and consistent rule for measuring national income growth and setting receipt levels. It would not, in my view, be appropriate for Congress to use, for example, a 1-year base period for measuring economic growth one year and a 3-year base period for measuring it the next year. Congress must choose an appropriate base period as a regular part of its procedures for adopting the statement called for by section 1 and adhere to that base period in subsequent years. Clearly, any mechanism by which Congress sought to manipulate the measurement of economic growth through a shifting base period or similar device would be directly contrary to the principle of accountability that lies at the heart of Senate Joint Resolution 58. Such manipulation would not be in compliance with this constitutional mandate. It is the simple and direct obligation of Congress to choose a base period that accurately reflects levels of national economic growth, and to conform its budget procedures under this amendment accordingly, on a regular and consistent basis.

Third, I would emphasize that the use of the term "rate" in section 2 is not affected by this amendment and that it continues to mean an average, annual rate of increase. It would continue to mean this whatever the specific length of the base period chosen by Congress.

The final amendment, proposing a new section 5, would add a new provision establishing an obligation in Congress to "implement and enforce" the provisions of the amendment. This obligation was not expressly established by the committee because it was felt to be implicit in the specific obligations set forth in section 1. Specific responsibilities being imposed upon Congress in that provision, I believe that it is clear that Congress would be obligated to exercise its authority under the "necessary and proper" clause of article I, section 8 to carry out those responsibilities. I do not believe, however, that the proposed amendment creating a new section 5 is harmful and believe, indeed, that it represents a positive addition if it serves to clarify the important obligations imposed by this amendment upon Congress.

I would only emphasize that the proposed addition does not add anything to the substantive powers possessed by Congress but only clarifies that Congress is expected to exercise those powers in pursuit of its new obligations under this amendment. The language change neither adds to the sum of congressional authority nor detracts from the sum of executive authority. It simply makes unambiguously clear that there is a need for implementation and enforcement legislation by Congress if the constitutional objectives of the proposed balanced budget amendment are to be fully achieved. Congress is expected to act in good faith in constructing such essential legislation.

Mr. President, while I emphasize once more my view that the present language of Senate Joint Resolution 58 already addresses the concerns raised by the amendment to section 1 and the amendment creating a new section 5, I do recognize that these amendments may serve to clarify matters for a number of my colleagues without undermining the objectives of the proposed constitutional amendment. The amendment to section 2 adds an additional measure of flexibility to the development of the base period for determining national economic growth, and is also consistent with the overall objectives of the proposed amendment. I would therefore recommend to my colleagues that the instant amendments be adopted, and again wish to express my appreciation to the Senator from New Mexico and the Senator from Florida for their efforts in working with the committee developing these amendments.

Mr. President, I would just like to praise again the distinguished Senator from New Mexico, the distinguished Senator from Florida, for their efforts in this area. I believe that they have done the proposed constitutional amendment effort a genuine service. The distinguished Senator from Washington (Mr. GORTON) also deserves high praise for his efforts in this area although we recognize he still has other concerns about the amendment and will raise those later. I appreciate the work that these three Senators and others who have worked with them have done.

Mr. PERCY. Mr. President, I am pleased to be one of the original cosponsors of this amendment to Senate Joint Resolution 58. The amendment that Senator DOMENICI is proposing is a responsible and sensible approach to several problems that we have identified with regard to the resolution. I urge my colleagues to lend their support to these amendments which are so important to drawing up a strong constitutional amendment.

Our amendment would make three changes in Senate Joint Resolution 58.

First, our amendment would make it clear that we do not intend to make any changes in the existing separation of powers. We add language to section 1 specifying that in insuring that spending stays within the bounds set by Congress, the President will have no new unintended powers. The present language could easily imply that the President had been given new authority to impound funds. Present law specifically prohibits impoundment of congressionally appropriated funds. The Founding Fathers gave Congress the chief authority over spending—the "power of the purse strings"—for good reason. They wanted to avoid the abuses that had occurred in their experiences with an all-powerful monarch.

Since the beginning of the Republic, Congress has had the chief responsibilty for taxing and spending. It is explicit in the Constitution. The President has the authority to implement and administer the laws passed by Congress. We do not want to upset that constitutional cornerstone and our amendment will preserve the Founding Fathers' intent.

Under our amendment, it is made clear that the President's authority over spending would increase only if Congress granted such authority through legislation. Although impoundment is now illegal, except for the deferral and rescission procedures under the Budget and Impoundment Control Act, Congress may someday wish to change the law on this. Our amendment simply states that Congress pass a law to accomplish this goal. It should not be obtained through inference.

Our second amendment allows Congress more flexibility to select the terms of the Federal fiscal year. Senator Domenici has pointed out that the present language could preclude Congress from making the fiscal year coincident with the calendar year. Our fiscal year now begins on October 1, but we should not prevent future Congresses from changes in this. It was only 8 years ago that we changed the fiscal year from beginning in July to the October date. It may be desirable to change it again.

Our third amendment addressed one of my greatest concerns pertaining to Senate Joint Resolution 58, namely Federal loan guarantees. Under the present language, loan guarantees would not be covered. In fact, this is one of the great loopholes in the present proposal. Dr. Milton Friedman agreed with me that this loophole existed when we discussed Senate Joint Resolution 58 recently in my office.

Sponsors of the resolution acknowledge this, too, in their committee report. On page 77 of the Judiciary Committee report, the committee poses the question: "Can Congress avoid the restraints of Senate Joint Resolution 58 by guaranteeing loans?" The committee answers this important question in this way: "Temporarily.

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Since loan guarantees do not represent outlays in the year in which the loans are guaranteed, the proposed amendment does not preclude the Congress from authorizing such agreements. However, to the extent that a guaranteed loan is defaulted by the borrower, the outlays will come under the terms of the amendment in the year of the default."

Now the Office of Management and Budget tells me that out of $309 billion in net outstanding loan guarantees, about $2.5 billion is defaulted. That is a lot of money, but on a basis of over $300 billion, that is not a high level of spending. If Congress were to shift another $300 billion into the loan guarantee category, and we were to still realize defaults in the $2 to $3 billion range, Congress could easily continue its spending through the lending route. Instead of runaway spending, we would be confronted with runaway lending.

Some may charge that this would never happen. Yet the record proves otherwise. In 1974, Congress passed the Budget Reform Act, giving Congress the budget process that has given us a semblance of order in congressional budgeting. Exempted from that law, however, are Federal loan guarantees.

What has happened to loan guarantees in the intervening years?

They have ballooned, growing from about $10 billion issued in fiscal year 1974 to over $44 billion issued this year. When the loan guarantee activities of the Government sponsored enterprises is factored in, the loan guarantee growth is even more dramatic. Government-sponsored enterprise loan guarantee activity has grown from about $11 billion in fiscal year 1974 to over $50 billion this year.

So we should not delude ourselves that further growth might not occur if we do not plug this loophole.

The amendment we are offering addresses this in the new section 5 that directs Congress to enforce and implement the resolution "by appropriate legislation." As Senator DOMENICI has made clear here earlier, this would include congressional definitions of accounting terms.

My own legislation—S. 265, the Federal Lending Program Control Act—would give us a tool to limit loan guarantees. Congress may want to devise others. The distinguished Senator from Washington (Mr. GORTON) has held extensive hearings in the Budget Committee this year on control of Federal lending. I know he supports the control of lending programs, too.

Mr. President, I ask unanimous consent that my June 22, 1982, testimony before the Budget Committee on S. 265 be included in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. PERCY. Mr. President, the President's own private sector survey supports an improvement in accounting practices to include loan guarantees.

I recommend that my colleagues strongly support the Domenici amendment and close this loophole that could lead to high interest rates well into the future.

EXHIBIT 1

STATEMENT OF SENATOR CHARLES H. PERCY

Mr. Chairman, it is once again a pleasure to appear before the Budget Committee's credit task force. I say "again" because it was July 1, 1980—almost two years ago—that I spoke with your predecessor task force to discuss the growing use of Federal credit programs.

That task force—and Senator Boschwitz was a strong supporter of that effort as I know he is of this one—drew up a commendable record of the impact of credit programs on the economy. The credit task force's study was a landmark set of hearings for us in the Senate, because it was the first time that the Senate's attention was focused on this emerging aspect of Federal fiscal policy.

In my talks on Federal lending around Illinois, it is clear that the taxpayers are aware of this problem and that they view it as an important part of the Federal government's ability to cope with runaway spending. Taxpayers believe strongly that the Federal budget is the root cause of today's high interest rates. That association of high interest rates with the deficit is very strong on Main Street as well as on Wall Street. Economists tell us over and over again that if the deficit is brought down significantly, we will see less Federal borrowing and therefore less pressure on interest rates. In fact, that is the very reason the Senate—and especially the members of the Budget Committee—have been working so diligently this spring to curb the growth of spending. We want to reduce those pressures on credit markets and bring about a steady drop in interest rates.

One of the clearest statements on the relationship between high interest rates and borrowing was made last year by economists at Continental Illinois National Bank in Chicago. Continental's economists pointed out that "a great deal of market concern centers on the impact of Treasury borrowing needs in the new year and over the next several years to finance projections of sharply higher budget deficits. The fear is that these huge financing requirements will lead to renewed pressure on interest rates and, in effect, serve to 'crowd out' private borrowers. While most attention has focused on Federal borrowing to finance budget deficits, the expanded use of off-budget financing and Federally-sponsored and guaranteed loans also has had a major influence in the marketplace in recent years."

Irwin Kellner, economist for Manufacturers Hanover Trust in New York, was even more blunt. He has said that "the reported deficit is but the tip of the Federal financing iceberg . . ." and that "the economy is reeling because the credit markets have slammed into this iceberg." Kellner even believes that substantial progress against the deficit will leave the financial markets skeptical unless the invisible off-budget borrowing is curbed, too.

Mr. Chairman, these statements should cause great concern in Congress. The financial markets that determine the market price of money—in other words, interest rates—are well informed about Federal lending programs. The simple but painful truth is that Congress—which created these programs in the first place—knows very little about them. We cannot continue to pretend that Congressional ignorance of lending programs is shared throughout the economy. The private sector watches these programs very carefully. Moreover, it acts on Federal lending patterns as much as it does on other Federal financial developments.

In the two years since I last testified on behalf of this legislation, Federal borrowing from the public has continued to soar. In 1980, the Federal government borrowed $71 billion from the public. This year, borrowing needs are estimated to run at about $115 billion. Add on top of that the borrowing for guaranteed loans and you add another $44 billion this year, up from $32 billion just two years ago. But we are still not finished, Mr. Chairman, for there are the so-called government-sponsored enterprises which will borrow to the tune of $47 billion this year, double the 1980 borrowing of $22 billion.

That adds up to $206 billion in total Federal and Federally-assisted borrowing this year: twice this year's projected budget deficit for spending programs. If $100 billion deficits alarm the financial markets, imagine the response to $200 billion worth of financings. That is a financial iceberg, to use Dr. Kellner's phrase.

Mr. Chairman, one of the most recent statements by the Office of Management and Budget on Federal borrowing needs was made by OMB economist Lawrence Kudlow on June 3 before the House Banking Committee. Although Mr. Kudlow was testifying on specific housing legislation, a number of his comments are relevant to your hearings today. I commend his remarks to this task force and think you will find particularly interesting the data he includes with his remarks which detail the growth in borrowing by the Federal government and federally sponsored enterprises.

The one startling disclosure in Mr. Kudlow's remarks is that the Federal participation in credit markets—the level at which Federal deficits and lending programs together will sop up private credit—will hit an historic high of 56% in 1982. To put this figure into perspective, even following the severe recession of 1975, the Federal participation rate hit only 40%. I know there has been discussion about this crowding out. Let me bring to the task force's attention a copy of a St. Louis Globe-Democrat article entitled "Federal Borrowing Hike May Dry Up Credit Wells" that reports on this unprecedented level of borrowing.

These statistics are of more than an academic interest to us of course. Ballooning Federal lending is leading to higher interest costs, as the Congressional Research Service pointed out in a report this spring. CRS states, "the reallocation of credit resulting from Federal credit programs imposes substantial credit access costs and higher interest costs on unassisted potential borrowers. Furthermore, higher interest costs on U.S. Government securities occur since Federal credit programs raise the total demand for loanable funds and thus interest rates."

Dr. Alice Rivlin of the Congressional Budget Office made a similar point in a letter to me last fall, which I would like to include in my remarks here today. Dr. Rivlin stated that "if the Congress were to begin explicitly controlling the levels of new

Federal credit, under procedures such as those in your bill, and began reducing total government credit demand, there is every indication that the financial markets would respond positively and that interest rates would begin to decline."

Mr. Chairman, I ask that you include Dr. Rivlin's entire letter in your hearing record.

The level of interest rates, then, is my chief concern today and is the primary reason that Congress should act swiftly on this legislation. Your task force hearings are an important part of that process and I hope that the Governmental Affairs Committee—which shares jurisdiction over this legislation—will take a close look at it, too, this year.

With almost any program that grows quickly, there will be problems. Certainly the size of federal lending is one of those, but there are others. I believe passage of lending control legislation should incorporate provisions dealing with these concerns.

Foremost, I would say that Congress must begin to educate itself on Federal lending, Federal borrowing and the impact on the economy. Our banking committees have for many years had quarterly hearings on monetary policy. These sessions provide the committees with an opportunity for an exchange of ideas with the Federal Reserve and also provide a means for Congress to register its views on the conduct of monetary policy. Similar hearings should be held—at least annually—on lending programs and borrowing, investigating the impact future lending levels may have on private borrowing needs. Then if it seems that adjustments should be made in Federal programs, we would have an opportunity to do so.

Secondly, Congress needs to more carefully assess the interest subsidies that are involved in each of these lending programs. At my request, the Library of Congress reviewed Federal lending programs and found that only a few loan guarantee programs have statutory fixed interest rates. In fact, only 17 out of 153 loan guarantee programs have specific interest rates.

In the case of those programs where there is a fixed interest rate, it is sometimes so low—by today's standards—that it amounts, in reality, to an interest-free loan. For example, the Library of Congress found that community facilities loans carry an interest rate of 5 percent, with the Federal subsidy rising with the cost of government borrowing. It is not the only one. There are others just like it. Imagine subsidizing down to 5 percent from the current high rates of 14-15 percent. Congress may want to continue many of these subsidies. My point here is that we do not even know if we want to because we do not have a clear, organized way to review the programs subsidies.

Mr. Chairman, your task force will also be interested in this report by the Library of Congress and I ask that you incorporate it in your hearing record.

A third important area that legislation should address is in the area of loan program eligibility. Who are we giving Federal assistance to and do they need it now in the same amounts as when the program was first passed? An excellent case of how Federal lending is handled occurred several years ago when the Economic Development Administration gave a steel company a loan guarantee to upgrade its rail mill. We all know the steel industry needs to modernize its facilities, but this particular loan guarantee caused a stir within the steel community because other companies had completed similar investments without Federal guarantees. Several companies were already meeting market demand and it was argued that this EDA-financed mill built in excess capacity. Donald Trautlein, Chairman of Bethlehem Steel, wrote me about this and his company's subsequent advertisements that called for limiting Federal loans and guarantees. In the ad, Bethlehem states that "one way government makes our job harder is by interfering in the allocation of economic resources through Federal loans and guarantees . . . and at a time when investment capital is all too scarce." Here is another place for Congress to more closely police Federal policies to make sure that decisions affecting basic industries are made on an industry-wide basis and not incrementally as this one was.

The Federal Government is the world's largest credit institution. It is now owed $239 billion. The stability of any lending institution depends on careful credit extension, as well as effective debt collection—unfortunately, Uncle Sam has done a poor job in both of these tasks.

On the debt collection side, the Government has failed miserably. Total delinquencies on Uncle Sam's books are now estimated to be $46 billion—more than half of which is more than six months past due. This amounts to a staggering $500 for each of the 90 million taxpayers in this country. While about $20 billion is for delinquent taxes, most of the rest is delinquent loans. The agencies with the highest delinquencies are Agriculture with $4 billion, Education with $3 billion, and Small Business with $2.6 billion.

The reasons behind these losses are threefold: the Government has often taken unnecessarily high risks in lending, it has placed primary emphasis on getting the money out the door with little effort given to collection, and Uncle Sam's hands have been tied in its attempts to use effective collection tools. Legislation I am sponsoring, S. 1249—the Debt Collection Act—will provide the agencies with several collection tools, such as credit bureau reporting, which will finally put some teeth into federal debt collection. The bill has passed the House, and I expect Senate action very soon. The need for this bill only highlights the need to have a more comprehensive review of Federal lending practices.

Another area I would like to mention is impoundment authority. As you know, the Budget Reform Act of 1974 is silent on loans and loan guarantees and there is no control over the executive's ability to impound lending programs. Experts I have spoken with on impoundment of loan programs are divided over whether the Administration could actually take such action. We do know, however, that Congress does not have the tools—deferral and rescission—that are available to us in cases of spending impoundment. We need to undertake a careful review of this and consider how a law might be structured to cover possibilities of lending impoundment.

I fully appreciate the differences that exist between the many types of loan and loan guarantee programs. Most of the programs we have on the books are for domestic purposes, but the housing loan programs have played an increasingly important role in housing markets in recent years. We do not want to undermine those programs, but I hope the housing finance industry will work with us on developing legislation that will provide for an informed Congress on lending programs. It is not in the interest of the housing finance industry to see lending impoundment develop as a tool of Federal finance. Establishment of a Congressional credit budget process would give the housing finance an excellent opportunity to work with Congress to build a strong housing finance system that was fully backed by the Congress.

The Export-Import Bank also offers a special case of loan programs. It is one of the few credit programs that is matched—in fact exceeded—by similar programs abroad. Japan, France, West Germany and Great Britain—all have much more generous export financing that puts our exporters at a competitive disadvantage in marketing our products and services. Our government has sought for many years to negotiate an international agreement for the multilateral reduction of export credits. This effort has met with little success. That would be the preferred way to reduce this spiral of export financing competition, but it has not resulted in significant reductions. We will not reduce these credits by unilaterally reducing our own Export-Import Bank financing capability. Export financing credits must be dealt with in the larger international framework.

Mr. Chairman, I believe nearly all the concerns I have enumerated can be addressed in comprehensive lending reform legislation. My own legislation—S. 265—accomplishes these major goals and has garnered the support of 20 Senators from both parties. A full list of the bill's cosponsors is attached to my remarks. The bill amends the Budget Reform Act to establish procedures for setting targets and ceilings for loans and loan guarantees within the Congressional budget process. I would like to explain the key aspects of how my bill would accomplish the goal of establishing a systematic mechanism for overseeing credit programs. The bill would:

Require that the budget resolution each year set forth the appropriate level of direct loans and loan guarantees. The budget is also required to itemize estimates of loan guarantees and direct loans by budget functions.

Require credit plans to be submitted to the Budget Committee by each authorizing committee. Presently, committees must submit their spending plans to the Budget Committee by March 15; the bill would extend this to loans and loan guarantees.

Require the Banking Committees to submit to the Budget Committees by March 15 each year their estimates and recommendations for the appropriate level of overall guarantees and loans for the next fiscal year. The Banking Committees would, in effect, evaluate the credit needs of private and public borrowers.

Stipulate that bills or resolutions authorizing new loans or guarantees must be reported from their respective committees by May 15. Bills reported after that date would face a point of order on the floor, as do all spending bills under the budget process.

Require the Congressional Budget Office (CBO) to report annually to the Budget Committees on credit programs of the Federal government.

Permit a point of order to be raised, after the second budget resolution is passed, against loans or guarantees that exceeds the totals in the budget.

Stipulate that loans and guarantees must be included within appropriations bills. Points of order could be raised against loans or guarantees that do not subject themselves to the Appropriations Committees.

In closing, Mr. Chairman, let me point out that there is considerable support for this legislative approach. In the House, Representatives Mineta and Bethune have worked diligently on this issue for many years and have made a tremendous effort there, with well over 200 cosponsors. The administration has testified in support of the bill and prominent private economists such as Alan Greenspan, Henry Kaufman and Charles Walker support it and believe it will help lower interest rates. I hope this task force will support it, too, and appreciate this opportunity to appear before you today.

(Conclusion of later proceedings.)

Mr. MOYNIHAN. I see the distinguished Senator from California is on the floor and I happily yield the floor if it is his desire to speak.

Mr. CRANSTON. I thank the Senator from New York.

UP AMENDMENT 1160 TO AMENDMENT NO. 1986

(Purpose: To modify provisions of amendment No. 1986 making clarifying changes in the proposed balanced budget constitutional amendment)

Mr. CRANSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration. It is an amendment to the pending Domenici amendment.

The PRESIDING OFFICER (Mr. DURENBERGER). The clerk will report.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an unprinted amendment numbered 1160 to amendment numbered 1986.

On page 1, lines 3 and 4, strike the language proposed to be inserted and insert in lieu thereof the following: "by legislation".

Mr. CRANSTON. Mr. President, I can explain this very briefly. I am following the original wisdom of the Senator from New Mexico in offering an amendment that does what he thought should be done a while ago to the proposed constitutional amendment. He has subsequently been persuaded to offer a modified version that I think does not do what he seeks to do and certainly does not do what he set out to do originally.

This amendment that I have offered to the Domenici amendment would substitute his original suggestion for the compromise language that he has now offered as an attempt to limit the powers of the President to act unilaterally to impound or otherwise use his powers to stop spending for programs he does not like or for programs that he just decides he has to cut back on in order to reduce actual outlays to square with statement outlays.

These impoundment powers by the President were sought by Richard Nixon. They were rejected by the Congress. The Congress acted to preserve the balance of powers and to prevent what in effect would have been a line item veto sought by President Nixon.

Now the constitutional amendment in the form in which it has been offered would in effect give impoundment powers and give a line item veto to the President and would very dangerously tip the balance of power on budget matters and on program matters away from the Congress to the President.

The amendment that I offer is tighter than the language that is now before us as introduced by Senator DOMENICI. It would foreclose any opportunity for the President to claim extraordinary constitutional authority to impound or to stop spending on individual items and on individual programs at his pleasure. The proposed language refers to constitutional powers under article I and article II of the Constitution. By using direct limiting language "by legislation" instead of "pursuant to legislation," my amendment thus makes clear the intent that the President will not have the power to impound.

The Domenici amendment now pending has in it the following words that I would strike, "pursuant to legislation or through exercise of their powers under the first and second articles," referring to the power of the President or the Congress. That language is not clear cut. It does not clearly prohibit impoundment or line item vetoes by the President.

For that reason I propose to strike and insert "by legislation" which makes very plain that only legislative action, keeping Congress in the act, can lead to the striking of programs or particular expenditures under this section of Senate Joint Resolution 58.

I hope the Senator from New Mexico would return to his original wisdom and to his original concept and accept this amendment which would make the proposal that he now has before us far more acceptable and far more meaningful and would preserve the balance of powers and the definition of powers between the executive branch and the Congress.

Mr. President, when we amend the Constitution of the United States, we are setting language into it for all future generations. Presidents in the past have grasped at any straws to justify their action. The modified amendment still leaves a straw by allowing the President to claim constitutional powers to stop spending. The President has a very heavy constitutional duty and obligation under the proposed constitutional amendment to stop excessive spending. He is going to construe his powers under article I and article II with this amendment and necessarily it will result in an enlargement of his powers. That is why I want to modify this amendment so that what we are talking about will be very clear.

The proposed constitutional amendment states in section 1, "Prior to each fiscal year, the Congress shall adopt a statement of receipts and outlays for that year in which total outlays are no greater than total receipts," and then a little bit later in the same section it states, "The Congress and the President shall" and the Domenici amendment proposes to add, "pursuant to legislation or to exercise of their powers under the first and second articles, ensure that actual outlays do not exceed the actual outlays set forth in such statement."

That will give the President a compulsion to find powers to limit spending and to produce a balanced budget. I fear that that will lead to efforts by the President to resort to the impoundment process. He will have new reasons to do so, new constitutional language leading him to do so.

My amendment, which would insert instead of the Domenici language the words "by legislation" will insure that the President cannot do this without the action of the legislature, the Congress. For that reason, I think Senator DOMENICI was very wise originally to propose this language and I urge that we go back to it.

Mr. DOMENICI. Mr. President, it is pretty difficult for the Senator from New Mexico to argue against the Senator from California because I had those two very exciting words "by legislation" in my first proposal. However, I would suggest that the collective wisdom of a number of people who have worked very hard on this amendment won out, and I think they are right.

What they intended was to make the Presidential powers on impoundment and any other budgetary powers neutral. We do not add to or subtract from those constitutional powers that the office of the President has. They have convinced me that to use the language "by legislation" may indeed tip the scales slightly toward taking some powers aways that might be there. And therefore I used "pursuant to legislation" and other clarifying language. I think it is better. For those who do want this amendment to remain neutral in regards to the separation of powers—nothing from the President and nothing to the President—I think the words in the Domenici-Chiles amendment are better than the original words "by legislation" which the Senator from California now proposes.

I hope the Senate rejects his amendment and stays with the Domenici-Chiles amendment.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I thank the Chair.

Mr. President, technically, the issue before us at the moment is the amendment by the distinguished Senator from California (Mr. CRANSTON) to the Domenici-Chiles amendment. Since I, too, when I first examined the last sentence in section 1 of this amendment, felt that the appropriate modification was by legislation, the precise phrase used by the Senator from Cali-

fornia, I wish to speak for a moment to the reasons that I have been persuaded that the longer amendment by the Senator from new Mexico is, in fact, preferable. In this case, at least, it seems to be the design of the sponsors of Senate Joint Resolution 58 itself, of the sponsors of the principal amendment with which we are dealing, and of the Senator from California to reach the same goal. That goal is to maintain an absolute neutrality in the respective powers of the Congress and the President of the United States after the passage of section 1 of this new article to the Constitution of the United States. Each of the proponents of the varying positions wishes to create a situation in which the powers of the President are neither enhanced nor diminished, that there is no greater threat of a proposed constitutional power of impoundment after the adoption of this article than there is at the present time. It is for exactly that purpose that the Senator from California has introduced his somewhat shorter amendment.

I have been persuaded in the course of the last 2 weeks during which this constitutional amendment has been debated that there is as much danger that the two words "by legislation" might be construed as limiting some authority which the President possesses at the present time as I was that the original last sentence of section 1 rather clearly left the implication of the creation of a constitutional power of impoundment. For that reason, it seems to me that the somewhat longer phrase included in the amendment proposed by Senator DOMENICI, Senator CHILES, and others is preferable in this regard.

Mr. CRANSTON. Mr. President, will the Senator yield for a question?

Mr. GORTON. The Senator will.

Mr. CRANSTON. I appreciate the concern of the Senator from Washington. I know that he has devoted a great deal of time and thought to this proposal of the constitutional amendment and is concerned about many aspects of it. I would like to ask what powers the President possesses that the Senator feels would be limited by the amendment I have proposed.

Mr. GORTON. That question, I say to the Senator from California, I expect would be far better directed to the Senator from Utah (Mr. HATCH) or to the Senator from South Carolina (Mr. THURMOND), because it was they who brought up that question. At this point, if the Senator from Utah wishes to take on that question, I shall defer to him to answer.

Mr. CRANSTON. I should like to ask the Senator from Utah that question I posed to the Senator from Washington.

The Senator from Washington expressed concern that my amendment, simply by adding the words "by legislation," would limit some powers the President presently has. I wonder what powers my amendment would limit.

Mr. HATCH. Mr. President, I have to get a copy of the amendment.

Mr. CRANSTON. My amendment simply substitutes—looking at section 1 of the Senator's amendment, the last sentence of section 1 reads that "The Congress and the President shall ensure that actual outlays do not exceed the outlays set forth in such statement." I would insert the words "by legislation" after the words "President shall" in lieu of the longer language proposed by the Senator from New Mexico. This was his original amendment, but he was persuaded by the Senator from Utah and others, I gather, to propose the longer amendment.

Mr. GORTON. Mr. President, if I may intervene at this moment to remind the Senator from Utah of the progress of this amendment, the proposal of the Senator from California at this point is identical to the original proposal for this section made by myself and the Senator from New Mexico.

Mr. CRANSTON. That is correct.

Mr. GORTON. If my memory also serves me correctly, it was the Senator from Utah and the Senator from South Carolina who were concerned that that might limit some other constitutional power of the President, and I believe that the Senator from Utah and/or his staff developed the language now included in the Domenici-Chiles amendment.

Mr. HATCH. That is correct.

By limiting the proposed amendment to the words "by legislation," the Senator from California would be striking legitimate authorities in the President to enforce the outlay obligations of the constitutional amendment.

For instance, he presently has veto authority; he has some budget proposal authority; he has administrative authority; he has general executive authority to "faithfully execute" laws. There may be other authorities that he has. By limiting his enforcement authority to that derived by legislation, we may be limiting the scope of this authority. I do not want to remove any article I or article II powers from Congress or the President in this regard.

The purpose of the Domenici-Chiles amendment is to insure that only existing authorities will exist in these branches after this amendment becomes a part of the Constitution, that there will be no expansion of authorities, that there will be no increased impoundment authority, or any other authority not within the scope of articles I and II.

The language of the Senator from California would dictate otherwise and, I believe, upset the intent and the thrust of the Domenici-Chiles amendment. It would upset the separation of powers balance that would otherwise exist and that presently exists.

Mr. CRANSTON. Will the Senator yield?

Mr. HATCH. Yes, I am delighted to yield.

Mr. CRANSTON. The Senator has suggested that my language could interfere with the powers of the President to veto legislation. I do not see how it could possibly do that. Section 7 of article I spells out clearly that if the President approves legislation, "he shall sign it," but if not, "shall return it with his objections to that House in which it shall have originated." That is clear and explicit veto language. How could my amendment possibly be construed as interfering with that clear and explicit language in the Constitution?

Mr. HATCH. If I understand the Senator's amendment, the last sentence in section 1 would read, "The Congress and the President shall by legislation ensure that actual outlays do not exceed the outlays set forth in such statement."

Mr. CRANSTON. Mr. President, that clearly does not exclude other powers the President can use and clearly cannot contravene his power to veto, which is explicit in the Constitution.

Mr. HATCH. No, it would not contravene those substantive powers per se, but it would exclude the absolute obligations of the President to, in fact, exercise those powers in behalf of the provisions of the amendment. It is, in addition, at least debatable that it would temper those existing constitutional powers in the context of this amendment.

Mr. CRANSTON. Congress cannot pass a law that contradicts, contravenes, or nullifies something that is in the Constitution.

Mr. HATCH. Unless it is itself derived from a constitutional amendment, which the Senator's language proposes to be, the amendment of Senator CRANSTON would nullify the President's obligation to exercise veto authority, for example, in behalf of the balanced budget, if not his authority to do so. That is the danger of the change proposed by the Senator from California. The Domenici-Chiles language is preferable because it leaves things as they are, leaves the separated powers of the National Government where they are under present articles I and II.

Mr. GORTON. Mr. President, I believe I have the floor. If I may, I shall take it back simply to agree, in one sense, with the Senator from Utah, I say to my friend from California, and in another, slightly to correct a state-

ment which I made earlier in the course of this debate.

I do not believe that the language proposed by the Senator from California as clearly shifts powers away from the President in favor of the Congress as did the original language of the first sentence of section 1 of this proposed amendment provide an argument that it should have shifted powers away from the Congress and to the President in the form of the constitutional impoundment authority.

Nevertheless, I say to the Senator from California that I find some persuasive power in the argument of the Senator from Utah. I think it is possible that this language could be construed somewhat to limit the veto power of the President. It would be stretching it to do so, but I am now convinced, both by the language of the Domenici-Chiles amendment itself and by the explanation which both its sponsors and the Senator from Utah, who helped draft it, have made, that it comes closest to retaining an absolute neutrality—that is to say, no shift of powers from Congress to the President or from the President to Congress that we can possibly do.

Therefore, I do feel that language to be superior to that of the Senator from California.

Mr. DECONCINI. Mr. President, will the Senator yield?

Mr. GORTON. I yield.

Mr. DECONCINI. Mr. President, I echo the statement of the Senator from Washington (Mr. GORTON).

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. DECONCINI. I yield.

Mr. CRANSTON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second

The yeas and nays were ordered.

Mr. DECONCINI. Mr. President, the Senator from Washington has laid it out very clearly that the Domenici-Chiles language does not enhance the Presidential authority for impoundments. I think that is crucial to be underscored here before we vote, because when we first got into this exercise last week, there was serious consideration on my part that maybe by legislation, as was originally offered, it would not be objectionable. But I think the amendment that has been worked out with the Senator from Florida and the Senator from New Mexico makes it very clear, and it has a balance.

The Supreme Court has previously ruled that the Constitution provides that no implicit impoundment authority exists for the President to exercise; and, accordingly, the reference to "exercise of their powers under the first and second articles" does not imply any impoundment authority.

I believe it would be detrimental now to remove that part of the Domenici-Chiles amendment, and putting in "by legislation" would only complicate it.

Mr. GORTON. I thank the Senator from Arizona for those remarks.

Mr. HATCH. Mr. President, will the Senator yield?

Mr. GORTON. I yield.

Mr. HATCH. Mr. President, I thank the Senator for his cogent remarks.

As I see it, again, the Cranston amendment would eliminate the obligation of the President to exercise veto authority, for example, on behalf of the balanced budget. It does not, I recognize, eliminate the veto or other authority per se, but it does eliminate the Executive obligation to exercise his veto or other authority on behalf of amendment obligations.

I think the Senator from Washington has spoken very concisely and well on this subject. I compliment him for it.

Mr. GORTON. I thank the Senator from Utah.

As I said at the beginning of my remarks on this subject, the issue before us at this moment is the amendment to the amendment, which second-degree amendment was proposed by the Senator from California. Because I imagine that we will go rather quickly from that amendment, should it be defeated, to the principal amendment proposed by the Senator from New Mexico and the Senator from Florida, I should like briefly to speak in favor of the amendment by the Senator from New Mexico.

He expressed these concerns on the first day of the debate on Senate Joint Resolution 58—concerns which I shared and expressed at the same time. He has done what I feel to be a perfect job in solving the apparent problem of the original form of the proposed constitutional amendment in granting or implying constitutional impoundment authority in the President of the United States.

Also, quite appropriately, he has made somewhat more flexible the way in which Congress will set a baseline for the determination of constant budget levels, and he has insured the right of Congress to pass appropriate implementing legislation.

Each of these three separate proposals included in a single amendment, in my view, is an improvement to this proposed constitutional amendment, and I am delighted that the distinguished President pro tempore and the chairman of the subcommittee, the Senator from Utah, have agreed to this proposal.

The only reason why I have not joined the Senator from New Mexico as a cosponsor of this proposal is that it still leaves unresolved the even graver problem of a redistribution of powers between the Congress of the United States and the judicial branch of our Government.

I feel that the threat of judicial intervention in the budget-making process is an even greater threat than the one which has been cured by the change in section 1 of this amendment. Because this amendment, standing in and of itself, is not sufficient to cause me to support Senate Joint Resolution 58, it seemed to me appropriate not to join as a sponsor of the amendment itself, though I repeat that I think it is thoughtfully crafted, highly responsible, and improves the responsibility itself.

Mr. THURMOND. Mr. President, the modifying amendment of the distinguished Senator from California is not acceptable, for two reasons:

First, it would take away from the President his existing powers to defer spending and recommend recissions.

Second, it may limit the powers of Congress to achieve a balanced budget by taking away some powers now existing under the Budget Act of 1974.

We desire that this resolution, Senate Joint Resolution 58, be neutral on these points. That is the reason why we favor the Domenici-Chiles amendment and oppose the amendment of the distinguished Senator from California.

Now, Mr. President, as to the amendment being offered by the Senator from New Mexico.

Mr. President, let me first say to the Senator from New Mexico that I understand and respect completely his concerns about Senate Joint Resolution 58. As chairman of the Senate Committee on the Budget he has been consistently in the midst of efforts to restore fiscal responsibility to our Federal Government. Each of us in the Senate owe him a debt of gratitude for his untiring pursuit of that goal.

I believe the Senator from New Mexico also supports our efforts to adopt a constitutional amendment that will require Congress to either balance the budget or go on record as to why it cannot do so by a three-fifths vote. We are in agreement on this common goal. What we are now dealing with is the means to achieve that end.

The Senator seeks to add language to Senate Joint Resolution 58 that would require the Congress to implement appropriate legislation to carry out the purposes of the amendment. I am not opposed to that language.

We are considering, Mr. President, an amendment that is to be proposed to the U.S. Constitution. Three-fourths of the States will be asked to ratify this amendment if it is approved by two-thirds of the Congress. We must pass an amendment that is clear, forthright, and unambiguous. The language intended to be offered by Senator DOMENICI, is meritorious and I

have no objection to it being made a part of the proposed amendment.

As manager of this bill, I urge the adoption of the Domenici amendment, as amended.

I commend the able Senator from Washington for the pertinent remarks he has made in this matter.

Mr. President, if no one else wishes to speak on this subject, I move to table the amendment of the Senator from California.

Mr. DECONCINI. Mr. President, will the Senator withhold the motion to table?

Mr. THURMOND. Mr. President, I withdraw the motion to table the amendment, and we will have an up-and-down vote on both amendments, back to back, if that is agreeable to the Senator from California.

Mr. BAKER. Mr. President, if that is an agreeable arrangement—and I should like to do that—I ask unanimous consent that immediately following the up-and-down vote on the Cranston amendment, the vote occur on the Domenici amendment, up and down, without intervening debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BAKER. Mr. President, the second vote will be the last rollcall vote of the day.

I ask unanimous consent that it be in order to ask for the yeas and nays at this time on the Domenici amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

VOTE ON UP AMENDMENT NO. 1160

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from California.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Arkansas (Mr. PRYOR) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER. Are there any Senators in the Chamber desiring to vote or to change their vote?

The result was announced—yeas 23, nays 74, as follows:

[Rollcall Vote No. 260 Leg.]

YEAS—23

Baucus	Eagleton	Metzenbaum
Biden	Ford	Mitchell
Bradley	Hart	Moynihan
Bumpers	Inouye	Pell
Burdick	Kennedy	Randolph
Byrd, Robert C.	Leahy	Riegle
Cranston	Levin	Sarbanes
Dodd	Matsunaga	

NAYS—74

Abdnor	Glenn	Melcher
Andrews	Goldwater	Murkowski
Armstrong	Gorton	Nickles
Baker	Grassley	Nunn
Bentsen	Hatch	Packwood
Boren	Hatfield	Percy
Boschwitz	Hawkins	Pressler
Brady	Hayakawa	Proxmire
Byrd, Harry F., Jr.	Heflin	Quayle
	Heinz	Roth
Chafee	Helms	Rudman
Chiles	Hollings	Sasser
Cochran	Huddleston	Schmitt
Cohen	Humphrey	Simpson
D'Amato	Jackson	Specter
Danforth	Jepsen	Stafford
DeConcini	Johnston	Stennis
Denton	Kassebaum	Stevens
Dixon	Kasten	Symms
Dole	Laxalt	Thurmond
Domenici	Long	Tower
Durenberger	Lugar	Wallop
East	Mathias	Warner
Exon	Mattingly	Weicker
Garn	McClure	Zorinsky

NOT VOTING—3

Cannon	Pryor	Tsongas

So Mr. CRANSTON's amendment (UP No. 1160) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 1986, AS MODIFIED

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from New Mexico (Mr. DOMENICI). The yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Arkansas (Mr. PRYOR), are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS), is absent on official business.

The PRESIDING OFFICER (Mr. RUDMAN). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 261 Leg.]

YEAS—97

Abdnor	Danforth	Heflin
Andrews	DeConcini	Heinz
Armstrong	Denton	Helms
Baker	Dixon	Hollings
Baucus	Dodd	Huddleston
Bentsen	Dole	Humphrey
Biden	Domenici	Inouye
Boren	Durenberger	Jackson
Boschwitz	Eagleton	Jepsen
Bradley	East	Johnston
Brady	Exon	Kassebaum
Bumpers	Ford	Kasten
Burdick	Garn	Kennedy
Byrd, Harry F., Jr.	Glenn	Laxalt
	Goldwater	Leahy
Byrd, Robert C.	Gorton	Levin
Chafee	Grassley	Long
Chiles	Hart	Lugar
Cochran	Hatch	Mathias
Cohen	Hatfield	Matsunaga
Cranston	Hawkins	Mattingly
D'Amato	Hayakawa	McClure
Melcher	Proxmire	Stafford
Metzenbaum	Quayle	Stennis
Mitchell	Randolph	Stevens
Moynihan	Riegle	Symms
Murkowski	Roth	Thurmond
Nickles	Rudman	Tower
Nunn	Sarbanes	Wallop
Packwood	Sasser	Warner
Pell	Schmitt	Weicker
Percy	Simpson	Zorinsky
Pressler	Specter	

NOT VOTING—3

Cannon	Pryor	Tsongas

So, Mr. DOMENICI's amendment (No. 1986), as modified, was agreed to.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Mr. President, as I indicated earlier, there will be no more record votes tonight.

The PRESIDING OFFICER. The Senate will please be in order. The majority leader is recognized.

ORDER FOR RECESS UNTIL 10 A.M. TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 10 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent that Senator CHILES be added as a cosponsor to the joint resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I understand the Senator from New York is desirous of laying down an amendment tonight which is desirable so that it will be the pending business in the morning.

I am hopeful that we can get a unanimous-consent agreement on the remainder of this debate. I will inquire of the minority leader if he is in a position to consider a unanimous-consent request for a time for final passage and time for the remaining amendments.

Mr. ROBERT C. BYRD. Mr. President, may I say to the majority leader that we are working on this matter on this side of the aisle. The distinguished majority leader I know has had discussions in this regard this afternoon. I am hopeful that an agreement can be reached. At this point, I am optimistic. I will get back to the majority leader as soon as I can.

Mr. BAKER. I thank the Senator, Mr. President. Would it be likely that that clearance process would be completed before this evening is out or would the Senator prefer——

Mr. ROBERT C. BYRD. Yes, Mr. President, it is my hope that we can have the clearance before this evening is out so that all Senators will be aware of the agreement.

Mr. BAKER. Mr. President, it is 6:20 now. I had not planned to ask the Senator to remain much longer. I do not mean to press, but should we estimate a time of 6:45 or thereabouts?

Mr. ROBERT C. BYRD. I am really not in a position to estimate a time, Mr. President. We are working as rapidly as we can. I shall get back to the majority leader as soon as I can.

Mr. BAKER. I am sure the Senator will. I appreciate the effort, Mr. President. The only reason I pressed for some estimate is that we have Senators who have commitments they have to keep away from the Capitol. I was trying to make some judgment about how long to ask the Senate to remain in session.

Mr. ROBERT C. BYRD. I hope to be able to get back to the majority leader no later than that, and perhaps much earlier, because I, too, would like to get away.

Mr. BAKER. Mr. President, I yield to the Senator from New York.

AMENDMENT NO. 1927

Mr. MOYNIHAN. Mr. President, I call up printed amendment numbered 1927.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 1927.

Mr. MOYNIHAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SEC. 6. For the purpose of ascertaining whether receipts conform to the directions of sections 1 and 2 of this amendment, the Congress and the President shall adopt and follow the following notation:

"In accordance with standard national income accounting practices, national income (NI) shall be calculated as gross national product (GNP), less capital consumption allowances (CCA), less indirect taxes (IT):

"NI=GNP−CCA−IT.

Further:

"Given: Receipts=R(Y, Y_{-1}, P•/P, t), where inflation rate (P•/P)=P•/P(M•/M, Y, Y_{-1}).

"Allowed receipts=$[Y^p{}_{-1}(t^p)+Y^c{}_{-1}(t^c)]$•[1 +$[(Y^p-Y^p{}_{-1})+(Y^c-Y^c{}_{-1})/Y^p{}_{-1}+Y^c{}_{-1}]$]

"Where: M•/M=Rate of growth of money supply.

"Y=Income.

"Y^p=Gross income to individuals,

"Y^c=Business sector income less capital consumption allowances, and

"Y^p and Y^c are assumed to be net of indirect taxes.

"t=Tax rate.

"t^p=Personal tax rate.

"t^c=Business sector tax rate.".

Mr. MOYNIHAN. Mr. President, I yield the floor.

● Mr. DOLE. Mr. President, I would just like to take a moment to comment on the amendments proposed by Senator DOMENICI, Senator CHILES, Senator PERCY, and others. These modifications of Senate Joint Resolution 58 have been worked out over the past 2 weeks by the proponents of the amendment, including myself, in cooperation with the Senators who are sponsoring these changes. I hope these amendments will be adopted: they are largely in the nature of clarifying the intent of Senate Joint Resolution 58, and do not change its purpose or substance. They will, I hope, enable us to make a clearer record as to just what the implications of Senate Joint Resolution 58 are for future congressional action on the budget.

CONGRESS AND THE PRESIDENT

The first modification that would be made under the Domenici package would be to clarify the nature of the duty imposed on Congress and the President, under section 1, to ensure that actual outlays are kept within the agreed-upon level. As reported by the Judiciary Committee, Senate Joint Resolution 58 now reads "Congress and the President shall ensure" that actual outlays are kept in line. This phrasing, while it seems straightforward and clear enough, has raised a concern in the minds of some that the inference might be drawn that the President is thereby given some new power under the Constitution—such as impoundment—as a means of controlling outlays in compliance with section 1. That is clearly not the case, as the Judiciary Committee report on Senate Joint Resolution 58 makes clear, and as all of us who worked on this proposal in the Judiciary Committee have always understood it. Neverthless, since we all agree that we do not intend to grant the President new authority under the Constitution here, it seems appropriate to say so. Accordingly, the Domenici amendment revises section 1 to specify that Congress and the President "pursuant to legislation or through exercise of their powers under the first and second articles" shall control outlays. This new formulation makes clear that all we have in mind is the appropriate exercise of the powers of Congress and the President now existing under the Constitution. That should resolve any doubt whatever on the subject.

BASE PERIOD FOR RECEIPTS

Mr. President, the second provision of the Domenici amendment does make a slight change in the nature of the tax limitation requirement, but it is one that seems appropriate and that I believe will be effective. The present version of Senate Joint Resolution 58 specifies that the growth rate allowable for receipts is to be determined with reference to the last calendar year before the fiscal year being planned. It has been pointed out that this could limit Congress ability to alter the fiscal year, for example, to coincide with the calendar year, and would limit Congress options in choosing a base period to a particular calendar year. Some of us who think Congress flexibility justifiably requires some restriction would maintain that both of these results are appropriate. However, in order to accommodate those who feel more flexibility is needed, without compromising the spirit or the force of section 2, we have worked out compromise language. The reference period for determining receipts under this new version now would be the year or years ending not less than 6 months nor more than 12 months before the fiscal year being planned. This new language preserves the most important point: That Congress must look to an actual, historical, and recent period in measuring the growth of national income with a view to planning receipts levels. With this revision it is clear that Congress would have some options in choosing a longer or shorter base, if that is deemed appropriate to iron out "blips" in our economic performance. At the same time, the base period must be recent, but with a modest lag time that makes it more likely that the amendment would be countercyclical in its normal operation. I believe it would have been so anyway, but so long as we all understand and agree that we are not allowing Congress to evade the strictures of section 2 by gearing receipts levels to an unusually long historical period—for example, something more than 3 or 5 years—I believe we can live with this change.

COMPLIANCE

Mr. President, the final change that has been discussed and agreed upon in the Domenici amendment is the addition of a new section to spell out the duty of Congress to follow through once the amendment is adopted. There has been some concern that Congress would try to evade these new requirements, or that it would not legislate appropriately to put them into effect. I have shared that concern, and believe Congress will have to take tough, decisive action through legislation in order to make the amendment work properly. It has seemed to me, however, that Congress obligation was clear from the nature of the requirements in sections 1 and 2, and from the legislative history of the amendment both here and in the Judiciary Committee. To clarify matters further, however, we have agreed to add an enforcement section to the amendment. This new section just says that Congress shall enforce and implement the amendment: That is, adopt legislation to carry out and give full effect to its provisions. We all expect Congress to act

in good faith if the amendment is adopted, and this new language will make that clear. The new language should not be construed to give Congress any new or extraordinary powers in the budget process: I understand the proponents of the Domenici amendment agree with that. All it says is that the provisions of the amendment are not obviously self-enforcing; that Congress has a big job ahead of it; and that Congress ought to get on with it. No one should quarrel with these propositions.

Given my understanding of the Domenici package as outlined above, I am prepared to agree that it should be adopted.●

● Mr. ROTH. Mr. President, the balanced budget-tax limitation amendment, Senate Joint Resolution 58, contained a section when reported from committee that would have prevented the Federal Government from shifting the costs of Federal programs to State and local governments in order to balance the budget. This provision was removed during committee consideration of the amendment. While I was concerned that the provisions of section 4 were, in some cases, not defined as carefully and completely as possible, I do believe that every effort should be made to insure that we reach the goal of a balanced budget without burdening State and local governments with excessive new costs.

Section 4 of the resolution as originally reported read as follows:

THE CONGRESS MAY NOT REQUIRE THAT THE STATES ENGAGE IN ADDITIONAL ACTIVITIES WITHOUT COMPENSATION EQUAL TO THE COSTS

The language of the section reflects the strong concern that the balanced budget amendment may introduce stronger pressures at the Federal level to shift a portion of its fiscal responsibilities to the States and local units of government through mandates imposed upon these governments.

In fact, this concern is valid because the Federal Government has been attempting to pass new responsibilities on to States and localities for several decades. State and local governments have become major targets for Federal regulation since the early 1960's. In this period, national controls have been adopted affecting traditional State and local functions ranging from automobile inspection and animal preservation to zoning practices and water treatment. In field after field, the power to set standards and determine policies has shifted from States and localities to Washington. Many aspects of policy (including budgetary priorities) and administrative procedures (including personnel practices) are now significantly influenced by Federal regulatory "mandates." As the Advisory Commission on Intergovernmental Relations has stated, "some of the areas most heavily affected by increased intergovernmental regulatory are, by tradition, among the most local of public concerns."

Until the "constitutional revolution" of 1937, questions of Federal-State relationships were regarded as weighty legal issues. In prior years, the Supreme Court had played a substantial (if largely negative) role in striking down both Federal and State statutes deemed improper under the allocation of authority contemplated by the framers. "Dual Federalism" was basic doctrine, with the States' tenth amendment reserved powers often balanced against the enumerated powers of the Congress. As the ACIR has noted, however:

"Key decisions during the latter New Deal years declared the Tenth Amendment to be nothing more than "a truism" while the scope of national authority to regulate interstate commerce and to spend for the federal welfare was vastly exanded. Thereafter, questions about the power of Congress vis-a-vis those of the states were regarded as primarily political or policy issues, rather than grave Constitutional concerns. Consequently, the legislative branch—not the judiciary—became the new "umpire of federalism."

In the past, regulation of State and local governments was most often done through restrictions attached to grant programs. While these regulations were often overly restrictive and burdensome, they were usually related to the fulfillment of the goals of each particular grant program. In addition, compliance with these regulations could be paid for by State and local governments, at least in part, with the grant funds to which the regulations applied.

Increasingly, there has been a tendency on the part of the Federal Government to impose new forms of regulations on States and localities which are more far-reaching and expensive than the strings traditionally attached to grant programs. More and more often, the Federal Government mandates, through direct order, that States or local governments take certain actions, over 60 cross-cutting requirements currently apply to grants which have little to do with the goals of the grants themselves but cost State and local governments large amounts of money.

In some cases, the Federal Government partially preempts State or local actions by establishing Federal standards and delegating administration to the States if they adopt standards equivalent to the national ones.

In effect, the Federal Government has moved from cooperatively working with States and their local governments to treating these governments like appendages of the Federal establishment.

Based on this historical record, it is clear there is a very real possibility that the Federal Government may take the easy way out and send its budget troubles to the other levels of government. This might be called "hot potato" Federalism and I don't think it will do anything to improve government services to the citizens of our country. The goal of a balanced budget should not be carried in a bucket which leaks, drowning the other governments in the Federal system in a flood of costly requirements.

Mr. President, let's not kid ourselves about the ultimate costs of this cost shifting. State and local governments run on the same fuel that the Federal Government does: Taxes. The ultimate costs of shifting the responsibility of balancing the Federal budget to our States, towns and counties through mandates will be higher costs for all our citizens. Some idea of the potential costs is provided by a study conducted by the Urban Institute which concluded that the annual costs of mandates in six Federal programs in seven communities studied ranged from a total of $6.00 to $51.51 per capita. Similarly, a study conducted in California found that the combined costs of Federal and State mandates on towns and cities ranged from 10% to 85% of local expenditures. There is no free lunch. We must pass a real balanced budget, not simply pass the costs on to local government.

Mr. President, my committee passed last year the State and Local Fiscal Note Act and it has been signed into law. The act will require, beginning next year, that the significant costs of all Federal programs and policies on State and local government be carefully assessed before passage by Congress. This law will provide Congress with the information it needs to determine the costs of Federal programs before it passes them on to other levels of government. Despite the fact that section 4 of S.J. Res. 58 has been removed, I hope my colleagues will use the information provided by the Fiscal Note Act to ensure that in fulfilling the goal of a balanced budget, we aren't simply shipping off our responsibilities to local governments and, more importantly, their taxpayers.●

Mr. PROXMIRE. Mr. President, I am concerned about a potential loophole in the proposed amendment which, if not closed by the implementing legislation, could postpone indefinitely the goal of a balanced budget. The problem arises in the first year the amendment becomes effective. Assume, for example, that the amendment is ratified by September 30, 1983. The amendment would then become effective for the budget beginning in fiscal year 1985. Under current procedures, the Congress would be considering that budget during the spring of 1984.

The amendment requires that the percentage increase in the statement of revenues for fiscal year 1985 not exceed the percentage increase in national income in calendar year 1983 compared to calendar year 1982. The figure on the growth of national income should be available at the time the statement is being considered. Assume it is 10 percent. This means that the statement of revenues for fiscal year 1985 cannot increase by more than 10 percent from the statement of revenues for the prior year.

The problem is that there is no official statement of revenues in fiscal year 1984 since the amendment was not effective in that year. Congress would therefore have to develop its own revenue estimate in order to comply with the amendment. Actual figures for fiscal year 1984 would be available for only one-half of the year at the time the statement of revenues was being considered. Revenues for the entire fiscal year 1984 may be the subject of widely different projections based on differing assumptions about the economy or congressional willingness to enact specific tax measures.

Without a firm estimate of actual revenues for fiscal year 1984, the Congress could pick the highest estimate possible based on the most optimistic assumptions about the economy and the expected progress of tax legisla-

tion. Indeed, Congress might be under considerable pressure from the administration to adopt these most optimistic assumptions, particularly if they were embodied in the President's budget. The President might contend, for example, that even though tax rates are being reduced, the tax cuts will stimulate the economy and bring in more revenue.

Given the inherent variability of revenue estimates, coupled with election-year politics, Congress could easily overestimate revenues for fiscal year 1984—perhaps by as much as $50 billion—while still developing a plausible rationale for the estimate.

A $50 billion overestimate of current year revenues would be quite unusual by historical standards but by no means impossible. Indeed, the estimate of current year revenues would, for the first time, take on an entirely new strategic importance since it would establish the base for subsequent limitations on spending. If revenues for fiscal year 1984 are overestimated by $50 billion, the limitation on revenue estimates for fiscal year 1985 could be raised by $50 billion plus 10 percent, or $55 billion. This in turn means that maximum outlays for fiscal year 1985 could be $55 billion higher. If the revenues failed to materialize, Congress would have no constitutional duty to cut back outlays or raise taxes to close the budget deficit.

The problem could become even greater in fiscal year 1986 and subsequent years. If the statement of revenues is overestimated by $55 billion in fiscal year 1985, this inflated level becomes the base for the limitation on the statement of revenues for the next fiscal year plus the percentage increase in national income. Carried to its logical extreme, there could be an ever growing gap between statement revenues and actual revenues. And since outlays are limited to statement revenues, there could be a constantly growing budget deficit—clearly not the intent of the framers of the amendment.

Even a small overestimate of revenues in the base year could be compounded over time by the growth rate in national income and result in a widening gap between statement revenues and actual revenues. At the very least, the problem of the floating base can provide the Congress and the administration with considerable leeway during the first few years of the amendment thereby permitting continued budget deficits without the constitutional three-fifths vote.

Whether or not the proposed constitutional amendment lives up to its promise depends crucially upon the implementing legislation. The problem of the floating base could be corrected by requiring that the first year's statement of revenues be adjusted to reflect actual revenues in the prior year once these figures become available. If Congress had overestimated prior year revenues, it would then have to make a proportionate reduction in its statement of revenues for the budget year together with a commensurate reduction in budget outlays. This, of course, might require the rescission of funds already appropriated. Such a procedure would reduce any temptation by the Congress to overestimate revenues in the base year and insure that the budget is actually balanced.

I would like to ask the distinguished manager of the bill whether he is aware of the problem I have discussed, and if so, whether he feels that implementing legislation along the lines I have suggested should and must be adopted in order to insure that the purposes of the amendment are actually fulfilled.

● Mr. DENTON. Mr. President, the Senate is for the first time involved in a historic debate that may result in the passage of a constitutional amendment that would reform the budget, taxing and spending practices of the Federal Government. As a cosponsor of the amendment, Senate Joint Resolution 58, I am very pleased that the majority leader set aside time during which the Senate and the Nation can consider the merits of amending the Constitution in this way.

As support for the amendment has grown, I have been impressed by the urgency and the importance that millions of Americans attach to its passage. On the whole, I believe that American taxpayers are disappointed and frustrated that, year after year, the Congress has failed to find a workable way to balance the Federal budget. That frustration is reflected by the 31 State legislatures that have adopted resolutions urging the Congress and the President to bring the Nation's budget into balance.

At long last, the moment has come when the Congress can respond to the frustrations of American taxpayers by thoroughly debating, and then passing, Senate Joint Resolution 58. Those who question the efficacy of a balanced budget amendment have raised two primary arguments in opposition to it. First, they argue that it would incorporate into the Constitution a rigid, and therefore economically unsound, fiscal policy. Second, they argue that amending the Constitution is too drastic a way to address the problem of spending.

I believe, however, that both arguments fall because they do not take into account the dual crises that this Nation faces—the economic crisis that is destroying our historic high levels of productivity, and the crisis of confidence that results from average citizens losing faith in the ability of their Government to exercise discipline in matters of taxing and spending.

I believe that the Judiciary Committee, the administration and the vast majority of Americans are now heeding the warnings of economists that the explosion in Federal spending is the major factor contributing to our economic decline.

Dr. Roger Freeman of the Hoover Institution noted in the hearings the Judiciary Committee held on the amendment that:

> Increased public spending is a major inflationary force, whether financed from progressive taxes or through deficits and monetary expansion. But since tax boosts carry a political cost and are unpopular among elected officials, budgetary deficits are a more frequent and more powerful factor in driving inflation upward.

The truth of that statement is obvious. This Congress alone has authorized two increases in the public debt limit, and the total national debt now stands at well over a trillion dollars. In the 12 years since the budget was last balanced, the national debt has increased by $430 billion. As the Director of the Office of Management and Budget, David Stockman, said in House hearings on the balanced budget amendment:

> (U)nder current law, the Congressional Budget Office estimates that nondefense entitlements will cost $359 billion in fiscal year 1983, and $1.2 trillion over the next 3 years. That huge sum embodies the essence of the fiscal problem and deficit crisis now upon us . . . The implications of these figures are clear. The future will bring either continued intolerable high deficits, or massive tax increases on already overburdened taxpayers, unless something is done.

The high levels of spending and borrowing are the main factors in producing our record high interest rates and price increases. Economists Charles W. Baird pointed out to the Judiciary Committee the specific way in which deficits threaten the national economy:

> First, since much deficit spending becomes monetized by the Federal Reserve, either directly through Fed purchases of new debt or indirectly as the Fed attempts to offset upward pressure on interest rates by purchasing existing debt, it results in inflation. No serious economist any longer claims that inflation does no harm. The evidence to the contrary is too clear, even to impenitent Keynesians. Inflation distorts relative prices and thereby misdirects resources. Moreover, it interacts with progressive income taxation to increase the real tax burden. . . . Second, even if deficits were not monetized and so did not contribute to inflation, the fact that deficit spending is permitted inevitably leads to growth of the Government sector relative to the private sector.

I recognize that men and women of good will can disagree about the necessity of the portion of the amendment that prohibits increases in the share of national income going to the Federal Government unless specific increases are approved by Congress. There are wide philosophical and political differences over the question of how much

spending the Federal Government can and should undertake.

The notion, however, that it is improper to reestablish the principle that Federal expenditures should be no greater than Federal revenue is preposterous. It is only in recent years that the Congress abandoned the requirement of our "unwritten constitution" for a balanced budget. I do not believe that the American people will continue to tolerate the near tyranny of higher and higher rates of Government spending and taxation.

From a practical standpoint, we should recognize that this amendment is not an attempt to write a particular theory of economics into the Constitution. As Professor Scalia of the University of Chicago has pointed out, the legislative requirements of the amendment "do not require any particular economic course," that is, a balanced budget and no increase in taxes, "but merely specify the procedures to be followed when that course is abandoned." I believe, however, that it is clear that this amendment rightly establishes a bias in favor of a balanced budget and no increases in taxes. That is a popular and appropriate national goal, and it is one that this amendment can help us attain without placing our public budget in the straitjacket of inflexible economic theory.

I must emphasize again that I believe we face a crisis of confidence on the part of the American public. Most taxpayers simply do not believe that the Congress has the willpower to cut spending and balance the Federal budget. The mistrust appears well founded when one reviews the history of statutory efforts to reform the budget process and restrain spending. Alvin Rubushka of Stanford University presented such a review in a recent monograph prepared for the Taxpayers' Foundation. He said:

> In the Humphrey-Hawkins Full Employment Act, a balanced budget was declared to be a national public policy priority. An amendment offered by Rep. (now Senator) CHARLES GRASSLEY and Senator HARRY BYRD, JR., to an IMF loan program measure was enacted into law and required that, beginning with fiscal year 1981, total budget outlays of the Federal Government "shall not" exceed its receipts (Public Law 95-435). In 1979, a provision in a measure to increase the public debt limit stated that "Congress shall balance the Federal budget" (Public Law 96-5), which required the congressional budget committees to propose balanced budgets for fiscal year 1981 and subsequent years. None of these measures has effectively constrained deficits.

I strongly believe that the prudent and responsible management of public funds is a fundamental governmental and political requirement. The reestablishment of the balanced budget principle is a "broad and enduring ideal" that is worthy of inclusion in the document that establishes the basic structure of our Government. I am afraid that simple statutory approaches to reasserting this important principle will fail like their predecessors. Only the enactment of a constitutional amendment will explicitly mandate fiscal responsibility and be enforceable by future Congresses.

I urge my colleagues who are as yet uncommitted to join this effort to balance our national budget, for us and for succeeding generations who will otherwise bear the burden of our profligacy and irresponsibility.

Mr. HUMPHREY. Mr. President, I strongly support Senate Joint Resolution 58, the balanced budget-tax limitation constitutional amendment. In doing so, I would like to take a few moments to congratulate several of my colleagues, Senator THURMOND, the resolution's sponsor; Senator HATCH, the distinguished Chairman of the Subcommittee on the Constitution from whose subcommittee the resolution was reported; and the other members of the Senate Judiciary Committee. After more than 40 years of congressional debate on the subject, the Senate Judiciary Committee has at last presented this body with a vehicle for instituting much-needed reform in the budget, tax and spending procedures of the Federal Government.

Once duly passed and ratified, Senate Joint Resolution 58 will finally force Congress to be more accountable to the taxpayers. Past Congresses have found it too easy to spend and spend, tax and tax, while hiding behind a cloak of good intentions. Mr. President, it is well known that Russia's tsars and empresses handed out estates, decorations, noble titles, and vast sums of money to their supporters and to the key opinion-makers of their empire. In a similar vein, though certainly with much more noble intentions, past Congresses have been much too willing to create new and costly Federal programs sought by various special-interest groups. In fact, until only very recently, each year's budget debate revolved around the question of how much of an increase in spending to grant, not about what programs to terminate, or what efficiencies needed to be made. Mr. President, the public is tired of this approach to the Nation's business. The taxpayer wants Congress to balance the Federal budget in the same way as each family's budget must be balanced. The taxpayer senses the fiscal folly of deficit spending and wants Congress to balance the budget, but not by further increases in taxes.

In a September 1981 Gallup poll, 67 percent of those surveyed favored a constitutional amendment to balance the budget and restrict Federal spending. A national poll conducted by Market Opinion Research of Detroit, Mich., and released June 3, 1982, revealed that 79 percent of voters, in all income, educational, racial, geographical, and political categories surveyed, favor congressional passage of the tax limitation/balanced budget amendment. Thus, the message is clear. The public which elected each of us is demanding fiscal restraint.

Mr. President, I support Senate Joint Resolution 58. I am a cosponsor of the resolution and in late April, joined 33 of my Senate colleagues in urging the President to endorse the measure. However, no one should be fooled into believing that this resolution has some magical property. This Congress and those that follow will continue to have to work hard to reduce Federal spending, to limit tax increases, and to balance the budget. This Senator is committed to seeing that the resolution is strictly enforced. The work will not be easy but, in my view, future generations of Americans will thank us. Passage of Senate Joint Resolution 58 is an important step in the right direction.

The PRESIDING OFFICER. Who seeks recognition?

Mr. COCHRAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, there are certain routine matters I believe may be disposed of. I believe there is no need for further debate this evening on the pending question. That will be resumed in the morning.

I ask unanimous consent that there now be a period for the transaction of routine morning business not to extend beyond the hour of 7 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate go into executive session for the purpose of considering nominations on the Executive Calendar commencing with "New Reports," and that is commenc-

ing with Calendar No. 863, and to consider nominees through 868.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I ask that the Senate consider Calendar No. 864.

THE JUDICIARY

The assistant legislative clerk read the nomination of E. Grady Jolly, of Mississippi, to be U.S. circuit judge for the fifth circuit.

The PRESIDING OFFICER. The Senator from Mississippi is recognized.

Mr. COCHRAN. Mr. President, the Judiciary Committee has recommended, without dissent, confirmation of the nomination of E. Grady Jolly to be U.S. circuit judge for the fifth circuit.

The committee action is tribute to the fact that he is eminently qualified by education, experience, and temperament for the Federal bench, which the hearing record clearly supports.

It is my privilege and honor to recommend him to President Reagan for this important position of responsibility. I am confident he will serve with great distinction, and I urge the Senate to confirm him.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. STEVENS. Mr. President, I ask unanimous consent that the remainder of the nominees that I have mentioned, Calendar Nos. 863, 865, 866, and 868 be confirmed en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, the nominations are considered and confirmed en bloc.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Partick E. Higginbotham, of Texas, to U.S. circuit judge for the fifth circuit.

Richard A. Gadbois, Jr., of California, to be U.S. district judge for the central district of California.

DEPARTMENT OF JUSTICE

Julio Gonzales, of California, to be U.S. marshal for the central district of California.

James O. Golden, of Virginia, to be U.S. marshal for the District of Columbia.

Eugene V. Marzullo, of Pennsylvania, to be U.S. marshal for the western district of Pennsylvania.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the nominations were confirmed en bloc.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. STEVENS. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of the nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECOGNITION OF SENATOR NUNN TOMORROW

Mr. STEVENS. Mr. President, following the time under the standing order for the leaders tomorrow, Wednesday, July 28, I ask unanimous consent that there be a special order for the Senator from Georgia (Mr. NUNN) not to exceed 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEMBERS ON THE PART OF THE SENATE OF THE JOINT COMMITTEE OF CONGRESS ON THE LIBRARY

Mr. STEVENS. Mr. President, I ask unanimous consent that the Chair lay before the Senate Calendar No. 715, Senate Resolution 430.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 430) relating to members on the part of the Senate of the Joint Committee of Congress on the Library.

The PRESIDING OFFICER. Without objection, the resolution is considered and agreed to, as follows:

S. RES. 430

Resolved, That Mr. Inouye of Hawaii be, and is hereby elected, a member of the Joint Committee of Congress on the Library, vice Mr. Williams of New Jersey, resigned.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL FEDERATION OF MUSIC CLUBS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 2317.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 2317) entitled "An Act to recognize the organization known as the National Federation of Music Clubs", do pass with the following amendments:

Page 2, line 5, after "shall" insert "be those provided in its articles of incorporation and also shall".

Page 4, after line 9, insert:

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Illinois.

Mr. STEVENS. Mr. President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. Without objection, the motion is agreed to.

Mr. STEVENS. Mr. President, is it in order to reconsider that action?

The PRESIDING OFFICER. It is in order.

Mr. STEVENS. I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER THAT H.R. 6782 BE HELD AT THE DESK PENDING FURTHER DISPOSITION

Mr. STEVENS. Mr. President, I ask unanimous consent that once the Senate receives H.R. 6782 from the House of Representatives, it be held at the desk pending further disposition.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER THAT H.R. 6663 BE HELD AT THE DESK UNTIL THE CLOSE OF BUSINESS TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that H.R. 6663 be held at the desk until the close of business tomorrow.

Mr. ROBERT C. BYRD. Mr. President, there is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT AMENDMENTS

Mr. STEVENS. Mr. President, I ask that the Chair lay before the Senate Calendar No. 710, S. 1182.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1182) to amend the Longshoremen's and Harbor Workers' Compensation Act.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all

after the enacting clause, and insert the following:

That (a) this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Longshoremen's and Harbor Workers' Compensation Act.

DEFINITIONS

SEC. 2. (a) Section 2(3) is amended to read as follows:

"(3) The term 'employee' means any person directly engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include—

"(A) any ship repairman, shipbuilder, or ship-breaker engaged by employers described in section 2(4)(B)(iv);

"(B) employees exclusively performing office clerical, secretarial, security, or data processing work;

"(C) club, camp, restaurant, museum, retail outlet, and marina personnel;

"(D) personnel of suppliers, transporters, or vendors temporarily doing business on the premises of employers described in section 2(4)(A);

"(E) aquaculture workers;

"(F) any person engaged in operating an independently or cooperatively owned grain elevator and who is not engaged in the loading or unloading of a vessel;

"(G) any person employed to build or repair any recreational vessel under sixty-five feet in length;

"(H) a master or member of a crew of any vessel; or

"(I) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if employees described in clauses (A) through (G) are subject to coverage under a State workers' compensation law.".

(b) Section 2(4) is amended to read as follows:

"(4)(A) The term 'employer' means an employer any of whose employees are directly employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, building, or breaking a vessel).

"(B) The term employer does not include—

"(i) clubs, camps, restaurants, museums, retail outlets, or marinas;

"(ii) aquaculture farms;

"(iii) employers or operations of employers who otherwise would be described by subparagraph (A) of this paragraph—

"(I) solely and exclusively because they are in the business of building, repairing, or dismantling—

"(aa) commercial barges under nine hundred light displacement tons but no other vessel which is nine hundred lightship displacement tons used or intended for use on the inland waters of the continental United States as defined in section 311(a)(16) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(16));

"(bb) commercial tugboats, towboats, crew boats, supply boats, or fishing vessels under one thousand six hundred tons gross but no other vessel which is one thousand six hundred tons gross or more; or

"(cc) any recreational vessel under sixty-five feet in length but no other vessel which is sixty-five feet in length or more, while upon any pier, wharf, building way, marine railway, graving dock, shop, or any other facility or area over land customarily used in ship repairing, shipbuilding, or shipbreaking; and

"(II) if the operations of employers described in subdivision (I) do not receive Federal maritime subsidies.".

(c) Section 2(13) is amended to read as follows:

"(13) The term 'wages' means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes). The term wages does not include fringe benefits, including but not limited to employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit fund or trust for the employee's or dependent's benefit, or any other employee's dependent entitlement.".

COVERAGE

SEC. 3. Section 3(a) is amended to read as follows:

"(a) Compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by the employer in loading, unloading, repairing, or building a vessel). No compensation shall be payable in respect of the disability or death of—

"(1) any employee described in section 2(3) (A) through (I) of this Act; or

"(2) an officer or employee of the United States or any agency thereof or any State or foreign government, or of any political subdivision thereof.".

(b) Section 3 is amended by adding the following new subsection:

"(c) Notwithstanding any other provision of law, any amounts paid by any employer for the same injury, disability, or death for which benefits are claimed under this Act pursuant to any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.".

EXCLUSIVENESS OF REMEDY AND THIRD PARTY LIABILITY

SEC. 4. (a) Section 5(a) is amended by inserting after the word "liability" the second time it appears the following: "including any liability imposed by or arising out of any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688)".

(b)(1) The third sentence of section 5(b) is amended to read as follows: "If such person was employed to provide ship building, repairing, or breaking services and such person's employer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person's employer (in any capacity, including as the vessel's owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer.".

(2) Section 2(21) is amended by striking out "The" and inserting in lieu thereof "Unless the context requires otherwise, the".

(c) Section 5 is amended by adding at the end thereof the following new subsection:

"(c) In the event that the negligence of a third party causes injury to a person entitled to receive benefits under this chapter by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333), then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such third party in accordance with the provisions of section 33 of this Act. Nothing contained in this chapter, or in any otherwise applicable State law, shall preclude the enforcement according to its terms of any written agreement under which the employer has agreed to indemnify such third party in whole or in part with respect to such action.".

COMPENSATION

SEC. 5. (a) Section 6(b)(1) is amended to read as follows:

"(b)(1) Compensation for disability or death shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under subsection (b)(3).".

(b) Section 6 is amended—

(1) by striking out subsection (c) and redesignating subsection (d) (and any references thereto) as subsection (c); and

(2) by striking out "under this subsection" in subsection (c) (as redesignated) and inserting in lieu thereof "under subsection (b)(3)".

MEDICAL SERVICES AND SUPPLIES

SEC. 6. (a) The penultimate sentence of section 7(b) is amended by inserting before the period the following: "or where the charges exceed those prevailing within the community for the same or similar services".

(b) Section 7(c) is amended to read as follows:

"(c)(1)(A) The Secretary shall annually prepare a list of physicians in each compensation district who are not authorized to render medical care under this Act. The names of physicians contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting or in such form as the Secretary may prescribe.

"(B) The Secretary may refuse to authorize any physician who, in accordance with the provisions of subsection (j)(1) of this section, and shall refuse to authorize any physician who, in accordance with the provisions of subsection (j)(2) of this section, has been found ineligible to receive payments under this Act. A physician not authorized under this Act shall not be entitled to reimbursement for any service, appliance, or supply or to recover any amount with respect to any such service, appliance, or supply from any employee.

"(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the Act, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this

subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.".

(c) Section 7(d) is amended to read as follows:

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have complied with subsections (b) and (c) and the applicable regulations or unless the employer shall have refused or neglected to furnish such services, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same; nor shall any claim for medical or surgical treatment be valid and enforceable against such employer, unless within twenty-one days following the first treatment the physician giving such treatment furnishes to the employer and the deputy commissioner a report of such injury or treatment, on a form prescribed by the Secretary. The Secretary may excuse the failure to furnish such report within the twenty-one-day period whenever he finds it to be in the interest of justice to do so. The Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary or administrative law judge may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.".

(d) Section 7 is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provisions of this Act, no liability shall arise under this Act for a service, appliance, or supply furnished by an individual or entity where the Secretary determines under this subsection that a provider—

"(A) has knowingly and willfully made, or caused to be made, a false statement or representation of a material fact in connection with any services provided under this Act;

"(B) has submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community unless the Secretary finds there is good cause for the bill or request containing the charge; or

"(C) has furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which fails to meet professionally recognized standards.

"(2) Liability shall not arise for a service, appliance, or supply furnished by a provider—

"(A) indicted or convicted under a criminal statute (without regard to pending appeal thereof) for fraudulent activities or (as determined by regulation of the Secretary) related activities, in connection with a program under which payments are made to providers for similar services, appliances, or supplies; or

"(B) otherwise excluded from participation in a program under which payments are made to providers for similar services, appliances, or supplies.

"(3) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

"(4)(A) A determination made by the Secretary under paragraphs (1) and (2) shall be effective—

"(i) in connection with any request for payment by a provider, upon notice consistent with paragraph (5); or

"(ii) in connection with a request for payment by anyone claiming benefits under this Act, only with respect to payment of expenses incurred after receipt of notice of the determination by such person.

"(B) A determination shall remain in effect until the Secretary finds and gives notice to the public that the basis for the determination has been removed, and that there is reasonable assurance that the basis for the determination will not reoccur.

"(5) The Secretary may make rules and regulations and establish procedures which are necessary or appropriate to carry out this subsection, including notice and opportunity for a hearing to the provider of a service, appliance, or supply, subject to a determination made by the Secretary under paragraphs (1) and (2) of this subsection.".

COMPENSATION FOR DISABILITY

SEC. 7. (a) Section 8(a) is amended to read as follows:

"(a) Permanent total disability: In the case of total disability determined to be permanent, 66⅔ per centum of the average weekly wages of the employee shall be paid to the employee during the continuance of the disability, except that compensation paid to the injured employee shall be subject to section 6(b)(1) and shall be reduced by 50 per centum of the amount of old-age insurance benefits to which the employee is entitled under title II of the Social Security Act. Loss of both hands, both arms, both feet, both legs, both eyes, or any combination of two such body parts, shall constitute permanent total disability in the absence of conclusive proof to the contrary. In all other cases, permanent total disability shall be determined in accordance with the facts.".

(b) Section 8(c)(13) is amended to read as follows:

"(13) Loss of hearing:

"(A) Compensation for loss of hearing in one ear, fifty-two weeks.

"(B) Compensation for loss of hearing in both ears, two hundred weeks.

"(C) An employer shall be liable to the employee only for the loss of hearing attributable to employment by the employer.

"(D) An audiogram shall be conclusive evidence of the amount of hearing loss sustained as of the date thereof, unless contrary audiograms made at that time are produced.

"(E) Within ninety days of the date of enactment of this Act, the Secretary shall promulgate regulations to define the term 'loss of hearing' in accordance with the American Medical Association Guides for the Evaluation of Permanent Impairment.".

(c) Section 8(c)(20) is amended by striking out "$3,500" and inserting in lieu thereof "$7,500".

(d) Section 8(c)(21) is amended to read as follows:

"(21) Other cases: In all other cases in this class of disability, the compensation shall be 66⅔ per centum of the difference between the average weekly wages of the employee and the employee's wage-earning capacity thereafter in the same employment or otherwise payable during the continuance of the partial disability.".

(e) Section 8(d) is amended by striking out paragraph (3) and redesignating paragraph (4) (and any references thereto) as paragraph (3).

(f) Section 8(f) is amended—

(1) by striking out "one hundred and four weeks" wherever it appears and inserting in lieu thereof "two hundred and eight weeks"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Any request for second injury fund apportionment in accordance with section 8(f) must be presented to the deputy commissioner and the Conservator prior to consideration by an administrative law judge.".

(g) Subsections (g) through (i) of section 8 are amended to read as follows:

"(g) Compensation for employees undergoing vocational rehabilitation:

"(1) An employee who as a result of an injury is undergoing vocational rehabilitation for remunerative employment under the supervision of the deputy commissioner, pursuant to section 39(c), or with the approval of the employer, shall receive continued temporary total or partial compensation during the period of rehabilitation.

"(2) An award for permanent disability may not be entered before the deputy commissioner determines, or the employer and employee agree, that vocational rehabilitation is unnecessary or until after vocational rehabilitation has been completed.

"(3) If an employee unreasonably refuses to undergo vocational rehabilitation or to participate in a reasonable plan offered and financed by the employer to return the injured employee to work, the employee shall not be eligible to receive compensation payments that would otherwise be payable for the period of the refusal.

"(h) The wage-earning capacity of an injured employee in cases of disability shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: Provided, however, That if the employee has no actual earnings or his actual earnings do not fairly and reasonably represent his wage-earning capacity, the deputy commissioner may, in the interest of justice, fix such wage-earning capacity as shall be reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.

"(i)(1) Whenever the parties to any claim for compensation, including survivors benefits, under this Act agree to a settlement, the deputy commissioner or administrative law judge shall approve the settlement within thirty days unless it is found to be inadequate or procured by duress. No liability of any employer, carrier, or both for disability or death benefits shall be discharged unless the application for settlement is approved by the deputy commissioner or administrative law judge. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless spe-

cifically disapproved within thirty days after submission for approval.

"(2) If the deputy commissioner disapproves an application for settlement under paragraph (1), the deputy commissioner shall issue a written statement within 30 days containing the reasons for disapproval. Any party to the settlement may request a hearing before an administrative law judge in the manner prescribed by this Act. Following such hearing, an order shall be issued approving, rejecting, or modifying the deputy commissioner's decision. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(3) A settlement approved under this section shall discharge the liability of the employer, carrier, or both. Such settlement may include future medical benefits if the parties so agree and the deputy commissioner approves. Settlements may be agreed upon at any stage of the proceeding including after entry of a final compensation order.".

(h) Section 8 is amended by adding at the end thereof the following new subsection:

"(j)(1) The employer may inform a disabled employee of his obligation to report to the employer not less than semiannually any earnings from employment or self-employment, on such forms as the Secretary shall specify in regulations.

"(2) An employee who—

"(A) fails to report the employee's earnings under paragraph (1) when requested, or

"(B) knowingly and willfully omits or understates any part of such earnings,

and who is determined by the deputy commissioner to have violated clause (A) or (B) of this paragraph, forfeits his right to compensation with respect to any period during which the employee was required to file such report.

"(3) Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee in any amount and on such schedule as determined by the deputy commissioner.".

COMPENSATION FOR DEATH

SEC. 8. (a) The matter preceding the colon in section 9 is amended to read as follows:

"SEC. 9. If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following".

(b) Section 9(a) is amended by striking out "$1,000" and inserting in lieu thereof "$3,000".

(c) Section 9(e) is amended to read as follows:

"(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b), except that the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which the deceased employee would have been eligible to receive under section 6(b)(1).".

DETERMINATION OF PAY

SEC. 9. Section 10(f) is amended to read as follows:

"(f) Effective October 1 of each year following the date of enactment of this Act, the compensation or death benefits payable for permanent total disability or death arising out of injuries subject to this Act shall be increased—

"(1) by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1; or

"(2) by 5 per centum, whichever percentage is less.".

NOTICE OF INJURY OR DEATH

SEC. 10. (a) Section 12(a) is amended to read as follows:

"(a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or by reason of medical advice should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer. Each employer shall designate those agents or other responsible officials, including first line supervisors, to receive such notice, in accordance with regulations prescribed by the Secretary and shall notify his employees of such designation in a manner prescribed by the Secretary in regulations.".

(b) Section 12(d) is amended by deleting "(or his agent in charge of the business in the place where the injury occurred)" and inserting in lieu thereof the following: "(or his agent or agents or other responsible official or officials designated by the employer as designated under subsection (a))".

PAYMENT OF COMPENSATION

SEC. 11. (a) Section 14(b) is amended by striking out "employer" and inserting in lieu thereof "employer's agent or agents as designated under section 12(a)".

(b) Section 14 is amended by striking out subsection (j) and by redesignating subsections (k) and (l) (and any references thereto) as subsections (j) and (k), respectively.

PRESUMPTIONS

SEC. 12. Section 20 is amended as follows:

(1) by inserting before the period in subsection (b) a comma and the following: "except when the agent or agents or other responsible official or officials designated by the employer in section 12 (a) and (d) have not received actual or constructive notice", and

(2) by adding at the end of the section the following new sentence: "The mere existence of a physical impairment is insufficient to establish a claim under this Act.".

REVIEW OF COMPENSATION ORDER

SEC. 13. Section 21 is amended by adding the following new paragraph at the end of subsection (b):

"(5) Notwithstanding paragraphs (1) through (4), upon application of the Chairman of the Board, the Secretary may designate up to four Department of Labor administrative law judges to temporarily serve on the Board. Any party aggrieved by the decisions of a panel or division of the Benefits Review Board may, within thirty days after the decision, petition the entire Board (permanent plus temporary members) for a rehearing en banc. Upon affirmative vote of the majority of the Board sitting en banc, the petition shall be granted. If a petition for a rehearing en banc is granted, and the vote of the Board sitting en banc results in a tie, the decision of the panel or division of the Board shall be affirmed. The Benefits Review Board shall amend its Rules of Practice to conform with this paragraph. Temporary members shall be compensated at the same rate of compensation as they were receiving prior to such temporary designation. Except when sitting en banc, and for the purpose of carrying out its adjudicative functions under this Act, two members of the Board shall constitute a quorum of a panel or division and official adjudicative action can be taken only on the affirmative vote of at least two members of a division or panel.".

MODIFICATIONS OF AWARDS

SEC. 14. Section 22 is amended by striking all after "the deputy commissioner may" through "rejection of a claim".

FEES FOR SERVICES

SEC. 15. (a) Section 28(a) is amended to read as follows:

"(a) A claim for legal services or for any other services provided to or on account of a person with respect to a claim for or award of compensation under this Act is not valid unless approved by the deputy commissioner, an administrative law judge, the Board, or a court which is reviewing an order of an administrative law judge.".

(b) Section 28(e) is amended to read as follows:

"(e) A person who receives a fee, gratuity, or other consideration on account of services rendered as a representative of a claimant, unless the consideration is approved by the deputy commissioner, administrative law judge, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself, with respect to a claim or award for compensation under this Act, shall, upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or be imprisoned for not more than one year, or both.".

REPORTS

SEC. 16. (a) Section 30(a) is amended—

(1) by inserting after the word "injury" a comma and the following: "which would cause loss of one or more shifts of work", and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the requirements of this section, each employer shall keep a record of each and every injury regardless of whether such injury results in the loss of one or more shifts of work.".

(b) Section 30(e) is amended to read as follows:

"(e) Any employer, insurance carrier, or self-insured employer who willfully fails or refuses to send any report required by this section shall be subject to a civil penalty not to exceed $25,000 for each such failure or refusal.".

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

SEC. 17. Section 31 is amended to read as follows:

"PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

"SEC. 31. (a)(1) A person who willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or both.

"(2) The United States attorney for the district in which the injury is alleged to have occurred shall make every reasonable effort to promptly investigate each complaint made under this subsection.

"(b)(1) A person may not prosecute or defend a claim other than his own under this Act other than a claimant, an attorney, a representative licensed by the Secretary, or an employee designated by an employer or carrier.

"(2) A person may not prosecute or defend a claim other than his own under this Act if the person—

"(A) is convicted of or pleads guilty to a crime in a State or Federal court;

"(B) gives false or substantially inaccurate information in an application for a license to prosecute or defend a claim under this Act;

"(C) conceals or attempts to conceal material facts with respect to a claim under this Act;

"(D) solicits or procures false testimony with respect to a claim under this Act; or

"(E) misappropriates funds or documents entrusted to the person with respect to a claim under this Act.

"(3) The Secretary shall issue such rules and regulations as are necessary to carry out this subsection.

"(c) A person including, but not limited to, an employer, his duly authorized agent, or an employee of an insurance carrier who willfully makes a false statement or representation for the purpose of denying or terminating benefits to an injured employee, or his dependents pursuant to section 9 if the injury results in death, shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or by both.".

SECURITY FOR COMPENSATION

SEC. 18. Section 32(a)(2) is amended by inserting "based on the employer's financial condition, the employer's previous record of payments, and other relevant factors," after "in an amount determined by the Secretary,".

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

SEC. 19. (a) Section 33(b) is amended to read as follows:

"(b) Acceptance of such compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such award. For the purpose of this subsection, the term 'award' with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board; if the employer fails to commence an action against such third person within a reasonable time after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation.".

(b) Section 33(f) is amended to read as follows:

"(f)(1) If a person entitled to compensation under the Act institutes proceedings within the period described in subsection (b), the employer shall be required to pay, as compensation under this Act, a sum equal to the excess of the amount which the deputy commissioner, an administrative law judge, or Board determines is payable on account of the injury or death above the amount recovered in the proceedings against a third person.

"(2) Any amount recovered by the person entitled to compensation on account of the proceedings by judgment or settlement, whether or not the settlement is approved by the employer in accordance with subsection (g), shall be distributed as follows:

"(A) The person entitled to compensation shall pay to the employer an amount equal to the sum of—

"(i) the cost of all benefits furnished to the person by the employer under section 7; and

"(ii) all other amounts payable as compensation or benefits under this Act.

"(B) The person entitled to compensation or the person's representative shall retain the amount remaining after the payment required by subparagraph (A).".

(c) Section 33(g) is amended to read as follows:

"(g)(1) If the person entitled to compensation (or the person's representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person's representative) would be entitled under this Act, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer's carrier, before the settlement is executed, and by the person entitled to compensation (or the person's representative). The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.

"(2) If no written approval of the settlement is obtained and filed as required by paragraph (1), or if the employee fails to notify the employer of any settlement obtained from or judgment rendered against a third person, all rights to compensation and medical benefits under this Act shall be terminated, regardless of whether the employer or the employer's insurer has made payments or acknowledged entitlement to benefits under this Act.

"(3) Payments by the special fund established under section 44 shall be a lien upon the proceeds of any settlement obtained from or judgment rendered against a third person referred to under subsection (a). Notwithstanding any other provision of law, such lien shall be enforceable against the employee, regardless of whether the Conservator on behalf of the special fund has agreed to or has received actual notice of the settlement or judgment.".

ANNUAL REPORT

SEC. 20. The Act is amended by inserting the following new section after section 42:

"ANNUAL REPORT

"SEC. 43. The Secretary shall make to Congress at the beginning of each regular session a report of the administration of this Act for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established in sections 44 and 45, together with such recommendations as the Secretary deems advisable.".

SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

SEC. 21. Section 45 is amended to read as follows:

"SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

"SEC. 45. (a)(1) There is established the Special Fund Conservation Committee (hereinafter in this section referred to as the 'Conservation Committee'). The Conservation Committee shall be responsible for protecting the financial integrity of the special fund established under section 44 (hereinafter in this section referred to as the 'special fund') by insuring that all distributions from the special fund are made in accordance with this Act.

"(2)(A) The Conservation Committee shall be composed of five members appointed by the Secretary, who shall be representatives of carriers authorized under section 32, including self-insurers and representatives of employers.

"(B) The terms of office of the members of the Conservation Committee shall be three years, except that of the members first appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years, as determined by the Secretary at the time of appointment.

"(C) A vacancy on the Committee shall be filled in the manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(D) Members of the Conservation Committee shall serve without pay and may not be reimbursed for any travel or transportation expenses.

"(E) The Chairman shall be elected by the members of the Conservation Committee.

"(F) The Conservation Committee shall meet at the call of the Chairman or a majority of its members.

"(G) Upon request of the Conservation Committee, the Secretary shall provide such administrative services as the Committee shall require.

"(3)(A) The Conservation Committee may secure, directly from the Secretary of Labor, the Secretary of the Treasury, the Board, and a deputy commissioner, information necessary to enable it to carry out this section, including copies of all official records and reports. Upon request of the Chairman of the Conservation Committee, the appropriate Secretary, the Chairman of the Board, or the deputy commissioner shall furnish the information to the Committee.

"(B) The Conservation Committee may provide (by contract) for the auditing of the account of the special fund. The Conservation Committee may secure directly from the Comptroller General of the United States information derived from an audit conducted pursuant to section 44(g). Upon request of the Chairman of the Conservation Committee, the Comptroller General shall furnish the information to the Conservation Committee.

"(4) The Conservation Committee may establish such policies and procedures as may be necessary to carry out this section.

"(5) The Conservation Committee shall transmit to the Secretary of Labor, the Secretary of the Treasury, and to each House of Congress a report, not later than one year after the date of enactment of this Act, and each year thereafter. The report shall contain a detailed statement of the findings and conclusions of the Conservation Committee with regard to the financial integrity of the special fund, together with its recommendations for such legislative and administrative actions as it considers appropriate.

"(b)(1)(A) To carry out its responsibilities under this section, the Conservation Committee shall appoint a Fund Conservator (hereinafter in this section referred to as the 'Conservator').

"(B) The Conservation Committee may authorize the Conservator to take any action which the Conservation Committee is authorized to take under this section.

"(2)(A) The Secretary shall cause notice to be given to the Conservator whenever a payment from the special fund is ordered by the Secretary or whenever an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund is scheduled to convene. A proceeding on an application for apportionment under section 8(f) of this Act may not be convened less than thirty days after notice of the proceeding has been given to the Conservator, unless the Conservator waives the limitation in writing to the Secretary.

"(B) Except as provided in subparagraph (C), the Conservator shall be a party in an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund. The Conservator shall have the same rights in the proceeding as any other party, including the right to participate in a settlement of a claim brought against the fund.

"(C) The Conservator may withdraw as a party from a proceeding described in subparagraph (B), after giving written notice to the Secretary and the officer or judge presiding over the proceeding, if the Conservator determines that there is a substantial likelihood that the liability of the fund will be established in the proceeding.

"(D) The Conservator may participate as a party in a case where the liability of the special fund is already established and a proceeding is convened to establish the amount of the liability, including a proceeding to review a compensation award under section 22.

"(E) The functions and responsibilities of the Conservator established under subparagraphs (B) through (D) shall extend to all proceedings described in such subparagraphs which are pending on the date of enactment of this Act.

"(3)(A) When medical questions or questions relating to the vocational rehabilitation of a claimant are raised in a case in which the Conservator is a party pursuant to paragraph (2), the Conservator may order an examination or evaluation of the claimant in the proceeding by a physician whose services have been procured by the Conservator under paragraph (5)(B)(ii).

"(B) If a claimant refuses to comply with an order under subparagraph (A), the proceeding relating to the claimant's case shall be suspended and, in appropriate cases, the Secretary may suspend benefits, unless the physician or other individual who would be responsible for administering the examination or evaluation determines that the administration of the examination or evaluation would constitute a risk to the health of the claimant.

"(4)(A) Subject to such rules as the Conservation Committee may prescribe and to subparagraph (B), the Conservator may appoint and fix the pay of such professional and clerical personnel as the Conservator considers appropriate.

"(B) The staff of the Conservator may be appointed without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(5)(A) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(B) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure the services of—

"(i) counsel, subject to subparagraph (C), to represent the interests of the special fund in an administrative or judicial proceeding described in paragraph (2); and

"(ii) medical, vocational, and other experts and witnesses to defend a claim against the special fund.

"(C) The Conservator shall establish standards for the selection of a counsel under subparagraph (A) which will ensure the selection of individuals who are specially qualified to serve by virtue of their education, training, or experience, including experience in the field of worker's compensation law.

"(c) All administrative expenses incurred by the Conservation Committee and the Conservator under this section shall be paid from the special fund.".

APPROPRIATION

SEC. 22. Section 46 is repealed.

AVAILABILITY OF APPROPRIATIONS

SEC. 23. Section 47 is repealed.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

SEC. 24. (a) Section 49 is amended by inserting after the first sentence the following new sentence: "The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section.".

(b) The second sentence of section 49 is amended—

(1) by striking out "$100" and inserting in lieu thereof "$1,000"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$5,000".

EFFECTIVE DATE

SEC. 25. The provisions of this Act and the amendments made by this Act shall be effective for an injury, disability, or death which occurs or commences on or after the date of enactment of this Act, except that (1) there shall be no liability for deaths from causes other than the injury, as provided in sections 8(d)(3) and 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by Public Law 92-576, for any such deaths occurring on or after the date of enactment of this Act, and (2) the amendments made by section 14 of this Act relating to the modification of awards shall not apply to payments of compensation under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

Amend the title so as to read: "An Act to amend the Longshoremen's and Harbor Workers' Compensation Act to improve the administration of the Act, to reduce incentives for fraud and abuse, to assure immediate compensation benefits and competent medical treatment for injured employees, and for other purposes.".

Mr. STEVENS. Mr. President, I move the adoption of the committee amendment and ask that it be treated as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. HATCH. Mr. President, I am pleased to bring to the floor today the bill, S. 1182, to reform comprehensively the Longshoremen's and Harbor Workers' Compensation Act. This act was last amended almost a decade ago, in 1972. At that time the act with the new amendments was heralded as a "model of enlightened benefit." It is no doubt true that the 1972 amendments did bring about an improvement. Prior to 1972, 20 States had surpassed the Longshore Act in terms of wage loss benefits. Moreover, a very unsatisfactory state of affairs existed with respect to third party liability suits involving covered employers. The principle that workers' compensation should be an employer's sole liability to injured employees had been seriously eroded. However, the experience of the last 10 years has demonstrated severe deficiencies with the act.

So beginning in 1977, the respective labor committees of the Senate and the House conducted a series of oversight hearings. During the 95th Congress, the House committee held 17 days of hearings, and they continued in both the House and the Senate in the 96th Congress. As might be expected, employers, insurance carriers, unions and employee representatives presented varying views. Employers and carriers complained about the vagaries over jurisdiction and coverage, and they were highly critical of the benefits levels, the unrelated death benefits provision, and the unrestrained annual adjustments in compensation. They were also critical of the special fund's growing liability as well as the delays and backlogs encountered in the administration and adjudication of claims. On the other hand, employee representatives expressed overall support for the current law, but indicated concern over inadequate administration by the Department of Labor.

At the beginning of the 97th Congress, the permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs held 6 days of hearings on waterfront corruption and the influence of organized crime in a number of east and gulf coast ports. The hearings were the culmination of an investigation commenced the previous year by Senator NUNN and the Department of Justice's Operation UNIRAC.

Soon after the conclusion of the permanent subcommittee investigation hearings, Senators NICKLES and NUNN on May 14, 1981, introduced the comprehensive longshoremen's and harbor workers' compensation reform bill S. 1182. This committee's Subcommittee on Labor held 4 days of hearings on S. 1182 and developed a hearing record of 1,241 pages. Interested parties from labor, management, and Government again presented their views.

The following criticisms emerged from these hearings:

First, jurisdiction: It was alleged that the extension to "adjoining"

areas leave vague and unclear just what operations on land are covered. The small recreational boatyards, in particular, are in a state of uncertainty as to the status of their employees working at locations which are not geographically adjacent to navigable waters. The small boat and barge builders expressed concern about their employees who may be involved in nonmaritime construction during extensive periods of the year.

Second, unrelated death benefits: The law provides that if a claimant receives compensation benefits for either permanent partial or permanent total disability and then dies from any cause, his widow and/or survivors would be entitled to certain benefits. It is contended this has the effect of adding a life insurance policy to a workers' compensation law.

Third, annual escalation of benefits: It has been contended that the unpredictability of future, annual escalation of benefits makes insurance premium assessment equally unpredictable, resulting in higher insurance costs.

Fourth, no limitation on weekly benefits to widows and/or survivors in case of death: Since there is a maximum payable for total permanent disability, it is alleged that, in certain instances, a widow could receive higher benefits from the death of the employee than if he was receiving total permanent disability benefits.

Fifth, procedure for establishing loss of wage earning capacity: It has been stated that in some cases a claimant receives compensation in excess of his take-home wages prior to injury.

Sixth, employers' access to an indpendent physical examination: It has been alleged that in certain district offices, the deputy commissioners are unwilling to order an independent medical examination of a claimant at the request of an employer.

Seventh, settlements: It has been alleged that the administrative law judges have no authority to approve settlements, which results in excessive litigation.

Eighth, waste, fraud, and abuse: During the course of the hearing before the permanent Subcommittee on Investigations as well as the committee's consideration of the bill, testimony was received concerning the potential for abuse of this act. It has now been clearly established that, in certain instances, the provisions of the act have been abused by corrupt individuals so that corrective action to eliminate this potential is necessary.

The bill as reported by the committee, in my estimation, goes a long way in rectifying many of these problems. I would stress, however, that this bill in its present form is a consensus bill. It does not address all the matters raised during the hearings. Nor does it solve some of the problems to everyone's complete satisfaction. But that is often the nature of compromise legislation. I will not take the time to review in detail all the aspects of the reported bill; an explanation is adequately set forth in the committee report. I would nevertheless like to single out several matters for comment.

I would like to make a few comments on the committee amendment with respect to certain small boat builders and repairers. Although there are a number of limitations on the availability of the exclusion, the result nonetheless should provide needed relief to that segment of the shipbuilding industry.

Generally, the exclusion applies only to small vessel operations in the business of building, repairing, or dismantling commercial barges, tugboats, towboats, crew boats, supply boats, or fishing vessels, or recreational vessels, all of which are subject to certain size limitations as specified in the amendment. A small vessel operation may qualify for the exclusion by relying upon one or more of the specific exception categories contained in the amendment.

One of the exception categories addresses commercial barges under 900 lightship displacement long tons.

The amendment as reported by the committee contained additional limiting language requiring that these vessels have a domestic purpose but we have agreed to accept a floor amendment which would delete the domestic purpose clause in this exception. The best example of the application of this exception is the case of a shipyard facility in the business of building and repairing barges only. If the facility is in the business of building, repairing, or dismantling commercial barges under 900 lightship displacement long tons, it will qualify for exclusion from Longshore Act coverage so long as it is not engaged in building, repairing, or dismantling any other vessel which is 1,600 tons gross or more.

The second general work boat exception addresses shipyard facilities in the business of building or repairing commercial tugboats, towboats, crew boats, supply boats, or fishing vessels under 1,600 tons gross. If a shipyard operation is in the business of building, repairing, or dismantling any one or more of these vessels, it will qualify for exclusion from Longshore Act coverage so long as it is not engaged in building, repairing, or dismantling any other vessel which is 1,600 tons gross or more. An example of the application of this exception is the case of a shipyard facility in the business of building and repairing commercial towboats under 1,600 tons gross among work on other vessels, such as patrol boats, utility vessels, ferries, Corps of Engineers dredges, or pressure barges; provided, however, that none of these vessels may be 1,600 tons gross or more—except commercial barges which, under the first exception discussed, may also be up to 900 lightship displacement tons. The third exception category deals with recreational vessels under 65 feet in length.

If the shipyard operation is engaged in work on a vessel larger than the sizes specified in the amendment, the exclusion from Longshore Act coverage is inapplicable and the otherwise excluded small vessel activity as well would be subject to Longshore Act coverage during the entire period the shipyard facility is engaged in work on the large vessel—for example, a motorized utility boat more than 1,600 tons gross.

Finally, a shipyard operation may qualify for exclusion from Longshore Act coverage under more than one of the exceptions discussed above depending upon the types and sizes of vessels involved. A shipyard facility may, for instance, be in the business of building and repairing commercial barges under 900 lightship displacement long tons and towboats under 1,600 tons gross and qualify for exclusion from Longshore Act coverage.

A significant additional limitation on the small vessel builder and repairer exclusion from coverage is that the exclusion applies only with respect to work on areas landward of the navigable waters. The exclusion does not apply to work conducted over-the-water and such work will continue to be subject to Longshore Act coverage.

I would also like to comment on an issue addressed in the committee floor amendment. Section 7 of the Longshoremen's Act offers injured or ill employees "medical, surgical, and other attendance or treatment." This scope of benefits is adequate for most workers. However, this creates a potential problem for Christian Scientists, who in accordance with their recognized religion do not generally rely upon medical treatment for injuries and illnesses. To avoid this problem, the committee floor amendment contains a provision allowing an employee to rely, in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner, including appropriate nursing services. Such treatment would be authorized without suffering loss or diminution of compensation benefits under the act.

This is actually not an unprecedented provision. The workers' compensations laws of many States routinely authorize treatment for claims of Christian Scientists. Such States include Illinois, Connecticut, Minnesota, Missouri, Wisconsin, Indiana, as well as the District of Columbia. Moreover, it is noted that the medicare program reimburses Christian Science sanatori-

ums for their care and treatment on the same basis as medical hospitals and nursing homes. Christian Science benefits are also included in the medicaid program as well, and the CHAMPUS program of health benefits for military dependents and retirees also makes specific provision for Christian Science practitioners, nurses, and sanatoriums. The Federal Employees Health Benefits Plan has long paid Christian Science claims without any administrative difficulties. Finally, Christian Science benefits are routinely paid in nearly all group health insurance plans including plans by all major carriers—Prudential, Metropolitan, Aetna, Mutual of Omaha, Connecticut General, John Hancock, Allstate. They have found from an actuarial standpoint that this type of coverage is much less expensive than medical care. Utilization rates are low and malingering is almost nonexistent.

I would like to emphasize that there is nothing in this amendment that eliminates the requirement under the act that a claimant prove his claim by the submission of competent objective evidence of his medical condition. The amendment in fact contains a provision requiring that a person submit to physical examinations required under the act.

The amendment also contains a provision making clear that a claimant who avails himself of treatment authorized by the amendment shall not be deemed to have unreasonably refused medical or surgical treatment or to have unreasonably refused to undergo vocational rehabilitation.

In closing, I would like to single out for special commendation the efforts of Senator NICKLES, the chairman of the Labor Subcommittee, and Senator, NUNN. These distinguished Members spearheaded the longshore reform effort through the introduction of S. 1182 in the last session and through the extensive hearings on the problems of the act. I also want to recognize the invaluable contributions of Senator KENNEDY and other Members on the Labor Committee. It was through their diligent efforts that a satisfactory compromise was forged.

UP AMENDMENT NO. 1161

Mr. STEVENS. Mr. President, I send technical amendments to the desk on behalf of the chairman of the committee, the distinguished Senator from Utah (Mr. HATCH), and ask that these amendments be considered en bloc.

The PRESIDING OFFICER. Is there objection?

Mr. ROBERT C. BYRD. There is no objection.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS) on behalf of Mr. HATCH, proposes an unprinted amendment numbered 1161.

On page 62, between lines 15 and 16, insert the following new subsection:

(e) Section 7 (as amended by subsection (d)) is further amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this Act prevents an employee whose injury or disability has been established under this Act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and on nursing services rendered in accordance with such tenets and practice, without suffering loss or diminution of the compensation benefits under this Act. Nothing in this subsection shall be construed to except the employee from all physical examinations required by this Act.

"(2) If an employee refuses to submit to medical or surgical services solely because, in adherence to the tenets and practice of a recognized church or religious denomination, the employee relies upon prayer or spiritual means alone for healing, such employee shall not be considered to have unreasonably refused medical or surgical treatment under subsection (d) or to have unreasonably refused to undergo vocational rehabilitation under section 8(g)(3).".

Mr. STEVENS. Mr. President, I ask unanimous consent that these technical amendments be adopted.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (UP No. 1161) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UP AMENDMENT NO. 1162

Mr. STEVENS. Mr. President, I send a second amendment to the desk on behalf of the Senator from Utah (Mr. HATCH).

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of the Senator from Utah (Mr. HATCH), proposes an unprinted amendment numbered 1162.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 51, line 12, strike out "(iv)" and insert in lieu thereof "(iii)".

On page 53, strike out lines 1 through 24, and insert in lieu thereof the following:

"(I) solely and exclusively because they are in the business of building, repairing, or dismantling—

"(aa) commercial barges under nine hundred lightship displacement tons used or intended for use on the inland waters of the continental United States as defined in section 311(a)(16) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)(16)) but not other vessel which is one thousand six hundred tons gross or more;

"(bb) commercial tugboats, towboats, crew boats, supply boats, or fishing vessels under one thousand six hundred tons gross but no other vessel which is one thousand six hundred tons gross or more; or

"(cc) any recreational vessel under sixty-five feet in length but no other vessel which is sixty-five feet in length or more; while upon any pier, wharf, building wav, marine railway, graving dock shop, or any other facility or area over land customarily used in ship repairing, shipbuilding, or shipbreaking; and

UP AMENDMENT NO. 1163

Mr. STEVENS. Mr. President, I send to the desk an amendment on behalf of Senators LONG, HEFLIN, and BENTSEN, to the amendment.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Alaska (Mr. STEVENS), on behalf of Mr. LONG, Mr. HEFLIN, and Mr. BENTSEN, proposes an unprinted amendment numbered 1163.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 8, beginning with "used" strike out through "1321(a)(16))" on line 12.

Mr. LONG. Mr. President, this amendment, on behalf of myself and Senators BENTSEN, and HEFLIN, would delete certain language presently included in the committee amendment which limits the exclusion from Longshore Act coverage for builders and repairers of commercial barges "used or intended for use on the inland waters of the continental United States as defined for use on the inland waters of the continental United States as defined in section 311(a)(16) of the Federal Water Pollution Control Act." This definition and limitation on the availability of the exclusion from coverage is exceedingly rigid and essentially would limit building and repair activity to barges used on the inland waterways.

Senators BENTSEN, HEFLIN, and I, particularly, have called attention to the substantial adverse effect of this limitation on builders and repairers of commercial barges located in the Coastal States where such vessels are frequently engaged in the coastal trades. The committee amendment, as presently constituted, would afford no relief to those small vessel facilities. In that sense, it would discriminate against facilities located in coastal areas in favor of identical facilities located in the interior States. The committee certainly had no intention to establish such an inconsistent treatment for these builders and repairers

and I appreciate very much the efforts of Senators BENTSEN and HEFLIN in joining me in addressing the need for this correction to the committee proposal. The amendment therefore, would strike this limitation and provide that the builders and repairers of commercial barges will be treated similarly regardless of their location provided, however, that they are able to meet the size limitations remaining in the committee amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment in the second degree.

The amendment (UP No. 1163) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment as amended.

The amendment (UP No. 1162) as amended was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DANFORTH. Mr. President, I am pleased to support the amendment of the Committee on Labor and Human Resources to S. 1182, the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1982. I wish to commend my distinguished colleagues, Senators HATCH, KENNEDY, and NICKLES, for engaging in the successful bi-partisan effort to bring this measure before the Senate today. It is gratifying that the committee was able to resolve the many difficult issues inherent in the consideration of this matter and to report a bill such as this by unanimous vote.

I am paticularly pleased that the committee amendment provides an exclusion from Longshore Act coverage for small vessel shipbuilding and repairing operations. These operations often are engaged in general fabrication as well as shipbuilding and they have, since 1972, found it difficult to compete with other general fabricators not subject to coverage under the Longshore Act. Some of these facilities are in Missouri and I have been increasingly concerned by their declining economic activity and the consequent loss of job opportunities. The exclusion provided by the Committee amendment will enable these shipyards to be more competitive, and thereby to secure existing job opportunities in the declining shipbuilding market while opening up perhaps additional opportunities in other areas not now economically viable and attainable.

The committee amendment essentially excludes from Longshore Act coverage those small shipyards which are in the business of building, repairing, or dismantling small vessels as specified in the amendment. The exclusion does not apply with respect to work over-the-water, and such work will be covered by the Longshore Act as it was before the 1972 amendments. It is fortunate that the agencies responsible for administering this law, as well as courts which are called upon to resolve questions arising thereunder, will have the benefit of the experience with the pre-1972 law in order to resolve some of the difficult coverage questions that inevitably will occur with respect to employees who are engaged in employment both on land and over-the-water.

One of the significant limiting features to the availability of the exclusion is that all of the shipbuilding, repairing, or dismantling activity at the shipyard facility must be associated with small vessels as described by the amendment. If a shipyard in engaged in building or repair work, for instance, on a vessel larger than the relevant size specified by the committee amendment, the shipyard operation may not avail itself of the exclusion from Longshore Act coverage until such time as work on the "disqualified" vessel is concluded. Thus, the provision essentially contains a rolling "all or nothing" clause which looks to current work activity at the shipyard facility in order to ascertain whether work on a "large" vessel is taking place which would deny this exclusion from Longshore Act coverage to the facility during the period of building or repair work activity on the larger vessel.

The vessels which may qualify a shipyard for exclusion under this provision include commercial barges, tugboats, towboats, crew boats, supply boats, or fishing vessels, or recreational vessels. Under one test, commercial barge size is limited to 900 lightship displacement tons. Under another test, the work vessels are subject to a 1,600-ton gross test. The recreational vessel exception contains a length qualification. A shipyard may qualify for exclusion from coverage by meeting any one or more of the specific exception categories contained in the committee amendment. This, I believe, is a desirable and necessarily flexible means of taking into account the different product mix among these shipyards which are located throughout the United States.

In conclusion, Mr. President, I urge my colleagues to support the committee amendment, and I again would like to compliment those Senators I mentioned earlier as well as all members of the committee who obviously expended considerable effort and attention to offering these improvements to a very important Federal law.

Mr. NICKLES. Mr. President, I am pleased that we are today considering passage of S. 1182, a bill to amend the Longshoremen's and Harbor Workers' Compensation Act. Senator NUNN and I originally introduced this legislation on May 14, 1981. Since that time, the Subcommittee on Labor of the Committee on Labor and Human Resources, of which I am the chairman, held 4 days of hearings on S. 1182. Witnesses representing a broad spectrum of interests presented their views at that time.

On October 28, 1981, the Labor Subcommittee marked up S. 1182 and referred it to the full committee for final markup. This was not accomplished until May 25, 1982. During this approximate 6 month interval, many compromises in the bill were reached. The final product was passed unanimously by voice vote of the full committee, and strikes a balance among the needs of labor, management, and government. I want to thank Senator KENNEDY and his staff for their work in reaching this final compromise which we are considering today.

S. 1182 addresses many of the concerns raised at the hearings. First, the amendments attempt to make the Longshoremen's Act insurable. Testimony received at the hearings indicated that many business concerns covered by the Longshore Act are unable to obtain insurance and must therefore self-insure. This program is unique in that it is a federally mandated workers' compensation program which is administered by the Department of Labor but paid for by the private sector. One of the main problems in obtaining insurance is that the current jurisdictional boundaries are unclear.

S. 1182 addresses this problem by listing exceptions from coverage. Uncertainty as to the parameters resulted in increased coverage costs as insurers were uncertain as to which employees were covered by the State workers' compensation program and which were under Longshore. S. 1182 helps eliminate this uncertainty.

Another problem in insuring the current act is a provision allowing unrelated death benefits. This type of coverage is a matter for life insurance, not workers' compensation and is therefore eliminated in S. 1182. Death Benefits which are payable to survivors under the act currently do not contain a maximum limitation as do benefits for injured workers. As a result, survivors can receive more than the deceased could have received had he lived. This inequity is eliminated.

The current definition of "wage earning capacity" which includes potential future wage loss presents another insurance problem. Estimating these future wages has resulted in inequities for all parties. Therefore, it has been eliminated. Procedures to modify an award have been changed as well so that when future conditions become clear, then the claimant can have his wage loss adjusted to meet these conditions.

In addition, employers and insurance carriers must pay an annual assessment into a special fund which then pays for second injuries to a claimant. This concept of eliminating a deterrent to hiring an injured worker has broad support. The special fund assures that the employer is not liable for more than the injury which occurred while the employee was employed by that employer. Hearings indicated, however, that this special fund is not adequately protected and is being raided by questionable claims. Annual expenses from this fund have escalated from $23,000 in 1972 to $18 million in 1980. As a result, S. 1182 establishes a Conservation Committee to protect this fund. Members of this committee are to be paid from these assessments to the fund and not by tax dollars. In this manner, those making the assessments into the fund are able to protect their payments.

Finally, one of the biggest obstacles to obtaining insurance has been the fact that benefits escalate each year according to changes in the national average weekly wage. This lack of certainty provides the largest obstacle in predicting future payouts. The fact that benefits should increase to counter inflation is not debated. To provide certainty, however, this annual escalation of benefits is capped at 5 percent.

Another troublesome aspect of current law is that settlement of survivor's benefit cases is not permitted. Also, current settlements may be approved by a deputy commissioner only if he finds that the settlement is in the best interest of the injured employee. This is true even if the injured employee agrees to the settlement. The bill authorizes settlements of survivors' claims as well as injured employers' claims for compensation and future medical benefits, if the parties so agree. Under S. 1182, no settlement may be disapproved unless the Deputy Commissioner finds it to be inadequate or procured by duress. These amendments reduce unnecessary and costly litigation and speed up the delivery of compensation benefits. Under S. 1182 when the parties agree to settle a claim, approval shall be granted by the Deputy Commissioner within 30 days.

Rehabilitation of an injured worker is one of the prime purposes of workers' compensation. Consistent with that purpose of returning an injured worker to the labor market, rehabilitation has been made mandatory. Under S. 1182, refusal of vocational rehabilitation without adequate reason, unless it is unnecessary or unavailable, will result in suspension of compensation payments.

A number of changes have been made in section 7 which regulates medical care. Throughout, however, the right of the claimant to choose an attending physician has been retained as under current law.

In an effort to limit the opportunity for potential misuse of the process, the new sections require the Secretary to refuse authorization for physicians for purposes of treatment where the particular medical provider has been indicted or convicted of criminal fraud or has violated Federal regulations in connection with medical care programs such as medicaid or its equivalents. Exclusion from such a program will also result in removal as well from the Secretary's authorized list. Exclusion may also result, after notice and hearing, if the physician makes a false statement in connection with any service provided under the act or submits a bill substantially in excess of the charges prevailing in the community or provides a service substantially in excess of the claimants needs. Those providers who are no longer authorized shall have their names published by the Secretary for distribution to the various districts.

Under the new amendment, the injured worker can make an initial choice of physician, but may not thereafter change physicians without the approval of the employer or carrier. Such approval is to be given, however, when the initial choice was of a general practitioner and a specialist's services are thereafter required.

Other potential areas of abuse were uncovered by the Permanent Subcommittee on Investigations. These problems also are addressed in S. 1182. For example, testimony at the hearings as well as evidence gathered from those charged with administering the act indicated that attempts have been made by some individuals to procure benefits through fraudulent means. Similarly, there is a significant body of evidence to indicate that employers and insurance carriers, on occasion, have denied benefits or substantially delayed their delivery through equally illegal methods. This section attempts to reduce the incentive to acquire or deny benefits through illegal means. Stringent penalties, including fines of up to $25,000 and jail terms not to exceed 3 years, have been introduced to replace the light level of punishment available under earlier law. The existence of these penalties should curb potential abuses of the system by all parties, resulting in the prompt disposition of all deserving claims.

Also, the Secretary of Labor is authorized to license persons representing claimants and may deny this right to a person who has been convicted of a crime in a State or Federal court, who gives substantially inaccurate information on an application for such a license, who solicits false testimony with respect to a claim, and for other similar reasons. This provision addresses the problems of certain persons soliciting employees covered by the act to file questionable claims.

Further, a disabled employee has the obligation to report to his employer not less than semi-annually any earning from employment. If he fails to report, when requested, or knowingly and willfully omits or understates any part of such earnings, then that employee forfeits his right to compensation with respect to any period during which the employee was required to file a report. This provision is in response to the problem of a disabled employee receiving workers' compensation benefits while he has actually returned to gainful employment.

Current law prohibits discrimination against any person who files a claim under the Longshore Act. On its face, this appears reasonable. It has resulted, however, in coercing an employer to retain an employee who has filed fraudulent claims to recover benefits. S. 1182 removes this and allows both the discharge and the refusal to employ any person who has been adudicated to have filed a fraudulent claim for compensation under the act.

Finally, amendments are made both to the notice provisions and the presumption section to address potential areas of abuse which were discussed at the hearings.

The amendments to the Longshoremen's and Harbor Workers' Compensation Act embodied in S. 1182 and which we are considering today are extensive. Every effort has been made to balance the competing interests in this important piece of legislation. I have today discussed the highlights of this often complex and technical bill. I urge your support in getting these changes enacted into law.

Mr. QUAYLE. Mr. President, I should like to speak in support of S. 1182 and encourage my colleagues to vote for this urgently needed legislation. This bill deserves our most serious consideration. It is a bipartisan compromise and long awaited for reform of the act.

Longshore reform is very much needed. The cost of the act has gotten completely out of control, and S. 1182 will help control those costs and make other needed improvements in the program. Problems with the Longshore Act began with the passage of the 1972 amendments. Those changes have had extremely adverse effects on covered businesses. Only 5 years after the amendments were passed, reported injuries jumped 185 percent and the number of claims increased along with them, from 72,000 in 1972 to 205,000 by 1977. Similarly, the cost of benefits has increased 551 percent since 1972. During the same period, the cost of living has increased only 97 percent. The rise in the cost of benefits has meant a rise in the cost of premiums

to covered employers. Covered employers have now been forced into self-insurance at great cost to their companies.

The benefits provided under this act are among the highest paid by any federally mandated workmen's compensation program and are much higher than under State workmen's compensation. In fact, the high benefit structure of the Longshore Act has made this not only a workmen's compensation program, it has grown, inappropriately, into a life insurance and pension program as well.

The Longshore Act has not proved to be the model and uniform compensation program it was represented to be when the 1972 amendments were passed, but S. 1182 will help us to move closer toward that goal.

I will make one more brief comment on the need for reform and then I would like to take a moment to outline some of the features of S. 1182 that will help to control the cost of the act and to improve its administration.

The high cost of insurance or self-insurance to those who are covered by this act has weakened the U.S. position that growers and others traders have in overseas markets. Stevedoring costs have skyrocketed during the past 10 years and growers (who have long been dependent on loading for shipment from U.S. ports) have been forced to increase prices for their products. The overriding factor in these costs have been per-hour longshore costs. On items which require extensive handcare such as apples, the cost can run as high as 25 percent of the wholesale price. As a result, business has dropped in American ports and commerce has been diverted to Canada and Mexico. Some experts estimate the value of lost commerce to be as high as $1 billion annually.

S. 1182 will make a major step toward correcting these problems. I am very pleased that the committee has decided that to retain traditional coverage for longshoremen, harbor workers, and others who work over or on the water. The only groups now removed from coverage are those who are better served by State workmen's compensation and who were never intended to be covered by the 1972 amendments. In addition, S. 1182 will limit the annual escalation of benefits to 5 percent. This will make forecasting longshore costs more predictable so that employers can better prepare for future losses. Equally important, unrelated death benefits will be eliminated from the program. This is a benefit which does not properly belong in a workmen's compensation program.

S. 1182 will also provide for disqualification of providers of medical services who submit excessive or fraudulent bills. Penalties for other fraud and misrepresentation will be increased. And the bill mandates vocational rehabilitation for those who are able to participate. Under current law, even employees who are fully recovered are not required to participate in vocational rehabilitation, but are allowed to remain on compensation.

In closing, I would again like to voice my fullest support for S. 1182. I would also like to commend the distinguished Senator from Oklahoma, Senator NICKLES, for his work on the bill and for his fine leadership as Chairman of the Subcommittee on Labor. I know that Senator NICKLES has been the single most persuasive advocate of reform of this act and that he has worked many hours to develop this bipartisan compromise. I plan to support this bill and I urge my colleagues to support it.

Mr. NUNN. Mr. President, I fully endorse and urge the Senate's approval today of S. 1182, the Longshoremen's and Harbor Workers' Compensation Act Amendments of 1982. I joined Senator NICKLES in introducing that legislation before the Senate on May 14, 1981, in an attempt to fairly and effectively remedy serious and proven shortcomings in our present system of workmen's compensation for waterfront workers. I commend Senator NICKLES, as chairman of the Senate Labor Subcommittee, as well as his staff, for the many long hours they have spent examining the deficiencies in our present system and fine tuning this bill to adequately remedy those deficiencies.

S. 1182, the product of their efforts, is a comprehensive revision of the current provisions of the Federal Longshoremen's and Harbor Workers' Act. The act has come under increasingly strong criticism in recent years for the extremely high insurance costs which the act has generated as opposed to costs under other workmen's compensation systems. In the light of those criticisms, the reforms suggested in S. 1182 are undoubtedly long overdue.

My own particular interests in this bill stem from my work as ranking minority member and former chairman of the Permanent Subcommittee on Investigations. In that capacity, I had occasion to become especially familiar with the problems of the American waterfront and, moreover, factual evidence which I believe in part demonstrates the need for the provisions of S. 1182.

Under my direction, the subcommittee staff conducted an extensive investigation of corruption in American waterfront industries. Our witness interviewing and evidence gathering concentrated in ports on the eastern seaboard, particularly New York and Miami, and culminated in 5 days of public hearings before the subcommittee in February 1981. Those hearings included testimony which detailed the ease with which the act could be fraudulently manipulated at the expense of the honest longshoreman, his employer, as well as the American consumer. We heard of the skyrocketing costs of insurance and workmen's compensation claims under the act on the New York/New Jersey waterfront. Those costs were the direct result of a fraudulent claims racket which flourished under the statutory loopholes in the current act. During the course of the hearings, we learned that the astronomical costs of claims filed under the act had indeed driven some stevedoring companies out of business, had rendered others literally uninsurable, and posed a continuing threat to the economic survival of many more.

As a result of such testimony, Senator RUDMAN and I, at the close of the hearings, strongly recommended that the Longshoremen's and Harbor Workers' Act be amended to prevent future abuse and restore cost levels under the act to reasonable and fair levels.

In today urging Senate approval of S. 1182, I commend this legislation as one way in which Congress can effectively act to eliminate the type of abuse we saw in our waterfront hearings. Although the bill includes comprehensive revisions of the entire act, there are several sections directly responsible to problems confronted in our hearings. The need for each of those sections was specifically and amply established by the testimony and evidence produced at our hearings.

One such feature of the bill is revision in the procedures for physician selection, designation of ineligible physicians by the Secretary, examinations and reexaminations of questioned claimants and other medical evaluations designed to insure payment for valid claims only. By requiring monitoring of periodic medical reports and providing for debarment of participating physicians by the Secretary, the bill will serve to insure the integrity of the treating physician.

In another area, our hearings identified the automatic presumption of validity for any claim filed now in the act as one of the main factors contributing to the success of the fraudulent claims racket. Time and again we heard that the presumption, sometime triggered by the mere existence of a physical injury, presented a nearly insurmountable hurdle for an employer who attempts to dispute the validity of an apparently fraudulent claim. The bill will apply that presumption on a far more selective basis, by specifically providing that the mere existence of a physical impairment alone is insufficient to establish a claim and the accompanying presumption.

The bill also raises the criminal penalty for misrepresentation in the submission of a claim from a misdemeanor to a felony punishable by up to 3-

years imprisonment, a fine of $25,000, or both. Again this change was specifically and repeatedly recommended and justified during the course of our hearings.

Lastly, the bill amends the current antidiscrimination section of the act to prevent the levy of a penalty against any employer who dismisses an employee for the filing of a claim shown to have been fraudulent. As the act now stands, such an employer is subject to a penalty of up to $1,000 and reimbursement of lost wages of the employee. No distinction is currently made between the dismissal of an employee who had filed a valid claim and one who had filed an obviously fraudulent claim. The unfairness to the employer of the present provision is obvious.

In addition to sections dealing directly with the problem of fraud, S. 1182 offers a number of other legislative revisions of the act which our hearings did not specifically deal with. I understand that the Senate Labor Subcommittee, as well as the Senate Committee on Labor and Human Resources, has given careful review and consideration to those proposals. Based on that careful review, the bill is now before us with appropriate and well-reasoned committee approval.

The facts are clear that significant and disturbing problems exist as a result of certain current provisions of the Longshoremen's and Harbor Workers' Act. I believe that S. 1182 is a fair and well-reasoned response to those problems. Congress should act now by passage of this bill to correct those problems and to arrive at a statutory solution which will fairly serve the interests of both labor and management.

Mr. President, in closing I wish to thank Senator NICKLES for taking a lead in this area and for his fine and persistent efforts on this most important issue.

Mrs. HAWKINS. Mr. President, I take this opportunity to commend Senator NICKLES for his hard work in guiding the 1982 Longshoremen's and Harbor Workers Compensation Act through the Subcommittee on Labor and the full Labor and Human Resources Committee. He and his staff, particularly Rick Lawson and Chuck Carroll, have developed a legislative proposal with bipartisan committee support.

Florida's maritime industry has been severely damaged by abuses following adoption of the 1972 amendments to the Longshoremen's Compensation Act. Ambiguous wording in the statute on coverage and unfortunate court interpretations have broadened the scope of the act far beyond its original intent.

In fact, the Longshoremen's Act is a textbook example of misguided Federal action. While the goals of the act are commendable, the actual result is destructive. No one can quarrel with a desire to provide low-cost, personal industry coverage to dockworkers. Certainly when the bill was introduced in 1927, workmen's compensation programs were woefully inadequate in most of the harbors in the Nation. Unfortunately, the correctives applied to the 1927 situation choke a vital industry today.

In Florida, we are particularly conscious of the danger. Florida is an agricultrual State. We export produce, which is a highly competitive industry, sensitive to labor handling costs. Anything that elevates handling costs destroys our competitive position, costing us markets and jobs. There can be no debate, the Longshoremen's Act raises these costs artificially.

During Labor Subcommittee hearings, we heard disturbing testimony concerning payments of tax-free benefits so high they discourage working. We learned that death benefits are paid though death is not work-related we also learned that organized crime benefits from sweetheart doctor-client relationships. Finally, the extension of coverage for beyond the stevedores originally covered was documented. I believe that Senator NICKLES has drafted legislation that will create a compensation program free from most of these defects. It certainly will better meet the needs of our work force and our industry.

This issue should not be seen in labor management terms. I know of no company that wants to subject its workers to unsafe conditions. But competitive facts are facts, and this legislation is needed to reduce the costs of a program that have gone as high as $20,000 per person per year.

In Florida and in California, we compete with Mexico; New York and the New England States compete with Canada. Therefore, workers stand to gain more than anyone by a rational restructuring of this program. Without reform, they will lose their jobs to Canada or Mexico, and owners will lose their businesses.

Again, I think Senator NICKLES should be commended for his excellent work in drafting this bill and guiding it through the Senate. He has accomlished legislative reforms in areas that were found deficient over 20 years ago. I urge my Senate colleagues to join me in supporting this bill.

Mr. KENNEDY. Mr. President, over the last several years, the Longshoremen's and Harbor Workers' Compensation Act has been the subject of serious controversy in the Senate. During extensive hearings before the Labor and Human Resources Committee and other congressional committees, employers and insurance carriers have argued that the act is too expensive, too unclear in its coverage, and it was vulnerable to abuse. We were urged to adopt a series of amendments which, in my judgment, would have been very harmful for employees.

Employees and labor organizations strongly opposed these amendments because they would have excluded thousands of workers from coverage, compelled them to accept treatment from employer-approved physicians, and made it much easier for employers to deny legitimate claims.

Despite the highly charged character of this controversy, however, it became clear earlier this year that a compromise could be achieved.

The bill before us is the product of many months of discussion and negotiations in pursuit of that goal. I believe it represents a reasonable solution to the problems raised by employers while at the same time preserving the basic benefit structure of the law and insuring that injured workers in the very hazardous industries covered by the Longshore Act will continue to receive fair and equitable treatment.

The Senator from Oklahoma is to be congratulated for his diligence in pursuing the reform of the Longshore Act and I want to thank him for his cooperation in working to fashion an acceptable compromise. I believe his bill deserves the support of the Senate. I am confident that the House is prepared to consider it in an expeditious manner and I am hopeful that final action will be completed in the very near future.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1182

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That (a) this Act may be cited as the "Longshoremen's and Harbor Workers' Compensation Act Amendments of 1982".

(b) Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Longshoremen's and Harbor Workers' Compensation Act.

DEFINITIONS

SEC. 2. (a) Section 2(3) is amended to read as follows:

"(3) The term 'employee' means any person directly engaged in maritime employment, including any longshoreman or other person engaged in longshoring operations, and any harbor-worker including a ship repairman, shipbuilder, and shipbreaker, but such term does not include—

"(A) any ship repairman, shipbuilder, or shipbreaker engaged by employers described in section 2(4)(B)(iii);

"(B) employees exclusively performing office clerical, secretarial, security, or data processing work;

"(C) club, camp, restaurant, museum, retail outlet, and marina personnel;

"(D) personnel of suppliers, transporters, or vendors temporarily doing business on the premises of employers described in section 2(4)(A);

"(E) aquaculture workers;

"(F) any person engaged in operating an independently or cooperatively owned grain elevator and who is not engaged in the loading or unloading of a vessel;

"(G) any person employed to build or repair any recreational vessel under sixty-five feet in length;

"(H) a master or member of a crew of any vessel; or

"(I) any person engaged by a master to load or unload or repair any small vessel under eighteen tons net;

if employees described in clauses (A) through (G) are subject to coverage under a State workers' compensation law.".

(b) Section 2(4) is amended to read as follows:

"(4)(A) The term 'employer' means an employer any of whose employees are directly employed in maritime employment, in whole or in part, upon the navigable waters of the United States (including any adjoining pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by an employer in loading, unloading, repairing, building, or breaking a vessel).

"(B) The term employer does not include—

"(i) clubs, camps, restaurants, museums, retail outlets, or marinas;

"(ii) aquaculture farms;

"(iii) employers or operations of employers who otherwise would be described by subparagraph (A) of this paragraph—

"(I) solely and exclusively because they are in the business of building, repairing, or dismantling—

"(aa) commercial barges under nine hundred lightship displacement tons but no other vessel which is one thousand six hundred tons gross or more;

"(bb) commercial tugboats, towboats, crew boats, supply boats, or fishing vessels under one thousand six hundred tons gross but no other vessel which is one thousand six hundred tons gross or more; or

"(cc) any recreational vessel under sixty-five feet in length but no other vessel which is sixty-five feet in length or more;

while upon any pier, wharf, building way, marine railway, graving dock, shop, or any other facility or area over land customarily used in ship repairing, shipbuilding, or shipbreaking; and

"(II) if the operations of employers described in subdivision (I) do not receive Federal maritime subsidies.".

(c) Section 2(13) is amended to read as follows:

"(13) The term "wages" means the money rate at which the service rendered by an employee is compensated by an employer under the contract of hiring in force at the time of the injury, including the reasonable value of any advantage which is received from the employer and included for purposes of any withholding of tax under subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes). The term wages does not include fringe benefits, including but not limited to employer payments for or contributions to a retirement, pension, health and welfare, life insurance, training, social security or other employee or dependent benefit fund or trust for the employee's or dependent's benefit, or any other employee's dependent entitlement.".

COVERAGE

SEC. 3. Section 3(a) is amended to read as follows:

"(a) Compensation shall be payable under this Act in respect of disability or death of an employee, but only if the disability or death results from an injury occurring upon the navigable waters of the United States (including any pier, wharf, dry dock, terminal, building way, marine railway, or other adjoining area customarily used by the employer in loading, unloading, repairing, or building a vessel). No compensation shall be payable in respect of the disability or death of—

"(1) any employee described in section 2(3) (A) through (I) of this Act; or

"(2) an officer or employee of the United States or any agency thereof or any State or foreign government, or of any political subdivision thereof.".

(b) Section 3 is amended by adding the following new subsection:

"(c) Notwithstanding any other provision of law, any amounts paid by any employer for the same injury, disability, or death for which benefits are claimed under this Act pursuant to any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688) (relating to recovery for injury to or death of seamen) shall be credited against any liability imposed by this Act.".

EXCLUSIVENESS OF REMEDY AND THIRD PARTY LIABILITY

SEC. 4. (a) Section 5(a) is amended by inserting after the word "liability" the second time it appears the following: "including any liability imposed by or arising out of any other workers' compensation law or section 20 of the Act of March 4, 1915 (38 Stat. 1185, chapter 153; 46 U.S.C. 688)".

(b)(1) The third sentence of section 5(b) is amended to read as follows: "If such person was employed to provide ship building, repairing, or breaking services and such person's employer was the owner, owner pro hac vice, agent, operator, or charterer of the vessel, no such action shall be permitted, in whole or in part or directly or indirectly, against the injured person's employer (in any capacity, including as the vessel's owner, owner pro hac vice, agent, operator, or charterer) or against the employees of the employer.".

(2) Section 2(21) is amended by striking out "The" and inserting in lieu thereof "Unless the context requires otherwise, the".

(c) Section 5 is amended by adding at the end thereof the following new subsection:

"(c) In the event that the negligence of a third party causes injury to a person entitled to receive benefits under this chapter by virtue of section 4 of the Outer Continental Shelf Lands Act (43 U.S.C. 1333), then such person, or anyone otherwise entitled to recover damages by reason thereof, may bring an action against such third party in accordance with the provisions of section 33 of this Act. Nothing contained in this chapter, or in any otherwise applicable State law, shall preclude the enforcement according to its terms of any written agreement under which the employer has agreed to indemnify such third party in whole or in part with respect to such action.".

COMPENSATION

SEC. 5. (a) Section 6(b)(1) is amended to read as follows:

"(b)(1) Compensation for disability or death shall not exceed an amount equal to 200 per centum of the applicable national average weekly wage, as determined by the Secretary under subsection (b)(3).".

(b) Section 6 is amended—

(1) by striking out subsection (c) and redesignating subsection (d) (and any references thereto) as subsection (c); and

(2) by striking out "under this subsection" in subsection (c) (as redesignated) and inserting in lieu thereof "under subsection (b)(3)".

MEDICAL SERVICES AND SUPPLIES

SEC. 6. (a) The penultimate sentence of section 7(b) is amended by inserting before the period the following: "or where the charges exceed those prevailing within the community for the same or similar services".

(b) Section 7(c) is amended to read as follows:

"(c)(1)(A) The Secretary shall annually prepare a list of physicians in each compensation district who are not authorized to render medical care under this Act. The names of physicians contained on the list required under this subparagraph shall be made available to employees and employers in each compensation district through posting or in such form as the Secretary may prescribe.

"(B) The Secretary may refuse to authorize any physician who, in accordance with the provisions of subsection (j)(1) of this section, and shall refuse to authorize any physician who, in accordance with the provisions of subsection (j)(2) of this section, has been found ineligible to receive payments under this Act. A physician not authorized under this Act shall not be entitled to reimbursement for any service, appliance, or supply or to recover any amount with respect to any such service, appliance, or supply from any employee.

"(2) Whenever the employer or carrier acquires knowledge of the employee's injury, through written notice or otherwise as prescribed by the Act, the employer or carrier shall forthwith authorize medical treatment and care from a physician selected by an employee pursuant to subsection (b). An employee may not select a physician who is on the list required by paragraph (1) of this subsection. An employee may not change physicians after his initial choice unless the employer, carrier, or deputy commissioner has given prior consent for such change. Such consent shall be given in cases where an employee's initial choice was not of a specialist whose services are necessary for and appropriate to the proper care and treatment of the compensable injury or disease. In all other cases, consent may be given upon a showing of good cause for change.".

(c) Section 7(d) is amended to read as follows:

"(d) An employee shall not be entitled to recover any amount expended by him for medical or other treatment or services unless he shall have complied with subsections (b) and (c) and the applicable regulations or unless the employer shall have refused or neglected to furnish such services, or unless the nature of the injury required such treatment and services and the employer or his superintendent or foreman having knowledge of such injury shall have neglected to provide or authorize same; nor shall any claim for medical or surgical treatment be valid and enforceable against such employer, unless within twenty-one days

following the first treatment the physician giving such treatment furnishes to the employer and the deputy commissioner a report of such injury or treatment, on a form prescribed by the Secretary. The Secretary may excuse the failure to furnish such report within the twenty-one-day period whenever he finds it to be in the interest of justice to do so. The Secretary may, upon application by a party in interest, make an award for the reasonable value of such medical or surgical treatment so obtained by the employee. If at any time the employee unreasonably refuses to submit to medical or surgical treatment, or to an examination by a physician selected by the employer, the Secretary or administrative law judge may, by order, suspend the payment of further compensation during such time as such refusal continues, and no compensation shall be paid at any time during the period of such suspension, unless the circumstances justified the refusal.".

(d) Section 7 is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding any other provisions of this Act, no liability shall arise under this Act for a service, appliance, or supply furnished by an individual or entity where the Secretary determines under this subsection that a provider—

"(A) has knowingly and willfully made, or caused to be made, a false statement or representation of a material fact in connection with any services provided under this Act;

"(B) has submitted, or caused to be submitted, a bill or request for payment under this Act containing a charge which the Secretary finds to be substantially in excess of the charge for the service, appliance, or supply prevailing within the community unless the Secretary finds there is good cause for the bill or request containing the charge; or

"(C) has furnished a service, appliance, or supply which is determined by the Secretary to be substantially in excess of the need of the recipient thereof or to be of a quality which fails to meet professionally recognized standards.

"(2) Liability shall not arise for a service, appliance, or supply furnished by a provider—

"(A) indicted or convicted under a criminal statute (without regard to pending appeal thereof) for fraudulent activities or (as determined by regulation of the Secretary) related activities, in connection with a program under which payments are made to providers for similar services, appliances, or supplies; or

"(B) otherwise excluded from participation in a program under which payments are made to providers for similar services, appliances, or supplies.

"(3) A provider of a service, appliance, or supply shall provide to the Secretary such information and certification as the Secretary may require to assure that this subsection is enforced.

"(4)(A) A determination made by the Secretary under paragraphs (1) and (2) shall be effective—

"(i) in connection with any request for payment by a provider, upon notice consistent with paragraph (5); or

"(ii) in connection with a request for payment by anyone claiming benefits under this Act, only with respect to payment of expenses incurred after receipt of notice of the determination by such person.

"(B) A determination shall remain in effect until the Secretary finds and gives notice to the public that the basis for the determination has been removed, and that there is reasonable assurance that the basis for the determination will not reoccur.

"(5) The Secretary may make rules and regulations and establish procedures which are necessary or appropriate to carry out this subsection, including notice and opportunity for a hearing to the provider of a service, appliance, or supply, subject to a determination made by the Secretary under paragraphs (1) and (2) of this subsection.".

(e) Section 7 (as amended by subsection (d)) is further amended by adding at the end thereof the following new subsection:

"(k)(1) Nothing in this Act prevents an employee whose injury or disability has been established under this Act, from relying in good faith, on treatment by prayer or spiritual means alone, in accordance with the tenets and practice of a recognized church or religious denomination, by an accredited practitioner of such recognized church or religious denomination, and on nursing services rendered in accordance with such tenets and practice, without suffering loss or diminution of the compensation benefits under this Act. Nothing in this subsection shall be construed to except the employee from all physical examinations required by this Act.

"(2) If an employee refuses to submit to medical or surgical services solely because, in adherence to the tenets and practice of a recognized church or religious denomination, the employee relies upon prayer or spiritual means alone for healing, such employee shall not be considered to have unreasonably refused medical or surgical treatment under subsection (d) or to have unreasonably refused to undergo vocational rehabilitation under section 8(g)(3).".

COMPENSATION FOR DISABILITY

SEC. 7. (a) Section 8(a) is amended to read as follows:

"(a) Permanent total disability: In the case of total disability determined to be permanent, 66⅔ per centum of the average weekly wages of the employee shall be paid to the employee during the continuance of the disability, except that compensation paid to the injured employee shall be subject to section 6(b)(1) and shall be reduced by 50 per centum of the amount of old-age insurance benefits to which the employee is entitled under title II of the Social Security Act. Loss of both hands, both arms, both feet, both legs, both eyes, or any combination of two such body parts, shall constitute permanent total disability in the absence of conclusive proof to the contrary. In all other cases, permanent total disability shall be determined in accordance with the facts.".

(b) Section 8(c)(13) is amended to read as follows:

"(13) Loss of hearing:

"(A) Compensation for loss of hearing in one ear, fifty-two weeks.

"(B) Compensation for loss of hearing in both ears, two-hundred weeks.

"(C) An employer shall be liable to the employee only for the loss of hearing attributable to employment by the employer.

"(D) An audiogram shall be conclusive evidence of the amount of hearing loss sustained as of the date thereof, unless contrary audiograms made at that time are produced.

"(E) Within ninety days of the date of enactment of this Act, the Secretary shall promulgate regulations to define the term 'loss of hearing' in accordance with the American Medical Association Guides for the Evaluation of Permanent Impairment.".

(c) Section 8(c)(20) is amended by striking out "$3,500" and inserting in lieu thereof "$7,500".

(d) Section 8(c)(21) is amended to read as follows:

"(21) Other cases: In all other cases in this class of disability, the compensation shall be 66⅔ per centum of the difference between the average weekly wages of the employee and the employee's wage-earning capacity thereafter in the same employment or otherwise payable during the continuance of the partial disability.".

(e) Section 8(d) is amended by striking out paragraph (3) and redesignating paragraph (4) (and any references thereto) as paragraph (3).

(f) Section 8(f) is amended—

(1) by striking out "one hundred and four weeks" wherever it appears and inserting in lieu thereof "two hundred and eight weeks"; and

(2) by adding at the end thereof the following new paragraph:

"(3) Any request for second injury fund apportionment in accordance with section 8(f) must be presented to the deputy commissioner and the Conservator prior to consideration by an administrative law judge.".

(g) Subsections (g) through (i) of section 8 are amended to read as follows:

"(g) Compensation for employees undergoing vocational rehabilitation:

"(1) An employee who as a result of an injury is undergoing vocational rehabilitation for remunerative employment under the supervision of the deputy commissioner, pursuant to section 39(c), or with the approval of the employer, shall receive continued temporary total or partial compensation during the period of rehabilitation.

"(2) An award for permanent disability may not be entered before the deputy commissioner determines, or the employer and employee agree, that vocational rehabilitation is unnecessary or until after vocational rehabilitation has been completed.

"(3) If an employee unreasonably refuses to undergo vocational rehabilitation or to participate in a reasonable plan offered and financed by the employer to return the injured employee to work, the employee shall not be eligible to receive compensation payments that would otherwise be payable for the period of the refusal.

"(h) The wage-earning capacity of an injured employee in cases of disability shall be determined by his actual earnings if such actual earnings fairly and reasonably represent his wage-earning capacity: Provided, however, That if the employee has no actual earnings or his actual earnings do not fairly and reasonably represent his wage-earning capacity, the deputy commissioner may, in the interest of justice, fix such wage-earning capacity as shall be reasonable, having due regard to the nature of his injury, the degree of physical impairment, his usual employment, and any other factors or circumstances in the case which may affect his capacity to earn wages in his disabled condition.

"(i)(1) Whenever the parties to any claim for compensation, including survivors benefits, under this Act agree to a settlement, the deputy commissioner or administrative law judge shall approve the settlement within thirty days unless it is found to be inadequate or procured by duress. No liability of any employer, carrier, or both for disability or death benefits shall be discharged unless the application for settlement is approved by the deputy commissioner or administrative law judge. If the parties to the

settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(2) If the deputy commissioner disapproves an application for settlement under paragraph (1), the deputy commissioner shall issue a written statement within 30 days containing the reasons for disapproval. Any party to the settlement may request a hearing before an administrative law judge in the manner prescribed by this Act. Following such hearing, an order shall be issued approving, rejecting, or modifying the deputy commissioner's decision. If the parties to the settlement are represented by counsel, then agreements shall be deemed approved unless specifically disapproved within thirty days after submission for approval.

"(3) A settlement approved under this section shall discharge the liability of the employer, carrier, or both. Such settlement may include future medical benefits if the parties so agree and the deputy commissioner approves. Settlements may be agreed upon at any stage of the proceeding including after entry of a final compensation order.".

(h) Section 8 is amended by adding at the end thereof the following new subsection:

"(j)(1) The employer may inform a disabled employee of his obligation to report to the employer not less than semiannually any earnings from employment or self-employment, on such forms as the Secretary shall specify in regulations.

"(2) An employee who—

"(A) fails to report the employee's earnings under paragraph (1) when requested, or

"(B) knowingly and willfully omits or understates any part of such earnings,

and who is determined by the deputy commissioner to have violated clause (A) or (B) of this paragraph, forfeits his right to compensation with respect to any period during which the employee was required to file such report.

"(3) Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee in any amount and on such schedule as determined by the deputy commissioner.".

COMPENSATION FOR DEATH

SEC. 8. (a) The matter preceding the colon in section 9 is amended to read as follows:

"SEC. 9. If the injury causes death, the compensation therefore shall be known as a death benefit and shall be payable in the amount and to or for the benefit of the persons following".

(b) Section 9(a) is amended by striking out "$1,000" and inserting in lieu thereof "$3,000".

(c) Section 9(e) is amended to read as follows:

"(e) In computing death benefits, the average weekly wages of the deceased shall not be less than the national average weekly wage as prescribed in section 6(b), except that the total weekly benefits shall not exceed the lesser of the average weekly wages of the deceased or the benefit which the deceased employee would have been eligible to receive under section 6(b)(1).".

DETERMINATION OF PAY

SEC. 9. Section 10(f) is amended to read as follows:

"(f) Effective October 1 of each year following the date of enactment of this Act, the compensation or death benefits payable for permanent total disability or death arising out of injuries subject to this Act shall be increased—

"(1) by a percentage equal to the percentage (if any) by which the applicable national weekly wage for the period beginning on such October 1, as determined under section 6(b), exceeds the applicable national average weekly wage, as so determined, for the period beginning with the preceding October 1; or

"(2) by 5 per centum, whichever percentage is less.".

NOTICE OF INJURY OR DEATH

SEC. 10. (a) Section 12(a) is amended to read as follows:

"(a) Notice of an injury or death in respect of which compensation is payable under this Act shall be given within thirty days after the date of such injury or death, or thirty days after the employee or beneficiary is aware or by reason of medical advice should have been aware of a relationship between the injury or death and the employment. Such notice shall be given (1) to the deputy commissioner in the compensation district in which the injury or death occurred, and (2) to the employer. Each employer shall designate those agents or other responsible officials, including first line supervisors, to receive such notice, in accordance with regulations prescribed by the Secretary and shall notify his employees of such designation in a manner prescribed by the Secretary in regulations.".

(b) Section 12(d) is amended by deleting "(or his agent in charge of the business in the place where the injury occurred)" and inserting in lieu thereof the following: "(or his agent or agents or other responsible official or officials designated by the employer as designated under subsection (a))".

PAYMENT OF COMPENSATION

SEC. 11. (a) Section 14(b) is amended by striking out "employer" and inserting in lieu thereof "employer's agent or agents as designated under section 12(a)".

(b) Section 14 is amended by striking out subsection (j) and by redesignating subsections (k) and (l) (and any references thereto) as subsections (j) and (k), respectively.

PRESUMPTIONS

SEC. 12. Section 20 is amended as follows:

(1) by inserting before the period in subsection (b) a comma and the following: "except when the agent or agents or other responsible official or officials designated by the employer in section 12 (a) and (d) have not received actual or constructive notice", and

(2) by adding at the end of the section the following new sentence: "The mere existence of a physical impairment is insufficient to establish a claim under this Act.".

REVIEW OF COMPENSATION ORDER

SEC. 13. Section 21 is amended by adding the following new paragraph at the end of subsection (b):

"(5) Notwithstanding paragraphs (1) through (4), upon application of the Chairman of the Board, the Secretary may designate up to four Department of Labor administrative law judges to temporarily serve on the Board. Any party aggrieved by the decisions of a panel or division of the Benefits Review Board may, within thirty days after the decision, petition the entire Board (permanent plus temporary members) for a rehearing en banc. Upon affirmative vote of the majority of the Board sitting en banc, the petition shall be granted. If a petition for a rehearing en banc is granted, and the vote of the Board sitting en banc results in a tie, the decision of the panel or division of the Board shall be affirmed. The Benefits Review Board shall amend its Rules of Practice to conform with this paragraph. Temporary members shall be compensated at the same rate of compensation as they were receiving prior to such temporary designation. Except when sitting en banc, and for the purpose of carrying out its adjudicative functions under this Act, two members of the Board shall constitute a quorum of a panel or division and official adjudicative action can be taken only on the affirmative vote of at least two members of a division or panel.".

MODIFICATIONS OF AWARDS

SEC. 14. Section 22 is amended by striking all after "the deputy commissioner may" through "rejection of a claim".

FEES FOR SERVICES

SEC. 15. (a) Section 28(a) is amended to read as follows:

"(a) A claim for legal services or for any other services provided to or on account of a person with respect to a claim for or award of compensation under this Act is not valid unless approved by the deputy commissioner, an administrative law judge, the Board, or a court which is reviewing an order of an administrative law judge.".

(b) Section 28(e) is amended to read as follows:

"(e) A person who receives a fee, gratuity, or other consideration on account of services rendered as a representative of a claimant, unless the consideration is approved by the deputy commissioner, administrative law judge, Board, or court, or who makes it a business to solicit employment for a lawyer, or for himself, with respect to a claim or award for compensation under this Act, shall, upon conviction thereof, for each offense be punished by a fine of not more than $1,000 or be imprisoned for not more than one year, or both.".

REPORTS

SEC. 16. (a) Section 30(a) is amended—

(1) by inserting after the word "injury" a comma and the following: "which would cause loss of one or more shifts of work", and

(2) by adding at the end thereof the following new sentence: "Notwithstanding the requirements of this section, each employer shall keep a record of each and every injury regardless of whether such injury results in the loss of one or more shifts of work.".

(b) Section 30(e) is amended to read as follows:

"(e) Any employer, insurance carrier, or self-insured employer who willfully fails or refuses to send any report required by this section shall be subject to a civil penalty not to exceed $25,000 for each such failure or refusal.".

PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

SEC. 17. Section 31 is amended to read as follows:

"PENALTY FOR MISREPRESENTATION—PROSECUTION OF CLAIMS

"SEC. 31. (a)(1) A person who willfully makes a false statement or representation for the purpose of obtaining a benefit or payment under this Act shall be guilty of a felony, and on conviction thereof shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or both.

"(2) The United States attorney for the district in which the injury is alleged to

have occurred shall make every reasonable effort to promptly investigate each complaint made under this subsection.

"(b)(1) A person may not prosecute or defend a claim other than his own under this Act other than a claimant, an attorney, a representative licensed by the Secretary, or an employee designated by an employer or carrier.

"(2) A person may not prosecute or defend a claim other than his own under this Act if the person—

"(A) is convicted of or pleads guilty to a crime in a State or Federal court;

"(B) gives false or substantially inaccurate information in an application for a license to prosecute or defend a claim under this Act;

"(C) conceals or attempts to conceal material facts with respect to a claim under this Act;

"(D) solicits or procures false testimony with respect to a claim under this Act; or

"(E) misappropriates funds or documents entrusted to the person with respect to a claim under this Act.

"(3) The Secretary shall issue such rules and regulations as are necessary to carry out this subsection.

"(c) A person including, but not limited to, an employer, his duly authorized agent, or an employee of an insurance carrier who willfully makes a false statement or representation for the purpose of denying or terminating benefits to an injured employee, or his dependents pursuant to section 9 if the injury results in death, shall be punished by a fine not to exceed $25,000, by imprisonment not to exceed three years, or by both.".

SECURITY FOR COMPENSATION

SEC. 18. Section 32(a)(2) is amended by inserting "based on the employer's financial condition, the employer's previous record of payments, and other relevant factors," after "in an amount determined by the Secretary,".

COMPENSATION FOR INJURIES WHERE THIRD PERSONS ARE LIABLE

SEC. 19. (a) Section 33(b) is amended to read as follows:

"(b) Acceptance of such compensation under an award in a compensation order filed by the deputy commissioner, an administrative law judge, or Board shall operate as an assignment to the employer of all rights of the person entitled to compensation to recover damages against such third person unless such person shall commence an action against such third person within six months after such award. For the purpose of this subsection, the term 'award' with respect to a compensation order means a formal order issued by the deputy commissioner, an administrative law judge, or Board; if the employer fails to commence an action against such third person within a reasonable time after the cause of action is assigned under this section, the right to bring such action shall revert to the person entitled to compensation.".

(b) Section 33(f) is amended to read as follows:

"(f)(1) If a person entitled to compensation under the Act institutes proceedings within the period described in subsection (b), the employer shall be required to pay, as compensation under this Act, a sum equal to the excess of the amount which the deputy commissioner, an administrative law judge, or Board determines is payable on account of the injury or death above the amount recovered in the proceedings against a third person.

"(2) Any amount recovered by the person entitled to compensation on account of the proceedings by judgment or settlement, whether or not the settlement is approved by the employer in accordance with subsection (g), shall be distributed as follows:

"(A) The person entitled to compensation shall pay to the employer an amount equal to the sum of—

"(i) the cost of all benefits furnished to the person by the employer under section 7; and

"(ii) all other amounts payable as compensation or benefits under this Act.

"(B) The person entitled to compensation or the person's representative shall retain the amount remaining after the payment required by subparagraph (A).".

(c) Section 33(g) is amended to read as follows:

"(g)(1) If the person entitled to compensation (or the person's representative) enters into a settlement with a third person referred to in subsection (a) for an amount less than the compensation to which the person (or the person's representative) would be entitled under this Act, the employer shall be liable for compensation as determined under subsection (f) only if written approval of the settlement is obtained from the employer and the employer's carrier, before the settlement is executed, and by the person entitled to compensation (or the person's representative). The approval shall be made on a form provided by the Secretary and shall be filed in the office of the deputy commissioner within thirty days after the settlement is entered into.

"(2) If no written approval of the settlement is obtained and filed as required by paragraph (1), or if the employee fails to notify the employer of any settlement obtained from or judgment rendered against a third person, all rights to compensation and medical benefits under this Act shall be terminated, regardless of whether the employer or the employer's insurer has made payments or acknowledged entitlement to benefits under this Act.

"(3) Payments by the special fund established under section 44 shall be a lien upon the proceeds of any settlement obtained from or judgment rendered against a third person referred to under subsection (a). Notwithstanding any other provision of law, such lien shall be enforceable against the employee, regardless of whether the Conservator on behalf of the special fund has agreed to or has received actual notice of the settlement or judgment.".

ANNUAL REPORT

SEC. 20. The Act is amended by inserting the following new section after section 42:

"ANNUAL REPORT

"SEC. 43. The Secretary shall make to Congress at the beginning of each regular session a report of the administration of this Act for the preceding fiscal year, including a detailed statement of receipts of and expenditures from the funds established in sections 44 and 45, together with such recommendations as the Secretary deems advisable.".

SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

SEC. 21. Section 45 is amended to read as follows:

"SPECIAL FUND CONSERVATION COMMITTEE—FUND CONSERVATOR

"SEC. 45. (a)(1) There is established the Special Fund Conservation Committee (hereinafter in this section referred to as the 'Conservation Committee'). The Conservation Committee shall be responsible for protecting the financial integrity of the special fund established under section 44 (hereinafter in this section referred to as the 'special fund') by insuring that all distributions from the special fund are made in accordance with this Act.

"(2)(A) The Conservation Committee shall be composed of five members appointed by the Secretary, who shall be representatives of carriers authorized under section 32, including self-insurers and representatives of employers.

"(B) The terms of office of the members of the Conservation Committee shall be three years, except that of the members first appointed, one member shall be appointed for a term of one year, two members shall be appointed for a term of two years, and two members shall be appointed for a term of three years, as determined by the Secretary at the time of appointment.

"(C) A vacancy on the Committee shall be filled in the manner in which the original appointment was made. A member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed only for the remainder of the term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(D) Members of the Conservation Committee shall serve without pay and may not be reimbursed for any travel or transportation expenses.

"(E) The Chairman shall be elected by the members of the Conservation Committee.

"(F) The Conservation Committee shall meet at the call of the Chairman or a majority of its members.

"(G) Upon request of the Conservation Committee, the Secretary shall provide such administrative services as the Committee shall require.

"(3)(A) The Conservation Committee may secure, directly from the Secretary of Labor, the Secretary of the Treasury, the Board, and a deputy commissioner, information necessary to enable it to carry out this section, including copies of all official records and reports. Upon request of the Chairman of the Conservation Committee, the appropriate Secretary, the Chairman of the Board, or the deputy commissioner shall furnish the information to the Committee.

"(B) The Conservation Committee may provide (by contract) for the auditing of the account of the special fund. The Conservation Committee may secure directly from the Comptroller General of the United States information derived from an audit conducted pursuant to section 44(g). Upon request of the Chairman of the Conservation Committee, the Comptroller General shall furnish the information to the Conservation Committee.

"(4) The Conservation Committee may establish such policies and procedures as may be necessary to carry out this section.

"(5) The Conservation Committee shall transmit to the Secretary of Labor, the Secretary of the Treasury, and to each House of Congress a report, not later than one year after the date of enactment of this Act, and each year thereafter. The report shall contain a detailed statement of the findings and conclusions of the Conservation Committee with regard to the financial integrity of the special fund, together with its recommendations for such legislative and administrative actions as it considers appropriate.

"(b)(1)(A) To carry out its responsibilities under this section, the Conservation Committee shall appoint a Fund Conservator (hereinafter in this section referred to as the 'Conservator').

"(B) The Conservation Committee may authorize the Conservator to take any action which the Conservation Committee is authorized to take under this section.

"(2)(A) The Secretary shall cause notice to be given to the Conservator whenever a payment from the special fund is ordered by the Secretary or whenever an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund is scheduled to convene. A proceeding on an application for apportionment under section 8(f) of this Act may not be convened less than thirty days after notice of the proceeding has been given to the Conservator, unless the Conservator waives the limitation in writing to the Secretary.

"(B) Except as provided in subparagraph (C), the Conservator shall be a party in an administrative or judicial proceeding in which a party to the proceeding seeks to establish a liability of the special fund. The Conservator shall have the same rights in the proceeding as any other party, including the right to participate in a settlement of a claim brought against the fund.

"(C) The Conservator may withdraw as a party from a proceeding described in subparagraph (B), after giving written notice to the Secretary and the officer or judge presiding over the proceeding, if the Conservator determines that there is a substantial likelihood that the liability of the fund will be established in the proceeding.

"(D) The Conservator may participate as a party in a case where the liability of the special fund is already established and a proceeding is convened to establish the amount of the liability, including a proceeding to review a compensation award under section 22.

"(E) The functions and responsibilities of the Conservator established under subparagraphs (B) through (D) shall extend to all proceedings described in such subparagraphs which are pending on the date of enactment of this Act.

"(3)(A) When medical questions or questions relating to the vocational rehabilitation of a claimant are raised in a case in which the Conservator is a party pursuant to paragraph (2), the Conservator may order an examination or evaluation of the claimant in the proceeding by a physician whose services have been procured by the Conservator under paragraph (5)(B)(ii).

"(B) If a claimant refuses to comply with an order under subparagraph (A), the proceeding relating to the claimant's case shall be suspended and, in appropriate cases, the Secretary may suspend benefits, unless the physician or other individual who would be responsible for administering the examination or evaluation determines that the administration of the examination or evaluation would constitute a risk to the health of the claimant.

"(4)(A) Subject to such rules as the Conservation Committee may prescribe and to subparagraph (B), the Conservator may appoint and fix the pay of such professional and clerical personnel as the Conservator considers appropriate.

"(B) The staff of the Conservator may be appointed without regard to the provisions of title 5, United States Code (governing appointments in the competitive service), and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates).

"(5)(A) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

"(B) Subject to such rules as the Conservation Committee may prescribe, the Conservator may procure the services of—

"(i) counsel, subject to subparagraph (C), to represent the interests of the special fund in an administrative or judicial proceeding described in paragraph (2); and

"(ii) medical, vocational, and other experts and witnesses to defend a claim against the special fund.

"(C) The Conservator shall establish standards for the selection of a counsel under subparagraph (A) which will ensure the selection of individuals who are specially qualified to serve by virtue of their education, training, or experience, including experience in the field of worker's compensation law.

"(c) All administrative expenses incurred by the Conservation Committee and the Conservator under this section shall be paid from the special fund.".

APPROPRIATION

SEC. 22. Section 46 is repealed.

AVAILABILITY OF APPROPRIATIONS

SEC. 23. Section 47 is repealed.

DISCRIMINATION AGAINST EMPLOYEES WHO BRING PROCEEDINGS

SEC. 24. (a) Section 49 is amended by inserting after the first sentence the following new sentence: "The discharge or refusal to employ a person who has been adjudicated to have filed a fraudulent claim for compensation is not a violation of this section.".

(b) The second sentence of section 49 is amended—

(1) by striking out "$100" and inserting in lieu thereof "$1,000"; and

(2) by striking out "$1,000" and inserting in lieu thereof "$5,000".

EFFECTIVE DATE

SEC. 25. The provisions of this Act and the amendments made by this Act shall be effective for an injury, disability, or death which occurs or commences on or after the date of enactment of this Act, except that (1) there shall be no liability for deaths from causes other than the injury, as provided in sections 8(d)(3) and 9 of the Longshoremen's and Harbor Workers' Compensation Act, as amended by Public Law 92-576, for any such deaths occurring on or after the date of enactment of this Act, and (2) the amendments made by section 14 of this Act relating to the modification of awards shall not apply to payments of compensation under the Black Lung Benefits Act (30 U.S.C. 901 et seq.).

The title was amended so as to read:

"An Act to amend the Longshoremen's and Harbor Workers' Compensation Act to improve the administration of the Act, to reduce incentives for fraud and abuse, to assure immediate compensation benefits and competent medical treatment for injured employees, and for other purposes.".

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CONTRIBUTION OF JAPANESE-AMERICANS DURING WORLD WAR II

Mr. HAYAKAWA. Mr. President, in the history of the United States there have been many instances of outstanding service to our country during times of war. Unfortunately, many heroic actions and expressions of courageous dedication have remained unknown and unrecognized.

During World War II many Americans of Japanese ancestry (AJA's) bravely fought for our country in the European and Pacific theaters. The feats in battle of the 100th Infantry Battalion and its successor, the 442d Regimental Combat Team composed of Nisei in France and Italy, are well known to many. However, the United States also owes a great debt of gratitude to the brave AJA's who served as members of the Military Intelligence Service in all campaigns from Guadalcanal to Attu and from Iwo Jima to Okinawa. Their contribution to the war effort was tremendous.

A very interesting and detailed account of their wartime service is contained in Joseph Harrington's book "Yankee Samurai." The over 6,000 members of this group worked in small units assigned to every combat division serving in the Pacific area. The Nisei served as translators of captured documents, interrogators of POW's and persuaders of enemy surrender. Their effectiveness was enhanced by the fact that the Japanese Army and Navy often did not worry about communicating during the war via coded message, confident that the complexity of the Japanese language used by the military was sufficient to safeguard the secrecy of their exchanges.

As an example, the work of the Nisei was instrumental in determining the location of Admiral Yamamoto that led to the downing of his plane and death. Furthermore, they worked on the prompt translation and interpretation of the captured Japanese defense plans in the Philippines and the Solomons, the so-called Z-plan relating to the defense of Guam, Saipan, and Tinian, and the analysis of the defense plans of Okinawa. These actions prompted Major General Willoughby to state that, "the Nisei saved a million lives and shortened the war by 2 years." Gen. Douglas MacArthur was well aware of the contribution of the Nisei when he affirmed that "never in military history did any army know so much about the enemy prior to actual engagement."

Many Nisei members of the Military Intelligence Service valiantly lost their lives in action both in World War II and the Korean war and although their names were Japanese, all served and died as proud American soldiers. Dan Nakatsu clearly describes the courage demonstrated by the Nisei

during the war when he points out that these men were actually fighting two wars simultaneously—one against the military enemy and the other against racial prejudice and distrust toward their kind at home.

At the end of the war, the Nisei contributed to the elimination of the dominant military class within Japan and laid the foundations for the establishment of the current strong ties of friendship between Japan and the United States. I hope that the citizens of our country will join me in saluting and honoring these brave men who stand as an example to future generations.

Mr. President, I commend to my colleagues the article entitled "The Secrets Come Out for Nisei Soldiers," by Charles Hillinger, that appeared in the Los Angeles Times and ask unanimous consent that it be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Los Angeles Times]

THE SECRETS COME OUT FOR NISEI SOLDIERS—JAPANESE-AMERICAN ROLE IN MILITARY INTELLIGENCE SERVICE FINALLY TOLD

(By Charles Hillinger)

President Harry S. Truman called them "our human secret weapon."

To this day the role of 6,000 Japanese-American soldiers in the Pacific is one of the best-kept secrets of World War II.

Gen. Charles Willoughby, Douglas MacArthur's chief of staff for intelligence, said the 6,000 Nisei in the Military Intelligence Service "shortened the war against Japan by two years."

Col. Sidney F. Mashbir, commander of the service, reported that "thousands of American lives were preserved by these courageous men."

Nisei Military Intelligence Service veterans from throughout the country will be in Los Angeles the first week of August to attend a national reunion of Japanese-American veterans.

"It's a story that has never been publicly revealed. It has always been hush-hush. Only now are we permitted to talk about it. The wraps are finally being taken off this military secret," said retired L.A. County Superior Court Judge John F. Aiso, 72.

Aiso was the program's organizer and chief instructor.

"It would never have succeeded without Aiso's leadership at the secret MIS Japanese language schools, first at the Presidio in San Francisco and later at Camp Savage and Ft. Snelling, both in Minnesota," said James Oda, 67, of North Hollywood, one of the instructors who served under Aiso.

TRANSLATED DOCUMENTS

Most of the Nisei volunteered to join the intelligence service from behind barged wire in relocation camps, where they and their families were held during the war because of their ancestry.

Aiso, Oda and a dozen intelligence service veterans met recently to formulate plans for the August reunion of the group.

"We may have been the only soldiers in history to have bodyguards to protect us from our own forces in combat zones so we would not be mistaken for the enemy," Aiso recalled.

The Nisei translated captured Japanese documents, maps, battle plans, orders, diaries, letters and publications. They interrogated Japanese prisoners.

They were the eyes and ears of the Allied forces fighting the Japanese in the Pacific.

"Our chief worry was getting shot by our own solders," remembered Kitao Yamada, 64, a retired Pasadena postal supervisor, "because we looked like the enemy."

Yamada was the only Japanese-American MIS soldier assigned to a regiment of 3,000 Marines during the fight on New Britain island.

"One of the Marines told my bodyguard, 'I've been in a foxhole six months and I haven't seen a Jap. I don't know what one looks like.'

"My bodyguard told the Marine: 'I'll show you one for $5.' The guy gave him the $5. My bodyguard found me and brought me over to the Marine and introduced me.

"There was a humorous side of the war, too," Yamada added.

"My American bodyguard nicknamed me Rocky and I have been Rocky ever since," recalled Kazuhiko (Rocky) Yamada, 64, who works for the L.A. Department of Water & Power. "It was not a good idea in a combat area to have anyone call you by your Japanese name."

Kiyoshi Fujimura, 57, a retired L.A. postal worker, a sergeant during the war, told how he became a captain for eight hours.

"When the war was winding down in the Philippines I was to be the interpreter at Gen. Yamashita's surrender. The general would not surrender in the company of an enlisted man, so I was promoted to temporary captain for the occasion."

TAKEN FOR THE ENEMY

Sigeo Ito, 65, of Altadena, remembered how he and another American soldier "scared the hell out of each other" when they both landed in the same foxhole on Guam. "Luckily we got the situation straightened out before he mistook me for the enemy."

Many of the Nisei intelligence service soldiers were killed by mistake by American troops.

Sgt. Frank Hachiya, awarded the Distinguished Service Cross posthumously, parachuted behind enemy lines in the Philippines and was later spotted and shot by an American who took him to be an enemy infiltrator.

Before he died, Hachiya turned over to U.S. authorities a set of maps of enemy defenses. He is credited with saving the lives of hundreds, perhaps thousands, of American troops.

The Nisei intelligence service corps translated the Imperial Navy strategy for most of the Pacific campaign.

"The Japanese had no idea how the Americans knew so much about their war strategy. They did not know about America's secret weapon—the Nisei members of the MIS," said George Kanegai, 66, a leader of the intelligence-gathering unit attached to MacArthur's headquarters in Australia.

There were many unsung heroes of the outfit. Like Kenny Yasui, 68, owner of an L.A. import-export firm. Yasui was awarded the Silver Star and is heralded among Nisei as "the little Sgt. York."

He fought with Merrill's Marauders in the China-Burma-India campaign. He swam to a small island in the Irrawaddy River in Burma and single-handedly took an entire Japanese company prisoner through a ploy.

Yasui barked through a loudspeaker in Japanese: "I am Col. Yamamoto of the Imperial Japanese Army. Japan has lost the war. Lay down your weapons and follow me."

Two of the Japanese soldiers blew themselves up with hand grenades rather than surrender. The rest followed Yasui in close order drill to awaiting American soldiers.

Sho Nomura, 64, of Sierra Madre, who attended the planning meeting for the reunion, was one of three intelligence service Nisei attached to Mao Tse-tung's headquarters in Yunnan, China, to find out how extensively the Chinese Communists were fighting the Japanese.

Rusty Kimura, 67, of Gardena, came to the meeting with a gunsight from a Japanese 105-millimeter heavy artillery weapon he destroyed in Bougainville. He contributed the gunsight to the group's archives.

Why isn't the story of the Military Intelligence Service known?

"It could not be told during the war because it had to be kept secret," explained Aiso.

After the war, the intelligence service played a key role in the occupation of Japan. When the Korean War came along, the intelligence service was used extensively in Korea.

"And, as time went on, the story was overlooked and forgotten, except by those of us who lived it."

There are three organizations of Military Intelligence Service veterans, one in Los Angeles, another in San Francisco and a third in Hawaii.

Yosh Nakayama, 57, owner of a light fixture company in Gardena, is president of the local group.

The annual Nisei Week festival and parade, the Nisei Veterans Reunion, and the opening of an exhibit at the County Museum of Art are all scheduled to take place the first week of August.

RISING HEALTH CARE COSTS

Mr. KENNEDY. Mr. President, yesterday, Americans received some disturbing news from the Department of Health and Human Services—the Nation's health bill rose by 15.1 percent last year to $287 billion. Health costs have now reached nearly 10 percent of GNP, up by one-third over the past decade. And there is little relief in sight from these astronomical increases that permit health costs to consume higher and higher proportions of every dollar produced in our economy.

These new figures are a stark testament to the failure of the administration to develop an effective cost containment program. The results for the Nation's elderly and sick have been dramatic—skyrocketing out-of-pocket costs and health insurance premium increases; reduced access to services; and the near bankruptcy of public and community hospitals that have been forced to bear the brunt of caring for the poor and the uninsured.

In fact, the administration's policies have exacerbated the crisis of escalating health care costs. Cuts in vital health programs have not slowed the rate of increase in health costs; they have simply shifted the burden to the

elderly, to the young, and the private citizen. The medicare and medicaid cuts adopted by the Senate last week will shift billions more in health costs to the elderly, the poor, and the consumers. Cuts in programs that promote good health—such as immunization, community health centers, maternal and child health, and others—actually drive costs higher, because they encourage individuals to postpone needed care until health problems become more acute and more expensive.

We have tolerated business as usual for too long—and we are bankrupting ourselves in return. We cannot wait until health care usurps 11 percent or 12 percent of the GNP. The time has come for Congress to turn its back on the special interests of the health industry, and adopt meaningful reforms to provide cost-effective care and terminate the pernicious practice of cost shifting.

We can afford decent health care for all—senior citizens, workers, and the unemployed, families with children—if only we have the courage to make the right decisions. The latest figures are sounding the alarm with new and even greater intensity. The question is whether Congress at last will hear it and respond.

TEST BAN AND EPITAPHS

Mr. KENNEDY. Mr. President, last week the Reagan administration made a startling announcement that it intended to abandon negotiations for a comprehensive test ban treaty. At that time, Senator MATHIAS joined me in announcing that we would introduce a bipartisan resolution on July 29, demanding immediate resumption of the negotiations as well as submission of the threshold test ban and peaceful nuclear explosion treaties for Senate consent.

Five administrations, both Republican and Democratic, have pursued a comprehensive nuclear test ban since 1963, when President Kennedy signed and the Senate agreed to ratification of the Limited Test Ban Treaty. Theodore C. Sorensen, who was Special Counsel to President Kennedy, has written an eloquent and compelling article in the New York Times which makes clear the importance of this effort and condemns the Reagan administration's abandonment of these two decades of bipartisan commitment. Mr. President, I ask unanimous consent that Mr. Sorensen's important article be entered in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 25, 1982]

TEST BAN AND EPITAPHS

(By Theodore C. Sorensen)

Ronald Reagan last week, in a move speaking volumes about his sincerity in the current strategic arms reduction talks, threw out 19 years of bipartisan American support for a comprehensive nuclear test ban treaty. The military arguments he accepted have heretofore been consistently rejected.

It was 19 years ago today that American, British and Soviet negotiators concluded and initialed in Moscow a treaty banning all nuclear weapons testing in the air, sea and outer space. John F. Kennedy called it "an important first step—a step toward peace [and] reason," adding that it was "a journey of a thousand miles." When W. Averell Harriman, the chief American negotiator, was welcomed home by his Georgetown neighbors, one woman brought her baby, saying, "What you did in Moscow will make it possible for him to look ahead to a full and happy life."

Because the treaty permitted underground testing, it was indeed only a first small step toward slowing the nuclear arms race. Its text contemplated a future comprehensive ban. President Kennedy and Nikita S. Khrushchev, the Soviet leader, both hoped to resolve the one remaining obstacle to an underground-test ban—how to inspect suspicious seismic-disturbance reports. During these past 19 years, every President, regardless of party, actively sought an agreement between the United States and the Soviet Union to halt underground nuclear testing. For 19 years, arguments emanating from the Pentagon and nuclear-weapons laboratories about the need for more testing—to develop new weapons and enhance our confidence in existing weapons—were rejected by the White House.

Until last week.

With typical circuity, the Reagan Administration decision not even to negotiate for such a ban, once it had been involuntarily publicized, was attributed to a need to first redefine verification procedures for two interim, unratified, largely meaningless agreements that ban explosions over 150 kilotons. In truth, both superpowers can obtain all the test results they need below that threshold, which is 10 times the power of the Hiroshima bomb. Moreover, these interim agreements would both be rendered moot by a determined Presidential commitment to negotiate a comprehensive test ban. Because of new verification technology and procedures, such a pact seemed near in 1979 before it temporarily sank with the second strategic arms limitation treaty.

Opposition to a total ban from various military leaders and nuclear scientists in both Washington and Moscow over the last 19 years is not surprising. As Gen. Earle G. Wheeler testified regarding the 1963 treaty: "In the purest sense of the term, any agreement which limits the manner in which we develop our weapons systems represents a military disadvantage." Most armed services commanders, trained and paid and obligated to provide the strongest possible combat force, invariably want more tests, more weapons and more certainty about the reliability of their existing weapons.

These same arguments were all advanced in 1963 against the Limited Test Ban Treaty, by both active and retired commanders and by concerned citizens ranging from Edward Teller to Phyllis S. Schlafly. But their arguments were overcome by answers that are equally valid today. The risks of an imperfect treaty were deemed less than the risks of an unabated arms race. A reduction in the tensions and economic burdens of the cold war was deemed worth the limitations on new weaponry. Preserving doubts in both the Kremlin and the Pentagon about the reliability of their respective stockpiles might someday stay a reckless hand. Establishing roadblocks to either superpower's development of destabilizing weapons might reduce future temptations to launch a surprise first strike. The Senate in 1963 listened, debated and approved the treaty by a vote of 80 to 19.

Unfortunately the ideology of those 19 is now in the saddle in Washington. The Reagan cold warriors advertise their plans for arms control with more hypocrisy than hope for success. They see no need for the superpowers to deter the spread of nuclear weapons by setting a good example. They want no part of a nuclear freeze, not even a mutual halt in testing, warheads and weapons. Why should they? An Administration that can turn the clock back by decades on child labor and Social Security can easily go back to John Foster Dulles.

I would remind them of the statement of Everett M. Dirksen, the late Senate Republican leader, in switching to support the 1963 treaty, "I should not like to have written on my tombstone: 'He knew what happened at Hiroshima, but he did not take a first step.' " That first step in 1963 was impelled in part by a nuclear confrontation over Cuba the previous year. Let us pray that another such confrontation will not be required to produce the next step.

RECIPIENTS OF THE JEFFERSON AWARDS PRESENTED BY THE AMERICAN INSTITUTE FOR PUBLIC SERVICE

Mr. THURMOND. Mr. President, this year marks the 10th anniversary of the Jefferson Awards, which are presented by the American Institute for Public Service. The Institute was founded to honor the highest ideals and achievements of individuals in the field of public service.

On July 21, 10 outstanding Americans received this prestigious distinction for their valuable contributions to society. Each winner is a leader in his or her own right, and the exemplary service displayed by each winner is most worthy of this recognition.

The board of selectors, composed of 79 of our country's finest citizens, grants Jefferson Awards in each of the following categories:

First, the Greatest Public Service Performed by an Elected or Appointed Official;

Second, the Greatest Public Service Performed by a Private Citizen;

Third, the Greatest Public Service Performed by an Individual 35 Years or Under;

Fourth, the Greatest Public Service Benefiting the Disadvantaged; and

Fifth, Outstanding Public Service Benefiting Local Communities.

The review of numerous candidates for the Jefferson Awards is a lengthy and tedious process, and I believe that it is appropriate to commend the board of selectors for their wise selection of this year's recipients.

I was especially pleased that my friend, the distinguished Senate Ma-

jority Leader, Senator HOWARD BAKER, was chosen in the category of Greatest Public Service Performed by an Elected or Appointed Official. Senator BAKER certainly deserves this honor for his fine leadership in the U.S. Senate. His entire career of public service has been one of dedication to the cause of helping others.

Mr. President, I am proud that a fellow South Carolinian, Mr. Richard Garrett of Easley, was one of the five recipients who won the award for Outstanding Public Service Benefiting Local Communities. Mr. Garrett is well-known for his efforts in using his airplane to fly burn victims in upper South Carolina to specialized treatment hospitals around the country.

Mr. President, I would be remiss to overlook the great contributions of those individuals who created the Jefferson Awardz, particularly its cofounders, Jacqueline Kennedy Onassis and former Ohio U.S. Senator Robert Taft, Jr., and Samuel S. Beard, president of the American Institute for Public Service, who conceived the awards. The establishment of the Jefferson Awards is, in itself, a valuable public service, because this recognition of public service acts as a catalyst which inspires others to serve the American people.

Mr. President, in order to share with my colleagues more about the remarkable accomplishments of these Jefferson Award winners, and to further describe the goals and purposes of the American Institute for Public Service, I ask unanimous consent that the program of the Jefferson Awards ceremony appear in the RECORD.

There being no objection, the program was ordered to be printed in the RECORD, as follows:

THE AMERICAN INSTITUTE FOR PUBLIC SERVICE JEFFERSON AWARDS

STATEMENT OF PURPOSE

The Jefferson Awards and the American Institute for Public Service were founded in 1973 to honor the highest ideals and achievements in the field of public service in the United States. Through the Jefferson Awards the Institute recognizes the dedication, sacrifices and accomplishments of individuals serving the American people and strives to attract new, young leadership into public service.

Historically, public service in America has been held in low regard. To dramatize excellence in public service, the goal of the American Institute is to establish what might become a series of national awards for public service similar to the Nobel or Pulitzer prizes.

The Board of Selectors, chaired by Senator Robert Taft, selects the Jefferson Award winners, and awards are granted in five different categories:

The Greatest Public Service Performed by an Elected or Appointed Official

The Greatest Public Service Performed by a Private Citizen

The Greatest Public Service Benefiting the Disadvantaged

The Greatest Public Service Performed by an Individual Thirty-Five Years or Under

Outstanding Public Service Benefiting Local Communities

Opening remarks: Byron White, Associate Justice of the Supreme Court of the United States.

Welcome: The Honorable Robert Taft, Jr., Co-Founder, American Institute for Public Service.

Master of ceremonies: Charles Bartlett, Member of the Board of Selectors, American Institute for Public Service.

Greatest Public Service by an Elected or Appointed Official: The Honorable Howard H. Baker, Jr., presented by John Seigenthaler, Editorial Director, USA Today, Publisher, The Tennessean, Member of the Board of Selectors, American Institute for Public Service.

Greatest Public Service by a Private Citizen: Bob Hope, presented by Cheryl Tiegs, Member of the Board of Selectors, American Institute for Public Service.

Greatest Public Service Benefiting the Disadvantaged: The Honorable Claude Pepper, presented by Gordon Parks, Author, Film Producer, Member of the Board of Selectors, American Institute for Public Service.

Greatest Public Service by an Individual Thirty-five or Under: The Honorable Henry Cisneros, presented by Bruce Sundlun, President, Outlet Broadcasting Company, Member of the Board of Selectors, American Institute for Public Service.

Outstanding Public Service Benefiting Local Communities: Dallas Doyle, Butte, Montana, presented by Arthur V. Toupin, Vice Chairman of the Board, Bank of America, Member of the Board of Selectors, American Institute for Public Service. Richard Marvin Garrett, Easley, South Carolina, presented by The Honorable Peter W. Rodino, Jr., United States Representative, Member of the Board of Selectors, American Institute for Public Service. Helena Kyle, Chapel Hill, North Carolina, presented by Luther H. Hodges, Jr., Chairman of the Board, National Bank of Washington, Member of the Board of Selectors, American Institute for Public Service. Caroline Putnam, Springfield, Massachusetts, presented by Judge Edmund Reggie, Member of the Board of Selectors, American Institute for Public Service. Ruth Heinz and Lorraine Schreck, Waukesha County, Wisconsin, presented by Howard K. Smith, Broadcast Journalist, Member of the Board of Selectors, American Institute for Public Service.

Closing: Sarah Reese, Soprano, Artist-in-Residence, Boston Opera Company.

Reception following.

GREATEST PUBLIC SERVICE PERFORMED BY AN ELECTED OR APPOINTED OFFICIAL

The Honorable Howard H. Baker, Jr.

As Senate Majority Leader, Howard H. Baker, Jr. has strengthened the leadership, direction and dignity of the United States Senate. Senator Baker is regarded by colleagues in both parties as fair, reasonable and generous. He is known as a legislative craftsman and an expert at consensus politics.

GREATEST PUBLIC SERVICE PERFORMED BY A PRIVATE CITIZEN

Bob Hope

Bob Hope has spent a lifetime of tireless effort uplifting the spirit of America at home and abroad. He shows no signs of slowing down, least of all in his patriotic efforts. He has served the nation quasi-diplomatically as an ambassador of goodwill. An indefatigable entertainer of servicemen and women for over thirty years, he has traveled more than nine million miles entertaining troops around the world. Even today, Mr. Hope carries on a frantic schedule for the benefit of charitable causes.

GREATEST PUBLIC SERVICE BENEFITING THE DISADVANTAGED

The Honorable Claude Pepper

Congressman Claude Pepper is the leading Congressional champion of legislation barring discrimination against the elderly. As Chairman of the House Select Committee on Aging, he is an eloquent and most effective spokesman for the elderly. He has lobbied incessantly for reform of programs that deliver health care to the nation's elderly and for tougher laws governing private institutions, particularly nursing homes that provide geriatric care.

GREATEST PUBLIC SERVICE BY AN INDIVIDUAL THIRTY-FIVE OR UNDER

The Honorable Henry Cisneros

Henry Cisneros is the first Hispanic mayor of a major American city, San Antonio. He grew up in its barrio. He earned a master's degree in public administration from Harvard's Kennedy School of Government and a Ph.D. in that subject from George Washington University. A White House Fellow at 23, he served as an assistant to Elliot Richardson, who named him co-chairman of the Urban Policy Task Force. He returned to San Antonio and, in 1975, he became the youngest person ever elected to the San Antonio City Council. He exemplifies the accomplishments of youth in government.

OUTSTANDING PUBLIC SERVICE BENEFITING LOCAL COMMUNITIES

Dallas Doyle, Butte, Montana

Dallas Doyle is a man who shares. He shares—not just an equitable or reasonable portion of what he has—he shares all of what he has. Mr. Doyle operates the "Outreach Mission" in an old building which also serves as his family's home. He reaches out to anyone who is in need of help. A reformed alcoholic, Mr. Doyle saw the need for a place that offered something more than just a meal. He offers the missing ingredients of care, love and understanding. He works closely with a wide range of agencies in the area, who do not hesitate to direct the needy to him. Since 1977 the mission has helped over 6,600 people.

Richard Marvin Garrett, Easley, South Carolina

For the last thirteen years, Richard Garrett has flown upper South Carolina residents to specialized hospitals across the country. He has flown more than eighty-three trips transporting severely burned children to the Shrine Burn Center in Cincinnati, Ohio. Mr. Garrett will fly the family to visit the patient, if they are there for long-term care. He is available for emergency trips anytime and will leave his office or farm with a phone call. There has never been a charge to the patient or family for this service.

Helena Kyle, Chapel Hill, North Carolina

Helena Kyle directs the Home Assister Service which she initiated to meet a community need in 1978. Upon retirement as a private-duty nurse she continued to use her nursing skills to give voluntary assistance to her friends and acquaintances. She became aware of the need for competent, trained people who would care for the ill and infirm in their homes. She and other volunteer

nurses teach unskilled workers the rudiments of home nursing care. The Assisters are then sent into homes to work under the close supervision of the nurses. The program reverses the usual structure: top positions are filled by volunteers and lower level workers are paid. By utilizing the professional knowledge of volunteers, the high cost of their salaries is saved and the service is kept within the price range of many who need it.

Caroline Putnam, Springfield, Massachusetts

Caroline Putnam never went to college, but for over half of her life, she has been intimately concerned with the urgency of providing higher education to the socially underprivileged black minority in our country. In 1946 she established an organization called Catholic Scholarships for Negroes, long before it became socially fashionable. Every year, she takes on approximately 100 students for a four year commitment. Funds provided are not full scholarships but provide the difference to make their educations possible. Thousands of Mrs. Putnam's graduates are in positions of productive prominence. All have benefited from her farsightedness.

Ruth Heinz and Lorraine Schreck, Waukesha County, Wisconsin

What happens to someone who is elderly and incompetent and has no one to see that his needs are met? Ruth Heinz and Lorraine Schreck have an answer. By establishing Citizen's Outreach Services, they have made a personal and legal commitment to meet the needs of the elderly. Citizen's Outreach Services is one of the three agencies appointed by the state of Wisconsin as a certified corporate guardianship. Mrs. Heinz and Mrs. Schreck are legal guardians for incompetent elderly people in or outside of nursing homes. They also provide aid and assist people in their homes by preparing insurance forms and helping obtain the services to which they are entitled. They receive no pay for their work.

Co-Founders: Mrs. Jacqueline Kennedy Onassis, The Honorable Robert Taft, Jr., Samuel S. Beard, President, American Institute for Public Service Board of Selectors.

Henry Aaron, Muhammed Ali, Charles Bartlett, Senator Max Baucus, Senator Julian Bond, Senator David L. Boren, Mayor Tom Bradley, Hon. John H. Buchanan, Jr., Ellen Burstyn, Sarah Caldwell, Patricia T. Carbine, Harry M. Caudill, Paul Corbin, Hon. Richard D. Cudahy, Midge Dector, Emmett Dedmon, Kirk Douglas, Peter Duchin, M. Stanton Evans, Robert H. Finch, Stephen O. Frankfurt, Mayor Corinne Freeman, Betty Friedan, Congressman Robert Garcia, Earl Graves.

Congressman John Paul Hammerschmidt, Dr. Alexander Heard, Senator John Heinz, III, Marife Hernandez, Terry Herndon, Lenore Hershey, Luther Hodges, Jr., Dr. Phillip Hoffman, Roger Horchow, Norman E. Isaacs, Crawford Johnson, III, Philip C. Johnson, Vernon E. Jordan, Raul Julia, Dr. Herman Kahn.

Buddy Killen, Lane Kirkland, David Kruidenier, Governor Patrick J. Lucey, Dan W. Lufkin, Senator Richard G. Lugar, Lawrence C. McQuade, Vilma S. Martinez, John D. Montgomery, Reg Murphy, Gordon Parks, Gregory Peck, Senator George S. Pillsbury, Leontyne Price, Michael Pulitzer, Dr. Isador I. Rabi, Judge Edmund Reggie, Dr. George A. Roberts, Winthrop P. Rockefeller.

Congressman Peter W. Rodino, Jr., Mary G. Roebling, Leo Rosten, William A. Rusher, Robert T. Sakowitz, Hon. Terry Sanford, John Seigenthaler, Robert Shults, Neil Simon, William E. Simon, Howard K. Smith, Bruce Sundlun, Arthur Toupin, R. Emmett Tyrrell, Jr., Cicely Tyson, Jack Valenti, Ernest van den Haag, Hon. Sterry R. Waterman, Mayor Louie Welch, Andrew Wyeth.

MESSAGES FROM THE PRESIDENT

Messages from the President of United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations and withdrawal received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

ENROLLED BILL SIGNED

The message also announced that the Speaker has signed the following enrolled bill:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for U.S. magistrates.

The enrolled bill was subsequently signed by the President pro tempore (Mr. THURMOND).

HOUSE JOINT RESOLUTION PLACED ON THE CALENDAR

The following joint resolution was read the first and second times by unanimous consent, and placed on the calendar:

H.J. Res. 541. Joint resolution concerning the successful completion of the test flight phase of the Space Shuttle program.

HOUSE BILL HELD AT DESK

The following bill was ordered held at the desk until the close of business on Wednesday, July 28, 1982, by unanimous consent:

H.R. 6663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil procedure.

ENROLLED BILL PRESENTED

The Secretary reported that on today, July 27, 1982, he had presented to the President of the United States the following enrolled bill:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for U.S. magistrates.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3896. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report on seven new proposed deferrals and revisions to two deferrals previously reported; jointly, pursuant to the order of January 30, 1975, to the Committee on Agriculture, Nutrition, and Forestry; the Committee on Appropriations; the Committee on the Budget; the Committee on Commerce, Science, and Transportation; the Committee on Environment and Public Works; the Committee on Foreign Relations; the Committee on Labor and Human Resources; and the Committee on Small Business.

EC-3897. A communication from the Assistant Administrator for Pesticides and Toxic Substances of the Environmental Protection Agency transmitting, pursuant to law, a copy of the agency's final regulation reclassifying certain active ingredients used in antimicrobial pesticides as inert ingredients; to the Committee on Agriculture, Nutrition, and Forestry.

EC-3898. A communication from the Executive Associate Director for Budget, Office of Management and Budget, transmitting, pursuant to law, a report on the reapportionment of certain 1982 appropriations to the Internal Revenue Service; to the Committee on Appropriations.

EC-3899. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on the recent discovery and emergency disposal of suspected chemical agent munitions at Dugway Proving Ground, Utah; to the Committee on Armed Services.

EC-3900. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the custodial service function at the Naval Avionics Center, Indianapolis, Ind. to performance under contract; to the Committee on Armed Services.

EC-3901. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to permit the collection of fees for tonnage measurement services; to the Committee on Commerce, Science, and Transportation.

EC-3902. A communication from the General Counsel of the Consumer Product Safety Commission transmitting, pursuant to law, notice of issuance of a rule to partially revoke the safety standard for architectural glazing materials; to the Committee on Commerce, Science, and Transportation.

EC-3903. A communication from the Chairman of the Federal Communications Commission transmitting, pursuant to law, the first report of the Temporary Commis-

sion on Alternative Financing for Public Telecommunications; to the Committee on Commerce, Science, and Transportation.

EC-3904. A communication from the Secretary of the Interior transmitting a draft of proposed legislation entitled "National Park System Fee Dedication and Park Improvement Act of 1982"; to the Committee on Energy and Natural Resources.

EC-3905. A communication from the Under Secretary of the Interior transmitting, pursuant to law, a report on an application by Exxon Oil for a refund of an excess royalty payment on three leases in the Gulf of Mexico; to the Committee on Energy and Natural Resources.

EC-3906. A communication from the Comptroller General of the United States transmitting, pursuant to law, a report entitled "Cleaning Up the Environment: Progress Achieved but Major Unresolved Issues Remain"; to the Committee on Environment and Public Works.

EC-3907. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to authorize combined grants to States for administrative costs for programs of aid to families with dependent children, medical assistance, and food stamps; to the Committee on Finance.

EC-3908. A communication from the Chairman of the U.S. International Trade Commission transmitting, pursuant to law, the quarterly report on trade between the United States and nonmarket economy countries; to the Committee on Finance.

EC-3909. A communication from the District of Columbia auditor transmitting, pursuant to law, a report entitled "D.C. Election Procedure Analysis"; to the Committee on Governmental Affairs.

EC-3910. A communication from the Executive Director of the Marine Mammal Commission transmitting, pursuant to law, the annual report of the Commission on its freedom of information activities for 1981; to the Committee on the Judiciary.

EC-3911. A communication from the Acting Chairman, Interagency Committee on Handicapped Research, Department of Education, transmitting, pursuant to law, the committee's annual report on its activities and recommendations; to the Committee on Labor and Human Resources.

EC-3912. A communication from the Director of the Congressional Budget Office transmitting a report entitled "Dislocated Workers: Issues and Federal Options"; to the Committee on Labor and Human Resources.

EC-3913. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation entitled "Food, Drug, and Cosmetic Amendments of 1982"; to the Committee on Labor and Human Resources.

EC-3914. A communication from the Secretary of Labor transmitting, pursuant to law, the 1981 employment and training evaluation report; to the Committee on Labor and Human Resources.

EC-3915. A communication from the Chairman of the Federal Labor Relations Board transmitting, pursuant to law, a report on a violation of law involving various overobligations of appropriations; to the Committee on Appropriations.

EC-3916. A communication from the Acting Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a foreign military sale to Tunisia; to the Committee on Armed Services.

EC-3917. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the refuse collection/disposal function at the Public Works Center, Pearl Harbor, to performance under contract; to the Committee on Armed Services.

EC-3918. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a decision made to convert the custodial services function at the Public Works Center, Pearl Harbor to performance under contract; to the Committee on Armed Services.

EC-3919. A communication from the Acting Assistant Secretary of the Army (Installations, Logistics, and Financial Management), transmitting, pursuant to law, a report with respect to converting the audiovisual services activity at Fort Hood, Tex., to contractor performance; to the Committee on Armed Services.

EC-3920. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Monetary Policy report of the Board, dated July 20, 1982; to the Committee on Banking, Housing, and Urban Affairs.

EC-3921. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on total itemized revenues and expenses and revenues and expenses of each train operated by the Corporation for the month of February 1982; to the Committee on Commerce, Science, and Transportation.

EC-3922. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on average number of passengers and on-time performance of each train operated by the Corporation for the month of April 1982; to the Committee on Commerce, Science, and Transportation.

EC-3923. A communication from the Vice President for Government Affairs of the National Railroad Passenger Corporation, transmitting, pursuant to law, a report on average number of passengers and on-time performance of each train operated by the Corporation for the month of May 1982; to the Committee on Commerce, Science, and Transportation.

EC-3924. A communication from the Secretary of Energy, transmitting, pursuant to law, the fifth of the semiannual reports on activities undertaken by the Department of Energy to implement the alternative fuels production portion of the Interior and Related Appropriations Act for fiscal year 1980; to the Committee on Energy and Natural Resources.

EC-3925. A communication from the Administrator of the Panama Canal Commission, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-3926. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports transmitted to the Congress from the General Accounting Office for June 1982; to the Committee on Governmental Affairs.

EC-3927. A communication from the General Accounting Office, transmitting, pursuant to law, a catalog of reports, decisions and opinions, testimonies, and speeches, dated June 1982; to the Committee on Governmental Affairs.

EC-3928. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 20, 1982; to the Committee on Governmental Affairs.

EC-3929. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 6, 1982; to the Committee on Governmental Affairs.

EC-3930. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 22, 1982; to the Committee on Governmental Affairs.

EC-3931. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 6, 1982; to the Committee on Governmental Affairs.

EC-3932. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 20, 1982; to the Committee on Governmental Affairs.

EC-3933. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 20, 1982; to the Committee on Governmental Affairs.

EC-3934. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 20, 1982; to the Committee on Governmental Affairs.

EC-3935. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on July 6, 1982; to the Committee on Governmental Affairs.

EC-3936. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of legislation adopted by the Council on June 22, 1982; to the Committee on Governmental Affairs.

EC-3937. A communication from the District of Columbia representative of the Ladies of the Grand Army of the Republic, transmitting, pursuant to law, the audit report for the organization for the years ending August 31, 1980 and August 31, 1981; to the Committee on the Judiciary.

EC-3938. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a study entitled "CETA Training Programs: Do They Work for Adults?"; to the Committee on Labor and Human Resources.

EC-3939. A communication from the Chairman of the National Advisory Council on Vocational Education, transmitting, pursuant to law, the 1981 annual report of the Council; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 6273. A bill to amend the National Traffic and Motor Vehicle Safety Act of

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1966 and the Motor Vehicle Information and Cost Savings Act to authorize appropriations for fiscal years 1983, 1984, and 1985, and for other purposes (Rept. No. 97-505).

By Mr. MATHIAS, from the Committee on Rules and Administration, without amendment:

S. Res. 436. An original resolution to establish regulations to implement television and radio coverage of proceedings of the Senate (Rept. No. 97-506) (with additional and minority views).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 433. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6273.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. Res. 434. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6260.

S. Res. 435. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2222.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment:

S. 2174. A bill to recognize the organization known as American Ex-Prisoners of War.

By Mr. THURMOND, from the Committee on the Judiciary, without amendment and with a preamble:

S.J. Res. 207. Joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week".

By Mr. COHEN, from the Committee on Governmental Affairs, without amendment:

S. Res. 438. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2059.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. ROTH, from the Committee on Governmental Affairs:

Peter E. Voss, of Ohio, to be a Governor of the United States Postal Service for the term expiring December 8, 1990.

By Mr. HATCH, from the Committee on Labor and Human Resources:

The following-named persons to be members of the National Council on the Humanities for terms expiring January 26, 1988:

A. Lawrence Chickering, of California;
Gertrude Himmelfarb, of New York;
James Clayburn La Force, Jr., of California;
Rita Ricardo-Campbell, of California;
Peter J. Stanlis, of Illinois;
Walter Berns, of Maryland;
George Carey, of Virginia; and
Ellis Sandoz, of Louisiana.

(The above nominations were reported by the Committee on Labor and Human Resources with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. THURMOND, from the Committee on the Judiciary:

J. Lawrence Irving, of California, to be U.S. district judge for the southern district of California.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MITCHELL:

S. 2778. A bill to require the Administrator of Veterans' Affairs to establish an experimental program to determine the feasibility of furnishing diagnostic health-care services to certain veterans in areas of the United States that are geographically remote from health-care facilities of the Veterans' Administration; to the Committee on Veterans' Affairs.

By Mr. HART (for himself and Mr. GORTON):

S. 2779. A bill to specify that the release of water from dams is not the discharge of water pollution; to the Committee on Environment and Public Works.

By Mr. COCHRAN:

S. 2780. A bill to limit the insanity defense and to provide a procedure for commitment of defendants found guilty who are mentally ill; to the Committee on the Judiciary.

By Mr. DECONCINI:

S. 2781. A bill to amend the Export-Import Bank Act of 1945; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. DODD:

S. 2782. A bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PRYOR (for himself, Mr. SASSER, Mr. RUDMAN, Mr. INOUYE, Mr. EAST, Mr. GARN, Mr. FORD, Mr. SARBANES, Mr. COCHRAN, Mr. BRADY, Mr. CANNON, Mr. BUMPERS, Mr. NICKLES, Mr. BAUCUS, Mr. BOREN, Mr. DIXON, Mr. MELCHER, Mr. MITCHELL, Mr. STENNIS, Mr. DECONCINI, Mr. EXON, Mr. BENTSEN, Mr. GLENN, Mr. GORTON, Mr. RANDOLPH and Mr. CHILES):

S.J. Res. 220. A joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war; to the Committee on Rules and Administration.

By Mr. DECONCINI (for himself, Mr. ROTH and Mr. EAGLETON):

S.J. Res. 221. A joint resolution to require the President to include with the budget transmitted to the Congress for fiscal year 1984 a statement identifying for fiscal years 1982, 1983, and 1984 the amounts expended or estimated to be expended for the purchase, operation, and maintenance of nontactical motor vehicles, to reduce the total amount expended by executive agencies for motor vehicle operations, and for other purposes; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation:

S. Res. 433. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6273; to the Committee on the Budget.

By Mr. THURMOND, from the Committee on the Judiciary:

S. Res. 434. An original resolution waving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 6260; to the Committee on the Budget.

S. Res. 435. An original resolution waving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2222; to the Committee on the Budget.

By Mr. MATHIAS, from the Committee on Rules and Administration:

S. Res. 436. An original resolution to establish regulations to implement television and radio coverage of proceedings of the Senate; placed on the calendar.

By MOYNIHAN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEAHY, Mr. BUMPERS, Mr. METZENBAUM, Mr. HART, Mr. LEVIN, Mr. EAGLETON, Mr. MITCHELL, Mr. DIXON, Mr. RIEGLE and Mr. SASSER):

S. Res. 437. A resolution relative to James G. Watt, Secretary of the Interior; to the Committee on Foreign Relations.

By Mr. COHEN, from the Committee on Governmental Affairs:

S. Res. 438. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2509; from the Committee on Governmental Affairs; to the Committee on the Budget.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MITCHELL:

S. 2778. A bill to require the Administrator of Veterans' Affairs to establish an experimental program to determine the feasibility of furnishing diagnostic health-care services to certain veterans in areas of the United States that are geographically remote from health care facilities of the Veterans' Administration; to the Committee on Veterans' Affairs.

VETERANS' DIAGNOSTIC SERVICES EXPERIMENT ACT OF 1982

Mr. MITCHELL. Mr. President, today I am introducing legislation to help meet the health care needs of the veterans living in northern Maine, in what I believe to be a novel and cost-effective manner.

My bill would establish, on an experimental basis, a diagnostic medical clinic in northern Maine. The pilot project would be established for 3 years and would serve as a useful experiment to assist the Veterans' Administration in determining the feasibility of establishing similar diagnostic clinics in other rural States.

Maine has a veteran population of 155,000. Approximately 11,000 of these veterans live in Maine's northern-most county, Aroostook County. All of

Maine's veterans are served by one VA hospital located in Togus, just outside of Augusta in the south central part of the State. This hospital and those who staff it do an excellent job of providing Maine's veterans with necessary health care. The problem is that because Maine is a large, rural State many thousands of veterans simply cannot, or do not, travel to Togus for treatment.

Many of the 11,000 veterans living in Aroostook County live up to 250 miles from Togus. As a result, they must travel some 500 miles round trip in order to receive care. Besides being extremely time consuming, the trip is expensive. In addition, the journey to Togus is made even more arduous during Maine's severe winters.

Maine's veterans have tried for a number of years to obtain some type of health-care facility in Aroostook County. In 1981, the Maine State Legislature passed a resolution urging Congress to establish a satellite outpatient clinic in northern Maine. On a number of occasions I, too, have tried to obtain such a clinic.

According to the VA, however, outpatient satellite clinics must be located at least 40 miles from an existing VA health-care facility and in a "Standard Metropolitan Area" with a population of at least 150,000. Based on this latter criteria, none of Maine's northernmost cities qualify for an outpatient clinic.

Given the inconvenience and expense associated with traveling to Togus for health care, I am convinced that many eligible veterans simply do not seek health care until an emergency arises. And even then, it is often impossible to transport these veterans to Togus. As a result, treatment is often provided at a local hospital at considerable expense to the VA and the taxpayer in general.

According to the VA at Togus, in calendar year 1981 there were 20 inpatient visits to Togus per 1,000 veterans living in Aroostook County. Statewide, this figure was almost twice as high, or 35 visits per 1,000 veterans. These statistics simply reinforce the belief that many eligible veterans living in Aroostook County find it impossible to travel to Togus for health care.

Another problem associated with traveling to Togus is that many veterans who make the 250-mile trip do so unnecessarily. In many instances, these veterans are hospitalized overnight at Togus simply because they have traveled 5 to 6 hours to receive care. This results in substantial costs to the VA and represents an inefficient use of scarce resources.

My bill would help address these problems by establishing a diagnostic health-care clinic in Aroostook County. The purpose of this clinic would be to determine if an eligible veteran needed to travel to Togus for either inpatient or outpatient care. As such, it would encourage veterans who currently do not seek treatment to come forward for a diagnostic exam when a health-care problem arises, rather than waiting until it is too late.

Eligibility for the exam would be limited to those veterans who are currently eligible for inpatient health care at a VA hospital. The reason for linking eligibility for the diagnostic exam to eligibility for inpatient care is that the primary purpose of the exam is to determine a veteran's need for hospitalization. As such, it only makes sense to link the two.

The diagnostic clinic would be administered by the VA in consultation with an advisory committee comprised of representatives from the VA, the hospital where the clinic is established, and a local veterans' organization. Although this committee would advise the Administrator on the operation of the clinic, the final authority to establish the guidelines governing the diagnostic exam would be left up to the Administrator.

It is envisioned that the clinic would operate in the following manner: The clinic would presumably be open only certain days of the week. A veteran with a medical problem could set up an appointment at the clinic for a diagnostic exam. If the veteran were eligible, the exam would be given to determine if he or she needed to travel to Togus for treatment. No decision would be made to send a veteran to Togus without first consulting the VA.

If it were determined that the veteran was not eligible for either inpatient or outpatient health care at Togus, the veteran would be advised of this and some other arrangement to provide treatment would be made.

By providing a diagnostic exam for eligible veterans, what this bill would really do is to say to the veterans of northern Maine: If you have a health-care problem and are eligible for treatment by the VA, come forward and let us take a look at it. I believe this proposal makes a good deal of sense and could, in the long run, save the VA and the taxpayers a substantial amount of money by diagnosing health-care problems before they become acute and more costly to treat.

In conclusion, Mr. President, I would like to emphasize my commitment to providing our Nation's veterans with adequate medical care regardless of where in the country they live. I believe the establishment of a diagnostic health-care clinic on an experimental basis in northern Maine would go far toward meeting that commitment.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2778

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Veterans' Diagnostic Services Experiment Act of 1982".

SEC. 2. The Congress finds that—

(1) many thousands of veterans with service-connected disabilities reside in areas of the United States that are geographically remote from health-care facilities over which the Administrator of Veterans' Affairs has jurisdiction;

(2) for many veterans such health-care facilities are practically inaccessible and for many other veterans the inconvenience of travel to such facilities discourages the veterans from seeking health-care services except under the most compelling of circumstances;

(3) an experimental program of diagnostic health-care services conducted by the Administrator in northern Maine, where many of the approximately 11,000 veterans reside more than 250 miles from the nearest of such health-care facilities, would provide valuable information on the feasibility of establishing a permanent program of furnishing diagnostic health-care services in remote areas of the United States.

SEC. 3. For the purposes of this Act—

(1) the term "Administrator" means the Adminstrator of Veterans' Affairs;

(2) the term "veteran" has the same meaning as provided in section 101(2) of title 38, United States Code;

(3) the term "service-connected" has the same meaning as provided in section 101(16) of such title;

(4) the term "disability" has the same meaning as provided in section 601(1) of such title;

(5) the term "eligible veteran" means any veteran to whom the Administrator may furnish hospital care under section 610(a) of such title; and

(6) the term "remote area" means any area of the United States that is geographically remote from the health-care facilities over which the Administrator has jurisdiction.

SEC. 4. (a) The Administrator shall establish an experimental program to determine the economic and functional feasibility of furnishing diagnostic health-care services to eligible veterans in a remote area. The experimental progam shall commence on January 1, 1983, and shall terminate on January 1, 1986.

(b)(1) In carrying out the program established under subsection (a), the Administrator shall enter into a contract with any health-care facility described in paragraph (2) and located in Aroostook County, Maine, to serve as a diagnostic clinic for eligible veterans. The function of the diagnostic clinic under such contract shall be to determine any eligible veteran's need for health-care at a facility over which the Administrator has jurisdiction or at a Department of Defense facility with which the Administrator has contracted for the care of eligible veterans.

(2) A health-care facility satisfies the requirements of paragraph (1) if the facility—

(A) is suitable in staff and facilities, as determined by the Administrator, to furnish diagnostic health-care services to eligible veterans; and

(B) will serve as the diagnostic clinic for and furnish diagnostic health-care services to eligible veterans at the lowest cost of-

fered to the Administrator for the contract referred to in paragraph (1).

(c) Any contract entered into under subsection (b) shall include a provision requiring that—

(1) diagnostic health-care services be furnished to eligible veterans in accordance with guidelines established by the Administrator; and

(2) the Administrator pay the health-care facility an agreed charge or charges for the diagnostic examination of any eligible veteran examined at the facility based on the extent of the examination required for such veteran.

(d) Notwithstanding any other provision of law, the Administrator may accept any donation of the use of any health-care facility in connection with a contract entered into under subsection (b).

SEC. 5. (a) In carrying out the experimental program extablished under section 4(a), the Administrator shall establish an advisory committee consisting of such representatives of the Veterans' Administration, the health-care facility that is a party to the contract entered into under Section 4(b), and any local organization of veterans demonstrating an interest in health-care services for veterans as the Administrator considers appropriate.

(b) the advisory committee shall advise the Administrator on—

(1) the operating procedures of the diagnostic clinic; and

(2) the general kinds and elements of diagnostic examinations that are required for eligible veterans receiving diagnostic medical services at the diagnostic clinic.

(c) The advisory committee shall transmit to the Administrator each calendar year prior to January 1, 1986, at such times as the Administrator requires a comprehensive report on the operation of the diagnostic clinic including such committee's findings regarding the economic and functional feasibility of furnishing diagnostic health-care services to eligible veterans under a contract of the type entered into under the experimental program established under section 4(a). Such report shall include information, additional findings, and recommendations on such matters relating to the experimental program as the Administrator requires.

SEC. 6. Not later than July 1, 1985, the Administrator shall prepare and transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the operation of the experimental program. The report shall include—

(1) the annual reports of the advisory committee transmitted to the Administrator under section 5(c);

(2) the findings of the Administrator regarding the economic and functional feasibility of contracting for diagnostic health-care services to be furnished to eligible veterans who reside in remote areas; and

(3) such recommendations for legislative action as the Administrator consider appropriate.

By Mr. HART:

S. 2779. A bill to specify that the release of water from dams is not the discharge of water pollution; to the Committee on Environment and Public Works.

DISCHARGE OF WATER FROM DAMS

● Mr. HART. Mr. President, I am introducing today legislation to specify that the release of water from dams is not a discharge of water which requires a permit from the Environmental Protection Agency.

This bill would reverse a decision by the U.S. District Court for the District of Columbia, in National Wildlife Federation against Gorsuch, interpreting the Clean Water Act to require the Nation's 2.3 million dams to have permits as "point sources" of water pollution, and directing EPA to establish comprehensive effluent standards for all dams within 90 days.

This decision is not only contrary to the clear congressional intent in writing the Clean Water Act and the consistent decade-long interpretation of that law, under four administrations, it also is bad policy.

As the court opinion states, "It is not disputed that the existence and operation of dams sometimes cause water quality problems." For example, water released from the bottom of a reservoir may be colder than the natural stream temperature, causing adverse effects on aquatic life susceptible to changes in water temperatures. Also, sediment carried by a stream often settles out of the water when it enters a reservoir, and the subsequent release of water lower in sediments can increase the downstream growth of algae and aquatic plants.

But the Clean Water Act is not intended to regulate these relatively minor effects of water release from dams on water quality under the act's provisions requiring point sources of water pollutants to receive permits under the national pollution discharge elimination system. As the court stated in National Wildlife Federation against Gorsuch:

It does appear that the typical situation the legislators had in mind for the NPDES program was an industrial facility or a sewage treatment plant taking waste materials produced outside of the water and discharging them into the water, essentially treating the waterway as a waste receptacle.

This clearly is not the situation with dams, which release just water itself.

In those individual situations when the effects of dams on water quality are significant enough to require Government control, action is possible under other provisions of the Clean Water Act, such as the regulation of "nonpoint sources" under section 208 and regulation of "dredge and fill" activities under section 404, and under State law. In Colorado, for example, although State law precludes the issue of NPDES permits for dams (Colo. Rev. Stat. § 25-8-503(5)), the Colorado Water Quality Commission is authorized to "promulgate control regulations" imposing mandatory requirements on any activity "that does cause the quality of any State waters to be in violation of any applicable water quality standard." (Colo. Rev. State § 25-8-205(1)).

Attempting to bring all the Nation's 2.3 million dams under the Clean Water Act's permit program would be a tragic waste of EPA's and the States' limited staff and funds. In pursuit of relatively small environmental benefits, a nationwide program regulating all dams would slow our progress toward other environmental objectives which are far more important than any of the impacts of water flowing over dams. Toxic substances, hazardous waste disposal, and similar matters pose much more important environmental and public health concerns than do dams, and deserve our priority attention.

I am therefore introducing an amendment to section 502(12) of the Clean Water Act to overturn the impact of this recent decision, clarify the intent of Congress, and affirm past interpretation and practice, since enactment of the act, that the release of impounded waters with water quality effects caused solely by the impoundment, or with water quality effects resulting solely from the method of release, do not constitute the "discharge of pollutants" as defined in section 502(12).

It is not my intention that this amendment alter or affect other aspects of the existing Clean Water Act programs. Nor is it my intent by this amendment to alter or affect existing requirements associated with nonpoint sources of pollution under section 208, the construction of dams under section 404, or the operation of dams under section 304(f)(2)(F), or to interfere with the established policy of Congress as expressed in section 101(g) that the authority of each State to allocate quantities of water within its jurisdiction shall not be superseded, abrogated, or otherwise impaired by this act.

The distinguished Senator from Alaska, Senator MURKOWSKI, my colleague on the Committee on Environment and Public Works, has already introduced a similar bill, and I am pleased to join him as a cosponsor of his bill. While the precise wording of our proposals varies slightly, either would accomplish the clarification of law which is necessary.

Mr. President, I ask my colleagues to join me in urging prompt consideration and passage of legislation to avoid the absurdity of regulating dams as if they were sources of industrial water pollution or sewage.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2779

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 502(12) of the Clean Water Act (33 U.S.C. et seq.) is amended by inserting at the end thereof the following new sentence:

"These terms do not include controlled or uncontrolled flows of water through, over, or around dams with water quality effects resulting solely from impoundment or from the method of release.".●

By Mr. COCHRAN:

S. 2780. A bill to limit the insanity defense and to provide a procedure for commitment of defendants found guilty who are mentally ill; to the Committee on the Judiciary.

LIMITING THE INSANITY DEFENSE

Mr. COCHRAN. Mr. President, the citizens of this country are deeply disturbed by the verdict in the recent trial of would-be Presidential assassin, John W. Hinckley, Jr. That verdict is the "last straw" for many Americans who are concerned that the criminal justice system in this country is out of control. Hinckley severely wounded the President, a secret service agent, a policeman, and James Brady on national TV, in full view of millions of Americans. The video tape of that horrible scene has been replayed over and over, leaving no doubt as to what Hinckley did, and yet, a jury found that he was "not guilty" of the crime because he was "insane." To many this verdict was an outrage. Where should the blame be placed for such an apparent travesty of justice?

We cannot blame the judge who presided over Hinckley's trial, nor can we blame the jurors that found him "not guilty by reason of insanity." We must instead place the blame on the provision of the law defining the Federal criminal insanity defense. The Hinckley verdict was simply a reflection of that law—a law that must be changed. The confidence of the American public in our Federal criminal justice system must be restored.

Today, I am introducing a bill to restore that confidence. The bill does essentially four things to reform the insanity defense: First, it establishes the familiar common law M'Naghten rule as the standard for all future Federal criminal prosecutions; second; it shifts the burden of persuasion to the defendant to prove his insanity by a preponderance of the evidence; third, it prohibits expert psychiatric testimony on the ultimate issues to be decided by the trier of fact; and fourth, it creates a special verdict of "guilty but mentally ill."

The modern insanity defense stems from the English rule of law in M'Naghten's case. Under that rule, currently in use in 20 States, a person is held responsible for his actions unless a mental disease or defect that was present when the crime was committed prevented that person from knowing the nature and quality of his acts or that those acts were wrong.

Over the last 30 years this test has been criticized by many legal and medical scholars as too narrow, thus the trend has been in recent years to broaden the use of the insanity defense. The culmination of the move to broaden the defense came in 1954 when the U.S. Court of Appeals for the District of Columbia decided Durham against United States. In Durham the court decided that a person should not be held responsible for any unlawful act that was the product of a mental disease or defect. This broad test, accepted only by the District of Columbia circuit and two States, created a flurry of criticism and has been substantially abandoned.

In the early 1960's the American Law Institute offered an insanity test as a replacement for both the M'Naghten test, which was seen as too narrow, and the Durham test, which was seen as too broad. Under the ALI test a person is not held responsible for criminal conduct if at the time the crime was committed, as a result of a mental disease or defect he lacked the substantial capacity to appreciate the criminality of the conduct or conform his conduct to the requirements of the law. In 1972, the D.C. Court of Appeals abandoned the Durham rule and adopted the ALI test.

In fact, the ALI test is in current use in the majority of our Federal district courts and was the basis of the jury's decision in the Hinckley trial. Some of the members of that jury have recently testified before this committee that they felt "strait-jacketed" by that law and the parade of expert medical witnesses to find Hinckley had some "mental problem" that prevented him from conforming his conduct to the law. Thus, the ALI test for insanity was met and the jury reached the only verdict that they could have reached under the circumstances—that John Hinckley was legally insane.

Mr. President, it is time for a change. The bill that I have introduced substitutes the much narrower M'Naghten test for the ALI test currently used in the Federal courts. Under the M'Naghten test, for example, the Hinckley jury would have only had to answer one simple, commonsense question: Did John Hinckley understand right from wrong when he attempted to assassinate the President? If the answer had been yes, then Hinckley would have been held legally responsible for the results of his intentional criminal actions. He would not have been absolved of the responsibility simply because he had a "mental problem" that prevented him from obeying the law.

I would also like to note for the record that the M'Naghten test has been the common law test in many States, including the State of Mississippi, for over 100 years. Thus, it is eminently familiar to the Federal judges that will be required to implement and interpret it if it should become law. There will be then, unlike the new mens rea test offered by other bills, no period of judicial interpretation required. The law can be immediately and successfully applied by the Federal judges.

The second major provision of the bill shifts the burden of persuasion to the defendant to prove his insanity by a preponderance of the evidence. Again, the Hinckley trial offers an excellent example of just how our insanity defense system should be changed. The prosecution in that case was required by current law to prove beyond a reasonable doubt that Hinckley was sane. It would be a difficult task indeed to prove anyone sane beyond a reasonable doubt, yet this is what the prosecution was required to do in order to hold Hinckley accountable.

Understandably, the prosecution failed. As a result, the jury was compelled by the law to find Hinckley insane. I believe that it should be the other way around—if a criminal wants to use the defense of insanity he should have the burden of proving insanity—and if he fails, the jury must find him sane and responsible for his intentional criminal acts.

Mr. President, the U.S. Supreme Court has held that it is constitutional for the States to shift this burden to the defendant and the Congress should join those States, like Mississippi, that have done so.

The third major component of the bill would limit the use of expert medical testimony. Under the general rules of evidence and under common law, an expert witness cannot testify on an ultimate issue to be submitted to the trier of fact. For example, an expert in automobile accidents cannot testify in a negligence suit that the defendant was in fact negligent. That is the question that the jury must decide—the ultimate issue is whether the defendant was negligent.

Likewise, in a criminal trial involving the question of insanity and the insanity defense, an expert witness should not be permitted to testify that the defendant was or is insane. That is the ultimate issue, the question that the jury is asked to decide. Therefore, expert medical testimony should be limited to the findings of the doctors as to the defendant's general mental condition. The jury may then, after hearing the judge's instructions on the law, draw their own conclusions as to whether the defendant was or is legally insane. Testimony from numerous conflicting expert witnesses as to whether the defendant is sane or insane serves only to confuse the issue and the jury and should be eliminated. My bill would do so.

Finally, in a case in which the insanity defense has been invoked, my bill offers the jury the option of finding a defendant "guilty but mentally ill" or "not guilty by reason of insanity."

For example, the jury may find from the evidence that the defendant is

guilty of the offense charged and is not legally insane, but he instead has some "mental problem." In that situation, by applying the new "guilty but mentally ill" verdict, the jury can find that defendant guilty of the crime and at the same time provide the defendant with proper medical treatment for a mental problem.

Again, the Hinckley case is illustrative. The five jurors from that case that testified before this committee, as a group, acknowledged that Hinckley had a "mental problem." All stressed that they were bound by the law to find Hinckley legally insane. One juror testified, and others agreed with her, that if it had been possible to have found Hinckley "guilty but mentally ill," then she would have done so. She also testified that if such a verdict had been available then the result of the trial would have been completely opposite.

This new verdict, offered in my bill, provides a much needed "middle ground" for future "Hinckley" juries—to give them an option—something between turning an offender loose because he has a "mental problem" and sending that same offender to prison with absolutely no psychiatric help for his problem.

In effect, the new "guilty but mentally ill" verdict will be different from current law. A person found by the jury to be "guilty but mentally ill" will not be released when he is later determined to be sane and not dangerous to society. Instead, that person must return to prison to finish any remaining sentence. The public is thereby protected from a potentially dangerous criminal's future crimes while the criminal receives the medical help that he needs.

On the other hand, Mr. President, there are those persons that are truly legally insane and should not be held legally responsible for their actions. It is for these people that we retain the verdict of "not guilty by reason of insanity." The law and society has always recognized that those individuals that did not know that what they were doing was wrong should be held blameless. Further, a person who is so disturbed mentally that he or she cannot form the intent element of the crime cannot be constitutionally held responsible. I believe that none of us would want to send a person to prison who thought, for example, that they had chopped down a tree when in fact they had killed someone with the axe. That individual should not be held criminally responsible for his or her actions.

At the same time, however, the law should prevent that axe wielder from being loosed upon society if he is still insane. Unfortunately, current Federal law does not do so. In the overwhelming majority of Federal jurisdictions, once a defendant is found "not guilty by reason of insanity" he is free to go—just as any other defendant found not guilty. The only way to prevent this effect is through an agreement between the U.S. attorney involved and the appropriate State authorities to initiate civil commitment proceedings immediately after the trial. If the State refuses to do so then the defendant found insane and not guilty is free to go. There is no provision in the current Federal law allowing the U.S. attorney to initiate commitment proceedings. The bill that I have introduced will close this loophole.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2780

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 1 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 16. Insanity defense

"(a) It shall be a defense to a prosecution under any Federal statute that the defendant, as a result of a mental disease, could not at the time the offense was committed—

"(1) understand the nature and quality of his actions constituting the offense; or

"(2) determine the wrongfulness of his actions constituting the offense.

"(b) The defendant has the burden of proving the defense of insanity by a preponderance of the evidence.

"(c) Expert witnesses shall not be permitted to offer opinions on the ultimate legal issues presented to the trier of fact.".

SEC. 2. (a) The first sentence of paragraph (a) of Rule 12 of the Federal Rules of Criminal Procedure is amended by adding after "guilty" the following: ", not guilty by reason of insanity".

(b) Rule 12 is amended by adding at the end thereof the following new paragraph:

"(i) The plea of not guilty by reason of insanity shall be entered pursuant to Rule 12.2.".

SEC. 3. Rule 12.2 of the Federal Rules of Criminal Procedure is amended to read as follows:

"Rule 12.2.—Notice of Plea of Not Guilty by Reason of Insanity

"(a) If a defendant intends to rely upon the plea of not guilty by reason of insanity based on section 16 of title 18, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, notify the attorney for the government in writing of such intention and file a copy of such notice with the clerk. If there is a failure to comply with the requirements of this paragraph, the plea of not guilty by reason of insanity may not be entered. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for trial or make such other order as may be appropriate.

"(b) If a defendant intends to introduce expert testimony relating to a mental disease, defect, or other condition bearing upon the issue of whether he had the state of mind required for the offense charged, he shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, notify the attorney for the government in writing of such intention and file a copy of such notice with the clerk. The court may for cause shown allow late filing of the notice or grant additional time to the parties to prepare for the trial or make such other order as may be appropriate.

"(c) In an appropriate case the court may, upon motion of the attorney for the government, order the defendant to submit to a psychiatric examination as provided by 18 U.S.C. 4242 by at least two qualified psychiatrists designated for this purpose in the order of the court. No statement made by the accused in the course of any examination provided for by this rule, whether the examination shall be with or without the consent of the accused, shall be admitted in evidence against the accused on the issue of guilt in any criminal proceeding.

"(d) If there is a failure to give notice when required by paragraph (b) or to submit to an examination when ordered under paragraph (c), the court may exclude the testimony of any expert witness offered by the defendant on the issue of his state of mind.".

SEC. 4. Chapter 313 of title 18, United States Code, is amended to read as follows:

"CHAPTER 313—OFFENDERS WITH MENTAL DISEASE OR DEFECT

"Sec.

"4241. Determination of mental competency to stand trial.
"4242. Determination of the existence of insanity at the time of the offense.
"4243. Hospitalization of a person found not guilty by reason of insanity.
"4244. Hospitalization of a convicted person suffering from mental disease or defect.
"4245. Hospitalization of an imprisoned person suffering from mental disease or defect.
"4246. Hospitalization of a person due for release but suffering from mental disease or defect.
"4247. General provisions for chapter 313.

"§ 4241. Determination of mental competency to stand trial

"(a) MOTION TO DETERMINE COMPETENCY OF DEFENDANT.—At any time after the commencement of a prosecution for an offense and prior to the sentencing of the defendant, the defendant or the attorney for the government may file a motion for a hearing to determine the mental competency of the defendant. The court shall grant the motion, or shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the defend-

ant is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another facility designated by the court as suitable—

"(1) for such a reasonable period of time as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed; and

"(2) for an additional reasonable period of time until—

"(A) his mental condition is so improved that trial may proceed; or

"(B) the pending charges against him are disposed of according to law.

If a defendant's mental condition is determined to be such that there is not substantial probability that in the foreseeable future he will attain the capacity to permit the trial to proceed, the defendant is subject to the provisions of section 4245.

"(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of the facility in which a defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. The court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine the competency of the defendant. If, after the hearing, the court finds by a preponderance of the evidence that the defendant has recovered to such an extent that he is able to understand the nature and consequences of the proceedings against him and to assist properly in his defense, the court shall order his immediate discharge from the facility in which he is hospitalized and shall set the date for trial.

"(f) ADMISSIBILITY OF FINDING OF COMPETENCY.—A finding by the court that the defendant is mentally competent to stand trial shall not prejudice the defendant in raising the issue of his insanity as a defense to the offense charged, and shall not be admissible as evidence in a trial for the offense charged.

"§ 4242. Determination of the existence of insanity at the time of the offense

"(a) MOTION FOR PRETRIAL PSYCHIATRIC EXAMINATION.—Upon the filing of a notice, as provided in Rule 12.2 of the Federal Rules of Criminal Procedure, the court, upon motion of the attorney for the government, may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(b) SPECIAL VERDICT.—If the issue of insanity is raised by notice as provided in Rule 12.2 of the Federal Rules of Criminal Procedure on motion of the defendant or, of the attorney for the government, or on the court's own motion, the jury shall be instructed to find, or, in the event of a nonjury trial, the court shall find, the defendant—

"(1) guilty;

"(2) not guilty;

"(3) guilty but mentally ill; or

"(4) not guilty by reason of insanity.

The defendant shall be found guilty but mentally ill if the jury or court finds that the defendant is guilty but at the time of the commission of the offense was suffering from some mental disease or defect that impaired his ability to conform his actions to the law.

"§ 4243. Hospitalization of a person found not guilty by reason of insanity

"(a) DETERMINATION OF PRESENT MENTAL CONDITION OF CONVICTED PERSON.—If a person is found not guilty by reason of insanity, the court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another. The court may make any order reasonably necessary to secure the appearance of the person at the hearing.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that a person found not guilty by reason of insanity is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the state in which the person is domiciled if such state will assume responsibility for his care, custody, and treatment. If such state will not then assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable mental hospital, or in another facility designated by the court as suitable, until such state will assume such responsibility or until the person's mental condition is so improved that his release would not create a substantial danger to himself or to the person or property of another.

"(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of the facility in which a person found not guilty by reason of insanity is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial danger to himself or to the person or property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court shall order the discharge of the person or, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearings, the court finds by a preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial danger to himself or to the person or property of another, the court shall order his immediate discharge.

"§ 4244. Hospitalization of a convicted person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF CONVICTED DEFENDANT.—A defendant found guilty of an offense or found guilty but mentally ill, or the attorney for the government, may, within ten days after the defendant is found guilty or guilty but mentally ill, file a motion for a hearing on the present mental condition of the defendant. The court shall grant the motion, or at any time prior to the sentencing of the defendant shall order such a hearing on its own motion, if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody, care, or treatment in a mental hospital.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c). In addition to the information required to be included in the psychiatric report pursuant to the provisions of section 4247(c), if the report includes an opinion by the psychiatrists that the defendant is presently suffering from a mental disease or defect but that it is not such as to require his custody, care, or treatment in a mental hospital, the report shall also include an opinion by the psychiatrists concerning the sentencing alternatives that could best accord the defendant the kind of treatment he does need.

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court is of the opinion that the defendant is presently suffering from a mental disease or defect and that he should, in lieu of being sentenced to probation or imprisonment, be committed to a mental hospital for custody, care, or treatment, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another facility designated by the court as suitable. Such a commitment constitutes a provisional sentence to the maximum term authorized for the offense of which the defendant was found guilty.

"(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody, care, or treatment in a mental hospital, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the provisional sentence imposed pursuant to subsection (d) has not expired, the court shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether the provisional sentence should be reduced. After the hearing, the court may order that the defendant be released, be placed on probation, or be imprisoned for

the remainder of the sentence or for any lesser term.

"§ 4245. Hospitalization of an imprisoned person suffering from mental disease or defect

"(a) MOTION TO DETERMINE PRESENT MENTAL CONDITION OF IMPRISONED DEFENDANT.—A defendant serving a sentence of imprisonment, or an attorney for the government at the request of the director of the facility in which the defendant is imprisoned may file a motion with the court for the district in which the facility is located for a hearing on the present mental condition of the defendant. The court shall grant the motion if there is reasonable cause to believe that the defendant may presently be suffering from a mental disease or defect for the treatment of which he is in need of custody, care, or treatment in a mental hospital. A motion filed under this subsection shall stay the release of the defendant pending completion of procedures contained in this section.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court is of the opinion that the defendant is presently suffering from a mental disease or defect for the treatment of which he is in need of custody, care, or treatment in a mental hospital, the court shall commit the defendant to the custody of the Attorney General. The Attorney General shall hospitalize the defendant for treatment in a suitable mental hospital, or in another facility designated by the court as suitable, until he is no longer in need of custody, care, or treatment in a mental hospital or until the expiration of his sentence of imprisonment.

"(e) DISCHARGE MENTAL HOSPITAL.—When the director of the facility in which the defendant is hospitalized pursuant to subsection (d) determines that the defendant has recovered from his mental disease or defect to such an extent that he is no longer in need of custody, care, or treatment in a mental hospital, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the defendant's counsel and to the attorney for the government. If, at the time of the filing of the certificate, the sentence imposed upon the defendant has not expired, the court shall order that the defendant be reimprisoned.

"§ 4246. Hospitalization of a person due for release but suffering from mental disease or defect

"(a) INSTITUTION OF PROCEEDING.—If the director of a facility in which a person is hospitalized pursuant to this chapter certifies that a person whose sentence is about to expire, or who has been committed to the custody of the Attorney General pursuant to section 4241(d), or against whom all criminal charges have been dropped, is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another, and that suitable arrangements for the custody and care of the person are not otherwise available, he shall transmit the certificate to the clerk of the court for the district in which the person is confined. The clerk shall send a copy of the certificate to the person, and to the attorney for the government, and, if the person was committed pursuant to section 4241(d), to the clerk of the court that ordered the commitment. The court shall order a hearing to determine whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another. A certificate filed under this subsection shall stay the release of the person pending completion of procedures contained in this section.

"(b) PSYCHIATRIC EXAMINATION AND REPORT.—Prior to the date of the hearing, the court may order that, a psychiatric examination of the defendant be conducted, and that a psychiatric report be filed with the court, pursuant to the provisions of section 4247 (b) and (c).

"(c) HEARING.—The hearing shall be conducted pursuant to the provisions of section 4247(d).

"(d) DETERMINATION AND DISPOSITION.—If, after the hearing, the court finds by a preponderance of the evidence that the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another, the court shall commit the person to the custody of the Attorney General. The Attorney General shall release the person to the appropriate official of the state in which the person is domiciled if such state will assume responsibility for his care, custody, and treatment. If such state will not then assume such responsibility, the Attorney General shall hospitalize the person for treatment in a suitable mental hospital, or in another facility designated by the court as suitable, until such state will assume such responsibility or until the person's mental condition is so improved that his release would not create a substantial danger to himself or to the person or property of another.

"(e) DISCHARGE FROM MENTAL HOSPITAL.—When the director of the facility in which a person is hospitalized pursuant to subsection (d) determines that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial danger to himself or to the person or property of another, he shall promptly file a certificate to that effect with the clerk of the court that ordered the commitment. The clerk shall send a copy of the certificate to the person's counsel and to the attorney for the government. The court shall order the discharge of the person or, on the motion of the attorney for the government or on its own motion, shall hold a hearing, conducted pursuant to the provisions of section 4247(d), to determine whether he should be released. If, after the hearing, the court finds by the preponderance of the evidence that the person has recovered from his mental disease or defect to such an extent that his release would no longer create a substantial danger to himself or to the person or property of another, the court shall order his immediate discharge.

"§ 4247. General provisions for chapter 313

"(a) DEFINITION.—As used in this chapter, 'insanity' means a mental disease as a result of which a person could not at the time the offense was committed—

"(1) understand the nature and quality of his actions constituting the offense; or

"(2) determine the wrongfulness of his actions constituting the offense.

"(b) PSYCHIATRIC EXAMINATIONS.—A psychiatric examination ordered pursuant to this chapter shall be conducted by at least two qualified psychiatrists. The psychiatrists shall be—

"(1) designated by the court if the examination is ordered under section 4241, 4242, 4243, or 4244; or

"(2) designated by the court, and shall include one psychiatrist selected by the defendant, if the examination is ordered under section 4245 or 4246.

For the purpose of an examination pursuant to an order under section 4241, 4242, 4243, or 4244, the court may commit the person to be examined for a reasonable period, but not more than sixty days, to the custody of the Attorney General for placement in a suitable mental hospital or another facility designated by the court as suitable.

"(c) PSYCHIATRIC REPORTS.—A psychiatric report ordered pursuant to this chapter shall be prepared by the psychiatrists designated to conduct the psychiatric examination, shall be filed with the court with copies provided to the counsel for the person examined and to the attorney for the government, and shall include—

"(1) the person's history and present symptoms;

"(2) a description of the psychological and medical tests employed and their results;

"(3) the psychiatrists' findings; and

"(4) the psychiatrists' opinions as to diagnosis, prognosis, and—

"(A) if the examination is ordered under section 4241, whether the person is presently suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to assist properly in his defense;

"(B) if the examination is ordered under section 4242, whether the person was insane at the time of the offense charged;

"(C) if the examination is ordered under section 4243 or 4246, whether the person is presently suffering from a mental disease or defect as a result of which his release would create a substantial danger to himself or to the person or property of another; or

"(D) if the examination is ordered under section 4244 or 4245, whether the person is presently suffering from a mental disease or defect as a result of which he is in need of custody, care, or treatment in a mental hospital.

"(d) HEARING.—At a hearing ordered pursuant to this chapter the person whose mental condition is the subject of the hearing shall be represented by counsel and, if he is financially unable to obtain adequate representation, counsel shall be appointed for him. The person shall be afforded an opportunity to testify, to present evidence, to subpena witnesses on his behalf, and to confront and cross-examine witnesses who appear at the hearing.

"(e) PERIODIC REPORTS BY MENTAL HOSPITAL.—The director of the facility in which a person is hospitalized pursuant to—

"(1) section 4241 shall prepare semiannual reports; or

"(2) section 4243, 4244, 4245, or 4246 shall prepare annual reports;

concerning the mental condition of the person and recommendations concerning his

continued hospitalization. The reports shall be submitted to the court that ordered the person's commitment to the facility and copies of the reports shall be submitted to such other persons as the court may direct.

"(f) ADMISSIBILITY OF A DEFENDANT'S STATEMENT AT TRIAL.—A statement made by the defendant during the course of a psychiatric examination pursuant to section 4241 or 4242 is not admissible as evidence against the accused on the issue of guilt in any criminal proceeding.

"(g) HABEAS CORPUS UNIMPAIRED.—Nothing contained in section 4243 or 4246 precludes a person who is committed under either of such sections from establishing by writ of habeas corpus his eligibility for release under such sections.

"(h) AUTHORITY AND RESPONSIBILITY OF THE ATTORNEY GENERAL.—The Attorney General—

"(1) may contract with a state, a locality, or a private agency for the confinement, hospitalization, care, or treatment of, or the provision of services to, a person committed to his custody pursuant to this chapter;

"(2) may apply for the civil commitment, pursuant to State law, of a person committed to his custody pursuant to section 4243 or 4246; and

"(3) shall consult with the Secretary of the Department of Health and Human Services in the general implementation of the provisions of this chapter.".

By Mr. DECONCINI:

S. 2781. A bill to amend the Export-Import Bank Act of 1945; to the Committee on Banking, Housing, and Urban Affairs.

EXPORT-IMPORT BANK SMALL BUSINESS ASSISTANCE ACT OF 1982

Mr. DECONCINI. Mr. President, the legislation I am introducing today will amend the Export-Import Bank Act of 1945 by adding a new section. The purpose of this section is to reserve 12 percent of the Eximbank's direct loan authority each year for applications amounting to less than $5 million.

This is, in effect, a small business set-aside.

Mr. President, these are very hard times for small businesses in the United States—for all businesses actually—but especially so for those in the small to medium range. About 12,000 businesses have failed in the past 6 months alone—over 400 a week. We are witnessing more business failings this year than any year since the "trough" of the Great Depression. Many thousands more are on the brink of failure and are just trying to hang on long enough to last through a recession that seems to have no end. Most of these businesses have had to reduce inventories, reduce new orders, and reduce drastically the number of their employees. We have an unemployment rate of about 9.5 percent. But that does not really tell the story. There are at least 10½ million Americans out of work and desperately looking for jobs; 10½ million people who want to work but cannot. A look at our economic strength indicators for the first half of this year has got to be shocking—for even the most hopeful and cheerful optimist.

The American businessman is looking for markets and frankly they are going to be hard to find in this country unless the economy turns around dramatically—and turns around soon. Since we might all agree that this miracle recovery does not appear to be just around the corner, we need to look at the vast potential of foreign markets to help us get moving.

The first question is: How are we doing in developing foreign markets for our products? Mr. President, we have had a trade deficit every year since 1975. By May of this year—even with a glut of oil on the world markets—we had a trade deficit of $3.29 billion in nonoil imports. Japan, on the other hand, with trade surpluses, experienced real economic growth of 5.3 percent in 1981—with an inflation rate of only 5.5 percent. And this was with a budget deficit of about $71 billion out of a $213 billion budget—about 33 percent.

The next question is: What are we doing, as a nation, to improve our world trade position? Are we, like the Japanese and most of our European competitors, developing an international trade strategy? No. As a matter of fact, the administration is proposing a vastly reduced lending authority for the Export-Import Bank again this year. The Bank is the major source of export financing available to American companies. In contrast to the strategy of most of our competitors, the administration is proposing a cut in loan authority available to the Bank to a level of $3.83 billion. The fiscal year 1982 request was $37 billion but was increased to $4.4 billion by the Congress. Still far below the $5.5 billion level for direct loans in fiscal year 1981. This is not new money that has to be appropriated—the Bank is self-sustaining—this is simply loan authority. But the Office of Management and Budget believes there is no justification for export assistance. The administration believes that Eximbank services "distort market forces." Frankly it is this kind of thinking that is distorted. Eximbank financing is an investment, not a subsidy. The administration's policies are simply opening vast markets in the developing nations to our competitiors.

But even an increase in loan authority, or the creation of a "war chest," which has also been proposed, is not going to directly benefit the small companies looking to enter foreign markets. As it was pointed out recently in congressional testimony by Mr. Donald E. Stingel, a former director of the Export-Import Bank:

Small and medium-sized companies, particularly those selling only technical components, not a complete product, are relegated to the Bank's discount loan program or merely to insurance and guarantee coverage which results in higher commercial loan rates which are uncompetitive. Our OECD competitors finance about anything large or small, at the same loan cover and interest rates.

Mr. Stingel also said in his testimony that the Bank has an established practice—an unwritten rule—that $5 million is the lower limit for financing. As a result, about 14 companies are responsible for 50 percent of our nonmilitary capital goods exports.

There are, of course, other barriers to small- and medium-sized businesses the most formidable being our interpretation of our own antitrust laws. But the badly needed trading company legislation, S. 734, has passed the Senate unanimously and similar legislation is moving forward in the House. Once this legislation is enacted into law, and a lot of small- and medium-sized companies get together in export trading companies, there will be a tremendous need for competitive financing—for direct loans. The first question asked to these new companies by a developing nation considering the purchase of equipment and technology will be to the extent of external financing available. If the Congress accepts even the limited request for loan authority by the President, $3.9 billion, about $500,000,000 will be available for applications under $5,000,000—if this legislation I am introducing today is enacted.

Mr. President, the technological lead we hold in this country is severely jeopardized. The survival of many of our domestic industries is in question. By not aggressively pursuing a strategy of competition in foreign markets, we risk being limited to only one market. Most of our toughest competitors look at all of the markets in the world as a comprehensive whole. When entering a foreign market they are not always concerned with short-term profits.

We need to look to the fastest growing markets also. We need to get to the developing nations with the products and technologies they need. For example, Japan and West Germany, among others, are making all-out efforts to support export sales of energy conservation and solar energy systems. They want to get a foothold now to dominate and gain future control over the high potential markets in developing but energy-poor nations throughout the world.

We have to remember that small business is the cutting edge of technology development and if we give small business half a chance we are not going to lose the worldwide economic leadership we have worked so hard for. My Arizona companies tell me they can bring down unit costs with increased production—they can bring down production costs 30 percent by doubling plant capacity. By meeting foreign demands they can bring down

costs for their products in this country. And, I believe we can do this—include small business in Eximbank financing—without sacrificing large exports.

Mr. President, the Eximbank was originally formed in 1934 by Executive order and was legislated in the 1945 act, Public Law 79-173. The law directs the Bank "to provide guarantees, insurance, and extensions of credit at rates and on terms and other conditions which are competitive" with the financing provided by countries which compete with U.S. companies in the world markets.

To do this, the Bank provides several services. Primarily, it makes direct loans to foreign buyers of U.S. goods and services. Its ability to compete with other lending sources depends to a great extent on the interest rates and terms of maturity it is able to offer. Usually it requires a down payment from the buyer and requires private financing for the balance. It also provides exporters with insurance against political and commercial risk, provides guarantees to private banks financing exports and provides discount loans to discount debt obligations that U.S. commercial banks acquire.

The Eximbank is self-sustaining in that it receives no Government funding. The Bank operates on retained earnings and borrowings from the Treasury and from private capital markets. It receives no funds through the appropriations process, but its overall lending authority is approved annually in the Federal budget.

I would hope, Mr. President, that this proposed legislation will be given prompt and positive consideration by the Senate, and ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2781

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may cited as the "Export-Import Bank Small Business Assistance Act of 1982".

Section 7 (a) of the Export-Import Bank Act of 1954 is amended by adding at the end thereof the following:

"(3) Not less than 12 per centum of the loan authority of the Bank in any fiscal year shall be available only for transactions involving loans in amounts of $5,000,000 or less.".

By Mr. DODD:

S. 2782. A bill to direct the Secretary of Agriculture to release on behalf of the United States a reversionary interest in certain land previously conveyed to the State of Connecticut; to the Committee on Agriculture, Nutrition, and Forestry.

EKONK CEMETERY LAND RELEASE

● Mr. DODD. Mr. President, I am introducing a bill today which would direct the Secretary of Agriculture to release for sale 1 acre of land in Connecticut which is presently bound by U.S. reversionary interests. This release would apply exclusively to 1 parcel of State-owned land and would be used solely for the purpose of expanding the adjacent Ekonk Cemetery.

In an attempt to avoid foreclosure of lands and to offer farmers some financial relief during the thirties, the U.S. Government bought up many parcels of farm lands. Under the Bankhead Jones Farm Tenant Act of 1935, the Government gave this land to the States provided that these lands be used strictly for public purposes.

The Connecticut attorney general has ruled that the State cannot sell the desired land to the Ekonk Cemetery because of this public purpose reversionary clause. This bill would strike the public purpose clause with the exclusive aim of expanding by 1 acre the cemetery which is already at capacity. Once this has been accomplished, the State will no longer have any objections to its sale.

Furthermore, Mr. President, this bill would not authorize the sale, lease, or otherwise summarily dispose of such lands except to the Ekonk Cemetery and only for the purpose of expansion.

Mr. President, I urge that the Senate act promptly on this bill which would merely provide an additional 0.93 acres of land for sorely needed burial grounds in the town of Sterling.

I ask that a copy of the bill be printed in the RECORD following my statement.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. (a)(1) Subject to subsection (b) the Secretary of Agriculture shall release on behalf of the United States, with respect to the land—

(A) described in section 2 of this Act, and

(B) conveyed, along with certain other parcels of land situated within the Town of Sterling, County of Windham, State of Connecticut by a quitclaim deed dated November 18, 1954, the condition in such deed which requires that such lands be used for public purposes, and if not so used, that the lands revert to and revest in the United States.

(2) Section 32(c) of the Bankhead-Jones Farm Tenant Act (7) U.S.C. 1011(c) shall not apply to the release authorized in paragraph (1) of the subsection.

(b) The Secretary of Agriculture shall not execute the release authorized in subsection (a)(1) until the State of Connecticut, in consideration of such release, enters into an agreement satisfactory to the Secretary of Agriculture which provides that the state will not sell, lease, exchange, or otherwise dispose of the lands to which the release applies—

(1) except to the Ekonk Cemetery, Incorporated, of Sterling, Connecticut, exclusively for the expansion of its existing cemetery; and

(2) unless the proceeds from such disposal are—

(A) deposited and held in an account open to inspection by the Secretary of Agriculture, and

(B) used, if withdrawn from such account, exclusively for public purposes.

SEC. 2. The land referred to in section 1(a)(1) is the certain parcel of land formerly vested in the United States (a portion of the land designated as the J. E. Tanner Tract 6b) and situated in the Town of Sterling, County of Windham, State of Connecticut, containing .93 acres of land, more or less, bounded and described as follows:

Beginning at a stonewall corner located in the southerly line of the "Cedar Swamp Road", so-called being the northeast corner of the herein described premises and the northwest corner of the existing Ekonk Cemetery, Incorporated; thence south 14 degrees, 49 minutes east, 152.1 feet, more or less, along a stonewall to a wall corner; thence north 64 degrees, 50 minutes east, 145.7 feet, more or less, along a stonewall to a wall corner, the last two courses bounding easterly and northerly on the aforesaid Ekonk Cemetery, Incorporated; thence south 14 degrees, 53 minutes east, 50 feet, more or less, to an iron pin; thence south 64 degrees, 50 minutes west, 308 feet, more or less, to an iron pin; thence north 14 degrees, 49 minutes west, 204 feet, more or less, to an iron pin set in the southerly line of the aforesaid "Cedar Swamp Road", the last three courses bounding easterly, southerly, and westerly on remaining land of the State of Connecticut; thence north 66 degrees, 26 minutes east, 162.9 feet, more or less, to a wall corner the place of beginning, bounding northerly on the said "Cedar Swamp Road".●

By Mr. PRYOR (for himself, Mr. SASSER, Mr. RUDMAN, Mr. INOUYE, Mr. EAST, Mr. GARN, Mr. FORD, Mr. SARBANES, Mr. COCHRAN, Mr. BRADY, Mr. CANNON, Mr. BUMPERS, Mr. NICKLES, Mr. BAUCUS, Mr. BOREN, Mr. DIXON, Mr. MELCHER, Mr. MITCHELL, Mr. STENNIS, Mr. DECONCINI, Mr. EXON, Mr. BENTSEN, Mr. GLENN, Mr. GORTON, Mr. RANDOLPH, and Mr. CHILES):

S.J. Res. 220. Joint resolution to authorize the erection of a memorial on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war; to the Committee on Rules and Administration.

MEMORIAL TO HONOR THE MEMBERS OF THE ARMED FORCES WHO SERVED IN KOREA

Mr. PRYOR. Mr. President, today we have the opportunity to rectify an old injustice which has gone unnoticed for almost 30 years. We have failed to honor a group of dedicated Americans and citizens of other lands who suffered and died for the cause of freedom. I am speaking, of course, of the brave men and women who served their countries during the Korean conflict. With work on the Vietnam me-

morial underway, this is the only major war in the history of this country which has no national monument to honor those who fought and gave their lives in it. Today, July 27, 1982, on the 29th anniversary of the Korean armistice, it is fitting and appropriate that we introduce a joint resolution which would authorize construction of such a monument.

We all remember the Korean war and remember the fears and horrors which accompanied it. This was a critical period in world history, for the free world was being tested as to how it would react when the freedom of another nation was being threatened. We and other peace-loving nations reacted strongly, bravely, and admirably. But in our victory, we suffered great losses. Over 100,000 were wounded and over 54,000 were killed. It is these Americans who suffered and died who unquestionably deserve to be memorialized by those of us who continue to reap the benefits of the freedom for which they fought.

A committee has already been established to oversee the fundraising, design, and construction of a monument to honor the victims of the Korean war. This national sponsoring committee is made up of many notable individuals including Gen. Mark Clark, Gen. J. Lawton Collins, Chairman of the Joint Chiefs of Staff John Vessey, and Gen. Matthew B. Ridgway who served as the commanding general of both the U.S. 8th Army with attached foreign contingents and the Army of the Republic of Korea and later as the Commander in Chief of all United Nations forces there.

I was most honored when another member of this committee, retired Col. Scooter Burke, asked me to introduce this legislation on behalf of the committee. Some of you may remember Scooter who served for 11 years as Chief Congressional Liaison Officer in the House of Representatives for the Secretary of the Army. Others may know him by his reputation as the most decorated soldier in the Korean war. I know him as a friend and a fellow Arkansan and will never forget the day in 1969 when I traveled back with him to the Korean hilltop overlooking the Imjiin River where his valiant actions many years before won him the Medal of Honor. Scooter has also won the Distinguished Service Cross, the Silver Star, the Bronze Star for Valor, three Purple Hearts, and the combat infantry badge.

Mr. President, there were many other brave men and women who gave their time and lives during this war. Six of them now serve their country in a different way—in the U.S. Senate. They are Senators WARNER, GLENN, STAFFORD, RUDMAN, CHAFEE, and CHILES.

I might emphasize again that no public funds will be used in construction of this monument. The Secretary of the Interior along with the National Commission of Fine Arts and the National Capitol Planning Commission would select the site and approve the design. Maintenance of the memorial would be the responsibility of the Interior Department or, if a site owned by the District of Columbia is selected, the government of the District of Columbia.

Mr. President, in closing I might point out that the Korean conflict represents one of the few moments in history when a group of 16 allied nations banded together to protect the freedom of another nation. The United States, which sent in more than 5 million troops, was the leader in this effort. Now that the sons and daughters of those who fought in Korea have grown into adulthood, it is far past time to honor these defenders of freedom.

I hope that by the 30th anniversary of this armistice, the first steps will have been taken to erect this monument and correct this longstanding injustice.

Mr. President, I ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 220

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

AUTHORIZATION OF ERECTION OF MEMORIAL

Section 1. A memorial is authorized to be erected on public grounds in the District of Columbia to honor and commemorate members of the Armed Forces of the United States who served in the Korean war, particularly those who were killed in action, listed as missing in action, or held as prisoners of war.

SELECTION OF SITE AND APPROVAL OF DESIGN

Sec. 2. (a) The Secretary of the Interior shall select, with the approval of the National Commission of Fine Arts and the National Capital Planning Commission, a suitable site on public grounds in the District of Columbia upon which the memorial may be erected. The selection of any such site on public grounds belonging to, or under the jurisdiction of, the government of the District of Columbia, shall be subject to the approval of the Mayor of the District of Columbia.

(b) The design of, and any plans for, the memorial shall be subject to the approval of the Secretary, the National Commission of Fine Arts, and the National Capital Planning Commission.

COST OF ERECTION

SEC. 3. No moneys belonging to the United States or the District of Columbia shall be expended for the erection of the memorial.

LAPSE OF AUTHORITY TO ERECT MEMORIAL

SEC. 4. The authority conferred by this joint resolution shall lapse unless—

(1) the erection of the memorial is begun not later than five years after the date of the enactment of this joint resolution; and

(2) before the beginning of the erection of the memorial, funds are certified to be available in an amount which the Secretary considers sufficient to assure completion of the memorial.

MAINTENANCE OF MEMORIAL

SEC. 5. The maintenance of the memorial shall be the responsibility of the Secretary or, if the memorial is erected upon public grounds belonging to or under the jurisdiction of the District of Columbia, the responsibility of the government of the District of Columbia.

DEFINITIONS

SEC. 6. For purposes of this joint resolution—

(1) the term "memorial" means the memorial authorized to be erected by section 1; and

(2) the term "Secretary" means the Secretary of the Interior.

Mr. SASSER. Mr. President, I am proud to cosponsor Senate Joint Resolution 220 authorizing the construction of a national memorial to the veterans of the Korean conflict. On this the 29th anniversary of the Korean armistice, it is entirely appropriate that we take this action. I commend my friend, Senator PRYOR, on his initiative.

It is an unfortunate fact, Mr. President, that the veterans of the Korean war have been largely forgotten. But the fact is that thousands of Americans died in Korea—fighting for the democratic freedoms we cherish above all else.

According to the 1981 annual report of the Veterans, Administration, over 5.7 million Korean war veterans are still alive—5.7 million Americans who, despite their willingness to make the supreme sacrifice, are as yet unrecognized in an appropriate national monument.

The legislation being introduced today will require no Federal funding. While the site selection and maintenance will be coordinated by the Secretary of the Interior, the National Capital Planning Commission and the U.S. Fine Arts Commission, the responsibility of raising the funds for construction will rest with the National Committee for the War Memorial of Korea. All funding will come from private sources.

Harry Truman once said, "There is a right kind and wrong kind of victory, just as there are wars for the right thing and wars that are wrong from every standpoint * * *." The Korean war was fought for the protection of a free and democratic government, and in this resolution we have the opportunity to recognize the sacrifices of our Korean-era veterans.

Recognition for a job well done is not a partisan issue, Mr. President. I commend this joint resolution to the Senate, and ask that it receive the earliest possible consideration.

By Mr. DECONCINI (for himself, Mr. ROTH, and Mr. EAGLETON):

S.J. Res. 221. A joint resolution to require the President to include with the budget transmitted to the Congress for fiscal year 1984 a statement identifying for fiscal years 1982, 1983, and 1984 the amounts expended or estimated to be expended for the purchase, operation, and maintenance of nontactical motor vehicles, to reduce the total amount expended by executive agencies for motor vehicle operations, and for other purposes; to the Committee on Governmental Affairs.

MANAGEMENT OF THE FEDERAL MOTOR VEHICLE FLEET

Mr. DECONCINI. Mr. President, today I am introducing for myself, Senator ROTH, and Senator EAGLETON the Federal Motor Vehicle Expenditure Control Act of 1982, legislation that hopefully will trigger a multiyear effort to substantially reduce the cost of operating and maintaining the Federal motor vehicle fleet, a fleet that costs the American taxpayers more than $1.1 billion annually.

I am particularly pleased to have as original cosponsors of this legislation the distinguished chairman of the Senate Governmental Affairs Committee, Senator ROTH, and the ranking minority member of that committee, the distinguished senior Senator from Missouri, Senator EAGLETON. Both of my colleagues have a fine record on the Governmental Affairs Committee for vigorously scrutinizing Federal expenditures such as those addressed in this bill and in other administrative areas as well.

According to a March 1982 study prepared at my request by the General Services Administration (GSA), the cost to own, operate, and maintain the Federal motor vehicle fleet is in excess of $101 billion a year, an increase of $959 million or 680 percent since 1954 and a jump of $724 million or 192 percent in just the last 10 years. To add insult to injury, the GSA study team found that the actual cost of Federal motor vehicle operations could be even higher than $1.1 billion since some agencies do not even identify all fleet costs.

Mr. President, the GSA study also confirmed my suspicions that the number of nontactical motor vehicles used by Uncle Sam is excessive and must be pared back. In 1980, the number of federally owned vehicles had reached a staggering 445,000, almost double the number of federally owned vehicles in 1954. What makes this increase all the more astounding is that the Defense Department, our largest owner of motor vehicles, has actually reduced its fleet by 48,690 over the past 10 years.

Mr. President, my legislation takes a number of essential "first steps" in bringing the size, cost, and management of the Federal motor vehicle fleet under control. I also want to say at the outset that my bill has the full support of the Administrator of the General Services Administration, Mr. Gerald Carmen. Here is what this legislation will do:

1. Instructs the Director of the Office of Management and Budget to direct each agency head to establish a central monitoring system for the oversight of agency motor vehicle operations and related activities.

2. Instructs the Director of OMB to require each agency head to develop a system to identify, collect, and analyze data with respect to all costs incurred by the agency in operating motor vehicles, including Government-owned vehicles, leased vehicles, and privately-owned vehicles used for official purposes, and to promulgate standards for the agencies to follow in establishing and identifying the costs associated with the Federal fleet.

3. Directs the heads of all executive branch agencies to tell the Congress in their annual budget justifications the amounts spent or requested for motor vehicle acquisition, maintenance, leasing and operations and to justify why the existing and new motor vehicle operations requirements of the agency cannot be met by using the GSA motor pool system.

4. Directs the President to include in his annual budget of the United States a compilation of the agency reports on their motor vehicle operating costs.

5. Directs the Director of OMB to require the head of each agency to identify opportunities for consolidating intraagency motor vehicle facilities where shown to be cost effective, and to report to OMB on any possible impediments to such consolidations.

6. Instructs the OMB Director, in cooperation with GSA, to require each agency to identify opportunities for consolidation of motor vehicle administration and maintenance between executive agencies of the Government where shown to be cost effective.

7. Directs the head of GSA to take steps necessary to reduce motor vehicle storage and disposal costs and to improve the rate of return on motor vehicle sales through better reconditioning of vehicles on sale.

8. Requires the Dir OMB Director to reduce the cost of operating and maintaining the Federal motor vehicle fleet governmentwide by $150 million in fiscal 1983.

10. Directs OMB, GSA, and GAO to make various reports to the Congress on the implementation of the provisions and directives made in this legislation.

Mr. President, improving the management and reducing the cost of the Federal motor vehicle fleet is not going to happen overnight. It is not going to grab any headlines nor will it ever compete with taxes, the defense budget, or social security in dominating the time, attention, and energy of the Congress over the next 3 years: Improving this important General Government activity is mundane and will take a lot of hard work. But a systematic effort by OMB, GSA, and the Congress to reduce the cost of the operation and maintenance of the Federal fleet has the potential to save hundreds of millions of tax dollars through better management and closer scrutiny both the executive and legislative branches. This legislation will force OMB and the executive agencies to roll up their sleeves and get this important jobe done.

Mr. President, I urge my colleagues to support this legislation and to enact it as soon as possible.

● Mr. ROTH. Mr. President, I am pleased to be an original cosponsor of this resolution which will help to crub the astounding waste and inefficiencies existing in the Federal Government's management of its motor vehicle fleet. I also commend Senator DECONCINI and the Senate Committee on Appropriations for requesting the General Services Administration to prepare a report on Management of the Federal motor vehicle fleet which is the basis for this resolution.

The findings of the GSA report are very disturbing. The report documents that the costs of owning, operating, and maintaining the Federal motor vehicle fleet is in excess of $1.1 billion a year. This marks an increase of $959,000 or 680 percent since 1954 and an increase of $724,000 or 192 percent in the last 10 years. GSA documents that the actual costs of Federal fleet operations could rise well beyond the $1.1 billion spent in 1980 in future years.

There is a need for reliable motor vehicles to conduct essential Government business. There are thousands of employees who conduct inspections, deliver mail, conduct law enforcement activities check grazing lands and irrigation networks, review health and safety activities and other oversight, inspection and review function vital to the Government's day-to-day operations. But the number of vehicles in the Federal motor vehicle fleet raises the question of whether the agencies have gone well beyond necessity in stockpiling cars and trucks. The Department of Agriculture, for example, has 4,019 sedans and 659 station wagons. This is just a small portion of the 445,000 federally owned vehicles and does not include the "shadow fleet" of privately-owned vehicles used for official Government business.

What makes all this more astounding is that the agencies not only have huge vehicle fleets, they also have duplicative staffs to control their vehicles. For example, the Treasury Department has 12 different staffs to handle its 11,500 cars and trucks, Interior's fleet of 14,000 vehicles is overseen by seven different agency divisions and Justice has seven separate staffs to control its 6,800 vehicles. "Leave the driving to us" has characterized the attitude of Congress toward agency purchasing and operating of motor vehicles and the result has been excessive waste and duplication in the management structure of agency fleet vehicle operations.

The GSA report also documents a proliferation of related cost accounting and information systems at the

field level. Insufficient control over intra-agency vehicle operations exists because central or top management officials have not exercised their authority over the fleet activities of their agency. Duplicate fleet operations have caused unnecessary expenditures for facilities, vehicles, and equipment to meet support needs. Vehicle acquisition methods are subject to laws and regulations that result in limiting competition in procurement. Budgetary and legislative procedures to acquire vehicles are not standardized. All this leads to an incredible need for the type of resolution that Senators DECONCINI, EAGLETON, and I are introducing today.

This resolution will begin the process of improving the management of the Federal fleet. It has the full support of the GSA and the administration. The resolution would establish a central monitoring system in which each agency will be required to develop a system to collect and interpret the data of vehicle costs including Government-owned, leased and privately-owned vehicles used for official purposes. This legislation, in addition, would, first, require agencies and departments to develop full-cost disclosure systems, second, identify through a report to the Senate Governmental Affairs and Appropriations Committees, for fiscal years 1981, 1982, and 1983 the actual amounts spent or requested by every agency and department for the purchase, lease, operation, and maintenance of motor vehicles, and third, direct these agencies and departments to reduce their fiscal year 1983 motor vehicle operations, maintenance, leasing, and procurement budgets by at least $150 million and report the results to the Committees on Governmental Affairs and Appropriations.

I urge support of this legislation and will work closely with my colleagues to enact it.●

ADDITIONAL COSPONSORS

S. 861

At the request of Mr. PACKWOOD, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 861, A bill to amend the Social Security Act to provide for a 6-year demonstration program of comprehensive community-based noninstitutional acute and long-term care services for the elderly and disabled.

S. 888

At the request of Mr. DURENBERGER, the name of the Senator from Colorado (Mr. HART) was added as a cosponsor of S. 888, A bill to provide effective programs to assure equality of economic opportunities for women and men, and for other purposes.

S. 1929

At the request of Mr. HATCH, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1929, A bill to amend the Public Health Service Act and the Federal Cigarette Labeling and Advertising Act to increase the availability to the American public of information on the health consequences of smoking and thereby improve informed choice, and for other purposes.

S. 1931

At the request of Mr. SCHMITT, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 1931, A bill to amend title 5, United States Code, to entitle Civil Air Patrol cadets 18 years of age and older to compensation available to Civil Air Patrol senior members in event of disability or death, and to increase the level of compensation available to both.

S. 2014

At the request of Mr. RIEGLE, the name of the Senator from Maryland (Mr. MATHIAS) was added as a cosponsor of S. 2014, A bill to amend the Federal-State Unemployment Compensation Act of 1978 to maintain current provisions (scheduled to be repealed) relating to the State trigger and to restore a former provision relating to the insured unemployment rate.

S. 2094

At the request of Mr. DANFORTH, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of S. 2094, a bill to amend the Trade Act of 1974 to insure reciprocal trade opportunities, and for other purposes.

S. 2127

At the request of Mr. COHEN, the name of the Senator from Wisconsin (Mr. KASTEN) was added as a cosponsor of S. 2127, a bill to revise the procedures for soliciting and evaluating bids for Government contracts and awarding such contracts, and for other purposes.

S. 2193

At the request of Mr. MITCHELL, the name of the Senator from Oklahoma (Mr. BOREN) was added as a cosponsor of S. 2193, a bill to amend the Tariff Act of 1930 to provide greater access to antidumping and countervailing duty proceedings, and for other purposes.

S. 2544

At the request of Mr. COHEN, the names of the Senator from Oklahoma (Mr. BOREN), and the Senator from South Dakota (Mr. PRESSLER) were added as cosponsors of S. 2544, a bill to provide access to trade remedies to small business, and for other purposes.

S. 2676

At the request of Mr. DODD, the names of the Senator from California (Mr. CRANSTON), the Senator from Vermont (Mr. LEAHY), and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2676, a bill to establish a National Hostel System Plan, and for other purposes.

SENATE JOINT RESOLUTION 58

At the request of Mr. THURMOND, the name of the Senator from Florida (Mr. CHILES) was added as a cosponsor of Senate Joint Resolution 58, a joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

SENATE JOINT RESOLUTION 178

At the request of Mr. HATCH, the name of the Senator from Washington (Mr. GORTON) was added as a cosponsor of Senate Joint Resolution 178, a joint resolution to authorize and request the President to proclaim the second week in April as "National Medical Laboratory Week."

SENATE JOINT RESOLUTION 188

At the request of Mr. INOUYE, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Maryland (Mr. MATHIAS), the Senator from Indiana (Mr. LUGAR), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Nebraska (Mr. ZORINSKY) were added as cosponsors of Senate Joint Resolution 188, a joint resolution to authorize and request the President to designate March 1, 1983, as "National Recovery Room Nurses Day".

SENATE JOINT RESOLUTION 200

At the request of Mr. GLENN, the name of the Senator from Lousiana (Mr. JOHNSTON) was added as a cosponsor of Senate Joint Resolution 200, a joint resolution to designate October 1982 as "National Car Care Month".

SENATE JOINT RESOLUTION 207

At the request of Mr. DOLE, the names of the Senator from Oklahoma (Mr. NICKLES), the Senator from Alaska (Mr. STEVENS), the Senator from Pennsylvania (Mr. SPECTER), and the Senator from California (Mr. HAYAKAWA) were added as cosponsors of Senate Joint Resolution 207, a joint resolution to authorize and request the President to designate the week of August 1, 1982, through August 7, 1982 as "National Purple Heart Week".

SENATE JOINT RESOLUTION 211

At the request of Mr. DODD, the names of the Senator from Maryland (Mr. MATHIAS), the Senator from Kentucky (Mr. FORD), the Senator from Maryland (Mr. SARBANES), the Senator from Tennessee (Mr. SASSER), and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of Senate Joint Resolution 211, a joint resolution to authorize and request the President to designate July 27, 1982, as "National Recognition Day for the Registry of Interpreters for the Deaf."

AMENDMENT NO. 1986

At the request of Mr. DOMENICI, the name of the Senator from Nebraska (Mr. EXON) was added as a cosponsor of Amendment No. 1986 proposed to Senate Joint Resolution 58, a joint res-

olution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

SENATE RESOLUTION 433—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 433

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6273. Such waiver is necessary because H.R. 6273 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1978 as required by section 402(a) of the Congressional Budget Act of 1974.

Specifically section 2 of H.R. 6273 would authorize the appropriation of $53,580,000 for fiscal year 1983 for various programs under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act. These programs include: overall motor vehicle safety responsibilities of the National Highway Traffic Safety Administration (NHTSA) ($51.4 million); establishment of bumper standards ($320,000); compilation and provision of information to the public on passenger motor vehicles ($1.677 million); and prevention of odometer fraud ($183,000).

Congress has not authorized appropriations since 1978 for NHTSA operations under the National Traffic and Motor Vehicle Safety Act of 1966 and the Motor Vehicle Information and Cost Savings Act. The authorizations contained in H.R. 6273 are necessary to assure that sufficient funds are available for NHTSA to carry out its safety programs, which include continuing development and promulgation of safety standards, conducting safety research, and ordering recalls or remedies of automotive defects.

SENATE RESOLUTION 434—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 434

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of H.R. 6260. Such waiver is necessary because H.R. 6260 authorizes appropriations for the Patent and Trademark Office which includes the implementation of new patent and trademark fee schedules on October 1, 1982, and such a bill or a companion Senate bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Budget Act of 1974.

The waiver of section 402(a) is necessary to permit enactment of H.R. 6260 in a timely manner so (1) the Patent and Trademark Office of the Department of Commerce can be authorized for fiscal years 1983, 1984, and 1985, and (2) new patent and trademark fee schedules can be implemented by October 1, 1982. With regard to the latter point, time is of the essence since a notice period and hearing on the proposed fee schedules must occur prior to October 1, 1982.

The levels of appropriations authorized by H.R. 6260, although $8 million above the President's request for fiscal year 1982, are supported by the Reagan Administration and would be within budget outlay levels for that purpose.

The Appropriations Committees of the Senate and House of Representatives have therefore had adequate notice of this authorization. Thus, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

SENATE RESOLUTION 435—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. THURMOND, from the Committee on the Judiciary, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 435

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2222. Such waiver is necessary because S. 2222 authorizes the enactment of new budget authority which would first become available in fiscal year 1983, and such bill was not reported on or before May 15, 1982, as required by section 402(a) of the Congressional Act of 1974 for such authorization.

The waiver of section 402(a) is necessary to permit enactment of important reforms of the immigration laws and policies of the United States. S. 2222 is the result of two years of deliberations by the bipartisan Select Commission on Immigration and Refugee Policy, as well as a year's series of hearings in the Congress, including joint hearings conducted by the appropriate subcommittees in the Senate and the House of Representatives.

S. 2222 provides an authorization for fiscal year 1983 of $60 million to implement measures which will improve control of both illegal and legal immigration to the United States.

At the time of the 1983 budget hearings, the Attorney General testified before both the Committees on the Judiciary and the Appropriations Committees of the Senate and House of Representatives that the Administration would support appropriations needed to carry out immigration reforms in 1983. Furthermore, because the 1983 appropriations process is not yet complete, congressional consideration of this authorization will in no way interfere with or delay the appropriations process.

SENATE RESOLUTION 436—ORIGINAL RESOLUTION REPORTED RELATING TO RADIO AND TELEVISION COVERAGE OF THE SENATE

Mr. MATHIAS, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 436

Whereas on April 21, 1982, the Senate agreed to S. Res. 20, which provided for television or radio coverage, or both, of proceedings of the Senate, and

Whereas such S. Res. 20 directed that the Senate Committee on Rules and Administration, within 60 days from the adoption thereof, report to the Senate a resolution containing such regulations and such rules changes as are needed to implement television or radio coverage, or both, of proceedings of the Senate: Now, therefore, be it

Resolved, That (a) the Senate hereby authorizes and directs that there be both television and radio broadcast coverage (together with videotape and audio recordings) of proceedings in the Senate chamber.

(b) Such broadcast coverage shall be—

(1) provided in accordance with the provisions of this resolution,

(2) provided continuously at all times when the Senate is in session (or is meeting in committee of the whole), except for any time when a meeting with closed doors is ordered, and

(3) provided subject to the provisions pertaining to the Senate gallery contained in the following Standing Rules of the Senate: Rule XIX, paragraphs 6 and 7, Rule XXV, paragraph 1(n), and Rule XXXIII, paragraph 2.

SEC. 2. The radio and television broadcast of Senate proceedings shall be—

(a) supervised and operated by the Senate,

(b) made available on a "live" basis and free of charge to (1) any accredited member of the Senate Radio and Television Correspondents Gallery, (2) the coaxial cable system of the Architect of the Capitol, and (3) such other newsgathering, education, or information distributing entity as may be authorized by the Committee on Rules and Administration to receive such broadcast.

SEC. 3. The television broadcast of Senate proceedings shall follow the Presiding Officer and Senators who are recognized to speak by the Presiding Officer (including Senators who are so recognized with the consent of another Senator to interrupt such other Senator).

SEC. 4. (a) The broadcast coverage by radio and television of the proceedings of the Senate shall be implemented as provided in this section.

(b) The Architect of the Capitol, in consultation with the Sergeant at Arms and Doorkeeper of the Senate, shall—

(1) construct necessary broadcasting facilities for both radio and television (including a control room and the modification of Senate sound and lighting fixtures),

(2) employ necessary expert consultants, and

(3) acquire and install all necessary equipment and facilities to (A) produce a broadcast-quality "live" audio and color video signal of such proceedings, and (B) provide an archive-quality audio and color video tape recording of such proceedings:

Provided, That the Architect of the Capitol, in carrying out the duties specified in

clauses (1) through (3) of this subsection, shall not enter into any contract for the purchase or installation of equipment, for the employment of any consultant, or for the provision of training to any person, unless the same shall first have been approved by the Committee on Rules and Administration.

(c) The Sergeant at Arms and Doorkeeper of the Senate shall (1) employ such staff as may be necessary, working in conjunction with the Senate Recording and Photographic Studios, to operate and maintain all broadcast audio and color video equipment installed pursuant to this resolution, (2) make audio and video tape recordings of Senate proceedings, (3) make copies of such recordings available, upon payment to him of a fee fixed therefor by the Committee on Rules and Administration, to Members of the Senate and to each person described in subsection (b) (1) and (3) of section 2 of this resolution, and (4) retain for 90 days after the day any Senate proceedings took place such recordings thereof, and as soon thereafter as possible, transmit to the Librarian of Congress and to the Archivist of the United States copies of such recordings: *Provided*, That the Sergeant at Arms and Doorkeeper of the Senate, in carrying out the duties specified in clauses (1) and (2) of this subsection, shall comply with appropriate Senate procurement and other regulations.

(d) The Librarian of Congress and the Archivist of the United States shall each receive, store, and make available to the public, at no cost for viewing or listening on the premises where stored and upon payment of a fee equal to the cost involved through distribution of taped copies, recordings of Senate proceedings transmitted to them by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 5. (a) As soon as practicable after the necessary equipment has been installed, there shall begin a test period during which tests of radio and television coverage of Senate proceedings shall be conducted by the staffs of the Committee on Rules and Administration and of the Office of the Sergeant at Arms and Doorkeeper of the Senate. Such test period shall end on such date as may be agreed upon by the Majority Leader, the Minority Leader, the Chairman of the Committee on Rules and Administration, and the ranking minority member of such Committee.

(b) During such test period—

(1) final procedures for camera direction control shall be established.

(2) coverage of Senate proceedings shall not be transmitted, except that, at the direction of the Chairman of the Committee on Rules and Administration, such coverage may be transmitted over the coaxial cable system of the Architect of the Capitol, and

(3) no recordings of Senate proceedings shall be required to be made or retained by the Sergeant at Arms and Doorkeeper of the Senate.

SEC. 6. The use of tape duplications of broadcast coverage of the proceedings of the Senate for political or commercial purposes is strictly prohibited; and any such tape duplication furnished to any person shall be made on the condition that it not be used for political or commercial purposes.

SEC. 7. Any changes in the regulations made by this resolution shall be made only by Senate resolution. However, the Committee on Rules and Administration may adopt such procedures and such regulations, which do not contravene the regulations made by this resolution, as it deems necessary to assure the proper implementation of the purposes of this resolution and S. Res. 20, 97th Congress.

SEC. 8. Not to exceed $3,500,000 shall be expended by the Architect of the Capitol in carrying out the duties and functions imposed on him by this resolution.

SENATE RESOLUTION 437—RELATIVE TO JAMES G. WATT, SECRETARY OF THE INTERIOR

Mr. MOYNIHAN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEAHY, Mr. BUMPERS, Mr. METZENBAUM, Mr. HART, Mr. LEVIN, Mr. EAGLETON, Mr. MITCHELL, Mr. DIXON, Mr. RIEGLE, and Mr. SASSER) submitted the following resolution which was referrred to the Committee on Foreign Relations:

S. RES. 437

Whereas, on June 17, 1982, Secretary of the Interior James G. Watt wrote to the Ambassador of Israel to the United States that, "if the liberals of the Jewish community join with other liberals of this nation to oppose [the administration's energy policies] they will weaken our ability to be a good friend of Israel"; and

Whereas this statement unjustly and egregiously impugns the loyalty of American Jews; and

Whereas an administration spokesman has stated that Secretary Watt's statement does not represent administration policy; and

Whereas Secretary Watt's statement indicates a profound misunderstanding of the reasons the United States is committed to the security of an independent and democratic Israel;

Whereas America's commitment to the security of Israel is not conditional upon popular support for the energy policy or any other policy of this or any other administrtion; and

Whereas the right of Americans to speak freely, individually or in assembly, in support of or opposition to the policies of any administration's policies is fundamental to the preservation of the American democracy; and therefore be it

Resolved, That it is the sense of the Senate that Secretary Watt's statement is unacceptable and is hereby repudiated and denounced.

Mr. KENNEDY. Mr. President, I am pleased to join in submitting this resolution stating the sense of the Senate that the recent statement by Secretary of Interior James Watt, on the administration's energy policies and support for Israel, is unacceptable and intolerant. From the worst member in the President's Cabinet we have now heard one of the worst appeals to prejudice from any national official in many years. His statement deserves to be denounced.

As I have said before, and there is now more reason to say it again, Mr. Watt should have the good sense to resign. If he continues to cling to an office for which he is so clearly unfit, the President should dismiss him. He may be a good fundraiser for right-wing candidates, but he is a bad Secretary of the Interior. And he is even worse as a diplomat. Given the chance, Mr. Watt will do for our foreign policy what he has done for our environmental policy. Just as he regards our coastal and offshore areas as commodities to sell to the highest bidder, he seems to think our Mideast policy can be bought or bartered. Mr. Watt appears to be a bit confused. We already have a Secretary of State—and his name, we can be grateful, is not James Watt.

And when it comes to energy, Mr. Watt's cheerleading for the regressive Reagan policy is hardly helpful, since that policy leaves the Nation dangerously vulnerable to foreign oil cutoffs. The President's actions—his veto of the standby Petroleum Allocation Act, his refusal to provide an adequate fill rate for the strategic petroleum reserve, his rejection of sound conservation programs, and his opposition to the development of an emergency plan to sudden energy shortages—amount to playing Russian roulette with the Nation's security and the well-being of its citizens.

On June 17, Mr. Watt wrote to the Ambassador of Israel that:

> If the liberals of the Jewish community join with other liberals of this Nation to oppose [the administration's energy policies], they will weaken our ability to be a good friend of Israel.

Mr. Watt's letter impugns the loyalty of American Jews; it denies the essence of our democracy.

No American is any less an American because he or she disagrees with the energy policies of this administration. But Mr. Watt suggests a different standard. He has sent a clear message to all American Jews: If they do not support this administration's energy policies, this administration's attitude toward Israel will become hostile. That is an unconscionable threat—and the American people fortunately will never let any President go down that prejudiced path.

All Americans believe that they should be able to take positions and hold opinions without fear of such unworthy reprisals. The right to speak freely is the foundation of our democracy. The Constitution protects it. And no administration should ever be permitted to abridge it—no matter what its Secretary of the Interior may think.

This Nation's support for the State of Israel is firmly founded on our national security needs. Israel is the only democracy and our strongest ally in the Middle East. Support for Israel must not be misused as a stick by this administration to extort support for domestic policies.

Secretary Watt's words threaten political blackmail of both the American Jewish community and the State of Israel. He has neither the right nor the authority, as a Cabinet official of our Government, to write such a letter

to the Ambassador of Israel. He owes the Nation an apology. He owes Ambassador Arens an apology. And he owed the first amendment an apology. The Senate of the United States should go on record today against this insult not only to American Jews, but to all Americans.

I therefore urge our colleagues to support this resolution, which I am proud to support. A Senate vote for this resolution will be a vote for constitutional principle, for fair play in debating domestic policy, and for our Nation's overriding interests in the Middle East.

Mr. MITCHELL. Mr. President, I rise in support of the Moynihan resolution and to express my objections to the letter which Secretary of the Interior James G. Watt sent on June 17 to Israel's Ambassador to the United States, Moshe Arens.

In his letter, Secretary Watt made several statements which he, as a member of the President's Cabinet, should not have made.

First, Secretary Watt suggested that our Nation's commitment to Israel is based primarily on the ability of the United States to meet its present and future energy requirements. For a U.S. Cabinet officer to make such a suggestion does a disservice to those who, in good faith, seek to formulate a coherent American foreign policy.

This suggestion is harmful not only because it came from a Cabinet officer, but also because it is untrue. U.S. support for Israel is based on many factors, not the least of which is the desire on our part to encourage the development of democracy in the Middle East, to have in that region a state willing to sympathetically consider U.S. concerns and interests, and to encourage the development of a society in which the discrimination and hatred experienced by Jews earlier in this century is not present. While America's access to adequate petroleum supplies must remain an important concern, it does not now, and should never, dictate our foreign policy decisionmaking. If we let it, we are, in fact, giving in to international blackmail of the most serious nature.

Second, Secretary Watt should not have suggested in his letter that American Jewry and particularly "* * * liberals of the Jewish Community * * *" undermine Israel's security objectives when they fail to agree with the President's energy policies. This is a truly preposterous suggestion.

Does Secretary Watt really think that everyone who disagrees with the policies advanced by him and the President are engaged in some kind of effort to weaken our country? Does he truly believe that blind obedience to the President's production-only oriented energy policy is the only path patriotic Americans can follow? Does he not acknowledge the policy benefits which can be realized from an open discussion of the merits and deficiencies associated with the administration's energy plans?

This brings me to my last objection to Secretary Watt's letter to Ambassador Arens. The Secretary was wrong to suggest in his concluding paragraph that the Ambassador could help the Secretary get in touch with groups of the Ambassador's supporters in this Nation so that the Secretary might share with them "the truth of what this administration is trying to do for America and the free world."

This is a member of the Cabinet writing.

Has Secretary Watt become so ineffectual that he has to request the help of the Israeli Ambassador so that he can carry his message to the American people? Why does he resort to surreptitious indirect lobbying? Why does not the Secretary simply pick up his telephone and ask for an audience with those groups he seeks to reach? Despite the apparent universal lack of enthusiasm for his policies, I cannot believe that his requests to express his views would be denied.

Mr. President, 1 year ago I called for Secretary Watt's resignation on the grounds that his energy and environmental policies are damaging this country and are destroying worthwhile resource management programs which have taken us many years to develop. Today I renew my call for the Secretary to step down. I do so now not only because I think his policies are bad, but because I believe his judgment is unsound as well.

Thank you, Mr. President.

SENATE RESOLUTION 438—ORIGINAL RESOLUTION WAIVING CONGRESSIONAL BUDGET ACT

Mr. COHEN, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 438

Resolved, That pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2059, a bill to change the coverage of officials and the standards for the appointment of a special prosecutor in the special prosecutor provisions of the Ethics in Government Act of 1978, and for other purposes. Such waiver is necessary to permit reauthorization of funds for the functions of the Department of Justice under section 601(c) of the Ethics in Government Act of 1978, with respect to independent counsels appointed under chapter 39 of title 28, United States Code.

AMENDMENTS SUBMITTED FOR PRINTING

CONSTITUTIONAL AMENDMENT RELATING TO A BALANCED BUDGET

AMENDMENT NO. 2001

(Ordered to be printed and to lie on the table.)

Mr. DIXON (for himself and Mr. PROXMIRE) submitted an amendment intended to be proposed by them to the joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

AMENDMENT NO. 2002

(Ordered to be printed and lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 58) supra.

AMENDMENT NO. 2003

(Ordered to be printed and lie on the table.)

Mr. CRANSTON (for Mr. MOYNIHAN) submitted an amendment intended to be proposed by him to the joint resolution (S.J. Res. 58) supra.

AMENDMENTS NO. 2004 AND 2005

Mr. GORTON (for himself and Mr. RUDMAN) submitted two amendments intended to be proposed by them to the joint resolution (S.J. Res. 58) supra.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. HELMS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 27, at 9 a.m., to hold a business meeting to consider pending calendar business. Provided further, that until the hour of 3 p.m. the committee may consider and take action upon the bill S. 2305.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND RESERVED WATER

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Reserved Water of the Committee on Energy and Natural Resources, be authorized to meet during the session of the Senate on Tuesday, July 27 at 2 p.m., to hold a hearing to consider S. 1303, to authorize the Secretary of the Interior to exchange certain lands in Hill County, Mont.; H.R. 1281, to provide for the conveyance of certain lands in Alaska comprising trade and trade manufacturing site A-056802 without regard to the 80-rod limitation provid-

ed by existing law; S. 1978, to quiet title and possession with respect to a certain private land claim in Livingston Parish, La.; S. 2279, to designate the Alben Barkley National Historic Site; S. 1705, to amend the Federal Land Policy and Management Act of 1979 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; House Joint Resolution 207, to require the Secretary of the Interior to place a plaque at the U.S. Marine Corps War Memorial honoring Joseph Rosenthal, photographer of the scene depicted by the memorial; S. 2308, to direct the Secretary of Agriculture to convey certain property to the city of Show Low, Ariz.; Senate Joint Resolution 168, to establish reciprocal entrance fees for Canadian citizens entering Glacier National Park in connection with the 50th anniversary of the Waterton-Glacier International Peace Park; S. 1661, to authorize the Secretary of the Interior to acquire certain lands by exchange for addition to Effigy Mounds National Monument in the State of Iowa, and for other purposes; and Senate Joint Resolution 155, redesignating the Saint Croix Island National Monument in the State of Maine as the "Saint Croix Island International Historic Site."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TOXIC SUBSTANCES AND ENVIRONMENTAL OVERSIGHT

Mr. HATCH. Mr. President, I ask unanimous consent that the Subcommittee on Toxic Substances and Environmental Oversight of the Environment and Public Works Committee, be authorized to meet during the session of the Senate at 2 p.m. on Wednesday, July 28, to consider S. 2131, a bill to amend the Safe Drinking Water Act, and ground water protection.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. HATCH. Mr. President, I ask unanimous consent that the Environment and Public Works Committee be authorized to meet during the session of the Senate at 10 a.m. on Tuesday, July 27, to hold a full committee markup on S. 1606, the Nuclear Properties Insurance Act, and the Clean Air Act Amendments of 1982.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENT

PUBLIC EMPLOYEES RETIREMENT INCOME SECURITY ACT

● Mr. BENTSEN. Mr. President, I appreciate this opportunity today to express my concern about S. 2105 and S. 2106, the Public Employees Retirement Income Security Act legislation. These bills would establish Federal reporting and disclosure standards for public employee pension plans. These pension plans have grown and prospered under local management and control, and I think it is unwise to impose Federal regulations at the State or local level unless there are documented reasons to do so. In addition, increased regulations at the Federal level would raise the administrative costs incurred by these public plans and diminish the participant's potential return on an investment.

State and local employees around the Nation have invested much time and money in the planning of secure pension plans for their retirement. The pension boards that administer these plans have a great financial responsibility to participants to insure that their retirement plans are invested wisely and are actuarially sound. With the investment of billions of dollars in these programs, the need for establishing proper regulations that guarantee the accountability of these pension plans is obvious. However, I do not believe that the currently proposed legislation is warranted, especially in my home State of Texas.

The interests of participants and annuitants in public employee pension plans in Texas are protected by current State law. The Texas Legislature, for example, has established the State Pension Review Board to supervise the investments and to monitor the accountability of public pension plans in my State. In addition, State law requires that disclosures be made to participants and that information about the plans be available for public and government review. The record indicates that these measures have led to prudent investments by the public pension plans in Texas and successful returns for public employees across the State who rely on these plans for financial security in retirement. Thus, I will oppose any unwarranted intrusions by the Federal Government in State and local public pension plans.●

IRON CURTAIN COMING DOWN AGAIN?

● Mr. DOLE. Mr. President, I have been recently informed of a disturbing development which represents, I believe, a serious regression in the course of East-West relations, and a violation of the Helsinki Final Act of 1975. I am referring to the announcement that the Soviet Union is in the process of drastically reducing the number of telephone lines between that country and the West. For instance, British Telecom, the British national telephone company, has been informed by the Soviet Ministry of Communications that the number of lines to Britain will be reduced form 46 to 14, while those to the Soviet Union will be cut from 42 to 14. On July 15, 20 of the 24 lines from Vienna, Austria, to Moscow were taken out of service. France, the Federal Republic of Germany, and Finland have also been informed by the Soviets of similar projected reductions. The Commission on Security and Cooperation in Europe has also been told by an American Telephone & Telegraph Co., representative that their international section has been notified of upcoming long-line reductions between the United States and the Soviet Union.

In addition, these measures have been accompanied by the suspension of direct-dial telephone connections from Moscow to the West, while direct-dial capabilities from the West into the Soviet Union have, for all intents and purposes, been reduced to nil.

Curiously enough, the nation that persistently lays claim to the "most advanced science in the world" now maintains that these reductions are necessitated by "technical factors" that will not be corrected until 1984. I daresay that telephome communications between Soviet and Polish military facilities will not be threatened by any technical problems.

Perhaps a more plausible explanation might be found in a comment which Soviet Foreign Minister Gromyko is reported to have made to Austrian President Kirchschlaeger during the latter's recent visit to Moscow: "There are good phone calls, and there are bad phone calls." Translation: Too many Soviet emigrés are calling their relatives and friends still in the Soviet Union and telling them the truth about the free world.

Mr. President, the U.S. State Department has characterized these telephone service cutbacks as "creating additional obstacles in the path of the already difficult effort of putting United States-Soviet relations on a more normal course." I fully agree with this assessment and furthermore, as Cochairman of the Commission on Security and Cooperation in Europe, I consider these moves to be a serious violation of the human contacts section of the Helsinki Final Act, in which:

> The participating states . . . make it their aim to facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating states, and contribute to the solution of the humanitarian problems that arise in that connection . . .

Mr. President, Congressman DANTE FASCELL, Chairman of the Commission on Security and Cooperation in Europe, and I have forwarded a letter to the Soviet Ambassador to the United States Dobrynin protesting this breach of the Helsinki accords and calling upon the Soviet Govern-

ment to take the necessary steps to restore international telephone communications to at least their former level. I would like at this time to place into the RECORD a copy of this letter to Ambassador Dobrynin.●

FORMATION OF COUNCIL FOR EXPORT TRADING COMPANIES

● Mr. HEINZ. Mr. President, as a primary sponsor of legislation to foster the development of American exports through trading companies, I welcome and applaud the formation of the new Council for Export Trading Companies, Inc.

Many of us in Congress maintain that the ETC concept is an idea whose time not only has come but is long overdue. Its success will depend in large measure on how effectively the private sector meets the test of putting our legislation to use. That is where the council can fill a vital need for innovative leadership.

I wish the council every success, and look forward to its contributions toward realizing the Nation's true export potential. I ask that the council's announcement of its formation be printed at this point in the RECORD.

The announcement follows:

COUNCIL FOR EXPORT TRADING COMPANIES, INC.,
Washington, D.C., July 15, 1982.

U.S. EXPORTERS FORM TRADING COMPANY COUNCIL

WASHINGTON, D.C., July 15, 1982.—A group of American exporters today announced the formation of a new trade organization to promote exports by small and medium-size companies by fostering the development of U.S. export trading companies (ETC's).

The new association, the Council for Export Trading Companies, Inc., is a national, bipartisan, non-profit organization headquartered in Washington, D.C., with a west coast office in Orange, California. Composed of entities and individuals interested in promoting export trade, the Council will provide information and assistance in organizing and operating trading companies.

The Council also will support efforts to enact federal legislation, and to adopt regulations and guidelines that facilitate the formation and operations of ETCs as well as encourage greater export activity. Of particular importance is the imminent passage of legislation which would authorize the development of U.S. ETCs with bank ownership participation and limited antitrust exemption clearances.

The Council is a private sector initiative in response to the fact that more than 80% of American exports are currently accounted for by only about 10% of some 300,000 U.S. enterprises, and of the four leading U.S. exporters, two are Japanese trading companies, which have long enjoyed the encouragement and support of the Japanese government.

The board of directors of the new Council is made up of individuals representing a broad range of large and small business organizations in banking, transportation, manufacturing, insurance and other trade service industries, as well as government and the academic community.

The Council's directors are: George Galland, Commissioner, Virginia Port Authority; The Honorable Ed Herschler, Governor of Wyoming; Charles R. Johnston, Jr., Partner, Johnston, McGeorge and Davidson; Charles Keown, President, Portsmouth Terminals, Inc.; Arthur B. Laffer, Professor of Business Economics, University of Southern California, and President of A.B. Laffer Associates; John A. McKinney, Chairman and Chief Executive Officer, Manville Corporation; A.E. (Ted) Michon, President, Burlington Northern International Services, Inc.; E. Anthony Newton, Senior Vice President, Philadelphia National Corporation; Richard A. Nielsen, President, Johnston & Higgins of Delaware; William K. Rapp, Senior Vice President, Valley National Bank, William A. Reinsch, Legislative Assistant, United States Senate; Gilbert Simonetti, Partner, Price Waterhouse; Jurgen F. Strasser, Senior Vice President, North Carolina National Bank; John H. Tillotson, Jr., Chairman, Century International.

Executive director of the Council is John C. L. Donaldson, a consultant in international business and public affairs and former Assistant United States Trade Representative. The law firm of Johnston, McGeorge & Davidson will serve as general counsel. Edward Lindquist is deputy executive director of the Council, and head of its west coast office. Officers of the Council also are ex-officio members of its board of directors.

Membership in the Council is open to interested companies and individuals at an annual dues rate of $450. Trade organizations, municipalities and other groups are eligible for associate membership at $250 per year. Charter memberships are available at an initial year's fee of $1,000.●

INDUSTRIAL DEVELOPMENT BONDS

● Mr. PRYOR. Mr. President, early Friday morning the Senate approved two amendments introduced by Senator D'AMATO dealing with industrial development bonds. These amendments responded directly to issues raised by a number of businessmen in my State who have been concerned about the direction and health of the IDB program. At that point time was running short, but I do want to make a brief statement on this issue.

The first amendment, which I cosponsored, had three major elements: Elimination of the sunset date of December 31, 1985, for small issue bonds; extension of faster depreciation schedules to users of IDB's; and restrictions on the type of activity eligible under the program.

For the past year the small issue IDB program has been under attack and its future blurred with uncertainty. This program has been abused in the past, but I am convinced that the program—with some restrictions—should remain in place to play an important role in this country's economic recovery. While the Finance Committee has left the door open for the renewal of the small issue program, I believe that it is useful to confirm the Senate's intent to revise—not destroy—this program, and the extension of the program through September 30, 1987, will give us that opportunity.

The depreciation provision of the amendment—retaining straight line depreciation but over a shorter life—will be an incentive for businesses to invest in plant expansion and will provide the means for them to do so. In these days of high interest rates and low demand, a faster writeoff can mean the difference between success and failure for many businesses, and with businesses failing at a rate of more than 400 per week we should look for any opportunity to keep otherwise healthy firms in operation.

The committee is correct in its concern over the revenue impact of the depreciation proposal, but it seems to me that this problem would be better addressed by a further tightening of the scope of eligible activities under the program. For that reason I am pleased that the D'Amato amendment takes a step in that direction by prohibiting the use of IDB's for country clubs, racquet sports facilities, skating clubs, racetracks and other sports facilities. In fact, I think we should go even further and eliminate IDB's for office buildings, restaurants and auto and motorcycle sales facilities for example.

I sympathize with the committee's deep concern over the immediate revenue effects of any changes in the program. The committee members, quite properly, are working to increase current revenues and reduce today's deficit.

We must also be concerned, however, about the longer term health of our economy. We are aware of the unacceptably high national unemployment figures. My own State of Arkansas has had an unemployment rate well above the national average, with plants closing down in all corners of the State, so I see the IDB section of the tax bill not just as a potential way to reduce the deficit but also as a means to create jobs and eventually raise revenue as new jobs generate new taxable income. Moreover, the incentives created by the D'Amato amendment will enable U.S. businesses to compete with strong, often subsidized, foreign industry.

Senator D'AMATO's second amendment removed the interest on IDB's from coverage under the minimum individual tax. This amendment puts IDB's on equal footing with all other tax-exempt bonds and, in combination with the Dodd amendment passed late Thursday night, will encourage individuals to invest in municipal bonds, IDB's and mortgage revenue bonds.

I should like to commend Senator D'AMATO for his amendments and Senators STENNIS, STEVENS, LONG, and DOLE for the valuable work they did. I hope we can continue to refine and re-

strict this program to make it work to create jobs and provide capital for further growth.●

COMMENCEMENT ADDRESS OF JON HASSLER AT ST. JOHN'S UNIVERSITY

● Mr. DURENBERGER. Mr. President, all of us, over the years, have had the pleasure, and just as often, the agony, of delivering commencement speeches. Every so often, if we are lucky, a particular line or maybe even an entire paragraph might stand out and be remembered by our audiences.

Only rarely do commencement speeches really live up to their intended purpose; that is, leave the graduating students with a message to which they can return throughout their lives for guidance, reassurance and inspiration.

Recently, I had the pleasure of coming across such a speech. The experience was made all the more pleasurable by the fact that the speaker was a college classmate of mine and his audience were graduates of my alma mater, St. John's University in Collegeville, Minn.

Jon Hassler offers an important insight into one of the most pressing problems of modern society, vocational burnout. He is speaking from the vantage of a teacher and writer—two professions most commonly associated with burnout—but his words have meaning for everyone.

Jon gives us the seven discoveries he has made about burnout. They are more than just unrelated revelations; Jon's discoveries serve as useful guidelines for dealing with burnout. I commend them to all my colleagues and ask that Jon Hassler's commencement address be included in today's RECORD.

The address follows:

THE BELIKOV SYNDROME

(By Jon Hassler)

If I hadn't rejected it for sounding too dismal, the title of this talk might have been, "Burnouts I Have Known."

The subject of vocational burnout has been on my mind ever since I delivered a commencement address in a small high school in northern Minnesota, where I was seated on the stage next to the superintendent of schools, and as we watched the graduates come forward to receive their diplomas from a member of the school board, I was astonished to hear the superintendent muttering into my ear about how much he hated his job. He spoke in the bitterest terms. He said the town was provincial, the men and women of the town were ignorant, and the students—he said this pointing to several examples—were savages. He said he would soon qualify for his pension and he could hardly wait.

Put yourself in my place. It was one of those rare moments in life when two opposing alternatives become so tangible that you can reach out and touch them. In front of me were four dozen 18-years-olds wearing their caps and gowns and expressions of hope, and beside me was a man coming to the end of his career in a state of absolute cynicism. In front of me, punctuated by flashbulbs, was that community's most important ceremony of the year, and beside me the man who had organized the ceremony was insisting, in the gloomiest terms, that the community was not worthy of him.

I came away believing that I had never seen such a graphic case of the Belikov Syndrome, which is my term for life-avoidance, which is also my term for what I see in people who suffer from severe cases of burnout. By life-avoidance I mean the constant desire to hold life—and particularly one's vocation in life—at arm's length. I mean the refusal to immerse oneself in the stream of the human condition. I call it the Belikov Syndrome because Chekhov portrays it too well in a short story about a man named Belikov, a schoolmaster in 19th-century Russia. The story is entitled, appropriately, "The Man Who Lived in a Shell," and this is one of the opening paragraphs:

"You have heard of Belikov no doubt. The curious thing about him was that he wore rubbers, and a warm coat with an inner lining, and carried an umbrella even in the finest weather. And he kept the umbrella in its cover, and his watch in a gray chamois case, and when he took out his penknife to sharpen his pencil, his penknife too was in a little case. And his face seemed to be in a case as well, because it was always hidden in his turned-up collar. He wore dark spectacles and a sweater, stuffed his ears with cotton wool and when he got into a carriage he always told the driver to put up the hood. In short, the man showed a constant and irrepressible inclination to keep a covering about himself, to create for himself a membrane, as it were, which would isolate him from outside influences. Actuality irritated him."

How could actuality possibly irritate us—we wonder on the day we receive our bachelor's degree or our master's degree. On that day, for most of us, life is still too fresh to irritate us or bore us or repel us. When I left this university 27 years ago, what did I know about burnout? In those days, as now, literature was my guidebook to life, but Graham Greene had not yet published his novel A Burnt-Out Case. I had seen Hamlet but was more interested in the swordplay than in Hamlet's decision to be or not to be. It was only after I went out and took up my vocation that I saw the symptoms of life-avoidance first-hand among some of my colleagues, and discovered the germ of it in myself, and by reading closer realized that authors had been writing about it for centuries.

So now I'm back to say seven things about burnout. For all I know, my seven discoveries might be old discoveries, but each one, in its time, was news to me.

One, the less tangible the rewards of a particular profession, the higher the incidence of burnout. Teaching, for example—that strange profession that has us constantly giving away all we know—indeed more than that: all we think we know—and giving it to people who rarely come back to us to tell us what they did with it. Which is not to say that most teachers are burnouts. The vast majority of teachers I have known have been supremely conscientious, but we are all acquainted with the two or four or six percent who are so lethargic that the high point of their school year is the day they go on strike.

Two, no one is immune from the Belikov Syndrome, the periodic urge to give up and withdraw. No matter how zealous you are about your calling, there comes a day when the novelty of your vocation disappears and you discover that the race you entered was not, as you thought, the 100-yard dash in front of the grandstand. The 100-yard dash isn't even on the program, and what you're running instead is the crosscountry marathon, which only begins and ends in front of the grandstand. Between the degree and the pension you do a lot of running through the woods.

I remember the day I made this discovery for myself. I won't say what year or in which high school, but it was January and I was standing on hall duty outside my classroom between period two and period three and wondering as never before where in the world I would find the strength to persevere through periods four and five and six and February and March and April and May. I was doubly disheartened because I was really quite fond of teaching, and how could a job I liked be so hard? My students had turned into cannibals, it seemed, consuming me by eating away at my spirit. I felt I had to quit giving so much of myself away.

Now as it happened, there were two veteran burnouts on that faculty who for years had been quietly going about the business of not teaching, and I took a sudden interest in their methods. One of them, a history teacher, showed films of World War Two five hours a day, and the other, a physical education teacher, threw out a ball and said to his class, "Go chase it." I had just enough imagination left to be dissatisfied with these two methods, so I devised my own, or I should say a certain book company devised one for me, for this was the era when the programmed-learning textbook first came upon the scene.

This was a kind of super workbook which led the students through the syllabus by a clever system of questions and answers and saved the teacher the trouble of teaching. There was in that school a roomful of these workbooks which the school board had bought from a zealous book salesman, whose rewards had been so tangible that the district tax mill rate had had to be raised. I issued those workbooks to my classes and I sat at my desk, never having to come out of my shell except to answer some rare question the workshop couldn't handle, such as, What's for hot lunch? It was life-avoidance in its pure form and within a week I was alarmed to discover that a crippling sort of malaise was spreading out from my teaching and pervading all my waking hours. Burnout turns up at work and follows you home. The following week I gathered up the workbooks, along with my strength, and went back to giving myself away to my students, having made discovery number three—namely that the fatigue of doing nothing.

Pascal knew this approximately 300 years before I did. Pascal defined the awful consequences of burnout in the year 1650 when he wrote: "Nothing is so insufferable to man as to be completely at rest, without passions, without business, without diversion, without study. There will immediately arise from the depth of his heart weariness, gloom, sadness, fretfulness, vexation, and despair." It was those very things—weariness, gloom, vexation and despair—that I was hearing from that superintendent in northern Minnesota who spoke to me from inside his shell.

Four, we all carry within ourselves the seeds of life-avoidance, and for good reason. We all need respite from our calling. We all need to step out of the marathon from time

to time and sit in the shade. That's what vacations and retreats and leisure time are for, and professions that do not have a system of sabbaticals ought to institute them. There is a term for such measured withdrawal. It's called rest, and it serves as an immunization against burnout.

But the danger is in assuming that if a little withdrawal is good, a lot of withdrawal is better. A lot of it gets you exactly where it got Belikov, who after years of living in his shell, fell in love with a young woman who moved into his village, and he discovered that he had grown too hidebound, too remote from life, to relate to her. He had spent so much of his life evading life that he no longer knew how to live. His shell had grown to tough and he couldn't hatch.

Five, be forewarned, the vocation you love, like a person you love, will make the most demands on you. I found this fact illustrated recently in a novel by Shirley Hazzard entitled The Transit of Venus. One of her characters, a dedicated astronomer, has gone off to a foreign country to oversee the installation of an enormous new telescope and he writes this in a letter home: "What an atrocious, sustained effort is required, I find, to learn to do anything thoroughly—especially if it's what you love. A vocation is a source of difficulty, not ease. To do is difficult enough. To be, more difficult still."

To do or to be. There is a difference. It's one thing to teach and another to be a teacher. It's one thing to write and another to be a writer. The difference is in the degree of investment. To do is to fulfull your job description. To be is to invest so much of yourself into your calling that you and your calling begin to blend. We have all known certain teachers or nurses or parents or carpenters or clergy or shopkeepers whose dedication made them the emblem of their calling. "A natural style" is Pascal's term for this. In speaking of a book he admired, Pascal wrote, "When we see a natural style, we are astonished and delighted, for we expected to see an author and we find instead a human being." This, then, is the opposite of the Belikov Syndrome—instead of withdrawing, investing. It requires great effort and leads to great satisfaction. It's been my observation that those men and women in whom the flame of dedication burns the highest are the least likely to burn out. Or, to put it another way, the more of yourself you invest in your calling, the more interesting your calling becomes. We are all narcisstic enough to be intrigued by our own reflection, and the more of ourselves we see reflected in our work the longer it holds our interest. Without investment, there is no interest.

Six, most burnouts I've known have been men. And this in a profession almost equally divided between men and women. I believe this is because a man is less likely than a woman to keep his mind alive after college. In other words, a man is less likely to read books. I mean fiction and nonfiction generally, which serve to stretch the mind and keep it agile. "Go forth and read books," I have been saying to my students for 27 years and my students have promised to do so, the boys as well as the girls, the men as well as the women; but then I began publishing books of my own and discovered that precisely 5 out of 6 people who read books and think about books and respond to books are women. In the days when I was addressing civic groups and study clubs about my books, I was invited to a dozen women's clubs before I was invited to a men's club; and therefore I thought it quite a breakthrough when the program chairman of the Rotary Club called me up and asked me to speak at Rotary on the following Tuesday. Telling myself that at last I had discovered a group of literate men, I said yes, I would be happy to speak on Tuesday, to which the program chairman replied, "That's wonderful, because Tuesday is ladies' day, and we like to have something for the ladies." So I say it once more: I challenge the men of this class to break out of that masculine stereotype that has me believing that the last thing a man is likely to read is his degree, to keep in mind that if graduation marked the end of intellectual development, it wouldn't be called commencement.

Seven, every burnout I've known has come to the point of thinking (usually by mistake) that he is unsuited for his work. Either he will come to believe that he is not worthy of his work, or (and this is more common) that his work is not worthy of him. Sometimes it's true, but more often it's not. I have been struck by the almost miraculous instinct people have for matching themselves up to work that suits them. In the burnout's case the problem is usually not his being in the wrong profession, but rather his faulty vision of that profession. By that I mean most burnouts are either too nearsighted or too farsighted. The nearsighted become so preoccupied with small irritations and interruptions—that is, the actualities of their calling—that they lose sight of their long-range aspirations. The farsighted, on the other hand, spend so much time dreaming of their long-range aspirations that they have trouble dealing with the day-to-day actualities. I am reminded of what it was like to walk a rail as a young boy. If you don't watch your feet you lose your balance. If you don't look ahead down the track you lose your balance. The trick is to do both at once.

I conclude with two quotations illustrating that success requires a balance between the nearsighted and the farsighted, a combination of the visionary and the mundane.

About the mundane, C. S. Lewis says: "The great thing, if one can, is to stop regarding all the unpleasant things as interruptions of one's real life. The truth is that what one calls the interruptions are precisely one's real life—the life God is sending one day by day."

And about the visionary, I quote from Henry David Thoreau. I wrote this passage on a card and pinned it to the wall over my typewriter when I began writing the first draft of my first novel. If my prose became too prosaic, it was very helpful to look up from my labors and see this: "If one advances confidently in the direction of his dreams, and endeavors to live the life he has imagined, he will meet with a success unexpected in common hours. If you have built castles in the air, your work need not be lost; that is where they should be. Now put the foundations under them."●

U.S. RELATIONS WITH TAIWAN

● Mr. EAST. Mr. President, American relations with China—whether the totalitarian Communist regime on the mainland or the most democratic government in Southeast Asia on Taiwan—are once again in the news. Today, the issue is whether the United States will continue to abide by the terms of the Taiwan Relations Act and provide the Republic of China on Taiwan with the arms it needs to resist the aggressive and genocidal threats of the mainland Communists.

Mr. Philip Kent, himself a former Senate staff aide and now an editor of the Augusta, Ga., Chronicle, the oldest newspaper in the South, analyzes our relations with Taiwan in a recent column in the Washington Times of July 26, 1982. I commend the article to the attention of my colleagues and request that it be printed.

The article follows:

[From the Washington Times, July 26, 1982]

ADRIFT, DIVIDED ON TAIWAN

(By Philip Kent)

When visiting the anti-communist Republic of China on Taiwan in April, Defense Minister Soong Chang-Chih told me that the Falklands crisis and Mideast troubles should not distract observers from watching how the Reagan administration formulates new policy toward the communist mainland.

Admiral Soong's observation has more meaning now, especially since it has come to light that one of former Secretary of State Alexander Haig's last acts was the sending of a memo to President Reagan recommending language for a joint U.S.-Communist Chinese communique that "would inevitably lead to a cessation in arms sales to Taiwan."

This memo, coupled with what the New York Times calls current State Department option papers submitted "in the hope of achieving an early break-through" regarding U.S.-Communist Chinese relations, has caused quite a stir among Reaganites.

The president campaigned as a supporter of Taiwan before his election, and he has tried to allay fears in the Republican Party that he would abandon the island regime that has been our longtime friend, trading partner and military ally. But a June 23 meeting with key Republicans, including Sen. Strom Thurmond, R-S.C., and Sen. Jesse Helms, R-N.C., has not calmed the fears of friends of Taiwan.

At that meeting National Security Adviser William Clark said that the administration is "not backing away" from the Republic of China and that the president will not accept a Taiwan arms cutoff. Unfortunately, National Security Council staffer Don Gregg (soon to be Vice President George Bush's foreign policy adviser) followed Clark with a strong, pro-Peking pitch. He claimed it would be a mistake to "downgrade" relations with the Red regime that President Carter recognized as the official Chinese government.

The Red Chinese have openly threatened to curtail relations if the United States continues to sell arms to Taiwan, a move they claim infringes on Peking's claim to "sovereignty" over the island. But my Taiwanese hosts reminded me that the Taiwan Relations Act of 1979 obliges the United States to provide the island with "defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain a sufficent self-defense capability."

The White House, to try again to demonstrate its support for Taiwan, said several months ago that it would send Congress a formal letter authorizing the Northrup Corporation to continue co-production in Taiwan of the F5E jet.

That promised letter has not as yet been sent. (In fact, some 40 senators are on record pressing the administration to give the green light to the F5E co-production.)

One can see, with all this jockeying back and forth, that Reagan is drifting and that his advisers are divided on the Taiwan arms issue between pro-Taiwan and pro-mainland factions.

It must be admitted that America should try to continue current relations with the mainland—but on our own terms. We should try to maintain trade and political relations at a level consistent with keeping the Red Chinese suspicious and fearful of the Soviet Union (and keeping Soviet troops tied down on the Red Chinese border).

But this policy should not be pursued at the expense of cutting off arms to loyal Taiwan—and the president must take a firm stand on this point.●

STATUS REPORT ON THE BUDGET

● Mr. DOMENICI. Mr. President, I hereby submit to the Senate a status report on the budget for fiscal year 1982 pursuant to section 311 of the Congressional Budget Act. This report takes account of the urgent supplemental appropriation for 1982, H.R. 6685.

The report follows:

REPORT TO THE PRESIDENT OF THE U.S. SENATE FROM THE COMMITTEE ON THE BUDGET—STATUS OF THE FISCAL YEAR 1982 CONGRESSIONAL BUDGET ADOPTED IN SENATE CONCURRENT RESOLUTION 92

REFLECTING COMPLETED ACTION AS OF JULY 23, 1982

[In millions of dollars]

	Budget authority	Outlays	Revenues
Second budget resolution level	$777,672	$734,100	$628,400
Current level	766,929	732,113	628,600
Amount remaining	10,743	1,987	200

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and which exceeds $10,743 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 92 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and which would result in outlays exceeding $1,987 million for fiscal year 1982, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 92 to be exceeded.

REVENUES

Any measure that would result in revenue loss exceeding $200 million for fiscal year 1982, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 92.●

EXPORT TRADING COMPANIES

● Mr. HEINZ. Mr. President, I bring to my colleagues' attention an article entitled "Trading Companies Needed Now for Textile Industry's Future Plan", written by the chairman of the First Union National Bank, Mr. Theodore B. Sumner, Jr.

Mr. Sumner discusses America's trade deficit and the potential of export trading companies in helping to eliminate that deficit. He asserts that export trading companies can be particularly useful to small to medium-sized firms that have been reluctant to export because of too many obstacles. Among the obstacles cited by the leaders of small firms are "the difficulty in obtaining financing, the lack of tax incentives, tariff and nontariff barriers, and insufficient advice and assistance from the Government". Mr. Sumner points out that export trading companies "would be a good start" in improving America's ability to export and reducing the trade deficit.

Indeed, by opening the door to the establishment of export trading companies, we can break down the barriers that we have erected over the years to the creation of meaningful institutions to help our firms export.

I ask that Mr. Sumner's article be printed in the RECORD.

The article follows:

TRADING COMPANIES NEEDED NOW FOR TEXTILE INDUSTRY'S FUTURE PLANS

Last month in this space, I said the United States could learn a valuable lesson from the textile industry. The lesson to which I referred was the technique with which our textile industry has negotiated trade quotas with Japan.

I believe we also could learn from some of our international trading partners who long ago discovered the importance of foreign trade to their Gross National Product (GNP).

Foreign trade is becoming increasingly important to all Americans, because sales of goods abroad has a major impact on our standard of living. It is essential that America establish as a national priority the development of expanded international markets. Every $1 billion in goods we export ensures the creation or continuation of about 27,000 domestic jobs and results in an eventual trickle down of up to $400 million in tax revenues to federal, state and local governments.

It is important to realize that the United States currently is less involved in world trade in proportion to our size than is any other developed country. This is partly because the vast size of the U.S. market historically satisfied the growth objectives of most domestic companies. We therefore had little need to export. That picture, however, is changing rapidly.

Despite the obvious importance of international trade to our economy, the growth is projected to drop from a two per cent rate in 1981 to a negative one per cent this year. Compare our negative growth to the projected world economic growth rate of 2.4 per cent, and the importance of encouraging U.S. companies to trade abroad becomes more apparent.

The need becomes even more critical in light of anticipated performance by America's best trading partners, especially Japan, whose economy is expected to grow at an impressive 4.25 per cent this year.

Thanks to the export of services such as hamburger and fried chicken franchises, our economy managed to produce a favorable balance of trade in both 1980 and 1981. The services portion of our export economy topped $40 billion last year.

Our balance of trade with individual countries was not so impressive. Our purchases exceeded sales to Japan ($16.2 billion), Nigeria ($8 billion), Saudi Arabia ($7.3 billion), and Canada ($6.9 billion).

The time has come for our government to take a more active role in encouraging companies to export. Currently, only 7.5 per cent of our GNP is composed of exported goods and services. By comparison, exports comprise almost one fourth of the GNP for both Great Britain and Italy, 17 percent of Japan's GNP.

Our relatively low level of world trade in comparison to our size indicates a lack of interest among domestic companies in trading beyond our shores. Part of that lack of interest is based on our historical reliance on domestic markets. But underlying that historical reason is the common complaint of many small-to-medium sized businesses.

The leadership of small companies responding to a recent survey believes there are too many obstacles to their establishing foreign markets. Among the most frequently mentioned obstacles are the difficulty of obtaining financing, the lack of tax incentives, tariff and non-tariff barriers and insufficient advice and assistance from the government.

The trading process can be rather intimidating to those who are unfamiliar with it.

There is some good news in the near future for companies such as those who expressed sympathy with the comments above, yet still are interested in pursuing foreign markets. The good news comes in the form of pending legislation which would allow the establishment of export trading companies (ETCs) similar to those in Japan. Small-and-medium sized businesses could join together to form an ETC and share the expenses and problems of foreign trade.

The legislation also would exempt participating companies from the antitrust laws.

That would be a good start, but only a start. We must work harder to encourage a change of attitude on the part of our government leaders and the nation's business leaders. We must accept the challenge of improving our ability and desire to compete in the world market if we are going to succeed in reducing our balance of trade deficits.●

BOISE CASCADE

● Mr. DURENBERGER. Mr. President, I want to take a moment to pay tribute—along with the residents of International Falls—to Boise Cascade. The remarkable achievements of this company in promoting employment and job opportunities for the people of northeastern Minnesota deserve our loudest applause and appreciation.

Apparently, the folks in International Falls feel the same way. The people of International Falls are gathering tonight to thank Boise Cascade.

It is not often that I hear about a community and the employees of a company getting together to just say,

Thanks for being here. . . . thanks for choosing our town to build your company and expand your operations. . . . thanks for taking such good care of our people.

Those actions speak louder than any words that I could add to what the

people in International Falls already feel.

Boise Cascade, in the relatively short 17-year period it has been in Minnesota, has made a tremendous positive impact on the economy of northeastern Minnesota. Boise Cascade provides over 1,500 jobs, making it the largest employer in this part of the State. Its payroll of over $39 million annually, plus over $17 million more in employee benefits, shows the impact of direct manufacturing jobs. That is not where the payroll ends, however. Boise Cascade payed out over $17 million last year to independent logging and trucking contractors who supplied harvesting and trucking services and other wood cost for International Falls.

Throughout the years, Boise Cascade has been a wise manager of our State's natural resources. Just since 1975, Boise Cascade has spent $51 million on equipment to keep our air and water clean for us today and for our children tomorrow.

Boise Cascade has built a reputation for its admirable corporate contributions program which has done everything from purchase band uniforms for the high school to starting a family counseling program.

Being a good neighbor and a good friend to the community is what makes for a successful and well respected company. Taking on community responsibilities and taking an active part in the day to day life of International Falls residents is what Boise Cascade is all about.

As a national leader in forest products, as a good community neighbor * * *. Boise Cascade is the kind of company that makes Minnesota a great place to live and work.

HOW PURE MUST ONE BE?

● Mr. JOHNSTON. Mr. President, according to the Congressional Quarterly ("Interest Groups Rate Members of Congress," July 3, 1982) there are more than 70 special interest groups which now conduct voting surveys of Members of Congress.

And as CQ points out: "While ratings often are used as a political shorthand to depict politicians as 'liberal' or 'pro-business' or 'pro-environment,' what they actually show is a good deal more limited. They measure how often a lawmaker voted the way the interest groups wanted on an imperfect, subjectively selected sample of votes."

For the most part, these voting indexes are not really designed to inform the public about the overall voting record or the politics of Members of Congress. Instead, they are used by the special interest pressure groups to promote their own narrow political views and objectives.

What is most unfortunate about this practice is that the ratings are often taken at face value by the media and the public.

This was not the case, however, when an organization called Conservatives Against Liberal Legislation sent its "report card" to the Times, of Shreveport, La.

Rather than simply passing the information along to its readers, as is the practice with so many other newspapers and wire services, the Times made an effort to put the organization and its voting survey in perspective through an editorial entitled "How Pure Must One Be?"

I commend the Times for its enlightened position on the subject of special interest voting surveys and ask that the editorial of July 26, 1982, be printed in the RECORD.

The editorial follows.

HOW PURE MUST ONE BE?

One wonders, these days, just how conservative a Member of Congress has to be to qualify as a True Conservative with some groups. Several organizations now "rate" representatives and senators according to their conservative or liberal stances. The groups record votes on specific issues, and issue "report cards."

One of them, an outfit called Conservatives Against Liberal Legislation, issued its report card the other day. Louisianians reading it may be surprised to discover that they don't any have True Conservatives in the state delegation—none that made an A, anyhow, which is strange in a delegation that's obviously one of the most conservative in Congress.

It may come as no surprise that Reps. Gillis Long and Lindy Boggs scored F with this particular school-marmish group, but how about an F for Sen. J. Bennett Johnston—author of anti-busing legislation, pusher of oil decontrol and a lot of other conservative things? Sen. Russell Long didn't fare much better, with a D. Neither did Reps. Billy Tauzin and John Breaux, with C. Even Rep. Robert Livingston, a conservative Republican, got only a C–. The only delegation members to score above that were Reps. Buddy Roemer and Jerry Huckaby, with B–, and the highest-ranked from Louisiana, Rep. Henson Moore, with a B.

To score higher than any member of the Louisiana delegation and win even an A–with this particular group, a representative or senator had to vote "right" on at least 90 percent of the 20 issues monitored by Conservatives Against Liberal Legislation. And what were some of those issues?

Well, they don't describe their issues in full, preferring instead to tell you something like "funding for Legal Services Corporation," which provides legal services to people who couldn't afford it otherwise. The CALL group, though, sees LSC as "government funding of liberal causes." Every one of Louisiana's congressmen voted against cutting LSC funds, which in CALL's view apparently makes them all pinko suspects. There were also such landmark issues as aid to Zimbabwe and anti-communist forces in Angola.

All of which leads us to the conclusion that we really don't care a whit for the "ratings" or "report cards" issued by this group is so narrow that it really doesn't provide a true picture of most congressmen's philosophies. Frankly, given the strictures of a report such as CALL's, we'd be a bit suspicious of anyone who scored an A.●

A MAINE AIRLINE'S SUCCESS STORY

● Mr. COHEN. Mr. President, at a time when economic hardship is permeating the airline industry, a Maine-based commuter airline is experiencing growth and expansion. For Bar Harbor Airlines—which now ranks ninth among the country's commuter carriers—the fight for survival and success has not been easy. In 1978, the family owned airline experienced a tragic setback when its founder and president, Thomas Caruso, his son Gary, and two pilots were killed in a plane crash. The business was salvaged by Caruso's widow, Barbara, and was taken over by his son Allyn, under whose hand it has grown far beyond the expectations for a commuter airline in a rural State.

Today Bar Harbor Airlines flies to 14 Northeast cities, including Boston and New York City, and has plans to serve an even wider public with larger aircraft in the future. Mr. President, an article in the Portland Press Herald tells the inspirational story of this airline's turbulent route to success, and how a Maine family has turned what began as a one-passenger seaplane in a resort town into a multimillion-dollar operation. I ask that it be printed in the RECORD.

The article follows:

[From the Portland, Maine, Press Herald, July 16, 1982]

BAR HARBOR LINE REVELING IN ITS MAINE IMAGE

BANGOR.—When fast-growing Bar Harbor Airlines began serving cities like Albany, N.Y., and Hartford, Conn., some people thought it was time for the company to change its name.

The name was appropriate enough in the early days when the airline's only route was between Bangor and Bar Harbor, a 30-mile flight that took 12 minutes. And it's true that Bar Harbor traces its history to the famous resort town, where its founders took turns piloting a one-passenger seaplane on sightseeing runs for the tourists.

But by the time Bar Harbor Airlines began serving 14 cities in the Northeast with a fleet of 17 planes, there were some critics who thought the name seemed quaintly provincial.

"We got all sorts of complaints," airline President Allyn J. Caruso recalls with a chuckle. "But I think we've gotten over that. People no longer associate it with the place. Now it's like the Santa Fe (Railroad)."

In fact, Caruso and others at Bar Harbor delight in both the name and the company's Maine origins and image. Airline advertising has been known to feature lobstermen in slickers and the seat pockets on its planes are crammed with Maine periodicals. It's planning a promotion in which each passenger would be given a complimentary bag of Maine potatoes.

The passengers seem to enjoy it just as much. "When we talk to people about Bar

Harbor, they say, 'it's not Bar Harbor, it's Bah Hahbah.' They even put on the Maine accent," said sales manager Gary Linscott.

Bar Harbor now ranks No. 9 in the nation among commuter carriers following a period of phenomenal growth that dates back to 1978, a year that brought both tragedy and opportunity to the privately owned company.

That May, Bar Harbor founder and president Thomas Caruso, his son Gary, and two of the airline's most experienced pilots perished when their twin-engine Beechcraft 402 crashed in flames during a rainstorm near Bar Harbor.

"That was a big blow, a very big blow. It was like starting all over again," recalled Caruso. Thomas Caruso's widow, Barbara, ran the company that summer until her son took over later that year.

Allyn Caruso's return to the airline from his father's general aviation business in Portland coincided with one of the biggest changes ever to hit the industry—deregulation. As trunk carriers took advantage of their new freedom to abandon shorter and less profitable routes, the smaller commuter lines had to decide whether to move in to fill the void.

In Bar Harbor's case, the decision came in 1979 when Delta served notice that it was pulling out of Presque Isle and Caruso elected to take over service there. Within four months, the company found larger planes, trained new crews and mechanics, and met the stiffer regulatory requirements governing larger airlines.

"We doubled the size of the company that year," Caruso recalled. "But it changed the whole philosophy of our business," subjecting the airline to the same type of federal reporting requirements as those governing the major trunk carriers, he said.

"Deregulation was really deregulation for the major airlines. It was regulation for the smaller ones," he said. "We didn't have any regulation prior to 1978."

In taking over service to Presque Isle, Bar Harbor acquired larger planes—the 40-passenger Convair 600 and the 25-passenger CASA C212—that made it easier to move into other cities when the opportunities arose.

When Delta pulled out of Manchester, N.H., and western Massachusetts, Bar Harbor moved in. Those markets, oriented toward business travel, were viewed as year-round ones that could help offset its highly seasonal business in Maine.

The airline has always been a seasonal business. Its peak traffic comes in the summer months, and Caruso has been looking for ways to build up volume during the winter.

That's why Bar Harbor was hit so hard last summer when the nation's air controllers went on strike. "It took our third quarter, our biggest profit quarter, and wiped it right out," said Caruso, citing the strike as a reason his company, like most commuter airlines, lost money in 1981.

The lingering effects of the strike are still hurting Bar Harbor. Until early this summer, the airline had been unable to regain all its "slots" for flights in and out of Logan Airport in Boston and LaGuardia in New York.

Depite that problem, Caruso says traffic is up nearly 24 percent, and he expects 1982 to be "a very good year," with total passenger boardings projected at more than 266,000. By contrast, the figure for 1978—before the impact of deregulation—was 111,453.

One cause for optimism, Caruso said, is Bar Harbor's new joint arrangement with Eastern. In the past, Bar Harbor's timetable had been keyed to Delta's. But the commuter line recently signed a 10-year agreement with Eastern, which agreed to handle Bar Harbor's reservations. Bar Harbor says the change has already boosted its feeder traffic to the popular Eastern shuttle to New York.

Looking toward the future, Caruso wants to continue to equip Bar Harbor with larger planes. The 15-seat Beech 99s, once the workhorse of the fleet, are being replaced by the Convairs and the Spanish-built CASAs, which offer amenities not found on the smaller aircraft.

He also foresees a return to Canadian markets, with an eye toward the Maritimes. Bar Harbor had served Quebec City and Sherbrooke during the '70s, but those routes proved to be too seasonal and were eventualy abandoned.

Despite his company's success, Caruso, 32, seems a bit wistful about the airline's early days, when it was a far smaller and less complex operation. A pilot who soloed for the first time at age 16, he flew commercial three years later, making him the youngest pilot in New England to acquire a commercial rating.

Those were the days when the family's tiny airport outside Bar Harbor was more widely known for his grandmother's pizza at the snack bar and weekly dances in the empty hangars than for its aviation-related enterprises.

"Wednesday nights, they took all the airplanes out. My mother played the trumpet, my father played the sax and clarinet. My uncle was the bouncer and my aunt sold tickets," he recalled.

"They made more money on the dances than they did in the aviation business."

Today, however, the demands of running a multimillion-dollar business with 350 employees and operations in five states leaves no time for running dances or even piloting any of the Bar Harbor flights.

"I don't fly commercial anymore because I don't have time to stay current," he said.●

IMPORTED STEEL NEGOTIATIONS

● Mr. BOSCHWITZ. Mr. President, heavily subsidized foreign steel imports have received prominent national and international attention recently. Yesterday, a number of my colleagues addressed the Senate concerning the current negotiations between the European Community and the administration. Today, I wish to add my voice and my commitment to obtaining a fair and meaningful result from the negotiations.

Mr. President, I believe that many people have the misconception that only Japan subsidizes its exports to the United States. This misconception should be easily dispelled by the recent experience of the steel industry. In 1981, 6.48 million tons of steel were imported from the European Community, representing 32.6 percent of all imports. In the same year, 6.22 million tons were imported from Japan, 31.3 percent of imports. For the first 5 months of 1982, 2.43 million tons of European Community steel have been imported and 2.63 million tons of Japanese steel have been imported. Clearly, subsidized European Community steel imports are a major threat to our domestic industry.

Last January, the steel industry filed petitions with the Department of Commerce and the International Trade Commission seeking relief from dumped and subsidized products imported from 10 countries. In February, the International Trade Commission issued a preliminary ruling that unfair trade practices by these countries had injured domestic steelmakers. On June 10, the Commerce Department made its preliminary determinations finding substantial subsidies on many steel products by most of the European Community countries—its preliminary determinations on dumping duties will be made on August 9. On August 24, the Commerce Department will issue its final determinations on the countervailing duties.

This time-consuming and expensive process has all been conducted within the framework of our trade laws and international agreements. The decision by the Department of Commerce and the efforts of the administration have thus far representated the appropriate—and necessary—enforcement of those laws and agreements. Yet even as the petitions wind their way through the process, the European Community has been trying to avoid the duties imposed for violating these laws and agreements.

Last weekend, the negotiating deadline for settling these cases without U.S. industry approval expired—without reaching a settlement. The administration rightly rejected the European Community offer to limit its steel shipments to the United States to 90 percent of their 1981 levels. Given the fact that European Community exports to the United States increased 67 percent between 1980 and 1981—from 3.89 million tons to 6.48 million tons—such an offer is clearly unacceptable. Indeed, the offer itself is tantamount to an admission that the European Community is unfairly exploiting an open American market.

Mr. President, the international steel market has changed substantially since 1948, when the United States produced 45 percent of the world's steel. A changing international market does not warrant the violation of, and disregard for, trade laws and international agreements. Nor does it warrant accepting a series of bilateral settlements favorable to the Europeans and unfavorable to our domestic industry, over its objections.

On the contrary, the current state of our domestic steel industry requires firm commitment and resolve to the vigorous enforcement of our trade laws and agreements, Over 115,000 steelworkers are currently laid off, plants are operating at only 40 percent of capacity, and record losses have been and will be reported in the

second quarter and first half of this year, while market penetration by steel imports is now nearly 40 percent.

Mr. President, it is the responsibility of America's officials, both the Congress and the administration, to maintain the resolve and continue the commitment to strict adherence to international rules and agreements. Such a commitment is not "protectionism"—it simply requires the European Community to live up to their part of the agreement. I urge the administration and my colleagues to maintain this commitment in the days and months ahead. Our steel industry has been injured by the European Community's unfair trade practices. This fact must be the driving force in any further negotiations with the European Community. I believe we must pursue the course that most benefits our domestic steel industry—carrying the current cases to their conclusion or reaching an equitable and fair settlement that meets the requirements of our laws and the needs of the industry.●

LET'S DO SOMETHING ABOUT IT

● Mr. GOLDWATER. Mr. President, one of the basic human instincts is the need to communicate with one another. No matter what age, profession, background or training, we all have the need to have the other person understand our hopes and fears, our likes and dislikes and our wants and needs. No matter what profession or training we may have selected for a career, one of the prime requisites for success is the ability to express our thoughts in clear, concise language. What good would it do if the brightest engineer in the world could not adequately express the results of his research? Another important factor in the art of effective communicating is timing. As an example, if we were here on the Senate floor deeply engrossed in the military budget, how long would we stay around if one of our colleagues suddenly began talking about farm policy?

These and other facets of communicating were outlined in a recent speech by Jack R. Hunt, who is president of Embry-Riddle Aeronautical University. While this speech was prepared for an aviation safely seminar, the basic principles which he outlines are applicable to just about any trade or profession that I can think of.

Mr. President, I ask that this speech appear in the RECORD in order that all of us can benefit from the principles that are contained in Jack Hunt's speech.

The speech follows:

"LET'S DO SOMETHING ABOUT IT"

(Speech by Jack R. Hunt)

Good afternoon, it is a pleasure to be here with you.

(At this point, "accidentally," drop a half dozen sheets of paper, nervously pick them up, while saying)

Communication has, really, only one basic requisite—a sine qua non—everyone must want to communicate.

(Return to lectern, stack the sheets neatly, and say)

Please excuse my clumsiness, I just wanted you to understand the basic premise of communication if we are going to do something about it.

(Tear sheets and throw them away)

You came here, today, to hear me speak. Most of you were not prepared to see me speak.

If any of you did not hear what I said while you were watching me pick up the papers, I'll repeat it. For those of you who did hear what I said, please bear with me—repetition can be reinforcing.

I said, "Communication has, really, only one basic requisite—a sine qua non—everyone must want to communicate."

Since we are here to discuss Communicating for Safety, we are primarily talking about a situation or occurrence, of a serious nature, developing suddenly and unexpectedly, and demanding immediate action. Ladies and Gentlemen, that can be stated in one word, which according to the dictionary, is Emergency.

The first thing we look for in an accident is what went wrong. It is deemed axiomatic that safe operations are a result of abiding by rules, regulations, guidelines and using approved communication procedures. An accident is an exception!

We could get into a rather technical discussion about communication, which would include identifying most of the important means of communicating we take for granted because when we use them properly, there is no emergency. I'm talking about such commonplace things as colored lights, buzzers, runway striping, taxi lights verbal and non-verbal communication, pictures and many more.

So, let's talk briefly about something we all do and believe we understand. I spend more time in the passenger section than in the cockpit of an airplane and most of us spend more time driving a car than piloting an airplane—so, let's talk about cars.

Most of us have forgotten how complicated a car really is. We have learned the four basic communicative skills sufficiently to at least get a driver's license.

A car is so commonplace in our lives that we take virtually everything about it for granted. Imagine how helpless an aborigine would be if he were thrust into the driver's seat, or try to remember how meaningless everything was before you decided to learn to drive.

Think back to the four communicative skills you learned to use:

SCAN

You needed to know where everything was Ignition, starter, instruments, controls, etc., and you learned to scan them as needed.

MANIPULATION

You found it necessary to operate various controls in order to make the system work and you needed to know how to manipulate them to make the car go.

OPERATIONAL CONTROL

You were able to scan and manipulate the controls in order to get the car to your desired destination with reasonable safety. You began to be able to cope with unexpected exceptions such as a stop sign, slippery roads, a child chasing a ball, or other limited emergencies. You gained operational control of your car.

By now you felt you had it all together. You gradually became more confident in your ability to drive a car. Now you were ready for—

CONVERSATION

Your confidence level rose to the point that you felt comfortable, perhaps smugly capable, of handling just about anything that would happen. You no doubt survived some hairy moments and probably some exhilarating close calls. Now, you were able to redirect your concentration from the fundamentals. You were in control—you were ready to carry on a conversation. Unlike the pilot, your conversation was limited almost exclusively to others in the car with you—with the possible exception, of course, of a few expletives shouted at an errant soul who failed to communicate accurately his intentions.

Because instructors and you communicated, you can go where you want to when you want to. But have you been communicating for safety? My guess is—not really!

In our research into communicating for safety in the cockpit or car, we have made an important discovery. In fact what we have discovered was so obvious that all of us were oblivious to it—and it is true in your car as well as the cockpit.

Those basic four communication skills we acquired, independently, have become so dependent upon each other that they are no longer independent. Those basic communicative skills—Scan, Manipulation, Operational Control and Conversation become inseparable in an Emergency!

Both in analyzing accidents and conducting experiments, we found that until an individual has received repetitive training in every known emergency evolution and unless he frequently reviews the proper evolutions in a simulated environment, all four skills will abandon him at once. That's what happens when we say he came "unglued."

"That's a bunch of technical gobbledy gook," you say. Have you ever seen an amateur juggler juggling four balls? He does pretty well, he has the four balls going round and round—then he's thrown another ball. An "emergency!" What happens? He drops all the balls!

Have you heard the country western song about the truck driver who dropped his cigar in the cab? Have you ever been in a car with someone who dropped a lighted match—or whose baby just fell on the floor? Emergency, panicsville! Forget the steering wheel, don't worry about the controls, who cares about the instruments? Grab the kid—or put out the match. Emergency!

Believe it, or not, the same thing happens outside the car and outside the cockpit. It can happen in the passenger compartment—and sometimes does.

We need guidelines and rules—to cope with emergency situations. Some guidelines don't seem important enough to follow. How many of you have suffered because you failed to heed any of these simple guidelines?

Never play cards with a man called, "Doc."

Never eat at a place called, "Mom's."

Never seek sympathy from someone whose troubles are worse than your own.

Perhaps those aren't really pertinent to our topic today. But how about giving a little thought to these:

Pilots have an unsurpassed view of the scenery—but, there is always the possibility that it may collide with them.

A good scare is worth more to a man than good advice.

It's not the things you don't know that get you into trouble. It's the things you think you know for sure.

The airlines and educational institutions are becoming more aware of the challenges we face with communications in the cockpit and cabin. We are trying to do something about it.

"So what," you say. "How does that affect me? You people can take care of that in training." You're partially correct. We could take care of most of it if we learn from you and this conference, and then do something about it, but we need your help. You need to give us more feedback. You can identify problem areas, communicate them to us, and together we can communicate for safety.

Also, for your own safety, you can take a good hard look at your personal situation. Look around you, at home, on the job, in the car. Talk with others about possible emergency situations. Discuss them, walk through emergency procedures and stay alert.

Up until now, I have been taking advantage of the aura of Academe while wearing the academician's mantle. I have asked you for your cooperation. The ball is in your court—identify specific safety concerns, bring them to our attention and we will work with you to design safety training programs.

Now, let me lay aside the Academic mantle and share with you my Airline Passenger Pet Peeve—the so called "Emergency Procedures Briefing."

Thoreau once said, "You do not get a man's most effective criticism until you provoke him. Severe truth is expressed with some bitterness."

That is a masterpiece of understatement.

You are just before getting my most effective criticism. Don't misunderstand. I ain't mad at nobody. I'm mad at the system and unhappy with the situation. Right now, my pet peeve is the after boarding, pre-flight passenger briefing. We certainly are not Communicating for Safety as it is presently conducted.

There is a story about the motorist who was lost on a back road in Alabama. He asked a farmer, who was sitting on a fence, "How do I get to Montgomery?" The farmer looked down the road, scratched his head and gave explicit directions. Half an hour later, after following the farmer's directions carefully, he found himself back where the farmer was still sitting on the fence. "Hey, what's the idea?" demanded the motorist. "I did what you told me and look where I wound up." Well, young fellow, the farmer explained, "I didn't aim to waste my time telling you how to get to Montgomery till I found out if you could follow simple directions."

Why don't the Flight Attendants just give simple directions?

How about, "Please fasten you seat belts, put your seat backs forward, your tray tables in the locked position and refrain from smoking?"

Yes, of course, I know that the Friendly Aviation Administration requires certain messages. We all know about Federal Aviation Regulations, in fact, we hide behind them, sometimes, even though we don't always agree with them. Right now. I'm suggesting we begin to do something about a Regulation that is archaic and counter-productive to safety.

Let's examine what I mean by saying the present system is counter-productive to safety. Remember my opening remark, communication has, really, only one basic requisite—a sine qua non—everyone must want to communicate.

Most of you have forgotten your first flight and have overcome any qualms you might have had. But there are a lot of people out there who are just flat out afraid to fly. They want to be assured—not scared to death! They are confused enough by simple things like finding their seat, getting settled and adjusting to strange surroundings. They don't want to hear about crashing, they don't understand what's being said, so they just "tune out." They do not want to communicate!

What about the seasoned traveler? He's heard all that garbage before—except, he hasn't really listened. He won't read the information on the card. He might look at the Flight Attendant playing "catch up" with the seat belt, oxygen mask and life vest "pantomime." But he doesn't really want to communicate!

Some DC-10's are presently configured with closed circuit TV for emergency procedure briefings. The cassette presentation is done professionally and is very thorough. The use of emergency equipment is shown in complete detail. Passengers are shown with oxygen masks on, life vests are worn much as a model wearing the latest styles at a fashion show. The audio is calm and clear. It is an excellent example of not Communicating for safety—the problem is that it is shown during all of the hustle and bustle just before takeoff rather than the calm—do nothing—period while the Flight Attendants are seated during climb out.

Remember your emotional reaction when I dropped the papers earlier? Were you embarrassed for me? Were you disgusted at such clumsiness? Were you curious? Whatever it was, it was counter-productive to our communication—at least till things got sorted out. You weren't ready to communicate.

How many times have you seen the Flight Attendant desperately looking for a mask, fumbling for a life jacket or looking for the emergency card? Were you watching the attendant or listening to the announcement?

I submit that most passengers do not "want to communicate" during that hectic period before takeoff. We may be satisfying the FAA, the Public Relations people may be happy because we are satisfying the regs without unduly alarming the passengers but, Ladies and Gentlemen, we are not communicating for Safety.

Let me share a possible scenario with you. Take a good hard look at it, build on it, change it, pick it apart, or throw it away and suggest something else. But, at least think about it and do something about it.

Scenario: The passengers board the airplane, Flight Attendants assist individuals who need assistance; monitor proper carry-on luggage on an as needed, individual basis; observe that seat belts are fastened and seat backs are as required. The only safety announcement made by the Flight Attendant is "Ladies and Gentlemen, please fasten your seat belts, bring your seat back forward, place your tray tables in the locked position and refrain from smoking. Thank you."

After takeoff, during climb out, when some passengers have begun to breathe normally again, the appropriate announcement about oxygen masks is made. They won't pop out automatically until the airplane gets to a higher altitude, anyway.

You have noticed that this scenario does not mention emergency exits or life jackets. Would it serve a purpose? Or, should "emergency" announcements be made only in case of an impending emergency?

Of course, some people will ask, "What if you crash on takeoff?" My response, which may not be acceptable to some, is that the passengers weren't paying attention anyway, and that passengers with experience will lead the way to exits. I would say further that the exits are clearly marked just as they are in theaters, hotels, restaurants and other buildings. You probably have noticed that no one makes an announcement about exits when you go to a show or to dinner.

Experience has shown that motivation makes communication more effective. If you are lost, you will listen to directions. If you're scared, you'll welcome comforting guidance. If there is an impending emergency, you'll pay close attention to a Flight Attendant who has been thoroughly trained to keep calm, assess the situation, take charge and lead the way.

Well, if you agree, Let's do Something About it.

What can we do? Just two simple things, to start with:

● Let's communicate what we need to develop as emergency procedures in the cockpit and the cabin so that we can design effective emergency procedure training programs and implement them.

● Let's use this Seminar to establish a task force with representatives from airlines, passengers, u... s, and the FAA to analyze existing regulations and recommend changes as appropriate.

You have probably heard about the old Mountaineer who, after being examined by the doctor, was given instructions as to what he should do. Just as he was about to leave, the doctor said, "Look here, you forgot to pay me." "What for?" asked the old fellow. "For my professional advice," replied the doctor. "Don't owe you nothing," said the Mountaineer on his way out, "cause I ain't gonna take it."

You also know about the friend of Lincoln's who asked Abe to endorse a machine he had just invented. Not wishing to endorse it, nor to disappoint his friend, Lincoln said, "For the sort of people who want this sort of thing, this is the sort of thing that that sort of people will want."

If you accept my advice, you can pay me by really doing something about it. If you "ain't gonna accept it," please at least give it a qualified endorsement. In either case, in order to Communicate for Safety, here is my disclaimer.

I know you believe you understand what you think I said, but I am not sure you realize that what you heard is not what I meant.

Thank you—and Let's do Something About it.●

MORMON PIONEER DAY

● Mr. SYMMS. Mr. President, I would like to urge my fellow colleagues to share in the celebration of the 135th anniversary of the Mormon pioneers' arrival in the Great Salt Lake Valley.

The Mormon pioneer story is a story of heroism, hardships, struggle, and tragedy. The Mormon pioneers were forced in the middle of the winter to leave their homes, businesses, and all else they could not pack in a wagon or carry on their shoulders.

Their destination was unknown, though the Mormons knew that God would direct them to a place where they could settle with a sense of permanency.

Journal entry after journal entry expressed the sorrow at the death of family members and other hardships encountered on their journey from Nauvoo, Ill., to the Great Salt Lake Valley. Many entries also told the story of a determined, positive attitude by God-fearing pioneers who would never give up, even under hard times.

A story is told when one evening, as a group of Mormon pioneers were to settle down for the night, a faint voice could be heard echoing throughout the camp. A man was singing a song that he had adapted to an old English tune. As they quietly listened they heard the words:

Come Come ye Saints, no toil nor labor fear. But with joy wend your way. Though hard to you this journey may appear,

Grace shall be as your day. Tis better far for us to strive,

Our useless cares from us to drive. Do this and joy your hearts will swell—All is well, All is well.

All might not have been well for the pioneers as they made their way across the Plains, but the song's word of encouragement was carried with them.

After months on the trail, they entered the Great Salt Lake Valley where Brigham Young, the Mormon prophet, proclaimed to his people that this was the place where they were to settle. The valley was a desolate desert, but the hard-working Mormons changed the desert into a green western oasis.

Soon, a total of 500 settlements were established from Mexico to Canada. In fact, the oldest town in Idaho, Franklin, was settled by the Mormons, as were Inkom, Rexberg, and many other cities and towns in my State.

The pioneers who settled the region of Idaho and Utah in search of religious freedom displayed an independent spirit, a strong belief in God, their families, and country. It was this determination that led them through the hardest of times.

One of the most inspiring aspects of the Mormon faith is the emphasis on individual initiative. The unique blend of cooperation, belief in God, and the striving for excellence is the very essence of the pioneer spirit.

Today that same pioneer spirit still exists in the Church of Jesus Christ of Latter-Day Saints. The aim of the Mormon Church is to help people help themselves. Work is enthroned as a ruling principle in the lives of the Mormon Church membership.

Too many people in our country today have developed the attitude that government is obligated to care and provide for them. In many ways government has fostered this view, but the members of the Church of Jesus Christ of Latter-Day Saints have a different view.

First, the Mormons believe that each individual should value his independence, and labor to maintain it by being self-sustaining. Next, is the Mormon belief that the responsibility for sustaining an individual rests upon the family—parents for their children, and children for their parents. Only when the individual has done all that he can do to maintain himself, and the members of his family have done what they can to assist him, then the church, through its own welfare plan, stands ready to see that its members receive the help they need.

The Mormon Church has its own welfare program. Last year LDS lawyers, businessmen, teachers, farmers, and housewives worked together and donated over 4 million hours of voluntary services. They worked on welfare farms, in Deseret Industries' stores, and canning facilities to store food and basic supplies to help those who need them.

An example of the use of the program was well expressed during the Teton Dam disaster. Within a few hours after the announcement of the tragedy, several large semitrucks were on their way from Salt Lake City to Rexberg full of food, clothes, and other necessities.

Ricks College, a Mormon-operated school, opened its doors to people as place of refuge until they could find other places to stay.

Busloads of people came from Utah, Wyoming, and Idaho donating thousands of hours toward cleaning and rebuilding the flooded area.

Recently when cyclone Isaac, a 172-mile-per-hour wind, hit the country of Tonga, destroying everything in its path, the Mormon Church shipped from Salt Lake City or purchased from other areas of the world tons of flour, sugar, canned fish and two or three changes of clothes for over 4,000 Tongan people. Even building supplies equivalent to 370 homes were shipped to supplement materials salvaged from damaged homes.

Additional assistance came from church members who came to Tonga from Samoa, Hawaii, and the Fiji Islands to help in the cleanup.

The Mormon welfare system was designed to assist the ill, injured, the incapacitated, and those who had been in a disaster, and to rehabilitate them to a productive life. The welfare system offers basic necessities to people in need until they can get back on their feet and become once again self-sustaining.

Due to the success of the Mormon Church's welfare program and the principle of self-reliance, Utah, which is predominantly a Mormon State, has 50 percent fewer people on welfare than the national average.

Another LDS organization which exemplifies the pioneer spirit is the Woman's Relief Society. This year the organization celebrated its 140th birthday, making it the oldest woman's organization in the world. The goal of the society is to help each woman grow spiritually, intellectually, socially, and culturally, and to assist women in reaching their highest potential in life.

The Mormons also believe in the importance of the family unit. A former leader of the Mormon religion, David O. McKay, said, "No other success can compensate for failure in the home."

The Mormon Church places great emphasis on building family unity. In a day when families seem to be breaking apart, Mormons stress the importance of building family unity and have established a program to do so. This family home evening program provides the opportunity to bring families together on a specific night and under optimal conditions for parents to teach and strengthen their children.

Mormon family home evenings consist of activities such as family games, culture events, family service projects, sharing talents with family members, and family council meetings.

I feel that when a program helps bring about an atmosphere where family members learn to listen, respect the opinions and feelings of others, and offer honest communication, as this program does, the final product is likely to be a successful family. Such practices seem to produce great happiness and love in LDS homes.

Brigham Young often said, "The way to achieve success as a person, as a family, as a community, and as a nation is to work hard, plan well, and trust in God." That formula, a major factor in the success of the Latter-Day Saints who crossed the Plains, continues in LDS Church members today.

The Mormons have made and continue to make invaluable contributions wherever they are found. I praise their achievement and their dedication to the traditional American values of morality and family life, and to the principles held by the Founding Fathers of this great Nation.●

THREE MILE ISLAND

● Mr. HEINZ. Mr. President, I am very pleased today that we are one step closer to cleaning up the damaged reactor at Three Mile Island.

Today, the members of the Environment and Public Works Committee, reported my legislation S. 1606, providing for the contribution of the nuclear industry. With today's 10 to 6 vote, and the favorable report from the Energy and Natural Resources Committee taken in March, the bill is now ready for the Senate calendar.

This issue is a tremendously complex and difficult question for my Senate colleagues. Some constituents have labeled this legislation and the entire cost-sharing plan as merely a bailout for GPU. The truth is, as members of both committees have determined, that the cost-sharing plan represented by my legislation will avoid leaving millions of consumers without electricity, the site remaining contaminated, and the Federal Government shouldering the entire cost.

My legislation, S. 1606, and the cost-sharing plan as a whole, avoids this outcome. My colleagues who have voted to report this bill from both the Energy and Natural Resources Committee and today from the Environmental and Public Works Committee, recognized this, and I extend my heartfelt thanks to each of them.

I hope that the House of Representatives will take action on a similar bill in the very near future. Without a positive sign from the other body, getting the bill from the Senate calendar to the Senate floor is very difficult. The Senate, with approximately 45 legislative days remaining, has over 200 bills on its calendar, most of which have either been passed by the House, or have had substantial committee action taken on them. Unfortunately, that is not the case with companion legislation to S. 1606. I hope that the House of Representatives when it looks at the positive action these Senate Committees have taken, they too will recognize the gravity of the need.●

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

TIME-LIMITATION AGREEMENT

Mr. STEVENS. Mr. President, I ask the indulgence of the Chair and my good friend from West Virginia to make sure this agreement is correct. It is a very complicated agreement dealing with the further consideration of Senate Joint Resolution 58.

I do ask unanimous consent that as the Senate considers Senate Joint Resolution 58 that it be considered under the following time agreement: That there be eight amendments considered to be offered by Senator LEAHY, 2 hours on the first amendment dealing with unemployment to be equally divided; 20 minutes on each of seven remaining amendments, if offered by Senator LEAHY, the time to be equally divided; two amendments, if offered by Senator FORD, 2 hours on an amendment of Senator FORD's dealing with a 2-year budget concept, the time to be equally divided; and 1 hour equally divided on Senator FORD's printed amendment No. 1934—1 hour on Senator FORD's amendment equally divided on his printed amendment numbered 1934; two amendments, if offered by Senator HART, on which there would be 6 hours with the time equally divided. As I understand it, it is to be allocated by Senator HART to either of his two amendments which deal with capital expenditures.

Mr. ROBERT C. BYRD. Either or both.

Mr. STEVENS. It is a total of 6 hours that he may use as he sees fit on two amendments, if offered by him.

One or two amendments to be offered by Senator HEFLIN, if he offers them, on which he would have 8 hours equally divided on each amendment, with a limit of two to be offered by Senator HEFLIN to deal with national defense emergencies—I amend that and make the Heflin time the same as the Hart time, 8 hours equally divided, which Senator HEFLIN can use for either one or two amendments dealing with national defense emergencies; seven amendments to be offered by Senator CRANSTON, if offered, as follows: Two hours on printed amendment No. 1945, which is a substitute constitutional amendment; 2 hours to strike the three-fifths requirements, that is printed amendment 1989; 1 hour on an amendment to strike section 2, which is printed amendment No. 1992; 1 hour on the amendment to permit an increase in recipients by majority vote; 1 hour on a national emergency amendment, which is printed amendment No. 1994; 1 hour on the clause pertaining to three-fifths present-and-voting requirement in the amendment; and 2 hours to require a budget statement, an amendment to require a budget statement, to include monetary policy.

That time for Senator CRANSTON is to be equally divided on each amendment.

Two hours on each of two Bumpers amendments dealing with the subject of the constitutional amendment, to be equally divided;

Three hours, equally divided, on an amendment, if offered, by Senator DODD, dealing with the pay-as-you-go substitute;

Six amendments to be offered, if offered, by Senator MOYNIHAN, which would be 1 hour each, equally divided, and those are printed amendments numbered 1979, 1980, 1927, 1928, 1929, and an unprinted amendment dealing with prior notice of unexpected expenditures;

Three hours, equally divided, on a Baucus-Mathias amendment dealing with the statutory rather than the constitutional amendment approach;

Four hours, equally divided between the majority and minority leaders or their designees, from which they may yield time to other Members;

On all remaining first-degree amendments, there be a time limit of 1 hour, equally divided;

All second-degree amendments will be limited to 30 minutes, equally divided; 20 minutes on any debatable motion, appeal, or point of order, if submitted to the Senate;

And provided that the final vote on the adoption of Senate Joint Resolution 58 occur not earlier than 12 o'clock noon on Tuesday, August 3, but no later than Wednesday, noon, on August 4;

And finally, I ask unanimous consent that paragraph 4 of rule XII be waived.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object.

Mr. STEVENS. Mr. President, I add to that unanimous-consent request 1 hour on an amendment, if offered, by Senator LEVIN on the national emergency provisions to the constitutional amendment; 4 hours total, equally divided, on two Gorton amendments dealing with judicial review under the constitutional amendment.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, the words "judicial review," they do not pertain to matters not germane to this resolution, do they?

Mr. STEVENS. They do not. Senator GORTON has discussed those amendments on the floor. They deal with the concept of the court's review of action taken by the Congress pursuant to the constitutional amendment, if ratified.

Mr. ROBERT C. BYRD. Further reserving the right to object, would the distinguished acting majority leader specify that any second-degree amendment be germane and that all remaining first-degree amendments that have not been specified therein be germane to the subject matter of this constitutional amendment?

Mr. STEVENS. I am pleased to have that addition and make that a part of our unanimous-consent request, that amendments in the first degree not specified must be germane and all second-degree amendments must be germane to the amendment to which they are offered.

Mr. President, it is my understanding, so that the distinguished minority leader will have a chance to comment, that as a result of this time agreement, if it is granted, all of the amendments that we have discussed would be germane to the constitutional amendment which is pending, Senate Joint Resolution 58.

Mr. ROBERT C. BYRD. Some of them would be germane by virtue of the specification of some of them. Otherwise, let us say, under cloture they would not.

Mr. STEVENS. But they all pertain to the balanced budget concept. They do not enter into any other constitutional amendment. We do not evisage any amendment not germane to the concept of the subject matter would be offered.

Mr. ROBERT C. BYRD. Yes. Further reserving the right to object.

Mr. STEVENS. Mr. President, Senator DIXON——

Mr. ROBERT C. BYRD. One amendment deals with national emergency and, of course, that would be germane to the concept, and one deals with line item veto. That would be germane to the concept.

Mr. STEVENS. Senator DIXON has two amendments. We ask that his amendment 1941 and an unprinted amendment that deals with the line item veto concept be allowed 1 hour equally divided. We think they would be entitled to that in any event under the first-degree amendment limitation. But just to be certain, we ask that his amendment be specifically listed with the time.

Mr. ROBERT C. BYRD. Mr. President, reserving the right to object, would the distinguished acting majority leader be in a position to assure that the votes on these amendments, on each of the amendments, would be up-or-down votes? May I say that I raised this question with the distinguished majority leader before he had to leave the floor. He said that personally he would have no objection to that, but inasmuch as Mr. THURMOND, the manager of the joint resolution, had left the floor, that he, Mr. BAKER, would not be in a position to give me a definite, affirmative answer to that question. I assume that the distinguished acting Republican leader would be in the same position at this point.

Mr. STEVENS. Mr. President, the distinguished minority leader is correct. We did discuss this subject with the majority leader. I would be similarly constrained.

I might state that it would be our intention to urge that there be up or down votes on these amendments in view of the fact that we have been able to obtain a time agreement and that it is the constitutional amendment process that we are dealing with. But without the concurrence of the distinguished chairman of the committee and Senator HATCH, who has been working on it, we would not be able to enter that into the unanimous-consent agreement at this time. It is our hope that Members of the Senate will agree that we have up or down votes on the amendments that have been qualified under this time agreement.

Mr. ROBERT C. BYRD. Mr. President, further reserving the right to object, I certainly cannot complain with the response that has been given to me by the acting Republican leader or by the majority leader before he left the floor. It is perfectly understandable that neither of them is in a position, under these circumstances, to give an affirmative answer.

I believe I understand, however, from the answer that has been given, that both the majority leader and the acting Republican leader would certainly do whatever they could within their power to see there will be up-or-down votes on each of the amendments. Is that a fair statement?

Mr. STEVENS. That is correct, Mr. President.

Mr. ROBERT C. BYRD. Mr. President, I do have one final condition. I would have to object if the vote on the substitute, the overall substitute by Mr. CRANSTON, is not an up-or-down vote. I would have to object to the time agreement. So, if we could enter into a time agreement with that one reservation, I would, therefore, have no objection. I would not expect a response until the acting Republican leader has had an opportunity to talk with Mr. THURMOND and Mr. BAKER.

Mr. STEVENS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. STEVENS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, I do ask unanimous consent that there be an order specifically entered that there be an up-or-down vote on the Cranston substitute. I do that on my own motion. I think, if I understand the circumstances, I shall take the responsibility for that myself.

Mr. ROBERT C. BYRD. Mr. President, I have no objection to the agreement.

The PRESIDING OFFICER. Is there further objection?

Without objection, it so ordered.

Mr. ROBERT C. BYRD. Mr. President, I understand that Mr. STENNIS wants 1 hour to speak on the resolution. I have 2 hours under my control. Would the distinguished Republican leader put the request, which I think is his responsibility and right to do, that of the 2 hours under my control, 1 hour would be under the control of Mr. STENNIS?

Mr. STEVENS. Mr. President, so that there be no problem, I ask unanimous consent that the time to be equally divided between the majority and minority leaders or their designees be increased to 6 hours equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That during the further consideration of S.J. Res. 58, proposing a Constitutional Amendment to provide for a balanced budget, that time on any germane first degree amendment be limited to one hour to be equally divided and controlled by the mover of such amendment and the manager of the joint resolution, and that time on any second degree amendment, which must be germane to the first degree amendment be limited to 30 minutes to be equally divided and controlled by the mover of such amendment and the manager of the joint resolution.

Provided, That on 8 amendments to be offered by Senator Leahy there be 2 hours equally divided on the 1st amendment dealing with unemployment and 20 minutes equally divided on each of the 7 remaining amendments.

Provided further, That on 2 amendments to be offered by Senator Ford there be 2 hours equally divided on an amendment dealing with a 2 year budget and 1 hour equally divided on amendment No. 1934.

Provided further, That on 2 amendments to be offered by Senator Hart dealing with capital expenditures, there be a total of 6 hours equally divided.

Provided further, That on 1 or 2 amendments to be offered by Senator Heflin dealing with national defense emergencies, there be a total of 8 hours equally divided.

Provided further, That on 7 amendments to be offered by Senator Cranston there be 2 hours equally divided on amendment No. 1945 with an up and down vote to occur on the amendment, 2 hours equally divided on amendment No. 1989 and an amendment to require the budget statement to include monetary policy, and 1 hour equally divided on amendments No. 1992, No. 1994, an amendment to permit an increase in recipients by majority vote, and an amendment to provide for ⅗ present and voting.

Provided further, That on 2 amendments to be offered by Senator Bumpers there be 2 hours on each equally divided.

Provided further, That on 1 amendment to be offered by Senator Dodd, a pay as you go substitute, there be three hours equally divided.

Provided further, That on a Baucus/Mathias amendment dealing with a statutory approach there be three hours equally divided.

Provided further, That on each of 6 amendments to be offered by Senator Moynihan, No. 1979, No. 1980, No. 1927, No. 1928, No. 1929, and an unprinted amendment dealing with prior notice there be 1 hour equally divided.

Provided further, That on 1 amendment to be offered by Senator Levin dealing with a national emergency there be 1 hour equally divided.

Provided further, That on 2 amendments to be offered by Senator Gorton on judicial review there be a total of 4 hours equally divided.

Provided further, That on 2 amendments to be offered by Senator Dixon there be 1 hour each on No. 1941 and an unprinted amendment dealing with line item veto.

Ordered further, That on any debatable motion or appeal or point of order if submitted there be 20 minutes equally divided.

Ordered further, That there be 6 hours on the joint resolution, with 3 hours under the control of the majority leader, 2 hours under the control of the minority leader and 1 hour under the control of Senator Stennis which may be yielded at any point during the consideration of the joint resolution.

Ordered further, That final passage occur no earlier than 12 noon, August 3 and no later than 12 noon, August 4, 1982.

Mr. ROBERT C. BYRD. Mr. President, I thank the distinguished Republican leader for his courtesy and understanding and for his diligence and

cooperation in working out this complex agreement, which I think is a reasonable one, which should give the Senate ample time to discuss fully the constitutional amendment and the amendments that will be offered thereto.

Mr. CRANSTON. Mr. President, reserving the right to object, and I shall not object, I thank both leaders for their diligent cooperation in working out a very fine agreement.

I thank the Senator from Alaska for agreeing to an up-or-down vote on a substitute I shall offer.

I thank my leader for his wisdom and for his strength and forcefulness in insisting that that be part of the agreement. I am grateful to him for his leadership.

Mr. ROBERT C. BYRD. Mr. President, while we are passing around expressions of gratitude, I want personally to thank Mr. Charles Kinney on this side and Ms. Elizabeth Baldwin on the Republican side for the work that they did in putting this agreement together. It took a lot of their time and it certainly, I am sure, imposed upon their patience. They are to be highly congratulated for the work that they did in assisting the leadership in putting this agreement together.

Mr. STEVENS. Mr. President, there are in excess of 25 amendments and in excess of 50 hours allocated under this agreement. It means that the Senate will vote on, I think, a very controversial and meaningful proposed constitutional amendment no later than noon a week from tomorrow. I think that the Senate should be on notice that this means there will be votes throughout this week and the early part of next week.

We hope, of course, to be able to finish the constitutional amendment by Tuesday so we can go to the reconciliation bill.

It is the majority leader's intention to go to the reconciliation bill as soon as this constitutional amendment is disposed of.

There may be other matters on which we will seek cooperation of the distinguished minority leader that we might handle on a short-term basis as they come up.

But I do believe, as the distinguished minority leader has indicated, that it is obviously the work product of a long negotiation between our staffs, and I join him in commending those staffs and thank him for his willingness to give us a timeframe within which we can work our way out of this dilemma that has been presented us on what is the reasonable timeframe that the Senate can allocate to the consideration of this resolution.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, is there an order for convening tomorrow?

The PRESIDING OFFICER. There is an order to convene at 10 a.m.

Mr. STEVENS. Is there a time designated for routine morning business?

The PRESIDING OFFICER. There has not yet been an order so entered.

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS ON TOMORROW

Mr. STEVENS. Mr. President, I ask unanimous consent that following the leaders' time under the standing order and the special orders that have already been entered, there be a period of time for the transaction of routine morning business not to exceed 30 minutes during which Senators may speak therein for not to exceed 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 10 A.M. TOMORROW

Mr. STEVENS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in recess in accordance with the previous order.

There being no objection, at 7:11 p.m., the Senate recessed until tomorrow, Wednesday, July 28, 1982, at 10 a.m.

NOMINATIONS

Executive nominations received by the Senate July 27, 1982:

THE JUDICIARY

Harry W. Wellford, of Tennessee, to be U.S. circuit judge for the sixth circuit vice Bailey Brown, retired.

Michael M. Mihm, of Illinois, to be U.S. district judge for the central district of Illinois vice Robert D. Morgan, retired.

Bruce M. Selya, of Rhode Island, to be U.S. district judge for the district of Rhode Island vice Raymond J. Pettine, retired.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 27, 1982:

THE JUDICIARY

Richard A. Gadbois, Jr., of California, to be U.S. district judge for the central district of California.

Patrick E. Higginbotham, of Texas, to be U.S. circuit judge for the fifth circuit.

E. Grady Jolly, of Mississippi, to be U.S. circuit judge for the fifth circuit.

DEPARTMENT OF JUSTICE

Julio Gonzales, of California, to be U.S. Marshal for the central district of California for the term of 4 years.

James O. Golden, of Virginia, to be U.S. Marshal for the District of Columbia for the term of 4 years.

Eugene V. Marzullo, of Pennsylvania, to be U.S. Marshal for the western district of Pennsylvania for the term of 4 years.

WITHDRAWAL

Executive nomination withdrawn by the President, July 27, 1982:

The nomination of James L. Malone, of Virginia, to be Ambassador at Large in connection with his appointment as Special Representative of the President of the United States for the Law of the Sea Conference, and Chief of Delegation, which was sent to the Senate on March 11, 1982.

HOUSE OF REPRESENTATIVES—*Tuesday, July 27, 1982*

The House met at 12 o'clock noon.

The Reverend Michael J. Burke, director of religious affairs, Morris Catholic High School, Denville, N.J., offered the following prayer:

Blessed are You, Lord, God of the Universe, for in every age You have poured forth wisdom and love upon all creation. Our fathers fashioned a nation where Your people might live blessed by freedom. We pray that You will continue to guard our land and guide the Members of this House, that through their efforts, peace and prosperity will continue to bless the United States of America.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WALKER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 355, nays 25, answered "present" 1, not voting 53, as follows:

[Roll No. 214]

YEAS—355

Addabbo	Beilenson	Burgener
Akaka	Benedict	Burton, Phillip
Albosta	Benjamin	Byron
Alexander	Bennett	Campbell
Anderson	Bereuter	Carman
Andrews	Bethune	Carney
Annunzio	Bevill	Chappell
Anthony	Bingham	Chappie
Applegate	Bliley	Cheney
Archer	Boggs	Clausen
Ashbrook	Boland	Clinger
Aspin	Boner	Coats
Atkinson	Bonker	Coelho
AuCoin	Bouquard	Coleman
Badham	Bowen	Collins (TX)
Bafalis	Breaux	Conable
Bailey (MO)	Brinkley	Conte
Bailey (PA)	Brodhead	Conyers
Barnard	Broomfield	Corcoran
Beard	Brown (CO)	Coughlin
Bedell	Broyhill	Courter
Coyne, James	Heftel	Nelson
Coyne, William	Hendon	Nichols
Craig	Hertel	Nowak
Crane, Philip	Hightower	O'Brien
D'Amours	Hiler	Oberstar
Daniel, Dan	Hillis	Obey
Daniel, R. W.	Hollenbeck	Oxley
Dannemeyer	Hopkins	Panetta
Daschle	Howard	Parris
Daub	Hoyer	Patman
Davis	Hubbard	Patterson
de la Garza	Huckaby	Paul
Deckard	Hughes	Pease
Derwinski	Hunter	Perkins
Dicks	Hutto	Petri
Dingell	Hyde	Peyser
Dixon	Jeffords	Pickle
Donnelly	Jenkins	Porter
Dorgan	Jones (OK)	Price
Dougherty	Kastenmeier	Pritchard
Dowdy	Kazen	Pursell
Downey	Kemp	Quillen
Dreier	Kennelly	Railsback
Duncan	Kildee	Rangel
Dunn	Kindness	Ratchford
Dwyer	Kogovsek	Regula
Dyson	Kramer	Reuss
Early	LaFalce	Richmond
Eckart	Lagomarsino	Rinaldo
Edgar	Lantos	Ritter
Edwards (AL)	Latta	Roberts (KS)
Edwards (CA)	Leach	Roberts (SD)
Emery	Lee	Robinson
Erdahl	Lehman	Rodino
Erlenborn	Lent	Roe
Evans (DE)	Lewis	Rogers
Evans (IN)	Livingston	Rose
Fary	Loeffler	Rosenthal
Fascell	Long (LA)	Rostenkowski
Fazio	Lott	Roth
Fenwick	Lowery (CA)	Roukema
Ferraro	Lowry (WA)	Rousselot
Fiedler	Lujan	Roybal
Findley	Luken	Rudd
Fish	Lundine	Russo
Fithian	Madigan	Santini
Flippo	Markey	Sawyer
Florio	Marlenee	Scheuer
Foglietta	Marriott	Schneider
Foley	Martin (IL)	Schulze
Ford (MI)	Martin (NC)	Schumer
Fowler	Martin (NY)	Seiberling
Frank	Martinez	Sensenbrenner
Frenzel	Matsui	Shamansky
Frost	Mattox	Shannon
Fuqua	Mavroules	Sharp
Gaydos	Mazzoli	Shaw
Gephardt	McClory	Shelby
Gibbons	McCollum	Shumway
Gilman	McCurdy	Shuster
Gingrich	McDade	Simon
Glickman	McDonald	Skeen
Goldwater	McGrath	Skelton
Gonzalez	McHugh	Smith (AL)
Gore	Mica	Smith (IA)
Gradison	Michel	Smith (NE)
Gramm	Mikulski	Smith (NJ)
Gray	Miller (CA)	Smith (OR)
Green	Mineta	Smith (PA)
Gregg	Minish	Snowe
Grisham	Mitchell (NY)	Snyder
Guarini	Moakley	Solarz
Gunderson	Molinari	Spence
Hagedorn	Mollohan	St Germain
Hall (OH)	Montgomery	Stangeland
Hall, Ralph	Moore	Stanton
Hamilton	Moorhead	Stark
Hammerschmidt	Morrison	Staton
Hance	Mottl	Stenholm
Hansen (ID)	Murtha	Stokes
Hansen (UT)	Myers	Stratton
Hartnett	Napier	Stump
Hatcher	Natcher	Swift
Heckler	Neal	Synar
Hefner	Nelligan	Tauke
Tauzin	Weaver	Wolf
Taylor	Weber (MN)	Wolpe
Thomas	Weber (OH)	Wortley
Traxler	Weiss	Wright
Trible	White	Wyden
Udall	Whitehurst	Wylie
Vander Jagt	Whitley	Yatron
Vento	Whittaker	Young (FL)
Volkmer	Whitten	Young (MO)
Walgren	Williams (OH)	Zablocki
Wampler	Wilson	Zeferetti
Watkins	Winn	
Waxman	Wirth	

NAYS—25

Barnes	Harkin	Murphy
Butler	Hawkins	Roemer
Dickinson	Holt	Sabo
Emerson	Jacobs	Schroeder
Evans (IA)	Johnston	Solomon
Fields	LeBoutillier	Walker
Forsythe	McEwen	Washington
Gejdenson	Miller (OH)	
Goodling	Mitchell (MD)	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—53

Biaggi	Edwards (OK)	Long (MD)
Blanchard	English	Lungren
Bolling	Ertel	Marks
Bonior	Evans (GA)	McCloskey
Brooks	Ford (TN)	McKinney
Brown (CA)	Fountain	Moffett
Brown (OH)	Garcia	Oakar
Burton, John	Ginn	Pashayan
Chisholm	Hall, Sam	Pepper
Clay	Holland	Rahall
Collins (IL)	Horton	Rhodes
Crane, Daniel	Ireland	Savage
Crockett	Jeffries	Siljander
Dellums	Jones (NC)	Studds
DeNardis	Jones (TN)	Williams (MT)
Derrick	Leath	Yates
Dornan	Leland	Young (AK)
Dymally	Levitas	

□ 1220

So the Journal was approved.

The result of the vote was announced as above recorded.

FATHER MICHAEL J. BURKE

(Mr. COURTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COURTER. Mr. Speaker, it gives me great pleasure to introduce to my colleagues a friend of mine, Father Michael J. Burke, who gave the opening prayer this morning.

Father Burke was, from 1973 to 1976, secretary and notary, tribunal of the second instance, Archdiocese of Baltimore. During that same period of time he served as pastoral assistant and deacon at Our Lady of Good Counsel Parish of Baltimore.

From 1975 to 1976 he served as deacon, Assumption Parish, Morristown, N.J. From 1976 to 1978 he has served as associate pastor, St. Andrew the Apostle Parish, Clifton, N.J. From 1978 until the present, he now serves

as a faculty member of the Morris Catholic High School in Denville, N.J.

He was educated at Ogdensburg, N.Y. He received a degree in philosophy, bachelor of arts in philosophy, at LeMoyne College in Syracuse. He received his master of sacred theology at St. Mary's Seminary and University School of Theology in Baltimore, Md., and at the present time he is teaching history, and he is also at the present time preparing to be an attorney at law. So, therefore, it is a pleasure to talk about an individual who is a historian, a philosopher, a theologian, and will soon be a barrister before the bar.

WALTER POLOVCHAK

(Mr. PEYSER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEYSER. Mr. Speaker, I take the floor at this time to inform the Members that tomorrow Walter Polovchak, the 14-year-old Ukrainian boy who is fighting to stay in the United States, and the Soviet Union is equally fighting to take him back, he will be here in Washington. At 10 o'clock tomorrow morning, in room 2247, he will be with his sister Natalie, and will be briefing in an informal way Members of Congress on the problems that he would face on returning to the Soviet Union, and also his feelings about the United States.

For those Members who are interested, I think they will find that this young man is very worthwhile hearing and having a chance to meet.

STATEMENT OF MR. PRICE WITHDRAWING HIS NAME FROM SPONSORSHIP OF HOUSE JOINT RESOLUTION 521

(Mr. PRICE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE. Mr. Speaker, House Joint Resolution 443 was introduced by the gentleman from Wisconsin (Mr. ZABLOCKI) on March 17, 1982. I subsequently became a cosponsor of that resolution. The resolution was reintroduced by the gentleman from Wisconsin as House Joint Resolution 521 on June 23, 1982. House Joint Resolution 521 now contains several substantive changes to House Joint Resolution 443 that alter the basic thrust of the original resolution.

Mr. Speaker, several major events have occurred subsequent to the introduction of House Joint Resolution 443 with respect to negotiations toward agreements for the reduction of strategic nuclear weapons and reductions in intermediate range nuclear forces. Strategic arms reduction talks with the Soviet Union began in Geneva on June 29, and the second round of intermediate-range nuclear forces talks began in Geneva early in July. In my opinion, House Joint Resolution 521, as now written, would tend to weaken the position of the United States in its negotiations in Geneva. Further, I believe that House Joint Resolution 521 places the wrong priorities on its objectives. The proper priority should be to first attempt to make radical reductions in the armaments allocated to the United States and the Soviet Union, and, second, to freeze armaments at those levels. House Joint Resolution 521 would approach the arms control problem in exactly the opposite way by asking the President to first negotiate a freeze on nuclear arms at levels that are so favorable to the Soviet Union as to be dangerously destabilizing, and then seek reductions.

On July 15, 1982, I joined with several other Members in the introduction of House Joint Resolution 538. This resolution fully recognizes and supports the negotiations initiated in Geneva in November of 1981 and in June of 1982 on the limitation and reduction of strategic and intermediate-range nuclear arms. This resolution also recognizes a basic fact that is glossed over by other so-called freeze resolutions; that arms limitation agreements and complicated verification issues must be negotiated; and that such negotiations require time, patience, and public support.

For the above reasons, Mr. Speaker, I would ask that my name be withdrawn from sponsorship of House Joint Resolution 521, but the rules do not permit that request after reporting of the resolution.

RESIGNATION OF SECRETARY OF THE INTERIOR JAMES WATT CALLED FOR

(Mr. MOAKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOAKLEY. Mr. Speaker, I am calling today on President Reagan to take firm disciplinary action against Secretary of the Interior James Watt and to clarify the administration's position with respect to the use of U.S. military in case of a cutoff of Middle Eastern oil.

Although the Secretary's June 17 letter to the Israeli Ambassador has attracted more attention, I am concerned that last week's communication to the Congress may reflect even more reckless and provocative foreign policy notions.

On July 21, 1982, in a response to a letter sent from myself and 28 other Members of Congress, Secretary Watt stated:

> The world's political leadership will secure with economic strength or military force the needed energy.

Watt went on to state:

> America must be prepared. It is much easier to explain to the American people why we have oil rigs off our coasts than it would be to explain to the mothers and fathers of this land why their sons are fighting on the sands of the Middle East as might be required if the policies of our critics were to be pursued.

Frankly I find this type of response totally unacceptable. Not only does it not respond to the legitimate concerns of coastal States as outlined in our original letter, but far more serious, the Secretary is stating that the administration will consider using military force should Middle Eastern oil supplies be cut off.

Is it not enough that there are two wars presently in the Middle East and that at best the situation is highly volatile? Is it proper for an official of our Government, in his official capacity, to irresponsibly make assumptions concerning U.S. alternatives should there be a cutoff of Middle Eastern oil?

While I cannot bring myself to believe that such a policy would be taken seriously even within the Reagan administration, nevertheless, an official of the Reagan administration has made such an outrageous claim.

If this is nothing more than another in a long list of unfortunate statements by Secretary Watt designed to provoke controversy, then he has far overstepped his authority. The administration should not allow the antics of this one man to continue when it clouds the foreign policy position of this Nation.

It is time for President Reagan to take affirmative action with Secretary Watt and to clearly disassociate the administration policy from the Secretary's, which has extended far beyond his legitimate authority.

SECRETARY WATT SHOULD RESIGN FROM CABINET NOW

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I want to say something today about Interior Secretary James Watt's recent letter to the Israeli Ambassador. In that letter, Mr. Watt suggests that "The liberals of the Jewish community" are weakening America's ability "to be a good friend to Israel" by their opposition to Mr. Watt's energy programs.

Mr. Speaker, I believe this is an unprecedented and crude little effort to stifle domestic debate on Mr. Watt's extremist environmental policies. It attempts to blackmail American citizens who have a right to freely exercise their own views.

What is more, the letter indicates that Mr. Watt gives personal credence to those disgusting "dual loyalty"

smears that have always been at the heart of racist attacks against the Jewish community.

Why does Mr. Watt think he has to go through the Israeli Ambassador to communicate with Jewish Americans? Jewish-Americans, like all Americans, have only one foreign minister; that is George Shultz, our Secretary of State.

Mr. Speaker, I think James Watt has finally gone too far. This man is sociologically deranged, and I think he should resign or be fired.

□ 1230

SECRETARY WATT MUST BE REMOVED

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, I have risen on prior occasions to call for the removal of James Watt as Secretary of the Interior. As steward of our Nation's public lands, we had expected Secretary Watt to serve as protector of our natural resources; as we all know he has miserably failed in that obligation.

Now, Secretary Watt has exceeded all of his previous levels of thoughtlessness and irresponsibility. His letter to the Israeli Ambassador to the United States warning that American Jewish liberals "would weaken America's ability to be a good friend of Israel" by not supporting his energy policies were out of place, out of order, and out of step with reality.

As ineffective and irresponsible as James Watt has been as protector of our environment, he is even worse in his venture into the field of diplomacy. Perhaps now, even those who have defended his environmental policies will realize what many of us have long known—that James Watt is unfit for his position. For the good of America, the President must remove him from office immediately.

JAMES WATT—"A LOOSE CANNON ON THE DECK"

(Mr. SCHEUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHEUER. Mr. Speaker, the letter recently sent to Israeli Ambassador Moshe Arens, is yet another example of Interior Secretary James Watt's almost unique ability to be at once totally inappropriate, distasteful, and highly offensive to the sensibilities of millions of Americans.

Secretary Watt's letter, linking support for controversial domestic environmental programs to support for Israel, is offensive to both Americans and Israelis.

Mr. Speaker, I do not object to his letter because of concern over those environmental policies or even over his erratic stewardship of the Department of the Interior * * * that is another story for another day. My concern here today is as an American. The Secretary is bringing discredit upon this administration and holding it up to ridicule. He seems to lack the sense of appropriateness and discretion that should be indespensible to every Cabinet officer.

Of course, this is not the first time that Secretary Watt has had problems over letterwriting on subjects wildly extraneous to his proper role as a Cabinet Secretary. It was not long ago that he used the power of his department to have a young energy lobbyist, Timothy Donohoe, fired from his job with ENSERCH Corp. for sending Watt a personal letter calling into question the Secretary's publicly stated contention that in Washington a person is "either a liberal or an American."

I think it is high time, Mr. Speaker, that the President review Secretary Watt's propensity for playing the loose cannon on the deck of the ship of state. The President is not well-served by a Cabinet Secretary whose total lack of propriety and restraint has become an embarrassment to his administration at home and abroad.

TIME IS OF THE ESSENCE

(Mr. CONABLE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.

Mr. CONABLE. Mr. Speaker, because of the procedural requirements of the House, complexities resulting from possible Senate amendments to the wording, and uncertainties about how long Congress will be in session this fall, time is of the essence now with respect to the balanced budget/expenditure limitation constitutional amendment. If you have not signed discharge petition No. 18 as yet, please do so today or tomorrow. You may not have another opportunity effectively to use our current fiscal crisis to force needed long term reform. Our economy needs this reassurance now not after the crisis has passed the point of no return. Failure to use this opportunity may find us next spring, when legislatures are meeting across the country, facing an effective call for a constitutional convention the product of which will be uncertain at best, because one way or another the people want the greater presumption in favor of fiscal discipline such a constitutional amendment can bring.

So I ask my colleagues not to delay. The job you save may be your own; but more important, you will be demonstrating representative government's capacity to be both responsive and responsible.

JOURNALIST LIKENS DEMOCRATS TO A "DEAD CIRCUS"

(Mr. MICHEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICHEL. Mr. Speaker, William Greider, a journalist familiar to most of you, recently said of the Democrat miniconvention that—

> The Democrats do not have their act together. They are not unified. They seem like a dead circus whose weary performers suddenly see the crowds streaming back into their tent and are not sure how to react. Circuses depend upon illusion for their thrills, but in the Democrats' case, it may be the performers not the audience who are deceived.

Mr. Greider, I think, makes a cogent point. Those who think that the American people are going to be satisfied with political solutions to economic problems are deceiving themselves. Those who think that the easiest vote is always the right vote are just kidding themselves. Those who think they can wash their hands of the responsibility of governing but still win elections are fooling no one but themselves.

Last year we set out on a course that we believe will reverse decades of excesses. Staying on that course now requires us to make decisions on spending particularly and yes, taxes, too that on the surface does not look politically popular.

But I am convinced the American people expect us to be responsible. They want genuine decisions. They do not want deceptive imitations.

SURVEY SHOWS RESULTS OF IRA IMPROVEMENTS

(Mr. MOORE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOORE. Mr. Speaker, sound proof now exists that expansion of individual retirement account terms enacted last year work. On July 7, the Life Insurance Marketing and Research Association released the results of an independent national survey which reported that IRA sales for the current year will total $27 to $35 billion deposited in 14 million accounts. This is more than double the level of IRA activity before the 1981 improvements. Here are the findings.

First, one-third of all households eligible to open an IRA will do so this year and 17 percent have already done so in the first quarter of 1982.

Second, three out of four IRA buyers plan to make maximum contributions and 89 percent of those eligible to open an IRA are aware of their eligibility.

Third, more than 6 out of every 10 households are opening an IRA funded at least partly out of present

income. Meaning, in 60 percent of the new accounts, new savings are being formed.

Finally, of those households funding an IRA through regular income earnings, the survey found that 18 percent are doing so through payroll deductions. Savings formation is becoming a savings habit.

We need to explore the further expansion of the individual retirement account as a proven savings incentive.

LIBERALS' DISSATISFACTION WITH SECRETARY WATT TIED TO DEREGULATION

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, this morning four of our colleagues, two from the State of New York, one from Oregon, and one from Massachusetts, all liberals to the core, have called into attention the policies of Secretary of the Interior James Watt.

Why are those four gentlemen standing in the well this morning protesting about those policies? Because the Secretary, in his own inimitable way, has touched to the core the bankruptcy of the energy policies which have been advocated by those four gentlemen in this House and their colleagues who fit within the definition of the liberals in our country who legislatively have brought an energy shortage in this country when they established by law a maximum price below the market for energy subjects in this country, specifically natural gas.

Secretary of the Interior James Watt wants to deregulate the price of natural gas. Why? Because it is the most constructive way that we in this country can establish energy independence. We now import around 4 million barrels of oil a day. If we would have the courage in this institution to deregulate nutural gas prices, we have the realistic assumption or belief that we can back out the use of much of that 4 million barrels of oil that we are importing and establish energy independence for this country. That will establish a course which, in the opinion of some, including this Member from California, will deal the death knell to the OPEC nations of the world by breaking that cartel and establishing energy independence for America.

THE EVANS-CORCORAN HOUSING INITIATIVE

(Mr. BEREUTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BEREUTER. Mr. Speaker, I want to take this opportunity to reiterate my support for the Evans-Corcoran housing initiative and to urge my colleagues continued support for this important and innovative measure. Last week our colleague from Delaware (Mr. EVANS) and our colleague from Illinois (Mr. CORCORAN) went to the White House to discuss this measure with the President. They took with them a letter in support of it signed by over 60 Members, and they came away with a commitment from the President that he would not oppose such an initiative.

The Evans-Corcoran plan would transfer $1 billion in previously allocated funds into a fund which would be used to write down interest rates on mortgages under the existing mortgage revenue bond programs run by States and localities across the country. This measure would assist approximately 350,000 home buyers without setting up a costly new bureaucracy, without requiring a complicated new program, and without the delay associated with writing a completely new set of program regulations. Realistic estimates have indicated that the program could be up and running within 60 days of passage under the existing MRB (mortgage revenue bond) system. This measure would further create new construction jobs and generate new tax revenues in this construction season.

This amendment was offered this morning as an amendment to the general supplemental appropriations bill in the House Appropriations Committee by our colleague from South Carolina (Mr. CAMPBELL), but was necessarily withdrawn. I strongly urge all my colleagues in the House to support this amendment on the floor if we are given a rule permitting it to be offered. It will be the last chance to support the housing industry during this building season.

□ 1240

TRIBUTE TO ANITA (PAT) McEWEN

(Mr. MARTIN of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MARTIN of New York. Mr. Speaker, it is with a deep sense of sadness and a heavy heart that I must inform you and my colleagues of the passing of a woman who was very dear to many of us in this Chamber, Anita (Pat) McEwen, wife of my predecessor, Robert C. McEwen, who died last Wednesday night at their home in Ogdensburg, N.Y., after a long illness.

As a good friend of Bob's, Mr. Speaker, and an ardent admirer of his, you well know, as do so many of his former colleagues, how important Pat's devotion, understanding and support were to Bob in his nearly 30 years of public service, 16 of which were in this body. It was just 2 years ago when our former colleague announced his retirement. At that time, reflecting upon his career, he said:

> None of this would have been possible without the support of my wife, Pat. She has given much in the 27 years of my legislative service. Rather than just praise her, it is time to consider her and give her more of my time. This I intend to do.

Bob McEwen was a devoted and loving husband and is a dedicated and loving father. I know that you and my colleagues will join me, Mr. Speaker, in expressing our sincerest condolences to Bob and his daughters, Nancy Wax and Mary Fitzpatrick.

Mr. CLAUSEN. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of New York. I yield to the gentleman from California.

Mr. CLAUSEN. Mr. Speaker, I had a very close working relationship with Bob McEwen and his wife, and I would like to add my comments to those of the gentleman from New York.

Mr. Speaker, it is with great sadness that I join my colleague from New York in paying tribute to the late Anita (Pat) McEwen, wife of my former colleague and good friend the Honorable Robert C. McEwen. Pat passed away after a long illness last Wednesday in the beautiful home in Ogdensburg, N.Y., that she shared with her devoted husband.

I have known and admired Bob and Pat for many years. Our close friendship dates from Bob's first days as a freshman Representative from New York's 13th District, in the 89th Congress. During Bob's 16 years as a Member of this body, we worked together on many important issues of mutual concern: he was always a great friend and a great ally. Bob for a short time took my daughter, Beverly Clausen Mendenhall, into his employ as a staff member and she has remained an admirer of Bob and Pat ever since.

My administrative assistant, John Bovard, comes from the McEwen's hometown, and is an old family friend. He has often spoken of the high esteem in which Bob and Pat are held by the residents of St. Lawrence County and northern New York.

My wife Ollie and I fondly remember our association with Bob and Pat during their years of residence in Washington. No words can express fully the sadness we feel at Pat's passing. Our prayers go out to Bob and their daughters Nancy Wax and Mary Fitzpatrick. We know what a loss they have suffered, and pray that God will give them strength.

CONSTITUTIONAL AMENDMENT ALLOWING FOR VOLUNTARY PRAYER IN PUBLIC SCHOOLS

(Mr. KINDNESS asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. KINDNESS. Mr. Speaker, today there is on file at the Clerk's desk discharge petition No. 20 concerning House Joint Resolution 493, the school prayer amendment.

This proposed amendment to the Constitution of the United States would read only as follows:

Nothing in this Constitution shall be construed to prohibit individual or group prayer in public schools or other public institutions. No person shall be required by the United States or by any State to participate in prayer.

I would ask my colleagues who are interested in having an opportunity to vote on this very important issue to sign discharge petition No. 20 at the Clerk's desk today or hopefully by August 11 when we must have 218 signatures. That time is very short, very critical, and I would urge prompt action on the part of those who are interested. We would like very much to have 218 signatures sooner than August 11.

I would urge my colleagues to join with me in this discharge petition and pray we will have the 218 signatures by August 11.

THE DEMOCRATS' ASSAULT ON THE BUDGET PROCESS

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, the House Democratic leadership is trying to get away with murder by mutilating the congressional budget process.

The weapon being used is a legislative fragmentation grenade aimed at reconciliation—the heart and guts, and teeth of the whole budget process.

Instead of upholding the Budget Act's mandate for a single reconciliation bill, as reaffirmed by the first budget resolution for fiscal 1983, the Democratic leadership is resorting to a nickle and dime strategy of multiple reconciliation bills that would leave us with just that—nickles and dimes in budget savings instead of the $6.5 billion in budget cuts required by the first budget resolution.

The first example of this divide and budget-bust strategy was rushed to the Rules Committee today—a bill out of the Post Office Committee calling for $32 million in savings instead of the $376 million in cuts required by the budget resolution. That is a $344 million shortfall in budget savings—only 8.5 percent of the congressionally mandated goal.

Not only is the leadership condoning this shortchanging in required budget savings, but it is encouraging committees to bypass the Budget Committee which is supposed to package the recommendation of nine committees into a single bill.

This might be a smart, short-term partisan strategy in terms of appeasing special interest groups, but it would not hold down deficits or uphold the integrity of Congress under the budget process.

Mr. Speaker, I think it is high time we bell this Democrat tomcat and its wild, midnight spending sprees on the town.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DONNELLY). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken today after debate has been concluded on all motions to suspend the rules.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6782) to amend title 38, United States Code, to increase the rates of disability compensation for disabled veterans, to increase the rates of dependency and indemnity compensation for surviving spouses and children of veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 6782

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE

SECTION 1. (a) This Act may be cited as the "Veterans' Disability Compensation and Survivors' Benefits Amendments of 1982".

(b) Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

RATES OF DISABILITY COMPENSATION

SEC. 101. (a) Section 314 is amended—

(1) by striking out "$58" in subsection (a) and inserting in lieu thereof "$62";

(2) by striking out "$107" in subsection (b) and inserting in lieu thereof "$114";

(3) by striking out "$162" in subsection (c) and inserting in lieu thereof "$173";

(4) by striking out "$232" in subsection (d) and inserting in lieu thereof "$249";

(5) by striking out "$328" in subsection (e) and inserting in lieu thereof "$352";

(6) by striking out "$413" in subsection (f) and inserting in lieu thereof "$443";

(7) by striking out "$521" in subsection (g) and inserting in lieu thereof "$559";

(8) by striking out "$604" in subsection (h) and inserting in lieu thereof "$648";

(9) by striking out "$679" in subsection (i) and inserting in lieu thereof "$729";

(10) by striking out "$1,130" in subsection (j) and inserting in lieu thereof "$1,213";

(11) by striking out "$1,403" and "$1,966" in subsection (k) and inserting in lieu thereof "$1,506" and "$2,111", respectively;

(12) by striking out "$1,403" in subsection (l) and inserting in lieu thereof "$1,506";

(13) by striking out "$1,547" in subsection (m) and inserting in lieu thereof "$1,661";

(14) by striking out "$1,758" in subsection (n) and inserting in lieu thereof "$1,888";

(15) by striking out "$1,966" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,111";

(16) by striking out "$844" and "$1,257" in subsection (r) and inserting in lieu thereof "$906" and "$1,350", respectively;

(17) by striking out "$1,264" in subsection (s) and inserting in lieu thereof "$1,357"; and

(18) by striking out "$244" in subsection (t) and inserting in lieu thereof "$272".

(b) The Administrator of Veterans Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 102. Section 315(1) is amended—

(1) by striking out "$69" in clause (A) and inserting in lieu thereof "$74";

(2) by striking out "$116" in clause (B) and inserting in lieu thereof "$124";

(3) by striking out "$153" in clause (C) and inserting in lieu thereof "$164";

(4) by striking out "$192" and "$38" in clause (D) and inserting in lieu thereof "$206" and "$40", respectively;

(5) by striking out "$47" in clause (E) and inserting in lieu thereof "$50";

(6) by striking out "$86" in clause (F) and inserting in lieu thereof "$92";

(7) by striking out "$123" and "$38" in clause (G) and inserting in lieu thereof "$132" and "$40", respectively;

(8) by striking out "$56" in clause (H) and inserting in lieu thereof "$60";

(9) by striking out "$125" in clause (I) and inserting in lieu thereof "$134"; and

(10) by striking out "$105" in clause (j) and inserting in lieu thereof "$112".

CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS

SEC. 103. Section 362 is amended by striking out "$305" and inserting in lieu thereof "$327".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES

SEC. 104. (a) Subsection (a) of section 411 is amended to read as follows:

"(a) Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:

"Pay grade:	Monthly rate
E-1	$445
E-2	459
E-3	470
E-4	500

"Pay grade:	Monthly rate
E-5	514
E-6	526
E-7	552
E-8	582
E-9	[1]608
W-1	563
W-2	586
W-3	603
W-4	639
O-1	563
O-2	582
O-3	622
O-4	658
O-5	726
O-6	817
O-7	884
O-8	969
O-9	1,041
O-10	[2]1,139

[1]"If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $655.

[2]"If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,222.".

(b) Subsection (b) of such section is amended by striking out "$48" and inserting in lieu thereof "$51".

(c) Subsection (c) of such section is amended by striking out "$125" and inserting in lieu thereof "$134".

(d) Subsection (d) of such section is amended by striking out "$62" and inserting in lieu thereof "$66".

RATES OF DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 105. Section 413 is amended—

(1) by striking out "$210" in clause (1) and inserting in lieu thereof "$225";

(2) by striking out "$301" in clause (2) and inserting in lieu thereof "$323";

(3) by striking out "$389" in clause (3) and inserting in lieu thereof "$417"; and

(4) by striking out "$389" and "$79" in clause (4) and inserting in lieu thereof "$417" and "$84", respectively.

RATES OF SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN

SEC. 106. Section 414 is amended—

(1) by striking out "$125" in subsection (a) and inserting in lieu thereof "$134";

(2) by striking out "$210" in subsection (b) and inserting in lieu thereof "$225"; and

(3) by striking out "$107" in subsection (c) and inserting in lieu thereof "$114".

EFFECTIVE DATE

SEC. 107. The amendments made by this title shall take effect on October 1, 1982.

TITLE II—PROGRAM CHANGES

ELIGIBILITY OF SENIOR RESERVE OFFICERS' TRAINING CORPS PARTICIPANTS INJURED DURING SUMMER MILITARY TRAINING CAMP FOR VETERANS' ADMINISTRATION BENEFITS

SEC. 201. (a) Section 101(22) is amended—

(1) by striking out "and" at the end of clause (C);

(2) by redesignating clause (D) as clause (E); and

(3) by inserting after clause (C) the following new clause (D):

"(D) annual training duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for a period of fourteen days or more; and".

(b) The amendments made by subsection (a) shall apply with respect to diseases and injuries incurred or aggravated during duty performed after September 30, 1982.

INCREASE IN COMPENSATION RATE FOR BLINDED VETERANS

SEC. 202. (a) Section 314(n) is amended by inserting "or has suffered blindness without light perception in both eyes," after "anatomical loss of both eyes,".

(b) Section 314(p) is amended by inserting "or service-connected anatomical loss or loss of use of one hand or one foot" after "in one ear".

(c) The amendments made by subsections (a) and (b) shall take effect on October 1, 1982.

ROUNDING OF RATES OF ADDITIONAL COMPENSATION FOR DEPENDENTS

SEC. 203. (a) The second sentence of section 315(2) is amended to read as follows: "The amounts payable under this paragraph, if not a multiple of $1, shall be adjusted downward to the nearest dollar.".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

CORRECTION OF TECHNICAL ERROR WITH RESPECT TO ENTITLEMENT TO DEPENDENCY AND INDEMNITY COMPENSATION

SEC. 204. (a) Section 410(b)(1) is amended by inserting "or entitled to receive" after "was in receipt of".

(b) The amendment made by subsection (a) shall apply with respect to dependency and indemnity compensation payable for months after September 1982.

ADMINISTRATIVE IMPROVEMENTS TO LIFE INSURANCE PROGRAMS

SEC. 205. (a) Section 770 is amended—

(1) by striking out the second sentence of subsection (c); and

(2) by adding at the end the following new subsection:

"(h) Insurance payable under this subchapter may not be paid in any amount to the extent that such amount would otherwise escheat to a State. Payment of insurance under this subchapter may not be made to the estate of the insured or the estate of any beneficiary of the insured unless it is affirmatively shown that any sum to be paid will not escheat to a State. Any amount to be paid under this subchapter shall be reduced to the extent necessary to comply with this subsection.".

(b) The amendments made by subsection (a) shall take effect on October 1, 1982.

BURIAL FLAGS

SEC. 206. (a) Section 901 is amended by adding at the end the following new subsection:

"(e) The Administrator shall furnish a flag to drape the casket of each deceased person who is buried in a national cemetery under eligibility for burial under section 1002(6) of this title. After the burial, the flag shall be given to the next of kin or to such other person as the Administrator considers appropriate.".

(b) The amendment made by subsection (a) shall apply with respect to burials after September 30, 1982.

BURIAL BENEFITS FOR CERTAIN VETERANS WHOSE REMAINS ARE UNCLAIMED

SEC. 207. Section 902(a) is amended by striking out "When a veteran" and all that follows through "the Administrator," and inserting in lieu thereof the following: "When a veteran dies—

"(1) who was in receipt of compensation (or but for the receipt of retirement pay would have been entitled to compensation) or who was in receipt of pension; or

"(2) in the case of a veteran of any war or a veteran who was discharged from the active military, naval, or air service for a disability incurred or aggravated in line of duty, whose body is held by a State (or a political subdivision of a State) and with respect to whom the Administrator determines—

"(A) that there is no next of kin or other person claiming the body of the deceased veteran; and

"(B) that there are not available, from the deceased veteran's estate or otherwise, sufficient resources to defray the cost of the burial and funeral of the deceased veteran, the Administrator,".

(b) The amendment made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

CLARIFICATION OF ELIGIBILITY FOR BURIAL BENEFITS FOR PERSONS DYING IN CONTRACT NURSING HOME FACILITIES

SEC. 208. (a) Section 903(a) is amended—

(1) by striking out "Where death occurs in a Veterans' Administration facility" and inserting in lieu thereof "When a veteran dies in a Veterans' Administration facility (as defined in section 601(4) of this title"); and

(2) by inserting "or in an institution to which the deceased was properly transferred for nursing home care under section 620 of this title" after "of this title".

(b) The amendments made by subsection (a) shall apply with respect to deaths occurring after September 30, 1982.

SUPERINTENDENTS OF NATIONAL CEMETERIES UNDER THE JURISDICTION OF THE SECRETARY OF THE ARMY

SEC. 209. Notwithstanding section 79(b)(2) of the National Cemeteries Act of 1973 (87 Stat. 88), the provisions of the Act entitled "An Act to provide for selection of superintendents of national cemeteries from meritorious and trustworthy members of the Armed Forces who have been disabled in the line of duty for active field service", approved March 24, 1948, as in effect on the day before the effective date of section 7 of the National Cemeteries Act of 1973, shall not apply with respect to the appointment of superintendents of national cemeteries under the jurisdiction of the Secretary of the Army.

PROTECTION OF QUALITY OF HEALTH CARE

SEC. 210. (a) Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Except as provided in subparagraph (B) of this paragraph, all activities carried out at a medical facility under the direct jurisdiction of the Administrator shall be performed by Federal employees unless the Administrator, after considering the advice of the Chief Medical Director, determines that such facility is not capable of carrying out any such activity through such employees or that contracting for the performance of such activity would enhance the quality of medical care for eligible veterans.

"(B) Subparagraph (A) of this paragraph does not prohibit or restrict any authority of the Veterans' Administration under any other provision of this title or any other provision of law to enter into contracts or cooperative sharing agreements with other Federal agencies or departments or with State or nongovernmental entities for the exchange or sharing of goods, services, facilities, or resources.".

(b) Section 5010(a)(6) of title 38, United States Code, as added by subsection (a), does not apply with respect to a contract in effect on May 15, 1982, or to any renewal, extension, or modification of such a contract.

TITLE III—BUDGET SAVINGS PROVISIONS

SHORT TITLE

SEC. 301. This title may be cited as the "Veterans' Budget Reconciliation Act of 1982".

LOAN ORIGINATION FEE FOR VETERANS' ADMINISTRATION HOME LOANS

SEC. 302. (a)(1) Subchapter III of chapter 37 is amended by adding at the end the following new section:

"§ 1829. Loan fees

"(a) Except as provided in subsection (b) of this section, a fee shall be collected from each veteran obtaining a loan guaranteed, made, or insured under this chapter, and no loan may be guaranteed, made, or insured under this chapter until the fee payable with respect to such loan has been collected and remitted to the Administrator. The amount of the fee shall be one-half of 1 per centum of the total loan amount. The amount of the fee may be included in the loan to the veteran and paid from the proceeds thereof.

"(b) A fee shall not be collected under this section from a veteran receiving or entitled to receive compensation or from a surviving spouse described in section 1801(b)(2) of this title.

"(c) Fees collected under this section shall be deposited into the Treasury as miscellaneous receipts.

"(d) A fee may not be collected under this section with respect to any loan closed after September 30, 1985.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1828 the following new item:

"1829. Loan fees.".

(b) Section 1829 of title 38, United States Code, as added by subsection (a), shall apply only to loans closed after September 30, 1982.

EFFECTIVE DATE OF PAYMENTS

SEC 303. (a)(1) Chapter 51 is amended by inserting after section 3010 the following new section:

"§ 3011. Commencement of payment based on an award

"(a) Notwithstanding section 3010 of this title or any other provision of law and except as provided in subsection (c) of this section, payment of monetary benefits based on an award or an increased award of compensation, dependency and indemnity compensation, or pension may not be made for any period before the first day of the calendar month following the month in which the award became effective as provided under section 3010 of this title or such other provision of law.

"(b)(1) During the period between the effective date of an award as provided under section 3010 of this title or other provision of law and the commencement of the period of payment based on such award as provided under subsection (a) of this section, an individual entitled to receive monetary benefits shall be deemed to be in receipt of such benefits for the purpose of all laws administered by the Veterans' Administration, except as provided in paragraph (2) of this subsection.

"(2) If any person who is in receipt of retired or retirement pay would also be eligible to receive compensation or pension upon the filing of a waiver of such waiver shall not become effective until the first day of the month following the month in which such waiver is filed, and nothing in this section shall prohibit the receipt of retired or retirement pay for any period before such effective date.

"(c) This section shall apply to payments made pursuant to section 3110 of this title only if the monthly amount of dependency and indemnity compensation or pension payable to the surviving spouse is greater than the amount of compensation or pension the veteran would have received for the month in which such veteran's death occurred.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 3010 the following new item:

"3011. Commencement of payment based on an award.".

(b) Section 3011 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

EFFECTIVE DATE OF CERTAIN REDUCTIONS OF COMPENSATION AND PENSION

SEC. 304. Effective on October 1, 1982, section 3012(b)(2) is amended by striking out "calendar year" and inserting in lieu thereof "month".

ROUNDING OF PENSION TO NEXT LOWER DOLLAR

SEC. 305. (a)(1) Chapter 51 is amended by adding at the end the following new section:

"§ 3023. Rounding of pension payments

"The amount of any pension payment under section 521, 541, or 542 of this title or under section 306(a) of the Veterans' and Survivors' Pension Improvement Act of 1978 (Public Law 95-588), if not a multiple of $1, shall be rounded down to the next lower multiple of $1.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3023. Rounding of pension payments."

(b) Section 3023 of title 38, United States Code, as added by subsection (a), shall take effect on October 1, 1982.

ELIGIBILITY OF COLLEGE STUDENTS FOR PENSION

SEC. 306. (a) Section 501 is amended by adding at the end the following new paragraph:

"(5)(A) For the purposes of sections 521, 522, 541, 542, and 543 of this title, the term 'child' shall be as defined in section 101(4) of this title except as provided in subparagraph (B) of this paragraph.

"(B) The term 'child' includes a child who is over the age of eighteen if such child is pursuing a program of education for the purpose of receiving a secondary school diploma and is under the age of nineteen but does not include a child over the age of eighteen who is not pursuing such a program unless such child before attaining the age of eighteen became permanently incapable of self-support.".

(b) The amendment made by subsection (a) does not apply to any child to whom or on behalf of whom pension or additional pension for the month of September 1982 is payable under section 521, 541, or 542 of title 38, United States Code, if such child has attained the age of eighteen years before October 1, 1982.

(c)(1) Notwithstanding any provision of section 521, 541, 542, or 3112 of title 38, United States Code, or section 306(a) of Public Law 95-588, and except as provided in paragraph (2) of this subsection, pension or additional pension payable to or on behalf of any child, including a child described by subsection (b) of this section, under section 521, 541, or 542 of such title or section 306(a) of Public Law 95-588, on the basis of the child's pursuit of a course of instruction at an approved educational institution, shall—

(A) not be paid for the months of May, June, July, and August, beginning with the months of May 1983;

(B) not be paid for any month after April 1985;

(C) not exceed for any month the amount of the pension or additional pension (attributable to such child) for the month of September 1982 (or a later month if the Administrator considers a later month appropriate under the circumstances), reduced by an amount—

(i) during the months after September 1982 and before May 1983, equal to 25 per centum of the benefit payable for September 1982 (or such later month);

(ii) during the months after August 1983 and before May 1984, equal to 50 per centum of the benefit payable for September 1982 (or such later month); and

(iii) during the months after September 1984 and before May 1985, equal to 75 per centum of the benefit payable for September 1982 (or such later month); and

(D) not be paid for any month after such pension or additional pension is discontinued at any time after September 30, 1982, by reason of such child's discontinuance of pursuit of a course of instruction at an approved educational institution.

(2) The limitations and reductions provided for under paragraph (1) of this subsection shall not apply to pension or additional pension payable to or on behalf of a child who—

(A) before attaining the age of eighteen became permanently incapable of self-support, or

(B) who, after attaining the age of eighteen and before attaining the age of nineteen, is pursuing a program of education for the purpose of receiving a secondary school diploma.

REPEAL OF AUTHORITY TO PURSUE CORRESPONDENCE TRAINING

SEC. 307. (a) Section 1631(c) is repealed.

(b)(1) Section 1652(c) is amended by striking out "correspondence school,".

(2) Section 1681(b) is amended by striking out ", other than a program exclusively by correspondence,".

(3)(A) Section 1684 is amended to read as follows:

"§ 1684. Apprenticeship or other on-job training

"Any eligible veteran may pursue a program of apprenticeship or other on-job training and be paid a training assistance allowance as provided in section 1787 of this title.".

(B) The item relating to such section in the table of sections at the beginning of chapter 34 of such title is amended to read as follows:

"1684. Apprenticeship or other on-job training.".

(c)(1) Section 1701(a)(6) is amended by striking out "correspondence scho ol,".

(2)(A) Section 1734 is amended—

(i) by striking out "(a)"; and

(ii) by striking out subsection (b).

(B) The heading for such section is amended to read as follows:

"§ 1734. Apprenticeship or other on-job training".

(C) The item relating to such section in the table of sections at the beginning of chapter 35 is amended to read as follows:

"1734. Apprenticeship or other on-job training.".

(d)(1) Section 1780 is amended—

(A) in subsection (a)—

(i) by striking out ", other than a program by correspondence,";

(ii) by inserting "or" at the end of clause (4);

(iii) by striking out clause (5); and

(iv) by redesignating clause (6) as clause (5);

(B) by striking out subsection (b) (including the center heading preceding such subsection); and

(C) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (b), (c), (d), (e), and (f), respectively; and

(D) by striking out "subsection (d)(2)" in subsection (d) (as so redesignated) and inserting in lieu thereof "subsection (c)(2)".

(2) Section 1784 is amended—

(A) by striking out "or, in the case of correspondence training, the last date a lesson was serviced by a school" in subsection (a); and

(B) by striking out "section 1780(d)(4)" in subsection (c) and inserting in lieu thereof "section 1780(c)(4)".

(3)(A) Section 1786, relating to correspondence courses, is repealed.

(B) The table of sections at the beginning of chapter 36 is amended by striking out the item relating to section 1786.

(4) The second sentence of section 1798(c) of such title is amended by striking out "correspondence, or".

(e) Section 604(a) of the Vietnam Era Veterans' Readjustment Assistance Act of 1972 (38 U.S.C. 1712 note) is amended by striking out "(1) eligible to pursue a program of education exclusively by correspondence by virtue of the provisions of section 1786 of such title (as added by section 316 of this Act) and (2)".

(f) The amendments made by this section shall take effect on October 1, 1982.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi (Mr. MONTGOMERY) will be recognized for 20 minutes, and the gentleman from Arkansas (Mr. HAMMERSCHMIDT) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

GENERAL LEAVE

Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. MONTGOMERY. Mr. Speaker, I am delighted to bring before the House a bill that would provide increases in the rates of compensation paid to our service-connected disabled veterans and dependency and indemnity compensation paid to widows and children of veterans who die of service incurred disabilities. The rate increase would become effective October 1, 1982.

The Congress has always given the highest priority to individuals who serve in our Nation's Armed Forces and are disabled as a result of their service. This priority includes monetary benefits for disabilities incurred while serving and medical care and treatment for such disabilites. It is extremely important that veterans know we care about their welfare and that we shall never compromise on our commitment in their behalf.

This bill will provide an increase of 7.4 percent in the rates of compensation and DIC benefits, effective October 1, 1982.

Mr. Speaker, there was some question a few weeks back as to whether the budget resolution would include funding targets allowing a full cost-of-living increase in monthly benefits to be paid. The Budget Committee in the other body had given some thought to placing a cap on the compensation increase at 4 percent—that the 4-percent rate would be paid only to those veterans with disabilities rated 70 percent through 100 percent. Veterans with disabilities rated 10 percent through 60 percent would have received no increase at all under an early proposal.

When I first heard about this I made it known to anyone who would listen that as chairman on the Committee on Veterans' Affairs, this would never be accepted by me and other Members of this body. The issue was finally resolved when the distinguished Senator from Wyoming, Mr. SIMPSON, the very able chairman of the Senate Veterans' Affairs Committee, and the distinguished ranking minority member of the committee, my longtime friend, the distinguished gentleman from California, Mr. CRANSTON, joined together in urging the Budget Committee to provide a full cost-of-living increase for compensation purposes. I want to say, Mr. Speaker, how pleased I am that the issue was favorably resolved and the House and Senate are now able to give these veterans and survivors a rate of increase they all deserve.

There are other important provisions contained in the bill which I shall leave to the chairman of our subcommittee on compensation, pension and insurance to explain. But I would like to comment briefly on title III of the bill.

I am happy to report that the Committee on Veterans' Affairs has fully complied with the reconciliation instructions contained in the first concurrent budget resolution.

Mr. Speaker, it is never easy to reduce or terminate an existing Federal benefit or service. We all recognize, however, that we cannot live with the current deficit. Projected future deficits must be reduced if the country is to recover from the current economic situation. Every committee must make a serious effort to keep Federal expenditures down. Our committee has fully complied with the mandate of the House.

Before recognizing the distinguished gentleman from Ohio (Mr. APPLEGATE) for an explanation of the bill, I want to thank him; the distinguished gentleman from Ohio (Mr. WYLIE), my longtime friend and the ranking minority member of the subcommittee, and the very able ranking minority member of the full committee, JOHN PAUL HAMMERSCHMIDT, for the splendid cooperation I have received from them in moving this bill to the floor. We reached agreement on the reconciliation instructions in a bipartisan manner. Although I cannot tell the Members of the House that all members of the Committee on Veterans' Affairs agreed with the cost savings provisions contained in title I and title III of the reported bill, it was ordered reported by unanimous voice vote. What it does say, Mr. Speaker, is that our Members accepted the will of the House, as a committee, and have acted responsibly. I am grateful to all members of the Veterans' Affairs Committee for their cooperation and support in getting this bill before the House.

Mr. Speaker, I yield such time as he may consume to the chairman of the Budget Committee, the gentleman from Oklahoma (Mr. JONES).

Mr. JONES of Oklahoma. Mr. Speaker, I thank the gentleman for yielding.

I want to congratulate the chairman and members of the Veterans' Affairs Committee on meeting fully the targets established in the first budget resolution. The reconciliation instructions which were assigned to the Veterans' Affairs Committee were met fully. The committee performed in a manner that is in full keeping with the Budget Act and I commend you and urge all of our colleagues to support this legislation.

As you point out, it is never easy to say no or to retract on programs that exist, but you met fully the requirements and I congratulate you and commend to my colleagues support of the legislation.

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Mr. MONTGOMERY. I certainly thank the chairman of the Budget Committee for those kind remarks.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. APPLEGATE) who is the new chairman of our Subcommittee on Compensation, Pension, and Insurance. DOUG APPLEGATE has been a

member of that committee for 6 years, but since he has assumed the chairmanship of the subcommittee on May 25, a little less than 2 months ago, he has wasted no time in putting this bill together and bringing it to the floor.

I look forward to working with him in future years as chairman of this subcommittee.

Mr. APPLEGATE. I thank the chairman for his remarks.

Mr. Speaker, I want to express my appreciation to the distinguished gentleman from Mississippi, the Honorable SONNY MONTGOMERY, to the able gentleman from Arkansas, the Honorable JOHN PAUL HAMMERSCHMIDT, to the ranking minority member of the full committee, and, to my colleague, the Honorable CHALMERS WYLIE of Ohio, the ranking minority member of the subcommittee. I would also like to thank all of the members of the subcommittee for their efforts to help get the reported bill to the floor.

Mr. Speaker, today we are considering a bill to provide a cost-of-living increase in benefits for veterans who were disabled as a result of their military service and for the widows and orphans of veterans who died of service-connected causes. The bill is designed to assist these individuals to make sure that their level of benefits is not eroded by the ravages of inflation. The bill would provide an average 7.4 percent increase effective October 1, 1982.

Mr. Speaker, I wish to assure you and my colleagues that the funding level contained in this bill does not exceed the targets established in the first concurrent budget resolution. Additionally, it is not inflationary in that it simply provides a cost-of-living increase based on the anticipated rise in the Consumer Price Index between October 1, 1981 and September 30, 1982. The legislation is necessary since the service-connected program for veterans and widows is not indexed by laws.

Service-connected compensation is payable to veterans who suffer from a disease or disability incurred during service.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "schedule for rating disabilities" which is the guideline for measuring the degree of disability. Compensation is paid for disabilities at ratings of 10 percent, 20 percent, and so forth up to 100 percent. The rate of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. An additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to insure that inflation does not erode the purchasing power of those drawing compensation and DIC benefits.

Widows and children of veterans who die of causes determined to be service connected are entitled to monthly payments of dependency and indemnity compensation.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children.

Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay grade and range from $415 monthly for the surviving spouse of an E–1 to $1,061 monthly for the surviving spouse of an O–10. Surviving spouses are entitled to an additional $48 monthly for each child.

It is well established that the Congress has placed the very highest priority on the payment of compensation and dependency and indemnity compensation benefits to eligible veterans and survivors.

Mr. Speaker, the bill also contains several program changes.

First, it would provide entitlement to VA compensation to members of the Senior Reserve Officers' Training Corps, if during military training camp, a participant suffers a disabling injury. My very capable colleague from South Dakota, the Honorable THOMAS A. DASCHLE, called to our attention the fact that where an ROTC member suffers a fatal injury during summer camp, his widow is entitled to dependency and indemnity compensation (DIC); but if he is seriously injured and does not die, he is not eligible to receive benefits from the Veterans' Administration. The individual is only eligible for Federal employees compensation under section 8104 of title 5, United States Code, which is substantially lower than VA compensation. The bill would correct this inequity.

The bill would also increase the compensation rate for certain blinded veterans by equalizing benefits for totally blinded veterans without light perception with those who have suffered the enucleation of the eyes or deformity or scarring. An increased compensation rate would also be payable to veterans who suffer from service-connected blindness in both eyes (5/200 visual acuity or less) and who additionally have incurred the service-connected loss or loss of use of one hand or one foot. This increased compensation is considered to be warranted because the loss of an extremity has a greater impact on a blinded veteran than on an individual who has not lost his or her sight. The Honorable CHRISTOPHER H. SMITH of New Jersey, the Honorable ALBERT LEE SMITH of Alabama and the Honorable JOSEPH F. SMITH of Pennsylvania addressed these issues in H.R. 6154 and H.R. 6155.

Mr. Speaker, the bill would reinstate the $300 burial allowance for certain wartime veterans whose remains are unclaimed and whose estates do not contain sufficient resources to defray the cost of the funeral and burial of the deceased. Under the provisions of Public Law 97–35, the Omnibus Reconciliation Act of 1981, the $300 non-service-connected burial allowance was terminated for many veterans, Exceptions to this discontinuance were veterans who were drawing VA pension or compensation benefits at time of death or who died in a VA facility. Following the adoption of the Reconciliation Act last year, the press publicized accounts of many bodies being held in county and city morgues when no funds or next of kin were available to provide a proper burial. Investigation of this situation revealed that the press reports were greatly exaggerated. However, committee investigation revealed that some cases did exist and action is warranted to make certain that the unclaimed body of a wartime veteran is not buried in a pauper's grave. This provision of the bill corrects the oversight which occurred by the enactment of Public Law 97–35.

Additionally, it would authorize payment of the burial allowance in cases where a veteran dies in a VA contract nursing home. The provisions of section 903(a), title 38, United State Code authorize payment of the $300 non-service-connected burial allowance whenever death occurs in a VA facility to which the deceased was properly admitted. For almost 20 years, the VA has followed an interpretation by its General Counsel that contract nursing care constituted care in a VA facility for purposes of eligibility for burial benefits.

Public Law 97–35 provided that the benefit would no longer be payable unless the deceased veteran was in receipt of compensation or pension or unless he died in a VA facility. The Congress, relying on the longstanding interpretation of current law on this issue, did not place any limit on deaths in either a VA-owned facility or in a contract facility.

Earlier this year, the VA General Counsel issued an opinion, reversing an earlier opinion issued almost 20 years ago, that death in a contract

nursing home did not constitute death in a VA facility for purposes of establishing eligibility for burial benefits. In his latest opinion, he did not consider the issue of congressional ratification of the earlier decision, manifested by legislation enacting a number of amendments and restrictions placed on payment of burial benefits. Therefore, there is no alternative but to seek legislative remedy.

The bill would further authorize the Administrator to furnish a flag to the next of kin of certain persons buried in a national cemetery. Public Law 93-43, which became effective June 18, 1973, extended the privilege of being buried in a national cemetery to nonveterans in certain instances so designated by the Administrator. This would usually involve an individual who performed outstanding and meritorious service to this Nation. This provision of the bill would authorize the Administrator to provide a burial flag to any distinguished individual so honored by burial in a national cemetery.

Mr. Speaker, at the request of the Department of Defense, the bill would provide that the position of superintendents of national cemeteries administered by the Department of the Army need not be restricted to only those who have been disabled in the line of duty. Prior to 1973, the Department of the Army administered 84 national cemeteries and required that each superintendent meet the service-connected disability requirement—a requirement which has been in effect since 1948.

When 82 of the cemeteries were transferred to the Veterans' Administration under the provisions of the National Cemeteries Act of 1973, the act removed the requirement that superintendents for national cemeteries administered by the Veterans' Administration be disabled veterans. It continued the disability requirement, however, for superintendents of Army national cemeteries. The Army anticipates extreme difficulty in filling future vacancies for the superintendent positions at Arlington and the Soldiers' Home National Cemetery. This bill would enable the Army to avoid that difficulty.

The bill further contains a technical amendment with respect to entitlement of dependency and indemnity compensation. Under current law, a surviving spouse or child is eligible for these benefits only if the veteran was, at the time of death, in receipt of compensation for a disability rated as total for 10 years prior to death or for 5 years and continuously from the date of discharge. Under this amendment, a survivor would be eligible for benefits at DIC rates if the veteran was "entitled" to receive compensation at the total rate during the requisite period. It is intended to create entitlement in survivors when the veteran was not assigned a total disability rating for the requisite duration because of VA error.

At the request of the Veterans' Administration, the bill would remove the bar against payment of servicemen's group life insurance (SGLI) and veterans' group life insurance (VGLI) proceeds in the event a claim is filed more than 4 years after the insured's death.

The bill also clarifies that such proceeds may not escheat to a State.

Mr. Speaker, the bill enhances the quality of care for veterans in medical facilities operated by the Veterans' Administration by insuring the provision of such care and necessary related services by Federal employees. This provision is contained in the bill as a result of an amendment offered by my very distinguished colleague, the Honorable MARVIN LEATH of Texas. A proposed revision to OMB circular A-76 mandates conversion to contract for those services with 25 or less employees without requiring cost comparison studies to ascertain the cost effectiveness of such conversions. The bill specifies that VA services not be contracted out unless the Administrator, after giving proper consideration to the recommendation of the Chief Medical Director, determine it is not in the best interest of the veterans and the agency to do so. Mr. Speaker, high quality health care for veterans continues to be one of the committee's highest priorities and this is demonstrated by the fact that H.R. 6315, which is identical to this provision in the bill, was cosponsored by 28 members of the committee.

Mr. Speaker, the bill also complies with the reconciliation instructions to the Committee on Veterans' Affairs contained in the first concurrent budget resolution. It contains several program changes which, if enacted would realize savings totaling $169.7 million in budget authority and outlays in fiscal year 1983; $185.9 million in fiscal year 1984; and $195 million in fiscal year 1985. Mr. Speaker, the Congressional Budget Office has advised us that the savings will be $400,000 more than what is shown in the body of our committee report and this amount is reflected in the above figures.

The bill contains the following cost-savings provisions:

First, rounding down pension and compensation benefit checks to the next lower dollar. Issuing pension checks in even dollars would realize savings of $10.8 million in fiscal year 1983; $10.4 million in fiscal year 1984; and $10.1 million in fiscal year 1985. Rounding down compensation and DIC benefits to the nearest whole dollar would save $18.3 million in fiscal year 1983; $18.5 million in fiscal year 1984; and $18.6 million in fiscal year 1985.

Second, amending the definition of a dependent child for pension purposes to exclude college students over the age of 18. This would be phased in over 4 years to protect current student beneficiaries. This would save $13.4 million in fiscal year 1983; $18.1 million in fiscal year 1984; and $21.7 million in fiscal year 1985.

Third, delaying payment of compensation and pension benefits until the first full month of entitlement rather than from the effective date of the award. By postponing the start of the payment period (but not the effective date itself, for purposes of other VA rights) savings in the compensation account would be $9 million in fiscal year 1983; $10 million in fiscal year 1984; and $10.4 million in fiscal year 1985. Pension savings are estimated at $19.8 million in fiscal year 1983; $20.7 million in fiscal year 1984; and $22 million in fiscal year 1985.

Fourth, changing the effective dates of reductions and discontinuances of compensation, DIC or pension by reason of a veteran's change in dependency status from the end of the year to the end of the month in which the event occurred. Savings for compensation would be $1.4 million in fiscal year 1983, 1984, and 1985. Savings for pension would be $1.8 milion in fiscal year 1983; $2.1 million in fiscal year 1984; and $2.5 million in fiscal year 1985.

Fifth, terminating the correspondence training program. This would realize savings of $5.6 million in fiscal year 1983; $4.9 million in fiscal year 1984; and $4.2 million in fiscal year 1985.

Sixth, imposing a 0.5 percent user fee on VA loans. The average fee would be about $285. With an exemption for service-connected veterans drawing compensation benefits under chapter 11 of title 38, United States Code, savings would be approximately $89.6 million in fiscal year 1983; $99.8 million in fiscal year 1984; and $104.1 million in fiscal year 1985.

Mr. Speaker, the above program changes meet our reconciliation requirements for the next 3 years. Although the majority of these proposals will have minimal impact upon existing benefits and services, I personally have reservations about the imposition of a users' fee on VA loans. I wish to point out, however, that it is only temporary. The authority to collect such fee will expire on September 30, 1985.

Mr. Speaker, I think it only fair that we do it this way. The fee should only be paid during a period of time when we are in a severe economic slump. Mr. Speaker, it is my understanding that certain tax provisions considered by the Senate last week in their tax bill are also temporary in nature. In particular, I refer to Senator HELM's

amendment that the additional tax on tobacco expire October 1, 1985. Mr. Speaker, it is my belief that we should not continue to impose a users' fee on veterans, many of whom served during wartime, applying for VA loans once the country reaches a measure of economic recovery.

Again, Mr. Speaker, I would like to point out that this bill will have no inflationary impact and is well within the budget authority and outlays as contained in the first congressional budget resolution. It has an overall cost of $539 in budget authority and $486 in outlays for fiscal year 1983.

Mr. Speaker, this bill is vital to our service-connected veterans and I urge that it be adopted.

Mr. MONTGOMERY. Mr. Speaker, I yield such time as he may consume to the gentleman from South Dakota (Mr. DASCHLE), a very active member of our committee.

Mr. DASCHLE. Mr. Speaker, I wish to commend both the chairman of the full committee and the chairman of the subcommittee for bringing this bill to the floor, and I rise in strong support of this legislation.

Mr. Speaker, I am pleased to be able to vote in favor of H.R. 6782, the Veterans Disability Compensation and Survivors' Benefits Amendments for 1982. I can think of no more deserving group of Americans than those who were injured or gave their lives for their country and thus am honored to support this legislation which provides a 7.4-percent cost-of-living increase to disabled veterans and survivors of veterans who died of service-related injuries.

This past May I was shocked and dismayed when the Senate voted to deny veterans disabled less than 70 percent and veterans receiving pensions a cost-of-living increase for fiscal year 1983. I would like to know how a U.S. Senator could tell a young veteran of the Vietnam war who lost an arm or leg in a booby trap that he is not deserving of a cost-of-living increase? I would also like to know how a U.S. Senator can tell a veteran of World War II suffering pain in his back due to gunshot wounds, that his cost-of-living increase would not be paid this year because the President needed an additional $700 million cut from the budget, despite the fact that his budget was $100 billion in the red to begin with. Fortunately, conference meetings on the first budget resolution resulted in a reversal of this irresponsible action and Senate conferees agreed to restore the majority of these reductions.

Through the adept leadership of the chairman of the House Veterans Committee, SONNY MONTGOMERY, the battle for a cost-of-living increase for disabled veterans has been won for this year, but it is obvious that this will not end the administration's unparalled assault on veterans benefits and services.

There is another provision in this legislation which I also feel very strongly about. Due to an unusual anomaly in title 38, members of the Reserved Officers Training Corps—(ROTC)—who may be injured while en route to or at summer camp active duty training are not eligible for VA compensation or medical benefits. Since current law would pay death benefits to an individual's widow should he be killed, it is only fair that this same individual should not be discriminated against simply because he had the good fortune to survive such an accident, albeit in a battered condition.

An individual in my district, Richard Oeschley, suffered grievious injuries after an auto accident en route to summer camp training several years ago. Rich, blinded from his accident, has since suffered from epilepsy and spinal meningitis, both of which doctors attribute to the injuries suffered in the original accident. Ironically, Rich has been volunteering his services to the Veterans' Administration hospital in Sioux Falls, S. Dak., for a number of months, yet receives no VA benefits whatsoever as a result of his accident. Title III of H.R. 6782 will rectify this inequity and allow a small number of deserving individuals to receive assistance they otherwise would not qualify for.

It is always an honor for me to support legislation which reaffirms our Nation's commitment to its veterans and I am especially pleased that in this difficult era of a shrinking Federal budget and changed priorities, we are still able to afford disabled veterans and survivors of veterans killed in action their due.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 6782.

This bill again gives emphasis to the longstanding tradition of the Congress to give the very highest priority to benefits for service-connected disabled veterans of our armed services, their dependents, and their survivors. By increasing compensation payments by 7.4 percent effective October 1, 1982, we require that such payments stay in step with increases in the Consumer Price Index. The entire Congress has long been part of this good and necessary effort and I urge the Congress to again respond today in an affirmative way by support of this bill.

This latest compensation increase is involved with approximately $700 million. The proposal for such an increase is contained in the President's 1983 budget recommendations and funds for it are contained in the first concurrent budget resolution. The bill has the bipartisan endorsement of the House Committee on Veterans' Affairs.

Mr. Speaker, H.R. 6782, in addition to a compensation increase, contains a number of other features which I fully support. All of these have been explained by either our chairman, the distinguished member from Mississippi, the Honorable SONNY MONTGOMERY, or by our distinguished colleague from Ohio, Mr. APPLEGATE, who is the new chairman of our Subcommittee on Compensation, Pension, and Insurance. In this connection, Mr. Speaker, I would want the record to show that Mr. APPLEGATE has taken over the reins of that subcommittee in exemplary fashion and all of us on the committee expect good things from him.

Mr. Speaker, a new member of our committee, the gentleman from New Jersey (Mr. SMITH) has also provided excellent leadership on this bill. H.R. 6782 provides for increased compensation for a limited number of service-connected blind veterans. These very severely disabled veterans deserve our very special attention and Mr. SMITH has pointed out two specific areas where improvements can be made and ought to be made. He and those who worked with him on this aspect of the bill are to be commended.

Mr. Speaker, one section of this bill concerns reinstatement of the $300 burial allowance for certain cases where bodies of honorably discharged wartime veterans have not been buried because the bodies are unclaimed. Press stories generated by uninformed persons or misguided persons have greatly overplayed this situation. Nevertheless, there have been a very few instances where bodies have been unclaimed and where equity would suggest the Federal Government has a responsibility. This bill corrects this situation and will go a long way in preventing future incidents which give rise to unfounded or inaccurate stories. It will hopefully prevent the possible burial of honorably discharged veterans in so-called potters fields.

Mr. Speaker, I have cosponsored the amendment by Congressman MARVIN LEATH with respect to contracting out of VA medical activities. I have done so because of a desire to be absolutely sure that quality of medical care does not suffer if contracting out occurs. There have been a number of suggestions that the entire idea of such contracts might injure the VA medical program. It is certain that the idea has caused great consternation all across the spectrum of the VA hospital system and its employees and its patients are very concerned.

VA currently spends $7.5 billion on its medical activity. Over $700 million of this amount is already contracted out. The difference is that the $700 million is what VA feels is either necessary or required to give the best in

medical care. It is not an expenditure based on some magic formula established by those who have little experience in health care delivery.

It seems to me that advice of the Chief Medical Director of the Veterans' Administration is critical as decisions are made in regard to providing medical care to veterans. The Leath amendment assures that such advice will be sought and given. I think this is a fundamental necessity and so I supported Mr. LEATH'S proposal in committee and I cosponsored his bill in this regard.

Mr. Speaker, all of us want to do our part with respect to the first House concurrent budget resolution. That resolution called upon our Committee on Veterans' Affairs to find $77 million in reconciliation and to endorse a 0.5-percent user fee to provide some $90 million in increased revenue to the Treasury on GI loans for veterans. Our committee more than accomplished its task, and H.R. 6782 contains our recommendations. The distinguished chairman has already referred to them and I need not repeat what he has said. However, I do need to say that the entire committee cooperated and, in that regard, I want to give particular commendation to the gentleman from Ohio (Mr. WYLIE), the gentleman from Michigan (Mr. SAWYER), and the gentlelady from Massachusetts (Mrs. HECKLER). Working cooperatively with the majority as they invariably do, they have come up not only with a good compensation bill but also a good source of recommendations with respect to other matters and with respect to reconciliation.

Mr. Speaker, I urge all of my colleagues to endorse and support H.R. 6782, and I congratulate our distinguished chairman for so expeditiously bringing this bill before the House.

□ 1300

Mr. Speaker, I yield such time as he may consume to the ranking member of the Subcommittee on Compensation, Pension, and Insurance, the gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. Mr. Speaker, I thank the gentleman from Arkansas, the ranking minority member of the full committee very much for yielding me this time.

Mr. Speaker, I rise in enthusiastic support of H.R. 6782, which has as its principal purpose the providing of a cost-of-living compensation increase for service-connected disabled veterans, their dependents, and survivors.

As has been mentioned, it represents a 7.4-percent increase in compensation, which is the same as the increase provided for social security recipients.

The subcommittee of the Committee on Veterans' Affairs, on which I am proud to serve as the ranking minority member, and in which this bill originated, has always insisted that the first obligation of our Government in veterans' affairs is to assure a fair and adequate treatment for our service-connected disabled veterans. In doing this, I believe that we do reflect the will of Congress as expressed so many times over the years.

Mr. Speaker, this bill means the Veterans' Affairs Committee is the first committee of this House to be in full compliance with the reconciliation instructions contained in the first concurrent budget resolution. This has been no easy task. I want to add my own compliments to those of others who have spoken before me, to the gentleman from Mississippi (Mr. MONTGOMERY), the chairman of the full committee; the gentleman from Arkansas (Mr. HAMMERSCHMIDT), the ranking minority member; and the gentleman from Ohio (Mr. APPLEGATE). We have accomplished much since he has assumed his assignment in an orderly and expeditious manner, and I congratulate my friend and colleague, the gentleman from Ohio, for the way he has handled his new chairmanship

Mr. Speaker, this is a good bill which deserves the support of the House. I urge its approval.

Mr. MONTGOMERY. Mr. Speaker, before yielding time to the distinguished gentleman from California (Mr. PANETTA) from the Budget Committee, I would like to say that the gentleman from California (Mr. PANETTA) certainly has been helpful to our committee, working out and bringing up this reconciliation as far as the veterans are concerned. I would like to go on record as thanking the gentleman for his guidance and help.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. PANETTA).

Mr. PANETTA. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as you know, the first budget resolution that was approved by the Congress did provide reconciliation instructions to nine House committees involving $6 billion in outlay reductions and about $20 billion in revenue increases targeted for this year's reconciliation effort.

What the Veterans' Committee presents here is in response to its reconciliation instructions. I want to commend the chairman and all the members of the Veterans' Committee, both on the majority and on the minority side, for their responsiveness to the reconciliation instructions. The committee's targets were $77 million in outlays for 1983, $155 million for 1984, and $155 million in 1985. In each instance, the committee met and in some areas exceeded the savings targets that they were assigned.

There is precedence in the veterans' area for the Veterans' Committee proceeding with a separate package in reconciliation. In both 1980, as well as 1981, in reconciliation, reference was made to packages that were already passed by the Veterans' Committee and, indeed, signed into public law.

This is the first, of course, of a series of packages that will be coming to the floor on reconciliation.

I commend the Veterans' Committee for their quick responsiveness to their instructions, and I would urge Members to support passage of this bill.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the distinguished ranking minority member of the Subcommittee on Education, Training, and Employment, the gentlewoman from Massachusetts (Mrs. HECKLER).

Mrs. HECKLER. Mr. Speaker, I would like to say that I rise in strong support of H.R. 6782.

The House has before it today legislation benefiting the country's veterans—the servicemen and women who answered the call to national service. We cannot repay the sacrifices many of these veterans were called on to make in defense of freedom. But we can act to provide our veterans with appropriate disability allowances, medical care, and burial benefits.

H.R. 6782 authorizes a 7.4 percent across-the-board cost-of-living adjustment in the rates of disability compensation for disabled veterans and in the rates of indemnity compensation for survivors of deceased veterans. This increase will be given to any disabled veteran whether the disability is 10 or 100 percent.

Another important provision of H.R. 6782 is the prohibition it places on the Veterans' Administration from contracting out medical services unless it is determined that the service cannot be provided in-house or that the contracting out of such service will actually enhance the quality of medical care provided by the facility in question.

"Contracting out" is often a code word for providing veterans care at reduced cost. In fact, the cost savings are many times false economies involving a decline in the quality of the service provided. This is simply unacceptable.

Finally, H.R. 6782 reinstates the $300 non-service-connected burial allowance for veterans who die in a contract nursing home and also for veterans with insufficient estates to meet burial costs and whose bodies often remain unclaimed.

As a member of the Veterans' Affairs Committee, I was embarrassed by the touching story of a man who pays for indigent veterans' burials. I am for the private sector contributing to social endeavors. But the burial of indigent veterans is a national responsibility. It is an obligation to be borne by all of us—not just by caring individuals at large.

H.R. 6782 is supported by the administration. Its cost has already been provided for in the budget.

I urge its passage.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 2 minutes to the subcommittee chairman, the gentleman from Indiana (Mr. HILLIS).

Mr. HILLIS. Mr. Speaker, I thank my good friend and colleague, the gentleman from Arkansas, the ranking minority member of the committee, for yielding this time to me.

Mr. Speaker, I too rise in strong support for this important legislation. The bill, as has already been pointed out, increases compensation for service-connected disabled veterans, their survivors, and dependents by 7.4 percent effective the first of October this year.

It also extends VA benefits to ROTC members if they sustain injury while in summer camp, while the current law provided for survivors only.

Compensation is increased for certain blinded veterans. This is done with no significant cost increases.

These important parts of the bill certainly have been highlighted by other speakers, together with many other important provisions in the legislation.

I think it is outstanding that we are able to do these things and yet be in compliance with the Budget Act. It shows, I think, and it leads the way in the House for other committees to set the tone of compliance in the field of rescission and yet do the job as far as the duty of the committee on behalf of the constituency they represent, in our case to the veterans and the service-connected veterans' dependents and spouses, and still comply with reasonable restraints of the Congress.

I certainly salute the chairman and all who have provided the leadership that has made this legislation possible.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 5 minutes to a member of our committee, the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, before us today is a bill of major significance. In a short time we will vote on a measure that will affect millions of American veterans, their widows, and dependent survivors.

The Veterans Disability Compensation and Survivors' Benefits Amendments of 1982 will be welcomed by the 2,700,000 disabled veterans and their families who are receiving disability or survivors' benefits in our country.

Among the many other vital measures of this bill, it will provide for a 7.4-percent cost-of-living increase in compensation benefits to disabled veterans.

Most important, since compensation rate increases to offset inflation are not indexed by law, H.R. 6782 will reaffirm the highest priority to be placed on benefits and health care for our service-connected disabled.

As a member of the Veterans' Affairs Committee, I am proud to support this measure and to have played a key role in its drafting.

Mr. Speaker, H.R. 6782 includes some important changes in the compensation rate schedule, title 38, section 314, for certain disabled blinded veterans.

I am very pleased that the major provisions of H.R. 6154 and H.R. 6155, which I introduced on April 22 of this year, were adopted and are now contained in the compensation bill before us today.

I want to thank the chairman of the Veterans' Subcommittee on Compensation, Pension, and Insurance, the gentleman from Ohio (Mr. APPLEGATE) and the ranking member, the gentleman from Ohio (Mr. WYLIE), as well as the chairman of the full Veterans' Committee, the gentleman from Mississippi (Mr. MONTGOMERY), and the ranking minority member, the gentleman from Arkansas (Mr. HAMMERSCHMIDT) for their leadership on these bills.

I also want to thank my good friends, the gentleman from Alabama (Mr. SMITH) and the gentleman from Pennsylvania (Mr. SMITH), who were original cosponsors, and 32 other Members who cosponsored this legislation.

I want to note Mr. Speaker, when presented with the facts, these colleagues recognized that the compensation schedules for service-connected blinded veterans were inherently unfair and that my legislation was needed. My legislation—for the first time—reforms the rating schedule and eliminates two basic inequities that discriminate against blinded veterans.

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The first provision, Mr. Speaker, section 202, recognizes the importance of light perception as an aspect of balance in compensation payments. It amends the code to equalize benefits for totally blinded veterans without light perception with those who have suffered the enucleation of the eyes or deformity or scarring of the eyes.

The inadequacy of the current rating schedule is such that it is possible for a veteran with scarring around his eyes to have light perception in one or both eyes, yet he would still be rated more disabled than a veteran with no light perception but who has retained his eyes with no deformity or scarring.

A member of the Blinded Veterans Association testified earlier this year about the importance of light perception before the House Veterans' Affairs Committee:

> When I was first blinded, I was rated a paragraph N because I had one eye enucleated and the other eye was scarred. . . . Yet, I had some ability to perceive changes in light. Three years later when I lost that ability, I finally realized that I had been using that light perception for mobility purposes. So, the individual who at that time was totally blind, having no light perception, was rated below myself.

Also, Mr. Speaker, H.R. 6782 provides a veteran who is totally blind in both eyes, having no light perception, will be rated equally to a veteran with anatomical loss of the eyes or with eyes having deformity or scarring. In both instances, veterans are equally without vision, yet the latter case currently is rated more disabled than the former. This bill would change that basic discrimination.

The second change this bill would make in the rating schedule will amend the schedule to provide additional compensation for blinded veterans who also have incurred the loss of or the loss of the use of one hand or one foot. This disability, in combination with blindness, deprives the veteran of essential contact with the environment. Therefore, the veteran is placed in a more debilitating position than if he had the use of both hands and both feet.

The current compensation schedule is deficient because it fails to recognize the effects of such disabilities on blinded veterans.

Mr. Speaker, H.R. 6782 would amend the rating schedule to recognize the loss of tactile sense resulting from the use of an artificial hand or foot as considerably more handicapping when it occurs in combination with blindness. This inequity is corrected by moving such service-connected veterans to the next higher intermediate rate on the schedule.

My provisions—known to members of the Veterans' Affairs Committee as the "Smith accords"—are a vital aspect of the veterans compensation bill. If enacted, this legislation will further recognize the unique nature of blindness as a disability—that there are varied types and degrees of blindness among veterans.

Mr. Speaker, I do not need to stress the great sense of commitment this Nation has to its service-connected disabled veterans. H.R. 6782, by providing for a cost-of-living increase of 7.4 percent for the disabled veteran, by increasing compensation for many disabled blinded veterans, represents the continued commitment we have to giving veterans and their dependents their just due.

I strongly support the Veterans' Disability Compensation and Survivors' Act, and I ask that all my colleagues vote favorably on this legislation.

I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I yield 1 minute to the gentleman from South Carolina (Mr. NAPIER), a member of our committee.

Mr. NAPIER. Mr. Speaker, I rise in support of this legislation as it is a piece of legislation that restates once again the commitment of the American people to the service-connected disabled veterans. This increase goes into effect with an understanding that we meet the requirements of the Budget Act and that this Nation stands by that commitment.

I commend the other members of our committee, particularly the chairman and ranking member of the full committee and subcommittee for the outstanding job that they did in seeing that this legislation was brought to the floor.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to say that the veterans' organizations realize that there has to be some slowdown in Government spending and they realize that reconciliation is necessary.

I think I can safely say that the veterans' organizations feel what this committee has done is fair.

Mr. Speaker, this is an excellent bill. It will provide assistance to 2,275,719 service-connected disabled veterans and 321,332 survivors of those who died of service-connected disabilities.

The measure will put the committee in compliance with the reconciliation instructions contained in the budget resolution. For the record, it should be stated that if this bill is enacted, in 1983 there will be savings of approximately $170 million in budget authority and outlays for function 700. Savings in 1984 would exceed $185 million, and more than $195 million in 1985.

This is a good bill, Mr. Speaker, and I urge my colleagues to approve it.

● Mr. CORRADA. Mr. Speaker, I rise in strong support of H.R. 6782, the Veterans Disability Compensation and Survivors Benefits Amendments Act of 1982, which would increase by 7.4 percent the amount of disability compensation for disabled veterans and the rates of dependency and indemnity compensation for surviving spouses and children of veterans. It also introduces cost-saving provisions among other purposes.

This realistic legislation seeks to remedy the erosion caused by the rate of inflation to benefits currently being received by our most deserving citizens, the service-connected veterans and survivors to veterans that have died of service related causes. These faithful citizens, for our tranquillity and liberty, have left behind in the battlefield part if not all of their productivity and capability to provide for their families and for themselves. Mr. Speaker, I wholeheartedly endorse this legislation because it recognizes our Nation's primary obligation to our service-connected disabled veterans who are still suffering in their bodies and flesh the horrors of war. This human contribution surpasses any monetary ratification and it is only fair play that we take care of them and their families' needs inasmuch as they took care of the Nation's needs and best interests at times of adversity, so gallantly and proudly.

The House Committee on Veterans' Affairs should be commended for so wisely sorting out cost saving measures and reporting a bill that is in line with our Nation's pledge to economic austerity but does not disregard the needs of our men and women and their families who so courageously defended our ideals of democracy and freedom. I must add that if the veterans class is to be regarded as a "sacred cow" here in Congress it is not due to a political invention but on the contrary, it is an earned recognition for their efforts and invaluable services to our country for which we owe an enormous debt.

I trust that in the future Congress will be very careful in asking from the Veterans' Administration additional savings which could result in the curtailing of the well-deserved benefits our veterans are receiving. Veterans and especially disabled veterans have a big enough burden to carry for us to try to balance the budget at their expense.

I urge my colleagues to vote for the passage of this legislation.●

● Mr. ROBERTS of South Dakota. Mr. Speaker, I rise in support of H.R. 6782, the Disability Compensation and Survivors' Benefits for Veterans Amendments of 1982.

Traditionally, Congress has increased veterans' compensation rates whenever there has been an appreciable increase in the cost of living index. H.R. 6782 authorizes a 7.4-percent cost of living adjustment in the rates of compensation for disabled veterans and for the survivors of deceased veterans.

It is the duty of this Congress, and future Congresses, to remember and honor those who have offered their lives for the defense of their country. I join the committee in supporting this COLA for veterans compensation. The President has recommended this increase, the committee has endorsed this increase, and all the Members of this body should support this COLA.

The contracting out of services by Veterans' Administration facilities has been an issue of much controversy. Last year this Congress passed veterans legislation that included a provision to prevent the VA from contracting out. Again, this year, H.R. 6782 prohibits the VA from contracting out medical services unless it determines that the service cannot be provided in-house or that contracting for the service will enhance the quality of medical care provided by the facility.

We must not jeopardize the quality of care offered to our veterans. H.R. 6782 assures the veterans using VA facilities that only the best care available will be provided.

H.R. 6782 provides for many other areas of care for and service to the veteran. It permits members of the Senior Reserve Officers Training Corps to become eligible for disability compensation if an injury or disease is incurred while in training. H.R. 6782 corrects some inequities in the compensation received by blinded veterans, reinstates the $300 non-service-connected burial allowance for veterans who die in a contract nursing home, or have an insufficient estate to cover the cost of burial.

H.R. 6782 is needed to preserve our commitment to veterans. I urge my colleagues to support H.R. 6782.●

Mr. MONTGOMERY. Mr. Speaker, I have no further requests for time on this side of the aisle, and I yield back the balance of my time.

Mr. HAMMERSCHMIDT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 6782, as amended.

The question was taken.

Mr. HAMMERSCHMIDT. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to the provisions of clause 5, rule I, and the Chair's prior announcement, further proceedings on this motion will be postponed.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on a bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

Mr. PURSELL reserved all points of order on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

EXPORT TRADING COMPANY ACT OF 1981

Mr. BINGHAM. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1799) entitled "The Export Trading Company Act of 1981," as amended.

The Clerk read as follows:

H.R. 1799

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as "The Export Trading Company Act of 1982".

FINDINGS; DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that—

(1) United States exports are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every seven dollars of total United States goods produced;

(2) the rapidly growing service-related industries are vital to the well-being of the United States economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 percent of the Nation's gross national product, and offer the greatest potential for significantly increased industrial trade involving finished products;

(3) trade deficits contribute to the decline of the dollar on international currency markets and have an inflationary impact on the United States economy;

(4) tens of thousands of small- and medium-sized United States businesses produce exportable goods or services but do not engage in exporting;

(5) export trade services in the United States are fragmented into a multitude of separate functions, and companies attempting to offer export trade services lack financial leverage to reach a significant number of potential United States exporters;

(6) the United States needs well-developed export trade intermediaries which can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(7) the development of export trading companies in the United States has been hampered by business attitudes and by Government regulations;

(8) those activities of State and local governmental authorities which initiate, facilitate, or expand exports of goods and services can be an important source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(9) if United States trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad; and

(10) the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.

(b) It is the purpose of this Act to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers, in particular by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies, by encouraging investment in export trading companies by certain banking institutions, and by modifying the application of the antitrust laws to certain export trade.

DEFINITIONS

SEC. 3. For purposes of this section and sections 2 and 4 of this Act—

(1) the term "export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

(2) the term "services" includes amusement, architectural, automatic data processing, business, communications, consulting, engineering, financial, insurance, legal, management, repair, training, and transportation services;

(3) the term "export trade services" includes international market research, advertising, marketing, insurance, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

(4) the term "export trading company" means any person, corporation, partnership, association, or similar organization, which does business under the laws of the United States or any State and which is organized and operated principally for purposes of—

(A) exporting goods or services producing in the United States; or

(B) facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services;

(5) the term "export trade association" means an association engaged solely in export trade which is exempt from the antitrust laws under the Webb-Pomerene Act;

(6) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(7) the term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

OFFICE OF EXPORT TRADE IN DEPARTMENT OF COMMERCE

SEC. 4. The Secretary of Commerce shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies. Such office shall provide information and advice to interested persons and shall provide a referral service to facilitate contact between producers and exportable goods and services and firms offering export trade services.

TITLE I—EXPORT TRADING COMPANIES

INVESTMENTS IN EXPORT TRADING COMPANIES

SEC. 101. (a) Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) in paragraph (12)(B), by striking out "or" at the end thereof;

(2) in paragraph (13), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (13) the following:

"(14) shares of any company which is an export trading company whose acquisition (including each acquisition of shares) or formation by a bank holding company has been approved by the Board, except that such investments, whether direct or indirect, in such shares shall not exceed 5 percent of the bank holding company's consolidated capital and surplus. No approval may be granted by the Board under this paragraph unless the Board has taken into consideration the financial and managerial resources, competitive situation, and future prospects of the bank holding company and the export trading company involved and has imposed such restrictions, by regulation or otherwise, as the Board deems necessary to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competition. Notwithstanding any other provision of law, in any case in which a bank holding company invests in an export trading company, such bank holding company shall be deemed to be a member bank, with respect to such export trading company, for purposes of section 23A of the Federal Reserve Act, and such export trading company shall be deemed to be an affiliate for purposes of such section, except that amounts invested pursuant to the first sentence of this paragraph shall not apply with respect to the limitations imposed under section 23A of the Federal Reserve Act. For purposes of this paragraph, the term 'export trading company' means a company which does business under the laws of the United States or any State and which is organized and operated principally for purposes of exporting goods or services produced in the United States or which facilitates the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. For purposes of this paragraph, the term bank 'export trading services' includes consulting, international market research, advertising, marketing, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States. For purposes of this paragraph, an export trading company (A) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that its bank holding company investor may do so under applicable Federal and State banking law and regulations, and (B) may not engage in manufacturing or agricultural production activities. The name of the export trading company involved shall not be similar in any respect to the name of the bank holding company which owns any of its voting stock or other evidences of ownership.".

(b) Section 25(a) of the Federal Reserve Act (12 U.S.C. 611 et seq.) is amended—

(1) in the first paragraph of subsection (c), by inserting "(1)" after "(c)"; and

(2) by inserting after the first paragraph of subsection (c) the following:

"(2)(A) Notwithstanding any other provision of law, with the approval of the Board of Governors of the Federal Reserve System, a corporation organized under this section may purchase and hold stock or other certificates of ownership in any other corporation which is an export trading company. No approval may be granted by the Board under this paragraph unless the Board has taken into consideration the financial and managerial resources, competitive situation, and future prospects of the

corporations involved and has imposed such restrictions, by regulation or otherwise, as the Board deems necessary to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competition. No corporation organized under this section shall invest in such export trading companies in an amount in excess of 25 percent of its own capital and surplus. The second proviso of paragraph (1) shall apply to any corporation referred to in this paragraph.

"(B) Notwithstanding any other provision of law, in any case in which a corporation organized under this section purchases or holds stock or other certificates of ownership in any other corporation which is an export trading company, such acquiring corporation, or any bank or banking institution which purchases or holds stock or other certificates of ownership in such acquiring corporation, shall be deemed to be a member bank, with respect to such export trading company, for purposes of section 23A of this Act, and such export trading company shall be deemed to be an affiliate for purposes of such section, except that amounts invested pursuant to subparagraph (A) shall not apply with respect to the limitations imposed under section 23A of this Act.

"(C) For purposes of this section—

"(i) the term 'export trading company' means a company which does business under the laws of the United States or any State and which is organized and operated principally for purposes of exporting goods or services produced in the United States or which facilitates the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services; and

"(ii) the term 'export trade services' includes consulting, international market research, advertising, marketing, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States.

"(D) For purposes of this subsection, an export trading company—

"(i) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that the corporation which is organized under this section and which invests in the company defined in this clause may do so under applicable Federal and State banking law and regulations; and

"(ii) may not engage in manufacturing or agricultural production activities.

"(E) The name of the export trading company involved shall not be similar in any respect to the name of the corporation organized under this section which owns any of its voting stock or other evidences of ownership.".

TITLE II—EXPORT TRADE CERTIFICATES OF REVIEW

EXPORT TRADE PROMOTION DUTIES OF ATTORNEY GENERAL

SEC. 201. To promote and encourage export trade, the Attorney General may issue certificates of review. The Secretary of Commerce, in carrying out his responsibilities to promote the export of goods and services of the United States, may advise and assist persons with respect to applying for certificates of review.

APPLICATION FOR ISSUANCE OF CERTIFICATE OF REVIEW

SEC. 202. (a) To request the issuance of a certificate of review, a person shall submit to the Secretary of Commerce or the Attorney General a written application which—

(1) specifies conduct limited to export trade, and

(2) is in form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule issued under section 211.

Each application received by the Secretary of Commerce shall be forwarded, not later than 7 days after receipt, to the Attorney General.

(b)(1) With respect to each application submitted under subsection (a), the Attorney General shall publish in the Federal Register notice that a certificate of review has been requested, the identity of each person requesting the certificate, and a description of the conduct with respect to which the certificate is requested. The notice shall be so published promptly, but not later than 10 days, after the application is received by the Attorney General.

(2) The Attorney General may not issue the certificate until the expiration of the 30-day period beginning on the date the application is received by the Attorney General.

ISSUANCE OF CERTIFICATE

SEC. 203. (a) The Attorney General shall issue a certificate of review to an applicant for the certificate if the application for the certificate satisfies the requirements of section 202, unless the Attorney General determines under subsection (b) that the conduct specified in the applicaiton is likely to result in a violation of the antitrust laws.

(b)(1) Not later than 60 days after the Attorney General receives an application under section 202, the Attorney General shall determine whether the conduct specified in the application is likely to result in a violation of the antitrust laws, except that if before the expiration of the 60-day period the Attorney General requests that the applicant submit additional information, the Attorney General shall make the determination not later than the expiration of the 60-day period, or of the 30-day period beginning on the date the additional information is submitted, whichever period ends later.

(2) Unless the Attorney General determines that the conduct specified in the application is likely to result in a violation of the antitrust laws, the Attorney General shall immediately issue a certificate of review to the applicant. If the Attorney General determines that the conduct specified in the application is likely to result in a violation of the antitrust laws, the Attorney General shall promptly transmit to the applicant a statement of the determination and the reasons in support of the determination.

(c) If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of all documents submitted by the applicant in connection with the issuance of the certificate, the Attorney General shall return to the applicant, not later than 30 days after receiving the request, the documents and all copies of the documents available to the Attorney General, except to the extent that the information contained in a document has been made available to the public.

(d) The Attorney General shall specify in each certificate of review issued under this section—

(1) the conduct, including activities and methods of operation, to which the certificate applies,

(2) the person to whom the certificate of review is issued, and

(3) any terms and conditions applicable to the conduct.

(e) A certificate of review obtained by fraud is void ab initio.

REPORTING REQUIREMENT; AMENDMENT OF CERTIFICATE

SEC. 204. (a) Any person who receives a certificate of review—

(1) shall promptly report to the Attorney General any change relevant to the matters specified under section 203(d) in the certificate, and

(2) may submit to the Attorney General an application to amend the certificate to reflect the fact or effect of the change on the conduct specified in the certificate.

(b) For purposes of section 202 and section 203, an application for an amendment to a certificate of review shall be deemed to be an application for the issuance of a certificate of review, except that the effective date of the amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

MODIFICATION OR REVOCATION OF CERTIFICATE

SEC. 205. (a) If at any time the Attorney General determines that the conduct engaged in under a certificate of review violates or is likely to result in a violation of the antitrust laws, the Attorney General shall give written notice of the determination to the person to whom the certificate was issued. The notice shall include a statement of the reasons in support of the determination. In the 30-day period beginning 30 days after the notice is given, the Attorney General shall modify or revoke the certificate, as may be appropriate.

(b) The person to whom the affected certificate was issued may bring an action in any appropriate district court of the United States to set aside the determination made under subsection (a) on the ground that the determination is erroneous.

JUDICIAL REVIEW; ADMISSIBILITY

SEC. 206. (a) Except as provided in section 205(b), no determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be subject to judicial review.

(b) No determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be admissable in evidence in any administrative or judicial proceeding in support of any claim under the antitrust laws.

PROTECTION CONFERRED BY CERTIFICATE OF REVIEW

SEC. 207. (a) No person to whom a certificate of review is issued shall be subject to a criminal action for a violation of the antitrust laws or a violation of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(b) No person to whom a certificate of review is issued shall be liable for damages in a civil action brought by the Attorney General for a violation of the antitrust laws or of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and

if the certificate is in effect at the time the conduct occurs.

(c)(1) No person to whom a certificate of review is issued shall be liable for damages exceeding actual damages, the loss of interest on actual damages, and the cost of suit (including a reasonable attorney's fee) for a violation of the antitrust laws or of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(2) If, with respect to any claim under section 4 of the Clayton Act (15 U.S.C. 15) brought against the person, the court finds that—

(A) the conduct alleged to violate the antitrust laws does not violate the antitrust laws,

(B) the conduct is conduct specified in a certificate of review, and

(C) the certificate of review was in effect at the time the conduct occurred,

the court shall award to the person against whom the claim is brought the cost of suit attributable to defending against the claim (including a reasonable attorney's fee).

(d) No person to whom a certificate of review is issued shall be liable under section 16 of the Clayton Act (15 U.S.C. 26), or any State antitrust law similar to such section, with respect to threatened loss or damage by a violation of the antitrust laws or of any State law similar to the antitrust laws if the threatened loss or damage arises from conduct specified in the certificate of review and if the certificate is in effect at the time the conduct occurs.

INJUNCTIVE RELIEF

SEC. 208. Except as provided in section 207(d), a certificate of review shall have no legal effect on the authority of a court to grant equitable relief in an action for a violation of the antitrust laws brought against the person to whom the certificate is issued. In granting the relief, the court shall have jurisdiction to modify or revoke the certificate of review, as may be appropriate.

DISCLOSURE OF INFORMATION

SEC. 209. (a) Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(b)(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or

(F) in accordance with any rule issued under section 211 permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (E).

DESCRIPTIVE GUIDELINES

SEC. 210. (a) To promote greater certainty regarding the application of the antitrust laws to export trade, the Attorney General may issue guidelines—

(1) describing specific types of conduct with respect to which the Attorney General has made, or would make, determinations under section 203 and section 205, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under subsection (a).

ISSUANCE OF RULES

SEC. 211. Not later than 120 days after the date of the enactment of this Act, the Attorney General shall issue rules to carry out this title.

DEFINITIONS

SEC. 212. For purposes of this title—

(1) The term "antitrust laws" shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that the term shall include section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition,

(2) the term "Attorney General" means the Attorney General of the United States or his designee,

(3) the term "certificate of review" means a certificate issued by the Attorney General under section 203,

(4) the term "export trade" means the export of goods or services from the United States to foreign nations, and

(5) the term "State" shall have the meaning given it in section 4G of the Clayton Act (15 U.S.C. 15 g).

EFFECTIVE DATES

SEC. 213. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) Section 202 and section 203 shall take effect 90 days after the effective date of the rules first issued under section 211.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York (Mr. BINGHAM) will be recognized for 20 minutes, and the gentleman from California (Mr. LAGOMARSINO) will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York (Mr. BINGHAM).

Mr. BINGHAM. Mr. Speaker, I yield such time as I may consume.

Mr. Speaker, H.R. 1799 has been brought to the floor with th concerted efforts of a number of Members of the House, and with the efforts of three committees.

On behalf of Chairman ZABLOCKI and myself, I would like to pay particular tribute to the gentleman from Washington (Mr. BONKER), the original sponsor of this resolution, who has been an inspiration throughout and has been determined to bring this legislation to enactment.

The chairman of the Committee on the Judiciary (Mr. RODINO), and his ranking member, the gentleman from Illinois (Mr. MCCLORY), have been most cooperative in helping to move the legislation and they have reported the antitrust title, which is title II of H.R. 1799, which the distinguished chairman of the Committee on the Judiciary will explain a little later. That is part of the motion, and the version of title II as amended by the Judiciary Committee will be passed if the House agrees to the motion.

In addition to the reporting the antitrust title of H.R. 1799, the Committee on the Judiciary has reported companion legislation which makes an important contribution to the efforts to facilitate the formation of export trade associations. That is H.R. 5235, but that will not be before the House today.

The third portion of the package rested with the Committee on Banking, Finance and Urban Affairs. That is represented by title I of H.R. 1799. The provisions of title I as they appear in the motion that we are making have been amended in a separate bill, H.R. 6016, by the Committee on Banking, Finance and Urban Affairs, as will be explained when that bill comes before the House immediately following this one.

The differences will be resolved eventually in the motion to go to conference. That motion will be to strike all after the enacting clause of the Senate bill, S. 734, and substitute the language of the bill brought to the floor by the Committee on Banking, Finance and Urban Affairs, and the first sections of title II of H.R. 1799.

Mr. Speaker, this bill is but one of a number of measures needed to enhance the competitiveness of U.S. goods and services in export markets and thereby to strengthen the economy and preserve American jobs. It would remove some of the obstacles to trading company formation and operations in the United States. It would do that by providing for a central office in the Commerce Department charged with facilitating the activities of trading companies and it would provide, under title II, somewhat greater assurance of exemption from antitrust restrictions to the export activities of trading companies.

□ 1320

It would also, under title I by the Banking Committee, permit certain banking institutions to invest in trading companies, providing greater access to financing, which is such an

important and scarce ingredient in successful trading company operations. As the Members can see, the bills being brought to them today are the product of several committees. They are not entirely satisfactory to all of us, but such compromises never are. I do hope that some of the provisions of title I and title II can be considered further, and perhaps modified, in the course of the conference.

I believe, for example, that the antitrust benefits of Webb-Pomerene Act coverage should be accorded to exporters of services as well as the exporters of goods. That is not included in H.R. 1799 as amended by the Judiciary Committee. I am hopeful that provision can be reviewed in conference and possibly restored to this bill with the support of the distinguished chairman of the Judiciary Committee. Likewise, I believe it is crucial that, in providing for investment by bank holding companies in export trading companies with the approval of the Federal Reserve Board, we not impose new restrictions on the operations of export trading companies which would reduce their export effectiveness. That would be strengthening them with one hand and weakening them with the other.

Nothing in current laws prohibits the formation and operation of trading companies which specialize in marketing U.S. goods and services abroad. Indeed there are hundreds of such companies operating with varying degrees of success in the United States today. Many of them are extremely effective in penetrating foreign markets with appropriate U.S. goods and services and producing sales that probably would otherwise go to companies from other nations.

International trading, however, is a tough business. It requires a thorough knowledge of both the United States and foreign markets, and the many complexities of international trade, finance, shipping, and other trade services. It requires capital. It requires, most of all, good salesmanship and an ability to take risks that other companies might not take.

The Subcommittee on International Economic Policy and Trade, which I have the honor to chair, held extensive hearings on this and predecessor legislation in both the current Congress and in the 95th Congress. We heard testimony from a wide range of public and private witnesses, including many trading companies. Members of the subcommittee and the subcommittee staff also have talked informally with international traders and trading company officials. On the basis of this extensive consultation, I feel confident that this is useful legislation which will be helpful to U.S. export efforts without detracting from important antitrust and banking practices and principles.

At this time, Mr. Speaker, I want particularly to commend the efforts of the gentleman from Washington (Mr. BONKER), a member of the subcommittee, for his patient yet persistent efforts on behalf of this legislation. He was the leading sponsor of similar legislation in the last Congress, which was reported favorably by the Committee on Foreign Affairs but never reached the floor because other committees of jurisdiction had not completed action. He reintroduced the legislation early in this Congress, and has worked tirelessly to see that meaningful export trading company legislation reached the House floor. No Member of this House has been more diligent on behalf of this legislation than the gentleman from Washington, and I commend him for his authorship of H.R. 1799 and for the broader role he has played in the effort to make trading companies a more effective and vital part of the U.S. export sector. His devotion to jobs through exports is well known from his leadership of the House Export Task Force, and enactment by the Congress of this export trading company legislation is but one outcome of the attention to the problems of the export sector which the task force has focused under his leadership.

Finally, Mr. Speaker, this bill should not be regarded as a panacea for all of our economic problems. I feel that it will help reduce our alarming export trade deficit, but it will not eliminate that deficit. The causes of the deficit are more fundamental than export trading companies. The deficit is largely a function of the productivity of the U.S. economy and the value of foreign currencies in relation to the dollar, which will have to be addressed in other ways, legislative and otherwise. Nor will this legislation put every American back to work, although I believe it will produce and restore some jobs.

Mr. Speaker, I believe this is constructive legislation which deserves the support of the House. It has the support of the current administration, just as it was supported by the previous administration. I am sure all of the committees of the House which have taken part in considering it will conduct careful oversight to determine its effects after it has been enacted. Hopefully, the spotlight that this legislation has put on export trading companies will make American businesses and business officials more willing to use trading companies as intermediaries to increase their export sales. Many American companies have either ignored foreign markets or tried to do their own export marketing without the expertise and experience and contacts that a good trading company can bring to the export effort. I hope this legislation, if it does nothing else, will reverse that attitude and help to establish trading companies as respectable and necessary participants in the national economy, and give them the standing they deserve both with the Federal Government and with the broader U.S. business community. It has become a cliche that the Europeans and Japanese have used export trading companies to their advantage to capture a larger share of international markets. This legislation does not purport to replicate Japanese trading companies in the United States. That is impractical and probably undesirable. But it is time we recognize export trading companies for the important force they are and can be in the difficult business of exporting, and that we try to remove some of the unnecessary obstacles they face in competing for international business on behalf of U.S. producers. H.R. 1799 goes a long way in that direction. It is about time that we enact this kind of legislation, before more of our markets and jobs are lost. I commend all of the committees and Members who have sponsored and supported this legislation, and I urge its adoption by the House.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a cosponsor of H.R. 1799, I want to congratulate the administration, and particularly Secretary of Commerce Mac Baldrige, for their tireless efforts in promoting the export trading company concept.

The Members of this House are fully aware, I am sure, that ETC legislation has been the subject of extensive hearings in three committees in the House over a period, in some cases, of several years. The other body passed legislation during both the 96th Congress and the 1st session of the 97th Congress, and only now have we finally reached the floor with our own export trading company bill. It is long overdue, but we can be thankful that it is finally here.

I believe H.R. 1799 represents a responsible approach to helping improve America's export capability and thereby improving our serious balance-of-trade deficit. By promoting the establishment of export trading companies, H.R. 1799 should prove to be particularly beneficial for small- and medium-sized businesses that do not have the experience or resources to attempt export trade on their own. The bill also establishes a procedure for the Attorney General to issue certificates of review indicating the ETC would not be in violation of antitrust laws. The certification procedure developed by H.R. 1799 would provide greater certainty for export trading companies' operations.

It was this lack of certainty in the Webb-Promerene Act that kept that law from serving as a greater stimulus to export trade. By correcting the deficiencies of that law and adding "services" to the accepted list of activities that can be the basis for forming ETC's, H.R. 1799 goes a long way toward meeting the challenge of the Japanese and European trading company competitors.

The administration strongly supports this bill and the concept of export trading companies. As Secretary Baldrige says:

Export trading company legislation is an important step in mobilizing our untapped export resources. The risks and costs involved in marketing products overseas, coupled with a lack of knowledge of foreign markets and of the cultural complexities of an unfamiliar society, deter small and even medium-sized companies from attempting to export their goods. The existence of ETC's who specialize in exporting, who can assume the risks, who have the financial capability and the legal and technical expertise to penetrate foreign markets, will permit these small and medium-sized firms to improve greatly their export performance.

Another important feature of H.R. 1799 is the reference to the role of States in initiating, promoting, and expanding exports in their own efforts to improve export trade. Certainly, in the case of California, the State has been a leader in shaping export policy that deals efficiently with trade and services with its neighbors to the South and in the Pacific basin.

I strongly support the provisions of H.R. 1799 designed to promote the development of new export trading companies dealing in goods and services. I urge my colleagues to give their full support to this bill.

Mr. BINGHAM. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. BONKER).

Mr. BONKER. Mr. Speaker, the export trading company is an issue whose time has come. I first introduced this bill in the last session of Congress, and reintroduced it in this session. Thanks largely to the leadership efforts of the chairman of the subcommittee, the gentleman from New York (Mr. BINGHAM), whose retirement will be greatly noticed in the House and on this Foreign Affairs Committee; and the Chairman of the Judiciary Committee (Mr RODINO), who has carefully crafted the antitrust provisions, do we have this bill before us today.

Mr. Speaker, the United States has traditionally relied on a growing domestic economy to meet our growth needs, but today we find ourselves in a fiercely competitive world environment, where Japan alone has challenged U.S. preeminence in a number of areas. With respect to overall trade policy, the United States continues to be the number one exporter, but the fact of the matter is that we are rapidly losing our place in the world market. This is dramatized when our share in the market drops from 18.2 percent in 1960 to 12.9 percent in 1981. Measured by GNP, the United States is rapidly dropping behind other industrialized countries.

The fact is, the United States will not experience economic recovery at home until we realize our full potential on the world market. In the Northwest, we find our timber-based economy is no longer sufficient to meet our growth needs. Indeed, we are experiencing economic recession because we have not found new outlets for our traditional markets. But, when one considers in the Northwest our vast natural resources, the manufacturing capability, the excellent port facilities and our proximity to the Pacific Rim countries, we have tremendous potential in the world market, and if we effectively compete in that market, we can experience economic revival in the Northwest.

Exports mean jobs. That was the theme of the Department of Commerce during World Trade Week, and when one looks at the fact that today exports account for over 3.5 million jobs, and the fact that every $1 billion in manufactured goods represents 31,000 new jobs, one can readily understand and appreciate the importance of export trade in terms of jobs created in this country.

Chase Econometric has estimated that the export trading company bill, if enacted, will create anywhere between 320,000 and 600,000 jobs in this country, and it will increase the GNP by $27 to $35 billion, and reduce the Federal deficit by $11 to $22 billion.

The export trading company bill is the top priority trade issue for many business organizations, including the Chamber of Commerce. It is a top prioritiy issue for this administration. The President's Export Council has rated it No. 1, and the Export Task Force, which I chair, has listed it as a very important issue.

The export trading company bill will benefit primarily the small- and medium-sized firms that have the capability but lack the facility and resources to get into the world market. It has been estimated by the Department of Commerce that there are about 20,000 medium-sized firms that have the capability and have the products to compete in the world market, but lack the opportunity to do so. Why? Because they are inhibited by at least three reasons:

First, they lack the financial capital to get into the export market. This bill will allow participation by the banks in the formation of ETC's, and provide essential financial capital to start up and operate export trading companies.

Second, antitrust provisions have served as an inhibiting factor. Through a certification procedure, provided for in the bill, which the Department of Justice will review and approve, ETC's will enjoy immunity from antitrust laws. Largely through the work of the chairman of the Judiciary Committee, I think we have overcome that hurdle and removed the uncertainty that now plagues companies that come together for that purpose.

Lastly, we need to raise the trade consciousness of many businessmen who want to get into the market but lack the imagination. The Department of Commerce is going on a nationwide campaign to educate businessmen of their potential and capabilities to get into the export market. Mr. Speaker, this legislation and this legislation alone addresses all three of those issues.

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In conclusion, Mr. Speaker, let me say that if we are going to have economic recovery in this country, we have got to realize our true potential in the world market. All of the reports indicate that there is a very attractive market out there, and that we have the manufacturing capability to compete in that market. Passage of this bill today makes that potential a reality.

Mr. Speaker, I have letters that I wish to have inserted in the RECORD, from the Chamber of Commerce, Trade Net, and other trade organizations supporting this legislation, plus a summary of the bill.

Those materials are as follows:

H.R. 1799—THE EXPORT TRADING COMPANY ACT OF 1981

CHRONOLOGY OF LEGISLATION

On the basis of hearings in the 96th Congress, the Committee on Foreign Affairs reported favorably legislation to encourage the formation and operation of export trading companies and associations (H.R. 7230, Export Trading Company Act of 1980, introduced by Mr. Bonker of Washington, and others, House Report 96-1151), which was similar to H.R. 1799. Two other committees of the House to which that and similar legislation was referred jointly failed to complete action, however, and the 96th Congress adjourned without having an opportunity to consider H.R. 7230.

H.R. 1799 was introduced by Mr. Bonker, a member of the Foreign Affairs Committee, and other Members, on February 6, 1981, and was subsequently referred to the Subcommittee on International Economic Policy and Trade. Following several subcommittee hearings on it and related bills, the subcommittee on March 29, 1982, marked up H.R. 1799 and reported it favorably to the full Committee on Foreign Affairs with several amendments.

The full Committee on Foreign Affairs considered the subcommittee's recommendations on H.R. 1799 on April 29, 1982, and ordered the bill favorably reported to the House.

The Judiciary Committee favorably reported H.R. 1799 (House Report 97-637, Pt. II, to be filed July 27). The Banking, Finance and Urban Affairs Committee did not act on H.R. 1799, but did report a bill (H.R.

6016) whose provisions are almost identical to the banking provisions of H.R. 1799.

NEED FOR THE LEGISLATION

Lack of operating capital and financing is the major obstacle to expanded sales faced by American trading companies. Few U.S.-based trading companies are publicly traded corporations. Most are privately held, inhibiting their ability to raise capital through issuance of stock or other debentures. Few have significant assets except for accounts receivable, against which most U.S. banks have been traditionally reluctant to grant loans. Not only are trading companies generally among the most asset-poor firms competing for bank loans, their business success depends upon their ability to penetrate often poorly understood foreign markets and to take other risks, such as operating on the basis of oral rather than written contracts, and sales agreements. The successful trading company turns such risks into profits by experience and intimate knowledge of its markets and customers.

Such intangibles, however, rarely meet the requirements of bank lending officers who must justify their loans to cautious superiors and regulatory agencies. Trading companies, therefore, typically command the lowest loan ratings of any of the categories of businesses seeking bank loans. Most trading company officials who testified before or otherwise consulted with the committee indicated that they are able to borrow only on their personal lines of credit, or against company reserves pledged as collateral. They were unanimous in citing this as the major constraint on their business, particularly when their foreign competitors have much greater access to short- and long-term financing.

Statutory provisions and government regulations that directly or indirectly discriminate against trading companies are a second obstacle to their increased effectiveness as U.S. exporters. The reluctance of banks to finance exports is itself a product of banking laws that place a high premium on cautious lending policies and impose strict separation between banks and commercial enterprises such as trading companies. In addition, the restrictions, complexity, and uncertainty of current antitrust laws inhibit producers of similar products and services from entering into cooperative arrangements for purposes of export marketing that could increases their exporting effectiveness.

As early as 1918, the Congress recognized the need to facilitiate the export of U.S. goods by exempting the export activities of firms from certain U.S. laws that would place them at a competitive disadvantage in foreign trade. In that year, the Congress passed the Webb-Pomerene Act permitting U.S. firms to form associations strictly for the purpose of exporting goods without the antitrust constraints applicable to domestic trade. In the 1930's there were as many as 57 Webb-Pomerene associations accounting for some 19 percent of total U.S. exports. By 1979 the number had declined to 33, accounting for less than 2 percent of U.S. exports. Antitrust exemptions under Webb-Pomerene are not available to exporters of services, currently one of the strongest U.S. export sectors, and many producers of goods regard Webb-Pomerene as providing insufficient protection from antitrust penalties.

No Federal agencies are explicitly charged with assisting trading companies and assuring that Federal regulations do not unnecessarily hamper trading companies. In fact, some Federal regulations and practices have just such an effect. For example, Commerce Department rules governing U.S.-sponsored international trade fairs discourage exhibitors from displaying more than one line of merchandise per booth. Export trading companies, however, typically handle disparate lines of merchandise, and many are too small to be able to afford more than one booth. Such mundane government insensitivity to the needs of trading companies, while often inadvertent, is nonetheless damaging to their effectiveness as exporters.

The need for assistance to trading companies in these three areas—access to financing, assurance of antitrust exemption for specific export practices and activities, and designation of a federal agency responsible for trading companies—was the basis for the formulation of H.R. 1799.

THE POTENTIAL FOR EXPORT TRADING COMPANIES

The last decade was a period of frustration and disappointment for the United States in the area of international trade. Our first trade deficit of the 20th Century occurred in 1971. While we have had a deficit nearly every year since, it is incorrect to place the blame solely on oil prices.

Many of our trading partners whose dependence on imported oil is greater than ours have consistently maintained a trade surplus while the U.S. was in deficit. Their success was due in part to an export consciousness, which has resulted in the displacement of American-made manufactured goods in world markets, including the largest single market—the United States.

The U.S. no longer can afford to ignore the value of export trade and the importance it plays in our domestic economy. During the last two decades, the U.S. share of world exports dropped from 18 percent in 1960 to 15.4 percent in 1970. It stood at 12 percent last year. Today, exports of goods account for only 8.2 percent of our gross national product, the lowest percentage of any industrialized nation in the world. While numbers vary according to the source the trend is as clear as it is alarming. Without a change, this trend could cost the United States hundreds of thousands of jobs, billions in economic activity, and the productivity boost that increased exports could generate for American industry.

The U.S. Government has not been as active in encouraging export trade or in providing assistance to the business community as have the governments of other nations. The American businessman perceives, and rightly so in many cases, that government regulations are impediments to international trade. These regulations can be ambiguous, confusing, and expensive. These self-imposed disincentives have served to deter many small- and medium-sized American companies from entering the international marketplace.

For years, our growing domestic market has satisfied the needs of the American businessman. He consequently has not had the need nor the desire to look into foreign markets that were often unreliable and risky, as well as politically and socially alien. Moreover, the American businessman lacked an expertise in conducting foreign sales—from locating the foreign buyer to packing, shipping, and completing export documentation.

Only 10 percent of the 250,000 manufacturing firms in the United States currently export. Fewer than one percent of these firms account for 80 percent of our exports. The Department of Commerce and others have estimated up to 20,000 U.S. manufacturers and agricultural producers offer goods and services which would be highly competitive abroad. Yet the small size and inexperience of these firms leave them ill-equipped to absorb the costs and risks involved in developing overseas markets.

The current, prolonged recession has been a shock to many American businessmen, who are beginning to realize that the domestic economy cannot expand indefinitely. Export Trading Companies could provide America with a new service-industry able to lead thousands of new firms into overseas markets.

A private study by Chase Econometrics has estimated that by 1985, Export Trading Companies would increase the gross national product by $27 to $55 billion, increase employment by 320,000 to 640,000 jobs, and reduce the Federal deficit by $11 to $22 billion.

THE FUNCTION OF EXPORT TRADING COMPANIES

H.R. 1799 permits bank holding companies, with the approval of the Federal Reserve Board, to invest up to 5 percent of consolidated capital and surplus in an Export Trading Company. Extension of credit by a bank holding company to its ETC would be limited to 10 percent of the holding company's capital stock and surplus to any single trading company, and 20 percent of such stock and surplus to all trading companies. The bill also permits banking institutions organized under the Edge Act to invest up to 25 percent of capital and surplus, subject to the same requirements of Federal Reserve Board approval and limitations.

Title II of H.R. 1799, the antitrust provisions, provides limited protection from antitrust litigation. In 1918, Congress passed the Webb-Pomerene Act which was designed to allow U.S. companies to combine for exporting in ways that might otherwise have subjected them to antitrust liability. Webb-Pomerene exempts from the Sherman Antitrust Act any association which has been established "for the sole purpose of engaging in export trade," provided it does not lessen domestic competition. When the Act was passed, it was believed that export trade would be enhanced as small businesses would be able to share the costs and risks of exporting. The percentage of exports assisted by the approximately 30 existing Webb-Pomerene associations is currently less than 2 percent. It has been stated that the Act's lack of success is due to the fact that it does not extend its antitrust exemption to the service sector, and its statutory vagueness and uncertainty in interpretation and application create a potential threat of subsequent antitrust litigation.

As amended by the Judiciary Committee, H.R. 1799 provides for a certification procedure to be established within the Department of Justice. Upon review, the Justice Department may grant the trading company a certificate which provides protection against criminal and civil suits by the Government and substantial protection from private antitrust suits. I have included a section-by-section analysis which more fully explains the bill.

SECTION-BY-SECTION ANALYSIS

Section 1—Short title

Section 1 provides that the act may be cited as the "Export Trading Company Act of 1982."

Section 2—Findings; declaration of purpose

Section 2 sets forth the findings of the Congress, including: that "exports are re-

sponsible for * * * one out of every nine manufacturing jobs * * * and one out of every seven dollars of total United States goods produced"; that service-related industries "offer the greatest potential for significantly increased industrial trade"; that export services in the United States are fragmented and the U.S. economy needs "well-developed export trade intermediaries"; that State and local governmental authorities "can be an important source for expansion of total United States exports"; and that U.S. trading companies "should be able to draw on the resources, expertise, and knowledge of the United States banking system."

The purpose of the legislation is to increase U.S. exports by establishing in the Commerce Department an office to promote export trading companies and export trade associations, by transferring to the Commerce Department responsibility for administering the Webb-Pomerene Act, by making that act applicable to the export of services as well as goods, and by otherwise encouraging more efficient export trade services.

Section 3—Definitions

"Export trade," "export trade services," "export trading company," "export trade associations," and "United States" are defined in section 3 of the bill. These definitions, however, apply only to sections 2 through 4 of the bill because Titles I and II (below) contain their own definitions, or employ definitions in existing statutes.

Section 4—Office of Export Trade in the Department of Commerce

Section four directs the Secretary of Commerce to establish within the Department of Commerce an office to promote and encourage formation of export trade associations and export trading companies.

TITLE I—EXPORT TRADING COMPANIES

Title II amends the Bank Holding Company Act of 1956 and the Federal Reserve Act to facilitate the financing of export trading companies.

Section 101(a) amends the Bank Holding Company Act of 1956 to permit bank holding companies, with the approval of the Federal Reserve Board, to invest up to 5 percent of consolidated capital and surplus in an export trading company. In granting such approval, the Federal Reserve board is directed to consider the "financial and managerial resources, competitive situation, and future prospects" of the investing company and the export trading company, and may impose restrictions "to prevent conflicts of interest, unsafe or unsound banking practices, undue concentration of resources, and decreased or unfair competition." Extension of credit by a bank holding company to its export trading companies would be limited to 10 percent of the holding company's capital stock and surplus to any single trading company, and 20 percent of such stock and surplus to all trading companies. Export trading companies could underwrite, sell, or distribute securities in the United States only to the extent their investing bank holding companies could legally do so, and could not engage in manufacturing or agricultural production, or use a name similar to a parent banking organization.

Subsection (b) amends section 25(a) of the Federal Reserve Act to permit banking institutions organized under the Edge Act to invest up to 25 percent of capital and surplus, subject to the same requirements of Federal Reserve Board approval and limitations as described for bank holding companies in subsection (a) above.

The amendments made by this title define "export trading company" as a company organized "principally" for the purpose of exporting, or facilitating the export, of U.S. goods and services.

TITLE II—ANTITRUST PROVISIONS

Title II substantially amends the Webb-Pomerene Act (the "Act") to expand the eligibility of export trading organizations for exemption from the antitrust laws, and to provide the Federal certification of such exemptions.

Section 201 amends the definition section of the Act to include definitions of export trade (which is defined to include the export of goods *and services*) and export trading companies, which will also be eligible for the antitrust exemptions under section 2 of the Act.

Section 202 amends section 2 of the Act to exempt from antitrust law restrictions the activities of export trading associations and export trading companies provided those activities are not in restraint of trade within the United States, do not restrain any domestic competitor, and do not substantially lessen competition within the United States, except to the extent such activities may have a "direct substantial and reasonably foreseeable effect on trade or commerce within the United States." Such exception is to be specified in a certificate issued under section 4 of the Act.

Section 203 makes a technical amendment to section 3 of the Act.

Section 204 amends the Act to provide for procedures for the certification of export trade associations and export trading companies for the antitrust exemption provided in the Act. Applicants are required to submit information set forth in section 4 of the Act, including such information as the Secretary of Commerce (the "Secretary") considers necessary. The Secretary is required to issue a certificate within ninety (90) days after receiving an application, after consultation with the Attorney General and the Federal Trade Commission, specifying permissible export trade activities and methods, and any terms or conditions the Secretary considers necessary. Provision is made for expedited certification for temporary export trade activities and bidding or export sales deadlines. Certification decisions of the Secretary may be appealed under sections 556 and 557 of Title 5, United States Code (provisions of the Administrative Procedure Act). Provision is made for amendment of certificates on the basis of material changes affecting certified export trading companies and associations, and for modification of the activities of certified companies or associations and revocation of certificates by the Secretary, after opportunity for a hearing in accordance with Section 554 of Title 5, United States Code. The Attorney General and Federal Trade Commission are authorized to bring court actions to invalidate certifications 30 days after notice to the affected export trading association or export trading company, and no other person has standing to bring such actions.

Section 204 also amends the Act as follows: The Secretary is directed to issue proposed guidelines, within 90 days after enactment of the bill, for determining whether an export trade association or export trading company meets the requirements for certification under the Act. The guidelines are to be open for public comment for a period of 30 days prior to publication of final guidelines. Promulgation of these guidelines is exempt from the Administrative Procedure Act. Certified export trade associations and export trading companies are required to report to the Secretary annually on activities relevant to their certificates. Information submitted by export trade associations and export trading companies with respect to certification and in the required reports shall be confidential and exempt from disclosure (except for certain law enforcement procedures) to the extent the information deals with trade secrets or confidential business or financial information. The Secretary may require modification of the operations of a certified association or trading company to comply with the international obligations of the United States. The Secretary is directed to issue regulations to carry out the Act, after consultation with the Attorney General and the Federal Trade Commission.

Section 205 provides that export trade associations operating under the Webb-Pomerene Act immediately before the enactment of the bill may elect to continue to be governed by the Act as in existence prior to enactment, or by the Act as amended by the bill. If they choose the latter, they are certified automatically under the new provisions of the act upon filing the required applications for certification within 180 days after the date of enactment of the bill. Mr. Speaker, I am including letters from some of the interest groups, including the U.S. Chamber of Commerce and the Emergency Committee for American Trade, who have followed the progress of this legislation closely, and who are in support of our efforts.

CHAMBER OF COMMERCE OF THE UNITED STATES OF AMERICA,
Washington, D.C., July 26, 1982.

Hon. DON BONKER,
Chairman, House Export Task Force,
U.S. House of Representatives,
Washington, D.C.

DEAR DON: The U.S. Chamber of Commerce, an association of more than 250,000 members, respectfully requests that you urge all members of the House Export Task Force to support the export trading company (ETC) legislation when it comes to the House floor.

For more than three years, the Chamber has worked for passage of a bill that would promote and facilitate the formation of export trading companies—a private sector one-stop shop that could provide all of the services associated with exporting. This would be particularly beneficial to our small- and medium-sized business members. As one Chamber small businessman put it before the International Finance Subcommittee of the Senate Banking Committee, ". . . if you want to encourage exports by smaller firms and reorientate us to thinking in world market terms, then this legislation is desirable and is perceived by businessmen like me as a good idea long overdue."

A clear antitrust picture with respect to export combinations, as the certification process in H.R. 1799 provides for, will contribute significantly to the development of ETCs. Participation in ETCs by bank holding companies and bankers' banks, as provided for in H.R. 6016, brings both international expertise and financial resources to these export combinations.

While we believe that there is some room for improvement in both bills, as well as in the Senate-passed version S. 734, the parameters of these three bills are such that the conference on the House and Senate versions should produce an excellent piece of

legislation. The Chamber will share its recommendations with the conferees at the appropriate time.

Quick House action is now in order, so that the legislation can be finalized and companies can begin to take advantage of this beneficial export format. Your leadership, along with that of Reps. St Germain and Rodino, on this important legislation is greatly appreciated.

We hope that every member of the House Export Task Force will support the export trading company legislation when it comes to a floor vote.

Sincerely,

MICHAEL A. SAMUELS.

STATEMENT OF CALMAN J. COHEN, VICE PRESIDENT, EMERGENCY COMMITTEE FOR AMERICAN TRADE

The trading company legislation pending before the Congress is designed to promote U.S. export activity. U.S. business will be able under the legislation to learn in advance whether activities which they wish to undertake could lead to antitrust litigation.

The export trading companies themselves could provide to firms virtually all the services necessary to market and sell abroad, including the financing of export transactions.

Trading companies should enable many thousands of small- and medium-sized businesses to venture for the first time into the international trade arena, which otherwise would be too risky a proposition for any one of them individually. In part this will be the case because it will be the trading company—and not the small firms supplying the trading company—that will take the many risks associated with export.

Most importantly, in many developing regions of the world—where sales and distribution networks of U.S. firms are often rudimentary—export trading companies have major potential. Trading companies can take on and perform well the brokering role between U.S. producers and developing country purchasers for industrial and agricultural products that will be in increasing demand throught the developing world.

Your leadership, Congressman Bonker, on export trading company legislation, together with that of your colleagues, gives ECAT members hope that we will see enactment of legislation in this session of the Congress.

TRADE NET,
Washington, D.C., July 26, 1982.

Hon. DON BONKER,
U.S. House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BONKER: On the occasion of export trading company legislation reaching the floor, Trade Net would like to commend you for the fine job you have done in its formulation and committee management. Trade Net is especially interested in this legislation because of the focus on small- and medium-sized businesses which are or could be an integral component of the lives of many of the members of local-level organizations Trade Net plans to interest and involve in the promotion of export trade. Happily, the impact of increased exports by businesses of this magnitude will be felt personally, particularly in the area of jobs, by a wide variety of this country's citizens.

Trade Net would also like to take this opportunity to offer our compliments on your leadership of the House Export Task Force. Trade Net, which numbers among its Directors former Cabinet Members from both Republican and Democratic Administrations—William E. Simon, Bob Bergland, W. J. Usery, Jr. and Reubin O'D. Askew—feels strongly about the importance of nonpartisanship when it comes to international trade. You so effectively have adhered to that concept as you fulfilled the role of motivator and facilitator. Your efforts have not gone unnoticed and are greatly appreciated by those of us who value an open world trading system.

We urge and look forward to a speedy enactment of export trading company legislation and, thus, a successful culmination of your diligent efforts.

Sincerely,

SHANA GORDON,
President, Trade Net.

NATIONAL ASSOCIATION OF MANUFACTURERS,
July 27, 1982.

Hon. DON BONKER,
U.S. House of Representatives,
Washington, D.C.

DEAR DON: The need for legislation to encourage American export trading companies has if anything grown more acute since the first such bill was introduced by Senator Stevenson in August of 1979. The series of U.S. trade deficits has continued unabated: 1979, $40.4 billion; 1980, $36.4 billion; 1981, $39.7 billion. We have admittedly had significant growth in our exports, which went from $181 billion in 1979 to $233.7 billion in 1981. Further exports are now clearly essential to job creation. According to a recent Commerce Department study, fully thirty percent of the increase in private sector employment between 1977 and 1980 can be attributed to the production of manufactured goods for export. These gains, however, have not been sufficient to offset the serious problems of large, important and import sensitive sectors of the economy. As a result Congress is now actively considering ill-advised import restrictions. i.e. domestic content legislation, the effect of which could well be to weaken further our international competitiveness. We may avoid these errors in the 97th Congress, but we will not avoid them long unless Americans see tht an open international trading system works to their advantage, unless we improve U.S. competitiveness.

The Export Trading Company Act, H.R. 1799, which you introduced in February, and the Bank Export Services Act, H.R. 6010, which Chairman St Germain introduced in March, are significant and very helpful steps in the right direction. The news that these bills will be taken up by the full House this week was welcome indeed. I have long believed that the House as a whole broadly supports these measures, and I am confident that, if they are put before the House, they will pass. You, Chairman St Germain, and others who have worked to bring this about deserve high praise.

It goes without saying that I would not in any way wish to diminish the significance of your achievement. It is simply a truism that the ultimate value of the legislation will depend in part upon decisions still to be made, namely the decisions of the conferees with respect to the difference between the House bills and the Export Trading Company Act as passed by the Senate in April of 1981, S. 734. I shall not attempt to review in detail each point of difference. I would however like to go over the most important of these briefly.

BANKING

The first point to be made is that the House Banking Committee, under the leadership of Chairman St Germain, did an excellent job in crafting a legislative proposal that is both prudent and potentially very helpful. Its fundamental approach is somewhat different from that of the Senate bill. The latter is freestanding while the former achieves its purpose by amending the Bank Holding Company Act of 1956. There is much to be preferred in the House bill, and the objectives of the legislation could be well served by either. We do feel, however, that there is merit in stating these objectives explicitly within the body of the bill as is done in S. 734. Here I have in mind the language especially of Section 102(b) of S. 734, which explains that, "The purpose of this Act is to increase United States exports of products and services, particularly by small, medium-sized, and minority concerns, by encouraging more efficient provisions of export trade services to American producers and suppliers." We hope the conferees will decide to retain such a statement of purpose in the final version of the bank ETC bill.

Our chief concern, however, over the differences between the two approaches to bank involvement with export trading companies is a definitional one. H.R. 6016 defines an export trading company as an entity involved "exclusively" in exporting. The Committee has made an attempt to ensure that this definition is not unduly confining, but it may nevertheless prove to be so. Trading companies are not manufacturers—under this legislation they are not allowed to be—and they will need to buy as well as sell abroad if they are to thrive. Specifically, they will need to import and to engage in third country trade. It is perfectly reasonable to expect such entities, favored under the law for their capacity to expand exports, to be engaged "principally" in exporting, but it would be self-defeating to impose the requirement that ETCs be exclusively involved in exporting or to force them to justify their non-exporting activities on a transaction-by-transaction basis. We hope, therefore, that the House, in conference, will reconsider this limitation within the definition of bank-related export trading companies.

Another aspect of the House's definition of export trading companies, as expressed in H.R. 6016, also concerns us. The Senate bill includes insurance among the services that can be performed by export trading companies; H.R. 6016 does not. It has long been the view of those who support the export-trading company idea that the more nearly an export trading company could approximate a one-stop, comprehensive export service, the more valuable it would be to American exporters. We urge the House conferees to reconsider their views on this point as well.

Having suggested these changes, I should like to reemphasize that we think the Bank Export Services Act is an excellent bill, and we support it.

ANTITRUST

The principal virtue of H.R. 1799 was that it was neither a banking bill nor an antitrust bill but an export-promotion bill. Throughout the history of such legislation, NAM has supported it. The unhappy link between U.S. competitiveness and U.S. antitrust law has been clear for some time. The President's Export Council under President Carter, for example, concluded that: "Every reasonable effort should be made to facili-

tate U.S. exports and overseas operations by freeing U.S. firms from antitrust constraints or uncertainties where U.S. consumers are not adversely affected." H.R. 1799 and S. 734 are suggestions for achieving just this end.

Under the Senate bill, the Commerce Department is authorized to issue certificates exempting export trading companies from prosecution under antitrust laws. This can be done, of course, only after the Department has thoroughly reviewed an ETC application for such exemption and received the advice of the Justice Department and the Federal Trade Commission on the merits of issuing such certificate. Given the safeguards of the Senate bill, we feel this approach is sensible because it addresses directly the question of uncertainty. Unfortunately, as it now stands, the antitrust language of H.R. 1799 does not. By denying the Secretary of Commerce a meaningful role in the certification procedure the House bill undermines the procedure itself. If it prevails there will be no one in government with an institutional interest in providing the ETC applicant with the certainty about the application of the antitrust laws that is the rationale for this change in the law. The "certainty" is further unraveled by permitting single damage suits, as the House bill does, even for conduct that has been certified as unlikely to violate the antitrust laws. It is our belief that U.S. competitiveness would be better served if the conferees were to favour the Senate bill when they consider the questions: Who should certify, and what degree of antitrust immunity should certification confer?

To repeat an earlier thought, the potential benefit of the ETC legislation now before the House is significant in itself and because it demonstrates our commitment as a nation to solve our trade problems by improving our competitiveness rather than by closing our markets. It appears, however, that the best law is neither in the House nor the Senate but in a judicious melding of the leading proposals of each. We shall, of course, follow closely the work of the conference and look forward to the opportunities this legislation will create for American business.

Sincerely,

LAWRENCE A. FOX.

Mr. BINGHAM. Mr. Speaker, I yield such time as he may require to the gentleman from Ohio (Mr. SHAMANSKY).

Mr. SHAMANSKY. Mr. Speaker, I asked to get on the International Economic Policy and Trade Subcommittee of the Committee on Foreign Affairs because I am very much interested in promoting export of the U.S. industries. But there is a provision in this bill which I deeply regret, and for all the reasons that I am for the bill in general, I think we have to be aware of what is happening in this particular provision.

We had the Secretary of Commerce, Mr. Baldrige, testify that this statute was not intended to exempt the export trading companies that are certified from the application of our antitrust laws domestically, and that was affirmed by his General Counsel, Sherman Unger.

They both stated that, although export trading companies would be exempt from antitrust laws for their foreign activities, export trading companies would not be exempt from domestic antitrust implications of those activities. To underscore our mutual understanding of the purpose of this bill, I offered an amendment in subcommittee which stated that antitrust laws shall apply to conduct having a direct, substantial, and reasonably foreseeable effect on domestic commerce.

The bill before us has a different provision. Rather than applying fully antitrust laws to domestic activities of export trading companies, the bill exempts them from treble damages and provides only single damages.

This means that export trading companies could engage in antitrust activities domestically and the affected domestic competitors would be able to collect only single damages.

This is inconsistent with the assurances that were given to me only last week by the Secretary of Commerce.

I am convinced that in the near future we will see domestic firms damaged, if not destroyed, by actions that, except for the language of H.R. 1799, would have made the perpetrators subject to treble damages. To increase jobs in the export sector, we may be destroying jobs in the domestic sector.

Except for this particular section, I support legislation to expand American exports. I just regret that, in our enthusiasm to expand exports, we may have dealt a serious blow to our antitrust laws.

The SPEAKER pro tempore. The gentleman from Ohio (Mr. SHAMANSKY) has consumed 1 minute.

Mr. LAGOMARSINO. Mr. Speaker, I yield 10 minutes to the gentleman from Illinois (Mr. McCLORY).

Mr. McCLORY. Mr. Speaker, I rise in support of title II of H.R. 1799, the antitrust provisions, which were referred to the Judiciary Committee and to which the Subcommittee on Monopolies and Commercial Law gave long and careful consideration. There were times when I and others felt that our consideration was becoming altogether too long and too careful, but the bill which we have ultimately reported is a good one, and merits the support of every Member.

It is difficult to discuss this legislation without some reference to H.R. 5235, formerly H.R. 2326, the bill introduced by Chairman RODINO and myself to clarify the application of the antitrust laws to export trade activities. This was our initial response to the complaint that many American businessmen were unwilling or unable to compete with confidence in the international marketplace because of their uncertainty regarding their antitrust liability. That bill reflects our belief that the proper response to exporters who believe the law is unclear is to clarify the law. This, it seems to me, is far more important than the licensing procedures, such as the provisions in the export trading legislation passed by the Senate.

As the Rodino-McClory bill (H.R. 5235) has moved forward, it became evident that nothing less than some sort of certification system was desired by the business community, even if H.R. 5235 were to be enacted clarifying the nonapplication of our antitrust laws to purely foreign activities. Title II of H.R. 1799 is the Judiciary Committee's considered response. It compares extremely favorably with the Senate approach, I might say, in terms of simplified procedure, expedited processing and certain results. It provides exporters with a binding advisory opinion on the legality of their proposed conduct, rather than providing an outright antitrust exemption as the Senate bill attempts to do. This eliminates also the cumbersome requirement that exporters establish a special need as a condition precedent to exemption.

The only issue to be decided in processing an application under our bill is whether the proposed conduct is likely to violate the antitrust laws of the United States. The members of the Monopolies and Commercial Law Subcommittee were virtually unanimous, therefore, in deciding that this determination should be made by the Department of Justice rather than by the Department of Commerce. There would seem to be little benefit conferred by an antitrust certificate from the Department of Commerce which the Department of Justice could attack. And it would be wrong to bar the Antitrust Division from exercising its enforcement function, in my opinion, without its first having the opportunity to subject the proposed conduct to antitrust review.

An optional forwarding role for the Commerce Department is allowed, nevertheless, which should encourage the applicant to use that agency's informational and advisory services.

Careful thought was also given to the question of damages which may be recovered by a person injured by an antitrust violation committed by a person acting pursuant to a certificate. There is no question, of course, that treble damages lie for conduct outside of the certificate. It is also possible, however, although unlikely, that certified conduct may result in injury in domestic commerce. Although the administration and the Senate have suggested that certified conduct should be totally immune from liability, the Judiciary Committee of the House firmly believes that single damages are most necessary and appropriate. It is sometimes forgotten that antitrust damages are not only a penalty but a protection, and the person compensated most often will be another American

business with a legitimate claim to be made whole for its antitrust injury.

Single damages for domestic injury by the holder of an export trade certificate were perceived as a fair compromise between the traditional statutory treble damages and no damages. If no damages were to be the rule, the governmental agency granting certification would have to be more conservative in close cases, granting benefits to fewer applicants. Furthermore, fairness would also then require that greater procedural protections be provided for interested parties who feared future injury since such parties would subsequently be denied damages.

On the other hand, with single damages as the rule, certification could take place administratively without a hearing, without third parties arguing their case, and thus without protracted delays. Finally, if no damages were to be the rule, the only way a court could compensate the injured American business would be to hold the conduct in question to be ultra vires, outside the certificate, in which case treble damages would lie. With a single-damages rule, however, the court would have a fairer solution available—one which compensates the injured party but does not punish the wrongdoer who believed that his conduct fell within the scope of the certificate.

Some have argued that the Senate bill is preferable because it protects exporters from lawsuits by providing zero damages rather than single damages where certified conduct causes the complained of injury. But our committee has given this argument a long, hard look, talked to antitrust lawyers, and found this argument without merit. For the Senate bill would only change the nature of pleading antitrust violations and probably result in treble damage awards on grounds that the conduct in question was ultra vires. Our bill would preserve and assure single damages for the injured plaintiff but would restrain the filing of lawsuits against exporters by means of the most liberal provision of attorney's fees for defendants within the sweep of my experience. For if the certified conduct has not violated the antitrust laws, the plaintiff must pay to the defendant exporter a reasonable attorney's fee even if the suit was brought in good faith and even if the suit was nonfrivolous. That should make plaintiffs think twice about suing an exporter holding a certificate.

Mr. Speaker, this bill has been carefully constructed to provide greater certainty to exporters by providing them the assurance of an antitrust review and certification procedure. I believe it will enable American businessmen to compete with far greater confidence and freedom of action overseas. This is what you want; it is what I want; and it is what our national interest requires. Having worked this long and come this far, I look forward to an early and successful conference with the other body on this measure, followed by final enactment of this important legislation into law.

Mr. Speaker, at this point I yield 4 minutes to the gentleman from Illinois (Mr. RAILSBACK).

The SPEAKER pro tempore. Without objection, the gentleman from Illinois (Mr. RAILSBACK) is recognized.

There was no objection.

Mr. RAILSBACK. Mr. Speaker, I would like to commend the chairmen and members of the committees with jurisdictional interest in the export trading company legislation. I feel that this action we are taking here today represents an extraordinary bipartisan effort on the part of these committees to enact meaningful legislation.

Over a year ago, Secretary of Commerce Baldrige testified before the House Judiciary Committee in favor of export trading company legislation. In his testimony he emphasized the need for the United States to meet the trade challenges of the coming decade. Our trading position in the world markets will be tested by emerging third world countries as well as by those nations which currently are highly industrialized, and we must develop ways to meet these challenges. Export trading company legislation such as we are considering here today would facilitate exporting by small- and medium-sized businesses which previously have not had the resources to engage in this kind of activity.

The certification procedure set up in title II will give assurance to these companies with respect to application of antitrust law. We worked very hard in the Judiciary Committee to set up a certification procedure which would give a role to both the Justice Department and the Department of Commerce. As agreed to by the committee, the primary responsibility is set up within Justice with Commerce assisting. I personally would prefer that the Commerce Department be given an even greater role in the certification procedure. I feel that Commerce traditionally has had the resources and expertise in trade matters and is currently committed to aiding the estimated 20,000 companies which have the potential to engage in export activities.

Mr. Speaker, we are reminded on a daily basis of the trade problems which the United States encounters in the international community. I, for one, feel that it is time that we stop putting barriers up which hinder exporting. With current economic and trade conditions, I feel that it is imperative that the United States pursue an expansionary export policy in the 1980's. Studies such as one done by Chase Econometrics indicate that by 1985, export trading companies could increase GNP by $27 to $55 billion, increase employment by 320,000 to 640,000 workers, and reduce the Federal deficit by $11 to $22 billion. At a time when Congress is grappling with the problems of unemployment and the Federal deficit, this legislation represents a rare opportunity to take some positive action. I urge my colleagues to give it their support.

□ 1340

Mr. McCLORY. I want to commend the gentleman from Illinois (Mr. RAILSBACK) for his major contributions to this legislative product. He and I have worked long and hard in our Judiciary Committee, particularly on title II of this measure, and we are very proud to express our support for the measure before us here today.

Mr. Speaker, I reserve the balance of my time.

Mr. BINGHAM. Mr. Speaker, I yield 10 minutes to the distinguished chairman of the Judiciary Committee, Mr. RODINO.

Mr. RODINO. Mr. Speaker, I rise in support of H.R. 1799. The Committee on the Judiciary has devoted a great deal of time and energy to writing this legislation, and it has the bipartisan support of our committee. Particularly noteworthy have been the efforts of the distinguished ranking minority member of the committee, Mr. McCLORY, and the gentleman from New Jersey (Mr. HUGHES). They worked hard to reconcile the competing policies and to fashion appropriate compromises.

The concept of export trading company legislation first gained significant support during the Carter administration. The legislation we bring forth today is grounded in legislation proposed in the 96th Congress and refined in this Congress.

The changes in the antitrust laws in this legislation are based on a preception in the business world that those laws inhibit export trade in American goods and services. A number of witnesses in hearings of the Subcommittee on Monopolies and Commercial Law testified that they believed the antitrust laws inhibit American exports by forbidding joint export activity that produces economies of scale. In addition, there is some legal uncertainty about the domestic effects necessary for U.S. antitrust law to apply. According to testimony before the subcommittee, these problems are most acute for small- and medium-sized businesses, which most need to engage in joint activities to overcome the obstacles to export and which can least afford expert antitrust counsel.

Competing with the need to clarify the application of the antitrust laws on international transactions is the need to preserve our system of free

competition here at home. As the Supreme Court has pointed out, the antitrust laws protect our economic freedom just as the Constitution protects our political and personal rights and freedoms. A proposal that weakens the antitrust laws must be approached carefully.

Our task, then, was to find ways to remove antitrust uncertainty from international transactions without weakening our domestic competitive system. We have considered a number of solutions. A remedy that I believe will solve the problem, which the committee has also approved, is to clarify the jurisdiction of the Sherman and FTC Acts and section 7 of the Clayton Act. H.R. 5235 embodies this approach, and the committee will be bringing it to the floor shortly.

H.R. 1799 provides a second important approach, procedural in nature. The basic concept is that a person who is contemplating or engaged in international joint conduct my apply to the Government for a certificate covering the conduct. Under H.R. 1799, as introduced, the Secretary of Commerce, after consultation with the Department of Justice and the Federal Trade Commission, would determine whether to grant an exemption from the antitrust laws under an expanded Webb-Pomerene Act. If the Attorney General or the Federal Trade Commission objected to granting the certificate, either could sue for injunctive relief after the certificate had been issued. No relief whatever would be available to private parties.

As more fully detailed in the committee report, many witnesses and observers believed these procedures were cumbersome, afforded illusory protection to the applicant, and, could, if misapplied, undermine competitive principles in the domestic economy. The committee, working in a bipartisan manner, has established procedures that address these concerns. As reported, title II contains a certification procedure that will let applicants know where they stand swiftly and certainly, with a minimum of bureaucratic redtape. Under the committee version, there is no need for extensive consultation among agencies and departments. Decisionmaking authority lies exclusively in the Department of Justice, which should be able to provide detailed expert opinions expeditiously. Under the committee version, a certificate would be issued solely on the judgment of whether the proposed conduct would likely lead to a violation of the antitrust laws.

A certificate would largely immunize the certified conduct from antitrust attack. A certificate would protect the holder from all criminal liability, from actions for monetary relief by the Federal Government, from treble damages, and from injunctive relief in private actions based on threatened harm. The committee version leaves intact liability for single damages and injunctive liability in private cases where actual harm can be shown. In order for the certification procedures to be informal, straightforward, and expeditious, and for the Department's grants of certificate to be unreviewable, it is essential for these remedies to remain intact so that innocent competitors and consumers are not injured by actual antitrust violations.

Mr. Speaker, the suspension version of this bill is not identical to the version the committee reported. The differences are set forth in my additional views in the committee report.

Mr. Speaker, the committee amendments have the bipartisan support of the members of the committee. They are sound, workable procedures. I urge the Members of this body to support them.

I also want to commend the gentleman from New York (Mr. BINGHAM) who has been managing this measure on behalf of the Foreign Affairs Committee, and the gentleman from Washington, Mr. DON BONKER, who has for a long period of time continually urged us to bring this measure to the floor.

I particularly want to pay tribute for their long and studied efforts in this area.

I also want to thank the members of the Subcommittee on Monopolies and Commercial Law of the Committee on the Judiciary because there were many prickly questions which we had to deal with, and they have all been resolved now.

Mr. Speaker, I also want to mention an individual who gave yeoman service in the committee and that is the gentleman from New Jersey (Mr. HUGHES), a member of the subcommittee.

I would urge that we adopt this resolution.

Mr. SEIBERLING. Mr. Speaker, will the gentleman yield?

Mr. RODINO. I would yield to another member of the subcommittee, the gentleman from Ohio (Mr. SEIBERLING), who has worked very diligently in this effort.

Mr. SEIBERLING. I thank the chairman for yielding.

I think this bill, as amended by the Judiciary Committee's amendment, is a distinct improvement. I commend the committee for its action, even though, as set forth in my additional views in the committee report, I feel that it is premature and that we should have waited until sufficient time has elapsed after we pass H.R. 5325, which exempts export and foreign trade from the antitrust laws. If that bill works as hoped, this bill may not be necessary.

I would like to ask the chairman a question that I know is troubling some of the Members. One of the sections of this bill, section 207, provides that anyone who receives a certificate from the Attorney General that the proposed actions do not violate the antitrust laws can henceforth not be sued for treble damages under the antitrust laws for any action that is within the scope of the facts set forth in the certificate.

The purpose of that provision, as I understand it, is to make it possible for businessmen to feel secure against the possibility that, despite the fact that the Attorney General did not feel that the proposed action would violate the antitrust laws, some court might later have a different view.

But I believe we should have the chairman's assurance that this is not an invitation to the Attorney General to be lax and give a blanket kind of certification to create an umbrella of protection from the antitrust laws.

Mr. RODINO. I want to assure the gentleman, who as a member of the subcommittee knows our one objective was to have the Department of Justice, which has overall jurisdiction in this area of antitrust, insure that that would not be the case, that there certainly would not then be an invitation to violations.

I would also add that the chairman of the committee intends to take up H.R. 5235, which was a bill the gentleman form Illinois (Mr. MCCLORY) and myself originally designed and which was joined in unanimously by the rest of the subcommittee.

Mr. SEIBERLING. I thank the chairman.

As I read the committee report, the Attorney General will be under a very strong mandate to insure that no certification is given unless he is satisfied that the proposed act does not violate the law.

Mr. RODINO. That is the reason for designating the Department of Justice rather than the Department of Commerce as the agency that would supervise reviews.

Mr. Speaker, I yield the time I have left, 3 minutes, to the gentleman from New Jersey (Mr. HUGHES).

The SPEAKER pro tempore. Without objection, the gentleman from New Jersey (Mr. HUGHES) is recognized.

There was no objection.

Mr. HUGHES. Mr. Speaker, I want to commend the Judiciary Committee particularly the distinguished chairman of the Judiciary Committee, the gentleman from New Jersey (Mr. PETER RODINO) as well as the ranking minority member of the Judiciary Committee, the gentleman from Illinois (Mr. MCCLORY), for making certain that this legislation moved through the committee expeditiously.

I also want to commend my good colleague and neighbor from Washington, (DON BONKER), for his work on

the Committee on Foreign Affairs, because I know this has been one of his top priorities. He has done an outstanding job in monitoring this legislation through four different committees.

I likewise want to commend the Committee on Ways and Means and the Committee on Banking, Finance and Urban Affairs for their prompt and diligent attention to this legislation.

Mr. Speaker, having been active in the negotiating process that led to this bill and having offered the amendments at the subcommittee and committee levels that were ultimately adopted, I am delighted that H.R. 1799 has reached the floor of the House.

During our information-collection process, it became clear that any certification procedure had to be swift and simple to be of practical value. The amendments that are offered here today possess those qualities. By reducing the number of Government departments and agencies with a role in the decisionmaking process from three to one, the amendments eliminate any duplicative review, the need for interagency coordination, and the possibility of conflicting governmental viewpoints.

Moreover, there can be no doubt that the Department of Justice, because of its responsibility to enforce the antitrust law, and its expertise in doing so, must be the agency with decisionmaking authority. There was unanimity in the hearing process that the Department of Justice had to have some role in the certification process to protect competitive values. The committee amendments, which transfer decisionmaking authority to the Department of Justice, do not therefore contemplate a role for the Department of Justice where there had been none.

I believe that the business community will be pleased with the committee amendments. With its great experience, the Department is in a position to make quick, accurate determinations. Because the Department of Justice will have the responsibility of making decisions, it will have to be as careful and attentive as possible and will not be free to casually dissent from the decisions of another department. The committee expects that the Department will discharge its responsibilities with a view toward the principal purpose of the legislation—to promote exports.

Finally, the procedures that the committee has recommended contain few formalities. They are designed to work as informally and expeditiously as possible. Because they contain few procedural protections for the rights of persons who would be injured by any antitrust violation, the committee amendments leave a single damage remedy to anyone who actually has been injured by an antitrust violation and an injunctive remedy to anyone who can show actual harm. If these remedies were unavailable, elaborate procedural safeguards that would likely lead to extended administrative proceedings would be necessary to make certain that domestic competitors and consumers would be unaffected by the conduct for which certification was sought.

Mr. Speaker, the procedures under consideration here today are moderate and workable. I heartily support H.R. 1799 as amended and urge my colleagues to join me in voting for it.

□ 1350

Mr. RODINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. SWIFT).

The SPEAKER pro tempore. Without objection the gentleman from Washington (Mr. SWIFT) is recognized.

There was no objection.

Mr. SWIFT. Mr. Speaker, the current recession has jarred thousands from their jobs across our country and has shaken our economy to its foundation. The current economic crisis is in part due to the large trade imbalance that our country suffers from. It must be remembered that our first trade deficit occured in only 1971.

To be sure a large part of the foreign trade imbalace is due to our ever-increasing dependence upon imported oil. But in addition our exports have fallen far behind those of the other developed countries. The United States exports only 8 percent of its GNP, as compared with Japan's 12 percent and West Germany's 23 percent. Only 10 percent of the 250,000 manufacturing firms in the United States currently export, and of those exporting firms fewer than 1 percent account for 80 percent of our exports. This is a situation that must be addressed. Exports directly translate into jobs here in America where we desperately need them. According to the Commerce Department, there are as many as 30,000 small- to medium-sized firms that could be competitive in the export market but that simply are not competing worldwide.

The bill under consideration today, H.R. 1799, address two of the major problems faced by small companies dealing with the uncertainty of the export market; the access to capital and financing and the uncertainty of our antitrust laws. The concept of the Export Trading Company has strong support in the business community. In a recent export trade questionnaire I sent to major exporting companies in my district, 79 percent of those responding favored the creation of ETC's. Further, 81 percent favored the participation of banks in making capital and credit available to companies wishing to participate in an export trading company.

The vaguely worded Webb-Pomerene Act has been in existence since 1918, allowing U.S. firms to form associations strictly for the purpose of exporting goods without fear of antitrust prosecution. Clearly the law needs to be addressed. In the 1930's there were as many as 57 Webb-Pomerene associations accounting for some 19 percent of the total U.S. exports. By 1979, however, that number had declined to 33, accounting for less than 2 percent.

Title II of H.R. 1799 amends Webb-Pomerene to include export trading companies, and the export of goods and services. This would do much to remove the uncertainty of our antitrust laws, and would encourage the formation of export trading companies which would assist small firms to begin exporting.

It is essential that the United States increase its role in the worldwide export market—both to assist in the current domestic crisis and even more importantly to help America regain its leadership role in the world economy. I believe H.R. 1799 could help a great deal and urge my colleagues to support it. Thank you, Mr. Speaker.

Mr. RODINO. Mr. Speaker, I urge the Members to adopt this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, after years of endeavor, I am delighted that the House will finally, I believe, pass the two bills on its schedule today which jointly will become the House version of a trading company bill.

This legislation, which I have supported since its conception, I think will be helpful in assisting the export needs of small- and middle-sized companies, many of which do not have either the inclination or the capability to export at the present time.

As we have come closer and closer to the passage of this bill, I have noticed in my district increased interest in this kind of bill, and I suspect that others have experienced the same in their areas.

I welcome the passage of the bill. I think it is important that the Congress tell its constituents that we are concerned with increasing exports. This bill gives a little additional, very modest incentive to encourage exports.

The United State has stood almost alone among trading nations in its unwillingness to provide this sort of assistance to exporters. This bill is a very tiny first step, but I hope that it will lead the way to further developments of other GATT legal export incentives for American exporters.

Mr. Speaker, I do not think this bill is perfect. We have had three commit-

tees laboring to produce two bills. The result is not exactly a camel, but it is not a racehorse either.

We can stand to make many impovements. In my considered judgment, neither of these bills handle the problem nearly as well as it is handled in the other body. We have heard reference to the fact that the Attorney General will be the sole arbiter of certification. In my judgment, the Senate version, which gives that role to the Secretary of Commerce, is a far better solution and would seem to me to do much more to expand U.S. exports.

If we worry so much about our antitrust laws, we can probably arrange to see that we do not increase exports. That is, in fact what we have been doing over these past many years.

Nevertheless, I must compliment all of the committees concerned and all of the Members concerned for a good job. It is a modest beginning, but it is a very necessary beginning.

Mr. McCLORY. Mr. Speaker, may I just say, with respect to the subject of the antitrust laws, that I do not think they have been an impediment. As a matter of fact, a recent study of export disincentives published by the Department of Commerce and the Office of the Special Trade Representative expressly stated that no specific instances were found of the antitrust laws unduly restricting exports. I think it is an erroneous perception that the antitrust laws are an impediment that has been the problem, and as part of that the antitrust laws themselves have been misconstrued, misinterpreted, and misunderstood. At any rate, we are endeavoring in this measure and in the measure that the gentleman from New Jersey (Mr. RODINO) and I are sponsoring to assure that, with respect to export activities, American businessmen will be able henceforward to compete with greater confidence and freedom of action in the international marketplace. I think that is an objective on which we all can agree.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. ZABLOCKI), the chairman of the Committee on Foreign Affairs.

Mr. ZABLOCKI. Mr. Speaker, H.R. 1799 has been brought to the floor only with concerted efforts of a number of Members of the House. It has been the persistence of Mr. BINGHAM, chairman of the Subcommittee on International Economic Policy and Trade, and Mr. BONKER together with the ranking minority member of the subcommittee, Mr. LAGOMARSINO, that has kept this bill moving for over 2 years and has finally brought it to the floor through a labyrinth of committees.

The chairman of the Judiciary Committee, Mr. RODINO, and his ranking member, Mr. MCCLORY, have been most cooperative in moving the legislation. In addition to reporting the antitrust title of H.R. 1799, they have reported companion legislation, H.R. 5235, which makes an important contribution to the efforts to facilitate the formation of export trade associations.

The third portion of the package rested with the Banking Committee. The chairman, Mr. ST GERMAIN, and the ranking member, Mr. STANTON, of Ohio took the lead on the issue in that committee, which has reported its version of the banking title of H.R. 1799, as H.R. 6016, which is also before the House today.

Mr. Speaker, this legislation is designed to facilitate the formation and financing of export trading companies and associations by creating an office within the Department of Commerce and by appropriately amending the banking and antitrust laws.

In this time of economic dislocation both domestically and internationally, I hope Members will see fit to support this effort to encourage U.S. exports and U.S. employment.

Mr. Speaker, I urge the adoption of H.R. 1799.

Mr. McCLORY. Mr. Speaker, I commend the gentleman from Wisconsin (Mr. ZABLOCKI) and all the Members of the Foreign Affairs Committee for their major contribution in this legislative product.

Mr. Speaker, I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. EMERSON).

Mr. EMERSON. Mr. Speaker, American goods and services can be competitive with anything in the world market today if we afford our businesses the same kind of opportunities that our trading partners give their companies.

Passage of the Export Trading Company Act would give U.S. firms just such a weapon to compete more effectively in the increasingly aggressive world trade market. By allowing limited bank participation in export trading companies under strictly regulated conditions, and by providing a preclearance certification process to give participating businesses the assurance that their activities and methods of operation would not be in violation of the antitrust laws, smaller firms would be given a significant inducement to begin exporting their goods and services for the first time.

These firms have not exported until now for a variety of reasons. They are not familiar with foreign customs, language, and markets. They do not have the expertise to provide the necessary export services. Perhaps most importantly, they do not have the capacity to bear the tremendous costs and risks involved in developing overseas markets. Export trading companies will be able to help these U.S. companies over these hurdles by diversifying trade risks and achieving economies of scale in export services.

And the bottom line, Mr. Speaker, is job creation, thousands of new American jobs. In Missouri alone, the Commerce Department estimates that between 4,500 and 6,000 new jobs will be created as a direct result of passage of this legislation.

The House has before it today legislation to facilitate the formation of export trading companies. I am pleased to support this important legislation.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. ROTH).

Mr. ROTH. Mr. Speaker, all of us are concerned about our Nation's economy. We recognize that the current rate of unemployment is unacceptable and that the decline in business activity must cease.

Yet we also know that quick-fix solutions and Government bailouts will not bring about a lasting solution.

What we must do is restore economic incentives and remove inpediments that arbitrarily retard economic activity. That is exactly why this is such an important bill. It will help American business to compete in the international marketplace and will enable thousands of our Nation's businesses—who are not now exporting—to get into the export marketplace.

This month I hosted a half day conference on exports in my home State of Wisconsin. Some 300 persons attended, largely drawn from small- and medium-sized businesses not currently involved in the export trade. These are exactly the types of companies that will benefit from this legislative initiative.

During our conference, our keynote speaker, Assistant Secretary of Commerce William Morris, explained to the audience the importance of the bill that we have before us today. I have long supported this bill—but what really opened my eyes to the necessity for this legislation was Secretary Morris' statement that the third largest export trading company in America today is a Japanese firm.

The benefits of exporting are well known to my colleagues here in the House. Already, some 8 percent of our Nation's $3 trillion economy is derived from our exports. Hundreds of thousands of Americans are employed in export related jobs, and an additional 32,000 jobs are created by every additional billion dollars in American exports.

Yet it is easy for us to say to American business: "There are millions of dollars in potential sales overseas—go and make those sales." International marketing is difficult and does require special skills. This is an area in which

small- and medium-sized businesses lack necessary abilities—and by virtue of their size, they simply cannot afford to obtain the specialized type of information and people that they need in order to compete overseas.

By passage of this legislation, we will remove the barrier that is imposed by the fact that most of our Nation's businesses fall within the category of "small" or "medium." This bill will let those companies pool their resources, entering jointly into the worldwide market.

American products and technology are competitive with those produced anywhere else in the world. The foreign buyer wants to "buy American" because the label "Made in the U.S.A." stands for quality and reliability. Yet we cannot sit back and expect that buyers are going to come knocking at our door. Our free market system is such that our businesses must get out and make the sale, convincing the foreign buyer to buy from us, rather than from Britain, France, Japan or some other supplier. Given the choice, I am confident that many will opt for the American product—but as it stands now, all too frequently we have not even been giving the foreign purchaser the opportunity to buy American.

Through export trading companies, that situation can be corrected. This legislation can open many new doors to hundreds of thousands of America's businesses. It will help our export competitiveness—and will create tens of thousands of new jobs here in America.

Mrs. FENWICK. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentlewoman from New Jersey.

Mrs. FENWICK. I thank the gentleman for yielding.

Mr. Speaker, I rise in ardent support of this bill.

Our chairman of the Committee on Foreign Affairs has spoken of the committee's great concern. I know it, also, from the small businesses in my district. They have been warned by the Department of Justice that, when they wish to get together to make trading companies for export, there may be some antitrust legislation that forbids this kind of thing.

We are getting more and more of our small companies into export, which is so important a development—American jobs paid for with foreign currency.

The Webb-Pomerene Act of 1918 did not repair the damage that was done to our small companies in export trade.

● Mr. SMITH of New Jersey. Mr. Speaker, one of the most positive ways in which the United States can seek to correct our economic problems is by taking steps to increase our export trade. I rise in support of the Export Trading Company Act, which will provide the needed stimulous to expand our foreign markets—a key to increased national production and the creation of new private-sector jobs.

I have long believed that the expansion of small business is the key to turn the burden of unemployment in our Nation around. The small businesses of this country already provide 86 percent of the new jobs created in our economy and over half of the private sector gross national product. However, it is evident that many of these companies are in need of new markets in order to maintain present production levels—small businesses in our Nation are failing at a rate of 25,000 per year.

Based on a Department of Commerce study, we now have the opportunity to expand the market for small business production and turn these distressing figures around. It is estimated that at least 20,000 small- and medium-sized companies would export if they had access to marketing financial and informational export services. Mr. Speaker, this bill would provide these vital services.

Today, foreign trade is dominated by the largest U.S. corporations—with 1 percent of U.S. firms responsible for 80 percent of all exports. At the same time, the United States has amassed nearly $150 billion in trade deficits. In addition, the U.S. share of total world markets has declined from 15 to 12 percent since 1970.

The solution to these problems, Mr. Speaker, is to open the world market up to the most innovative and productive sector of our economy—small business. I firmly believe—once the foreign markets are tapped for smaller U.S. companies—we will see increased employment, a boom in our national output of goods and services, and we can finally make positive inroads to decrease our looming trade deficits.

Secretary of Commerce, Malcolm Baldrige, put the export trade issue in perspective when he testified before a congressional committee last year:

> We need export trading companies that provide a full range of export services to firms of any size interested in exporting. These export companies must be sufficiently capitalized to allow operations on a scale that would achieve substantial economies in selling and distributing.

Mr. Speaker, thousands of small businesses market exportable goods and services, which could easily compete in foreign markets. Most of these companies, however, have no international experience and lack of knowledge about foreign markets. Perhaps even more important, small businesses are chronically short on capital—and a large supply of capital is necessary for successful involvement for trading in foreign markets.

The bill before us today will enable small businesses throughout the Nation to expand by taking part in world trade. It will draw on the considerable resources and expertise of the U.S. banking system to increase the amount of available external financing. It would use the network of established contacts with overseas companies, knowledge of foreign markets, economic conditions, and trade regulations which are already being used by larger U.S. corporations to expand overseas production.

Mr. Speaker, I strongly join with the administration in supporting this—the first legislation in over a decade aimed at giving American business major new tools to penetrate and expand export markets abroad.●

● Mr. HAMMERSCHMIDT. Mr. Speaker, as a cosponsor of H.R. 1799, the Export Administration Amendments Act, I rise to express my strong support for this measure to encourage the development of export trading companies as middlemen to help small- and medium-sized U.S. firms sell their goods abroad. I commend my colleague, Congressman BONKER, chairman of the House Export Task Force, for his tireless efforts to insure passage of this critical bill which has been severely hampered by overlapping committee jurisdictions. I have long been enthusiastic about legislation to promote trade. Overseas trade is vital to the American economy. It is estimated that 1 out of 8 jobs in the United States is directly dependent on exports, and that approximately $1 out of $3 of U.S. business profits is derived from international activities. Trade is even more important for the agricultural sector, where 1 out of every 4 acres of cropland now produces for export. The continued expansion of foreign trade constitutes a major underpinning of American domestic prosperity.

Small businesses which desire to export are often sidetracked by the tremendously burdensome requirements of such an effort. Gaining an expertise in foreign markets, tax provisions, freight handling, and business customs requires an indepth study and is tremendously time consuming. Whether selling directly or through an agent abroad, the small business also has to worry about export packing, long-distance multishipper transportation, export and import licenses, lack of trustworthy credit information, paper processing, payment insurance costs, and similar followup and detail work. A small business cannot afford the large in-house international marketing staff which would be required to handle all aspects of a successful export effort.

Because of these difficulties, many small suppliers turn to export management firms to handle their foreign sales. The majority of these professional middlemen operations are too small to handle more than one or two

accounts competently. They also lack the management and capital necessary to expand geographically and to establish sales offices overseas. So, even if the export management firm is the best channel for a small supplier interested in exporting, he may still be frustrated in his export efforts. Governement export promotion programs have not been successful in filling this information gap or in providing the type or level of assistance necessary to aid small business exporters. Export association and trading companies currently in existence, while providing an alternative to direct exporting by small business, have been hamstrung by certain legal restrictions and ambiguities.

Congress has done very little to promote the exports of U.S. goods and services. The vast internal American market and a rich endowment of resources have enabled the Nation to remain relatively self-sufficient. Global events of the past decade, however, have led to dramatic changes. In 1970, for example, exports and imports of goods and services represented only 6.6 and 5.9 percent of U.S. GNP, respectively. By 1980, both exports and imports had grown to over 12 percent of GNP. These figures illustrate the Nation's growing interdependence on the international economy and the importance of international trade to the expansion of the American economy. If the United States is to compete effectively in world markets, it must adopt policies that promote exports without abandoning the principles of the free market system. Export growth is clearly an increasingly important part of a healthy U.S. economy, yet the United States not only does little to spur exports, it actually erects barriers to increasing exports.

Unfortunately, Federal laws and regulations limit our ability to respond effectively to these new challenges. For example, Government regulations prevent U.S. banks from offering many important trading services. In addition, antitrust uncertainties deter many U.S. firms from cooperating with other U.S. producers in their organization of export activities. They hamper American firms at a time when foreign governments are cooperating with and, in many instances, even subsidizing and directing the export efforts of their own firms. The result is that our unilateral export restrictions cost American businessmen opportunities abroad and cost American workers jobs at home.

One way in which we can do this is by facilitating the formation of trading companies. The trading company is not a new idea. It is as old as commerce itself and has enjoyed great success in other countries. In Japan, for example, the top 10 trading organizations, the Sogo Soshas, account for approximately 60 percent of Japan's imports and 50 percent of its exports. Trading companies have also played an important role in the economic growth of many European countries. Yet, despite their historical and international success, trading companies have not flourished in the United States. The bill before us attempts to improve this situation. It makes possible the formation of American export trading companies to deliver the output of small- and medium-sized American businesses to the marketplaces of the world.

I must point out that even though U.S. exports have grown in the 1970's from 4.3 percent of our GNP to 8 percent today, we are in fact losing ground in the growing overseas markets. The U.S. share of the total world market in 1970 was 15 percent; in 1980, it was 12 percent. The U.S. share of the manufactured goods total world market has gone from 21.3 to 17.4 percent.

Every other major trading nation not only permits but encourages the formation of export trading companies or their equivalent. Only the United States has failed to allow the development of this mechanism for aiding smaller firms who either cannot or will not enter the world marketplace on their own.

It appears that the export trading company will be the major export-expanding statute that can be enacted this year. Its passage today requires the active support of all Members of Congress concerned with the balance-of-payments problem and its implications for the economic, political, and military future of the United States.●

● Mr. SOLARZ. Mr. Speaker, exports—and the need to increase our export performance—are on everyone's lips these days. U.S. merchandise trade never showed a deficit before 1971, slipped into a deficit totaling $5 billion during 1971-76, and then plunged into deficits of over $25 billion per year in 1977, 1978, 1979, 1980, and 1981. To be sure, this is in some measure due to our enormous oil bill ($79 billion in 1980), but our relative share of world markets has gone down, too.

What are the reasons for this decline, and what can be done to reverse it? Some of the change is due to relative losses in U.S. productivity and the general improvement in the economic standing of other industrialized nations. Part of the problem, though, has been the unwillingness of the Federal Government to remove disincentives to exports and to do what it can to encourage American businesses to seek overseas markets. H.R. 1799, as reported by the Committee on Foreign Affairs, would remove several of these Government-imposed limitations and give small- and medium-sized businesses the chance to sell overseas free of some of the disincentives that have made them easy pickings for their Japanese and European competitors.

Of the 250,000 businesses in this country, only about 8 percent export, and about 100 companies account for half of all our exports of manufactured goods. Studies have indicated that an additional 20,000 small- and medium-sized businesses might export profitably if given the tools and incentives to do so. These kinds of firms, though, usually have limited financial and personnel resources. They do not know how to find and evaluate foreign markets and, even if they did, they could not afford to commit the resources or secure the credit that would allow them to exploit foreign sales opportunities. Firms such as these could conceivably work together, pooling their resources to reach overseas, but the uncertain application of our antitrust laws makes such activity risky at best.

The measure before us would give export trading companies access to the kind of information about, and contacts with foreign markets that are essential for success in international trade and would provide certainty for exporters' antitrust exemptions. The struggle being waged in the House over this bill is a classic example of the need to look at traditional domestic regulatory philosophies in light of today's global economy.

EXPORT TRADING COMPANIES

The bill would encourage the formation of export trading companies—ETC's. Although there are nearly 4,000 export firms in this country, 92 percent employ less than five people and almost all limited to a single product line or geographical area. Like the small- and medium-sized businesses at which the export trading company bill is directed, these export firms have not been able to secure lines of credit adequate for financing exports on a large scale.

ETC's would be able to offer expertise and economies of scale in financing, related credit services, market analysis, distribution channels, compliance with United States and foreign import-export regulations, advertising, accounting, overseas offices, transportation, insurance, and warehousing. They could handle a wide range of products and could offer "one-stop shopping" for the less-than-giant businesses that are the heart of the American economy. The bill would make this possible through two changes in Federal law, one substantive, the other procedural.

BANKS AND EXPORT TRADING COMPANIES

Banks have a unique ability to provide what ETC's need to succeed—international correspondent relationships, knowledge of foreign markets, extensive operations and communications systems, financing and related services, knowledge about foreign cur-

rency transactions and the kind of managerial expertise necessary for such operations as large-scale inventory control. In addition, they have an image with potential foreign purchasers that a small commercial exporter does not.

Generally, Federal law forbids banks from having equity positions in commerce. This separation, which our European and Japanese competitors are not required to observe, arises from fears about the safety of the depositors' funds. As a result, American banks are forbidden to invest in ETC's. Over the years, though, Congress has made exceptions to the banking—commerce separation that meet needs no more pressing than our need to export. Among these are laws permitting bank investment in community development corporations, small business investment companies and other entities that are not strictly "banking" in character. Bank holding companies are permitted to make small investments in nonbanking entities, but for the most part, only large banks are affiliated with holding companies.

The bill addresses this problem by permitting bank holding companies and Edge Act corporations to own and operate ETC's. The Federal Reserve Board, however, would maintain strict control over such investments. Any bank holding company on Edge Act corporation investment in an ETC would have to be approved in advance by the Fed. No ETC owned wholly or partly by a bank holding company on Edge Act corporation would be permitted to speculate in securities or commodities, and no bank could have more than 5 percent of its consolidated capital and surplus invested in ETC's.

ANTITRUST IMMUNITY

The bill before the House would make a procedural change in Federal law relating to antitrust immunity for exporters. As far back as 1916, the Federal Trade Commission recommended antitrust immunity for American businesses selling overseas. The Webb-Pomerene Act, enacted in 1918, provided antitrust immunity for export trade in goods, so long as such activity did not restrain trade or depress prices within the United States. The theory of Webb-Pomerene was to allow firms that could not act in concert in the domestic market to pool resources and assist one another in selling abroad. Webb-Pomerene got off to a good start, and by the early 1930's Webb-Pomerene associations accounted for almost 20 percent of American exports. The heaviest representation was of relatively homogeneous exports like agricultural commodities, minerals and textiles.

Today, however, the story is far different: Webb-Pomerene associations account for only about 20 percent of our exports. Of the 150 associations created since 1918, only 33 survive (and only a few of these are substantial exporters). Probably the most significant reason for the decline of Webb-Pomerene associations was a series of challenges on antitrust grounds, brought both by the U.S. Government and by private parties.

Although Webb-Pomerene purports to provide antitrust immunity for export activities, there is no objective, certain measure upon which a company or group of companies can rely. If the Justice Department, the FTC or a private individual believes that the activities of a Webb-Pomerene association has had a forbidden domestic effect, Justice, FTC or the individual may sue the association and its members under the U.S. antitrust laws (and Justice may prosecute criminally under the Sherman Act). Years of expensive litigation can ensue—and have ensued—before the courts finally determine whether the law was violated or, as is more likely, before one side becomes exhausted and settles.

Few businesses—particularly the small- and medium-sized businesses that Webb-Pomerene is designed to help—are prepared to operate in the face of this kind of uncertainty. If we really wish to offer antitrust immunity that is worth something, certainty is needed before a firm makes the considerable investment involved in entering the export market. H.R. 1799, as reported by the Foreign Affairs Committee, would provide this kind of certainty without significantly expanding the substantive exemption enacted in 1918. Under the bill, an ETC would apply to the Commerce Department for a certificate of antitrust immunity. The application would contain a complete description of the company and its proposed exporting activities, and Commerce would consult with the traditional guardians of the antitrust laws, Justice and the FTC, before issuing a certificate. The certificate would immunize only those activities described in the application. The big difference, of course, is that exporters would know for certain that "the water's fine" before plunging in, as private parties would not have standing to challenge the activity covered by the certificate and any suit by justice to revoke it would have only prospective effect.

In addition, the bill would amend the Webb-Pomerene Act to make the antitrust exemption applicable to services as well as goods. Services constituted a relatively small portion of our exports in 1918, but by 1980, they made up one-third of total U.S. exports. This change in Webb-Pomerene would allow ETC's to provide—either solely or in concert with sales of goods—such services as accounting, banking, insurance, construction, and engineering.

THE COUNCIL FOR EXPORT TRADING COMPANIES

I am pleased to observe that this legislation already has generated considerable interest in the American commercial and financial communities. Recently, a number of agricultural, manufacturing, banking, and shipping entities joined to form the Council for Export Trading Companies, or CETC. I applaud the formation of CETC and hope that it will play an active role in assisting potential American exporters to make use of the changes that will be wrought by this legislation.

CETC has been formed for several reasons. First, many of the potential beneficiaries of the ETC legislation do not know what the bill provides and can do for them. One activity of CETC will be to provide information about the ETC legislation and the ETC concept to business people and bankers who might wish to establish or otherwise become involved in ETC's. CETC also will be providing continuing information to its members on ETC-related developments.

Second, although CETC will not be a lobbying organization, it may become involved in the legislative process by providing witnesses and information to the Congress. CETC also will have the capacity to serve as a liaison between its members and such Federal regulatory entities as the Commerce and Justice Departments, the FTC, and the various bank regulatory agencies. This will be of use not only during the development of ETC regulations by these agencies, but also in the process of filing and securing approval for ETC applications once the regulations are in place. Some of the agencies that will regulate ETC's have expressed institutional hostility toward the ETC concept. CETC will work for the creation of a regulatory environment that reflects the strong support for the ETC legislation in Congress and the American business and banking communities.

Third, and perhaps most important, CETC will be one place where potential participants in ETC's—bankers, business people, freight forwarders, and so forth—can come together.

The mere passage of this legislation will not result in the instantaneous formation of hundreds of ETC's. The process will take time. It will involve the education of both potential ETC participants and Government regulators, the coming together of potential ETC participants, and the often tedious process of securing the approval of Federal regulatory agencies. CETC can and should fill the role of helping to carry out these tasks and making the ETC concept a reality that can give a boost to American exports.

The international trade aspects of our economic problems are many, varied, and substantial. Enactment of this bill will not solve all of them, but

it will begin the process by breaking two shackles that needlessly hinder American exports.●

The SPEAKER pro tempore. All time has expired.

The question is on the motion offered by the gentleman from New York (Mr. BINGHAM) that the House suspend the rules and pass the bill, H.R. 1799, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill as amended, was passed.

The title was amended so as to read: "A bill to encourage exports by establishing in the Department of Commerce an office to promote the formation of export trade associations and export trading companies, by facilitating investment in export trading companies by certain banking institutions, and by modifying the application of the antitrust laws to certain export trade, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. BINGHAM. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

BANK EXPORT SERVICES ACT

Mr. ST GERMAIN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 6016) to permit bank holding companies and Edge Act corporations to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions, as amended.

The Clerk read as follows:

H.R. 6016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Bank Export Services Act".

INVESTMENTS IN EXPORT TRADING COMPANIES

SEC. 2. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) in paragraph (12)(B), by striking out "or" at the end thereof;

(2) in paragraph (13), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (13) the following:

"(14) shares of any company which is an export trading company whose acquisition (including each acquisition of shares) or formation by a bank holding company has not been disapproved by the Board pursuant to this paragraph, except that such investments, whether direct or indirect, in such shares shall not exceed 5 per centum of the bank holding company's consolidated capital and surplus.

"(A)(i) No bank holding company shall invest in an export trading company under this paragraph unless the Board has been given sixty days' prior written notice of such proposed investment and within such period has not issued a notice disapproving the proposed investment or extending for up to another thirty days the period during which such disapproval may be issued.

"(ii) The period for disapproval may be extended for such additional thirty day period only if the Board determines that a bank holding company proposing to invest in an export trading company has not furnished all the information required to be submitted or that in the Board's judgment any material information submitted is substantially inaccurate.

"(iii) The notice required to be filed by a bank holding company shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(iv) The Board may disapprove any proposed investment only if—

"(I) such disapproval is necessary to prevent unsafe or unsound banking practices, undue concentration of resources, decreased or unfair competition, or conflicts of interest;

"(II) the financial or managerial resources of the companies involved warrant disapproval; or

"(III) the bank holding company fails to furnish the information required under clause (iii).

"(v) Within three days after a decision to disapprove an investment, the Board shall notify the bank holding company in writing of the disapproval and shall provide a written statement of the basis for the disapproval.

"(vi) A proposed investment may be made prior to expiration of the disapproval period if the Board issues written notice of its intent not to disapprove the investment.

"(B)(i) The total amount of extensions of credit by a bank holding company which invests in an export trading company, when combined with all such extensions of credit by all the subsidiaries of such bank holding company, to an export trading company shall not exceed at any one time 10 per centum of the bank holding company's consolidated capital and surplus. For purposes of the preceding sentence, an extension of credit shall not be deemed to include any amount invested by a bank holding company in the shares of an export trading company.

"(ii) No provision of any other Federal law in effect on the date of the enactment of this paragraph relating specifically to collateral requirements shall apply with respect to any such extension of credit.

"(iii) No bank holding company which invests in an export trading company may extend credit or cause any subsidiary to extend credit to any export trading company or to customers of such export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

"(C) For purposes of this paragraph, an export trading company—

"(i) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that any bank holding company which invests in such export trading company may do so under applicable Federal and State banking laws and regulations; and

"(ii) may not engage in agricultural production activities or in manufacturing, except for such incidental product modification, including repackaging, reassembling or extracting byproducts, as is necessary to enable United States goods or services to conform with requirements of a foreign country and to facilitate their sale in foreign countries.

"(D) A bank holding company which invests in an export trading company may be required, by the Board, to terminate its investment or may be made subject to such limitations or conditions as may be imposed by the Board, if the Board determines that the export trading company has taken positions in commodities or commodities contracts, in securities, or in foreign exchange, other than as may be necessary in the course of the export trading company's business operations.

"(E) For purposes of this paragraph—

"(i) the term 'export trading company' means a company which does business under the laws of the United States or any State and which is organized and operated exclusively for purposes of exporting goods or services produced in the United States or for purposes of facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. Any export trading company may perform such importing or other activities as are reasonably related to and incident to an export transaction, if the overall effect of such activities is to enhance the exportation of goods or services produced in the United States;

"(ii) the term 'export trade services' includes consulting, international market research, advertising, marketing, product research and design, legal assistance, transportation (including trade documentation and freight forwarding), communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods, when such services are provided in order to facilitate the export of goods or services produced in the United States;

"(iii) the term 'bank holding company' shall include a bank which (I) is organized solely to do business with other banks and their officers, directors, or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public. No such other bank owning stock in a bank described in this clause that invests in an export trading company shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such other bank's capital and surplus; and

"(iv) the term 'extension of credit' shall have the same meaning given such term in the fourth paragraph of section 23A of the Federal Reserve Act.".

BANKERS' ACCEPTANCES

SEC. 3. The seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372) is amended to read as follows:

"(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as 'institutions'), may accept drafts or bills of exchange drawn upon it having

not more than six months' sight to run, exclusive of days of grace—

"(i) which grow out of transactions involving the importation or exportation of goods;

"(ii) which grow out of transactions involving the domestic shipment of goods; or

"(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

"(B) Except as provided in subparagraph (C), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participation share in such acceptances, authorized for such institution under this paragraph.

"(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

"(F) With respect to an institution which issues an acceptance, the limitations contained in this paragraph shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

"(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

"(H) Any limitation or restriction in this paragraph based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Rhode Island (Mr. ST GERMAIN) will be recognized for 20 minutes, and the gentleman from Ohio (Mr. STANTON) will be recognized for 20 minutes.

The Chair recognizes the gentleman from Rhode Island (Mr. ST GERMAIN).

□ 1400

Mr. ST GERMAIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in view of the debate which has just taken place on the provisions of H.R. 1799, in the interest of time my remarks can be compressed, dealing only with the subject of possible expanded banking holding company participation in the activities of export trading companies and a brief summary of bankers' acceptances amendments.

H.R. 6016, the Bank Export Services Act was introduced by me on March 31, 1982, and cosponsored by 24 members of the Banking Committee. The bill was the subject of 3 full days of hearings with testimony from over 25 witnesses.

An amendment in the nature of a substitute was adopted by the Subcommittee on Financial Institutions, based on the comprehensive hearing record and extended consultations with the administration, the regulatory agencies and all other interested parties, by voice vote. As a result of this most deliberative process, the full committee ordered the bill reported by a 40-to-0 vote. The committee (H. Rept. 97-629) was filed on July 1.

Because of the fact that ETC legislation in both the 96th and 97th Congress has been referred to and considered by three committees (Banking, Judiciary, and Foreign Affairs), it is necessary at the outset to state the obvious that insofar as banking law provisions are concerned, H.R. 6016 with its accompanying report (H. Rept. 97-629) together with the debate now occurring on the provisions of H.R. 6016 will be the definitive legislative history of banking law amendments, notwithstanding inconsistent statement appearing elsewhere, purporting to interpret banking language.

In the 96th Congress, legislation was developed out of congressional studies of the American exporting experience. The goal of that legislation was to reduce regulatory and statutory barriers to exporting and to encourage more American businesses to become involved in international trade. The previous administration, as a part of its overall export policy, endorsed Export Trading Company (ETC) legislation similar to that now under consideration by the Congress. As evidence of widespread support for increasing this Nation's export trading capability, the House Export Task Force was established consisting of over 100 members representing every geographic region in the United States with the prime purpose of advocating legislation that supports American export trade. Three members of the House Banking Committee have served from its creation on the task force executive committee: former Banking Committee Chairman HENRY REUSS, now chairman of the Joint Economic Committee; STEPHEN L. NEAL, chairman of the Subcommittee on International Trade, Investment and Monetary Policy; and JOHN J. LAFALCE, one of the earliest House sponsors of ETC legislation.

Our committee's formal consideration of pending ETC legislation began in the 96th Congress after a series of informal discussions with representatives of the previous administration and all other interested parties, both proponents and opponents, to the pending Senate passed legislation (S. 2718). These discussions culminated in a hearing by the Subcommittee on Financial Institutions on September 30, 1980. On that occasion I expressed the subcommittee's concerns as follows:

> This Subcommittee's principal concerns are the key sections of the legislation which would, for the first time in the history of this Nation, grant commercial banks the authority to make equity investments in export trading companies. This is a giant step in the expansion of banking powers, and if this legislation is enacted it will mean a substantive breach in our longstanding policy against the mixing of commerce and banking powers.
>
> At a minimum, we should discover what the legislation will mean for: First, the traditional separation of banking and commerce; second, the safety and soundness of banking institutions; third, the competitive balance in the financial industry; and fourth, the promotion of exports.
>
> All of us on this Subcommittee, and I suspect throughout the Congress, are solidly behind the desire to increase exports of U.S. products. I would not take a back seat to anyone in the support of export promotion, but I also believe we must make certain that we are providing real remedies, not quick fixes that may create more dislocations in the economy.

In their consideration of trade matters, both the previous and the current administration as well as the Export Task Force have focused on a number of issues, including both trade incentives and disincentives. The Banking Committee, as a result of its legislative jurisdiction, has continued to direct its attention in the 97th Congress both to the issues of providing adequate bank financing for international trade activities as well as to a review of the impact of authorizing banking organization investments in ETC's on the long-standing policy of separating banking from commerce, discussed fully in the committee report on page 9. The traditional

policy has been based on the belief that the integrity of the payments mechanism and the nature of competition for funds would be compromised if banks undertook the risks inherent in commercial and industrial ventures, or had conflicts of equity interest that involved favorable treatment for some customers, possibly bringing into serious question the banker's principal role as an impartial arbiter of credit. It should be noted at the outset that both the previous and the current administration continue to adhere to the principle of the separation of banking and commerce while supporting increased bank participation in ETC operations, including equity ownership. Deputy Secretary of the Treasury McNamar stated to the subcommittee the following:

> The administration feels that your bill maintains this traditional separation by authorizing export trading companies only as subsidiaries of bank holding companies. We wholeheartedly endorse this approach, since (1) with the proper safeguards it would not impose a significantly higher risk on the banks in the holding company group; and (2) with appropriate changes in banking laws, it would not give bank-affiliated ETCS an unfair competitive advantage over other business concerns competing for access to credit.

Subsequent to Senate passage of S. 734 on April 8, 1981, a number of informal staff discussions were held by the respective house committees to which S. 734 was referred—Banking, Judiciary, and Foreign Affairs. In an effort to assist the Subcommittee on International Economic Policy and Trade on the House Foreign Affairs Committee, which evidenced a desire to move forward on companion bills to S. 734, I advised that subcommittee by letter of October 29, 1981, of the basic concepts which would ultimately govern this committee's response to the bank participation title in pending ETC legislation. That letter reaffirmed the separation principle.

In addition, the committee encouraged a series of discussions within the administration—Commerce, Treasury and the Office of Trade Representative—and between Commerce and the Federal Reserve Board in an effort to devise a realistic compromise insofar as bank investments in ETC's are concerned. As a result of the discussions and continuing action by both the Foreign Affairs and Judiciary Committees, H.R. 6016 was introduced and became the subject of subcommittee hearings on April 22, May 19, and May 25, 1982. Recognizing the importance of bankers acceptances in financing international trade and the need for modernization of the present Federal laws governing the use of bankers' acceptances, H.R. 6016 also incorporated the general scope of the provisions of H.R. 2438, introduced by Congressman DOUG BARNARD.

Following these hearings, and after consultation with members of the subcommittee, an amendment in the nature of a substitute was prepared that incorporated many of the suggestions offered by witnesses and subcommittee members. This amendment removed the authority for Edge Act corporations to invest in ETC's, at the suggestion of the Federal Reserve Board and the Treasury Department. To enable the 10,000 or so small banks in the Nation which are not affiliated with a bank holding company to participate in the operations of an ETC, authority for bankers' banks to invest in ETC's was included in the substitute. The substitute prescribed a 60-day Federal Reserve disapproval period rather than an unlimited term approval period as in the introduced bill. Refinements were also included in the substitute concerning the limits on credit extensions to ETC's, the definition of an ETC, and the provisions governing bankers' acceptances. The substitute amendment itself was amended in the subcommittee markup to provide the Federal Reserve with additional authority to prevent unsafe and unsound speculative activity by an ETC, and to exempt State-chartered, non-Federal Reserve member banks from bankers' acceptance limits contained in H.R. 6016.

Finally, in section 3 of H.R. 6016, as amended, the committee substantially liberalized provisions of the Federal Reserve Act relating to bankers' acceptances. The Federal Reserve Board in its testimony before the subcommittee acknowledged the need for liberalization as follows:

> The board believes that it is both appropriate to expand the current aggregate limitation on the issuance of eligible bankers' acceptances and to apply those limits to the other entities with which member banks compete in the acceptance market. In applying the limitation on eligible bankers' acceptances to U.S. branches and agencies of foreign banks, the board believes that the appropriate measure of capital is the worldwide capital of the parent foreign bank.

The committee is indebted to the untiring efforts of our colleague, Congressman DOUG BARNARD, who advanced the cause of modernization of our present laws governing the use of bankers' acceptances by his introduction of H.R. 2438 incorporated as section 3 of H.R. 6016. Bankers' acceptances are important in the financing of international trade activities. This liberalization or deregulation supplements the bank holding company ETC provisions.

In conclusion, as I stated when the committee by a 40 to 0 vote reported to the floor H.R. 6016, "this legislation is a reasonable approach to resolving the twin concerns of insuring bank safety and soundness by limiting the breach in the separation of banking and commerce, and encouraging the flow of exports from this Nation." The concerns which the subcommittee expressed in 1980 have been met by taking the export trading company activity out of the bank and placing it into the bank holding company structure and insuring a significant regulatory presence during the application procedure and a continuing presence during the subsequent operations of those export trading company financed by bank holding companies or banker banks by the Federal Reserve Board.

Therefore, the Banking Committee believes it has succeeded in minimizing the risk of breaching the wall separating banking from commerce with the conviction that the remaining risk is clearly justified by the hope and indeed the expectancy that increased participation by bank holding companies will provide important assistance to small- and medium-sized businesses which produce goods for foreign consumption and in the process the increased international trade will produce significant economic activity and jobs domestically.

While no one can predict with certainty the effect this legislation will have on job creation, it has been conservatively estimated that the passage of export trading company legislation could, by 1985, increase employment by between 320,000 and 640,000 workers. The New England Institute estimated that the six New England States in 1980 alone generated over $10 billion in export sales, creating 135,000 jobs. The institute's survey conducted in 1981 estimated an increase of over 25 percent in sales for 57 percent of export trading company respondents with all respondents indicating increases of at least 5 percent in sales. Thus, the potential effect of export trading company legislation in New England alone, utilizing the lowest of these estimates, could mean an additional $500 million in sales, creating over 10,000 additional jobs.

I urge adoption of H.R. 6016.

□ 1410

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. MINISH).

Mr. MINISH. Mr. Speaker, I rise in favor of passage of the Bank Export Services Act.

Since World War II, we have all been aware of the rapid growth that took place and changes that followed. We went from a marketplace dominated by domestic manufacturers to one in which consumer demands are currently for low-cost foreign-supplied items. Our own domestic manufacturing has slowed almost to a halt.

In order to regenerate and revitalize this country's economy, it is necessary that we take steps to increase our production and to expand that production

into new markets. It is my contention that with the passage of the Bank Export Services Act we will be getting back on the track of creating new jobs for those deserving citizens of this great country.

It is well known that small- and medium-sized businesses create most of the jobs that employ our citizenry. This legislation will allow and encourage those small- and medium-sized firms to engage in business ventures in foreign markets.

This bill does not affect the ability of individuals and organizations to form export trading companies. In fact, it is the intention of this legislation to generate local and State government entities, and port authorities to innovate necessary and developmental export programs keyed to their local, State, and regional needs.

I urge my colleagues to vote favorably on this bill.

Mr. STANTON of Ohio. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join the able chairman of the committee in support for this bill. I am pleased that this bill is finally before the membership. I have found it somewhat disturbing it has languished for so long in the House for no apparent reason. It has virtually no opposition, it costs nothing, and it may have a positive effect on the U.S. export position some day. I use the word "may" advisedly.

While I am generally happy with the current form of the bill, I feel compelled to make a couple of comments. This bill has presented major U.S. banks with a significant victory. Not only do we allow them to venture into a new form of business that is potentially very profitable, but at the same time, we have bored a new hole in the wall that has traditionally separated banking from commerce. Our committee approved this weakening of the Glass-Steagall principle for one reason only—to promote exports.

Mr. Speaker, while what we do here today is very important, I am afraid there might be a tendency on the part of both the administration and Congress to rest on their laurels—waiting for a huge surge in exports that may never come. There should be no mistake about what we do here today. This bill cannot be viewed as a comprehensive new export policy, despite successive administration attempts to clothe it as such. Nor should we think that we have solved any of the other significant problems that have inhibited U.S. exports—problems such as unfair export credit competition, inadequate financing for Eximbank, lackluster export promotion services by administration agencies, inadequate enforcement of existing trade sanctions, foreign government subsidies to high technology industries, and so forth.

In my view, it would be a sad mistake if we stop here, and claim we have solved our export problem. While I think all parties deserve credit for putting together a good bill, particularly the chairman of the committee, I feel we should now redouble our efforts to address the important problems that remain—problems that are increasingly making us a second-rate trading nation.

Mr. Speaker, I see on the House floor many Members who were responsible for this, not only over a period of months but over years, in order to reach the moment we are experiencing at this time.

I especially want to compliment the chairman of our committee, who made a decision earlier in the year that this would be a priority business before our committee. It was with this emphasis that he took the legislation that was presented to him, worked very hard, and, on a nonpartisan basis, arrived at this conclusion.

So first and foremost, I think, Mr. Speaker, the chairman of our full committee deserves full support for the action that we hope we will take here later on today.

Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. WYLIE).

Mr. WYLIE. I thank my friend, the gentleman from Ohio (Mr. STANTON) for yielding this time to me.

Mr. Speaker, a bill very similar in concept to this one was passed by the other body earlier in the session by a vote of 93 to 0.

In the last Congress, a bill which had a similar concept passed the other body by a vote of 77 to 0. So there is much support for the idea and purpose behind this legislation.

I must say, Mr. Speaker, that the chairman has been cautions and deliberate about moving the bill through the committee, and I do feel that in the process he has helped us develop a better bill with which to go to conference.

There are a couple of places where I think the bill could be improved, but I believe it to be more important today that we expedite consideration of the bill and do urge passage of the bill in its present form.

As a result of extensive negotiations involving Members on both sides of the aisle, representatives of various departments of Government, and agencies, and representatives of banks seeking to enter the trading company business, this bill does represent a substantial improvement over the version which was originally passed so quickly by the other body.

Legislation to permit banking organizations to invest in export trading companies makes good sense, to my way of thinking. I believe that export trading companies can be useful as a means of improving the export performance of the United States.

I believe this bill can be made more workable and I expressed that thought during full committee markup.

Toward that end, I offered one amendment which was agreed to which added the words "managerial and financial resources" to the criteria which the Federal Reserve Board will use in considering applications for permits.

For the record, I believe the limitation on the ability of a bank holding company to finance an export trading company subsidiary is a restriction which is counterproductive. I would suggest that we make applicable the existing provisions of section 23A of the Federal Reserve Act to extensions of credit by a bank to the bank holding company in the case of export trade in the same manner as extensions of credit to support any other nonbanking activity. I do not believe it is necessary to establish a separate procedure governing bank financing to export trading compaines, and I am concerned that this special provision might impede bank participation in export trading companies because it will require new procedures on the part of investing bank holding companies and new interpretations by the Federal Reserve.

I feel the definitions of export trading company and export trade services to allow export trading companies more leeway to import in order to improve their ability to increase exports is desirable.

In summary, Mr. Speaker, I would emphasize that this is a good bill and I urge my colleagues to support it.

I yield back the balance of my time.

Mr. ST GERMAIN. Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. LAFALCE), one of the original sponsors and pioneers on this legislation.

Mr. LAFALCE. Mr. Speaker, today the House of Representatives has an opportunity to endorse legislation which will provide a firm basis for expanding U.S. exports. As the original House sponsor of export trading company legislation, I have welcomed rapidly growing interest in the potential of this new opportunity, and I have been gratified by the active support for trading company legislation. Over 130 of my colleagues have cosponsored my bill, H.R. 1648, and I am sure they all share my enthusiastic support for H.R. 6016, the legislation we consider today.

When I first introduced my original bill during the 96th Congress, I was motivated in large part by concern about our deteriorating balance of trade. U.S. trade balances had been in deficit since 1975, with participating large deficits in 1977 and 1978. It

seemed clear at that time that poor export performance was contributing substantially to the deficits, and that increased exports offered one of the more effective ways to remedy the problem. Those of us who looked closely at the structure of U.S. trade and the structural impediments to increased exports were struck by the success of our competitors, most notably the huge Japanese trading companies. Operating in virtually every country in the world, financed in part through strong ties to Japanese banks, and experienced in alternative trade mechanisms such as barter and three-way trading, the Japanese trading companies had grown enormously. In fact, they were becoming increasingly important as export agents for U.S.-produced goods. From the beginning, we used the Japanese trading companies as a partial model for ETC legislation, but maintained careful attention to the different business and legal framework within which our own institutions must operate.

I reintroduced export trading company legislation during the early days of this Congress, with immediate bipartisan support. It was clear that the need for stimulating exports had, if anything, increased. The economic downturn had constricted domestic markets and a stronger dollar had made our exports more expensive—and thus less competitive—on world markets. Unfortunately, those same forces remain today. While it cannot fully compensate for them, export trading legislation has become an important response to the pressures for new protectionist measures in this country.

The new administration accepted the need for export trading company legislation and endorsed my bill, H.R. 1648. The Senate moved swiftly on almost identical legislation, S. 734, and on April 8, 1981, passed it unanimously by a vote of 93 to 0. In the House, H.R. 1648 and similar bills had been referred to three separate committees, and each proceeded independently. But none could ignore the growing consensus, both in Congress and within the business community, that export trading company legislation was an idea whose time had come. Our cause was bolstered by independent studies such as the one undertaken by the New England Congressional Institute, it showed widespread support for the legislation within the business and banking communities and suggested that we would see immediate response to the new opportunities provided by the legislation. Other studies forecasted that the legislation might provide even more new jobs than originally anticipated, an important consideration during this period of escalating unemployment. Growing awareness of the legislation was immediately translated into appeals for prompt congressional action.

On March 31 of this year, the chairman of the House Banking Committee submitted his own proposal for the banking related elements of export trading company legislation. I was among the original cosponsors of his bill, H.R. 6016. The chairman's approach differed little from the banking title of my own bill, and his bill included an additional export stimulus in a provision increasing the limits on bankers' acceptances, which provide a means of guaranteeing payment for goods being shipped.

During extensive hearings this spring, the committee considered additional changes and refinements suggested by a broad cross-section of interested parties. We heard from exporters, potential exporters, existing trading companies, banks, and bank regulators. Almost every witness suggested improvements designed to make the legislation more attractive to his own organization, and it was left to the committee to sift through proposed changes. In its final form, H.R. 6016 represents careful study, cooperation, and compromise. Each element of the bill was subject to the same two tests: Will it make export trading companies more effective at meeting our export goals; and will it be workable within the legal and regulatory structures of U.S. banking.

The goal of this legislation has been clear from the beginning: Increasing exports. During the hearings, I restated my own conviction that export success, not bank profits, should be our objective. Certainly that will be the standard by which the legislation will be judged by a public eager for both the new jobs and the economic boost that exports can provide.

Export trading companies have existed in this country for years, but their growth and expansion have been severely limited by inadequate capital. Although several large corporations, including Sears and General Electric, have announced the formation of new trading company subsidiaries, their impact, at least initially, will be limited. Formation of corporate sponsored ETC's has given new impetus to our efforts to open the door to banking investments in trading companies, but I doubt we will ever see an American replica of the Japanese trading giants; it would be too inconsistent with our own business and legal traditions. I am convinced that bank investment in trading companies can contribute substantially by helping more U.S. firms to become exporters.

In addition to new capital, bank participation has the potential to improve the efficiency of trading company operations by making available the existing expertise and infrastructure possessed by large international banks. Contacts with potential customers, familiarity with export financing and currency transactions, and better means of evaluating the creditworthiness of foreign customers will all be facilitated by their worldwide networks of offices and affiliates. Because we felt that exploiting the recognition and goodwill associated with existing banking activities would stimulate exports, the committee chose to permit holding companies to use their own names for trading company affiliates.

In other cases, regional banks may choose to build upon their relationships with local business in order to encourage new export activities. Risk, uncertainty, and lack of familiarity with export procedures have all discouraged many small and medium sized firms from developing export markets, but a well run trading company could substantially reduce those hurdles. By linking with existing trading companies, regional banks can provide the necessary expertise and financing to make exporting attractive to many more firms. In addition, because of their familiarity with the financial and management resources of local firms regional banks are uniquely equipped to help small companies meet the challenges of export-related growth.

In addressing the direct objective of increasing U.S. exports, H.R. 6016 also represents an important step in the modernization of banking law. Authorization for bank investment in trading companies constitutes a significant relaxation of the historic legal separation of banking and commerce, and the committee carefully reviewed the terms and conditions of such investments. This legislation is designed to preserve necessary safeguards for the safety and soundness of our Nation's banking institutions, while permitting bank holding companies to make better use of their substantial resources.

On a case-by-case basis, the committee relies on the substantial supervisory and regulatory resources of the Federal Reserve System to protect banks against the effects of unsound practices by their parent holding companies. At the same time, the committee also wished to insure that those resources not be applied to blocking legitimate investments, a possibility introduced by the Fed's open scepticism about the legislation. Accordingly, H.R. 6016 directs that the Fed must be advised in writing at least 60 days in advance of a bank holding company's proposed investment in an ETC and provides for an additional 30 days review period under defined circumstances. Absent a formal notice of disapproval from the Fed, the holding company is authorized to go ahead with the investment. Specific grounds for disapproval are outlined in the legislation, and it was the committee's in-

tention that Fed review be confined to legitimate questions of bank safety, not unrelated activities of either the holding company or its other subsidiaries. The legislation itself protects against excessive risk by limiting direct investment to 5 percent of the holding company's consolidated capital and surplus; further, loans from the holding company and all its other subsidiaries may not total more than 10 percent of the holding company's consolidated capital and surplus.

The bill approved by the Banking Committee defines export trading companies as organizations operated exclusively for the purpose of exporting or facilitating the export of goods and services made in the United States. Our choice of the word "exclusively" reflects a deliberate intention to focus the activities of ETC's on exports rather than imports, but H.R. 6016 clearly authorizes such importing activities as are necessary to facilitate exports and promote ETC operations in foreign countries. ETC's are also authorized to make product modifications necessary to prepare U.S.-made goods for foreign markets and to take title to goods being exported. An important element of trading company legislation is the explicit recognition of services as a distinct class of exports. In fact, a growing proportion of our export revenues comes from the services sector.

In its final form, H.R. 6016 represents the culmination of a long evolutionary process, a process marked by long discussion and careful study. We have fine-tuned my original proposal, and the resulting legislation will be an important stimulus to our economy. Thousands of U.S. companies will now have access to a complete range of export assistance, and many will find new prosperity in foreign markets. My own involvement with this legislation has been very satisfying, and I am pleased with the results of our efforts. The Banking Committee can be proud of our success in drafting such excellent legislation. I encourage the full House to support us today.

□ 1420

Mr. STANTON of Ohio. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Connecticut (Mr. McKINNEY).

Mr. McKINNEY. Mr. Speaker, today the House has an opportunity to take a major step to expand further foreign markets for American businesses. The Bank Export Services Act, H.R. 6016, is an important weapon in the international trade battle and helps U.S. businessmen compete more effectively abroad.

We have heard much said recently about the intrusion of foreign companies in the U.S. economy. The influx of imported cars, foreign steel, imported electronics, and a variety of other products have heightened the awareness of the American people to the rules of the international trading game. A number of bills have been introduced which are openly protectionist in nature and which cry for further retaliation from our trading partners. That approach, in my opinion, serves no positive purpose and, in fact, is contradictory to our free market philosophy.

Export trading companies have long been a part of American commerce. However, there has been traditionally a veil drawn between banking and commerce which has prevented banks from becoming involved in export trading services. When this separation was imposed in the mid-19 century, it addressed business conditions which existed at that time. Today's conditions require a new set of laws and regulations. I believe H.R. 6016 is a well-drafted proposal to meet the current needs of American bankers and businessmen.

I commend Chairman ST GERMAIN, the Banking Committee ranking member, Mr. STANTON, and Mr. WYLIE, ranking members of the Financial Institutions Subcommittee, for their efforts in bringing this bill to the floor. The legislation represents a bipartisan effort to permit our businessmen access to the talents and capital of our banking community to compete more effectively in international markets.

I am aware that a great deal of interest exists in my part of the country for this legislation. Small- and medium-sized bankers view this as an opportunity to expand into a natural market for their services and one which the major banks are not necessarily able to cover. I have been contacted by many smaller businessmen who are eager to have access to the information about foreign markets that export trading companies can offer.

Under the protections that H.R. 6016 contains, it is logical that a marriage of bankers' expertise and businesses seeking new markets be consummated. In developing this bill, our committee carefully considered potential abuses and risks. We then included prohibitions against speculation and other abusive activities. There are adequate safeguards in this bill to assure that bank holding companies and bankers' banks which become involved in export trading companies will not have their traditional safety and soundness jeopardized.

The Bank Export Services Act will help expand U.S. exports. It is a positive step to meet the challenge for international markets. We should not retreat behind protectionist barriers which will lead only to more retaliation abroad. We have the opportunity to permit American businesses more freedom to compete in the world market using the same methods as our trading partners do. The administration wants this bill: American business wants this bill. I urge my colleagues to vote for H.R. 6016 as a message to the world, and the American business community that we mean business but in the American way.

Mr. STANTON of Ohio. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Delaware (Mr. EVANS), whose leadership has been greatly appreciated on this legislation.

Mr. EVANS of Delaware. Mr. Speaker, I appreciate the comments of my friend, the gentleman from Ohio (Mr. STANTON).

Mr. Speaker, American companies must be given the tools to compete effectively with our trading partners. Legislation on the House floor today recognizes this important need.

Over the past two decades, the U.S. share of world trade has been steadily declining. This is particularly unfortunate since it is clear that many American products could be very competitive in the world market. At stake are thousands upon thousands of jobs for American men and women.

Our Nation's small- and medium-sized companies are the ones which create most of this country's jobs, and it is also these firms whose foreign sales are now impeded by a lack of operating capital and financing. Legislation to facilitate the development of export trading companies would do a great deal to correct this situation, resulting in a significant increase in American jobs and an expanded U.S. share of total world markets.

I urge my colleagues who will participate in the conference on export trading company legislation to complete their work as quickly as possible so that this valuable export tool will be available to provide a much-needed increase in the number of American jobs.

Mr. STANTON of Ohio. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Minnesota (Mr. FRENZEL), a former member of our committee.

Mr. FRENZEL. Mr. Speaker, I spoke a moment ago on the companion bill which will, along with the bill that is now before us, become the House version of an Export Trading Companies Act, and noted at the time that it was not a perfect bill. In fact, it, or they, substantially lack some of the advantages of the bill in the Senate. I think those statements are even more appropriate regarding this bill produced by our Banking Committee.

One of the problems here is that the Committee on Banking has apparently reversed the rather strong statement of the Committee on Foreign Relations with respect to import activities. Almost everyone in the trading business knows that imports often serve as a great enhancement to export stimu-

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lation. I think this bill generally does not provide the flexibility that exists in the Senate version. Flexibility in import activity is something that should be improved in the conference when it is held. Obviously, these ETC's need maximum flexibility to perform in the most effective way.

There is also a little more regulation in this bill than most people who are interested in expanding trade would like to see. I am nervous about overregulation, particularly by the Fed in this instance.

Nevertheless, I do not want to be ungrateful for a splendid effort on the part of the Banking Committee. Something is better than nothing.

I only hope that, having had a taste of providing a very modest incentive for exports that in the future the committee will see that it has acted with undue restraint, and will then proceed to expand export opportunities in the future.

Mr. STANTON of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. PATTERSON).

□ 1430

Mr. PATTERSON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of the Bank Export Services Act, H.R. 6016. This bill represents a strong step by the Congress in the area of export promotion. There is little doubt that there are many small- and medium-sized firms throughout the country that have the products to sell overseas but not the means to do so. The costs are simply too high for a small company to go it alone. Meanwhile, our trade deficits continue to grow. H.R. 1799 and H.R. 6016 represent a significant first step in exploiting the untapped export potential of the United States.

The excuse that abnormally high prices for imported oil used to explain away and rationalize our huge trade deficits no longer holds. The plain truth is that we are being outdone by our competitors. The Japanese, as everyone knows, have been particularly successful. Much of their success is based upon the proficiency of export trading companies. It is time for the United States to take hold of this concept and run with it.

At the present time, 1 percent of our companies produce 80 percent of our exports. Small- and medium-sized companies, although often possessing the desire and productive capacity to export, simply do not have the financial means and expertise to do so. An export trading company would provide the whole range of export services from financing to marketing studies to actually selling products overseas. The result, increased sales for U.S. companies and a significant increase in employment.

Banking concerns will play a key role in the formation of ETC's because they will be permitted to invest in these companies. Banks with international expertise already have many of the support facilities, foreign business contacts and marketing know-how which are prerequisities for successful exporting. Additionally, their domestic commercial activities bring them into constant contact with companies which to date have ignored export markets yet produce goods and services which are highly marketable abroad. U.S. banking institutions are vital to the success of this legislation. I urge my colleagues to vote for H.R. 6016. American business and labor will be the winners.

Mr. ST GERMAIN. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I rise in support of the legislation.

Mr. Speaker, approval of H.R. 6016, the Bank Export Services Act, is an important step toward increasing the exportation of goods manufactured in the United States. Successful implementation of this legislation will increase demand for American products and provide new employment opportunities for American workers.

At a time of the highest unemployment since the Depression, it is critically important that the Federal Government facilitate job creation. However, it is my concern that the amount of credit needed to finance substantially increased exports not come at the expense of the credit-sensitive industries already established in our economy. The Federal Reserve should recognize that the legislation will increase the demand for credit, and it should move to accommodate this new credit demand without reducing the supply of credit to other sectors of the economy. Specifically, the Federal Reserve should accommodate this new demand for credit and if necessary institute monetary policy changes which will expand the availability of credit.

It is necessary for Congress to encourage exports which will result in increased employment opportunities for American workers. For this to be successful, there will be an increased demand for credit by export trading companies and American manufacturers of exported products. However, it would be poor public policy for the Federal Government to encourage American exports and encourage an increased demand for credit at the expense of the American workers employed in other credit-sensitive industries.

Mr. ST GERMAIN. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. BARNARD).

Mr. STANTON of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BARNARD).

Mr. ALEXANDER. Mr. Speaker, will the gentleman yield?

Mr. BARNARD. I yield to the gentleman from Arkansas.

Mr. ALEXANDER. Mr. Speaker, one of the most commanding needs in our Nation today is to encourage small- and medium-sized businesses to export, and those needs are met in part by this bill.

In that connection, Mr. Speaker, I note with satisfaction that on page 9 of the report accompanying H.R. 6016 it is stated that this bill in no way affects the ability of such organizations as agricultural cooperatives to organize or invest in export trading companies. However, I would like to clarify some language in the bill which could possibly be construed as prejudicial to agricultural cooperatives.

On page 4, lines 10 and 11, and again on page 7, lines 5 and 6, the bill states that export trading companies—and I quote—"may not engage in manufacturing or agricultural production activities."

The National Council of Farmer Cooperatives has written me asking if the agriculture production prohibition does not cast some uncertainty on the eligibility of farmer cooperatives as trading company partners.

Mr. Speaker, I will ask the chairman, in his judgment, is this the case?

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield to me for a reply?

Mr. BARNARD. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Absolutely and very definitely not. H.R. 6016 says an export trading company may not engage in agricultural production. The activities of an agricultural cooperative which wants to organize or invest in an ETC are immaterial. Even if an agricultural cooperative were engaged in extensive farming operations, it would still be completely eligible, under the terms of H.R. 6016, to organize or invest in export trading companies.

Mr. ALEXANDER. Mr. Speaker, I thank the gentleman from Rhode Island (Mr. ST GERMAIN) and I thank the gentleman from Georgia (Mr. BARNARD) for yielding.

Mr. BARNARD. Mr. Speaker, this is a significant day for those of us in the House, for today we begin the long-overdue process of adapting our financial system to the changing marketplace.

Much of the credit for this beginning must go to the distinguished chairman of the Banking Committee, Mr. ST GERMAIN. He has had the vision to see the urgent need for this bill, and to shape the legislation to meet the actual competitive needs of our financial institution. The chairman has worked with all of us on the committee, and the result is a truly

nonpartisan package that will significantly enhance our export capability.

Export trading companies will be major vehicles for presenting American goods and services to the world markets. Although American companies have always exported, we have not had any real policy to encourage exports. Instead, we have often inadvertently made it more difficult to export. As a result, our overseas sales, while significant, have not been as great as they should be. Many commercial opportunities that would have provided jobs for the unemployed, new industries for blighted areas, and incentives to innovate because there was no vehicle for smaller firms to use to increase foreign sales.

Export trading companies will fill this void. They will be able to provide services to the smaller and medium-sized exporter that are currently available only to huge corporations. Utilizing the expertise and foreign presence of banks, they will be able to package export services ranging from marketing surveys to finding buyers, from arranging shipping to product modification, and from financing payment to arranging barter transactions. In all cases, these are services that presently are available only to those exporters who are able to devote the time and money to search them out.

I am proud to say that H.R. 6016 contains a provision that I originally advanced, expanding the limitations on bankers' acceptances. Since Congress created the U.S. acceptance market in 1913, they have become an essential part of financing trade. However, the law this body passed almost 70 years ago have not been significantly revised since then.

One of the major revisions has been to place all banks, foreign and domestic, on an equal footing and under the same legal requirements. This means that a foreign-owned bank doing business in this country will not have an unfair advantage in this market, as they too will be covered by this law. For the first time, they will also be subject to the limitations of this act, which will be based on their worldwide capital and surplus, just as it is for a domestic bank.

Under the language of this bill, acceptances will for the first time be available to smaller and medium-sized exporters. In the past, the restrictions on the amount of acceptances that could be issued limited them to only the largest exporters, but in this legislation, we have increased the amount that can be outstanding. As a result, smaller firms will, for the first time, have access to this low-cost form of export finance.

Even more importantly, for the first time, we are allowing smaller banks to offer their customers access to export financing. They will be able to both purchase shares of any acceptances issued in behalf of their larger customers, and to originate them for their smaller customers through the mechanism of acceptances.

This committee has worked long and hard to come up with the best way to give these banks and exporters access to this type of trade financing, and has allowed them to be participated through other banks. We have been very specific about how these acceptances should be written, and have come to the conclusion that only the name of the issuing bank needs to be placed on the acceptance.

We do not believe that it is necessary for the names of the particpating banks to be placed on the face of the document because they do not have the responsibility to repay an acceptance presented by a secondary market buyer.

However, there is an unqualified obligation to repay the originating bank. In standard practice in areas of the country where participations in acceptances have been sold for some time, the participation agreement states that if the acceptance is not liquidated by the bank's customer, the account the participating bank holds with the originator may be debited for the amount of the participation without further notice. This practice was instituted after lengthy consultations with two of the major accounting firms in the country.

As such, the issuing bank is substituting the risk of the participant for that of the borrower, and in theory, the participant is at risk regardless of the actions of the borrower. In practice, since almost all acceptances are secured by an actual transaction, there is minimal risk to both the participant and the issuing bank.

This is similar to the procedure that has been followed for many years in the case of a standby letter of credit that is participated to another bank. The participating bank does not have to issue a separate letter of credit to the originating bank, but it does have the legal obligation to cover the debt up to the extent of its participation if the borrower is unable to pay. This has been standard banking practice for some time, and participations in acceptances will follow a similar pattern.

In no case should standard credit judgment not be exercised in the case of an acceptance on the part of either the originating bank or any participating banks, but when such judgment is used, these will be among the highest quality financial instruments available to banks.

Acceptances are the safest form of trade finance, since almost all of them are secured by an actual transaction. In virtually all acceptances currently outstanding, title to the goods in the underlying transaction are held by the issuing bank until the credit is liquidated. Financial markets rate acceptances as among the highest quality financial instruments issued, and they are highly sought after in the secondary market. I am delighted that this low-cost, low-risk form of trade finance will now be available to all exporters, regardless of size.

Mr. Speaker, this legislation is a major beginning not only in expanding foreign trade, but in modernizing our system of financial institutions. However, much else remains to be done in the months ahead. For far too long, banks and thrifts have been unable to give their customers the services they need and desire because of outdated laws of another era.

As a result, literally billions of dollars are going into unregulated funds and investments. It is not a matter of our banks not being willing to change, but a matter of laws that limit them, or force them into unregulated forms of services at a greater risk to the customer. I expect that in the coming months and years we will continue to examine these limitations, and will revise them to meet today's needs and tomorrow's opportunities.

This act, H.R. 6016, is a major step to both increasing foreign trade and to allowing financial institutions to compete, and I urge my colleagues to support it.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield to me?

Mr. BARNARD. I yield to the gentleman from Rhode Island.

Mr. ST GERMAIN. Mr. Speaker, I want to thank the gentleman from Georgia (Mr. BARNARD) for his statement, and I would like to take this opportunity to express my deep appreciation to the many members of the committee who worked so diligently with me and to our staffs who worked together in a very harmonious manner to bring this legislation to the floor.

It is truly a bipartisan piece of legislation, and I want to publicly thank our ranking minority member, the gentleman from Ohio (Mr. STANTON), the gentleman from Ohio (Mr. WYLIE), and the gentleman from Connecticut (Mr. MCKINNEY) and their staff for their cooperation and assistance in seeing to it that we come up with a piece of legislation that is, indeed, a product of all of the members of our committee on both sides of the aisle. I feel that this is legislation, as the gentleman has just stated, which is a precursor to some additional legislation that will modernize our financial institutions, both the thrifts and the commercials, to deal with the problems of the future. It will deal not only with the problems of the future but will serve the needs of the Nation.

Mr. Speaker, I thank the gentleman for yielding.

Mr. STANTON of Ohio. Mr. Speaker, I yield 4 minutes to the distin-

guished gentleman from Indiana (Mr. MYERS).

Mr. MYERS. Mr. Speaker, I thank my colleague for yielding me this time.

On page 4 of the bill the committee has spelled out the requirements and under what conditions disapproval might be necessary, and among those is undue concentration of resources. The section goes ahead and spells out just what those conditions might be.

But the section deals with decreased or unfair competition. This concerns me very much. It seems to me like we are giving a lot of discretion to the Federal Reserve Board and are not really spelling out just what is unfair competition or decreased competition.

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The gentleman from Ohio (Mr. WYLIE) in his additional views has talked somewhat about this. Did the committee express concern about granting so much authority to the Fed without spelling out just what is unfair competition?

Mr. WYLIE. Mr. Speaker, will the gentleman yield?

Mr. STANTON of Ohio. I yield to the gentleman from Ohio.

Mr. WYLIE. The gentleman has raised a good point. It is one that I tried to address a little while ago in my statement.

On page 3 of the bill it says—

The Board may disapprove any proposed investment only if—(I) such disapproval is necessary to prevent unsafe or unsound banking practices, undue concentration of resources, decreased or unfair competition, or conflicts of interest; (II) the financial or managerial resources of the companies involved warrant disapproval . . .

There is a combination of provisions there which do confer rather broad authority and broad discretion upon the Federal Reserve.

The gentleman from New York (Mr. LAFALCE), I might say, and the gentleman from Connecticut (Mr. MCKINNEY) raised this issue during committee deliberations that the Fed might refuse to approve applications or impose excessive regulations upon export trading companies.

On page 11 of the report, it is stated that—

With the safeguards enumerated in the bill and *with prompt Federal Reserve review* of proposed investments, ETC's can be established that will provide these benefits to the public. . . . (Emphasis mine.)

It is clear that the Federal Reserve is expected to review applications promptly, and I believe it is clear from the legislative history that Congress means these applications to be approved unless a condition warranting disapproval exists.

What we did not want to do, and the gentleman has touched on this good point, is to make the review process so difficult that an applicant will have to spend all of its time in going through the application process and not be able to devote its efforts to promoting exports.

Mr. MYERS. Exactly.

Mr. WYLIE. We want to give them a chance to demonstrate that they can be an effective export trading company.

So, as I say, I offered one amendment which was approved during the deliberations in the committee, and withheld two more, on behalf of which I will be prepared to work during conference, which embody the gentleman's concern, that the Federal Reserve should not be delegated plenary authority to approve or disapprove applications at its discretion, or based upon the length of a foot of the Chairman of the Federal Reserve Board.

I think it is very important that we do not hamstring export trading companies with unnecessary regulations so that they cannot go ahead and perform the function which this legislation was designed to facilitate.

Mr. MYERS. The gentleman states in his additional views that the Fed asked for broader authority than the committee gave them in this bill, but yet it seems like in this one section, decreased or unfair competition, there is no spelling out, not a definition of what is a decrease of competition or unfair competition. It concerns me very much that you are leaving a rather large door open for Fed discretion as to which ones they will apply this rule to, and even have different rules under different cases.

I have been watching Fed for a number of years and I know there is a growing concern among other Members that we are giving Fed a lot more authority than possibly the intent of Congress ever was.

So I am pleased that the gentleman is going to offer this amendment in conference, and I wish him well with it, because I think this is something we need.

Mr. WYLIE. I thank the gentleman for raising the point and we will try to address that in conference, I assure the gentleman.

Mr. ST GERMAIN. Mr. Speaker, will the gentleman yield to me on that point?

Mr. STANTON of Ohio. In the remaining time, I do yield to the gentleman from Rhode Island (Mr. ST GERMAIN).

Mr. ST GERMAIN. On the point just being discussed, indeed we do not expand the power of the Fed. As a matter of fact, we said to the Fed, "You cannot just take all of the time in the World to make a decision, but you have to make a decision within a stated period of time."

We make it very clear, however, that the provisions of change H.R. 6016 apply only to ETC's. The Bank Holding Company Act, and present procedures thereunder in so far as other activities of bank holding companies are concerned are in no way affected.

The concerns of the gentleman are the concerns of our committee as well.

Mr. MYERS. Will the gentleman yield?

Mr. STANTON of Ohio. I yield to the gentleman from Indiana.

Mr. MYERS. I do not disagree with the gentleman but yet the Board, within 60 days, could arbitrarily say an applicant would be unfair competition and would not have to justify it because you leave a rather large door and you do not define it.

Mr. ST GERMAIN. Absent the change, the Board could conceivably hold the application indefinitely before reaching a determination. Indeed, what we have done is to say to the Fed "you must act within a 60-day period."

Very frankly, the way it is written, in my discussions with Chairman Paul Volcker, he made it clear that he is unhappy with this because it in fact H.R. 6016 is a restriction of existing Fed powers. Indeed, it is more liberal and is designed to promote and to assist the formation of ETC's.

Mr. MYERS. If the gentleman will yield one more time, what concerns me is the Board, after this bill becomes law, can make the same decision. The only thing we are doing is expediting that same decision and we make it within 60 days instead of 6 years, as the gentleman gave the example.

But they could still come to the same conclusion.

Really, what protection does the applicant have, what recourse does he have once the Board has arbitrarily made a decision?

Mr. ST GERMAIN. He has recourse to the courts as is the present case.

Mr. STANTON of Ohio. Let me say, since the gentleman brings up an excellent point and time is limited, and the point is one with which the committee has been very familiar, as the gentleman from Ohio (Mr. WYLIE) said, the minute we get to conference we will push this point a little bit more.

I appreciate the gentleman's contribution.

Mr. MYERS. I think that we are the rulemaking power right here and the policymaking should be done here and the Board should be the implementers of the policy and the rules. This is what I am concerned about.

Mr. BARNARD. Mr. Speaker, will the gentleman yield?

Mr. STANTON of Ohio. I yield to the gentleman from Georgia.

Mr. BARNARD. The guidelines are already in place that the Fed uses as far as unfair competitive practices are concerned. I am sure that they would apply in this case as they already apply in other unfair competitive situations.

● Mr. McDADE. Mr. Speaker, I rise in support of this much needed legisla-

tion. At a time when America's performance in the international trade market is not good, this bill will help return us to the levels of trade we once maintained, by making it possible for small- and medium-sized businesses to enter into overseas trade.

The economic prowess of small business is well-known and well-documented. Small business is highly innovative, competitive, a great cost saver and the best creator of employment opportunities. We need to unleash this economic force on foreign markets in order to improve our export performance. This market also provides as excellent opportunity for expansion in this important sector of the economy.

Small- and medium-sized firms face a lengthy series of obstacles if they attempt to sell their products overseas. For a small firm, it is prohibitively expensive to make arrangements for financing, licenses and permits, shipping and to solve all the other problems which come with exporting. Export trading companies serve businesses by making these arrangements. A small firm working with an export trading company can sell their products overseas almost as easily as selling in the next State.

Unfortunately, current law imposes a number of restrictions which severely limit the ability of export trading companies to function. In particular, there are antitrust laws and banking regulations which have created disadvantages for American firms. Our European and Japanese counterparts have fully developed the export trading company concept, which leaves our businesses at a disadvantage.

H.R. 6016 corrects this problem. It would terminate Federal regulations that prohibit Federal banking institutions from investing in export trading companies. This would enable these companies to strengthen their financial capacity and obtain the "international expertise" they need. Additionally, the bill resolves antitrust concerns which have arisen. By enacting this measure, export trading companies will be able to flourish and provide an important stimulus to our economy.

Mr. Speaker, H.R. 6016 is an important step toward the development of export trade for smaller firms. It is well drafted legislation which protects against abuses or possible harm to the banking community. We need to enact this proposal to encourage business growth in this time of economic hardship. I urge its approval by the House.●

● Mr. WORTLEY. Mr. Speaker, I rise in strong support of the bill to expand export trading companies.

A modern export policy is essential to the economic well being of the United States. Our major trading partners have known this for quite some time and have used the device of export trading companies to enhance their positions in the world marketplace. It is not too late for the United States to profit by their example, but time is of the essence.

That is why this legislation is so important. Throughout the hearing process, it became evident that the United States could improve its position as a major trading nation if it had certain tools, mainly the ability to broaden its base for the sale of goods abroad. Only a small percentage of American manufacturing firms are involved in exports at the present time, and an even smaller number of them account for almost 85 percent of U.S. exports.

It is difficult for many small- and medium-size businesses to enter the export market because they do not have access to adequate financing, market analysis, documentation, and after-sale services readily available to them bundled together in a one-stop facility.

The potential for increasing the number of American jobs through exports is enormous. At a time when unempoyment in the United States is at an unconscionable level, surely we must do all that we can to open every avenue for increased employment. Chase Econometrics estimated that export trading companies could increase employment by as much as 640,000 jobs by 1985.

Bank participation in export trading companies is an absolute must. Not allowing bankers' banks and bank holding companies to become export partners would be a terrible mistake. The legislation reported favorably by the House Banking Committee has been carefully crafted to take into account the traditional separation of banking and commerce. The bill maintains the necessary safety and soundness principles to which our financial institutions must subscribe.

It is a good bill and it merits the favorable consideration of every Member of this body who is concerned about American jobs and the balance of trade.●

● Mr. NEAL. Mr. Speaker, I am delighted that the House is finally getting an opportunity today to vote on the Bank Export Services Act, H.R. 6016, which will permit the formation of export trading companies.

It has taken a long time to get this legislation through the appropriate House committees, but I believe that we have produced a good bill.

Mr. Speaker, export trading companies can be highly effective in marketing U.S. goods and services throughout the world. That, in turn, will strengthen our own economy and provide badly needed jobs. Each $1 billion in U.S. exports can support an estimated 32,000 jobs in this country.

At present, only 1 percent of American companies are responsible for 80 percent of our exports. Only large businesses have the resources to sell abroad. But with the formation of export trading companies, many small- and medium-sized businesses will be able to seek foreign markets by enlisting the marketing expertise of the ETC's.

Mr. Speaker, H.R. 6016 allows for limited participation by banks in export trading companies. Thus, U.S. banks will be able to offer international marketing, financing, and management skills to these new companies. At the same time, the bill limits the role of banks in ETC's in a way that should prevent excessive risk-taking by the banks, thus attempting to assure the soundness of our financial institutions.

Mr. Speaker, the health and continued growth of the American economy will depend, in part, on our success in competing on the world market. This legislation can do much to make us successful. I hope that all my colleagues will support it.●

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Rhode Island (Mr. ST GERMAIN) that the House suspend the rules and pass the bill, H.R. 6016, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to permit bank holding companies and bankers' banks to invest in export trading companies and to reduce restrictions on trade financing provided by financial institutions."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. ST GERMAIN. Mr. Speaker, I aks unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous material, on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

FACILITATING FORMATION AND OPERATION OF EXPORT TRADING COMPANIES AND ASSOCIATIONS

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance, and Urban Affairs, the Committee on Foreign Affairs, and the Committee on the Judiciary be discharged from further consideration of the Senate bill (S. 734) to encourage exports by facilitating the formation and operation of export trading companies, export trade associations, and the expansion of export

trade services generally, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

Mr. KRAMER. Mr. Speaker, reserving the right to object, I would like to pose an inquiry to the gentleman from Wisconsin (Mr. ZABLOCKI).

Could the gentleman tell us whether or not he has consulted with the leadership and the whip on this side of the aisle with respect to this request?

Mr. ZABLOCKI. Mr. Speaker, will the gentleman yield?

Mr. KRAMER. I yield to the gentleman from Wisconsin.

Mr. ZABLOCKI. Mr. Speaker, it is my understanding that this request has the agreement of the leadership on both sides of the aisle.

Mr. KRAMER. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 734

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EXPORT TRADING COMPANIES

SHORT TITLE

SEC. 101. This title may be cited as the "Export Trading Company Act of 1981".

FINDINGS

SEC. 102. (a) The Congress finds and declares that—

(1) tens of thousands of American companies produce exportable goods or services but do not engage in exporting;

(2) although the United States is the world's leading agricultural exporting nation, many farm products are not marketed as widely and effectively abroad as they could be through producer-owned export trading companies;

(3) exporting requires extensive specialized knowledge and skills and entails additional, unfamiliar risks which present costs for which smaller producers cannot realize economies of scale;

(4) export trade intermediaries, such as trading companies, can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per-unit cost to producers;

(5) the United States lacks well-developed export trade intermediaries to package export trade services at reasonable prices (exporting services are fragmented into a multitude of separate functions; companies attempting to offer comprehensive export trade services lack financial leverage to reach a significant portion of potential United States exporters);

(6) State and local government activities which initiate, facilitate, or expand export of products and services are an important and irreplaceable source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(7) the development of export trading companies in the United States has been hampered by insular business attitudes and by Government regulations; and

(8) if United States export trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they must be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad.

(b) The purpose of this Act is to increase United States exports of products and services, particularly by small, medium-size, and minority concerns, by encouraging more efficient provision of export trade services to American producers and suppliers.

DEFINITIONS

SEC. 103. (a) As used in this Act—

(1) the term "export trade" means trade or commerce in goods produced in the United States or services produced in the United States, and exported, or in the course of being exported, from the United States to any foreign nation;

(2) the term "goods produced in the United States" means tangible property manufactured, produced, grown, or extracted in the United States, the cost of the imported raw materials and components thereof shall not exceed 50 per centum of the sales price;

(3) the term "services produced in the United States" includes, but is not limited to accounting, amusement, architectural, automatic data processing, business, communications, construction franchising and licensing, consulting, engineering, financial, insurance, legal, management, repair, tourism, training, and transportation services, not less than 50 per centum of the sales or billings of which is provided by United States citizens or is otherwise attributable to the United States;

(4) the term "export trade services" includes, but is not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

(5) the term "export trading company" means a company, whether operated for profit or as a nonprofit organization, which does business under the laws of the United States or any State and which is organized and operated principally for the purposes of—

(A) exporting goods or services produced in the United States; and

(B) facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services;

(6) the term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

(7) the term "Secretary" means the Secretary of Commerce; and

(8) the term "company" means any corporation, partnership, association, or similar organization, whether operated for profit or as a nonprofit organization.

(b) The Secretary is authorized, by regulation, to further define such terms consistent with this section.

FUNCTIONS OF THE SECRETARY OF COMMERCE

SEC. 104. The Secretary shall promote and encourage the formation and operation of export trading companies by providing information and advice to interested persons and by facilitating contact between producers of exportable goods and services and firms offering export trade services.

OWNERSHIP OF EXPORT TRADING COMPANIES BY BANKS, BANK HOLDING COMPANIES, AND INTERNATIONAL BANKING CORPORATIONS

SEC. 105. (a) For the purpose of this section—

(1) the term "banking organization" means any State bank, national bank, Federal savings bank, bankers' bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(2) the term "State bank" means any bank or bankers' bank which is incorporated under the laws of any State, any territory of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Virgin Islands;

(3) the term "State member bank" means any State bank which is a member of the Federal Reserve System;

(4) the term "State nonmember insured bank" means any State bank which is not a member of the Federal Reserve System, but the deposits of which are insured by the Federal Deposit Insurance Corporation;

(5) the term "bankers' bank" means any bank insured by the Federal Deposit Insurance Corporation if the stock of such bank is owned exclusively by other banks (except to the extent directors' qualifying shares are required by law) and if such bank is engaged exclusively in providing banking services for other banks and their officers, directors, or employees;

(6) the term "bank holding company" has the same meaning as in the Bank Holding Company Act of 1956;

(7) the term "Edge Act Corporation" means a corporation organized under section 25(a) of the Federal Reserve Act;

(8) the term "Agreement Corporation" means a corporation operating subject to section 25 of the Federal Reserve Act;

(9) the term "appropriate Federal banking agency" means—

(A) the Comptroller of the Currency with respect to a national bank or any bank located in the District of Columbia;

(B) the Board of Governors of the Federal Reserve System with respect to a State member bank, bank holding company, Edge Act Corporation, or Agreement Corporation;

(C) the Federal Deposit Insurance Corporation with respect to a State nonmember insured bank; and

(D) the Federal Home Loan Bank Board with respect to a Federal savings bank.

In any situation where the banking organization holding or making an investment in an export trading company is a subsidiary of another banking organization which is subject to the jurisdiction of another agency, and some form of agency approval or notification is required, such approval or notification need only be obtained from or made to, as the case may be, the appropriate Federal banking agency for the banking organization making or holding the investment in the export trading company;

(10) the term "capital and surplus" shall be defined by the appropriate Federal banking agency;

(11) an "affiliate" of a banking organization has the same meaning as an "affiliate" of a member bank under section 2 of the Banking Act of 1933, and, with respect to a bank holding company, includes any bank or other subsidiary of such company, the term "subsidiary" has the same meaning as in section 2 of the Bank Holding Company Act of 1956;

(12) the terms "control" and "subsidiary" shall have the same meanings assigned to those terms in section 2 of the Bank Holding Company Act of 1956, and the terms "controlled" and "controlling" shall be construed consistently with the term "control" as defined in section 2 of the Bank Holding Company Act of 1956, except that for purpose of the Export Trading Company Act of 1981, the determination of control as provided in section 2(a)(2) of the Bank Holding Company Act of 1956 shall be made by the appropriate Federal banking agency; and

(13) for the purposes of this section, the term "export trading company" means a company which does business under the laws of the United States or any State and which is exclusively engaged in activities related to international trade, whether operated for profit or as a nonprofit organization: *Provided, however,* That any such company must also either meet the definition of export trading company in section 103(a)(5) of this Act, or be organized and operated principally for the purpose of providing export trade services, as defined in section 103(a)(4) of this Act: *Provided further,* That any such company, for purposes of this section, (A) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that its banking organization investor may do so under applicable Federal and State banking law and regulations, and (B) may not engage in manufacturing or agricultural production activities.

(b)(1) Notwithstanding any prohibition, restriction, limitation, condition, or requirement of any law applicable only to banking organizations, a banking organization, subject to the limitations of subsection (c) and the procedures of this subsection, may invest directly and indirectly in the aggregate, up to 5 per centum of its consolidated capital and surplus (25 per centum in the case of an Edge Act Corporation or Agreement Corporation not engaged in banking) in the voting stock or other evidences of ownership of one or more export trading companies. A banking organization may—

(A) invest up to an aggregate amount of $10,000,000 in one or more export trading companies without the prior approval of the appropriate Federal banking agency, if such investment does not cause an export trading company to become a subsidiary of the investing banking organization; and

(B) make investments in excess of an aggregate amount of $10,000,000 in one or more export trading companies, or make any investment or take any other action which causes an export trading company to become a subsidiary of the investing banking organization or which will cause more than 50 per centum of the voting stock of an export trading company to be owned or controlled by banking organizations, only with the prior approval of the appropriate Federal banking agency.

Any banking organization which makes an investment under authority of clause (A) of the preceding sentence shall promptly notify the appropriate Federal banking agency of such investment and shall file such reports on such investment as such agency may require. If, after receipt of any such notification, the appropriate Federal banking agency determines that the export trading company is a subsidiary of the investing banking organization, it shall have authority to disapprove the investment or impose conditions on such investment under authority of subsection (d). In furtherance of such authority, the appropriate Federal banking agency, after notice and opportunity for hearing, may require divestiture of any voting stock or other evidences of ownership previously acquired, and may impose conditions necessary for the termination of any controlling relationship.

(2) If a banking organization proposes to make any investment or engage in any activity included within the following two subparagraphs, it must give the appropriate Federal banking agency ninety days prior written notice before it makes such investment or engages in such activity:

(A) any additional investment in an export trading company subsidiary; or

(B) the engagement by any export trading company subsidiary in any line of activity, including specifically the taking of title to goods, wares, merchandise, or commodities, if such activity was not disclosed in any prior application for approval.

During the notification period provided under this paragraph, the appropriate Federal banking agency may, by written notice, disapprove the proposed investment or activity or impose conditions on such investment or activity under authority of subsection (d). An additional investment or activity covered by this paragraph may be made or engaged in, as the case may be, prior to the expiration of the notification period if the appropriate Federal banking agency issues written notice of its intent not to disapprove.

(3) In the event of the failure of the appropriate Federal banking agency to act on any application for approval under paragraph (1)(B) of this subsection within a period of one hundred and twenty days, which period begins on the date the application has been accepted for processing by the appropriate Federal banking agency, the application shall be deemed to have been granted. In the event of the failure of the appropriate Federal banking agency either to disapprove or to impose conditions on any investment or activity subject to the prior notification requirements of paragraph (2) of this subsection within the ninety-day period provided therein, such period beginning on the date the notification has been received by the appropriate Federal banking agency, such investment or activity may be made or engaged in, as the case may be, any time after the expiration of such period.

(c) The following limitations apply to export trading companies and the investments in such companies by banking organizations:

(1) The name of any export trading company shall not be similar in any respect to that of a banking organization that owns any of its voting stock or other evidences of ownership except where a majority of the outstanding voting stock or other evidences of ownership of the company is owned or controlled by such banking organization.

(2) The total historical cost of the direct and indirect investments by a banking organization in an export trading company combined with extensions of credit by the banking organization and its direct and indirect subsidiaries to such export trading company shall not exceed 10 per centum of the banking organization's capital and surplus.

(3) A banking organization that owns any voting stock or other evidences of ownership of an export trading company may be required, by the appropriate Federal banking agency, to terminate its ownership or shall be subject to limitations or conditions which may be imposed by such agency, if the agency determines that the company has taken positions in commodities or commodities contracts, in securities, or in foreign exchange, other than as may be necessary in the course of its business operations.

(4) No banking organization holding voting stock or other evidences of ownership of any export trading company may extend credit or cause any affiliate to extend credit to any export trading company or to customers of such company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

(d)(1) In the case of every application under subsection (b)(1)(B) of this section, the appropriate Federal banking agency shall take into consideration the financial and managerial resources, competitive situation, and future prospects of the banking organization and export trading company concerned, and the benefits of the proposal to United States business, industrial, and agricultural concerns (with special emphasis on small- medium-size, and minority concerns), and to improving United States competitiveness in world markets. The appropriate Federal banking agency may not approve any investment for which an application has been filed under subsection (b)(1)(B) if it finds that the export benefits of such proposal are outweighed in the public interest by any adverse financial, managerial, competitive, or other banking factors associated with the particular investment. Any disapproval order issued under this section must contain a statement of the reasons for disapproval.

(2) In approving any application submitted under subsection (b)(1)(B), the appropriate Federal banking agency may impose such conditions which, under the circumstances of such case, it may deem necessary (A) to limit a banking organization's financial exposure to an export trading company, or (B) to prevent possible conflicts of interest or unsafe or unsound banking practices. With respect to the taking of title to goods, wares, merchandise, or commodities by any export trading company subsidiary of a banking organization, the appropriate Federal banking agencies may, by order, regulation, or guidelines, establish standards designed to ensure against any unsafe or unsound practices that could adversely affect a controlling banking organization investor. In particular, the appropriate Federal banking agencies may establish inventory-to-capital ratios, based on the capital of the export trading company subsidiary, for those circumstances in which the export trading company subsidiary may bear a market risk on inventory held.

(3) In determining whether to impose any condition under the preceding paragraph (2), or in imposing such condition, the appropriate Federal banking agency must give due consideration to the size of the banking organization and export trading company involved, the degree of investment and other support to be provided by the banking organization to the export trading company, and the identity, character, and financial

strength of any other investors in the export trading company. The appropriate Federal banking agency shall not impose any conditions or set standards for the taking of title which unnecessarily disadvantage, restrict, or limit export trading companies in competing in world markets or in achieving the purposes of section 102 of this Act. In particular, in setting standards for the taking of title under the preceding paragraph (2), the appropriate Federal banking agencies shall give special weight to the need to take title in certain kinds of trade transactions, such as international barter transactions.

(4) Notwithstanding any other provision of this Act, the appropriate Federal banking agency may, whenever it has reasonable cause to believe that the ownership or control of any investment in an export trading company constitutes a serious risk to the financial safety, soundness, or stability of the banking organization and is inconsistent with sound banking principles or with the purposes of this Act or with the Financial Institutions Supervisory Act of 1966, order the banking organization, after due notice and opportunity for hearing, to terminate (within one hundred and twenty days or such longer period as the appropriate Federal banking agency may direct in unusual circumstances) its investment in the export trading company.

(5) On or before two years after enactment of this Act, the appropriate Federal banking agencies shall jointly report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives their recommendations with respect to the implementation of this section, their recommendations on any changes in United States law to facilitate the financing of United States exports, especially by small- medium-size, and minority business concerns, and their recommendations on the effects of ownership of United States banks by foreign banking organizations affiliated with trading companies doing business in the United States.

(6) The appropriate Federal banking agency may, by regulation or order, exempt from the collateral requirements of section 23A of the Federal Reserve Act any loan or extension of credit made by a national or State bank to an export trading company affiliate if the agency determines such exemption is necessary to finance the operating expenses of an affiliated export trading company and does not expose the bank to undue financial risks. This paragraph does not apply to bank affiliates currently exempt from the requirements of section 23A.

(e)(1) Any party aggrieved by an order of an appropriate Federal banking agency under this section may obtain a review of such order in the United States court of appeals within any circuit wherein such organization has its principal place of business, or in the court of appeals for the District of Columbia Circuit, by filing a notice of appeal in such court within thirty days from the date of such order, and simultaneously sending a copy of such notice by registered or certified mail to the appropriate Federal banking agency. The appropriate Federal banking agency shall promptly certify and file in such court the record upon which the order was based. The court shall set aside any order found to be (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; or (D) without observance of procedure required by law.

(2) Except for violations of subsection (b)(3) of this section, the court shall remand for further consideration by the appropriate Federal banking agency any order set aside solely for procedural errors and may remand for further consideration by the appropriate Federal banking agency any order set aside for substantive errors. Upon remand, the appropriate Federal banking agency shall have no more than sixty days from date of issuance of the court's order to cure any procedural error or reconsider its prior order. If the agency fails to act within this period, the application or other matter subject to review shall be deemed to have been granted as a matter of law.

(f)(1) The appropriate Federal banking agencies are authorized and empowered to issue such rules, regulations, and orders, to require such reports, to delegate such functions, and to conduct such examinations of subsidiary export trading companies, as each of them may deem necessary in order to perform their respective duties and functions under this section and to administer and carry out the provisions and purposes of this section and prevent evasions thereof.

(2) In addition to any powers, remedies, or sanctions otherwise provided by law, compliance with the requirements imposed under this section may be enforced under section 8 of the Federal Deposit Insurance Act by any appropriate Federal banking agency defined in that Act.

(g) Nothing in this section shall at any time prevent any State from adopting a law prohibiting banks chartered under the laws of such State from investing in export trading companies or applying conditions, limitations, or restrictions on investments by banks chartered under the laws of such State in export trading companies in addition to any conditions, limitations, or restrictions provided under this section.

GUARANTEES FOR EXPORT ACCOUNTS RECEIVABLE AND INVENTORY

SEC. 106. The Export-Import Bank of the United States is authorized and directed to establish a program to provide guarantees for loans extended by financial institutions or other private creditors to export trading companies as defined in section 103(5) of this Act, or to other exporters, when such loans are secured by export accounts receivable or inventories of exportable goods, and when in the judgment of the Board of Directors—

(1) the private credit market is not providing adequate financing to enable otherwise creditworthy export trading companies or exporters to consummate export transactions; and

(2) such guarantees would facilitate expansion of exports which would not otherwise occur.

The Board of Directors shall attempt to insure that a major share of any loan guarantees ultimately serves to promote exports from small, medium-size and minority businesses or agricultural concerns. Guarantees provided under the authority of this section shall be subject to limitations contained in annual appropriations Acts.

TITLE II—EXPORT TRADE ASSOCIATIONS

SHORT TITLE

SEC. 201. This title may be cited as the "Export Trade Association Act of 1981".

FINDINGS; DECLARATION OF PURPOSE

SEC. 202. (a) FINDINGS.—The Congress finds and declares that—

(1) the exports of the American economy are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating $1 out of every $7 of total United States goods produced;

(2) exports will play an even larger role in the United States economy in the future in the face of severe competition from foreign government-owned and subsidized commercial entities;

(3) between 1968 and 1977 the United States share of total world exports fell from 19 per centum to 13 per centum;

(4) trade deficits contribute to the decline of the dollar on international currency markets, fueling inflation at home;

(5) service-related industries are vital to the well being of the American economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 per centum of the Nation's gross national product, and represent a small but rapidly rising percentage of United States international trade;

(6) agriculture constitutes the foundation of the economy of the United States and will continue to be a leading sector in United States export growth;

(7) small- and medium-sized firms are prime beneficiaries of joint exporting, through pooling of technical expertise, help in achieving economies of scale, and assistance in competing effectively in foreign markets; and

(8) the Department of Commerce has as one of its responsibilities the development and promotion of United States exports.

(b) PURPOSE.—It is the purpose of this title to encourage American exports by directing the Department of Commerce to encourage and promote the formation of export trade associations through the Webb-Pomerene Act, by making the provisions of that Act explicitly applicable to the exportation of services, and by transferring the responsibility for administering that Act from the Federal Trade Commission to the Secretary of Commerce.

DEFINITIONS

SEC. 203. The Webb-Pomerene Act (15 U.S.C. 61-66) is amended by striking out the first section (15 U.S.C. 61) and inserting in lieu thereof the following:

"SECTION 1. DEFINITIONS.

"As used in this Act—

"(1) EXPORT TRADE.—The term 'export trade' means trade or commerce in goods, wares, merchandise, or services exported, or in the course of being exported from the United States or any territory thereof to any foreign nation.

"(2) SERVICE.—The term 'service' means intangible economic output, including, but not limited to—

"(A) business, repair, and amusement services;

"(B) management, legal, engineering, architectural, and other professional services; and

"(C) financial, insurance, transportation, informational and any other data-based services, and communication services.

"(3) EXPORT TRADE ACTIVITIES.—The term 'export trade activities' means activities or agreements in the course of export trade.

"(4) METHODS OF OPERATION.—The term 'methods of operation' means the methods by which an association or export trading company conducts or proposes to conduct export trade.

"(5) TRADE WITHIN THE UNITED STATES.—The term 'trade within the United States' whenever used in this Act means trade or commerce among the several States or in any territory of the United States, or in the District of Columbia, or between any such territory and another, or between any such territory or territories and any State or States or the District of Columbia, or between the District of Columbia and any State or States.

"(6) ASSOCIATION.—The term 'association' means any combination, by contract or other arrangement, of persons who are citizens of the United States, partnerships which are created under and exist pursuant to the laws of any State or of the United States, or corporations, whether operated for profit or organized as nonprofit corporations, which are created under and exist pursuant to the laws of any State or of the United States.

"(7) EXPORT TRADING COMPANY.—The term 'export trading company' means an export trading company as defined in section 103(5) of the Export Trading Company Act of 1981.

"(8) ANTITRUST LAWS.—The term 'antitrust laws' means the antitrust laws defined in the first section of the Clayton Act (15 U.S.C. 12), sections 5 and 6 of the Federal Trade Commission Act (15 U.S.C. 45, 46), and any State antitrust or unfair competition law.

"(9) SECRETARY.—The term 'Secretary' means the Secretary of Commerce.

"(10) ATTORNEY GENERAL.—The term 'Attorney General' means the Attorney General of the United States.

"(11) COMMISSION.—The term 'Commission' means the Federal Trade Commission.".

ANTITRUST EXEMPTION

SEC. 204. The Webb-Pomerene Act (15 U.S.C. 61-66) is amended by striking out section 2 (15 U.S.C. 62) and inserting in lieu thereof the following:

"SEC. 2. EXEMPTION FROM ANTITRUST LAWS.

"(a) ELIGIBILITY.—The export trade, export trade activities, and methods of operation of any association, entered into for the sole purpose of engaging in export trade, and engaged in or proposed to be engaged in such export trade, and the export trade, export trade activities and methods of operation of any export trading company, that—

"(1) serve to preserve or promote export trade;

"(2) result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of such association or export trading company;

"(3) do not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(4) do not constitute unfair methods of competition against competitors engaged in the export trade of goods, wares, merchandise, or services of the class exported by such association or export trading company;

"(5) do not include any act which results, or may reasonably be expected to result, in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the association or export trading company or its members; and

"(6) do not constitute trade or commerce in the licensing of patents, technology, trademarks, or know-how, except as incidental to the sale of the goods, wares, merchandise, or services exported by the association or export trading company or its members

shall, when certified according to the procedures set forth in this Act, be eligible for the exemption provided in subsection (b).

"(b) EXEMPTION.—An association or an export trading company and its members are exempt from the operation of the antitrust laws with respect to their export trade, export trade activities and methods of operation that are specified in a certificate issued according to the procedures set forth in this Act, carried out in conformity with the provisions, terms, and conditions prescribed in such certificate and engaged in during the period in which such certificate is in effect. The subsequent revocation in whole or in part of such certificate shall not render an association or its members or an export trading company or its members, liable under the antitrust laws for such export trade, export trade activities, or methods of operation engaged in during such period.

"(c) DISAGREEMENT OF ATTORNEY GENERAL OR COMMISSION.—Whenever, pursuant to section 4(b)(1) of this Act, the Attorney General or the Commission has formally advised the Secretary of disagreement with his determination to issue a proposed certificate, and the Secretary has nonetheless issued such proposed certificate or an amended certificate, the exemption provided by this section shall not be effective until thirty days after the issuance of such certificate.".

AMENDMENT OF SECTION 3

SEC. 205. The Webb-Pomerene Act (15 U.S.C. 61-66) is amended—

(1) by inserting immediately before section 3 (15 U.S.C. 63) the following:

"SEC. 3. OWNERSHIP INTEREST IN OTHER TRADE ASSOCIATIONS PERMITTED.",

and

(2) by striking out "SEC. 3. That nothing" in section 3 and inserting in lieu thereof "Nothing".

ADMINISTRATION: ENFORCEMENT: REPORTS

SEC. 206. (a) IN GENERAL.—The Webb-Pomerene Act (15 U.S.C. 61-66) is amended by striking out sections 4 and 5 (15 U.S.C. 64 and 65) and inserting in lieu thereof the following sections:

"SEC. 4. CERTIFICATION.

"(a) PROCEDURE FOR APPLICATION.—Any association or export trading company seeking certification under this Act shall file with the Secretary a written application for certification setting forth the following:

"(1) The name of the association or export trading company.

"(2) The location of all of the offices or places of business of the association or export trading company in the United States and abroad.

"(3) The names and addresses of all of the officers, stockholders, and members of the association or export trading company.

"(4) A copy of the certificate or articles of incorporation and bylaws, if the association or export trading company is a corporation; or a copy of the articles, partnership, joint venture, or other agreement or contract under which the association or export trading company conducts or proposes to conduct its export trade activities, or contract of association, if the association or export trading company is unincorporated.

"(5) A description of the goods, wares, merchandise, or services which the association or export trading company or their members export or propose to export.

"(6) A description of the domestic and international conditions, circumstances, and factors which show that the association or export trading company and its activities will serve a specified need in promoting the export trade of the described goods, wares, merchandise, or services.

"(7) The export trade activities in which the association or export trading company intends to engage and the methods by which the association or export trading company conducts or proposes to conduct export trade in the described goods, wares, merchandise, or services, including, but not limited to, any agreements to sell exclusively to or through the association or export trading company, any agreements with foreign persons who may act as joint selling agents, any agreements to acquire a foreign selling agent, any agreements for pooling tangible or intangible property or resources, or any territorial, price-maintenance, membership, or other restrictions to be imposed upon members of the association or export trading company.

"(8) The names of all countries where export trade in the described goods, wares, merchandise, or services is conducted or proposed to be conducted by or through the association or export trading company.

"(9) Any other information which the Secretary may request concerning the organization, operation, management, or finances of the association or export trading company; the relation of the association or export trading company to other associations, corporations, partnerships, and individuals; and competition or potential competition, and effects of the association or export trading company thereon. The Secretary may request such information as part of an initial application or as a necessary supplement thereto. The Secretary may not request information under this paragraph which is not reasonably available to the person making application or which is not necessary for certification of the prospective association or export trading company.

"(b) ISSUANCE OF CERTIFICATE.—

"(1) NINETY-DAY PERIOD.—The Secretary shall issue a certificate to an association or export trading company within ninety days after receiving the application for certification or necessary supplement thereto if the Secretary, after consultation with the Attorney General and Commission, determines that the association and, its export trade, export trade activities and methods of operation, or export trading company, and its export trade, export trade activities and methods of operation meet the requirements of section 2 of this Act and will serve a specified need in promoting the export trade of the goods, wares, merchandise, or services described in the application for certification. The certificate shall specify the permissible export trade, export trade activities and methods of operation of the association or export trading company and shall include any terms and conditions the Secretary deems necessary to comply with the requirements of section 2 of this Act. The Secretary shall deliver to the Attorney General and the Commission a copy of any certificate that he proposes to issue. The Attorney General or Commission may, within fifteen days thereafter, give written notice to the Secretary of an intent to offer advice on the determination. The Attorney General or Commission may, after giving such written notice and within forty-five days of the time the Secretary has delivered a copy

of a proposed certificate, formally advise the Secretary and the petitioning association or export trading company of disagreement with the Secretary's determination. The Secretary shall not issue any certificate prior to the expiration of such forty-five-day period unless he has (A) received no notice of intent to offer advice by the Attorney General or the Commission within fifteen days after delivering a copy of a proposed certificate, or (B) received any noticed formal advice of disagreement or written confirmation that no formal disagreement will be transmitted from the Attorney General and the Commission. After the forty-five-day period or, if no notice of intent to offer advice has been given, after the fifteen-day period, the Secretary shall either issue the proposed certificate, issue an amended certificate, or deny the application. Upon agreement of the applicant, the Secretary may delay taking action for not more than thirty additional days after the forty-five-day period. Before offering advice on a proposed certification, the Attorney General and Commission shall consult in an effort to avoid, wherever possible, having both agencies offer advice on any application.

"(2) EXPEDITED CERTIFICATION.—In those instances where the temporary nature of the export trade activities, deadlines for bidding on contracts or filling orders, or any other circumstances beyond the control of the association or export trading company which have a significant impact on its export trade, make the ninety-day period for application approval described in paragraph (1) of this subsection, or an amended application approval as provided in subsection (c) of this section, impractical for the association or export trading company seeking certification, such association or export trading company may request and may receive expedited action on its application for certification.

"(3) AUTOMATIC CERTIFICATION FOR EXISTING ASSOCIATIONS.—Any association registered with the Federal Trade Commission under this Act as of January 19, 1981, may file with the Secretary an application for automatic certification of any export trade, export trade activities, and methods of operation in which it was engaged prior to enactment of the Export Trade Association Act of 1981. Any such application must be filed within one hundred and eighty days after the date of enactment of such Act and shall be acted upon by the Secretary in accordance with the procedures provided by this section. The Secretary shall issue to the association a certificate specifying the permissible export trade, export trade activities, and methods of operation that he determines are shown by the application (including any necessary supplement thereto), on its face, to be eligible for certification under this Act, and including any terms and conditions the Secretary deems necessary to comply with the requirements of section 2(a) of this Act, unless the Secretary possesses information clearly indicating that the requirements of section 2(a) are not met.

"(4) APPEAL OF DETERMINATION.—If the Secretary determines not to issue a certificate to an association or export trading company which has submitted an application for certification, or for an amendment of a certificate, then he shall—

"(A) notify the association or export trading company of his determination and the reasons for his determination, and

"(B) upon request made by the association or export trading company, afford it an opportunity for reconsideration with respect to that determination.

"(c) MATERIAL CHANGES IN CIRCUMSTANCES; AMENDMENT OF CERTIFICATE.—Whenever there is a material change in the membership, export trade activities, or methods of operation, of an association or export trading company then it shall report such change to the Secretary and may apply to the Secretary for an amendment of its certificate. Any application for an amendment to a certificate shall set forth the requested amendment of the certificate and the reasons for the requested amendment. Any request for the amendment of a certificate shall be treated in the same manner as an original application for a certificate.

"(d) AMENDMENT OR REVOCATION OF CERTIFICATE BY SECRETARY.—

"(1) The Secretary on his own initiative shall, upon a determination that the export trade, export trade activities or methods of operation of an association or export trading company no longer comply with the requirements of section 2 of this Act, revoke its certificate or make such amendments as may be necessary to comply with the requirements of such section.

"(2) Prior to revoking or amending a certificate, the Secretary shall—

"(A) notify the holder of the certificate in writing of the facts or conduct which may warrant the action, and

"(B) provide the holder of the certificate an opportunity for such hearing as may be appropriate in the circumstances.

"(3) Before revoking or amending a certificate pursuant to this subsection the Secretary may in his discretion provide the holder of the certificate an opportunity to achieve compliance within a reasonable period of time not to exceed ninety days, except that nothing in this paragraph shall affect any action under section 4(e) of this Act.

"(e) ACTION FOR REVOCATION OF CERTIFICATE BY ATTORNEY GENERAL OR COMMISSION.—

"(1) The Attorney General or the Commission may bring an action against an association or export trading company or its members to invalidate, in whole or in part, its certificate on the ground that the export trade, export trade activities or methods of operation of the association or export trading company fail or have failed to meet the requirements of section 2 of this Act. Except in the case of an action brought during the period before an antitrust exemption becomes effective, as provided for in section 2(c), the Attorney General or Commission shall notify any association or export trading company or member thereof, against which it intends to bring an action for revocation thirty days in advance, as to its intent to file an action under this subsection. The district court shall consider any issues presented in any such action de novo and if it finds that the requirements of section 2 are not met, it shall issue an order revoking the certificate or any other order necessary to effectuate the purposes of this Act and the requirements of section 2.

"(2) Any action brought under this subsection shall be considered an action described in section 1337 of title 28, United States Code. Pending any such action which was brought during the period any exemption is held in abeyance pursuant to section 2(c) of this Act, the court may make such temporary restraining order or prohibition as shall be deemed just in the premises.

"(3) No person other than the Attorney General or Commission shall have standing to bring an action against an association or export trading company or their respective members for failure of the association or export trading company or their respective export trade, export trade activities or methods of operation to meet the eligibility requirements of section 2 of this Act.

"(f) COMPLIANCE WITH OTHER LAWS.—Each association and each export trading company and any subsidiary thereof shall comply with United States export control laws pertaining to the export or transshipment of any goods on the Commodity Control List to controlled countries. Such laws shall be complied with before actual shipment.

"(g) JUDICIAL REVIEW.—Final orders of the Secretary under this section shall be subject to judicial review pursuant to chapter 7 of title 5, United States Code.

"SEC. 5. GUIDELINES.

"(a) INITIAL PROPOSED GUIDELINES.—Within ninety days after the enactment of the Export Trade Association Act of 1981, the Secretary, after consultation with the Attorney General, and the Commission shall publish proposed guidelines for purposes of determining whether export trade, export trade activities and methods of operation of an association or export trading company will meet the requirements of section 2 of this Act.

"(b) PUBLIC COMMENT PERIOD.—Following publication of the proposed guidelines, and any proposed revision of guidelines, interested parties shall have thirty days to comment on the proposed guidelines. The Secretary shall review the comments and, after consultation with the Attorney General, and Commission, publish final guidelines within thirty days after the last day on which comments may be made under the preceding sentence.

"(c) PERIODIC REVISION.—After publication of the final guidelines, the Secretary shall periodically review the guidelines and, after consultation with the Attorney General, and the Commission, propose revisions as needed.

"(d) APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.—The promulgation of guidelines under this section shall not be considered rulemaking for purposes of subchapter II of chapter 5 of title 5, United States Code, and section 553 of such title shall not apply to their promulgation.

"SEC. 6. ANNUAL REPORTS.

"Every certified association or export trading company shall submit to the Secretary an annual report, in such form and at such time as he may require, which report updates where necessary the information described by section 4(a) of this Act.

"SEC. 7. CONFIDENTIALITY OF APPLICATION AND ANNUAL REPORT INFORMATION.

"(a) GENERAL RULE.—Portions of applications made under section 4, including amendments to such applications, and annual reports made under section 6 that contain trade secrets or confidential business or financial information, the disclosure of which would harm the competitive position of the person submitting such information shall be confidential, and, except as authorized by this section, no officer or employee, or former officer or employee, of the United States shall disclose any such confidential information, obtained by him in any manner in connection with his service as such an officer or employee.

"(b) DISCLOSURE TO ATTORNEY GENERAL OR COMMISSION.—Whenever the Secretary believes that an applicant may be eligible for a

certificate, or has issued a certificate to an association or export trading company, he shall promptly make available all materials filed by the applicant, association or export trading company, including applications and supplements thereto, reports of material changes, applications for amendments and annual reports, and information derived therefrom, to the Attorney General or Commission, or any employee or officer thereof, for official use in connection with an investigation or judicial or administrative proceeding under this Act or the antitrust laws to which the United States or the Commission is or may be a party. Such information may only be disclosed by the Secretary upon a prior certification that the information will be maintained in confidence and will only be used for such official law enforcement purposes.

"SEC. 8. MODIFICATION OF ASSOCIATION TO COMPLY WITH UNITED STATES OBLIGATIONS.

"At such time as the United States undertakes binding international obligations by treaty or statute, to the extent that the operations of any export trade association or export trading company, certified under this Act, are inconsistent with such international obligations, the Secretary may require the association or export trading company to modify its respective operations, and in so doing afford the association or export trading company a reasonable opportunity to comply therewith, so as to be consistent with such international obligations.

"SEC. 9. REGULATIONS.

"The Secretary, after consultation with the Attorney General and the Commission, shall promulgate such rules and regulations as may be necessary to carry out the purposes of this Act.

"SEC. 10. TASK FORCE STUDY.

"Seven years after the date of enactment of the Export Trade Association Act of 1981, the President shall appoint, by and with the advice and consent of the Senate, a task force to examine the effect of the operation of this Act on domestic competition and on United States international trade and to recommend either continuation, revision, or termination of the Webb-Pomerene Act. The task force shall have one year to conduct its study and to make its recommendations to the President.".

(b) REDESIGNATION OF SECTION 6.—The Act is amended—

(1) by striking out "SEC. 6." in section 6 (15 U.S.C. 66), and

(2) by inserting immediately before such section the following:

"SEC. 11. SHORT TITLE.".

EFFECTIVE DATE WITH REGARD TO EXISTING ASSOCIATIONS

SEC. 207. (a) GENERAL RULE.—The amendments to the Webb-Pomerene Act set forth in sections 203, 204, 205, and 206 of this Act shall become effective with regard to an existing association described in subsection (b) only at such time as the association may elect to be certified pursuant to subsection (c).

(b) ELECTION TO CONTINUE UNDER PRIOR LAW.—Application of the antitrust laws to any association which as of January 1, 1981, had filed with the Commission the information specified under section 5 of the Webb-Pomerene Act as in effect immediately prior to the date of enactment of this Act shall continue to be governed by the standards set forth in that Act, unless such association elects to seek certification under subsection (c).

(c) ELECTION TO APPLY FOR CERTIFICATION.—Any association to which subsection (b) applies may, at any time after the effective date of this Act, file an application for certification with the Secretary containing the information set forth in section 4(a) of the Webb-Pomerene Act, as amended by section 206 of this Act. The Secretary shall consider and act upon such application in the manner provided in section 4(b) of the Webb-Pomerene Act, as amended by section 206 of this Act. The association filing an application pursuant to this subsection shall continue to be subject to subsection (b) of this section until the Secretary issues a certificate and such certificate has been accepted by the association; the association must decide whether or not to accept such certificate no later than thirty days after the Secretary's determination with respect thereto has become final.

MOTION OFFERED BY MR. ZABLOCKI

Mr. ZABLOCKI. Mr. Speaker, I offer a motion. It is to amend S. 734 with the text of section 1 through 4 and title II of H.R. 1799 and the text of H.R. 6016.

The Clerk read as follows:

Mr. ZABLOCKI moves to strike out all after the enacting clause of the Senate bill (S. 734) and to insert in lieu thereof the following:

SHORT TITLE

SECTION 1. This Act may be cited as "The Export Trading Company Act of 1982".

TITLE I—GENERAL PROVISIONS

FINDINGS; DECLARATION OF PURPOSE

SEC. 101. (a) The Congress finds that—

(1) United States exports are responsible for creating and maintaining one out of every nine manufacturing jobs in the United States and for generating one out of every seven dollars of total United States goods produced;

(2) the rapidly growing service-related industries are vital to the well-being of the United States economy inasmuch as they create jobs for seven out of every ten Americans, provide 65 percent of the Nation's gross national product, and offer the greatest potential for significantly increased industrial trade involving finished products;

(3) trade deficits contribute to the decline of the dollar on international currency markets and have an inflationary impact on the United States economy;

(4) tens of thousands of small- and medium-sized United States businesses produce exportable goods or services but do not engage in exporting;

(5) export trade services in the United States are fragmented into a multitude of separate functions, and companies attempting to offer export trade services lack financial leverage to reach a significant number of potential United States exporters;

(6) the United States needs well-developed export trade intermediaries which can achieve economies of scale and acquire expertise enabling them to export goods and services profitably, at low per unit cost to producers;

(7) the development of export trading companies in the United States has been hampered by business attitudes and by Government regulations;

(8) those activities of State and local governmental authorities which initiate, facilitate, or expand exports of goods and services can be an important source for expansion of total United States exports, as well as for experimentation in the development of innovative export programs keyed to local, State, and regional economic needs;

(9) if United States trading companies are to be successful in promoting United States exports and in competing with foreign trading companies, they should be able to draw on the resources, expertise, and knowledge of the United States banking system, both in the United States and abroad; and

(10) the Department of Commerce is responsible for the development and promotion of United States exports, and especially for facilitating the export of finished products by United States manufacturers.

(b) It is the purpose of this Act to increase United States exports of products and services by encouraging more efficient provision of export trade services to United States producers and suppliers, in particular by establishing an office within the Department of Commerce to promote the formation of export trade associations and export trading companies, by permitting bank holding companies and bankers' banks to invest in export trading companies, by reducing restrictions on trade financing provided by financial institutions, and by modifying the application of the antitrust laws to certain export trade.

DEFINITIONS

SEC. 102. For purposes of this section and sections 101 and 103 of this Act—

(1) the term "export trade" means trade or commerce in goods or services produced in the United States which are exported, or in the course of being exported, from the United States to any other country;

(2) the term "services" includes amusement, architectural, automatic data processing, business, communications, consulting, engineering, financial, insurance, legal, management, repair, training, and transportation services;

(3) the term "export trade services" includes international market research, advertising, marketing, insurance, legal assistance, transportation, including trade documentation and freight forwarding, communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, and financing, when provided in order to facilitate the export of goods or services produced in the United States;

(4) the term "export trading company" means any person, corporation, partnership, association, or similar organization, which does business under the laws of the United States or any State and which is organized and operated principally for purposes of—

(A) exporting goods or services produced in the United States; or

(B) facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services;

(5) the term "export trade association" means an association engaged solely in export trade which is exempt from the antitrust laws under the Webb-Pomerene Act;

(6) the term "State" means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(7) the term "United States" means the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the

Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

OFFICE OF EXPORT TRADE IN DEPARTMENT OF COMMERCE

SEC. 103. The Secretary of Commerce shall establish within the Department of Commerce an office to promote and encourage to the greatest extent feasible the formation of export trade associations and export trading companies. Such office shall provide information and advice to interested persons and shall provide a referral service to facilitate contact between producers of exportable goods and services and firms offering export trade services.

TITLE II—BANK EXPORT SERVICES

SHORT TITLE

SEC. 201 This title may be cited as the "Bank Export Services Act".

INVESTMENTS IN EXPORT TRADING COMPANIES

SEC. 202. Section 4(c) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)) is amended—

(1) in paragraph (12)(B), by striking out "or" at the end thereof;

(2) in paragraph (13), by striking out the period at the end thereof and inserting in lieu thereof "; or"; and

(3) by inserting after paragraph (13) the following:

"(14) shares of any company which is an export trading company whose acquisition (including each acquisition of shares) or formation by a bank holding company has not been disapproved by the Board pursuant to this paragraph, except that such investments, whether direct or indirect, in such shares shall not exceed 5 per centum of the bank holding company's consolidated capital and surplus.

"(A)(i) No bank holding company shall invest in an export trading company under this paragraph unless the Board has been given sixty days' prior written notice of such proposed investment and within such period has not issued a notice disapproving the proposed investment or extending for up to another thirty days the period during which such disapproval may be issued.

"(ii) The period for disapproval may be extended for such additional thirty day period only if the Board determines that a bank holding company proposing to invest in an export trading company has not furnished all the information required to be submitted or that in the Board's judgment any material information submitted is substantially inaccurate.

"(iii) The notice required to be filed by a bank holding company shall contain such relevant information as the Board shall require by regulation or by specific request in connection with any particular notice.

"(iv) The Board may disapprove any proposed investment only if—

"(I) such disapproval is necessary to prevent unsafe or unsound banking practices, undue concentration of resources, decreased or unfair competition, or conflicts of interest;

"(II) the financial or managerial resources of the companies involved warrant disapproval; or

"(III) the bank holding company fails to furnish the information required under clause (iii).

"(v) Within three days after a decision to disapprove an investment, the Board shall notify the bank holding company in writing of the disapproval and shall provide a written statement of the basis for the disapproval.

"(vi) A proposed investment may be made prior to the expiration of the disapproval period if the Board issues written notice of its intent not to disapprove the investment.

"(B)(i) The total amount of extensions of credit by a bank holding company which invests in an export trading company, when combined with all such extensions of credit by all the subsidiaries of such bank holding company, to an export trading company shall not exceed at any one time 10 per centum of the bank holding company's consolidated capital and surplus. For purposes of the preceding sentence, an extension of credit shall not be deemed to include any amount invested by a bank holding company in the shares of an export trading company.

"(ii) No provision of any other Federal law in effect on the date of the enactment of this paragraph relating specifically to collateral requirements shall apply with respect to any such extension of credit.

"(iii) No bank holding company which invests in an export trading company may extend credit or cause any subsidiary to extend credit to any export trading company or to customers of such export trading company on terms more favorable than those afforded similar borrowers in similar circumstances, and such extension of credit shall not involve more than the normal risk of repayment or present other unfavorable features.

"(C) For purposes of this paragraph, an export trading company—

"(i) may engage in or hold shares of a company engaged in the business of underwriting, selling, or distributing securities in the United States only to the extent that any bank holding company which invests in such export trading company may do so under applicable Federal and State banking laws and regulations; and

"(ii) may not engage in agricultural production activities or in manufacturing, except for such incidental product modification, including repackaging, reassembling or extracting byproducts, as is necessary to enable United States goods or services to conform with requirements of a foreign country and to facilitate their sale in foreign countries.

"(D) A bank holding company which invests in an export trading company may be required, by the Board, to terminate its investment or may be made subject to such limitations or conditions as may be imposed by the Board, if the Board determines that the export trading company has taken positions in commodities or commodity contracts, in securities, or in foreign exchange, other than as may be necessary in the course of the export trading company's business operations.

"(E) For purposes of this paragraph—

"(i) the term 'export trading company' means a company which does business under the laws of the United States or any State and which is organized and operated exclusively for purposes of exporting goods or services produced in the United States or for purposes of facilitating the exportation of goods or services produced in the United States by unaffiliated persons by providing one or more export trade services. Any export trading company may perform such importing or other activities as are reasonably related to and incident to an export transaction, if the overall effect of such activities is to enhance the exportation of goods or services produced in the United States;

"(ii) the term 'export trade services' includes consulting, international market research, advertising, marketing, product research and design, legal assistance, transportation (including trade documentation and freight forwarding), communication and processing of foreign orders to and for exporters and foreign purchasers, warehousing, foreign exchange, financing, and taking title to goods, when such services are provided in order to facilitate the export of goods or services produced in the United States;

"(iii) the term 'bank holding company' shall include a bank which (I) is organized solely to do business with other banks and their officers, directors or employees; (II) is owned primarily by the banks with which it does business; and (III) does not do business with the general public. No such other bank, owning stock in a bank described in this clause that invests in an export trading company, shall extend credit to an export trading company in an amount exceeding at any one time 10 per centum of such other bank's capital and surplus; and

"(iv) the term 'extension of credit' shall have the same meaning given such term in the fourth paragraph of section 23A of the Federal Reserve Act.".

BANKERS' ACCEPTANCES

SEC. 203. The seventh paragraph of section 13 of the Federal Reserve Act (12 U.S.C. 372) is amended to read as follows:

"(7)(A) Any member bank and any Federal or State branch or agency of a foreign bank subject to reserve requirements under section 7 of the International Banking Act of 1978 (hereinafter in this paragraph referred to as 'institutions'), accept drafts or bills of exchange drawn upon it having not more than six months' sight to run, exclusive of days of grace—

"(i) which grow out of transactions involving the importation or exportation of goods;

"(ii) which grow out of transactions involving the domestic shipment of goods; or

"(iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title covering readily marketable staples.

"(B) Except as provided in subparagraph (C), no institution shall accept such bills, or be obligated for a participation share in such bills, in an amount equal at any time in the aggregate to more than 150 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(C) The Board, under such conditions as it may prescribe, may authorize, by regulation or order, any institution to accept such bills, or be obligated for a participation share in such bills, in an amount not exceeding at any time in the aggregate 200 per centum of its paid up and unimpaired capital stock and surplus or, in the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H).

"(D) Notwithstanding subparagraphs (B) and (C), with respect to any institution, the aggregate acceptances, including obligations for a participation share in such acceptances, growing out of domestic transactions shall not exceed 50 per centum of the aggregate of all acceptances, including obligations for a participating share in such acceptances, authorized for such institution under this paragraph.

"(E) No institution shall accept bills, or be obligated for a participation share in such bills, whether in a foreign or domestic transaction, for any one person, partnership, corporation, association or other entity in an

amount equal at any time in the aggregate to more than 10 per centum of its paid up and unimpaired capital stock and surplus, or, the case of a United States branch or agency of a foreign bank, its dollar equivalent as determined by the Board under subparagraph (H), unless the institution is secured either by attached documents or by some other actual security growing out of the same transaction as the acceptance.

"(F) With respect to an institution which issues an acceptance, the limitations contained in this paragraph shall not apply to that portion of an acceptance which is issued by such institution and which is covered by a participation agreement sold to another institution.

"(G) In order to carry out the purposes of this paragraph, the Board may define any of the terms used in this paragraph, and, with respect to institutions which do not have capital or capital stock, the Board shall define an equivalent measure to which the limitations contained in this paragraph shall apply.

"(H) Any limitation or restriction in this paragraph based on paid-up and unimpaired capital stock and surplus of an institution shall be deemed to refer, with respect to a United States branch or agency of a foreign bank, to the dollar equivalent of the paid-up capital stock and surplus of the foreign bank, as determined by the Board, and if the foreign bank has more than one United States branch or agency, the business transacted by all such branches and agencies shall be aggregated in determining compliance with the limitation or restriction.".

TITLE III—EXPORT TRADE CERTIFICATES OF REVIEW

EXPORT TRADE PROMOTION DUTIES OF ATTORNEY GENERAL

SEC. 301. To promote and encourage export trade, the Attorney General may issue certificates of review. The Secretary of Commerce, in carrying out his responsibilities to promote the export of goods and services of the United States, may advise and assist persons with respect to applying for certificates of review.

APPLICATION FOR ISSUANCE OF CERTIFICATE OF REVIEW

SEC. 302. (a) To request the issuance of a certificate of review, a person shall submit to the Secretary of Commerce or the Attorney General a written application which—

(1) specifies conduct limited to export trade, and

(2) is in a form and contains any information, including information pertaining to the overall market in which the applicant operates, required by rule issued under section 311.

Each application received by the Secretary of Commerce shall be forwarded, not later than 7 days after receipt, to the Attorney General.

(b)(1) With respect to each application submitted under subsection (a), the Attorney General shall publish in the Federal Register notice that a certificate of review has been requested, the identity of each person requesting the certificate, and a description of the conduct with respect to which the certificate is requested. The notice shall be so published promptly, but not later than 10 days, after the application is received by the Attorney General.

(2) The Attorney General may not issue the certificate until the expiration of the 30-day period beginning on the date the application is received by the Attorney General.

ISSUANCE OF CERTIFICATE

SEC. 303. (a) The Attorney General shall issue a certificate of review to an applicant for the certificate if the application for the certificate satisfies the requirements of section 302, unless the Attorney General determines under subsection (b) that the conduct specified in the application is likely to result in a violation of the antitrust laws.

(b)(1) Not later than 60 days after the Attorney General receives an application under section 302, the Attorney General shall determine whether the conduct specified in the application is likely to result in a violation of the antitrust laws, except that if before the expiration of the 60-day period the Attorney General requests that the applicant submit additional information, the Attorney General shall make the determination not later than the expiration of the 60-day period, or of the 30-day period beginning on the date the additional information is submitted, whichever period ends later.

(2) Unless the Attorney General determines that the conduct specified in the application is likely to result in a violation of the antitrust laws, the Attorney General shall immediately issue a certificate of review to the applicant. If the Attorney General determines that the conduct specified in the application is likely to result in a violation of the antitrust laws, the Attorney General shall promptly transmit to the applicant a statement of the determination and the reasons in support of the determination.

(c) If the Attorney General denies an application for the issuance of a certificate of review and thereafter receives from the applicant a request for the return of all documents submitted by the applicant in connection with the issuance of the certificate, the Attorney General shall return to the applicant, not later than 30 days after receiving the request, the documents and all copies of the documents available to the Attorney General, except to the extent that the information contained in a document has been made available to the public.

(d) The Attorney General shall specify in each certificate of review issued under this section—

(1) the conduct, including activities and methods of operation, to which the certificate applies,

(2) the person to whom the certificate of review is issued, and

(3) any terms and conditions applicable to the conduct.

(e) A certificate of review obtained by fraud is void *ab initio*.

REPORTING REQUIREMENT; AMENDMENT OF CERTIFICATE

(1) SEC. 304. (a) any person who receives a certificate of review—

(1) shall promptly report to the Attorney General any change relevant to the matters specified under section 303(d) in the certificate, and

(2) may submit to the Attorney General an application to amend the certificate to reflect the fact or effect of the change on the conduct specified in the certificate.

(b) For purposes of section 302 and section 303, an application for an amendment to a certificate of review shall be deemed to be an application for the issuance of a certificate of review, except that the effective date of the amendment shall be the date on which the application for the amendment is submitted to the Attorney General.

MODIFICATION OR REVOCATION OF CERTIFICATE

SEC. 305. (a) If at any time the Attorney General determines that the conduct engaged in under a certificate of review violates or is likely to result in a violation of the antitrust laws, the Attorney General shall give written notice of the determination to the person to whom the certificate was issued. The notice shall include a statement of the reasons in support of the determination. In the 30-day period beginning 30 days after the notice is given, the Attorney General shall modify or revoke the certificate, as may be appropriate.

(b) The person to whom the affected certificate was issued may bring an action in any appropriate district court of the United States to set aside the determination made under subsection (a) on the ground that the determination is erroneous.

JUDICIAL REVIEW; ADMISSIBILITY

SEC. 306. (a) Except as provided in section 305(b), no determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be subject to judicial review.

(b) No determination made by the Attorney General with respect to the issuance, amendment, or revocation of a certificate of review shall be admissible in evidence in any administrative or judicial proceeding in support of any claim under the antitrust laws.

PROTECTION CONFERRED BY CERTIFICATE OF REVIEW

SEC. 307. (a) No person to whom a certificate of review is issued shall be subject to a criminal action for a violation of the antitrust laws or a violation of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(b) No person to whom a certificate of review is issued shall be liable for damages in a civil action brought by the Attorney General for a violation of the antitrust laws or of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(c)(1) No person to whom a certificate of review is issued shall be liable for damages exceeding actual damages, the loss of interest on actual damages, and the cost of suit (including a reasonable attorney's fee) for a violation of the antitrust laws or of any State law similar to the antitrust laws if the conduct that forms the basis of the action is specified in the certificate and if the certificate is in effect at the time the conduct occurs.

(2) If, with respect to any claim under section 4 of the Clayton Act (15 U.S.C. 15) brought against the person, the court finds that—

(A) the conduct alleged to violate the antitrust laws does not violate the antitrust laws,

(B) the conduct is conduct specified in a certificate of review, and

(C) the certificate of review was in effect at the time the conduct occurred,

the court shall award to the person against whom the claim is brought the cost of suit attributable to defending against the claim (including a reasonable attorney's fee).

(d) No person to whom a certificate of review is issued shall be liable under section 16 of the Clayton Act (15 U.S.C. 26), or any State antitrust law similar to such section, with respect to threatened loss or damage by violation of the antitrust laws or of any State law similar to the antitrust laws if the threatened loss or damage arises from con-

duct specified in the certificate of review and if the certificate is in effect at the time the conduct occurs.

INJUNCTIVE RELIEF

SEC. 308. Except as provided in section 307(d), a certificate of review shall have no legal effect on the authority of a court to grant equitable relief in an action for a violation of the antitrust laws brought against the person to whom the certificate is issued. In granting the relief, the court shall have jurisdiction to modify or revoke the certificate of review, as may be appropriate.

DISCLOSURE OF INFORMATION

SEC. 309. (a) Information submitted by any person in connection with the issuance, amendment, or revocation of a certificate of review shall be exempt from disclosure under section 552 of title 5, United States Code.

(b)(1) Except as provided in paragraph (2), no officer or employee of the United States shall disclose commercial or financial information submitted in connection with the issuance, amendment, or revocation of a certificate of review if the information is privileged or confidential and if disclosure of the information would cause harm to the person who submitted the information.

(2) Paragraph (1) shall not apply with respect to information disclosed—

(A) upon a request made by the Congress or any committee of the Congress,

(B) in a judicial or administrative proceeding,

(C) with the consent of the person who submitted the information,

(D) in the course of making a determination with respect to the issuance, amendment, or revocation of a certificate of review, if the Attorney General deems disclosure of the information to be necessary in connection with making the determination,

(E) in accordance with any requirement imposed by a statute of the United States, or

(F) in accordance with any rule issued under section 311 permitting the disclosure of the information to an agency of the United States or of a State on the condition that the agency will disclose the information only under the circumstances specified in subparagraphs (A) through (E).

DESCRIPTIVE GUIDELINES

SEC. 310. (a) To promote greater certainty regarding the application of the antitrust laws to export trade, the Attorney General may issue guidelines—

(1) describing specific types of conduct with respect to which the Attorney General has made, or would make, determinations under section 303 and section 305, and

(2) summarizing the factual and legal bases in support of the determinations.

(b) Section 553 of title 5, United States Code, shall not apply to the issuance of guidelines under subsection (a).

ISSUANCE OF RULES

SEC. 311. Not later than 120 days after the date of the enactment of this Act, the Attorney General shall issue rules to carry out this title.

DEFINITIONS

SEC. 312. For purposes of this title—

(1) the term "antitrust laws" shall have the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that the term shall include section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that section 5 applies to unfair methods of competition,

(2) the term "Attorney General" means the Attorney General of the United States or his designee,

(3) the term "certificate of review" means a certificate issued by the Attorney General under section 303,

(4) the term "export trade" means the export of goods or services from the United States to foreign nations, and

(5) the term "State" shall have the meaning given it in section 4G of the Clayton Act (15 U.S.C. 15g).

EFFECTIVE DATES

SEC. 313. (a) Except as provided in subsection (b), this title shall take effect on the date of the enactment of this Act.

(b) Section 302 and section 303 shall take effect 90 days after the effective date of the rules first issued under section 311.

Mr. ZABLOCKI (during the reading). Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. ZABLOCKI).

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to encourage exports by establishing in the Department of Commerce an office to promote the formation of export trade associations and export trading companies, by permitting bank holding companies and bankers' banks to invest in export trading companies, by reducing restrictions on trade financing provided by financial institutions, and by modifying the application of the antitrust laws to certain export trade, and for other purposes."

Two similar House bills (H.R. 1799 and H.R. 6016) were laid on the table.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

Mr. ZABLOCKI. Mr. Speaker, I ask unanimous consent that the House insist on its amendment to the Senate bill (S. 734) and request a conference with the Senate thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin? The Chair hears none and, without objection, appoints the following conferees:

For title I of the House amendment and modifications committed to conference: Messrs. ZABLOCKI, BINGHAM, ECKART, BONKER, WOLPE, SHAMANSKY, BROOMFIELD, LAGOMARSINO, ERDAHL, and GILMAN, and Mrs. FENWICK;

For title II of the House amendment and modifications committed to conference: Messrs. ST GERMAIN, ANNUNZIO, MINISH, LAFALCE, BARNARD, STANTON of Ohio, WYLIE, MCKINNEY, and LEACH of Iowa; and

For title III of the House amendment and modifications committed to conference: Messrs. RODINO, SEIBERLING, HUGHES, MCCLORY, and BUTLER.

There was no objection.

VETERANS' DISABILITY COMPENSATION AND SURVIVORS' BENEFITS AMENDMENTS OF 1982

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 6782, as amended.

The Clerk read the title of the bill.

□ 1450

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi (Mr. MONTGOMERY) that the House suspend the rules and pass the bill, H.R. 6782, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 400, nays 0, not voting 34, as follows:

[Roll No. 215]

YEAS—400

Addabbo	Clinger	Fenwick
Akaka	Coats	Ferraro
Albosta	Coelho	Fiedler
Alexander	Coleman	Fields
Anderson	Collins (TX)	Findley
Andrews	Conable	Fish
Annunzio	Conte	Fithian
Anthony	Conyers	Flippo
Applegate	Corcoran	Florio
Archer	Coughlin	Foglietta
Ashbrook	Courter	Foley
Aspin	Coyne, James	Ford (MI)
Atkinson	Coyne, William	Forsythe
AuCoin	Craig	Fowler
Badham	Crane, Philip	Frank
Bafalis	D'Amours	Frenzel
Bailey (MO)	Daniel, Dan	Frost
Bailey (PA)	Daniel, R. W.	Fuqua
Barnard	Daschle	Garcia
Barnes	Daub	Gaydos
Beard	Davis	Gejdenson
Bedell	de la Garza	Gephardt
Beilenson	Deckard	Gibbons
Benedict	Dellums	Gilman
Benjamin	Derrick	Gingrich
Bennett	Derwinski	Glickman
Bereuter	Dickinson	Goldwater
Bethune	Dicks	Gonzalez
Bevill	Dingell	Goodling
Bingham	Dixon	Gore
Bliley	Donnelly	Gradison
Boggs	Dorgan	Gramm
Boland	Dowdy	Gray
Boner	Downey	Green
Bonker	Dreier	Gregg
Bouquard	Duncan	Grisham
Bowen	Dunn	Guarini
Breaux	Dwyer	Gunderson
Brinkley	Dyson	Hagedorn
Brodhead	Early	Hall (OH)
Brooks	Eckart	Hall, Ralph
Broomfield	Edgar	Hall, Sam
Brown (CA)	Edwards (AL)	Hamilton
Brown (CO)	Edwards (CA)	Hammerschmidt
Broyhill	Edwards (OK)	Hance
Burgener	Emerson	Hansen (UT)
Burton, Phillip	Emery	Harkin
Butler	English	Hartnett
Byron	Erdahl	Hatcher
Campbell	Erlenborn	Hawkins
Carman	Ertel	Heckler
Carney	Evans (DE)	Hefner
Chappell	Evans (IA)	Heftel
Chappie	Evans (IN)	Hendon
Cheney	Fary	Hertel
Chisholm	Fascell	Hightower
Clausen	Fazio	Hiler

Hillis	Mineta	Seiberling
Holland	Minish	Sensenbrenner
Hollenbeck	Mitchell (MD)	Shamansky
Holt	Mitchell (NY)	Shannon
Hopkins	Moakley	Sharp
Horton	Molinari	Shaw
Howard	Mollohan	Shelby
Hoyer	Montgomery	Shumway
Hubbard	Moore	Shuster
Huckaby	Moorhead	Simon
Hughes	Morrison	Skeen
Hunter	Mottl	Skelton
Hutto	Murphy	Smith (AL)
Hyde	Murtha	Smith (IA)
Ireland	Myers	Smith (NE)
Jacobs	Napier	Smith (NJ)
Jeffords	Natcher	Smith (OR)
Jeffries	Neal	Smith (PA)
Jenkins	Nelligan	Snowe
Johnston	Nelson	Snyder
Jones (NC)	Nichols	Solarz
Jones (OK)	Nowak	Solomon
Kastenmeier	O'Brien	Spence
Kazen	Oberstar	St Germain
Kemp	Obey	Stangeland
Kennelly	Ottinger	Stanton
Kildee	Oxley	Stark
Kindness	Panetta	Stenholm
Kogovsek	Parris	Stokes
Kramer	Pashayan	Stratton
LaFalce	Patman	Studds
Lagomarsino	Patterson	Stump
Lantos	Paul	Swift
Latta	Pease	Synar
Leach	Perkins	Tauke
LeBoutillier	Petri	Tauzin
Lee	Peyser	Taylor
Lehman	Pickle	Thomas
Lent	Porter	Traxler
Lewis	Price	Trible
Livingston	Pritchard	Udall
Loeffler	Pursell	Vander Jagt
Long (LA)	Quillen	Vento
Long (MD)	Railsback	Volkmer
Lott	Rangel	Walgren
Lowery (CA)	Ratchford	Walker
Lowry (WA)	Regula	Wampler
Lujan	Reuss	Washington
Luken	Rhodes	Watkins
Lundine	Richmond	Waxman
Lungren	Rinaldo	Weaver
Madigan	Ritter	Weber (OH)
Markey	Roberts (KS)	Weiss
Marlenee	Roberts (SD)	White
Marriott	Robinson	Whitehurst
Martin (IL)	Rodino	Whitley
Martin (NC)	Roe	Whittaker
Martin (NY)	Roemer	Whitten
Martinez	Rogers	Williams (MT)
Matsui	Rose	Williams (OH)
Mattox	Rosenthal	Wilson
Mavroules	Rostenkowski	Winn
Mazzoli	Roth	Wirth
McClory	Roukema	Wolf
McCollum	Rousselot	Wolpe
McCurdy	Roybal	Wortley
McDade	Rudd	Wright
McDonald	Russo	Wyden
McEwen	Sabo	Wylie
McGrath	Santini	Yatron
McHugh	Savage	Young (AK)
McKinney	Sawyer	Young (FL)
Mica	Scheuer	Young (MO)
Michel	Schneider	Zablocki
Mikulski	Schroeder	Zeferetti
Miller (CA)	Schulze	
Miller (OH)	Schumer	

NOT VOTING—34

Biaggi	Dornan	Marks
Blanchard	Dougherty	McCloskey
Bolling	Dymally	Moffett
Bonior	Evans (GA)	Oakar
Brown (OH)	Ford (TN)	Pepper
Burton, John	Fountain	Rahall
Clay	Ginn	Siljander
Collins (IL)	Hansen (ID)	Staton
Crane, Daniel	Jones (TN)	Weber (MN)
Crockett	Leath	Yates
Dannemeyer	Leland	
DeNardis	Levitas	

□ 1500

Mr. BROWN of Colorado changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON PUBLIC BUILDINGS AND GROUNDS AND SUBCOMMITTEE ON INVESTIGATIONS AND OVERSIGHT OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE ON THURSDAY, JULY 29, 1982

Mr. FARY. Mr. Speaker, I ask unanimous consent that the Subcommittee on Public Buildings and Grounds and the Subcommittee on Investigations and Oversight of the Committee on Public Works and Transportation may have permission to sit on Thursday, July 29, 1982, while the House is in session under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

Mr. KRAMER. Mr. Speaker, reserving the right to object, I would like to pose an inquiry of the gentleman from Illinois. Could the gentleman tell us what this is all about, please?

□ 1510

Mr. FARY. Mr. Speaker, if the gentleman will yield, the purpose of the hearing will be to inquire into a reported sale of Federal property located at 49 Fourth Street in San Francisco, Calif., which was recently declared excess to the needs of the Federal Government by the General Services Administration. The subcommittee will not be considering any legislation therefore, but instead, holding what I perceive to be an oversight hearing, which should last half an hour.

Mr. KRAMER. Mr. Speaker, further reserving the right to object, can the gentleman tell me whether he has spoken to the gentleman from Minnesota (Mr. STANGELAND) about this hearing?

Mr. FARY. Yes.

Mr. KRAMER. And he has no objections?

Mr. FARY. Yes.

Mr. KRAMER. Yes, he has no objection?

Mr. FARY. None.

Mr. KRAMER. Mr. Speaker, I withdraw my reservation of objection, and I thank the gentleman for his response.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill—H.R. 6030—to authorize appropriations for fiscal year 1983 for the Armed Forces, for procurements, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 6030, with Mr. AUCOIN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Thursday, July 22, 1982, title II was open for amendment at any point.

Are there any amendments to title II?

AMENDMENT OFFERED BY MR. SIMON

Mr. SIMON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON: Page 8, line 23, strike out "$10,409,196,000" and insert in lieu thereof "$9,694,196,000".

Mr. SIMON. Mr. Chairman, I offer this amendment in behalf of my colleague from New York (Mr. GREEN) and myself.

What it does is, it simply asks the House to do the same thing that the Senate has done, and that is to knock out the interim basing provisions at a savings of $715 million.

In a "Dear Colleague" letter that my colleague, the gentleman from New York (Mr. GREEN) and I and Mr. GINGRICH and Mr. LEACH of Iowa sent to the Members of this House, we pointed out that this amendment will not affect any of the long-range research; it does not affect nor have any impact on the MX test firing slated for later this year.

I would point out that this amendment on the other body, was supported by the chairman of the Armed Services Committee, the senior Senator from Texas, and supported by the ranking members of both parties.

It is an amendment that makes eminent sense. It says simply: "Let us spend our money prudently. Go ahead with the long-range missile planning

and research, go ahead with testing of the MX itself, but let us not spend $715 million on an interim basing procedure." That is what the amendment does, pure and simple.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my colleague from New York.

Mr. GREEN. I thank my colleague for yielding.

Mr. Chairman, I rise to join the gentleman from Illinois (Mr. SIMON) in urging my colleagues to support the Simon-Green amendment to cut $715 million in authorization for research and development for interim basing of the MX missile. The other body has already taken this action in its DOD authorization bill. Our proposal will make the MX program more rational, and will bring reason to the defense budget.

Our amendment would defeat the proposal to research the placing of 40 MX missiles in unhardened Minuteman silos while study of long-term basing options for MX continue. The use of Minuteman silos is only one of the multitude of basing modes suggested for MX, and almost as soon as it was announced, it was criticized as vulnerable. Indeed, not even the administration has claimed that the MX so based can survive a Soviet first strike. Of the 40 missiles, only 4, or 10 percent, can be expected to survive. In this basing scheme, the cost per surviving missile is about $1 billion. Based in Minuteman silos, the MX's only use is as a first-strike weapon, or in a launch-on-warning situation, a severely destabilizing approach wherein human error or technical failure could trigger World War III. Given the great costs involved, do we want to base a missile that can only be used under a strategic doctrine the United States does not endorse? Moreover, do we want to base the missile in a manner that is admittedly vulnerable, when the missile's lethality makes it an enormously valuable target for the Soviets? I think the answer to both questions must be no.

In March, the Armed Services Committee in the other body decided the interim basing program had too many problems to justify its funding. The committee disagreed with spending $2.6 billion for this program, saying, "the number of additional warheads that would survive an attack upon MX missiles so deployed does not appear to justifiy the costs * * * associated with this basing scheme." The committee also questioned the proposal from an arms control perspective, and said, "strategic deterrence and crisis-stability could be jeopardized, rather than enhanced, by the deployment of high value, militarily important weapons in so small a number of relatively easily destroyed shelters." These arguments make good sense and led the other body to delete the $715 million in R. & D. funds that our amendment would delete. Our amendment duplicates the action already taken by the full Senate.

If our amendment is accepted, the bill will still contain almost $2 billion for research on the MX. Our amendment affects only the interim basing decision. The $715 million in the bill for R. & D. on interim basing that our amendment would delete was to be spent on engineering studies on preparing the Minuteman III silos to accept the MX and on the implementation of those studies. In view of the strategic inadequacy of this basing proposal, no further funds should be spent on researching the technical aspects of carrying it out.

Even though the President has indicated he has no intention of using it as such, many have argued that we must fund the MX program in its entirety so it can be used as a bargaining chip to leverage arms control concessions from the Soviets. This argument simply does not hold up as to this amendment. First, the MX will remain a bargaining chip under our amendment. Under our amendment, other R. & D. on the missile will continue, and further refinements in the program will continue being made. Research on basing modes—though not on the interim Minuteman basing mode—will continue as well.

I would urge my colleagues to delete the $715 million in this bill for R. & D. on interim basing for the MX missile. This basing scheme is almost universally acknowledged to add nothing to our ability to deter nuclear war. If it cannot work as a deterrent, it deserves no funding at this time. Nor can MX based in a vulnerable basing mode serve as a bargaining chip. Under our amendment R. & D. on the MX missile itself and on long-term basing options will continue. Our amendment deserves the support of the Members of this House, and we would urge your strong approval.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(At the request of Mr. GREEN and by unanimous consent, Mr. SIMON was allowed to proceed for 3 additional minutes.)

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. SIMON. I would be glad to yield to the gentleman from New York.

Mr. GREEN. I thank the gentleman for yielding.

Mr. Chairman, in summary all we seek to do is to eliminate the authorization for R. & D. for this MX interim mode in the Minuteman missile silos, a mode that is universally agreed not to solve the window of vulnerability problem and is universally agreed to be unworkable.

So we ask our colleagues to join us today in saving this $715 million for a mode no one wants while we await the recommendation of the President as to whatever long-term mode he proposes to offer us for the MX missile.

Mr. Chairman, I again thank my colleague for yielding.

□ 1520

Mr. SIMON. I thank my colleague from New York. I would simply add that the chairman of the Senate Arms Services Committee, in supporting this Senate amendment, pointed out that stopgap alternative to an MX basing system would do little appreciably to augment our strategic deterrent because it fails to solve the ICBM vulnerability problem.

I urge my colleagues to support the amendment.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair will caution Members that under House rules Members may not refer to, or quote, debate in the other body.

AMENDMENT OFFERED BY MR. STRATTON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SIMON

Mr. STRATTON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON as a substitute for the amendment offered by Mr. SIMON: Page 9, after line 10, insert the following:

(c) Of the total amount authorized to be appropriated in this section for research, development, test, and evaluation for the Air Force related to the basing of the MX missile system, $715,000,000 may not be obligated until the President completes his review of alternative MX missile system basing modes and notifies the Congress, in writing, of the basing mode in which the MX missile system will be deployed and 30 days of session of Congress have expired after the receipt by Congress of such notice. For the purpose of determining days of session of Congress under the preceding sentence, there shall be excluded any day on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment sine die.

Mr. STRATTON. Mr. Chairman, I rise in opposition to the Simon amendment. We all are familiar, I think with the arguments on the MX. We debated that very substantially last week, and the effort to strike out the funds for the procurement of the MX was defeated. That certainly was exactly the right action to take in strengthening our national security, as well as backing up our President and our negotiators at the strategic arms reduction treaty negotiations.

I think we ought to be clear on the fact that the amendment offered by the gentleman from Illinois (Mr. SIMON) is a rather appealing amendment because, as he pointed out, it does not strike the money for procure-

ment, or for the research on the development of the MX missile. He points out that he is only striking $715 million for money for the interim basing mode; and if I understand his amendment correctly, he is not even striking the money for the permanent basing mode. So, it sounds rather attractive and it looks rather simple, and no doubt was developed in an effort to try to attract votes on that basis.

However, I think it is important that the House understand exactly what the gentleman from Illinois is trying to do. In fact, he and my colleague from New York (Mr. GREEN) in their "Dear Colleague" letter, pointed out and made reference to the fact that the other body had taken similar action when this matter was before the Senate Armed Services Committee and was endorsed by key members of the Senate Armed Services Committee; namely, to knock out the money for an interim basing mode.

What the people who wrote the Simon-Green letter failed to point out, however, the Senate action—or the other body if I am required to refer to it in those terms, Mr. Chairman, having listened to your admonition very carefully—the action in the other body was predicated on a frustration with the administration's ability to define the basing mode until June of 1983. The purpose of their amendment to knock out the interim basing funds was to squeeze the Pentagon, squeeze the White House and get them to agree on a basing mode in a much faster timetable; and obviously, as we found out last week with the letter from the President of the United States that he is going to have a permanent basing mode available by the end of December of this year, the Senate action has already achieved its purpose. It has caused the administration to accelerate its basing decision.

So, with that in mind, the basic problem of the other body no longer exists in this body. What the distinguished gentleman from New York and the distinguished gentleman from Illinois are really doing is about as reasonable as it would be if some doctors were to say, "Well, I am not going to give any prescriptions for any medicine to cure this particular disease, which is a very strange disease, until you come up with a final medicine that will actually do the job."

But we will not know what the final successful medicine is going to be until we have an opportunity to research carefully all of the various alternatives. And that costs money.

The gentleman from Illinois (Mr. SIMON) referred to the MX basing in the Minuteman silos, but there are a number of other alternatives that also have to be examined. What the amendment of these two fine gentleman would do would be to cut the legs from the Department of Defense in trying to determine what is the best basing mode. In that connection, let me read to my colleagues in the House a communication that came from our distinguished friend, Frank Carlucci, the Deputy Secretary of Defense. It is addressed to the Honorable Melvin Price, chairman, Armed Services Committee. He says this:

THE DEPUTY SECRETARY OF DEFENSE,
Washington, D.C., July 27, 1982.

Hon. MELVIN PRICE,
Chairman, Committee on Armed Services, House of Representatives, Washington, D.C.

DEAR MR. CHAIRMAN: It is my understanding that Congressmen Simon and Green have proposed amendments to the FY 83 Defense Authorization Bill that would strike 715 million dollars in RDT&E basing funds from the President's FY 83 request for M-X. This amendment could have significant adverse affect to the M-X program.

As you know, we will select a basing mode for the M-X no later than December of this year. This will give us the long term survivability and endurance we need in the ICBM leg of our Strategic Triad. We have agreed to restrict the use of certain basing funds for M-X until we have made our decision and obtained the approval of Congress to move forward. Our studies to date indicate that Closely Space Basing is an attractive alternative, but it is not the only alternative and should not be pre-selected at this time. If the Simon/Green amendment passes, we could find ourselves faced with an automatic program delay and significant escalation in system cost.

We appreciate your continued support of the President's M-X program including the basing and procurement funds so that we can begin the deployment of this vital modernization of our ICBM force as soon as the basing decision is made. Strong bipartisan support of the M-X is essential to the successful pursuit of the START negotiations now under way in Geneva. I cannot over emphasize the importance of your strong support at this critical time for our nation.

Sincerely,

FRANK CARLUCCI.

The CHAIRMAN. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

□ 1530

Mr. STRATTON. So what the Secretary is telling us is, now that the House has decided to go ahead with the MX, as we did last week, we certainly ought to give to the President and to the Secretary of Defense, while they seek to find the best mode for this very important missile, every cooperation, and that the money that was cut out by the other body is now of essential importance in getting the best, fastest, and most effective research.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, I thank my colleague, the gentleman from New York, for yielding.

But, let me ask, is it not true that in fact, even if this amendment passes, there is funding in the bill for research and development on the long-term options?

Mr. STRATTON. Mr. Chairman, if the gentleman will allow me to reply, the point is, how do you know which will be the long-term option and how do you know which will not? How do you know whether it is the aspirin that is going to cure your fever or whether it is the antibiotic? You do not know until you try them, and that is exactly what we do not know about the adequacy of the basing. Which one is the one that is going to be selected?

The only difference between short-term and long-term is that the "long-term guy" is the one who wins the race.

Mr. GREEN. Mr. Chairman, will my colleague, the gentleman from New York, yield again?

Mr. STRATTON. Surely, I yield to the gentleman from New York.

Mr. GREEN. Mr. Chairman, my understanding was that the administration was committed to presenting to this Congress a proposal for the long-term basing of the MX missile by December 1 of this year.

Now my colleague has just conceded that this bill, even if the Simon-Green amendment passes, has funding for research and development on the long-term options with respect to the MX missile. We do not touch that in the Simon-Green amendment.

Since that funding is still there—and indeed I understand that the Armed Services Committee cut that a little bit—then why does the gentleman have to preserve $715 million to research the MX in an interim basing mode that no one wants? We have got money in here for long-term basing. The gentleman just told me so himself.

Why does the gentleman need to preserve $715 million when we have other funds in this bill that we do not touch that are designed to deal with whatever recommendation the administration provides us by December 1?

Mr. STRATTON. Mr. Chairman, if the gentleman has a personal crystal ball of his own, I would like to have him tell me what the long-term basing mode is going to be. We do not know which one is eventually going to be selected, and the Defense Department and the President of the United States are going to be working their butts off between now and the end of December to figure out which one is to be the winner.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. Mr. Chairman, the gentleman seems to think that because he called something or other an interim basing mode, that is going to be the basing mode that will be used between now and December and the long-term one will be used after December. But we are no longer in that business.

The President, by virtue of the pressure that the other body put on him, has now agreed to make a decision on the long-term mode by December. But between now and December the money that the gentleman's amendment would cut out would impede the President's efforts to come up with the best possible basing mode.

Since the gentleman was so generous to get me additional time, I will yield to him right away, but first let me just point out to the gentleman that the other body, which the gentleman is so supportive of, actually put back $560 million for long-term basing precisely for the same reason that we oppose the gentleman's amendment.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, the amount that the other body added was not $565 million but $255 million, which is far less than the amount that we are talking about. That made a total of $565 million.

But I would return to the gentleman's acknowledgement that even after the Simon-Green amendment is passed, this bill contains funding which the Simon-Green amendment does not touch for research and development on long-term options for the MX missile.

Mr. STRATTON. How much does it include?

Mr. GREEN. My understanding is that you had cut $150 million of what the administration had asked for in terms of long-term basing. My understanding is that that would leave $160 million that would still be there in terms of research on long-term basing options.

I am not criticizing the committee's decision in cutting that $150 million, but I do not for the life of me understand, when there is money in the bill that is specifically aimed at long-term options for the MX missile, the gentleman insists on keeping $715 million that is aimed only at research on using the missile in an interim basing mode that no one wants to use.

We have enough money sloshing around in terms of funds that have been authorized and appropriated for the Defense Department without authorizing further money in a way that no one wants to use it when there are other funds that will be available to research whatever the administration proposes next December.

Mr. STRATTON. Mr. Chairman, let me just respond to the gentleman from New York (Mr. GREEN) on that point.

The gentleman says there will be $160 million. To quote my good old friend, the President of Pakistan, $160 million in this game is just "peanuts." It is just——

Mr. GREEN. Mr. Chairman, if the gentleman will yield——

Mr. STRATTON. Let me finish, and then I will yield to the gentleman.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. STRATTON) controls the time.

Mr. STRATTON. Mr. Chairman, if the close-base spacing option, Dense Pack, happens to be the one that is ultimately selected, we are going to need all the $715 million which the gentleman's amendments cuts out, plus the remaining $160 million.

As to the miracle drug that is going to cure your asthma or whatever it is you have got, you never know exactly what the price will be, but it is wise to leave enough money in so that you can afford to pay for the drug when it shows up at the drug store.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, why do we have to leave in money to pay for something that is only a nostrum and is medicine that no one wants to use? That is what the gentleman is insisting on.

Mr. STRATTON. Mr. Chairman, the point is that the same money that we have in the bill is good at no matter what drug store we go to, and the fact of the matter is that the Dense Pack is going to be as expensive as probably $800 million or $900 million. That is why we need to keep this money in, so we can get the best basing mode.

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. COURTER. Mr. Chairman, will the gentleman?

Mr. STRATTON. I will yield to the gentleman from New Jersey, who is very knowledgeable on this subject.

Mr. COURTER. Mr. Chairman, I thank the gentleman. I appreciate the gentleman's yielding.

I want to say that I congratulate the gentleman on his substitute. I think it is a worthwhile substitute, but since the gentleman is an expert in the area, I would like to ask him some questions.

It is my understanding that the $715 million for basing that the amendment offered by the gentleman from Illinois (Mr. SIMON) and the gentleman from New York (Mr. GREEN) proposed to delete is for primary basing, and yet there is a dispute by the gentleman from New York over a suggestion by the gentleman from New York (Mr. GREEN) who argues that "even if we delete $715 million, there is an additional $160 million for long-term basing."

But is there not a difference between those two figures? It is my understanding that the $715 million is for primary basing, no matter what that may be, and if we delete that, we are simply going to be deleting the money necessary for research and development for primary basing.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has again expired.

(On request of Mr. COURTER and by unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. COURTER. Mr. Chairman, if the gentleman will yield further, the $160 million is for long-term augmentation of permanent basing and, therefore, it is not really moneys for research and development in the primary basing mode; is that correct?

Mr. STRATTON. That is correct. The gentleman is correct.

Mr. COURTER. I thank the gentleman.

Mr. Chairman, if the gentleman will yield for just one moment further, I believe that even if the statement of the gentleman from New York (Mr. GREEN) was correct with regard to that $715 million—and I believe he is not correct—regardless of that, the substitute offered by the gentleman from New York (Mr. STRATTON), I believe, should satisfy the concerns of the gentleman from New York (Mr. GREEN) because it fences in the money; it does not permit that money to be used until the President makes his basing decision sometime in December.

Mr. Chairman, I thank the gentleman for yielding.

Mr. GREEN. Mr. Chairman, will the gentleman yield further?

Mr. STRATTON. I am happy to yield to my distinguished friend, the gentleman from New York.

Mr. GREEN. Mr. Chairman, just so the record will be clear as to just what the $715 million encompasses, it is research and development on interim basing, and it is designed to look at the mechanical systems, the electrical systems, the electronic systems, the systems test, the deployment, and the facilities for interim basing. That is what the administration request is that was adopted by the Armed Services Committee.

Now, it is rather startling when one looks at this, that the Armed Services Committee adopted that but in fact it cut the funding that the administration requested for long-term options.

All we are saying in this amendment is that everyone has agreed, despite the administration's original request, that the Minuteman basing mode does not work.

□ 1540

This money is designed for the Minuteman basing mode. There is other money for long-term options, money which was cut by the Armed Services Committee, and I cannot quarrel with that decision.

Mr. STRATTON. I think the gentleman is hung up on a semantic problem. He has in his amendment the term "interim basing" and because those are a couple of words he thinks that it represents something that is walking around somewhere.

But, in fact, the interim basing is something which has very largely been superseded by the actions that evolved in this House last week when the President made a commitment to come up with a final basing mode at the end of December. The fact of the matter is that if he does that, and we certainly anticipate that he will, there will not be any need to spend any money on an interim basin; and we simply do not want to foreclose the option that the President might decide that the closed space basing is the best way to go. That would require not only the $715 million that was cut out, but probably more as well.

You certainly do now want to deny the President that option.

Mr. GREEN. If the gentleman will yield further, in addition to the money we have been discussing, there is $1,734,000,000 for the research on the missile itself. So I think there is a lot of research money for this missile in the long-term mode in this bill. There will be a lot of money for the long-term mode, close to $2 billion, even if the Simon-Green amendment passes.

All we are saying is the money which the administration earmarked for the interim basing mode for Minuteman silos is no longer needed and you have close to $2 billion for the rest.

Mr. STRATTON. I do not know where the gentleman learned his arithmetic but $715 million is a lot more money than $160 million.

The gentleman keeps on talking about how we have too much money in the bill; $160 million to him and to me sounds like a lot of money. But when you get into the research and development of, let us say, this closed space basing, that is not enough money. You have to have more.

Why should we allow the gentleman to take it out simply because the words "interim basing" is in the gentleman's amendment.

Mr. GREEN. If the gentleman will yield, there is $1,734,000,000 for research on the missile itself. So we are not talking of just $160 million. We are talking about $1,734,000,000 in addition to the $160 million.

Mr. STRATTON. That is for the missile, not for the basing.

Let us not mix up oranges and apples in the gentleman's zeal to try to cut out what is one of the most important weapons systems to match the excess capability of the Soviet Union in the land-based missile field.

Mr. PRICE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, this amendment is presented as an effort merely to delete interim basing money but, in fact, is one of the more cleverly drafted amendments that we get each year to try to slow down our strategic modernization program, and it should be defeated.

We debated this issue last week and the House concluded that the production of the MX should go forward. The committee leadership proposed at the time, and the House concurred, that we would "fence" basing money—that is, prohibit its obligation—until the President reports back on an alternative basing mode and 30 days of congressional session have elapsed.

We indicated we would take the same steps in title II and Mr. STRATTON, on his behalf and mine, is offering such an amendment today. What the amendment does is prohibit the obligation of funds, some $715 million, until the President notifies the Congress of an alternative basing mode selected and until the Congress has had 30 days to consider it.

Keep in mind that that is 30 days of session and that if there is a break between the first session and the second session, we start counting again when the second session begins. So there would likely be considerably more than 30 days.

It should also be kept in mind that the original stated purpose of the gentleman's amendment has already been accomplished. The gentleman indicated that the Senate held up money originally planned for an interim basing mode in an effort to force the administration to speed up the identification of a permanent basing mode. At the time, the administration was not scheduled to make a determination on an interim basin mode until June or July of 1983.

As a result of the Senate action, work was accelerated on investigating alternative basing modes and the President now anticipates that a recommendation will be to the Congress by the first of December.

The purpose of the amendment, therefore, has already been achieved.

We want to retain these funds in the bill so they will be available for the new basing mode and so that we will not have to further delay the planned deployment of this needed system.

It may be that in working out differences with the Senate in conference we may have pressure to reduce the figure somewhat. But retaining the House figure gives us some flexibility to work out a reasonable agreement in conference and not shortchange the system.

To delete the R. & D. money now after having voted to retain the procurement money would make the House look foolish.

To make a substantial reduction in the money now would send the wrong signal to the Soviets. It would send a signal of uncertainty and confusion to our allies. And worst of all, it would undercut the position of our negotiators at the START talks in Geneva.

Keep in mind always that those negotiations are very difficult for our side because we are talking about a comparison between U.S. systems in development and Soviet systems deployed. The Soviets have 300 SS-18's deployed, operational, ready to fire.

The MX, with our best effort, will not be deployed until 1986, and even then, is only half the size and has only half the throwweight capability of the SS-18.

To tell our negotiators in Geneva now that we are going to slow down the development of our system would make it even more difficult for them and would work toward removing the incentive for the Soviets to negotiate seriously.

The Secretary of Defense has stated that strategic modernization is his No. 1 priority—even higher on the priority list than building up the Navy. The reason for that is simply that the strategic forces have been the most neglected for the last 15 years.

I urge the Members of the House in the strongest terms to reject the Simon-Green amendment and to approve the amendment offered by the gentleman from New York, (Mr. STRATTON).

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

(By unanimous consent Mr. DICKINSON was allowed to proceed for 10 additional minutes.)

□ 1550

Mr. DICKINSON. Mr. Chairman, this is a vital issue and a most important amendment that is being offered. I know the authors of the amendment and I know of their sincerity and their genuine concern. But I think that, in fairness to the taxpayers, the American people, the Department of Defense, and this administration, perhaps we ought to put things in perspective, because I think things are garbled and out of perspective, and I do not know that we are considering them in their proper context.

Some time back, we were looking at a number of basing modes for the MX. Well, first off, do we need an MX? What is the purpose of it?

Well, if I might go back a ways—and I am sure this is rudimentary and well-known to all within the hearing of my voice, but let me go over it a bit. We have the Minuteman III ICBM in silos that are there as a deterrent so that no power—in this case, the Soviet Union—would feel emboldened and adventuresome and would ever try to take advantage of the United States by their nuclear capability.

Well, we came out some time back with the realization that we had a window of vulnerability that we were facing. Well, now what does that mean—"window of vulnerability"?

Well, we know from monitoring Soviet missile shots over a long period of time that they have been increasing their accuracy without changing their yield, because they already had the yield built in, and we know that over a number of years they have been increasing their accuracy and increasing their technology all the time that SALT I was in place, and they were not prohibited from doing this. SALT I precludes deploying more missiles, but it does not preclude increased accuracy and efficiency of missile systems. So for a number of years while we have had SALT in place, the Soviets had a bigger bank because they did not have the accuracy of United States missiles, and in order to have an insured kill of the target, they had a bigger explosion.

So that has been the basic philosophical difference between the Soviets and the United States, going way back to the beginning.

So when SALT I came about and was signed and put in place, it limited the number of missiles that each side could deploy, but it did not say anything about improving the missile system. So we had a smaller warhead because we depended on our technology and accuracy. The Soviets did not have this. They went for a bigger bang, a bigger throw weight and a bigger explosion at impact.

But all during the SALT prohibitions on putting out new weapons, they were improving their accuracy. It is no secret now, I am sure, but one of the main things that we lost when we lost Iran as a friend were two very important monitoring stations on the Soviet border where we could monitor missile tests that the Soviets were performing on a systematic basis. We could see how much more accuracy they were building into their systems and we could project ahead and say, "Look, they are making this advance and we can project ahead to say that if they continue to improve their missiles, by the year 1982, 1983, at the latest 1985, all of our Minuteman III silos will be in jeopardy because they would have the accuracy to take them out, whether they were hardened or non-hardened silos."

We know now that 1982 is the year, according to our intelligence estimates, and our Minuteman silos are within the so-called window of vulnerability.

So this administration and the previous administration recognized that, from this period of 1982, in a first strike the Soviets could take out 90 percent of our ICBM's. This leaves us, so to speak, rather naked.

So we have been of the opinion since this was recognized as a fact—and I think the entire intelligence community agrees to this—that we have to do something. Well, what do you do?

Well, in order to make us less vulnerable the Department of Defense has tried to come up with a different mode to base the ICBM's. This has caused a great deal of consternation, and it has not been resolved yet. We came out with the theory of the racetrack, where the missiles be shuttled among a series of shelters—because we are limited to the number of missiles we can employ, but we are not limited in the number of holes in the ground.

So we have the MPS, the multiple protected shelters, in which you could put these missiles. So we had a field of missiles, and then we had a racetrack so that one vehicle could go around the track and periodically move the missile from here to there to generate a level of uncertainty as to the missiles' location.

This became a political brouhaha, so to speak. Residents of the States where they were supposed to be based said, "Thank you very much, but we do not believe we would like them based in our State." A number of political factors came into being, and we examined additional methods, including the continuous patrol aircraft. We were going to have aircrafts flying all the time, 50 percent of them would be in the air at all times carrying a missile. Nobody would know where they were. They could not be targeted. And there was the deep underground basing mode, which is still viable. Then there is a dense pack—which is to be distinguished from the six-pack—where enough missiles are placed in a confined area so if one nuclear explosion should go off there, it would put up enough debris, and so forth, into the atmosphere, so that any other following incoming missiles would self-destruct. They would hit rocks and debris, and so forth, and they would either be destroyed or would be inaccurate.

We do not know what is the best basing mode. For this reason the National Security Council and our Department of Defense, our research and development part of the Department of Defense, has not come up with a single recommendation as "this is the best." For this reason the President of the United States has communicated to the Congress, and he has written me a letter, a copy of which I have here, in effect saying that if you give them a little more time, they will come up with a recommendation, based on the best scientific brains that we have in this country, the best recommendation as to what would be the basing mode.

The President wrote me, as he did other Members of the committee, dated July 15, of this year. It says, "Dear Bill"—and I am skipping part—"I believe that we must make a solid commitment this year to deploy the MX missile. We simply cannot allow the land-based leg of the triad to remain vulnerable. We must show our allies that we can make the hard decisions necessary to modernize our strategic nuclear capability decisions that promise to have great influence on the pace of ongoing theater nuclear force modernization initiatives within NATO. And while it is my intention that the MX not be a 'bargaining chip' in the START negotiations," the President says, "we need to secure the powerful leverage that a commitment to produce the MX would provide as we begin effective arms reduction talks with the Soviets."

And he goes on, and it is signed, "Ronald Reagan."

The point is that we must make a decision. The President, who is the Commander in Chief, has said that he will make this decision. As a matter of fact, the National Security Council is to make its recommendation to the President by November 1 of this year. The President has assured us that he will make his decision and recommendation to the Congress by December 1 of this year.

We have already approved money in this budget for the production of the MX missile. What we are talking about now is research and development even leading up to the production. We have already approved this last week.

□ 1600

What the Simon-Green amendment would do is take out the research and development money for basing, even though we have already approved the production of it. This hardly makes sense.

What we are asking from the committee and what the administration is asking of this House is that we go forward with the money and with the research and development necessary.

What the gentleman from New York (Mr. STRATTON) is saying is, "Hey, we have this money in here for basing," and he would fence this money, fence it off and say that it cannot be spent until the President does what he told us he would do in his letter that is, report to the Congress what basing mode he intends to recommend. After that period, we will have 30 days, the Congress will have 30 legislative days to either accept what he says or reject it; but we should not in the meantime deny to this administration and send a signal to the world that we are inconclusive, that we cannot make up our minds, that we are vacillating, that we are not resolved to go forward with the basing mode, to put it in place, build the MX missile.

Hopefully, God knows I hope this happens, that we can come together with the Soviets and come to an accord, an agreement, that we will not continue the arms race, that we will deescalate, that the Soviets will move out their over 300 SS-20's they have in place in Western Europe today aimed at the NATO countries. Each missile has three warheads independently targeted, over a thousand targeted now. They have gone forward with the SS-18 as well as the SS-20; they have a formidable arsenal already in place.

What we would be foolish to do, in my opinion, is to deny the research and development funds to go forward in an orderly process, even though we have now approved the money for procurement. The President has said that he will make his recommendation by December. For that reason, he is deferring it to study it as far as needed. He will report to us. We, in turn, will have an option to accept or reject, because we built in the follow-on time to give us the opportunity to reflect and to study. For us to precipitously before the fact take out the money to deny it under reasearch and development I think, is being very shortsighted indeed.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to the gentleman from New York.

Mr. STRATTON. The gentleman is making a very fine analysis of the background of this particular decision. I think the gentleman makes it very clear and very articulate.

As the gentleman was pointing out, my amendment would fence off the $715 million that the gentleman from Illinois and the gentleman from New York want to cut out of the bill for and interim basing mode and under that amendment as soon as the President makes his decision at the end of the year, is it not the case that that decision will become the permanent basing mode?

Mr. DICKINSON. Unless we reject it.

Mr. STRATTON. Unless we reject it.

Mr. DICKINSON. But we have that option.

Mr. STRATTON. Therefore, we do not want to eliminate the money that might be needed to fund the President's decision.

Mr. DICKINSON. Exactly, and getting back to the point made by my friend and colleague, the gentleman from New York, he says, "No impact by what they are doing." This is simply not so.

Also the argument has been made that the Senate took out the money, so why do we not go along with the Senate? This is not so. The Senate put in $565 million for what we are attempting to do, even though the House figure is over $700 million; but it really does not make any difference. The fact is the Senate put in $565 million.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. Mr. Chairman, this will be the last request I will make for additional time.

So we have claims and counterclaims, charges and countercharges; but the fact is that some statements that have been made here are in error.

It will have a very serious impact. It will send a wrong message to the world around if we take out this money.

The Senate did, in fact, put $565 million in here, so it is not a zero figure. What we are trying to do is say, "Well, you know, there is no reason to scale it down to that." The figure we are using is what the administration requested, based on a finding by the President and a certification by him to the Congress that this according to all our scientific knowledge and expertise, is the way to go and this is what he is recommending. Then we have 30 legislative days, not calendar days, to examine what the President has recommended to us, to accept or reject; but if we take it out in advance, then we are being terribly shortsighted. We are sending the wrong message to the people.

General Rowny and those who are involved right today in the START talks in Geneva are having the rug pulled out from under them. They could not look at their counterparts across the table, the Soviets, and say, "Hey, we want to talk seriously. We want to talk business."

They would just look back with a smile and say, "Your Congress has already denied this. There is no need to talk about it."

Is this what we want to do? Of course not, but that is the effect of what we are doing; so let us not be pennywise and pound-foolish. Let us not deny ourselves an advantage.

Leave the money in for research and development. Let the President make his finding of fact. Certify it to us. Give us an opportunity to study it and say whether this is good or not. Then we can ratify or not; but let us not deny ourselves the opportunity and the right in advance before the President has even made a finding of fact.

Mr. COURTER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I will be glad to yield to the gentleman from New Jersey.

Mr. COURTER. I thank the gentleman for yielding. I would just like to engage in a slight colloquy with the gentleman.

Last week I was on the floor of the House and the gentleman was as well on the floor of the House when there was the Mavroules-Byron amendment, I believe, to the procurement section. I believe it was under title I. That particular amendment had the complete deletion of basing mode moneys for procurement.

There was a substitute, I believe, by the gentleman from New York (Mr. STRATTON) that from a substantive standpoint, is it not true, is very similar to the substitute he has today?

Mr. DICKINSON. It fits the money.

Mr. COURTER. Exactly. The body rejected the Mavroules-Byron amendment to delete those basing mode moneys last week and this is simply the repeat of that exercise today.

Mr. DICKINSON. This is in place. Even more seriously, we were talking about production money last time. This is research and development, even less.

Mr. COURTER. That is my point. If the House last week would reject that amendment last week with regard to production, therefore for sure with greater reason they would reject this amendment that has to do with research and development.

Mr. KRAMER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I am happy to yield to the gentleman from Colorado.

Mr. KRAMER. I thank the gentleman for yielding. I appreciate his statement, because I think it has clarified an important point in this debate and please correct me if I am wrong.

As I understand the argument of the gentleman from New York, he is arguing that in effect if his amendment were to pass, all it would do is knock out temporary basing money and there would still be funds available to do the R. & D. necessary to find a permanent home for the missile.

If I understand what the gentleman is saying, that is incorrect, that in effect there no longer is, given the substitute of the gentleman from New York, there really is no longer interim basing money in the bill at all. In effect, there is only permanent basing money, so if we were not to accept the Stratton amendment and accept the amendment of the gentleman from New York, in effect we will have no money in the bill or very little money or inadequate money for building the basing mode.

Mr. DICKINSON. I am not sure we are on the same frequency; but really, we must keep the research and development money in here for basing, as well as for the missile because that is where we are. We are not ready to start production, even though we approved it last week; so this would be very shortsighted and very injurious to the whole process.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to my friend and colleague, the gentleman from New York.

Mr. GREEN. I thank my colleague for his courtesy in yielding.

I would like to point out, first, that the situation is not analogous to that of last week when we dealt with the Mavroules-Byron amendment, because the Mavroules-Byron amendment knocked out every penny of the $1,497,100,000 for procurement of the MX missile.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has again expired.

(At the request of Mr. KRAMER, and by unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. GREEN. Mr. Chairman, if the gentleman will yield further, that is not our case here.

Mr. DICKINSON. Tell us, what is our case here?

Mr. GREEN. As I understand our case here, we are knocking out $715 million that the administration requested for R.D.T. & E. on an interim basis. We are not touching $1,734,000,000 that the administration asked for R.D.T. & E. on the missile itself, nor are we touching the $310 million that the administration asked for R.D.T. & E. on long-term options.

Mr. DICKINSON. All right, let me reclaim my time and then I will be glad to go back and forth with the gentleman.

What the gentleman is doing, he is saying that we have approved the money for procurement. The gentleman is saying that he does not want to give them any money for research and development on how to base it.

Now, the President has said, "Give me until December and we will make a recommendation and then we can decide whether to accept it or not."

□ 1610

But why take out the money to research and develop the basing mode—that is what you are trying to do—and then approve the money for procurement? That is ludicrous.

Mr. GREEN. Again, if the gentleman would be good enough to yield to me, and I thank him for yielding, we are not touching a large amount of R.D.T. & E. money, we are not touching the $1.7 billion for research on the missile itself, nor are we touching what the committee left of the administration's $310 million request for R.D.T. & E. on long-term options. All we are touching is the request that the administration made for R.D.T. & E. on an interim basing system that no one wants.

Mr. DICKINSON. If the gentleman will wait a minute, if he will hold it, where does the gentleman get that statement that no one wants it?

Mr. GREEN. Everyone here is saying we are going right to the long-term system on December 1, no later.

Mr. DICKINSON. Maybe. Maybe.

The gentleman is making assertions of fact that are just not fact. What we are trying to do is to leave money in here to research and develop so he can make a recommendation to us that we could buy off on, or not. Now, is that not the fact?

Mr. GREEN. If the gentleman will yield further, I would point out we are leaving in $1.7 billion-plus for R.D.T. & E. on the missile, and when the gentleman goes to conference, even if the Simon-Green amendment passes, he will be going to conference on the committee's recommendation of $160 million for research and development on long-term options.

Mr. DICKINSON. That is the missile.

Mr. GREEN. As was pointed out after the other body adopted the equivalent of the Simon-Green amendment, it provided $565 million for R.D.T. & E. on long-term options. So the gentleman has plenty of flexibility in the conference to deal with long-term options. All we are asking is that the money the administration requested for the R.D.T. & E. on the interim basing mode, which was designed for putting the MX missile in the Minuteman silos, be taken out. We do not touch the gentleman's freedom to go ahead on the long-term options.

Mr. DICKINSON. If the gentleman will permit me to reclaim my time, what the gentleman is saying, and this is what makes it so ridiculous, it is OK to buy the thing but you cannot study how to use it. That is ridiculous. We are trying to come up with a scheme, a system, a design for how it can best be employed, deployed, and used.

The gentleman is saying, "Do not study that, just go ahead and buy it."

Mr. GREEN. If the gentleman will yield further, all we are saying is study it some $2 billion worth but do not go studying the thing that everyone has decided not to do.

Mr. DICKINSON. Now, the gentleman may have decided not to do it, but no one else I know of has decided not to do it. That is just in the gentleman's mind.

Mr. STRATTON. Mr. Chairman, will the gentleman yield to me?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from New York is saying he is leaving in $1.4 billion for R. & D. on the missile. That does not do any good on the basing mode, as I pointed out earlier, and as I think the gentleman from Alabama has already indicated; if the President were to decide on the closed-space basing in December, there is simply not going to be enough money in the bill to carry out the research on that particular basing mode.

Mr. DICKINSON. Let me say in closing, and I have taken too much time, perhaps, if the President decides on a deep underground basing mode or DUM, he is going to have me in opposition. There is no way I would go with that.

If that is what you are talking about, a missile that is going to burrow itself out 5 days after the war goes on, I think that is dumb.

If we are talking about the Continuous Aircraft Patrol, that is more dumb than the one about burrowing out of the ground. So I do not know what they are going to come up with. I do not say I am going to buy it; if they are talking about the DUM system, that is dumb. But I do not support the concept that we should deny research and development funds to study it.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Let me see if I can understand what the amendment does, because I think maybe the gentleman from New York (Mr. STRATTON) has a point here on the amendment that he is offering as a substitute.

I think what we are doing, in effect, is the right way to go. As I understand it, when the money was put into this defense bill it was for an interim basing mode. At that time, the interim basing mode was hardened, fixed Minuteman silos and the object was to put the MX missile in the hardened silos.

Since that time, there have been a number of comments made that that was not a very sensible proposal, and I think there was even the suggestion that the Secretary of Defense himself, at a press conference, had indicated that he was moving away from that idea. But as I understand it, he never sent any official word to Congress, to any of the committees, actually backing off of that idea.

So the money is still in the bill. What the gentleman from Illinois and the gentleman from New York (Mr. GREEN) want to do is to take that money out of the bill on the grounds that in fact this interim basing money is no longer needed because the interim basing method that we were talking about, namely, putting the MX in the fixed Minuteman silos, was no longer a viable option; therefore, we ought to take the money out.

But what the amendment of the gentleman from New York (Mr. STRATTON) does, it seems to me, is to change the focus of this money. What he is saying is that the $715 million cannot be spent until a basing system has been decided upon and 30 days have elapsed.

In essence, is it not true that is what you are doing then, I ask the gentleman from New York, is meld the

money from the interim basing money with the long-term basing money and in effect blur the distinction between the two?

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, the gentleman is absolutely correct. And the reason for doing that, the rationale for doing it, is that in the debate last week we had a commitment from the President of the United States that he has decided to beef up the schedule for making a decision on the so-called long-term, or the permanent basing plan, and that decision is going to be made in December. The two sums can then go together.

Mr. ASPIN. Yes. So in effect, what the gentleman's amendment is is to blur the distinction; in effect, eliminate the distinction between the money for the interim silo and the long-term basing mode.

Mr. STRATTON. The gentleman is correct.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Illinois.

Mr. SIMON. I thank the gentleman for yielding.

Mr. Chairman, with all due respect, the amendment offered by the gentleman from New York does not merge those two; it does not say this money can be available only if you have the long-term decision made.

What the gentleman from New York (Mr. GREEN) and I want to do is to say, "Let us not waste $715 million on an interim basing mode that is very, very shortly going to be completely wasted."

Now, if the gentleman from New York (Mr. STRATTON) will modify his amendment to say that that money will be available only when the President makes a long-term decision, then I think my colleague from New York (Mr. GREEN) and I would be willing to take another look at it. But that is not, with all due respect to the gentleman from Wisconsin, what the amendment says.

Mr. ASPIN. I think the gentleman may have a point but I am not sure. What we are saying here, what the gentleman's amendment says, is that "none of this money may be obligated until the President completes his review of the alternative MX missile system basing modes and notifies the Congress in writing of the basing mode in which the MX missile would be deployed."

It seems to me he is talking about the permanent basing mode there. He cannot be talking about the interim basing mode. It is the permanent one. It is the review of the permanent one that makes the decision.

Mr. SIMON. Mr. Chairman, will my colleague yield further?

Mr. ASPIN. I yield further to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman I thank the gentleman for yielding further.

What we are talking about is an amendment which the two of us, on the interim basing mode, and the gentleman from New York is offering an amendment in response to our amendment, which is clearly about the interim-basing mode.

Mr. ASPIN. I understand. But it seems to me that the net effect of the amendment of the gentleman from New York is to meld this money and make the interim-basing mode money applicable to the permanent basing mode.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(On request of Mr. STRATTON and by unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. ASPIN. I would like to ask the gentleman from New York (Mr. STRATTON), and he may want to consult some of the people at the staff table there, but let us say the amendment of the gentleman from New York passes, and none of this money can be spent until the President determines a basing mode and 30 days have elapsed.

□ 1620

Let us say that by December he decides on a permanent basing mode, whatever it is. Thirty days go by and he wants to use this interim basing money for research and development on the permanent basing mode, does he have to ask for a reprograming? Is that a reprograming decision?

Mr. STRATTON. The answer to that is no, because we did not specify that this money could be used only for an interim basing mode. If the gentleman will yield, I think his discussion is a very clear discussion and might produce some results here because the gentleman from Illinois, who is always cooperative and clearheaded, indicated that if I were willing to amend my amendment by indicating that if it was the long-term basing mode we were talking about the President notifying the Congress about in writing, that then he would reconsider his position.

I would be happy to suggest to the gentleman from Illinois that on line 7 of my amendment I would be happy to insert, if I get whatever permission is required, the term "long-term" before the word "basing" on line 7. I would do that, of course, only if the gentleman would then support my substitute amendment.

Mr. ASPIN. Let us explore the issue with the gentleman from Illinois before the gentlemen from New York makes his request. Would that satisfy the gentleman from Illinois?

Mr. SIMON. I do not want to be speaking for the gentleman from New York (Mr. GREEN) but in effect what we want to do then in the amendment of the gentleman from New York is kill this interim basing mode, and that is the aim of our amendment. As far as I am concerned, I would be willing to accept that amendment. I do not want to speak for the gentleman from New York.

Mr. GREEN. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman.

Mr. GREEN. Mr. Chairman, I would like to raise one further question, because I think it is an important one. The administration request has two different line items, if you will. There is the $715 million we are talking about for the interim basing mode, and we will be going to conference with a decision of the other body to delete that, so it is between $715 million and zero.

The next item in the administration request is the second line item, and in essence that is the R.D.T. & E. on long-term option. The administration requested $310 million. The Armed Services Committee recommendation cut that to $160 million. The other body, however, increased it to $565 million.

Mr. ASPIN. That is correct.

Mr. GREEN. So I would be a little concerned if we found ourselves in the posture where the administration request for $310 million for long-term basing R. & D. could wind up in the conference at $715 million on one line item, and $565 million on the next line item, and we would suddenly find ourselves with $1.285 billion being spent on something for which the administration requested $310 million.

Mr. ASPIN. I follow the gentleman's concern. I do think, though, in the long run we are going to end up with more money in the long-term basing mode no matter what happens. The indications are that this is just a downpayment, and if we put the $715 million into the long-term leasing mode, as the gentleman from New York wanted, it would be money well spent.

Mr. GREEN. If the gentleman will yield again, I would be happy to join my colleague from Illinois if we could get some assurance that we would not go outside the limits on the long-term proposition which the other body has come up with in terms of their increase in the administration's recommendation, which is $565 million.

What concerns me, if we go to the outside limits of the scope of the conference on both the interim basing request, if it is to be made available for long-term basing R. & D. plus the administration request for long-term basing R. & D., we would wind up with

something more than four times what the administration requested.

Mr. ASPIN. But there is one more point. It is that the House Armed Services Committee has already struck $150 million for the long term.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(At the request of Mr. STRATTON and by unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. ASPIN. If we now add $715 million back, we will in effect have almost $565 million.

Mr. STRATTON. About $865 million.

Mr. ASPIN. No; it is subtraction.

Mr. STRATTON. We let in $150 million; we took $150 million out.

Mr. ASPIN. You left $160 million in.

Mr. STRATTON. All right, $875 million.

Mr. ASPIN. So, it would go to conference with $875 million and $565 million.

Mr. GREEN. Unfortunately you do not, because they are separate items. You go to conference with $715 million and zero in one item, where you could come out with $715 million and go to conference with $160 million and $565 million, and could come out with $565 million. That I find a very difficult position to find ourselves in. You may wind up with $1.280 billion where the administration requested $310 million.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I would like to raise this point before the gentleman from Illinois and the gentleman from New York agree to this request. It perhaps is a subtle difference in what is taking place here.

If the gentleman from Wisconsin is in fact right, which appears to be acknowledged by the gentleman from New York, what is simply accomplished here is moving the $715 million from the interim basing mode into the long-term basing mode. The net result would be, if we agree to the gentleman's request, that we are in effect going to still spend that money in the different context, being the long-term basing mode, whereas if we go to a vote on the Simon-Green amendment and it is adopted, we will eliminate spending $715 million which ultimately, I think, under the assumption that the gentleman from Wisconsin is correct, it is going to be spent, so I think there is a not so subtle difference; that is, if we go forward with the Simon-Green amendment as proposed, we have a chance to eliminate spending in a method I think is appropriate for the Department of Defense.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield further, I think the gentleman from Ohio overlooks the fact that in order to spend this money the President has first of all to report to the Congress, and we than have 30 legislative days in which to reject his recommendation if we do not want it, so that money is not automatically going to be spent simply because the gentleman from Illinois and the gentleman from New York have agreed to the amendment that I have offered.

Mr. ECKART. If the gentleman will allow me, if in fact we adopt his suggested substitute as amended, inserting the words "long-term", then in fact do not we move the $715 million over to the long-term basing mode?

Mr. STRATTON. Those other two things are accomplished.

Mr. ASPIN. I think the gentleman is correct, but what I am saying is, we will end up probably spending that kind of money in any case. Once this decision has been made there is not going to be any $565 million spent on this interim basing mode, if we were to take the money out of the interim basing mode and put it into the long-term basing mode, which I think is the result of the amendment of the gentleman from New York, in which I think the gentleman from Illinois really wanted to do and the gentleman from New York wanted to do, it seems to me that makes a lot of sense. It is the right thing to do. We ought to be spending the money on research and development to look at this things.

If it were my choice, I would not have taken out the money for the continuous patrol aircraft. I think we ought to look at all options. I was not all that happy with the committee taking that money out. I do not think Mr. EMERY's amendment to eliminate the research and development money for deep underground ought to be taken out either. We ought to look at the options.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, to try to cut through this, at the present time if one went to conference on the funding for the long-term option, the maximum amount within the scope of that conference would be $565 million.

Mr. ASPIN. Right, and the minimum would be $160 million.

Mr. GREEN. If we could have some assurance from the committee, one, that the Stratton amendment would be amended so that the funding that is fenced off, as the gentleman from New York says, would be used only for long-term basing, a maximum amount that would be sought for long-term basing would be set at $565 million, then obviously I think we have——

Mr. STRATTON. I think the gentleman from New York realizes, of course, that the House Armed Services Committee or the House cannot commit the conference. We have to go to conference.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has again expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 3 additional minutes.)

Mr. STRATTON. We have to go to conference with the other body, but the gentleman can have our assurance that we will certainly fight to make sure that that is all used for the permanent basing mode.

□ 1630

Mr. ASPIN. Mr. Chairman, if the gentleman will allow me to proceed, the point is that the House position is to defend what passes the House. The House position, if it passes this bill after this amendment is adopted, would be that there is $715 million in one account and only $160 million in the other account. The Senate position would be that there would be $565 million in one account and zero in the other account. It is inconceivable to me that the number does not come out somewhere in the middle on both of those accounts.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, if I could get some sort of assurance that that would be the case, I would be more amenable.

Mr. ASPIN. Mr. Chairman, I think the gentleman will make the assurance that they will fight for the House position.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield to me, as a matter of fact, from reading the Senate report on page 59, it turns out that what they say is that "$250 million is recommended for authorization for development activities necessary to bring about the earliest possible initial operational capability of a permanent rather than an interim survivable basing for the MX." And that figure, with a figure of $310 million which I did not read earlier, add up to the $565 million, and they are specifically designating it all for a permanent basing mode.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, I have no quarrel with what my friend, the gentleman from New York (Mr. STRATTON), has just said, that the maximum that could be spent on long-term basing, if we went to a conference between what the other body has done and what our Armed Services Committee recommends to us, would be $565 million. That is plain.

Mr. STRATTON. The conference can choose between the two figures.

Mr. GREEN. I do understand that.

Mr. ASPIN. Mr. Chairman, if the gentleman from New York (Mr. STRATTON) will assure the other gentleman from New York that the gentleman from New York will fight for the House position, I think that is enough

and that should satisfy him, because the House position is, of course, a much lower position on the long-term basing mode. If the gentleman from New York (Mr. STRATTON) can assure the gentleman from New York (Mr. GREEN) that we will fight for the House position—I say, "we"; I am not on the conference—that the House conferees will fight for the House position, I think that will take care of the gentleman's concerns.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, I am not sure it does, because if my colleague, the gentleman from New York, would amend his amendment, there would then be $715 million plus $160 million or $880 million available for the long-term basing.

Mr. ASPIN. It would be $875 million.

Mr. GREEN. Yes; $875 million. I stand corrected.

That I find troublesome, particularly since as one goes to conference, we are not absolutely sure exactly——

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(On request of Mr. STRATTON, and by unanimous consent, Mr. ASPIN was allowed to proceed for 4 additional minutes.)

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, I cannot understand why the gentleman from New York (Mr. GREEN), who is a strong supporter of the President and a strong supporter of our national defense, should have any trouble with trying to get the President of the United States the money that is required to do the adequate research on a permanent basing, which is exactly what we want and, I am sure, what he wants. The sooner we get that basing underway, the more secure our country will be.

Mr. GREEN. Mr. Chairman, if the gentleman will yield, my problem is that the President of the United States asked for $310 million on long-term option R.D.T. & E. It is a little troublesome to find ourselves going into a position where we could come out of conference with over $1.2 billion or four times more than what the gentleman has asked for.

Mr. ASPIN. Mr. Chairman, the first point is, of course, that we are not going to be at $1.2 billion at the end of the conference, and the second point is, of course, that we have taken out $750 million in the interim basing mode. The third point is that in the long run we have to spend more money on the interim basing mode.

What the gentleman has accomplished and what the gentleman from Illinois (Mr. SIMON) has accomplished by this amendment is to eliminate some funding which would be in the interim basing mode and which really would be wasted and put the money into the long-term basing mode. That is exactly where it should be spent.

Whatever the amount is that is spent in this bill, will have to spend more in future years. So to take this money out of a place where it is going to be wasted and put it in a place where it is going to do some good is a real accomplishment, and the money will not be wasted even if it went into the full funding, and it will not.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I am happy to yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, how does the gentleman from Wisconsin rationalize that there was testimony for $300 million for long-term basing and testimony for support of $700 million for short-term interim basing, and now in effect we are going to move an extra $700 million into long term for which there is apparently no support?

Mr. ASPIN. Because what has happened is that since then the Senate has put the administration's feet to the fire, and the House Armed Services Committee has concurred that we have to come up with a basing mode decision by December 1. If they had known that 1 month or 2 months into the fiscal year they would have to come back with a basing mode, my guess is that they would have asked for a lot more money on the long-term basing mode.

Mr. SIMON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, I do not want to be in the position of backing out on an amendment that I am cosponsoring with my colleague, the gentleman from New York (Mr. GREEN) without his approval, but it does seem to me that what we have won with this modified Stratton amendment is the elimination of the interim basing mode, and that is a significant victory for the people of this country.

No. 2, with all due respect for our fine friends on the Armed Services Committee, it is not so much what they work out in conference there, but what the subcommittee of the Committee on Appropriations is going to do, what our colleague, the gentleman from New York (Mr. ADDABBO), and his friends will do, and I think frankly that they will pull this figure down significantly.

So with that understanding—and I am not sure where we are—perhaps we can proceed.

Mr. ASPIN. Mr. Chairman, I am going to yield to the gentleman from New York (Mr. STRATTON) to make a unanimous-consent request.

Mr. STRATTON. Mr. Chairman, let me say first of all that I would like to assure my friend, the gentleman from New York (Mr. GREEN) that the gentleman in the well (Mr. ASPIN) and I can guarantee this from long experience—is really no patsy for the Defense Department, so he is not giving us phony figures or kidding us in any way.

Mr. Chairman, I ask unanimous consent that my substitute amendment may be modified by inserting on line 7, after the words "of the," "long-term."

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. ECKART. Mr. Chairman, reserving the right to object, I do so to propound a question to the gentleman from New York.

What assurances do we have that in fact the President will be making a decision by the end of this calendar year?

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, let me say that if the President does not, the money is still fenced in. That is the purpose of our particular amendment.

Mr. ECKART. Mr. Chairman, continuing to reserve my right to object, under the gentleman's amendment, as it would be modified, would the failure of the administration to propose a long-term basing mode in fact keep this money unobligated and unspent?

Mr. STRATTON. Absolutely. The gentleman is correct.

Mr. ECKART. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GREEN. Mr. Chairman, reserving the right to object, and I shall not object, I am prepared at this point to accept the substitution of the Stratton amendment for the amendment offered by the gentleman from Illinois (Mr. SIMON), and I make that statement with the understanding that this gentleman at least is going to be taking a very close look at that conference report.

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. COURTER. Mr. Chairman, reserving the right to object, I just want to clear up one question. I think we are at the bottom line on this, and I think it is a good place for compromise.

The question I have to the gentleman from New York (Mr. STRATTON) is that he asked unanimous consent to insert the word "long-term," and it is my understanding that that is akin to the word "permanent"; is that correct?

Mr. STRATTON. The gentleman is correct, and I am glad that the gentleman added that explanation.

Mr. COURTER. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the

gentleman from New York (Mr. STRATTON) to modify his amendment?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified, and the time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, we have just witnessed a very interesting discussion, a very interesting debate. We have heard the terms, "interim basing" and "long-term basing." We have even had an arithmetic lesson. We have had a lesson in diplomacy. My distinguished colleague, the gentleman from Wisconsin (Mr. ASPIN), worked out a deal right here on the floor of Congress before us all. Everyone seems to be happy and smiling.

The tragedy is that we have not addressed the issue to which these amendments pertain. I think my distinguished colleague, the gentleman from Alabama (Mr. DICKINSON), the ranking minority member of the Armed Services Committee, started down the appropriate road. We just drew radically different conclusions.

Very briefly, placing this amendment in its proper context, Mr. Chairman, several years ago some people in the Pentagon decided that someone had opened a "window of vulnerability" on our land-based missiles.

□ 1640

We have a triad: air, sea, and land.

Someone decided that sometime in the mid-1980's our land-based ICBM's would be vulnerable to a Soviet attack. I think that ought to be debated and discussed.

I frankly believe that is an abstract issue. Nevertheless, a number of my colleagues believe this.

We began to hear the thundering herds rallying around the notion of the window of vulnerability and the argument, in rather simplistic terms, went like this: We have fixed-based ICBM's and therefore we ought to place them in a mobile mode, move them around so the Soviets will not know where they are, or some other mode that would give them "survivability," which means they could survive a nuclear attack.

This was not just an effort to change the mode within which the missiles were planted. But someone came up with a new missile as well.

I argued against the entire system because I believed that building a new missile with perhaps the most powerful warheads known to humankind was not a weapon of deterrence but a war-fighting weapon that gave us first-strike capability, bringing the world closer to the brink of nuclear disaster, not taking us further away.

But a number of my colleagues decided, well, we still need the missile. In the meantime we have been struggling, trying to find this appropriate surviving basing mode.

I draw the conclusion that no one else has spoken to on this floor. I do not believe that there is any such thing as a survivable land-based missile system.

I think that is lunacy in the first order. For us to sit here talking about interim basing modes, long-term basing modes, let us look at the entire options.

Let me quote two persons. First, I would quote the Chair of the President's Commission established to look at the question of whether we could find this elusive so-called surviving basing mode, chaired by Charles Townes, a physicist from the University of California. He said the Commission concludes that—

It finds no practical basing mode for missiles deployed on land's surface available at this time that assures an adequate number of surviving ICBM warheads.

The Congressional Office of Technology Assessment makes the following conclusion:

We see that all available models of basing MX pose serious problems. None of them is without serious risk, high cost, or significant drawbacks.

Mr. Chairman, the Pentagon has already spent millions of dollars looking for a survivable mode. Over a decade of work has gone into finding some survivable mode.

The best minds in this country have tried to do it.

First we decided that maybe we ought to dig 5,000 holes in the ground.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, they looked at 5,000 holes in the ground. Maybe we could move these missiles around and the Soviets would not know.

That was not workable.

We came up with the racetrack concept. We raced the missiles around.

We came up with a mass transit system for our missiles. We came up with a variety of different things.

What has been the product of all of this? No conclusive program whatsoever. The question that I pose, Mr. Chairman, is how much and how long.

I would like now to recite for you what I euphemistically refer to as the litany of lunacy, all of the various basing modes that we have talked about and scratched over the past 10 years.

Listen. First we started off with launch under attack. That is an insane approach. We scratched it off.

Orbital-based missiles, shallow underwater missile system, Hydra, ORCA, Ship-Inland, Ship-Ocean, Sea Sitter, wide body jet, short takeoff and landing (STOL), vertical takeoff and landing (VTOL), Dirigible, Midgetman, Hard Rock Silo, Hard Tunnel, South Side Basing, Sandy Silo, Commercial Rail.

That might have worked. Put it on Amtrak and lose it forever.

Dedicated Rail, Off-Road Mobile, ground effect machine, euphemistically referred to as GEM.

Road Mobile (Minuteman), Road Mobile (new missile), Covered Trench, Hybrid Trench, Dash to Shelter. That sounds intriguing.

Mobile Front End. I do not see Mobile Back End. Pool. Maybe it has pockets.

Minuteman/MPS system, MX/MPS system, continuous airborne aircraft, earlier referred to by one of my colleagues as dumb.

Deep Underground Basing, referred to by the ranking minority member as dumb.

A ballistic missile defense for our present system, and some think it will cost $30 to $50 billion, some think as high as $100 billion, to produce a ballistic missile defense for these systems.

Finally, Mr. Chairman, Dense Pack, our most recent finding.

That is the litany of lunacy, Mr. Chairman.

The point is we have spent millions of dollars in 10 years trying to find the system. We keep rejecting systems. We sit here saying let us have a long-term mode and interim basing mode. Let us look at all of the options.

They have looked at all of the options, the brightest minds in this country. You cannot challenge their patriotism, you cannot challenge their intellectual acumen, their scientific capability, their commitment to the defense of the United States. But they have come up with no system.

We are playing games with each other with "Let us wait until there is a decision on the basing mode." There is no such thing as a surviving basing mode, Mr. Chairman.

Let us look at this interim basing mode that has been referred to.

Our present Minuteman III silos will leave the MX missile vulnerable because the argument used is we must take them out of their mixed mode in their present formulation. So to simply put a new warhead in the same configuration does not make it less vulnerable; it makes it more powerful. It makes it more destabilizing. It creates the potential for nuclear war. It gives us first-strike counterforce capability because now we have a time-urgent, hard-target weapon that has the capability to kill. It threatens deterrence.

Now we have this Dense Pack approach. It is based on an unknown quantity, Mr. Chairman, known as fratricide. That is that one incoming

exploding missile will explode other incoming missiles. We do not know if it works or not. It is a theory. We are not sure.

Some people believe that there are a number of ways to defeat the whole concept of fratricide. Explode a missile underground. There is no fratricide.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(By unanimous consent Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. You can explode the missile underground and how can you have a fratricide from the top if you are exploding it underground? Some people think you can have what they call a pin-down concept that would defer the ability of the weapon to function.

□ 1650

Some believe that bringing big powerful warheads on top of this system would totally devastate the system. Some think that a sequential attack, 1, 2, 3, 4, over a different time frame would defeat this system. But here is Dense Pack, based on the notion of fratricide, and there is not one of us in here who knows anything about fratricide or whether it can even work. I certainly do not even want to test it out. I hope we never fire a nuclear weapon. It is insanity, Mr. Chairman. Dense Pack is speculative, it is unproven, it is not approved by this administration. It is certainly no panacea. I mentioned how it could be defeated, to say nothing of the fact that it would violate the SALT II Treaty. It would push us to develop an ABM system costing billions and billions of dollars. It would even require that we may have to even renegotiate our ABM treaty, one of the few treaties that we have that works.

We are not throwing nuclear weapons at each other right now, Mr. Chairman, and maybe that is because deterrence works. The entire MX missile system is a first strike weapon that has enormous capacity to bring grief. It is a crisis destabilizing weapon. But I have made those arguments before.

My distinguished colleague, the gentleman from Massachusetts (Mr. MAVROULES), made a very intelligent argument a few days ago, saying this entire system was wasteful, unnecessary, and of dubious value at best. I make the argument here that we are kidding ourselves about finding some survivable basing mode. What we need to do is get into our brains that there is no such thing, and then we will not be spending this money, playing arithmetic games, "Well, we are going to save America $150 million; now we have got 900-some-odd million dollars to find a basing mode." If you had $20 billion to find a basing mode and 10 more years, you could not do it. Why do we not awaken to that reality, Mr. Chairman? Let us have a debate on the floor of this Congress, but let us not debate over whose amendment is more political and who can get into the conference. Let us talk about whether we need this system, and the answer to that is "No"; whether this system is dangerous, and the answer to that is "Yes"; and whether we can find a basing mode that is survivable, and the answer to that is "No".

Mr. Chairman, if we engage in a serious and significant debate, we would reject this matter. I am sorry that my distinguished colleague even engaged in this bargaining process on the floor. I think the amendment of the gentleman from Illinois and the gentleman from New York went straight to the issue. Take the money out for the basing mode, because there is no such thing.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON), as modified, as a substitute for the amendment offered by the gentleman from Illinois (Mr. SIMON).

The amendment, as modified, offered as a substitute for the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. SIMON), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. DAN DANIEL

Mr. DAN DANIEL. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DAN DANIEL: On page 8, line 23, strike the period and insert the following: ", of which $1,000,000 is available only for research, development, test, and evaluation of the C-17 cargo transport aircraft.".

Mr. DAN DANIEL. Mr. Chairman, the purpose of this amendment is to assure that the DOD spends $1 million contained in the pending title on R. & D. for the C-17.

The Members will recall that last week when we were debating the C-5 versus the 747 I made the observation that the C-17 would be needed in a few years to replace the C-130 and the C-141 both of which are nearing the end of their useful lives. The C-17 is a worthy replacement for these airlifters and I hope we can accelerate this program.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from California.

Mr. BADHAM. I thank the gentleman for yielding.

Mr. Chairman, I appreciate greatly the gentleman's offering this amendment. I commend him and the others of the committee who took part in this so that this amendment would be before us today.

I think in the dabate last week on the subject of airlift the case was well and strongly built for the fact that we will need a follow-on airlifter that will and should properly be the C-17. So I fully support this amendment, and I would certainly encourage the Pentagon and the Air Force to move ahead with this needed R. & D. so that we would get an airlifter as soon as possible.

Mr. DAN DANIEL. I thank the gentleman.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, we agree with the amendment, and we would be willing to accept it on this side.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. DAN DANIEL. I yield to the chairman of the committee.

Mr. PRICE. Mr. Chairman, I agree with the distinguished gentleman from Virginia and on behalf of the committee, I am willing to accept the amendment if the gentleman from Alabama (Mr. DICKINSON) agrees.

I would also add that the Air Force has about $31 million remaining in the CX program in prior year authorization and appropriation.

It is my understanding that the Air Force has already taken the appropriate action to initiate C-17 research and development and the amendment offered by the gentleman from Virginia will insure a fiscal year 1983 program. I am hopeful that the Air Force will reprogram whatever funds are required to have a meaningful program during fiscal year 1983.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. DAN DANIEL).

The amendment was agreed to.

Mr. BADHAM. Mr. Chairman, I move to strike the last word.

Mr. Chairman, at this time I would like to engage in a colloquy with the distinguished chairman of the committee on the subject of the S-3A weapon system improvement program.

Mr. Chairman, the Committee on Armed Services reduced the Navy research and development request for $78.3 million by $15 million for the S-3 weapons system improvement program.

The committee's action was understandable since the descriptive material provided to the committee by the Navy was inaccurate. It did not represent the fiscal year 1983 program tasks. I have subsequently met with Navy representatives and believe that they have finally gotten the program straightened out. I wonder if the

chairman would accept the recommendation that the Navy initiate a request for reprograming during fiscal year 1983 to carry out the S-3 improvement program as required to meet the current submarine threat?

Mr. PRICE. If the gentleman will yield, I am in agreement with the gentleman from California that the Navy could during fiscal year 1983 submit a request for reprograming, outlining the S-3 tasks for consideration by the Congress. It certainly would have our careful attention.

Mr. BADHAM. I thank the Chairman.

Mr. TAYLOR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would ask the distinguished chairman of the Armed Services Committee how he and the committee view the Marine Corps AV-8B aircraft and the requirement for an improved radar and a two-seat trainer.

Mr. PRICE. Mr. Chairman, if the gentleman will yield, I would respond to the gentleman from Missouri that the committee has always been solidly behind the AV-8B. The gentleman may recall that for 3 consecutive years the Department of Defense took steps to terminate the program and it was the Armed Services Committee and, indeed, the Congress who overturned that decision and provided authorization and appropriations for this important system.

There were no funds requested for fiscal year 1983 by the Marine Corps for either an AV-8B trainer or an improved radar. Authorization was not requested because of funding constraints.

While I cannot speak for the committee, I can say that personally I concur in the Marine Corps stated requirements for a trainer and a state-of-the-art radar and would hope that during the coming year the Marine Corps would give consideration to reprograming funds to procure a trainer and investigate candidate radars, to include those already developed in the United Kingdom.

Mr. TAYLOR. I thank the chairman of the Armed Services Committee and concur in his assessment and hope that the Marine Corps would initiate reprograming action to fulfill its requirements for the AV-8B.

□ 1700

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I had originally intended at this point to offer an amendment deleting funding for the antisatellite weapons (ASAT's). However, I have decided not to do that, but rather to make a statement and in the course of it to engage in a colloquy with the distinguished chairman of the Armed Services Committee.

Mr. Chairman, the peaceful exploration and use of space has provided many of the wonders of the past several decades. Thus far space has been used primarily, though not exclusively, in a cooperative manner, particularly between the Soviet Union and the United States.

But that achievement now stands threatened. We have entered into an arms race in space with the Soviet Union that promises to heighten global tensions, further strain our already overburdened technical industries, and risk an entirely new kind of warfare.

Repeated efforts to halt this senseless escalation have made some some limited progress. Unfortunately, we have thus far fallen short of the opportunity to end a space arms race before it gathers momentum, though there may still be time.

A series of three negotiating sessions with the Soviets in 1978 and 1979 were cut short by the Soviet invasion of Afghanistan, though observers agreed progress was being made. I believe we should return to this type of negotiation and stop the arms race in space.

I am appreciative of the importance of protecting our space program, both civilian and military. We rely on our satellites for overseas communication, navigation, and other purposes. The military meanwhile conducts an estimated 70 percent of its overseas communication via satellite. In addition, our nuclear weapons advance warning attack system depends on satellites for early detection. Because of legitimate uses such as these by both the United States and the Soviet Union I will not at this time offer the amendment to delete funding which I had intended. Instead, Mr. Chairman, I will take the opportunity to engage in a colloquoy with the distinguished chairman of the Armed Services Committee and its Subcommittee on Research and Development, the gentleman from Illinois (Mr. PRICE).

I want to ask the chairman if he would explain the funding provided in H.R. 6030 for antisatellite weapons and high-energy weapons?

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. WEISS. I yield to the gentleman from Illinois.

Mr. PRICE. First of all, let me say there are about $219 million in this bill for space weaponry. I wish, like the gentleman does, that we did not have to spend any money on space weaponry.

We have tried unsuccessfully over the years to negotiate a treaty with the Soviet Union. The Soviets have chosen to not only ignore our proposals but indeed to put systems into space that are a threat to our national technical means and national security.

I know that this administration has taken a rather tough stand on space weaponry. It is my belief that the systems that we have in research and development are oriented toward defense and until such time as the Soviets express a sincere and honest desire to negotiate these systems by treaty, then I believe we must continue to support the research to obviate a technological or military surprise.

Mr. WEISS. Mr. Chairman, I understand the Armed Services Committee made a significant change in the Defense Department's request for high-energy weapons research programs. I would appreciate an explanation of what the committee did and why it did so.

Mr. PRICE. Yes, we did. We reassigned the request that we had for this particular phase of weaponry into a higher field of technology, like short-wave wave length lasers and so forth.

Mr. WEISS. I thank the chairman.

These questions are being asked, Mr. Chairman, because of the concern I and others have that we may be in the early stages of an arms race in space. I know that the Soviet Union is developing one type of Asat, and we are doing so as well. Both nations also are researching Asat's that would use high-energy weapons, such as laser beams. I want to ask the chairman whether he shares the view that we may in fact be entering a space arms race?

Mr. PRICE. It could be. It could happen.

Mr. WEISS. In 1978 and 1979 the Carter administration conducted a series of three negotiating sessions with the Soviets on an Asat control agreement. The Soviets have expressed some indication of a willingness to resume these talks. I wonder what prospect the chairman sees for a resumption of negotiations and an effective Asat ban?

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. WEISS) has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 5 additional minutes.)

Mr. PRICE. Mr. Chairman, if the gentleman will yield further, the Carter administration did make proposals to the Soviets on arms control, as far back as March 1977.

The Carter administration's proposal to the Soviets on arms control was first offered in March 1977. Negotiations commenced at Helsinki in June 1978 and were followed by additional rounds of negotiations at Bern, Switzerland, in early 1979 and at Vienna, Austria, April-June 1979.

The antisatellite arms control negotiations were at a divergent negotiation point at the time of the Afghanistan invasion. At that time, the arms negotiations impetus was the Soviets responsibility. The Soviets were to coordinate their negotiators stance within their Government and get back with U.S. negotiators. As a result, the

Afghanistan conflict eliminated the negotiating opportunity.

The United States has not resumed ASAT arms discussions at this time. We hope they will, though.

Mr. WEISS. I thank the gentleman.

The Reagan administration has expressed its intent to proceed with an active ASAT program, and it seems to me that it is doing so with some disregard for the arms control process. In its "interim declaratory policy" on arms control in space it states:

> We must not count on immediate progress in the area of space arms control because the issues are complex and present difficult obstacles to international negotiations.

This seems to me unnecessarily pessimistic. Is it not true, Mr. Chairman, that arms control can only become more difficult and complex as ASAT systems are developed?

Mr. PRICE. Our programs are strictly defensive. I do not think the Soviets can say the same thing.

Mr. WEISS. I thank the chairman for his response to my questions.

Of course, the concern that I think all of us have is that the earlier commitments that were made by both the Soviet Union and the United States that they would not militarize space have a grave danger of being eroded. The world may suddenly wake up and find that "Star Wars" is not just a program that one sees in the movies or on television. If we don't take steps to avert it, it may well become an awful addition to the nightmare reality that we already face with the prospect of nuclear warfare.

The production of a preemptive strike force of antisatellite weapons (ASAT's), such as those devices both the United States and the Soviet Union currently are close to producing, is certain to lessen the security of both nations' satellites. The satellites would best be protected by an agreement eliminating the presence of ASAT's.

In August 1981 the Soviet Union submitted to the United Nations a draft treaty banning the stationing of weapons in space. This proposal deserves careful consideration. But we must go further. We must halt those ASAT's which would not be stationed in space but would instead be launched by high-flying jets. A moratorium should be placed on further ASAT testing, current ASAT programs should be dismantled, and verification should be strictly detailed and enforced. Outside of the context of this Department of Defense authorization I plan to introduce a resolution urging the immediate resumption of negotiations to halt this space arms race. History has shown us how quickly an arms race can get out of control.

The world can be no safer if we permit the arms race to escalate into space. Indeed, the insecurity of all nations reliant on satellites would be immeasurably increased, and the risk of global conflict would grow. Only by committing our Nation to a concerted effort to end the race to put ASAT's into place can this danger be avoided.

□ 1710

I hope and I urge the Armed Services Committee not to allow itself to be trapped into a position where this Congress and this Nation will not move forward to negotiate an end to the space arms race because the Russians will be deemed to be offensive in their programs while the U.S. programs will be considered to be strictly defensive.

The CHAIRMAN pro tempore. The time of the gentleman from New York has expired.

(By unanimous consent, Mr. WEISS was allowed to proceed for 1 additional minute.)

Mr. WEISS. Both sides, it seems to me, will rely on their own belief in their own good faith, constantly questioning the good faith of the other side. It seems to me that down that path lies the mutual and total destruction of all humanity.

AMENDMENT OFFERED BY MR. EMERY

Mr. EMERY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

> Amendment offered by Mr. EMERY: Page 11, after line 5, add the following new section:
>
> DEEP BASING OF MX MISSILE SYSTEM
>
> SEC. 205. None of the funds authorized to be appropriated by this title may be used to carry out research and development of the deep basing mode for the MX missile system.

Mr. EMERY. Mr. Chairman, this amendment is really very simple. After much consideration and study of the various MX basing alternatives, I have come to the conclusion that the so-called deep basing option is, indeed, not a viable option when MX misssile basing is concerned.

I have become very interested in two of the alternatives that have been proposed. One is the so-called ballistic missile defense option. The other is the so-called cluster pack or dense pack scheme.

I do not think we have all the answers with either one of those two systems; but for a variety of reasons I am convinced that the deep basing option is not viable.

First of all, the technology is certainly in question as to whether or not we can develop a cost-effective system that is capable of digging through possibly several hundred feet of rubble after digging its way through a thousand or more feet of rock.

Second, the response time would be limited. This system would not be able to respond for maybe as many as 48 or 72 hours after an attack, whereas the MX scheme as it has been proposed was designed to provide an accurate and rapid response system, which of course is the main reason for missile upgrades that we have been considering.

I do not attempt to strike any money, because I feel that it is necessary to adequately fund the research and development effort for whichever basing mode we may desire. I have offered this amendment because I do not believe that money spent on the deep basing mode is money well spend, nor that it will provide us with a secure, reliable, survivable system.

I ask for support of my amendment, Mr. Chairman.

Mr. ASPIN. Mr. Chairman, I move to strike the requisite number of words.

Let me ask the gentleman from Maine, if I might, I think what he is saying may be correct. I am not sure that this deep underground system makes any sense at all.

I am worried, though, at us gradually eliminating research and development for various options in this bill. I mean, we have eliminated the continuous patrol aircraft and eliminated the deep underground system. I guess that bothers me.

If this were procurement money and we could see what the thing was, I think the gentleman would be right; but I am a little worried about eliminating the R. & D. money in this bill for this system.

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I would be happy to yield.

Mr. EMERY. The reason I have decided to offer the amendment crafted as I have is that it does not attempt to strike the money and, of course, the $160 million or whatever else spent on other options that I believe are more viable and hold more promise would allow us to provide adequate research and development on those other areas; but I think all the other questions aside, you have to ask yourself what it is that is different about the deep basing scheme.

One of those things that is different is that it is not a quick response scheme. All the other schemes, all the other basing modes allow the missile to be launched in response to an enemy attack. This one will not allow you to respond until it digs its way out of an underground cavern or an underground silo.

Now, it may well be desirable to have some reserve force 2 or 3 days later, but that is a different kind of a weapon. That is a different kind of a system. That is going an entirely different direction.

What we have been talking about with any of the MX alternatives is an alternatives that allows the system to survive so that it can be used relative-

ly soon, like minutes or hours after an initial attack.

Mr. ASPIN. But what is the purpose of the gentleman's amendment, I agree, this may be a backup system, this underground system might be a backup system. It cannot clearly or it ought not to be, at least as far as we know now, it ought not be the primary basing mode for this system.

Mr. EMERY. If the gentleman will yield, that is exactly my point. This I do not believe is a primary basing scheme under any circumstance, if we are talking about the purposes for which as I understand it, the MX missile program was originally initiated.

Now, we have just had a long discussion here this afternoon about interim basing mode versus primary and I think we came to the decision that we would concentrate on primary and not worry about some interim secondary scheme.

Mr. ASPIN. The interim is different. We are talking about now a secondary or backup scheme perhaps for the deep underground system.

Mr. EMERY. Well, if the gentleman would yield further, if we are talking about a secondary system or backup system, that is one step removed from the entire argument that we have drawn for the MX; so it would seem to me that we ought to discuss it in the mode, MX-II, if you will, or son of MX.

We are talking about a different kind of system. As far as I know, we have not even begun to discuss the possibility of moving to a secondary system, a backup system or a system for some other purpose. This opens up an entirely different area of discussion that we have not delved into either here on the floor or in the Armed Services Committee.

If I might continue for just a second, the primary concern that I have is that for the purposes that we have delineated, for improving the survivability of our land-based system, this is a different approach. This one does not fill that bill, because it does not provide the quick response and the others do.

So I do not feel that the deep underground basing scheme is a fitting and proper answer to the problems that we have identified and that we are trying to solve with any one of these missile systems.

Mr. ASPIN. I understand, but I am worried about the fact that what we are doing by this is, of course, eliminating the spending of any money in this title for any research and development on the deep basing mode at all, whether it be secondary or any other.

Mr. EMERY. Well, if I might respond to that, the gentleman is quite correct; but it would seem to me that if we want to talk about a secondary scheme or some other kind of a secure reserve, then we ought to embark on that program separately and distinctly from the MX program that we have been discussing.

Furthermore, I just do not have the confidence that the scheme is going to do the job that we need done. It does not preclude us from going into other areas. We have eliminated continuous patrol aircraft in committee, which is a decision I also agreed with; but I make no attempt to limit any other options. In fact, any other options that are viable, and in answer to the original questions for which the MX system was designed to resolve, I certainly have no problem with supporting research and development for those.

I have particular interests. I am interested in the possibility of a BMD proposal, deceptive and survivable, and an alternate, plus the basing mode.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin has expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. ASPIN. I am trying to work out some possibility here with the gentleman from Maine. Is there some way that we could think of some language that we could put in there that would alleviate the option for some R. & D. money to be spent on a backup system or secondary mode, while keeping the intent of the gentleman here that the money not be spent on the deep underground system as the primary mode?

Mr. EMERY. Well, if the gentleman will yield further, let me ask, Is there any understanding in the gentleman's mind that the Armed Services Committee or the Pentagon has proposed a secondary backup system for the MX? Is that on the table now, or has it been proposed by anyone? This is the first I have heard of it.

Mr. ASPIN. Well, I am being advised here that they are talking about a secure reserve force, which apparently is something like that.

Mr. EMERY. Let me simply say to the gentleman that if we are already looking beyond MX to a secondary secure force, I would like to have the advantages of hearings in the Research and Development Subcommittee. I would like to have the advantage of a full discussion and presentation of those options from the Pentagon and a full discussion in the committee and here on the floor. All those things have been lacking.

I do not think we need to invent a secondary system to a missile system that we have not even proposed here today.

□ 1720

Mr. ASPIN. No, I understand. But the point of the research and development money is to look at things, study them, study the options. I worry when we have language in the bill that says none of this money shall be used for research and development on something, especially if we really do want to have, eventually, some research and development money maybe on a backup system.

I am just trying to see if there is not something—because I think both of us agree on what it is the gentleman is trying to do with this amendment—and I am worried that it might cut off something that otherwise would make some sense.

Mr. EMERY. If I might respond to that, there may be some additional language, but I would think that we might want to consider discussion by the committee of a secondary alternative as a separate and distinct entity from this MX program.

We have not had the benefit of that kind of a discussion. In the absence of that sort of planning and continuity, I do not think there is any option.

Mr. ASPIN. How about if we were to add language here which says, "None of this money may be used to carry out research and development of the deep basing mode as the primary basing mode for the MX missile system"?

Mr. EMERY. I would prefer not to do that because then it implicitly suggests that we have decided that we need a secondary system or a backup system to the MX even before we have deployed it.

Mr. ASPIN. It does not. It just says, "Look, we are dealing with R. & D.," and it just says we are not stopping them from looking at it, spending R. & D. money on it.

Mr. EMERY. That is exactly what I am trying to accomplish. I do not want to spend R. & D. money on it.

Mr. ASPIN. Even as a backup system?

Mr. EMERY. No, not as a backup system. It seems to me if we are going to talk about a backup system for a missile that we have not even based yet, then we ought to make the decision: First, that we need it; and second, we are going to develop a program to accomplish that. And we have not even made that decision.

Mr. ASPIN. What worries me about the gentleman's position is that we are talking about research and development money, R. & D., and research and development money should be very carefully considered when we cut out research and development money. Research and development money means we cannot even look at the option; it means we cannot even do the studies.

Maybe we are going to discover this thing would be a very good backup system. We will never know if the gentleman's language is in the bill and survives conference.

Mr. EMERY. Mr. Chairman, will the gentleman yield further?

Mr. ASPIN. I am happy to yield to the gentleman.

Mr. EMERY. I thank the gentleman for yielding further.

Mr. Chairman, let me restate what I said a few minutes ago. If we decide as a policy in the Congress or from the administration or from the military that we wish to look at a backup system, that is exactly like coming to Congress and saying, "Well, we need a new ship program," or "We need a new tank," or "We need a new satellite," or something else.

It seems to me that if we are going to start talking about another kind of a missile system, separate and distinct from the MX program that we have been debating here, we ought to do that and not try to slide into it here by trying to edge into a research and development scheme which we are saying is not suitable for one thing but just might be valuable for something else.

Mr. ASPIN. The problem, of course, is that one cannot even come to a hearing to propose it without spending some money to look at it, in order to make the proposal. We have to have some information in order to go to a hearing, in order to present the testimony to Congress; some preliminary studies, at least, even some paper studies to look at the option in order to make a presentation to Congress.

The CHAIRMAN pro tempore. The time of the gentleman from Wisconsin (Mr. ASPIN) has expired.

(By unanimous consent, Mr. ASPIN was allowed to proceed for 5 additional minutes.)

Mr. ASPIN. The point is, with this amendment we cannot even do those paper studies that would be required to make the presentation to Congress. Let me suggest: How about if we were to put at least a modest amount of money, suggested here, that we propose a modest amount of money in the bill, not to exceed $10 million to look at the basing, this underground system, just as a backup system.

Would the gentleman object to that?

Mr. EMERY. If the gentleman will yield further, yes, the gentleman would object to that because I just believe if we are going to talk about a backup system, a new missile system, a new program, someone ought to come to the Congress from the Pentagon, from the administration, and say, "We think we need a backup system for the MX that we want to study, among other options."

I would certainly be interested in doing the R. & D. on that, but it would disturb me very much for us to have an unresolved MX system, questions about the basing mode, survivability, response time, various schemes of Soviet attack and all these other things, and say, even before those questions are resolved, that then we have to have a backup system. I do not think that sends a very good signal.

Mr. ASPIN. The point about all of these things is that what the gentleman is talking about is R. & D., research and development. And now to shut off options means we cannot even have the Advanced Research Projects Agency do anything. We cannot even subcontract with any university or think tank to look at it; we cannot do anything.

It is a very, very bad idea, and please, do not cut out R. & D. money. It makes no sense to be arbitrarily deciding on the floor of the House, without any information, without any backup, without any hearings, as to whether or not we ought to even at least spend some money to look at a subject.

To cut out money like that is crazy. To put language in here that prohibits looking at options is goofy.

What we ought to do for sure, if this was procurement money, we would have a good case to take some money out. But do not write language into the bill prohibiting looking at options. It is not a good idea. It is just not a very sensible way to have a defense policy.

Mr. EMERY. Mr. Chairman, will the gentleman yield further?

Mr. ASPIN. I will be happy to yield to the gentleman from Maine.

Mr. EMERY. I thank the gentleman for yielding.

Mr. Chairman, first of all, we are not cutting this money out. I want to make that very plain. We are not changing so much as a red cent in this bill.

Mr. ASPIN. Exactly.

Mr. EMERY. All I am asking is that for primary basing options, for options as to basing the MX missile, let us look at a scheme that answers the original question. I do not use the words "primary basing."

Mr. ASPIN. Let me tell the gentleman what he is saying. He is saying that none of the funds authorized to be appropriated by this title may be used to carry out research and development of the deep basing mode for the MX missile system, period.

Mr. EMERY. That is right.

Mr. ASPIN. We cannot use it to look at it in any way, shape or form. If the subject comes up, we have to avert our eyes and spend more money on something else. It is not a very sensible way to go.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Maine (Mr. EMERY).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. EMERY. Mr. Chairman, I ask for a recorded vote.

The CHAIRMAN pro tempore. Those in favor of a recorded vote will rise and remain standing until counted.

Mr. EMERY. Mr. Chairman, I make the point of order that a quorum is not present and ask for a recorded vote.

The CHAIRMAN pro tempore. The Chair has not finished his count on the number of Members standing.

He has now finished his count, and an insufficient number has arisen.

For what purpose does the gentleman from Maine rise?

Mr. EMERY. Mr. Chairman, I make the point of order that a quorum is not present and ask for a recorded vote.

The CHAIRMAN pro tempore. The Chair is unclear of the gentleman's intentions.

Does the gentleman ask for a division?

Mr. EMERY. Mr. Chairman, I ask for a division.

The CHAIRMAN pro tempore. Those in favor of this amendment will stand, rise and remain standing until counted.

The yeas will take seats.

Those opposed will stand.

Mr. EMERY. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will suspend until the count is over.

The noes will be seated.

On this vote by division, the yeas are 2 and the nays are 8.

PARLIAMENTARY INQUIRY

Mr. EMERY. A parliamentary inquiry, Mr. Chairman.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. EMERY. As a point of information, will the Chairman tell me why the request for the recorded vote came late? He had not announced the vote.

The CHAIRMAN pro tempore. The Chair at that point had asked the Members to rise and remain standing for the count on the gentleman's request.

Mr. EMERY. Did the gentleman announce an insufficient number?

The CHAIRMAN pro tempore. Not at the point that the gentleman made his point of order.

Mr. EMERY. I am afraid I do not understand why the request for the recorded vote came too late, Mr. Chairman.

The CHAIRMAN pro tempore. The Chair was unclear of the gentleman's desires at that time. Without objection, the division will be vacated.

There was no objection.

The CHAIRMAN pro tempore. Those in favor of a recorded vote will again stand.

Mr. EMERY. Pending that request, Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN pro tempore. Evidently a quorum is not present. Pursuant to the provisions of clause 2 of rule XXIII, the Chair announces that he will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the pending question following the quorum call. Members will record their presence by electronic device.

The call was taken by electronic device.

The following members responded to their names:

[Roll No. 216]

Addabbo	D'Amours	Gradison
Akaka	Daniel, Dan	Gramm
Albosta	Daniel, R. W.	Green
Alexander	Dannemeyer	Gregg
Anderson	Daschle	Grisham
Andrews	Daub	Guarini
Annunzio	Davis	Gunderson
Anthony	de la Garza	Hagedorn
Applegate	Deckard	Hall (OH)
Archer	Dellums	Hall, Ralph
Ashbrook	Derrick	Hall, Sam
Aspin	Dickinson	Hamilton
Atkinson	Dicks	Hammerschmidt
AuCoin	Dingell	Hance
Badham	Dixon	Hansen (UT)
Bafalis	Donnelly	Harkin
Bailey (MO)	Dorgan	Hartnett
Bailey (PA)	Dougherty	Hatcher
Barnard	Dowdy	Hawkins
Barnes	Downey	Heckler
Beard	Dreier	Hefner
Bedell	Duncan	Heftel
Beilenson	Dunn	Hendon
Benjamin	Dwyer	Hertel
Bennett	Dyson	Hightower
Bereuter	Early	Hiler
Bethune	Eckart	Hillis
Bevill	Edgar	Holland
Bingham	Edwards (AL)	Hollenbeck
Bliley	Edwards (CA)	Holt
Boggs	Edwards (OK)	Hopkins
Boner	Emerson	Howard
Bonker	Emery	Hoyer
Bouquard	English	Hubbard
Bowen	Erdahl	Huckaby
Breaux	Erlenborn	Hughes
Brinkley	Ertel	Hunter
Brodhead	Evans (DE)	Hutto
Brooks	Evans (IA)	Hyde
Broomfield	Evans (IN)	Ireland
Brown (CA)	Fary	Jacobs
Brown (CO)	Fascell	Jeffords
Broyhill	Fazio	Jeffries
Burgener	Fenwick	Jenkins
Burton, Phillip	Ferraro	Johnston
Butler	Fiedler	Jones (NC)
Byron	Fields	Jones (OK)
Campbell	Findley	Kastenmeier
Carman	Fish	Kazen
Carney	Fithian	Kemp
Chappell	Flippo	Kennelly
Chappie	Florio	Kildee
Cheney	Foglietta	Kindness
Chisholm	Foley	Kogovsek
Clausen	Forsythe	Kramer
Clinger	Fowler	LaFalce
Coats	Frank	Lagomarsino
Coelho	Frenzel	Lantos
Coleman	Frost	Latta
Collins (TX)	Fuqua	Leach
Conable	Garcia	Lee
Conte	Gaydos	Lehman
Conyers	Gejdenson	Lent
Corcoran	Gephardt	Lewis
Coughlin	Gibbons	Livingston
Courter	Gilman	Loeffler
Coyne, James	Gingrich	Long (LA)
Coyne, William	Glickman	Long (MD)
Craig	Gonzalez	Lott
Crane, Daniel	Goodling	Lowery (CA)
Crane, Philip	Gore	Lowry (WA)
Lujan	Pashayan	Smith (NE)
Luken	Patman	Smith (NJ)
Lundine	Patterson	Smith (OR)
Lungren	Paul	Snowe
Madigan	Pease	Snyder
Markey	Perkins	Solarz
Marlenee	Petri	Solomon
Marriott	Peyser	Spence
Martin (IL)	Pickle	Stangeland
Martin (NC)	Porter	Stanton
Martin (NY)	Price	Stark
Martinez	Pritchard	Staton
Matsui	Pursell	Stenholm
Mattox	Quillen	Stokes
Mavroules	Railsback	Stratton
Mazzoli	Rangel	Studds
McClory	Ratchford	Stump
McCollum	Regula	Swift
McCurdy	Reuss	Synar
McDade	Richmond	Tauke
McEwen	Rinaldo	Tauzin
McGrath	Ritter	Taylor
McHugh	Roberts (KS)	Thomas
McKinney	Roberts (SD)	Traxler
Mica	Robinson	Trible
Michel	Rodino	Vander Jagt
Mikulski	Roe	Vento
Miller (CA)	Roemer	Volkmer
Miller (OH)	Rose	Walgren
Mineta	Rosenthal	Walker
Minish	Rostenkowski	Wampler
Mitchell (MD)	Roth	Washington
Mitchell (NY)	Roukema	Watkins
Moakley	Rousselot	Waxman
Molinari	Roybal	Weaver
Mollohan	Rudd	Weber (MN)
Montgomery	Russo	Weber (OH)
Moore	Sabo	Weiss
Moorhead	Santini	White
Morrison	Sawyer	Whitehurst
Mottl	Schneider	Whittaker
Murphy	Schroeder	Whitten
Murtha	Schulze	Williams (MT)
Myers	Schumer	Williams (OH)
Napier	Seiberling	Wilson
Natcher	Sensenbrenner	Winn
Neal	Shamansky	Wirth
Nelligan	Shannon	Wolf
Nelson	Sharp	Wortley
Nichols	Shaw	Wright
Nowak	Shelby	Wyden
O'Brien	Shumway	Wylie
Oberstar	Shuster	Yatron
Obey	Simon	Young (AK)
Ottinger	Skeen	Young (FL)
Oxley	Skelton	Young (MO)
Panetta	Smith (AL)	Zeferetti
Parris	Smith (IA)	

□ 1740

The CHAIRMAN pro tempore. Three hundred eighty-six Members have answered to their names, a quorum is present, and the Committee will resume its business.

□ 1750

The CHAIRMAN pro tempore. Does the gentleman from Maine (Mr. EMERY) insist on his demand for a recorded vote?

Mr. EMERY. Mr. Chairman, I withdraw my demand for a recorded vote, and I demand a division.

On a division (demanded by Mr. EMERY) there were—ayes 66, noes 140.

So the amendment was rejected.

The CHAIRMAN pro tempore. Are there further amendments to title II?

Mr. DICKINSON. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to have a short colloquy with the gentleman from Illinois (Mr. PRICE), the chairman of the full committee, so that I might make a matter of record what I understand the situation to be. This will be very brief, because I do not think an amendment is necessary here. I think we have an agreement.

Mr. Chairman, as you know, the Committee on Armed Services provided an additional authorization of $20 million for Air Force advance attack weapons to accelerate the advance cluster munitions, the CBU-90 system.

Subsequently, following what we did, I am advised that the Air Force completed the test and evaluation of the combined effects munitions, of the CEM.

There are two ongoing programs. One is the CBU-87 and one is the CBU-90. It is my understanding that the CBU-90 has experienced some problems. The CBU-87 has met its tests. The Air Force is willing to go forward with it. All we have to do is authorize the redirection of some funds from one program, which is the 90, to the CBU-87, causing no additional expenditure of funds. It is simply a redirection of funds. As I understand it, it is the agreement and the willingness of our committee that this be done. I would like to refer this to our chairman and see if this is his understanding and agreement, that we can direct the Air Force just to redirect a portion of what had been in the CBU-90 for the CBU-87.

Mr. PRICE. If the gentleman will yield, I understand the gentleman's question, and I certainly support his recommendation that the $10 million of the additional authorization provided by the committee is to be used for the combined effects munitions, CEM-87. I agree with the gentleman on that.

Mr. DICKINSON. I thank the Chairman.

Mr. Chairman, I actually have no amendment. I just wanted to make it a point of legislative history that this was agreeable and the intent of the committee.

AMENDMENT OFFERED BY MR. HARTNETT

Mr. HARTNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HARTNETT: Page 10, line 9, strike out "and".

Page 10, line 11, strike out the period and insert in lieu thereof "; and".

Page 10, after line 11, insert the following: (8) $5,555,000 is available only for the Intermediate Water Depth Mine program.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from Alabama.

Mr. DICKINSON. The chairman of the committee and I have looked at the amendment. We understand its importance. I cannot speak for the chairman, but we have agreed that this is needed. It does not add any money. It simply redirects some funds. I personally will support it.

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from Illinois.

Mr. PRICE. Mr. Chairman, I have no objection to the acceptance of the amendment, in view of the Navy's requirement for the intermediate water depth mine. It does not require any additional authorization. I have no objection to accepting the amendment.

Mr. HARTNETT. Mr. Chairman, I thank the distinguished ranking minority Member and the distinguished chairman of the committee.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from South Carolina (Mr. HARTNETT).

The amendment was agreed to.

□ 1800

Mr. GINGRICH. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to engage in a colloquy with the chairman, if I might.

Mr. Chairman, we will have some 13,000 M-60 and M-1 tanks with 105-millimeter guns in our inventory through the turn of the century. And I am concerned that we do not have ongoing product improvement programs to insure that the 105-millimeter maintains capability in dealing with future threat armor.

After the committee markup it came to my attention that the Army was putting together a package program for evolutionary improvements to the M-68 105-millimeter cannon and the XM-833 kinetic energy round that will if successful make the 105 cannon equivalent to the 120-millimeter cannon with the XM-833 round already in development.

Unfortunately, this package was not completed in time for committee consideration.

It seems to me that regardless of the merits of the 120-millimeter cannon, we should be doing everything we can to exploit the growth potential of the 105-millimeter gun system which will remain the primary main tank gun for the forseeable future.

I wonder if the chairman would agree with the recommendation that the Army initiate a request for reprograming fiscal year 1983 to initiate a development program for evolutionary improvements to the 105-millimeter tank cannon and ammunition?

Mr. PRICE. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Illinois.

Mr. PRICE. Yes, I would agree with the gentleman from Georgia. The committee would encourage the Army to submit a reprograming request outlining the development program for evolutionary improvements to the 105-millimeter tank gun system. I think it is an important program and the committee would certainly be willing to consider a reprograming request.

Mr. GINGRICH. I thank the chairman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. GINGRICH. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Just let me say that starting several years ago we had the 105 on the M-1 tank. Then there was an agreement to put the 120 millimeter on the tank. The war in Lebanon right now, I think, has demonstrated really impressively that the 105 can kill the T-72 Soviet tank. The 105 needs improvement. This amendment adds no money, but permits the upgrading.

I think it makes a great deal of sense. If we can upgrade and improve the existing cannon on the M-1 tank and anything else that uses the 105, it will save millions and millions of dollars and perhaps do as much or a better job as the proposed 120.

The chairman and I again have looked at this and talked with staff. It makes sense to us. It adds no money, and we certainly support it.

Mr. GINGRICH. I thank the gentleman.

The CHAIRMAN pro tempore. Are there further amendments to title II?

If not, the Clerk will designate title III.

Title III reads as follows:

TITLE III—OPERATION AND MAINTENANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. (a) ARMY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $16,697,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army as follows:

(1) For general purpose forces, $6,129,145,000.

(2) For intelligence and communications, $911,868,000.

(3) For central supply and maintenance, $4,906,339,000.

(4) For training, medical, and other general personnel activities, $3,587,108,000.

(5) For administration, $1,039,204,000.

(6) For support of other nations, $123,436,000.

(b) NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $21,545,000,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy and the Marine Corps as follows:

(1) For strategic forces, $1,775,212,000.

(2) For general purpose forces, $10,604,659,000.

(3) For intelligence and communications, $930,902,000.

(4) For central supply and maintenance, $5,942,966,000.

(5) For training, medical, and other general personnel activities, $1,806,858,000.

(6) For administration, $484,208,000.

(7) For support of other nations, $195,000.

(c) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $1,481,500,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps as follows:

(1) For general purpose forces, $864,292,000.

(2) For central supply and maintenance, $359,561,000.

(3) For training, medical, and other general personnel activities, $186,669,000.

(4) For administration, $70,978,000.

(d) AIR FORCE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $17,278,100,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force as follows:

(1) For strategic forces, $3,085,928,000.

(2) For general purpose forces, $3,745,598,000.

(3) For intelligence and communications, $1,418,292,000.

(4) For airlift and sealift, $1,205,813,000.

(5) For central supply and maintenance, $5,458,958,000.

(6) For training, medical, and other general personnel activities, $1,968,882,000.

(7) For administration, $387,822,000.

(8) For support of other nations, $6,807,000.

(e) DEFENSE AGENCIES.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $5,673,640,000 for expenses, not otherwise provided for, for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments) as follows:

(1) For general purpose forces, $343,208,000.

(2) For intelligence and communications, $1,903,274,000.

(3) For central supply and maintenance, $1,377,576,000.

(4) For training, medical, and other general personnel activities, $1,699,005,000.

(5) For administration, $350,577,000.

(f) ARMY RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $704,900,000 for expenses, not otherwise provided for, for the operation and maintenance of the Army Reserve as follows:

(1) For mission forces, $433,310,000.

(2) For depot maintenance, $7,741,000.

(3) For other support, $263,849,000.

(g) NAVY RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $644,600,000 for expenses, not otherwise provided for, for the operation and maintenance of the Navy Reserve as follows:

(1) For mission forces, $389,925,000.

(2) For depot maintenance, $103,775,000.

(3) For other support, $150,900,000.

(h) MARINE CORPS RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $51,115,000 for expenses, not otherwise provided for, for the operation and maintenance of the Marine Corps Reserve as follows:

(1) For mission forces, $27,434,000.

(2) For depot maintenance, $1,515,000.

(3) For other support, $22,166,000.

(i) AIR FORCE RESERVE.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $761,400,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air Force Reserve as follows:

(1) For mission forces, $537,829,000.

(2) For depot maintenance, $100,375,000.

(3) For other support, $123,196,000.

(j) ARMY NATIONAL GUARD.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $1,151,900,000 for expenses, not otherwise

provided for, for the operation and maintenance of the Army National Guard as follows:

(1) For training operations, $193,028,000.

(2) For logistical support, $871,547,000.

(3) For headquarters and command support, $79,307,000.

(4) For medical support, $8,018,000.

(k) AIR NATIONAL GUARD.—Funds are hereby authorized to be appropriated for fiscal year 1983 in the total amount of $1,744,400,000 for expenses, not otherwise provided for, for the operation and maintenance of the Air National Guard as follows:

(1) For operation of aircraft, $525,250,000.

(2) For logistical support, $287,237,000.

(3) For training support, $928,245,000.

(4) For servicewide support, $3,668,000.

(l) NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY.—There is hereby autorized to be appropriated for fiscal year 1983 the amount of $875,000 for the expenses of the Secretary of the Army, upon the recommendation of the National Board for the Promotion of Rifle Practice, under section 4308 of title 10, United States Code, and the expenses of the Secretary of the Army under sections 4309 and 4313 of such title.

(m) CLAIMS, DEFENSE.—There is hereby authorized to be appropriated for fiscal year 1983 the amount of $172,500,000 for payment, not otherwise provided for, of claims authorized by law to be paid by the Department of Defense (except for civil functions).

(n) COURT OF MILITARY APPEALS, DEFENSE.—There is hereby authorized to be appropriated for fiscal year 1983 the amount of $3,210,000 for salaries and expenses for the United States Court of Military Appeals.

GENERAL AUTHORIZATION OF APPROPRIATIONS FOR PAY RAISES, FUEL COSTS, AND INFLATION ADJUSTMENTS

SEC. 302. There are authorized to be appropriated for fiscal year 1983, in addition to the amounts authorized to be appropriated in section 301, such sums as may be necessary—

(1) for increases in salary, pay, retirement, and other employee benefits authorized by law for civilian employees of the Department of Defense whose compensation is provided for by funds authorized to be appropriated in section 301;

(2) for unbudgeted increases in fuel costs; and

(3) for increases as the result of inflation in the cost of activities authorized by section 301.

RESTRICTION ON LONG-TERM LEASES OF VESSELS FOR THE NAVY

SEC. 303. (a) None of the funds appropriated pursuant to an authorization of appropriations in section 301 may be obligated or expended in connection with a long-term lease of a vessel for the Navy if the lease includes a substantial termination liability unless and until (1) the Secretary of the Navy has notified the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of the proposed lease, and (2) a period of 30 days has elapsed after the date on which such committees receive such notification. Any such notification shall include a description of the terms of the proposed lease and a justification for entering into such a lease rather than obtaining the vessel involved by acquisition.

(b) Subsection (a) does not apply with respect to the lease of a ship if the ship was being leased by the Navy on September 30, 1982.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPIN: Page 18, after line 3, insert the following new section:

T-5 REPLACEMENT TANKER PROGRAM

SEC. 304. None of the funds appropriated pursuant to authorizations of appropriations in this title for the Navy may be obligated or expended for any activity in connection with the lease of any vessel associated with the T-5 Replacement Tanker Program which has a main propulsion system or any other major component not built in the United States.

Mr. ASPIN. Mr. Chairman, I yield to the chairman of the O. & M. Subcommittee, the gentleman from Virginia (Mr. DAN DANIEL).

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have examined this amendment and we have no objection to it on this side.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. ASPIN. I yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, we had an opportunity to study the amendment over here. We certainly have no opposition. We would certainly accept it on this side.

● Mr. ROTH. Mr. Speaker, there was a cigarette ad some years ago that promoted the slogan, "The Thinking Man's Filter."

After one reviews this amendment as enticing as it looks on the surface—after the smoke clears away—we can easily discern that it is not a thinking person's amendment.

Why?

My real concern, and I know yours, too, is jobs and a secure defense. The T-5 tanker program would mean 5,300 more years of American jobs over a 3-year period. The program would generate more than $152 million to the shipbuilding industry and support services. This would in turn generate $3 million in State income tax and another $5 million in sales tax. This, along with our Nation's defense, is a compelling argument for the T-5 tanker.

Notwithstanding the jobs concern, there is the question of whether the Navy should be saddled with equipment and technology which taxes their mission and is behind the curve of current technology. The only American alternative to foreign engine on the T-5 propulsion system would cost in excess of an additional $100 million and be well behind the current technological state-of-the-art. I ask you to remember, the Navy is leasing this ship, and will not have to pay for the fuel and maintenance on these engines, and I think it is the least we can do for them and our fellow taxpayers that we give them the powerplant that will do the most for the least money.

The sponsor of this amendment is trying to impose one policy on the Navy when it has ships built for purchase, and another on a civilian company when it builds a ship for Navy charter.

The author of the amendment wants to tell a private shipbuilder who builds a ship for lease to the Navy, that when they build a ship, it must be 100 percent domestically built, but on the other hand, if the Navy were having it built for purchase, we would be willing to settle for a mere 51-percent domestic content.

Totally illogical!

As the Navy is not buying these vessels, but leasing them, it certainly has no interest in circumventing any Buy America Act provisions. Instead unlike the alleged buy America banner, the sponsor of the amendment waves, the proposed domestic content of the T-5 tanker is 92 percent—yes 92 percent. The act cloaks himself in, passed by this Congress requires 51 percent.

That is why I allege this amendment is not a thinking persons' amendment.

Basically—I want to save these 5,300 man-years of American jobs involved in the construction of the T-5 tanker.

Yes, I am as much a proponent of buy American as the next person. But enlightened opinion must dictate that we must bring commonsense and reason to this process. If we never buy anything from other nations, can we expect to sell to other nations. I will accept 92-percent American job input into the T-5 tanker and I hope you will too.●

Mr. ASPIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ASPIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. TRIBLE

Mr. TRIBLE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. TRIBLE: Page 18, after line 3, add the following new section:

RESTRICTION ON PURCHASE OF COAL FOR MILITARY BASES IN EUROPE

SEC. 304. None of the funds appropriated pursuant to authorizations of appropriations in this title may be used to purchase coal or coke for use at United States military installations in Europe other than coal or coke mined in the United States.

Mr. TRIBLE. Mr. Chairman, the gentleman from Pennsylvania (Mr. NELLIGAN), the gentleman from Pennsylvania (Mr. MCDADE), the gentleman from Tennessee (Mr. BEARD), the gentleman from West Virginia (Mr. RAHALL) and I propose an amendment to title III of the Defense Authorization Act to require DOD to purchase

American coal for its European operations.

From fiscal year 1962 until fiscal year 1981, the Defense Department purchased all coal for the European theater from American mines. During this period more than 15 million metric tons of coal were purchased, providing jobs for thousands of Americans and adding tens of millions of dollars to the American economy.

In 1982—after the 1979 Trade Adjustment Act had terminated the "buy American" provisions for coal—the Defense Department began purchasing European coal, and acquired 55 percent of its requirements from European mines.

As a result, American coal companies, railroads, and shippers have lost approximately $38 million in revenues. Federal and State taxes have been lost.

More important, hundreds of American jobs have been lost.

This amendment would correct that situation.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, I thank the gentleman for yielding.

We have examined this amendment. We have no objection to it.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. TRIBLE. I am happy to yield to the gentleman from Alabama.

Mr. DICKINSON. I thank the gentleman for yielding.

Mr. Chairman, I have discussed with the author and with the chairman of the subcommittee this amendment. I would just like to make the point that I regret that the amendment is even necessary.

What we are doing is saying that the Department of Defense should buy coal from this country for use in Europe. Now, historically we have done this. Two years ago I think it was the requirement was lifted and the Department of Defense is buying coal mined in Europe at some cost of about $2 million per year over what it would cost to mine it in this country. This comes about because of organized labor and the unions that operate our fleets at sea, it costs $5 per ton more to buy American coal than it would if it were bought in Europe. It costs the Department of Defense about $2 million a year more. But it costs about $35 million in lost revenue in the freight, in the mining, in the employment of people and so forth.

So, it is really a false economy. It costs the taxpayers instead of saving.

So in order to protect the interests of the miners in Kentucky, Virginia, Tennessee, wherever, this amendment is necessary—because we have allowed the unions to jack up the price. Unfortunately, we have put ourselves in a position where we are noncompetitive in our maritime fleet, because of what the unions are able to charge the shipowners.

For this reason, millions of American-owned ships have registered under foreign flags. And in order to compensate for this, we have to mandate that they must ship x amount of whatever we are shipping, not just coal, in American bottoms, and we do this to compensate, because we have artificially allowed the unions to raise the cost of business by what we are paying union employees.

This is a good amendment. It does not cost money; it saves money. But I just wanted to go on record as saying I feel very strongly that it is unfortunate that the situation appertains that we have to do this by legislation, when in fact if we did not artificially make the cost of shipping in American bottoms so high, we would not have this competitive problem and be at a disadvantage in selling abroad.

We on this side accept the amendment. We think it is a good amendment.

Mr. BEARD. Mr. Chairman, I rise in support of the amendment to require American military bases in Europe to use only American coal.

For 20 years only American coal was burned at our bases in Europe. Then this fiscal year, for the first time, our Defense Department started to purchase coal on the foreign market for use at our bases in Europe.

The results have been dramatic and harmful to the American coal industry, especially in the Appalachian Mountain coalfields, which includes my home State of Tennessee. It is the eastern coalfields that have supplied our European bases and they are the ones hurt by this new policy of buying foreign coal.

During the 20-year period before this fiscal year, more than 15 million tons of American coal were purchased for use at our bases in Europe. That averages out to three-quarters of a million tons of coal per year. That is no small amount of coal, especially when you consider that my State of Tennessee, which is trying hard to increase its coal exports, ships approximately 800,000 to 1 million tons annually for the export market. Any drop in coal exports from the Appalachian coalfields hurts the ability of coal producers in Tennessee to increase our coal exports.

The Defense Department claims they have saved $2 million by purchasing foreign coal instead of our coal, but I say that that $2 million is dwarfed by the $36 million in lost revenues to American coal companies and shippers, and millions in lost wages to American coal miners, not to mention the millions in lost tax revenues to both the Federal government and State Governments in Tennessee, Virginia, and West Virignia, and most importantly, 500 lost jobs in the coalfields.

I do not see this as a free trade issue. American tax dollars pay for our bases in Europe, pay for our troops and their equipment. They should also pay for American coal. Thank you, Mr. Chairman.

● Mr. RAHALL. Mr. Chairman, billions of dollars are spent by this Nation for the defense of Europe with the notion that this expenditure lends to the security of the United States. This assistance, supported by taxpayer dollars, however, should not work to displace U.S. labor or create economic chaos within U.S. industry.

Nonetheless, by extending the concept of free trade to the energy management programs of the U.S. Army-Europe, we have done just that. As a result of the 1979 Trade Adjustment Act and Executive Order No. 12260 of December 1980, the longstanding practice of U.S. defense installation use of American coal in Europe was opened to competitive bidding to foreign coal producers. In fiscal year 1982, for the first time in two decades, non-U.S. furnished fuels were purchased by our defense installations in Europe.

This action has had severe repercussions on the U.S. anthracite coal industry and shipping interests. In addition, it runs contrary to U.S. policy goals of achieving energy independence; a goal especially critical in the context of national defense.

Because of the fiscal year 1982 procurement procedure and the subsequent purchase of foreign coal, our domestic anthracite industry has lost $18 million and 800 miners will be out of work. Add to this adverse impact a revenue loss of $3.8 million to Conrail and $3.4 million to American shipping interests and you will find a total U.S. loss of $25.2 million—a loss far exceeding the net savings realized by the Defense Department of $1.4 million through foreign coal purchases.

Surely, Mr. Chairman, this loss of jobs and revenue is not the proper return for U.S. taxpayer support of the defense of Europe.

Surely, this is not the type of return we want for our investment in security.

The U.S. Army-Europe energy management program was the largest single consuming source for domestic anthracite coal. Without it, large sums of money invested in production and transportation facilities will be wasted and untold numbers of the labor force will be left without employment.

I submit this is a perverted application of U.S. aid to Europe. However, today we have a chance to rectify this problem through the adoption of this amendment. This amendment not only protects U.S. investments in jobs and coal production, it tells U.S. taxpayers

that Defense dollars are being spent without jeopardizing our own interests.●

● Mr. NELLIGAN. Mr. Chairman, the DOD contract has historically been an American-supplied contract. The coal utilization program was initiated in fiscal year 1962, and until last year's fiscal year 1982 contract, all requirements were supplied by U.S. firms.

Last year, for the first time, DOD purchased foreign coal and coke and the results have been disastrous for the American coal, transportation, and shipping industries.

DOD awarded 55 percent of its European coal requirements to foreign firms.

Fully 84 percent of the DOD requirement for bituminous, and 37 percent of the DOD requirement for anthracite was awarded to foreign energy suppliers.

The American taxpayer paid $36,250,000 for foreign coal and coke, when this money could have purchased American coal.

The savings to the American taxpayer from purchasing foreign coal and coke were minimal. In terms of last year's contract, it has been estimated that the DOD saved about $2 million through purchasing foreign coal and coke. However, the loss to the American coal, rail transportation, and shipping industry has been estimated at over $38 million.

By purchasing foreign coal and coke, the American coal industry lost $23,500,000; the U.S. rail system lost $4,230,000 worth of business; and the U.S. shipping industry lost $10,550,000.

According to the Anthracite Industry Association, about 500 American workers may lose their jobs because of the foreign coal purchases.

Reliance of foreign fuel sources for U.S. defense needs may be seen as unwise and undesirable. Foreign labor or industrial problems could disrupt the American logisitical system for its forces.

At present, defense installations in Europe already rely on oil for 52 percent of their energy requirements. Most of this oil comes from the Middle East. If we allow foreign nations to supply coal and coke, then virtually all of our energy requirements for European facilities will be supplied by foreign nations.

Mr. Chairman, this is an opportunity for the House to show that it is interested in the American worker and that we care about their jobs. The jobs of American miners, railroaders, and seamen are at stake. I urge my colleagues to show these workers that this House means business by giving American workers this business and not foreigners. I urge the passage of the Trible-Nelligan-McDade-Beard-Rahall amendment to supply U.S. bases overseas with U.S. coal.●

● Mr. ROGERS. Mr. Chairman, I would like to associate myself with the comments made by my distinguished colleagues and to rise in support of the amendment offered by the gentlemen from Virginia (Mr. TRIBLE) and Pennsylvania (Mr. NELLIGAN). And I would like to commend them for their effective efforts on behalf of both American coal and American defenses.

Mr. Chairman, two of the most severe problems facing our country today are our inadequate defense capability and the unemployment plaguing our workers.

And it was for just this reason that I was shocked and angered to learn that our own U.S. Department of Defense had cut back on its purchases of U.S. coal and was buying coal from foreign countries instead.

Mr. Chairman, this is like buying American flags made in Japan.

And this policy has undermined our defenses and put even more of our miners out of work. Have we already forgotten the lessions OPEC taught us?

During the 1970's, OPEC just about brought us to our knees. They nearly succeeded despite the fact that we had the preponderance of manpower, sophisticated weaponry, and state of the art aircraft and naval vessels. The lethal weapon they had at their disposal, the knife they held at our throats, was energy—the fuel we need to keep our giant economy alive and throbbing.

In recognition of this fact, our country began a massive campaign to get our country off of foreign energy and onto reliable domestic resources—resources like our own U.S. coal. And this is why the Congress has required the Department of Defense, ever since it first passed legislation back in 1972, to burn American coal at our overseas military bases.

But the implementation of the Trade Agreements Act and DOD's decision to buy foreign coal flies in the face of these hard-earned lessons. It will make our overseas bases dependent on foreign energy once again. And it will mean that we will not be able to stand on our own two feet if our foreign supplies are cut off.

Mr. Chairman, the bill before us calls for billions of dollars to shore up our Nation's defenses. But if we build our defenses on the foundation of foreign energy, we will be building on shaky ground. With all our weaponry, our best defense is still energy independence.

But when you look into, it, this policy gets even worse, Mr. Chairman. Not only has this policy undermined our Nation's defense—it has added hardship to our already beleaguered mining industry. Our coal industry is already facing bad times. In an industry which has long suffered from boom and bust cycles, many operators are telling me that there are the worst times anyone can remember. Nearly 6,000 miners are out of work in my own State of Kentucky. And in nearly every county in my district, hardworking, capable mine operators are parking their trucks in the yard and sending their workers home.

And then our own Government cuts back on its purchases of U.S. coal—putting our own workers onto the unemployment lines and padding the paychecks of European coal miners. Mr. Chairman, when you consider the hardship faced by any family when its breadwinner loses his job, there is no question about this policy—we have no business trading these badly needed jobs away overseas.

Mr. Chairman, I would like to conclude witn one final observation. I have heard this policy justified as a cost-saving measure. But I wonder whether our Washington bookkeepers have taken into account that while they may be saving $2 million on the cost of coal—this small saving has been more than offset by tremendous hidden costs. As a matter of fact, between lost coal sales, lost railroad business, and lost shipping income, not to mention higher unemployment costs, this policy has cost our country more than $35 million. now, Mr. Speaker, where I come from, a $33 million net cost is no saving.

Mr. Chairman, the U.S. Department of Defense's purchase of foreign coal is an ill-conceived and ill-advised policy. I applaud the efforts of my distinguished colleagues to correct this mistaken policy.●

□ 1810

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Virginia (Mr. TRIBLE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. FAZIO

Mr. FAZIO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FAZIO: Page 18, after line 3, insert the following new section:

LIMITATION ON STUDIES OF CONTRACTING-OUT OF COMMERCIAL AND INDUSTRIAL TYPE FUNCTIONS

SEC. 306. (a) Funds appropriated pursuant to an authorization of appropriations in this title may not be obligated or expended in connection with any study begun after September 30, 1982, of the benefits or feasibility of contracting for performance by contractor personnel of any commercial or industrial type function or activity of the Department of Defense being performed by the Department of Defense personnel on September 30, 1982.

(b) Of the total amount of funds authorized in this title, $567,600,000 is available only for salaries and other costs for the employment of and performance of functions by direct-hire civilian employees of the De-

partment of Defense in excess of 947,000 such employees.

Mr. FAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. FAZIO. Mr. Chairman, I would like to take this opportunity to commend my good friends and distinguished colleagues, the gentleman from Alabama (Mr. NICHOLS) and the gentleman from Virginia (Mr. DAN DANIEL) for the leadership role they have taken on a matter of enormous consequence to our national security—the contracting out of commercial and industrial services at our military installations.

Contracting out, in and of itself, is not bad. Indeed, where an activity can be performed by the private sector at a lower cost than it can be done by the Government, and where contracting out such a function does not impair the readiness capabilities of our Armed Forces, then there is every reason to allow the private sector to prevail.

As in most instances, however, theory and reality run on two separate tracks. We are currently faced with a situation where great pressure is being applied to the Department of Defense to significantly increase the number of contracts for services now performed in-house. This is being done ostensibly to make Government more cost effective. In actuality, however, it is being done to reduce the number of Federal employees. Never mind that such a policy will not effectively reduce the taxpayers' burden, but might actually increase it; never mind that we are not really decreasing Government, but instead creating a "shadow government"; and never mind that we are adversely affecting national security. This is the Office of Management and Budget's directive.

The Armed Services Committee has, as one of its primary mandates, the duty to insure that the Department of Defense and the services that comprise that Department have the capability to maintain our national defense. If the members of the committee perceive that administration policies are contrary to that good, then they must intercede, and that is precisely what has occurred.

The committee, during consideration of H.R. 6030, and under the guidance of the gentlemen from Virginia and Alabama, put language in the report which recommended a 1-year moratorium on studies for contracting out of commercial and industrial activities so that the Congress could pass permanent legislation redefining the framework for this program. In addition, the committee recommended the addition of 17,000 civilian spaces which OMB had deleted in its budget request in anticipation of conversions to contract.

This action by the committee is laudable indeed; however, events between the time the committee reported H.R. 6030 and the present make it, in my opinion, necessary to embody the report language into the measure before us now.

It is with some reluctance that I propose this action, for I do not usually favor a moratorium on normal governmental procedures. In this case, however, I see no recourse, for we are no longer dealing with normal procedures. OMB has, by its directives, placed the Department of Defense in an untenable situation.

OMB Circular A-76 directs the Federal agencies on contracting out. The current circular has failed in two crucial areas: First, lack of clear definitions as to which functions are nongovernmental; such as commercial/industrial activities, and thus suitable for contracting out; and second, a clear direction as to standards for determining cost efficiency.

But to make matters worse, in attempting to revise A-76, OMB in a draft version went far beyond reasonable standards when in its fervor to increase contracting out, it eliminated the need for cost studies for any function involving 25 or fewer people, and, gave the heads of Federal agencies broad discretion to remove the requirements for any cost studies, no matter how many people are involved.

This is the same administration that promotes efficiency in Government, while eliminating any test of efficiency. This cannot be tolerated. Congress cannot sit idly by and watch various administrations degrade the quality and efficiency of Government by continuously changing policies on contracting. It is time we act responsibly, halting the ravaging of functions within DOD, and developing a sound, comprehensive, and equitable policy.

Mr. DAN DANIEL. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Virginia.

Mr. DAN DANIEL. Mr. Chairman, we have examined this amendment and so far as it pertains to title III, we have no objection to it.

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the chairman, the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, I have examined this. I support the amendment that is offered by the gentleman from California as one that would strengthen the committee's position.

I have no objection to it.

Mr. FAZIO. I appreciate the gentleman's comments.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. FAZIO. I am happy to yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, the amendment is certainly acceptable on this side.

Mr. FAZIO. I thank the gentleman for his comment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from California (Mr. FAZIO).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title III?

If not, the Clerk will designate title IV.

Title IV reads as follows:

TITLE IV—ACTIVE FORCES

AUTHORIZATION OF END STRENGTHS

SEC. 401. (a) The Armed Forces are authorized strengths for active duty personnel as of September 30, 1983, as follows:

(1) The Army, 783,800.

(2) The Navy, 564,200.

(3) The Marine Corps, 194,600.

(4) The Air Force, 595,700.

(b)(1) The authorized fiscal year end-strengths prescribed by law for active-duty personnel of the Army, Navy, Marine Corps, and Air Force may each be increased by not more than one-half of 1 percent if the Secretary of Defense determines that such increase is in the national interest.

(2) The authority provided by this subsection shall expire on October 1, 1983.

QUALITY CONTROL ON ENLISTMENTS INTO THE ARMY

SEC. 402. Effective on October 1, 1982, section 302(a) of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 10 U.S.C. 520 note), is amended by striking out "October 1, 1981" and "September 30, 1982" and inserting in lieu thereof "October 1, 1982" and "September 30, 1983", respectively.

The CHAIRMAN pro tempore. Are there amendments to title IV?

If there are no amendments to title IV, the Clerk will designate title V.

Title V reads as follows:

TITLE V—RESERVE FORCES

AUTHORIZATION OF AVERAGE STRENGTHS

SEC. 501. (a) For fiscal year 1983 the Selected Reserve of the reserve components of the Armed Forces shall be programmed to attain average strengths of not less than the following:

(1) The Army National Guard of the United States, 407,400.

(2) The Army Reserve, 258,700.

(3) The Naval Reserve, 105,500.

(4) The Marine Corps Reserve, 38,300.

(5) The Air National Guard of the United States, 101,100.

(6) The Air Force Reserve, 66,000.

(7) The Coast Guard Reserve, 12,000.

(b) The average strength prescribed by subsection (a) for the Selected Reserve of any reserve component shall be proportionately reduced by (1) the total authorized strength of units organized to serve as units of the Selected Reserve of such component which are on active duty (other than for training) at any time during the fiscal year, and (2) the total number of individual members not in units organized to serve as units

of the Selected Reserve of such component who are on active duty (other than for training or for unsatisfactory participation in training) without their consent at any time during the fiscal year. Whenever such units or such individual members are released from active duty during any fiscal year, the average strength prescribed for such fiscal year for the Selected Reserve of such reserve component shall be proportionately increased by the total authorized stength of such units and by the total number of such individual members.

AUTHORIZATION OF END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

SEC. 502. Within the average strengths prescribed in section 501, the reserve components of the Armed Forces are authorized, as of September 30, 1983, the following number of Reserves to be serving on full-time active duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 14,419.

(2) The Army Reserve, 8,251.

(3) The Naval Reserve, 12,038.

(4) The Marine Corps Reserve, 678.

(5) The Air National Guard of the United States, 5,158.

(6) The Air Force Reserve, 479.

(b) Upon a determination by the Secretary of Defense that such action is in the national interest, the end strengths prescribed by subsection (a) may be increased by a total of not more than the number equal to 2 percent of the total end strengths prescribed.

INCREASE IN NUMBER OF CERTAIN PERSONNEL AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVE COMPONENTS

SEC. 503. (a) For fiscal year 1983, the table in section 517(b) of title 10, United States Code, shall be deemed to read as follows:

Grade	Army	Navy	Air Force	Marine Corps
E–9	265	156	132	6
E–8	1,244	329	441	56.

(b) For fiscal year 1983, the columns under the headings, "Army", "Air Force", and "Marine Corps" in the table in section 524(a) of such title shall be deemed to read as follows:

Army	Air Force	Marine Corps
1,351	281	95
671	267	40
234	170	21.

The CHAIRMAN pro tempore. Are there amendments to title V?

If not, the Clerk will designate title VI.

Title VI reads as follows:

TITLE VI—CIVILIAN PERSONNEL

AUTHORIZATION OF END STRENGTH

SEC. 601. (a) The Department of Defense is authorized a strength in civilian personnel, as of September 30, 1983, of 1,050.060.

(b) The strength for civilian personnel prescribed in subsection (a) shall be apportioned among the Department of the Army, the Department of the Navy, the Department of the Air Force, and the agencies of the Department of Defense (other than the military departments) in such numbers as the Secretary of Defense shall prescribe. The Secretary of Defense shall report to the Congress within sixty days after the date of enactment of this Act on the manner in which the initial allocation of civilian personnel is made among the military departments and the agencies of the Department of Defense (other than the military departments) and shall include the rationale for each allocation.

(c) In computing the strength for civilian personnel, there shall be included all direct-hire and indirect-hire civilian personnel employed to perform military functions administered by the Department of Defense (other than those performed by the National Security Agency) whether employed on a full-time, part-time, or intermittent basis, but excluding special employment categories for students and disadvantaged youth such as the stay-in-school compaign, the temporary summer aid program and the Federal junior fellowship program and personnel participating in the worker-trainee opportunity program. Personnel employed under a part-time career employment program established by section 3402 of title 5, United States Code, shall be counted as prescribed by section 3404 of that title. Whenever a function, power or duty, or activity is transferred or assigned to a department or agency of the Department of Defense from a department or agency outside of the Department of Defense, or from another department or agency within the Department of Defense, the civilian personnel end-strength authorized for such departments or agencies of the Department of Defense affected shall be adjusted to reflect any increases or decreases in civilian personnel required as a result of such transfer or asssignent.

(d) When the Secretary of Defense determines that such action is necessary in the national interest or if any conversion of commercial- and industrial-type functions from performance by Department of Defense personnel to performance by private contractors which was anticipated to be made during fiscal year 1983 in the Budget of the President submitted for such fiscal year is not determined to be appropriate for such conversion under established administrative criteria, the Secretary of Defense may authorize the employment of civilian personnel in excess of the number authorized by subsection (a), but such additional number may not exceed 2 percent of the total number of civilian personnel authorized for the Department of Defense by subsection (a). The Secretary of Defense shall promptly notify the Congress of any authorization to increase civilian personnnel strength under this subsections.

The CHAIRMAN pro tempore. Are there amendments to title VI?

AMENDMENT OFFERED BY MR. NICHOLS

Mr. NICHOLS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. NICHOLS: Page 23, line 6, insert the following new sentence after "of that title.": "Personnel employed in an overseas area on a part-time basis under a nonpermanent local-hire appointment who are dependents accompanying a Federal civilian employee or a member of a uniformed service on official assignment or tour of duty shall also be counted as prescribed by section 3404 of that title.".

Mr. NICHOLS. Mr. Chairman, my amendment is very simple in nature. It will allow the Department of Defense to account for overseas dependent employees on a pro rata basis if they are part-time personnel.

The Members will recall that the Congress enacted the Part-Time Career Employment Act in 1978 in an effort to expand job opportunities for personnel wishing to work part time. Among other things, this act permits a Federal agency to count part-time personnel—for example, two people each of whom are each working half time—as one employee for the purpose of the agency's employment ceiling. Unfortunately, the act does not apply to overseas areas.

In overseas areas, in particular, dependents of military personnel and Government civilian employees are limited in the work available to them and those wishing to work part time are finding it extremely difficult to obtain employment on base because the installation would then have to count one against this ceiling. The real effect of this amendment, Mr. Chairman, will be to increase the job opportunities for dependents of military personnel and civilians overseas.

Although there is no formal administration position on this matter, I understand that the Department of Defense and the Office of Personnel Management support this change in the counting of personnel. Pro rata accounting is now used for personnel of the Department of Defense and other Federal agencies.

Mr. Chariman, I will to yield to the cosponsor of this amendment, the gentleman from New York (Mr. MITCHELL) for his comment.

Mr. MITCHELL of New York. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment. As a sponsor, of course, I am for it.

As the chairman has explained, it is a very uncomplicated, noncontroversial amendment.

It simply permits the Defense Department to count part-time employees overseas. These are part-time employes who are spouses of people in the service, count them the same way overseas as they do here in the United States.

It is only fair that we do this, because we have such a problem of unemployment overseas with spouses of people in the service.

The President issued an Executive order to improve the employment conditions for overseas people and the results of that study showed that the unemployment of military wives was well above the level of civilian wives in the private sector; so because it is especially acute overseas and because the number of jobs for Americans are

so limited, I think we have to go along with this.

Mr. Chairman, the amendment makes good sense. It will help improve the job situation for military spouses overseas and I am pleased to support it.

Mr. NICHOLS. Mr. Chairman, I have no further comments. I ask for passage of the amendment.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. NICHOLS).

The amendment was agreed to.

The CHAIRMAN pro tempore. Are there further amendments to title VI?

If not, the Clerk will designate title VII.

Title VII reads as follows:

TITLE VII—MILITARY TRAINING STUDENT LOADS

AUTHORIZATION OF TRAINING STUDENT LOADS

SEC. 701. (a) For fiscal year 1983, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 78,311.
(2) The Navy, 66,930.
(3) The Marine Corps, 20,435.
(4) The Air Force, 48,769.
(5) The Army National Guard of the United States, 18,052.
(6) The Army Reserve, 14,579.
(7) The Naval Reserve, 1,000.
(8) The Marine Corps Reserve, 2,971.
(9) The Air National Guard of the United States, 2,328.
(10) The Air Force Reserve, 1,351.

(b) The average military student loads for the Army, the Navy, the Marine Corps, and the Air Force and the reserve components authorized in subsection (a) for fiscal year 1983 shall be adjusted consistent with the manpower strengths authorized in titles IV, V, and VI of this Act. Such adjustment shall be apportioned among the Army, the Navy, the Marine Corps, and the Air Force and the reserve components in such manner as the Secretary of Defense shall prescribe.

The CHAIRMAN pro tempore. Are there amendments to title VII?

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: Page 25, after line 6, insert the following new section:

EXTENSION OF REDUCTION IN NUMBER OF STUDENTS REQUIRED TO BE IN A UNIT OF THE JUNIOR RESERVE OFFICERS' TRAINING CORPS

SEC. 702. Section 602 of the Department of Defense Authorization Act, 1981 (Public Law 96-342; 94 Stat. 1087), is amended by striking out "August 31, 1982" and inserting in lieu thereof "August 31, 1982".

Mr. STRATTON. Mr. Chairman, I have examined the amendment, and I am prepared to accept it on behalf of the committee.

Mr. Chairman, I yield to the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, I have had an opportunity to review this amendment. It is the same amendment that we have had for the past 2 years. It is a good amendment and it should be passed. I support it.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my friend, the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, our side has no objection to the amendment either. I feel that it should be extended. It is a worthy program.

I have an example of the success of this program in my congressional district, the School of Notre Dame in Utica, N.Y., an outstanding school, an excellent program, with broad participation. It would be a shame to exclude them from this type of program.

This school has 650 students and 150 of them participate in the junior ROTC program which, of course, is a ratio of 25 percent; so I am pleased to accept this amendment also, Mr. Chairman.

Mr. STRATTON. I thank the gentleman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, there were two or three amendments dealing in this same general framework. Does the gentleman's amendment reduce the number from a minimum of 100 to less, so that the junior ROTC can exist if it does not have the 100?

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Mr. STRATTON. That is correct, yes.

Mr. DICKINSON. All right.

Mr. Chairman, I think there are many cases in which an arbitrary floor of 100 is really not reasonable. I think the amendment is reasonable. I think if a school such as I might have in my district—and in fact do—which has a very gungho ROTC program, they win awards and so forth, and I am thinking particularly about Enterprise, Ala. They have gone all over the country, they have a rifle competition team, a drill team; they are outstanding, but they are just right at 98, 99.

To arbitrarily say that you cannot have a unit when they want a unit, I think is wrong and I would certainly support the gentleman's amendment.

Mr. STRATTON. I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The amendment was agreed to.

Mrs. SCHROEDER. Mr. Chairman, I ask unanimous consent that my amendment may come up at this time, that my amendment on troop withdrawal may be considered at this time.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Colorado?

Mr. DICKINSON. Mr. Chairman, reserving the right to object, I was having trouble, along with the Chairman, hearing the request.

The gentlewoman would like to go back and reopen one of the titles?

Mrs. SCHROEDER. That is exactly right. It is the troop withdrawal amendment that I had put an amendment to, we had passed the title where that was, and I am asking unanimous consent to be able to offer it at this time.

Mr. DICKINSON. The gentlewoman puts a fellow on the spot.

The CHAIRMAN pro tempore. The Chair will state that the gentlewoman's amendment was to title IV.

Mr. DICKINSON. I will leave that up to the gentleman from New York (Mr. STRATTON).

Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Colorado (Mrs. SCHROEDER)?

Mr. STRATTON. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Does the gentleman reserve the right to object?

Mr. STRATTON. I object, Mr. Chairman.

The CHAIRMAN pro tempore. Objection is heard.

Are there other amendments to title VII? If not, the Clerk will designate title VIII.

Title VIII reads as follows:

TITLE VIII—CIVIL DEFENSE

AUTHORIZATION OF APPROPRIATIONS

SEC. 801. Funds are hereby authorized to be appropriated for fiscal year 1983 to carry out the provisions of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251), in a total amount of $252,340,000, as follows:

(1) For salaries and expenses, $32,198,000.
(2) For State and local assistance, $156,340,000.
(3) For emergency planning and assistance, $63,802,000.

AMOUNT AUTHORIZED FOR CONTRIBUTION FOR STATE PERSONNEL AND ADMINISTRATIVE EXPENSES

SEC. 802. Notwithstanding the second proviso of section 408 of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2260), $60,000,000 of the amount authorized to be appropriated by the first section of this Act is available for appropriations for contributions to the States under section 205 of such Act (50 U.S.C. App. 2286) for personnel and administrative expenses.

AMENDMENT OFFERED BY MRS. SCHROEDER

Mrs. SCHROEDER. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

Mr. DICKINSON. Mr. Chairman, will the gentlewoman yield?

The CHAIRMAN pro tempore. The gentlewoman is not recognized, the Chair will state, until the Clerk reports the amendment.

Mr. DICKINSON. Mr. Chairman, I would like to make an inquiry of someone.

Is the amendment to be offered the amendment dealing with divorced spouses at this point?

Mrs. SCHROEDER. If the gentleman will yield, Mr. Chairman, it certainly is. That is the one we have been talking about. It is the new title IX to the bill.

Mr. DICKINSON. Well, this is just a suggestion.

The CHAIRMAN pro tempore. Will the gentleman suspend?

Mr. DICKINSON. Mr. Chairman, I would like to strike the requisite number of words.

The CHAIRMAN pro tempore. Will the gentlewoman yield for that purpose?

Mrs. SCHROEDER. I yield to the gentleman from Alabama (Mr. DICKINSON), Mr. Chairman.

Mr. DICKINSON. Mr. Chairman, if that is the amendment to be offered at this time, it is my understanding—and perhaps I am incorrect—that we were going to rise at 7 o'clock this evening, and due to the importance of the amendment, since there would be some protracted debate, I was wondering if, by agreement, we could agree this could go over until tomorrow.

Now, I do not care, but I was just thinking perhaps it would interfere with the momentum, and interfering with the debate, it might be more advantageous to go over until tomorrow.

Mrs. SCHROEDER. If the gentleman will yield, the gentlewoman has a little trouble in agreeing to do anything since the gentlewoman was not allowed to put in her prior amendment. Chivalry appears to be dead on my side of the aisle, so I am very nervous about agreeing to anything like that. I am afraid we would have to go with the normal procedure because we may come in tomorrow and they may decide that we cannot present it.

Mr. DICKINSON. I understand. First, I made the suggestion, really, trying to be helpful. Second, I am sorry if you were not here in time to offer the amendment you wanted to before. But you have the right, and I was suggesting that as perhaps being helpful, but the gentlewoman will do what she pleases.

The CHAIRMAN pro tempore. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mrs. SCHROEDER : after title VIII insert the following new title (and redesignate the succeeding title and section accordingly):

TITLE IX—FORMER SPOUSE'S PROTECTION

SHORT TITLE

SEC. 901. This title may be cited as the "Uniformed Services former Spouses' protection Act".

PAYMENTS OF RETIRED AND RETAINER PAY

SEC. 902. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdication of any foreign country with which the United States has entered into an agreement requiring the United States to honor any court order.

"(2) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)));

"(ii) payment of alimony (as deined in section 462 (c) of the Social Security Act (42 U.S.C. 662 (c))); or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

For purposes of this definition, 'final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(3) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled under the provisions of this title (other than chapter 61 of this title), title 14, section 3 (a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a (a)), or section 221 (a) of the Public Health Service Act (42 U.S.C. 213a (a)) less amounts which—

"(A) are owed by such member to the United States;

"(B) are required by law to be, and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courtsmartial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402 (i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402 (i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

"(4) 'Member' means a person who is or was appointed or enlisted in, or conscripted into, any of the uniformed services, and includes a former member of any of the uniformed services.

"(5) 'Secretary concerned' has the meaning given that term by section 101 (5) of title 37.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, of a member who, on or before the date of a court order, had been married to that member.

"(7) 'Uniformed services' has the meaning given to that term by section 101 (3) of title 37.

"(b) For the purposes of this section—

"((1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for reciept of service of court orders under regulations prescribed pursuant to subsection (h) of this section, or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face; and

"(C) the court order or other documents served with the court order identify the member concerned and included the social security number of such member; and

"(2) a court order is regular on its face when the order—

"(A) is from a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning on or after June 25, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order that a member apply for retirement or retire from the uniformed services at a particular time in order to effectuate any payment under this section.

"(d) Not later than 90 days after the effective service of a court order with respect to a member who is entitled to receive retired or retainer pay, or, in the case of a member who, on the date of the effective service of a court order with respect to such member, is not entitled to receive retired or retainer pay, not later than 90 days after such member first becomes entitled to receive retired or retainer pay, the Secretary con-

cerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member the amount of disposable retired or retainer pay specifically provided for in the court order. Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with such court orders. Payments from the disposable retired or retainer pay of any member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) of this section shall not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payment to more than one spouse or former spouse from the disposable retired or retainer pay of one member, such pay shall be used to satisfy, subject to the limitations of paragraph (1) of this subsection, such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1) this subsection) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection;

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i) of this subparagraph; and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection;

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less any amounts paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amounts paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i) of this subparagraph; and

"(II) the amount of disposable retired or retainer pay retained under clause (ii) of this subparagraph.

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph of this subsection during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all local processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to any member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1) this subsection, or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay which exceeds that amount available for payment in accordance with the limits of paragraph (1) and subparagraph (B) of paragraph (4) of this subsection, shall not be deemed to be irregular on its face solely for that reason. However, such order shall be deemed to be fully satisfied under this section by the payment to the spouse or former spouse of the amount of disposable retired or retainer pay available for such payment in accordance with the limits of paragraphs (1) and subparagraph (B) of paragraph (4) of this subsection.

"(f) (1) The United States and any officer or employee thereof shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h) of this section.

"(2) No officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(g) Any person receiving effective service of any court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy thereof) to the member affected by such court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations to administer this section within the uniformed services.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

SURVIVOR ANNUITIES

SEC. 903. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(10) 'Regular on its face' has the meaning given to that term by section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

'(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a property settlement agreement entered into with a former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annutiy under paragraph (1) or (2) of this subsection by virtue of eligibility

under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) of this subsection to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether such election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f) of this section".

(d) Section 1450(f) of such title is amended to read as follows:

"(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary of Defense shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness set forth in section 1448(a)(5) of this title.

"(2) Any person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) of this subsection unless—

"(A) in any case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in any case in which such agreement has not been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1) of this subsection; and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 904. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) for a period of 180 days following the date of a final decree of divorce, dissolution, or annulment of a marriage to a member or former member, the unremarried former spouse if, on the date of such final decree of divorce, dissolution, or annulment, that former spouse had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditible in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services.

The Secretary concerned may extend the 180-day period described in subparagraph (F) of this paragraph with respect to any former unremarried spouse of a member or former member for such period as the Secretary considers necessary, but only for the purpose of continuing any medical treatment of the former unremarried spouse which had been provided under this chapter before the end of such 180-day period.".

(b) Section 1076 (b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072 (2)(F) of this title may be given medical and dental care pursuant to clause (2) of this subsection without regard to subclause (B) of such clause.".

(c) Section 1079 of such title is amended—

(A) by striking out "and children" in the section heading and inserting in lieu thereof ", children, and certain former spouses"; and

(B) by striking out "and children" in the first sentence of subsection (a) and inserting in lieu thereof ", children, and certain former spouses (as described in section 1072 (2) (F) of this title)".

(d) The section heading of sections 1080, 1081, and 1083 of such title are each amended by striking out "and children" and inserting in lieu thereof ", children, and certain former spouses".

(e) the items relating to sections 1079, 1080, 1081, and 1083 in the table of sections at the beginning of chapter 55 of such title are each amended by striking out "and children" and inserting in lieu thereof ", children, and certain former spouses".

EFFECTIVE DATE AND TRANSITION

SEC. 905. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of enactment.

(b) The amendments made by section 902(d) of this title shall apply only with respect to payments of retired or retainer pay payable under chapter 71 of title 10, United States Code, for periods beginning on or after the effective date of such amendments, but without regard to the date of any court order.

(c) The amendments made by section 903 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan before, on, or after the effective date of such amendments.

(d) The amendments made by section 904 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 2 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(c)(6) of such title (as added by section 2 of this title); and

(3) the term "uniformed services" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 2 of this title).

Mrs. SCHROEDER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. SCHROEDER. Mr. Chairman, I yield to the chairman of the committee.

Mr. PRICE. Mr. Chairman, it is getting late. We were going to rise anyway. We would like the gentlewoman from Colorado (Mrs. SCHROEDER) to have ample time on this amendment.

Mr. Chairman, with the understanding that the gentlewoman will be first up tomorrow, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore (Mr. FOLEY) having assumed the chair, Mr. AUCOIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

□ 1830

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1454

Mr. SEIBERLING. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 1454.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

PERSONAL EXPLANATION

Mr. SAM B. HALL, JR. Mr. Speaker, due to a serious illness in my family, I was unavoidably away from Washington on Friday, July 23, 1982, and unable to record my votes on rollcalls 209, 210, 211, 212, and 213. Had I been present, I would have voted "nay" on passage of H.R. 2329, Cherokee Indian Claims Act (rollcall No. 209), "nay" on the previous question on the rule as reported to H.R. 2643, Airport and Airway Improvement Act of 1981 (rollcall No. 210), "aye" on adoption of House Resolution 528, the rule providing for consideration of H.R. 5203, FIFRA Act amendments (rollcall No. 211), "aye" on adoption of House Resolution 529, the rule providing for consideration of H.R. 5427, Radio Marti (rollcall No. 212), and "aye" on the motion to resolve the House into the Committee of the Whole for the consideration of H.R. 5427, Radio Marti.

AMERICAN WHEAT SHOULD NOT BE SOLD TO SOVIET UNION

(Mr. WEAVER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEAVER. Mr. Speaker, the Reagan administration has busted our budget by bringing in a military funding proposal for billions and billions and hundreds of billions of dollars for military weaponry to defend ourselves against our primary adversary, the Soviet Union, while at the same time the papers report today that President Reagan himself is going to approve an extension of grain sales to the Soviet Union, thereby bailing the Soviet Union out, helping the Soviet Union in this hour of their need by supplying them cheap grain, grain at prices to the Soviet Union at less than it costs our farmers to produce it.

Now, I say the most single important thing we can do to secure our Nation is to keep that grain for ourselves, and that is why I am offering an amendment to the Defense authorization bill to have our military buy this grain that would otherwise go to the Soviet Union and put it in storage as military preparedness grain reserve.

The SPEAKER pro tempore. The time of the gentleman from Oregon has expired.

AMERICAN WHEAT SHOULD NOT BE SOLD TO SOVIET UNION

(Mr. AuCOIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. AuCOIN. Mr. Speaker, I will be pleased to yield to my colleague from Oregon, who was not able to complete his statement.

Mr. WEAVER. Mr. Speaker, I thank the gentleman for yielding.

I will just finish by saying that my amendment would have the military buy this grain that is going to help and aid and abet the Soviet Union if we sell it to them at prices below the cost of production, and use if for our own national security. So, I think that the Weaver amendment creating a military preparedness grain reserve would be the single most important thing we could do for our national security, far more important than the billions they spend on some of these other weapons, because it would keep the grain here for our security and deprive the Soviet Union of getting that grain and helping, aiding and abetting the Soviet Union as President Reagan apparently wants to do.

I call the Reagan administration to task right now for being an absolute hyprocrite and practicing hyprocrisy in giving the Soviet Union our grain. I find this to be one of the worst possible policies imaginable for this country to do.

□ 1840

STATUS REPORT ON RECONCILIATION

(Mr. PANETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PANETTA. Mr. Speaker, I take this minute to briefly summarize what is happening on the reconciliation issue that we are following carefully today.

The Agriculture Committee met today and is presently marking up their reconciliation bill. They have adopted a dairy provision which involves savings of $1.3 million. They have enacted a wheat diversion program and included rice in that provision. They now are presently marking up the food stamp section and they hope to complete their action by tomorrow.

The Armed Services Committee is tied to whatever happens on the cost of living issue and we anticipate that that bill will be considered on the floor on Thursday.

Banking, Finance and Urban Affairs met today and reported out their bill. We anticipate that they will be going to the Rules Committee later this week for action next week.

The Energy and Commerce Committee also was in markup today. We expect that they will continue their markup schedule for the rest of the week.

The Foreign Affairs Committee is also tied to whatever happens on the cost of living index, which is included in the postal provision.

The Merchant Marine and Fisheries Committee is also included or impacted by whatever happens on the COLA vote which is scheduled again for Thursday, and the Merchant Marine and Fisheries area would involve a COLA reduction on the Coast Guard.

The Post Office and Civil Service Committee went to the Rules Committee, achieved a rule, and the rule would allow for one amendment to provide for the 4-percent cap on COLA as the single amendment which would be offered.

The reason for that is that the committee itself did not meet its full target and did not include the 4-percent goal.

We complete the action with regards to the Veterans' Committee which was completed today, and Ways and Means which was still in the process of considering their provisions.

NUCLEAR FREEZE

(Mr. FLORIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLORIO. Mr. Speaker, we are here today on instructions from the American people.

House Joint Resolution 521 calls upon both the United States and the Soviet Union to pursue a mutual and verifiable freeze and reduction in nuclear weapons. This resolution arises from a broadbased public conviction that the leadership of the nuclear superpowers can and must do better in the pursuit of peace.

It is regrettable that this resolution is necessary. It is regrettable that officials currently responsible for nuclear policy talk casually of the plausibility of fighting a nuclear war. It is regrettable that they seriously contemplate nuclear scenarios involving tens of millions of potential fatalities.

In response to this irrational and casual approach to confrontation, the reaction of the American people has been rational and sober. House Joint Resolution 521, the freeze resolution, is carefully worded to insure that the freeze will be mutual and verifiable and that it will enhance rather than detract from stability. The resolution reflects the conviction that neither the reckless pursuit of security nor the careless pursuit of peace should be allowed to increase the risk of war.

The critics of the freeze contend that it will disadvantage the United States. But the freeze would apply to the Soviet arsenal as well as our own and would have to be verifiable on both sides.

The critics of the freeze argue that it would lock us into an inferior position. But this ignores the facts. The U.S. ballistic-missile submarines are superior to the Soviets', our long-range bombers are superior to the Soviets', our cruise missiles are superior to the Soviets', and our stockpile of

nuclear bombs outnumbers the Soviets'. Even on the most unlikely and pessimistic assumption that our land-based missiles could be completely crippled in a first strike, surprise attack, we would have 15 or more undetectable ballistic missile submarines hidden in the vast reaches of the oceans, from which we could deliver an unimaginably ferocious counter-attack. One such submarine has 16 missiles, each of which has 10 warheads. This means that the discharge of the weapons of two submarines could demolish every major city in the Soviet Union.

The critics of the freeze also contend that a freeze would prevent the United States from developing new weapons needed as bargaining chips in negotiations. The trouble with this argument is that the table is piled high with old chips that we have never bargained for anything but an increased chance of mutual annihilation. In the early 1970's this country developed a means of launching multiple warheads from a single rocket. Instead of proposing that both superpowers forgo these weapons, we tried to deploy them to gain advantage over the Soviets. Now that the Russians have developed the same technique, the critics of the freeze can think only of escalating the arms race again. But each new turn of this lethal spiral has increased instability and danger, until the world is poised today on a hair trigger, with nuclear weapons that can reach their targets in minutes.

I said at the outset that we are here with instructions from the American people. Our instructions are to call a halt, and then to undo the hideous trap closing in upon mankind.

It is a tribute to democracy that the public has risen up to remind officialdom of these fundamentals. In addressing the Soviet Government, as well as our own, the American people speak for the voiceless public of Russia as well as for themselves. If mankind survives this critical passage—as I have faith we will—it will be to the lasting credit of democracy that it rose up to meet mankind's greatest challenge.

I cast my vote for the freeze.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6323, ENVIRONMENTAL RESEARCH, DEVELOPMENT AND DEMONSTRATION ACT OF 1983

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-671) on the resolution (H. Res. 535) providing for the consideration of the bill (H.R. 6323) to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6542, WILDERNESS PROTECTION ACT OF 1982

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-670) on the resolution (H. Res. 534) providing for the consideration of the bill (H.R. 6542) to withdraw certain lands from mineral leasing, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6862, REDUCING BUDGET AUTHORITY AND OUTLAYS ON CERTAIN CIVIL SERVICE PROGRAMS

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 97-672) on the resolution (H. Res. 536) providing for the consideration of the bill (H.R. 6862) to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983, which was referred to the House Calendar and ordered to be printed.

NEW SIXTH COLUMN STRIKES AT U.S. IN THE TRADE WAR

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania, (Mr. GAYDOS) is recognized for 60 minutes.

GENERAL LEAVE

Mr. GAYDOS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of this special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GAYDOS. Mr. Speaker, the term Fifth Column came into the language almost 50 years ago in another time of international unrest and undeclared war.

It was coined when a Spanish general observed that the city of Madrid was under seige by five columns of attackers—four striking from outside and a fifth of agents within.

Novelist Ernest Hemingway clearly illustrated the meaning of the term in his play on the Spanish Civil War, "The Fifth Column," when he wrote:

> Oh, they always shoot from the windows at night during the bombardment. The fifth column people. The people who fight us from inside the city.

During the wider war that followed, the meaning was broadened to include those who spied and committed sabotage.

Today, as then, there is great economic distress and international unrest, and the United States is even involved in war of kind—it is a trade war.

This war is fought with subsidies and cartels that would be illegal here, and with dumped goods, rather than guns—it is trade war.

And seige is laid to industries and factories, and the spoils are jobs and the casualties the jobless—it is a trade war.

But with us still are those who shoot from the windows, who fight from within.

Today they gather scraps and pieces of information and they steal the hard-won and expensive trade secrets of those who have been more successful or more clever.

A different kind of war, the passage of time, both require a new name for today's economic window shooters.

But since they descend from the Fifth Column. The name should reflect its traditions.

So they are a Sixth Column to my mind.

And their concern in the trade war, as in real war, is for advance knowledge of the plans and tactics and strategies of the future, in the short-term and in the long-term.

Furthermore, their existence supports the assertion that we have a war on our hands. Theirs is a craft born of war and practiced only under war-like pressures.

You see, if you are at peace and have goodwill towards someone, you do not need to read their mail or know their plans or puzzle out their moves.

So, Mr. Speaker, today I ask interested Members of the House of Representatives to consider the economic future of the United States, and the significance to it of the Sixth Column, and the meaning of some recent developments that relate to both.

Some of these developments—the attempted theft by Japanese companies of IMB's newest computer design and technology—are all well known.

Others are buried in thick reports and books and on the inside pages of newspapers.

But taken altogether they do clearly signal the intent of our Japanese trading partners and so-called, allies.

Taken altogether they point to the next big assaults and shocks in the ongoing trade war.

And taken altogether they are a warning this Congress cannot afford to ignore if our purpose is, as the Constitution says, to promote the general welfare.

The future is an alluring thing for Americans, Mr. Speaker, and we always have put full faith in it.

Even now our theorists tell us that advanced and advancing technology and bold enterprises, that have yet to be dreamed of, will carry the Nation to unparalleled wealth and stable employment in the future.

This is an article of faith among some who weave economic theory and others who implement political policy.

Forget steel, forget automobiles, forget the strength and social stability all the basic industries now under attack have produced, they say.

Forget their importance to the national economy and the national security, the future is coming, they urge.

Salvation is in computers and aircraft and all manner of advanced technology, and here the United States has a good lead and a strong foothold, they insist.

And there is condescension and scorn in their tone toward any who question their vision.

But others have visions, too, Mr. Speaker, and they see things a little differently.

So this scripture from the book of the future generally is preached to us with little attention given to the forces at work in the world or to the vision of others.

Today's sermon is on another vision of the future.

For all of time the future has concerned mankind, including Confucius, who said:

> If a man take no thought of what is distant, he will find sorrow close at hand.

And including the Roman, Publilus Syrus, who warned:

> By tolerating an old wrong, we invite a new one.

And including Thomas Jefferson, who observed:

> History, by apprizing the past, will enable men to judge the future.

These remarks, then, will survey the recent past, touch on the present, and try to reach into the future.

They will touch on aircraft and computers, and on the idea of capital mobilization for economic war, and on the sixth column.

Since Mr. Jefferson is one of our own, and closer to us in time, I will follow his advice first and try to judge the near future.

So let us look at the fairly recent past to see how our trading partners have handled new developments in their market.

A good example for examination is offered in the experience of Sony Trading Co. in its attempt to sell in Japan goods made in the United States.

By the way, here we do not have as a factor the often-mentioned differences between cultures as a barrier—Sony is a Japanese company.

Sony found that foreign appliances were Superior—let me stress Superior—to anything made in Japan and decided to import them, the Wall Street Journal reported last month.

And Sony apparently found a ripe market because, as the journal said:

> U.S. refrigerator sales grew steadily for about 3 years until Japanese manufacturers—Matsushita Electric, Hitachi Limited and Toshiba Corp.—jumped into the market.
>
> Their models were identical to the Whirlpool imports in size and price.
>
> Sony has learned that if something can be copied and the market for it appears large enough, it almost certainly will be turned out by Japan's competitive industries.

Sony's sales are about one-fifth of what they were before the Japanese firms moved in, and the Journal reported that the line of former moneymakers now is a loser.

Some would call this not more than sound business practice on the part of the Japanese while other would call it protectionist in the extreme.

But I will call it nothing for the time being and move on.

However, I will move no further than the celebrated aluminum baseball bat case that came to light last year. A relatively small thing.

In that experiment in free trade, Japan-style, a California manufacturer began selling there the aluminum baseball bat, for which he developed the technology.

He began making money. And soon after that the government threw him out of the market by the use of rules and regulations.

But Japanese consumers were not deprived of the popular aluminum bats.

By that time Japanese firms were making them, including the firm through which our California casualty in the trade war had been marketing.

As the Sony trading's president told the Journal:

> Japanese manufacturers may not have the morals for international business. They are always imitating. It is a very bad point.

I call it a way of life in matters large and small.

And it amounts to a tolerance of old wrongs that invites bigger new ones, which are coming along nicely, as we shall see.

Furthermore, these practices are as big a barrier to foreign goods as anything a government could contrive.

They do as much violence to the spirit of free trade as any tariff or nontariff barrier that could be established.

So—although the Government of Japan is talking about removing some barriers—there still is a barrier to penetrate that may be impenetrable.

On top of that, talk can mask intent as well as disclose it.

And this is an article of faith at least as old as mankind, but one expressed very well in the Book of Psalms in these words:

> The words of his mouth were smoother than butter, but war was in his heart; his words were softer than oil, yet they were drawn swords.

So let us talk of free trade, but let us realize that the results may well be something else.

The results in Japan have been miraculous and their vision of the future is not all that grim.

Steel, automobiles, consumer electronics, all the components of the Japanese economic miracle, have their genesis in the Government of Japan and the people of Japan.

Japan's industry is conceived and nurtured behind barriers and sent full grown into the world to compete, and it is backed literally by the full faith and credit and the savings of the people as invested by the government.

According to Dr. Chalmers Johnson of the University of California, at Berkeley, the boiler on the Japanese economic engine is the fiscal investment and loan plan, which is largely devoted to carrying out government economic policy and providing capital to business.

Dr. Johnson—who wrote "Miti and the Japanese Economic Miracle"—likens it to a nationalized savings and loan with assets of about five times the world's largest commercial bank.

He estimates that sums equaling 5 percent to 6 percent of the GNP are available for stoking the boiler.

By the way, Mr. Speaker, I understand that this year our defense expenditures will come to about 5.9 percent of our gross national product.

This estimate includes sums to be spent protecting Japan's trade and energy routes.

The Japanese spend about 1 percent of their GNP on defense, and they are extremely creative in the way they use it.

They are using it in part to build an aircraft industry, which I will touch on later.

As for the boiler, our General Accounting Office has diagramed it in a new report entitled, "Industrial Policy: Japan's Flexible Approach."

The GAO diagram shows about $77 billion of capital going into the boiler in 1981, and it is comprised of: $15 billion from the welfare and national pension special accounts; $26 billion from what the GAO calls other special accounts; $35 billion from Japan's postal service savings system, the place where most Japanese put their savings.

The government has this large sum of personal savings to invest because there is little alternative to the system and incentive to use it.

Mr. Speaker, that is what went into the boiler in 1981, and the GAO says it came out this way: $38.5 billion to the government-owned Japan Development Bank to implement economic policy; $21.9 billion for public investment in equity and loans and public

works; and $16.4 billion earmarked for local government for equity loans and public works.

I am uneasy with these figures for two reasons.

First, the GAO charted the flow of capital in yen and I converted it to dollars based on the published exchange rate of 1 day last month. There are more zeros involved than my hand calculator could accommodate.

So, if there is error, it is unintentional.

Second, I am uncomfortable at being told that large amounts of such mobile capital can be had at rates below the prime.

About 85 percent of the Japan Development Bank's loans in the early years of the miracle went to steel and the other basic industries that found such success in the world.

On top of that, private lenders follow the lead set by the development bank.

This is part of the much-discussed concensus in Japanese society.

The GAO report defined concensus almost as clearly as Hemingway did the Fifth Column. The agency noted that:

> In general the close coordination between the Ministry of Finance and the Bank of Japan is an example of the concensus nature of policymaking; that is, the belief that monetary and fiscal policies should be unified in support of industry.

Allow me to summarize, Mr. Speaker: One aspect of the heralded concensus in Japan is the belief that monetary and fiscal policies should be unified in support of industry.

How do these things work out in practice?

I cannot say with certainty, but we can draw some details from the recent Washington Post story dealing with an American manufacturer who is opening a plant in Japan to use technology they do not have. His products are used in computers.

What he gets in return for delivering this technology and these jobs is this: 8.3 percent financing for his $2.5 million plant from the Japan Development Bank; and short-term working capital at 6.5 percent; and, purchase of his plant site by the local government for leasing to him at "ludicrously" nominal costs.

Why, we have not mobilized our capital toward a goal with that force since World War II.

And the Japanese never demobilized after World War II.

Dr. Johnson noted to me that for years our partners did maintain wartime levels of economic mobilization. But he said that now they are mobilized more for economic defense, as he sees it.

Nevertheless, it does not look to me like they are letting the assault and beachhead industries like steel and automobiles wither.

For example, The Journal of Commerce last March carried a short story that made note of a $3.7 billion modernization planned this year for the five biggest Japanese steel companies. I can not imagine the Development Bank would be standoffish if approached.

Meanwhile, American steel companies are canceling or delaying the bulk of $7 billion in modernization plans because of a bad market that is under assault by imports and outrageous interest rates. Japan's steel exports to us are up about 15 percent, by the way.

In that regard, efficiency is not always the determining factor on steel imports from Japan.

A formal finding has just been made that Japan Steel Works engaged in dumping here—selling at 14 percent under fair value—in the time it increased certain sales here by 8,500 percent.

The product was stainless clad and the finding came in response to a complaint by a U.S. firm, Lukens Steel.

Did Lukens suddenly become inefficient?

No, but in 1979 Japan Steel Works expanded its stainless clad capability by two or three times, I am told.

You see, they suddenly had this excess capacity and apparently the decision was to work the capacity and move out the product and to hell with profit.

Furthermore, I would not be surprised to learn the Japan Development Bank had a hand in making the expansion possible.

Meanwhile, the Mitsui Trading Co. last week was indicted by a Federal grand jury in California and quickly entered a case-closing plea to 21 counts of an indictment in a dumping case.

One way they planned to dump, according to court records, was by setting up what was called a "window company" in Texas.

Said a Mitsui memo on the matter:

> We will be able to sell Japanese-made (wire) rope as American-made by passing it through their plant.

I am told that in Japanese such a company is called Dummi—D-u-m-m-i. It comes from the English word dummy.

Remember, they are describing the company, not their trading partners.

Matsui paid criminal and civil fines totaling $11.2 million

But there will be no trial in which all of the facts will be placed on the public record. At this point I would include an article by William Allan, that appeared in the Pittsburgh Press.

U.S. PULLS PUNCH IN MITSUI STEEL DUMPING

(By William Allan)

Plea bargaining in San Francisco the other day should make a few Pittburgh hearts beat faster.

The U.S. unit of Mitsui & Co., a huge Japanese trading firm, pleaded guilty to 21 criminal charges in connection with dumping steel—charging less for it in America than in Japan. The company agreed to pay $11 million in civil penalties and $210,000 in fines.

Specifically, Mitsui U.S.A. was accused of reporting to the U.S. Customs Service fictitiously high prices to avoid the Antidumping Act of 1921, then selling at unfairly low prices by means of $1.3 million in kickbacks, credits and secret rebates.

Three Mitsui employees face criminal charges, but the U.S. Justice Department agreed not to use the company's guilty plea against them. And two American firms pleaded guilty and have been fined.

That sort of wraps up the legal aspects, but what should interest Pittsburgh is what's between the lines of the agreement.

The Japanese firm said it was neither admitting nor denying any wrongdoing, but it did plead guilty to all 21 counts of the indictment and the $210,000 in fines was the maximum.

That has to be a record for plea bargaining.

The $11 million in civil penalties was negotiated by the Justice Department "to cover the wrong done to the U.S. Government as part of a plea arrangement," said one report.

That's nice. But what about the wrong done to U.S. steel firms, now operating at a 49-year low? And how about the damage to 100,000 U.S. steelworkers laid off with little prospect of being recalled in the near future?

The average person need not understand fully all his legal wheeling and dealing to know that for years the steel industry—management and labor—has been hollering that the Japanese were dumping steel on the American market.

But, generally speaking, the bureaucrats have been pooh-poohing the idea. They'd rather believe talk of poor American workmanship, low American productivity, and American industrialists too cheap to invest in new equipment.

Then one of the big Japanese exporters is caught with egg all over its face, pleads guilty to everything, accepts the maximum fine and says so-sorry to have hurt Japanese image abroad.

A big part of the settlement was the Justice Department agreeing to halt its investigation of Mitsui of Japan and to withhold from a grand jury any further charges against Mitsui U.S.A. arising from this probe.

U.S. Attorney Joseph Russoniello explained that although the indictment's allegations represented $14 million in steel imports, the government could have gone after Mitsui on another $36 million worth of imports.

However, he said, to fully document the entire $50 million would have been a "horrendous" task in terms of manpower and expense. The investigation, he said, already had involved 85 agents at a cost of almost a million dollars.

To Russoniello's credit, he apparently nailed down this case, and he's demanding that Mitsui turn over the $11,210,000 in penalties and fines in the form of a cashier's check by Sept. 30.

But in laying back, he's dead wrong. It's good business to put 85 bureaucrats to work if they bring in $11 million for each million invested. And the Japanese would be the first to admit it.

However, the Mitsui case does not sound like it involved a defensive action, Mr. Speaker.

But whether mobilized for attack, or defense, it is really only a matter of emphasis.

The point is that they are mobilized.

It is U.S. Company against foreign country in the on-going trade war.

I wish time allowed me to include whole pages and chapters from Dr. Johnson's books.

He seasons his text with terms from the Japanese language and gives an idiomatic explanation of their meaning, which can deepen understanding.

For example, there is the earlier-mentioned practice that has private banks following government loan patterns in dealing with industry.

Dr. Johnson explains that the practice is called Yudo, which is guidance or inducement, in Japanese—guidance as in Yudo Bakudan, which is guided missile.

So it might benefit the House to think about how that guidance comes about.

The GAO says that it begins in deliberations by the Ministry of International Trade and Industry's Industrial Structure Council. The Council is made up of representatives from government, labor, industry, academia, and other areas.

The GAO noted that:

> MITI's planning . . . specifically focuses on which industrial sectors are to be targeted for growth and how.

The results are called mitivisions, which is the way they see the future.

The mitivision for the 1980's calls for growth in high value added manufacturing, enterprises that link high technology with low use of resources and energy.

Specifically named and covered by GAO's remarks are aircraft and computers and robotics.

Japan wants an aircraft industry, general aviation and commercial.

Here the United States has been hands down the world's best.

So, take notice of the GAO finding that current industrial policies stress the development of Japanese technology.

Then notice that the Government requires that self-defense aircraft bought from the United States—patrol planes and our most advanced fighter—must be built in Japan on license.

They are built in Japan on license despite the fact that it probably would be cheaper to buy them from the American manufacturers, according to a June 15 report in the Christian Science Monitor.

As the Wall Street Journal reported last May, it provides a way to learn about up-to-date aircraft manufacturing systems and technologies.

In addition, there seems to be another requirement.

UAW president, Douglas Fraser noted last year in a speech on his union's automobile domestic content bill that the Japanese require 40 percent of the value of those self-defense aircraft to be made in Japan.

The technology and production bases for military and civilian aircraft are easily interchangeable.

And our partners have found a way of squeezing the most out of our defense dollars and their industrial development dollars.

But there is still more, Mr. Speaker.

The Boeing Commerical Airplane Co. is an American success story.

Boeing has a new transport on the market, the 767, and it is being challenged worldwide by a 70 percent government-owned European consortium that produces the Airbus.

Boeing beat out Airbus in Japan.

And Japanese manufacturers will produce 15 percent of the worldwide production value of Boeing's 767.

You see, according to Mr. Fraser, Boeing made the agreement to help clinch sales to Japanese airlines and the Japanese Government negotiated arrangements for three companies to participate with Boeing.

Japan Air Lines is listed by Dr. Johnson as being Tokushu Kaisha—which is a special company created to further develop or protect national interests.

Japan Air Lines is 45 percent government owned.

The GAO estimates that between 1978 and 1990 the Government will have sent through the boiler and into the aircraft industry about $1 billion in research and development.

Projects receiving money include a new generation of commerical aircraft, possible a 150-seat transport, and a new engine, possibly to power it.

None of this is as effective as completely closing your domestic market while you perfect your product, but it is very close in intent and probable result.

And it does drag in technology.

Japan right now does not have the know-how to design and build large commercial aircraft or the knowledge to establish a world-class industry.

So, as a spokesman for the Japanese Aerospace Trade Group told the journal: "There is no way but international cooperation."

You do not have to be subject to MITIVISIONS or enjoy SEN "[senrigan no otoko]"—which is the power to see the future—to know a few things, including these:

First, Boeing will have government-sponsored competition other than the Airbus before too long; and.

Second, it will sell for less than a comparable Boeing airplane—in fact, profit might not matter—and potential buyers will be offered government-backed financing that Boeing cannot match; and,

Third, Boeing probably will not be invited to participate in any of the worldwide production of it if U.S. airlines buy it; and,

Last, some theorists will naively attribute the decline of Boeing to the genius of Japanese management and their workers' stronger grasp of the work ethic.

No clairvoyance is not necessary to know these things.

All that is necessary is experience and memory of Sony and Whirlpool and the baseball bat and Lukens and countless others.

In the trade war, someone always is "machi bu seh"—which is waiting in ambush.

Computers also fell into MITI'S Vision and under GAO scrutiny.

There is intense United States-Japan competition to stay competitive in the current market and to move ahead in what is to come in the future: Very large integrated circuits, high speed operations, optical scanning and artificial intelligence.

In the middle of this intense and high-stakes competition we have last month's attempted theft of IBM's newest computer designs and technology by agents of two Japanese companies that shelled out almost $650,000 for the information.

The companies are Hitachi Ltd.—I mentioned them earlier—and Mitsubishi.

Both companies and some employees—totaling more than a dozen in the home offices in Japan—have been indicted in this instance of Sixth Column activity.

Let us take a closer look at Hitachi because the allegation is that Hitachi executives were in the pot for about $622,000.

First, consider that MITI's goal for 1990 is 30 percent of the world computer market and 18 percent of the U.S. market, according to the December 14 issue of Business Week.

Business Week also noted that:

> The Japanese are willing to buy market share to boot the giant (IBM) out . . . vendors offer deep discounts to central banks and government agencies to get them to replace their IBM computers while Japanese plug compatible machines.
>
> Hitachi acknowledges it will discount 50 percent to 60 percent below IBM's price to win a contract.
>
> Japanese computer makers try, when possible, to avoid competing internationally.
>
> Increasingly exports are required because the Japanese market is miniscule compared to the U.S.

IBM spokesmen are reluctant to discuss the significance of what has happened.

After all, criminal charges are pending trial and, furthermore, IBM's second largest foreign operation is sited in Japan. I suspect IBM does not want unnecessary disturbance in either area.

Nevertheless, independent observers and news stories relating to the epi-

sode give some indication of what was at stake.

The December 14 Business Week noted that IBM would deliver a shock to the Japanese if they changed the basic operating system on which everything else depends.

If that happened, Japanese-made computer equipment that has been compatible no longer would be. Sales would disappear.

In terms of war, IBM would have flanked the competition and would have cleared the field for a while.

And such changes were involved.

At least the following significance can be attached to the attempted theft episode:

In terms of sales lost to the Japanese if flanked, at least $350 million over the time required to catch up by independent research or even the simplified research of reverse engineering and copying; and,

Success of the attempted theft would have freed millions of dollars in research and development money for application to future developments; and,

Success would have advanced what they call computer architecture, again savings on R. & D.

"It would not have represented a leap-frogging," said John Shea of the Technology Analysis Group, a California consulting firm, "but it would have been a 150 percent improvement."

Mr. Speaker, I do not mean by these remarks to suggest or even hint that this instance of sixth column activity is a conspiracy going into the higher reaches of the Government of Japan.

I do believe this is the case.

But I do not assert that success would have kept on track and on schedule the assaults through Hitachi-like price cutting necessary to build toward the MITI goals for United States and world market share.

It might even have accelerated them a bit.

And it certainly would have cut off a successful flanking move by IBM.

This episode has the look of an act of trade war;

Or at least the look of an instance of "naguri komi"—which is cut-throat competition by raiding a competitor's place of business with the intent of striking him over the head with your fist.

I have just a few closing words on computers, Mr. Speaker.

The GAO report indicated 1982 subsidies for computer-related R. & D. in the amount of $44 million in Japan.

It noted that Nippon Telephone & Telegraph plans in certain areas are closely parallel to MITI's goals and that NTT has its own $350 million R. & D. budget.

Government-owned, NTT has a well-known preference for doing business with Japanese firms, an unofficial barrier in which outsiders have made only slight penetration. Incidentally, Hitachi is a member of the NTT family of suppliers and shares technology.

However, the Sixth Column does appear connected with the Japanese Government in one instance that is more truly competitive than combative.

As Dr. Johnson explained in a speech earlier this year:

> The main problem is a different kind of capitalism in Japan and other newly industrialized countries. . .
>
> The U.S. Government maintains an international *political* intelligence service, the CIA.
>
> The Japanese Government maintains an international commercial intelligence service, JETRO.

JETRO, the Japan External Trade Organization, maintains offices in 49 countries, including five in the United States, and is concerned mainly with markets and, more recently, potential U.S. exporters to Japan.

That Business Week issue of last December looked at JETRO and other information gathering efforts, and here are excerpts from its findings:

> The Japanese have people gathering data and sending the data back to a central clearing operation run by MITI and JETRO.
>
> The Japanese have a much better intelligence gathering operation than JETRO. It's a company called Mitsubishi and Mitsui and . . . (the trading companies). . .
>
> After contact with a foreigner, all Japanese go through debriefing sessions. The information they've gathered is put down and analyzed.
>
> Interesting data are then published and circulated freely among companies, often grouped with digests of related articles in U.S. technical magazines or reports in technical conferences.
>
> They have made a science of it.

For example, the article reported that Mr. Shea of California estimates that up to 40 percent of the baseline data used to reach their current level of computer activity came from energetic and skillful research.

And of the development of the upcoming very large scale integrated circuit, he said this: "Information from the West very definitely will support the program on a very large scale."

Mr. Speaker, as I began these remarks I said I would show intent and targets.

The targets are clear, I think, and I will get to intent in a minute.

It would be naive of me to say American businessmen do not copy competitors or acquire technology through licensing arrangements.

I know our companies engage in some kind of Sixth Column activities, or rough tactics, in the case of some multinationals.

But by and large, they do not do it with the complicity of the government and special companies established to protect or further interests, as in airliner purchases.

They do not have the Nation's Capital mobilized for either attack or defense.

And concerted action by U.S. companies probably would draw the scowl of the Justice Department.

There is resentment in Japan over the IBM case even within the Government, and there is doubt the accused executives will be extradited for trial.

If they were U.S. businessmen making such payments in Japan, I am told they probably would be liable for prosecution under the U.S. bribery statutes.

And if by chance some American businessman should get caught following the Japanese practice of giving expensive gifts to professional associates in connection with a computer deal somewhere, they just might have to answer under the Corrupt Practices Act.

Boeing just paid a $450,000 fine that was related to unreported payments to middlemen in the sale of aircraft overseas. That fine was levied by our Government.

Dr. Johnson thinks we can meet the challenge by modifying the adversarial aspects of our society, and Mr. Shea's thoughts run in part along similar lines.

But I do not think we can match the power of what some call state capitalism.

You see, state capitalism combines the strengths of capitalism and socialism.

And even if we changed our behavior and our laws, we still would have: Country versus company competition; and, cut-throat competition and trade war tactics like cutting prices by 60 percent to establish market share because rewards will come later; and, competition not really pressed to gather profit because it has comfortable and mobilized capitalization; and, subsidies and government encouraged cartels.

Moreover, we still would have a trading partner that seems determined to take home what is the major part of the feast that theoretically is world trade, leaving mere scraps for the others at the table.

As Paul McCracken, the Chairman of former-President Nixon's Council of Economic Advisers, wrote recently:

> . . . A re-examination of the (world trade) system is in order.
>
> An imbalance has developed between the magnitude of U.S. responsibility for the international economic and political order and our share of the industrial world's economic activity . . .
>
> Domestic policies and programs must reflect the demise of an order in which the U.S. carried the responsibilities and the costs while others gave individual attention to nestling within the system and getting rich.

The relationship that Mr. McCracken described would in Japanese be termed "isoro teki kankei"—which is the relationship involving a man who sponges off another.

And here is the intent: To forge the theory of comparative advantage into the weapon of advantage any way you can get it;

And to use that weapon to win not a secure and comfortable niche in the world economy, but to cut away a big slice of the whole thing.

In short, what's theirs is theirs, in their vision;

And what is ours is theirs.

I do not think we can model our culture on theirs, and I do not know that it would be desirable—not because there is anything wrong with theirs, but because we are different.

My Desktop Book of National Proverbs tells me the Japanese have a saying for this type of situation.

In Japan they say:

The stupid man leaves the door an inch open;
The lazy man, three inches;
And the fool, wide open.

I do not think they will open their door.

And it is even more foolish to worry about what could be lost in a trade war that might start if we protest while daily the spoils of that feared trade war mount up in the counting houses and postal savings system of Japan;

While daily our unemployment lines grow longer;

And while daily MITI's Vision grows brighter.

Mr. Speaker, judgment is difficult because so much is at stake in the world, and experience is a treacherous road map.

But this Congress—and before MITI's Vision of the future becomes clearer—must recognize there is an assault and this Government must make plans for dealing with it.

And to go on pretending that this is all due to some natural economic force or some flaw in our character is to commit Seppuku—a form of suicide imposed on those who dishonored themselves—we must all—think about it.

Mr. MURTHA. Mr. Speaker, will the gentleman yield?

Mr. GAYDOS. I yield to my colleague from Pennsylvania (Mr. MURTHA), a very active member of the Executive Committee and one who was with the Steel Caucus from its very inception.

Mr. MURTHA. Mr. Speaker, I want to compliment the chairman again for having this special order on this subject.

I would like to take a moment to commend the U.S. Department of Commerce for rejecting a European Economic Community proposal for the settlement of the countervailing duty cases. We must keep as our minimum demand that any settlement negotiated with the EEC must be to the benefit of the domestic steel industry, and the EEC's latest proposal of a 10-percent reduction clearly was not.

The Steel Caucus was instrumental in inserting this domestic benefit clause in section 704 of the 1979 trade law, and I am encouraged that our negotiators have held firm to this demand to date.

Steel imports have been at record high levels—22.8 percent of the U.S. market during the first quarter of this year—contributing to 116,000 layoffs and 28,000 short-work weeks for our steelworkers.

The Commerce Department has ruled that these European governments had unfairly subsidized 3.9 million tons of steel imported in 1981 and must pay a countervailing duty equal to the subsidy. Since that decision was announced in early June, the affected governments have accused the United States of launching an economic war that could damage their already sagging economies. They are threatening to rebel against the U.S. efforts to block their participation in the building of the $10 billion Siberian gas pipeline project with the Soviet Union.

Any steelworker who hears these complaints knows that an economic war is already going on—waged against them by the foreign subsidized steel producers who are dumping their product in the United States. Our steelworkers and steel producers can compete with anyone on a fair basis. Instead, they are being flooded with unfairly subsidized imports from countries seeking to relieve their economic ills by exporting unemployment to the United States.

This unfair competitive advantage has wreaked havoc on the domestic industry and is finally being redressed by the Department of Commerce and the International Trade Commission. Our U.S. negotiators should not back off our hard line approach, but should use the strong European reaction to search for a more adequate solution that would insure free and fair markets and prevent any further increased tension with our allies.

□ 1850

Mr. GAYDOS. Mr. Speaker, I thank my colleague.

Again I wish to emphasize for the record that the gentleman's yeoman services and his continued interest in the Steel Caucus has served us well, and he is one of the stabilizing factors in making the Steel Caucus what it is, a hard-hitting group of 140 Congressmen dedicated to helping straighten out the import problem relating to steel in this country.

□ 1930

Mr. Speaker, I want to close by again emphasizing that the Steel Caucus, which I have serve as chairman for the last 2 or 3 years, its staff and members of the executive committee, the Members generally in the House, will be notified and we will take out a special order on the subject matter which I have discussed. I want to emphasize that although some members of the Steel Caucus did participate informally by submitting prepared statements in this presentation, it was not—and I will repeat and emphasize—it was not an action by the Steel Caucus done formally or informally by Executive order. I say this as the record is clear that when the Steel Caucus does take a formal position, does pass a formal resolution, under those circumstances notice will be sent to each and every Member of the House of Representatives, to our colleagues; press releases will be made and sufficient time reserved so that all may participate completely and, hopefully, effectively.

Mr. Speaker, I wish to close by commenting again that our colleagues who have not joined the Steel Caucus, who are not paid-up members, should, because the Steel Caucus will continue to explore in detail, formally and informally and as a matter of record, the subject matter which is the subject of my special order today.

If I have not already done so, I again ask that all items, formal and informal statements submitted by my colleagues, members of the Steel Caucus, be made part of the formal record at this point:

● Mr. O'BRIEN. Mr. Speaker, last week members of the Steel Caucus Executive Committee were most disturbed by press reports that the administration might settle its dispute over steel imports with the Europeans through bilateral agreements which would not protect the interests of the American steel industry.

According to the reports, much pressure was being exerted by the European Economic Community (EEC) to reach a settlement that would prove unfavorable to our domestic producers.

Consequently, the executive committee met in an emergency meeting on Thursday morning, July 21, 1982, and agreed unanimously to inform Secretary of Commerce Malcolm Baldrige of opposition to the European offer.

That same night, Secretary Baldrige rejected the European offer to limit steel exports to 90 percent of the 1981 levels. I would like to submit here, for the RECORD, the official press release of the Commerce Department on this decision:

The U.S. Department of Commerce could not accept a last-minute proposal by the European Communities (EC) to suspend 12 steel countervailing duty (CVD) investigations involving Belgium, France, Italy and the United Kingdom because the legal requirement of removing the apparent injurious effects caused to the U.S. industry by subsidized steel imports was not met.

The proposals were formally presented to Commerce Secretary Malcolm Baldrige at 5:30 p.m. Thursday by the ambassadors of

the four countries, accompanied by representatives of the EC. The contents of the proposals had been received that morning. The EC requested that the Commerce Department suspend the investigation on the basis of quantitative restraint agreements, as permitted in U.S. law. Under that provision, the deadline for reaching an agreement is midnight July 24.

In announcing his decision, Baldrige said, "We welcome any attempt by the Community to settle the unfair steel trade cases between the U.S. and the EC, but unfortunately these proposals are not legally acceptable. U.S. law requires that any quantitative restraint suspension agreement must eliminate the injurious effect of subsidized exports of the subject merchandise to the United States. Since the steel imports from the EC that caused the injury increased almost 30 percent from 1980 to 1981, the 10 percent reduction offered today from the higher 1981 levels was simply not sufficient to remove injury as required."

Baldrige stated that if acceptable suspension agreements could have been concluded on these products, the steel trade tension between the EC and the U.S. would still not have been eliminated. He noted that 19 antidumping (AD) cases on the same products and 13 other AD and CVD cases are still pending. Baldrige felt that an overall settlement leading to withdrawal of all cases was the best way to relieve the current trade tension and repeated his willingness to continue discussions with the EC to find an equitable basis to deal with the problem in its entirety, as well as the proposed suspension agreements.

The EC required that the U.S. accept all of the 12 proposed agreements or none. In its decision the DOC compared the EC's suggested restraint level to the levels at which the U.S. International Trade Commission made preliminary determinations of injury in 1980 and 1982. Most of the proposed restraint levels were above the levels found to be injurious by the ITC. DOC also considered the current state of the U.S. industry, now running at less than 45 percent utilization, and the level of subsidies found in the June 10 preliminary determinations, which in one case amounts to 40 percent.

Subsequent to that decision the Secretary made a counterproposal to the EEC that provided about a 20-percent cut in steel imports. Unfortunately, the Europeans turned that proposal down.

In the meantime, in accordance to the relevant trade laws, future negotiations on these cases will require the Commerce Department to seek the approval of the domestic steel industry before reaching a settlement.

Now I have been advised that the Secretary will pursue additional discussions along these lines this week in Brussels. It would seem to be in the interests of the European Community to participate in these negotiations. Otherwise they will risk final determinations and penalties.

I urge the Secretary to do everything in his power to settle these cases as soon as possible in order to get our steelworkers back on the job.●

● Mr. BEVILL. Mr. Speaker, the war being waged against the American steel industry by foreign steel producers has taken yet another twist.

News reports indicate that several of the European governments which have been accused of subsidizing their steel mills and permitting them to dump their steel in this country at prices far below production costs have been applying equally unfair pressure on this Government to let them plea bargain their way out of the trade suits filed against them.

These news reports indicate that the Europeans have used the Russian gas pipeline deal and other diplomatic issues in an attempt to exert a form of international blackmail against our Government.

They want to force a negotiated settlement, without the consent of the injured American steelmakers which brought the complaints. If they are successful our domestic steel firms would suffer even further losses of jobs, sales and would have to have longer delays in their efforts to modernize their plants.

Further, the European nations, pressuring for favorable settlements, want a guarantee that there will be no future filings against them of additional antidumping cases or countervailing duty. That would provide them with free reign to systematically destroy our domestic steel production capabilities.

Already, basic steel employment in America stands at a depressing 49-year low. If current trends continue, our steel producers can expect to lose $2 billion during this decade and another 100,000 American steelworkers will be without jobs.

As a member of the Executive Committee of the Steel Caucus, I want to express in the strongest terms possible my sincere belief that our Government must not turn its back on our own steelmakers who have lived within the law. The cases they have filed are a test of the law and I believe Americans want to see that law enforced.

The world is watching this important trade issue and our future international trade could be affected greatly by the outcome. If the law is not enforced in this area we are sacrificing one of our most important industries.

America has been a good trading partner for the world. We have produced rich harvests, excellent machinery, high technology and rich natural resources which we have shared fairly and openly with the world. We deserve, and we should demand, that our continued fairness be respected and that our trade law be obeyed.●

● Mr. NOWAK. Mr. Speaker, today I rise to reinforce our concerns about our ailing domestic steel industry, whose health is vital to our national economic well-being. Today, America's steel industry faces serious, sustained decline, largely due to unfair and illegal trade practices of some of our European and Japanese trading partners.

The preliminary finding by the Commerce Department that nine nations have been illegally subsidizing steel imports to the United States illustrates the seriousness of the problem. Moreover, our fears have been substantiated recently when the U.S. unit of Mitsui & Co. of Japan pleaded guilty to 21 counts of conspiring to defraud the U.S. Government by attempting to circumvent the trigger price mechanism.

The weakened condition of our domestic steel industry is ominously apparent from current statistics. Not since the hard times of the depression have our steel plants operated at such a low rate. In 1938, our plants operated at 39.8 percent capacity. Today they are operating in the 42.5 percent range.

Because of a low production rate, our steel companies continue to suffer losses. In the last week, National Steel Corp., Wheeling-Pittsburgh Steel Corp., Armco Inc., Kaiser Steel Corp., and Inland Steel Corp. all reported second-quarter losses totaling more than $140 million.

A further result of these abysmal operating rates are the high number of unemployed steelworkers. As of July 17, 117,573 steelworkers were unemployed. Buffalo and Lackawanna, N.Y., are particularly hard hit. Republic Steel's plant in Buffalo is on indefinite shutdown with approximately 2,500 employees laid off, and Bethlehem has a work force at Lackawanna reduced to the 4,000 level with 4,000-plus workers on layoff.

What is happening to our steel industry is more than merely the result of competitive foreign marketing.

Though many of us tend to view the Japanese as technical wizards, technological superiority is not the reason that in 1950 imports took only 2.3 persent of the U.S. market, while during the last 5 months of 1981 the percentage shot up to 26 percent. Nor, are these appalling figures due to a lack of effort on the part of either U.S. steel management of labor.

By unfairly subsidizing their steel mills, our trading partners have violated our trade laws and international agreements. While American steel is prohibited from entering foreign markets because of highly protective trade barriers, foreign steel continues to flood the American market in the name of fair trade.

We cannot let this continue unchallenged. Our expressions of protest have worked to no avail; a more forceful measure should be considered.

H.R. 6505 is that measure. Import quotas, covering the entire range of steel products, are our only weapons in combating the steady stream of unfair imports.

Testifying before the House Public Works Subcommittee on Economic De-

velopment in 1981, the Reverend William T. Hogan, S.J., professor of economics and director of the Industrial Economic Research Institute at Fordham University urged the establishment of import quotas to assist the U.S. steel industry. He said:

I repeat we don't need 20 million tons of (imported) steel, and we don't need steel coming in at prices that are very much below the list price, so that it fractures the price structure in the American industry * * * I personally feel there is no alternative to quotas if we are going to be successful.

A multiyear program of quotas could provide the safeguards and the breathing room needed to enable our domestic industry to retrench and modernize. As long as foreign firms continue to underprice domestic firms, our operating capacity will remain under 50 percent. Consequently, profits and capital investment necessary for modernization are impossible to achieve.

I hope the House Ways and Means Subcommittee on Trade will convene hearings this summer on the steel industry's problems and need for relief.

As a minimum, such a forum would highlight our concerns about the plight of the industry and I hope also intensify ongoing negotiations with the Common Market nations to achieve a meaningful and effective steel export restraint agreement.

Such a hearing also would underscore our serious concerns that our Nation needs relief from predatory steel imports before more companies, jobs, and communities suffer.●

ACCOKEEK/WALLACE GENETIC FOUNDATION CONFERENCE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Vermont (Mr. JEFFORDS) is recognized for 5 minutes.

● Mr. JEFFORDS. Mr. Speaker, I wish to commend the Accokeek/Wallace Genetic Foundation for a recent conference they sponsored concerning agriculture in the Eastern States. Those of us who represent the Eastern region of the United States recognize that although the goal of regional selfsufficiency in agricultural production may be unattainable, a greater measure of independence is both desirable and feasible. At this point in the RECORD I include the following:

A BRIEF REVIEW OF THE ACCOKEEK/WALLACE GENETIC FOUNDATION CONFERENCE ON AGRICULTURE IN THE EASTERN STATES

A distinguished group of Federal, state, local, industrial and foundation specialists met in early June and agreed that despite the overwhelmingly urban and industrial character of the Eastern states region, its agriculture was worth saving. It is more than "an exercise in nostalgia". The group warned, however, that this task would require closer specification of the rural-urban, agriculture-industry mix. This should help insure an often mutually destructive relationship and could realize its mutually strengthening potential.

Farming, to be preserved, must be profitable and meet conservation, environmental and other conditions. Much has to be done, especially at the local and state level, where land use regulation is governmentally lodged, before identifying just what lands should be preserved.

Most Eastern states now have farmland preservation programs already in place. These have demonstrated their effectiveness. Programs are typically designed to purchase development rights from farmers, removing them from competition with urbanization. Too little attention has yet been paid to the specific agricultural uses of such lands which largely determine their profitability.

The vitality of agriculture in the Eastern states region responds fundamentally to the proximity to large and diverse markets, especially rewarding to growers of vegetables and fruits, but also to dairying and other products. Improving marketing was recognized as taking many forms. The public market movement, like New York City's "green markets", or Baltimore's neighborhood markets, is rapidly growing. Thousands of "pick-it-yourself" farms are marketing vegetables, strawberries and other fruits in the field. Roadside stands are probably the most familiar form of direct marketing. All of these allow farmers to sell what they grow at city prices or even at a premium.

The goal of regional self-sufficiency was viewed by the Accokeek Conference as unattainable as well as undesirable in any absolute sense, but a greater measure of independence on foodstuffs imported from other regions was seen as both feasible and desirable. Interruptions to the flow of food to the Eastern states in the past have aroused anxieties that were reflected in conference discussions. The energy costs of transporting food over long distances and of maintaining refrigeration in trucks and warehouses were also cited.

The growth of small farms has been notable in the Eastern states region, many of them family farms, operated by part-time farmers, and involving members of the family with other jobs. This development has contributed to reversing the long decline in the number of farms in the region. Organic farming has also grown in popularity among small farmers who are attracted by its contribution to sustainable and even regenerative agriculture, and by the opportunity to reduce the use of costly fertilizers, and to substitute integrated pest management techniques for environmentally damaging pesticides. The management of small farms was also identified as a critical and highly specialized dimension. Even woodlots, as small as 20 acres, were described as able to support a family.

The desirable mix of small farms and larger conventional farms is paralleled by the opportunities farm families have found in urban and industrial jobs, often seasonal in nature. In the Eastern states region, as well as nationwide, many conventional farms have grown larger—perhaps too large in some cases, as they have encountered today's problems of inflation and high interest rates. In many instances large-scale farming is based on leases or contractual arrangements rather than consolidated ownership. This trend has received further support from tax policies and payments under Federal assistance programs, but here as nationwide the more propulsive forces have been technological and market in nature. The two forms of agriculture—large-scale and small—both struggle with the increasing cost of farmland that reflects development as well as agricultural values.

No regional farm policy can ignore the larger national framework, but it must be recognized that some of the most important legal powers are those related to land use that are explicitly reserved to the states and localities in the American Federal form of government. As planning is invoked to reconcile conflicts and create the balance between large and small farms, rural and urban areas, agricultural and industrial elements, each locality must recognize the large state and regional framework, and look to Federal research and analysis to help identify a better understanding of its own situation. New forms of local planning can also be encouraged and supported by Federal assistance. A large apparatus of Federal land grant colleges and regional experiment stations needs to respond strongly to these new demands. These parts of the agriculture community have also let themselves become too divorced from the realities of farming. Programs that reach to the individual farmer, like agricultural extension and soil conservation, need to re-establish this vital direct relationship. Assistance in farm management is probably the major need.

In the Eastern states many interests other than agriculture have a stake in the countryside. Added to forestry, fishing, wildlife, and other nature-based activities, are recreation, tourism, second homes and retirement communities. Other forms of development are attracted by natural characteristics and wish to live harmoniously with them. State development programs like that in Massachusetts, attract incoming industries by this mixture of economic and environmental advantages. Many states have changed the names of their departments from "agriculture" to "rural development" to embrace this larger constituency. Much remains to be done, however, before this larger array of interests has found its political voice.

The Accokeek Conference, recognizing its continuity with earlier regional meetings, called for continuing conference programs as well as similar meetings in other regions. It stressed the essential mixture of farm and rural-nonfarm interests. It identified the opportunities and initiatives that foundations, educational institutions and public organizations could see in new countryside movements. And it emphasized that while government was not likely to pioneer this new territory, it could be expected to follow those who do.●

STATEMENT ON TUITION TAX CREDIT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WEBER) is recognized for 5 minutes.

Mr. WEBER of Ohio. Mr. Speaker, today I rise in support of tuition tax credits for elementary and secondary education in order to give some help to parents who choose to have their children educated in private schools. At the same time that they pay private school tuition, these parents have to share the burden of paying for public schools through their tax dollars. This double burden has denied, as a practi-

cal matter, the power to choose private education for many American families. The tuition tax credit will help to restore this power of choice for American families.

As a Congressman and also as a parent of three children I recognize the education of children as being one of my greatest concerns. All of us have different ideas about how children should be educated and what they should be taught. The United States has benefited tremendously by a very decentralized individualistic system in which many different ideas about education can be tried. We have a dual system of public education and private schools. It is very important for us to preserve the opportunity for every child to receive a good education in our public schools and also preserve the ability of American parents to exercise their freedom of choice to send their children to private schools as many parents do choose to do.

Parents who choose private schools must pay the constantly increasing cost that these schools have to charge in order to survive. On the other hand these same parents support public education through their taxes and without private schools the burden on public education and therefore the tax burden on all taxpayers would be much higher.

For many years there has been a trend toward increasing governmental support of private education at both the State and Federal level. For quite some time the State of Ohio has provided substantial amounts—next year amounting to about $375 per pupil—in transportation and auxiliary services to private schools. The Federal Government provides title I compensatory education funding for disadvantaged students to both public and private schools. At the college level various forms of construction loans have been available to private colleges and of course student loans guaranteed by the Federal Government are offered to students for both private and public colleges and universities.

The question of tuition tax credits has been considered by Congress going back as long ago as 1967 when the Senate passed such a bill. In 1978 a tuition tax credit passed both House and Senate in different forms, but could not be agreed upon for final passage.

On June 24 of this year, with bipartisan support, a tuition tax credit bill was introduced in the Congress to carry into effect the administration's proposals for tuition tax credits.

Because education is such an important question I have taken a great deal of time to listen to and get input from teachers, school administrators, parents, and also students about the question of tuition tax credits and I have also visited many private and public schools.

I give my full support to tuition tax credits for elementary and secondary education. Under this proposal parents would receive a tax credit for each child in the amount of 50 percent of the tuition paid, up to a maximum credit of $100 in 1983, $300 in 1984, and $500 in 1985. Only families with incomes under $50,000 would be eligible for the full credit. A lesser credit would be available up to $75,000 of family income and no credit if family income was above $75,000. Only schools that are nonprofit and do not discriminate on the basis of race or national origin would qualify.

I believe the tuition tax credit is going to be good for both private and public education. Public education will benefit by holding onto the support of parents who carry the double burden of private tuition and the school levies that pay for public education. Many private schools are on the brink of closing due to financial problems; if this happens the public burden is simply increased.

This tuition tax credit is going to be of greatest benefit to working families having incomes under $25,000 who also make up 60 percent of children enrolled in private schools. For many of these working families the tuition tax credit will make the difference between being able to choose a private school if they so desire or not having that choice. The tuition tax credit is one of the ways that I can demonstrate my concern for families and maximum educational opportunity.

During my first year in Congress if there is one thing that impresses me as I go about visiting with people in the Ninth Congressional District, it is the great diversity that we have. That diversity is one of our great strengths. Nonpublic schools should be recognized for the indispensable role which they play in that diversity. Americans should have the opportunity to choose between public and nonpublic education. Increasing numbers of families are unable to afford school tuition in addition to State and local taxes for public schools. The tuition tax credit that I support is a step in the direction of making that choice available to the working families of America.

□ 1940

CHARLES CONKLIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arizona (Mr. UDALL) is recognized for 5 minutes.

● Mr. UDALL. Mr. Speaker, Charles Conklin, staff director of the Interior and Insular Affairs Committee since 1974, will retire from Government service on July 31. It was with understanding and some envy that I accepted his decision. I am sorry to see him leave.

In 1951, Charles Conklin did something that was rare for his generation. Fresh out of Harvard University law school, he turned his back on more lucrative opportunities to open his own law practice in little Delta, Colo. I recall that because it has always told me something special about Charles Conklin. I think it speaks of a real and a genuine affection for the folks of his native Colorado, a respect for his roots, a real love of the land. He could easily have gone to Wall Street. He went instead to Main Street.

As Charles worked to build his law practice, he became deeply involved in public service, and the people in the Delta area sent him to the Colorado House of Representatives for 8 years. For 4 of those years, he was chosen by his colleagues to serve as speaker.

In Colorado, Charles became friends with former Congressman Wayne Aspinall, a former Interior Committee chairman, and in 1967, Wayne invited Charles to move to Washington as assistant director of the Public Land Law Review Commission.

It is important to remember that even in the 1960's, that decade of so much turbulence and change, the ideas expressed through the Land Law Review Commission represented a real departure from the way the United States, up until then, had viewed its natural resources. What the Commission was charged with doing was to come up with a comprehensive plan that took a whole new look at the way the United States managed its land and its resources.

As it turned out, Charles Conklin wound up in the vauguard of a movement that was really before its time. It was a movement that said that man is a creature of limits—limits ultimately imposed by nature and by a finite planet. The Public Land Law Review Commission was a beginning of a school of thought that today has found almost routine acceptance.

Shortly after the Commission completed its work, Charles joined the staff of the Interior Committee as special counsel on public lands and environmental matters. Here, he began the work of translating certain of the PLLRC recommendations into law. Three years later, he was named the committee's staff director.

Charles Conklin was staff director of the committee during a time when the Congress underwent some very significant reforms, and at a time when the committee itself was involved in a number of landmark pieces of legislation. There was a diffusion of authority from committee chairmen to subcommittee chairmen and in this sometime difficult and chaotic atmosphere, Charles Conklin guided the committee's administration with a calm hand a sense of order.

Charles Conklin is blessed with traits shared by too few administrators. He is at once kind and gentle, but has a knack for detail and thoroughness.

Charles Conklin is a good and a decent man who is my friend. I know I speak for all the members of the committee when I wish he and his wife, Jorie, all the best of what they seek in the years ahead.●

CHICAGO TRIBUNE CALLS REAGAN CONSTITUTIONAL AMENDMENT A GIMMICK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. ANNUNZIO) is recognized for 5 minutes.

● Mr. ANNUNZIO. Mr. Speaker, the Chicago Tribune has long been indentified as a "Republican newspaper." It gave a strong endorsement to President Reagan in his election against then-President Jimmy Carter.

Therefore, I think it is of great interest that the Tribune has lashed out in the strongest possible terms against President Reagan's proposed constitutional amendment for a balanced budget. In a July 21 editorial entitled "Stop Me Before I Spend Again, the Tribune said:

President Reagan ought to be ashamed of himself for proposing to rewrite the Constitution to divert attention from the failures of his economic policies. He likes to call himself a conservative, but his deficits and his willingness to tamper with the basic structure of our constitutional system have made him look downright reckless.

Mr. Speaker, those are not the words of a liberal Democrat, nor can they be characterized as partisan name calling designed to heighten election year interests. No, those are the words of a great newspaper which has strong Republican and conservative leanings.

The economic mess faced by this country is the sole property and possession of President Reagan and the Republican Party. It was invented and copyrighted by the Republicans. It was written, edited, produced, directed, and acted out by the Republicans. And now when it is time to hand out the awards for record depression, the Republican administration is trying to divert attention by switching scripts. It will not work, and even President Reagan's backers are beginning to see through the charade.

I am submitting a copy of the Chicago Tribune editorial because I think it quite correctly outlines the charade that is being acted out at 1600 Pennsylvania Avenue.

STOP ME BEFORE I SPEND AGAIN!

It was quite a spectacle, President Reagan up on the Capitol steps rousing the loyal multitudes with his call for a constitutional amendment to force future presidents and congresses to do what this President and Congress quite dramatically have failed to do: balance the federal budget.

The President was at his rhetorical finest when he said that "no more than a thin wall of wavering willpower stands between us and ruin by red ink." But when you realized that his latest budget contemplates the biggest deficit in history, the rhetoric became a bad joke.

Some willpower. The Reagan tax cuts have given us a deficit and interest rates that have sent the economy reeling into the gutter. And the President has the temerity to lecture us on temperance.

The balanced budget amendment to the Constitution is a bad idea for any number of reasons. If it were enforceable, it would bring courts into the politics of revenue and spending, which is about the last area of government that hasn't been taken over by the judges. If it were not enforceable, it would diminish the fundamental document upon which it had been grafted, sitting there like a useless appendix, a mockery of the law.

But the amendment proposal is not a serious idea at all. It is a gimmick, just a gimmick. It is President Reagan's way of pretending that the miserable economy is not his fault, that the record deficit budget is not his budget. It is a political trick designed to give him and Republican candidates something to say during the mid-term congressional elections when anyone has the audacity to complain that Reaganomics has created a mess.

President Reagan ought to be ashamed of himself for proposing to rewrite the Constitution to divert attention from the failures of his economic policies. He likes to call himself a conservative, but his deficits and his willingness to tamper with the basic structure of our constitutional system have made him look downright reckless. You would think that he would realize how transparent his gimmick is, how easily the voters will be able to see through it, how likely they are to put the blame where it belongs. But that wasn't a blush that came over his face on the Capitol steps. It was just the heat. And summer has hardly begun.●

THE EXPORT TRADING COMPANY ACT AND THE BANK EXPORT SERVICES ACT

The SPEAKER pro tempore. Under a previous order of the House, the genleman from Florida (Mr. NELSON) is recognized for 5 minutes.

● Mr. NELSON. Mr. Speaker, I rise in strong support of the two acts that we are considering today to establish an Export Trade Administration in the Department of Commerce for the purpose of helping companies to form export trading companies. These trading companies would be able to compete more effectively with their foreign competitors in many, many fields.

Today, the American companies are finding that to meet foreign competition is a little like selling a house—the ability to offer financing can be as important as tempting the buyer with a low price. We currently have no mechanism available for low-cost financing for the average American company as many of our foreign competitors have.

This legislation—which I have cosponsored—will also enable small and medium sized companies—particularly the high tech companies—to band together into a export trading company to exchange information and to access low-cost financing without fear of antitrust action, which would allow them to broadly expand their markets worldwide.

The United States has traditionally spent less than its trading partners in providing low-cost loans or loan guarantees. In 1980, the United States assisted only 8.2 percent of U.S. exports. Japan assisted 43 percent of its exports.

We cannot afford to hide our heads in the sand to avoid this issue. We are faced with a high level of joblessness and a declining balance of trade. These bills—The Export Trading Company Act and the Bank Export Services Act—would go a long way in increasing our world competitiveness, increase the jobs available, and expand our markets. I commend the committees for their timely action on these important pieces of legislation.●

URBAN ENTERPRISE ZONE PROGRAM

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 5 minutes.

● Mr. WEISS. Mr. Speaker, as we deliberate on the Reagan administration's enterprise zone proposal I think it is very important that we carefully analyze both the problems of economic and social decline in distressed communities and the substance of this proposal. In the interest of guiding this debate away from the simplistic and flawed rhetoric of this antiurban administration, I request permission to reprint the following analysis. This critical review of enterprise zones, written by Ms. Martha Peyton and Mr. Albert E. DePrince, Jr., of the economics department of the Marine Midland Bank of New York City, first appeared in the June 1982 report from the bank's economic department, and is reprinted with proper authorization.

I strongly urge my colleagues to review the objective analysis in this article which concludes that "the urban enterprise zone program appears to be only a paper knife wielded against a very real tiger." The article follows:

URBAN ENTERPRISE ZONES: A CRITICAL REVIEW

The seemingly endless media debate on the Federal budget and the re-definition of the Federal role in the provision of services has created the impression that the Reagan Administration is perhaps more concerned with dismantling government programs than with developing new ones. The Administration's urban enterprise zone proposal is, in contrast to this perception, an attempt at formulating a new policy approach to the continuing dilemma of inner city redevelopment. As such, it is one of the very few new program initiatives to be undertaken by this

Administration. Moreover, the program is intriguing in that it has been designed to stimulate depressed central city labor markets by methods that complement the Administration's free market philosophy.

In light of these considerations, the urban enterprise zone proposal warrants careful review and evaluation. On balance, our evaluation of the proposal points to only limited prospects for success. The tax incentives which comprise the benefit of zone designation seem too weak to offset the high costs of doing business in blighted areas.

OVERVIEW OF THE PROPOSAL

As it is currently formulated, the Administration's urban enterprise zone program calls for an array of tax incentives to encourage the development of businesses and jobs in designated urban areas. Specifically, the Department of Housing and Urban Development would designate up to twenty-five depressed areas per year as "enterprise zones" based primarily upon the local unemployment and poverty rates. The designation, once obtained, is valid for periods of up to twenty years. The creation of new jobs within these zones is to be encouraged by a variety of special tax incentives, including:

A 3 percent or 5 percent investment tax credit for capital investments in personal property and a 10 percent credit for construction or rehabilitation of structures in the zone,

A 10 percent tax credit to employers for wages paid to qualified zone employees, and a special 50 percent credit for wages paid to disadvantaged employees,

A 5 percent tax credit for qualified zone employees on wages earned in the zone,

Elimination of the capital gains tax for qualified property within the zone,

Foreign trade zone designation for suitable enterprise zones, and

Extension of the operating loss carry-over period.

In sum, these provisions are designed to eliminate at least 75 percent of the Federal income tax burden in these areas, according to the White House analysis. Indeed, most of the $310 million annual Federal cost of the program is foregone tax revenue, rather than outright Federal expenditures. An additional provision of the proposal allows for these zones to apply for relief from Federal regulations, except those which are imposed by explicit Federal statute, or those which protect against discrimination or insure public safety. In order to encourage similar concessions from state and local governments, zone designation will be based, at least partially, on the magnitude of state and local tax incentives, regulatory relief, and improvements in public services. Localities will, in essence, be asked to compete for designations.

As a whole, the urban enterprise zone concept is intended to encourage economic redevelopment in designated areas by decreasing the cost of doing business within these areas. Moreover, the policy's method of cutting costs is in keeping with the free market philosophy of the Reagan Administration. In this regard, the policy involves no overt government intervention to bring about the desired goal; rather, it involves minimizing regulatory intervention and reducing the tax burden. These incentives, it is hoped, will create sufficient economic advantages within the zones to attract business and create jobs. In evaluating the potential benefits from the program, therefore, it is necessary to ask if these incentives are sufficient to compensate for the well-documented disincentives to business growth in inner city areas.

DISINCENTIVES TO BUSINESS IN BLIGHTED URBAN AREAS

The urban enterprise zone proposal is intended to achieve two goals: the revitalization of zone economies, and the creation of jobs for zone residents. In order to evaluate the proposal's potential for success in these endeavors, it is necessary first to review the conditions that have contributed to the existing paucity of investment and jobs in these areas.

The locational choices of firms are usually based upon a careful evaluation of the costs of production at various locations. The costs of labor, capital, land, transportation, insurance, energy, and taxes are weighed according to their importance in the overall cost structure of the firm. For instance, labor-intensive textile manufacturing will seek a location where labor is readily available at a minimum cost whereas energy-intensive smelting firms are more interested in the cost of fuel and raw materials.

The urban areas eligible for enterprise zone designation are essentially high cost locations. The diseconomies may include high land costs, difficulties in assembling large land tracts, high energy and insurance costs, transportation difficulties, prevalence of crime, difficulty in attracting skilled labor, and poor public services. These problems obviously discourage investment. Beyond these factors, more recent economic research suggests that in may cases, location costs are not the primary consideration but are superceded by "quality of life" consideration. Enterprise zone areas, however, fall short on "quality" characteristics also. Housing, recreation, education, and cultural attractions in these locations are hardly alluring to entrepreneurs.

PROSPECTS FOR SUCCESS OF ENTERPRISE ZONES

On balance, urban enterprise zones will succeed in generating investment and jobs only to the degree that the high location costs and low quality characteristics of these areas are counter-weighed by the program's incentives. The effectiveness of the policy in offsetting these negative locational factors is highly questionable, however, since the program operates primarily through tax reduction. Several factors must be considered in this regard.

First, employment research has demonstrated that job creation is most closely dependent upon the birth of small firms. In a recent MIT study, 60% of all jobs in the U.S. were shown to be generated by firms with 20 or fewer employees. Firms with over 500 employees generate less than 15% of net new jobs. Small firms usually are organized as sole proprietorships. According to Internal Revenue Service data (see Table 5), there were 9.3 million non-farm sole proprietorships in 1979 with $395.7 billion in reported receipts. Less than three-quarters of these firms, 6.8 million, had net income remaining after Federal deductions. Furthermore, net income totaled $67.1 billion, or approximately $9,960 per firm. For 1979, a proprietor with $10,000 in net income would have had a $1,062 Federal tax liability (if married and filing a joint return). It is doubtful that even the total elimination of this liability could compensate for the added costs of doing business in the areas in question.

Despite the association between job creation and the birth of new firms, some analysts expect that enterprise zones will rather become tax havens for branch plants of established firms. Moreover, since the legislation does not prohibit the transfer of tax savings, they further expect that a market for these tax shelters will develop. Although both of these possibilities hold promise, they must be compared with less arduous means of obtaining tax savings such as safe-harbor leasing.

Second, enterprise zone designation will be influenced by the willingness of states and localities to grant concessions. With regard to other than Federal income taxes, non-farm sole proprietorships deducted $7.5 billion in taxes paid in 1979, approximately $800 per firm. Again, a less than startling sum. These taxes include all state and local income, property, excise, and licensing taxes. The degree of tax relief and service enhancement forthcoming from states and localities will be heavily influenced by the fiscal vitality of these jurisdictions. The frail fiscal health of many central cities and all the states in general (see "The U.S. Economic Situation," April 20, 1982) make significant concessions unlikely. The areas most in need of enterprise zone activities can afford these concessions the least.

TABLE 5.—SOLE PROPRIETORSHIP BUSINESSES: RECEIPTS AND SELECTED DEDUCTIONS—1979

	Total businesses	Businesses with net income
Number of nonfarm businesses (millions)	9.34	6.74
Business receipts (dollars in billions)	$395.67	$342.75
Depreciation	12.93	8.87
Taxes paid deduction	7.48	5.96
Interest paid	6.39	3.92
Payroll	38.28	32.24
Net income (less deficit)	56.53	67.08

In sum, the tax incentives provided by the program seem to be weak relative to the diseconomies of enterprise zone location. However, they may be attractive enough to encourage an unintended rearrangement of business within urban areas. Firms with a proven ability to operate profitably in inner city areas may find it marginally worthwhile to relocate to enterprise zone locations. These relocations generate little new investment and few new jobs. Moreover, the end result may simply be a relocation of blight from the enterprise zone to a similar area without zone designation.

Finally, the urban enterprise zone proposal has severely limited prospects for success in the present high interest rate environment. The entrepreneurial spirit which the program hopes to invoke is difficult to muster at current borrowing rates. Moreover, we envision a reluctance on the part of lenders to finance new enterprises in risky locations. While we applaud the Administration's attempt at non-interventionist stimulation of investment and jobs in these problem areas, the urban enterprise zone program appears to be only a paper knife wielded against a very real tiger.●

HON. WILLIAM NICHOLS, MEMBER OF CONGRESS, RECEIVES L. MENDEL RIVERS AWARD

(Mr. PRICE asked and was given permission to extend his remarks at this point in the RECORD and to include extraneous matter.)

● Mr. PRICE. Mr. Speaker, on July 3, 1982, in San Antonio, the Non Commissioned Officers Association of the USA (NCOA) presented its coveted L. Mendel Rivers Award for Legislative Action to the Honorable BILL NICHOLS of Alabama. Mr. NICHOLS is the 11th recipient of this award and the 6th member of the House Armed Services Committee to be so recognized for outstanding service to the military community.

I am pleased that Mr. NICHOLS was chosen by NCOA to receive this prestigious award. One of my most devoted Armed Services Subcommittee chairmen, BILL NICHOLS is well aware of the need for a viable defense manpower pool. His affinity with the members of the U.S. Armed Forces goes back some 40 years when he, himself, was a combat soldier. Wounded in action and hospitalized for months before retiring with a service-connected combat disability, he knows what it is to sacrifice and serve.

Though BILL NICHOLS laid aside his World War II uniform for the civilian garb of a Congressman, he has continued to serve his country as a leader, an adviser, and a true soldier. His capacity for work, his compassion for the troops, and his love of country rank up there with the best of patriots.

The NCOA, recognizing his support for the men and women in uniform who serve our Nation in war and peace, named him an honorary member some years ago, but believed that proper acknowledgment for his services could be recognized best through its L. Mendel Rivers award, which came this year with the following introduction by NCOA's Executive Director for Government Affairs, C. A. "Mack" McKinney:

We recognize this evening a true patriot, a member of Congress who has not forgotten the sacrifices and services he rendered as a member of the United States Army. His devotion to duty while in uniform earned him recognition from a grateful nation.

* * * * *

He has been a friend, a comrade and, most of all, a Representative who knows what it is to serve in combat and to bear the sacrifice of giving all but his life to the cause for freedom.

He is a soldier in every true sense of the word. He continues to serve our great Nation as a member of Congress. He continues to fight for the beliefs he knows are uppermost in the minds of his comrades-in-arms.

He seeks the best for our well-being. He has fought to see that the quality-of-life for our servicemembers is not traded for the welfare of those who will not serve this great Nation.

He is our kind. He is our spokesman. He is a true supporter of our men and women in uniform.

Ladies and Gentlemen, it gives me great pleasure to name the Association's 1982 recipient of the "L. Mendel Rivers Award for Legislative Action," the chairman of the House Armed Services Subcommittee on Military Personnel and Compensation, the Honorable Bill Nichols, Captain, U.S. Army, Retired.

BILL received his award from the NCOA's newly elected president, Fleet Master Chief Franklin Lister of the Navy's Atlantic Fleet. More than 800 delegates and their guests at the NCOA 21st Annual International Convention Banquet offered a standing ovation in honor of their selectee.

As a former recipient of the NCOA award, I congraulate BILL and know that all other past recipients of the award would join me in welcoming him to our exclusive club.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DENARDIS (at the request of Mr. MICHEL), for today, on account of a death in the family.

Mr. FOUNTAIN (at the request of Mr. WRIGHT), for today, on account of official business.

Mr. YATES (at the request of Mr. WRIGHT), for today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. JEFFRIES) to revise and extend their remarks and include extraneous material:)

Mr. DOUGHERTY, for 60 minutes, on July 28.

Mr. JEFFORDS, for 5 minutes, today.

Mr. WEBER of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. FAZIO) to revise and extend their remarks and include extraneous material:)

Mr. UDALL, for 5 minutes, today.

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. NELSON, for 5 minutes, today.

Mr. WEISS, for 5 minutes, today.

Mr. FRANK, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. ROTH, immediately preceding vote on T-5 tanker amendment.

(The following Members (at the request of Mr. JEFFRIES) and to include extraneous matter:)

Mr. BEREUTER.

Mr. CARMAN in two instances.

Mr. PORTER in two instances.

Mr. BURGENER.

Mr. WINN.

Mr. MARRIOTT.

Mr. GREEN.

Mr. BROOMFIELD.

Mr. WORTLEY.

Mr. MCGRATH in two instances.

Mr. DORNAN of California.

Mr. WHITEHURST.

Mr. DANNEMEYER.

Mr. GILMAN.

Mr. COURTER.

Mrs. SCHNEIDER.

Mr. CRAIG.

(The following Members (at the request of Mr. FAZIO) and to include extraneous matter:)

Mr. BARNES in three instances.

Mr. FASCELL in five instances.

Mr. EDGAR.

Mr. HUBBARD.

Ms. FERRARO.

Mr. HAWKINS.

Mr. DORGAN of North Dakota in two instances.

Mr. SHAMANSKY.

Mr. SIMON in two instances.

Mr. ROSENTHAL.

Mr. CORRADA.

Mr. MATSUI.

Mrs. SCHROEDER.

Mr. BONER of Tennessee.

Mr. FORD of Michigan in two instances.

Mr. WAXMAN.

Mr. MARKEY.

Mr. FORD of Tennessee.

Mr. OTTINGER.

Mr. TRAXLER.

Mr. STOKES.

Mr. FOLEY.

Mr. GARCIA.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2706. An act to amend title 28, United States Code, to modify the bar membership requirements for U.S. magistrates.

ADJOURNMENT

Mr. GAYDOS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 40 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 28, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4446. A letter from the Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting a notice of the decision to convert to contractor performance the motor vehicle operation and maintenance service activities at Fort Campbell, Ky., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4447. A letter from the Acting Assistant Secretary of the Army (Installations, Logistics and Financial Management), transmitting a notice of the decision to convert to contractor performance the audiovisual services activity at Fort Hood, Tex., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4448. A letter from the Secretary of Education, transmitting a draft of proposed legislation to simplify and improve the need of analysis procedures for Federal student financial assistance, to improve the operation of the Pell grant program, to eliminate or reduce Pell grant program abuse, and to make certain amendments to title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Education and Labor.

4449. A letter from the Secretary of Health and Human Services, transmitting the eighth annual report of the Department on the status of handicapped children in Head Start programs, pursuant to section 640(d) Public Law 97-35; to the Committee on Education and Labor.

4450. A letter from the Acting Secretary of State, transmitting a further report to the Department's initial report of July 15, 1982, that a substantial violation of the use of defense articles furnished to Israel under the foreign military sales program may have occurred, pursuant to section 3(c)(2) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4451. A letter from the Assistant Secretary for Congressional Relations, Department of State, transmitting a report on political contributions by Ambassador-designate Theodore G. Kronmiller, and by members of his family, pursuant to section 304(b)(2) of Public Law 96-465; to the Committee on Foreign Affairs.

4452. A letter from the Administrator, Panama Canal Commission, transmitting a report of a new record system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

4453. A letter from the Employee Benefits and Risk Manager, Fourth District Farm Credit Institutions, transmitting the annual report on the financial condition of the retirement plan for employees of the Fourth District Farm Credit Institutions, pursuant to section 121(a)(2) of the Budget and Accounting Procedures Act of 1950, as amended; to the Committee on Government Operations.

4454. A letter from the Director, Federal Prison System, Department of Justice, transmitting the annual report of the Board of Directors of Federal Prison Industries, Inc., pursuant to (18 U.S.C. 4127); to the Committee on the Judiciary.

4455. A letter from the Secretary of the Interior, transmitting the annual report, covering January 1, 1981, to December 31, 1981, of the Fish and Wildlife Service, Department of the Interior, on the status of all marine mammal species and population stocks subject to the provisions of the Marine Mammal Protection Act of 1972, pursuant to section 103(f) of Public Law 92-522; to the Committee on Merchant Marine and Fisheries.

4456. A letter from the Secretary of Transportation, transmitting the third annual report on the activities of the Coast Guard, pursuant to section 5(19) of Public Law 95-474; to the Committee on Merchant Marines and Fisheries.

4457. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to establish the grade of commodore in the U.S. Coast Guard, and for other purposes; to the Committee on Merchant Marines and Fisheries.

4458. A letter from the Administrator of General Services, transmitting a prospectus for alterations at the Blair House Complex, Washington, D.C., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4459. A letter from the Deputy Administrator of General Services, transmitting prospectuses for alterations at the Appraisers Stores, San Francisco, Calif. and the Post Office and Courthouse, Pittsburgh, Pa., pursuant to section 7 of the Public Buildings Act of 1959, as amended; to the Committee on Public Works and Transportation.

4460. A letter from the Secretary of State, transmitting the second certification for the provision of certain security assistance and the assignment of certain military personnel to El Salvador, pursuant to section 728 (b) and (d) of Public Law 97-113; to the Committee on Foreign Affairs.

4461. A letter from the Assistant Secretary of the Army (Manpower and Reserve Affairs), transmitting a draft of proposed legislation to amend title 10 and title 14, United States Code, to authorize the President, in time of war and national emergency, to prescribe a course of instruction of not less than 3 years at the U.S. Military, Naval, and Air Force Academies, and appoint graduates from the U.S. Military, Naval, Air Force, and Coast Guard Academies as commissioned officers without Senate confirmation; jointly, to the Committees on Armed Services and Merchant Marines and Fisheries.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6033. A bill relating to the preservation of the historic Congressional Cemetery in the District of Columbia for the inspiration and benefit of the people of the United States; with amendment (Rept. No. 97-667). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 6091. A bill to designate the Mary McLeod Bethune Council House in Washington, D.C., as a national historic site, and for other purposes; with amendment (Rept. No. 97-668). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. Report on subdivision of budget totals for fiscal years 1982 and 1983 and credit activity totals for fiscal year 1983 (Rept. No. 97-669). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 534. Resolution providing for the consideration of H.R. 6542, a bill to withdraw certain lands from mineral leasing, and for other purposes (Rept. No. 97-670). Referred to the House Calendar.

Mr. DERRICK: Committee on Rules. House Resolution 535. Resolution providing for the consideration of H.R. 6323, a bill to authorize appropriations for environmental research, development, and demonstration for the fiscal years 1983 and 1984, and for other purposes. (Rept. No. 97-671). Referred to the House Calendar.

Mr. BEILENSON: Committee on Rules. House Resolution 536. Resolution providing for the consideration of H.R. 6862, a bill to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983. (Rept. No. 97-672). Referred to the House Calendar.

Mr. WHITTEN: Committee on Appropriations. H.R. 6863. A bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes. (Rept. No. 97-673). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

BY Mr. FORD of Michigan:

H.R. 6862. A bill to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983; to the Committee on Post Office and Civil Service.

By Mr. WHITTEN:

H.R. 6863. A bill making supplemental appropriations for the fiscal year ending September 30, 1982, and for other purposes.

By Mr. BENNETT:

H.R. 6864. A bill to amend title 5, United States Code, to eliminate the provisions which exclude, for civil service retirement annuity purposes, periods of military and civilian service to the United States which were covered by social security, but to require annuities based on such service to be offset by the amounts of social security payments attributable to social security covered Federal employment; to the Committee on Post Office and Civil Service.

By Mr. DE LA GARZA:

H.R. 6865. A bill to amend the Perishable Agricultural Commodities Act, 1930, to require the Secretary of Agriculture to accept the payment of monetary penalties for certain admitted and infrequent violations involving misrepresentation under such act, and for other purposes; to the Committee on Agriculture.

By Mr. GEPHARDT (for himself, Mr. HOYER, and Mr. FROST):

H.R. 6866. A bill to amend the Congressional Budget Act of 1974 to achieve balanced budgets; to provide for uniform revenue estimates binding on the Congress and the President; to establish procedures for appropriate responses to extraordinary circumstances; and for other purposes; jointly, to the Committees on Rules and Government Operations.

By Mr. GIBBONS (by request):

H.R. 6867. A bill to change the tariff treatment with respect to certain articles, and for other purposes; to the Committee on Ways and Means.

By Mr. GILMAN:

H.R. 6868. A bill to provide for the relief of local prosecutors and sheriffs; to the Committee on the Judiciary.

By Mr. HEFTEL:

H.R. 6869. A bill to amend the Congressional Budget Act of 1974 to establish a Council on Economic Indicators and to pro-

vide for House and Senate approval of economic assumptions underlying the budget; to the Committee on Rules.

By Mr. LENT:

H.R. 6870. A bill to amend chapter 44 of title 18 of the United States Code (respecting firearms) to penalize the use of firearms in the commission of any felony and to increase the penalties in certain related existing provisions; to the Committee on the Judiciary.

By Mr. MATSUI:

H.R. 6871. A bill to amend the Voting Rights Act of 1965 and title 18, United States Code, to permit nonpartisan, nonprofit voter lotteries designed to encourage individuals to vote or to register to vote; to the Committee on the Judiciary.

By Mr. RAILSBACK (for himself, Mr. KASTENMEIER, Mr. BUTLER, Mr. SAWYER, and Mr. FRANK):

H.R. 6872. A bill to provide greater discretion to the Supreme Court in selecting the cases it will review, to extend to all Federal jurors eligibility for Federal worker's compensation, to provide for the taxing of attorney fees in certain actions brought by jurors, to authorize the service of jury summonses by ordinary mail, to permit courts of the United States to establish the order of hearing for certain civil matters, and for other purposes; jointly, to the Committees on the Judiciary and Education and Labor.

By Mr. ROUSSELOT:

H.R. 6873. A bill to amend the Tax Reform Act of 1969 with respect to the application of the excess business holdings provisions to private foundations; to the Committee on Ways and Means.

By Mr. SOLOMON:

H.R. 6874. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to promote motor vehicle safety by establishing information disclosure and certification requirements applicable to the sale of certain used motor vehicles; to the Committee on Energy and Commerce.

By Mr. UDALL (for himself, Mr. LUJAN, and Mr. WOLF):

H.R. 6875. A bill to provide financial assistance to the Wolf Trap Foundation for the Performing Arts for reconstruction of the Filene Center in Wolf Trap Farm Park, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. VENTO:

H.R. 6876. A bill to amend the Internal Revenue Code of 1954 to exempt from taxation difficulty of care payments made to a taxpayer for the care of a handicapped foster child; to the Committee on Ways and Means.

By Mr. FASCELL:

H.J. Res. 550. Joint resolution to authorize the President to proclaim October 15 of each year as National Poetry Day; to the Committee on Post Office and Civil Service.

By Mr. MARKEY:

H. Res. 537. Resolution to express the sense of the House of Representatives that the United States shall maintain its commitment to the security of the State of Israel and that the President should repudiate certain actions of the Secretary of the Interior; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII,

450. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to steel import limitations; to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 608: Mr. DREIER.

H.R. 808: Mr. HILER.

H.R. 3274: Mr. TAUKE.

H.R. 4454: Mr. SMITH of Alabama, Mr. PURSELL, Mr. SHAW, Mr. TAUKE, Mr. STANGELAND, Mr. GREGG, Mrs. SCHNEIDER, Mr. MCCLOSKEY, Mr. LEBOUTILLIER, Mr. MADIGAN, Mr. LELAND, Mr. JACOBS, Mr. HUBBARD, Mr. LUJAN, Mr. HOLLENBECK, Mr. JEFFRIES, Mr. WALKER, Mr. DECKARD, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. MILLER of California, Mr. CAMPBELL, Mr. MARLENEE, Mr. MINETA, and Mr. ST GERMAIN.

H.R. 4657: Mr. SUNIA and Mr. MINETA.

H.R. 4808: Mr. HAMILTON, Mr. BINGHAM, Mr. BENEDICT, Mr. WOLF, Mr. BEREUTER, and Mr. WEBER of Ohio.

H.R. 4833: Mr. CAMPBELL.

H.R. 5067: Mr. HILER.

H.R. 5214: Mr. PORTER.

H.R. 5242: Mr. MARLENEE.

H.R. 5290: Mr. BONIOR of Michigan, Mr. MURPHY, Mr. WALGREN, Mrs. SCHNEIDER, Mr. TRAXLER, Mr. JAMES K. COYNE, Mr. CROCKETT, Mr. MCDADE, Mr. EVANS of Iowa, Mr. SMITH of Pennsylvania, Mr. RINALDO, Mr. ADDABBO, and Mr. GOODLING.

H.R. 5411: Mr. EVANS of Georgia, Mr. HEFTEL, Mr. LAFALCE, Mr. SKELTON, Mr. GRISHAM, and Mr. HUTTO.

H.R. 5535: Mr. HOWARD, Mr. LELAND, and Mr. HUGHES.

H.R. 5588: Mr. SEIBERLING.

H.R. 6009: Mr. HILER, Mr. WOLF, and Mrs. KENNELLY.

H.R. 6032: Mr. WASHINGTON and Mr. FISH.

H.R. 6135: Mr. MYERS, Mr. MARLENEE, Mrs. SMITH of Nebraska, and Mr. GOODLING.

H.R. 6219: Mrs. COLLINS of Illinois, Mr. BONER of Tennessee, Mr. ROGERS, and Mr. SOLARZ.

H.R. 6510: Mr. CARNEY, Mr. DAVIS, Mr. FRENZEL, Mr. LEE, Mr. MCCLORY, Mr. PARRIS, Mr. SHAW, Mr. VANDER JAGT, and Mr. WAMPLER.

H.R. 6575: Mr. RANGEL, Mr. CONTE, and Mr. ECKART.

H.R. 6591: Mr. ROEMER.

H.R. 6596: Mr. DOWNEY, Mr. RAHALL, Mr. SCHUMER, Mr. PORTER, Mr. EVANS of Georgia, Mr. WILSON, Mr. HOWARD, Mr. BEDELL, Mr. NEAL, Mr. ROYBAL, Mr. HAGEDORN, and Mr. BARNARD.

H.R. 6692: Mr. EDGAR.

H.R. 6701: Mr. TAUKE, Mr. TAUZIN, Mr. MCDONALD, Mr. LEBOUTILLIER, Mr. FIELDS, Mr. SMITH of Alabama, and Mr. KEMP.

H.R. 6746: Mr. SMITH of Pennsylvania.

H.R. 6781: Mr. ECKART, Mr. BARNES, Mr. DORGAN of North Dakota, Mr. DUNCAN, Mr. PORTER, Mr. SHAMANSKY, Mr. RATCHFORD, Mr. DONNELLY, Mr. STANGELAND, Mr. HANCE, Mr. BROYHILL, Mr. LOWRY of Washington, Mr. OTTINGER, Mr. FROST, Mr. LUNDINE, Mr. SCHUMER, Mr. SKELTON, Mr. ANTHONY, Mrs. KENNELLY, Mr. MCCURDY, Mr. LEATH of Texas, Mr. DYSON, Mr. MINETA, Mr. WORTLEY, Mr. HUGHES, Mr. MORRISON, Mr. D'AMOURS, Mr. BLILEY, Mr. MARKEY, Mr. BOWEN, Mr. FAZIO, and Mr. BONER of Tennessee.

H.R. 6806: Mr. BRINKLEY, Mr. LAGOMARSINO, and Mr. PORTER.

H.R. 6816: Mr. BARNARD.

H.R. 6829: Mr. LOWRY of Washington and Ms. MIKULSKI.

H.J. Res. 172: Mr. LOWRY of Washington.

H.J. Res. 493: Mr. PAUL, Mr. OXLEY, Mr. MCCOLLUM, Mrs. ASHBROOK, Mr. HOPKINS, Mr. SKEEN, and Mr. WYLIE.

H.J. Res. 507: Mr. LOWRY of Washington and Mr. EDGAR.

H.J. Res. 509: Mr. EDGAR, Mr. MOFFETT, Mr. MITCHELL of Maryland, Mr. BEDELL, Mr. FOGLIETTA, Mr. KILDEE, Mr. ROSENTHAL, Mr. FAUNTROY, Mrs. CHISHOLM, Mr. SAVAGE, Mr. WOLPE, Mr. WEISS, Mr. BROWN of California, Mr. STARK, Mr. RICHMOND, Mr. VENTO, Mr. FAZIO, Mr. WEAVER, Mr. DOWNEY, and Mr. MILLER of California.

H.J. Res. 511: Mr. CLINGER.

H.J. Res. 524: Mr. WON PAT, Mrs. HOLT, Mr. ANDERSON, Mr. FORD of Tennessee, Mr. EDGAR, Mr. FORSYTHE, Mr. RICHMOND, Mr. HEFNER, Mr. WAXMAN, Mr. DWYER, Mr. SUNIA, Mr. CORCORAN, Mr. DAUB, Ms. MIKULSKI, Mr. WYDEN, Mr. ALBOSTA, Mr. CONYERS, Mr. DONNELLY, Mr. DYSON, Mr. WOLPE, Mr. HOYER, Mr. HUGHES, Mr. BINGHAM, Mr. MARKEY, Mr. SMITH of Pennsylvania, Mr. WORTLEY, Mr. WHITEHURST, Mr. COURTER, Mr. DE LA GARZA, Mr. FAZIO, Mr. VENTO, Mr. STOKES, Mr. NEAL, Mr. TRAXLER, Mrs. CHISHOLM, Mr. BIAGGI, Mr. HUGHES, Mr. SABO, Mr. WOLF, and Mr. PURSELL.

H. Con. Res. 377: Mr. KILDEE and Mr. PRITCHARD.

H. Con. Res. 379: Mr. BLILEY, Mr. HUGHES, Mr. MOFFETT, Mrs. HECKLER, and Mr. BEDELL.

H. Con. Res. 381: Mr. BRODHEAD, Mr. PRITCHARD, Mr. SCHUMER, Mrs. HOLT, Mr. FRANK, Mr. OTTINGER, Mr. EDGAR, Mr. VENTO, Mr. FORD of Tennessee, Mr. KILDEE, Ms. MIKULSKI, Mr. SEIBERLING, Mr. DWYER, Mr. BONKER, Mr. MURPHY, Mr. MARKEY, Mr. HAWKINS, Ms. FERRARO, Mr. WEISS, Mr. ROYBAL, Mr. SHAMANSKY, Mr. BARNARD, and Mr. LEHMAN.

H. Res. 443: Mrs. CHISHOLM, Mr. ADDABBO, Mr. BEILENSON, Mr. RICHMOND, Mr. MINETA, Mr. MILLER of California, Mr. PEPPER, Mr. HUGHES, Mr. DELLUMS, Mr. DWYER, and Mr. ROYBAL.

H. Res. 454: Mr. DE LUGO.

H. Res. 524: Mrs. SCHNEIDER, Mr. MATSUI, Mr. BEARD, Mr. MARKEY, Mr. DAUB, Mr. GRAY, Mr. CHAPPIE, Mr. CRAIG, Mr. ROE, Mr. FOGLIETTA, Mr. KILDEE, Mr. STOKES, Mr. SUNIA, Mr. MCCOLLUM, Mr. YATRON, Mr. CORCORAN, Mr. FRANK, Mr. HUGHES, Mr. PORTER, Mr. ROGERS, Mr. FAZIO, Mr. OTTINGER, Mr. EVANS of Georgia, Mr. BEDELL, Mr. BINGHAM, and Ms. MIKULSKI.

H. Res. 526: Mr. PEYSER, Mr. DWYER, Mr. CONTE, Mr. LOWRY of Washington, Mr. PORTER, and Mr. SIMON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1454: Mr. SEIBERLING.

PETITIONS, ETC.

Under clause 4 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

536. By the SPEAKER: Petition of the International Association of Personnel in Employment Security, Frankfort, Ky., relative to S. 2036; to the Committee on Education and Labor.

537. Also, petition of the Watonwan County Board of Commissioners, St. James, Minn., relative to employment and training programs; to the Committee on Education and Labor.

538. Also, petition of the Board of Trustees of the Village of Glencoe, Ill., relative to nuclear weapons; jointly, to the Committees on Armed Services and Foreign Affairs.

539. Also, petition of the Columbia County Citizens for the Prevention of Nuclear War, Hudson, N.Y., relative to nuclear weapons; jointly, to the Committees on Armed Services, Foreign Affairs, and Appropriations.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 2643

By Mr. JONES of Oklahoma:

—At page 136,

(a) in line 5 delete "made"; and

(b) in line 6 delete "under" and insert in lieu thereof "pursuant to section 32 of".

—At page 147, add the following after line 21:

SEC. 31. INELIGIBLE AIRPORTS.

For any fiscal year beginning after September 30, 1981, any airport that otherwise would be eligible to receive Federal assistance for airport development or airport planning under this Act may elect not to receive such assistance: *Provided,* That—

(1) such airport shall not be eligible to receive assistance for airport development or airport planning under this Act for that fiscal year or any subsequent fiscal year, and

(2) any airport that elects not to receive such assistance during a fiscal year notifies the Secretary of such election at least 90 days prior to the commencement of that fiscal year."

SEC. 32. PASSENGER FACILITY CHARGE

(a) AUTHORITY TO IMPOSE.—The operator of a commercial service airport that has elected to become ineligible to receive Federal assistance for airport development or airport planning under the provisions of section 31 of this Act may, at its option and notwithstanding any inconsistent provision in any law or contract, impose a limited passenger facility charge on passengers enplaning at such airport if the operator complies with all of the following requirements:

(1) all revenues generated by such charge shall be obligated or expended only for projects of capital airport development or airport planning (including noise compatibility projects) which (A) would have been, in whole or in part, eligible projects under the provisions of this Act but for the airport's election under section 31 and (B) are intended to meet the reasonable needs of revenue passengers using such airport;

(2) all other revenues generated by the airport while such charge is in effect shall be obligated or expended only for the capital or operating cost of the airport, the local airport system, or other facilities that are operated by the operator of the airport and are directly related to the air transportation of persons or property: *Provided, however,* That if covenants or assurances in debt obligations previously issued by the operator of the airport, or provisions in governing statutes controlling the operator's financing, provide for the use of the revenues from any of the airport operator's facilities including the airport to support not only the airport but also the airport operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(3) capital airport development projects financed in whole or in part by such charge shall be undertaken only after consultation with the air carriers and foreign air carriers serving such airport.

(b) COLLECTION OF CHARGE.—Not later than 120 days after the date of enactment of this Act, the Civil Aeronautics Board shall promulgate such regulations as may be necessary to establish procedures for the imposition and collection of passenger facility charges under this section. Among other things, such regulations shall provide that—

(1) the charge shall be imposed only on revenue passengers enplaning at such airport on air carriers or foreign air carriers engaging in the carriage of passengers by air for compensation or hire;

(2) the charge at each airport shall be imposed upon all such revenue passengers in a nondiscriminatory manner and with the minimum possible inconvenience to air travelers and to those persons charged with collecting and remitting such charge; and

(3) all air carriers or foreign air carriers shall be required to collect such charge but they shall be reimbursed for all necessary and reasonable expenses incurred in the collection and handling of such charge.

(c) LIMITATION ON AMOUNT OF CHARGE.—No ineligible airport may impose a passenger facility charge exceeding two per centum of the amount paid by the passenger for taxable transportation as defined in section 4262 of the Internal Revenue Code, plus collection expenses specified in subsection (b) above; and

(d) TRANSFER OF AUTHORITY.—On January 1, 1985, the authority of the Civil Aeronautics Board under this section shall be transferred to the Department of Transportation.

By Mr. PETRI:

—Page 113, line 18, insert after "1958," the following: and each approved motor common carrier of persons,

Page 113, line 23, insert after "carriers" the following: "and all such motor carriers, respectively,".

Page 113, line 24, insert after "subject" the following: ", in the case of such air carriers,".

Page 118, after line 21, insert the following:

(c) DEFINITIONS.—For purposes of this section—

(1) the term "approved motor common carrier" means a motor common carrier which has been authorized by the Interstate Commerce Commission, a State or local government, or a local public body to provide transportation between an airport and another point; and

(2) the term "motor common carrier" has the same meaning such term has in section 10102(12) of title 49, United States Code, except that such term does not include a motor vehicle providing taxicab service and having a capacity of not more than 6 passengers and not operated on a regular route or between specified places.

H.R. 5203

By Mr. ROSENTHAL:

—Page 40, line 14, insert "(a)" after "SEC. 4.".

Page 41, line 12, strike out "and" and insert in lieu thereof the following new paragraph:

"(3) striking out '(ii) a request for a hearing is made by a person adversely affected by the notice.' and inserting in lieu thereof '(ii) a request for a hearing is made by any interested person, including any person adversely affected by the Administrator's failure to propose action providing for greater restrictions on the use of the pesticide involved, for a more rapid phasing out of its registration, or for a change in its classification.'; and".

Page 41, line 13, strike out "(3)" and insert in lieu thereof "(4)".

Page 42, after line 2, insert the following new subsection:

(b) The first sentence of section 6(e)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by striking out "a person adversely affected by the notice." and inserting in lieu thereof "any interested person, including any person adversely affected by the Administrator's determination with respect to the disposition of existing stocks.".

H.R. 5320

By Mr. HILLIS:

—Page 142, after line 21, insert the following part (and conform the table of contents accordingly):

PART F—YOUTH CAREER INTERN PROGRAM

STATEMENT OF PURPOSE

SEC. 481. It is the purpose of this part to assist in providing financial assistance to prime sponsors to establish and operate programs conducted by local educational agencies and community-based organizations designed to improve educational and employment opportunities for youths in areas of high unemployment.

DEFINITION OF ELIGIBLE YOUTHS

SEC. 482. For the purpose of this part, the term "eligible youth" means a youth aged 16 through 21, inclusive, or if authorized under regulations of the Secretary, aged 14 or 15, who is (1) either unemployed, underemployed, or in school, and (2) the income of his family is at or below the lower living standard income level.

FINANCIAL ASSISTANCE AUTHORIZED

SEC. 483. The Secretary and local educational agencies shall provide equal financial assistance to prime sponsors for programs to be conducted jointly by local educational agencies and community-based organizations to improve educational and employment opportunities for youths in areas of high unemployment and served by the prime sponsor.

APPLICATION

SEC. 484. Each prime sponsor desiring to participate in the program authorized by this part shall submit an application to the Secretary on behalf of local educational agencies and community-based organizations within the area served by the prime sponsor at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

(1) describe the program to be conducted jointly by the local educational agency and the community-based organization for the improvement of educational and employment opportunities for youths in areas served by the prime sponsor;

(2) contain assurances that the unemployment rate for youth in the area served by the prime sponsor was equal to or in excess of two times the level of adult unemployment; and

(3) describe the manner in which eligible youth will be selected to participate in the program, the number of youth to be so served, the educational services and other

training to be provided under the program, and the placement goals of the program.

By Mr. ROBERTS of South Dakota:

—Page 94, following line 3, add an additional subsection which should read:

"(7) No funds allocated under this section shall be provided to any labor organization."

H.R. 6030

By Mr. BEARD:

—At the end of the bill, add the following new section:

OVERSIGHT OF DEFENSE EXPENDITURES

SEC. 902. (a) Concurrent with the submission of the budget to Congress for fiscal year 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report concerning the strength requested in such budget for civilian personnel for the Defense Contract Audit Agency, Defense Audit Service and the Defense Criminal Investigative Service. Such report shall state the number of such personnel at the end of fiscal year 1982, the number at the time the report is submitted, and the number requested in that budget and shall include a justification for the number requested. The report shall also include the opinion of the Secretary of Defense as to whether the number requested is sufficient for those agencies to accomplish their functions with respect to the reduction of waste, fraud, and abuse in defense expenditures during the next fiscal year, particularly in light of any increases (in real terms) in the levels of appropriations requested in that budget for operations, procurement of new equipment, and for research, development, test, and evaluation.

(b) The Secretary shall include in the report under subsection (a) information concerning the savings in defense expenditures achieved by the Defense Contract Audit Agency, Defense Audit Service and Defense Criminal Investigative Service during fiscal year 1982, including a statement for each agency of the amount of such cost savings achieved as a percentage of the number of dollars spent by such agency during such year.

By Mr. HERTEL:

—At the end of the bill, add the following new section:

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 902. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parentheses under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

By Mr. NICHOLS:

(To the amendment offered by Mrs. SCHROEDER)

—Strike out everything after section 901 in the matter proposed to be inserted by the amendment and insert in lieu thereof the following:

PAYMENTS OF RETIRED AND RETAINER PAY

SEC. 902. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of any foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

"(2) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662 (B)));

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c))); or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse or former spouse of that member.

For purposes of this definition, 'final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(3) 'disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled under the provisions of this title (other than chapter 61 of this title), title 14, section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), or section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) less amounts which—

"(A) are owed by such member to the United States;

"(B) are required by law to be, and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

"(4) 'Member' means a person who is or was appointed or enlisted in, or conscripted into, any of the uniformed services, and includes a former member.

"(5) 'Secretary concerned' has the meaning given that term by section 101(5) of title 37.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

"(7) 'Uniformed services' has the meaning given to that term by section 101(3) of title 37.

"(b) For the purposes of this section—

"(1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face;

"(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

"(D) the court order or other documents served with the court order certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 were observed; and

"(2) a court order is regular on its face when the order—

"(A) is from a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(C)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning on or after June 26, 1981, either as property solely of the member or as property of the member and his spouse in accordance with the law of the jurisdiction of such court if the spouse was married to the member for a period of not less than 10 years during which the member performed at least 10 years of service which is creditable in determining the member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services.

"(2) Notwithstanding any other provision of law, this section does not create any right title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order a member to apply for retirement or retire from the uniformed services at a particular time in order to effectuate any payment under this section.

"(4) A court may not treat the disposable retired or retainer pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court or unless the marriage was performed in the territorial jurisdiction of the court.

"(D)(1) Not later than 90 days after the effective service of a court order with respect to a member who is entitled to receive retired or retainer pay, or, in the case of a member who, on the date of the effective service of a court order with respect to such member, is not entitled to receive retired or retainer pay, not later than 90 days after such member first becomes entitled to receive retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member the amount of disposable retired or retainer pay specifically provided for in the court order.

"(2) Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with any court order.

"(3) Payments from the disposable retired or retainer pay of any member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first, and in the case of a former spouse, shall terminate with respect to alimony or a division of property (including a division of community property) upon the remarriage of the former spouse before the age of 60.

"(4) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired or retainer pay.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) shall not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse from the disposable retired or retainer pay of one member, such pay shall be used to satisfy, subject to the limitations of paragraph (1), such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse of former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse or former spouse and the amount payable to the spouse or former spouse under clause (i); and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less any amounts paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amounts paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i); and

"(II) the amount of disposable retired or retainer pay retained under clause (ii).

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to any member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay which exceeds that amount available for payment in accordance with the limits of paragraph (1) and subparagraph (b) of paragraph (4), shall not be deemed to be irregular on its face solely for that reason. However, such order shall be deemed to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the amount of disposable retired or retainer pay available for such payment in accordance with the limits of paragraph (1) and subparagraph (B) of paragraph (4).

"(f)(1) The United States and any officer or employee thereof shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h).

"(2) No officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(g) Any person receiving effective service of any court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy thereof) to the member affected by such court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations to administer this section within the uniformed services.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

SURVIVOR ANNUITIES

SEC. 903. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally

decided under the laws applicable to such appeals.

"(10) 'Regular on its face' has the meaning given to that term by section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

"(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a voluntary written agreement entered into with a former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether such election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)".

(d) Section 1450(f) of such title is amended to read as follows:

(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretary of Defense shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness set forth in section 1448(a)(5) of this title.

"(2) Any person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into a voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) unless—

"(A) in any case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in any case in which such agreement has not been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the selection under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 904. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) the unremarried former spouse of a member or former member if, on the date of the final decree of divorce, dissolution, or annulment, that former spouse had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of service which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services and if that former spouse does not have medical coverage under an employer-sponsored health plan.".

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072(2)(F) of this title may be given medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause.".

(c) Section 1086(c) of such title is amended by inserting after clause (2) the following new clause:

"(3) A dependent covered by section 1072(2)(F) of this title.".

COMMISSARY AND EXCHANGE PRIVILEGES

SEC. 905. The Secretary of Defense shall prescribe such regulations as may be necessary to provide that any unremarried former spouse described in subparagraph (F) of section 1072(2) of title 10, United States Code (as added by section 904), is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

EFFECTIVE DATE AND TRANSITION

SEC. 906. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of enactment.

(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 902(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of such amendments, but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

(c) The amendments made by section 903 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan before, on, or after the effective date of such amendments.

(d) The amendments made by section 904 of this title and the provisions of section 905 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 902 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(a)(6) of such title (as added by section 902 of this title); and

(3) the term "uniformed services" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 902 of this title).

H.R. 6214

By Mr. DOUGHERTY:

—Page 43, line 9, strike out "$320,090,000" and insert in lieu thereof "$269,690,000".

Page 43, line 15, strike out "$2,025,073,000" and insert in lieu thereof "$1,974,673,000".

Page 43, line 24, strike out "$498,288,000" and insert in lieu thereof "$376,588,000".

Page 44, line 2, strike out "$2,604,314,000" and insert in lieu thereof "$2,482,614,000".

H.R. 6307

By Mr. GRAMM:

—Page 4, strike out lines 22 and all that follows down through line 5 on page 6 and substitute: The Administrator shall, not later than three years after the date of the enactment of the Resource Conservation and Recovery Reauthorization Act of 1982, complete a study and submit a report to the Congress concerning whether the provisions of regulations promulgated under this Act respecting hazardous waste generated by small generators in quantities of 1,000 kilograms or less per calendar month should be modified with respect to any class or category of hazardous waste.

"(2) The study required under this section shall include—

"(A) a profile of the generators, hazardous wastes, and waste management practices subject to such provisions;

"(B) an assessment of the hazards associated with such wastes and practices; and

"(C) an analysis of the regulatory alternatives to the exemption of such wastes from the standards under this subtitle, including an analysis of the cost-effectiveness of such alternatives.

"(3) At intervals of not more than one year, and not more than two years, after the date of the enactment of the Resource Conservation and Recovery Reauthorization Act of 1982, the Administrator shall submit an interim report to the Congress setting forth detailed statements of the status and of the study required under this subsection."

H.R. 6785

By Mrs. SCHROEDER:

—After section 3, insert the following new section:

SALARY OF FORMER MEMBERS OF UNIFORMED SERVICES TO BE REDUCED BY AMOUNT OF RETIRED PAY

SEC. 4. (a)(1) Section 5532 of title 5, United States Code, is amended to read as follows:

"§ 5532. Employment of retired members of the uniformed services; reduction in pay

"(a) In the case of any member or former member of a uniformed service who is receiving retired or retainer pay and who holds a position, an amount equal to the retired or retainer pay and who holds a position, an amount equal to the retired or retainer pay which is allocable to the period of actual employment shall be deducted from the individual's pay for that position, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited into the general fund of the Treasury of the United States, except that no such deposit shall be required of deductions from the pay of individuals employed by the United States Postal Service.

"(b) The reduction in pay required by this section does not apply to a member or former member of a uniformed service receiving retired or retainer pay whose retired or retainer pay is computed, in whole or in part, based on disability—

"(1) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

"(2) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38.

"(c) The Office of Personnel Management may authorize exceptions to subsection (a) of this section only when necessary to meet special or emergency employment needs which result from a severe shortage of well qualified candidates for positions which otherwise cannot be readily filled. An exception granted by the Office with respect to any individual shall terminate upon a break in service of 3 days or more.

"(d) This section shall not apply to reduce the salary of any person whose compensation may not, under section 1 of article III of the Constitution of the United States, be diminished during such individual's continuance in office. However, in any such case, the provisions of this section as in effect July 1, 1982, and the provisions of section 308(g) of the Civil Service Reform Act of 1978, shall apply to the same extent and in the same manner as if the amendments made by section 4 of H.R. 6785, Ninety-seventh Congress, had not been enacted.

"(e) The Office of Personnel Management may prescribe regulations necessary for the administration of this section insofar as this section applies to positions in the executive branch.".

(2) Section 8116(a) of title 5, United States Code, is amended by inserting before the period at the end thereof the following "(as in effect July 1, 1982)".

(3) The table of sections for chapter 55 of title 5, United States Code, is amended by striking out the item relating to section 5532 and inserting in lieu thereof the following:

"5532. Employment of retired members of the uniformed services; reduction in pay.".

(b)(1) The Comptroller General shall conduct a review to identify instances in which individuals concurrently receive—

(A) annuities or other retired pay under retirement systems for civilian employees of the Government, or the government of the District of Columbia, or any territory or possession of the United States; and

(B) pay for positions (as defined in section 5531 of title 5, United States Code).

(2) Not later than 180 days after the date of the enactment of this Act, the Comptroller General shall complete the review required under paragraph (1) and prepare and submit a report on the results of such review to the Committee on Post Office and Civil Service of the House of Representatives and the Committee on Governmental Affairs of the Senate.

(c)(1) The amendments made by this section shall take effect with respect to pay periods beginning on or after October 1, 1982, and shall apply to any member or former member of a uniformed service, whether appointed or elected to a position (as defined in section 5531 of title 5, United States Code) before, on, or after October 1, 1982.

(2) Nothing in this section (or section 410 of title 39, United States Code) shall be construed to exempt the United States Postal Service or its employees or officers from the amendments made by this section.

EXTENSIONS OF REMARKS

OUR RESPONSIBILITIES: CHURCH AND STATE

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. SIMON. Mr. Speaker, Dr. Leroy Hodapp, bishop of the United Methodist Church for central and southern Illinois, recently spoke to the Methodist ministers of his jurisdiction, and put into perspective some of the truths with which we deal daily.

Without mentioning the "prayer in public schools" amendment by name, he said this:

Fourth, under no circumstances may the state expect any church or individual constituent to violate their religious conscience to support the state; nor may any church expect the state to support their particular religious beliefs as a matter of public policy. Unfortunately, there are religious groups in our society today who supported the election of the present national administration for the very purpose of violating this principle. Let us hope that as American citizens we understand our roots well enough to resist any such proposals.

Bishop Hodapp speaks both wisdom and commonsense, and I urge my colleagues to read his remarks which I am inserting in the RECORD at this point.

MINISTRY AS A CITIZEN OF THE UNITED STATES

All forms of ministry—as all forms of life itself—exist within a specific context of time and space, and in relationship to other persons and factors.

Recently, I received a letter from Douglas Rettig (a clergy member of the Central Illinois Conference) who is serving on the staff of the Institute of Cultural Affairs in Indonesia. While explaining how his ministry is lived out in a culture where Christians are an extreme minority, and such an alien faith is highly provocative, he described the arrival of a visiting Australian clergyman in their small village. The man was wearing a large cross suspended from a chain around his neck. "He might as well have gotten out of the taxi carrying a fully loaded M-60 automatic rifle," Doug wrote. "It would have aroused no more fear and suspicion than the cross did."

All forms of ministry exist within some specific context of time and space, and in relationship to other persons and factors.

One of the most fascinating movements in Christian ministry today is happening in China. After many years of underground existence—and ten years of extreme persecution from 1966-1976—the church in China has emerged with new vitality and activity. When Nanking Theological Seminary announced its reopening in 1981, over 1000 potential students applied. The seminary has accepted 50 of these (20 of whom are women) as resident students, but also is providing resource materials and training for another 30,000 local church workers and lay persons, most of whom work in house churches all across the country. The church in New China has taken seriously the so-called "three self movement" of 19th century missionary outreach—that—indigenous churches become self-governing, self-supporting and self-propagating. Therefore, Western influence has no place in the current renewal of faith. The form of the church which is being fashioned will be Chinese—and quite possibly different from any previously experienced in the history of our faith.

All forms of ministry exist within a specific context of time and space, and in relationship to other persons and factors.

Our scripture lesson makes it clear that the apostle Paul engaged in ministry as a citizen of the Roman Empire. Such citizenship provided him with security and status under very crucial circumstances. Those of you being ordained this evening will carry out your ministry as citizens of the United States. This, unless you choose to move elsewhere, will be the context of your life. It is a unique setting, defined by a particular time and place. The United States has an understanding of the relationship between church and state unlike any other nation on the earth. We still are debating among ourselves exactly what the relationship implies, and the current issue of voluntary school prayer only will serve to heighten that debate. However, it is not my intention to delve into the intricacies of that discussion tonight.

The basis of our principle of separation of church and state, of course, is the First Amendment to the Constitution: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Some implications of this statement may be found in the Virginia Statute of Religious Liberty, written by Thomas Jefferson and considered by him (together with the Declaration of Independence and the founding of the University of Virginia) as one of his three greatest contributions to our common heritage.

In this Statute, Jefferson wrote, "To compel a man to furnish contributions of money for the propogation of opinions which he disbelieves is sinful and tyrannical," and "the prescribing any citizen as unworthy of public confidence by laying upon him an incapacity of being called to offices of trust and emolument, unless he profess or renounce this or that religious opinion, is depriving him injuriously of those privileges and advantages to which in common with his fellow citizens he has a natural right." In brief, our heritage does not permit a religious test for public office. There is a certain citizen of Virginia today who would do well to listen carefully to these words.

As I hear them, together with other basic documents from our national roots, certain clarification of ministry as a citizen of the United States becomes evident.

First, the United States government should not be in the business of promoting religious faith. We are not a Christian nation; any more than we are a Buddhist nation, or a Jewish nation, or a Mormon nation, or an atheistic nation. We are a nation in which persons freely may profess any given religious faith—or no religious faith—and still be as qualified and as acceptable a United States citizen as any other. That freedom has provided a fertile ground in which the Christian faith has grown to become the dominant faith in the nation.

Second, it is the function of our government to protect the right of any religious faith in the United States to worship, to teach, and to evangelize—so long as it does not illegally violate the individual and corporate rights of others in the process. As the dominant faith, it becomes the responsibility of Christians to insist upon the rights of minority faiths. Within our national understanding, the exercise and propagation of faith is a function of the individual, the family and the church—not the state. The state's role is to protect these rights, which is an extremely vital function—absent in most areas of our world today.

Third, inherent in this religious freedom is the right and the responsibility of the church and the individual Christian to interact with the state. The so-called "wall of separation of church and state" does not imply that these two entities ignore one another, or live in isolation from one another. The state has a right to demand legal responsibility by the church; and the church has a right to demand moral and ethical responsibility by the state. Their organic separation provides for this mutual accountability; so that neither individually nor jointly can then oppress or harass members or citizens.

Fifth, what the church can and must expect of our government is that its policies and practices live up to the highest moral and ethical ideals expressed in our national tradition and our official national documents. As these traditions and documents were framed, Thomas Jefferson referred to them in his First Inaugural Address as "the world's best hope." Rarely in national documents does one come upon words like: "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are Life, Liberty and the pursuit of Happiness."

The traditional and historic ideals of the United States surpass any moral and ethical ideals found anywhere else among the world's nations.

The Declaration of Independence then proceeds to state that, if a government does not maintain and protect these rights, its people have a "right and duty" to alter or abolish it. If it is a foreign government which oppresses them, they have the right to self-determination; if it is their own government, they possess the right to revolution.

Increasingly, oppressed and disinherited peoples everywhere agree with Jefferson that United States independence documents express "the world's best hope." Therefore, they are determined to alter or replace unjust governments, and cannot understand why we do not support such efforts, given our own historical context. For millions of such people, Emma Lazarus' words on the Statue of Liberty have offered not only hope, but a new beginning—"Give me your

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

poor, your huddled masses yearning to breathe free." But not all victims of oppression can emigrate to the United States. Their plight must be resolved in their own lands.

Especially since World War II, the image of the United States toward these poor and dispossessed people has undergone a significant transformation. Economic exploitation of already poor nations, immigration quotas established for political purposes, foreign aid programs which enrich United States business interests rather than serve poor and hungry people, regular military and para-military intervention in the affairs of other nations, the threat of military might as the solution to international disagreements, economic and military support for governments which oppress their own people, increasing indifference to the poor in our own nation—all of these types of behaviour have challenged positive perceptions of the United States around the world. Some may ask, "Who cares what others think of us?" We do live in one world, and if it is to be a peaceful world, we must care about others and their feelings.

A recent issue of U.S. News and World Report contained the results of a world-wide survey conducted by their overseas bureaus on attitudes toward the United States. To the surprise of the editors, the survey revealed a great reservoir of good will toward the United States, especially when compared to the Soviet Union, which has lost respect everywhere due to human rights abuses and military adventurism in Afghanistan and elsewhere.

From Western Europe came data showing that people preferred the U.S. to Russia as an ally by 56 to 1. One poll in Italy revealed that Italians favored the United States even to their own government. But Western Europeans demonstrated great fear of nuclear irresponsibility by the United States, and also were bothered by our high domestic crime rate, especially in light of our reluctance to enact any gun control legislation. They see us as a nation too easily prone toward violence as an easy solution to complicated problems.

In Asia there was true appreciation for our refugee and disaster concerns, and for our willingness to share technology with developing nations. The Japanese considered us the most trustworthy nation in the world. But reports from all across Asia spoke of newspaper editorials which consistently spoke of "the studied neglect of the poor" both in our domestic and in our foreign policy.

African people appreciate the fact the colonialism on their continent did not involve the United States; but they fear current support for the apartheid regime in South Africa, while at the same time we attempt to destabilize some of the newly independent black African states. Our clearly stated ideals appear to work in reverse when it comes to African policy.

In our own Western Hemisphere, Latin American people are far more apt to blame their own corrupt governments for their poverty and lack of human rights than they are to blame traditional "Yankee imperialism," but they fear our support of unjust ruling elites and our continued threat to intervene militarily when things do not go as we desire.

In summary, our dislike around the world almost invariably is created by our failure to maintain our own ethical ideals. Just as consistently, this moral failure occurs because we structure our foreign policy primarily upon a narrowly perceived anticommunism, and short-term U.S. economic interests. Human rights and concern for the poor too often run a distant second to these two concerns.

A broader and longer-range perspective, however, would reverse these priorities. Living up to our traditional ideals of concern for human rights and the needs of the poor not only would reveal the obvious inadequacies of the communist system, but also would be in our own enlightened economic self-interest as the quality of life, including economic purchasing power, would rise everywhere in the world market.

As President of the General Board of Church and Society, I receive questions rather regularly about the church being critical of our government and its policies. My answer is that, as one committed to Biblical faith, I must criticize ethical and moral failure everywhere, but especially within the systems and structures of which I am a part. If I truly believe in the United States, then I must believe it is good enough to become what its own ideals profess. The Kingdom of God stands in judgment of all human systems. Therefore, I must be constructively critical of my own nation, just as I am of my own church and any other institution of which I am a part. To do so not only is a clear response to the gospel, but it also is the highest form of patriotism. I do not strengthen or love my country by blindly praising her faults. I love her best by demanding that she always maintain her commitment to justice, freedom, peace and those human rights so clearly defined in the Declaration of Independence.

That it seems to me, is the essence of ministry as a citizen of the United States. It is "the world's best hope." It may be the world's only hope. It is the key to survival for my children, and my children's children, and the children of the world.

Biblically, such a commitment to shalom is the essence of my mission and my ministry. It is the word of the prophets, and it is the mind of Christ. Therefore, it is the key to salvation, in this world and the next. All forms of ministry exist within a specific context of time and space, and in relationship to other persons and factors. Thanks be to God who calls us to ministry today as citizens of the United States.●

WHERE THERE'S SMOKE—THERE'S MYRON

HON. CLAIR W. BURGENER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. BURGENER. Mr. Speaker, this week, the Federal Government's "Red Adair" of firefighting, Myron K. Lee, will retire from his post as Cleveland National Forest's Fire Management Officer.

In a firefighting career which began in 1944 with the California Department of Forestry, Myron Lee has reached the highest pinnacle of his profession in one of the most dangerous occupations in the Federal Government.

While Myron spent the majority of his career serving the Cleveland National Forest, he was also assigned to the Lassen and Mendocino National Forests, both as a Fire Control Officer and Job Corps Center Director.

In 1976, the Chief of the U.S. Forest Service honored Myron for his outstanding leadership in the field of fire management, and he was recently recognized for pioneering the cooperative programs involving Mexican and U.S. Wildland firefighters.

In 1982, Myron Lee received the Federal Employees Distinguished Service Award from the San Diego Federal Executive Association in tribute to his outstanding work.

Mr. Speaker, those of us who know the rage and brutality of Southern California's frequent summer fires recognize it takes an extraordinarily devoted person to face such danger, and Myron Lee has been just that.

Myron Lee will be dearly missed by his many friends and colleagues in the Forest Service and by those of us who so deeply appreciate his work.●

THE PLIGHT OF THE FARMER

HON. LARRY WINN, JR.

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. WINN. Mr. Speaker, on Friday evening, June 16, 1982, I attended a farm meeting sponsored by the Miami County Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture in Paola, Kans.

Prior to hearing from Frank Naylor, Under Secretary for Small Business and Rural Development and Merritt Sprague, Manager, Federal Crop Insurance Program, who were attending the meeting as my invited guests, Sue Hiatt, acting county extension director of the Miami County ASCS office presented the following opening remarks:

REMARKS OF SUE HIATT

The economic conditions of Miami County have caused a very disastrous situation for Miami County farmers and businessmen. Many farmers cannot "hang on" for another year. Excessive rains, low grain prices, increased production cost and high interest rates have caused an economic hardship to Miami County.

A big impact on our economy in 1979, was the grain embargo and low grain prices.

In 1980, Miami County was hit with a severe drought with low wheat yields and 98 percent of the corn crop disaster affected. In many cases the corn had to be cut for silage and some was not fit for silage. Such of the milo and soybeans were affected also. Hay and pastures were affected to the point that the Emergency Feed Program was implemented.

Last year, 1981, was very similar to this year, except not quite as extreme. Hail, wind and heavy rains began in May and continued thru June 30. A freeze, May 11, along with excessive rains caused hundred of acres of wheat to go unharvested and thousand of acres to have poor wheat yields.

Replanting of corn and milo caused additional expense to the farmers. Low yields on corn, milo and soybeans was experienced in the county. Many crops planted after June 30 were not harvested and those that were harvested, yielded poorly.

Last year, we all said, "Next year can't be as bad as this year." But it's worse.

Since May 1, 1982, Miami County has had 20 to 28 inches of rain. High winds, hail, flooding including tornado activity have accompanied the continuous rains. These continuous rains have prevented Miami County farmers to plant milo and soybeans.

The wheat crop has deteriorated because of the rain and wet fields, to the point the ASCS county committee estimates at least 70 percent of it is disaster affected. The test weight is running in the low 50s, close to sample grade.

By the end of the normal planting date, June 30, 1982, only about 5 percent of the milo was planted. This leaves 95 percent of unplanted milo that falls into prevented planting category.

Also, only 5 to 10 percent of the soybeans has been planted by June 30, 1982.

Hay loss is estimated at 50 percent.

Soil loss is staggering.

We understand that Secretary Block has the authority to implement prevented planting payments in areas where economic conditions warrant such action. This along with other assistance is needed desperately to assist the farmers.

I take this opportunity to point out to my colleagues in the House and Senate the problems facing many of our farmers today and urge your consideration of constructive programs which might help the farmer's plight.●

REDUCED PERSONNEL IN REVENUE GENERATING AGENCIES

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Ms. FERRARO. Mr. Speaker, during the past 2 years I have questioned a number of administration-sponsored or supported actions to indiscriminately reduce Federal employment. Although I have been disturbed by cutbacks in many agencies whose programs are vital to our country, I have been the most perplexed by repeated administration attempts to reduce personnel in revenue generating agencies.

Agencies like the Internal Revenue Service and the U.S. Customs Service generate more income for the U.S. Treasury than they cost the taxpayers to operate. Yet, in a penny-wise pound-foolish approach to Federal Employment, resources for these and similar agencies have been severely restricted.

A July 26, Washington Post editorial provides insight into the task faced by U.S. revenue agents. I commend it to colleagues who may have missed it.

The editorial follows:

DAVID (IRS) VS. GOLIATH, INC.

The Senate tax bill will not help with one nagging problem of tax enforcement: the mismatch between the IRS and behemoth corporate taxpayers with their unfathomably complex returns. The mismatch may cost billions in lost revenues.

Imagine you are a very senior revenue agent, with a college degree in accounting, many years of experience and specialized training in some particular area of taxpayer chicanery, like depreciation or pension plans. You and 20 or so colleagues are assigned to the IRS's leased office space at the headquarters of a multinational corporation with 82 subsidiaries and $15 billion in assets (as near as they can tell, anyway). All of you will spend the next two years playing with computers and examining selected issues in, say, tax years 1979-81. You are confident of finding tens of millions of dollars in deficiencies. But who trembles? You, the GS-13, or they, the field marshals ahead of batallions of accountants and lawyers?

IRS assigns live-in revenue agents to the extremely large corporations, and we do not doubt that they earn their pay many times over. Using sophisticated teams to audit just 1,500 large corporations, most with assets over $250 million, the IRS found $4.33 billion in deficiencies last year—a bit more than Interior's budget; much more than that of Commerce, State or Justice. And IRS expects to collect about half of these corporate underpayments through agreements, not litigation.

But there is a lot more gold in them thar hills. Yes, we have over 17,000 IRS auditors and agents already. Still, there are apparently billions of dollars sitting around in corporate coffers available for the asking. It takes more resources to be able to ask the questions, because these companies don't know themselves what their "true" tax liabilities are. They have been so successful at lobbying for assorted intricacies in the tax code that filing and auditing their returns have become a multibillion dollar guessing game.

True, no one wants a tax collector's police state; what is wanted (and needed) is voluntary compliance. But the 90 percent compliance rates for large corporate taxpayers, while higher than for individuals, are still worse than the welfare error rates.

In recent years, the IRS has become much more sophisticated and professional. Congress should give them more than slingshots to go after the Goliaths.●

A TRIBUTE TO NATHANIEL GOLE

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. CARMAN. Mr. Speaker, it is my honor and pleasure to call to the attention of the Congress and the Nation the public service record of Mr. Nathaniel Gole as town attorney for Oyster Bay, N.Y. Nat has recently retired after 21 years of contribution to the town attorney's office where he started as assistant attorney and rose to the position of town attorney.

During his tenure in the town attorney's office, Nat was responsible for acquiring much of the parkland that Long Islanders enjoy today including the Majorie R. Post Community Park in Massapequa and for the town of Oyster Bay park facility and greenhouse complex in Oyster Bay where flowers are grown to decorate the town of Oyster Bay. He also was instrumental in the widening of Jerusalem Avenue in Massapequa and Miller Place in Syosset.

A contributor to his community, Nat has served as president of the Plainview Jewish Center, president of the Plainview Republican Club, and is an active member of the Kiwanis Club. His efforts have bought lasting benefits to the entire community.

Throughout his career, Nathaniel Gole has served the cause of justice in behalf of all town residents with commonsense and wisdom tempered with a generous helping of good humor and concern for others. After a long and fruitful career of public service, I extend my gratitude and best wishes for a happy retirement to Nathaniel and his wife, Fanny Gole.●

H.R. 1799 and H.R. 6016, EXPORT TRADING COMPANIES

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. WALGREN. Mr. Speaker, the House today is taking an important step to aid American business by acting on H.R. 1799 and H.R. 6016, bills to encourage increased export of American goods to other countries. H.R. 1799 would establish a new office in the U.S. Department of Commerce to promote the formation of export trading associations and companies; H.R. 6016 would allow bank holding companies and bankers' banks to invest in export trading companies. Together, these two bills should eliminate several obstacles to exporting and pave the way for many small- and medium-sized businesses to increase their export trade.

EXPORTS LOW

According to the House Export Task Force, only 10 percent of 250,000 American manufacturing firms export today. Less than 1 percent of these firms account for 80 percent of our exports. However, it estimated that up to 20,000 U.S. manufacturers and agricultural producers offer goods and services which would be highly competitive abroad. During the last 20 years, the U.S. share of world exports dropped from 18 percent in 1960 to 15.4 percent in 1970; last year our share fell to 12 percent. Export of goods accounts for 8.2 percent of our GNP, the lowest percentage of any industrialized nation in the world.

89-059 O-86-38 (Pt.13)

AMERICA LAGS

Why do we find ourselves in this position? The House Foreign Affairs Committee found, "Lack of operating capital and financing is the major obstacle to expanded sales faced by American trading companies." Many American businesses, particularly small businesses, simply do not have the resources to export. Many business people lack expertise in conducting foreign sales. Government has been slow to help, too. Our antitrust laws have been vague, and many companies, fearing antitrust action, have been reluctant to form export associations. Many American business people perceive Government regulations as impediments to international trade—Government redtape that is ambiguous, confusing, and usually costly. Former Export-Import Bank Director Donald E. Stingel, put it quite clearly in testimony earlier this year:

Never have I seen more foreign competition than today, or the need for closer cooperation between the U.S. Government and U.S. industry rather than the generally existing adversary relationship which is diametrically opposite to that enjoyed by our foreign competitors.

OTHER COUNTRIES AHEAD

Many other countries are far ahead of us in this area. The Japanese established trading companies over 300 years ago. Numbering several thousand, these companies provide a full range of services, including economic feasibility and marketing studies, transportation and insurance, customs documentation and clearances, warehousing, packaging, distribution, marketing, and after-sales servicing. They maintain a worldwide communications and commerical network. Many European companies have longstanding export companies as well.

MORE JOBS IN UNITED STATES

Enhancing American exports will have several significant advantages. More exports means more economic activity in this country. A 1981 report by Chase Econometrics estimates that export trading companies could increase employment in the United States by 320,000 to 640,000 workers by 1985. This would be welcome news to many, as our Nation's unemployment continues to reach record highs since the Depression. In Pennsylvania, almost 300,000 jobs are now dependent on exports and the Commerce Department has estimated that between 14,000 and 19,600 new jobs could be created by enacting an export trading company bill.

We should heed the warning of the House Banking Committee:

The historically rapid growth in post World War II demand which accompanies the maturation of those individuals in the so-called "baby boom," has now slowed dramatically. New markets are needed by many U.S. producers if they are to maintain their present employment levels.

In short to maintain jobs and create new ones, we need to explore foreign markets.

Currently it is estimated that 1 out of 8 U.S. jobs depends on exports, particularly in New England. The New England Congressional Institute has stated:

In 1980, the six New England states generated over $10 billion in export sales. An estimated 135,000 jobs in New England are a direct result of export sales. When asked to predict the effect of passage of ETC legislation on their companies' receipts in the New England Congressional Institute survey conducted in April, 57 percent of the export trading company respondents estimated an increase of over 25 percent. All of the respondents indicated increases of at least 5 percent. Applying the lowest of those estimates to current export data suggests that *the potential effect of ETC legislation in New England means 500 million dollars earned in export sales, and over 10,000 jobs.* (Emphasis in original.)

With unemployment at its highest level in 30 years, western Pennsylvania businesses would welcome more export trade to say the least.

We should do all we can to develop export markets. The health and viability of American industry will depend to a great degree on our ability to compete abroad. If we do not, we may find ourselves no longer the leading industrialized nation in the world, but one sorely lagging behind.

I hope my colleagues will join me in enacting these two important bills.●

INTRODUCTION OF LEGISLATION TO AMEND THE PERISHABLE AGRICULTURAL COMMODITIES ACT (PACA)

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DE LA GARZA. Mr. Speaker, today I have introduced a bill to amend the Perishable Agricultural Commodities Act in order to address some concerns expressed to me by the fresh fruit and vegetable industry.

The Perishable Agricultural Commodities Act, commonly referred to as "PACA," has served the fruit and vegetable industry well since its enactment in 1930. However, the fruit and vegetable industry has pointed out to me two problems that are of concern. The first is the possibility of making inadvertent or unintentional errors in marking, stenciling, or labeling due to modern, speedy methods of packaging. It is possible that some larger firms with multiple operations may accumulate many minor but sanctionable violations, all of them unwitting, in a relatively short period of time because of the sheer volume of shipments. The amending language helps to cover those instances where misbranding violations are accidental, unintended, or unwillful.

Section 1 would require the Secretary of Agriculture in cases of informal disposition of misrepresentation violations of the act involving mark, stencil, or label to judge each case on its own merit. The regulations prescribe what constitutes a serious, a very serious, or a flagrant misrepresentation/misbranding violation. The Secretary would have the authority to issue sanctions in an informal proceeding after he determines, on a case-by-case basis, that the violations or series of violations are serious enough to warrant action.

The amending language, however, continues to afford the offending party, in cases of unintentional or inadvertent error, the opportunity to informally settle a misrepresentation violation by mark, stencil, or label by paying a monetary penalty as provided for in the current act, section 2(5).

Consumer protection will be reinforced with the penalty provisions of the amending language. The monetary penalty for violations noted above is sufficient to encourage good packing and marketing practices, thereby assuring that the consumer will receive the produce which appropriately qualifies for the mark, label, or stencil its shipping container bears. At the same time, desirable protection is afforded licensees within the industry.

The second concern of the produce industry is that the law requiring a foreign claimant to post a bond is being circumvented by assigning the claim to a U.S. resident. Section 2 would close that loophole by also requiring the U.S. resident, to whom the claim has been assigned, to post a bond. This provides equity for Americans who have no similar recourse in other countries. In those cases where a claimant is a resident of a country that has reciprocity, the Secretary is authorized, by the act, to waive the bonding requirements.

The two amendments contained in this bill will bring the act into accordance with current trading practices of the produce industry, eliminate inequities, and perfect the administration of the act.

Mr. Speaker, I commend this legislation to your attention.●

WEST VIRGINIA BANKER URGES LOAN PROGRAM STABILITY

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. SIMON. Mr. Speaker, our colleague from West Virginia, Cleve Benedict, sent me a letter from one of his constituents, Lu Ann Hussell, stu-

dent loan officer of the Citizens National Bank of Point Pleasant, W. Va.

The point that she makes that there are too frequent changes in the student loan program is a valid criticism.

Banks and students and parents and universities and colleges all face the same problem.

Beyond any question we are discouraging some people from going to college because of the constant changes that we are making.

I urge my colleagues to read her letter.

And I hope that within the next 2 years when the Higher Education Act is reauthorized that we can arrive at a formula that we will stick to so that the days of uncertainty will diminish in number.

The letter referred to follows:

CITIZENS NATIONAL BANK
OF POINT PLEASANT,
Point Pleasant, W. Va., May 17, 1982.

Hon. GLEVE BENEDICT,
U.S. Congressman, Longworth Building, Washington, D.C.

DEAR CONGRESSMAN BENEDICT: As a participant in the Higher Education Assistance Foundation Student Loan Program we have heard thru our state office that there is a chance we will be given more changes regarding the student loan program. We would like to take this opportunity to express our discontentment with the legislative changes, which seem to be continuosly changing, to the extent that it is impossible for us to interpret one new rule or regulation until another is sent to us for another change.

With all of the rules and regulations, which we must abide by, it is becoming more and more difficult to keep current with constant changes on the program.

In view of this situation we have seriously considered eliminating all new student loan participants from our program and only continue lending to students who we have already lent money to toward their education. We have been restricting our lending policy for the past two (2) years, however, if constant changes are to keep reoccurring we will more than likely terminate our entire student loan program, which we have been in since 1965.

We have had denials of payment on our Default Claims, which we feel have been unjust. We may be at fault for not filing the claim within the guidelines of the "timely filing" of the program. However, we feel we need to work with our customers on a student loan delinquency. There have been several incidents, where we should have filed a default claim, but did not do so because we knew the student would be curing the delinquency within another month or two. Therefore, by working the default out with the student we saved the government the expense of paying back a loan to us. I am sorry the government, however, does not feel the same way. As long as the lender is following the guidelines on a delinquency and shows proper documentation, as to why they have delayed the filing of the default claim and have not imposed any extra expense to the government, we see no need for the claim not to be paid. By losing money on two or three student loans we are having considerable problems justifying keeping the student loan program in our bank to our Board of Directors.

If you or your committee should need any questions answered, which we could assist you with, we will be more than glad to reply to this matter. The student loan program is a good program and is needed by many, however, let us all keep in mind that we should be working together on the program and not against each other.

Very truly yours,

LU ANN HUSSELL,
Student Loan Officer.●

AN ALTERNATIVE BALANCED BUDGET PROPOSAL

HON. CECIL (CEC) HEFTEL

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. HEFTEL. Mr. Speaker, in the coming days, the House of Representatives may be called upon to consider one of the most important legislative initiatives of the 97th Congress—the resolution calling for a balanced budget amendment to the U.S. Constitution. The momentum on this issue, which has developed in the House over the past several weeks, has made a House vote on the amendment seemingly inevitable in the remaining days of this Congress. Before the House moves to consider the pending resolutions, I hope that our colleagues will keep in mind several points which I feel are relevant to the question at hand.

First, the balanced budget proposals before us do not place the same degree of fiscal responsibility on the President as they do on the Congress. And yet it is clear that the unbalanced budgets that have plagued us for so many years are a result of both congressional and Presidential actions. Hence, any constitutional amendment dealing with the subject should most certainly involve the President at the outset as well as the Congress.

Additionally, the current budget debate fails to acknowledge that one of the major reasons for our inability to balance the Federal budget may be traced to the misleading "economic assumptions" which have framed our budget resolutions. I feel that it is imperative that the Congress develop and formalize a better means of arriving at valid economic assumptions which will guide our future budget deliberations.

With these concerns serving as background, I have developed two initiatives which I feel can contribute significantly to the upcoming budget debate. I hope that our colleagues will give these initiatives careful consideration.

I have introduced a balanced budget resolution, House Joint Resolution 549, which would require the President to submit in January of each year a balanced Federal budget. The Congress would also be required to approve a budget resolution which projected a balanced budget for the upcoming fiscal year.

I have also introduced legislation which would give the Congress a more formal role in approving the economic assumptions upon which our budget resolution is based each year. The economic assumptions upon which we have been framing our budget have been found to be seriously flawed over the past two budget cycles. Under my legislation, which is intended to implement the balanced budget amendment, a separate body, to be known as the Council on Economic Indicators would be formed. The Council, made up of the Federal Reserve Chairman, Office of Management and Budget Director, Secretary of the Treasury, Chairman of the Council of Economic Advisers, Director of the Congressional Budget Office, and the chairmen of the House and Senate Budget Committees, would be empowered to draw up a set of economic assumptions which would be presented to the Congress in January of each year. The House and Senate would be required to vote on these assumptions or other alternatives which that budget committees might offer prior to their consideration of the budget resolution. Approval of valid economic assumptions by the Congress would be a key step in the budget process, and would provide Congress with essential indicators upon which it could frame a budget.

Mr. Speaker, Congress and the President are faced with an enormous task as each branch seeks to direct the fortunes of our economy. Successive Presidents have tried and failed to deliver on promises made to the American people to bring a sense of moderation to Federal spending. This failure has shaken the confidence of the financial community and the money markets. The Congress has been no more successful in translating Presidential budget recommendations into concise efficient programs. As Government has grown, Congress has become less and less able to deal with the root causes of burgeoning spending from an institutional perspective, and more and more reluctant to curtail particular programs from a constituent perspective.

The balanced budget amendment is not offered as a panacea which will cure all economic ills. However, it is offered as an option which could discipline the President and the Congress in their consideration of Federal spending proposals. Within the parameters set forth in the budget blueprint, there can and must be room for compassion. However, the budget must be as efficient as it is compassionate. Only a budget based on sound economic principles can truly serve the needs of people, for such a budget will recognize the limits of Government and the

inherent weakness of unchecked public policy

Mr. Speaker, I offer these proposals for your consideration and the consideration of our colleagues, and hope that we may work together in resolving this issue in a way which will command the confidence of the American people.●

TRIBUTE TO VIVIAN BRANSFIELD

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. FASCELL. Mr. Speaker, Vivian Bransfield, the sister of one of my friends, Rod O'Neil, recently passed away after a long illness. Mrs. Bransfield was a resident of Miami Beach for over 50 years and was part of a wonderful and well-known family with many, many friends. I would like to share some excerpts from the eulogy delivered by Rod at her funeral. Rod eloquently speaks of characteristics and a philosophy of life of a most unusual person. I am sure we can all benefit from his loving remarks:

EULOGY DELIVERED AT THE FUNERAL OF VIVIAN O'NEIL BRANSFIELD BY RODERICK J. O'NEIL, HER BROTHER

Don't cry. Be strong. I'll pray for you. Chapter 58 verses 1 through 3 from the book of Vivian O'Neil Bransfield.

These words constituted the marching orders issued last Friday by a mother to her children. The words were also a measure of the woman who spoke them. She didn't cry. She was a tower of strength. She always prayed for those she loved and she even prayed for those she didn't care for all that much. Vivian Bransfield was a private person who has left a public image of immense dimension. She will in death, be larger than life. We will never forget her. She will be easy to remember. We will remember that she was extraordinarily beautiful. We will remember she was quietly and unostentatiously courageous. We will remember that she was loving and as I look now at her husband and 10 children I appreciate the meaning of that word. She has bequeathed to all of you a legacy of loving. She was keenly analytical rather than supposedly intuitive (although she was that as well). While people talked around the perimeters of a problem she had already solved it with almost frightening logical clarity.

When she knew something was right no excuses were acceptable and Vivian may not have always been right but Vivian was never wrong. She may have invented humor. She laughed a lot and she laughed hardest at herself. In her memory let us all promise to never take ourselves too seriously. Father Michael has dealt beautifully with Vivian's deep faith and exquisitely simple spirituality. I affirm those sentiments.

And so now she will shed her light upon us for the rest of our lives. So to Chuck her husband and to her children Marguerite, Barry, Joan, Mary Frances, Vivian, Charles, Danny, Michael, Thomas and Mark I give you my solemn promise—Like the song says—The sun will come out tomorrow and tomorrow and tomorrow.●

PERSONAL EXPLANATION

HON. DAN MARRIOTT

OF UTAH

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. MARRIOTT. Mr. Speaker, I was unable to be present on the floor of the House of Representatives, Friday, July 23, 1982, for rollcall Nos. 212 and 213. Had I been present I would have voted "yea" on House Resolution 529, provides for the consideration of H.R. 5427, the Radio Broadcasting to Cuba Act; and "yea" on the motion that the House resolve itself in the Committee of the Whole House for the consideration of H.R. 5427, the Radio Broadcasting to Cuba Act.●

NURSING HOMES PROTECTIONS IN JEOPARDY

HON. BENJAMIN S. ROSENTHAL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. ROSENTHAL. Mr. Speaker, I would like to call attention to an editorial which appeared in the New York Times on July 15, 1982. The editorial concerns the critical problems posed by the new nursing home regulations proposed this past May by the Secretary of the Department of Health and Human Services, Richard Schweiker. These proposals include: Biannual, rather than annual facility inspections; inspections performed over the phone, rather than in person at the facility site; the termination of mandatory 90-day resurveys for facilities in which violations have been discovered; and the elimination of a mandatory cancellation clause when facility violations have not been corrected quickly enough.

Secretary Schweiker claims these proposals would reduce waste in the nursing home bureaucracy. This position is one of the most disingenuous claims I have yet heard from the present administration. No one can really believe that nursing home care will remain what it is today if inspections of homes are made less frequent and less public, as these new proposals would effectively provide.

Mr. Schweiker's plan would affect the most vulnerable segment of our population: the elderly and the disabled. A nursing facility is often the last home its residents know; what is more, the average stay of a resident is approximately 2 years. The "deregulation" that Secretary Schweiker proposes must be seen for what it really is: A euphemism for destroying the protection of nursing home residents.

No one supports waste in government; no one endorses inefficiency. Secretary Schweiker claims his intention is to wipe out waste and inefficiency in the nursing home industry. These are laudable objectives. But I am hard pressed to see how these goals are furthered by this new "deregulation scheme." Rather, this plan is a remarkably ill-conceived one because it concerns an industry whose history has been plagued by numerous and severe violations of law and of ethical conduct. Deregulation will return the nursing home industry to the spotty, exploitive, and wholly inadequate conditions which were all too prevalent before proper regulation took hold.

The Times editorial points out the need for support of legislation which would demand the immediate withdrawal of Mr. Schweiker's proposals. Several of my congressional colleagues, including Representative PEPPER and Representative RATCHFORD, are sponsoring bills calling for just this. In addition, numerous citizens coalitions have demanded the retraction of these proposals. Finally, many letters have been sent to the Secretary questioning his policies, and he has, in many cases, yet to respond. I join with those who hold these sentiments.

The full text of the New York Times editorial follows:

NURSING HOMES NEED WATCHING

The Department of Health and Human Services says the new regulations it proposes for nursing home inspection are a technical adjustment to promote efficiency. They look more like an attempt to poke holes in a bureaucratic shield that protects 1.3 million nursing home residents.

The controversy began last winter when Secretary Schweiker tried to loosen standards for nursing homes that admit Medicare and Medicaid patients. Foiled by a flurry of Congressional protest and unpleasant headlines, he promised to leave the standards alone. In May, however, Mr. Schweiker announced new rules, supposedly to focus enforcement on serious violators. But the relaxed regulations could also serve the original purpose of releasing the industry from standards.

Washington pays state agencies to perform annual inspections and to verify that violations are eliminated within 90 days. The proposed rules, subject to public comment this month, would let homes with good records go without inspection for two years and eliminate the mandatory follow-up for all. They would entrust much inspection to the private Joint Commission on Accreditation of Hospitals.

Critics argue passionately against a more flexible approach; if there are now a lot of homes with good records, they say, it is because of the rigid inspection schedules. The Joint Commission arouses more worry. Unlike state agencies, it does not publicize inspection reports; the draft rules require only that they be posted in nursing homes.

Critics also fear that the private group might fall under industry influence. They note that relaxation would come at a time

when state inspections have already suffered deep cuts in Federal funding.

The nursing home industry that Mr. Schweiker seems so eager to deregulate has only recently overcome a sordid record of exploitation. One effect of the heavy flow of unsupervised Federal money in recent years was its attraction of a core of operators whose greed overcome any commitment to decent care. Only strong state and Federal regulations curbed the abuses. With many such operators still interested in exploiting the aged and their families, there is no good reason to believe supervision could now be safely relaxed.●

TRIBUTE TO PATRICIA WALLY

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. LANTOS. Mr. Speaker, Patricia B. Wally is the role model for women and other volunteers as the supreme professional volunteer in San Mateo County.

On the occasion of her birthday and her recent retirement from the unpaid office of executive vice president of the San Mateo Community Theater, I want to join her many friends and admirers in paying tribute to a remarkable woman.

Whether working in politics or in the theater, Pat has always been a dominant force in San Mateo County. She has worked tirelessly, hour upon hour, in both fields.

Her interest in the theater came with her heritage. Her family, living in Olathe, Kans., at the time of her birth, was involved in the Keith-Orpheum circuit. As a little girl, Pat filled the famous role of Baby Patsy in the 1920 silent movies, later to be known as the "Our Gang" series.

She left the theater and, with the advent of World War II, joined the U.S. Army.

At the end of the war she married Attorney Barry M. Wally. They soon became parents. Eventually, the family grew to six with the addition of two sons and two daughters, David, Paul, Lisa, and Sally. It was during these years that Pat became the reliable campaign worker and director. She soon became known for her depth of knowledge of politics in San Mateo County. Her mind and her files were the ongoing source of information and wisdom for aspiring candidates. In 1972 she was chosen the Volunteer of the Year, the zenith of recognition from her particular party. Her work continued.

The theater beckoned and she soon returned to her early love. She has put in 12 to 14 hours a day, including weekends, to establish the San Mateo Community Theater on a firm footing. The goal of the group has been to bring quality theater at affordable prices to the peninsula. This goal has been achieved through the hard work and organizational abilities of Pat Wally, professional volunteer.●

TUITION SUBSIDIES ARE NOT BENIGN

HON. PAUL SIMON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. SIMON. Mr. Speaker, the New York Times recently had an excellent editorial: "Tuition Subsidies Are Not Benign."

I urge my colleagues in the House and Senate to read it.

Perhaps equally important, I urge those within the administration who are calling the shots to read it.

TUITION SUBSIDIES ARE NOT BENIGN

President Reagan is perplexed at the opposition to his proposed tax subsidy of up to $500 for private and parochial school tuition. "People . . . say in some way this would hurt the public school system—how? We're not taking anything away from the public school system. What would hurt the public school system is if all of the independent schools closed and those thousands and thousands of youngsters were dumped on the public school. . . ."

If the subsidy has any value at all, it will indeed take something important from the public schools: some more of their better students and more of their crucial political support. Thus to force public schools to compete for students is not a fair contest; they cannot admit, reject or suspend whom they please and are clearly disadvantaged in maintaining order and educational standards.

An added financial incentive would only encourage the departure of more middle-class families, stripping the public schools of motivated students and parents most concerned about the quality of public education. Although Government should not hold children hostage, that hardly argues for subsidizing their flight.

Transfers spurred by tax credits would also further erode the constituency for adequate funding of public education. A clear example of the danger is already apparent in Congress. Tax cutting is obviously more popular than social spending, even for the poorest Americans. And Federal aid for remedial education in poor urban and rural school systems is being rapidly reduced.

Subsidizing private suppliers of essential public services also offends an important principle. The private marketplace cannot distribute such services equitably, though all have equal need for them. As Albert Shanker of the American Federation of Teachers has put it, "If I don't like the drinking water, I can't ask you to pay for my Perrier." It is no argument for subsidy to say that Perrier drinkers save the money by drinking less from the common reservoir.

The unspoken and truly dangerous doctrine in this debate is that private schools are inevitably better than public schools. Despite the handicaps under which they work, public schools perform at least as well in many places. Whether public or private, education is effective when endowed with strong administration and held to exacting standards.

Subsidizing private schools is an unwarranted resignation to the inadequacies of public schools. But precisely because many are inadequate, they urgently need help. If Government has more money to spend on education, it is simply wrong to give it to private schools instead. A proper commitment of Federal resources to the improvement of public education would let many desperate parents shed their tuition burden entirely.●

ADDRESSING THE PROBLEM OF THE DISPLACED WORKER

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. HAWKINS. Mr. Speaker, as a July 19, 1982, Business Week article indicates, job displacement has evolved into an extremely pervasive and pernicious problem. Displacement threatens "hundreds of thousands" of laborers in a wide variety of industries and occupations ranging from auto manufacturers to office clerical workers. While adverse economic trends and imminent technological advances further imperil job security, there has been no comprehensive plan to address this development and only a few scattered attempts to provide retraining and skills assistance to those most affected by displacement.

Recently unions such as the UAW have sought and gained contractual agreements from Ford and GM which insure the introduction of intensified retraining programs. In addition, a handful of private corporations have initiated smaller scale services to retrain or upgrade the skills of their employees. Nevertheless, currently there is no adequate Federal program to ease the effects of job displacement and to retrain individuals whose skills have proven obsolete. And yet, shrinkage of the labor force portends the potential eradication of up to 4 million factory jobs to automation and robotics by the year 2000.

Realizing the severity of job displacement which has occurred in recent years and the even bleaker prospects for the near future, on April 27, 1982, the House Education and Labor Committee unanimously reported H.R. 5320, the Job Training Partnership Act. This vital legislation, which I introduced and has been cosponsored by 85 colleagues, seeks to commence a new attack on unemployment by providing funds for the retraining of displaced individuals in localities across the Nation. H.R. 5320 will come before the full House for its consideration in the next week or two. I strongly urge my colleagues' support for this attempt to offset the destructive impacts of technological change so that in good conscience we may reap its numerous benefits. The text

of that Business Week article entitled, "Retraining Displaced Workers: Too Little, Too Late?" follows:

RETRAINING DISPLACED WORKERS: TOO LITTLE, TOO LATE?

Most workers in the U.S. traditionally have been left to fend for themselves when new technology or shifts in the economy have affected or eliminated their jobs, but this is beginning to change. Unions in shrinking industries are starting to win provisions requiring companies to retrain displaced workers. And this summer Congress is likely to approve legislation that will commit increasing amounts of federal money to new retraining programs. And manpower experts fear that they may be too little to prepare millions of other workers for the continued shrinkage of basic industries and the rapid introduction of new technology over the next 20 years.

The push for more retraining intensified this spring, when the United Auto Workers won promises from General Motors Corp. and Ford Motor Co. to commit $120 million and $25 million respectively to set up retraining programs. Then on July 1 the Senate passed a jobs bill, originally opposed by the Administration, that includes $100 million a year for retraining displaced workers through private industry councils—federally financed groups whose primary purpose is to help minority workers find jobs.

AN ENDEMIC PROBLEM

But few unions or employers are following the lead of the auto industry. The Senate bill, which is likely to become law, is less ambitious than several more expensive bills introduced in the House. And both approaches constitute only a small step toward solving what many experts believe is an endemic problem in the U.S. economy. "Our refusal to spend money on investing in a skilled work force shows up in large numbers of people who are unemployable," says Herbert E. Striner, an advocate of retraining and University Professor in the College of Business at American University in Washington.

Whether retraining spreads will have a significant impact on workers, employers, and the economy. A recent House Education & Labor Committee report predicts that, in contrast to past recessions, "hundreds of thousands" of skilled workers will remain jobless during the recovery because of structural changes in the economy. Harvard University economist James L. Medoff believes that a lack of retraining has contributed to a growing imbalance between the skills employers need and the skills workers have. He says this adds to inflation and impedes productivity growth. Adds Robert L. Craig, vice-president of the American Society for Training & Development (ASTD): "If our work force isn't competent at producing new products, we won't sell them and we'll lose more markets."

The Manpower Development & Training Act (MDTA) of 1963 set up a federal program to upgrade the skills of workers, particularly in depressed areas of the country, and Pat Choate, a senior policy analyst for TRW Inc., says this helped start the migration of industry to the South. But when the Comprehensive Employment & Training Act superseded the MDTA in the early 1970s, training took a backseat to creating temporary jobs for minority workers. At the same time, public education began providing fewer of the skills employers needed. The educational system is moving slowly to solve this poblem. And business has done little so far to help.

Medoff points to Commerce Dept. figures showing that the percentage of workers aged 25 to 49 for whom employers provided job-related training rose only to 6 percent from 5.2 percent between 1969 and 1978. He says this helps explain a "dramatic increase in the labor market imbalance since 1969." A study he is completing shows that prior to 1969 an increase in unemployment among men aged 25 to 54 resulted in a decline in help-wanted advertising as employers hired the highest-skilled unemployed workers. Since 1969, however, help-wanted advertising has stayed high even when unemployment among these workers rises, indicating a decreasing demand for the skills held by laid-off workers.

LAGGING RESEARCH

No one knows how much employees spend on retraining, although the ASTD puts the figure at $30 billion a year for all training. But Medoff's theory is buttressed by the experience in basic industries. Using formulas developed by the Bureau of Labor Statistics, the United Auto Workers estimates that the shrinkage of the U.S. auto industry has eliminated about 1 million jobs directly related to auto production, or 25 percent of the pre-1979 total. Some of these people have found jobs, but many are not working or have jobs for which they are undertrained or overqualified. Because the UAW's new retraining provisions were negotiated after these layoffs occurred, these workers are fending for themselves.

New technology also will increase the need for retraining. Although no one has been laid off because of robots yet, a study done last year at Carnegie-Mellon University identifies 4 million factory jobs that robots may perform by the year 2000. The study identified 3 million additional jobs that robots may assume early in the 21st century. Office automation may have an even greater impact. Serge P. Beauregard, group vice-president of Deltak Inc., which trains data processing professionals, estimates that 10 years from now some 35 million office workers will use some sort of electronic equipment, up from 5 million now. Because this equipment will keep evolving. TRW's Choate thinks that employers may have to retrain workers five to eight times during their careers. "Retraining is going to become an increasingly important part of every business activity," he adds. But so far, says Harvey L. Poppel, senior vice-president in charge of office automation at Booz, Allen & Hamilton Inc., "no company has a rigorous, encompassing program of developing the computer literacy of its workers."

One solution is for the federal government to fund and administer a formal program. American University's Striner advocates a system such as West Germany's. Workers can get grants and loans for tuition and living expenses for up to two years while they go back to school. Moreover, the government tries to channel people into fields where there are shortages. Last year, West Germany spent $1.3 billion on education and living expenses for 171,000 of the country's 24 million workers. Striner calculates that retraining 1% to 2% of the U.S. work force would cost about $6 billion in tuition a year, which would be partly offset by reduced payouts of employment benefits to these workers.

THE CLOUT TO KILL

But President Reagan is philosophically opposed to centrally directed programs, and in the near term the Administration has the clout to kill a number of plans that are far less ambitious than Germany's program. These include a proposal by Representative Augustus Hawkins of California, to spend up to $1 billion annually "to aid the transition from low-demand skills or industries to stable or growing occupations." Instead, the Labor Dept. has made a $300,000 grant to the UAW, which with Rockwell International is looking for ways to train former auto workers for jobs in the aerospace industry. The Administration is belatedly supporting the $100 million retraining plan proposed by Senators Dan Quayle of Indiana, and Edward M. Kennedy of Massachusetts. But its hope, says Albert Angrisanni, Assistant Secretary of Labor for employment and training, is that industry and unions will largely solve the problem themselves.

Vendors already are a major source of training for a new technology. Unimation Inc., a leading robot maker, trained more than 1,500 workers at 440 locations last year, typically in a 36-hour course that teaches robot programming and repair. But experts say that relying on such basic instruction is not enough, and they point to programs such as American Telephone & Telegraph Co.'s that may become models for business. AT&T has a 10,000-member staff and a $1.25 billion annual budget to "take the existing employee group forward," says James Walker, director of education for the company's Business Services Div. AT&T's training staff participates in new product planning so it knows what types of workers and how many will be needed and can design training six to nine months before the equipment goes into use. For instance, Bell is retraining workers for deregulation of its businesses. Foremen used to supervise union employees closely in Walker's division, giving them perhaps 10 work assignments a day to repair a customer's equipment. But new equipment can diagnose its own problems, and now these workers are being retrained to market Bell's services with less supervision.

BACK TO SCHOOL

Similarly, Xerox, which spends about $125 million a year to train or retrain 40% of its 120,000 employees, sends technicians who can service desktop copiers to its Leesburg (Va.) training center for up to seven weeks to learn to service high-speed printers, the 2% to 3% of workers who cannot adjust are either sent back to their old product line or given training in basic skills. With fewer workers entering the work force every year because of low birth rates, "I'm conviced that retraining will be a major need for American industry over the next 10 years," says Robert R. Sohl, director of the company's International Center for Training & Management Development.

To meet an urgent need for programmers, International Business Machines Corp., which has a no-layoff policy, puts secretaries, computer operators, production workers, and new employees through nine weeks of training. Over the past five years, Monsanto Co. has sent 100 middle-aged chemical engineers to a one-year course at Washington University in St. Louis to bring them up to date on technology. The program costs more than $1 million a year in tuition and living expenses, but "it's a way for us to get people with the skills we want that are not attainable anywhere else," says Gerald T. Kennedy, the company's personnel development manager.

Booz Allen's Poppel says a major problem for the future will be training office workers to use their new equipment to its fullest efficiency, for instance by persuading managers to do work themselves that they delegate now. Continental Illinois Bank in Chicago has 10 to 15 employees who do such training. And Aetna Life & Casualty Co., which expects that by 1990 all of its employees will use computer terminals, up from 25% now, is training managers to avoid "segmenting and depersonalizing" jobs and thus alienating their subordinates.

Other companies are trying to answer the question posed by George T. Rehfeldt, a group vice-president at Cincinnati Milacron Inc.: If it only takes two workers to maintain a robot that replaced 10 production workers, "what do I do with the other eight?" Regis College, near Boston, with help from Honeywell Inc. and a Massachusetts state agency, is teaching computer programming to teachers and other public employees idled by state budget cuts. Of 20 people trained last summer, Honeywell hired eight.

MATCHING SKILLS

The UAW's contracts with Ford and GM call for a much more ambitious effort in this direction. Ford and the union, for example, hope to set up a joint training center by fall with an executive director and at least six full-time employees to retrain workers for new auto jobs—or for jobs outside the industry. Donald F. Ephlin, director of the UAW's Ford Dept., says the retraining may be done through community colleges. The center will have a placement service. It will also try to match the skills of Ford employees more closely with Ford's needs to improve product quality and make for more efficient use of manpower, including more internal promotions. Similarly, a contract agreed to by 13 unions and General Electric Co. on June 28 requires the company to spend up to $1,800 in tuition for retraining workers displaced by GE's increasing use of robots.

Despite such initiatives, most experts believe that more must be done to stimulate retraining TRW's Choate favors government incentives, such as tax credits of perhaps 25% of retraining costs. The Carnegie-Mellon study on robots notes that Washington is still funding vocational education in occupations that robots may make obsolete, such as certain kinds of welding and machine tool work. It also suggests that employers give workers much earlier notice of changes in technology to ease the transition. Perhaps the most serious problem is that no Administration has tried enlisting employers to help predict systematically how many jobs in specific fields will disappear or be created during what promises to be a period of rapid automation. Until these problems are solved, says American University's Striner, "we'll have an increasing number of people in our labor force who are dead weight."●

THE DEATH OF LEO O'BRIEN

HON. BALTASAR CORRADA

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. CORRADA. Mr. Speaker, on May 4 former Congressman Leo O'Brien of New York died in Albany, N.Y., at the age of 81. Congressman O'Brien, who served in Congress for seven terms was a good friend of Puerto Rico and took special interest and became very knowledgeable about our island.

He advocated and supported statehood for Puerto Rico and in 1966 introduced a bill to that effect.

As a Member of Congress during the years of debate on the admission of Alaska and Hawaii into the Union, and particularly as a member of the Committee on Interior and Insular Affairs, Congressman O'Brien was a recognized expert in the area of the procedures for statehood. He became chairman of the Territories Subcommittee of Interior and in 1959 traveled to Puerto Rico where he conducted hearings on the status question. Congressman O'Brien was also a member of the bipartisan United States—Puerto Rico Status Commission which reaffirmed the status of self-determination for the residents of Puerto Rico and which endorsed statehood for Puerto Rico, should the residents freely choose that status.

Congressman O'Brien retired from the Congress in 1967. He will always be remembered by all Puerto Ricans as their friend and a Member of Congress who took the time to learn of the concerns and aspirations of his fellow U.S. citizens on the island. I hope the date is growing near when Puerto Ricans will make the decision to join the other 50 States as a full-fledged responsible partner of the Union. When that date comes it is our hope that, like Congressman O'Brien, before then, the Members of Congress will welcome us as the 51st State of the United States.

On behalf of all Puerto Ricans, I want to express my sympathy to Congressman O'Brien's family and our prayers for his eternal rest.●

OHIO'S FARMERS NEED HELP

HON. BOB SHAMANSKY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. SHAMANSKY. Mr. Speaker, on March 18, I urged the Secretary of Agriculture to implement as soon as possible the economic emergency loan program for the 1982 crop year. High interest rates and depressed prices have placed America's farmers in serious financial difficulties. How long must they wait for the USDA to act responsibly?

To show what USDA's reluctance or unwillingness to act means to the farmers of my home State, I urge my colleagues to read the June 29, 1982, Washington Post article that I am inserting at this time.

The article follows:

[From the Washington Post, June 29, 1982]

THE HEYDAY HAS ENDED FOR OHIO FARMERS

(By Ward Sinclair)

CIRCLEVILLE, OHIO, June 28.—Things were at such a pass, with ruinous weather in 1980 and 1981 and depressed grain prices this year, that farmer Larry Sheets decided he was worth more dead than alive.

Sheets, a bearded man in his early 40s, took out his gun and contemplated suicide last spring as he felt the financial walls close in on him. He figured his family might find an easier way out of the morass if he were gone.

He didn't complete the deed, but the money problem on his 1,500-acre farm hasn't gone away.

"I owe about $1 million," he said recently. "I figure I'm worth $1 million dead and I knew the wife and three kids could pay out. . . . It's just that tense. A very tense situation."

Publicly, at least, most farmers in Central Ohio's Pickaway County don't bare their souls with such candor. But there is no mistaking their unease and rancor. It is as though a great agricultural sleigh ride, typified by the easy money and farm expansion of recent years, has come to an abrupt end with few prepared to cope.

Ohio's farm economy is in precarious condition, as it is in virtually every other state, but farmers and businessmen fear the worst is yet to come—massive farm foreclosures, small-business collapses, paper millionaires wiped out.

Even Secretary of Agriculture John R. Block, while echoing the administration line of better times, has been conceding recently that some of today's financially strapped farmers won't be around in 1983.

"What you're seeing here is the tip of the iceberg," said Paul Corson, head of the local Farmers Home Administration office. "The loan delinquency rate probably has quadrupled over the last couple years in the three counties we serve. . . . If we have a good year, if prices bump up a little bit, I could see delinquencies getting to a manageable level."

National farm organizations routinely describe the current situation as a depression. Implement dealers and farm suppliers have shut down, or edged closer to it, in many areas. The Reagan White House pleads for time and forebearance. A badly divided Congress is unable to offer much more hope to farmers.

How deep the hurt will run is the imponderable in this bleak panorama. The prelude to today's distress is three straight years of declining farm prices, high inflation and interest rates. Net farm income last year hit its lowest point in 49 years, and farm experts see it dropping even more this year as the economy remains sluggish.

That would be bad enough in any U.S. farm county, but it's disastrous in a place like Pickaway, coming on the heels of the weather-stricken 1980 and 1981 crops. This is one of Ohio's premier farm counties, with about 250,000 acres in corn, soybeans and wheat. When the farm economy sags, everyone feels it.

The Department of Agriculture in 1980 spent $1.2 million in hail-damage disaster payments here; last year, they paid $1.5 million in disaster aid because crop yields were low. Through May 31, the Farmers Home Administration (FmHA) had made 97 emergency loans for $3.3 million.

Ray Noecker, who farms 600 acres and raises cattle and hogs near here, is nervous

about the situation, but he is better off than most of his fellow farmers who rely entirely on grain production for their income.

"The bad weather we've had the last two years can wipe out 10 years of savings in a hurry," he said. "People knew the wheel was squeaking, but they didn't know the bearing was dry."

But saving has little real meaning to a young farmer like Bob Minshall, 24. Like most other farmers his age, he has none. And he has little prospect of having any, given the current economic situation.

"I began in 1976 with hogs," he said. "Then I bought a tractor and things went pretty good, to where I now own 130 acres out of the 800 I'm farming. But then we had the grain embargo on the Soviet Union in 1980, and then the hail, and the drought and I am right behind the eight ball. I owe about $500,000 now."

After dickering with FmHA all winter, Minshall got a 1982 operating loan in return for a second mortgage on his farm. "I got the approval on April 23 and I was planting on April 24. That's how close to the edge I am," he said.

Minshall knows that unless prices turn up sharply or he produces a mammoth crop, or both, he may not be farming next year. "What are the young farmers going to do?" He asked rhetorically.

For every Larry Sheets or Bob Minshall who is strapped, the pinch becomes a little more acute for the community's agribusiness: less equipment sold and serviced, less fuel and fertilizer and pesticide sold.

Dick Gaib was one who couldn't roll with the punches. He had management problems, he acknowledged, but the general economy was so rocky that he closed his Case implement dealership in March and filed for bankruptcy.

"I think all of this goes back to Jimmy Carter's embargo. Profits and incentives were there in 1980, but it's been downhill ever since," Gaib said. "We saw [supply] prices increasing between 2 to 6 percent every few months, with everyone passing it on to the farmer. The farmer has no way of passing it on."

In the last year, at least a dozen implement dealers have closed their doors in Ohio. Don Hill, Circleville's third-generation International Harvester dealer, remains in business but things are shaky.

His parent company is flirting with bankruptcy and his implement sales are almost nonexistent. He lost money for the first time in 1980 and expects to be in the red again this year, but Hill somehow remains philosophical.

"This didn't happen overnight," he said, "and those who are prepared are going to survive. . . . I personally feel it's good that we go through some times like this. . . . In the early 1970s, we sold equipment as fast as we could get it—and we spent as fast as we could. A good dealership can survive on parts and service . . . if we cut expenses, we'll survive."

That provides little succor to area farmers who are under the figurative gun, heavily burdened with land and equipment debt acquired during the booming 1970s, when it appeared to many that grain prices and demand would stay high forever and every dirt farmer could own a top-of-the-line John Deere tractor.

As in other parts of the country, credit here is tight, interest rates remain high and land values are falling. Commodity prices continue at depressed levels (a bushel of corn, for example, brings about a dollar less now than it did a year ago) and exports have slumped.

To meet their rising costs and offset falling prices, farmers are producing more. Whopper wheat, corn and soybean crops are in view, even though the Department of Agriculture is running a much criticized voluntary program to get cropland out of production.

Theoretically, less production would draw down the granary and boost prices. But here in Pickaway County, less than a tenth of the acreage base has been signed into the program, making the vicious circle complete.

Continuing high levels of production mean continuing high stocks of grains, which mean continuing low prices and the potential for huge federal subsidy payments to farmers.

Problems here are exacerbated by sharply tightened lending policies of the farm credit system and loan-processing delays and puzzling rejections by FmHA, all of which have created deep resentment among farmers accustomed to getting loans with few questions asked.

John D. Adkins, an attorney who handles financial matters for farmers, is as perturbed as his clients. "You simply can't figure out the philosophy of these lending institutions. . . . If the farm credit system is going to drive out all the young, heavily leveraged farmers—and I think it is happening—we'll end up with corporate farms and there will be an entirely new power structure in the country."

Men like Don Humphrey, the biggest fertilizer dealer in Pickaway and a dozen surrounding counties, find their businesses, in effect, have become lending institutions.

Humphrey estimated that 15 percent of its firm's 5,500 regular customers this year have given him a mortgage on their 1982 grain crop in return for the fertilizer and chemicals they needed to get the crop in the ground.

"We now extend terms or help them find credit or we just don't sell to them," Humphrey said.

"We take a mortgage on the crop with the inputs we have provided if the banks or Production Credit Association or FmHA won't handle them. We charge interest, but then, we have to borrow at the prime rate, plus."

One of Humphrey's old-line customers, Eugene Patrick, head of the local chapter of the National Farmers Union, is still battling with FmHA over a loan application to finance his operations this year. Meanwhile, with Humphrey's help, he got this crop in the ground and mortgaged it back to Humphrey.

Patrick is moderately optimistic—he has to be to stay sane, he said—but he worries about his neighbors and friends like Larry Sheets, who walk the narrow edge of desperation almost every day.

"The highly leveraged farmers are carrying high insurance on themselves," Patrick said. "You hate to think you'd have to kill yourself to save the family farm."●

SUPPORT HISTORIC PRESERVATION

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. FASCELL. Mr. Speaker, since the Congress first created the National Trust for Historic Preservation in 1949, Americans have been able to feel secure in the fact that our historical structures—rich with American culture and beauty—were being protected and preserved for future generations. For a relatively low Federal expense, the historic preservation program yields significant returns by creating jobs, saving energy and generating public revenues. Most importantly, this program gives communities the opportunity to revitalize those structures which, although neglected and in disrepair, still offer unique and efficient benefits to businesses and individuals alike.

Since the historic preservation program places decisionmaking on the State and local levels—a concept strongly endorsed by the administration—one would expect that the President would recommend continuing Federal funds for this program. Unfortunately, however, President Reagan's fiscal 1983 budget totally eliminates historic preservation funding. I am sure other Members share my concern over this matter, and agree that any program which provides as many benefits, both financially and culturally, as the historic preservation program is certainly worthy of our support. As we continue our deliberations on the budget, therefore, I would like to urge our colleagues to join me in supporting proposals which will insure that this extremely valuable program continues to be funded in the coming year.●

"PORK BARREL" WASTES BILLIONS, ADDS TO BUDGET WOES

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. PORTER. Mr. Speaker, as Congress grapples with measures to scale back Federal spending and sharply reduce a projected budget deficit of more than $100 billion for fiscal 1983, it becomes increasingly imperative for us to determine spending priorities.

The guaranteed student loan program in my judgment, is essential to insure all college students, including graduate and professional students, access to higher education. It is a valuable investment in our country's future, and, with proper safeguards, can become cost-effective.

On the other hand, there are many programs that are unworthy of continued funding and should be eliminated entirely from the budget.

Among these are three very large-scale, unnecessary public works projects: The Tennessee-Tombigbee Waterway—a canal connecting the Tennessee River to the Gulf of

Mexico; the Clinch River nuclear breeder reactor in Tennessee; and SRC I, a solvent refined coal demonstration plant in Kentucky.

All three are special-interest pork barrel projects of dubious worth. All three are way behind schedule and have incurred immense cost overruns. All three are extremely expensive—estimated to cost between $3 billion and $4.5 billion each by completion. And all three are potentially hazardous to the environment.

The Tenn-Tom was first authorized by Congress in 1946, but funds were not appropriated until 25 years later. Estimated to cost $300 million in 1971, the canal's cost have ballooned to $3 billion.

So far, we have sunk $1 billion into this colossal 232-mile ditch designed to connect the Tennessee River with the existing Black Warrior Tombigbee Waterway in Alabama. The canal—the largest project ever undertaken by the Army Corps of Engineers is intended to provide a shorter, alternate barge route to the gulf, parallel to the Mississippi River, in an area already well-served by railroads. Its transportation benefits, however, will never outweight its costs.

Furthermore, completion of the waterway would destroy 100,000 arces of land along the Tombigbee River without providing any reciprocal benefits to anyone.

In 1982 Congress appropriated $189 million for this project. The 1983 request is for another $186 million. By scrapping this project now, we could save taxpayers nearly $92 billion.

Clinch River is another Government project I believe should be abandoned. The project was begun in 1979 in anticipation of a sharply increased demand for nuclear power and a corresponding shortage of uranium. But in the last few years projected nuclear demand has plummeted, estimates or uranium reserves have doubled, and the price of uranium has dropped sharply.

Meanwhile, the cost of the Clinch River reactor has risen to $3.2 billion from the $700 million originally projected. More than $1 billion has already been spent, yet construction has not even begun. And, although utilities have lobbied heavily for the breeder reactor, private investment totals only about 9 percent.

While there may be some merit to the project, it is hard to see why tax moneys should be used for its construction. If there is any economic value to the project, private industry should build it and derive the profit.

SRC I, the youngest of the three projects, is also the most expensive. The estimated cost of the demonstration plant, designed to convert coal into solid coke and liquid boiler fuel is $4.5 billion, seven times the original estimate. To cover its cost, SRC I fuel would have to sell for $76 a barrel, more than twice the cost of oil on the world market today.

SRC I would release toxic chemicals into the air and water and could expose on-site workers to high cancer risks. The product also generates more carbon dioxide then coal and heavy usage might affect the Earth's climate.

While no funds have been requested for this project for fiscal 1983, last year $135 million was appropriated despite the fact that there was no budget request. We can well expect this to happen again.

Added to these three large-scale boondoggles are some smaller worthless pork barrel projects like the Garrison diversion water project in North Dakota and the Stonewall Jackson Dam in West Virginia.

None of these projects will yield benefits commensurate to the Government's investment. In fact, their perpetuation could be harmful in human as well as economic terms. In the best of times they should be terminated. But when valuable programs are being cut, continuation of these projects is unconscionable.●

REGAIN CONTROL OF THE FEDERAL BUDGET

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. HUBBARD. Mr. Speaker, as the various House and Senate committees continue working with the fiscal year 1983 budget, and as momentum gathers to balance the Federal budget, a constituent of mine, George D. Carnahan, of Providence, Ky., has written to me expressing his suggestions for balancing the Federal budget and putting a stop to excessive spending policies. I believe Mr. Carnahan's letter is one which should be shared with my colleagues and I wish to do so at this time. The letter follows:

CARNAHAN ENGINEERING AND SURVEYING,
Providence, Ky., June 11, 1982.

Congressman CARROLL HUBBARD,
Rayburn House Office Building,
Washington, D.C.

DEAR MR. HUBBARD: I am writing again concerning my proposal to get the federal budget under control. There must be an incentive for every person in the House and in the Senate to control expenditures. I repeat my former proposal.

Congress must pass a law which states that "whenever there is a deficit in the federal budget expenditures compared to revenues, that the pay of every person on the federal payroll will be reduced the following year by the same percentage that the expenditures were out of balance with receipts".

When I say all, I mean every federal department, federal commissions, members of Congress and their staffs, the executive branch, foreign aid programs, grants to university people, the judiciary branch, Social Security payments, USDA subsidy payments, and on and on. . . . Every person's pay and every program should be reduced by the percentage that expenditures exceed receipts.

What changes would you make in your own offices if you knew that next year your salary and the salaries of all your staffs was going to be reduced by 15 per cent? Such a law would strike at the jugular vein of the entrenched federal bureaucracies whose main goal is to grow in size and to spend more money and meddle more into the lives of the taxpayers. I think it is imperative to provide a monetary incentive to every person getting money from the federal government to operate efficiently; hitting someone in the pocketbook is a quick way to get his attention. The choice is clear in such a law; either get the budget under control, or cut everyone's pay the next year by the percent the expenditures exceed revenues. I guarantee you that we will have a balanced budget by 1984!

Lacking such a law, I would support a constitutional amendment to limit spending and taxation; however, I think a monetary incentive to be more efficient is the best way to do the job.

Sincerely,

GEORGE D. CARNAHAN,
Providence, Ky.●

THE NATION'S DETERIORATING INFRASTRUCTURE

HON. BOB EDGAR

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. EDGAR. Mr. Speaker, warnings have a way of coming too late to stave off disaster. With this in mind I commend to my colleagues' attention the following article from Newsweek, August 2, 1982, which warns of impending catastrophe within our tunnels, sewers, bridges, highway and rail systems if we continue our outrageous pattern of neglect. But this warning need not be too late. The Northeast-Midwest Congressional Coalition and Institute have been supplying Members with information for years depicting our Nation's deteriorating infrastructure. This article simply underscores the worsening problem and will prompt the House, I trust, to legislate to forestall possible tragedy.

The article follows:

[From Newsweek, Aug. 2, 1982]

THE DECAYING OF AMERICA

(No one noticed the spidery crack inching its way along the concrete casing of New York City's 65-year-old water tunnel No. 1. But one weekday morning 600 feet below the Bronx, the steady torrent of water loosened one chunk of concrete, then another, then another, until an underground landslide closed the tunnel off. Manhattan's water trickled to a stop. Within minutes pumps in high-rise buildings, trying to compensate for the loss of pressure, caused a widespread blackout. Elevators stopped at mid-floor. Subways rolled dead, their anti-

quated electrical backup systems unable to handle the sudden load. Sewers backed up. Fires raged. Before rescue workers could come to their aid, thousands of panic-stricken New Yorkers headed for the only means of escape—the city's dilapidated bridges. Overloaded with humanity and cars, the 73-year-old Queensboro Bridge cracked, groaned and toppled into the East River.)

That vision of urban apocalypse isn't far-fetched. America's infrastructure—the vast, vital network of roads, bridges, sewers, rails and mass-transit systems—is heading toward collapse. The decay is most acute in older industrial cities, but clogged highways and strained water systems also threaten to strangle booming Sun Belt towns, and even in dusty rural communities, potholes batter chassis and jangle motorists' nerves. Two weeks ago, in one 24-hour period, an 80-year-old earthen dam burst in Colorado, sending a wall of water through the town of Estes Park, and a major aqueduct broke in Jersey City, N.J., leaving nearly 300,000 residents without drinkable water for six days. Says Robert Harpster, executive director of the Iowa League of Municipalities, "Our sewers leak like sieves, our mass transit is in bad shape and our roads look like the Ho Chi Minh trail."

Ever since the canal boom of the 1800s, public works have shaped the nation's character and accommodated its growth. But today one-quarter of the interstate-highway system is worn out and needs resurfacing. One-half of Conrail's rails and roadbeds are seriously decayed. Half of all American communities cannot expand because their water-treatment systems are at or near capacity. One-fifth of the nation's bridges are so dangerously deficient they are either restricted or closed. "We're living on our laurels of the 1950s and 1960s," says Transportation Secretary Drew Lewis. Agrees Pat Choate, co-author of "America in Ruins," a study of the crisis for the Council of State Planning Agencies: "We've been squandering a major part of our national wealth."

All told, the cost of needed repairs around the country could run as high as $3 trillion. But the bills are coming due at a time when there is little money to spare. The Reagan Administration favors cutting Federal aid for highways, bridges and pollution-control projects and plans to phase out mass-transit operating subsidies by 1985, leaving state and local governments to pick up the slack. For their own part, many states and cities are already in fiscal extremis and will be forced to spend more and more scarce funds for simple operating costs as Federal aid to other programs diminishes. Money is even tighter where strict local tax-cut measures are in effect. Under Proposition 2½, for example, Massachusetts is devoting only .5 percent of its budget this year to maintenance and repair—a policy one expert on the state's budget, Mark Ferber, calls "pennywise and pothole foolish."

At the same time, record interest rates have driven the cost of issuing municipal bonds—the traditional means of raising capital funds—prohibitively high. And other recent Federal policies have hardly helped. All Savers certificates, Individual Retirement Accounts, accelerated depreciation and "safe harbor" leasing laws have all reduced the incentives for individuals and corporations alike to invest in tax-exempt municipal bonds. "The U.S. Treasury is slowly choking the ability of states to raise money," charges Massachusetts bond counsel Francis X. Meany. Some economists warn that Reagan's plan to stimulate the growth of the private sector through tax cuts could backfire if the roads, bridges, rails and water systems that businesses depend on are allowed to collapse from too little government support.

Human Toll: Already the nation's decaying physical plant is costing Americans dearly. In Houston, for example, city planners estimate that motorists pay a "traffic congestion tax" of $800 a year in time and gasoline wasted on the city's snarled expressways. U.S. Steel spends an extra $1 million a year detouring its trucks around a closed bridge in Pittsburgh. TRIP (The Road Information Program), a highway-industry group, estimates that the aggregate cost to the private sector of bad roads and bridges is $30 billion a year—for everything from broken axles to lost business. Even worse, the infrastructure crisis is exacting a heavy human toll. A recent Federal Highway Administration study found that spending an extra $4.3 billion to fix dilapidated bridges and roads could save 480,000 injuries and 17,200 lives over fifteen years.

There are nearly as many reasons for infrastructure decay as there are potholes. Some of it stems simply from old age. Built largely in the 1950s, the interstate-highway system, for example, was designed to last only 25 years. Many roads, bridges and water systems are also bearing far greater burdens than they were ever expected to accommodate. Boston's six-lane Southeast Expressway, built in 1959 for 75,000 cars a day, is now an axle-crunching obstacle course that carries 150,000 cars daily. And everywhere, age and abuse have been compounded by neglect. Investment in public works by all levels of government has dropped by more than 25 percent since 1972 (chart, page 18). As the fiscal crises of the 1970s hit, many local officials balanced budgets by canceling preventive maintenance and deferring needed repairs. "In the choice between laying off police or maintaining sewers," says Lincoln, Neb., Mayor Helen Boosalis, "the sewers always lose."

Although billions of dollars have been spent on public works in recent years, the vast bulk of expenditures has gone not to maintain old facilities but to build ambitious new pork-barrel projects, often determined more by politics than actual need (page 18). Says E. S. Savas, Assistant Secretary for Housing and Urban Development, "Have you ever seen a politician presiding over a ribbon-cutting for an old sewer line that was repaired?" All too often the cost of such projects is wildly inflated by corruption on the part of construction firms, labor unions, public officials and organized crime—all at the taxpayers' expense (page 17). Meanwhile, the longer the repairs are put off, the costlier they become. "Deferred maintenance becomes reconstruction," says Choate's co-author, Susan Walter.

One big obstacle to good infrastructure maintenance is the very system that controls it. Responsibility for maintaining public facilities rests with more than 100 Federal agencies, as well as the 50 states, more than 3,000 counties and thousands of local agencies. In Cleveland four separate municipal departments share authority over hundreds of dilapidated bridges. In Eaton Rapids, Mich., city manager Dennis Craun has compiled a 120-page booklet of all the Federal regulations that pertain to a 90-year-old one-land bridge that is not strong enough to carry trucks or buses—but is nevertheless listed in the National Register of Historic Places, and therefore cannot be destroyed. "I'm about at the point where I'd consider driving an 80,000-pound tanker over it," he says. "That would do the trick."

Citizen opposition has also stood in the way of preventive maintenance, since road, bridge and water-main work can be inconvenient as well as costly. But as the decay worsens, some citizens are taking the lead—and some deteriorating facilities have become key political issues. Last March women in Grosse Pointe Farms, Mich., got so fed up with the potholes on Detroit's Lakeshore Road that they donned hard hats and hockey helmets and fixed them. U.S Representative Barney Frank and Margaret Heckler are fighting a re-election battle over a 76-year-old bridge in redistricted Fall River, Mass. Frank recently brought the chairman of the House Public Works and Transportation Committee to visit the bridge; Heckler brought Drew Lewis. "If this is what is takes to get action, I'll take it," says bemused Fall River Mayor Carlton Viveiros.

Bumpy Rug: Aware of the growing potency of pothole politics and the genuine dangers of serious breakdown, many city officials are belatedly fighting to save their public facilities—at no small cost to city coffers. Chicago's Mayor Jane Byrne has announced a two-phase, $187.5 million plan to rebuild 22 bridges and viaducts, 90 intersections and 46 railroad crossings. New York City has embarked on a ten-year, $34.7 billion program to renovate streets, bridges and mass transit and work has begun on a third water tunnel. In Pittsburgh Mayor Richard Caliguiri is devoting $60 million of his city's $225 million budget this year to maintenance projects—deferring work on recreation programs. "We can no longer sweep these problems under the rug," says Cleveland's director of public utilities, Edward R. Richard. "The rug is getting too bumpy."

A sampling of the nation's worst infrastructive problems:

Highways. Still 1,500 miles short of completion, the once proud 40,500-mile interstate-highway system will need $33 billion worth of repairs in the next decade. But the Federal Highway Trust Fund, which supported the system throughout the 1960s on ever-burgeoning revenues from the 4-cent-a-gallon Federal gasoline tax, has been sorely depleted with the advent of smaller, more fuel-efficient cars. Conditions are even worse on the larger network of primary and secondary roads. The U.S. Department of Transportation (DOT) estimates that the work needed to keep nonurban highways at current levels will cost more than $500 billion over the next ten years—more than Federal, state and local governments combined spent on all public works in the 1970s.

City Streets. It takes 100 pounds of asphalt to fill the average pothole, and the record-cold winter of 1982 left a plague of them—1 million, by some counts, in Chicago alone. But city officials are finding that it can also be costly to leave them unrepaired. Two years ago, after paying $20 million in negligence claims, New York City enacted a pothole "prior notice" law, exempting it from responsibility for accidents caused by any street defect not reported at least fifteen days earlier. Not to be thwarted, a citizens group called Big Apple Pothole and Sidewalk Protection Corp. sent an army of workers out to document every crack and rut in Manhattan, Brooklyn and the Bronx.

Bridges. Nationwide, 248,500 bridges—45 percent of the total—are structurally deficient or functionally obsolete. But DOT estimates that needed repairs could cost as

much as $47.6 billion. Meanwhile, two Federal programs are supposed to provide for periodic inspections and aid to the most dangerous bridges, but a 1981 General Accounting Office report found that many national safety standards were not being met. Heavy trucks continue to barrel over the Mountain Avenue Bridge in Malden, Mass., for example, even though it was "posted" at a maximum of 6 tons in 1977.

Mass Transit. Believe it or not, conditions on subways and buses are actually improving in many cities. Since 1979, when two Philadelphia buses caught fire on the road and only 26 of 108 subway cars were operating on the Broad Street line one night, the Southeastern Pennsylvania Transportation Authority (SEPTA) has raised capital spending from $17 million to $110 million and even brought aged repairmen out of retirement to teach a new generation of mechanics how to fix its 1920s car motors. New York City's Metropolitan Transportation Authority (MTA) has embarked on a five-year, $5.8 billion renovation program, though frequent glitches with its new buses and subway cars have actually compounded maintenance problems in the vintage repair shops. Meanwhile, critics remain leery of the rescue plan, since the financing includes $1.6 billion in bonds to be paid off by farebox revenues. MTA Chairman Richard Ravitch "may be known in the future for two things," says Gene Russianoff of the watchdog group Straphangers Campaign, "rebuilding the system and the $3 fare."

Railroads. Tempers have been rising along with fares on U.S. commuter rails. In 1980 half the ridership of the Long Island Rail Road joined in a one-day strike, refusing to show their tickets. "We pay ransom for the privilege of being hermetically sealed in dirty, smelly cars," says Lorraine Pirro, a citizen adviser to New York's commuter rails, which will spend $1.3 billion on capital improvements over the next five years. Many systems are saddled with ancient equipment never designed for stop-and-go commuter service. "Edison Cars," dating back to 1923 when Thomas A. Edison threw the first switch, still make up 10 percent of the New Jersey Transit Corp.'s fleet.

Commuter headaches will be compounded later this year when Conrail gets out of the commuter-rail business, leaving local transit agencies completely responsible for 210,000 riders daily. SEPTA officials warn that unless contracts and work rules are renegotiated (the average Conrail worker earns $40,000 a year), they may have to close down the area's thirteen commuter lines. The precedents set by public takeover of bankrupt freight lines are not encouraging. In Michigan, for instance, half of the 931 miles of freight track run by the state lies dormant in disputes over subsidies.

Water and Sewage Systems. Every day more than 1 million gallons of tap water disappear through leaks beneath the streets of Berwyn, Ill. In Milwaukee there were 170 water-main breaks in January alone. And in New York City, though the complete failure of one of the two giant water tunnels is unlikely, neither has ever been inspected. Experts say a breakdown of some kind is all but certain within the next twenty years. Sometimes made of brick, wood or cast iron and often more than 100 years old, America's sewer and water systems are subterranean time bombs. Choate estimates that 756 major urban areas will have to spend $75 billion to $110 billion to maintain their water systems over the next twenty years, and just meeting pollution-control standards will cost $25 billion over the next five years.

Dams. Like the earthen dam that burst in Colorado earlier this month, many U.S. dams are tiny, aged and privately owned—yet their collapse would jeopardize hundreds of lives and homes. State and Federal officials didn't even know where many of the dams were until the 1977 collapse of a dam in Toccoa, Ga., spurred Jimmy Carter to send the Army Corps of Engineers out to survey them. In a four-year study the Corps counted 68,000 non-Federal dams. The Corps inspected nearly 9,000 in highly populated areas and found roughly one-third to be unsafe, with 130 in danger of imminent collapse. But even where repairs were ordered, they have often not been carried out, because the dams' owners either couldn't afford them or couldn't be found.

Public Buildings. "Hardly a week goes by that we don't have some kind of roof problem at one of our 29 fire stations," says St. Louis budget director Jack Webber, whose city-hall roof nearly fell in on him last year. In New York City nearly half of the 1,087 public schools are at least 50 years old and many suffer rotted windows and outdated plumbing and electrical systems. Worse still are the nation's 3,500 prisons, as many as 3,000 of which need substantial renovation or expansion. In Texas 3,800 inmates of the state penal system sleep in tents for lack of space. In some states prisoners are being paroled early to ease overcrowding.

Growing Pains. Public works in Sun Belt cities have not kept up with population growth. In sprawling Phoenix a scant 36 miles of freeway now serve a population of 1.5 million, 97 percent of whom travel by car. Every day between 1970 and 1980, roughly 250 more cars joined Houston's expressways, and traffic there has become so chronically awful—with "rush periods" lasting twelve hours a day—that some executives now commute by helicopter (page 53). Texas planners figure it will take 300 miles of new freeway and 1,400 miles of streets, costing $16.2 billion, to bring traffic conditions back to what they were in 1975.

Water is also a serious problem in the West and Sun Belt, where overtapping of ground resources causes more and more giant fissures and sinkholes. Meanwhile, the nation's ports have not kept up with the increasing demand for coal exports. At one point, 15 percent of the world's bulk coal was sitting useless at the port in Hampton Roads, Va., due to congestion in unloading.

Solutions: How will the staggering infrastructure needs be met? Proposed solutions range from a gigantic New Deal-style public-works program to increased user fees, but none will be easy. One of the most sensible ways of raising highway revenues, for example, would be to boost the Federal gas tax, which has been 4 cents a gallon since 1959. Transportation Secretary Lewis has proposed doubling the gas tax and raising levies on heavy trucks, to generate $5 billion annually. But the powerful automobile and trucking lobbies oppose Lewis's plan to use $1 billion of that revenue for mass transit, and President Reagan has vetoed the idea for now.

On their own, 31 states have raised state gas taxes and other fees in recent years and several are considering more road tolls. By charging an average of 2.4 cents per mile, for example, the 40-year-old Pennsylvania Turnpike pays for resurfacing 30 to 50 miles a year. Many communities are also raising rates for water and sewer services—systems experts say should be self-supporting. Often that requires creating a separate local agency, such as Boston's acclaimed five-year-old Water and Sewer Commission. The danger, critics warn, is that the proliferation of local agencies will diffuse accountability and multiply administrative costs.

Private businesses are also assuming a greater share of the burden—voluntarily or not. At the Sycamore housing development in Danville, Calif., where Proposition 13 prohibits raising taxes to pay for basic services, a local approval board is asking the developer to provide two new water tanks, a freeway interchange, a new elementary school and a new fire engine. The cost of course, ultimately gets passed on to consumers: the town's decree is raising the cost of each new home there by $15,000. Private donors are helping to renovate the crumbling Statue of Liberty and restore San Francisco's 107-year-old cable cars, which will shut down this September for twenty months of repairs. And in some cities business leaders are donating management expertise. "If Cleveland goes to hell, we all go to hell with it," says attorney Carlton Schnell, chairman of a coalition advising the city on its infrastructure needs.

Dabbling: In desperation, local officials are experimenting with a wide variety of other revenue-raising schemes, including selling off public buildings. The Port Authority of New York and New Jersey is considering leasing vacant office space to raise funds for a "bank for regional development" that would lend money to local governments for infrastructure needs. Others are dabbling in "leveraged leasing." New York's MTA sold 620 buses and ten commuter-rail cars to Metromedia, Inc., at $15.5 million over the cost. Metromedia will take the tax depreciation on the equipment and lease it back to the MTA, which will use the net gain for operating costs. Atlanta officials are considering an even more complicated plan. A local Lockheed plant would build a plane for a Japanese trading company, take payment in Japanese-made subway cars, then sell the cars to the transit agency for less than their usual cost.

On a larger scale, New York investment banker Felix Rohatyn has suggested a revival of the Reconstruction Finance Corp., which would issue $25 billion in federally backed loans to cities to help maintain their facilities. Aware that the infrastructure crisis coexists with record-high unemployment, the House Education and Labor Committee has proposed a massive five year, $11 billion public-works program to provide jobs ranging from painting bridges to patching potholes. And a growing number of economists and lawmakers are calling for creation of a "national capital budget" that would fund infrastructure projects outside the Federal budget, where they are currently vulnerable to spending cuts.

Whatever the mechanism—higher taxes, higher user fees or higher consumer prices—the cost of repairing the nation's physical plant will inevitably come out of citizens pockets. Already, the problems of decay and growth have pitted East against West, rural residents against city dwellers, truckers against straphangers and almost everyone against the Federal government.

Canoes? Federal allocation formulas currently favor building urban, not rural, highways—even though the expense of clearing city land can push the cost per mile as high as $500 million. Allocation formulas also favor "multiple use" waterways, rather than city water and sewer systems. "If I could figure out a way to put canoeists down

there, maybe our problems would be solved," jokes New York Mayor Ed Koch. Reagan's plan to phase out mass-transit operating subsidies while continuing to fund transit capital needs has angered people on both sides of the issue. And because of opposition, the Administration is likely to table its New Federalism plan for roads that would have returned to the states their share of Federal gas taxes—along with the responsibility for maintaining highways. "Based on the amount of money it generates in gas taxes, Montana would barely pay for the signs on its highways, let alone the highways," says Lewis. "You can say fine, don't build any interstates in Montana, but what do you do when you get to the Montana border—get a horse and wagon?"

In general, the Reagan Administration believes that state and local governments rely far too heavily on the Federal government for their infrastructure needs. "The fact that there are potholes all over America doesn't mean that it's time for the Federal government to pay for filling them," says HUD's Savas. Historically, the pattern has been for the Federal government to build major public works, but leave them to states and cities to repair—and some local officials are beginning to decide that they can't afford the Federal largesse. Cincinnati, for example, has adopted a policy of "planned shrinkage" of its physical plant where possible—even turning down Federal grants to concentrate its own funds on maintaining what it has.

Scaling Back: As the national budget debate increasingly becomes one of guns vs. butter vs. asphalt, planned shrinkage may become the public-works policy of the future. Already, officials doubt that the interstate-highway system, as originally conceived, will ever be completed. The Federal government has indefinitely postponed building the once planned $3 billion rail and road system for the congested Houston area and the proposed $2.1 billion "people mover" in Los Angeles. Not a single road links Juneau to the rest of Alaska, but the cost of building one may be too high even for that oil-rich state.

What will such decisions mean for the boom towns of the future? And if older cities are allowed to decay and contract, can citizens who "vote with their feet," as Reagan has suggested, hope to find better conditions anywhere else? In past decades public works made America a nation of highways, of automobiles, of vital cities and water systems that are the envy of the world. Today's hard choices will determine the shape of America in the decades to come.●

BAY PORT'S FISH SANDWICH DAY

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. TRAXLER. Mr. Speaker, over the years the Great Lakes have provided, not only Michigan, but many other States with an abundant and tasty source of fresh water fish. It has provided the State of Michigan with resource which has proven invaluable not only from a recreational standpoint but also as an economic boost to out State's economy.

It is my pleasure to have the opportunity to give recognition to the town of Bay Port, Mich., which on August 1 is once again holding its annual Bay Port Fish Sandwich Day. Bay Port's fish sandwich not only is well known in the Michigan area but it has also developed an international following, rumored to have been personally requested by Queen Elizabeth. This event has become bigger and better every year and this year should prove no exception.●

CARMAN PRAISES CONGRESSIONAL STAFF

HON. GREGORY W. CARMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. CARMAN. Mr. Speaker, I rise on this occasion in praise of my Washington and district office staff. In my time here, I have come to know a number of congressional staff persons. I have found them all to be competent, dedicated, talented, hard-working individuals. Yet, I know of no Congressman as fortunate as I am when it comes to the first rate group of men and women who serve on my staff.

I have come to know each individual, both professionally and personally. Each has shown exemplary dedication both to the House of Representatives and to me. They have worked long, hard hours in support of my public and legislative activities, and I have come to value highly their depth of knowledge and useful counsel. They deserve a great deal of credit for the work I have been able to do well in this Chamber. I rise today to extend public recognition and my own deep personal gratitude to these individuals.

I have developed a deep respect for my Washington staff. Jeff Craven, Lee Ann Frank, Steve Heminger, Jonathan Hill, Len Johnson, Andre LeTendre, Gene Meyer, Lois McKenna, John Palafoutas, and Felice Pelosi have accomplished every task I have given them with admirable diligence and dedication. They have displayed a true professionalism in their dealings with the offices of this House, with the interests and problems of my constituents, and the numerous governmental agencies both in and out of Washington with which I have worked.

Joan Camisa, Ethel Contogine, Larry Cregan, Anthony Fabrizio, Robert Mazze, Barbara Sposato, and Nancy Wohlsen on my district office staff have served ably and well. During the past 2 years, they have developed an excellent relationship with my constituents in the Third District of New York. As I am sure every Congressman ideally desires, my district office staff has served as a highly effective liaison between me, in my congressional work in Washington, and the good people of Long Island whom I represent.

I also have learned to respect and appreciate the contributions made by the interns in my office. Ginna Calcagnini, Paul Fishbin, Lori Harmon, Maria Humeres, Lois Mary McKenna, Patricia Roberts, and Robert Shea have performed consistently well in their service to the Congress and to my staff.

When I leave this Congress, my deepest and most lasting memories will be those of my staff. We have worked hard together; we have accomplished a great deal together; we have enjoyed the thrills and shared the sorrows of public life together; we are professional associates and dear friends.

As you and I have heard sung often, "It has been good to know you," and "May the good Lord bless and keep you until we meet again."●

CHICAGO WORLD'S FAIR 1992

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. PORTER. Mr. Speaker, the 500th year anniversary of the discovery of North America is approaching. The year 1992 will mark 500 years after Columbus sailed to this continent in 1492. Chicago, one of the largest cities in our Nation, recently received an initial approval in June 1982, by the Bureau of International Expositions in Paris (BIE) to be the sight of a 1992 World's Fair entitled the "Age of Discovery." The fair has been described in the Chicago Tribune as an "eye-popping, damn-the-recession masterplan" to create employment, revenue, and business incentives for the city, the Midwest, and the Nation.

The Chicago World's Fair 1992 Corp., a not-for-profit group of private and civic leaders, created a plan to present to the BIE in Paris. Thoroughly displaying American preparedness and professionalism the Fair Corp., made a gala presentation in December 1981, to convince the bureau's members that Chicago's lakefront would be the most attractive area for a world's fair to close the 20th century in glory, optimism, and creativity. Chicago's plan included pictures of the site, charts, over 700 pages of documents, and a multimedia show using 16 slide projectors and a 16-millimeter movie projector. The New York Times described Chicago's approach to the review bureau in Paris as a grand effort "to extol the Windy City's virtues with fire and thunder."

Public initiative aided the private sector's blitz to make the 1992 fair a reality. The Fair Corp. and Mayor

Jane Byrne of Chicago hosted a four-person inspection team from Paris in May 1982, immediately before the provisional approval was given by the BIE. They acted as a welcoming committee in order to dazzle the delegates from Paris during their visit to Chicago; a "whirlwind of briefing sessions and dining" entertained the visitors. Chicago had previously been designated in Washington, D.C. as the U.S. candidate for a 1990's world's fair; the hosts wanted to assure initial approval by the Paris council in June 1982. The final go ahead will be granted at the BIE's general assembly meeting in November or December 1982.

Gloriously drawn maps describe a 500-acre lakefront site, 200 acres of which will be landfill in Lake Michigan. More specifically, the area is delimited by Balbo Drive on the north end of the city to 31st Street to the south, the Illinois Central Gulf Railroad tracks to the west, and the lake/landfill area on the east. Seventeen sites were proposed by major architectural firms in the city, including Skidmore, Owings and Merrill, builders of the world famous skyscraper, the John Hancock Building. Major monuments already standing on the site grounds include Chicago's Shedd Aquarium, the Adler Planetarium, the Field Museum, Soldier Field, and Meigs Field. The people of Illinois and Chicago are excited by the many ideas for this global celebration.

Fair Corp's outline includes great expectations for the fair. Various boards of the city, the bureau of street traffic, bureau of transportation planning, Chicago Urban Transportation District, Chicago Transit Authority, Chicago Area Transportation Study, Illinois Department of Transportation, and the traffic consulting and urban planning firm of Barton-Aschman Associates, have made predictions of the fair's success. The planners foresee: 65 million visitors between April and October; exhibits from 70 countries; new jobs, parks, transportation lines, hotels, beaches, and harbors; millions of dollars in revenue from enhanced trade and commerce; finally, a once-in-a-lifetime education available to fairgoers of all ages. These ideas are just samplings of the shining outcome of the Age of Discovery.

In anticipation of the fair the corporation hopes to accomplish city improvements to aid crowd control as well as visitors' access to the fair grounds. The Dan Ryan Expressway will be widened from 8 to 10 lanes between the Eisenhower and Stevenson Expressway interchanges in the downtown-lakefront area. A south loop connector expressway will run north from the present Stevenson Expressway to a large remote parking lot at 18th Street north of Chicago's Chinatown area. The South Loop New Town is a rapidly self-improving area.

Further positive mutations are planned: Shifting the northbound lanes of Lake Shore Drive to allow motoring along the lakefront, as well as a new interchange to serve Soldier Field. East-west pedestrian walkways and bridges at three points west of the fairgrounds will help fairgoers cross the Illinois Central Gulf Railroad tracks. The festival planners are appropriately seizing the opportunity and spirit of the world's fair to benefit the city and enhance transportation along the sparkling freshwater shores of Lake Michigan.

Of major concern to the planners is daily crowd management, 700,000 visitors are expected each day where 34,000 parking spaces are available. The city will prepare itself to receive the overflow. Parking lots to facilitate the accommodation of thousands of cars will replace where the Amtrak railroad stands at present. Cost allocations shared by private and public sectors will be established to fund the ambitious, inspiring projects. Projected cost of the improvements runs near $200 million, a sum, incidentally, substantially less than the cost of the Senate Office Building extension.

A healthy exchange of ideas is occurring each day concerning daily fair management. A giant fleet of buses—about 455—will shuttle visitors to and from the Loop area. Two hundred of the 2,400 buses of the CTA's line will be used. A rail shuttle bordering the Chicago riverbank, as well as passenger boats floating through Lake Michigan and the Chicago River are speculations and considerations to aid tourist mobility.

A prominent transportation project includes a rapid transit line running between Chicago's Midway Airport and the Downtown Loop. The motivation for this transportation project is a product of much of the success from work already in progress: The rapid transit extension to the Nation's busiest airport, O'Hare International; the facelift of the "L", the Downtown Loop's elevated metro; and the connection of the Dan Ryan and Howard rapid transit lines. It is evident that lively enthusiasm characterizes the attitudes of the mappers of this future world celebration.

Transportation considerations accompany practical considerations such as sewer and water connections, and construction on the sanitary district's deep tunnel below the Chicago River. These renovations have practical future implications. The sewer and waterlines will be needed as the Near South side changes from an unpopulated railyard area to a residential neighborhood. Success will be assured for the world's fair group because of their attempt to consider the needs of a variety of sections of the city as well as the future impact of their actions and improvements for these areas.

Chicago hosted two world's fairs previously, The 1893 Columbian Exposition realized profits of $500,000 as well as the 1933-34 Chicago World's Fair "Century of Progress" which also realized $500,000 in profits. The 1992 Fair's $700 million price is expected to be covered and to produce a profit as well.

The year 1992 seems a far jump in time, yet many are looking beyond that year to the city's future. Futuristic communication and transit systems are being considered: A monorail linking McCormick Place, a major national convention center on the lakefront, to the heart of the city further west; or, perhaps, a weather-free tunnel to Soldier Field. These sophisticated systems would remain once the fair is dismantled. The planners' ideas are imaginative and provocative, guaranteed to create a jubilant, significant world's fair.

Environmentalists are voicing their interest and concerns for the "Age of Discovery" fair. A manmade island along Chicago's lakefront could impact on lake currents, shoreline erosion, fish and wildlife, navigation, as well as recreation and water quality. Three sources of landfill are being considered: Sand dunes from the State of Michigan, industrial slag, or rock from Chicago's deep tunnel project for water pollution and flood control. The new island's landmass is expected to cost $120 million. The U.S. Environmental Protection Agency, the Illinois Environmental Protection Agency, and the Illinois Transportation Department are agencies involved in the assessment of costs and planning.

Some of the environmentalists appear to want to place blockades in the path of success on which the fair is riding. Thomas G. Ayers, president of Fair Corp., comments that doomsayers like to "point out that these are recessionary times * * * that this is not a prudent time to be planning such a large undertaking." Certainly, negative voices are vocalized often when inspiring forward-reaching ideas are set forth. Rather, the fair is medicine at a crucial point in our economic period. Thirty thousand temporary jobs will be created, tax revenues produced, and an enduring cultural educational experience. Despite ever present pessimism, the significance of a world's fair in Chicago is dawning, injecting excitement and spirit in all who come into contact with the plans for the festivities.

Stunning architectural introductions have marked world fairs since 1851. The Crystal Palace designed by Joseph Paxton in London was a landmark of the 1851 London World Fair. The Crystal Palace was 1,848 feet long and 108 feet tall; prefabricated glass, iron, and wood were assembled in less than 5 months. Paris' famous Eiffel

Tower was erected in 1889 at the Paris Exposition Universelle. Renowned architects such as Louis Sullivan, Charles Atwood, and Frank Lloyd Wright have all constructed innovative buildings in the city and surrounding suburbs.

Louis Sullivan designed white neoclassical buildings along the South Side lakefront in the 1893 Columbian Exposition. Charles Atwood designed the Museum of Science and Industry, as well as an early skyscraper in the Loop, the Reliance Building, well ahead of his time. The Prairie School design by Frank Lloyd Wright, and the Holabird & Roche style in Chicago both contrasted the neoclassic trend introduced in Chicago at that time. Daniel Burnham devised a lakefront park system for Chicago in 1909. Burnham drew many ideas directly from the 1893 Columbian Exposition.

The Art Nouveau style in 1900 predominated the Paris Fair at the turn of the century. Art Deco made a great impact 25 years later in 1925 at the Exposition International des Arts Decoratifs et Industriels Modernes. Art Deco made a profound statement in the United States, especially in New York City at Rockefeller Center. Four years later, in 1929, at the Barcelona International Exposition Mies Van der Rohe installed an elegant marble and glass pavilion, for which he also designed a chair covered in white leather, the celebrated Barcelona Chair.

Recent world fair architectural experiments have included, in 1960, Alfred Caldwell's 2,000 feet square, 18 stories high cable-suspended roof building which could hold 1 million persons. The University of Illinois Chicago Circle campus produced a plan for an inflatable exhibition structure 1 mile long and 500 feet wide. Bigness, beauty, and computer-assisted structure engineering will all aid architectural modern thinking at Chicago's 1992 World's Fair.

The history of world's fairs is long and impressive. The first recorded fairs mentioned in the Bible were held in Asia and Africa before the birth of Christ. Often, fairs were religious celebrations. Merchants and people throughout the Middle Ages traveled hundreds of miles to attend fairs. Their lives were much more lonely than our lives today, and the week of a fair was an exciting time when they could meet and be merry and gay with many other people.

In 1851 in London the "Great Exhibition of the Works of Industry of All Nations" was set in Hyde Park. At this fair Antoine Sax displayed his new invention, the saxophone. The United States displayed the Colt revolver, McCormick's reaper for harvesting farmers' fields, chewing tobacco, and false teeth.

In 1853-54 America held its first world's fair in New York. China, glass, artificial flowers, hats, wigs, modern transportation including horse-drawn carriages, and fire engines were displayed. Farm machinery, Taylor's printing press, House's telegraph, and cannons showed the progress of industry and invention.

In 1876, the Centennial Exhibition was held in Philadelphia. New inventions at this fair included a refrigerator car for use in trains, the latest printing press, Thomas Edison's automatic telegraph, and the typewriter. Alexander Graham Bell brought his new talking instrument to the exhibition; 167 buildings were constructed, and the new Corliss steam engine powered all the fair machinery. An enormous elevator could house 40 people and carried fairgoers to the top of an observatory.

Chicago hosted the 1893 World's Columbian Exposition to commemorate the 400th anniversary of Columbus' discovery of America in 1492. George Washington Gale Ferris, an engineer, constructed the Ferris Wheel which held 36 cars each large enough to hold 36 people in one car. Over 1,000 men, women, and children revolved each time the wheel turned. This fair was described as the "White City" because the buildings shone marble white. The Palace of Electricity was a special attraction. The question was raised about electricity similar to the questions being raised today about nuclear energy: would it be a dangerous toy, or a new power to serve man? George Westinghouse developed a new electric light bulb to light the fair. The first electric railway in the world indicated the progress being made in transportation.

St. Louis hosted the 1904 Universal Exposition to celebrate the 100th anniversary of the Louisiana Purchase. By 1904 cars and airplanes were modern wonders. Iced tea was a clever innovation at this fair which refreshed hundreds of visitors. A crafty concessionaire dreamed up the ice cream cone, so one could hold the creamy cold substance while walking. Nearly every State had a building, and the St. Louis fair provided the stadium for the first Olympic Games ever held in America.

Two California world's fairs, San Francisco in 1915, and San Diego in 1915-16, celebrated the completion of the Panama Canal. The San Francisco fair was called the Panama-Pacific International Exposition. Thomas Edison attended this fair, also called the Light Fair. A transcontinental telephone line connected California and New Jersey. The Panama-California International Exposition in San Diego was a grand showplace. Farming and car exhibits adorned the fair. One could park his car on one of the first and, then, largest parking lots for 25 cents.

Chicago held the world's fair in 1933-34 and called it the Century of Progress. The 1933 fair celebrated science and industry as well as Chicago's 100th anniversary. In 1833, 100 years earlier, Fort Dearborn was a swampy outpost hardly resembling the magnificent city that Chicago had become by 1933. An elevator lifted crowds to a rocket platform where a car would then transport passengers from one tall tower to another. The Drama of Transportation exhibit revealed Henry Ford's lifework and the future of transportation.

San Francisco hosted the Golden Gate International Exposition in 1939-40. The completion of two new bridges, the San Francisco-Oakland Bay Bridge and the Golden Gate Bridge, was celebrated. In the same years, 1939-40, New York City projected the world of tomorrow. New York City celebrated the 150th anniversary of the inauguration of George Washington as President of the United States. New York's Building the World of Tomorrow fair introduced nylon, home air-conditioning, and television. A time capsule was encased and erected to tell the story of our civilization as it was in 1939.

The start of the atomic age marked the Brussels World Fair in 1958. Atomic powerplants, an atomic powered clock, and space satellites were the U.S. exhibits. "Man in the Space Age" was the theme of the Seattle World's Fair 4 years following the Brussels' Fair, in 1962. A 600-foot space needle was constructed in Seattle with a revolving top. A 4,600 gallon pool of perfume and a 25,000 pound cake added flamboyance to Seattle's Fair.

In New York between 1964 and 1965 an enormous unisphere towered 135 feet in the air. Flushing Meadow Park held this world's fair, "Man's Achievements on a Shrinking Globe in an Expanding Universe." During the same decade the Lincoln Center for the Performing Arts in New York City opened. Shea Stadium remains a permanent reminder of this fair. Most recently, the Knoxville World's Fair, "Energy Turns the World," is in progress, and by the end of the summer of 1982 11 million people will have visited Knoxville to view 1980's energy development and deployment capabilities.

The history of world's fairs has been active and spectacular. Chicago's "Age of Discovery" in 1992 will prove to be just as spectacular, probably more so. Hundreds of national and international exhibits, concerts, theater productions, business, science and industry shows, as well as an amusement park will entertain crowds daily.

Cries of support for the fair have surfaced in all parts of the city. Chicago is a tough, enduring city of the future. The Chicago Tribune portrays

that "Chicago always has been a city of vitality and growth—rising from the ashes of a devastating fire to become an international mecca of business and commerce." The fair will benefit the entire city because visitors will want to explore all corners of the city, ethnic neighborhoods, and restaurants. A world's fair in 1992 could be to Chicago like a family having friends to dinner, the entire city, like a house, will be spruced up to make the best impression possible. Chicago is not waiting for the economy to turn around, yet through action it is causing a turn around. This positive spirit has made the city great. "Chicago has built its reputation on transforming dreams into realities, and as such, has always been the master of its destiny." Chicago is setting the example on how to close the 20th century in pomp and pageantry.

The citizens of the city and Illinois welcome the world to the Chicago World's Fair in 1992 the "Age of Discovery" will be an age of discovery of the city of Chicago by millions from every nation. The "Age of Discovery" will also exhibit the genious of freedom and democracy as well as the infinite capabilities of every man and woman where a spirit of peace and cooperation abounds. When discovery occurs progress is made which reaffirms man's intuitive commitment to the enrichment of life of Earth.

(The preceding remarks on the World's Fair to be held in Chicago in 1992 were prepared by an intern on my staff Miss Rachel Varley of Winnetka, Ill. A senior at Williams College in Williamstown, Mass.●

CZECHOSLOVAK-AMERICAN FESTIVAL

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. BROOMFIELD. Mr. Speaker, well over a century ago, many of the proud industrious people of Central and Eastern Europe—Czechs, Moravians, Slovaks, and Carpatho-Ruthenians—came across the ocean to our young and proud Nation. Several of these new Americans traveled out from our eastern shores to finally settle in Michigan.

These Czechoslovak-Americans have been a great asset to our Nation and to my home State. That is why I am very honored to be able to call attention to the Fifth Annual Czechoslovak-American Festival which will be held this August 13, 14, and 15 in the Benjamin F. Yack Arena in Wyandotte, Mich. This grand event will be preceded by the Second Annual Sokol Detroit Heritage Run on August 7 on Belle Isle in Detroit.

Sokol Detroit is a Czechoslovak nonprofit athletic and cultural organization that was created over 100 years ago in Detroit. Sokol is dedicated to instilling in its members a "sound mind and a sound body through gymnastics." Sokol has a cultural center and works to promote Czechoslovak culture in the southeast Michigan area.

The Sokol Heritage Run is actually two runs, a 10,000 meter and a 5,000 meter. These runs are a multiethnic event that affords the many Americans of different ethnic origins an opportunity to show their cultural pride in a healthy, exhilarating way.

The Czechoslovak-American Festival will be a terrific event for all peoples of all backgrounds and origins—a wonderful opportunity to enjoy the sights, sounds, tastes, and smells of Czechoslovakia. The best of the rich culture from all the four major regions of Czechoslovakia will be represented: Bohemia, Moravia, Slovakia, and Carpatho-Ruthernia. There will be bands and dancing, gymnastic demonstrations, and many, many palatable delights.

The Second Annual Sokol Detroit Heritage Run and the Fifth Annual Czechoslovak-American Festival will both be enjoyable and culturally rich occasions. I am happy and honored to be able to call attention to them.●

A TRIBUTE TO THE LINKS OF NASHVILLE

HON. WILLIAM HILL BONER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. BONER of Tennessee. Mr. Speaker, I would like to commend the work of the Music City Chapter of the Links, Inc., in Nashville, Tenn., for their contributions to the arts in Tennessee. During this time in cutbacks of Federal funds going to arts projects, I would especially like to mention the "Link-Arts" project of the organization. "Link-Arts" refers to the process of linking artists with business, government, church, and community leaders to develop ongoing professional relationships.

The Links also sponsors an annual "Showcase of Young Artists." It is conceived as an avenue for promoting greater community support and awareness of Tennessee artists, especially those who are working to make a name for themselves. It is a way of giving a helping hand to talented persons who may not have received the level of recognition they deserve.

I commend the Links of Nashville for their desire to promote the philosophy that practicing artists in the community "speak the language of the community" and can best articulate artistically the life of that community.●

GUN CONTROL EFFORT CONTINUES

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. GREEN. Mr. Speaker, murders and other crimes with handguns continue at a shockingly high rate in our Nation. Every week more than 400 Americans are killed with handguns and more than 5,000 are wounded in crimes involving handguns. This is why most Americans favor handgun control. They do not want to stop hunting or target shooting. What people want are laws that keep handguns out of the hands of criminals and heavy sentences for those who are convicted of crimes committed with guns. I have introduced legislation to do this, as have other Members of Congress.

An article appeared in the New York Times on July 22 which addresses the issue of gun control. The author, Thomas A. Reppetto, president of the Citizens Crime Commission of New York, has written a well-documented piece on this subject which I urge all Members of Congress to read. He points out that, in 1980, New York State tightened its laws against illegal guns and my State is now witnessing a reduction in the number of gun murders. Other States and communities are adopting stronger gun legislation. I hope that the Congress realizes that this is what the American people want. It is one very positive step the Federal Government can take against crime.

[From the New York Times, July 22, 1982]

RED LIGHT FOR GUNS

(By Thomas A. Reppetto)

Recently in New York City two men were shot dead during a robbery in a bathroom of a Wall Street area skyscraper; a biker was gunned to death riding through Central Park on the way to work, and a young girl was shot and killed in a West Side boutique after telling a customer the store did not carry men's clothing. In 1980, the F.B.I. reported 23,044 murders in the United States, approximately 62 percent of them with guns. In less than 20 years the number of gun murders has tripled.

Can anything be done to stem the tide? Of course: stop the traffic in weapons. There are some sensible suggestions on the table. The question is whether Congress and the White House will enact them into law.

The Population Studies Center of the University of Michigan tried to determine why homicides, particularly gun murders, were increasing when deaths from many other causes were declining. Their report, published in 1980, postulated that the reason was the greater availability of guns. In the 1950's about 400,000 handguns were available annually while in the 1970's the number was approximately 2,000,000.

The statistics are even more alarming when viewed beyond the perspective of a single year. In 1974 a group of researchers

at the Massachusetts Institute of Technology calculated that, at homocide levels then current, lower than today's, a male who was born and continued to live in one of American's 50 most populous cities had one chance in 33 of dying by murder. The magnitude of this finding can be assessed by noting that a United States serviceman in World War II had one chance in 50 of dying from combat.

New York City illustrates the problem in urban areas. Between 1960 and 1980, murders without guns increased about 150 percent, to 754 from 293, while gun murders rose about 1,000 percent, to 1,060 from 97. If this trend continues, by the end of the century New York City will record over 10,000 gun murders a year.

Are we to sit passively while murder increases or will we do something about it? The usual long-term answers such as "remake society" or "alter individual psyches," even if they could be accomplished, would take decades during which thousands would die needlessly. The only realistic short-term answer is action against illegal firearms, a category not to be confused with legal weapons used by hunters, target shooters, security personnel or for protection of a home or business.

In 1980, New York State tightened its laws against illegal guns. As a result more people are being sentenced to a minimum year in jail if they are convicted of carrying an unlicensed firearm away from their home or place of business. This law may be having some effect. In 1981 the number of gun murders remained at the 1980 level, and in the first four months of 1982 it was down 11 percent. The problem, however, transcends the enforcement capacity of local government.

In 1968, Congress enacted a gun control statute and assigned its enforcement to the Bureau of Alcohol, Tobacco and Firearms of the United States Treasury. Among other provisions, it prohibited the sale of guns to minors, felons or nonresidents of the state of purchase.

The 1968 statute did not stop the interstate traffic in illegal guns. For example, in 1978 the New York County District Attorney's Office and the Treasury's bureau traced the source of 588 illegal guns seized in the New York City. All but 97 came from outside the city, most from other states. Of those from the city, most were stolen.

Last year, the United States Attorney General's Task Force on Violent Crime reviewed the problem. It found that the old law amounted largely to an honor system for criminals. It urged instead a waiting period for the purchase of a handgun to allow a mandatory records check to insure that the purchaser was not proscribed by law from possessing such a weapon. It also urged that gun owners be required to report the theft of loss of their weapons and that the Federal Government prosecute previously convicted felons arrested by local authorities for illegal gun possession in cases covered by more stringent Federal statutes.

The task force recommendations have not been adopted. Meanwhile, Congress and the White House are engaged in a depressing debate over whether Federal law enforcement should be weakened or strengthened and which agency, if any, should carry it out. But strong Federal law enforcement is needed now. The alternative is not just a continuation of the current intolerable situation but, most likely, continued astronomical increases in murder by guns, particularly in cities such as New York. When people must fear being shot to death when going to the bathroom, we are very near the saturation point of violence., Further increases would spell the end of any hope for a civilized existence in our urban centers.●

PLO PROPAGANDA GAME

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. WAXMAN. Mr. Speaker, the delegation of House Members who met with Yasir Arafat this past weekend in Beirut created an appalling spectacle by allowing themselves to be used as pawns in a PLO propaganda game.

As should have been immediately clear to any informed observer, the Arafat document pertaining to U.N. resolutions was a worthless ambiguity. It was crafted to create the appearance of movement in a PLO policy that, in fact, remains unchanged and implacably hostile to the State of Israel. Once again, the PLO refused to recognize the right of the State of Israel to exist, and to renounce terrorism as an instrument for the conduct of their foreign policy.

I am shocked that Members of Congress would perform as props in a PLO media stunt when the lives of tens of thousands human beings hang in the balance. This is a time for the Congress and the American people to give full support to the diplomatic effort to get the 6,000 PLO guerillas and their Syrian supporters out of Lebanon. Were these goals reached, the Israelis too would leave Lebanon giving that beleaguered nation its first chance in nearly a decade for true independence and peace.

The type of freelance meddling in the Lebanese crisis undertaken by our colleagues can only undermine the current peace effort, and deserves to be soundly condemned. As should have been picked up by the press analysis of this visit, but was not, this group was not representative of the views of the Members of the House, but consisted overwhelmingly of Members who have long expressed pro-PLO sentiments and have been consistently hostile to the interests of Israel. Long before the present Lebanese crisis came into being, those same Members were claiming for Arafat a moderation that he has been unwilling by word or deed to express for himself or his terrorist organization.●

THE NATIONAL VOTER PARTICIPATION ACT OF 1982

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. MATSUI. Mr. Speaker, today I am introducing legislation to permit privately sponsored contests to promote voting and voter registration, similar to a sweepstakes that was held in connection with the June 8 California primary election. It is my view that this legislation, the National Voter Participation Act of 1982, represents an innovative means to address the steady decline in the number of Americans who vote.

Prior to the California primary, a dedicated individual named Ed Shaw conceived an original idea which he hoped would encourage Californians to vote. He sponsored a sweepstakes for primary election voters and offered over $5 million in privately donated prizes as an incentive for these voters to cast their ballots. Any person who mailed a ballot stub to Mr. Shaw was eligible to participate in this contest and over 700,000 voters responded.

Mr. Shaw initially had received confirmation from California Secretary of State March Fong Eu that the proposed sweepstakes did not violate either Federal or State law as long as voters were not rewarded for voting in a certain way or for not voting. The U.S. Justice Department overruled Secretary Eu's decision last week, however, and held that such a sweepstakes did not conform to Federal statues despite its stated purpose of encouraging citizen participation in the electoral process and its nonpartisan nature.

Given that the number of Americans who are eligible to vote and actually do vote has dropped by 17 percent over the past 20 years, we need to discuss all the possible ways in which to reverse this disturbing trend. My legislation will allow private individuals, like Mr. Shaw, to organize nonprofit, nonpartisan voter lotteries which are conducted without participant cost thereby encouraging individuals to register to vote and/or vote. This bill does not create any mechanism for setting up a voter lottery but rather amends Federal law so as to permit private individuals or groups to establish these contests.

While I believe that the best inducements to voting are good candidates and a substantial discussion of the issues, I also believe that there are many citizens who have not voted and never will vote unless they are motivated to do so in some creative way. A voters' sweepstakes could stimulate first-time voters to develop an interest in the electoral process and to contin-

ue going to the polls and participating in elections in future years.●

WE SHOULD NOT RELAX THE CORPORATE ANTIBRIBERY LAW

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. MARKEY. Mr. Speaker, I would like to call to the attention of my colleagues the July 15 Wall Street Journal editorial on the efforts to weaken the 1977 antibribery laws. As the article notes, the problems that led to the formulation of the Foreign Corrupt Practices Act have not been mitigated and the need for the act has not been obviated.

There is a feisty campaign, backed by the Reagan administration, to weaken several provisions in the 1977 antibribery laws. Rather than pushing for a quick fix, the House Telecommunications, Consumer Protection and Finance Subcommittee has held numerous oversight hearings to assess the need for and the impact of the act. I concur with this editorial that we must not rush to change a law for which there remains a demonstrated need. I urge my colleagues to review this editorial.

[From the Wall Street Journal, July 15, 1982]

WE SHOULD NOT RELAX THE CORPORATE ANTI-BRIBERY LAW

(By Norman C. Miller)

WASHINGTON.—Repercussions still are being felt from the disgraceful scandal of the mid-1970s when over 450 U.S. corporations were found to have bribed influential foreigners to promote sales abroad.

Just the other day, Boeing Co. was fined $400,000 after it pleaded guilty to concealing questionable payments to foreign agents on overseas aircraft sales between 1971 and 1977. And in Japan last month, two former Japanese government officials were convicted of taking bribes in connection with sales of Lockheed Corp. planes during the 1970s.

Nonetheless, there is a determined campaign to seriously weaken an anti-bribery law passed in 1977, even before all the criminal cases spawned by the foreign-bribery scandal are completed. With the Reagan administration' backing, the Senate has passed a bill that would loosen accounting rules designed to prevent creation of off-books slush funds. The bill also would make it tougher to prove bribery charges against top corporate officials. Business lobbyists are pressuring a House subcommittee to pass a companion bill soon.

Amid pious assurances that no one wants to go back to the bad old bribery days, business spokesmen argue that the 1977 Foreign Corrupt Practices Act imposes too much expensive red tape on companies and inhibits exports. It is un unconvincing argument, not least because U.S. exports in fact have increased substantially since enactment of the law.

Moreover, a mountain of evidence developed in foreign-bribery cases demonstrates that strict accounting rules are vital to guard against illegal payoffs via labyrinthine routes. It is essential, too, for top managers to bear responsibility for the prevention of bribes, as the current law induces them to do.

The need to keep the strict 1977 law is underscored by a recent report of a panel of outside directors of International Telephone & Telegraph Corp. The ITT directors, as a result of a court order, conducted exhaustive investigations into bribery practices by units of the world-wide corporation and internal efforts to end bribery. Their report isn't altogether reassuring, despite an apparently sincere effort by top ITT management to prevent bribery.

To begin with, the scale of past bribery by ITT units was bigger than corporation officials thought. In 1976, the directors' panel first estimated that payments of bribes to win contracts totaled $3.8 million during 1971-75. In 1978, another investigation increased the estimate to $8.7 million. This year the directors reported discovering several new cases of bribery, raising the total estimate of questionable payments to $14 million.

And, in what was termed an "extremely disturbing" finding, the ITT directors disclosed that bribery had continued in some ITT units as recently as last year—well after passage of the U.S. anti-bribery law and the establishment by ITT of seemingly strict controls.

One case involved payments of $830,000 to an Austrian official during 1976-79 for helping an ITT subsidiary win a construction contract for the Vienna general hospital. The incident involved ITT in a nasty scandal in Austria, as four officials of an ITT unit were convicted by Austrian courts.

A second and more mysterious case involved questionable payments apparently totaling millions of dollars to an agent for ITT Europe in an unidentified country. Between 1975 and 1979 the agent requested commissions on sales about seven times above his normal fee, explaining that the payments were needed for a "third party" or to meet "local commitments." Despite the indications that the huge commissions might be for bribery, ITT officials approved the payments readily. Ironically, according to the directors' reports, the agent pocketed the big commissions himself.

The ITT directors' panel placed the blame for continued incidents of bribery squarely on top management. "The highest levels of the corporation were aware of the reluctance of foreign managers to accept what many of them viewed as exported American morality," the directors' report said. "We have found no evidence that prior senior management had knowledge of any questionable payments, but their efforts were insufficient to impress upon foreign managers the importance of complying with the (anti-bribery) policies."

The ITT directors expressed confidence that the company's antibribery efforts will be successful now that "clear and firm" directives have been established by current top managers, who assumed office in 1980. But the panel also stressed the need for "consistent vigor" in enforcing the policies, noting that some company comptrollers and lawyers had been lax in enforcing "clearly established" accounting controls.

The ITT directors didn't address themselves to the effects of the 1977 U.S. antibribery law. But obviously, if enforcement of corporate anti-bribery policies is difficult under the current law, it would be much more difficult should Congress relax the law. Easing of the law might well be taken as a signal from Washington that bribery to promote sales abroad won't be investigated vigorously. Without a strong federal legal deterrent, self-policing efforts by U.S. corporations likely would erode and bribery abroad would flourish again.

There is a barely disguised argument that only naive moral Puritans care whether U.S. corporations bribe foreigners in strange lands. Payoffs are a necessary way of doing business in many countries, the argument runs, so U.S. companies shouldn't be put at a competitive disadvantage.

This argument ignores evidence that many U.S. companies have succeeded in selling abroad without ever resorting to bribery. It ignores the steady rise of U.S. exports since the anti-bribery law was passed. And it ignores the dangers to U.S. foreign policy interests of bribery by U.S. companies; in the mid-1970s the bribery scandal destabilized governments in Japan, South Korea, the Netherlands and other nations.

The 1977 anti-bribery law is an effective deterrent. There is no good reason to relax it.●

VOTING RECORD

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DORGAN of North Carolina. Mr. Speaker, on Friday, July 23, due to a previous commitment in North Dakota, I was unable to cast my vote on four occasions. I would like the record to show that had I been present, I would have cast my vote as follows:

House Resolution 489: Ordering the previous question on the rule on the Airport and Airway Improvement Act (defeated 135-178). Dorgan—nay. Because I am opposed to increased taxation of the aviation industry, I would have voted against the proposed rule which prevented any amendments to that section of the bill.

House Resolution 528: Agreeing to the rule on Federal Insecticide, Fungicide, and Rodenticide Act (passed 301-2). Dorgan—yea.

House Resolution 529: Agreeing to the rule on Radio Broadcasting to Cuba Act (passed 254-22). Dorgan—yea.

House Resolution 5427: Resolving into Committee to debate Radio Broadcasting to Cuba Act (passed 238-8). Dorgan—yea.●

A SHORTER WORKWEEK IN THE 1980'S

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. CONYERS. Mr. Speaker, the idea of a shorter workweek and worksharing, historically, has functioned to

curb unemployment and spread employment in a more efficient manner among a larger number of workers. The shorter workweek idea should be considered today as an alternative means to alleviate the recession and reduce the massive unemployment. H.R. 1784 is legislation I have introduced to reduce the workweek to 35 hours, raise the premium rate of pay for overtime, and eliminate compulsory overtime.

William McGaughey, Jr., author of a book on the shorter workweek, "A Shorter Workweek in the 1980's," recently wrote an article in defense of a reduced workweek and work-sharing. Published in the Los Angeles Times on June 25, 1982, I commend to my colleagues the article, which follows.

IT'S TIME TO SHARE THE WORK AND THE PIE

When the Great Depression hit, one of the earliest proposals to fight unemployment was the idea of reducing the workweek and weekly pay so that more workers could stay on the payroll. At President Herbert Hoover's urging, the president of Standard Oil of New Jersey (now Exxon) went on a national tour to urge worktime reductions. In 1933, the U.S. Senate overwhelmingly passed a 30-hour workweek bill, supported by organized labor. Although President Franklin D. Roosevelt opposed that particular measure, he incorporated the work-sharing approach in his Administration's program for national recovery. The two most important pieces of federal work-hours legislation, the Walsh-Healey Public Contracts Act and the Fair Labor Standards Act, date from the late Depression years.

Historically, proposals to reduce the workweek have been associated with hard times. It has seemed natural that, in periods of sorest need, the humane impulse to share income and work with the unemployed should find strong expression. As an unfortunate consequence, though, the shorter-workweek proposal has come to be regarded in a negative light—as a temporary "quick fix"—rather than as a solid advancement in workers' living standards. Indeed, in the current recession some employers appear to be using shortened hours to "ratchet down" wages to a permanently lower level.

Critics of shorter-workweek legislation frequently point out that the Fair Labor Standards Act did not create many new jobs, because the average workweek was already under 40 hours (thanks to the Depression) when it went into effect. What they ignore, however, is that such legal incentives to cap hours of work may have set the stage for broad-based prosperity in the late 1940's and 1950's. Because weekly hours did not revert to their pre-Depression level, it became possible for more Americans to find employment in the post-war years, which then set off a boom in consumer spending.

Perhaps we ought to rethink our notions about a shorter workweek. Of course, if a shrinking economic pie is sliced into more pieces, each piece will be smaller; this happens not only because there are more pieces to share in the division but also because the pie itself is smaller. On the other hand, if an expanding pie is sliced into more pieces, the slices may be the same size or larger than before. Indeed, economic pies tend to expand when cut into more pieces, because each piece represents a job for a worker who is producing, earning and spending.

Prof. (later U.S. Senator) Paul Douglas, an economist at the University of Chicago, undertook a thorough study of the relationship between working hours and wages in the United States from 1890 to 1926. He found evidence of an inverse correlation between the length of the workweek and real wages: Industries in which the workweek was shorter generally paid higher wages. Within particular industries, wages tended to rise faster in periods when hours were cut. This conclusion contradicts the consensus of contemporary economists that there is a trade-off between hours and earnings.

In the 20th Century, the average workweek in the United States declined most rapidly during the early years of the Depression and in the periods from 1916 to 1920 and from 1943 to 1949. After both world wars, periods of sustained economic growth followed initial brief recessions. In contrast, after the decision was made in the early 1960s not to reduce the workweek so that the economic pie would grow larger, the U.S. economy eventually slid into a period of protracted stagnation and decay.

If it is true (as the experts say) that cuts in the workweek stifle economic growth, why weren't the "Roaring '20s" stifled by the unprecedented reductions in hours after World War I? Why didn't the reductions of the '40s make it impossible to experience the prosperity of the early "Eisenhower years"? Why didn't Japan's shift from a six-day week to five-day week during the late '60s and early '70s strangle its economy and cripple its capacity to compete in world markets?

Deciding whether to reduce the workweek does not involve a choice between leisure and material goods or, in graphic terms, between a smaller and a larger economic pie. Rather, the decision involves the question of whether a smaller or a larger percentage of the population should be allowed to participate in the prosperity that follows a recession.

If the workweek is longer, a relatively small group of workers can handle the greater volume of production, given normal increases in productivity. On the other hand, if working hours are reduced to offset the increased productivity, more workers will have to be hired to meet expanding production schedules. That means that more people will float in the rising tide of prosperity, and fewer will drown.

The time to make plans for reducing the workweek is now. There will never be a "Reagan prosperity" without this important structural adjustment.●

COMBINED FEDERAL CAMPAIGN

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mrs. SCHROEDER. Mr. Speaker, my office has received numerous calls concerning the Combined Federal Campaign. Last Friday, the Eligibility Committee voted to admit 113 of 114 organizations which applied for admission. The one organization which the committee voted to exclude, Planned Parenthood—World Population, was rejected on the phony ground that it had not won community acceptance. Dr. Devine, the Director of the Office of Personnel Management, wisely decided to overrule this decision of the Eligibility Committee and admitted all 114 applicant organizations.

For the benefit of my colleagues, I insert the list of national organizations admitted to collect funds under the Combined Federal Campaign this fall. Other local organizations, including local United Ways, will also be admitted locally to participate.

LIST OF NATIONAL ORGANIZATIONS

U.S. Olympic Committee; National Foundation for Ileitis and Colitis; National Child Labor Committee; Oxfam-America; Tuberous Sclerosis Association of America; and National Congress of American Indians Fund.

Pacific Legal Foundation; Pearl S. Buck Foundation; African Medical and Research Foundation; National Image; Direct Relief Foundation; National Audubon Society; Puerto Rican Legal Defense and Education Fund; Children's Defense Fund; Cystic Fibrosis Foundation; U.S. Committee for UNICEF; American Heart Association; and American Hearing Research Foundation.

Research to Prevent Blindness; National Easter Seal Society; National Society to Prevent Blindness; United Service Organizations (USO); NAACP Legal Defense and Educational Fund; Arthritis Foundation; Project HOPE; Planned Parenthood—World Population; Leukemia Society of America; Medic Alert Foundation International; Unitarian Universalist Service Committee; and International Rescue Committee.

United Cerebral Palsy Associations; CARE; AMC Cancer Research Center and Hospital; National Parks and Conservation Association; National Retinitis Pigmentosa Foundation; Save the Children Federation; National Recreation and Park Association; American Foundation for the Blind; City of Hope; Muscular Dystrophy Association; American Kidney Fund; and Africare.

National Jewish Hospital and Research Center/National Asthma Center; Lawyers' Committee for Civil Rights Under Law; Epilepsy Foundation of America; National Mental Health Association; Myasthenia Gravis Foundation; American Diabetes Association; Project Concern International; International Eye Foundation; Native American Rights Fund; National Huntington's Disease Association; St. Jude Children's Research Hospital; and Association of Retarded Citizens of the United States.

Natural Resources Defense Council; Girl Scouts of the U.S.A.—Overseas Affiliates; National Kidney Foundation; Center for Science in the Public Interest; Indian Law Resource Center; Boy Scouts of America—Overseas Councils; National Council of Negro Women; The Wilderness Society; American Lung Association; Cooley's Anemia Foundation; Federally Employed Women Legal and Education Fund; and American Red Cross.

American Cancer Society; National Association for Sickle Cell Disease; International Social Service, American Branch; Helen Keller International; United Seamen's Service; National Organization for Women Legal Defense and Education Fund; Foster Parents Plan; World Education; American Near East Refugee Aid; Juvenile Diabetes Foundation; National Multiple Sclerosis Society; and Goodwill Industries of America, International Division.

Center for Auto Safety; Help the Aged; National Society for Autistic Children; Na-

tional Right to Life Educational Trust Fund; Sierra Club Legal Defense Fund; National Citizens' Coalition for Nursing Home Reform; National Committee for Prevention of Child Abuse; Meals for Millions/Freedom from Hunger Foundation; International Human Assistance Programs; Little City Foundation; National Hemophilia Foundation; and National Reye's Syndrome Foundation.

Amyotrophic Lateral Sclerosis Society of America; National Council for International Health; Church World Service; American Paralysis Association; National Right to Work Legal Defense Foundation; National Hospice Organization; Special Olympics; National Black Media Coalition; World Wildlife Fund—U.S; Conservative Legal Defense and Education Fund; Vietnam Veterans Foundation of America; and Capitol Legal Committee.

United Negro College Fund; Martin Luther King, Jr. Center for Nonviolent Social Change, Inc.; Pacific Institute for Public Policy Research; National Spinal Cord Injury Foundation; Cenikor; Opportunities Industrialization Centers International; National Black United Fund; NAACP Special Contribution Fund; March of Dimes Birth Defects Foundation; YMCA of the U.S.A., Armed Services Department; Technoserve; and American Social Health Association.●

LOCAL CONTENT LAW WILL FIGHT UNEMPLOYMENT

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. FORD of Michigan. Mr. Speaker, more Americans are unemployed today than at any point since the Great Depression; 17 million people are jobless or underemployed, seeking full-time work but unable to find it. This is a national tragedy which demands the full attention of the Government and immediate, vigorous action. Shockingly, the Reagan administration proposes to do nothing to put these millions back to work, offers nothing to alleviate their growing economic hardship, and opposes every reasonable measure in Congress that could speed an economic recovery. Instead, the administration repeats the same tired line: "Just wait a few more months. We just need a little more time."

But while we wait endlessly and futilely for the President's so-called economic recovery program to take effect, many of the Nation's most important businesses are not waiting. In record numbers, American corporations are closing factories and other facilities, laying off workers, and moving to foreign countries.

In March, April, and May of this year, the private, nonprofit Bureau of National Affairs reported that 186 American plants closed down, victims of a growing trend that has cost millions of jobs in the last few years.

Many of the businesses that have shut down these plants have not gone bankrupt or out of business. They have simply gone out of the country.

Some of these relocations, such as General Electric's switch of iron production from Ontario, California, to Singapore, have received a great deal of media attention. Most have not. The result is that quietly, U.S. multinational corporations have relocated hundreds of thousands of industrial jobs overseas in the last decade, leaving unemployment, devastated communities and higher taxes behind.

The reason for this industrial exodus is simple: Wage rates in Mexico, Taiwan, South Africa, the Philippines, and other recipients of U.S. jobs are only a small fraction of wage rates here. Thus, though GE's Ontario, Calif., iron plant was profitable, GE shut it down at the cost of more than 1,000 jobs to take advantage of $6 a day wages in Singapore.

Surprisingly, some of the industries which complain the loudest about import competition have been among the quickest to desert the United States for low wage countries. For example, as the following story from the July 25 New York Times indicates, General Motors has opened 10 plants on the Mexican border since 1979, an American Motors subsidiary pays its 98 percent female Mexican workforce $1.04 an hour, and both Ford and Chrysler operate cheap labor border factories in Mexico. All four companies then export their products to the United States at reduced tariff rates.

The dangers of imports are real, whether the imports are Datsuns from Japan or GM components from Mexico. They all displace U.S. workers; they all undermine the tax base of American communities.

The following story shows clearly that local content legislation is not, as its detractors allege, "protectionism" for giant U.S. corporations. H.R. 5133 will protect working Americans against the loss of their jobs because of automobile imports from any source. The American content requirements it imposes apply equally to U.S. corporations and those of foreign countries. The same rule will be enforced against every auto producer: "Sell here, build here."

The New York Times article follows:

[From the New York Times, July 25, 1982]

U.S. AUTO MAKERS USING MORE MEXICO PLANTS

(By Iver Peterson)

NOGALES, MEXICO, July 18—Detroit's automobile companies, like other American manufacturers, are setting up an increasing number of plants in border towns like this one where American-made materials are assembled into finished products by inexpensive Mexican labor.

The goods assembled in these plants, which the Mexicans call maquilas, are then brought back to the United States under special low tariff rates.

As the United States recession has deepened and some 10 million Americans, including a quarter million auto workers, have lost their jobs, the number of employees in the maquilas grew to 128,000 by June 1981 from 91,000 in 1979, a 40 percent increase. The number of plants, meanwhile, grew from 459 to 604, according to the Commerce Department's latest figures.

Calculators, clothing, suitcases, sunglasses and a host of other items requiring hand assembly flow from the plants back into the United States, with automotive components and subassemblies a growing part of the total.

General Motors opened its first border plant in Ciudad Juárez in 1979, and began hiring for its 10th one, there and elsewhere, a few weeks ago. It now employs about 5,300 Mexican workers. They assemble wiring harnesses, motor magnets, turn signal stalks and numerous other auto components.

Ford, making interior trim, employs 180 at its plant in Ciudad Juárez. Chrysler, assembling wire harnesses, also has an 800-employee operation there.

And American Motors, through its subsidiary, Coleman Products Inc., joined Caterpillar Tractor, Samsonite luggage and Foster Grant sunglasses, among others, here in Nogales last March when it hired its first crew of young Mexican workers to cut and wrap wiring harnesses.

American labor unions have attacked these operations as "runaway plants" that are no less exporters of United States jobs than the foreign imports that American corporations have appealed to Washington to curtail.

"There was no great need for them to cut the corner on the dollar as long as times were good," said Rex Hardesty, the A.F.L.-C.I.O.'s Washington spokesman. "But they make a grab for the coolie wages as soon as things get tight and it become cost-effective for them to do so."

But the corporations contributing to the boom in maquilas, an untranslatable term whose root is Spanish for "machine," argue that American labor costs are out of line with world competition, that many Americans will not perform the tedious, unskilled handwork to which the maquilas are limited by law, and that the Mexican plants provide an outlet for American materials while aiding Mexico's economy.

"We have observed over the past five years that the cost of our products were becoming less competitive in the world market," said James Tolley, a spokesman for American Motors, expressing a view similar to that of other auto makers, "We therefore established a strategy to continue to operate U.S. plants, but to expand in Mexico to average our cost downward."

REFUSAL TO DISCLOSE WAGES

American Motors refused to disclose the wage rates at its plant here, terming the information a "proprietary" secret. But employees of Coleman Products de Mexico, interviewed on their lunch break at the Parque Industrial a few miles south of here, said they received 2,400 Mexican pesos, about $50, for a 48-hour week, which works out to slightly more than $1.04 an hour.

American Motors also refused to disclose pay levels at its two Coleman Products plants in the United States, in Coleman, Wis., and Iron River, Mich. Both plants, in small, rural towns, have twice rejected affiliation with the United Automobile Workers, whose members in manufacturing jobs earn upwards of $12 and hour and whose benefits

push the total hourly labor add another $8 an hours to that.

Company officials insisted that the Mexican plant did not take United States jobs because its two plants there were operating at capacity.

THE TARIFF EXEMPTIONS

The maquilas operate under strict regulations on both sides of the border. The Mexican Government allows the United States company to import, tax-free, the machinery and raw material needed to perform the work, provided that the finished product and everything else, including the machinery and even packing crates, is eventually reexported to the United States.

United States tariff regulations, meanwhile, exempt these imported products from all duties except for the value of the Mexican labor added to it. In 1978, the last year for which the Commerce Department has assembled the figures, this amounted to $12.7 billion.

Mexico is the main location for such operations by United States companies, but the system also operates extensively elsewhere, including the Caribbean, where American-woven and cut fabrics are sewn into clothes.

The legislative principles behind the duty exemptions for all but the value of labor added outside the country date from the 18th century in United States tariff law. They hold that materials whose production has already been taxed at its origins in the United States should not be subject to new levies upon being brought back after assembly or finishing abroad.

Mexico encourages the plants because they reduce this country's enormous pool of surplus labor at minimal but decent wages by local standards.

PAYROLL TAXES AID CITIES

Through payroll taxes, the plants, meanwhile, pay local taxes that in Ciudad Juárez, where most of the plants are situated, amount to more than half of all city receipts, according to studies done at the University of Texas at El Paso across the border.

Besides Ciudad Juárez and Nogales, the plants also operate in Matamoros, opposite Brownsville, Texas, Nuevo Laredo, across from Laredo, Tex., and Tijuana, below the California line.

"They may be taking some money out of the pocket of workers in Lorraine, Ohio, and Detroit by putting more jobs down there," said Prof. Ellwyn R. Stoddard of the University of Texas at El Paso, "but they put it back into the American communities and in other workers' pockets by providing an outlet for the materials the maquilas use."

It has also been argued that the maquilas reduce illegal Mexican immigration by providing jobs south of the border, although Professor Stoddard and other experts on the maquila system dispute this on the ground that most of the workers in the plants are women, while most of the illegal aliens crossing the border are men.

SOME CRITICS IN MEXICO

The system has its critics among Mexicans, too. A study by the Center for Third World Economic and Social Studies in Mexico City speaks of the disruption of traditional Mexican family life because most of the plants' work forces are young women, lured to the border by jobs paying five times the going rate of unskilled labor in the local economy.

Perhaps for these reasons, the American corporations are sensitive to charges of exploitation and appear glad to operate under a system of considerably greater secrecy that is normally possible in the United States.

The manager of Coleman Products de Mexico, the American Motors subsidiary, refused to let a reporter inside his plant, describing what goes on there, like the wages paid, as "proprietary."

Xavier Partidas, a foreman at the new Coleman plant, spoke willingly, however. "We have all women, 98 percent women, on the assembly line," he said as he stepped out for a breath of fresh air the other day, "and the biggest problem for them is the standing up. I think they are happy to work there but they do not like the standing, so we are always getting a rotation of workers."

But jobs in the maquilas are eagerly sought.

Rosa, the only name she offered, a woman who said she was 22 years old, said that before she went to work for Coleman Products, the only job she had found had been repacking the tomatoes that stream through Nogales to the United States late each winter. The pay was "poco, poco"—very little.

"They treat us very well," she said. "It is a very good job except that we have to stand up all day, and we can only go to the washroom when our turn comes. But I have never had a good job like this before."●

COMMUNITY BASED ORGANIZATIONS WORK

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. HAWKINS. Mr. Speaker, when CETA was being considered on the floor of the House in 1973, I made a statement which is a part of the legislative history regarding the outstanding contribution made by Rev. Leon Sullivan and the Opportunities Industrialization Centers.

Now that 9 years have passed and we are once again voting for a nationwide employment training program I have received reports from Reverend Sullivan that there is still a need for protection by the Congress for community based organizations with a proven track record of targeting employment and training services to the disadvantaged youth and adults in rural and urban poverty areas.

Reverend Sullivan indicates that his organization now in 126 communities in 40 States has gone to court and lost 12 times in efforts to assure their participation in the Federal employment training delivery system because there was not specific language in the law mandating their inclusion.

The Congress has gone on record as regarding the fact that groups like OIC and SER have concentrated in black and Hispanic areas in providing training services that are desperately needed in what are considered normal economic conditions.

Now, in a period of recession it is even more important that these programs should be utilized by both Government and industry as automatic targeting mechanisms to reach the unreached that normally are not included in vocational schools, community colleges, and traditional training programs.

To emphasize my confidence in the work of Reverend Sullivan and other community based organizations of demonstrated effectiveness I am pleased to include in the CONGRESSIONAL RECORD the same remarks that I made in 1973. Nine years later this statement is still true and the need is still real.

The statement follows:

The track record of OIC with reference to reaching the unreached is matched by the track record of enlisting the cooperation of business and industry, and OIC can be helpful to any prime sponsor in this direction because of the Industrial Advisory Council working with Dr. Leon Sullivan representing more than 30 of America's largest corporations.

The problem of polarization in the American community between white and black, Chicano and Afro, haves and have-nots, has been reduced in communities where OIC has built bridges of cooperation because of the nature of its self-help philosophy and providing a mechanism for coordinated effort to secure green power by combining black power, white power, brown power, and red power.

Let me now point out certain positive values:

First. A special value of this program is its involvement in the planning process to make possible the development of jobs through the cooperation of industry so that specific training on specific equipment for specific jobs is encouraged.

Second. Ways and means of using the OIC experience to retrain persons uprooted by technological change and who have not yet started out with the handicap of being economically disadvantaged, have been tested by OIC and could conceivably prove to be an asset to the Secretary in meeting the new needs created by todays crisis.

Third. Since more than 500,000 unemployed citizens from low-income communities of all races have been served, and more than one-third of those served have come off the welfare rolls, this project has proven its effectiveness as an integral part of the nation's manpower delivery system and can prove a valuable asset to the Prime Sponsors as they plan ways of reaching those populations that are normally unreached.

Fourth. The Opportunities Industrialization Centers (OIC), founded by Dr. Leon Sullivan in 1964, has become a national system of proven effectiveness providing comprehensive training and employment services which include recruitment, pretraining counseling, motivational and attitudinal training, skills training, job placement, on-the-job counseling, job development, and other appropriate services.

Fifth. OIC should be seen as supplementary to other training programs such as Mainstream, Vocational Education Boards, National Alliance of Businessmen and Community Action Agencies, since OIC has developed a special expertise in motivational and attitudinal training as a preparation for the skills training that is of proven effectiveness. The pride, the self-help concept, and

the desire to achieve which OIC has generated, is an excellent undergirding for other training programs, although OIC itself provides comprehensive training for those persons whom it reaches directly.●

PHYLLIS AND STEPHEN KARSCH—OUTSTANDING AMERICANS

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. McGRATH. Mr. Speaker, I would like to draw the attention of my colleagues to the outstanding accomplishments of two of my constituents in Long Beach, N.Y.

Phyllis and Stephen Karsch have served the community of Long Beach for many years in many ways. Stephen has used his talents as a builder and engineer, not only for the betterment of our community, but also for Congregation Beth Shalom, of which he serves as vice president and chairman of the Housing Committee.

Both Phyllis and Stephen have generously supported the efforts of the Retinitis Pigmentosa Foundation, and they have displayed a great interest in local education.

Phyllis and Stephen exemplify the finest qualities of America. Their spirit of voluntarism, their devotion to God, to their community and to their country serve as examples for each of us to follow. We would do well to have more citizens like them.

Phyllis and Stephen Karsch are being honored this weekend by Congregation Beth Shalom for their outstanding contributions to the life and spirit of our community. I am pleased to be among those who applaud their accomplishments. To them, I extend my best wishes for a long and happy future in Long Beach.●

NATURAL GAS HEARINGS

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DANNEMEYER. Mr. Speaker, yesterday the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels began a series of at least seven hearings on natural gas issues. We heard from various representatives of groups of end-users, both residential and industrial consumers. End-user hearings will continue on Friday, July 30, with additional sessions scheduled for later next month.

As the author of H.R. 2019, which would deregulate the wellhead price of natural gas, I am pleased that our inquiry into natural gas policy matters has begun.

Mr. Speaker, I would like to insert my prepared opening statement from yesterday's hearing at this point in the RECORD:

OPENING STATEMENT OF THE HONORABLE WILLIAM E. DANNEMEYER AT NATURAL GAS HEARINGS OF THE SUBCOMMITTEE ON FOSSIL AND SYNTHETIC FUELS

Mr. Chairman, today the Subcommittee on Fossil and Synthetic Fuels begins its inquiry into the state of the natural gas industry and the status of the Natural Gas Policy Act of 1978, together with other statutes that form our Nation's natural gas policy. As one of many subcommittee members who requested the holding of hearings, I am pleased that a series of indepth sessions starts today.

At the outset I want to commend Chairman Phil Sharp for this responsiveness to our request for hearings, for his interest in the subject, and for the cooperation he and his staff have exhibited in the planning stages of our inquiry. The subcommittee has a well-earned reputation for fair and balanced deliberations. I know that these hearings will be no exception. I look forward to working with Chairman Sharp and my other colleagues to fashion appropriate natural gas legislation in the 98th Congress.

Please allow me to briefly describe the landscape of the issues as I see them. While conditions in natural gas markets vary over time, enduring economic principles do not. I remain convinced as ever that the most important priority of this Congress in the energy area is the immediate deregulation of natural gas wellhead prices. Our hearings will provide us with information on the current state of the natural gas market and its many sectors. The hearings will be useful in helping us to shape decontrol legislation that will take into account the impact on the many classes of consumers, the distribution companies, the pipelines (both intrastate and interstate), and the State regulators.

Our overall perspective, however, should be a national one. We all know that natural gas policy is an energy issue. The additional supplies produced and the efficient allocation thereof stemming from decontrol will improve energy security. But this is also an important environmental issue. I am privileged to represent an area in Southern California that is in "nonattainment" status for purposes of the Clean Air Act. The experts tell us that we cannot reach attainment without reducing our use of petroleum-based products as a vehicle fuel. I note with interest that this subcommittee will hold a hearing next month on methanol as an alternative fuel. I believe very strongly that methane and propane are excellent alternatives as well. The greater substitution of clean-burning natural gas, in industrial and transportation uses, will help us meet our important environmental goals.

Crude oil and petroleum imports have always been the core concern of our energy debate since 1973. While imports are presently running at 4.5 million barrels per day, down 12 percent from one year ago and far below the peak level of 9 million barrels per day in 1977, they remain essential to our deliberations. A study by Professor Glenn Loury of the University of Michigan suggests that our imports could be reduced by 2.83 million barrels per day over a multiyear adjustment period. Other esitmates place the import reduction at 500,000-1 million barrels of oil per day. The Loury study further suggests a drop in the OPEC monopoly pricing power of $10 per barrel. All of this would flow from natural gas decontrol. Several important benefits would be derived from the reduction in oil imports:

Our balance of trade deficit, which was $40 billion in 1981, would be reduced significantly. At $34 per barrel, a 3 million barrel per day reduction translates into $37.2 billion per year. A 1 million barrel per day reduction translates into $12.4 billion per year.

As a consequence, the ability of foreign countries to invest heavily in U.S. companies and farms would be diminished by stemming the flow of dollars out of the country. Economic strength requires a reduction in trade deficits.

Our political and economic dependency on unstable energy sources would be lessened, thus improving our national security.

I look forward to hearing the testimony of the witnesses who represent various links in the natural gas chain. As policymakers, we must be aware of their concerns. In so doing, however, we must keep the objective of restoring free market principles firmly in mind. Decontrol will serve the energy, environmental, trade, and security interests of our country.●

MX IS NO Rx FOR GREAT PLAINS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, the need for a strong defense is no excuse for building weapons that do not work.

I have grave reservations about the wisdom of deploying the MX missile for this very reason. So far, the Pentagon has simply not produced a basing plan that makes sense.

Its latest attempt to find a home for the orphan MX missile is the closely spaced or "dense pack" scheme. Some have asked whether it should be dubbed "dunce pack"—for good reason.

Dense pack rests on the doubtful theory that the explosion of the first incoming Soviet missile would destroy the next flight of attacking missiles. Military experts have raised serious doubts that the plan will work. Better to rely on proven weapons like the Trident I submarine missile.

In addition, arms control experts suggest that the dense pack scheme will undermine the ABM and Salt II arms treaties, that President Reagan has promised to respect. And what we need is mutual and verifiable arms control—not more missiles that do not work.

Amidst all this technical debate we have also forgotten the concerns of American farmers. I am concerned that basing the MX on land could seriously damage farmland, ranchland, and scarce water supplies.

A timely letter to Defense Secretary Weinberger from two Wyoming ranch-

ers punched holes in the Pentagon's MX notions. I would like to insert at this point a copy of the letter which appeared in the New York Times.

[From the New York Times, July 21, 1982]

A CALL FROM THE PLAINS: WHERE ARE WE GOING WITH THE MX MISSILE?

(By Rod and Mae Kirkbride)

Thank you, Mr. Secretary, for taking the time to visit with us here in Cheyenne, our "Magic City of the Plains," before you make your next MX decision.

Whether you decide to concentrate the missiles in a "dense pack" in a single state or to spread them out in several different parts of the country, we hold reservations about the proposed land-basing of the MX system here in Wyoming, and we would like to share them with you.

Many of your own advisers have counseled that submarines at sea would provide the cheapest and least vulnerable basing mode. Still, however, you pursue land basing.

We feel compelled to ask you—why are you preoccupied with land basing?

We are preoccupied with a fear of it. As ranchers, let us tell you what will happen if the MX comes to Western soil.

Our vital agricultural economy will suffer irreparable damage as rangeland, farmland and valuable water resources are appropriated for MX expansion. Existing water rights in our semiarid region will become weak and tentative as requirements and demands for water increase.

A boom syndrome will arise and hundreds of millions of dollars in public works projects will fall on the backs of present Western residents. The burden of impact will be awesome, as every aspect of our Western way of life becomes affected.

Mr. Secretary, public support for this MX proposal can be sustained only if our citizens, ranchers and farmers are kept from finding out about the extensive nature of deceptively basing the missiles.

And this is exactly what is happening. We are getting no answers, no discussion of impact. Officials ignore it, and the silence they create is deafening.

Here in the West, open discussion has always been our way of making decisions. In fact, the Democratic Party of the state of Wyoming has come out against land basing after just such discussion.

We believe our concerns are legitimate and full dialogue is the best way to get meaningful answers to our questions.

How much water will each variation of the MX system take?

How much land?

How will it affect our traditional economic activities centered on the land?

How big will the system grow to be?

One of America's strengths is its ability to thrive amid controversial debate.

Mr. Secretary, the stakes of the MX debate are no less than the economic survival of the agricultural community as we know it. The proposed trade-off of our rural heritage for a questionable MX program does not make good sense.

We who live in Wyoming, Nebraska and Colorado are doing our patriotic part right now as hosts to the Minuteman silos. We have a fine relationship with the Air Force and Warren Air Force Base, and we do not wish to risk altering this beneficial relationship with a barrage of unsetting MX deployment variations of political rather than strategic origin.

The latest "trial balloon" is your suggestion of the "dense pack" basing mode. That is, placing 100 missiles within a 10-square-mile area.

This foot-in-the-door approach could use the 100 new dense-pack silos to store the first 100 missiles while military and Government officials work to buy time to surmount the political obstacles and neutralize resident opposition.

The next step could be to bring in another 100 MX missiles to beef up the original system, thereby making it more survivable. Then would come the huge, deceptive mobile-basing umbrella to give the system adequate, protection.

The end result could easily be an immense MX compound, gobbling up our resources with the swiftness of a prairie fire.

HOW BIG WILL THE SYSTEM GET? HOW MUCH LAND WILL IT TAKE? HOW MUCH WATER?

Mr. Secretary, spare us this fate. Here in the high plains-Rocky Mountain region we are eager and proud to fulfill our obligation to our nation and state.

But we would like you to know that we also are earnestly moved by the words and thoughts of the noted Wyoming historian, T. A. Larson. His words may be destined to guide each of us through this period of national decision.

He said, "Perhaps it is not yet time to grieve, but surely it is time to reflect and to ponder whether what the world wants from Wyoming is worth more than what Wyoming already offers the world."

Lest we forget, Wyoming already offers our world a very special heritage.●

PERSONAL EXPLANATION

HON. BILL NELSON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. NELSON. Mr. Speaker, due to official business in Florida on Friday, July 23, I was not present for rollcall votes No. 209 through No. 213. I was unable to announce my position on No. 209, No. 211, and No. 213.

Had I been present, I would have voted "yes" on passage of H.R. 2329 relating to Cherokee Indians (No. 209); "yes" of the adoption of House Resolution 528, the rule for consideration of H.R. 5203, the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1982 (No. 211); and "yes" on resolving into the Committee of the Whole House on the State of the Union for the consideration of H.R. 5427, to authorize support for radio broadcasting to Cuba (No. 213).●

BINARY CHEMICAL WEAPONS FUNDING DELETED

HON. G. WILLIAM WHITEHURST

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. WHITEHURST. Mr. Speaker, last week, during consideration of H.R. 6030, the House added an amendment deleting $54 million for the production of binary chemical weapons. This action, while unquestionably well-intentioned, was unwise and regrettable.

On Monday, July 26, 1982, the Richmond Times-Dispatch carried an editorial which I believe does much to put the issue in proper perspective, and I commend it to my colleagues for their careful consideration. I hope it will be read by those who supported the amendment, as well as by those who, with me, opposed it.

A "NO" TO GAS

In 1935, Italian Facists in four days wiped out one of Haile Selassie's finest armies by mustard-gas bombardment. Two years later, the Japanese invaders of China began using blister gas effectively against the unprotected forces of Chiang Kai-shek. Despite these portents, however, World War II never became, respecting chemical warfare, a replay of World War I, in which terrifying vapors were freely used by both sides.

This was not because the Allies succesfully used moral suasion on the likes of Hitler and Tojo. Rather, President Roosevelt threatened the Japanese with "retaliation in kind and in full measure" if gas were released on U.S. troops. Later, for the benefit of the Germans, he added, "Any use of gas by an Axis power . . . will immediately be followed by the fullest retaliation upon . . . military objectives throughout the whole extent of such Axis country." Winston Churchill issued similar warnings. They deterred.

It is not at all certain that the United States possesses a comparable deterrence capability vis-à-vis the Soviet Union, today's chief eggbeater of deadly concoctions. Alas, the House of Representatives last week amended the Defense Authorization Bill to cut out a $54 million appropriation for the development of binary chemical weapons, which would have ended a unilateral moratorium begun in 1969 by President Nixon. The House's action, if it stands, can only encourage the Soviets to use gas against Allied troops in any European war.

Rep. Clement J. Zablocki, D-Mich., who led the amendment forces, contends that America already possesses an adequate chemical-weapons stockpile and counsels the administration to pursue more vigorously gas-reduction talks with the other side. Actually, such gas as the United States possesses is years behind the state of the art; besides, binary gas, which consists of two components relatively harmless until mixed on the battlefield, is safer to handle than the bugs now cached on military bases. Talks with the Soviets? Well, those peace-loving folks in the Kremlin *have* been getting rid of much of their poison-gas arsenal—by showering it on Afghan freedom fighters.

Secretary of Defense Weinberger, who ought to know about such things, alleges that first-use of chemical weapons is integral to Moscow's military doctrine pertaining to a conventional war in Europe. The facts bear him out. The Soviets maintain a 100,000-man force specially trained to fight in areas of chemical contamination and, according to U.S. intelligence, have at least eight complexes capable of developing the deadly substances. The gas assaults by the Soviets and their janizaries on the Afghans, the North Yemenis, the Lao hill tribes, and others can be viewed as perfecting exercises under battle conditions. It is doubtful that the Soviets would go to these lengths on a caprice.

The Soviet gas buildup—a phase of its overall military expansion—occurred, of course, while the United States suffered from its self-imposed détente-plegia. The House action suggests that we still have not recovered. Many members voted for the amendment because poison-gas usage is so "unthinkable." But the only effective Allied counter to widescale Soviet use of chemical agents—because it invokes an equivalency of terror—would be tactical nuclear strikes. That's thinkable?

New Jersey Republican Rep. Millicent Fenwick's contribution to the debate was the assertion that "it is a disgrace to our country even to think that we could spend money, when we don't even know where to find it for children's lunches, for poison gas." Perhaps the indignation of Mrs. Fenwick and like-minded colleagues will stop the hordes pouring over the Elbe, but it isn't likely.

The House's error, however, need not be the final word. The Senate has authorized production of binary chemical weapons, and the disparity will be worked out in a conference committee that considers the big defense bill. Senate conferees should approve no measure that does not restore some funding for such weapons. Since World War I, gas has been thrown on Chinese, Ethiopians, Afghans, Cambodians, and others—all of whom shared the not-coincidental handicap of having no gas of their own.●

REAL SIGNIFICANCE OF THE SENATE TAX PACKAGE

HON. JAMES A. COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. COURTER. Mr. Speaker, I would like to share with my colleagues an editorial from the Daily Record, a newspaper in my district which discusses the real significance of the tax package passed by the Senate on Friday, July 23, 1982.

As this House prepares to consider Senator ROBERT DOLE's tax package, I would urge my colleagues to read this editorial. I think it is important for all of us to stop to consider the clear and persuasive message that it presents before stamping approval on the largest tax increase in American history:

[From the Daily Record, July 24, 1982]

GOP GOES AWRY

Never underestimate the ability of the Republican Party to snatch defeat from the jaws of victory.

Fresh from last year's fulfillment of President Reagan's promise to lift the oppressive tax burden that was strangling the middle class, the spiritual heartland of America, the GOP has voted the largest tax increase in American history.

An oppressive income tax has been replaced by a series of repressive taxes that level rich, middle, and poor alike.

Only three stalwart GOP Senators (Hawkins of Florida, Kasten of Wisconsin and Mattingly of Georgia) could resist Senator Dole's callous white flag of surrender high atop the alter of expediency.

Only one party ever attempted to tax the United States out of a major economic disaster. You guessed it. It was the GOP and the result was called the Great Depression.

It is ironic, indeed, to have to look to the House's great spender, Tip O'Neill, to prevent the Republican Party from another disaster.

It is also more than slightly ironic that the Senate's one Independent, Senator Byrd of Virginia, could join three other GOP Senators in voting against this cynical and shameful tax bill.

These four rate the sincere thanks from the millions of Americans who elected a President and his party on the fanciful notion that indeed politicians might mean what they promise.

Friday, July 23, 1982, was indeed a sad day for the American people.●

IN SUPPORT OF HOUSE JOINT RESOLUTION 509

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. GARCIA. Mr. Speaker, on June 10, Congressman LELAND and I introduced a resolution (H.J. Res. 509) prohibiting military aid and sales to Guatemala for fiscal year 1982 and 1983.

The administration requested $250,000 in international military education, and training assistance (IMET) for Guatemala in its supplemental foreign aid request. It has informally proposed to reprogram $50,000 in IMET for fiscal year 1982 and has indicated that it would like to sell $3.7 million of helicopter spare parts to the Guatemalan military House Joint Resolution 509 would make these transactions impossible.

These may seem like paltry sums in comparison to U.S. foreign assistance to other nations, but when considering how aid has escalated to El Salvador and Honduras over the last 4 years, it is reason enough for us to pause and consider very carefully just who will receive military aid, no matter how small an amount.

The political situation in Guatemala has not significantly improved since the March 23 coup. General Rios-Montt, the new Guatemalan President, has talked a great deal about cleaning up the political mess of his predecessor, Gen. Lucas Garcia. Unfortunately, indications are that he has done very little to improve conditions throughout the country.

Violence is still pandemic. Political activity is, at this moment, forbidden. The new regime has organized and armed civilian defense forces which are strikingly similar to the paramilitary death squads in the Salvadoran countryside.

Killings, particularly of Indians, who comprise about 60 percent of the population, have increased and because of this, the Indians are becoming increasingly alienated from the government. The amnesty program for the guerrillas that ended on June 30, was of doubtful success, and even the thought of negotiations seems implausible since Rios-Montt has not made public any proposal to reorganize the government. Instead, on June 8, he declared himself President, and deposed the other two members of the junta. Previously, he had promised that he would only be a "caretaker ruler" and that he would not seek the Presidency.

Further, Rios-Montt has declared a state of siege throughout Guatemala. Under the state of siege, all basic human rights are suspended. This suspension includes: the cessation of all political activity, severe restrictions on the press, prohibition of trade union activity, and restrictions on "freedom of thought." In addition, certain violaters of the state of siege decrees are to be tried by a special military tribunal without recourse to civilian courts or access to an attorney.

Continuation of the state of siege will be decided after July 27 by the Guatemalan Government. If it is not renewed it will expire on July 31. Defense minister, Gen. Oscar Mejia Vitores, has stated that "operations during the first half of the state of siege period have been very effective." This is in contrast with an article published in the New York Times last week in which Guatemalans, members of the clergy, and foreign diplomats are reported to have said that the killing of the Indians has increased since the coup.

Dr. Juan Jose Hurtado, a prominent Guatemalan physician was recently kidnaped and held under suspicion of being a Communist. Dr. Hurtado is widely respected in the United States and in Guatemala and claims no political affiliation. His treatment by Guatemalan authorities is reported to have been brutal.

It is becoming increasingly clear that the political problems in Guatemala have not been alleviated by the Rios-Montt regime. This is not to say that reform cannot take place under Rios-Montt; it is only to say, that it has not. The United States does not have any indication that Rios-Montt intends to improve the welfare of the Guatemalan people. What we do have a clear indication of is that the general is capable of capricious behavior, and is prone to violent solutions for resolving the ongoing conflict in Guatemala.

On the one hand, the general offered amnesty to the guerrillas, then turned around and said that, "whoever doesn't give up I'm going to shoot * * *" He has at times indicated that he feels himself somehow divinely ordained to rule Guatemala. While his faith is commendable, and may even inspire him to eventually help malnourished and impoverished Guatemalans, evidence does not indicate that he is an improvement over his predecessor.

The question arises when considering sending aid, be it military or economic, to Guatemala, as to whether or not it is in the best interest of the United States. I believe, at this point, it is not. Our aid should be distributed judiciously, not freely to any "authoritarian" leader who calls himself anti-Communist. It is our money; there should be nothing automatic in its allocation.

We need to reevaluate how we distribute military and economic aid to developing nations. It is the most effective leverage we have in influencing these nations. The jury is still out on Rios-Montt. I do not propose "hanging" him yet, but I do suggest that we give him at least a year before sending any military assistance or authorizing any arms sales to Guatemala.

Economic aid should also be held up at least until the violence subsides, the state of siege is lifted, there is a definite political program outlining the future of Guatemala and permitting political diversity, and most important, it is certain that Guatemala is no longer a gross violator of human rights.

Perhaps we should pay close attention to a speech made by Rios-Montt on July 5, in which he said, "* * * we must build a nation but without a capital in Washington or Moscow, but in Guatemala * * * We have to build a nation in which neither rubles nor dollars interest us." Let us hold up our dollars until we are certain they will not be used in a way that will misrepresent the fundamental principles of American democracy. Let Rios-Montt begin to build an independent Guatemala that is deserving of American support.

I urge my colleagues to support House Joint Resolution 509.●

EMPLOYEE MERGER PROTECTION

HON. THOMAS A. DASCHLE

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DASCHLE. Mr. Speaker, I have today asked my colleague from New Jersey, Congressman HOWARD to add my name as a cosponsor of his bill, H.R. 6077.

I rise simply to explain for the record that I have made this request because I feel strongly that this legislation will open the way for hearings on the important question of the employee protection provisions of the Airline Deregulation Act of 1978 and the matter of employee merger protection. While I am not convinced that every provision of Mr. HOWARD's bill as now written is deserving of enactment, and while I have particular reservations concerning the size of allowable monthly assistance payments and several other matters in this bill, I do share Mr. HOWARD's commitment to examine these questions in hearings for which his legislation will be the vehicle.●

CRS REPORT: "MENACHEM BEGIN ON THE OCCUPIED TERRITORIES"

HON. DOUGLAS K. BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. BEREUTER. Mr. Speaker, in light of the current controversy regarding the fighting between Israeli and the Palestine Liberation Organization forces in Lebanon, and suggestions for a Palestinian homeland, I wanted to call my colleagues' attention to research completed for me by the Congressional Research Service of the Library of Congress. In response to a September 1981 request by this Member for "a chronological summary account of Israeli Prime Minister Menachem Begin's public statements on the West Bank," the CRS on October 7, 1981, provided me with the following report which is shown in its entirety:

SELECTED CHRONOLOGY OF STATEMENTS BY MENACHEM BEGIN ON THE OCCUPIED TERRITORIES, 1977-81

5/19/77—While visiting a Jewish settlement on the West Bank, Begin called for more West Bank settlements. Begin also reiterated his refusal to talk to the PLO, saying, "What are we going to negotiate with them? The destruction of the state of Israel?"

5/24/77—Begin's Likud Party declared that the West Bank would not be annexed without a new electoral mandate and that Israel's right to impose its own laws on the occupied territories would not be exercised as long as Arab-Israeli peace negotiations were possible.

6/17/77—The Likud Party platform omitted Begin's election promise that the West Bank would "not be relinquished." The platform also stated that Israel would not apply Israeli law throughout the occupied territories while peace negotiations were in progress.

7/26/77—The Israeli government reclassified three existing Jewish settlements as legal.

7/27/77—Begin said, "Jews have the inalienable right to live anywhere in the West Bank and the Gaza Strip."

8/17/77—The Israeli government approved plans for three new Jewish settlements on the West Bank.

9/25/77—Begin told the ultrareligious Jewish group Gush Emunim that he intended to prevent them from establishing 11 new West Bank settlements.

11/20/77—Begin observed in his address to the Knesset during Sadat's visit, that, "The historical connection between the Jewish nation and Palestine known in Hebrew as 'Eretz Israel' has been renewed again."

12/18/77—Begin proposed West Bank autonomy plan to President Carter.

11/28/77—Begin presented a peace plan for the occupied territories [text appended]. Among the major points of the proposal: Israel would abolish its military administration in the territories and Arab administrative units would take their place to govern internal affairs; Arab residents would elect an 11-member administrative council that would serve a four-year term and oversee the needs of the Arab inhabitants; Israeli forces would remain in the West Bank and Gaza Strip to maintain security and public order; Arabs in both territories would have a choice of Israeli of Jordanian citizenship; Israelis would be permitted to purchase land and settle in the Arab territories, while the Arabs who chose Israeli citizenship would be allowed to buy land in Israel and settle there, and arrangements would be made for Palestinian immigration to the West Bank and Gaza Strip. Begin proposed that in the "knowledge that other claims exist" and "for the sake of agreement and the peace, that question of sovereignty [in the occupied territories] be left open."

1/3/78—Begin approved 3 new settlements, the first since Sadat's visit.

3/10/78—Begin said that UN Resolution 242 did not obligate Israel to withdraw from territory on all fronts.

9/17/78—Egypt, the United States, and Israel signed the Camp David Agreement [text appended], which provided for:

1. Negotiation of the status of the West Bank during the ensuing 5 years, based on UN Resolutions 242 and 338;

2. Withdrawal of Israeli military government;

3. Withdrawal of Israeli forces to specified security zones; hasn't yet occurred.

[Jordan and the Palestinians have refused to participate; withdrawal of the Israeli military government now appears to be occuring; withdrawal of Israeli forces to security zones has not yet occurred.]

9/27/78—Carter said he had "a very clear understanding" with Begin that the question of establishing new settlements in the occupied territories would be resolved by negotiations during a 5-year transitional period during which the final status of the West Bank would be decided. Carter challenged Begin's assertion that they had agreed to a freeze on new Israeli settlements on the West Bank only for the period of Israeli-Egyptian negotiations on a bilateral treaty, a process scheduled to take up 3 months. Carter said that he had dropped a demand that existing settlements not be expanded in return for Begin's agreement to an effective 5-year moratorium on new settlements.

10/25/78—Begin announced that it intended to expand existing Jewish settlements in the West Bank by means of a $15 million program to build 300 additional housing units, a reservoir, and roads.

10/26/78—Begin assured his supporters at a rally in Tel Aviv that his government would continue to "implement its right to settle anywhere within the occupied West Bank and Gaza Strip."

1/15/79—The Israeli government said 3 new West Bank settlements would be established.

3/26/79—Israel signed a peace treaty with Egypt providing for Egyptian-Israeli-American negotiations on the final status of the West Bank and Gaza Strip.

5/25/79—The first Egyptian-Israeli-American negotiating session on the final status of the occupied territories occurred.

6/11/79—Begin denounced critics of Israel's West Bank settlement policy as enemies

of Israel and called the occupied territories "our land." He pledged to implement the autonomy plan in accordance with the Camp David accords.

1/22/80—Israel announced that municipal elections in the West Bank and Gaza would not be held as scheduled pending the outcome of negotiations on Palestinian autonomy.

2/4/80—Begin pledged to protect Christian establishments in Jerusalem and confirmed Israeli commitment to freedom of religion in Jerusalem.

3/6/80—Begin called the March 1 UN resolution demanding that Israel dismantle Jewish settlements in the West Bank and Gaza Strip "barbaric" and said Israel would refuse to abide by it.

3/23/80—The Cabinet approved a plan to build a religious school in the West Bank city of Hebron.

3/25/80—Begin rejected US envoy Sol Linowitz's proposal for a two-month freeze on Israeli settlements in the West Bank and Gaza Strip.

4/16/80—Begin said he was opposed to granting full legislative power to a proposed self-governing authority for West Bank and Gaza Arabs and said that the authority would have only responsibility over daily affairs, with Israel retaining responsibility for security.

5/25/80—The one-year deadline for determining the future of the occupied territories passed without any apparent progress.

6/10/80—Begin said 10 new settlements would be established on the West Bank and that these would be the last such settlements to be built in the occupied territories.

6/15/80—An Israeli communique likened the June 13 European Economic Community declaration calling for an end to Israeli occupation of the West Bank to Munich appeasement.

6/22/80—Israel announced Begin would transfer his office form West to East Jerusalem.

7/22/80—Israeli military authorities postponed the West Bank municipal elections indefinitely. The elections were scheduled for April 1980 but were temporarily postponed by the military authorities on 1/22/80.

7/23/80—The Israeli Knesset passed the second reading of the Jerusalem bill, which incorporates the eastern Arab section into the western, Jewish section and makes the whole city the capital of the state of Israel.

7/28/80—The Law, Constitution and Justice Committee of the Israeli Knesset attached an amendment to the Jerusalem bill before the Knesset that would delete the reference to the pre-1967 borders of the city, which will have the effect of leaving the ultimate boundary of the city open. The Knesset passed the Jerusalem law on July 30.

11/20/80—Begin reaffirmed his intention to maintain exclusive Israeli control over West Bank and Gaza security.

1/25/81—Haaretz newspaper reported that Begin wanted an additional 3,000 Israeli settlers to move to the West Bank to strengthen Israeli ties to the occupied territories. Haaretz speculated that Begin's move was insurance against his Likud faction losing the election and a reversal of the West Bank settlement policy by a Labor government. The next day, the Foreign Affairs and Defense Committee of the Knesset approved three new settlements in the West Bank. The Begin government called for 10 new settlements.

3/11/81—Begin voted against a bill calling for annexation of the Golan Heights.

8/5/81—In his speech to the Knesset seeking a vote of confidence for the new cabinet, Begin said his government will continue to work toward the "advancement" of Israel's Arab and Druze citizens on the basis of "full integration" and "full equality of rights." The Prime Minister said President Reagan's statement (of 2/2/81) that the Israeli settlements in the occupied territories were "not illegal" was a "clear-cut announcement" that the Israeli position was justified. According to press reports from Israel, the basic guidelines presented to the Knesset by the Begin government said Israel would exercise complete sovereignty over the West Bank and the Gaza Strip in 5 years, which might be interpreted as Israeli annexation of the territories.●

THE CAUSE OF CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DERWINSKI. Mr. Speaker, Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee and President of the Ukrainian Congress Committee of America, is a well-known and respected leader for the cause of the captive nations. His recent article which appeared in winter edition of the Ukrainian Quarterly is reprinted below for the Members' enlightment:

GLOBAL PERCEPTIONS AND MISPERCEPTIONS

(By Lev E. Dobriansky)

In the summer of 1981 several vivid expressions of global perceptions and also misperceptions emerged almost concurrently as the United States and other countries were commemorating the 23rd observance of Captive Nations Week. They appeared in journals, newspapers and in other forms of media. They are of fundamental significance because they indicate the sufficiency or deficiency of basic conception and also holistic overview that largely predetermine the formulation, content, objectives and direction of foreign politico-economic policy. In fact, and without exaggeration, the views that were dominately expressed crystallize the essential divergences and disagreements of thought and action underlying this policy in the U.S.

For years now, one outstanding criticism of U.S. foreign policy has been its lack of coherency, consistency, and integrative global orientation. Some of the divergences of thought and concept to be shown here go back to the immediate post-World War II period, and in several respects even beyond that. In part, they account for these deficiencies in policy. For instance, a comparison of the leading concepts and overview in the Eisenhower Administration with those of subsequent administrations, down to the Carter one, would easily confirm the validity of our overall observation. Regardless of how one interprets or misinterprets the policy of eventual liberation in the 50s, Secretary of State Dulles displayed a far more knowledgeable grasp of the nature and posture of the Soviet Union in the world at large than have any of his successors in the following two decades. After a full generation a complete circuit has been turned, and we are faced with the same perennial problems of accurate understanding and realistic conceptions.

Here we shall focus our attention on three cases that exemplify global misperception more than perception. In themselves they vary as to the weight they assign to the Soviet Russian threat and the primacy of the East-West struggle. They are representative of the thinking of some circles in this country and abroad, and to a degree they repeat arguments which we thought were defused and scattered to bits over a quarter of a century ago. The fact that they focused to a greater or lesser extent on the Captive Nations Week observance is meaningful in itself. For anyone who has carefully read the original resolution on the captive nations, which the U.S. Congress passed in the summer of 1959, knows that its condensed content contains ideas and concepts which rest on the empirical evidence of history, present realities and the fine traditions of our country.

Before considering the first case, an article in the Foreign Affairs magazine, it should be noted that during the Polish crisis at the end of '81, Moscow once again assailed the West for its "interference," attributing it to our inherent "imperialism." It even extended this proverbial stance to accuse us of seeking to stimulate its intervention in Poland. As Pravda carried it, "Imperialist circles in the United States and other NATO countries are irritated over the fact that the events are not developing according to their scenario, which would inevitably involve Soviet interference."[1] Of course, the Russians have continually been there, indirectly dominating the Polish people. But what is significant about this and similar rhetorical acrobatics by Moscow is its patent abuse of the term "imperialism." The essence of the 1959 Congressional resolution is the prime and real force of Soviet Russian imperialism. From 1959 to the present the resolution has generated nothing but vehemence from Moscow and its satraps chiefly because it has officially fingered the real imperialist. How substantially different images in various parts of the world would be if the resolution and its vast implications were properly implemented!

Our first case for examination is the article written by Senator Charles McC. Mathias of Maryland in a prestigious magazine.[2] The Senator has been in the U.S. Senate since 1969. Prior to this period he served in the House of Representatives for eight years. He is currently on the Foreign Relations Committee and of late appears to be greatly concerned about the lobbying activities of so-called ethnic groups attempting to influence our foreign policy. As a by-product of this extensive article, his short comment "One Nation Divisible With Lobbies For All" also precipitated some discussion in the Washington area. Regarding the by-product, for instance, one critic who should know better claims that "the voices of the ethnic spokesmen have a limited audience" and "are restricted to their own constituencies."[3] To mention just a few achievements, pressure for VOA, Radio Liberty, the Captive Nations . . . Week, a Shevchenko statute in Washington, a listing of the Captive in the 1964 Republican National Convention Platform, the poltrade policy, the Helsinki Accords and so forth well demonstrate that the power of ideas prevails,

Footnotes at end of article.

not just the prospect of ethnic vote-getting and size of groups.

As to the Mathias article in *Foreign Affairs*, a Maryland State Senator, Julian L. Lapides, replied, "It was enlightening to learn of Sen. Mathias' views on ethnics and their lobbyists. I wish that he had the integrity to express those views one year prior to his reelection rather than one year after."[4] Though this line of reaction is not germane to our analysis here, it would be interesting for a researcher to reproduce what the Senator had to say before ethnic groups in Maryland in his struggle for reelection. Integrity is a factor in politics, and scores of legislators over the years have rightfully followed their convictions without necessarily endangering their tenure. But, as indicated, this is not the dimension of criticism for our analysis here. Our interest concentrates on the accuracy of the Senator's data, the logic and validity of his interpretations, and the soundness of his global perception. The same criteria will apply to the other two cases that emerged rather significantly in this same period of time.

On the level, then, of ideas rather than of ballot-box pressures, the Senator's presentation is found wanting in numerous respects. First, the very timing of it in the period of the Captive Nations Week observance should indicate the type of motivation behind the presentation. It would appear that honest scholarship was not the motivation, but rather one of calculated political intent to undermine the annual observance. No doubt, the Senator includes in his article the pressures exerted by Jewish, Greek, Irish and other American groups. But in global perspective and the focus placed on the captive nations issue it is evident what motivation was at play. This isn't the first time that an effort of this sort has been made. George Kennan, Senator Fulbright, Dean Rusk and others have questioned the resolution on Captive Nations Week, but none has had the courage to seek its rescission in the Congress. Public Law 86-90 is still on the books, just like Fulbright in the past, who was the chairman of the committee, Mathias is a member of the Foreign Relations Committee and has a vantaged opportunity to submit a measure aimed at the resolution's revocation. Very simply, has he the courage to support the groundless views of his calculated presentation on this issue?

Mathias compares at the outset the groups in Washington's day pulling for the French or English and the ethnic groups today "who couple loyalty to America with bonds of affection for one country or another." He views American society as a diverse and heterogeneous one, "a nation of nations," a melting pot in which the constituent groups are not fully melted. The Senator also draws a distinction between "ethnicity," which he admits enriches American life and culture, and "organized ethnic interest groups, which sometimes press causes that derogate from the national interest." These, basically, are the guiding points in Mathias' exposition.

A little critical thought on the situation surrounding Washington in his day and the cultural environment today makes the analogy a somewhat silly and fragile one. The crucial test then was achieving and maintaining a new and independent nation; the crucial test today is the exercise of American world leadership, based on primary security interests, viable alliances, moral and military strength, human rights and the expansion of freedom. I know of no so-called ethnic spokesman who does not support such leadership fully. On particular issues impinging on areas where such spokesmen may, and often do, have more detailed knowledge than our official intelligence sources, they can be in error as to application and interpretation. But so can the Senator and others with less intimate knowledge and, yes, sentiment be subject to mistakes in strategic or tactical judgment. Mathias could have used a more appropriate parallel to Washington's problems had he cited Communist and fellow-traveling groups in our country seeking the colonialization of the U.S. by Moscow.

Concerning his other guiding points, it would do well for the legislator to read the Captive Nations Week resolution for a different conception of American society. Diverse, yes, for herein lies its primary source of renewed strength; a nation of nations, absurd, for the figuration isn't even logical and also belies his own attestation to the loyalty of these groups. The melting pot characterization is a poor and inaccurate one; that of a beautiful and richly expansive mosaic is far more to the point. As to his distinction between "ethnicity" and organized groups, enough has been said above, but an added observation on this is that the Senator exposes himself to the charge of denying free expression of views in what we all presumably hold as part and parcel of our precious democratic process, whether on domestic or foreign issues. God forbid that we adopt an elitist view of determining vital issues. One could fill a volume on the supposed knowledge and judgments of many in official positions dealing with such issues.

A substantial amount of space and thought is devoted by Mathias to Public Law 86-90, the Captive Nations Week resolution. It should be said at the start that the writer didn't personally experience the events . . . of the summer of 1959. He wasn't a Member of Congress then, and thus his observations are all second-hand and poor ones at that. The Senator initiates the subject with this one: "It mattered little in world affairs, for example, when Senators heaped denunciation on the Tsar of Russia for his brutal suppression of the Hungarian revolution in 1849. It was a more consequential matter when Congress, under pressure from East European nationality groups, in July 1959 unanimously adopted a resolution calling on the President to proclaim an annual 'Captive Nations Week.' By that time ethnic foreign policy pressures had become in Walter Lippmann's phrase 'a morbid experience.'[5] Parenthetically, and on the basis of my own experience, the columnist never understood the resolution and even refused to accept my articles clarifying it. On the other hand, David Lawrence in his column at the time characterized it as "an historic document."

So far, if we were to logically follow the import of Mathias' initial observation, all Americans from the President down should have remained mute during the 81-82 Polish crisis. One wonders what the Senator's reaction was, or was he fearful of consequences in the realm of the present Red Tsar of Russia? He doesn't know it because he wasn't involved at the time, but it might surprise him that the source of my inspiration to write the resolution and see it through to passage was the '56 Hungarian Revolution and the murder of Nagy. The resolution is inextricably bound up with the spirit and energies and displayed aspirations of all the post-World War II revolts, from Germany in 1953 to Poland in 1981-82. Its meaning and significance, of course, extend far beyond this. Moreover, Mathias commits his first factual inaccuracy when he speaks of "East European nationality groups" pressuring for the resolution's passage. The very opposite is the truth, and he would be hard put to furnish any evidence of such pressuring. Editorials at the time, in The Washington Post and the Washington Star as examples, made the same mistake. The climate, a few knowledgeable persons, and collective determination were all that was required. The groups joined with others to implement the resolution after President Eisenhower had signed it.

Mathias continues, "when Congress, on July 17, 1959, unanimously adopted the resolution calling for a Captive Nations Week, it is doubtful that many members considered themselves to have made a major foreign policy enactment. The resolution was 'churned out,' according to a syndicated columnist of the day 'along with other casual holiday proclamations, such as Natural Hot Dog Month."[6] He adds, "To Members of Congress the resolution (which President Eisenhower promptly implemented) was a more or less routine response to the wishes of Americans whose countries of origin had fallen under Soviet domination." These statements are quoted in full here and in context in order to preclude the usual rejoinder where evidence is found wanting.

Now, had Mathias been in the Congress then or had engaged in some research into the period rather than depend on one or two secondhand sources, he would have understood the mood of the Congress then and why the resolution was passed unanimously without the need of any hearings. To use a quote of some "syndicated columnist" which was quoted by some remote author scarcely measures reliable writing.[7] Moreover, the Senator shows poor taste in his selection, which cannot but reflect on the collective judgment of such outstanding sponsors like Senator Douglas of Illinois and Javits of New York, the original sponsor, Senator Humphrey and others of the seventeen constituting a broad spectrum of Senate representation. I'm not doubtful, I'm very certain that they perceived the challenging idea and essence of the resolution, having talked to them then, and that they weren't aware of equating it with any "holiday" proclamation or a routine measure to satisfy any particular group. However, the content and meaning of the resolution escapes the Senator's comprehension at this date, for with reference to it he would hardly use the simplistic phrase "Soviet domination."

With his obviously disturbed feelings about the resolution, the Senator continues: "It had been strongly supported by such groups as the Assembly of Captive European Nations, which had been founded in 1954 to work for the freedom and independence of the nations of Eastern and Central Europe, and was adopted by Congress verbatim from a draft submitted by professor Lev Dobriansky of Georgetown University, a zealous advocate of East European causes who became well known in the corridors and committees of Congress."[8] It would probably amaze the legislator to learn that the Assembly had absolutely nothing to do with the idea, the authorship and the processing of the resolution through Congress. In fact, once it became law, difficulties arose between the Assembly and the newly founded National Captive Nations Committee in the conduct of the observances. Here, too, Mathias fails to understand the narrow basis of ACEN, which was concerned exclusively with the few captive nations in Eastern

Europe, and the global conceptual framework of the resolution, engendering other captive East European nations, such as Byelorussia, Ukraine, Cossackia, Georgia and others, as well as those in Asia and Cuba. It is also open-ended in text for more captive nations in Latin America, Africa and elsewhere.

Before registering his other inaccurate and misplaced observations the Senator points out that "thereafter, each year, Representatives and Senators have been reminded of the annual observance so they could place appropriate statements in the Congressional Record." The reader would think from this that the objective of the observances was to have statements printed in the Record. The facts are that with turnovers in Congress new legislators have to be apprized of Public Law 86-90 and veteran ones do have to be reminded. There are many particular issues that fall under the captive nations umbrella, ranging from Angola, for example, to the Moslems in the U.S.S.R., as another example. Moreover, these addresses and statements, provide needed material for our international broadcasts. In short, what the Senator doesn't seem to realize, and his article shows it, is that the resolution in the form of Public Law 86-90 is in existence and continually demands the support of Members of Congress as well as that of all Americans represented in Congress.

In what is disparate reasoning at its best, Mathias later observes that Moscow reacted to the inclusion of Armenia, Georgia and others in the resolution, this beyond the purview of ACEN interest and also suggestive of the ideational power of the resolution. As he points out, the resolution caused displeasure for Khrushchev and the then Vice President Nixon had to apologize "for what Khrushchev read as 'blatant interference' in the internal affairs of the Soviet Union."[9] He also states that Nixon said "Congress had the prerogative to pass such a resolution and moved on it," but that neither he nor Eisenhower "would have deliberately chosen to have a resolution of this type just before we were to visit the Soviet Union." Here, too, the facts belie this observation and had the Senator done some research, namely Nixon's book on My Six Crises (chapter five) he would have found his admission on being stunned by the Russian leader's reaction and explained that the resolution was only to offer prayers in behalf of the captive nations.

Like the Senator, Nixon had no understanding of what this is all about, and as president fell for the illusion of the Russian principle of "non-interference in the internal affairs" of the Soviet Union in the Moscow communique which he signed in May, 1972. It took President Carter to straighten this out with his insistence on human rights and the many treaties signed by Moscow to this effect. Armed conquest of independent-Russian republics and their subsequent subjugation in the framework of the Soviet Union are hardly props for this old Russian imperialist principle.

Seizing upon Nixon's presumed remarks about Congress moving on the resolution, Mathias reverts back to his speculative scenario by stating that "Congress, of course, had not 'moved' in the sense of having taken an autonomous policy initiative based on debate and deliberation. Congress had, in fact, been moved by interest groups whose goal, although desirable, was practically unattainable." In rebuttal enough has been said on this score. A consensus of broad sponsorship was sufficient then to move the resolution without costly hearings. Senators had ample time to debate it on the floor of the Senate, and at this stage the impact of interest groups wasn't even at work. In short, the idea was poignant—as, indeed, it still is today—and the environment was right and conducive.

Along with this repeated notion on congressional propriety, the Senator then introduces the liberation policy of the Eisenhower Administration. He writes, "the Eisenhower Administration had already been compelled by practical circumstances to abandon early facile statements about 'liberating' Eastern Europe from Soviet domination." By lumping this with the resolution Mathias attempts to show that "Liberation cannot be achieved" through mere rhetoric, that the resolution encourages false hopes, leads to bitterness, and exposes us to dangerous risks.[10] Can you imagine having someone of this frame of mind in the White House during a crisis of the Polish proportion?

Here, too, the Senator is just speculating about the experience of the Eisenhower Administration with the policy of eventual liberation. Based on my own direct experience with this development prior to the Republican National Convention in Chicago in 1952 and down to 1960, I can categorically affirm that it wasn't "practical circumstances" that caused the administration to give only lip-service to the policy; it was a persistent failure to understand what the policy meant. At a function in Newark during his campaign there, Senator Alexander Smith of New Jersey, who became the intermediary between candidate Eisenhower and Taft, asked me point-blank "Lev, what does this policy involve?" My answer, briefly, was that it involved a firm, moral commitment to the eventual freedom of the captive nations and a progressive programming of realistic means to abet the objective in time and to adequately cope with expected Soviet Russian challenges on all continents of the globe."

Not attainable? This isn't the place to discuss this vital issue except to point out that our protracted incapacity to grasp the nature of Soviet Russian psycho-political warfare has produced reverses for us in Vietnam, Cuba, parts of Africa and elsewhere. During each crisis, from the East German one in '53 to the Polish one in '81-82, we hear the same refrain, "What can we do?," "Why weren't we prepared for it?" A sensible policy of liberation as envisioned in '52 would have placed us in a far better position than what we have experienced. What's more and whatever we may name our policy, so long as it shies, for whatever reason, from an increasing concentration on the strategic non-Russian nations within the USSR, it will continue to be inadequate and ineffective. The Soviet Russians know this all too well. Clearly, it has been for this reason that from Khrushchev to Brezhnev they quiver when the Captive Nations Week resolution is brought forward. And contrary to the fears of a Mathias and many like him, an intelligent and knowledgeable implementation of Public Law 86-90, which invites a broad array of programs, would not lead to war. In fact, it would reinforce deterrents against one.

Almost lamenting it, the Senator virtually concludes his thought on the resolution by asserting, "Captive Nations Week is still proclaimed in the third week of July every year, and Senators and Representatives, with varying degrees of conviction, still make the required statements."[11] In his opinion the majority of our legislators believe the U.S. cannot bring freedom and self-determination to the captive peoples, that efforts to do so jeopardize limited improvements, and that they increase the chances of a dangerous confrontation between the superpowers. He also argues that with greater autonomy in Central Europe, groups like the Polish Americans and others become more bland. And his overall conclusion is that ethnic politics "have proven harmful to the national interest."

Now, as pointed out earlier, the Senator can test his opinion by seeking the elimination of Public Law 86-90 from the statutory books. Perhaps that will pave the way to a great debate which our country sorely needs on these fundamental issues. At this moment he has no evidence to support the opinion. On a sampling basis of the Week's observances and many other indicators, the very opposite would seem true. The logical implications of Mathias' other concluding points should be obvious. Carried to the extreme, America as the beacon light of freedom for the captive nations should cease, VOA, RL and RFE should dissolve into simple news carriers, trade should be completely positive with the totalitarian states and we should naively hope for improvements as the regimes strengthen themselves, and so on into many other areas. Briefly, if Washington had to depend on such timid resources and lack of vision, the Republic would never have been established. As to his correlation of blandness and improvements, he is clearly unfamiliar with so-called ethnic activity among Hungarian Americans, German, Slovak and other groups, and one wonders how he would treat Polish American activity during the Polish crisis. Finally, Mathias' overall conclusion rests on no proof at all. As emphasized earlier, our democracy accommodated all sorts of imputs which are processed accordingly, and those provided by the Senator are subject to the process of objective criticism as well. Plainly, his suggested elitism has no place in this Republic.

FOOTNOTES

[1] "Soviets: U.S., Seeking Excuse to Scuttle Arms Talks, Hopes For Soviet Invasion." Moscow, Herald Wire Services, December 28, 1981.

[2] "Ethnic Groups and Foreign Policy," Foreign Affairs, Summer, 1981, New York.

[3] Andrew Valuchek, "Ethnic Clout Overstated in Foreign Affairs," The Washington Star, Washington, D.C., July 16, 1981.

[4] "The Senator and Ethnics," The Washington Post, July 15, 1981.

[5] *Ibid.*, p. 981.

[6] *Ibid.*, p. 984.

[7] The author is Louis L. Gerson, "The Hyphenate in Recent American Politics and Diplomacy," Kansas, 1964.

[8] *Ibid.*, p. 984.

[9] *Ibid.*, p. 985.

[10] *Ibid.*, p. 986.

[11] *Ibid*, p. 986.●

EXPORT TRADING COMPANY AND EXPORT ADMINISTRATION AMENDMENTS

HON. LARRY E. CRAIG

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. CRAIG. Mr. Speaker, in June of this year, I appeared before this body to express the great need for export

trading company and export administration legislation. Today, this legislation took another giant step forward with the passing of H.R. 1799—Export Administration Amendments Act and H.R. 6016—Export Trading Company Act. I want to extend my congratulations to all the members, but especially the committee chairmen and ranking minority members for their efforts in helping make this legislation into law.

Historically, many U.S. businesses have been reluctant to enter into foreign trade because of the perceived complexities of engaging in international transactions. Foreign languages, distances, variations in consumer preferences, and different market practices have discouraged consideration of international sales. Another major problem has been the discouraging nature of the U.S. laws and regulations which are often more difficult to work through than the idiosyncracies of foreign markets. Much of the frustration being caused by regulatory policy is because Government leaders have simply not made a sufficient commitment to vigorous promotion of U.S. exports.

As I have mentioned before, increased exports means increased American jobs, thousands of them. Currently, one out of every eight manufacturing jobs in the United States, and one out of every three jobs in the agricultural sector, are related to exports. An increase of only 5 percent in our exports would support over 300,000 additional American jobs.

In my own State, the estimated increase in employment resulting from the export trading company legislation would be 720 new jobs on the low end to an estimated 1,110 new jobs on the high end. The value of this legislation cannot be underestimated. And I believe another point is brought to the surface: The significance of exports to the economic well-being of this country should never be minimized.

Export trading company and export administration amendments will give American business—particularly smaller business—a badly needed shot in the arm. By acting as trade intermediaries, these trading companies can provide a full range of export services and functions that will help our companies realize the economies of scale necessary to make their products competitive in the world market.

Mr. Speaker, I believe this legislation is a positive step toward alleviating some of the trade deficits in this country. And once again, I commend the Committees on Foreign Affairs, Banking, and the Judiciary for the actions they have taken.●

ON VIRTUE, COCAINE, AND HOMOSEXUALITY IN THE NATION'S CAPITOL

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DORNAN of California. Mr. Speaker, our Founding Fathers considered virtue—moral excellence based upon religious principle—to be an indispensable foundation for the governance and survival of our Republic and, indeed, of any republic. James Madison, the "Father of the Constitution," once observed:

> But I go on this great republican principle, that the people will have virtue and intelligence to select men of virtue and wisdom. Is there no virtue among us? If there be not, we are in a wretched situation. No theoretical checks, no form of government can render us secure.

Virtue was to be especially characteristic of political leaders to whom citizens looked for inspiration and guidance.

It is a sad commentary upon our times, Mr. Speaker, to see how far we have fallen from the noble vision and ideals of our Founding Fathers. I am submitting for the RECORD a transcript of an interview on the use of cocaine and homosexuality in the Nation's Capitol—conducted by the Westinghouse Broadcasting & Cable Co. Group W Newsfeed. It is my hope that by presenting this material, we Members of Congress may realize the grave obligation we have, particularly in the age of the all-seeing camera, to live exemplary lives of virtue, and so recall the warning of George Washington in his Farewell Address:

> Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness.

COCAINE

PATRICIA SAGON (Reporter). Rock stars take it. The people in their audience and lots of ordinary people take it. They say it makes you feel great—like you're on top of the world. Now we learn maybe 16 Members of Congress take it too. Cocaine has been called, quite seriously, a middle class high.

SAGON. So it's really not suprising that mere mortals here on Capitol Hill might have tried the stuff and even liked it, but isn't the power here intoxicating enough? For a few it may not be.

Dr. ROBERT DUPONT (Founder, Nat'l Institute of Drug Abuse). Even if you're a Congressman or a Senator or a rock star or whatever else, the amount of time that you're actually on and people are clapping and jumping up and down and saying ooh la la to you is a very short period of time. Most of the time they lead very ordinary lifestyles even when they are very successful. And for people who get really hooked on all the excitement they are vulnerable to a drug that will bring them back that feeling.

SAGON. This Washington undercover cop knows the social scene.

WASH. D.C. UNDERCOVER NARCOTICS OFFICER (Identity concealed). Cocaine trafficking in Washington is throughout the entire city. I've made purchases of cocaine from Capitol Hill to Georgetown.

SAGON. The drug world met the White House world when investigators probed charges that Jimmy Carter's top aide, Hamilton Jordan, took cocaine at New York's Studio 54. citing insufficient evidence, they cleared Jordan. The recent death of John Belushi reminded everyone of the Hollywood cocaine connection. Belushi died after reportedly taking a mix of coke and heroin. Comedian Richard Pryor had a near miss with death after taking the drug for three days straight. But entertainers are different, right? They live in another world. What about a public official? What about his job?

Dr. ROBERT DUPONT. A person would be erratic in paying attention to the important legislative work, doing the homework and all the nitty gritty details would pale in insignificance compared to the excitement of the cocaine use.

SAGON. It was this California Congressman who triggered the current drug probe.

Rep. ROBERT K. DORNAN of California. People say if stars can do it, why can't I? If basketball and football heroes can do it, why can't I? Imagine what they're going to do, if they say, people elected to the Congress, who make our laws, our solons, they do it, so why can't I? It will have a devastating effect upon the whole population.

SAGON. This is Patricia Sagon on Capitol Hill.

GAY LIFE IN D.C. PART 1

PATRICIA SAGON (reporter). The Nation's Capitol has one of the largest and most accepted gay communities in America. Like the city's main industry, Government, many of the city's gays are employed by Uncle Sam.

FRANKLIN KAMENY (Gay rights leader). We've played our politics wisely, sophisticatedly, and astutely and have created for ourselves here in Washington what is the most comfortable city in the country for a gay person to live in, work in, play in and just be in.

SAGON. At night, they return to their own world, much of it in the shadow of the U.S. Capitol. There are homosexual bars and discos, faceless storefronts and flashing signs. Baths and porno bookstores—all in the business to cater to the estimated 50,000 homosexuals in Washington. Gay newspapers are openly sold advertising flesh for sale. The Capitol's yellow pages let you order up a sex partner from any of the escort services—let your fingers do the cruising—sex is just a phone call away. Allegations of a homosexual scandal with Congressmen and pages do not faze them much. Their world is not the same.

D.C. GAY PERSON. People who are gay in Washington live a gay life and the gay community is very vibrant here. People who are living straight lives and experimenting with their gay desires are not a part of that community—it's a whole different issue.

SAGON. But there is violence in the gay community—at the famous Iwo Jima Monument across the river in Arlington, homosexual men are known to frequent this memorial to bravery in World War II. Six years ago a congressional aide was beaten to death by three other men.

Sgt. ROGER PHILLIPS (U.S. Park Police). When they go into those areas after dark

they subject themselves to the potential for real violence.

FRANKLIN KAMENY. Hatred is an ugly thing and it manifests itself in all kinds of ways and this is one of the ways it manifests itself.

SAGON. "Richard" is a young prostitute who works the violent Washington street scene.

"RICHARD" (Hustler). It is supposed to be the Nation's Capitol. D.C. is so corrupted—it's like the neighborhood John. You name it and I've been to bed with it and the money's been good. This is the only thing I'm good at is hustling my body.

SAGON. This is Patricia Sagon in Washington.●

DRAFT AMENDMENT CREATES PAPERWORK

HON. WILLIAM D. FORD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. FORD of Michigan. Mr. Speaker, I continue to have serious concerns about an amendment being offered to section 902 of H.R. 6030, the Department of Defense Authorization Act of 1983. It would amend the Military Selective Service Act to make any male, who is required to register with the Selective Service and has failed to do so, ineligible for any form of assistance provided under title IV of the Higher Education Act of 1965, as amended. This provision would create an administrative nightmare for institutions of postsecondary education throughout this country.

The amendment would require the Director of the Selective Service System to submit to the Secretary of Education the names of those individuals who are participating in any program or who are receiving funds authorized under title IV of the Higher Education Act of 1965 who have not submitted to registration pursuant to section 3 of the Military Selective Service Act.

The Secretary is then required to make a determination as to whether or not the individual has complied with or violated Section 3. If the person has not registered, the Secretary must notify the individual that he is not in compliance and that he has at least 30 days to conform to the registration provisions or submit information to the Secretary of Education showing that he has already complied with the requirement. The Secretary, after taking into consideration any information submitted by the individual, must then make a final determination regarding the person's registration status. If the person has violated section 3, the Secretary shall take all possible actions to insure that the student does not receive any benefits from the title V provisions.

I suggest to my colleagues that, regardless of your position on this amendment, it cannot be implemented by the Secretary of Education and the Director of the Selective Service without creating a tremendous paperwork burden for all parties concerned.

Given the fact that the Educational Department does not have individual records on each title IV recipient, it is impossible for the Secretary to identify those persons who should have registered and who are receiving assistance. Therefore, the Secretary would have to go to the individual institutions, States, or guarantee agencies to secure this information on a student-by-student basis. The costs and workload of securing such information would be enormous and might well take several months before any satisfactory response could be received.

Timing is also a consideration since the amendment is to go into effect October 1, 1982. Given the Department's recent track record of issuing regulations, developing computer systems, and obtaining approval from the Office of Management and Budget on required forms, it is unlikely that it could meet an October 1, 1983, deadline for implementation of the amendment. The Department has notified the sponsors of this amendment and the Office of Management and Budget that, in their opinion, section 902 is not the best means by which to accomplish this goal since it would require a level of unnecessary Federal intrusion and administrative complexity and burden which they would like to avoid. The Department's Office of General Counsel has also noted that there would be immense administrative, regulatory, and enforcement burden imposed upon all parties with this amendment. They further stated that there are potential Federal Privacy Act violations if social security numbers are to be used in matching aid recipients with draft registrants and possible problems of conditioning receipt or termination of Pell grant entitlements on certification of registration. Even if the Secretary could enforce this amendment, there is a belief that it could only be done at the current time for students who have applied for or are receiving Pell grant funds. This would only include those students from the lowest income families. However, since the requirement only affects males, it is interesting to note that the fact that there are duplicate social security numbers legitimately in existence, the Secretary could unknowingly deny benefits to a female student who is not subject to these provisions.

The Department of Education has suggested that section 484(a) of the Higher Education Act of 1965 be amended to require each male student to file with the institution a statement of compliance with section 3 of the Military Selective Service Act and, further, that the Secretary be authorized to prescribe the methods for verifying such statements of compliance. The Selective Service no longer issues registrants identification cards which, if they did exist, would facilitate status verification. Instead, registrants are only provided with a letter acknowledging that their registration has been received. Since many students do not keep the letter, the Secretary would then have to ask the institution to collect the compliance statements and send them to the Secretary who, in turn, would have to take the notices from over 8,000 institutions, convert them to a computer tape which would then be matched with the Selective Service tape sorting out the exceptions which then would be reported back to the institution or the individual registrant to either give them an opportunity to come into compliance or be terminated from further assistance.

I suggest that this would be a very costly procedure which would greatly increase regulatory and reporting burdens on all parties at a time when the administration is advocating a reduction in such activity.●

THE COSTS OF THE BRINK'S CASE AND THE NEED TO RELIEVE THE BURDEN ON LOCAL TAXPAYERS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. GILMAN. Mr. Speaker, on October 20, 1981, a group of alleged underground terrorists, some of whom had been wanted by the FBI since the 1960's, participated in the robbery of a Brink's armored truck at the Nanuet Mall in Rockland County, N.Y. In the course of the robbery and escape, one guard and two local policemen were killed. Six alleged terrorists are about to come to trial in Rockland County in connection with this crime, and with indictments brought by the Federal Government.

Although this case has national implications, and has brought the eyes of the Nation upon Rockland County, the extra costs of the trial itself and the attendant security have to be borne by the local government. Evidence has been found that national terrorist groups plan to make the trial a cause celebre, and yet the Federal Government so far has been unable to find the means to reimburse the county for these expenses which were and will be accumulated by the county through no choice of its own.

Our local Rockland County officials, including the chairman of the legislature, the sheriff, and the district attorney, estimate that these additional expenses will amount to between $2.7 million and $3.1 million. This is an

unfair burden for a small county government, already overburdened with taxes, to assume.

In order to help the local officials in Rockland County meet the extraordinary costs involved in pursuing this prosecution, and to help other communities so situated, I am today introducing the Local Prosecutor's and Sheriff's Relief Act of 1982.

This bill enables the Attorney General of the United States to make grants to State and local authorities to help them meet the expenses of prosecutions and associated security costs when they are prosecuting a defendant in a case involving a clear Federal interest.

The grant procedure is designed to be simple and straightforward. The Attorney General will have broad discretion as to which applications, if any, would be funded. It is anticipated that he would be able to take swift action on all applications.

It is clear, Mr. Speaker, that desperate criminals, wanted by Federal authorities, often break State laws. We have seen this happen in Rockland County in the Brinks case. The people of Rockland County have paid a substantial cost in human life in apprehending these criminals. The Federal Government should now help them to successfully complete these prosecutions without disrupting the budget of the entire county.

Mr. Speaker, I am inserting a copy of the bill I am introducing today at this point in the RECORD, and I ask each of my colleagues to join with me in cosponsoring this legislation.

The bill follows:

H.R. 6868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. That this Act may be cited as "The Local Prosecutor's and Sheriff's Relief Act of 1982".

SEC. 2. The Attorney General, in his sole discretion, is authorized to make grants to State or Local governments for the purposes set forth in Section 3, if he deems an application made by a State or Local government to merit payment under this Act.

SEC. 3. Grants under this Act may be made to assist State and Local governments

(1) to meet the expenses of prosecuting a defendant or defendants,

(2) to meet the expenses of maintaining courtroom security, or

(3) to meet the expenses of maintaining a defendant or defendants safely and securely in custody,

when a federal interest is served by the vigorous prosecution of such defendant or defendants.

SEC. 4. The Attorney General is authorized to prescribe such rules as are necessary to carry out this Act, including rules regarding the disposition and accounting of funds granted under this Act.

SEC. 5. The Attorney General may approve in whole or in part, or deny, any application for a grant under this Act.

SEC. 6. Grants under this Act may be made in advance or by way of reimbursement.

SEC. 7. Grants under this Act may be made to reimburse costs incurred at any time after June 1, 1981.

SEC. 8. For the purpose of carrying out the provisions of this Act, there are authorized to be appropriated $10,000,000 for the fiscal year ending September 30, 1982, $10,000,000 for the fiscal year ending September 30, 1983, and $10,000,000 for the fiscal year ending September 30, 1984.●

CAPTIVE NATIONS WEEK

HON. JOHN P. HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 21, 1982

● Mr. HAMMERSCHMIDT. Mr. Speaker, during the observance of this 24th anniversary of Captive Nations Week, I am proud to rise with my colleagues and compatriots throughout the United States, in voicing our strong support, unwavering admiration, and heartfelt sympathy for those nations caught in the grip of communism.

This is a special week for all freedom-loving people to recognize the Communist aggression felt by the people of Poland, Hungary, Lithuania, North and South Vietnam, and Afghanistan, to name a few; and also recommit ourselves to the exercise of basic individual rights that has been denied the people of these captive nations. It is a time to realize that in the United States where freedom is a birthright that is so often taken for granted, it is a right that has been taken from these nations. For them, their only freedom has sometimes been a memory and always a dream for the future.

The time is now for the United States to stand stronger and taller as the citadel of human freedom, and for its citizens to be the leaders in bringing freedom and independence to these people. We have a responsibility to these captive nations who have provided us with shining examples of courage and determination, and who have also enriched our lives with the emigration of their fellow countrymen to the United States.

The United States is indeed fortunate to have been able to benefit from the heritage of these nations. They have instilled in American communities a strong sense of appreciation for what freedom is and have passed along to others the empathy they still maintain for their homelands. All American citizens should join with these people in hope and prayer for the day when their homelands will be free and people can live without fear.

The Soviet Government has for the last three decades dominated and controlled the lives of those who reside within their boundaries. That denial of human dignity has shown itself in many ways, including the separation of families, the imposition of restrictions upon freedoms of speech, travel, and religion, and the exiling and imprisonment of those who still dare to speak out against oppression in their native lands. The headlines of the past month have served to remind us of the ever-present tyranny and the courageous struggles which continue daily for freedom.

Captive Nations Week is not a pleasant observance. Not for us. Not for the peoples of the captive nations. And, I would hope, not for the Soviets, Nor should it be. I look forward to the day when we will no longer have to hold this observance, that day may finally come when no nation will be deprived of independence, freedom, and human rights.●

CONGRESSMAN MILLER ADDRESSES NATIONAL MEETING

HON. GERALDINE A. FERRARO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Ms. FERRARO. Mr. Speaker, our colleague, Congressman GEORGE MILLER of California, recently was a keynote speaker at the national meeting of the United Presbyterian Women. Congressman MILLER was selected to address this convention of 5,500 politically active and socially conscious women from throughout the world because of the exemplary leadership he has offered in such crucial areas as education, nutrition, foster care and adoption reform, women's rights, and human rights throughout the world.

Congressman MILLER told the national meeting that our historic national commitment to social justice and human rights is under assault today because of well orchestrated assaults from extremist, narrowminded groups and politicians. His message is one which should be read carefully by the Members of this body and by the general public throughout this Nation. I would like to share the text of this thoughtful and well received address with all of my colleagues in the House of Representatives.

REMARKS OF CONGRESSMAN GEORGE MILLER

It is with a great deal of pleasure and hope that I address you today.

Pleasure—to be among so many friends who have led the fight for economic justice and equity; and

Hope—that from this conference will emerge conscientious leadership for a troubled Nation.

It is particularly appropriate that your organization has chosen to consider "economic difficulties and inequities" in this Nation. Because, when you talk about poverty, when you talk about wage discrimination, when you talk about inequities in retirement benefits, you are talking about women.

And when you talk about women, you are talking about the children who depend on them.

During the next several days, you have the opportunity to reaffirm your commitment to justice, equity, and economic opportunity—not as defined by political rhetoric, but according to the fundamental principles of your faith.

For decades, that faith has helped you to lead the way for social and economic justice not only here in the United States, but around the world. Today, your commitment to that faith, and those ideals, are being tested as never before.

For today, the world anxiously watches as a profusion of small conflicts raises the unthinkable spectre of a possible nuclear Holocaust.

Poverty, unemployment and urban decay, which were on the decline in the 1960s and 1970s, are again reaching dangerous levels.

Inequality, intolerance and prejudice, which have no place in this society, are again appearing with frightening openness.

As a member of the Congress of the United States, I am constantly challenged by those who ask what government can do to address these social and economic crises.

There are those who argue, with considerable popular support, that government can do nothing to remedy these problems because government, itself, is the problem.

I reject that rhetorical and narrow view, and so must you. As I look back over the last fifty years, I see a government that has attempted to achieve the goals of economic equality and humanity in this country. And during those fifty years, we have recorded accomplishments unprecedented elsewhere in the world.

The pain of hunger and malnutrition, compelled the American people to build an agriculture system which feeds much of the world. We created programs to feed pregnant women, the elderly, the poor, the school children—and we largely eliminated hunger in this country.

The tragedies of illiteracy and inadequate skills led us to create education and job training programs that have produced the most expansive educational system, the best educated people, and one of the highest standards of living in the world;

The injustice of oppression and discrimination led the government to enact and enforce laws to assure civil and voting rights, to end prejudice in schools and housing; and we will still enact a constitutional amendment to assure full equality to women in America.

The plight of the aged, the ill, and the disabled who had been warehoused in institutions led the American people to create social security and medicare; we established a rehabilitation program and supplemental security assistance; and we opened the classrooms of the Nation to millions of handicapped children.

But today, somehow, that vision and that sense of history has been lost. Instead of serving as the catalyst for the improvement of society, government has been characterized as the enemy of the people it was created to serve.

Decades of achievement have been blurred and forgotten. In place of that record is the shrill rhetoric of those who appear unaware of, or unmoved by, inequality, injustice and despair that remain in our society. I was both alarmed and saddened to read one of the editors of the largest newspaper in America recently declare that there are no more poor people in the United States, only "a few hermits."

We cannot tolerate this ignorance and lack of concern for the plight of the poor, the unemployed family, and for our children. Because the standard for this Nation was set long ago: Whenever you helped "one of the least important of these brothers of mine you did it for me."

This must be our standard, not one defined by any current or temporary leader.

This must be our standard, not political popularity, not our standing in the Harris polls, nor our chances for reelection.

Matthew's teaching is the standard by which we will be judged. We must reaffirm our commitment to this principle and reject those who have mistakenly taken a mandate for better government and charted a course of political extremism, a course that excludes millions of Americans from sharing in the bounty of this country.

Surely, it is tragic for a government to know of the great needs of its people, but be unable to aid them, as in so many underdeveloped nations.

But it is far more tragic for a government to possess the ability to relieve the suffering of its people, and yet to turn away, or to single them out for ridicule as frauds and loafers. The poor, the unemployed, abused children, food stamp recipients, the disturbed—many of them victims of crises beyond their control.

We would all be making a tragic mistake if we do not recognize that these people are not strangers. They are our neighbors:

They are two-thirds of poor adults in this country who are women;

They are the 60 percent of working women in this country who need child care for their children;

They are the majority of the elderly who are women, millions of whom live in poverty, and nearly half of whom live alone.

It is particularly distressing that the very officials who are calling for the dismantling of so many effective programs confess that the programs work—that they save children, that they save money, that they are effective.

The Education Secretary admitted that title I helps disadvantaged children do better in school. But he endorses cuts of hundreds of millions from that program.

The Deputy Agriculture Secretary testified that WIC saves lives and produces healthier babies. But he wants to slash hundreds of millions from that program.

The official in charge of Head Start and the President call it one of the most effective programs, and yet have endorsed major cuts.

Can anyone believe that they, or the administration they represent, want to cut these programs to make them work better? Or is there a different agenda? Is the goal not to improve the programs, but to destroy them?

I fear that the architects of these policies seek not to build on our traditions but instead to abandon our commitment, and they cloak their negativism in the rhetoric of religion.

By their twisted rhetoric, child abuse laws are anti-family.

Ignoring the fact that social security has lifted tens of millions of our elderly out of poverty, they call the system "the most tragic and criminal plunder ever perpetrated against the American people."

They denounce public education as the worst evil facing America, except perhaps for efforts to control the spread of nuclear weapons.

In their personal interpretation of the scriptures, they find support for their entire political agenda—from support for Taiwan to a balanced budget amendment.

But we cannot allow this narrow misreading of history to deter us from our historic commitment to economic equality and justice.

Maintaining our commitment to economic justice does not mean levelling incomes or denying just rewards to those who have earned them fairly.

Economic justice means that a worker can earn a living without suffering disabling exposures to dangerous products.

Economic justice means assuring women the right to good jobs at comparable salaries.

Economic justice means that profitable corporations will invest those profits in our communities, in healthy workplaces, and in safe products instead of shutting down factories and shipping profits abroad

Our campaign for economic justice and equality is not complete. We need only look to this great unfinished agenda to recognize that a fair, compassionate, and intelligent government has a major role to play in that campaign.

Those who seek to remove government from that role are not only opposed to the participation of government, but are opposed to the achievement of those goals.

Their opposition is disguised in well known code words—"states' rights", "cutting red tape", and "getting government off our back". But we have seen the government-free America:

A "Jim Crow" America where equality did not extend to blacks or women or other minorities;

A Hooverite America where banks and businesses parlayed their freedom from regulation into economic chaos;

A robber baron America where private greed perverted politicians, poisoned workers, and raped the environment;

A gilded age America, where the powerful and the wealthy enjoyed the fruits of other peoples' labor, while the sick, the poor, the elderly and the workers begged for compassion.

We have seen that version of America, and we measure our progress as a Nation by our achievements in overcoming it.

We have seen that vision of America, and we have rejected it, and America has rejected it.

The Federal Government did not take on those responsibilities casually, and it did not achieve those improvements alone. It was done in response to the activism of our citizens who organized the boycotts, the voter registration drives, the demonstrations, the vigils, and the election campaigns which forced government to confront the inequality and injustice in our society.

In the past, you have helped us remove great obstacles and achieve great things for the people of this Nation, and for the people of the world. Let us renew that partnership and recommit ourselves to those goals.

We desperately need your voices and your leadership again. As you cannot achieve all of your goals without the assistance of our government, then most certainly government cannot, and will not, respond without your activism, your persistence, and your commitment.●

PRIVATE, NONCOMMERCIAL USERS OF VIDEO RECORDERS SHOULD NOT PAY ROYALTY TAX

HON. THOMAS S. FOLEY

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. FOLEY. Mr. Speaker, last month, my friends Jack Valenti and Charlie Ferris appeared on the Cable News Network (CNN) to debate the issue of copyright liability for the use of video cassette recorders. This program, which was available to the cable television system's cumulative subscriber base of 11.8 million people throughout the country, provided a unique opportunity for consumers to carefully listen to the arguments on both sides of this issue.

One of the many systems that carries Cable News Network programming is QUBE in Columbus and Cincinnati, Ohio, whose two-way cable system permits, among other things, instantaneous polling of public opinion by allowing viewers to electronically register their views on stated questions. In this way, the QUBE system has provided the opportunity for many viewers to register their opinion on the issue for the first time.

Prior to the beginning of the debate on the video cassette recorder controversy, Cable News Network anchors asked QUBE viewers the question: "Should home tapers have to pay a royalty fee on recorders/blank tapes?" To this, 70 percent of those responding indicated that they opposed such a royalty fee, while 16 percent favored it. A further 7 percent were undecided.

At the conclusion of the debate when the question was rephrased to provide for the option of imposing a royalty fee on manufacturers of video recording equipment, the majority of QUBE viewers continued to oppose the imposition of a royalty, this time responding 81 percent opposed, 16 percent in favor and 3 percent undecided.

As the sponsor of H.R. 5250, a bill to exempt from the provisions of copyright law the private, noncommercial use of video recorders in the home, I was gratified by this overwhelming demonstration of public support. This sampling of popular opinion underscores the fact that the American public feels that such a royalty tax would be unfair, unnecessary and unworkable.●

EL SALVADOR

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mrs. SCHNEIDER. Mr. Speaker, in January of this year I had the unique opportunity to learn from an eyewitness source of a military operation conducted by U.S.-backed Salvadorn troops against a column of close to 1,000 refugees in the Cabanas Province of El Salvador. Phillipe Bourgois, an American graduate student from Stanford University, related to me and later to the House Foreign Affairs Subcommittee on Inter-American Affairs, his chilling account of the massive aerial attack launched upon the civilian population.

In response to these atrocities, I, along with several of my colleagues issued a letter to President Reagan asking for a full-scale investigation into Mr. Bourgois' allegations. In April, I received a response from the State Department noting that the administration "could neither confirm or disprove Mr. Bourgois' account" but explained the "noncombatant casualties are difficult to avoid when these groups (guerrillas) are found and engaged by the Salvadoran military."

Recently, Christopher Dickey wrote an article (Post June 21, 1982) entitled, "Salvadoran Colonel Turning Rebels' Tactics Against Them," which cites the "new kind of warfare" being waged by government troops against guerrillas which is "costly in casualties * * * but relatively cheap in dollars". These "new" counterinsurgency tactics involve the tracking, ambushing, and killing of all guerrillas sealed within a particular radius. American military advisers in El Salvador have been quoted as being very pleased with the utilization of such tactics and are staking military victory on their effectiveness.

I am particularly disturbed by the accomplishments of Lt. Colonel Ochoa of the Salvadoran army, who is noted by Dickey as having "methodically cleaned out Cabanas' terrain within 6 months" and yet is acclaimed by U.S. advisers as being "their kind of commander."

With the recertification of military aid upon us, I, for one have serious difficulty supporting U.S. participation in the Salvadoran conflict when contradictions and incongruent accounts have yet to be resolved.

I ask my colleagues to carefully examine the following articles to determine for themselves the wisdom of maintaining our current policy of providing military aid to El Salvador.

The articles follow:

[From the Washington Post, Feb. 14, 1982]

RUNNING FOR MY LIFE IN EL SALVADOR

(By Philippe Bourgois)

I crossed the Lempa River from Honduras into El Salvador shortly before dawn. I wanted to see firsthand the land and kinds of villages Salvadoran refugees had come from.

Although the area I entered—Cabanas Province—was considered an FMLN [Frente Farabundo Marti para la Liberacion Nacional] stronghold, no shot had been fired there in eight months, and Salvadoran government forces only enter known guerrilla strongholds on major military operations.

In November, the days were sunny, warm and clear. I brought an extra shirt and pair of underwear, planning only to stay 48 hours.

The peasants were a friendly group, curious about my work but always unobtrusive. I had been in Central America several times; in fact, I had written my honors thesis at Harvard on how the Mayan Indians in Belize were reacting to economic development. I am fluent in Spanish. The children followed me everywhere.

Shortly before dawn on the day I was scheduled to leave I was sleeping in a peasant hut when a little boy came running up in tears to say Honduran troops had lined up along the far bank of the river and were shooting into it to discourage anyone from crossing over. He was quickly followed by other peasants, who reported that Salvadoran soldiers were surrounding us.

As soon as the sun rose, as soon as visibility was good, the Salvadoran troops attacked with U.S. Huey helicopter gunships. Everyone ran away from the huts. I was told they would be the first things strafed.

We all ran to a nearby cliffside and huddled as best we could in small cavities the peasants had dug there. Unfortunately, there weren't enough for everybody, so we often shielded the women and children in the cavities with our bodies.

I learned that some 1,200 to 1,500 soldiers, including members of the elite Atlacatl battalion which was trained by U.S. military advisers, had sealed off a 30-square-mile zone. For the next four days, under heavy aerial bombardment and land attack, 1,000 Salvadoran peasants—mostly women, children and elderly people—and I zig-zagged through the area running for our lives. I did as I was told by the peasants, who had experienced a similar offensive in March.

The young males, mostly FMLN fighters, had lined themselves up along the perimeter of the zone to fight the government ground forces. They kept their distance to avoid drawing fire toward us.

We hid by day behind trees and boulders, in underbrush and in small caves. The rainy season had ended three weeks earlier, which meant the foliage was still thick enough to hide in and there were fewer mosquitoes. I wasn't prepared, however, for the cold when the sun went down, and I shivered all night.

When the bombardments and strafings began, we would take cover anywhere we could. I had never been in a combat situation before. I remember lying with my face in the dirt while bullets whistled around me. The terrifying thing is that you can hear them coming. I never really believed before that you could actually hear bullets.

I was also told to crouch beside a tree trunk and, whatever I did, not to move. They'd shoot at anything that moved. I remember inching around a tree trunk to keep something solid between me and the machine-gun fire of the helicopters flown by the Salvadoran air force. We were also bombarded by Fouga-Magister jets and old-fashioned mortars.

A mortar projectile makes a soft sound when it is fired. Then you have to wait 30 seconds before it reaches its target. So you wait—breathless—hoping this time you are not the target. Sometimes the mortar shots came 10 times in a row, and there's a tremendous sense of panic when you hear them getting closer and closer.

I was told that when I heard a mortar fired, I should grit my teeth and keep my

mouth open to prevent my ear drums from rupturing.

I was more afraid of being wounded than dying. We had almost no medical supplies, and I had this fear of being roughly dragged around the country on somebody's back for days without medication.

Unfortunately, I was forced to see the suffering of the wounded in gory detail. On the first four days, I know of about 15 men, women and children who were wounded. Shrapnel was removed, and amputations were performed with absolutely no pain medicine.

The helicopters and jets would attack up to 10 to 12 times per day. During those break periods, we would cook and try to eat as much as possible. We knew if we survived we would have to flee from this place, and we didn't know when we'd be able to eat again. We would need our strength, but I just couldn't choke down the food. I lost 25 pounds during the ordeal.

At night, because the airplanes couldn't circulate, we'd be bombarded even more heavily by the mortars. You'd never have a long enough period of time to sleep. Most of the people were wounded at night because they were tired of crouching behind a boulder. They'd stretch out on the ground to sleep and get hit by shrapnel.

The guerrillas I saw did not have aircraft or the sophisticated U.S. weapons that the government forces had. The weapons I saw them with were primarily World War II vintage, taken from the government paramilitary forces, the loyalist peasant troops, because they are the easiest to ambush. The FMLN fighters had a handful of newer guns stripped from government regular army soldiers.

The rebels barely had enough ammunition, so it was only a matter of time before they were overrun. They would occasionally pass us in groups of two or three and calm us. "Don't panic," they'd say. "Everything's OK."

After four days, we knew we had to get out of the region, but the Honduran troops still barred our escape across the river. We were forced to head deeper into Salvadoran territory.

An FMLN scout told us, "Tonight's the night," so all the noncombatants gathered in a field in the middle of the night. We marched single-file along a path toward the line of fire. We hoped to run through the line undetected.

We were on a rocky path, with a Salvadoran gunpost off to the left. FMLN guerrillas, also on our left and to the rear, drew their fire while we made a break for it. The babies the women were carrying were shrieking at the noise and, as soon as we got within earshot, the Salvadoran forces turned their fire on us.

At that point, it was pandemonium. Grenades were landing around us, machine guns were firing; we were running. I saw two prople die that night. A little boy about 20 yards ahead of me was blown in half when a grenade landed on him. His body lay in the middle of the path, so I had to run over it to escape. An older woman was shot next to me.

About 1,000 of us were running at once as fast as we could, and roughly three-quarters made it before the Salvadoran troops sealed off the path. Two to three hundred of the peasants were forced to go back into the battle zone.

For the next six days, I found myself in a no-man's land, hiding during the day, running and looking for food and better shelter at night. I don't know how far I traveled or where I was.

I shivered awake each morning to another 12 hours of anguish. One night I dreamed I was safely out of El Salvador; I was in New York, telling my friends the story. Then I realized I was still here, worried a helicopter would spot us or that military patrols would hear the hubbub of the camp.

It's amazing that these people didn't have more discipline. As soon as they thought they were safe, they would laugh and joke, even play their radios, when any one of these noises could have gotten all 700 of us killed in a jiffy.

One of the major hazards we always faced was the noise of crying babies and the moans of the wounded making the whole group vulnerable to detection. Rags were stuffed in the mouths of the wounded so their cries would not be heard. The babies cried a lot because they were hungry; their mothers' milk had dried up. We played with the babies to distract them; we put leaves in their mouths so they wouldn't cry.

I held the legs of a little boy while shrapnel was removed from him. We stuffed a rag in his mouth so his screams of pain wouldn't alert the government troops. He died later, but we couldn't even bury him properly. We buried him under a bush.

We had some cotton to clean wounds, but it quickly became bloody and mud-stained. We kept using it anyway. Some of the young people from the villages had some very basic medical training, and they helped care for their wounded.

Some of the sights were just horrible, I helped a woman whose chin had been blown completely away stay alive for 10 days by squeezing orange juice down her throat.

One woman who was killed was the mother of two children, one two months old, the other two years old. The baby the mother had been nursing was severely malnourished by the time I left.

A young woman gave birth on the second night of our flight. She was up and running for her life the next day, along with the rest of us. Those of us who were young and healthy were lucky.

It was the law of survival at its cruelest: The slow runners and the elderly were killed.

We finally decided to return to the area we had fled from, assuming by now that the government offensive was over. The battle zone stood between us and the safety of the Honduran refugee camps, so we had to reenter it to get out.

As we returned, we were hit with the overpowering stench of decaying bodies. There were donkeys, pigs, horses, chickens—all dead. The soldiers had burned down as many of the houses as they could, ripped apart the granaries. It even looked as if they had tried to trample the fields.

I heard many stories about what the soldiers had done to the people, but only saw one victim personally—a naked middle-aged woman whose skin was bubbling off, apparently some kind of acid had been poured on her—placed by the path we returned on. I imagine it was to instill terror in us. I was told by the peasants that it was standard procedure to display mutilated bodies.

Then the Salvadoran troops relocated us. We were bombarded again by the helicopters, the jets and the mortars. It lasted for three more days.

Finally a scout came to tell us that the Honduran troops had left the bank of the river. As soon as it was dark, we sprinted for the river. I was faster than most because I wasn't carrying a baby, wasn't pregnant, wasn't in bare feet, wasn't elderly. I was wearing a new pair of running shoes. Ironically, I had thought when I was trapped, and no one knew I was in El Salvador: That's how my body would be identified—by my shiny new Adidas.

I ran all night through the broken terrain and made it to the river. There were six other people with me. They paused to take their clothes off first; I didn't even stop. I dove right in, shoes and all. It was surprisingly warm. I swam the 60 yards to the Honduran side and crawled up onto the shore, safe at last.

I was told in the Honduran refugee camp at La Virtud that those who were slower, caught by daylight running toward the river, were strafed by the Salvadoran helicopters. I heard the gunfire in the distance.

Subsequently, Salvadoran Defense Minister Gen. Jose Guillermo Garcia claimed a great victory for his troops in the Nov. 11-24 Cabanas offensive, saying 250 guerrillas had been killed. I was there and I saw who was killed. I estimate conservatively that at most 12 FMLN soldiers died in the fighting.

But 50 civilians were dead, another 50 wounded and 100 more missing. If that's one of the most successful military operations the Savadoran forces have engaged in, then there's something fundamentally flawed with the strategy behind this war.

(Philippe Bourgois is a graduate student in social anthropology at Stanford University. A New York native and the son of a United Nations official, he went to El Salvador to explore the feasibility of an anthropological research project about Salvadoran refugees.)

[From the Washington Post, June 21, 1982]

Salvadoran Colonel Turning Rebels' Tactics Against Them

(By Christopher Dickey)

San Antonio, El Salvador.—The young private riding shotgun in the front seat clenched his rifle and his face glistened suddenly with sweat as we passed the crude wooden crosses on the dirt road. Two here. Three there.

"This is where you were ambushed in January," Lt. Col. Sigifredo Ochoa half asked, half told him. "You were the only one in the patrol who wasn't wounded."

The private nodded stiffly, shaken.

"This road is clear now," said the colonel as he told a visitor about how tough it was to take this stretch from Villa Victoria north to the Honduran border. It had been mined. It had been in the middle of territory where eight months ago, only guerrillas traveled freely. "All these crosses," said the colonel, "are where soldiers died."

Ochoa was conducting an impromptu tour of a zone taken from the Farabundo Marti Forces of National Liberation in the province of Cabanas in a campaign that exemplifies the "new" kind of war that Washington and some Salvadoran officers want to see fought here.

It is a kind of fighting that is costly in casualties, at least in its initial stages, but relatively cheap in dollars at a time when Congress seems intent on cutting back massive aid to the government here.

There is not much high-tech about it, no Exocet missiles or F16 fighters. Ochoa says he needs mules more than jeeps, portable radios rather than radar.

It is a concept of war that turns the guerrillas' tactics against them. It pits small squads of soldiers against the small squads

of rebels, tracking them, hunting them, ambushing and killing them; following up with political and civic action; swimming in the same sea of peasants that guerrilla theorists from Mao Tse-tung to Che Guevara have tried to make their own. In short, it uses whatever it takes to steal the initiative from the insurgents.

But it also seems a never-ending kind of war that requires not just battles but, at least in the short run, virtual occupation of the territory that is retaken.

"Where there had been guerrillas, now there are troops of ours," Ochoa said proudly.

And while the narrow, tortuous road to San Antonio is "secure," the nervous private in the front seat of the jeep and even Ochoa cocking his Israeli Galil automatic rifle indicate the road is not that secure.

How clear it remains depends on the patrols we see on its edges and those we don't, who stay hidden on mountain trails now half-lost amid the thick new rainy-season undergrowth.

An intense 40-year-old professional soldier with sharp mestizo features and yellow-brown eyes, Ochoa is pointed to by U.S. advisers as their kind of commander.

In an Army characterized by what one Western military observer calls "warlords" who have tremendous autonomy in the way they take on the guerrillas in their 14 departments, or provinces, Ochoa is one of the few who wholeheartedly has adopted and adapted the classic counterinsurgency tactics on which Washington is pinning its hopes for affordable military victories in El Salvador.

Some of the warlords continue trying to fight the guerrillas the way they fought the regular Army of Honduras in 1969. Some have favored the use of thinly veiled official terror that has made this country notorious for human rights abuses. Some have seen their role principally, and in some cases it is said profitably, as protecting large landowners in the richer provinces to the south. None of those made much progress against the guerrillas.

Thus, even though U.S. military aid increased from nothing in 1979 to at least $80 million this year, in most of the country the guerrillas continue to dictate the pace of the war. At the moment they have drawn new U.S.-trained battalions intended to operate as hunt-and-kill squads into a large-unit battle for the rugged hills of northern Morazan province that has raged unabated for two weeks.

Ochoa, meanwhile, methodically cleaned out Cabanas' similar mountainous terrain within six months after he took it over Aug. 17.

Ochoa and his troops, while admired by the Americans, are not the product of the U.S. advisers or the massive training programs in the United States that turned out three new battalions in the past 18 months.

Ochoa studied political warfare in Taiwan and took courses in counterinsurgency from Israeli trainers here in 1978, during the time when U.S. aid was cut off because of human rights problems.

He likes to give chalk talks on his techniques in a special map room at his headquarters in the departmental capital of Sesuntepeque. Vast topographic charts, an aerial photo and a kaleidoscopic array of arrows and diagrams lay out operations and occupations in his corner of the war.

A major element in his formula for success, one generally not mentioned by American advocates of the new tactics, is the most notorious adjunct of the Army, the collection of local paramilitary informers and militias called the Civil Defense.

These untrained but armed peasant groups date back to the days when a 1932 uprising was crushed at a cost of 30,000 lives. As cantonal patrols, as "military escorts," as the now-disbanded groups called ORDEN and currently as Civil Defense units they keep an eye on potential or imagined troublemakers and in many areas they simply eliminate them.

Gesturing to map polka-dotted with scores of green circles showing "armed paramilitary groups," Ochoa says, "sometimes they commit abuses, but they are punished." He said he has jailed at least 25 for crimes ranging from rustling to robbery to murder. Then he went on to his main point.

"All these send us information." he said, such as where the guerrillas camp, where they move, how, what is their modus operandi, do they have foreign advisers and other intelligence necessary to exterminate insurgents.

As a result of the information he received from the Civil Defense, Ochoa staged three major operations in August and November.

The November operations, especially the one here around San Antonio became the focus of international furor when British-Nicaraguan celebrity Bianca Jagger and U.S. congressional aides accused Salvadoran troops of crossing into Honduras and trying to drag refugees from a camp at La Virtud.

Ochoa dismissed this as propaganda, and he said that certainly none of his troops did such a thing. He was not responsible, he said, for what troops from other commands might have done.

Looking out over the track on the collection of houses in the village, Ochoa points proudly to every newly sown hillside, where the corn already is sprouting beneath the heavy, hot rains that come in the afternoons.

Refugees returning to their homes mingle comfortably with soldiers living much the way the guerrillas live in other strongholds or, in the days before Ochoa, in these.

A MOST SIGNIFICANT 24th OBSERVANCE OF CAPTIVE NATIONS WEEK

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 27, 1982

● Mr. DERWINSKI. Mr. Speaker, when President Reagan in a White House signing ceremony proclaimed the 24th observance of Captive Nations Week, he emphatically stated, "The nature of this struggle is ultimately one that will be decided, not by military might, but by spiritual resolve and confidence in the future of freedom, especially in the face of the decaying and crumbling dreams of Marxism-Leninism." This has been the thrust of the Captive Nations Week tradition since 1959, and even more.

The "even more" note above is best expressed by the National Captive Nations Committee which has guided the national observance since 1959, when Congress passed the Captive Nations Week resolution and President Eisenhower signed it as Public Law 86-90. For this, and why the 24th observance was most significant, I bring to the attention of my colleagues the following: (1) The release issued by the NCNC, "President Lauded by National Captive Nations Committee;" (2) the interview with Dr. Lev E. Dobriansky, chairman of the NCNC, published in New York's the News World of July 16th, "Captive Nations Remembered,"; (3) the message sent by the Committee's chairman to all Members of Congress; (4) the report in the News World of the Rose Garden ceremony (5) the release of the Ukrainian Congress Committee of America on "Captive Nations Week—1982; and (6) the program of the congressional luncheon commemorating the Week and also highlighting the 40th anniversary of the Ukrainian Insurgent Army, which fought both Nazi German imperialism and that of the Soviet Russians:

PRESIDENT LAUDED BY NATIONAL CAPTIVE NATIONS COMMITTEE

In a statement on the national observance of Captive Nations Week, the National Captive Nations Committee called the ceremony yesterday at the White House "an historic first". "No President since the inception of the Week in July, 1959," it observed, "has understood the strategic value of the captive nations concept as does President Reagan." The President proclaimed the 1982 Captive Nations Week in an impressive signing ceremony attended by Vice President Bush, Congressional leaders, several of the original sponsors of the Captive Nations Week resolution, and some 200 citizens who for over two decades have led the annual observance in all sections of the nation.

Dr. Lev E. Dobriansky, a professor of economics at Georgetown University and chairman of the Washington-based NCNC, pointed out that July 18-24 is the 24th observance of Captive Nations Week, based on the resolution Congress passed in 1959 and signed by President Eisenhower into Public Law 86-90. In that period the Russian leader Khrushchev lambasted the law for years. In the committee's statement the chairman emphasizes, "Few people realize that through the late Suslov, the so-called ideologist of the party, and now Arbatov, the current Kremlin mouthpiece, this Russian assault against the resolution has continued to present date. Indeed, as the documented record well shows, no single idea and measure has drawn since World War II more consistent invective and opposition from the Soviet Russian imperialists than this resolution."

The professor cites the following as reasons explaining this deep fear and disturbance on the part of Moscow and its communist regime offshoots. One, the resolution accurately defines the USSR as an "imperium in imperio", made up of the majority of captive non-Russian nations conquered by Soviet Russian forces in the early 20's. Two, the resolution and its Captive Nations List (CNL) causes free men to at least annually remember the captive nations in Central Europe, within the USSR, in Asia and Cuba—what the totalitarians would have us best forget. Also, the resolution underscores the patent illegitimacy of every one of the imposed, so-called communist regimes in

these areas. And, in addition, accurately understood, the captive nations concept can be the very core of an integrated, global strategy in our national policy by virtue of its multiple issue dimensions. According to Dr. Dobriansky, "the captive nations concept, if properly implemented, would both reinforce strongly all deterrent forces against a war and spearhead the forces for freedom in the Soviet Russian empire and the entire totalitarian world."

Both here and abroad, the 24th observance of the Week will be held by civic organizations. Governors and Mayors of all large cities have also proclaimed the Week. An advisory member of NCNC, Representative General Solomon of New York, will speak in Taipei, the Republic of China. A congressional luncheon will be held on Wednesday, July 21 in the Cannon Building, with General John K. Singlaub as the speaker. The luncheon will also highlight the 40th Anniversary of the Ukrainian Insurgent Army (UPA), which in World War II fought both the Nazi German and Soviet Russian imperialism. The UPA continued its fight against the Russians until 1950. Members of Congress have been invited by the NCNC chairman to speak out for all the captive nations. Each has received a pamphlet written by the chairman on Global Perceptions and Misperceptions.

[From the News World, July 16, 1982]

CAPTIVE NATIONS REMEMBERED

(Since July, 1959, Americans have each year commemorated Captive Nations Week. Our Congress passed a resolution affording this, and President Eisenhower signed it into Public Law 86-90.

(Held the third week of July, the event this year will mark the 24th observance in the week of July 18-24. In other countries, such as Taiwan, South Korea, and Great Britain, this annual observance has also been faithfully kept alive.

(Dr. Lev Dobriansky, Professor of Soviet studies at Georgetown University, Washington, D.C., and chairman of the Captive Nations Committee, is recognized as the initial driving force behind the efforts to officially recognize the plight of those countries held captive by communist domination.

(In anticipation of next week's observance, Dr. Dobriansky gave the following interview.)

Are you pleased with President Reagan's response so far to the efforts of the Captive Nations committee?

Every year on behalf of the committee I write a letter to the White House, well before Captive Nations Week, asking for a proclamation. In this case with the letter I did send to the President came a very good response. I received word from the White House that definitely there would be a special ceremony (the President's signing of the Captive Nations Proclamation) on Monday morning (July 19). Having been with this committee from the beginning, I can tell you, this is historic. With this action, he is putting into deed what we've been seeking.

In the past 24 years, what have been some of the most significant accomplishments of your organization?

One is that you have a continuous reaction on the part of the people in the Kremlin with regard to this resolution. I would go so far as to say, and I have said this publicly, that there is no single idea or measure since World War II that has received such vehement reaction on the part of the Kremlin.

Other highlights, well, it would be in the way of rear stage tactics we have engaged in such as in the case of Mr. George Kennan. When President Kennedy asked Kennan to become our ambassador to Yugoslavia, he said fine I'll do it on one condition, that you do not issue a proclamation on Captive Nations week. Kennedy said fine and Kennan went off to Belgrade.

Fortunately we had one great ally and that was Mayor Daley of Chicago. Of course you know his power in the Democratic party at the time. He got after the White House and Kennedy issued the proclamation. Mr. Kennan had to take a two week vacation as ambassador in Belgrade because he couldn't face the people there.

What are your views on the situation in Poland?

Well, with regard to Poland, there's no doubt, that Solidarity and that whole movement has been unprecedented among the captive nations. Here was an attempt to bring about an industrial democracy on the part of the workers toward a sounder economy within Poland.

In the propaganda of the Soviet Union, the communist party is supposed to reflect the interests of the workers. Now here you had the emergence of the workers attempting to unionize and saying in effect, "look you haven't reflected our interests at all and we now want to assume greater economic power for ourselves as workers and for the good of the state, our nation and even let's say, for the good of Eastern Europe.

What has been the overall effect of martial law on the human rights movement in Poland?

Well, no question, it has been harmful. I have no doubt the whole attempt there (martial law) has been to dissolve Solidarity and prevent any resurgence. I've contended that when you get a crisis of this sort, you get the perennial-question what can we (U.S. foreign policy) do? And my answer is why didn't you anticipate this, prepare for this. We go through this time and time again of inadequate preparation and anticipation for events of this sorts.

Now one may say, yes but sometimes these things come up unpredictably and you could make out a case for that. You could make a case possibly in the Hungarian Revolution, that was spontaneous, but here we had from August 1980 when Solidarity came to the front and began progressing. There was adequate room here for anticipation and for programming. My feeling has been that we do as we always do, we wait until the situation arises and then we ask what can we do.

I read recently the Census Bureau released a report saying that the Russians are more vulnerable to economic sanctions than is generally believed. What is your feeling towards detente, especially western European economic interaction with the Soviet Union?

In 1965, I was invited to appear before the Senate Foreign Relations Committee by the chairman Senator Fulbright. The committee met ever so often to build up arguments for liberalization of trade with Eastern Europe. They were particularly anxious to liberalize trade with the Soviet Union. My testimony brought up what I call 'pol-trade'.

It's not a single minded idea, it's an 'umbrella' idea. You can get trade, you can get athletics into it, or religion, politics, you name it. The pol-trade policy that I advocated was this: Yes, we should trade, but not solely on the basis of commercial values, but on values that should be considered in any liberalization of trade in a way of political, cultural concessions. So for example, we won't give you the best petro-chemical plant, or number of them, we'll give you much better than what you have. Are you willing, in addition to paying for these plants, also bring down the Berlin Wall?

Linkage?

Well, that's what Kissinger started using when he got in later. They linked it with immigration, but there are many other things you could link it to such as amnesty for dissidents or religious things. The Ukrainian Catholic and Orthodox churches were not persecuted—they were 'genocided'. Stalin eliminated them.

Alright this is another. You want trade? (to the Soviets) Well, let's have a resurrection of these churches.

What are the specific goals that you have?

Specific goals really bear on what I call the sub issues that are under the umbrella issue with regard to trade.

If we were to suspend in conjunction with Canada, Argentina, Australia, France, exports of wheat and other agricultural commodities to the Soviet Union it would have the heaviest impact on Soviet Union economically, because their agricultural output has been miserable.

A second is to have a restructuring (both short and long term) of Radio Liberty the need I think to reorganize the board for international broadcasting and give that board greater power over the operational to make it more effective.

NATIONAL CAPTIVE NATIONS COMMITTEE, INC.,
WASHINGTON, D.C.

[By Lev E. Dobriansky, Chairman,
Georgetown University]

July 18-24 marks the 24th Observance of Captive Nations Week. Most fittingly, following our own Independence Day, Americans across the country will speak out for the freedom and independence of over 30 captive nations in Central Europe, within the Soviet Union, Asia and in Cuba. In accordance with Public Law 86-90 (the Captive Nations Week Resolution which in their wisdom Congress passed and President Eisenhower signed into law in July, 1959) the President will significantly proclaim the Week, supported by the proclamations of Governors and Mayors through the Nation.

In the current light of Afghanistan and Poland, I am certain that you, too, will speak out in the Congress for the freedom of over 1 billion captives in the totalitarian world. What is occurring in these two countries cannot rationally be isolated from the experiences of all other captive nations. Your expressions during this Week will convey meaning, affinity and hope not only to the Afghan patriot and the Polish solidarist but also to the dissidents and human rights advocates in Czechoslovakia, the Baltic states, Ukraine, Georgia and elsewhere in the Soviet Russian empire. They will have meaning, too, for the captives in Mainland China, North Korea, Vietnam, Cambodia and Cuba.

One of the values of PL 86-90 is that its basic concept enables us to view and interpret events in the totalitarian world genetically and integratively; not to see Afghanistan or Poland in a vacuum. Much to the constant chagrin of Moscow and its totalitarian offshoots, the concept and its Captive Nations List (NCL) show the evolution of the captive nations since 1920 and also contribute to a much-needed global strategy. A brochure titled Global Perceptions and Mis-

perceptions will be delivered to your office to elaborate on this in part, citing a number of misunderstandings of the concept. If this hasn't been brought to your direct attention, please let us know and another copy will be supplied.

On Wednesday, July 21, by special order in the House, Representatives Derwinski and Samuel S. Stratton will lead the observance, highlighting also the 40th Anniversary to the Ukrainian Insurgent Army, which fought both the Nazi German and Soviet Russian imperialists for Ukraine's independence.

With deep gratitude for your freedom participation and all best wishes.

[From the News World, July 20, 1982]

CAPTIVE NATIONS ARE NOT FORGOTTEN

[By Jeremiah O'Leary]

WASHINGTON.—President Reagan yesterday proclaimed Captive Nations Week and used the occasion for one of the strongest verbal attacks he has yet made against Soviet tyranny and the expansion totalitarianism.

"We in the West must do more than merely decry attacks on human freedom. The nature of this struggle is ultimately one that will be decided, not by military might, but by spiritual resolve and confidence in the future of freedom, especially in the face of the decaying and crumbling dreams of Marxism-Leninism," Reagan told 200 guests at a White House Rose Garden ceremony.

Under a summer sun, the president signed a proclamation designating the special week and charged that the "ideological obsession" of the Soviet Union "remains the single greatest peril to peace among nations."

The president said he wanted to make it clear that the United States intended to move forward with a program to modernize the international radio system including the Voice of America, Radio Free Europe, Radio Liberty and Radio Marti.

"This plan of modernization for a relatively modest expenditure over a number of years will make it easier for millions of people living under communist rule to hear the truth about the struggle for the world going on today between the forces of totalitarianism and freedom," Reagan said.

The president said the international radio programs have old equipment and strained resources after years of neglect and that little has been done to counter Soviet jamming, which has intensified in recent years. He said the Soviets spend three to four times more to jam foreign broadcasts than the U.S. spends to transmit.

"I especially want to urge Congress today to approve the funds so desperately needed to bring to the people of Cuba through Radio Marti the truth about the struggle between freedom and totalitarianism," Reagan declared.

"Throughout the Baltic states, Eastern Europe, Asia, Africa and Latin America, nation after nation has fallen prey to an ideology that seeks to stifle all that is good about the human spirit, even as it attempts to justify communist rule. The ominous growth of this danger and the human suffering it has caused is clearly the most important news event of our generation and the tragedy of our time."

Reagan said the extension of totalitarianism has been accomplished by military force or subversion, by a tiny revolutionary cadre whose only real ideal is the will to power.

"It has not meant, as promised, a new classless society or the dictatorship of the proletariat," the president said. "It has instead meant forced labor and mass imprisonment, famine and massacre, the police state and the knock on the door in the night. It also has meant the growth of the largest military empire in the history of the world, an empire whose territorial ambition has sparked a wasteful arms race and whose ideological obsession remains the single greatest peril to peace among the nations."

In the proclamation he signed, as was mandated by Congress 23 years ago, Reagan said the imposition of martial law in Poland last December was a "bitter reminder that the quest for freedom and self-determination can only be restrained by force and the moral bankruptcy of a system which has been unable to earn the support of its population after more than 35 years."

To ringing applause from the representatives of countries that have fallen to totalitarian control, the president said a message was being sent today by the observants to the people of Poland and all those who are denied freedom that their cause is not lost.

As the president began to leave the assemblage a woman in the audience shouted, "God Bless America, would you sing it with us?" Reagan said "You will have to start." Immediately the assembly and the officials gathered with Reagan on the steps outside the oval office began to sing. Reagan joined them word for word.

Among those attending the signing ceremony were Chairman Clement Zablocki of the House Foreign Affairs Committee; Sen. Strom Thurmond, R-S.C.; several other past and present members of Congress; Vice President George Bush, and Dr. Lev E. Dobriansky, chairman of the National Captive Nations Committee.

CAPTIVE NATIONS WEEK—1982

[Ukrainian Congress Committee of America]

In the third week of July, 1982, Americans in all walks of life and diverse ethnic and religious backgrounds, will mark the 24th observance of CAPTIVE NATIONS WEEK, established on July 17, 1959 by the passage of the CAPTIVE NATIONS WEEK RESOLUTION by a unanimous vote of the U.S. Congress. It became Public Law 86-90 upon being signed by President Eisenhower.

Twenty-three years have elapsed since the passage of the Resolution, and the world is in worse turmoil than it was when the measure was adopted. Not only were none of the original captive nations liberated, but a number of others have been added to the list: Cuba, the whole of Vietnam, Cambodia, Laos, South Yemen, Afghanistan, Angola, and uncertainty looms for Poland, Nicaragua and El Salvador. All of them are under the direct or indirect control of imperialist Moscow.

MOSCOW—NERVE CENTER OF ENSLAVEMENT

The Resolution enumerated 22 non-Russian nations, with their distinct history, culture and national traditions that had been conquered by force by Communist Russia, and were kept under direct control in the USSR, or in the chain of satellite countries on the periphery of the USSR.

Evincing a far-sighted view of events to come, the Resolution said that "these submerged nations look to the United States, as the citadel of human freedom, for leadership in bringing about their liberation and independence and in restoring to them the enjoyment of their Christian, Jewish, Moslem, Buddhist, or other religious freedoms, and their individual liberties. . ."

The resolution listed the following captive nations:

". . . Whereas the imperialistic policies of Communist Russia have led through direct and indirect aggression, to the subjugation of the national independence of Poland, Hungary, Lithuania, Ukraine, Czechoslovakia, Latvia, Estonia, White Ruthenia, Romania, East Germany, Bulgaria, mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Tibet, Cossackia, Turkestan, North Vietnam, and others."

CAPTIVE NATIONS—VULNERABLE "ACHILLES" HEEL OF USSR

The observances of CAPTIVE NATIONS WEEK have always been a cause of concern to the Kremlin. Why?

Moscow knows well that the weakness of its far-flung totalitarian empire is the presence of over 50 percent non-Russian inhabitants who detest the tyrannical rule, heinous Russification and genocide applied to them over the years. Therefore, Moscow wants to hide from the rest of the world the constant discontent and often open rebellions of the non-Russian peoples inside the Soviet Russian prison house of nations!

Fellow Americans: Support the cause of the captive nations behind the Iron curtain, who are our true and reliable allies against Moscow and against everything it stands for!

On this 24th observance of CAPTIVE NATIONS WEEK, we as free Americans must show them—and their tormentors and oppressors—that the American people sympathize with their plight and will stand by them with whatever help we can muster until the day of their freedom and independence is achieved!

CAPTIVE NATIONS WEEK—24TH OBSERVANCE, JULY 18-24, 1982, 40TH ANNIVERSARY OF THE UKRAINIAN INSURGENT ARMY (UPA), WASHINGTON, D.C.

PROGRAM

Welcome to Dr. Lev E. Dobriansky, Georgetown University, Chmn., National Captive Nations Committee.

Pledge of Allegiance—Katherine C. Chumachenko, Director, Ukrainian National Information Service (UNIS), Ukrainian Congress Committee of America.

Invocation—Rev. Anatole Bulavka, Pastor, St. Michael's Ukrainian Orthodox Church, Baltimore.

Master of Ceremonies—The Honorable Edward J. Derwinski.

Luncheon—Introduction of Guest Speaker: The Honorable Samuel S. Stratton.

Guest Speaker—Maj. General John K. Singlaub, Chmn., United States Council for World Freedom.

Benediction—Rev. Joseph Denischuk, C.S.S.R., Asst. Pastor, Ukrainian Catholic Church of the Holy Family, Washington, D.C.●

SENATE—*Wednesday, July 28, 1982*

(Legislative day of Monday, July 12, 1982)

The Senate met at 10 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, LL.D., D.D., offered the following prayer:

"Not alone for mighty empire stretching far o'er land and sea,
Not alone for bounteous harvests, lift we up our hearts to Thee.
Standing in the living present, memory and hope between,
Lord we would with deep thanksgiving, Praise Thee most for things unseen.
"Not for battleship and fortress, not for conquests of the sword,
But for conquests of the spirit give we thanks to Thee, O Lord.
For the priceless gift of freedom, for the home, the church, the school,
For the open door to manhood in a land the people rule.
"For the armies of the faithful, souls that passed and left no name;
For the glory that illumines patriot lives of deathless fame;
For our prophets and apostles, loyal to the living word,
For all heroes of the Spirit, give we thanks to Thee, O Lord.
"God of justice, save the people from the clash of race and creed, from the strife of class and faction,
Make our nation free indeed.
Keep her faith in simple manhood strong as when her life began,
Till it find its full fruition in the brotherhood of man."—Amen.

—Rev. WILLIAM P. MERRILL, 1911.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

THE JOURNAL

Mr. BAKER. Mr. President, I ask unanimous consent that the Journal of the proceedings of the Senate be approved to date.

The PRESIDENT pro tempore. Without objection, it is so ordered.

SENATE SCHEDULE

Mr. BAKER. Mr. President, today after the execution of the time allocated to the two leaders under the standing order, and a special order in favor of the Senator from Georgia (Mr. NUNN), there will be a brief period for the transaction of routine morning business of not to exceed 30 minutes in length in which Senators may speak for not more than 3 minutes each.

After the period for morning business is closed, the Senate will resume consideration of Senate Joint Resolution 58, at which time the Moynihan amendment No. 1927 will be the pending question.

Under the order previously entered, there will be a 1-hour time limitation on the Moynihan amendment.

Senators' attention is invited to the unanimous-consent agreement that was entered into yesterday in respect to the time limitation on other amendments and the time certain of final passage.

Mr. President, it is not anticipated that I will ask the Senate to remain in beyond the usual operating hours, which would mean recess or adjournment at approximately 6 or 6:30 p.m., unless there is a need for additional time. If Senators feel that under the terms of the unanimous-consent agreement they will be pressed for time, if they will make that known to me I will be glad to adjust those hours so that we can accommodate any reasonable requirement by Senators on both sides of the aisle.

Mr. President, I do not anticipate a Saturday session this week under the circumstances. I would expect more or less normal operating hours, with the single exception that I just noted, that is to say, if there is a need to accommodate the requirement of Senators for additional time.

SECOND RECONCILIATION PACKAGE TO BE TAKEN UP ON WEDNESDAY, AUGUST 4, 1982

Mr. President, on next Wednesday, a week from today, after we have final passage or final disposition of the balanced budget resolution, it will be my intention to ask the Senate then to turn to the consideration of the second reconciliation package. On Wednesday, Thursday, and Friday we should have ample time to finish the debate on that package, which Members will recall is limited to 20 hours under the Budget Act.

Mr. President, I have no further need for my time under the standing order, and I am prepared to yield to any Senator seeking time. Does the Senator from Wisconsin seek time?

Mr. PROXMIRE. Mr. President, will the Senator yield me 1 minute?

Mr. BAKER. Yes, I yield to the Senator from Wisconsin.

The PRESIDENT pro tempore. The Senator from Wisconsin.

THE PRESIDENT SHOULD CONSIDER A COMPREHENSIVE TEST BAN TREATY

Mr. PROXMIRE. Mr. President, on July 23, the New York Times carried an editorial that deplored the President's decision to avoid negotiations on a comprehensive test ban treaty. Few actions this Government and the Soviet Union could take would do more to slow down the arms race than the ratification of a comprehensive test ban treaty. It would greatly slow the progress in both countries to perfect the killing power of newer and more deadly and more utterly devastating nuclear weapons. Above all, it would slow down and provide a much more secure basis for stopping the proliferation of the nuclear arms race among a dozen or more other nations.

There is every reason to believe that such a test ban could be practical, workable, and greatly advance mankind's prospect of surviving for the next 30 or 40 years.

I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

NUCLEAR SAND IN THE EYE

The Reagan team's "decision" not to consider a comprehensive nuclear test-ban until two older treaties are perfected is so much sand in the eyes. The Administration has avoided test-ban negotiations for 18 months; it clearly has no interest in the total treaty. That is too bad for Soviet-American relations and for the cause of non-proliferation. Without great military risk to either power, a total ban would do much to help discourage other nations from pursuing nuclear weapons.

The Joint Chiefs of Staff invariably insist that testing is essential for weapons development and for confidence in the reliability of old warheads. Their opposition is reinforced by America's weapons laboratories, which fear for the future of their work if denied the right to test. But there are good answers to these concerns that the Administration does not even bother to debate. It sides with the Chiefs and uses old scare stories about inadequate verification to confuse Congress and the public.

Indeed, officials are raising objections to one set of nuclear test agreements to discredit a wholly different kind. The verification problem, if there is one, concerns a protocol to a 1974 treaty that limits underground explosions to 150 kilotons. It was concluded by President Nixon and augmented by President Ford to cover tests of so-called peaceful nuclear devices. Various controversies have held up ratification of these accords, but both superpowers say they are abiding by their terms.

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The old threshold treaties, however, have mostly symbolic value. A 150-kiloton limit allows virtually all the testing that anyone would want. A comprehensive test-ban is an entirely different matter. It would effectively stop the race to improve the quality of nuclear warheads. Under principles already negotiated by the Carter Administration, it would supersede the threshold treaties and also the 1963 treaty barring tests in the atmosphere.

It is much easier to detect violations of a total ban than to discriminate among explosions with a force of about 150 kilotons. So there would be no insuperable obstacle to monitoring compliance. The Soviet Union has gone further than ever before in agreeing to American-controlled monitoring boxes where Washington wants them and to the idea of onsite inspection on challenge. The details of these concessions is what the Reagan team should be negotiating about.

A comprehensive ban would hamper improvements in warhead design, an American emphasis, and explosive power, a Soviet emphasis. It would also gradually erode confidence in the reliability of warheads on the shelf. But that is important only for a preemptive first-strike. American strategists who feel vulnerable to such a strike would actually gain security from a total ban.

Against all the fears of a comprehensive test-ban must be weighed the enormous boost it would give to the diplomacy of halting the proliferation of nuclear weapons states—a greater danger than even the Soviet-American arms race.

Even without a full ban, the opprobrium attached to testing has been a deterrent among third-world nations. A total ban would greatly reinforce the efforts to bar a second Indian explosion or the Pakistani test that might provoke it. A treaty would reduce the likelihood of testing by Middle East nations, Argentina, Brazil or South Africa.

Negotiations in the Carter years demonstrated a real Soviet interest. It was the United States that backed away when a politically weakened President became afraid to challenge the Joint Chiefs. A test-ban is one kind of "freeze" that is manageable and advantageous. If the Reagan team opposes it, let it be honest about its reasons and risk a fair debate.

EAST TIMOR: THE DEATH TOLL GOES ON

Mr. PROXMIRE. Mr. President, as he has so often in the past, Senator TSONGAS recently alerted us to the latest information on the plight of East Timor. According to the report he cited by Rod Nordland in the Philadelphia Inquirer, the suffering of the East Tomorese continues unabated.

Six years ago, East Timor was invaded and occupied by Indonesia. Mr. Nordland tells us that during these past years, hundreds of thousands of Timorese may have perished through violence, famine, and disease. Mr. Nordland describes widespread malnutrition and hunger, inadequate health care, and ongoing warfare that disrupts efforts to feed the starving populace. Mr. Nordland also writes of political prisoners numbering in the thousands and of the relocation of hundreds of thousands of Timorese.

The Indonesian rule has been characterized by fear and accusations of torture, murder, rape, and widespread abuse of the Timorese. Those civilians who protest disappear, are imprisoned, or interrogated, and are forced to recant. Relatives of guerrillas are held hostage on Atauro Island in a so-called rehabilitation center, purportedly for there own good. There, entire families, including children, are ravaged by disease and hunger before Red Cross relief is allowed. These findings are supported by clergymen, civilian officials, and aid organizations, but the Indonesians coldly deny them all.

The story of the Timorese, as tragic as it is, is lamentably familiar. Once again, we have a national, ethnical, racial, or religious group singled out for deadly maltreatment. Those in power often show little pity for peoples who are "different" from the ruling group. This is why insular cultural groups are particularly vulnerable to oppression. The tale of East Timor is a flagrant case of one group crushing another with complete disregard for the survival of the subjugated group. The Indonesians seem quite indifferent to the horrible death toll among the Timorese. A prominent Timorese told Mr. Nordland:

> I think the Indonesians are happy to see famine. The Timorese people will always be a problem so, they figure, just eliminate the problem.

The Indonesian Government's insensitivity to the potential extinction of the Timorese is the first prerequisite for genocide. We cannot permit genocidal perpetrators to escape from the prosecution that their acts warrant. The Genocide Convention is designed to deter through the threat of future punishment, just as any law is intended to do, yet this simple device has generated groundless opposition here in the Senate.

Mr. President, although the inhabitants of East Timor are not allowed to speak to foreigners, some braved government terror to urge Mr. Nordland, "Please tell the world so they can help the Timorese people." I wish I could tell these tormented people that their message is heard, that their cries and the pleas of other persecuted peoples reach sympathetic ears. But any such assurances would be somewhat hollow as long as America has refused to back the Genocide Convention. I hope someday soon I can tell the Timorese and others who share their misery that they are not forgotten, that America has at long last ratified the Genocide Convention.

I thank the distinguished majority leader and I yield the floor.

RESERVATION OF MINORITY LEADER'S TIME

Mr. BAKER. Mr. President, I ask unanimous consent that the time allocated to the minority leader under the standing order may be reserved for his use at any time during this day.

The PRESIDING OFFICER (Mr. MATTINGLY). Without objection, it is so ordered.

Mr. BAKER. Mr. President, I yield back my time under the standing order.

RECOGNITION OF SENATOR NUNN

The PRESIDING OFFICER. Under the previous order, the Senator from Georgia (Mr. NUNN) is recognized for not to exceed 15 minutes.

THE CRIME CONTROL ACT OF 1982: TITLE IV—HABEAS CORPUS REFORM

Mr. NUNN. Mr. President, for the past several weeks, Senator CHILES and I have reiterated again and again to our colleagues the urgent need for reform of the laws currently governing habeas corpus proceedings. In this time of violent crime and congested court dockets, our criminal justice system can no longer afford the luxury of litigating and needlessly relitigating issues fairly decided many years before. I suggest that much of the delay and uncertainty in our court system can be traced to the abuse of habeas corpus proceedings by convicted criminals. The 3-year statute of limitations for those proceedings, which Senator CHILES and I have included in S. 2543, will go a long way in restoring efficiency and certainty to our judicial system

Consider that provision in light of the case of Joe Ed Hudson versus the State of Alabama. Hudson was convicted of two counts of armed robbery in the circuit court of Chilton County, Ala., in 1948. He was sentenced to terms of imprisonment of 10 years on the first count and 15 years on the second.

Hudson made no attack on his conviction until some 17 years later when, in 1965, he filed a petition for a writ of error coram nobis in Alabama State court. After a full hearing, the State court denied any relief to Hudson.

Nearly 10 years after disposition of that petition, Hudson turned to the Federal system for relief, filing a petition for a writ of habeas corpus in the Federal district court. Following a full evidentiary hearing on issues from a trial taking place over 20 years earlier, the Federal district judge denied Hudson's petition. The court found insufficient evidence to support Hudson's claim and further, that Hudson was barred by laches since he had not been "reasonably diligent" in asserting his rights.

Hudson, in turn, appealed that ruling to the court of appeals for the

fifth circuit. In 1974, more than 26 years after his original conviction, the court of appeals reversed the district court's ruling and granted Hudson's petition for a writ of habeas corpus. In doing so, the court held that delay, even to the extent of 26 years, was not a bar to habeas corpus relief in Federal courts.

It is interesting to note the difficulties which faced the State in contesting Hudson's petition, some 26 years after the actual criminal trial. When the habeas petition was filed, there was no longer any formal record of the two 1948 convictions available for presentation to the court. It is not difficult to imagine the obvious problems with continued availability of witnesses and difficulties in recollection of such long ago events. Despite those problems, the appellate court made no attempt to judge the reasonableness of Hudson's great delay in bringing the petition.

Finally, there is still one more cause for concern in this case. Hudson waited until 1974 to seek habeas corpus relief for his 1948 convictions, despite the fact that he completed serving the sentence imposed in 1948 some 4 years earlier, in 1970. At the time of his petition for habeas relief, he was serving a prison sentence imposed in 1951 as a result of his conviction on a separate charge of armed robbery. Despite that fact and despite his delay of over 20 years in filing, the Federal courts were required to review and review again issues which should have been, in all fairness, raised and decided many years earlier.

I suggest that it is exactly this type of delayed litigation which daily hampers our already overburdened judicial system. If we are to regain the public's confidence in the criminal justice system, we must begin by fair and efficient revision of habeas corpus proceedings.

This Congress can and should act now to bring about that fair and efficient revision by prompt and favorable consideration of S. 2543.

Mr. President, I yield back the remainder of my time.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business, not to exceed 30 minutes, with statements limited therein to 3 minutes each.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EL SALVADOR CERTIFICATION REPORT

Mr. PERCY. Mr. President, the Senate Foreign Relations Committee received a report from the Department of State yesterday which makes certifications with regard to El Salvador's human rights situation, government control of the armed forces, and economic and political reforms, including agrarian reform.

The report is required under section 728 (b) and (d) of the International Security and Development Cooperation Act of 1981, signed into law by the President last December.

The Foreign Relations Committee will hold hearings on the certification on August 3. Administration witnesses including Assistant Secretaries of State Thomas Enders and Elliott Abrams will testify at 10 a.m., and public witnesses are scheduled to testify at 2 p.m., both in room 4221 of the Dirksen Senate Office Building.

Because of the large interest in the details of the administration's report, I ask unanimous consent that the determination and the accompanying report be printed in its entirety.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF STATE,
Washington, D.C., July 27, 1982.

Hon. CHARLES H. PERCY,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: The International Security and Development Cooperation Act of 1981, P.L. 97-113, makes the provision of certain security assistance and the assignment of certain military personnel to El Salvador contingent upon a certification in accordance with Section 728 of the Act. The first such certification and justification were presented to Congress January 28, 1982.

I hereby transmit to you the second such certification as is required under Sections 728 (b) and (d). Specifically I have:

(1) determined that the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights;

(2) determined that the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens;

(3) determined that the Government of El Salvador is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) determined that the Government of El Salvador is committed to the holding of free elections and has held such elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict;

(5) authorized the obligation of funds in fiscal years 1982 and 1983 for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, the issuance of letters of offer and the extension of credits and guarantees for El Salvador under the Arms Export Control Act, and the assignment of members of the Armed Forces to El Salvador to carry out functions under either of these Acts.

A comprehensive report dealing with the matters covered in this certification and providing the justification for the certification is enclosed. Although not a requirement of the law at this time, the report also includes a separate section dealing with the Government of El Salvador's investigation into the murders of the six United States citizens in El Salvador in December 1980 and January 1981 and into the disappearance of John J. Sullivan. I understand that legislation on these matters is before the Congress. Should such legislation be enacted, the Administration would, of course, promptly implement it.

It has been our objective in compiling this report to provide the Congress with the most comprehensive and objective analysis possible of the subject covered under the certification requirement. As the report makes clear, we continue to be concerned over the human rights situation and the course of the reform program in El Salvador. Nevertheless, there have been tangible signs of progress in each of the areas covered under the certification requirement, and we believe that the attached justification shows that a firm base has been established for further progress in the months ahead.

Sincerely,

GEORGE P. SHULTZ.

Enclosure.

DEPARTMENT OF STATE,
Washington, D.C., July 27, 1982.

Subject: Determination to authorize continued assistance for El Salvador.

Pursuant to Sections 728 (b) and (d) of the International Security and Development Cooperation Act of 1981 and Executive Order No. 12163, as amended, I hereby:

(1) determine that the Government of El Salvador is making a concerted and significant effort to comply with international recognized human rights;

(2) determine that the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring to an end the indiscriminate torture and murder of Salvadoran citizens;

(3) determine that the Government of El Salvador is making continued progress in implementing essential economic and political reforms, including the land reform program;

(4) determine that the Government of El Salvador is committed to the holding of free elections and has held such elections at an early date and to that end has demonstrated its good faith efforts to begin discussions with all major political factions in El Salvador which have declared their willingness to find and implement an equitable political solution to the conflict;

(5) authorize the obligation of funds in fiscal years 1982 and 1983 for assistance for El Salvador under chapter 2 or 5 of part II of the Foreign Assistance Act of 1961, the issuance of letters of offer and the extension of credits and guarantees for El Salvador under the Arms Export Control Act, and the assignment of members of the Armed Forces to El Salvador to carry out functions under either of these Acts.

This determination together with the justification therefor shall be reported to the Congress immediately.

This determination shall be published in the Federal Register.

GEORGE P. SHULTZ.

REPORT ON THE SITUATION IN EL SALVADOR

EXECUTIVE SUMMARY

Severe civil strife has continued in El Salvador in the period covered by this report. The newly-elected Government of National Unity continues to be engaged in a struggle with a guerrilla movement which is, with outside support, attempting to seize power by force. The on-going violence continues to result in reports of violations of basic human rights committed by leftist guerrillas, right-wing terrorists and members of the government security forces. We continue to be concerned over the human rights situation and the course of the reform program in El Salvador. Nevertheless, there are tangible signs of progress by the Government of National Unity, and we believe a firm base has been established for further progress in the months ahead.

The development of democratic order in El Salvador is likely to be, over the long term, the best guarantee of human rights improvement. In this regard, the most important development in El Salvador in recent months has been the initiation of a democratic political process based on free elections. One-and-one-half million Salvadorans (over 80% of the eligible electorate) voted in the March 28, 1982 elections. These elections, closely monitored by large numbers of international observers and journalists, selected a 60-member Constituent Assembly, charged with forming an interim government and writing a new constitution.

As the Assembly continues its work leading up to elections for a permanent government after adoption of the constitution, the popular accountability inherent in the democratic process will channel the widespread desire of the Salvadoran people for a return to law and order into pressure on all political elements for action in this area.

The new government has already undertaken substantial steps to ensure continued progress in human rights areas:

The Minister of Defense has ordered that all violations of citizens' rights be stopped immediately and directed punishment of military offenders.

Over the past six months 109 members of the Salvadoran Armed Forces were disciplined for various offenses, including 56 cases submitted to judicial action. In addition, 20 members of the civil defense forces were disciplined in the ongoing effort to prevent abuses by the paramilitary forces.

Despite continued resistance in some quarters, demonstrable progress has been made in the land reform program, including the issuance of over 10,000 Phase III (Land-to-the-Tiller) provisional titles in the last six months—4,865 issuances since the elections.

The Government and the Armed Forces have undertaken an effort to restore those farmers illegally evicted from their land following the confusion over the Constituent Assembly's modification of Decree 207. Some 2,000 families have been returned to their farms by the Armed Forces since June 1.

The Salvadoran government has begun proceedings under Salvadoran law to bring to justice those accused of the December 1980 killings of four American churchwomen.

The report which follows is designed to provide the Congress with the most comprehensive and objective analysis possible under the certification requirement. We believe the report shows tangible signs of progress in each of the areas covered under the certification requirement.

SUMMARY

The most important development in El Salvador during the certification period was progress in the development of representative government. The Salvadoran people elected a Constituent Assembly, which has designated an interim coalition Government of National Unity, is functioning as an interim legislative body, and will draft a new constitution and set the ground rules and the date for presidential elections.

The Constituent Assembly elections, held March 28, were hotly contested by six parties, supervised by an independent Central Elections Commission (CCE) and monitored by more than 200 international observers. President Duarte and the president of the CCE invited all parties to participate, including those on the far left associated with the guerrillas, but the latter refused to take part or negotiate how they could have participated with security guarantees. The turnout of one and a half million voters exceeded all expectations and constituted a severe setback for the guerrillas, who had called for a boycott and attempted to disrupt the voting by force of arms.

During this certification period, the land reform program advanced, was subject to some challenges, and was relaunched. The net result is that Phase I of the agrarian reform has been consolidated further; and demonstrable progress was also made on Phase III. Ambiguous legislation passed by the Constituent Assembly in May gave rise to the widespread belief, in and outside of El Salvador, that Phase III was being suspended and the entire reform process was in jeopardy. One effect of this misconception was a surge in illegal evictions in the countryside.

Faced with this situation, the Government of National Unity, as one of its first official acts, began a campaign personally directed by President Magana to put the land reform programs back on track. Supported by the military, the President acted to ensure that all reform activities go forward, to distribute the first permanent land titles to Phase III beneficiaries, to pay the first compensation to affected owners, to direct high-level military and government participation in issuance of provisional titles throughout the country, and to issue military orders to support the agrarian reform and to assist in reinstallation of illegally evicted beneficiaries. Perhaps most importantly, the government appointed a strong president of FINATA, the government agency which administers Phase III.

Our conclusion is that despite continuing problems and strong challenges, there has been demonstrable progress in implementing essential economic and political reforms, including land reform, in El Salvador during the certification period: Five permanent titles were issued to cooperatives and 48 owners were compensated, but of major importance was the fact that 178,530 Phase I beneficiaries were, as a result of government-supported technical assistance and agricultural credit programs, able to begin their third crop year. For most, that alone represents three consecutive years of progress. Since January 1, 11,238 Phase III titles, including 4,865 since the March 28 election, were issued, together with the first 251 permanent titles. The first former owners of lands redistributed under Decree 207 were paid $614,219, and 7,017 essential field inspections were carried out.

Democratic elections will, of course, give the Salvadoran people a regular opportunity to gauge the performance of their elected leaders and the political parties on the reforms.

Although the monthly total of deaths attributed to political violence declined somewhat (according to available statistics), human rights violations and terrorism continued to be a major problem during the certification period.

There continue to be reports of human rights abuses on the part of various branches of the Salvadoran security forces. There have been, however, significant efforts by the Salvadoran leadership to correct the problem. Since October 15, 1979, at least 1,000 members of the Salvadoran security forces have been disciplined for abuses of authority. Ministry of Defense records show that during this certification period, 109 members of the Salvadoran Armed Forces were disciplined for various offenses, of which 56 cases have been submitted for judicial action. In addition, at least 20 members of the civil defense forces were disciplined in a special effort to crack down on abuses committed by paramilitary forces.

On March 10, 1982, Minister of Defense Garcia issued an instruction to all military personnel stating that all illegal actions and violations of the rights of citizens must cease and ordering the punishment of those failing to heed this order. But continued training is necessary for building upon the progress already achieved in raising the level of discipline and professionalism.

Although serious problems remain, we conclude that the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights. Given the orders issued by the Armed Forces concerning human rights abuses and the codes of conduct promulgated to achieve this objective, and in light of the substantial efforts to improve the disciplinary system, we conclude that the Government of El Salvador is achieving substantial control over all elements of its own armed forces. Moreover, the establishment of responsible democratic institutions is a major step toward channeling popular desires for peace, law, and order into public accountability for the government's performance in these areas of concern. In addition, democratic institutions provide a peaceful channel for resolving conflict and disagreements.

Substantial progress has been made in the murder case involving four American churchwomen. In February, the investigatory working group turned its final report over to the National Guard. The National Guard found sufficient evidence in the report to dismiss six guardsmen and turn them over to a civilian court. The presiding judge, in turn, examined the evidence and determined that it was sufficient to justify charging five of the former guardsmen with aggravated homicide. They were remanded to prison pending the resolution of their trial. The trial judge has initiated and largely completed the judicial inquiry required under Salvadoran law. We expect the date of the trial to be set this fall.

The Government of El Salvador has moved to reinvigorate the investigation into the murder of the two American land reform advisors and their Salvadoran colleague by forming in April a new investigative working group to uncover additional evidence. To date all efforts have failed to provide any clues as to the whereabouts of John J. Sullivan, an American freelance

journalist who disappeard in San Salvador in December 1980. The investigation of Mr. Sullivan's disappearance has received the attention of the highest levels of the Salvadoran Government.

END SUMMARY

Each of the specific issues enumerated in Section 728(d) is addressed below:

THE HUMAN RIGHTS SITUATION IN EL SALVADOR

Severe civil strife has continued in El Salvador in the period covered by this report. The newly elected Government of National Unity continues to be engaged in a struggle with a guerrilla movement which, with external support, is attempting to seize power by force. This strife in El Salvador continues to produce serious and frequent violations of basic human rights committed by leftist guerrillas, right wing terrorists, and members of the government's military and security forces. Criminal activity and personal acts of vengeance also continue to occur with frequency in an atmosphere of confusion and destruction resulting from bitter civil conflict.

The most important development in El Salvador in recent months has been the initiation of a democratic political process based on free elections. On March 28, 1982, the people of El Salvador exercised the internationally recognized human right to participate in the political process of their country. The overwhelming majority of the Salvadoran electorate cast ballots for the selection of a 60-member Constituent Assembly, charged with forming an interim government and writing a new constitution and electoral laws. The election was conducted (CCE). The electoral process was closely monitored by large numbers of international observers and journalists and was widely judged to be fair and honest. (See the following section on elections.)

The development of a firm democratic order in El Salvador is likely to be, over the long term, the best guarantee of human rights improvement in other areas. The popular accountability inherent in the democratic process will serve to channel the widespread desire for a return to law and order into pressure on all political elements to promote these objectives. The establishment of democracy in El Salvador also offers the possibility of ending the civil strife that produces human rights abuses on all sides, by providing an avenue for political participation and reconciliation of disagreements by peaceful means. Finally, elections in El Salvador, as a process in which people participate freely as individuals rather than acting on the basic of existing familial or patron-client ties, should gradually reduce the lawless use of public forces for private interests.

The criminal justice system has been, since the early 1970s, one of the major victims of El Salvador's civil strife. While it continues to prosecute some criminal cases, it has been ineffective in crimes associated with the civil strife. The failure of the judicial system is both an effect and a cause of continued human rights abuses and will be a focus of Salvadoran reform efforts and U.S. assistance over the next year. Intimidation of judges, witnesses, and officials by the right and the left continues much as it has during the past three years. As a result, due process in cases of alleged subversion remains primarily in the hands of the military under the authority of the state of siege Decree 507. There are positive signs, however. Procedures established in Decree 507 for the investigation and prosecution of those suspected of subversion are being respected, even if basic constitutional rights have been suspended; and the Constituent Assembly has appointed a new Supreme Court.

Indices of political violence, from whatever source, are uncertain, not only because of the divisive civil strife that exists in El Salvador, but because of the differing methodology used in compiling the data. (See Appendix A for an analysis of the methodologies of these organizations for compiling statistics.) According to the various available sources, however, there has continued to be a downward trend in the monthly total of deaths attributable to political violence during the past six months. While there was a surge in March which coincided with guerrilla attempts to disrupt the Constituent Assembly election, the general trend continues to be downward for this period as it indeed has been since October 1980 when the Embassy first began monitoring press reports of violence.

Although abuses continue, there has been a demonstrable attempt on the part of government authorities to control forces which perpetrate them. These actions include efforts to bring to justice persons who have been involved in human rights abuses, especially acts of murder. The Embassy has been able to confirm that since January 1, 47 members of the military forces and at least ten civil defense members have been arrested and confined for violent abuses of authority (murder, assault, rape). Of these, 20 were arrested for murder.

To cite some specific cases, National Police officials in March arrested twelve persons accused of murdering twenty-four civilians near the town of San Pedro Perulapan, Cuscatlan Department. Among those arrested were eight members of the local civil defense unit. Four members of the local civil defense force and one member of the Treasury Police are being held for trial in Conjutapeque. The remaining three suspects were released for lack of evidence. During May and June 1982, fourteen Christian Democratic Party (PDC) members and officials were murdered. These murders were condemned by a declaration of the Armed Forces, as well as by unanimous vote of the Salvadoran Constituent Assembly. Arrests were made in two of these cases. In the case of the murder of the acting mayor of San Francisco Chinameca and her daughter, the suspected murderers, a father and son who were members of the local civil defense unit, were arrested by the National Guard on May 29. Also arrested was the local civil defense commander who was suspected of having participated in the murder of the previous mayor. The local commander of another civil defense unit was arrested in the case of the murder of the mayor of El Paisnal. Again, the arrests were made by the Salvadoran National Guard. On January 28, the same date as the previous certification, National Police arrested a wealthy, well-connected former army officer, together with six associates, suspected of kidnapping. The principal detainee, after having been dismissed from the Armed Forces, had developed a private security service suspected of serving as a cover for criminal activities. These cases are pending before the civil courts.

These actions by Salvadoran authorities are significant in that formerly crimes of this nature rarely resulted in arrests (147 Christian Democratic officials and members were killed during the Junta period with no notable success in prosecuting perpetrators). In the recent cases public security forces are relying on the civil judicial system to prosecute. In so doing they are reinforcing the ability of the civilian courts to apply the law, where in the past offenders of this sort were rarely prosecuted.

The attitude of the new President of El Salvador, Alvaro Magana, toward human rights was highlighted in his June 4th address. President Magana stated that his government's goals are pacification, democratization, confidence and security, economic recuperation, reforms, and respect for human rights. He pointed out the necessity of a policy based ". . . on the integrity and dignity of man, that includes equality of opportunity, the right to work, the extinction of fear and violence. . . ." As part of President Magana's call for pacification and respect for human rights, the Government of El Salvador is actively considering an amnesty program that will seek to reincorporate dissident elements into the political process, while guaranteeing their safety and security.

Other groups notably including the Catholic Church, have made significant contributions to improving the human rights situation in El Salvador. In April Apostolic Administrator Rivera y Damas took a significant step to reorient and strengthen the Catholic Church's role in the protection of human rights. Invoking Pope Paul VI's universal Commission for Justice and Peace, Rivera y Damas re-established the Salvadoran Commission for Justice and Peace, which had disbanded in 1977. This organization is currently charged with representation of the legal rights of the detained and disappeared, primarily through the filing of petitions for writs of habeas corpus on behalf of family members. With the full backing of the Church, it appears that the organization has had some success in locating and obtaining the release of persons detained by the security forces. The existence of the organization establishes a basis for Church participation in broader human rights activities, such as a government amnesty program now in its planning stages. The Apostolic Administrator has himself continued to speak out for the Church to condemn human rights violations and violence from both sides, consistently putting forth a plea for peaceful solutions to El Salvador's conflict. The contribution of the International Committee of the Red Cross (ICRC) in stressing humanitarian rules of conduct to military and security forces is noted below.

In summary, although serious human rights problems continue to plague El Salvador and although progress in this area has not been as great as hoped, it is our conclusion that the strong private and public statements made on behalf of human rights by the leadership of the Government of El Salvador, the evidence of a continued reduction in overall levels of violence, and the arrests made in a large number of cases demonstrate that the Government of El Salvador is making a concerted and significant effort to comply with internationally recognized human rights.

CONTROL OF THE ARMED FORCES

There continue to be reports of human rights abuses on the part of various branches of the Salvadoran security forces. Although there has been no evidence to support periodic guerrilla allegations of large-scale massacres allegedly committed by government forces, reports of torture and execution of prisoners and the participation of individual members of the security forces in right-wing terrorist activity contin-

ue, and in some cases are credible. This is particularly true at lower levels of the military hierarchy and the civil defense. These civil defense units, which are usually recruited from and paid by local villagers rather than by the central government, provide security in the more remote rural cantons. However, they have also been a principal source of institutional violence. The Government's efforts to deal with this are hampered by the poor state of communication with far-flung units, dispersed authority among the various branches of the Armed Forces, and the independence of action of local civil defense units in remote areas of the country. The military has taken serious steps to bring the civil defense forces under tighter control and to punish abuses of power. A May 31 Armed Forces announcement soliciting public denunciations of "delinquent crime," specifically in reponse to the murder of PDC members, has touched off a series of disciplinary actions against civil defense personnel throughout the country. In at least 12 cases local commanders accused of abuses have been replaced and civil defense members removed from service or jailed.

Human rights problems concerning the military have been exacerbated by guerrilla tactics which have resulted in the deaths of non-combatants. The guerrillas routinely travel with civilians who provide logistical support for their units. When the guerrillas are attacked by government forces, the ensuing hostilities often produce civilian casualties.

In an effort to cope with the problem of official abuses, the Minister of Defense, General Garcia, issued instructions in March to all military personnel stating that violators of the military code of conduct will be disciplined. The code of conduct obligates members of the armed forces to respect the human rights of others and to exhaust all pacific means before using force (copy and related documents attached at Appendix B). Officers have been instructed that they are responsible for the acts of the men under them, and for ensuring discipline. The National Police have recently redrafted an exhaustive guide to counterinsurgency procedures, which includes sections on the defensive use of arms, rules of engagement, and respect for human rights. This guide has been incorporated into all basic police instructions, and regular indoctrination classes are held for all agents. The ICRC gives instruction to the security forces on respect for human rights in armed conflict as defined in the Geneva Convention.

Since the Junta overthrew General Romero in October 1979, over 1,000 military and paramilitary personnel have been disciplined or dismissed for abuses of authority and turned over to civilian courts for prosecution. Military records show that of 109 members of the armed forces disciplined for abuses of authority during the certification period, 71 are pending investigation or have been dismissed and remanded to the civilian courts for trial for serious crimes. Of the remainder, 20 have been subject to military discipline for abuses. Of the 109, five were from the National Guard, three from the National Police, two from the Treasury Police, one from the Navy, and the remainder from the Army. Although adequate information is not available on the total number of civil defense members disciplined for abuses of authority, at least 20 have been dismissed or remanded to the civilian courts.

A congressional delegation, during a visit to El Salvador in March, visited National Police headquarters without prior notice. The police commander unlocked cells at the request of the delegation. Prisoners in a cell selected at random were interviewed: one was found to be a petty thief and the others to be national policemen serving sentences for breach of discipline.

During the March 28 elections, the High Command of the Armed Forces issued orders to maintain strict neutrality, and ordered all active duty personnel not to vote in the election so as to avoid any possibility of partiality. Only in Usulutan and a number of small municipalities were polling stations closed as a result of guerrilla action. None of the more than 200 international observers or hundreds of members of the foreign press corps present reported that the military either intimidated voters or forced citizens to vote. They did report that the Armed Forces provided the minimum, essential protection around the polling places.

Continued training of Salvadoran troops and officers is essential for building upon the progress already achieved in increasing the level of discipline and professionalism among the Salvadoran Armed Forces. The 450 officer candidates and 1000 enlisted personnel who recently completed their training at Ft. Benning, Georgia, and Ft. Bragg, North Carolina, received 39 course hours of instruction in such topics as treatment of captured combatants and the protection of non-combatants in countering guerrilla warfare. Beyond this specific training, these themes were melded throughout the course in formal and informal instruction as well as field operations. These troops returned to El Salvador in mid-May, and there is not yet enough evidence to evaluate their human rights performance.

Given the orders issued by the command concerning human rights abuses and the codes of conduct promulgated to achieve this objective, and in light of the substantial efforts to improve the disciplinary structure of the Armed Forces, including the punishment, dismissal and prosecution of violators, we conclude that the Government of El Salvador is achieving substantial control over all elements of its own armed forces, so as to bring an end to the indiscriminate torture and murder of Salvadoran citizens by these forces.

ECONOMIC AND POLITICAL REFORMS

While the major land distribution accomplished under Phase I proceeded smoothly during this certification period, the Phase III land reform program has been through a tumultuous process. The momentum and progress noted prior to the March 28 elections, with 4,482 provisional titles being issued in March alone, slowed considerably after the election and formation of the new government. During the post-election period, elements opposed to the reforms in the Constituent Assembly took advantage of an effort to correct some of the program's genuine shortcomings to pass ambiguous legislation which cast doubt on the future of the program and contributed to a surge in illegal evictions. Simultaneously, the Minister of Agriculture temporarily and without presidential authorization suspended further taking of Phase III title applications. During this period, the organization charged with implementing the reform was at a standstill, awaiting instructions from the new government.

The Government, with the full cooperation of the military, immediately took steps to correct the situation. The ambiguous legislation was clarified. The application process was resumed, promotion campaigns began again, the first definitive titles were issued, and, for the first time, some compensation claims on Phase III lands have been settled. In addition, the new president of FINATA, the Salvadoran implementing agency for Phase III, announced plans and targets to increase substantially the volume of applications for land titles over the balance of 1982. In El Salvador's fourteen departments, the President, along with the military High Command, is making personal presentations of provisional titles and speeches stressing the Government of National Unity's unqualified support for the program. Military leaders have taken a particularly active role in these presentations and have backed up this support by issuing written orders to Departmental commanders not only to support the reform but to restore illegally evicted farmers to their land.

Agrarian reform is one of the cornerstones of the reform process. the land reform program has two active components. Phase I deals with the properties larger than 500 hectares (ca. 1235 acres) and with estates of under 500 hectares which are voluntarily offered for sale to the state. Phase II, whose implementation has been deferred since its inception, would affect farms in the 100 to 500 hectares range. Phase III of the reform allows renters and sharecroppers to buy the land they worked under those arrangements as of May 6, 1980, up to a maximum of seven hectares (ca. 17.3 acres). In practice some lands rented subsequent to that date were also affected. Although redistribution of land is the most visible aspect of the reform program, supporting services such as credit and extension are necessary to the program's success. Steady progress is being made in the provision of these services, with $51 million of the 1982 Government of El Salvador's scarce budget resources allocated in direct support activities for the agrarian reform. Of this amount, $27 million is allocated to the Agricultural Development Bank for new production and investment credit for both Phase I cooperatives and Phase III beneficiaries. (See Appendix C).

Under Phase I, 287 farmer cooperatives are working and managing former estates. Some 15 percent of the country's farmland has been taken over in Phase I, and seven percent of the rural population now lives and works on these farms. The national Agricultural Development Bank is making $46.5 million in production and investment credit available to Phase I cooperatives for the current 1982/1983 crop year.

Phase II of the agrarian reform was to have affected properties from 100 to 500 hectares. Former-President Duarte indefinitely postponed implementation of Phase II because of the widespread civil conflict, lack of qualified manpower to provide technical assistance to potential beneficiaries, and the ongoing economic crisis and lack of capital for compensation. Nonetheless, over 100 Phase II properties have been voluntarily offered for sale to ISTA, the government agency which administers Phase I. To date, ISTA has purchased 64 of these properties and incorporated them into Phase I under worker-run cooperative management.

Phase III, which is also referred to as Decree 207 or as the Land-to-the-Tiller Program, allows renters and sharecroppers to claim title to up to 7 hectares of the land they have been working. Some 32,080 provisional titles have been issued to former renters and sharecroppers. This is an increase of 11,238 titles since January and includes 4,865 provisional titles issued since the

March 28 election and change in government.

Leaders of the new government have demonstrated their commitment to the agrarian reform program and to its continuation. President Magana and members of his cabinet personally led ceremonies in which 1,225 provisional titles were distributed in June and in which 640 provisional titles have already been distributed in July. In June and July, 251 definitive or final titles were issued, and the first compensation payments for Phase III of the land reform began. These final title figures are small, as is the number of owners who have received compensation; but they are significant for beginning the process of addressing key shortcomings in the implementation of Phase III.

President Magana has also appointed a commission composed of campesino, government, military, and private sector representatives to report directly to him on their recommendations for improving the legal framework and implementation of the program. Reports indicate this mechanism is functioning effectively. The commission has completed a set of recommendations for Phase III and will soon present them to the President for his consideration.

The slow pace of compensation and the absence of payments in Phase III were major causes of landowners' resistance to the reform program. Through June 1982, a cumulative total of about $6 million in cash had been paid to Phase I property owners, along with $71 million in bonds. The new government is moving to correct this situation by making available $32 million for cash payments and debt service on agrarian reform bonds over the rest of 1982 for both Phases I and III of the reform. This compensation schedule should help reduce the number of illegal evictions instigated by former owners and relieve the anxiety of beneficiaries that their ownership is clouded as long as the former owner has not been compensated. Further funding is needed to resolve compensation inequities under this program.

As noted above, Decree 6 was passed in May by the Constituent Assembly modifying Decree 207, the legislative basis for Phase III of the agrarian reform. As interpreted by the Assembly itself and by the Government, Decree 6 allows landowners to rent for one crop cycle (one year for cotton, basic grains and cattle; up to three years for sugar cane), without fear of incurring a new risk of expropriation under Decree 207, land which had not been claimed under Decree 207 or was not presently being occupied by an eligible beneficiary as of the date of Decree 6. This law relates solely to land which is used for cotton, cattle, grains, and sugar cane. Decree 6 does not annul the reform. The rights of actual and potential Decree 207 beneficiaries are guaranteed by the new law and are explicitly stated in a legislative interpretation passed by the Constituent Assembly. The effect should be to bring unused land into production and encourage agricultural productivity in a country whose economy is battered as a result of the guerrilla warfare and which is desperately in need of foreign exchange. Efforts by opponents of the agrarian reform program to interpret Decree 6 in a more restrictive way have not been successful. Widely publicized support of Phase III by the Government and Armed Forces appear to have helped dispel the initial misinterpretation of Decree 6.

A much more serious challenge to the land reform program was the surge in evictions of farmers with legitimate claims to land in Phase III. According to records of FINATA, 3,822 farmers who had petitioned for land later filed complaints that they had been evicted. Other organizations have cited much higher figures. In early June the Salvadoran military command ordered its units to assist in enforcement of agrarian reform laws. The Salvadoran armed forces have returned more than 1,900 farmers and their families to their land since June 1, and the military has pledged to reinstall all illegally evicted farmers. FINATA has instituted an advertising campaign urging evicted farmers to contact FINATA so they can be returned to their land. Despite the efforts of the Salvadoran Government to end these illegal actions, some evictions are continuing.

In addition to agrarian reform, other economic reforms are in place. All banks have been placed under majority government ownership in order to broaden control of the nation's credit system and to provide a source of financing for the agrarian reform. Compensation bonds have been issued to all ex-stock-holders who have applied for them and all interest payments have been paid as due. Compensation is based on the bank's net worth, minus a reserve for doubtful loans which will be paid to ex-owners as these loans are collected. Bonds have been issued for $100.8 million and carry a nine percent interest payable semi-annually. Assuming the Government of El Salvador meets its bond payment schedule, the question of compensation under the bank reform has been resolved. Export marketing boards have been established for El Salvador's major cash crops, coffee and sugar. However, the banking and marketing reforms are being buffeted by the problems caused by the guerrillas' attacks on El Salvador's economic infrastructure plus the low world prices for El Salvador's major exports and the high price of imported oil. In addition, there have been allegations of politicization of the banking system and mismanagement of coffee exports.

Essential political reform has been instituted in El Salvador with the holding of the Constituent Assembly election and the transition to a representative form of government. The process of political reform is ongoing and includes the writing of a new constitution by the Assembly and the holding of presidential elections.

It is our conclusion that despite the strong challenges to agrarian reform in El Salvador, there has been demonstrable progress in the past six months: Phase I has been consolidated and progress continued on the payment of compensation to former owners and the issuance of definitive titles to campesino cooperatives; and in Phase III an additional 11,238 provisional titles have been issued, the first ever definitive titles have been distributed, and compensation for the former owners has finally been initiated. Therefore, we are able to certify that the Government of El Salvador is making continued progress in implementing essential economic and political reforms, including land reform.

ELECTIONS

Elections for a Constituent Assembly were held in El Salvador on March 28, 1982. The election campaign and the application of the electoral regulations were supervised by an independent Central Elections Commission (CCE), which also tallied the ballots. The CCE is headed by Dr. Jorge Bustamante, and independent. In addition to extensive measures instituted to ensure the fairness of the election, more than 200 observers from over 40 nations and the OAS were present as was an international press corps numbering over 700.

The traditional parties of the left, right, and center including socialist and communist parties, all of which were eligible under the previous electoral law, were offered automatic eligibility upon completion of simple registration procedures. Newly formed parties participated by meeting routine procedural requirements. Six parties were on the ballot.

President Duarte and Dr. Bustamante repeatedly invited the communist-front Democratic National Union (UDN), and the Socialist International-affiliate National Revolutionary Movement (MNR), and the guerrillas' political front, the Democratic Revolutionary Front (FDR), to participate in the elections. Arguing that conditions were not appropriate for elections, and expressing doubts about their personal security should they participate, these groups refused to take part. Nor did they accept the Junta's offer to negotiate on how they could have participated with adequate security guarantees. They called for their supporters to boycott the election, and the guerrillas attempted to disrupt the elections by intimidating voters and politicians, destroying the nation's transportation system (over 250 buses, El Salvador's main means of transport, were destroyed between January 1 and election day), attacking the Central Elections Commission on election eve, and making armed attacks on election day itself. Indeed, in fending off guerrilla attempts to disrupt the electoral process, the Armed Forces suffered in March 1982 by far the heaviest casualties of any month since the beginning of El Salvador's civil strife.

The turnout on election day exceeded all expectations and constituted a major setback for the guerrillas. More than 80 percent of eligible Salvadoran voters cast their ballots in a courageous demonstration of the Salvadoran people's desire to end the violence wracking their country. Many walked miles through guerrilla roadblocks to reach the polls. The voters waited patiently in line for hours, often under direct guerrilla attacks.

Observers (three members of Congress were members of the official U.S. observer delegation) found the election process orderly and—except for guerrilla actions—peaceful. None of the international observers nor any of the poll workers and party observers reported any fraud in the conduct of the balloting or the counting of the votes. (See Appendix D for comments.) Over 1.5 million votes were cast and produced the following results:

Party	Percentage of valid votes	Seats
Christian Democratic Party (PDC)	40	24
National Republican Alliance (ARENA)	29	19
National Conciliation Party (PCN)	19	14
Democratic Action (AD)	8	2
Salvadoran Popular Party (PPS)	3	1
Popular Orientation Party (POP)	1	0

Twelve percent of the votes cast were either invalidated or blank. Of this total three percent were ballots with no markings, dropped blank into the ballot box. Less than one percent were ballots where it is not clear whom the voter intended to cast his vote for—the mark was not within one of the indicated spaces for a particular party or overlapped with spaces for more than one party. Eight percent were ballots

which in some way were defaced, torn, or otherwise spoiled. In past elections in El Salvador as many as 50 percent of voters in some departments have submitted blank or null votes.

Recently a University of Central America (UCA) report has circulated charging that the total number of votes cast was inflated. The report's conclusions are based upon a number of assumptions but essentially upon mathematical calculations of the amount of time necessary for each voter to cast his ballot. The charge is without foundation: it confuses the time it took for each voter to complete the entire voting procedure with the fact that several voters were assisted at each voting table at the same time. Further, the actual time to complete the process, as timed by official U.S. election observers, was less than half that reported by UCA. At the polling place itself, officials and poll watchers from competing political parties as well as international observers and press, verified the count as well as the fairness of the voting procedure. The most significant check against fraudulent count was the preparation at the precincts of the count sheets, ten copies of which were distributed to precinct workers, poll watchers and party representatives, and made available to international observers as well. In addition, international observers, after spot checking the tally in a number of precincts, found the same figures recorded on the computer printouts at Central Election headquarters. (See Appendix D for the rebuttals to the UCA report by CCE President Bustamante and Howard Penniman, one of the members of the official U.S. observer delegation.)

Because no single party gained a majority of the seats in the Constituent Assembly, a lengthy process of inter-party negotiation occurred which resulted in the formation of a Government of National Unity, led by independent Alvaro Magana and including vice presidents from the three major parties represented in the Assembly, which will govern until presidential elections are held. (See Appendix D for list of Cabinet officers.) Roberto D'Aubuisson, leader of ARENA, was elected President of the Assembly.

The March 28 election was only the first step of an ongoing political process. The tasks the Constituent Assembly faces are to draft a new constitution for the country, to write the ground rules and set the date for presidential elections—probably 1983 or early 1984—and to function as an interim legislative body. The Government of National Unity hopes that more moderate elements of the FDR can be persuaded to join in this process. President Magana has stated his intention to establish a special government commission for this purpose.

It is worthy of note in this regard that Apostolic Administrator Rivera y Damas, speaking about the Constituent Assembly election in this April 4 homily, said that ". . . one has to ask the leaders of the FDR and the guerrillas that they accept the verdict of the people in favor of peace, of democracy and justice which was massively emitted by the public on this past Sunday. The guerrillas must end their use of arms and destruction and look for other paths. . . ."

Although not directly related to the holding of free elections, the murders of fourteen Christian Democratic Party (PDC) officials since mid-May are especially troubling in their implications regarding an open and free political process. El Salvador has been a violent society; 147 PDC officials and members were killed even while PDC leader Jose Napoleon Duarte was President of the Revolutionary Junta. However, this recent spate of murders has provoked outrage in El Salvador, and, in contrast to previous killings, arrests have been made. On May 27 the Constituent Assembly voted unanimously in favor of a PDC proposal condemning the ongoing criminality in general and the most recent murders of PDC members in particular. The Assembly agreed further to charge a special commission with the investigation of these crimes. The commission took up the issue as part of the broader question of violence directed at government and political party officials. The special commission is made up of the Assembly officers (Assembly President D'Aubuisson and eight other Assembly members representing ARENA, PCN, and PPS plus PDC Deputy Rodolfo Castillo and Nelson Segovia of Accion Democratica). On May 31 the Armed Forces issued a declaration condemning these "desperate acts" and appealing to those with knowledge of the perpetrators to step forward. Six suspects, all members of the local civil defense units and including two local "commandantes," have been arrested by the National Guard in two of the cases.

We conclude that the Salvadoran Government has held free elections and to that end made good faith efforts to begin discussions with all major political factions which have declared their willingness to find and implement an equitable political solution to the conflict. Over 200 international observers were present during the March 28 Constituent Assembly election. What is more, El Salvador has during this period experienced an orderly, peaceful change of government, and the Constituent Assembly is writing a new constitution and exercising legislative responsibilities which will lead to the drafting of ground rules for a presidential election. Progress in this area has been substantial.

INVESTIGATION OF THE MURDERS AND DISAPPEARANCE OF U.S. CITIZENS [1]

There have been a number of developments in the investigation of those responsible for the murders of four American churchwomen in El Salvador in December 1980. In late 1981 and early 1982, the Salvadoran investigative team, with FBI technical assistance including a polygraph test, achieved a major breakthrough in the investigation. As a result, five suspects were dismissed from the National Guard and placed under arrest on February 8, 1982. A sixth man who had previously left the National Guard was arrested at the same time. On February 10, jurisdiction over the six men was transferred to civilian Judge Bernardo Rauda Murcia. The National Guard delivered to the court its report on the investigation of the case, as well as physical evidence obtained during the investigation. On February 13, Judge Rauda charged five of the six men with aggravated homicide and released the sixth, who was found not to have been involved in the murders. Judge Rauda then began the required judicial investigation. Pursuant to El Salvador's Napoleonic Code system, the Judge must hear testimony and evidence, study the same, and order additional testimony and examination as he deems necessary. Following this judicial investigation, the Judge decides whether to order the case to trial. Judge Rauda is still in the judicial investigation stage of the process. Even so, he has stated publicly that he expects to order the case to trial.

The Salvadoran government has also moved to reinvigorate the investigation of the murders of two American land reform advisors, Mark Pearlman and Michael Hammer, and their Salvadoran colleague, Rodolfo Viera, at the Sheraton Hotel in San Salvador in January 1981. In 1981 two individuals, Hans Adolpho Krist and Ricardo Sol Meza, were charged with the murders by the Salvadoran Government; Sol Meza was imprisoned in El Salvador and Hans Krist was located in Miami. The Government of El Salvador, on the basis of supporting documentation, requested the extradition of Krist pursuant to the U.S.-El Salvador treaty of 1911. The United States Government thereupon initiated an extradition proceeding against him in the federal district court in Miami. In October 1981, a Salvadoran judge suspended further judicial action against the two accused on the grounds that insufficient evidence had been developed to implicate them in the murders. The Salvadoran Attorney General appealed this order, but the suspension was upheld by the Court of Criminal Appeals on April 13, 1982. As a result of the affirmance of the suspension, the U.S. District Court for the Southern District of Florida on June 23 dismissed the pending extradition request against the accused in Miami (Krist) and released him from custody. The other accused (Sol Meza) had been freed from custody in El Salvador at the time of the October 1981 suspension order.

In April 1982, an investigative working group was established by the Salvadoran Government in an attempt to uncover sufficient additional evidence relating to the murders to warrant reopening the case in accordance with Salvadoran law. It held its first formal meeting on May 20, with all members present, including a National Guard officer assigned to head the group. After completing a study of files, the working group began interviewing potential witnesses in June. The FBI is prepared to provide appropriate technical assistance, including polygraph examinations at the appropriate time. It is our hope that these efforts will produce significant new evidence that will make it possible to bring to justice those responsible for these reprehensible crimes. Preliminary results are encouraging.

John J. Sullivan of Bergen, New Jersey is a free-lance journalist who disappeared while on an assignment in El Salvador. He was last seen on December 28, 1980 at the Sheraton Hotel in El Salvador. He apparently left the hotel shortly after his arrival from the United States. Immediately after his absence was reported to the Embassy, he became the object of a thorough search by Embassy officers who also alerted Salvadoran police authorities. The Salvadoran government made Mr. Sullivan the object of a country-wide alert. Mr. Sullivan's disappearance has received and continues to receive the attention of the highest levels of the Salvadoran government. President Duarte's interest in the case continued during his term of office, and he communicated his personal concern to all elements of the Salvadoran government. This same willingness to assist was shared by, among others, De-

[1] Section 728(e) required a determination in the first certification that the Government of El Salvador has made good faith efforts both to investigate the murder of the six United States citizens in El Salvador in December 1980 and January 1981 and to bring to justice those responsible for those murders. We have continued to address these cases in this second report, and in addition have also discussed the case of Mr. John J. Sullivan's disappearance, because these cases are of continuing concern both to the Executive Branch and the Congress.

fense Minister Garcia, who directed military investigators to pursue leads provided by the Embassy. At the working level Salvadoran officials have aided Embassy officers in cross-checking information received from a variety of sources. For example, senior judges have personally assisted officers in researching the closed records which contain descriptions of unidentified corpses.

Notwithstanding the lack of success to date, the Embassy and the Department of State continue to pursue all leads that could possibly provide an answer to the mystery of Mr. Sullivan's disappearance. United States Government concern over this case has been re-emphasized at the highest levels of the Salvadoran government, and the Department is satisfied that it has been accorded the cooperation of the Salvadoran authorities in this matter and that such cooperation will continue.

DEATHS ATTRIBUTABLE TO POLITICAL VIOLENCE

	Press reports	Socorro juridico	CDHES[1]	UCA[2]	Committee of Mothers
1980					
October	819	.....	1,383	1,038	.....
November	779	.....	718	962	.....
December	575	.....	700	687	.....
Total	2,173	.....	2,801	2,687	.....
1981					
January	665	2,644	2,293	2,333	.....
February	481	903	1,402	1,402	.....
March	599	1,922	1,704	1,622	.....
April	493	2,311	3,048	2,341	.....
May	454	536	712	547	.....
June	392	744	730	685	.....
July	534	586	819	667	.....
August	479	582	654	592	.....
September	296	472	498	486	.....
October	345	438	975	1,038	.....
November	244	820	1,295	216	.....
December	349	1,395	2,146	.....	.....
Total	5,331	13,353	16,276	(11,929)	.....
1982					
January	279	466	626	539	631
February	361	532	405	387	405
March	438	526	905	483	905
April	194	805	235	353	235
May	301	375	269	334	265
Total	1,573	2,704	2,440	2,096	2,441
June	189	355	NA	NA	[3] NA

[1] The Human Rights Commission of El Salvador (CDHES).
[2] The University of Central America (UCA).
[3] Not yet released.

CIVILIAN DISAPPEARANCES

	Press reports	Commission for Justice and Peace	CDHES	Committee of Mothers	UCA
1981					
August	61	.....	.....	.....	.....
September	51+	.....	.....	.....	.....
October	40	.....	.....	.....	.....
November	11	.....	.....	.....	.....
December	33	.....	.....	.....	.....
Total	196	.....	.....	.....	.....
1982					
January	44	.....	91	92	102
February	33	.....	15	100	86
March	46	.....	23	103	57
April	52	.....	15	56	16
May	23	68	NA	28	35
Total	198	(68)	(144)	379	297
June	27	NA	NA	NA	NA

(Three charts relating to civilian deaths attributable to political violence are not reproducible in the RECORD.)

STATISTICAL METHODOLOGY

Embassy San Salvador has kept systematic records on public reports of political violence in El Salvador since September 16, 1980. For consistency's sake, these statistics are culled only from information in the Salvadoran press. The Embassy recognizes that this method does not record every death from political violence. The actual totals are certainly higher. But for all its faults this system has the benefit of consistency and allows trends and patterns to be discerned from the data thus accumulated.

The primary source for newspaper reporting of civilian deaths are the justices of the peace located in municipalities throughout the country. One of the primary tasks of the justice is the identification and registration of bodies. Except for the areas with the greatest incidence of armed conflict, justices file regular reports with the courts. To the extent that reporters check with the courts, the figures are an accurate reflection of reported deaths. Not all deaths are reported, and not all areas are covered by reporters or justices. Therefore, the figures are subject to a degree of underreporting, but do accurately reflect trends. Disappearances are reported directly to the press by family members or are taken from court records.

Casualties resulting from military operations are not included in the figures.

Other organizations compiling figures on political violence in El Salvador and their methodologies are as follows:

Soccoro Juridico. Soccoro Juridico is the legal aid office previously located in the Archbishopric and since mid-April located in the headquarters of the Baptist church. It is now known as the Soccoro Juridico Cristiano. Its figures on deaths are taken from Radio Venceremos (the guerrillas' clandestine radio station), from denunciations by family members, and from other human rights organizations. The figures may be subject to duplication of reporting by other sources.

The Human Rights Commission of El Salvador (CDHES). CDHES collects information and issues reports on human rights from its office in the Archbishopric. Its figures on deaths and disappearances are taken from newspapers, other human rights organizations, and, on occasion, personal observation. The figures may be subject to inflation through duplication of reporting by other sources.

The Committee of Mothers and Other Relatives of Political Prisoners and Disappeared. The Committee of Mothers reports on human rights and other issues from offices adjacent to the Archbishopric. Its figures on deaths and disappearances are taken from newspapers and other human rights orgianizations. The figures may be subject to inflation through duplication of reporting by other sources.

The University of Central America (UCA). The UCA acts as a human rights clearing house, taking its information from newspapers and other human rights organizations.

Archbishopric Commission for Justice and Peace. The Commission began reporting on disappearances in May 1982, after replacing Soccoro Juridico in the Archbishopric. Its figures are taken from denunciations by family members which Commission representatives present as writs of habeas corpus to the Supreme Court. Denunciations derive almost entirely from the San Salvador area.

Because of the inaccuracies inherent in violence reporting and the possibility of duplication, the reliability of the figures, except for those reported in the newspapers and disappearances reported by the Commission for Justice and peace, cannot be established. It is possible that some of the figures reported by the human rights organizations are unverified. Nevertheless, it must be assumed that verified figures underreport the actual situation.

Number, type and status of disciplinary actions initiated against members of the Salvadoran Armed Forces since January 1, 1982

Armed Forces members detained for minor offenses	33
Armed Forces members detained for serious offenses	76
Subtotal	109
Minus absolved	12
Minus under investigation	2
Minus fugitives	1
Total disciplined	94
Arrested for violent abuses:	
Murder	29
Assault	21
Rape	11
Total	61
Alcohol-related abuses	17
Officers:	
Colonels	4
Captains	3
Lieutenants	1
Sub-lieutenants	4
Total officers	12

Source: Salvadoran Ministry of Defense

GENERAL GARCIA'S INSTRUCTION TO THE SALVADORAN SECURITY FORCES

The following is the English translation of an instruction issued by telegram by the Minister of Defense, General Garcia, to all military department chiefs for sharing with all personnel under their command. On March 9, the High Command reiterated its message in a combined public address to the Armed Forces on March 10.

Begin translation:

The current situation which confronts our country and the proximity of the electoral event have caused observers from all over the world to turn their eyes toward El Salvador and especially towards the conduct of our armed institution. Hundreds of foreign journalists are in our country, avid for news to divulge to the outside world the positive or negative aspects.

Actions outside of legal procedures or in violation of citizens' rights must not be repeated and must be avoided at all costs. Our actions must be marked by institutional professionalism, by the political impartiality which we have so often reiterated both internally and internationally, and by the social function and the respect for the people that support us in this fight. Only by this conduct can we contribute to (the goal that) friendly countries continue offering us their support in this fight to defend our people from the attack of the traitors and mercenaries who try to submit our country to a totalitarian regime.

Any action which violates or ignores these norms of conduct must be reported immediately, in order to order the corresponding investigation, determine responsibilities, and punish the violators.

You are to communicate the preceding to all commanders and officers, classes, agents, and troops under your command in order to insure strict observation and compliance.

Acknowledge receipt.

Signed: General Jose Guillermo Garcia, Minister of Defense.

End translation.

ARMED FORCES CODE OF CONDUCT FOR ENLISTED MEN

Informal translation:

I am a representative of the Armed Forces of El Salvador.

I will meet my obligations in a military manner and will present a decorous and dignified military appearance at all times. All that I do will reflect on El Salvador, my unit, my service and my person.

It is my duty to comply, support and defend the constitution and the laws of El Salvador.

It is my duty to protect the lives and the private property of all Salvadorans.

I will respect and watch over the right of children, of the elderly and of women.

I will be courteous as possible with all citizens. I will not mistreat anybody, I will give first aid to those who need it, and, if I have to enter into action to assure the constitution and the laws of El Salvador are respected, I will have in mind the human rights of people.

To fulfill the mission which is assigned to me, I will exhaust all pacific means, being profoundly respectful of human dignity.

I will use my arms only when it is necessary to defend my life and the lives of others.

I will give all my effort to impede offenses to our patriotic symbols and national monuments that represent the traditional moral values of the Salvadoran people.

In all service activities and in my private life, I will take into account always that every individual has the right to life, to liberty, and that I provide these with security.

STATISTICS ON AGRARIAN REFORM IN EL SALVADOR

	As of Dec. 28, 1981	As of June 28, 1982	Net increase
Phase I:			
Total number of properties intervened	326	328	2
Estimated direct beneficiaries (co-op members)	34,658	29,755	—4,903
Estimated total beneficiaries	207,948	178,530	—29,418
Land area affected (acres)	552,640	553,860	1,220
Property purchases (property owners compensated)	72	124	52
Compensation paid:			
Cash	$4,206,432	$6,185,936	$1,979,504
Bonds	40,085,080	71,089,680	31,004,600
Total	44,291,512	77,275,616	32,984,104
Titles issued to cooperatives	2	7	5
Phase III:			
Number of direct beneficiaries	25,165	29,362	4,197
Total beneficiaries	150,990	176,172	25,182
Land area affected (acres)	100,029	119,420	19,391
Title petitions filed	32,146	36,856	4,710
Provisional titles issued	20,842	31,440	10,598
Definitive titles issued	0	103	103
Property owners compensated	0	8	8
Amount of compensation paid	0	$494,686	$494,686

Note: There is a net reduction in estimates for both the direct beneficiaries or cooperative members and total beneficiaries as a result of the abandonment of or migration from cooperatives located in or near conflict zones.

AGRARIAN REFORM TRAINING

During the calendar year 1981 and the first quarter of 1982, 191 separate training activities were conducted on behalf of 8,295 agrarian reform beneficiaries under Phase I and Phase III and technicians who service the reformed sector. The training activities included the presentation of 142 courses, both on-farm and at GOES training centers, 17 field trips, and 32 seminars. Subject matter covered included presentations treating: prevention and control of coffee diseases including rust, integrated cotton pest management, soil conservation, irrigation and drainage, preservation of storage of basic grains and seeds, management and feeding of dairy cattle, fish culture, bee keeping, farm management, small farm planning, credit planning, and farm accounting.

The following tables list the number of courses and seminars presented and field trips conducted, along with the number of participants attending, during calendar year 1981 and the first quarter of 1982.

1981 Agrarian reform training activities

Courses:	
Number	122
Participants	5,189
Field trips:	
Number	8
Participants	379
Seminars:	
Number	23
Participants	1,105

1st Quarter 1982 agrarian reform training activities

Courses:	
Number	20
Participants	651
Field trips:	
Number	9
Participants	512
Seminars:	
Number	9
Participants	459

Agrarian reform technical assistance

In keeping with Government of El Salvador policy, El Salvador's agricultural extension system made it a priority to assist the productive activities of the reformed sector through the delivery of technical assistance during the 1981/82 crop year (May 1981 through April 1982).

According to data released by the Ministry of Agriculture and Livestock's Office of Agrarian Reform Planning and Evaluation, 92 percent of coffee, 82 percent of sugar cane, 85 percent of cotton, and 85 percent of the basic grains planted by the reformed sector during that crop year were serviced by the country's agricultural extension service. The table below lists commodities produced on corresponding reformed sector hectarage during the 1981–82 crop that were serviced by the extension service.

AGRARIAN REFORM TECHNICAL ASSISTANCE 1981–82 CROP YEAR

Commodity	Hectares	Percentage of reformed sector planting
Basic grains	24,271	85
Cotton	16,157	85
Coffee	17,468	92
Sugar cane	8,987	82

Servicing the technical assistance requirements of Decree 207 beneficiaries is far more expensive and time consuming than servicing the requirements of Phase I farms given the size and dispersion of the former group's holdings. To minimize the costs of delivering technical assistance to Decree 207 beneficiaries while maximizing the effectiveness of the assistance delivered, the extension service is organizing beneficiaries into client groups. During the 1981/82 crop year 16,970, decree 207 beneficiaries were organized into such groups.

COMMENTS ON THE MARCH 28 ELECTION

U.S. OBSERVER TEAM

Formal Statement by US Observer Delegation: Over and over again we heard the people say "we are voting for peace and an end to the violence." We believe this election can be a new beginning for this country. The Salvadoran people have said in overwhelming numbers that they want peace and an end to the violence.

Sen. Nancy Kassebaum: I am impressed, seriously impressed. I have enormous respect for the patience, perseverance, and courage of the people turning out today. I don't see any sign of (intimidation). Exceptionally fair.

Congressman Robert Livingston: The procedures that were implemented were as fair as any I have ever seen in any election. There was no evidence of intimidation. I firmly believe that the people of El Salvador do want freedom, do want democracy, and reject the demands of the terrorists who are trying to take over this government by force, and I hope that the American people and the United States Congress would get that message. Voter turnout was a slap in the face of the guerrillas . . . I think the guerrillas had a lot of people in the U.S. and Europe fooled, but I don't think they had the people of El Salvador fooled.

Howard Penniman: It (the turnout) was in the face of enormous opposition from the guerrilla forces and certainly not out of any form of pressure from the government.

Father Theodore Hesburgh: I asked them specifically if they were there out of fear, and they said "of course not, we're here because we want to vote." They (voters at the polls) said we're going to win against violence. We're sick up to here with violence, and we want peace in this country, and we want our jobs back, and we want to get moving. There's a passion to vote. I felt so exhilarated and really euphoric about seeing democracy working in a very difficult situation.

FOREIGN OBSERVERS

British Observer Team: The actual conduct of the election, though not free from difficulties, was fair and no credible allegation of fraud or serious intimidation by any of the Political parties taking part has to our knowledge been made or can be entertained. The massive vote demonstrated a decisive rejection of the call by the Left-wing alliance for a boycott of the election, and was achieved despite the attempts of the guerrilla forces to frustrate the election.

Luis Herrera Campins, President of Venezuela: A worldwide defeat for communism and its allies. A major step toward ending the violence and achieving peace * * *.

Jorge Marandino, Representative of the Argentinian Christian Democratic Party: The guerrillas distributed pamphlets saying "vote in the morning and die in the afternoon," and many people with the pamphlets in their hands reaffirmed their desire to vote. The people voted against the guerrillas. This extraordinary day will be an example for all America.

Jose Figueres, Former President of Costa Rica of the Costa Rica National Liberation Party (a member party of the Socialist International): A tremendous victory for the democratic process. A free election, absolutely free. It was a moving event, mile long lines. It seems to me we have unmade a myth that the guerrilla movement here was

as popular as the one in Nicaragua that overthrew Somoza.

Francisco Saenz Mesan, President of the Costa Rican Supreme Electoral Commission: I was extremely impressed with the enthusiasm of the voters * * *. I believe they were freely able to vote, no pressure on them either physical or moral.

Nestor Gutierrez, Representative of the Panamanian Christian Democratic Party: The Salvadoran people have rejected violence, communism * * *. There was no pressure from the military.

Statement by OAS Election Observers: Orderly and free casting of ballots without any trace of repression. The experience of these elections * * * shows that elections are possible even under the most difficult circumstances * * *. A great triumph. The people have chosen the democratic path.

UNOFFICIAL OBSERVERS

Report prepared by the Official British Observer Delegation: The actual conduct of the election, though not free from difficulties, was fair and no credible allegation of fraud or serious intimidation by any of the political parties has to our knowledge been made or can be entertained. The massive vote * * * demonstrated a decisive rejection of the call by the Left-wing alliance for a boycott of the election, and was achieved despite the attempts of the guerrilla forces to frustrate the election.

Statement by Freedom House Delegation: A mandate for peace. No evidence * * * that this election was marred by gross fraud or that intimidation or violence dictated its result. * * * executed in a consistent and fair manner.

Declaration by the European Popular Party Delegation from the European Parliament: The people have clearly voted against violence, terror, and assassination. Neither psychological intimidation nor the brutal terror and terrorist attacks of the guerrillas during the electoral process prevented the people from voting. * * * The guerrillas have no popular roots among the Salvadoran people. The winner in this election is the Salvadoran people. The defeated are the guerrillas.

Dr. Al Thammer, German Christina Democratic Union: A very fair process of voting. (The people) rejected the violence of the guerrillas.

Horst Langes, German Representative in the European Parliament: By going out to vote, the people won.

Victor Irvine, Former Attorney General of Jamaica: A mandate for peace and prosperity. (The guerrillas will have) a tough time going on in the face of the vote.

Dr. Jean Marie D'Allet, Christian Democratic Member of the French National Assembly: * * * I thought that the people would be frightened by the threats and the presence of the guerrillas. I never saw so many people so happy to vote.

Robert Wenman, Progressive Conservative Member of the Canadian Parliament: I never saw any coercion or intimidation anywhere in any of the polls I visited. * * * It says to those who have resisted the electoral process, we have a message for you, you can shoot at us all day, you can bomb us, but we're going to vote, and that message should have been loud and clear to the guerrillas.

Tom Weal, New Zealand: I take my hat off to these people who haven't had the vast experience * * * in running a democratic process. I think they are absolutely beautiful people.

LATIN AMERICAN LEADERS

President Duarte, El Salvador: In the face of those who obstinately insist on imposing a totalitarian system with arms and have martyred the people to make them afraid to vote, here is the reply of the Salvadoran people, who have turned out en masse to vote, disregarding the danger.

President Jose Lopez Portillo, Mexico: Self-determination is a fundamental principle in which we Mexicans believe. I fervently hope the violence is eliminated. It is not for me to give an opinion * * * (but) (The Salvadorans at the polls) is a beautiful sight.

Colombian Foreign Minister Carlos Lemos Simmonds: * * * the people have chosen the path of democracy instead of the turbulent and dangerous path of the guerrillas and bullets. This is great for Latin American democracy.

Costa Rican President-Elect Luis Alberto Monge: * * * The first strong moral and political defeat suffered by the guerrillas.

Canadian Minister for External Affairs Mark MacGuigan: The fairest possible in El Salvador under the circumstances. (He added that the elections vindicated Canadian support for the electoral process.)

U.S. MEDIA

The Washington Post: One understands why the guerrillas were so eager to destroy * * * the elections. They seem to have sensed that the people would choose to take the way offered by the government to express their pent-up longing to have done with the war and to reconstruct the country. It was a tremendous victory for the political process. The insurgents were badly hurt by the elections: they failed to intimidate or dissuade the masses and were substantially spurned by them—a result that we hope will not be lost on Mexico, France, and the Socialist International, which have uncritically boosted the guerrilla cause.

The New York Times: What was most remarkable about Sunday's voting was the evident determination of so many Salvadorans to participate. Democracy may be a difficult vocation in Central America, but clearly it is not an impossible one. Despite the guerrillas' death threats and urban gunplay, an impressive majority of eligible voters * * * went to the polls.

The Los Angeles Times: The sight of citizens lining up to vote while soldiers exchanged gunfire with guerrillas a few blocks away was a remarkable symbol of a people's faith that democratic means can help solve political turmoil.

The Christian Science Monitor: No one favoring a nonviolent route to social change can fail to be heartened by the election turnout * * *. A thrilling display of courage and determination.

The Wall Street Journal: Clearly they had a real election in Salvador Sunday. The huge turnout was annoying to some American commentators because it destroyed their basic thesis about the war there, that it is simply the result of a popular uprising. It is simply not possible to square that thesis with a large proportion of the people pouring forth to vote * * *. And it is even harder to square it with the bloody efforts by the Communists to prevent a vote.

The Miami Herald: A resounding victory for the democratic process, one that many—including this newspaper—doubted possible in the midst of civil war. Three cheers for the Salvadoran people * * *.

St Louis Post-Dispatch: A vote against violence.

The Sun, Baltimore: * * * A clear defeat for the Farabundo Marti National Front and the various Marxist groups associated with it * * *. A turnout of more than eighty percent of the voters made the election a success, not a mockery.

Newsday: Display of tenacious determination * * *. A setback far more stunning than any defeat the insurgents might suffer on the battlefield * * *. Resounding repudiation of * * * their claim to represent the true aspirations of ordinary Salvadorans * * *. They would have been swamped if they had run a slate of candidates.

Philadelphia Inquirer: * * * A test of the courage of the people and their dedication to the democratic process. The heroism and patience of the voters bordered on the incredible. The chance for a negotiated settlement is greater today because of the election.

New York Daily News: The true heroes * * * were the hundreds of thousands of voters who braved the bluster and violence of lefist guerrillas to vote.

Houston Chronicle: Indisputable testimony that the people of El Salvador want to decide their government's future through the ballot box and not through violent revolution.

San Diego Tribune: The ability to carry on an election in a country without democratic traditions during an undeclared civil war is an achievement of the Salvadoran people.

Richard Threlkeld, ABC: It was the biggest and best election El Salvador has ever had and apparently the most honest.

John Chancellor, NBC: * * * The losers today were the rebels who told people not to vote.

Marvin Kalb, NBC: The elections helped legitimize the Administration policy of pressing for political and economic reform in the midst of savage guerrilla war.

Dan Rather, CBS: It was a triumph—a million people at the polls.

Joanne Omang, the Washington Post: * * * It is not possible to argue any more that fear of government reprisal for nonvoting made a considerable number of people walk for hours, dodge guerrilla bullets, and stand in line for hours to vote.

FOREIGN MEDIA

Il Giorno, Milan: * * * Yesterday something happened in El Salvador which deserves our consideration and admiration.

Hamburger Abendblatt, Hamburg: * * * Surprisingly many went to the polls—many risking their lives. They probably had the impression that these elections were not simply a farce.

Daily Telegraph, London: El Salvador rejects guerrillas.

Frankfurter Allgemeine, Frankfurt: (The elections) took place in spite of terror. In themselves they amounted to a victory.

Die Welt, Bonn: * * * The Marxists suddenly find themselves on the political defensive.

France-Soir, Paris: (The turnout) ended the fable * * * according to which the rebellion was supported by the country people.

Figaro, Paris: * * * A failure for the Marxist rebellion, which is losing its false name as supporter of the just cause of the poor and oppressed people.

Les Echos, Paris: * * * A rare example * * * which deserves reflection especially by the distant mentors who try to teach democracy.

Liberation, Paris: * * * the FMLN has lost the elections in which it did not participate.

Il Tempo, Rome: * * * The people of El Salvador have reacted to the intimidations and violence with massive participation in the electoral process. The armed party has been defeated.

Berlingske Tidende, Copenhagen: It has been fashionable to call the election a farce * * * (The people) have refused the left-wing's demand for a boycott of the election, a quite courageous demonstration indicating that the guerrillas do not by their terrorism serve the cause of the people. * * *.

Die Presse, Vienna: The appeal * * * for a boycott can be regarded * * * as a failure.

ABC, Madrid: Moral defeat for the guerrillas.

La Prensa, Tegucigalpa, Honduras: People said "yes" to democracy and "no" to pro-Soviet guerrillas' call for abstention.

La Nacion, San Jose, Costa Rica: The * * * people are offering the guerillas a civic and a political fight instead of bullets.

Daily Gleaner, Kingston, Jamaica: This election must certainly call into question the bona fides of the leftist rulers of Nicaragua and Grenada and might very well explain why, in spite of their boast that they have the support of the people, they are so shy of elections.

El Nacional, Caracas: A defeat for Communism and its allies.

Correio Brasiliense, Brasilia: * * * The Salvadoran guerrillas suffered two serious defeats: they did not succeed in obstructing the elections and the centralist Christian Democrats were the winners.

Times, London: From Europe it is not munitions which are needed but moral support. Western Europe should show * * * understanding.

TASS, Moscow: The organizers of the farce created every condition for falsification or fraud. There were no lists of electors, and a person had only to show his or her identification card to be allowed to vote. It was possible to vote many times in several polling centers. * * * A political profanation which for proportions and cynicism exceeds all spectacles of that kind.

Havana Domestic Television Service: Gunfire and absenteeism marked the attempt to hold elections in El Salvador yesterday. There are already charges that—as had been foreseen—dead and unborn voted together with the living.

Barricada, Managua: Held at bayonet point. * * * Minimal popular participation. * * * Squalid and forced elections.

SALVADORAN ELECTIONS

(By Dr. Jorge Bustamante)

(The following is the text of the rebuttal written by Dr. Jorge Bustamante in reply to the Ray Bonner articles on the Salvadoran elections which appeared in the New York Times June 4 and 6. It also addresses the allegations made by Thomas Sheehan in his OP-ED piece on June 3. Salvadoran Ambassador Rivas Gallont has submitted the letter to the Times for publication.

(Dr. Bustamante, a highly respected independent, is the President of the Salvadoran Central Elections Commission, which supervised the campaign, organized the polling and counted the votes.)

Recently the New York Times and other publications have raised questions about the integrity of the March 28 elections results in El Salvador. After examining some of these articles with care (including one rather loosely based on an interview with me), it becomes obvious that the basic source is a "research" report prepared by the University of Central America. We are not surprised by UCA's report—they wrote a similar report predicting fraud before the elections. We are surprised that the University's report has received so much currency without being subjected to the same scrutiny given most pronouncements from El Salvador.

The basic allegation of the UCA report is that the election results announced by the Central Elections Commission, while accurately reflecting the percentages won by each party, were approximately doubled in order to show greater voter turnout. The charge flies in the face of the findings of over 100 international observers and the on-the-scene reporting of more than 750 journalists from around the world. To quote the official report of the OAS Observers, which is representative of the reports from others, "The Salvadoran people have voted massively, equally in the cities as well as in the small towns, in a free and orderly manner, expressing the firm decision of making their sovereign right to vote count."

In spite of the fact that no one has said they know how this "fraud" was carried out, some specific charges have been made and deserve comment.

It has been said that simple arithmetic shows that 1.5 million people could not have voted during the time the polls were open since each voter needed three minutes. The fatal flaw in this argument is that it did not take three minutes to vote. The Commission studied this question before the election; we estimated 90 seconds per vote. I timed myself when I voted and I only needed 37 seconds after I got to the table.

In addition, most voting tables processed three people at the same time which further speeded the voting process.

In an article in the June 3 New York Times Mr. Thomas Sheehan makes much of a three hour halt in the announcement of results. He also says we on the Elections Commission announced that 80 percent of the results were in at that time. On the first point, he is right—we did stop announcing the results.

We stopped the public announcement of the vote count for two simple reasons. First, the voting tables each were sending the Central Elections Commission a telegram providing us with a preliminary count of the vote at their table. These telegrams, over 3,500 of them, were all trying to reach the Central Elections Commission at the same time and overwhelmed the National Telegraph System. We needed time for the system to catch up. The second problem concerned the reports in the telegrams themselves. In many of them the vote count did not coincide with the number of ballots issued to the table because of simple errors in arithmetic. When the figures did not balance the computer would reject the information. Then a Commission employee would have to review the telegram, find the error, correct it by hand, and then re-enter it in the computer. This time-consuming process caused a back-log. We stopped the announcements to allow our people to catch up. International observers, members of diplomatic missions, political party representatives and Central Elections Commission officials were present at the Commission offices all during this time. Not one person present has charged that tampering took place.

Mr. Sheehan also writes that "some hours after the closing of polls. . . the Board said that it had tabulated 881,883 ballots and that this corresponded to 80 percent of the votes cast." We made no such statement on election night. At noon two days after the election we announced that 881,883 ballots had been counted and that they represented 80 percent of the results from the voting tables. Because people were allowed to vote anywhere in the country, some voting tables were much busier than others. Thus the percentage of tables counted at any given moment did not correspond to the percentage of the votes counted at that time. For example, at the time of the announcement we had not yet counted the Department of San Salvador, which by itself produced about one-third of the total vote.

Issue has been made of the fact that we on the Elections Commission printed 3 million ballots when our most optimistic estimate of the number of eligible voters was far less than that number. There were several reasons for this. As I noted before, any citizen could vote at any voting table, thus it was impossible to know how many voters might present themselves at any given table. We made our best estimates and sent extra ballots to local elections officials in case individual tables ran short. Also, the guerrillas had promised to violently disrupt the elections. We had to provide for the possibility that some ballots might be lost to insurgent action. Furthermore, we had to allow for the loss of ballots through human error. The final reason for printing so many ballots should be obvious. To have held an election in which some citizens were denied their vote because of a shortage of ballots would have been a tragic farce.

The June 4 Times article cites an anonymous source to the effect that the "National Telephone Communication Center which was run by the Army" somehow altered the election results as the telegrams came in from the country-side. The Electoral Commission compared the results from the telegram with the results in the affidavits prepared by each electoral table. The tables sent their affidavits to the Electoral Commission directly via messenger. The comparison showed a discrepancy of less than one percent.

In the same June 4 article your reporter says that our April 13 printout shows no voting in nine villages in Chalatenango Department. But the April 14 printout shows all nine voting. This is not correct. Our printouts for those two days and the final printout of May 7 all show the same thing: four Municipalities—Nueva Trinidad, San Isidro Labrador, San Antonio de la Cruz and San Antonio Los Ranchos—did not vote. These towns were not able to vote because of heavy insurgent activity.

Other questions are raised in a June 6 article in the Times. Your reporter says, "In San Ildefonso, San Vicente 4 of the 10 voting stations reported that all of the 500 ballots it had received had been improperly marked." In fact local elections officials annulled the ballots from these four tables not for improper marking, but because they suspected fraud. The voiding of these ballots was in complete accord with our electoral law. A similar annulling of ballots took place in Suchitoto, Cuscatlan. We at the Elections Commission see nothing wrong with this in spite of the fact that it reduced the final vote count. It was the duty of the election officials to invalidate ballots when fraud was suspected.

The same article points out that in Aguilares, San Salvador, 19 of 20 tables reported an identical vote count.

Aquilares is what we call a "conflictive area" of San Salvador Department. Fighting had taken place all during election day around the town. The local election authori-

ties were anxious to return to the safety of their homes, so they counted all the votes from all the tables and reported them in one telegram in order to speed things up. Since the total number of votes was not divisible by 20 and we could not report a fraction of a vote, we made 19 identical packages and put the remainder in the twentieth. Subsequently, when the voting table affadavits arrived at the Central Elections Commission the totals were consistent with the telegram. While the official system was not strictly observed, all votes cast in Aguilares were counted. There is no evidence that local officials were doing anything but trying to get a fair vote count under trying and dangerous circumstances. The article states that the same thing happened with nine of 10 tables in El Paisnal, San Salvador. It did. And for exactly the same reasons.

Mention is also made in this article of possible fraud in Jiquilisco, Usulutan. In this case, your reporter seems to have confused ballots issued with ballots cast. Voter turnout was heavy in that municipality and extra ballots were issued to all 18 tables. Our printouts clearly show that 17 tables received a total of 999 blank ballots each and the other table received 515 blank ballots. Our printouts do not show uniformity in actual voting results from table to table. All this was officially reported. We fail to see a problem.

One particularly troubling point is that your June 4 article makes it seem that I acknowledged the possibility of a ten percent vote inflation. Neither I nor the Commission acknowledge that possibility. I told your reporter that in any country—especially one without sophisticated electoral technology—an error of as much as 10% might be expected. We believe the margin of error in our March 28 elections to have been much less—perhaps as little as one percent.

Even if we were to concede a ten percent inflation of the vote, we would be speaking of no more than plus or minus 150,000 votes, not the 600,000 to 700,000 votes alleged by the UCA study.

We do not mind explaining apparent inconsistencies. But we find the allegations of grand conspiracies and massive vote inflation frustrating. The charges are so groundless as to be absurd on their face. But it is a shame to see the most honest, open and free elections in our history slandered. If these elections were fixed I want to know how it was done. Sweeping accusations based on unsupportable concepts, such as three minutes per vote can only impede the difficult transition to democracy in El Salvador. To say otherwise is to defraud a people who before the eyes of the world, and often at great personal risk, chose democracy.

[The New York Times, June 11, 1982]

BASELESS CHARGES OF MASSIVE SALVADORAN ELECTION FRAUD

(By Howard Penniman)

To the Editor: In his June 3 Op-Ed article, "Salvador Vote Inflated, Study Is Said to Find," Thomas Sheehan describes conclusions by a team of researchers at Central American University in El Salvador that the reported vote of March 28 for members of that country's National Assembly was roughly double the actual number of ballots cast.

The number of votes was inflated proportionally, says Mr. Sheehan, so the political parties involved in the election did not object to the fraud: each received the number of seats to which it was entitled.

The researchers, conceding that they have no "conclusive proof," rely on "converging facts and calculations":

(1) that the Election Board had calculated it would take a voter three minutes to cast a ballot; (2) that ballot counting was at one point halted (just as it was in 1972, they say, when Jose Napoleon Duarte was cheated out of the presidency); (3) that U.S. Ambassador Deane Hinton "enjoined" party leaders after the election "from discussing fraud," and (4) that there was something fishy about printing 1.5 million more ballots than the "anticipated" turnout.

If there had indeed been such a doubling of the actual vote (presumably just to bamboozle the Americans), a giant conspiracy of silence would have been required, involving all members of the National Election Council and its staff, the leaders of all political parties and perhaps as many as a quarter-million precinct officials and poll watchers (who could check their own precinct reports against the computer printout). Furthermore:

The voting in El Salvador, as in all democracies, was an assembly-line process. Each voter went through six steps, beginning with the presentation of an identity card and ending when the voter's thumb was marked with ink visible only under ultraviolet light.

The process might take three minutes, but as many as six people could and did go through the process at the same time. By my check in several places, one voter was finishing up every 45 to 65 seconds. So most voters had cast their ballots by midafternoon.

There is no similarity between the three-hour interruption in the count of the March 28 vote and the interruption for several days in 1972. This time, outsiders were in the Central Electoral Council office—which in 1972 was closed tight. This year's count picked up where it had left off—in 1972, the Government announced a result that conflicted with previous figures.

At a luncheon after the election, Ambassador Hinton asked party leaders, in the presence of official U.S. observers, not to make "frivolous" charges of fraud; he did not "enjoin" them from discussing fraud. In any case, bitter political opponents, such as Arena and the Christian Democratic Party, would never have been silent in the face of real fraud.

The Electoral Council printed three million ballots to meet the legal requirements that each of the anticipated 4,556 precincts must receive 500 ballots and that more should be available for precincts which might exhaust their initial supply or to replace ballots in the event of theft by the guerrillas.

Mr. Duarte came closest to describing reality when he said that there may have been election fraud in some small towns but rejected charges of extensive vote inflation [news story June 7].

I witnessed the spontaneous enthusiasm of Salvadorans for the election in person. Millions of Americans witnessed it on television. I verified the authenticity of the election process based on a lifetime of observing elections in the United States and in dozens of developed and developing countries.

Mr. Sheehan's article appears to fall into the trap of seeking to explain away what does not conform to prior expectations of guerrilla strength.

GOVERNMENT OF EL SALVADOR

National Executives Elected by the Assembly: Interim President—Alvaro Magana (Independent); First Vice President—Raul Molina (PCN); Second Vice President—Gabriel Mauricio Butierrez Castro (ARENA); Third Vice President—Mauricio Alberque (PDC).

Cabinet Nominated by the President and Approved by the Assembly: Minister of the Presidency—Dr. Francisco Jose Guerrero (PCN); Minister of Foreign Relations—Dr. Fidel Chaves Mena[1] (PDC); Minister of Defense and Public Security—General Jose Guillermo Garcia[1] (Independent); Minister of Justice—Dr. Arturo Mendez Azahar (PCN); Minister of Economy—Dr. Jose M. Pacas Castro (ARENA); Minister of Interior—Manuel Sermeno (Independent); Minister of Labor—Dr. Julio Alfredo Samayoa[1] (PDC); Minister of Planning—Miguel Ernesto Robles (ARENA); Minister of Public Health—Colonel Dr. Fernando Berrios (ARENA); Minister of Finance—Dr. Jorge Eduardo Tenorio[1] (Independent); Minister of Agriculture—Miguel Muyshondt (ARENA); Minister of Foreign Commerce—Benedicto Morataya (ARENA); Minister of Public Works—Pio Arnulfo Ayala (PCN); Attorney General—Dr. Mario Rivera (PCN); Minister of Education—Carlos Aquilino Duarte[1] (PDC); Solicitor General of the Poor—Dina Castro de Callajas[1] (PDC).

President of the Constituent Assembly: Roberto D'Aubuisson (ARENA).

CAPTIVE NATIONS OBSERVANCE

Mr. PRESSLER. Mr. President, in observance of Captive Nations Week, I would like to offer a few remarks in honor of the valiant and courageous women, men, and children of those nations as well as people in other lands whose persistent efforts help to constantly remind us of the realities of political, religious, social, and economic repression.

This distinguished Senate has frequently discussed the problems of the captive nations. We have sent many letters to the self-appointed rulers of the captive nations asking for more humane, tolerant, and democratic treatment of their captive peoples. Many of us have spoken personally with the representatives of those governments to ask them to end their repression of the captive peoples of the world. Having recently celebrated the 206th anniversary of the independence of our own Nation, it is especially painful to be reminded of the slavery which is the lot of 1 billion fellow human beings. But our own freedom is appreciated much more deeply and honestly if we realize the value of our own fight for independence as an example and a symbol for the captive nations. Their struggle for liberation is part of our own continuing struggle to maintain and expand the principles of freedom and human dignity. On the other hand, the determination of the captive nations to achieve a restoration of freedom is a striking inspiration for those who enjoy a high degree of freedom but may take that freedom for granted.

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[1] Incumbents.

The suppression of human rights—freedom of thought, conscience, religion, and self-determination—is prevalent in many nations, but it is nowhere more total than in the Baltic States of Estonia, Latvia, and Lithuania. It is also oppressively present in Poland, the Soviet Union, Afghanistan, and many other lands. Yet the hunger for freedom cannot be destroyed. It will not be destroyed. Let us always remember that, though the struggle for freedom is painful, it is a battle well worth pursuing and a war that will be won.

NONDEFENSE DISCRETIONARY SPENDING WILL NOT BE REDUCED FURTHER

Mr. HATFIELD. Mr. President, I would like to call the attention of my colleagues to two articles in today's issues of the New York Times and the Washington Post. The first of these, from the Times, reports that Secretary of Defense Weinberger is proceeding with the development of his fiscal year 1984 and fiscal year 1985 budgets without regard for the outyear limitations on defense outlays determined by Congress in the prolonged negotiations over the budget resolution. That resolution was endorsed by the President. The effect of Secretary Weinberger proceeding in disregard of the resolution is to increase budget outlays by a total of $23 billion for those 2 years. In the absence of other action to either increase revenues or cut nondefense spending, the deficit will increase by $23 billion.

The second article, from today's Post, covers yesterday's testimony by CBO Director Alice Rivlin concerning the midsession review of the budget and the projections for a fiscal year 1983 budget deficit in the range of $140 to $160 billion. Commenting on her testimony, Treasury Secretary Regan is reported to have said, first, that Ms. Rivlin's projections have been reasonably good in the past. The article goes on: Asked what the government should do if deficits threaten to remain above $150 billion for the next 3 years, the Treasury Secretary said, "Cut the budget. There is room in the budget for further cuts, especially in nondefense discretionary spending."

I ask unanimous consent that both of these articles be printed in their entirety at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. HATFIELD. Mr. President, I will be brief. If the reports concerning the Defense Department's budgetary plans for fiscal years 1984 and 1985 are accurate, I will consider it a breach of faith. This Senator will be unequivocally opposed to any further increases in the defense budget. Apparently the military's appetite is absolutely insatiable. There is no regard for long-term planning, no concern for flagrant waste of the taxpayer's dollars, apparently no idea of the disastrous effects on the economy.

And I can assure my colleagues and the administration that I will do all in my power as chairman of the Appropriations Committee to prevent any further reductions in nondefense discretionary spending. Our committee stands second to none in reducing spending. We have made more cuts in more programs in the past year and a half than any other committee of this Congress. We have eliminated fat, we have eliminated muscle, we have conducted outright amputations of programs to do our part in getting the budget under control. I say to the Secretary of the Treasury that there is no more room to cut in the nondefense discretionary programs, and I will strenuously oppose any efforts to reduce them further.

Mr. President, if we want to talk about liberal spenders, let us realize that the new big spenders in the Congress today, the ones that have brought the budget into this terrible situation, are the military spenders. That is where the money is being spent like a drunken sailor.

We have cut the budget in areas of social security, the aged, the poor, the nutrition programs, but where we have increased has been in that insatiable appetite of the military machine that runs through this Senate without any kind of constraint or restriction.

I only want to make that point at this time because I think these articles in today's papers show where they are going to even defy the Congress of the United States in preparing for new increases in military spending. Those are the liberal spenders. Those are the big spenders today, not the people who are concerned about the social programs in this country.

Mr. President, I will have more to say on this subject at a later date. Today I simply wanted to bring these matters to the attention of my colleagues, and make my position clear.

EXHIBIT 1

AIDES SAY REAGAN OBJECTS TO CEILING ON MILITARY FUNDS

(By Steven R. Weisman)

WASHINGTON, July 27.—President Reagan does not feel bound by the ceilings on military spending for 1984 and beyond that were set by Congress last month with the White House's blessing, Administration officials said today.

In a step likely to hurt his relations with his Republican allies, Mr. Reagan was said to be planning to use his midyear economic report, due later this week, to signal an intention to seek higher levels of military spending.

Last month, after a long struggle with a Congress intent on reducing the Federal deficit, Mr. Reagan endorsed a budget resolution calling for $30 billion less in military spending than he had proposed for the fiscal years 1983 to 1985. An Administration official said today that Mr. Reagan had decided, in effect, that his Administration should not have to adhere to the $23 billion in cuts that affect 1984 and 1985.

RESERVES RIGHT TO CHANGE

"The President does not consider the outyear numbers to be binding as far as defense is concerned," the Administration official said. "The budget resolution that was passed was for fiscal 1983 only, the President reserves the right to change them for the years after that."

There was no official reaction from Congress, but two key aides to the Senate Republican leadership said that any step appearing to renounce the budget ceilings set in June would be viewed by some Republicans as Mr. Reagan's reneging on a promise.

"There are a lot of folks who believed the President made a deal for fiscal '83-'84-'85 on defense spending," said one Republican aide. "Cutting defense was a whole part of the budget package."

The President's decision, however, would have little practical effect in the short run, since he does not submit his actual spending proposal for 1984 until next January. After that, Congress determines what the spending level will be.

Thus, Mr. Reagan's decision not to be bound now by Congress's latest projections for 1984 was seen as a symbolic act, more of a "signal" of his intentions than an actual spending program, as one official put it.

Administration aides said a sharp debate took place before Mr. Reagan made his decision. They said it was reminiscent of last year's fight over military spending between Defense Secretary Caspar W. Weinberger and David A. Stockman, the budget director, as well as a portent of battles likely to occur later this year.

In the latest fight, according to Administration aides. Mr. Weinberger argued that Mr. Reagan need not feel he had to adhere to the military spending ceilings set by Congress. Mr. Reagan's political advisers were said to have joined with Mr. Stockman in arguing that the President would anger Congress if he backed away from the agreement made last month.

Mr. Reagan was persuaded, according to an Administration official, that the Defense Department should not be held to the future spending ceilings Congress established when it approved a first concurrent $770 billion budget resolution for the fiscal year 1983.

Moreover, this official said, Mr. Reagan had decided that the Defense Department could "assume" that its approved numbers for 1984 and beyond were those originally proposed by Mr. Reagan in February.

These called for military outlays of $253 billion in 1984 and $292 billion in 1985. In its budget resolution, Congress agreed to reduce them to $243 billion for 1984 and $279 billion for 1985, a cut of $23 billion over two years.

A Senate Republican aid said tonight that the Administration move would be seen in Congress as widening the deficit by at least that sum in 1984-85, weakening the entire bipartisan effort to reduce the deficit by trimming programs almost across the board.

In the midyear economic report, according to an Administration official, Mr. Reagan plans to say that he will determine later what the 1984 military spending levels should be. By this, he said he meant that

Mr. Reagan will decide "in the normal budget cycle," in other words, in the process leading to submission of the 1984 budget in January.

"There's no great mystery to it," this official said. "It will be decided later on, and the Defense Department did not want to be held to the lower numbers until it's decided. They wanted to make it clear that they reserved the right not to be bound by those numbers."

Mr. Reagan's decision to renounce Congress's military spending cuts, subject to a review later, has no effect on spending for the fiscal year 1983, which begins Oct. 1. For that year, the level established by Congress was $214 billion in outlays, as against $221 billion in outlays Mr. Reagan had asked for last February.

The military appropriations committees in Congress are due to break down this sum into allocations for specific functions before the end of this year.

The military spending debate has been marked by myriad charges and countercharges within the Administration and Congress.

The Administration maintains that its projections for the military reflect a growth rate of 7 percent above the inflation rate with the fiscal year 1982 as a base. The Office of Management and Budget has determined that military spending is due to grow at a rate of 11 percent if one uses as a base the original 1981 budget that President Carter submitted in January 1980.

CBO Sees Far Higher Deficits

(By John M. Berry and Helen Dewar)

The federal budget deficit is likely to be between $140 billion and $160 billion in each of the next three years even if Congress makes all the spending cuts and tax increases called for in the current budget resolution, Alice Rivlin, Director of the Congressional Budget Office, said yesterday.

These deficits, far higher than the ones projected by the Reagan administration or by Congress when the budget resolution was passed, will be higher still if the moderate economic recovery forecast by CBO to begin later this year fails to occur, Rivlin told the Senate Budget Committee.

In a much delayed midyear budget review, the administration will estimate the fiscal 1983 deficit at no more than $114 billion, according to Treasury Secretary Donald T. Regan. Congress, when it passed the budget resolution, said it would produce a deficit of $103.9 billion.

Rivlin noted that Treasury borrowing to finance deficits as large as those CBO is projecting would keep pressure on financial markets, holding interest rates high and preventing a vigorous recovery from the recession.

Even as Rivlin warned of the higher deficits, bills to conform to the budget resolution made faltering progress in the Democratic-controlled House.

The Agriculture Committee approved cost-cutting amendments in dairy and wheat support programs in order to protect food stamps, while the Banking Committee rejected Republican proposals to squeeze Federal Housing Administration loan programs on grounds it had already made enough spending cuts to comply with the budget directive.

In its first floor vote on committee-proposed spending cuts, meanwhile, the House approved relatively modest economies in veterans programs, while its Rules Committee cleared the way for a floor fight later this week over the Post Office and Civil Service Committee's refusal to limit annual cost-of-living increases in federal pensions to 4 percent.

The deficits CBO is projecting are consistent with no more than a moderate recovery that would reduce unemployment slowly, Rivlin said. The unemployment rate, which was 9.5 percent in June, will average 8.8 percent in 1983 and still be above 7.5 percent throughout 1985, CBO now estimates.

On the other hand, Rivlin said, inflation should be no higher than about a 6.3 percent rate next year, as measured by the so-called gross national product deflator. That compares to a 4.8 percent annual rate in the first half of this year and a forecast 7 percent in the current six months.

With uncharacteristic bluntness, Rivlin said Congress and the president should act together to reduce the likely deficits by moderating the large planned increases in defense spending over the next few years, taking "significant action" to reduce spending on so-called entitlement programs and further increasing taxes.

Rivlin said that most of the difference between the CBO figures and those of the administration are the result of a different economic forecast, principally a slower rate of economic growth over the next three years.

In Chicago to address the National Conference of State Legislatures, Regan said he would not comment on Rivlin's projections "until I see what the economic assumptions are" for her forecast.

But he told reporters, "she's been reasonably good" in her past estimates.

Asked what the government should do if deficits threaten to remain above $150 billion for the next three years, the Treasury Secretary said, "cut the budget. There is room in the budget for further cuts," especially in "nondefense discretionary spending."

Rivlin told the Hill panel there was little Congress could do in coming months to improve the short-term economic outlook other than "hope for the best."

She resisted suggestions by some committee Democrats that rapid expansion of the money supply would help. That could renew inflation fears and cause long-term interest rates to go higher, she cautioned.

In yesterday's committee action:

The House Agriculture Committee voted tentatively to make major cuts in price-support payments to dairy farmers, thereby lessening the need to make cuts in the food-stamp program.

The committee voted to reduce price-support payments to farmers who exceed set production limits, a departure from current practice that experts said could save $1.3 billion next fiscal year and a total of $3.2 billion over the next three years.

In another departure, the committee voted to pay wheat farmers for taking part in an acreage set-aside program under which, next year, they would have to idle one-fifth of their land. The CBO estimated that this program, for which wheat farmers have been lobbying heavily, would cost $127 million next fiscal year but save $218 million during the following two years as reduced production resulted in increased grain prices and lower support payments from the Treasury.

The committee adopted similar programs for rice and corn, but refused to approve direct payments for cotton farmers.

The House Banking Committee, contending that it had already cut costs more than enough in two earlier bills, rejected more than $2 billion in savings from the FHA loan program endorsed by the Senate Banking Committee in complying with budget orders.

Instead, the committee's Democratic majority, over Republican objections that it came up with a "turkey" of a proposal, endorsed additional cost-cutting of only about $5 million for next year, largely in the Office of the Treasury Secretary. They invited Republicans to make further cuts on the floor if they wanted.

The House, by a vote of 400 to 0, approved $548 million in cuts from veterans programs over the next three years as part of an omnibus veterans compensation bill. It was the first of the budget-cutting bills to be approved by the House and it exceeded its target, although the amounts involved are modest in comparison with more controversial proposals, that are waiting in the wings.

The House Rules Committee granted reluctant Republicans a chance to champion cuts in inflation adjustments for federal retirees when a largely token savings measure from the Post Office and Civil Service Committee comes to the full House later in the week.

The Civil Service Committee refused to impose a 4 percent limit on cost-of-living adjustments for military and civilian government retirees, in effect letting the Republicans take responsibility for such a step on the floor. Republicans argued in vain that committee foot-dragging, coupled with piecemeal handling of the spending measures, stacked the deck against them and against compliance with the budget.

The Democrats are "resorting to a nickle-and-dime strategy . . . that would leave us with just that—nickles and dimes," charged Minority Whip Trent Lott (R-Miss.).

"If they [Republicans] support these cuts, they ought to vote for them," countered Rep. Leon E. Panetta (D-Calif.).

The House Appropriations Committee, wrapping up the last of its money packages for the 1982 fiscal year ending Sept. 30, approved $14.4 billion in new spending, with the largest chunk, $6.2 billion, for federal pay raises granted last October.

This measure is in addition to a scaled-down "urgent" supplemental money bill that President Reagan signed earlier this month after a protracted veto fight with Congress.

SENATOR SAM TELLS THEM

Mr. HELMS. Mr. President, I have reached the point that nothing really surprises me concerning the intellectual dishonesty of some of the major media of this country. For awhile, I had decided that I was in a minority in perceiving that the major media will stoop to any depth in misrepresenting those with whom these media disagree.

I have been stunned to note, for example, the incessant attacks upon President Reagan's efforts to reverse the economic crisis in this country—a crisis clearly created by 35 years of callous irresponsibility by politicians who have been using the Federal Treasury to feather their own political nests.

Any thinking American will understand that there are no instant or easy cures of the ailments the United

States now suffers. Not only have most of the major media refused to tell the American people the truth, they have insisted on pretending that Ronald Reagan created the problems. Sadly many Americans have been misled.

Mr. President, this sort of thing is confined not merely to economic issues. The misrepresentations run all across the board. Anyone with whom the ultraliberal editors disagree is constantly portrayed as evil, even un-American.

Some weeks back, Mr. President, the editor of the Miami Herald published an editorial in which I was personally castigated because of my opposition to the so-called Voting Rights Act extension. That editorial was gleefully picked up on July 2 by the ultraliberal newspaper in my hometown of Raleigh. That newspaper, The News and Observer, has an editor who does everything possible to avoid publishing even letters to the editor which defend me. The able Senator from Minnesota (Mr. BOSCHWITZ) wrote a generous letter, unsolicited by me and without my knowledge, to the Raleigh paper. Did the paper publish his letter? Of course not. Instead, Senator BOSCHWITZ received a note from Editor Claude Sitton which began "Dear Rudy" and signed "Claude."

Senator BOSCHWITZ handed me the letter from Mr. Sitton, whom Senator BOSCHWITZ does not know. I had to explain the "Dear Rudy" routine—that this is Mr. Sitton's way of avoiding the publication of the Boschwitz letter.

But back to the Miami editor, Mr. President. When I saw the reprint of the Miami editorial in my hometown paper, I sent a photostat of it to Senator Ervin, with the following letter which I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, D.C., July 14, 1982.

Hon. SAM J. ERVIN, Jr.,
Post Office Box 69,
Morganton, N.C.

DEAR SENATOR: I enclose a copy of an editorial from The Miami Herald which was gleefully reprinted recently by the Raleigh paper. It may bring back memories of the cheap shots you endured when you opposed the so-called Voting Rights Act back in 1965.

I would be willing to wager that the editor of the Miami paper wouldn't think of publishing your scholarly assessment of this legislation. Instead, he probably would engage in personal invective against you, as he did against John East and me. Still, it's comforting to remember that you understand the Constitution. As for the Miami editor, it's like your friend Lum Garrison said: "He don't know nothing, and he's got that tangled up."

Dot joins me in sending our love to Miss Margaret and you.

Sincerely,

JESSE.

Mr. HELMS. Now, Mr. President, I ask unanimous consent that the Miami editorial be printed in the RECORD at this point.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the News and Observer, Raleigh, N.C., July 2, 1982]

HELMSMANSHIP

(Editorial from the Miami Herald)

Maybe what the U.S. Senate needs is a voting rights act for itself. Too often Senate voting is blocked by willful obstructionists using prolonged "debate" to prevent action supported by a clear majority.

A disquieting example was evident in the Senate's glacial pace on extension of the Voting Rights Act of 1965, which finally was approved 85–8 on Friday afternoon.

Test votes had indicated that the compromise measure supported by President Reagan and by leaders of both parties was backed by nearly 90 Senators. Yet for nine long days Senate action was blocked by the stalling tactics of North Carolina's two right wing Republicans, Jesse Helms and John East.

Missouri Republican Sen. John Danforth correctly termed the filibuster "a verbal sit-in." And Massachusetts Democratic Sen. Edward Kennedy aptly characterized the obstructionists as "a small band of willful opponents of civil rights holding the Voting Rights Act and the nation hostage."

The stalling is a clear violation of the spirit of the U.S. Constitution. That document requires an extraordinary majority for the Senate to act on some items—constitutional amendments, ratification of treaties—but not to pass simple legislation.

Senator Helms, however, apparently has little but contempt for the Constitution. His mean-spirited opposition to protecting that most basic of right—the right to vote—is but one example. He is also active in efforts to usurp the authority of federal courts and to undermine the wall of separation between church and state.

In one sense, however, the lengthy hollow "debate" on the Voting Rights Act may have served a purpose: It focuses a national spotlight on just how extreme and politically isolated Senator Helms is—even with a conservative, Republican-controlled Senate.

This lesson could be important, for Senator Helms has managed to parley a knack for fund-raising among right wing true believers into clout on Capitol Hill. He has used his clout for everything from protecting tobacco price supports to blocking State Department appointments.

In trying to prevent extension of the most successful piece of civil rights legislation the Federal government ever enacted, Senator Helms may have gone too far. He may have damaged his own standing within the Senate.

The situation is not without precedent. Back in the 1950s. Red-baiting Sen. Joe McCarthy eventually went so far that the Eisenhower administration and even his conservative colleagues in the Senate turned against him.

Senator Helms has been appeased and humored far more than he deserves. Both the Reagan administration and his fellow senators have done so. Now that he has been exposed for what he is—a raving extremist opposed even to the basic right to vote—he ought to be cut down to size.

Mr. HELMS. Senator Ervin, upon receiving my letter and the photostat of the Miami editorial as reprinted in the Raleigh News and Observer, sat down and wrote the Miami editor. Senator Ervin's letter is dated July 21, 1982. In a moment, I shall ask that this letter be printed in the RECORD.

But first, Mr. President, I would mention that Senator Ervin wrote to every major newspaper in my State during and before the debate on the so-called Voting Rights Act extension. Since Sam Ervin is a respected constitutional lawyer, one would think that at least one newspaper would publish his assessment—or excerpts from it—on this sorry piece of legislation. After all, these newspapers had plenty of space to publish their attacks on me for questioning the constitutionality of the Voting Rights Act. But the newspapers had no space for Sam Ervin's side of the argument.

Let us examine Senator Ervin's assessment of the legislation. You don't have to agree with Sam Ervin to recognize the duty of the major news media to present both sides of an issue.

Mr. President, this matter is now a fait accompli. Congress has passed the so-called Voting Rights Act extension. It is now law—bad law, but law nonetheless. But even in retrospect, I think my colleagues should examine Senator Ervin's analysis—not only of the legislation itself but the irresponsibility of the major news media as well.

Therefore, Mr. President, I ask unanimous consent that Senator Ervin's letter of July 21 to the editor of the Miami Herald be published in the RECORD at the conclusion of my remarks.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

MORGANTON, N.C., *July 21, 1982.*

The EDITOR,
The Miami Herald,
Miami, Fla.

DEAR SIR: I revere the Constitution because it is the most precious instrument of government ever devised by man. It was framed and ratified by the founding fathers to secure to Americans a government of equal laws conforming to its provisions.

I have always championed the freedom which its First Amendment guarantees to the press. This freedom is given to the press to enable it to communicate to the people and their officials the truth necessary to insure that the nation enjoys the system of government the Constitution was ordained to establish.

Hence, this freedom imposes upon the press the duty to be intellectually responsible in exercising its awesome power. To be intellectually responsible, the press must do the research necessary to an understanding of the truth of the opinions it expresses editorially.

I am a life-long Democrat who had the high honor of serving as a United States

Senator from North Carolina for 20 years. My sense of simple justice compels me to assert that the editorial entitled "Helmsmanship" which The Miami Herald recently published reveals a total lack of intellectual responsibility on the part of its writer and publisher.

This editorial charges North Carolina's present Senators, Jesse Helms and John East, who are Republicans, with contempt for the Constitution, and with practicing what it calls "the Red-baiting" tactics of the late Senator Joe McCarthy because they opposed the further extension of the 17 year old Voting Rights Act of 1965.

I know whereof I speak when I say the editorial was intellectually irresponsible. I have made my study of the Constitution a labor of love for 68 years, and was a member of the Senate Committee which, in 1954, investigated McCarthy's tactics and urged the Senate to censure him for them.

The Voting Rights Act rapes the Constitution in many ways. For that reason, I opposed its enactment by Congress in 1965, and cannot ignore unjustified attacks on other Senators for doing the same thing which my oath to support the Constitution required me to do while I was a Senator.

The Voting Rights Act was carefully crafted to apply to North Carolina and a few other carefully selected Southern States to outlaw by devious means their constitutional power to employ literacy tests as qualifications for voting in elections, and at the same time to permit 22 other states outside the South to continue to employ literacy tests for exactly the same purpose.

The Act convicts North Carolina and the other Southern States of denying literate blacks the right to vote in violation of the Fifteenth Amendment by congressional fiat without a judicial trial be a bill of attainder which Article 1, section 9, clause 3 of the Constitution forbids Congress to pass, and by an irrational triggering device and an irrefutable presumption totally abhorrent to the due process clause of the Fifth Amendment.

Although 60 of the 100 counties of North Carolina escape its condemnation, the Act, condemns North Carolina as a state because its irrational triggering device and irrefutable presumption impale the other 40 counties of the state, whose people are North Carolinians and whose public officers are agents of North Carolina.

I discuss the constitutional prohibition of bills of attainder and the due process clause in the reverse order of my statement of them.

The due process clause forbids Congress to create conclusive presumptions, and invalidates all other presumptions if the fact established bears no rational relationship to the conclusion presumed.

The triggering device, which makes the Act operative, embodies the conclusive presumption that a state has wrongfully denied literate blacks the right to register and vote in violation of the Fifteenth Amendment whenever the Attorney General finds that it employed a literacy test as a qualification for voting on a specified date prior to a prescribed presidential election, and the Director of the Census finds that less than 50 percent of the persons of voting age in the state were not registered to vote or did not vote in such presidential election. Originally, the prescribed presidential election was that of 1964. Congress has since extended the Act to subsequent presidential elections.

The triggering device was carefully invented to make the Act apply to Southern States and exclude other states from its coverage because the overwhelming strength of the Democratic Party in the South makes primaries determinate of political results in them, whereas the general or presidential election is determinate of political results in other areas of the nation. For this reason, voting in general or presidential elections in the South is much lighter than in all others.

The triggering device and the conclusive presumption it creates are irrefutable because the findings of the Attorney General and Director of the Census and the irrational conclusion the Act draws from them cannot be questioned, contradicted, explained, or challenged by an aggrieved state in any forum or judicial tribunal on earth.

There is no rational relationship between these findings and the conclusion or presumption the Act draws from them because the findings do not disclose the race of the persons of voting age who were not registered or who did not vote. Hence, the Act condemns a state even if the blacks of voting age residing in it were registered and voted and the non-registered and non-voting persons were white.

When it upheld the Act contrary to the Constitution and many prior sound decisions construing it, the Supreme Court virtually conceded that the Act is bill of attainder and is inconsistent with the Due Process Clause.

It side-stepped the oaths of its members to support these constitutional protections by a specious assertion that states are not persons within the purview of the constitutional prohibition and the due process clause.

In so doing, the Supreme Court ignored its prior definitions of what constitutes a state under the Constitution. Under these definitions, a state is not some kind of a mystical being. It consists of the human beings dwelling within it borders and the public officers through whom they exercise their constitutional powers. The Act applies directly to these human beings and officers, and they are indisputably identifiable as persons under the congressional prohibition of bills of attainder and the due process clause, and the decisions implementing them.

In robbing these human beings and their officers of the protections of the constitutional prohibition of bills of attainder and the due process clause, Congress and the Supreme Court assign them to a status inferior to federal officers, communists, and persons charged with treason and other crimes against the United States. This is so because the Supreme Court has rightly held that federal officers, communists, and persons charged with crime cannot be deprived of these protections.

Four provisions of the Constitution, to wit, Article I, section 2, clause 1; Article II, section 1, clause 2; the Tenth Amendment; and the Seventeenth Amendment, vest in the states and deny to Congress the power to prescribe qualifications for voting in all federal and state elections.

After condemning the selected states in violation of the constitutional prohibition of bills of attainder and the due process clause, the Voting Rights Act suspends the power of the condemned states to exercise their undoubted right under the four constitutional provisions cited to establish literacy tests as qualifications for voting in elections, and simultaneously allows the other 22 states employing literacy tests for that purpose to continue to do so. It further denies a condemned state access to any court on earth to challenge the constitutional validity of any of its provisions.

In addition to suspending the right of the condemned states to exercise the power vested in them by the four constitutional provisions, the Act decrees that they cannot change any election law without going to Washington, hat in hand, and obtaining from a nonconstitutional federal officer, the Attorney General of the United States, or the United States District Court for the District of Columbia advance permission to make a proposed change. Nowadays the Attorney General and some federal judges rule that a condemned state cannot alter a state election district or the mode of holding an election unless the change will enhance the likelihood that blacks rather than whites will be elected to office in it.

These rulings as well as the Act itself are repugnant to the Constitution, which in its present form confers equal constitutional and legal rights on all Americans of all races and forbids any public officer or body to use race as a criterion for the bestowal of any right or the imposition of any liability.

Robbing states and their people and their officers of the protections the congressional prohibition on bills of attainder and the due process clause were designed to give them in the respects set forth above is not the only rape the Voting Rights Act commits on the Constitution. It manifests its flagrant contempt for the most precious instrument of government the world has ever known in these additional ways:

1. In suspending the rights of the condemned Southern States to exercise their power to use literacy tests as qualifications for voting, the Act repudiates the soundest and most courageous Supreme Court decision of all time, Ex Parte Milligan, 4 Wall. 2, 18 L.Ed. 281, which declares and holds that the Constitution is an unvarying law for rulers and people alike; that it covers with a shield of its protection all men under all conditions; and that no notion involving more pernicious consequences was ever invented by the wit of man than any of its provisions can be suspended by government at any time or under circumstances, or in any emergency.

2. In impaling the Southern States it was devised to condemn by denying them access to any forum or judicial tribunal to challenge the validity of any of its provisions, the Act makes a solumn mockery of the Constitution and simple justice.

3. In condemning the selected Southern States by a congressional fiat without a judicial trial, the Act nullifies the due process clause and other provisions of the Constitution which decree that the federal government cannot punish any person for wrongdoing unless his guilt is first established by legal evidence in a fair trial in a federal court.

4. In invoking the Fifteenth Amendment as a pretense for nullifying the provisions of the First and Second Articles and the Tenth and Seventeenth Amendments conferring upon the condemned states the undoubted constitutional power to use literacy tests as qualifications for voting, the Act repudiates the sound constitutional doctrine that the Constitution consists of harmonious provisions of equal dignity and not of self-destructive clauses, and that no provision of the constitution can be construed or applied so as to nullify or circumvent any other provision.

5. In suspending the power of the condemned Southern States to use literacy tests as qualifications for voting and permitting 22 other states in the union to continue to use such tests for the like purpose, the

Act treats with contempt the sound constitutional doctrine that all the states of the union possess equal powers under the Constitution and that no provision of the Constitution can be perverted to reduce any of them to a second class status.

6. In requiring a condemned state to obtain advance permission from The Attorney General or the District Court of the District of Columbia to make any change in its election laws, the Act ignores the indisputable truth that states do not have to obtain advance permission from the federal government to legislate, and that there is not a syllable in the entire Constitution conferring upon Congress the arbitrary power to confer any such authority upon any federal official or court.

While it bars access to any court to challenge the constitutional validity of its condemnation of any state or any political subdivision of any state by its irrational triggering device and irrefutable presumption, the Act does contain so-called "bail out" procedures which permit a state or subdivision to bring a subsequent action against the United States in one out of the multitudes of United States District Courts existing in America, namely, the United States District Court for the District of Columbia, and seek in such action a declaratory judgment adjudging that the state or subdivision may once again exercise the suspended powers conferred upon it without limitation by the Constitution.

A very good case can be made for the proposition that these "bail out" procedures deny the aggrieved state or subdivision the fair trial guaranteed to all litigants in federal courts by the due process clause of the Fifth Amendment.

The United States District Court for the District of Columbia sits in Washington, D.C., which is anywhere from 200 to 1000 miles from the aggrieved Southern States and subdivisions. The Act provides that this Court cannot enter a declaratory judgment in its favor unless the plaintiff carries the burden of showing by testimony that during a specified period of time it has not used a literacy test "for the purpose or with the effect of denying or abridging the the right to vote on account of race or color." It does this notwithstanding another federal statute denies the plaintiff compulsory process to obtain the testimony of witnesses living more than 100 miles from Washington.

The Act originally set the specified period of time at 5 years. It is now 17 years, and will be reduced to 10 years after August 5, 1984, by the 1982 amendments extending the 17 year old Voting Rights Act for an additional 25 years.

The irrational and irrefutable presumption of guilt created by the devious triggering device will remain in full effect and thus rob the plaintiff of its suspended constitutional rights until the Act expires—if Congress ever permits it to expire—unless the plaintiff is able to establish its innocence to the satisfaction of the far-removed District Court. Moreover, the decision in *Gaston County* v. *United States*, 395 U.S. 285, 23 L.Ed.2d 309, makes it virtually impossible for any southern plaintiff ever to carry the requisite burden of proof because of that Court's assumption that it produced the illiteracy of blacks by its prior discrimination in education.

I have no conscious prejudice against any human being on account of his race. In the words of the eloquent Tennessee poet, Walter Malone, all Americans of all races are my fellow travelers to the tomb and I wish all of them well.

I have always entertained the abiding conviction that all constitutionally qualified Americans of all races have an absolute right to vote, and that it is just as reprehensible to rob any of them of this absolute right as it is to steal their bread.

Notwithstanding this abiding conviction, I maintain that America suffered a tragedy in 1965 when Congress raped the Constitution by enacting the Voting Rights Act and it suffered such tragedy anew in 1982 when Congress, acting with the blessing of President Ronald Reagan, raped the Constitution again by extending the Voting Rights Act for an additional 25 years.

My concern with the Voting Rights Act does not arise out of the circumstance that it enables illiterate Americans, both black and white, to vote in the targeted states or the circumstance that unregistered illiterate Americans, both black and white, residing in such states had had 17 full years to register to vote before the Act was extended for the additional 25 years. I have personally known many highly intelligent persons who were illiterate. While I know that persons who can read and write are better equipped to acquire information than those who cannot, I do not believe that the targeted states or our country will be imperiled by extending the right of voting to illiterates. For this reason, I do not oppose the abolition of literacy tests by constitutional means.

As one who loves America and reveres the Constitution, however, I am gravely concerned by the certainties that good cannot be accomplished by evil constitutional means, and that constitutional government cannot survive in America if its rulers rape the Constitution to satisfy the demands of any politically powerful group.

It was not necessary for Congress to enact the Voting Rights Act to secure to any constitutionally qualified black the right to vote in any election held anywhere in any of the targeted states.

Why do I say this? At the time of the enactment of the Voting Rights Act, literacy among blacks and whites was constantly rising in the targeted states as a consequence of compulsory school attendance laws which had been in force for many years. In four of the targeted states, Georgia, North Carolina, South Carolina, and Virginia, discrimination in voting on racial grounds had virtually ended, and such discrimination was rapidly disappearing even in the most rural areas of the other targeted states, Alabama, Louisiana, and Mississippi.

In addition to these considerations, constitutionally valid federal statutes which antedated the Voting Rights Act were sufficient to secure to every constitutionally qualified American, black or white, the right to vote in any election held in the targeted states or elsewhere in the United States, and to subject to severe punishment any election official who willfully denied him that right.

Civil rights activists did not like these existing federal statutes simply because under them allegations of racial discrimination in voting had to be proved by evidence in impartial federal courts rather than by mere political agitation before a politically-minded Congress. Hence, they demanded the Voting Rights Act and Congress heeded their demands.

When an informed lover of the Constitution meditates on the rapes the Voting Rights Act perpetrates on the Constitution, he is tempted to exclaim, "Oh, civil rights, what constitutional wrongs are committed in thy name."

In closing, I wish to make an observation and an offer. One would do well to take with many grains of salt the overblown claim of the civil rights activists that the Voting Rights Act must be credited with the registration of virtually every black who has been registered to vote since its enactment. To be sure, the Voting Rights Act has enabled illiterates, both black and white, residing in the targeted states to vote in violation of the Constitution as it presently exists. But I assert without fear of successful contradiction that the overwhelming majority of all literate blacks who have been registered to vote in the targeted states since the Act came into being in 1965 would have been registered by honest, law-abiding and patriotic election officials if the Act had never existed.

Before the recent 25-year extension of the Act, I wrote with much care after much study a 24-page article entitled "The Truth Respecting The Highly Praised And Constitutionally Devious Voting Rights Act." This article sets forth in detail the many rapes the Voting Rights Act commits on the Constitution. I hereby offer to supply copies of this article to the extent of my limited financial ability to any segments of the press which value truth more highly than intellectual irresponsibility on this subject.

Sincerely yours,

SAM J. ERVIN, JR.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is closed.

BALANCED BUDGET—TAX LIMITATION CONSTITUTIONAL AMENDMENT

The PRESIDING OFFICER. The Senate will resume consideration of Senate Joint Resolution 58, which the clerk will state by title.

The assistant legislative clerk read as follows:

A joint resolution (S.J. Res. 58) proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

The Senate resumed consideration of the joint resolution (S.J. Res. 58).

AMENDMENT NO. 1927

Mr. THURMOND. Mr. President, I believe that the Senator from New York (Mr. MOYNIHAN) has an amendment he wishes to offer, 1927, and there is 30 minutes to the side?

The PRESIDING OFFICER. That amendment is pending. Who yields time?

Mr. THURMOND. He is the author of the amendment, so he would control the time on his side.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I thank my distinguished friend and our President from South Carolina.

Mr. President, I yield myself 15 minutes on the amendment.

I should like to begin by referring to an exchange between myself and the distinguished chairman of the Budget

Committee, the Senator from New Mexico, which took place yesterday afternoon. I had asked him, did he not think that the amendment before us was one filled with words referring to complicated economic ideas, the exact meaning of which is in dispute and in flux. Their meanings change from time to time, and the choice made by Government agencies as to which particular formulation to use is always and of necessity arbitrary. They make their best judgment—accepting one, rejecting others—and, then they change their judgment with some regularity.

That being the case, it seemed to me, and I so stated to the Senator from New Mexico, that we could not fail to have this matter end up in the courts continuously—inasmuch as only they can interpret and settle disputed judgments as to what the terms of the Constitution mean.

Here is a partial statement from the Senator from New Mexico. He says:

> But it is the understanding of the Senator from New Mexico that what Congress intends is that the Supreme Court certainly would interpret to see whether we have faithfully implemented this amendment. When it comes to substituting the court's interpretation for ours on a definition, or what is a fiscal year, or what are receipts, and what is the content of the statement, then I believe that it would be chaos for this country if those kinds of issues end up being determined regularly by any court. I am confident that is not going to happen.

Mr. President, I say to you and I say in the company of distinguished Members of this body, the second most senior Member, our beloved former chairman of the Finance Committee, and the minority whip: Mr. DOMENICI's confidence is unfounded. Chaos will happen. There is no way that we can define these terms and accordingly no way that we can avoid having the courts define them for us. The courts have had this function from the beginning of the Republic. They are not likely at this moment to renounce it.

I would like to remind this body, Mr. President—and not for purposes of pantomime but in dead earnest about the Constitution of the United States—this is not a tax bill. This is not a tariff measure. This is not a proposal to name a post office. This is a proposal to amend the Constitution—something we have done but 26 times in two centuries, and 10 of those times within the next 2 years of the enactment of the Constitution.

The resolution before us has the extraordinary proposition that the receipts of the Federal Government shall not increase more than the rate of increase in national income in the last calendar year ending before such fiscal year.

Mr. DOMENICI amended slightly the calendar year-fiscal year arrangements, but left intact the term "national income."

Now, what is "national income," Mr. President? There is a widespread usage in undergraduate economics courses which begins by asking this simple question: If a man marries his housekeeper, does the national income not thereby decline?

It does. He has previously been paying her. He ceases to do so as they become husband and wife. Income disappears. National income goes down, although national activity—and the productiveness of the housewife cum housekeeper—has not changed.

If a pair of housewives choose to clean each other's house for equivalent pay, the national income goes up by their respective salaries, although there is no increase in the national activity.

The much respected professor and Nobel laureate in economic science, Paul Samuelson, says in the eighth edition of his book classic text "Economics":

> What is national income? It is the loose name we give to the money measure of the overall annual flow of goods and services in an economy. Often, instead of it, we use the almost equivalent term "national product" or "net national product" or a slightly different concept of "gross national product."

Paul Samuelson refers to four terms in one sentence to convey what national income might be.

Mr. LONG. Would the Senator mind repeating that? I just want to be sure I get that straight.

Mr. MOYNIHAN. Of course. A man who served 20 years in the Finance Committee might well have difficulty getting it straight by one reading. Samuelson says:

> What is national income? It is the loose term we give to the money measure of the overall annual flow of goods and services in an economy. Often, instead of it, we use the almost equivalent term "national product" or "net national product" or a slightly different concept of "gross national product."

But I want to spare the senior Senator from Louisiana any ambiguity in these matters. I will read the official Commerce definition so he will not have any further difficulty. This is from a 1980 Supplement to Economic Indicators.

Mr. President, I ask unanimous consent to put the whole of this text into the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

1980 SUPPLEMENT TO ECONOMIC INDICATORS

The constant dollar gross domestic product of nonfinancial corporation is the value expressed in 1972 prices.

The current dollar cost and profit per unit of output in the current dollar product divided by the constant dollar product.

Relation to other series

The nonfinancial corporation group is comparable to the similarly named sector of the flow of funds accounts of the Federal Reserve Board. It is also consistent with the net and gross stocks of reproducible fixed capital and inventories produced by BEA.

This conceptual consistency permits a wide range of analyses of corporate production, capital usage, and financing.

NATIONAL INCOME

Description of series

National Income is the aggregate of earnings by labor and property which arise in the current production of goods and services by the Nation's economy. It is the sum of five major items: (1) compensation of employees; (2) proprietors' income; (3) rental income of persons; (4) net interest; and (5) corporate profits.

Compensation of employees is the sum of wages, salaries, and supplements to wages and salaries such as employer contributions to social insurance funds and for employee benefit plans.

Proprietors' income with inventory valuation and capital consumption allowances measures the monetary earnings and income in kind of sole proprietorships and partnerships, including the independent professionals, and producers' cooperatives, exclusive of capital gains or losses on inventory or other asset holdings. Interest and dividend income received by proprietors', and rental income received by persons who are not primarily engaged in the real estate business are excluded. The farm proprietors income shown here excludes salaries paid to corporate officers which are included in farm operators' net income including adjustment for inventory changes, as shown in the section on Farm Income. The inventory valuation and capital consumption adjustments are described below.

Rental income of persons with capital consumption adjustment consists of (1) monetary income to persons from rental of real property except the income of persons primarily engaged in the real estate business, (2) imputed net rental value of owner occupants of nonfarm dwellings, and (3) royalties received from patents, copyrights, and rights to natural resources.

Net interest measures the excess of interest payments of the domestic business system over its interest receipts, plus net interest received from abroad. Interest paid by consumers and by government, including government enterprises, is not added into this computation because it is not treated as a factor cost of production. Net interest can also be defined as interest received by the personal sector less interest paid by consumers plus net interest received by government. In addition to monetary interest flows, net interest includes imputed interest arising in connection with the operation of financial intermediaries. A portion of imputed interest is equal to the value of financial services received by persons without explicit payment; the remainder represents property income received by life insurance companies and noninsured pension funds less profit of life insurance companies. Imputed interest is also earned on individuals' pension and life insurance reserves.

Corporate profits with inventory valuation and capital consumption allowance is the earnings of corporations organized for profit and of mutual financial institutions which accrue to residents of this Nation measured before Federal and State profit taxes, but without deduction of depletion charges and exclusive of capital gains and losses. (For a more extended discussion, see section on Corporate Profits.)

Corporate inventory valuation adjustment measures the excess of the value of the change in the physical volume of corporate inventories (valued at average prices during the period) over the change in terms of book values. This adjustment is made to profits to remove the inventory profit or loss that occurs in business accounting when the book cost of inventories differs from the current replacement cost. Valuation in current prices of the cost of inventories used puts sales and costs on a consistent basis, and is necessary to derive measures of national output in current prices.

Capital consumption adjustment is the tax return based capital consumption allowances less capital consumption allowances that are based on estimates of economic service lives, straight-line depreciation, and replacement cost. It corrects reported book profits for the effects of the miscellaneous mixture of accounting techniques valued at historical cost by converting them to a consistent accounting basis valued at current replacement cost.

Statistical procedures

The methods of estimating national income are described in detail in *Readings in Concepts and Methods of National Income Statistics, Business Statistics, Gross National Product Data Improvement Project Report,* and the Input-Output article in the February 1979 *Survey of Current Business.* Personal income and personal outlays are described in an article in the November 1979 *Survey.*

Compensation of employees—reliable data are available each year from the unemployment insurance system, with current monthly estimates resting chiefly on employer reports on employment and earnings to the Bureau of Labor Statistics.

Proprietors' income is estimated from income tax returns to the Internal Revenue Service with current quarterly data derived from analysis of trends in noncorporate as well as corporate sales and corporate profits in individual industries.

Rental income of persons is estimated from a variety of Census Bureau, Internal Revenue Service, and other data on rents paid and on the distribution of property ownership and rental income between persons and business.

Net interest is estimated from reports on interest and debt to the Internal Revenue Service, Board of Governors of the Federal Reserve System, and other agencies.

Seasonally unadjusted estimates are not available for the income components of the national accounts, with the exception of corporation profits. This is due to the fact that the basic data source does not provide a completely unadjusted monthly series for wages and salaries and because in the case of proprietors' income and net interest actual income data are lacking altogether on a quarterly basis.

Mr. MOYNIHAN. But so the Senator will understand, I read:

NATIONAL INCOME

Description of series

National Income is the aggregate of earnings by labor and property which arise in the current production of goods and services by the Nation's economy. It is the sum of five major items: (1) compensation of employees; (2) proprietors' income; (3) rental income of persons; (4) net interest; and (5) corporate profits.

Compensation of employees is the sum of wages, salaries, and supplements to wages and salaries such as employer contributions to social insurance funds and for employee benefit plans.

Proprietors' income with inventory valuation and capital consumption allowances measures the monetary earnings and income in kind of sole proprietorships and partnerships, including the independent professionals, and producers' cooperatives, exclusive of capital gains or losses on inventory or other asset holdings. Interest and dividend income received by proprietors' . . .

The Senator gets the point. You follow it. It is complicated. It goes on for many more pages.

Now, here are two important facts, just to get an idea of how stable the very category "national income" really is.

Before the 1980 revision, the earnings of domestic corporations arising from rents, royalties, and services abroad were not included in the national income. They are now, and they increase national income by $1.6 billion in 1972 and $3.2 billion in 1977. They summarily were out, and they summarily are now in.

Before 1980, insurance payments resulting from accidental damage to fixed business capital were not included in corporate income, part of national income. They are now so included. That added $1.6 billion to corporate profits and three-tenths of $1 billion to nonfarm proprietors.

From the view of the Constitution, at least, these are arbitrary questions which can arbitrarily be decided and have to be so decided.

I should like to discuss a simple definition. This is simple. I have said that we are putting algebra into the constitution. This is a statement of the algebraic terms that have to be involved in order to deal with the provisions of this resolution.

National income is a function—this is the only algebraic phrase we have here. National income equals gross national product, minus depreciation—technically, capital consumption allowances—minus indirect taxes. You have to take out indirect taxes, because you have taken indirect taxes out. According to the Commerce Department definition of national income. They have to come out, just as depreciation comes out.

A defined in this amendment, national receipts, must not grow greater than the change in national income. Y is income. Y-1 is income of the previous year. Price changes: P with a dot means the change in ratio. P is the number at a given time.

Allowed receipts under this amendment would be personal income for the previous year times the tax rate for the previous year, plus corporate income for the previous year, times the tax rate for the previous year, times the inverse of 1 plus the personal income for the present year, minus personal income for the previous year, corporate income for the present year, minus income for the previous year, and inverse of income for the previous year.

That is the third lesson in algebraic functions.

Yet, every one of these items is subject to argument about of what it does, in fact, consist.

Do I have to tell the former chairman of the Committee on Finance that what a tax actually is, is repeatedly litigated in courts?

You write it as clearly as you can, and yet it goes to court. Tax lawyers take it to court saying, that is not what the law meant.

These are aggregates. Any economist will tell you, the best aggregates come in at perhap plus or minus $15 billion. OK, would you like to estimate what the tax rate for the American economy is? How many tax rates are there? Would you imagine there could be fewer than 50,000 tax rates? No.

At my last recollection, we had 1,300 counties and about 50,000 towns and villages, and every one of them has a tax rate, or rather, different rates for everything: water, lighting, lands, school taxes, property taxes. There are excise taxes. There are income taxes.

There are probably 100,000 tax rates in the United States. To apply this amendment to the Constitution, they all will have to be reduced to one number, called here T, unless you want to make it a function of 100,000 numbers. But you will have forgotten 1,500, you may be sure. And you will be mistaken about 1,400. And by the time you get your list together, 20,000 will have changed. It will not work.

One of the great blessings of Simon Kuznets, who developed the whole concept of gross national product at the League of Nations in the 1930's, was that he taught us to think in these terms. They are very new. Gross national product was not measured in this country on a formal basis until the late 1940's. We began to track the unemployment rate on a shadow basis also in the 1940's. We had numbers in 1946, and we began publishing them in 1947. They are very new.

The PRESIDING OFFICER (Mr. KASTEN). The Senator's 15 minutes have expired.

Mr. MOYNIHAN. I yield myself 5 additional minutes.

We have given to them a concreteness which they do not truly merit and which those who put them together never claimed for them.

I served as Assistant Secretary of Labor under President Kennedy and President Johnson. I was nominally in charge of the Bureau of Labor Statistics, which is the oldest such organization in the world. It was established in 1887, in response to the demand of the labor movement that Government should measure wages and should

measure the cost of living, so that employees could bargain against actual living costs, things such as how much it takes to raise a family.

Today, we know how porous these statistics are. We, and the BLS, know that the best you can do with them is give an arbitrary definition and then denote how that number rises or falls.

The unemployment rate is a very questionable rate, and there have been long debates about it. There is not a year that the American Economic Association, at its regular meetings, does not hold a panel on unemployment data. Long papers are delivered on specific questions, with respectable arguments on both sides. The economists will say that if you give it a certain arbitrary definition, you will learn something from the rise and fall of these consequent numbers. But never persuade yourself that you actually know precisely how many people live in the United States, precisely how many people are at work, precisely what the tax rate is, precisely what the income is, precisely what corporate profits were.

Ask any statistician, and he will speak only in terms of degrees of probability, and there are arguments there too.

What will be the result of enshrining "national income" rates in the Constitution? Decisions in Congress will be challenged. They will go to court. The courts will decide, and the result will be what the Senator from New Mexico said: chaos.

With what degree of responsibility do we bring chaos to the most stable political system in the world? We are frittering away the stability of the American Republic. We are doing it for a transparent motive to conceal the fact that the ladies and gentleman on the other side of the aisle have brought us the highest deficits in the history of the Nation, having proclaimed that they would bring us none at all.

In the morning papers the day after we begin serious debate on forcing the Government to stick to its rules, we are told that the President has announced he will not be bound by the budget resolution with respect to military spending. Read the New York Times this morning. The White House knows what the budget resolution says, but it is not going to affect its decisions. When he does that—today—you have a political argument and perhaps an argument over the interpretation of the law. He does that in 6 years' time, and he will be in gross violation of the Constitution and subject, I do not doubt, to impeachment. That will be a pretty spectacle, perhaps a pleasure—if we begin impeaching Presidents over line items in the budget.

Mr. President, I reserve the remainder of my time and thank my colleagues for the courtesy in listening to what is scarcely enlightening. I do not say anything they do not know. But it is a sad commentary that what is so obvious so clearly will not be accepted in this body.

I do not even propose to ask for the yeas and nays on a matter of this kind. Let this be on the conscience of the Senate, not on its record. I would be ashamed to see what the record would show.

The PRESIDING OFFICER. Who yields time?

Mr. MOYNIHAN. I now look forward to an answer to questions which I believe I have reasonably propounded and I hope I will learn I was misinformed or made a misjudgment.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I believe the distinguished Senator from New York thinks he is back at Harvard teaching again. He has brought forth here a complicated formula which would be entirely inappropriate to place in a constitutional amendment, but it is very interesting to hear him make such a distinguished presentation anyway.

Mr. President, we oppose this amendment for two reasons:

First, the amendment is not suitable for a constitutional amendment and is a complicated formula that probably only a few economists understand. This amendment, if passed by Congress, must be ratified by three-fourths of the States. The people of this country will not ratify such a complex amendment and one that they may not easily understand.

Second, Senate Joint Resolution 58 is simple, straightforward, and flexible enough to permit national incomes to be defined by Congress each year.

We think this amendment is entirely inappropriate to be added to a constitutional amendment and, therefore, we oppose it.

Mr. CRANSTON. Mr. President, will the Senator yield?

Mr. THURMOND addressed the Chair.

Mr. MOYNIHAN. Mr. President, I am sorry. I did not hear the last statement.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I ask for the yeas and nays on this amendment.

Mr. MOYNIHAN. Mr. President, will the Senator withhold?

Mr. THURMOND. Mr. President, I will withhold for a moment.

Mr. MOYNIHAN. I said earlier I would not ask for the yeas and nays. It is early in the day. I was not going to ask for the yeas and nays. A voice vote would do.

Mr. THURMOND. I wish to ask for the yeas and nays on the amendment. I will move to table the amendment.

Mr. MOYNIHAN. Fine. By all means. We can stay here for a long time.

Mr. THURMOND. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. CRANSTON. Mr. President, will the Senator from South Carolina yield?

Mr. THURMOND. I am pleased to yield to the Senator from California.

Mr. CRANSTON. Mr. President, I wish to ask the Senator from South Carolina a question.

The Senator from South Carolina said that the proposed amendment is too complex to be in the Constitution and that few would understand it. I have been endeavoring to understand the report of the committee. On page 48 it uses an algebraic formula, also on page 49 and also on page 50.

In order to understand a bill that has been reported, it is necessary to understand the report that describes it. Could the Senator interpret the algebraic formula there that appears at the bottom of page 48 in the committee report?

Mr. THURMOND. Mr. President, that is a part of the committee report. We did not include any formulas in the amendment. We do not intend to. We think that it would be a mistake to do so.

Mr. CRANSTON. I understand that, but I am just asking if the Senator could explain the formula that appears on page 48. I took algebra in high school. I have not had much use for it since, although on occasion I have been compelled to try to understand a formula. But in order to understand the report and the amendment reported by the committee, I wish to understand and make sure that I understand correctly the algebraic formula that appears on page 48 of the committee report.

Mr. THURMOND. Mr. President, with regard to that, I wish to say that that portion of the report was prepared by the staff and I think it is self-explanatory. It provides:

> The rate of increase in statement receipts, r, may be expressed symbolically as
>
> $$r=[R(y)-R(y-1)]/R(y-1)$$

Mr. MOYNIHAN. Mr. President, will the Senator yield?

Mr. THURMOND. Where R(y) represents the statement, the formula here tells what it does.

Mr. MOYNIHAN. Why does not the Senator tell us what it does?

Mr. THURMOND. The formula in the Senator's amendment does not even tell what it is.

Mr. MOYNIHAN. It does.

Mr. THURMOND. Where R(y) represents the statement receipts for the yth fiscal year and R(y-1) represents the statement receipts for the preceding or y-1th fiscal year.

The rate of increase in national income, n, may be expressed symbolically as—

In other words, the report explains clearly what the formula is.

But, Mr. President, it is entirely inappropriate to put any kind of a formula in this constitutional amendment. We have a very simple constitutional amendment. It can be understood by anyone.

Mr. President, as soon as those who care to talk talk I intend to move to table the amendment.

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes to take rather firm exception, if I may, to my friend from South Carolina.

He said my amendment does not say what is involved.

If the Senator will look at page 2—may I ask the Senator to look at page 2—there is a very precise statement of the meaning of the terms and, as I state, apart from the first statement on that blackboard, there is no algebraic function whatever in this amendment. There is simply a statement of terms.

As the distinguished Senator from California has observed, there is right here on pages 48, 49, and 50 of the report three actual algebraic functions. One cannot explain this constitutional amendment without referring to algebraic functions in the report. That is because the report is full of terms which in actual practice are to be derived only by algebraic functions which involve arbitrary choices and which will be decided in the courts. And which will result in chaos.

Those are the precise words of the Senator from New Mexico just yesterday.

Trying to avoid what is going on is a very interesting tactic. One hears from the other side that is too complicated for people to understand. It happens to be high school algebra. And, second, the whole exercise is based upon the degrading, demeaning, and unworthy thought that the people of the United States are not clever enough to see through what is going on. They are in fact more than sufficiently so. At least, they are in the State of New York.

The PRESIDING OFFICER. Who yields time?

The Senator from South Carolina.

Mr. THURMOND. Mr. President, I simply wish to say that speaking about the report, if the Senator wants it stated simply, it says to look at the receipts at the beginning of the last fiscal year and then at the end and if it were 10 at the beginning and 12 at the end, there is an increase of 2, or 20 percent.

At any rate, as I say, we have no formulas in this amendment, and we do not believe it appropriate to include any formulas in the amendment.

I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. Mr. President, the distinguished Senator from New York has brought to us an amendment that certainly deserves consideration as it is getting and receiving today, but he mentions, and I cannot remember his exact words, but soemthing to the effect that the public knows what is going on. Indeed, they do know what has gone on in this body over at least the 6 years I have been here and prior to that. They know what is going on with this administration submitting the highest deficit in history. They know what has gone on in the past administration with the same type of deficit expenditures and budgets that have been submitted.

Always proclaiming we are going to balance the budget, there is not anyone in this body who has not voted for deficit dollars, whether you are on the right, the left, the middle, moderate, or what have you, and I think the public does know what is going on, and I think they know we have not balanced the budget except once in the last 21 years.

I think the public understands, as we understand, and it is difficult, I am sure it is difficult, for the Senator from New York, as it is for me, to stand on this floor and make public admission that we cannot balance the budget because, in fact, we cannot. We have not been able to do it. We have not been able to do it in the 6 years the Senator from New York and the Senator from Arizona have been here, and I dare say many other Senators who have been here before.

Mr. MOYNIHAN. I served in an administration that balanced the budget. It can be done. All you have to do is do it.

Mr. DECONCINI. I would like to suggest to the Senator from New York there has not been anyone who has done it, and for that reason——

Mr. MOYNIHAN. President Lyndon Johnson balanced the budget in his last year in office.

Mr. DECONCINI (continuing). It is necessary for us to move in a very determined manner, in my judgment, and enact a constitutional amendment.

Now, relative to the amendment, Mr. President, while I am always impressed by the excellent presentation and the intellectual capacity of my good friend from New York, I respectfully suggest that the substance of the present amendment is better left for implementing legislation by Congress rather than putting it in, attempting to put it into, a constitutional amendment.

Further I would suggest that the present amendment is better served by retaining its flexibility. If there is one general obligation under this amendment, it is to insure that receipts do not regularly increase at a faster rate than the economy itself.

Mr. MOYNIHAN. Faster than national income.

Mr. DECONCINI. Than the national income itself because, as the report will point out, the national income—I would also suggest that the amendment before us may be confused in equating the general term "national income" in the amendment with a specific accounting term of national income.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I would be glad to yield.

Mr. MOYNIHAN. The amendment does say "national income."

Mr. DECONCINI. That is correct.

Mr. MOYNIHAN. You are saying I have confused the general term "national income" with an accounting term? Would the Senator tell us what the term does mean?

Mr. DECONCINI. Well, as the Senator from New York pointed out earlier in a quiet discussion near his desk, it is very difficult to determine what the national income is, granted. Nobody here can stand up with certainty and say this is the only formula to determine the national income.

My point is that this constitutional amendment is not a panacea. It is not a problem solver for all of our problems regarding overexpenditures by our Federal Government, both legislative and executive. But I dare say it is simple enough to bring home a point and to require Congresses in the future, once it is approved by the States, that they must live within their income and their receipts and expenditures, and that only under extreme emergencies and a three-fifths vote or a vote of the constitutional majority can this be altered.

Now to me, Mr. President, this is very important. We are not here to debate every word, to dot every "i" and cross every "t" in an attempt to make a perfect amendment that would satisfy the Senator from New York, the Senator from Arizona, the Senator from California, the Senator from Louisiana, and others, because this body is deliberate, it must spend time in an attempt to formulate a consensus. It must attempt to have the input of every Senator as he sees the best way to balance the budget.

This amendment represents that, and it is not the exact amendment that I would like to see. As a matter of fact, the distinguished former chairman of the Committee on Finance had an opportunity some years ago when I had an amendment on the floor to bal-

ance the budget by automatically raising the income tax, in his words it was something that we need a constitutional amendment on, but not the way the Senator from Arizona was proposing it at that particular time, and I respected that.

That is why I believe that now to attempt to implant in the amendment the formula offered by the Senator from New York is not in the best interests of implementing a constitutional amendment that will be understood and one that will certainly deliver a message to the people of this great Nation that finally Congress is going to stop the excesses that have prevailed in this body for far too many years.

Mr. MOYNIHAN. Mr. President, I yield myself 2 minutes, and I ask my friend from Arizona if he would listen to me. First of all, we know very well this provision is not going to be included in the amendment. But we say to the Senator that, when he uses the term "national income"—that is the term the Senator is using, I did not make that up—that is the term of the Department of Commerce.

You say it is very difficult to determine national income. You have rarely said a more accurate statement on the floor of this Chamber, and you are not known for fuzziness in pronouncements. It is not only very difficult. It is, of necessity, arbitrary.

Yesterday a group of more than 170 of the most distinguished economists in our country issued a statement pleading with us not to do this, saying it cannot be done, you cannot do this in the Constitution. You can do it by statute, yes.

They issued a series of eight points. I will read No. 4:

4. Precise definitions of "expenditures," "revenues," "deficit," "national income" and related concepts are not included in the present draft amendment. Thus, the Amendment would need to contain (or the Courts would need to supply) such definitions. The relevance of any particular set of precise definitions changes materially over time. The Constitution cannot be periodically amended or reinterpreted to keep up with changing fiscal concepts and practices.

Mr. President, I ask unanimous consent to have printed the whole of the economists' statement and their names in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ECONOMISTS' OPEN LETTER OPPOSING A CONSTITUTIONAL AMENDMENT REQUIRING BALANCED FEDERAL BUDGETS AND LIMITING FEDERAL TAX RECEIPTS

The undersigned professional economists, who hold a variety of views regarding national economic policies, nevertheless are united in opposing enactment of the proposed Constitutional Amendment embodied in Senate Joint Resolution 58 and House Joint Resolution 350. Our reasons are given below. We are not all equally impressed by each of these reasons; and some of us have still other reasons for opposing the Amendment. But we are unanimous in our conviction that such an amendment is not in the national interest.

1. Whether a given expenditure budget and set of tax provisions will produce a deficit or a surplus depends to an important degree on the state of the economy over a period that will end considerably more than a year from the time when appropriations and tax laws are enacted. This future state of the economy will be significantly influenced by the budget itself; but it also depends on many other events and circumstances that cannot be foreseen. Achieving the purpose of the proposed Amendment—i.e., avoiding deficits—thus implies an impossible accuracy in economic forecasting. Of course, Congress could deliberately evade the purpose of the Amendment by making economic assumptions that its members knew or suspected were unlikely to be realized. Such devious procedures clearly should not be encouraged by an unworkable Constitutional provision.

2. Even if Congress were able accurately to foresee the state of the economy, and able accurately to predict the revenues and expenditures associated with any economic forecast and any set of tax laws and appropriations, it is bad public policy to enact a budget that would be balanced in a fiscal year foreseen to be characterized by excessive unemployment and deficient sales, production, and incomes. Such a balanced budget could, in those circumstances, itself markedly increase unemployment and further depress production and incomes.

3. Similarly, if the fiscal year for which the budget and tax rates were being determined were expected to be a year of strong demand, high production and employment, and rising inflation, the provision of the proposed Amendment that would limit the percentage rise in tax revenues to the previous year's percentage increase in national income could require tax rate reductions that would further increase demand and further fuel inflation, leaving tight money and high interest rates as the principal weapons for attempting to stabilize demand and prices.

4. Precise definitions of "expenditures," "revenues," "deficit," "national income" and related concepts are not included in the present draft amendment. Thus, the Amendment would need to contain (or the Courts would need to supply) such definitions. The relevance of any particular set of precise definitions changes materially over time. The Constitution cannot be periodically amended or reinterpreted to keep up with changing fiscal concepts and practices.

5. Constitutional limits on the use of budgetary policy for purposes of economic stabilization could in many cases be evaded by the use of regulatory policies or tax differentials designed to achieve the same ends. Regulatory provisions are normally far less efficient than economic incentives, and regulations or tax differentials seriously distort private economic choices. Inventing new forms of "off-budget" expenditures or financing would be another easy but undesirable means to frustrate the intention of the Amendment.

6. Interpretation of the Constitution—including this Amendment, if approved—is a function of the judiciary. We believe it unwise to involve the courts in the interpretation of economic theory and economic policy. It often takes years to develop a judicial construction sufficiently thorough to comprehend the full range of issues, arguments, and conflicts inherent in a new legal situation. Moreover, it often takes years to adjudicate the cases that arise to test the scope and application of a new legal concept. To be effective, economic policy must be flexible, and respond to changing economic conditions, institutions, and relationships; bringing the courts into the policy process would severely undermine the necessary flexibility.

7. The proposed Amendment demands a three-fifths vote of the full membership of each House of Congress in order to permit a Federal deficit under any circumstances other than a formal declaration of war. A special majority would also be needed to raise tax revenues by more than the previous year's increase in National Income (which might be a decrease). In a national emergency other than war, a prohibition of deficits or tax increases might make it impossible adequately to protect the national interest. A national-security emergency does not always (or, in recent history, even generally) involve a formal declaration of war; and a threat to national security may not always be so obvious that three-fifths of the members of each House will perceive it and actually vote that it exists. Further, acknowledgement of such a threat by so explicit an action might be highly inappropriate or even dangerous. The debate and confusion involved in such a major and unprecedented policy decision could preclude immediate response to an imminent danger.

8. Most of us agree that Federal budget deficits can be and often have been incurred unwisely—at the wrong times, or in the wrong amounts. However, we do not believe that the quality of our economic policies will be improved by amending the Constitution. Rather, they will be improved only through better and wider public understanding of the economic elements in national policy, and by electing public officials who are competent, responsible, and responsive to the will of the elaborate.

The motivation for Congress' sudden interest in amending the Constitution to prohibit deficits appears mainly to reflect frustrations associated with its inability to enact a fiscal-year 1983 budget that would be balanced in a year that it officially predicts will be marked by vigorous economic recovery. As the Washington Post noted editorially on June 21, "It is grotesque for senators and a president who cannot get their current deficit under $100 billion to support, piously, constitutional language putting it at zero."

The undersigned are all professional economists, engaged in research, teaching, consulting, or staff capacities. We sign this statement as individuals; our institutional affiliations are provided only for purposes of identification, with no implication that we represent anyone's views other than our own.

ECONOMISTS IN OPPOSITION TO A BALANCED BUDGET AMENDMENT

Nobel Prize Winners in Economics: Kenneth J. Arrow, Lawrence R. Klein, Wassily Leontief, Paul Samuelson, Herbert Simon, and James Tobin.

Former Governor of Federal Reserve Board: Andrew Brimmer.

Former President of National Association of Business Economists: Richard W. Everett.

Former Chairman of the Council of Economic Advisers: Gardner Ackley, Walter W. Heller, Leon Keyserling, and Charles Schultze.

Former Presidents, American Economic Association: Moses Abramovitz, Kenneth J. Arrow, William J. Baumol, Kenneth E. Boulding, Walter Heller, Lawrence R. Klein, Wassily Leontief, Franco Modigliani, Paul Samuelson, Robert Solow, and James Tobin.

President, National Economic Association: Bernard E. Anderson.

President, Conference of Economic Progress: Leon Keyserling.

Former Chairman, Council on Wage and Price Stability: Alfred Kahn.

Former Chief Economist, U.S. Department of Commerce: Courtenay Slater.

John Bates Clark Medalists: Kenneth J. Arrow, Kenneth E. Boulding, Hendrik S. Houthakker, Lawrence R. Klein, Paul Samuelson, Robert Solow, and James Tobin.

Moses Abramovitz, Stanford University, Former President, American Economic Association, John Bates Clark Medalist. Gardner Ackley, University of Michigan, Former Chairman of the Council of Economic Advisers. M. A. Adelman, Massachusetts Institute of Technology. Daniel S. Ahearn. Clopper Almon, University of Maryland. Bernard E. Anderson, President, National Economic Association. Albert Ando, University of Pennsylvania. Kenneth J. Arrow, Stanford University, Nobel Memorial Prize in Economics, 1972, Former President, American Economic Association, John Bates Clark Medalist.

Gerald E. Auten, Bolling Green State University. Martin Neil Baily, Brookings, Institution. Harold Barger, Columbia University. V. Lewis Bassie, Emeritus, University of Illinois. Francis M. Bator, Kennedy School of Government, Harvard University. William J. Baumol, Princeton University and New York University, Former President, American Economic Association. Carolyn Shaw Bell, Wellesley College.

Arthur Benavie, University of North Carolina, Chapel Hill. Abram Bergson, Harvard University. Ernst R. Berndt, Massachusetts Institute of Technology. Robert L. Bishop, Massachusetts Institute of Technology. Ernest Bloch, New York University. Roy Blough, Emeritus, Columbia College. Francis M. Boddy, Emeritus, University of Minnesota, Minneapolis. Roger Bolton, Williams College.

Kenneth E. Boulding, Emeritus, University of Colorado, Boulder, Former President, American Economic Association, John Bates Clark Medalist. Dean O. Bowman. Mary Jean Bowman, Emeritus, University of Chicago. David Bradord, Princeton University. E. Cary Brown, Massachusetts Institute of Technology. Andrew Brimmer, Andrew Brimmer & Company, Inc., Former Governor, Federal Reserve Board. Henry J. Bruton, Williams College. Ralph C. Bryant, Brookings Institution. John F. Burton, Jr., Cornell University.

Phillip A. Cartwright. Lester V. Chandler, Princeton University. Christopher Clague, University of Maryland. Richard N. Cooper, Harvard University. Paul A. David, Stanford University. Paul Davidson, Rutgers University, Editor, The Journal of Post Keynesian Economics. Sidney Davidson, University of Chicago. Gerard Debreu, University of California, Berkeley.

Thomas F. Dernburg, American University. Dudley Dillard, University of Maryland. Evsey D. Domar, Massachusetts Institute of Technology. Robert Dorfman, Harvard University. James S. Duesenberry, Harvard University. John T. Dunlop, Harvard University. George C. Eads, University of Maryland. James S. Earley, University of California, Riverside. Richard Easterlin, University of Southern California.

Robert J. Eggert, Eggert Economic Enterprises, Inc. Robert Eisner, Northwestern University. Richard Everett, Former President, National Association of Business Economists. Murray F. Foss. Irwin Friend, University of Pennsylvania. George M. von Furstenberg. Daniel R. Fusfeld, University of Michigan. James H. Gapinski, Florida State University. Arthur S. Goldberger, University of Wisconsin, Madison.

Stephen M. Goldfeld, Princeton University. Richard Goode. Robert J. Gordon, Northwestern University. Roger H. Gordon, National Bureau of Economic Research. Jerry Green, Harvard University. Karl D. Gregory, Oakland University. Joseph Grunwald, Brookings Institution. Jack M. Guttentag, University of Pennsylvania. Bernard F. Haley, Emeritus, Stanford University.

Saul H. Hymans, University of Michigan.

James C. Ingram, University of North Carolina at Chapel Hill.

Alfred Kahn, Cornell University, Former Chairman, Council on Wage and Price Stability.

Carl Kaysen, Massachusetts Institute of Technology, Director, Program in Science.

David Kendrick, University of Texas.

Peter B. Kenen, Princeton University.

Joseph A. Kershaw, Williams College.

Leon Keyserling, Former Chairman, Council of Economic Advisers, President, Conference of Economic Progress.

Charles P. Kindleberger, Emeritus, Massachusetts Institute of Technology.

Lawrence R. Klein, University of Pennsylvania, Nobel Memorial Prize in Economics, 1980, Former President, American Economic Association, John Bates Clark Medalist.

Alvin K. Klevorick, Yale University.

J. Kmenta, University of Michigan.

Heinz Kohler, Amherst College.

Richard F. Kosobud, University of Illinois at Chicago.

Lawrence B. Krause, Brookings Institution.

Mordechai E. Kreinin, Michigan State University. Eugene Kroch, University of Pennsylvania. Mordcai Kurz, Stanford University. Robert J. Lampman, University of Wisconsin, Madison. Robert Z. Lawrence, Brookings Institution. Robert Lekachman, City University of New York, Lehman College and Graduate Center. John M. Letiche, University of California, Berkeley. Charles E. Lindblom, Yale University.

Wassily Leontief, New York University, Nobel Memorial Prize in Economics, 1973, Former President, American Economic Association. John Lintner, Harvard University. Glenn C. Loury, University of Michigan. Thomas Mayer, University of California, Davis. Joseph Meiers, Stanford University. Raymond F. Mikesell, University of Oregon. Jerry Miner, Syracuse University. Hyman P. Minsky, Washington University.

Franco Modigliani, Massachusetts Institute of Technology, Former President, American Economic Association. James N. Morgan, University of Michigan. Alicia H. Munnell, Vice President and Economist, Federal Reserve Bank of Boston. Peggy B. Musgrave, University of California at Santa Cruz. Richard A. Musgrave, University of California at Santa Cruz, Adjunct Professor of Economics, Professor of Political Economy, Emeritus, Harvard University. Robert R. Nathan, Robert Nathan & Associates, Inc. Donald A. Nichols, University of Wisconsin.

Roger Noll, California Institute of Technology. Joseph A. Pechman, Brookings Institution. Rudolph G. Penner, American Enterprise Institute. Mark Perlman, University of Pittsburgh. George L. Perry, Brookings Institution. Wallace C. Peterson, University of Nebraska, Lincoln. Robert S. Pindyck, Massachusetts Institute of Technology. Richard C. Porter, University of Michigan.

Lee E. Preston, University of Maryland. Fredric Raines, Washington University. Gordon C. Rausser, University of California, Berkeley. Margaret G. Reid, University of Chicago. Robert D. Reischauer, The Urban Institute. Robert W. Resek, University of Illinois, U.C., Director, Bureau of Economic and Business Research. Lloyd G. Reynolds, Yale University. Earl R. Rolph, University of California, Berkeley.

Michael Rothschild, University of Wisconsin, Madison. Daniel L. Rubinfeld, University of Michigan. Vernon W. Ruttan, University of Minnesota. Walter S. Salant, Senior Fellow Emeritus, Brookings Institution. Steven S. Salop, Georgetown University Law Center. Paul Samuelson, Massachusetts Institute of Technology, Nobel Memorial Prize in Economics, 1970, Former President, American Economic Association. Anthony M. Santomero, The Wharton School, University of Pennsylvania.

Isabel V. Sawhill, The Urban Institute. Thomas C. Schelling, Harvard University. F. M. Scherer, Northwestern University and Swarthmore College. Joseph Scherer, Hofstra University. Richard Schmalensee, Massachusetts Institute of Technology. Charles L. Schultze, Brookings Institution, Former Chairman, Council of Economic Advisers. Rashi Sein, Harvard University. Harold T. Shapiro, President, University of Michigan.

Herbert A. Simon, Carnegie-Mellon University, Nobel Memorial Prize in Economic, 1978. Courtenay Slater, Former Chief Economist, U.S. Department of Commerce. Irvin Sobel, Florida State University, Tallahassee. Robert Solomon, Florida State University, Tallahassee. Robert Solomon, Brookings Institution. Robert M. Solow, Massachusetts Institute of Technology, Former President, American Economic Association, John Bates Clark Medalist. Peter O. Steiner, University of Michigan. Anita A. Summers, University of Pennsylvania.

Robert Summers, University of Pennsylvania. Paul Taubman, University of Pennsylvania. Ronald L. Telgen, University of Michigan. Peter Temin, Massachusetts Institute of Technology. James Tobin, Yale University, Nobel Memorial Prize in Economics, 1981, Former President, American Economic Association, John Bates Clark Medalist.

Hal R. Varian, University of Michigan. William Vickery, Columbia University. Phyllis A. Wallace, Massachusetts Institute of Technology. Steven B. Webb, University of Michigan. Sidney Wientraub, LBJ School, University of Texas at Austin. Burton A. Weisbrod, University of Wisconsin, Madison. Thomas E. Weisskopf, University of Michigan. Gordon C. Winston, Williams College. Sidney G. Winter, Yale University. James S. Worley, Vanderbilt University. Gavin Wright, University of Michigan. Frank C. Wykoff, Pomona College.

ADDITIONAL NAMES

Henry Aaron, Brookings Institution. Joseph S. Berliner, Brandeis University. Robert Lindsay, New York University, Graduate School of Business. William James Adams, University of Michigan. Irma Adelman, University of California, Berkeley. Samuel Bowles, University of Massachusetts, Amherst. Paul A. David, Stanford University. George R. Feiwell, University of Tennessee. David M. Gordon, The New

York School of Social Research. Michael C. Lovell, Wesleyan University. Campbell R. McConnell, University of Nebraska, Lincoln. Lloyd Ulman, University of California, Berkeley. Edward C. Budd, Pennsylvania State University. Harold W. Watts, Columbia University.

Mr. MOYNIHAN. I thank the Chair.

I say to this body that the men and women whose profession is economics plead with us "Don't ask it to do more than it can do."

The PRESIDING OFFICER. Who yields time?

Mr. CRANSTON. May I have some time?

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from Arizona.

Mr. DECONCINI. I just want to point out that this country, unfortunately, and Congress have not done well by following the advice of many of the experts that the Senator from New York has just put into the RECORD here. As a matter of fact, the supply-side economics and many of the other programs that have been tried, in my opinion, have not worked well. We might do better to use commonsense, and commonsense tells this Senator from Arizona that it is high time we balanced the budget, notwithstanding the intellectual recommendations, well-intended recommendations. of economists that the Senator from New York cited.

Mr. MOYNIHAN. Mr. President, will the Senator yield for a question?

Mr. DECONCINI. I will yield in just a moment. I believe, Mr. President, it is time we tell the American public there is some commonsense right here on the floor of this Senate, and today, tomorrow, and up until Wednesday we are going to debate these amendments, and they will all be given serious consideration. Some may be adopted or accepted. But the time is upon us, the time is here. There is going to be no avoiding it, and it is long overdue for commonsense to prevail.

Mr. MOYNIHAN. Mr. President, will the Senator yield for one question?

Mr. DECONCINI I yield the floor.

Mr. MOYNIHAN. I know in a sense of fairness the Senator would want me to ask it.

Mr. DECONCINI. I yield the floor.

Mr. MOYNIHAN. Let me ask a question: Is the Senator under the misapprehension that the economists who wrote this paper yesterday are against a balanced budget? They are as much for as against. They made no pronouncement as such on that subject. They believe the economy has to be balanced over time. But what they say is that you cannot use the Constitution to define the terms.

Mr. DECONCINI. If the Senator will yield, where are these great economists' solutions to this problem? Why have they not offered an amendment that would help us come to a conclusion? They have not because they do not have one. We are here today debating whether or not it is necessary to have one, and I am taking the position——

Mr. MOYNIHAN. The debate is over whether you can do this through an amendment to the Constitution.

Mr. HATCH. Mr. President, will the Senator yield on that point?

Mr. DECONCINI. I would be happy to yield.

Mr. THURMOND. Mr. President, how does the time stand?

The PRESIDING OFFICER. The Senator from New York has 4½ minutes remaining and the Senator from South Carolina has 16½ minutes remaining.

Who yields time?

Mr. HATCH. I thank the Senator for yielding to me. I am convinced that if you asked every one of the 535 Members of Congress if they believed in a balanced budget, each one of us would say, "Why, we certainly do!" But that is not the way we vote.

I am also certain that if you asked every economist in this country if they believed in a balanced budget, almost every one of them would say, "You bet; we certainly do!" Even Lord Keynes would agree—in fact, he even believed that during times of prosperity there ought to be surpluses.

The precise concept of national income is intended to remain subject to the discretion of the Congress. Currently reported concepts include gross national product, net national product, national income, personal income, disposable personal income, and gross domestic product. Any of these may be chosen, as might some new measure determined by Congress.

For the purposes of the amendment, there is no requirement that the concept of national income, its definition, or its computational procedures remain immutable through time. If some new concept, definition, or computational method is adopted, continuing compliance requires only that there be a transitional period during which the new concept be phased in so as not to undermine the plain purposes of section 2 of the amendment.

I suggest that everyone wants a balanced budget. The important question is: How are we going to get there? Shall we continue doing as we are now and only balance the budget once in the next 23 years? Or are we going to require Congress to stand up and face the issues and make the necessary choices between competing programs, funding only those programs that are the most important and beneficial to the people of the United States. The amendment takes the second option, the option to solve the problem rather than avoid the issue.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. MOYNIHAN. I know how deeply he is concerned in this matter. But reading from page 49 of the committee report, which begins with an algebraic formula, he has read us the paragraph that suggests that the Congress is actually asking the American peole to accept an amendment to the Constitution in which there is a key phrase called national income. An absolutely key phrase in section 2. The report states that there are six possible definitions of this phrase.

Now, how can my friend from Utah say this? Six possible definitions. How could that not end up in court?

Mr. HATCH. Will the Senator yield?

Mr. MOYNIHAN. I am asking a question.

Mr. HATCH. I think it is important to point out that "national income" in the amendment is in lowercase. In the amendment, national income is not used as an accounting term.

As I said earlier, Congress may choose any form of national income it wishes. To lock in one computational method in derogation of all others should not be done in a constitutional amendment. That should be done in a statute.

Let us assume that the computation that the Senator from New York suggests is the best computation. There must be implementing legislation under this amendment. At that time the Senator will have every right to do everything he can to put his particular computational approach into that implementing legislation.

It is far more appropriate to place a computation in a statute rather than locking somebody's formulation, into the Constitution. The Constitution is not the place for economic computations.

Mr. MOYNIHAN. Could I ask the Senator from Utah what he meant when he said the term "national income" is in lowercase?

Mr. HATCH. It means that we are not citing that as an accounting term within the amendment itself. It means precisely what it says on page 49 of the committee report—that almost any definition that the Congress chooses to use may be used.

The PRESIDING OFFICER. The time of the Senator from New York has expired.

Mr. MOYNIHAN. May I ask the Chair: I was under the impression I was asking questions of the Senator from Utah and that he was yielding on his time.

The PRESIDING OFFICER. The Senator from Utah has no time.

Mr. MOYNIHAN. I thought the Senator was yielded time from the Senator from South Carolina.

Mr. CRANSTON. The Senator from Arizona can yield time on the bill to the Senator from New York.

Mr. DECONCINI. Mr. President, how much time is remaining to the Senator from South Carolina?

The PRESIDING OFFICER. The Senator from South Carolina has 14¾ minutes remaining.

Mr. DECONCINI. Mr. President, I will be glad to yield time on the bill if the Senator wants to keep his time. How much time does the Senator want?

Mr. CRANSTON. Does the Senator from South Carolina intend to use his 14 minutes? Could he yield any part of that to us since we were asking questions?

Mr. THURMOND. How much time does the Senator want?

Mr. CRANSTON. I would like 4 minutes and Senator MOYNIHAN would like 2 minutes.

Mr. THURMOND. Mr. President, I yield 2 minutes to the Senator from New York and 4 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized.

Mr. CRANSTON. Mr. President, I urge the Senate to consider thoughtfully the issues being raised by the Senator from New York in his proposal to define, as accurately as possible, national income by means of an algebraic formula.

Because, in fact and practice, that is how national income generally is defined by the majority of members of the economic profession—that body of social scientists to whom the Senate would turn over the fortunes of the Nation by means of Senate Joint Resolution 58.

And I note again that the committee felt it necessary to use algebraic formulas to explain the amendment, although I also note that the committee does not find it easy to explain those algebraic formulas. If that is the case, who are we ever going to find to explain or understand this amendment? The amendment pending, without the amendment of the Senator from New York, would lead to incredible confusion and court action, involving the courts in the budget process in ways very deleterious to the separation and balance of powers upon which our liberties rest.

Senate Joint Resolution 58 assumes that economic forecasts are accurate and economic measurements are exact. Economic assumptions are major factors in determining whether a budget statement is balance.

The assumptions could prove wrong. The administration did not expect inflation to fall so quickly this year until, unexpectedly, it skyrocketed upward last month.

The administration did not expect interest rates to remain so persistently high. Such failures of predictability in the economy translate into unpredictability of receipts and outlays.

The effects of incorrect economic assumptions can be enormous.

The resolution ties Federal revenues to national income. During inflationary times Government revenues rise faster than incomes. This basic economic fact would violate the balanced budget amendment.

There is more involved than economic forecasting of the future.

Equally difficult is economic measurement of the past.

The resolution would limit tax increases to previous year's increases in national income.

There are several measurements of national income, but the resolution does not specify which measurement shall be used.

The term "national income" is left undefined.

And that is the point of the amendment of the Senator from New York. To define "national income."

The amendment raises seriously the issue of whether we can adequately define national income and whether we ought to even attempt to do so in the Constitution.

In my view, the Constitution is no place for tying our well-being of the Nation to an economic formula devised by social scientists who do not always know what they are talking about. Sometimes economists make sense and sometimes they turn out to be wrong. They do not claim infallibility, yet Senate Joint Resolution 58 and its sponsors naively ask that economists be infallible predictors and be skilled determinists of the future. That kind of wisdom is not given to mankind.

The point of all this is that "national income" really has no fixed definition nor can it have a fixed definition.

I have no doubt but that in the future better, more accurate and more telling definitions will be put forward for use in the profession of economics and econometrics.

At best, the authors of the amendment have turned over the fiscal policy of the Federal Government to the economics profession which may or may not progress in knowledge and wisdom.

I am confident, for example, that the chief sponsors of Senate Joint Resolution 58 do not, most emphatically, do not agree with the Nobel laureates in economics who yesterday condemned Senate Joint Resolution 58 in words best put by Henrik Houthhaker of Harvard, who said he would favor limitations on Federal expenditures, but he said, "the constitutional amendment is the wrong way to go."

The Washington Post this morning quoted Mr. Houthhaker saying:

> It is as phony as a $3 bill. It's phony because if Congress wants to balance the budget it can vote a balanced budget. If the President wants to balance the budget he can propose a balanced budget.

I agree. The Senate should agree and should vote to drop this charade of balancing the budget through a constitutional amendment.

I applaud the Senator from New York for his ingenuity in coming up with that amendment which portrays so startlingly the nonsense in which we are engaged.

Mr. MOYNIHAN. Mr. President, I thank the Senator from California for his comments. The body will remember his courage and so will the people.

If I can refer to his reference to that distinguished Dutch economist Henrik Houthhaker, he was a member of the Council of Economic Advisers under President Johnson and stayed on the Council under President Nixon. He is a Republican. He said, "This amendment is as phony as a $3 bill."

It is precisely the economists of the Nation who are saying to us, we do not have the knowledge to implement this kind of amendment. It is a hoax, as referred to by George F. Will, scarcely a member of Social Democrats, Inc.

The report with the algebraic formula refers to national income, to be placed in the Constitution, by six different possible definitions.

Amendment XIV begins, "All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States." Can you imagine that report saying, "We recognize five definitions of persons and 16 possible definitions of citizens?"

Mr. President, this amendment is as phony as a $3 bill and it ought to end.

Mr. THURMOND. Mr. President, does the Senator prefer a direct vote on his amendment?

Mr. MOYNIHAN. Mr. President, I think that is our practice.

Mr. THURMOND. Mr. President, how much time remains to the opponents?

The PRESIDING OFFICER. Eight and one-quarter minutes remain to the Senator from South Carolina. The time of the Senator from New York has expired.

Mr. THURMOND. Mr. President, if the proponents are ready to vote, I will yield back the remainder of my time and we can proceed with the vote.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from New York. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Colorado (Mr. ARMSTRONG), the Senator from Alabama (Mr. DENTON), and the Senator from Minnesota (Mr. DURENBERGER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Hawaii (Mr. MATSUNAGA) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 13, nays 81, as follows:

[Rollcall Vote No. 262 Leg.]

YEAS—13

Biden	Inouye	Randolph
Cranston	Jackson	Riegle
Eagleton	Leahy	Sarbanes
Hart	Mathias	
Huddleston	Moynihan	

NAYS—81

Abdnor	Garn	Murkowski
Andrews	Glenn	Nickles
Baker	Goldwater	Nunn
Baucus	Gorton	Packwood
Bentsen	Grassley	Pell
Boren	Hatch	Percy
Boschwitz	Hatfield	Pressler
Bradley	Hawkins	Proxmire
Brady	Hayakawa	Pryor
Bumpers	Heflin	Quayle
Burdick	Heinz	Roth
Byrd, Harry F., Jr.	Helms	Rudman
	Hollings	Sasser
Byrd, Robert C.	Humphrey	Schmitt
Chafee	Jepsen	Simpson
Chiles	Johnston	Specter
Cochran	Kassebaum	Stafford
Cohen	Kasten	Stennis
D'Amato	Kennedy	Stevens
Danforth	Laxalt	Symms
DeConcini	Levin	Thurmond
Dixon	Long	Tower
Dodd	Lugar	Wallop
Dole	Mattingly	Warner
Domenici	McClure	Weicker
East	Melcher	Zorinsky
Exon	Metzenbaum	
Ford	Mitchell	

NOT VOTING—6

Armstrong	Denton	Matsunaga
Cannon	Durenberger	Tsongas

So Mr. MOYNIHAN's amendment (No. 1927) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. DECONCINI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1994

(Purpose: To provide for a waiver of the provisions of the constitutional amendment in times of national emergency)

Mr. CRANSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. CRANSTON. I ask that amendment No. 1994 be called up for consideration at this time.

The PRESIDING OFFICER. The clerk will report the amendment, but first the Senate will be in order. The Senate will be in order. Will Senators please take their seats.

The Senate will be in order. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California (Mr. CRANSTON) proposes an amendment numbered 1994:

On page 4, line 7, strike out "declaration of war" and insert "national emergency declared by the President or the Congress".

Mr. CRANSTON. Mr. President, this amendment is deisgned to deal with what I think is the most absurd and the most dangerous provision in Senate Joint Resolution 58, the proposed constitutional amendment.

The only exception specified in the amendment where defense spending can occur is if there is a declaration of war.

Mr. President, I submit that there may be times and circumstances when we would want to spend significant amounts on national defense without having to declare war on the Soviet Union or some other perceived foe. It is very dangerous to suggest that we can only have defense spending under this one exemption in the constitutional amendment, that is if we declare war.

When war is declared, a number of unusual provisions of the law which are absolutely vital in time of war are triggered. Some of them are not desirable except in times of war. Do we want to trigger all those extraordinary provisions?

Mr. President, I believe it is recognized in the White House—I know it is recognized in the White House—that there should be some modification of this provision in the pending constitutional amendment. A number of Senators met with the President of the United States and some of his staff just a few days ago to discuss the constitutional amendment. The question came up: Is it wise to require us to declare war in order to spend in a deficit way? David Stockman stated that he favored an amendment along the lines of that I have now proposed—in fact, exactly that. The President did not disagree. The President did not demur.

Administration policy on this matter is not precisely clear, because the administration, on July 13, in a document headed "Statement Of Administration Policy," stated:

The administration does, however, believe that section 3 should be broadened and would support the following change: "The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect or there is an unforeseen imminent threat to national security."

I am glad that the administration recognizes the need for changing this particular provision in the constitutional amendment. I regret that their formal policy, as set forth in this statement of administration policy, does not accept my particular approach, as David Stockman apparently does, but suggests instead that we be able to waive the provisions of this article for a balanced budget if there is an unforeseen imminent threat to national security.

What is an unforeseen imminent threat to national security? This suggests that our intelligence agencies might be very lax in foreseeing an imminent threat. Why should we be able to spend in a deficit mode only if there is an unforeseen imminent threat? What would the imminent threat be? Would it not be one that would suggest that it would be wise to declare a national emergency? I should think it would be. I suggest that my amendment would be far wiser and far more explicit and far more clear.

One of our purposes in offering various amendments is to try to make clear what this constitutional amendment means, what it would do, and what it would not do. I say that the proposed amendment in its present form is dangerous to national security, because who can know how easy it will be to persuade Congress, under the three-fifths rule, to come up with appropriations necessary for national defense under all circumstances. That would give 41 Members of the Senate an opportunity to block any such expenditure. It would give a like ratio in the House the opportunity to block.

The committee report states on page 51:

The Committee intends that ordinary and prudent defense appropriations and preparations for a war perceived by the Congress to be imminent be funded fully within the limitations imposed by the amendment although Congress may establish higher levels of spending and/or deficits for these or any other purposes under sections 1 and 2.

It might not be as easy as the authors of the report and the members of the committee contemplate to obtain the three-fifths needed for national defense purposes. We already have a dispute now between the President and Congress. Congress placed certain limits on national defense spending for the next 3 fiscal years. The President, this morning, is reneging on an agreement he had made previously about national defense spending and now calls for more. He may find it difficult to get more from Congress.

This simply spells out and makes rather starkly clear the pitfalls in the proposed constitutional amendment.

Furthermore, there may be national emergencies requiring defense spending for reasons other than matters that relate to war and peace. There could be a catastrophic earthquake in this country. There could be a famine for one reason or another. There could be an emergency of a sort that we cannot presently foresee.

I think it would be far wiser to provide that if there is a national emergency declared by the President or Congress, whether it be for a foreign or a domestic reason, we can then

spend what we need to spend in order to deal with that national emergency.

(Mrs. HAWKINS assumed the chair.)

Mr. MOYNIHAN. Madam President, will the Senator yield?

Mr. CRANSTON. I yield.

Mr. MOYNIHAN. The Senator from California has raised the matter which is on the front pages of papers across the Nation.

At a minimum, the President is at odds with the spirit of the effort he has asked to go forward with, to bind Congress and the President to rigid levels of spending.

We have a budget resolution—to which the President agreed—calling for $30 billion less in military spending than he had proposed for fiscal years 1983 to 1985. Now a spokesman for the administration says that the President does not consider the 1-year levels for 1984 and 1985 to be binding so far as defense is concerned.

If a President can defy his party and his own previous agreement in a matter where we have only a budget resolution involved, are we not creating a situation here and now where a genuine constitutional crisis will arise, when he defies a constitutional amendment?

The very President who has proposed an amendment to the Constitution appears at a rally the following week on the steps of the Capitol and says, essentially, "Help me before I kill again." Here, the next week, he is saying, "No. I said I would do it, but I have no intention of doing it."

Are we not building into the normal tensions between the legislative and executive branches the prospects for recurrent constitutional crises, as against merely political contention?

Mr. CRANSTON. I believe we are.

Madam President, I believe that the Senator from New York, in his usual direct way and dramatic way, has put his finger on one of the fundamental problems. A constitutional crisis could emerge between the President and Congress, and there could be a crisis in which we have a national emergency we cannot deal with effectively and swiftly because of this constitutional amendment, if enacted in its present form. There could be a difference of opinion over the nature of the emergency. There could be regional problems about whether or not to deal with it. If it takes three-fifths of the House and three-fifths of the Senate to approve, we might not be able to approve, and we would let down the people of the country.

Mr. MOYNIHAN. I am vice chairman of the Committee on Intelligence. There could be disparities in intelligence matters between what the President knows and what Congress knows.

Mr. CRANSTON. Exactly.

Mr. MOYNIHAN. It might impel him to action in violation of the amendment to the Constitution, in defense of the Nation.

That is quite an elegant arrangement to set up—is it not—just to get the majority through the next midyear congressional elections?

Mr. CRANSTON. It most certainly is.

Mr. MOYNIHAN. Is there no sense of shame in this city?

Mr. CRANSTON. No, there is none. [Laughter.]

Madam President, I mentioned earlier that when war is declared a number of unusual provisions of law which are absolutely vital in time of war are triggered, and let me expand upon that.

We might well want to spend more for national defense because of perceived problems without having to declare war on some perceived foe in order to be able to do so. It is ridiculous to suggest that we should have to declare war in order to spend what we must spend on national defense.

It is also unwise to have such a provision because of the consequences of a declaration of war, apart from what it does for the relations on the nation upon whom we declare war.

The full range of laws involving espionage and protection of national security information is triggered once we declare war. The President has statutory emergency powers when war has been declared, and his constitutional powers as Commander in Chief are greatly enhanced.

We may not want to enhance those powers just to spend more on national defense when we do not want to actually go to war.

Military government can be imposed when there is a declaration of war, and drastic actions can be taken by local military commanders as was the case in World War II when Japanese Americans were removed from their homes by military order and taken to relocation centers and what might better be called concentration camps. That happened to many of my constituents back in the days when we declared war on Germany, Italy, and Japan.

Madam President, the purpose of this amendment is to retain the ability of Congress and the President to respond swiftly and effectively to national emergencies. It is constructed to ask why Senate Joint Resolution 58 deletes the balanced budget requirement during a declared war. The reasonable answer is that a declared war demands immediate, decisive, and costly action.

Apparently, the framers of the constitutional amendment pending, recognize that this proposed constitutional amendment impedes such decisive action. That is why the resolution is a dangerous straitjacket, a handcuff on congressional ability to respond to a wide assortment of emergencies.

We may want to spend more on national defense purposes, as I have stated, to deal with some real threat to our national security without declaring war on some other nation.

Many efforts by the United States abroad are controversial at home. Peacekeeping forces, patrols, responses to emergencies—these events require Federal expenditures that may be impossible under the resolution and, therefore, we will not do what we should do in our own interest for national defense purposes.

The resolution will drastically limit the ability of the United States to respond quickly and effectively to any serious international crisis short of war. It establishes a constitutional link between the conduct of foreign policy and the constraints of economic policy. And this is a dangerous absurdity.

Section 3 of the Senate Joint Resolution 58 ignores the occurrence of nonmilitary domestic emergencies which may require equally quick and costly governmental intervention. No allowance is made at all for natural disasters or economic emergencies here at home that may require unexpected outlays.

This amendment remedies that oversight, and it is an oversight by the framers of Senate Joint Resolution 58. It allows deficit spending during times of national emergency declared by the President or declared by Congress. This amendment helps the Federal Government to judge the needs of the Nation, and it helps it respond to those needs.

I wish to note that the administration-proposed alternative does not spell out who declares or how "an unforeseen imminent threat to national security" is to be determined.

My amendment says national emergency declared by the President or declared by Congress, and that is the way it should be.

If this amendment is not adopted, I think we create a national emergency, and if it were adopted in the Constitution I then suggest that we at once declare a national emergency.

Mr. MOYNIHAN. Madam President, I wonder if the Senator will respond to two questions. One of the possibilities of world emergency which has come only in our own time, and is so new it has not yet occurred but could so occur, is a nuclear emergency. A major nuclear disaster in one part of the world could lead to a worldwide response or worldwide disaster. And there is no provision for this in the resolution before us, is there not save by the Senator's amendment?

Mr. CRANSTON. There is no provision unless my amendment is adopted. We could have a nuclear emergency that was not an act of war. It could be a mistake. It could be an accident. There could be a terrorist act. We are not prepared to deal with any of them

under the proposed constitutional amendment.

Mr. MOYNIHAN. It could be the most deadly emergency the world has known.

Mr. CRANSTON. That is right.

Mr. MOYNIHAN. We are to sit here saying "Sorry, we have this amendment."

Mr. CRANSTON. Exactly.

Mr. MOYNIHAN. If I could ask the Senator one other thing, from his long and learned study of history, is it not the case that from the beginning of the modern era one of the qualities of the aggressive warmaking leaders of this world, and one of the sources of war in the world, has been a head of government who found he could not solve his economic problems at home. And so, he starts a war abroad to distract his people from these problems?

Mr. CRANSTON. That has been one of the major causes of conflict, war, and devastation.

Mr. MOYNIHAN. Over and over we have seen leaders who, not being able to solve their domestic problems, went to war. We are now making that grim lesson of history a principle of the American Constitution.

Mr. CRANSTON. If we adopt this amendment that is pending to amend the Constitution, that is precisely what we would do.

Mr. MOYNIHAN. Is there no sense of history in this city?

Mr. CRANSTON. No. [Laughter.]

Mr. MOYNIHAN. I congratulate the Senator for his courage and for his knowledge.

Mr. CRANSTON. I thank the Senator.

I wish he would explain one loophole that he has perceived in the constitutional amendment where we could declare war not on the Soviet Union but on some lesser nation as a way to permit deficit spending under any circumstances. It is an absurdity but it is a very ingenious, particularly Moynihan-ingenious solution to a problem that would confront us if this amendment is adopted in the form presented by the committee.

Mr. MOYNIHAN. Madam President, it may be we are going to have to live with this calamity and do our best. I suggested earlier that, since Presidents are going to repeatedly need exceptions from the amendment, they are going to repeatedly have to declare war. We should anticipate and establish a planning group in the Department of State to find a country that would be willing to have us declare war on them, in return for some modest reparations in the aftermath and a minimum of engagements in the interval.

Mr. NUNN. I suggest to the Senator from New York there may be some States that would allow that.

Mr. MOYNIHAN. There would be States, but if the Senator would provide an amendment to the Constitution that a State could choose to have war declared on it, and then get reparations, I will offer the amendment in conjunction with him. Does he wish one?

Mr. NUNN. I will think that over and consult with the Governor of my State.

Mr. MOYNIHAN. We will talk.

I nominated Iceland as a friendly nation that is sufficiently removed by sea. The problem is that it would be an attack on a NATO ally, and then we would have difficulty with Spain and the Federal Republic. Perhaps we could negotiate it.

Liechtenstein, it seems, would deny the seriousness of the case.

Iceland is probably the best arrangement and the troops who get sent there would have to occupy it a little bit. Troops have always enjoyed Iceland. Reparations could be reasonable and would enhance their gross national product, a return from the United States for war from the United States. There would be yet more complicated calculations involved; but the Icelanders learn algebra in the 9th and 10th grade, so they could handle it.

I offer the thought that this all will now be possible. And I welcome the Senator from Georgia's suggestion. I can just see it now: Ronald Reagan at the head of what are his remaining troop of economists—I think there is one economist left in Government—marching through Georgia [laughter] and thereby not only adding military valor but increasing the resources available to his depleted exchequer.

Mr. NUNN. Georgia has had that term before in history, so that would not be unprecedented.

As I understand, if I may ask a question of the Senator from California, this amendment is an amendment where the Senator would simply be substituting the words "national emergency" for the words "declaration of war?"

Mr. CRANSTON. That is right. Slightly beyond that, just to cover it precisely, we would strike article 3 which now reads as offered by the committee:

> The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect.

I would strike by my amendment "declaration or war" and insert "for any fiscal year in which a national emergency declared by the President or the Congress is in effect."

Mr. NUNN. Would the Senator interpret "national emergency" to include war so that the words could be broader but inclusive?

Mr. CRANSTON. Of course.

Mr. NUNN. I thank the Senator.

Mr. CRANSTON. I rest my case.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Madam President, I rise in opposition to the amendment being proposed by the distinguished Senator from California to add "national emergency" to Senate Joint Resolution 58 in lieu of "declaration of war."

The Senator believes that an exception to the provisions of Senate Joint Resolution 58 only for war may be too narrow. Thge Senator must understand why we believe any other definition is too broad.

I can recall that not too long ago Congress enacted several laws entitled the National Defense Education Act, the International Energy Conservation Policy Act; on the Federal statute books right now are laws such as the Emergency Energy Conservation Act, the Emergency Insured Student Loan Act of 1969, the Emergency Interim Consumer Products Safety Standards Act, the Emergency Natural Gas Act of 1977, and the Emergency School Aid Act.

Madam President, there are other laws on the books with titles that have been invoked in the name of a national emergency or an apparent national priority. Under the amendment of the Senator from California a simple majority vote would result in the waiver of the effect of the proposed constitutional amendment.

If Congress decides that a spending priority is so important, so necessary, to the national welfare, then it can very easily vote under the provisions of this proposed constitutional amendment to incur a deficit for that specific purpose.

I now remind them of that provision we have in this constitutional amendment which reads this way:

> Whenever three-fifths of the whole number of both Houses shall deem it necessary, Congress in such statement may provide for a specific excess of outlays over receipts by a vote directed solely to that subject.

Madam President, that gives the authority the President needs if he requires it. It gives the authority to the Congress if Congress needs it. If we open up this amendment with a loophole, as is suggested by the Senator from California, then this effort to force Congress to achieve a balanced budget may be in vain. It will be too easy to simply designate legislation of national emergency and gain a simple majority for passage.

Madam President, that is the very thing we want to avoid. If we have a war that is another thing. If we do not have a war then the President or Congress can come in by a three-fifths vote here and accomplish their purpose, and that is the very thing we are trying to protect in the provisions of Senate Joint Resolution 58.

You will never have a balanced budget if one President after another

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wants to use one emergency after another. It has been done time and time again. It has been done by these congressional acts I just referred to. It has been done by acts of the President, and we think it will be a great mistake to permit such exceptions in this amendment.

For those reasons, Madam President, I oppose the amendment and shall vote against it.

Mr. CRANSTON. Madam President, will the Senator yield?

Mr. THURMOND. I would be glad to yield.

Mr. CRANSTON. Have there not been a number of times when on a defense issue the Committee on Armed Services has supported one weapons system or another that may have been very expensive, and they have won by a very narrow margin, 55 to 45 or something like that, and cannot the distinguished ranking member of the Committee on Armed Services envisage some difficulty perhaps in getting a three-fifths vote in this body and also in the House to enable him and those who share his convictions on national defense to do what they think is necessary for national defense?

Mr. THURMOND. Well, Madam President, I think my position on national defense is well known. For years I have supported a strong national defense. I think it is the only answer to the Soviet threat today. It is the only way we can keep this country safe and keep our freedom.

But I would see no need of doing what the Senator suggests. In my judgment, if the President felt it necessary, why, he would make that recommendation to Congress. If Congress felt it was necessary they could act themselves. I am sure if there is a national emergency we will be able to convince three-fifths, that is only 60 percent, to take the action necessary to defend this country.

Mr. CRANSTON. Having seen many national defense decisions made by votes that were less than three-fifths, I marvel at the confidence of the distinguished Senator that he can always marshal the three-fifths needed for what he would feel is required for national defense.

The PRESIDING OFFICER. Who yields time?

Mr. DECONCINI. Madam President, will the Senator yield to me?

Mr. THURMOND. I yield such time as the able Senator requires.

Mr. DECONCINI. I would like to ask the distinguished Senator a question: If we went along with this particular amendment would it not be similar to the problem we faced with the Harry F. Byrd amendment that a simple majority could declare a national emergency and placing us in a position to spend a great deal of deficit dollars once again?

Mr. THURMOND. I think the Senator is correct.

Mr. DECONCINI. Is it not also the Senator's feeling that if we really want to put on some restraints—and that is on military expenditure as well as other expenditures—we have to have a procedure that is going to force this Congress to make a determination that the priority is so great, the need is so great, that we must justify such a need by getting three-fifths of both Houses to vote?

Mr. THURMOND. Madam President, in response to the able Senator I would say that we are interested here in trying to get this budget balanced. We are interested here in mandating it in the Constitution. We have fixed the figure at three-fifths. That has been generally agreed upon as a reasonable figure. If we can do by a majority vote what is being talked about we do not need the constitutional amendment.

Mr. DECONCINI. I think the Senator is correct.

Mr. THURMOND. This is to prevent a mere majority from spending money and spending money, as they have been doing. The budget has not been balanced but one time in the last 21 years, and we want to stop that and we want more than a majority to accomplish that purpose.

Mr. DECONCINI. Madam President, if the Senator will yield, the Senator in this amendment wants to apply that same tough principle to the defense expenditures and all other expenditures. We are not going to present an open checkbook to anybody by a mere majority unless we have a declaration of war.

Mr. THURMOND. That is exactly correct.

Mr. DECONCINI. I thank the Senator.

Mr. HATCH. Madam President, will the Senator yield for a question from the Senator?

Mr. THURMOND. I would be very pleased to yield to the able Senator from Utah.

Mr. HATCH. Is it not true that if a three-fifths majority vote to allow deficit spending for the military cannot be obtained that Congress can simply raise taxes by a constitutional majority in order to pay for military expenses?

Mr. THURMOND. The Senator is correct.

Mr. HATCH. Is it not also true that if there were a national emergency the people in this country and the Members of this body would do what must be done during the national emergency and get the three-fifths vote?

Mr. THURMOND. I do not think there is any doubt about it because, after all, public opinion controls. As Abraham Lincoln said, "With it, you can accomplish with it, and without it you can accomplish nothing."

I am sure if we had an emergency in this country, the public opinion would be so strong that we could get not only 60 percent but more than that.

Mr. HATCH. Might it not also be true that if Congress could not get a 60-percent vote, there is not a sufficient national emergency?

Mr. THURMOND. I think the Senator is right.

Mr. HATCH. But even then there still is, under this amendment, no provision prohibiting Congress from raising taxes to pay for the additional expenses.

Mr. THURMOND. That is exactly correct.

Mr. HATCH. Whether it is military or anything else.

Mr. THURMOND. But if they are going to spend more than they take in, they have to do it by a three-fifths vote of both bodies or raise taxes.

Madam President, we have had this thing going on now, as I have stated, for years and years and years that we have gone on an unbalanced budget. No individual could stay in business operating like this Government has been doing, no corporation could stay in business operating like this Government has been doing, and this Government cannot keep on doing it that way, either.

We are at a crisis in this country. We have to take drastic steps. We feel this is the most reasonable drastic step.

Mr. HATCH. Will the Senator yield again?

Mr. THURMOND. I am pleased to yield.

Mr. HATCH. I was amused by the suggestion made by the opposition to the amendment that assuming this amendment becomes part of the Constitution they could avoid the requirements placed on Congress by the amendment by simply declaring war against a small country.

I personally take a more serious view of the Constitution. I feel that Members of Congress will want to support the Constitution and its provisions and will not try to find ways around it, because it is the basic document of this land.

If Members of Congress are going to make a ruse out of the Constitution by declaring war—of course, I do not think anybody would actually do that—would this not, in fact, make a bigger loophole to get around what is a clear-cut constitutional amendment?

Mr. THURMOND. I think the Senator has put his finger right on it. He is absolutely correct.

Mr. HATCH. We are not talking about a mere statute. We are talking about the Constitution of the United States. And should this amendment become part of it, I cannot imagine any Member of this body as constituted now or in the future who would not

want to stand up and speak fairly in defense of the Constitution.

We may have legitimate disagreements on what the Constitution means, but we do not disagree with regard to our respect for the Constitution.

Mr. THURMOND. That is correct.

Mr. HATCH. I personally think it is ridiculous to even consider that Members of Congress would use such means in an attempt to circumvent the Constitution or its provisions.

Mr. THURMOND. Every Member of this body held up his hand and put his hand on the Bible and took an oath to support the Constitution of the United States. And that is the oath every judge, every district attorney, every marshal, and everyone else in an important position takes. I do not feel that any Member of this body will not respect that. They may construe it differently, as the Senator said, but I do not feel they would wish to intentionally ignore the Constitution.

Mr. NUNN. Will the Senator yield for a question?

Mr. HATCH. Yes.

Mr. NUNN. The constitutional amendment I have introduced on this subject contains the words "national emergency." The Senator from Pennsylvania and I had a constitutional amendment, part of which has been incorporated in the one before us now, and it contained the words "national emergency," instead of "war." Yet I recognize the validity, frankly, of what both sides have said on this subject.

I think the Senator from California and the Senator from New York have made a couple of good points on this. I think that the Senator from Utah and the Senator from South Carolina have, also.

The thing that I think is important here—and I really do not know the answer to this and perhaps the Senator from Utah does—is how many years since World War II has this Nation been in a national emergency as declared by Congress? There is something back in my memory that indicates we were in a period of national emergency from about 1950 to sometime in the 1970's in terms of an official declaration by Congress.

Now, if that is the case, if historically—the Senator from New York said we did not have a sense of history here in this body and I think too many times he is correct on that—but looking at the history and trying to have a sense of history on this amendment, if, indeed, we have been in that period of national emergency for some 20 or 25 years since World War II, are we in danger of really creating a loophole that would render this constitutional amendment almost fruitless? I have not decided on how I am going to vote on this.

Mr. HATCH. The Senator has put his finger on the precise issue.

Let me give you some history of the evolution of this amendment, Senate Joint Resolution 58. When the Senator from Georgia and Senator HEINZ filed their constitutional amendment which was referred to the Constitution Subcommittee, it did have this language in it. This language was very influential in the debate, on both sides of the aisle in both the House and the Senate. And it had great influence in the writing of the language in Senate Joint Resolution 58.

We felt that the problem with the national emergency language is that it would create a major loophole for those who would want to circumvent the real intent of this amendment, which is to require Congress to stand up and face the problems of America and try to balance the budget or vote to increase taxes, or vote to increase the deficit, or both.

Now, this amendment may seem simplistic in the eyes of some of the editorialists, but it is not simplistic. It covers a lot of problems which have existed in the past. And the major problem in this body happens to center around the fact that we have not been able to choose between competing programs, all of which may be good, some better than others. We just fund them all because we know we can always dip into that till and borrow against the credit of this country, or we can count on inflation pushing us into higher tax brackets and thus increasing taxes through bracket creep. That is what has been happening in this country for some time.

As we got into this debate, some were opposed even to the declaration-of-war exception. They did not want any exceptions. Others supported a two-thirds provision, a three-quarters provision on declaration of war, and some wanted to make it impossible to increase military spending. They were a distinct few. But the fact of the matter is that we had people on all sides of this issue.

In an effort to find the best language, we asked for input on the language from as many Members of Congress as we could, and the consensus was that the language in Senate Joint Resolution 58 is the best language to solve this problem. When there is a national emergency, then there will be a three-fifths vote. When there is not, we may not be able to get those votes. If we make it simple for Members in Congress to declare a national emergency when, in fact, it is simply a spending emergency, as has often happened in the last 50 years, then all the work that has been put into this amendment will have been in vain.

Mr. NUNN. My sense of history is that we had a national emergency declared during the Korean war. I think there is some merit, I suppose in a modern age, a nuclear age, to shy away from declarations of war, although I think in both the cases of Korea and Vietnam it probably was a mistake.

But, nevertheless, we did go through that period where we did not declare war and we had two actions that were, in all eyes, tantamount to war.

Mr. HATCH. Will the Senator yield?

Mr. NUNN. Yes.

Mr. HATCH. If my history is correct, I think we had a national emergency declared for about 10 years after the Korean war.

Mr. NUNN. This was my next point that I wanted to make. The fact that we did not declare war in those two instances, which was tantamount to war, causes me to lean toward support of this amendment, frankly. But the thing that works in the other direction is, once the Korean war was over, there was no repealing of that national emergency. And if we pass the Cranston amendment, while it makes sense in that sense, it does not make sense in the overall context that it went on and on and on and, in effect, if you would have had this constitutional amendment in effect in 1948, 1949, and 1950, we would have had a national emergency for the Korean war and the constitutional amendment would no longer be in effect. The deficit spending would have had no constitutional sanction, at least, and that would have gone on not during the war itself but for 10 years after that. That gives me great pause on this amendment.

Mr. MOYNIHAN. Will the Senator yield for a comment? He would know this better than I.

There is a new world of international conflict. Is it not the case that the Korean war continues, that we have an armistice, and that we have meetings at Panmunjom?

Mr. NUNN. Technically the Senator is correct.

Mr. MOYNIHAN. That is the world in which we live.

Mr. NUNN. I think the Senator makes a good point. On the other hand, I do not think that is relevant to the question of whether we should be having deficits in the 1982 timeframe, or, for that matter, I do not think the question of whether the Korean war technically continues is relevant to the question of deficits in 1985, 1986, 1987, and 1988.

Mr. MOYNIHAN. If I can have a few moments to comment on the statements of my friend from Georgia, and no one commands greater respect in this Chamber on military matters. If there is one controlling principle in the American Constitution, it is to limit the power of the executive branch. It was written in the aftermath of a revolution against what was seen as an all-powerful monarchy. That was the constitutional result. There have been a succession of difficulties as we have found that the limi-

tations in an 18th century time mode must be adjusted. I think the Constitution was ratified during a 4-month period and had already happened before some States knew it. It was that age of transportation.

We live now in a world in which war can take place in 10 minutes or 20 minutes.

Is it really wise to circumscribe the limited powers of the Presidency still further as, of necessity, we do here? We have no choice but a Commander in Chief who may have to respond in seconds, in minutes. It is not something they want or that we want. But can we avoid it? We can make it more difficult than it is.

Mr. NUNN. My general answer to the Senator from New York would be no. I am not sure how that directly relates to this question, though, because as I recall in the period of declared national emergency that lasted 10 or 12 years, or maybe longer, the President and the executive branch had extraordinary powers long after the declaration should have, by rights, expired. So that was a huge delegation of authority to the President. If I am not mistaken, when a national emergency is declared, the executive branch acquires a number of extraordinary powers they would not normally have.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. HATCH. Will the Senator yield?

Mr. NUNN. I do not know that I have control of the time. I will just yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina has control of time on his side.

Mr. THURMOND. Madam President, I yield such time as the Senator from Utah may require.

Mr. HATCH. Madam President, I suggest to the Senator from New York that if there is an overriding provision in the Constitution it is not just to limit the executive branch of Government but to limit all branches of Government. One reason why we, both Democrats and Republicans, are proposing this constitutional amendment, is that at least two branches of Government, and possibly all three branches, have been running wild with regard to deficit spending and inflation over the last 50 years. Especially in the last 23 years.

The fact is that if we put this proposed language into the amendment, we will be creating an escape clause through which the President or the Congress could declare a national emergency and run a huge fiscally irresponsible truck through any time they desired. That is the weakness in this language. That is why the Democrats and Republicans in both Houses who developed the amendment concluded that the language we have is the best language. If there is, in fact, a national emergency, three-fifths of the Congress will declare it to be so. If there is not, then they will not. That is what the language is intended to resolve.

We do not disagree on the fact that a genuine national emergency might justify a deficit budget. The only disagreement is in how to define such an emergency.

The Cranston amendment would leave that definition totally undefined. The present constitutional amendment would define what constitutes a national emergency by whether or not Congress can get a three-fifths vote. The logic behind the amendment is that if Congress is going to declare something, we ought to stand up and openly vote for it. If we are going to allow deficit spending, we ought to stand up and vote for it. If we are going to increase national spending, we ought to stand up and vote for it. The consensus of Democrats and Republicans is that Members of Congress should take the responsibility for the votes they make.

I personally wish there was a way (easier than our present language) to increase defense expenditures. But there is not an easier way. This is a reasonable amendment and a reasonable approach, it may be the only way we have to reach the right balance in our fiscal affairs. The amendment challenges everyone who wishes to get a piece of the economic pie to prove that their particular program is the best program. And then we in Congress are required to make a decision and vote if we want to increase spending in this country.

Mr. CRANSTON. Madam President, I would like to say to the Senator from Georgia that I believe that my amendment would cause greater discretion in declaring national emergencies, and it would cause Congress to think twice about letting national emergencies run on indefinitely, once they have been declared.

The emergency declared when we were at war with Korea, I think, people just sort of forgot about and only repealed it when it was brought up by someone who thought it was about time to end that national emergency.

The Congress would certainly be reluctant, if we had a constitutional amendment in place requiring a balanced budget, to frivolously declare national emergencies or leave them long standing just as a device to get around the constitutional amendment. I do not think that would be done.

One problem with the matter of expecting we can easily get three-fifths when needed to permit spending for national defense purposes or otherwise is the difference of opinion over what circumstances confront us. There may be those who perceive a national threat and there may be those who do not perceive a national threat. There may be those who perceive a national emergency other than a national defense emergency and there may be those who do not perceive it. The requirement for a three-fifths vote in order to be able to meet our needs under those circumstances I think places an undue burden upon the Government and the responsiveness of the Government.

I would like to also point out that—and this is in response to the question raised by the Senator from Arizona—if there is serious doubt about the need to declare a national emergency, then it would not be done by a majority vote. There would be a filibuster. We get right back to the need for three-fifths or 60 votes in the Senate before we would declare a national emergency. You would have to get cloture before you could proceed.

So I do not think we have to worry about this opening a debate loophole.

I would also like to point out again to the Senator from South Carolina who thinks it would be so easy to get three-fifths any time there are those who perceive there is a national emergency requiring significant defense spending absent my amendment, we have had some very, very close votes in the history of our country on momentous matters that required defense expenditures. If we had not been able to proceed without a three-fifths vote, we would not have proceeded. For example, on the eve of World War II, there was an incredibly close vote on whether or not to adopt Selective Service. It passed the House by only one vote. It would not have passed the House by a three-fifths vote, and, plainly, some heavy expenditures were needed. It passed the Senate by a very narrow vote.

Then we came to Lend-Lease. Lend-Lease was blocked for a long time in this body. Eventually, it was approved, again by a very narrow margin. This is an example of where the majority prevailed and prevailed wisely.

If they had needed three-fifths to take those steps, they might not have been taken in a timely fashion. Our casualties might have been far greater in World War II, a war for which we might not have been as well prepared if we had not adopted Selective Service or not adopted the Lend-Lease Act.

The world was in flames at that time. Our allies were in desperate trouble. But there was not an overwhelming majority that favored taking those moves that were vitally necessary for our defense. I therefore urge my amendment, which would require only the declaration of a national emergency by the Congress or the President in order to permit us to do what we must do when we face a national emergency.

Mr. DECONCINI. Madam President, I ask the Senator from South Carolina to yield me 2 minutes.

Mr. THURMOND. Madam President, I yield such time as the able Senator from Arizona may require.

Mr. DECONCINI. Madam President, I think we can conclude that there is a difference of opinion as to what status the country must be in before we might institute a deficit-spending provision. That is what this debate boils down to. Those of us who authored this resolution have come to the conclusion that we need to insure that there is a protective measure such as this in place so that it will not be simple or easy to spend deficit dollars. The distinguished Senator from California makes his point that we are talking about national defense expenditures. Certainly, we do not want to hamstring our national security, or, as pointed out by the Senator from Georgia, hamstring ourselves when other valid national emergencies arise.

My point, Madam President, is that we need the discipline offered by this amendment. We need this curtailment. We need to be confronted in Congress, as well as does the President, to make a determination: Do we have the will to balance the budget? Is the determination here to spend deficit dollars by a three-fifths vote or to increase the taxes to pay for it?

I come down on the side that the amendment is well drawn for the purpose of insuring that if we spend those deficit dollars or if we raise taxes, there is going to be more than just a simple majority in justification for it. The reason is simply that, in the past, Congresses have not acted responsibly. Well-intentioned Members including this Member have voted for billions of dollars in deficit expenditures, but, in fact, we cannot afford that any more.

Mr. THURMOND. Madam President, how much time is left to each side?

The PRESIDING OFFICER. The Senator from South Carolina has 5 minutes. The Senator from California has 4 minutes and 27 seconds.

Mr. THURMOND. I say to the distinguished Senator from California, I am prepared to yield back my time.

Mr. CRANSTON. I am prepared to yield back my time if no one else wants to speak.

I yield back my time.

Mr. THURMOND. Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Alabama (Mr. DENTON) and the Senator from Minnesota (Mr. DURENBERGER) are necessarily absent.

I further announce that, if present and voting, the Senator from Alabama (Mr. DENTON) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) and the Senator from Ohio (Mr. GLENN) are necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER (Mr. HUMPHREY). Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 34, nays 61, as follows:

[Rollcall Vote No. 263 Leg.]

YEAS—34

Baucus	Hatfield	Moynihan
Biden	Heinz	Pell
Bradley	Huddleston	Percy
Bumpers	Inouye	Randolph
Byrd, Robert C.	Jackson	Riegle
Chafee	Kennedy	Sarbanes
Cranston	Leahy	Sasser
Dixon	Levin	Specter
Dodd	Mathias	Stafford
Eagleton	Matsunaga	Weicker
Ford	Metzenbaum	
Hart	Mitchell	

NAYS—61

Abdnor	Garn	Murkowski
Andrews	Goldwater	Nickles
Armstrong	Gorton	Nunn
Baker	Grassley	Packwood
Bentsen	Hatch	Pressler
Boren	Hawkins	Proxmire
Boschwitz	Hayakawa	Pryor
Brady	Heflin	Quayle
Burdick	Helms	Roth
Byrd, Harry F., Jr.	Hollings	Rudman
	Humphrey	Schmitt
Chiles	Jepsen	Simpson
Cochran	Johnston	Stennis
Cohen	Kassebaum	Stevens
D'Amato	Kasten	Symms
Danforth	Laxalt	Thurmond
DeConcini	Long	Tower
Dole	Lugar	Wallop
Domenici	Mattingly	Warner
East	McClure	Zorinsky
Exon	Melcher	

NOT VOTING—5

Cannon	Durenberger	Tsongas
Denton	Glenn	

So the amendment (No. 1994) was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1941

(Purpose: To permit Congress to waive the balanced-budget requirement during periods of national economic emergency)

Mr. DIXON. Mr. President, I call up amendment No. 1941.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follow:

The Senator from Illinois (Mr. DIXON) proposes an amendment numbered 1941:

On page 4, line 8, after "effect", insert: "or in any fiscal year in which a joint resolution declaring a national economic emergency is in effect".

Mr. DIXON. Mr. President, section 3 of Senate Joint Resolution 58 gives Congress the power to waive the balanced-budget requirement and the requirement limiting the growth of receipts for any fiscal year in which a declaration of war is in effect. That provision is sensible and greatly needed. However, it does not go far enough. There are other circumstances short of war, where it is vital to be able to waive the provisions of the proposed amendment.

An editorial from the June 21, 1982, Washington Post makes the point very well. It states that:

By enforcing the rule of a balanced budget, this (proposed constitutional) amendment would leave no discretion whatsoever to a President and Congress to combat recessions. Theoretically, the amendment would allow a deficit by a three-fifths vote in each House of Congress. In reality, governments are always slow to acknowledge economic trouble ahead, and it is utterly unlikely that Congress could react sufficiently quickly, or unanimously, to avert real damage. Under the iron commandment of continuous balance, a recession like the present one would quickly turn into a true depression on a scale that this country has not seen since the 1930's.

The amendment I am offering is an attempt to remedy this problem. It is simple and straightforward. It permits Congress to waive the provisions of the proposed constitutional amendment in any fiscal year in which a joint resolution declaring an economic emergency is in effect.

Mr. President, I believe that adoption of my amendment is imperative if the Federal Government is to retain any ability to generate economic growth in recessionary times. It must be remembered that, during recessionary periods, spending tends to rise and revenues fall, without any specific actions by Congress. Income tax revenues fall as more people lose their jobs, and spending for programs such as unemployment compensation automatically rises. In fact, estimates are that each percentage point increase in unemployment increases the deficit by $25 to $30 billion.

A study by the Council of Economic Advisers in 1979 points out the potentially disastrous consequences of balancing the budget during recessions. The study concluded that if the Federal budget had been balanced during the 1974–75 recession, real GNP would have plunged by 12 percent in 1975 rather than 2½ percent and unemployment would have shot up to 12 percent rather than 8½ percent.

A recent report of the Congressional Research Service reinforces the conclusions of the CEA study. It states that:

A rigid adherence to budgetary balance could severely constrain the stabilizing influence of fiscal policy. For if lower general economic activity generated lower Federal tax receipts and threatened to cause a budg-

etary deficit, the commitment to balance the budget would necessitate a reduction of expenditures or an increase in taxes, either of which would further reduce economic activity—a destabilizing process. Equally, if there were the same obligation to avoid surpluses, higher income and higher tax receipts might require high expenditures at the very time when stabilization policy would call for less, or at least not more, Federal spending. Alternatively, higher tax receipts could be considered as a reason for a cut in tax rates, a stimulative action at a time when restraint might be more appropriate.

Even OMB, Mr. President, sees the need for flexibility in Government policy in dealing with deficits. An OMB paper on the balanced budget amendment states that:

An inflexible annual balanced budget policy rule may not be compatible with the business cycle "facts of life" which tend to produce automatic large deficits during recessions. During fiscal year 1982, the projected deficit increased by $40 billion due to the recession-induced fall of receipts and rise of unemployment-related outlays. As written, S.J. Res. 58 requires a super majority (60 percent) to create an annual deficit—yet consensus opinion for several decades has held that recession-induced deficits are either desirable or at least tolerable.

Since business cycle contractions and expansions are inherent in a free economy, the proposed policy rule would create artificial policy choices and political conflicts on a recurring basis; i.e., whether in the face of a contracting economy to: raise taxes; radically reduce spending until recovery raises receipts; or achieve super-majorities to validate recession deficits.

Now I understand that it can be argued that a three-fifths majority can approve a recession-induced deficit and, therefore, that my amendment is unnecessary. However, I think it is clear that the three-fifths requirement will make it much more difficult for Congress to respond to national economic emergencies—to severe recessions—in a timely manner.

Senate Joint Resolution 58 itself seems to admit there is a problem in this area. It permits waiver of the balanced budget requirement by majority vote during fiscal years in which a declaration of war is in effect. If we were at war, Mr. President, is there any doubt that a majority of Congress, a three-fifths majority, even a three-fourths majority would approved necessary wartime deficits? I am sure that approval would be unanimous—to suggest anything else is to imply that Congress would act in an unpatriotic fashion during wartime.

The wartime exception, therefore, is probably the least-needed exception. An exception for national economic emergencies is far more necessary than the wartime waiver if the Congress it to meet its responsibilities in the economic policy area.

I am disturbed by the implication in Senate Joint Resolution 58 that the Federal budget does not influence economic activity in the United States.

The Federal Government consumes about 24 percent of our total gross national product. Decisions on the level of Federal spending and the size of the Federal deficit are factors that are not irrelevant to the future course of the U.S. economy. To the contrary, they are extremely important factors in influencing the rate of GNP growth. In fact, the whole theory of Senate Joint Resolution 58 assumes that Government spending and Federal deficits are the cause of our current economic difficulty, and that smaller, balanced budgets will generate steady noninflationary economic growth.

I agree that we must restrain spending and that the budget should be balanced. I think Congress is abdicating its responsibility for the economy, however, if it puts itself in a straitjacket requiring it to balance the budget every year, regardless of the state of the economy.

Many in Congress object to the monetary policy now being pursued by the Federal Reserve Board. We all know of the devastating impact high interest rates have had on the economy. Yet if Senate Joint Resolution 58 becomes law, the only economic policy weapon that effectively will be available to meet economic problems—either inflation or unemployment—will be monetary policy. Congress will have foreclosed the opportunity to make effective use of fiscal policy to meet economic emergencies.

Mr. President, I do not think the American public wants to put Congress into this straitjacket. The American public wants balanced budgets, but no Americans want a balanced budget every year at the cost of economic depression.

I think we can balance the budget in most years. I think we should do all we can to insure that the budget is balanced over the course of the business cycle. But I do not believe we should leave economic policymaking solely to the Federal Reserve Board.

Congress has a responsibility to help manage the economy. My amendment helps insure that Congress will have the tools necessary to meet its responsibilities, without undermining the goals of Senate Joint Resolution 58.

Mr. President, I urge the adoption of my amendment.

Mr. HATCH. Mr. President, in many respects this amendment is even worse than the last one.

I was interested in my friend from Illinois' indication of a study done by CEA in 1979 showed that if the Federal budget has been balanced during the 1974-75 recession, the real GNP would have decreased by 12 percent and unemployment would have risen by 12 percent.

This particular study was done with a DRI econometric model, a subject I have been very much interested in as a member of the Budget Committee over the past number of years.

This DRI econometric model is a model that is well known for its dependence on deficits to achieve stimulated growth in the economy. I think it is wrong to rely on these Keynesian models which have been discredited by more balanced economic theories.

I do not think that study stands for anything other than that if you do not go the Keynesian route, and you do have deficits to achieve stimulated growth in the economy, then you are going to have the GNP resulting in higher unemployment.

I think that is an unmitigated falsehood, not on the part of the distinguished Senator from Illinois but on the part of those who would rely on these defective econometric models.

Frankly that has been one of the most difficult problems the Budget Committee has had. We have had these econometric models we have relied on in the past that basically have never been right, and these models have been invariably relied upon to support deficit stimulation of the economy.

I have little doubt that that may work during a time of low inflation and low monetary supply, but I have no doubt that it does not work during the period of high inflation and large monetary supply which we have had over the last number of years.

So I hope our colleagues in the Senate will reject this amendment as they did the last one because this amendment, it seems to me, would make it impossible to ever effectuate or to ever exercise the mandate that this constitutional amendment would impose upon Congress, that mandate being that Congress is going to have to stand up and vote if they want to deficit spend or if they want to increase taxes. They are going to have to vote rather than rely upon fictions, as we have the past number of years.

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield me time?

Mr. HATCH. Yes, I yield to the distinguished Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I dislike to take issue with my distinguished friend from Illinois. I think Senator DIXON is an outstanding Senator and a real asset to this body. This amendment, however, I feel would be most unwise.

If it is adopted, I foresee that the constitutional amendment would probably be almost totally ineffective. We are in crises of an economic nature almost all the time. Certainly we are in a crisis at the moment, and I think we are in a very serious economic crisis at this moment now, and it was brought about, in my judgment—others have different views—by con-

tinuous overspending by the Federal Government.

Just today the Federal Reserve Board Chairman, Paul Volcker, testified before a congressional committee that during the next 6 months the Government must borrow $100 billion to finance the deficits created by Congress. That is $100 billion in 6 months.

How are we going to get interest rates down with the Government going into the money markets so consistently for such huge sums? If we do not get interest rates down, interest rates which are devastating to our economy, how can we expect a recovery in the housing market, in the automobile market, two major elements of our economy?

The able Senator from Illinois said he feels that we must restrain spending, and I certainly agree with him; that we should have balanced budgets, and I certainly agree with him.

But the whole record of the Congress of the United States in the last 20 years is one of unrestrained spending. We have had only one balanced budget in 22 years. The deficits have accumulated and accelerated. The Congress is totally without discipline.

I would like to see the budget balanced without a constitutional amendment. As a matter of fact, I was in this body for quite a few years before I brought myself to the conclusion that we should have a constitutional amendment. But I do not know of any other way to bring about a semblance of discipline to the membership of the Congress other than by the adopton of a constitutional amendment.

That may not do it, I do not know. But certainly we have tried the statutory route. Congress enacted and the President signed into law legislation mandating a balanced budget beginning with fiscal year 1981; 1981 has come and gone, and it had a huge deficit.

Now we are into 1982, and the deficit this fiscal year will well exceed $100 billion, it will probably run $110 billion, $112 billion, or $114 billion.

Then for the upcoming fiscal year the budget the Congress is now working on, the Director of the Congressional Budget Office asserted yesterday that the deficits will be in the neighborhood of $130 billion to $140 billion to $150 billion, just unbelievable deficits.

So while I suppose most individuals in the Senate would prefer that there not be a constitutional amendment on this subject, I think a majority and, hopefully, a two-thirds majority, have reached the conclusion that this is probably the only way that Congress can be restrained.

So I hope the amendment offered by the able Senator from Illinois will not be adopted. The previous amendment was defeated by almost a 2-to-1 vote, and it dealt with national emergencies of a defense or military nature. This amendment pending deals with a domestic economic situation or situations. I just feel our country is in a dreadful condition brought about, in my judgment, in large part if not major part by the unwillingness of Congress, the Congress of the United States, to discipline itself in regard to spending, and the unwillingness of the Congress of the United States to operate within its means and within a balanced budget.

Mr. BUMPERS. Mr. President, will the Senator from Illinois yield?

Mr. DIXON. I yield.

Mr. BUMPERS. I am not a member of the Budget Committee so I did not hear Dr. Rivlin testify yesterday about how grossly understated the deficits for 1983, 1984, and 1985 are.

We stayed here until 5 a.m. last Friday morning to pass a tax bill, a measure that will raise about $100 billion over the next 3 years. It was a very painful exercise, but it was necessary because we were assured by the Budget Committee that this would give us a budget deficit in fiscal year 1985 of about $60 billion.

When you stop and think about it, its incredible that 3 years from now, we are hoping the deficit will be $60 billion. And yet Dr. Rivlin said yesterday that, given all the cuts in spending that have been proposed under both the President's budget and the Budget Committee's recommendation here which has been adopted, and given the revenues that this tax bill we passed is anticipated to generate, we will still have over $100-billion deficits in 1985. Further unless we do something more, we will only have a mild recovery now, and will probably have another recession in 1985.

The reason I asked the Senator from Illinois to yield to me for a moment was to ask some of my colleagues, particularly those who are proponents of this amendment, how they would vote right now on Dr. Rivlin's proposals to eliminate these colossal deficits. She said not one, but all three of the following things must be done: No. 1, we must scale back defense spending. No. 2, we must do something about entitlement programs, especially social security, according to Dr. Rivlin.

We all know what that means.

We are going to have to take a close look at and perhaps cut back on the cost-of-living increases entitlements and retirement programs, including those for Members of the U.S. Senate and past Members.

No. 3, we are going to have to raise taxes, even more than we just did last week.

The amendment of the Senator from Illinois provides that if there is a national economic emergency and the Congress passes a joint resolution so stating, then the requirement for a three-fifths vote to have a deficit is waive. Is that a correct statement?

Mr. DIXON. That is correct.

Mr. BUMPERS. I cannot imagine anybody taking strong exception to this amendment unless one believes that he would rather see the economy of this country collapse, than to have a budget deficit.

We have a tendency to look at things with tunnel vision. The problem is that most of us are not going to be here very long. I dare say the majority of the Members of the Senate will not be here the first time we have to line up and vote to unbalance the budget, nor will President Reagan be the President of the United States. Yet, a good argument can be made that the impetus and the motivation for this whole thing is of a temporary nature.

My question is: How many of the proponents of this amendment are willing to vote right now to raise taxes, scale back defense spending, and to cut entitlement programs, bearing in mind that November 2 is just 3 months off?

I am not going to ask anybody to answer that. We all know what the answer is. You could not get 20 votes in the U.S. Senate right now to do all three of those things. So what are we going to do? We are going to watch Dr. Rivlin's predictions come true.

I voted against the first budget resolution because I thought it was as phony as a $3 bill, and that is what Dr. Rivlin said yesterday. The economic assumptions were false and most people knew they were false.

Two weeks ago Business Week magazine reported that the White House is in a real stir because they know that deficits for 1983 and beyond are going to be far greater than the Budget Committee of the United States has predicted. The deficits are going to be far greater than they were predicted to be even after we increased taxes $100 billion. Apparently, the internal White House debate is whether to just let it all hang out at one time or give it to the American people in little, slow pieces so they will not notice what the deficits will be.

The day after I read the article, Donald Regan, Secretary of the Treasury, stated that the budget deficits were going to be a little bit higher than they thought they were and they could run as high as $115 billion next year.

Obviously, we are going to get it in bits and pieces, because yesterday Dr. Rivlin literally blew the whistle on this whole charade by saying that the deficits are not going to be $110 billion, they are not going to be $115 billion, they are going to be more like $140 billion to $150 billion next year. She has given the prescription to cure it—scale back defense, scale back enti-

tlement programs and raise taxes. And, you know how many votes that is going to get.

How many Members of the U.S. Senate will vote to unbalance the budget in an election year, knowing that their opponent is going to hammer them over the head from the day of the vote until the day of the election? Oh, you can hear them now: "My opponent stood up there and defied the way the people of America feel. He defied the Constitution to vote for an unbalanced budget." That is going to be the political issue in every campaign from now on, even though we have 10-, 12-, 14-percent unemployment, because those people will always insist that the reason we have 10-, 12-, 14-percent unemployment is because of these big deficits.

The reason we are going to have a big deficit this year and next year and the following year is that for every 1 percent unemployment we have in this country, it costs the U.S. Treasury $25 billion in lost tax revenues and unemployment compensation. It is like a dog chasing its tail.

People say we have to quit spending, and I agree that there is unnecessary spending. But, a lot of people who were in job training, a lot of people who were depending on programs that have been cut out, no longer have jobs. They are no longer taxpayers; instead, they have become wards of the State.

It is very delicate trying to find a balance between fiscal responsibility and a monetary policy that is compatible with full employment and a viable economy. It is very tricky. We have not figured out how to do it in this country consistently. That is why the amendment of the Senator from Illinois makes eminent sense. We can at least stand here and vote for a resolution saying that there is a national economic crisis. It does not seem to me like that is asking too much.

The strength of this country depends just about as much on the viability of our economy as it does on how many planes and tanks and guns we have. The strength of this country is in a viable economy.

Are we going to sit here and say that, just because there are maybe 12 million, 15 million, 20 million people out of work, we cannot use fiscal policy to try to do something about it and stimulate the economy? That is all he is trying to do and that is what this amendment would allow. It makes eminent good sense to me, and I am going to vote for it. I hope some of the people listening back in their offices will do likewise.

I thank the Senator for yielding to me.

Mr. DIXON. I thank the Senator from Arkansas. I appreciate very much his enlightenment of the Senate on the intention of this amendment.

Mr. President I wish to point out that we voted a moment ago on amendment No. 1994, offered by my distinguished friend, the senior Senator from California, that would have amended section 3 by striking out the words "declaration of war" and inserting instead "national emergency declared by the President or the Congress."

It would have permitted the Congress or the President to declare the emergency. The national emergency would cover anything that either the Congress by a majority vote or the President by his will would declare to be a national emergency.

But this Senator's amendment is much narrower. I ask you to listen for a moment as I explain it once again.

We are talking about section 3 of this constitutional amendment. What does section 3 do now, Mr. President? It says there is one exception, only one, to the three-fifths rule. That exception, the one exception, to the three-fifths rule is a declaration of war.

Well, I say that is important, profoundly important; of course it is. But is it not true that a national economic emergency, such as the Great Depression, is a profoundly important question as well? All this Senator's amendment does is add to section 3 after "declaration of war" these words: "or in any fiscal year in which a joint resolution declaring a national economic emergency is in effect."

So it requires the passage of a joint resolution by the Congress, a majority vote in both Houses, and it requires the signature of the President of the United States.

That is all it does. It says that there are two grave things in this country, not just one, that can occur to tear at the guts of our society. One is war and the other is a horrible depression like the one that we had in the 1930's when 25 percent of the people in America who wanted work could not find work.

I am here to say to my colleagues that there is value in this amendment. It is supported by a majority of the American people. I am sure that this Congress will work its will in the interests of the people of this country. I want to say, however, that each time I return to my State and have townhall meetings and answer the questions of the folks in the audience, I have said that one of my principal reservations about this amendment is that it waives the three-fifths rule for a declaration of war when you can get 100 percent, but it does nothing about the economic emergencies.

People rise as a body and say, "I cannot believe that," because they know and they understand the desperate circumstances of those times.

Our country is in those kinds of circumstances now and I suggest to you, Mr. President, that the people of the country are looking at what we do here.

This is a narrow, carefully constructed amendment that will insure the viability of Senate Joint Resolution 58. It will not hurt it; it makes it workable.

It makes section 3 apply to the two serious consequences we face in this country: war and depression.

Let me just say this in conslusion: My friend the distinguished Senator from Vermont has a number of amendments laid down that we will shortly vote on in which he challenges the Senate. He says in amendment 1, would you waive it if unemployment was 20 percent and 22 million people were unemployed?

Then he goes down the list through a lot of other amendments. I must say to my friend that is probably not the kind of thing that ought to be in the Constitution, but I know what he is trying to say. He is trying to say when is it so desperate that the Congress will response in the proper manner? I say to you that ought to be a judgment call of the Congress and the President. That is why I have offered you the opportunity to adopt this language, this very restricted language, which says that in addition to a declaration of war that we may waive it in any fiscal year in which a joint resolution, adopted by both Houses of the Congress and signed by the President of the United States of America, declares that a national economic emergency is in effect.

Mr. President, I earnestly solicit the support of my colleagues in the adoption of Amendment No. 1941 to Senate Joint Resolution 58.

I yield back any remaining time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, how mush time have I remaining?

The PRESIDING OFFICER. The Senator has 20 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to this amendment. The amendment is narrower than the Cranston amendment, but it is still a loophole. What is a national economic emergency? That could include just about anything. As I have mentioned previously today I can recall not too long ago Congress enacted several laws pertaining to emergencies. One was the National Defense Education Act. Another was the National Energy Conservation Policy Act. Another was the Emergency Energy Conservation Act. Another was the Emergency Insured Student Loan Act of 1969. Another was the Emergency Interim Consumer Product Safety Standards Act. Another was the Emergency Natural Gas Act of 1977. Another was the Emergency School Aid Act.

Mr. President, we can see that if we adopt this amendment we are allowing

a loophole in which many, many legislative steps could be taken to offset the purpose of this amendment.

The purpose of this amendment is to require a balanced budget. Since Congress had not shown the restraint to do this but one time in the last 21 years, but twice in the last 25 years, we feel the only way we are going to get it done is to put it in the Constitution of the United States.

Mr. President, if there is a national economic emergency of such importance to the country, then I have no doubt Congress will vote by three-fifths to approve legislation to meet that emergency.

The Dixon amendment would simply provide a constitutional waiver, not requiring any vote by Congress.

Mr. President, I am convinced that we cannot afford to adopt this amendment. We want to get this budget balanced. I think we have to pass this constitutional amendment to do it. We do not want any loopholes.

The only thing we have now is in case of war or if both bodies of Congress vote three-fifths. If there is a real emergency existing, do you not believe that both bodies will vote three-fifths? If they do not do that, it is probably not the emergency it is purported to be.

Mr. President, I hope the Senate sees fit to kill this amendment and I shall vote against it.

Mr. DIXON. Mr. President, will my distinguished friend from South Carolina yield for a question?

Mr. THURMOND. I yield.

Mr. DIXON. The Senator has suggested the question of economic emergencies is one of some debate. I would ask the Senator, are there circumstances under which the Senator believes it would be appropriate to vote an unbalanced budget in a fiscal year in which there was a serious economic emergency in this country? Does the Senator see such a circumstance?

Mr. THURMOND. In response to the able Senator from Illinois, I would say there might be some time when there would be an economic emergency or some other kind of emergency.

In that event, I think three-fifths of both bodies would vote to recognize that emergency and take action to offset it.

Mr. DIXON. Would my distinguished friend further suggest his view concerning whether three-fifths of the Congress would vote for an unbalanced budget in a time of war? The Senator believes that would occur, does he not?

Mr. THURMOND. Mr. President, in time of war, this amendment does not apply.

Mr. DIXON. Why should we have section 3 as a loophole now in the amendment, I ask the distinguished Senator from South Carolina, if he is so confident such a vote can be obtained? Why have such a loophole in there such as section 3, which waives it in the event of declaration of war?

Mr. THURMOND. After the Korean conflict, we had an emergency that lasted 10 years. We do not want the power to exist to carry on an emergency for 10 years. We never will get the budget balanced if we do not make up our mind we are going to take the steps to do it.

I believe if a real emergency arises, we can get three-fifths of both bodies to take the action necessary to offset that.

Mr. DIXON. Does the Senator not believe that we can do that for a war, obtain three-fifths for a war?

Mr. THURMOND. It is not necessary to get it——

Mr. DIXON. I realize it is not, Mr. President. I respond to the distinguished Senator, for whom I have the greatest personal regard, that if we can obtain three-fifths for the greatest economic emergency of a country, we can surely obtain three-fifths when we are in flames and there is a war going on. Why did he make a loophole for one, why contradict his own most stirring arguments by making a loophole for wars when he does not make one for depressions?

Mr. THURMOND. Mr. President, if we have a declaration of war, I say to the Senator, if we have a war going on, the whole country has to rally around that. It is against an external enemy which could destroy our freedom. I think it is absolutely necessary that this amendment be waived in time of war. I think it would be unwise not to.

Mr. DIXON. I do not quarrel with the distinguished Senator's remarks in that regard. I suggest that 100 percent of us would vote for an unbalanced budget in the event of a war. I suggest that that is the obvious one. We are including in this amendment the very thing that is so obvious it does not need to be in there. I am suggesting that if we would permit a waiver for a declaration of war, surely we should permit it for the declaration of an economic emergency requirement after both Houses of Congress and the President of the United States have declared it.

Mr. THURMOND. Mr. President, I cannot agree on that because there would be too many requests for economic emergencies. I just read seven or eight a while ago, where it was said there was an emergency, a national emergency of some kind or another. This could be used as excuse just to establish an emergency when, probably, no real emergency exists.

War is different. Our very liberties are at stake, our lives are at stake, our property is at stake. We have to waive it in time of war. These other matters in which someone may declare an economic emergency is a different thing. But that can still be done if we get three-fifths of both bodies.

Mr. DIXON. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. HARRY F. BYRD, JR. Mr. President, will the distinguished Senator from South Carolina yield me 3 minutes?

Mr. THURMOND. I am very pleased to yield to the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I have already spoken in opposition to this amendment, because I feel it would really render ineffective the proposed constitutional amendment to mandate a balanced budget. But I want to make a few brief comments on the speech made by the Senator from Arkansas (Mr. BUMPERS).

I thought he raised good points. Many of those points I agree with. He made one statement which I certainly hope will come to pass. He asserted that he felt that, if this constitutional amendment is ratified, when it comes to waving by three-fifths vote the requirement for a balanced budget, that would become the issue in all of the congressional campaigns.

I want to say that I hope that that will be the case, Mr. President. I am not sure it will be, but I hope it will be the case. Assuming it is the case, I think that is one of the most compelling reasons, one of the most important reasons, for supporting the balanced budget amendment now before the Senate.

The Senator from Arkansas also said that he voted against the Senate budget resolution. I want to say the Senator from Virginia also voted against the Senate budget resolution. That budget resolution, Mr. President, provides for spending which will increase the national debt by 44 percent during the 3 years and 5 months ending September 30, 1985.

I am very glad that I did vote against that budget resolution. The deficits set out are beyond reason and the figure in the budget resolution calling for a national debt of $1,522 trillion by September 30, 1985, is a figure that I could not and would not support. It is because of the uncontrolled spending by the Congress itself that something needs to be done. I do not know of any other method of bringing some discipline to the Congress than by a constitutional amendment.

Mr. THURMOND. Mr. President, I commend the able Senator from Virginia for his remarks—not only his remarks on the constitutional amendment but for the stand he has taken here for years and years. He has taken the stand that his father, Harry F. Byrd, Sr., took. That is a sound stand.

That has been to operate on a balanced budget, to exercise fiscal restraint, to show fiscal responsibility. No man has been sounder on this question of fiscal policy than the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

How much time is left, Mr. President?

The PRESIDING OFFICER (Mr. HEINZ). The Senator has 8½ minutes.

Mr. THURMOND. I am willing to yield back my time if the able Senator from Illinois is willing to yield back his time.

Mr. DIXON. I yield back my time, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Minnesota (Mr. DURENBERGER) is necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS) is absent on official business.

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 30, nays 67—as follows:

[Rollcall Vote No. 264 Leg.]

YEAS—30

Baucus	Eagleton	Mathias
Biden	Glenn	Matsunaga
Bradley	Hart	Metzenbaum
Bumpers	Hollings	Mitchell
Burdick	Huddleston	Moynihan
Byrd, Robert C.	Inouye	Pell
Chafee	Jackson	Randolph
Cranston	Kennedy	Riegle
Dixon	Leahy	Sarbanes
Dodd	Levin	Weicker

NAYS—67

Abdnor	Goldwater	Nunn
Andrews	Gorton	Packwood
Armstrong	Grassley	Percy
Baker	Hatch	Pressler
Bentsen	Hatfield	Proxmire
Boren	Hawkins	Pryor
Boschwitz	Hayakawa	Quayle
Brady	Heflin	Roth
Byrd, Harry F., Jr.	Heinz	Rudman
	Helms	Sasser
Chiles	Humphrey	Schmitt
Cochran	Jepsen	Simpson
Cohen	Johnston	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stennis
DeConcini	Laxalt	Stevens
Denton	Long	Symms
Dole	Lugar	Thurmond
Domenici	Mattingly	Tower
East	McClure	Wallop
Exon	Melcher	Warner
Ford	Murkowski	Zorinsky
Garn	Nickles	

NOT VOTING—3

Cannon	Durenberger	Tsongas

So the amendment (No. 1941) was rejected.

Mr. DECONCINI. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. THURMOND. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. THURMOND and Mr. MATTINGLY addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, I yield to the Senator from Georgia.

AMENDMENT NO. 1930

(Purpose: To limit budget outlays for a fiscal year to not more than 20 per centum of gross national product for such fiscal year)

Mr. MATTINGLY. Mr. President, I call up amendment No. 1930 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. MATTINGLY) for himself and Mr. MCCLURE proposes amendment numbered 1930.

Mr. MATTINGLY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 4, between lines 5 and 6, insert the following:

"'SECTION 3. Total outlays set forth in a statement of receipts and outlays adopted pursuant to section 1 of this article for any fiscal year shall not exceed an amount equal to the greater of—

"'(a) the difference between—

"'(1) an amount which bears the same relationship to the gross national product of the United States at the close of such fiscal year as outlays for the preceding fiscal year bear to the gross national product of the United States at the close of such preceding fiscal year, and

"'(2) an amount which is equal to 1 per centum of the gross national product for such fiscal year; or

"'(b) 20 per centum of the gross national product for such fiscal year.'".

On page 4, line 6, strike out "3" and insert in lieu thereof "4".

On page 4, line 9, strike out "4" and insert in lieu thereof "5".

On page 4, line 13, strike out "5" and insert in lieu thereof "6".

Mr. MATTINGLY. Mr. President, I shall speak on an amendment to Senate Joint Resolution 58, the constitutional amendment to balance the budget, and my amendment and Senator MCCLURE's amendment with reference to the gross national product.

First, we all have to admit that we have grave economic problems in the United States. Problems that have been blamed on the budget process, Federal reserve policy, the need for more taxes, off-budget spending by the Federal Financing Bank, recessions, inflation, not enough jobs, declining foreign trade, and many other reasons. But the real problem stems from only one element, and that is Government overspending.

The answer to that problem is to stop the Government from overspending. And how do you do that?

We could pass a constitutional amendment limiting the terms of Senators and Representatives. That might be the only way Congress would be able to resist pressure from special interests promising campaign contributions and votes in exchange for more Federal spending in their pet area. Certainly, the history of Congress is evidence of its inability to say no.

That would be one solution. But I have yet to see a groundswell of support in Congress for that idea.

The second sure method of reducing Government spending would be to pass a constitutional amendment to balance the budget such as we are considering here today. But we must add one provision. There must be a mandate to reduce Federal spending as a percentage of the gross national product by 1 percent per year until such outlays equal 20-percent of the gross national product.

A balanced budget loses its allure if it allows the Federal Government to take one-fourth of the gross national product. That does not lift the burden of a bloated Government from the backs of the taxpayers.

The Mattingly-McClure amendment would require that the level of Federal spending be reduced by 1 percent per year until that level is no more than 20 percent of the American gross national product. Why 20 percent? I did not just pick that number out of the air. As a matter of fact, history shows that the 20 percent figure is the optimum spending level for the Federal Government. During the greatest period of modern economic growth in America * * * the post World War II period of the fifties and sixties * * * economic growth averaged between 4 and 7 percent. During that same period, inflation averaged around 2 percent and productivity growth averaged about 3 percent. What was the level of Government spending during that period? It was between 18 and 20 percent of gross national product.

In the seventies, the level of Federal spending began to grow, going over 20 percent of gross national product for the first time since the war economy of the 1940's. During the 1970's, inflation went into double digits, average economic growth fell to 3 percent, and productivity growth fell to less than 2 percent. Today we have a Federal budget that confiscates more than 24 percent of gross national product. And what do we have? We have zero growth and falling productivity. In short, we have a shrinking economic pie.

There is another reason for choosing the 20-percent level. At 20 percent of gross national product, each American worker must work 1 day of each week

to produce the goods and services that pay for the Federal budget. Now I ask my colleagues, do you want to tell the American worker that is not enough? He must also work Tuesday morning, or all day Tuesday as well, or part of Wednesday before he can take home any of his paycheck?

While the current fiscal year spending will run over 24 percent of the gross national product, our tax revenues will be about 20 percent. This gap is expected to produce a budget deficit of over $100 billion, the biggest in history. The percentage limit on spending and outlays will strengthen the credibility of the Reagan program by promising to lower deficits without further tax increases. But, it would also show that the Congress intends to be responsible for the first time in many years in the spending area.

We all know that tax revenues are going to continue to rise each year through fiscal year 1985. However, outlays or spending are increasing each year through 1985 by much larger amounts. Spending growth over revenue growth is the true cause of the growing basline deficit on which the budget debates and resolutions have focused. The key to further reductions lies in the expenditure side of the budget. But unless we legislate economic control and limit spending to a lower percentage of the gross national product, nothing will work. The old economic principles have been failing and are no longer reliable.

We in Congress labor through budget and appropriations calendars that are full of really meaningless and changing deadlines and nonbinding actions with confusing results that propel our country toward economic chaos by way of short-term initiatives. This problem must be faced and corrected.

The country's legislative process is in danger of becoming ineffective because of the actions being taken in lieu of binding, responsible, and fundamental reforms that would give stability and certainty to the people that we represent, the national economy, and our international responsibility.

To the hard-working U.S. citizens, to those who are really concerned in Congress, the question is: Is the Government functioning? The taxpayers ask the question: Why not bring to the floor of Congress and debate legislation that is in favor of the taxpayers, our national interests, and our international interests? In short, why can Congress not act to stop this cycle of inflation and recession?

I believe that thought or question should bring into our minds the realinement of our own sense of duty. What is the duty of a U.S. Senator? I feel that we must recross the gap of what we have become to what we were mandated to do by the Constitution. What we have become are Representatives who are avoiding decisions instead of really aiding our contituents. We do our jobs based more upon press and pressure groups than reality.

How should we really restore our priorities? Although there are many ways we all could answer this, one way would be to reinstitute our ability to listen, to study, to create, and to represent as citizen-legislators and to carry this debate in the Halls of the U.S. Senate. The constitutional amendment to balance the budget, with its percentage limit on the spending of the gross national product, is ready-made for this time in the history of our country. This could be Congress' finest hour. Today, we are faced with economic conditions that are putting some of the best-managed American companies on the economic ropes. Capitalism, a system that built America, where Americans could invest today and get more back tomorrow, will simply not work with high interest rates and stagnant business conditions—unless, the gross national product is growing and continues to grow in a stable way.

The time has come to change our course. To get long-term interest rates down permanently, savings must be increased. This means controlling prospective Government deficits. The problem with the deficits is that they are a subtraction from national savings. Although there may be debates about whether the Federal Reserve Board should be part of the Treasury Department, the President and Congress have the economic power that belongs with political responsibility to control Government spending.

The interest rates can come down two ways. We can either bring them down with good economic policies or they will come down in the wake of a collapsing economy. Reality is that we have a budget that is uncontrollable and the past promises are in conflict with that reality.

"To govern is to choose." We have to choose what we can do. We have to discipline our good will. The people of the United States and the economy want a sense of control. Our budget and appropriation processes are not controlled. The current concentration by us in Congress on raising additional revenues could undercut the need for responsible fiscal policy. If we all could stand aside and observe, we could see that the markets and citizens would like to see three things addressed by the Congress: First, the entitlement programs; second the impending social security emergency, and third the concept of indexing. The Congress tackling those three issues straightforwardly would resolve our economic problems.

Those can only be brought about by the balanced budget constitutional amendment and a percentage limit on spending. By increasing taxes, the size of Government will be increased, not decreased. The critical issue once again, is the expenditure side of the ledger. The country has fallen victim to political economics. The core idea is to stimulate the private sector and trim the role of Government. We have been irresponsible for too long. The answer is here—a constitutional amendment with a reduction in Federal spending as a percentage of the gross national product by 1 percent per year until spending equals 20 percent of all of our goods and services production.

When this amendment—with our addition—is passed, legislation will then be searched out in earnest to spend the American public's money in Washington as frugally as people outside of Washington spending their money. We will be adopting many reforms that have long cried out for passage. They can only happen successfully after the passage of this bill.

Our Nation has a most basic problem—our lack of growth. We have not grown because the sources of growth have been obstructed by Federal policies such as the Tax Code, interaction with inflation, and the appropriation and misuse of resources by the Government.

The only beneficiary of all this has been the Federal Government, which has received a windfall for so many years from inflation, bracket creep—a reward for Government's failure to control inflation. The choice now is to raise taxes to reduce the deficits or to find a new and better way.

Whether the Government borrows or whether it taxes, the funds are pulled from the private sector in either case. But the taxes impose a larger cost in terms of reduced incentives for real growth. The lack of growth is what is responsible for much of the current deficit. Anything that would reduce real growth will tend to worsen the budget picture.

Very often, what the Congress may do will look good on paper, but will buy little or no progress toward stopping a budget problem, especially when it is compared to the economic costs to the whole Nation. I feel that we are in a position now with the economic recovery program that we should be extremely careful of generating major new revenues by changing the Tax Code. The facts are that the American public will be faced with rising taxes again in 1985 due to a scheduled payroll tax increase. If major budget changes are to be made, they should be made on the spending side. Increasing taxes does two bad things: First, taxes weaken the economy and are partially offset by slower growth. They encourage higher spending. Therefore, if this Government hopes to balance the budget by restraining spending and encouraging

growth through a stable incentive-creating tax program, we have accomplished one-half of that program.

The expenditure side must be addressed by the balancing of the budget and by a percentage limit on this percentage of the gross national product. For the private sector to plan and have economic recovery, they must have stability in all policy.

I support the constitutional amendment to balance the budget. I support it because, first, it imposes a needed element of discipline on the Congress, an element of discipline that many Members of Congress seem incapable of accepting on an individual basis. Second, it will send a needed signal to the working men and women of this country, a signal that the Congress is finally willing to take concrete action to restrain the growth of the Federal budget, a signal that Congress is finally going to restore fairness and equity to the system.

But a constitutional mandate to balance the Federal budget will be worth no more than the paper it is written on if Federal spending is not tied to some reasonable limit. In fact, I can envision some Members of Congress gleefully voting for tax increase after tax increase only to go back home and justify the votes by claiming the Constitution made them do it. Although revenues are tied to national income in the balanced budget amendment, that can be set aside by a simple majority of Congress. That is not much of a limit.

We can have a reasonable balanced budget and a growing prosperous economy, or we can have a Federal budget that is balanced, but confiscates half of the American economy, stifling growth, institutionalizing inflation, and discouraging the creation of jobs. We can have a Federal budget that is tied to 20 percent of a growing, robust, economy or we can have a Federal budget that is 24 percent, or 25 or 26 percent of a static, shrinking, sick economy.

The decision is ours. The choice is simple. The consequences are great. I urge my colleagues to vote for this amendment, to vote for a real constitutional limit on the Federal budget.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I will allot myself such time as may be required.

It is with great reluctance that I must rise to speak in opposition to the amendment being offered by the able Senator from Georgia. I know of no other Senator in this body who is more committed to restricting Government spending.

In the few years we have been fortunate to have the Senator from Georgia in the Senate, he has consistently voted against liberal spending programs and has voted for fiscal restraint.

Mr. President, the amendment Senator MATTINGLY proposes today is a reasonable amendment. He seeks to restrict the growth of the Federal Government and to curb the constant rise in tax increases to pay for that growth. I am sympathetic with that objective and stand arm in arm with the Senator in his efforts to achieve that goal. But I cannot do so on this pending resolution.

Mr. President, this amendment is suitable for separate legislation which, I believe, has been introduced previously by the distinguished Senator from Georgia. If considered as a separate measure, it would have my support. The amendment proposes to inject a formula into the pending constitutional amendment which would define outlays as they relate to the gross national product.

This formula, although a means to place limits on Government spending, would not be appropriate for a constitutional amendment. It would tend to lock a fixed economic theory into the amendment. We have tried to avoid doing that in Senate Joint Resolution 58 under consideration.

We have tried to avoid doing that in Senate Joint Resolution 58. We want to reverse the spending inclination, which we do in section 2 of the proposed amendment, but we do so in a flexible manner that allows for adjustments for a change in economic conditions.

Mr. President, I know the Senator from Georgia is sincere in his efforts to amend Senate Joint Resolution 58, so that Federal spending can be checked. He has a good idea, but, in my judgment, one that is just not appropriate as a part of this constitutional amendment. I must oppose the amendment.

Again, I must say in opposing this amendment that I hope he will consider withdrawing it and offering it as a statute.

I yield such time as the Senator from Utah may require.

Mr. HATCH. I thank the distinguished Senator.

Mr. President, I have enjoyed listening to the distinguished Senator from Georgia and I agree with the majority floor manager of this bill, Senator THURMOND, that his ideas are good ideas.

As I understand it, the distinguished Senator has incorporated these ideas in another piece of legislation numbered S. 2664. I feel inclined to support that legislation and to support him in legislation rather than on this constitutional amendment.

I personally feel that his amendment, if added to this constitutional amendment, would be totally inconsistent with the intent of Senate Joint Resolution 58 to create a more neutral budget process, one that is not biased toward higher spending and taxes, but one that is equally unbiased toward lower spending in taxes.

The proposed amendment would sharply skew the system in favor of lower spending and taxes. What we are trying to do is even up the system with this constitutional amendment to require a balanced budget or at least push toward a balanced budget.

While I personally support the policy of the distinguished Senator from Georgia—I do not believe that it is appropriate to incorporate it in the Constitution.

The purpose of this amendment, I emphasize again, is to create neutrality and to eliminate biases, one way or the other. The premise of the present constitutional amendment is that the Congress should not be able to increase spending without voting to pay for such spending.

If Congress is willing to vote for spending, then it is not the business of the Constitution to prevent the elected representatives of the people from doing this.

The Mattingly amendment would write in an ultimate 20-percent limit into the Constitution and I think, in terms of this particular amendment at this particular time in this particular debate, it would be inconsistent with the overall objective of what we have tried to do in this constitutional amendment which, by the way, is the first constitutional amendment in the history of this country to be brought to the floor of either body of the Congress concerning balancing the budget.

So I feel that, although I would support S. 2664, I would have great difficulty supporting the amendment with regard to the present Senate Joint Resolution 58. I certainly applaud the Senator for his good work in this area and his desire to get spending under control. I will support him on S. 2664 when the time comes.

I do hope that he will consider withdrawing this amendment when the time comes, as well.

We do have a spending limitation in here—an indirect but a very real spending limitation derived from the fact that Congress will be able to engage in new spending under this amendment only if it is also willing to stand up and vote for the necessary taxes. That is a real spending limitation.

Mr. MATTINGLY. Mr. President, I will speak to that after the other supporters of this amendment come forth. I will speak about withdrawing the amendment at that time.

Mr. ROTH. Will the Senator from Georgia yield?

Mr. MATTINGLY. Yes.

Mr. ROTH. Mr. President, I, too, would like to congratulate the distin-

guished Senator from Georgia for raising this issue. I think one of the most important problems this Nation faces is to bring the Federal budget under control, both by constitutional and statutory means.

As one who has long felt that it was important that we reduce to 18 percent the percentage of gross national product set by the Federal Government, I think that it is in order that you raise this proposal in the deliberations of the constitutional amendment.

I point out to the distinguished Senator from Georgia that, as part of the legislation introduced by JACK KEMP and myself to reduce the marginal rates of taxation by 30 percent over 3 years, I also included a provision that would have required, by statute, the Federal Government to reduce spending until it reached a maximum of 18 percent. Under our proposal, we would have reduced spending by 1 percent a year. Unfortunately, because of the difficult problems in the economy, we have seen the percentage of expenditures increasing despite a number of notable steps this Congress has taken to reduce spending.

I say to the distinguished Senator, who is also a member of the Government Operations Committee, of which I am chairman, that this legislation is pending before our committee and it will be given serious consideration. I look forward to working with him to see its ultimate adoption.

Mr. MATTINGLY. I thank the distinguished Senator from Delaware for his kind remarks. Senator MCCLURE and I will look forward to early hearings on S. 2664.

Mr. President, I say to the Senator from Utah that it is the intent of Senator MCCLURE and myself to take the amendment down and not be voted on at this time.

There is a reason for that. First, we both support the constitutional amendment that the Senator from Utah and Senator THURMOND has put forth very strongly, as the Senator well knows. But we do not want to see the constitutional amendment fail. And any excuse that could be given by the other body for this constitutional amendment, once it passes the U.S. Senate, to not come forward must be well thought out and no one would want that to happen.

We do not want to see the constitutional amendment bogged down by a flimsy excuse. The amendment that we offer is a serious amendment, as the Senator has said, but we also are cognizant that we do not want another Boston Tea Party in this country either. I think a constitutional amendment to balance the budget is one way to prevent that, and also to restore order to our country.

Mr. HATCH. I appreciate the comments of the Senator from Georgia. I think it is apparent that this amendment has good potential for passing by the requisite two-thirds vote. This amendment is long overdue. We have biases in Congress toward borrowing against the interest of this country, and toward deficit spending.

One reason this constitutional amendment has such a good opportunity for passage is that it is a bipartisan consensus amendment worked out over a long period of time with the help of our colleagues on the other side of the aisle. It began with Senator DECONCINI's bill. He deserves a great amount of credit on this particular issue, as do other Senators on the Democratic side of the aisle, for presaging what really is happening here today.

One of the issues which came before us as we considered well over 40 proposed constitutional amendments to require a balanced budget was whether or not we should have a spending restraint or spending limitation put into this. The consensus was that we should not write economic theory into the Constitution, and that we could not get a consensus if we did.

I think the reason those who oppose this amendment are having so much difficulty with it is because economic theory is not written into the Constitution. The Senate and the House can do whatever they want economically once this amendment is passed and ratified by 38 States. What they cannot do, however, is continue to deficit spend without openly voting for deficit spending. They cannot continue to increase taxes through automatic tax increases caused by inflationary bracket creep without a vote. They will have to vote to increase taxes. Provisions in the amendment require a super majority of a three-fifths vote before there can be an increase in the deficit and a constitutional majority of the whole number of each House, 218 Members of the House and 51 Senators, is required in order to increase taxes.

Because of these provisions we feel very strongly about holding the floor with regard to amendments.

Mr. MATTINGLY. I agree with the distinguished Senator from Utah. I believe we both agree that the Mattingly amendment would probably be adopted by the Senate, but in the long term, when it gets to the House, it would probably be precluded from getting to the rest of the country. It is for that reason that we bring the amendment down.

Mr. President, I ask that those Senators who wish to add their comments, Senator DOMENICI and others, in support of this amendment, be allowed to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MATTINGLY. I do not mean to slight the Senator from Arizona, Senator DECONCINI, on the tremendous amount of effort he has put in, that he would not want our amendment to pass.

Mr. DECONCINI. Will the Senator yield?

Mr. MATTINGLY. Yes.

Mr. DECONCINI. I compliment the Senator from Georgia and the Senator from Idaho for the efforts they have put forth on behalf of this amendment. The Senator from Georgia has restated his commitment time and time again to reduce Federal spending as it relates to the GNP. He has set an example, along with the Senator from South Carolina, in consistently doing that. It is to their credit.

I agree with the Senator that I would like to see this spending limitation as a percent of GNP be implemented in legislation, and the sooner the better as far as this Senator is concerned. It would be no easy task to live with it, reducing from the present 24.5 percent as a percentage of GNP down to 20. It would be difficult. But it would force us to really look at the priorities of this country. I think that is what the Senator has very astutely brought to the attention of this body. I thank him for doing so. I hope he will be satisfied if we can do it someplace other than on this constitutional amendment because of the practicality of needing to pass this amendment in substantially the form it is in today.

Mr. MATTINGLY. I thank the distinguished Senator from Arizona.

The PRESIDING OFFICER (Mr. ANDREWS). Who yields time?

Mr. DECONCINI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KASTEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KASTEN. Mr. President, I would like to congratulate the Senator from Georgia and I rise in support of his amendment. I am an active supporter of the constitutional amendment to require a balanced budget, but the problem with the amendment is that it does not strictly limit total Government spending. The big spenders in Congress will still be able to purchase political prosperity at the expense of the taxpayers. They would be able to avoid responsibility for the tax increases required to cover such excessive spending by blaming the Constitution.

The Mattingly amendment would restrain the growth rate of Federal spending by limiting it to a specified share of the economy. Federal spending as a percent of the gross national product would be reduced by 1 percent

a year until spending is no more than 20 percent of GNP.

While these limitations would curb the growth rate of Federal spending they would not require slashes in Government programs. These limitations would merely give the economy a chance to grow out from under the Government.

The spending limitations will also restore Government spending levels as a percent of GNP to the levels in effect prior to the spending excesses of the last 5 years. In the last 5 years spending has exceeded 22 percent of GNP. The last time that spending was less than 20 percent was in 1974. In the 20 years prior to 1975, spending as a percent of GMP averaged 19.3 percent. During the 1962-66 economic boom, spending average 18.5 percent of GNP.

It is important that ths amendment be adopted. I hope very much that we will have a rollcall vote on this amendment because it puts teeth into the concept of a truly balanced budget.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SYMMS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I compliment the Senator from Georgia for his amendment. I think his amendment would strengthen this constitutional amendment. I think it is possible that we may achieve the same goal, however, without this amendment, because there is definitely built into this constitutional amendment a bias in favor of those of us who wish to get a balanced budget and reduce the total burden of taxation in this country on money that is spent and consumed and the productivity of the country that is spent by Government. I think that, definitely, will happen once this constitutional amendment becomes ratified.

I compliment the Senators who are on the Committee on the Judiciary who brought this to the Senate floor. I welcome the opportunity to vote in favor of this constitutional amendment.

Of course, the amendment of the Senator from Georgia brings up what I think is a very interesting point; that is, why not have a limitation to the percentage of the gross national product that the Government and the politicians in Washington, D.C., can confiscate, take, consume, whatever, from the American people? But I do believe that what will happen is that the amendment, even in its present form—and, Mr. President, I predict that this amendment will be ratified if the American people are given the opportunity and if the State legislatures of this country are given the opportunity either to ratify or reject this amendment. This is something that the American people have long, long been asking for, some fiscal responsibility in Washington, D.C. It is something they have not yet been able to get.

While I have the floor, Mr. President, I wanted to ask the distinguished floor manager of this bill, the Senator from Utah, to engage in a discussion with me.

I had a discussion with the chairman of the Committee on Finance (Mr. DOLE) yesterday about the fact that it takes a three-fifths vote, under the amendment as written, three-fifths of both bodies, the House and the Senate, to have the country go further into debt. Is that correct?

Mr. HATCH. That is correct, Mr. President.

Mr. SYMMS. Is it the Senator's understanding that the reason it is not necessary to have three-fifths but only a majority vote to increase revenues is the other safeguards such as a Presidential veto or the use of a filibuster in this body, or whatever tactics could be used in the House?

Mr. HATCH. The Senator states it very clearly. In addition to that, there is a natural reticence on the part of Members of Congress to vote for a tax increase.

As the distinguished Senator from Idaho saw, what we decided on the floor is if there is a true national emergency, we will get the three-fifths vote. If there is not, we will not. It is as simple as that.

With regard to raising taxes, if we need to raise taxes to meet a particular spending program, then we shall be able to get the constitutional majority of the whole number. But there is going to be a natural reticence to do that because we know the folks back home do not like tax increases.

The requirements of a three-fifths majority or a constitutional majority, are generally agreed to and I am certain that this consensus amendment is going to fly.

Mr. SYMMS. I thank the Senator from Utah and compliment him on the effort he has made and his contribution.

I also want to say I cosponsored legislation with the Senator from Arizona which would lead us to the popular appeal that the flat-rate income tax now has. We had before the Joint Economic Committee yesterday two gentlemen from Stanford who discussed and testified to the flat-rate income tax.

I was thinking that this amendment, coupled to the Constitition and then, at some time, major reform in the income tax so that the general public feels that it is involved equitably in the tax system and paying a marginal rate on taxes on all earned income, somewhere between 15 and 20 percent, would certainly make it more simple for the general public to decide just what they want their Government to do for them or not do for them

I think the Senator makes an excellent point on the three-fifths vote in terms of an emergency. Who knows, it might even be that this constitutional amendment could be called the peace amendment, because there may be some time in the future when Congress would have to go into debt to finance or be engaged in some conflict in a foreign country and they simply would not want to do it. That would keep us out of foreign entanglements in a way we had not even thought of. So it could be that, in addition to fiscal responsibility, coupled with tax reform so it is out on top, I can see this might even be a peace amendment.

Mr. DECONCINI. Will the Senator yield?

Mr. SYMMS. Yes, I yield.

Mr. DECONCINI. Mr. President, I think the Senator from Idaho makes a very valid point. The time is now for moving toward further equity, efficiency, and simplicity in our tax thinking as well as some real restriction and discipline on our expenditures of Federal dollars.

I hope the Senator is correct that passage of this constitutional amendment, along with a rethinking and restructuring of our tax system, will bring us to a point where people will have confidence in their Government once again. That is what is lacking in this country today. By the fact that we cannot discipline ourselves and control the budget, conmbined with the fact that the tax code is plethora of loopholes and a labyrinth for the unwary, the confidence of the people who have to pay the bill is lacking today both in this body and in the whole tax system.

We have an opportunity by first passing Senate Joint Resolution 58, and then, hopefully, through the tax reform the Senator is talking about, to have a more equitable situation where everybody will pay a fair share. I might add that the Senator from Idaho is a cosponsor of my bill S. 2147, creating a flat-rate income tax, and he is a strong supporter of that concept.

The PRESIDING OFFICER. The time of the Senator from Georgia has expired. The only time remaining is that of the Senator from South Carolina.

Mr. MATTINGLY. Would the Senator from South Carolina be willing to relinquish some of his time?

Mr. THURMOND. Let me say a word, first, Mr. President.

The Senator from Idaho asked a question. As the manager of the bill on this side, I should like to say another word to him about this.

Section 1 addresses the element of the spending bias related to the Congress' unlimited accessibility to deficit spending. An extraordinary majority—in this case a three-fifths majority—is necessary to overcome this element of the bias. Section 2 addresses the second element of the spending bias related to the availability of automatic tax increases. An extraordinary majority was not essential in this section in order to overcome this bias, simply the requirement that Congress go on record before tax increases were imposed upon the people. The requirement of a constitutional majority in section 2, i.e., a majority of the entire membership of each House of Congress, is designed to ensure that any tax increase vote takes place under conditions of maximum political visibility.

We think that explains the question the Senator propounds. I hope it does.

Mr. SYMMS. I thank the Senator.

Mr. McCLURE. Will the Senator yield 5 minutes?

Mr. THURMOND. I am very pleased to yield to the distinguished Senator from Idaho.

Mr. MATTINGLY. Will the Senator yield so I may make one comment for the record?

Mr. McCLURE. I am happy to yield.

Mr. MATTINGLY. At any place in this record where we refer to S. 1930 or the word "amendment," I ask to have it correctly read the Mattingly-McClure amendment.

Mr. McCLURE. I thank the Senator.

Mr. THURMOND. How much time does the Senator want?

Mr. McCLURE. Five minutes.

Mr. THURMOND. Mr. President, I yield 5 minutes to the distinguished Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. McCLURE. I thank the Senator.

Mr. President, I am proud to rise today to introduce with my distinguished colleague from Georgia (Mr. MATTINGLY) an amendment to the proposed constitutional amendment to balance the budget. Let me make it clear that I am, and always will be, a strong supporter of a balanced budget. Government spending is bleeding our Nation dry. Those on both sides of the aisle see it and now must address it. The American people delivered a clear message in November of 1980. They are tired of wasted tax dollars, they are tired of inefficient agencies, and they know that deficits are strangling our economy and their livelihood.

However, I sense, as many of my colleagues do, that the American people feel that this is a superficial gesture by Congress that is riddled with loopholes and inequities that will easily be bypassed. We all agree that it is imperative the Federal Government adopt and stick to a policy of spending no more than it takes in as revenue. This is a give and we all agree with this. It means that accomplishing this goal is what we disagree on. Limiting the size of Government is essential if we are to get the economy moving at full capacity again.

I saw the irresponsible direction Government spending was taking as a freshman Congressman and supported a measure in the 90th Congress to require a single appropriations bill so that we might more closely examine total Government spending and facilitate its control. Throughout my service in Congress, I have supported legislation to limit expenditures from exceeding revenues. For too long we have failed in any attempt to set spending priorities for the Government. Instead, we have appropriated for the collective priority of everyone, every Member and every special interest. With all due respect to the distinguished chairman and ranking minority member of the Budget Committee, the Budget Act has not worked as it was intended. The bottom line is that even with this act we are still unwilling to control spending. Unfortunately, even if this constitutional amendment is passed and is ratified—and I predict that it will be—I still question whether spending would be controlled.

Certainly we could balance the budget by taxing our citizens at a rate of 60 or 80 percent but what would that accomplish? What will a further tax burden do to an already fragile economy? Unless we continue to change the direction of this country, government at all levels will take 54 percent of every dollar we make by 1984. High taxes are choking the economy by penalizing productivity, thrift, and investment.

If we look back to the 1950's and 1960's when Federal spending took a smaller share of our economy, we were much more productive. In the 1960's Federal spending was about 18 percent of our GNP. During this period our economy, as it is measured by GNP, grew 6.72 percent. In the seventies during Congress freewheeling spending spree, Federal spending as a percentage of GNP was 24 percent and at the same time our inflation rate was above 7 percent and the growth of our economy was only 3 percent. There is no doubt that as Federal spending consumes more and more of our economy we are less productive and we turn to inflationary policies to make up the difference. Experts predict that this year, even with the hard work of the Appropriations Committee, Federal spending could surpass 24 percent, thus further choking the productive side or our economy.

During the last 80 years prices have increased 7 times, population has tripled, but the outstanding Government debt has increased 500 times. We must realize that money expenditures do not solve social problems. The world's longest experiment conducted on this subject by this body has failed and we should learn from this. More money spent on a bad idea will not make that idea good. We have tried that so many times it should be obvious to all Senators that it does not work.

The amendment we are introducing today will go a long way to reaffirm valid financial standards. By reducing the Federal Government's share of GNP 1 percent a year until it is back down to productive levels of 20 percent, we will go a long way to restore responsibility to government. It should be very clear to us that the American people feel that modern government is out of control. They are correct. This year we can fully expect to spend $100 billion on interest payments on our debt alone.

The time is now to draw the line and give the American people exactly what they want and what the economy needs: A budget that is balanced by taking the foot off of the neck of the economy.

I ask all of my colleagues to join me in support of this amendment.

The PRESIDING OFFICER. The 5 minutes yielded to the Senator from Idaho have expired.

Mr. McCLURE. Will the Senator yield 2 additional minutes?

Mr. THURMOND. Mr. President, I yield such additional time as the able Senator from Idaho may require.

Mr. McCLURE. I thank the Senator for yielding.

Mr. President, sometimes individual examples are more persuasive than abstract principle. When leisure becomes more rewarding to a laboring person than does the after-tax rewards of their labor, they choose leisure. They are not stupid. The sawmill worker in northern Idaho suddenly was sick every other Friday afternoon and his employers naturally doubted whether that was fact, and they called him in and said, "Hank, we notice that you are sick every other Friday afternoon and we don't believe it." And he said, "Well, you are right. The first Friday afternoon I was sick. I could hardly get home and into bed. I was in bed all weekend, I could hardly get back to work on Monday morning, but when I got my check for that week it was only a few dollars less than if I had worked on Friday afternoon. And, frankly, my Friday afternoon is worth more than that to me."

Not a lazy American worker, a smart American doing what our system tells him to do, and that is to choose leisure as more rewarding to him than the after-tax rewards of labor.

That is what this amendment is all about, to try to get spending back down to the limits where Americans begin to say that the rewards of labor are more important to them than the rewards of leisure. We will never attain that in our system as long as the burden of taxation continues to rise. As important as the amendment is as reported by the Judiciary Com-

mittee, it does not do all of the job that needs to be done because spending can continue to rise under the amendment.

I think the Senator from Utah and the Senator from South Carolina are to be commended highly for having gotten this bill to the floor, and I do not mean to subtract that at all. I think that the conclusion that I must reach is that this amendment is crafted the way it is, without a limitation on spending, upon a judgment of the people that are involved in getting it passed that to go further would guarantee its defeat rather than its passage.

We voted last week on a tax measure that I do not like because we had earlier voted on a budget resolution that included within it a provision that I did not like, that we had to enhance revenues rather than reduce expenditures further. That provision was in the budget resolution which I supported simply on the same kind of a calculation, that that was necessary in order to produce a consensus that could pass.

So, Mr. President, while I strongly support the amendment, I also believe very strongly that there should be a limitation on the amount of money the Government could spend, rather than just the requirement that the budget be balanced, even though it may be by ever-increasing levels of taxation.

There are those who tell us that we are undertaxed, that the American public pays less than other countries do. But that is one of the unique aspects of the American scene—that we are not like other countries. We are free people, and we cherish our freedom. We do not like the idea of government taking away from us, as a matter of right, more than half of all we make, and that is what Government at all levels is doing today.

I cherish the thought that a free people, working in a free society, are more productive as well as more free. While other societies may opt for less freedom and may accept higher burdens of taxation, that is not the American way, and I hope it never will be.

I thank the Senator from South Carolina for yielding, and I again commend the committee for having brought this matter to the floor.

Mr. THURMOND. Mr. President, I commend the able senior Senator from Idaho for the splendid statement he has made on this matter.

I am sure he understands that we do not feel this is an appropriate place for this amendment, on this constitutional amendment, because we cannot load it down with everything we like. However, as I previously told the distinguished Senator from Georgia, I will be pleased to support legislation along that line, and I hope he will pursue that. I hope the able Senator from Idaho will assist in that.

Mr. McCLURE. I thank the Senator for that. We will pursue the legislative enactment of the provision that is contained in the proposed amendment.

Also, just as the time has arrived for the passage of the amendment which the Committee on the Judiciary has brought to the floor, there will be a time, I will predict, when this Senate, this Congress, and this country will adopt a constitutional amendment such as that which is being offered by the distinguished Senator from Georgia and me this afternoon.

Mr. THURMOND. Mr. President, I yield such time as the Senator from Georgia may require.

The PRESIDING OFFICER. The Senator from South Carolina yields 3 seconds to the Senator from Georgia.

Mr. MATTINGLY. Mr. President, at this time, the distinguished Senator from Idaho and I wish to withdraw the amendment, so that we may have rapid passage, in the Senate and the House of Representatives, of the constitutional amendment to balance the budget.

Mr. THURMOND. Mr. President, I thank the Senator from Georgia and the Senator from Idaho for agreeing to do that. They may be assured that when this does come up, it will receive support.

The PRESIDING OFFICER. Since the amendment of the Senator from Georgia was not specified in the agreement, the Senator has a right to withdraw the amendment, and it is withdrawn.

Mr. THURMOND. Mr. President, we are ready to proceed, if any Senator has an amendment. If anyone has an amendment to this constitutional amendment, we are ready to proceed.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCLURE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCLURE. Mr. President, I take this time only to make a further comment with respect to the pending amendment and to ask a question of the distinguished Senator from Utah, the chairman of the subcommittee that considered and developed this legislation in the Judiciary Committee.

If there is one danger that I see to the public understanding of the amendment as presented to the Senate, it is that it is being oversold by some people or, perhaps to state it in the converse, some of the critics of the amendment are trying to state that it will not do what it obviously cannot do.

It is a limited amendment. It is limited simply because it is impossible to get a stronger one through, or at least it is thought by many of us that to strengthen the mandatory provisions of the bill would make it impossible to get the two-thirds vote that is necessary in the Senate and would make it more difficult, if not impossible, for those in the other body to get the discharge petition that would appear to be necessary to get it to consideration in the other body.

I think the Senator from Utah does agree with me, however, that this amendment is no panacea. It does not automatically balance the budget. It does not automatically restrict the increase in Government spending. It simply makes it more difficult for people to spend more, for Congress to spend more money than it has. It makes it more difficult for Congress to add to the national debt. It makes it slightly more difficult for the Government to raise additional revenues by increasing the flow of revenue because of bracket creep or because of enactment of new taxes and specific procedures are called for.

However, I think a great many of the people who criticize the amendment do so in the words that it will not automatically guarantee that the budget will be balanced. I believe the sponsors of the amendment will agree that it does not guarantee that the budget would be balanced.

I think some of those who have criticized the amendment will at one time say it does not guarantee it and on the other hand, and at the same time, say that it is too rigid, that there need to be exceptions, as we have seen with respect to certain amendments that have been offered and rejected already, with respect to various kinds of emergencies that might be defined in the amendments or ill-defined in the amendments that have been offered.

The Senator from Utah will agree with me, will he not, that this amendment is not the panacea or the guarantee that some people have claimed it is or is not?

Mr. HATCH. I do agree. This amendment should never be represented as a panacea for all our economic problems.

First of all, the process of getting the amendment passed in the Senate and the House, and getting 38 States to ratify it, will take approximately 2 years. This amendment becomes effective in the second fiscal year after ratification by the 38th State. So we are talking about fiscal 1986 or 1987.

In addition, this amendment depends upon dedicated administrations working with budget-minded Congresses to try to get spending under control. This has been almost impossible considering we have balanced the budet only once in 23 years. We have a na-

tional debt of over $1 trillion. The interest against that will probably be more than $130 billion next year, which is more than the entire Federal budget was just 20 years ago.

We have proved that unless we have some constraints put on Congress, we will never get spending under control. This is an amendment which will put constraints on Congress to eliminate the bias in favor of spending and produce a bias in favor of a balanced budget.

The Senator is correct. This amendment, if passed, does not eliminate the need for Members of Congress who are willing to live up to the oaths they take when they become Members of Congress to uphold the Constitution of the United States.

It is going to take good Members of Congress who really do work within the constitutional constraints that this amendment provides for to achieve balanced budgets in the future. I think that this amendment does get us going in that direction, but it does not solve all the problems.

All of our Members have differing prescriptions for overcoming these economic problems but we believe that this amendment should be viewed as a major step toward securing a political environment in which fiscally responsible policies will be more easily enacted and followed.

Mr. McCLURE. I thank the Senator for that statement because I think there is a great deal of misunderstanding being fostered by opponents of the amendment who seek to set up an impossible standard and say that this amendment does not meet it.

I agree fully with the Senator from Utah, that it just makes it easier to be fiscally responsible and less easy to be irresponsible in the spending policies of the Federal Government.

For that reason I strongly support the amendment in spite of the fact that I wish that we had a stronger provision and I look forward confidently to the time that we can by statute and perhaps by future constitutional amendment strengthen this provision so that we have stronger measures to guarantee the fiscal prudency and the reduction in the size of Government that I think is essential.

But there have been those who have argued against the amendment on the basis that Government cannot possibly live without a deficit, that there are times when Government simply cannot get by without running deficits.

There is the safety valve of the three-fifths vote, of course.

But my State of Idaho has existed under a constitutional amendment in that State requiring a balanced budget, and we just recently ran through that requirement in Idaho in a very marked way because as the fiscal year ended on June 30 the revenues for the government were less than had been expected and therefore there was to be a deficit at the end of the fiscal year. The Governor of my State, a Democrat, working under the requirements of the constitution of the State of Idaho, met that mandate by two actions, and people can quarrel with those actions as to whether they were the right ones or not, and said, first of all, that all State employees workweeks would be reduced to 4 days and they would be paid 80 percent of their salary for the last 5 weeks of the fiscal year. Some people have criticized that action as having unduly burdened one segment of the economy with the burden of balancing the budget.

Second, he deferred some expenditures from the 1 fiscal year past the end of the month. He simply did not pay bills. Among the bills that he did not pay were tax refunds due citizens who had filed for tax refunds, and they were due. He simply did not mail the checks to them until after July 1, and he then burdened the next fiscal year with the burden of the prior fiscal year's spending. That defers the problem until the next fiscal year when it will be worse, but nevetheless he did balance expenditures and revenues as mandated by the constitution of our State.

It can be done. It is not always as pleasant as spending money, but that is the reason we are in the trouble we are in today. It is always easier to spend money than it is to withhold. Once in a while those of us who are in office need the additional courage that is given to us by a constitutional mandate that says thou shalt not spend more than you have, and then we have the courage to say to groups who come to us wanting special favors or additional money that we are sorry, we just do not have the money.

It is far too easy and we have fallen into the habit of saying yes, we will give you the money, and if we run short we will just add to the national debt.

That is what has led to the problem we are in.

So while this is not a perfect measure, it certainly tends in the direction of giving us some fiscal restraint and responsibility which is sadly lacking today.

Mr. KASTEN. Mr. President, as an original cosponsor of Senate Joint Resolution 58, I rise in support of this amendment. I believe that this legislation will set the stage for true fiscal discipline in Congress. It is about time.

Federal spending is out of control. This year the national debt will be $1.1 trillion. By 1985, it will have grown to $1.5 trillion. This $390 billion increase is greater than the total U.S. national debt in 1963. As the national debt has gotten larger, so have the costs of maintaining it. Interest on the national debt is $118 billion for fiscal year 1982 or $224,505 a minute. If your pulse rate is 72, the Federal Government spends $3,118 every time your heart beats. If every man, woman, and child in America were to pay for this in monthly installments, it would cost each of them $42.17 a month.

The constitutional amendment would reverse this trend by requiring that the Federal budget be balanced every year. The only exception would be in the case of war, or if Congress specifically votes to increase spending and "unbalance" the budget for a given year. The same holds true for tax increases.

Spending restraint is essential. The high cost of government has pushed all Americans to the economic brink. The budget passed by Congress last month was the result of a major effort to bring down spending and included reconciliation instructions to do so. Nevertheless, spending will be $769 billion in fiscal year 1983 and $881 billion in fiscal year 1985. The corresponding deficits are $104 billion and $60 billion. Despite our efforts this year and last, spending as a percentage of GNP will increase to 22 percent in 1983. Tax receipts are also on the rise. Despite the tax cuts, they are expected to rise to 19 percent of GNP in 1983. These levels are higher than they were 20 years ago when spending and tax receipts were 19.3 and 18.5 percent of GNP, respectively.

As I have already pointed out, the size of the national debt and spending have gotten out of hand in the past 20 years. This must be stopped, since the total size of Government is a burden on all Americans. Milton Friedman, one of the leading advocates of this amendment, has often stated that the true burden of Government is the amount the Government spends, not only the amount that it taxes. The American public ends up paying for the Government both directly through taxes and indirectly through financing the deficit.

It is no understatement that the one thing we are all concerned about is high interest rates. These high rates are hurting nearly every sector of our economy. I believe that these high rates are caused by the uncertainty on Wall Street as to future monetary and fiscal policy. Even though we have brought inflation below 5 percent, interest rates remain intolerably high. This constitutional amendment should be a clear signal to the financial markets that Congress is putting its fiscal house in order, so that interest rates can come down and economic recovery can begin.

Mr. President, in each year since 1969, the Federal budget has been in ever increasing deficit. The size of the deficits in recent years has been a major cause of our economic problems.

It is true that the deficits as a percentage of GNP do not exceed the average trend. Unfortunately, we finance the deficit with savings, not the GNP as a whole. From 1965 to 1975, Americans saved an average of 7.6 percent of their disposable income. Since then, the savings rate has declined to 5.6 percent. As savings have been erroded by double-digit inflation and a tax code that punishes savers, the total amount of savings remaining has declined. Specifically, the 2-percent drop in the savings rate has resulted in $48 billion less in savings available to finance investment, repayment of debt, and Federal borrowing. As Federal spending has increased, the savings left for investment have been squeezed tighter and tighter. In essence, investment has been crowded out.

Worse yet, the increasing size of the deficits have caused Congress and the Federal Reserve to impose countermeasures that are harmful in the long run. The Fed is pressured by the size of the deficits to finance them by printing more money. This does lessen the problem of crowding out, but it also creates a situation of too many dollars chasing too few goods. That translates into inflation.

In the meantime, Congress is pressured into reducing the size of the deficits in the most politically expedient manner—by raising taxes. Though much of the tax increases in the past years have been the result of inflation—bracket creep—and not specific action by Congress, Congress has taken full advantage of rising tax receipts. This amendment would make these automatic tax increases difficult. Tax receipts as a percentage of total economic activity (GNP) would be held constant from year to year, unless a majority of both Houses pass a specific bill to increase taxes.

So far, 31 States have called for a constitutional convention to mandate a balanced budget. Only three more States are needed to actually convene a convention. With the will of the American people so clearly evident, Congress should pass this amendment and eliminate the need for a convention.

In Congress, the response to the public call for a constitutionally mandated balanced budget has been growing. I am 1 of 61 Senate cosponsors of Senate Joint Resolution 58. A House of Representatives version of this bill has 223 cosponsors.

Mr. President, I hope that Congress will succeed in passing this amendment to require a balanced budget. I recognize that serious fiscal restraint can only occur if Congress is fundamentally committed to it. Although this amendment does not guarantee that Congress will reduce spending and taxing, it does give us one more tool for bringing this about. Those who drafted this amendment believe that it will promote true fiscal discipline in Congress, since it goes beyond the simple statutory legislation we have now. I hope that they are correct, and I urge its immediate adoption.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, the distinguished senior Senator from Connecticut is here and has a statement at this time.

Mr. WEICKER. I thank the distinguished chairman.

Mr. President, Carl Becker once said that:

> Economic distress will teach men, if anything can, that realities are less dangerous than fancies, that fact-finding is more effective than fault-finding.

Unfortunately, fanciful formulae and not facts are the order of the day.

We are asked to endorse a constitutional amendment to balance the Federal budget. This legislation, Senate Joint Resolution 58, would require Congress to project a balanced budget for each fiscal year, with planned outlays equaling planned receipts. To do otherwise, except in wartime, would require a three-fifths vote of both Houses. In addition, tax revenues could not legally rise faster than national income rises.

As the economy has nosedived, the balanced budget initiative has picked up steam—and 60 Senate cosponsors. But the irony of this should not be lost on anyone in this Chamber. Just weeks ago, this same Senate was struggling to being the projected deficit down from $180 billion to the $100 billion range. This same Senate refused to eliminate the 1983 individual income tax cut or slow down the defense buildup, the two surest ways to a lower deficit. And this same Senate has been forced to approve supplemental appropriations for programs and agencies that are already running out of fiscal year 1982 funds.

It is always easier to approve some abstract principle than grapple with grim realities. Time magazine compared President Reagan's support for the amendment to "the Nation's leading distiller coming out in favor of Prohibition." Well, having Congress endorse this measure is akin to deputizing the biggest bootleggers in the country to enforce the law.

Let me assure you that no Member of Congress is more concerned than I am about the size of the Federal deficit, what it is doing to interest rates and what they are doing to average Americans. I voted against the first budget resolution precisely because it failed to address the deficit in a serious fashion. I said then that the Senate may have bought off on a $115 billion budget deficit, but the American people have not.

Now, the heat is on those legislators who did accept that deficit and they are hunting a way out. But believe me, the balanced budget amendment is not some magic wand with which to wave away the deficit. It simply is not the antidote for our economic distress. What it is is bad economics, bad law, and bad government. And it can only add to our problems, not solve them.

When Presidential candidate Reagan promised to finance a sizable tax cut and an unprecedented defense buildup and still balance the budget, rival candidate GEORGE BUSH called this "voodoo economics." Now, it appears to be Congress' turn to stick pins in the doll, for the balanced budget amendment is voodoo economics, nothing less and nothing more.

Prior to the Great Depression and the acceptance of deficit financing, the American economy rocked back and forth between boom and bust. If anything, history has vindicated, not repudiated, the approach John Maynard Keynes took toward recessions. Even President Reagan's effort to stimulate investment via a tax cut is a tip of the hat to the Keynesian tradition.

Without flexibility on the Federal Government's part to stimulate and stabilize the economy, a recession can quickly become a depression. A study conducted by the Council of Economic Advisers in 1979 showed that if the Federal budget had been balanced during the 1974–75 recession, real GNP in 1975 would have plunged by 12 rather than 2½ percent and unemployment would have shot up to 12 percent rather than 8½ percent.

The balanced budget amendment would take away that flexibility. If a slowed-down economy generated lower Federal tax receipts and threatened to cause a deficit, the commitment to balance the budget would call for spending cuts or tax increases, either of which would only further reduce economic activity. On the other hand, if the Government were also obligated to avoid surpluses, higher income and higher tax receipts might force high expenditures at the very time when stabilization policy would call for less.

What we are setting ourselves up for is economic lockjaw. Assuming the amendment does pass the Congress, its ratification by the States would take time, perhaps as long as 7 years or more. In the meantime, deficits would grow, interest rates would stay up there on the ceiling, and unemployment would, most likely, keep climbing.

So, the balanced budget amendment is bad economics. It is also bad law, because it attempts to write into the Constitution a responsibility that properly belongs to the day-to-day decisions of the Congress and the executive branch.

From their writings we know that the Founding Fathers intended the

Constitution to be the broadest statement of our rights and liberties as Americans. To craft it as a Christmas tree on which to hang every hot political issue is not worthy of our political heritage. One amendment would further restrict access to abortions. Another would establish a mechanism for determining Senatorial pay. Two others would make official prayers and segregation acceptable again in our public schools.

But the Constitution was never intended to be the vehicle for advancing the beliefs of any subset of the American people. Rather, it was intended to protect all Americans against the tyranny of the few or the many.

It may very well be that in these trying economic times, a majority of Americans are anxious to grasp at any straw that holds out the possibility of control over our economic destiny. Thirty-one of the necessary 34 States have called for a Constitutional Convention to consider a balanced budget amendment. Such a convention could play havoc with our national charter and should be avoided if at all possible. However, this resolution should be considered on its merits, not rammed through just to avoid a Constitutional Convention. And as far as the resolution's merits are concerned, I see none.

What if we pass this amendment and then in a decade from now deficit spending regains its political currency? Would we then propose and pass yet another constitutional amendment making that the law of the land? No, of course not. Economic dogma has no more business in the Constitution than religious dogma does.

The balanced budget amendment is the economic equivalent of Prohibition. Should it pass, Members of Congress would prove themselves as devious as moonshiners and bootleggers. They would find ways to place Federal spending beyond the reach of the budget process. They would resort to loan guarantees and regulation and pass costs through to State and local governments and the private sector. And who would stop them? The courts? Could the Appropriations Committee be hauled up on charges if the books do not balance.

Fourteen years after it was passed, Prohibition was repealed as unworkable and unenforceable. The balanced budget amendment, should it pass, will prove to be the same.

Finally, this amendment is bad government too. Most Americans are convinced that the Federal budget is running wild—and to a very real extent they are right. Federal spending has risen from $92 billion in fiscal year 1960 to more than $650 billion in fiscal year 1981, an increase of more than 700 percent. The American people are also convinced that Congress has all but caved in to special interest groups. To a very real extent it has. A balanced budget amendment will not, however, make legislators more responsible for their actions. In fact, it may very well encourage them to become less so.

The Washington Post writes:

> This amendment is an extreme example of the impulse to take all discretion out of economic policy, at whatever cost to rational government . . . It attempts to substitute a computer and a number. But the economic statistics are designed only to serve people who make decisions, not to replace them.

Many politicians would find the amendment a convenient smoke-screen behind which to keep doing business as usual. Federal Reserve Chairman Volcker has said that a vote on the balanced budget amendment "could be used as a substitute vote for doing something about the budget here and now." Rudolph Penner, director of tax policy studies at the conservative American Enterprise Institute, argues that the amendment's "main effect is to allow politicians to go firmly on record in favor of the concept of a balanced budget while continuing to allocate society's resources however they please."

The voting booth should be our ultimate safeguard against fiscal irresponsibility. The quality of the work product of any government rests squarely with the people who serve in it. I urge the American people to elect responsible representatives who are willing to make the tough decisions. I urge them to hold those officials accountable once they obtain office.

Accountability will not be achieved by throwing some switch and putting the economy on automatic pilot. Accountability depends upon individuals who have the strength of their convictions. It depends on individuals willing to legislatively tackle the tough issues, not try to hide behind a constitutional amendment. Accountability also depends upon people willing to vote and otherwise participate in our democracy, not abandon it to apathy.

Robert Hutchins once said that:

> The death of democracy is not likely to be an assassination from ambush. It will be a slow extinction from apathy, indifference and undernourishment.

Surely our democracy is malnourished when 29 percent of the registered voters becomes a majority to elect a President, 25 to elect a Senator or 20 percent a Congressman. No wonder they do not feel compelled to stand up for all the people when so few are standing up for themselves.

To those Members of Congress who subscribe to the amendment-a-month club I say this: leave the Constitution alone. Do not try to make it a trash basket for every new political gimmick or a crutch in times of controversy. If we are unable to deal with the realities of the budget debate, I would suggest that the fault lies not in our Constitution but in ourselves.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, we are ready to go forward with any amendments that any Senator has. I see the distinguished Senator from California on the floor. Does he have an amendment?

Mr. CRANSTON. As I understand it, Mr. President, Senator KENNEDY is due here at 4 o'clock to speak, and following that I believe Senator FORD will have an amendment to offer.

Mr. THURMOND. Mr. President, I suggest the absence of a quorum for a few minutes.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded,

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1934

(Purpose: To require the President to submit a balanced budget for each fiscal year to the Congress)

Mr. FORD. Mr. President, I call up amendment No. 1934.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Kentucky (Mr. FORD) proposes amendment numbered 1934.

Mr. FORD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 3, between lines 12 and 13, insert the following:

"SECTION 1. Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts for such fiscal year.".

On page 3, line 13, strike out "SECTION 1. Prior" and insert "SECTION 2. After receiving the budget required by section 1 of this article, and prior".

On page 3, line 24, strike out "2" and insert "3".

On page 4, line 6, strike out "3" and insert "4".

On page 4, line 9, strike out "4" and insert "5".

On page 4, line 13, strike out "5" and insert "6".

Mr. FORD. Mr. President, I hope that the opposition to my amendment will be here on the floor as we discuss it.

Mr. President, may I inquire how much time I have on this amendment?

The PRESIDING OFFICER. One hour, evenly divided.

Mr. FORD. Mr. President, I see the distinguished Senator from Utah is here.

The amendment that I had before the Senate yesterday received 45 votes—16 of those votes were cosponsors of the distinguished Senator's amendment to the Constitution proposing a balanced budget.

During the debate, I said that both ends of Pennsylvania Avenue would have to work together. That the President of the United States must be equally responsible for submitting a balanced budget to the Congress as the Congress must have the responsibility for passing one.

The distinguished Senator from Utah said that if my amendment passed, I would make the President dishonest. He said that the President could not honestly propose a balanced budget; my amendment would make him dishonest. He said the culprit in this whole thing was Congress.

I would like to point out that for 25 years, at least, of the last 54 years Congress has passed a budget under that submitted by the Presidents. So we are almost batting 500, and that is awful good even in baseball. He said that the Congress, being the culprit, would have to vote to unbalance the budget but they would have to vote by a three-fifths vote, and that was a pressure valve for the Congress to pass and submit to the President a deficit budget.

Since my amendment was narrowly defeated, and about the only objection they had to that amendment was that the President was obligated to introduce a balanced budget, I now have another amendment. It says that if the President does not submit a balanced budget, if he submits a deficit budget as this President has, that he has to also send a covering document setting out the details of why he has submitted such a deficit budget.

That seems to be a very simple request. It makes it very easy on the President to submit a deficit budget if it is necessary. All he has to do is explain it. I think that would eliminate the objections of those who opposed my first amendment.

One other item was injected into the vote yesterday and I do not know of any change yet. The President, when he met with various Members of the Senate at the White House yesterday at the 11 a.m. meeting, was asked specifically about the Ford amendment that was then pending before the Senate. The President said that he agreed that that amendment was all right; that he could be for that amendment. He said that, as Governor of California, he was required to submit a balanced budget and he was used to it so it would not be any problem for him, as President, to submit a balanced budget.

Now, Mr. President, 21 States of this Union are required to have a balanced budget. Governors of those 21 States are required to submit a balanced budget to their legislatures. I was in that position. I submitted biennial budgets. I had to make a judgment based on 2 years. We had to take our percentages of the GNP and apply that to the future years. I submitted a balanced budget to the legislature.

The legislature's responsibility then was to either agree or disagree with the Governor based on their estimates. They had their own ways of getting estimates. If they agree with the Governor that his proposed budget on the income and receipts was correct, they could shift around, within that limit, the amount of funds available for the various programs, various projects, various capital construction. However, they were required to stay with a balanced budget.

So, Mr. President, I cannot see why anyone would want to object to my amendment now that I have made these changes. My amendment now allows the President some flexibility. Three-fifths of the Congress has to vote to pass a deficit budget. The President can now submit one under my amendment. All he has to do is document the reasons.

So I think that anyone who would want to object to my amendment now just wants to object for the sake of objecting. However, I am very hopeful that the floor managers of this legislation would agree with the President when he says that the Ford amendment is a good amendment. Those who were at the White House yesterday came in and voted on my amendment and were surprised that it had not passed, because the President told them he was for it. They were surprised that it did not receive sufficient votes. They were surprised to see the majority in the Senate opposed to it.

So, Mr. President, I hope that my amendment will be accepted and if not, that my colleagues will rally to my support on this one and amend the constitutional amendment that is now before the Senate.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. COHEN). Who yields time?

Mr. CRANSTON. Mr. President, may I ask one question of the Senator from Kentucky?

Mr. FORD. I will do my best to answer the distinguished Senator from California.

Mr. CRANSTON. A monetary policy seems to be totally left out of all consideration in this constitutional amendment. I do not see how it is going to work unless we know what the monetary policy is and unless there is some statement of what we can expect, what the President seeks to do about it, and what the Fed will do about it. Do you think it is purposeful that the Fed, with its impact on these huge interest rates that we have, do you feel it is purposefully left out of the constitutional amendment? Do you feel at some point the President should state what his monetary policy is and that if there is going to be a constitutional amendment on this subject we should have it understood we expect him to spell that out when he is indicating what he should do?

Mr. FORD. Mr. President, I say to the distinguished Senator from California that I agree with that. I think that we should have a statement of monetary policy. It just seems unconscionable to me that when we are sitting here now looking at the deficit budget that was submitted by the President and passed by the Senate—I did not vote for it—the largest tax increase in history, and the largest deficit in history. On top of that the Secretary of the Treasury, Mr. Regan, says that it will be a $114 billion deficit. He just barely beat Dr. Alice Rivlin by 1 day when she came forward and said it would be as high as $140 billion and maybe $160 billion.

We are using two sets of numbers, as I understand it. One is for the operation of Government, basically, and another set of numbers is for the Defense Department. So we have commingled numbers. We really do not have a monetary policy. The Fed is not involved. We see now at election time that interest rates might come down a little bit, but we are experiencing the largest real interest rates in the history of the country.

Mr. CRANSTON. I accept that fact, that we have the largest interest rates in the history of the country, and I thank the Senator for his comments.

Mr. FORD. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, we have already debated the merits of this particular amendment. There is just a slight addition. I do not think any further debate is necessary on it. Whenever the Senator wants to vote on the matter, we are ready to vote.

Mr. FORD. Would the Senator from South Carolina tell me why he would be opposed to this amendment when I have eliminated, basically, the arguments against my amendment of yesterday?

Mr. THURMOND. Mr. President, in response to the Senator from Kentucky, I want to say they are the same arguments I made yesterday. There is no use to go over them again. They would apply to this amendment. He only adds "except that the President may send to the Congress" and he explains it, and so forth. That was con-

sidered yesterday when the amendment was up. Those of us interested in it considered that and decided it would be unwise to accept it. I think we explained that yesterday in the arguments. The chairman of the Budget Committee came over and spoke against it. I think we have already explained in detail our reasons for opposing the amendment.

Mr. FORD. I just say to my distinguished friend from South Carolina that he agreed to the amendment yesterday to change the relationship between the Congress and the President of the United States.

It is my judgment that this ought to be a partnership. If the constituency of this country wants a balanced Federal budget we have to see to it that both ends of Pennsylvania Avenue are partners in this thing. I have said that before and I will keep on saying it.

Mr. President, a point of information, which I hope will not be charged to my time.

Do I have the ability at this point to modify my amendment since I have not yet asked for the yeas and nays?

The PRESIDING OFFICER. Unanimous consent would be required to modify the amendment.

Mr. FORD. Mr. President, I want to ask that my amendment be modified as follows: On page 1, line 11, strike the second period and insert "and renumber the remaining sections." Also, strike lines 1 through 7 on page 2.

The PRESIDING OFFICER. The Chair will advise the Senator from Kentucky that it would require unanimous consent to delete the section the Senator has referred to. If unanimous consent is not obtained, it would be appropriate for the Senator to offer an amendment in the second degree to strike that language. When all time has expired, it would be permissible for the Senator to do that.

Mr. FORD. I hope that the distinguished chairman and the floor manager of the bill will not object. I ask unanimous consent, Mr. President, that the amendment be modified as follows: On page 1, line 11, strike the second period and insert "and renumber the remaining sections." Also, strike lines 1 through 7 on page 2.

The PRESIDING OFFICER. Is there objection?

Mr. THURMOND. Mr. President, we have no objection to the modification.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 3, between lines 12 and 13, insert the following:

"SECTION 1. Prior to each fiscal year, the President shall transmit to the Congress a budget for the United States Government for that fiscal year in which total outlays are no greater than total receipts, except the President may transmit to the Congress a budget for a fiscal year in which total outlays are greater than total receipts if the President includes with such budget a detailed statement specifying the reasons why total outlays for such fiscal year should exceed total receipts or such fiscal year."

Mr. FORD. I say to my distinguished friends who are managing the bill that I think I have eliminated the objection of the distinguished Senator from Utah (Mr. HATCH). I also believe that I have eliminated the objection of the distinguished Senator from New Mexico, the chairman of the Budget Committee. He may have objection, but I think I have eliminated the objection that he stated yesterday.

All I am asking here is—and I just cannot understand why this amendment is being opposed—that if the President submits to the Congress a deficit budget, that he would include with that budget a document stating the reasons for the deficit.

We in the Congress, under this amendment, have the ability to send to the President a deficit budget by a three-fourths vote. That is a pressure valve. That is a release by which Congress can agree to a deficit budget. Of course, the President does not have to sign it. He can veto it.

He still keeps that prerogative. But if we do not have the cooperation of the President of the United States, submitting a balanced budget to Congress, it is going to be very, very difficult for Congress itself to come up with a balanced budget.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATCH. Mr. President, this amendment, it seems to me, suffers from the same major weaknesses as the earlier Ford amendment; that is, it adds totally unnecessary verbiage to the constitutional amendment. It would constitutionalize for the first time the participation of the President formally within the budget process. That is a pretty important issue, Mr. President: Should we formally for the first time, bring the President constitutionally into the budget process?

First, the amendment would basically state that the President is to submit a balanced budget unless he decides not to do so. What is the purpose of this? What does it add to the law or to the Constitution? It is a meaningless statement and a meaningless set of words, except that the amendment would mandate that the President participate in the budget process. Presidential participation in the budget-making process is not presently mandated in the Constitution and should not be required in this amendment.

Second, the amendment is potentially dangerous as it establishes a formal constitutional role for the President budget process. This particular role does not exist today. There is no such Presidential role. It would create a single undivided budget process: The President proposes a budget and the Congress adopts a budget.

What are the ramifications of the language? Does it mean that the President's budget must be formally considered by Congress? Presently, Congress is free to adopt, reject, amend, or even ignore the President's informal budget.

Mr. FORD. Will the Senator yield for a question?

Mr. HATCH. Surely.

Mr. FORD. What does this amendment change from that one? Congress does not even have to consider the President's budget.

Mr. HATCH. By institutionalizing or constitutionalizing the President's role in the process.

Mr. FORD. We still can ignore him.

Mr. HATCH. Not necessarily. The amendment of the Senator from Kentucky makes it a requisite for the President to submit a budget and it may be interpreted as a requisite for us to have to consider only his budget.

Mr. FORD. The Senator is making the argument that any Member should oppose a constitutional amendment of any kind, because you change the Constitution or give power to someone or take power from someone.

Mr. HATCH. I am saying at the present time, under the present Constitution, Congress has all budgetary obligation. What the amendment of the distinguished Senator from Kentucky would do is constitutionalize the President's participation in the budget process. Presently, Congress has the freedom to deal with the President's budget as it will.

Mr. FORD. My amendment does not change that.

Mr. HATCH. The question is. Could they continue to do that under the Ford language? Would they have to act affirmatively upon changes in that budget? Could Congress propose its own budget? These questions would all appear if the Ford language becomes locked into a constitutional amendment.

What are the implications for impoundment and other Executive authorities? What are the implications for a separation of powers balance? Do we have even the slightest idea if we accept the language of the distinguished Senator from Kentucky?

Mr. President, these are not simple questions. This is a very complex amendment, though it seems simple on its face. If adopted, there would be a major change in constitutional duties and in the constitutional separation of powers as presently ordained.

I am not saying that we cannot make these changes. But I question the wisdom of those changes, especially since the President now may informally submit a budget. I believe the President will make every effort to

submit a balanced budget to Congress for its consideration.

If he does not submit a balanced budget because, in his good conscience, he feels that a balanced budget cannot solve the problem, then the President can submit an unbalanced budget and explain why—nothing more nor less than what our distinguished friend from Kentucky is asking us to mandate into the Constitution.

Because of the gravity of the constitutional issues that would be raised if the Senator from Kentucky's were agreed to and because the President may now submit an informal budget, I do not think it is wise nor necessary to adopt this amendment.

Mr. FORD. If the Senator is so anxious to keep the President out of the budget-making process, is he prepared to revoke or abolish the 1921 Budget and Accounting Act, which requires the President to send a budget to Congress?

Mr. HATCH. I just want the President to stay where he is. That is, he can submit a budget, we can look at it, reject it, accept it, or even ignore it.

Mr. FORD. Mr. President, I do not want the President to stay where he is. I want him to be a part of the balanced-budget process. If he is not a partner, we had better reject this constitutional amendment and settle for a deficit budget.

Mr. HATCH. There is no way the President, without the Senator's amendment, would not be a part of the balanced-budget process. That is an important part of the budget message the President gives every year. He wants that. No President is going to fail to participate in it. We do not have to mandate that in the Constitution with all the conflicting perplexities the amendment of the Senator would suggest.

The fact is that he is going to participate, he is going to submit a budget. If he is not submitting a budget that puts forth the best good-faith effort to balance the budget of this country, then the President is going to lose credibility. If he submits an unbalanced budget, he is going to have to give good reasons why he is submitting that unbalanced budget.

What about those questions of the major change that the Senator's amendment would bring about? They are not insignificant.

I do not think the Senator from Kentucky doubts that the President is going to continue to present an annual budget message to Congress and submit an annual budget to Congress informally, which we can look at, accept, reject, modify, or amend—which is a far better, more flexible system for Congress than to have it locked into accepting a Presidentially developed budget.

Mr. FORD. How much time do I have left, Mr. President?

The PRESIDING OFFICER. The Senator has 15 minutes and 40 seconds.

Mr. FORD. I shall not take all that time. I am sure they are anxious to vote. I am making them nervous.

I ought to make them nervous, because the longer I talk, the more sense my amendment makes. The more they talk, the more they agree with my amendment.

Yesterday, the distinguished Senator from Utah was arguing that my amendment would make the President of the United States dishonest. I do not want to make the President of the United States dishonest. He said the President could not honestly submit a balanced budget; we ought not to put him in the posture of having to do that, of making him dishonest.

All I am doing now is saying submit a balanced budget. If he cannot submit a balanced budget, he can just put a document on top of it enumerating the reasons why he cannot. We would still have an opportunity to vote three-fifths to have a deficit budget.

Right now those people down in the executive agencies are preparing 1983 and 1984, and 1985 budgets. They have every known available tool to develop a budget. They have the Office of Management and Budget. They send Mr. Stockman up here about every other day. We watch him out here in the hall as we come here to vote. They tell us how they would like for us to vote. The President said yesterday, confirmed by every Senator that was there, that he was for my amendment. All we are asking is that the Presdident submit a budget and become part of the team.

The Senator from Utah knows as well as I that this country wants a balanced budget, and it wants it badly. The people of the Nation want a balanced Federal budget. The only way that meritorious goal can be achieved is if the President and the Congress work together. We cannot be going down one path and the President of the United States going down another. It just does not sound reasonable to me. Under the terms of the constitutional amendment, it makes the President a full and equal partner. I certainly hope that it will be approved.

Mr. DECONCINI addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. THURMOND. Mr. President, I yield to the distinguished Senator from Arizona.

Mr. DECONCINI. I ask how much time is left with the distinguished Senator from South Carolina?

The PRESIDING OFFICER. Twenty minutes is left.

Mr. THURMOND. Five minutes, Mr. President.

Mr. DECONCINI. Mr. President, I want to address the amendment of the distinguished Senator from Kentucky for a moment. First of all, I understand what the Senator is attempting to do, and I think there is great merit in it, I really want the Senator to know that my only quarrel with is is putting it here as part of this constitutional amendment. I would ask the Senator from Kentucky whether or not there is legislation pending, if he knows, that would require by Federal law that the President do what he is suggesting?

Mr. FORD. I do not know whether there is statutory authority or not, but we have a statute now that says we must have a balanced budget. We have been ignoring that since 1979. If we put it in the law——

Mr. DECONCINI. If the Senator will yield, I see a distinction there and I really doubt that if Congress required by statute that the President submit a balanced budget, that he would do otherwise. Does the Senator from Kentucky believe that the President should submit a budget, and if it is unbalanced he should submit by a detailed explanation of receipts and expenditures and other economic data? That is what the Senator wants to get accomplished. My next question to the distinguished Senator from Kentucky is: Why could we not do that by statute? Why must we add verbage to the Consitution when a statutory mandate will suffice?

Mr. FORD. I say to my friend, I know he is trying to help, and I am grateful to him. He is a distinguished Senator. He represents his State marvelously. I have no qualms about what he is trying to do or his intent.

The Senator from South Carolina and I were debating this question the other day. He has always voted against increasing the debt ceiling until June 23 of 1982. He has now switched. We are all voting differently. I understand the pressures of the times and I understand the change. However, we must get it in the Constitution that the President is an equal partner in this venture of having a balanced Federal budget. As Governor under the constitution of Kentucky, I was a partner with the Kentucky Legislature saying we must have a balanced budget.

Mr. DECONCINI. Will the Senator yield?

Mr. FORD. What is wrong with that?

Mr. DECONCINI. There is nothing wrong with the principle the Senator from Kentucky is trying to achieve here, and I applaud him for it. My question is not to be argumentative or combative.

Mr. FORD. I understand that.

Mr. DECONCINI. All I want to pose to the Senator from Kentucky is: What would be the downside of doing this by legislation as opposed to placing it in the Constitution?

Mr. FORD. The downside is that I will have to fight this 9 years from now if I am still living, 8 years from now if I am still living, maybe 7 years from now, because that is how long it will take to implement the amendment. The Lord may call me before then. Therefore, I want to do what I can now.

We are looking 9 years down the road maximum when and if this is submitted to the States. We need help now.

Mr. DECONCINI. I understand we need help. That is the purpose of what we are going through now. I appreciate the Senator responding to my question, and I respect that he thinks it has to be part of the constitutional amendment and not statutory.

Mr. President, I have a memorandum with some points in opposition to the amendment of the Senator from Kentucky. I ask unanimous consent that it be placed in the RECORD.

There being no objection, the memorandum was ordered to be printed in the RECORD, as follows:

POINTS

1. The use of the word "budget" in the Ford amendment does not include "off-budget outlays," whereas statement of receipts and outlays includes all receipts and all outlays, whether on-budget or off-budget. Therefore, Ford amendment is not consistent with SJR58.

2. The Ford amendment would introduce President Constitutionally into the budget process for the first time—a process the founding fathers carefully and thoughtfully reserved to the initiative of the Congress.

3. The implications of introducing the President, with a Constitutional role, into the budget process are not clear. Would this imply that the Congress must accept or reject the President's budget without amendments, decisions as to the nation's priorities, etc?

4. Surely this amendment enhances the prospects of reinforcing an "imperial presidency."—It is clear why any member of the Congress would wish to entertain such a prospect.

5. Congress currently has full power to require the President to submit a budget in any form it so chooses, especially a form it regards as conducive to the exercise of its legislative powers. Therefore, the Ford amendment is not necessary, is not needed, and merely would cloud the existing separation and division of powers.

6. The Ford amendment would require the development of a Constitutional definition of "budget" something which has been in constant state of development since the 1921 Budget Act. Since this amendment is not necessary to accomplish Presidential submission of a budget, why introduce—unnecessarily—a new concept into the constitution?

7. The President's willingness to be required to submit a "balanced budget" does not translate into a request that Congress introduce this requirement as a Constitutional mandate. It is difficult to believe the President even intended to imply such a request. The President did indicate his willingness to cooperate with the Congress in preparation of such a budget.

Mr. FORD addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. FORD. Mr. President, I understand that many of our colleagues would like to have a vote prior to 4:45. I certainly have more time that I can carry at least that far, but I do not intend to do that; I want to accommodate my colleagues. I have just one brief statement.

The way to achieve a balanced budget is not to begin in January: It is to begin far in advance of that. It is to begin when OMB sends out its directives to agencies and departments. The budget does not just miraculously appear on the President's desk each January. The preparation of the President's budget usually takes 7 months. During that period, OMB and the Federal agencies are very busy preparing the Governmentwide analysis and program presentations contained in the documents which constitute the President's budget submission to Congress.

At the outset, OMB provides each agency and department with policy guidance; outlines the concepts and definitions governing budget formulation; furnishes line-by-line instructions for completing the required budget forms; and even spells out requirements for data that will be used in the summary tables of the President's budget. Heads of agencies and departments, and their budget officers, consult OMB representatives prior to even the submission of their budgets. There is a continuous exchange of information, proposals, evaluations, and policy determinations among the President, the Office of Management and Budget, and the various Government agencies and departments.

The President's transmittal of his budget to the Congress early in each calendar year is the climax of months of planning and analysis throughout the executive branch. It involves a detailed review of agency budget requests by OMB. These requests and OMB's recommendations on them are presented to the President for his final decisions. Overall fiscal policy issues are again examined.

Congressional review begins when the President submits his budget to Congress in each January. This is usually 7 months after the agencies and departments first began work on the budget, and only 9 months until the start of the new fiscal year.

As I said earlier, the budget does not miraculously appear on the desk of the President. Government agencies prepare and OMB examiners review the budgets in relation to Presidential guidance. It is important, therefore, that the President be required to submit a balanced budget.

Mr. President, I am going to take about 2 more minutes and then I am willing to yield back the remainder of my time.

I understand what is going to happen. The distinguished floor leaders have their people in lockstep. When they go back home and talk to their people, I would bet that they will find out that their constituents want the President and the Congress to be in partnership on a balanced budget. Oh, how I would like to see a balanced budget. I vote against an increase in the debt ceiling. They tell me things are going to stop, the world is coming to an end. I would like to see the Government stop for 24 hours and then maybe I will change my mind.

The President of the United States has the ability to sell this balanced budget to the American people much better than any one Member in this body. He has the ability to get on TV. He has the ability to attract attention wherever he goes. We need his help. We need his help badly. All I am saying is that if he wants to submit a budget that is out of balance, then all he has to do is attach a piece of paper to it that explains to the Congress of the United States, the reasons he could not submit a balanced budget.

All the arguments that I received yesterday on my first amendment should be resolved by this amendment. I modified the amendment to eliminate what I think were the complaints of the distinguished chairman of the Budget Committee. It is a very simple amendment to the constitutional amendment. It makes the President a full and equal partner under the terms of the Constitution. I hope that it will be approved. The people of this Nation want a balanced budget. Every Senator knows it. The only way that this meritorious goal can be achieved is if the President and the Congress work together.

Mr. President, I am prepared to yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I yield myself such time as I may require.

How much time remains to each side?

The PRESIDING OFFICER. Fourteen minutes and 45 seconds to the Senator from South Carolina; 9½ minutes to the Senator from Kentucky.

Mr. THURMOND. Mr. President, I will say only a few words on this matter.

As I stated a few moments ago, this amendment is similar to the amendment which the Senate defeated yesterday. It would still raise a number of questions about the power of the President to control spending, such as impoundment, reprograming, deferrals, and so forth.

If we constitutionally restrict the President with this language, it will run counter to his recognized powers of recommending or vetoing legisla-

tion. We think this would be a mistake. To say that the President has to submit a balanced budget—suppose he foresees some emergency and he feels that he cannot honestly, conscientiously submit a balanced budget and is going to tell Congress so, and he is going to suggest to them that by a three-fifths vote, they take steps to alleviate this situation. What is wrong with that? To say that he must submit a balanced budget does not make sense.

Mr. President, we think this amendment is clear. It brings the President into it sufficiently. In section 1, it provides that Congress and the President shall pursue it through legislation or through exercise of their powers under the first and second articles to insure—I repeat, insure; that is, Congress and the President shall insure—that actual outlays do not exceed the outlays set forth in such statement. That is as far as we should go. It does not make sense to go further, to try to tie his hands and put him in a box. It does not make sense. We think the constitutional amendment is adequate and sufficient, and with that we rest our case.

The chairman of the Budget Committee wishes to say a few words, and I yield to him for such statement as he cares to make.

Mr. DOMENICI. Mr. President, I am not going to take a lot of time. My argument is a very simple one.

I envision that the way we are going to operate when we get this constitutional amendment is that the Congress of the United States is going to pass some very significant budget implementation language as a part of our substantive law. I do not think we can operate under this constitutional amendment without Congress doing that.

Mr. President, when the Congress passed implementing legislation, it is obvious to this Senator that it will tell the President of the United States precisely what it expects with reference to matters budgetary. Congress does not even need to use what the President submits if it does not want to, but it will undoubtedly find the President's advice helpful just as we do under the present laws.

In that implementing legislation, Congress should tell the President what kind of budgets it wants him to submit, when, what should be included in them; and as Presidents have done in the past under the Budget and Impoundment Control Act, he will comply. As they have in the past, Presidents will submit budgets responsive to laws Congress has passed specifying how to submit budgets and what should be in them.

This is a constitutional amendment. Yesterday we adopted amendments that clearly say that Congress must pass laws to implement it. I think it is far better to leave it up to Congress to specify in implementing legislation when, how, what content, what special content if a balanced budget is recommended—all those characteristics—ought to be covered in the legislation Congress passes to implement this constitutional amendment.

We should even define what a budget is. That is not done in this constitutional amendment, and it is not done on purpose.

Yesterday we built clear legislative history that Congress will decide what all the various terms mean—outlays, statements, deficits, budgets. So if we adopted the Ford amendment we would be constitutionally saying that the President has to do this and then, at the same time, clearly indicating in the changes approved yesterday Congress intends to tell the President precisely what he has to do with reference to matters that pertain to the budget.

I am certainly not trying to make it easy for Presidents to get by with blaming Congress nor am I trying to exculpate Presidents, past, present, or future. I just think we should have a clear understanding of what we are trying to do in this constitutional amendment, that we must pass laws to implement it, and by those laws we must tell the President what to do.

I could offer more detailed arguments. I am sorry I cannot support the Ford amendment. The Senator from Kentucky has tried to get around one of my objections. I said yesterday that the President should not have to submit a balanced budget if his good judgment is to the contrary. He should just tell us why it is not balanced. The Senator has tried to fix that in the amendment, but I still do not support it. It does not belong in the Constitution; it belongs in legislation.

I thank the Senator for yielding.

Mr. THURMOND. Mr. President, does the distinguished Senator from Kentucky have anything further to say?

Mr. FORD. Mr. President, the Senator from South Carolina says that it does not make sense to require the President to submit a balanced budget. I think it does, and I hope my colleagues do. I feel that the American people believe that it makes sense.

The President has said that he does not object to the amendment. We have eliminated from it the questions of the Senator from Utah, which I hope will be acceptable. The Senator from New Mexico got his changes to amend the constitutional amendment yesterday. He may have altered the relationship between the President and Congress. I only hope that we can make him an equal partner.

Mr. President, I am ready to yield back the remainder of my time.

Mr. THURMOND. Mr. President, I am sure the President will submit a balanced budget, especially if it is Ronald Reagan, whenever he can. There may be times when he cannot do it. He may have an emergency situation and cannot honestly and conscientiously do it. But he can tell Congress that and can say, "On account of an emergency, we would like both bodies to provide appropriate funds to meet this emergency." However, if you say he shall submit it, that is boxing him in, and I am opposed to that. I think it is unreasonable, and it is unfair to the President.

I yield back the remainder of my time.

Mr. FORD. I yield back the remainder of my time.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. All time having been yielded back, the question is on agreeing to the amendment of the Senator from Kentucky, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from New York (Mr. D'AMATO), and the Senator from Iowa (Mr. JEPSEN), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Nevada (Mr. CANNON) is necessarily absent.

I further announce that the Senator from Massachusetts (Mr. TSONGAS), is absent on official business.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators wishing to vote?

The result was announced—yeas 43, nays 53, as follows:

[Rollcall Vote No. 265 Leg.]

YEAS—43

Baucus	Glenn	Metzenbaum
Bentsen	Hart	Mitchell
Biden	Heflin	Moynihan
Boren	Hollings	Nunn
Bradley	Huddleston	Pell
Bumpers	Inouye	Proxmire
Burdick	Jackson	Pryor
Byrd, Robert C.	Johnston	Randolph
Chafee	Kennedy	Riegle
Cranston	Leahy	Sarbanes
Dixon	Levin	Sasser
Dodd	Long	Stennis
Eagleton	Mathias	Weicker
Exon	Matsunaga	
Ford	McClure	

NAYS—53

Abdnor	Denton	Heinz
Andrews	Dole	Helms
Armstrong	Domenici	Humphrey
Baker	Durenberger	Kassebaum
Boschwitz	East	Kasten
Brady	Garn	Laxalt
Byrd, Harry F., Jr.	Goldwater	Lugar
Chiles	Gorton	Mattingly
Cochran	Grassley	Melcher
Cohen	Hatch	Murkowski
Danforth	Hatfield	Nickles
DeConcini	Hawkins	Packwood
	Hayakawa	Percy

Pressler	Simpson	Thurmond
Quayle	Specter	Tower
Roth	Stafford	Wallop
Rudman	Stevens	Warner
Schmitt	Symms	Zorinsky

NOT VOTING—4

Cannon	Jepsen
D'Amato	Tsongas

So Mr. FORD'S amendment (No. 1934), as modified, was rejected.

Mr. THURMOND. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. MELCHER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. PRESSLER. Mr. President, as an original cosponsor of Senate Joint Resolution 58, today I wish to express once again my support of this measure to amend the Constitution to require a balanced Federal budget. We are confronted by a public debt of more than $1 trillion, following decades of fiscal imbalance. The Federal budget was last balanced in 1969. In the subsequent 13 years, Federal spending has increased 3½ times, and deficits have added $430 billion to the total national debt.

This constitutional amendment is an action which can help to reverse 40 years of bad economic policy. The American people have demanded that Congress stop the trend of fiscal irresponsibility and stop the ravenous spending habits of the Federal Government. We must respond to the people all over America who are calling for an end to economic disruption. Spending and tax policies have been destroying agriculture, small business, and the very basis of our economy.

I have heard from farmers, manufacturers, and small businessmen who have encouraged me in the endeavor to halt the persistent and massive overspending by the Federal Government. Thirty-one States have petitioned Congress for a constitutional convention to amend the Constitution. Recent polls indicate that as many as 80 percent of the American people want this amendment added to the Constitution.

This amendment is not a new idea. From the Founding Fathers down to the present, the balanced-budget concept has been part of America's "unwritten constitution." During the 19th century, when the balanced-budget norm was effectively the law of the land, there was little need for Congress to focus on this problem. Not until the mid-1930's did concern about budget deficits find regular expression in congressional debate. The Great Depression was accompanied by large, uninterrupted deficits between 1931 and 1940, followed by the heavy expenses of World War II. Those deficits generally were of a significantly larger scale than earlier deficit levels. Since then, our system of government has demonstrated a strong bias toward deficit spending.

Persistent deficits are a major reason for the economic quagmire of recent years. It has been proven that the Government's need to borrow to finance the deficits is a major cause of today's high interest rates. Cutting deficits will help to cut interest rates. This, in turn, will restore confidence in the United States and provide a boost to the world economy. Greater confidence in the American economy will in itself stimulate economic growth and investment. We must demonstrate greater fiscal responsibility. As my distinguished colleague, Senator HATCH, and others have stressed, the value of a constitutional amendment is that it elevates the economic responsibility to balance the budget to constitutional, and, therefore, more privilege status.

While it is important that deficits be lowered and eliminated, it is also important that Congress take a less myopic view of the budget process and act in the long-term interest of national economic stability. In examining the Federal budget process over the past three decades, it is readily apparent that one of its flaws is an institutional bias that encourages uncontrolled growth of expenditures, quick and easy tax increases, and higher and higher deficits.

Consider the deficit spending record of the past 30 years: During 1950 to 1959, the cumulative deficit was $18 billion; from 1960 to 1969, it was $56 billion; from 1970 to 1979, $318 billion; and during the most recent 4-year period, it was $291 billion. The first step in finding a solution to this problem lies in amending the Constitution to establish a fixed sound-budget process and a fiscal norm which cannot be easily violated.

In the final analysis, what we are considering here is the imposition of greater self-discipline in our handling of the people's money. The congressional tendency to play Santa Claus with someone else's money has mired our free enterprise system in a dangerous condition. We are short of investment capital. Available capital is loaned at rates that, until recently, were considered usurious. Massive borrowing to finance Government deficits along with excessive taxation to maintain questionable programs have contributed to this capital shortage and high interest rates.

Perhaps the discipline of this constitutional amendment will permit us to rescue our private enterprise system, our traditional economic values, and the principles of political freedom which are so intertwined with those values of moderation and commonsense in the management of the people's money.

This amendment is strong medicine, and it may not be without some adverse side effects. But, as one who has supported the balanced budget, tax limitation, spending restraint effort since first entering Congress in 1975, I believe it is medicine we must take. Our economic disease will only become much worse without it.

Mr. D'AMATO. Mr. President, during the constitutional convention of 1787 Thomas Jefferson proposed constitutional language requiring a balanced budget. For the greater part of our history as a nation his admonition against deficit spending was heeded by the Congress, without resort to the constitutional mandate he advanced.

However, in the last generation we have veered sharply from the wise counsel of Jefferson. A national debt that stood at $265 billion in 1950 has ballooned to over $1 trillion today, with most of the growth in this debt since the late 1960's. Incredible as it seems, the deficit alone this year will be larger than the entire Federal budget of 1962.

How have we gotten ourselves into this situation? The answer is simple—gross mismanagement of the American economy by past administrations and a lack of political courage. Year after year our Federal Government produces budget deficits. We have run a deficit in 19 of the past 20 years.

At the present time, there is little political accountability for those who initiate deficit spending. Some Members of Congress vote to authorize unlimited expenditures without the politically disadvantageous requirement of also being forced to vote for increased taxes.

Deficit spending by the Federal Government is hurtful to the American people; it crowds out our efficient and productive private sector. American businesses are unable to compete with a Federal Government which borrows more than 50 percent of the available capital. This practice of spending more than our Treasury receives in tax receipts clearly fuels the surge toward higher interest rates and results in expectations of even higher rates in the future.

Unless we are determined to halt this devastating spiral, I fear our economy will never again return to the highly productive and efficient system it once was. Are we willing to forgo the promise of a strong America for the temporary whim of spending more than we can afford? I hope not.

The balanced budget/tax limitation amendment, Senate Joint Resolution 58, is paramount to the recovery of our faltering economy. It mandates that our Federal Government can adopt no budget resolution which is not in balance, except under the most unusual of circumstances.

The amendment requires that Govern-

ment receipts. It prohibits deficit spending as a way to satisfy the interminable demands of vociferous interest groups. It will require that our precious resources be more carefully allocated.

Support of this crucial amendment is so widespread that 31 States, on their own initiative, have already called for a constitutional convention to pass a balanced-budget amendment. Clearly this is a strong indication of increasing grassroots support for fiscal restraint. This amendment is truly legislation by and for the American people.

The balanced-budget amendment is a measure which will finally compel the Federal Government to live within its means. As we balance our Federal budget and begin to reduce our national debt, we will witness a dramatic decrease in interest rates. Furthermore, Government will no longer perpetuate a high inflation rate, as the private sector will finally have access to the capital now consumed by Government. A workable balanced-budget amendment will direct us to a renewed prosperity. Productivity will be augmented and the U.S. standard of living will improve. The balanced-budget amendment will successfully revitalize our economy.

It is high time that we require the Federal Government to act as responsibly as its citizenry. Everyone realizes from his or her own personal life that it is impossible to continue spending more than one has. The consequences of living beyond our means eventually catch up with us. For the U.S. Government the time has come to adopt the principle of fiscal responsibility urged by Thomas Jefferson nearly two centuries ago. We must act now to pass Senate Joint Resolution 58.

Mr. BAKER. Mr. President, will the Senator yield?

Mr. THURMOND. I would be pleased to yield to the able majority leader.

The PRESIDING OFFICER. Will the majority leader withhold? We must have silence in the Chamber.

Mr. RANDOLPH. Mr. President, I suggest Senators give attention to the majority leader as he speaks.

The PRESIDING OFFICER. The point of the Senator from West Virginia is well taken. May we please have silence in the Chamber so we can hear the majority leader?

Mr. BAKER. Mr. President, I thank the Chair and I thank all Senators.

Mr. President, it is now 5:10 in the afternoon. I really very much hope that we can get another amendment yet today. I hope that we can get several amendments today.

I announced on Monday that any day this week could be a late day and that the Senate should be on notice that we would utilize Saturdays to the extent that is necessary. My concerns for passing this bill in a reasonable time were allayed when the Senate granted unanimous consent for the final vote on the resolution not earlier than next Tuesday nor later than next Wednesday. But there remains the cold, hard fact that there are 32 amendments that are to be dealt with by name in the unanimous-consent agreement that total probably 50 hours of debate.

In deference to every Member, I must urge that we try to do as much of this as we can in the early part of this session instead of the last moments when we may be up against that hour for final passage and there will be no time for debate and we will be in a quandary of either voting up or down on amendments we know very little about, or nothing about, or extending the time, which I will not gladly do.

So, Mr. President, I hope that Members would take account the desirability of calling up their amendments today—tomorrow is Thursday and that is our regular late evening—and to do so tomorrow. I am willing to ask the Senate to stay to any reasonable hour late tomorrow in order to accommodate these needs. We will be in session on Friday, and there will be votes on Friday. My present expectation is that we will convene at 9:30 tomorrow and 9:30 on Friday, but on Friday I expect to ask the Senate to recess at about midafternoon, about 3 p.m. until Monday.

But in order to accommodate that schedule—and I understand the requirements that so many Members have for travel and commitments away from the city, especially Western Senators who must get away on Friday by midafternoon—it is especially urgent that we get on with the business of calling up these 32 amendments or other amendments that may be offered and dealt with today and tomorrow.

So, Mr. President, with that, I suppose, admonition, or at least entreaty to my fellow Senators that we get on with the business, I am prepared to ask the managers if they have another amendment we can deal with this evening and another vote. I would like to see us have at least one more vote. I am prepared to ask the Senate to stay as long this evening as appears desirable in order to accommodate the needs of Senators.

Mr. President, could the manager of the bill or the minority manager indicate to me whether they can bring up another amendment and deal with it this afternoon?

Mr. THURMOND. Mr. President, we stand ready to act on any amendment that is brought up. We hope Senators will bring up their amendments. The majority leader has explained the reason and the necessity for doing this and not waiting until the last minute. So we are ready to proceed at this time.

Mr. BAKER. Mr. President, I thank the Senator. I ask the minority manager if he knows of an amendment that can be called up at this time?

Mr. MELCHER. Will the majority leader yield?

Mr. BAKER. Yes, I yield.

Mr. MELCHER. I know of no amendment that can be offered at this time.

Mr. ROBERT C. BYRD. Mr. President, we are attempting to ascertain, via the hotline, whether or not there are Senators who are prepared to offer their amendments. Senator LEAHY, who has seven or eight amendments, I am told, is in a CIA briefing at this point and, therefore, we cannot get him. We will be back shortly, after our having checked on the hotline, and see if we can get someone else to offer an amendment.

Mr. BAKER. Mr. President, I will take this moment, then, if the majority manager will yield to me further, to identify for the record the amendments that we know of that remain.

Either seven or eight Leahy amendments. A Ford amendment has been disposed of. I assume that is one that has been included. Is there one more?

Mr. FORD. I say to the distinguished majority leader that I believe I had two amendments. One has been disposed of and one remains. I may not bring the other one up. We are having some technical problems with trying to fit it into a constitutional amendment. I may or may not bring that one up. I could probably advise the majority leader tomorrow as to my intentions.

Mr. BAKER. I thank the Senator from Kentucky.

There are two amendments that were identified in the order to be perhaps offered by the Senator from Colorado (Mr. HART); perhaps two amendments to be offered by the distinguished Senator from Alabama (Mr. HEFLIN); six amendments by the Senator from California (Mr. CRANSTON); two by the Senator from Arkansas (Mr. BUMPERS); a Dodd amendment; a Baucus-Mathias amendment; five amendments by the Senator from New York (Mr. MOYNIHAN); a Levin amendment; two Gorton amendments; and one amendment to be offered by the Senator from Illinois (Mr. DIXON).

It should be borne in mind, of course, that the order is not exclusive and that other amendments can be offered other than those identified in the order, and on them there would be a general allowance of 1 hour, equally divided, for debate, 30 minutes on any second degree amendment, and 20 minutes on any point of order or appeal, if the same is submitted to the Senate.

So, we have our work cut out for us, Mr. President. I really am loath to not utilize the time remaining to us this afternoon, but there is no way I can compel Senators to call up their amendments.

Is the minority leader in a position yet to report on the status of his clearance?

Mr. ROBERT C. BYRD. I am not. I certainly empathize with the distinguished majority leader. I have been in the same situation. We have quite a number of amendments. We both share a desire to see a Senator have time on his amendment.

There is time left today in which Senators could call up amendments. As we go down the road, there will be less and less time if amendments are not called up.

But I believe the amendments will be called up in good and regular order. We run into these situations in which Senators are tied up in other matters and cannot get to the floor. I think the majority leader has made a fine statement and has sought to bring this matter to the attention of his colleagues and caution them about the need for calling up amendments.

I would say to the majority leader that I know of nothing else he could do at the moment. We will continue on our side to see if we can find someone who will be in a position to call up an amendment today. Hopefully we can. I may know shortly.

Mr. BAKER. I thank the minority leader.

Mr. President, in view of that, I do not know of anything else to do except to suggest the absence of a quorum, unless some Senator seeks recognition.

Mr. THURMOND. Mr. President, I say to the distinguished Senator from Kentucky, Senator FORD, that in the last amendment he offered he raised an important issue. We have rejected it only because of its constitutional implications and not because we disagree with his policy.

The Senator has raised an important question. The President is expected to act in good faith and submit a balanced budget, and, if he cannot, I am sure he will tell the Congress and the American people why he cannot, and make recommendations. I just wanted to make that statement.

Mr. FORD. I did not quite hear all of what you just said. Did the Senator say that I had a meritorious amendment? Is that what the Senator said?

Mr. THURMOND. I stated that the reason we rejected it was because of constitutional implications and not because of policy. I am sure the President will submit a balanced budget and, if he cannot, he will tell the American people why.

Mr. FORD. The meritorious amendment——

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. I thank the Chair. I was just sitting here trying to think through what happended to me. I understand when the sheet is put on the tables in the well and the leaders start talking to people and telling them how to vote. I enjoy that very much. However, I wish they would not sit there but give us a chance.

I am very appreciative of all the accolades I am getting.

Mr. ROBERT C. BYRD. Will the Senator yield?

Mr. FORD. Yes.

Mr. ROBERT C. BYRD. I apologize to the Senator, but I must say that I made this suggestion the other day. I suggested that we have a rule in the Senate that we preclude the leaders from sitting on the tables in the well because when I see Senator BAKER sitting on that table, if he is facing to the west I know we are going to lose. [Laughter.] I think if we had a rule that would preclude that, we might win a few.

Mr. RANDOLPH. Mr. President, who is recognized?

Mr. FORD. I had the floor, but I would be delighted to yield to the distinguished Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. RANDOLPH. Mr. President, the subject matter is of interest to me. I have listened very carefully to my colleagues. I wish I could offer the amendment now that Members vote from their desk, either standing or sitting. I hope that we can reverse the vote that defeated our proposal on April 20, on a rollcall 51 to 46. The well is not a place to play a rough and tumble hockey game. That is what it is at times. We should work in an orderly manner. I am encouraged that, at a date sooner than later, the Senate will become a forum for debate with the decisionmaking process being carried forward with a Senate in order.

Mr. FORD. Mr. President, since we are killing a little time here, I will say to my friend, the distinguished Senator from Arizona, I appreciate all the accolades that I have been receiving since my amendment was defeated. I understand that they are probably trying to woo me into voting for final passage. I want to say it is going to be very difficult to get me if the President is not a partner in the balanced budget. You can say this President will do it and we will have no problems with this President. Well, I wonder about future Presidents. This President, in my opinion, has not done too well in submitting balanced budgets. We heard in the 1980 general election that we would have a balanced budget in 1981 and no later than 1982. We heard the announcement yesterday that the budget deficit is going to exceed anything we have ever had in the history of the country.

I hear my colleagues on the other side go to their leadership and ask, "What is wrong with FORD's amendment?" He says, "We ain't for it. We ain't for it." Therefore, my amendment was defeated. Even though they say we have a good amendment, "We ain't for it."

Mr. President, I appreciate all the accolades I have received since my amendment was defeated and I look forward to bringing up another amendment if I can be clear in my own mind that my amendment is proper and legally sound. Then I will have another amendment.

Mr. GOLDWATER. Will the Senator yield?

Mr. FORD. I am glad to yield.

Mr. GOLDWATER. I was glad to hear the Senator recognize that occasionally an amendment, although it is a good one, can be beaten. We have gone through that many times.

In reference to President Reagan not sending up a balanced budget, I distinctly remember the day in the Oval Office when I told President Carter after his promise to send up a balanced budget that if he balanced the Federal budget I would ask the Democratic National Chairman if I could attend the next convention and nominate him for President.

Mr. FORD. The way the President is going, I do not think the Senator will see a balanced budget.

The only thing I am trying to do here is to see that both ends of Pennsylvania Avenue are on the same wavelength, that Congress and the President are working together as it relates to a balanced budget. I find it hard to believe that just because it is a good amendment we are defeated. Sometimes big is not always better. I hope that in the future when we have something that is good we will allow our colleagues not to have party discipline but that we will have the ability then to not go to a Member who has an amendment up saying, "I really like your amendment. I think it is good. I cannot understand what is wrong with it but I have been told to vote against it."

That day I hope will soon be here and we will be able to come together as a unit and try to develop those things that are in the best interests of the country. That is all I want. That is all I ask for. That is all I hope for.

Mr. President, one of these days we are going to see that our constituency, as they sit down there and look at our actions here, will say, "They did not want the President in as a partner. They want him lose. They want the leadership of this country not required to submit a balanced budget."

But we do not have to. We have locked ourselves almost basically into line item vetoes. We have locked our-

selves into being mandated or being voted up.

I will accept this responsibility, which I will accept if the 38 States ratify it, with some feeling of pride because for 4 years I submitted balanced budgets, and I understand how tough they are sometimes. But there are 21 States that do it. The leadership in this Congress has the ability to do it. I think the President of the United States has the ability to do it. We just have to start doing it. We have to start sometime. The sooner we can start, and with the best procedure, would be in the best interests of the country. It is not that he has implied that he will or he will not. I do not like that.

Mr. President, I am grateful for this time. I guess we are just killing time waiting for an amendment. Twice in the same day is just too much for this Senator to take, having two amendments defeated.

Mr. BAKER. Mr. President, it appears, then, that no other amendment can be offered. I inquire of the minority leader. If so, I think I will take us off the bill and put us into morning business.

Mr. ROBERT C. BYRD. Mr. President, I would suggest, on the basis of the inquiries which have been made of this side of the aisle, I would not anticipate another amendment today. But I believe we should get started again tomorrow. I would hope that Members would be presenting their amendments beginning tomorrow.

I will say that there is no deliberate attempt on this side of the aisle to withhold amendments. I think it is just one of those circumstances in which we find ourselves. I would suggest to the distinguished majority leader that he not be discouraged but that we just go to morning business and see what we can do tomorrow.

Hopefully, we can lay down an amendment before the day is over for tomorrow's early consideration.

I am advised that a Senator on this side of the aisle wishes to talk on the resolution itself today.

Mr. BAKER. Very well, then, Mr. President, I shall not try to put us in morning business at this point. In a moment, I shall suggest the absence of a quorum, which I believe would then be charged against the time allocated to the bill under the order, is that correct?

The PRESIDING OFFICER. That is correct.

Mr. BAKER. Now, Mr. President, while we see whether other Senators are coming to the floor to debate this resolution or offer amendments against the time allocated to the resolution, I suggest the absence of a quorum, to be equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1929

Mr. MOYNIHAN. Mr. President, I call up my printed amendment numbered 1929.

The PRESIDING OFFICER. The clerk will state the amendment.

The legislative clerk read as follows:

The Senator from New York (Mr. MOYNIHAN) proposes an amendment numbered 1929.

Mr. MOYNIHAN. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place insert the following:

SEC. 6. No budget shall provide for reductions in lawful entitlement benefits under the Social Security Act.

Mr. MOYNIHAN. Mr. President, I do not wish to proceed with the debate on this point but ask unanimous consent that the time not run on the amendment, there being an hour's agreed-upon time, until we resume the discussion of the pending joint resolution tomorrow morning at the hour agreed upon by the leadership.

Mr. THURMOND. Will the Senator yield?

Mr. MOYNIHAN. Yes, I yield.

Mr. THURMOND. Mr. President, that is entirely agreeable with us. We shall be pleased to cooperate with the distinguished Senator from New York in that respect.

Mr. MOYNIHAN. I thank the distinguished President pro tempore.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Mr. MOYNIHAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. KENNEDY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

Mr. ROBERT C. BYRD. Mr. President, I yield to the distinguished Senator from Massachusetts 10 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I thank the Senator from West Virginia.

Mr. President, the proposed constitutional amendment to balance the Federal budget is a misguided response to the growing nationwide concern over the deterioration of our economy. Today, the country is experiencing the highest unemployment since 1937, the highest interest rates since the Civil War, and the highest Federal deficits in history.

I have supported sensible efforts to halt inflation, to reduce the Federal deficit, and to bring Federal spending under control. I believe, however, that an amendment to the Constitution is an inappropriate response to our complex economic problems. Our Constitution works well for America because it embodies the fundamental rights and procedures that enable our democracy to function effectively. The Founding Fathers wisely excluded from the Constitution rules governing the financing of day-to-day Government operations. The proposal before us would reverse this approach, which has been followed for over 200 years. To enshrine a balanced budget or complex economic formula in the Constitution is a step that is as unwise as it is unprecedented. It might well prevent a future Congress or administration from responding appropriately and rapidly to an unforeseen domestic or foreign emergency.

Moreover, we do not need a constitutional amendment to have a balanced budget. Congress and the administration currently possess all the tools needed to balance the budget.

A balanced budget constitutional amendment is nothing more than a smokescreen which obscures the real issue of the administration's mismanagement of the economy. Instead of voting to balance the budget, Congress is voting to pass the buck to the States, so that the business of unbalanced budgets can proceed as usual.

They used to call Democrats big spenders. But the Reagan administration is breaking all records when it comes to deficit spending. The Reagan economic policy is awash in a sea of red ink, with deficits reaching $150 billion this year and likely to top $200 billion by 1985 unless a sensible economic plan is restored.

We are also deeply concerned about the 9.5-percent rate of unemployment, which means that more than 10.5 million Americans are without jobs. Workers everywhere are suffering. Unemployment in the construction trades alone increased by 50 percent last year, and automobile plants, steel mills, and papermills across the country are shutting down.

The prime interest rate hovers at 16 percent, and the last hope of first-home purchasers, the assumption of an existing mortgage at a lower rate, has been stripped away by recent court decisions. for most Americans

who are not already homeowners, the American dream of owning a home is disappearing.

I might say, Mr. President, in my own State of Massachusetts 7 out of 10 families had an income sufficient to purchase a new home 10 years ago. Now it is 1 out of 10. That is some reflection of the extraordinary amount of income that is necessary now to afford homeownership in the current economic climate of high unemployment and higher interest rates. Those facts and figures are repeated all across this Nation. They really do not even adequately reflect the anxiety and the frustration and the loss of hope for millions of young families in this country.

The signs of economic crisis are stark—personal bankruptcy filings increased by more than one-third in 1980 over the 1979 filings. The Farmers Home Administration reports that, as of the end of May, more than a third of its farm loans were delinquent. In the first half of this fiscal year, there were 351 foreclosures, compared with 140 foreclosures for all of the last fiscal year. During the same period, over 5,000 farm borrowers gave up their loan and their land.

These staggering statistics tell a tragic story for many Americans that transcends a balanced budget. The economic realities that have driven us deep into recession are complex; they cannot be resolved with a simplistic constitutional mandate.

I believe it was H. L. Mencken who once said, "For every complicated problem there is simple, easy answer, and it is wrong."

We are facing an extremely complicated problem trying to bring our economy back to economic growth and price stability. The answer that we are being given here this evening by those who support the balanced budget resolution is that if we pass the balanced budget resolution, it is going to be a simple, easy answer. As H. L. Mencken warned, I believe that the simple, easy answer of the balanced budget constitutional amendment will be wrong.

A specific formula for balancing the Federal budget does not belong in the Constitution. The one other time in the history of this country that we have tried to put into the Constitution protections other than the protection of individual rights and liberties was the time of prohibition, and we saw how inadequate that particular proposal was.

Again, Mr. President, the Constitution of the United States is the finest document that has ever been crafted for the protection of individual rights and liberties, and this particular amendment should not be a part of it.

The Constitution was never intended to enact a particular economic policy and certainly not intended to enact the administration's trickle down economics.

The proposals contained in the balanced budget constitutional amendment are opposed by numerous eminent economists. One of these, Prof. Gardner Ackley, Henry Carter Adams University of Michigan, recently prepared a thoughtful and articulate commentary on Senate Joint Resolution 58, entitled "Constitutional Limits on Federal Spending and Deficits." I commend this excellent paper to my colleagues and ask unanimous consent that it be printed in full in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1)

Mr. KENNEDY. The methods for managing Federal expenditures demand constant oversight and revision in order to meet the Nation's changing needs. The rigid straitjacket of constitutional amendment may easily prevent needed future changes in policy from being carried out.

As former Secretary of the Treausry Blumenthal testified before the Judiciary Committee in the last Congress:

> It is neither possible nor desirable to reduce the complex process of fiscal policy to the single constraint of budget balance. Flexibility is the necessary element of an effective fiscal strategy. Constitutionally mandating a balanced budget would undermine our efforts to develop and practice prudent economic policy.

It is important to note that "balanced budget" is not synonymous with a healthy economy. In some economic situations, notably a recession, an effort to force the budget into balance could make the situation worse. During a recession, revenues fall, outlays rise. These automatic responses stimulate the economy and lessen the severity of the downturn, at the cost of a temporary increase in the deficit.

A mandated balanced budget could nullify these automatic stabilizers and push the economy from recession to depression. The working men and women of America, small businesses, and even the largest corporations could all be losers under this rigid inflexible economic policy.

Three years ago, a study by the Council of Economic Advisers showed that if a mandate for a balanced Federal budget had been in effect during the recession of 1974–75, the unemployment rate would have climbed to 12 percent rather than 8.5 percent, and the gross national product would have plunged 12 percent rather than 2.5 percent below the 1973 level.

The specific proposal before us also raises fundamental questions of fairness, because it proposes a scheme that disproportionately hurts those at the bottom of the economic ladder. While requiring that outlays not exceed revenues, the amendment places severe limitations on tax increases by limiting the growth in Federal revenue to the prior year's growth in national income.

This is a blatant bailout for the wealthy; unemployed workers do not pay taxes. The effect of this tax limitation, coupled with the balanced budget rule, is to assure lower taxes for the rich and less Federal assistance for the poor and middle class.

This amendment, if enacted, may also become the device by which those who yearn to undo social security may finally get their way. They will say: Federal revenues have fallen short—and we cannot raise taxes to balance the budget. And then, they will argue that there is only one program—social security—big enough to be cut enough to achieve a balanced budget. Every senior citizen ought to be fighting this amendment. For this balanced budget amendment is in reality, the gut social security amendment.

Perhaps the most simplistic argument for the amendment is the suggestion that the national economy ought to be run the way a family budget is. Almost every household which is paying a home mortgage or financing an automobile or a college education is running a deficit. They are borrowing to meet these essential needs. To require that homeowners and parents balance their budgets on a current basis and eliminate their long-term debts would create enormous dislocations for no rational purpose.

The adverse effects of imposing a comparable requirement on the Federal Government defy calculation. A constitutional requirement that each year's budget be in absolute balance is narrow and dangerous. The Federal budget is a massive and complex process involving such basic issues as national defense, education, health care for the needy, the security of the elderly, and support for the unemployed. There are and will continue to be times when it is in the national interest to run a deficit in order to counter a recessionary spiral. The proposed amendment sharply limits our capacity to do so.

The so-called safety valve in the amendment—which allows a deficit by vote of three-fifths of the Members of Congress—is an illusory solution. As the experience with Senate filibusters makes clear, it is often extremely difficult to achieve a "supermajority" on an issue. The requirement of a three-fifth majority to override the balanced budget mandate virtually assures that the Federal Government will not adequately respond to sudden crises. The provision gives a minority in Congress the power to exert maximum leverage for their own pet ideas. If as David Stockman said, "the hogs were really feeding," during the trading over last year's tax bill, when only a simple majority was needed, they will be truly feasting in the trading for a three-

fifths vote. And as Members each obtain concessions to spend more and more dollars for their favored programs, the result will be an even higher deficit.

The American Federation of State, County, and Municipal Employees recently completed a computer study of the impact of the proposed amendment on the economy. The effect on key economic indicators through 1987 is shocking. The number of unemployed Americans in 1987 would soar to more than 2.5 million over what could be expected without a mandated balanced budget. GNP would be reduced by $519 billion between 1985–87, while the inflation rate would be trimmed by only 1.3 percent. In addition to the cuts in Federal programs expected this year, further reductions of about $116 billion in 1985, $125 billion in 1986, and $163 billion in 1987 would be required to achieve a balance.

These projections deserve careful scrutiny, and I ask unanimous consent that the four charts in which the results of the simulation study are presented be included in the RECORD.

There being no objection, the tables were ordered to be printed in the RECORD, as follows:

TABLE I.—BALANCED BUDGET/REVENUE LIMIT SIMULATION COMPARED TO DRI STANDARD FORECAST

	Fiscal years—		
	1985	1986	1987
Unemployment	+1,359,000	+2,541,000	+2,649,000
Unemployment rate	+1.2	+2.2	+2.2
Inflation	−0.4	−0.6	−0.3
Nominal GNP (billions)	−$121.0	−$175.8	−$221.8
Real GNP (percent)	−4.3	−5.2	−5.6
Investment (billions)	−$23.6	−$19.3	−$16.3
Percentage	−3.5	−2.5	−1.9
Federal outlays (billions)	−$115.6	−$125.0	−$162.7
Percentage	−12.8	−12.5	−14.9
Federal receipts (billions)	−$17.6	−$32.6	−$70.8
M1B growth rate	−1.1	+2.0	−0.5
Federal funds rate	−0.7	−3.3	−1.4
State and local revenues (billions)	−$30.5	−$41.2	−$48.8
Percentage	−6.3	−7.2	−7.8

TABLE II.—Estimated program losses from a 14 percent across-the-board cut in fiscal year 1985 Federal outlays

Federal program area:	*Millions*
National defense	$35,451
Social security	30,025
Medicare	9,121
Medicaid	3,518
Food and nutrition assistance	3,093
Unemployment compensation	3,077
Education	2,630
Employment and training	1,756
Social services	1,160
General revenue sharing	642

Note: These figures represent a 14 percent cut from the estimated fiscal year 1985 funding levels—which were obtained by adding a 6.5 percent inflation factor to the fiscal year 1984 program cost projections contained in the President's fiscal year 1983 budget proposal.

(Tables III and IV not reproducible in the RECORD).

Mr. KENNEDY. Another serious problem with the amendment is the question of enforcement. Once the amendment is adopted, it will subject every budget enacted by Congress to judicial review. It will be another bonanza for lawyers: It will do for the budget process what Congress has already done to the Tax Code. Indeed, under a balanced budget amendment, Congress might not even have the money needed to defend the balanced budget which it had passed from attack in the courts. The Federal budget is a legislative, not a judicial responsibility. It is properly a policy issue, not a constitutional one, and it ought to be settled in Congress, not the courts.

Finally, for the immediate future, this constitutional amendment is an exercise in political gamesmanship which only disguises the failure of the administration to keep its promises on the economy. It is ironic that the President who promised a balanced budget is giving us the highest deficits in history. In proclaiming its support for the amendment, the administration is saying, in effect, "balance the budget, but not until sometime in the future, after the amendment takes effect and after they have left office. What President Reagan has done on this issue is the budgetary equivalent of St. Augustine's prayer of long ago: 'Oh Lord, save me from my sins—but not yet.' "

I favor a balanced budget as part of a balanced prosperity of full employment and price stability. But I reject this transparent constitutional quick fix. This amendment is the constitutional equivalent in the 1980's of the prohibition amendment in the 1920's. If we pass it now and the States ratify it, a future Congress will have to repeal it later—after the damage is clear for all to see. Before we vote, we should ask ourselves: Should we buy this constitutional quick fix from the same people who gave us the Reagan-Kemp-Roth tax cut?

I hope that the Senate will have the commonsense to defeat this scheme by the Republicans to turn their voodoo economics into voodoo constitutional law.

Mr. President, the supporters of this measure, who place such a high premium on paying lip service to the concept of a balanced budget, are like those who say that an individual who rises every morning and pledges allegiance to the flag is a real patriot. I think the real patriots are those who are trying to make this country the kind of country that it should be and that our Founding Fathers believed that it would be and that I think so many of us on both sides of the aisle are trying to make it.

I think that patriotism is not just saying the Pledge of Allegiance or calling for a balanced budget. Patriotism is joining in the difficult work of trying to make this country a great source of opportunity and hope and vision for the millions of people in this Nation and the millions of people all over the world.

Mr. President, this particular amendment does not further the goals of this great Nation. It has no place in the Constitution of the United States and I urge that it be rejected.

I thank the minority leader for yielding time.

EXHIBIT 1

CONSTITUTIONAL LIMITS ON FEDERAL SPENDING AND DEFICITS—A COMMENTARY ON SENATE JOINT RESOLUTION 58

(By Gardner Ackley and Henry Carter Adams, University Professor of Political Economy, the University of Michigan)

A proposed Constitutional Amendment, embodied in Senate Joint Resolution 58, would restrict both Federal Government deficits and the level of Federal expenditures. It lacks either economic or political justification. The case for this amendment rests primarily on the view, expressed in the Report of the Committee on the Judiciary [1] that: ". . . in large measure, the nation's economic problems are attributable to the Federal Government's persistent failure to balance its budget. Persistently high levels of inflation and unemployment, and declining levels of growth and productivity can all be traced directly or indirectly to the fiscal policies and practices of the national government."

These statements, it will be noted, are statements of an economic theory. One would suppose that a proposal to amend the Constitution of the United States on the basis of an economic theory would therefore be supported both by a wide consensus of the views of the most distinguished professional economists, and by a detailed economic analysis. The Committee Report on this proposal provides neither evidence of any consensus of professional opinion nor any substantial economic analysis in support of its recommendation. It could not provide such support because it does not exist.

Instead, these proposals are opposed by an overwhelming majority of professional economic opinion. Support for the Constitutional limitations appears mainly to reflect an incoherent public revolt—the dimensions of which are uncertain—against taxes, government spending, and budget deficits. This revolt has clearly been stimulated by the unsatisfactory economic performance of the 1979's and early 1980's. But there is every reason to believe that, had the proposed Amendment been in force during this period, economic performance would not have been significantly better; it might well have been worse.

POLITICAL ARGUMENTS FOR THE AMENDMENT

One line of argument used to support a Constitutional limit on expenditures, taxes, or deficits argues that an inevitable tendency exists for democratic governments to overspend, and therefore, perhaps, to overtax. The Judiciary Committee Report begins by presenting this view, quoting at some length from the Italian economist Vilfredo Pareto, who almost a century ago

[1] "Balanced Budget-Tax Limitation Constitutional Amendment," Report of the Committee on the Judiciary, U.S. Senate, on Senate Joint Resolution 58, July 10, 1981.

theorized about a built-in bias in favor of public spending. This bias is supposed to result from the fact that each of the limited number of beneficiaries of public spending has a larger interest in the outcome than does the typical individual taxpayer. Several more recent economists are quoted in similar vein, including particularly the distinguished Arthur Burns, and a Professor Charles Baird, of the State University of California (Hayward).

It is conceivable that Pareto's classic theory may have had some validity in nineteenth-century Italy, where taxes were mainly indirect and hence invisible, levied on a mainly unenfranchised population, while expenditures were directed toward a relatively small range of purposes, beneficial mainly to hereditary aristocrats, or members of a newly-emerging entrepreneurial class. However, this argument has essentially no validity in the current U.S. setting. Our taxes are mainly direct taxes (levied on property, incomes, and payrolls), and thus are clearly visible—to a completely enfranchised taxpaying public. Indeed, exactly the reverse proposition may be more relevant in this current setting. Where taxes are direct and highly visible, while government expenditures are scattered over a mulitude of complex programs, serving a wide variety of public interests, the more relevant phenomena may be the "tax revolt"—by voters most of whom know or care very little about most of the purposes and results of government spending. Each voter, and each legislator, can be sure that there is plenty of room for the particular public services that interest him within whatever tax (or spending) limit he may support. The proposed amendment here under consideration is clearly a product of that "tax revolt"—not a needed correction of a built-in bias toward spending.

Whatever the political theory that supports such a Constitutional limit on government deficits and government spending, it has disturbing implications for believers in representative government. By permitting a minority of two-fifths of the Membership of either the House or the Senate to block actions supported by a substantial majority—and to do so merely by being absent—it implies that our representative system cannot be trusted to make intelligent choices in budgetary matters. If this is the case for taxes and spending, can we trust it for questions involving social relations, education, foreign affairs, and civil rights? Indeed, do not most spending and taxing decisions ultimately rest on broader considerations in these or similar areas?

THE SUPPLY-SIDE ARGUMENT FOR CUTTING TAXES AND EXPENDITURES

One allegedly economic argument sometimes employed to support a limitation of taxation, and, by implication, a limitation of government expenditures, is the "Supply-Side" theory popularized by Arthur Laffer and a handful of associates (Wanniski, Roberts, Ture, Kemp, Roth, and Lehrman). The argument relates essentially to taxes, not expenditures. However, although the professional "Supply-Siders" themselves are entirely unconcerned about deficits, it seems clear that any significant reduction of taxation would generate strong political support to limit government spending as well. Indeed, the relatively few prominent economists (and many non-economists) who supported the Kemp-Roth tax cuts apparently did so not because they were impressed by the allegedly supply-side effects of tax cuts, but rather because they knew or believed that cutting tax revenues would require, or at least strongly encourage, cutting government expenditures, too.

The Supply-Side argument is simple. Laffer and his followers argue that the taxes which now finance government spending significantly reduce the incentives to supply productive services, for either public or private use. With materially lower tax rates in effect, they argue, the total supplies of labor, capital, management, and risk-taking would expand significantly, as would, therefore, the volume of total production, and the aggregate of private incomes. Such an expansion of total production and incomes is alleged by "Supply-Siders" to be potentially so substantial that lower tax rates might actually produce higher rather than lower government revenues, thus permitting both government spending and private spending to rise.

It is clear that economists overwhelmingly reject the Supply-Side case for cutting taxes. Of 67 leading economists polled by the Budget Committees and the Ways and Means Committee in 1978, only 18 appeared clearly to favor the Kemp-Roth tax cuts. And, of those economists who favored Kemp-Roth, only a handful reported that they believed the potential supply-side response to be other than trivial. Rather, they believed that cutting tax rates would force cuts in government spending.[1]

THE SIZE OF GOVERNMENT IN THE UNITED STATES

It is usually taken for granted by supporters of Federal tax or spending limits that the Government (often characterized as "Leviathan" has an insatiable appetite for tax revenues, that cause it to grow continually and uncontrollably. The evidence for the proposition is seldom adduced; but, when it is, it obviously fails to support the concept of Leviathan. Several tables below review the available evidence on the size and character of government spending and taxes in the United States, during selected years from 1956 to 1981.[2]

If one looks only at the first line of Table I, some support may appear for the hypothesis. Over the past twenty-five years (1956–1981), total government spending rose from just under a quarter (24.8 percent) of GNP to just over a third (33.5 percent).[3] However, a more detailed examination indicates the following:

(1) Almost the entire increase in government spending as a percentage of GNP reflects the expansion of transfer payments, which rose from 4.1 percent of GNP in 1956 to 11.1 percent in 1981. Through transfer programs, government reduces all incomes (by taxation) in order to support the incomes of particular groups; but it draws no net resources from the private sector to public use. (The administrative costs of the transfer programs are not included in Transfer Payments; rather, they appear in government purchases of goods and services.) Transfer payments are overwhelming Federal. Most of their growth was in Social Security Retirement Benefits, and merely reflects the maturing of that system.

(2) Total government purchases of goods and services—which include the services of government employees—have remained at a flat 20 percent of GNP over the entire period. The generalization that one-fifth of total production of goods and services in the United States has typically been put to public use in thus well supported.

(3) Expenditures of State and local governments grew by 4.2 percent to GNP between 1956 and 1981, while total expenditures of the Federal Government (net of grants to State and Local Governments) grew by exactly the same 4.2 percent of GNP.

(4) Federal purchases of goods and services have varied over the period, but show no trend in either direction.

(5) Federal non-defense purchases of goods and services are trivial; they rose from 1.4 percent of GNP in 1956 to 2.6 percent of GNP in 1981; State and local purchases (essentially all non-defense) are much larger, however, and rose from 7.9 percent of GNP in 1956 to 12.1 percent in 1981.

TABLE I.—GOVERNMENT EXPENDITURES IN THE UNITED STATES, BY TYPE, AS PERCENTAGES OF GROSS NATIONAL PRODUCT, SELECTED YEARS, 1956–81 [1]

Category of expenditures	Percentages of gross national product				
	1956	1965	1969	1978	1981
Total Government expenditures	24.8	27.2	30.4	31.6	33.5
Transfer payments to persons	4.1	5.5	6.7	10.1	11.1
Purchases of goods and services	18.8	20.0	22.1	20.0	20.0
Defense	9.5	7.1	8.1	4.6	5.3
Nondefense	9.3	12.8	14.1	15.3	14.7
Other [2]	−0.7	1.6	2.2	3.6	3.0
Federal Government:					
(Federal gross expenditures)	(17.1)	(17.9)	(20.0)	(21.4)	(23.5)
(Federal grants to State and local governments)	(0.8)	(1.6)	(2.2)	(3.6)	(3.0)
Federal direct expenditures	16.3	16.3	17.8	17.8	20.5
Transfer payments to persons	3.2	4.4	5.4	8.6	9.7
Purchases of goods and services	10.9	9.7	10.3	7.1	7.9
Defense	9.5	7.1	8.1	4.6	5.3
Nondefense	1.4	2.5	2.3	2.4	2.6
Other [2]	−0.3	1.9	1.9	2.1	2.9
State and local government:					
Total expenditures	8.5	10.9	12.6	13.8	12.7
Transfer payments to persons	0.9	1.1	1.3	1.5	1.4
Purchases of goods and services	7.9	10.3	11.8	12.9	12.1
Other [2]	−0.4	−0.5	−0.5	−0.6	−0.8

[1] Categories are as defined in U.S. national income and product accounts.
[2] "Other" expenditures are net interest (interest paid less interest received), plus subsidies minus current surplus of government enterprises.
Source: U.S. Department of Commerce (national income and product accounts), Bureau of Economic Analysis.

[1] See "Leading Economists' Views of Kemp-Roth," Committee on the Budget, U.S. House of Representatives, and Senate Budget Committee (August 1978); and "Tax Reductions: Economists' Comments on H.R. 8333 and S. 1860 (The Kemp-Roth Bills)", Committee on Ways and Means, U.S. House of Representatives (September 8, 1978). These committee reports print the opinions of 67 leading economists on Kemp-Roth. My reading of their responses leads me to tabulate 44 as opposed to Kemp-Roth, 18 in possible support and 5 whose opinions are unclear from their letters. Of the 18 in possible support and the 5 whose views were unclear, a number specifically disavowed the "supply-side" argument. (So, of course, did essentially all of the 44 who opposed Kemp-Roth). Rather, the economists who supported Kemp-Roth mainly defended it only if the tax cuts were to be accompanied by equivalent cuts in spending, as indeed most of them assumed would happen if Kemp-Roth were enacted. On request, I will supply a list of those economists who responded in 1978 to the requests for their views on Kemp-Roth by the three committees, along with my interpretation of the nature of their advice. I will also supply a copy of my own detailed critique on the "Supply-Side" case for massive tax cuts, contained in my lecture of October 30, 1981 before the Illinois Economic Association.

[2] The years are chosen to span a quarter century, and were essentially prosperous years (except 1981); they include years of both Republican and Democratic Presidents and Congresses.

[3] Since these data come from the National Income Accounts, they include "off-budget" as well as budgetary expenditures.

Table II measures the size of Leviathan's work force. Although State and local governments employ substantial numbers of workers (teachers are the largest single category), Federal civilian employment is small (less than 3 percent of the labor force) and has been declining.

Table III shows that total government tax receipts were 25.6 percent of GNP in 1956, and rose rather steadily to 32.7 percent of GNP in 1981. Of this increase of 7.1 percentage points, 3.3 is attributable to Federal taxes, 3.8 to taxes of State and local governments. Between 1969 and 1981, Federal taxes as a percentage of GNP grew from 30.7 to 32.7, hardly a dramatic rise. Federal personal taxes (including half of total Social Insurance Contributions) reached 16.5 percent of Personal Income in 1981.

TABLE II.—GOVERNMENT CIVILIAN EMPLOYMENT IN THE UNITED STATES, AND GOVERNMENT EMPLOYMENT AS A PERCENTAGE OF THE CIVILIAN LABOR FORCE, SELECTED YEARS, 1956–81

Year	Number of civilian wage and salary workers employed (millions)			Government civilian employees as percentage of the civilian labor force		
	Total Government	State and local	Federal	Total Government	State and local	Federal
1956	7,278	5,069	2,209	11.4	7.9	3.5
1965	10,074	7,696	2,378	14.1	10.8	3.3
1969	12,195	9,437	2,758	15.7	12.2	3.5
1978	15,691	12,919	2,753	16.3	13.4	2.9
1981	16,054	13,282	2,772	15.9	13.2	2.8

Source: U.S. Department of Labor, Bureau of Labor Statistics.

TABLE III.—GOVERNMENT TAX RECEIPTS IN THE UNITED STATES, AND RECEIPTS IN RELATIONSHIP TO GROSS NATIONAL PRODUCT AND PERSONAL INCOME, SELECTED YEARS, 1956–81

	1956	1965	1969	1978	1981
A. Government tax receipts (billions of dollars):					
All governments:					
Total taxes	108.0	184.0	289.7	664.3	956.1
Personal taxes [1]	44.5	77.1	137.1	329.3	507.6
Federal Government:					
Total taxes	78.3	120.0	189.8	414.2	626.1
Personal taxes [1]	38.8	63.7	112.3	253.1	397.5
State and local governments:					
Total taxes	31.7	64.0	99.9	250.1	330.0
Personal taxes [1]	5.7	13.4	24.8	76.2	110.1
B. Total tax receipts as percentage of gross national product:					
All governments	25.6	26.6	30.7	30.8	32.7
Federal Government	18.1	17.4	20.1	19.2	21.4
State and local governments	7.5	9.3	10.6	11.6	11.3
C. Personal tax receipts [1] as percentage of personal income:					
All governments	13.4	14.3	18.2	19.1	21.1
Federal Government	11.7	11.8	14.9	14.7	16.5
State and local government	1.7	2.5	3.3	4.4	4.6

[1] Personal tax receipts are estimated by adding one-half of "Contributions to Social Insurance" to "Personal Tax and Non-tax receipts."

Source: U.S. Department of Commerce (national income and product accounts), Bureau of Economic Analysis.

INTERNATIONAL COMPARISONS OF TAXES, SPENDING, AND DEFICITS

Many who campaign for limitations on government spending or deficits seem to believe that lower rates of government taxation or spending may account for the fact that some other countries' economies have experienced faster rates of economic growth than has the United States, or better records on inflation. Statistical evidence provides no clear support for such allegations. For example, Table IV compares government purchases of goods and services in the major industrial countries, in the most recent year for which comparable data are available (1980). (These purchases are by all levels of government, expressed as a percentage of Gross National Product.) What is striking is the similarity of the percentages, with all of the principal industrial countries except Germany and United Kingdom using for public purposes between 19.5% and 21.9% of total ouput in 1980. One of the two countries with which U.S. economic performance is most often compared unfavorably is Germany, which used 24.2% of GNP in the form of public spending, versus 20.4% in the United States. The other such country is Japan, whose percentage is insignificantly below ours.

LIMITING GOVERNMENT DEFICITS

The proposed Constitutional Amendment would limit not only Federal Government expenditures, but deficits as well. One might suppose that such a proposed limit on deficits would be supported both by a consensus of economic theorists, as well as by a detailed, quantitative analysis both of U.S. experience with deficits, and that of other nations. Neither the consensus of economic theorists, nor the analysis of the effects of deficits is provided (or even referred to); for it would not support the proposal.

The only effort of which I am aware to obtain the views of a substantial number of economists on a prohibition of Federal deficits was one that I made in the spring of 1979, at the suggestion of a Member of the House Budget Committee. I drafted and circulated, with the help of a few friends, an Economists' Open Letter opposing the then proposed Constitutional Amendment to bar Federal deficits (different only in detail from the present one). Within a few weeks, more than 500 professional economists had signed the letter, including five who (now) are recipients of the Nobel Prize in Economics, and eight who have (now) served as President of the American Economic Association. The letter, with its list of signers, was printed in a Report of the House Budget Committee dated April 13, 1979: "Toward a Balanced Budget: Report Pursuant to Public Law 96-5." If there is any thought that leading economists may have changed their minds about the effects of deficits. I suggest that it woud be simple to ask for the views on this question of all American Nobel Prize winners in Economics, or of all living ex-presidents of the American Economic Association. I predict that such a survey would find a lop-sided vote against the theoretical proposition that holds government deficits to be a primary cause of all, or even any significant part, of our economic ills.

TABLE IV.—*Government purchases of goods and services as a percentage of gross national product, 1980*[1]

United States	20.4
Japan	19.5
Germany	24.2
France	20.8
United Kingdom	26.8
Italy	21.9
Canada	20.2

[1] Percentages are computed from data—designed to be comparable—in "OECD Economic Outlook, 30" (December 1981), pp. 61, 67, 72, 78, 84, 89, 94. For the United States, the percentage shown is "government expenditure" as a percentage of GNP. For all other countries, it is the sum of "government consumption" and "public fixed investment" as a percentage of GNP. (Public fixed investment includes the expenditures of nationalized industries and public corporations in the cases of Japan, United Kingdom, and Italy, but excludes these investments in Germany and Canada.)

The fact that government deficits have occurred in almost all countries during the recent period of "stagnation" may not be well known to the public or to members of Congress. But that is surely the case, including all leading industrial countries. Table V, below, is reproduced from "OECD Economic Outlook," December 1981 (page 23), published by the Organization for Economic Co-operation and Development, the international organization of the major industrial countries of Europe, plus Canada, United States, Japan, Australia, and New Zealand.

TABLE V.—GENERAL GOVERNMENT FINANCIAL BALANCES IN THE MAJOR SEVEN OECD COUNTRIES, 1978–82 [1]

[Surplus (+) or deficit (−) as percentage of nominal GNP/GDP]

	1978	1979	1980	1981 [2]	1982 [2]
United States	0	+0.5	−1.2	−0.7	−1.3
Japan	−5.5	−4.7	−4.1	−3.6	−2.0
Germany	−2.7	−2.9	−3.4	−4.4	−4.0
France	−1.8	−.6	+.4	−2.4	−2.7
United Kingdom	−4.3	−3.2	−3.5	−2.3	−1.4
Italy	−9.7	−9.4	−7.8	−9.4	−9.7
Canada	−3.1	−1.9	−2.1	−.1	−1.2
Total of above countries [3]	−2.5	−1.9	−2.5	−2.5	−2.4

[1] On an SNA basis except for the United States, the United Kingdom and Italy which are on national income account basis.
[2] OECD estimates and forecasts.
[3] 1980 GNP/GDP weighted.

It is particularly interesting to note that:

(a) each of the countries has had budgetary deficits in each of the years shown, except for the United States in 1979 and France in 1980;

(b) U.S. deficits have, in every year, been smaller as a percentage of GNP than the average of the seven countries (an average which, of course, is itself heavily weighted by the U.S. results); moreover, in most years, U.S. deficits are the lowest of any country shown; and

(c) the two countries whose economic performance is most often described as better than ours—Japan and Germany—have, in each year, had considerably larger deficits than ours. Simply averaging the five annual percentages [5] for each country produces the following average budget deficits as percentages of GNP for 1978–1982: United States, 0.54; Japan, 3.98; and Germany, 3.48.

DEFICITS DO MATTER

To argue that there is no inevitable relationship between budget deficits and economic outcomes is not to argue that "deficits don't matter." On the contrary, deficits can matter very much—both for ill and for good; but deficits per se are neither good nor bad. There are times when they are not only appropriate but even highly desirable; and there are times when they are inappropriate and dangerous. This is surely the view of the overwhelming majority of economists who specialize in macroeconomics. During a recession or a period of "stagflation", deficits are nearly unavoidable, and are normally constructive rather than harmful. An attempt to balance the budget in a year like 1980, 1981, or 1982 would be prohibitively costly—in jobs, production, and real incomes—and perhaps even impossible to achieve on any terms. On the other hand, large deficits in a period of substantially expanding output and employment can easily produce excess demand, over-full employment, and escalating inflation.

[5] Similar percentages for the same countries for 1975, 1976, and 1977, appear in a table in "OECD Economic Outlook," July 1978, page 17; they show the same relative outcomes for those years. (In that table, a "surplus" is described as "government net lending.")

Thus, the mere prospect that massive Federal deficits would persist in a future period of expanding output and employment, along with the currently believable commitment by the Federal Reserve not to accommodate inflation by extra increases in the money supply, have been making recovery from our current severe recession practically impossible, even given the massive fiscal stimulus reflected in the prospective deficits. This paradox reflects the mess that we have got ourselves into through the combination of giant Kemp-Roth tax cuts—mostly still in the future, but fully legislated—and proposed massive increases in defense spending.

Participants in financial markets, Boards of Directors considering investment programs, unions and managements negotiating three-year wage bargains have been unable to imagine the world that the President's 1983 Budget assumed—a world in which real GNP would grow by 5.2 percent in 1983, 5.0 percent in 1984, and 4.7 percent in 1985, with the unemployment rate falling by the fourth quarter of 1985 to 6.2 percent, the Treasury bill rate to 8.5 percent, the inflation rate to 4.6 percent—all this, while the deficit under the President's February 1982 fiscal program would rise from about $175 billion in fiscal year 1983 to about $275 billion in fiscal year 1985.

However, simply because deficits at the wrong time can be extremely dangerous is no reason to prohibit deficits at all times—or even to make them available only if three-fifths of the members of each House specifically so approve. Twenty-one stubborn Senators, or 112 Members of the House of Representatives, might threaten severe economic and political damage to the national welfare.

CONCLUDING COMMENT

This memorandum has not been the place to attempt to summarize, explain, and justify the treatment of government expenditures, taxes, and deficits-surpluses in the standard macro-economic analysis used by the overwhelming majority of economists in their research, advising, Congressional testimony, speaking, and teaching. But even the relatively small number of dissenters from that standard analysis would surely agree that support for the proposed Constitutional Amendment cannot be found in the standard analysis.

Finally, this memorandum ignores the fact that glaring loopholes in the language of the proposed Amendment might well prevent it from having any significant effect on government spending, taxes, or deficits. This fact, however, is hardly an argument for its adoption; if anything, it is another strong reason not to clutter up our Constitution with unwarranted and indefensible economic nonsense.

Mr. KENNEDY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. On whose time?

Mr. KENNEDY. Equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, there appears to be no further debate on the resolution this evening. There is no further amendment. There is one pending and will be pending tomorrow when we reconvene. The Senate will be back on the resolution at 10:30 a.m., according to the order previously entered.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I ask unanimous consent that there now be a brief period for the transaction of routine morning business, not to extend past 6:30 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I hope that in a few moments we will be in a position to take care of a closing ritual. There are certain matters that I believe can be disposed of by unanimous consent; and as soon as my diligent and dedicated staff present me with a list of those items, I will attempt to clear them with the minority leader.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982—H.R. 4961

Mr. BAKER. Mr. President, as I indicated earlier, it is my hope that we can go forward now with the machinery necessary to go to conference with the House on H.R. 4961, the reconciliation bill of the Finance Committee, which was dealt with previously.

In that connection, I move that the Senate insist on its amendments to H.R. 4961, request a conference with the House thereon, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to; and the Chair appointed Senators DOLE, PACKWOOD, ROTH, DANFORTH, LONG, HARRY F. BYRD, Jr., and BENTSEN conferees on the part of the Senate; and on title IV only, excluding section 406(e), Senators PACKWOOD, KASSEBAUM, and CANNON.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield?

Mr. BAKER. I yield.

Mr. ROBERT C. BYRD. Mr. President, I think this is an arrangement with respect to conferees that satisfies some of the concerns on both sides. Senator CANNON particularly was concerned with respect to a section of the bill dealing with ADAP.

The majority leader has worked out this arrangement in a very nice way which allows Senator CANNON to be present at the conference when that portion of the bill is discussed. I thank the majority leader.

Mr. BAKER. I thank the minority leader.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, I have other requests which I believe have been presented to staff on both sides and appear to be available for action by unanimous consent, and I will state them now for the consideration of the minority leader and other Senators.

NATIONAL PURPLE HEART WEEK

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of House Joint Resolution 526, relating to National Purple Heart Week, and I ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title. The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 526) authorizing and requesting the President to issue a proclamation designating the week of August 1, 1982, through August 7, 1982, as "National Purple Heart Week."

The PRESIDING OFFICER. Is there objection to the request of the majority leader?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOLE. Mr. President, on June 29, I introduced Senate Joint Resolution 207, designating the week of August 1 though August 7, 1982, as "National Purple Heart Week." Six of my colleagues—Senators DENTON, HEFLIN, INOUYE, MATSUNAGA, MELCHER, and THURMOND—all recipients of the Purple Heart award, joined me in sponsoring this measure. Subsequently, the list of cosponsors has grown to 50. I appreciate the support of so many Members for this measure which seeks to honor in a small way those men and women who have been wounded or killed in action against enemies of the United States.

House Joint Resolution 526 is now before the Senate for final passage after consideration by the Judiciary Committee. As I noted in my "Dear Colleague" letter discussing the subject, the Purple Heart Award was reestablished in 1932 by the U.S. Army after it had lain dormant for many years. Gen. George Washington originally established the award of military merit on August 7, 1782. It was unique in that it was designed to be awarded to soldiers of the Continental Army, the first of its kind. After the Revolutionary War it fell into disuse. In 1932,

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Gen. Douglas MacArthur was successful in reestablishing the award. This time, however, it was to be awarded to any Army personnel who were killed or wounded in combat against an enemy of the United States. Subsequently, the award was authorized for Navy, Marine, and Coast Guard personnel. Now, of course, all armed service personnel are eligible to receive it.

It is fitting that we mark the 50th anniversary of the reestablishment of the Purple Heart Award with the designation of the week of August 1 through 7, as National Purple Heart Week. It honors those men and women of our Armed Forces who have given more of themselves than has been required of other service personnel. They share a unique bond. The award cannot be earned by hard work or skill or ingenuity. When you see the medal ribbon on the breast or in the lapel of the recipient you know that they bore the brunt of the task of protecting this country. Needless to say, Arlington and many other cemeteries here and abroad, are filled with those who have earned this honor.

It was also in 1932 that the Military Order of the Purple Heart was established to look after the interests of the holders of the Purple Heart Award. It is also fitting that we mark its 50th anniversary this month by passage of the tribute which that fine organization has suggested.

I thank those who joined me in this effort in the Senate.

The PRESIDING OFFICER. The question is on third reading and passage of the joint resolution.

The joint resolution (H.J. Res. 526) was ordered to a third reading, was read the third time, and passed.

The preamble was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I move to indefinitely postpone Calendar Order No. 722, Senate Joint Resolution 207, which is the Senate companion bill.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

RECOGNITION OF AMERICAN EX-PRISONERS OF WAR ORGANIZATION

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be discharged from further consideration of H.R. 5380 relating to American ex-prisoners of war, and I ask unanimous consent that the Senate proceed to the immediate consideration of that measure.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5380) to recognize the organization known as American Ex-Prisoners of War.

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be offered, the question is on the third reading and passage of the bill.

The bill (H.R. 5380) was ordered to a third reading, was read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. I thank the Chair.

Mr. President, I now move to indefinitely postpone the Senate companion bill, S. 2174, which is Calendar Order No. 721.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Tennessee.

The motion was agreed to.

DELAY OF THE EFFECTIVE DATE OF PROPOSED AMENDMENTS TO RULE 4 OF THE FEDERAL RULES OF CIVIL PROCEDURE

Mr. BAKER. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on H.R. 6663.

The PRESIDING OFFICER (Mr. CHAFEE). The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 6663) to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.

The PRESIDING OFFICER. Without objection, the bill will be considered as having been read twice by its title and the Senate will proceed to its immediate consideration.

The bill was considered, ordered to a third reading, read the third time, and passed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. ROBERT C. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

Mr. BAKER. Mr. President, there are certain items on today's Executive Calendar which I am prepared to deal with and one other item on the calendar of general orders.

I first invite the attention of the minority leader to Calendar Order No. 709, S. 1785 and ask if he is in a position to consider that matter at this time.

Mr. ROBERT C. BYRD. Is that on the Executive Calendar?

Mr. NUNN. It pertains to labor racketeering.

Mr. ROBERT C. BYRD. Yes. We are ready to proceed.

Mr. BAKER. Mr. President, I apologize to the minority leader. I am told that one Member on this side who has an interest in this matter and wishes to be in the Chamber when it is addressed is not yet here.

So I postpone that for the moment and instead inquire of the minority leader if he is in position to consider certain items on today's Executive Calendar. The ones I hope we might consider begin under New Reports on page 4, the U.S. Postal Service, National Council on the Humanities, continuing through page 5, including the heading The Judiciary, which is the entire list.

Mr. ROBERT C. BYRD. Yes.

Mr. President, those nominees have been cleared by Senators on this side.

Mr. BAKER. I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I now ask unanimous consent that the Senate go into executive session for the purpose of considering the nominations just identified.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask that the clerk report the nominations.

U.S. POSTAL SERVICE

The assistant legislative clerk read the nomination of Peter E. Voss, of Ohio, to be a Governor of the U.S. Postal Service.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

NATIONAL COUNCIL ON THE HUMANITIES

The assistant legislative clerk read the nomination of A. Lawrence Chickering, of California, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Gertrude Himmelfarb, of New York, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of James Clayburn La Force, Jr., of California, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER (Mr. SPECTER). The nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Rita Ricardo-Campbell, of California, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Peter J. Stanlis, of Illinois, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Walter Berns, of Maryland, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of George Carey, of Virginia, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

The assistant legislative clerk read the nomination of Ellis Sandoz, of Louisiana, to be a member of the National Council on the Humanities.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

THE JUDICIARY

The assistant legislative clerk read the nomination of J. Lawrence Irving, of California, to be U.S. district judge for the southern district of California.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I ask unanimous consent that it may be in order to move to reconsider en bloc the votes by which these nominees were confirmed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. I so move, Mr. President.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate now return to legislative session.

The PRESIDING OFFICER. Without objection, it so ordered.

LABOR MANAGEMENT RACKETEERING ACT

Mr. BAKER. Mr. President, I now see the distinguished Senator from Oklahoma is on the floor. He had indicated a desire to be present when we considered S. 1785, I believe, and I am prepared to proceed to that item now, if the minority leader is prepared.

Mr. ROBERT C. BYRD. Mr. President, the minority is prepared to go forward.

Mr. BAKER. I thank the minority leader.

I ask the Chair to lay before the Senate Calendar No. 709, S. 1785.

The PRESIDING OFFICER. The clerk will state the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1785) to increase the penalties for violations of the Taft-Hartley Act, to prohibit persons, upon their convictions of certain crimes, from holding offices in or certain positions related to labor organizations and employee benefit plans, and to clarify certain responsibilities of the Department of Labor.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike out all after the enacting clause, and insert the following:

That this Act may be referred to as the "Labor Management Racketeering Act of 1982".

SEC. 2. (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee violates this section,

to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled "An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101-115).

SEC. 3. (a) So much of subsection (a) of section 411 of title 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, which-

ever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee benefit plan without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 4. (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitles its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity that involves decision-making authority concerning, or decision-making authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization or employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 5. (a) The first paragraph of section 506 of title 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"Coordination and responsbility of agencies enforcing Employee Retirement Income Security Act and related Federal laws".

Mr. HATCH. Mr. President, I am pleased to bring to the floor today, S. 1785, the Labor Management Racketeering Act of 1982. The fact that this bill is presented to the Senate in its present form is a tribute to the industry and diligence of Senator NICKLES, the chairman of the Labor Subcommittee, and the cooperation of the ranking minority member of the Senate Labor and Human Resources Committee, Senator KENNEDY. Their efforts have insured that this legislation reflects a bipartisan effort.

I would also like to give special recognition to Senators NUNN and RUDMAN. The comprehensive record on union corruption as it exists on our waterfronts is directly the result of their vigorous and tireless leadership

of the Permanent Subcommittee on Investigations.

S. 1785 is one of the most critical pieces of labor legislation which Congress will vote on this year. Without question, corrupt union officials and management representatives pose one of the most sinister threats to the health and well-being of the trade union movement and to our industrial democracy. Their existence undermines the integrity of the collective-bargaining process; their activities taint the hard work of thousands of honest, committed union officers and members. They have literally robbed the American public of millions of dollars in bribes, kickbacks, and payoffs, sapping the economic resources we so desperately need to increase productivity and generate employment opportunities. Their disregard for Federal labor laws and the Government's correlative failure to enforce these statutes aggressively has undermined the statutory and regulatory prohibitions devised by Congress over the last 30 years to combat the existence of union corruption.

Some have contended that union corruption is more a cliche than fact, that unions are being unfairly categorized in the press and in Congress because of the criminal activities of only a handful of corrupt officials. It is true that the majority of union members and union officials are honest men and women, committed to the principles of collective bargaining and our economic system. Unfortunately, it is also true that many officials are not so committed; instead, they look upon labor management relations as a field ripe for manipulation and abuse for personal gain and profit. Moreover, they perceive Government enforcement as being lax at best, and the penalties if one is actually caught as being more of a minor, temporary nuisance than true punishment.

The endorsement of this legislation by Lane Kirkland, the distinguished president of the AFL-CIO, and Douglas Fraser, president of the United Auto Workers, underlines the reality and seriousness of the problem before us today. It is a tribute to these two men that they have been willing to work with us to insure that the bill is both effective and fair.

How serious is the problem of labor corruption and abuse of our Federal labor statutes? Take for example the case of the International Longshoremen's Association. In 1975, the Department of Justice launched a nationwide investigation of racketeering in our waterfronts on the east and gulf coasts. Their sweeping inquiry produced evidence that organized crime was heavily involved in racketeering, and the Department's efforts ultimately led to the criminal convictions of more than 100 high level ILA officials and shipping company executives.

In 1981, the Senate Permanent Subcommittee on Investigations held hearings which revealed that the convictions obtained by the Justice Department had not broken our waterfronts free from the grip of orgainized crime and other criminal elements. Today, corruption is still part of doing business in some of our Nation's ports. Payoffs are considered an expected business expense and their cost is routinely passed on to the consumer. In other words, the citizens of this country have been forced into financing criminal activities in our ports.

Consider the case of one of these officials, Mr. Landon Williams, the president of the Jacksonville, Fla. Local of the ILA, No. 1408. He is also a trustee of eight different pension and welfare plans associated with local 1408. In 1979, Mr. Williams was convicted of accepting some $22,000 in bribes. He was selling labor peace. Testimony at his trial revealed that part of the bribe money was generated when Mr. Williams allowed an employer to discount pension contributions so that the excess money could be paid to him. Furthermore, the testimony in that trial included direct evidence that Mr. Williams had accepted payoffs from undercover law enforcement officers.

One would presume that Mr. Williams is now in jail or that he at least is no longer a union official or a trustee of the eight pension and benefit plans associated with local 1408. In fact, he is still president of the local and he is still serving as a trustee. Under current law, he can retain these positions despite his conviction because he has appealed the trial court's judgment.

Is Mr. Williams an exception? Unfortunately, he is not. The following ILA officials were found guilty but are still serving in their union offices:

George Barone, international vice president, local 1922; convicted on September 1, 1979 for racketeering, extortion, prohibited payments and tax fraud.

William Boyle, international vice president, local 1922; convicted on September 1, 1979 for racketeering, extortion, kickbacks and prohibited payments.

Cleveland Turner, executive board member of the Atlantic and Gulf Coast District, Local 1922; convicted on September 1, 1979 for racketeering and prohibited payments.

James Vanderwyde, coordinator of the Atlantic and Gulf Coast District, Local 1922; convicted on September 1, 1979 for racketeering, prohibited payments and extortion.

These problems are not limited to the International Longshoremen's Association. In hearings I held early this year, it was revealed that between 1973 and 1977 corporations controlled by Morris Shenker or his family borrowed $24 million from the Southern Nevada Culinary Workers' Pension Fund. At one point in 1977, the $24 million he had borrowed represented almost 65 percent of the fund's total assets of $37 million. Of that total, $15 million in loans dated after 1974 were in clear violation of the Employee Retirement Income Security Act of 1974. These loans have never been repaid.

In 1981, Mr. Shenker and the Internal Revenue Service entered into a settlement for back taxes amounting to $199,000. The settlement indicated that "any alleged liability or tax under ERISA which had been or may be assessed by the IRS against Shenker would be final, conclusive and binding." Shenker is now arguing that the language of this settlement precludes him from having to pay back the money he borrowed from the fund. And today, it is estimated that if one considers principal and interest Mr. Shenker owes the fund over $45 million.

Federal enforcement of labor laws also has been lacking. For example, witnesses at the hearings I conducted provided evidence that local officials of the International Boilermakers Union had been selling union cards or books at extortionate prices, that unqualified welders were being sold these books, and that union members were forced to buy raffle tickets. Even worse, the testimony indicated that these unqualified welders had been working on nuclear powerplants. All of these activities violate Federal labor and criminal statutes, yet the Federal Government has chosen to ignore this evidence, leaving honest welders who had the courage to expose this abuse to their own fate.

To combat the corruption that plagues labor relations today, we need both strong statutes and committed enforcement. S. 1785 will provide the statutory basis for both by strengthening three key statutes: the Labor Management Relations Act of 1947, known as the Taft-Hartley Act; the Employee Retirement Income Security Act of 1974, know as ERISA; and, the Labor Management Reporting and Disclosure Act of 1959, known as the Landrum-Griffin Act.

First, the bill raises the buying and selling of labor peace, which is prohibited in the Taft-Hartley Act, from a misdemeanor to a felony, subject to imprisonment of up to 5 years and a fine of $15,000 or both. Testimony received by the committee has made it clear that the existing penalties have not served as an effective deterrent.

Second, S. 1785 expands the list of positions an individual convicted of committing a disqualifying crime is barred from holding in a union or with an employee benefit plan. Convicted officials will no longer be able to cir-

cumvent the intent of these statutes by taking allegedly clerical positions or serving as consultants during the disqualification period, only to resume their previous positions of authority and influence once this period has ended. The bill also expands the list of disqualifying crimes contained in these two statutes.

Third, the bill extends the disqualification period from 5 to 10 years in order that a union or benefit plan can thoroughly rid itself of the influence of convicted officials. This provision does provide for judicial discretion in application of the ban, however, As I understand, this discretion is included to accommodate the rare occasions where a 10-year ban might be considered too harsh. For example, at the time of his conviction of a disqualifying crime, an individual might not be a union member or might not have given any thought to the ramifications of his act with regard to holding office in a union or with a benefit plan. If he were to serve his sentence and subsequently obtain a job which would lead to election to union office, a 10-year ban might be unnecessarily rigid. In such rare circumstances, the judge is given the discretion to reduce the disqualification period to no less than 5 years.

Fourth, S. 1785 redefines "date of conviction" so that once an individual is found guilty of a disqualifying crime, he is immediately barred from holding a series of specific positions with a union or employer, regardless of whether he has appealed his conviction. This provision will end the blatant abuse of our appellate procedures by union officials who are continuing to engage in the very prohibited activities which led to their conviction simply because they have appealed the trial court judgment. Members of a union or participants in a benefit plan are entitled to have their interests and rights protected from those found guilty in a court of law. To protect the rights of an individual who has appealed his conviction, the bill provides that his salary will be paid into an escrow account which will be turned over to the official if his conviction is overturned. This represents an equitable treatment of two competing interests—the interest of the convicted official on appeal and the interests of union members or participants in a pension plan in having their organizations free of criminal influence.

Fifth, S. 1785 will increase the maximum term of imprisonment for intentional violations of ERISA and the Landrum-Griffin Act from 1 to 5 years.

Finally, S. 1785 makes it clear that the Department of Labor has not only the authority, but also the responsibility for detection, investigation, and referral of civil and criminal violations of the appropriate Federal labor laws to the Department of Justice. This is perhaps the most important provision in S. 1785. Unless the Department of Labor is committed to the principles of this legislation and to ridding the labor movement of organized crime and other criminal elements, our efforts today to strengthen these three statutes may prove fruitless.

Unfortunately, in the past, this commitment has not been evident. In three separate cases reviewed in depth by the Senate Labor and Human Resources Committee, the Department of Labor failed at a crucial juncture to protect the rights of the affected unions and the general public.

Moreover, testimony given to the committee indicated that several important cases were terminated because the Office of the Solicitor of Labor allowed the statute of limitations to run out. Similarly, cases ready for referral to the Department of Justice were kept at the Department. Its own Office of Enforcement was told instead to seek voluntary compliance from individuals who had demonstrated a flagrant disregard for Federal statutes and the responsibilities connected with the offices they held.

S. 1785 makes clear that it is the intent of Congress that the Department of Labor enforce these statutes aggressively. The Department has repeatedly testified that it needs stronger statutes and penalties if it is to accomplish the task Congress has given it. S. 1785 provides the Department with many of the amendments it has requested and will give it the statutory basis and authority it needs to effectuate the purpose of this legislation—the elimination of corruption and criminal elements from the field of labor management relations.

I would like to note that in clarifying congressional intent, we believe that the Department can accomplish its mission with its current budget.

Mr. President, I believe that S. 1785 is an important first step in our effort to eliminate corruption from unions and employee benefit plans. It may not be as strong as some would have liked, and it may be stronger than others had hoped. That is the nature of a consensus bill. Nonetheless, it is an important, and I hope, encouraging signal to the working men and women of this country that the presence of organized crime and other criminal elements will not be tolerated at the waterfronts, in unions, or in pension plans. I look forward to the day when this bill is signed into law, because it will afford unions and employee benefit plans with the means to operate free of the influence or fear of corrupt union and management officials.

Mr. QUAYLE. Mr. President, I support S. 1785, a bill which will afford greater protection to unions and employee benefit plans from corrupt union and management officials. The bill is a bipartisan compromise and will clarify existing laws relating to plans and pension funds and will strengthen the Taft-Hartley, Landrum-Griffin, and Employee Retirement Income Security Acts as well. S. 1785 is needed because current Federal prohibitions and penalties designed to protect the legitimacy of labor relations have, in certain respects, proved inadequate. S. 1785 will strengthen these prohibitions and penalties and will end abuse of existing labor laws.

Certain violations of the Taft-Hartley Act, this bill will raise from a misdemeanor to a felony. Penalties for violations will also be raised. The bill amends the Landrum-Griffin and Employee Retirement Income Security Acts to disqualify from serving as administrators or consultants anyone convicted of a felony involving abuse or misuse of a position with a pension or employee benefit plan. To be quite specific—any position involving collective bargaining authority or direct responsibility in the area of labor management relations with a corporation or association will be barred to a convicted felon. The debarment period set by this bill maintains the 5-year minimum set by current law, but that minimum debarment period may now be increased to as many as 10 years. Unlike current law, S. 1785 will provide that persons convicted of a felony may be removed from office immediately upon conviction, rather than waiting through a time-consuming appeals procedure. To protect individuals during the appeals process however, the bill provides that all salary due to such person be paid into an escrow account and the money returned to the individual if the conviction is overturned.

Another major improvement this bill makes is to confer upon the Secretary of Labor direct responsibility to investigate civil and criminal violations of the Federal pension laws and related statutes.

The committee feels that these changes are a step in the right direction toward curbing abuse of official positions with employee benefit and pension plans. Hearings held by the Permanent Subcommittee on Investigations and by the Subcommittee on Labor have clearly demonstrated the need for legislation which will increase the protection afforded to pension and employee benefit funds. Over 13 million Americans stand to benefit from these pension protections.

Before I close, I would like to take a moment to commend the distinguished Senator from Oklahoma, Senator NICKLES for his leadership in working out this bipartisan compromise bill. I know that Senator NICKLES has been steadfast in his commitment to improve protection of these funds for the use of the beneficiaries to

whom they were promised. S. 1785 will make these needed improvements to labor-management law and I encourage my colleagues to support it.

Mr. NUNN. Mr. President, I say to the majority leader that we do have a committee amendment, and we also have an amendment Senator HATCH and I are cosponsoring. I would anticipate that all of the amendments are at the desk.

Mr. BAKER. Mr. President, is there a committee amendment?

The PRESIDING OFFICER. There is a substitute amendment which will be acted upon after the floor amendment.

Mr. BAKER. I understand. Then the Senator from Georgia (Mr. NUNN) and the Senator from Oklahoma (Mr. NICKLES) will proceed with the consideration of this measure, and I now yield the floor.

UP AMENDMENT NO. 1164

(Purpose: To clarify the convictions to which the disability under section 411 of the Employee Retirement Income Security Act of 1975 and section 504 of the Labor-Management Reporting and Disclosure Act of 1959 applies)

Mr. NUNN. Mr. President, I have an amendment that I send to the desk. It is an amendment sponsored by Senator HATCH and myself.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Georgia (Mr. NUNN), for himself and Mr. HATCH, proposes an unprinted amendment numbered 1164.

Mr. NUNN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

SEC. 6. (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

Mr. HATCH. Mr. President, the purpose of this amendment is to make retroactive only one portion of S. 1785—the commencement of the disqualification mechanisms of section 411 of the Employee Retirement Income Security Act and section 504 of the Labor-Management Reporting and Disclosure Act at the time of the trial court conviction.

Currently, an individual who is found guilty of an act prohibited under these two statutes is disqualified from holding certain specified positions in a union or employee benefit plan for a period of 5 years. The disqualification period begins on either the date of the trial court judgment or the date of the final sustaining of such judgment on appeal, whichever is later. S. 1785 amends these two statutes to read that the commencement of the disqualification period begins on the date of the trial court judgment, regardless of whether that decision is appealed. This amendment would make this portion of S. 1785 retroactive.

The amendment also makes it clear that nothing in S. 1785 or this amendment can be construed as authority to overturn a conviction or to terminate prematurely a disqualification period in existence prior to the effective date of the legislation.

Testimony received by the Senate Labor and Human Resources Committee indicated that the present alternative standard has allowed union officials, who have been convicted of disqualifying crimes such as fraud and embezzlement, to retain their union offices or positions of control over pension plans while their convictions were being appealed, a period which can exceed 2 years. The testimony made it clear that in several instances, these officials continued to engage in the same prohibited activity during the appeal process that led to their trial court conviction. While the bill will end this abuse, it would only apply to those convicted subsequent to the effective date of the legislation. Those individuals convicted prior to the passage of the bill who have appealed their decision will be able to continue to take advantage of this procedural loophole.

The amendment is designed to prevent this abuse of appellate procedures from occurring, and thus it will promote the overall purpose of the bill—to provide union members and participants in a pension plan immediate and effective protection from convicted officials and other criminal elements.

Whenever a bill or an amendment makes reference to a retroactivity clause, it is important that the necessary steps are taken to insure that the clause is fashioned in a manner which insures that it is not unconstitutional.

When the Labor-Management Reporting and Disclosure Act was passed by Congress in 1959, it contained a section which stated that the disqualification mechanism established in the statute applied to convictions regardless of whether the conviction occurred before or after the effective date of the statute. Moreover, this retroactivity clause applied to all of the disqualification procedures contained in the statute.

The constitutionality of this retroactive clause was raised in *Postma* v. *International Brotherhood of Teamsters*, 337 F.2d 609 (2d Cir. 1964). The appellant alleged that the application of the 1959 statute to a previous conviction violated the constitutional prohibition against bills of attainder and ex post facto laws.

The court rejected this argument summarily, citing the Supreme Court's decision in *DeVeau* v. *Braisted*, 363 U.S. 144 (1960). At issue there was a similar disqualification mechanism established under State law, namely section 8 of the New York Waterfront Commission Act of 1953. It too applied to convictions which preceded the enactment of the statute. Addressing the constitutionality of such a retroactive provision, the Court stated:

The distinguishing feature of a bill of attainder is the substitution of a legislative for a judicial determination of guilt. Clearly, § 8 embodies no further implications of appellant's guilt than are contained in his 1920 judicial conviction; and so it manifestly is not a bill of attainder. The mark of an ex post facto law is the imposition of what can fairly be designated punishment for past acts. The question in each case where unpleasant consequences are brought to bear upon an individual for prior conduct, is whether the legislative aim was to punish that individual for past activity, or whether the restriction of the individual comes about as a relevant incident to a regulation of a present situation, such as the proper qualifications for a profession. No doubt is justified regarding the legislative purpose of § 8. The proof is overwhelming that New York sought not to punish ex-felons, but to devise what was felt to be a much-needed scheme of regulation of the waterfront, and for the effectuation of that scheme it became important whether individuals had previously been convicted of a felony (363 U.S. at 160, citations ommitted).

The amendment I am proposing meets these standards. As the Supreme Court noted, the distinguishing feature of a bill of attainder is that it substitutes a legislative determination of guilt for a judicial determination. The amendment to S. 1785 simply applies the disqualification period to those who have already been convicted. It contains no legislative determination of guilt, nor does it deprive any individual of a constitutionally guaranteed right to a judicial procedure. The amendment only affects those who already have been convicted of a disqualifying crime in a court of law. Thus, it is not a bill of attainder.

The Supreme Court also stated in the DeVeau decision that the mark of an ex post facto law is the imposition of what can be designated as punishment for past acts. The Court then went on to clarify this statement by establishing the following standard: Was the legislative aim to punish an

individual for past acts or does the restriction come about as an incident to the regulation of a present situation, such as the proper qualifications for a profession?

The purpose of this amendment is not to inflict new punishment. It is intended to bring immediate relief to the union rank and file from abuse by convicted officials. The legislative aim is to establish qualifications for certain key labor related positions, such as benefit plan trustee or union officer; it is regulatory in nature, not punitive. Consequently, any punishment inherent in the operation of this amendment is incidental to its purpose—the need to protect the rights of union members and pension plans from abuse by convicted officials, a need well established in the numerous congressional hearings which led to the drafting of S. 1785.

Mr. NUNN. Mr. President, I will give a brief explanation of the amendment, then I would like to make some remarks. I know that the Senator from Oklahoma, Senator NICKLES, is on the floor. He has worked diligently on the measure. He and I have worked together on it, for a long time, and I think we would both like to make some remarks.

As far as the amendment Senator HATCH and I are offering, this amendment will make retroactive that portion of this bill which insures that convicted union officials will be barred from office immediately upon conviction as opposed to final disposition of their appeal. This amendment also makes it expressly clear the enactment of S. 1785 will not in any way serve to terminate restrictions placed upon individuals now barred from office. Those bars will remain as imposed under current law.

So I join Senator HATCH as a cosponsor of this amendment. This amendment would make retroactive the provisions relating to immediately barring union officials who are convicted rather than waiting until the appeal takes place.

The amendment makes that feature of this bill retroactive.

I wish to also commend Senator HATCH, the chairman of the Senate Committee on Labor and Human Resources, for the attention he has given this legislation since its introduction last year.

I know the Senator from Oklahoma would like to speak on this subject. I do not know whether he would like to speak on this amendment or whether we should move the amendment and then we can make our remarks on the bill.

Mr. NICKLES. Mr. President, just one comment on the amendment. I wholeheartedly concur with the Senator from Georgia. I ask unanimous consent to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. I think it is positive. I think it adds strength to S. 1785 and will help to make it a better tool to eliminate some of the abuses we found are actually happening today.

Mr. NUNN. I thank the Senator from Oklahoma. I move the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Georgia (Mr. NUNN).

The amendment (UP No. 1164) was agreed to.

Mr. CHILES. Mr. President, will the Senator from Georgia yield?

Mr. NUNN. Yes; I yield to the Senator from Florida.

Mr. CHILES. Mr. President, I congratulate the Senator from Georgia on this piece of legislation which I think is a very far-reading piece of legislation. I know it is one on which the Senator from Georgia has worked long and carefully for a number of years.

Having served on the Permanent Subcommittee on Investigations, which the Senator from Georgia was chairing at the time he was developing and seeing the need for this legislation, I know how careful he was in trying to see that the legislation was fairly put together and that it fairly represented literally the interests of working people in trying to protect them in the pension funds, the trust funds that are supposed to be held for the benefit of working people, and the wages that have been deducted from them in dues and to see that those funds were treated properly and handled fairly and to see that people that were convicted of improperly handling these funds and disregarding the rights of those workers were not allowed to continue to be in positions of high trust, as they have been in the past.

Mr. NUNN. If the Senator will yield briefly, I might add that the Senator from Florida was involved in all of those hearings, in the planning for the hearings and the preparation of the hearings themselves. The Senator from Oklahoma, even though he was not on the committee, attended many of those hearings and worked diligently on this. The Senator from Massachusetts, Senator KENNEDY, worked on this legislation and was very helpful and constructive in perfecting the legislation and moving it through the committee, as well as Senator HATCH. So all of these Senators deserve a great deal of credit.

I wish to particularly commend the Senator from Florida, however, because he sat through many hearings that involved his own State—and that is always a difficult circumstance—because, in fact, some of the most vivid abuses came in the State of Florida where people had been convicted, convicted for several years, of embezzlement, bribery, and other very serious violations. Yet, they were still holding, and continue to this day, in some instances, to hold high union offices in the key waterfront industries in the State of Florida, as well as New York.

So the Senator from Florida, I think, is probably more familiar with the abuses that have taken place under existing law in this area and the need for this law than any Member of this body. I commend him for his leadership and efforts in this respect.

Mr. CHILES. I thank the Senator from Georgia. I just wish to state, in that regard, the fact that the careful way in which the hearings were conducted and the record that was built, I think, was the leading factor in having the leadership of the unions themselves, the AFL-CIO, which has endorsed this through their leadership. I am delighted for that. And there were other unions that have supported it.

Mr. NUNN. The main support came from Lane Kirkland of the AFL-CIO, who testified before our subcommittee in October 1981 and spoke on behalf of most of organized labor—not all of it—in supporting this legislation.

Interestingly enough, the Teamsters Central States Pension Fund, represented by Mr. George Lehr, has written me endorsing this legislation.

Mr. CHILES. I also thought the Teamsters had, and I wanted to include them in my statement. But the fact that they have gone on record as supporting this, again, I think demonstrates that this is a bill that primarily is going to help the workingman.

Mr. NUNN. Mr. President, I strongly urge Senate passage of S. 1785, known as the Labor Management Racketeering Act of 1982. This bill, which was introduced by me on October 28, 1981, has been reported favorably out of the Senate Labor and Human Resources Committee and has been endorsed by the Department of Labor, the Department of Justice, and, as we mentioned a moment ago, by the AFL-CIO.

I might add that Lane Kirkland, I think, gave the most significant testimony of any labor leader I have seen since I have been in the U.S. Senate when he appeared in October 1981 before our subcommittee and endorsed this bill. We worked very closely with Mr. Kirkland and his representatives in ironing out difficulties in this legislation. They have always worked in a very positive frame of mind and they have added significantly to the merits of this bill.

Interestingly enough, in the testimony, Mr. Kirkland said that the labor unions themselves simply could not clean their own house completely and they needed the assistance of this kind of legislation.

I believe it is particularly significant to see that this kind of endorsement

has come forth. This is, without any doubt, the most significant piece of antiracketeering legislation that has come through the Congress since the Landrum-Griffin bill in the early 1960's or late 1950's.

S. 1785 attempts to remedy serious problems concerning the infiltration of some unions and some employee benefit plans by corrupt officials who have no real concern for the well-being of the honest rank-and-file union members they pretend to represent. Those problems were graphically illustrated in public hearings on waterfront corruption before the Permanent Subcommittee on Investigations in February 1981. The legislation, which is now before us, is a direct result of those hearings. As ranking minority member and former chairman of the subcommittee, I had the opportunity to direct an extensive staff investigation of criminal activity within both the International Longshoremen's Association—ILA—and the American shipping industry.

This set of hearings followed a very extensive investigation of the waterfront and the corruption on the waterfront by the U.S. Department of Justice and the FBI. They did a superb job.

In 1975 the Justice Department launched a nationwide investigation of racketeering on our waterfronts. This sweeping inquiry culminated in the criminal convictions of more than 100 high-level ILA officials and shipping company executives.

These persons were charged with a variety of offenses ranging from violating the Taft-Hartley Act to extortion, payoffs, kickbacks, threats, intimidation, obstruction of justice, and income tax evasion.

Spurred by the success of the Department of Justice's UNIRAC investigation, the subcommittee staff interviewed numerous witnesses and reviewed countless other items of evidence in order to convey to the American public an accurate portrait of the American waterfront in the 1980's. That portrait, as presented in 2 weeks of hearings in February of last year, is, unfortunately a dismal one. Witness after witness described the struggle for economic survival in some ports which are riddled with a pervasive pattern of kickbacks and illegal payoffs to union officials.

My colleagues and I heard of payoffs to insure the award of work contracts, payoffs to maintain contracts already awarded, payoffs to insure labor peace, payoffs to allow management circumvention of labor strikes, payoffs to prevent the filing of fraudulent workmen's compensation claims, payoffs to expand business activity into new ports, and payoffs to accord certain companies the freedom to circumvent ILA contract requirements with impunity.

Especially disturbing is the fact that the evidence clearly suggests that, through that system of payoffs, recognized leaders of the traditional organized crime families influence and effectively dominate the International Longshoremen's Association and large segments of the American shipping industry. Only as recently as last month, our subcommittee, in public hearings on the Hotel Employees and Restaurant Employees International Union, received evidence of the corrupt influence of organized crime in labor-management relations in other industries. It is a sobering event, indeed, to learn that substantial portions of our national economy have fallen prey to the influence of organized crime.

I might add that their investigation and the revelations that came from that, with the cooperation we had from the Justice Department and the FBI, were absolutely essential in both the hearings and in the framing of this legislation.

In the case of the waterfront industries, we were told that a payoff is commonly treated as a mere cost of doing business which can be, and is, routinely passed on as an added cost to the consumer. Our traditional and cherished notions of free enterprise have become nearly nonexistent in some ports of this country.

These payoffs, though illegal under current law, are punishable only as a misdemeanor.

S. 1785 makes any such violation involving an amount of money greater than $1,000 a felony, punishable by up to 5 years imprisonment or a fine of up to $15,000, or both.

The bill also attempts to rid labor organizations and employee benefit plans of the influence of persons convicted of criminal offenses. Current disbarment provisions—29 U.S.C. 504 and 29 U.S.C. 1111—are expanded in several significant ways: Enlarging the categories of persons affected by the disbarment provisions; increasing the time barred from office or position from 5 to a possible maximum of 10 years; and providing for disbarment immediately upon conviction rather than after appeal.

I know that Senator NICKLES from Oklahoma would agree with me. He has had a very capable staff working for him on this legislation including Rick Lawson, from my hometown in Georgia. I am very proud of the work the Senator and his staff have done on this legislation, as well as the work by Marty Steinberg, Eleanore Hill, and others on my staff.

I know that Senator NICKLES would agree with me that one of the most distressing pieces of evidence that kept coming up in our hearings was the fact that when these witnesses did come forward, sometimes reluctantly, to testify as to these bribery-extortion type offenses—many times when the trial was over, even after a top official in the union had been convicted—these same witnesses had to go back and continue to bargain with that particular official. Even after conviction, these officials remained; and continue to remain to this day in office sometimes years and years and years after conviction. Then they go to the penitentiary for a brief period of time, and many times return to that very same union office.

The bill does provide that any salary otherwise payable shall be placed in escrow pending final disposition of any appeal.

We felt this was necessary because if there is an appeal and the conviction is reversed, then the union official, under the law, deserves protection, and we have provided for that.

Finally, our hearings examined more than the ways and means of criminal corruption itself. We also explored the adequacy of law enforcement's response to this corruption. As for the waterfront, several things quickly became obvious: First that the Department of Justice, through a massive assignment of resources and manpower in UNIRAC, had had great success in the short run; Second, that, if we are to eliminate such corruption on a permanent basis, continuous monitoring and enforcement efforts are required; and third, that the Department of Labor had generally failed to participate in criminal law enforcement efforts in this area. To correct this problem and to maximize available law enforcement resources in this area, S. 1785 clearly delineates the responsibility and authority of the Department of Labor to actively and effectively investigate and refer for prosecution criminal activities on the waterfront.

In addition to the principal provisions of S. 1785, Senator HATCH and I are today offering a floor amendment to the bill which will make retroactive that portion which insures that convicted union officials will be barred from office immediately upon conviction, as opposed to final disposition of their appeal. The amendment also makes expressly clear that the enactment of S. 1785 will not in any way serve to terminate restrictions placed on individuals now barred from office; those bars will remain as imposed under current law. I join Senator HATCH as cosponsor of that amendment and urge its adoption by the Senate along with passage of S. 1785. In doing so, I commend Senator HATCH, as chairman of the Senate Committee on Labor and Human Resources, for the attention and interest he has given to this legislation since its introduction last year.

I want to point out that this amendment has been drafted in response to concerns first raised by both the Department of Labor and the Depart-

ment of Justice as to their ability to immediately bar individuals convicted yet still under appeal. The floor amendment which Senator HATCH offers and which I cosponsor, fully meets those concerns and bears the approval of the Department of Labor and the Department of Justice, as well as the AFL-CIO.

In sum, I want to stress again that the provisions of this bill are designed to protect the best interests of labor and management, as well as the American consumers. Our hearings strongly indicated that corruption within the leadership of the ILA, as documented by the convictions of numerous ILA officers, is depriving the average longshoreman of the full benefits of his union membership. Not only did the ILA itself fail to act to remove those officials and prevent further corruption, but ILA President Teddy Gleason himself testified, with apparent lack of concern, that the ILA "will have to * * * run a rehabilitation center." By contrast, the provisions of S. 1785 will protect the union member where corrupt officials have failed to do so.

Mr. President, the record is clear that the vast majority of union officers, employee benefit plan officials and rank-and-file union members are honest, hardworking, law-abiding citizens. Our Nation can and should be justifiably proud of the enormous contribution our unions have made to the economic and social strength of the United States. But our hearings have shown that a small group of parasites have fastened themselves onto the body of the labor movement. These parasites are perverting the true interests of the union members they claim to represent through a pattern of payoffs and extortion. The unions have labored to shed themselves of these people, but in many cases they have been unable to do so alone. I believe that the unions need our help here in Congress. I believe that this bill is a major step forward in providing the extra assistance needed for the unions to finally rid themselves of those corrupt officials who are motivated not by the welfare of the American worker but by their own greed.

Mr. President, I again want to commend the Senator from Oklahoma, Senator NICKLES, not only for his work on this legislation but also for his work on S. 1182 the very important bill that passed the Senate yesterday under his guidance. I was a cosponsor of that legislation. It deals with the civil side of this very extensive problem that is pervasive on the waterfront. That legislation also is landmark legislation.

I might add that if you take these two bills together, without any doubt, I think we have made very significant progress if we can not only pass these through the Senate today but if they can indeed become the law of the land. I am very hopeful that the House of Representatives will follow soon and pass this legislation in the very near future.

Mr. President, I yield to the Senator from Oklahoma.

Mr. NICKLES. Mr. President, today I am pleased to join my distinguished colleague, Senator SAM NUNN, in support of S. 1785, the Labor-Management Racketeering Act of 1982. This bill originated from hearings on waterfront corruption held by the Permanent Subcommittee on Investigations of the Senate Committee on Governmental Affairs held in February of last year. I was able to attend these hearings and later cosponsored the bill when it was introduced by Senator NUNN on October 28, 1981. Those hearings and the hearings conducted by the Subcommittee on Labor of the Senate Committee on Labor and Human Resources, which I chair, have led me to conclude that this legislation is of vital concern to American workers and their families who depend on the integrity of officials of labor organizations and employee benefit plans. I congratulate Mr. NUNN for his efforts on their behalf.

This legislation amends three statutes to afford greater protection for unions and employee benefit plans from corrupt union and management officials. The first statute which is amended is the Labor Management Relations Act of 1947, more commonly referred to as the Taft-Hartley Act. Section 302 of this act prohibits the buying of labor peace, the payment of bribes, and other similar transactions. Currently, violations are misdemeanors. For flagrant violations not falling within the exceptions of this act, the penalty is raised to a felony. A misdemeanor conviction under Taft-Hartley currently carries a maximum fine of $10,000 and a maximum imprisonment of 1 year. These maximums are little deterrent to the temptation of receiving a large sum of money in violation of the act. Therefore, the prison term is increased to a maximum of 5 years and the fine to a maximum of $15,000. This treatment of the crime as a felony should provide the extra incentive to reduce an unlawful temptation.

Second, amendments are made to the Employee Retirement Income Security Act of 1974—ERISA. Under current law, an individual convicted of certain crimes by a trial court is allowed to remain in a position of trust with an employee benefit plan until he has exhausted his right of appeal. This can lead to future abuse of the employee benefit plans. At the Labor Subcommittee hearings, the Labor Department presented the following example:

> There is a man in Florida who at one time was the president of one union local, the manager of another, president of the district council, and also a trustee of a benefit plan fund. He was convicted of embezzling funds from six labor organizations and funds. While these matters were on appeal, he remained in a number of the positions until the convictions were eventually sustained. He was later further convicted of illegally transferring funds and has since been indicted for still other allegedly illegal acts occurring during the appeals period. It is estimated that $1 million was taken during this period.

The Labor Department further asserted that this is not an isolated case.

It is clear that this type of abuse cannot be allowed to continue. S. 1785 would prohibit individuals from remaining in their employee benefit plan positions from the date of the trial court conviction, not the date of last appeal. Escrow provisions for any salary due such an individual would protect him in the event his conviction was later overruled. Finally, the maximum term of imprisonment for a violation of this section is increased from 1 to 5 years.

The third statute which S. 1785 amends is the Labor Management Reporting and Disclosure Act of 1959, Landrum-Griffin. Changes here are similar to those made in ERISA on the belief that members of a labor organization deserve the same protection as funds in an employee benefit plan. Therefore, the date of conviction becomes the date of the trial court judgment, not the date of last appeal. Similar escrow provisions also are provided.

Currently, under both ERISA and Landrum-Griffin, the period for which an individual is barred from his position is 5 years. The Department of Labor presented the following example of abuse of this time limit under current law at the Labor Subcommittee hearing:

> We are aware of a case in which a union officer was convicted of embezzlement, and as a result, he was disqualified from serving in the positions which are now covered for five years, the present ban. During his period of disqualification, he was hired by the union as a chauffeur, and drove the union officers about. Upon the expiration of the disqualification, however, he was immediately appointed as an organizer for the union and was able to begin exercising great official authority. Had the ban on activities been longer, it is doubtful whether this person would have continued to serve as a chauffeur and then step right into a responsible position.

S. 1785 eliminates this abused exception for clerical or custodial duties, such as chauffeur, from Landrum-Griffin. No such similar exemption is contained in ERISA. In addition, the 5-year ban under both ERISA and Landrum-Griffin is increased to a maximum of 10 years unless the sentencing court reduces it to no less than 5 years.

Finally, S. 1785 mandates the Department of Labor to detect, investigate, and refer, where appropriate, civil and criminal violations of ERISA

and other related Federal laws. Currently, the Department of Labor has civil enforcement authority under both ERISA and Landrum-Griffin. Often in the course of investigating alleged civil violations of these acts, potential criminal violations are also discovered. Testimony indicated that the Departments of Labor and Justice often do not coordinate their efforts in following through on these criminal matters. S. 1785 clearly establishes the Labor Department's role when such issues are raised.

Mr. President, an article in today's Wall Street Journal underscores the urgency of passage of S. 1785. The article states that "convicted labor racketeer Anthony "Tony Pro" Provenzano received a salary of $28,143 last year from a Teamsters local he used to lead—even though he was in Federal prison. Along with the racketeering charges, he also is serving a life sentence for murder. I ask unanimous consent that the article be inserted in the RECORD in its entirety.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

TEAMSTERS LOCAL 560 PAID $28,143, IN 1981 TO JAILED EX-CHIEF

WASHINGTON.—Convicted labor racketeer Anthony "Tony Pro" Provenzano received a salary of $28,143 last year from a Teamsters local he used to lead—even though he was in a Lompoc, Calif., federal prison.

The payment, disclosed in a union document filed with the Labor Department, was uncovered by the Teamsters for a Democratic Union, a Detroit-based dissident group. The group's review of Teamsters affiliates' financial statements filed with the department also found that 53 Teamster officials each earned more than $100,000 in 1981. A similar review by the dissidents last year found 38 Teamsters officials had made that much in 1980.

Provenzano was convicted in 1979 on labor racketeering charges and sentenced to 20 years in prison. He also is serving a life sentence in the murder of Anthony "Three Fingers" Castellito, who headed Teamsters Local 560 in Union City, N.J., until 1961, when Provenzano took over and Mr. Castellito disappeared. Provenzano, a former international vice president of the Teamsters, had been an influential figure in the union for a long time.

Provenzano apparently has collected payments from his former local for several years. W. Hunt Dumont, the U.S. attorney in Newark, said Local 560 voted Provenzano a pension based on half the salary he was earning when he resigned to begin serving time for the murder conviction in 1978. The $28,143 is about half of what he was earning as the local's secretary-treasurer, Mr. Dumont estimated.

Whether it's a pension or a salary, "as far as we're concerned, it's illegal, either way," Mr. Dumont said. "We don't believe he should be entitled to any money after a certain time."

A woman who answered the phone at the local's Union City office at 3:30 p.m. yesterday said "the secretary-treasurer is gone for the day." Provenzano's daughter Josephine, the secretry-treasurer, took over the local leadership after he went to prison.

Mr. Dumont has been seeking to enjoin Provenzano, members of his family and several others from continuing their 20-year leadership of the local. A complaint, brought last March, marked the first effort by law enforcement officials to wrest total control of a labor union local from its elected leadership. Local 560 serves more than 10,000 members in the trucking industry.

Mr. Dumont said a federal judge in Newark refused to grant a preliminary injunction barring the defendants from further union control. But a final hearing will be held in mid-October, he added, on the merits of the complaint.

The Teamsters dissident group's report showed that Jackie Presser, a powerful international vice president from Cleveland, earned $353,737 last year from six Teamster jobs, topping the $256,521 paid Teamster President Roy Williams for five different posts.

Mr. NICKLES. Mr. President, this cannot be allowed to continue. When a person is barred from union office or from a position with an employee benefit plan, all rights associated with that office must be terminated as well. A "salary," for example, cannnot be labeled a "pension" in order to circumvent the clear intention of the law and to provide payments to convicted officials.

Again, I want to congratulate Senator NUNN and his colleagues on the Permanent Subcommittee on Investigations for their efforts. I encourage the House of Representatives to take prompt action on this legislation.

Mr. President, I would like to compliment the Senator from Georgia for the outstanding work he has done on this particular piece of legislation and also for his assistance in helping us with the amendments to the Longshoremen's Act which we were able to pass through the Senate yesterday.

I would certainly agree with his comments that the combination of both bills has done a lot to clean up the abuse that has taken place in the longshore area as well as some of the labor racketeering abuses.

I had the opportunity of participating in the hearings that Senator NUNN held in the Permanent Subcommittee on Investigations last year. They showed a lot of changes that needed to be made.

Both of these pieces of legislation are directed to those hearings and tend to eliminate a lot of the abuses that have been found.

The timing of this article, to which I referred, appearing in today's Wall Street Journal, I thought, was somewhat ironic, in that we have a former chief of a particular union local, Local 560, which has been in the headlines of late. The fact that he could be in prison, serving a sentence for murder as well as labor racketeering and still be receiving a "salary" of $28,000 a year despite the fact that he has been convicted underscores the necessity as well as the good timing of this legislation.

I am pleased to be a cosponsor and pleased to participate with Senator NUNN.

I also wish to compliment Senator KENNEDY and his staff and the other people we have worked with on this piece of legislation. This, as well as the longshoreman's bill we passed yesterday, go a long, long way. It is the result of a lot of hours, a lot of effort, a lot of redrafts. I think those participants have shown a lot of ability to compromise as well as a lot of persistence, evidenced by the fact that this has been passed by the Senate. I hope it will soon pass the House of Representatives.

Have we moved the adoption of the amendment, Mr. President?

The PRESIDING OFFICER. The amendment of the Senator from Georgia has been agreed to. The committee amendment has not yet been agreed to.

Mr. NICKLES. I move the adoption of the committee amendment.

Mr. NUNN. Mr. President, will the Senator withhold that for a couple of brief remarks?

Mr. NICKLES. Certainly, Mr. President.

Mr. NUNN. Mr. President, each of our cosponsors has played a major role in this legislation. Some of our cosponsors were, indeed, members of the subcommittee and played a major role in the hearings themselves which led to this legislation. I particularly commend Senator RUDMAN of New Hampshire, who was not only a cosponsor of the bill but played a leading role in the hearings; Senator ROTH, who is chairman of the Permanent Subcommittee on Investigations, who cooperated completely in both the hearings and this legislation; Senator DECONCINI, who has been involved in this legislation from the very beginning; Senator STENNIS, Senator JOHNSTON, Senator PRYOR, Senator HOLLINGS, Senator HATCH, whom we have already talked about; Senator EAST, and Senator HARRY BYRD, JR.

Most of all, I want to thank Senator NICKLES. It is not easy to get this kind of legislation passed. He has taken a major lead in both this bill and the bill he guided with my support through the Senate yesterday afternoon. I commend him for his tremendous leadership in this very important area, that has been neglected too long.

Mr. President, I also pay tribute to the National Association of Stevedores, and Mr. Tom Wilcox, executive director of that association, who cooperated in our hearings. Several of their members came forward and testified. I am sure it was a very unpleasant experience for some of them, but they did cooperate. They told the hard, tough story of their own experiences on the waterfront.

I might add that, since those hearings, that association, under the leadership of Mr. Wilcox and others in the association, has taken a firm position in favor of this legislation, which carries criminal penalties, not just for labor leaders but also for people in management who are guilty of the type of violations enumerated.

I might also add that the National Association of Stevedores has taken a very fundamental and yet unprecedented step of adopting their own code of ethics. This is a major step forward in trying to bring the management side of the waterfront into compliance not only with the law but with the spirit of the law and with the spirit of our free enterprise system. So I want to commend Mr. Wilcox and his Association for their support.

In addition, I would like to thank my staff. I do not want to leave out any of them. I have already mentioned Eleanor Hill, our chief counsel; Marty Steinberg, who is her precedessor, now preacticing law in Miami, and who was chief counsel when we had these hearings; Greg Baldwin who has now left the subcommittee and has gone to the U.S. attorney's office in Miami; Mr. Fred Asselin, Mr. Jack Key, Mr. Glenn Fry, Ms. Kitty Dias, and Ms. Mary Robertson, who are on our subcommitte staff. Each of these people played a major role both in the hearings and in the legislation.

I also want to thank FBI agent Ray Maria, who had been assigned to our subcommittee during this set of hearings, who is now back with the FBI. He did a superb job in all of this investigation.

Again, Mr. Rick Lawson and the staff of Senator NICKLES have done a superb job as has Kevin McGuiness of Senator HATCH'S staff. We have had complete cooperation from both sides of the aisle on this legislation. Therefore I extend thanks to each of these people.

Mr. CHILES. Mr. President, I rise today to urge my colleagues to join me in supporting S. 1785, the Labor Management Racketeering Act of 1982. This legislation is the result of extensive investigations by the permanent Subcommittee on Investigations of alleged corruption of the Nation's waterfronts. The administration has joined with the AFL-CIO in supporting this piece of legislation that would stiffen penalties for racketeering in organized labor management and fraud in handling union pension funds. This is the first time a major union and administration have jointly supported such a measure.

The critical need for a remedy to the problem cannot be questioned. The evidence presented during the course of the subcommittee's investigations was disturbing to those of us who are concerned with the continued survivial of our free enterprise system. Indeed, the severity of the violations uncovered, including extortion payoffs, kickbacks, obstruction of justice, and violations of the Taft-Hartley Act, is startling. The subcommittee's latest round of hearings on the problem heard from witnesses who testified that the large network of ports in the United States is controlled by organized crime. Payoffs are occurring with such regularity that they are considered a part of every day business expenses which, in turn, are passed onto the consumer. We heard of payoffs to insure the award of work contracts, to maintain contracts already awarded to insure labor peace, and to expand business opportunities to new ports. The list goes on and on.

I was especially disturbed by the evidence of criminal extortion and illegal payoffs in the south Florida area. The subcommittee conducted a thorough and alarming examination of waterfront corruption in that area, particularly at the Port of Miami. The practice of payoffs and illegal kickbacks appeared to be widespread and increasingly acceptable amongst waterfront businessmen and labor leaders.

Apparently, the recent growth of the Port of Miami into a major shipping center was accompanied by increasing efforts by organized crime to illegally manipulate waterfront businesses in that area.

Mr. President, the evidence uncovered by the permanent Subcommittee on Investigations vividly depicts the need for a legislative remedy to these problems. I believe that S. 1785 is just the vehicle required to stem corruption on the Nation's waterfronts and to adequately punish those involved in breaking the law. The bill would make violations of the Taft-Hartley Act of a thousand dollars or more a felony and punishable by up to 5 years imprisonment, and/or a fine of up to $15,000. Currently, such violations are only a misdemeanor subject to a fine of up to $10,000 and/or imprisonment of just 1 year.

The bill would also provide for the removal from labor unions and employee benefit plans the influence of persons convicted of criminal offenses. Union officials convicted of violations against Taft-Hartley would be suspended immediately. The ban against a convicted official holding a union office would be increased from 5 to 10 years. It has been an all too common practice for convicted officials to continue as trustees controlling the purse-strings of employee pension funds while their appeal drags through the judicial system for years. Ironically, they are in a position to continue the abuses they have been convicted of, which is often the case. I think it is crucial that we assure the millions and millions of persons who are depending on employee benefit plans for retirement that their funds will be wisely and legally invested, controlled and used by the individuals entrusted with the responsibility. And, we must assure the many workers of this country that the management of their unions are being directed by persons who have only the best interests of the worker in mind.

Finally, this legislation would make it clear that it is the responsibility of the Department of Labor to actively root out these abuses and to follow through on the referral of such cases to the Justice Department for prosecution. In the past, there has been a question as to whether or not it was the Department of Labor's authority to investigate alleged criminal violations. In most cases, this indecisiveness resulted in the criminal avoiding his day in court and, indeed, led some to believe that their activities could go on uninhibited.

Mr. President, in light of the volumes of evidence uncovered by the subcommittee, it is painfully obvious that corrupt practices on the waterfront have carried on for too long. I am happy to join with Senator NUNN in supporting what I believe to be a thorough and effective piece of legislation that would provide greater protection for unions and employee benefit plans from the corrupt practices of union and management officials. I urge my colleagues to join with me in supporting S. 1785, the Labor Management Racketeering Act of 1982.

Mr. NUNN. Mr President, I move the adoption of the committee amendment.

THE PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1785

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be referred to as the "Labor Management Racketeering Act of 1982".

SEC. 2. (a) Subsection (d) of section 302 of the Labor Management Relations Act, 1947 (29 U.S.C. 186) is amended to read as follows:

"(d)(1) Any person who participates in a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or to a joint labor-management trust fund as defined by clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee that is received and used by such labor organization, trust fund, or committee, which transaction does not satisfy all the applicable requirements of subsections (c)(4) through (c)(9) of this section, and willfully and with intent to benefit himself or to benefit other persons he knows are not permitted to receive a payment, loan, money, or other thing of value

under subsections (c)(4) through (c)(9) violates this subsection, shall, upon conviction thereof, be guilty of a felony and be subject to a fine or not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.

"(2) Except for violations involving transactions covered by subsection (d)(1) of this section, any person who willfully violates this section shall, upon conviction thereof, be guilty of a felony and be subject to a fine of not more than $15,000, or imprisoned for not more than five years, or both; but if the value of the amount of money or thing of value involved in any violation of the provisions of this section does not exceed $1,000, such person shall be guilty of a misdemeanor and be subject to a fine of not more than $10,000, or imprisoned for not more than one year, or both.".

(b) Subsection (e) of such section is amended to read as follows:

"(e) The district courts of the United States and the United States courts of the territories and possessions shall have jurisdiction, for cause shown, and subject to the provisions of Rule 65 of the Federal Rules of Civil Procedure (relating to notice to opposite party), over—

"(1) suits alleging a violation of this section brought by any person directly affected by the alleged violation, and

"(2) suits brought by the United States alleging that a transaction involving a payment, loan, or delivery of money or other thing of value to a labor organization in payment of membership dues or a joint labor-management trust fund as provided for in clause (B) of the proviso to clause (5) of subsection (c) of this section or to a plant, area, or industry-wide labor-management committee violates this section,

to restrain such violations without regard to the provisions of section 6 of the Clayton Act (15 U.S.C. 17), section 20 of such Act (29 U.S.C. 52), and sections 1 through 15 of the Act entitled "An Act to amend the Judicial Code to define and limit the jurisdiction of courts sitting in equity, and for other purposes", approved March 23, 1932 (29 U.S.C. 101-115).

SEC. 3. (a) So much of subsection (a) of section 411 of title 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1111) as follows "the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 401)," is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes or attempt to commit any such crimes, or a crime in which any of the foregoing crimes is an element, shall serve or be permitted to serve—

"(1) as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, employee, or representative in any capacity of any employee benefit plan,

"(2) as a consultant or adviser to an employee benefit plan, including but not limited to any entity whose activities are in whole or substantial part devoted to providing goods or services to any employee benefit plan, or

"(3) in any capacity that involves decision-making authority or custody or control of the moneys, funds, assets, or property of any employee benefit plan,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in paragraphs (1) through (3) would not be contrary to the purposes of this title. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice to such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecution officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection. Notwithstanding the preceding provisions of this subsection, no corporation or partnership will be precluded from acting as an administrator, fiduciary, officer, trustee, custodian, counsel, agent, or employee of any employee benefit plan or as a consultant to any employee benefit plan without a notice, hearing, and determination by such Parole Commission that such service would be inconsistent with the intention of this section.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who intentionally violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) The term 'consultant' means any person who, for compensation, advises, or represents an employee benefit plan or who provides other assistance to such plan, concerning the establishment or operation of such plan.

"(3) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in an employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of that person's conviction on appeal, the amounts in escrow shall be returned to the individual or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 4. (a) So much of subsection (a) of section 504 of the Labor-Management Reporting and Disclosure Act of 1959 (29 U.S.C. 504) as follows "or a violation of title II or III of this Act" is amended to read as follows: "any felony involving abuse or misuse of such person's labor organization or employee benefit plan position or employment, or conspiracy to commit any such crimes, shall serve or be permitted to serve—

"(1) as a consultant or adviser to any labor organization,

"(2) as an officer, director, trustee, member of any executive board or similar governing body, business agent, manager, organizer, employee, or representative in any capacity of any labor organization,

"(3) as a labor relations consultant or adviser to a person engaged in an industry or activity affecting commerce, or as an officer, director, agent, or employee of any group or association of employers dealing with any labor organization, or in a position having specific collective bargaining authority or direct responsibility in the area of labor-management relations in any corporation or association engaged in an industry or activity affecting commerce,

"(4) in a position which entitled its occupant to a share of the proceeds of, or as an officer or executive or administrative employee of, any entity whose activities are in whole or substantial part devoted to providing goods or services to any labor organization, or

"(5) in any capacity that involves decision-making authority concerning, or decision-making authority over, or custody of, or control of the moneys, funds, assets, or property of any labor organization,

during or for the period of ten years after such conviction or after the end of such imprisonment, whichever is later, unless the sentencing court on the motion of the person convicted sets a lesser period of at least five years after such conviction or after the end of such imprisonment, whichever is later, and unless prior to the end of such period, in the case of a person so convicted or imprisoned, (A) his citizenship rights, having been revoked as a result of such conviction, have been fully restored, or (B) the United States Parole Commission determines that such person's service in any capacity referred to in clauses (1) through (5) would not be contrary to the purposes of this Act. Prior to making any such determination the Commission shall hold an administrative hearing and shall give notice of such proceeding by certified mail to the Secretary of Labor and to State, county, and Federal prosecuting officials in the jurisdiction or jurisdictions in which such person was convicted. The Commission's determination in any such proceeding shall be final. No person shall knowingly hire, retain, employ, or otherwise place any other person to serve in any capacity in violation of this subsection.".

(b) Subsection (b) of such section is amended to read as follows:

"(b) Any person who willfully violates this section shall be fined not more than $10,000 or imprisoned for not more than five years, or both.".

(c) Subsection (c) of such section is amended to read as follows:

"(c) For the purpose of this section:

"(1) A person shall be deemed to have been 'convicted' and under the disability of 'conviction' from the date of the judgment of the trial court, regardless of whether that judgment remains under appeal.

"(2) A period of parole shall not be considered as part of a period of imprisonment.".

(d) Such section 504 is amended by adding at the end thereof the following:

"(d) Whenever any person—

"(1) by operation of this section, has been barred from office or other position in a labor organization or employee benefit plan as a result of a conviction, and

"(2) has filed an appeal of that conviction, any salary which would be otherwise due such person by virtue of such office or position, shall be placed in escrow by the individual employer or organization responsible for payment of such salary. Payment of such salary into escrow shall continue for the duration of the appeal or for the period of time during which such salary would be otherwise due, whichever period is shorter. Upon the final reversal of such person's conviction on appeal, the amounts in escrow shall be paid to such person. Upon the final sustaining of such person's conviction on appeal, the amounts in escrow shall be returned to the individual employer or organization responsible for payments of those amounts. Upon final reversal of such person's conviction, such person shall no longer be barred by this statute from assuming any position from which such person was previously barred.".

SEC. 5. (a) The first paragraph of section 506 of title 1 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1136) is amended by striking out "In order" and inserting in lieu thereof the following:

"(a) COORDINATION WITH OTHER AGENCIES AND DEPARTMENTS.—In order".

(b) Such section is amended by adding at the end thereof the following new subsection:

"(b) RESPONSIBILITY FOR DETECTING AND INVESTIGATING CIVIL AND CRIMINAL VIOLATIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT AND RELATED FEDERAL LAWS.—The Secretary shall have the responsibility and authority to detect and investigate and refer, where appropriate, civil and criminal violations related to the provisions of this title and other related Federal laws, including the detection, investigation, and appropriate referrals of related violations of title 18 of the United States Code. Nothing in this subsection shall be construed to preclude other appropriate Federal agencies from detecting and investigating civil and criminal violations of this title and other related Federal laws.".

(c) The title of such section is amended to read as follows:

"Coordination and responsibility of agencies enforcing Employee Retirement Income Security Act and related Federal laws".

SEC. 6. (a) The amendments made by section 3 and section 4 of this Act shall take effect with respect to any judgment of conviction entered by the trial court after the date of enactment of this Act, except that that portion of such amendments relating to the commencement of the period of disability shall apply to any judgment of conviction entered prior to the date of enactment of this Act if a right of appeal or an appeal from such judgment is pending on the date of enactment of this Act.

(b) Subject to subsection (a) the amendments made by sections 3 and 4 shall not affect any disability under section 411 of the Employee Retirement Income Security Act of 1974 or under section 504 of the Labor-Management Reporting and Disclosure Act of 1959 in effect on the date of enactment of this Act.

THE SOVIET PIPELINE AND THE FUTURE OF THE NATO ALLIANCE

Mr. KASTEN. Mr. President, in the past several weeks much has been said regarding President Reagan's tough embargo on U.S. technology for the Soviet Siberian pipeline. Many critics suggest that this issue will cause a breakdown of the NATO alliance. Unfortunately, their argument is unrealistically shortsighted.

The United States faces some crucial decisions in light of the European stance of accommodation toward the Soviet Union. The Reagan administration must continue its strong stand against economic subsidies for Russia. If not, the Europeans will be induced to behave in ways the administration, and this country, cannot tolerate.

I commend President Reagan for his strength and foresight in imposing the pipeline embargo. He has demonstrated his ability to maintain a long-range view of foreign policy. The new pipeline sanctions will begin to undo some of the damage done when officials at the State Department persuaded the administration not to declare Poland in default in its loans to Western banks. A declaration of Polish default still remains as the best option for sending a clear signal to the Soviet Union on the issue of East-West trade.

Mr. President, I ask unanimous consent that the Wall Street Journal article entitled "The Siberian Pipeline and Europe's Welfare States" be included in the RECORD. This article accurately explains the importance of the Reagan actions and the shortcomings of the European position.

There being no objection, the article was ordered printed in the RECORD, as follows:

[From the Wall Street Journal, July 19, 1982]

THE SIBERIAN PIPELINE AND EUROPE'S WELFARE STATES

(By Melvyn B. Krauss)

Several weeks of traveling throughout Western Europe during June convinced me of two apparently contradictory things. First, Europeans are very angry at President Reagan primarily because of the embargo on U.S. technology for the Siberian gas pipeline. Second, given the present European mood of accommodation toward the Soviet Union, a real break in the Western alliance could take place unless the Reagan administration continues to take a strong stand vis a vis its detentenik allies.

Accommodating our allies so they, in turn, can accommodate the Russians will not solidify the alliance—the common wisdom and that of former Secretary of State Haig notwithstanding. Rather, it will induce the Europeans to behave in ways that the administration can only be expected to find intolerable.

A case of Europe receiving the wrong signals was when Secretary Haig persuaded the administration not to declare Poland in default on its loans to Western banks. The Europeans—particularly the West Germans—lobbied hard for the U.S. to turn the other cheek and go soft on the Poles. Our allies got the accommodationist message: Western Europe could freely follow its own policies of pursuing detente and paying tribute to the Soviet Union with little regard for the opinions of a United States whose power could be neutralized by appeals to Western unity. The result, it should be noted, has not been the strengthening of the alliance predicted by the accommodationsists at the State Department, but a deterioration, as an emboldened Europe now offers the Soviet Union subsidized credit to construct the controversial pipeline.

The prime reason the accommodationist approach succeeds in producing only the semblance of Western unity is that it fails to come to terms with the root cause of tensions in the alliance: differences in economic outlook and perception due to different economic systems. The U.S. has the tradition of a competitive market economy, modified to some extent by government regulation. The Europeans, on the other hand, believe in state-directed economies, modified to some extent by the need to compete on world markets. The results are a deeper understanding for the Soviet Union perspective in Western Europe as well as dramatically different views on trade with the Eastern bloc.

The European perception is that the Reagan administration wants to conduct economic warfare with the Soviet Union. This isn't true. There is no evidence that the administration is against trade per se, with the Soviets, only subsidized trade. Mr. Reagan does not deserve to be called a "cold warrior" just because he wants to use the pipeline embargo to cool European ardor for subsidization of the Russians (particularly after Poland and Afghanistan).

The Europeans, however, do not appreciate the distinction between subsidized and unsubsidized trade, since subsidies are a pervasive way of doing business in the European welfare state. Extra-market subsidies are routinely given to European projects that can't pass the test of the marketplace, but which government wants to pursue either to hide unemployment (by putting workers in useless jobs), transfer income to a favored sector of the economy, pursue detente or, as in the case of the gas pipeline, for all three reasons. To promote this triad of objectives, the Soviets have been given credit terms similar to those that would be given to a Third World country.

The welfare state is not only creating mischief in the Western alliance as regards trade policies towards the Eastern bloc, it is also creating trade problems between the allies. The Europeans cannot expect to continue to subsidize a wide variety of goods without provoking protectionist responses in other parts of the world economy. For years, European subsidies to the steel industry have given protectionists in the U.S. steel industry an argument for similar subsidization in this country. Previous administrations generally have been strong enough to resist such protectionist entreaties; they understood that subsidies weaken an industry (as the European case amply demonstrates). The Reagan administration has now shown such resolve and has given in to U.S. steel industry demands for countervailing duties (a euphemism for tariffs). It is

quite clear that welfare-state policies on both sides of the Atlantic are causing the present conflict over subsidies to the steel industry.

It would also be wrong to think that welfare state subsidization policies cause conflict exclusively between the U.S. and Europe: they also cause difficulties between the Europeans. The widespread nationalizations and subsidies given by the Mitterrand government to French industry, for instance, can be expected to become a divisive element in the Common Market.

Count Lambsdorff, the West German economics minister, already has made it clear that West Germany cannot be expected to sit by and watch its key industries systematically undercut by French subsidies. Undoubtedly, other countries in the European Community feel the same way. Only a French franc that is deliberately overvalued within the European monetary system has so far kept a subsidy war from breaking out inside Europe.

The Russians must be gloating to themselves. With the welfare state to destroy the Western alliance and send them subsidized grain, butter, pipelines and the like without any serious pressure to reduce their foreign adventures or military buildup, who needs spies and agents provocateurs? They've got a point.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on the Judiciary.

(The nominations received today are printed at the end of the Senate proceedings.)

PROPOSED RESCISSION OF CERTAIN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT—PM 159

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which, pursuant to the order of January 30, 1975, was referred jointly to the Committee on Appropriations, the Committee on the Budget, and the Committee on Energy and Natural Resources:

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one new proposal to rescind a total of $83.5 million in budget authority previously provided to the Congress. The rescission affects the fossil energy construction program in the Department of Energy.

The details of the rescission proposal are contained in the attached report.

RONALD REAGAN.

THE WHITE HOUSE, *July 28, 1982.*

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-3940. A communication from the Director of the Office of Management and Budget transmitting, pursuant to law, a cumulative report on rescissions and deferrals as of July 1, 1982; jointly, pursuant to the order of January 30, 1975, to the Committee on Appropriations and the Committee on the Budget.

EC-3941. A communication from the Principal Deputy Assistant Secretary of Defense, Comptroller, transmitting, pursuant to law, a secret report listing certain contract award dates for July 15 to October 15, 1982; to the Committee on Armed Services.

EC-3942. A communication from the Assistant Secretary of the Army for Manpower and Reserve Affairs transmitting a draft of proposed legislation giving the President of the United States certain powers in time of war or national emergency; to the Committee on Armed Services.

EC-3943. A communication from the Director for Facility Requirements and Resources, Office of the Assistant Secretary of Defense for Manpower, Reserve Affairs, and Logistics, transmitting, pursuant to law, a report on five construction projects for the Air National Guard; to the Committee on Armed Services.

EC-3944. A communication from the Assistant Secretary of the Army for Installations, Logistics, and Financial Management transmitting, pursuant to law, a report on a decision made to convert the motor vehicle operation and maintenance service functions at Fort Campbell, Ky., to performance under contract; to the Committee on Armed Services.

EC-3945. A communication from the Assistant Secretary of the Navy for Shipbuilding and Logistics transmitting, pursuant to law, a report on a Navy plan to study conversion of certain functions at various facilities from in-house operation to performance under contract; to the Committee on Armed Services.

EC-3946. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report on the activities of the Coast Guard relating to the Port and Tanker Safety Act of 1978; to the Committee on Commerce, Science, and Transportation.

EC-3947. A communication from the Secretary of the Interstate Commerce Commission, transmitting, pursuant to law, a notice that the Commission will be unable to render a decision in No. 38792, switching charges for privately owned cars billed to repair facilities, in the statutory time period, and that an extension of time will be necessary; to the Committee on Commerce, Science, and Transportation.

EC-3948. A communication from the Secretary of Transportation, transmitting a draft of proposed legislation to establish the grade of commodore in the U.S. Coast Guard, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC-3949. A communication from the Director of the Congressional Budget Office, transmitting, pursuant to law, a study of the Congressional Budget Office entitled "Federal Subsidies for Rail Passenger Service: An Assessment of Amtrak"; to the Committee on Commerce, Science, and Transportation.

EC-3950. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "DOE Funds New Energy Technologies Without Estimating Potential Net Energy Yields"; to the Committee on Energy and Natural Resources.

EC-3951. A communication from the Chairman of the Advisory Council on Historic Preservation, transmitting, pursuant to law, a report of a panel of the Council on Demolition of the Memphis Street Railway Company Office and Streetcar Complex, a property eligible for the National Register of Historic Places; to the Committee on Energy and Natural Resources.

EC-3952. A communication from the Administrator of the General Services Administration, transmitting, pursuant to law, a proposed prospectus for alteration to the Blair House Complex, Washington, D.C.; to the Committee on Environment and Public Works.

EC-3953. A communication from the Deputy Administrator of the General Services Administration, transmitting, pursuant to law, two proposed prospectuses for locations in San Francisco, Calif., and Pittsburgh, Pa.; to the Committee on Environment and Public Works.

EC-3954. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Medicare Payments for Durable Medical Equipment Are Higher Than Necessary"; to the Committee on Finance.

EC-3955. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Further Research Into Noncompliance Is Needed To Reduce Growing Tax Losses"; to the Committee on Finance.

EC-3956. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "New U.S. Valuation System For Imported Products Is Better and Easier To Administer"; to the Committee on Finance.

EC-3957. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Revitalizing Distressed Areas Through Enterprise Zones: Many Uncertainties Exist"; to the Committee on Finance.

EC-3958. A communication from the Acting Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to July 22, 1982; to the Committee on Foreign Relations.

EC-3959. A communication from the Chairman of the U.S. Advisory Commission on Public Diplomacy, transmitting, pursuant to law, the report of the Commission on the International Communication Agency for 1982; to the Committee on Foreign Relations.

EC-3960. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Revenue Report for June 1982"; to the Committee on Governmental Affairs.

EC-3961. A communication from the employee benefits and risk manager of the fourth district farm credit institutions, transmitting, pursuant to law, the 1981 annual report on the farm credit institutions in the fourth district amended retirement plan; to the Committee on Governmental Affairs.

EC-3962. A communication from the Director of the Federal Prison System, Department of Justice, transmitting, pursuant to law, the annual report of the Board of Directors of the Federal Prison System for fiscal year 1981; to the Committee on the Judiciary.

EC-3963. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the eighth annual report of the Department of Health and Human Services on the status of handicapped children in Head Start programs, covering 1979-80; to the Committee on Labor and Human Resources.

EC-3964. A communication from the Secretary of Education, transmitting a draft of proposed legislation to simplify and improve the need analysis procedures for Federal student financial assistance, to improve the operation of the Pell grant program, to eliminate or reduce Pell grant program abuse, and to make certain amendments to title IV of the Higher Education Act of 1965, and for other purposes; to the Committee on Labor and Human Resources.

FEDERAL ELECTION CAMPAIGN ACT, AS AMENDED, SEMIANNUAL REPORT

The Senate Office of Public Records, Office of the Secretary of the Senate, 119 D Street NE., room A-623, telephone 224-0322, will be open Saturday, July 31, 1982, from 9 until 12 noon, to receive the July 31 semiannual report required by the Federal Election Campaign Act, as amended. Political committees authorized by or for Senate candidates not active in 1982 elections (regarding committees authorized by candidates who ran for Federal office prior to 1982 or candidates who are involved in future elections) are required to file by that date.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 503. A bill to authorize the purchase, sale, and exchange of lands by the Devils Lake Sioux Tribe of the Devils Lake Sioux Reservation, North Dakota, and for other purposes (Rept. No. 97-507).

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment:

S. 1468. A bill to provide for the designation of the Burns Paiute Indian Tribe as the beneficiary of a public domain allotment, and to provide that all future similarly situated lands in Harney County, Oreg., will be held in trust by the United States for the benefit of the Burns Paiute Indian Colony (Rept. No. 97-508).

By Mr. COHEN, from the Select Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 1858. A bill to declare that the United States holds certain lands in trust for the Washoe Tribe of Nevada and California and to transfer certain other lands to the administration of the U.S. Forest Service (Rept. No. 97-509).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

Rutherford M. Poats, of Virginia, for the rank of Minister during the tenure of his service as Chairman of the Development Assistance Committee of the Organization for Economic Cooperation and Development at Paris, France:

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Rutherford M. Poats.

Post: Chairman, Development Assistance Committee, nominated October, 1, 1981.

1. Self: None.

2. Spouse: $25, 1978, Fisher for Congress; $25, 1980, Fisher for Congress; $25 and $15 1980, Shands and Penino for county board.

3. Children and spouses names: Rutherford S. Poats, none; Tommy L. Thompson, none.

4. Parents' names: Deceased.

5. Grandparents' names: Deceased.

6. Brothers' and spouses' names: Deceased.

7. Sisters' and spouses' names: Ella G. Poats, none; Bessie M. Lane, none.

George R. Hoguet, of New York, to be U.S. Alternative Executive Director of the International Bank for Reconstruction and Development for the term of 2 years;

Marc E. Leland, of California, to be a Member of the Board of Directors of the Inter-American Foundation for the remainder of the term expiring September 20, 1982; and

Charles H. Dallara, of Virginia, to be U.S. Alternate Executive Director of the International Monetary Fund for a term of 2 years:

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PERCY. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Senior Foreign Service which was printed in the CONGRESSIONAL RECORD of July 12, 1982, and, to save the expense of reprinting them on the Executive Calendar, I ask unanimous consent that they may lie on the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

STAR PRINT OF S. 2550

Mr. HEINZ. Mr. President, today I am seeking to modify my bill, S. 2550, the effect of which is to repeal several changes in the unemployment compensation program contained in last year's Reconciliation Budget Act and will extend benefits from 39 to 52 weeks.

Mr. President, it is my view that in a growing economy, with an upsurge in employment, the provisions and changes made last year would have provided a measure of financial responsibility to our beleagured unemployment compensation trust funds. However, in the context of the extraordinary and prolonged current recession, these changes in the unemployment compensation program have led to inequities in many of our States.

Under current law, up to 13 additional weeks of extended unemployment compensation, beyond the usual 26 weeks of regular State benefits, are payable to unemployed individuals who exhaust their State benefits during periods of high unemployment.

Prior to enactment of the Omnibus Reconciliation Budget Act of 1981, extended benefits were payable in any State in which the insured unemployment rate (IUR) was at least 4 percent, and, in addition, was at least 20 percent higher than the average of the same period in 2 previous years.

The Reconciliation Act changed this system in two important ways. First, effective in late September, 1982, it increased the IUR "trigger" level from 4 to 5 percent, before workers can qualify for extended benefits in that State. Second, the act redefined the way in which the IUR is calculated by excluding all unemployed workers receiving extended benefits. If my original legislation, S. 2550, were enacted in its present form to provide a program of 13 additional weeks, unemployed individuals on this program would not be counted under current law either.

In order to correct the injustice caused by these changes in last year's reconciliation bill I am modifying my bill, S. 2550. The new version of my bill, which I submit today, will address the two inequitable changes contained in the Omnibus Reconciliation Act of 1981.

First, the change in the IUR rate scheduled for late September of this year would not go into effect. Current law would be retained. Second, all unemployed individuals receiving unemployment compensation, whether it be under the regular State program, the extended benefits program, or a supplemental benefits program contained in my legislation, would be counted in calculating the IUR rate for any State.

Mr. President, I believe these changes are necessary and justified. Just last week, Indiana, with an unemployment rate of 11.5 percent, came off the extended benefits program. Michigan, with an unemployment rate of 15.1 percent, has also come off the extended benefits program. Neither can be a just or justifiable result. The modification I submit today will address and redress these serious defects

which provide such a devastating result.

I urge my colleagues to carefully consider my legislation.

Mr. President, I ask unanimous consent that the text of my revised bill be printed in the RECORD.

There being no objection, the revised text was ordered to be printed in the RECORD, as follows:

S. 2550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Supplemental Unemployment Compensation Act of 1982".

FEDERAL-STATE AGREEMENTS

SEC. 2. (a) Any State which desires to do so may enter into and participate in an agreement with the Secretary of Labor (hereinafter in this Act referred to as the "Secretary") under this Act. Any State which is a party to an agreement under this Act may, upon providing thirty days' written notice to the Secretary, terminate such agreement.

(b) Any such agreement shall provide that the State agency of the State will make payments of Federal supplemental compensation—

(1) to individuals who—

(A)(i) have exhausted all rights to regular compensation under the State law;

(ii) have exhausted all rights to extended compensation under the State law;

(B) have no rights to compensation (including both regular compensation and extended compensation) with respect to a week under such law or any other State unemployment compensation law or to compensation under any other Federal law; and

(C) are not receiving compensation with respect to such week under the unemployment compensation law of Canada;

(2) for any week of unemployment which begins in—

(A) an extended benefit period; and

(B) the individual's period of eligibility,

except that no payment of Federal supplemental compensation shall be made to any individual for any week of unemployment which begins more than two years after the end of the benefit year for which he exhausted his rights to regular compensation.

(c)(1) For purposes of subsection (b)(1)(A)(i), an individual shall be deemed to have exhausted his rights to regular compensation under a State law when—

(A) no payments of regular compensation can be made under such law because such individual has received all regular compensation available to him based on employment or wages during his base period; or

(B) his rights to such compensation have been terminated by reason of the expiration of the benefit year with respect to which such rights existed.

(2) For purposes of subsection (B)(1)(A)(ii), an individual shall be deemed to have exhausted his rights to extended compensation under a State law when no payments of extended compensation under a State law can be made under such law because such individual has received all the extended compensation available to him from his extended compensation account (as established under State law in accordance with section 202(b)(1) of the Federal-State Extended Unemployment Compensation Act of 1970).

(d) For purposes of any agreement under this Act—

(1) the amount of the Federal supplemental compensation which shall be payable to any individual for any week of total unemployment shall be equal to the amount of the regular compensation (including dependents' allowances) payable to him for such a week during his benefit year under the State law; and

(2) the terms and conditions of the State law which apply to claims for extended compensation and to the payment thereof shall apply to claims for Federal supplemental compensation and the payment thereof, except where inconsistent with the provisions of this Act or with the regulations of the Secretary promulgated to carry out this Act.

(e)(1) Any agreement under this Act with a State shall provide that the State will establish, for each eligible individual who files an application for Federal supplemental compensation, a Federal supplemental compensation account with respect to such individual's benefit year.

(2) The amount established in such account for any individual shall be equal to the lesser of—

(A) 50 per centum of the total amount of regular compensation (including dependents' allowances) payable to him with respect to the benefit year (as determined under the State law) on the basis of which he most recently received regular compensation; or

(B) Thirteen times his average weekly benefit amount (as determined for purposes of section 202(b)(1)(C) of the Federal-State Extended Unemployment Compensation Act of 1970) for his benefit year.

(f)(1) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning before whichever of the following is the latest:

(A) the week following the week in which such agreement is entered into; or

(B) the first week which begins after the date of the enactment of this Act.

(2) No Federal supplemental compensation shall be payable to any individual under an agreement entered into under this Act for any week beginning after September 30, 1983.

PAYMENTS TO STATES HAVING AGREEMENTS FOR THE PAYMENT OF FEDERAL SUPPLEMENTAL COMPENSATION

SEC. 3. (a) There shall be paid to each State which has entered into an agreement under this Act an amount equal to 100 per centum of the Federal supplemental compensation paid to individuals by the State pursuant to such agreement.

(b) No payment shall be made to any State under this section in respect of compensation to the extent the State is entitled to reimbursement in respect of such compensation under the provisions of any Federal law other than this Act.

(c) Sums payable to any State by reason of such State's having an agreement under this Act shall be payable, either in advance or by way of reimbursement (as may be determined by the Secretary), in such amounts as the Secretary estimates the State will be entitled to receive under this Act for each calendar month, reduced or increased, as the case may be, by any amount by which the Secretary finds that his estimates for any prior calendar month were greater or less than the amounts which should have been paid to the State. Such estimates may be made on the basis of such statistical sampling, or other method as may be agreed upon by the Secretary and the State agency of the State involved.

FINANCING PROVISIONS

SEC. 4. (a) The Secretary shall from time to time certify to the Secretary of the Treasury for payment to each State the sums payable to such State under this Act. The Secretary of the Treasury, prior to audit or settlement by the General Accounting Office, shall make payments to the State in accordance with such certification, by transfers from the funds appropriated pursuant to subsection (b) to the account of such State in the Unemployment Trust Fund.

(b) There are hereby authorized to be appropriated from the general fund of the Treasury, without fiscal year limitation, such sums as may be necessary to carry out the purposes of this Act.

DEFINITIONS

SEC. 5. For purposes of this Act—

(1) the terms "compensation", "regular compensation", "extended compensation", "base period", "benefit year", "State", "State agency", "State law", and "week" shall have the meaning assigned to them under section 205 of the Federal-State Extended Unemployment Compensation Act of 1970;

(2) the term "period of eligibility" means, in the case of any individual, the weeks in his benefit year which begin in an extended benefit period and, if his benefit year ends within such extended benefit period, any weeks thereafter which begin in such extended benefit period; except that an individual shall not have a period of eligibility unless—

(A) his benefit year ends on or after January 1, 1982; or

(B) such individual was entitled to extended compensation for a week which begins on or after January 1, 1982; and

(3) the term "extended benefit period" shall have the meaning assigned to such term under section 203 of the Federal-State Extended Unemployment Compensation Act of 1970.

FRAUD AND OVERPAYMENTS

SEC. 6. (a)(1) If an individual knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact, and as a result of such false statement or representation or of such nondisclosure such individual has received an amount of Federal supplemental compensation under this Act to which he was not entitled, such individual—

(A) shall be ineligible for further Federal supplemental compensation under this Act in accordance with the provisions of the applicable State unemployment compensation law relating to fraud in connection with a claim for unemployment compensation; and

(B) shall be subject to prosecution under section 1001 of title 18, United States Code.

(2)(A) In the case of individuals who have received amounts of Federal supplemental compensation under this Act to which they were not entitled, the State is authorized to require such individuals to repay the amounts of such Federal supplemental compensation to the State agency, except that the State agency may waive such repayment if it determines that—

(i) the payment of such Federal supplemental compensation was without fault on the part of any such individual, and

(ii) such repayment would be contrary to equity and good conscience.

(B) The State agency may recover the amount to be repaid, or any part thereof, by deductions from any Federal supplemental compensation payable to such individual under this Act or from any unemployment compensation payable to such individual under any Federal unemployment compensation law administered by the State agency or under any other Federal law administered by the State agency which provides for the payment of any assistance or allowance with respect to any week of unemployment, during the three-year period after the date such individuals received the payment of the Federal supplemental compensation to which they were not entitled, except that no single deduction may exceed 50 per centum of the weekly benefit amount from which such deduction is made.

(C) No repayment shall be required, and no deduction shall be made, until a determination has been made, notice thereof and an opportunity for a fair hearing has been given to the individual, and the determination has become final.

(3) Any determination by a State agency under paragraph (1) or (2) shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

SEC. 7. (a)(1) Section 203(d) of the Federal-State Extended Unemployment Compensation Act of 1970 (as amended by Section 2403 of the Omnibus Budget Reconciliation Act of 1981) is amended—

(A) in paragraph (1)(B) by striking out "5" and inserting in lieu thereof "4"; and

(B) in the matter following paragraph (2), by striking out "the figure '5' contained in subparagraph (B) thereof were '6'" and inserting in lieu thereof "the figure '4' contained in subparagraph (B) thereof were '5'".

(2) The amendments made by paragraph (1) shall become effective on the date of the enactment of this Act, and shall apply to weeks beginning on or after such date.

(b)(1) Section 203(e)(1)(A) of the Federal-State Extended Unemployment Compensation Act of 1970 (as amended by Section 2402 of the Omnibus Budget Reconciliation Act of 1981) is amended by striking out "individuals filing claims for regular compensation" and inserting in lieu thereof "individuals filing claims for compensation (including regular, extended, supplemental, and sharable regular compensation)".

(2) The amendment made by paragraph (1) shall apply for purposes of determining whether there are State "on" or "off" indicators for weeks beginning after August 13, 1981. For purposes of making such determinations for such weeks, such amendment shall be deemed to be in effect for all weeks, whether beginning before, on, or after August 13, 1981.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ARMSTRONG:

S. 2783. A bill to designate certain public lands in the States of Colorado and Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. DECONCINI (for himself, Mr. HEFLIN, Mr. SIMPSON, Mr. HUDDLESTON, and Mr. BENTSEN):

S. 2784. A bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes; to the Committee on the Judiciary.

By Mr. DURENBERGER:

S. 2785. A bill to amend chapter 89 of title 5, United States Code, relative to Federal employees health benefits program, and for other purposes; to the Committee on Governmental Affairs.

By Mr. WEICKER:

S.J. Res. 222. A joint resolution to designate the week of February 13 through February 19, 1983, as "National Police Athletic League Week"; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. RIEGLE, Mr. EAGLETON, Mr. RANDOLPH, and Mr. METZENBAUM):

S.J. Res. 223. A joint resolution to prohibit the Secretary of Labor from promulgating regulations which expand the number of hours which 14- and 15-year-old children would be permitted to work and which further change the conditions of employment of young children and students; to the Committee on Labor and Human Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ARMSTRONG:

S. 2783. A bill to designate certain public lands in the States of Colorado and Utah as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

COLORADO WILDERNESS ACT OF 1982

● Mr. ARMSTRONG. Mr. President, I am today introducing the Colorado Wilderness Act of 1982. This legislation is a major contribution to the completion of the national wilderness preservation system in the State of Colorado. This bill is the logical first step in several that I intend to take in working toward the final wilderness decisions for Colorado.

The citizens of Colorado have always valued, respected, and utilized the natural resources of our great State. The public lands have, and will continue to play, a major role in the development of Colorado. A part of that development is the recognition of the place and value of wilderness. This recognition started more than 50 years ago with the designation of the Mount Zirkel-Dome Peak Primitive Area in the Routt National Forest on October 15, 1931. By 1939, 11 primitive areas had been established within Colorado's National Forests for the purpose of preserving wilderness qualities.

With the passage of the 1964 Wilderness Act the present day wilderness system was firmly established with the designation of nearly 275,000 acres in five new wildernesses in Colorado. All of these wildernesses were within the national forests. In the 10 years following the passage of the Wilderness Act studies were completed on many primitive areas in national forests and roadless areas within the units of the national park system. In the period of 1975 to 1978, eight new wildernesses including three National Park Service areas were added to the wilderness system bringing the total to more than 1 million acres. In 1980, Public Law 96-560 more than doubled the wilderness system in the State. This important piece of legislation made a significant step in resolving the Forest Service RARE II process in Colorado. Fourteen new wildernesses were created and several additions were made to existing wildernesses. In addition, this legislation addressed a number of valid nonwilderness concerns including access, grazing, fire and insect control, buffer zones, as well as release of lands unsuitable for wilderness.

The RARE II legislation clarified grazing guidelines to eliminate grazing use questions that have plagued ranchers for years. The problem of access to privately owned inholdings within wilderness areas was addressed, as well as access to designated areas for wilderness study. Language was included in the bill calling for a reassessment of Forest Service theories, policies, and practices for controlling fire, disease, and insect outbreaks in wilderness areas. The buffer zone questions were also addressed to provide the Forest Service and users of nonwilderness a reasonable degree of certainty and predictability as to land management policies.

The legislation also provided important release language to enable the nonwilderness uses of lands to proceed under the general land-use and environmental laws. This aspect of the legislation removed a cloud from the option to develop valuable energy, timber, minerals, rangeland, national security, recreation, and employment potential.

Finally, the RARE II legislation designated certain potential areas for review and study to determine its potential for future wilderness designation.

At the present time the Colorado portion of the national wilderness preservation system consists of 28 units, 4 of which are in the national park system and 24 in the national forest system with a total of more than 2.6 million acres.

With the passage of Public Law 96-560 in 1980, Colorado moved into a leadership role in the completion of the national wilderness preservation system. Beyond making important additions to the wilderness system, this act clearly identified those national forest areas which remain to be studied for further inclusion in the system.

In 1976, the Federal Land Policy and Management Act extended the application of the wilderness system to those public lands administered by the Bureau of Land Management. The

Bureau was directed to inventory and determine those roadless areas which should become wilderness study areas. In 1981, the BLM completed the wilderness inventory and identified 58 wilderness study areas in addition to the 5 instant study areas that had been previously designated. Today there are several studies in various stages of completion addressing the 63 areas with more than 788,000 acres of BLM wilderness study lands.

In the early 1970's the Secretary of the Interior completed wilderness studies on the national park system lands within the State of Colorado as directed by the 1964 Wilderness Act. Many of these studies have not been acted on and they have been periodically updated as changes occurred within the national park system. The studies on file currently represent an up-to-date inventory of potential national park wilderness additions.

The combination of the remaining Forest Service study areas, the identified BLM study areas and the national park wilderness recommendations represent 90 individual units of wilderness study lands involving nearly 2 million acres still in need of decisions regarding possible addition to the wilderness system.

As we look forward to the 20th anniversary of the passage of the Wilderness Act in 1984 it is important that we proceed with a carefully thought out series of steps to conclude the establishment of the wilderness preservation system in Colorado. Now that we have clearly identified those lands that are still in consideration for addition to the system we have an obligation to make the remaining decisions promptly. Early designation of additional units of the wilderness system will allow for improved management plans to be developed and those actions important to the management of the wilderness system to be initiated. By the same token, early decisions to release for other types of management those lands not added to the wilderness system will allow the agencies to develop comprehensive management plans covering those other uses. The users of the public land resources, wilderness and nonwilderness alike, deserve to have these decisions made as early as possible. By initiating this legislation and by identifying the logical steps that will lead us to other wilderness decisions, I am starting a process to conclude the establishment of Colorado's portion of the national wilderness preservation system.

The legislation I am introducing today will make a significant contribution to the wilderness system by establishing seven new wildernesses within three national park units and by making a major national park addition to one existing wilderness. This bill also makes an addition to the Hunter-Fryingpan Wilderness in the White River National Forest and in doing so concludes a wilderness study reported by Public Law 95-237 in 1978.

At this point I would like to briefly describe the areas which will be added to the wilderness system by the Colorado Wilderness Act of 1982 and to ask that the section-by-section analysis of the bill be printed at the conclusion of my remarks.

Within Rocky Mountain Park there would be four separate units. The Mummy Range wilderness is in the northern portion of the park. This unit contains approximately 81,320 acres and is adjacent to the Commanche Peak Wilderness in the Roosevelt National Forest. The Never Summer unit contains approximately 9,620 acres and lies adjacent to and becomes part of the Never Summer wilderness in the Arapaho National Forest. This legislation provides for the continued management by the Forest Service and the park service of their respective portions of the enlarged wilderness. The Trail Ridge wilderness proposal contains 4,300 acres and is located in the center portion of the park between the Fall River Road and the Trail Ridge Road. The Enos Mills wilderness proposal is in the southern portion of the park and contains approximately 140,428 acres. This bill provides for adding approximately 2,917 acres of the Indian Peak wilderness within Rocky Mountain National Park to the Enos Mills unit.

In Colorado National Monument, the Monument Mesa wilderness proposal contains 10,237 acres and is located in that portion of the park north of the Rim Rock Drive Road. The No Thoroughfare Canyon Wilderness proposal contains 4,542 acres and is located in the southern portion of the park south of the Rim Rock Drive Road.

In Dinosaur National Monument which is located in both Utah and Colorado the Green-Yampa wilderness proposal contains approximately 180,205 acres and is located in the northern portion of the park. The Blue Mountain wilderness proposal is located in the southern portion of the park and contains approximately 25,693 acres.

All of the foregoing National Park Service proposals are the result of Park Service wilderness studies. The size and boundaries of each of these proposed wildernesses is the same as proposed in the Park Service studies. These proposals have been pending before Congress for many years and it is timely that we now make these important additions to the wilderness system. With these additions six national parks and monuments in Colorado will contain portions of the wilderness system with a total of more than a half million acres.

When Congress created the Hunter-Fryingpan Wilderness as a part of Public Law 95-237 in 1978 the Secretary of Agriculture was directed to study the 8,000 acre Spruce Creek addition for possible inclusion in the wilderness. This study has been completed and this bill will add the 8,000 acres to the existing wilderness. This is one more step in concluding the necessary decisions for the wilderness system in Colorado.

This legislation will complete the establishment of the National Park Service portion of the wilderness system in Colorado. It also helps set the stage for future legislation to similarly conclude the Forest Service and Bureau of Land Management contributions to the wilderness system. By the end of 1983 the Forest Service should have completed studies on all of their remaining wilderness study areas. Well over half of the BLM study areas are scheduled to be completed within the same time period. The remainder of the BLM areas will be studied from 1984 to 1986. I intend to periodically introduce legislation to deal with wilderness recommendations as quickly as possible after study results are available. I will urge both agencies to conclude studies as promptly as possible. In many cases there are contiguous and intermingled Forest Service and BLM lands which should properly be dealt with in the same piece of legislation. I will be looking for opportunities to make logical groupings of study areas and to coordinate these groupings.

One area I am particularly interested in and am studying with special interest is the Sangre De Cristo in south-central Colorado. This range contains the largest remaining national forest wilderness study area in Colorado. It is approximately 220,000 acres. There are also several small BLM study areas adjacent to the Forest Service unit. As draft study reports are published and wilderness hearings are held later this year, I will be monitoring the process with an eye toward introducing appropriate wilderness legislation early next year. The people of south-central Colorado have been concerned for some time over the future management of this spectacular mountain range. It is my interest that we carefully review the study results, listen to those Colorado citizens who are vitally interested in the future management of this land and then promptly set about enacting the appropriate legislation.

I am also interested in resolving the wilderness questions in a large area of intermingled lands in the upper Gunnison and Animas River drainages near the communities of Lake City and Silverton. This large area contains 12 BLM and 2 Forest Service study areas. Many of these study areas are adjacent to each other or to existing wildernesses. There is a good opportu-

nity to draw together study results from at least two BLM studies and two national forest land management plans for purposes of forging reasonable and logical wilderness legislation. In conjunction with settling the wilderness issue in this area it is appropriate to consider proposed land exchanges between the Forest Service and the BLM to provide for more efficient long-term public land administration. I will be dealing with this legislation promptly in an effort to set the stage for the wilderness legislation which I plan to introduce next year.

I should like to commend the Forest Service, the Park Service and the Bureau of Land Management for their efforts to date in proceeding in a timely fashion with the wilderness studies. I ask them to continue a diligent program to bring the studies to an early completion.

The Nation is moving through an extraordinarily important era of decision in which we will balance the need for energy development against the need to preserve priceless natural and scenic values that still exist.

It is appropriate that Colorado should lead the Nation in this critical process. Colorado has some of the richest energy and mineral deposits in the Nation along with irreplaceable primitive areas encompassing our most beautiful and unspoiled natural areas.

The Colorado Wilderness Act of 1982 is an important step, but it is only a step in our exercise of the responsibility of stewardship. The quality of stewardship is in many ways the greatest test of the character of an individual or a generation of people.

We intend, in Colorado, to meet this test in a fair and equitable manner and with a long-term view of the future. This Wilderness Act affects only Colorado but is of national significance and concerns every citizen of the United States. I urge the Congress to adopt this measure so that we can then turn our attention to the next phase of wilderness development in Colorado.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

COLORADO WILDERNESS ACT OF 1982: SECTION-BY-SECTION ANALYSIS

SECTION 1

Enacting statement and title.

SECTION 2

This section provides specific legislation to create seven new wildernesses within the National Park system and to create a National wilderness addition to an existing wilderness on adjacent National Forest land. All of the areas included in this section have been recommended for wilderness designation through the National Park Service wilderness study process. All of the areas were included in the 1981 Administration's report to Congress as proposed and recommended wilderness areas. The new wildernesses are Mummy Range, Trail Ridge and Enos Mills, all in Rocky Mountain National Park; Monument Mesa and No Thoroughfare Canyon in Colorado National Monument; Green-Yampa and Blue Mountain in Dinosaur National Monument. A portion of Rocky Mountain National Park is designated as a wilderness addition to the existing Never Summer Wilderness in the adjacent Arapaho National Forest. The areas are described as follows:

Mummy Range-Rocky Mountain National Park

An area of 81,320 Acres encompassing the Mummy Range and Specimen Mountain. It contains large areas of the alpine, subalpine forest, wet meadow and montane forest ecosystems.

The wilderness boundary generally follows the north and east park boundary from La Poudre Pass to the Estes Park area. It then follows natural and topographic features westward along the Fall River Road and Trail Ridge Road passing the Timber Creek Campground and then going west along the park boundary to the Grand River Ditch which it follows to La Poudre Pass.

Excluded from this wilderness unit are the following: A 300-foot wide buffer area south of the high water elevation of Long Draw Reservoir; Mirror Lake where there are private water rights; Colorado State University property along the South Fork Cache La Poudre River; private property along Cow Creek; City of Estes Park Water Treatment Plant and access in Black Canyon, a 200-foot set back from the edge of the Grand River Ditch road; a 200-foot set back from the center of the Grand River Ditch; and an area around Specimen Ditch; and a corridor from the Fall River Road to Lawn Lake.

Potential wilderness additions total 75 acres which are: Mirror Lake water rights—25 acres; and Colorado State University property—50 acres.

Never Summer—Rocky Mountain National Park

This unit includes 9,620 acres of the steep upper slopes and peaks of the eastern side of the Never Summer Mountains. About ⅔ of the area is above timberline, capped by a row of 12 peaks reaching over 12,000 feet in altitude.

The wilderness boundary follows the park boundary along the north and west side of the unit. On the east and south the proposed wilderness boundary is along the Grand River Ditch. On the west this unit is adjacent to the existing Never Summer Wilderness on the Arapaho National Forest.

Excluded from this wilderness unit is a 200-foot set back from the center of the Grand River Ditch.

Trail Ridge—Rocky Mountain National Park

This unit which totals 4,300 acres is the forested mountainside sloping northward to Fall River, between the Trail Ridge and Fall River roads. It contains much studied examples of sub-alpine forest and alpine tundra. Lodgepole pine, Englemann spruce and subalpine fir are dominant in the forest cover. Although the area is visible from various points along the two roads, the wilderness traveler within it finds himself quite isolated.

The wilderness boundary is delineated by natural features, including Fall River on the north, and slopes adjacent to Trail Ridge Road on the south. A corridor containing the 10-foot-wide paved trail to Toll Memorial, the Hidden Valley Ski Area, and the Fall River Pass Information-Store complex are not included in the proposed wilderness.

Enos Mills—Rocky Mountain National Park

This proposed wilderness area contains examples of all the ecosystems present in Rocky Mountain National Park, including a spectacular array of rugged peaks, snow fields and glacial cirques. In this 140,428 acre wilderness are both the most popular backcountry destinations and some of the park's least visited valleys. The high peaks are visible from Fort Collins, the Denver urban strip, and many points to the east

The proposed wilderness starts east of Many Parks Curve near Trail Ridge Road, goes southeast along the drainage to Beaver Meadows and follows topographic features in a wandering fashion excluding a dirt road, pipeline and filtration plant in Beaver Meadows, a road terminus, an existing maintenance yard in Hallowell Park and the Bear Lake-Nymph Lake developed area. From there it goes generally east excluding the Bear Lake Road corridor to the park's east boundary which it follows southward except for a 160 acre parcel west of Lily Lake, a 40 acre parcel north of Inn Brook and the Longs Peak Campground area to the Wild Basin area. It then goes westward excluding Sandbeach, Bluebird and Pear Reservoirs. From Pear Reservoir it goes northeasterly excluding the Allens Park Trail to the southeast corner of the park near Allens Park. Then it follows the southern and western park boundary to the Grand Lake Area.

After excluding inholdings, water inlets and structures around the Grand Lake entrance area, it follows topographic features north to Beaver Creek, roughly paralleling the existing highway. The wilderness line then turns northeast to exclude road realignment and communications lines, then roughly follows the Trail Ridge Road on topographic features and excluding the Hidden Valley Ski Area, to the Many Parks Curve area.

The Eureka Ditch is excluded from the wilderness in a corridor 20 feet wide.

The 9 acres of the Redwood Fisher property near the south end of Shadow Mountain lake and the 5 acres of the Lynch life estate near Deer Mountain make up the 14 acres of potential wilderness additions in this unit.

Monument Mesa—Colorado National Monument

The Monument Mesa unit which contains 10,237 acres generally includes all of the roadless lands north and east of the Rim Rock Drive. This area includes an unusual and extremely interesting series of box canyons which erosion has carved out of the Uncompahgre Highland. The Highland forms one rim of the Grand Valley of the Colorado River. Scattered minor archaeological sites where primitive man visited and hunted are evident.

Visitors to this deep canyon area experience solitude and isolation from man's activities. Hikers and horseback riders reach the area on existing primitive trails which are the only developments existing in the proposed wilderness area.

The boundaries of the area generally follow the National Park boundary on the east side and the mesa rim on the south, west and north sides. Appropriate set backs are excluded for purposes of management.

No Thoroughfare Canyon—Colorado National Monument

This area lying in the southern portion of Colorado National Monument contains 4,542 acres. The area includes the typical erosion patterns and geologic formations. The pinyon/juniper woodland which is interspersed with shrubby plants such as sagebrush, serviceberry and mountain mahogany is common.

The boundaries are generally the National Park boundary on the east, south and far west and the Glade Park and Rim Rock Drive roads on the north and northwest.

Green-Yampa—Dinosaur National Monument

This is the largest of the proposed wilderness units and contains 180,205 acres. This area contains the spectacular canyons of the Green River and its main tributary the Yampa. These river canyons contain outstanding displays of geology. There is a high degree of ruggedness and remoteness which creates a true challenge to the visitor. The high plateaus along the canyon rims offer spectacular views of the canyons and the rivers.

This is a semi-arid environment in which the canyons provide for many different plant and animal communities. Unexpected examples of Ponderosa pine and Douglas fir are found in the protected box canyons and unusual animals such as mountain lion and big horn sheep continue to exist in this remote area.

This unit includes 44 miles of the Green River and 48 miles of the Yampa River. Its boundaries generally follow the Monument boundaries on the east, north and west and the Yampa Bench Road on the south. The developed areas near the quarry and the visitor facilities accessible by road are excluded. There are 2,473 acres of potential wilderness additions. These lands generally consist of road corridors and lands which are not under control of the Park Service at the present time.

Blue Mountain—Dinosaur National Monument

The Blue Mountain unit lies south of the Yampa Bench Road and contains 25,693 acres. The Blue Mountain Plateau is 2,000 feet above the Yampa Bench and offers spectacular views of the canyons and rivers of the Monument.

The boundaries of this unit are generally the Monument boundary on the south and west and the Echo Park and Yampa Bench Roads on the north and east. This unit also contains 883 acres of potential wilderness additions when the conditions for wilderness suitability are met.

SECTION 3

In 1980 Public Law 96-560 transferred a small portion of the Indian Peak Wilderness from the Forest Service to Rocky Mountain National Park. With the creation of the adjacent Enos Mills Wilderness it is appropriate that this small portion of the Indian Peak Wilderness be added to it. This section does that.

SECTION 4

This section provides that the Forest Service and the Park Service will continue to manage their respective portions of the Never Summer Wilderness. However, it also provides that they may coordinate and cooperate in the management of this wilderness.

SECTION 5

This section provides that this Act shall not influence or affect water rights or uses in any rivers that flow through the new wildernesses. The intent is that this Act is neutral as to water rights.

SECTION 6

The Endangered American Wilderness Act of 1978, Public Law 95-237, required that a study of wilderness suitability be made on the area known as the Spruce Creek Addition Study Area. That wilderness study has been completed by the U.S. Forest Service including the necessary public hearings. There has also been a mineral survey of the area completed by the Geological Survey and the Bureau of Mines of the United States Department of the Interior. This section of the bill states that the required wilderness studies have been completed.

SECTION 7

This section adds the entire Spruce Creek Addition Study Area to the existing Hunter-Fryingpan Wilderness. The Hunter-Fryingpan Wilderness which was established in 1978 contains 74,450 acres. The Spruce Creek Addition Study Area lies on the west side of the wilderness and east of the town of Aspen. Elevations range from approximately 9,200 feet to 12,200 feet and the area includes examples of both alpine and montane life zones. The Spruce Creek Area offers outstanding opportunities for solitude and unconfined recreation particularly in conjunction with the Hunter-Fryingpan Wilderness. The boundaries of the area follow the existing Hunter-Fryingpan Wilderness boundary on the south and northeast sides of the area. The west boundary extends south from Porphyry Mountain following the east facing slopes of Spruce Creek and extending across Woody Creek to Bald Knob.

SECTION 8

This section abolishes the Spruce Creek Addition Wilderness Study Area that was created as a part of Public Law 95-237.

SECTION 9

This section is standard language requiring filing of maps and legal descriptions.

SECTION 10

This section is standard language requiring management in accordance with the Wilderness Act of 1964.●

By Mr. DECONCINI (for himself, Mr. HEFLIN, Mr. SIMPSON, Mr. HUDDLESTON, and Mr. BENTSEN):

S. 2784. A bill to clarify the application of the antitrust laws to professional team sports leagues, to protect the public interest in maintaining the stability of professional team sports leagues, and for other purposes; to the Committee on the Judiciary.

MAJOR LEAGUE SPORTS COMMUNITY PROTECTION ACT OF 1982

Mr. DECONCINI. Mr. President, together with my distinguished colleagues, Senators HEFLIN, SIMPSON, HUDDLESTON, and BENTSEN I rise to introduce the Major League Sports Community Protection Act of 1982.

This legislation reflects the serious concern that each of us shares about the fate of communities throughout the Nation which have invested heavily—both financially and emotionally—in major league sport franchises. Until recently, it was understood that permission for a team owner to leave a particular community would be granted by the league and only under special circumstances. But recent legal actions taken under the antitrust laws open the possibility that each owner will be free to move his or her franchise indiscriminately. While such a situation might well reap owners substantial windfall profits, it would, unfortunately, leave dozens of communities paying off bonds issued to construct stadiums and other sports facilities and with no teams to use them. This financial impact would be compounded by the emotional loss felt by thousands of loyal fans.

In an effort to restore a certain amount of due process and predictability such as has been experienced over the last few decades, my colleagues and I are introducing legislation which essentially clarifies the intent of Congress that antitrust laws not cover situations involving the decision to relocate a team. Under our bill, it would continue to be the prerogative of the league to make those decisions. The bill also addresses the question of revenue sharing since it is intimately and inextricably linked to location. Without a continuation of the practice of revenue sharing among the league's franchises, it would be unfair and unrealistic to disallow complete freedom of mobility.

I am persuaded, however, that narrower legislation aimed at relocation and revenue sharing is in order. Plainly and simply, our bill would recognize as legitimate league conduct (*a*) any sports league decision to keep a team in its existing community and (*b*) sports league agreements to share revenues among the league's clubs so as to assure the economic viability of clubs in less well situated communities. Such revenue sharing practices are, in effect, a subsidy to the franchises operating major league sports teams, and the bill directly encourages such revenue sharing practices.

Suggestions for legislation of this type came to the fore in the hearings held by the House subcommittee early this year and during 1981. Persuasive testimony regarding the need for clarification of legal standards in this area was presented by several witnesses, including the mayor of Oakland, Calif., Lionel Wilson. These witnesses then emphasized the unique importance of professional sports teams to our Nation's communities, the lack of clarity in the antitrust standards used in considering sports league issues, and the compelling need for antitrust clarification in the area of transfers of sports franchise locations. They also criticized the efforts of the Oakland Raiders to ignore NFL rules and to use antitrust laws to relocate the NFL's Oakland franchise in Los Angeles, despite the unprecedented and continued

financial and moral support the Raiders had received in the Oakland area.

Mayor Wilson cogently put the public interest and legislative policy questions this way:

Now let me turn briefly to how the Oakland community's interests relate to current antitrust concepts. There is an antitrust suit against the NFL and the Oakland-Alameda County Coliseum seeking to strip the Raiders from Oakland. It has been my understanding that the antitrust laws were meant to serve the public interest and to promote consumer welfare. Yet what conceivable public interest is served by using antitrust to allow the Raiders to turn their backs on Oakland and the fans who have given them such faithful support over the years? What public interest is served by leaving the City and the County with over $1.5 million in annual debt service costs—which cannot possibly be paid if the Raiders leave? What public interest is served by telling the NFL that the antitrust laws prevent it from continuing to have one of its most successful teams operate in Oakland? What public purpose is served by telling our community that because Los Angeles has a larger population and is a better pay-TV market, Oakland must forfeit its team despite all it has given the Raiders? I think the answer is clear: None whatsoever.

My concerns with the responsibility of sports leagues in maintaining stable community-team ties have been underscored by recent developments. In addition to the Raiders' proposed move, we have seen efforts by San Diego's professional basketball team to pull up stakes and move out of that community in the face of a binding lease. We all know that professional sports stadiums and arenas subsidized or built entirely with taxpayer funds have become a central feature of our Nation's landscape and of our Nation's recreational, cultural, and civic life. Today there are stadiums such as RFK Stadium here in the Nation's Capital—built with a public bond issue guaranteed by the U.S. Treasury. And other communities have publicly sponsored stadiums such as the New Orleans Superdome, Michigan's great Silverdome, and Seattle's magnificent Kingdome—all built with public bond issues or subsidized with taxpayer funds. As the Washington Post recently reported, communities throughout the Nation are now strongly concerned about their relationships with professional sports teams—and anxious to assure that community interests are adequately protected.

In my judgment, antitrust notions that permit a highly successful and highly profitable professional sports team to abandon a community despite the unanimous opposition of the league's membership do not serve the public interest. The antitrust laws are intended to serve consumer interests but it is unrealistic to treat a member of a league as a totally independent sole proprietor free to hopscotch from community to community without regard to broader public or league interests. Nor do I think that the public is served by allowing sports teams to gravitate only to the big metropolitan markets where owners might see financial bonanzas. Leagues and teams should have incentives to locate teams throughout the Nation, and this bill encourages revenue-sharing practices that serve such purposes.

The primary goal of the conspiracy provisions of the antitrust laws is to guarantee that true economic competitors operate with some distance between each other. But these provisions should not be inflexibly applied to allow big metropolitan areas to compel leagues to locate multiple teams in such areas to the exclusion of geographic dispersion of teams, including in smaller and midsized communities. Sports league agreements that protect stable league-community relations should be encouraged. But inflexible application of antitrust law destroys the very concept of a league by allowing individual clubs to dictate league policy and to elevate individual club interests over league-wide or community interests.

There is a long history of congressional recognition of the importance of geographic balance in the location of teams and stable ties between our Nation's communities and professional sports teams. The present proposed bill merely confirms those policies that Congress has often urged upon sports leagues and requires sports teams to honor their commitments to their leagues and to their communities.

But the immediate cause for concern is the protection of community interests in securing reasonable protection for public and taxpayer rights. As the San Diego Union recently put it, the need for congressional action is now clear:

Mr. Davis is guilty of unconscionable conduct in suing the owners of the NFL, whose revenue sharing has led the Raiders to compete successfully with franchises in much larger cities. And it's a rotten business for Mr. Davis to desert loyal fans who have brought him fame and fortune.

The proposed kidnapping of the Raiders from Oakland has prompted introduction of legislation in Congress which would protect Oakland and other cities that support their sports franchises.

Beyond the Oakland consideration, we have a parochial interest in this legislation. Such a law might defeat the effort by Los Angeles to snatch away our San Diego Clippers. We trust, therefore, that the legislation known as the Major League Sports Community Protection Act of 1982 (H.R. 6467) will gain early passage. Otherwise, there could be mounting chaos in professional sports across the country. An unscrupulous franchise owner could skim off the cream in a given area for a few years, make unreasonable demands upon the city, and move on to greener pastures if they are not met."

The central purpose of the proposed legislation is to permit professional sports leagues to determine where their member clubs will be located and to provide for revenue sharing among their members, without being exposed to challenge under the conspiracy provisions of the Sherman Act. Experience has shown that leagues can be expected to assure that member clubs stay in communities that have faithfully and profitably supported them through many years. If leagues are not permitted to maintain clubs in existing successful locations, communities that have long supported a professional team, possibly helped finance it by constructing a stadium, and that have had various vital interests become dependent on a team's presence, may suddenly find they have lost their investment because of narrow profit opportunities of individual clubs or club owners.

I have noted statements that there is a need to establish guidelines on how to protect fans from sports teams which move from city to city. Such a bill might outline the points under which a team could move, such as falling attendance, poor facilities, and so forth.

But it is essential to understand that the bill being introduced today does not place beyond antitrust challenge decisions of sports leagues to move clubs out of their assigned territories. The bill only authorizes leagues to operate with rules enabling the league's membership to decide that league teams should remain in the communities where they are operating. The bill does not change any legal principle operating in the other direciton—that is, it does not give leagues the authority to permit teams to pick up and move from their assigned communities. In short, the bill is not an authorization for franchise hopscotching.

The fact that the bill places beyond antitrust challenge only league decisions to keep teams in their existing territories was emphasized by Representative STARK when this legislation was introduced in the House of Representatives. He stated:

First, the bill authorizes sports leagues to operate with rules requiring their member clubs to obtain approval of the league membership before abandoning communities in which clubs have been operating successfully. This provision guarantees that the interests of communities and leagues will be evaluated when well supported and financially successful clubs are proposed to transfer their home locations. And if a league rejects such a transfer proposal, the league could not be attacked under the antitrust laws for maintaining the existing team location. This provision will, by the express terms of the proposed legislation, apply to the NFL's decision not to authorize the Raiders to transfer out of the Oakland community.

Concerns have been expressed that any sport-antitrust legislation should not have any effect on player employment or player union matters, and we have respected these concerns in this legislation. The bill is narrowly and explicitly drawn. It expressly reserves

to the labor-management sphere and to the labor and antitrust any employment-related matters now subject to those laws. Under this bill, the rights and obligations of players, player unions, clubs, and league regarding labor-management matters will be the same upon enactment of this bill as they are now. In short, we have taken pains to assure that the legislation does not change applicable labor law, antitrust law, or other legal standards on employment matters.

The provision of the bill dealing with revenue sharing among the members of a league does not change any antitrust or labor law principle relative to wage scales or wage agreements. Any collective bargaining that might now occur, for example, on an allocation of revenues to player benefits, would clearly continue to be permissible under this bill. The bill has no effect on other aspects of player employment such as the eligibility of college athletes for play in the professional leagues. I know that these and other player-employment subjects have been priority matters for the various player unions in professional sports, and they will continue to be matters to be dealt with by the unions in collective bargaining or under the antitrust laws as appropriate.

It is with extreme caution that I approach the task of clarifying our antitrust laws. I strongly endorse the purpose of section 1 of the Sherman Act to bar trade restraining agreements among independent parties. However, when the parties in an enterprise are not wholly independent business competitors but instead are dependent on each other for league operations, it makes no sense to apply routine antitrust standards across the board if that disserves the public interest. When section 1 cannot be uniformly and clearly applied by our Federal courts, when private litigants can take any routine league decision and twist it into a "conspiracy," the antitrust laws are not serving the public interests or consumer interests they were designed to serve.

Examination of antitrust law application to sports has occurred on many occasions in Congress, and the Supreme Court itself has urged the Congress to address the unique problems of sports and antitrust. Hearings on sports and antitrust have been held in 1951, 1954, 1957, 1958, 1959, 1960, 1964, 1965, and 1976. In 1958 and 1965, the House and the Senate, respectively, passed separate bills limiting the application of the antitrust laws to professional sports teams. The present bill is consistent with previous congressional action but is, in fact, far narrower than most prior proposals. It also includes express disclaimers and safeguards.

Unless Congress acts, stadiums and other sports facilities built with taxpayer money will be unfairly darkened around the country. Unless Congress acts, every team owner will be free to auction his team for sale to the highest bidder, regardless of how well the team has been supported. Unless Congress acts, the revenue-sharing arrangements that make it possible for communities of all sizes throughout the Nation to support professional sports teams may be subject to legal challenge on misguided standards.

The Major League Sports Community Protection Act will allow sports leagues to operate in the public interest while maintaining the current coverage of professional team sports leagues under applicable antitrust and labor law standards.

I urge my colleagues to support this measure and I ask unanimous consent that the text be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2784

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Major League Sports Community Protection Act of 1982."

FINDINGS AND DECLARATIONS

SEC. 2. The Congress finds and declares that the public has an interest in preserving stability in the relationship between professional sports teams and the communities in which they operate and in encouraging professional team sports leagues to promote the economic and geographic stability of their member clubs: Therefore, be it enacted, that—

(1) It shall not be unlawful by reason of any provision of the antitrust laws for a professional team sports league and its member clubs—

(a) to enforce rules authorizing the membership of the league to decide that a member club of such league shall not be relocated; or

(b) to enforce rules for the division of league or member club revenues that tend to promote comparable economic opportunities for the member clubs of such a league.

INAPPLICABILITY TO CERTAIN MATTERS

SEC. 3. Nothing contained in this Act shall—

(a) be deemed to change, determine, or otherwise affect the applicability or nonapplicability of the labor laws, the antitrust laws, or any other provision of law to the wages, hours, or other terms and conditions of player employment within any sports league, to any player employment matter within any sports league, or to any collective bargaining rights and privileges of any player union within any sports league;

(b) exempt from the antitrust laws any agreement to fix the prices of admission to sports contests;

(c) exempt from the antitrust laws any predatory practice or other conduct with respect to competing sports leagues which would otherwise be unlawful under the antitrust laws; or

(d) modify any existing Federal statutes relating to the television practices of sports leagues, or change, determine, or otherwise affect the applicability or nonapplicability of the antitrust laws or communications laws to any form of joint dealing practices by sports leagues with respect to the sale of cable or subscription television.

FEDERAL PREEMPTION

SEC. 4. Notwithstanding any other provision of law, no State or political subdivision thereof shall establish, maintain, or enforce any regulation of commerce that imposes any limitation on the collective conduct of professional team sports leagues or their member clubs authorized by this Act.

APPLICABILITY TO PENDING ACTIONS

SEC. 5. (a) This Act shall apply to all actions commenced under the antitrust laws of the United States after the date of enactment of this Act.

(b) This Act shall also apply to all actions commenced under the antitrust laws of the United States prior to the date of enactment of this Act unless—

(1) the judgment in an action is final and unappealable on or before the date of enactment of this Act; or

(2) the court determines in an action involving collective conduct of a professional team sports league in which a release or covenant has been signed prior to the date of enactment of this Act that it would be manifestly unjust, in light of subsection (c) of this section and other circumstances, to apply this Act in such action to any unresolved claim of any party not a member club of such league.

(c) No agreement to settle, compromise, or release a claim which has been signed by the parties prior to the date of enactment of this Act may be rescinded, disapproved, reformed, or modified by the parties or by the court because of the application of the provisions of this Act, except upon the written consent of all parties thereto.

DEFINITIONS

SEC. 6. For purposes of this Act, the term "Professional team sports league" means the organized professional team sports of basketball, football, hockey or soccer.

By Mr. DURENBERGER:

S. 2785. A bill to amend chapter 89 of title 5, United States Code, relating to the Federal employees health benefits program, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES HEALTH PLAN IMPROVEMENT ACT OF 1982

● Mr. DURENBERGER. Mr. President, today I am introducing legislation to improve the Federal employees health benefits plan (FEHBP).

The Federal employees health benefits plan, which has served Federal employees well for over 20 years, has had a rough 1982. The real tragedy is that when the health plan suffers, so do Federal employees.

In 1982, the take-home pay of Federal employees was less—by as much as $45 a month—because of an increase in health insurance premiums. But the premium increases this year are just one part of the story. Health plans also reduced coverage. Because of cost pressures, the Office of Personnel Management required all plans to reduce benefits.

And finally, employees were locked into these changes for 6 months. Normally given the chance to change

plans in November 1981, Federal employees were forced to wait until May of this year to switch plans.

Clearly, something went wrong. After 20 years of smooth operation, the FEHBP desperately needs a tuneup. This bill is designed to do just that: Reform the FEHBP and get it on firm footing again. We cannot afford another round of problems like the ones we had this year.

The problems this year have their roots in many causes—the policies of past administrations, health cost increases, adverse selection, and the structure of the FEHBP itself.

One of the major corrections needed is in calculating the Government contribution. The present formula is unwieldly and unpredictable; it invites the kind of last-minute adjusting that occurred this year. Health plans and employees should know in advance how much of the premium the Federal Government will pay.

The Government should also adjust its contribution based on the relative risk of enrollees. Federal retirees, for example, have greater health needs than active employees. Health plans that enroll more retirees should receive an additional contribution. This bill makes adjustments in the Government contribution for age, sex, and place of residence.

Another way to control for adverse selection is to require that all plans offer a certain minimum level of benefits. Congress, however, must be careful in setting such minimum requirements. We must be sure that Federal employees have a say in the process. After all, it is Federal employees who will pay for these benefits. My bill establishes an advisory committee made up of Federal employees and annuitants to make recommendations to Congress on minimum benefit levels.

The availability and quality of information on participating health plans also needs to be improved. If employees are to make rational choices based on their needs, they must have adequate and understandable information.

It is not just the Federal worker who has a stake in a well-run Federal employees health benefits plan. All workers benefit from the success of this system. The FEHBP is one of the best examples of consumer choice and health care competition we have in this country. Giving Federal employees the opportunity to choose from among a variety of health care plans forces health providers to keep a close eye on costs—and that is important for everyone.

We must remember that the real victims of the cuts, delays, and premium increases are not the health plans or the providers. The real victims are the employees and their families. It is for their sake that it is so important we act quickly on this bill.

Senator TED STEVENS, chairman of the Subcommittee on Civil Service, Post Office, and General Services, has shown special concern for the problems that have surfaced in the FEHBP. Senator STEVENS has been instrumental in identifying issues, bringing the concerned parties together, and working toward solutions. As a fellow member of the Governmental Affairs Committee, I look forward to working closely with him and others in passing this bill.

Mr. President, I ask unanimous consent that a section-by-section summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SECTION-BY-SECTION SUMMARY OF FEDERAL EMPLOYEES HEALTH PLAN IMPROVEMENT ACT OF 1982

SECTION 2—CHANGING PLAN REQUIREMENTS

The bill broadens participation by government-wide plans. Under present law, only one service benefit plan and one indemnity plan are permitted as government-wide plans. Amending language will allow more than two government-wide plans to participate in the Federal Employees Health Benefits Plan (FEHBP).

Benefits in all plans must be at least actuarily equivalent to the lowest level of benefits offered as of January 1, 1982. In effect, this means that benefits must be at least as comprehensive as the low option Aetna plan offered in 1982.

Certain conditions are set for offering health plans. First, an organization or its parent organization must have experience in offering such a plan. Furthermore, plans must demonstrate that they have the potential to enroll at least 2.5 percent of the number of potential subscribers in the area, or 5,000 enrollees, whichever is less. The Office of Personnel Management (OPM) is also given the authority to terminate the contract of any carrier if, at any time during the preceding two contract years, the carrier had less than 300 enrollees.

Under present law, both the service benefit plan (Blue Cross) and the indemnity plan (Aetna) must offer two levels of benefits. Amending language does not require carriers to offer more than one level of benefits.

Present law requires that except for group practice prepayment plans, participating plans in the FEHBP must cover services provided by clinical psychologists or optometrists. This section extends the exemption to individual practice prepayment plans.

The section states that the federal government must contract with plans which, under state law, have access to private employer markets through dual choice provisions. In effect, this provision requires the federal government to comply with state HMO laws. However, in order to be offered, these HMOs must still meet the market potential requirements listed earlier.

This section also strikes a sentence in the present Act which requires participating group practice prepayment plans to include physicians representing at least three major medical specialties who receive all or a substantial part of their professional income from the prepaid funds. Striking this sentence loosens the definition and will permit participation by many otherwise qualified plans.

SECTION 3—CHANGE IN CONTRIBUTION FORMULA AND PAYMENT ADJUSTMENTS

Under current law, the government contribution cannot exceed 75 percent of the total premium amount. This section strikes that provision and allows the government contribution to equal up to 100 percent of the premium.

This section also changes the way in which the government contribution is calculated. In the past, the government contribution was tied to the premiums of the "big six" plans. This will be changed. The government contribution in 1983 will be calculated by taking government amounts in 1982 (for individuals and families) and increasing them by the annual percentage increase in the medical care component of the consumer price index (MCPI). That would result in an increase of approximately 12 percent from 1982 to 1983. Government contribution amounts in future years would be indexed by the MCPI for the 12 month period ending with July.

There will be a further adjustment in the government's contribution to account for adverse selection. As far as the employee or annuitant is concerned, the government contribution will be equal. Thus, a single employee and a single annuitant will see the same government contribution when they select a plan. If they join the same health plan, they will each pay the same amount out of pocket. However, after they select a plan the government contribution will be adjusted.

In 1983, the government's contribution will be adjusted so that for an annuitant it will be 130 percent of what it is for an active employee. This adjustment will be done in such a way that the total government expenditures will be the same as if no adjustment had been made. For example, a 12.1 percent increase in the MCPI would raise the government contribution for a family from $86.53/mo. in 1982 to $97.00/mo. in 1983. If the total premium for a plan was $135.00/mo., both an employee and an annuitant would pay $37.00/mo. to join it.

However, the government's contribution would then be adjusted to reflect the relative risk of active employees and annuitants. For active employees, the government contribution in 1983 would be approximately $89.00; for annuitants it would be approximately $116.00. The weighted average is still $97.00/mo. and the total government expenditure is the same as if no adjustment had been made.

The 130 percent difference between $89.00 and $116.00 adjusts for the higher risk of annuitants, and thus addresses the increased expenses plans now face in enrolling annuitants.

After 1983, a more comprehensive indexing system will be put into place to adjust for age, sex, and place of residence for all employees and annuitants. The 130 percent is only a one year fix; after that time, the indexing system would take effect.

SECTION 4—EMPLOYEE INFORMATION PROGRAM

This section describes how information will be disseminated to enrollees. Each government agency that employs 7,500 or more employees will be authorized to employ one health benefits specialist for each 15,000 (or fraction) employees. These health benefits specialists will be responsible for distributing information, arranging meetings, assembling data, evaluating carrier performance, and preparing reports.

SECTION 5—STUDIES, REPORTS, AND ADVISORY COMMITTEE

This section states that the Office of Personnel Management will work closely with the Department of Health and Human Services. They will coordinate policies, the collection of records, and reports.

An advisory committee will be appointed by the President. Of the twelve members, nine will be employees and three will be annuitants. The primary responsibility of the committee will be to advise Congress on minimum benefit levels.

SECTION 6—OPEN ENROLLMENT

An annual open enrollment period not shorter than 30 days will be established. Furthermore, employees and annuitants must reaffirm or change coverage at least once every five years.

SECTION 7—EFFECTIVE DATES

The provisions of this Act apply to pay periods to begin on or after January 1, 1983.●

By Mr. WEICKER:

S.J. Res. 222. Joint resolution to designate the week of February 13 through February 19, 1983, as "National Police Athletic League Week"; to the Committee on the Judiciary.

NATIONAL POLICE ATHLETIC LEAGUE WEEK

● Mr. WEICKER. Mr. President, today I am introducing a joint resolution to designate the week of February 13 through February 19, 1983, as "National Police Athletic League Week."

In 1944, the National Police Conference on PAL and Youth Activities was formed to provide for the positive development of America's youths. Many kids, particularly those in low-income urban areas, lacked outlets for their natural energies. Games of stickball in city streets led not only to injury and disturbance, but to ill will between the policeman who's job it was to keep the street safe and clear and the kids who just wanted to play ball. Police athletic leagues filled this void by providing supervised competition. Kids not only got the chance to play ball, but they were brought into close contact with caring adults, who could provide them with guidance and friendship to help them steer clear of trouble and focus their energies on sportsmanship and citizenship.

Among the many successful PAL alumni are tennis champion Althea Gibson who first picked up a racquet in a PAL program on the New York City streets and the great basketball star, Wilt Chamberlain, who began his career in a PAL center in Philadelphia. Hundreds of thousands of other PAL graduates have gone on to lead productive lives in their own communities.

Today, over 1 million youths are involved in PAL programs nationwide, participating in such sports as boxing, baseball, basketball, girl's softball and ice hockey. For those youngsters who are not sportsminded, arts and crafts, dance, music and drama are available. Many PAL's offer services such as job placement, vocational guidance, and remedial reading.

Mr. President, the national PAL office is located in my home State of Connecticut in the city of Bridgeport. For the next 5 years, a constituent of mine, Mr. Michael J. Marella, Jr., will be serving as national executive director of this fine organization. He informs me that the national PAL will be sponsoring their annual national ice hockey tournament in Detroit, Mich., during the week of February 13 to February 19, 1983. It is fitting that the Congress act to declare that week as "National Police Athletic Week" in recognition of the contributions the National Police Conference on PAL and youth activities has made to the prevention of juvenile delinquency and the promotion of sportsmanship among the Nation's youth, as well as in honor of the individual men, women, boys, and girls who work together, sharing and enjoying the valuable companionship that is at the heart of all PAL programs. I urge my colleagues to join me in this effort.

Mr. President, I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 222

Whereas the Congress recognizes the importance of our youth to the strength of America,

Whereas sports and adult guidance are beneficial to the growth and development of children,

Whereas since 1944, the National Police Conference on Police Athletic Leagues and Youth Activities has promoted sportsmanship and citizenship for boys and girls across the nation,

Whereas today over 1 million youths participate in P.A.L.'s in such sports as baseball, basketball, tennis, hockey and girl's softball and in such activities as arts and crafts, dance, music, and drama.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized to issue a proclamation designating the week of February 13 through February 19, 1983, as "National Police Athletic League Week" and calling upon the people of the United States to observe the week with appropriate ceremonies, programs and activities.●

By Mr. KENNEDY (for himself, Mr. RIEGLE, Mr. EAGLETON, Mr. RANDOLPH, and Mr. METZENBAUM):

S.J. Res. 223. Joint resolution to prohibit the Secretary of Labor from promulgating regulations which expand the number of hours which 14- and 15-year-old children would be permitted to work and which further change the conditions of employment of young children and students; to the Committee on Labor and Human Resources.

PROHIBITING THE IMPLEMENTATION OF CERTAIN CHILD LABOR REGULATIONS

● Mr. KENNEDY. Mr. President, I am today introducing for myself and Senators RIEGLE, EAGLETON, RANDOLPH, and METZENBAUM a joint resolution to prohibit the Secretary of Labor from promulgating regulations which will severely weaken this Nation's child labor laws.

On July 16, Secretary of Labor Donovan proposed regulations which would increase the number of hours that 14- and 15-year-olds may work from 18 to 24 hours a week, would lengthen the workday curfew from 7 to 9 p.m. on schooldays, and would open many jobs to junior high school students which have historically been considered unsafe for young people.

This proposal is the most far-reaching change in the child labor regulations since the law was first enacted and demonstrates a profound insensitivity to millions of unemployed Americans who want and need a job.

The administration claims the new regulations are needed to provide increased job opportunities for schoolchildren. This is a cruel hoax at a time when over 10 million Americans are unemployed, the unemployment rate among teenagers between the ages of 16 and 19 is over 20 percent and millions of able-bodied Americans are forced to work part time because of the disastrous economic policies of this administration.

The purpose of these regulations is to provide a pool of cheap part-time child labor for the service and retail industries. They will not create new jobs but instead will reduce employment opportunities for adult workers who have families to support. While I can sympathize with the economic problems faced by businessmen in the retail and food service industries, I do not believe these problems will be solved by eliminating protections for children which have been on the books for over 40 years.

The Department of Labor claims that longer and later hours of work will not interfere with schooling. No factual evidence has been offered to support this assertion. Quite to the contrary, it is clear that expanding the workday for these children will deemphasize the importance of education and many experts believe they will have a serious impact on school performance.

Current law provides ample opportunity for 14 and 15 year olds to obtain work experience. And while work experience can be of great value, it is simply no substitute for a good education.

The principle reason so many teenagers have difficulty finding and holding a job is because they do not have the basic skills necessary in today's job market. As the GAO pointed out in a study issued in March of this year, "labor market problems of teenagers result largely from doing poorly in school." Implementation of these regulations will simply compound the

problem of finding good jobs for yet another generation of American youth.

I believe these proposals clearly violate the intent of Congress which authorized child labor only under conditions which do not "interfere with their schooling or their health and well-being."

This is not the first time the Department has flouted the will of Congress in its pell-mell rush to undermine this Nation's labor laws by executive fiat. Just 2 weeks ago, U.S. District Judge Harold Greene halted the implementation of DOL regulations which would have weakened the Davis-Bacon Act. Judge Greene's decision in that case spoke in terms that are equally applicable here:

When an agency abruptly changes a long-standing administrative position . . . it may be expected at a minimum to show that the earlier understanding of the statute was wrong or that experience has proved it to be defective . . . the Secretary (of Labor) . . . has done neither.

On no less than six occasions since the Reagan administration took office, the Labor Department has proposed or advocated the repeal or rewrite of almost every significant labor protective statute on the books and has virtually abandoned its role as the advocate for the unorganized and the unemployed. This is a sad commentary on a Department whose historic mission has been to assure safe working conditions and fair wages for American workers.

The sorry record of the Department of Labor over the last 18 months reveals the true meaning of supply-side economics. This administration apparently believes that removing protection for the weakest, most powerless workers in our society is an essential element of its economic policy. I reject that idea.

The administration's proposed child labor regulations do not serve the long-term interests of students or unemployed workers. Instead they serve the short-term interests of a few industries which are suffering from the effects of the Reagan administration's economic policies.

This joint resolution provides an opportunity for the Senate to tell the Department, in the most unequivocal terms, that we expect it to resume its traditional role and that the Congress will not permit the further erosion of the basic labor laws of this country.

Mr. President, I ask unanimous consent that the text of the joint resolution, together with two articles on the serious employment and education problems of young people, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S.J. RES. 223

Whereas the regulations pursuant to the Fair Labor Standards Act of 1938 dealing with the employment of 14- and 15-year old children are intended to insure that the employment of youth does not interfere with their schooling or their health and well-being, and

Whereas the Secretary of Labor has proposed changes in those regulations which would extend the number of hours in which 14- and 15-year old children could work during school weeks, which would permit these children to work late into the evening, and which would permit the employment of these children in occupations previously deemed to be hazardous, and

Whereas the Secretary of Labor has proposed changes in the regulations to facilitate the employment of students at less than the wage which must be paid to other youthful workers, and

Whereas the Congress finds that the regulations proposed by the Secretary of Labor are cause for grave concern at a time of very high unemployment generally and catastrophically high unemployment among teenage people and young adults who are not in school, and

Whereas the Congress finds that the regulations proposed by the Secretary of Labor will interfere with the schooling of children and with their health and well-being: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, The Congress finds that—

(1) the proposed rule issued by the Secretary of Labor (47 Fed. Reg. 31254) changing the conditions under which 14 and 15-year-old children may be employed, and

(2) the notice of proposed rulemaking issued by the Secretary of Labor (47 Fed. Reg. 31010) respecting proposed changes in the regulations governing the employment of full-time students at subminimum wages to permit certificates authorizing such employment to be in effect for more than one year,

do not carry out the purposes of the Fair Labor Standards Act of 1938 respecting protection of employees who are children or students.

SEC. 2. (a) The Secretary of Labor may not place into effect the proposed rule referred to in paragraph (1) of the first section or proceed with the rulemaking begun by the notice referred to in paragraph (2) of such section.

(b) Any rulemaking in violation of subsection (a) shall have no legal effect.

NAEP AT AGE 10 SAYS: SCHOOLS ARE IN TROUBLE

The once-controversial National Assessment of Educational Progress (NAEP) is ending its first decade of measuring education achievement and reassessing periodically for possible change. After spending $55.2 million in federal tax dollars and after involving 810,000 students in assessment exercises, what is its message to the American people?

NAEP results since 1969 indicate clearly that the nation's high schools and their students are in real trouble. They also say that the first signs of trouble show up with 13-year-olds in the intermediate or junior high school. All is not grim, however, because the news is more positive from the assessments of 9-year-olds in elementary schools across the country.

The latest assessment results, which provide NAEP's first opportunity to measure change in mathematics achievement, illustrate this point. A comparison of 1973 and 1978 results shows a slight decline for 9-years-olds, a moderate decline for 13-year-olds, and an appreciable decline for 17-year-olds.

Here, in quick summary, is what NAEP has found in other subject areas assessed:

In science, achievement of all three age groups declined between 1970 and 1973; however, between 1973 and 1977 achievement of 17-year-olds continued to fall while that of both younger groups stayed about the same.

In reading, 9-year-olds displayed a slight improvement between 1971 and 1975, while achievement of 13- and 17-year-olds remained unchanged.

In writing, achievement as displayed in written paragraphs stayed about the same for 9-year-olds between 1970 and 1974, but the quality and coherence of 13- and 17-year-olds, declined. Basic mechanics of writing—spelling, punctuation, and capitalization—showed few changes at any grade level.

In social studies, achievement of 9-year-olds did not change from 1972 to 1976; some declines were evident for 13-year-olds and larger drops occurred for 17-year-olds; both teenage groups also declined in their knowledge and attitudes regarding politics.

"While patterns across subject areas are not completely consistent," an NAEP spokesman pointed out, "some trends are apparent. There is a fairly strong pattern of declines for 17-year-olds, the only exception being in the area of reading. Results for 9-year-olds, however, usually did not change greatly between the early and mid-1970s, and improved somewhat in reading.

"Thirteen-year-olds," he continued, "were between these extremes, showing declines in some areas and not in other areas. Generally, their declines were not quite as large as those seen for the older teenagers."

The new math results, comparing 1973 assessments with 1978 assessments, show that on average 17-year-olds performed four percentage points lower than 17-year-olds five years ago and 13-year-olds performed two percentage points lower. The decrease in 9-year-olds' performance was about one percentage point.

Results for skill in computing with whole numbers were mixed. Although there were fluctuations in computational abilities over the five-year period, performance was generally high and declines were, in large part, offset by gains.

Serious declines, however, were noted in problem-solving ability. Here are some examples:

In 1978, 56 percent of the 17-year-olds, compared to 65 percent in 1973, answered this problem correctly: "A car traveled eight kilometers in five minutes. At this speed, how many kilometers could it travel in one hour?"

In 1978, 52 percent of the 17-year-olds, compared to 60 percent in 1973, answered this problem correctly: "A hockey team won five of the 20 games it played. What percent of the games did it win?" Twenty percent of the 13-year-olds in both 1973 and 1978 answered it correctly.

In 1978, 13 percent of the 9-year-olds, 49 percent of the 13-year-olds, and 73 percent of the 17-year-olds, compared to 18 percent, 56 percent, and 81 percent, respectively in 1973, answered this problem correctly: "What does ⅔ of 9 equal?"

In 1978, 36 percent of the 13-year-olds and 53 percent of the 17-year-olds, compared to 43 percent and 61 percent respectively in

1973, solved this problem: "Express 9/100 as a percent."

One of the few bright spots in the math results was a significant improvement of 9-year-old blacks between 1973 and 1978. In 1973 an average of 18 percentage points separated black and white 9-year-olds' performances; by 1978 this difference had decreased to 13 percentage points. Although the 13-year-old blacks did not improve between the two assessments, their achievement did not decline as did their white counterparts. By age 17, however, the favorable trends for blacks were no longer evident.

Another bright spot: Knowledge of metric terminology improved substantially between assessments. In 1978, 63 percent of the 13-years-olds, compared to 37 percent in 1973, correctly identified a kilometer as the largest measure of length in a list of metric units. Also, in 1978, 71 percent of the 17-years-olds correctly gave the English unit most nearly equivalent to a given metric unit—an improvement of 12 percentage points from 1973.

A panel of math experts assembled by NAEP to study the results was highly concerned with the generally low performance on problem-solving items and with the declines on these items that had occurred since 1973. It pointed out that the new emphasis in many schools on "the basics" has often resulted in a narrowing of the curriculum, with more attention focused on computational skills and knowledge of facts and definitions, and in less time spent on problem solving. It also noted that new textbooks have adopted a simplified approach to problem solving.

Unfortunately, in its press release disclosing the results, NAEP made time-pressed news reporters wade through four pages of copy before they could find out the changes that took place between assessments, which, after all, is the main purpose of NAEP. This is dangerous business, because it gives the impression that an attempt is being made to hide bad news. In recent years NAEP has tended to give good news equal billing with bad news, even though the importance of the negative results is often far more significant. Since nothing is more important to NAEP than its credibility, the appearance of possible slanting in the reporting of results is something to avoid at all costs. And instead of following NAEP's lead, the press played up the changes reported on page 5 of the press release.

NAEP, funded by HEW's National Institute of Education, releases detailed reports on the results of each assessment. Reports include useful recommendations to educators on actions they can take to eliminate weaknesses pinpointed by the studies, making them must reading for district and school staffs. Reports of the math assessment are "Changes in Mathematical Achievement, 1973-78" ($1.75); "Mathematical Skills and Knowledge" ($4.65); and "Mathematical Applications" ($4.50). They may be ordered from NAEP, Suite 700, 1860 Lincoln St., Denver, CO 80295.

[From the Washington Post, July 28, 1982]

LEARNING JOBS IN SCHOOL

BOSTON PIONEERS IN TRYING TO BRIDGE SKILLS GAP

(By Kathy Sawyer)

BOSTON.—The Hubert H. Humphrey Occupational Resources Center might be taken for a mirage, an alien shimmer of technology settled like Oz here among the mean housing projects and boarded-up store fronts in the black neighborhood of Roxbury.

To the thousands of kids from nearby high schools, where simply learning to read is considered a rare achievement, it does indeed represent a kind of wizardry. Inside the new Center's sprawl of futuristic classrooms—one of the largest and best-equipped such training facilities in the nation—they get a chance to lay hands on the strangeness of delicate camera settings in a $450,000 TV studio, or punch keys on a $200,000 computer or, in a gaping indoor construction pit of sand, build the bottom of a skyscraper.

"I'd never touched nothin' like that before, something really expensive and technical," said Michael Jones, a soft-spoken 6-foot-2 12th-grader who jumped at the chance to get his basketball-playing hands on the school's new Digital and Apple computers.

Since coming to the Center, he has discovered an unsuspected aptitude in data processing and computer graphics. He has signed up with the Air Force, where he will be able to take advanced computer courses after basic training. Then, he figures he can "go anywhere."

Time was when the more ambitious kids from his neighborhood might have found low-skill jobs, with decent pay and a future, even without the Humphrey Center and without much in the way of skills or even literacy. But such jobs are rapidly disappearing, specialists say.

The Center is a $38 million experiment at the cutting edge of what is called the skills gap, a tragic paradox of critical jobs going unfilled in the nation's plants and offices at the same time precious human talents waste away in unemployment lines, or on street corners in neighborhoods like this one, at great public expense. The cost is great in dollars, greater still in the waste of human capital.

President Reagan highlighted the issue graphically, if unwittingly, at a news conference. There are plenty of jobs available for those who look, he insisted, offering as proof the fat section of help-wanted ads in his Sunday newspaper.

But the bulk of those jobs are available, of course, only for those who know how to program or repair computers, assist artists or doctors, do accounting, speak good English, use good grammar, type 30 words per minute, or otherwise contribute to the new world of clean work.

Entry-level skill requirements in many growth industries "seem to center on one skill, and that is the key punch skill", said Paul Grogan, of Boston's Neighborhood Development and Employment Agency. "And there is an exploded demand for people who can handle themselves in an office setting . . . , who understand things like punctuality, deference, organizing, presenting themselves correctly."

Estimates of the size of the skills gap vary. There were nearly 1 million skilled jobs unfilled last year, at a time when 10 million people were counted as unemployed.

Three in four jobs of the 1980s will require technical training below the college baccalaureate level, the Bureau of Labor Statistics says. Yet more high schoolers than ever are dropping out of science and mathematics after the 10th grade, eliminating themselves from technical careers, warns a recent report by the National Science Foundation.

The changes are further polarizing the haves and the have nots. In the jobs race, more of the poor in the inner cities are being left behind as non starters, and scattered clusters of mature blue collar workers with families and mortgages find themselves suddenly obsolete, sidelined and desperate. The problems are both occupational and geographical.

Accordingly, there is a rising chorus of debate about whether the federal government can or should intervene in this chaotic striving in ways it never has before. We have to do it, some argue, not just for the "bleeding heart" reasons but to keep up with the international Joneses.

Japan, West Germany and other successful industrialized countries have not been so slow to realize the importance of training, retraining and related manpower needs in a time of rapid technological change.

Yet, even as the administration is stressing the need for a revitalized private sector and greater U.S. productivity in a competitive world, it is cutting funds for job training and education.

It now takes 8,000 hours to become a machinist with sufficient skill to build the sophisticated computerized numerical-control tools that are becoming industrial mainstays. "That's about the same amount of time as my students require to get undergraduate degrees in economics," said Barry Bluestone, eonomics professor at Boston College and co-author of a forthcoming book, "The De-Industrialization of America."

"We need to completely rebuild the education system from kindergarten up," he said. "The opposite is happening."

In Boston, a city at the center of a thriving computer industry in the midst of the computer age, the oldest school system in America still provides only 4 percent of the students with any computer education at all. Nationwide, there are an average of only 3.2 computers for each school district.

There are pockets of innovation around the country—in California, Minnesota, the Carolinas. But generally, American education and training falls short in fitting people for a highly technical world, some specialists say.

Having already bottomed out and begun its climb back to economic vitality, Massachusetts offers a fat sampling of the tentative couplings of businesses and schools, public and private money, now being explored.

At the Humphrey Center, for instance, the curriculum is written to a great extent by the employers who, it is hoped, will hire its graduates. Some employers have also contributed hundreds of thousands of dollars worth of equipment and people.

Michael Odom is on the payroll of the Digital Equipment Corp., a Massachusetts mini-computer pioneer. However, Odom has spent his days not at Digital but at the Humphrey Center, ever since the school opened, as "an internal consultant and broker," helping the teachers figure out the best ways to "produce kids who can either get jobs or go to college."

"I guess I'm kind of a shock troop—or a sacrificial lamb," he said with a laugh. "Until a business person gets inside a school, I don't think he can understand the positive and negative pressures. . . . We're asking the schools to do an enormous number of things."

These include providing for students who speak little or no English, for handicapped or troubled children, and for the many children from one-parent homes where there are "no computers and not much enrich-

ment of any kind." At the same time, funds are drying up for federal manpower training programs such as CETA that relieve pressure on the schools.

The Humphrey Center is unusual in focusing on the high school level, Odom said. The high-tech industry, a largely suburban culture, so far has concentrated at the university level, while high schools have had to subsist primarily on rhetoric, says Bill Spring, president of the board of directors of the Tri-lateral Council for Quality Education in Boston, a federally funded cooperative venture of school and business officials.

"You're talking about job openings for kids with skill 'X,' and right now we're still trying to get them up to a level where they can learn that skill. We're still concentrating on teaching them the basics."

"Businesses, the schools and the city are recognizing how close the connection between school and work is as they have never done before," said Catherine Stratton of the city's Private Industry Council. "The theme is clear. If we are going to hire them . . . we have to have a public commitment from the schools that we'll get graduates who can read and write."

The PIC is setting up a program in which the major employers guarantee, say, 3,500 unsubsidized jobs if the schools will guarantee that their graduates can speak, write and compute at 12th-grade level. But that is several years down the road.

Employers are willing, and increasingly able, to provide technical on-the-job training, she said. "But employers are not going to spend their money on basic employment preparation. It's not in their interest to do it. Clearly this should be the linchpin of federal policy."

Private employers spent $800,000 for manpower training in 1981, according to city officials, and are expected to increase that to perhaps $4 million this year.

There is disagreement about which approaches work best. Most specialists seem to agree that, whatever approach is taken, the private-sector contributions will not be enough to offset cutbacks in public funds, and should not be expected to supplant the government. They recommend a mix.

They also caution against relying too much on set, rote skills based on often wrong predictions about the job market.

Jim Caradonio, new head of the Humphrey Center, holds up two newspaper articles to illustrate. Published this year, six weeks apart, one proclaims a "crisis" caused by a high-tech personnel shortage, and the next gloomily describes how the recession has caused high-tech employers to "almost stop hiring."

Given the volatility of the job market, modern workers ideally should be able to transfer their abilities quickly from one setting to another. "We are not 'training' kids. We are teaching kids to think," Caradonio said. "Give them the basics, prepare them for entry-level. The companies can train them on their own machines."

But many of the displaced blue collar workers are not able to transfer their skills into the new high-technology, high-paying jobs, according to Bluestone.

In a study of 833,000 workers in mill-based New England industries since 1957, he found that by 1975 "fewer than 3 percent were employed in high-technology industries, while five times as many went into trade or service jobs. A few made the leap to high-skill jobs, but most others became downwardly mobile."

At the same time, "lower levels of education and training of Boston resident workers (especially the growing proportion of minorities) placed them at a competitive disadvantage with suburban commuters for the better jobs," according to a recent report by city officials.

The economy used to take the form of a "mountain" of manufacturing jobs with a small number of low-skill jobs at one end and a few high-skill jobs at the other, Bluestone said. "But the middle is missing now, and we have a growing gap between high-wage and low-wage jobs."

Said the Tri-lateral Council's Spring, describing what is sometimes called the McDonald's syndrome, "The old decently paid, unskilled jobs are rapidly disappearing." Not so long ago, a kid fresh out of high school could go get a job at a plant which not only paid a decent wage but offered a chance for advancement and union protection, he said. Now, the jobs available to that same kid are likely to be "low-paid, unstable and dead-end."

Even the shiny new Humphrey Center, like most such training approaches, faces formidable obstacles.

The Center sports a seamstress class, with dressmakers' dummines. Though the textile industry has suffered a long decline, there are still teachers who teach the subject, unions to represent them and a bureaucratic inertia that resists change, specialists said. The new director plans to replace the dummies with Apple micro-computers as soon as possible.

The school needs a machine shop—not the old-fashioned kind; the new numerical-control machines—but it hasn't been able to afford the costly equipment and, as in many subjects, it must first retrain the teachers before they can train the students.

The new building is referred to as a white elephant by some employment specialists in Boston because it stands empty so much of the time. The new director is fighting for enough money, he says, to keep it open evenings, and is trying to attract adult retraining classes.

In a school system where maybe half the students drop out before graduating, this school like the others has to strive to keep its enrollment up and keep the students interested.

Still, some students who had dropped out of their regular schools, or threatened to, now have been lured back to school by the glossy promise of the Humphrey Center.

Jobs programs, especially those aimed at disadvantaged populations, have a murky record of scattered successes and considerable controversy. A sentiment heard frequently from workers in the field is the lament that the programs are being eviscerated "just as we had begun to learn what works."

The training is costly, and many of the so-called beneficiaries apparently cannot be helped at any cost. But at least some can be turned into productive workers.

The Humphrey Center, 19 months old, is too young to have much of a track record in placing its graduates in jobs. Yet as Caradonio points out, "This is it for them. There's nothing else."●

ADDITIONAL COSPONSORS

S. 131

At the request of Mr. INOUYE, the name of the Senator from Alabama (Mr. HEFLIN) was added as a cosponsor of S. 131, a bill to incorporate the Pearl Harbor Survivors Association.

S. 1238

At the request of Mr. QUAYLE, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 1238, a bill to amend title II of the Social Security Act so as to remove the limitation upon the amount of outside income which an individual may earn while receiving benefits thereunder.

S. 1701

At the request of Mrs. HAWKINS, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 1701, a bill to amend title 28, United States Code, to authorize the Attorney General to acquire and exchange information to assist Federal, State, and local officials in the identification of certain deceased individuals and in the location of missing children and other specified individuals.

S. 1910

At the request of Mr. BENTSEN, the name of the Senator from Alabama (Mr. HELFLIN) Was added as a cosponsor of S. 1910, a bill to amend section 403(b)(2) of the Internal Revenue Code of 1954 with respect to computation of the exclusion allowance for ministers and lay employees of a church; to add new section 430(b) annuity contract includes an annuity contract of a church, including a church pension board; to conform section 403(c) with recent amendments to 402(a)(1); to amend section 415(c)(4) to extend the special elections for section 430(b) annuity contracts to employees of churches or conventions or associations of churches and their agencies; to add a new section 415(c)(8) to permit a de minimis contribution amount in lieu of such elections; and to make a clarifying amendment to section 415(c) by adding a new paragraph (9) and conforming amendments to sections 415(d)(1), 415(d)(2), and 403(b)(2)(B).

S. 1939

At the request of Mr. GOLDWATER, the name of the Senator for Washington (Mr. JACKSON) was added as a cosponsor of S. 1939, a bill to amend the Public Health Service Act to establish a National Institute on Arthritis and Musculoskeletal Diseases.

S. 2106

At the request of Mr. CHAFEE, the names of the Senator from Vermont (Mr. LEAHY), and the Senator from Mississippi (Mr. COCHRAN) were added as cosponsors of S. 2106, a bill to provide for pension reform for State and local public employee retirement systems, and for other purposes.

S. 2160

At the request of Mr. CHAFEE, the names of the Senator from Mississippi (Mr. COCHRAN), and the Senator from Vermont (Mr. LEAHY) were withdrawn as cosponsors of S. 2160, a bill to amend title 38, United States Code, to require the Secretary of Labor to

make funds available to certain private, nonprofit organizations to administer the disabled veterans' outreach program in certain States, and for other purposes.

S. 2585

At the request of Mr. CRANSTON, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2585, a bill to provide that the Armed Forces shall pay benefits to surviving spouses and dependent children of certain members of the Armed Forces who die from service-connected disabilities in the amounts that would have been provided under the Social Security Act for amendments made by the Omnibus Budget Reconciliating Act of 1981.

S. 2603

At the request of Mr. ROBERT C. BYRD, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 2603, a bill to amend the Trade Act of 1974 to insure fair trade opportunities, and for other purposes.

S. 2623

At the request of Mr. COHEN, the name of the Senator from South Dakota (Mr. ABDNOR) was added as a cosponsor of S. 2623, a bill to amend and extend the Tribally Controlled Community Assistance Act of 1978, and for other purposes.

S. 2631

At the request of Mr. KASTEN, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 2631, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 2674

At the request of Mr. LEVIN, the name of the Senator from Nevada (Mr. CANNON) was added as a cosponsor of S. 2674, a bill to amend title II of the Social Security Act to require a finding of medical improvement when disability benefits are terminated, to provide for a review and right to personal appearance prior to termination of disability benefits, to provide for uniform standards in determining disability, to provide continued payment of disability benefits during the appeals process, and for other purposes.

S. 2725

At the request of Mr. LEVIN, the names of the Senator from Nevada (Mr. CANNON), and the Senator from Oklahoma (Mr. BOREN) were added as cosponsors of S. 2725, a bill to provide that disability benefits under title II of the Social Security Act shall continue to be paid through the end of the administrative appeals process, and that periodic reviews of disability cases shall be carried out only to the extent that adequate time and personnel are available.

S. 2739

At the request of Mr. METZENBAUM, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of S. 2739, a bill to amend title II of the Social Security Act to provide that termination of disability benefits shall require that a finding be made that there has been medical improvement or that the prior decision was clearly erroneous, to provide for continuation of disability benefits through the appeals process, and for other purposes.

SENATE JOINT RESOLUTION 199

At the request of Mr. THURMOND, the name of the Senator from Alabama (Mr. DENTON) was added as a cosponsor of Senate Joint Resolution 199, a joint resolution proposing an amendment to the Constitution of the United States.

SENATE JOINT RESOLUTION 209

At the request of Mr. LEVIN, the names of the Senator from Michigan (Mr. RIEGLE), the Senator from Idaho (Mr. SYMMS), the Senator from Nevada (Mr. CANNON), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of Senate Joint Resolution 209, a joint resolution designating the week beginning September 5, 1982, as "National Adult Day Care Center Week."

SENATE RESOLUTION 428

At the request of Mr. HELMS, the names of the Senator from North Carolina (Mr. EAST), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Resolution 428, a resolution prohibiting the extension of waiver authority under section 402 of the Trade Act of 1974 with respect to Romania.

AMENDMENT NO. 1930

At the request of Mr. MATTINGLY, the name of the Senator from Idaho (Mr. MCCLURE) was added as a cosponsor of amendment No. 1930 proposed to Senate Joint Resolution 58, a joint resolution proposing an amendment to the Constitution altering Federal fiscal decisionmaking procedures.

NOTICE OF HEARINGS

SUBCOMMITTEE ON ENERGY AND MINERAL RESOURCES

Mr. WARNER. Mr. President, I would like to announce for the information of the Senate and the public that the subcommittee oversight hearings regarding America's role in the world coal export market previously scheduled for August 10, 12, and 13 have been rescheduled for Tuesday, September 14; Thursday, September 16; and Friday, September 17, beginning at 9:30 a.m., in room 3110, of the Dirksen Senate Office Building.

For further information regarding these hearings you may wish to contact Mr. Roger Sindelar of the subcommittee staff, at 224-4236.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Thursday, July 29, 1982, in order to receive testimony pertaining to Senate Joint Resolution 199, a proposed constitutional amendment relating to voluntary school prayer.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 10 a.m. on Thursday, July 29, to hold a top secret CIA briefing on threshold test ban verification negotiations.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 11 a.m. on Thursday, July 29, to hold a consultation by State Department and ACDA officials on threshold test ban and peaceful nuclear explosions agreements.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 1:40 p.m. on Thursday, July 29, to hold a full committee nomination hearing to consider the nomination of Richard Ellis, for the rank of Ambassador during the term of his service as the U.S. Commissioner on the U.S.-U.S.S.R. Standing Consultative Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I ask unanimous consent that the Foreign Relations Committee be authorized to meet during the session of the Senate at 2 p.m. on Thursday, July 29, to hold a full committee hearing to consider S. 2675, a bill to provide for protection of foreign counselor posts located outside the District of Columbia metropolitan area.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. BAKER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, July 29, at 10:30 a.m., to receive a briefing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

● Mr. DOLE. Mr. President, for the information of my colleagues, I submit for the RECORD the Finance Committee's summary of the Tax Equity and Fiscal Responsibility Act of 1982, as it finally passed the Senate.

The summary follows:

SENATE COMPLETES ACTION ON TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

SUMMARY OF SPENDING REDUCTION PROVISIONS OF THE "TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982" AS PASSED BY THE SENATE

Medicare provisions

1. Delay Initial Eligibility Date for Medicare Entitlement

The Senate passed a provision which defers eligibility for both parts A and B of medicare until the first day of the month following the month the individual reaches age 65.

2. Modify Coverage of Working Aged

The Senate passed a provision which requires employers to offer employees aged 65 through 69 and their dependents the same health benefit plan offered to younger workers and make medicare the secondary payer to those plans for such employees and their aged spouses. Benefits would be coordinated by reducing medicare payments for any item or services furnished to an employee (or his spouse) if the combined payment under medicare and the employer's health benefits plan would otherwise exceed, for items or services reimbursed on a cost basis, their reasonable cost, or, for items or services reimbursed on a charge basis, the higher of medicare's reasonable charge or the amount allowable under the employer health benefits plan. In no case would medicare pay more than what medicare would otherwise have paid. The Senate also agreed to exempt employers of less than 20 persons from the requirements contained in this provision.

3. Require Minimal Copayments on Home Health Services Under Medicare

The Senate passed a provision which imposes a specified copayment amount (recalculated annually) for all home health visits, beginning with the 20th visit. The copayment amount (which would be uniform nationwide) is equal to 5 percent of the estimated average reasonable cost per visit.

4. Contract for Utilization and Quality Control Peer Review

The Senate passed a provision which requires the Secretary to enter into contracts with peer review organizations for an initial period of 2 years, renewable biannually, for the purpose of promoting the effective, efficient, and economical delivery of quality health care services under medicare. The organizations must be composed of, or have available to them, a substantial number of licensed doctors of medicine or osteopathy actually practicing in the area. These organizations, which can be for profit or nonprofit, would review the professional activities of physicians, other practitioners and institutional and noninstitutional providers in providing services to medicare beneficiaries.

After the date of enactment the Secretary would consolidate geographic areas served by review organizations. In general, each State would be designated as a geographic area. Local or regional areas could be designated only if the volume of review warrants it.

The provision modifies the waiver of liability provision of present law under which hospitals and other providers of services may receive payments for medically unnecessary care under certain circumstances. Under the provision, the review organization would have authority to limit applicability of a waiver of liability granted by an intermediary or carrier so that payment would be denied for services that are part of a pattern of inappropriate utilization which the provider has had an opportunity to correct but has failed to do so.

An organization, in carrying out its functions under contract, will not be considered a Federal agency for purposes of the provisions of the Freedom of Information Act.

A requirement has been included whereby the organization would make available its facilities and resources to private payors paying for health care in its area on a contract basis. The provision continues to require medicare providers to release medical records of medicare patients and requires the release of the same type of information on private patients if so authorized, to allow the review organization to carry out its functions under contract with medicare or with a private payor.

The States may choose to use these organizations or any others to review their patients. The Federal Government will provide a 75-percent match for the cost of the review of medicaid patients.

5. Reimburse Inpatient Radiology and Pathology Services at 80 Percent of Reasonable Charges

The Senate passed a provision which eliminates the special 100-percent reimbursement rate for inpatient radiology and pathology services. Medicare would pay the same rate as for other physician services, i.e., 80 percent of reasonable charges (after satisfaction of the annual deductible).

6. Increase Part B Deductible

The Senate passed a provision to increase the part B deductible to $78 in calendar year 1984 and $80 in calendar year 1985. For years subsequent to 1985, the deductible would remain at $80.

7. Provide for No Increase in Physician Fee Economic Index

The Senate passed a provision which provides for no increase in the economic index in fiscal year 1983 and permits a 5-percent increase in the index in fiscal year 1984.

8. Repeal Routine Nursing Salary Cost Differential

The Senate passed a provision which eliminates the routine nursing salary cost differential for hospitals and SNF's.

9. Impose Salary Equivalency Test for Payment of Hospital-Based Physicians

The Senate passed a provision which insures that medicare payments for physician services provided in hospitals are determined accurately and are reasonable in amount by (1) limiting the amount medicare will recognize as the reasonable cost of physician services to a provider and (2) requiring the Secretary to issue regulations specifying conditions for reasonable charge payments which deal with the differences between medical specialties, particularly radiology, anesthesiology, and pathology. The provision applies to all physician services furnished in a hospital or SNF where medicare patient charges are involved in the delivery of the physician's services.

Under the provision, each provider would be required to allocate physician compensation costs between services to the provider and services to individual patients in proportion to the respective amounts of time that are spent in performing each type of service. Only the costs for physician services allocated to the provider would be allowable in determining the providers cost reimbursement. Furthermore, the costs for physician services allocated to the provider would be subject to limits. Medicare liability would be based on the lower of the actual cost of the services to the provider or a reasonable compensation equivalent. These limits would not force physicians or providers to adopt or abandon any particular type of compensation agreement.

The Secretary would be required to establish reasonable compensation equivalent limits based on reasonable annual compensation levels for full-time equivalent practices of various physician specialties or such other bases as the Secretary approves for this purpose. If a provider is able to demonstrate to the intermediary its inability to recruit physicians at the compensation level allowable under the established limits, then the intermediary may grant an exception to the limits established under this proposal.

10. Hold the Part B Premium Constant as a Percentage of Program Costs

The Senate passed a provision which sets and maintains the part B premium paid by aged enrollees at 25 percent of program costs for fiscal years 1983, 1984, and 1985. This provision would not be in effect for premiums paid after July 1, 1985. Premiums subsequent to July 1, 1985, would be determined as they are presently under the provisions of current law.

11. Limit Medicare Reimbursement to Hospitals

a. Expansion of 223 limits to include ancillary costs

Under present law, medicare reimbursement for a hospital's inpatient routine operating costs (i.e., bed, board, and routine nursing) may not exceed 108 percent of the average routine cost per day incurred by other hospitals of the same type unless it qualifies for an exception or exemption.

The provision as passed by the Senate modifies this existing limitation, effective with hospital cost reporting periods that begin on or after October 1, 1982, by: (1) exempting small (under 50 beds) rural hospitals; (2) extending the limitation to include ancillary costs (i.e., lab services, X-rays, drugs and similar hospital services); (3) increasing the current limit from 108 percent to 110 percent; (4) applying the limitation on an average costs-per-discharge basis; and (5) adusting each hospital's limit to take into account the needs of its patients in comparison to those of other hospitals with which it is being compared (i.e., by a "case mix" adjustment). However, in no case would a hospital's reimbursable cost per discharge be reduced below their previous level.

As now, the Secretary would be given latitude in applying the limits to individual hospitals. It is anticipated that the various exemptions and adjustments that are now allowed under the routine cost limits would continue to apply where appropriate while others will be added.

The provision as passed directs the Secretary to determine the extent to which the

reimbursement limit for public hospitals should be adjusted to take account of the extra costs that they necessarily incur in treating low-income patients. Such as adjustment would be made beginning with the first year the limit would be in effect and would be similar to the so-called teaching hospital adjustment, which is presently made to take account of the additional costs incurred by hospitals which engage in teaching activities.

b. Three-year limit on hospital reimbursement increases

Under present law, there is no limitation on the percentage by which a hospital's reimbursable costs may increase from year to year. The provision as passed provides that Medicare would not fully reimburse a hospital for operating costs per discharge incurred in any of the first three of its cost-reporting periods beginning on or after October 1, 1982, to the extent that they increase in excess of a specified percentage (approximately 10 percent), compounded, of the previous year's costs. For the first 2 years the proposal would be in effect, the hospital would be paid 25 percent of its costs that are in excess of the limit; no payment would be made in excess of the limit for the third year.

The specified percentage increase that would be allowed would be calculated by adding 2 percentage points to the percentage by which there was an increase in the wages and prices that hospitals must pay in order to operate. This limit on medicare reimbursement would expire at the end of the hospital's third post-September 30, 1982, reporting period, unless a prospective payment system was put into place prior to that time, in which case the limit on medicare reimbursement would cease upon implementation of the new system.

The Secretary will provide an exceptions process to account for changes in case mix, extraordinary circumstances beyond the hospital's control, or other events which would distort either the hospital's base period or the rate of cost increase during the control period.

c. Prospective payments for hospitals and skilled nursing facilities

Under present law, hospitals and skilled nursing facilities are paid on the basis of the cost they incur in caring for medicare patients. While the above-described limits in present law tend to penalize some inefficient institutions, no provision is made to allow efficient institutions to benefit. Also, the amount of a hospital's reimbursement cannot be accurately determined until sometime after the close of the cost report period in which the costs were incurred. Therefore, hospitals are restricted in their ability to do financial planning.

The provision as passed directs the Department of Health and Human Services to develop for purposes of implementation, in consultation with the Senate Finance Committee and the House Ways and Means Committee, methods under which hospitals, skilled nursing facilities, and, if feasible, other providers, would be paid on the basis of prospectively set fixed rates. The Department would be required to report its proposals within 5 months of enactment.

12. Require Certain Medicare Regulations

The Senate passed a provision which requires the Secretary to issue regulations to (1) eliminate the private room subsidy for hospitals, (2) establish a single reimbursement limit for skilled nursing facility and home health agency services, and (3) eliminate duplicate payments for outpatient services.

13. Audit and Medical Claims Review

The Senate passed a provision which requires that the medicare contracting budget for fiscal years 1983, 1984, and 1985 be supplemented by $45 million in each year to be spent specifically for audit and medical review activities. Funding for these additional activities will be allocated from medicare savings achieved in medicare under the 1983 Reconciliation Act.

14. Temporarily Delay the Periodic Interim Payment (PIP)

The Senate passed a provision which amends the PIP payment procedure for hospitals by providing that payment be withheld during September 1983 so that the lag would be increased to about 6 weeks, the average delay experienced by hospitals that use the standard method. The deferred payments would be paid to the hospitals in October 1983. There would be a similar deferral of PIP payments during September of 1984.

15. Assistants at Surgery

The Senate passed a provision which prohibits reimbursement for assistants at surgery in hospitals where a training program exists in that specialty, except under exceptional medical circumstances. Included in the exceptional circumstances would be: (1) team physicians who perform complex medical procedures (e.g., coronary bypass operations) or (2) concurrent care whereby a medical specialist also provides or is available to provide care during a surgical operation if the patient has another condition requiring care that the surgeon is unable to perform.

16. Medicare Payments to HMO's

The Senate passed a provision which modifies current law requirements for contracting with health maintenance organizations (HMO's) by authorizing prospective reimbursement under risk sharing contracts with competitive medical plans (CMP's) at a rate equal to 95 percent of the Adjusted Average Per Capita Cost (AAPCC).

Medicare payment to a CMP with a risk sharing contract would be on a per-capita basis for each class of medicare beneficiary enrolled in the plan. The classes of individuals would be based on such factors as age, sex, institutional status, disability and health status, and place of residence. The rate of each class would be 95 percent of the AAPCC for that class. If the CMP achieves savings under its prospective rate, then the plan must use the difference for provision of additional benefits or services.

The provision specifies that a CMP can only receive payment under the new prospective system if it enrolls three new medicare members for every one current medicare enrolee allowed to convert to the new payment system.

The new prospective payment system would not be effective until the first day of the thirteenth month after enactment or one month after the Secretary of HHS notifies the Senate Finance Committee and the House Committees on Ways and Means and Energy and Commerce that he is reasonably certain that the methodology for determining the prospective rate based on 95 percent of the AAPCC is developed and can be implemented, whichever is later.

17. Judicial District in Which Providers May Obtain Judicial Review

The Senate passed a provision which permits Federal judicial review of an adverse decision of the Provider Reimbursement Review Board involving actions brought jointly by several providers of medicare part A service to be taken into the district where the "principal party" for the group is located.

18. Ineffective Drug Provision

The Senate passed a provision which prohibits payments for ineffective drugs.

19. Medicare Reimbursement of Hospices

The Senate passed a provision which provides medicare reimbursement for hospice services to terminally ill medicare beneficiaries who elect to receive hospice care rather than other medical benefits. This benefit would become effective on January 1, 1984.

The provision permits medicare beneficiaries who are expected to die within 6 months to elect to receive a full range of hospice services. The services covered include those now covered as home health services plus physicians' services, short-term institutional care, respite services (to periodically relieve family members of the burden of caring for the patient), homemaker services, and outpatient prescription drugs.

A beneficiary could elect to receive hospice benefits for no more than two benefit periods, each lasting no more than 90 days. In electing hospice benefits, the beneficiary would waive entitlement to all the nonhospice benefits available under medicare except for benefits for his attending physician.

A hospice provider would be reimbursed under Part A of medicare for its covered costs subject to a ceiling equal to 40 percent of the regional medicare per capita expenditure amount that would have been spent had the patient been treated in a traditional setting.

The provision requires nominal cost sharing on certain covered services, namely outpatient drugs, home health services, and respite care. Outpatient drugs provided under a hospice program would be subject to a cost sharing amount of 10 percent per prescription or $10 per prescription, whichever is less. Home health services would be subject to a 5 percent coinsurance starting with the 20th visit. Respite care, wherever provided, would also be subject to a 5 percent copayment for each day of care. However, the total copayment amount the patient would be liable to pay for respite services could not exceed the amount of the annual inpatient hospital deductible.

The provision as passed would require a report by the Secretary of HHS prior to the implementation of the hospice benefit. In preparing the report, the Secretary is directed to examine and make legislative recommendations on the cost effectiveness of the hospice benefit; the appropriateness of the cost sharing amounts imposed on benefits; the methods for determining the 40 percent cap on reimbursement to hospice programs; the Department's ability to make such calculations and administer the 40 percent reimbursement cap; ways to assure maintenance of effort with regard to use of volunteers under hospice programs; and other issues related to satisfactory implementation of the hospice benefit.

The Secretary of Health and Human Services would also be required to report to the Congress after 2 years both on hospice reimbursement issues and methodologies and on benefit coverage recommendations based upon program experience.

20. Report on Assignment Rates

The Senate passed a provision requiring the Secretary of Health and Human Services to report to Congress by July 1, 1983 on changes in physician assignment patterns and in the physician service costs paid by beneficiaries as a result of changes in physician reimbursement under the provisions of H.R. 4961.

Medicaid Provisions

1. Allow Nominal Medicaid Copayments

The Senate passed a provision which allows States to impose nominal copayments on all Medicaid beneficiaries (both categorically and medically needy) for all services except both inpatient and ambulatory services for children and pregnant women, for services provided to inpatients in medical institutions who are required to spend, except for a personal needs allowance, all their income for medical expenses, and for emergency care.

2. Eliminate Matching Rate for Medicare Part B "Buy-In"

The Senate passed a provision which eliminates Federal matching for the monthly part B premium payments that States make for their dual eligible beneficiaries.

3. Modify Lien Provision

The Senate passed a provision which allows States to make earlier recoupment for long-term care costs. States could only take such action where the property is not longer needed by the recipient, spouse, or minor children. States would be allowed to attach the real property of medicaid recipients who are permanently institutionalized in nursing homes or other long-term care medical institutions. They could recover the cost of medical assistance provided to the recipient only when the property is no longer needed by the recipient, spouse or minor children. Disposal would not make them ineligible for supplemental security income (SSI). States could either deny eligibility to all such individuals for periods reasonably related to the uncompensated value, or could deny eligibility in all cases for a minimum of 24 months, with the option to provide for longer periods of ineligibility in the case of individuals who disposed of homes worth substantial amounts. The provision would not apply in the case of individuals who reasonably expected to be discharged from the medical institution and return home; individuals who demonstrated that they had intended to obtain fair market value or other valuable consideration in exchange for their homes; or individuals who transferred title to their homes to a spouse or a minor or handicapped child.

The State could also make an exception in other cases where undue hardship would otherwise result.

4. Reduce Error Rate Tolerance

The Senate passed a provision to require States to reduce their Medicaid error rates to 3 percent, beginning in fiscal year 1983, but delay the imposition of prospective fiscal sanctions until mid-fiscal year. The provision repeals the current statutory error rate targets and sanctions. In addition, the provision would provide to the Secretary the discretion to allow waivers from the requirements for States making a good faith effort to meet the 3 percent rate. The 6-month delay of the imposition of fiscal sanctions would be used by the Finance Committee to study the existing quality control system.

5. Continuation of Medicaid Eligibility

The Senate passed a provision to allow States the option of continuing coverage for certain working families who are made ineligible for AFDC as a result of the 1981 Reconciliation Act.

Supplemental security income (SSI)

1. Prorate First Month's Benefit Based Upon Date of Application

Under present law, the payment of SSI benefits begins with the first day of the month in which the recipient applies and meets the eligibility requirements.

The Senate passed a provision to prorate the first month's SSI benefit from the date of application or the date of eligibility, whichever is later.

2. Round SSI Eligibility and Benefit Amounts

Under present law, monthly benefit amounts and income eligibility amounts for SSI (which are adjusted annually to reflect changes in the cost-of-living) are rounded to the next higher ten cents.

The Senate passed a provision to round SSI monthly benefit and income eligibility amounts to the next lower dollar. Rounding would take place after the cost-of-living adjustment is made.

3. Coordination of SSI and OASDI Cost-of-Living Adjustment

A provision of the Omnibus Budget Reconciliation Act of 1981 requires that SSI benefits be determined on the basis of a monthly retrospective accounting system. Because of a defect in drafting this legislation, the annual cost-of-living increase in SSI and OASDI benefits were not coordinated. As a result, for people who receive SSI and OASDI, the new, higher OASDI benefit paid each July will not immediately be reflected in the SSI benefit. One or two months later, the SSI benefit will fall when the new higher income is taken into account.

The Senate passed a provision coordinating the SSI and social security (OASDI) benefit increases so that at the time the cost-of-living adjustment is made, the recipient's SSI benefit is based on his or her social security payment in the same month. Also, whenever the Secretary judges there to be reliable information on the recipient's income or resources in a given month, the SSI benefit in that month would be based on that information. The Secretary would be required to prescribe by regulation the circumstances in which such information concerning a future event could be used to determine the monthly SSI benefit.

4. Phase-Out of "Hold Harmless" Protection

The Senate passed a provision continuing the phase out of "hold harmless" payments as follows: hold harmless payments would be reduced to 40 percent of what they would otherwise be in 1983, to 20 percent in 1984, with no hold harmless payments made in 1985 and future years.

5. Recovery of SSI Overpayments

Under present law, the Secretary is authorized to recover SSI overpayments by adjusting future payments, or by recovery from the recipient. Recovery of overpayments is to be made with a view to avoiding penalizing the individual who is without fault. Recovery of overpayments is not required, for example, if the individual is without fault and if recovery would defeat the purpose of the program, or be against equity or good conscience, or the amount to be recovered is so small as to impede efficient or effective administration.

The Senate passed a provision allowing recovery of SSI overpayments from benefits payable under other programs administered by the Social Security Administration (Black Lung and OASDI benefits).

6. Exclusion From Resources of Amounts Set Aside for Burial Expenses

For purposes of SSI eligibility, the Senate passed a provision to exclude from countable resources an amount an individual sets aside for providing a burial place for himself or members of his immediate family. The allowable exclusion would be subject to limits prescribed by the Secretary.

Aid to families with dependent children

1. Rounding of AFDC Eligibility and Benefit Amounts

The Senate passed a provision requiring States to round both their need standards and actual monthly benefit amounts to the lower whole dollar.

2. Prorate First Month's Benefit Based on Date of Application

The Senate passed a provision requiring that States pay benefits beginning no earlier than the date an application is filed. Payment for the month's benefit would be prorated based on the date of application.

3. Eliminate Military Service as Basis for AFDC Eligibility

The Senate passed a provision excluding absence based solely on military duty as a basis for need. However, if the parent has left the home for other reasons and is actually not supporting the family, the family may still be eligible for assistance. In this case, as provided in present law, the custodial parent would have to assign to the State any rights to child support which have accrued.

4. Refusal To Work

The Senate passed a provision requiring that individuals who voluntarily terminate their employment, reduce their hours of employment without good cause, or refuse a bona fide job offer, be denied assistance for a certain period of time. In AFDC–UP cases, the family is denied assistance. This provision covers all individuals who are required to register for work activities and those persons exempt from registration because they are remote from a project site or because they are working at least 30 hours a week. If the sanctions were applied, protective payments (or foster care payments) would be made on behalf of an eligible dependent child.

5. Mandatory Job Search

The Senate passed a provision requiring each State to include in its State plan the requirement that as a condition of eligibility, individuals required to register for employment and training will be required to participate in a program of employment search beginning at the time of application. The individual would be required to continue in a program of employment search after his application becomes effective whenever the State agency prescribes, but not more than a total of 8 weeks each year. An individual who refuses to comply with the requirement for employment search would be subject to the same penalties as an individual who refused to comply with other work requirements.

6. Eligibility of a Parent

The Senate passed a provision requiring States to end the benefit of an AFDC parent when the youngest child in the assistance unit reaches age 16. The child's

benefit would continue as under current law.

7. Eligibility of a Child

The Senate passed a provision requiring the States to include all minor children in the AFDC unit and to count the income of those children (except those receiving SSI, and stepbrothers and stepsisters).

8. Counting of Income of Unrelated Individuals

The Senate passed a provision requiring States to count the income of unrelated adults (who are living in the same household) as available to the AFDC family, after setting aside certain amounts to cover the needs of the unrelated adult and any dependents.

9. Repeal Emergency Assistance Program

The Senate passed a provision repealing the Emergency Assistance program (currently a State option).

10. Prorating Shelter and Utilities for AFDC Families Which Share Households

The Senate passed a provision allowing States to adjust the AFDC benefit when the AFDC family shares a household with other individuals. States would be authorized to prorate the portion of the AFDC grant which the State designates for shelter and utilities. In States which elect this option, the State would be free to design the method of proration and the circumstances in which proration would be applied. The Secretary will prescribe broad guidelines for States which use this option.

11. Reduce Federal Match for Errors

The Senate passed a provision limiting the Federal match for erroneous benefit payments in the AFDC program to 4 percent in fiscal year 1983, and 3 percent in fiscal years 1984 and 1985. The imposition of prospective fiscal sanctions would be delayed to the second half of fiscal year 1983. In cases he determines appropriate, the Secretary of Health and Human services would have waiver authority.

The 6-month delay in imposition of prospective fiscal sanctions would be used by the Finance Committee to study the existing quality control program. Additionally, the delay would enable the Secretary to work with the States to develop procedures to accelerate the quality control computation process so that findings of error can be made on a more timely basis than is now the case.

12. Receipt of AFDC by Minor Parent

The Senate passed a provision altering AFDC eligibility for minor parents. Under the provision, in order to qualify for AFDC provision benefits, a minor parent and her child who meet all other eligibility criteria would have to reside in the home of the minor parent's own parent or guardian. Both the minor and her child would be treated as if they were the children of the minor's parent, so the income of the parent or guardian would count toward determining eligibility and benefit level. The AFDC benefit would be paid to the parent or guardian of the minor parent.

13. Retrospective Accounting Option

The Senate passed a provision allowing States the option of excluding from calculations of AFDC benefit amounts any payments made solely from State funds that are designed to compensate for lost income in the period before the new benefit amount can be calculated.

14. WIN Demonstration Authority

The Senate passed a provision reopening the option for States to operate Work Incentive (WIN) Demonstration Programs. A provision of the 1981 Reconciliation Act authorized the States, at their option, to operate 3-year work incentive demonstration programs. However, the State had to declare its intention to operate such a demonstration program within 60 days of enactment of the Reconciliation Act. The provision agreed to by the Senate reopens this option for the States for an additional 2 years. The requirements and regulations which applied to the earlier WIN Demonstration Program would apply to the extension.

Child support enforcement

1. Collection of Administrative Costs for Non-AFDC Child Support Enforcement

The Senate passed a provision repealing the provisions enacted in P.L. 97-35 which would require States, in cases involving non-AFDC families, to charge any absent parent who is obligated to pay child support through the State Child Support Enforcement Agency a fee equal to 10 percent of the child support payment. The provision restores the law in effect prior to P.L. 97-35 which allows States to charge a reasonable fee for a non-AFDC collection and retain from the amount collected an amount equal to administrative costs not covered by the fee. The provision also retains, as a State option, the authority to collect from the parent who owed child or spousal support an amount to cover administrative costs, in addition to the child support payment.

2. Allotments for Child and Spousal Support by Members of the Armed Forces

The Senate passed a provision requiring allotments from the pay and allowances of any member of the uniformed service, on active duty, when he fails to make child (or minor and spousel) support payments. The requirement would arise when the member failed to make support payments in an amount at least equivalent to the value of a 2 months' worth of support. Provisions of the Consumer Credit Protection Act would apply so that the percentage of the member's pay which could be garnished would be limited. The amount of the allotment will be that of the support payment, as established under a legally enforceable administrative or judicial order.

3. Reimbursement of State Agency

The Senate passed a provision allowing States to make certain adjustments concerning child support collected for an AFDC family. Under current law, a family can receive a double payment for the same month, first in the form of AFDC and then through later receipt of a child support collection making the family ineligible for AFDC. The provision agreed to by the Senate would eliminate the double payments by allowing the State to use the child support to reimburse itself for AFDC already paid for that month.

Unemployment compensation benefits

1. Rounding of Unemployment Benefits

The Senate passed a provision under which the Federal 50 percent matching share of extended unemployment benefits would not be available on that part of extended unemployment benefit payments which result from a failure on the part of the State to have a benefit structure in which benefits are rounded down to the next lower dollar.

SUMMARY OF REVENUE PROVISIONS OF THE "TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982" AS PASSED BY THE SENATE

Individual income tax provisions

Individual Minimum Tax

The bill repeals the "add-on" minimum tax for individuals and restructures the existing alternative minimum tax, effective generally for taxable years beginning after 1982.

All present law preferences under the existing add-on and alternative minimum taxes, except adjusted itemized deductions, are included in the base of the expanded alternative minimum tax. Several new preferences are added: interest and dividend income excluded under the $100 dividend exclusion, the All-Savers exclusion, or the 15-percent net interest exclusion (which takes effect after 1984) and the excess of expensing over 10-year amortization for mining exploration and development costs, research and development costs, and magazine circulation and prepublication expenditures.

To calculate minimum taxable income, preference amounts are added to adjusted gross income, and deductions are allowed for charitable contributions, medical expenses, casualty losses, home mortgage interest, other interest to the extent of investment income, and net operating losses not attributable to preferences. Under the bill, the first $30,000 of minimum taxable income ($40,000 on joint returns) is exempt from the alternative minimum tax. Minimum taxable income in excess of $30,000 but less than $50,000 ($40,000-$60,000 for couples filing joint returns) is taxed at a 10-percent rate, and the excess is taxed at a 20-percent rate.

The bill allows individuals, other than limited partners, producing oil and gas to elect to depreciate intangible drilling costs under the rules for the 5-year ACRS class with an investment credit but without safe-harbor leasing.

Medical Expense and Casualty Loss Deductions

The bill restricts the availability of the itemized deductions for medical expenses and nonbusiness casualty or theft losses, effective for taxable years beginning after 1982.

The bill provides that nonbusiness casualty losses will be deductible only to the extent total losses sustained during the year exceed 10 percent of adjusted gross income. As under present law, each casualty loss will be deductible only to the extent it exceeds $100.

The bill raises the floor for deductible medical expenses from 3 percent to 7 percent of adjusted gross income. Also, the bill reduces from $150 to $100 the ceiling on the amount of the one-half of health insurance premiums which are deductible without regard to the percentage floor.

Capital Gains Holding Period

The bill reduces the holding period distinguishing long-term from short-term capital gains and losses from 1 year to 6 months, effective for sales or exchanges after June 30, 1982.

Capital Gains Indexing

The bill generally provides for an inflation adjustment (or indexing) to the basis of certain assets for purposes of determining gain or loss on the sale or other disposition of the assets. The inflation adjustment is based on the level of the gross national

product deflator in the quarter the asset is purchased compared with the index for the quarter of sale. Assets eligible for the indexing adjustment are corporate stock and real property where these assets are capital assets or assets used in a trade or business and held for more than 1 year. The inflation adjustment applies only to inflation occurring after December 31, 1984.

Under the bill, the inflation adjustment applies with respect to sales, exchanges, or other dispositions of property whether or not gain or loss is recognized. However, it does not apply for purposes of determining any deduction for depreciation, cost depletion, or amortization.

Business tax provisions

Corporate Tax Preferences

The bill reduces the following corporate tax preferences by 15 percent: percentage depletion for coal and iron ore, excess bad debt reserves, interest on debt used to carry tax-exempt securities acquired after 1982, deferred DISC income, section 1250 recapture on structures, rapid amortization of pollution control facilities, intangible drilling costs of integrated oil companies, and mineral exploration and development costs.

Under the bill, integrated oil producers are allowed to expense up to 85 percent of intangible drilling costs. The remainder will be written off under the ACRS 5-year recovery percentages with an investment credit but without safe-harbor leasing. (Fifteen percent of mineral exploration and development costs will be recovered under these ACRS rules as well.)

To prevent preferences from being cut back excessively through the interaction of this provision and the add-on minimum tax, the bill provides that only 71.6 percent of these tax preferences are to be included in the base of the add-on minimum tax for corporations.

These provisions apply to taxable years beginning after December 31, 1982, except that the change in percentage depletion applies after 1983, the change in section 1250 applies to sales or other dispositions after December 31, 1982, the change in amortization of pollution control facilities applies to property placed in service after December 31, 1982, and the change in intangible drilling costs applies to expenditures after December 31, 1982, and the change in the add-on minimum tax applies to taxable years ending after December 31, 1982.

Investment Tax Credit

The bill provides that taxpayers must reduce the basis of assets by one-half of the amount of regular, historic rehabilitation, and energy investment tax credits for the assets. This lower basis will be used, for example, to compute cost recovery deductions and gain or loss when the asset is sold or exchanged. The basis adjustment applies to property placed in service after December 31, 1982, except in the case of new equipment (other than public utility property) placed in service before July 1, 1984, for which there was a contract entered into after August 13, 1981, which was binding on July 1, 1982, and all times thereafter.

To limit on the amount of income tax liability which may be offset by the investment tax credit for both individuals and corporations is reduced from 90 percent to 85 percent, effective for taxable years beginning after December 31, 1982.

1985 and 1986 ACRS Changes

The bill eliminates the 1985 and 1986 further acceleration of depreciation which had been scheduled for property placed in service after 1984.

Construction Period Interest and Taxes

The bill requires corporations to capitalize and amortize over 10 years interest and real property taxes paid or accrued on nonresidential real property, the construction of which begins after 1982. The bill exempts the Alaska gas pipeline from this rule, and provides a special rule for certain hotels and motels, the construction of which begins before 1984.

Safe-harbor Leasing

The bill substantially modifies the safe-harbor leasing rules.

A 50-percent limitation is imposed on the percentage of tax liability that a lessor may avoid through the use of safe-harbor leasing, and lessors are not permitted to carry back tax benefits obtained as safe-harbor lessors to prior tax years.

The bill lowers the maximum interest rate on obligations of the lessor to the lessee in a safe-harbor sale-leaseback to 5 percentage points less than the interest rate on overpayments and underpayments of tax or 8 percent, whichever is greater.

The maximum lease term is reduced to 100 percent of the ADR midpoint life of the asset.

The maximum percentage of eligible property (including property used by the taxpayer subject to certain types of leases) that may be leased by any lessee in a safe-harbor lease is set at 45 percent in 1982 and 1983 and 40 percent in 1984 and 1985.

Property leased under the safe-harbor rules is depreciated under the cost recovery methods and periods provided for the minimum tax.

The bill provides that the investment tax credits earned on leased property are allowable over 3 years—50 percent the first year and 25 percent in each of the next 2 years.

The bill prohibits the use of leasing to increase foreign tax credits and percentage depletion and prohibits safe-harbor leasing between related parties.

The bill provides that safe-harbor leasing is not available for public utility property.

Under the bill, certain tax-exempt entities are not permitted to structure transactions to benefit from leasing.

The at-risk rules will not prevent certain closely held corporations from acting as safe-harbor lessors.

Starting January 1, 1985, all leases will be permitted to include a fixed price purchase option at the end of the lease term of at least 10 percent of the original cost. Such options will be permitted after July 1, 1982, for leases of up to $150,000 of farm implements.

Mass transit leasing is permitted for property placed in service on or before December 31, 1987, if the property is purchased under certain binding contracts or commitments entered into on or before March 31, 1983.

So-called "investment tax credit strips" entered into before October 20, 1981, are permitted.

The bill prevents the Internal Revenue Service from retroactively denying lease treatment under rules in effect prior to safe-harbor leasing for motor vehicle operating leases involving business users by reason of the fact the lease contained a terminal rental adjustment clause. However, Treasury is not to be prevented from issuing regulations on a prospective basis that preclude lease treatment for such leases. The provision applies on a retroactive basis to any open taxable year.

The bill repeals safe-harbor leasing for property placed in service after September 30, 1985.

These rules are generally effective for leases entered into or property placed in service after July 1, 1982, except for certain anti-abuse rules, which are generally effective after February 19, 1982. The bill does not alter lease treatment for certain auto manufacturing equipment placed in service before July 1, 1982, and leased prior to August 15, 1982. In addition, the bill does not alter the lease treatment for property placed in service before January 1, 1983, if after June 25, 1981, and before February 20, 1982, the lessee has (1) commenced construction or acquired the property or (2) entered into a binding contract for the property. For papermaking plants, a March 31 date is substituted for the June 25 date in that transitional rule. Aircraft qualifies for the transitional rule if it is placed in service before January 1, 1984, and if after June 25, 1981, and before February 20, 1982, construction of a subassembly was commenced or the stub wing joiner occurred.

Foreign Oil and Gas Income

The bill repeals the country-by-country loss feature of the rule for the foreign tax credit limitation affecting oil and gas extraction income. Oil companies thus will not be permitted to use credits or losses arising out of their foreign oil and gas extraction activities to shelter other income from U.S. tax.

The bill expands the present anti-tax haven rules (subpart F) so that controlled foreign corporations generally will be subject to tax currently on their foreign nonextraction oil income related to activities carried on in countries other than those where the oil and gas is extracted or consumed. U.S. tax on foreign shipping income will continue to be deferred to the extent the income is reinvested in shipping assets.

The provisions generally apply for taxable years beginning after 1982.

Possessions Credit Limitation

The bill makes several changes in the present tax credit for income earned in U.S. possessions. It provides that income of a corporation that qualifies for the possessions credit does not include income allocable to intangibles. Such income will be allocated to the U.S. affiliates of a qualifying corporation or to the qualifying corporation itself as noncreditable U.S. source income. In addition, the current rule that permits a qualifying corporation to earn up to 50 percent passive income is changed to permit only 10 percent passive income. Similar rules are provided for U.S. corporations effectively exempt from tax because they are inhabitants of the Virgin Islands. The provisions are effective for taxable years beginning after 1982.

Industrial Development and Mortgage Subsidy Bonds

The bill imposes a number of restrictions on the use of tax-exempt bonds for private activities. Reporting is required for all post-1982 private-activities bonds. Also, public hearing and approval by an elected official or legislature is required for all post-1982 industrial development bonds (IDB's).

The cost of IDB-financed property placed in service after December 31, 1982 (except for property financed by bonds issued before July 1, 1982, or certain rollovers of such bonds, or property which is part of a facility under construction by July 1, 1982, or for which a binding contract existed as of

that date), generally will be required to be recovered under the straight-line depreciation method over present law regular ACRS lives. Exceptions are provided for low-income housing, for municipal solid waste facilities, for new pollution control equipment to be used in connection with a plant in operation on or before July 1, 1982, and for facilities with respect to which certain UDAG grants are made. Bonds are not permitted under the $1 million small issue limit as part of an issue which includes bonds which are tax-exempt under other provisions. Certain composite issues are permitted. Certain research and development expenditures are not treated as capital expenditures for purposes of the $10 million capital expenditure limit on small issue IDB's. Small issue IDB's cannot be issued after September 30, 1987.

The bill allows tax-exempt IDB's for local district heating or cooling facilities which use water or steam and for facilities that provide gas to a service area comprised of no more than a city and one contiguous county or two contiguous counties. Also, the bill allows tax-exempt financing for the acquisition of existing pollution control facilities by a regional pollution control authority if the acquisition is on an arms-length basis. A small issue IDB cannot be used for certain facilities, such as auto sales and service facilities, racket sports facilities, suntan facilities, hot tub facilities, and massage parlors.

The bill makes the following changes to the restrictions on the use of tax-exempt bonds for single-family housing imposed by the Mortgage Subsidy Bond Tax Act of 1980: (1) the arbitrage limitations are increased from 1.0 percentage points to 1 1/16 to 1 1/8 percentage points depending upon the size of the bond issue, (2) distributions of arbitrage on nonmortgage investments are not required to the extent that they require recognition of a loss in excess of undistributed arbitrage on nonmortgage investments at such time, (3) the 3-year rule is applied to 80 percent of the bond proceeds, and (4) the purchase price limitations are increased from 90 percent of area average purchase price (110 percent in targeted areas) to 110 percent (120 percent in targeted areas).

Mergers and Acquisitions

The bill modifies the treatment of partial liquidations. Present law rules applicable to distributions of appreciated assets in a partial liquidation permit a step-up in the basis of such assets without the tax consequences normally incident to a disposition of property. Capital gain treatment is retained for noncorporate shareholders who receive property in a partial liquidation and nonrecognition of gain to the distributing corporation is retained for such distributions to certain long-term noncorporate shareholders with at least a 10-percent interest. Distributions to corporate shareholders will generally receive dividend treatment.

The bill also repeals certain exceptions from the general rule that gain is recognized when appreciated property is used to redeem the stock of a distributing corporation. One such exception applicable to the distribution of stock in a subsidiary is modified so as to apply only if the distribution is to long-term, noncorporate, 10-percent shareholders and would have qualified as a partial liquidation if the subsidiary's assets had been distributed in lieu of stock.

The bill replaces the present law rules for treating the acquisition of a controlled corporation as an asset acquisition with a new elective provision no longer requiring a liquidation. Within 75 days after a purchase of 80 percent or more of the stock of an acquired corporation, a corporate purchaser may elect to treat the acquired corporation as if it had sold all of its assets in a complete liquidation on the date of the stock purchase. The acquired corporation's tax attributes will be terminated, and the basis of its assets will be adjusted, as of the stock acquisition date, to reflect the price paid for its stock.

The bill requires consistent treatment where an acquiring corporation or affiliated group of corporations acquires stock in two or more corporations that are members of the same affiliated group. If a purchase of assets (other than in the ordinary course of business) is made from a corporation, the bill treats an acquisition of stock of the same corporation or of a member of the same affiliated group as a purchase of assets. Regulations are authorized to prevent the circumvention of this requirement of consistent treatment through the use of other provisions of a law or regulations.

Generally, the provisions relating to mergers and acquisitions apply to property distributions after August 31, 1982, and acquisitions of target corporations after August 31, 1982. However, if a target corporation was purchased at any time during 1982, the new asset acquisition election may be made to avoid the present law requirement of an actual liquidation. Transitional rules are also provided to afford relief from the modification of the treatment of partial liquidations for transactions currently in progress.

Completed Contract Method of Accounting

The bill instructs the Treasury Department to amend its regulations relating to the methods of accounting for long-term contracts, the use of which permits significant tax deferral on income from such contracts. The amended regulations will address certain problems relating to the determination of when a contract is considered completed and the determination of whether contracts should be treated as one or several contracts.

The amended regulations also will require that taxpayers generally must allocate additional costs to extended period long-term contracts, i.e., contracts with an estimated completion date of more than 2 years. However, a taxpayer engaged in an extended period long-term contract for the construction of improvements to real property or the installation of integral components thereof will not be subject to the new cost allocation rules if either the construction contract is expected to be completed within 3 years or less, or the taxpayer's average annual gross receipts are $25 million or less for the preceding taxable years.

The new termination, segregation, and aggregation rules generally apply to taxable years ending after December 31, 1982. A special rule is provided for the application of the new contract termination rules to existing contracts. Another special rule is provided for the application of the new severance and aggregation rules to existing contracts. The cost allocation rules will apply to contracts entered into after December 31, 1982. During a transition period, a portion of the costs that will be required to be allocated to extended period long-term contracts by reason of the amended regulations will continue to be currently deductible. The portion of costs that will continue to be currently deductible is as follows:

For taxable years beginning in:	*Percent*[1]
1983	66⅔
1984	33⅓
1985 and thereafter	0

[1] The percentage of costs that continue to be currently deductible.

Dividend Reinvestment Plans for Utilities

The bill repeals the exclusion for dividends reinvested in public utility stock, effective for distributions made after 1982.

Modified Treatment of Original Issue Discount Bonds and Stripped Coupon Bonds

The bill replaces the present linear formula for amortization of original issue discounts with a formula which approximates the way in which interest accrues under borrowing with ordinary bonds. Also, the rules that govern amortization of original issue discount on bonds issued by corporations will be extended to certain noncorporate bonds. The bill provides that taxpayers who strip coupons from bonds will allocate basis between the coupons and the corpus of the bonds (i.e., the right to receive the principal amount of the bond at maturity) with the result that no artificial loss may be created through sale of the detached corpus. The retained portion of the stripped corpus or coupons will be treated as an original issue discount bond, requiring periodic inclusion of discount income. Purchasers of stripped corpus or coupons also will be treated as having purchased OID bonds. The effective dates for these proposals are those announced in the relevant Treasury Department news releases issued on May 3, 1982 and June 9, 1982.

Acceleration of Corporate Income Tax Payments

The bill accelerates the collection of corporate estimated income taxes by (1) increasing the amount of estimated tax payments needed to avoid the estimated tax penalty from 80 percent to 90 percent of the actual tax due, (2) requiring that all remaining tax owed be fully paid on the return due date, and (3) requiring large corporations (those with $1 million or more of taxable income in any one of the three preceding years) which base their estimated tax payments on the prior year's income or tax liability, to pay at least 90 percent of their current year's tax liability in 1984 and thereafter. In addition, the penalty on underpayments of estimated tax will be one-half the full rate for underpayments on the portion of the underpayment between 80 and 90 percent of the actual tax due.

Business Meals

Any deduction otherwise allowable for business meals and beverages (unless connected with business-related travel away from home) is limited to 50 percent of expenses, effective for taxable years beginning after 1982.

Soil and Water Conservation Expenditures

The bill extends the investment tax credit to soil and water conservation expenditures which the taxpayer does not elect to expense, effective for expenditures after 1982.

Compliance provisions

Withholding on Interest and Dividends

The bill requires withholding at a flat rate of 10 percent on payments of interest, dividends and certain patronage dividends. Payments to certain tax-exempt institutions, corporations, certain low-income and elderly individuals, interest payments made by individuals and interest payments of $100 or less on an annualized basis are generally exempt. An individual is entitled to withholding exemption if his or her prior year tax liability was $600 or less ($1,000 on a

joint return). For the elderly (age 65 and over), the prior year tax liability exemption is $1,500 or less ($2,500 on a joint return). Exemption may be claimed by providing an exemption certificate to the payor.

The bill provides the Treasury Department with authority to set the frequency of deposits of taxes withheld on interest income and to exempt banks and similar depository institutions until it determines that they can comply with withholding.

These provisons are generally effective for payments made after 1982.

Taxpayer Compliance Improvements

The bill contains a series of provisions designed to encourage complete and accurate reporting of income and deductions. These include provisions improving information reporting, increasing penalties for noncompliance, amending the methods under which interest on tax deficiencies and overpayments is computed, substantially revising the withholding rules for pension distributions, encouraging reporting on foreign transactions, and revising certain rules governing information gathering by the Internal Revenue Service. (The bill does not change the present reporting requirements for tip income.) These compliance provisions have various effective dates.

The bill includes a sense of the Congress resolution that additional funds should be appropriated to the Internal Revenue Service to provide the staff proposed by the Administration and additional staff over that requested by the Administration's 1983 Budget sufficient to collect at least $1 billion in fiscal year 1984 and $2 billion in fiscal year 1985 over the amount which would be collected in the absence of such increased staff. In particular, the bill imposes a 10-percent penalty on substantial understatements for which the taxpayer does not rely on substantial authority and does not disclose the relevant facts of the item giving rise to the underpayment.

Pension provisions

The bill makes several changes affecting the overall limits on contributions and benefits under tax-qualified pension plans.

The bill (1) reduces the maximum annual addition for profit-sharing and other defined contribution plans (other than H.R. 10 plans) from $45,475 to $30,000; (2) reduces the maximum annual retirement benefit under a defined benefit pension plan from $136,425 to $90,000; (3) increases the maximum deductible contribution limit for defined contribution H.R. 10 plans from $15,000 in 1982 to $20,000 in 1983, $25,000 in 1984, and $30,000 in 1985; (4) provides adjustments for post-1984 inflation beginning in 1986, for the limits on all plans (including corporate and H.R. 10 plans) based upon the social security benefit index formula then in effect; (5) increases the age below which actuarial reductions are required in the maximum benefit limit for defined benefit plans from 55 to 62; (6) reduces the overall limit where both a defined contribution and a defined benefit plan are provided from 1.4 to 1.25 with respect to the dollar limits only; and (7) generally places a $10,000 limit on outstanding loan balances of plan participants under all qualified plans and requires reporting to the Internal Revenue Service by plans with respect to participant loans. (A higher limit is provided for certain loans used to acquire, construct or rehabilitate residential real property.) The bill does not affect benefits already earned under a plan or loans already made.

The bill permits an employer to provide additional contributions on behalf of disabled participants (other than officers, shareholders, or highly compensated individuals), based upon their pre-disability compensation. These participants are immediately vested in their accrued benefit derived from those additional contributions.

Under the bill, participants in certain defined benefit State judicial plans will not be subject to the rule requiring participants in an ineligible deferred compensation plan to include plan benefits in gross income merely because there is no substantial risk that the benefits will be forfeited.

The bill permits churches to provide certain retirement savings arrangements to their employees, subject to revised limitations.

The bill also permits a trust which is a part of a governmental plan to participate in a group trust without regard to whether the governmental plan is a tax-qualified pension plan.

Life insurance and annuity provisions

Modified Coinsurance

The bill repeals the modified coinsurance ("Modco") rules in section 820; treats existing Modco agreements as terminated on January 1, 1982, but allows a three-year installment payment of the tax increase from termination treatment of existing agreements for certain reinsurers; provides related party allocation authority for Treasury for future conventional reinsurance agreements; prevents tax avoidance by disallowing an interest deduction with respect to conventional reinsurance funded by a debt obligation; and grandfathers prior Modco transactions except in the event of fraud.

Policyholder Dividends

The bill raises the present $250,000 special deductions limit to $1 million, imposes an affiliated group limit, and targets the provision to smaller companies. The bill also allows a 100-percent deduction for policyholder dividends and interest for qualified pension business.

Under the bill, mutual life insurance companies are allowed to deduct a minimum of 77½ percent of policyholder dividends on non-qualified business. Stock life insurance companies are allowed a minimum policyholder dividend and interest deduction of 85 percent of amounts paid or credited on non-qualified business.

Menge Formula

A geometric "Menge" formula is provided to compute adjusted life insurance reserves for purposes of allocating investment yield to policyholders.

Consolidated Returns

A "bottom-line" method of consolidation is allowed for determining consolidated life insurance company taxable income.

Reserves and Contract Liabilities

The bill revises the approximate revaluation formula for preliminary term reserves by reducing the revaluation from $21 to $19 per $1,000 of other than term insurance in force, for business written after March 31, 1982.

No reserve deductions are allowed for interest guaranteed beyond the close of a taxable year.

Beginning July 1, 1983, the amount taken into account as the policy or contract liability for a group pension contract, for purposes of determining the excludable policyholder share of investment yield, is limited to the amount of interest actually credited to the policyholder. This will eliminate the so-called "double-dip" available under present law with respect to these contracts. Also, for any taxable year ending before January 1, 1985, the Internal Revenue Service will be precluded from denying life insurance company status to a company for cases when disqualification might result from the Service's treatment of pension reserves for contracts without a permanent annuity purchase rate guarantee as not being life insurance reserves.

Grandfather Rules

Tax treatment for modified coinsurance transactions with a section 820 election for periods prior to January 1, 1982 is grandfathered except in cases of fraud. Excess interest credited to policyholders for years prior to 1982 is fully deductible. Similarly, treatment claimed with respect to consolidation of two or more life insurance companies is grandfathered for years prior to 1982. For taxable years beginning before 1982, amounts that could have been charged as a premium or mortality charge, but were not, will not be included in premium income.

Deferred Annuities

The tax treatment of recipients of annuities is modified. Withdrawals are deemed to be taxable to the extent income from investment had been earned. A rule for treating loans as distributions and a 10-percent penalty for withdrawals prior to age 59½ or within 10 years of contribution, whichever period is shorter, are added. The penalty will not apply if annuity payments are received over a period of not less than 60 months. A 100-percent interest deduction is allowed to insurance companies for amounts credited to deferred annuity business (limited to 92½ percent in the case of participating contracts).

Flexible Premium Policies

The bill prescribes guidelines for eligibility of the proceeds from "universal life" products for the income tax death benefit exclusion and, except for grandfather protection for prior periods, does not prescribe tax treatment of excess interest (leaving the issue open for litigation during the effective period as to characterization as fully deductible interest paid, or as a policyholder dividend deductible to the extent allowed under the percentage limitation safety net).

Stop-gap Termination Date

All of the above provisions terminate after 1984 (a three-year stop-gap period) except for (1) the treatment of modified coinsurance and related transactions, (2) the tax treatment of amounts received under an annuity contract and the deductibility of excess interest credited on deferred annuities, and (3) the "grandfather" rules.

Employment tax provisions

Independent Contractors

The bill establishes a safe-harbor test that, if satisfied, results in classification of an individual as an independent contractor for Federal employment tax purposes (other than under the Railroad Retirement Tax Act). If all five requirements of the test are met with respect to service performed by an individual, then that service is treated as performed by an individual who is not an employee, and the service-recipient (i.e., the person for whom services are performed) is not treated as an employer with respect to that service. The safe-harbor requirements relate to (1) control of hours worked, (2) place of business, (3) investment or income fluctuation, (4) written contract and notice of tax responsibilities, and (5) the filing of required returns. The failure of a worker to satisfy the safe-harbor test will not affect

his or her classification under the common law rules.

The bill also provides for reduction of certain employment tax liabilities in situations involving the reclassification of workers as employees and provides for Tax Court jurisdiction over employment tax reclassification disputes.

Federal Unemployment Tax (FUTA)

Effective January 1, 1983, the FUTA wage base is increased to $7,000, and the Federal tax rate is increased to 3.5 percent. Effective January 1, 1985, the tax rate is increased to 6.2 percent (a permanent tax of 6.0 percent and an extended benefit tax of 0.2 percent), and the credit which employers receive against the tax is increased to 5.4 percent. The progressive reduction of the FUTA credit applicable to States in default is retained as under current law.

Extension of Social Security Hospital Insurance Taxes and Medicare Coverage to Federal Employees

Under the bill, Federal employees will be subject to the FICA hospital insurance tax. (The tax is imposed at the rate of 1.3 percent of wages received during 1982–1984, 1.35 percent of wages received during 1985, and 1.45 percent of wages received after December 31, 1985.) Federal employees will receive Medicare coverage after paying hospital insurance taxes for the required period of time.

Excise tax provisions

Airport and Airway Measures

Under present law, no tax revenues are being transferred to the Airport and Airway Trust Fund. Under the bill, the following aviation excise taxes are designated for the Trust Fund: (1) an 8-percent passenger ticket tax (increased from the present 5-percent rate); (2) a 12-cents-per-gallon tax on noncommercial aviation gasoline (increased from the present 4-cent rate); (3) a 14-cents-per-gallon tax on nongasoline fuels for noncommercial aviation (no tax under present law); (4) a 5-percent air freight waybill tax (no tax under present law); (5) a $3 per person international departure ticket tax (no tax under present law); and (6) amounts equal to revenues from the present taxes on aircraft tires and tubes. (Certain helicopters engaged in natural resources and timber operations not using Federal aid or Federal facilities will be exempt from the fuel taxes and the air passenger ticket tax.) The tax changes apply to tickets and fuels purchased after August 31, 1982.

In addition, the bill includes a separate provision regarding the Airport and Airway System Development Act which would: (1) authorize appropriations for certain capital improvements to airports; (2) authorize certain expenditures for Federal Aviation Administration program; (3) establish a state block grant program; (4) require the Secretary of Transportation to study an airport defederalization program; and (5) permit airports to voluntarily withdraw from the Federal airport improvement program. The bill provides Trust fund program authorizations for fiscal years 1982–1987.

Telephone Excise Tax

The bill increases the telephone excise tax to 2 percent in 1983, 3 percent in 1984, 3 percent in 1985, and 2 percent for years after 1985.

Cigarette Excise Tax

The bill increases the present Federal excise tax on small cigarettes from $4 to $8 per thousand (from 8 to 16 cents per package) for the period January 1, 1983 to September 30, 1985. The tax on large cigarettes is increased from $8.40 to $16.80 per thousand.

Expansion of Dingell-Johnston Fund Taxes

The bill expands the articles of fishing equipment which are subject to the 10-percent manufacturers excise tax and imposes a 3-percent excise tax on recreational fishing boats and boating equipment, with the revenues to be available for expansion of the Dingell-Johnston Fund program. The provision also extends the time for payment of the excise tax on fishing equipment.

Repeal of TAPS Adjustment for Crude Oil Windfall Profit Tax

Oil produced at Prudhoe Bay in Alaska would be treated like other oil under the windfall profit tax by repealing the special Trans-Alaska Pipeline System (TAPS) adjustment presently applicable to that oil, effective for oil removed after 1982.

National Research Service Awards

The bill extends for two additional years (to awards made through 1983) the income tax exclusion for National Research Service Awards.

Annual Accrual Accounting for Certain Joint Ventures

Under the bill, a "qualified" partnership (a partnership composed entirely of corporations other than subchapter S corporations or personal holding companies engaged in the business of sugar cane farming) will be treated the same as a corporation for purposes of the annual accrual accounting method rules. Thus, a corporation that is allowed to use the annual accrual accounting method for the business of growing sugar cane could transfer substantially all of the assets of the business to a qualified partnership in exchange for an interest in the partnership, and the qualified partnership will be allowed to use the annual accrual method to compute the taxable income from the transferred business.

Targeted Jobs Tax Credit

The targeted jobs tax credit is extended for three years. The credit is made available with respect to any member of a targeted group who begins work on or before December 31, 1985.

In addition, the jobs credit is modified to encourage summer youth employment. Employers will receive a credit for hiring economically disadvantaged youths who are 16 or 17 years of age for any 90-day period between May 1 and September 15. Employees can qualify only one time for this credit with respect to a particular employer, and the credit will be 85 percent of up to $3,000 of wages paid.

Cooperative education students will be eligible for certification regardless of whether they are economically disadvantaged, but the credit for the group will be limited to 30 percent of the first $3,000 of wages paid in the first year of employment and 15 percent of the first $3,000 of wages paid in the second year of employment.

Coverage of general assistance recipients under the program will be amended to indicate that recipients of non-cash, as well as cash, assistance will be eligible for certification.

The extension of the jobs credit will take effect on January 1, 1983. The credit for summer youth employment and the change affecting coverage of general assistance recipients takes effect July 1, 1982, and the change with respect to cooperative education students is effective after August 31, 1982.

Foreign Corrupt Practices Act

An otherwise allowable business expense deduction is not disallowed for any payment to foreign officials or agents of a foreign government as long as the payment is legal under the Foreign Corrupt Practices Act, regardless of whether such payment would be illegal under other U.S. laws if those laws applied.

Debt Management Provisions

The authority given to the Secretary of the Treasury to issue bonds paying interest rates above the statutory ceiling of 4¼ percent is increased by $40 billion, from $70 billion to $110 billion. This change applies to bonds with maturities, when issued, that are longer than 10 years.

The statutory limitations on interest rates payable on savings bonds issued by the Treasury Department is repealed. This action will allow the issuance of savings bonds bearing interest rates related to market-determined rates paid on bonds of comparable character and maturity.

Study of Alternative Tax Systems

The bill instructs the Secretary of the Treasury to conduct a study within 6 months covering the advisability of developing an alternative tax system that would reduce the complexity of the present income tax system and improve the efficiency and equity of the tax system. Alternative tax systems that should be evaluated include a simplified income tax based on gross income, a consumption-based tax structure, and broadening of the current income tax base combined with lowering of current tax rates.

Study of Monetary Policy

The bill requires the Administration to prepare a study in which it analyzes the effects on capital markets of a measurement of the growth of debt as the long-term target of monetary policy, and a measurement of total liquid assets as an interim target of monetary policy, instead of measuring the growth of the money supply.

New Jersey General Revenue Sharing Allocation

The New Jersey Franchise and Gross Receipts Tax will be deemed an adjusted tax of units of local government within New Jersey for the quarterly payment period for the quarter beginning October 1, 1982. This change will remain in effect for future quarterly payment periods provided that the State of New Jersey amends the Franchise and Gross Receipts Tax no later than January 1, 1983, to provide for the collection and retention of the tax by units of local government for years beginning January 1, 1983.

Relief for the Jefferson County Mental Health Center

The bill authorizes the payment of $50,000 to the Jefferson County Mental Health Center, Lakewood, Colorado, in full settlemant of its claims against the United States for repayment of the $74,128 the Center refunded to its employees for individual social security contributions after the Internal Revenue Service erroneously advised the Center that the contributions had been incorrectly withheld.

Disclosure of Tax Returns and Return Information for Nontax Criminal Investigation Purposes

The bill facilitates the disclosure of tax returns and return information for nontax criminal investigation purposes. The bill also expands the access of the General Ac-

counting Office to tax returns and return information.

Alaska Native Claims Settlement Corporations

The bill amends the windfall profit tax provisions to clarify that wholly owned subsidiaries of native Indian corporations formed under the Alaskan Native Claims Settlement Act are exempt from the windfall profit tax.

Veterans Organizations

The bill extends tax-exempt status to veterans organizations at least 75 percent of whose membership consists of past or present members of the Armed Forces of the United States (whether or not war veterans) and whose remaining membership consists substantially of cadets or spouses, widows, or widowers of past or present members of the U.S. Armed Forces or of cadets.

Amateur Athletic Organizations

The bill allows tax-exempt status to amateur athletic organizations that conduct national or international competition in Olympic sports, or support and develop amateur athletes for such competition. Such organizations may be eligible for exemption whether or not they provide facilities to members, and whether their membership is local or regional in nature.

Applicability of Certain Private Foundation Rules

The bill provides that the Otto Bremer Foundation, the El Pomar Foundation, the Houston Endowment, the Public Welfare Foundation, and the Sand Springs Home may retain certain business interests (if the foundation held such interests on May 26, 1969 and meets certain other conditions) without regard to the private foundation divestiture requirements of present law which otherwise would require divestiture of part of such interests by May 26, 1989. The bill allows the Ahmanson Foundation an additional 5 years to meet a private foundation divestiture requirement with respect to certain stock held on May 26, 1969. The bill provides that the New London Day Trust is not subject to the private foundation requirements which apply to charitable trusts, effective for taxable years beginning after November 20, 1978.

Certain Income of Religious Orders From PHS Leprosarium

The bill provides that income derived from services of certain members of religious orders from salaries from the Public Health Service in a leprosarium will be income of the religious organization rather than income of the member.

FCC Policy Toward VHF Stations

The bill contains an amendment to the Communications Act of 1934 stating that it should be the policy of the Federal Communications Commission to allocate channels for very high frequency television broadcasting in a manner which ensures that not less than one such channel shall be allocated to each State if technically feasible.●

RETREAT ON ARMS CONTROL

● Mr. BIDEN. Mr. President, the Reagan administration has announced ambitious goals for nuclear arms control, but it remains stubbornly reluctant to accept the measures—already negotiated and signed with the Soviet Union—which would provide immediate restraints on the nuclear arms race and prompt benefits for U.S national security. It is risky and unwise, in my judgment, to neglect the solid foundations already built when seeking to construct overarching agreements.

Driven by his own campaign rhetoric, the President has pronounced the SALT II treaty "fatally flawed" and has even refused to challenge the Russians about possible violations of that still-unratified agreement. Nevertheless, he has pledged not to "undercut" the treaty's provisions so long as the Soviet Union does likewise. This formula guarantees maximum uncertainty about the durability and effectiveness of SALT II's limits. We are now in the position of trying to negotiate substantial cuts and radical changes in the superpowers' strategic forces without an agreed consensus on the starting point, the basic definitions of terms, or the units of account.

The Russians have good reasons to doubt the seriousness of the United States to reach and implement an agreement, for the United States has failed to ratify any of the three major nuclear arms control treaties signed in the past 8 years. This disappointing record has been made worse by the President's decision last week to reopen negotiations on two of those agreements and to postpone indefinitely talks on a comprehensive nuclear test ban treaty, which had achieved remarkable progress by the end of 1980.

According to anonymous White House officials, the administration will seek "improved verification procedures" in the 1974 Threshold Test Ban (TTB) and the 1976 Peaceful Nuclear Explosions (PNE) Treaties. The former would forbid underground tests in excess of 150 kilotons (kt) of explosive yield; the latter would prevent allegedly peaceful nuclear explosions from being used for military purposes and would permit verification by onsite inspections, a long-sought U.S. goal. The anonymous briefers did not indicate what changes would be sought, or what deficiencies had developed in U.S. verification capabilities.

When the Senate Foreign Relations Committee considered these treaties in 1977, there was substantial agreement that Soviet compliance could be adequately monitored. Dr. Jack Ingley, then chief of the Nuclear Energy Division at the CIA testified unequivocally that "the Threshold Test Ban Treaty covers only 150 kt and above, where detection and identification is no problem." Data exchanges at the time of ratification would provide detailed geological information about underground test sites which would reduce the range of uncertainty that currently troubles our intelligence community.

The Nixon and Ford treaties were sidetracked in the Carter administration in order to pursue a comprehensive test ban (CTB), which would put more significant brakes on nuclear weapons development, would be easier to verify, and would strengthen our leverage in efforts to halt the proliferation of nuclear weapons to other countries. By the end of 1980, CTB negotiations among the United States, Soviet Union, and United Kingdom had made surprising progress, including joint agreement on a moratorium on even peaceful nuclear tests and on far-reaching verification measures such as onsite seismic monitoring devices and onsite inspections.

Mr. President, perhaps we were wrong to defer action on the TTB and PNE Treaties while we sought a comprehensive test ban. Too often in arms control negotiations, the best has been the enemy of the good, and we have failed to take modest steps to improve our security because of a wish to make giant strides. Nevertheless, the administration's latest decisions to reopen issues on the partial measures and to postpone indefinitely CTB negotiations constitute a retreat on arms control.

The logic behind the administration's new policy is curious, if not circular. Why should we abandon efforts to force the Russians to stop all nuclear testing and let them continue at a level which is adequate for them—and more than adequate for us? If we have doubts about reading the needle at precisely 150 kilotons, should we not press more vigorously for confident verification of zero testing? Does it make sense to tinker with the limited treaties and deny ourselves the opportunity for hard data and onsite inspections? And especially if, as some allege, the Russians have broken their promise not to test above 150 kilotons, should we not ratify the treaty, challenge the Russians, and expose their perfidy?

Mr. President, I fear that the real motive for some in this administration who pressed for this new policy is not to achieve better agreements but to undermine the whole foundation of arms control agreements. My concerns have been heightened by an editorial in the Wall Street Journal—which frequently repeats hardline criticisms of arms control efforts—praising the latest decisions as "a first hesitant step away from the whole notion of negotiating arms agreements with the Soviet Union." The editorial suggests refusing to negotiate new treaties while old ones are being broken.

I agree, Mr. President, that the Russians should be held to account for their behavior. But this administration has adopted a deliberate policy of refusing to challenge the U.S.S.R. for possible violations of SALT II in the established mechanism of the Standing Consultative Commission. It also rings hollow for the administration to

complain about violations of a not-yet-binding treaty which they consider flawed and refuse to ratify. And because we have not been able to exchange the data on nuclear test sites, we "cannot prove beyond reasonable doubt" any Soviet violations of the TTB.

We are tying our own hands by these shortsighted policies. And by refusing to ratify the agreements already signed, we are freeing the Russians from the limitations they would impose on their own nuclear weapons programs.

We have nothing to fear from the TTB and PNE treaties. The then Chairman of the Joint Chiefs of Staff, Gen. David Jones, told the Foreign Relations Committee last fall that "we have no plans to do testing above 150 kilotons." Nor do we plan any peaceful nuclear explosions.

The Russians, however, could exploit the absence of binding limits to develop and test even bigger warheads—and giant warheads could render the new Dense Pack basing system for the MX missile vulnerable to just a handful of Soviet weapons.

Mr. President, this administration waited 10 months to develop its first arms control proposals—for nuclear systems in Europe—and 16 months to decide on a plan for limiting strategic weapons. These modest but useful initiatives have now been called into question by its retreat on the issue of nuclear testing.

The American people want a halt in the nuclear arms race. They know, as even our military leaders have testified, that we can be secure, even more secure, if there are fewer nuclear weapons and nuclear-armed nations in the world. They have been jaded by promises and want results.

We can achieve those results, immediately, if we move quickly to ratify the agreements we have already negotiated and then press ahead for more comprehensive measures.

Mr. President, I ask that certain articles on this issue from the Los Angeles Times, the New York Times, and the Washington Post be printed in the RECORD.

The articles follow:

[From the Los Angeles Times, July 21, 1982]

U.S. SEEKS NEW GUARANTEES ON A-BOMB TESTS

(By Robert C. Toth)

WASHINGTON.—The Reagan Administration announced Tuesday that it will seek to strengthen the anti-cheating provisions of two Soviet-American treaties that impose limits on nuclear testing before attempting to hammer out a new, comprehensive treaty banning all tests.

A ranking White House official said the verification provisions of the present treaties, which prohibit test explosions below the 150-kiloton level, are inadequate. Considered relatively small, nuclear devices of 150 kilotons are the equivalent of 150,000 tons of TNT.

Thus, the official said, while the Administration still favors negotiation of a comprehensive test ban agreement, "first priority" should be given to strengthening the existing treaties.

Some Democrats immediately charged the Administration with taking a step backward in arms control efforts, since the Soviets have already agreed in principle to stronger verification provisions in a comprehensive treaty, including on-site inspection.

The Soviet reaction is not yet known. Moscow may well refuse to reopen the 1974 and 1976 agreements, some analysts believe.

Formal negotiations on a comprehensive test-ban treaty were suspended in 1980, though lower-level talks on technical problems continue.

The Reagan decision, which in effect continues the suspension of formal negotiations, is consistent with the Administration's program to build new MK and Trident missiles. Nuclear warheads for those missiles should be tested for reliability, in the view of Pentagon officials, and such tests would be barred by a comprehensive treaty.

TIMING IS UNCLEAR

Why the Administration made a formal decision on the matter now is not clear, however. Beyond stirring up opposition at home, the move will probably be used by European opponents of weapon modernization there as further proof of what they feel is Reagan's lack of interest in serious arms-control efforts.

One Administration official suggested that the decision, made at a National Security Council meeting Monday, is the final chapter in the Administration's review of arms control. Earlier decisions were made on new strategic arms reduction plans and on other proposals.

"This was just rounding out the Administration approach to the entire field," the official said.

The decision goes some distance toward following up on Republican campaign charges in 1980 that the Soviets had violated strategic arms agreements.

PERIODIC CHARGES AGAINST SOVIETS

The Soviets have been charged periodically with violating the two nuclear-test-ban agreements, which are not considered strategic arms accords as well as the biological and chemical warfare conventions. No incontrovertible evidence of such violations has been produced, however.

Neither of the two existing nuclear-test-ban treaties has been ratified by either the U.S. Congress or the Supreme Soviet, Moscow's nominal Parliament. But their provisions have been largely honored by both sides, and the White House official said the United States will continue this policy.

The U.S. decision announced Tuesday does not affect the atmospheric test ban that was agreed to by the two superpowers in 1963 as the first arms control measure of the nuclear age.

The Threshold Test Ban Treaty of 1974 limits underground weapons testing to specific sites and provides for exchange of geological data on those sites—including rock density and water table levels—to help verify the size of the test blast by seismic (earthquake) wave analysis.

ROOM FOR ERROR

After the treaty was signed, the United States complained about Soviet tests that might have been somewhat above the 150-kiloton ceiling. According to a U.S. Arms Control and Disarmament document, the Soviets proposed, and the United States agreed to, a so-called "mistakes' understanding," which states that "one or two slight, unintended breaches per year" would not be considered a violation of the treaty.

The 1976 treaty limits nuclear explosions for peace purposes to the same 150-kiloton ceiling. "Information and access to sites" of such tests are to be provided to each side, according to the arms control agency. But no tests under the treaty have been announced since it was signed.

The White House official, in explaining Reagan's decision to reporters, said "seismic signals from the U.S.S.R. have called into question Soviet compliance" with the threshold treaty. "Because of uncertainties in the yield-estimating process, the U.S. cannot prove beyond reasonable doubt" any Soviet violation.

"But this underscores the problem of uncertainty, and the requirement to remove the uncertainty to the maximum extent feasible by improving verification procedures," the official said.

The official acknowledged, however, that Reagan has not yet decided how much improvement is required and how much uncertainty is acceptable.

[From the Washington Post, July 26, 1982]

TWO DORMANT TREATIES AWAKEN DISPUTE OVER A-TEST INSPECTION

(By Murrey Marder)

A decision by President Reagan last Monday to seek changes in two dormant treaties with the Soviet Union has opened up one of the most contentious issues between the two superpowers: foreign inspection or rival nuclear weapons tests.

At a meeting in the Cabinet Room of the White House, the president and his National Security Council advisers planned to portray the decision as a step forward in nuclear arms control. Instead, the plan back-fired badly, enmeshing the administration in a new domestic and international dispute about its nuclear policy.

"I thought we had moved the process forward an inch," one senior administration official said ruefully at the end of the week. "But the way it comes out is that it looks like everthing has gone to hell in a handbasket."

According to other sources, a potentially larger controversy exists behind the administration's latest nuclear decisions than anything that has emerged.

Administration advocates of hardline bargaining with the Soviet Union are now seeking tougher terms for limiting nuclear weapons tests than any previous administration. They want the United States to insist on the right to send American inspectors to Soviet weapons tests, to drill holes and implant U.S. instruments, to verify Soviet compliance with limits on the size of nuclear explosions.

Other officials are advocating much more limited demands on the Soviet Union. There is no indication which course the president will choose. In either case, new American terms for verification are bound to be reflected as well in the central negotiations on nuclear arms control, the Strategic Arms Reduction Talks now under way in Geneva.

Furthermore, intrusion into Soviet territory to verify nuclear tests means equal Soviet penetration of American test sites. Although the United States is generally free of the Soviet obsession with secrecy, the Joint Chiefs of Staff and nuclear weapons specialists in the Energy Department are re-

ported to be registering adamant opposition to the idea of admitting Soviet observers to American test sites in Nevada.

One Senate specialist said that the Joint Chiefs "turn pasty white at the idea."

None of these specifics was discussed, administration sources said, in the National Security Council last Monday. In that session, Secretary of State George P. Shultz, who carries the responsibility for negotiating on arms control, was the novice on the subject.

He was joining Defense Secretary Caspar W. Wienberger, Gen. John W. Vessey Jr., chairman of the Joint Chiefs of Staff; Vice President Bush; national security adviser William P. Clark, and other senior officials in deciding, as one source described it, "what our declaratory policy should be," rather than the specifics of the policy.

The intention was to portray the administration in a positive way seeking to improve and salvage two treaties negotiated by the Nixon and Ford administrations.

But what first leaked from the meeting was wholly negative: confirmation that the Reagan administration has no intention of resuming far more ambitious American-Soviet-British negotiations to end all nuclear weapons tests.

Those negotiations were last conducted by the Carter administration in November, 1980.

The formal decision to close off a channel for negotiating what is known as a Comprehensive Test Ban, came as no great surprise; it was publicly foreshadowed by administration officials last year. Even so, confirmation of that position touched off attacks from arms-control advocates.

To try to offset that damage, the White House disclosed the decision to seek changes in the two treaties to limit explosions underground, the only area where American-Soviet testing has been permitted since 1963. Those treaties were negotiated in the 1970s but never ratified. This disclosure, however, only added to the controversy.

The first sidetracked pact, the Threshold Test Ban Treaty, signed in 1974, prohibits underground nuclear tests greater than 150 kilotons—the equivalent of 150,000 tons of TNT. The second, the Peaceful Nuclear Explosions Treaty, signed in 1956, is a companion pact, setting the same level on explosions for civilian purposes, such as changing the course of rivers.

The peaceful-users treaty contains the only negotiated authority for each nation to send nuclear observers to each others' territory, under tightly controlled conditions. There is no comparable authority, however, to inspect weapons tests.

Both treaties were heavily criticized, largely by liberals, on grounds that the 150-kiloton threshold was too high to be meaningful as an alternative to a halt in testing.

The two treaties were in limbo until this administration, when the Senate Foreign Relations Committee, spurred by Chairman Charles H. Percy (R-Ill.) and other arms control advocates, sought to counter Soviet charges that the United States had defaulted on them.

Administration officials say the two pacts are seriously defective. They charge that the Soviet Union, while ostensibly honoring the ceiling on explosions, has tested nuclear weapons of up to 300 or 400 kilotons, with no recourse in that treaty to produce incontrovertible proof of violations.

Eugene V. Rostow, director of the Arms Control and Disarmament Agency, told the Senate committee May 13, however, that there was more than one barrier to ratification. Rostow testified that he had "run into a profound stone wall" in trying to get action on the two treaties.

"The stone wall," Rostow testified, "is the feeling in many parts of the government that, given the uncertainty of the nuclear situation, the nuclear balance and the need for new weapons and modernization . . . we are going to need testing and perhaps even testing above the 150-kiloton limit for a long time to come."

In addition, Rostow said, there are "grave doubts" about the adequacy of the verification procedure in the weapons treaty.

A senior Pentagon official privately acknowledged last week "concern about a legitimate need for testing in the future over the threshold," but he said, as did Rostow, that the verification inadequacies in the treaties are the main difficulty.

The administration's official position is that the verification weakness is the only problem.

To avoid the charge that the administration was rejecting the treaties, spokesmen were told not to use the term "renegotiation." Officials talked instead about the need to "strengthen the verification provisions," which some officials described as "technical refinements."

One source involved in the process, however, ridiculed these descriptions as circumlocutions.

Rostow, nevertheless, said Friday that he was pleased with the outcome—except for the critical publicity—because "we have some prospects for improving the verification procedure."

Percy has described himself as "pleased that the administration has decided not to reject" the two treaties, and he expressed hope for an early resolution of the verification requirements. No administration official anticipates that.

If the hard-liners in the Defense Department and other agencies should prevail, the administration would end up asking the Soviet Union not only for advance notice of all weapons tests, but also for the right to choose what tests to inspect.

This would involve, said one advocate of this approach, "our technicians having an opportunity to 'instrument' their test program," combined with authority "to drill holes and to place instruments" for measuring the yield of nuclear explosions.

In such a test observed by Americans, this specialist said, the Soviet warhead being tested "could be shrouded as it is lowered into the test hole," to screen it from the Americans.

When asked how he would expect the Soviet Union to react to such a demand, he said, "It will be a jolt," but added: "This is the only way to verify—and even then there would be some margin for doubt."

[From the New York Times, July 26, 1982]

EXPERTS SPLIT ON FLAWS IN PACTS LIMITING NUCLEAR TESTS

(By Judith Miller)

WASHINGTON, July 25.—Arms control experts agree that the two treaties limiting underground nuclear testing pose verification problems for the United States, but they disagree on whether the risks of Soviet violations are serious enough to require renegotiating sections of the accords.

Similarly, these experts are divided on whether the United States can develop adequate technical methods to detect violations and can obtain Soviet agreement on verification procedures.

These disputes have been revived by reports that President Reagan decided last Monday to postpone efforts to negotiate a complete nuclear testing ban with Britain and the Soviet Union until verification measures could be strengthened in the two treaties that have been signed but not ratified.

The pacts at issue are the Threshold Test Ban Treaty, signed in 1974, which limits to 150 kilotons all underground Soviet and United States tests, the only kind permitted, and its companion accord, the Peaceful Nuclear Explosions Treaty, signed in 1976, which puts the same limits on explosions for ostensibly peaceful purposes. A kiloton is a unit used to measure the power of a nuclear explosion and is equal to the force of 1,000 tons of TNT.

SOME DEFICIENCIES SEEN

In interviews last week, Administration officials described what they said were some of the deficiencies in the treaties' verification provisions, and asserted that Mr. Reagan was committed to finding ways to bolster the accords.

According to officials of the Pentagon and the Arms Control and Disarmament Agency, it is difficult for the United States to estimate the actual force of Soviet underground tests.

Seismic measuring stations outside the Soviet Union record the ground waves generated by an explosion. These are then calibrated into a range of yield estimates. However, officials say the range can be off by a factor of two, so that a nuclear explosion estimated at 150 kilotons could actually be 75 kilotons or 300 kilotons. One official said that there had been several Soviet tests, many at one particular site, that had been estimated at 300 kilotons.

Proponents of immediate ratification of the treaties say that once the Threshold Test Ban Treaty is ratified, the Soviet Union would have to comply with its protocol, which requires that Moscow provide detailed geological data about its designated test sites. The protocol also requires that both nations provide information on a specific test explosion for calibration purposes.

ENHANCED ABILITY TO CHECK TESTS

This would permit the United States to adjust its seismic stations, enhancing the nation's ability to measure the Soviet tests and ending some of the uncertainty, the proponents of ratification say.

Manfred Eimer who heads the arm control agency's verification division, agreed that ratification would be beneficial because estimates of the size of the tests would improve. But he expressed concern about the reliability of data the Russians would provide.

"How could we verify that data about the calibration short were correct?" Dr. Eimer said. In other words, if the calibration explosion was actually larger than the Russians disclosed, future estimates based on that figure might be too low.

Dr. Eimer added that "some kind of on-site presence at some point" would probably be required for the United States to verify independently the accuracy of the Soviet information. Such a request, he said, might well be acceptable to the Soviet Union, since Moscow had agreed to permit opportunities for on-site inspection as part of the Peaceful Nuclear Explosion Treaty's protocol. In fact, Dr. Eimer noted, that protocol which would also take effect after United States ratification, explicitly provided for advance notice of very large tests and some limited

United States inspection and installation of measuring devices before such tests.

Therefore, Dr. Eimer concluded it was not "unreasonable" to believe that the Soviet Union might accept the provisions' application to the Threshold Test Ban Treaty.

PREDICTION CALLED OPTIMISTIC

Several arms control experts, however, called this prediction optimistic. They noted that the Soviet Union had historically been suspicious about United States demands for on-site inspection and other "intrusive" monitoring, which the Russians say is a ploy for strengthening United States intelligence.

One expert who worked on the 1976 treaty said that the Soviet Union had agreed to the stricter inspection provisions because the treaty allowed a series of consecutive 150 kiloton explosions that could total as much as 1.5 megatons. A megaton is equal to the explosive power of a million tons of TNT.

Joe Wit, a Washington-based military consultant who has specialized in the test ban treaties, asserted that the Reagan Administration had "a good case" in its concerns about verifying the treaty. But he said the same concerns existed when the treaty was signed.

"What has changed is the political calculus," he said. "These kinds of verification risks are no longer politically acceptable."

Reagan Administration officials, noting evidence that the Soviet Union appears to have violated agreements on the use of biological and chemical agents, say good faith is no longer sufficient in arms control treaties.

One White House official, asked what would happen if the Soviet Union refused American requests for strengthened verification measures, replied: "The Soviets usually say no at first. But more often than not they wind up sitting down and negotiating."●

THE VOICE OF AMERICA

● Mr. HUMPHREY. Mr. President, the Voice of America is the global radio network of the International Communication Agency, which seeks to promote understanding abroad for the United States, its people, culture, and policies.

Broadcasting over 950 hours a week in 41 languages, the Voice of America is charged to serve as a consistently reliable and authoritative source of news, to represent America, and to present the policies of the United States clearly and effectively.

As my colleagues know, the Voice of America and its parent organization, the International Communication Agency, have been the subjects of much controversy. The VOA's performance is becoming of increasing concern to many, including this Senator. On Sunday, July 25, 1982, the Chicago Tribune carried a very thoughtful editorial which I believe will be of interest to those concerned about this Nation's public diplomacy efforts. In order that this editorial may receive wider circulation, I ask that it be printed in full in the CONGRESSIONAL RECORD.

The editorial follows:

WHOSE VOICE?

President Reagan's efforts to turn the Voice of America into a more effective mouthpiece for U.S. government policies have won him few friends in Washington. The agency itself is reportedly in turmoil over the presumption of a president who thinks a government agency should be accountable to the voters. Mr. Reagan's first director of VOA, frustrated by resistance from employees and criticism from outside, resigned in March.

Now Mr. Reagan's effort to make VOA serve the aims of elected officials has drawn new criticism. A report by the U.S. advisory Commission on Public Diplomacy, an independent body chartered by Congress, warns of the danger of "stridency and propaganda" creeping into VOA broadcasts and insists that "VOA's credibility is its most precious asset." It also says that "actions and policies which are easily misinterpreted and cast doubt on the organization's commitment to truth can seriously damage it."

Both the commission and VOA's disgruntled employees mistakenly regard the body as no different from any other journalistic enterprise. It is different. Any journalist whose paycheck comes from the Treasury Department is not an independent journalist. No private newspaper would have a shred of credibility if it accepted government funds—and rightly so. VOA's entire budget comes from the government, so its credibility is compromised before it starts.

Mr. Reagan's position is the only intelligible one. It is that the VOA's reason for existence is to advance the aims of the American government. It should answer, like other arms of the government, to the people in power. The alternative is to turn it over to an unelected group of people who can be controlled only in the clumsiest way—through the appropriations process.

As a matter of tactics, VOA can best serve U.S. interests by telling the truth. Credibility is as important for a government propaganda agency as it is for an independent newspaper—something that Moscow has yet to learn. To this extent the VOA employees have a point. But it is the interests of this country, not traditional journalistic standards, that must be the agency's ultimate concern. A lot of people have forgotten that; Mr. Reagan is wise to remind them.●

THE PROPOSED SALE OF FORT DE RUSSY

● Mr. INOUYE. Mr. President, the administration appears intent on selling a portion of Fort De Russy for commercial purposes despite the protests from all over this great Nation. Although my office and others have received innumerable requests to prevent the sale, we have yet to receive one letter, to my knowledge, in favor of the sale. Consequently, I will continue to oppose such action from happening.

As further proof of this widespread support in opposition to the sale of Fort De Russy, I am enclosing a copy of the resolution which was introduced at the June 1982 meeting of the U.S. Conference of Mayors held in Minneapolis, Minn. It was unanimously endorsed and, in my view, is a significant addition to the growing number of individuals and groups opposing the sale of Fort De Russy.

Mr. President, I ask that this resolution be printed in the CONGRESSIONAL RECORD.

The resolution follows:

RESOLUTION

Whereas, the Reagan Administration has called for the sale of federal lands, in part, to raise revenues to lessen the national debt, and, in part, to reduce the cost of running the federal government; and

Whereas, Senator Charles Percy has introduced a resolution, Senate Resolution 231, calling for the sale of federal lands, in general, and the sale of Fort DeRussy in Waikiki, Hawaii, in particular; and

Whereas, these policies regarding the sale of federal lands have been articulated without consultation with local communities; and

Whereas, the sale of Fort DeRussy in Waikiki, Hawaii, and the sale of federal lands in many other communities is likely to have a detrimental effect upon those communities; and

Whereas, the benefits to be derived from retaining federal lands that are now used for national defense, conservation, recreational, open space and other environmental purposes far outweigh the benefits to be gained from the sale of those lands; and

Whereas, the federal officials proposing these actions have grossly overstated the revenue that will be generated from the sale of federal lands; now, therefore, be it

Resolved, That any policy to sell federal lands should include provisions that recognize the sovereignty of local communities over the uses which such lands may be put to and of the necessity of local input into the decision to sell federal lands, including consideration of environmental, community, economic and social concerns and for local public hearings.●

CONNAUGHT MARSHNER AND FAMILY FORUM II

● Mr. HELMS. Mr. President, the names of the personalities behind what is known as the New Right may not yet be household words, but I do not think it will be very long before the hard-working people who have put family issues at the forefront of our national political agenda receive their due need of recognition.

Washington is this week playing host to Family Forum II, a leadership training conference focusing on a wide span of issues affecting the American family. It features a galaxy of speakers from the Congress, the ministry, political, and social action groups, including pro family leader Connaught Marshner, whose National Pro Family Coalition had a great deal to do with making this conference a reality.

In point of fact, Mrs. Marshner had a great deal to do with raising the consciousness, as the saying goes; of family minded people in this country to the magnitude of the collectivist threat confronting traditional values and mores. The Washington Times of July 27, 1982, has published a wide ranging and timely interview with Connie Marshner, which certainly captures the fire and zeal of this deter-

mined lady, and examines the motivations that have made her a champion of the cause of the family.

Mr. President, I recommend this interview for its very instructive insights into what distinguishes family activists from the camp of radical feminists, liberationists, and what have you, and I ask that the full text be printed in the RECORD.

[From the Washington Times, July 27 1982]

MARSHNER: IRISH FIRE ON THE RIGHT

(By Sue Mullin)

Her parents had a sense that this child, a feisty little colleen, would grow up to shake her fist at passing fad and fancy and become a revolutionary of a different sort.

So they named her Connaught, after one of Ireland's four, tradition-steeped provinces. And she grew up, this daughter of a U.S. Navy man and his wife, an Irish-Catholic American with a sense of destiny that is out of synch with modern interpretations of power, riches or celebrity.

Connaught Coyne Marshner, now 31, who claims she never spent much time on girlish dreams of the 1950s—picking out names for future babies or considering the convent if a prince didn't show up—grew up to lead the New Right battle to preserve the American family.

One result of that battle is Family Forum II, a three-day conference beginning in Washington today that will feature discussion of family issues by members of Marshner's movement.

"When my teen-age girlfriends fell in love with the Beatles," said the primly dressed chairman of the National Pro-Family coalition, "I had a crush on Irish patriots like Patrick Perase and Robert Emmet who'd already been dead for 50 years."

While she finds the tactics of today's IRA an aberration of the principles of the original Irish Proclamation, a copy of which hangs in her office, the Easter Rising of 1916 inspires her. And the conservatist cause is no less glorious to Marshner.

Both have to do with "sacrificing for a great and noble cause," she said with unabashed zeal, her usually brooding eyes flashing fire and, yes, maybe a little brimstone.

Marshner's straight-laced style, however, is in stark contrast to her rhetoric. She and her associates don't chain themselves to gates, splatter blood on historic buildings or go on hunger strikes. Hers, the New Right style, is reserved, cooly intellectual, well-organized, politely gracious—never strident. But no less committed to its ideals, and very effective, she added.

Most of her work is done from her office behind Union Station in a handsome, iron-grilled rowhouse on Second Street. The two buildings, one rowhouse behind the other, are the pulse for a number of New Right causes, including the Committee for the Survival of a Free Congress.

The front house is perched on a hillside and imperiously peers down on sidewalks that suddenly turn into overgrown dirt paths. A mangy dog tiptoes over broken glass and wine bottles at the corner to explore a fermenting bag of garbage.

Inside the bastion against urban blight, however, all is well. Tiny offices buzzed with activity, and there are women's faces and black faces poring over reports.

"Crickum here," said Marshner, pausing to answer her phone which rings constantly. Crickum is Marshner's inner-office nickname, an acronym of her initials, CRCM. Her outer-office nickname is Connie.

"Oh, on prayer in the schools, huh? Yes, yes, I'll take this one," she told a secretary.

It was a congressman's legislative assistant calling to tell her that the legislator would be returning a completed questionnaire Marshner had sent him.

Rubbing her hands together afterwards in mock villainish fashion, she said, "Sorry, just had to take that one because he (the congressman) is one of the saveables."

She explained that in lobbying, she divides the Congress into three groups—sinners, saints and saveables.

"The saints, who make up about 20 percent, are folks like Jesse Helms who will always do the right thing for the right reason," she said.

"The sinners are people like Ted Kennedy and Alan Cranston, the 20 to 25 percent who will always do the wrong thing for the wrong reason.

"Politically, you don't waste time on the sinners. You spend time on the saveables—the 50 to 60 percent that could go either way. They can blow away the prevailing winds."

Marshner, a key figure in a group Conservative Digest calls the New Right's Washington Connection, spends little of her time lobbying directly. As a veteran of the movement and a protege of such leaders as Paul Weyrich, president of the Free Congress Committee, and Morton Blackwell, a White House special assistant, she spends more time training other lobbyists.

Her students are not fat cats, she emphasized, but "mothers and grandmothers fired up enough by an issue that they come to Washington at their own expense."

They are representatives of pro-family groups from across the country, said Marshner, sitting straight and looking more formidable than her 5-feet 4-inches. "They're from groups official Washington has never heard of," she said knowingly. "And they're not old ladies in aprons, full skirts and tennis shoes who never leave the house except to go to church."

Thumbing through a filing box of index cards, she reeled off a random membership sampling. More intimately aware of these groups' projects than a presidential candidate is of big unions and industries, she related anecdotes about each.

"Arkansas has FLAG," she began, her computer-like monotone growing stacatto. "That stands for Family, Life, America and God. They organized a few years ago and everybody laughed. But at a recent breakfast, half the state legislature attended and the governor and lieutenant governor spoke."

She spewed forth facts and figures about similar groups in Alaska, California ('The Right Perspective,' founded by a high school kid in Northern California), Colorado, Massachusetts, Minnesota ("the most active pro-life group in the country—imagine that in our most left-wing state), Missouri, Nevada, Arizona, Georgia, Alabama, Washington and Maryland ("a liberal state, but here we have Families Associated of Maryland and the Family Protection Lobby. Maryland may be south of the Mason-Dixon line, but that is only by accident.")

The Eagle Forum, founded by Phyllis Schlafly—a woman Marshner greatly admires—is in every state, she added, and those groups are also part of the National Pro-Family Coalition.

The conservative movement didn't begin—nor will it end—with the election of Reagan and the subsequent defeat of the ERA, said Marshner, the glint of the silver Celtic cross around her neck matching the gleam in her eyes. Those were simply signs of the movement's strength, she added.

More than a decade ago when she first came to Washington, fresh from the University of South Carolina, Marshner said she witnessed the "awesome potential" of the New Right women. At the forefront of a successful drive to get then President Nixon to veto a bill which would have established federal day care centers, she said "that's when a sleeping giant rose up."

Not even the Washington Connection expected the volume of mail that flooded the White House in opposition to the bill, she said.

"There was more mail than on any other issue before or since—including Watergate. I realized then that there are real women out there in the real world who are concerned about family values. Until then, they were basically isolated from the political process."

Joining ranks with conservatives at USC in the late 1960s "when craziness was breaking loose all over the country," Marshner said she saw "pockets of sanity" in Young Republican and Christian Fellowship groups. After graduation, she leaped at the chance to become a secretary to the editor of New Guard, she said. It's a magazine published by the Young Americans for Freedom in Washington and catapulted the unflashy education major into the flamboyant, political scene.

Her boss, editor Dan Joy, would later leave Washington, but by that time the quite, mannerly young lady had written scorching articles about liberals. Meticulously researched; they caught the eye of conservatives who would expand the Free Congress Committee, lay the groundwork for a conservative political caucus in Congress and found the Heritage Foundation, a conservative think tank.

They were a rag-tag bunch then, Marshner reminisced. Her mentor, Paul Weyrich, was then an administrative assistant to former Colorado Senator Gordon Allott. An associate, Ed Fulner, was then an AA to Rep. Phil Crane. Fulner is now president of the Heritage Foundation. Another friend, Howard Phillips, was working for several congressional staffs who were trying to form a caucus. He now heads the Conservative Caucus.

"I was just dropped down in the middle of a group that became the New Right leadership," she said, alluding again to her destiny. "When Phillips was hired to coordinate the caucus in the early 1970s, he just walked in with me trailing behind. I was supposed to be his secretary and he hadn't even been authorized yet to hire a secretary. But within six months, I was still there and I was writing speeches.

"None of us worried about titles," she added, noting that she is still occasionally mistaken for a secretary before she is introduced. "We all pitched in to do Xeroxing, mimeographing, typing—whatever needed doing. We were a political force being born and it was very exhilarating."

Being female and feminine—she almost always wears dresses, no more makeup than a nun in modern dress and her speech is as immaculate as her attire—was and is no liability, she insisted.

"In conservative circles which are cast as archaic by feminists I've never known an educated, hard-working woman who was held back."

When mistaken for a secretary, she said she just smiles to herself and goes on with her business.

"I suppose feminists would get in high drive if that happened to them, but I feel it only proves how superficial some men can be," she said.

The pro-family Washington Connection—which includes Marshner, Weyrich, Phillips, Robert Billings of the Moral Majority, Bill Billings of the National Christian Action Coalition and Kathy Teague of the American Legislative Exchange Council—has played musical chairs but always to the same conservative tune.

Marshner and her former boss Joy, for example, went to the Office of Economic Opportunity with Phillips when he was named acting director of the agency by Nixon.

After a brief "look inside the bureaucracy," Marshner said she moved back and forth between the Free Congress Committee and the Heritage Foundation, wherever her services were most needed.

Critics call her "the conservative gadfly" or "the ubiquitous Connie." The Conservative Digest touts her as "The Pro-Family Dynamo." But probably because of her low-key style, she is not as recognizable as Schlafly, Moral Majoritarian Jerry Falwell and others.

It's not that she's a recluse. Along her way toward heading the Pro-Family Coalition, she also managed to write a book for parents cut off from decision-making in the public schools, and she was chairman of the federal family policy committee for the Reagan campaign.

She debated George McGovern before a recent meeting of the National Home Economists Association. She has appeared on "Good Morning America" to speak against a federal domestic violence bill, and she has testified before Congress on numerous issues, including a gay rights proposal which she opposed.

On her way to the top, the girl who said she would forego marriage until at least her 30s, met and married Bill Marshner, a former reporter for a Catholic newspaper who now teaches theology at Christendom College in Front Royal, Va.

The couple has two young sons, Pearse, 6, named for the Irish poet-patriot, and Michael, 5.

Seemingly oblivious to the irony, the "Pro-Family Dynamo" sat behind a sheaf of paperwork and offered a reporter a store-bought cookie from her brown-bag lunch.

"I'm not here for purposes of self-fulfillment," she snapped when asked how she can be against day care centers and ERA while she works four days a week leaving her children at home.

"I'm doing this work because my husband wants me to do it," she said, getting her Irish up. "I would stop tomorrow, but Bill says I have important work to do and that I must continue. I would stop tomorrow if my children were being harmed or my husband thought my being here were no longer proper."

Marshner's aunt, who makes her home with the couple, cares for the children while the parents are working.

"My aunt's coming to us was a sign to me that my work is pleasing to the Lord," she said.

On the surface, the Marshners could be mistaken for any other modern couple who share family financial and child-nurturing responsibilities.

Connie, when pregnant with their first child, left Washington with Bill while he attended graduate school in Texas. Instead of writing position papers and testifying before Congress during that two-year period, she said, she typed other students' term papers to make ends meet. And Bill changed diapers and washed bottles, she added, when she want out to do research on her book.

The difference between her and a feminist is deeply philosophical, she insisted. It centers on why she is in the work force, she said, and not on "how we manage to work out the details of who puts on the kids' pajamas."

She finds the feminist battle cry of self-fulfillment an intrinsically selfish, anti-family goal.

"The proof is in the pudding," she said. "A person who says 'I want to go out and do thus and so' and who gets the kids taken care of at the expense of family values has a whole different motive."

"That person is able to rationalize abortion, daycare centers and discarding a husband—anything that gets in the way of the goal."

She acknowledged, however, that many women are not so fortunate as to have a relative who lovingly takes care of their children while they work.

"That's why I would like to see some significant tax changes for family men," she said. "Ones that would enable women to stay home with their children rather than go out and work at a minimum-wage job. Ones that would encourage the formation and the stability of families."

Obviously, Marshner and the feminist movement are at odds on most issues. And although their views converge on one—pornography—she said feminists have not treated the New Right very "sisterly."

"There have been overtures to meet with the National Organization for Women (NOW) by the Moral Majority," she said. "NOW never returned the phone call. Unfortunately, NOW is part and parcel of the left-wing establishment, and its members wouldn't be caught dead operating with us even though we have the same concerns on pornography."

One figure on the other side has agreed to participate in this week's Family Forum II. Dr. Michael P. Lerner, whose organization Friends of Families, says it wants to prove that liberals are as much concerned with the family as conservatives. He will debate New Right leader Paul Weyrich, whose Free Congress Foundation is co-sponsoring the forum. Their discussion will be one of many over a three day period. Subjects will include the family and the law and the family and education. Several pro-family spokesmen will appear, including Sens. William Armstrong, R-Colo., and Jeremiah Denton, R-Ala., author George Gilder and the Rev. Jerry Falwell.●

H.R. 6663—EFFECTIVE DATE DELAY OF AMENDMENTS TO RULE 4 OF FEDERAL RULES OF CIVIL PROCEDURE

● Mr. DOLE. Mr. President, this bill (H.R. 6663) seeks to delay the effective date of the proposed amendments to rule 4 of the Federal Rules of Civil Procedure. Due to urgent time considerations it has not been through committee but has been left at the desk for immediate Senate consideration.

The rationale for the bill, which delays the enactment of the proposed amendments from August 1, 1982, until October 1, 1983, is in three parts.

The first part, subsection (c) of rule 4 of the Federal Rules of Civil Procedure, provides that service of process will be made by a "United States marshal, by his deputy, or by some person specially appointed by the court for that purpose." Service of process may also be made by a person "authorized to serve process in an action brought in courts of general jurisdiction of the State in which the district court is held or in which service is made."

The proposed amendment of H.R. 6663 to subsection (c) would authorize service of process by any person over the age of 18 who is not a party to the action. Under the proposed revision subsection (c) U.S. marshals are authorized to serve summons and complaints in three instances: First, on behalf of the party proceeding "in forma pauperis" or under 28 U.S.C. 1916 (which authorizes seamen to bring certain action without paying fees or costs); second, to comply with an express statutory mandate; and third, where the court issues an order stating that the presence of a marshal is specially required.

The goal of reducing the role of marshals in serving summons and complaints is desirable. The problem lies in the proposed subsection (c)(2)(B) which requires marshals to serve process "pursuant to any statutory provision expressly providing service by a United States marshal or his deputy." Under current law, 28 U.S.C. 569(b), a marshal or deputy is compelled to "execute all lawful writs, processes and orders issued under the authority of the United States, including those of the courts." Any party, therefore, could rely on 28 U.S.C. 569(b) to utilize a marshal for service thereby frustrating the intent of the new subsection of limiting the use of marshals in service of process.

The second problem area is proposed revision of subsection (d). Currently subsection (d) favors personal service, but service by mail is possible in some instances when such service is in accordance with the law of the State in which the district court sits. The proposed amendments to subsection (d) requires, where mail is used, that the mail be sent registered or certified, return receipt requested, with delivery restricted to the addressee. The amendments also remove the option to follow State law.

In some instances, due to mistaken signatures, illegible signatures, unclaimed mail or where the name signed is different from the named defendant in the complaint, it is difficult to determine if adequate notice is actually received. Yet this inadequate notice may be responsible for a default judgment against the defendant.

Finally, rule 4 does not provide a time limit on the service of process. A new subsection, (j), has been added requiring that service be made within 120 days of the filing of the complaint. If it is not served within that period the proposed amendment calls for the "action to be dismissed as to that defendant without prejudice upon the motion." The problem with this subsection is if an action is filed on the day before the statute of limitations is due to expire and service is not made within 120 days of filing, the action must be dismissed without prejudice under new subsection (j). Could the plaintiff refile the action without being barred by the statute of limitations? This question is not adequately answered. If the action does not survive, then there has been a dismissal with prejudice. It is this type of prejudice the new subsection (j) seeks to cure.

Therefore, section 1 of H.R. 6663 postpones, until October 1, 1983, the effective date of the proposed amendment to rule 4. The additional time provided will be used to study and review all aspects of the proposed amendments.

Hence, Mr. President, I join with the distinguished Senator from South Carolina, Senator THURMOND, and urge favorable consideration of this bill.●

OUTYEAR DEFENSE SPENDING CEILINGS

● Mr. GRASSLEY. Mr. President, today's New York Times reported that administration officials have said that President Reagan does not feel bound by the outyear defense spending ceilings set forth in the fiscal year 1983 budget resolution. The article goes on to report that President Reagan is planning to use his midyear economic report to signal his intention to seek higher levels of military spending.

In my opinion, this report could not have come at a worse time. Yesterday, Alice Rivlin, the Director of the Congressional Budget Office, testified before the Senate Budget Committee. She told us to expect deficits in the range of $140 to $160 billion in each of the next 3 years, even assuming that we have a moderate recovery and Congress agrees to spending cuts called for in the budget resolution. She affirmed what most of us knew already, that deficits in that range will weaken economic recovery. Her recommendation to us was to make more cuts than we have already made in Government spending, including cuts in defense.

Mr. President, I am chagrined at the timing and substance of President Reagan's reported inclination to exceed defense spending ceilings for 1984 and 1985. As a member of the Budget Committee, I took part from the beginning in the process that yielded the 1983 budget. Republican members of the Budget Committee took more than a little political heat to submit a budget that could be accepted by Congress and the American people. Many Members of this body have cast votes that, were we thinking strictly in terms of political expediency we would never have cast. We did this in an effort to continue the economic recovery program begun by President Reagan.

Mr. President, I know that the outyear spending guidelines in the budget resolution are not binding. But if there is one thing that has been driven home to me in the last few months, it is the symbolic importance of those outyear ceilings. Business leaders and economists have told us how vitally important it is that we show a downward trend in the deficit. What we do this year is not as important as what business and the financial markets think we will be willing to do in future years.

Another important symbolism is that we appear to be making cuts fairly, and in all programs. If we lose that appearance, we will lose the support of the American people. Therefore, Congress moderated the defense increase requested by the administration by some $23 billion. Even at that, many people thought we should have made further cuts, but we did not, partly out of deference to President Reagan's own wishes, and partly because we realized the need to rebuild America's defenses. I would have preferred more restraint in the growth of the Defense budget, and I voted for an amendment to the budget resolution that would have restrained military spending. When that amendment was not adopted, I nevertheless supported a budget resolution that provides for substantial defense increases while substantially restricting entitlements and discretionary domestic programs.

Mr. President, President Reagan agreed to support the budget resolution passed by Congress. By backing out now, he runs the risk of seriously undermining the economic recovery program, and invites deep cuts in defense as well.●

JEFF ROZENBERG PLEADS FOR UNITY

● Mr. BOSCHWITZ. Mr. President, I would like to submit for the RECORD a copy of a letter—no a plea—from a young Minnesotan.

Jeff Rozenberg is only 15 years old, yet he has taken a keen interest in our political system. His letter addresses an issue that we, in our election-year fervor, may have forgotten or pushed to the back of our minds. We are here to serve the interests of the people of the United States of America, not ourselves nor our party.

Perhaps we should take Jeff's plea to heart and stop our in-house fighting and unite in our efforts to correct our current problems and strive for a better government.

Mr. President, I ask that Jeff Rozenberg's letter be printed in the RECORD.

The letter follows:

DEAR MEMBERS OF CONGRESS: My name is Jeff Rozenberg, and I am 15 years old.

I know it must be hard to be a Senator or Congressman, with all the responsibilities and power you possess, not to mention all the decision(s) you make on a daily basis.

Right now the nation is in severe economic trouble, as you are surely aware.

What I don't understand is that when troubles hit a large group of people, they usually come to each other's aid.

That is what happened 206 years ago when the United States was formed. The people came to each other's aid and formed a nation.

A government was formed to help the people and to uphold the majestic words of the Constitution.

Some people don't believe in government, but I do. I think it is important to keep order.

However, lately I have seen commercials that blame the Democrats for this and the Republicans for that. You are acting like children.

Don't "ununite" us!

If you would spend as much time and money on helping the country as you do trying to destroy each other, I feel things would be much better.

P.S.—Don't give us kids your burden when you leave Congress.

JEFF ROZENBERG.●

STATEMENT OF UNITED TECHNOLOGIES CORPORATION ON NEED FOR CLARIFICATION OF THE FOREIGN CORRUPT PRACTICES ACT

● Mr. CHAFEE. Mr. President, I ask that the statement of United Technologies Corp. on the need to clarify the provisions of the Foreign Corrupt Practices Act submitted to the Banking Committee on July 16, 1981, be printed in the RECORD.

WRITTEN STATEMENT ON BEHALF OF UNITED TECHNOLOGIES CORPORATION

Congress unanimously enacted the Foreign Corrupt Practices Act in 1977 after a series of disclosures which showed that U.S. Corporations were following international business practices that were unethical, potentially harmful to U.S. relations with foreign governments and, hence, in conflict with long-term interests of the United States.

United Technologies Corporation does not wish to turn back the clock to the era prior to the adoption of the FCPA. The concern which led to the FCPA was justified. However, we believe that the law should be less ambiguous. We support the Chafee/Rinaldo bill because it would clarify the FCPA and make it more workable.

We have reviewed the testimony by government officials and business representatives which was presented on May 20 and 21 and June 16 to the Joint Subcommittee hearings. In general, we agree with the comments of those who support enactment of S. 708. In addition, we share the Administration's view that Section 102 of the FCPA,

the recordkeeping provision, is an unnecessary and unjustified burden on registered American companies [such as United Technologies] and would prefer its repeal rather than enactment of amendments along the lines of the Chafee bill. If repeal of Section 102 proves impractical, we would regard S. 708's proposed changes in the section as essential.

While we welcome the SEC's support for changes in the FCPA, we are strongly opposed to the SEC's efforts to broaden Senator CHAFEE's bill in ways that would substantially reduce the value of the amendments (*e.g.*, imposing a prudent businessman standard in defining materiality rather than relying on generally accepted accounting principles and deeming officers and directors of greater than 50 percent affiliates to be officers and directors of the parent company).

We would not propose to repeat here the cogent arguments that others have advanced in favor of the Chafee bill. Rather, we will limit this submission to those points relating to the FCPA which seem most significant to us.

DEFINITENESS A REQUIREMENT FOR CRIMINAL LAWS

Definiteness was more important to the FCPA than most legislation because the Act provides for criminal penalties. The U.S. Courts have long held that criminal laws must be defined with appropriate definiteness and has held them to be unconstitutional if too vague or indefinite. If the government considers a law so important that criminal penalties are to be attached for its violation then that law must be clear to the citizens so that they can take steps to see that no violation occurs. It is ironic that in this case the government's actions and inactions made a poorly drafted criminal law even more confusing.

PROVISIONS TO PREVENT DIFFICULTIES WITH FOREIGN AFFILIATES, PARTNERS AND EMPLOYEES ARISING FROM EXTRATERRITORIAL APPLICATION OF THE FCPA

United Technologies is an international company. We have more than 60,000 employees and some 80 plants located in foreign countries. Our international sales and U.S. exports total more than $5 billion, or over 40 percent of our total sales. Obviously, our foreign employees and international business are extremely important to our success. Anything that disrupts them receives our attention.

We believe that the FCPA as currently written is one such disruptive force. The statute applies U.S. law to foreign transactions and affects not only U.S. companies, but also their foreign subsidiaries. This extraterritorial application of our law is offensive to our foreign customers and employees. This effect is particularly acute because, as the record before the Subcommittees make clear, the uncertainty and indefiniteness of the FCPA have confused the American business community and caused it to forgo legitimate commercial opportunities. Moreover, efforts to secure clarification have failed as a result of the Justice Department's restrictive approach to the FCPA Review Procedure and the SEC's reluctance to be bound by its results.

In conducting the operations of foreign subsidiaries, we must recognize our foreign employees' sensitivity towards the actions and policies of the U.S. management. However, in some cases, such as with the Foreign Corrupt Practices Act, we have no choice but to insist that these subsidiaries adopt complicated procedures and obtain numerous certifications. A number of our foreign employees justifiably regard these certifications of compliance with our policies, based on requirements of the FCPA, as unnecessary and offensive because the request for them appears to question their ethics and to imply that we view foreign businessmen as basically untrustworthy and corrupt.

The SEC takes the position that the accounting provisions of the Foreign Corrupt Practices Act apply to those foreign subsidiaries in which we hold a 20 percent or greater interest. It is difficult enough to exert control over a foreign subsidiary when the U.S. company holds 100 percent of the stock. It is often impossible to control a foreign subsidiary when the stock ownership is 50 percent or less. This is because decisionmaking in such situations can only be exercised through mutual cooperation with a foreign partner. Should the U.S. parent attempt to control a foreign business through its authority as owner of its subsidiary without seeking the cooperation of local management, it will soon find that its arbitrary action will result in the loss of key employees and the local cooperation which is so necessary in running a business thousands of miles away from the United States.

With this background, it is understandable why we have had great difficulty in explaining to our foreign affiliates, partners and employees how two agencies of the U.S. government are responsible for enforcing the same statute and are providing conflicting signals on how the law would be applied. Nor could we cause these same foreign parties to understand why, at first, both agencies refused to clarify the FCPA on the ground that this would enable American companies to circumvent the statute. This seemed particularly anomalous to us in view of the importance of definiteness in criminal statutes. Sound policy arguments strengthen this constitutional imperative in the case of a statute with extraterritorial reach. Finally, we could offer our foreign colleagues little hope that the rules would be made clearer by virtue of the Justice Department's Review Procedure with its many procedural failings and the initial unwillingness of the SEC to abide by its results.

Because of these experiences with our foreign affiliates, partners and employees, we support the provisions of the Chafee/Rinaldo bill that should reduce uncertainty concerning the FCPA's meaning by unifying the civil and criminal enforcement provisions in the Department of Justice. The SEC would return to its traditional role of enforcing the disclosure rquirements of the securities law as well as the accounting provisions of the Foreign Corrupt Practices Act. The Chafee/Rinaldo bill also authorizes an interagency group, including officials with a trade policy perspective, to issue clear guidance as to permissible conduct if a need for clarifying future ambiguities arises. We support this proposal provided that those officials giving the guidance are not limited to enforcement officials who do not possess the trade policy background which is essential in furnishing useful clarification of the statute.

The Chafee/Rinaldo bill would also make two substantive changes to the Foreign Corrupt Practices Act which would be important steps in the direction of easing our problems overseas in meeting our responsibilities. The first would provide that the FCPA is applicable only if local law is also being violated (Sec. 6 of S. 708). Most countries in the world have their own bribery laws. Thus, this amendment would not make a substantial change in the scope of the FCPA. However, it would have a profound effect on what we would be able to tell our foreign affiliates and partners. If this provision of the Chafee/Rinaldo bill is enacted, we will be able to point out that we are no longer imposing U.S. law but rather supporting their local laws. This should make our U.S. requirements much more acceptable to our foreign colleagues.

The second important change in the FCPA made by S. 708 is recognition that in those foreign affiliates in which we hold a 50 percent or minority interest, we satisfy our obligations under Section 102 by proceeding in good faith to use our influence to the extent reasonable under the circumstances to cause transactions to be carried out consistent with the recordkeeping and accounting control provisions of the FCPA. This amendment would recognize the critical ingredient of such foreign operations—namely, the need for mutual cooperation of our overseas partners to achieve the objectives of the FCPA. We are in a far better position to secure such cooperation if we are asking for it in the context of a statute that calls for our good faith efforts rather than under a law compelling us to demand that our foreign partners agree to certain recordkeeping and accounting control requirements.

CLARIFICATION OF THE FCPA BY THE CHAFEE/RINALDO BILL

We support other provisions of the Chafee/Rinaldo bill as essential and reasonable clarification of the FCPA. In addition, these amendments would ease our problems in interpreting the statute for foreign employees.

1. Facilitating payments

Though the FCPA allows the use of facilitating payments, the ambiguity of this provision has caused us many problems. The FCPA excludes payments to foreign government employees whose duties are essentially ministerial or clerical. Thus, before facilitating payments can be made, it is necessary to know whether a foreign official is at a low enough level or performs sufficiently mundane duties to qualify. Generally the amounts of money involved are inconsequential and the cost of making the determination substantial. You can imagine the reaction of our foreign employees who wish to make a modest payment to have a local official do his job only to be told that the disbursement must wait for a decision from the corporate headquarters. While our corporate officials attempt to respond promptly to such requests, the fact-gathering on the duties of the official in question can take weeks or even months.

2. Hospitality and product demonstration

We have encountered similar problems in dealing with hospitality and demonstrations of our products. We are in the rather ridiculous position of being able to buy a lunch for a Congressman or member of his staff, but in potential technical violation of the FCPA if such a lunch were purchased for a foreign government official. The FCPA prohibits the giving of anything of value. We are confused about the extent to which we may continue to pay for travel and lodging in connection with the demonstration of our products.

At first we thought the word "corruptly," which appears in the antibribery provision of the FCPA, would bring some common

sense to this matter. However, some responsible officials in the Administration and the SEC apparently took the position that the word "corruptly" did not carry its ordinary meaning in this statute. Accordingly, if a U.S. company gave anything of value to a foreign government employee, the corrupt intent could be read into the law. We felt this interpretation was unreasonable and would not be supported in the courts. However, we concluded that in dealing with this criminal statute and with all the potentially adverse effects of a challenge to our conduct, we had no choice but to be extremely cautious.

Our inability to give clear and concise responses on this subject to inquiries from our foreign officers and employees has been extremely troublesome to us and to our relations with them. The Chafee/Rinaldo bill takes a commonsense approach to this subject. It says no more than what we think Congress intended when it enacted the FCPA.

3. Foreign sales representatives—know or have reason to know.

We have obviously experienced great difficulty in applying the provision that makes the FCPA applicable if a company "knows or has reason to know" that a foreign sales representative is planning to engage in improper payments. We have instituted an elaborate and exacting procedure for the selection and appointment of foreign sales representatives. The procedure is expensive to implement, requiring numerous investigations, approvals and certifications by our employees and the foreign representative. Perhaps we overreacted. Because of the uncertain scope of this criminal statute, we felt we had no choice but to show that we had done all we could and that, consequently, we should not be held to have had "reason to know." The Chafee/Rinaldo bill, in changing this standard and limiting it to those situations to which a domestic concern corruptly directs or authorizes the payment, not only alleviates the uncertainty that existed under the current law but is more compatible with our domestic bribery law. Like the Deputy Attorney General, we see little reason for having a foreign bribery statute that is broader than our two domestic bribery law—especially when the foreign statute applies U.S. criminal sanctions to essentially extraterritorial activities.

4. Recordkeeping and internal accounting controls

Despite the learned studies from the legal and accounting professions, Section 102 of the FCPA continues to be one of the most confusing areas under the statute. We have added extensive effort by both our internal and external audit staffs. Both outside and inside counsel participate in an annual review to insure compliance with our policies. The additional cost is approximately $1 million annually. Some of this undertaking was instituted prior to the enactment of the Foreign Corrupt Practices Act, and will continue even if the Section 102 amendments in the Chafee/Rinaldo bill are adopted. However, with these amendments, we could reformulate on a more reasonable basis aspects of our procedures that were adopted because we felt we needed to exhaust every possible effort to prevent and uncover any possible violation involved, and we will be able to modify our procedures so that the results are approximately the same but at significant savings in time and expense.

AMENDMENT OF INTERNAL REVENUE CODE SECTION 162

We believe that it is most desirable to resolve the current conflict between the Foreign Corrupt Practices Act and the Internal Revenue Code. Section 162 of the Internal Revenue Code prevents the deduction of facilitating payments even though the Congress expressly recognized their business necessity and did not prohibit them under the FCPA. This provision of the Internal Revenue Code also disturbs us because it determines deductability of a payment abroad by hypothetically applying U.S. law regardless of the law in the foreign country. It is extremely difficult to tell a foreign manager that a particular payment that is completely open and legal in his country is not deductible under out tax laws since it would violate U.S. law if the action happened to occur in the United States. Making the requisite statutory determination and applying U.S. law to a foreign fact situation involves a time-consuming and costly exercise. Finally, whatever the original justification of Section 162's approach prior to the FCPA's enactment, there is no longer any basis for hypothetically applying U.S. law for tax purposes to situations that Congress expressly chose not to prohibit under the FCPA.

We appreciate this opportunity to present our views on the Chafee/Rinaldo bill. We respectfully urge prompt Senate action on this important legislative initiative to amend the FCPA so that American companies like United Technologies can avoid further unnecessary expenses and restore relations with foreign affiliates, partners and employees on the basis of mutual trust and confidence.●

THE 150TH CELEBRATION OF THE UNION BAPTIST CHURCH

● Mr. SPECTER. Mr. President, it gives me great pleasure to rise today and offer my congratulations to the Union Baptist Church of Philadelphia for their 150 years of life.

For these many years, the Union Baptist Church has thrived in Philadelphia—imparting to millions of Philadelphians spiritual well-being; 21 Christians from Virginia—brought together by Dr. Daniel Scott—settled in the neighborhood of Eighth and Locust. A keen desire to fulfill the ambitions of the American ideal encouraged these men and women to organize the Union Baptist Church on September 18, 1832 at Benezet Hall. There, these 21 Americans developed their faith and provided for its regeneration.

These Americans planted the seed for what was to become the largest Black Baptist congregation in Philadelphia. The seed planted in 1832 developed into one of the largest contributors to missions and education among not only American black Baptist churches but also to our entire Nation.

Today the Union Baptist Church is at Fitzwater and Martin Streets. The foundations laid in 1832 have been built upon and modernized, but the fundamental tenents still remain. At a time when so many institutions within American cities are experiencing decay, the Union Baptist Church has experienced a spiritual, intellectual, and financial upsurge that inspires all Philadelphians.

As a Pennsylvanian, I am proud to join with the people of the Union Baptist Church in the celebration of an historic milestone.●

CERTIFICATION OF U.S. ASSISTANCE TO EL SALVADOR

● Mr. KENNEDY. Mr. President, the President's decision to provide Congress with a further certification on El Salvador is a travesty of justice and truth. Congress required the President to make findings as to progress in such important areas as human rights, land reforms, control of security and military forces, and the investigation into the murders of Americans. This requirement reflected serious concerns that the United States must remain committed to democratic principles and human rights.

President Reagan has chosen to compromise the truth and in doing so compromises the American conscience. Torture exists, the President says, but not too much. Murders occur, but not too many. Reforms are being undermined, but their remnants still exist—on paper. Never mind that there has been no progress in investigating the murders of the four American churchwomen and the two American labor advisers, or the disappearance of the American journalist. The President has turned his back on values that should be fundamental to America, and his administration displays a shameful callousness toward the feelings of families and friends whose loved ones have been brutally victimized and killed in El Salvador.●

AMERICA'S UNDERPAID CONGRESS

● Mr. GOLDWATER. Mr. President, recently Mr. Charles Tower, a vice president of the Dun & Bradstreet Corp., wrote a very interesting article concerning congressional compensation which was published in the Washington Times.

As everyone in this body is well aware, we have made ourselves look foolish in several different ways while we attempted to deal with the issue of compensation for Members of Congress. Mr. Charles Tower has made some very cogent recommendations for dealing with this issue. There is little doubt that the recommendations of a high-level, first-rate commission could help alleviate the situation in which we find ourselves. This issue of compensation has become wrapped up in election year politics and that is not appropriate. We need to objectively look at what the Members of Congress should be paid and we should include,

as Mr. Tower has suggested, any future changes in the mechanism which adjusts other high-level governmental compensaton.

Mr. President, I ask that the article of Mr. Charles Tower, entitled "America's Underpaid Congress," be printed at this point in its entirety and I urge my fellow colleagues to carefully consider Mr. Tower's remarks.

The article follows:

AMERICA'S UNDERPAID CONGRESS

(By Charles Tower)

The recent repeal in the Senate and then in the House of the controversial $75 a day tax break for members of Congress highlights the political contortions of Congressional compensation. The special treatment was repealed this year in large part because incumbents facing re-election this fall did not want to hand their opponents a damaging campaign issue. The tax formula had been passed last year because Congress felt that it deserved additional compensation.

The fact is that members of Congress do deserve a compensation increase. Members of House and Senate are substantially underpaid. Failure to correct the situation will, over the long haul, adversely affect that quality of our legislative effort.

The setting by Congress of fair compensation for members of Congress has always been a suprisingly difficult thing to do, and the effort to do it has taken more legislative time over the years than should be directed to the problem. Here are the basic elements of the congressional compensation picture.

1. The Job: On the men and women who represent us in Congress, we place the responsibility for making the basic policy decisions which impact so greatly on the lives of all of us in so many ways. To handle the job well requires: (a) substantial intellectual capacity because of the extraordinary variety and complexity of legislative issues; (b) the ability and willingness to participate constructively in the give-and-take of the legislative process; (c) ability to communicate effectively with colleagues and constituents; (d) capacity and willingness to work hard often under hectic conditions; and (e) a hide thick enough to endure what Shakespeare so aptly described as the "insolence of office."

2. The Present Level of Compensation: Base pay for members of both House and Senate is $60,662.50 per year. Members can accept honorariums for speeches and articles up to a limit of $18,198.75 per year in the House and as of this year, without total dollar limit in the Senate.

Senators have more opportunity than House members to add to their income in this way, and key committee leaders in both House and Senate are in greater demand than others.

Supreme Court justices are paid $93,000, Circuit Court of Appeal judges, $74,300, and Federal District Court judges, $70,300. Members of the president's Cabinet get $69,630. The top civil service classification is $58,500.

3. The Existing Mechanism for Determining Congressional Compensation: The Constitution gives Congress the power to set its own compensation. In 1967 Congress passed a law establishing what is now known as the quadrennial commission. Appointed by the president every four years, it reviews the compensation of Cabinet officers, federal judges and members of Congress. Its recommendaitons for change go to the president for his approval, rejection or modification, and then to Congress.

This system has not worked because of the political snarl which develops when Congress debates its own pay increases. Too often it has happened that a majority are understandably unwilling to give potential campaign opponents the political ammunition of a self-voted pay increase, however justified such an increase may be. This concern is grounded in the fact that the average voter obviously gets along on a lot less than $60,000 a year.

Indeed, to the average voter that sum sounds like the pot of gold at the end of the rainbow. His gut response to a plea of Congressional poverty is "baloney." Thus an opposing candidate who is looking for issues does not have much trouble scoring points against an incumbent who has voted himself a raise.

4. What is Fair Congressional Compensation: How is the adequacy of congressional compensation to be measured? Unfortunately, there is no clear or applicable yardstick. Private sector and some public sector comparisons provide a limited perspective.

For example, most successful private sector lawyers and doctors have much higher levels of compensation. The same is true of most top business executives, particularly those in medium size and large companies. The compensation of state, county and municipal executives is a mixed bag. However, it is not unusual for those in charge of education or public safety in the larger cities to get as much as $60,000 a year and occasionally more.

Comparisons aside, there is a matter of equity. A member of the House or Senate cannot live professionally and comfortably in Washington and raise and educate a family on $60,000 a year. It is just as complicated and as simple as that. Adding the burden of financial hardship to the inevitable uncertainty of political life contributes to a package which is increasingly unacceptable to able people who lack outside financial resources.

5. The Long-Term Impact of Inadequated Compensation: leaving aside the matter of fairness, the harm is—and a very real harm it is—that over time the quality of members and thus the quality of legislative decisions will be substantially reduced. Many able people without independent means will be reluctant to run for office and some of the best incumbents who find a demand for their talents elsewhere will not continue to serve.

Thus, instead of having a broad spectrum of representation there will be a gradual trend toward polarization favoring those with independent means at one end, many of whom now serve with distinction, and at the other those who lack substantial earning power and thus for whom $60,000 per year looks good. Gradually squeezed out will be those of substantial ability and a desire for public service but who lack outside financial resources. It is these people who should constitute the largest single block in both Senate and House.

6. A Proposal: Let's start with the fact that there is no easy solution. If there were, the problem, festering as it has been for so many years, would long since have been resolved.

Several senators have proposed a constitutional amendment giving the Supreme Court the task of reviewing congressional compensation every two years and ordering recommended changes. Whether the Court would be happy with such a sensitive political bequest, would regard it as an appropriate matter for its consideration and would be competent to resolve a purely economic issue are matters needing careful consideration. It is a radical solution to a problem for which there seems to be a scarcity of simple solutions.

Two things are needed: A mechanism for getting congressional pay back on the track and then a mechanism for periodic adjustments as economic facts may justify. To handle the first task, a commission of impeccable credentials should be established. Let its recommendation be subject only to presidential review and then put into effect.

On-going changes should be related to the mechanism which provides for changes in high level governmental compensation. Limited congressional review may be appropriate, but it should not be done on a selective basis which would permit separate treatments of members of Congress.

Whatever the best mechanism for change may be, the problem cries out for attention. Both equity and the quality of legislative decisions demand a solution. Let's get at it.●

THE BALTIC STATES

● Mr. PRYOR. Mr. President, today is the 60th anniversary of the continuous recognition of the Governments of Estonia, Latvia, and Lithuania by the United States. Although we recognize these Baltic States as being free, the Soviet Union does not and has not for the past 42 years. The illegal occupation of the Baltic States by the Soviet Union has been regarded by successive U.S. administrations as detrimental to the self-determination and basic human dignity of the peoples of these states.

The American people, through their elected Members of Congress, have consistently supported the Baltic States. On June 9, 1982, the Senate displayed support for the now captive nations by voting unanimously for Senate Joint Resolution 201, naming June 14 as "Baltic Freedom Day." As a cosponsor of that bill, I was pleased with that affirmation of our solidarity with the Estonians, Latvians, and Lithuanians, who have been denied their freedom for several generations now.

Mr. President, one may wonder why we persist in recognizing these governments, which ceased to be independent 42 years ago, and why we make these speeches and celebrate "Baltic Freedom Day." I think that question can be answered in two words: Afghanistan and Poland. It is clear that Estonia, Latvia, and Lithuania were not the last nations to feel the weight of Soviet influence, and we need to remind ourselves that there are nations today which are fighting to retain some freedom from the Soviet Union.

I hope my colleagues will take a moment today to consider the suppressed states of Estonia, Latvia, and Lithuania and the consequences of Soviet rule.●

IDA NUDEL

● Mr. SPECTER. Mr. President, Judy Mann's column in the Washington Post this morning confirmed what many of us concerned with the abuse of human rights had feared: Ida Nudel has disappeared.

Ida Nudel, the courageous refusenik known as The Guardian Angel for her activities on behalf of Soviet Jewish Prisoners of Conscience, has sought to leave the Soviet Union since 1971. After 7 long years of harassment, she displayed a banner which read: "KGB, Give Me A Visa To Israel." She was sentenced to 4 years of internal exile. Suffering with ulcer, kidney problems, and heart trouble, Ida Nudel is in constant pain. Suffering from the denial of freedom to speak, work or practice her religion, Ida Nudel's pain is doubled.

Ida Nudel paid the Soviet Government for the crime they insisted she committed. Still, she was denied exit permission to join her sister in Israel. She was denied, in fact, precisely the same right guaranteed to Soviet citizens under the Helsinki Final Act.

Earlier this month I visited the Soviet Union where I personally witnessed the plight of Soviet Jews who have, for too long, waited to escape Soviet repression. I did not meet Ida Nudel but I heard her story frequently. David Chernoglaz who went to Israel after 5 years in a labor camp similar to Ida Nudel's said:

> The one person above all others who helped to keep up morale and who constantly helped with letter and parcels, the person rated by all to be a superhuman angel, is Ida Nudel.

Only Ida Nudel's superhuman qualities have allowed her to persist in her determination to find freedom. Shortly before being sentenced to exile, Ms. Nudel wrote:

> What haven't they done to me since I first applied to leave? I was placed in a prison punishment cell . . . there I was tortured with hunger and with difficult conditions. I was beaten and hounded like a wild beast during a hunt. Many times I have been seized on the street and thrown into dirty smelly cellars they call detention cells.

Ida Nudel's story is, to use Judy Mann's words, "a living indictment of a system that does not work." Ida Nudel does not stand alone. For every celebrated refusenik, hundreds of other wait in obscurity, coping with the everyday harassment of Soviet life.

Bernard Malamud's famous lines for "The Fixer" come to mind:

> There is no such thing as an unpolitical man, especially a Jew. You cannot be one without the other. You cannot sit still and see yourself destroyed.

Neither Ida Nudel nor those with whom she shares the same plight wait silently while the Messiah tarries. Ida Nudel prompts recollection of Shakespeare's famous line. "There is no wrath like a woman's wrath."

The candle Ida Nudel has lit here in the United States shall continue to illuminate the world to the injustices perpetrated by the Soviet Government against its citizens.

I submit for the RECORD Judy Mann's article.

The article follows:

[From the Washington Post, July 28, 1982]

MARTYR

(By Judy Mann)

Ida Nudel, the only Jewish woman to serve a term in Siberia as a "prisoner of conscience," has disappeared. Nudel, 51, has spent the last 11 years of her life trying to leave the Soviet Union to join her sister in Israel. For her efforts, she was sentenced to four years of internal exile, living part of the time in barracks that housed hardened male criminals.

She was released in March but told she would never be allowed to leave the Soviet Union. Her last contact with the West was on July 13, when she spoke with her sister, and signed off in despair. She was being made a homeless person.

Ida Nudel first requested permission to leave in 1971. At the time she was an economist, working in the Institute of Planning and Production and monitoring hygiene standards in food stores. Permission was refused on the grounds she possessed "state secrets." Her room was bugged. She was followed. She was repeatedly detained and beaten. She was also fired from her job and, in order to avoid the charge of being a parasite, worked as a cleaning woman. She spent the next seven years trying to get out and sending chocolates, photographs, reading material, clothing, food and medicine to imprisoned Jews on the rare visits they could have with their families. She came to be known as the "guardian angel," of the "prisoners of conscience" and in the Soviet Jewish community, she became a legend.

Then on June 1, 1978, she hung a banner from the balcony of her Moscow apartment saying, "KGB, give me my visa." She was arrested and three weeks later convicted of malicious hooliganism and banished to Krivosheina, 1,800 miles east of Moscow. Her main companion was a collie that was with her when she returned to Moscow.

Marcia Weinberg, who is married to Rabbi Joseph Weinberg of the Washington Hebrew Congregation and who heads the Committee for Soviet Jewry here, met Ida Nudel shortly before her arrest. Nudel has been "adopted" as a special prisoner by the sisterhood of the Washington Hebrew Congregation.

After her release, says Weinberg, Nudel told her sister by telephone that she had been told she should "rehabilitate herself and become a good Soviet citizen." In April, she was denied permission to live in Moscow. Then she was sent to Riga. "But when she got to Riga she was told she couldn't live in Riga," says Weinberg.

The last contact she had with her sister came on the 13th of July. Weinberg says Nudel told her sister she had spend one night in a bus station. "This is when we, as a world group, became concerned," says Weinberg. "She's not an alarmist. She said, 'Don't try to reach me; I just don't know where I'm going to be. I will try to find you.' It was in that kind of despair she signed off and nobody knows where she is. We know she's not in Moscow and not in Riga." One theory is that she has been sent to a closed city where no Western press or tourists are allowed to go.

On Tuesday, July 20, a delegation from organizations concerned with Soviet Jews met with presidential assistant Elizabeth Dole. Dole, who is a member of Congressional Wives on Soviet Jewry, says Nudel's plight has now been drawn to the attention of the highest levels of the American government. The reduced flow of emigrants from the Soviet Union has been raised again and again at meetings with Soviet officials, says Dole, and it is a concern of which President Reagan often speaks.

The meeting with Dole left Weinberg with a profound sense of the difference between the two nations. "We could call the White House and say 'help.' The United States is a place where government can stop long enough to talk about one human being and that person's plight. It's such a juxtaposition to the Soviet Union where individuals are trampled on and stomped on and lost." Later that day, a vigil was held at the Soviet Embassy on Nudel's behalf; among the speakers was a representative of Dole's office.

What has happened to Ida Nudel is so alien to the American experience that it seems unbelievable. As Weinberg puts it, it is senseless. "It is almost like they are trying to destroy a spirit totally. For what? Why? She's done it already. She's been in exile, she's been in prison. It would just seem enough."

Sometimes the story of a single person can tell more about a system of government than all the statistics in the world. The Soviets have created a martyr, yet another human being who is a living indictment of a system that doesn't work. It is only fitting that when those in the free world think of the Soviet Union they should think, also, of Ida Nudel.●

THE PASSING OF CAREY CRONAN

● Mr. WEICKER. Mr. President, those who serve the State of Connecticut in the Congress and a generation of newspaper readers across the State suffered a great loss this weekend with the passing of Carey Cronan, the dean of Connecticut's Washington press corps. Both the man and his work deserve our praise and recognition.

Carey Cronan began his career in journalism in 1928 as a reporter for the Bridgeport Telegram, for whom he wrote at his death. The pioneer reporter from Connecticut papers, Carey came to this city in 1949; for years he has been the elder statesman of an expanding Connecticut media contingent. During his three decades as a Washington correspondent for the Bridgeport Post and Telegram, the Stamford Advocate, the Waterbury Republican American, and the Greenwich Time, he provided much of the information the people of Connecticut have had about Washington during their lifetimes.

Over the dozen years that I worked with Carey Cronan, I was struck by the degree of his professionalism and the quality of his humanity. In fulfilling his role as a journalist, there were times when he made the people he covered mad. But they never stayed

mad for long. Everyone realized that Carey Cronan's hard shots were always fair shots. There can be no higher praise for a newsman, or a person.

The career of this extraordinary man stretches over a very significant period in the development of journalism in this country. He was ahead of his time in recognizing that the integrity of his work required an objective distance between himself and those he covered. He was very much a figure in the tradition of front page newsmen who so deeply influenced the thoughts and concerns of the Nation during the fifties and sixties. he conveyed a sense of perspective and depth, which the urgency of electronic media cannot allow.

I will personally miss Carey's gentle, gracious manner. His wit and warmth charmed the mighty and the common over his 50 years in journalism. He enjoyed life and people with a special relish; no one who ever heard Carey tell one of his famous stories will dispute this. Carey Cronan led a full and rich life and he was good enough to share that richness with those he met.

Mr. President, the Nation relies on people like Carey Cronan to study, interpret, and report on the events and ideas of the day. Without men like him, our democracy is a blind and senseless object without the ability to respond to new challenges.

Carey Cronan was a remarkable person who will surely be missed for the contributions he made to people's understanding of events which affected them and to their enjoyment of life. For me, Washington has lost a landmark and I have lost a friend.●

ORDER FOR RECESS UNTIL 9:30 A.M. ON THURSDAY, JULY 29, AND FRIDAY, JULY 30, 1982

Mr. BAKER. Mr. President, I ask unanimous consent that on tomorrow and Friday, when the Senate completes its business on the preceding day, the Senate stand in recess until 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERT C. BYRD. The Senator does not mean 9:30 a.m. on Saturday?

Mr. BAKER. No, Mr. President, that is for Thursday and Friday.

ORDER FOR RECOGNITION OF SENATOR BRADLEY AND SENATOR CHILES TOMORROW

Mr. BAKER. Mr. President, I am advised that Senators BRADLEY and CHILES desire special orders for the morning. I ask unanimous consent that, after the recognition of the two leaders under the standing order, those Senators be granted special orders in that order for not more than 15 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS AND TO RESUME CONSIDERATION OF SENATE JOINT RESOLUTION 58 TOMORROW

Mr. BAKER. Mr. President, I ask unanimous consent that, after the execution of the special orders tomorrow, there be a brief period for the transaction of routine morning business to extend not past the hour of 10:30 a.m., in which Senators may speak for not more than 2 minutes each and that, at the expiration of that time, the Senate resume consideration of Senate Joint Resolution 58.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. BAKER. Mr. President, I know of no other business to be transacted by the Senate. In accordance with the order previously entered, I now move that the Senate stand in recess until 9:30 a.m. tomorrow.

There being no objection, at 6:27 p.m., the Senate recessed until tomorrow, Thursday, July 29, 1982, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate July 28, 1982:

DEPARTMENT OF JUSTICE

Larry D. Thompson, of Georgia, to be U.S. attorney for the northern district of Georgia for the term of 4 years, vice William L. Harper, resigned.

Raymond J. Dearie, of New York, to be U.S. attorney for the eastern district of New York for the term of 4 years, vice Edward R. Korman.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 28, 1982:

NATIONAL COUNCIL ON THE HUMANITIES

A. Lawrence Chickering, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

Gertrude Himmelfarb, of New York, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

James Clayburn La Force, Jr., of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

Rita Ricardo-Campbell, of California, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

Peter J. Stanlis, of Illinois, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

Walter Berns, of Maryland, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

George Carey, of Virginia, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

Ellis Sandoz, of Louisiana, to be a Member of the National Council on the Humanities for a term expiring January 26, 1988.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

U.S. POSTAL SERVICE

Peter E. Voss, of Ohio, to be a Governor of the U.S. Postal Service for the term expiring December 8, 1990.

THE JUDICIARY

J. Lawrence Irving, of California, to be U.S. district judge for the southern district of California.

HOUSE OF REPRESENTATIVES—*Wednesday, July 28, 1982*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

May Your blessing, O Lord, be with those who truly seek Your way, Your truth, and Your life. Amid the competing voices that clamor for attention, may we hear also Your Word that has given purpose to the human family from the beginning of time. Open our ears to Your prophetic Word, our minds to Your enlightening Word, and our hearts and souls to Your comforting Word. And may Your peace that passes all human understanding guide us and keep us all our days. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CARMAN. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Chair's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CARMAN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 346, nays 28, answered "present" 1, not voting 59, as follows:

[Roll No. 217]

YEAS—346

Akaka	Benjamin	Burton, John
Albosta	Bennett	Burton, Phillip
Alexander	Bereuter	Campbell
Anderson	Bethune	Carman
Annunzio	Bevill	Carney
Anthony	Bingham	Chappell
Applegate	Bliley	Chappie
Archer	Boggs	Clausen
Ashbrook	Boner	Clinger
Aspin	Bonker	Coats
Atkinson	Bouquard	Coelho
AuCoin	Bowen	Coleman
Badham	Breaux	Collins (TX)
Bafalis	Brinkley	Conable
Bailey (MO)	Brodhead	Conte
Bailey (PA)	Brooks	Conyers
Barnard	Broomfield	Corcoran
Beard	Brown (CO)	Courter
Beilenson	Broyhill	Coyne, James
Benedict	Burgener	Coyne, William
Craig	Hawkins	Neal
Crane, Daniel	Hefner	Nelligan
Crane, Philip	Heftel	Nelson
D'Amours	Hendon	Nichols
Daniel, Dan	Hertel	Nowak
Daniel, R. W.	Hightower	O'Brien
Dannemeyer	Hiler	Obey
Daschle	Hillis	Oxley
Daub	Holland	Panetta
Davis	Hollenbeck	Parris
de la Garza	Holt	Pashayan
Deckard	Horton	Patman
DeNardis	Howard	Patterson
Derrick	Hoyer	Paul
Dicks	Huckaby	Pease
Dingell	Hughes	Perkins
Donnelly	Hunter	Petri
Dorgan	Hutto	Peyser
Dowdy	Hyde	Pickle
Downey	Jeffords	Porter
Dreier	Jenkins	Price
Duncan	Jones (NC)	Pritchard
Dunn	Jones (OK)	Pursell
Dwyer	Kastenmeier	Quillen
Dyson	Kazen	Railsback
Early	Kemp	Rangel
Eckart	Kennelly	Regula
Edgar	Kildee	Reuss
Edwards (AL)	Kindness	Rhodes
Edwards (CA)	Kogovsek	Richmond
Edwards (OK)	Kramer	Rinaldo
Emery	LaFalce	Ritter
English	Lagomarsino	Roberts (KS)
Erdahl	Lantos	Roberts (SD)
Erlenborn	Latta	Robinson
Ertel	Leach	Rodino
Evans (DE)	Lee	Roe
Evans (IN)	Lehman	Rogers
Fary	Lent	Rostenkowski
Fascell	Lewis	Roth
Fazio	Livingston	Roukema
Fenwick	Loeffler	Rousselot
Ferraro	Long (MD)	Roybal
Fiedler	Lott	Rudd
Findley	Lowery (CA)	Russo
Fish	Lowry (WA)	Sawyer
Fithian	Lujan	Scheuer
Flippo	Lundine	Schneider
Florio	Lungren	Schulze
Foglietta	Markey	Schumer
Foley	Marlenee	Seiberling
Fowler	Marriott	Sensenbrenner
Frank	Martin (IL)	Shamansky
Frenzel	Martin (NC)	Shannon
Frost	Martin (NY)	Sharp
Fuqua	Martinez	Shaw
Garcia	Matsui	Shelby
Gaydos	Mattox	Shumway
Gephardt	Mavroules	Shuster
Gibbons	Mazzoli	Simon
Gilman	McClory	Skeen
Gingrich	McCollum	Skelton
Ginn	McCurdy	Smith (AL)
Glickman	McEwen	Smith (IA)
Goldwater	McGrath	Smith (NE)
Gonzalez	Mica	Smith (NJ)
Gore	Michel	Smith (OR)
Gradison	Mikulski	Snowe
Gramm	Miller (CA)	Snyder
Gray	Mineta	Solarz
Green	Minish	Solomon
Gregg	Mitchell (NY)	Spence
Grisham	Moakley	St Germain
Guarini	Molinari	Stangeland
Gunderson	Mollohan	Staton
Hagedorn	Montgomery	Stenholm
Hall, Ralph	Moore	Stokes
Hall, Sam	Moorhead	Stratton
Hamilton	Morrison	Studds
Hammerschmidt	Mottl	Swift
Hance	Murphy	Synar
Hansen (ID)	Murtha	Tauke
Hansen (UT)	Myers	Tauzin
Hartnett	Napier	Taylor
Hatcher	Natcher	Thomas
Traxler	Weiss	Wortley
Trible	White	Wright
Udall	Whitehurst	Wyden
Vander Jagt	Whitley	Wylie
Volkmer	Whittaker	Yatron
Walgren	Whitten	Young (FL)
Wampler	Williams (OH)	Young (MO)
Watkins	Winn	Zablocki
Waxman	Wirth	Zeferetti
Weaver	Wolf	
Weber (OH)	Wolpe	

NAYS—28

Barnes	Gejdenson	Ratchford
Bedell	Goodling	Roemer
Butler	Harkin	Sabo
Coughlin	Hopkins	Schroeder
Derwinski	Jacobs	Stanton
Dickinson	Johnston	Vento
Emerson	LeBoutillier	Walker
Evans (IA)	Madigan	Washington
Fields	Miller (OH)	
Forsythe	Oberstar	

ANSWERED "PRESENT"—1

Ottinger

NOT VOTING—59

Addabbo	Evans (GA)	McKinney
Andrews	Ford (MI)	Mitchell (MD)
Biaggi	Ford (TN)	Moffett
Blanchard	Fountain	Oakar
Boland	Hall (OH)	Pepper
Bolling	Heckler	Rahall
Bonior	Hubbard	Rose
Brown (CA)	Ireland	Rosenthal
Brown (OH)	Jeffries	Santini
Byron	Jones (TN)	Savage
Cheney	Leath	Siljander
Chisholm	Leland	Smith (PA)
Clay	Levitas	Stark
Collins (IL)	Long (LA)	Stump
Crockett	Luken	Weber (MN)
Dellums	Marks	Williams (MT)
Dixon	McCloskey	Wilson
Dornan	McDade	Yates
Dougherty	McDonald	Young (AK)
Dymally	McHugh	

□ 1015

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

The message also announced that the Senate agrees to the amendments of the House to a bill of the Senate of the following title:

S. 2317. An act to recognize the organization known as the National Federation of Music Clubs.

MAKING IN ORDER ON THURSDAY, JULY 29, 1982, OR ANY DAY THEREAFTER, CONSIDERATION OF H.R. 6863, SUPPLEMENTAL APPROPRIATIONS, 1982

Mr. WHITTEN. Mr. Speaker, I ask unanimous consent that it may be in order on Thursday, July 29, 1982, or any day thereafter, to consider the bill H.R. 6863, making supplemental appropriations for fiscal year 1982.

The SPEAKER. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

PERMISSION FOR COMMITTEE ON THE JUDICIARY TO SIT DURING 5-MINUTE RULE TODAY

Mr. HUGHES. Mr. Speaker, I ask unanimous consent that the Committee on the Judiciary may meet during the 5-minute rule today.

The SPEAKER. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

CHANGES IN CIVIL DEFENSE

(Mr. BRINKLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BRINKLEY. Mr. Speaker, on civil defense, some Members may not be aware of our change in the law last year; 50 U.S.C.A. 2251, congressional declaration of policy, provides in part:

The Congress recognizes that the organizational structure established jointly by the Federal Government and the several States and their political subdivisions for civil defense purposes can be effectively utilized, without adversely affecting the attack-related civil defense objectives of this Act (sections 2251-2297 of this Appendix), to provide relief and assistance to people in areas of the United States struck by disasters other than disasters caused by enemy attack.

50 U.S.C.A. 2252 (b) and a portion of (c):

(b) The term "natural disaster" means any hurricane, tornado, storm, flood, high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, or other catastrophe in any part of the United States which causes, or which may cause, substantial damage or injury to civilian property or persons and, for the purposes of this Act (sections 2251 to 2303 of this Appendix), any explosion, civil disturbance, or any other manmade catastrophe shall be deemed to be a natural disaster;

(c) The term "civil defense" means all those activities and measures designed or undertaken (1) to minimize the effects upon the civilian population caused or which would be caused by an attack upon the United States or by a natural disaster, (2) to deal with the immediate emergency conditions which would be created by any such attack or natural disaster, and (3) to effectuate emergency repairs to, or the emergency restoration of, vital utilities and facilities destroyed or damaged by any such attack or natural disaster. . . .

Civil Defense is now dual use and we should approve the realistic funding provided in the defense authorization bill.

BUGGING AT A TOWN MEETING

(Mr. ERTEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERTEL. Mr. Speaker, I rise today to report an affront to the U.S. Congress.

Later today, during special orders, I will describe to my colleagues how a recent town meeting of mine was bugged. I am sure that my colleagues do not fear having their words quoted accurately from town meetings; but such taping has a very chilling effect on our constitutents who talk with us on a very personal basis during these meetings.

In fact, such secret activities are a serious breach of ethical standards.

Briefly, a campaign operative of my opponent, Richard Thornburgh, tried to hide behind a newspaper and secretly tape—without requesting anyone's permission—all local residents who attended my town meeting last Saturday in the Harrisburg area. I can only speculate that my comments were being recorded to trap me in a tough question or to twist my remarks for a campaign commercial against me or to set me up with a question from a supposedly disgruntled constituent.

Town meetings are a vital way many of us stay in touch with the concerns of our constituents and to hear firsthand what is on their minds; but in the hundreds of town meetings I have held in my 6 years in the House, I have never been subject to such a callous disregard for the rights of citizens to speak freely without fear of being recorded for political purposes.

TRIBUTE TO FEDERAL PROTECTIVE SERVICE OFFICER ROBERT YESUCEVITZ

(Mr. DONNELLY asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. DONNELLY. Mr. Speaker, last Tuesday night in Boston an officer of the Federal Protective Service was killed in the line of duty.

Officer Robert Yesucevitz was on patrol outside the John Fitzgerald Kennedy Presidential Library in Boston. When he left his patrol car to investigate something suspicious, he was shot from behind. We do not know who killed him, or why.

Robert Yesucevitz was only 24 years old. He had worn the uniform of the Federal Protective Service proudly and honorably. For 4 years he had served in New England and at Fort Chaffee, Ark., when it housed Cuban refugees.

Sadly, Robert died less than a week before he planned to leave Federal Service to return to college. Because of budget cutbacks, the security staff at the Kennedy Library had been cut by two-thirds in the last 2 years. Robert was one of the only two guards on duty at night, something that concerned him very dearly.

I am certain I speak for you, Mr. Speaker, and the membership of this House, when I say that we join Robert's family in mourning his senseless death. We hope that his murderer will be brought to justice and we strongly urge the General Services Administration to provide adequate protection to make sure that this tragedy is not repeated.

A DANGEROUS PIECE OF LEGISLATION

(Mr. PAUL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, last Friday early in the morning the other body passed a piece of legislation which I consider a rather dangerous piece of legislation. This is the size of it, it is 700 pages long, and what concerns me is that it is a bill to raise taxes by nearly $100 billion.

I believe this is a complete flaunting of the Constitution, because it says that all bills for raising revenues shall originate in the House of Representatives. All that the other body has done is take a number from the House of Representatives. Ironically, the bill that they used to raise taxes by $100 billion, when it was passed in the House lowered taxes by $1 billion.

I think that this is just a typical example of why the American people become cynical of what is happening here in Washington. Every American has learned in his early childhood that the House of Representatives is to originate all tax bills.

I think it is the duty of the leadership of this House and everyone in the House to totally ignore this bill. If we have to have a tax bill, it should originate in our Ways and Means Committee in the House of Representatives and we should not accept this bill written by the Senate.

I think it is bad tax policy, bad politics, and bad constitutional law.

THE LITTLE RED HEN WITH A BIG JOB

(Mr. EVANS of Delaware asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS of Delaware. Mr. Speaker, I am sure many of my colleagues are familiar with the old fable about the little red hen who had a big job to do. She had to plant her wheat so she would have food to eat. She asked all her friends to help plant it, but they said no, they would not help. She asked them to help water the wheat, and they said no. She asked them to help harvest the wheat, and help make it into bread, and still they refused to help. But, when it came time to eat the bread, all of them asked if they could help her out.

Mr. Speaker, I believe our distinguished Democratic colleagues on the Ways and Means Committee may have had this little story in mind. They do not appear to want to help in the big job of turning this economy around. They apparently do not want to help make the Senate-passed tax plan more palatable. But, I will bet my bottom dollar that when the economy does turn around all the Democrats—especially those on Ways and Means—will be clamoring to join in the political feast.

SAD NEWS—FEDERAL BORROWING WILL CONTINUE

(Mr. CORCORAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CORCORAN. Mr. Speaker, yesterday the House Appropriations Committee took up the matter of the so-called Evans-Corcoran housing stimulus program and came to no resolution.

Also yesterday, you may remember that in the financial pages across the United States there was the twofold report: No. 1, that there has begun the attempt to lower the prime rate of interest from 16 percent to 15½ percent; but also in most of these stories there was the No. 2 point and that is the sad news that Federal borrowing is going to continue to have very heavy upward pressure on interest rates.

Mr. Speaker, today the Treasury will announce that between now and September 30, the Federal Government will be required to borrow $45 billion. This announcement comes on the heels of new CBO projections of escalating budget deficits which will in turn force more Federal borrowing.

This Treasury borrowing will keep pressure on the financial markets. Interest rates will remain high and the recovery will be further delayed.

We can and must do something now to ease the terrible burden Federal borrowing is putting on the credit markets. And we can help the housing industry without adding further to that burden. How? By adopting the Evans-Corcoran amendment to the regular supplemental appropriations bill. We will provide $1 billion in interest rate buydown assistance from funding authority now appropriated for use by the Synthetic Fuels Corporation. We would also suspend the award of $5 to $6 billion in additional federally guaranteed credit now scheduled to be made this year by the Synthetic Fuels Corporation.

At a time when interest rates are so high that hundreds of oil and gas rigs are idle—when we cannot even afford to develop our conventional supplies of oil and gas as we should be—where is the sense in putting more pressure on interest rates by funding exotic and risky synthetic fuels projects?

The Evans-Corcoran amendment makes sense from the standpoint of housing, from the standpoint of energy security, and most importantly, from the standpoint of interest rate relief. Please give us your support.

□ 1030

HOUSE SHOULD ACT ON BALANCED BUDGET AMENDMENT

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, the American people are asking why this House has not yet taken up the balanced budget amendment to the Constitution.

We see the other body working on such an amendment, and yet despite the fact that this House has a balanced budget bill with 231 cosponsors on it, we are not working on such an amendment here.

Normally when you get a bill with that many cosponsors, we bring it out on the floor under unanimous consent, or at least under suspension of the rules. We are not bringing it out at all.

The reason why the American people's question is valid is because that bill is bottled up in committee. The leadership of this House is not permitting that bill onto the House floor. I think that the American people should know that if a balanced budget amendment to the Constitution is not passed this year, it will be because it was bottled up by the Democrats in the House of Representatives.

EQUITY IN EDUCATION

(Mrs. HECKLER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. HECKLER. Mr. Speaker, the Women's Educational Equity Act program provides for the development and distribution of educational materials and programs to assure fairness for girls and women in our educational system. Equity in education is the goal of this program, which has been a priority of mine since I helped get the authorizing legislation enacted in 1974.

This significant program must be continued, as stated in a letter I wrote the Appropriations Committee earlier this month. The program was nearly "zeroed" out of the budget last year, but intensive negotiations saved its funding. This summer, with the cooperation of Department of Education officials and the Appropriations Committee, $1 million in funding has been preserved for the Educational Development Center in Newton, Mass., of which $186,981 is expected to go to the outstanding Wellesley Center for Research on Women, which reviews, publishes, and distributes materials funded by WEAA.

Maintenance and strengthening of the full WEAA program should be a priority of this Congress, to assure education free of sex bias and stereotyping and filled with career options for the girls and women whom we represent. The next time you ask a young constituent what she wants to be when she grows up, think about what you can do for her—through WEAA—in helping her fulfill her potential.

STRATEGIC TRADE ACT OF 1982

(Mrs. BYRON asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BYRON. Mr. Speaker, I take this opportunity to inform my colleagues that I am introducing the Strategic Trade Act of 1982.

This week we will be asked to approve the authorization of more than $22 billion in defense funds that are intended to provide the advanced technology that helps defend our country.

The encouragement of technology is certainly a sound policy for the United States to follow. But there is one serious drawback. U.S. technology that is employed in civilian sector products is finding its way to the Soviet Union. And the Soviets are turning this technology against us. U.S. technology is being used directly in the production of better weapons for the Soviet military. These same weapons must be countered by the huge amount of DOD funding that this House will seek to authorize this week.

The Strategic Trade Act of 1982 will provide for closer control of the export of technology. As a result, we should expect a reduction in the Soviet use of our own technology against us and our allies. We cannot afford to spend $22 billion on defense R. & D. this year, only to find out 5 years from now that we must spend

even more to protect ourselves from our very own technology.

NO AID TO EL SALVADOR

(Mr. WEISS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WEISS. Mr. Speaker, it is shocking and dismaying news that the administration has renewed certification for military aid to El Salvador. The recertification arrives on the heels of continuing reports of torture and repression at the hands of the new Salvadoran regime of Alvaro Magana.

The recertification is based on information given to the President which describe more of what the President wishes to hear and less of what is actually taking place in El Salvador. However, information that the White House actually received detailed descriptions of the most inhumane acts of torture from the American Embassy there before issuing the recertification report is cause for even greater alarm.

It is clear to all of us now that the new Salvadoran regime is failing to carry out the reforms it has promised, and worse, has made no progress toward assuring human rights there. One can only assume from the President's recertification request for aid to such a repressive regime, that the administration's own commitment to human rights is questionable as well.

We must not allow our Government to aid repression abroad.

SECRETARY WATT SHOULD RESIGN

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, a number of days ago Secretary of Interior James Watt came to Missouri and told of his approval of diverting water from the upper part of the Missouri River, which announcement caused considerable concern to those of us from the State of Missouri.

More recently, the Secretary of the Interior has delved into foreign affairs, creating a serious question as to his advisability of serving as a member of the Cabinet. Because of his recent action, I call for his resignation.

By a recent letter to certain Congressmen, Secretary James Watt suggested military force may be necessary to obtain energy supplies in the Middle East. Secretary Watt wrote Members of this body defending his plan for leasing offshore lands for oil and gas drilling.

In that letter, the Secretary of the Interior wrote:

> The world's political leadership will secure with economic strength or military force the needed energy.

I deplore the Secretary using such language. First, Mr. Speaker, he is not the Secretary of State; second, he is not the Secretary of Defense; and third, it is improper for any Cabinet official to loosely talk about the use of military force. He has no legal or constitutional grounds to have any jurisdiction over American forces.

His statement is unwise. The statements about possible military intent are used by our enemies to turn world opinion against us. They undermine the credibility of our foreign diplomats everywhere.

It would be unacceptable for even the lowest Government official to make such statements. It is unforgivable for a Cabinet Secretary, the Secretary of the Interior, to make such statements.

PROVIDING FOR CONSIDERATION OF H.R. 6862, REDUCTION IN BUDGET AUTHORITY AND OUTLAYS UNDER CERTAIN CIVIL SERVICE PROGRAMS, 1983

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 536 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 536

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 6862) to reduce budget authority and outlays under certain civil service programs pursuant to the first concurrent resolution on the budget—fiscal year 1983, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be considered as having been read for amendment under the five-minute rule. No amendment to the bill shall be in order except the following amendment, which shall not be subject to amendment, but shall be debatable for not to exceed one hour, to be equally divided and controlled by the proponent of the amendment, and a Member opposed thereto, and all points of order against said amendment for failure to comply with the provisions of clause 7, rule XVI are hereby waived:

After section 3, add the following new section:

"4 PERCENT LIMIT ON COST-OF-LIVING ADJUSTMENTS UNDER FEDERAL RETIREMENT PROGRAMS

"SEC. 4. (a)(1) The amount of any annuity increase in fiscal years 1983, 1984, and 1985 under section 8340(b) of title 5, United States Code, (relating to cost-of-living adjustments for civil service retirees and survivors) shall not exceed 4 percent each year. For purposes of subsection (c) of such section 8340, the applicable percent change computed each such year under subsection (b) of section 8340 shall be deemed not to exceed 4 percent.

"(2) The amount of any annuity increase in fiscal years 1983, 1984, and 1985 pursuant to section 826 of the Foreign Service Act of 1980 (relating to cost-of-living adjustments for foreign service retirees and survivors) shall not exceed 4 percent each year.

"(3) The amount of any annuity increase in fiscal years 1983, 1984, and 1985 pursuant to the Central Intelligence Agency Act of 1964 for Certain Employees (50 U.S.C. 403 note) shall not exceed 4 percent each year.

"(b) The amount of any increase in fiscal years 1983, 1984, and 1985 in retired and retainer pay or annuities pursuant to section 1401a(b) of title 10, United States Code, (relating to members and former members of the armed forces, including the Coast Guard, the commissioned corps of the National Oceanic and Atmospheric Administration, and the Public Health Service, and their survivors) shall not exceed 4 percent each year.".

At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

The SPEAKER. The gentleman from California (Mr. BEILENSON) is recognized for 1 hour.

Mr. BEILENSON. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Ohio (Mr. LATTA) for purposes of debate only, and pending that I yield myself such time as I may use.

Mr. Speaker, the reconciliation savings recommendations of the committee on Post Office and Civil Service were contained in H.R. 6785 which was reported from the committee on July 23, 1982. Section 3 of that bill established a new entitlement of a 4-percent minimum pay increase for Federal employees effective for fiscal year 1983. Under House procedures this new entitlement would require referral to the Committee on Appropriations. However, it was not the intention of the Post Office Committee to provide a new entitlement. Therefore, section 3 has been redrafted in a manner to eliminate the entitlement authority and the new language together with the other provisions of H.R. 6785 have been incorporated in the bill, H.R. 6862, which is made in order by this rule.

The new language in H.R. 6862 provides that the October 1982 pay increase for Federal employees shall be 4 percent—the amount assumed in the first budget resolution—if the President submits an alternative plan for less than 4 percent and either House of Congress disapproves that plan.

Mr. Speaker, in accordance with the request of the chairman of the Committee on Post Office and Civil Service, House Resolution 536 is a modified closed rule providing for the consideration of H.R. 6862. The rule provides 1 hour of general debate to be equally

divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service. In order to expedite consideration of the bill, the rule provides that H.R. 6862 shall be considered as read for amendment.

The Post Office Committee rejected the 4-percent cap on cost-of-living adjustments for retirees, and as recently as May 27, 1982, the House voted 327 to 94 on the Downey amendment to House Concurrent Resolution 345 to reject the cap on COLA's. However, the Committee on Rules granted Chairman FORD's request to allow an amendment which would impose a 4-percent cap on cost-of-living adjustments for civil service, Foreign Service, and military retirees. This amendment would not be subject to amendment and no other amendments to the bill would be in order. This rule adequately protects the rights of the minority while protecting the prerogatives of the Post Office Committee in reporting reconciliation savings within its jurisdiction as directed by the first budget resolution.

Mr. Speaker, it should be noted that the amendment is open to debate for 1 hour to be equally divided and controlled by the proponent of the amendment and a Member opposed to the amendment. Further, the rule waives points of order against the amendment for failure to comply with the provisions of clause 7, rule XVI—which prohibits nongermane amendments. This waiver is necessary because the bill contains no provision relating to cost-of-living adjustments and therefore a COLA amendment would otherwise not be germane. House Resolution 536 also provides one motion to recommit.

H.R. 6862 proposed reductions in outlays for fiscal year 1982 of $32 million and $113 million over the 3-year period of fiscal year 1983 through fiscal year 1985. These savings are accomplished by a provision which requires that civil service annuity benefits be rounded to the next lowest dollar and by providing for later annuity commencing dates for employees and Members who retire voluntarily. These proposals were recommended by the Office of Personnel Management and will reduce outlays by $32 million, $37 million, and $44 million in fiscal years 1983, 1984, and 1985 respectively.

Mr. Speaker, undoubtedly there will be considerable debate and controversy when this bill is considered. House Resolution 536 will provide the House with an opportunity to work its will on the cuts proposed by the Post Office and Civil Service Committee.

I urge adoption of the resolution.

□ 1045

Mr. LATTA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, so there will be no misunderstanding about my position on this rule, let me say that I am opposed to it and I urge its defeat.

The bill under consideration by this rule does not properly belong on the floor of the House. If we go ahead and pass this rule and debate and vote on this bill, the House of Representatives will be in clear violation not only of the budget resolution it adopted last month, but of the Budget Act itself. Such a procedure, which ignores the spending reductions passed by this Congress, would bring the economic recovery just now getting underway to a dead stop.

The Budget Act adopted by Congress in 1974 is precise in its instructions for handling the reconciliation process. Section 310 of the act states that the budget resolution directs standing committees to determine and recommend changes in the law to achieve savings. Such recommendations are to be submitted to the House and Senate Budget Committees for inclusion in an omnibus reconciliation bill. The Budget Act reads, and let me quote:

> Upon receiving all such recommendations, the Budget Committee shall report to its House a reconciliation bill or reconciliation resolution, or both, carrying out all such recommendations without any substantive revision.

I would like to repeat that key phrase:

> Shall—
> Shall report to its House a reconciliation bill or reconciliation resolution . . . .

Let me say to my friends, that is clear. That language is clear. The intent of the act is that reconciliation instructions are to be sent to the Budget Committee, which will draft a single reconciliation bill for consideration by the House. In this case, this bill was not sent to the Budget Committee, nor did the Budget Committee package it in an omnibus bill as provided by the act itself.

The American Law Division of the Library of Congress conducted a study of the legislative history of the 1974 act, and confirmed that it was the intent of the Congress that the Budget Committee report out a single reconciliation bill. Let me say to my colleagues, the Senate is complying with the act. The committees of the Senate have complied with the act, and the Budget Committee of the Senate has complied with the act and has reported a single omnibus reconciliation bill which is now on the desk in the Senate and will be taken up on Wednesday next.

So, why not the House of Representatives? Why is the House Budget Committee being bypassed, and why is this bill being brought directly to the floor? Is the leadership willing to see the House fail in its duty to meet the spending targets it voted?

Let me say that the American people do not want to see the House fail in this responsibility. The people paying those high interest rates across the country because of the outrageous spending approved by this Congress do not want to see the House fail in its responsibility. Well, let me say that, if the House passes this rule to report out this bill ignoring its responsibility and ignoring the mandate of this Congress to make certain reductions, we might just as well bid goodbye to the reductions we are now experiencing in interest rates across this country, which everybody wants, because the money markets will be saying, "The Congress did not mean what it said. It does not have the courage to stand up and vote for the reductions which it said should be made."

Certainly, that reason alone should say to the responsible Members of this Congress who want to see interest rates reduced, to vote against this rule. I cannot for the life of me see any political advantage which might inure to somebody voting against reductions in spending already mandated by this Congress and expected by the American people.

Do we want that $140 billion deficit? Do we want the $182 billion deficit from which we were working when we put in place the budget resolution? What really do we want? I think what the American people want out of this House of Representatives is some responsibility, to act responsibly for a change, and to step up to its responsibility. The only way it can do that is to vote down this rule, because I think we are going to see, if this rule, passes and this bill comes up, that courage is going to be lacking. The people who drafted that Budget Act knew something about courage around this place when they put in that proviso for an omnibus package, one bill to be presented to this Congress. The U.S. Senate has already concurred in the Budget Act and is acting accordingly.

Why not the House of Representatives? Even if it were proper for this bill to be brought directly to the floor, the rule ought to be voted down because it is an attempt to circumvent specific instructions, specific instructions on reconciliation approved by this House in the fiscal 1983 budget resolution for this particular committee.

Now, let me read the instructions to the Post Office and Civil Service Committee contained in the budget resolution just passed a matter of a few weeks ago:

> The House Committee on Post Office and Civil Service shall report changes in laws within the jurisdiction of that committee which provide spending authority as defined in section 401(c)(2)(c) of Public Law 93-344 sufficient to reduce budget authority by zero and outlays by $376 million in fiscal year 1983; to reduce budget authority by

$244 million and outlays by $1 billion 61 million in fiscal year 1984; and to reduce budget authority by $538 million and outlays by $1 billion 808 million in fiscal year 1985.

I end the quote from the budget resolution itself, passed by this House and by the Senate of the United States. Now, what exactly does all this mean? It means that the Post Office and Civil Service Committee was to identify and recommend savings of $376 million for fiscal year 1983 and $3.2 billion over 3 years. Let me repeat—$3.2 billion in savings over 3 years.

What does the bill do that this rule would make in order? It proposes savings of only $32 million in fiscal year 1983 and $113 million over 3 years. That is only 8.5 percent of the savings mandated in the budget resolution for fiscal year 1983, and less than 3.5 percent of the savings mandated over 3 years. Let me repeat—only 3.5 percent of the savings assumed in the budget resolution this House adopted last month.

I just do not understand those Members who seem to think we can simply continue spending and spending and spending and be able to go back home and try to hoodwink the American public into believing that we are not responsible for the high interest rates and the inflation that we have had in this country. How foolish-minded do they think the American people are? They are a lot smarter than a good many Members of this House might think they are.

Who do we think we are fooling if we pass this rule and this bill that it makes in order? Not the American people. A poll taken in June by Time magazine showed that 55 percent of the people blame this Congress for the huge deficits we face. Another 17 percent said Congress and the President share joint responsibility. Now, if the economic recovery that we certainly want to see take place fails, the fault will not lie with Reaganomics as some people like to say is the fault of our decline everybody knows that this recession started last July, even before Reaganomics went into effect. The responsibility will lie with those who prevent the Budget Act itself—that is, a matter of law—from being used and implemented in this House.

Go back home and try to escape that one, because the law is clear; the budget resolution is clear, and now it is up to this House to put up or shut up.

Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, this rule is clearly a travesty on our whole budget process. The vote on this rule is not simply a procedural vote, but rather a vote on whether we are deadly serious about holding down deficits and upholding the budget process that will make that possible. This is the most blatant attempt to subvert the budget process that I have seen in the past 2 years.

The whole question posed by this rule is whether we are going to turn our backs on the reconciliation provisions of the Budget Act and the most recently passed budget resolution, and let fiscal chaos reign once again in this Congress. There can be no question that the first budget resolution adopted this year calls for a single reconciliation bill to be reported from the Budget Committee and consisting of the instructions of the nine committees under reconciliation. This rule and the bill it makes in order violates that mandate and violates the whole principle of reconciliation as embodied in the Budget Act.

Now, look at the process that is being used here. First of all, there has been a change in the bill since it was reported from the Post Office and Civil Service Committee, as I understand. I do not believe there is a bill available here for the Members to look at. I have not been able to find a bill here today.

What about the schedule that is being used here? This is a closed rule. A majority of the House led by the majority leadership certainly should be capable of passing such a blatantly ridiculous rule if it would keep us from upholding reconciliation, and it is on a fast track. We were told yesterday in the Rules Committee that it would be brought up Thursday. As the minority whip, I have not even had a chance to have a whip check on our side. We were going to have a conference to discuss this issue tomorrow.

But, no, not only do we have a closed rule, not only are we in the minority around here—although we are fixing to see on the vote on this rule—but we do not even have time to notify our Members of the issue. The issue is clearly reconciliation and the procedure that is being used. It is being used in the most blatant way to try to stop an opportunity to enforce the budget cuts that we called for in the budget resolution earlier this year.

□ 1100

Mr. Speaker, I might be willing to give the Democrats some credit for playing a clever partisan game if I did not think the consequences of that game were so vital for this institution and the budget process and the American people. This is the process that we established to try to discipline ourselves.

The choice on this rule is very simple, in my mind. A vote for the rule is a vote to scuttle the budget process and drive up deficits and interest rates. A vote against the rule is a vote to preserve the budget process and exercise fiscal discipline and restraint. This is only the first little cut, the first attempt to bleed us time and time again from now through September, in every instance trying to avoid implementing budget restraints. This bill, if we look at the substance, is only 8.5 percent of what was supposed to be included in it.

Mr. Speaker, I say to the Members, do not let this start now. Let us defeat this rule.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentlewoman from Colorado (Mrs. SCHROEDER) for purposes of debate only.

Mrs. SCHROEDER. Mr. Speaker, I had originally come to the floor planning to support the rule, but I want to make sure that I understand it.

I serve on the Committee on Post Office and Civil Service, and I sat in the Rules Committee yesterday when they were writing it and I thought I understood it, but I think it is being misconstrued on the other side. But let me make sure.

If I might ask the gentleman from California (Mr. BEILENSON) this: As I understand it, the Rules Committee wrote the rule very narrowly so it deals with reconciliation, and there is an amendment allowed by any Member in the House who wants to offer it to put in the COLA cap; is that correct?

Mr. BEILENSON. The gentlewoman is correct.

Mrs. SCHROEDER. No one Member was given that? It is just not one Member who is not here? There was not anything devious about that; is that correct?

Mr. BEILENSON. That is correct. Any Member may propose that amendment. If I may tell the gentlewoman this, if that amendment is adopted, then savings greater than those proposed in the budget resolution will have been attained.

Mrs. SCHROEDER. Mr. Speaker, I thank the gentleman from California (Mr. BEILENSON), because I think that is very important.

The way I understood it yesterday is that this amendment would be prepared. The Rules Committee felt they must go along with the instructions that the other side keeps talking about, and they very narrowly drafted it. But there is no proprietorship. Any Member who votes "no" on this rule should not do that, because they can come down and take the amendment and show great leadership ability and make this bill meet the budget.

Mr. BEILENSON. Mr. Speaker, the gentlewoman again is correct.

Mr. LOTT. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I will yield in just a second, but first I want to ask the gentleman from California (Mr. BEILENSON) one other question.

One of the reasons I appeared in front of the Rules Committee was that

I wanted to make sure it was very clear there was another option that could be had to meet reconciliation, and that was to deal with the dual pay for military retirees amendment.

Mr. Speaker, as you know, the Post Office and Civil Service Committee was instructed to reduce budget outlays by $3.245 billion over the next 3 years. We gave careful consideration to the reconciliation instructions and the thinking behind them and concluded that we could not, in good faith, recommend the passage of legislation to cut benefits by this amount. So, the committee voted to report two minor, yet wholly justified, changes in retirement law, which save $113 million over 3 years.

The President and the Republicans who drafted the budget obviously thought we should put a 4-percent cap on the cost-of-living adjustment (COLA) provided for those on civil service retirement and other government retirement systems. The fact that they picked on retirees is no longer surprising. In 1980, we were forced, through the reconciliation process, to eliminate proration and the look back for those newly retiring. In 1981, we were directed to eliminate the twice a year cost-of-living adjustment and establish a once a year COLA. Now, we are being told to reduce the real annuity received by retirees by 3 or 4 percent, by shaving their inflation protection. I think we have reduced the benefits of Government retirees enough.

Therefore, I asked the Rules Committee to make in order, as a substitute to the COLA cap amendment, if it is offered, an amendment to achieve the same amount of savings through treating military retirees, who work for the Federal Government, in the same way we treat civil service retirees. This proposal would save substantially more money than the COLA cap in fiscal year 1983 and about the same amount over the 3-year period.

Right now, reemployed civil service annuitants suffer a dollar-for-dollar reduction in their civil service pay for every annuity dollar they receive. This is based on the policy judgment that no individual should receive both retirement pay from a Federal retirement system and salary for active Federal service during the same period. Despite this offset, we have around 2,300 reemployed annuitants in the Federal work force.

For retired military, however, there is no similar offset. A retired officer may receive the first $6,000 or so of his or her military retired pay plus one-half of the remainder. No reduction at all applies to retired reserve officers or retired enlisted personnel working for the Government. Additionally, a maximum cap, now set at $57,500, for combined salary and retired pay was established as part of the Civil Service Reform Act of 1978.

This amendment has two arguments in its favor. It saves the required amount of money and it is equitable and fair. Undoubtedly, it does take actual dollars away from identifiable individuals. Unfortunately, that is true of all cuts in the civil service area. The question is, From which class of people is it less unfair to take benefits? In this situation, the arguments overwhelmingly favor adoption of this dual pay amendment.

Our experience with reconciliation a year ago demonstrates all that is wrong with the process. Making in order an alternative savings proposal will vindicate what I believe is the intent behind the reconciliation process: to let the House work its will on how cuts should be made.

The Rules Committee decided that would be going, I think, too far outside the instructions, so they did not allow that amendment. But I think I heard the gentleman from California say that the minority still had the right to try to recommit the bill, and I assume they could attach the double-dipping amendment on the recommittal and still bring the bill in under the budget figure if they decided they did not want to go with the specific recommendation that they do the COLA; is that correct?

Mr. BEILENSON. The gentlewoman is correct. The minority does have the right to propose a recommittal motion at the end.

Mrs. SCHROEDER. But only the minority could do that?

Mr. BEILENSON. Yes, the minority has priority of recognition.

Mr. LOTT. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Mississippi.

Mr. LOTT. Mr. Speaker, could the gentlewoman tell me whether or not this amendment to which she refers would achieve the full savings that were directed for her committee on reconciliation?

Mrs. SCHROEDER. Both amendments, as I understand it, would. Both the double-dipping amendment and the COLA amendment would comply with the reconciliation instruction.

Mr. LOTT. Now, the gentlewoman says, "both the double-dipping and the COLA amendments," but as I understand it, the COLA amendment, even if it were added to this bill, would still be about 10 percent short of the reconciliation that was mandated for the committee. Maybe if you add the double-dipping to it also, it would get closer to it, but I think the membership needs to know that this amendment that is being discussed would, in fact, not achieve the full savings that were mandated for this committee.

Mrs. SCHROEDER. Mr. Speaker, my understanding, if I may respond to that, is that either way it would come in closer to the numbers or near the numbers, or what have you—either one of those amendments, not both. Either one or the other would bring it down to the level.

There is one other thing I want to point out, and I see the chairman of our committee here, who has been very good on this issue. I want to point out that the committee has worked very hard on these issues in the past. In 1978 we put the cap on double dipping to limit total pay to executive level V, which is now $57,500. That was known as the Joe Califano-Cook amendment. We have made serious pension changes twice, in 1980 and 1981. There were major changes in the pension.

As we know, there is a cap on the pay in this bill. The committee felt that they did not, as a majority, support the budget that passed this House.

We were being mandated to do it. We had not voted for that mandate, and so the fairest thing was to give the side that voted for the budget the right to come in and put it in.

Mr. Speaker, I think it is very important to set the record straight on that.

Mr. FORD of Michigan. Mr. Speaker, will the gentlewoman yield?

Mrs. SCHROEDER. I am delighted to yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Speaker, I am sure that the minority whip did not want to intentionally mislead the House when he was throwing numbers around. I hope he was listening to the gentleman from Ohio (Mr. LATTA), the accepted Republican expert on this budget process in the House, when he explained that the real goal we ought to reach is what the other body did. The adoption of the amendment that is being made in order to this bill would very nearly conform the House numbers with the Senate numbers. In addition, it would deal with four committee jurisdictions on the pension caps and have that issue behind us once and for all in this session.

By following this course we give the gentleman and his party, who are so completely convinced that what they did in adopting Gramm-Latta was correct. There will be no misunderstanding in the American public's mind about which Members have the courage and which of us do not have the courage to stand up when it is time to be counted as to who wishes to balance the budget on the backs of the people who served in our military and our Government and are now retired.

It seems that some Members on the other side of the aisle have lost track of the issue presented by this rule and the amendment to be voted on in their anxiety to find a parliamentary way to

weasel out of exercising their duties. I am disappointed in the minority.

Mr. LOTT. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

Mr. LATTA. I yield myself 1 minute, and I yield to the gentleman from Mississippi (Mr. LOTT).

Mr. LOTT. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I feel that I must respond to some of the comments that were made here. First of all, under the rule, at least with the motion to recommit, the so-called double-dipper amendment would not be in order.

Second, as to what the gentleman from Michigan (Mr. FORD) said about complying with what the other body did, I do not think that this institution or this body should ever be totally guided by what is done in the other body. We have our own guidelines, our own reconciliation process.

Finally, as far as the committee's striving so hard to come up with this bill, it reminds me of a story I heard about the elephant that went into labor and produced a mouse. That is all we have got here, a very small mouse, not the large reconciliation effort that should be coming out of this committee.

Mr. LATTA. Mr. Speaker, if I may reclaim my time, let me also add that there is nothing in the Budget Act itself that provides for this procedure that is attempted to be used here. The act places responsibility on the committees to come forward with the recommendations mandated by the House and the Senate.

There is no escape hatch. It is their responsibility to come forward, and in this case they do not come forward with those recommendations.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. PANETTA) for purposes of debate only.

Mr. PANETTA. Mr. Speaker, I do not normally like to overdramatize votes and particularly votes when it comes to rules which I consider largely procedural questions. But from a budget perspective, the vote the Members face is, I think, one of the most important votes they will cast in this session. It will set the stage for whether we can deal with reconciliation on an orderly basis, allowing packages, allowing committees to come to the floor and allowing Members to vote up or down on those issues, or whether we are going to capitulate to the same kind of chaos, the same kind of irresponsibility that this House went through last year when we had an up or down vote on a last-minute, 800-page amendment.

That, frankly, is the choice. Push aside all the rhetoric. That is the choice, whether we are going to give Members the ability to vote up or down on the cuts that they support in a budget resolution or whether we are going to open the door to the kind of budget games that have undermined the budget process in the past. We cannot have it both ways.

Mr. LATTA. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I will yield at the end of my remarks.

We cannot have it both ways. Members cannot come here and support a budget resolution that calls for certain cuts and then hide from the ability to vote up or down on those cuts. They cannot go back to the people and say "Gee, I would have liked to have helped you, but it was all packaged in one vote and I could not vote up or down on that particular issue."

Well, this is your chance. If you vote against this rule, make no mistake about it, you are voting to hid from the people and from your legislative responsibilities.

This rule implements the budget resolution. The Committee on Post Office and Civil Service failed to meet its requirements under the instructions on reconciliation. They did not implement the 4-percent cap. This rule—and I ask the Members to read the rule—permits the amendment to implement the 4-percent cap. It provides exactly for what was called for in the budget resolution.

That amendment is contained in the rule, and this House ought to have the opportunity to vote on it. That is the enforcement tool in the budget process. We allow the Members of the House to vote up or down on these issues, and if you vote for this amendment, over 3 years we will achieve $3 billion in savings, which is very close to the total target that was contained in the reconciliation instructions.

Second, this rule does not violate reconciliation.

Yesterday we had a package vote on the veterans' bill. Everybody is jumping up and down now about whether somehow we ought to put this all in one bill. We had a vote yesterday on the veterans' package. I did not hear anybody complain about that. There was not even one vote against that package on the veterans' bill. It passed overwhelmingly. That was a separate package on reconciliation.

We have done the same thing in the past, on the Ways and Means Committee, on the Armed Services Committee, and on the Small Business Committee. When they have adopted separate pieces of legislation, we have then referred to those separate pieces of legislation and incorporated them in reconciliation.

Let me make clear that, we have the power under the Budget Act to implement these procedures. It is contained in section 301(b)(2). If we want a fixed interpretation of the Budget Act, we ought not to even have reconciliation after the first budget resolution. The Budget Act specifically calls for it after the second budget resolution.

So we do have the power to be able to bring it to the floor in packages, as we are.

Lastly, this rule preserves the legislative process. I know that there appears to be a trend to hide Members, to insulate Members from these votes. Very frankly, that is the best way to undermine the budget process, that is, to constantly hide the Members from making the tough votes. Last year we paid a terrible price for that. We ought not to have to pay the same price this year.

So this is a test vote. It is a test vote on the budget process, it is a test vote on the reconciliation process, but, most importantly, it is a test vote on the legislative process.

Mr. Speaker, I ask the Members to support this rule.

Mr. LATTA. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I listened very intently to the gentleman's remarks. He seemed to forget that the Senate has already packaged the instructions in a reconciliation bill.

Now, I see the gentleman is approaching the microphone, and I will be happy to yield to him later.

I ask him, what are you going to do when it comes over here in a package? Are you going to dismantle it and destroy it?

The Senate has already complied with the terms, and the language is crystal clear. I am surprised at the gentleman, who has always supported this process, saying now that we ought to dismantle it.

□ 1115

The other body has gone the proper way as prescribed by law. What is the gentleman going to do when they come over here with this package?

Mr. PANETTA. Mr. Speaker, will the gentleman yield?

Mr. LATTA. I yield to the gentleman from California.

Mr. PANETTA. If the gentleman is so concerned about it, why did he not raise an objection to the veterans package that was passed on yesterday?

Mr. LATTA. I will be happy to answer that question.

It is because that bill was under suspension of the rules.

Mr. PANETTA. The gentleman could have objected. It was much easier to defeat under a suspension of the rules.

Mr. LATTA. It was under a suspension of the rules and you have to have more than that.

The SPEAKER pro tempore (Mr. MURTHA). The time of the gentleman from Ohio (Mr. LATTA) has expired.

Mr. LATTA. Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. First, Mr. Speaker, I wish to apologize to the House. I sent out a "Dear Colleague" and made mention of the fact that we would be dealing with the Post Office and Civil Service Committee reconciliation bill.

That is not the fact. We are dealing with a Rules Committee bill because it was discovered that there were many technical deficiencies in the bill. So the bill you have before you never came out of the Post Office and Civil Service Committee. It was hastily produced in the Rules Committee.

Then I am a little bit surprised at my dear friend from California and the chairman of the committee. They seem to converge in a critique of Republicans claiming, in the case of the gentleman from California, that by fighting the rule we are hiding from the reality of the budget procedure.

Then my dear chairman used the word "weaseling out." I am a little shocked at that.

But the facts are that that kind of criticism from the leaders of the majority of the majority seems rather innocent at a time when they seem to be hiding from or weaseling out from the tax package.

I cannot help but make that observation.

But what are the facts here? The facts are that we were supposed to produce $376 million in savings. We produced in round figures $32 million. That is 8.5 percent of what the goal should have been.

Then the political cleverness comes when the issue of the COLA is raised. Presumably, it is political brilliance to put the 4-percent COLA cap on the back of the Republicans as if they are, therefore, the enemies of the Federal retiree.

Just the opposite. We are the friends of the Federal retirees because by singling out the Federal retirees for exceptional largesse at a time when we have unemployment figures rising across the country, when unions are negotiating pay cuts for their members, when working Federal employees will settle for 4 percent, is to put a tremendous spotlight of public concern on the Federal retirees.

In my opinion it will jeopardize their entire retirement program in a wave of public reform.

I am not going to be here a year from now. But you will have that hot potato in the next session when your Federal retirees come to you and say, "Save us, save us from merger into Social Security."

The culprits will be those who have put the spotlight of public attention on this unfortunate manipulation of the COLA for short-term political expediency.

I strongly urge that the rule be rejected. I think this bill and this rule are a bad procedure. I think they are bad government. But, more than that, they are bad politics.

The politics that is being played is bad. It is shortsighted and in the long run it is against the best interests of Federal retirees, Federal employees, not to mention the poor beleagured taxpayer who the gentleman from Ohio (Mr. LATTA) defends so well.

I would hope that the House would rise above this political ploy and the expediency and reject the rule. That would be the practical position.

We will then go back to the committee, mandated by a vote on the floor of the House, and we will come back with figures meeting the entire budget resolution target.

If we should happen not to convince the Members and we do not defeat the rule, then I will be prepared tomorrow to explain to you in much more detail why political practicality and good government votes will be on the side of capping the COLA and achieving savings rather than manipulating and misusing the Federal retirees for a short-term political gain.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the distinguished chairman of the Post Office and Civil Service Committee, the gentleman from Michigan (Mr. FORD).

Mr. FORD of Michigan. Mr. Speaker, I would say first, as I have said before on this floor, there is no Member for whom I have a higher regard and more respect than the gentleman who has just spoken, the ranking Republican on the committee, the gentleman from Illinois (Mr. DERWINSKI). His record of concern for and support for the Federal employee is certainly without question and there is no one in my 18 years on the Post Office and Civil Service Committee who has done more.

I am going to miss him in the next Congress because he has been an extremely valuable person to this House.

I would just call attention of the House to the minority views on H.R. 6785 filed following the committee action on this bill.

Those minority views start out as follows:

> The issue is not cost of living adjustments. The majority of the minority on the committee always has supported the COLA principle.

Then after meandering around they finish the minority views with this statement:

> We are convinced the 4-percent COLA cap will be given a strong vote of support when the issue is resolved on the House floor.

Because of this and my conversations with the gentleman representing the minority, I went to the Rules Committee and asked that the Rules Committee make in order, as it has in this rule, an amendment to permit the minority to test this statement on the floor:

> We are convinced the 4-percent COLA cap will be given a strong vote of support when the issue is resolved on the House floor.

The adoption of this rule makes it possible to resolve the issue of COLA on the floor.

The report signed by a majority of the minority, that this rule is exactly what they were telling me as chairman they wanted to have happen. We should support this rule, and have a clear-cut vote in the House on this issue of capping retired Federal employees COLA.

Mr. LATTA. Mr. Speaker, I yield 6 minutes to the gentleman from Illinois (Mr. MICHEL).

Mr. MICHEL. Mr. Speaker, I would like to pick up on the remarks of the gentleman from Illinois (Mr. DERWINSKI) at the very outset, for I come from a district where at Caterpillar Tractor Co. we have seen workers taking pay reductions, John Deere freezing company pay, and the steelworkers taking $1.65 an hour in cuts, plus fringe benefits that aggregate nearly $4 an hour.

Under those circumstances I find it difficult to just roll over and acquiesce to this proposal to lift the 4-percent cap on Federal, civilian retirees benefits that was imposed in our budget resolution.

Particularly at a time when you have the cost of living index at less than 3 percent for 4 or 5 months running, what better time is there for capping a COLA, not only for Federal retirees but for Federal pay both military and civilianwise.

I would go one step further to say if we could have done it across the board even social security recipients could have lived with a 4-percent increase effective July 1.

It is just too bad that we did not all have the guts around here earlier in the year when that was one of the issues that was supposed to be addressed by the so-called Gang of 17.

Now, Mr. Speaker, it is amusing, yet tragic, that we are considering this legislation today without notice, without ample time to prepare, without an opportunity for us to respond.

It is amusing because it so typifies the election year politics which has governed the conduct of this House of months. And it is tragic because it represents a repudiation of the budget process and the neglect of our responsibilities, as so well pointed out by my friend from Ohio (Mr. LATTA).

I suppose I must say it was good of the majority to even allow us to share the time on an equal basis for the debate.

Let me try to lay some groundwork for the vote then, if I might, quickly on the rule itself.

It is important that Members of this House and the American people understand the issues in this debate and the consequences of what we do.

First, the substance of the legislation reported out of committee is irrelevant. The substance of the one amendment contained in the rule is totally irrelevant. It does nothing, it means nothing, it is absolutely nothing.

This House does not have one single opportunity to vote on anything that complies with the reconciliation instructions of the budget or that meet the binding procedures of the Budget Act. Yet we are given two opportunities here to repudiate reconciliation and violate the intent and purpose of the Budget Act.

Second, it should be understood this action we take here today has absolutely nothing to do with the economic recovery but it has everything to do with political recovery.

What we are engaging in here is not fiscal responsibility but political irresponsibility. We are using the floor of the House for the drafting, editing, and approving of campaign news releases. That is really what it is all about.

Compare what we should be doing with what we are doing.

We shoud be considering a reconciliation bill reported out of the Budget Committee under a rule that offers opposing views to be aired and the opportunity then to vote on amendments or substitutes that reflect those opposing views. That is how the process is supposed to work, as I understand it.

What are we doing?

First, we are abandoning the reconciliation process and leaving the Budget Committee completely out in the cold. We are saying in effect that the budget process means nothing if it does not facilitate the majority's political needs.

We are not considering reconciliation in the context of fiscal responsibility. We are being forced to consider individual bills tailored to embarrass and frustrate those in this House who supported the budget resolution in June, and admittedly it was practically a unanimous vote, here, a significant body of votes over here, not the majority, so we understand the politics of what game is being played here.

The very best we could do here today, the only opportunity we have is to meet about 80 percent of the reconciliation instructions. That is it. Some choice. Some democratic process. Some reconciliation.

It is all a sham. The American people are being taken for a long ride down memory lane, back to the days of the tax and spend and tax and spend philosophy.

I would urge my colleagues to vote down this rule, rushed to the floor at first light today in the hopes of catching us still asleep, I suppose.

This rule is an insult to the legislative process. It is an insult to the budget process.

We have an obligation as a legislative body to fulfill the reconciliation instruction of the budget resolution. Those of us who still want to meet our obligations, whatever the political consequences, ought to be given an open and fair chance to do so.

Those Americans who believe that we must reduce the deficit through spending reductions should be allowed representation on this floor. They deserve an up-or-down vote on real, not phony, reconciliation measures.

Reference was made here a little bit earlier to a bill having to do with veterans benefits. But the Veterans' Committee matched the reconciliation instructions in the budget resolution. That is the difference between that vote of yesterday or a few days ago and the vote today.

If the majority leadership wants to wash their hands of responsibility for implementing the budget, that is all right with me. But just give us a chance to implement it, those of us who voted for it and thought we had a good product.

We will face the tough votes if the votes are presented fairly and if they are meaningful economic votes, not just the fraudulent political votes like this one happens to be.

I would urge Members to vote down the rule and hopefully the previous question will not be adopted.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from New York (Ms. FERRARO).

Ms. FERRARO. I thank the gentleman for yielding.

I was rather intrigued by the minority leader's comments when he was referring to his constituents at Caterpillar. The point is not whether or not Federal retirees COLA should be capped, and the distinguished minority leader is obviously man enough to be counted as one of those people who feel that retirees COLA should be capped, rather the rule merely allows for those Members who voted for the budget resolution, along with the minority leader, to be counted on the capping of COLA of Federal retirees, and not hide behind the skirts of the Post Office and Civil Service Committee.

□ 1130

As one who voted against the budget resolution I am more than happy to let my constituents see how I vote on each and every item of the budget.

Mr. BEILENSON. Mr. Speaker, I yield 5 minutes for the purpose of debate only to the gentleman from Texas (Mr. WRIGHT), the distinguished majority leader.

Mr. WRIGHT. Mr. Speaker, in this debate upon this rule, the spokesmen for the minority remind me of the young man who slew his mother and father and then threw himself on the mercy of the court on the ground that he was an orphan. If any single deed during the period of time in which the budget process has been in effect has placed that process in mortal jeopardy, then that deed was the Gramm-Latta reconciliation bill of last year. If the budget process dies, the hand that held the dagger will be named Gramm-Latta. This is what the leaders of the minority wish to force upon us again—one vote up or down, blind and oblivious to the contents or the effects of one humongous package which they could merchandise by sloganeering.

The question here is whether we get to vote on the merits of individual changes that affect people's lives, out in the sunlight and open air where the public can see exactly what we are for and what we are against, or whether the Republican minority again get to package all of their grand array of proposals into one amorphous whole where the specific afflictions of the public can be hidden and advertise all of it under some nebulous, euphonious title, such as "President Reagan's Program."

The gentlemen who presented the Gramm-Latta reconciliation bill last year and who quite obviously want the opportunity to do the same sort of thing again this year, rather than permitting members to vote on the merits of each proposition, have not the faintest idea how many laws they repealed and amended by that monstrous piece of legislation. It was not even written in the legislative branch. It was written in the executive branch of Government. That is the kind of craven surrender of our legislative resonsibilities that they want us to indulge in again.

So here is the question—not really whether you favor capping retirement benefits, but whether you favor coming out in the open and taking a stand on the subject of capping retirement benefits.

The gentleman from Illinois, my distinguished friend, the minority leader, makes much of the fact that the Caterpillar Co. and other employers in his district so hard hit, smitten by this Reagan recession, have found it necessary to cap and to cut their employees' pay. That is a sad and tragic thing that has been visited upon those people, to some quite considerable extent by the repeal and radical amending of laws that occurred surreptitiously in that one huge package in which nobody among us knew nor could fully identify what it contained.

Because in that one arcane vote we removed from our arsenal almost our entire retinue of antirecession weap-

ons and tools, we now stand virtually powerless to do much about the Reagan recession. And that is what they would do to the country again.

The gentleman from Illinois seems to say, "Oh, what a fine thing it is that private employers have curtailed increases in wages and salaries for their employees, and why do not we in the Government do the same?"

The gentleman full well knows that we have done the same. We put a cap of 4 percent on pay increases for all employees of the Federal Government. That was a bullet to bite. But let me just ask if the gentleman knows of a single private employer anywhere in this land which has been forced by the dire circumstances to curb the retirement benefits which are due to their employees through pension programs. Not one. And I pray to God that it will never happen. That is a sacred commitment that was made to people now retired.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. I yield to my distinguished friend, the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, does the gentleman know of any private employee pension fund that is indexed to the cost of living index?

Mr. WRIGHT. Yes, I would respond to the gentleman, I do believe that in some a clear relationship exists.

Mr. MICHEL. How many of them?

Mr. WRIGHT. I think of a number of them.

Mr. MICHEL. The gentleman would have a hard time naming one of significance.

Mr. WRIGHT. There are a great number of private pension funds that have been negotiated by the labor unions and other employee organizations with their employers that rise and fall by the amount of money that is put into the funds, and the amount of money that is put into those funds has a direct relation to the cost of living and the pay, often tied to the cost of living, that the people receive who contribute to the funds. That is general. And I am not aware of a single one of them that has curbed retirement benefits. But that is not the point.

The point is, if the gentleman thinks that is a good idea, he is going to have an opportunity to vote to do it. This rule is not a gag rule. It gives him that privilege. The thing that obviously offends the minority is the fact that it does not give them the privilege of surreptitiously hiding repealers of laws, whole laws, as they did last year in this Gramm-Latta package which they foisted upon us to accept blindly.

The gentleman from Ohio speaks of courage. I should think it takes more courage to face the consequences of your votes issue by issue and to come out in the open and say that you are voting for or against a given proposition, than to hide the consequences of our actions in some nebulous package. It may take courage, in some distorted sense of that term, to vote blindly and without any knowledge of the consequences. But it certainly is not that kind of courage which is needed.

Mr. DERWINSKI. Mr. Speaker, will the gentleman yield?

Mr. WRIGHT. No; not at this point, unless the gentleman wants to make a guess. How many laws do you suppose were repealed or amended by the Gramm-Latta reconciliation bill last year? Could the gentleman make a guess?

Mr. DERWINSKI. No; but I will accept any statement the gentleman makes.

Mr. WRIGHT. Well, the gentleman voted for it. But, of course, I do not blame the gentleman for not knowing all the laws it repealed. I did not know how many. I do not think there is a Member of the House who knew. I have a list of them. By this one single vote last year, those who voted for Gramm-Latta II voted to repeal or amend some 436 laws. Here in my hand is a list of them. These are the laws that you voted to amend or repeal by packaging everything in one package and letting the executive branch of Government, the Office of Management and Budget, write our laws, repeal our laws, amend our laws, at their whim while demanding that Congress serve merely as a passive ratifying agent of the Executive will.

And that is the kind of thing that you would have us do again? Is that courage? It takes a kind of blind courage, I suppose, to do it. But it is not wisdom. It is not legislation. Instead we offer you the opportunity to vote issue by issue, to take your stand in the open and to face the consequences of that stand.

Mr. Speaker, I urge an "aye" vote on this rule.

Mr. LATTA. Mr. Speaker, I yield 30 seconds to the gentleman from Illinois (Mr. DERWINSKI).

Mr. DERWINSKI. Mr. Speaker, I cannot help but just ask, after the great performance—I stress "performance"—of the majority leader, why this charge of hiding from a tough vote cannot be applied to the majority position on the Ways and Means Committee. But at some point, I guess that will be explained to us. However, I want to again commend the majority leader for a wonderful, wonderful performance.

Mr. LATTA. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. BAILEY).

Mr. BAILEY of Missouri. Mr. Speaker, regardless of previous speakers, there is an expression that is appropriate here, and the expression is that the time to kill a snake is the first time you see it.

Now, we have gone through this charade before of passing bills that are meaningless. Our retired people deserve better than this. Our retired people all across America deserve better than to be used as a political pundit to be passed back and forth between the bodies of this House, to be made a show of on the floor of the House.

We were very proud when we passed out a bill on both sides of the aisle that claimed that we were only going to pass a budget that had $100 billion of deficits and that was going to do great things for the economy in America. We cannot have it. As the gentleman from California accurately said, but inaccurately portrayed, we cannot have it both ways. We should not make this political football of older Americans. Retired people simply deserve better.

The SPEAKER pro tempore (Mr. WRIGHT). The gentleman from Ohio (Mr. LATTA) has 1½ minutes remaining.

Mr. LATTA. Mr. Speaker, I yield myself 1½ minutes.

Let me say that I join the gentleman from Illinois in commending our majority leader on his performance. I have seen it many, many times before. Let me say, he leaves out many, many things, naturally.

One thing that he fails to tell the American people is that the piece of paper that he hung up there reduced spending by $35 billion, and you would have had $35 billion more in spending had we not passed it.

Now, it takes real courage to pass that deficit onto your kids, but it takes real courage to vote against spending it. That is what we are attacking here today, the courage.

I have been around this place long enough to know that there is not enough courage around here individually on these bills to vote them up or down. You have to package them to get a little courage in this place. You have to do something about it. Let me say that if you bring them back one at a time, the courage is going to be lacking.

The gentleman who was in the well condemning the process that we followed last year providing $35 billion in less spending to the American people happens to have the votes to reduce that spending, but where are they? They are lacking, but you go around the country saying, "Oh, look at the Republicans; they are responsible for this increased spending." Ridiculous, who controls the legislation that passes this House? The gentleman who was in the well.

Let me say also that the Senate has complied. They packaged it. It is already done. They are going to take it up next Wednesday.

Now, are we going to hear the same speech for the umpteenth time when that Senate bill comes over here? I think we will not. We have heard it many times before.

So let us act a little responsibly and say we are going to do something about reducing expenditures, which is long overdue. The American people are waiting for some action by this House.

Mr. BEILENSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me say just a couple of words in conclusion, if I may.

The gentleman from Ohio expressed some concerns on a couple of occasions about the ability and the courage of the House to cut the budget. The Member from California shares those concerns. But apparently the Committee on Post Office and Civil Service was unable to agree on cutting the amounts which were requested or provided for in the budget resolution. They apparently looked at the vote of the whole House, back on May 27 of this year, just a month or so ago, where, by a vote of 327 to 94 the full House refused to cap the COLA's and the committee itself followed the lead of the House and refused to do so. But at the same time, the committee, to its credit, in my opinion, came to the Committee on Rules yesterday and, in doing so, was supported by the chairman of the Budget Committee and by the chairman of the Budget Committee's Task Force on Reconciliation, to ask for this rule, to ask specifically for a rule that provided for the consideration of an amendment to cap the COLA's that would in fact, if adopted, cut spending by approximately the amount that was provided for in the budget resolution.

The gentleman from Ohio made the point earlier that the bill was not physically sent to the Budget Committee, as the first budget resolution provides for. That in fact is true. That in fact also, in the opinion of this Member, is not terribly important. The Budget Committee has only a ministerial duty to take those bills and to pass them on to the House. In fact, if the bill had physically gone to the Budget Committee, it then simply would have gone to the Rules Committee thereafter and back to the House, as in fact it has. Or if the Budget Committee had in fact taken this and other reconciliation bills and packaged all of the reconciliation bills into a single bill, as the gentleman from Ohio suggested that it could do or should do, we still would have been short on the savings. We would still at that time, when the final reconciliation, the packaged reconciliation bill came to the floor, would had to have made in order an amendment to cap the COLA, as in fact we have provided for today.

So the net result, in the opinion of the Member from California, is exactly the same. We have to face up to this vote at one time or another, so let us face up to it now when it is before us. We are going to have to decide whether or not to cap the COLA either today or tomorrow or a month from now. Let us bite the bullet and do it right now.

Mr. LATTA. Mr Speaker, will the gentleman yield?

Mr. BEILENSON. I yield to the gentleman from Ohio.

Mr. LATTA. Mr. Speaker, I want to thank the gentleman for yielding.

In the gentleman's explanation of the law, he left out one thing—and I am sure he did it intentionally.

As far as the Budget Committee is concerned, it is supposed to package these bills and send them to the floor in a resolution. Now, that is the purpose of it, and that is being forgotten in this process the Democratic leadership now wants to follow. That is contrary to the law itself.

Mr. BEILENSON. The gentleman from Ohio should not need to be reminded that there is nothing whatsoever in the law, the underlying, basic organic law (the Budget Act) that provides for reconciliation in any way subsequent to the first budget resolution. So that it is perfectly proper and not in contravention of any law that the bill comes now in this particular form, subsequent to the consideration and to the passage of the first budget resolution.

This Member alluded to the argument made by the gentleman from Ohio with respect to packaging the bills and made the point, I think a valid point, that we would have to face up to this particular amendment, this particular problem, nonetheless, whether it had been packaged or not.

The Member from California again suggests that we face up to it now. I urge the adoption of the rule.

Mr. Speaker, I move the previous question on the resolution.

□ 1145

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LATTA. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 240, nays 170, not voting 24, as follows:

[Roll No. 218]

YEAS—240

Addabbo	Fuqua	Nelligan
Akaka	Garcia	Nelson
Albosta	Gaydos	Nichols
Alexander	Gejdenson	Nowak
Anderson	Gephardt	Oberstar
Andrews	Gibbons	Obey
Annunzio	Gilman	Ottinger
Anthony	Ginn	Panetta
Applegate	Glickman	Parris
Aspin	Gonzalez	Patman
AuCoin	Gore	Patterson
Bailey (PA)	Gray	Pease
Barnard	Guarini	Perkins
Barnes	Hall (OH)	Peyser
Bedell	Hall, Ralph	Pickle
Beilenson	Hall, Sam	Price
Benjamin	Hamilton	Rangel
Bevill	Hance	Ratchford
Bingham	Harkin	Reuss
Boggs	Hatcher	Richmond
Boland	Hawkins	Rinaldo
Bolling	Heckler	Rodino
Boner	Hefner	Roe
Bonker	Heftel	Rose
Bouquard	Hendon	Rosenthal
Bowen	Hertel	Rostenkowski
Brinkley	Hightower	Roybal
Brodhead	Holland	Russo
Brooks	Hollenbeck	Sabo
Brown (CA)	Holt	Santini
Burton, John	Horton	Savage
Burton, Phillip	Howard	Scheuer
Byron	Hoyer	Schneider
Carney	Hughes	Schroeder
Chappell	Hutto	Schulze
Chisholm	Jacobs	Schumer
Coelho	Jenkins	Seiberling
Collins (IL)	Jones (NC)	Shamansky
Conyers	Jones (OK)	Shannon
Courter	Kastenmeier	Sharp
Coyne, James	Kazen	Shelby
Crockett	Kennelly	Shuster
D'Amours	Kildee	Simon
Daniel, R. W.	Kogovsek	Skelton
Daschle	Kramer	Smith (IA)
Davis	Lantos	Smith (NJ)
de la Garza	LeBoutillier	Solarz
Deckard	Lehman	St Germain
Dellums	Leland	Stark
Derrick	Lent	Stokes
Dicks	Levitas	Stratton
Dingell	Long (LA)	Studds
Dixon	Long (MD)	Swift
Donnelly	Lowry (WA)	Synar
Dorgan	Luken	Traxler
Dougherty	Lundine	Trible
Dowdy	Markey	Udall
Downey	Martinez	Vento
Dwyer	Matsui	Volkmer
Dyson	Mattox	Walgren
Early	Mavroules	Washington
Eckart	Mazzoli	Watkins
Edgar	McCurdy	Waxman
Edwards (CA)	McGrath	Weaver
English	McHugh	Weiss
Ertel	Mica	Whitehurst
Evans (IN)	Mikulski	Whitley
Fary	Miller (CA)	Whitten
Fascell	Mineta	Williams (MT)
Fazio	Minish	Wirth
Ferraro	Mitchell (MD)	Wolf
Fithian	Mitchell (NY)	Wolpe
Flippo	Moakley	Wright
Florio	Molinari	Wyden
Foglietta	Mollohan	Yates
Foley	Mottl	Yatron
Ford (MI)	Murphy	Young (AK)
Fowler	Murtha	Young (MO)
Frank	Natcher	Zablocki
Frost	Neal	Zeferetti

NAYS—170

Archer	Bliley	Cheney
Ashbrook	Breaux	Clausen
Atkinson	Broomfield	Clinger
Badham	Brown (CO)	Coats
Bailey (MO)	Broyhill	Coleman
Beard	Burgener	Collins (TX)
Benedict	Butler	Conable
Bennett	Campbell	Conte
Bereuter	Carman	Corcoran
Bethune	Chappie	Coughlin

Craig	Ireland	Railsback
Crane, Daniel	Jeffords	Regula
Crane, Philip	Jeffries	Rhodes
Daniel, Dan	Johnston	Ritter
Dannemeyer	Kemp	Roberts (KS)
Daub	Kindness	Roberts (SD)
DeNardis	LaFalce	Robinson
Derwinski	Lagomarsino	Roemer
Dickinson	Latta	Rogers
Dreier	Leach	Roth
Duncan	Lee	Roukema
Dunn	Lewis	Rousselot
Edwards (AL)	Livingston	Rudd
Edwards (OK)	Loeffler	Sawyer
Emerson	Lott	Sensenbrenner
Emery	Lowery (CA)	Shaw
Erdahl	Lujan	Shumway
Erlenborn	Lungren	Skeen
Evans (DE)	Madigan	Smith (AL)
Evans (IA)	Marlenee	Smith (NE)
Fenwick	Marriott	Smith (OR)
Fiedler	Martin (IL)	Snowe
Fields	Martin (NC)	Snyder
Findley	Martin (NY)	Solomon
Fish	McClory	Spence
Forsythe	McCollum	Stangeland
Frenzel	McDade	Stanton
Gingrich	McDonald	Staton
Goldwater	McEwen	Stenholm
Goodling	McKinney	Stump
Gradison	Michel	Tauke
Gramm	Miller (OH)	Tauzin
Green	Montgomery	Taylor
Gregg	Moore	Thomas
Grisham	Moorhead	Vander Jagt
Gunderson	Morrison	Walker
Hagedorn	Myers	Wampler
Hammerschmidt	Napier	Weber (MN)
Hansen (ID)	O'Brien	Weber (OH)
Hansen (UT)	Oxley	White
Hartnett	Pashayan	Whittaker
Hiler	Paul	Williams (OH)
Hillis	Petri	Winn
Hopkins	Porter	Wortley
Huckaby	Pritchard	Wylie
Hunter	Pursell	Young (FL)
Hyde	Quillen	

NOT VOTING—24

Bafalis	Dymally	McCloskey
Biaggi	Evans (GA)	Moffett
Blanchard	Ford (TN)	Oakar
Bonior	Fountain	Pepper
Brown (OH)	Hubbard	Rahall
Clay	Jones (TN)	Siljander
Coyne, William	Leath	Smith (PA)
Dornan	Marks	Wilson

□ 1200

Mr. CLAUSEN changed his vote from "yea" to "nay."

Messrs. CARNEY, MITCHELL of New York, KRAMER, McGRATH, COURTER, and ROBERT W. DANIEL, JR., changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 521, CALLING FOR MUTUAL NUCLEAR WEAPONS FREEZE AND APPROVAL OF SALT II AGREEMENT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 97-674) on the resolution (H. Res. 538) providing for consideration of the joint resolution (H.J. Res. 521) calling for a mutual and verifiable freeze on and reductions in nuclear weapons and for approval of the SALT II agreement, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6100, NATIONAL DEVELOPMENT INVESTMENT ACT

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 97-675) on the resolution (H. Res. 539) providing for consideration of the bill (H.R. 6100) to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 6324, ATMOSPHERIC, CLIMATIC, AND OCEAN POLLUTION ACT OF 1982

Mr. BEILENSON, from the Committee on Rules, submitted a privileged report (Rept. No. 97-676) on the resolution (H. Res. 540) providing for consideration of the bill (H.R. 6324) to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PROPOSAL TO RESCIND $83.5 MILLION IN BUDGET AUTHORITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 97—)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read, and, together with the accompanying papers, without objection, referred to the Committee on Appropriations and ordered to be printed:

(For message, see proceedings of the Senate of today, Wednesday, July 28, 1982.)

DEPARTMENT OF DEFENSE AUTHORIZATION ACT, 1983

Mr. PRICE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. PRICE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of Union for the further consideration of the bill, H.R. 6030, with Mr. AUCOIN (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose on Tuesday, July 27, 1982, pending was an amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The Chair recognizes the gentlewoman for 5 minutes in support of her amendment.

Mrs. SCHROEDER. Mr. Chairman. Today I am offering an amendment on behalf of myself, Representative KENT HANCE, and Representative BILL WHITEHURST to provide greater protection to former spouses of uniformed services personnel.

The primary purpose of the bill is to remove the effect of the U.S. Supreme Court decision in McCarty against McCarty which prohibited State courts from considering military retired pay as marital property according to their own domestic relations law.

This amendment does not dictate that military retired pay be divided in a divorce proceeding. The amendment simply returns to State courts the authority to treat military retired pay as it does other public and private pensions.

Before the June 26, 1981, McCarty ruling, all of the 8 community property States and a number of the 39 equitable distribution States permitted military retired pay to be considered a marital asset, subject to division. The three remaining separate "title" States—Mississippi, Virginia, and West Virginia—consider pensions to be the sole property of those who earn them. In at least six other States military retired pay may not be considered joint marital property subject to division. Nothing in this amendment would force States to change the way they normally treat pensions under their State domestic relations law.

Our amendment is modeled after S. 1814, the Uniformed Services Former Spouses' Protection Act, which was introduced by Senator ROGER JEPSEN, chair of the Senate Subcommittee on Manpower and Personnel, and unanimously reported by the Senate Armed Services Committee on July 14.

The problem addressed by this amendment is not new. For at least 4

years there have been Schroeder, Hance and Whitehurst former spouse bills pending before the Armed Services Committee. Although hearings were held on the former spouse issue in 1977, 1980, and 1981, no bill has yet been reported to the floor by the committee.

The McCarty decision of a year ago made a bad situation worse. Recently I received the attached letter from the American Bar Association which endorses this amendment. The ABA stated that in the McCarty decision:

> The Court has materially and adversely affected the practice of family law in the United States. More specifically, this decision has cast a shadow over untold thousands of final divorce decrees in this country.

Because of the failure of the Armed Services Committee to act and the confusion it has created in the States, and State courts are holding up action on divorce cases until Congress resolves this conflict. Since there is a need to speedily resolve this confusion between State and Federal law, we think it is essential to act quickly and are convinced that there is no better vehicle for consideration of this legislation than the defense authorization bill that is before us today.

This amendment does not break new ground, nor does it put former military spouses in a more advantaged position than other divorced spouses in the public and private sectors. This amendment is an attempt to play catch up ball for the military.

In 1978, the Congress enacted Public Law 95-366, which created a direct pay mechanism by which the Office of Personnel Management would honor valid court orders that divide Federal civil service pensions according to State law. In 1980 and 1982, much stronger provisions were enacted for divorced spouses of Foreign Service and CIA personnel which entitled them to a pro rata share of the retirement and survivors benefits subject to court review. Section 820 of the Foreign Service Act specifies that nothing in the act would prevent State courts from dividing the pension in the case of spouses married less than 10 years.

The amendment we offer today creates an orderly procedure for the submission of court orders to the Department of Defense. It establishes criteria court orders must meet before direct payment can be made to former spouses.

Furthermore, the amendment protects the rights of service members by limiting the total amount of disposable retired pay that can be given to one or more former spouses to 50 percent. In the case of multiple spouses, the legislation establishes the principle of first come, first served. The amendment also prohibits a State court from directing a service member to retire at a particular time in order to provide retirement pay to a former spouse. Finally, the amendment specifies that a former spouse cannot transfer, dispose of by will or inheritance, or sell her portion of retired pay.

Another provision of this legislation provides greater flexibility to the military member or retiree by permitting them to voluntarily elect survivors benefits for a former spouse. Currently, a military member is prevented from doing this by current statutes dealing with the survivors benefits plan (SBP).

Finally, this amendment addresses the problem of long-term military spouses who suffer from serious health conditions like cancer or multiple sclerosis who are cut out of military health care following a divorce. Most of us are familiar with the horror stories of these women who are unable to purchase private health insurance because of preexisting conditions and have their treatment stopped when a divorce occurs. This amendment provides 180 days of continued health coverage for divorced military spouses and permits continued military health treatment for unremarried former spouses married at least 20 years during active duty service who are receiving treatment for a preexisting health condition.

The health care provisions in this legislation are essential to protect the long-term spouse with preexisting health problems. Military spouses are more disadvantaged than are civil service divorced spouses, since dependents of civil servants are given 30 days following a divorce to convert to an individual health insurance policy under the Federal employees health benefits program, without taking a physical and regardless of any preexisting health problems.

Military organizations have opposed passage of this legislation, arguing that it could adversely affect future military recruiting and retention. The Senate Armed Services Committee requested the Department of Defense to furnish objective data which indicated that prior to the McCarty decision, in States that considered military retired pay as marital property, that military personnel management needs were adversely affected by the application of State property laws. The Department of Defense has not submitted any satisfactory empirical evidence to show that during the period prior to the McCarty decision, recruiting, retention, and personnel assignments were adversely affected by the application of State domestic relations law. The Senate Armed Services Committee concluded that this legislation would not be detrimental to military manpower management.

Other evidence that passage of this legislation would not hurt military recruitment and retention has been the experience with the Foreign Service Act of 1980, which provided much broader coverage to foreign service spouses than is proposed by this amendment. Since the passage of the Foreign Service Act its effects on moral in the foreign service community has been positive. There has been no increase in resignations; in fact, the attrition rate is currently running 20 percent below the anticipated projections.

Today we have an opportunity to vote greater protection for military spouses who have served alongside the service member as the backbone of the military family. We are a society which places value on home and family, encouraging women to stay home and take care of children. Yet, one of our most severe forms of economic discrimination is that we fail to attach an economic value to the contribution of the homemaker and fail to protect her economically after the end of a long marriage.

The older divorced homemaker is extremely vulnerable in our society. They frequently find it difficult to get a job because of high unemployment, lack of recent work experience, and the hesitation of employers to hire older workers. The later years frequently bring additional monetary burdens because of declining health. Because of a greater average lifespan, women far outnumber men among the Nation's elderly. According to census figures, there are over 5 million women over the age of 65 who live alone, and half of that number are living their last years below the official poverty line.

I urge my colleagues to vote in favor of this amendment and the protections it provides for military spouses.

AMERICAN BAR ASSOCIATION,
Washington, D.C., July 20, 1982.

Hon. PATRICIA SCHROEDER,
Committee on Armed Services,
Washington, D.C.

DEAR CONGRESSWOMAN SCHROEDER: We understand that during consideration by the House of H.R. 6030, Department of Defense authorization legislation, you may offer an amendment to H.R. 6030 to give the states, through their courts, the power to distribute community or equitable interests in military retirement or retainer pay. The American Bar Association applauds your efforts to give the states this power.

As you know, until June 26, 1981, many states recognized and awarded spousal interests in military retirement pay as community property and/or marital property of the parties. On June 26, the Supreme Court handed down a ruling in *McCarty* v. *McCarty* that took from the state courts their power in divorce actions to determine property rights in pension benefits where those benefits are derived from military service. The Court decided that such pension benefits are solely the property of the military member, notwithstanding any state court decree to the contrary. In so doing, the Court has materially and adversely affected the practice of family law in the United States. More specifically, this decision has cast a shadow over untold thou-

sands of final divorce decrees in this country.

Recognizing this situation, in January, 1982, the House of Delegates of the American Bar Association adopted the following resolution:

"*Resolved*, That the American Bar Association calls upon Congress to enact legislation making all deferred compensation derived from federal employment, such as pensions, retired pay and other income of that nature, subject to state property law, except as specifically exempted by explicit federal legislation."

Prior to that resolution and *McCarty*, in August, 1979, the House of Delegates of the American Bar Association adopted the following resolution:

"*Resolved*, that the American Bar Association supports the enactment of legislation which basically requires the Secretaries of the Armed Forces to recognize state court decrees of divorce, annulment or legal separation which recognize spousal interest and divide retired or retainer pay."

Based on these two resolutions, the American Bar Association has actively supported enactment of legislation such as S. 1814, the "Uniformed Services Former Spouses' Protection Act," recently ordered reported by the Senate Armed Services Committee. We would strongly support an effort to include such legislative provisions as an amendment to H.R. 6030.

Sincerely,

ROBERT D. EVANS,
Director.

□ 1215

I must say that the amendment I offer today is absolutely a bare minimum. It is not the bill that I have pushed in the past. I do not think it goes nearly far enough. But the reason I am here today pushing this—and I wish I could push more—is because this is a mirror image of the bill that came out of the Senate, out of Senator JEPSEN's committee, and I think that we will probably make some progress if we go along with that. At least we will begin.

If I had my way, we would give the military spouses at least the same rights.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mrs. SCHROEDER. I think we should give military wives at least equal rights with Foreign Service spouses and CIA spouses. That is what is in my bill and I wish I could bring to the floor. Unfortunately, because the session is running out, because of the time crunch, I think it is very important that we at least give military spouses the same rights that we have given civil service spouses, and that is in essence what the Jepsen provision does. So that is what my amendment does today.

Mr. HANCE. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Texas.

Mr. HANCE. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to associate myself with the remarks of the gentlewoman from Colorado. I think this is an amendment long past due.

If we look at the background and the history of what has happened to the military spouses, they have followed their husbands from base to base and from place to place and have not been able to establish a career of their own. If they are divorced at a later date, then as far as getting any type of the retired military pay—which is rightfully half theirs—they have to go to court and go from jurisdiction to jurisdiction. That makes it almost impossible for them to receive any of the benefits that they helped accumulate. It was a partnership during the marriage and the retirement benefits should be split equally.

Mr. Chairman, I think this addresses the problem. I commend the gentlewoman from Colorado.

Mrs. SCHROEDER. I thank the gentleman from Texas. Mr. Chairman, I also want to thank him for helping in this effort. We did get hearings on our bills. For a long, long time we have never been able to get it out of committee. I thank the gentleman for his assistance in that regard.

Mr. FROST. Mr. Chairman, will the gentlewoman from Colorado yield?

Mrs. SCHROEDER. I would be delighted to yield to the gentleman from Texas.

Mr. FROST. Mr. Chairman, I would like to join in strongly supporting the gentlewoman's amendment and I would like to further add that in my private law practice, prior to becoming a Member of Congress, I had the opportunity to represent women who were in this exact situation.

The law is not fair. The amendment is definitely needed for the courts in the State of Texas as well as others to be able to enforce this right and it cannot occur without the amendment offered by the gentlewoman from Colorado.

I would strongly urge that it be adopted.

Mr. Chairman, I rise in support of the amendment offered by my distinguished colleagues, Congresswoman PATRICIA SCHROEDER, and Congressmen KENT HANCE and WILLIAM WHITEHURST.

I am very happy to add my voice in support of legislation to protect retirement and health benefits for former military spouses. The legislation is sorely needed and long overdue. Especially so, given the Supreme Court decision in McCarty against McCarty which held that, in the absence of a Federal statute to the contrary, a State court may not order a division of military retirement pay. The State courts in Texas already consider such pay in divorce settlements; however, there is no garnishment or enforcement provision to insure the due award to a former spouse on the basis of a qualified court order. Thus, these benefits are lost to those individuals whose marriages end in divorce.

For the most part, the victims are women, at least 50 years of age, who have devoted themselves almost entirely to furthering their husband's military career and who, therefore, have had to uproot their children to move with their husbands to various military bases across the country and in other parts of the world. Because these women have generally been unable to pursue a career which could afford them any means of economic security and, again, because of their great contribution to their husand's career and, indeed, our national defense, some sort of legislative remedy is extremely important. I believe that the proposed amendment is the appropriate remedy. It does not divide military retirement pay but, rather, it authorizes the States to consider these benefits in divorce settlements. Second, it permits military personnel to designate a former spouse to receive survivors' benefits. And finally, it permits the continuation of health benefits for certain former spouses.

This amendment represents a moderate approach to the problem of former military spouses. And it is critical that it be approved without any further delay. For the sake of affected women and families in Texas and in your own States, I urge that you join me in supporting the amendment.

Mrs. SCHROEDER. I thank the gentleman from Texas for his comments. I think that is probably why the American Bar Association is also endorsing this, because they have had a lot of experience in this area.

Mr. PICKLE. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I would be delighted to yield to the gentleman from Texas.

Mr. PICKLE. I thank the gentlewoman for yielding to me.

Mr. Chairman, as I understand it, this amendment does not dictate that military retirement will be divided in a divorce proceeding but, rather, it defers to the State courts and it simply says that you follow the State court proceedings, if they have acted, and that the Pentagon would then abide by that, if a State decision has been reached.

Mrs. SCHROEDER. That is correct. The gentleman from Texas is correct.

Mr. PICKLE. If the gentlewoman will yield further, this is fairness; this is equity for the various parties concerned. We all know there are problems between the wives of a first marriage and the second marriage. But there ought to be procedure where there can be a division if the State

court orders it. I think it is a good amendment. I think it should be supported.

Mrs. BOUQUARD. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. I would be delighted to yield to the gentlewoman from Tennessee.

Mrs. BOUQUARD. I thank the gentlewoman for yielding to me.

Mr. Chairman, I certainly want to commend the gentlewoman from Colorado for this amendment. It is long overdue. As the gentlewoman knows, I am a cosponsor of her legislation to correct this inequity.

I think it should be pointed out that not only is a military spouse hindered from making a living in her own right because she is responsible for the children while the father is away, but there are so many instances, for instance in my district, where the wife indeed was kept at home taking care of her children because the children had a deficiency—mental retardation problems in this case—so she was unable to work. Then the children reached the age of 18, there was a divorce proceeding, and she was left completely without any sort of income.

Mr. Chairman, I do want to commend the gentlewoman for her amendment.

Mrs. SCHROEDER. I thank the gentlewoman from Tennessee for her comments and her help.

Mr. SAM B. HALL, JR. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. Mr. Chairman, I would be happy to yield to the gentleman from Texas.

Mr. SAM B. HALL, JR. Mr. Chairman, I would also like to commend the gentlewoman from Colorado (Mrs. SCHROEDER) and the gentleman from Texas (Mr. HANCE) and the gentleman from Virginia (Mr. WHITEHURST) for their introduction of this measure. I wholeheartedly support it.

There is one question I would like to ask for clarification.

I am looking at a letter I received from Mr. WHITEHURST dated July 21 which states that the act will become effective 120 days after enactment. There are no provisions for retroactive payment of previously court-awarded retirement benefits. The following quoted part of the letter is the portion I have some question about:

> And the Act applies only to those previous court orders that meet the langauage of the law.

My question is this: In all cases that have been disposed of prior to the enactment of this legislation, is there any language in this bill that will go back and cause a court to have the power and authority to reopen previously concluded final judgments?

Mrs. SCHROEDER. No, courts would not have to reopen any prior divorce settlements. This is molded on Senate bill S. 1814. Mr. WHITEHURST is correct.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has again expired.

(At the request of Mr. SAM B. HALL, JR., and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for an additional 3 minutes.)

Mrs. SCHROEDER. Mr. Chairman, what I would like to say is that Mr. WHITEHURST's representation is correct. No, there is nothing in the bill that deals with that.

Mr. SAM B. HALL, JR. There would be nothing that would allow a court, then, to reopen a previously adjudicated case?

Mrs. SCHROEDER. Not in the bill. This is prospective.

Mr. SAM B. HALL, JR. Nothing after the enactment of this act?

Mrs. SCHROEDER. There is nothing in the bill. State law may allow reopening for changed circumstances. But there is nothing in the bill to require it.

Mr. FORD of Michigan. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. I yield to the chairman of the Committee on Post Office and Civil Service, the gentleman from Michigan.

Mr. FORD of Michigan. I thank the gentlewoman for yielding.

Mr. Chairman, I would like to compliment the gentlewoman for her persistent pursuit of this issue and point out that in years past I have very strongly disagreed with some versions of amendments of this kind that have been offered by the gentlewoman from Colorado and others, and I want to compliment her on a very reasonable and rational approach to this problem that meets the genuine concerns that people have expressed with regard to pension benefits and annuities to our committee over the years, without jeopardizing the integrity of the military pension system.

Mr. Chairman, I think it is far superior, for example, to what we ended up doing with the Foreign Service officers, and I am proud to support the gentlewoman's amendment today and I compliment her on the very practical way in which she has accommodated all of our concerns.

Mrs. SCHROEDER. Mr. Chairman, I want to thank the gentleman from Michigan. His endorsement means a lot.

Mr. DONNELLY. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. I would be glad to yield to the gentleman from Massachusetts.

Mr. DONNELLY. I thank the gentlewoman for yielding to me.

Mr. Chairman, I would like to add my voice to the chorus supporting this amendment. It deserves to pass, and it deserves to pass unanimously.

The spouses of our military personnel are asked to sacrifice a great deal for their country, including the stability, security, and personal safety that the rest of their fellow citizens expect and enjoy. It is unconsionable that we should ask them to give up their legal rights in divorce court as well.

This amendment allows State courts to apply their own State laws to military retired pay in the same manner it is applied to all other private and civil service pensions. It provides a method for direct payment in compliance with court orders. It allows service members voluntarily to assign survivors benefits to a former spouse, while it prevents the courts from making such an assignment mandatory.

Among the other protections for the service member, this amendment prevents more than 50 percent of the disposable pay from being awarded in the property settlement. It also prohibits any court from ordering a member of the armed services to retire at a certain time in order to begin pension payments.

This amendment clarifies the intent of Congress concerning military pensions as urged by the Supreme Court's 1981 decision in McCarty against McCarty.

This is a step long overdue to provide equitable protection to the former spouses of our military personnel.

Mrs. SCHROEDER. I thank the gentleman for his comments. What he is saying is so important. It would be a crime to have this Congress adjourn and not have dealt with this issue.

Mr. FAZIO. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. I am glad to yield to the gentleman from California.

Mr. FAZIO. I thank the gentlewoman for yielding.

Mr. Chairman, I want to add my congratulations to the chorus that she has already heard today, in appreciation of the ongoing effort she has made to try to bring to this one last area of Federal law the equity she has already brought to people in Federal service, in Foreign Service, and other forms of public employment.

It is a tragedy that women who spend so many years of their lives working in tandem with their husbands in most cases—partners in the case where we are talking of women in the military, themselves—people who have dedicated their lives to the advancement of our country and our mutual interests must suffer when divorce ensues and they are far too often left with little or nothing.

The CHAIRMAN pro tempore. The time of the gentlewoman has again expired.

(On request of Mr. FAZIO and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. FAZIO. Mr. Chairman, these people are then treated arbitrarily, unlike all others in similar circumstances and other forms of Federal employment and, in effect, put in the position of being potential welfare recipients, something that is totally unfair and, of course, in our society something that some people see as degradation.

This amendment that concerns itself not only with retirement benefits but health benefits and with the need to enforce judgments of the courts is long overdue and is a comprehensive way of dealing with a social problem that for too long has been swept under the rug.

Mr. Chairman, I think women and men together, understanding the needs in this modern life where divorce is too often an occurrence that affects children as well as both partners, must come to the conclusion that this amendment, the way it is drafted, without any amendments that might somehow limit its application to only long-term marriages, for example, deserves the kind of support that the gentlewoman has been able to generate.

Mrs. SCHROEDER. I thank the gentleman for his comments. He is correct. This is the classic displaced homemaker case and the benefits of this legislation really go to the children. I think that is what is so important.

Mr. HOYER. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Maryland.

Mr. HOYER. I thank the gentlewoman for yielding.

Mr. Chairman, I congratulate the gentlewoman for her leadership on this issue, and also the gentleman from Texas and the gentleman from Virginia, along with other individuals who have been involved with this.

On a State level in Maryland, I worked on legislation for reform of the domestic relations law in our State, which was overwhelmingly adopted by the State of Maryland; it has worked very well and specifically incorporates exactly the same concept that the gentlewoman has in her amendment.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has again expired.

(On request of Mr. HOYER and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mr. HOYER. If the gentlewoman will yield further, Mr. Chairman, I think the substance of the gentlewoman's amendment certainly reflects the overwhelming majority view in this country as to the issue of equity and fairness in the marital relationship and I congratulate her and enthusiastically endorse and support her effort.

Mrs. SCHROEDER. I thank the gentleman from Maryland for his comments.

Mrs. BYRON. Mr. Chairman, will the gentlewoman yield to me?

Mrs. SCHROEDER. I am happy to yield to the gentlewoman from Maryland.

Mrs. BYRON. Mr. Chairman, I rise to add my support to this approval. It is one that I think most of us who are female members of the Committee on Armed Services have probably heard more often than our male colleagues.

I think many of the divorced spouses will identify with the female membership and have spent a great deal of time in my office discussing this issue with me on a 1-to-1 basis, as I know they have with my colleague from Colorado.

Mr. Chairman, I want to commend my colleague and voice my support for an amendment that I think is long overdue.

Mrs. SCHROEDER. I thank the gentlewoman from Maryland for her remarks.

Mr. JOHN L. BURTON. Mr. Chairman, will the gentlewoman yield to me at this time?

Mrs. SCHROEDER. I am happy to yield to the gentleman from California.

Mr. JOHN L. BURTON. I thank the gentlewoman for yielding to me.

Mr. Chairman, I rise in support of this amendment. It is something that is overdue. Those of us who represent constituencies with spouses who have been separated realize the inequities and unfairness they suffer as a result of the present circumstances.

So I again commend the gentlewoman and ask for strong support for this amendment.

Mrs. SCHROEDER. I thank the gentleman from California for his kind remarks.

Ms. FERRARO. Mr. Chairman, will the gentlewoman from Colorado yield to me at this time?

Mrs. SCHROEDER. I would be happy to yield to my colleague from New York.

Ms. FERRARO. I thank the gentlewoman for yielding to me.

Mr. Chairman, I think we were all extremely disappointed when the Supreme Court handed down the McCarty decision because I believe we felt at that point military wives were being treated very, very unfairly.

But what they did in that decision, and they did not discuss the merits of whether or not military wives are entitled to participation in the retired pay of their husband but, rather, the Supreme Court ruled that without a specific Federal statute addressing the issue a State court could not order a division of military retired pay between military annuitants and their divorced spouses. Federal law already allows State courts to make such a division concerning civil service and Foreign Service annuities. However, that same determination based on the merits of each individual case may not now be made concerning military pensions.

I believe that the amendment offered by the gentlewoman from Colorado rectifies that problem. The gentlewoman is dealing with the inequities of the situation and I certainly commend the gentlewoman from Colorado for her amendment and urge my colleagues to join me in supporting it.

Mrs. SCHROEDER. I think the gentlewoman makes an excellent point. What we are talking about is removing the second-class status that the Supreme Court gave to military spouses by that decision, and it is incredible that they do not have the rights that any other spouse in America does and yet they do more for the country than anyone else.

So it is just an absolute reversal of what should transpire. This is finally our chance to get it turned around.

Mr. SCHUMER. Mr. Chairman, will the gentlewoman yield to me at this time?

Mrs. SCHROEDER. I yield to the gentleman from New York.

Mr. SCHUMER. Mr. Chairman, I thank the gentlewoman for yielding.

Mr. Chairman, I rise in support of the amendment offered by the gentlewoman of Colorado and the gentlemen of Texas and Virginia. The need for this amendment has been well demonstrated by the unanimous support that it received in the Senate Armed Services Committee and the cosponsorships that it received from over 100 Members of this body.

I am sure that there is not a Member on the floor of the House today who does not recognize the significant contributions of military spouses, nor the difficult, transient life that the military asks them to lead. It does not take a great deal of imagination or insight for us to recognize that frequent military moves often preclude spouses from pursuing their own careers and establishing economic independence. As a result, military spouses are frequently unable to vest in their own retirement plans or obtain health insurance coverage from a private employer. Military spouses who become divorced often lose all access to retirement and health benefits—despite a "career" devoted to the military.

Unfortunately, the Supreme Court worsened the plight of military spouses in the McCarty against McCarty decision by denying State

courts the right to treat a military member's retired pay as property in a divorce settlement in the absence of a Federal statute. The responsibility for providing protection for former military spouses thus lies solely with the Congress, and we must recognize that retired pay and benefits are usually the only assets accrued by a military couple. Further, civil service pensions, and those of Foreign Service and CIA personnel, are subject to State law and may be considered marital property. Perhaps the greatest injustice of all is that, under current law, a military spouse who is fortunate enough to have a pension of her own may have to share that pension upon divorce, while her uniformed husband would not be required to do the same.

In a laudable effort to rectify this injustice, this amendment returns to the States the right to consider military retired pay as marital property at divorce. Further, in an effort to guarantee some protection for the military spouse who loses all health insurance coverage through divorce, the amendment provides for the continuation of military health benefits for an unremarried former spouse who was married to the service member for at least 20 years and undergoing treatment for a preexisting health condition.

It is certainly time for this Congress to admit to the reality of the sacrifices made by military spouses—sacrifices which too often backfire upon divorce. Military spouses are certainly owed the same security provided for their civilian counterparts. Therefore, I urge your support for this amendment.

□ 1230

Mrs. SCHROEDER. Mr. Chairman, I thank the gentleman.

Mr. FASCELL. Mr. Chairman, I move to strike the requisite number of words.

Mr. FASCELL. Mr. Chairman, I just take this time simply to indicate my support for the gentlewoman's amendment and to commend her for the diligence and perseverence which she has displayed on bringing this issue not only on this bill, but on other bills that the House has already acted on with respect to other agencies of the Government.

The principle is sound, and I would trust that my colleagues would join in supporting this amendment. It does not go as far as what was done with respect to other agencies, but at least it is a step in the right direction.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentlewoman.

Mrs. SCHROEDER. Mr. Chairman, I want to thank the gentleman because he helped so much with the Foreign Service spouses, and he is right, we were able to do more. I am very saddened that we cannot come and give military spouses at least equal rights with the Foreign Service and the CIA, but to not do anything would be a tragedy and really put them in the worst of all possible positions.

So, I thank the gentleman for his leadership and his help in moving the other matters. I think that is part of the reason why we are on the floor today. Had we not made those advances in other areas I am not sure we would have had the votes today.

Mr. WHITEHURST. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I have a statement here that I will submit, but I just want to make a few comments about this amendment.

This is not something that I think came to many of us as a burst of inspiration. I have been in this body for going on 14 years. I represent a district that is heavily impacted by the military. Fifty percent of the economy in my district rests on the Navy, so it is not surprising that I have thousands of not only active-duty personnel, but many thousands of retirees.

In the last 12 or 13 years, when I have had office hours in my district on Saturday morning, on a regular basis divorced spouses have come to see me to plead with me for help of some kind or another. I am sure the other people who are sponsors of this legislation or supporters of it could all cite the same kinds of horror stories I have listened to.

I remember one particular one that was the straw that broke the camel's back. A lady came in to see me. She was about 50 years old. She had been married for about 30 years. Her husband had been in the Navy a comparable length of time. He was getting out and, in leaving the Navy, he decided to make for himself a whole new life, and she was not included in it. So, he dropped her. He married a woman half his age. He bought himself a convertible, she said, with a flame down the side, and he dyed his hair.

I said, "I think he has a case of male menopause."

She said, "Well, what happens to me, because when I married him I wanted to go to school and improve my education." He said, "No, you stay home and take care of the children," so I have not been trained to do anything. I have no work experience, and here I am at the age of 50 and my health is not good. I cannot use the naval hospital in this district. I cannot use the commissary. I cannot use any of the facilities and I get no support from him. For 30 years I was married to this man and I took all the sacrifices of separation and trauma that go with being a Navy wife. Is this fair?"

I said, "It is absolutely not fair, and I am going to try to do something about it."

A few years back I introduced a modest piece of legislation to give the wives who had been married for 20 years and divorced at least medical care. We had hearings. The gentleman from California (Mr. JOHN BURTON) was there that day. I recall that he was instrumental in getting those hearings.

One of my colleagues was on that subcommittee and said, "The Defense Department tells us that the cost is going to be $30 million if we grant this medical care to these ex-wives. Can we afford it?"

I said, "That is less than the cost of two F-14's."

I submit to the Members that we have an opportunity this afternoon to set something right, not only in terms of medical benefits but also in terms of what I think the wives have earned. All we are doing is leaving it to the proper province, the State courts, to make a decision when there is a divorce settlement as to whether or not the wife is entitled to up to not more than 50 percent of that pension. I do not think that is unfair.

The only group in this country getting a Federal pension—and that includes us—that so far has been immune on this has been the military services, and it just seems to me that the Navy wives, and in fact all of the service wives, are entitled to something more than a certificate from the admiral in charge of the naval district or the captain of a ship telling them what great supporters they are of the Navy, or putting a logo on a grocery bag out of the commissary saying, "We are counting on you."

That is all they get for their sacrifices. We could not send ships to sea if we did not have the wives who are willing to stay back and be supportive of those men and raise those children.

So I say, the time is now. Let us pass this amendment and let us get on with doing something that we should have done a long, long time ago.

Mr. Chairman, I rise in strong support of the amendment offered by the gentlewoman from Colorado. The Uniformed Services Former Spouses Protection Act is legislation that is long overdue. While the Supreme Court decision in McCarty against McCarty in June 1981, served as the catalyst for this particular bill, many of you had already joined me and other colleagues in cosponsoring similar legislation aimed at correcting the inequities in the current system which unfairly penalize the long-term military spouse. My own bill covering health care benefits for spouses married for a minimum of 20 years was first introduced in 1976.

Since the McCarty decision, which held that in the absence of a Federal statute permitting such action, a State court may not order a division of military retired pay as part of a distribution of community property incident

to a divorce proceeding, cases all over the country have been taken back into court. Several State supreme courts are holding back on issuing decisions on the cases pending congressional action. People on both sides of this issue are being affected, and it is incumbent upon us to move on this matter as soon as possible.

In recent years, this body and the Senate enacted legislation protecting civil service spouses, Foreign Service spouses and CIA spouses, and I agree with the gentlewoman from Colorado that it is time that our long-term military spouses be recognized for their contributions and sacrifices. The amendment before us does not award a former spouse entitlement or rights to military retired pay, nor does it even sanction the division of retired pay; it simply does not prohibit it.

The primary purpose of this bill is to remove the effect of the U.S. Supreme Court decision in McCarty against McCarty, and thereby permit the Federal, State, and certain other courts, consistent with the appropriate laws, to consider military retired pay when fixing the property rights between the parties to a divorce, dissolution, or legal separation.

The service member is also protected by several clauses in this legislation. The award of retirement benefits as a division of personal property is limited to 50 percent of the total amount of disposable retirement or retainer pay of the service member. The former spouse cannot transfer, dispose of by will or inheritance, or sell her portion of retired pay, and the courts cannot direct that a service member retire at a particular time in order to effectuate any payment out of retired pay to the former spouse.

Other provisions in the amendment provide former spouses, who were married for a minimum of 20 years, with 180 days of health care immediately following the date of final decree, dissolution or annulment, provided that the former spouse remains unremarried. For spouses with preexisting conditions, health care can be extended by the service Secretary concerned if treatment for that condition was previously provided by the uniformed services.

Also, this legislation will permit the service member to designate his former spouse as annuitant for SBP benefits and provides that if the wife is so designated as part of a spousal agreement filed as part of a divorce decree, then the service member cannot change the commitment without first obtaining appropriate court or other approval.

The Uniformed Services Former Spouses Protection Act was passed by the Senate Armed Services Committee by a unanimous vote last week after a number of hearings, during which testimony was provided orally or in writing by several Senators and Congressmen, the Assistant Secretary of Defense for Manpower, Reserve Affairs and Logistics, the Deputy Assistant Secretary of Defense of Military Personnel and Force Management, three of the services' personnel chiefs, one Assistant Deputy Chief of Staff for Personnel, as well as service organizations representing active and retired military personnel and the active and divorced military spouses. The American Bar Association Section of Family Law and a number of other organizations were also provided an opportunity to have their views considered.

This is not a women's lib issue. It is an issue that strikes at the very heart of the traditional family concept, offering recognition and protection to those women willing to make the required sacrifices in support of a husband's military career. I need not stand here and extol the many contributions and sacrifices required by our military spouses. We are all well aware that if we did not have the dedication and support of these women in maintaining their homes through long separations, often giving up their own careers in order to follow their military husbands from pillar to post, and frequently enduring the stress of facing the real possibility of serious injury or loss of their loved ones in the name of defense, we would be hard pressed to retain the dedicated individuals so vitally needed to meet our defense requirements.

I believe that the legislation before us is the first step in establishing the recognition the military spouse earns. It offers the former spouse an effective collection mechanism for payment of lawful court orders and recognizes the unique status of military spouses, while protecting the service member. The time has come for us to back up those certificates of appreciation, recruiting advertisements, grocery bag logos, and laurels on a husband's efficiency report with meaningful legislation that offers personal security to long-term military spouses. I urge you to vote for this amendment.

● Mr. FITHIAN. Mr. Chairman, I rise in support of the amendment offered by the gentlewoman from Colorado which will provide economic protection to former spouses of uniformed services personnel.

It is long past time to require the Federal Government to recognize valid court orders which divide military retired pay between service members and their former spouses. Spouses of armed services personnel often make considerable contributions to the readiness and effectiveness of our military forces. Their voluntary efforts and support services have proven beneficial to the maintenance of our fighting forces. In addition, many such individuals make personal and professional sacrifices in order to fulfill their responsibilities as military spouses. They must accept hardships and burdens while stationed overseas which require personal fortitude and which frequently prevent them from establishing their own continuous employment record with its attendant retirement benefits.

Like similar legislation governing property settlements involving civil service, Foreign Service, and CIA pension benefits, Congresswoman SCHROEDER's amendment will permit courts to consider military retired pay in the same way they apply State law to other pension plans. While offering the possibility of equitable property settlements to the divorced spouses of military personnel, this amendment also provides protections to the military service member involved. The amendment permits State courts to determine whether or not to divide retirement benefits in cases of divorce, just as they retain authority to establish settlement agreements involving other property and income. This amendment also permits the service member to choose whether or not to assign survivors benefits to a former spouse. Most importantly, this amendment protects the military member by limiting to 50 percent the disposable income available for distribution in a settlement agreement.

Enforcement of divorce agreements which provide a fair settlement to former spouses of military personnel is overdue. This amendment will give courts that authority. I support the amendment and urge my colleagues to lend their support to the effort to bring the military retirement system in line with other Federal and private pension plans.●

● Ms. OAKAR. Mr. Chairman, I support the gentlelady from Colorado's amendment to the Department of Defense authorization bill, H.R. 6030. The amendment would allow the same equitable treatment of former spouses of military personnel as is afforded to former spouses of civil service personnel.

Specifically, Congresswoman SCHROEDER's amendment would permit the State courts to consider the military retired pay when fixing the property rights between the parties to a divorce. The amendment does not dictate that military retirement must be divided in a divorce proceeding. It simply defers to the State courts to make that decision on the basis of their own domestic relations law.

I support this amendment for two reasons: First, as chair of the Subcommittee on Compensation and Employee Benefits, I object to the inconsistent treatment of persons serving this country, whether in the military or in civilian service. During the 95th Congress, we enacted legislation requiring the Federal Government to honor

State court property settlements and court orders relating to civil service retirement system pensions. It is only fair that we extend those same provisions to the military retirement system. The Schroeder amendment would correct this inequity against an individual group: Military personnel and their spouses.

Second, I support this amendment because our failure to act favorably on the issue will, in many cases, prolong the agony of divorce. This is simply a cruel and unjust thing to do. Even Congress cannot be that callous.

The Supreme Court has ruled that in the absence of a Federal statute to the contrary, a State court may not order a division of military retired pay. In lieu of this, many State supreme courts are delaying action on divorce cases awaiting some kind of action by Congress. Divorce proceedings are traumatic enough without the needless delay caused by congressional inaction.

After nearly 5 years of discussion, and inaction on several pieces of legislation, I think it is time for Congress to exercise its responsibility. The time for debate is passed. The time for action is now. I urge my colleagues to support Congresswoman SCHROEDER's amendment.●

● Mr. MOAKLEY. Mr. Chairman, I wish to express my support for the spouse protection amendment to H.R. 6030, the defense authorization bill.

The career of a military, intelligence, or foreign service officer is indeed most difficult and demanding. These dedicated public servants deserve our praise and support; however, it is essential that we do not forget the unsung heroes—their spouses. Spouses of uniformed services personnel must also bear considerable burdens, the least of which is the requirement of continually having to leave one home and then establishing a new one. This instability prevents many of these giving people from developing a solid career of their own and often leaves them financially dependent upon their spouses.

Under current law, should a uniformed service officer and his or her spouse divorce, the spouse does not have the ability to receive any of officer's retired pay. The unfortunate 1981 Supreme Court decision in the case of McCarty against McCarty prevents State courts from dividing military retired pay in a divorce settlement, effectively leaving the former spouses of uniformed services personnel out in the cold.

The amendment offered by my distinguished colleagues would allow States to consider military retired pay when dividing property rights in a divorce settlement. My colleagues have spent a great deal of time and effort in explaining the details of their amendment, and I am convinced that their thoughtful amendment protects the rights of both service members and former spouses. I applaud my colleagues, Congresswoman SCHROEDER, Congressman HANCE, and Congressman WHITEHURST, for proposing this overdue and worthwhile amendment and urge all Members to join me in supporting it.●

AMENDMENT OFFERED BY MR. WHITE AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MRS. SCHROEDER

Mr. WHITE. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. WHITE as a substitute for the amendment offered by Mrs. SCHROEDER: Page 25, after line 25, insert the following new title (and redesignate the succeeding title and section accordingly):

TITLE IX—FORMER SPOUSES' PROTECTION PAYMENT OF RETIRED AND RETAINER PAY IN COMPLIANCE WITH COURT ORDERS

SEC. 901. (a)(1) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1407. Payment of retired and retainer pay in compliance with court orders

"(a)(1) Payment of retired pay or retainer pay that would otherwise be made to a member or former member of an armed force shall be paid (in whole or in part) by the Secretary concerned to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation.

"(2) Any payment under paragraph (1) to a person bars recovery by any other person.

"(b) Subsection (a) shall apply only to payments of retired pay and retainer pay made by the Secretary concerned after the date of receipt by the Secretary concerned of written notice of such decree, order, or agreement, and such additional information and documentation as the Secretary concerned may prescribe.

"(c) In this section, 'court' means any court of any State, the District of Columbia, or the Commonwealth of Puerto Rico.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1407. Payment of retired and retainer pay in compliance with court orders.".

(b) The amendments made by subsection (a) shall apply only to payments of retired pay and retainer pay for months beginning after the date of the enactment of this Act.

Mr. WHITE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. WHITE. Mr. Chairman, as the Members know, I have a slight case of laryngitis, but I cannot be silent when the House might produce what I regard as defective legislation. We are legislators, and I feel we should have a choice, an alternative in accordance with the principles of law in this Nation and in the States.

Now, of the two, the amendment of Mrs. SCHROEDER and the amendment of Mr. NICHOLS, I prefer Mr. NICHOLS' amendment. Chairman NICHOLS' amendment and mine were inspired by a decision of the Supreme Court in McCarty against McCarty which, as Mrs. SCHROEDER said, struck down disposition of retired pay as a property right because the Court said that Congress did not give authority to the State courts to dispose of retired pay. How many Members have read either of the two amendments, Mrs. SCHROEDER's or Mr. NICHOLS'? Mrs. SCHROEDER's amendment is 17 pages of very closely written language, and Mr. NICHOLS' amendment is over 21 pages long. Both create more loopholes than they seek to cure. In effect, they create new programs to administer when we are trying to cut down on programs.

My substitute amendment, taken from Congressman HANCE's bill, which many Members cosponsored, does a simple thing in two pages. It allows each State to adjudicate retired annuity as a property right in accordance with State law. It merely restores the procedures and rights of each State according to each State's as it was before the McCarty decision. It is a principle of law.

It does not talk about commissary or medical care, which have widespread implications which would be imposed at a time when our resources are already taxed. These commissary and medical privileges would establish a new principle of law, and would give a special privilege to a special class of people.

In one sense it could even be called socialized medicine, and in another sense it would extend Government medical care to a different class of people who are not considered married dependents, and they would have use of the commissary under the same privileges.

This is a departure, and I think we cannot take it lightly. Nothing in these bills refers to who brings the divorce or who is the culpable party. One of the amendments, I might point out, by careful reading neglects to give jurisdiction to the wife in certain circumstances because the jurisdiction would refer only to the man, that is, to the military personnel and not to the spouse who is bringing the suit. So, there is a huge loophole that any lawyer could take advantage of.

□ 1245

So I say, let us do the simple thing. Let us do what the courts insisted on and put back the power to the States

to adjudicate under the laws of each State.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from Virginia.

Mr. WHITEHURST. Mr. Chairman, I am sorry that the gentleman is operating under a handicap, and I do not want to prolong the use of his voice, but he raised an important issue here.

In the Schroeder-Hance-Whitehurst amendment we have a provision that permits continued medical health treatment for an unremarried former spouse who was married to a service member during 20 years of active duty service if suffering from a preexisting medical problem that would prevent buying private health insurance.

Do I understand the gentleman's amendment would void this?

Mr. WHITE. Mr. Chairman, my amendment does not address that because all I am doing is to return to the States the power to adjudicate. Now, the court can adjudicate to the retiree or his spouse whatever medical care there is on the purchase of a health policy or whatever under the law. Each State can do it under the final judgment of the court, according to State law. In this instance what we are doing is creating a special class.

Mr. WHITEHURST. There is no doubt about it, but it is a special class that has been created already by the circumstances of being a service wife.

I do not want to repeat the remarks I made in the well a few minutes ago, but I think that there is a certain earned benefit, although it may not be spelled out.

If a woman has been married to a man for 20 years and he has comparable miitary service and she has a physical condition—let us say she even has a terminal disease, which can be very expensive—to say, "Well, the courts will handle this," or "we can put it in somebody else's hands to make a decision," I think, puts her in jeopardy, and my own judgment is that what is stated in this amendment is not so significant that it is going to burden the Government too greatly.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 4 additional minutes.)

Mr. WHITE. Mr. Chairman, let me respond to the gentleman.

Can the gentleman name me another class of people in this country who have that same advantage, another such class?

Mr. WHITEHURST. Mr. Chairman, if the gentleman will yield, no, I cannot name him another. That is what makes it significant. For this reason, it is not going to be an undue financial burden.

Mr. Chairman, I would have to object to the gentleman's amendment on that basis.

Mr. WHITE. Mr. Chairman, we must remember there were no markup on this amendment. There is an opportunity for the House to pass a separate type of program, if that is what needs to be done, with good deliberation, if we want to organize such a thing, but right here we are doing it on the floor, creating a special class.

All I want to do is to go back and put the law where it was before the Supreme Court ordered that State courts could not adjudicate this problem, in the absence of authority from Congress.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentleman from California.

Mr. BADHAM. Mr. Chairman, I think that both the gentleman from Texas (Mr. WHITE) and the gentleman from Virginia (Mr. WHITEHURST) have hit on a problem that exists in this proposal. That is as far as I know, in any divorce proceedings the spouse who is not the breadwinner is divorcing and has a preexistent medical condition that may be terminal, as the gentleman suggests, and the employment over 20 years has been private employment and the nonbreadwinner is uninsurable that is just too bad.

The gentleman from Texas (Mr. WHITE) is suggesting is that that should not be at issue. I am inclined to agree with the gentleman from Texas on that. I do not know how we would make it otherwise without making a provision for every nonbreadwinner who is divorcing in the United States of America and who has a preexistent condition that is uninsurable.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. Mr. Chairman, the gentleman is still yielding to me, I believe.

I think the gentleman from Texas (Mr. WHITE) has a correct concept, because the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER) allows all things that are related to income or potential income to be laid on the bargaining table in the divorce court. I think the gentleman from Texas makes his point simply, that each State has its own laws and therefore allows a heretofore federally preexempted item to be laid before the State courts

I would be inclined to support the gentleman's substitute for the simple reason that it makes an item negotiable and should be negotiable as it is in any other type of employment.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. WHITE. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, I think one of the things we are missing is that there were a lot of hearings on this in the House and in the Senate, and what is so unique about this is that in the private sector, if you have that kind of a marriage and if, say, the breadmaker had been covered under a private insurance by the breadwinner and there is a preexisting condition, it usually is taken into account in the court and they can order continued coverage by the private carrier because the person was already covered.

The problem here is that they are covered under the military health plan and they are not carrying private insurance. There is no way that you can then shift and buy private insurance on the outside. So it is a unique case, I submit.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 1 additional minute.)

Mr. WHITE. Mr. Chairman, the court can insist that the party to the lawsuit, the breadwinner, provide for the medical care. That can be done in the divorce proceedings. That is taken into consideration.

Mrs. SCHROEDER. But, if the gentleman will yield, the former spouse cannot purchase that insurance. That court order does not mean anything if an insurance company will not sell you that insurance. They are usually locked in to cover someone who has been insured a long time in the private sector. But this is a person coming out of military medicine and suddenly being thrown into the private sector, and there are not any insurers that I know of that will insure someone in that situation.

Mr. WHITE. But the court can insist on compliance with the court's rules or the order, which would include payment of medical bills.

Mrs. SCHROEDER. But, if the gentleman will yield further, the medical bills may be catastrophic and the gentleman may not be able to pay them, or the gentlewoman, whoever it happens to be. So I think the Senate was very wise. I know the gentleman does not like all the pages, but what they said was, No. 1, because it is a 20-year marriage, which is a long time, it is a preexisting medical condition, so you could not buy the insurance in the private sector.

The CHAIRMAN pro tempore. The time of the gentleman from Texas (Mr. WHITE) has again expired.

(By unanimous consent, Mr. WHITE was allowed to proceed for 2 additional minutes.)

Mr. WHITE. Mr. Chairman, let me answer the gentlewoman from Colorado (Mrs. SCHROEDER) on that before the time expires again.

If the gentlewoman is talking about a principle of law, then why not provide that all spouses who are in the same boat in this country would still have an opportunity for medical care at public hospitals or something of this nature? That is the point I am making.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, for all spouses in the private sector who are under some kind of medical care, there is an option by the court to cover that kind of thing. That is feasible.

Mr. WHITE. No, I am not talking about that. I am talking about the despondent condition she mentioned.

Mrs. SCHROEDER. In the military?

Mr. WHITE. No. Where there is nothing, then why not, if we are going to say the military spouses' health will be covered, allow all spouses in a divorce action the opportunity to go to a Government hospital? Why have the change?

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield, I do not think he is understanding what I am saying. I am saying that it came about because of the hardship involved, and you could do something about the spouses in the private sector but you could not do something about the spouses in a military sector with a preexisting condition if you are the court and you feel an equity should be done.

Mr. WHITE. All right. The gentlewoman wants the taxpayers to support the people ad infinitum. But we have already overburdened facilities, and I do not think we can go into this thing with this type of program when the courts have the ability to adjudicate in a divorce action in their jurisdictions to take care of such things.

Mrs. SCHROEDER. Mr. Chairman, if the gentleman will yield further, the DOD has said the maximum amount this would cost is maybe $400,000. We are not talking about the taxpayers picking up all of this. We are only talking about a very specific case—20 years of marriage, a preexisting medical condition, and they cannot buy insurance on the outside.

The other spouse may want to help but cannot, if you have a catastrophic medical care.

This is being considered in the name of equity. If you serve your Government that long, that is a very unique situation. So it is very specific and very limited.

Mr. WHITE. Mr. Chairman, instead of going to a new program, I say that here is our option for the basic restoration of rights to the courts.

Mr. BEDELL. Mr. Chairman, I move to strike the requisite number or words.

Mr. Chairman, on June 26, 1981, the Supreme Court ruled in McCarty against McCarty that military retirement pay could no longer be considered a marital asset subject to division in divorce proceedings because of the lack of a Federal statute permitting such action. The Court upheld the right of States to determine matters of family law in all cases except those involving military retirement pay.

I am here today to support a measure which I believe would remedy such an inequity, the Schroeder-Hance-Whitehurst amendment. If we are to assume that marriage is a shared enterprise, then we must insure that any and all wealth earned and accumulated, including pensions, should at least be divided equitably. The Congress has responded to the needs of former spouses of Government employees and set a precedent by enacting Public Law 95-366 in 1978, the Foreign Service Act in 1980, and the CIA Spouses Equity Act of 1982. We now should carry this concept one step further by including military retirement pay as marital property.

Ex-Partners of Servicemen for Equality (EXPOSE) is a group established in 1980 to alleviate the plight of the divorced military wife. With a membership of 3,500, its membership statistics show that on the average, their age is 52, they have been married 25 years, and have devoted 20 years to the military.

The National Military Wives Association's data show that many military wives now work outside the home, generally by necessity. However, because of frequent moves, these women are unlikely to stay at one job long enough to earn the right to their own pensions. In addition, their average yearly earnings are considerably smaller and their unemployment rate considerably higher than their civilian counterparts. In most cases, the exwives have custody of the children. Nationwide, 98 percent of divorce settlements give women custody, and yet only 4 percent of divorced women receive alimony and just 22 percent receive child support.

Health insurance is an additional concern. Almost all employers have health insurance plans that guarantee a conversion option to a spouse upon divorce—except the uniformed services. The divorced military spouse does not have the opportunity of converting her CHAMPUS coverage to an individual plan, and many cannot obtain medical coverage because they have a preexisting health problem. For those women who are either too old, too ill, or too poor to obtain private health insurance coverage, their only prospect for decent medical care is through welfare.

I feel it is important to note that this widely supported bipartisan amendment would not entitle a former military spouse to retirement pay nor would it require states to divide military pensions. It simply would allow States to treat military pensions and civilian pensions similarly in a divorce settlement.

In conclusion, I rise today in support of the Schroeder-Hance-Whitehurst amendment to allow State courts the right to treat a military member's retired pay as property in a divorce settlement. Our sense if equity requires that we recognize the contribution of spouses and former spouses as an important economic right.

AMENDMENT OFFERED BY MR. NICHOLS TO THE AMENDMENT OFFERED BY MRS. SCHROEDER

Mr. NICHOLS. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. NICHOLS to the amendment offered by Mrs. SCHROEDER: Strike out everything after section 901 in the matter proposed to be inserted by the amendment and insert in lieu thereof the following:

PAYMENTS OF RETIRED AND RETAINER PAY

SEC. 902. (a) Chapter 71 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1408. Payment of retired or retainer pay in compliance with court orders

"(a) In this section:

"(1) 'Court' means—

"(A) any court of competent jurisdiction of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(B) any court of the United States (as defined in section 451 of title 28) having competent jurisdiction; and

"(C) any court of competent jurisdiction of any foreign country with which the United States has an agreement requiring the United States to honor any court order of such country.

"(2) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such previously issued decree), which—

"(A) is issued in accordance with the laws of the jurisdiction of that court;

"(B) provides for—

"(i) payment of child support (as defined in section 462(b) of the Social Security Act (42 U.S.C. 662(b)));

"(ii) payment of alimony (as defined in section 462(c) of the Social Security Act (42 U.S.C. 662(c))); or

"(iii) division of property (including a division of community property); and

"(C) specifically provides for the payment of an amount, expressed in dollars or as a percentage of disposable retired or retainer pay, from the disposable retired or retainer pay of a member to the spouse of former spouse of that member.

For purposes of this definition, 'final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for taking such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has

been finally decided under the laws applicable to such appeals.

"(3) 'Disposable retired or retainer pay' means the total monthly retired or retainer pay to which a member is entitled under the provisions of this title (other than chapter 61 of this title), title 14, section 3(a) of the Act of August 10, 1956 (70A Stat. 619; 33 U.S.C. 857a(a)), or section 221(a) of the Public Health Service Act (42 U.S.C. 213a(a)) less amounts which—

"(A) are owed by such member to the United States;

"(B) are required by law to be, and are deducted from the retired or retainer pay of such member, including fines and forfeitures ordered by courts-martial, Federal employment taxes, and amounts waived in order to receive compensation under title 5 or title 38;

"(C) are properly withheld for Federal, State, or local income taxes purposes, if the withholding of such amounts is authorized or required by law and to the extent such amounts withheld are not greater than would be authorized if such member claimed all dependents to which he was entitled;

"(D) are withheld under section 3402(i) of the Internal Revenue Code of 1954 (26 U.S.C. 3402(i)) if such member presents evidence of a tax obligation which supports such withholding;

"(E) are deducted as Government life insurance premiums (not including amounts deducted for supplemental coverage); or

"(F) are deducted because of an election under chapter 73 of this title to provide an annuity to a spouse or former spouse to whom payment of a portion of such member's retired or retainer pay is being made pursuant to a court order under this section.

"(4) 'Member' means a person who is or was appointed or enlisted in, or conscripted into, any of the uniformed services, and includes a former member.

"(5) 'Secretary concerned' has the meaning given that term by section 101(5) of title 37.

"(6) 'Spouse or former spouse' means the husband or wife, or former husband or wife, respectively, of a member who, on or before the date of a court order, was married to that member.

"(7) 'Uniformed services' has the meaning given to that term by section 101(3) of title 37.

"(b) For the purposes of this section—

"(1) service of a court order is effective if—

"(A) an appropriate agent of the Secretary concerned designated for receipt of service of court orders under regulations prescribed pursuant to subsection (h) or, if no agent has been so designated, the Secretary concerned, is personally served or is served by certified or registered mail, return receipt requested;

"(B) the court order is regular on its face;

"(C) the court order or other documents served with the court order identify the member concerned and include the social security number of such member; and

"(D) the court order or other documents served with the court order certify that the rights of the member under the Soldiers' and Sailors' Civil Relief Act of 1940 were observed; and

"(2) a court order is regular on its face when the order—

"(A) is from a court of competent jurisdiction;

"(B) is legal in form; and

"(C) includes nothing on its face that provides reasonable notice that it is issued without authority of law.

"(c)(1) Subject to the limitations of this section, a court may treat disposable retired or retainer pay payable to a member for pay periods beginning on or after June 26, 1981, either as property solely of the member of as property of the member and his spouse in accordance with the law of the jurisdiction of such court if the spouse was married to the member for a period of not less than 10 years during which the member performed at least 10 years during which the member performed at least 10 years of service which is creditable in determining the member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services.

"(2) Notwithstanding any other provision of law, this section does not create any right, title, or interest which can be sold, assigned, transferred, or otherwise disposed of (including by inheritance) by a spouse or former spouse.

"(3) This section does not authorize any court to order a member to apply for retirement or retire from the uniformed services at a particular time in order to effectuate any payment under this section.

"(4) A court may not treat the disposable retired or retainer pay of a member in the manner described in paragraph (1) unless the court has jurisdiction over the member by reason of (A) his residence, other than because of military assignment, in the territorial jurisdiction of the court, (B) his domicile in the territorial jurisdiction of the court, or (C) his consent to the jurisdiction of the court or unless the marriage was performed in the territorial jurisdiction of the court.

"(d)(1) Not later than 90 days after the effective service of a court order with respect to a member who is entitled to receive retired or retainer pay, or, in the case of a member who, on the date of the effective service of a court order with respect to such member, is not entitled to receive retired or retainer pay, not later than 90 days after such member first becomes entitled to receive retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member the amount of disposable retired or retainer pay specifically provided for in the court order.

"(2) Payments under this section shall not be made more frequently than once each month, and the Secretary concerned shall not be required to vary normal pay and disbursement cycles for retired or retainer pay in order to comply with any court order.

"(3) Payments from the disposable retired or retainer pay of any member pursuant to this section shall terminate in accordance with the terms of the applicable court order, but not later than the date of the death of the member or the date of the death of the spouse or former spouse to whom payments are being made, whichever occurs first, and in the case of a former spouse, shall terminate with respect to alimony or a division of property (including a division of community property) upon the remarriage of the former spouse before the age of 60.

"(4) If a court order described in paragraph (1) provides for a division of property (including a division of community property) in addition to an amount of disposable retired or retainer pay, the Secretary concerned shall, subject to the limitations of this section, pay to the spouse or former spouse of the member, from the disposable retired or retainer pay of the member, any part of the amount payable to the spouse or former spouse under the division of property upon effective service of a final court order of garnishment of such amount from such retired or retainer pay.

"(e)(1) The total amount of the disposable retired or retainer pay of a member payable under subsection (d) shall not exceed 50 percent of such disposable retired or retainer pay.

"(2) In the event of effective service of more than one court order which provide for payment to a spouse and one or more former spouses or to more than one former spouse from the disposable retired or retainer pay of one member, such pay shall be used to satisfy, subject to the limitations of paragraph (1), such court orders on a first-come, first-served basis. Such court orders shall be satisfied (subject to the limitations of paragraph (1)) out of that amount of disposable retired or retainer pay which remains after the satisfaction of all court orders which have been previously served.

"(3)(A) In the event of effective service of conflicting court orders under this section which assert to direct that different amounts be paid during a month to the same spouse or former spouse from the disposable retired or retainer pay of the same member, the Secretary concerned shall—

"(i) pay to that spouse the least amount of disposable retired or retainer pay directed to be paid during that month by any such conflicting court order, but not more than the amount of disposable retired or retainer pay which remains available for payment of such court orders based on when such court orders were effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4);

"(ii) retain an amount of disposable retired or retainer pay that is equal to the lesser of—

"(I) the difference between the largest amount of retired or retainer pay required by any conflicting court order to be paid to the spouse of former spouse and the amount payable to the spouse or former spouse under clause (i); and

"(II) the amount of disposable retired or retainer pay which remains available for payment of any conflicting court order based on when such court order was effectively served and the limitations of paragraph (1) and subparagraph (B) of paragraph (4); and

"(iii) pay to that member the amount which is equal to the amount of that member's disposable retired or retainer pay (less any amounts paid during such month pursuant to legal process served under section 459 of the Social Security Act (42 U.S.C. 659) and any amounts paid during such month pursuant to court orders effectively served under this section, other than such conflicting court orders) minus—

"(I) the amount of disposable retired or retainer pay paid under clause (i); and

"(II) the amount of disposable retired or retainer pay retained under clause (ii).

"(B) The Secretary concerned shall hold the amount retained under clause (ii) of subparagraph (A) until such time as that Secretary is provided with a court order which has been certified by the member and the spouse or former spouse to be valid and applicable to the retained amount. Upon being provided with such an order, the Secretary shall pay the retained amount in accordance with the order.

"(4)(A) In the event of effective service of a court order under this section and the service of legal process pursuant to section 459 of the Social Security Act (42 U.S.C. 659), both of which provide for payments during a month from the retired or retainer pay of the same member, such court orders and legal process shall be satisfied on a first-come, first-served basis. Such court orders and legal process shall be satisfied out of moneys which are subject to such orders and legal process and which remain available in accordance with the limitations of paragraph (1) and subparagraph (B) of this paragraph during such month after the satisfaction of all court orders or legal process which have been previously served.

"(B) Notwithstanding any other provision of law, the total amount of the disposable retired or retainer pay of a member payable by the Secretary concerned under all court orders pursuant to this section and all legal processes pursuant to section 459 of the Social Security Act (42 U.S.C. 659) with respect to any member may not exceed 65 percent of the disposable retired or retainer pay payable to such member.

"(5) A court order which itself or because of previously served court orders provides for the payment of an amount of disposable retired or retainer pay which exceeds the amount of such pay available for payment because of the limit set forth in paragraph (1), or which, because of previously served court orders or legal process previously served under section 459 of the Social Security Act (42 U.S.C. 659), provides for payment of an amount of disposable retired or retainer pay which exceeds that amount available for payment in accordance with the limits of paragraph (1) and subparagraph (B) of paragraph (4), shall not be deemed to be irregular on its face solely for that reason. However, such order shall be deemed to be fully satisfied for purposes of this section by the payment to the spouse or former spouse of the amount of disposable retired or retainer pay available for such payment in accordance with the limits of paragraph (1) and subparagraph (B) of paragraph (4).

"(f)(1) The United States and any officer or employee thereof shall not be liable with respect to any payment made from retired or retainer pay to any member, spouse, or former spouse pursuant to a court order that is regular on its face if such payment is made in accordance with this section and the regulations prescribed pursuant to subsection (h).

"(2) No officer or employee of the United States who, under regulations prescribed pursuant to subsection (h), has the duty to respond to interrogatories shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or because of, any disclosure of information made by him in carrying out any of his duties which directly or indirectly pertain to answering such interrogatories.

"(g) Any person receiving effective service of any court order under this section shall, as soon as possible, but not later than 30 days after the date on which effective service is made, send a written notice of such court order (together with a copy thereof) to the member affected by such court order at his last known address.

"(h) The Secretaries concerned shall prescribe uniform regulations to administer this section within the uniformed services.".

(b) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1408. Payment of retired or retainer pay in compliance with court orders.".

SURVIVOR ANNUITIES

SEC. 903. (a) Section 1447 of title 10, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(6) 'Former spouse' means the surviving former husband or wife of a person who is eligible to participate in the Plan.

"(7) 'Court' has the meaning given that term by section 1408(a)(1) of this title.

"(8) 'Court order' means a court's final decree of divorce, dissolution, annulment, or legal separation, or a court ordered, ratified, or approved property settlement incident to such a decree (including a final decree modifying the terms of a previously issued decree of divorce, dissolution, annulment, or legal separation, or of a court ordered, ratified, or approved property settlement agreement incident to such previously issued decree).

"(9) 'Final decree' means a decree from which no appeal may be taken or from which no appeal has been taken within the time allowed for the taking of such appeals under the laws applicable to such appeals, or a decree from which timely appeal has been taken and such appeal has been finally decided under the laws applicable to such appeals.

"(10) 'Regular on its face' has the meaning given to that term by section 1408(b)(2) of this title.".

(b)(1) Section 1448(a) of such title is amended—

(A) in paragraph (3)(A) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,"; and

(B) in paragraph (3)(B) by inserting "or elects to provide an annuity under subsection (b)(2) of this section," after "for his spouse,".

(2) Section 1448(b) of such title is amended to read as follows:

"(b)(1) A person who is not married and does not have a dependent child when he becomes eligible to participate in the Plan may elect to provide an annuity to a natural person with an insurable interest in that person or to provide an annuity to a former spouse.

"(2) A person who is married or has a dependent child may elect to provide an annuity to a former spouse instead of providing an annuity to a spouse or dependent child if the election is made in order to carry out the terms of a voluntary written agreement entered into with a former spouse (without regard to whether such agreement is included in or approved by a court order).

"(3) In the case of a person electing to provide an annuity under paragraph (1) or (2) of this subsection by virtue of eligibility under subsection (a)(1)(B), the election shall include a designation under subsection (e).

"(4) Any person who elects under paragraph (1) or (2) to provide an annuity to a former spouse shall, at the time of making such election, provide the Secretary concerned with a written statement, in a form to be prescribed by that Secretary, signed by such person and the former spouse setting forth whether such election is being made pursuant to a voluntary written agreement previously entered into by such person as a part of or incident to a proceeding of divorce, dissolution, annulment, or legal separation, and if so, whether such voluntary written agreement has been incorporated in or ratified or approved by a court order.".

(c) Section 1450(a)(4) of such title is amended—

(1) by inserting "former spouse or other" before "natural person"; and

(2) by striking out "if there is no eligible beneficiary under clause (1) or clause (2)" and inserting in lieu thereof "unless the election to provide an annuity to the former spouse or other natural person has been changed as provided in subsection (f)".

(d) Section 1450(f) of such title is amended to read as follows:

"(f)(1) A person who elects to provide an annuity to a person designated by him under section 1448(b) of this title may, subject to paragraph (2) of this subsection, change that election and provide an annuity to his spouse or dependent child. The Secretry of Defense shall notify the former spouse or other natural person previously designated under section 1448(b) of this title of any change of election under the first sentence of this paragraph. Any such change of election is subject to the same rules with respect to execution, revocation, and effectiveness set forth in section 1448(a)(5) of this title.

"(2) Any person who, incident to a proceeding of divorce, dissolution, annulment, or legal separation, enters into voluntary written agreement to elect under section 1448(b) of this title to provide an annuity to a former spouse and who makes an election pursuant to such agreement may not change such election under paragraph (1) unless—

"(A) in any case in which such agreement has been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a certified copy of a court order which is regular on its face and modifies the provisions of all previous court orders relating to the agreement to make such election so as to permit the person to change the election; and

"(ii) certifies to the Secretary concerned that the court order is valid and in effect; or

"(B) in any case in which such agreement has not been incorporated in or ratified or approved by a court order, the person—

"(i) furnishes to the Secretary concerned a statement, in such form as the Secretary concerned may prescribe, signed by the former spouse and evidencing the former spouse's agreement to a change in the election under paragraph (1); and

"(ii) certifies to the Secretary concerned that the statement is current and in effect.

"(3) Nothing in this chapter authorizes any court to order any person to elect under section 1448(b) of this title to provide an annuity to a former spouse unless such person has voluntarily agreed in writing to make such election.".

MEDICAL BENEFITS

SEC. 904. (a) Section 1072(2) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (D);

(2) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon and "and"; and

(3) by adding at the end thereof the following new subparagraph:

"(F) the unremarried former spouse of a member or former member if, on the date of the final decree of divorce, dissolution, or annulment, that former spouse had been married to the member or former member for a period of at least 20 years during which period the member or former member performed at least 20 years of serv-

ice which is creditable in determining that member's or former member's eligibility for retired or retainer pay, or equivalent pay, as a result of his service in any of the uniformed services and if that former spouse does not have medical coverage under an employer-sponsored health plan.".

(b) Section 1076(b) of such title is amended by inserting at the end thereof the following: "A dependent described in section 1072(2)(F) of this title may be given medical and dental care pursuant to clause (2) without regard to subclause (B) of such clause.".

(c) Section 1086 (c) of such title is amended by inserting after clause (2) the following new clause:

"(3) A dependent covered by section 1072(2)(F) of this title.".

COMMISSARY AND EXCHANGE PRIVILEGES

SEC. 905. The Secretary of Defense shall prescribe such regulations as may be necessary to provide that any unremarried former spouse described in subparagraph (F) of section 1072(2) of title 10, United States Code (as added by section 904), is entitled to commissary and post exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.

EFFECTIVE DATE AND TRANSITION

SEC. 906. (a) The amendments made by this title shall take effect on the first day of the first month which begins more than 120 days after the date of enactment.

(b) Subsection (d) of section 1408 of title 10, United States Code, as added by section 902(a), shall apply only with respect to payments of retired or retainer pay for periods beginning on or after the effective date of such amendments, but without regard to the date of any court order. However, in the case of a court order that became final before June 26, 1981, payments under such subsection may only be made in accordance with such order as in effect on such date and without regard to any subsequent modifications.

(c) The amendments made by section 903 of this title shall apply to persons who become eligible to participate in the Survivor Benefit Plan before, on, or after the effective date of such amendments.

(d) The amendments made by section 904 of this title and the provisions of section 905 of this title shall apply in the case of any former spouse of a member or former member of the uniformed services only if the final decree of divorce, dissolution, or annulment of the marriage of the former spouse and such member or former member is dated on or after the effective date of such amendments.

(e) For the purposes of this section—

(1) the term "court order" has the same meaning as provided in section 1408(a)(2) of title 10, United States Code (as added by section 902 of this title);

(2) the term "former spouse" has the same meaning as provided in section 1408(a)(6) of such title (as added by section 902 of this title); and

(3) the term "uniformed services" has the same meaning as provided in section 1408(a)(7) of such title (as added by section 902 of this title).

Mr. NICHOLS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Alabama?

There was no objection.

Mr. NICHOLS. Mr. Chairman, I am in a rather uncomfortable situation here this morning from two standpoints. In the first place, I am not an attorney and I am beset on both sides from people who are learned in the law, and I appreciate their expertise in divorce matters.

Second, I am in an uncomfortable situation because I am asking my colleagues to support an amendment that I would really rather not be offering. I would rather not be offering the amendment, not because I do not believe it is a good amendment—for it is, and I believe it is absolutely necessary—but I would rather have been able to consider this rather complex and far-reaching issue within the committee in order to insure that the full impact of these changes could be evaluated in detail.

In my judgment, consideration of a bill or an issue that is as sensitive as this matter, affecting so many individuals in such varied circumstances without benefit of a deliberative process, is not in the best interests of any of the affected parties. It is an attempt to circumvent the system, and it is at the potential expense of the very individuals that it is designed to benefit and to protect.

Be that as it may, I am forced to come to you today to offer you an amendment, together with the gentleman from New York (Mr. MITCHELL), the distinguished ranking Republican on our subcommittee, that makes a last-ditch effort to provide the minimum prudent safeguards needed to preclude the pendulum from swinging too far. I take no issue with the objective of the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER). In fact, contrary to the conventional wisdom that seems to have been at the root of the current effort to bypass the committees, I am supportive of the efforts to rectify the problems being experienced by a former spouse of a service member.

Let me say to the gentleman from Virginia that I have heard before our committee many, many of these pathetic cases, and I am in total agreement with him that something needs to be done about it. But in the same vein, let me call to the attention of the gentleman the fact that this is not a one-sided sort of a situation.

I will read to him the case of Col. Robert Stirm, U.S. Air Force, who arrived at Clark Air Force Base in the Philippines. After 5½ months of captivity in a North Vietnamese prison camp, he was greeted when he got there with a "Dear John" letter from his wife of 18 years. While recuperating from his internment in an Air Force hospital in California, he was formally served with papers 2 weeks later.

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In the divorce proceedings it was revealed that his wife had begun dating and subsequently having affairs with other men a year after his captivity. Under California's no-fault law this made no difference in the settlement.

The former spouse was awarded 42.7 percent of Colonel Stirm's retired pay, the house, the car, and an entitlement to his accrued leave and moneys paid to him under the War Claims Act for inhumane treatment while in prison.

During the divorce trial, which lasted 13 months, the colonel was forced to live at his brother's home because he had insufficient income after payment of court-ordered child and spousal support.

Currently the former spouse and her husband, her boyfriend since 1970, reside in the house financed by Colonel Stirm's Korean war GI bill to which he became entitled before their marriage in 1955.

The new husband makes in excess of $70,000 as an attorney, according to the former Mrs. Stirm, and she continues to receive 42.7 percent of the colonel's retired pay.

I do not believe that it is necessarily better to rush to solve one set of obvious problems only to create new and unforeseen ones and perhaps even more severe ones.

I am gravely concerned that the Department of Defense has estimated a loss of 40,000 careerists over the next 5 years should the amendment of the gentlewoman from Colorado (Mrs. SCHROEDER) pass in its current form.

No Member to whom I have talked, however, has indicated that there is a desire to do anything but the right thing. Where we differ is on what we consider to be the right action.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. NICHOLS) has expired.

(By unanimous consent Mr. NICHOLS was allowed to proceed for 5 additional minutes.)

Mr. NICHOLS. I have some very significant reservations concerning the implications of the amendment of the gentlewoman from Colorado.

First, I am concerned that in her haste to find a vehicle with which to accomplish the basic objective we share, she has accepted an approach that falls short of accomplishing the full measure of action that appears to be justified based on the evidence that we have gathered to date.

Medical care for the former spouse is a pressing need, and in testimony our committee has heard witness after witness who testified to the high priority that was placed on this aspect of the issue.

The amendment we offer would expand the medical coverage to authorize, without cost, care in medical facilities or under CHAMPUS for un-

remarried former spouses who had been married at least 20 years while the member was in the military.

The care would be provided on the same basis as the care is now provided for retirees, for dependents of retirees, and survivors.

Because this benefit is designed to recognize the difficulty experienced by a former spouse when attempting to obtain health coverage following a divorce, the benefits would only be available if the former spouse were not covered by another health benefit plan as a result of his or her employment.

Commissary and exchange benefits would also be provided to this class of former spouses under our amendment.

Under the amendment of the gentlewoman from Colorado, while retired pay could be paid directly to the former spouse based on a court award of child support, alimony, or a division of retired pay, the gentlewoman's amendment would not assist the former spouse in obtaining a payment for property other than military retired pay that had not been divided under the court order.

Should the member fail to comply with a division of property no recourse would be available to the former spouse.

Our amendment would authorize the payment of retired pay to satisfy a court order garnisheeing for nonpayment of such amounts but would restrict the total amount paid to the former spouse to the maximum specified in the original amendment.

Second, I am seriously concerned with the lack of critical safeguards included to protect the service member, recognizing that military service is in many ways unique and at times the needs of the service could place the service member in a disadvantaged situation over which he has no control.

The primary characteristic of military service that I believe has been overlooked by the gentlewoman's approach is the frequency of moves required of military members.

The gentlewoman's amendment would subject a military member to the jurisdiction of a court solely because the member was residing in the State as a result of military orders.

Our amendment would limit the applicability of the provisions to States in which the member is domiciled, the States in which the member was married, to States where he resides other than because of military orders, or in States which he consents to the jurisdiction of the court.

Our amendment would also require that to be honored, a court order would need to certify that the provisions of the Soldiers' and Sailors' Civil Relief Act had been complied with.

The Civil Relief Act provides certain minimal procedural protection for a service member such as certification that an individual is not in military service if a default judgment is to be levied and that if the member is in the military service that the court at least appoint an attorney to represent the member's interest before a default judgment is entered.

We have received some evidence in the committee that the requirements are not followed in all instances. Although the member has appellate rights that could result in the court decision being changed or delayed this is expensive and oftentimes unworkable.

Third, the recent change in the Foreign Service personnel system and the changes proposed in the CIA personnel system, currently in conference, have been used to argue the need for change in the military.

Both of these systems restrict payments of portions of retired pay to situations in which the marriage lasted 10 years, during which time the member was an employee of the system.

In addition, payments of retired pay to former spouses terminate upon remarriage of a former spouse before age 60.

A similar restriction is only fair for the military member as well, who, to a large extent, is similarly situated.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. NICHOLS) has again expired.

(By unanimous consent Mr. NICHOLS was allowed to proceed for 5 additional minutes.)

Mr. NICHOLS. Our amendment contains these modifications.

Finally, our amendment clarifies the application of the amendment to court orders issued at various times. Court orders finalized before the date of the McCarty decision would be considered in the form in which they existed on the day before the McCarty decision.

This would preserve judgments that were arrived at before the McCarty decision disrupted the situation.

Court orders finalized after the McCarty decision would be considered as they were issued or modified. This would provide an opportunity to redress the uncertainty that has existed since the date of the McCarty decision.

Mr. Chairman, with these amendments, I believe the approach suggested by the gentlewoman from Colorado could be implemented in a fair and equitable manner.

I would like to do more because there remain uncertainties, ambiguities, and potential problems.

However, this forum does not permit this requisite deliberation.

Mr. Chairman, the public interest is served best when the provisions of a change such as this one are balanced fairly. This is what our amendment does and I urge the Members to support our amendment to the amendment of the gentlewoman from Colorado.

Mr. HANCE. Mr. Chairman, will the gentleman yield for a question?

Mr. NICHOLS. Certainly, I yield to the gentleman from Texas.

Mr. HANCE. I commend the chairman on his amendment and I agree with most of it. But I have some problems with two or three parts and I would like to ask a question concerning the provisions.

First of all, on page 6 it says that a spouse has to be married for a period of not less than 10 years to receive any benefits. I think that is a very bad provision. It seems to me that we cannot go out and tell a woman you have to be married 10 years before you have full rights. If she has rights under a pension bill or a retirement bill, those rights should vest from the first day. Financially they would be very small. They would be one three hundred and sixty-fifth of whatever his retirement was times the years.

But I really believe the 10 years is a bad provision. If it passes and goes to conference, I would hope the chairman would look at that provision very closely.

Another thing that I would point out is that the divorced spouse should only get the proportional percentage of the retirement for the time that she lived with him. If she lived with him one day she should not get one-half of his retirement. But I think the right should vest before a period of 10 years.

Another question I have is on page 7 where you say the consent of the jurisdiction of the court is one of the ways that the jurisdiction over the individual might be attained. This causes me some concern.

I think as far as a legal question it needs to be that the individual is not put in a position where he could say, "I do not consent to the jurisdiction," and just keep moving from jurisdiction to jurisdiction so that you never can get process of service over him.

I think that probably can be worked out, however, without any problems.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. NICHOLS) has again expired.

(At the request of Mr. HANCE and by unanimous consent Mr. NICHOLS was allowed to proceed for 5 additional minutes.)

Mr. NICHOLS. I yield to the gentleman from Texas.

Mr. HANCE. The last thing that causes me concern is where the bill states that the rights on the retirement benefits would terminate if there were a remarriage before the former spouse is age 60.

The purpose in a divorce case is to get things settled so that they can go their different ways and not be bothering each other. They split property. If a couple worked together in a com-

munity property State like Texas and they bought a farm or a ranch or a small business, then when the divorce is finalized they split that property.

The provision in the amendment says if a spouse remarries she would have to give all property back. You cannot do that under State provisions. Under State law you cannot say if a person remarries they have to give their part of the business back or they will have to give their part of the farm back.

This really concerns me because the fact that she remarries or not should not have anything to do with the rights that she had vested in her at the time that she was working and living with her husband who was in the military.

These are the three concerns I have.

Other than that, I think the gentleman has a very good amendment and I would hope he would give some type of commitment that he would look into those concerns.

Mr. NICHOLS. Let me say in response to the gentleman from Texas that I appreciate the leadership he has shown over the years in behalf of this subject. I value his knowledge on the subject very highly.

I believe the 10-year provision is the same as is currently in the Foreign Service and CIA provisions.

But I assure the gentleman that certainly I will be glad to consider them as we go to conference.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. NICHOLS. I yield to the gentleman from Alabama.

Mr. DICKINSON. Let me say I planned to speak in support of the gentleman's amendment. But I think what the gentleman is bringing out and making amply clear here is that this is a mishmash of many things that really need to be thought out and explored.

I think it goes back to the point the gentleman in the well made initially. This really should be a subject of extensive hearings so that all parties interested can have their day in court, so to speak, and to develop the problems that will arise from this so that everybody will be represented and we know what we are doing. I do not think that we are going about this in a very prudent manner to really appreciate everything that is involved.

I do not object to what the gentlewoman from Colorado is trying to do, I think. But I think that we should go about it in the more normal way of having hearings and developing things.

I would support the gentleman's amendment.

Mr. NICHOLS. I thank the gentleman. I would much prefer that it had been done in a different forum than on the floor of the House.

A bill like this just does not need to be written on the floor of the House.

But the gentlewoman from Colorado and I have discussed that and she is concerned about some timeframe elements and I understand her concern.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I want to join in the long list of colleagues who have commended the gentlewoman from Colorado, the gentleman from Texas, and the gentleman from Virginia on their long-standing support of this concept.

They have been real champions for the rights of divorced spouses.

I would also like to commend the officers and members of the National Military Wives Association for the excellent job they have done in presenting their case. It is truly a worthy cause and I have deep sympathy for divorced spouses.

We heard in the hearings we did hold many sad stories and I am a sponsor of the bill that the gentleman from Virginia (Mr. WHITEHURST) drafted.

There are a lot of arguments in support for divorced spouses. Some have been mentioned and some have not.

□ 1315

They have frequently played a significant role in their husbands' careers. They have had to endure frequent moves. I checked with the military, to find out how frequent that was, and it is as many as 10 to 12 moves in a 20-year career. They have had little opportunity to further their education. They have little opportunity to hold jobs or to even get good jobs because of the transient nature of their lives. Then too, they have often accepted low-paying jobs because of that. They could not provide continuity in their employment, and often suffered poor career advancement for that reason. But in addition to the poor work environment, they spend many hours of deep concern about the welfare of their husbands, especially husbands who are involved in combat. They very frequently suffer poorer living conditions than spouses who are not married to military members. They have had to pay higher rents, they have had forced sales of furniture, long periods of family separation and, very frequently, Mr. Chairman, they have had to act as both parents when their husbands were away—had to be both father and mother to the children as they were growing up.

So I conclude that they deserve far better treatment than they have been receiving. And I want to certainly help them receive more equitable treatment. Equity, I feel, is the theme of this bill, but not just equity for divorced spouses. Even though the scales have been balanced unfairly on one side for many, many years, I do not feel we should unbalance them on the other side in an attempt to remedy this situation. I think we must also provide equity for the members of the service. What we want, Mr. Chairman, is the best, most equitable bill for both parties.

I agree with the gentleman from Alabama (Mr. NICHOLS) the chairman of our subcommittee, that we probably are acting prematurely. As the chairman has stated, we have not held as many hearings as we would like, although we have had an opportunity, perhaps, through the years to do so. We have not received sufficient testimony. I would hate to pass a bill that the Congress will attempt to amend 29 times next year because we acted prematurely this year.

But I also appreciate the realities of the legislative situation. It is late in the session. The train is leaving the station. The votes are here for this concept, and there is no opportunity to postpone or to hold further hearings to improve the legislation.

So, as Chairman NICHOLS stated, he and I have done what we think is the next best thing, tried to incorporate as many of the improvements that we feel would have been addressed had we had more opportunity to put the bill in final form.

Our amendment to the Schroeder amendment, as the chairman has stated, would limit jurisdictions for divorce, it would limit provisions of the bill to marriages of 10 years or more, permit garnishment of nonpayment of property settlements, terminate payments if spouse remarries before age 60. It also honors court orders prior to the McCarty decision. It provides improved health care for spouses, and finally it provides commissary and exchange provisions to divorced spouses.

I think these are good amendments. We feel, Mr. Chairman, that this makes a good program that Mrs. SCHROEDER has offered even better, a more equitable program, not only for the spouse, but also for the service members, and I would urge my colleagues' support.

Mr. HUNTER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I would like to simply say that I have attended some of the hearings involving the dissolution problems, that have been brought up by recent court decisions, particularly the McCarty decision, and I am in favor of the Nichols-Mitchell amendment for several reasons.

I think that we do have a problem with forum shopping under the proposal of the gentlewoman from Colorado. I am also concerned about the extension of medical benefits. I understand—and perhaps the gentleman from New York could inform me on this—that under the Nichols-Mitchell

amendment, the 180-day limitation on some medical problems is in fact removed, and this would cover non-preexisting unjuries without a 180-day limitation. Is that the case?

Mr. MITCHELL of New York. If the gentleman will yield, yes, it is the case.

Mr. HUNTER. I think that that is the most important part of this package in the amendment that is put forth by Nichols-Mitchell, and for that reason I would support it, and I would urge all Members to support it.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would like to speak in favor of and go on record in favor of the amendment offered by the chairman of the subcommittee.

This is a sticky problem that should be addressed. I think, as I have said earlier, probably we would come up with a better bill and a better solution if the subcommittee itself had gone into it in more depth and had had more testimony from all sides. Recognizing, however, that we are at the moment now where we have to make a decision, I would urge my colleagues to support the committee amendment.

We have built in now, by the Nichols amendment, a requirement that the marriage must endure for a 10-year period. One of my colleagues said, "Well, why 10 years? Why should not the rights vest after 1 day or 1 month?"

Well, I think we are building equity into the situation. I think when you look at the rights of the parties, if a person has put in 10 years with a spouse, that person has given up a substantial portion of his life. They have earned certain considerations, as opposed to someone who has been married a month, or whatever. I think that is reasonable.

In addition, the chairman would give to a divorced spouse the right for commissary privileges, the right to purchase CHAMPUS medical benefits, which they now do not have, which is not covered by the amendment offered by the principal proponent of the first amendment.

I think equity is best served by the Nichols amendment. And what we are trying to do is protect the interests of the divorced spouse. I think we have come more nearly to working a perfect equity in the proposed amendment offered by the chairman of the committee. If it is not perfect, it is because we have not had time to perfect it by adequate hearings. I think that this is the best effort that can be put forth at this time. For this reason I would support the chairman's substitute amendment. I think this comes more closely to effecting equity for all parties concerned.

We just heard a very horrendous example of how badly it can work against a serviceman who was a POW in Vietnam. So what we are trying to do, in an imperfect way, is to set a standard of equity for all parties. I think this is the best we can come up with at this time, and I certainly urge support for it.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Texas.

Mr. HANCE. Mr. Chairman, I appreciate the gentleman's support, and I certainly agree with the gentleman and appreciate his work on this. But there is one place that I beg to disagree with the gentleman, and that is on the 10-year provision. I think if there were a bill pending before this House that said a man in case of a divorce would not be allowed to visit his children or to have child custody rights unless he had lived with his wife for 10 years, we would be outraged.

Mr. DICKINSON. That is not in this bill.

Mr. HANCE. Well, I know it is not in this bill, but it is very comparable.

Mr. DICKINSON. You cannot obfuscate the thing by saying that we are talking about custodial rights to 10 years. That has got nothing to do with it.

Mr. HANCE. It does have. It has a lot to do with it.

Mr. DICKINSON. It has nothing to do with it.

Mr. HANCE. What you are saying is that she has to live with a man for 10 years, a spouse has to live with a person for 10 years before they have any rights.

Mr. DICKINSON. That is not true either.

Mr. HANCE. I think in this day and time, if you are talking about unjust and unreasonable provisions, that would be a very unjust and unreasonable provision—that you would have to live together 10 years before you would have any rights.

Mr. DICKINSON. No. What we are talking about, if I might reclaim my time, are the rights that we are building into this, over and above what they presently have. We are not taking away any rights from any spouse. Whatever rights they have now, they will continue to have by State law, within the State courts. We are not taking anything away from what they presently have. What we are deciding is how much more we are adding to their existing rights. So what we are saying is that, whatever State law appertains now, they have got it; but what we are saying is, what we are building in is something in addition to what they presently have. And if you want to cloud the issue by trying to make it appear that we are talking about custodial rights or visitation rights, that has nothing to do with what we are talking about here. This is an appeal to the emotions and it can confuse some people, but that is not a part of what is in the amendment offered by the gentleman from Alabama, nor is it a part of what was offered by the gentlewoman from Colorado.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama (Mr. DICKINSON) has expired.

(By unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. DICKINSON. What we are saying is how much more than they presently have are we willing to give them. What I am saying is, I think it is not a perfect world. We cannot effect perfect equity here. I think that the amendment offered by the gentleman from Alabama more nearly approaches what we would like to see for all parties than by adding to what the gentlewoman from Colorado offers. I have a personal friend who was married for 20 years, and then she was divorced. She has a terminal illness, and she cannot get medical insurance and she cannot do all of these things because in the State where she was, they did not award adequate compensation to her. Well, we cannot say that every State law has to be the same. That is a local thing.

I think what is offered here by the chairman of the committee and the ranking minority member of the committee to what is being offered by the gentlewoman from Colorado more nearly approximates justice for all, and it is not to take away anything that they have got now. Anybody who has a right now, they still retain it. This is in addition thereto. And to try to obfuscate things by saying, "Well, now, we are talking about custodial rights, or custody of children, and so forth," this is not the case.

Mr. HANCE. I did not say that.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding.

Mr. Chairman, I would like to say that the 10-year provision limitation in the Nichols amendment is the same provision that is in the CIA amendment and in the Foreign Service amendment. It is the same amendment that was present in the original Schroeder bill and in the original Whitehurst bill. We should also take into account that there is no vesting in the military pensions. If you are there 20 years, you get it. If you are there 19 years, you do not.

Mrs. SCHROEDER. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Colorado.

Mrs. SCHROEDER. Mr. Chairman, Members keep talking about how this

is only fair because this is like the CIA and the Foreign Service.

Let me tell the Members the very strong difference between this and the CIA and the Foreign Service, and I hope they will move in the direction, because I think it should be the same. But the CIA and the Foreign Service bill says that after 10 years of marriage there is a presumption that the pension will be divided. We are saying here it is only that they can divide it, it is strictly a matter for decision by the State court.

Now, I think we should go with the presumption. That was the amendment I originally offered. This is not the one that is on the floor today. My amendment only allows State courts to determine the equities.

So we are not coming anywhere close to as strong a coverage as we have for the CIA and the Foreign Service. I think that is a terribly important thing to say. Below 10 years in the CIA and Foreign Service, we go along with whatever the State laws say. But we are in a terrible pickle today because the Supreme Court has said, "For the military, we do not care what the State courts say."

All we are saying is, return it to State law. The cases that we have heard about, of how terrible they were, I remind the Members that this amendment has not passed when those happened. So we are dealing with State law, let State law do it. I think the pro rata share is fair. But I am not bringing it to the floor because I do not think we can pass it. But I hope the committee would at some point.

Mr. DICKINSON. If I might reclaim my time, I would just like to say that I think the gentlewoman has helped make the case I made earlier. We should not be writing this legislation on the floor. It should have been done through the full committee or the subcommittee. I wish that this had been the case but, unfortunately, it is not the case.

Mr. HANCE. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Texas.

Mr. HANCE. I certainly agree with the gentleman on some of the things he said. My question, though, did not have to do with the side benefits. I think what the gentleman said about the side benefits, the commissary, those types of benefits, was exactly right. Under present law, they really have no enforcement methods, after the McCarty against McCarty decision. My question: If a State court makes a decision, if they have been married for a year, she gets a certain percentage. And it would be a very limited percentage. Then I think she should have the right to enforce that percentage. That is what I would like for the gentleman and the chairman to explore in the conference committee. If she is entitled to 10 years, fine; if she is entitled to 1, fine.

□ 1330

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Nichols amendment.

Mr. Chairman, I will not take my full 5 minutes.

I do serve on the Personnel Subcommittee that the gentleman from Alabama (Mr. NICHOLS) chairs. We have had extensive hearings on this situation.

I rise in support of the Nichols amendment. It is a compromise, and it seems to make a lot of sense.

As I understand the Nichols amendment, it will change from the Schroeder amendment—would require 10 years of marriage before the spouse would be eligible for part of the benefits of a service personnel.

One point should be made very strongly, that the Nichols amendment is in effect better for the spouse as far as health care is concerned; that the Nichols amendment would help the spouse after 20 years of marriage, that she would be eligible for medical care benefits from the military.

As I understand it, the Schroeder amendment does not have this provision.

So it seems like the Nichols amendment is an excellent compromise. As I understand it, the vote will come on the Nichols amendment first. I ask the House to vote "aye," and then vote "no" on the White substitute and "yes" on the Schroeder amendment if the Nichols amendment is adopted.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, several things have been said here. I think we should really clarify where we are. In his statement Mr. NICHOLS argues that the recent changes to the Foreign Service and proposed CIA personnel system—currently in conference—restrict payment to circumstances when the marriage lasted at least 10 years and he says "a similar retriction is only fair for the military member as well."

If Mr. NICHOLS is arguing for a mandatory entitlement system like we have in the Foreign Service, I am all with him. But that is not what his amendment does.

I would like to engage the chairman of the committee, the gentleman from Alabama (Mr. NICHOLS), in a colloquy at this time on his amendment.

Mr. Chairman, as I read the Nichols substitute, it contains eight major changes from the Schroeder-Hance-Whitehurst amendment. I would like to go through each of these changes and ask the author of the substitute some questions on each.

First, the Nichols substitute says that, to be effective, a court order or other documents served with the court order must certify that the rights of the military member under the Soldiers' and Sailors' Civil Relief Act of 1940 were observed. This law was passed to insure that creditors of a soldier or sailor did not take unfair advantage of his or her absense from the State, while being on military duty, to win a court judgment. I fully support the law. I am concerned that the Nichols substitute is placing one more regulatory burden on those wishing to make use of this law. What if the parties or the court overlook this section? What if the service member waives his rights? What I would like is some direction, by means of legislative history, to the Pentagon that if it receives a court order deficient in that it does not make the requisite certification under the Soldiers' and Sailors' Civil Relief Act, that the Pentagon will not reject the order, but rather will instruct the parties on how to correct the defect.

Mr. NICHOLS. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from Alabama.

Mr. NICHOLS. Let me respond to the gentlewoman form Colorado in this manner by saying, yes, I agree that the Pentagon should inform those who bring in orders which are deficit on how to correct the deficiencies. Further, I would urge the Pentagon to publish a booklet explaining how this law works so that the problem does not arise. Finally, in the situation where the service member waives his or her rights under the Civil Relief Act, it seems clear that the court has complied with the act.

Mrs. SCHROEDER. Obviously, you do not mean to require such a certification under the Soldiers' and Sailors' Civil Relief Act for court orders that were entered prior to the effective date of your amendment.

Mr. NICHOLS. Obviously not.

Mrs. SCHROEDER. I appreciate the comments of the gentleman from Alabama. Now, the second change creates a 10-year marriage requirement before any direct payment of pensions can be made. I think this provision directly conflicts with the basic philosophy of this provision, which is that we should return to State courts the power to make decisions arising out of the breakup of marriages. State courts should be looked to to determine the equities in each situation. As a general rule, I think pensions should not be divided after short marriages. However, there are always exceptional cases. There are situations where the wife is left with three of four children after the husband walks off with another

woman 9 years into the marriage. I think it is bad policy to legislate a 10-year requirement. In the Foreign Service Act, such a minimum requirement was legislated because we were entitling former spouses to a pro rata share of the annuity. Moreover, section 820 of the act specifies that nothing in the act would restrict States from awarding a portion of the pension to those married less than 10 years. This amendment contains no entitlement; it merely returns power to State courts. I think your amendment would be preferable if it contained some mechanism by which a State court could waive the 10-year requirement in egregious cases.

Mr. NICHOLS. I understand what the gentlewoman from Colorado is saying. Obviously, we do not want pensions split after short marriages. That would just be unfair. Still, I would be glad to work with the gentlewoman to see if there is some way in which we can take care of the extreme case, such as she mentions.

Mrs. SCHROEDER. On this 10-year marriage requirement, I am concerned that the way the amendment is drafted does not overrule the McCarthy decision. What you have done here is to cut off court jurisdiction to consider the pension as part of marital property. Is not what you intend merely to prohibit direct payment in the case of marriages of less than 10 years?

Mr. NICHOLS. The way the amendment is drafted, retired pay could not be considered property, if the 10-year requirement were not met. Perhaps we could talk further on this point but our intent at this time is as stated in the amendment.

Mrs. SCHROEDER. I find that unfortunate. I will work to change that in conference. Now, third, court orders are only effective if they are issued by one of four courts: One where the service number resides, other than because of his or her military assignment, one where the service member's domicile is, one where the service member consents, and one where the marriage was performed. Although this is a long list, I am concerned that, in some cases, there may be no court within the United States where the action could be brought. While this amendment recognizes foreign court orders, I think we ought to insure that there exists a suitable domestic forum. Let me ask a few questions about each of these jurisdictions. What is a member's domicile?

Mr. NICHOLS. Ordinarily, the place where the service member enlisted in the service is his or her domicile. The service member can, by an affirmative action, change his or her domicile with the military finance center.

Mrs. SCHROEDER. Would you agree that the Pentagon would tell a spouse what the current domicile of his or her spouse is so that he or she could bring an action in the appropriate court?

Mr. NICHOLS. Oh, yes, I think that suggestion makes sense.

Mrs. SCHROEDER. Also, would you agree that any divorce proceeding which was contested by the military member would be one in which he has consented to the jurisdiction of the court?

Mr. NICHOLS. I would say if he contested on other than jurisdictional grounds, that might be a possibility but I would really have to think further on that.

Mrs. SCHROEDER. Now the fourth change you made is the most unacceptable to me. It says that any direct payment of retired pay to a former spouse cuts off if the former spouse remarries before age 60. This is true whether the payment of retired pay is characterized as alimony or as division of property and is true in both community property and noncommunity property States. The view in community property States is that all marital property becomes community property and after a separation, each party gets a share. Without a doubt, in a community property State, the pension of one spouse is, in part, the property of the other as well. To cut off this right, deprives the former spouse of property to which he or she is entitled under State law and overturns State law. Again, this provision flies in the face of the general policy of the amendment, to permit States to treat military retired according to State law. Since the bill developed by the other body does not contain this State law override, I hope you will work out something in conference to protect State court prerogatives. I can see no overwhelming Federal interest that dictates preemption of State law, particularly in the family law area.

Mr. NICHOLS. I agree with the gentlewoman that we should reverse the McCarty decision and return to State courts their authority. However, we must also insure that the purpose of the Government annuity is preserved. I will be happy to work with the gentlewoman to see if additional balance between these goals can be achieved.

Mrs. SCHROEDER. The fifth change adds a new section concerning the garnishment of a service member's retired pay to satisfy a division of property. This is drafted in an ambiguous way. Let us take the situation in which a State court rules that the wife should receive $100 a month in alimony, $100 a month in child support, and $100 a month in recognition of her property in the marriage. Does this new garnishment section mean that she can receive direct payment of $200 for alimony and child support, but has to wait until he falls behind in his payments and get a writ of garnishment before she can seek direct payment of the $100 division of property? Or does this mean that the Pentagon will pay her $300 a month directly and that she can use this added garnishment authority if she is supposed to get half the proceeds from the sale of the house and he refuses to pay it over?

Mr. NICHOLS. I think clearly the latter is the case. The social security amendments in 1974 provided garnishment for child support and alimony. We are expanding that to include division of property. This is an add-on, drafted in response to the testimony we received from former spouses. Clearly, if the court order says the former spouse gets $300 a month in alimony, child support and division of property, the Pentagon should pay over $300 a month as a direct payment.

Mrs. SCHROEDER. Sixth, your amendment expands the availability of medical coverage to all unremarried 20-year former spouses who do not have an employer sponsored health plan. I think this is a valuable addition. If the spouse has an employer sponsored health plan at the time of the divorce, but subsequently leaves that job, can that spouse then take advantage of military health benefits?

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado (Mrs. SCHROEDER) has expired.

(By unanimous consent, Mrs. SCHROEDER was allowed to proceed for 5 additional minutes.)

Mr. NICHOLS. Mr. Chairman, if the gentlewoman would continue to yield, the answer is "yes." The way the amendment is drafted, if, at any time, such a former spouse does not have employer sponsored health coverage, the former spouse can use CHAMPUS.

Mrs. SCHROEDER. Your seventh change provides commissary and PX privileges to the same group of unremarried 20-year spouses. Again, this is a good change. Yet, the language of section 905 refers back to the health benefits language to describe the class of beneficiaries. Obviously, the requirement for no employer sponsored health plan does not apply to qualify for commissary and PX privileges.

Mr. NICHOLS. Obviously not.

Mrs. SCHROEDER. Finally, you have changed the effective date to say that the Pentagon should honor all pre-McCarty court orders, but not accept modifications, and should honor post-McCarty court orders and their modifications. Is this correct?

Mr. NICHOLS. The gentlewoman is correct.

Mrs. SCHROEDER. While I object to the 10-year marriage requirement and to the termination on remarriage provision, I think the Nichols amendment is an acceptable proposal.

I really want to compliment the gentleman on the additions that he has made. I want to compliment him on the hearings he has had on this. I

think his assurances have convinced me that I should accept this amendment, and I do accept the amendment.

I want to respond to what many of the people here have said about not having hearings. The gentleman from Alabama has had lots of hearings on this. The House has had lots of hearings on this, on the CIA, on Foreign Service, on civil service. We have considered it as a full body, it is not something new. I really compliment the gentleman for helping us move this, because time is of the essence, and I want to thank him.

Mr. CLAUSEN. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from California.

Mr. CLAUSEN. I thank the gentlewoman for yielding.

I want to genuinely compliment the gentlewoman from Colorado and the gentleman from Alabama for what I perceive to be one of the more constructive colloquies and dialogs in clarifying a very sensitive issue.

I think what they have done has contributed substantially to the credibility of the legislative process as a result of this very constructive exercise.

Mr. CLAUSEN. Mr. Chairman, I would like to compliment the gentlelady from Colorado, PAT SCHROEDER, and the gentleman from Alabama, BILL NICHOLS, for the constructive colloquy on a very sensitive issue. It is obvious that indepth research has been conducted on correcting this situation and I would like to compliment both of these Members for the clarification of the intent and purpose of the amendment. I would also like to state how very strongly I feel about this issue and would like to submit an example of a constituent of mine with a legitimate grievance which this amendment is designed to correct.

My constituent, a resident of Napa, Calif., was married for 31 years to an individual who was career Army. During those 31 years, she devoted her life to her husband's career and the raising of their two children, who are now grown and reside in States other than California. She considered this her life's work, and faithfully committed her time and energies to her family, looking, in time, to the day when she and her husband would be able to settle down in retirement, with his military pension as a means of support.

However, her faithfulness and devotion to family were not matched by her husband, who, in the 30th year of their marriage, began seeing another woman and started down the road toward alcoholism. Given these unhappy circumstances, she was forced to divorce him.

Believing that her considerable contribution of time and energy to her husband's career, as well as the sacrifice she made in foregoing a career of her own entitled her to a share of her partner's military pension, she attempted to make such a provision in the divorce settlement. Unsuccessful in her attempt, she appealed to her elected representatives for assistance, only to discover that there was no statute in existence that would give her a right to any amount of her husband's pension, should he die or retire.

As California is a community property State, the settlement required that all of the couple's assets, excluding his pension, be divided equally between them. As their sole asset consisted of their home, they were forced to sell it and divide the proceeds from the sale.

Left only with these funds, my constituent had to shift for herself. She filed for supplemental security income (SSI) but was denied, informed that her assets had not fallen to the required level. Reaching retirement age, she has no social security benefits on which to rely, only a small amount of public assistance once her assets had dwindled.

Mr. Chairman, I know each of us must know at least one individual, like my constituent, who has thus been denied the fruits of her labor. We have now before us a means to rectify the inequities inherent in the present law, an amendment to correct a legitimate grievance. On behalf of my constituent and those in similar situations, I rise in support of this amendment.

Mrs. SCHROEDER. I thank the gentleman.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Alabama (Mr. NICHOLS) to the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER).

The amendment to the amendment was agreed to.

AMENDMENT OFFERED BY MR. HANCE TO THE AMENDMENT OFFERED BY MRS. SCHROEDER, AS AMENDED

Mr. HANCE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. HANCE to the amendment offered by Mrs. SCHROEDER, as amended. At the end of the amendment, insert the following new section:

"SEC. 907. Nothing in this title shall overrule or require the modification of any state law or state court decision in any state which treats marital property as community property."

Mr. HANCE. Mr. Chairman, this amendment is very simple. It would allow the State courts to make the final decision. I think the thing that it really speaks to is if they want to decide that the couple have to live together 1 year, they can make that decision, but they can decide 20 years, or they can decide 25. If there was a remarriage the State court could make that decision that the spouse would not be entitled to any rights or they could make the decision she was still entitled to certain rights.

□ 1345

I think the main thrust of this amendment is just making sure that the State courts will still have the jurisdiction and the power to make the final decision. Most of the people I have worked with on this bill, support that position.

I would hope that the committee as a whole would adopt this.

Mr. NICHOLS. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

I have said previously that I respect the ability and knowledge of the gentleman from Texas on this subject; but regrettably, I do not respect it enough to support his amendment. In fact, I am adamantly opposed to the amendment. This, in effect, undoes one of the important provisions that is included in the amendment of the gentleman from New York (Mr. MITCHELL) and our amendment.

I would call attention of the House to the fact that the Department of Defense in testimony on the Senate side when the Jepsen amendment was discussed over there indicated that should this provision, this 10-year provision not be included in the bill, that we would probably be faced with an exodus of some 40,000 career noncommissioned officers in the military.

I hope we vote this amendment down. I object to it very strongly.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, I think it sounds innocuous enough, simple enough on its face: to just let the courts make the final decision. But it could wipe out the limitations that we have just adopted in the Schroeder amendment by amending it with the Nichols and Mitchell amendments.

It certainly makes the 10-year marriage limitation questionable, and I just wonder if it could possibly eleminate other provisions that we have put in the bill to make it more palatable to divorced spouses; so because it is vague and because it affects the 10 year limitation, I urge my colleagues to vote against the amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me cite two examples that I was just discussing with my colleague here.

I practiced law for a number of years. For 6 years I was a circuit judge exercising jurisdiction over divorce matters; for 4 additional years I was judge of a juvenile court. I do have

some background and some feeling for the problems that exist here.

I know of a divorce decree that specified that the alimony should be paid to the wife until she marries or until she attempts to remarry.

Well, now, you say, what in the world did that mean, attempts to remarry?

Well, this grew out of a factual situation where a divorced spouse did go through a marriage ceremony and lived with a second husband for 1 year and then they got unhappy with each other and they had the marriage annulled. They were not divorced. It was annulled. Then she went back to the first husband and said, "Hey, I want to get alimony for the last 12 months, because it was never a legal marriage and you owe me all this money."

So the first husband thought he was home free, but it turned out that was not exactly the case, because it was not a legal marriage. He had to go back for 12 months and pay her back alimony.

Then there was another case that I know of where a fellow made a pretty good settlement with his divorced wife until she remarried. Well, then, she smiles and she starts living with this guy and she tells her first husband, "There ain't no way I am every going to remarry. You are going to continue to pay, because I am going to live with whomever I want to whenever."

I guess that is our new morality; but the point I am trying to make is that we cannot here by legislation cover all of the nuances, all the problems that arise in domestic difficulties. These have to be left to the local courts, to the divorce courts. We cannot presume to anticipate all these problems and I think in the agreement between the chairman of the committee and the gentlewoman from Colorado (Mrs. SCHROEDER), we have done the best that we can. To put additional burdens on us by accepting this I think would be a mistake.

I do rise in opposition to the amendment.

Mr. KAZEN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I would be very pleased to yield to my colleague, the gentleman from Texas.

Mr. KAZEN. The gentleman has brought up certain points that generally would apply to the entire country; but let me tell the gentleman about my State.

Mr. DICKINSON. This is Texas, right?

Mr. KAZEN. Yes, sir. The great State of Texas does not have a garnishment law. We cannot go after anybody's salary or anybody's pension or anything else. A pension then would become a property right.

Now, the courts will have to look at individual cases, in my opinion, and they do.

Mr. DICKINSON. And should.

Mr. KAZEN. And each case is different.

Mr. DICKINSON. And should be.

Mr. KAZEN. It could be possible that a court would not give the spouse a dime of this pension, because the court might have given her other property that exists, or the court might take all of it away from the retiree and give it to her, because the court has awarded him certain other properties.

So what I am saying is that you cannot dictate to the States what their law should be. We either follow the State law, what the courts have done, and give recognition to that decree, or we do not.

Now, if we try to adopt a law to apply to every single one of the 50 States, we are going to be in trouble.

Mr. DICKINSON. Well, I think we are singing off the same page here. I agree with the gentleman, if I understand him correctly. We cannot anticipate all the problems here in the House.

Mr. KAZEN. But does not the amendment of my colleague from Texas do exactly what the gentleman from Alabama and I want done, leave it up to the States, whatever the State law is, the court will decree, and the secretaries should comply therewith.

The CHAIRMAN pro tempore. The time of the gentleman from Alabama has expired.

(At the request of Mr. HANCE and by unanimous consent, Mr. DICKINSON was allowed to proceed for 5 additional minutes.)

Mr. KAZEN. Mr. Chairman, if the gentleman will yield further, then the court will follow the law in that State and render judgment. Then that judgment or that decree will have to be given status by the different secretaries. It is that simple as far as I am concerned.

Now, does the gentleman see anything wrong in that?

Mr. DICKINSON. If I understand the import and the impact of the proposed amendment, it is putting additional restrictions and burdens on the military than would appertain within the State courts. Perhaps I am misreading it.

I am not that familiar with community property law, because my State never recognized it. I did not practice in a community property State.

What my feeling is, and perhaps this is what the gentleman from Texas is trying to achieve, is that by what we are doing here we will not interfere with a States rights between the parties. Perhaps that is what the gentleman is trying to do.

The way I read it, though, it would put another burden on the military to say that you cannot do what they normally would do. Perhaps I am wrong.

Mr. KAZEN. Let me tell my colleague that my purpose in rising and asking these questions is to clarify this issue in my mind. Exactly what are we doing to State laws? Are we superseding them by a law that we are here passing or are we simply saying to the States, "You decide what the division of property should be between inhabitants of your State according to your law and whatever you say is the result, the secretaries of the services will have to abide by."

Mr. DICKINSON. That is what I feel it should be.

Let me yield to the chairman of the subcommittee to explain this and then I will be glad to yield to the gentlewoman from Colorado.

Mr. NICHOLS. Mr. Chairman, if the gentleman will yield, the difference is, and I am a great States rights man, as the gentleman knows; but we are dealing with a Federal annuity. That makes it a little different in my mind. We are talking about putting a restriction in the Federal law that says this marriage needs to have existed for 10 years. That is protection to the serviceman. It is included in the provisions in the foreign service and the CIA. It ought to be in there and I hope we will vote the amendment down.

Mrs. BOGGS. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentlewoman from Louisiana.

Mrs. BOGGS. Mr. Chairman, I thank the gentleman for yielding.

I would like to say to the gentleman that as a citizen, a resident of a community property State, I feel that the amendment offered by the gentleman from Texas is simply protecting our State courts and our State laws, along with the other States of the Union in this bill.

I would hope very much that the amendment of the gentleman from Texas will prevail so that we will be given equal protection under this law, as all the other States courts will be.

Mr. DICKINSON. Is it the understanding of the gentlewoman and the understanding of the gentleman from Texas (Mr. HANCE) who offered the amendment, that this preserves existing States rights and State law rather than adding an additional burden to the Federal interpretation of what is State law? Is that the gentleman's understanding and the gentleman's intent?

Mr. HANCE. Mr. Chairman, if the gentleman will yield, that is the purpose of the amendment and that is the intent and the clear intent.

Mr. DICKINSON. I thank the gentleman.

Mr. FAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I simply want to reiterate the support that I have already

indicated for the legislation authored by the gentleman from Texas and the gentlewoman from Colorado and the gentleman for Virginia, but indicate also my strong support for this amendment for the reasons the gentlewoman from Louisiana just outlined.

I wanted to also point out the States that would be affected. Community property States are essentially in the west and they are in addition to California, my State, Arizona, Idaho, Nevada, New Mexico, Texas, and Washington. Those seven, along with Louisiana, would be directly impacted if this legislation were to be enacted without the amendment offered by the gentleman from Texas. I am in strong support and hope the Members of the body from those States will be supportive of it as well.

Mr. DICKINSON. Mr. Chairman, will the gentleman from California yield before he yields back his time?

Mr. FAZIO. I would be happy to yield.

Mr. DICKINSON. In talking to the staff and also to one of the coauthors of the amendment just adopted, do I understand that if the gentleman's amendment is accepted that we are taking away the 10-year limitation that we have just put in place? Does this have an effect on the 10-year limitation?

Mr. FAZIO. We would leave it up to the courts. They might decide 1 year. They might decide 20 years. They would look at each individual case, as they should.

Mr. DICKINSON. Then the answer is in the affirmative, it does obliterate the 10-year requirement?

Mr. FAZIO. Yes, it could.

Mr. DICKINSON. I thank the gentleman.

Mr. HANCE. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. Without objection, the gentleman from Texas (Mr. HANCE) is recognized for 5 additional minutes.

There was no objection.

Mr. HANCE. Mr. Chairman, just very quickly, I think the thing I want to get across on this amendment is that we should allow the State domestic courts to make all divorce decisions. If we do not adopt this amendment, we are in effect taking the position that the Federal Government is going to make final determinations on what type of judgments come out of divorce courts. I will tell you, that is going to open up a lot of problems and it will be a can of worms.

This amendment allows the States to make the final decision. This is what most of the people that have been involved in this debate have long stood for.

I would hope that we would have the adoption of the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. HANCE) to the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER), as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. NICHOLS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 332, noes 74, not voting 28, as follows:

[Roll No. 219]

AYES—332

Addabbo	Dorgan	Hiler
Akaka	Dougherty	Holland
Albosta	Dowdy	Hollenbeck
Alexander	Downey	Hopkins
Anderson	Dreier	Howard
Andrews	Dwyer	Hoyer
Annunzio	Dyson	Huckaby
Anthony	Early	Hughes
Applegate	Eckart	Hunter
Archer	Edgar	Hutto
Aspin	Edwards (AL)	Hyde
Atkinson	Edwards (CA)	Ireland
AuCoin	Edwards (OK)	Jacobs
Badham	English	Jeffords
Bailey (PA)	Erdahl	Jenkins
Barnard	Erlenborn	Johnston
Barnes	Ertel	Jones (NC)
Beard	Evans (DE)	Jones (OK)
Bedell	Evans (IA)	Kastenmeier
Beilenson	Evans (IN)	Kazen
Benedict	Fary	Kemp
Benjamin	Fascell	Kennelly
Bereuter	Fazio	Kildee
Bethune	Fenwick	Kindness
Bingham	Ferraro	Kogovsek
Biliey	Fields	Kramer
Boggs	Findley	LaFalce
Boiling	Fish	Lagomarsino
Boner	Fithian	Lantos
Bonker	Florio	Latta
Bouquard	Foglietta	Leach
Breaux	Foley	LeBoutillier
Brodhead	Ford (MI)	Lehman
Brooks	Forsythe	Leland
Brown (CA)	Fountain	Levitas
Brown (CO)	Fowler	Livingston
Broyhill	Frank	Loeffler
Burgener	Frenzel	Long (LA)
Burton, John	Frost	Lott
Burton, Phillip	Fuqua	Lowery (CA)
Campbell	Garcia	Lowry (WA)
Carney	Gejdenson	Lujan
Chappie	Gephardt	Luken
Cheney	Gibbons	Lundine
Chisholm	Gilman	Lungren
Clausen	Gingrich	Markey
Clinger	Glickman	Marriott
Coats	Goldwater	Martin (IL)
Coelho	Gonzalez	Martinez
Collins (IL)	Goodling	Matsui
Collins (TX)	Gore	Mattox
Conable	Gradison	Mavroules
Conte	Gramm	Mazzoli
Conyers	Gray	McClory
Corcoran	Green	McCollum
Coughlin	Grisham	McCurdy
Courter	Guarini	McGrath
Coyne, James	Hagedorn	McHugh
Coyne, William	Hall (OH)	McKinney
Craig	Hall, Ralph	Mica
Crockett	Hall, Sam	Mikulski
D'Amours	Hamilton	Miller (CA)
Dannemeyer	Hammerschmidt	Miller (OH)
Daschle	Hance	Mineta
Daub	Hansen (ID)	Minish
Davis	Hansen (UT)	Mitchell (MD)
de la Garza	Harkin	Moakley
Deckard	Hatcher	Molinari
Dellums	Hawkins	Mollohan
DeNardis	Heckler	Moore
Derrick	Hefner	Moorhead
Derwinski	Heftel	Morrison
Dixon	Hertel	Mottl
Donnelly	Hightower	Murphy
Napier	Roukema	Synar
Natcher	Rousselot	Tauke
Neal	Roybal	Tauzin
Nelligan	Russo	Thomas
Nelson	Sabo	Traxler
Nowak	Santini	Trible
Oberstar	Sawyer	Udall
Obey	Scheuer	Vander Jagt
Ottinger	Schneider	Vento
Panetta	Schroeder	Volkmer
Parris	Schulze	Walgren
Patman	Schumer	Walker
Patterson	Seiberling	Washington
Paul	Sensenbrenner	Watkins
Pease	Shamansky	Waxman
Perkins	Shannon	Weaver
Petri	Sharp	Weber (MN)
Peyser	Shaw	Weber (OH)
Pickle	Shelby	Weiss
Porter	Shumway	White
Pritchard	Shuster	Whitehurst
Pursell	Simon	Whitley
Rangel	Skeen	Whitten
Ratchford	Smith (IA)	Williams (MT)
Regula	Smith (NE)	Williams (OH)
Reuss	Smith (NJ)	Wirth
Rhodes	Smith (OR)	Wolf
Richmond	Snowe	Wolpe
Rinaldo	Solarz	Wortley
Roberts (KS)	Spence	Wright
Roberts (SD)	St Germain	Wyden
Rodino	Stangeland	Yatron
Roe	Stark	Young (AK)
Roemer	Stenholm	Young (MO)
Rogers	Stokes	Zablocki
Rose	Studds	Zeferetti
Rosenthal	Swift	

NOES—74

Ashbrook	Gregg	Oxley
Bailey (MO)	Gunderson	Pashayan
Bennett	Hartnett	Price
Bevill	Hendon	Quillen
Bowen	Hillis	Railsback
Brinkley	Holt	Ritter
Broomfield	Horton	Robinson
Butler	Jeffries	Rostenkowski
Byron	Lee	Roth
Carman	Lent	Rudd
Chappell	Long (MD)	Skelton
Coleman	Madigan	Smith (AL)
Crane, Daniel	Marlenee	Snyder
Crane, Philip	Martin (NC)	Solomon
Daniel, Dan	Martin (NY)	Stanton
Daniel, R. W.	McDade	Staton
Dickinson	McDonald	Stratton
Dicks	McEwen	Stump
Dingell	Michel	Taylor
Duncan	Mitchell (NY)	Wampler
Dunn	Montgomery	Whittaker
Emerson	Murtha	Winn
Emery	Myers	Wylie
Fiedler	Nichols	Young (FL)
Flippo	O'Brien	

NOT VOTING—28

Bafalis	Ford (TN)	Oakar
Biaggi	Gaydos	Pepper
Blanchard	Ginn	Rahall
Boland	Hubbard	Savage
Bonior	Jones (TN)	Siljander
Brown (OH)	Leath	Smith (PA)
Clay	Lewis	Wilson
Dornan	Marks	Yates
Dymally	McCloskey	
Evans (GA)	Moffett	

□ 1415

Messrs. ANDREWS, ADDABBO, DANIEL B. CRANE, HERTEL, CHAPPIE, SMITH of Oregon, HOLLENBECK, ROSE, BROOKS, WRIGHT, THOMAS, BENEDICT, FOUNTAIN, and WHITLEY, Mrs. SMITH of Nebraska, and Messrs. EDWARDS of Alabama, WALKER, and HAMMERSCHMIDT changed their votes from "no" to "aye."

Messrs. BEVILL, DANIEL B. CRANE, JEFFRIES, and SMITH of

Alabama changed their votes from "aye" to "no."

So the amendment to the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

Mr. WHITE. Mr. Chairman, in view of the Hance amendment being agreed to, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentlewoman from Colorado (Mrs. SCHROEDER), as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The Clerk will designate title X.

Title X reads as follows:

TITLE X—GENERAL PROVISIONS

TRANSFER AUTHORITY

SEC. 901. (a)(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in this Act between any such authorizations (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations that the Secretary of Defense may transfer under the authority of this section may not exceed $1,500,000,000.

(b) The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for higher priority items than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

AMENDMENT OFFERED BY MR. STRATTON

Mr. STRATTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON: On page 26 after line 22, insert

SEC. 902. (a) The Secretary of Defense should conduct a test program during fiscal year 1983 in accordance with this subsection to test the effect of exempting certain contracts of the Department of Defense from the provisions of section 2892 of title 10, United States Code and paying a price differential under such contracts for the purpose of relieving economic dislocations. Under such test program, the Secretary of Defense may exempt from the provisions of such section any contract (other than a contract for the purchase of fuel) made by the Defense Logistics Agency during fiscal year 1983 if the contract is to be awarded to an individual or firm located in a Labor Surplus Area, as defined and identified by the Department of Labor, and if the Secretary determines—

(1) that the awarding of such contract will not adversely affect the national security of the United States;

(2) that there is a reasonable expectation that bids will be received from a sufficient number of responsible bidders so that the award of such contract will be made at reasonable cost to the United States;

(3) that the price differential to be paid under such contract will not exceed 3 percent; and

(4) the value of such contract, when added to the cumulative value of all other contracts awarded under the test program, will not exceed $5,000,000,000.

(b) Not later than April 15, 1983, the President shall submit a report to Congress on the implementation and results to that date of the test program authorized by subsection (a). The report shall include as assessment of the costs and benefits of the test program.

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Chairman, I rise to offer an amendment to the Defense authorization bill that I believe will help to strengthen our national defense, while at the same time promoting national economic recovery. My amendment would continue a modest test program that has been conducted by the Defense Logistics Agency for the past 2 years that has targeted procurement contracts to areas of high unemployment.

As long ago as 1952, in the middle of the Korean war, the Federal Government recognized that large numbers of idle factories and unemployed workers, which we have today, of course, pose an obstacle to rapid industrial mobilization in the event of war or national emergency. For that reason, President Truman back in 1952 issued Defense Manpower Policy No. 4, which required that certain agencies should give preference in the awarding of procurement contracts to firms located in areas of high unemployment so as to insure that the Nation's industrial capacity was maintained on as broad as basis as possible.

In 1953, however, the Congress passed a provision which has since come to be known as the Maybank amendment, that prohibited the Defense Department from paying any cost differential to target contracts to private companies in labor-surplus areas. The amendment subsequently was added routinely to every defense spending bill on every year until 1980, when Congress approved a new test program to be conducted by the Defense Logistics Agency.

In the first year, DLA was authorized to purchase up to $3.4 billion in nonstrategic goods and services from businesses located in labor-surplus areas, and to give such firms a price advantage of up to 5 percent when bidding against firms from economically healthful areas.

Last year, the Reagan administration recognized the worthiness of this approach to the problems of the distressed areas, and both President Reagan and Budget Director Stockman lent their support, and have already lent it for this coming year, to the continuation of the program. As a result, the DLA program was extended through fiscal year 1982, with this limit increased to $5 billion.

Mr. Chairman, very few Government programs work the way that they were intended, but here is one that apparently has worked as it was intended. Although the test period has been very, very short, preliminary data indicate that the program is doing precisely what it was supposed to do, and equally important, at very little cost. Through September 1981, the first period for which results were available, DLA had paid a cost differential on only 248 of the 1,881 contracts that were awarded to firms in labor-surplus areas, a surprisingly low 13 percent. While the value of the 248 contracts came to almost $30 million, the cost differential amounted to only $555,912, so that the actual cost differential involved in targeting high unemployment areas turned out to be only 1.9 percent instead of the 5 percent which was permitted, considerably less than the amount allowed.

Mr. Chairman, this tells us that, given the opportunity to compete for Government contracts, firms in economically distressed areas can participate successfully in supplying the nonstrategic goods. We are not talking about Pershing II's or B-1's or anything of that kind needed by our Armed Forces. The DLA report also shows that as a result of the bidding on contracts, the differential on these 248 contracts, 1,732 jobs were created or maintained, so that the cost per job under the program, even after DLA's administrative expenses have been added, is only $425.65. That is considerably less than any other Federal job program.

In addition, the real cost to the Government may have been even less because those workers, if left unemployed, might well be collecting income and maintenance payments or other Government benefits. The amendment I have submitted today would simply extend the test program through fiscal year 1983 at the same level, with one important distinction, that is, that the amendment would reduce, on the basis of our proven record, would reduce the price differential. It would reduce the price differential from 5 to 3 percent in the light of DLA data indicating that the average price differential was only 1.9 percent.

□ 1430

Mr. Chairman, this year we have a $177 billion defense budget, and over the next several years we will be

seeing further significant increases in Government defense spending. We cannot ignore the impact of these expenditures on the Nation's economy nor the importance of guaranteeing that distressed as well as prospering areas have the opportunity to participate in the defense production.

I would also note that although this program allows payment of a small price differential, it may actually keep costs of nonstrategic goods down by guaranteeing that there is abundant competition for these contracts.

Mr. Chairman, I think all my colleagues are aware that I support a strong national defense. If they are not, they have not been listening in the last couple of weeks. But we can never have a truly strong defense if significant areas of the country are afflicted with idle workers and machinery, which is certainly true in the great Northeast section of our country. Such a situation would leave us unprepared to respond to a national emergency and unable to adequately supply the common goods our troops rely on.

Continuation of the DLA test program will strengthen the national economy by putting people and machinery back to work and enhance our national security by helping to maintain a broad industrial base.

Mr. Chairman, I just want to bring to the attention of my colleagues the fact that this program, as I indicated, is supported by the President of the United States. He has indicated that this is a program that has succeeded. Let me just read his remarks because they are always very persuasive.

The President said this:

> It was difficult to determine the impact of the set-aside on unemployment levels or on the general economies of these areas. Since in many instances, labor surplus firms were able to compete effectively for defense contracts without the benefit of premiums, the cost of the test proved small.
>
> Given these initial inconclusive test results, I recommend that the Congress not repeal the longstanding Maybank Amendment. However, to ensure that the test is given a full and fair evaluation, I would support its continuation through fiscal year 1983, as recently passed by the Senate.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am pleased to yield to my friend, the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, I just want to make sure I understand what we are doing here.

As I understand it, for a number of years the Maybank amendment has been in place which would not allow DOD to give preference to areas of the country that have had high unemployment. I got a letter from the gentleman saying that his amendment would be very beneficial to my State because we do have a very high unemployment there.

But it seems on the face of it that this is sort of a bailout for the Northeast-Midwest coalition that is going to give them preferential treatment in acquiring contracts, and I was just wondering if the gentleman could help me and the Members of the House in understanding the rationale as to why the Defense Department once again is going to be used as a social catalyst, so to speak, to bail out the economy and used in conducting a social experiment.

Why do they not just bid on a 1-to-1 basis and whoever makes the lowest bid gets the award? Why do we have to give preferential treatment here?

Mr. STRATTON. Mr. Chairman, I will say to the gentleman that the 5-percent figure which he cites is not in my amendment. We would continue this test for another year simply because, although we have a 5-percent——

Mr. DICKINSON. Do we have that 5-percent figure?

Mr. STRATTON. Let me just finish my statement.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has expired.

(By unanimous consent, Mr. STRATTON was allowed to proceed for 5 additional minutes.)

Mr. STRATTON. Mr. Chairman, we previously had the 5 percent in there, but it turned out that the actual differential over the 2 years that this test has been running was only 1.9. My amendment set a 3-percent differential. So this is a very minor differential, and as the gentleman has pointed out, these labor surplus areas are not confined simply to the Northeast. The gentleman's State of Alabama has a 13.2-percent unemployment rate, the highest in the Nation, and the State of Alabama has 48 labor surplus areas, the sixth highest in the Nation.

Let me also point out that we are not asking the Defense Department as a whole to go into this experiment. It is only the Defense Logistics Agency, which buys nuts and bolts and clothing and that sort of thing. And as I pointed out in my previous remarks, the benefits of this have been substantial in terms of the number of jobs created and the benefits to the areas that did receive the contracts.

Mr. DICKINSON. Mr. Chairman, if the gentleman will yield further, as the gentleman has pointed out, in my State we do have a very high unemployment rate. So if I should oppose this amendment, it is certainly not with a parochial interest; it is against the interests of many people in my State.

But my question to the gentleman is this: Why is this necessary? Why should not everybody compete on an equal basis? Why should there be preferential treatment given to the Department of Defense to in turn pass on to areas of high unemployment?

The gentleman says it will create jobs, but for every job it creates there, it disestablishes a job someplace else, I assume, because the work is going to be done. Why do we want the Defense Department getting into this social program?

Mr. STRATTON. We are not taking jobs away from any other place. We are creating jobs.

Mr. DICKINSON. Where are they coming from? You take them from one place and put them in another place.

Mr. STRATTON. Some 600 jobs were created in the State of Alabama as a result of this program. If these 600 people were to be without jobs, the Government would then have to pay them unemployment insurance and welfare and all the rest. So we are enhancing the economy of the country. We are not degrading the operations of the Defense Department as a result of this program.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I yield to my colleague, the gentleman from New York.

Mr. MITCHELL of New York. Mr. Chairman, I thank the gentleman for yielding.

The gentleman's explanation is excellent in terms of really saving funds by keeping people at work who want to work. There is another reason why I think it is very important, too, and that is that it will further serve to help diversify our defense industrial base.

That is very important in a wartime situation, or preparation for war. Not only are we keeping people working, but we are also having our industrial wartime base diversified broadly across the country.

If the gentleman will yield further, I would like to say to my colleague, the gentleman from Alabama, that 54 percent of the labor surplus areas are not in the Northeast and Midwest, so it is not a regional approach. It is a national approach. Unemployment is at the highest levels reached since the Great Depression. There are many people unemployed.

So, Mr. Chairman, for that reason, too, I support the amendment, and I thank the gentleman for yielding.

Mr. ADDABBO. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am glad to yield to my colleague, the gentleman from New York.

Mr. ADDABBO. Mr. Chairman, I thank the gentleman for yielding.

In answer to the question of the gentleman form Alabama (Mr. DICKINSON), who asked, "Do we take these jobs and move them from one place to another?" We do not, because the Defense Department, under 95-507, is supposed to create jobs by taking large

contracts and taking small portions of those contracts and putting them out to small business. That is where the jobs are created. They are not taken from one place and moved to another. So, therefore, we have great diversification, which is most important.

I think the gentleman from Alabama fully agrees with me that in order to get prices down and get cost-effective buying, we need competition. It is through this experiment over these last several years that we have had that competition and have brought prices down and have obtained more cost-effective buying for the Defense Department.

Mr. Chairman, I am happy to lend my support to the amendment offered by the distinguished chairman of the Armed Services Subcommittee on Procurement and Military Nuclear Systems. Two years ago I sponsored the original measure that modified the Maybank amendment and resulted in establishment of the Defense Logistics Agency test program.

The House voted for this change because it believed that military procurement, if targeted correctly, held the potential for significantly increasing employment in economically distressed areas. The preliminary data show that this belief was well founded.

In a time of record unemployment, when the Nation is losing much of the industrial capacity of its older communities, the importance of using scarce Federal resources wisely cannot be exaggerated. Our constituents have told us time and time again that they want to see the Government spend its money efficiently and effectively. What more efficient and effective way could we devise to purchase needed military supplies than to channel these contracts to the Nation's most economically troubled communities?

The Department of Defense accounts for between two-thirds and three-quarters of all Federal Government procurement. Given this fact, and that military spending is scheduled to increase significantly in the next few years, we bear a special responsibility to insure that these funds are spent in such a way that inflation is not stimulated and areas of high unemployment receive special consideration in the assignment of contracts.

Mr. Chairman, this is a program that works. In its initial months it created or maintained almost 1,800 jobs at an additional cost of only $421.65 apiece—a remarkable figure when we look at other programs that cost thousands of dollars to create a job.

One of the best features of this program is that it is not creating jobs in specialized military production fields that expand or shrink with changes in the defense budget or fashions in military technology. Rather, it is building capacity for production of goods that also can be sold to consumers—frequently goods that otherwise might be produced overseas. And as military procurement of these goods helps to build this capacity, it also provides a financial base that will help make these companies more competitive in the domestic economy, enabling them to keep down the prices charged to both the military and the private consumer.

Mr. Chairman, I urge my colleagues once again to support this amendment and continue a program that is building domestic employment and industrial capacity as well as a strong national defense.

Mr. JOHNSTON. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. I am very happy to yield to my colleague, the gentleman from North Carolina.

Mr. JOHNSTON. Mr. Chairman, it would appear to me, if this line of reasoning is to be continued, since the gentleman has pointed out how many jobs this has created, that we should increase the differential to perhaps 10 percent and up the amount to $50 billion or $100 billion in defense procurement and we would put everybody in the country to work, if that is valid economic logic.

It would appear to me that this is nothing more than another example of subsidizing inefficient producers and price and resource allocation by the Government through the Defense Department, which we are ordering to operate efficiently. But handicapping by bills such as this.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. STRATTON) has again expired.

Mr. STRATTON. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 5 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GIBBONS. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. MONTGOMERY. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Stratton amendment, and I would like to point out to my colleagues that this is not a committee amendment. I was rather surprised that the gentleman from New York (Mr. STRATTON) offered this amendment. He certainly did not offer it in committee, and we did not know anything about it until he brought it forward a few minutes ago.

No matter what we say, it is really putting a State against a State or a region against a region. We do not need that in this House.

Quite frankly, we have got enough unemployment in this country now without having to worry about shifting jobs around to other parts of the country. And the test program really has not done anything at all.

I would just like to quote what has happened in 11 months of this test program that the gentleman from New York, Mr. SAM STRATTON, wants to extend for another year. It has cost the taxpayers $1.5 million. What it has done is added 2,300 jobs in one part of the country and we lose 2,368 jobs in another part of the country, a net loss of 68 jobs. We pay $1.5 million to lose 68 jobs.

This is a great test program. The gentleman from New York, Mr. SAM STRATTON, wants to extend it for another year. It does not make any sense. In my own State of Mississippi we added 52 jobs and we lost 52 jobs. It cost the taxpayers $1.5 million.

Quite frankly, the big people who build the big aircraft and the tanks and the guns are not affected. This is the Defense Logistics Agency. The little jobs, the little contractors, will be affected. The "biggies" will not be affected in New York York and other parts of the country, but the little businesses will be hurt, and it is just not a good amendment. It is a bad precedent to interfere with the awarding of small contracts by bringing in unemployment.

Mr. Chairman, the amendment does not make any sense. It costs the taxpayers money, and it has not worked.

Mr. MITCHELL of New York. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I am pleased to support this amendment. It would provide for continuation of a program that we authorized in Congress back in 1980 that has proven to be a viable program and an effective program.

As the gentleman from New York (Mr. STRATTON) stated, it targets a very small portion of the defense budget to labor surplus areas, and labor surplus areas are defined as communities where the unemployment is 20 percent higher than the national average.

In 1980 Congress modified the Maybank amendment, which all but prohibited targeting of defense procurement dollars. Another distinguished gentleman from New York (Mr. ADDABBO) led the debate, and because it was strongly supported by the Northeast-Midwest coalition, it was billed as a regional effort. It was not then, Mr. Chairman, and it is even less so now.

Today the unemployment issue is nationwide. We have the greatest level of unemployment since the Depression. It is certainly a severe national problem. Many areas of the United States are in trouble.

When we look at the regional aspects of this amendment I would like

to point out that 54 percent of the labor surplus areas (LSA) are located outside the Northeastern-Midwestern States. For example, all 16 counties in Florida are designated labor surplus areas; 60 percent of the counties in California are designated that way; 61 percent of Oregon, 64 percent of Washington, and 67 percent of Alabama's counties are classified as labor surplus; 70 percent of Tennessee and 70 percent of West Virginia is categorized as labor surplus.

□ 1445

By comparison, only one-third or 33 percent of the counties in my State of New York are so designated.

So it is important to the Northeast and the Midwest, obviously, but it is also important to the whole country.

We have 1,000 economically distressed communities in our country—1,000 economically distressed communities. That is a very big number and I think it is time this Congress do something to alleviate some of that suffering.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from New York.

MR. STRATTON. In connection with the 1,000, I might point out that 24 of those are in North Carolina and 32 of them are in Mississippi.

Mr. MITCHELL of New York. I thank the gentleman for his contribution.

It is argued sometimes, Mr. Chairman, that somehow this will hurt the defense effort, and this is utter nonsense. It positively will not hurt it. If it did I would be the last to do that. I do not think anyone has a better voting record in support of a strong defense than I do in this House.

In its first year of operation it provided a 5-percent price differential for contracts between areas that were labor surplus and areas that were not. But the targeted contracts awarded produced a price differential of less than 1.9 percent, so it did not cost much at all and it created or saved nearly 2,000 jobs.

I do not know where my colleague got his statistics that 60-some jobs were lost. I do not have anything like that in my notes. We think it created 2,000 jobs.

The Pentagon this year will purchase about $15 billions worth of goods that are unrelated to nation security and have nothing to do with the strategic effort in this country. These items range from paper clips to rubber bands to heavy duty trucks.

If the Stratton amendment is adopted Defense will be permitted to offer up about one-third or 5 billion dollars' worth of contracts for labor surplus areas.

To further insure a better bang for the buck the Congressman from New York (Mr. STRATTON) has lowered the contract differential from 5 percent way down to 3 percent, so it is not much of a difference at all.

So it becomes even more cost effective than last year's provision.

There are two other advantages, Mr. Chairman. It will further serve to help diversify the industrial base in this country by not drying up certain areas that are in severe trouble economically. It will help save far more than it costs by eliminating the necessity for job protection programs, for unemployment insurance, for welfare expenditures, for medicaid costs.

It is not a big amount of money for those purposes, Mr. Chairman. It is a good program. It is private sector oriented. It is a strong measure to help insure the defense effort in this country.

This program will save dollars in the long run and I would urge my colleagues to support the Stratton amendment.

Mr. COUGHLIN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to my colleague from Pennsylvania.

Mr. COUGHLIN. Mr. Chairman, I rise in support of the Stratton amendment to the Defense Department authorization bill.

This amendment will be very helpful to areas of the country like Pennsylvania with very high unemployment. The jobless rate in Pennsylvania is now approximately 10 percent of the work force.

The Stratton amendment will extend a program which directs the Defense Logistics Agency to purchase a portion of nonstrategic goods and services from businesses located in high unemployment areas and allows these firms a slight price advantage over competitors located in less economically troubled parts of the country. The amendment provides for $5 billion in purchases by the Defense Logistics Agency and a 3-percent price differential during fiscal year 1983 under this test program.

Since this program has been in operation, the results have been excellent. Jobs are being created or maintained in areas where they are needed most while the price advantage has cost the Government very little, around $400 per job.

The need to continue this program is even more urgent than it was several years ago when it was begun. I urge my colleagues to support the Stratton amendment.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. MITCHELL) has again expired.

(At the request of Mr. HUNTER and by unanimous consent Mr. MITCHELL of New York was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from California.

Mr. HUNTER. I have a couple of questions that I think should be brought up.

It has been implied by some, and repudiated by others, that there would be jobs created by this amendment and that the taxpayers would not be paying more money.

I would simply ask the gentleman if I am a contractor from one State and I offered to sell a number of bolts, let us say, for $1 a piece, as I understand it, under this amendment you could bid $1.03 on the same bolts, the same order, and you would win the contract over myself because of my geographic location as opposed to yours; is that correct?

Mr. MITCHELL of New York. That is true. It is not geographic location but economic predicament.

Mr. HUNTER. The thing that I think is wrong with this amendment is simply that we have made a tremendous effort in the Armed Services Committee and in this Congress to inject more competition into the system, and yet, in this amendment we are backsliding on our effort to economize.

I think we should look at this amendment from the individual's point of view. If you survey this situation from the perspective of the small businessman, who has put everything he has into his effort to make a successful negotiation of a certain contract, you will realize how unfair this amendment is.

I think to put us in a situation where one individual may come in with a lower bid but is not going to win the contract, is discouraging this move toward competition that we have tried to inject into the defense procurement area.

I think it is a bad amendment for that reason.

Mr. MITCHELL of New York. I would respond to my colleague that I am not sure what the procurement budget is this year. The whole defense budget is almost $300 billion. This represents about less than $5 billion. It is not a big number relatively speaking.

It keeps these industries going so that we can diversify our defense effort and we do not have everything located in a few States, which could represent a very severe strategic problem.

Mr. HUNTER. If I can ask the gentleman to yield further, I appreciate the gentleman's statement that we are not talking about a lot of money. But I think for that small business man's point of view—the one who went out and bid that $1 per bolt for that lot of bolts—is beaten out by the guy that bids $1.03, the amendment is very unfair. For that small businessman it is a very desperate situation and it is

not right to put him in a position where he is the low bidder and yet loses the contract.

Mr. PURSELL. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from Michigan.

Mr. PURSELL. I would like to say this differential is really offset by the high cost of somebody on unemployment. When you look at welfare and AFDC and unemployment compensation and those high costs to the taxpayer, both at the Federal and State level, it seems to me if you look at the tradeoff in those dollars this is a benefit and a break for the taxpayer to help somebody on unemployment in an industrial base rather than being unemployed.

They could help supplement any industry by doing some defense procurement work.

So from a dollar standpoint, I think this program in terms of equity helps the whole country, not just a particular region.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to my friend from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

I would like to respond to the gentleman's comment earlier when he was worried about his particular area. There are a couple of things you have to remember.

First, it is a test program;

Second, it reduces the test from 5-percent to 3-percent price differential; and

Third, the early indications of the test are that it is working, that targeting some nonstrategic defense buying to areas of economic distress is working.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. MITCHELL) has again expired.

(At the request of Mr. EDGAR and by unanimous consent Mr. MITCHELL of New York was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Targeting a small percentage of the nonstrategic defense buying to areas of economic distress saves a lot of money and in a lot of ways it helps prevent the development of Federal programs to lay up on top of the economic problems of those regions because of high unemployment.

Much of the earlier data indicates that the program does help to give areas throughout the country, North, East, South, and West, some economic help in stimulating jobs in areas where there is very high unemployment.

I thank the gentleman for yielding.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from Michigan.

Mr. DUNN. I thank the gentleman for yielding.

I would like to address my colleague from California. His main concern seems to be competition. There are many factors that go together to make up the economy of this country or the economy of a region. If you take one of the largest purchasers in the world, that being the Defense Department, and the concentration of those defense dollars in certain parts of our country, you can make the point that they are artificially stimulating those economies.

So if the gentleman is concerned about competition and you have very high unemployment in other sections of the country and you want to create this competition, which the gentleman said he did, then a good way to do that is to take that very large purchaser, the world's largest purchaser, and give them an opportunity to go into those areas and buy.

You do not decrease competition in small business particularly; you increase competition in the country.

I thank the gentleman for yielding.

Mr. MITCHELL of New York. I thank the gentleman for his contribution.

Mr. WOLPE. Mr. Chairman, will the gentleman yield?

Mr. MITCHELL of New York. I yield to the gentleman from Michigan.

Mr. WOLPE. I thank the gentleman for yielding.

I want to associate myself with the remarks of the gentleman from New York and rise in very strong support of the Stratton amendment, an amendment of particular importance to my own State of Michigan, which leads the country in economic distress and unemployment. Passage of this amendment to continue the targeting of a small portion of the Federal Government's vast purchasing power to companies in distressed areas will have a number of important effects.

First, the amendment will create and preserve jobs in economically distressed areas without increasing the Federal budget or establishing a new Government bureaucracy.

Second, the amendment will reduce Federal spending by easing demands for income maintenance programs. Many new jobs created under the DLA program will take people off the unemployment and welfare rolls, thus reducing the burden on a variety of benefit programs.

Third, the amendment will preserve competition in defense contracts. These contracts can be set aside for labor surplus areas only if enough bids are submitted to assure adequate competition and a reasonable price.

Fourth, the amendment will strengthen the national defense. The Nation cannot tool up rapidly for defense production when thousands of factories are idle and millions of workers are jobless. By reserving some Federal contracts for areas of high unemployment, the DLA program is designed to diversify and expand the industrial base needed for rapid mobilization in the event of war or national emergency.

Mr. Chairman, it is important that this program be continued. The preliminary results indicate it is working exactly as intended: Jobs are being created in our Nation's most economically distressed communities at little or no cost to the government and with no additional bureaucracy. I urge my colleagues to join me in support of the Stratton amendment.

Mr. MITCHELL of New York. I thank the gentleman for his contribution.

It is argued sometimes that this amendment would somehow hurt the defense effort. Nonsense. I would be the last one to want to do that. I yield to no one in my support of a strong defense.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. MITCHELL) has again expired.

Mr. MITCHELL of New York. Mr. Chairman, I ask unanimous consent that I may be allowed to proceed for 3 additional minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

Mr. GIBBONS. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. NELLIGAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of this amendment.

Modification of the Maybank amendment to allow channeling of defense contracts to areas of high unemployment is essential.

There are 43 areas in the State of Pennsylvania that have been classified as labor surplus areas by the Department of Labor. Modification of the Maybank amendment will allow businesses in these areas to receive a price advantage when bidding against firms in healthy economic areas for certain defense contracts.

Figures I have examined indicate that while taxpayers in the Northeast and Midwest contribute over half of the revenues collected by the Federal Government—they only receive about one-third of the economic benefit of defense spending.

The pending amendment would help correct this situation. The amendment will continue a test program supported by the administration last year.

This program allowed up to $5 billion of defense spending to be directed to labor surplus areas through the price advantage system.

At the same time, the program provided the Federal Government with an

effective means of stimulating economic activity in these areas.

I believe this program must continue. We must insure that the current program to improve our military posture produces an equitable sharing of the benefits of military spending. More defense contracts must go to the Northeast and Midwest, which has unused industrial capacity and many skilled workers who are seeking employment.

We would not damage national defense, but enhance national defense through approval of this amendment. We would garner that support we are losing in the Northeast and Midwest for a strong defense if Americans from these regions of the country thought they were getting their fair share of the defense expenditures.

Effective defense is dependent on a vibrant and strong economy. This amendment would help relieve current economic dislocation in the Northeast and Midwest, and help the Defense Department develop a broadened industrial base for its procurement activities.

I therefore want to indicate my thorough approval of the amendment, and urge my colleagues to vote in favor of this amendment.

Mr. GIBBONS. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, this is a boondoggle. It is nothing other than that, purely and simply.

I am sorry that I do not belong to a coalition and do not have someone to write me long speeches that I have to read here on the floor. But I know a boondoggle when I see it.

I happened to get some of the canned letters of the gentleman from New York (Mr. STRATTON). He wrote to me. We are right next door to each other in the hall there. He wrote me and he said, "You know, you have 22 employment surplus areas in your State and you ought to be for my amendment."

But what he did not know is that I have a little old plant in my district that has been making pieces of uniforms for a few years for the armed services. If you go in that plant they have a collection of sewing machines and a collection of blacks and of women and they work like the dickens. If you go in there now, those sewing machines are sitting vacant and sitting idle because of the amendment offered by the gentleman from New York (Mr. STRATTON) this boondoggle that has dragged those jobs off into one of those 22 surplus areas somewhere else in Florida.

I do not come from a big defense area. You can go explore around my district and if you can find a defense contractor other than this little old supplier of parts of uniforms I will be happy for you to find him because I have not been able to find him.

This is not going to spread America's industrial base. This just trades unemployment around.

Mr friend, the gentleman from New York (Mr. STRATTON) has a great reputation of being strong on defense and I always thought he was and I followed him.

But, Sam, you know, this is just too much. This is just too much. This is playing off one section of the country against another and that is not fair. We are all Americans and we all pay the same bills. I would like for all of us to pay the same taxes.

Mr. STRATTON. Mr. Chairman, may I respond since the gentleman mentioned my name?

Mr. GIBBONS. In a minute. You had 15 minutes and I had to finally cut you off, Sam, and I only want my 5.

But let me tell you, this does not create one new job in America. It costs America more money and it does not do anything but take people who have been working hard at a job, trying to live up to the laws of contracting and employment in this country, and treat them as second-class citizens.

You ought to be ashamed of this amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. GIBBONS. Now I yield to the gentleman.

Mr. STRATTON. I thank the gentleman for yielding to me. I appreciate his warm sentiments.

Mr. GIBBONS. They are warm, yes, sir.

Mr. STRATTON. And we share offices on the same corridor.

Mr. GIBBONS. It is a good corridor.

Mr. STRATTON. And the gentleman has indeed, as he said, been a strong supporter of defense and in fact he has been a strong supporter of the present administration. In fact, he supports it not only in defense but in its economic approach.

The gentleman perhaps was not listening when I read the letter from the President of the United States. The gentleman may instead have been planning how to take me off my feet. But what the President said was that this is only a test program and that this test has been working very well.

Mr. GIBBONS. Let me take my time back. I am not going to yield any further. I want to take my time back.

□ 1500

The President never saw this program. He does not know what is going on. The gentleman knows better than that. The gentleman has been in this Congress for 20 years.

Mr. STRATTON. I do not know better than that.

Mr. GIBBONS. This is just a boondoggle that somebody slipped past him down there.

Mr. MAVROULES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by my fellow member of the Armed Services Committee and colleague from New York. His amendment offers a cost-effective means to guarantee that procurement of nonstrategic goods by the military plays a part in relieving the economic distress now plaguing the Nation.

For 27 years the Department of Defense was exempted by the Maybank amendment from complying with Defense Manpower Policy No. 4 in the purchase of nonstrategic goods. DMP-4 serves the national defense and the Nation's economy by encouraging Government agencies to target their purchases to private businesses in cities and counties designated by the Department of Labor as labor surplus areas.

Mr. Chairman, I wish to emphasize the nonstrategic nature of the goods that are purchased under the Defense Logistics Agency (DLA) test program. Mr. STRATTON's amendment has been carefully crafted to insure that the armed services are not hindered in securing the best weapons systems or other goods related directly to national security. No tanks or guns or planes or ships would come under the language of the amendment. Rather, it would cover the purchase of things like paper clips, shoelaces, hats, and envelopes—the type of common goods on which the Defense Department spends between $10 and $15 billion every year.

Experience with the test program so far indicates that targeting of contracts to high unemployment areas has been a reasonable requirement that the Defense Department has been able to carry out intelligently and effectively. The program offers adequate flexibility in the award of contracts, the great majority of which have involved no added cost to the military.

Mr. Chairman, the Stratton amendment will strengthen the Nation's security by strengthening and broadening its industrial base. I urge my colleagues to join me in support.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Michigan.

Mr. HERTEL. I thank the gentleman for yielding, and I commend my colleague, the gentleman from Massachusetts, who has been in the forefront of this issue, and especially the chairman of our Procurement Subcommittee, for his past work on this issue and his work in bringing it to the attention of the House this year.

Twenty-seven percent of the Federal budget is defense spending. That is the largest single outlay of this Nation as far as materials and manpower, et cetera, that is visible and tangible. Unfortunately, as has been pointed out by my colleague, the gentleman from New York, we are talking about less than $5 billion of $300 billion. I wish this portion was more.

In Michigan, we have a 16-percent unemployment rate. Sixteen percent. We have a depression in Michigan. There are other States in the country which also have high unemployment rates. They need the opportunity this provision provides.

Let me say this: You say it is one region's fault, or it only affects these States. Any part of this Nation that is weak pulls down the rest. I say to my colleagues from the South that the rest of this Nation, for years, especially earlier in this century, helped to build up the South and helped build it up recently largely through defense contracts. I think that is fine. To improve any area of the country strengthens the entire Nation. As I said, if one area has so much unemployment, it is a drag on the national economy. That is what is happening in this country right now, with pockets of unemployment in Michigan, Alabama, Ohio, Indiana, States like that. It is very harmful.

Michigan only gets 65 cents back on the dollar that our taxpayers send to the Federal Government. We are last, if you take us in proportion to what we pay in.

So we in Michigan have a chance, under this amendment, to get some more contracts. I call this amendment offered by the gentleman from New York (Mr. STRATTON) an amendment for fairness, a small amount of fairness, but fairness for other regions of the country. Unfortunately, very often we see regional fights throughout the Congress, especially in the area of defense but also spending in other areas. That is unfortunate, but it is true.

I think that we are going to see a change in this Congress if we are not going to spread defense spending around this country. In Detroit and in all of Michigan, they have the experience, they have the know-how. In the Second World War all the Members know that Detroit was called the arsenal of democracy. If we allow the automotive industries and related industries, whether they be metal, rubber, and countless other industries, to go under, never to have the chance to come back again, to go bankrupt, we are not only hurting families and causing high unemployment and giving people no hope, not only for the near future but for the long-range future, but we are dividing this country, and we are going to weaken this country industrially. If we do that, therefore, we have weakened this country militarily. There is no doubt about it.

I know that many of the Members who have talked in opposition to this amendment today do have a good deal of military spending in their districts. What I am saying is, let us allow some more to be spread around the country in this experimental program that has worked—as the chairman has pointed out—that has worked very well for the short period we have had it.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts (Mr. MAVROULES) has expired.

(On request of Ms. MIKULSKI and by unanimous consent, Mr. MAVROULES was allowed to proceed for 5 additional minutes.)

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Pennsylvania.

Mr. BUTLER. I appreciate the gentleman yielding.

Insofar as I can determine, this provision will have no impact directly or indirectly upon the people that I represent. But tell me, explain to me just exactly how this works. Of course, in order to take a bid from the place where it costs a little bit more, there has to be a price differential in some amount. The gentleman has talked about a test program. Can the gentleman tell us how much the price differential to date has cost us?

Mr. MAVROULES. Unfortunately, I cannot answer that question. I do not have the figures. Staff perhaps can dig out the figures for the gentleman and relay them to him.

I yield to my chairman, the gentleman from New York (Mr. STRATTON), who has those figures.

Mr. STRATTON. According to the report from the Defense Department, the premium paid was $795,482, or an increase of 1.7 percent in procurment costs.

Ms. MIKULSKI. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentlewoman from Maryland.

Ms. MIKULSKI. I thank the gentleman for yielding.

Mr. Chairman, I would just like to associate myself with the arguments both the gentleman in the well and the gentleman from Michigan made. I believe that if we are going to spend defense dollars, we ought to spend them in the community, to give jobs to the veterans who fought to defend this country. In my own community, at General Motors, when one considers the unemployment figures and the seniority level that they are laying off, all of these Vietnam vets at General Motors in my district do not have a job. When one takes a look at Bethlehem Steel in my district, we are now up to seniority levels where the Korean war veterans do not have a job. They are now telling the World War II veterans that they are now labor surplus. But they were not labor surplus at Iwo Jima or at Normandy.

I believe that if we are going to use these dollars, we need to do that. And our own Secretary of the Navy told the Maryland delegation that if we do not support this defense budget, then my shipyard workers better learn to whistle "Dixie" because that is the only place the contracts will be.

I support the Stratton amendment.

Mr. MAVROULES. I thank the gentlewoman for her remarks.

Mr. McDADE. Mr. Chairman, will the gentleman yield?

Mr. MAVROULES. I yield to the gentleman from Pennsylvania.

Mr. McDADE. I am grateful to my friend from Massachusetts for yielding to me.

Mr. Chairman, I want to commend my colleague, the gentleman from New York, the House's favorite unreconstructed hawk, for bringing us the extension of this legislation. I think that the bottom line that we all have to look at is what this program does is to emphasize competition. Before the Defense Department can go out and make any kind of an award, they have got to, as my friend from Massachusetts knows, find that there is a competitive element in a given area and that they can compete on the nonstrategic side of the Defense Department's budget. That is the key here, and I think that is why I think my friend from Massachusetts is absolutely correct, and my friend from New York, in advocating the extension of this program. I am pleased to associate myself with their remarks.

Mr. Chairman, I hope that this amendment will pass overwhelmingly.

Mr. MAVROULES. I thank the gentleman for his comments.

Just to sum it up, if I may, a statement was made by my colleague, the gentleman from Michigan, just a moment ago about the economic recovery of the country at large. Just very basically, if we are going to go ahead in this country economically, let us keep one thing in mind, and that is, let us dare not leave one part of the country behind in this total economic recovery program. And to those of you who today might use the argument that you are taking away from me and you are going to give to someone else, remember these arguments in the future, some day in the future, very shortly, when we are discussing enterprise zones for this country, and then we will talk about the arguments that you are putting forth today.

I urge my colleagues to support this amendment.

Mr. SPENCE. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, we have heard views expressed by various Members from various parts of this country. I would like to emphasize that mainly these were views expressed, and devoid of a whole lot of facts.

The fact is that we have unemployment in many areas of this country, not just in the Northeast or in the Midwest. In my own State of South Carolina, we have areas of high unemployment.

□ 1510

We have heard views expressed as to this being a cost-effective operation. Let us look for the first time at the facts.

The facts are that while we do not have the 1982 test results in yet, we do have the facts available from the 1981 test.

Those results show, in a nutshell, that the Federal Government spent $1.6 million on this problem to lose a total of 68 jobs throughout the Nation.

Here is how it works out.

On this program, 2,300 jobs were gained in labor surplus areas, but 2,368 jobs were lost in other areas of this country.

So we have, as a result, not decreased unemployment in this Nation, but we have spent $1.6 million to increase unemployment.

If this kind of job shifting continues, we may simply end up spending excess money on defense every year to change the location of high unemployment from one section of the country to another, all at taxpayers' expense.

Half of the $1.6 million spent on this program in fiscal year 1981 went not for the actual cost of defense procurement, or the creation of jobs, but rather to employ governmental personnel to administer and monitor the test program.

The Government spent $795,000 to administer a program which enabled us to lose 68 jobs in this country.

Now, if that is not a boondoggle, you call it something else.

Mr. BUTLER. Mr. Chairman, will the gentleman yield?

Mr. SPENCE. I yield to the gentleman from Virginia.

Mr. BUTLER. I thank the gentleman for his contribution. I appreciate the accurate figures he has given us. A moment ago I asked a Member to give us the figures on what the price differential has had, and the gentleman turned to the gentleman from New York and got a figure in the neighborhood of $700,000. I left the floor for a moment to check once more with my staff and also the Senate debate. I can verify the figure that the gentleman now uses of $1.6 million as what it costs. I can verify, too, having just checked with my staff within the last moment, that the number of jobs it has cost us has been 68 jobs. It has transferred 2,300 jobs from one place, where there were 2,368 jobs in another place, and the net result is that it has cost us 68 jobs at a cost of $1.6 million.

You have to do a hell of a volume in a business like that to cut national defense expenses.

So, I say to the gentleman, I appreciate his contribution, and I join with the gentleman from South Carolina and the gentleman from Florida who have identified this as in fact a true boondoggle.

Mr. BADHAM. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there are very few occasions when this Member rises in opposition to the chairman of the subcommittee on which I serve in the Armed Services Committee, the gentleman from New York. But this is most certainly one.

When we reduce this political argument, this regional argument, to actual business terms, I do not think there can be any conclusion to come to, other than to defeat this amendment.

Assuming that the U.S. Government, for military purchases, needs only so many things and only has so many dollars to spend, it would seem to me as a former businessman that the way to go about that would be to buy all the material they need with all the dollars available for the lowest price.

Now, if we are going to make a social program out of military purchases, we should transfer the function out of the defense budget and put it into the social welfare budget.

To say that we should transfer jobs from productive areas to areas where we have to pay a higher price because of unemployment, we should look rather to the root cause of the unemployment than make a social program out of defense purchases.

Mr. Chairman, from a pure business standpoint, we no longer have the luxury of making social programs out of defense purchases. We ought to purchase the goods and supplies that we need for our defense material and for our country's defense at the cheapest possible place to save money rather than pay too much for the goods that are available.

Mr. McCURDY. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Oklahoma.

Mr. McCURDY. I thank the gentleman for yielding.

I would like to associate myself with the comments of the gentleman, and commend him for his accurate and eloquent statement. I believe the amendment as proposed constitutes bad procurement policy and results in excessive additional costs to our national defense.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. BADHAM. I yield to the gentleman from Tennessee.

Mr. BEARD. I thank the gentleman for yielding.

I would like to associate myself with the gentleman's remarks. I must say I think his remarks were probably one of the most pertinent set of remarks I have heard on this whole issue. As a result of those remarks this body should be ready to vote on this issue.

Mr. BADHAM. I thank the gentleman and agree.

Mr. Chairman, I yield back the balance of my time.

Mr. BENNETT. Mr. Chairman, I believe we are about to a point where we can wind up this debate on this amendment.

Mr. Chairman, I move that the committee cut off all debate on this amendment and all amendments thereto at 3:30 p.m.

The CHAIRMAN pro tempore. The gentleman moves that all debate on this amendment and all amendments thereto end in 10 minutes.

The question is on the motion offered by the gentleman from Florida (Mr. BENNETT).

Mr. EDGAR. Mr. Chairman, reserving the right to object——

Mr. BENNETT. Mr. Chairman, I made a motion; I did not ask unanimous consent. I thought I made a motion.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. BENNETT) has offered a motion.

The question is on the motion offered by the gentleman from Florida (Mr. BENNETT).

The motion was agreed to.

The CHAIRMAN pro tempore. Members standing at the time the motion was made will each be recognized for approximately 30 seconds.

□ 1520

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. GARCIA).

Mr. GARCIA. Mr. Chairman, I only caught the tail end of the discussion of my colleague from California.

Just let me say, what we are talking about is 3 percent. After what has happened by this Congress in 1981 and 1982, to those areas of this country which need so much help 3 percent is not very much, that is what we are talking about.

We have plants today in the South Bronx which are taking people off welfare because of defense spending and the only reason we are doing that is to try to put those people that you claim do not want to work back to work—3 percent.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

Mr. BENNETT. Mr. Chairman, I oppose this amendment. It seems to

me, if it has any philosophical value to it, it ought to be applied across the board to all branches of Government.

I do not remember a big program doing anything like this for the South or any other section I know of in the States. I see no reason for making a sectional, parochial thing out of the matter of national defense.

The CHAIRMAN pro tempore. The Chairman recognizes the gentleman from New York (Mr. STRATTON).

(By unanimous consent, Mr. PRICE yielded his time to Mr. STRATTON).

Mr. STRATTON. Mr. Chairman, I think we ought to remember that this is a test program, a test program that has worked effectively and one that the President of the United States, who is certainly not a big spender in the economic area wants to continue for another year.

The gentleman from South Carolina (Mr. SPENCE) suggested that while there were thousands of jobs created by the program, thousands of other jobs disappeared; but there is no connection between those two, the jobs that disappeared are jobs I daresay that disappeared because businesses could not pay the high interest rates and because of the economic recession. That is happening every day in New York State and in my district; but to suggest that that has any relationship to this program, which is creating jobs, is sheer fantasy.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from North Carolina (Mr. JOHNSTON).

Mr. JOHNSTON. Mr. Chairman, I appreciate the concern of the gentleman from New York about my 24 counties in North Carolina that are surplus labor areas; but what about the other 76? Am I willing to tell a businessman in that county that you are at a 3-percent disadvantage over one in an adjacent county because he happens to live across the county line? That is precisely what this bill would do to what should be competitive low bid contracts.

The second point, the economic realities are that in an area of high labor surplus, labor costs should be lower, so the business in a high labor surplus area presumably already has a competitive advantage. Why provide such business another competitive edge at the expense of the American taxpayer. A 3-percent add-on cost to $5 billion in procurement means a $150 million additional burden on the American taxpayer.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Chairman, this is a test that never should have been tested and when tested flunked and ought to be discarded.

This does not create employment. It just merely transfers and dislocates the American economy. It transfers one form of hardship from one place to another.

In my own area, it transfers jobs a few miles down the road. It meant that a lot of blacks and women became unemployed and had to join the unemployment force.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Minnesota (Mr. FRENZEL).

(By unanimous consent, Mr. BUTLER yielded his time to Mr. FRENZEL.)

Mr. FRENZEL. Mr. Chairman, the inevitable result of the passage of this amendment will be either less defense for the same amount of dollars, or the same amount of defense for more dollars. Both are unacceptable.

I have been very critical of this bill, and this defense budget, indicating that for the first time in many years I might vote against the bill because we cannot afford it.

I think if we have so much extra money in this defense bill that we can use it for a national welfare program, then I, indeed, will vote against the bill.

I think it is an absolute outrage that we would use the hard-earned tax moneys of our suffering taxpayers to make defense purchases which are priced over the market.

I think anybody that votes for this amendment is going to bear a terrible burden of explanation in his or her constituency.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Ohio (Mr. ECKART).

Mr. ECHART. Mr. Chairman, obviously there have been all sorts of boogey men raised in this debate, calling it a welfare program. We have avoided everything including the facts.

According to the report of the Defense Department, 97 percent of the contracts awarded under this program went to the low bidder. Less than 3 percent of the total number of contracts went to preferential treatment. Clearly, I would not call that welfare.

I think what we are talking about is equity, fairness, saving our industrial base, sharing the wealth of one of the largest public works programs that this country is embarking upon, that of national defense.

I urge adoption of the amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in opposition to the amendment. We have had a test program for 11 months and it has not done anything.

This amendment only extends it for another year.

I would certainly oppose the amendmnent. It does affect the little businessman. It does not affect the big businessman. It is a bad precedent to say who gets certain contracts because of unemployment. In my State all we did was transfer 52 jobs to another part of the State, 52 jobs, and it cost the taxpayers of this country a million and a half dollars.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Pennsylvania (Mr. EDGAR).

Mr. EDGAR. Mr. Chairman, there has been a lot of misinformation shared in this debate. I hope our colleagues have taken the time to read some of the documentation.

First, this is a test program that the President requests that we continue for an additional year. Second, it is already available in all of our nondefense spending. We already have this amendment in public law and are using it, not in a test program, but in the nondefense civilian procurement.

Third, it will strengthen our national defense, because the Nation cannot quickly tool up for wartime production when thousands of factories are idle and millions of workers are left jobless.

Mr. Chairman, use of the DLA test program to target contracts to high unemployment areas is a significant tool to combat the effects of the recession on distressed urban areas without fueling inflation. Because the program focuses spending on areas that have a surplus of labor, it avoids the effect of heating up the labor market in areas that have high levels of employment or even shortages of skilled workers.

Dr. David Rasmussen of Florida State University explained this noninflationary effect to the House Small Business Subcommittee on Capital, Investment, and Business Opportunities. I would like to quote from his testimony:

> The labor surplus policy is one way to raise the employment effects of a given rate of growth. It is an attempt to selectively raise employment in those areas which economic growth is last to reach. Such a policy lowers the amount of growth required to achieve any target rate of unemployment and therefore works to reduce inflationary pressures in the economy.
>
> Some may view the labor surplus policy as a zero sum game: that jobs created in areas of persistent unemployment will be lost in other areas. This is a misperception. In fact, the view presented above suggests that the entire Nation receives some benefits from efforts to increase the number of jobs in high-unemplyment areas. If we take our commitment to full employment seriously, this policy will help produce conditions under which we can realize full employment in most labor markets with less inflation.
>
> Rather than having less than full employment in areas ineligible for the labor surplus policy, they may suffer less inflation when they do have full employment. Monetary and fiscal policy can stimulate growth to generate full employment in most labor markets. These areas will not lose jobs because of the labor surplus policy. In fact, these regions benefit because the Nation can reach full employment with less inflation. With a commitment to our stated goal of full employment, the labor surplus program does not rob Peter to pay Paul.

Mr. Chairman, there is no evidence to indicate the DLA test program has reduced competition or increased the cost of goods to the military.

First, competition is restricted only on those contracts set aside for labor surplus areas, and this occurs only when the Defense Department determines that enough firms will bid on the contracts to insure adequate competition. Therefore, the Pentagon is not required to target purchases to LSA's if the Secretary of Defense determines that an unreasonable price will result or it is not in the best interests of the Nation. In fact, the program most likely increases competition by bringing more firms into the bidding process, and this additional competition serves to keep prices down.

Second, the Defense Logistics Agency has paid a small price differential under this program on only a relatively few contracts. Preliminary results from a study of the first 11 months of the program indicate that DLA paid a price differential on fewer than 15 percent of the contracts it awarded to firms in LSA's, and the average differential on these contracts came to just 1.9 percent. The language of the Stratton amendment would lower the allowable differential from 5 to 3 percent, further preventing the payment of unreasonable prices.

The early performance of the program means that if the DLA pays a low price differential on $1 billion worth of contracts, the added cost to the Government would be less than $20 million—an "investment" by the Federal Government that would generate $3 to $4 billion in private-sector activity in distressed areas. When the resulting reductions income maintenance payments, unemployment insurance, food stamps, housing subsidies, and the like are considered, the actual cost of this program is greatly reduced or even eliminated.

Mr. Chairman, modification of the Maybank amendment and establishment of the Defense Logistics Agency test program have neither jeopardized awards to the best qualified and most efficient producers nor resulted in decreased quality or delays in defense production. If anything, the result is just the opposite. By increasing the competition for contract awards and the incentive for companies to perform well, the program more likely increases the quality of goods available to the military and the likelihood of on-time delivery.

Many of the Nation's best qualified and most efficient producers are located in labor surplus areas. In fact, nearly one-fourth of the Nation's cities, counties, and other eligible jurisdictions have been designated as labor surplus areas—testimony to the widespread nature of our economic difficulties and the need for a program like this one. The many manufacturing centers among these LSA's probably have more qualified firms than other parts of the country. States that historically have contributed heavily to the Nation's defense efforts—New York, California, New Jersey, Georgia, Connecticut, Florida, and Pennsylvania, for example—all have a significant number of LSA's with many firms that must be counted among the Nation's most qualified and efficient. These firms are proud of the quality of their products and their ability to meet contract deadlines.

It also should be noted that the portion of the Pentagon budget affected by modification of the Maybank amendment and establishment of the test program involves purchases made by the Defense Logistics Agency, the branch of the Defense Department responsible for procuring nonstrategic goods and services widely used by all sections of the military. This combined budget represents roughly $15 to $20 billion for the purchase of such common items as food, clothing, medical supplies, hardware, hand tools, insignia, books, boxes, and so forth. Targeting such purchases to companies in high-unemployment areas broadens the base of available suppliers, and because many of these companies are small businesses eager for Government contracts, the program is likely to result in better quality and performance as well as reasonable, competitive prices.

Mr. Chairman, modification of the Maybank amendment and establishment of the DLA test program have not adversely affected the Nation's ability to mobilize for an emergency by denying some firms the opportunity to compete for contracts. In fact, the original purpose of Defense Manpower Policy No. 4 (DMP-4) was to minimize idle labor and machinery in connection with the Nation's efforts in Korea.

By directing Federal purchases to firms located in areas of high unemployment, the policy helps insure that the Nation has a broad and diverse manufacturing base capable of meeting defense needs. Passage of the Stratton amendment would continue a program that helps prevent procurement delays caused by a lack of trained workers at qualified manufacturing facilities. Thus, in case of war or other national emergency, a greater number of firms would be prepared to "tool up" for defense production.

● Mr. ATKINSON. Mr. Chairman, I rise in support of the amendment of the gentleman from New York. At this critical time of economic hardship it is imperative that we seek new ways to revive our Nation's ailing industrial base. This program, in its first 2 years, has created new jobs and breathed new life into the most economically troubled areas of the United States. Not only does the targeting of Department of Defense moneys into these depressed areas put Americans back to work, but our Nation's industrial infrastructure—our factories and machines in these depressed areas which otherwise might become dormant—can be preserved and primed in readiness should the tremendous manufacturing capacity needed in wartime become necessary. The gentleman's amendment would continue a highly successful program of little or no cost to the Government, which would continue to infuse new money—and hence new jobs—into our country's economically hurting and troubled areas.●

● Mr. FORD of Michigan. Mr. Chairman, I rise in complete support of Congressman STRATTON'S amendment to the Defense Authorization Act for fiscal 1983. This amendment allows the Defense Department to continue the test program that targets some supply purchases to firms located in areas of high unemployment. This amendment will greatly benefit regional, State, and local efforts to attract more defense dollars into our area and reduce unemployment.

This amendment is crucial to Michigan and equally as important to the other Great Lakes States which have unemployment rates considerably above the national average. These States had at the end of 1981 no less than 409 labor surplus areas eligible for Federal procurement preference. The number of labor surplus areas in Michigan alone, at the end of 1981, was 101.

There is every indication that this program is working exactly as intended: Jobs are being created in the most economically distressed areas at little or no cost to the Government with no additional bureaucracy required. The 1980 results alone show that the Defense Logistics Agency (DLA) awarded 1,881 contracts to firms located in labor surplus areas under the provisions of the test program. A price differential was paid on only 248 of the 1,881 contracts. The price differential amounted to $555,912 on contracts valued at $29,817,012. This means that the added cost to the Government averaged 1.9 percent—significantly less than the 5 percent price differential allowed by statute. As a result of payment of a price differential on these 248 contracts, 1,732 jobs were either created or maintained. The cost of creating or maintaining a job under this program is only $421.65, even after adding DLA's administrative expenses. In fact, the reduction in income maintenance costs may actually reduce this cost further.

I was pleased that the Senate adopted an amendment to continue this program through the next fiscal year, but I was shocked and disappointed that the funding level was reduced from $5 billion to $3 billion and that the price

differential was reduced from 5 to 1.5 percent. The amendment we are voting on will maintain the funding level at $5 billion, and reduce the price differential to 3 percent, through fiscal 1983.

This amendment is clearly a vote for the Nation's industrial preparedness, and for bringing America's jobless workers back into the productive mainstream of the Nation's economy. I urge its adoption.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON).

The question was taken; and the Chairman pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. STRATTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 170, not voting 27, as follows:

[Roll No. 220]

AYES—237

Addabbo	Dyson	LeBoutillier
Akaka	Early	Lee
Albosta	Eckart	Leland
Alexander	Edgar	Lent
Anderson	Emery	Long (MD)
Annunzio	Erdahl	Lowry (WA)
Applegate	Ertel	Luken
Ashbrook	Evans (DE)	Lundine
Atkinson	Evans (IA)	Madigan
AuCoin	Evans (IN)	Markey
Bailey (MO)	Fary	Marlenee
Bailey (PA)	Fazio	Marriott
Barnes	Fenwick	Martin (IL)
Bedell	Ferraro	Martin (NY)
Beilenson	Findley	Martinez
Benedict	Fish	Matsui
Benjamin	Fithian	Mavroules
Bingham	Florio	Mazzoli
Boland	Foglietta	McClory
Bonker	Ford (MI)	McDade
Brodhead	Forsythe	McEwen
Broomfield	Frank	McGrath
Brown (CA)	Garcia	McHugh
Burton, John	Gaydos	McKinney
Burton, Phillip	Gejdenson	Michel
Byron	Gephardt	Mikulski
Carman	Gilman	Miller (OH)
Carney	Goodling	Mineta
Chisholm	Gray	Minish
Clausen	Green	Mitchell (MD)
Clinger	Guarini	Mitchell (NY)
Coats	Hagedorn	Moakley
Coelho	Hall (OH)	Molinari
Coleman	Hamilton	Mollohan
Collins (IL)	Harkin	Morrison
Conable	Hatcher	Mottl
Conte	Hawkins	Murphy
Corcoran	Heckler	Murtha
Coughlin	Heftel	Myers
Courter	Hertel	Natcher
Coyne, James	Hiler	Nelligan
Coyne, William	Hillis	Nowak
Crockett	Hollenbeck	O'Brien
D'Amours	Horton	Oberstar
Daschle	Howard	Obey
Daub	Hoyer	Ottinger
Davis	Hughes	Oxley
Deckard	Hyde	Panetta
Dellums	Jacobs	Pease
DeNardis	Jeffords	Perkins
Derwinski	Kastenmeier	Petri
Dingell	Kemp	Peyser
Dixon	Kennelly	Porter
Donnelly	Kildee	Price
Dorgan	Kindness	Pritchard
Dougherty	LaFalce	Pursell
Downey	Lantos	Railsback
Dunn	Latta	Rangel
Dwyer	Leach	Ratchford
Regula	Sensenbrenner	Vento
Reuss	Shamansky	Walgren
Richmond	Shannon	Walker
Rinaldo	Sharp	Washington
Ritter	Shuster	Waxman
Rodino	Simon	Weaver
Roe	Smith (IA)	Weber (MN)
Rosenthal	Smith (NJ)	Weber (OH)
Rostenkowski	Snowe	Weiss
Roukema	Solarz	Whittaker
Roybal	Solomon	Williams (MT)
Russo	St Germain	Williams (OH)
Sabo	Stanton	Winn
Savage	Stokes	Wolpe
Sawyer	Stratton	Wortley
Scheuer	Studds	Wyden
Schneider	Swift	Wylie
Schulze	Tauke	Yatron
Schumer	Traxler	Zablocki
Seiberling	Vander Jagt	Zeferetti

NOES—170

Andrews	Frost	Moorhead
Anthony	Fuqua	Napier
Archer	Gibbons	Neal
Aspin	Gingrich	Nelson
Badham	Glickman	Nichols
Barnard	Goldwater	Parris
Beard	Gonzalez	Pashayan
Bennett	Gore	Patman
Bereuter	Gradison	Patterson
Bethune	Gramm	Paul
Bevill	Gregg	Pickle
Bliley	Grisham	Quillen
Boggs	Hall, Ralph	Rhodes
Boner	Hall, Sam	Roberts (KS)
Bouquard	Hammerschmidt	Roberts (SD)
Bowen	Hance	Robinson
Breaux	Hansen (ID)	Roemer
Brinkley	Hansen (UT)	Rogers
Brooks	Hartnett	Rose
Brown (CO)	Hefner	Roth
Broyhill	Hendon	Rousselot
Burgener	Hightower	Rudd
Butler	Holland	Santini
Campbell	Holt	Schroeder
Chappell	Hopkins	Shaw
Chappie	Hubbard	Shelby
Cheney	Huckaby	Shumway
Collins (TX)	Hunter	Skeen
Conyers	Hutto	Skelton
Craig	Ireland	Smith (AL)
Crane, Daniel	Jeffries	Smith (NE)
Crane, Philip	Jenkins	Smith (OR)
Daniel, Dan	Johnston	Snyder
Daniel, R. W.	Jones (NC)	Spence
Dannemeyer	Jones (OK)	Staton
de la Garza	Kazen	Stenholm
Derrick	Kogovsek	Stump
Dickinson	Kramer	Synar
Dicks	Lagomarsino	Tauzin
Dowdy	Lehman	Taylor
Dreier	Levitas	Thomas
Duncan	Lewis	Trible
Edwards (AL)	Livingston	Udall
Edwards (CA)	Loeffler	Volkmer
Edwards (OK)	Long (LA)	Watkins
Emerson	Lott	White
English	Lowery (CA)	Whitehurst
Erlenborn	Lujan	Whitley
Evans (GA)	Lungren	Whitten
Fascell	Martin (NC)	Wilson
Fiedler	Mattox	Wirth
Fields	McCollum	Wolf
Flippo	McCurdy	Wright
Foley	McDonald	Young (AK)
Fountain	Mica	Young (FL)
Fowler	Montgomery	Young (MO)
Frenzel	Moore	

NOT VOTING—27

Bafalis	Ford (TN)	Oakar
Biaggi	Ginn	Pepper
Blanchard	Gunderson	Rahall
Bolling	Jones (TN)	Siljander
Bonior	Leath	Smith (PA)
Brown (OH)	Marks	Stangeland
Clay	McCloskey	Stark
Dornan	Miller (CA)	Wampler
Dymally	Moffett	Yates

□ 1540

Messrs. BROOKS, FOWLER, and LEWIS changed their votes from "aye" to "no."

Mr. O'BRIEN and Mr. PETRI changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. M'CURDY

Mr. McCURDY. Mr. Chairman, I offer and amendment.

The Clerk read as follows:

Amendment offered by Mr. McCURDY: At the end of the bill add the following new section:

IMPROVED OVERSIGHT OF COST GROWTH IN MAJOR DEFENSE ACQUISITION PROGRAMS

SEC. . (a)(1) Chapter 4 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 139a. Major defense acquisition programs: control of cost growth

"(a) In this section:

"(1) 'Major defense acquisition program' means a Department of Defense acquisition program that is not a highly sensitive classified program (as determined by the Secretary of Defense) and—

"(A) that is designated by the Secretary of Defense as a major defense acquisition program; or

"(B) that is estimated by the Secretary of Defense to require an eventual total expenditure for research, development, test, and evaluation of more than $200,000,000 (based on fiscal year 1980 constant dollars) or an eventual total expenditure of procurement of more than $1,000,000,000 (based on fiscal year 1980 constant dollars).

"(2) 'Program acquisition unit cost', with respect to a major defense acquisition program, means the amount equal to (A) the total cost for development and procurement of, and system-specific military construction for, the acquisition program, divided by (B) the number of fully-configured end items to be produced for the acquisition program.

"(3) 'Major contract', with respect to a major defense acquisition program, means (A) each prime contract under the program, and (B) each associate or Government-furnished equipment contract under the program (i) that is one of the six largest contracts under the program in dollar amount, or (ii) that, with other contracts under the program, represents at least 90 percent of the total contract cost for current contracts under the program, whichever represents the greater dollar amount.

"(b)(1)(A) The Secretary of Defense shall submit to Congress at the end of each fiscal-year quarter a report on current major defense acquisition programs. Except as provided in subparagraph (B), each such report shall include a status report on each defense acquisition program that at the end of such quarter is a major defense acquisition program. Reports under this subsection shall be known as Selected Acquisition Reports.

"(B) A status report on a major defense acquisition program need not be included in the Selected Acquisition Report for the second, third, or fourth quarter of a fiscal year if such a report was included in a previous Selected Acquisition Report for that fiscal year and there has been no change in program cost, performance, or schedule since the most recent such report.

"(2) Each Selected Acquisition Report for the first quarter of a fiscal year shall include (A) the same information, in detailed and summarized form, as is provided in re-

ports submitted under section 139 of this title, (B) the current program acquisition unit cost for each major defense acquisition program included in the report and the history of that cost from the date the program was first included in a Selected Acquisition Report to the end of the quarter for which the current report is submitted, and (C) such other information as the Secretary of Defense considers appropriate. Selected Acquisition Reports for the first quarter of a fiscal year shall be known as comprehensive annual Selected Acquisition Reports.

"(3) Each Selected Acquisition Report for the second, third, and fourth quarters of a fiscal year shall include—

"(A) with respect to each major defense acquisition program that was included in the most recent comprehensive annual Selected Acquisition Report, the information described in paragraph (4); and

"(B) with respect to each major defense acquisition program that was not included in the most recent comprehensive annual Selected Acquisition Report, the information described in paragraph (2).

Selected Acquisition Reports for the second, third, and fourth quarters of a fiscal year shall be known as Quarterly Selected Acquisition Reports.

"(4) Information to be included under this paragraph in a Quarterly Selected Acquisition Report with respect to a major defense acquisition program is as follows:

"(A) The program acquisition cost.

"(B) The quantity of items to be purchased under the program.

"(C) The program acquisition unit cost.

"(D) The current procurement cost for the program.

"(E) The current procurement unit cost for the program.

"(F) The reasons for any changes in program cost, program unit cost, procurement cost, or procurement unit cost or in program schedule from the previous Selected Acquisition Report.

"(G) The major contracts under the program and the reasons for cost or schedule variances under those contracts since the last Selected Acquisition Report.

"(H) The completion status of the program (i) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (ii) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(I) Program highlights since the last Selected Acquisition Report.

"(5) Each comprehensive annual Selected Acquisition Report shall be submitted within 30 days after the date on which the President transmits the Budget to Congress for the following fiscal year, and each Quarterly Selected Acquisition Report shall be submitted within 30 days after the end of the fiscal-year quarter. If a preliminary report is submitted for the comprehensive annual Selected Acquisition Report in any year, the final report shall be submitted within 15 days after the submission of the preliminary report.

"(c)(1) The estimate of the program acquisition cost for a major defense acquisition program as shown in the Selected Acquisition Report in which such program is first included is the baseline program cost for the program, and the estimate of the program acquisition unit cost for that program as shown in such report is the original unit cost baseline for the program.

"(2) The estimate of the program acquisition unit cost of a major defense acquisition program in the Selected Acquisition Report in which such program is first included or in the most recent comprehensive annual Selected Acquisition Report, whichever is later, is the current unit cost baseline for that program. The most recent estimate at any time of the program acquisition unit cost of such program is the current unit cost of the program.

"(d)(1) If after the submittal of a Selected Acquisition Report establishing the current unit cost baseline for a major defense acquisition program the program manager for that program at any time finds that there is reasonable cause to believe—

"(A) that the current unit cost of the program has increased by at least 15 percent above the current unit cost baseline; or

"(B) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least 15 percent above the cost of the contract as of the time the contract was made;

the program manager shall submit a report to the Secretary concerned stating such finding.

"(2) If after the submittal of the Selected Acquisition Report establishing the current unit cost baseline for a major defense acquisition program the program manager for the program has submitted a report to the Secretary under paragraph (1) with respect to that program and the program manager for that program then finds that there is reasonable cause to believe—

"(A) that the current unit cost of the program has increased by more than five percent above the current unit cost as shown in the most recent report submitted to the Secretary concerned with respect to that program under this subsection; or

"(B) that cost variances or schedule variances of a major contract under the program have resulted in an increase in the cost of the contract of at least five percent above the cost of the contract as shown in the most recent report submitted to the Secretary concerned with respect to that program under this subsection;

the program manager shall submit a report to the Secretary concerned stating such finding.

"(e)(1) When a report is submitted to the Secretary concerned under subsection (d) with respect to a defense acquisition program and the Secretary has not submitted a report to Congress under this subsection with respect to that program since the submittal of the Selected Acquisition Report establishing the current unit cost baseline for the program, the Secretary shall determine whether the current unit cost of the program has increased by 15 percent or more above the current unit cost baseline of the program. If the Secretary determines that there has been such an increase, the Secretary shall submit a report to Congress containing the information described in subsection (f).

"(2) When a report is submitted to the Secretary concerned under subsection (d) with respect to a defense acquisition program and the Secretary has previously submitted a report to Congress under paragraph (1) with respect to that program since the submittal of the Selected Acquisition Report establishing the current unit cost baseline for the program, the Secretary shall determine whether the current unit cost of the program has increased by 5 percent or more above the current unit cost of the program as shown in the most recent report submitted to Congress under this subsection. If the Secretary determines that there has been such an increase, the Secretary shall submit a report to Congress containing the information described in subsection (f).

"(3) Reports under this subsection shall be known as Program Cost Assessment Reports. Any such report shall be submitted not later than 30 days after the date on which the Secretary concerned receives the report from the program manager that is the basis for the submittal of such report.

"(f) Each Program Cost Assessment Report under subsection (e) with respect to a major defense acquisition program shall include the following:

"(1) The name of the major defense acquisition program.

"(2) The date of the preparation of the report.

"(3) The program phase as of the date of the preparation of the report.

"(4) The baseline program cost in constant base-year dollars and in current dollars.

"(5) The current program cost in constant base-year dollars and in current dollars.

"(6) The completion status of the program (A) expressed as the percentage that the number of years for which funds have been appropriated for the program is of the number of years for which it is planned that funds will be appropriated for the program, and (B) expressed as the percentage that the amount of funds that have been appropriated for the program is of the total amount of funds which it is planned will be appropriated for the program.

"(7) The base year.

"(8) The dates of the Selected Acquisition Reports that established the original unit cost baseline and the current unit cost baseline.

"(9) The current change and the total change, in dollars and expressed as a percentage, in the program acquisition unit cost, stated both in constant base-year dollars and in current dollars.

"(10) The quantity of end items to be acquired under the program and the current change and total change, if any, in that quantity.

"(11) The following contract performance assessment information with respect to each major contract under the program:

"(A) The name of the contractor.

"(B) The phase that the contract is in at the time of the preparation of the report.

"(C) The percentage of work under the contract that has been completed.

"(D) Any current change and the total change, in dollars and expressed as a percentage, in the contract cost.

"(E) The percentage by which the contract is currently ahead of or behind schedule.

"(F) A narrative providing a summary explanation of the most significant occurrences, including cost and schedule variances under major contracts of the program, contributing to the changes identified and a discussion of the effect these occurrences will have on future program costs and the program schedule.".

"(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"139a. Major defense acquisition programs: control of cost growth.".

"(b) Section 811 of the Department of Defense Appropriation Authorization Act, 1976 (10 U.S.C. 139 note) is repealed.

"(c) Section 139a of title 10, United States Code, as added by subsection (a), shall take effect on January 1, 1983, and shall apply beginning with respect to reports for the first quarter of fiscal year 1983. The repeal made by subsection (b) shall take effect on January 1, 1983.

Mr. McCURDY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. McCURDY. Mr. Chairman, in offering this amendment to H.R. 6030, I sincerely believe it will improve the cost reporting on major defense programs and encourage improvements in cost management within the Department of Defense.

Mr. Chairman, last year I was fortunate to have been selected by Mr. PRICE, chairman of the Armed Services Committee and Mr. STRATTON, chairman of the Procurement and Military Nuclear Systems Subcommittee to chair a special panel on defense acquisition procedures. This special panel was chartered to review the Defense Department's acquisition process and to determine those factors which most frequently contribute to the cost growth plaguing many of our major weapon systems. The panel conducted 18 days of extensive hearings and heard from over 100 witnesses on the defense acquisition process and weapons systems cost growth.

The panel concluded that cost growth can be divided into two categories—controllable and uncontrollable. Uncontrollable cost growth is cost growth which is attributed to inflation. Clearly the Defense Department cannot be held responsible for inflationary trends which cause the price of major programs to increase. We all know that inflation is not unique to the defense acquisition process, but in fact, inflation touches all of our lives. This leaves us with the so-called controllable cost growth factors. Those factors include poor cost estimating procedures, program stretchouts, changes in weapon systems specifications, and lack of competition, to name a few. These are the factors which frequently result in unanticipated cost growth affecting many of our high cost defense weapons programs. It is my view that the Congress should encourage the Department of Defense to focus increased management attention on controlling this unanticipated cost growth. I believe that by insisting on improvements in cost report systems, we could help to accomplish this objective. I might add that the special panel on defense procurement procedures, in a 59-page report, recommended, among other things, that the current cost reporting system be changed.

My amendment would change the system currently used to report the status of major defense programs to Congress. This system is called the selected acquisition report—SAR—system. The SAR system was initiated by the Department of Defense in 1967 as an internal management information reporting system. Since then, the SAR system has evolved into a comprehensive reporting system on major defense acquisition programs. I would suggest that it is perhaps the most comprehensive management information reporting system in all of Government. A selected acquisition report is a routine quarterly report that reflects the Department of Defense's acquisition plans for a major weapon system and contains cost, scheduling, and performance data. Selected acquisition reports are prepared as of March 31, June 30, and September 30 of each year.

The Congress started receiving limited SAR's in 1969. However, in 1975, Congress, in recognition of the importance of SAR information, enacted legislation—Public Law 94-106—which required the Department of Defense to provide selected acquisition reports on a quarterly basis. The legislation also established dollar reporting thresholds. In 1979, Public Law 96-107 changed the reporting thresholds from $50 million to $75 million for R.D.T. & E. and from $200 million to $300 million for procurement. Although the intent of Public Law 96-107 is absolutely clear, there does remain some question as the definition of a major system. In fact, unless the Secretary of Defense has designated a system as a "major system" it may not be reported in SAR's although it may exceed the dollar thresholds outlined in Public Law 96-107. Therefore, my amendment will help to clarify the definition of a "major system."

Specifically, what does my amendment do?

The amendment insures that SAR's are provided to the Congress on all major defense programs which exceed $200 million in R.D.T. & E. cost or exceed $1 billion in procurement cost. This provision is clear and leaves no room for interpretation. The provision also provides that the Secretary of Defense may select any system as a major defense program even though it may fall below the dollar thresholds.

The amendment changes the requirement of providing comprehensive SAR's from four times a year to only once a year. Comprehensive SAR's will be those with a reporting period ending December 31 and will coincide with the President's budget submittal. The special panel determined that December 31 SAR's were the most accurate SAR's provided during the year, and they should be the benchmark against which all programmatic changes and cost increases are measured throughout the year. The amendment requires that in addition to the December 31 comprehensive SAR's, three additional quarterly SAR's be provided for the quarters ending March 31, June 30, and September 31. These will be abbreviated SAR's, and they will only be required when there is a change in the cost, performance, or schedule of a major defense program. I understand that the Department has estimated that reducing the number of comprehensive SAR's could potentially save over $330,000 a year.

The amendment will provide for exception reporting SAR programs. By exception reporting, I mean that reports are only required when the cost growth of a particular program exceeds a specified dollar threshold. As many of you know, last year the Congress passed a 1-year provision, as part of the Defense Department Authorization Act for fiscal year 1982, commonly referred to as the Nunn amendment, requiring the Department to provide exception reports when there is a 15-percent increase in program or procurement cost for those systems reported in the SAR. Although I believe that the Nunn amendment has been effective, my amendment goes one step further by requiring that major defense programs be examined by the military service secretary when there is a 15-percent increase in contract cost or a 15-percent slippage in contract schedule. The occurrence of either of these events would require the Secretary to examine the specific program concerned and assess the likelihood that the contract cost growth or schedule slippage may result in a 15-percent increase in the cost of the program.

Mr. Chairman, I understand that the gentleman from Maine (Mr. EMERY) will offer an amendment to this amendment which will provide for waivers to the SAR reporting requirement. I have reviewed his amendment, and I find it perfectly acceptable. I am conviced that Mr. Emery's amendment will not weaken my amendment by providing a loophole through which many major programs could slip. I will, therefore, accept his amendment when offered.

In conclusion, it is my belief that this amendment, if accepted, will improve cost reporting to the Congress we do not need more information; we need better information and we need it early enough to make changes and at the same time, assist in encouraging all levels of management within the Defense Department to focus increased management attention on cost growth and cost management. I, there-

fore, encourage my colleagues to support this amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I gladly yield to my distinguished subcommittee chairman.

Mr. STRATTON. Mr. Chairman, I want to express my appreciation to the gentleman for offering this amendment. Do I understand that the gentleman's amendment now includes what is known as the Emery amendment?

Mr. McCURDY. I believe that the gentleman from Maine is about to offer his amendment, which I have gone over with him in detail and am ready to accept in toto.

□ 1550

Mr. EMERY. Mr. Chairman, will the gentleman yield?

Mr. McCURDY. I yield to the gentleman from Maine.

Mr. EMERY. Mr. Chairman, I thank the gentleman for yielding.

If it is appropriate at this time, Mr. Chairman, I have an amendment to the gentleman's amendment, but first I want to commend him for the work that he has done.

Mr. McCURDY. Mr. Chairman, I yield back the balance of my time in order to allow the gentleman from Maine (Mr. EMERY) to present his amendment, which I have read and again am prepared to accept in toto. I think we can suspend with much of the debate on this amendment.

The CHAIRMAN pro tempore. Does the gentleman from Oklahoma (Mr. McCURDY) yield back the balance of his time?

Mr. McCURDY. Yes, Mr. Chairman.

● Mr. WOLPE. Mr. Chairman, I rise in strong support of the amendment offered by my colleague, Mr. McCURDY, and want to commend him upon the quality of his leadership in the effort to gain control over massive cost overruns in the Pentagon budget.

Last year, the Congress passed the administration's defense program—a program that set new precedents in the rate of peacetime military spending by authorizing the Pentagon to spend $1.6 trillion on defense over the next 5 years. The sheer magnitude of this level of spending is difficult to conceptualize. Indeed, if we were to spend the sum at the rate of $1 million per day, 365 days per year, it would take over 4,000 years to exhaust the warchest. But perhaps even more difficult to comprehend is how the life cycle cost of only 47 weapons systems that are a part of that defense program increased by over $114 billion in the last quarter of 1981 alone. It is this kind of out-of-control cost overruns, that threaten to reduce to pocket changeall of the budget-savings in domestic programs so far identified by the Congress.

The special panel on defense procurement procedures of the House Committee on Armed Services, chaired with distinction by my colleague, Mr. McCURDY, has begun to take a look at cost overruns in the Pentagon. In its recent report, the panel determined that the massive cost overruns were predestined by poor initial cost estimates, unrealistic assumptions of inflation rates, changes in design made after program authority was obtained from Congress, and the lack of competition throughout the acquisition process. A skeptical observer might suggest that military planners intentionally underestimated program costs in order to win congressional approval of their designs. But even the most fair-minded critic would have to concede that initial Pentagon cost estimates have not been reliable, and that cost overruns of this mind-boggling and inexcusable magnitude cannot be explained as the consequence of inflation or unanticipated fluctuations in the supply and demand of component parts.

We must recognize that these runaway and unrestrained program costs threaten directly our national security efforts.

First, cost overruns in major weapon systems result in substantial reductions in procurement. As a natural consequence of cost overruns, the military has to make cuts in its procurement orders to bring program costs closer to budget targets. As James Fallows, author of National Defense, comments:

> No matter what the weapons system, whether ships, planes, helicopters, or missiles, the military ends up buying a smaller number than it originally planned simply because it must compensate for (runaway program costs.)

Second, cost overruns undermine directly our efforts to secure adequate maintenance of existing military equipment. Unwisely, military planners have often turned to maintenance budgets to achieve large portions of their cost savings; and consequently, equipment already in our arsenals receive inadequate attention. We need only remember the ill-fated rescue mission in Iran to grasp the significance of proper equipment maintenance to our military preparedness. Yet it is precisely this essential element of our defense readiness that is being ignored in the wake of massive cost overruns in major weapons programs.

Finally, we must recognize that our national security is at least as dependent upon economic stability and the revitalization of our industrial base as it is upon the size of our defense budget and the number of weapons in our arsenal. In this connection, cost overruns in the Pentagon serve only to fuel the unending demands of the military for more money—demands which, if agreed to, threaten to postpone indefinitely our hopes for an economic recovery. Last fall, a reknowned panel of economists studies the impacts of massive military spending; their conclusion—sustained massive military spending will lead to greater deficit spending. And with tax deductions far exceeding cuts in social spending, sustained defense increases will push the Federal budget even further into the red, meaning continuing high rates of interest and mounting economic distress.

Never before have Americans been asked to commit such large portions of their resources to a peacetime military buildup, and never before have Americans felt less secure. Frankly, their feelings of insecurity are well-founded. I say this because this Congress—without seriously questioning the extravagance of military planners or blinking an eye at the outrageous cost overruns their programs are incurring—is indiscriminantly throwing dollars at the Pentagon, and in the process, it is buying less security rather than more.

Simply, it is time to demand that the Pentagon become more accountable to the Congress. It is time to demand that initial cost estimates submitted to Congress be more accurate, that procurement projections be more realistic, and that contracts be obtained through competitive bidding.

The key to achieving this kind of accountability is to give priority to well-informed congressional oversight of Pentagon procurement procedures, and this is what Mr. HERTEL's amendment is all about. By mandating the Pentagon to submit to the Armed Services Committees of the Congress a detailed report of all the substantial cost overruns in major weapon systems, we might be able to exert greater control over the now unrestrained spending practices of the military.

Passage of this amendment will assist us in our struggle to achieve a national economic recovery through the elimination of unnecessary spending and will create incentives for the efficient and effective expenditure of our defense dollars. Mr. Chairman, our national security goals can only be enhanced by the adoption of this amendment.●

AMENDMENT OFFERED BY MR. EMERY TO THE AMENDMENT OFFERED BY MR. M'CURDY

Mr. EMERY. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. EMERY to the amendment offered by Mr. McCURDY: At the end of section 139a(b)(1)(B) of title 10, United States Code, as proposed to be added by the amendment, insert the following: "In addition, the requirement to report on a particular major defense acquisition program in any quarter may be waived with the approval of the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.".

Mr. EMERY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Maine?

There was no objection.

Mr. EMERY. Mr. Chairman, to expedite matters, I will describe this amendment very briefly. It is a perfecting amendment to the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY) which we have worked out together, and which merely clarifies the role of the Armed Services Committee and states that certain reports may be waived under certain circumstances.

I rise in support of the McCurdy amendment on selected acquisition reports, with the understanding that Mr. MCCURDY will accept my amendment concerning the waiver provision for SAR's.

The McCurdy amendment, as amended by my amendment, will have the effect of increasing congressional awareness of weapons costs, while insuring that the Department of Defense is not forced to prepare the 100 or more SAR's that would be required by the increase in the SAR dollar thresholds. Together, the Emery and McCurdy amendments will provide the Congress with a more incisive look at the cost growth in major weapons programs.

A discussion of the problem that brought my colleague and I to these amendments would be in order. In the fiscal year 1982 Defense authorization bill, Senator NUNN added a requirement for very strict cost reporting on weapons systems which are suffering from unacceptable cost increases and schedule slippages. The McCurdy amendment incorporates the provisions of the Nunn amendment, and provides for exception reporting when there is a cost overrun of more than 15 percent. The amendment also provides for 1 yearly SAR of a comprehensive nature, to be complemented by quarterly SAR's when problems develop in weapons systems. Finally, the amendment eliminates the discretion of the Secretary of Defense in determining which programs will undergo the SAR process.

The original Emery amendment shared several provisions with the McCurdy amendment, including the increase of the reporting thresholds to $200 million in R. & D. and $1 billion in procurement funding. In addition, my amendment would permit the Secretary of Defense to ask the House and Senate Armed Services Committees to exempt certain programs, like military trucks and transport vehicles, from the SAR requirement. We must acknowledge that the SAR's are very comprehensive and exhaustive reports, and it is not the intention of Congress to have reports prepared merely for their own sake. There must be some flexibility in this area, and this is the reason from my amendment to the McCurdy amendment.

To show the Members the kind of loopholes that now exist in the SAR process, you may be disturbed to know that such major programs as the MX missile, the Trident II missile, the DDG-51 destroyer, the battleship reactivations, and the space shuttle inertial upper stage are not currently subject to the SAR requirements. This is because these programs have not advanced to DSARC Milestone II, or full-scale development. However, I have asked the chairman of the Armed Service Committee to request the initiation of SAR's on these programs, and he has agreed to do this. I also understand that the Secretary of Defense has agreed to this request. We simply cannot allow such major programs to escape the scrutiny of the SAR process, and I would hope that the Members will agree with and support my logic in this regard.

Mr. MCCURDY. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Oklahoma.

Mr. MCCURDY. Mr. Chairman, I will gladly accept the gentleman's amendment with the understanding, under the format that we worked out earlier, that it does not become proforma within the Armed Service Committee for the Department of Defense to seek a waiver of reporting of major weapons systems.

As long as the gentleman, for the purpose of legislative history, agrees that committee approval means a majority vote of Members present and voting, with a quorum being present in committee, I will gladly accept the amendment offered by my colleague from Maine (Mr. EMERY).

Mr. EMERY. Mr. Chairman, the gentleman's understanding of the intent of my amendment is exactly correct. It is merely to provide an opportunity for the committee to work its will in the usual way and is not by any means a pro forma waiver of any provisions of his amendment.

Mr. HERTEL. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Michigan.

Mr. HERTEL. Mr. Chairman, I thank the gentleman for yielding.

Let me state that I, too, support the Emery amendment to the McCurdy amendment, which I cosponsored. I cosponsored the McCurdy amendment because we are all concerned about cost overruns, and the gentleman from Oklahoma (Mr. MCCURDY) has one of the best ideas on how to control that in the future and to keep the Congress well informed so we can deal with this problem and reduce costs in the future.

Since the chairman has agreed to accept the amendment, if the House agrees to the McCurdy amendment, I, therefore, withdraw the Hertel amendment, which is going down the same road. I do that because of the excellent job done by the sponsors.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I will try to expedite the operations, and I want to say on behalf of the committee that we accept the McCurdy amendment, as amended by the amendment offered by the gentleman from Maine (Mr. EMERY).

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY).

The Armed Services Committee has always been interested in the issue of cost control in the acquisition of major defense programs. In fact, the appropriate subcommittees—Research and Development, Procurement and Military Nuclear Systems, and Seapower—conduct a series of comprehensive, formal hearings each year which effectively provide continuous oversight of their respective jurisdictional areas. During these hearings, cost control in the development and procurement of weapons programs is a recurring theme.

As chairman of the Procurement and Military Nuclear Systems Subcommittee, I believed it would be beneficial to focus specifically on Defense Department procurement procedures and policies that could tend to increase the cost of weapons systems. Consequently, I appointed a special panel of the subcommittee to review procurement procedures and policies; and as Mr. MCCURDY indicated, he was appointed as chairman of the special panel.

Mr. Chairman, I want to commend Mr. MCCURDY and the other members of the special panel who worked many long hours developing the recommendations related to cost control in the defense acquisition process. As was indicated by Mr. MCCURDY, the amendment before you is one of those recommended by the special panel.

I believe the amendment is a positive step, and I urge your support.

Mr. HILLIS. Mr. Chairman, will the gentleman yield?

Mr. EMERY. I yield to the gentleman from Indiana.

Mr. HILLIS. Mr. Chairman, the minority has had a chance to examine both amendments and finds them to be acceptable.

Mr. EMERY. Mr. Chairman, I thank the gentleman.

The CHAIRMAN pro tempore. The question is on the amendment offered

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by the gentleman from Maine (Mr. EMERY) to the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Oklahoma (Mr. MCCURDY), as amended.

The amendment, as amended, was agreed to.

AMENDMENT OFFERED BY MR. BEARD

Mr. BEARD. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEARD: At the end of the bill, add the following new section:

OVERSIGHT OF DEFENSE EXPENDITURES

SEC. 902. (a) Concurrent with the submission of the budget to Congress for fiscal year 1984, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report concerning the strength requested in such budget for civilian personnel for the Defense Contract Audit Agency, Defense Audit Service and the Defense Criminal Investigative Service. Such report shall state the number of such personnel at the end of fiscal year 1982, the number at the time the report is submitted, and the number requested in that budget and shall include a justification for the number requested. The report shall also include the opinion of the Secretary of Defense as to whether the number requested is sufficient for those agencies to accomplish their functions with respect to the reduction of waste, fraud, and abuse in defense expenditures during the next fiscal year, particularly in light of any increases (in real terms) in the levels of appropriations requested in that budget for operations, procurement of new equipment, and for research, development, test, and evaluation.

(b) The Secretary shall include in the report under subsection (a) information concerning the savings in defense expenditures achieved by the Defense Contract Audit Agency, Defense Audit Service and Defense Criminal Investigative Service during fiscal year 1982, including a statement for each agency of the amount of such cost savings achieved as a percentage of the number of dollars spent by such agency during such year.

Mr. BEARD (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. BEARD. Mr. Chairman, today I am introducing an amendment to the Department of Defense authorization bill that I sincerely believe will greatly strengthen the ability of the Defense Department to adequately monitor its expenditures, and in turn provide assurance to the Congress and the taxpayers that defense funds are being spent wisely, not wastefully.

In short, this amendment will instruct the Secretary of Defense to provide a report to the Congress which demonstrates that the Defense Department budget contains an authorized level of personnel for the Defense Contract Audit Agency, the Defense Audit Service and Defense Criminal Investigative Service that is sufficient to adequately oversee the real increase from one fiscal year to the next in the level of outlays for research, development, test, and evaluation procurement. Insuring adequate personnel for those particular agencies within the Defense Department will substantially minimize waste, fraud, and abuse.

The reason I am offering this amendment is simple. I have encountered in Tennessee, my home State, a growing feeling that all the dollars we are pouring into the defense budget are not necessarily being spent wisely. Clearly, this sentiment is not because Tennesseans want to scrimp on defense. There is no other State in the union where support for a strong defense is greater.

But many are skeptical that simply increasing defense spending will result in a stronger defense. There is a feeling that when you significantly increase spending in any one area, defense or otherwise, a lot of waste occurs. I am sure my colleagues on both sides of the aisle have experienced similar reactions from their constituents.

My amendment is directed squarely at those legitimate concerns. My goal is to strengthen those agencies within the Defense Department whose purpose is to oversee our spending and root out waste and fraud. I want to insure that they have the people to go after waste, fraud, and abuse in the Pentagon budget and do it effectively.

Aside from the positive effects of price competition, the best check on spending for weapons procurement is an adequate audit function, both internal and contract audit.

On the contract audit side, the Defense Contract Audit Agency, or DCAA, is the only professional audit organization designated by the Defense Department to perform audits of contracts let by that Department. Its responsibility is a significant one because of the magnitude of defense contracting and the large increase in spending.

DCAA's function is to assist procurement and contract administration managers by providing financial information and advice on proposed or existing contracts. To accomplish their assigned mission, DCAA auditors review new proposals submitted to DOD by defense contractors and perform audits of costs already incurred under existing contracts.

On the internal audit side, several organizations within the Defense Department are established to perform oversight of Department spending and practices. The most recent organization to come into existence within DOD is the Office of the Assistant Secretary of Defense for Review and Oversight. Within that office my amendment specifically affects the Defense Criminal Investigative Service, or DCIS, and the Defense Audit Service, or DAS.

The DCIS concentrates primarily on theft of Government property from military depots and white-collar crime such as embezzling. In other words, the DCIS is the agency that goes after actual criminal behavior within the Department.

The DAS, on the other hand, performs internal audits on behalf of the Secretary of Defense.

Continuing the fight against waste in Government programs and preventing fraud and abuse is a critical part of our endeavor to revitalize America's defenses. The success of our efforts depends, to a large extent, on the innovative and dedicated work performed by the men and women in the DCAA, DCIS, and DAS. We must receive the maximum value for every taxpayer's dollar spent for defense. I am sure that this amendment will help to reach that goal. The reason strengthening the audit function within DOD will help us reach that goal is that auditors within DOD, like the Internal Revenue Service, provide a payback to the Government. For example, for every dollar invested in DCAA in fiscal year 1981, $47 was saved in potential contract costs, a 4,700-percent return on investment.

The most-effective way to increase audit staff is gradually. DCAA auditors are recruited from colleges across the country and they must be trained in the unique and complicated role of auditing Defense Department contracts and procedures. That takes time, and simply doubling the DCAA overnight would itself be wasteful. The same principle applies to the DCIS and DAS.

My amendment, therefore, will require the Secretary of Defense to establish a reasonable rate of return, say $20 for every $1 invested in the agencies named, and adjust the staffing levels gradually each year to maintain at least that level of return.

I have discussed this amendment with officials in both the Office of Management and Budget and the Department of Defense and they agree that one sure way to combat waste, fraud, and abuse is the approach taken in my amendment.

Mr. Chairman, I ask my colleagues to support this amendment. Improving the audit function of the Defense Department may not sound too exciting, but it is in the trenches of the auditing and watchdog agencies that the war against waste will be won or lost. Thank you.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BEARD. I yield to my colleague, the gentleman from New York.

Mr. STRATTON. Mr. Chairman, we have had an opportunity to read the gentleman's amendment. It is an outstanding amendment, and on behalf of the committee I am prepared to accept the amendment.

Mr. BEARD. Mr. Chairman, I thank the gentleman.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. BEARD. Certainly, I yield to my friend, the gentleman from Alabama.

Mr. DICKINSON. Mr. Chairman, just let me say that anything the gentleman from New York (Mr. STRATTON) accepts I am bound to accept. I thank the gentleman very much.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Tennessee (Mr. BEARD).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. ASPIN

Mr. ASPIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. ASPIN: At the end of the bill, add the following new section:

LIMITATION ON STRATEGIC WEAPONS

SEC. 902. (a) None of the funds appropriated pursuant to authorizations of appropriations in this Act may be used for the procurement, testing, deployment, or operation and maintenance of any strategic nuclear weapon or nuclear weapon system, or of a launcher for a strategic nuclear weapon or nuclear weapon system, if that procurement, testing, deployment, or operation and maintenance would contravene existing strategic arms policies of the United States as declared by the President in his Memorial Day address of May 31, 1982, as follows: "As for existing strategic arms agreements, we will refrain from actions which undercut them so long as the Soviet Union shows equal restraint.".

(b) The limitations set forth in subsection (a) shall not apply after the date that is thirty days after the date on which the President transmits a report in writing to Congress (1) containing the President's certification that it is in the supreme national interest of the United States that such limitations no longer apply, and (2) setting forth the reasons for the certification.

Mr. ASPIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The CHAIRMAN pro tempore. The gentleman from Wisconsin (Mr. ASPIN) is recognized for 5 minutes in support of his amendment.

Mr. ASPIN. Mr. Chairman, I yield to the chairman of the committee, the gentleman from Illinois (Mr. PRICE).

Mr. PRICE. Mr. Chairman, I have had an opportunity to review this amendment, and the committee accepts the amendment.

Mr. ASPIN. Mr. Chairman, I yield to the gentleman from Alabama (Mr. DICKINSON).

Mr. DICKINSON. Mr. Chairman surprisingly, I find myself on the same side as the gentleman who is offering the amendment. We will be glad to accept it on this side.

Mr. ASPIN. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Wisconsin (Mr. ASPIN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. DOUGHERTY

Mr. DOUGHERTY. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DOUGHERTY: At the end of the bill, add the following new section:

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 906. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

Mr. DOUGHERTY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

□ 1600

Mr. DOUGHERTY. Mr. Chairman, despite the fact that the Soviet Union illegally took over the Baltic States of Estonia, Latvia, and Lithuania, the United States still recognizes the States as being separate and rightfully independent entities.

The policy of the State Department has supposedly been to clearly delineate the boundaries of these States on any maps produced by U.S. Government mapping agencies. In addition, the guidelines established by the State Department for maps of the Baltic States are very definite in calling for a printed disclaimer which says that the United States does not recognize the Soviet incorporation of these three nations. Memos explaining these regulations have been sent to all governmental mapmaking agencies, including the Defense Mapping Agency.

Unfortunately, I have discovered that a number of recently published maps do not exactly follow the policy guidelines. Some of these maps do not mark any boundary lines for Estonia, Latvia, and Lithuania. Other maps I have seen proclaim the States as belonging to the Soviet Union, and the true identity of the States are placed in parenthesis below. Any such identification signals that our country accepts the incorporation of the Baltic States into the U.S.S.R. But our Government most certainly does not accept the Soviet takeover. As a matter of fact, this week marks the 60th anniversary of American recognition of the independent Baltic States in 1922.

Mr. Chairman, I am also quite disturbed that the State Department regulations allow the printing of U.S. maps that recognize the de facto incorporation of the Baltic States into the Soviet Union. It is a complete contradiction to the letter and spirit of the mapmaking regulations. As a result, more maps are printed which do not show Estonia, Lithuania, and Latvia as separate entities.

Therefore, in the interest of consistency for our Government and freedom for the Baltic States, I am introducing the following amendment to H.R. 6030 and ask for your support. The amendment takes a government mapping regulation already in place and strengthens it to follow more consistently our Government's foreign policy regarding the Baltic States. It is my hope that all those Members who long for a free Lithuania, Latvia, and Estonia once again will join me in supporting this amendment.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. DOUGHERTY. I yield to the gentleman from New York.

Mr. STRATTON. We have had an opportunity to examine this amendment. I would accept it on behalf of the majority of the committee.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. DOUGHTERY. It is a pleasure to yield to my leader.

Mr. DICKINSON. Mr. Chairman, on behalf of the people of Estonia, Latvia, and Lithuania, we are very pleased on this side of the aisle to accept the amendment which would mandate that the DOD mapping agency show these three countries by their ethnic name of Estonia, Latvia, and Lithuania rather than blending them in with the U.S.S.R.

We are very pleased to accept the amendment.

Mr. DOUGHERTY. Mr. Chairman, I would just, for the information of my colleagues, state this week represents the 60th anniversary of the U.S. recognition of the independence of Lithuania, Latvia, and Estonia. All we do in the amendment is require the Defense

Department to show this on maps when they purchase them.

I yield back the balance of my time.

● Mr. HERTEL. Mr. Chairman, as a member of the Ad Hoc Committee on the Baltic States and the Ukraine, I would urge my colleagues to adopt Mr. DOUGHERTY's amendment which requires the designation of the Baltic States on Defense Department produced and purchased maps. Today we are in the midst of Captive Nations Week and July 28 marks the 60th anniversary of continual diplomatic recognition of Estonia, Latvia, and Lithuania by the United States. It is, therefore, an appropriate moment to reaffirm and strengthen our Nation's consistent foreign policy of nonrecognition of the incorporation of the Baltic States into the Soviet Union.

While the Western nations' attention was focussed on the war against Nazi forces, the Soviet Union used this opportunity to cut the Baltic States off from contact with the West. Fulfilling their part of the bargaining that was struck with Nazi Germany in the Molotov-Ribbentrop Pact of August 23, 1939, the Soviet Union invaded the Baltic States on June 14, 1940. In Lithuania alone they used a force of 300,000 Red army troops supported by armor and airplanes. This works out to be 1 soldier for every 12 inhabitants of Lithuania. The Kremlin set up a hand-picked Peoples' Diet which immediately petitioned to incorporate Lithuania into the Soviet Union. The Supreme Soviet of the U.S.S.R. was ready, of course, to comply and on August 3, 1940, Lithuania was designated a Soviet Republic. This pattern was repeated in Latvia and Estonia with equal impunity. From Soviet maps captured by the United States during World War II, we know that the Soviets began to treat the Baltic States as an integral part of their territory as early as 1938.

It is not only a matter of principle, but also a matter of public education that the guidelines concerning maps of the Baltic States should be clear and unequivocal. The Department of Defense must in its day-to-day activities accurately reflect the policy of the United States; the forcible annexation of the Baltic States by the Soviet Union is illegal by any standard of international law and is not recognized by the U.S. Government.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Pennsylvania (Mr. DOUGHERTY).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: At the end of the bill add the following new section:

WAIVER OF AUTHORIZATION REQUIREMENT FOR CERTAIN PREVIOUSLY APPROPRIATED FUNDS

SEC. 902. The provisions of section 138(a) of title 10, United States Code, requiring that funds may not be obligated or expended by the Armed Forces for certain purposes unless such funds have been specifically authorized by law shall not apply with respect to the obligation or expenditure of funds appropriated for fiscal year 1982 before the date of enactment of this act for the following purposes:

(1) Procurement of aircraft for the Army.

(2) Procurement of aircraft for the Air Force.

(3) Procurement of missiles for the Air Force.

(4) Operations and Maintenance for Defense-wide activities.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanmous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, the purpose of this amendment is very simple.

Last year the passage of the authorization bill was delayed because of late changes in the budget of the Reagan administration, so that the appropriations bill passed the House and was in conference by the time the authorization bill was enacted. In the resulting confusion the appropriations bill in a number of instances exceeded the level of authorization.

Section 138 of title 10, United States Code, requires not only authorization prior to an appropriation, but also prohibits the obligation of expenditure of funds in designated categories without an annual authorization. There has been, therefore, a problem for the managers of the Defense Department in being unable to obligate appropriated amounts because they were not duly authorized.

With the aid of Mr. DICKINSON and Mr. STRATTON of our committee we conferred on this matter with Mr. ADDABBO and Mr. EDWARDS of the Defense Appropriations Subcommittee and subsequently received a letter from Mr. ADDABBO indicating his understanding that the action in those strained and difficult last days of a long session last year, which resulted in appropriated amounts exceeding authorized levels in a few instances, should in no way be construed as establishing a precedent.

Further, he stated it was his intention that the defense appropriations bill stay within the levels set in the authorizing legislation and such would be his purpose in formulation of the fiscal year 1983 and following appropriations bills.

Pursuant to Mr. ADDABBO's assurance and in light of the unique circumstances last year, I indicated to him that I would move during consideration of the fiscal year 1983 authorization to waive the provisions of section 138 of title 10 for fiscal year 1982 to help remove the legal impediment to the spending of these fiscal year 1982 funds for those instances where the appropriated amounts exceed authorization levels.

I will state, Mr. Chairman, that I appreciate the patience and cooperation of Mr. ADDABBO in this matter and I trust we have, by the means I am taking here, put the problem behind us, as both he and I desire.

My amendment, therefore, would waive the provisions of section 138 of title 10, United States Code for fiscal year 1982 for four accounts where the appropriated amount exceeds authorization levels.

It should be understood that in instances where appropriations exceeded authorization for specific programs, but there was unused authorization in the accounts, it was possible to cover the appropriation by an authorization reprograming and that has been done in a number of cases by the Armed Services Committees of the House and Senate. My amendment at this point would remove all obstacles to obligation of the moneys appropriated in fiscal year 1982.

Let me make clear that this action in no way increases the budget for fiscal year 1982, but merely allows the obligation of funds already appropriated.

I move adoption of my amendment.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words and rise in support of the amendment.

By way of explanation, and the chairman has explained it I think very succinctly, last year, because of a number of things; mainly, because of the parliamentary situation the Appropriations Committee appropriated certain funds which had not been authorized in this bill.

There is some confusion among the administration, the General Accounting Office, the Department of Defense and I do not know who else is involved as to whether or not these funds can be legally spent or obligated without an authorization. Because of the uncertainty there has been an agreement by the Appropriations Committee and our committee that we will include in this bill a waiver with the agreement that the appropriations committees will not appropriate funds in the future that have not been authorized because, you know, if the Appropriations Committee is going to appropriate money that has not been authorized we do not even need an authorizing committee.

So this is to correct a one-time fault.

We think we are now in agreement with the Appropriations Committee.

I think the amendment is necessary. There is no opposition to it and I certainly support it.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. PRICE

Mr. PRICE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. PRICE: At the end of the bill add the following new section:

LIMITATION ON DEFENSE FUNDS FOR SPACE SHUTTLE

SEC. 902. Notwithstanding any other provision of law, during fiscal year 1983 the Secretary of Defense shall not transfer funds to the Administrator of the National Aeronautics and Space Administration to pay any part of the cost of placing Department of Defense payloads into orbit by means of the Space Shuttle except in accordance with laws in effect on July 1, 1982, and interagency agreements made pursuant to such laws.

Mr. PRICE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. PRICE. Mr. Chairman, the purpose of this amendment is to place a restriction on the amount of funding the Department of Defense may be required to transfer to the National Aeronautics and Space Administration—NASA—during fiscal year 1983 to pay to place DOD payloads in space via the Space Shuttle. The amendment insures that such payment will only be in accordance with laws and interagency agreements in effect on July 1, 1982.

Contained in the Senate version of the fiscal year 1983 NASA authorization bill is a provision that would require "the Secretary of Defense (to) transfer to the (NASA) Administrator such sums as may be necessary to pay the full costs of placing Department of Defense payloads into orbit by means of the Space Shuttle." No such provision exists in the House version of the NASA authorization bill.

There are several issues of concern embodied in the Senate provision to the NASA authorization bill.

First, a NASA authorization bill is being used as a vehicle to direct the Secretary of Defense to transfer Defense Department funding to NASA. The Armed Services Committees, the committees with jurisdictional responsibility for the DOD, have not been consulted on the matter.

Second, pricing agreements are currently in effect that establish DOD payload costs. These agreements take into account DOD's contribution to the Space Shuttle program. These contributions, which will cost the Air Force several billion dollars, include preparation of the Vandenburg Air Force Base for west coast Shuttle launches, development of the inertial upper stage and development and construction of the Consolidated Space Operations Center. The Senate provision ignores these very expensive Air Force contributions to the Shuttle program.

Third, if allowed to go unchallenged, the Senate provision would cause the Secretary of Defense to transfer unbudgeted funds in excess of $400 million in fiscal year 1983 to NASA. This funding would necessarily have to be taken away from other DOD programs.

Finally, the Shuttle is a national program and the National Aeronautics and Space Administration has been designated the executive agent for this program just as the DOD has been designated the executive agent for the NAVSTAR Global Positioning System. NASA has been given the primary responsibility for developing and placing the Shuttle into service. If DOD is now to be required to pay a larger share of the Shuttle in the national interest, then DOD should be provided with a larger budget to carry out this new reponsibility. The Senate provision does not provide for such a budget increase.

This amendment has the effect of neutralizing the provision in the Senate version of the NASA bill. The Senate legislation represents bad policy and, in my opinion, could ultimately lead to the demise of the entire Shuttle program. I strongly urge the House to adopt this amendment in that it will keep the Shuttle program on a straight and steady course.

Mr. DICKINSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, let me say in connection with the statement made by the chairman that there has been and is today an ongoing agreement and a coadventure by both NASA and the Department of Defense—namely, the Air Force—in the Space Shuttle program.

There was an amendment in the other body that would direct that funds be transferred from DOD to NASA to pay a larger share of the Shuttle program.

It is the feeling of the Department of Defense and our committee that if NASA needs more money for the Shuttle, it should be authorized and appropriated, but let us not take it out of the hide of the Air Force.

What we have done by this agreement, and in conversation with the various agencies involved, is to limit what moneys will be taken from the Department of Defense to give to NASA; and really, in effect, serve notice that in the future if there is going to be money spent by NASA, it is going to be authorized and appropriated and not taken out of the hide of the Department of Defense.

So I think this is a good amendment and I certainly support it.

Mr. WINN. Mr. Chairman, will the gentleman yield?

Mr. DICKINSON. I yield to the gentleman from Kansas.

Mr. WINN. I appreciate the gentleman yielding.

I just wonder if the gentleman could clarify the statement he made that the other body put in some additional requests or took funding from the Air Force budget and wanted to put it over into NASA.

Mr. DICKINSON. Let me respond by saying that it is my understanding that the Senate version of the fiscal year 1983 authorization bill contains a provision directing the DOD to transfer $409 million of its funds, which have been budgeted for other purposes, to NASA to cover certain Space Shuttle expenses.

What we are trying to do here is put a limitation on that and to say that whatever NASA needs should be authorized and appropriated in the NASA bills. It should not come out of the hide of the DOD.

Mr. DICKINSON. What we are doing now is a technical necessity and I wanted to make that explanation to the membership.

I thank the gentleman.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. PRICE).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. KAZEN

Mr. KAZEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. KAZEN: At the end of the bill add the following new section:

PRIOR NOTIFICATION TO CONGRESS ON FOREIGN SOLE SOURCE PROCUREMENTS

Subject to the provisions of Chapter 138 of title 10, United States Code (relating to North Atlantic Treaty Organization mutual support), none of the funds authorized to be appropriated in this Act may be used to enter into a prime contract for the purchase of a major article of equipment essential to the national defense from a manufacturer outside the United States that makes the United States dependent on that manufacturer as a sole source, unless the Secretary of Defense shall have notified the Committees on Armed Services and Appropriations of the House and Senate, in writing, and thirty days shall have elapsed from the date of receipt of such notification.

Mr. KAZEN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. KAZEN. Mr. Chairman, this is a very simple and, I think, a very sound amendment. It would provide that

during fiscal year 1983, the Defense Department could not enter into any prime contract for the purchase of a major article of equipment essential to national defense from a non-U.S. manufacturer that would make the United States dependent upon a foreign source unless the Secretary of Defense notifies the Armed Services and Appropriations Committees of the House and Senate and 30 days shall have elapsed from the date of receipt of such notification.

Let me point out first what this amendment would not do:

First, it would not preclude anything the Department of Defense is doing or plans to do.

Second, it does not prohibit cooperative programs; and

Third, finally, it is not protectionist legislation.

What this amendment does do is to address a very serious concern, I think many of us in the Congress have from time to time questioned the way the Defense Department does business. All too often, the executive branch seems to assume that it is solely responsible for determining what is and what is not in the national interest and we find the Department of Defense making decisions and informing Congress after the fact. This amendment takes a small step in a limited area toward reversing that sequence of events.

There are, admittedly, occasions where it will be in the national interest to procure equipment from our allies instead of going through the expensive and time-consuming process of "reinventing the wheel." This amendment will not prevent foreign procurement in those cases where it makes good commonsense.

I also fully appreciate that we sell far more military equipment to our friends—particularly our NATO allies—than we buy from them. The ratio varies from year to year but it is about 10 to 1 in our favor over time. Those sales translate into jobs for U.S. industry and I appreciate that we cannot expect them to continue to buy U.S. equipment if we do not make an effort to buy something from them in those cases where it makes sense to do so. This amendment does not interfere with arms cooperation in any way.

The essence of this amendment is a long-standing and deep-rooted philosophy in this country that we should maintain a complete mobilization base in our defense industry and we should generally avoid becoming dependent upon a foreign source as the sole supplier of a critical item of military equipment.

All this amendment does is to require that Congress be informed, before rather than after the fact in those instances where the Department of Defense plans to award a contract that would make us dependent on a foreign manufacturer as the sole source of major defense equipment.

I repeat: This amendment is not protectionist or antiforeign. It is a vehicle for maintaining timely congressional oversight on policy decisions affecting the national security of the country.

I urge the adoption of this amendment.

□ 1610

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from New York.

Mr. STRATTON. Mr. Chairman, we have had an opportunity to examine the gentleman's amendment, and on behalf of this side of the Committee we are prepared to accept it.

Mr. DICKINSON. Mr. Chairman, will the gentleman yield?

Mr. KAZEN. I yield to the gentleman from Alabama, the distinguished ranking minority member.

Mr. DICKINSON. Just as a matter of record, there are many items which we procure offshore, some of which are manufactured and some of which are not, many of which are sole source.

As I read the gentleman's amendment, his amendment is limited to manufactured articles only; is that correct?

Mr. KAZEN. Prime contracts.

Mr. DICKINSON. Prime contracts for offshore?

Mr. KAZEN. That is right.

All it does, I will tell my colleague, is request the Department of Defense to notify the committees of Congress when this is going to happen.

Mr. DICKINSON. I have no problem. I just wanted to understand it. We buy minerals, metals, strategic ingredients to many things which are manufactured here, which are sole source. This does not apply to that. Only manufactured articles. And this only applies to the prime contractor, not to the subcontractor; is that correct?

Mr. KAZEN. The gentleman is correct.

Mr. DICKINSON. It is strictly a matter of notice so that we can be apprised and take whatever action we might feel appropriate.

Mr. WHITEHURST. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this amendment after having heard the explanation of it offered by the gentleman from Texas (Mr. KAZEN).

When I first learned of this amendment I was concerned that some of our allies might think it was aimed at them. I was concerned that it was another protectionist amendment. But I am pleased to find this amendment has more positive goals.

I am concerned about the state of our economy as is everyone else in this body. But I am also concerned about a very dangerous trend I see developing in the House this year. When a country experiences hard times, there is a tendency to search for scapegoats and one of the most politically popular devices is to blame the situation on our friends abroad—to accuse them of unfair competition.

It is a sad fact that when a nation is frustrated it also becomes narrow-minded, ethnocentric, and mean spirited. And, occasionally, its legislators propose laws that reflect that mood—shortsighted laws that, in the long run, exacerbate not only our political relationships with our allies, but also the economic situation here in the United States. In other words, the cure of the patent medicine of protectionism is worse than the malady itself.

For the last several years we have been running a very substantial surplus in our balance of trade with the Common Market countries—a surplus which translates directly into hundreds of thousands of additional American jobs—jobs the Europeans literally export to the United States.

Some Members in this body choose to ignore this basic fact by proposing to limit what little defense equipment we buy from our NATO allies—apparently in the naive belief that the European parliamentarians will not retaliate with protectionist legislation of their own.

I urge this House to abandon this mean spirited and shortsighted mood of protectionism. Literally, we are cutting off our nose to spite our face. And we are risking 10 jobs in the vain hope of saving one.

However, this amendment is not inspired by protectionist motives and it is not intended to limit cooperation with our allies and it does not attempt to retaliate against them for imagined unfair competition.

Because it does none of these things, but rather simply asks the Secretary of Defense to inform the Congress on a matter of national security interest, I am prepared to support it.

● Mr. VENTO. Mr. Chairman, I rise in support for my colleague, Mr. KAZEN's amendment.

The opposition to the concept of maintaining our defense industrial base has focused on the issues of jobs and whether "Buy American" provisions accomplish their goals. However, this amendment is not solely a jobs amendment. More importantly, it is a defense amendment. This amendment requires that the Congress be given the opportunity to know whether the United States is to be totally dependent on foreign sources for our major weapons systems.

At present, the Department of Defense does not adequately protect or consider our industrial base in its pro-

curement decisions. As a result of focusing solely on a narrow definition of costs, we wind up buying systems abroad with little concern for the collateral costs incurred as a result of overseas procurement. An egregious example of this can be found in the naval weapons procurement section of the bill.

I refer to the three Mk75, 76mm gun mounts intended for use in Navy and Coast Guard escort vessels. A procurement decision made a month ago will result in all our 76mm's having to be from a foreign source and as a result of this decision, the United States will lose its domestic source for these gun mounts. Obviously, such a situation could cause serious difficulties in case of war. Apart from the possibility of interruption of supply we will require protection to convoy the cargo vessels carrying foreign built gun mounts to the United States. This puts us into the ridiculous situation of having to buy extra foreign gun mounts for the extra escort vessels needed to insure the safe arrival of more foreign gun mounts. This amendment, if adopted, would provide a mechanism for adequate congressional oversight so that we can make any necessary modifications to protect our defense industrial base.

This issue goes beyond economics. In the case of the gun mounts, the foreign source did underbid the domestic manufacturer for the fiscal year 1982 procurement. However, this savings is largely offset by the extra overhead costs on other guns and missile launchers. I certainly do not want to crush the first commendable glimmerings of a desire for economy in the Navy but there seems to be a lack of proportion in this decision. When the Secretary of the Navy is willing to spend $80 million to get a second source for the Aegis crusier, it seems ludicrous to avoid spending an extra $1 or $2 million in order to maintain the single U.S. source for an important weapons system. The Navy is unwilling to protect our sole domestic source for these gun mounts whose total yearly cost is less than $15 million.

The basic issue is the defense of the United States. Because of the Navy decision, we will have an interruption in domestic production of gun mounts, making it impossible for the United States supplier to have a chance in bidding for the 1982 Mk75 procurement. As a result, the U.S. capability to produce 3 inch naval guns will cease next year with completion of the 1981 procurement. A skilled work force, unique in the United States, will disperse to other jobs and will not be able to be reassembled even if we maintain the machinery in mothballs.

Mr. Chairman, I have described the loss of an important defense capability for the United States. Unfortunately, skilled workers are not easily replaceable. Defense requires many skilled workers and a strong defense industrial capability. This is the proper goal of the Kazen amendment. I urge my colleagues support this amendment.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. KAZEN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. SOLOMON

Mr. SOLOMON. Mr. Chairman, I offer an amendment which is printed in the RECORD.

The Clerk read as follows:

Amendment offered by Mr. SOLOMON: Page 26, after line 22, add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) The Director of the Selective Service System shall submit to the Secretary of Education, with respect to each individual receiving, or applying for, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), or participating in any program established, or assisted, under such title, verification of whether such individual has violated section 3 by not presenting and submitting to registration pursuant to section 3.

"(2) On the basis of the verification submitted pursuant to paragraph (1), the Secretary of Education shall make a preliminary determination on whether each individual described in paragraph (1) has complied with or violated section 3.

"(3) If the Secretary of Education preliminarily determines that any individual described in paragraph (1) has violated section 3, the Secretary of Education shall notify such individual of the preliminary determination.

"(4) Any individual notified pursuant to paragraph (3) may submit to the Secretary of Education within a period of time of not less than 30 days after receiving such notification any information with respect to the compliance or violation of section 3 by such individual.

"(5) After the period of time specified in paragraph (4) and taking into consideration any information submitted by the individual, the Secretary of Education shall make a final determination on whether each individual notified pursuant to paragraph (3) has complied with or violated section 3.

"(6)(A) Notwithstanding any other provision of law, any individual finally determined by the Secretary of Education pursuant to paragraph (5) to have violated section 3 is not eligible for, and may not receive, any grant, assisted loan, benefit, or other assistance, under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), and may not participate in any program established, or assisted, under such title.

"(B) The Secretary of Education shall take all possible actions to carry out subparagraph (A).".

(b) The amendment made by subsection (a) shall take effect on October 1, 1982.

Mr. SOLOMON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. KAZEN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. KAZEN. Mr. Chairman, this amendment is to what section of the bill?

The CHAIRMAN pro tempore. The Chair will state that the amendment goes to the existing title IX.

Mr. KAZEN. I thank the Chairman.

The CHAIRMAN pro tempore. The gentleman from New York (Mr. SOLOMON) is recognized for 5 minutes in support of his amendment.

Mr. SOLOMON. Mr. Chairman, this amendment prohibits young men who are in violation of the Draft Registration Act from receiving any financial assistance under title IV of the Higher Education Act.

The amendment which establishes an additional condition of eligibility for student financial assistance should more properly be a part of the law governing the relevant program, which is the Higher Education Assistance Act; however, because there is an immediate need for this legislation now—that means today—and because there will be no opportunity this year to amend the Higher Education Assistance Act, which is not due for reauthorization until next year, I felt that it was imperative, as did the other body, to offer this amendment to the defense authorization bill.

Incidentally, an identical amendment has already passed the other body by an overwhelming vote.

Mr. Chairman, there have been over 8 million young Americans in this country who have lived up to their obligations as American citizens, who have lived up to the law of the land which requires that all men between the ages of 18 and 19 register under the Draft Registration Act. I do not have to tell the Members that, as a parent who has a son who has registered for the draft, all of these 8 million young men who have registered sorely resent the other 7 percent of Americans who have either intentionally or unintentionally chosen not to register. Many of them have been misled by their peers. Many of them have been misled by college professors who tell them to "go ahead and disobey the law of the land, commit a felony and live with that for the rest of your life."

Mr. Chairman, I would not want that to happen to my children, and I certainly would not want that to happen to yours or any other young Americans who may be too young to

understand just how important this issue is.

There are some 700,000 young men in this country who have, for the most part, unintentionally failed to register, and I intend not only to offer this amendment to this legislation, but as other legislation comes down the pike, such as the jobs training bill, such as home loans in various categories, I intend to offer the same amendment until every young man is deprived of any kind of Federal assistance unless he has obeyed the law and fulfilled his obligation as a citizen of the United States of America.

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Alabama.

Mr. NICHOLS. I thank the gentleman for yielding.

Mr. Chairman and members of the Committee, the Armed Services Committee has not taken a position on this legislation, as its impact, to some degree, is in the educational area and it is beyond the committee's jurisdiction.

I want to say to the gentleman from New York that I personally support what he is trying to do. I believe very strongly that the minimum responsibility of good citizenship is to be able to defend this country in time of need. At the same time, I would say that the Secretary of Education and others have indicated some opposition to this.

I commend the gentleman. I support his amendment. I offer no objections.

Mr. WHITEHURST. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Virginia.

Mr. WHITEHURST. I thank the gentleman for yielding.

Mr. Chairman, I also want to salute the gentleman for initiating this legislation. I think it sends a powerful message, and I think it will act as a veritable tonic on those who have not seen fit to register so far.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from New York.

Mr. MITCHELL of New York. I thank the gentleman for yielding.

Mr. Chairman, I have no problem with this amendment either. As the gentleman from New York points out, it only affects 7 percent of the 100 percent eligible. Ninety-three percent of the young men have registered. I support the concept strongly. If young men do not think enough of their country to register to defend it, I do not see any reason at all why they should get benefits from that country.

Our side will be pleased to accept the amendment.

□ 1620

I commend the gentleman on his amendment. This side is pleased to accept it.

Mr. SOLOMON. I thank the gentleman.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I yield to the gentleman from Mississippi.

Mr. MONTGOMERY. I thank the gentleman for yielding.

I was earlier a cosponsor of this amendment. I serve on the Personnel Subcommittee. From the position I sit in I certainly support the amendment.

The CHAIRMAN pro tempore. The time of the gentleman from New York (Mr. SOLOMON) has expired.

(At the request of Mr. MONTGOMERY and by unanimous consent, Mr. SOLOMON was allowed to proceed for 1 additional minute.)

Mr. MONTGOMERY. If the gentleman will yield further, it is certainly not fair to that 8 million to let the other 500,000 have the same privileges. As the gentleman said, the 500,000, it is a felony, they have violated the law, and they are not entitled to these educational benefits.

I thought the Secretary of Education had come out in support of the gentleman's amendment. Am I correct on that?

Mr. SOLOMON. The gentleman is correct. The Secretary of Education is in support of the general concept of this amendment, as is the Department of Defense and the Selective Service Administration.

Mr. MONTGOMERY. Well, in behalf of the 8 million who did register, we certainly ought to enforce the gentleman's amendment and we should pass it.

Mr. SOLOMON. I thank the gentleman.

I would just like to point out one thing. Back in February, on February 1, when President Reagan offered a 30-day grace period to many of these young men, hundreds of thousands of young men took advantage of that. And I just think this is going to be an additional encouragement.

● Mr. MOFFETT. Mr. Chairman, I am deeply troubled by the amendment offered by the gentleman from New York (Mr. SOLOMON). His amendment would eliminate from the guaranteed student loan program those students who have declined to register for the draft. While I respect the arguments he has offered in terms of dealing with students who have evaded registration, I oppose his amendment on several grounds.

First, this will do nothing to increase draft registration. As reported during the debate by the gentleman from California (Mr. GOLDWATER), the All-Volunteer Army is exceeding its recruitment targets. On the other hand, the draft registration effort has resulted in 800,000 students choosing not to register. Rather than trying to introduce a new series of penalties, I believe that we should continue trying to perfect the All-Volunteer Army and spend less time with this somewhat punitive Rube Goldberg device to promote registration.

Second, the Solomon amendment is blatantly discriminatory. Only low-income and middle-income students will be caught in this trap. If a student comes from a wealthy background, is capable of financing his education privately, the amendment does not punish him. However, if a student is poor or from a middle-income background, the full force of the Solomon amendment is applied. This dichotomy is reminiscent of the charges leveled against registration during the Vietnam war. It motivated me to oppose registration during the Carter administration. And, I believe that the Solomon amendment continues this unfortunate history of discrimination.

It seems to me that we need to think long and hard about the entire issue of registriation. The purpose of registration is to provide young men to the military; yet, the All-Volunteer Force appears to be accomplishing that. Registration is not working given the huge numbers of conscious evaders. Rather than piling on an additional penalty—one which is unworkable, one which is discriminatory, one which cannot even achieve its own purpose—I would recommend that the Armed Services Committee reexamine the entire issue of registration.●

AMENDMENT OFFERED BY MR. SIMON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. SIMON. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. SIMON as a substitute for the amendment offered by Mr. SOLOMON: At the end of the bill add the following new section:

ENFORCEMENT OF MILITARY SELECTIVE SERVICE ACT

SEC. 1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall—

"(A) submit to the institution of higher education which the person intends to attend, or is attending, proof that such person has submitted to such registration;

"(B) complete and submit the necessary forms for such registration at the time of filing application for such grant, loan, or work assistance; or

"(C) submit a statement that such person refuses to submit to such registration for religious or moral reasons.

"(2) For the purposes of paragraph (1), the Director, after consultation with the Secretary of Education, is authorized to prescribe methods for providing to, and collecting from, institutions of higher education the forms necessary for registration under

section 3, and for collecting statements described in paragraph (1)(C) from such institutions.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning on or after July 1, 1983.

Mr. SOLOMON. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN pro tempore. The gentleman from New York reserves a point of order on the amendment.

Mr. SIMON. First of all, Mr. Chairman, I would like to apologize to the gentleman from New York and to the members of the committee. We just got over here. I hope somebody on my staff is getting some additional copies of the amendment around right now. I do not like to be submitting amendments that others have not had a chance to take a look at.

The Secretary of Education sent me a copy of the letter that he sent about the legislation. It is frankly not a workable piece of legislation.

I voted for registration. I voted for it when the Carter administration was against it. I voted for it when the Carter administration was for it.

I happen to be one of those who believes we ought to have a draft. But I do not want to see something that is unmanageable and unworkable. And I think what we have in my amendment, the substitute amendment, is something that is workable.

It says when you register at a college or university, you, No. 1, show what you have in the way of evidence that you have registered, or if you do not have that evidence, then you can go ahead and register at that point, or No. 3, file a statement of conscientious objection. And that seems to me to solve the problem.

What do we do if we do not have my amendment? I recognize the political appeal of this thing. But let me tell my colleagues, that while there is political appeal, it is frought with difficulties, all kinds of difficulties.

If I can use a personal illustration, not only are there the difficulties that the Secretary of Education has pointed out, why this should not be enacted, there are very practical difficulties.

My son turned 18 on May 21. He registered. He has yet to receive anything from anyone indicating that he has registered. I asked him about it last night. In the meantime, he has registered for college.

Now, my son is not going to get any aid. But we have to be thinking of the sons of this Nation who do need aid. That is a very practical problem.

No. 2: Let us take your bank in your hometown in Florida, in Mississippi, in New York; they are reluctant right now to make student loans because we are making it more and more complicated. You complicate it further with this, and if you think bankers in this Nation are going to make student loans as widely as they now do, you are living in a dream world.

Talk about security, and that is what we have been talking about these days, what we need for the security of this Nation is to encourage education, not discourage education.

Just this morning I received a statement that last year Japan, with half our population, graduated 4,000 more engineers than did the United States.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my colleague, the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

It is my understanding that the gentleman is offering this proposal in the same vein that the gentleman from New York has offered his amendment, since it would require that anybody who is going to get this aid would have to be in compliance with the registration provision; is that not correct?

Mr. SIMON. That is correct. Only it does it in a workable fashion.

Mr. STRATTON. Well, since the gentleman has the same motive and the same purpose, I am surprised that in line 17 of this substitute he has the following words that the individual applying may be permitted to "submit a statement that such person refuses to submit to such registration for religious or moral reasons."

There is nothing in the existing law that gives anybody the right to ignore the Registration Act by reason of religious or moral purposes. And therefore the gentleman has given an out to individuals which is not at all sanctioned in law. That would make it impossible for the committee to accept the gentleman's substitute.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 3 additional minutes.)

Mr. SIMON. I recognize that that particular provision may be a matter of some controversy. I served in my country's Army, and I am proud to have served in my country's Army. But I think we have to recognize there are those who, for reasons of conscience, do not register.

□ 1630

I think we made a mistake when we wrote the registration law when we did not permit them to register the possibility of being a conscientious objector.

Mr. STRATTON. Mr. Chairman, if the gentleman will yield, we are simply providing a hole in this legislation that is big enough to drive a Mack truck through. Anybody can come in and say, "I have moral reservations against registering, but I want to collect all that is coming to me," even though his failure to register because of religious or moral reasons is not sanctioned in the law and he is in violation of the law.

The amendment offered by the gentleman from New York is designed to prevent anybody who is violating the registration law and according to the paper, the New York Times, this morning, we have 675,000 who are currently doing that, more than 20 times the number who now fill up all our Federal prisons, you are going to tell anybody that they can come in and violate the law. It would be absurd for us to sanction that in this House. Certainly, the gentleman would agree, I am sure.

Mr. SIMON. I certainly will not agree.

Let me just point out that what the gentleman talks about, a loophole you can drive a truck through, has been a loophole in World War II and in World War I. It has been a tradition of this country, a tradition that I happen to think we ought to stick with.

Now, the gentleman from New York makes the assumption that all those who have not registered have done so because they are conscientious objectors. I do not think there is any evidence to suggest that. A lot of them simply are avoiding it for one reason, thinking that it is easy to avoid; a lot of them probably do not even know about it.

Mr. STRATTON. Mr. Chairman will the gentleman yield?

Mr. SIMON. I would be pleased to yield to the gentleman from New York.

Mr. STRATTON. I did not suggest that all 675,000 were ducking out on grounds of religious or moral reasons. I simply pointed out that we have a very substantial number now who have not registered, and if we make it possible for them to avoid registering by putting in this legislation something that is not involved in the Registration Act, we are encouraging an increase in the total number of 675,000, that is all. And we certainly do not want to do that. The amendment of the gentleman from New York (Mr. SOLOMON) is trying to limit the violations.

POINT OF ORDER

Mr. SOLOMON. Mr. Chairman, I raise a point of order.

The CHAIRMAN pro tempore. The gentleman will state it.

Mr. SOLOMON. Mr. Chairman, the amendment which I offered and was printed in the RECORD was a nongermane amendment which had points of order raised against it.

Subsequently, I appeared before the Rules Committee and asked for those points of order to be waived, which they granted in the rule.

Now in the amendment that the gentleman from Illinois (Mr. SIMON) is offering, in section (c) he says to submit a statement that such person refuses to submit to such registration for religious and moral reasons. That is additional law which had nothing to do with the amendment and the waiver of points of order that were granted by the Rules Committee. I say that the gentleman's amendment is out of order because of that.

The CHAIRMAN pro tempore. Does the gentleman from Illinois wish to be heard on the point of order?

Mr. SIMON. Yes, I do wish to be heard, Mr. Chairman.

Mr. Chairman, what we are talking about is how we can have something that is workable. My aim is the same as that of the gentleman from New York, but I think the gentleman from New York, with all due respect, has not dealt with this whole very complex problem of student loans and grants.

I think the amendment that I have is the only workable one. I think it is totally within the province of the amendment that the gentleman has.

I think the substitute amendment that I have offered is in order.

The CHAIRMAN pro tempore. The Chair is prepared to rule.

The Chair finds that both the amendment and the substitute amendment prescribe limitations on eligibility under title IV of the Higher Education Act of 1965, both in similar ways.

The question of the waiver granted to the Solomon amendment by the rule is not relevant to the point of order since the test of germaneness is whether the substitute amendment is germane to the amendment, not to the bill.

Therefore, the Chair rules that the amendment is in order and the gentleman is recognized.

Mr. SIMON. Mr. Chairman, I shall be very brief in closing.

We are all interested in the same thing. The question is, How do we do it in a workable way?

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has again expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. SIMON. Mr. Chairman, I have fashioned something that the Department of Education can live with, that our colleges can live with, and yet encourages registration.

What the gentleman from New York has is an amendment that without this amendment is frankly going to lead to chaos on our campuses.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my colleague, the gentleman from Pennsylvania.

Mr. EDGAR. Mr. Chairman, I would like to compliment the gentleman in the well. I think the amendment of the gentleman is a good amendment. I think it modifies the amendment of the gentleman from New York in some very constructive ways.

As a United Methodist Minister by vocation and a Congressman by accident, I know of many times when people have sought to have an opportunity to object to both draft and registration by virtue of conscience and by virture of concern.

I think the amendment of the gentlemen from Illinois is drafted in such a way that it at least allows for a correction of the mistake we may have made in the registration procedure and that is not giving someone that opportunity to express themselves; but more importantly, I think the amendment of the gentleman makes the amendment of the gentleman from New York workable and I think that is the important thing. I urge my colleagues to support it.

Mr. Chairman, I speak today against the amendment offered by the gentleman from New York (Mr. SOLOMON). Earlier this year, the administration decided to reinstate draft registration as a way to upgrade our defense preparedness. I was opposed to this policy, and I still feel that a mandatory draft is a poor way to provide the manpower needed to run our Armed Forces.

Today, however, I will not speak on the ends, but on the means. I feel strongly that the complexities and legal questions inherent in this amendment make it unworkable and extremely costly, and for this reason should be defeated.

There are several problems involved in the implementation of this legislation. Possibly the most serious question that it raises is whether possible due process violations would make it unconstitutional. Since requests for education assistance would be denied on the basis of Selective Service files, without first consulting the applicant, a due process problem arises which might be used to challenge any Education Department decision. Also, since there is currently no process for obtaining conscientious objector status prior to an actual draft, a student whose nonregistrant status might be judicially determined to be lawful, would be wrongfully, and perhaps illegally, denied assistance.

This problem is made worse by the fact that this amendment only allows for a 30-day appeal period. Since the Selective Service estimates that it takes the average registration 90 days to be processed, and since no permanent proof of registration is currently given to the individual when he registers, the amendment leaves a period of as long as 60 days beyond the appeal deadline when the registrant would be unable to prove his compliance with the law.

The second problem inherent in this amendment is the expense and administrative burden involved in its implementation. The Office of the General Council for Education Department has stated that to implement the proposals of this amendment—

> Some sort of elaborate tape system would be required. The Education Department does not now have tapes of Title IV recipients, and it is doubtful that they could be produced—certainly not on a timely basis.

There are currently no funds available for such a system, or for the personnel needed to set one up.

This amendment is also simply unworkable. Secretary of Education Bell, in a letter to OMB Director David Stockman concerning this amendment, maintains that—

> The regulatory and enforcement role that would be created by this provision for the Education Department is far beyond any of our current activities and would impose considerable burdens on institutions of higher learning and members of the public. We are deeply concerned that the burdens imposed would far outweigh the benefits gained.

The Secretary adds that—

> The means proposed * * * would require a level of unnecessary Federal intrusion and administrative complexity and burden which we roundly oppose.

Finally, this amendment is simply unnecessary. There are already severe penalties available to punish those who disobey the law, if we believe that this is desirable. Currently, the statutes provide for up to 5 years imprisonment and as much as a $10,000 fine. I seriously question whether additional penalties will be successful in getting significantly more men to register since a great many of these individuals have not registered because of their understandable objections to war.

I also question the premise that punishment should be used in order to induce young men to obey the law. This amendment has the obvious primary objective of increasing the number of men registered for the draft. However, it also has a secondary, and more subtle, objective, which is to punish those individuals who do not register. The social implications of this secondary objective are great. When 7 percent of the members of a certain population group refuse to obey a law, even under risk of severe punishment, is it not possible that there is something wrong with the law? I suggest that if what we really want to achieve is the full registration of these young men, then we should make it easier for them to register without compromising their consciences. The development of some type of alternative service program as well as the establishment of channels by which an individual could be classified as a conscientious objector before a draft, I believe, would be much more effective in eliminating nonregistration, and would do so in a much more

civilized way then by punishing those who refuse to compromise their beliefs.

The Selective Service estimates that less than 7 percent of the men required to register have failed to do so. Since a large number of these nonregistrants do not receive title IV assistance, this legislation would only punish a very few individuals. I must agree with Secretary Bell that the cost, questionable legality, and administrative burden involved in the implementation of this amendment far outweigh the benefits to be gained. Also, I feel deeply that the use of such penalties as those proposed in the amendment in order to increase compliance, sets a poor precedent in a society which prides itself on individual rights. For these reasons, I stand strongly opposed to the amendment.

Mr. PATTERSON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I am pleased to yield to my colleague, the gentleman from California.

Mr. PATTERSON. Mr. Chairman, I thank the gentleman for yielding and wish to commend him for his amendment. I think it makes the Solomon amendment perhaps acceptable.

Mr. Chairman, I rise in opposition to the Solomon amendment. Although at first glance such an amendment seems attractive and well intentioned, I believe there are a number of serious problems with it. Not only is it highly discriminatory in nature and would require significant expenditures of time and money, but it is entirely unnecessary. Instead of creating new laws, we should be enforcing our current ones. We already have a law on the books for punishing those who fail to register for the draft: 5 years in prison, a $10,000 fine, or both.

Mr. Chairman, this amendment is highly discriminatory. Since only males are required to register for the draft, and since needy students are the recipients of student aid assistance, it punishes our country's needy, male students. We are already in the midst of sharply curtailing student aid funds for these people. What is the intended punishment for those who do not need or require student aid assistance or who do not go on to college after graduating from high school?

The implementation of Mr. SOLOMON's amendment would also require significant expenditures of time and money on the part of the Department of Education, which has neither to spare. Approximately 1.4 million 18- to 24-year-old, male, student aid recipients would have to be checked over, inevitably causing serious delays in the processing of financial aid awards.

I am not urging my fellow colleagues to oppose registration for the draft, even though I am strongly opposed to the idea. I am simply asking you to oppose an amendment which is unnecessary, which discriminates, and which would be a regulatory nightmare. I hope you will join with me in opposing the Solomon amendment.

Mr. BADHAM. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to my colleague, the gentleman from California, and then to my colleague, the gentleman from Arizona.

Mr. BADHAM. Mr. Chairman, I thank the gentleman for yielding.

To my knowledge, I do not think there has ever been in this country a religious opposition to registering for the draft or registering for social security or registering for anything else.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois has again expired.

(At the request of Mr. BADHAM, and by unanimous consent, Mr. SIMON was allowed to proceed for 4 additional minutes.)

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, is it not true that in this country everybody has traditionally registered and only at the time of induction one has applied for conscientious objector status; is that not correct?

Mr. SIMON. That is not my understanding, but I stand to be corrected by those who know this better.

My understanding is that when you registered for the draft in the past, you could indicate at that time conscientious objector status, but I may be incorrect on that.

Mr. BADHAM. Mr. Chairman, if the gentleman will yield further, then I think the gentleman has made my argument, simply that when a person registers for the draft, he says whatever else he is, but he registers and he is given conscientious objector status then.

Mr. SIMON. The point is that there are those—and I hope we do not get hung up on this relatively minor point on the whole thing—there are those whom we have traditionally permitted to voice conscientious objection and that is what I permit here.

I frankly think that is a healthy tradition this country has had and should continue.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. STRATTON. I just wanted to clarify a point here, a legal point, that there is some confusion about. Under the law, the question of conscientious objection comes in at the point of classification. The only thing that we are dealing with here is registration; so the question of conscientious objection is not applicable at that time.

Mr. SIMON. Well, this is really the question asked by the gentleman from California (Mr. BADHAM), whether during World War II, for example, when you registered, whether you indicated at that time of registration that you were a conscientious objector. My understanding is that you did, but I may be incorrect.

□ 1640

Mr. STRATTON. I think the gentleman's understanding is incorrect. It was at the point of classification that conscientious objection came up because classification would determine if you were deferred for flat feet or for conscientious objection, or for some other reason and so on and so forth, but not at the time of registration.

Mr. EDGAR. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Pennsylvania.

Mr. EDGAR. I thank the gentleman for yielding.

Mr. Chairman, there are two different precedents being set. In past days, in the 1960's and early 1970's, registration and classification took place at the same time. So people had a right to register. I can remember registering as a ministerial student and being classified at exactly the same time that I went to register for the status of being 4–D.

I think it is important for us at this point to recognize that we do not have that in existing law with registration, but there are many people out there who still have the conscientious concern, and that is the point that the gentleman from Illinois is raising.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. STRATTON. I thank the gentleman for yielding.

Mr. Chairman, in World War II registration and classification may have come almost at the same time. But the point here is that the only legislation that we have on the books today is registration. And registration does not involve classification.

Some people, in fact I did it one time myself, have suggested that if we would classify people as well we would soon fill up the gaps in the National Guard and the Reserve Forces. But nobody has been anxious to move toward classification and it is only in connection with classification that conscientious objection would be applicable.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield to me?

Mr. SIMON. I yield to my colleague, the gentleman from California.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has expired.

(On request of Mr. GOLDWATER and by unanimous consent, Mr. SIMON was allowed to proceed for 3 additional minutes.)

Mr. GOLDWATER. I thank the gentleman for yielding.

Mr. Chairman, I want to raise a point that may seem to be of minor concern here, but which illustrates the critical issue of discrimination.

The gentleman in the well used his son as an example. His son just registered for the draft and that he was not in needing of financial assistance.

If the gentleman's son does not register he will be penalized once; that is, he will go to jail or whatever the penalty might be for failure to register. But another man's son who is perhaps poor or in need of financial assistance has two strikes against him. He not only stands the chance of going to jail, but he also stands the chance of not receiving financial assistance for education, which is just as harsh a penalty in terms of the boys' future.

What the gentleman is trying to do may be valid, but it does discriminate between the less fortunate and those who are wealthy.

I think this would apply not only to the gentleman's amendment, but also to the amendment offered by Mr. SOLOMON.

Mr. SIMON. The gentleman from California is correct that there is some discrimination in that respect in both of our amendments. I guess where the gentleman from New York (Mr. SOLOMON) and I would disagree with the gentleman is that what we are trying to do to make the registration law a little more workable, a little more enforceable, and I think what I have presented is something the Department of Education can live with, the colleges and universities can live with.

I think what my colleague from New York has presented is something that is fine in theory but is going to cause a first-class mess.

Mr. GOLDWATER. Mr. Chairman, if the gentleman will yield further, oftentimes we resort to expediency at the expense of more reasoned legislating. In this case we are guilty of discrimination against an already underpriviledged part of our population. When we write a law that is imperfect and unenforceable; often instead of going back to the books and rewriting that law we begin using band-aids. As now, we reach out to find other means of enforcing that law.

I am strongly reminded of the instance some years ago when Congress decided to permit the Federal Government to use social security numbers to seek out and pursue individuals in default of court-ordered alimony or child care payments.

These are all provisions of the original intent of the Social Security Act, and take this country closer and closer to the Big Brother state.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has again expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 1 additional minute.)

Mr. SIMON. Mr. Chairman, I would simply say to my colleague from California that if my amendment is defeated, I shall join him in voting against the Solomon amendment.

Mr. MITCHELL of New York. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from New York.

Mr. MITCHELL of New York. Under the present law everyone must register. There are no exceptions, no discriminations. All a person has to do is sign his name on a postcard.

In the event of a national emergency, he can apply for exemption to whatever classification he is considered for. So it is not necessary that he do anything now except send the postcard in.

Mr. Chairman, I feel this provision of the gentleman's amendment guts the amendment of the gentleman from New York (Mr. SOLOMON), and this side cannot accept it.

Mr. HUNTER. Mr. Chairman, will the gentleman yield to me?

Mr. SIMON. I yield to the gentleman from California.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think the fatal flaw in the gentleman's amendment is that this amendment would confer on some people the right to unilaterally classify themselves as conscientious objectors.

It is my understanding that conscientious objection is a classification that is made after some deliberation by an administrative body of the United States.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has again expired.

(On request of Mr. HUNTER and by unanimous consent, Mr. SIMON was allowed to proceed for 3 additional minutes.)

Mr. HUNTER. Mr. Chairman, if the gentleman will yield further, I would like to ask the gentleman if it is his understanding that conscientious objection is not simply a unilateral classification that a young draft candidate confers on himself, but it is a status that the U.S. Government places upon that person after they have, in fact, examined the background and the substance from which that person would offer conscientious objection status? Is that right?

Mr. SIMON. The gentleman is partially correct. That classification was granted by the Government and I want to continue that. But what we have now is a situation where we have a registration and classification at two totally different periods.

As I indicated before, I happen to favor a draft. I favor a draft where we give people a choice of the military or a variety of other places where they can serve their country for 1 year.

But right now we are in a situation where we have only one registration and not classification at the same time. What I would like to do is to say that we ought to abide by the traditions of this country and recognize those who disagree with me, who disagree with the gentleman, who for reasons of conscience do not want to register. But we are not classifying them in that category.

Mr. HUNTER. Mr. Chairman, will the gentleman yield further?

Mr. SIMON. I would be pleased to yield further to the gentleman.

Mr. HUNTER. I thank the gentleman for yielding.

Mr. Chairman, I think what the gentleman is doing, if we in fact allow a young person to unilaterally put a conscientious objection status on his registration classification, the gentleman is going to render the law—and I understand there is a criminal law now against not registering—I think the gentleman is going to render that law unduly vague because the student is going to come up and say, "Why should I be punished criminally when I look at the statutes to see if I could go to college and get a Federal grant and find out all I had to do was say I was morally opposed to it and I would be released from that obligation."

Mr. SIMON. Let me say to the gentleman, then, if that is your opinion, and you want something that is workable, then toss in an amendment to knock those three lines out of my amendment. I will vote against it, but it does not do anyone any good in this country to have something that is unworkable and that is what we are being asked by the Solomon amendment.

I say do not take PAUL SIMON's word for it; take the word of the Secretary of Education.

Mr. MONTGOMERY. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I would be pleased to yield to my distinguished colleague from Mississippi.

Mr. MONTGOMERY. Mr. Chairman, I thank the gentleman for yielding.

I certainly appreciate his yielding and he knows the great respect I have for him.

I am concerned that, in effect, this amendment might sanction breaking of the law, as the gentleman from California pointed out, and that is my concern about the amendment, that the gentleman would be encouraging these young men to break the law.

Certainly those three lines should be taken out of this amendment. If not, it is not workable; it is doing just the opposite of what you want it to do.

Mr. SIMON. My belief, I will say to my colleague, for whom I have great respect, and who has even been kind enough to come to southern Illinois, is

that the courts are going to rule that anyone who is in fact a conscientious objector, who for religious reasons does not want to register, is going to have that right.

The CHAIRMAN pro tempore. The time of the gentleman from Illinois (Mr. SIMON) has again expired.

(By unanimous consent, Mr. SIMON was allowed to proceed for 2 additional minutes.)

Mr. SIMON. We have never done anything other than that in this Nation. What my amendment does is to recognize the reality, and I would hope we move in the direction of adopting it.

Mr. MONTGOMERY. Mr. Chairman, I appreciate the gentleman's answer, but I do not believe that really solves the problem. The gentleman admitted he rushed over here and entered the amendment. Had it been prepared earlier?

□ 1650

Mr. SIMON. It was hastily done. I concede that to my colleague from Mississippi.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. SIMON. I yield to the gentleman from Tennessee.

Mr. BEARD. Mr. Chairman, I thank the gentleman for yielding. As one of the coauthors of this amendment, the Solomon amendment, I must say that I do not understand the gentleman's amendment to this amendment inasmuch as for an individual to be classified a conscientious objector, he has to register. Is that not part of the process?

Mr. SIMON. That has traditionally been part of the process because one is classified at the same time one registers.

Mr. BEARD. But there is no classification process at this time because there is no draft.

Mr. SIMON. That is precisely correct.

Mr. BEARD. Then I do not understand why the Solomon-Beard amendment needs to be amended—so why this amendment needs to be amended when it is really a moot point. The individual registers. He is only classified or presents himself for classification as a conscientious objector or whatever when there is a draft in effect, but there is no draft.

We are asking these people to sign their names and submit them, and that is it. I think it is a sad commentary if, all we ask in return for whatever aid or tuition aid or whatever, is just to sign one's name to part of a classification aspect when there is a draft.

POINT OF ORDER

Mr. STRATTON. Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Illinois is unconstitutional. On line 17, as we have just read, he provides that if the individual cannot supply the college with a statement that he has registered, he can then submit a statement that "such perason refuses to submit to such registration for religious or moral reasons." But that way, he is incriminating himself in a crime for having refused to register, and under article V of the Constitution, incrimination is unconstitutional.

The CHAIRMAN pro tempore. The Chair will state to the gentleman from New York that the Chair does not rule on questions of constitutionality. The House votes on that question on the merits.

Mr. STRATTON. I think the House might want to rule.

Mrs. SCHROEDER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the Simon amendment.

Mr. Chairman, I think we are missing one of the important things that the gentleman from Illinois is talking about. I think it is terribly important. I think it is not just the gentleman from Illinois, it is also the Secretary of Education who is talking about it, and I will bet that a lot of us have talked about it out in our districts as we are trying to get reelected. That is, the burden of policing this thing.

Do we really want to deputize America's bankers to enforce the selective service law? Do we really want to deputize all the different schools to enforce the selective service laws? Let me propose a further amendment. I think every student ought to be registered to vote. Do we want to say that before they get student aid we want to make sure that they are registered to vote? Do we want to say that anybody who is violating the EPA laws cannot get SBA loans? I mean, we can turn this thing into a big, gigantic police state, and I think that is the problem.

So, what we are really talking about here is that issue, and that issue alone. I think the gentleman from Illinois has offered an excellent amendment. I want to remind people too of some of our forefathers, remind them that Thomas Jefferson, who started the wonderful University of Virginia we are all so proud of, and also started a revolutionary war, but he also did not serve. I think all of us are happy that he was educated.

I think there is room for a lot of people in this country. That is what has made it so great, that people have done different things.

There is another innuendo floating around that I hear; that is, people who are conscientious objectors do not want to serve. Wrong. They want to serve, but they serve in a different way, and they object to war.

I want to tell the Members that one of the things I did when I was in college was spend a lot of weekends working in some of the intensive mental health wards at the psychiatric hospitals in Minnesota, and there were many conscientious objectors working in there that really put their lives on the line, and they worked there very, very hard. It was not that they were asking not to do anything for the country. They were asking to serve in another manner.

So, let us not be so quick to label; let us not be so quick to deputize America's bankers and schools and everything else to start enforcing our laws. I think this amendment makes sense. If the amendment does not pass, then I think we really should require voter registration for student aid. That is terribly important, but we are really not here as the Nation's parents, and we are really not here to be the Nation's policemen. We are here as a country of people who come from all different religions.

I also had the honor of having lunch a week ago with some members of a religious group in my district who do oppose registration. They oppose registration because they cannot classify themselves right now as conscientious objectors. They feel very strongly about that. They are a very small group. America is not going to fall because of them. They said, "We will be willing to do double time of service in mental health institutions or anything else. We just find this objectionable."

If we deny them and their children student aid, we are really shortchanging ourselves. As everyone says, if you think education is expensive, try the alternative, and we are really shortchanging ourselves. The best investment this Nation can make is in education and in its youth. They are our most important natural resources.

Maybe if we get them into school we can educate them a little more in America's history so that they will want to serve. Maybe we can turn them around. I think that happens to a lot of people. I think we ought to keep all those things clear.

I urge passage and support of the amendment of the gentleman from Illinois.

Mr. SIMON. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I yield to the gentleman from illinois.

Mr. SIMON. Mr. Chairman, I would hope that my colleagues would keep in mind not simply that one small provision in my amendment which would abide by our traditions, which some seem to want to cast aside, but go to the heart of where we are under the Solomon amendment if it is adopted as is. I simply quote from a letter from Secretary Bell. He says:

> The regulatory and enforcement role that would be created by the provision for the Education Department is far beyond any of our current activities and would impose considerable burdens on institutions of higher education and members of the public.

I think what we want, and I am sure what the gentleman from New York wants, is something that is workable. What he has is something that is totally unworkable.

The CHAIRMAN pro tempore. The time of the gentlewoman from Colorado has expired.

(At the request of Mr. EDGAR and by unanimous consent, Mrs. SCHROEDER was allowed to proceed for 2 additional minutes.)

Mr. EDGAR. Mr. Chairman, will the gentlewoman yield?

Mrs. SCHROEDER. I would be delighted to yield.

Mr. EDGAR. Mr. Chairman, I would like to commend the gentlewoman for her comments about the Simon amendment and in opposition to the Solomon amendment. The Secretary of Education goes on to say in that same letter that the means proposed in the Solomon amendment would require a level of unnecessary Federal intrusion and administrative complexity and burden, "Which we roundly oppose."

This is not a liberal group or a moderate group; it is the administration itself being concerned about the excess burden that this amendment places on the Federal Government. So, I would hope that we can support the Simon amendment.

Mrs. SCHROEDER. I thank the gentleman for his comments. I think another question that we have to point out as parents, because I know the gentleman from Pennsylvania is a parent and I am also, we are talking about people registering when they are 18 years old—still young. They come out of a home, and who knows how they were raised? They could be very subject to all sorts of environmental and peer group pressures at that age. We as a nation may be doing all the wrong things if we push them the wrong way and deny them further education because of a choice they have made when they have maybe not been able to hear all the different alternatives because of a more protected home environment, but the fact that they are minors, I think that is important.

I urge that we support the Simon amendment.

AMENDMENT OFFERED BY MR. HARTNETT TO THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. HARTNETT. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. HARTNETT to the amendment offered by Mr. SOLOMON: Strike out all after "SEC." in the matter proposed to be inserted by the amendment and insert in lieu thereof the following:

1010. (a) Section 12 of the Military Selective Service Act (50 U.S.C. App. 462) is amended by adding after subsection (e) the following new subsection:

"(f)(1) In order to receive any grant, loan, or work assistance under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.), a person who is required under section 3 to present himself for and submit to registration under such section shall file with the institution of higher education which the person intends to attend, or is attending, a statement of compliance with section 3 and regulations issued thereunder.

"(2) The Secretary of Education, in agreement with the Director, shall prescribe methods for verifying such statements of compliance filed pursuant to paragraph (1). Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or to the Director of persons who have submitted such statements of compliance.".

(b) The amendments made by subsection (a) of this section shall apply to loans, grants, or work assistance under title IV of the Higher Education Act for periods of instruction beginning on or after July 1, 1983.

Mr. HARTNETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. HARTNETT. Mr. Chairman, I thank the Chair for his courtesy. I would just like to say, Mr. Chairman, that this amendment to the Solomon amendment merely requires the Secretary of Education to furnish to the Selective Service System the names of those young men who have applied for Government grants in aid to attend colleges and universities.

□ 1700

It is then up to the Selective Service System to check these names against those of the young men over 18 who have registered. The enforcement of it is up to the Selective Service. That is where the enforcement of it should be, Mr. Chairman.

The front page of the New York Times, the newspaper that prints only news that is fit to read, said this morning, Mr. Chairman, in headlines "That a lag in draft registration raises doubt that the law can even be enforced."

I would hope that the lady from Colorado (Mrs. SCHROEDER), would understand and realize that what she proposes, and what has been proposed by the gentleman from Illinois (Mr. SIMON) is nothing but a Government deferment for college students at Government expense.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I do not yield at this time.

Mr. Chairman, I would say to my good friend, the gentleman from California (Mr. DELLUMS) that he must remember, as do I, the inequities of the last draft, when the burden of war was borne by our Nation's middle class, our Nation's minorities, and our Nation's poor, who, through no fault of their own, possessed neither the acumen, the finances, nor the mental capacity to attend colleges and universities at their own expense or at the expense of the Government.

Now, what the gentlewoman from Colorado (Mrs. SCHROEDER) and the gentleman from Illinois (Mr. SIMON) want to do is to grant someone the right to violate a law of this Nation through religious reasons. And I would see no difference in why I would have to register for the social security system if it was based upon my religious beliefs that I did not want to do that.

The lady and the gentleman are giving to citizens of this country the right to violate a law, the law of this land, whatever it says, that all young men over the age of 18 shall register, because by this amendment they grant them an exemption from that. They are granting them a right to violate the law of this land on the grounds of religious preference.

What I am saying, Mr. Chairman, is that this amendment I have offered to the Solomon amendment, places the onus where it belongs, on the backs of the Selective Service System, to enforce this amendment which has been offered by the gentleman from New York (Mr. SOLOMON). It does not, as has been proposed by the gentleman from Illinois and supported by the lady from Colorado, grant Government deferments to college students at the expense of the Federal Government.

I cannot imagine in my wildest imaginations the gentleman from California talking about discrimination or double discrimination when you are discriminating against those 8½ million, or whatever number of young men who have already registered. We talk about discrimination because they were not applying for Government loans. They had to register. Because a man was asking this country to pay his way through college or loan him money to do so, he would be exempt through some sort of discrimination from registering for the draft is absolutely the most absurd argument I have ever heard on the floor of this House of Representatives.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. Not at this time.

Mr. Chairman, that the Selective Service System has found that the 675,000 young men who have failed to register is a serious problem. It may make the law unworkable, and we must remember that we only have a registration on the books now to help this country in time of war or in a time when we must implement a system of draft. Without that, we would be perilously at danger to go to war at any time with even a Third World nation, and without this Solomon amendment, we are not going to

be able to get at a large number of those 675,000 men who have failed to register.

Mr. DUNN. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to my colleague, the gentleman from Michigan.

Mr. DUNN. Mr. Chairman, I thank the gentleman for yielding, and I rise in strong support of both the Solomon amendment and the Hartnett amendment.

Let me clear up some error. We have had a letter written from Secretary Bell about how complicated this is going to be to be implemented. I have had calls from my own university. The amendment offered by the gentleman from South Carolina (Mr. HARTNETT) correctly addresses that.

Let me tell the Members how simple that can be. We did some checking. All the guaranteed student loans go through two computers, one here in the District of Columbia and one in Princeton. Every student who applies, before that loan is approved, goes through that computer. What the gentleman from South Carolina (Mr. HARTNETT) is suggesting is that we simply take that computer list, marry it with the list already over in Selective Service, and when there is not a match, they kick it back to the university and the university is notified the student is not registered and, therefore, is not qualified. That is not an unwieldy, burdensome operation.

Mr. Chairman, I strongly support the gentleman's amendment.

Mr. HARTNETT. Mr. Chairman, I thank the gentleman from Michigan (Mr. DUNN).

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to my colleague, the gentleman from Tennessee.

Mr. BEARD. Mr. Chairman, I would like to compliment the gentleman from South Carolina (Mr. HARTNETT) on his amendment, and I rise in total support of it.

The CHAIRMAN pro tempore. The time of the gentleman from South Carolina (Mr. HARTNETT) has expired.

(On the request of Mr. SOLOMON, and by unanimous consent, Mr. HARTNETT was allowed to proceed for 5 additional minutes.)

Mr. SOLOMON. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, let me say that the amendment that I had offered which was allowed by the Rules Committee was the Hayakawa amendment that was offered in the Senate and passed unanimously. If I had had the opportunity today, I would be offering not that amendment but the substitute amendment that the gentleman from South Carolina (Mr. HARTNETT) is offering, because it is the amendment that was given to us today by Secretary Bell with his full approval, with the full approval of the Selective Service Administration, and with the full approval of the Office of OMB and the Reagan administration.

Let me read to the Members from this letter, which is dated yesterday afternoon:

> On behalf of the Secretary, I would like to clarify a recent misrepresentation in the press of the Secretary's position on receipt of student financial assistance and compliance with certain requirements under Federal law.

Then later they go on to say:

> To achieve that goal, the Department has recommended a substitute amendment to change the requirements for student eligibility under title IV by requiring students to certify compliance with section 3 prior to receiving such assistance.

Now, what we are doing is removing all of the objections that were there before on the Hayakawa amendment. We have corrected it. It is almost identical to the Simon amendment, and it answers all of the questions that the gentleman from Illinois (Mr. SIMON), the gentleman from Pennsylvania (Mr. EDGAR), and others have had, except the conscientious objector question.

So, Mr. Chairman, I would urge all of the Members to defeat the Simon amendment, to pass the amendment offered by the gentleman from South Carolina (Mr. HARTNETT), and then finally to pass my amendment.

Mr. NICHOLS. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to my colleague, the gentleman from Alabama.

Mr. NICHOLS. Mr. Chairman, let me say that I commend the gentleman from South Carolina (Mr. HARTNETT) on his amendment. I have talked with the members of the committee on our side. We are prepared to accept the amendment on our side of the aisle.

Mr. BEARD. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to the gentleman from Tennessee.

Mr. BEARD. Mr. Chairman, I concur with the leadership of the majority. We have discussed this with members of the committee on the minority side, and we accept the gentleman's amendment.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to the gentleman from New York.

Mr. PEYSER. Mr. Chairman, I would like an explanation again because I may have misunderstood the gentleman's amendment.

Did the gentleman say in his amendment that the Department of Education should provide a list that can be cross-checked? Would the gentleman restate that?

Mr. HARTNETT. What it does is that it requires the Department of Education to furnish to the Selective Service System the names of those young men who have applied for student loans or grants. They merely supply the Selective Service with those names. It is up to the Selective Service System then to check whether or not those men have registered.

Mr. PEYSER. Mr. Chairman, if the gentleman will yield further to me, I think the gentleman may or may not be aware of this, but the only list that the Department of Education has is on the Pell grant recipients, and that list is not filed until a year after the grants are filed. In other words, there is no list this year that the Department of Education could give to the Selective Service, nor could they next year. They could give them a list a year later.

Now, on the guranteed student loans that the gentleman from Michigan talked about, I am sure the gentleman was well intentioned in his remarks, but the Princeton list has no names on it whatsoever. There are no names on it. To get the tracking of that list would be a major operation because all that list shows is the numbers and amounts of loans.

All I am asking the gentleman—and I believe in his sincerity in offering the amendment—is this: How in the world would anybody carry it out when the guaranteed students loans list has no names on it and the Pell grant list is 1 year old? Every list we get is 1 year old.

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. HARTNETT. I am happy to yield to my colleague, the gentleman from New York.

Mr. STRATTON. Mr. Chairman, I appreciate the gentleman's yielding.

I think the gentleman may have misspoken when he replied to the gentleman from New York (Mr. PEYSER) that the Secretary would furnish the lists.

□ 1710

Actually, in section No. 2 of the gentleman from North Carolina's amendment it provides at line 15: "Such methods may include requiring institutions of higher education to provide a list to the Secretary of Education or the Director of persons who have submitted such statements of compliance."

So it will be the job of the individual institution to submit those lists and they would of course be up to date, not 1 year old, as the gentleman from New York (Mr. PEYSER) suggests.

The CHAIRMAN pro tempore. The time of the gentleman from South Carolina (Mr. HARTNETT) has expired.

(By unanimous consent Mr. HARTNETT was allowed to proceed for 2 additional minutes.)

Mr. HARTNETT. I would say to the gentleman from New York (Mr. PEYSER), you see, Mr. PEYSER, with all of our great ingenuity you see how this problem was solved easily and with the stroke of a pen and a piece of paper. So I really think we can handle this situation.

I think it is only fair.

The Chinese laundry operator had an old saying, "No tickee, no laundry." I think the American people fully expect their young men, if they are going to receive financial assistance from this Government, to at least abide by the laws of this land.

The law of this land says that a young man is to register. It does not say he has to be drafted. It does not say he cannot be a conscientious objector.

The law of this land says he must register and if he is unwilling to subject himself to the laws of these United States, I do not think we ought to be willing to subject him to some of our grants and aid.

Mr. DELLUMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I would have appreciated my distinguished colleague yielding to me since the gentleman chose to make a very personal reference.

Mr. HARTNETT. Will the gentleman from California yield?

Mr. DELLUMS. I yield to my colleague.

Mr. HARTNETT. I apologize to my good friend from California. I did not realize you were requesting that I yield some time, but if you will yield to me I will be happy to answer any questions in the time you have.

Mr. DELLUMS. I appreciate that because I do consider my distinguished colleague a friend.

I would simply like to respond to you in the following manner. I tried diligently to follow the logic of the gentleman's argument.

I would simply say first, Mr. Chairman, that I stood in opposition to the passage of the legislation that created the draft registration on the grounds that this was just another step in our saber rattling and our missile rattling. It was an unnecessary piece of legislation.

But that point of view did not prevail. The majority of my colleagues saw fit to go forward with this legislation.

My distinguished colleague zeroed in on the issue of discrimination. One of the factors we did discuss during that debate was the fact that it is extemely difficult to fashion registration or a draft that does not engage in some level of discrimination, either at the level of race or at the level of class.

I do not think the amendment on the floor adequately addresses that. I think my distinguished colleague from southern California spoke to that.

But let me, before I amplify, let me first say you quoted the New York Times that said a substantial number of people have not registered. That is, they have not complied with the law.

You and I here can pass laws. Those laws will be adhered to by the American people if the American people respect those laws.

Maybe the fact that we have a substantial number of people not registering is because there are millions of American people here who feel that this law is absurd and useless.

There are many fathers and mothers who feel that their children would be cannonfodder in some Third World adventurism, as our involvement in Korea, our involvement in Vietnam, and our potential involvement in El Salvador.

People do not want their children used in that fashion.

I think we have to look at whether we were a reasonable group of people when we, indeed, enacted the law.

Finally to the question of discrimination, if we want to remove discrimination then let us treat all citizens before the law equally. If any citizen in this country, black, brown, red, yellow, white, rich, poor, middle class, working class, if they choose to violate the law we have an apparatus that addresses that.

To go beyond that, to create at least the dichotomy of those persons in need of Federal programs and those persons not in need of Federal programs, you have created a dichotomy that speaks to discrimination.

Mr. Chairman, in conclusion I would simply say to my colleague that you and I agree that we should fight valiantly against any form of discrimination in this country at whatever level it comes, race, sex, age, geography, class, or whatever. But you do not do that by creating this kind of a situation.

Every American citizen, young person who goes to college, does not have to qualify for a loan. So what have we done? We have discriminated again to the benefit of those persons who have the economic wherewithal and political clout to move beyond it.

But middle-class individuals, working-class individuals, working-poor individuals, and poor people in this country will be the only ones that will be affected by this kind of legislation.

I do not believe in that sort of double jeopardy. If people violate the law, we have an apparatus. To go beyond that, to harm people at that level, does not remove the discrimination, I would suggest to my colleague. It only creates discrimination.

I will yield in a minute to my colleague and hopefully we will engage in some enlightened colloquy.

Mr. WEISS. Mr. Chairman, will the gentleman from California yield to me?

Mr. DELLUMS. I yield to the gentleman from New York first.

Mr. WEISS. I would like to address a question through him to the distinguished gentleman from New York who offered the original amendment, Mr. SOLOMON.

Our distinguished friend read a portion of a letter from the Secretary of Education. He then suggested that that letter in essence says that the Secretary of Education has suggested that we adopt the language that the gentleman from South Carolina (Mr. HARTNETT) has offered in his amendment.

As I heard him read it, and I may have misheard, as I heard him read the Secretary's letter, what the Secretary was saying was that he would support certification by the student that he complied with the registration requirements.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(At the request of Mr. WEISS and by unanimous consent Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. I continue to yield to my colleague from New York (Mr. WEISS).

Mr. WEISS. If in fact that is what the Secretary's letter says then I suggest that the gentleman misspoke because the gentleman from South Carolina is not at all suggesting self-certification by the student. He is suggesting again this exchange of information between the Secretary of Education and the Director of the Selective Service System.

Would the gentleman from California (Mr. DELLUMS) yield time to the gentleman from New York (Mr. SOLOMON) to explain as to whether in fact my hearing was correct?

Mr. SOLOMON. Will the gentleman yield?

Mr. DELLUMS. I yield to my distinguished colleague and friend from New York.

Mr. SOLOMON. I would say to my colleague from New York that I have just sent back to have copies made of the Secretary's letter.

The Secretary's letter went on to state exactly the wording in the Hartnett substitute, identical. There has not been one change made.

We have taken the language that the Secretary of Education has recommended, put it in the amendment, and that is what we are voting on here today.

I will furnish the gentleman with a copy of the letter in just 30 seconds.

Mr. WEISS. I would appreciate that because it is very hard to address an

issue without having the copy in front of us.

I thank the gentleman from California for yielding.

If he would allow me 1 more minute, last year when this particularly onerous provision of allowing an exchange of information, addresses, and social security numbers between various agencies was put into this piece of legislation some of us fought it. We were told at that time that the only reason the exception was being made to allow this kind of an exchange of information was to allow tracking of individuals' addresses and social security numbers.

Never was it suggested that that exchange of information was then going to lead to the next step, which is being sought today, which is to deny young Americans who might be punished through the regular process of law for refusing to register, also being denied the right to accept grants or loans or whatever else they might be entitled to to pursue higher education.

It seems to me that some of my conservative colleagues on this floor ought really to be concerned about how fast "big brother" is coming.

Those who seem least concerned about that are usually the ones who are most concerned in the abstract about conserving people's rights.

I thank the gentleman for yielding.

Mr. DELLUMS. I appreciate the comment my colleague makes.

I think the gentleman and the gentlewoman from Colorado spoke eloquently and pointedly to the potential of a police state mentality with the thrust of this kind of an amendment.

My second question rhetorically would be: Where is the crisis?

□ 1720

Is our Nation falling because a number of our colleagues, our young people, have not registered?

I will yield to my colleague, remembering this: My retort to your argument about discrimination is: First, I agree with you; and second, that you do not challenge discrimination by what we are doing here. We are creating a dichotomy of the haves and the havenots in this kind of approach. I realize that in this election year people want to make a very powerful political statement; but to crush our children as a way of making a statement is something that I am opposed to, and I do not think that we gain points trying to frighten our young people by making them believe that in some way they have got to register and have a draft for some long-term war with the Soviet Union. That, in my estimation, is absurd.

Mr. HARTNETT. Mr. Chairman, will my colleague, the gentleman from California, yield?

Mr. DELLUMS. I yield to my colleague, the gentleman from South Carolina.

Mr. HARTNETT. I thank my colleague for yielding.

Mr. Chairman, I would say to the gentleman from New York that this Member really has no more concern for, nor do I think we should even consider, the Secretary of Education's thinking on this, any more than the American people should consider the thinking of Secretary Watt on foreign policy in regard to Israel. We tell the Secretary of Education what he has got to do, that he has got to help us. So I am not any more concerned with his thoughts and opinions on this than I am with Secretary Watt's with regard to Israel.

I would say to my colleague from California that he has certainly been an eloquent spokesman for those countless thousands of nameless people who may feel as the gentleman does and who, maybe through their nonsupport of our registration laws, have voluntarily failed to register. But at least, my colleague, the registration law has no discrimination in it whatsoever. If you are a male and you are 18 years of age, you register, regardless of whether you are a quadriplegic.

Mr. DELLUMS. There is sex discrimination.

Mr. HARTNETT. I said "a male." Whether you are a quadriplegic, whether you are mentally incapable, whether you are blind, whether you cannot speak, whether you cannot hear—there is no discrimination among males 18 years of age and over, be it race, education, or any level.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(By unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I continue to yield to my colleague, the gentleman from South Carolina (Mr. HARTNETT).

Mr. HARTNETT. I thank the gentleman for yielding further, and I will only take another moment.

The gentleman from Illinois and the gentlewoman from Colorado are already starting to put exemptions and to put little outs in the registration law now by saying, "However, if you are religiously inclined not to register, that is one." And if we open the registration laws to one little loophole, than we will have another—if you are the son of a lawyer or the son of a Congressman or a son of a draft board member. The gentleman may disagree with the registration law, and I certainly respect his right to do that. But I think the gentleman and I agree that there should not be any discrimination involved.

What we are saying is that if a man is not educated enough to even go to college, or too poor to go to college, he has to register. But we are letting a man that we are paying to go to college get by without registering and looking the other way while he does it. I know that my friend, the gentleman from California, does not want to do that.

Mr. DELLUMS. Mr. Chairman, I would reclaim my time and ask my colleague to respond to these questions: Why do we not rely upon the regular processes of law? Why do we have to engage in this double jeopardy situation?

I think my colleague would agree that if the law has no discrimination in it, why not let the processes go forward? We are creating a dichotomy here. For those persons who do not need Federal largesse in order to go to school, there is no application here. But for those who do, there is an application. So you have created a dichotomy. You first say, "There is no discrimination," but now, by the application of these amendments, you have created discrimination. My colleague from California spoke eloquently to that.

Mr. HARTNETT. If the gentleman will yield, I am not saying by this amendment nor is my colleague from New York saying, that that individual has to register. We are just saying that if he does not want to register, we do not have to pay for him to go to school. I am not requiring him to register. I am just saying that the law is there. If the Justice Department wants to enforce it, that is fine. But he does not have to register to get that loan. He just does not get the loan, that is what it amounts to. I am not requiring him to register. I am just saying that he does not get a loan if he does not. That is all I am saying.

Mr. WEISS. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. WEISS. I thank the gentleman for yielding to me.

Mr. Chairman, harking back now to the exchange that we had with the gentleman from New York (Mr. SOLOMON)—and I take note of the fact that the gentleman from South Carolina has already stated for the record that, as far as he is concerned, he does not care what the Secretary of Education thinks about a matter that is directly within the jurisdiction of the Secretary of Education—the letter from the U.S. Department of Education, Anne Graham, Assistant Secretary, says as follows:

To achieve that goal—

And the goal is to comply with the requirements of the Selective Service System—

the Department has recommended a substitute amendment to change the requirements for student eligibility under Title IV by requiring students to certify compliance with section 3 prior to receiving such assistance.

Now, that is not what the amendment of the gentleman from South Carolina requires, and I just do not understand how the gentleman from New York can say that those two versions are the same. They are not the same.

Mr. GOLDWATER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to my colleague, the gentleman from California.

Mr. GOLDWATER. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from South Carolina is missing the point. If you do not register, you cannot get a student loan. That is obvious. However, beyond this, the corollary is that if you do not register and you do not need financial assistance, you can still go to school. The poor are hurt and the wealthy are not. And if that is not discrimination, I do not know what is.

The Washington Post and the New York Times pointed out that to date 700,000 students and other young people have not registered with the Selective Service System.

How many of them are in need of Federal student loans and want to go to school? How many will be denied the needed assistance because they did not register? And how many of that 700,000 can personally afford a college education?

There is a difference, and there is distinct discrimination. The gentleman is using expediency to enforce a law that is not a valid or good law. If a law is unenforceable, then we should rewrite the law. I would suggest to the gentleman that, even given the adoption of this proposed amendment, you are not going to proceed in forcing this 700,000 to register for the draft. It just seems to me that we ought to go back to the drawing board.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has again expired.

(Upon request of Mr. PEYSER and by unanimous consent, Mr. DELLUMS was allowed to proceed for 5 additional minutes.)

Mr. DELLUMS. Mr. Chairman, I continue to yield to my colleague, the gentleman from California (Mr. GOLDWATER) to conclude his comments.

Mr. GOLDWATER. Mr. Chairman, inherent in these amendments is the admission that our action of several years ago in reinstating the draft was not perfect, even though perhaps well intended. Instead of using Band-Aid solutions and reaching out to violate individual privacy, we ought to try to make this imperfect law better. We can do this by repealing the draft registration program.

Mr. Chairman, it is a fact that the Military Pay and Benefits Act of 1981 sparked a marked improvement in the number and quality of men and women serving in our military. In fact recruitment consistently exceeds the quotas set. And the All-Volunteer Force that we created many years ago is beginning to work because we have made it work through reasoned pay raises and making it attractive again to serve in uniform. That is good law.

It would seem to me that this amendment misses the point and, in fact, we create discrimination by applying this kind of enforcement procedure.

□ 1730

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. Mr. Chairman, prior to yielding I would simply like to point out, No. 1, my distinguished colleague from California has pointed up the discriminatory aspects of this proposition most eloquently. The proponents of this approach say they oppose discrimination. Yet we are setting up that discriminatory dichotomy.

The proponents of this legislation suggest that they challenge exemptions. Yet what we have done here is to give an exemption. If you are wealthy enough, if you are powerful enough, you do not have to register and you can continue to go to school. But if you are not, then you get crushed by the weight of our bureaucracy, our statutes. And I think we ought to think long and hard before we engage in making laws that create that kind of discrimination.

Mr. Chairman, I would yield to my colleague, the gentleman from New York (Mr. SOLOMON) so we can continue this colloquy.

Mr. SOLOMON. Mr. Chairman, I would just like to point out that the gentleman from California (Mr. GOLDWATER) who spoke before, I would just like to say I have heard that same old song ever since I got here from that gentleman from California. He uses it against the draft, against the Draft Registration Act, and now against this.

The truth of the matter is he is just opposed to the draft period. So I think we know where that argument is coming from.

As far as the gentleman from California (Mr. DELLUMS) is concerned, he says they are discriminating against the wealthy, and maybe the poor. I do not know. But let me say this; that the majority of the wealthy families in America in years past have been taking advantage of the college loan programs. They have been borrowing it whether they needed it or not and investing it in money market securities at 16 and 17 and 18 percent at the taxpayers' expense in this country.

Now, maybe we are discriminating against the poor. And if we are, I guarantee I am going to come back with legislation on this floor tomorrow and the next day and the next day and every day of this session with amendments that will prohibit any funds from being used for the Job Training Act if they are not registered, for any unemployment compensation insurance if they are not registered, and for any kind of taxpayers' money if they are not registered.

Mr. DELLUMS. I would simply respond by saying, No. 1, I do not think it is necessary to impugn the motives or the integrity or the credibility of a person making an argument on this floor. I think that if an argument is sound, one can make that argument every single day.

The fact that it is repeated many times does not detract from the argument. This Member has talked about peace on the floor of this Congress every single day that I have had an opportunity and I do not think that is a discredited idea. It may not be perceived so in the majority of this body, but outside of this body people believe it.

I do not think we need to challenge people simply because they oppose legislation. If the gentleman opposed the legislation, so be it. We ought to argue on the basis of the merits of the argument as it is presented at the historic time it is being presented on the floor.

Mr. SOLOMON. I certainly would not impugn anyone. I was merely pointing out the similarity of his arguments.

Mr. PEYSER. Mr. Chairman, will the gentleman yield?

Mr. DELLUMS. I yield to the gentleman from New York.

Mr. PEYSER. I thank the gentleman for yielding.

I think that it is very important at this time that we get back to a very basic thing dealing with this amendment that was just offered by the gentleman from South Carolina.

First, the facts are there are no lists. Now, the Secretary of Education in sending this letter back to the gentleman from New York clearly states, and it is not from the Secretary, it is from the Assistant Secretary, it clearly states:

> No conclusions have been reached as to the most appropriate or feasible methods of implementing this amendment.

And I can tell my colleagues there is a good reason why no conclusions have been reached.

The CHAIRMAN pro tempore. The time of the gentleman from California (Mr. DELLUMS) has expired.

(At the request of Mr. PEYSER and by unanimous consent, Mr. DELLUMS was allowed to proceed for 3 additional minutes.)

Mr. PEYSER. If the gentleman will yield further, there are good reasons.

First, the Secretary has no list to submit to comply to this. Second, the guaranteed student loan lists do not exist in any one central place. And if the gentleman is suggesting that each institution is going to file and check names all over this country among

thousands of colleges, we are creating a ridiculous program and one that would not work.

But let us get away from that, because that amendment, I am convinced, is going to be defeated anyway, because just by the weight of it you could not enforce it.

The next thing we really come down to is the Solomon amendment. And I think, the Members really ought to think carefully on this. And maybe the gentleman from New York would like to add to his amendment another statement that says parents who file for the parent loan program will have to produce evidence that they filed an income tax, which is also the law of the land.

Now, I do know if the gentleman agrees with that. But if you are going to make students do this, why not make parents say that they must file their income tax to get a parent loan, because this I assure my colleagues will affect thousands of thousands of parents who are making these loans. And yet you are not requiring that.

I think that that is a very necessary amendment to perfect the gentleman's amendment, even though I think the whole thing is ridiculous. Because we are creating a role here that not only eliminates women, of course, but what about 17-year-olds who apply to college and who apply for the loans? They would have to do nothing even though they would become eligible for the draft when they entered school.

So these are all inconsistencies, all inaccuracies, and believe me, they are all attempts not to rectify the draft but to attack financial aid for students. That is what we are really dealing with, is a program and another effort by those who voted to cut student aid programs to get at students. And that is the only way this vote will be interpreted.

The amendments, all of them—the Simon amendment I will certainly vote for. But I think we ought to eliminate this whole thing because it really makes no sense.

Mr. DELLUMS. Mr. Chairman, I would like to get out of this very complicated situation.

Mr. Chairman, I would simply conclude by indicating that the major thrust of my argument is that the proponents of the amendments before us are arguing in favor of a discriminatory proposition. They discriminate in favor of the wealthy. And we have done that on too many occasions here.

The full weight of these proposals comes down on the backs, for the most part, of people least able to handle the shock of the Government retreating from addressing their human misery.

Mr. Chairman, I yield back the balance of my time.

Mr. PRICE. Mr. Chairman, I ask unanimous consent that all debate on this amendment and amendments thereto close in 15 minutes.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Illinois?

Mrs. SCHROEDER. Mr. Chairman, I object.

Mr. WEISS. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Mr. PRICE. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in 20 minutes.

The CHAIRMAN pro tempore. The gentleman from Illinois (Mr. PRICE) moves that all debate on the Solomon amendment and all amendments thereto, including the substitute, close in 20 minutes.

The motion was agreed to.

The CHAIRMAN pro tempore. Members standing at the time the motion was agreed to will be recognized for 45 seconds each.

PARLIAMENTARY INQUIRES

Mr. SIMON. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. SIMON. Mr. Chairman, what will be the procedure in voting? Will we vote on the Harnett amendment first, or my amendment first, or what will be the procedure?

The CHAIRMAN pro tempore. The Chair will advise the gentleman that the order of voting will be on the Hartnett amendment to the Solomon amendment, then the Simon substitute, and then on the Solomon amendment.

Mr. BENNETT. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN pro tempore. The gentleman will state his parliamentary inquiry.

Mr. BENNETT. Mr. Chairman, I have an amendment also which would be an amendment to the Simon amendment.

The CHAIRMAN pro tempore. The Chair will state to the gentleman that the amendment could be offered at the time the gentleman seeks time.

Mr. BENNETT. The only reason I was making the inquiry is that the Chair did not list my name.

The CHAIRMAN pro tempore. The Chair will state the amendment is not yet pending. When the gentleman is recognized under his time, he can offer his amendment.

□ 1740

Mr. COURTER. Mr. Chairman, the inquiry I have, and I do not know if it is parliamentary or not, is: Was my name likewise on the list, because I came in about the time the Chair was calling them off.

The CHAIRMAN pro tempore. The Chair does not have the gentleman's name on the list.

Mr. COURTER. Mr. Chairman, I ask unanimous consent that my name be included on the list.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Florida (Mr. BENNETT).

AMENDMENT OFFERED BY MR. BENNETT TO THE AMENDMENT OFFERED BY MR. SIMON AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. SOLOMON

Mr. BENNETT. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT to the amendment offered by Mr. SIMON as a substitute for the amendment offered by Mr. SOLOMON: In section 12(f)(1) of the Military Selective Service Act (as proposed to be added by the amendment)—

(1) insert "or" at the end of subparagraph (A) (page 1, line 13);

(2) strike out "; or" at the end of subparagraph (B) (page 1, line 16) and insert in lieu thereof a period; and

(3) strike out subparagraph (C) (page 1, lines 17-19).

In section 12(f)(2) of the Military Selective Service Act (as proposed to be added by the amendment), strike out ", and for collecting statements described in paragraph (1)(C) from such institutions" (page 2, lines 4 through 6).

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore. The Chair will first state the sequence of the amendments when the Committee gets to the vote.

The first vote will be on the Hartnett amendment to the Solomon amendment.

The second vote will be on the Bennett amendment to the Simon substitute.

Following that will be a vote on the Simon substitute.

Finally, there will be a vote on the Solomon amendment.

Mr. BENNETT. Mr. Chairman, this amendment is really an amendment of the gentleman from California (Mr. HUNTER), as well as myself, because we jointly introduced it.

The purpose is just to be simplistic in the approach to this matter by striking section (c), which has to do with religious and moral reasons. There is no reason for that to be in this law because the registration law exists already and by it they already state at registration whether they have a moral or religious reason to be in opposition to military service; so this amendment just simplifies the Simon amendment by taking that section out of the Simon proposal.

I think this makes very simple handling of the whole matter and I move that it be approved. It makes unnecessary the Hartnett amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. HUNTER).

Mr. HUNTER. Mr. Chairman, I rise in support of this amendment for the reason that what we are really talking about is registration. We are not talking about the draft itself. We are asking people to come forth and be identified and there has never been any provision in American law allowing people to escape from registering, or from identifying themselves for any governmental process on moral or religious bases.

I think that to some degree we have been misled in the debate and that we have been talking about two different subjects. Here we are talking simply about registration. We are talking about coming forward, being identified, and later on making your pitch or your case to be relieved on grounds of conscientious objection or mental or physical unfitness.

Striking these three lines, I think, would take away this defect in the Simon amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. GUNDERSON).

Mr. GUNDERSON. Mr. Chairman, I, too, rise in support of this amendment. I had a similar amendment awaiting, but the members of the committee have priority.

I think the gentleman from Illinois needs to be commended for his amendment, because the gentleman's substitute is the only workable thing in front of us. I was going to make that point in general debate on my amendment. However, with the present amendments before us we should eliminate at least all or part of section (c), because with "the moral reasons" in there, that effectively eliminates any enforcement or strength in the substitute amendment.

This amendment of the gentleman from Florida (Mr. BENNETT) clearly will correct the substitute amendment of the gentleman from Illinois and make it a very workable document.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Tennessee (Mrs. BOUQUARD).

Mrs. BOUQUARD. Mr. Chairman, I rise in support of the Solomon amendment. I think we are really missing the basic point of this, that with the freedoms and the blessings that we enjoy in this country also goes a little bit of responsibility. I hope our young people can appreciate this.

My son is 18. He recently registered and I think I have as much affection for my son as any mother; but he also has been taught and acknowledges the fact that when you live in this great country that the price of freedom is not free and that there are responsibilities in living here.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. GOLDWATER).

Mr. GOLDWATER. Mr. Chairman, I rise in opposition to all the pending amendments.

There is discrimination inherent in each amendment and as the gentleman from New York (Mr. PEYSER) pointed out, there are no lists available or created under the student loan programs that would make these amendments viable. These provisions are clearly unworkable and ought to be rejected and as a minimum, we ought to take the original draft of registration act back to the committee and rewrite it so that it is enforceable. Or, better yet, we should scrap it all together.

We are making criminals out of 700,000 young people who failed to register. Part of them we are denying access to the educational process. That, in my book, is discrimination and we ought to look hard and long at what we are doing today.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Mississippi (Mr. MONTGOMERY).

Mr. MONTGOMERY. Mr. Chairman, I rise in support of the Solomon and the Hartnett amendments.

I would like to say that it is really not fair that those 8 million who have registered, to let those 500,000 that have not been registered, let them be under the laws now to be eligible for student loans.

The Solomon amendment, as I understand it, of these 500,000, they are not eligible until they register and he has even included that if they do register then they would be eligible for these funds and for these grants and loans.

I would say that these 500,000 who have not registered are in violation of the law. They should pay the penalties and they certainly should not be given any grants for not registering.

So I hope we will adopt the Solomon amendment along with the Hartnett amendment.

(By unanimous consent, Mr. PATTERSON yielded his time to Mr. SIMON).

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from California (Mr. BADHAM).

Mr. BADHAM. Mr. Chairman, the obfuscatory debate on this issue has taken us way off the track of the main issue.

The question is, should young men who refuse to register according to the law of the land be given special benefits by the people of the United States, who asked them to register.

The answer should be and will be with the adoption of this amendment a resounding no, they should not. It is as simple as that.

I ask for an affirmative vote on the amendment, which would clear this situation.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. WEISS).

Mr. WEISS. Mr. Chairman, if some of our colleagues believe that we have not heard enough from our constituents about the terrible thing we did in cutting back on student assistance programs last year, just pass the Solomon or the Hartnett amendment and you will hear from them. You are going to hear from your college presidents, your students, and your parents.

If we pass either of these amendments there will be members coming back begging that the matter be reconsidered and be repealed. It will make the student assistance programs absolutely unworkable.

If that is what this House wants, lots of luck. It is a terrible mistake which our constituents will not soon let us forget.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Michigan (Mr. DUNN).

Mr. DUNN. Mr. Chairman, the gentleman from New York (Mr. PEYSER) and I have some disagreement. I say that the lists are available and that the program is not unworkable, especially with the amendment offered by the gentleman from South Carolina (Mr. HARTNETT). That consideration aside, we discriminate against no one other than 700,000 people who have already chosen to break the law.

□ 1750

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. PEYSER).

Mr. PEYSER. Mr. Chairman, in one sense perhaps I should go along with this awful amendment because I think this is the kind of action that could really end up killing this useless registration in this country. This is going to strike at the heart of a very basic principle in this country, which is the education of our young people. Those who deny it and try to hide behind a patriotic flurry are not going to fool anybody.

The truth is, we are going to hurt students all over the country, those registered and those who are not, we are going to hurt universities, all of whom are blameless, and I think all of these amendments should be defeated. Another reason to vote against these amendments is the cost. To administrate this action will cost millions of dollars at a time that we should not be voting to increase the deficit and increase interest rates.

The CHAIRMAN pro tempore. The Chair recognizes the gentlewoman from Maryland (Mrs. BYRON).

Mrs. BYRON. Mr. Chairman, I rise in support of the Solomon and Hartnett amendments.

(By unanimous consent, Mrs. BYRON yielded the balance of her time to Mr. STRATTON.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New Jersey (Mr. COURTER).

Mr. COURTER. Mr. Chairman, I believe there is confusion and blurring here between a "benefit" or a "privilege" on the one hand, and a "constitutional right" or "simple right" on the other. I see, very frankly, nothing wrong with placing contingencies or requirements on benefits and privileges such as aid to students to make sure they follow the law of the land, as is the case with the Solomon amendment as amended.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Massachusetts (Mr. MAVROULES).

Mr. MAVROULES. Mr. Chairman, I stand in opposition to all three amendments. I personally feel we are opening up here a can of worms that one day will come back and haunt all of us, and if we truly want to address this issue, we should take it back to committee, have full and open hearings on it, and come back with a recommendation.

So I am in opposition to all three amendments here this afternoon.

(By unanimous consent, Mrs. SCHROEDER yielded her time to Mr. SIMON.)

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Illinois (Mr. SIMON).

Mr. SIMON. Mr. Chairman and my colleagues in the House. We are in a somewhat complicated situation and I would like to make clear what I favor.

I am going to vote for the Hartnett amendment, not that I favor it ultimately but it is an improvement on the Solomon amendment. It makes the Solomon amendment at least a little bit workable. So I am going to vote for that.

Then I am personally going to vote against the Bennett amendment. But whether his amendment carries or does not carry, then I hope this body will vote for my amendment, which is a workable amendment.

What the Hartnett does now is, it asks the university to compile lists, and those lists ultimately are going to be forwarded.

What you have to understand is that there are about 15 different national programs, plus a great many campus-based programs, that are federally subsidized. So we are talking about a very, very complex thing. Even if the Hartnett amendment applies and they decide someone should be denied assistance, that will not happen until about 6 or 9 months after the person has the assistance.

My amendment puts it on the front end where it has to be, where it should be, to make it a workable amendment.

I hope my colleagues, after adopting the Hartnett amendment, and whatever your action on the amendment to my amendment by the gentleman from Florida—and I personally think we ought to continue to recognize conscientious objectors—but whatever your action, I hope my colleagues will vote for something that is workable.

One of the things that we do very, very well in this body sometimes is come out here and do work that we really ought to be doing in committee on programs that we know very, very little about. I am afraid this is one of those times.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from New York (Mr. STRATTON) to close debate.

Mr. STRATTON. Mr. Chairman, this is not a discriminatory bill; it is a method of trying to prevent violation of the law and also to encourage young people, as the gentleman from New York (Mr. SOLOMAN) said, to comply with the law. It may not catch all of the violators, but it is certainly going to prevent those who are violating the law from taking taxpayers' money.

Mr. SIMON said he opposed the Solomon amendment originally because it was too cumbersome and would not work. Mr. HARTNETT has come up with an amendment directly from the Secretary of Education who indicates that it will work. Even the gentleman from Illinois (Mr. SIMON) now says he is going to support that.

Since it will work, since it is workable, since it does the job, we do not need the Simon amendment with the unquestionably unconstitutional provision with respect to conscientious objection.

I urge overwhelming support of the Hartnett amendment and the defeat of the Simon amendment.

The CHAIRMAN pro tempore. The Chair, before putting the question, will restate the sequence of votes on the various amendments.

The first vote will be on the Hartnett amendment to the Solomon amendment.

The second vote will be on the Bennett amendment to the Simon substitute.

The third vote will be on the Simon substitute.

The fourth vote will be on the Solomon amendment.

The question is on the amendment offered by the gentleman from South Carolina (Mr. HARTNETT) to the amendment offered by the gentleman from New York (Mr. SOLOMON).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Florida (Mr. BENNETT) to the amendment offered by the gentleman from Illinois (Mr. SIMON) as a substitute for the amendment offered by the gentleman from New York (Mr. SOLOMON), as amended.

The question was taken; and on a division (demanded by Mr. SIMON) there were—ayes 50; noes 13.

So the amendment to the amendment offered as a substitute for the amendment, as amended, was agreed to.

The CHAIRMAN pro tempore. The question now is on the amendment offered by the gentleman from Illinois (Mr. SIMON), as amended, as a substitute for the amendment offered by the gentleman from New York (Mr. SOLOMON), as amended.

The question was taken; and the Chairman pro tempore. announced that the noes appeared to have it.

RECORDED VOTE

Mr. SIMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 241, not voting 32, as follows:

[Roll No. 221]

AYES—161

Addabbo	Forsythe	Paul
Akaka	Frank	Pease
Alexander	Fuqua	Perkins
Anderson	Garcia	Peyser
Anthony	Gejdenson	Pickle
Aspin	Gilman	Porter
Atkinson	Glickman	Pursell
AuCoin	Green	Railsback
Barnes	Gregg	Rangel
Bedell	Guarini	Ratchford
Beilenson	Gunderson	Reuss
Benjamin	Hall (OH)	Richmond
Bennett	Hamilton	Rinaldo
Bingham	Harkin	Ritter
Bonker	Hawkins	Rodino
Bowen	Heckler	Roe
Brodhead	Hollenbeck	Rosenthal
Brooks	Howard	Rostenkowski
Brown (CA)	Hoyer	Roukema
Burton, Phillip	Hughes	Roybal
Chappell	Jacobs	Russo
Chisholm	Jeffords	Sabo
Clausen	Jones (OK)	Scheuer
Conte	Kennelly	Schneider
Conyers	Kildee	Schroeder
Coughlin	LaFalce	Schulze
Coyne, James	Lantos	Schumer
Coyne, William	Leach	Sensenbrenner
Crockett	Lehman	Shamansky
Daschle	Lowry (WA)	Sharp
Deckard	Lujan	Simon
DeNardis	Luken	Smith (IA)
Dingell	Madigan	Snowe
Dixon	Markey	St Germain
Downey	Martinez	Stark
Dwyer	Matsui	Studds
Eckart	Mattox	Swift
Edgar	Mazzoli	Synar
Edwards (CA)	McDade	Tauke
Erdahl	McEwen	Traxler
Ertel	McHugh	Udall
Evans (IA)	McKinney	Vento
Evans (IN)	Mikulski	Volkmer
Fascell	Miller (CA)	Walgren
Fazio	Mineta	Waxman
Fenwick	Minish	Weaver
Ferraro	Mollohan	Weiss
Findley	Natcher	Whittaker
Fish	Nowak	Whitten
Fithian	Oberstar	Wirth
Florio	Obey	Wolpe
Foglietta	Ottinger	Wright
Foley	Panetta	Wyden
Ford (MI)	Patterson	

NOES—241

Albosta
Andrews
Annunzio
Applegate
Archer
Ashbrook
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Benedict
Bereuter
Bethune
Bevill
Biliey
Boggs
Boland
Boner
Bouquard
Breaux
Brinkley
Broomfield
Brown (CO)
Broyhill
Burgener
Burton, John
Butler
Byron
Campbell
Carman
Carney
Chappie
Cheney
Clinger
Coats
Coelho
Coleman
Collins (IL)
Conable
Corcoran
Courter
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daub
Davis
de la Garza
Dellums
Derrick
Derwinski
Dickinson
Dicks
Donnelly
Dorgan
Dougherty
Dreier
Duncan
Dunn
Dyson
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erlenborn
Evans (DE)
Evans (GA)
Fary
Fiedler
Fields
Flippo
Fountain
Fowler
Frenzel
Frost
Gaydos
Gephardt
Gibbons
Gingrich
Goldwater
Gonzalez
Goodling
Gore
Gradison
Gramm
Gray
Grisham
Hagedorn
Hall, Ralph
Hall, Sam
Hammerschmidt
Hance
Hansen (ID)
Hartnett
Hatcher
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hunter
Hutto
Hyde
Ireland
Jeffries
Jenkins
Johnston
Jones (NC)
Kastenmeier
Kazen
Kemp
Kindness
Kogovsek
Kramer
Lagomarsino
Latta
LeBoutillier
Leland
Lent
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lundine
Lungren
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mavroules
McClory
McCollum
McCurdy
McDonald
McGrath
Mica
Michel
Miller (OH)
Mitchell (NY)
Moakley
Molinari
Montgomery
Moore
Moorhead
Morrison
Motti
Murphy
Murtha
Myers
Napier
Neal
Nelligan
Nelson
Nichols
Oxley
Parris
Pashayan
Patman
Petri
Price
Pritchard
Quillen
Regula
Rhodes
Roberts (KS)
Roberts (SD)
Robinson
Roemer
Rogers
Rose
Roth
Rousselot
Rudd
Santini
Savage
Sawyer
Seiberling
Shannon
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (NE)
Smith (NJ)
Smith (OR)
Snyder
Solarz
Solomon
Spence
Stangeland
Stanton
Staton
Stenholm
Stokes
Stratton
Stump
Tauzin
Taylor
Thomas
Trible
Vander Jagt
Walker
Wampler
Washington
Watkins
Weber (MN)
Weber (OH)
White
Whitehurst
Whitley
Williams (MT)
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki

NOT VOTING—32

Bafalis
Biaggi
Blanchard
Bolling
Bonior
Brown (OH)
Clay
Collins (TX)
Dornan
Dowdy
Dymally
Early
Ford (TN)
Ginn
Hansen (UT)
Jones (TN)
Leath
Lee
Livingston
Marks
McCloskey
Mitchell (MD)
Moffett
O'Brien
Oakar
Pepper
Rahall
Siljander
Smith (PA)
Yates
Young (AK)
Zeferetti

□ 1810

Messrs. GRAY, WILLIAMS of Montana, STOKES, SEIBERLING, and DERWINSKI changed their votes from "aye" to "no."

Mr. LAFALCE, Mrs. SNOWE, and Messrs. RUSSO, BARNES, LEHMAN, JONES of Oklahoma, and JAMES K. COYNE changed their votes from "no" to "aye."

So the amendment, as amended, offered as a substitute for the amendment, as amended, was rejected.

The result of the vote was announced as above recorded.

□ 1820

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (M SOLOMON), as amended.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. SIMON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 303, noes 95, not voting 36, as follows:

[Roll No. 222]

AYES—303

Akaka
Albosta
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Ashbrook
Aspin
AuCoin
Badham
Bailey (MO)
Bailey (PA)
Barnard
Beard
Bedell
Benedict
Benjamin
Bennett
Bereuter
Bethune
Bevill
Biliey
Boggs
Boland
Boner
Bonker
Bouquard
Bowen
Breaux
Brinkley
Brooks
Broomfield
Brown (CO)
Broyhill
Burgener
Butler
Byron
Campbell
Carman
Carney
Chappell
Chappie
Cheney
Clausen
Clinger
Coats
Coelho
Coleman
Conable
Corcoran
Courter
Coyne, James
Craig
Crane, Daniel
Crane, Philip
D'Amours
Daniel, Dan
Daniel, R. W.
Dannemeyer
Daschle
Daub
Davis
de la Garza
Deckard
DeNardis
Derrick
Derwinski
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan
Dougherty
Dreier
Duncan
Dunn
Dyson
Eckart
Edwards (AL)
Edwards (OK)
Emerson
Emery
English
Erlenborn
Ertel
Evans (DE)
Evans (GA)
Fary
Fascell
Fazio
Fenwick
Fiedler
Fields
Findley
Fish
Fithian
Flippo
Fountain
Fowler
Frenzel
Frost
Fuqua
Gaydos
Gephardt
Gibbons
Gilman
Gingrich
Glickman
Goodling
Gore
Gradison
Gramm
Gregg
Grisham
Guarini
Gunderson
Hagedorn
Hall (OH)
Hall, Ralph
Hall, Sam
Hamilton
Hammerschmidt
Hance
Hansen (ID)
Hartnett
Hatcher
Hawkins
Hefner
Heftel
Hendon
Hertel
Hightower
Hiler
Hillis
Holland
Holt
Hopkins
Horton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffries
Jenkins
Johnston
Jones (NC)
Jones (OK)
Kazen
Kemp
Kindness
Kogovsek
Kramer
LaFalce
Lagomarsino
Latta
LeBoutillier
Lehman
Lent
Levitas
Lewis
Loeffler
Long (LA)
Long (MD)
Lott
Lowery (CA)
Lujan
Luken
Lungren
Madigan
Marlenee
Marriott
Martin (IL)
Martin (NC)
Martin (NY)
Mattox
McClory
McCollum
McCurdy
McDade
McDonald
McGrath
McHugh
McKinney
Mica
Michel
Mikulski
Miller (OH)
Minish
Mitchell (NY)
Moakley
Molinari
Mollohan
Montgomery
Moore
Moorhead
Morrison
Murphy
Murtha
Myers
Napier
Natcher
Neal
Nelligan
Nelson
Nichols
Nowak
Oberstar
Obey
Oxley
Parris
Pashayan
Patman
Pease
Perkins
Petri
Pickle
Porter
Price
Pritchard
Quillen
Regula
Rhodes
Rinaldo
Ritter
Roberts (KS)
Roberts (SD)
Robinson
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rousselot
Rudd
Russo
Santini
Sawyer
Schulze
Shamansky
Shaw
Shelby
Shumway
Shuster
Skeen
Skelton
Smith (AL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (OR)
Snowe
Snyder
Solomon
Spence
St Germain
Stangeland
Stanton
Staton
Stenholm
Stratton
Swift
Synar
Tauke
Tauzin
Taylor
Thomas
Traxler
Trible
Vander Jagt
Vento
Volkmer
Walgren
Walker
Wampler
Watkins
Weber (MN)
White
Whitehurst
Whitley
Whittaker
Whitten
Williams (OH)
Wilson
Winn
Wolf
Wortley
Wright
Wylie
Yatron
Young (FL)
Young (MO)
Zablocki

NOES—95

Addabbo
Atkinson
Barnes
Beilenson
Bingham
Brodhead
Brown (CA)
Burton, John
Burton, Phillip
Chisholm
Collins (IL)
Conte
Conyers
Coughlin
Coyne, William
Crockett
Dellums
Downey
Dwyer
Edgar
Edwards (CA)
Erdahl
Evans (IA)
Evans (IN)
Ferraro
Florio
Foglietta
Ford (MI)
Forsythe
Frank
Garcia
Gejdenson
Goldwater
Gonzalez
Gray
Green
Harkin
Heckler
Hollenbeck
Howard
Hoyer
Jeffords
Kastenmeier
Kennelly
Kildee
Lantos
Leach
Leland
Lowry (WA)
Lundine
Markey
Martinez
Matsui
Mavroules
Mazzoli
Miller (CA)
Mineta
Ottinger
Panetta
Patterson
Paul
Peyser
Pursell
Railsback
Rangel
Ratchford
Richmond
Rodino
Rosenthal
Roybal
Sabo
Savage
Scheuer
Schneider
Schroeder
Schumer
Seiberling
Sensenbrenner
Shannon
Sharp
Simon
Solarz
Stark
Stokes
Studds
Udall
Washington
Waxman
Weaver
Weber (OH)
Weiss
Williams (MT)
Wirth
Wolpe
Wyden

NOT VOTING—36

Bafalis
Biaggi
Blanchard
Bolling
Bonior
Brown (OH)
Clay
Collins (TX)
Dornan
Dowdy
Dymally
Early
Foley
Ford (TN)
Ginn
Hansen (UT)
Jones (TN)
Leath
Lee
Livingston
Marks
McCloskey
McEwen
Mitchell (MD)
Moffett
O'Brien
Oakar
Pepper
Rahall
Reuss
Siljander
Smith (PA)
Stump
Yates
Young (AK)
Zeferetti

□ 1830

The Clerk announced the following pairs:

On this vote:

Mr. Smith of Pennsylvania for, with Mr. Moffett against.

Mr. MAZZOLI changed his vote from "aye" to "no."

So the amendment, as amended, was agreed to.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BROOKS: At the end of the bill add the following new section:

INSPECTOR GENERAL ACT AMENDMENTS

SEC. 1011. (a)(1) Section 2(1) of the Inspector General Act of 1978 is amended by inserting "the Department of Defense," immediately before "the Department of Education,".

(2) Section 11(1) of such Act is amended by inserting "Defense," immediately before "Education,".

(3) Section 11(2) of such Act is amended by inserting "Defense (including the Departments of the Army, Navy, and Air Force)," immediately before "Education,".

(b) Section 9(a)(1) of such Act is amended by redesignating subparagraphs (C) through (M) as subparagraphs (D) through (N), respectively, and by inserting after subparagraph (B) the following new paragraph:

"(C) of the Department of Defense, the offices of the department referred to as the 'Defense Contract Audit Agency', the 'Defense Audit Service', and the 'Office of Inspector General, Defense Logistics Agency', and that portion of the office referred to as the 'Defense Investigative Service' which has responsibility for the investigation of alleged criminal violations and program abuse;".

(c) Section 8 of such Act is amended to read as follows:

"SPECIAL PROVISIONS

"SEC. 8. (a) In addition to meeting the requirements of the first sentence of section 3(a) of this Act, no individual who is a member of the Armed Forces of the United States (whether in an active or reserve status) may be appointed to be the Inspector General of the Department of Defense.

"(b) The provisions of section 1385 of title 18, United States Code, shall not apply to audits and investigations conducted by, under the direction of, or at the request of the Inspector General of the Department of Defense to carry out the purposes of this Act.".

(d) Section 5 of such Act is amended by adding at the end thereof the following new subsection:

"(e)(1) Nothing in this section shall be construed to authorize the public disclosure by any individual of any information which is—

"(A) specifically prohibited from disclosure by any other provision of law; or

"(B) specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(2) Nothing in this subsection or in any other provision of this Act shall be construed to authorize or permit the withholding of information from the Congress, or from any committee or subcommittee thereof.".

(e) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"Inspector General, Department of Defense.".

Mr. BROOKS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROOKS. Mr. Chairman, this amendment would establish a statutory Office of Inspector General in the Department of Defense. There should not be any question of the need for such an office. Defense spending over the next 5 years has been projected at $1.65 trillion dollars, yet that department still does not have a statutorily established, independent Inspector General.

Last year, the House overwhelmingly—by a vote of 334 to 65—passed a bill (H.R. 2098) which would establish a statutory Office of Inspector General in the Department of Defense and three other agencies. That bill is now pending in the Senate Governmental Affairs Committee.

In the meantime, however, the Senate has taken action on an Inspector General for the Defense Department. By a vote of 94 to 0, the Senate adopted an amendment to the Defense Authorization Act for 1983 establishing an Office of Inspector General in the Department of Defense.

As it now stands, the House Defense authorization bill does not have any provision for an Inspector General. If my amendment is not adopted, we will be in a peculiar position when the House and Senate go to conference on the Defense Authorization Act: Both Houses will have passed Inspector General provisions, but the conferees will have before them only the Senate-passed version, and not the House-passed version.

The language of our amendment will correct this anomaly. It is the same language as the House passed last year in H.R. 2098 with extraneous language relating to other agencies deleted. The passage of this amendment will permit the House-Senate conferees on the Defense authorization bill to have before them both the House-passed version and the Senate-passed version of an Office of Inspector General for the Department of Defense.

We went over all the arguments in favor of having an Inspector General's Office in the Defense Department when we passed last year's bill, and the House agreed with them, overwhelmingly. The IG's in the other Departments have proven to be highly effective in uncovering waste and fraud and recovering millions of dollars for the U.S. Treasury. Congressman L. H. FOUNTAIN, retiring from the North Carolina delegation after 30 years of illustrious service, has been the leading proponent of this measure.

With its expenditures now running about a billion dollars a day, the Defense Department has a vast potential for waste and fraud and it is vitally important that a strong, statutory Office of Inspector General be established there. They love to spend money over in the Pentagon but they hate to let anybody know how they are spending it. Congress and the taxpayers can no longer allow them to get away with such a free-wheeling, unaccountable approach, and I urge adoption of my amendment.

Mr. HORTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my friend, the gentleman from New York.

Mr. HORTON. Mr. Chairman, I rise in support of the amendment to H.R. 6030 as offered by the gentleman from Texas (Mr. BROOKS).

As the ranking Republican on the Government Operations Committee, which is responsible for all of the Inspector General legislation, I want to point out that we are offering nothing new when we offer this amendment. The language of this amendment, is the same as that in H.R. 2098, which was approved by this House last year by a margin of 334 to 65.

Although the House spoke very clearly and very forcefully when we considered H.R. 2098 last year, we are now in the unfortunate position of having to accept a much weaker Senate version unless we act to reaffirm our position by approving this amendment.

Although the House and Senate versions are similar in many respects, there are fundamental differences between the two that go right to the heart of the matter. Pointing out the greatest single difference between the two is easy. Our amendment provides for an independent Inspector General. Theirs does not. Like the 16 existing Inspectors General in departments and agencies all over this town, the Defense IG in our amendment would be under the "general supervision" of the Secretary. Under the provisions of the language from the Senate, the IG at Defense would be under the "authority, direction, and control" of the Secretary.

There is the single most glaring and important difference between the two versions. One calls for "general supervision" by the Secretary, who like 16 others in this town would provide an indirect and cautious guiding hand to the IG. The other calls for "authority, direction, and control" by the Secretary.

Taking the independence issue a step further, the bill from the other body has language allowing the Secretary to shut down any IG investigation he wants to shut down. Our amendment does not have that kind of open invitation to abuse. That point alone makes our bill superior to the other bill. An IG under the "authority, direction, and control" of the Secretary would be tantamount to having no IG at all.

I realize, of course, that there are those who question the need for an independent Inspector General at the Department of Defense. To those I would simply point out that DOD is spending more than $250 billion a year—and that is not counting military construction money. Over the next 5 years, we are earmarking $1.65 trillion for use at DOD.

Whether we like it or not, whether some of us believe it or not, some of that $1.65 trillion will be wasted at Defense. Some of it will be wasted right in front of the eyes of the 18,000 auditors, inspectors, and investigators who work there and who are under the "authority, direction, and control" of the Secretary.

It is difficult, of course, to get a precise reading on just how much is wasted at Defense during any given year. The Republican Study Committee sifted through volumes of GAO reports 2 years ago and very rapidly identified 45 items totaling $16.2 billion in unnecessary Federal expenditures resulting from waste, fraud, abuse, or mismanagement at DOD.

My friend and colleague from North Carolina (Mr. FOUNTAIN) took a look at that Republican Study Committee report at the time it was issued and quickly concluded that not one of the 45 items totaling $16.2 billion describing fraud, waste, or mismanagement in the Department of Defense could be attributed to DOD's 18,000 auditors, investigators, and inspectors. Those figures, he correctly pointed out, came straight out of GAO reports, As serious as those numbers were, however, they did not touch the depth of the problem at Defense.

A year and a half ago, U.S. News & World Report told the American people that the House Appropriations Committee had come up with 46 different ways in which—and I am now quoting—"the armed services appear to be frittering away billions of taxpayer dollars." Sooner or later the American people are going to be asking what Congress is doing to stop the frittering away of billions of taxpayer dollars at Defense.

I do not want to tell them that we created a statutory Inspector General at Defense but that we made sure all his teeth were removed before we let him loose at the Pentagon.

If you are still not convinced that there is a real need for an independent IG at Defense, let me tell you about a recent hearing of the Government Operations Committee. As many of you may know, the Defense Department often relies on the Defense Science Board to arrive at sound, objective judgments on highly complex, technical, and scientific matters. The General Accounting Office testimony in that hearing suggested that the Science Board was anything but objective.

First, the GAO presented evidence that the Board was stacked with members who had a bias in favor of the proposal. They told us, for example, that 7 of the 11 Board members had financial stakes in the outcome and that parties with differing positions were not given sufficient opportunity to present their views. This possible manipulation of private sector advisors—whose integrity is so vital to the formulation of objective decisions—has no place in a professional organization.

This is the kind of abuse that requires the attention of an independent Inspector General, not one who can be controlled or manipluated by the Department.

So, if you ask how serious is the problem of waste at DOD, I can tell you to ask the Republican Study Committee; ask the General Accounting Office; ask the Appropriations Committee. If you ask the Government Operations Committee, Chairman BROOKS can tell you or Mr. FOUNTAIN can tell you, or I can tell you. We can all entertain you with descriptions of the kinds of waste we have found over the years and are finding still today.

Regardless of the figures you use, however, anyone who has ever studied DOD can tell you that there are massive amounts of fraud and waste there. We have always known that there is waste there, but we have always managed to avoid doing something about it.

We can begin to do something about it when we give DOD an independent, statutory Inspector General, the kind we are seeking with this amendment.

Now, I agree that we must rebuild and shore up our Nation's defenses. I am not suggesting that we should thwart DOD's commitment to a strong and effective national defense.

I am suggesting that, at a time when we are cutting back on many worthwhile Federal programs, at a time when we are facing a $100 billion deficit, and at a time when we are practically choking at the prospect of raising taxes, we must have an aggressive, independent Inspector General rooting out fraud and waste at Defense.

Finally, I should point out that the language of H.R. 2098, the language we are considering again in the amendment before us, is, while firm, eminently fair to the Defense Department. We went to extraordinary pains to tailor our bill to meet the unique needs and requirements of DOD. We are convinced that DOD is not the same kind of department as, say, the Department of Labor or the Department of the Interior. We know that there are sensitive areas at Defense, areas that must be protected and must be preserved.

Knowing that Defense is unique is what took us so long to get around to figuring out what kind of IG we need there. We started on the other departments, some of you may recall, back in 1976 and we have progressed to the point today where we now have Inspectors General operating in 16 major agencies and departments. Last year, after lengthy and sometimes frustrating negotiations with Defense, we arrived at what we believe are the proper guidelines for an IG at Defense.

To prevent problems with the military chain of command, for example, our amendment requires that the IG be a civilian. We added some strong provisions to protect classified information, which was one of the areas of major concern to DOD. Reporting requirements in our amendment are tailored to protect against the disclosure of information that might threaten national security, which was another of DOD's major concerns.

What we did not do in our amendment—and what we must not do if we are to have an effective Inspector General at Defense—is to put the IG under the authority, direction, and control of the Secretary. The American people want DOD to do something about the fraud and waste that exist there. The American people deserve an independent Inspector General at Defense, one who—like Caesar's wife—is beyond reproach. If we allow the Defense IG to be under the authority, direction, and control of the Secretary, you can bet that is precisely what we will get—one who is under the thumb of the Secretary.

In closing, Mr. Chairman, I want to urge my colleagues to support this amendment. We have come to far and are so close to giving the American people what they want and deserve that we must not stop now.

Vote for the amendment and send a clear message to the conferees on this bill. The time has come for an independent Inspector General at the Department of Defense.

□ 1840

Mr. STRATTON. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to the distinguished gentleman from New York.

Mr. STRATTON. I would like to offer an amendment on behalf of the committee as an amendment to the amendment offered by the gentleman from Texas (Mr. BROOKS). If the gen-

tleman would yield for that purpose, it would expedite matters.

Mr. BROOKS. Mr. Chairman, I yield for that purpose.

AMENDMENT OFFERED BY MR. STRATTON TO THE AMENDMENT OFFERED BY MR. BROOKS

Mr. STRATTON. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. STRATTON to the amendment offered by Mr. BROOKS: In the matter proposed (in subsection (b) of the section to be added by the amendment) to be inserted in section 9(a)(1) of the Inspector General Act of 1978, strike out "the 'Defense Contract Audit Agency',".

Insert at the end of the section proposed to be added by the amendment the following new subsection:

(f) Within one year after the date of enactment of this section, the Inspector General of the Department of Defense (appointed pursuant to the amendments made by this section) shall submit to the Secretary of Defense and to the Congress a recommendation on whether the office of the Department of Defense referred to as the "Defense Contract Audit Agency" should be transferred to the Office of Inspector General of such Department (as established by such amendments).

Mr. STRATTON (during the reading). Mr. Chairman, I ask unanimous consent that the amendment to the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. STRATTON. Mr. Chairman, this amendment would exclude the Defense Contract Audit Agency from Mr. BROOKS' amendment that would create an independent Inspector General in the Department of Defense.

The Defense Contract Audit Agency, known as DCAA, was created by the Department of Defense on June 9, 1965, to provide a single, consolidated contract audit function in DOD. The purpose of a contract auditor is to advise and assist the contracting officer in evaluating contractors' proposals prior to negotiations; to validate a contractor's expenses during performance; to evaluate claims submitted to the Government by contractors; and to perform a final audit to determine the final price of a contract.

A DCAA auditor is critical to the Government pricing team that supports the contracting officer in his negotiations with a contractor. In the course of his evaluation, the auditor becomes intimately familiar with a contractor's operation. In fact, major defense contractors have DCAA auditors permanently located in their facilities.

The DCAA auditor does not perform internal audits to review the performance of the contracting officer or negotiators. In performing the operatinal functions to support the DOD acquisition process through external audits of private contracts, the DCAA auditor works closely with the contracting officer and negotiators. Since the Inspector General organizations include internal audit functions that review the people with whom the DCAA auditor works so closely, the effect of having the DCAA responsible to the Inspector General would be that the contracting officer and his support team would be reluctant to work freely with DCAA representatives. Furthermore, the separation of the contract audit function was one of the reasons for establishing DCAA as an independent agency in the Department of Defense.

It should also be noted, Mr. Chairman, that the Inspector General Act of 1978, Public Law 95-452, at section 9(a)(2) states, "There shall not be transferred to any Inspector General * * * program operating responsibilities." Accordingly, it is clear that the functions of the Inspector General were not intended to, and should not, include the type of audits performed by the DCAA—contract cost audits for the purpose of assisting in the negotiations, administration, and settlement of Government contracts. It is critical that the procurement process not be disrupted and that we provide our contracting officers with as much support as possible as they negotiate how our own tax dollars are spent.

If the gentleman from Texas would accept this amendment, I can assure him that his amendment to establish an independent Inspector General would have the committee's support on the floor and in the conference.

Mr. BROOKS. Mr. Chairman, will the gentleman yield?

Mr. STRATTON. Yes. I yield to the gentleman from Texas.

Mr. BROOKS. Mr. Chairman, my amendment, which is identical to the language in the bill the House passed last year, does transfer the Defense Contract Audit Agency to the Office of the Inspector General. The Defense Contract Audit Agency is a vital part of the Defense Department's auditing effort. The functions of the DCAA are very compatible with the other functions that would be assigned to the Inspector General.

However, I am aware that the contract managers and other program people in the Department of Defense use the DCAA auditors in their contract negotiations and at other times. I would agree that a transfer of the DCAA should not be undertaken without a clear understanding of what effect it will have on all of their activities, including their work in preaward audits and postaward audits. It may be that they can serve the needs of the contract officers and of the IG without being transferred to the Office of Inspector General.

The amendment offered by the gentleman from New York proposes a deletion of the transfer at this time but couples that with a mandate that the Inspector General make a study over the next year of the desirability of transferring DCAA. While I am persuaded that a transfer of DCAA to the IG would not be inappropriate even now, I will agree to the gentleman's amendment with the understanding that we will all study the issue very carefully and very seriously over the next year and make a decision at that time. I appreciate the support of the gentleman from New York, a ranking member of the House Armed Services Committee, on the other aspects of my amendment.

Mr. DICKS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Brooks amendment, as amended, as a cosponsor of the original bill.

● Mr. FOUNTAIN. Mr. Chairman, I rise in support of the amendment.

At a time when most Federal programs are being sharply reduced, the Nation's taxpayers are being called upon to provide billions of dollars in increased funding for the Department of Defense.

I support increased funding within responsible limits. Unfortunately, a shockingly high percentage of the funds made available to the Pentagon is being expended in a manner which does little or nothing to strengthen our national defense.

For example, in August 1980, the House Republican Study Committee, headed by Congressman JOHN ROUSSELOT, issued a special report on "Waste, Fraud, and Mismanagement in the Federal Government." The report identified 45 items totaling $16.2 billion which it characterized as "unnecessary Federal expenditures resulting from waste, fraud, abuse or mismanagement" by the Department of Defense.

In its April 27, 1981, issue, U.S. News & World Report gave a detailed description of what it described as "massive waste, fraud and mismanagement that send billions of taxpayer dollars down the military drain every year."

The General Accounting Office has issued—and continues to issue—an endless procession of reports detailing further examples of misuse and squandering of public funds by the Defense Department.

We must have a strong national defense. From a personal standpoint, since I have consistently supported defense authorizations and appropriations, I guess I am a hawk on the subject. But, we simply cannot afford to continue to tolerate such a high level of fraud, waste, extravagance, and mismanagement.

It is imperative that a strong, independent Inspector General be established by statute at the Department of Defense. Let me emphasize the word "independent."

Edwin L. Harper, then Deputy Director of the Office of Management and Budget, stated—speaking for the administration—that "We believe the key to the strength of legislatively mandated Inspectors General is their enhanced ability to operate objectively and independently."

A witness for the Defense Department, on the other hand, told the committee that a statutory Inspector General for the Department should be subject to the authority, direction and control of the Secretary, so that the Secretary could prohibit the Inspector General from looking into matters which the Secretary did not want investigated.

The committee found DOD's argument unconvincing, and unanimously voted out a bill providing for an independent IG. The House approved that bill by an overwhelming margin of 335 to 64.

The House bill establishing an independent Inspector General for the Department of Defense has not been acted on by the Senate. However, in its consideration of the Defense Authorization Act, the Senate—by a very narrow margin—voted to establish a DOD Inspector General who would not be independent, but would be under the authority, direction, and control of the Secretary.

The House has already voted, 335 to 64, for an independent Inspector General for the Department of Defense. But the bill presently before the House does not contain such a provision. If this amendment is not approved, the conferees will have before them only the Senate language establishing a DOD Inspector General who is under the authority, direction, and control of the Secretary.

By approving this amendment, the House will be reaffirming its commitment to an independent Inspector General who can and will lead an effective fight against the fraud, waste, and mismanagement which is sabotaging our efforts to strengthen the Nation's defenses.

I urge your support of the amendment.●

● Mr. MOFFETT. Mr. Chairman, I want to commend my chairman, Representative BROOKS, for offering this amendment to create an Office of the Inspector General in the Department of Defense. This language is similar to that which passed the House on May 19, 1981, by a vote of 334 to 65.

No one debates the need for a strong defense. And, there is nothing in the Brooks amendment which would stand in the way of our preparedness. Rather, it would institutionalize a process in the Pentagon for weeding out waste. Instead of fighting these battles on the floor—which, I am afraid, is ultimately a political process and not one of substance—we would have a waste watcher working daily in the Pentagon. This makes sense.

The Office of Inspector General would have all the powers and duties granted those created under the 1978 Inspector General Act. Although the Inspector General would have no program responsibilities, it would conduct and supervise audits and investigations relating to programs and operations of the Department of Defense. The Office would also provide leadership, coordination, and recommend policies for activities to promote economy and efficiency in the administration of the Pentagon's programs.

Mr. Chairman, as you are aware, I am deeply opposed to the provisions of this bill extending funds for the B-1 bomber, the MX missile and the Pershing II. I am a supporter of the nuclear freeze; and, I believe our national interest would be served far better by passing that resolution than debating this expensive and unwise Defense Department authorization bill. I think it is unfortunate that we are not debating the freeze today.

But regardless of each Member's position on that paramount issue, there can be no disagreement over our primary need to weed waste out of the Pentagon budget. This amendment, to institutionalize a "junkyard dog" for the Defense Department, will bring us closer to the goal of a waste-free Pentagon budget. The vote on the Brooks amendment should be unanimous.

Let me conclude by congratulating Chairman BROOKS for his leadership role on this issue. Due to his work, there exist statutory Inspectors General in 12 major departments and agencies. Our friend JACK BROOKS has always recognized that the public will always support the wise expenditure of funds if there is assurance that programs are waste-free. While we may never agree about the legitimacy of many items in this bill, passage of the Brooks amendment will strike a blow against cost overruns and simple waste that have continued to undermine programs in the Defense Department.●

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from New York (Mr. STRATTON) to the amendment offered by the gentleman from Texas (Mr. BROOKS).

The amendment to the amendment was agreed to.

The CHAIRMAN pro tempore. The question is on the amendment offered by the gentleman from Texas (Mr. BROOKS), as amended.

The amendment, as amended, was agreed to.

● Mr. FORD of Michigan. Mr. Chairman, I would like to state my strong support for three "Buy America" amendments that will be offered to the Defense Department authorization bill. All three amendments share a common principle: That the U.S. Government, supported by the tax dollars of American citizens and businesses, should purchase the goods it uses from American businesses and American labor. Additionally, it is a long accepted principle of national security that our military should not depend on foreign nations for materiel that we may need in the event of a war or mobilization.

Representative MIKULSKI's amendment would prohibit the Defense Department's purchase of foreign-made vehicles. In the last 2 years we have seen an alarming increase in the purchase of foreign vehicles by the U.S. military, including 20,000 administrative vehicles by the Armed Forces in Europe and 3,500 Mitsubishi trucks by the military here at home.

Auto industry unemployment is catastrophically high, as every Member of Congress knows. Auto plants have closed in record numbers, and 1 million auto-related jobs have been lost in the last 3½ years. There is no excuse for the Government to contribute to unemployment by purchasing foreign vehicles, and the practice should be prohibited.

Congressmen HERTEL and HILLIS are offering a more modest amendment, one which should receive the unanimous endorsement of the Congress. The amendment would prohibit Defense Department purchases of foreign-made administrative motor vehicles for use abroad unless the foreign manufacturer has won the contract in competitive bid in which U.S. manufacturers have had an opportunity to participate. The amendment does not mandate the purchase of American made vehicles; it merely requires the U.S. military to give U.S. auto companies a fair chance to compete for overseas contracts—a chance which our Government denies them today.

Finally, I support Mrs. Collins' amendment, which would require that the armed services purchase combat rations packaged in the United States. The Falklands conflict should bring home to every Member of Congress the importance of adequate food supplies for soldiers in combat. Picture American soldiers in the place of the starving Argentine troops and you will understand my concern that our own forces never be put in a comparable position.

But what would happen in a prolonged and controversial war if our troops were forced to depend on foreign companies for their combat rations? Can we trust any foreign source to meet such essential needs at a time of international conflict? I believe we cannot and I urge my colleagues to support the Collins amendment.●

● Mr. DERWINSKI. Mr. Chairman, I regret that the House during its consideration of H.R. 6030, the Defense Department authorization bill for fiscal year 1983, approved an amendment which in effect places a 1-year moratorium at the Department of Defense on commercial industrial-type activities.

At a time when fiscal prudence and economic good sense dictate that we seek the most efficient means to conduct governmental functions, this ill-advised amendment will preclude cost-comparison studies to determine whether private contractors could perform such functions more effectively than in-house Federal personnel. Moreover, the amendment was offered at a time when the Office of Management and Budget is actively reviewing its Circular A-76, governing contracting out, to assure efficient procedures which would shift functions to the private sector, if contractors can do the job cheaper and more effectively. OMB had estimated that implementing Circular A-76 will reduce the cost of providing goods and services by $1 billion annually.

I would urge my colleagues to consider that if they are truly looking for areas where fat can be trimmed from defense spending, and if they are concerned about removing our Government from its position of unfair competition with the private sector they will consider carefully any future efforts to hamstring our Government's ability to contract-out.●

● Mr. WEISS. Mr. Chairman, I support any and all amendments which curtail and suspend the MX missile system. The problems with the MX are too numerous at this time to proceed with its production.

The total cost of the MX system is not even known. While the Pentagon estimates that the total cost, in 1982 dollars, will be around $20 billion, it is more likely that the MX will cost Americans more than $100 billion. Even the Pentagon's conservative estimate seems too high a price to pay when the Federal Government literally is taking food away from hungry children in an effort to cut the Federal budget. Further, the cost of the MX system is even more excessive given the technical, procedural, and political problems that construction of the MX will inevitably present.

First and foremost, we are being asked to fund a multibillion-dollar weapon that has no home. Even though the Pentagon has experimented with or considered at least 34 different plans, the MX has no basing plan that can assure its own survivability. Even the Reagan administration admits that the current interim plan to deploy the MX in existing Minuteman silos leaves the weapon vulnerable to Soviet attack. In its mad scramble to propose a more viable plan, the administration has rediscovered "dense pack," an untried basing scheme based on questionable theory.

The Senate has already acted wisely in deleting the administration's $715 million request for implementing an interim basing plan. I urge my colleagues to do the same.

The political implications of deploying the MX will cause even greater defense problems. The MX is intended to be a super-accurate weapon designed to render the Soviet's missile force vulnerable while it remains invulnerable from Soviet attack. Clearly, it provides the United States with a first-strike capability, despite the fact that we have denounced a first strike. Deployment of the MX will heighten Soviet fears and undermine the arms reduction negotiations. It will likely spur a new round of weapons technology development on both sides, since it violates an existing agreement between the United States and Soviet Union which does not permit the building of any new ICBM launchers.

The administration is out of step with the growing mood toward arms reduction among Americans. Its plan to pour billions into the MX confirms this intention. Both the MX missile and its basing mode should be canceled and I, therefore urge passage of the Mavroules-Byron and Dellums amendments.●

Mr. BRINKLEY. Mr. Chairman, I ask unanimous consent that title VIII be reopened for amendment at any point.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. PRICE. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. AuCOIN, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 6030) to authorize appropriations for fiscal year 1983 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, to authorize appropriations for such fiscal year for civil defense, and for other purposes, had come to no resolution thereon.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Sparrow, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3663. An act to delay the effective date of proposed amendments to rule 4 of the Federal Rules of Civil Procedure.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4961. An act to make miscellaneous changes in the tax laws, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 4961) entitled "An act to make miscellaneous changes in the tax laws, and for other purposes," disagreed to by the House; requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. DOLE, Mr. PACKWOOD, Mr. ROTH, Mr. DANFORTH, Mr. LONG, Mr. BYRD of Virginia, and Mr. BENTSEN; on title IV only (excluding section 406(e)) Mr. PACKWOOD, Mrs. KASSEBAUM, and Mr. CANNON to be the conferees on the part of the Senate.

PRIVILEGES OF THE HOUSE—SENATE AMENDMENTS TO H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. ROUSSELOT. Mr. Speaker, I rise to a question of the privileges of the House and offer a privileged resolution (H. Res. 541), and I ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 541

Resolved, that the Senate Amendments to the bill, H.R. 4961, in the opinion of the House, contravene the first clause of the seventh section of the first article of the Constitution of the United States, and are an infringement of the privileges of this House and that the said bill, with amendments be respectfully returned to the Senate with a message communicating this resolution.

Mr. ROSTENKOWSKI. Mr. Speaker, I move to table the resolution.

The SPEAKER. The question is on the motion to table offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. JOHNSTON. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 229, nays 169, not voting 36, as follows:

[Roll No. 223]

YEAS—229

Addabbo	Anthony	Barnard
Akaka	Applegate	Barnes
Albosta	Aspin	Bedell
Alexander	Atkinson	Beilenson
Anderson	AuCoin	Benjamin
Annunzio	Bailey (PA)	Bennett

Bingham	Glickman	Panetta
Boggs	Gonzalez	Patman
Boland	Gore	Patterson
Bolling	Gramm	Pease
Boner	Gray	Peyser
Bonker	Guarini	Pickle
Bouquard	Hall (OH)	Price
Bowen	Hall, Sam	Quillen
Breaux	Hamilton	Railsback
Brinkley	Hance	Rangel
Brodhead	Harkin	Ratchford
Brooks	Hatcher	Regula
Brown (CA)	Hawkins	Reuss
Broyhill	Heftel	Rhodes
Burgener	Hightower	Richmond
Burton, Phillip	Holland	Rodino
Byron	Howard	Roe
Chappell	Hoyer	Roemer
Cheney	Huckaby	Rose
Chisholm	Hughes	Rosenthal
Coelho	Hutto	Rostenkowski
Coleman	Ireland	Roybal
Collins (IL)	Jacobs	Russo
Conable	Jeffords	Sabo
Conte	Jenkins	Savage
Conyers	Jones (OK)	Scheuer
Coughlin	Kazen	Schneider
Coyne, William	Kennelly	Schroeder
Crockett	Kogovsek	Schumer
Daniel, Dan	LaFalce	Seiberling
Daschle	Lantos	Shamansky
de la Garza	Lehman	Shannon
Dellums	Leland	Sharp
Derrick	Loeffler	Simon
Derwinski	Long (LA)	Skelton
Dicks	Long (MD)	Smith (IA)
Dingell	Lott	Solarz
Dixon	Lowry (WA)	St Germain
Donnelly	Luken	Stanton
Dorgan	Lundine	Stark
Dougherty	Madigan	Stenholm
Downey	Markey	Stokes
Duncan	Martinez	Stratton
Dwyer	Matsui	Swift
Dyson	Mattox	Synar
Eckart	Mavroules	Tauzin
Edgar	Mazzoli	Traxler
Edwards (AL)	McCurdy	Udall
Edwards (OK)	McDade	Vander Jagt
Emery	McHugh	Vento
English	Mica	Volkmer
Evans (IN)	Michel	Walgren
Fary	Mikulski	Washington
Fascell	Miller (CA)	Watkins
Fazio	Miller (OH)	Waxman
Ferraro	Mineta	Weaver
Flippo	Minish	White
Florio	Moakley	Whitley
Foglietta	Mollohan	Whitten
Ford (MI)	Montgomery	Wilson
Forsythe	Mottl	Wirth
Fowler	Murphy	Wolpe
Frank	Murtha	Wright
Frenzel	Natcher	Wyden
Frost	Nelson	Yatron
Fuqua	Nichols	Young (AK)
Garcia	Nowak	Young (MO)
Gaydos	Oberstar	Zablocki
Gejdenson	Obey	Zeferetti
Gephardt	Ottinger	
Gibbons	Oxley	

NAYS—169

Andrews	Coyne, James	Fiedler
Archer	Craig	Fields
Ashbrook	Crane, Daniel	Findley
Badham	Crane, Philip	Fithian
Bailey (MO)	D'Amours	Fountain
Benedict	Daniel, R. W.	Gilman
Bereuter	Dannemeyer	Gingrich
Bethune	Daub	Goldwater
Bevill	Davis	Goodling
Bliley	Deckard	Gradison
Broomfield	DeNardis	Green
Brown (CO)	Dickinson	Gregg
Butler	Dreier	Grisham
Campbell	Dunn	Gunderson
Carman	Emerson	Hagedorn
Carney	Erdahl	Hall, Ralph
Chappie	Erlenborn	Hammerschmidt
Clausen	Ertel	Hansen (ID)
Clinger	Evans (DE)	Hartnett
Coats	Evans (GA)	Heckler
Corcoran	Evans (IA)	Hefner
Courter	Fenwick	Hendon
Hiler	McEwen	Shelby
Hillis	McGrath	Shumway
Hollenbeck	McKinney	Shuster
Holt	Mitchell (NY)	Skeen
Hopkins	Molinari	Smith (AL)
Horton	Moore	Smith (NE)
Hubbard	Moorhead	Smith (NJ)
Hunter	Morrison	Smith (OR)
Hyde	Myers	Snowe
Jeffries	Napier	Snyder
Johnston	Neal	Solomon
Jones (NC)	Nelligan	Spence
Kastenmeier	Parris	Stangeland
Kemp	Pashayan	Staton
Kildee	Paul	Studds
Kindness	Perkins	Stump
Kramer	Petri	Tauke
Lagomarsino	Porter	Taylor
Latta	Pritchard	Thomas
Leach	Pursell	Trible
LeBoutillier	Rinaldo	Walker
Lent	Ritter	Wampler
Levitas	Roberts (KS)	Weber (MN)
Lewis	Roberts (SD)	Weber (OH)
Lowery (CA)	Robinson	Whitehurst
Lujan	Rogers	Whittaker
Lungren	Roth	Williams (MT)
Marlenee	Roukema	Williams (OH)
Marriott	Rousselot	Winn
Martin (IL)	Rudd	Wolf
Martin (NC)	Santini	Wortley
Martin (NY)	Sawyer	Wylie
McClory	Schulze	Young (FL)
McCollum	Sensenbrenner	
McDonald	Shaw	

NOT VOTING—36

Bafalis	Early	Marks
Beard	Edwards (CA)	McCloskey
Biaggi	Fish	Mitchell (MD)
Blanchard	Foley	Moffett
Bonior	Ford (TN)	O'Brien
Brown (OH)	Ginn	Oakar
Burton, John	Hansen (UT)	Pepper
Clay	Hertel	Rahall
Collins (TX)	Jones (TN)	Siljander
Dornan	Leath	Smith (PA)
Dowdy	Lee	Weiss
Dymally	Livingston	Yates

□ 1900

Messrs. CAMPBELL, TAUKE, PERKINS MARLENEE, JONES of North Carolina, and WINN changed their votes from "yea" to "nay."

Messrs. GONZALEZ, PERKINS, EMERY, CHAPPELL, HUTTO, and FUQUA changed their votes from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON ENERGY AND COMMERCE TO SIT DURING 5-MINUTE RULE ON THURSDAY, JULY 29, 1982

Mr. OTTINGER. Mr. Speaker, I ask unanimous consent that the Committee on Energy and Commerce may sit during the 5-minute rule on tomorrow, Thursday, July 29, 1982, to consider nuclear waste legislation.

The minority has no objection to this request.

The SPEAKER. Is there objection to the request of the gentleman from New York?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 4961, MISCELLANEOUS REVENUE ACT OF 1981

Mr. ROSTENKOWSKI. Mr. Speaker, at the direction of the Committee on Ways and Means, pursuant to clause 1 of rule 20, I move to take from the Speaker's desk the bill (H.R. 4961) to make miscellaneous changes in the tax laws and for other purposes, with Senate amendments thereto, disagree to the Senate amendments thereto, and agree to a conference requested by the Senate.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. ROSTENKOWSKI moves to take from the Speaker's desk the bill (H.R. 4961) to make miscellaneous changes in the tax laws and for other purposes, with Senate amendments thereto, disagree to the Senate amendments thereto, and agree to a conference requested by the Senate.

The SPEAKER. Under the rule, the gentleman from Illinois (Mr. ROSTENKOWSKI) is recognized for 1 hour.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 minutes to the gentleman from New York (Mr. CONABLE) and pending that I yield myself such time as I may consume.

Mr. Speaker, I am directed by the Committee on Ways and Means to agree to a conference with the Senate on its amendment to H.R. 4961. H.R. 4961, as amended by the Senate, would make significant changes in our tax laws, raising more than $98 billion over 3 years. The bill, in addition, would make program changes to reduce spending by $17.5 billion over the same period.

This is an unusual procedural step to take, Mr. Speaker, and, as chairman of the Committee on Ways and Means, where all revenue-raising measures must originate, I have deep personal misgivings in offering this motion.

But, while this may seem a somewhat extraordinary procedure for House consideration of a major revenue bill, the severe economic distress and volatile political environment at this moment, in the judgment of the committee, dictate that we travel this route. The House has always had and will always have, the power to determine the full scope of its constitutional prerogatives, and the country's protection, under section 7 of article I of the Constitution, the origination clause. Further, H.R. 4961 is a bill which originated in the House and contained a number of amendments to the tax law. Let me note, moreover, that this situation is not without precedent in the House affecting revenue.

In 1968, the Revenue and Expenditure Control Act of 1968 as passed by the House contained an extension of the existing excise tax on communication services and automobiles, and on

acceleration of estimated income tax payments by corporations. The Senate added a 10-percent income tax surcharge on corporations and individuals and a $6 billion expenditure cut in the budget proposed for fiscal year 1969. The Committee on Ways and Means instructed the conferees to go directly to conference to develop an expenditure reduction proposal and to raise taxes in an amount equal to that raised by the 10-percent income tax surcharge. The conference report, as approved by the House, reflected the major provisions of the Senate bill.

Chairman Mills stated at the time that the deterioration of the economy—budget deficits, inflation, high interest rates—necessitated extreme and extraordinary measures.

These too are extraordinary times. Soaring deficits, high interest rates, and unemployment are persuasive indications of the need for drastic and immediate action.

Yet conflicting forces are driving the House at this moment. There is the desire to be fiscally responsible, as exemplified by the enactment of the first concurrent budget resolution for fiscal year 1983, setting reconciliation targets for the committees and the House to meet. On the other hand, there appears to be widespread fear that any attempt to craft a tax increase bill in the House would lead to political chaos, severely reducing the chances of its passage. Moreover, the August 1 deadline for reporting a revenue package is fast approaching.

There is an immediate overwhelming need for taxpayers to have the certainty which the enactment of this tax bill will provide, so that they can take the actions necessary to initiate the economic recovery this country so desperately needs.

Therefore, today's action, in light of the unusually serious economic situation we face today, does not create a precedent for judging when in the future the House should, and will, insist on the maximum protection afforded by the origination clause.

Today, I am asking my colleagues to rise to the needs of this moment and support the committee's decision to go directly to conference. I can assure my colleagues that the House conferees will return with an agreement which best seeks to achieve the required revenue and spending targets, but will not be a simple rubber stamp of the Senate bill.

With regard to the spending reductions, the House conferees will have to remain faithful to the overwhelming desire of Members of both sides of the aisle to make reductions in as compassionate a way as possible with the least impact on beneficiaries, particularly in the medicare program. I believe that the spending reductions agreed to last week by the Committee on Ways and Means achieve that end. Those spending reductions are being introduced today by myself and my colleague from Ohio (Mr. GRADISON) and will serve as the blueprint for the House position in conference on the spending reduction issues.

As my colleagues are well aware, the Senate has met the mandate of the first budget resolution, in my view, in a responsible, statesmanlike fashion. H.R. 4961 as amended would repeal or reduce unjustified and inefficient tax preferences and in general encourage voluntary compliance with the tax laws. In fact, many of its provisions are substantially similar to bills and proposals offered by some of the Members of our committee and of the House. But as my ranking minority member, the gentlemen from New York, and I discovered, in reviewing the bill over the past week, a number of areas in the Senate amendment could be improved without in any way deviating from the thrust of the Senate amendment.

There are over 45 special interest provisions in the Senate amendment to H.R. 4961, most of them decreasing, rather than increasing revenue. Clearly, the House conferees would want to eliminate those provisions in the Senate amendment which do not contribute to the ultimate purpose of this bill—that is, to reduce the deficit.

Mr. Speaker, I urge my colleagues to support this motion and look forward to presenting to this House a responsible conference agreement which will enjoy their support as well.

□ 1910

Mr. CONABLE. Mr. Speaker, I yield 5 minutes to the gentleman from Louisiana (Mr. MOORE).

Mr. MOORE. Mr. Speaker, I know the outcome of this vote that is going to occur today on this motion, but I think before we vote the Members of this House ought to stop and think about and understand what they are about to do, regardless of all the reasons, the expedient reasons they are going to hear about why we ought to be doing what we are going to do.

Regardless of what our leaders are going to tell us and have told us, they know this is a serious, extraordinary, most unusual procedure. They know there are problems with it, regardless of what they may tell us about why we need to take this action.

There are several reasons why I think many of you might decide you want to vote for this motion. Let us explore them.

The first one and the most obvious, the one you are going to have to answer to your constituents for, is the fact that what you essentially saying when you vote to bypass the normal procedures of this body and send a bill straight to conference, is that you think that bill is perfect. It is so perfect that no committee in the House need look at it, no Member need offer an amendment, no hearings need to be held, no examination need be given, and no vote need be taken. As a matter of fact, the bill is not even in print. No Member need even read it because you cannot, so just send it to conference because you think the bill is that good.

Maybe you want to answer for that to the American people. I do not. I do not think that is a good reason.

The second one is the fact that I hear in good conscience from my colleagues who say this is the only way we are going to get a tax bill. We have been writing tax bills in this Congress for 194 years and have never done this before. How can you say this is the only way to write a tax bill when we never had 1 day, nay, not 1 hour of an attempted markup to write one?

How can we claim we failed and it cannot be done when we never tried?

My colleagues, if we cannot write a bill—and I have confidence in my colleagues on the Ways and Means Committee on both sides of the aisle—if we cannot write one, we can always come back with this extraordinary procedure a week or two from now.

The third reason, one that I think is one that I do not like to bring up but I think it is there on both sides of the aisle, that is political expediency. My colleagues on the Democratic side are willing to cast aside their constitutional responsibilities to make this a Republican bill and have no Democratic footprints or fingerprints on it.

My colleagues on the Republican side of the aisle are willing to sacrifice their responsibilities for the political expediency of a popular President of our party.

I do not think either one of those are very good reasons. As a matter of fact, none of these reasons are very good, and the American people expect us to do our job, not play partisan politics, not submit to something that is far for perfect and we know it.

None of these reasons, my colleagues, are good, and we know it. None of them are good.

The bill is not perfect. Partisan politics is not something we should be tolerating on something so serious as this.

I ask you to just listen for a minute and consider what you are about to do. I believe very strongly we are violating the Constitution, article I, section 7. It is very simple, one line: "All bills raising revenues should originate in the House of Representatives."

I repeat: "All bills raising revenues shall originate in the House of Representatives."

There has never been one case in the history of the Federal courts in this country that have ever held a revenue bill can originate in the Senate.

We had a precedent cited by our chairman a moment ago, a very minor

thing, and the courts have held in inconsequential things such as that precedent; the courts will look the other way.

Nobody, my colleagues, nobody believes that this bill that came from the other body is inconsequential, that it is minor. It has been labeled the greatest, the largest tax revenue-raising bill in the history of this country.

My colleagues saw how thick it was a moment ago, although it is not even in print yet. There were hundreds of pages, and I have been told over 100 tax changes that significantly change the Tax Code that you have not read nor have I, nor has anybody on this House floor, nor will we be given the opportunity, I might add.

For partisan politics, for political expediency, for a reason that does not hold water, we are saying cast aside the Constitution and let us move on.

Never in the 194-year history of this House have we done this. Never before have we allowed the other body to write a major tax bill and send it to us, and we just docilely send it back to them and go to conference. Never before. We should not now, as there is no reason to do so, and good reasons not to.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. GRADISON) a member of the committee.

□ 1920

Mr. GRADISON. I thank the gentleman for yielding.

Mr. Speaker, determining the role of the Ways and Means Committee and the House in writing tax laws is not just a question of constitutionality, important as that is. Last year, for whatever reason, the Ways and Means Committee, and indeed this House, had little to do with the final tax bill. This year, for very different reasons, we reach the same result: The House abdicating its responsibility for tax legislation to the Treasury and to the other body. It is not a precedent to be proud of.

We are urged to bypass the Ways and Means Committee and to bypass the House, to go directly to conference. Why? So that a tax bill will pass and so that we will be able to meet our revenue-raising responsibilities under the budget reconciliation process. I want us to pass a tax bill, and I want the budget process to work. This shortcut procedure, in my judgment, will make it harder, not easier, to pass a tax bill, since some Members will now vote against it for procedural as well as substantive and philosophical reasons when it comes back from the conference.

I want to give the Members a specific example of the problems we face. This member is the ranking minority member on the Health Subcommittee. The House said, loud and clear, that we were to hold down medicare spending but protect the beneficiaries. And we did that in the Health Subcommittee, and we did that in the full committee. The other body used a different approach, one which would increase the burden on beneficiaries.

Since there is no House bill, the scope of this conference is between present law and the bill passed by the other body. Our approach, one which is intended to protect the beneficiaries, is outside the scope of conference. If we go directly to conference, there is no assured way to protect medicare beneficiaries. If you want to do so, you have to vote no on this motion.

If you believe the Treasury and the other body are better qualified than this House to write tax legislation, you should vote to go directly to conference. If you believe the Finance Committee of the other body is better qualified than our Ways and Means Committee to write tax legislation, you should vote to go directly to conference.

This Member shares the deep misgivings of our chairman and believes a better bill would result from full participation by this House and by our Committee on Ways and Means; therefore, this Member urges that the motion be rejected.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Florida (Mr. GIBBONS).

Mr. GIBBONS. Mr. Speaker, like you and like some other Members of this House, I have sat through a number of these debates, and I have always found that if you got a tax raising bill on the floor or a pay raise bill on the floor, there are always a lot of people who will get up here and give you every reason in the Sun why they cannot support it.

Now, I will give you a reason why you ought to vote "aye." All of us have thousands of constitutents who are waiting for an answer. What this country needs is a restoration of confidence. They need to know what direction their leaders are taking them and what their responsibilities are going to be.

We can position ourselves on certain constitutional issues—and I can make as good a speech as any that have been made on that subject, and maybe add a little more to it—but the truth is that unless we go to conference now, there will not be any legislation to vote up or down on until around Christmas time. In the meantime, we will have all gotten off the hook, and gotten our elections out of the way, but all of the people out there who have to make decisions about this economy, what they are going to invest in, what kind of jobs they are going to create, will not know where to go until this Congress acts. That is the bottom line, and that is the responsibility we have here today.

Now, if those who are privileged to go to conference do not do a workmanlike job and do not protect the interest of the House, then when this bill comes back, you will have ample opportunity to vote "no" on it and to kill it right there. But do not delay this until after the election. And there is no way—and you all know that there is no way—that you can draft a bill and get it through the House and get it through conference and get it back here approved or disapproved between now and Christmas time.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. GIBBONS. I only have 4 minutes, and I want to respond to something the gentleman said. The gentleman said there was no precedent for this. The gentleman makes a real fine speech, but he is not accurate on his facts.

In 1968—the minority leader will remember this—the same event occurred. We had to go to conference then on a bill because the country was in trouble. Mr. Gross' successor, the gentleman from California (Mr. ROUSSELOT) made the same motion. Mr. Gross made it then, and it was killed, just like it was; in fact, Mr. Gross got more votes than Mr. ROUSSELOT did, because he really gave a better argument. But it was turned down, and the courts ignored it when these things came up.

Mr. MOORE. Will the gentleman yield?

Mr. GIBBONS. Just a minute. I am trying to answer the gentleman's question.

And then in 1960, the same thing occurred, I say to the gentleman from Louisiana (Mr. MOORE) and people got up and made the same speech the gentleman did and the same speech that the gentleman from California (Mr. ROUSSELOT) did and the same speech that Mr. Gross did, and it all got turned down. The country survived it, the House of Representatives survived it. But this country is not going to survive indecision and delay. It is the biggest problem we have. That is what needs to be done.

Mr. MOORE. Mr. Speaker, now will the gentleman yield?

Mr. GIBBONS. I yield to the gentleman from Louisiana.

Mr. MOORE. I appreciate the gentleman yielding.

First, the argument that the gentleman makes would apply to any important legislation.

Mr. GIBBONS. No; it would not.

Mr. MOORE. We only have one House of Congress.

And, second, I would say to the gentleman, the 1968 case, according to what I see here in "Deschler's Procedure" was an excise tax bill we sent to

the Senate that they put a surtax on. We sent a tax bill there, and they had the right to amend it. That is not the same precedent as what we are doing.

Mr. GIBBONS. I was here and listened to all of the debate. I do not know what "Deschler's Procedures," show on the thing, but that does not worry me about all this. We have got a problem; we must face up to it. We have got to go ahead and get a decision made. The gentleman's constituents down there need to know what the answer is. They need to know whether they are going to have to pay increased taxes or not increased taxes, whether they are going to have to go out and pay higher interest rates or lower interest rates. Those are all questions that we are going to decide.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

Mr. GIBBONS. If the gentleman will get me some more time, I will be glad to yield.

Mr. MOORE. Will the gentleman yield 1 additional minute?

The SPEAKER pro tempore. The time of the gentleman from Florida (Mr. GIBBONS) has expired.

Mr. CONABLE. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the motion before us would direct the House to go directly to a conference on the Tax Equity and Fiscal Responsibility Act of 1982, which passed the other body late last week. That bill generally satisfies both spending and revenue-raising requirements imposed under the budget resolution approved by this Congress earlier in the year.

This procedure for going to conference is highly unusual. While the Senate has moved with discipline and dispatch, the Committee on Ways and Means has not marked up a bill including revenue-raising provisions and has not officially reported legislation dealing with expenditure reductions. Under budget reconciliation requirements, the revenue-raising target is $20.9 billion for fiscal year 1983 and $98.3 billion for the 3-year period 1983 to 1985.

Despite this unusual procedure, I voted in favor of it in committee and I support it here for several reasons. First, I believe that in a macroeconomic sense it is important that Congress pass a tax bill reducing projected Federal deficits for fiscal year 1983 and beyond. I recognize that some of my colleagues are not with me on that point. The only way that we are going to get a tax bill is through this procedure. They do not want a tax bill, the colleagues I was referring to, so they are opposed to the procedure. I understand their viewpoint, and I cannot agree with it. I do not contend that deficit reduction of the magnitude we are entertaining here will result immediately in an economic upsurge and/or a dramatic drop in interest rates. But I do contend that if we fail to reduce the deficit by a relatively modest amount in the budget resolution, we will badly damage the credibility of the Congress and the environment of economic confidence.

The long and short of it is that if we want to bring down the budget deficit now, we are led inexorably toward a conference with the other body. Neither time nor the majority of this body will allow us to follow another course.

Second, to preserve the integrity of the budget process, it is essential that the Congress follow through on the commitments we made in the first concurrent resolution on the budget.

Third, the President has indicated his strong support of efforts to pass a tax bill which satisfies the commitments made in the budget resolution.

I say to my colleagues on the Republican side that if a bill were to pass the Ways and Means Committee, acceptable to a majority of that committee, we would be right back here on the floor substituting some version of the Senate Finance Committee bill in the same way that we substituted the Conable-Hance bill last year for what came out of the Ways and Means Committee then. It would be preferable, in my view, to get at a revision of the Senate Finance Committee bill through the conference process and to have, if I may say so, the cooperation of the majority in the process.

It should be emphasized that my decision to vote to go directly to conference was contingent on important understandings with the chairman of our committee. One such understanding concerns the approach which the House conferees would take in considering the other body's version of the tax bill. Specifically, my chairman, the gentleman from Illinois, assured me and the other members of the committee that a serious and conscientious effort would be made to improve the other body's legislation. He would not simply agree to it. This is an important point because it is apparent that at least some Members on the other side of the aisle would prefer not to participate in this process and would thus abdicate responsibility totally.

□ 1930

Another understanding has to do with the potential scope of the conference, a subject which already has been addressed through a colloquy with the chairman.

A final point should be noted. Some question has been raised as to whether the procedure we are following is inconsistent with the constitutional mandate that all bills for raising revenue originate in the House. While it is apparent that the procedure is unusual, it should in no way create a precedent for judging when, in the future, the House should, or would, insist on the maximum protection afforded by the origination clause.

Therefore, Mr. Speaker, I support the motion of the gentleman from Illinois.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PICKLE).

Mr. PICKLE. Mr. Speaker, today, we are faced with an unusual situation that demands extraordinary action if we are to succeed in meeting our ultimate goal. The goal is that of developing and passing a revenue bill that meets the reconciliation instructions imposed on the Committee on Ways and Means by the House. As such, this objective is not one that the House or the committee can now cast aside, if we are serious about the budget process and if we are sincere in our stated desire to reduce the budget deficits that loom ever larger in the next 3 fiscal years.

The action proposed by the Committee on Ways and Means is not unprecedented as Chairman ROSTENKOWSKI explained in his remarks.

It is unusual, but there are other precedents as well. In 1950, the Senate substantially revised a House bill and the Committee on Ways and Means went directly to conference. As a result, the Revenue Act of 1950 was passed by the House and Senate by overwhelming margins. The context of this action was the outbreak of hostilities in Korea. The action taken by Congress to respond to this emergency in 1950 did not undermine the role of the House in initiating revenue measures. Neither did the action taken in 1968 to respond to an economic emergency such as we face today. Extraordinary circumstances demand extraordinary responses by Congress in meeting its responsibilities and do not violate or in any way impair the constitutional role of the House.

Now, Mr. Speaker, we all recognize that we must have a tax bill. We are generally agreed that is the best way to try to pull down the deficit. I think we also recognize that if we go back and start over, we will not get a tax bill this year. There may be some who think our Ways and Means Committee could meet and pass a tax bill. But only a week ago the chairman of our committee and the ranking minority member advanced a suggested outline of a bill and their suggestions were met with such a fire storm that it was immediately withdrawn. We recognized almost immediately that the only way we are going to get a tax bill is either take the Senate bill exactly like it is, or write a new bill, or go to conference.

Now, it seems to me that we ought to recognize we have already passed a

budget, and now we ought to live up to that budget.

The Senate, when the budget was passed, went into action fast. The ink was not dry on the budget when the Senate Finance Committee had already convened and the other body was fast passing their tax bill. I did not hear a voice over here, or almost anywhere in the Capitol, protesting the rush to pass that revenue bill, or tax bill, because generally we all recognize that it had begun. Only within the last 48 hours suddenly we found some people who wanted to be constitutional Christians and wanted to be saved in this constitutional fight.

Now, this is a bill that was passed by the Senate. It is endorsed by the President. It is a Senate Republican bill. I have to assume, then, if you do not want this bill that you are not supporting your President or you are not supporting the Senate Republicans in their action, that you must say that it is a bad bill.

Now, if you say it is a bad bill, then when it comes back you will have the privilege of voting against it. But we must resolve our impasse by at least moving forward.

I suggest to my colleagues that the conference is the best way that we can do this.

I tell my colleagues if we do go to conference we will have Members of the House, Members of the Senate, who will be working together to try to form the best bill possible with the Senate bill as the base to begin with. I do not know that we can reach a full agreement. But I rather imagine that we can, because in principle many things in the Senate bill are acceptable. It is not nearly as bad a bill as a lot of people indicate. But it is the only chance we have. And I would say to the Members that we will have the voices of the members of the committees involved having some say about what goes into that tax bill. It will be from the Members on the Democratic side, it will be from the Members on the Republican side.

It will not be the full House Members. It will not be the full committee members. But it will be the leadership, I presume, on both sides, who will have a voice in trying to arrive at what is the best answer for us and for the American people.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the gentleman from California (Mr. ROUSSELOT) an articulate member of the committee.

Mr. ROUSSELOT. Mr. Speaker, I cannot really believe what I have just heard from some of my colleagues who serve on the Ways and Means Committee. I am genuinely surprised that so many of my colleagues on Ways and Means and other Members of the House wish to just abandon, repeat abandon, their responsibility to write a tax bill. That is right, just abandon, quit, stop, walk away. Absolutely incredible.

Now, one of my colleagues said we want a "restoration of confidence." A comment totally off the wall. How can you have a restoration of confidence when you say, "Well, we will just take whatever the Senate does, shove it back to them and say, 'Hey, this is your tax bill.'"

Absolutely incredible that Members who I know believe in this institution, believe in our responsibility, and now are totally abandoning any opportunity to fashion a tax bill when they know full well that the Constitution says all bills, not some bills, all bills raising revenue must emanate from this body.

Whether you like it or not, if you vote to go to conference right now you are totally abandoning the Constitution of the United States, yes that is total disregard for our Constitution. And also you are saying we do not trust the Ways and Means Committee at all, they are all a bunch of incompetents. That is these members of Ways and Means just do not care—and I see one of my colleagues on the committee shaking his head; I will name the gentleman if he wants me to.

I do not agree with that. I think that is a total copout. And I think we are making a terrible mistake here today to walk away from our sworn responsibility. And if you claim, those of you who say, "Well, it is not our bill, it belongs over there," if you vote to send this to conference, your handprints are all over it. And we are going to make sure your identifiable footprints are on it, too.

Now, one of my colleagues says, "Well, it passed the Senate." It only passed by three votes in the Senate. You want to let the other body decide by that kind of a margin how your constituents are going to be taxed?

Well, then, I sincerely believe you should vote "no" on this motion. If you really uphold the oath of office that you took to uphold the Constitution of the United States, you will vote "no" on this conference report.

We have not touched this bill, very few know what is contained therein. We have not looked at it. It was sent back a few minutes ago. It is a foot and a half thick. Now the original bill (H.R. 4961) went over—look at it here in my hand—31 pages. And our wonderful other body took it and jammed and patched a whole new line of major tax increases on top of this simple bill.

And you are going to go back to your constituents and say, "I know what was in it, it was carefully crafted." Like heck you will.

I want to tell you, you are missing your sense of responsibility, and I mean it with all the sincerity I can muster, if you vote to give up your constitutional responsibility to fashion on our own a tax bill. You have failed to uphold your oath of office.

You are the people's body. That is your responsibility. And I say that any Member here who says, "Well, I will slip around this and say it is the Republicans that did it in the Senate," bunk. You are responsible. You carry that responsibility right here, now. I urge a no vote on the Senate conference request.

□ 1940

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. FOWLER).

Mr. FOWLER. Mr. Speaker, I think that the gentleman from California in his sound and in his fury is not only crying crocodile tears, but of course in his inimitable manner crocodile shouts as well.

Last year we did not even have a vehicle for the budget bill of three or four pages. The budget bill arrived on this floor from the White House basement, 700 pages long, twice as big as this one, that nobody had ever seen. No cries of unprecedented. No cries of copout, only one partisan question. No economic debate; no fiscal tax policy debate; one partisan question, "Are you for the President of the United States or are you against him?"

"If you dare vote against the bill that you have never seen, then you are an obstructionist, you are unpatriotic, you do not even want to give the man or his economic policy a chance."

There is the copout that led to $140 billion worth of deficits this year and has caused the President of the United States to plead with the House Ways and Means Committee to give us a chance, all of us, not just the committee, but all of us in this body to have a bill on the floor that could possibly bring $20 billion back to offset the $140 billion worth of deficits.

It is unprecedented that a Democratic chairman of the House Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI) who opposed the President's program last year, warned that we could have 10 million people unemployed, warned that we could continue to have high interest rates, warned that in violation of every firm business principle we were giving away our revenue base and would be crawling back in an election year to try to recapture part of the bounty that had been unloosed across corporate America, is seeking to help the President of the United States achieve the $20 billion in tax revenues which be has endorsed.

Do not believe this constitutional obfuscation. It is not true. The precedents are in the record. What will be a copout is if we in this body do not take the only vehicle pragmatically available to allow a debate on whether or

not we are going to have a tax bill this year.

The SPEAKER pro tempore. The time of the gentleman from Georgia has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 30 additional seconds to the gentleman.

Mr. FOWLER. Nobody likes all the ingredients, the Baskin-Robbins approach of scooping here and skipping this and scooping there; tobacco, not beer; pensions, not profits; this, not that; but we owe it to the American people to do what we did not do last year and that is to have a debate on the fiscal policy of this Nation, how we got where we are and whether or not we have the courage to bring a tax bill to the floor that has a chance of passing.

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Illinois (Mr. PHILIP M. CRANE).

Mr. PHILIP M. CRANE. Mr. Speaker, first of all let me address a point on this constitutional issue. We had, back on November 8, 1979, a similar kind of debate on this floor and our distinguished colleague from Ohio (Mr. VANIK) because of an amendment that was attached to a bill that had come out of this body, proposed that we pursue the remedy to that that the gentleman from California (Mr. ROUSSELOT) attempted earlier to do.

The gentleman from Ohio (Mr. VANIK) was quite eloquent in preparing his case and my distinguished ranking minority member on the Committee on Ways and Means joined in that battle, along with some of the other colleagues on our side. The gentleman from Michigan (Mr. DINGELL) was equally eloquent in insisting that article I, section 7, of the Constitution be observed, because the Senate had infringed on the prerogatives of the House.

Now, a lot of folks here perhaps do not know the origin of that House prerogative, but I guarantee you that the whole history of liberty in representative governments has rested upon that power being vested in the body of the people, that power to impose self-taxation. The Founding Fathers understood very clearly why they put that power in our hands and we cannot in good conscience abdicate that responsibility.

I am opposed to any taxes, I will admit that freely. I voted against the budget. I am not bound to support any tax bill and I think it is the wrong economic medicine. Moreover, I think the White House is wrong and I think the Senate is wrong. But that is not the issue that is involved here tonight, because what you are being asked to do is to violate the oath of office you took to solemnly uphold that Constitution, so help you God. That language is explicit. All bills for raising revenue shall originate in the House of Representatives.

In article VI of the Constitution it says the Senators and Representatives of the United States shall be bound by oath to support this Constitution.

This is a precious body. Of all the bodies of our National Government, whether you take the White House, the Supreme Court, or the U.S. Senate, this is far and away the most important body and that is why the Founding Fathers wisely vested in this body the power to tax the people. It gives the people the chance to throw all of us out over just such issues as taxes. Self-taxation enabled the people to wrest power, in British history, from monarchs who abused power. We have people in the executive branch today who are abusing power and yet we are passively letting that transpire, when we have a constitutional obligation to uphold the rights of this body.

Thomas Jefferson said, "We will bind the Members down with the chains of the Constitution."

He said that because so frequently people have dealt with vital issues frivolously and lost their freedom in the name of expediency and pragmatism.

I urge all of you to examine your consciences on this question of that solemn oath you took on this most fundamental constitutional issue.

Whether you support taxes or you disagree with taxes, for goodness sakes, at least adhere to what we solemnly took oath to support; namely, the Constitution of the United States. Do it properly.

Do you want to establish the credibility of Members of Congress? Do you want to act in a responsible way? Do you want to build up the confidence of the people? The way you do that is to uphold the oath of office that we all took and we are all morally bound to observe.

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. PHILIP M. CRANE. I am happy to yield to the gentleman.

Mr. MOORE. Mr. Speaker, I certainly agree with the gentleman's arguments, but I would like to ask if the gentleman agrees with one other.

We are always hearing in this body about precedents. We are a very British Government precedent oriented body. What has the House done before?

They talk about precedents. There has never been a precedent of a major tax bill being written by the other body, sent over here and us going to conference. Never.

What does the gentleman think about us establishing that precedent today?

The SPEAKER pro tempore (Mr. BOLLING). The time of the gentleman has expired.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 3 minutes to the gentleman from Minnesota (Mr. FRENZEL).

Mr. FRENZEL. Mr. Speaker, in the Ways and Means Committee, I voted for the motion to go directly to conference with the Senate. I will do so here this afternoon, too.

Good arguments can be made for regular procedures. Normally we should follow established procedures. On those occasions when they are bypassed, there must be a good reason. The burden of proof is properly on the bypasses.

In this case, the principal good reason is that this Congress has passed a budget resolution which calls for $20 billion in increased taxes. We all hate taxes. We all have good reasons for voting against them. But unless we want to risk an additional $20 billion in deficits, higher interest rates, and an aborted recovery, we need a tax bill.

In my judgment, the best chance of passing the least worst tax bill is to go to conference with the Senate, improve the obviously flawed bill, and bring a good conference bill to this House.

If we use the regular procedure, there is no guarantee that any bill will ever pass. As near as I can tell neither the majority, nor minority has either a bill, or a program. I will, of course, be pleased to work on tax bill in the usual way. I will work for success, but I can not predict it.

For Republicans, the unfair 2-to-1 ratio of Democrats on the Ways and Means Committee does not argue well for committee production of a better conference vehicle than the Senate bill. In fact, the committee may accept the Senate bill outright, or it may produce a bill totally different from the Senate bill. The only thing that seems certain is that moving anything through the committee would be a long and arduous process.

The constitutional attacks on the procedure of going direct to conference is a serious one. Nonetheless, when Congress has used this procedure in past, the courts have not been willing to look beyond the H.R. number on the bill even though most of the substance actually originated in the Senate.

More serious still is our own obligation to uphold the Constitution, regardless of what the courts may say. I believe that we can satisfy that obligation even if we shortcut or reroute the regular process. The normal process is most likely to give us two votes, one for a House bill under a closed rule, and one on the conference report. That is just what the abbreviated process will give us, too.

The bottom line for me is the budget resolution and the need to reduce the deficit. I would not favor the Senate

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bill as is. I would work for a new House bill, but I doubt our ability to pass a good, or, in fact, any, bill. Therefore, I believe our best course is to move directly into conference.

The administration also supports this point of view. I feel confident that the administration has given some thought to this matter, and has done careful investigation of the alternatives.

Again I restate my reluctance to vote for any tax increase bill. That does entail risk. But I believe it is riskier to avoid the tax bill and accept a higher deficit. A vote for the motion to go straight to conference is not a very good choice, nor a happy one, but I think it is the only one. I urge a vote for the Rostenkowski motion.

□ 1950

Mr. MOORE. Mr. Speaker, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Louisiana.

Mr. MOORE. I thank my distinguished colleague for yielding to me.

Mr. Chairman, the gentleman makes an eloquent argument. The gentleman preceding him, the gentleman from Texas, did also, on the other side of the aisle. But where is the impasse? Where has the impasse occurred? Where did we break down trying to write a bill?

Mr. CONABLE. Mr. Speaker, I yield 4 minutes to the distinguished gentleman from North Carolina (Mr. MARTIN).

Mr. MARTIN of North Carolina. I thank the chairman and the ranking member for the graciousness of their remarks by which they have introduced me here.

Members have heard a lot about constitutional issues, issues so serious that they deeply concern the professional staff of the Committee on Ways and Means. Members have heard questions raised about the political issues, about the fingerprints, about the footprints. Maybe we will hear about the body prints and the lip prints that are all over this bill.

Well, let me say to my colleagues that there are also some important issues about the legislative merit of the particular bill that has been sent over here. I am sure that every Member in this House, by virtue of what they have read in the news accounts and seen, there are some things that they like in the bill that came here from the other body.

I expect Members have seen some things in there that they do not like. The problem is not with the things that Members know they like and the things that Members know they do not like; the legislative problem is with all of the things in that bill that Members have not even heard about yet.

There are only 107 changes in the Tax Code in this bill that was sent back to us from the other body, 107 changes in the Tax Code.

Maybe my colleagues are familiar with 10 or 12 of them, but what about the other 95? There are literally dozens and dozens that have not been examined yet by the Committee on Ways and Means. The legislative problem is all those cute, all those clumsy or punitive or sweetening provisions that are salted away in this bill that Members do not even know about yet. And how could we know, considering the rush by which they want to grease this bill through the House of Representatives before anybody is alert to what is in it? These 107 changes are about to zip through here like greased lightning.

And speaking of grease, have my colleagues heard yet about the grease payment provisions? That does not have anything to do with bartering with tallow; I am talking about the grease payment provision.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. MARTIN of North Carolina. I yield to the gentleman from California.

Mr. ROUSSELOT. Grease payment for what?

Mr. MARTIN of North Carolina. The gentleman's question is appreciated.

The grease payment provision would allow business deductions—listen to this—for the cost, for the business deductions cost of greasing foreign officials, for the cost of greasing foreign officials.

Now, maybe Members think it should be legal to bribe a foreign customs official; maybe Members think it ought to be legal, but does it have to be tax deductible? Is it fair to make other taxpayers pay for it? Are we going to grease them, too?

Maybe Members believe that the Congress ought to disrupt the careful balance between rival kinds of insurance companies, stock companies versus mutual companies and their consumers. But we do not even know yet which way it shifts the burden. Who loses? And who wins? And why?

Maybe Members believe that families should be punished for trying to settle an estate to keep it in the family after Uncle Charley's demise.

The interesting thing is, the other body did not intend that, but that is one of the unintended consequences.

What else lurks in this bill that is before us? There are other secrets that are deeply shrouded in mystery. Many of the fall guys are just now discovering that they are "it"; that they have been tagged as the fall guy. How many other fall guys are there in this bill?

One more argument I want to make about legislative issues.

The SPEAKER pro tempore. The time of the gentleman from North Carolina (Mr. MARTIN) has expired.

Mr. MARTIN of North Carolina. I am sure the gentleman will allow me another 30 seconds.

Mr. CONABLE. Mr. Speaker, I yield another 30 seconds to the gentleman from North Carolina.

Mr. MARTIN of North Carolina. We have been told the only way to get a tax bill is to go this unprecedented, unwise, unconstitutional route. Who says so?

In the 8 years I have served on the Ways and Means Committee, when has it ever failed to muster out a tax bill? Never. It has never failed to bring out tax bills.

If it cannot bring out a tax bill, should we consider one that has not even been considered and talked about by them? How can you say that Ways and Means will not bring out a bill? We have not even tried yet.

Do consider this: If we grease this through, there will be a careful study of what is in that bill. The first and only careful study to examine this will be done by enterprising, investigative reporters who will report to us what is in the bill and then we will have to answer.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. JENKINS).

Mr. JENKINS. Mr. Speaker, this is an unusual proceeding and I know it is very difficult for all of us in this particular situation in which we find ourselves. It is always easy to drink from the cup when we are reducing taxes; it is always popular.

I stood here slightly over a year ago and said at that time that in my opinion when the President found himself in a situation of huge deficits down the road, because of that unwise course of action, that I would not shirk my responsibility, that I would attempt at that time—which is now—to try to help the President of the United States redress the wrong direction that in my opinion he did take at that time and certainly history has shown that to be correct.

I have heard a great deal about political expediency. It was politically expedient a year ago to take the course that we took as a body. That is unfortunate.

But today, and in the next few days, the President of the United States, who has already asked the Senate—and it has been a straight party-line vote there, every single person who voted for that bill that we are going to consider in conference was a member of the Republican side. So the administration has had an input into that. Certainly the Republican Party has because every inch of the way they have guided this bill through the Senate.

All of these things that some of my colleagues say are so unwise, I simply want them to know that they did not come from the Democratic side.

I intend to try to help the House when we get to the final vote because I think it is desperately needed. But I say to my colleagues in all sincerity that, as our colleague from Minnesota said, this is an issue that is the only course if we are to try to address deficits that are skyrocketing day by day. It is not an easy choice and I urge your support.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. DOWNEY).

□ 2000

Mr. DOWNEY. Mr. Speaker, I have listened with remarkable entertainment to our Federalist/Republicans tell us about our oath of office and the sanctity of the Constitution. One will be amazed to hear what they have to say when they attempt to amend the Constitution for the budget balancing or on their arguments on the other ways in which they intend to amend that sacred document.

The reason we are here is because the economic game plan of the President is failing. Now, it has not had enough time to go supernova, and that is the reason why we are here, to try and staunch the flow of deficits—$140 billion.

None of us—none of us like the prospect of telling our constituents, whomever they may be, that they have to pay more in taxes, but the irreparable harm that will be done to this economy if we do not face the difficult music and do something about the deficit will be far more devastating. So, we are here out of necessity; not because we want to, not because we want to violate the Constitution, but because the economic game plan of this President is failing. It is failing, and it started to fail very soon.

As a member of the Budget Committee and the Ways and Means Committee, I had the opportunity to listen to Mr. Reagan and Mr. Stockman tell me that the expectation or effect of putting this program in place would be enough to let loose the investment across our country. Real investment is down in 1981, and it will be down in 1982. It is down because interest rates are high, and interest rates are at their historic highest level because of the lack of faith that people have in the ability of this Congress to do something about the deficit; not the figleaf of a balanced budget, but raising revenues when it needs to be raised. That is what we are here to do, and responsible legislators will do it, will swallow the very bitter pill of this bill and get on with the process of trying to save the American economy.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Hawaii (Mr. HEFTEL).

Mr. HEFTEL. Mr. Speaker, as a Democrat I want to make it clear that my handprints and my footprints will be on this tax measure, which increases taxes. I wish, though, that I could have had my handprints and footprints on the tax measure of a year ago which decreased taxes, increased the deficit, and put us in the position we are in today.

There is no way that we are going to bring down interest rates, stop the flow of unemployment and bankruptcies if we do not do something about the Federal deficit. This tax measure may only be a first step in bringing sanity to our economic policies.

There are many in welfare lines, unemployment lines, filing bankruptcies in courts across America because of what we did a year ago. We can undo a little bit of its today. I hope we do.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. SHANNON).

Mr. SHANNON. Mr. Speaker, I find myself in the uncomfortable position today of agreeing with many of my Republican colleagues on the Ways and Means Committee; uncomfortable not because disagreement with them on major issues is inevitable, but uncomfortable because I know that behind all the code words about the Constitution, the process, the procedure, we have the basic reality that many of these people just are not going to vote for any tax bill this year. When they say to us that they do not like this process, they do not like the way it is going, they do not like the fact that the Constitution or the spirit of the Constitution might be violated, what they are really saying to us is that they are not voting for tax increases no matter how big the budget deficit is this year.

Are you not the same Members who swallowed whole the Gramm-Latta budget last year, not knowing what was in it?

Are you not the same Members who swallowed the tax reduction last year, not knowing what was in that? You are not concerned about the process; you are not concerned about the procedure. You are concerned about what is going to happen in November.

I am concerned about what we are going to do with this tax bill. I think we should not go to conference because I think the people who elected us to Congress have a right to have some input into this tax bill. They have a right to have us, each of us, take a stand on this tax bill in committee, on the floor, before it is voted on, and not just on a conference report. We are not going to be able to escape responsibility for it. We are not going to be able to walk away from this bill as if it were some stepchild left here on the floor of the House of Representatives by persons unknown.

This is a major piece of legislation. We were elected to Congress not to avoid responsibility, but to face up to it. Today, with our economy in as bad shape as it has been in the last 40 years, I think the American people want to see us face up to it. I do not think they want to see us playing political games. I think that many on my side of the aisle feel that the best way to get this tax bill through and the best interests of the economy is to go this route. I cannot agree. Now is the time, not for Republican solutions, not for Democractic solutions, but for American solutions.

Mr. ROSTENKOWSKI. Mr. Speaker, I yield such time as I have remaining to the gentleman from Arkansas (Mr. ANTHONY).

Mr. ANTHONY. Mr. Speaker, I thank the chairman for yielding me time. Probably the reason he is having a little difficulty in remembering the State I am from is because I am the newest member of the Ways and Means Committee.

I must tell the Members that it pains me from two or three different directions. No. 1, I come here today to say that I did not have the privilege of giving away all the taxes last year. I was only put on the committee after that show was over with. I must now face up to my responsibilities and go home and only talk to my constituents about raising taxes. I can tell the Members that that puts one in an unpleasant and an uncomfortable situation.

As the newest member of the committee and as any Member of this body would do, the constitutional issue was something that gravely concerned me, so what did I do? I went and checked it out. Not one single court case in the U.S. Supreme Court has been cited, can be cited, to show that we are violating any article of the U.S. Constitution. That settles that issue, and if you can cite it, cite it.

Mr. MOORE. What does the language of the Constitution say, I say to the gentleman? We do not need a court case.

Mr. ANTHONY. We are legislators, we are not judges. It is up to the court to decide that.

So what else would you take a look at? You take a look at the legislative history to make sure your actions today follow legislative precedent. The one that has been talked about was in 1968. Well, when I grew up in Arkansas the chairman of the Ways and Means Committee then was a very important political figure because he was from the State of Arkansas. That came under his leadership. But I went back and looked at another one, and to my colleague from Louisiana, I wish he would listen to this because he

raised this point about the amount of revenue.

In 1950 the identical situation occurred, but on a reduction of a bill that cut excise taxes, basically the situation we have here. The Senate passed a bill that had 192 amendments in all that raised $3 billion. That is in 1951. I queried what is the equivalent to $3 billion in 1982? Is it $21 billion?

The SPEAKER pro tempore. The time of the gentleman from Arkansas (Mr. ANTHONY) has expired.

All the time of the gentleman from Illinois (Mr. ROSTENKOWSKI) has expired.

Mr. CONABLE. Mr. Speaker, I now yield such time as I have remaining to the distinguished minority leader, the gentleman from Illinois (Mr. MICHEL).

The SPEAKER pro tempore. The gentleman from Illinois (Mr. MICHEL) is recognized for 5½ minutes.

Mr. MICHEL. Mr. Speaker and my colleagues, I rise in support of this motion. I have come to this position by a brief review of what brought us here. I am reminded of those months—tortuous months—of wrestling with the budget resolution, first because the one sent down from the White House by our President was unacceptable to Members on both sides of the aisle.

What was everybody crying about at that time? The size of the deficit. A high deficit is intolerable, we cannot stand it, we have got to do something about it. So, some of us, through long, long months of turmoil and argument back and forth did our best to fashion a budget resolution that was accepted by a very narrow margin on a bipartisan basis by this House. There were those of us who would like to have cut much deeper on the expenditure side, much deeper in entitlement areas, but the votes simply were not there. Yes, you could get 50 votes for such and such a proposition, but you could not get 218.

I am reminded, when the gentleman from California and this Member were 2 of 12 voting on the minimum benefits question on social security, so I know how tough it is to get expenditure reductions, including entitlements, of meaningful proportions around here when the chips are down.

□ 2010

So then you come to the conclusion that you cannot cut anymore in expenditures or entitlements and you do not want a bigger deficit. What do you do? You have to be responsible and say maybe we have to come up with some revenue, at least some correction from what we did in our overzealous attitude of last year.

So that is why we are here today to implement the $20 billion of revenue that is required by the 1983 budget resolution.

The other body has acted on its own. There is no good or perfect way to raise taxes. That feeling is felt by most Members on either side of the aisle or on either side of the Capitol.

What we wanted to do on our side of the aisle particularly was to preserve the main thrust of the President's initial program, straight rate reductions for individuals across the board. We have been able to do that up to this point.

We also have more rapid cost recovery and excelerated depreciation for business and industry. We want to preserve those two basic tenets of what the President was initially talking about.

A lot of these other things that got added to the tax bill last year were not necessarily proposed by the President. They were done collectively by this Congress. So there is plenty of blame to go around on whether or not it was too big a tax cut.

But I have to say to my Members, you do not want to give away a third year of the individual tax rate for individuals. That is the only way the average individual gets to catch up with everybody else. That is a good principle. We want to hold on to it.

But we know there are Members on the other side who would like to change that, because there is a big chunk of revenue there if you want to get it in one place. Yes, I think we did not want to turn away from indexing, from that very sound principle, but there were those, oh, I remember, too who said there is another big chunk of revenue so let us do away with indexing.

Then there were those who did not want to enact a broad energy tax. I do not. There were those who were raising the specter of that.

Now, when you think about what the alternatives are, and what one of the other body has done you had better think a little bit beyond the end of your nose on how do you get $20 billion in additional revenues in an election year.

Half of the bill of the other body is in the enforcement area. It could be called in some respects reform.

Here in the House I cannot ignore the makeup of the ratio of the Ways and Means Committee. My colleagues know how we argued against that 23 to 12 ratio at the beginning of this Congress. I have to point that out to Members on my side. Some of our Members, as the gentleman from Illinois (Mr. CRANE) said, did not vote for the budget resolution and would not vote for any tax bill whatsoever.

And I have to remind my friends on the other side of the aisle, several of your budget resolutions called for revenue considerably more than what we talked about in our budget resolution. You were wanting to raise taxes by $37 billion the first year, $147 billion all told. I recognize the Senate bill is not perfect, but it is highly unlikely that our House Ways and Means Committee action on its own would report a bill that could pass this House. That is the way I look at it.

By the same token, we would not want to embrace the Senate bill in total as we would have nothing to compromise with.

I do not like the choices we have. No one does.

But I have to come down on the side of moving ahead to get something done, so I have to support the motion here to go to conference.

By supporting the move to go to conference on a tax bill I want to make it abundantly clear, too, that I want to see some positive action to implement the spending cuts of the budget resolution before our final approval of a conference report on a tax bill. I would like to give ample notice of that at this time.

Notwithstanding the negatives in the Senate passed revenue measure, I want to remind those who want to achieve some meaningful expenditures and entitlements cuts that you get a lot more in a Senate-passed bill than you would ever get in a bill reported out of the House Ways and Means Committee.

Finally, while the Democratic majority may like to keep its fingerprints off this tax bill, I would like to remind you again that each of your budget resolutions and substitutes that I saw offered at one time or another carried higher revenue figures.

I remember my dear friend from Illinois, Mr. ROSTENKOWSKI, who came to me and said, "Bob, you know, I have to support the resolutions from my side. But privately, in view of those revenue requirements, I hope your resolution passes, because there is no way that we are going to be able to come up with revenue in excess of $20 billion."

The SPEAKER. The time of the gentleman from Illinois (Mr. MICHEL) has expired.

Mr. MICHEL. That is too bad, Mr. Speaker. I had something especially complimentary to say about you, but I will leave it at that and hope that you will support the motion.

The SPEAKER. Did not the gentleman ask to revise and extend?

● Mr. SANTINI. Mr. Speaker, as the House appoints its conferees to meet with the other body on H.R. 4961, I wanted to take this opportunity to express my concern about a very harmful provision of that legislation which was added at the last moment by the other body. I am referring to the limitation on deductibility of business meal deductions.

The issue has been examined in the past by the Committee on Ways and Means and has been rejected after a close examination of the facts. Now I fear that in attempting to achieve a package which the House can support,

this critical matter will not receive the attention it deserves. The impact of this Senate provision could have a dramatic impact on employment in the food services, accommodations, and related industries. The provision would cost Americans over 135,000 jobs at a time when unemployment is as high as 9.4 percent.

The experience of the French Government, which imposed similar taxes on business meals and entertainment, is instructive. The French restaurant business declined 12 percent as a result.

As chairman of the House Travel and Tourism Caucus, I am concerned about the impact on the employees in the travel and tourism industry. The tourism industry employs a large number of women and minorities, two groups which are disproportionately suffering from unemployment. We can ill afford to add to their employment problems by hurting the industry which provides opportunities to them.

The deductions for business meals in the current law are permissible only for legitimate business meals. I do not believe it is sensible to deny a deduction for a legitimate business expense. If there are abuses, the Internal Revenue Service should enforce the requirement that these expenditures are for business purposes. Legitimate expenditures should not be unfairly taxed.

Another provision which concerns me is the possible addition of an unworkable scheme for reporting tip income. This proposal was defeated in the other body, but could be resurrected in conference. The proposal which was formerly in the Senate measure would have required employers to assume that tipped employees received a fixed percentage in gratuities. It would also have made the employer designate which employees received tips and allocate among employees the percentage of receipts from restaurant operations.

The restaurant and accommodations industries do not need the increased burden of serving as the tax collector. Current law already requires employees to report their tip income to their employers each month. The added paperwork and potential labor-management problems resulting from such a new provision would lead to higher costs for customers, and lower productivity for restaurants as well as unfair taxation for restaurant workers.

In summary, I believe these issues deserve a thorough examination before any action to impose new burdens is contemplated. I urge the conferees to carefully consider the impact of these unwise ideas.●

● Mrs. SCHNEIDER. Mr. Speaker, I rise in support of the motion to send H.R. 4961 to conference. I do not support every aspect of the bill, but I certainly do enthusiastically embrace the 75 percent of it which represents tax reform and loophole-closing. There is little question that an important part of balancing the budget is insuring that all sectors pay a fair share of taxes. I believe that the reforms contained in this bill will insure that we move closer to insuring that the tax burden is shared equitably.

There are two points I would like to note, Mr. Speaker, for the RECORD. These are, first, the wide editorial support for this bill from all persuasions. Second, I would like to take exception to the committee majority's inability to accept reform of taxes on oil companies. Clearly, if the committee leadership had permitted, revenues could have been raised from oil as opposed to telephone taxes and changes in medical deductions. Unfortunately, the 23-to-12 ratio, Democratic-to-Republican committee majority, refused to favor consumers over oil companies in this instance.

In the main, however, this represents the first real reform of loopholes in some time. I note the overwhelming support from both sides of the aisle for this bill and, with the reservations noted, will support the motion to send it to conference.●

● Mr. BEDELL. Mr. Speaker, I rise in support of this motion to go to conference on the Senate tax bill.

I believe this bill will aid our efforts to reduce the unprecedented deficits, which are helping to keep interest rates so devastatingly high. It also will go a long way toward initiating meaningful tax reform to benefit the general taxpayer. Included in the bill are provisions to strengthen the minimum tax so that all wealthy individuals and corporations will pay at least some taxes; to reform the investment tax credit; to restrict and to repeal in 1985 the safe harbor leasing provision allowing the buying and selling of tax breaks; and to reform some of the abusive provisions of corporate pension plans which allow some participants to shelter from taxes an inordinate amount of income.

Mr. Speaker, I applaud these efforts to bring a measure of fairness and equity to our very complicated Tax Code. I believe the average taxpayer is often forgotten in the consideration of tax legislation, and I am pleased to note that on the whole this bill closes some loopholes available only to special interests.

However, I take strong exception to one of the bill's provisions: The institution of a withholding tax on interest and dividends. I am cosponsoring several resolutions opposed to this withholding tax because it will provide a disincentive to productive saving and investing precisely at the time when our country needs to increase these activities, which are imperative to economic revival and expansion. Additionally, it seems this provision will prove to be an onerous administrative and regulatory burden to the financial institutions paying the interest and dividends—a burden at odds with the President's efforts to provide regulatory relief.●

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the matter currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

PARLIAMENTARY INQUIRY

Mr. JACOBS. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. JACOBS. Mr. Speaker, assuming that the House rules are constitutional, does this motion violate the House rules in any way?

The SPEAKER pro tempore. Let me say in response to the gentleman that there was a bill that passed this House that was reported out of the Committee on Ways and Means and was sent to the Senate. The Senate added an amendment to that bill and returned it to the House, so we are acting on an original bill that passed this House as amended by the other body.

There is a motion to go to conference on a House bill with a Senate amendment, so consequently, the House is acting within the rules.

On the issue of constitutionality, the Chair never responds to a constitutional question.

Mr. JACOBS. I made the assumption that the House would not violate the constitutional rules.

Mr. ROSTENKOWSKI. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion offered by the gentleman from Illinois (Mr. ROSTENKOWSKI).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. MARTIN of North Carolina. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device and there were—yeas 208, nays 197, not voting 29, as follows:

[Roll No. 224]

YEAS—208

Addabbo	Atkinson	Biaggi
Akaka	AuCoin	Bingham
Albosta	Bailey (PA)	Boggs
Alexander	Barnard	Boland
Annunzio	Bedell	Bolling
Anthony	Beilenson	Bonker
Applegate	Benedict	Bowen
Archer	Benjamin	Breaux
Aspin	Bennett	Brinkley

Brodhead	Hance	Pease
Brooks	Harkin	Peyser
Brown (CA)	Hartnett	Pickle
Broyhill	Hatcher	Price
Burgener	Hawkins	Pritchard
Burton, Phillip	Hefner	Pursell
Butler	Heftel	Quillen
Byron	Hertel	Railsback
Cheney	Hightower	Rangel
Chisholm	Holland	Regula
Coats	Howard	Reuss
Coelho	Hoyer	Rhodes
Conable	Huckaby	Richmond
Conte	Ireland	Rodino
Conyers	Jacobs	Roemer
Coughlin	Jeffords	Rose
Coyne, William	Jenkins	Rosenthal
Crockett	Jones (NC)	Rostenkowski
Daniel, Dan	Jones (OK)	Roybal
de la Garza	Kennelly	Russo
Dellums	Kogovsek	Sabo
Derrick	Lantos	Savage
Derwinski	Latta	Scheuer
Dicks	Lehman	Schneider
Dingell	Leland	Schroeder
Dixon	Loeffler	Schumer
Donnelly	Long (LA)	Seiberling
Dorgan	Long (MD)	Shamansky
Dougherty	Lott	Simon
Downey	Lowry (WA)	Smith (IA)
Duncan	Luken	Snowe
Dwyer	Lundine	Solarz
Dyson	Madigan	Stanton
Edwards (AL)	Markey	Stark
Edwards (CA)	Martinez	Stenholm
Edwards (OK)	Matsui	Stokes
Emery	Mattox	Stratton
Evans (IA)	Mavroules	Swift
Fary	Mazzoli	Tauke
Fascell	McClory	Traxler
Fazio	McDade	Udall
Ferraro	Mica	Vander Jagt
Fish	Michel	Vento
Flippo	Mikulski	Walgren
Foglietta	Miller (CA)	Watkins
Foley	Miller (OH)	Waxman
Ford (MI)	Mineta	Weaver
Forsythe	Minish	Weiss
Fowler	Moakley	White
Frenzel	Mollohan	Whitley
Frost	Montgomery	Wilson
Garcia	Morrison	Wirth
Gaydos	Murphy	Wolpe
Gejdenson	Murtha	Wright
Gephardt	Nelson	Wyden
Gibbons	Nichols	Young (AK)
Glickman	Oberstar	Young (MO)
Gore	Obey	Zablocki
Gramm	Panetta	Zeferetti
Gray	Patman	
Guarini	Patterson	

NAYS—197

Anderson	Daschle	Gradison
Andrews	Daub	Green
Ashbrook	Davis	Gregg
Badham	Deckard	Grisham
Bailey (MO)	DeNardis	Gunderson
Barnes	Dickinson	Hagedorn
Bereuter	Dreier	Hall (OH)
Bethune	Dunn	Hall, Ralph
Bevill	Eckart	Hall, Sam
Bliley	Edgar	Hamilton
Boner	Emerson	Hammerschmidt
Bouquard	English	Hansen (ID)
Broomfield	Erdahl	Heckler
Brown (CO)	Erlenborn	Hendon
Campbell	Ertel	Hiler
Carman	Evans (DE)	Hillis
Carney	Evans (GA)	Hollenbeck
Chappell	Evans (IN)	Holt
Chappie	Fenwick	Hopkins
Clausen	Fiedler	Horton
Clinger	Fields	Hubbard
Coleman	Findley	Hughes
Collins (IL)	Fithian	Hunter
Corcoran	Florio	Hutto
Courter	Fountain	Hyde
Coyne, James	Frank	Jeffries
Craig	Fuqua	Johnston
Crane, Daniel	Gilman	Kastenmeier
Crane, Philip	Gingrich	Kazen
D'Amours	Goldwater	Kemp
Daniel, R. W.	Gonzalez	Kildee
Dannemeyer	Goodling	Kindness
Kramer	Nowak	Smith (NE)
LaFalce	Ottinger	Smith (NJ)
Lagomarsino	Oxley	Smith (OR)
Leach	Parris	Snyder
LeBoutillier	Pashayan	Solomon
Lent	Paul	Spence
Levitas	Perkins	St Germain
Lewis	Petri	Stangeland
Livingston	Porter	Staton
Lowery (CA)	Ratchford	Studds
Lujan	Rinaldo	Stump
Lungren	Ritter	Synar
Marlenee	Roberts (KS)	Tauzin
Marriott	Roberts (SD)	Taylor
Martin (IL)	Robinson	Thomas
Martin (NC)	Roe	Trible
Martin (NY)	Rogers	Volkmer
McCollum	Roth	Walker
McCurdy	Roukema	Wampler
McDonald	Rousselot	Washington
McEwen	Rudd	Weber (MN)
McGrath	Santini	Weber (OH)
McHugh	Sawyer	Whitehurst
McKinney	Schulze	Whittaker
Mitchell (NY)	Sensenbrenner	Whitten
Molinari	Shannon	Williams (MT)
Moore	Sharp	Williams (OH)
Moorhead	Shaw	Winn
Mottl	Shelby	Wolf
Myers	Shumway	Wortley
Napier	Shuster	Wylie
Natcher	Skeen	Yatron
Neal	Skelton	Young (FL)
Nelligan	Smith (AL)	

NOT VOTING—29

Bafalis	Dymally	Mitchell (MD)
Beard	Early	Moffett
Blanchard	Ford (TN)	O'Brien
Bonior	Ginn	Oakar
Brown (OH)	Hansen (UT)	Pepper
Burton, John	Jones (TN)	Rahall
Clay	Leath	Siljander
Collins (TX)	Lee	Smith (PA)
Dornan	Marks	Yates
Dowdy	McCloskey	

□ 2030

The Clerk announced the following pair:

On this vote:

Mr. O'Brien for, with Mr. Beard against.

Mr. FARY changed his vote from "nay" to "yea."

So the motion was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MOTION TO INSTRUCT CONFEREES

Mr. CONABLE. Mr. Speaker, I offer a privileged motion.

The SPEAKER. The Clerk will report the motion.

The Clerk read as follows:

Mr. CONABLE moves that the managers on the part of the House, at the conference on the disagreeing vote of the two Houses on the bill H.R. 4961, be instructed to insist that the conference report result in attainment of expenditure reduction levels no lower than those required by the conference report on the first concurrent resolution on the budget for fiscal year 1983, and revenue raising levels equal to those required for fiscal year 1983 by the conference report on the first concurrent resolution on the budget for fiscal year 1983.

The SPEAKER. The gentleman from New York (Mr. CONABLE) is recognized for 1 hour.

Mr. CONABLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to reassure my colleagues I will not take the full hour explaining this comparatively simple motion to instruct.

It is my intention that the conferees should have ringing in their ears as they go to conference the instructions of the House that they comply with the requirements of the budget in their deliberations.

It is going to be a difficult conference at best and it would be easy to simply back off the expenditure reduction requirements which are involved in the Senate bill, and which have been generally met by the Senate, or to back off the revenue raising requirements of the budget also.

It seems to me that it would be a good idea for everyone to understand from the start that we take our responsibilities seriously in this conference.

Mr. Speaker, obviously the conference is a controversial institution, as we can judge from the last vote, and it should be an exemplary effort on the part of the conferees to achieve the goals of the Budget Act.

Mr. Speaker, I yield, for purposes other than for amendment, to the distinguished chairman of the Ways and Means Committee, the gentleman from Illinois (Mr. ROSTENKOWSKI).

Mr. ROSTENKOWSKI. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I have consistently found objectionable instructing conferees to be bound by instructions. However, in this unusual instance I think that in the spirit of cooperation that we could very well stay within the constraints of the budget resolutions, and I find no objection to the gentleman's motion to instruct.

Mr. CONABLE. Mr. Speaker, I move the previous question on the motion.

The previous question was ordered.

The SPEAKER. The question is on the motion to instruct offered by the gentleman from New York (Mr. CONABLE).

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WALKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 299, nays 89, not voting 46, as follows:

[Roll No. 225]

YEAS—299

Addabbo	Bennett	Brown (CA)
Albosta	Bereuter	Brown (CO)
Alexander	Bethune	Broyhill
Andrews	Bevill	Burgener
Annunzio	Biaggi	Butler
Anthony	Bliley	Byron
Applegate	Boland	Campbell
Aspin	Bolling	Carman
Atkinson	Boner	Chappell
AuCoin	Bonker	Chappie
Bailey (PA)	Bouquard	Cheney
Barnard	Bowen	Chisholm
Barnes	Breaux	Clausen
Bedell	Brinkley	Clinger
Benedict	Brodhead	Coats
Benjamin	Broomfield	Coelho

Coleman	Hightower	Peyser
Collins (IL)	Hiler	Pickle
Conable	Hillis	Porter
Conte	Holland	Price
Conyers	Holt	Pritchard
Corcoran	Horton	Pursell
Coughlin	Howard	Quillen
Coyne, James	Huckaby	Railsback
Coyne, William	Hughes	Rangel
Daniel, Dan	Hunter	Ratchford
Daniel, R. W.	Hutto	Regula
Daschle	Hyde	Reuss
Daub	Ireland	Rhodes
Davis	Jeffords	Ritter
de la Garza	Jeffries	Roberts (KS)
Deckard	Jenkins	Roberts (SD)
DeNardis	Jones (NC)	Robinson
Derwinski	Jones (OK)	Roe
Dickinson	Kennelly	Roemer
Dicks	Kindness	Rogers
Donnelly	Kogovsek	Rose
Dougherty	Kramer	Rosenthal
Downey	Lagomarsino	Rostenkowski
Duncan	Lantos	Roth
Dunn	Latta	Roukema
Dwyer	Leach	Rudd
Dyson	LeBoutillier	Russo
Edwards (AL)	Lehman	Santini
Edwards (OK)	Lent	Sawyer
Emerson	Levitas	Schneider
Emery	Lewis	Schulze
English	Livingston	Sensenbrenner
Erdahl	Loeffler	Shamansky
Erlenborn	Long (LA)	Sharp
Ertel	Long (MD)	Shaw
Evans (DE)	Lott	Shelby
Evans (GA)	Lowery (CA)	Simon
Evans (IA)	Lujan	Skeen
Fary	Madigan	Skelton
Fascell	Markey	Smith (AL)
Fazio	Marlenee	Smith (NE)
Fenwick	Marriott	Snowe
Ferraro	Martin (IL)	Spence
Fiedler	Martin (NC)	St Germain
Fields	Martin (NY)	Stangeland
Findley	Martinez	Stanton
Flippo	Matsui	Stenholm
Florio	Mattox	Stratton
Foglietta	Mavroules	Stump
Foley	Mazzoli	Swift
Forsythe	McClory	Synar
Fowler	McCollum	Tauke
Frenzel	McCurdy	Tauzin
Frost	McDade	Taylor
Fuqua	McEwen	Thomas
Garcia	McHugh	Traxler
Gaydos	McKinney	Trible
Gejdenson	Mica	Udall
Gephardt	Michel	Vander Jagt
Gingrich	Miller (CA)	Volkmer
Glickman	Miller (OH)	Walgren
Goldwater	Mineta	Wampler
Goodling	Minish	Washington
Gore	Mitchell (NY)	Watkins
Gradison	Moakley	Weaver
Gramm	Molinari	Weber (MN)
Gray	Mollohan	Weber (OH)
Gregg	Montgomery	White
Grisham	Moore	Whitehurst
Guarini	Moorhead	Whitley
Gunderson	Morrison	Whittaker
Hagedorn	Mottl	Wilson
Hall (OH)	Murphy	Winn
Hall, Sam	Myers	Wirth
Hamilton	Neal	Wolf
Hammerschmidt	Nelligan	Wortley
Hance	Nelson	Wright
Hansen (ID)	Obey	Wyden
Hartnett	Oxley	Yatron
Hatcher	Panetta	Young (AK)
Hefner	Pashayan	Young (MO)
Heftel	Patman	Zablocki
Hendon	Patterson	Zeferetti
Hertel	Petri	

NAYS—89

Akaka	Craig	Dreier
Anderson	Crane, Daniel	Eckart
Ashbrook	Crane, Philip	Edgar
Bailey (MO)	D'Amours	Edwards (CA)
Beilenson	Dannemeyer	Evans (IN)
Brooks	Dellums	Fithian
Burton, Phillip	Dingell	Ford (MI)
Carney	Dixon	Fountain
Courter	Dorgan	Frank
Gilman	McGrath	Shannon
Gonzalez	Mikulski	Shumway
Green	Napier	Shuster
Hall, Ralph	Natcher	Smith (IA)
Harkin	Nowak	Smith (NJ)
Hawkins	Oberstar	Smith (OR)
Heckler	Ottinger	Snyder
Hollenbeck	Parris	Solarz
Hopkins	Paul	Solomon
Hoyer	Pease	Staton
Hubbard	Perkins	Studds
Jacobs	Rinaldo	Vento
Johnston	Rodino	Walker
Kastenmeier	Rousselot	Waxman
Kazen	Roybal	Weiss
Kemp	Sabo	Whitten
Kildee	Savage	Williams (MT)
LaFalce	Scheuer	Wolpe
Leland	Schroeder	Wylie
Lungren	Schumer	Young (FL)
McDonald	Seiberling	

NOT VOTING—46

Archer	Dymally	Moffett
Badham	Early	Murtha
Bafalis	Fish	Nichols
Beard	Ford (TN)	O'Brien
Bingham	Gibbons	Oakar
Blanchard	Ginn	Pepper
Boggs	Hansen (UT)	Rahall
Bonior	Jones (TN)	Richmond
Brown (OH)	Leath	Siljander
Burton, John	Lee	Smith (PA)
Clay	Lowry (WA)	Stark
Collins (TX)	Luken	Stokes
Crockett	Lundine	Williams (OH)
Derrick	Marks	Yates
Dornan	McCloskey	
Dowdy	Mitchell (MD)	

□ 2050

Messrs. DANNEMEYER, SOLOMON, PHILIP M. CRANE, DANIEL B. CRANE, ANDERSON, and FOUNTAIN changed their votes from "aye" to "no."

So the motion to instruct was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER. The Chair appoints the following conferees:

From the Committee on Ways and Means for the entire bill and the Senate amendment and modifications committed to conference, with the exception of subtitle B (medicaid) of title I and title IV (Airport and Airway System Development) except for section 406 (e) of that title and with the exception of section 395 of the Senate amendment and modifications committed to conference: Messrs. ROSTENKOWSKI, GIBBONS, PICKLE, RANGEL, STARK, CONABLE, DUNCAN, and ARCHER.

From the Committee on Energy and Commerce solely for the consideration of subtitle B of title I (medicaid), of the Senate amendment and modifications committed to conference and subtitle C of title I (Utilization and Quality Control Peer Review) of the Senate amendment and the modifications committed to conference and such parts of subtitle A (medicare) of title I of the Senate amendment and modifications committed to conference that relate to amendments to the supplementary medical insurance program authorized under title XVIII of the Social Security Act and solely for consideration of section 395 of the Senate amendment and modifications committed to conference: Messrs. DINGELL, WAXMAN, SCHEUER, BROYHILL, and MADIGAN.

From the Committee on Public Works and Transportation solely for the consideration of title IV of the Senate amendment and modifications committed to conference with the exception of sections 406 (e) and 407 (b) of that title: Messrs. MINETA, ANDERSON, LEVITAS, OBERSTAR, CLAUSEN, SNYDER, and HAMMERSCHMIDT.

From the Committee on Science and Technology solely for the consideration of section 407 (b) of title IV of the Senate amendment and modifications committed to conference: Messrs. FUQUA, GLICKMAN, and WINN.

THE 60TH ANNIVERSARY OF U.S. RECOGNITION OF THE BALTIC STATES

The SPEAKER pro tempore (Mr. SEIBERLING). Under a previous order of the House, the gentleman from Pennsylvania (Mr. DOUGHERTY) is recognized for 60 minutes.

GENERAL LEAVE

Mr. DOUGHERTY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include therein extraneous material, on the subject of my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DOUGHERTY. Mr. Speaker, 60 years ago on this date, the U.S. Government officially recognized the three Baltic Republics of Estonia, Lithuania, and Latvia. These Baltic States had been independent for approximately 4 years, and the United States felt in 1922 that it was time to welcome Estonia, Lithuania, and Latvia into the international arena. From that moment in 1922, these new nations achieved even greater legitimacy and established a firm basis for their right to exist.

These small countries, when grouped together, occupy about the same amount of territory as New England. Yet, they have given the world much through their culture and knowledge, and will continue to do so in the future.

When the Baltic States first became independent, they were constantly under pressure from their two powerful and aggressive neighbors, Germany and Russia. Estonia, Lithuania, and Latvia were the object of many political quarrels between the two huge countries nearby, who fought over the natural resources available in the area.

Eventually, as everyone here tonight knows, the Russians entered the Baltic

States and took control of the governments. At that time, the many Balts who protested were arrested, sent out of the country, or killed.

Here in the United States, it is difficult to realize how hard the struggle for freedom has been for the Baltic people. But we cannot forget that not long ago, we Americans were oppressed by colonial overlords. However, with some assistance from friendly nations, we carried through a revolution and established our freedom as the United States of America. Thus it is incumbent on us to vocally support those people whose nations have been forcibly invaded and occupied. The inhumane actions of the Soviet Union cannot be legitimized simply by waiting for the nations of the West to forget all about the Baltic States.

For that reason, we have introduced a resolution in the House, House Resolution 526, which reaffirms the U.S. recognition of the Baltic States in 1922. Forty-four Members of the House have cosponsored this resolution, and I am confident that many more will do so in the near future. When this measure is passed by the House of Representatives, it will send a strong signal to the Soviet Union that we have not forgotten the plight of the Baltic nations. I would like to enter the text of the resolution into the RECORD.

□ 2100

H. RES. 526

Whereas the Baltic States of Estonia, Latvia, and Lithuania gained their independence and were officially recognized by the United States in 1922;

Whereas the Soviet Union has illegally occupied the Baltic States since 1941, thereby denying Estonia, Latvia, and Lithuania their rightful independent status;

Whereas the Soviet Government has refused to allow the freedom of the Baltic people and has violated the human rights of those people;

Whereas the people of the United States have consistently supported a free Estonia, Latvia, and Lithuania through their elected representatives in Congress; and

Whereas July 28, 1982, marks the sixtieth anniversary of diplomatic recognition of the Baltic governments; Now, therefore, be it

Resolved, That the House of Representatives reaffirms its commitment to the freedom and independence of the Baltic governments of Estonia, Latvia, and Lithuania and supports the continued recognition of such governments by the United States.

In the meantime, we in the United States will officially designate the Baltic States as independent countries on American maps. Earlier today, I introduced an amendment to the Department of Defense authorization bill calling on the Defense Mapping Agency to specifically label the Baltic nations as independent countries, not as territories of the Soviet Union. I would like to enter the text of the amendment in the RECORD as well:

AMENDMENT TO H.R. 6030, AS REPORTED OFFERED BY MR. DOUGHERTY OF PENNSYLVANIA

At the end of the bill, add the following new section:

DESIGNATION OF ESTONIA, LATVIA, AND LITHUANIA ON DEFENSE MAPS

SEC. 902. None of the funds appropriated pursuant to an authorization of appropriations in this Act may be used to prepare, produce or purchase any map showing the Union of Soviet Socialist Republics that does not—

(1) show the geographic boundaries of Estonia, Latvia, and Lithuania and designate those areas by those names;

(2) include the designation "Soviet Occupied" in parenthesis under each of those names; and

(3) include in close proximity to the area of the Baltic countries the following statement: "The United States Government does not recognize the incorporation of Estonia, Latvia, and Lithuania into the Soviet Union".

Mr. Speaker, with my colleague and cochairman BRIAN DONNELLY, the Ad Hoc Congressional Committee on the Baltic States and Ukraine has been working to gain the support of the House for these amendments, resolutions, and letters for Baltic freedom. We will continue to work in this regard every year until the Baltic States are independent once again.

● Mr. HERTEL. Mr. Speaker, I thank my colleagues Mr. DOUGHERTY and Mr. DONNELLY for calling a special order for, today, the 60th anniversary of this Nation's continuing diplomatic recognition of the Baltic States.

On June 14, 1940, during the early days of World War II the Soviet Union fulfilled its end of the bargain struck in the infamous Molotov-Ribbentrop act of August 1939. The Soviet Army marched into the Baltic Republics, violating the neutrality of these nations, and effectively sealed the nations of Estonia, Latvia, and Lithuania off from the prying eyes of Western media and the governments of the West. In Lithuania alone the Soviets used more than 300,000 troops along with armor and aircraft; that is one soldier for every 12 inhabitants of the country. The Soviets immediately formed a puppet regime and called it the Lithuanian People's Government. The legislature, now dominated by Communist Party members, petitioned the Supreme Soviet of the U.S.S.R. to incorporate Lithuania, and the Soviets were ready to comply—on August 3, 1940, Lithuania was designated a Soviet republic. Estonia and Latvia were also summarily dealt with and became Soviet republics. I am proud that the United States Government has consistently refused to recognize such a blatant violation of international law. It is not just a matter of principle, but also a matter of public education that we continue our diplomatic recognition of the Baltic States.

It has been 42 years since the Soviet Union perpetrated this great fraud against their neighbors. An entire generation has been born and grown up without any first hand experience or memory of World War II. It is, therefore, essential that the public be reacquainted with the events of the last European war. Time has not altered the basic principle that a great injustice was committed and remains unsettled. Although we cannot bring about a resolution now, a time will come when the Baltic States will be able to rejoin the family of independent nations. This latest period of foreign occupation and domination is just an interlude in the long history of the Estonians, Latvians, and Lithuanians. During some centuries the Baltic peoples lived freely and during some they suffered the iron hands of foreign tyrants. It is interesting to note that Lithuania has in the past enjoyed a longer period of freedom and independence than our Nation has existed. Fiercely independent in their thinking and very stubborn, I have no doubt that the Baltic nations will see an end to Soviet repression.

In the meantime, the United States must do its share to keep the issue of Baltic independence on the agenda of world politics. The people of the Baltic nations are doing their part in resisting sovietization and russification of their national character, their belief systems, their democratic spirit.

Nations made up of small industrious farmers, the Baltic States before the outbreak of World War II would have seemed familiar and comfortable societies for Thomas Jefferson and John Adams. Everyone had a stake and interest in developing their societies and raising their standard of living. As soon as the Soviet army arrived and the incorporation was declared, the Soviets began a systematic campaign of violence against the populations of these nations. The Soviets needed to wipe out any opposition to the new order and to consolidate their position in the newly acquired territories. By way of note, we know from Soviet maps captured during World War II that the Soviets had designs on the Baltic States long before they actually invaded those countries. Over 665,000 Estonians, Latvians and Lithuanians were deported to Siberia and thousands more killed in the war with the Baltic guerrillas who took to the forests to establish a network of armed opposition to the Soviets. Of course, more people were killed when the front changed and Nazi Germany invaded her old ally the Soviet Union. So many people were lost during the war that the Baltic countries are only now regaining the population figures they had before the war. Of course, the population mix has changed and the nations are in threat of being swamped by settlers from other Soviet territories.

When the Soviets returned the second time in 1944, they were determined to stay and began a brutal plan of collectivizing the countryside. Farmers were forcibly evicted and deported, more troops than ever were brought in to destroy the guerrilla movement. Even so, the partisans continued their struggle until the early 1950's when isolated by numerous divsions many in the resistance movement gave up their arms in an amnesty program offered by the Soviets.

Over the years the Baltic peoples have found their own ways to resist the Soviet plan to alter their historic paths of economic and social development. One of the institutions which has grown up to be a real thorn in the side of Soviet rule has been the chronicle of the Catholic Church in Lithuania and the Church of the Catacombs which it represents. The Chronicle has managed to publish a record of Soviet violations of religious freedoms for 10 years now. It is true samizdat literature, being copied by hand or on typewriters and circulated to whoever will risk wrath of the Soviets. As the ranks of the leadership are thinned by KGB arrests and prison sentences, new people step forward to carry on the work of the Chronicle.

The Helsinki watchdog committees in the Baltic also attest to the gutsiness of their peoples. There are presently over a thousand Batlic political prisoners known to Western sources. We cannot abandon these people; they have already demonstrated their determination for freedom and their willingness to do what is necessary to keep their national characters intact. The least we can do is remind the world that there once were free and independent states on the eastern coast of the Baltic Sea.●

● Mr. DONNELLY. Mr. Speaker, I commend my colleague, the gentleman from Pennsylvania, for calling today's special order on the anniversary of a unique American diplomatic tradition that has remained in force over the past 60 years, that being our recognition of the free, legitimate governments of Estonia, Latvia, and Lithuania in office at the time of the brutal Soviet annexation of those nations. Many of our colleagues in the House and the Senate have signed a letter to Soviet President Brezhnev on this occasion, calling for an immediate end to the illegal occupation of the Baltic States.

I insert the text of the Congressional letter to Soviet President Brezhnev at this point in the RECORD.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., July 28, 1982.

Chairman LEONID BREZHNEV,
The Presidium, The Kremlin,
Moscow, U.S.S.R.

DEAR MR. PRESIDENT: Today, the United States marks the 60th anniversary of its continuous recognition of the free governments of Estonia, Latvia, and Lithuania. For the past 41 years, through each administration, this tie has been maintained in the face of the illegal occupation of the Baltic States by the Soviet Union. This occupation by force has prevented the Estonians, Latvians and Lithuanians from exercising their internationally-guaranteed right to self-determination.

The people of the United States, through the efforts of their Representatives in the House and Senate, have consistently supported a free Estonia, Latvia, and Lithuania. In successive Congresses, through individual statements and resolutions, representatives from both political parties have risen to demand a restoration of the Baltic States' rightful place in the international community. We in the United States are committed to an international community based on the principle of justice and grounded in respect for human dignity.

We, the undersigned members of the House of Representatives and the Senate, firmly support our government's continued recognition of the free and legitimate governments of Estonia, Latvia, and Lithuania. The ties that bind the American people to the Baltic States are strong and lasting. We reissue the call on this 60th anniversary for an immediate end to the illegal occupation of the Baltic States by the Soviet Union, and we look forward to the restoration of freedom in the Baltic States.●

● Mr. PEYSER. Mr. Speaker, we cannot take for granted the importance of our support for the Baltic States. In our own country, we cherish freedom and, most importantly, enjoy its rewards and benefits. However, the people of Estonia, Latvia, and Lithuania can only dream of freedom in their current situation of Soviet occupation. Their day-to-day struggle to keep their linguistic, ethnic, and religious identities prevent them from experiencing true liberty. At this time I wish to commemorate the 60th anniversary of our country's recognition of the free Baltic States. The people of Estonia, Latvia, and Lithuania desire freedom and have prospered under its abilities and values in the past.

Between World War I and II, the three Baltic States surpassed their pre-1914 standards of living through hard work and a dedication to democratic principles. Their belief in individual freedom promoted a cultural renaissance and allowed them to independently assume the obligations of a sovereign state in the international community with the exchange of diplomatic representatives. The rush of Hitler's army brought the end of independence for the three Baltic nations. The German army defeat allowed the Soviet power to establish their own preferred system of government.

The people of Estonia, Latvia, and Lithuania have not forgotten the value of democracy, despite a Soviet campaign of massive deportation to replace Baltic citizens with Russian stock. Their personal desire for genuine freedom fuels their current struggle for independence. We must continue to demonstrate our resounding disapproval of the Soviet Union's policies in Estonia, Latvia, and Lithuania, and increase the pressure on the Soviet Union until the same inalienable rights that we are devoted to in the United States also become the source of satisfaction for the Baltic people.●

● Mr. MOAKLEY. Mr. Speaker, July is traditionally a month of festive celebration of the virtues of liberty and freedom. Of course, every July 4 we in the United States mark the signing of the Declaration of Independence. For the people of France, July 4 is Bastille Day, an asserting of their independence from tyrannical and autocratic rule. While fortunate people who possess liberty and freedom celebrate the month of July, countless others find that July brings no relief from the dark cloud of oppression that lingers over their heads. Today, we focus our attention upon the people of Estonia Latvia, and Lithuania, who, like too many people in our world, must continually suffer under brutal repression and injustice.

The suppression of the Baltic States is an occurrence which has become all to common in today's world. The people of Estonia, Latvia, and Lithuania are denied their most basic human rights, including the right to express their beliefs, the right to participate in self-government, the right to freely travel, and the right to worship, free of degradation and fear. However, in spite of hardship, the Baltic people continue to strive for liberty and freedom.

Today, on the 60th anniversary of the United States' recognition of the Baltic governments of Estonia, Latvia, and Lithuania, it is appropriate that we salute the bold people of these nations. This recognition is a fitting tribute to their valiant attempts to secure liberty and justice in their respective countries.

Mr. Speaker, we are a proud Nation, one with a long-standing heritage of democratic and humanitarian principles and values. Given this tradition, we hold a special place in our hearts for the people of the Baltic States. Through their perserverence, they lend credence and meaning in the very concept of human rights—dignity, decency, and freedom from tyranny.●

● Ms. FERRARO. Mr. Speaker, today the United States marks the 60th anniversary of its continuous recognition of the free Baltic governments of Estonia, Latvia, and Lithuania.

The U.S. Government has never recognized the occupation of the Baltic States by the Soviet Union. The United States has never given up the principles of political freedom and self-determination for Estonia, Latvia, and Lithuania. American support for Baltic causes is traditionally important and right.

Over 40 years of oppression has not destroyed the strength of the Balts.

Although Soviet tyranny over Estonia, Latvia, and Lithuania continues today, it has not succeeded in crushing the independent spirit of their citizens, who stubbornly resist the attempted obliteration of their linguistic, ethnic, and religious identities.

The Soviet invasion of Afghanistan and the events in Poland, as well as the campaigns against dissidents, have shown time and again Soviet brutalities in the treatment of the peoples they have invaded. The time has come for an end to the Soviet occupation of Baltic soil. I, therefore, urge my colleagues to join with other freedom-loving peoples throughout the world in support of a restoration of the Baltic States' rightful place in the international community.

Mr. Speaker, we must all support the struggle of the Baltic people to reachieve independence. The Estonian, Latvian, and Lithuanian cultures go back for thousands of years, and deserve not to be ignored—or forgotten.●

● Mr. McHUGH. Mr. Speaker, I am proud to salute the brave and freedom-loving people of Estonia, Latvia, and Lithuania today, and to join in observing the 60th anniversary of U.S. recognition of the free and independent life these nations attained after the First World War.

These three nations—ancient in their history and languages and of critical significance in the shaping of modern Europe—flourished in the period of independence that followed the First World War. The United States brought honor on itself by the cordial and productive relationship it enjoyed with the Baltic States, and was enriched by its friendship with the Baltic peoples.

As a free man, I am proud of my country for its unbroken record of support for the right of the Baltic States to territorial sovereignty, political self-determination, and fully independent life. Ever since the Soviet Union forcibly absorbed the three countries in a naked act of aggression in 1940, the United States has refused to recognize the validity of the Soviet aggression and has continued to recognize the legitimate governments of Estonia, Latvia, and Lithuania through their diplomatic representatives in our country.

The people of the Baltic republics continue to demonstrate that, even under the Soviet subjugation that persists to this day, they thirst for liberty and continue to make dramatic sacrifices in pursuit of freedom. The United States is itself honored when it honors the people of Estonia, Latvia, and Lithuania for their bravery and supports the right of these nations to full and vital membership in the family of free nations. The example of their dedication to liberty inspires our own efforts to dedicate ourselves to the preservation and survival of liberty for all those who aspire to it.●

● Mr. RUSSO. Mr. Speaker, it is with a sense of both privilege and concern that I call your attention to an occasion which deserves our special consciousness. For today marks the passing of six decades since the United States first recognized the Baltic governments, of Estonia, Latvia, and Lithuania.

In one sense it is a somber moment, an occasion for sober reflection. For a survey of Baltic history recalls years of struggle; it recalls the inestimable hardship which scars the Baltic past. But today is also a celebration of our commitment to freedom and the brave Baltic people.

Baltic peoples have known the brutality of two wars, and of two aggressors whose ruthlessness remains unparalleled in human experience. There have been the deportations, the uprooting of people whose fierce nationalism proved a threat to those who would attempt to subjugate them.

The Estonian, Latvian, and Lithuanian peoples have borne a suffering unknown and perhaps incomprehensible to most Americans. Their sorrow has been the denial of freedom, the cold abrogation of the right to determine their nations' destinies. Sadly enough, even today the right to freedom, to self-determination remains unacknowledged by a powerful Soviet state.

It is a situation which outrages, which frustrates, and one which can lead to despair. Yet the anguish suffered does not undermine the strength of our commitment. That commitment can remain strong because of the indestructible human qualities of hope, courage, and fierce determination. Today we celebrate those qualities which compel us to pursue justice.

Today, on the 60th anniversary of the U.S. recognition of the Baltic States, I join my colleagues in renewing our commitment to freedom. Twenty years of Baltic independence will not slip quietly into the past. The identities of Latvian, Estonian, and Lithuanian peoples will never be submerged and we demand the justice so deserved by these proud and courageous peoples.●

● Mr. GUARINI. Mr. Speaker, today marks the 60th anniversary of our country's recognition of the Baltic governments of Estonia, Latvia, and Lithuania. The commemoration of this anniversary reflects two noteworthy achievements, the continued U.S. policy of refusing to legitimate the forceful and violent Soviet occupation of these once independent nations and the continued quest for freedom by the people of these Baltic countries.

The world must never forget that the independent nations of Estonia, Latvia, and Lithuania were invaded by the Soviet Union in 1940 and soon thereafter annexed into the Soviet Union. Over the last 40 years citizens of these countries have had to endure tremendous hardship as the U.S.S.R. crushed the economic, religious, and political life of these societies. As if matters were not bad enough, the Soviet Union has been engaged for several years in trying to smother the cultural heritage indigenous to these areas.

By continuing to recognize the legations of the governments of Estonia, Latvia, and Lithuania as being the legal representatives of these Baltic nations, the United States is helping to keep alive the flame of freedom for these countries. We are also honoring the dedication and determination of those citizens in these countries who cherish liberty and freedom, and work to keep the hope alive in the face of overwhelming oppression.

I would like to thank both CHARLES DOUGHERTY and BRIAN DONNELLY, the cochairmen of the Ad Hoc Congressional Committee on the Baltic States and Ukraine for calling this special order today.●

● Mr. BENJAMIN. Mr. Speaker, years of forced incorporation into the Soviet Union have not extinguished the fire of national commitment nor eroded the proud national identification of Estonia, Latvia, and Lithuania.

Only briefly enjoying independence in a long history of subjugation, the Baltic nations still manage to retain their native languages and customs. Recognizing the fiercely independent nature of the Baltic people, the Soviet Union tried to russify the Baltics to dilute the outstanding characteristics of the native population.

Yet the people of the Baltic States have succeeded in retaining their national identity and religion in spite of a long history of adversity.

Both Estonia and Latvia lived under the Teutonic Order of the Sword before being taken over by the Soviet Union. Their culture is Germanic and the vast majority of Estonians and a considerable majority of Latvians are Lutherans.

Lithuania, which almost extended to the Black Sea once, is the most populous Baltic State. It is a Catholic country and was united for centuries to Poland.

The strong sense of hope for independence is fostered by the strong desire of these people to once again shed the yoke of domination. The refusal of the United States and other NATO nations to legally accept Russian authority over the Baltic States is another reason for hope.

I look forward to and pray for the day when the Baltic peoples' hope becomes a reality. Our recognition of the 60th anniversary of U.S. recognition of the Baltic governments of Estonia, Latvia, and Lithuania is important as

a reminder of our commitment to these people. We will continue in our recognition of the Baltic States until they can once again assert their independence and their people can be free of fear and endowed with the right to worship, assemble, speak and govern as they desire.●

● Mr. DERWINSKI. Mr. Speaker, today marks the 60th anniversary of continuous recognition of Lithuania, Lativia, and Estonia by the United States. The people of the Baltic States have over the years fought an ongoing battle against the tyranny of the Soviet Union in trying to maintain their national identity while also trying to illuminate to the free world the atrocities of Soviet communism. Although small countries, the perseverance and dedication of the people must be commended; as should their determination to keep alive the traditions and language of their homeland; especially, as the Soviet Union continues its cultural genocide in its ongoing attempts of russification of these small countries.

The United States has never recognized the illegal annexation of Lithuania, Lativa, and Estonia by the Soviet Union, and continues to voice its opposition to the Soviet Union. However, in international forums, such as the Helsinki Accords and the Madrid Conference, the Soviets masterfully spin their intricate webs of deceit, openly ignoring their promises to human rights, while continuing to harass and imprison those who voice their dissent of Soviet communism.

It is the United States which has allowed the Baltic people a voice through which it can appeal to other free nations of the world; to bring pressure on the U.S.S.R.; and to relinquish its terroristic treatment of Baltic dissidents. Therefore, it is necessary for the United States to continue its policy of nonrecognition, and to further demand the release of political prisoners of Estonian, Latvian, and Lithuanian nationalities from Soviet incarceration and return the right of self-determination and territorial integrity to the Baltic nations.

In commemorating this anniversary, we must recognize the responsibility of the United States to continue to support the cause of the Baltic people seeking to escape the clutches of Soviet communism. Only with the end of political repression, religious persecution, and cultural genocide in these nations can the legitimate aspirations of the Baltic people be fulfulled.

Today with President Reagan in the White House, the Soviets must deal with a new American tact in foreign policy. President Reagan is towing a line that is much tougher than those of his predecessors, and he understands the way in which the U.S.S.R. does business. President Reagan recently deomonstrated his support of the Baltic nations and all other oppressed nations in the Rose Garden signing of the Captive Nations Week Proclamation, a first in its history. The people of Lithuania, Latvia, and Estonia can rest assured that with President Reagan in the White House their message will be heard and that the Soviet Union will hear it also.

Baltic Americans have for many years carried the fight outside of the Baltic States. Their battle has been effective because of the unity and backing of traditional and legitimate exiled organizations. It is these organizations who fully represent the exiled people of the Baltic States and should be so treated. The danger arises when unnecessary factions spring up and break the traditional channels and unity of past gains. Let us hope that the unity of all Baltic people is maintained legitimately and in the direction of continued progress.●

● Mr. BROOMFIELD. Mr. Speaker, today marks the 60th anniversary of the U.S.' recognition of the Baltic governments of Estonia, Latvia, and Lithuania. We in the United States will continue to recognize these governments even as they are immorally and illegally represented by foreign tyrants.

When the Free World was reeling under the onslaught of Hitler and his Nazi armies, Soviet imperialism took advantage of this diversion to invade and occupy the small, neighboring states of Estonia, Latvia, and Lithuania. However, to the Communists' embarrassment, the remaining free peoples of the world did not overlook this unprovoked and heinous act of aggression.

Communist tyranny is no better than Fascist tyranny, and Americans shall never forget nor accept the Soviet occupation and oppression of these countries.

I congratulate my colleagues CHARLES F. DOUGHERTY and BRIAN DONNELLY for their conscientious efforts as cochairmen of the Ad Hoc Congressional Committee on the Baltic States and the Ukraine. The attention that we in America and especially Members of Congress give to the plight of these occupied countries is vitally important. We must diligently press the indictment of the Soviets for this outrageous crime against the people of the Baltic nations. We must keep constantly before the eyes of the world this grave violation of the rights and liberty of men until finally they are free again.●

● Mr. FORD of Michigan. Mr. Speaker, I am pleased to join with my colleagues in commemorating the 60th anniversary of the United States extending full recognition to Estonia, Latvia, and Lithuania as sovereign nations. On this historic anniversary, I also take time to commend the people of the Baltic States for their bravery and courage in resisting the Soviet subjugation of their lands. We must continually remind ourselves that the blessings of liberty which we enjoy so much, are still not guaranteed to all peoples of the world.

On July 23, 1922, Acting Secretary of State Welles said, "The people of the United States are opposed to predatory activities * * * carried out by force." Indeed, we are opposed to any such activities carried against the Baltic States. This belief has been reaffirmed again and again by both Congress and the executive branch.

Mr. Speaker, today, our words and thoughts demonstrate to the captive people of the Baltic States that they are not forgotten; that we are not reconciled to their fate; and above all, that we live and pray for the day when all people are free of oppression and live in peace.●

● Mr. DINGELL. Mr. Speaker, I join with my colleagues in commemorating the 60th anniversary of the U.S. recognition of the Baltic governments of Estonia, Latvia, and Lithuania. It is important that we as a nation reiterate our support for the legitimate independent governments of these captive nations, which by alien aggression and armed force, have been denied the right of self-determination. There is no question that until the rightful claims of the Baltic States and their courageous people are fully recognized, mankind's freedom and peace stand in jeopardy. I voice these concerns in an effort to focus world attention on this enduring problem.●

● Mr. ANNUNZIO. Mr. Speaker, as a member of the Ad Hoc Congressional Committee on the Baltic States and Ukraine, I am proud to join my colleagues in commemorating the 60th anniversary of American recognition of the Baltic States, which include the nations of Estonia, Latvia, and Lithuania.

I cosponsored legislation to designate June 14, 1982, as "Baltic Freedom Day," and similar legislation was passed in the House of Representatives and is now Public Law 97-196. A copy of my resolution follows:

JOINT RESOLUTION DESIGNATING BALTIC FREEDOM DAY

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence; and

Whereas the Baltic Republics have existed as independent, sovereign nations, belonging to and fully recognized by the League of Nations; and

Whereas the people of the Baltic Republics have individual and separate cultures, national traditions, and languages distinctively foreign to those of Russia; and

Whereas the Union of Soviet Socialist Republics (U.S.S.R.) in 1940 did illegally seize and occupy the Baltic Republics and by force incorporate them against their national will and contrary to their desire for inde-

pendence and sovereignty into the U.S.S.R.; and

Whereas the U.S.S.R. since 1940 has systematically removed native Baltic peoples from their homelands by deporting them to Siberia and caused great masses of Russians to relocate in the Republics, thus threatening the Baltic cultures with extinction; and

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom; and

Whereas the people of Lithuania, Latvia, and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights and persecuted for daring to protest; and

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism; and

Whereas the United States, as a member of the United Nations, has repeatedly voted with a majority of that international body to uphold the right of other countries of the world, including those in Africa and Asia, to determine their fates and be free of foreign domination; and

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States the right to exist as independent republics separate and apart from the U.S.S.R. or permit a return of personal, political, and religious freedoms: Now, therefore, be it

Resolved by the Senate and the House of Representatives of the United States of America in Congress assembled, That the Congress of the United States recognizes the continuing desire and the right of the people of Lithuania, Latvia, and Estonia for freedom and independent from the domination of the U.S.S.R. and deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression and that the fourteenth day of June, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people and that the President of the United States be authorized and requested to issue a proclamation for the annual observance of Baltic Freedom Day with appropriate ceremonies and activities.

The U.S. Government refuses to acknowledge the Soviet occupation of the Baltic States, and the House of Representatives unanimously reaffirmed this position in 1975 with the passage of my bill to put the House on record that there has been no change in the longstanding policy of the United States on nonrecognition of the illegal seizure of the Baltic States. But beyond this, the United States must continue to call attention to the issue of Baltic independence in every available forum.

Mr. Speaker, it is my privilege to join with Americans of Latvian, Lithuanian, and Estonian descent in the 11th Congressional District, which I am honored to represent, in the city of Chicago, and all over this Nation, in the commemoration of the 60th anniversary of United States recognition of the Baltic States.●

● Mr. DWYER. Mr. Speaker, for 60 years, the United States has recognized the self-determined governments of the Baltic States of Estonia, Latvia, and Lithuania.

Correspondingly, we have refused to acknowledge any legitimate Soviet presence in these now captive nations.

The Soviet Union took these nations by force in 1940 and a massive arrest of Estonians, Latvians, and Lithuanians took place by Soviet authorities, triggering more than 40 years of Soviet persecution of these valiant peoples.

Our Baltic compatriots are living under a Soviet yoke that includes economic exploitation, denial of religious freedom and total suppression of human rights and liberties.

Baltic recognition is among the most crucial and significant ways our Nation can thwart this Soviet totalitarianism.

Our commitment to the principles of liberty and self-determination requires no less. The people of Estonia, Latvia, and Lithuania have suffered Soviet domination for more than 40 years. A whole new generation has grown to maturity since these Republics were robbed of their independence.

This new generation, however, has not forgotten the dreams of its forefathers and nor should we, as we continue to recognize and strive for a free and self-determined Estonia, Latvia, and Lithuania.●

● Mr. FARY. Mr. Speaker, it is with a deep sense of humility that I join with my colleagues on this 60th anniversary of the U.S. recognition of the Governments of Estonia, Latvia and Lithuania. On this day we are again reminded of the plight of the Baltic States and the realities of Soviet domination. Like the other Eastern European States, Estonia, Latvia and Lithuania have had their sovereignty violated and their freedom suppressed by the Soviet Union. Their domination has been carried beyond that of such nations as Poland and Czechoslovakia, however, for they have been incorporated into the Soviet Union. This Communist regime did not come into power by legal or democratic means, but by Soviet invasion and occupation of the Baltic States. The U.S. Government and her people have refused to recognize the seizure and forced "incorporation" of Estonia, Latvia and Lithuania by the Communists into the Union of the Soviet Socialist Republics. Diplomatic relations continue between the United States and these countries as the United States continues to recognize the legations of those governments as being the legal representatives of the Baltic Nations.

On this historically significant date, Americans must be aware of the tragedy of the Baltic Nations, aware enough to move beyond the tragedy in full and uncompromising support for these entire nations in search of dignity, freedom and self-determination. We must rise as a symbol of hope to help nourish the dreams of dignity where there is degradation, truth where there is violation of conscience, and freedom where there is fear.

There is but one standard of freedom, and its denial in any size or form, in any country in the world, is intolerable. The people of Estonia, Latvia and Lithuania tasted this freedom, and although a whole generation has grown to maturity since the Baltic Nations were robbed of their independence, they have not forgotten the dreams of their forefathers. We must not forget the dreams of ours. The Baltic Nations' struggle is a testimony of strength and courage that our forefathers too shared. The strivings of Estonia, Latvia, and Lithuania provide us with a daily appreciation for the sovereign rights and government by consent which we Americans exercise daily. We must continue to provide these States with inspiration to continue to struggle for these very freedoms which we enjoy.●

● Mrs. FENWICK. Mr. Speaker, I rise today to commemorate the fact that 60 years ago on this date the United States recognized the independence of the Baltic countries of Estonia, Latvia and Lithuania. This was, and continues to be, an important expression of our commitment to freedom and autonomy for all people of the world. Unfortunately, however, the Government of the Soviet Union does not share this commitment, and continues to dominate the political, economic, and social structures of these nations.

The dominance of the Soviet Union over the Baltic countries has occurred for much of the past 60 years, despite the opposition of the citizens of Estonia, Latvia, and Lithuania. The United States is well known as a strong supporter of human rights throughout the world. The situation in the Baltic countries provides another opportunity to demonstrate that we do not turn our backs on those people in need of our aid. It is, therefore, important that President Reagan, Secretary of State Shultz and Assistant Secretary of State for Human Rights Elliott Abrams do all they can to express to the Soviet Government our outrage at its insensitivity to the rights and wishes of the citizens of these Baltic countries.

It would be bad enough if the Soviet activity in Eastern Europe were solely a violation of the principle of fairness and common decency. However, the Helsinki agreements, signed in 1975, guarantee the human rights of world citizens. The Soviet Union's flagrant violation of this important piece of international law, signed by the Soviet

leaders themselves, must not be allowed to go uncriticized and unchallenged. The people of the world have a right to expect the United States to speak out on these matters, we must take every opportunity to do so.

I commend the efforts of my colleagues, Mr. DOUGHERTY of Pennsylvania and Mr. DONNELLY of Massachusetts for their efforts to focus attention on this tragic situation. I hope that other officials of the U.S. Government will follow and express their views to the Government of the Soviet Union.●

● Mr. YOUNG of Florida. Mr. Speaker, for 60 years our Nation has refused to recognize the Soviet occupation of the Baltic nations, and today we reaffirm our support for the brave people of Estonia, Latvia, and Lithuania who continue to live a life deprived of freedom and liberty.

Generations of Baltic citizens have had to live with the nightmare of Soviet tyranny. Many live today who still remember the brutal onslaught and mass killings that resulted in the imposition of the Communist doctrine in these freedom-loving countries. For the younger Baltic people, the overthrow of their country is only a story that has been passed down from generation to generation, but the reality of continuing Soviet human rights violations is a very real and terrifying reminder of their situation.

While my colleagues, the cochairmen of our committee established to monitor the events in the Baltic area, have requested this time to reaffirm our support for the Baltic States, I want to express my thanks to the people of Estonia, Latvia, and Lithuania for being a source of inspiration to me personally and to all of the American people. Their continued quest for freedom in the face of oppressive Communist rule reminds us of the true value of freedom, which is all too often taken for granted in our own great country.

It is my hope that our continued support for these people will someday result in the cessation of Soviet rule in the Baltic lands so that these special friends of ours can fully enjoy the freedom and rights they have fought so hard to gain for the past 60 years.●

● Mr. FISH. Mr. Speaker, today marks the 60th anniversary of the U.S. recognition of the Baltic governments of Estonia, Latvia, and Lithuania. Even though these countries lived in freedom for only 22 years until they were brutally invaded and suppressed by the Soviet Union, the United States continues to recognize the legations of these governments as the legal representatives of the Baltic nations.

As a member of the Ad Hoc Committee on the Baltic States and the Ukraine, I have been making statements on the plight of the people of Lithuania, Latvia, and Estonia for many years. I would like to again take this opportunity to express my deep concern that the Soviet Union live up to its international agreements on behalf of human rights and permit the free expression of culture, religion, and language by the people of the Baltic States. The Soviet Union continues to repress the nationalistic fervor of the Baltic peoples, who have shown great spirit and an irrepressible will to again be citizens of independent nations.

The United States has never recognized the illegal annexation of the Baltic States. Our Government has consistently voiced its opposition to the tyrannical conditions foisted upon the Baltic peoples. It is our continuing responsibility to encourage and foster the principles of freedom, independence, and self-determination which have inspired the people of the Baltic States to continue their struggle for fundamental human rights. I will continue to lend my support to this effort.●

● Mr. CARNEY. Mr. Speaker, I rise today in rememberance of the 60th anniversary of the U.S. recognition of the independent Baltic Governments of Estonia, Lithuania, and Latvia. We mark this day to remind the world of the independence of the Baltic nations that was brutally taken away by the Soviet Union.

The Baltic nations were free and independent states from 1918 until 1940 when the Soviet Union began its brutal occupation and complete annexation of Estonia, Latvia, and Lithuania. To its credit, the United States has maintained a consistent policy of nonrecognition of the Soviet annexation. This anniversary provides an opportunity for us to reaffirm our commitment to freedom and independence for the Baltic States. The Soviet annexation was illegal and barbaric and this repression of the Baltic peoples continues today. However, this continued repression has not crushed the spirit and determination of these strong people to preserve their identity and regain their right to self-determination.

This occasion has a special meaning for me because many of my constitutents have come to the United States from the Baltic nations. They were forced to flee their homelands when the Soviets began their violent occupation. I recently had the honor and pleasure of attending a Baltic festival on Long Island. The day I shared with these fine people reinforced the importance of this issue. The Latvians, Estonians, and Lithuanians suffered greatly under Soviet repression and they came to the United States to be free. However, many of their loved ones continue to suffer in their homelands today. The people of Estonia, Lithuania, and Latvia have maintained a commitment to freedom that should inspire us all. Today is an opportunity for all of us to express our support for them and to renew our commitment to the complete independence of the Baltic nations and an end to the Soviet occupation.●

● Mr. DAUB. Mr. Speaker, once again I rise to call to our attention to plight of the people of Latvia, Estonia, and Lithuania.

These valiant people continue their struggle against Soviet domination, and set a bold example for all oppressed people of the world. Today, July 28, 1982, marks the anniversary of our country's recognition of the Governments of Latvia, Estonia, and Lithuania, and presents us with an excellent opportunity to remind the Soviet Government that we will not cease, nor will the Baltic people, efforts to gain political and religious freedom for all individuals.

I ask my colleagues and all Americans to join me on this occasion to express our support for the struggle of the Baltic people; to let them know that we will continue to work for an end to their oppression, and for a new beginning to their independence and self-determination.●

PENNSYLVANIA TOWN MEETING TRADITION SUFFERS SERIOUS BLOW

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. ERTEL) is recognized for 30 minutes.

Mr. ERTEL. Mr. Speaker, last Saturday the town meeting tradition which many of us find so valuable in communicating with the residents of our congressional districts suffered a serious blow. This bedrock of democratic government normally allows our constituents to come forward without fear of retribution to offer their views, to air their grievances, and to seek assistance.

But during this particular town meeting in the Harrisburg, Pa., area, this spirit of free exchange was violated. Without anyone's knowledge or permission, a campaign operative of my opponent, Pennsylvania Gov. Richard Thornburgh, secretly taped a portion of the exchanges between those in attendance and myself.

This secret taping—taping without the consent of the parties involved—is in most instances a violation of Pennsylvania law. An attached opinion of the American Law Division of the Library of Congress affirms that this particular secret taping could be a criminal offense. According to this opinion, and I quote:

> Under Pennsylvania law the interception, disclosure, or use of wire or oral communications is a felony offense.

And—

A person is guilty of a felony in the third degree if he: Willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire or oral communication . . . an exception to these provisions is provided for interceptions of wire or oral communications "where all parties to the communication have given prior consent to such interception."

In accordance with the CRS opinion, I believe that the action in this instance is a violation of that law. Yet, this violation of the law is nothing compared to the chilling effect this incident will have on my future town meetings, and in all likelihood, the future town meetings of other Pennsylvania Congressmen and other elected public officials. The publicity of this secret taping easily could discourage those constituents who sometimes talk with us on a very personal basis during these meetings. Local residents come to their Congressmen looking for help. They do not come expecting a representative of the Governor, the chief executive of the State, to be recording their remarks for reasons unknown to them.

At this particular meeting, which began at 8:30 on Saturday morning, July 24, a small group of people had gathered to talk with me, just as in the hundreds of other town meetings I have held during my past 6 years in office. One man, a Mr. Bill Bisset of New Cumberland, Pa., came to the meeting with his young boy. They sat in the very front row. Mr. Bisset began to explain to me about a problem he had with a muzzle-loader gun; one apparently had somehow resulted in an injury to his son.

At first, I mistakenly thought Mr. Bisset was leading up to a question about disability insurance, since he had a cast on his arm. When I asked about this, Mr. Bisset said no, and moved closer to me even though he already was in the front row. He was talking to me directly in a low tone of voice. His son moved closer to me, too.

In the meantime, another man, subsequently identified as Gov. Richard Thornburgh's campaign press secretary, came into the room. This gentleman kept his head down as he entered and took a seat to the side of the room and he began diligently to peer into a newspaper where his face remained hidden.

As Mr. Bisset continued to talk about the muzzle-loader issue, my aide came forward and addressed Mr. Bisset and said, "Sir, I think you are being taped."

My aide pointed toward the gentleman whom I had seen enter the room and who had kept his face hidden from me.

Mr. Bisset was very upset, and apparently thought I was taping the meeting and our conversation. When I assured him I was not, both Mr. Bisset and I confronted the man doing the taping.

At this point I thought I recognized the man as being from the Governor's office. He denied it. I then asked if he was with the Governor's campaign office. He said yes. I asked if he was taping the town meeting and, of course, he had to say yes because we had the tape recorder there.

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At that point, Mr. Bisset became even more upset. But we did nothing, except I instructed my aide to call the police.

Because I had prosecuted a similiar case several years ago, I knew, and informed the Governor's press secretary that he was committing a possible crime. While we waited for the police, I tried to continue the meeting. The tape recorder was turned off at that point, or at least I thought so.

As the meeting resumed, the Governor's press secretary got up and began to leave. Mr. Bisset, who had returned to talking to me about the muzzle loader incident with his son, got up, followed the Governor's press secretary and tried to stop him from leaving the premises. As he stopped the man told him he resented being taped without his permission.

Mr. Bisset had pursued the Governor's press secretary into the parking lot, and I proceeded to police headquarters, which was in the same building.

I with a police officer, went to the parking lot to stop the Governor's press secretary from leaving. He did stop his car, at which point we requested that the tape be surrendered as evidence.

He refused to give up the tape and said that he had some reason for keeping it. At that point the police officer asked him to erase the tape and turned to me and asked if the erasure would satisfy me? I told him I had no right to compromise a criminal proceeding.

At some point, Mr. Bisset, who had been visibly upset by the incident wanted to take physical possession of this man. I told him not to do so. However, Mr. Bisset said he would go with the police officer and the defendant to the police station, which was back inside the same building.

I went back to my town meeting. As I said, Mr. Bisset and the Governor's press secretary accompanied the policemen into the police station.

I do not know exactly what happened at the police station, except that I had the occasion to call Mr. Bisset after I was able to identify him by name, because we had never really finished our conversation about the muzzle loader. The story was interrupted because of this incident. When I contacted him, Mr. Bisset told me that when they went back into the police station the Governor's press secretary fooled around with a bunch of buttons on the tape recorder. He heard the tape and he believes that his own voice was on it. And he is not sure to this day whether the tape was erased.

He also indicated again that he had been upset by this incident, because on a previous occasion, just a couple of days earlier, he had gone to Pennsylvania State office to ask about his problem. Someone in the State government had referred him to me. He had subsequently called my office and learned I was having a town meeting.

He was upset because he thought he may have been deliberately sent to the town meeting for purposes other than getting information.

He accosted the Governor's man about this, asking if he knew that he was going to be at this town meeting. Of course, the Governor's press secretary denied it, at which point Mr. Bisset indicated that he had a problem with the Thornburgh administration. The press secretary held up the tape recorder and he told him to speak into it so Thornburg could hear it.

I only point out these facts to give a summary as to what I understand happened in the police station.

Because of this taping incident, Mr. Bisset is the first victim of the chilling effect on my constituents of this kind of activity. Mr. Bisset had approached the State game commission about his problem relating to muzzle loaders, and he is, I have been told, in litigation with the State over this matter. So, he was certainly concerned about the secret taping by the Governor's press secretary. One can understand the content and the context of Mr. Bisset's concern.

I would like to point out that this is the first time, to my knowledge, that one of my town meetings was secretly taped. My town meetings have been recorded by the news media from time to time during my 6 years in the House. News media taping, however, has never been secret and his always been preceded by making an announcement asking if anyone in attendance objected to the press being available to record and take photographs. So the people were always on notice if the press or others were taping the meeting.

But in this most recent incident, the Governor's representative did not announce or ask permission to tape. Apparently he purposely tried to hide his tape recorder in his newspaper.

One of my constituents evidently had seen the tape recorder in the newspaper but never said anything at the time. After the incident took place, that constituent told me of his observation.

This devious activity raises certain questions about how those elected to public office should conduct them-

selves with the powers with which they have been entrusted.

At town meetings, I prefer to discuss issues with my constituents and other interested persons in an informal atmosphere, without fear of government retribution. This informality between myself and my constituents has now been damaged and suspicion of government has been increased because of the underhanded and illegal actions that took place at this town meeting.

At this point, Mr. Speaker, I will insert in the RECORD a copy of the report of the Congressional Research Service of the Library of Congress relating to this event.

The opinion referred to follows:

CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., July 28, 1982.

To: Honorable Allen E. Ertel. Attention: Phillip Rotondi.

From: American Law Division.

Subject: Surreptitious Recording of a Public Meeting as a Possible Violation of Pennsylvania Law.

This will respond to your request for a brief memorandum outlining our conversation of July 28, 1982, on the above subject. During that conversation it was related that an individual had secretly tape-recorded conversations which took place at a recent "town meeting" in Pennsylvania. Specifically you ask whether such conduct might constitute a violation of Pennsylvania wiretapping and electronic surveillance statutes.

Under Pennsylvania law the interception, disclosure, or use of wire or oral communications is a felony offense. Section 5703 of the Pennsylvania Criminal Code provides as follows:

Except as otherwise provided in this chapter, a person is guilty of a felony of the third degree if he:

(1) willfully intercepts, endeavors to intercept, or procures any other person to intercept or endeavor to intercept any wire or oral communication;

(2) willfully discloses or endeavors to disclose to any other person the contents of any wire or oral communication, or evidence derived therefrom, knowing or having reason to know that the information was obtained through the interception of a wire or oral communication; or

(3) willfully uses or endeavors to use the contents of any wire or oral communications, or evidence derived therefrom, knowing or having reason to know, that the information was obtained through the interception of a wire or oral communication. (18 Pa. Cons. Stat. Ann. § 5703 (Purdon 1982-1983)).

An exception to these provisions is provided for interceptions of wire or oral communications "Where all parties to the communication have given prior consent to such interception." (18 Pa. Cons. Stat. Ann. § 5704(4) (Purdon 1982-83)). Under Federal wiretap laws a "one party consent" exception applies to interceptions which are otherwise legal and noninjurious. (18 U.S.C. 2511(2)(d)). However, under Pennsylvania law the consent of just one party to a conversation will only constitute an exception to wiretap prohibitions in law enforcement or investigative matters involving suspected criminal activities. (18 Pa. Cons. Stat. Ann. §5704(2) (Purdon 1982-83)).

The Pennsylvania wiretap statute defines "intercept" as "aural acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical or other device." But while this definition is a broad one, the nature of the "oral communications" protected is restricted. "Oral communication" is defined as "any oral communications uttered by a person possessing an expectation that such communication is not subject to interception *under circumstances justifying such expectation.*" (18 Pa. Cons. Stat. Ann. §5702 (Purdon 1982-83)). (Italics supplied.)

While the taping of conversations at the meeting in question may constitute an "interception" under Pennsylvania law, it is unclear whether the nature of the meeting and assurances given or not given would result in the creation of the requisite expectation. No attempt can fruitfully be made here to assess the likelihood of criminal liability in this case without further details as to the circumstances surrounding the recording. But the absence of a blanket "one party consent" provision in Pennsylvania law creates at least the possibility that criminal liability could attach to the surreptitious taping of conversations intended to have limited circulation.

KENT M. RONHOVDE,
Legislative Attorney.

Mr. ERTEL. Mr. Speaker, I would like to conclude by saying that I will be forwarding a copy of my comments to the attorney general of the State of Pennsylvania for appropriate action. I believe that if we are to have a free society in which people can exchange views with their government they ought to have that opportunity without fear, without the possibility of repercussions and further, without hearing their words come back to them on a tape that they had no idea was being made or used.

Good government requires no less.

I would like to say one additional word about this incident; 8 years ago I prosecuted a mayor of the city of Williamsport and a director of public safety for having engaged in similar activity. At that time I was a prosecutor. I spent 2 years of my life prosecuting that case because I believed it was wrong to take a tape recording misinterpret it, and use it to spread mistrust among people in the community. That particular taping incident caused dissension in that community for years.

Now, I have no idea nor do my constituents how many taping incidents like this have occurred. This particular incident, one that, like the one 8 years ago, is one where the culprits were caught. How many have gone undetected?

I am sending this statement to the Attorney General, and I believe that action should be taken. This kind of conduct is not the kind of conduct that we condone in a free society.

□ 2120

A VICTORY OUT OF DEFEAT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. WEBER) is recognized for 10 minutes.

Mr. WEBER of Ohio. Mr. Speaker, I rise today to pay tribute to the courage and determination of a young man—a 20-year-old named John Muenzer, a student at the University of Toledo who lives with his parents in Maumee, Ohio.

There are people today who say that courage and determination are missing in America's youth. They say that today's youth are not willing to sacrifice or commit themselves to a cause. These people ought to meet John Muenzer.

John Muenzer's cause was to be the first person ever to swim across Lake Erie at its widest point, a distance of 53 miles. Last year he tried but was beaten by stormy waters after 20 miles of swimming against the waves.

Undaunted, this year John Muenzer rigorously trained again, by swimming 8 hours every day, in order to conquer these same waters. Once again last Thursday, with the people of northwestern Ohio anxiously pulling for him, he set out to do what had never been done.

At 3:35 in the afternoon on the Canadian shore at Rondeau Harbor in Erieau, Ontario, John Muenzer waded once again into the formidable waters of our Lake Erie. And for 26 hours and 35 miles he pulled his 6-foot 4-inch body through the waters of Lake Erie. But at the end of that grueling 26 hours he was still 18 miles from his goal and was defeated mostly by the chill temperatures of the Lake Erie water, which his lean body could no longer withstand. So at 5:40 on Friday afternoon his doctor decided to pull him into the boat.

John Muenzer knows and feels the deep disappointment of defeat; but in defeat he has won victory. For John's victory has been won in the admiration and pride that the watching people of northwestern Ohio feel toward this young man. John disappointed us only because his own faith and dedication inspired us to believe that he would succeed—for until John Muenzer said he could do it, no one thought it was possible.

John's victory was won in the hearts of people not in the record books. And for that reason it is a much sweeter prize than record books can ever confer. For records are made and broken often, but few are the times when an athlete wins the hearts of the people of the community that is his home.

John Muenzer won that victory because he is an aquatic pioneer. He has shown us the awesome power of Lake Erie. But more, much more than that, he has shown us dedication, determination, faith, and courage. He has shown us the capabilities and the limitations of the human body and the human spirit. He has vicariously taken us to the outer limit of human endur-

ance. And to me and my constituents—the people of northwestern Ohio and the students of the University of Toledo, where John attends—he has made us proud that we can call him ours.

John is the first to say that the accolades for him need to be shared with those whose support and advice carried him through. His parents, Ray and Florence Muenzer; his good friend Mary Dillon; his teammate on the UT swim team, John Geisler; his coach, Bob Fountain; and his doctor, John Lombardo along with others all made the journey with him aboard the boat which was continually at his side for those 35 miles.

I'm proud that we have young people and young athletes such as John Muenzer, an exceptional person who proved that striving to succeed, rather than fearing failure, is its own vitrue.

Congratulations, John.

TO TARGET DEFENSE CONTRACTS TO LABOR SURPLUS AREAS

Mr. WEBER of Ohio. Mr. Speaker, I rise in strong support of the Stratton amendment to continue the experimental job targeting program of the Defense Logistics Agency, which Congress began in 1981.

If you believe that a strong economy is essential for a strong defense; if you believe that a targeted jobs program such as this, to hold onto jobs in 1,170 areas of high unemployment, strengthens our economy; then my colleagues, you should support this amendment.

I favor a free-market approach to Government, other things being equal. But today we have special circumstances which justify special efforts. I refer to our high unemployment a national problem. Unemployment is not localized; it is dispersed throughout the country. We now have 1,170 areas in 47 different States where unemployment is 20 percent above the national average.

In this amendment we are continuing a program to attack joblessness in a way that President Harry Truman first put into effect in 1952 by Executive order. Until 1981, however, Congress exempted the Department of Defense from this program.

According to data reported by the Defense Logistics Agency for the year 1981, this program is working in the way Congress intended. Out of a total of 5,584 contracts awarded, labor surplus areas received 1,181 of these. Only 248 of these contracts required the payment of any cost differential, and the total differential was only $556,000, or less than 2 percent of the total contracts awarded—$30 million. Add to this cost $174,000 of governmental administrative expense.

These contracts saved or created 1,732 jobs in high unemployment areas. Simple arithmetic shows that the cost per job was only $421 per job.

When we consider what the taxpayers of America pay for some of the other job programs Congress has created, $421 to create or hold onto a job is real leverage. That alone would be reason enough to support this program, but consider also that each person out of work for a year costs the Government $16,000 in unemployment assistance and loss of tax revenue.

Mr. Speaker, I urge support for this jobs program because it is:

First, a cost-effective way to assist the parts of the country which are impacted by high unemployment;

Second, it provides a wider distribution of defense dollars; and

Third, it strengthens our economic base, as we help keep business alive which may otherwise fail.

I urge its passage.

A SALUTE TO THE BALTIC PEOPLES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. GOODLING) is recognized for 5 minutes.

● Mr. GOODLING. Mr. Speaker, for over 40 years the Soviet Union has occupied and oppressed the three Baltic States of Estonia, Latvia, and Lithuania. Each of these countries had its customs, language, and religious traditions ruthlessly attacked in the Soviets' drive to extinguish the flame of nationalism and freedom which despite all odds still burns brightly in the hearts of all the Baltic peoples.

These countries only briefly enjoyed liberty and independence during modern times. Prior to 1917 they were under occupation of the Russian Empire. Since 1940 they have been under the occupation of the Soviet Empire. Whether under tzar or under commissar, the oppression remains the same, and it is an offense to human dignity the world over.

In these present times of potential upheaval, there are many who would have us trust the Soviet Union. The survival of the world is at stake, they claim. Let us not forget, however, that each of the Baltic States had placed its trust in the Soviet Union, signing nonaggression pacts with the mighty Soviet. And now, as a result of Soviet nonaggression those poor countries are held in thrall as they never were under the tzars. Let us not forget all the numbers of Estonians, Latvians, and Lithuanians who were sent to work camps in Siberia, there to work and freeze to death, unclad and undernourished. Let us remember those unfortunate souls and their children when we go to the bargaining table with the mighty Soviet. Let us remember how good his word is. We meet here today to pay tribute to the brave and admirable people of Estonia, Latvia, and Lithuania. We meet to salute their courage. Let us not later act in such a way as to make this salute to the brave Baltic peoples devoid of meaning.●

O'NEIL FORD, ARCHITECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. GONZALEZ) is recognized for 15 minutes.

● Mr. GONZALEZ. Mr. Speaker, O'Neil Ford was beyond doubt one of the finest architects in America, or for that matter, the world. I count it among my greatest blessings to have known O'Neil Ford, to see some of his work, and to live in a community that was deeply touched by his spirit. Now he is gone, and I want to offer a few words in honor of his life and legacy.

O'Neil Ford had a passion for architecture. He was self-trained. No one can say from whence his inspired genius came, but I like to think that it was his lack of inhibition that drove him to create the special style that unmistakably graces a building he designed. A more inhibited man might have lacked the drive to follow the private vision, the inspiration that was Ford's. A more inhibited architect might have given in to the temptation of following convention. Not O'Neil Ford. He knew what he liked, and did what he wanted.

A building by O'Neil Ford is uniquely suited to its place, and to the people who see and use it. A building by O'Neil Ford is not daring, not flamboyant, not startling. Instead, it is comfortable, one that makes you glad you came. A building by O'Neil Ford is likely to have a quiet garden. It is likely to have a special kind of lighting fixture—one made to his specifications, and one that as often as not will be ceramic, one that somehow both fits into and dramatizes the place where it is set. There is a unity about buildings designed by Ford. Whether the building is a classroom, a home, a factory, or a monument, it will have lines that are simple, yet clearly unique. It will have materials that fit the place—that make the building complement its setting. A building by O'Neil Ford is one that makes you comfortable, proud. It makes you know that this is a good place, that it is a design that you won't see just around the corner.

After a while, those of us who live in San Antonio can go to any place in the country and pick out a building that bears the signature of O'Neil Ford. His work is that distinctive, that good.

O'Neil Ford had an absolute passion for his work. Bad architecture was a pain to him, and he never ceased to inveigh against work that was thoughtless, shoddy, intrusive, flashy, or just plain inefficient. He was a man whose

buildings were meant to be efficient, workable, livable.

O'Neil Ford was what we would today call an environmentalist. He was realistic enough to know that anything built by human beings would disturb the earth, but his crusade was against thoughtless and needlessly destructive building. He believed in parks, he believed in cities that have openness and color, places that would enable people to be happy. If something was merely elegant, that would offend Ford. What he wanted was places for people, places that people would understand, accept, places that just plain fit. To Ford, this meant that wholesale destruction of trees and parks in the name of some greater urban good was an inexcusable sin. People need parks, and people need trees. Ford passionately opposed buildings and cities that denied people some kind of feeling for the earth and for each other.

O'Neil Ford probably believed that architects are very much like Antony's Caesar, but with a special difference. The evil architects do most assuredly live after them—but so does the good. The good that O'Neil Ford did is his monument. I do not know of any bad work he ever did. His greatness is not only in the buildings he designed, and they are many. It is in the spirit that he inspired, in the students that he taught, in the people whose lives he enriched. O'Neil Ford left a legacy of strength, of inspiration, of style. It will last as long as there are people who love cities, who appreciate and understand the necessity for buildings that are more than boxes, more than monuments, more than unique. What O'Neil Ford gave us was a passion for buildings that fit, buildings that work, buildings that are so good that you can always tell at a glance which one is a Ford design, which one is from his inspiration, and invariably, that building is the best one for miles around.

O'Neil Ford was a man with a powerful gift and a deep passion for using that gift. I will miss him, his profession will miss him, and his community will miss him. His passing grieves me deeply, but there is comfort in this: I had the pleasure to know him for a while, and his work and style will last always, and his spirit will be multiplied by his students, his gift has been given to us all, and for all time.●

LEGISLATION FOR NEEDED REPAIRS TO CAPE HATTERAS NATIONAL SEASHORE RECREATIONAL AREA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

● Mr. JONES of North Carolina. Mr. Speaker, I am today introducing legislation that will authorize the Department of the Interior to assist the State of North Carolina in providing much needed repair and improvements to the main artery of transportation within the Cape Hatteras National Seashore Recreational Area. Approximately 46 miles of road within this park are in poor condition and some stretches of the road have deteriorated to critical levels. Many depressions in the road and crumbling asphalt along the shoulders have made driving through the national seashore a difficult and dangerous experience for seashore visitors.

I must point out that the road which is the subject of this bill, North Carolina Highway No. 12, is under the jurisdiction of the State of North Carolina. The State maintains a right-of-way within the park to insure that the relatively small number of residents who live on the barrier islands that comprise the national seashore can travel to and from the mainland. However, this road is used primarily by park visitors—not residents. The North Carolina Department of Transportation has computed that 85 percent of the yearly traffic on the road is attributable to park visitors.

I would like to emphasize to my colleagues the uniqueness of this situation. The Cape Hatteras National Seashore encompasses some 75 miles of barrier islands off the coast of North Carolina. The State donated part of this land to the Federal Government for use as a national seashore. Before the State did so, it constructed a paved road that ran the length of the islands in order to provide access for residents and recreational visitors alike. The State continued to repair and maintain the road even after the park Service took over the seashore. Thus, the Park Service has not been required to make expenditures for the construction and maintenance of a separate park road, except for a short, 5-mile section of road at the entrance to the park. Again, 73 miles of road through the park have been constructed and are being maintained by the State of North Carolina, even though the vast majority of traffic on the road has been, for the last 20 years, park traffic.

The National Park Service, within the U.S. Department of the Interior, is in charge of the Cape Hatteras National Seashore. I feel certain that the Park Service and the Department of the Interior share my concern over the condition of North Carolina Highway No. 12, a road which all of their park visitors must use to see the park. Present law, however, would prevent the Interior Department from expending funds for an improvement of the road because the road is technically owned by the State. Simply put, my bill would authorize the Department of the Interior to financially assist the State of North Carolina in the much needed improvement of Highway No. 12. My bill suggests that this be done, but it does not require it. Any terms and conditions of an agreement with the State on this matter would have to be acceptable to the Interior Department.

Many visitors, while they enjoy Cape Hatteras National Seashore, come away distressed at the poor condition of the road within the park. It affects the whole texture of their experience within the park. When the road is wet, depressions fill with water and create serious safety hazards. Without some help from the Interior Department, the situation can only deteriorate. I would, therefore, expect the Interior Department to give a high priority to obtaining an agreement with the State concerning the repair and improvement of this road and requesting funds to do this. The actual appropriations for such a project would be provided no sooner than fiscal year 1984.

The State of North Carolina has done more than its part to improve the road serving this national seashore. It has constructed the road and maintained it for many years. It also provides ferry service for visitors to the park. Park traffic has increased drastically in the last 20 years while resident traffic has remained stable. Even without the assistance of the Department of the Interior, the State of North Carolina in 1980 alone did some $5.3 million worth of repairs and reconstruction on the road. Given that the traffic wear on the road is 85 percent due to park traffic, I believe, that it is only fair to now ask the Interior Department to assist the State in further improving this road.

I ask my colleagues for their strong support of this bill.●

THE PURGE OF JOY SIMONSON

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts (Mr. FRANK) is recognized for 60 minutes.

Mr. FRANK. Mr. Speaker, I am here because I think it would be a very grave error if we allowed to pass unlamented on the floor of this House the decision by the Reagan administration last week to purge Joy Simonson. Joy Simonson was appointed by President Ford, or in the Ford administration, to be Executive Director of the Advisory Council on Women's Education Programs.

We have made an effort in recent years to overcome the discrimination against women that has been endemic in all too many parts of American life. One area where that has been essential has been in education. The inequality that has existed in education clearly has had responsibility for much of the later inequality that continued.

The Advisory Council on Women's Education Programs, indeed the whole complex of organizations and people who work to try and provide equality within education, were all not simply attacked, but I think profoundly repudiated by the Reagan administration last week when a new Advisory Committee was sworn in, with no notice, with an obvious prearranged, orchestrated effort, changed the rules, fired Joy Simonson and hired in her place Rosemary Thomson, whose support for true equality for women is shown by her position as a high-ranking official of Phyllis Schlafly's Eagle Forum.

The administration was careful not simply to fire Joy Simonson for no cause, to repudiate in a very brutal way a woman who has worked hard under both a Republican and a Democratic administration for equality, gave her no chance to respond to any charges against her, but they replaced her with an ally of Phyllis Schlafly, obviously because Phyllis Schlafly has made herself the symbol of the opposition of efforts to provide true equality for women.

Now, this administration says, according to the President, that he is for equal rights, he is simply not for the equal rights amendment. That statement is clearly, flatly, blatantly at odds with the policies of the Reagan administration.

It is not an accident that for the first time in American history every public opinion poll that we have shows a strong disparity in political views between men and women, because the women of this country are not unaware of the extent to which the Reagan administration has tried to turn back the clock on the drive to equality. And the women in this country, by a much greater margin than the men of this country, disapprove of administration policies. It is partly, of course, because of efforts such as the President's effort to explain away unemployment by pointing to what appears to him to be the unfortunate whim of a lot of "ladies" to traipse off to the job market, apparently on a lark, as far as he can see. It is because there has been a systematic retreat from efforts to provide true equality.

To replace a dedicated, able, hardworking woman from the position of executive director of the Advisory Council on Women's Educational Programs with an assistant to Phyllis Schafly, who announced that women who were sexually harassed are themselves at fault for having invited it, is not simply to disrupt the execution of an important program, it is literally to add insult to injury. It is literally to add insult to injury to fire Ms. Simonson in so brutal and political a fashion and to replace her with a representative of the Eagle Forum. And that is, unfortunately, symptomatic of what this administration has done. It is of a piece with the recent removal, for no reason, of Leslie Wolfe, who was transferred away from her position of directing the Women's Educational Equity Act program. Enough pressure was generated so that she was brought back. But it is this kind of consistent assault on the programs and the entities that exist to provide true equality that accounts, in part, for the fact that women are so unhappy with this administration.

□ 2130

Mr. Speaker, the President has got to learn that it is pretty late in the game to try to kid people about something as fundamental as education.

I understand that he has got a political constituency on the far right which resents the notion that women should be equal. I understand that these people on the far right have made things like the Women's Education Equity Act and the agencies that administer it their target. The President has simply got to decide. He can continue to appease them. He can continue to allow a Joyce Simonson to be fired for no reason, a Leslie Wolfe's work to be disrupted by a transfer away from her position, the Eagle Forum to take control of this operation. He can continue to do that. Or he can argue that he seriously is interested in true equality for women. He simply cannot do both. And people understand that.

To date the President has sadly decided that appeasing his far right, appeasing those for whom the notion of human equality without regard to sex before the law is an offense, he has chosen to go with them. He ought not then to be surprised that he finds the women of this country unhappy.

Very few things have more demoralized those people committed to the difficult job of fighting to provide true equality in the educational area, and it is difficult, because at a time when there are cutbacks, as this administration has engineered, when funds for education at the elementary, secondary, and higher education level are being cut back, efforts to equalize become more difficult.

When people are being fired, when programs are being cut back, it is much harder than in an area of expansion to provide equality.

What the President has done has enormously complicated and made more difficult this task. And it simply makes a mockery of his protestations that he is for the equality and the rights but not for the amendment.

What he has done is once again sacrificed the cause of women's equality on the far-right-wing's political altar, and that may serve his political purposes, but it does not serve the needs of women of this country for education.

Mr. Speaker, I would like at this point to insert in the RECORD, along with my remarks, articles from the Chronicle of Higher Education, Judy Mann, Charles Babcock from the Washington Post, which not only described what happened, but which quote a number of important leaders in the movement for educational equity for women—Bernice Sandler and Barbara Stein, along with Willard McGuire, president of the National Education Association.

The articles follow:

[From the Chronicle of Higher Education, July 28, 1982]

REAGAN "POLITICIZING" EDUCATION PANELS, CRITICS CHARGE

(By Cheryl M. Fields)

WASHINGTON.—Within 36 hours of being sworn in last week, the new members of the National Advisory Council on Women's Educational Programs changed the panel's rules, fired its executive director, and chose a new one from among candidates referred by the White House.

Critics charged that the actions were the latest in the Reagan Administration's campaign to "politicize" the supposedly independent councils that advise the Education Department on various issues.

The new executive director of the women's advisory council, Rosemary Thomson, has been a Republican Party campaign worker, has written books on the International Women's Year and the White House Conference on the Family, and since 1975 has been state director in Illinois of the Eagle Forum, an organization founded by the conservative activist Phyllis Schlafly during her campaign against the Equal Rights Amendment.

About an hour after they were sworn in last week, members of the women's advisory council voted to amend its procedures so that its executive director, Joy R. Simonson, could be fired by a majority vote of the members. The original rules called for a written notice and provided an opportunity to appeal. The members, who were appointed by President Reagan in April, then voted 13 to 4 to oust her.

Ms. Simonson said that no "cause" for the firing had been given. "One member said that she couldn't understand how the council could act when the members had never met me," said Ms. Simonson, "but another said she felt that she was familiar with my work since we had sent the new appointees copies of all our reports. She said she doubted that I could carry out the policies or implement the directives that this council would want."

"There was no further substantive discussion," she said.

After the vote to fire Ms. Simonson, the council members appointed a search committee, which spent the afternoon interviewing six candidates to replace her.

In fact, sources at the council meeting said, one candidate for the job appeared at the offices where the council was meeting even before it had voted to fire Ms. Simonson.

The candidates were referred to the council by Wendy Borcherdt, who handles women's issues for Elizabeth H. Dole, assistant to the President for public liaison.

Ms. Simonson was associate director of the Federal Women's Program at the Civil Service Commission and president of the

National Association of Commissions for Women before becoming executive director of the women's advisory council.

The day after the search committee interviewed candidates, the council voted to hire Ms. Thomson as executive director and named Betty Ann Cordoba, an elementary school teacher from Woodland Hills, Cal., chairman.

The council was established by the Women's Educational Equity Act of 1974 to advise federal education officials on ways to achieve educational equity for women. It gives advice not only on the Women's Educational Equity Act program, but also on all federal policies and progams affecting the education of women.

SOME LEADERS ANGERED

Some women's leaders here were angered by the involvement of the White House and by what they viewed as orchestration of the council members' moves. Bernice R. Sandler, the first chairman of the women's advisory council after it was created and director of the Association of American Colleges' Project on the Status and Education of Women, said the actions "demonstrate a politicization that undermines and contaminates the work of the council."

"Presidents Ford and Carter appointed both Republicans and Democrats as members of the council, but I think President Reagan's appointees are all Republicans. After naming the members, the President is supposed to keep hands off, so the panels can function independently," she said.

"If the White House is involved in naming the executive director, you don't have an independent, autonomous council."

Before Ms. Simonson was hired, Ms. Sandler added, members of the women's council conducted a nationwide search for candidates for the job. "Joy was hired during the Ford Administration without regard to politics. I don't know what her politics are. To fire her summarily indicates a lack of concern and commitment about women's issues and a lack of understanding of the role advisory committees are supposed to play."

Said Barabara Stein, head of the Coalition for Women and Girls in Education: "We don't dispute the fact that the new council has the prerogative to fire the executive director, but the manner of the dismissal suggests that its members don't take women's issues or educational organizations very seriously."

"Joy Simonson knows a lot about sex equity in education," she added. "I don't think any of the groups that work on substantive issues that should be of concern to the council were ever consulted on Joy's record or what they should be looking for in an executive director. It is just one more of the many, many, many examples of the Administration's thumbing its nose to women."

A spokesman for the Education Department, when asked to respond to the criticism, said that "the department has a policy of not commenting on personnel matters."

Even before the latest moves, the appointments to the women's advisory council generated controversy. Susan Phillips, a researcher at the Conservative Caucus Foundation, originally was nominated to be a member of the advisory council.

Her nomination was withdrawn, however, because she also had been hired as a full-time consultant to the department to study ways to eliminate waste and abuse in the agency's grant programs.

Ms. Phillips, though, was one of the candidates interviewed to replace Ms. Simonson, but she withdrew her name from consideration before the council chose Ms. Thomson.

In another development, Education Secretary Terrel H. Bell ordered Leslie R. Wolfe, who formerly directed the Women's Education Equity Act program, transferred from a temporary assignment back to her old post. Women's-rights and education groups, as well as members of the Congressional Caucus for Women's Issues, had criticized department officials for shifting her to a 90-day assignment in the department's office of managment in May, just as officials of the women's equity program had begun reviewing applications for grants.

LATEST OF SEVERAL UPHEAVALS

The transfer came a few weeks after an article appeared in the Conservative Digest criticizing the program for supporting projects with allegedly "extreme feminist ideology" and calling for Ms. Wolfe's removal.

The controversy over the women's advisory council is the latest in a series of upheavals that began in January, when President Reagan began replacing the members of several education advisory councils, including those who still had one or two more years of their designated terms to serve. The Administration has insisted the President has the prerogative to do so. But some Congressional education leaders contend that their intent in passing laws establishing the councils was that members should serve set terms and not be changed automatically when a new President was elected.

Besides Ms. Simonson, the executive director of the National Advisory Council on Vocational Education, Raymond C. Parrott, was suspended after he refused to resign his post when requested to do so by President Reagan's new appointees to the panel.

The National Advisory Council on Adult Education voted to hire a new executive director recommended by the White House just one day after the old director, Gary A. Eyre, resigned to take a job outside the government.

[From the Washington Post, July 22, 1982]

SHE GAVELS NEW GROUP TO ORDER AND THEY FIRE HER

(By Charles R. Babcock)

Joy Simonson didn't expect to stay around long as executive director of the National Advisory Council on Women's Educational Programs after the Reagan administration installed new members. But she said she was surprised that the new council's first order of business Monday morning was to fire her.

And waiting in the wings, "even before the body was cooling," as Simonson put it, were applicants for her $57,500-a-year job. The winner was Rosemary R. Thomson, a Reagan election-campaign worker and Illinois state director of Phyllis Schafly's Eagle Forum. She had filled out an application for the job July 6, nearly two weeks before it became available.

The administration and conservative groups have targeted the $6 million-a-year Women's Education Equity Act (WEAA) program for extinction, but Congress has continued to appropriate funds. A Conservative Digest magazine article earlier this year on "defunding the Left" focused on the program and attacked grants it had made to feminist groups. The director, Leslie Wolfe, was transferred to another position after the article ran.

The 20-member advisory council makes policy recommendations to the program officials and reports to Congress on progress in women's education.

Thomson said in a telephone interview from her home outside Peoria yesterday that she had applied for the advisory council job after getting a call from an Education Department official "suggesting there may be a vacancy." She said she was a little surprised herself that she was hired so fast.

In her application, Thomson said she was a substitute schoolteacher in Morton, Ill. In an attachment covering her political experience, she said, "My suggestion for a huge banner 'Reagan Plays Well in Peoria,' captured the attention of the national media and was used again for the final campaign media event in Peoria the day before the Nov. 4th election."

Her volunteer work also has included being state director of the Eagle Forum since 1975 and publicity chairman for the local Chamber of Commerce's annual fundraiser, the Morton Pumpkin Festival.

Thomson said in the interview that she recently helped review applications for WEEA grants and testified in Congress against what she called "excesses" in awarding funds. Citing a $95,000 grant to a Berkeley, Calif., studio that made three half-hour films on how teenage boys could become babysitters and housekeepers, she said:

"That doesn't benefit education. That benefits a film maker. We don't need things like this at a time when people are begging for jobs and going hungry."

She said she opposes the Equal Rights Amendment and sees her new job as examining the program "and trying to get the most out of the taxpayer's money."

Simonson said she was disappointed at what appeared to be the orchestration of her dismissal. New council members read prepared amendments to the rules adding personnel matters to the agenda and deleting notices and appeals of terminations, she said.

"Previous councils have prided themselves on their independence and bipartisanship," she said. "I regret that it appears this council lacks independence."

Some women's and education groups already are protesting the firing.

Barbara A. Stein, chair of the National Coalition for Women and Girls in Education, wrote White House women's adviser Wendy Borcherdt yesterday that the abrupt firing of Simonson "is one more demonstration of the administration's lack of concern for the women of this nation."

Willard McGuire, president of the National Education Association, issued a statement saying that the quick action against Simonson "demonstrates this firing was organized and orchestrated by the administration."

[From the Washington Post, July 23, 1982]

WHAT IS RIGHT

(By Judy Mann)

Where else but in America can a substitute teacher from Peoria become one of the highest paid women in the Reagan administration?

This is precisely what has happened with the appointment of Rosemary Thomson as executive director of the National Advisory Council on Women's Educational Programs. But Thomson, who will earn $57,000 a year as the senior staff person advising Congress and the president on equity for women in education, is not just a substitute teacher. She is, according to her resume, a supporter of Ronald Reagan, a longtime activist in conservative women's causes and the author

of two books, one of which, it turns out, was published by a Christian publishing house and the other by herself. She also has been chairman since 1975 of Eagle Forum, a right-wing organization founded by Phyllis Schlafly, which has militated against the Equal Rights Amendment and what Schlafly calls "the libbers," and has lately gotten involved in book banning.

While the Far Right, which has been lobbying on and off the airwaves for administration jobs, ought to be delighted to see yet another activist off the political unemployment rolls, leaders of organizations that have worked to promote equity for women in education see this as nothing less than putting the fox in charge of the chicken coop.

It is, at best, peculiar politics for an administration that is trailing badly with women voters in an election year.

The Advisory Council on Women's Educational Programs, and the Women's Educational Equity Act program, were created by Congress to further equality for women in education. WEEA has come under virulent attack from the New Right and was targeted for abolition in Reagan's budget last year. Congress rescued it, but the administration is again requesting no money. Holly Knox, executive director of the Project on Equal Education Rights, calls Thomson's appointment "the most direct subversion of the law" other than killing the program.

"It's not just a matter of somebody coming in with different political views," Knox said. "This woman represents an organization which is opposed to the very purpose of what this advisory council is supposed to do."

Dr. Bernice Sandler, who was appointed to the advisory council by both Presidents Ford and Carter and was its first chair, warned that the advisory board would no longer be independent, with its executive director beholden to the White House for her job. She was also critical of the way Joy Simonson, the panel's highly respected executive director, was fired.

Simonson says the Reagan-appointed panel met for the first time Monday and one of its first acts was to remove job protections for the executive director. Then it promptly voted to fire her. During a recess, Simonson said, she was told a candidate for her job had shown up to be interviewed by the "search committee." It was the first she had heard of a search committee, which, it turns out, was headed by a woman who is the head of Ohio's Eagle Forum.

"The significant thing is not the fact that a holdover employee was bounced . . . in an abrupt, crude way," Simonson says. "The significance is that it was so preplanned and from the White House and not a spontaneous decision of the advisory council members. The most important thing a council can do is choose a staff director. That they chose an Eagle Forum representative seems to be the antithesis of what the women's equity act and the council were set up for."

Thomson says one of her goals is to get school counselors to channel students into subjects that will lead to jobs. "I call that improving the academics for both men and women." While this makes sense, it has little to do with equity issues that have looked, for example, at how women are treated in sports programs and in textbooks, and the special problems that handicapped female students encounter.

Educational equity can improve the ability of tomorrow's generation of mothers to be able to support their families. Why it has become such a target for the New Right is something that probably only New Right fund-raisers know for sure. But clearly the Reagan administration is willing to hand over one of the few federal programs that assist women to people who have limited experience in the field and who have been closely associated with movements whose vision of tomorrow is a vision of the past.

Thomson's claim to fame is that she suggested the banner "Reagan Plays Well in Peoria." It was a clever idea at the time. But Reagan may find in this election year that Peoria is one of the few places her appointment plays well.

Mr. Speaker, I ask that these articles be inserted here because it is important to understand the depth of demoralization which is occurring as a result of these actions.

We have people across the political spectrum, people who represent Republican and Democratic administrations, all sorts of political views, who were appalled, appalled at what the Reagan administration did, and appalled at the prospect of an advisory council which in the future will simply not be able to perform the function it was established to perform, because it has been given over to those who regard the drive for equality, for reasons that have never been clear to me, as an assault on American values.

Trying to bring about true equality is in fact one of the things we ought to be doing to make the American constitutional dream a reality. Instead we have people now put in charge of that effort who are in fact its most determined opponents.

● Ms. MIKULSKI. Mr. Speaker, the Reagan administration has once again demonstrated its desire to politicize a traditionally bipartisan, independent body within the Government. The National Advisory Council on Women's Educational Programs was established to set policy for programs developed under the Women's Educational Equity Act, and to make periodic reports to Congress on the status of women's education.

Recently, under the apparent direction of the administration, this body has unilaterally fired a very competent director, Ms. Joy Simonson, and replaced her with a director who has been associated with organizations whose purpose is diametrically opposed to the goals of this program. This action comes on top of the administration's recent attempt to eliminate funding for this valuable and successful program, and their transfer of the former Director of WEAA to another position. These actions are deplorable, and show us again, what lengths this administration will go to attempt to keep women out of the educational and economic mainstream of America.

When it comes to the equal rights amendment, the President says he is all for equal protection for women, he just does not want it written down, especially in the Constitution. He pays the same kind of lipservice to equal opportunity in education for women. He mouths support for it, while explicitly and implicitly denying that support, and attempting to dismantle them.

We are saying to you Mr. Reagan, the women of America are watching you, and we will not stand idly by while you launch a vicious attack on all the gains we have worked so hard to achieve—and we will not forget what you have tried to do.●

● Ms. FERRARO. Mr. Speaker, the firing of Joy Simonson is just the latest example of the ways in which women's rights can be undercut in the absence of an equal rights amendment to our Constitution.

Until women's rights are constitutionally guaranteed, any President could do what this administration has done. Any President could turn progressive programs for women inside out, using the weapons of funding elimination, staff firings and transfers and failure to enforce the laws on the books.

Joy Simonson, until her rude removal last week, was Executive Director of the National Advisory Council on Women's Educational Programs.

The Council provides policy recommendations for a successful Federal program, WEAA, the Women's Educational Equity Act. Thanks to WEAA, boys and girls, and young men and women in educational institutions all over the country have been exposed to life options never available to them before. Girls have had a chance to learn skills needed for well-paying jobs and boys have learned that women can be effective leaders.

Apparently, the Reagan administration, and its allies in Phyllis Schlafly's Eagle Forum do not believe in increased opportunities for our young people. To choose a woman to head the WEAA advisory board who is opposed to the very programs it is meant to foster is worse than placing a fox in charge of the chicken coop. It is a cynical and callous effort to turn back the clock on women's rights. The President says he is for the E and the R in ERA but not the A. But without the A, the E and R are in daily peril.●

● Mr. BEDELL. Mr. Speaker, I would like to just briefly comment today on my amazement at the steps recently taken at the National Advisory Council on Women's Educational Programs.

As we all know, the Advisory Council serves to make policy recommendations regarding the Women's Educational Equity Act programs. The Council, in addition to the Equity Act it advises, was established by Congress to support and distribute new materials and techniques that promote equal education for boys and girls. The Equity Act enjoys strong bipartisan support, as well as a reputation for

one of the most successful education programs funded by the Federal Government.

In light of this, I was alarmed and extremely disappointed when I learned this past year that the administration was intent on dismantling the Equity Act. My alarm turned into astonishment when I learned recently that the Reagan administration engineered the firing of the Executive Director of the National Advisory Council on Women's Educational Programs, Joy Simonson, and replaced her with the Illinois director of Phyllis Schlafly's Eagle Forum, Rosemary Thomson. I believe Holly Knox, director of the Project on Equal Education Rights, has aptly stated my own views on this matter when she said, and I quote, "It's not just a matter of somebody coming in with different political views, this woman represents an organization which is opposed to the very purpose of what this advisory council is supposed to do." It makes me wonder if the President has some confusion as to the roles of the executive branch versus the legislative branch—who writes the laws and who is elected to administer those laws.

I believe that Congress either deserves a strongly worded assurance from Ms. Thomson that she is an adamant supporter of the programs she has been appointed to direct or steps from the administration to rectify this obvious error.●

● Mr. SCHUMER. Mr. Speaker, I join my colleagues in expressing my extreme concern regarding the recent firing of the Executive Director of the National Advisory Council on Women's Educational Programs. I seriously question the administration's intent in firing Ms. Simonson and replacing her with Rosemary Thomson, the former director of Phyllis Schlafly's Eagle Forum chapter in Illinois.

The National Advisory Council is an extremely valuable body that makes policy recommendations regarding the programs of the Women's Educational Equity Act. The Women's Educational Equity Act was created by Congress in 1974 to provide educational equity for women in the United States at all educational levels, and is only one of two Federal education programs designed to open up opportunities for women and girls in schools and colleges. Through the awarding of grants and contracts, the Women's Educational Equity Act has become one of the most successful Federal education programs and has made incredible progress in overcoming formidable barriers to educational equity. The administration has already made clear its opinion of the Women's Educational Equity Act by attempting to eliminate its funding, and I fear that the replacing of Ms. Simonson is only another effort to undermine this congressionally and publicly supported program.

I remind my colleagues that the firing of Ms. Simonson is not the first example of staff shifting in the Women's Educational Programs offices. Recently, the administration transferred the former Director of the Women's Educational Equity Act itself, Leslie Wolfe, to another position, following an unsubstantiated attack on Ms. Wolfe's policies in the Conservative Digest. The appointment of Ms. Thomson—who has openly criticized the Women's Educational Equity Act program grants—to Ms. Simonson's position should alert us further as to the precarious future of women's educational programs under this administration.

Women's educational programs at the Federal level were created by Congress and continue to be strongly supported by the Congress. I am deeply concerned that the will of the Congress is being compromised—if not subverted—by these recent staff changes in the Women's Educational Equity Act offices.●

● Mr. SIMON. Mr. Speaker, Joy Simonson has served as the first Executive Director of the National Advisory Council on Women's Education Programs since its inception in 1975. She has served capably under Presidents Ford, Carter, and Reagan in administering the policy and research activities of the Council, which evaluates the status of women and girls in education. The Council was established by Congress in 1974 with the declaration,

> Educational programs in the United States * * * are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society.

Through the able efforts of Simonson and Council members appointed by Presidents Ford and Carter, the National Advisory Council has focused on the progress and problems of women in education. In the fall of 1981, the Council produced a comprehensive review of women in education entitled "Title IX; The Half Full, Half Empty Glass." This report is just one example of the important role the Council and its staff have played in advising and informing both the executive branch and Congress. It has been a nonpartisan effort focused on what I hope remains a nonpartisan issue: equity in education.

Earlier this month, Joy Simonson was removed from her position as Executive Director of the Council by newly appointed Council members. Through her continuous service under both Republican and Democratic administrations, her competency and professionalism have never been questioned. Her advocacy of equity in education is also not in doubt. As chairman of the Postsecondary Education Subcommittee, I know Congress and those who agree that opportunity is an issue for all people, have lost a resource at the Advisory Council. I hope the Council continues in the thoughtful and balanced direction set by earlier members and by its first Executive Director, Joy Simonson.

I have known Joy Simonson and worked with her. She represents ability, commonsense, dedication—all the things we should want in public service, and she has been rewarded with dismissal. Her dismissal is not a reflection on her, but on those small-minded individuals who chose to ignore the record.●

● Mr. EDWARDS of California. Mr. Speaker, on July 26, 1982, Rosemary Thomson was hired as the executive director of the National Advisory Council on Women's Educational Programs. What qualifies her for the job? Well, she was once a substitute teacher. She has also chaired the Eagle Forum since 1975. Of course, the Eagle Forum's position on educational equity for women is that all educational material and programs should reflect and encourage the traditional roles of women in the home as wives and mothers. Ms. Thomson also wrote a couple of books—one of which is entitled "Withstanding Humanism's Challenge to Families." And, of course, she is against the equal rights amendment.

Whom does Rosemary Thomson replace? Until July 26, Joy Simonson was the executive director of the council. Ms. Simonson was appointed under the Republican administration of President Ford and she also served under the Democratic administration of President Carter. Ms. Simonson comes from a seemingly endless background of volunteer work in sex equity. She was the president of the National Association of Commissions for Women; she was the head of the D.C. Commission for Women; she was Associate Director of the Federal Women's Programs at the Civil Service Commission. She worked tirelessly with women's groups on matters of education for many, many years. Ms. Simonson was very effective in monitoring progress on girls and women in education and, under her leadership, the National Advisory Council on Women's Educational Programs published several serious, thoughtful, and valuable studies on sex equity issues. As director of the council, Ms. Simonson demonstrated over and over again her serious commitment to the mandate of the Women's Educational Equity Act. With all due respect to America's substitute teachers who do a fine job in furthering our young people's education, it is clear that Ms. Thomson and Ms. Simonson are not in the same league.

The Congress has a responsibility to encourage girls and young women to

plan realistically for a world in which they will probably have to work for a substantial portion of their lives. Congress designed the Women's Educational Equity Act to promote sex equity in education so that they would have equal opportunity. But even today they are leaving schools and colleges without the skills they need to earn a decent wage because WEEA has not been in place long enough. I remind my colleagues that women today still make 59 cents to a man's dollar and that 51 percent of all women over 16 work outside the home. And I am tired of arguing whether it is because they have to or because they want to work. If President Reagan's economic policies continue going the way they are, most young women are going to have to work outside the home, whether they want to or not.

Since the 1980 election, the Reagan administration has been trying to eliminate the women's educational equity program, a program legislated into being by Congress in the first place. The Reagan administration repeatedly zero-funded the program and Congress repeatedly refused to allow this. With Ms. Thomson as director of the council, they apparently hope to defy Congress wishes and accomplish a de facto abolition of the program. This is consistent with Reagan's policy toward women. It is only the legislative mandate of the National Advisory Council on Women's Educational Programs under WEAA that has saved it from the fate of the President's Advisory Committee for Women—which under Reagan has no budget and no staff—and the Advisory Committee on the Rights and Responsibilities of Women, in the Department of Health and Human Services, which has not been heard from since Reagan took office. The appointment of Ms. Thomson is just one more slap in the face to American women by the Reagan administration.●

● Mr. WEISS. Mr. Speaker, I am alarmed that the Reagan administration is continuing its campaign against equal opportunity for women with another attack on the Educational Equity Act program. The replacement of the program's advisory council director with an outspoken critic of the program is an outrage that has become only too common under this administration. It should be a priority for us to break this pattern in which congressionally mandated programs are subverted simply because they do not fit into a narrow partisan viewpoint.

A close look at the educational equity program reveals that it is not political in nature, unless there is a party that puts discrimination into its platform. The educational equity grants support the development and distribution of educational products to reduce discrimination in our schools and colleges. Its materials have included assistance for disabled female students, programs to reduce math anxiety and manuals for training in nonsexist teaching methods. One need only visit a classroom or open a textbook to know that sex role stereotyping is still common in lectures, illustrations, and other forms of education.

Opponents of the program apparently believe that by perpetuating these stereotypes, we will somehow return to a time when women were limited to subservient roles. In this view of the world, women who take on traditional male roles are stealing power and jobs from men.

A deeper analysis shows that our changing society urgently needs the talents and skills of all its citizens. The labor market has a growing shortage of workers with scientific and mathematical aptitude. Families can no longer make ends meet with just one wage earner. Individual men and women are recognizing that they have a fuller range of opportunities to explore than they did in the past. Some men want to be nurses or homemakers. Some women want to be engineers or auto mechanics.

Undermining a program that seeks to open the doors of opportunity is damaging not only to individuals but to society as a whole. Enacted in 1974, the program was expanded in 1978 because of its outstanding success. Last year, Congress rejected the administration's attempt to include this program in a block grant. Despite these clear signals of support from Congress, the administration continues its assaults on educational equity. We must make clear that we will tolerate neither this inappropriate appointment nor any further efforts to flout congressional intent in this program.●

GENERAL LEAVE

Mr. FRANK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on my special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

PROVIDING A LEGAL REMEDY FOR VIOLATIONS OF FIFRA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California (Mr. PANETTA) is recognized for 5 minutes.

● Mr. PANETTA. Mr. Speaker, pesticide regulation in this country is a Federal matter. In the amendments to the Federal Insecticide, Fungicide and Rodenticide Act (H.R. 5203), which will be considered by the House this week, the Federal Government's authority over pesticide regulation in this country is broader than ever before. Why is it true, then, that an individual citizen claiming to be injured by a violation of FIFRA cannot go to a Federal court to protect his or her rights?

The law as currently written does not permit private citizens to bring suits under FIFRA in Federal courts. I plan to introduce an amendment to H.R. 5203 which would provide a private right of action to individuals to challenge violations of FIFRA in the Federal courts.

Currently, enforcement under FIFRA is left to the U.S. Environmental Protection Agency and its State agency counterparts. Enforcement under current law, however, has been sorely inadequate. As the General Accounting Office determined in its recent report, the EPA and States "do not always properly investigate cases and sometimes take questionable enforcement actions." In these times of reduced spending at both the Federal and State levels, we cannot force citizens to rely on governmental protection only.

Second, simple justice requires that if chemical companies and pesticide producers are given a right to sue persons who violate FIFRA, private citizens should be given the same right. H.R. 5203 gives chemical companies and pesticide producers the right to sue in Federal courts for treble, and even punitive, damages for violations of their property rights under the data disclosure provisions of the act. Allowing such an expansive, private right of action to companies, while denying equal access to Federal courts to individuals, is unconscionable. Individuals, like corporations, must be allowed their day in Federal courts as well.

Additionally, a private right of action provision in FIFRA will not result in uncontrollable numbers of nuisance suits against farmers. These types of suits can be brought in State courts under State common law. Challenges to the emergency Medfly spraying done in California, for instance, were based on the State tort law of nuisance, and not pursuant to any State or Federal pesticide law. My amendment would provide a private right of action to challenge statutory violations of the Federal Pesticide Act. The correct forum for these challenges is logically in the Federal courts.

Finally, the amendment I propose is restricted to avoid legal actions that are unfounded or based on harassment only. It is limited to equitable actions and does not allow for damages or attorney's fees. This would limit the right of action solely to injunctions for actions shown to be in violation of the act.

For these reasons, I urge your support of a private right of action

amendment to H.R. 5203. Pesticide injuries in this country number about 800,000 annually, close to 800 of those resulting in pesticide-related deaths. Effective enforcement of the Federal pesticide law is imperative. Providing a private right of action under FIFRA is critical to insuring adequate enforcement of citizens' rights under the law. I have included the text of the amendment below:

JUDICIAL REVIEW

Section 16 of the Federal Insecticide, Fungicide, and Rodenticide Act is amended by adding at the end thereof of new subsection as follows:

"(e) Any person claiming to be injured by a violation of this Act may bring suit in the appropriate United States District Court for equitable relief but not for damages or attorney's fees. This subsection shall not be construed to permit class action suits as defined under Rule 23 of the Federal Rules of Civil Procedures."●

MILITARY AID TO EL SALVADOR—THE JULY 28 CERTIFICATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. WILLIAM J. COYNE) is recognized for 10 minutes.

● Mr. WILLIAM J. COYNE. Mr. Speaker, yesterday, despite overwhelming evidence to the contrary, the Reagan administration certified that the Government of El Salvador has met the conditions which were laid down by the International Security and Development Act of 1981 and, therefore, could continue to receive military and economic aid from the United States. This represents not only a serious distortion of reality in El Salvador, but also further encourages the government of that country to continue a policy of repression.

When Congress passed the International Security and Development Act of 1981, it placed certain conditions on the continuance of aid to El Salvador. The Salvadoran Government was required to demonstrate that it was:

Making a concerted effort to comply with internationally recognized human rights. The administration, in a report which accompanied the certification, points to a downward trend in the monthly total of deaths attributable to political violence in the past 6 months. However, human rights organizations report no such evidence of progress in this area. A recent report by America's Watch Committee and the American Civil Liberties Union attributes the lower body counts to a geographical shift in repression from urban areas to the countryside. Attacks on journalists and human rights monitors, which have largely confined both groups to the capital city of San Salvador, have made it more difficult to verify atrocities outside of the city.

Bringing an end to the torture and murder of Salvadoran citizens by the armed forces. Amnesty International and various other human rights organizations indicate that they have seen no significant government effort to end either the murders or the torture. A recent tale of terror in the Washington Post describes a May incident in which a "Green Cross" volunteer was subjected to torture by the national police. According to that account, the volunteer was strapped to a chair similar to a medieval rack, beaten and forced to inhale lime. The military leadership of El Salvador was not altered as a result of the March 28 elections.

Making progress in implementing essential economic and agrarian reforms. The new Minister of Agriculture in El Salvador is an avowed critic of the land reform program. Since the March elections Decree 14, which permitted expropriation and provided the legal basis for land, banking, and trade reforms, has been repealed. Decree 6, which was recently passed, suspends from 1 to 4 years important parts of the land reform program. The program continues to be poorly managed and the repeal of Decree 14 has reportedly resulted in violence in the countryside.

Making continued progress to find and implement an equitable political solution. Viewing the March elections in El Salvador as an alternative to negotiations among the various political factions, as the administration appears to be doing, is, in my view, counterproductive. Those elections effectively excluded the opposition and no viable solution to the conflict in El Salvador is possible without the participation of that opposition.

Additionally, House Joint Resolution 494 required that the administration certify again that the Government of El Salvador had demonstrated that it has made a good faith effort to investigate and bring to justice those responsible for the 1980 murders of six U.S. churchwomen and agrarian reform workers. While evidence gathered in the investigation strongly points to the involvement of the security forces, after a year and a half no trial has been held. Nor has any date been set for a trial in this matter.

Unless, I am missing a dramatic new development in these areas, it is abundantly clear to me that these conditions have not been met. Further, the tunnel vision which has shaped the Reagan administration's policy towards El Salvador, namely its insistence on regarding the strife there strictly as a contest of East versus West, will continue to undermine a political solution to the conflict and insure that the aforementioned conditions will never be met. Moreover, certification under these conditions could also have broad ramifications. Certification at this time could clearly undermine our international credibility as a champion of human rights and democracy. It is essential that the Reagan administration reevaluate its policies towards El Salvador.●

A THREAT TO NURSING HOME RESIDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York (Mr. WEISS) is recognized for 15 minutes.

● Mr. WEISS. Mr. Speaker, the administration has recently proposed regulations which pose a serious threat to the health and well-being of our Nation's 1.3 million nursing home residents. In a major policy reversal, the President intends to relax Federal nursing home inspection and certification requirements which are currently designed to insure minimum standards of care and decency in these facilities. By choosing to ignore the history and circumstances which led to the implementation of our Federal enforcement system, the administration would risk a tragic return to the days when injury, abuse, and death were all too prevalent in nursing homes.

This is one more example of the administration's callous disregard for the rights of those most vulnerable in our society, the aged, the sick, and the disabled. Rather than abdicating responsibility for these individuals, I believe that the Federal Government should reaffirm and strengthen its commitment to providing basic protections for nursing home residents.

Several days ago, Mr. Edward J. Kuriansky, the New York State Deputy Attorney General for Medicaid Fraud Control and Special Prosecutor for Nursing Homes, Health and Social Services, testified before the Senate Special Committee on Aging on this important issue. In his compelling statement, the Deputy Attorney General outlines the findings of his Office's 5-year patient abuse investigation and his concerns about the administration's plan to deregulate nursing homes. Mr. Kuriansky's office has long been recognized as the national leader in the fight to combat medicaid fraud. The House Select Committee on Aging, in a recent report, described New York as being "the most effective State in terms of medicaid (fraud) detection and prosecution," and found that it had "provided the Nation with a model of State enforcement effort."

I strongly encourage my colleagues to review Mr. Kuriansky's testimony, which I request to be reprinted in the RECORD, as follows:

TESTIMONY OF EDWARD J. KURIANSKY

Mr. Chairman, Members of the Committee: I am very pleased to appear before you today and to be given the opportunity to speak on the newly proposed federal survey and certification regulations for long-term

care facilities. In the past, this Committee has contributed mightily not only to the battle against fraud and abuse in the health care industry, but perhaps even more importantly, to the fight for quality care for our elderly citizens—the subject which I believe is at issue in these hearings. My Office is extremely grateful for your Committee's support in recent years, and I hope that we, in turn can be of some assistance to you today.

Before discussing the proposed regulations from the vantage point of our experience as a statewide investigatory and prosecutorial agency, I would like briefly to set our work in historical context. My office was established by Governor Carey in 1975, in the wake of a terrible and highly publicized nursing home scandal in New York State. Initially, we were known as the Office of the Special Prosecutor for Nursing Homes, and given authority to investigate nursing homes, health related facilities, patient abuse and official misconduct. Charles J. Hynes, who testified before this Committee four years ago this month, was the first Special Prosecutor and Deputy Attorney General in charge. When Mr. Haynes, whom I had the privilege to serve as Chief Assistant for over two years, was named New York City's Fire Commissioner some 18 months ago, Attorney General Abrams appointed me to succeed Mr. Hynes. Since the creation of our office in 1975, our jurisdiction has gradually expanded to include adult homes, hospitals, individual providers, and a Civil Division to sue for the recovery of Medicaid funds improperly taken.

Additionally, as this Committee is well aware, Public Law 95-142 was passed by Congress and signed into law in October 1977. This legislation established a program of long-term control of fraud in the health care industry and provided substantial federal reimbursement to my Office and the 30 or more other state Medicaid Fraud Control Units now established across the country. We were proud to have been cited by both houses of Congress as the model for other states to follow in their anti-fraud efforts.

Our Office is based in seven regional locations throughout New York State, and we currently have on staff some 340 employees, including approximately 50 attorneys, 100 investigators and 100 auditors. We utilize a team concept approach to the audit/investigation of health care fraud—in that attorneys, auditors and investigators are assigned to cases at their inception and work together through to completion. Today, we are responsible for investigating and prosecuting the entire spectrum of provider fraud in New York's $4 billion-plus Medicaid program, the largest in the nation.

The area in which our Office has brought the greatest number of criminal prosecutions and probably received the most public attention is, or course, that of Medicaid fraud. We have become well-versed over these past seven years in the variety of schemes conceived by man and woman to defraud the Medicaid program. To date, we have arrested more than 560 defendants and convicted 90 percent of those we have prosecuted. Actual restitution paid to federal, state and local governments as a result of this Office's cases amounts to approximately $20 million, and there are over $21 million in civil lawsuits currently pending against health care providers for the recovery of additional Medicaid overpayments.

But beyond the investigation of fraud and corruption, and, I think, even more essential, is the work of our Patient Abuse Program. Indeed, it is the findings of this investigation that prompt my comments today and make me fearful that we are now being asked to turn back the clock, and to turn our back, on the bitterly learned lessons of the last 15 years.

I am submitting two documents along with my testimony today. The first is a report issued by my Office in December 1981 entitled "Nursing Home Patient Abuse: Realities and Remedies." This report summarizes the findings of five years' investigation of more than 1100 cases of patient abuse and neglect in New York's nursing homes. This report also details our recommendations for new criminal statutes and regulatory change aimed specifically at curbing mistreatment and neglect in nursing homes, and discusses our efforts, in conjunction with New York consumer groups, such as the Ad Hoc Coalition for a Single Standard Code, to achieve better care in these institutions.

The second document is a report of the August 1978 Queens County Grand Jury, and although my Office will, in several days, submit a more detailed analysis of the proposed federal regulations in response to HCFA's request for public comment, I want to direct my remarks today to several of the more disturbing proposals which I believe are brought painfully into focus by the Queens County Grand Jury report. Ironically, as you will see, the grand jury's findings stand in stark contrast to the naive and potentially dangerous proposals under discussion today.

Let me briefly tell you what the grand jury found. In July of 1978, during an oppressive heat wave in New York, the air conditioning system in a Queens County nursing home broke down. Two of the home's patients died and 17 others required emergency hospitalization for heat stroke and dehydration. Almost 70 of the home's patients suffered heat-related fevers. The grand jury conducted a four month investigation into these deaths and heat-induced injuries. It heard testimony from more than 90 witnesses, whose descriptions of the conditions existing in the home were in sharp contrast to one's ideal image of a health care facility. For example, emergency service technicians found cardiac patients with 106° and 107° fevers living in rooms with closed windows. Another patient was discovered under a blanket and quilt wearing a flannel nightgown, stockings, and a bonnet. In addition, the emergency medical teams found a patient whose fecal impaction was literally choking off her ability to breathe, as well as other patients with multiple bedsores and urinary tract infections.

The evidence before the grand jury revealed that the care rendered to the elderly patients of this nursing home by its administrative, medical and nursing staff was ineffective to meet the crisis conditions brought about by the heat wave. While many factors—including a lack of sufficient and adequately trained staff, an absence of emergency procedures, a failure of leadership, and, in some cases, an inexplicable insensitivity to human suffering—may have contributed to this terrible tragedy, the grand jury concluded that no particular individual or entity could properly be charged with criminal conduct. It did however, recommend immediate reforms to prevent such a tragedy from ever happening again, and it is these recommendations which bear heavily on our discussion today.

(1) The grand jury urged, for example, that staffing reports containing an assessment of patient nursing needs be submitted every four months. In New York, these assessments classify patients as needing "partial care" or "total care" and calculate the number of required staff for each nursing home. The last staff assessment at the Queens nursing home had been completed nine months before the July heat emergency. While the State Health Department had set the required number of nursing staff at 61, the home consistently operated with only 57. More significantly, however, the staff assessment was based on only 39 "total care" patients, whereas on July 23, 1978—nine months later and in the midst of this killing heat wave—almost 140 of the home's patients were in need of total care. I must emphasize that such an increase in "total care" patients is not at all uncommon in nursing homes where patients and their conditions change with striking rapidity.

The newly proposed federal regulations would remove the current requirement of quarterly staffing reports. It has been our experience, however, that maintaining sufficient, competently-trained staff is a critical problem in nursing homes. Often, as a consequence of severe staff shortages, facilities find themselves forced to hire per-diem employees who are unfamiliar with the patients and their needs, and frequently become involved in incidents of abuse and neglect. Staffing reports, which review a week at random each quarter, are potentially an excellent source of information without being an excessive burden to the facility. Any inconvenience, I would submit, is more than offset by the fact that the quality of life in long-term care facilities is in large measure determined by its staff. Personnel shortages or rapid turnover can have a disastrous effect on patients in a very short time. Two years is simply too long to wait to determine that staff levels are inadequate, particularly when the average resident remains in a nursing home for only two years. If our State Health Department had known about the staff shortage at the Queens nursing home before the heat wave, the situation might well not have reached crisis proportions. Had more staff been available, they could have prevented patient deterioration by forcing fluids, removing unnecessary clothing, bathing patients and taking vital signs at frequent intervals.

(2) The Queens Grand Jury also recommended that an unannounced inspection schedule of at least three visits per year be instituted for each mursing home.

By contrast, the proposed federal regulations would eliminate the requirement that a facility be inspected annually and provide instead that a facility be surveyed once every two years and "as often as necessary to ensure compliance." In addition, the new regulations would remove the requirement of a mandatory resurvey after 90 days and require an on-site revisit only when there is no other way to verify corrections. These proposals are at direct odds with the grand jury's finding that it is only through a system of frequent, unannounced and presumably unpredictable inspections that the day to day functioning of a facility can be properly observed. Regular inspections at the Queens nursing home would have revealed that the home did not have an air conditioning maintenace contract or a viable emergency back-up system. Unfortunately, as the grand jury found, reliance is all too often inappropriately placed on affidavits of compliance from nursing home operators and the air conditioner service companies with which they do business. The grand jury concluded that without visual verifica-

tion, there is no way to ascertain whether a home is in compliance with all applicable regulations.

Relying on the good faith of providers to telephone or send a letter confirming that deficiencies have been corrected is simply not good enough. It was precisely this kind of blind reliance on the preposterous and unverified Medicaid reimbursement claims of providers in the early '70s that led to fiscal fraud on a massive scale and resulted, in New York alone, in indictments touching one third of our state's proprietary nursing homes.

It is similarly naive to expect that a facility operator no longer under the threat of automatic cancellation for failure to correct deficiencies by a date certain, would have any real incentive to bring his home up to code. Curiously enough, HCFA acknowledges that in 90% of the cases, deficiencies are corrected before the provider agreement is cancelled. This figure alone would appear to demonstrate, quite graphically, the efficacy of the current cancellation policy.

It is a tragic footnote to the report of the Queens County Grand Jury that none of their recommendations were adopted, and that two years later, in July of 1980, 15 more patients died in a Bronx nursing home during another blistering summer heat wave. And now yet another long hot summer—with its own potential for human tragedy—is once again upon us.

The Queens County Grand Jury investigation is but one of over 1100 cases of abuse and neglect that we have investigated since the dark days of New York's nursing home scandal.

Our recent report, "Nursing Home Patient Abuse: Realities and Remedies," based on this five year investigative experience, provides persuasive proof that nursing home patients are not capable of speaking out on their own behalf. For example, the process of investigating abuse cases in New York was immeasureably aided by the enactment in 1978 of a patient abuse reporting law, which requires facility employees to report incidents of abuse, neglect and mistreatment. Prior to this time, incidents of abuse and neglect frequently went unreported. The fundamental explanation for this phenomenon goes to the very nature of the nursing home patient/employee relationship; namely, a nursing home patient depends totally on staff to respond to his or her basic needs. Patients and their families deeply fear retaliation and may endure abuse or poor conditions rather than risk the consequences, real or imagined, of reporting such conduct. The physical and mental condition of patients also contributes to the low rate of reporting. Many patients, afflicted with varying degrees of senility, are altogether unaware that they have been abused or of the conditions around them. Other patients do not report because they are blind of deaf and unable to identify an abuser. In addition, even if patients know to whom they should address a complaint, the mechanics of reporting often prove too taxing. Few patients have telephones in their rooms, and public telephones located in hallways afford only minimal privacy. A complaint by letter can be even more difficult for an elderly patient who can no longer write or who fears interception of the letter. All these barriers to the reporting of patient abuse apply with equal force to the reporting of poor facility conditions.

The summary comments to the proposed regulations note that ICF/MRs will be surveyed at least annually because "most of the patients in these facilities (many of whom are children) lack the necessary experience or capability to bring quality of care problems to the attention of outside authorities." Although this is a persuasive justification for frequent inspections of ICF/MRs, the distinction between these facilities and nursing homes is a distinction without a meaningful difference. For the typical nursing home patient is no more capable or experienced than the ICF/MR patient, and, accordingly, the same standard for facility inspection should apply. Indeed, it is precisely because the vast majority of nursing home residents lack the ability to bring their problems to the attention of outside authorities that nursing homes need more, rather than less surveillance.

In sum, Mr. Chairman, I must confess to a certain uneasiness about a set of regulations which substantially abdicate surveillance responsibility to a privately controlled industry watchdog, which tell us that a once-every-two-year check-up is good enough to protect the vital interests of our increasingly helpless nursing home population, and which blithely accept the proposition that nursing home operators can be trusted not to capitalize on an advance-warning inspection policy, and that if they are ever caught misbehaving, we can count on them to advise us forthrightly as soon as they have cleaned up their act.

The thrust—indeed, the underlying assumption—of these regulations is that the nursing home industry in this country can police itself. With all due respect, Mr. Chairman, one need not be too much of a cynic to suggest that this unstated assumption runs directly contrary to our history, our experience and our common sense.

Improvements in fraud control and quality care did not spring forth spontaneously in the late 1970s. Rather, these recent advances are precisely traceable to the imposition of strict governmental regulation and the creation of independent enforcement and review mechanisms such as the MFCU program.

In my view, we cannot afford to repeat the monumental miscalculation of the original Medicaid/Medicare program, wherein millions of dollars were appropriated to fund a noble and needed program, and not 5 cents was allocated to safeguard the moral and fiscal integrity of that very same program. Left unsurveilled, uninvestigated and inadequately regulated, nursing home profiteers literaly riddled the Medicaid system with fraud and abuse. What we must have learned from the scandals of the 1970s is that this is an industry and a program which require rigorous public and governmental scrutiny. We also learned that there are no cheap or easy shortcuts. And while fiscal chicanery is one thing, the assurance of quality care for our old people is quite another. For while we may be able, belatedly, to recoup the ill-gotten gains of corrupt operators, and even on occasion send them to jail, I am much less sanguine about our ability, after the fact, to right the wrongs inflicted upon our institutionalized elderly by substandard conditions that go uncorrected in facilities that are insufficently inspected.

In closing, Mr. Chairman, I would only say that although cost containment and the elimination of unneceassary regulations are unquestionably laudable goals, the findings of our patient abuse investigation over the past five years demonstrate unequivocally the critical importance not only of preserving, but of strengthening, those regulations that directly impact on patient care and patients' rights. Any reduction of federal standards (and, particularly, of federal reimbursement) in these essential areas would only serve as a dangerously tempting precedent for financially strapped state governments and as an ominous signal to our vulnerable elderly of a possible return to the scandal-scarred, unenlightened days of the recent past.

Some years ago, the French writer Simone de Beauvoir was prompted to observe, astutely and not without a certain degree of cynicism: "By the way in which a society behaves toward its old people, it uncovers the naked, and often carefully hidden truths about its real principles and aims." I submit, Mr. Chairman, that the generosity and swiftness of our response today to the fundamental needs of thousands of our dependent fellow citizens will surely be the measure by which future generations judge us.●

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCKINNEY (at the request of Mr. MICHEL), for today, on account of attending a funeral.

Mr. SMITH of Pennsylvania (at the request of Mr. WRIGHT), for today and July 29, on account of a death in the family.

Mr. YATES (at the request of Mr. WRIGHT), after 2 p.m. today, on account of illness in the family.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. ERTEL, for 30 minutes, today.

Mr. ADDABBO, for 60 minutes, August 10, 1982.

(The following Members (at the request of Mr. DOUGHERTY) to revise and extend their remarks and include extraneous material:)

Mr. WEBER of Ohio, for 10 minutes, today.

Mr. GOODLING, for 5 minutes today.

(The following Members (at the request of Mr. FRANK) to revise and extend their remarks and include extraneous material:)

Mr. GONZALEZ, for 15 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. COELHO, for 5 minutes, today.

Mr. JONES of North Carolina, for 5 minutes, today.

Mr. FRANK, for 60 minutes, today.

Mr. PANETTA, for 5 minutes, today.

Mr. WILLIAM J. COYNE, for 10 minutes, today.

Mr. WEISS, for 15 minutes, today.

Mr. SAVAGE, for 60 minutes, on July 29, 1982.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(Mr. VENTO, to revise and extend, prior to passage of Kazen amendment, today.

Mr. WOLPE, to revise and extend his remarks on McCurdy amendment, remarks to be inserted prior to vote.

(The following Members (at the request of Mr. DOUGHERTY) and to include extraneous matter:)

Mr. GILMAN in two instances.
Mr. LEBOUTILLIER.
Mr. SOLOMON.
Mr. LENT.
Mr. PORTER.
Mr. COUGHLIN in three instances.
Mr. FORSYTHE.
Mr. CRAIG.
Mr. DANNEMEYER in two instances.
Mr. HYDE.
Mr. MORRISON.
Mrs. HECKLER in three instances.
Mr. RHODES.
Mr. CLINGER.
Mr. BAFALIS.
Mr. RINALDO.
Mr. MITCHELL of New York.
Mr. CLAUSEN.
Mr. KEMP.
Mr. GUNDERSON.
Mr. DAUB.
Mr. FIELDS.
Mr. DENARDIS in two instances.
Mr. FINDLEY in two instances.

(The following Members (at the request of Mr. FRANK) and to include extraneous matter:)

Mr. STOKES in two instances.
Mr. OTTINGER.
Mr. COELHO.
Mr. SKELTON.
Mr. ADDABBO.
Mr. DWYER.
Mr. STUMP.
Mr. DORGAN of North Dakota in two instances.
Mr. ECKART.
Mr. LAFALCE.
Mr. HAMILTON.
Mr. FLORIO.
Mr. D'AMOURS.
Ms. OAKAR in two instances.
Mrs. BOGGS in two instances.
Ms. MIKULSKI.
Mrs. BOUQUARD.
Mr. YATES.
Mr. LUKEN.
Mr. SCHEUER.
Mr. GUARINI.
Mr. BEDELL in three instances.
Mr. MARKEY.
Mr. CONYERS.
Mr. DONNELLY.
Mr. HERTEL.

ENROLLED JOINT RESOLUTION SIGNED

Mr. HAWKINS, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H.J. Res. 494. Joint resolution with regard to Presidential certifications on conditions in El Salvador.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 2317. An act to recognize the organization known as the National Federation of Music Clubs.

ADJOURNMENT

Mr. FRANK. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly at (9 o'clock and 35 minutes p.m.), the House adjourned until tomorrow, Thursday, July 29, 1982, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

4462. A letter from the Secretaries of Agriculture and Health and Human Services, transmitting a plan for a human nutrition research and information management system, pursuant to section 1427 of Public Law 97-113; to the Committee on Agriculture.

4463. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notice of the proposed lease of certain defense articles to Pakistan (Transmittal No. 14-82), pursuant to section 62(a) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4464. A letter from the Secretary of Education, transmitting proposed final regulations for the national direct student loan, college work-study, and supplemental educational opportunity grant programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4465. A letter from the Secretary of Education, transmitting proposed final regulations establishing the 1983-84 Pell grant family contribution schedule, pursuant to section 124 of public Law 97-92, section 482(a)(2) of the Higher Education Act of 1965, as amended, and section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4466. A letter from the Secretary of Education, transmitting proposed final regulations on the national direct student loan, college work-study, and supplemental educational opportunity grant programs, pursuant to section 431(d)(1) of the General Education Provisions Act, as amended; to the Committee on Education and Labor.

4467. A letter from the Assistant Secretary of the Interior for Indian Affairs, transmitting a proposed plan for the use and distribution of the judgment funds awarded to the Navajo Tribe by the U.S. Court of Claims in Docket No. 229, pursuant to sections 2(a) and 4 of Public Law 93-134; to the Committee on Interior and Insular Affairs.

4468. A letter from the Assistant Secretary of the Navy (Shipbuilding and Logistics), transmitting notice of the decision to convert to contractor performance the grounds function at the Public Works Center, Norfolk, Va., pursuant to section 502(b) of Public Law 96-342; to the Committee on Armed Services.

4469. A letter from the Assistant Secretary of State for Congressional Relations, transmitting notice that the State Department intends to consent to a request by the Government of Italy for permission to transfer certain U.S.-origin defense equipment to Somalia, pursuant to section 3(d) of the Arms Export Control Act; to the Committee on Foreign Affairs.

4470. A letter from the Comptroller General of the United States, transmitting a report on the review of Federal environmental programs, the progress achieved, and the unresolved issues which remain (GAO/CED-82-72, July 21, 1982); jointly, to the Committees on Government Operations, Energy and Commerce, Merchant Marine and Fisheries, Public Works and Transportation, and Science and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HALL of Ohio: Committee on Rules. House Resolution 538. Resolution providing for the consideration of House Joint Resolution 521, a joint resolution calling for a mutual and verifiable freeze on and reductions in nuclear weapons and for approval of the SALT II agreement (Rept. No. 97-674). Referred to the House Calendar.

Mr. LONG of Louisiana: Committee on Rules. House Resolution 539. Resolution providing for the consideration of H.R. 6100, a bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965 (Rept. No. 97-675). Referred to the House Calendar.

Mr. ZEFERETTI: Committee on Rules. House Resolution 540. Resolution providing for the consideration of H.R. 6324, a bill to authorize appropriations for atmospheric, climatic, and ocean pollution activities of the National Oceanic and Atmospheric Administration for the fiscal years 1983 and 1984, and for other purposes (Rept. No. 97-676). Referred to the House Calendar.

Mr. UDALL: Committee on Interior and Insular Affairs. S. 2218. A bill to provide for the development and improvement of the recreation facilities and programs of Gateway National Recreation Area through the use of funds obtained from the development of methane gas resources within the Fountain Avenue landfill site by the city of New York (Rept. No. 97-677). Referred to the Committee of the Whole House on the State of the Union.

Mr. HUGHES: Committee on the Judiciary. H.R. 6454. A bill to amend title 18, United States Code, to clarify the applicability of offenses involving explosives and fire (Rept. No. 97-678). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DINGELL (for himself, Mr. WAXMAN, Mr. BROYHILL, and Mr. MADIGAN):

H.R. 6877. A bill to amend title XIX and part B of title XVIII of the Social Security Act to provide for budget reconciliation for fiscal years 1983, 1984, and 1985; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. ROSTENKOWSKI (for himself and Mr. GRADISON):

H.R. 6878. A bill to amend the Social Security Act to make changes in the medicare, unemployment compensation, and public assistance programs, and for other purposes; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 6879. A bill to amend the Community Services Block Grant Act to clarify the authority of the Secretary of Health and Human Services regarding the award of grants and contracts for certain special emphasis programs; to the Committee on Education and Labor.

By Mrs. BYRON:

H.R. 6880. A bill to improve the efficiency and strategic effectiveness of export regulation of strategic trade, to revise the Export Administration Act of 1979, and for other purposes; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. COELHO (for himself and Mr. PASHAYAN):

H.R. 6881. A bill to strengthen the agricultural economy both domestically and in international trade, and to counter the unfair practices of other countries and encourage demand for U.S. farm products; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. GINN:

H.R. 6882. A bill to revise the boundaries of the Cumberland Island National Seashore and to provide compensation for certain facilities on the seashore; to the Committee on Interior and Insular Affairs.

By Mr. JONES of North Carolina:

H.R. 6883. A bill to require the Secretary of the Interior to enter into an agreement with the State of North Carolina with respect to the repair and maintenance of a certain highway of such State located within Cape Hatteras National Seashore Recreational Area; to the Committee on Interior and Insular Affairs.

By Mr. MATSUI:

H.R. 6884. A bill to amend the Trade Act of 1974 to provide that articles which are considered for, but fail to receive, designation as articles eligible for duty-free treatment under the generalized system of preferences may not be reconsidered for such designation for a period of 5 years; to the Committee on Ways and Means.

By Mr. MITCHELL of New York:

H.R. 6885. A bill to designate the Broadway/Times Square theater district in the city of New York as a national historic site, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. RINALDO (for himself, Mr. STOKES, Mr. MITCHELL of New York, Mr. MINISH, Mr. CORCORAN, Mr. EVANS of Georgia, Mrs. MARTIN of Illinois, Mr. BARNES, Mr. FAZIO, Mr. ROE, Mr. HUGHES, Mr. DAUB, Mr. PEPPER, Mr. JOHN L. BURTON, and Mr. MITCHELL of Maryland:

H.R. 6886. A bill to amend the Internal Revenue Code of 1954 to extend the targeted jobs credit to December 31, 1983, and to treat as a member of a targeted group for purposes of such credit any economically disadvantaged individual who has attained age 55; to the Committee on Ways and Means.

By Mr. ROGERS:

H.R. 6887. A bill to amend title 18 of the United States Code to modify certain aspects of Federal criminal procedure relating to mental incompetence and insanity of the accused; to the Committee on the Judiciary.

Mr. QUILLEN:

H.R. 6888. A bill to amend title II of the Social Security Act to improve the administration of such title with regard to disability benefits; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. ROSENTHAL, Mr. DELLUMS, Mr. KILDEE, Mr. PEYSER, Mrs. CHISHOLM, Mr. FISH, Mr. PEPPER, Mr. MINETA, Mr. YATES, Mr. PHILLIP BURTON, Mr. RATCHFORD, Mr. WEISS, Mr. CONYERS, Mr. BARNES, Mr. CORRADA, Mr. ECKART, Mr. FAUNTROY, Mr. FORD of Michigan, Mr. WILLIAMS of Montana, Mr. OTTINGER, Mr. DINGELL, Mr. BRODHEAD, Mr. DWYER, Ms. MIKULSKI, Mr. PANETTA, Ms. FERRARO, Mr. MITCHELL of Maryland, Mr. RANGEL, Mr. MINISH, Mr. LEHMAN, Mr. BROWN of California, Mr. OBERSTAR, Mr. MAVROULES, Mr. MURPHY, Mr. BONIOR of Michigan, Mr. MOFFETT, Mr. BLANCHARD, Mr. VENTO, Mr. DOWNEY, Mrs. SCHROEDER, Mr. SEIBERLING, Mr. EDGAR, Mr. SCHUMER, Mr. FITHIAN, Mr. SIMON, Mr. LUKEN, Mr. FRANK, Mr. SABO, Mr. MATSUI, Mr. MOTTL, Mr. CLAY, Mr. REUSS, Mr. WASHINGTON, Mrs. KENNELLY, Ms. OAKAR, Mr. STUDDS, Mr. WAXMAN, Mr. STARK, Mr. GEJDENSON, Mr. GAYDOS, Mr. HAWKINS, Mr. DIXON, Mr. FAZIO, Mr. LANTOS, Mr. MARKEY, Mr. LELAND, Mr. LOWRY of Washington, and Mr. WEAVER):

H.J. Res. 551. Joint resolution to prohibit the Secretary of Labor from promulgating regulations which expand the number of hours which 14- and 15-year-old children would be permitted to work and which further change the conditions of employment of young children and students; to the Committee on Education and Labor.

By Mr. STUDDS (for himself, Mr. HARKIN, Mr. AUCOIN, Mr. BEDELL, Mr. BEILENSON, Mr. BRODHEAD, Mr. BROWN of California, Mr. JOHN L. BURTON, Mr. PHILLIP BURTON, Mrs. CHISHOLM, Mr. CLAY, Mr. COELHO, Mr. CONYERS, Mrs. COLLINS of Illinois, Mr. CROCKETT, Mr. DASCHLE, Mr. DELLUMS, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. DWYER, Mr. ECKART, Mr. EDGAR, Mr. FAZIO, Ms. FERRARO, Mr. FLORIO, Mr. FORD of Tennessee, Mr. FORD of Michigan, Mr. FRANK, Mr. GARCIA, Mr. GEJDENSON, Mr. GRAY, Mr. KASTENMEIER, Mrs. KENNELLY, Mr. KILDEE, Mr. HALL of Ohio, Mr. HERTEL, Mr. KOGOVSEK, Mr. LELAND, Mr. LONG of Maryland, Mr. LOWRY of Washington, Mr. LUNDINE, Mr. MARKEY, Mr. MAVROULES, Ms. MIKULSKI, Mr. MILLER of California, Mr. MITCHELL of Maryland, Mr. MOAKLEY, Mr. MOFFETT, Mr. MURPHY, Ms. OAKAR, Mr. OBERSTAR, Mr. OTTINGER, Mr. PANETTA, Mr. PEASE, Mr. RANGEL, Mr. RATCHFORD, Mr. RICHMOND, Mr. ROYBAL, Mr. SABO, Mr. SAVAGE, Mrs. SCHROEDER, Mr. ST GERMAIN, Mr. SEIBERLING, Mr. STARK, Mr. STOKES, Mr. SWIFT, Mr. VENTO, Mr. WASHINGTON, Mr. WAXMAN, Mr. DYMALLY, Mr. WEAVER, Mr. WEISS, Mr. WIRTH, Mr. WOLPE, Mr. WYDEN, Mr. YATES, Mr. UDALL, Mr. WILLIAM J. COYNE, Mr. SHANNON, Mr. BONKER, Mr. ROSENTHAL, Mr. EDWARDS of California, Mr. REUSS, and Mr. BINGHAM):

H.J. Res. 552. Joint resolution declaring the President's July certification with respect to El Salvador to be null and void; to the Committee on Foreign Affairs.

By Mr. UDALL:

H.J. Res. 553. Joint resolution to authorize Indian tribes to bring certain actions on behalf of their members with respect to certain legal claims, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. WILLIAMS of Montana:

H.J. Res. 554. Joint resolution to prohibit the Secretary of Labor from promulgating regulations which expand the number of hours which 14- and 15-year-old children would be permitted to work and which further expand the type of and conditions of employment for young children and students; to the Committee on Education and Labor.

By Ms. MIKULSKI:

H. Con. Res. 385. Concurrent resolution expressing the sense of the Congress that the Government of the Soviet Union should allow Yuri Balovlenkov to emigrate; to the Committee on Foreign Affairs.

By Mr. WINN (for himself and Mr. BROWN of California):

H. Res. 542. Resolution expressing the sense of the Congress that the U.S. delegation to the UNISPACE '82 conference should initiate discussions on an international peacekeeping satellite proposal; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII.

451. The SPEAKER presented a memorial of the Legislature of the State of Illinois, relative to the establishment of a National Coal Museum; to the Committee on Interior and Insular Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of the rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. DELLUMS:

H.R. 6889. A bill for the relief of Michael Slowbear and Darrin Mandy; to the Committee on the Judiciary.

By Mr. MARRIOTT:

H.R. 6890. A bill to provide for the reinstatement and validation of U.S. oil and gas lease numbered U-14654; to the Committee on Interior and Insular Affairs.

H.R. 6891. A bill to provide for the reinstatement of U.S. oil and gas lease applications numbered U-26485, U-26504, and U-26505; to the Committee on Interior and Insular Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 1574: Mr. MARKEY.

H.R. 2150: Mr. FRANK.

H.R. 2500: Mr. MOFFETT, Mr. AUCOIN, Mr. FAUNTROY, Mr. PEPPER, Mr. KOGOVSEK, Mr. HUGHES, Mr. MINETA, and Ms. MIKULSKI.

H.R. 2954: Mr. KAZEN, Mr. WILSON, and Mr. FROST.

H.R. 3414: Mr. PRICE.

H.R. 3416: Mr. LENT.

H.R. 3485: Mr. LENT.

H.R. 3883: Mr. LENT.

H.R. 4031: Mr. PRITCHARD, Mr. GEJDENSON, Mr. FAZIO, Mr. FASCELL, Mr. FRANK, Mr. DIXON, Mr. MARKEY, Mr. RANGEL, Mr. FROST, Mr. EDGAR, Mr. HUGHES, Mr. GEPHARDT, Mr. BONIOR of Michigan, Mr. QUILLEN, Mr. PEYSER, Mr. GRAY, Mr. GLICKMAN, Mr. ROEMER, Mr. WASHINGTON, Mr. HOYER, Mr. HEFTEL, Ms. FERRARO, Mr. RATCHFORD, Mr. LANTOS, Mr. SIMON, Mr. MARLENEE, Mr. FORD of Michigan, and Mr. PARRIS.

H.R. 4184: Mr. LENT.

H.R. 4833: Mr. FIELDS.

H.R. 4898: Mr. LENT.

H.R. 5154: Mr. HYDE.

H.R. 5471: Mr. BENEDICT.

H.R. 5608: Mr. FISH and Mr. ROE.

H.R. 5752: Mr. TRIBLE, Mr. HAMILTON, Mr. WHITTAKER, and Mr. MCCURDY.

H.R. 6048: Mr. WILLIAMS of Montana, Mr. GRAY, Ms. MIKULSKI, Mr. DWYER, Ms. FERRARO, Mr. WORTLEY, and Mr. ZEFERETTI.

H.R. 6105: Mr. GOODLING.

H.R. 6115: Mr. ROSENTHAL, Mr. VENTO, Mr. DOWNEY, Mr. FORD of Tennessee, Mr. DERWINSKI, Mr. EDGAR, Mr. BIAGGI, Mr. WAXMAN, Mr. BINGHAM, and Mr. LANTOS.

H.R. 6432: Mr. DERWINSKI, Mr. BEARD, Mr. BEDELL, Mr. JEFFRIES, Mr. HYDE, Mr. SANTINI, Mr. GINGRICH, Mr. HAGEDORN, Mr. COURTER, Mr. HERTEL, Mr. MILLER of Ohio, Mrs. FENWICK, Mr. DOUGHERTY, Mr. TAUKE, Mr. MADIGAN, Mr. LAGOMARSINO, and Mr. DWYER.

H.R. 6497: Mr. SHAW.

H.R. 6632: Mr. MOTTL and Mr. ALBOSTA.

H.R. 6698: Mr. BEARD.

H.R. 6740: Mr. D'AMOURS, Mr. LAFALCE, Mrs. MARTIN of Illinois, Mr. JOHNSTON, Mr. CLAUSEN, Mr. GEJDENSON, Mr. ST GERMAIN, Mr. WHITEHURST, Mr. HATCHER, Mr. BAILEY of Pennsylvania, Mr. WORTLEY, Mr. SABO, Mr. RAHALL, Mrs. ROUKEMA, Mr. QUILLEN, Mr. WOLPE, Mr. LANTOS, Mr. FAZIO, Mr. MINISH, Mr. OTTINGER, Mr. PEPPER, Mr. HUGHES, Mr. HEFTEL, Mr. BEREUTER, Mr. RATCHFORD, Mr. LEHMAN, Mr. SCHUMER, and Mr. SMITH of Pennsylvania.

H.R. 6794: Mr. HILLIS, Mr. MCEWEN, Mr. DUNN, Mr. SMITH of New Jersey, Mr. NAPIER, Mr. GRAMM, Mr. LEATH of Texas, Mr. SAM B. HALL, Jr., Mr. SAWYER, Mr. SHELBY, Mr. HEFNER, and Mr. JENKINS.

H.R. 6818: Mr. STANGELAND and Mr. ALBOSTA.

H.J. Res. 294: Mr. PEASE and Mr. CHAPPIE.

H.J. Res. 323: Mr. BROYHILL, Mr. MONTGOMERY, Mr. DOWDY, Mr. BROWN of California, Mr. CONYERS, Mr. BENNETT, Mr. LEE, Mr. CLAUSEN, Mr. MOLINARI, Mr. WAMPLER, Mr. BRINKLEY, Mr. RUSSO, Mr. KRAMER, Mr. RAILSBACK, and Mr. SOLOMON.

H.J. Res. 332: Mr. BINGHAM, Mr. BUTLER, Mr. CORRADA, Mr. DOUGHERTY, Mr. SILJANDER, Mr. JAMES K. COYNE, and Mr. EDWARDS of California.

H.J. Res. 355: Mr. BOLAND.

H.J. Res. 489: Mr. MARKEY, Mrs. SCHROEDER, Mr. HUGHES, Mr. PRITCHARD, Mr. ROYBAL, Mr. REUSS, Mr. LEHMAN, Mr. WOLPE, Mr. CONYERS, Mr. MOFFETT, Mr. SIMON, Mr. OBERSTAR, Mrs. HECKLER, Mr. BEDELL, Mr. HOYER, Mr. RAILSBACK, Mr. MITCHELL of Maryland, and Mr. GARCIA.

H. Con. Res. 336: Mr. MCHUGH, Mr. OTTINGER, Mr. FRANK, Mr. FISH, Mr. VENTO, Mr. BONIOR of Michigan, Mr. DIXON, Mr. LOWERY of California, Mrs. KENNELLY, Mr. DREIER, Mr. PORTER, Mr. FOGLIETTA, Mr. BAILEY of Pennsylvania, Mr. WOLF, Mr. RANGEL, Mr. ADDABBO, Mr. RATCHFORD, Mr. FAZIO, Mr. WORTLEY, Mr. DE LUGO, Mr. WILLIAM J. COYNE, and Mr. SHAMANSKY.

H. Con. Res. 343: Mr. DAUB.

H. Con. Res. 380: Mr. PEPPER, Mr. OBERSTAR, Mr. OTTINGER, Mr. ROE, Mr. FAUNTROY, Mr. MOFFETT, Mr. BEILENSON, Mr. STOKES, Mr. FORD of Tennessee, Mr. SHAMANSKY, Mr. PORTER, Mr. SEIBERLING, Mr. HUGHES, Mr. MINETA, Mr. ROYBAL, Mr. DELLUMS, Mr. SCHUMER, and Mr. EDGAR.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

540. By the SPEAKER: Petition of the town board, town of Smithtown, N.Y., relative to a nuclear weapon freeze; to the Committee on Foreign Affairs.

541. Also, petition of the council of the city and county of Honolulu, Hawaii, relative to amending Federal tax laws to provide for the establishment of individual housing accounts to assist first-time home buyers; to the Committee on Ways and Means.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 5320

By Mr. EDGAR:

—Page 119, line 15, strike out "veterans,".

Page 119, line 24, insert "and" after the semicolon.

Page 120, beginning with line 2, strike out all through page 121, line 8, and insert in lieu thereof "the Nation's labor force.".

On page 125, line 7, strike out "The Secretary" and insert in lieu therof "(1) The Secretary shall provide, either directly or through grant or contract, for the conduct of programs to meet the employment needs of veterans and".

On page 125, after line 12 insert the following new paragraph:

(2) Programs conducted under this section shall emphasize the needs of disabled veterans, veterans of the Vietnam era, and veterans who have recently been separated from military service and shall include, but not be limited to—

(A) programs and activities carried out by grantees under this or other federally funded employment and training programs as the Secretary determines have an understanding of the problems of veterans, a familiarity with the area to be served, and a capability to administer effectively a comprehensive employment and training program for veterans;

(B) promotion of programs of on-the-job training coordinated, to the maximum extent possible, with benefits authorized under section 1787 of title 38, United States Code;

(C) employability development programs conducted in coordination and cooperation with the Veterans' Administration's programs of readjustment counseling conducted pursuant to section 612A of such title and veterans assistance offices established pursuant to section 242 of such title;

(D) job placement programs conducted in coordination and cooperation with the Department of Labor's Disabled Veterans' Outreach Program conducted pursuant to section 2003A of such title; and

(E) demonstration programs, conducted in coordination and cooperation with the Department of Defense and the Veterans' Administration, to provide preseparation counseling concerning opportunities in the civilian labor market and preseparation job search assistance for individuals who decline to reenlist.".

Page 125, line 13, strike out "also".

Page 126, after line 2, insert the following new subsection:

(e) For the purpose of carrying out this section, the Secretary shall reserve and make available from funds available for this title for any fiscal year an amount equal to not less than 0.4 percent of the amount available for title II of this Act for that fiscal year.

H.R. 5427

By Mr. HARKIN:

—Page 8, after line 12, insert the following new section:

USE OF JOURNALISTS WHO ARE IN CUBA

SEC. 7. Not more than 5 percent of the amount available for the fiscal year 1983 for radio broadcasting to Cuba under this Act may be obligated or expended until the Board for International Broadcasting has reported to the Congress that (1) the Board has adopted a requirement that the radio broadcasts to Cuba must utilize the services of at least five journalists who are in Cuba, and (2) the Board has firm reasons to believe that this requirement can be implemented. These journalists may be journalists who are employed directly for purposes of radio broadcasting to Cuba under this Act or may be journalists who work for news reporting services which are subscribed to for purposes of such broadcasting. The requirement that five journalists be in Cuba may only be met by five full-time journalists who reside in Cuba, by non-resident journalists who are in Cuba for the equivalent of 5 man-years each year carrying out functions relating to radio broadcasting to Cuba, or by a combination of such resident and non-resident journalists so long as there are journalists in Cuba for the equivalent of 5 man-years each year carrying out functions relating to radio broadcasting to Cuba.

—Page 8, line 7, immediately before the closing quotation marks, insert the following: "Not more than 5 percent of the amount available for the fiscal year 1983 to carry out radio broadcasting to Cuba under this Act may be obligated or expended until the Commission has issued regulations establishing criteria for compensation under this section for United States radio and television broadcasting station licensees on account of Cuban interference."

H. J. RES. 521

By Mrs. MARTIN of Illinois:

—Page 3, strike out the first two paragraphs of the preamble appearing on that page.

Page 4, strike out lines 19 through 21.

EXTENSIONS OF REMARKS

CAPTIVE NATIONS

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DERWINSKI. Mr. Speaker, the observance of the 24th anniversary of Captive Nations last week by all reports was a success. Events which took place here and abroad clearly expressed the theme of the Captive Nations Week, and its vital importance to the security of the free world.

The emphasis on the denial of freedom of human rights to the over 100 million non-Russians held captive by Communist rule was shown in the proclamations issued by Governors and mayors from across the country. I wish to insert the proclamations from the Governor of the State of Wyoming, the Honorable Ed Herschler; the Governor of the State of Kansas, the Honorable John Carlin; and the Governor of the Commonwealth of Pennsylvania, the Honorable Dick Thornburgh. In addition, many mayors showed their interest in Captive Nations Week by issuing proclamations and I wish to include them: The first from the mayor of the city of Chicago, Ill., the Honorable Jane M. Byrne; the mayor of the city of Omaha, Nebr., the Honorable Michael Boyle; and the mayor of the city of Tacoma, Wash., the Honorable Doug Sutherland. These proclamations follow:

PROCLAMATION—STATE OF WYOMING

Whereas, the imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies, and activities, expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Ed Herschler, Governor of the State of Wyoming, do hereby proclaim the week of July 18 through 24, 1982, as "Captive Nations Week" in Wyoming, and call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PROCLAMATION—STATE OF KANSAS

Whereas, the imperialistic policies of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of many nations; and

Whereas, the desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas, the freedom-loving peoples of the captive nations look to the United States as the citadel of human freedom and to the people of the United States as leaders in bringing about their freedom and independence; and

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayers, ceremonies and activities, expressing their sympathy with and support for the just aspirations of captive peoples:

Now, therefore, I, John Carlin, Governor of the State of Kansas, do hereby proclaim the week of July 18 through 24, 1982, as "Captive Nations Week" in Kansas, and call upon the citizens of the State to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.

PROCLAMATION—CITY OF CHICAGO

Whereas, the Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week; and

Whereas, all people of the United States are invited to observe the week with appropriate prayer ceremonies and activities expressing their sympathy for the just aspiration of the captive nations; and

Whereas, it is the consensus of geopolitical observers that the spirit of freedom is now more evident in the countries dominated by communism than at any time in many years; and

Whereas, friends of the captive nations are determined that all possible moral support will be given to people of the enslaved nations:

Now, therefore, I, Jane M. Byrne, Mayor of the City of Chicago, do hereby proclaim July 18-24 1982 to be "Captive Nations Week" in Chicago and urge all citizens to be cognizant of the events arranged for this time.

PROCLAMATION—COMMONWEALTH OF PENNSYLVANIA

The quest for freedom has been a source of fierce struggle and determination for people throughout the world. Fueled by a burning desire to live, work and worship without fear of retribution, many brave men and women have sacrificed their lives to create a society of justice and a world of peace and goodwill. As Americans, we are fortunate recipients of the realization of that dream. Yet in many countries, the flame of liberty continues to be tainted by the oppression and degradation characteristic of intolerant governments.

We who enjoy the fruits of freedom must recognize that the rights we hold to be self-evident do not exist in all countries. We cannot and must not forget that some people are continually denied their most basic human rights in their homelands, and they are forced to live in silence, hunger and fear. We must not ignore those who are held in bondage by totalitarian governments and are imprisoned for their dreams and beliefs. As we witness the distressing turn of events in countries throughout the world, we must strive to ensure that America's legacy of liberty is preserved and promoted for future generations, in the hope that one day all people will be free.

In recognition of the efforts of all brave men and women who are working for freedom and justice in their own lands, I, Dick Thornburgh, Governor of the Commonwealth of Pennsylvania, do hereby proclaim July 18-24, 1982 as "Captive Nations Week" in Pennsylvania. I urge all Pennsylvanians to join with all freedom-loving people in support of the ideals of freedom of conscience, movement and speech.

PROCLAMATION—CITY OF OMAHA, NEBRASKA

Russian Communism has led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others.

The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist Leaders to initiate a major war.

Captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence.

The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies and activities; expressing their sympathy with and support for the just aspirations of the captive nations.

Now therefore, I Michael Boyle, Mayor of the City of Omaha, do hereby proclaim the

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

week of July 18-24, 1982, as "Captive Nations Week".

PROCLAMATION—CITY OF TAKOMA, WASHINGTON

Whereas The imperialistic politics of Russian Communists have led, through direct and indirect aggression, to the subjugation and enslavement of the peoples of Poland, Hungary, Lithuania, Ukraine, Czecho-Slovakia, Latvia, Estonia, Byelorussia, Romania, East Germany, Bulgaria, Mainland China, Armenia, Azerbaijan, Georgia, North Korea, Albania, Idel-Ural, Servia, Croatia, Slovenia, Tibet, Cossakia, Turkestan, North Vietnam, Cuba, Cambodia, South Vietnam, Laos, Afghanistan, and others; and

Whereas The desire for liberty and independence by the overwhelming majority of peoples in these conquered nations constitutes a powerful deterrent to any ambitions of Communist leaders to initiate a major war; and

Whereas freedom loving people of the captive nations look to the United States as the citadel of human freedom and human rights and to the people of the United States as the leaders in bringing about their freedom and independence; and

Whereas The Congress of the United States by unanimous vote passed Public Law 86-90 establishing the third week in July each year as Captive Nations Week and inviting the people of the United States to observe such week with appropriate prayer, ceremonies, and activities; expressing their sympathy with and support for the just aspirations of the captive nations;

Now, therefore, I, Doug Sutherland, Mayor of the city of Tacoma, Washington Do Hereby Proclaim the Week of July 18-24, 1982 to be "Captive Nations Week" in the City of Tacoma, and I call upon our citizens to join with others in observing this week by offering prayers and dedicating their efforts for the peaceful liberation of oppressed and subjugated peoples all over the world.●

SENATOR ANNE LINDEMAN—LEGISLATOR OF THE YEAR

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. STUMP. Mr. Speaker, Arizona State Senator Anne Lindeman, who represents legislative district 17 in northwestern Maricopa County, is today being named "National Republican Legislator of the Year" by the National Republican Legislators Association.

Senator Lindeman's Arizona colleagues also have voted her most influential senator and most-effective senate committee chairman. Having served with her, I can testify to Anne's outstanding work in the Arizona Legislature. She always gives the extra measure, and her constituents are extremely fortunate.

The National Conference of State Legislatures has benefited from her dynamic leadership as chairman of their education committee. She also represents Arizona on the Presidential Advisory Committee on Federalism.

The official presentation, Legislator of the Year, is being made today at the Hyatt Regency in Chicago at the annual National Republican Legislator's Association luncheon.

With justified pride as a friend, and on behalf of the constituents we share, I want to thank Senator Lindeman for the great honor she brings to us and to the State of Arizona with her achievements.●

THE BANKRUPTCY OF REAGANOMICS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. FLORIO. Mr. Speaker, the Reagan recession continues to envelope New Jersey and the Nation in the most severe economic disaster since the Great Depression. Between April and May of this year another 9,000 New Jerseyans lost their jobs. Overall, joblessness in New Jersey has doubled since July of 1981, leaving about 285,000 people unemployed. Plant closings and reduced production schedules have caused factory employment to drop for 10 consecutive months. An estimated 46,300 manufacturing jobs were lost in New Jersey between last July and this May. Those still employed have been forced to work shorter hours.

The article which follows provides sound reasoning that Reaganomics, from its inception, was a prescription for deindustrialization and economic policies incompatible with economic development.

I commend this article to the attention of my colleagues.

[From the Philadelphia Inquirer, July 2, 1982]

REAGANOMICS: FAILED MAGIC

(By Edward S. Herman)

President Reagan's economic policies have been aimed, purportedly, at reducing inflation and unemployment, and stimulating productivity and economic growth. Only the inflation goal has been even approximately met. Business investment, productivity, and growth have stagnated at best, while unemployment is at a new post-Great Depression high, with official rates now approaching 10 percent.

Neither during the election campaign nor thereafter did Reagan ever suggest that his real anti-inflation plan was to use extremely tight money and massive unemployment to get prices down. On the contrary, he chided Jimmy Carter for the "despair" of the eight million who were then without work through no fault of their own, and he implied that his method of solving the problem would be supply-side magic—a flood of new investment and output based on a reduced government burden, tax incentives to business and consumers and an interest rate decline reflecting investor expectations of happy events to come.

Whether Reagan and his advisers ever really believed in this magic is debatable. The administration put forward a highly expansionary budget, with tax reductions and military spending increases outweighing cuts in other (mainly social) expenditures. This budget would have accelerated inflation, barring a supply-side surge of output or tight money. But a surge in output would have choked off the expansion.

The contradiction in Reaganomics was that it imposed severe monetary restraint and high interest rates from the beginning, which led to completely predictable shortfalls from administration forecasts regarding unemployment and output expansion. It is very possible that this was a planned recession with the supply-side surge a public relations cover for an unpalatable but intended reality.

Some argue that Reaganomics should not be evaluated within a short time horizon. I agree, although the initial Reagan promises and optimistic projections for 1981 and 1982 did imply quick results.

But the longer term effects of Reagan's policies look even more ominous than their immediate impact. The looming military buildup and huge deficits, and the absence of any administration initiatives that get at the roots of inflation, suggest that if prosperity returns we will witness a quick renewal of inflationary pressures. That is what the bond market says in its refusal to shake off the inflation premium in long-term bond rates.

In April 1981, I argued on this page that Reaganomics is a recipe for deindustrialization rather than reindustrialization. Ensuing developments have strengthened that case.

High interest rates and declining sales have reduced business pre-tax profitability by more than the Reagan tax bonanzas have increased after-tax profitability. The ratio of the market value to the replacement value of corporate assets continues to fall (from 0.67 in 1976-78 to 0.55 in 1979-81), encouraging the transfer of profits into the acquisition of under-valued companies rather than new investment.

The cash flow needed to sustain renovation has dwindled and investment in both research and new equipment has been cut back. In steel, with operating rates for May down to 43 percent, 7 of 10 companies are losing money, and industry members are struggling just to survive. Business investments in durable equipment fell by more than 10 percent between 1980 and 1981, and is probably declining further with continued high interest rates and excess capacity in 1982. These all add up to technological and productivity stagnation.

High administration officials are now expressing the hope that much of the increase in take-home pay from the imminent tax cuts will go into consumption expenditures to help bolster rates of utilization. It will be recalled that the central justification for regressive tax cuts was the importance of increasing saving. The turnabout reflects, at best, serious incompetence, at worst, the possibility that the original rationale was a cover for class greed, without any redeeming economic logic.

I stressed in the April, 1981, column that Reagan's "new federalism" amounted to an abandonment of the U.S. infrastructure, and was incompatible with economic development in the long term. Our roads, railroads, bridges, port facilities, water, sewage disposal and urban transport systems—essential to a productive and expanding economy—have been undermaintained for years,

and accelerated neglect will severely impair national economic viability.

The deliberate gutting of the Environmental Protection Agency and other essential efforts to deal rationally with matters like the disposal of toxic wastes, show Reaganomics to be oriented to the demands of special interests in the short-run. The liquidation of manpower training programs and job and security support for the underclass is in the same mode. To abandon the poor in an environment of slackening growth is not only inhumane, it is shortsighted in terms of a workable society and economy for the future. Many street muggers of the future will be a fallout of Reaganomics.

Finally, Reaganomics is transferring the bulk of the shrinking social surplus into military spending. This is being done with a lavishness that contrasts sharply with the ruthless penny-pinching applied to programs for people without political clout.

The most significant relationship between government expenditures and productivity decline since 1945 does not involve social outlays at all—it is the negative impact of large military budgets on productivity (as in Great Britain and the United States, versus Japan and West Germany.) The huge technological drain into exotic overkill and large naval sitting ducks, which Reagan is pressing upon us, regrettably will further the task he has begun so well in his first two years of rendering American business noncompetitive.

(Edward S. Herman, professor of finance at the Wharton School, University of Pennsylvania, is the author of Corporate Control, Corporate Power, Cambridge University Press, 1981.)●

EXPORT TRADE LEGISLATION

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. MORRISON. Mr. Speaker, I would like to express my support for the Export Trading Company Act, H.R. 1977, and the Bank Export Services Act, H.R. 6016—legislation essential to the development and expansion of domestic export trading companies. I was pleased to join efforts yesterday to pass this important legislation to allow the United States to effectively compete with foreign export trading companies for export markets.

While reducing our serious export trade deficit by maximizing our impact on the world market, this legislation will strengthen our efforts to spur economic recovery in the Northwest. Access to capital and financing for domestic export trading companies will mean jobs and increased productivity for the small- and medium-sized businesses not currently involved in export trade due to restrictions inhibiting export activity. The Northwest has unlimited potential on the world market, and we can compete successfully if the necessary resources and opportunities are in place. This legislation will provide the economic incentives and mechanisms to facilitate the promotion of export trade so vital to the economic health of the Northwest and the Nation. I thank the committees who worked diligently to fashion this legislation and congratulate the full House of Representatives for its long-delayed consideration and approval of these measures.●

UKRAINIAN HUMAN RIGHTS AWARENESS WEEK

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. COUGHLIN. Mr. Speaker, I rise today in recognition of Ukrainian Human Rights Awareness Week and to honor the Ukrainian American community for its unyielding efforts to end the repressions suffered in the Ukraine.

Since the 1920's the Ukraine has been held captive by Soviet agressors. Nevertheless, the destruction of Ukrainian churches, the numerous arrests of the intellectual elite, and the forced resettlement of Ukrainian citizens have only served to strengthen and intensify the determination of the Ukrainian people to rid themselves of Soviet domination and regain their status as an independent Nation.

In 1975 the Soviet Government agreed to honor and uphold certain basic rights for all citizens under the Universal Declaration of Human Rights and other such human rights provisions of the Helsinki accords. In an effort to monitor and insure Soviet compliance on these humanitarian issues, the Ukrainian Helsinki Monitoring Group was established. Without regard for the intentions of the monitoring group, however, and in direct violation of the Soviet pledge, all founding members of the Ukrainian Monitoring Group subsequently have been subjected to unwarranted imprisonment exile, and continued harassment by Soviet authorities.

At this time, I would like to reiterate my deep concern about the sad predicament faced by the founder of the Ukrainian Helsinki Group, Mykola Rudenko, who is now serving a maximum 12-year prison sentence in a Soviet labor camp. For his efforts on behalf of his homeland, Rudenko was charged with anti-Soviet agitation and propaganda. Last year, it was brought to our attention that Rudenko's wife, Raisa, was reported missing from her home in Kiev. Mrs. Rudenko had, in fact, been arrested for smuggling several of her husband's poems out of prison and for this she, too, is serving a prison sentence.

Blatant violations of human rights such as those experienced by the Rudenkos must not be allowed to continue. Indeed, we must reaffirm our commitment to freedom and human rights worldwide by continuing to support the courage and the determination of the Rudenkos and so many other Ukrainian citizens who have been silenced by Soviet repression.●

THE PUBLIC'S RIGHT TO COMMENT

HON. DENNIS E. ECKART

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. ECKART. Mr. Speaker, the Department of Health and Human Services proposes to have the option of shutting the door to the public's right to comment and participation in its more controversial making of rules and regulations. I strongly oppose any restrictions on the public's right to know, review and comment on proposed rules and regulations. What the Department espouses is anathema to openness in Government. I suspect this proposal amounts to sneaky, back door method by the administration to reshape social security, medicare, medicaid, and other social program regulations to suit the administration's ends. I commend to the attention of my colleagues an editorial from the Plain Dealer. The editorial concludes correctly that what the Department proposes is a terrible idea.

The article follows:

[From the Plain Dealer, July 26, 1982]

HIDING FROM THE PUBLIC

Given its druthers, the federal Department of Health and Human Services would just as soon make its regulations in a secret, dimly lit back room and spring them full-blown and relatively impregnable from public uproar.

Ironically enough, a proposal to eliminate public comment is passing through the very procedure it would modify. The department's procedure has been to publish proposed regulations in the Federal Register and allow 30 days for public comment before finalizing and implementing them. Officials claim this causes delays of up to a year in putting new rules and regulations into effect. We are not certain how 30 days for public comment translates into a full year of bureaucratic delay, if indeed it does.

What officials seem to mean is that when they issue regulations that don't sit well with the public, it results in nasty editorials, harsh letters, angry speeches and noisy brouhaha, and they are forced to sit down and rework the offending rules. That, we agree, certainly takes more time, but it is time well spent, from the public's point of view.

Without the public comment procedure the department so heartily deplores, Americans would have found that catsup and pickle relish had been actually declared to be servings of vegetables on the plates of schoolchildren. Public comment, not to mention public derision, killed that ridiculous proposed regulation.

Health and Human Services deals with most of the basic social service functions of

government; its regulations touch the poor, the elderly, the handicapped and sick. Children, minorities and consumers have all been affected by the department, whether they have known it or not. HHS is presently working on changes in the regulations for Medicaid, Medicare, Social Security and Head Start, among other programs.

Department officials have noted they would continue to use the "notice and comment" procedures in most instances, but would, if the procedure is changed, have the option to suspend notice and comment if alerting the public would "impair the attainment of program objectives or would have other disadvantages that would outweigh the benefits" of public comment.

That sounds fairly easy to interpret: Regulations about which there would be little public comment would continue to be presented for comment. Regulations that would likely raise a tumult, thus delaying implementation, would not be made public until after the fact.

Even HHS officials admit that rules have often been improved as a result of comments from other governmental agencies, from business and industrial interests, civic and consumer groups and private citizens.

Public participation has become firmly entrenched in the national consciousness over the last decade or so. Democracy is all the stronger when the governed are able to freely comment on what their government is doing. Changing public notice and comment procedures is a terrible idea with an understandable fascination for bureaucrats. But cutting Americans out of their part in the making of rules and regulations that so intimately affect so many lives is wrong.●

A SALUTE TO THE OHIO ASSOCIATION OF THE CHIEFS OF POLICE

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. STOKES. Mr. Speaker, I take this opportunity to bring to the attention of my colleagues, the 51st Annual Conference of the Ohio Association of the Chiefs of Police. This conference will be held in Strongsville, Ohio, concluding with a banquet on July 30, 1982. It is a distinct pleasure and honor for me to use this forum to honor the association and the president of the host organization, the Cuyahoga County Police Chiefs Association, Chief Louis Westerburg.

The Ohio Association of the Chiefs of Police represents the majority of police executives in the State of Ohio. Because of the magnitude of the organization's contributions to the citizens of my great State, I feel that it is only fitting to share some of the history of this organization with my colleagues.

Mr. Speaker, the history of this organization spans over 50 years. During this period, the goals of the organization have expanded from providing aid to various police executives to impacting major legislation and administering training programs for law enforcement officials around the State.

It was in 1928 that the motivation and stated need for an organization of this kind surfaced at a meeting of 30 police chiefs in Dayton, Ohio. The primary purposes of the organization in its infancy were, "to secure closer official and personal relationships amongst police officials, to secure unity of action in police matters and to adopt a uniform system of police records making possible an accurate study of crime." After 2 years of refining the mission of the organization, the first meeting was held in December 1930 at which time the constitution and bylaws were adopted.

After functioning with the aforementioned guidelines in mind for a few years, association officials later realized the value of positive input on the legislative process in terms of the police and legal systems. It was at this juncture in the early 1960's, that the association asked Columbus Police Chief George Scholer to undertake the lobbying responsibilities of the association. Soon, this added dimension of the association's existence proved to be worthwhile when in 1965, the association claimed its first legislative victory in passage of vital police training legislation in the Ohio State Legislature. This accomplishment demonstrated to the public and to association members what positive impact they could have on the Ohio State Legislature and subsequently interest in the law enforcement community began to grow.

Mr. Speaker, realizing the favorable impact on the legislative process the combined efforts of the police chiefs in the State of Ohio could have, in 1968, the association officially opened a legislative operations office. This was a major milestone in the organization's history.

In 1971, the office was expanded and the organization worked diligently to establish itself as a viable and legitimate concern in pending law enforcement legislation on the State level. The thrust of the association was expanded also at that time from just monitoring the legislative process to providing concrete programs for the thousands of police officers in the State.

It was at this point that the association began to seek and administer funds to be used for the training of police officers. Through LEAA, the association was successful in securing a training grant that was used primarily to offset small department expenses in sending police officers to short-term training seminars throughout the State of Ohio and also to Northwestern University, Michigan State University, and the Southern Police Institute in Louisville, Ky. During the 10 years of this additional thrust, the association secured well over $500,000 in aid for the training of police officials at no cost to local communities.

Following up on this commitment to quality training of law enforcement officials, the association proposed and secured funding for a State training academy. In the early 1970's, the academy opened its doors. Since that time, thousands of officers from throughout the State have benefited from the excellent instruction and ongoing curriculum in the academy in London, Ohio.

In addition to the training programs initiated by the association, the membership deserves credit for the overhaul of the entire State criminal code and criminal rules and procedure. Mr. Speaker, forming a productive coalition with the LEAA in the State of Ohio and the Governor's office, the Ohio Association of the Chiefs of Police in 1974 successfully coordinated the modification of the existing State code.

From these selected milestones in the history of the Ohio Association of the Chiefs of Police, it is evident that the organization has grown by leaps and bounds in influence and stature both in the Ohio legislature and in the community. Through concerted and dedicated service of the staff and the entire membership, the association has made an indelible mark on legislation, training and communications involving police officers in the State.

Mr. Speaker, I take this opportunity to salute the association on these monumental achievements. As the membership meets in Strongsville, Ohio, at the 51st annual conference, I know that they will be establishing even greater goals to enhance the delivery of services of the association to its membership and the citizens of the State of Ohio. Mr. Speaker, I ask my colleagues to join me in this salute to the Ohio Association of the Chiefs of Police.●

THE HINCKLEY VERDICT

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. HAMILTON. Mr. Speaker, I am inserting my Washington report for Wednesday, July 28, 1982, into the CONGRESSIONAL RECORD:

THE HINCKLEY VERDICT

The facts were not in dispute. There was ample evidence that John Hinckley carefully planned to kill the President of the United States. He bought the weapon and the explosive bullets, practiced his assault methodically, and stalked the President like a hunter stalks his quarry. Then Mr. Hinckley tried to carry out his plan. On March 30, 1981, he gunned down the President and three other men on a Washington street, permanently disabling one of them. Yet fifteen months later, a jury found Mr. Hinckley not guilty by reason of insanity.

Public reaction to the verdict was immediate. There was confusion, anger, even outrage. How could a would-be assassin who knew what he was doing and knew that it was wrong escape all responsibility? Did not Mr. Hinckley's desire to impress an actress with whom he was infatuated show that he tried to kill the President precisely because he knew that it was wrong? A poll taken shortly after the verdict found that 90% of those responding wanted Mr. Hinckley to be permanently confined even if his emotional problems were eventually corrected. Some people feared that he might soon be back on the streets and would once again menace public officials. Others complained that the verdict would be an incentive to lawbreakers of every kind. Others ridiculed the verdict as something which offended common sense and eroded confidence in the rule of law. Still others criticized the fact that Mr. Hinckley's wealthy family spent about $500,000 on prominent attorneys and medical experts in a classic "rich man's" defense. There can be no doubt that the verdict violated most Americans' sense of justice and fair play. There was a widespread feeling that Mr. Hinckley "beat the system".

As I discussed Mr. Hinckley's acquittal with Hoosiers in the days following the trial, I noted among them the firm belief that abuse of the insanity defense is but one part of a disturbing legal trend which favors the rights of the accused over those of the victims. The ultimate effect of the trend is to disarm society and prevent law-abiding citizens from defending themselves against violent criminals. Hoosiers recognize the need to protect the rights of the accused, but they are concerned that criminals—whether through wealth, trickery, or simple deficiencies in procedure—too often twist the law to their own ends. Hoosiers who spoke with me about the Hinckley case did not advocate abolition of the insanity defense in federal cases. They held the view that there will always be a few clear-cut instances of mental illness so profound that it must in some way excuse behavior which would otherwise be wholly criminal. What these constituents wanted was a thorough reform of the insanity defense: one that would preserve its worthwhile features while greatly restricting its scope. I agreed with them that reform be made without delay. We should redefine legal insanity, create a verdict of "guilty but mentally ill", and shift the burden of proving insanity to the defense.

REDEFINING LEGAL INSANITY

The issue of legal insanity is centuries old, and controversy has surrounded it for much of that time. In 1843, the English courts concluded that the accused was not criminally liable if, on account of mental illness, he did not understand the nature or quality of his act or did not realize that his act was wrong. The federal courts used this definition for some time, but now their standard is more inclusive and easier to satisfy: the accused is not criminally liable if his act is a product of mental disease or defect. One reform would have the federal courts return to the older English definition of legal insanity. Had such a change been made early last year, it is much more likely that Mr. Hinckley would have been convicted. Despite the obvious fact that he was an emotionally disturbed young man, it certainly seemed that he knew what he was doing and knew that is was wrong.

CREATING A VERDICT OF "GUILTY BUT MENTALLY ILL"

Five states (including Indiana) have created a verdict of "guilty but mentally ill." Some 20 state legislatures are weighing the benefits of following suit. The effect of the verdict varies with the mental illness of the convict. Those whose illness is not serious may receive treatment in prison. Those whose illness is serious are confined in mental wards where they receive treatment; when they recover, they are released to prison where they spend the remainder of their term. A second reform would allow this verdict in the federal courts.

The verdict of "guilty but mentally ill" has critics and proponents. Critics say that it may lead to the hospitalization of those who need minimal care or, in the alternative, to minimal care for those who need the hospitalization. On the other side, proponents say that in virtually all cases it is helpful to hold the mentally ill person responsible for what he does: absolving him of responsibility of an act which has important social consequences only encourages him to continue to live in his delusions. Congress must assess both arguments as it deliberates.

SHIFTING THE BURDEN OF PROOF

The instructions of the judge to the jury occasioned what was perhaps the most serious problem in the Hinckley case. Under federal law (and in some states), the jury is told that the defendant who pleads insanity is presumed to be insane unless proven sane beyond a reasonable doubt. Any indication that the defendant may not be mentally stable (for example, his admission that he committed a senseless or unusually awful crime) is in his favor. The burden of proving him sane falls on the prosecution; it is heavy because the prosecution must dispel all reasonable doubt.

A third reform would have the federal courts follow some state courts (including Indiana's) in having the judge instruct the jury that the defendant who pleads insanity must prove his insanity by a preponderance of the evidence (a proof less strict than proof beyond a reasonable doubt). The defendant would win his case only if he had evidence sufficient to outweigh the prosecution's evidence. Had the burden of proof been reversed in the Hinckley trial, a conviction might well have been the outcome.●

CLARIFICATION OF THE SO-CALLED "HOMEPORTING" RULE

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. AuCOIN. Mr. Speaker, I rise to commend the U.S. Navy on its recent clarification of the so-called homeporting rule.

For several years, the Navy has operated under a questionable policy of overhauling Navy vessels in their respective home ports, so long as sufficient drydocking capacity and economic competition were available in such ports. This policy would make a certain amount of limited sense if Navy vessels were homeported evenly throughout the United States. The private ship repair contractors in each port would be allowed to compete on a number of regularly scheduled overhauls and a broad, industrial mobilization base would be preserved.

Through a combination of historical accidents we have seen a dangerous accumulation of ships homeported in just a few ports. When coupled with the fact that the finest drydocking and ship repair facilities in America are not located in those ports, the homeporting rules become an impediment to the preservation of our strong mobilization base.

The ship repair yard in Portland, Oreg., provides a perfect illustration. Several years ago the Port of Portland added to its already impressive ship repair capabilities by acquiring the largest floating drydock on the west coast. It is the only drydock capable of overhauling the huge oil tankers, and has a reputation for excellence in both the commercial and Navy worlds. Unfortunately, the Navy's homeporting rules have all but wiped out Portland's opportunity to compete on Navy overhauls. Because no Navy vessels are homeported in Portland, our local contractors are allowed to bid only on those few overhauls which cannot be scheduled in their respective home ports. As a result, one of our three main ship repair contractors has gone out of business, another refuses to bid on Navy contracts and now we are down to just one remaining contractor.

Through the leadership of Secretary John Lehman, Assistant Secretary George Sawyer, and the new Chief of Naval Operations, Adm. James Watkins, the homeporting rules are being modified. This is a move I have long advocated. Under the new rules, only one-third of the Navy overhauls will be reserved solely for home port contractors. Subject to the Navy's discretion, up to two-thirds of the overhauls can be opened up to costwide competition.

Again, I commend the Navy for its foresight regarding this matter. The clarification of the homeporting rules could be a tremendous step toward strengthening our Navy while assisting taxpayers throughout the United States.●

SEIZE THE OPPORTUNITY FOR PEACE

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. LaFALCE. Mr. Speaker, recent discussions and negotiations aimed at resolving the conflict in Lebanon appear to have lost sight of the true nature of the PLO as well as the opportunities the Israeli military action has afforded for establishing peace in the Mideast. The PLO has consistent-

ly worked to sabotage the Camp David accords and to destabilize the governments of our allies, such as Egypt, Jordan, and the Gulf States.

Israel's action against the PLO, at a high price to both combatants and civilians, offers a unique opportunity to restore Lebanon as it was before the PLO and Syrian invasion, and to significantly reduce the influence of the PLO, thereby enhancing the security of America's allies in the region.

Unfortunately, it appears that this opportunity may be undone by present American diplomacy. We seem to be intent upon devising ways to not only legitimize the PLO but to cast it into a more favorable and powerful role than it has had or deserves. We seem to have lost sight of the causes for the conflict and the problems in the Mideast. History and facts are being distorted and even forgotten.

Morton M. Kondracke, executive editor of the New Republic, discusses these issues and suggests appropriate U.S. diplomatic goals and actions, in the Wall Street Journal, July 22. I recommend "Reagan Diplomacy and the Rehabilitation of the PLO" to my colleagues.

The article follows:

[From the Wall Street Journal, July 22, 1982]

REAGAN DIPLOMACY AND THE REHABILITATION OF THE PLO

(By Morton M. Kondracke)

The Palestine Liberation Organization has done nothing—ever—to merit sympathy or support in the West. As a result of Israel's invasion of Lebanon, it's become clear how little real backing the PLO enjoyed even among other Arabs. The Israelis have destroyed the military strength which formerly made the PLO a force to be feared, if not respected. And yet, at its moment of maximum weakness, the PLO is brazenly demanding that the civilized world guarantee its survival, find it a new base of operations, accord it expanded diplomatic recognition and further its political aims. Incredibly, the world seems to be giving in, with the United States leading the way.

The American media still have the sense not to glorify a gunman who uses hostages to shield himself from the police, but every day they are making Yasser Arafat out to be a plucky little hero, even as he hides behind the innocent civilians of West Beirut.

Meanwhile, the Reagan administration has eased the pressure on Arafat to give up by urging Israel not to launch a final attack. The administration is hinting that if Arafat will merely mutter some magic words—"I accept U.N. Resolution 242"—he can get a full pardon, a military escort out of town and a sponsored membership in the club of world statesmen. This gangland boss with his back to the wall may end up being given American support for a PLO state in the West Bank.

It's hard to believe that President Reagan and the belatedly influential Henry Kissinger actually will permit U.S. policy to go so far awry, but rehabilitation of Arafat and the PLO is under way. It has been practically a non-stop project in the U.S. media ever since Israel invaded Lebanon.

The media more or less uncritically accepted assertions that Israel killed 10,000 Lebanese civilians at the outset of the war. It is only now becoming clear that those early estimates came from the PLO, not (as widely reported) the International Red Cross, and that the true numbers of civilian victims are in the hundreds, not thousands. In Tyre, the press reported that 1,000 civilians were killed. The town's mayor put the number at 63.

Too many have died, to be sure, but the press failed to convey the extent to which the Israelis took precautions to limit casualties—including warning civilians to leave. On the contrary, the TV networks' constant emphasis on Israeli censorship implied that Israel was covering up atrocities.

The lesson of recent wars surely is that nations are well advised, if they can, to make censorship total. The pictures Israel has let through have hurt its case, as the footage from Vietnam hurt ours. Britain beat the Argentines and then released the bad news about how. You can be sure that the Soviets will never show what they've done in Afghanistan, and so the world will not scold them for it. The CIA, if it were wise, would equip Afghan rebels with videotape cameras as well as rifles. In the modern world, TV tape is mightier than a cannon.

The U.S. press also has overemphasized Israeli opposition to the Lebanese war. Polls there indicate that more than 90% of the country supports the operation. The press has been focusing on the other 10%. It also has almost entirely failed to report upon the style of government the PLO gave to the areas it formerly occupied in Southern Lebanon. By accounts of those who have been there, it was thug government in which PLO gunmen took what they wanted and punished those who resisted them. Of late, the press and TV have been carrying daily pictures of Yasser Arafat kissing babies and rallying his troops. Where are the interviews with Lebanese civilians held captive in West Beirut?

The image of Arafat being conveyed to the American public now is that of a moderate man forced by his enemies into unsavory alliances and desperate deeds. Menachem Begin and Ariel Sharon make convenient heavies for the piece. It can easily be believed of them (as charged in some full page ads) that they are destroying the PLO in order to suppress the Palestinian people and hold onto the West Bank forever.

Possibly they would like to do just that, but their opportunity (indeed, the Likud Party's accession to power) arises fundamentally from the consistent refusal of all the Arabs except Egypt to accept Israel's existence. Israel would not have the West Bank if it hadn't been attacked in 1967, and it wouldn't have it now if Jordan had agreed to a territorial settlement afterward or if Arafat had launched a Sadat-style peace campaign.

The Likud government certainly has helped recruit supporters for Arafat in the West Bank by its excessively oppressive rule, but Arafat is no peace campaigner. The PLO charter continues to call for Israel's destruction and the organization has made itself a key agent of instability in the West. It is armed by and allied with Moscow, and it trains terrorists without much regard for ideology—as long as they do their killing in countries allied with the U.S. Its only lasting monuments are Maalot and Munich. Israel has not meticulously observed the rules of gentlemanly behavior in Lebanon, but it has done the civilized world a favor by smashing the PLO.

Now, the Reagan administration seems to be offering the PLO's gunmen not just an escape with their lives, but political legitimacy. Time after time, Arafat has been quoted by visiting journalists and congressmen as agreeing to live in peace with Israel—only to disavow the statement the following day. Now, the administration is implying that if he should merely whisper that he accepts U.N. Resolution 242, the U.S. will negotiate directly with him. It's just a step from there to promoting the PLO as a partner in West Bank peace talks and only one more step to advocating PLO rule. Having failed to achieve his aims by violence Arafat may be about to achieve them by words, uttered under duress, which may well be lies.

In 1980, presidential candidate Ronald Reagan correctly branded the PLO as a terrorist organization. This June, Henry Kissinger correctly observed that bringing the PLO into peace talks would give a veto "to the most intransigent element in the Arab world." The U.S. ought to be offering the PLO a safe exit from Beirut, but nothing more. It ought to be pushing Israel to be generous in the West Bank automony talks and urging Jordan to join them, too. The Israelis have created the chance to shape a peace in the Middle East without the scourge of PLO terrorism. The U.S. shouldn't throw that chance away.●

HONORING GEORGE BARTELS

HON. RICHARD L. OTTINGER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. OTTINGER. Mr. Speaker, I rise to bring to the attention of my colleagues the distinguished public service career of Mr. George Bartels, who will be retiring from service to the city of New Rochelle, N.Y., on August 1.

George Bartels has spent 25 years as a municipal official in New Rochelle. For 22 years he served as assistant to the city manager, and in the words of a resolution passed by the New Rochelle City Council, Mr. Bartels established "a hallmark for creative and effective contributions in the realm of municipal administration."

Mr. Bartels' achievements go beyond dedicated service to his city. He has contributed to the welfare of our Nation through service with the State Department and a 34-year military tour of active and reserve duty. He actively participates in such groups as the Boy Scouts, American Legion, YMCA, and Rotary Club.

George Bartels has made an important contribution to his community and country. I salute him for a brilliant career fueled by remarkable devotion, and wish him the best of luck in the future.

I am including in today's RECORD the text of a resolution commending George Bartels by the New Rochelle City Council:

RESOLUTION

Whereas, George W. Bartels, virtually a life-long resident of this community, concludes his exceptionally meritorious career of devoted public service to the City and citizens of New Rochelle on August 1, 1982, and

Whereas, his illustrious quarter century, as a municipal official, with twenty-two years as Assistant to the City Manager, establishes a hallmark for creative and effective contributions in the realm of municipal administration, and

Whereas, during his lengthy tenure in a position of high responsibility, sensitivity and complexity, George Bartels has demonstrated an extraordinary aptitude for problem-solving, for applying innovative measures to the processes of management and for contributing wise counsel and warmhearted understanding among all his associates, and

Whereas, George W. Bartels served his country with distinction during a thirty-four year tour of active and reserve military duty retiring with the rank of Colonel, as well as with the U.S. State Department, and actively participates in the public-spirited enterprises of the Boy Scouts, the American Legion, the YMCA NR day nursery, and of the Rotary Club, which he has served as President; now therefore, but it

Resolved, That this Council of the City of New Rochelle hereby commends George W. Bartels on his distinguished quarter century of service to the City administration and to all the people of this community among whom he has earned the greatest respect, the highest admiration and the most sincere affection. We wish him Godspeed and for him and his wife Joan we hope that the retirement days ahead will be healthful and happy and filled with bright sunshine, and now therefore, be it further

Resolved, That a copy of this resolution be spread upon the minutes of this Council and a suitable copy presented to George W. Bartels.●

WELCOME TO OUR NEWLY NATURALIZED AMERICANS

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GILMAN. Mr. Speaker, it is with sincere pleasure that I congratulate the Orange and Rockland County residents of New York's 26th Congressional District who have recently chosen to become citizens of the United States, with all of the privileges, freedoms, and responsibilities that American citizenship entails.

Our Hudson Valley region in New York State is proud of its newest citizens, and I invite my colleagues to join in welcoming the following newly naturalized Americans and extending to them our best wishes for a happy and prosperous life in their new homeland:

Kamil Vadilili, Mr. Domitrios Liakos, Chong In Delman, Ms. Marie Lourdes Joseph, Mr. Vasilios Demetrios Doupis, Mrs. Chana Kaufman, Miss Thea Brauer, Mrs. Abby Lincoln, Mrs. Gloria Schultz, Mr. Kaushik Patel, Mr. Soren Winger, Mr. Andres Rego, Mrs. Anna Loecher, Mr. Talbert Binns, Miss Gabriele Adler, Ms. Annamarie Papke, Mr. Cesar Rodriguez, Ms. Connie Inzirillo, Mr. Orlando Bolanos, Mr. Barry Johnson, and Mr. Samuel Spielman.

Mr. Farokh Sadri, Mrs. Marie Irias, Mrs. Lucila Salcedo, Ms. Josefina Gatdula, Mr. Konstantinos Panagiotopoulos, Mr. Walter Adler, Mrs. Marlene Thomas, Mr. James Higgins, Mr. Alvaro Sanchez, Miss Arlene Quintans, Mr. Sergio Flores, Mrs. Josepha Borosch, Mr. Roger Ramjug, Mrs. Ekaterini Prekas, Mr. Jos Lasano, Mr. Alastair Cameron, Jr., Mr. Rosario Rizzuto, Mr. Persal Akat, Mrs. Susan Hancock, Mr. Sergio Riccitelli, Mrs. Hansa Mehta, Mrs. Vasantha Kodukula, Mrs. Marie Cornish, Mr. Devaraj Jeyamitra, Mr. Steven Yo-Hyun Hahn, Mr. Demosthenis Prekas, Mr. Alfredo S. Quintans, Jr., Mr. Helmut Scholz, Mr. Samuel Markovitz, and Mrs. Marta Ahumada.

Mrs. Gerada Orr, Mrs. Tow Bartleson, Mr. Nagin Mehta, Mr. Amruta Kodukula, Mr. Yung Choi, Mr. Shlomo Spielman, Mrs. Chava Spielman, Mr. Servando Malabanan, Mr. Fatechand A. Shah, Mr. Ilhan Pere, Mrs. Irena Walczyk, Mr. Sefa Ismail Saribeyoglu, Mr. Mathew Thomas, Mr. Marino Flores, Ms. Mamta Arya, Ms. Martha Tamburrini, Mr. Andrewas Eracleous Avraamides, Mr. Pascal Joseph Auguste, Ms. Shoshana Kind, Ms. Micheline Orelien, Ms. Mirlene Florestal, Ms. Lydia Shmuckler, Mr. Mark Schmuckler, Mr. Fulvio Arcadio Ortega, Jr., Mrs. Elvira Gumabon Tarife, Mr. Richard Ameris, Ms. Frances Fung Sen Hsu, Mr. Joseph Kesler Felix, Ms. Saramma Pandyalakal George, and Mr. Kizhakkemuri Abraham George.

Ms. Rachel Kenig, Mr. William Joseph O'Brien, Ms. Monika Clara Boorboor, Mr. Mordechia Lefkowitz, Mr. Ernesto Dacanay Chan, Mr. Zev Korenshtein, Ms. Minia Korenshtein, Ms. Marie Flore Auguste, Mr. Fernado Augusto Martinez, Mr. Christopher Kahlenborn, Ms. Marlene Sainte, Mr. Cassell Canute McKenzie, Ms. Christina Tsay Sun, Ms. Kathleen McCartin, Ms. Jaswant Singh, Ms. Lih-Chyun Lee, Ms. Kalliope Stamatiadis, Ms. An Marie Weekes, Ms. Haysun Hahn, Ms. Rachelamma Chacko, Ms. Mila ti Du, Ms. Bruno Cosentino, Ms. Lam Moffitt, Mr. Eleazar Fabela Tarife, Mr. Ruben Martinez, Mr. Ralph Cassagnol, Mr. Jamal Kibria, Ms. Dulce Maria Cabrera, and Mr. Diego Yves Fontayne.

Mr. Reynaldo Mana-Ay Paniza, Mr. Josue Defino, Mr. Shalom Meir Ekstein, Mr. George Ladiona Baruc, Ms. Mayra Mercedes Martinez, Mr. Winsert Oliver Williams, Ms. Libia Maria Mendez, Ms. Anna Kodersha, Ms. Philomene Leroisie Mehu, Mr. Domenick Giovanniello, Mr. Michel Joseph, Mr. Paul Bonnard, Mr. Carlos Alfredo Blanco, Azucena Russala Chang, Ms. Christian Steen Hansen, Ms. Immacula Mompoint, Mr. Joseph Victor Allard, Mr. Eugenio DePasquale, Ms. Marie Ange Castor, Mr. Jean Mario Surin, Ms. Jittanard Somberg, Ms. Edgard Jean Baptiste, Ms. Ruth Soffer, Mr. Eitan Soffer, Mr. Ezra Soffer, Ms. Jocelyn Andaya Santos, Mr. John Anadaya Santos, Mr. Sushil Bhardwaj, Ms. Kswei-Yu Lu Hsu, and Ms. Erminia Marie Pia DePasquale.

Ms. Hilda Bueno, Mr. Panagiotis Malavitsis, Ms. Pelagia Duero Morales, Mr. Adolfo Jamolague Morales, Ms. Yu Jane Chen Yau, Ms. Ngoc Thi Khanh Hoang, Ms. Milagros Falceso Fajiculay, Mr. Billy Falceso Fajiculay, Mr. Khalid Mumtaz Ansari, Mr. Navinchandra Pujara, Ms. Cynthia Tempongko Elizao, Mr. Ethelwoldo Eviota Eliazo, Ms. Judy Coyukiat Chu, Ms. Erika Sullivan, Ms. Nellie Bencosme, Ms. Aw-Chen Chang, Ms. Elza Delice Borno, Mr. Samuel Guillard Jean-Francois, Mr. Janco Oppenheim, Ms. Myrla de Leon, Ms. Indu Soni, Mr. Ben-Zion Davidovitz, Mr. Joseph Vattasseril Abraham, Mr. Marie Pavel, Mr. George Stelian Pavel, Mr. Apolinar Cruz, Ms. Thephi Adassa Salmon, Mr. Nestor Montecillo Sagullo, Mr. Belius Bernabe, Ms. Hsiao-chih Cheng, Mr. Glen Roy Bogle, Mr. Oscar Jacinto Rodriguez, Ms. Marie Jvette Jean, Ms. Carmel Mary Shamieh, Mr. Ramon Veras, and Ms. Ann Marie Jones.●

THE PLIGHT OF IDA NUDEL

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 20, 1982

● Mr. COUGHLIN. Mr. Speaker, I join my colleagues today in an expression of mutual concern on behalf of Ida Nudel, whose continuing struggle to obtain permission to emigrate from the Soviet Union to Israel has been an inspiration to all.

Holon, Israel is just over 2,000 miles from Moscow. For Ida Nudel it might just as well be the other side of the Moon. Since 1971, when she first applied for an exit visa, Ida Nudel has been harassed, slandered, and subjected to the inhuman treatment. Convicted of malicious hooliganism in 1978, she was sent to Krivosheina, Siberia.

Now, 4 years later, after her release from Krivosheina, Ida Nudel has been denied a propiska, or residence permit, to live either in Moscow or in Riga. Propiskas are usually denied to people who have been convicted of crimes such as robbery, murder or rape—Ida Nudel's only crime is her desire for freedom. The individual denied a propiska is prohibited from entering the city and, in fact, must stay outside a 100 kilometer radius.

Soviet authorities still have not determined what to do with this woman whose only crime is her great desire to leave her country. Ida Nudel now has been charged with alcoholism and this could eventually result in her incarceration in a psychiatric hospital.

Ida Nudel has suffered far too long. Fortunately, however, her indomitable will, her indefatigable spirit, and her untiring patience have remained constant. Hers continues to be a shining example to all that one's steadfast adherence to a just cause is, indeed, noble.

We must not abandon our efforts to support Ida Nudel's cause. Only by constant vigilance can we in the United States hope to persuade the Soviet Government that their treatment of Ida Nudel and other Soviet dissidents will not be acceptable.●

CYPRUS

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DYSON. Mr. Speaker, as one concerned with peace and justice at home and abroad, I wish to enter the following remarks concerning the blatant and unacceptable violations of the rights of Cyprus by Turkey.

Eight years ago this month the international community witnessed an alarming act of illegal aggression which to date cannot and must not be forgotten. This deplorable event lingers in the memories of the entire world not only because of the unjustifiable nature of the act and the extreme brutality of the aggressors but also because of the blatant unwillingness of those responsible to rectify their actions.

On July 20, 1974, the Turkish junta authorized 40,000 troops to invade the shores of the Republic of Cyprus. Turkey sought and indeed continues to pursue the expansionist goals of political separation of the Greek and Turkish Cypriot communities and the union of 36.3 percent of Cyprus with Turkey. This Turkish-occupied section of the Republic accounts for fully 70 percent of the island's economic potential.

Although there is currently no further bloodshed in Cyprus, this must not be misinterpreted as peaceful resignation to the status quo. Still today there exists both a dire threat to international peace in the Eastern Mediterranean which a conscious, concerned international community can never accept coupled with inactive, nevertheless blatant, continued hostility directed at Cyprus.

Despite the fact that 8 years have elapsed since the initial invasion of Cyprus by Turkey, the situation in Cyprus has not improved; rather, it has worsened with time. Still Turkish forces occupy much of the island, there are 200,000 refugees who were uprooted from their homes and Cyprus continues to search for 2,000 missing persons. This situation is horrifying and unacceptable by all standards.

Turkey has not only defied and violated international law but has also opted to disregard U.N. Charter. The United Nations has adopted resolutions calling for the withdrawal of Turkish troops from Cyprus and the return of the refugees to their respective homes in an effort to insure the island's independence, nonalinement, and unification.

Consistent with the United States concern for the pursuit of human rights and justice in Cyprus, our country supported such U.N. resolutions. Clearly, however, this is not enough.

As a global power and leader of the Western World, it behooves the United States to actively implore the Turkish junta to withdraw from Cyprus and terminate further violation of the most fundamental and humanitarian rights of the Republic. Our Government must support the sovereignty and unification of the Republic of Cyprus.

As a concerned American I call on the U.S. Government to demand termination of the illegal and unwarranted pursuit of further aggression and violation of the rights of Cyprus by Turkey. The 8-year-long chronology of tragedy must not be forgotten until an acceptable and permanent solution is rendered and Cyprus is restored its right to be an independent and territorially integral republic.●

COMMODITY PRICE SUPPORTS PUSH UP BUDGET, COST CONSUMERS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. PORTER. Mr. Speaker, as Congress continues its battle to control the budget, we must diligently seek ways to reduce the deficit and still retain vital programs.

This, of course, requires conscientious soul searching to determine priorities. I have often advocated continued support for the guaranteed student loan program. This program is essential to providing access to higher education for all students, and it can become cost effective with the proper safeguards.

On the other hand, there are numerous programs that not only succeed in driving up the budget deficit but also tap valuable resources that could be put to better use.

Among these are three large-scale, pork barrel projects—the Tennessee-Tombigbee Waterway, the Clinch River Breeder Reactor, and the SRC I (solvent refined coal) demonstration plant—could ultimately cost taxpayers upward of $12 billion. The first of these three is wasteful and unnecessary and should not be built at all. The remaining two, if they deserve to be built, should be developed by private enterprise.

There is another group of special-interest legislation that is extremely costly to taxpayers. This is the program of commodity price supports and subsidies that forces people to pay out of both sides of their pocketbooks—as taxpayers and as consumers.

It cost taxpayers more than $8 billion this year for these programs that protect producers of grain, tobacco, cotton, dairy products, soybeans, peanuts, sugar, and wool.

And this $8 billion does not include the out-of-pocket cost to consumers who are forced to pay artificially high prices at the supermarket for such items as milk, sugar, and peanut butter because the Government restricts supplies.

While consumers are paying as much as $2.25 a gallon for milk at the store, they also are paying the Government some $2.2 billion to purchase and store excess dairy products. As of April 9, the Government owned 365 million pounds of butter, 625 million pounds of cheese, and 975 million pounds of nonfat dry milk.

Some price supports may be necessary to protect a highly perishable commodity such as milk and insure a year-round supply. But supports at the current level encourage excessive production and should be sharply restricted. The administration has proposed reductions in dairy price supports for fiscal 1983, and I certainly favor this measure.

Sugar is still another example of a product for which consumers are paying artifically high prices because the Government agreed to purchase unsold sugar for a minimum of 17 cents a pound. Now, in an effort to avoid spending about $400 million for surplus sugar, the Government has imposed import quotas on foreign sugar, which sells for about 9 cents a pound on the world market.

These sugar import quotas threaten to seriously impair the President's Caribbean Basin program, aimed at spurring economic growth in those very same countries that are among the world's major sugar producers.

And, by artificially inflating the price of domestic sugar, the program could cost consumers up to $3 billion a year at the store.

Peanut and tobacco growers also receive special protection under a system of allotments that limits growing rights to a select few. This system is feudalistic, passing growing rights down from father to son and restricting free access to the marketplace. These commodities, too, are protected by a form of price supports, costing taxpayers millions of dollars.

Furthermore, it is strange, indeed, that while our Government is supporting the tobacco industry with one hand, with the other it is funding the National Institutes of Health for research into cancer and heart disease, both linked to tobacco use.

It is also ironic that the very same people who are most strongly opposed to Government regulation, in general, lose their principles when it is Government intervention for protection of their own pet industries.

The administration this year has cut $3 billion from its request for the farm stablization program. The President is

to be commended for his attempt to restrict these programs.

As Congress reviews the budget, however, it should be wary of log-rolling attempts to push price support levels back up. Rather, it must attempt to cut back these wasteful programs at an even faster rate in order to curb Federal spending and balance the budget.●

HUMAN RIGHTS CONDITIONS IN EL SALVADOR

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. AuCOIN. Mr. Speaker, today the President certified that human rights conditions in El Salvador had improved. In fact they have improved so much that El Salvador requires and additional $61 million of U.S. military aid and assistance. It is news to me that carnage and destruction passes for human rights policy. But, as one State Department official so aptly commented, "We call them as we see them."

By turning a blind eye to acts of torture and murder sanctioned by the El Salvadoran Government, the Reagan administration is not only insuring, but encouraging continuation of these acts.

The March elections, touted as a smashing success by the U.S. State Department, moved El Salvador further to the violent right. as frightening statistics released by the Americas Watch and Amnesty International verify, the new government observes no standards of human rights at all. Any rational consideration of the situation in El Salvador highlights the absurdity of the administration claims.

I am not advocating that we ignore the problems of El Salvador—we cannot afford to. We in Congress must reiterate our commitment to improving conditions in El Salvador. Any hope of achieving a negotiated settlement hinges on U.S. monitoring and involvement. But we must not let our impatience goad us into pursuing a military solution to the long-entrenched political problems of El Salvador. Genuine respect for human rights must be the paramount consideration of both nations; anything less works directly against America's long-term interest by making our country appear to be a silent partner in human repression.

Mr. Speaker, for all the above reasons I support, and am an original cosponsor of the Studds-Harkin amendment introduced today. We in Congress must be willing to assume the responsibility to protect human rights in El Salvador. Obviously, this is a burden the administration is not willing to bear.●

GLEN COVE TAXPAYERS SHOULD NOT FINANCE PRIVILEGES FOR SOVIETS

HON. JOHN LeBOUTILLIER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. LeBOUTILLIER. Mr. Speaker, a storm of controversy is brewing in Glen Cove, N.Y., over the use of taxpayer dollars to subsidize municipal privileges for Soviet Embassy personnel assigned to that city.

The bottom line concerns dollars and cents: Should the taxpayers of Glen Cove allow their hard-earned dollars to be used to provide comforts, recreation and special benefits for their Soviet tenants?

I say "No!" and in addition to this glaring misuse of tax funds, the controversy highlights a greater question concerning United States-Soviet relations.

Mayor Parente's decision to deny recreation and parking privileges to Soviet personnel assigned to the Glen Cove residence cannot be viewed as an isolated event wherein a local jurisdiction has somehow "overstepped" its bounds of authority.

The greater question centers on the undeniable relationship between the Soviet Government and its official representatives throughout the world.

Mayor Parente's action no doubt reflects the legitimate concerns of Glen Cove's citizens and millions of people worldwide who daily witness and suffer the Soviet onslaught against freedom.

It is hypocritical to defend and finance Soviet privileges (not rights) in America while 100,000 Soviet troops ravage Afghanistan or while millions of freedom-loving Poles continue to suffer under the yoke of a brutal, Soviet-backed martial law crackdown.

It is the Soviet Union that finances, trains, and harbors the PLO and the worldwide terrorist network through its East German, Cuban, and Libyan puppets.

It is the Soviet Union that stalks Long Island industries with larcenous eyes in its quest to steal defense-related technology to further bolster its massive military buildup.

Glen Cove has every right—as individual citizens, taxpayers, residents of the city, and as free-living Americans—to object to Soviet deceit and opportunism. Mayor Parente should be commended for his courageous stand against tyranny.

Mayor Parente may not have chosen the most amicable option to deal with these inhospitable tenants, but he has certainly chosen the right one. I stand behind the Mayor's decision 100 percent and urge him not to rescind the sanctions.

So long as the Soviet Government and its official representatives continue to flaunt their abuse of freedom and simultaneously attempt to exploit the benefits of our free society, official Soviet personnel—whether they be stationed in Gorki or Glen Cove—are deserving of no special privileges.

Indeed, they deserve to be treated with the suspicion they have so dubiously earned.●

WE MUST BRING INTEREST RATES DOWN

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DORGAN of North Dakota. Mr. Speaker, if we allow high interest rates to continue much longer, it is going to break the back of our economy.

The Federal deficit is part of the problem. But it is only one part. Another part—a very large one—is the Federal Reserve Board, which determines how much money there will be in our Nation, and in large measure, how much this money will cost.

The Federal Reserve Board is not helping our interest rate problem. Instead, it is making that problem worse.

The Federal Reserve Board used to concern itself with interest rates. It used to adjust the supply of money to try to keep interest rates at a reasonable level.

It did not always do a great job. But at least it had its eye on the right ball.

Then a bunch of economists called monetarists came to town and told the Federal Reserve Board not to be concerned about interest rates. The important thing, these monetarists said, was the supply of money.

So the Federal Reserve stopped being concerned about interest rates. It focused instead on keeping the supply of money below a certain level. We are seeing the results.

The monetarists tell us not to worry, that the problem is with "technical factors." They have endless debates over these "technical factors" that nobody can understand.

America cannot wait while these economists play games.

The problems we face are not technical. They are fundamental. You cannot fix an engine by tinkering with the speedometer. We cannot solve our interest rate problems by arguing over how to measure the supply of money.

The American people do not care about monetary theories. They care about interest rates. Our responsibility here in Washington is to do something about interest rates. If we cannot understand that, then I think we are not ever going to understand anything.

Since 1913, we have given a handful of big city bankers who control the Federal Reserve a complete monopoly over our credit and interest rate policy. We let these money-center bankers decide how much credit there will be and how much it will cost. That system is not working. We have to change it.

The noted economist, Lester Thurow, addressed these questions in a recent column in Newsweek magazine. I ask that Mr. Thurow's column be reprinted here for the benefit of my colleagues and the American public.

The Newsweek column follows:

[From the Newsweek magazine, July 5, 1982]

HOW TO BRING RATES DOWN

(By Lester C. Thurow)

What would happen to the American economy if interest rates were to stay at current levels for another two years? To ask the question is to know the answer. The American economy would be flat on its back with irreparable harm done to its industrial base and labor force.

After two years of high interest rates, weekly business failures—548 in the week ending June 17—are approaching the 1932 record: 612 weekly failures. One can see recessions as a form of economic Darwinism weeding out the weak, but current conditions are putting the best-managed American companies, such as Boeing or Caterpillar, on the economic ropes. If they take a pounding long enough, they will cease to exist as viable economic entities.

INVEST TODAY

Capitalism, a system where individuals invest today to get more back tomorrow, simply does not work with high interest rates and the stagnant business conditions they create. Unless the GNP is growing, the average capitalist cannot get more back tomorrow, and with current interest rates the smartest capitalists simply leave their money in the bank to earn rates of return that are far better than anything to be had in the world of real plant and equipment investments.

When the leading monetarists, such as Milton Friedman in his column in this magazine last week, effectively admit that high interest rates cannot be explained from tenets of monetarism, the time has come for the Federal Reserve and the Reagan Administration to abandon monetarism. The Fed's 1979 conversion to a doctrime that it should look only at the rate of growth of the money supply and never at interest rates when setting monetary policies was a mistake. Economic theories must be rejected when they cannot explain major facts and when they lead to disastrous results.

From any perspective other than that of monetarism, high interest rates are not a mystery. The Federal funds overnight lending rate has been between 14 and 15 percent. Overnight lending rates reflect nothing but the interplay of simple supply and demand, with the Federal Reserve the principal player on the supply side of the market. Short-term interest rates are too high because the Fed is conducting monetary policies that are too tight.

The appropriate solution is for the Fed to go back to watching interest rates rather than the money supply in setting monetary policies. If the Fed were to order its New York bond traders to buy and sell short-term bonds to hold the prime interest rate (now 16.5 percent) 5 percentage points above the rate of inflation in the previous six months (currently an interest rate of about 8.7 percent), the real interest rate would be well above its historical average of 3 percent. That would not be an easy monetary policy for rekindling inflation, but a necessary retreat from an absurd monetary policy to a tight one.

There is no doubt that the Fed can control short-term interest rates if it chooses to do so. It held short-term interest rates below 2 percent from the outbreak of World War II to the end of the Korean War. The relevant question is not whether the Fed can do it, but whether the Fed should do it. And the correct answer is that it should.

SMALL SAVINGS

With lower short-term interest rates, long-term rates would fall, but easier monetary policies need to be supported by tighter fiscal policies. To get long-term rates down permanently, savings must be increased and this means controlling prospective government deficits. The problem with deficits is that they are a subtraction from national savings. Last year individuals saved $108 billion. If the budget deficit is $108 billion or larger, the government is absorbing all of personal savings. With a much smaller supply of savings coming into private capital markets, high long-term interest rates are to be expected.

Ultimately, the Federal Reserve Board should be part of the Treasury Department so that those who are going to be held politically responsible for the economy, the President and the Congress, have the economic power that belongs with that political responsibility. But the real independence of the Fed is grossly exaggerated. If the Reagan Administration made it clear that it wanted different monetary policies tomorrow, it would get them. If we don't have them it is because the Reagan Administration does not want them.

Interest rates are going to come down. We will either bring them down with our economic policies or they will fall in the wake of a collapsing economy.●

WE HAVE GOTTEN THE SHELF OFF THE SHELF

HON. EDWIN B. FORSYTHE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. FORSYTHE. Mr. Speaker, on June 20, 1980, the Washington Post ran a column by Mr. William Raspberry entitled "Getting the Shelf Off of the Shelf." That article was one of a series of articles by Mr. Raspberry about the energy problems besetting this Nation. The premise of the article was that the Federal Government was our worst energy enemy. The articles succinctly pointed out that the policies and procedures of past administrations were a part of, and compounded, the energy problems this Nation was experiencing. Mr. Speaker, I ask permission to insert one of his articles in the RECORD at this point in my statement.

OUR OWN ENERGY ENEMY

(By William Raspberry)

America's agonizing over how to break the OPEC stranglehold on our oil supplies focuses on the wrong villain, one energy expert contends. If we are strangling, says Milton Copulos, it's because we've got our hands locked firmly around our own throats.

According to Copulos, an energy policy analyst of the Heritage Foundation, we've got all the oil we need right here in America. The problem is that state and federal policy keeps us from getting at it.

His reference is not only to the 27.3 billion barrels of proven U.S. reserves—enough in itself to put us ahead of such oil-rich nations as Libya, Venezuela and Nigeria, which is our second biggest source of imported oil behind Saudia Arabia. His own studies indicate potential U.S. reserves of between 276 billion and 444 billion barrels—"enough to support current levels of consumption for the next 46 to 74 years without importing a single drop."

Then why all the talk about an energy crisis? Why did President Carter try to add a gasoline pump surcharge? Why did House-Senate conferees this week order Carter to go forward with building a 750-million-barrel strategic petroleum reserve? Why can't we simply tap our own vast supplies and say to hell with OPEC?

"Put simply," says Copulos. "policies at the state and federal levels have effectively hamstrung attempts to develop domestic reserves, and in doing so have helped tighten the OPEC noose around our necks."

He is ready with impressive examples:

A half-billion barrels of oil lie in Santa Ynez off the coast of California. But while we could be getting 80,000 barrels a day from that source (discovered fully a dozen years ago), we have yet to pump a single drop. The reason? "Inability to obtain the necessary permits from the state and federal governments."

There are an estimated 76 billion barrels of recoverable oil in Alaska—perhaps as much as 113 billion. Alaskan production today is only about 1.6 million barrels a day, about 13 percent of total U.S. production.

In all of Alaska—with potential reserves greater than the proven reserves of Venezuela, Abu Dhabi, Mexico and the Soviet Union—only seven oil rigs are presently operating, compared with 366 in Louisiana and 807 in Texas. "Why? Lack of access. More than 120 million acres of the state, including many of the areas that hold the greatest promise for the discovery of oil and gas, have been foreclosed to exploration by Carter administration executive fiat."

The Georges Bank and Baltimore Canyon offshore fields—each of which is estimated to be the equal of the North Sea discovery—are being held up by court challenges and the restrictive leasing policies of the Department of the Interior.

Occidental Petroleum, which could be producing an additional 231 barrels a day in California, has been unable to obtain the required permission from the state.

"In a sort of perverse application of 'Murphy's Law,'" Copulos charges, "anything the government can do to prevent the development of domestic energy, it does."

Nor is it only on U.S. production that government policy has its strangling effect, says Copulos, who will shortly be releasing his calculations in a Heritage Foundation study:

"Negotiations with Mexico, which possesses 40 billion barrels of proved reserves and enough potential reserves to make it a rival of Saudi Arabia, have been stymied by the intrasigence of U.S. officials.

"The proposed Northern Tier Pipeline to transport natural gas from Alberta, Canada, is threatened by the unwillingness of U.S. officials to provide the necessary guarantees. At every turn, our officials seem determined to throw roadblocks in the way of reducing our dependence on Arab imports."

Obviously many of the policies Copulos decries are designed to protect the American environment. But if Copulos is anywhere close to accurate—the Department of Energy has no reliable figures of its own—America is coming awfully close to being its own energy enemy.

For even assuming we will one day run out of oil, domestic supplies of upward of 46 years would give us the time to develop alternatives to fossil fuels.

The June 20 article focused primarily on House Joint Resolution 573, a joint resolution introduced in the House, and Senate Joint Resolution 184 which was introduced in the Senate. The key point of the resolution was contained in section 3 and called for offering areas on the Outer Continental Shelf of high oil and gas potential for lease sale; offering entire geographic provinces for nomination; and conducting environmental studies on as wide an area as possible. The purpose of these provisions was to increase the domestic production of oil and gas, while preserving current environmental and other laws.

If you have followed the energy policies of this administration, you will recognize these points as the key provisions of the administration's new 5-year OCS oil and gas leasing program which became final on July 21 of this year. I believe we can now say that we have taken a major step toward getting the shelf off of the shelf. And we are no longer our own energy enemy. On July 23, the day after the new program was finalized, the Washington Post ran an editorial in support of the new program.

Mr. Speaker, this is a very important program because it is not only a positive statement by this Nation that it is committed to accelerating the production of its abundant domestic energy resources but also that it will do so in an environmentally and occupationally safe and orderly manner.

The need for increasing domestic energy production is obvious.

In 1979, because about 5 percent of this Nation's imports were interrupted, we faced shortages of hydrocarbon fuels. That shortage, and the subsequent 275-percent increase in the price of fuel, was a social, economic, and industrial blow to this Nation. Particularly hard hit was the Northeastern United States.

The problems we faced then, and will continue to face for many years to come, were not new, and in fact were predicted in 1953 by Carl "King" Hubbard, who is a petroleum expert and former associate director of the U.S. Geologic Survey. Unfortunately, his warnings went unheeded.

Today we have reduced our imports from just over the 50-percent rate of 1977 to today's level of approximately 30 percent of domestic consumption. It is hoped that our current level of conservation can continue, and perhaps even increase, in addition to accelerating the development of our abundant domestic resources. This latter point is important because even if we can continue to hold down our consumption, many experts feel that our oil imports could reach 50 to 55 percent of our needs by the early or mid-1990's if the policies that have plagued domestic energy production in the past are not altered. The newly implemented 5-year OCS leasing program is a major step in reversing those policies.

Currently, only 2.5 percent of this Nation's Outer Continental Shelf is under lease, while over 40 percent of the worldwide OCS is under lease. In addition, the United States receives only 8 percent of its domestic oil production from the Outer Continental Shelf compared to the worldwide OCS production rate of 22 percent of the total world oil demand. What is interesting about these figures is that the peak OCS production was in 1973, the year of the Arab oil embargo, and OCS oil production has decreased by about 30 percent since that time. This is inexcusable because, while the Federal Government owns over 85 percent of this Nation's remaining unproduced oil resources, it owns all of the OCS which contains up to 60 percent of our remaining oil resources. Clearly it has been the policies of the Federal Government, policies of past administrations, that have prevented accelerated production of domestic oil and gas from the OCS. This administration's new 5-year OCS leasing program is designed to do the job that should have been done long ago, as well as to respond to other national priorities by protecting the human, coastal, and marine environment as well as to continue the active role of State and local governments in pre- and post-lease OCS activities.

It is important to remember that the U.S. OCS oil and gas program has been an environmentally safe program, even though the possibility of harm does exist. This is because of the technological advances of American industry, as well as the laws of this Nation. The new program does nothing to alter any of this.

We have had only one blowout in U.S. waters from OCS oil and gas operations of any consequence and, while we do not have all of the answers on impacts from OCS oil and gas activities, it is accurate to state that at this time there is no discernible, significant, or irreversible harm from U.S. OCS oil and gas activities; the danger of oil spills exists from imported tankered crude oil and refined products. An active OCS oil and gas program could actually decrease the level of oil pollution by increasing production and decreasing the flow of foreign tankered oil into U.S. waters. Last year alone shipping, through normal operations, spilled about 13,000,000 barrels of oil into the oceans, and another 2,300,000 barrels were spilled through accidents. OCS oil and gas operations, including all shipping connected with those operations, spill only an average of 13,000 barrels a year, an almost indetectable level. Those of us that live in the Northeastern United States, or for that matter in almost any coastal area, are fully aware of this situation because we have read about oil spills and seen oil on our beaches long before any drilling took place off our shores.

Since 1973 this country has been through a roller coaster of energy setbacks. Since the cutoff of Iranian oil we have experienced significant shortages and price increases and should be fully aware that our energy problems are not temporary but long range. We should also have learned the inadvisability of relying on the future goodwill and stability of foreign nations for significant portions of our domestic oil needs.

The specter of turmoil and instability has again arisen in the Mideast because of the invasion of Iraq by Iran and because Israel is embroiled in war.

Temporary difficulties such as the recent oil glut, the resulting price decrease, and now the probable price increase of imports are not the type of situations that national policy should be based upon. We are facing a genuine long-term energy problem—a problem that has been predicted and a problem we can and will solve through proper planning, such as has been done with the 5-year OCS leasing program.

The new program has been thoroughly evaluated; as a matter of fact, only the Alaskan pipeline received more public and private hearings, and greater evaluation.

The new program not only can significantly increase domestic energy production but also can increase revenues to the Treasury through leasing, rentals, and royalties. The new program can increase national security by decreasing our dependence on unstable foreign sources of oil and can do it in a safe and orderly manner.

Mr. Speaker, it is indeed overdue, but it looks as if we have finally gotten the shelf off of the shelf. Thank you, Mr. Speaker.●

TUITION TAX CREDITS

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. HUNTER. Mr. Speaker, Dr. Henry Karlson, research director of the American Parents' Association, Inc., is a nationally recognized expert on the interaction between government and family. In a recent newspaper column Dr. Karlson, an associate professor at the Indiana University School of Law, explores some of the legal and economic issues surrounding tuition tax credits (TTC's).

Dr. Karson emphasizes an economic reality often ignored by the opponents of tuition tax credits when he writes:

TTC's are not actually more expensive for the taxpayer. In fact, they would serve as a tax cut, not a tax increase. They will permit the local schools to operate at less expensive level, thereby freeing the burden of the beleaguered property taxpayer upon whose shoulders the largest share of supporting public educational institutions rests.

In Washington, D.C., where a tuition tax credit initiative was recently defeated by the city's voters, it was estimated by the measure's supporters that:

Taxpayer savings for every 4,000 students transferring from public schools to non-public schools would have been $5.8 million annually for the District of Columbia.

According to the Economic Communications Center of the Media Institute, a doubling of enrollments in non-public schools could have resulted in a savings of $3,000 per pupil, or $48 million per year, based upon 1981 costs.

More important, however, than this economic point is Dr. Karlson's analysis of tuition tax credits as they relate to basic constitutional rights. He says in part:

How can this nation claim to support the First Amendment of the Constitution—the right of free speech—when we do not permit attendance at places of education which encourage a diversity of thought? To require that all students without the economic means attend only public schools, is to impair the right to access of divergent thoughts to today's youth.

Tuition tax credits are one means of providing free choice in education. The government should provide a free market place of ideas rather than bolstering an already cumbersome monopoly in education which has been fostered by the public school establishment.

TTC's would widen the scope of persons eligible for alternative educational endeavor. It would place non-public schools more in reach of the nation's middle and lower income families by giving them a tax break. Most proposals, including the Reagan plan, place a cap on eligibilities so as to benefit lower and moderate income families rather than the rich.

The American Parents Association, a group dedicated to preserving the American family, is interested in the tuition tax credit issue because it believes that many moderate income families currently denied a free choice in education are being caught in an economic squeeze. Dr Karlson writes:

Many parents view public schools as crime-ridden prisons where powerless children are exposed to daily diets of drugs and violence. Lack of parental imput in the teachings in public schools causes many families to pull their children out of public school at a tremendous financial hardship to the family.

In short, the issue rests on fundamental principles. Dr. Karlson concludes by quoting from the noted education rights attorney, William B. Ball:

We should shut our ears to hysterical claims that educational tax credits will threaten "public education." They will aid public education by helping it be responsible, thrifty and competitive. But by far, the greater value of a tuition tax credit is its role as an enabler of the enjoyment of Constitutional liberties.

I commend the American Parents Association for their work on this issue and I hope that my colleagues will carefully consider Dr. Karlson's analysis when reaching a decision on the tuition tax credit proposal.●

SUCCESS OF THE TURKEY JERKY FACTORY

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. COELHO. Mr. Speaker, over the past decade we have come to rely on small business to create millions of new jobs and to keep our economy productive and competitive. Moreover, small businesses have been at the cutting edge of innovation.

I rise to address an example of small business growth and innovation in an attempt to exemplify the need to encourage and facilitate the small business community.

America's growing concern over diet—and cholesterol in particular—has yielded an entire line of turkey products in the guise of ham, bacon, and pastrami.

Most recently, Dorothy Spomer, a third-generation turkey farmer from Kingsburg, a San Joaquin Valley community, has seized upon this opportunity to market her family jerky recipe made from turkey meat. For the last 22 years Ms. Spomer has been making turkey jerky for her family. The successful reception of Ms. Spomer's jerky from friends and relatives encouraged her to mix business with pleasure and put her turkey jerky on the market.

There have been several attempts by other manufacturers over the years to make jerky out of turkey meat for the commercial market, yet most of these efforts have fallen short of success and beef continued to reign supreme.

Prior to her business days, Ms. Spomer prepared the jerky in the kitchen of her rural Kingsburg home. While the transition sounded simple enough to Ms. Spomer, she soon learned that putting a food item on the grocery shelf for the consuming public was a game that made it easy to "fowl" out.

In order to meet Government regulations, Ms. Spomer moved into new processing quarters, designed a packaging label and developed an exact proportion recipe.

Turkey Jerky was first marketed in Kingsbury area stores to test the acceptance of the product. From there the product moved to Selma, Fowler, and beyond. Now she is marketing the dried smoke-flavored turkey at retail outlets throughout the State. Her son was successful in placing the jerky into a health food chain in southern California servicing approximately 800 outlets in three States. Today, Turkey Jerky is distributed by three companies covering the entirety of California, Las Vegas, and parts of Arizona.

Spomer's greatest concern is whether she can supply the 11,000 accounts handled by her newest distributor since her operation is not yet fully automated. At the present time the small crew can process about 400 pounds of fresh turkey meat during a 7½-hour period. That 400 pounds of meat will produce approximately 195 pounds of jerky.

While many small businesses, particularly new ones, are struggling through hard economic times, it is a pleasure to note the success of the Turkey Jerky factory.●

WHAT IT MEANS TO BE ALL AMERICAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. SKELTON. Mr. Speaker, in recent years it has become fashionable for our citizens, the media, and even elected officials, to criticize America. Certainly some of this criticism is justified as we face inflation, high unemployment, soaring deficits, and Government scandal.

I would like to remind those who would complain, however, that despite our problems, we are still the greatest country in this world and nowhere is this more aptly demonstrated than in the minds and hearts of our children.

Recently, I received two short essays from two young fourth graders in my district on their view of America. I would like to share them as I think you will agree that they capture, in their simplicity, the very essence of what it means to be an American.

I LIKE AMERICA

I like America because it is a free country and we can vote, we can travel, and can go to any church we want to. I like America because there are many things to see. We can see parks and streams, mountains, trees, fields, deserts, grass, lizards, houses, barns and roads.

AMERICA THE BEAUTIFUL

I like America because of its freedom. We can go to any church we like and we can go to any sports event we want to go to. We can go fishing or hunting any time we want to. There are many places to visit. We can go to monuments anytime we want to.●

THE SAD PLIGHT OF IDA NUDEL

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. LENT. Mr. Speaker, I enclose for my colleagues in the House of Representatives, an article taken from today's Washington Post which further details the sad life of Ida Nudel, the only Soviet woman to serve a term in Siberia as a "prisoner of conscience." As chairman of the 1982 Congressional Call to Conscience Vigil, I implore my colleagues to continue in their efforts to free Ida Nudel and the many thousands of Soviet Jews like her, who are denied the right to leave the Soviet Union. I believe this article will show the loneliness and despair of a woman whose only request was to live with her sister in Israel.

The article speaks for itself.

MARTYR

Ida Nudel, the only Jewish woman to serve a term in Siberia as a "prisoner of conscience," has disappeared. Nudel, 51, has spent the last 11 years of her life trying to leave the Soviet Union to join her sister in Israel. For her efforts, she was sentenced to four years of internal exile, living part of the time in barracks that housed hardened male criminals.

She was released in March but told she would never be allowed to leave the Soviet Union. Her last contact with the West was on July 13, when she spoke with her sister, and signed off in despair. She was being made a homeless person.

Ida Nudel first requested permission to leave in 1971. At the time she was an economist, working in the Institute of Planning and Production and monitoring hygiene standards in food stores. Permission was refused on the grounds she possessed "state secrets." Her room was bugged. She was followed. She was repeatedly detained and beaten. She was also fired from her job and, in order to avoid the charge of being a parasite, worked as a cleaning woman. She spent the next seven years trying to get out and sending chocolates, photographs, reading material, clothing, food and medicine to imprisoned Jews on the rare visits they could have with their families. She came to be known as the "guardian angel," of the "prisoners of conscience" and in the Soviet Jewish community, she became a legend.

Then on June 1, 1978, she hung a banner from the balcony of her Moscow apartment saying, "KGB, give me my visa." She was arrested and three weeks later convicted on malicious hooliganism and banished to Krivosheino, 1,800 miles east of Moscow. Her main companion was a collie that was with her when she returned to Moscow.

Marcia Weinberg, who is married to Rabbi Joseph Weinberg of the Washington Hebrew Congregation and who heads the committee for Soviet Jewry here, met Ida Nudel shortly before her arrest. Nudel has been "adopted" as a special prisoner by the sisterhood of the Washington Hebrew Congregation.

After her release, says Weinberg, Nudel told her sister by telephone that she had been told she should "rehabilitate herself and become a good Soviet citizen." In April, she was denied permission to live in Moscow. Then she was sent to Riga. "But when she got to Riga she was told she couldn't live in Riga," says Weinberg.

The last contact she had with her sister came on the 13th of July. Weinberg says Nudel told her sister she had spent one night in a bus station. "This is when we, as a world group, became concerned," says Weinberg. "She's not an alarmist. She said, 'Don't try to reach me; I just don't know where I'm going to be. I will try to find you.' It was in that kind of despair she signed off and nobody knows where she is. We know she's not in Moscow and not in Riga." One theory is that she has been sent to a closed city where no Western press or tourists are allowed to go.

On Tuesday, July 20, a delegation from organizations concerned with Soviet Jews met with presidential assistant Elizabeth Dole. Dole, who is a member of Congressional Wives on Soviet Jewry, says Nudel's plight has now been drawn to the attention of the highest levels of the American government. The reduced flow of emigrants from the Soviet Union has been raised again and again at meetings with Soviet officials, says Dole, and it is a concern of which President Reagan often speaks.

The meeting with Dole left Weinberg with a profound sense of the difference between the two nations. "We could call the White House and say 'help.' The United States is a place where government can stop long enough to talk about one human being and that person's plight. It's such a juxtaposition to the Soviet Union where individuals are trampled on and stomped on and lost." Later that day, a vigil was held at the Soviet Embassy on Nudel's behalf; among the speakers was a representative of Dole's office.

What has happened to Ida Nudel is so alien to the American experience that it seems unbelievable. As Weinberg puts it, it is senseless. "It is almost like they are trying to destroy a spirit totally. For what? Why? She's done it already. She's been in exile, she's been in prison. It would just seem enough."

Sometimes the story of a single person can tell more about a system of government than all the statistics in the world. The Soviets have created a martyr, yet another human being who is a living indictment of a system that doesn't work. It is only fitting that when those in the free world think of the Soviet Union they should think, also, of Ida Nudel.●

THE 97TH CONGRESSIONAL CLASS FOR SOVIET JEWRY: LEV GENDIN

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DWYER. Mr. Speaker, as a member of the 97th Congressional Class for Soviet Jewry, it is an honor and privilege to call to the attention of my colleagues the plight of Lev Gendin who has been repeatedly denied permission to emigrate from the Soviet Union to join his wife Aviva in Israel.

Lev Gendin has been a refusenik since 1971. His most recent exit visa refusal occured in February 1977 on the grounds of "secrecy," an all-too-common pretext used by Soviet emigration officials, regardless of whether it can be fairly justified by the facts of the applicant's case.

Upon applying to emigrate, Lev was dismissed from his job and has been arrested and jailed several times. He is under constant harassment by Soviet authorities and has been interrogated by the KGB numerous times.

In December 1978, Lev was interrogated by the KGB in conncetion with the arrest of his roommate and has since gone into hiding.

His wife, Aviva, emigrated to Israel in 1971. Despite the arrests and persecution he faces daily, Lev will not give up his desire to be reunited with Aviva in Israel.

Not surprisingly, Lev is in poor health and is severely depressed, like so many others who have been the targets of stepped-up Soviet persecution and increasingly restrictive emigration policies.

To most observers, the continuous reduction in the exit quota of Jews from the U.S.S.R. indicates a deliberate policy that suggests to Soviet Jews that their basic right of emigrating to Israel is not assured.

This policy has caused great anxiety among Soviet Jews who had come to believe that emigration, at least based on repatriation to Israel to reunite families, would continue at some respectable level.

That this is not the case is why we, as responsible and compassionate Americans, must continue in our efforts in behalf of these refuseniks, who, like Lev Gendin, will not forsake their hope of freedom and reunification with their loved ones.●

CHANGES IN THE BANKING INDUSTRY

HON. LARRY E. CRAIG
OF IDAHO
IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. CRAIG. Mr. Speaker, on June 15 at Sun Valley, Idaho, Mr. George Rothell, president of the First Interstate Bancorp, the holding company for the First Interstate Bank of Idaho and in 10 other Western States, gave the keynote address at the Idaho Bankers Association annual convention. Mr. Rothell told of the many changes occurring in the banking industry and changes yet to come. His address was well received and, in the belief that his remarks will be of educational value to many others, I am including it in the RECORD. These are excerpts from the address:

EXCERPTS FROM ADDRESS OF GEORGE ROTHELL

Banking has been a stable and profitable business—it has had an image of honesty and trust—a place where the public could put its money and have the confidence that they could get it back when they wanted it.

It's also been a protected business, protected by legislation that included three primary supports.

The first was an exclusive product. If you wanted a banking service, you had to go to a bank. Until recent times, no one else could offer a transaction account or a checking account. Checking accounts were the primary means of payment for goods and services and had to be accomplished through a bank. Checking accounts were also an important source of free money to be utilized for loans or invested in securities.

It was also the basis of a subsidy for many other loss leader bank services, whether a free calendar or a no service charge, low balance account. The large accounts subsidized the small accounts. And as you know we no longer have such product exclusivity.

The second support was an exclusive territory. The regulators controlled the granting of charters based on geography and population and we didn't give any though to nonbank competition. No longer true.

The third major support was a ceiling on rates which more or less gave a guarantee on the cost of money, our raw material. Again, no longer true as we slowly and painfully go through the process of deregulation.

And so today, not one nor two, but all three of banking's historic protective pillars have either collapsed or are in the process of collapsing.

In the good old days, various classes of financial institutions had very specifically defined purposes and served specific markets. Over-simplified, savings and loans provided mortgages; credit unions made low-cost loans to members; finance companies served the blue-collar worker; and so on.

Today, S & L's offer checking accounts, issue Visa and MasterCards, make commercial loans—all services once provided only by banks.

Finance companies are heavily into the second trust deed market and are intensifying their marketing efforts toward the upscale—not blue-collar—borrower.

Foreign banks, once of small concern, are now flexing some very formidable muscle in the United States. In less than ten years, foreign banks have opened more than 200 offices of all kinds in America. In California and New York, they now account for more than 40 percent of all business and commercial loans. They have made major investments in the U.S. with the purchases of Marine Midland, National Bank of North America, Crocker National Bank, Union Bank, and a host of other smaller banks.

Another group of competitors, the money market funds, have literally exploded onto the financial scene. By the end of 1981, with the help of high interest rates, they have racked nearly 200 billion dollars in assets.

Where has all that money come from? Some bankers say 70 percent came from commercial banks. The Investment Company Institute, a mutual fund trade association, says it was new cash that would not have gone into savings.

Whatever the source, the thrifts were the hardest hit and in 1981 alone, the nation's nearly 4,000 S & L's and 400 mutual savings banks lost deposits of almost 40 billion dollars.

And the investment bankers, through their brokerage houses, have not limited themselves to money market funds. Five years ago some offices of Merrill Lynch started it all and offered a cash management account, which combined a margin account with a money-market fund. Today, customers' cash balances no longer lie idle in brokerage accounts. Access to the account is by either check or Visa card.

By April of this year, the Merrill Lynch cash management program has grown to some 600,000 accounts and a value of about 30 billion dollars. The average customer writes only six checks a month, most of them being for large amounts.

What's left for the banks? Leonard Huck, Executive Vice President of Valley National Bank of Arizona, said: "we get the gas and light bills while Merrill Lynch gets the big bucks and the large checks."

Huck, who also is President of the Bank Marketing Association, says banks are countering these threats by cutting costs, charging for services that had been free and raising charges on others. Raising prices will not make many friends, and I'm sure you agree we need all the friends we can get.

Let me read you the names of some new players in the financial services games:

Sears, RCA, Gulf and Western, National Steel, Baldwin United, Greyhound, General Electric, Control Data.

These companies are highly respected names and are famous outside the world of finance. But now they are heavily involved in financial services. Why? Why are they moving, almost in lockstep, towards the financial services business?

Well, there are probably several reasons: To companies looking for diversification, it offers a clean business. For those concerned with high labor costs, finance seems to lend itself to technology and mechanization and not to be so labor intensive. To companies facing reindustrialization, it seems cheap by comparison. These new players have an unusual advantage because the historic providers of these services are hog-tied by the old laws and regulations and hindered by their balance sheet structures.

From this list of new players in financial services, let me focus on just one, to give you a feel for what we're facing. Sears, Roebuck . . . Sears, a highly respected name. And if you think that hometown America, and mother, and apple pie don't trust and respect Sears, Roebuck & Co. every bit as much as the First National or the First Interstate of whatever, then we're kidding ourselves.

The Chairman of the Board of Sears, Edward Telling, has announced his corporate goal. Quote, "Our goal is to become the largest consumer-oriented financial service entity." He said that, as Sears moved to acquire Coldwell Banker, the nation's largest independent realty company, and Dean Witter, the largest brokerage firm.

Already, Sears has Allstate Insurance, grossing 6.2 billion dollars last year; Allstate Savings & Loan, a mortgage company servicing 1.4 billion dollars in mortgages, and, most importantly, a credit card base of 40 million acounts and a chain of stores numbering over 3,600.

The financial services marketplace is alive with intense competition, which is fueling the revolution in America's banking industry.

And that leads me to a second factor severely complicating problems in our industry and that is the state of the economy.

This year looks as if it could be the worst period for business failures since 1932. As of April 8, over 6,000 companies had folded, 55 percent more than in the same period last year and almost as many as in all of 1978.

The top lending officer of one New York bank believes that at least 100 companies among America's 1,000 largest have "potentially serious problems."

We've seen some disheartening failures lately. AM International filed bankruptcy in April after 58 years in business. That same month, Saxon Industries, another major office equipment manufacturer, said it was going into bankruptcy.

International Harvester Company has been in trouble for some time now. So has the Great Atlantic & Pacific Tea Co. A large commercial airline, Braniff, has filed for protection under the bankruptcy laws. There are others.

Idaho has had more than its share of economic problems, too, with the closing of the Bunker Hill mining complex . . . and the dramatic decrease in new housing starts that has hit your forest products industry.

The finance industries have their problems, too. Over the past year, S & L's and thrifts and banks needed regulatory assistance for consolidation, or merger, of one type or another, to avoid failing.

These are difficult times. Some say the worst in 50 years.

Much of what we've been going through was forecast some years ago. In fact it's been coming every year for the past four years. And I imagine most of us are doing some intensive strategic planning so that we will successfully perform during these difficult times, and be prepared to do well and come out the winners in the years ahead.

Notwithstanding the problems of competition, the economy, the high interest rates, poor balance sheet structures and outmoded regulation and law that seems to paralyze our regulators and legislators, we are not without significant advantages in that we still have a substantial share of the market. We still have a good and trusted image, and I happen to believe people still like to do business with a bank. We need to preserve and enhance these advantages.

But, in a way we are like David preparing to do battle with Goliath and upon arriving at the battlefield we find we have left our slingshot at home. Never has the future been more uncertain for our industry or more difficult. And the problems we have

are not respectful of size or structure or geographic market.

Unlike Alka Seltzer, relief is not just a second away—it is years away. The economy must recover; interest rates must come down; we must get away from the long-term fixed rate assets crowding our balance sheets and we must deregulate and relegislate and bring our system into the Twentieth Century.

Many will not survive the revolution, or if you prefer, the evolution. Many will merge or be acquired. Many will not make it. Some had said that by 1990 the number of banks doing buisness in the U.S. will be less than 4,500, down from 14,500.

And who will the survivors be? Well, I don't think size will guarantee survival. You're going to have to be smart, well managed and lucky. Certainly, at least two out of three of those qualities will be required.

I happen to believe the multi-state bank holding company will be the best vehicle for the future but, of course, you might say I would be a little prejudiced. But such a vehicle offers geographic diversification, has the capital to acquire and develop technology and should be able to maximize efficient delivery.

I would also quickly say that the smart, well-managed small unit bank will also be able to do very well because it can offer personal and responsive service not possible in a large organization. We have many examples of this in California and I'm sure across the country.

But the most important thing is to stay ahead of the game and plan, plan, plan. As someone once said, it is not the plan that is important but the planning process because it makes us consider all possible alternatives.

FIRST INTERSTATE'S PLAN

I would like to briefly tell you a bit of how we at First Interstate do our basic planning for the future. Responsibility for strategic planning tests rests with an overall corporate Planning Committee that consists of seven members—the chief executive officers of the five largest banks in our system, plus the Board Chairman of the holding company, and I as President.

We formed this committee in mid-1978 which was about the time the period of rapid change was getting a good start. And we began to examine this change and analyze the social and economic climate. We believe that there would be a very large segment of the market that wanted national banking, and the image that went with it, just the same as there was a large segment that wanted strong local and personal banking.

Certainly, technology was having a dramatic impact on banking. We were in the midst of building a 41,000 mile, on-line computer network that eventually linked every teller in every one of our 920 banking locations.

We believed this sort of technology was part of the future in American banking. Our computer network gives us the ability to deliver advanced products and handle an average of nearly half a million teller transactions every single banking day.

This enormous workload is processed with greater speed, accuracy, and security than would otherwise be possible. We believe we must continually add to its capabilities as our other costs inevitably rise.

Our system, which includes four satellite stations, is "in and paid for" and we feel very good about that. When the day comes that we can acquire a Texas bank, we need only to develop a switch and to then hook it by phone wire to our office on the New Mexico border at Hobbs, New Mexico, and an 11-state, on-line data system will become a 12-state, on-line data system—with all the consumer and business advantages of intrastate and interstate banking available to these new markets that are receptive for this type of service.

In a similar vein, automatic teller machines are moving more quickly into the bank delivery system. We have more than 600 ATM's in the West; the largest network in America so far.

In keeping with our earlier plans, we are harnessing the new technology and developing new products as part of our strategy for the future.

Three-and-a-half years ago, our Planning Committee predicted . . . as it turned out, rightly so . . . that banking was entering a new era of competition.

We also felt that to compete for this national or interstate market, we, as a banking organization, had to be well and favorably known on a much broader scale. Frankly, we had a problem in that regard. The holding company was then known as Western Bancorporation and each of our banks had separate identities.

The Planning Committee decided that if we were to compete in the financial marketplace, we needed to project a clear and precise image of ourselves.

We started work to develop a consistent and unified identity program for our 11-state system. The result was our name change program which was the largest and most sweeping name change program of its kind in the history of American banking.

Certainly, this was no easy task.

Customers reacted to the new name in the ways that really count! For example, in the four months before the name change, last February through May, the seven largest banks in our system had a net decrease in checking accounts of 17,000. In the four months after June 1, those same banks had a net increase of over 100,000 accounts. As of the end of February, 1982, this figure had climbed to 166,000.

There was a substantial increase in the use of our 600 automatic teller machines, too. In the six months before June 1, we averaged 2.2 million ATM transactions a month. In the next six months after the name change, that average increased to 3.1 million—a 43-percent increase.

Our research shows that for virtually all banks . . . in all markets . . . the awareness of the new name . . . after a very short time . . . equaled the awareness of the old name, which had been around for many years.

This is quite remarkable when you consider that some of our banks had very old, well-established names. The Bank of Idaho traces its history all the way back to 1868, when the Stock Growers and Traders Bank opened in Caldwell.

But there is another audience out there that is virtually important to First Interstate. And I refer to the financial community of stockholders, financial analysts, portfolio managers and business editors—all those who, in one way or another, follow our company and our stock.

Let me read you what the First Boston said in a 1981 report. Quote "The name change is more than cosmetic. By adopting a single new name systemwide, First Interstate will be operating as much as legally possible as though it were a branch banking system."

Here is another comment about us from Bache International Research. Quote "The name change signifies a new era and a commitment to unify and identify the organization. First Interstate is far ahead of its competitors in the race to become a truly interstate banking organization." And as the New York security analysts said about us back in March: "First Interstate Bancorp of today is totally different from the Western Bancorporation of a few years ago,"

But I have yet to comment on the most recent development in our plan to adapt to the revolution in banking . . . and that is franchising. It has been part of our long-range planning for some time, and the most significant segment of our plan to meet deregulation head-on.

Under the program, banks will retain their local management and ownership, but benefit from identification with us as the nation's largest multi-state banking system. They will receive state-of-the-art products and services, including very sophisticated technology, without large capital outlays.

This is an opportunity for independent banks to enhance their market position and position themselves for growth in the financial services industry.

We feel that franchising will become more and more attractive as the squeeze of competition gets tighter, not only from other banks, but from Merrill Lynch, Sears and other aggressive non-bank competitors.

Franchising not only will provide us with a new income center, from fees, but enable us to stretch our name beyond our normal territory and better position us for the day when interstate banking arrives in fact.

Following our announcement, we have received inquiries from banks ranging in size from $10-million up to $10-billion, and they have come in from more than 20 different states.

A name change is not an easy decision for the board of an independent bank to make. We understand that as well as—or better than—any other bank management group. And we understand the value of making that decision!

And if you've followed the news announcements, you already know The First National Bank of Golden, Colorado, has agreed to become America's first franchised bank. First Interstate signs probably will be put up in Golden late this year.

I hope that gives you insight into some of the strategic planning activities that we are doing internally to prepare First Interstate Bancorp, as a multi-state bank holding company, for the future.

In my opinion, if banking is to maintain its market share . . . to compete . . . to prosper in the years ahead, it must move along with the financial revolution and meet the changing needs of the marketplace.

For this to happen, at least two major hurdles must be cleared.

First, banking must once again become a competitive force. Second, we must change the ways we manage our banks.

For banks to become competitive again, Congress and the Regulators must take action. They must deregulate our rate structures and enact legislation which would permit bank holding companies and banks to compete on an equal basis—to open branches, to own banking subsidiaries throughout the United States and to develop our own products and set our own rates.

Because we at First Interstate operate in 11 prime western states, you may find it hard to believe that we support interstate banking. Let me assure you that we do. What we do not support is the imposition of

yet another artificial restraint, such as limited interstate banking by Federal Reserve District, or by contiguous states.

And even if full interstate banking were granted, we would still be handicapped because if we cannot compete with a full product line in Los Angeles, we still won't be able to compete with a full product line if we're allowed to go to Houston.

Equally important, we must be able to provide products that are competitive, particularly with respect to rate and term.

Aside from change in laws and regulatory relief, we as bankers must also manage better than we ever have in our professional lives.

We must place more emphasis on strategic planning, on technology and new products than ever before. All of us.

And we must focus our best talents on cost accounting. Now that interest rate ceilings will be removed by the mid-1980's, we will need cost accounting expertise as never before. We simply must know what our products and operations cost and charge appropriate prices. "Unbundling" will become a necessity; indeed, it has already become so.

We must, as never before, manage interest rate risk. Please note that the two most publicized bank problems of the past few years—First Pennsylvania and First of Chicago—were not due to loan losses but resulted instead from a serious mismatching of assets and liabilities in terms of maturity. Simply stated, the two banks had funded long-term, fixed rate assets with short-term liabilities and were squeezed when rates for short-term money skyrocketed.

We cannot underestimate the millstone around the necks of the majority of American banks of the long-term fixed instrument—real estate mortgages and government securities—which must more and more by funded by short-term, volatile wholesale rate liabilities. And this will not change because of regulation or deregulation. Only the timing will change.

If DIDC did nothing, we would still be disintermediated by the money funds and buy our money back at wholesale rates, just as we have already commenced to do. Balance sheet management will be more important than ever over the next few years.

We must also pay more attention to people management. Banking has not always attracted the most ambitious, and hard-hitting executives. We are a service business—a financial services business—which is essentially a people business. We must not overlook the human resource element of our business.

In closing, I believe the successful bank of the future . . . the one that survives the financial revolution . . . will have to undergo the painful learning process that other deregulated industries have gone through. I make no case for or against the rights or the wrongs (or the justice or injustice) of it all.

It's a huge market and we all have a huge stake in it. I do know that we (First Interstate) will be working hard and diligently with every possible capability to increase our share of the market and be on the leading edge. I think there is enough to go around for all and I would not presume to say there is only one route, one structure, one way to prosper in the future.

I do know that I am getting a little tired of the tedious and tiresome debates, the disagreements on new instruments reaching to the smallest of minutia and the paralysis that seems to immobilize the legislators and the regulators. We, the bankers, have been criticized by the regulators because they say we can't agree. And we, the bankers, criticize the regulators because we say they, along with the legislators, cannot agree. But, whoever is to blame, we need to get moving. Each passing day results in a weakening of our position and a lessening of our market share.

For us to be winners rather than losers, we need a level playing field. We have to keep pace with the changes. We have to be faster to innovate—and we have to manage as never before.

We must focus on our strengths, areas where we do well both in the lending and non-lending parts of our business; we must develop much more sophisticated marketing and operational skills; and we must be able to deliver advanced and innovative products to set us apart from the competition.

And last, but not least, the public must perceive us as being advanced, competent, and professional—more so than the competition.

I don't think it's going to be all bad. Indeed, I believe the public demand for financial services will grow and create more opportunities, not less. We have a period of uncertainty to go through, but on the other side are some new and exciting areas of growth and challenge.●

CAPTIVE NATIONS WEEK

HON. GERALD B. H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. SOLOMON. Mr. Speaker, last week it was my privilege and honor to be the main speaker at the International Captive Nations Conference in Taipei, Taiwan.

As you know, President Reagan proclaimed the week of July 18 as Captive Nations Week. When I was in Taiwan I was able to present a copy of the proclamation to representatives from all over the world—people who had gathered to reaffirm their strong support for those oppressed and enslaved behind the bamboo and iron curtains.

Captive Nations Week was established by a joint resolution passed by Congress on July 17, 1959. It has been observed during the 23 years since then by citizens of those countries no longer free and by those of us fortunate enough to have remained free.

In this proclamation, President Reagan said:

This week offers Americans an opportunity to honor our nation's founders whose wisdom and commitment to self-determination and liberty have guided this country for more than 200 years. Let us once again reaffirm our faith that the aspiration for freedom will ultimately prevail over the rule of force and coercion which denies human rights to so many other parts of the world today.

Mr. Speaker, I will not offer my entire speech today but I would like to submit excerpts. The following is a very condensed version of what I told the participants of the International Captive Nations Conference:

The people in captive nations, subjugated under the yoke of international communism, live in fear, deprivation, and despair. But their valiant spirit is far from broken and they continue to struggle for their basic rights even though time and time again they are cast down and suppressed.

Compared to the miserable records of the communists, the free nations of the world have created for their citizens a life of spiritual fulfillment, cultural progress and economic well-being. One of the greatest examples of this success story is happening right here in our host country. In some 30 years, the Republic of China has achieved an economic miracle that is almost unprecedented and unsurpassed.

What is most amazing about the people in the captive nations is that despite the almost total control of communist governments over the lives of every citizen, the basic ideas of freedom are still strongly instilled in these oppressed societies. The explosion of freedom in Poland is the most graphic example of how an entire nation can force its occupiers to take notice of a hunger for freedom against which guns are useless.

And for those captive nations and for those of us who have vowed to free them, there is new hope. For with the election of Ronald Reagan as President of the United States, my country now has a strong leader who shares our views, a leader who is totally committed not only to preserving the free world but to helping those people now enslaved under communism to become free like you and me.

Yes, there is new hope. Spread the word. The free world is not about to buckle under to international communist agression. Communism is a dying philosophy. Its dismal record of failures has left it with a terminal illness. But the sicker it becomes, the more dangerous it is. Which is why all freedom loving people and freedom loving countries must band together as one—to counter any last gasp effort to conquer the world by this sickly monster called communism.

And on a final note about the brave people of Taiwan, many people here on this island may worry about the future of the Republic of China. Let me make a strong prediction, and that is that there will be a Republic of China here on Taiwan long after there is no People's Republic of China on the mainland. ●

LEBANESE TELL OF ANGUISH OF LIVING UNDER THE PLO

HON. JOSEPH P. ADDABBO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. ADDABBO. Mr. Speaker, some of my colleagues may have seen the following article in the New York Times. It concerns the troubled and beleagured land of Lebanon, where the Palestinian Liberation Organization has imposed its harsh rule and military presence. As some uninformed and misguided persons today condemn Israel for its actions against the PLO in Lebanon, this article shows us the true horror of the occupation and the devastation wreaked upon Lebanese villages. I would therefore

like to share this fine piece by David Shipler:

[From the New York Times, July 25, 1982]

LEBANESE TELL OF ANGUISH OF LIVING UNDER THE PLO

(By David K. Shipler)

SIDON, LEBANON.—For about six years, until Israel invaded southern Lebanon on June 6, the Palestinians had something closely approaching an independent state.

It had an army, a police force, a crude judicial system, an educational and welfare system, a civil service and a foreign policy. Those who lived within its rough boundaries said they were too terrified then to describe it to outsiders. Now, for the first time, they are describing what it was like, telling of theft, intimidation and violence.

Its territory was scattered in patches of influence, from its de facto capital in west Berut and the adjacent camps, where the Palestinians shared control with the Syrian Army, to its provincial areas of virtually exclusive Palestinian control, a region that extended southward along the sparkling Mediterranean, through the coastal cities of Damur, Sidon and Tyre, and inland across terraced hills east and south of the town of Nabatiye.

Under the umbrella of the Palestine Liberation Organization, it comprised an array of competing factions, some pro-Syrian, some pro-Iraqi, all less influential than Al Fatah, the faction headed by Yasir Arafat. Its authority flourished amid the weaknesses of the Lebanese Government.

But politics here was much more than patronage and debate. The major tool of persuasion was the gun, according to those who lived through it.

The citizens of this state within a state were those who had not been allowed to become citizens of Lebanon: the Palestinians, about 300,000 of them, whose impoverished, squalid settlements of nameless alleys and humble concrete houses became the P.L.O.'s political and military centers. Most of them, or their parents, had come in 1948 in flight from the fighting in Israel's war of independence.

Most of those subject to the P.L.O's rule, however, were Lebanese nationals in the cities and villages beyond the boundaries of the camps, both Christians and Moslems, who said they felt powerless in their own homes. They are the ones who are now most willing to tell their stories.

Their degree of candor seems unaffected by the presence or absence of Israeli officers during conversations. Some are still circumspect, afraid the P.L.O. will return after Israel withdraws; others open up in a spirit of relief.

The Palestinian guerrillas came unannounced to Dr. Ramsey Shabb's country estate in the hills east of Sidon. He recalled that he first saw them camped beneath the orange trees when he drove out to his land one day. They had set up rocket launchers in his orange groves; crates of ammunition were stacked nearby.

In the days that followed, he said he noticed that one of his small outbuildings had been filled with boxes of explosives and ammunition. As the weeks passed, barns became armories, fuel drums appeared, jeeps and trucks arrived, 130-millimeter artillery pieces were deployed among his 100 acres of orange groves and vineyards.

The guerrillas finally began to move into his main house, an elegant stone building on a hilltop, built by his father. Dr. Shabb said they left him one upstairs room, and he had to pretend that this was all fine. But he stopped taking his family there for weekends, staying instead in an apartment he kept in the private hospital he owned in Sidon.

"They were taking over everything, everything," said his daughter, Rima, a student at the American University in Beirut. "They were the Government," his wife, Salwa, added.

PATCHWORK OF FIEFDOMS

The takeover of land and houses began as the P.L.O. spread from the camps after the 1975–76 civil war, when the Lebanese Government disintegrated and Lebanon descended into a dark level of lawlessness, carved by religious and ethnic strife into a patchwork of fiefdoms ruled by a variety of armed gangs—Palestinian factions, Christian militias, Moslem leftists, Druse militiamen, Syrian troops.

In the south, within striking distance of Israel, the Palestinians seemed to make special efforts to push their control beyond the limits of the camps so they could have the freedom to move and to build a military structure. And so they took houses.

"Our cook went home one day after she finished work," said Dr. Shabb, "and she found a family sitting in a room with many kids. They forced her to stay in one small room, and they used the rest of the house, and she could not do anything."

"My mother had a small garden here," he continued. They would come and cut the flowers. She once told a 10-year-old boy not to do it, and he said, "We'll blow up your house." Two years ago, she sent away somebody with a goat, and they dynamited her house, damaging the veranda.

Ahlam Ghandour, whose husband is a wealthy importer, said she protected her luxurious house in the hills outside Nabatiye by never leaving it empty, by never going away on trips, by staying alert to any sign of P.L.O. encroachment. "Once a Palestinian came and put a Land-Rover at my house," she recalled. I said, "Please don't leave it here, maybe an Israeli plane will see it and bomb my house." He said, "Okay, Madame," and left.

There were overtones here of a class struggle, for the poor Palestinians in the camps had provided cheap labor for years in the citrus groves and the factories of the wealthy Lebanese. And although some Palestinians had made it up and out of the camps, achieving higher education and often some wealth themselves, the masses had not. The rank and file of the guerrillas seemed to come from the lowest strata, and often, therefore, the P.L.O.'s armed muscle blended with a bitter material greed. The Lebanese found themselves helpless.

THEFTS BY P.L.O. ARE DESCRIBED

In the picturesque Maronite Christian village of Lebaa, east of Sidon, for example, an opportunistic cousin of the Raad family arranged for Palestinians to rent a country house belonging to the father of Dolly Raad, a 26-year-old executive of Middle East Airlines. Miss Raad said it was a deal made both in acquiescence to the occupiers and to the prospect of money, for the P.L.O. leaders had, by all accounts, a lot of money.

The Palestinians turned the house into a restaurant and casino, provoking complaints from neighbors about noise and an unsavory clientele. Then, about two years ago, they locked it up, abandoned it and stopped paying rent, Miss Raad explained. "We asked for it back. They said no."

Both Lebanese and Palestinians describe such outright theft as a common practice of the P.L.O. guerrillas. They often took things from shops without paying, Miss Raad and others complained. Youssef Alifreh, a young Palestinian resident of the Burj al Shemali camp, near Tyre, confirmed it. "Now we are happy because the armed P.L.O. left," he declared. "When somebody wanted to buy something, he would take it and not pay, and if someone would complain, he would shoot him."

At 4 P.M. one day three years ago, a mixed detachment of a dozen P.L.O. and Syrian troops arrived at the home of Zouhair Ladki, a 25-year-old Moslem, in Khalde, just south of Beirut. They ordered the family out, saying they had to check reports that an "American spy" was hiding inside. When the "search" was finished, Mr. Ladki said, many things were missing: his mother's jewelry, television sets, a videotape recorder, a hi-fi set, even some rugs.

CARS COVETED BY GUERRILLAS

Automobiles also became a coveted prize for guerrillas. Two respectable-looking gentlemen from the P.L.O. walked into one Sidon new car dealership, Dr. Shabb recalled, inquired about a certain model, asked if they could test-drive it, got in and disappeared.

At many checkpoints along the roads, young toughs brandishing Soviet-made assault rifles often stopped the cars they fancied and simply took them, as they still do in west Beirut. An auto-theft ring grew up in the south. "If you pay 7,000 pounds," or about $1,400, said Rima Shabb with a smile, "you will get your car back. If you pay 14,000, you will get somebody else's. If you're an elderly person driving an old car, you're safe.

Many Lebanese left their good cars in the garage. Miss Raad never drove her well-kept Mercedes-Benz to work at the airport in west Beirut, which was controlled by the P.L.O. and Syria, taking instead an old, beat-up Mercedes that she jokingly called "the Rolls Royce." "We never washed it," she said.

SOME LOST FARMS AND ORCHARDS

The economic impact of the P.L.O. takeover is difficult to assess, but it seems to have been felt keenly by retailers and farmers. Storekeepers were hurt in towns such as Nabatiye, where an estimated population of 35,000, mostly Shiite Moslems, dwindled rapidly to about 4,000 or 5,000 as those who could afford to move fled to Beirut and environs, leaving only the poor and the sympathetic leftists. The town's once-flourishing market withered and has only now begun to revive as residents stream southward to regain their homes after the P.L.O.'s departure.

For the farmers, the problems were exemplified at Dr. Shabb's estate. The guerrilla squatters took a great deal of his citrus and grape crop; what was left he sold, as usual, to a man who hired laborers to pick it, but the man paid a much lower price than before, knowing that he would have to give a portion to the P.L.O.

Dr. Shabb, a surgeon, kept the farm only as a hobby. But he said that "many people who lived from their farms and orchards went bankrupt when the P.L.O. came in."

For many Palestinians, however, the P.L.O. was protector and benefactor. Some in the crowded camps recall the pitifully low wages the citrus-pickers once received in the south, and they credit the P.L.O. with forcing employers to improve the pay. The results were reflected in rising living standards.

"Conditions improved," said Sami Masri as he stood amid the rubble of the Rashidiye camp on the outskirts of Tyre. It had been a major P.L.O. base and headquarters, and fighting there was severe.

"There used to be no electricity here. In all of Rashidiye there were no refrigerators, no automatic washers." The P.L.O., he said, organized not only military training for the youngsters of the camp, but also soccer teams, chess clubs, Ping-pong tournaments. A youth recreation center was set up in a concrete building that now lies crushed under the weight of war.

Employers, however, found the P.L.O.'s labor-organizing a bit unorthodox. The head of the public works department in southern Lebanon said the guerrillas had made his life miserable by stealing his equipment and limiting his authority over his workers.

"Men repairing roads were supposed to work eight hours a day," he remarked, "but they worked five or six. They would come at 10 and be gone by 4. We couldn't do anything. If I tried to make them work, I was afraid. You would go to the south and they would shoot you and nobody would ever know."

LEBANESE GOVERNMENT INEFFECTIVE

As the P.L.O. became the government, the Lebanese governmental structure retreated into the shadows of impotence. Elected officials stepped aside or stood quietly while they were circumvented. Policemen took off their uniforms or sat in their offices doing paperwork. Judges left the bench, lawyers left town.

"You know our people follow the strong one," Mayor Ali Khalid Shaalan of Tyre said with a smile of apology. The entire City Council complied with the P.L.O.'s demand that they step down, the Mayor said, except him. "The Palestinians pressured me to resign and to leave everything in their hands. But of course I refused and told them I was ready to die before giving them the municipality." Instead of killing him, they worked around him, stripping him of authority.

In Nabatiye, the Lebanese provincial Governor, Adnan Ibrahim, came to work each day, busying himself by providing municipal services to towns and villages in the region. A thin man with horn-rimmed glasses and a look of melancholy, he still speaks with the pain of those years.

CONTEMPT SHOWN FOR P.L.O.

"I worked," he said in French, "but with such difficulty. I supported what was insupportable. I worked without having power. They did not want the police here. We were never free to say what we thought. We were not allowed to hang the picture of the President of the republic during the Palestinian occupation."

Then he slipped into the present tense, as if nothing had changed but his willingness to speak. "They drink the water," he said contemptuously of the P.L.O., "they light the buildings, they use the roads—without paying a piaster. I am working in a minefield. A Palestinain officer comes here to my office, I salute him. It is a necessity."

In a Tyre police station, around a table with five policemen who had just been put back into action by the Israelis, the recollections of their years of eclipse under the P.L.O. brought a carefully worded outrage.

"I worked only with paper," said one of the policeman fingering a crime report. "If somebody shot somebody, he would be protected by the Palestinians. I worked on that, but on paper."

But what seemed to stir his anger most deeply was the sense of profound humiliation. "I would go in my automobile," he explained, "they would stop me and ask for my card. Me! I'm a policeman! I should demand their card!" And what did he do about it? "I showed my card and went on."

The wounded honor exacted a heavy toll, according to Clinton Bailey, an Isareli specialist in Arab affairs who is serving with the army as an adviser in southern Lebanon. In extensive conversations with local residents, he has concluded that the P.L.O. left angry scars. "One of the most important elements in an Arab's life is honor," Mr. Bailey said, "and honor is connected to strength. These people being pushed around by armed elements is really the worst thing that can happen."

SECURITY AND JUDICIAL SYSTEM

As the police and court systems were sapped of authority, the P.L.O. fashioned a crude security and judicial system of its own, one that has applied for many years in the camps. These townships were considered out of bounds to the Lebanese police, even in the late 1960's. After King Hussein drove the armed P.L.O. units out of Jordan in the "Black September" civil war of 1970, many of the leaders and fighters moved to Lebanon to plant the seeds of quasi-independence by reinforcing the camps' sovereignty.

By 1976 or 1977, according to both Palestinians and Lebanese, the disparate factions of the P.L.O. had established forces with a police function, an internal security force to combat espionage and dicipline faction members, and a network of local "people's committee" to arbitrate disputes and hand out punishment.

MERCENARIES ARE BROUGHT IN

The situation seemed to worsen over the years as the P.L.O., hard-pressed to fill military quotas, brought mercenaries in from Bangladesh, Sri Lanka, Pakistan and North African countries. By all accounts, the outsiders were largely crude, undisciplined thugs whose tension with the population was worsened by their inability to speak Arabic and communicate with the people they were threatening.

But the P.L.O. was not on a campaign to win friends among the Lebanese. Its thrust was military. The huge sums of money the P.L.O. received from Saudi Arabia and other Arab countries seems to have been spent primarily on weapons and ammunition, which were placed strategically in densely populated civilian areas in the hope that this would either deter Israeli attacks or exact a price from Israel in world opinion for killing civilians.

Towns and camps were turned into vast armories as crates of ammunition were stacked in underground shelters and antiaircraft guns were emplaced in schoolyards, among apartment houses, next to churches and hospitals. The remains could be seen soon after the fighting, and Palestinians and Lebanese can still point out the sites.

DEDICATED MILITARY EFFORT

East of Sidon, a deep tunnel in the side of a mountain, two football fields long, was crammed so tightly with grenades, rockets, artillery shells, missiles, explosives and small arms ammunition that only a narrow corridor was left for people to walk in.

So dedicated was the P.L.O.'s military effort that even the extensive ancient Roman ruins in Tyre, excavated and partially reconstructed by Lebanese authorities over the years, were made into a base and placed off-limits to tourists and to the Lebanese custodians. Visitors who chanced to take a picture of the columns and sarcophaguses saw the wrong end of a rifle, one custodian said. Remains of P.L.O. arsenals can still be seen beneath the rebuilt seats of the hippodrome; archeologists say that no damage was done other than through neglect.

P.L.O. CONSCRIPTION PROGRAM

An extensive P.L.O. conscription program drafted Palestinian boys as young as 12 and mobilized all male students for one to three months of duty a year, according to some Palestinians. During the invasion, Israeli soldiers said they found themselves in combat with 12- and 13-year-olds shooting rocket-propelled granades. More than 200 youngsters from 12 to 15 were captured and have been released.

The P.L.O.'s draft apparently stirred resentment, for Rima Shaab told of checkpoints being set up during mobilization periods to catch young Palestinians who were trying to run away. Doctors said they often gave boys and young men notes exempting them for false medical reasons. Sister Alisse Araigi, headmistress of a Maronite school in Nabatiye, said, "Families came to us and asked for certificates that children were sick and couldn't be drafted."

There is tentative evidence that the P.L.O. used the United Nations Relief and Works Agency, which cares for Palestinians and receives 25 percent of its budget from the United States, as a kind of civil service to enforce and carry out its draft and military training program. The curriculum in agency schools was laced with anti-Semitism and themes of militant nationalism. The Siblin teachers' training school east of Sidon was obviously given a heavily military cast, as a visit to the dormitories full of uniforms and the storerooms full of ammunition revealed.

Youssef Sayed, a 25-year-old Palestinian from the Ein Khilwe camp near Sidon, said that when a student was called up for a month's military service with the P.L.O., "he is obliged to go, otherwise he won't be accepted next year in the Unrwa school." When asked how this could be, he explained, "The Unrwa personnel are in the P.L.O." Several other men, including an employee of the agency, nodded in agreement.

BITTERNESS AT CHANGES

Some of the bitterness now spills over. Amid the ruins of the Rashidiye camp, an old man, Ahmed Mahmoud, began shouting angrily to a reporter that his 18-year-old son had been "forced to become a fighter," and that as a result, he was now in an Israeli prison camp.

"People living here from 1948 were living all right," he said, referring to the original refugees, as distinct from the P.L.O. leaders who arrived later. "But some people came from other places, they put people under pressure, they made some difficulties. We lived here as if it were our country, we worked, our children were studying, we were happy in Lebanon."

A woman broke in, shrieking: "We are all Palestinians! There are no differences! Don't try to draw lines between us!" He shouted back:

"Our children were working in the lemon groves, and then the P.L.O. came and forced them into service!"

For the Lebanese, none of this had any virtue. "Life was terrible," said Khalil Hamdan, who owns a gas station in Harouf, a Shiite village near Nabatiye. "They never

used their brain," he said of the guerrillas. "They used their Kalashnikov. Even in the car, they used a machine gun to open the road for them." They blew their horns, he said, and shot into the air as well, an effective means of getting traffic out of their way.

THE TALE OF THE RECALCITRANT IMAM

Mr. Hamdan's village had a particularly rough time because it resisted the spreading P.L.O. control. One resident, Hassan Bader el-Din, told a searing tale about his brother, Ali Bader el-Din, the imam of the village who returned in 1979 from 12 years of religious study in the Shiite institutes of Iraq.

The imam consistently refused demands to inject Palestinian nationalist themes into his sermons in the mosque. Two years ago during Ramadan, the month of fasting, the pressure on him grew intense, for he was giving sermons every day. Still he resisted. On the morning of the 19th day of Ramadan, he arose as usual to take his morning meal before the fast began at dawn. Then, while it was still dark, he left his house to walk the 50 yards to the mosque. He never arrived.

After several days of fruitless inquiry by his family, a shepherd in the village of Deir Zaharani, four miles away, found his body, shot once through the head, beneath a bridge.

NIGHTTIME FUNERAL ORDERED

Fearing a large turnout for his funeral, the P.L.O. required that it be held at night, which is not done in Islam. But later, 5,000 came to a memorial service. Obviously concerned, Yasir Arafat visited Harouf, went to the family and spoke particularly to the sheik's 10-year-old son, Mohammed.

According to the brother, who was present, Mr. Arafat told the boy, "The Zionists killed your father." He pulled out his pistol, a Czechoslovak model, and gave it to young Mohammed, saying, "We consider your father a hero of the Palestinian revolution. When you grow up, use this to take revenge." The brother has turned the gun over to the Israeli Army, and it has been shown to correspondents.

At another nearby village, when Sheik Mohammed al-Masri tried to resist the encroachment of Palestinian factions, he said his 15-year-old daughter was raped and murdered.

Ali Ismaili Hatib, also from Harouf, lost his 19-year-old son, Hussein, to the P.L.O. The young man, working in Libya, came home from vacation, his father said, got into a taxi in Beirut, and was stopped at a checkpoint outside the village. "They saw he had a lot of gifts and valuable things," said the old man, now 70, "and as the car pulled away, they shot him in the back."

ACCUSED OF BEING A U.S. SPY

The next day, a P.L.O. delegation came to say that "the Zionists" had killed him and to offer the family a monthly allowance. The old man refused it.

Zouhair Ladki of Khalde also had trouble when he returned to Lebanon last March after a period of study in the United States. At a checkpoint 10 minutes from Beirut airport, the P.L.O. looked at his passport, noticed the American visa stamped in it, blindfolded him, held him for 36 hours, questioned him about being an American agent—"Why are you coming from the U.S.A., did they brainwash you?" they asked—and then released him.

It was this paranoia, the constant fear of being infiltrated by spies, that led to much of what seemed like random killing. Mr. Ladki is a Moslem who does emergency rescue work for the International Red Cross, and therefore wears a large red cross over his shirt, front and back. He recalled an episode in 1978, when a bomb destroyed a 14-story building in the Sabra camp in Beirut.

"We helped for two weeks to dig up bodies," he said. "They began to be suspicious about us being "not clean," as they say. They asked, "Why are you a Moslem and put a cross on yourself?" The Palestinians killed three of his team.

So many friends and relatives died that he began to build an emotional wall around himself. "I lost too many dear friends," he said. "To come from a country like the U.S.A. and expect to find your, dear friends—one was killed just because his father was in the Moslem Brotherhood. For nine months I have been afraid to make friendships again."

"I can understand that," said Dolly Raad, "because for a long time I did not want to become attached to anyone or anything, because you know you can lose it, and that will affect you very much.

"Before the P.L.O.," she continued, "we used to be pro-Palestinian. They were driven out of Palestine, they were massacred. On a humanitarian level, we supported them. It's very easy to have compassion for this people. You see them and you pity them. Before '75 we have this opinion. They were poor, we should help them.

"In '76 they stopped a bus and said that those who were Christians, come down. My cousin stepped down, and was killed. When we saw the Palestinians were killing us and threatening us and having barricades and shooting innocent people, then came the hatred.

"I don't know if you can understand the fear of being in the dark," Miss Raad went on, "and expecting to see someone who is going to kill you, and is an expert in killing. In '76 you couldn't see women without black dresses. It was a black year. Everyone had lost a husband, a son. Everyone was wearing black."

In the rubble-strewn camp of Rashidiye, where the P.L.O. had a major headquarters and military base, Sami Masri, a Palestinian man, understood. "Maybe if I were Lebanese, I would have that same anger," he said. "These poor Lebanese, they are in between."●

U.S. SPACE PROGRAM

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. COUGHLIN. Mr. Speaker, nearly 25 years ago, the United States placed its first satellite into space. In the intervening years, the United States has been the acknowledged world leader in developing and using space technologies. Indeed, we have made great progress and I wish to take a moment to reflect upon our accomplishments at this time of year when we have in the past commemorated National Space Week.

Surely, the National Aeronautics and Space Administration's program has captured the hearts and minds of the American people. Who can forget that historic moment in July 1969 when Neil A. Armstrong set foot on the Moon? Armstrong's immortal words, "One small step for man, one giant leap for mankind," clearly illustrate the immense significance of the event.

This past Fourth of July, the world's first reusable manned space vehicle, the Shuttle Columbia, flew down out of a clear California sky and completed its fourth test flight. It is now fully operational. The success of the *Columbia* marks the commencement of a new and exciting era in the space program.

As the "workhorse of space," the *Columbia* will haul humans, machines, and materials into orbit for numerous practical purposes. It can launch and retrieve communications, weather, and defense satellites. It can perform scientific experiments such as the development of new pharmaceutical products. For example, it has been suggested that the cancer-combating drug, interferon, can be produced with greater ease and at less cost. Finally, the Shuttle can be used to deploy a manned orbital laboratory. Certainly, it is easy to see why the first 45 flights, extending well into 1985, are reserved.

As we enter this new era of space exploration, I feel that the United States should devote its attention to the development of a cogent space policy. I am looking forward to the completion of an interagency review of NASA's space policy. I believe that this study will aid us in our effort to define what our space policy will be in the years to come. The absence of such a policy will surely hinder the space program's ability to continue to contribute in the positive manner it has in the past.

I firmly believe that the NASA program has been a great success through the years not only because of the hard work of many men and women, but also because our space program truly epitomizes the questing spirit of the American people.●

THE PRESIDENTIAL CERTIFICATION OF EL SALVADOR

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GARCIA. Mr. Speaker, yesterday, the President reported to Congress that the Government of El Salvador was progressing sufficiently with political and economic reforms, and that its human rights record had improved enough to justify continued U.S. military support.

I believe that the President should not have certified El Salvador as fit to receive military aid. I cosponsored a resolution declaring the certification null and void. There is evidence that

human rights in El Salvador not only have not improved, but that conditions may have regressed. The land reform program is also not moving forward and may in fact be dead.

The new Salvadoran Government hardly represents a democratic cross section of Salvadoran society. Although, it is commendable that there was such a large turnout for the elections. It is questionable, however, as to whether or not the turnout was as large as originally reported. Further, the results would have been different had the left participated in the elections. The offer by the Salvadoran Government for the left to take part in the elections could not be taken seriously, since there was no guarantee for the safety of their candidates.

With the emergence of Roberto D'Aubuisson as head of the Constituent Assembly, and with the key posts for the land reform program in the Salvadoran Government taken over by officials who are less than supportive of the program, the impetus for progressive change is no longer present in Salvador. In addition, the key figures in the military have not changed, another indication that human rights have not become a priority issue for the new Salvadoran Government.

What is equally disturbing is that a number of credible, independent organizations, familar with conditions in El Salvador, have stated that they feel the cause of human rights has not been advanced in that nation.

Among these organizations, who are questioning the Salvadoran Government's sincerity in maintaining a close watch on human rights, is the International Committee of the Red Cross, ICRC. It can hardly be classified as a politically biased organization. Yet, the ICRC has threatened to withdraw from El Salvador because that government has refused to obey international treaties on the treatment of prisoners.

ICRC representatives in El Salvador have not been able to find prisoners in Salvadoran army camps in war zones. This is a clear indication that the army is killing its prisoners rather than detaining them.

Yet this is only one example of the continued human rights violations of the Salvadoran Government. The American Civil Liberties Union and the America's Watch issued an extensive report on July 20, stating that the government did not meet the conditions outlined by Congress.

I am deeply concerned that instead of aiding the Salvadoran Government with our military aid, we are, instead, undermining it. Our total aid package to El Salvador is larger than the amount provided to all other Latin American and Caribbean countries.

When is this insanity of trying to help the Salvadoran people by providing their government with guns going to stop? Our economy is suffering. We have cut back on valuable social programs. Yet, we insist on sending millions of dollars of military aid to a regime that is politically bankrupt.

I not only condemn the President's certification, I question his entire approach to the region. He must stop looking for Communists in the closet of progressive Latin American groups, and begin to realize that legitimate compromise and dialog are the only possible long term solutions. As a leader of the Hispanic community in the United States, I am appalled at the lack of sensitivity and foresight shown by the President in Latin America. His policy toward El Salvador is a shining example of this.●

JOHN AND ANN FRATIANNI

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. SCHEUER. Mr. Speaker, in this day and age when change is the fashion, consumption the lifestyle, and commitment and responsibility to our fellow man the taboo, I would like to honor before this House of Congress the long standing commitment of two people to each other. They are, I am proud to say, residents of my home State of New York.

John and Ann Fratianni were joined in marriage at St. Lucy's Roman Catholic Church in Brooklyn, N.Y. on August 29, 1932, and will celebrate their golden wedding anniversary on August 29 of this year. This sacred and enduring union has produced three children—John Fratianni, Jr., Jo Ann DePaola, and Lucille Scarpulla—who have brought great joy to their parents; and one, I might add, to myself, John, Jr., who is an important member of my congressional staff. These children have further enriched the lives of John and Ann Fratianni by blessing them with 10 grandchildren—Ann Marie, John III, Roseanne, Richard, Maria, Peter, Richard, John, Frank, and Jacqueline.

The members of the Fratianni family will be joined by a host of relatives and friends to celebrate this most memorable of occasions, their 50th wedding anniversary in August.

I would like to extend my warmest congratulations to John and Ann during this, their 50th year of marriage. Theirs, Mr. Speaker, is an accomplishment we all admire and try to emulate.●

CERTIFICATION OF MILITARY ASSISTANCE TO EL SALVADOR

HON. MARY ROSE OAKAR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Ms. OAKAR. Mr. Speaker, today the President of the United States has once again certified that El Salvador has made sufficient progress toward protecting human rights, and in political and social reforms, for our Government to continue the flow of military assistance, equipment, and weapons to that violence-torn country. In effect, our President, through Secretary of State Shultz, is asking the Congress and the American people to certify that "business as usual" in El Salvador means progress.

The President has broken faith with the Congress and the American people in an arrogant declaration that defies belief. Some of the very statistics and evidence cited in the State Department report reveal the distortions in the administration's argument. We are told that the violations of human rights have decreased, that fewer people are being killed. Yet we know that violence has simply become more hidden—fewer bodies in the streets, more disappearances. Torture and intimidation have become more sophisticated, more systematic. We are told that human rights abuses by the armed forces and security personnel are being checked, that violators are being prosecuted. Yet we know that of the mere 85 homicide suspects handed over by the military to the civilian authorities in the last 2½ years, none seem to have been tried and convicted in court.

We are told that land reform is alive and well. Yet on the scene reports indicate that as many as 33,000 campesinos who were beneficiaries of phase III have been evicted from their land, that applications are down dramatically because of the violence, that as of early June 1982, only 103 definitive titles have been distributed to former tillers out of 150,000 potential beneficiaries identified by the government. Furthermore, and of special interest to my office, we are told that progress has been made in the investigation and prosecution of the murders of six, possibly seven, American citizens in El Salvador since December 1980. Yet, in the case of the four American missionaries, the murderers who were identified and taken into custody in April 1981, have yet to be brought to trial.

Last year El Salvador received approximately 70 percent or more of all the military assistance our Government sent to Latin America. Enough military aid to support Canada was poured into a country the size of the State of Massachusetts, with a popula-

tion of less than 4.5 million. We should ask ourselves what has been the effect of our dramatic increase in military aid since 1980? The statistics clearly reveal an astronomical increase in the number of killings of noncombatant civilians and a rising incidence of torture and mutilation.

What moral arrogance gives us the right to use American taxpayers' money to decimate and threaten an innocent population? Will this mean victory for democracy in the long run? Will it mean peace in our hemisphere? Unless we attach sanctions to our military assistance and implement them with sincerity, we have bound our Nation to a wheel of increasing hypocrisy. We cannot continue to write blank checks for "military solutions" in Latin America.

Our national honor, the conscience of the American people, and the integrity of our legislative system have been compromised by this act of certification. We should be outraged.●

HOUSE EXPORT TASK FORCE APPLAUDS PASSAGE OF EXPORT TRADING COMPANY LEGISLATION

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. BONKER. Mr. Speaker, it is with much pleasure I announce passage of export trading company legislation by the House Tuesday. Although the trading company concept has received considerable support from the private sector, recent administrations, and Members of Congress; legislation has been debated in Congress for nearly 4 years without enactment. As Chairman of the House Export Task Force, and primary sponsor of H.R. 1799, I would like to commend my friends and colleagues for their tireless efforts in supporting the legislation, and acting to insure passage of the Export Trading Company Act of 1982.

Trading company legislation is the singlemost important export trade initiative passed by thie Congress. It acts as a major incentive to our small- and medium-sized businesses to actively pursue export trade. Moreover, it will have major positive effects on our domestic economy and our international trade status.

The last decade was a period of frustration and disappointment for our country insofar as international trade is concerned. Our first trade deficit of the 20th century occurred in 1971, and we have had a deficit nearly every year since.

It has been only recently that export trade has been given much attention in this country, for to date, it has been a mere afterthought for the majority of the American business community. For years, our growing domestic economy has satisfied the needs of the American businessman. He consequently has not had the need nor the desire to look into foreign markets that were often unreliable and risky as well as politically and socially alien. Moreover, the American businessman lacked an expertise in conducting foreign sales—from locating the foreign buyer to packing, shipping, and completing export documentation.

The U.S. Government, in addition, has not been as active in encouraging export trade or in providing assistance to the business community as other nations have. The American businessman perceived, and in many cases rightly so, Government regulations as impediments to international trade—regulations that were ambiguous, confusing, and often costly with which to comply. These self-imposed disincentives have served to deter the small- and medium-sized American companies from entering the international marketplace.

The United States can no longer afford to ignore the value of export trade and the importance it plays in our domestic economy and our status as an international industrial power. During the last two decades, the U.S. share of world exports dropped from 18 percent in 1960 to 15.4 percent in 1970, and last year fell to 12 percent. Today, exports of goods account for 8.2 percent of our gross national product, the lowest percentage of any industrialized nation in the world.

While numbers vary according to the source, the trend is as clear as it is alarming. Without a change, this trend could cost the United States hundreds of thousands of jobs, billions of dollars in economic activity, and the productivity boost that increased exports could generate for American industry.

Passage of export trading company legislation is a major step in enhancing our position in the international marketplace as an aggressive trading nation. The basic purpose of an export trading company is to provide the full range of services required to effectively connect U.S. suppliers with overseas customers. The development of the trading company is linked to the needs of individual firms to pool capital and distribute risk in engaging in more costly and less certain foreign markets. Moreover, they are designed to encourage the small- and medium-sized firms to actively pursue export trade.

Many of our trading partners, European as well as Japan, Korea, and Taiwan, possess sophisticated, large-scale, general-purpose trading companies which perform the full range of requisite functions for potential exporters. The success of such companies has contributed significantly to the export earnings of all of our major trade competitors.

American trading companies will greatly help to increase our exports of agricultural commodities, services, and high technology. While thousands of American firms manufacture products and offer services which are highly competitive overseas, these companies have not entered foreign markets because of a lack of capital and knowledge. In contrast to the success of Japanese and European trading companies, absence of one-stop export facilities in the United States has forced many U.S. exporters either to seek the services of a number of individual export promotion operations or to market their own products by combining marketing and production within a single corporate entity, involving considerable cost.

Export trading companies will offer a wide range of services, including economic feasibility and marketing studies, transportation and insurance, customs documentation and clearances, warehousing, packaging, distribution, marketing, and after-sales servicing. With that, the trading company is fully responsible for the actual export of goods and services, removing from the manufacturer a number of cumbersome and costly procedures.

In addition, export trading companies will enhance the competitiveness of U.S. exporters by providing comprehensive marketing intelligence, expertise in developing new markets, well-established distribution networks, and diversification of export risk due to the volume of business and number of products. In addition to these export services, American exporters will be able to draw on the considerable resources, expertise, and knowledge of the U.S. banking system.

The growth of our domestic market has slowed considerably and will not alone satisfy the needs of American industry. Yet, the international marketplace is extremely complex and highly competitive, particularly as more and more nations feel the critical need to export as a result of weak domestic economies. Given our international trade problems and concerns, we must develop an export consciousness and realize what exports do for our national economy, in general, and what export trading companies do for exports, in particular.

A private study conducted by Chase Econometrics in 1981 stated that the creation of—

U.S. Export Trading Companies and Associations would have a powerful, positive effect upon the American economy. By 1985, the impact of these companies would be sufficient to increase current dollar Gross National Product by between $27 billion and $55 billion without causing significant additional inflation. Employment would be increased by 320,000 to 640,000

workers. The extra income and employment generated would reduce the Federal deficit by between $11 billion and $22 billion.

Mr. Speaker, the value of expanding America's foreign trade in clear. And the value of American export trading companies to that expansion is also clear.●

AN AMERICAN SUCCESS STORY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GARCIA. Mr. Speaker, I would like to pay tribute to a man who personifies the American successs story, Mr. Santiago Grevi, who was born in La Playa de Ponce, P.R., where my mother was born, and moved to East Harlem at the age of 18. He worked at a variety of jobs to better himself and to find a niche in his new home.

In 1953 he began a career that made him well known throughout New York's Hispanic community; he became a radio broadcaster. With his program, "The Voice of Puerto Rico," Mr. Grevi reached out to New York's Puerto Rican community. He gave them a voice, a remembrance of home. For years the show, which was directed and produced by Mr. Grevi, was heard over WLIB and WBLS in New York. It was a mainstay for all Spanish-speaking New Yorkers.

Then at the age of 47, Mr. Grevi decided to shun success and embark on another career. He went back to college and on to law school. He was admitted to the New York State Bar in 1964. Mr. Grevi did not understand that a 47-year-old man from Ponce, P.R., had no business being so ambitious. He ignored the odds, and the prejudice, and worked hard to achieve his goal.

Santiago Grevi did not play by the rules. He pushed aside his successful career as a broadcaster to become an attorney. Governor Rockefeller understood the value of such a man. He appointed Mr. Grevi to the New York State Drug Abuse Commission, and in 1972 the late Governor made Mr. Grevi commissioner. Of course, Santiago Grevi was also active in a variety of other community activities, including politics, where he was vice president of the Kanawa Democratic Club.

Recently, a school was named after Santiago Grevi in the South Bronx. This is a fitting tribute for this great man. He worked hard; he beat the odds; and he continued to learn, and achieve throughout his life. Santiago Grevi is a perfect example of an American success story, and I feel particularly proud because this great man spent much of his life in my home, New York.

SISTER CLEOPHAS, EDUCATOR, DIES

HON. BARBARA A. MIKULSKI

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Ms. MIKULSKI. Mr. Speaker, I wish to bring to the attention of the House of Representatives the death of a distinguished intellectual and humanitarian on June 28, 1982. Sister Mary Cleophas Costello, in addition to her scholarship and leadership, was an extraordinary person. She had a tremendous influence on the women of my generation; showing by example that women could pursue fields of intellectual excellence, and at the same time retain basic womanly attributes. She was a role model, teacher, mentor, a gentle disciplinarian, and a friend. Her absence is mourned by the many who sought her guidance.

SISTER CLEOPHAS, EDUCATOR, DIES AT 77

Sister Mary Cleophas Costello, RSM, president of Mount St. Agnes College here for 13 years and later a professor on the English faculty at Loyola College, died of cancer Tuesday at the Mercy Villa convent on Bellona avenue. She was 77.

During more than a decade of teaching at Loyola, Sister Cleophas originated the Creative Living Lecture Program for senior citizens, which she directed until early this year.

She had been on the Mount St. Agnes English faculty more than 25 years before serving as president of the college from 1955 to 1968, and returned to teaching when the school for women merged with Loyola in 1971.

Besides conducting classes at Loyola with the rank of a professor emerita, she served regularly as a visiting professor at Catholic University in Washington, lecturing on her academic specialty of literary theory and serving as an adviser to graduate students.

A native and lifelong resident of Baltimore, Sister Cleophas was a versatile educator with wide interests. She held a harmony teacher's certificate from the Peabody Conservatory of Music, a bachelor's degree in mathematics from St. Mary's College in Indiana and a doctorate in English literature from Catholic University.

An accomplished pianist and vocalist, she was often called upon to help entertain at social gatherings she attended and was active in promoting the arts in the Baltimore area.

She taught courses on T. S. Eliot, Dante, Christian humanism and other subjects to several generations of undergraduates at Mount St. Agnes and Loyola, and was the author of articles in professional journals that extended from her favorite literary fields to theological subjects and interdisciplinary studies.

Sister Cleophas was credited with strengthening the liberal arts, science and education programs at Mount St. Agnes and establishing new psychology, sociology and speech-pathology programs there.

In 1966, the Business and Professional Women's Club of Baltimore presented Sister Cleophas with its Woman of the Year award. She also received medals for outstanding service to education from Loyola and the national Mercy Higher Education Colloquium, and was named a member of Alpha Sigma Nu, the national Jesuit honor society.

A mass of Christian Burial will be offered at 10 a.m. tomorrow at the Shrine of the Sacred Heart Church, 5800 Smith avenue, in Mount Washington.

Sister Cleophas is survived by a brother, John J. Costello, of Baltimore; two nieces, and a nephew.●

ASSAULT ON WOMEN'S RIGHTS

HON. SIDNEY R. YATES

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. YATES. Mr. Speaker, I am saddened by the Reagan administration's continuing assault on women's rights. Not content with its responsibility for the death of ERA, the administration now seeks to cripple the National Advisory Council on Women's Educational Programs.

The administration sought to kill the Women's Educational Equity Act program outright by denying it funds. Now that Congress has refused to accede to that short-sighted and meanspirited request, the administration orchestrates the dismissal of the Advisory Council's talented and professional executive director.

It is disgraceful that the Reagan administration continues this assault. And it is disgraceful that the administration has politicized and undermined a council which was bipartisan and effective. I hope and trust that this special order puts the Reagan administration on notice that Congress will not tolerate the continuing assault on women's rights and, in particular, on the WEEA program.●

THE BALANCED BUDGET AMENDMENT

HON. LINDY (MRS. HALE) BOGGS

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mrs. BOGGS. Mr. Speaker, the Senate currently has under consideration a proposed constitutional amendment that would require a balanced Federal budget. It is likely that the House will consider such a proposal in the near future.

Last Sunday, the New Orleans Times-Picayune/States Item featured an editorial that discussed several important aspects of the balanced budget amendment. I would like to share these comments with my colleagues as we prepared for the debate on the amendment.

THE BALANCED BUDGET AMENDMENT

America, the land of "There oughta be a law," seems developing into the land of "There oughta be a constitutional amend-

ment." The latest proposal gathering momentum is for an amendment to require a balanced federal budget. Such budgets are greatly to be desired, but the proposal would do little to require them and by its ineffectiveness could bring disrepute to the magnificent document it would be embedded in.

The federal budget should be balanced. There is just so much the government can be expected to do, and it should live within that area of clear responsibility. But unlike State and local governments, the federal government has many responsibilities that might be considered open-ended. National defense is one, and tiding-over economic programs in hard times is another.

But the proposed amendment would not really encourage a certifiable balanced budget and would not restrain the routine, massive imbalances that have upset the economy and produced the demand for a disciplinary amendment. Congress each year would produce a revenue estimate and a spending bill that would have to match. Federal revenues in any given year would not be allowed to increase at a rate higher than the rate of increase in national income in the previous year. If Congress and the president want to spend more than they estimate they will take in, they will have to pass a tax or taxes to fund the excess.

But the budget need not be balanced in time of war—an exception that needs no comment. But also, spending could exceed income in any year by a three-fifths vote of Congress. This amounts to Congress' authority to waive the amendment whenever it pleases, which means whenever voter pressure in favor of particular spending programs overwhelms the voter pressure that would now engrave "balanced budget" in constitutional stone.

A majority vote could permit federal revenues to grow faster than the national income. This simply provides taxing authority—which Congress has already—without calling attention to it by that horrid name.

In practice, budget-making doubtless would be done by playing with imaginary figures even more than that game is now played. Where will that estimate of revenues, against which proposed spending will be tested, come from? Many now produce estimates, and all differ. The amendment does not say whose figures will rule, and one can expect that budget writers will pick or produce one that suits their proposed budget, and deal with adjustments at the end of fiscal year.

The effect of the amendment could well be to turn even the responsible elements in Congress into con men under the pressure to budget for a national government whose domestic and foreign performance is of global importance. And accepted winking at one part of the Constitution could be precedent for future winking at parts of it that are foundations of the nation.

The responsibility for sound management of the public fisc belongs with the public's elected representatives. They cannot be relieved of it by the magician's trick of misdirecting attention to something that seems relevant but isn't. The executive and legislative branches now have the authority to bring spending into line with basic requirements, fiscal soundness and response to special conditions. They should simply do it.●

NUCLEAR FUEL REPROCESSING: THE ANSWER TO SAFE NUCLEAR WASTE DISPOSAL

HON. MARILYN LLOYD BOUQUARD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mrs. BOUQUARD. Mr. Speaker, last week I sent a letter to the Washington Post in response to an article which appeared in the July 20, 1982, morning edition. I am not including that letter here because it was a personal letter to Mrs. Graham, the chairman of the board. My letter concerned an article written by Mr. Milton R. Benjamin which referred to a report issued by the health and energy learning project regarding nuclear fuel reprocessing. The report was apparently timed to coincide with deliberations on appropriations bills concerning the Barnwell nuclear fuel plant located in Barnwell, S.C.

Mr. Speaker, this matter is serious because the report was simply not true on most counts. Its erroneous and misleading nature was verified by our own research records in the Committee on Science and Technology and through the efforts of M. Pierre de Mazancourt of the French Embassy who was gracious enough to provide correct information about their reprocessing plants. This French data shows that the statements made in the Washington Post were untrue as does the information graciously provided by Mr. Shirakawa of the Embassy of Japan. The Japanese said that the Post's statements about the Tokai Mura reprocessing plant were untrue, and this was also the conclusion of our own nuclear engineers at Savannah River, Idaho, and Washington State. We expect the Department of Energy to respond to this fallacious report in detail, but I think it is important to provide some facts for the record on this important nuclear issue.

The article claimed that reprocessing plants have an average lifespan of 6 years. Commercial plants in West Germany and Japan are less than 6 years old; however, their useful lives are expected to be at least 25 to 30 years.

But—the Savannah River, S.C., plant has been operating successfully for 28 years.

The Idaho plant has been operating successfully for 23 years. The Hanford, Wash., plant operated successfully for 16 years and was shut down because of decreasing reprocessing requirements. High burnup spent fuel assemblies, which are similar to civilian spent fuel, have been reprocessed in quantity without difficulty. Zircalloy fuel assemblies which have cladding similar to commercial fuel rods have been reprocessed successfully at Hanford.

The article claimed that reprocessing plants operate at only 10 to 35 percent efficiency.

But—Savannah River, Idaho, and Hanford have all performed at better than 80 percent capacity. According to Monsieur de Mazancourt of the French Embassy their La Hague plant has been operating at over 100 percent of design capacity during the first half of 1982, not 10 percent as stated in the article.

Reprocessing plants are uneconomical according to the Post.

But—Idaho records show a benefit-to-cost ratio after discounting of 1.5.

According to the Post, the French La Hague plant had "on the average, one serious accident about every 4 months from January 1980 to June 1982."

But—the French Government said that they have had no serious accidents which could have endangered workers or the environment.

The Post reported the Tokai Mura reprocessing plant had to be shut down this April for 1 year because "radioactive matter touched the heating steam of the fuel rod melting pool."

But—Mr. Shirakawa of the Embassy of Japan said there was a small leak in a dissolver that is being repaired while the plant continues operating on the No. 2 dissolver.

There is no way to classify the statements made in the article other than to categorize them as utter falsehoods.

One element of the U.S. solution to nuclear waste disposal is in Barnwell, S.C. While we would not bury the waste in South Carolina because of soil conditions and high water table, the Allied facility in that State could be utilized for reprocessing. Reprocessing allows us to reduce the scope of the waste first and extract the long-term radioactive elements which are reusable—they can be put right back as fresh fuel to generate power.

Once reprocessing is performed, what remains are relatively short-lived elements which decay more rapidly such that in roughly 500 years they are as dormant as normal background radiation in an average uranium mine. It is useful to think about 500 years in terms of manmade objects from previous civilizations. I can point to the pyramids and I can tell my constituents "See, they are 4,000 years old," and I can point to pottery found in Egypt and say, "Look that is 2,000 years old." I can also say to them that I am concerned about their health and safety and I want them to enjoy a strong economy; both goals are possible. If you encapsulate the waste in glass after reprocessing and then place the rigid glassified material in a stainless steel container and slide it into a hole in an appropriate host rock, it will be stable for centuries. But Barnwell, or a similar plant must be operat-

ed first so that we can isolate glassified waste and not spent fuel with its great energy content.●

A SOUTH BRONX SUCCESS STORY

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GARCIA. Mr. Speaker, I would like to take a moment to pay tribute to a Bronx success story. So often, the only news we hear of the South Bronx is about the poverty and hopelessness. As a lifelong resident of the South Bronx, I know that there is more to the South Bronx than this distorted image. It is also a place full of possibility and achievement.

An example of this kind of achievement is work done by the James & Kirtland Iron Works, located on St. Ann's Avenue on 149th Street. In 1863, the iron works completed work on the dome for the Nation's Capitol Building. The dome which remains as a symbol of the American democracy is also a symbol of success and achievement in the South Bronx.

The statue of Abraham Lincoln, in the Lincoln Memorial, was also the work of South Bronx artist/craftsmen, the Piccirrilli brothers. At their studio on 142d Street, the six Piccirrilli brothers sculpted the statue for the memorial, and presented it to the United States for the unveiling on Memorial Day in 1922.

Both the James & Kirtland Iron Works and the Piccirrilli brothers are examples of South Bronx contributions to American history. The South Bronx also has a rich history full of tradition. It is important to note that even today, the South Bronx is far from dead and hopeless. The people who live in the South Bronx are proud to carry on its rich legacy.●

THE ORIGINAL DISARMERS

HON. JOHN J. LaFALCE

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. LaFALCE. Mr. Speaker, later this week the House will consider House Joint Resolution 521, calling for a mutual and verifiable freeze on and reductions in nuclear weapons and for the approval of the Salt II agreement.

In preparation for this momentous debate, I wish to direct our colleagues' attention to an editorial that appeared in the Niagara Gazette on July 20, 1982. The editorial, entitled "Creators of Atomic Bomb Started Anti-Nuke Drive," puts today's public outcry against our nuclear arsenals of destruction in proper historical perspective, for it was Oppenheimer, Einstein, and Fermi, names most associated with our Nation's fledgling nuclear weapons development program, who were the original disarmers.

Mr. Speaker, the great minds who developed the first atomic bomb were not only great scientists capable of harnessing unknown forces, but they were also humanitarians who immediately recognized the destructive potential of that which they had wrought. They were compelled to speak out against their own offspring when they realized that such might placed at the disposal of man could lead to armageddon.

We failed to heed the voices of these great men, Mr. Speaker, and as a result the challenge we face today to reduce the massive nuclear arsenals of the United States and Soviet Union is perhaps greater than the original disarmers could have imagined.

I hope that we are prepared to meet this challenge so that future generations will associate the names Einstein, Oppenheimer, Fermi, and others not with parentage of the bomb but with leadership of the movement that fought the threat of nuclear anihilation and won.

The editorial follows:

CREATORS OF ATOMIC BOMB STARTED ANTI-NUKE DRIVE

Only two weeks before American B-29s dropped the atomic bombs that would force the Japanese to surrender in World War Two, the first atomic device was exploded at Trinity Site in the New Mexico desert.

That was 37 years ago, in mid-July, 1945.

Many of those involved in the anti-nuclear weapons movement today were not yet born when the Trinity test took place, and it may be worth their while to note that the earliest advocates of nuclear weapons control included some of the scientists who made the weapons possible and then came to regret what they had done.

Perhaps we should all reflect on how the creators came to view their creation. Like Dr. Frankenstein, many of them eventually sought to destroy what they had labored so long and hard to bring into being.

Albert Einstein is the scientist whose name became most widely known to the public at large during the 20th century. Einstein had little to do with the building of the first bomb, but he was persuaded in 1939 to apply pressure to President Roosevelt on the side of pushing ahead with the atomic project.

Einstein, as ardent pacifist, deeply regretted his decision in later years. The physicist's last public statement before his death in 1955 was a call for an end to the nuclear arms race. He said just after the war that if he had known that Germany would not succeed with its own atomic project, "I would not have lifted a finger."

Entreaties to politicians to halt the arms race often fall on deaf ears today, and so it was then. When in 1944 it became increasingly apparent to the Allies that the Nazis did not have a bomb and in fact were not even close, many of the scientists at Los Alamos, N.M., were faced with a moral dilemma. Should work on the bomb proceed in view of Germany's pending collapse?

The eminent Danish physicist Nils Bohr, on the team at Los Alamos, visited Roosevelt in late summer, 1944, and suggested that the secret of the bomb be shared internationally. He had presented the same plan to Winston Churchill in July. Both leaders rejected the plea.

After the Trinity test, Leo Szilard and Enrico Fermi, two other scientists working at Los Alamos, formed the Committee on Political and Social Problems to argue against using the weapon. The committee recommended that the bomb be dropped in an uninhabited place where the Japanese—and the world—could see its destructive force.

But President Truman—new to the job after Roosevelt's death—was convinced that the bomb would bring a quick end to the war and save countless American lives. As a result, atomic bombs were dropped on Hiroshima and Nagasaki on Aug. 6 and 9, 1945, killing more than 200,000 people.

The might of those weapons was but child's play compared to the destructive force of the missiles buried in silos in the Soviet Union at this moment targeted for Niagara Falls.

The possibility of their use is infinitely real, infinitely horrifying. The best scientific minds in the world came to realize that fact more than 35 years ago. Increasing numbers of everyday citizens are coming to accept the danger and speak out against it now.

Physicist J. Robert Oppenheimer quoted the sacred Hindu epic, the Bhagavad-Gita, after witnessing the Trinity test. The lines have been repeated many times, but they bear quoting once more: "If the radiance of a thousand suns/ Were to burst at once into the sky/ That would be like the splendor of the Might One. . . ./I am become Death,/ The Shatterer of Worlds."●

REGISTRY OF INTERPRETERS FOR THE DEAF

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DeNARDIS. Mr. Speaker, it is a great honor for me to acknowledge July 27 as National Recognition Day for the Registry of Interpreters of the Deaf. Through their outstanding efforts in bridging the communication gap between the deaf and hearing worlds, sign language interpreters have done and are continuing to do an invaluable service for our Nation and the nearly 14 million deaf and hearing-impaired citizens, who are leading meaningful and productive lives.

As an organization dedicated to improving the training and certification procedures for interpreters as well as working to make Federal, State, and local services available to the deaf and hearing impaired, the Registry of Interpreters for the Deaf, involving 5,000 dedicated individuals, makes possible communication and understanding between the deaf and individuals with normal hearing.

Mr. Speaker, I am also pleased to announce that the Registry of Interpreters for the Deaf will be holding their

national convention in Hartford, Conn., my home State and the birthplace of the American School for the Deaf—the first institution of its kind in the United States.

Once again I congratulate the Registry of Interpreters for the Deaf on this special day, and also wish them many more years of success and continued service to humanity.●

ABORTION SIMPLY STATED IS THE KILLING OF A BABY

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. HYDE. Mr. Speaker, one of America's most trenchant journalists, John D. Lofton, Jr., has written a typically hard-hitting column appearing in the July 7, 1982, Washington Times. He discusses the glaring inconsistencies inherent in Planned Parenthood's fundraising advertisements in a way that is both instructive and interesting and I commend Mr. Lofton's article to my colleagues:

[From the Washington Times, July 7, 1982]

ABORTION, SIMPLY STATED, IS THE KILLING OF A BABY

(By John Lofton)

Once upon a time, way back in the Dark Ages, the mid-1960s A.D., the folks at Planned Parenthood believed that in an abortion a baby was killed, or so they said.

In 1965, a booklet titled "Plan Your Children for Health and Happiness" was published by Planned Parenthood/World Population. In this publication was a question-and-answer section in which the following was asked: Is birth control an abortion? The answer:

"No. It is definitely not an abortion. Abortion kills the life of a baby after it has begun. It is dangerous to your life and health. It may make you sterile so that when you want a child you cannot have it. Birth control merely postpones the beginning of life."

But all this is ancient history. It is now the 1980s. And the folks at PP are in the vanguard of those forces that favor the legalization of abortion to kill babies. In fact, nowadays, the PP folks don't even seem able to distinguish between having a baby and killing a baby. And, to make matters even more confusing, the folks at PP are today attacking those who still believe what they used to believe; that is, that abortion kills a baby.

Planned Parenthood of Maryland recently ran a full-page ad in the Baltimore Sun. The ad showed a man and wife in bed and between them was another man wearing a dark suit, a tie and horn-rimmed glasses. The headline at the top of the ad reads, "The Decision to Have a Baby Could Soon Be Between You, Your Husband and Your Senator."

The copy in this ad says the Senate Judiciary Committee has taken "An unprecedented first step toward depriving you of your most fundamental personal right: the right to have the number of children you want. When you want them. Or to have none at all." The step spoken of is the so-called Hatch Amendment authored by Sen. Orrin Hatch, R-Utah.

Calling possible Senate passage of the Hatch Amendment a "nightmare" that is becoming a "reality," the PP ad says, "Backing this amendment are right-wing U.S. senators who want to impose their religious beliefs on you. Your friends. Your friends. Your family. Everyone." The ad urges its readers to clip a coupon and send money because: "Now more than ever, we must fight to keep the government from governing your private life. The state of safe and legal abortion hangs in the balance."

There is no doubt that the PP ad is clever. But it is grossly misleading. Hatch's legislation does not seek to limit the decision to have a baby. What the Hatch amendment to the Constitution would do is allow the states and Congress to restrict the so-called right to kill a baby, an unborn baby—a human being in its earliest stage of development. This is a crucial distinction.

There may be good reasons for killing unborn babies. I can't think of any, but that's not the point. The point is that abortion is the killing of a baby. And killing a baby is not the same thing as having a baby. In the case of the former, a baby dies; in the cases of the latter, a baby lives.

To talk with a Planned Parenthood person is to talk with a person who seems to know nothing about either the birds or the bees. When I ask Dan Pellegrom, executive director of the Maryland PP, if an unborn baby is a human life, he says: "No."

Me: "But two humans made it. How could it be anything other than a human life?"

Pellegrom: "Oh, two human beings make all kinds of things."

Me: "like what?"

Pellegrom: (pausing) "All kind of objects, all kinds of things. I mean, I—you know—"

Me: "Would you agree that an unborn baby is alive?"

Pellegrom: "Well, the sperm and egg are alive before they are united. Obviously cells exist and there are such things as living cells. I'm not going to tell you that sperm and the egg aren't alive."

Me: "When do you think human life begins?"

Pellegrom: "I don't know. I think St. Augustine said at quickening."

Now, this is fascinating. We are in the latter half of the 20th century. But in response to my question, which is a medical question having to do with biology, Pellegrom cites the views of a religious authority who lived centuries ago!

This sort of confusion of realms is absurd. Aristotle was undoubtedly a brilliant philosopher but he knew not his hind quarters from his elbow as regards certain other subjects. He maintained that women had fewer teeth than men; he said that children would be healthier if conceived when the wind is from the north; he believed the brain was an organ to cool the body, and he stated that elephants suffering from insomnia could be cured by rubbing their shoulders with salt, olive oil and warm water.

Over and over, when I press him, Dan Pellegrom refuses to take a stand. He refuses to say if he thinks an unborn baby is a human life. Repeatedly, he says abortion is a "Private matter" that individuals must decide for themselves.

But this is a copout. As G. K. Chesterton observed: "To admire mere choice is to refuse to choose." Whatever else may be said of the pro-lifers, they have not ducked the key abortion question. They have made their choice. They say it is killing. And they are correct.

On the subject of the imposition of beliefs, Pellegrom's view is bigoted. If one group's pro-life position is based on religion, the word of the God of the Bible, the imposition of this view by law is "dangerous," he says. Why? Because this would negate the secular humanistic beliefs of the pro-abortion crowd whose god is "free choice." Thus, the imposition by law, of a non-religious pro-abortion position is fine. But, the imposition of a religious, godly pro-life position is something to be feared. The double standard is obvious and despicable.

Truly, it is the pro-abortion forces who are really the metaphysicians. Pellegrom tells me he thinks the government should intervene to protect the life of a 1-hour-old baby even if the mother conscientiously and freely chooses to smother it to death.

I asked: Why? Why is it murder to kill a 1-hour-old baby but OK to kill the same baby when—a few hours or weeks or months earlier—it was inside its mother?

Pellegrom objects to my use of the word baby. But when I change the terminology from the rights of Born Baby A versus Unborn Baby B to the rights of Born Baby A versus Thing B, he still doesn't respond, asking: "Well, you know, where are we going here?" The answer with him, of course, is: nowhere.

The Planned Parenthood ad says that abortion is "something personal, not political." But this cannot be true. In a civilized society, the killing of an innocent baby—born or unborn—can never be just a private matter. No way.●

ST. ANTHONY'S BAND CLUB HONORS CHARLES ESTRELLA

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mrs. HECKLER. Mr. Speaker, I would like to take this opportunity to say a few words honoring a fine and outstanding citizen residing in my district, Mr. Charles Estrella. Mr. Estrella is a humble man, a man who has given 30 years of dedicated service to the Fall River, Mass., Parks Department and a man who served his country during the Second World War in the U.S. Navy. Mr. Estrella is also a man who shares my great love of music. During his tour with the Navy he was a member of the 1st U.S. Amphibious Marching Band and for the past 25 of his 64 years has been a manager and player in the St. Anthony's Band Club of Fall River. It was my great pleasure to accompany this club on their trip to St. Anthony's Feast in Portugal, where I became aware of the invaluable contribution Mr. Estrella has made to this fine group, as well as the great contribution the band has made to music lovers everywhere.

On Saturday July 31, Mr. Estrella will be honored by the St. Anthony's Band Club on the occasion of his retirement. As this fellow band members prepare to celebrate this momentous day and to share in the Estrella family's happiness, I thought it appropri-

ate to honor Charles not only on his retirement, but also for his years of loyal service to his community, his State, and his country. I ask my colleagues to join me in extending my most heartfelt congratulations on this occasion and my wishes for a happy and prosperous retirement.●

SCOUTS SAVE LIVES

HON. DON FUQUA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. FUQUA. Mr. Speaker, we all know what a tremendous influence the Boy Scouts of America are in preparing our youth for the duties and responsibilities of citizenship but today I would like to commend this fine program, and three of its participants, for a more immediate accomplishment—the saving of two lives.

The two incidents occurred nearly 100 miles apart, but they dramatically demonstrate the value of Boy Scout training not only to our youths but to the general public as a whole.

Tim Moffses of Madison, Fla., was spending the day at the Suwannee River when he noticed that Allyson Gardner, also at the river with her church group, was caught in the current and in danger. Another group member went to her assistance and also got caught in the current, whereupon Tim Moffses and his friend, Gard Gardner, went to their assistance. Miss Gardner was successfully pulled from the river while the other swimmer succeeded in making his own way to shore.

Explorer Scouts David Aldridge and Joe Hsu of Tallahassee were also credited last month with giving lifesaving assistance to a woman who had lost consciousness.

The fact that three of these four outstanding young men have received Boy Scout training attests to the value of this organization not only to the individual but all all of society.●

TARGETED JOBS TAX CREDIT BILL

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. RINALDO. Mr. Speaker, I am introducing a bill to extend the targeted jobs tax credit program through fiscal year 1983 and to encourage the employment of low-income older persons. My primary purpose in introducing this bill is to promote the employment of older persons, particularly those with low incomes, who have significant labor market disadvantages and often need special help in overcoming employer preferences for younger workers and strenuous competition in the job market.

Under current law, the targeted group which includes older workers—SSI recipients—is too restrictive and, as the chart below indicates, is the least served group under the program. It is my hope that by adding a new category of disadvantaged workers we will increase the access of mature workers to available jobs.

TJTC certifications issued by the Department of Labor in fiscal year 1981

Cooperative education youth	178,984
Economically disadvantaged youth	176,131
Vocational rehabilitation referrals	16,311
Economically disadvantaged Vietnam veterans	16,112
Economically disadvantaged ex-convicts	14,970
General assistance recipients	8,189
SSI recipients	884
Total	411,581

This legislation is particularly appropriate at a time when our Nation is experiencing post World War II record unemployment. Studies show that following a recession, half of those who become unemployed do not find jobs of comparable status or pay and the majority of those who fall into this category are in their fifties or older. In addition to those who are experiencing recent unemployment, there continues to be a willing and capable pool of older persons who need and want to be a part of the labor force. A 1979 Lou Harris survey found that in the 65 and older age group alone, 9 million people needed and wanted employment.

I am joined in sponsoring this legislation by Mr. STOKES, Mr. MITCHELL of New York, Mr. MINISH, Mr. CORCORAN, Mr. EVANS of Georgia, Mrs. MARTIN, Mr. BARNES, Mr. FAZIO, Mr. ROE, Mr. HUGHES, Mr. DAUB, Mr. PEPPER, and Mr. JOHN BURTON.

I hope that all of my colleagues will give it favorable consideration.●

H.R. 5133, FAIR PRACTICES IN AUTOMOTIVE PRODUCTS ACT

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DANNEMEYER. Mr. Speaker, as a member of the Committee on Energy and Commerce, I have been examining H.R. 5133, the proposed Fair Practices in Automotive Products Act. This legislation has been reported out of the Subcommittee on Commerce, Transportation and Tourism and may come before the full committee in the near future.

It is my view that the bill is unfair to consumers, labor, and the domestic automobile industry. Separate analyses by the Congressional Research Service and the Department of Commerce indicate that this is an ill-advised approach to solve the problems of the U.S. auto industry.

This bill will increase car prices, not reduce them.

It will reduce American jobs, not increase them.

It will injure U.S. auto companies, not help them.

For these reasons, upon which I will elaborate, I oppose H.R. 5133 and urge my colleagues to reject it as well.

This legislation would require that, for model years beginning after June 30, 1982, a specified percentage of total production costs of all automotive products, both cars and parts, sold in the United States by an automobile producer, must come from domestic labor and domestically produced parts. This percentage would increase with the number of motor vehicles sold by a given manufacturer. The maximum domestic content ratios would be reached as of model year 1985.

The intent of domestic content requirements is to restrict the number of foreign-made motor vehicles that can be sold in the United States and the amounts of foreign-made parts in U.S.-produced vehicles. These restrictions would shelter domestic producers from competition. In so doing, however, content requirements serve to camouflage the real causes of the auto industry's problems.

Restrictions such as those proposed in H.R. 5133 should not be enacted into law. Short-term protective benefits to auto manufacturers are, in the long term, disproportionately damaging to a larger number of concerns. The evidence supporting this claim is clear.

The underlying flaw of this legislation is that it would trigger rising costs for manufacturers in the United States and trigger rising prices for consumers. According to the Commerce Department study, passage of H.R. 5133 would increase all automobile prices by a minimum of 10 percent. In addition, as a result the Consumer Price Index will increase by 0.3 percentage points. Finally, enactment of H.R. 5133 would place over $15 billion in U.S. exports in a vulnerable position relative to retaliatory action by our trading partners.

Proponents of H.R. 5133 assert that the legislation will reduce unemployment by creating 800,000 jobs. To the contrary, the Congressional Research Service has concluded that this bill could result in a net loss of jobs. For additional information, see "Local Content Laws and Automobile Imports: Arguments Pro and Con." Any gains in employment that would be made by H.R. 5133 would be largely, if not totally, offset by the loss of about 165,000 American jobs that are dependent upon auto imports. Even as-

suming a 1-for-1 transfer of sales from embargoed imports to domestic cars, the CRS report indicates that not more than 46,000 autoworkers would be reemployed as a result.

Enactment of domestic content legislation could lead to a near breakdown in the areas of components and subassemblies of American manufacturers. The growing production of "world cars," which enable producers to use less costly parts and produce more efficiently, would be restricted. Cars such as these are critical to the recovery of the domestic companies. For example, the CRS study mentioned earlier points out that the Chrysler Corp. would have been unable to produce the volume of K-cars without engines from abroad. General Motor's J-car is produced with parts from nine countries. Ford's Escort and Lynx are designed as "world cars" that contain the parts and components made most efficiently by a particular country. Further, the American Motors Corp. is pinning its hopes on joint production with the French firm Renault of a new vehicle using 50 percent domestic parts and 50 percent foreign parts. As the Wall Street Journal noted, domestic content legislation such as H.R. 5133 "would deliver a knock-out punch to GM's and Ford's 'world car' strategies of consolidating world production and gaining access to the highest quality, lowest cost engines and parts."

Clearly, as one can see, this bill would reduce competition in the automobile industry. Incentives for new investment and productivity advances would be reduced. Consumer choice would be limited. By legislating the idea that firms' and consumers' options should be limited implies an inefficient use of limited world resources.

We must also be mindful of the numerous negative implications for U.S. trade policy, should we enact H.R. 5133. Adoption of this import restriction invites retaliatory action against U.S. export products and jeopardized potential new markets. This legislation would establish a precedent which runs counter to the accepted economic principle of trade based on comparative advantage. The bill would violate provisions of the General Agreement on Tariffs and Trade (GATT), of which the United States is a signatory, which prohibit domestic content requirements. We cannot afford the protectionist signals that this legislation would send.

All of us want our economy and the automobile industry to recover. But the problems we face in achieving recovery will not be solved by imposing domestic content requirements. Rather, they will be solved by creating an economic climate in which U.S. companies and employees are productive and competitive. Interest rates must come down if car purchases are to be affordable for the average potential buyers. This will not happen until Federal deficits and the borrowing which ensues from deficit spending are brought under control. Inefficient work rules and regulatory mandates must also be examined for reform. Ultimately, the task falls to auto executives, union leaders, and rank-and-file employees, to manufacture cars which meet the needs of U.S. consumers over the rest of the competition, foreign and domestic.

At least one other instance in which we sought to treat the symptoms of economic problems through the use of trade measures comes to mind. In the 1920's we faced a similar situation. To alleviate a short-term problem, Congress imposed heavy tariffs through the adoption of the Smoot-Hawley Act. As the framers of the act intended, the tariffs reduced U.S. imports, raised the demand for domestically produced goods and services, and provided an initial stimulus to the overall economy. However, other ramifications also developed. Foreign retaliation followed passage of the Smoot-Hawley Act which substantially reduced U.S. aggregate economic activity and increased unemployment.

Jude Wanniski, in "The Way the World Works," sums up the real meaning of protectionist legislation. He writes:

Indeed, the Smoot-Hawley Act dealt a severe blow to the U.S. economy in the early 1930's. The stock market crash of 1929 and the Great Depression ensued because of the passage of the Smoot-Hawley Tariff Act of 1930.

Wanniski traces the congressional consideration of the Smoot-Hawley Tariff Act during 1929 and the reaction of the stock market to developments on Capitol Hill relating to the legislation. He argues that while the act was not enacted and implemented until 1930, the effect of the progress of the bill through the legislative process was a sufficient signal to the stock market to produce the events leading up to the crash in October 1929.

While I will have more to say about the history of the Smoot-Hawley Act and the lessons we should learn from it, suffice it to say at this juncture that we should heed Wanniski's warning that "a return to protectionism would be a blow to the world economy."

I urge my colleagues to oppose H.R. 5133 should it come before the Energy and Commerce Committee or the floor.●

UNION COMPULSION

HON. L. A. (SKIP) BAFALIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. BAFALIS. Mr. Speaker, since I have always supported right-to-work legislation and helped to author the provision now part of Florida's Constitution when I served in the State legislature, I am seriously concerned that there is an active effort nationwide to undermine the protection afforded nonunion employees in States with right-to-work laws. For this reason, I would like to insert in the RECORD a copy of an article which recently appeared in the Miami Herald. This article gives a brief history of the case Lord against Local Union No. 2088, involving employees on two Air Force bases in the State of Florida, and the ramifications of the Supreme Court's decision to let stand the ruling of the Fifth Circuit Court of Appeals.

[From the Miami Herald, June 30, 1982]

UNION COMPULSION

Workers shouldn't be fired or denied a job merely because they aren't members of a union. To prevent such discrimination, 20 states have enacted "right to work" laws as authorized since 1947 by the Taft-Hartley Act.

Florida is among those 20 states. Its law, however, has proved to be useless to six non-union employes of RCA International Service Corp. (RCA). They were excluded from working on the space shuttle because they weren't members of a union holding a contract with RCA.

The workers challenged their exclusion in court. This week the U.S. Supreme Court dealt them a setback. It let stand an appeals-court decision upholding their exclusion from jobs.

The appeals court had ruled that Federal law prevails over state law on Federal installations such as the Kennedy Space Center at Cape Canaveral. As an interpretation of the way the law is, the lower court's view now has the Supreme Court's imprimature.

There is reason to wonder, however, whether the Supreme Court might not have ruled differently had the Solicitor General, representing the Federal Government, pursued the case enthusiastically by raising Constitutional issues of unlawful discrimination.

Perhaps the Reagan Administration will encourage him to do so when the Supreme Court is asked to hear similar cases—and several are pending. He should, for important Constitutional issues need to be clarified.

Meanwhile, Congress ought to take a new look at Federal labor law in light of the Supreme Court ruling. A law barring compulsory unionism on Federal installations or even among Federal contractors is in order.

To be fair, the law ought not rule out contracts in which labor and management agree to let unions assess a fee for essential services that benefit nonmembers. The fee must bear a reasonable relationship to the value of such services, however, and must not be union dues in disguise.

Letting unions charge nonmembers a reasonable fee for such services could help disarm opposition to Federal legislation outlawing compulsory unionism. No longer could organized labor complain of "parasites" who derive the benefits of unionism but don't pay.

Nobody ought to be coerced into joining any organization, however. Compulsory unionism simply doesn't square with American ideals exalting freedom of association. What's more, when membership is truly vol-

untary, unions must work hard to serve the interests of their members. When membership is compulsory and the dues just keep flowing in, the union leaders' zeal to serve the workers often wanes.

Compulsory unionism is bad for business, for labor, and for the Constitution's promise of free association. Congress ought to get the Federal Government in step with the 20 states that have had the foresight to outlaw it.●

EQUITY—AND JUSTICE—FOR MILITARY SPOUSES

HON. MARGARET M. HECKLER

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mrs. HECKLER. Mr. Speaker, today, in accepting the gentlewoman from Colorado's amendment to H.R. 6030, we took an important step toward rectifying a practice that places military spouses at a tremendous disadvantage when their marriages end in divorce. Current law treats these spouses differently than spouses of civil service, foreign service, and Central Intelligence Agency personnel when it comes to classification of retired pay as marital property.

The U.S. Supreme Court, in McCarty against McCarty, recently held that, absent a Federal statute to the contrary, State courts could not consider military retired pay as marital property subject to division in a divorce settlement.

This decision challenged this Congress to pass such a statute. In my view, such a law is essential to giving military spouses equity—not just with other Federal spouses, but justice under law.

Our armed services recruit families. For example, one Navy recruiting ad is blatantly directed to the prospective Navy wife. It states,

> You're one of a kind, and just as important to us as your husband . . . [W]e try to make life easier for you with benefits you won't find in civilian life.

Yet when the Navy wife becomes an ex-wife, she is left with nothing—no career, no medical insurance, no share of retirement benefits.

These military spouses, men and women alike, deserve better from the country that they, too, have served. That is why I supported the amendment to permit State courts to consider the military pension as part of marital property. It is time we corrected this injustice.●

THE AMERICAN QUEST FOR PEACE

HON. JOHN J. RHODES

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. RHODES. Mr. Speaker, as we study and debate the proper course for America to follow in its relations with its European allies, and in negotiating with the Russians for the reduction of nuclear armaments, it is helpful to consider the viewpoints of all concerned Americans. In this regard, I would like to commend to my colleagues' attention, the remarks of Hon. Arthur F. Burns, American Ambassador to the Federal Republic of Germany. Ambassador Burns delivered his speech, "The American Quest for Peace" at the opening of South German Radio's "Focus on America Week," held in Stuttgart, Germany, on June 2, 1982.

The Ambassador's remarks follow:

THE AMERICAN QUEST FOR PEACE

(Speech by Arthur F. Burns American Ambassador to the Federal Republic of Germany)

It is a privilege to be able to join this distinguished company to help inaugurate Sueddeutscher Rundfunk's "Focus on the United States". I am especially grateful for the opportunity to address you tonight, for we meet on the eve of momentous international events. The leaders of the principal Western powers are assembling in Versailles this weekend for two days of economic discussion. This will be followed by a NATO summit in Bonn next week. In addition, President Reagan will visit with high government officials in Rome, London, and Berlin.

Such an intensive round of interchange among the West's political leadership would be significant at any time. It is all the more so now, for the conferees must deal with vexing economic and political questions at a time when many of the institutions and security arrangements that have so successfully protected us during the postwar period are under widespread attack. New questions are being asked, new doubts are being raised; new fissures are apparent in the body politic.

This challenge exists, as we know, on both sides of the Atlantic and comes not only from fringe groups but also from prominent citizens who argue that altered conditions have eroded the utility of traditional arrangements. It is a challenge that the assembled leadership of the Western powers will inevitably have to weigh in its deliberations.

Let me say, as a longtime teacher and public servant, that I for one see a constructive side in much of the debate now welling up around our security and economic relationships. NATO, the stationing of American troops in Europe, as well as many postwar agreements involving finance and commerce go back more than thirty years. As has often been noted, these arrangements have produced the very conditions of stability and security that now allow their continued essentiality to be questioned. As a result, they are undergoing what might be called a midlife crisis. Under the circumstances, the questioning by a new generation of their basic premises is not only inevitable; it can—if done responsibly—be beneficial.

For how can we ourselves be certain that the concepts and institutions in which we have so long placed our trust continue valid unless we are periodically called upon to reexamine and defend them? Only out of such a process of questioning can come a renewed assurance of their relevance and vitality. And only such a reappraisal can stimulate the adjustments that new circumstances warrant.

I welcome this process of testing and dialogue for still another, quite personal reason. I am deeply confident of the outcome; confident that the transatlantic relationship is fundamentally strong; confident that America's basic international policies are sound; confident that the structures that have served the cause of peace so well are still vigorous and adaptable to new conditions; confident, in short, that the assumptions that have guided the North Atlantic Alliance will stand up under rigorous scrutiny—and emerge the better for it.

This confidence is based on awareness of the past as well as on my evaluation of the present. Clearly, it is impossible to assess the compelling requirements of the present without a companion understanding of the past. That is why I have spoken so often in recent months of the need for better knowledge and appreciation of history, particularly by the young. The ignorance that I have encountered in this area, both in Germany and at home, is appalling. It accounts, I believe, for much of the intellectually shabby edges of the contemporary colloquy. I am especially troubled by those West Europeans who profess to see little difference between American and the Soviet Union—who proclaim that both are a threat to international peace and order.

Now, the United States, like the Soviet Union, is a large and complex country. Unlike the Soviet Union, however, ours is an open and democratic society. We accommodate the competing aspirations and interests of many different groups. Understatement is not our national characteristic, and particularly at election times we are prone to overblown rhetoric. But the hyperbole we periodically indulge in must not be misread. It tells more about our political rites than about our policies. In the international area, those policies have been remarkable consistent in the postwar era. As Professor Robert Osgood of Johns Hopkins University recently reminded us:

". . . the continuities of American foreign policy are always greater than the political claims to innovation would have one believe. The greatest discontinuities spring from response to unanticipated events, not from changes of Administration."

Our postwar efforts to seek a durable peace represent the central and most vital part of that continuity.

Allow me to recall a few of the highlights of the past record. In so doing, it may be appropriate, as we await the Versailles meeting of this weekend, to begin by reflecting upon an earlier conference at that same site: the 1919 meeting which wrote such an infamous epilogue to World War I.

The consequences that flowed from the decisions taken at that earlier Versailles assemblage are well known. Practically everyone now agrees that the huge reparations exacted from the defeated powers, the staggering inflation and political turmoil that followed, plus the bitterness and anger that

were Versailles' legacy, laid much of the basis for World War II. More pertinent to our present discussion is the fact that later Allies statesmen learned the lessons to be drawn from the shortsightedness of their predecessors. Planning for a peaceful postwar world began well before World War II ended. It proceeded from a vision of the world being solidly based on the rule of law—a world informed by a spirit of true cooperation, with each nation bound firmly to peaceful settlement of international disputes. Beyond this, economic growth and prosperity, the absence of which had contributed so materially to the outbreak of World War II, were to be fostered by progessive dismantling of barriers to the free flow of goods and capital among nations.

As early as July 1944, at the invitation of President Franklin Roosevelt, representatives of 44 countries convened in Bretton Woods, New Hampshire, to formulate plans in the monetary and financial field for the stable and prosperous world that the planners envisaged. Out of their deliberations emerged two of the cornerstone economic institutions of the postwar world—the International Monetary Fund and the International Bank for Reconstruction and Development. The following April, two weeks before the end of war in Europe, the San Francisco Conference which drew up the Charter of the United Nations, was convened. Whatever its shortcomings in actual practice, the Charter did become a blueprint for international order—a world where force could be employed only under the most limited circumstances.

Another preoccupation of American leaders of that period was control of the awesome potential of atomic energy—again in the interest of minimizing the danger to peace that could later be posed by reckless political adventurers. On June 14, 1946, the United States unveiled a detailed plan for international nuclear control. This proposal, named after Bernard Baruch one of America's distinguished elder statesmen, came at a time when the United States was the only nation in the world that possessed nuclear weapons. Still, in the interest of creating a stable and peaceful international environment, the United States offered to surrender its nuclear monopoly to an international authority that would be entrusted with "all phases of the development and use of atomic energy, starting with the raw material." By providing for full international control, this prescient plan sought to prevent atomic undertakings that could endanger peace.

It is worth reflecting for a moment on how much less costly to the peace of mind of the human family, to say nothing of its pocketbook, the subsequent years would have been if that farsighted proposal had been accepted. Unfortunately, with the xenophobia we have come to recognize as its hallmark, the Soviet Union turned the plan down, claiming that it masked some sinister hegemonic intent.

The Marshall Plan—the 35th anniversary of which we proudly celebrate this month—was likewise aimed at creating a healthy and peaceful international environment. Rather than being an early cold-war ploy, as has at times been alleged, this plan was in fact open to the Soviet Union and other East European countries. With the notorious Versailles precedent in mind, Secretary Marshall and his colleagues realized that the shattered European economies must be restored with American help. Their central purpose was to provide the means that would enable a devastated Europe to begin producing and trading on an ascending scale once again. Wisely, they also recognized that the Europeans themselves had to become actively engaged in the planning process. As Marshall put it in his memorable Harvard University address of June 5, 1947:

"It would be neither fitting nor efficacious for this Government to undertake to draw up unilaterally a program designed to place Europe on its feet economically. This is the business of the Europeans."

And significantly, Marshall added:

"Our policy is directed not against any country or doctrine but against hunger, poverty, desperation, and chaos. . . . Any government that is willing to assist in the task of recovery will find full cooperation . . . on the part of the United States Government."

Later that month, Ernest Bevin, Georges Bidault, and Vyacheslav Molotov, respectively the foreign ministers of Great Britain, France, and the Soviet Union, met in Paris to consider the American plan. Britain and France proposed that a joint steering committee administer the program. Once again, in a manner so often since repeated, the Soviets rejected this approach as interference in their internal affairs. They demanded that each country independently estimate its own requirements for help. When Britain and France found this position unacceptable, the Soviets withdrew from the conference.

Yet again, one cannot help but speculate how different the history or postwar Europe might have been if the Soviets—and the other countries of Eastern Europe under their control—had not repulsed what Winston Churchill later called "the most unsordid act" in history, an act that pumped over $13 billion—a sum equivalent at today's prices to four times that figure—into Europe's stricken economies. What we definitely know is that Western Europe was propelled to an historically unprecedented improvement of living standards, while both agriculture and the manufacture of consumer products within the Soviet bloc languished. By now, several West European countries actually appear to have a greater per capita income than does the United States.

The Soviet pattern of resistance to American peace proposals, set in the early postwar period, has since then been repeated time and again. In particular, progress on arms control has been severely checked by Soviet opposition to on-site verification. True, there have been some hard-won accomplishments: the 1963 partial test ban treaty, the 1968 nonproliferation treaty, the 1972 convention against biological and toxic weapons, and the 1972 SALT treaty among them. But far-reaching American proposals for reducing armaments—President Eisenhower's "Open Skies" plan, President Kennedy's comprehensive disarmament initiative, President Carter's effort to secure an agreement prohibiting production of chemical weapons, to cite only a few examples—have unfortunately been rebuffed.

Most dismaying to Americans has been the unrelenting military build-up of the Soviets and their unresponsiveness to Western moves in the opposite direction. They maintained their large armies following the war as the Allies demobilized their wartime forces. Their build-up continued as the Red Army settled into permanent garrisons in Eastern Europe in the 1950's. It continued despite the serious arms control efforts of the 1960's. And it continued and accelerated during the detente of the 1970's—a time when the United States was cutting its defense budget in real terms and even shelving plans for major new weapons, such as the B-1 bomber.

The Soviet military build-up has made the world a very dangerous place. With the Soviet Union now able to project its military power worldwide, no area of the globe is free of potential intimidation or confrontation. And with the NATO countries compelled to respond by modernizing their military structures at the expense of domestic programs, we are drawn once again into a vortex of escalated tension and social unrest. I need hardly add that the Soviets devote a much higher percentage of their national output to armaments than does the United States or any other Western country, and that the Russian people themselves are therefore not least among the sufferers.

In recalling these facts and this history, my aim today is not to reopen old wounds or to stir about in the embers of old disputes. Nor is it to eulogize American peace efforts, for we Americans have also had our doubts and suspicions, and we too have made mistakes in our quest for international peace. Granting all that, I must still insist that those who now contemplate drastic alterations in the arrangements that have secured the safety and vital interests of the West in the postwar period are under a moral obligation to study, soberly and in full depth, the record that I have placed before you in its most summary form. Those who do so will find that when it comes to persistent striving for peace, the scales tip decisively on the side of the West.

There is a telling difference, after all, in the drives and aspirations of the Soviet Union and of the United States. I do not wish to paint the Soviets black and us white. But to ignore differences in the history and culture of the two countries is to avoid reality. The Russian people have lived throughout their tumultuous history under assorted czars and commissars, some benevolent, some not. But few, if any, of them have achieved renown for championing the individual rights of Russian citizens. Americans, on the other hand, have been privileged throughout their history to live under a Constitution guaranteeing their freedom to speak, write, vote, and worship as they see fit, besides their freedom to work for themselves or for employers of their choice, and to spend or save on whatever scale they deem wise or proper.

We are justly proud of that freedom and are zealous in its protection. The peace for which we have worked across the years is not a peace imposed by some superpower or master race on other peoples, but a peace that preserves human freedom and enables it to flourish. Our empathy with peoples whose freedom is threatened has lead us in the postwar period into some controversial foreign undertakings. Our role in Korea, in Vietnam, and more recently in El Salvador, has provoked sharp and emotional debate. Questions have been raised about the wisdom, necessity, extent, and nature of our support for this or that people or government. However one feels about the particular issues involved, I submit that our purpose in each case has been idealistic. We have sought neither territory nor any economic advantage for ourselves. In every instance, our basic aim was to assist a friendly country to maintain its independence and freedom. It is noteworthy that even in the case of Vietnam, where our effort failed, not

a few who opposed that war now question their earlier position. That is hardly surprising, in view of the frightful brutality that the North Vietnamese have inflicted on their neighbors.

Be that as it may, my main point is this: American initiatives for peace over the years have been reinforced by being coupled with initiatives in support of freedom. That philosopy continues to dominate our foreign policy. It was well expressed by President Reagan in his inaugural address when he said:

". . . peace is the highest aspiration of the American people. We will negotiate for it, sacrifice for it; we will not surrender for it, now or ever."

In this spirit, we are now pressing for arms reductions and for a lessening of East-West tension. But we are also assuring ourselves an effective deterrent force.

The resurgence of America's defense capability began toward the end of President Carter's administration, and it has accelerated materially under President Reagan's leadership. This shift in American policy was not undertaken hastily or willfully by our Congress. On the contrary, it has evolved out of the grass-roots sentiment of the American people who had become fearful of the continuing increase of Soviet military power and the willingness to use it to exploit the weakness of other nations. If such an awakening to the Soviet threat is less conspicuous in Europe, one reason may well be that our allies, especially the Federal Republic of Germany, were more attentive during the 1970's to the need for strengthening NATO's deterrent power. In fact, what has come to be known as the NATO double-track decision was largely a European initiative aimed at reestablishing the deterrent capability of the Alliance. And it was precisely this decision that finally persuaded the Soviets to come to the negotiating table in Geneva.

On the eve of the beginning of those negotiations last November President Reagan explained with utmost clarity that the United States is fully committed to the goal of virtual elimination of intermediate-range missiles in Europe, and that the United States will therefore not deploy any of the sophisticated weapons scheduled for 1983 if the Soviet Union will agree to dismantle its own intermediate-range weapons. The President went on to commit the American government to seek agreements with the Soviet Union to bring about substantial reductions of conventional military forces in Europe as well as both American and Soviet intercontinental nuclear weapons. The President concluded his dramatic proposal for building peace by observing that "there is no reason why people in any part of the world should have to live in permanent fear of war;" that "the time is right to move forward on arms control;" and that "nothing will have a higher priority" for him "and for the American people."

Last month President Reagan followed up this call for sanity on military matters by proposing a realistic two-step approach to the control of intercontinental weapons. The first phase of the President's plan would seek to reduce American and Soviet missile warheads to equal ceilings at least a third below current levels, while the second phase would seek to achieve equal ceilings on other strategic elements such as missile throw weights. Negotiations on this far-reaching proposal for a phased reduction of intercontinental missile systems will soon get under way. The outcome will remain highly uncertain for some time, but there is at least some hope now that the interests of humanity will prevail.

In developing plans for these arms control negotiations, the American government has consulted frequently and extensively with its NATO allies. That is as it should be. The best road to international peace is always uncertain, and Americans cannot claim greater wisdom than Europeans in pursuing our common goal. Much has been heard recently about a political development, commonly referred to as "the peace movement," in which the young people of Germany and other European countries are particularly involved. The idealism of our young people is highly admirable and must never be frustrated. It is regrettable, all the same, that their well-intentioned thoughts about war and peace are not disciplined by historical knowledge of the human condition. All of us in the West, whether young or old, must never forget that NATO is the instrument for peace that has shielded our security and freedom for a generation and a half. Some adaptation in the scope and vision of NATO may well be desirable; but when we talk seriously about peace movements, let us respect the preponderant truth that the North Atlantic Alliance is the one effective and proven peace movement with which we have been blessed in this troubled century.

The political principle underlying NATO is direct and simple: an attack on one member nation is an attack on all. But NATO has a moral as well as political dimension. What has made NATO such an effective movement for peace is that it is an alliance of nations, freely joined with one another, to preserve and protect the basic values on which our Western civilization is based: namely, respect for the rights of the individual, respect for the rule of law, respect for the principles of democracy. It is these shared values that have given NATO its fundamental strength—that have made it a peace movement unprecedented in its success at preserving peace. It deserves our continued commitment and support because it works and there is none better.●

AFRICARE ESSAY CONTEST

HON. HAROLD WASHINGTON

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. WASHINGTON. Mr. Speaker, the members of the Congressional Black Caucus have a keen interest in the growth and development of Africa and in programs which assist young Americans to better understand its significance. For this reason, I take this opportunity to commend Africare for sponsoring the first Africare essay contest on the subject of "Africa and the United States: Interdependence." A special word of congratulations is extended to each of the essay finalists, and especially to the first place winner, Stager Clay Smith, a 17-year junior from Woodrow Wilson Senior High School in Washington, D.C. Mr. Smith's paper was on "Africa and the United States: Factors Supporting the Concept of Interdependence."

I am inserting in the RECORD the attached news article on the Africare essay contest which appeared in the Washington Post (District Weekly) on May 26, 1982, at page DC-2:

STAGER CLAY SMITH, AFRICARE ESSAY WINNER

Stager Clay Smith, a junior at Woodrow Wilson Senior High School and the son of J. Clay Smith, Jr., of 16th Street, NW., won a trip of seven days in West Africa and two days in Paris this summer as first-place winner in the Africare Essay Contest on Africa.

Accompanying Smith to the awards ceremony was Elizabeth Newsome, who taught Smith to read years ago at the Maude Price Nursery School on Warder Street, NW.

The contest theme was "Africa and the United States: Interdependence." Its goal was to contribute to students' understanding of the importance of Africa in relationship to the rest of the world by encouraging D.C. public school students to give serious thought to African history, current events, culture and sciences.

Other grand-prize winners were seniors Tyrone Lassiter of Dunbar Senior High, who won a second-place $500 cash scholarship; Darrell Brown of Theodore Roosevelt Senior High, who won a third-place $250 cash scholarship; and Mary Norris of Dunbar Senior High, who won a fourth-place $125 cash scholarship.

Named as "best essayists" for their schools were Lydia Brooks, Armstrong Adult Center; Patty Hannaham, Banneker Senior High; Esther I. Amobi, Cardozo Senior High; Terry Pearson, McKinley Senior High; and Gwendolyn Arnold, H.D. Woodson Senior High. Honorable mention essayists were Michelle A. Caplan of Banneker Senior High and Phyllis D. Brown of Dunbar Senior High. Best essayists and honorable mention winners were awarded African artifacts from Niger, West Africa.

Africare was established in 1971 in the District to help improve the quality of life in rural Africa.●

THE 75TH WEDDING ANNIVERSARY FOR MR. AND MRS. FRANK D'AMBROSIO

HON. EUGENE V. ATKINSON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. ATKINSON. Mr. Speaker, on August 15, 1982, I will have the honor to participate in a 75th wedding anniversary celebration in honor of Mr. and Mrs. Frank D'Ambrosio, Sr. They were united in marriage on August 15, 1907, at St. Theresa Roman Catholic Church in Waterville, Conn. Presently, Mr. and Mrs. D'Ambrosio, Sr., reside in Ellwood City, Pa.

I will be brief, but I am sure that my colleagues would be interested in taking a moment to consider the dedication that these two individuals made to one another, to their family, and to society.

Frank D'Ambrosio, Sr., spent 40 years working for the United States Steel in Monaca, Pa. In addition, he was a farmer for 50 years. Furthermore, Frank was a member of the

Sons of Italy in Ellwood City. Together, he and wife Elizabeth raised 14 children; 72 grandchildren; 69 great grandchildren; and 32 great great grandchildren.

To be married for this long period of time, especially with the increase of the divorce rate, shows true devotion to one another. May they serve as an excellent example to their community, as well as to America, to prove that a lot of hard work, time, and sacrifice preserves one of America's most cherished institutions, the family. Thank you.●

A UNISPACE INITIATIVE FOR PEACE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. BROWN of California. Mr. Speaker, the upcoming United Nations Conference on the Exploration and Peaceful Uses of Outer Space (Unispace) will not only place our technological know-how under world scrutiny, but will also put our political savvy to the test. This is true of all U.N. conferences, but is particularly true in light of the short time we have had to prepare for this conference. The United States only began preparing for it 8 months ago. And the U.S. delegation will receive its first briefing from the State Department tomorrow, just 10 days before they are to represent our country in a major international conference.

As a congressional adviser to Unispace 1982, I have been concerned about this lack of preparation. But more distressing has been the approach the United States is taking to the whole conference. U.S. delegation organizers have stubbornly insisted that the conference is strictly concerned with technical matters. I think this flies in the face of reality. For example, there are a number of countries, primarily the developing countries, that are concerned with satellite uses by the U.S.S.R. and the United States and other developed countries. The dissemination of data gathered by remote sensing satellites is a very sensitive issue. Rather than addressing the fears of these countries in a constructive way, and making some friends in the process, we are ignoring their problems.

One exception to the damage control approach being taken to the U.S. participation in Unispace is a proposal offered by my colleague from Kansas (Mr. WINN). It is similar to a proposal for the establishment of an international peacekeeping satellite which would be part of a larger United Nations Satellite Monitoring Agency. "Peacesat," as it has been referred to, would serve to monitor military activities over the globe and aid in arms control verification. I would like to join with my colleague, Mr. WINN, in calling for discussion of this initiative at Unispace 1982. We can further our goal of arms limitation and develop the peaceful uses of outer space. At the same time, we can signal to the world that we intend to be leaders in the pursuit of peace.

I would like to submit for the RECORD a recent article which appeared in Chemical and Engineering News on the subject of Unispace which discusses the peacekeeping satellite proposal.

The article follows:

[From the Chemical and Engineering News, July 26, 1982]

UN TO DEBATE USES OF SPACE SCIENCE

(By Wil Lepkowski)

Vienna Unispace conference will discuss commercial uses of satellites for meeting developing countries' needs; military uses also on agenda.

In about two weeks, the United Nations will be staging another of those huge conferences around a major scientific and technological theme. This one is on the uses of outer space. The site will be Vienna. And the politics likely will be hot.

Up to last December, it wasn't clear whether the U.S. would be sending a delegation at all to the conference, called Unispace, seeing it as another forum where the U.S. would be set up as an opponent of progress by left-leaning developing countries. But by February, the U.S. had decided to go and appointed Gerald Helman as head of the delegation.

Many issues are expected to consume long hours of debate. One is the handling of data received from privately financed remote sensing satellites surveying the resources of various countries. The developing countries fear that the countries possessing that technology (U.S., U.S.S.R., France, and soon Japan) will be gathering information on their resources, keeping it to themselves, and then selling it to customers. The issues come down to who owns the data, whether gathering and disseminating them without permission is legal or at least ethical, and whether the countries being surveyed should be kept completely informed about who is doing the surveying and what they are finding.

Related to that is the information beamed down from broadcast satellites. The developing countries want to keep undesirable programing off their airwaves and will be pressing for some kind of protocol over the control of that broadcasting.

A third major issue involves telecommunication satellites which are set permanently over one section of Earth. Only so many positions are available for these satellites and the developing countries want some sites for their own use. The U.S. says frequencies can be reserved on these satellites for other countries.

The big sleeper could be the debate over the militarization of space. The French are proposing to establish a special internationally administered reconnaissance satellite that would keep watch over hostile activities around the world. The satellite would be part of a larger United Nations Satellite Monitoring Agency that would perform all technologically feasible functions such as weather forecasting, programing, environmental monitoring, resource explorations, crop forecasting, and communications. But the peacekeeping role would be the politically incendiary topic. Both the Soviet Union and the U.S. oppose the system, since neither wants a third force peering down on its military activities.

Still, the idea seems to be catching on in some unlikely places. For example, conservative Rep. Larry Winn (R.-Kan.) announced during an afternoon earlier this month that the "peace satellite" was an idea whose time had come and that he would be introducing a resolution for Congress to endorse the idea. Winn says he intends to ask President Reagan to bring up the subject during his forthcoming summit meeting with Soviet party chairman Leonid Brezhnev.

"If they could agree that we would make a joint effort to build and man a peace-keeping satellite, that would give the greatest signal to everybody in the world that the two leaders want peace," he told the *Kansas City Times.*

Winn, since he is running for reelection in his district, may have political reasons for adopting such an uncharacteristic stance on arms control. He reports detecting strong sentiments among his constituents for efforts to end the constant nuclear arms escalation in the paradoxical cause of stability. But the proposal has its naive aspects, especially in establishing the kind of organization and funding that would guarantee, first, that the system could be afforded and second that the data gatherers could be trusted with the information.

So the conference should be interesting to watch. Satellite technology does promise to change drastically the political perceptions, if not the organization, of the world since it tends to dissolve borders. The chemical industry is involving itself slowly in these horizons. For instance, Dow Chemical and Hercules just signed on as clients with Satellite Business Systems Inc. to link their offices around the country electronically in one communications system. The industry is almost certain to play some kind of a role in the mission of the resource satellites that more and more will go into orbit during the 1980s.

But as far as the conference is concerned, caution is the keynote. As a report issued a few days ago by Congress' Office of Technology Assessment said: "Few in the U.S. are aware of the conference and of its potential importance to this country's space policy and the future of its aerospace industry. Many U.S. leaders view this conference with suspicion. Consequently, they seek to minimize its importance in the hope of limiting the damage it might do to U.S. political and commercial interests."●

JAMAICA SUPPORTS CARIBBEAN BASIN INITIATIVE

HON. PAUL FINDLEY

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. FINDLEY. Mr. Speaker, the outstanding citizens from the Caribbean and Central America who came to Washington last week included some of the region's leading representatives of government, culture, the private sector, and the financial community.

They traveled at their own expense for the purpose of informing the U.S. Congress of their position concerning the Caribbean and Central American Revitalization Act.

These educated, enlightened, and articulate spokesmen and women justified their need through their public support of the President's proposal. In addition, they also learned much about what was happening in the Congress with respect to committee action on this legislative proposal. Now they have returned to their own countries to inform and clarify the potential impact of this legislation on their own communities.

The interest is high. For example, the oldest free newspaper in that part of the world, the Kingston, Jamaica Gleaner, has done a special feature which, in effect, pays tribute to the American democratic system.

These men and women are to be congratulated. Among those who came, and should be recognized, were the Jamaicans lead by the Right Honorable Deputy Prime Minister Hugh L. Shearer. The latter not only visited with President Reagan, but also met with the majority of those members who are on committees working on this legislation. These people emphasized trade assistance and investment and not permanent aid.

Those with the Private Sector Organization of Jamaica (PSOJ) were:

Avis Henriques, currently serving her second term as president of the PSOJ. She is also a past president of the Jamaica Chamber of Commerce and is an executive member of the Jamaica Employers' Federation; J. Paul Thomas, deputy president of the Jamaica Manufacturers' Association and chairman of the Task Force on Footwear of the Prime Minister's Committee on Investment and Employment; Prakash Vaswani, immediate past president of the Jamaica Exporters' Association and the Honorary Secretary of the PSOJ; Geoffrey Messado, a chartered accountant and general manager and director of Carreras Developments Ltd.; Neville James, manager of the PSOJ since January, 1981; and Dr. Richard Lowe, senior director, Jamaica National Investment Promotions, Ltd.

Following is President Reagan's statement on the Caribbean Basin Initiative.

CARIBBEAN BASIN INITIATIVE

I want to welcome the bipartisan compromise which has been reached in the House Foreign Affairs Committee on my request for emergency economic assistance under the Caribbean Basin Initiative. It is my hope that the compromise will be supported by a large majority of the members of the committee. The bill will authorize the full amount of our request of $350 million. A total of $100 million would be authorized for El Salvador, with $20 million of this for support of that country's land reform program. While somewhat less than our original request, this $100 million will provide a vital boost to the Salvadoran economy and help to ensure continued progress in the political and economic reform in that country.

Additional amounts of assistance provided under this bill would go to Costa Rica, Honduras, Jamaica, the Dominican Republic, the island countries of the Eastern Caribbean, Haiti, Belize, and Guatemala.

Early action on the Caribbean Basin Initiative is a high priority for my administration. It is my hope the Appropriations Committees of the House and Senate will give early and favorable consideration to this legislation. Favorable action in both Houses on the critical trade and investment initiatives of our program is also imperative.●

STANISLAV ZUBKO

HON. LAWRENCE J. DeNARDIS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DeNARDIS. Mr. Speaker, I am once again pleased and honored to participate in the Congressional Vigil for Soviet Jews. As a participant in this most important excercise, I am mindful of the staggering emigration figures recorded in recent months. According to statistics obtained from the National Conference on Soviet Jewry, during the first half of 1982, 1,500 Jews were permitted to emigrate from the Soviet Union—a 94 percent drop when compared to the first half of 1979, during which a record 25,000 Jews were given visas. Last month alone, only 182 Jews were able to emigrate from the Soviet Union.

I want to bring to the attention of my colleagues today the case of longtime Kiev refusenik, Stanislav Zubko. In May 1981, the Kiev KGB entered Zubko's apartment on the pretext of investigating a robbery in a neighbor's apartment. once inside, authorities confiscated what they allegedly believed to be a small quantity of hashish and a firearm. They also took a Hebrew book, the possession of which is outlawed.

Zubko was brought to trial in July and charged with "illegal keeping of arms" and "illegal possession of drugs"—under articles 222 and 229 of the Ukrainian Criminal Code, respectively. He was sentenced to 4 years in a labor camp. Declaring his innocence, Zubko stated that both the pistol and hashish found were placed there by the security police.

Prior to his incarceration, Zubko had been a leader among the Kiev refuseniks. As is the case with Zubko, several Kiev activists have been arrested and imprisoned under highly questionable circumstances in an effort to suppress the growing feeling of dissatisfaction toward the Soviet regime for its abuses of basic human liberties. In recent months, we have witnessed a sharp increase in the number of such arrests, while also noting a dramatic falloff in the emigration flow from the Soviet Union. Mr. Speaker, it is critically important that we continue to closely monitor this situation, while offering hope and support to those in need. Through the Congressional Vigil for Soviet Jews, Members of Congress may be of such asssitance.●

EL SALVADOR CERTIFICATION

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. MOAKLEY. Mr. Speaker, today I rise to express my outrage at the Reagan administration's certification of El Salvador. Never in my recollection has any previous administration so dangerously combined an ignorance of history with a total misreading of current reality as have President Reagan and his advisers in their policy toward El Salvador. It is hard for me to understand how anyone who has lived through the tragedies of Vietnam and Iran could be so anxious to send American military aid to a government with such a total disrespect for human rights.

The Foreign Assistance Act of 1981, conditions certification of El Salvador on, among other things, that "the Government of El Salvador is making a concerted effort to comply with internationally recognized human rights." Clearly, in light of the reports of Roberto D'Aubuisson's (Chairman of Constituent Assembly in El Salvador) horrendous record on human rights—such a certification cannot be made in good faith. In addition, it has been reported that Mr. D'Aubuisson has begun dismantling many of the essential land and economic reforms.

Mr. Speaker, the United States should be working for and urging a negotiated settlement in El Salvador and should not be sustaining the present/extremist regime with arms. I intend to, once again, join with my colleagues in an effort to call for the suspension of military aid to El Salvador and to declare the President's certification "null and void" in that it is not in compliance with the laws set forth in the Foreign Assistance Act of 1981.

Mr. Speaker, I recently received an informative and disturbing report on human rights conditions in El Salvador since the March elections from Amnesty International. I would like to submit this report to the RECORD for the benefit of my colleagues.

AMNESTY INTERNATIONAL CONCERNS IN EL SALVADOR FOLLOWING THE ELECTIONS FOR A CONSTITUENT ASSEMBLY HELD ON MARCH 28, 1982

In the period following the elections for a constituent assembly held on March 28, 1982, reports of human rights violations involving the official security forces continue

unabated. Between March 28 and May 19, 1982, for example, Amnesty International initiated appeals on behalf of 50 persons who are reported to have "disappeared" in El Salvador in the aftermath of the elections (see attachment.) In all cases, the individuals were abducted by armed men, sometimes in military uniform and in some cases in plain clothes. As far as Amnesty International is aware, none of the individuals have been acknowledged by the Salvadorian authorities to be under arrest, although in several cases witnesses are reported to have seen them being taken to National Police headquarters. Amnesty International is gravely concerned about the safety of these individuals.

It should be noted that these cases reflect only a small percentage of the volume of reports of human rights violations which have been brought to the attention of Amnesty International, but are indicative of Amnesty International's concerns that non-combatants from all sectors of society continue to be victims of human rights violations at the hands of the official military and paramilitary squads.

Based on such reports, it is the assessment of Amnesty International that there has been no improvement in the human rights situation in El Salvador in recent months.

Amnesty International has been monitoring the human rights situation in El Salvador for a number of years and has consistently drawn attention to human rights violations carried out since the government of General Carlos Humberto Romero came to power. Amnesty International has repeatedly appealed to the authorities under the succession of ruling juntas which followed the overthrow of that government in 1979 to investigate and account for the arbitrary detentions and thousands of cases of "disappearances" and probable murder. The government has systematically failed to exercise due diligence in attempting to bring those responsible to justice. In no single instance, to Amnesty International's knowledge, have the authorities issued a satisfactory response to inquiries concerning these human rights violations.

The security forces in El Salvador continue to be regularly involved in carrying out a widespread and systematic program of torture, "disappearance," and individual and mass killings of men, women and children. Testimonies received by Amnesty International from a variety of sources suggest unequivocally that all branches of the Salvadorian security forces, whether nominally military, military police, or paramilitary, have been implicated in human rights violations which have occurred on such a scale that they constitute a gross and consistent pattern of human rights abuses.

The security forces' involvement in massive human rights abuses is clearly in direct violation of internationally and regionally accepted standards for the protection of human rights as guaranteed under the Salvadorian constitution, and as set out in such documents as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and its Optional Protocol, and the American Convention on Human Rights.

These instruments contain provisions protecting such basic rights as the right to life, the right not to be subjected to torture or cruel, inhuman or degrading treatment or punishment, and the right to a fair trial, and which prohibit discrimination on such grounds as age or political affiliation. Violations of these most basic guarantees are Amnesty International's precise concerns in El Salvador.

Amnesty International considers that where a government encourages or allows private persons or groups to commit acts which constitute abuses of human rights, that government remains responsible for such acts, by virtue of its willful failure to protect human rights to which it is committed by its own constitution, and by virtue of the regional and international conventions and standards to which it has subscribed, as well as by the rules of international law.

Further, Amnesty International is aware that these human rights violations in El Salvador are occurring at a time of civil conflict between guerrilla groups and the Salvadorian government. We are also aware of reports of crimes having been committed by non-governmental opposition forces. However, analysis of all available data suggests that the majority of the reported violations, including torture, "disappearance," and deliberate, cold-blooded killings, have been carried out by the security forces, and have been directed against people not involved in guerrilla activities. We note that all of the human rights instruments referred to above also stipulate that even in time of war governments may not derogate from their commitment not to subject anyone to arbitrary deprivation of life or torture or other cruel, inhuman or degrading treatment.

Given the gravity of the human rights situation, Amnesty International has repeatedly called upon the government of El Salvador to implement the following recommendations which Amnesty International believes would contribute to the promotion and protection of human rights.

(1) To undertake measures to halt the illegal operations by security forces and other government agents so as to put an end to the indiscriminate persecution of political, religious and social leaders and members of the rural population.

With respect to organizations that monitor human rights, to assure complete autonomy in the exercise of their activities, as well as the integrity of their officials.

(2) To initiate investigations into allegations of human rights violations and to bring those responsible to justice and to make public such steps taken by the government in accordance with constitutional guarantees and international commitments.

(3) To permit the International Committee of the Red Cross full access including to places of imprisonment.

(4) To account for all prisoners and individuals listed as "disappeared" and to make public a complete list of all those detained in order to clarify the number and location of prisoners.

(5) To observe international and national standards for the protection of human rights as defined by international and regional conventions to which El Salvador is party, as well as by provisions in its own legislation.●

RESOLUTION ON CHILD LABOR REGULATIONS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. MILLER of California. Mr. Speaker, I am introducing today a joint resolution to prevent the Secretary of Labor from issuing his proposed changes in regulations concerning child labor.

Two weeks ago, the Reagan administration unveiled its first concrete plan for expanding job opportunities. That initiative had been eagerly awaited by a Nation which has seen unemployment—especially among young, out-of-school teenagers—swell to the highest levels in recent history.

The administration evidently has decided to replace the failed economic policies of "Reaganomics" with "Faginomics". Secretary of Labor Donovan announced on July 16 an unconscionable proposal to increase substantially the number of hours that 14- and 15-year-olds may work. In addition, the Secretary's proposal would open many jobs which have been considered unsafe to these junior high schoolers.

These proposals are profoundly unwise. As witnesses told the subcommittee on labor standards today, expanding the work day of these young children will have a detrimental impact on their school performance and attendance, will interfere with their family relationships, and will increase their use of alcohol, marihuana, and cigarettes.

These proposals are also profoundly insensitive to the needs of 14 million Americans who are without work, and whom this administration offers very little in the way of hope.

If the Reagan administration is truly interested in increasing job opportunities for Americans, I suggest that they look to the hiring halls and the unemployment offices, not to the classrooms and playgrounds of this Nation.

Let us be very clear that this—one of the most severe weakenings of the child labor law in nearly half a century—is not needed to accommodate the child who helps out with his family's farm chores. Children who work for their parents are not included in the current law's restrictions today.

No, these changes in child labor protections are apparently sought only by a small number of special interest businesses who prefer to save money by hiring young children who use their subminimum wage for pocket change instead of hiring a worker who needs a job to sustain himself and his family.

These regulations would allow 14- and 15-year-old children to work 24 hours a week when school is in session, and as much as 36 hours when school is in session 4 days a week or less. The proposal would lengthen the workday to as late as 9 p.m. on school nights, and 10 p.m. on weekends. These proposals are totally contrary to the law which allows child labor only under conditions which will not "interfere with their schooling" and "will not

interfere with their health and well-being." Witnesses before this subcommittee this morning documented that the proposed regulations utterly contradict these statutory safeguards.

As one who has made his personal interests in Congress the well-being of our children and the health and safety of our workers, I am outraged by the insensitivity and stupidity of these proposals. And, I believe that the Congress shares this opinion.

I am today introducing a joint resolution prohibiting the Secretary of Labor from promulgating regulations to weaken the child labor law. An identical resolution will be introduced in the Senate by Senator KENNEDY.

Lastly, I would just note that this is the second proposal in the brief lifetime of the Reagan administration which abandons the most historic labor protections against our weakest and most powerless workers. Last year, the administration proposed to throw out the 40-year prohibition against domestic sweatshops. Only an outraged Congress and media halted that extraordinary unwise action which could have jeopardized not only the health and safety of hundreds of thousands of workers, but have seriously undermined the domestic textile and clothing industries.

Now the Labor Department proposes abandoning 44 years of protections against child labor. I would hope that the record of this hearing convinces Secretary Donovan to withdraw these outrageous regulations. But I will not await his action. I intend to ask the House Leadership to schedule my resolution for immediate consideration to assure that Secretary Donovan's plan to roll back the clock on child labor is not permitted to go any further.●

A TRIBUTE TO LARS MURPHY, ARTIST, PATRIOT

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GUARINI. Mr. Speaker, yesterday, Lars Murphy, a good friend of mine and the community, was buried.

Lars was a professional artist and a man who gave of his God-given talent to Jersey City, which he adopted as his home. He was known on the east coast for his specialized painting and seascapes, scenes of nature, and horses.

His community service was intensive. He conducted art classes, raised funds for charitable causes, and taught the love of country through and with his works of art to older Americans and children residing in the huge housing developments which dot my district.

Lars organized and judged coloring contests for persons of all ages, and especially enjoyed working with children. He encouraged them to enter coloring contests at Thanksgiving and Christmas-time and had the tremendous task of reviewing thousands of entries over the years.

Lars indeed showed that art transcends all ages and economic postures. His work with the children indeed did much to develop their talent, promote community pride, fight the graffiti problem so prevalent in our area, and direct the children into career opportunities. Many of the young people he taught, from 1965 to 1974, today are teachers of art or work in the field.

One of his favorite techniques was to have the children sweep an area with brooms and then help them fashion paper boxes, tin cans, and bottles into junk art which they thoroughly enjoyed doing.

Born in Salisbury, Md., Lars lived many years in New York City before moving to Jersey City in 1962. He studied at New York University, and at the Newark School of Fashion Arts.

For 15 years he supervised the annual Washington Square Art Exhibit in New York City in Greenwich Village, which has attracted hundreds of thousands of art lovers over the years.

His desire to work with children and the elderly also had him donate services for several summers to the Diocese of Paterson where he taught art.

In 1978 Paterson Mayor Lawrence Kramer received a "Lars" oil painting of the Paterson Falls as a gift from the Father Francis English Community Center. Mayor and Mrs. Kramer accepted the rendering and described it "breathtaking."

Above all, Lars loved nature which he portrayed so beautifully in his paintings of the Jersey shore; Mystic Seaport, Conn.; the Bay of Fundy in Nova Scotia; and areas in Florida and Puerto Rico.

He often told of his pride of painting, on the scene, every lighthouse on the Atlantic seaboard from Canada to the Caribbean. His specialty was the magnificent Barnegat Lighthouse which has stood like a beacon in more ways than one in New Jersey.

Lars delighted in teaching about nature and the environment and would tell the children who asked "What is the grass?" "It is the handkerchief of the Lord."

He often said that no one who has seen the grandeur of the Rocky Mountains, or Yosemite, could be an atheist.

He taught the children that earth and living things must not be abused because in the end they would take their revenge, because by exploiting them we diminish our future.

Lars often quoted Helen Keller, America's greatest advocate for the blind, who said:

That the sky is brighter than the earth means little unless the earth itself is appreciated and enjoyed. Its beauty loved gives the right to aspire to the radiance of the sunrise and the stars.

He loved to quote President Lyndon Johnson, who said "The beauty of our land is its natural resources. Its preservation is linked to the inner prosperity of the human spirit."

Lars Murphy was an early riser and loved to visit the seashore to walk the beaches, for he felt the early morning was the time for smells before our senses become contaminated with the common odors of the environment. He said, "All humans should breathe the morning air and see the full blaze of the sunrise, which will be something worth remembering no matter where you happen to be."

He believed that man has a need to escape civilization and needs retreats and refuges to recapture, even for a few fleeting hours, life's primitive conditions.

Conrad J. Vuocolo, of my staff, tells of visiting Lars at his studio, which he fashioned out of an abandoned small lumber yard on Garfield Avenue in Jersey City, where he would paint sitting on the floor in tailor-like fashion. Lars could be found working in his studio late at night painting and making special frames using the idea he originated by painting on a round canvas and encircling seascapes with thick rope which he obtained from ships and vessels in the New York Harbor for authenticity.

I enjoyed his works immensely, especially his process of layering paint in glazes to create depth of color.

He often said, "Beauty itself is the handwriting of the Lord; we should welcome it with every fair flower, beautiful sky, every creature, every fair face."

Lars loved all the arts, music, and the dance, as he, like Voltaire, felt, "All the arts are brothers each one is a light to the others."

Lars felt privileged as he believed the artistic gift was one of the rarest of all endowments, and his field was more God-like than science because while science discovers, art creates.

The words of the poet Susan Polis Schutz best describes what Lars captured on canvas:

Dancing flowers
Pounding boulders
Beating waves
Colliding clouds
Acrobatic tornado
Thunderous lightning
Fiery stars
Shining moon
Glowing rainbow
Peaceful sleep
Dancing

I have many of Lars' paintings in my home and offices which will constantly remind me of the words of Job 12:7-8:

But ask now the beasts, and they shall teach the;

and the fowls of the air, and they shall tell thee:
Or speak to the earth, and it shall teach thee:
and the fishes of the sea shall declare unto thee.

I am sure my colleagues join me in expressing condolences to his mother, Mrs. Cloatia Murphy, of Salisbury, Md., and his sisters, Conservilla and Evangeline, and to express admiration to his friends who encouraged and supported Lars in his courageous fight for life; namely, Frank Marrone, Raymond Carbone, and Anthony J. More.

Poetry has been called vocal painting—and Conrad J. Vuccolo offers his view that Lars' renderings on canvas are indeed silent poetry which make immortal all that is the best and most beautiful in our world—without question the symphony of life.

Well done, Lars Murphy. You have proven Albert Einstein's adage: "Only a life lived for others is a life worthwhile."●

PERSONAL EXPLANATION

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. GUNDERSON. Mr. Speaker, during roll call vote 220 on the Stratton amendment to H.R. 6030, the Department of Defense authorizations bill for fiscal year 1983, I was at a meeting on the Senate side of the Capitol and was unavoidably detained. had I been present, I would have voted "yes."●

THE AMERICAN DEBATE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. CLINGER. Mr. Speaker, I wish to call attention to an opportunity for my colleagues to debate the issues of the day in the Lincoln-Douglas tradition.

At the invitation of C-SPAN, I recently appeared on "The American Debate," a unique program which permits viewers to pose questions to the debaters following an extensive discussion of a particular issue.

I debated the question of capital budgeting with Annelise Anderson, Associate Director of the Office of Management and Budget, and I think, in a civilized way, we were able to deal with the intricacies of the subject to the educational benefit of our viewers.

Clearly, the sponsors of the debate are willing to consider and encourage the discussion and debate of issues which may not be the overriding topic of the day, but nevertheless important. They are willing to consider topics which individuals in this body know and care about, possibly better than almost anyone else in this town. They are evenhanded in their selection of topics and participants.

I should like at this point to include a list of the 11 debates which have been held, indicating the subjects and the debaters. The list, I think, demonstrates what I have just said.

THE AMERICAN DEBATE

Date	Topic	Debaters
Apr. 25, 1982	Nuclear weapons freeze.	James Leach, R-Iowa; Sam Stratton, D-N.Y.
May 2, 1982	1983 10 percent tax cut.	Newt Gingrich, R-Ga.; William Ratchford, D-Conn.
May 9, 1982	Federal spending for higher education.	Paul Simon, D-Ill.; Dr. Ed Elmendorf, Deputy Assistant Secretary of Education for Student Financial Aid.
May 16, 1982	Defense spending	David Sullivan, legislative aide to Senator Steven Symms, R-Idaho; Larry Smith, administrative aide to Senator Gary Hart, D-Colo.
May 23, 1982	Trade with Soviets	Jonathan Bingham, D-N.Y.; John LeBoutillier, R-N.Y.
May 30, 1982		
June 6, 1982	Capital budgeting	William Clinger, R-Pa.; Dr. Annelise Anderson, Associate Director for Economics and Government, OMB.
June 13, 1982	Supreme Court Juris..	Thomas Eagleton, D-Mo.; William Dannemeyer, R-Ca.
June 20, 1982	Federal support for nuclear power.	Richard Ottinger, D-N.Y.; Thomas Corcoran, R-Ill.
June 27, 1982	Arms sales to Middle East.	Edward Derwinski, R-Ill.; James Abourezk, attorney; Washington, D.C.
July 4, 1982		
July 11, 1982	Gun control	Barbara Lautman, director of communications, Handgun Control, Inc.; Richard Gardiner, general counsel, National Rifle Association.
July 18, 1982	Tuition tax credits	Dan Oliver, general counsel at the Department of Education; James Gordon Ward, director of research, American Federation of Teachers.

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BUSINESS WEEK ARTICLE: "GAS PIPELINERS"

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DANNEMEYER. Mr. Speaker, on Monday, July 26, 1982, the Energy and Commerce Subcommittee on Fossil and Synthetic Fuels, of which I am a member, began a series of at least seven hearings on the natural gas market. On Monday, August 16, 1982, the subcommittee is scheduled to hear from representatives of the interstate and intrastate natural gas pipeline industries.

Both intrastate and interstate pipelines are facing serious problems. Intrastate pipelines are at a disadvantage in securing competitively priced natural gas supplies due to provisions of the Natural Gas Policy Act of 1978. Interstate pipelines are having difficulty marketing gas that is priced higher than alternative fuels, such as residual fuel oil, in part because of the isolated decontrol of deep gas. There are also differences between interstate pipelines in terms of the amount of price-controlled old gas under contract to given pipelines. This disparity creates unjustified inequities between consumers in various regions of the country.

These and other important pipeline issues are treated in an unusually insightful article which forms the cover story in the August 2, 1982, issue of Business Week. I highly recommend "Gas Pipeliners" to my colleagues for their review in advance of the upcoming hearings.

Mr. Speaker, I include the article at this point in the RECORD:

[From Business Week, Aug. 2, 1982]

GAS PIPELINERS

Soaring natural gas prices are dealing a grim, no-growth future to the $100 billion-a-year industry that carries gas from wells to electric utilities, chemical plants, and homeowners' stoves and furnaces. Protected for decades by federal regulations that kept gas prices low, the interstate gas business for the first time is facing what the oil industry has learned to cope with since the 1973 Arab oil embargo: conservation and competition with alternative fuels.

The gas industry had a taste of how scary competition could be last spring, when OPEC's prices began to crumble and some users switched to fuel oil. "All of a sudden, this absolute disaster scenario passed before the eyes of every pipeline executive in the country," says Boston energy consultant James T. Jensen. "They had visions of a massacre in the marketplace."

That massacre may already be well under way. General Motors Corp. and other large industrial gas users have installed boilers that can be switched from gas to other fuels. While the installations were prompted by fear of supply shortages in the 1970s, they now have given the consuming companies the ability to react quickly to price signals. "In many of our plants, we have dual fuel-burning capability, and we take advantage of the most competitive fuel, the one that's cheapest," says William Illuminati, GM's director of energy management. "The last five power plants we've built have coal-burning facilities, and all future plants will also. Coal is an abundant energy source, and we expect to use more of it."

The market battle already is pushing the pipeline industry into oil and gas exploration and production efforts as an alternative to the federally regulated and increasingly unattractive gas transmission business. At El Paso Co., for instance, return on capital employed in exploration and production of oil and gas last year came to a formidable 24 percent, against 11 percent for the company's pipelines and associated operations.

As prices soar, those companies with access to the remaining quantities of dirt-cheap gas scheduled to remain price-controlled indefinitely when other federal price ceilings end in 1985 will have a big competitive edge over others. This disparity may force Washington into a drastic overhaul of the patchwork pattern of regulating production and transportation of the fuel that supplies one-quarter of the nation's energy needs. "The system is breaking down," says Jack Malvey, assistant vice-president of Moody's Investors Services Inc. "No one knows where this whole thing will shake out."

Only a few years ago, the industry's main worry was how it would find sufficient reserves to meet future demand as long as the law continued to depress gas prices and ex-

ploration. But, prompted by fears of shortages severe enough to leave schoolchildren freezing and factories idle, Congress in 1978 enacted the Natural Gas Policy Act (NGPA). The law sought to erase an already wide gap between oil and gas prices, and it set off a rush for new gas supplies.

The price surge, however, has led many industrial gas users and electric utilities to shop elsewhere for energy, even though the outlook for adequate gas supply has improved significantly. With the recession also taking a bite out of demand, the amount of natural gas available to the nation's pipeline network has exceeded the 20 trillion cu. ft. consumed in the U.S. annually for the fourth straight year. This gas "bubble," until recently, was dismissed by most industry executives as only the temporary result of recession and of federal rules discouraging gas use by utilities and industries. Yet it may be far more long-lasting—and financially dangerous.

UNENFORCEABLE CONTRACTS

"There is this nagging feeling that [the gas bubble] may never go away," says Joel F. Zipp, a Washington attorney representing several pipeline companies. Yet because of terms included in many gas contracts for the past 15 years, a number of pipelines now are being forced to pay for gas that they have contracted to buy from producers but that they cannot resell to price-shocked utilities and industries. Thus, says Robert G. Uhler, a vice-president at National Economic Research Associates (NERA), the pipelines' "problem has gone from one of securing supply to one of unloading it. It's almost as simple as that."

Transco Energy Co., in fact, says it faces potential liabilities of "several hundred million dollars by the end of 1983" at its High Island gathering system in the Gulf of Mexico. Although Transco will not elaborate, reliable pipeline industry sources say the company's liability could reach $450 million. Transco maintains that many of its "take or pay" contracts are unenforceable, and it is making producers take legal action to prove otherwise. Meanwhile, it is paying only for the gas it takes, a move being closely watched by other pipeline operators. Says Arlon R. Tussing, an economist and industry consultant in Seattle: "Within a few years, the most fashionable slogan in the gas industry may be 'I can't take, and I won't pay, so sue me,'"

Federal rules have helped depress demand. Some gas customers, under what is known as the "incremental pricing" provision of the NGPA, are forced to pay higher prices than homeowners or electric utilities when they want to increase their use of gas. The regulation has helped price gas out of the market for some users, cutting into pipeline and distributor sales and earnings, and has given the industry a taste of what might be even more severe pressures ahead as alternative fuels begin attracting unrestricted gas users. A large number of contracts between gas producers and pipelines also contain provisions that could raise gas prices to uncompetitive levels after Jan. 1, 1985, the day many wellhead controls expire under the NGPA. "For a period of time—perhaps six months, perhaps longer—there will be a severe and probably painful disequilibrium in the markets," attorney Zipp says. "Some pipelines will suffer more than others, of course, but probably none will be totally free of the problem."

That process could be hastened if decontrol is given a boost. After more than a year of wrangling, it still is not clear whether Congress or the Reagan Administration will try to speed the pace of price decontrol, and no action is foreseen until after the fall elections. Yet the Federal Energy Regulatory Commission (FERC), which regulates the pipeline segment of the gas industry, remains interested in raising wellhead prices through administrative action. At the same time, however, state regulators are coming under increasing pressure from consumers to resist the automatic pass-along of soaring gas prices.

Since 1954, when the Supreme Court ruled that the price of gas could be regulated at the wellhead, gas prices have been lower, on a Btu-equivalent basis, than the fuels it competes with in residential, industrial, and commercial markets. But passage of the 1978 natural gas law set in motion a painful transition. In 1977 the wellhead price of 1,000 cu. ft. (Mcf) of gas was just half that of an equivalent amount of domestic crude. The NGPA was designed to bring gas prices in line with the higher oil prices resulting from the 1973 Arab embargo, but not the substantially higher level prevailing after the Iranian oil cutoff of 1979. However, falling oil prices and swiftly rising gas prices have brought gas into competition with petroleum much sooner than expected.

Gas is classified into a myriad of categories that can be divided into three basic groups. "Old gas," or reserves contracted for prior to April, 1977, is now destined to stay under price controls indefinitely, although its price will continue to be adjusted to account for inflation. Reserves discovered after April, 1977, are known as "new gas." Their prices have been allowed to rise gradually and will be deregulated in 1985. The last major category is "high-cost," that found below 15,000 ft. or in certain unusual geological formations.

The higher prices for new and high-cost gas were intended to spur exploration and arrest a deep and steady decline in U.S. gas reserves that had begun in 1967. One result: In 1981, according to preliminary reports, drilling added as much gas to U.S. reserves as was withdrawn. Some analysts believe that much more gas remains to be discovered in the lower 48 states and that decontrol of new gas less than two years hence will spur a new exploration surge. Coupled with increased exports from Canada expected later in the decade and small amounts of synthetic gas from coal, the U.S. would seem to have ample supplies through the 1980s.

The comfortable supply outlook is in sharp contrast to the situation of less than a decade ago, when 10 transmission companies were drawn into involvement with the $40 billion Alaska gas pipeline, a project that is now unlikely to proceed because it would deliver gas too costly to attract purchasers. American Natural Resources Co., meanwhile, is building a $2.4 billion coal gasification plant in North Dakota whose future market is risky enough to require federal loan guarantees. Once-promising foreign liquefied natural gas ventures are looking increasingly dim. El Paso last year wrote off a $365 million loss on its Algerian LNG project after a protracted dispute with Algeria over high export prices, and Panhandle Eastern Corp.'s $508 million investment in a separate Algerian LNG venture is threatened by a similar problem.

Yet some major investments in gas ventures continue. Work began this spring on the Trailblazer Pipeline System, a $550 million project backed by five transmission companies that will provide a link between the extensive Rocky Mountain Overthrust Belt gas fields of Utah and Wyoming and markets in the Midwest and East. Although the Overthrust Belt remains an important long-term source of gas, Trailblazer this fall will begin delivering as much as 1.6 billion cu. ft. per day of gas into an already glutted system.

PRICED OUT OF THE MARKET

Local utilities also seemed to be immune to price concerns in the 1970s. In fact, with a fear of shortages looming, many states prevented utilities from hooking up new customers. "The industry never had to worry much about selling [to utilities]," says Charles Eberst, executive vice-president for marketing, rates, and planning at MidCon Corp.'s Natural Gas Pipeline Co. Now, however, "what the industry faces is a marketing problem," says William T. McCormick Jr., president of Michigan Wisconsin Pipe Line Co.

Some pipelines are already learning just how high prices will depress demand. Michigan Wisconsin and Transco—each a major pipeline serving the East Coast and the Midwest—acknowledged in May that the unregulated gas from deep formations that they had been buying at as much as $10 per Mcf, the Btu equivalent of $58-per-bbl. oil, could no longer be sold. They told producers that for the foreseeable future, neither would pay more than $5 to $6 per Mcf for its deep gas. Sonat Inc.'s Southern Natural Gas Co. subsidiary made a similar move a month later.

The announcements reverberated through the booming gas fields of Louisiana and Oklahoma. Deep gas wells often tap into unusually large reservoirs, a key selling point to pipelines looking for long-lived reserves. But "we're seeing a lot less interest in the deep gas wells [because] there's a lot of deep gas drilling going on that just won't fly at $5 [per Mcf]," says E. L. Williamson, president of Louisiana Land & Exploration Co., a New Orleans-based oil and gas producer.

The average wellhead price of gas in February, the most recent month for which Energy Dept. statistics are available, was about $2.40 per Mcf. But every interstate pipeline has a portion of its supplies under contract with producers at federally controlled prices as low as 25¢ per Mcf—just above the 1973 national average wellhead price of 22¢ per Mcf. This "old" gas has permitted pipelines to buy some higher-priced deep gas and still maintain an average price below that of competing fuels. But the first-quarter decline in oil prices left Transco and Michigan Wisconsin Pipe Line with an average selling price higher than that of fuel oil—prompting some customers to switch.

Two other pipelines aggressively bought expensive deep gas, only to have the purchases come back to haunt them. Southern Natural has a troublesome 14 percent of its contracted gas volume with producers at an average price of $8.04 per Mcf. United Energy Resources Inc.'s United Gas Pipe Line Co. relies on deep gas for 9 percent of its needs. More than half of the customers served by United pipelines are industrial plants that can easily convert to other fuels.

Barring another major runup in world oil prices, the U.S. energy market will be even more competitive as gas price controls are gradually lifted. Because the interstate pipeline companies and local gas utilities are tightly regulated, wild earnings swings are unlikely. But through the rest of the 1980s, many will have a hard time growing. Most

forecasters say that even when the economy turns around, gas consumption will at best stay flat through the decade. The pace of oil-to-gas conversions has slowed dramatically in recent months, and since 1972, gas consumption per capita in the residential market has declined 15 percent.

The electric utility and industrial sectors are the No. 1 market for gas. There, gas competes head-on with residual fuel oil and coal, and most forecasts indicate that gas demand will keep dropping. Data Resources Inc. projects utility gas demand will fall 14 percent, to 3.3 trillion cu. ft. per year, by the end of the decade. Federal law prohibits the construction of industrial or utility boilers that can burn only gas—a remnant of the shortage-plagued 1970s—but few would be built anyway because coal is plentiful and cheap relative to gas. "It's clear the gas business in the 1980s is going to be constrained by markets, not supply," says Michigan Wisconsin's McCormick.

The implications of that are foreboding. Under laws dating to 1938, the federal government every three years sets rates for interstate gas transmission companies sufficient to cover their costs of purchased gas plus a return on their investments in pipelines and other facilities. Between major tariff decisions, pipelines file requests every 6 or 12 months seeking to adjust rates to reflect changes in gas costs. A General Accounting Office study shows that the adjustments made little difference before passage of the 1978 natural gas law because wellhead prices were so tightly controlled. Between 1976 and 1982, however, the portion of an average user's bill taken up by the wellhead cost of gas shot up from 31 percent to 48 percent for homeowners and from 56 percent to 74 percent for electric utilities, according to Energy Dept. statistics. As a result, says the GAO, more rate-adjustment filings, "specifically those containing deregulated gas, are being challenged by outside parties."

In addition, when gas sales volumes decline, pipelines and distributors are allowed to seek general rate increases to make up for lost revenues. But in a declining market, "you end up running like hell just to stay in place," says on FERC official "You're constantly constantly caught between declining sales levels and the regulatory lag."

Transco President Kenneth L. Lay believes future pipeline growth will depend more heavily on "making our pricing mechanism much more responsive to market conditions. Those pipelines that can take the gas and deliver it the cheapest are going to come out on top." But under the NGPA, only 40 percent of today's gas reserves are going to be decontrolled at the beginning of 1985. Old gas makes up the remaining 60 percent, and the more cheap gas a pipeline has under contract, the lower its average selling price will be.

According to an Energy Dept. Survey, 43 percent of the gas Transco buys from producers is old. But compared with other major pipelines, Transco is coming up short. Tenneco Inc.'s Tennessee gas Transmission Co. can boast that 71 percent of its gas under contract is in the old-gas category. And Texas Eastern Corp.'s Texas Eastern Transmission Co. has a formidable 79 percent of its gas at an average price of just 86¢ per Mcf. That cushion of old gas provides it with a powerful advantage over other pipelines and alternative forms of energy. But pipeline systems lacking a significant old-gas cushion—and, by extension, the local distribution companies they supply—could face a substantial sales decline by 1985 or earlier even if oil prices rise moderately.

EQUAL FOOTING?

Three pipeline systems—Consolidated, Columbia, and United Gas—all have less than 40 percent of their gas under contract in the old category, according to the Energy survey. J. R. Templeton, senior vice-president of United, which wholesales gas primarily in the Southeast and to other pipeline companies, says, "We'd be better off if they'd decontrol all gas right now," putting all pipelines on an equal footing.

That is unlikely to happen. But some gas experts believe that by 1985, many of the existing contracts between producers and pipeline companies will have been renegotiated to reflect the new demand outlook. And contract revisions of an even more drastic nature may result.

In the 1960s and 1970s, pipelines accepted terms that are now proving nettlesome. Chief among these, pipeline executives say, are contracts with producers that contain provisions for automatic price increases on the date of decontrol in 1985. The Energy Dept. says these contract terms alone could push average wellhead gas prices up 88¢ per Mcf, and the anticipated price runup is the main reason why pipelines have opposed accelerated decontrol. But with gas already at prices approaching those of competing fuels, the notion of any automatic price increase in 1985 worries the pipelines. "If you let the price [of gas] go to 110 percent of fuel oil, you've got a choice of either going bankrupt or defaulting on the contracts. You can't take the gas without losing a hell of a lot of market share," says Tennessee Gas Transmission President Jack H. Ray.

The Interstate Natural Gas Assn., a lobbying group, has proposed a complete revision of the NGPA. But producers will test the legality of any tampering with contract terms, and pipelines may decide to walk away from contracts if prices suddenly soar, producing a blizzard of lawsuits or even congressional action. "If it ever got to the 11th hour, Congress would slap something together in a hurry, probably an extension of controls," says one gas industry attorney. "No one wants that to happen, but that's where any consensus ends."

CASH MACHINES

Even at today's rates, local gas distributors are the first to bear the brunt of any decline in gas demand. Many now argue that clear market signals are not transmitted back to gas producers quickly enough. "We bear all the marketing risk," says Joseph P. Thomas, executive vice-president of Chicago-based Peoples Gas Light & Coke Co., the nation's largest distributor.

Under present FERC rate structures, local gas utilities simply do not know what price its pipeline supplier is paying producers at the wellhead. This information is crucial in determining whether gas will be competitive. But Thomas says his cost of gas is obscured because in a pipeline's tariff—what the distributor pays the pipeline—gas prices are mixed in with other costs. MidCon Corp.'s Natural Gas Pipeline Co.—Peoples' supplier—and Panhandle Eastern have asked FERC, in effect, to change the way pipeline tariffs are structured so that the cost of gas is made clearly visible. Under such a system, they argue, it will be much easier to make accurate assessments of whether gas will be competitive. "The free-market segment of the industry, the producers, should bear the risk that their commodity may be unmarketable above a certain price," Thomas says.

No matter what FERC—or Congress—does with pricing, gas companies are likely to "continue to put their eggs in other baskets," using regulated pipelines as cash machines to finance more lucrative endeavors, says Moody's Malvey. That is not a new tactic. But Malvey believes it may be employed in coming years "with a vengeance."

Tenneco, by far the largest pipeline operator, is the prime example of this strategy (BW—Nov. 23). Oil and gas exploration and production's share of pretax operating income skyrocketed to 58 percent in 1981 from 17 percent a decade before, while gas transmission's share fell to 17 percent from 43 percent. Transco, meanwhile, invested $1.4 billion in oil and gas exploration and production from 1972 to 1981; this year, its exploration and production budget will come to $382 million. The push has given it 530 billion cu. ft. of reserves, against none at all in 1973, and 25 percent of Transco's interstate pipeline deliveries now come from its own wells. This lets Transco capture for itself a hefty share of the gas profits that previously went to other producers. Transco's pretax oil and gas production earnings skyrocketed to $118.5 million in 1981 from $4.9 million two years earlier.

"Earnings-per-share growth will come more and more from exploration," says Kurt H. Wulff, an energy analyst with Donaldson, Lufkin & Jenrette Inc. But pipelines that have expanded back into oil and gas can sometimes run into trouble. The GAO study notes that FERC has received complaints alleging that some pipelines are paying their own production divisions prices for decontrolled gas in excess of those paid to unaffiliated producers. Transco Exploration Co., an aggressive producer of decontrolled deep gas, had another sort of problem. It was one of the producers notified by another Transco unit, Transcontinental Gas Pipe Line Corp., that its high-priced gas was simply unacceptable to the transmission unit.

TROUBLE SPOTS

Geography will also present problems for the pipelines. With miles of pipe buried in the ground, they cannot move out of a depressed market. Pipelines serving economically distressed areas are already hurting, and unless the economy rebounds, boosting energy demand in the Midwest, Northeast, and Southeast, their situation will get worse as gas prices continue to climb. Areas of the nation served by pipelines with large amounts of cheap, controlled gas will suffer less than others. Thus, the result of decontrol under the NGPA will be "massive inequities involving significant transfers of wealth even among consuming regions," says NERA's Uhler.

MidCon's Natural Gas Pipleine, which delivers gas primarily in Illinois, admits it is overhauling its marketing strategy as demand shrinks. "We need to get our markets expanded into nontraditional areas," Vice-President Eberst says, including the lucrative Texas and Louisiana industrial belt primarily served by intrastate pipelines. "The Sunbelt will continue growing as an industrial area," Eberst says. El Paso, meanwhile, has 90 percent of its gas going to residential and commercial customers in Southern California. Even after writing off its Algerian LNG project, El Paso believes it will not feel the market pressure other pipelines will during the decade. "California should continue to be good to us," says Edward G. Najaiko, an El Paso senior vice-president.

Panhandle Eastern, a Houston-based company with two major pipelines bringing gas from the Southwest to Michigan and other portions of the recession-wracked industrial Midwest, saw its profits in gas transmission plunge 20 percent in the first quarter from those of a year earlier as total gas sales fell from 310 billion cu. ft. to 288 billion cu. ft.

Once gas prices are decontrolled and have settled—most experts look for a wellhead price of about 80% of the price of residual fuel oil on a Btu-equivalent basis—the next big battle in the industry may be over whether the pipelines should continue to be regulated as utilities. Consultant Tussing says: "Once price becomes the balancing factor between supply and demand and the principal allocator of gas among consumers, little of the remaining federal regulatory apparatus makes sense."

Gas companies will be competing for customers in consuming regions and for supplies at the wellhead. "Without the guaranteed rate of return they now get from regulators, pipelines will have to hustle to buy gas and hustle to sell gas" more aggressively than ever, benefiting consumers, Tussing adds. Although some gas industry experts question whether substantial gains in efficiency would result from deregulation of pipelines, the proposal is gathering steam.

"That's what the issue will be in 10 years," one pipeline executive says. But first, the gas industry must deal with problems presented when the NGPA expires. "When you get a close substitute [in terms of price], any industry is going to face some stiff competition. The problem with the gas industry is that they've never had to deal with that before," says NERA's Uhler. And the industry is already realizing it will not come through the transition process without scars. "We knew there was going to be some pain and suffering," says Jack E. Earnest, senior vice-president and general counsel at Texas Eastern. "Now we've just got to minimize the trauma." ●

VOTE "NO" ON LIMITS TO CONTRACTING OUT

HON. BERKLEY BEDELL

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. BEDELL. Mr. Speaker, late in the day on Tuesday, as we rushed to adjourn, the Fazio amendment was added to H.R. 6030, thus limiting the ability of the Department of Defense to contract out to the private sector for goods and services. This was done without debate and without a record vote.

When we rise from the Committee of the Whole, I intend to seek a record vote on the Fazio amendment. That provision will cost taxpayers millions of dollars, and it should be defeated.

The Fazio amendment prevents the Defense Department from seeking the most cost-effective sources for civilian goods and services. It even prevents the Department from doing cost-effectiveness studies. Both the Secretary of Defense and the Director of the Office of Management and Budget say that restrictions on contracting out will cost taxpayers millions of dollars in lost opportunities for savings.

Defeat of the Fazio amendment is sought by all elements of the small business community. A "no" vote will show that we are concerned about fostering competition and improving Government efficiency.

At this point in the RECORD, Mr. Speaker, I wish to insert two items. The first is the text of the "Dear Colleague" letter ANDY IRELAND and I sent to all Members of the House this afternoon. The second is a copy of the letter I received today from the National Federation of Independent Business.

The letters follow:

HOUSE OF REPRESENTATIVES,
Washington, D.C., July 28, 1982.

URGENT—FLOOR ACTION TODAY

DEAR COLLEAGUE: When H.R. 6030 is reported from the Committee of the Whole House, we intend to seek a record vote on the Fazio amendment which restricts the Defense Department's ability to use civilian contractors for non-military activities. This amendment was added to the Defense authorization bill late last night, without a vote, during the rush to adjourn.

We urge you to join us in voting against the Fazio amendment. It hinders efforts to control costs at the Pentagon and will cost taxpayers millions of dollars in needless expenditures.

The Secretary of Defense recently wrote: "By subjecting about 400 of our commercial activities to the beneficial pressure of open competition in recent years, we have achieved annual savings of $84 million, made 12,000 military and civilian manpower authorizations available for other defense needs, and created nearly that many new jobs in the private sector. There are many more activities to be reviewed with great potential for more savings."

David Stockman, director of the Office of Management and Budget, yesterday said this about contracting out:

"(M)any of these commercial and industrial activities should be reviewed to determine the most economical way to obtain these goods and services. . . . Any restrictions in the Defense Authorization bill, H.R. 6030, on contracting out for goods and services would seriously impact . . . efforts to reduce the deficit and inhibit our aggressive program to eliminate waste and inefficiencies."

We ask you to join us in defeating the Fazio amendment. This vote is crucial to the small business community.

Among those joining us in seeking a "NO" vote on the Fazio amendment are the Defense Department, OMB, the National Federation of Independent Business, Small Business United, the American Consulting Engineers Council, the U.S. Chamber of Commerce, and taxpayers who are concerned about reducing government waste and inefficiency.

Sincerely,

ANDY IRELAND,
BERKLEY BEDELL.

NATIONAL FEDERATION
OF INDEPENDENT BUSINESS,
Washington, D.C., July 28, 1982.

Hon. BERKLEY BEDELL,
House of Representatives,
Washington, D.C.

DEAR BERKLEY: Since I am aware of your interest in contracting-out and in using taxpayer dollars wisely, I believe you share NFIB's concern over last night's passage of Congressman Vic Fazio's amendment to the DOD Authorization Bill, H.R. 6030.

As you now realize, Congressman Fazio's amendment not only adds $567 million for direct hiring of additional civilian employees, it prohibits money to be spent for cost comparison studies which are necessary for future contracting-out. This Amendment strikes at the very heart of OMB Circular A-76 and at every effort to spend Federal dollars more cost-effectively. It will, in effect, eliminate any new contracting-out to the private sector over the next two years.

A March, 1981, GAO report clearly states that there are 11,000 commercial or industrial activities at an estimated cost (to the taxpayers) of $19 billion annually being performed by the government that can be provided more cheaply and more effectively by the private sector. At this time when deficits and Federal spending are so much on the minds of the American people, it seems inconsistent for the House to put itself on the record against achieving such savings.

Inasmuch as this Amendment passed by a voice vote late in the evening's debate, while quite a few Members were absent from the House Floor, we feel certain that many of your colleagues are also distressed over the inclusion of the Fazio language in the Bill. They, like you, would probably like the opportunity to be recorded on this blantantly anti-small business and anti-private sector amendment.

In 1980, 67% of NFIB's membership indicated that they felt the government should be required to contract-out to the private sector for goods and services wherever it is cost-effective. Mr. Fazio's Amendment would stop in its tracks DOD's efforts to determine who could do the job better at the lowest cost. And, it is interesting to note that there is a growing body of statistics that indicate that cost comparison studies themselves have had the highly desirable effect of increasing government efficiency and cutting costs.

We support your desire to have a recorded vote on this issue and support your efforts. NFIB opposes the Fazio Amendment and we are confident that there are many Members who share our concern about the loss of business and the increased tax burden caused by government competition to small business. We urge you and your colleagues to vote against the Fazio Amendment.

Good luck and best wishes.

Sincerely,

JAMES D. "MIKE" MCKEVITT,
Director of Federal Legislation.●

WATT STRIKES OUT AGAIN

HON. JERRY M. PATTERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. PATTERSON. Mr. Speaker, as a member of the Interior Committee, I am a veteran of several struggles against Secretary of Interior James Watt's strange plans for our environment. He has proved to have strange ideas about people, too. Once Secretary Watt informed us that there were two kinds of people in the United States: liberals and Americans.

Now he seems to have added more distinctions. There are liberal Jews (who he believes are concerned primarily with the well-being of Israel) and nonliberal, non-Jewish Americans (who he believes are concerned primarily with the well-being of the United States). Presumably, this still leaves liberal non-Jews, who are apparently unconcerned with the well-being of anything except whales and pristine forests. What Mr. Watt really sees, of course, are two kinds of people—those who agree with him and those who do not.

As one who does not agree with Secretary Watt, with the publication of Secretary Watt's recent venture into foreign policy, I was again offended by the notion that only Secretary Watt's grim vision of the future can produce greater energy independence for the United States. There are still those of us who believe the strong evidence that conservation and nonpolluting, alternate energy sources are better ways to address our energy needs than Mr. Watt's dig-it-up-and-burn-it strategy.

I am more offended and frightened, however, by the bigotry inherent in the Secretary's apparent belief that Jewish Americans have more loyalty to Israel than to the United States. It reminds me of the days when anti-Catholics said that if we elected John F. Kennedy to be President, he would "take orders from the Pope in Rome, not the American people." Mr. Watt, if you're reading this, I want you to know we're all Americans first and appealing to groups of us through foreign embassies isn't going to sell your program any better than appealing to us directly has. Maybe the problem is with your program and not with us.●

R. CHRISTOPHER WHALEN ON THE SOVIET MILITARY THREAT FROM CUBA

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. KEMP. Mr. Speaker, there is cause for alarm over the massive Soviet military buildup that has been taking place in Cuba. Twenty years after the Cuban missile crisis we find ourselves faced with a Cuban arsenal even more potent than the one that President Kennedy had to deal with in 1962.

Since 1962, the Soviets have gradually increased their military capability in Cuba, augmenting and upgrading it incrementally to avoid confrontation with the United States. For the most part, we have remained silent.

In an excellent article in Human Events, Chris Whalen describes how this happened and what it means for the future of U.S. foreign policy. Mr. Whalen, a former research assistant at the Heritage Foundation, is currently a legislative analyst with the House Republican Conference and one of the most promising and able young writers in Washington, D.C.

Mr. Whalen writes:

Since 1962 and especially since 1970, the U.S. has become unilaterally attached to the illusion of "stability" in the triangular American-Soviet-Cuban relationship, while the Soviets have steadily overturned all bilaterial "understandings."

I recommend his article to all of my colleagues.

[From the Human Events, July 24, 1982]

THE SOVIET MILITARY THREAT FROM CUBA

(By R. Christopher Whalen)

Over the past decade, the Soviet Union has reintroduced offensive weapons into Cuba, in direct violation of the 1962 agreement prohibiting their presence. these weapons are based both in and around Cuba, on planes, ships and missiles, and are operated today by the Soviet armed forces.

Using an incremental approach designed to avoid another confrontation with the United States, Moscow has slowly increased its military capability in Cuba to a level far in excess of the forces which provoked the 1962 missile crisis. The present level of Soviet activities in Cuba places the basic foundation of U.S. foreign policy—a policy which assumes peace and tranquility at home—in grave danger.

The return of the Soviet military to Cuba began in 1969, at sea, through visits by naval groups to the island. The Soviets escalated slowly, using older surface combatants, then gradually upgraded the mix to include missile-carrying cruisers and nuclear submarines.

In 1970 the Soviets finished the first phase of their buildup by completing the submarine base at Cienfuegos, an event which provoked a delayed American response and resulted in the 1970 "agreement" prohibiting the presence or servicing of nuclear submarines. The Soviets violated this "agreement" only six months later by sending a *November*-class nuclear attack submarine in February 1971, and later in May 1971 with an *Echo II*-class cruise missile submarine.

Washington did not respond to this blatant challenge, nor to the arrival of the other weapons systems—including nuclear-capable ships and bombers, Mig-27 aircraft, SA-6 missiles, and chemical weapons—which have since been introduced. Indeed, with the exception of the pathetic furor over the "combat brigade," America's leaders remained silent as the Kremlin rebuilt its military strength in Cuba.

The Soviets operate nearly 100 "Cuban" Mig-23 and 27 aircraft, the latter of which is an efficient, nuclear-capable attack plane. These planes are flown by Soviet and Eastern-bloc personnel and are deployed in hardened bunkers to preclude a preemptive American strike. Cuban-based Mig-27 aircraft would strike targets in Georgia, and, on a one-way flight, a Mig-27 could reach as far as Washington.

Moscow operates TU-95D "Bear" bombers from bases in Cuba on a rotational basis between the Caribbean and the Kola peninsula, patrolling the Atlantic coast of the United States and testing the response of U.S. air defenses by violating American airspace.

In addition, several airfields have been completed which are capable of handling the Soviet "Backfire" bomber; certain defense sources expect the Soviets to test the Reagan Administration soon by introducing one or two of these strategic bombers onto the island. From bases in Cuba a Backfire bomber can strike at targets in the United States and easily return to the Soviet Union.

Of greater significance than the Soviet-controlled combat aircraft is the free use of Cuba by the Soviets as a base of operations for their naval forces, including nuclear and conventional submarines. The Kremlin regularly deploys naval squadrons in the Caribbean and along the coast of the U.S. after resupply in Cuba. More importantly, since the early '70s the Soviets have maintained facilities to service and overhaul nuclear warheads carried by ballistic submarines.

At Cienfuegos there are extensive pier facilities for servicing and loading submarines, a floating depository for nuclear reactor waste, and a handling area for naval missiles.

Cienfuegos is linked by rail to a complex known as Punta Movida, where intelligence reports indicate nuclear warheads are serviced and stored; nuclear weapons for the Mig-27 could also be housed there. The area is off-limits to all Cubans and is guarded by the famous "combat brigade," in reality a KGB security unit previously assigned to guard Warsaw Pact nuclear stockpiles in Eastern Europe. Its combat configuration is purely superficial, a facade maintained by occasional manueuvers with the Cuban army. In addition to the security of the nuclear facility at Punta Movida, the "combat brigade" also is responsible for guarding a large Soviet communications facility southwest of Havana.

The importance of a Soviet submarine base in Cuba cannot be overemphiasized. Moscow's large submarine force has in the past been handicapped by limited access to the major ocean areas of the world. However, the presence of a base in Cuba extends the operational range of the Soviet attack fleet, brings their nuclear-capable ballistic and cruise missile boats within easy striking range of the mainland U.S., and greatly extends their time on-station.

How great is the threat from Cuba? Adm. Harry D. Train II, commander-in-chief of the Atlantic Fleet, said in a May 5, 1982, memo that a minimum of two carrier battle groups would be required "to contend early on with a Cuban threat." An ominous statement from the man charged with securing the Atlantic for American convoys to Europe, especially if one remembers that the same carriers we would use against Cuba are committed to the defense of Europe. The problem is clear: We have allowed the Soviets to place a trip wire at our doorstep.

Soviet aircraft, surface vessels and submarines operating from Cuban bases constitute a grave threat, both to ourselves and our weaker neighbors. The Soviet forces in and around Cuba, combined with Cuban-controlled missile and torpedo craft, comprise a potent sea-air military capability which can deny American ships along the Gulf coast access to the Atlantic.

The United States cannot afford to tolerate a hostile military presence in Cuba if we are serious about defending Europe, the Middle East, or anywhere else. How effective would our response be if at the opening of hostilities across the Atlantic a large part of our naval and air forces were busy de-

fending against a Soviet threat from Cuba rather than supporting Europe's flank?

Roughly 14 years ago the Cuban revolution ended and a new period of foreign domination began—domination by the Soviet Union. Castro struck a deal late in 1968, transforming Cuba into a Socialist police state, a haven for terrorists and revolutionaries, and most importantly, a valuable base of operations for the Soviet armed forces. Soviet military activities in Cuba today threaten U.S. security and continue to grow despite previous Soviet-American agreements prohibiting the placement of "offensive weapons" in Cuba—agreements made in return for an American promise not to attack the island.

Since 1962, and especially since 1970, the U.S. has become unilaterally attached to the illusion of "stability" in the triangular American-Soviet-Cuban relationship, while the Soviets have steadily overturned all bilateral "understandings." The evolving Soviet-Cuban military relationship is a classic example of how Moscow uses words and time to achieve long-term objectives. They have increased the scale of their activities in Cuba slowly, with great sensitivity to any American response, and each time American reacted the Soviets quickly "submitted" to negotiations, and then continued to expand their military capability despite these same agreements.●

FLOOD CONTROL NEEDED FOR TOWN BROOK

HON. BRIAN J. DONNELLY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. DONNELLY. Mr. Speaker, it has become increasingly fashionable in this House and in the press to refer to all public works projects, and especially water projects, as "pork barrel" projects. This may make good headlines, but such demagogery is responsible for the failure to enact any serious, comprehensive water policy for the last several Congresses.

I urge my colleagues to pay attention to the following editorial published in the July 26, 1982, edition of the Patriot Ledger, Quincy, Mass. The editorial persuasively demonstrates the need for Federal flood control assistance to protect a vital part of a community. It also demonstrates the need for us to proceed according to the schedule of commitments made by the Federal Government over the last dozen years.

I hope reporters, editors, and my colleagues will take a close look at the merits of various projects such as this before yielding to the temptation to dismiss them one and all as needless, wasteful, "pork barrel" legislation.

[From the Patriot Ledger, Quincy, Mass., July 26, 1982]

TOWN BROOK

A decade ago, many Quincy and Braintree residents actively opposed plans for a new MBTA station in South Quincy and a huge new interchange on Route 3 to serve the T facility and improve access to Quincy Center.

Opposition focused on two concerns raised by the massive Federal-State projects: more traffic and the potential for more flooding in neighborhoods already flood prone.

But the residents were assured by transportation officials at the federal public hearings that the station and ramp projects would soon be followed by major flood control work along the source of the flood waters—Town Brook. And residents were assured at those federal hearings and in a federal environmental impact study that a planned extension of Upland Road (now Burgin Parkway) between Quincy Center and the new Route 3 ramps would prevent residential streets from being swamped in traffic.

The new Quincy Adams T station in South Quincy is just about complete; the Route 3 interchange is well along in construction. But the outlook for the promised flood control work is uncertain and as a result, there is a question whether the promised Burgin Parkway extension will be built any time soon.

U.S. Representative Brian J. Donnelly, of Dorchester, testified before a House public works subcommittee last week on behalf of the Town Brook project. But he is not optimistic. The money for the work is contained in what's consider a pork barrel bill that faces an uphill fight in Congress and an almost certain presidential veto.

As now planned, the Town Brook work would cost about $21 million; the biggest expense would be for a tunnel to carry overflow from the brook deep under Quincy Center toward Town River. The project is expensive, but after a dozen years of study and revisions, the Army Corps of Engineers is convinced it's worth building because of the millions of dollars it would save in property damage.

As part of the project, the MDC is committed to spend $5 million to install culverts to handle the overflow in the stretch from the Quincy Adams station to the Quincy Center tunnel. Those culverts would go under the planned Burgin Parkway extension.

It's only logical that plans call for installing the culverts before the road is built, rather than tearing up the pavement at some later date. But with the federal flood control project up in the air, it's difficult to see how the MDC or the Burgin Parkway extension can move ahead.

Unless federal money is approved, neighborhoods near the new T station and interchange face continued threats of floods and a new threat of being inundated by traffic when the interchange opens. The traffic troubles could be severe enough for Quincy and Braintree residents and officials to go to court to block the opening of the new station and ramps if the promised extension of Burgin Parkway remains on hold.

But it should not take court action to get federal and state officials to stand behind promises made to the public. Governor King and the State's congressional delegation should go all-out to make sure those promises are kept now. Town Brook is not a pork-barrel project, and Washington should not treat it like one.●

REFUSENIK STELLA GOLDBERG AND SOVIET EMIGRATION POLICIES

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. HERTEL. Mr. Speaker, the attitudes and practices of the Soviet authorities continue to bewilder all observers of Soviet emigration policy. Today, I wish to call my colleagues' attention to the continuing harassment of Jewish refuseniks and the Soviets' calculated campaign to strangle the vitality of their own Jewish community.

Soviet Jews ask to leave the Soviet Union because of the rampant and vicious anti-Semitism fostered by the government apparatus. The Soviet Government continues to violate the Helsinki Agreement in the most blatant ways by denying the Jewish community linguistic, cultural, and religious rights, including the right to study and teach Hebrew. For Soviet Jews the Diaspora continues; they are the only major ethnic group in the Soviet Union to be denied a territory which would offer some support to their religious, national, and linguistic heritage. The Government itself, not content with subtle discrimination against it's Jewish citizens, engages in official anti-Semitic campaigns through the mass media. Statements such as the following are common:

Judaism is harmful to the Jewish believer because this belief sets him apart from other people, inculcates in him hostility towards other men and makes him oppose the world around him . . . Judaism is contrary to our communist morality, the aims of our society and the progress of modern life." (Radio Minsk, Program for Believers and Non-Believers, May 4, 1975)

The Zionists, fulfilling the role of shock troops of imperialism, strive to shake the foundations of the socialist multinational state, to set the peoples of the USSR against one another, and to sow the seeds of nationalism, chauvinism and antisemitism. And, on the other hand, to undermine the faith in the democratic character of the USSR in world public opinion." (Article in Moscow edition of Pravda, December 2, 1978)

"If it (the Torah) is considered from the standpoint of modern civilization and communist morality, it proves to be an unsurpassed text-book of bloodthirstiness, hypocrisy, treachery, perfidy and moral degeneracy—all the basest human qualities. (Book: Invasion Without Arms, Moscow, 1977, p. 40)

It is not surprising that Soviet Jews finally choose to leave a country which makes it very plain that it does not want them. But a cruel hoax results when a Soviet Jew applies to emigrate. He or she is not permitted to leave and at that point the regime begins a torturous, systematic program of harassment against the refusenik. They are fired from their

place of employment, they are labeled a parasite and traitor to the state, their children and relatives are also subjected to searches and interrogation by Soviet authorities. Many are even charged with treason for merely requesting to emigrate; this charge can be made because in the Soviet criminal code it is an offense against the state to wish to emigrate.

Stella Goldberg is a particularly tragic case of a refusnik. Stella Goldberg with her teenage son has sought to emigrate since 1970. Ms. Goldberg is a musician, a concert pianist, who wishes to join her husband, Viktor Yoran, residing in Israel. Their son, Alexander, is now 14 years old and Mr. Yoran has not seen his son since November of 1968 when the boy was an infant. Ms. Goldberg has repeatedly been denied permission to leave and was removed from her position with the Moscow concert organization. She must support her family on the meager resources she can earn by giving piano lessons; she has forfeited her pension.

Ms. Goldberg and her family are not being allowed to emigrate because of sheer vengeance on the part of the Soviet Government. Mr. Yoran, a concert cellist, defected to the West while he was on a cultural exchange program. His wife, child, and aged mother are being denied emigration to punish Mr. Yoran for what the Soviets see as an impertinence, but the Soviets are themselves violating the Helsinki accords by making an issue of Mr. Yoran's emigration, for at Helsinki the Soviets agreed to the free movement of peoples. Now, the Soviets are violating the article concerning the reunification of families. It is obvious that in the case of the Goldberg-Yoran family the Soviets are simply being vindictive. Such perverse behavior is the mark of a truly corrupt government which delights in the sufferings of its own citizens and can be the only explanation as to why the humanitarian appeals by numerous individuals to the Soviet Government to allow the emigration of Stella Goldberg has fallen on deaf ears. The Goldberg family should be allowed to emigrate and to be reunited with Mr. Yoran.

Stella Goldberg and Viktor Yoran are just two of hundreds of thousands of Soviet Jews who are caught in this limbo, much like a Kafka dream of unreasonable and inhumane, even absurd, dimensions. In the recent year the Soviets have severely restricted emigration by refuseniks; they have cut the number of exit visas by 94 percent. In fact, in the first half of this year only 1,500 Jews have been allowed to leave the Soviet Union; this is in contrast to nearly 25,000 who were allowed to leave in the first half of 1979. I urge our administration to bring this unsatisfactory situation to the attention of the Soviets. We must not let the Soviets forget that they are violating every human rights agreement they have signed in the last 20 years. I add my voice to the chorus of concerned people calling on the Soviets to release Stella Goldberg, her son Alexander, and her mother-in-law Maria Tsirulnikova, and end their forced separation which has already lasted 14 years too long.●

DETROIT BLACK FUND, INC.

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. CONYERS. Mr. Speaker, during the 1960's, a deep popular frustration manifested itself in epidemic violence throughout our land. This frustration was made poignantly evident in Detroit during the summer of 1967. There were many responses to this frustration—some exacerbated it and others calmed it. At this time, I think it important to note a milestone in the history of an organization in my city which has done much in the way of easing people's fears of hunger, lack of shelter and a host of other basic human needs: The Detroit Black Fund, Inc.

Formed in 1970 as a response to the social turbulence of the 1960's, the Detroit Black United Fund is an alternative source for grassroots projects which aid the most disadvantaged in our society. Their involvement in such projects as the Concerned Citizens Council, Operation Get Down, the comprehensive youth training and community involvement program and the library development fund of Lewis Business College, to name a few, is often crucial to the existence and success of these much-needed programs.

Once again, a climate of deep frustration exists, fostered by indifference. Tomorrow, the Detroit Black United Fund will dedicate its new building. It is significant not only that the charity has grown large and important enough to build a new headquarters but also that in its growth, it has become more and not less concerned with the needs it initially set out to serve. I hope the administration and Congress take notice.

I applaud the efforts of the Detroit Black United Fund, Inc. and wish its continued success.●

GOP MISLEADS AMERICAN PUBLIC ON SOCIAL SECURITY CAMPAIGN

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. MARKEY. Mr. Speaker, I would like to bring to the attention of my colleagues an article which appeared in the Boston Herald American on Sunday, July 18, 1982.

The Republican National Committee has purchased a million dollars or more of commercial time on local TV stations around the country in an effort to counteract public rejection of the Reagan attacks on social security. In these spots, the RNC is misleading the American public, and taking credit for something which they originally vehemently opposed. The Reagan administration, as we know, has tried repeatedly to delay COLA's and failed to do so only because of intense Democratic opposition in Congress.

Our outrage over this misleading campaign must not go unnoticed by the American public and I applaud the Boston Herald's effort to accurately inform the American public.

[From the Boston Herald American, July 18, 1982]

SOCIAL SECURITY—GOP SS CLAIMS FALSE

(By Wendell Coltin)

The Republican party's television commercial attempting to credit President Reagan for the 7.4 percent cost-of-living raise mandated in the Social Security law prompts this thought:

Perhaps Jimmy Carter should get the G.O.P.'s 58-city schedule for showing the commercials and add a trailer pointing out the biggest cost-of-living raise paid under the law was the 14.3-percent increase in July 1980. Under the Republican party's thinking, Carter would be deserving of twice as much credit.

Amusing as this attempt to win votes might be, it recalls the year (1972) President Richard Nixon sought to take credit for a 20-percent increase in Social Security benefits Congress voted over his "vigorous opposition." He had printed notices inserted in envelopes containing the fattened SS checks. As a result, the then chairman of the Senate Committee on Aging, Sen. Frank Church (Idaho) introduced a resolution to guard against such a thing happening again.

At a hearing in Newton July 8, Rep. Barney Frank (Mass.), member of the House Select Committee on Aging, recalled the Reagan administration's proposal last year to defer the cost-of-living raise for three months. It was withdrawn because of a strong nationwide protest.

Richard Rowland, executive Director of the Massachusetts Association of Older Americans, said of the TV commercial crediting Reagan for the 7.4 percent increase;

"It is misleading and politics at its worst. After all they did to step on Social Security and now try to claim credit for an automatic pass-through is too much."●

PRESERVE THE THEATER DISTRICT

HON. DONALD J. MITCHELL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. MITCHELL of New York. Mr. Speaker, today I have introduced H.R. 6885, a bill that would encourage preservation of the historic Broadway/Times Square Theater District in New York City by designating the area a national historic site.

The Theater District in the Broadway/Times Square area of New York has long been recognized as the primary site in the development and evolution of the American performing arts and represents an important and significant element in the cultural heritage of this country.

It is in recognition of the area's significance in the development of American theater and in recognition of its important historic associations and architectural characteristics that I am proposing it be designated a national historic site to be restored and maintained for legitimate theater purposes and to provide for the cultural enrichment and continued enjoyment and inspiration of this and future generations of Americans.

Historic sites in this country significant to the cultural fabric of the Nation are being lost or substantially altered with alarming frequency.

In March of this year, I cooperated with the well-known Broadway producer and founder of the New York Shakespeare Festival, Mr. Joseph Papp, and a number of actors and other members of the theater community in their efforts to prevent demolition of two grand, old, historically and architecturally significant Broadway theater houses—the Morosco and the Helen Hayes—by introducing H.R. 5873. Unfortunately, Congress was not able to act on that bill before both theaters were razed to make way for construction of a 50-story hotel.

The Morosco and the Helen Hayes are now irretrievably lost, but it is with the hope of preventing their fate for other important, legitimate theater houses that we have crafted this new bill.

Many have spoken out for preservation of the Theater District, such as WNBC-TV in New York did in an editorial comment aired on May 10, the text of which follows:

THE THEATERS STILL NEED PRESERVING

The judge did what he had to do and all those people who demonstrated a little illegally to try and stop the destruction of the Morosco and Helen Hayes theaters are going to remain free to entertain and sometimes inspire us on TV screens and stages. So ends another chapter in the battle for the theaters. But that's all it is, another chapter. Time is still pressing, and we saw in the last confrontation the power of the real estate interests.

When will the next beautiful old theater be in danger? Why, just as soon as someone has the plans and the money to put up still another towering structure and finds the theater to be in the way. That is what is going to happen unless those who believe that New York's theaters are among its greatest treasures put on the pressure. There are a number of ways to do it. The City Administration could act. The Landmark Commission could certainly do more than it has. These people seem prepared to designate anything down to a subway entrance as a landmark, why not the theater district? Whatever it is, action should be pressed now and continuously. This is a fight which has just begun.

Mr. Speaker, the bill I am introducing today is intended to encourage, through a combination of incentives and disincentives and with minimum Federal involvement, the restoration and preservation of Broadway's Theater District.

It is intended to be compatible with the efforts recently undertaken by the city and the New York Landmarks Commission for protection of the area, and I offer this proposed legislation toward that end.●

U.N. FUNDS TERRORISM

HON. JACK FIELDS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 28, 1982

● Mr. FIELDS. Mr. Speaker, in recent years the United Nations General Assembly has increased its support of such Soviet-supported terrorist organizations as the Palestine Liberation Organization (PLO), the South West Africa People's Organization (SWAPO), and others. Each year the U.S. taxpayers contribute 25 percent of the total United Nations budget. These funds are included in the State Department budget, and the State Department withdraws the money from the U.S. Treasury and pays these hard-earned taxpayers dollars over to the United Nations General Assembly from time to time.

Soviet-supported terrorism is one of the Kremlins' deceitful strategies. The pattern is a familiar one—the Kremlin provides military advisers, weapons, and financial support to so-called local liberation groups in various parts of the world such as Central America, southern Africa, and the Middle East.

The U.N. General Assembly, which has been described by the Washington Post as an "institutional outrage," a "moral swamp" that "operates much of the time by the mob rule of a Third World majority in close alliance with its Communist bloc," is reported to spend over $100 million a year in supporting these Soviet-sponsored terrorist activities. Indeed, the cutting edge of Soviet expansionism in various parts of the world is Kremlin support of local terrorist organizations who are on Moscow's payroll.

U.N. General Assembly misuse of U.S. tax dollars to support terrorists violates U.S. laws and constitutional provisions intended to protect the U.S. taxpayer from misuse of funds by such organizations as the U.N. General Assembly. Recently I received a letter from the law firm of Shipley, Smoak & Henry which points up the legal questions presented by the United Nations' support of terrorists, and suggests a legislative proposal to protect the taxpayer. In response to their request that I make this known to my colleagues, their letter is as follows:

SHIPLEY SMOAK & HENRY,
Washington, D.C., July 21, 1982.

Hon. Jack Fields,
Member of Congress,
Washington, D.C.

DEAR JACK: Along with other American taxpayers, we are concerned about continued participation by the United States in the United Nations as long as the United Nations General Assembly misuses our hard-earned U.S. tax dollars to subsidize such pro-Soviet terrorist organizations as the South West Africa People's Organization (SWAPO) and the Palestine Liberation Organization (PLO) who are furthering Soviet-empire expansionism in southern Africa, the Middle East and other parts of the world. We hope you will make these views, which are personal and not necessarily the views of any client, known to your colleagues.

The United States was one of the original signatories to the United Nations Charter, which is a treaty that mandates "all members shall settle their international disputes by peaceful means in such a manner that international peace and security and justice are not endangered." (Ch. 1, Art. 2, Par. 3.) (emph. supp.)

Article VI, Sec. 2 of the Constitution provides in pertinent part, ". . . all treaties made . . . under the authority of the United States, shall be the supreme law of the land."

Article I, Section 9, Clause 7 of the U.S. Constitution which provides that, "[n]o money shall be drawn from the treasury, but in consequence of appropriations made by law."

In 22 U.S. Code ¶ 287e, Congress has provided for the continuing authorization of appropriations. That law provides in pertinent part, that "[t]here is hereby authorized to be appropriated annually to the Department of State . . . such sums as may be necessary for the payment by the United States of its share of the expenses of the United Nations." (emph. supp.)

Money spent by the U.N. to support the activities of self-proclaimed Marxist terrorist groups like SWAPO and PLO violates the U.N. Charter mandate to "settle international disputes by peaceful means," and such expenditures by the State Department are not "in consequence of appropriations made by law." It cannot be said that U.N. funds used to subsidize SWAPO and the PLO are "necessary" within the meaning of 22 U.S. Code ¶287e. Department of State disbursements to the U.N. for such purposes would seem to be illegal.

This year U.S. taxpayers will contribute $500 million to the U.N. budget—25% of the

total. Thus 25¢ of each $1.00 the U.N. spends on SWAPO and the PLO and other terrorist organizations comes out of the pocket of U.S. taxpayers.

In light of these facts, would it not be in the U.S. national interest to:

(a) request the General Accounting Office to prepare a report to Congress on U.N. misuse of appropriated U.S. tax dollars to finance SWAPO, the PLO, and other terrorists; and

(b) include in all U.S. Department of State appropriations the following limitation:

"Provided, none of the funds authorized or appropriated hereby shall be disbursed by the Department of State except upon an undertaking by the United Nations General Assembly that none of such funds will be allocated to activities supporting the South West Africa People's Organization (SWAPO), the Palestine Liberation Organization (PLO), or other known terrorist organizations."

Every taxpayer and voter in America will appreciate action by Congress in implementing the above suggestions.

Sincerely,

CARL L. SHIPLEY.●

SENATE COMMITTEE MEETINGS

Title IV of the Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 29, 1982, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 30

9:30 a.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on miscellaneous public land bills, including S. 2752, S. 2754, S. 2755, S. 2756, S. 2757, S. 2715, S. 1349, and H.R. 6290.
3110 Dirksen Building

10:00 a.m.
Foreign Relations
International Economic Policy Subcommittee
To hold hearings on the implication of U.S. export controls relative to the U.S.S.R. gas pipeline.
4221 Dirksen Building

Judiciary
Separation of Powers Subcommittee
To hold hearings on the treaty ratification process and separation of powers.
2228 Dirksen Building

AUGUST 2

9:30 a.m.
Finance
To hold hearings on S. 2237, extending trade and tax incentives to promote economic development in the Caribbean Basin and Central America region.
2221 Dirksen Building

10:00 a.m.
Judiciary
To resume hearings on S. 818, S. 1558, S. 1106, S. 2658, S. 2669, S. 2672, S. 2678, and S. 2745, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building

AUGUST 3

9:30 a.m.
Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To hold hearings on S. 2704, revising certain provisions relating to the lease and production of coal reserves.
3110 Dirksen Building

10:00 a.m.
*Budget
To resume hearings on the administration's midyear economic review.
6202 Dirksen Building
Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Water Resources Subcommittee
To hold hearings on proposed soil conservation service projects and to discuss policy implications with regard to new construction starts recommended by the administration.
4200 Dirksen Building

AUGUST 4

9:30 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to consider proposed legislation to assist the thrift industry by providing net worth assistance to savings institutions and additional flexibility to their Federal regulatory agencies.
5302 Dirksen Building
Budget
To continue hearings on the administration's midyear economic review.
6202 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
*Environment and Public Works
Environmental Pollution Subcommittee
To hold oversight hearings on the implementation of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund).
4200 Dirksen Building
Judiciary
To resume hearings on S. 818, S. 1558, S. 1106, S. 2658, S. 2669, S. 2672, S. 2678, and S. 2745, bills limiting the insanity defense, establishing a Federal criminal verdict of "not guilty only by reason of insanity," and establishing procedures for dealing with defendants obtaining such a verdict.
2228 Dirksen Building
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold hearings on S. 1405, proposed Carl Albert Congressional Research and Studies Center Endowment Act.
4232 Dirksen Building

2:00 p.m.
Energy and Natural Resources
Public Lands and Reserved Water Subcommittee
To hold hearings on S. 894, exempting rural electric cooperatives and rural telephone cooperatives from payment of rental fees for rights-of-way granted to them with respect to public lands and lands within the national forest system, and H.R. 861, designating additional national scenic and historic trails.
3110 Dirksen Building
Environment and Public Works
Toxic Substances and Environmental Oversight Subcommittee
To hold oversight hearings on the implementation of the Toxic Substances Control Act by the Environmental Protection Agency.
4200 Dirksen Building
Judiciary
To hold hearings on pending nominations.
2228 Dirksen Building

AUGUST 5

9:00 a.m.
Commerce, Science, and Transportation
To hold hearings on the nomination of Ronald B. Frankum, of California, to be an Associate Director of the Office of Science and Technology Policy.
235 Russell Building

9:30 a.m.
Banking, Housing, and Urban Affairs
Business meeting, to continue consideration of proposed legislation to assist the thrift industry by providing net worth assistance to savings institutions and additional flexibility to their Federal regulatory agencies.
5302 Dirksen Building
Finance
To hold oversight hearings to examine the social security disability insurance program.
2221 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building
Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building
Labor and Human Resources
Alcoholism and Drug Abuse Subcommittee
To hold hearings on the effects of alcohol and drugs on individuals while driving.
4232 Dirksen Building

AUGUST 10

9:30 a.m.
Finance
International Trade Subcommittee
To hold hearings on the proposed extension to July 3, 1983, of the President's authority to waive the application of the freedom of emigration provision of the Trade Act of 1974 (Public Law 93-618).
2221 Dirksen Building

10:00 a.m.
Environment and Public Works
Business meeting, to resume consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

2:00 p.m.
Environment and Public Works
Transportation Subcommittee
To hold hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

AUGUST 11

9:00 a.m.
Office of Technology Assessment
The Board, to meet on pending business items.
EF-100, Capitol

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2634, providing for integration of handicapped persons employed in work activity centers and sheltered workshops.
4232 Dirksen Building

Select on Indian Affairs
To hold hearings on S. 1652, restoring certain lands in Arizona to the Colorado River Indian Reservation to be held in trust by the United States, S. 2418, permitting the Twenty-nine Palms Band of Luisena Mission Indians to lease certain trust lands for 99 years, S. 1799 and H.R. 4364, bills providing for the transfer of certain land in Pima County, Ariz., to the Pascua Yaqui Indian Tribe, and the substance of H.R. 5916, providing for certain Federal lands to be held in trust for the Ramah Band of the Navajo Indian Tribe.
6226 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

Environment and Public Works
Business meeting, to continue consideration of proposed amendments to the Clean Air Act (Public Law 95-95).
4200 Dirksen Building

AUGUST 12

9:30 a.m.
Judiciary
Regulatory Reform Subcommittee
To hold joint hearings with the Committee on Small Business' Subcommittee on Government Regulation and Paperwork on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

Small Business
Government Regulation and Paperwork Subcommittee
To hold joint hearings with the Committee on the Judiciary's Subcommittee on Regulatory Reform on the implementation of the Regulatory Flexibility Act (Public Law 96-354), and S. 2170, requiring a Federal agency to prepare a regulatory flexibility analysis whenever the agency publishes a general notice of proposed rulemaking or a final rule.
2228 Dirksen Building

Veterans' Affairs
Business meeting, to mark up S. 2378, proposed Veterans' Disability Compensation and Survivors' Benefits amendments, and proposed legislation clarifying certain United States Code provisions relating to veterans' employment programs.
412 Russell Building

10:00 a.m.
Labor and Human Resources
Education, Arts, and Humanities Subcommittee
To hold oversight hearings on the student Loan Marketing Association (Sallie Mae).
4232 Dirksen Building

AUGUST 17

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 18

9:30 a.m.
Labor and Human Resources
Labor Subcommittee
To hold hearings on S. 2617, abolishing mandatory retirement and other forms of age discrimination in employment.
4232 Dirksen Building

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

*Environment and Public Works
Transportation Subcommittee
To resume hearings on highway revenue and cost allocation issues.
4200 Dirksen Building

AUGUST 19

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

AUGUST 25

10:00 a.m.
Energy and Natural Resources
Business meeting, to consider pending calendar business.
3110 Dirksen Building

SEPTEMBER 14

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

Labor and Human Resources
Labor Subcommittee
To hold oversight hearings on the implementation of the Federal Mine Safety and Health Act of 1977.
4232 Dirksen Building

SEPTEMBER 16

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To resume oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 17

9:30 a.m.
*Energy and Natural Resources
Energy and Mineral Resources Subcommittee
To continue oversight hearings on America's role in the world coal export market.
3110 Dirksen Building

SEPTEMBER 21

10:30 a.m.
Veterans' Affairs
To hold hearings to receive American Legion legislative recommendations for fiscal year 1983.
318 Russell Building

CANCELLATIONS

JULY 29

10:00 a.m.
Governmental Affairs
Congressional Operations and Oversight Subcommittee
To hold oversight hearings on proliferation of indexation.
3302 Dirksen Building